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PROCEEDINGS AND DEBATES OF THE 103d CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Thursday, April 14, 1994*

The House met at 10 a.m.

The Reverend Dennis L. Trout, Swamp Lutheran Church, Reinholds, PA, offered the following prayer:

Almighty God, as we gather this day there are many passions and agendas playing in our hearts and minds. Our country and this world generate myriad concerns, opportunities, responsibilities, and anxieties that need to be handled now. But for this moment we hesitate not to expound with a laundry list of needs and wants, but to acknowledge Your ultimate control and simply give thanks for Your patience—even with our best intentions. What we seek is Your mercy which cuts across culture, creed, race, and gender. We have been afforded this one more day, may it be played out to reflect the love, justice, and peace You have purposed for creation from the beginning of time. Help us to be Your intent, amidst the tasks and issues that would control us. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. FRANKS of New Jersey. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FRANKS of New Jersey. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 5, rule I, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New Jersey [Mr. FRANKS] please come forward and lead the House in the Pledge of Allegiance?

Mr. FRANKS of New Jersey led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 21. An act to designate certain lands in the California Desert as wilderness, to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes.

S. 455. An act to amend title 31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes.

S. 1569. An act to amend the Public Health Service Act to establish, reauthorize and revise provisions to improve the health of individuals from disadvantaged backgrounds, and for other purposes.

S. 1970. An act to authorize the Secretary of Agriculture to reorganize the Department of Agriculture, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair announces that he will receive 12 requests for 1-minute statements from each side.

WELCOMING REV. DENNIS L. TROUT

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I am delighted to welcome the Reverend Dennis L. Trout to the Chamber today. He delivered the prayer this morning, and he comes to us from the Swamp Church in Reinholds, PA.

Mr. Speaker, Reverend Trout was educated at the Capitol Page School and later received degrees from Albright College and Lutheran Theological Seminary at Gettysburg, PA, from where he has a master of divinity degree. His family includes his wife, Bonnie Myers Trout, and five children. Mrs. Trout is with us here in the Chamber today.

Mr. Speaker, this is a rather unique occasion because, as I mentioned, Reverend Trout is a graduate of our Page School and, in fact, graduated with several of our distinguished colleagues from that Page School. The gentleman from Arizona [Mr. KOLBE], my colleague, was a classmate of Reverend Trout's, as was the Clerk of the House, Donn Anderson, and one of the most respected of our minority staffers, Ron Lasch.

Mr. Speaker, I am pleased at this moment to yield to the gentleman from Arizona [Mr. KOLBE] on this rather unique occasion.

Mr. KOLBE. Mr. Speaker, I appreciate the gentleman from Pennsylvania [Mr. WALKER] yielding to me under his 1-minute, and it is a great privilege for me to join with my colleague from Pennsylvania who represents Reverend Trout and his family, to join with him in welcoming him to the House of Representatives.

Mr. Speaker, it was 34 years ago, all too many years for all of us in that class to remember, that we graduated from the Page School here in Washington, DC. Three of us are still in service here in the House of Representatives; two, I should say, have remained here, and in distinguished service: Donn Anderson, our beloved Clerk of the House; and Ron Lasch, the Republican floor assistant who all of us know and respect so much; and I who left many years ago, but returned a few years back.

I suspect it would have been more likely for all of us to have imagined that Ron Lasch, or Donn Anderson, or I might have, indeed, been here on the floor of the House of Representatives, but I think, when we graduated from Page School, none of us would have imagined that we would see Dennis

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Trout standing here at the podium delivering the prayer, the guest prayer, this morning.

Mr. Speaker, I say to Reverend Trout, "We are very privileged to have you here this morning, and we welcome you, and we respect you for the service that you give to your people and to our country, and we thank you for being with us this morning."

I appreciate the gentleman from Pennsylvania [Mr. WALKER] for having yielded to me.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Arizona [Mr. KOLBE].

SUPPORT URGED FOR LEGISLATION TO BAN SEMIAUTOMATIC ASSAULT WEAPONS

(Mr. CARDIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARDIN. Mr. Speaker, during the last few weeks, I held a number of community forums. During these forums, I had the opportunity to meet with many of my constituents and discuss, in detail, the provisions of, and amendments to, the House of Representatives' omnibus crime bill.

Based on these meetings, I rise in support of H.R. 3527, the ban on semiautomatic assault weapons. Although this amendment sparked much discussion, I am convinced that the majority of my constituents support this ban.

In 1986, of the guns traced to crimes, 5.5 percent were assault guns. In 1989, that number nearly doubled—of the guns traced to crimes, 10.5 percent were assault guns. In 1993, although assault weapons were only one-half percent of all privately owned American guns, they accounted for 9.7 percent of guns traced to crimes.

It is time to stop the criminal use of these weapons. I urge my colleagues to join me in supporting H.R. 3527, the ban on semiautomatic assault weapons.

DEMOCRATS CANNOT BE TRUSTED WITH WORDS OR NUMBERS

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, the White House says that the President's original explanation of the First Lady's dealings in the futures market are no longer operative. On April 15 Americans will learn that the administration has no more credibility on retroactive taxes than it does on cattle futures. The White House says that Democrats raised taxes only on 1 percent of the population. But the facts do not support this spin.

No. 1, senior citizens with incomes over $34,000 will face a 70-percent income tax increase on their benefits. They, of course, are not rich, but, as Republicans warn, this President defines rich as anyone who owns a wallet.

No. 2, new taxes on motor fuel will disproportionately miss the rich, as this chart shows. Those with incomes below $30,000 will bear 29 percent of the burden, and those with incomes between $30,000 and $75,000 will bear a staggering 46 percent of the burden; 75 percent of the burden of this tax falls on people with incomes under $75,000.

Mr. Speaker, the Democrat Party line is that they only raise taxes on the rich, but the middle class knows that the statement is no longer operative, and the middle class also knows that the Democrats cannot be trusted with either words or numbers.

TODAY'S CRIME BILL HOLDS OUT REAL PROMISE

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, today we will consider a crime bill that aims to prevent crime before it happens and keep criminals locked up and off the streets.

This balanced approach to making our streets safer is the result of Democratic leadership from the White House and Congress. Instead of trying to score political points, a Democrat in the White House has worked with the Democrats in Congress to craft legislation that will really make a difference.

The bill increases penalties for violent crime, puts more police on the streets, and works to prevent crime. It also takes a common sense approach to some obvious problems.

At a time when our children are increasingly victims of violent crime, this bill will make it illegal for children under the age of 18 to posses a handgun. This provision will help get handguns out of our schools and off our playgrounds.

Mr. Speaker, this bill is a result of true leadership from President Clinton and Congress and it is aimed directly at stopping crime in America.

□ 1010

GOVERNMENTAL COOPERATION NEEDED IN CRIME BILL

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, nearly everyone in this country supports the idea of making the criminal justice tougher; not just to talk tough but to walk tough. The administration has been talking tough. We will see, in fact, if they are willing to walk tough as well. There is unrefutable evidence that we need to focus on making criminals pay rather than victims. Clearly endless right of appeal has virtually eliminated the death penalty and that must change.

Clearly the percentage of criminals, only 7 percent, that commit two-thirds of the crimes need to be imprisoned and they need hard sentencing and an opportunity to serve out that sentence. But as we approach it, we need to keep in mind that the majority of the criminal justice system in this country is State and local.

Mr. Speaker, I do not think the answer is to federalize the criminal system. I do not think the answer is to expand the Federal system. Rather, to help and work cooperatively with State and local governments to make this a tough system consistent with the desire of the American people.

SUPPORT FOR DISCHARGE PETITION ON IRS BILL

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the crime bill that we are taking up does not cover some specific crimes that I would like to mention today: the illegal seizing of property; the illegal confiscation of savings accounts; forced foreclosures; forced bankruptcy. Illegal activity, I say, by the Internal Revenue Service, because all they have to do is point the finger at your taxpayer and say that they evaded taxes or committed fraud and your taxpayer is a sitting duck. They have to prove their innocence.

Shame on Congress. We are dealing with a crime bill and we leave our taxpayers exposed to the biggest criminal ripoff in history. Thomas Jefferson is rolling over in his grave.

Mr. Speaker, H.R. 3261 says the taxpayer is innocent until proven guilty just like a mass murderer.

My God, a taxpayer can be treated at least as good as a mass murderer.

Discharge Petition No. 12, H.R. 3261, I am asking for your help.

THE WORST IS YET TO COME

(Mr. DOOLITTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLITTLE. Mr. Speaker, let me thank the gentleman from Ohio [Mr. TRAFICANT] and concur with him in his remarks and urge people to sign that discharge petition. That is a very important bill.

Mr. Speaker, as the American people open their checkbooks and pay their first round of Clinton taxes tomorrow, I urge them to keep in mind this one simple fact: The worst is yet to come.

If you feel you are not making as much money as you once did, it is not your imagination. It is the President's new taxes.

Indeed, instead of taxing the rich as he claims, the President's energy and Social Security taxes have hit the middle class the hardest, ironically the very group that he promised would get a substantial tax cut. And the worst is yet to come.

If the Clinton health reform plan goes into effect, the American people can expect to pay an additional 8 percent payroll tax that will kill jobs and spur inflation.

Mr. Speaker, we have had enough of broken promises. It is time to turn away from high taxes and big Government and to bring some much needed relief to middle America.

A COMPREHENSIVE AND BALANCED APPROACH URGED FOR CRIME BILL

(Ms. ESHOO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ESHOO. Mr. Speaker, today as we deliberate the crime bill, many Americans are preparing their tax returns or have recently mailed them in.

They are fulfilling their responsibility as good citizens and meeting the requirements of citizenship.

Mr. Speaker, today as well, every 2 minutes someone in America is shot. And every quarter of an hour somebody dies from a gun wound.

It is a fact, Mr. Speaker, every time our emergency room doors open for a gunshot victim, it is going to cost someone an average of $33,000.

And that someone is the American taxpayer. Most of the gunshot victims who come through the emergency rooms do not have adequate insurance. That leaves the taxpayer to absorb those costs.

Mr. Speaker, the crime issue is not only an issue involving freedom from fear of violence. It is an economic issue, and it is a public health issue.

Today, as we deliberate this legislation, we should remember that our crime problems are not going to be solved by trying to put more people to death or filling our prisons up at a faster rate.

Our responsibility requires us to take a comprehensive and balanced approach that includes the range of prevention, habeas corpus and racial justice provisions and addresses violent crime. It is not only the right thing to do, it is the fiscally sound thing to do as well.

FRIDAY THE 15TH

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, tomorrow is Friday, April 15, tax day. People are asking themselves, "What am I getting for my hard earned money?" It is probably more instructive to study what Americans are not getting. They are not getting good Government. They are not getting a balanced budget that is a fact—a sad fact. They are not getting an honest accounting of the tremendous waste, but they are getting higher taxes. Despite the rhetoric, it is not just the rich who will pay more: Taxpayers earning less than $30,000 are paying about one-third of the gas tax increase. And seniors with incomes of just $34,000 are due for a sizable increase in Social Security taxes. April 15 is the day the truth starts to come out about the Clinton administration 1993 tax hikes: Everyone pays more. Congress is heading out of town for that day of reckoning. But there is no hiding. Election day is coming November 8 just as surely as April 15.

SUPPORT FOR THE CRIME BILL

(Mr. CLYBURN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLYBURN. Mr. Speaker, during the 2-week break, I found from my constituents a considerable anxiety about crime and its consequences. They led me to believe that crime and its consequences are first and foremost on their minds.

Many of them are afraid to attend church gatherings or family picnics and feel like prisoners in their own homes.

This week we begin debate on the most comprehensive crime bill ever. This bill accomplishes the three things I think are important:

First, it sends a signal to those who would be criminals that their antisocial behavior will no longer be tolerated.

Second, it provides those to whom we have given the responsibility of keeping our streets and homes safe and secure the tools they need to carry out their jobs.

Third, it accomplishes or allocates about 50 percent of all of its resources to prevention and education; and it balances the scales of justice with its habeas corpus protections and the racial justice act.

Mr. Speaker, this bill deserves our support, and I think that all of us ought to vote for it.

□ 1020

TAX BURDEN ON AMERICANS

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, My friend, Lois Van Ryn Stock, turned 40 on Monday, and in so many ways Lois epitomizes the best of baby boomers. She is bright, intelligent, ambitious, attractive, and of high moral fiber. Yet she also symbolizes the tragedy of baby boomers, because Monday also marked her 20th year in the workplace, 20 years of sacrifice and saving and sweating, only to know that tomorrow when she pays her taxes, and 42 percent of her total income goes to taxes, she will have to work until June until she reaches tax freedom day, when she and her husband, Bill, can start working for themselves. And she knows that most of the taxes they pay will be squandered by politicians and bureaucrats.

Mr. Speaker, Lois and her middle-class counterparts need some relief. When the middle class quits working, bye-bye bureaucracy, bye-bye Congress, bye-bye America, because we cannot make it without the middle class.

Since the President will not honor his pledge for a middle-class tax cut, let us do it as Members of Congress. Mr. Speaker, Lois needs some relief.

STATES SHOULD HAVE SINGLE-PAYER OPTION ON HEALTH CARE

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, today, Congressman KENNEDY and I will be sending to the President a letter signed by 112 Members of Congress, urging the President to stand firm against all attempts to delete the state single-payer option from his national health care program. Interestingly, 32 of those signers are not cosponsors of H.R. 1200, the House single-payer bill, but they also want States to have that freedom of choice.

Study after study on the national level and in individual states such as my own State of Vermont, show that if we are serious about adopting a universal, comprehensive, cost-effective health care system that treats all people, rich and poor alike, then the single-payer approach is the only way to go.

Mr. Speaker, as we know, the President included State option for single-payer in his health care plan. He understood, quite correctly, that different States have different needs and that it could be a positive thing for the country if some States went forward with the single-payer approach.

But as we also know, there is enormous pressure from the insurance companies, the big money interests in health care, and from various Members of Congress, to delete that important section.

Mr. Speaker, the House must not pass, and the President must not sign, any health care proposal which does not allow for the right of individual

States to go forward with a single-payer health care system, which for millions of Americans is the only sensible approach to the current health crisis.

GATT MEANS JOBS FOR AMERICA

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, yesterday, the GATT task forces, joined together in introducing bipartisan legislation to implement the Uruguay round of the GATT.

On Friday, April 15, the United States will sign the GATT agreement after 7 years of difficult negotiations. Negotiated between 116 nations it covers most of the world's economic activity. The pact will generate over $5 trillion in new world trade over the next 10 years.

Although encouraging these promises mean nothing unless effectively implemented through legislation by the U.S. Congress.

The nucleus of our measure is 16 antidumping and subsidy proposals developed to be the minimum necessary requirement of U.S. domestic producers. The bill's goal of effective trade laws has brought together such diverse interests as labor, semiconductors, bearings, steel, autos, auto parts, cement, coal, cut flowers, and others, into an alliance that represents most of the manufacturing capacity within the United States.

The legislation is a joining of hands between east and west, high technology and basic manufacturing, management and labor. It is the sum total of what is most important to America's manufacturers and American jobs.

I urge each of you to join us in cosponsoring this pro-U.S. package which means jobs for Americans.

GET SERIOUS ABOUT FIGHTING CRIME

(Mr. PRICE of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of North Carolina. Mr. Speaker, this past Monday I convened a field hearing of the Appropriations Subcommittee on Commerce, Justice, State and Judiciary in Raleigh, NC, to learn more about what is working in the fight against crime and what more we need to do. There are a lot of people in North Carolina and this country working hard to fight crime, to prevent crime, to assist the victims of crime, and they deserve our support.

We heard from a 15-year-old young man who committed a serious crime and is now incarcerated. There was silence in the room as he stated that in his life it has been easier to get a gun than to get a tutor.

He noted his dyslexia was not discovered until he landed in the juvenile detention center. That is not early intervention. We must reach kids like this, connect them to society, and make sure they know we care for them and help them before crime even becomes an option.

We also must intervene more effectively with young people who get into trouble. We heard from North Carolina's boot camp commandant, who testified about the success he has had at turning around at-risk youths in that boot camp program.

Mr. Speaker, the crime bill now before us is a positive effort both to stiffen punishment and to get serious about preventing crime. We have had enough of the stalling tactics from those who would rather have an issue than a bill. We have had enough of the hot button politics. We have had enough overheated rhetoric. It is time to get serious and do something that seriously matters in our national fight against crime. Pass the crime bill.

MORE THAN THE RICH PAYING INCREASED TAXES

(Mr. COX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX. Mr. Speaker, as April 15 approaches, the President, the administration, and the Democrats in Congress are going to try and convince us anew that they have only raised taxes on the rich. Well, today we have seen the professional staff of the Joint Economic Committee release a report that shows us in hard figures that that is a lie.

It is a lie because 6 million senior citizens with incomes as low as $34,000 will face an income tax increase of 70 percent on their Social Security benefits.

Who is going to bear the brunt of this new income tax? Take a look at this chart. The largest share of this huge new income tax is going to be borne by individual senior citizens with incomes between $30,000 and $75,000, 44 percent of the total.

How much will the rich pay? Everyone making over $100,000 will pay only 22.6 percent of that tax. Another big reason that the Clinton taxes are going to soak the middle class more than anyone also is the $33 billion in energy taxes, 70 percent of which are going to be borne by middle class income taxpayers.

The Clinton administration and its tax hungry hordes in Congress are going to tell us once again only the rich are paying these taxes. As you hear this refrain, keep in mind that when they talk about soaking the rich, it is time for ordinary folks to get their rain gear.

SUPPORT SOUGHT FOR OMNIBUS CRIME CONTROL ACT

(Mr. ROMERO-BARCELÓ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROMERO-BARCELÓ. Mr. Speaker, the President is to be commended for his leadership in addressing the crime plague ravaging America. President Clinton and the Attorney General, in their numerous visits to towns and cities across America, have personally witnessed the great need for added mechanisms and resources that will enable localities to strengthen their fight against crime.

The crime bill before the House provides all of us with an opportunity to deliver to the American people. This bill covers a multitude of issues which relate to crime. Although obviously this is not a perfect bill, it does provide a reasonable and balanced three-prong approach which addresses the key components that together will deter crime, which are: prevention, enforcement, and punishment.

Not all elements please every Member of this House and we could probably come up with 440 versions of a crime bill. Nevertheless, the bill before us has been carefully crafted after many months of deliberations and takes into consideration the many concerns expressed by all of us on both sides of the aisle.

The crime crisis is affecting our families, our friends and neighbors every day and they have lost their patience. They cannot wait any longer. Every jurisdiction and the entire criminal justice system needs many of the provisions contained in this bill. We must keep in mind that unfortunately, the crime wave has intricately interconnected our districts in a very negative way. For example, according to DEA and FBI reports, in district—Puerto Rico—has become the major transshipment point of drugs between the South American drug producers and the mainland. Local resources are stretched to the limit and more importantly, the drug plague has penetrated all sectors of our society and is having a detrimental effect that touches many of the 3.6 million American citizens of Puerto Rico.

Mr. Speaker, I urge my colleagues to pass the Omnibus Crime Control Act without further delay. This bill contains provisions and resources to counterattack the existing crime wave. The American people are yearning for results and this House can make a critical difference by passing the crime bill.

HOUSE MEMBERS SUPPORT BIPARTISAN A-Z SPENDING CUT PLAN

(Mr. ZELIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZELIFF. Mr. Speaker, a majority of this House has gone on record in support of the bipartisan A-Z spending cut plan.

This proposal being offered by 223 Members of this House provides us with a historic opportunity to make real votes on real spending cuts.

Mr. Speaker, taxes are rising and the American people are fed up. They cannot afford the cost of Government waste anymore.

That is why we need the A-Z plan to cut Federal spending.

We must all work together to develop a reasonable package of spending cuts to help balance the Federal budget.

Unfortunately, we all know how tough it is to get committee action on a spending cut bill.

That is why this past Tuesday Congressman ROB ANDREWS and I introduced a rule for the consideration of the A-Z spending cut plan. If the committees do not act, we will have the opportunity to begin a discharge petition on our rule.

I urge all of my colleagues to join in this serious effort to reduce spending, reduce the deficit, and restore accountability to the Congress.

Mr. Speaker, we all know low taxes come from low spending. The time has come for real votes on real spending cuts by the people's House.

□ 1030

CRIME BILL

(Mr. BISHOP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BISHOP. Mr. Speaker, in order to restore sanity and security to the streets of America, I strongly support a tough and fair anticrime package that offers a balance between punishment and prevention.

Congress must provide the people with the necessary weapons to combat drug dealers, gang leaders, robbers, rapists, and murderers.

Community-based policing, reinforced with more cops on the beat and more resources for drug treatment, buttresses our effort to win this war.

Also, Mr. Speaker, deeply rooted in any crime prevention initiative are measures that promote family values, education, and job training.

I endorse a crime package that throws three-time convicted violent felons in jail for life, that increases penalties for adults who employ children in their misconduct, and, among other measures, Mr. Speaker, adds more Federal crimes to the death penalty list.

We must protect ourselves, our families, and our neighborhoods by locking up—and where appropriate, executing—those who repeatedly demonstrate a disregard for the sanctity of human life.

A successful crime package is one designed to displace fear with security, sanity, and confidence through a balanced approach that provides the strength and fairness needed to win the war on crime.

It is through shared responsibility and courage to change that we can stem the growth of crime and violence in America. We must pass the crime bill.

THE DEMOCRATS' ONE-WAY STREET OF CONGRESSIONAL OVERSIGHT

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, a week ago President Clinton went to Charlotte, NC, to get away from the Washington press corps.

At the town meeting, one woman asked: "Many of us Americans are having a hard time with your credibility. How can you earn back our trust?"

Mr. Speaker, I can tell the President how to regain America's trust. Tell Congress to hold hearings on Whitewater now.

For some reason, the Democrats in Congress must think the President has something to hide. They think that they are doing him a favor by keeping a scandal under wraps.

Interestingly, during the Reagan-Bush years, the Democrats held 25 hearings.

Apparently, it is all right for Democrats to investigate Republicans but not members of their own party.

The constitutional responsibility of congressional oversight is not a one-way street. We need full disclosure and we need it now.

REGARDING CRIME

(Ms. LAMBERT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LAMBERT. Mr. Speaker, growing up in my small hometown in rural Arkansas, we did not lock our doors. Sometimes we latched the screen door. But when people started putting locks on their houses, we should have started worrying about the deterioration of families and communities because the increase in crime is directly related to the decline of our families and communities.

Now crime is rising 5 percent faster in rural America than in urban areas. And we have got to put the brakes on.

I stand in support of today's crime bill, which is tough on crime. But I am especially supportive of the deterrent efforts like the ounce of prevention which will give structure to the lives of our teens. One of the most alarming statistics I have noticed in recent months shows that 82 percent of our prison population is high school dropouts. Just think of the possibilities for reducing crime if we just keep kids in school and rebuild our communities so that a burglary is a crime against a person and not just some unnamed house.

A return to strong families, individual responsibility, and a sense of community will defeat crime faster than any buildings or laws. So I am proud to see that this bill devotes twice as much money to deterrence, toward building strong individuals, as to simply building more prisons.

HEALTH CARE A PIZZA

(Mr. ALLARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLARD. Mr. Speaker, I rise today to address the cost of the President's health care reform proposal.

Last week when the President was touring the country to promote his health care plan, he was asked by a small business owner what the cost would be. The owner of Godfather's Pizza went on to tell the President that his company could not afford employer mandates. He stated that he would either have to lay off employees or close some stores.

What was President Clinton's response to this? He told the business owner to raise the price of pizza. I hope everyone had a chance to see this exchange, because it is an amazing acknowledgement of the true cost of the Clinton health plan.

The administration has repeatedly claimed that its health plan is going to save small business and taxpayers money. And yet, here is the President conceding his health plan will force price increases. Who does he think will pay these higher prices?

Tomorrow is April 15. That is when the American family will feel the impact of last year's tax hike. If the Clinton health reform plan passes, the American family will soon get another tax hike in the form of higher prices.

THIS BILL IS TOUGH ON CRIME

(Mrs. MEEK of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEEK of Florida. Mr. Speaker, the moment of truth has finally arrived. During the course of the last several months we have heard much tough talk and posturing about getting tough on crime, lock'em up and throwing away the key, and "three strikes and you're out."

Yesterday, the House began debate on a Democratic-backed omnibus crime bill that by any set of standards is both far reaching and tough. And many of my colleagues can't stand it.

Right or wrong, this crime bill makes 66 new crimes punishable by the death penalty. It includes the three strikes language. It includes $3 billion for new prison construction that will put bars between criminals and our families. In short, this bill makes sure that those who do the crime will do the time.

Now that the moment of truth is here and the Democrats have produced a tough crime bill. We can't expect many of our colleagues to launch a series of barrages, distortions, and half-truths.

All of this from the same people who say, on the one hand, that they're tough on crime, but are against a 5-day waiting period. The same people who say they are against crime but are also against a ban on assault weapons used in drive-by shootings and other random acts of violence.

Mr. Speaker, the American people want action and they want it now. They are sick of finger pointing. Much of what we have done in the past did not work, Mr. Speaker. Let us pass a crime bill that works. Let us try some new approaches.

AMERICANS WANT A TAX BREAK

(Mr. CALLAHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CALLAHAN. Mr. Speaker, millions of Americans will be filing their Federal income taxes tomorrow, having waited until the last minute because they owe yet more money to the Government. Most are disgruntled and many are downright outraged that their taxes were increased retroactively last year.

I have never heard anyone say they liked to pay taxes. On the other hand, I have rarely heard anyone say they begrudge this responsibility so long as we in Congress, as stewards of the purse strings, spend their hard-earned money wisely.

Unfortunately, we fail this test consistently year in and year out. Congress refuses to come to grips with Americans' priorities. We tolerate uncontrolled spending and wasteful programs. We tolerate the crime epidemic confronting our communities. We tolerate uncontrolled illegal immigration. We tolerate a deterioration of family values. We tolerate child pornography.

Mr. Speaker, we need to provide some tax relief to working Americans. Today, on the eve of tax day, I implore the leadership to reassess our priorities. Let us do something meaningful—this year—for the American people and give them a tax break.

□ 1040

REDUCED TAXES WILL HELP THE AMERICAN FAMILY AND FIGHT CRIME

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, before coming to Congress, I spent 7½ years as a criminal court judge in Tennessee trying the felony criminal cases. I certainly favor tougher sentences, particularly on repeat and violent offenders, but the first day I was judge I was told that over 98 percent of the defendants in felony cases came from broken homes.

I went through thousands of cases, and over and over again I would read, "Defendant's father left home when defendant was two and never returned; defendant's father left home to get pack of cigarettes and never came back."

Several weeks ago, Senator MOYNIHAN held some hearings in New York City. The headline in the New York paper the next day said, "Moynihan: It is not Poverty, Stupid, it is the Family." We will never do anything real and meaningful about crime until we at least slow down or start reversing the breakdown of the family.

How do we do that? By decreasing the size and cost of Government. The average person today pays almost half of his or her income in the form of taxes.

Most families break up over finances. We need desperately to lower the taxes in this country and leave the individuals and families of America more money so they can support themselves and their families in the way they need to. That will do more to fight crime than anything we could possibly do in the crime bill today.

THE GAP BETWEEN FACT AND FICTION IN THE CLINTON ADMINISTRATION

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, there is a huge gap between the fact and the fiction of the Clinton administration. It is obvious in Whitewater, but I want to take today's time to talk about fact and fiction in crime.

There is a recent report that the Immigration and Naturalization Service will no longer fingerprint suspicious immigrants, suspicious foreigners, because they lack $1 million. Last year, they found 9,000 people who were either convicted felons, potential terrorists, or otherwise suspicious who were barred from the United States, 9,000.

In the middle of all the posturing, all the public relations, all the effort to say the right words because of the right focus groups, because of the right polling, what we discover is that in fact, this administration is not spending $1 million to block terrorists and felons from coming to America.

I am going to ask the Committee on Appropriations to reprogram $1 million to allow us to continue to fingerprint suspicious immigrants, but it is one more example of the gap between fact and fiction in the Clinton administration.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

The SPEAKER pro tempore (Mr. CLYBURN). Pursuant to House Resolution 401 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4092.

□ 1041

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4092) to control and prevent crime, with Mr. TORRICELLI in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, March 23, 1994, all time for general debate pursuant to House Resolution 395 had expired.

Pursuant to House Resolution 401, the bill is considered as read for amendment under the 5-minute rule.

The text of the bill, H.R. 4092, is as follows:

H.R. 4092

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the "Violent Crime Control and Law Enforcement Act of 1994".

SEC. 2. TABLE OF TITLES.

The following is the table of titles for this Act:

TITLE I—VICTIMS OF CRIME
TITLE II—APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES
TITLE III—ASSAULTS AGAINST CHILDREN
TITLE IV—CONSUMER PROTECTION
TITLE V—MANDATORY LIFE IMPRISONMENT FOR PERSONS CONVICTED OF CERTAIN FELONIES
TITLE VI—VIOLENT REPEAT OFFENDER INCARCERATION
TITLE VII—DEATH PENALTY
TITLE VIII—HABEAS CORPUS REFORM
TITLE IX—RACIALLY DISCRIMINATORY CAPITAL SENTENCING
TITLE X—CRIME PREVENTION AND COMMUNITY JUSTICE
TITLE XI—YOUTH VIOLENCE
TITLE XII—CHILD SEXUAL ABUSE PREVENTION ACT OF 1994
TITLE XIII—JACOB WETTERLING CRIMES AGAINST CHILDREN REGISTRATION ACT
TITLE XIV—COMMUNITY POLICING
TITLE XV—DNA IDENTIFICATION
TITLE XVI—VIOLENCE AGAINST WOMEN
TITLE XVII—HATE CRIMES SENTENCING ENHANCEMENT
TITLE XVIII—USE OF FORMULA GRANTS TO PROSECUTE PERSONS DRIVING WHILE INTOXICATED

TITLE XIX—YOUTH HANDGUN SAFETY
TITLE XX—SUBSTANCE ABUSE TREATMENT IN FEDERAL PRISONS
TITLE XXI—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS
TITLE XXII—JUVENILE DRUG TRAFFICKING AND GANG PREVENTION GRANTS
TITLE XXIII—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS

TITLE I—VICTIMS OF CRIME

Subtitle A—Victims of Crime

SEC. 101. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended by—

(1) striking "and" following the semicolon in subdivision (a)(1)(B);

(2) striking the period at the end of subdivision (a)(1)(C) and inserting in lieu thereof "; and";

(3) inserting after subdivision (a)(1)(C) the following:

"(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.";

(4) in the second to last sentence of subdivision (a)(1), striking "equivalent opportunity" and inserting in lieu thereof "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) inserting "the victim," before "or the attorney for the Government."; and

(6) adding at the end the following:

"(f) Definitions.—For purposes of this rule—

"(1) 'victim' means any individual against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—

"(A) a parent or legal guardian in case the victim is below the age of eighteen years or incompetent; or

"(B) one or more family members or relatives designated by the court in case the victim is deceased or incapacitated;

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present; and

"(2) 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code.".

Subtitle B—Crime Victims' Fund

SEC. 111. ALLOCATION OF FUNDS FOR COSTS AND GRANTS.

(a) Generally.—Section 1402(d) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)) is amended by—

(1) striking paragraph (2) and inserting the following:

"(2) the next $10,000,000 deposited in the Fund shall be available for grants under section 1404A.";

(2) striking paragraph (3) and inserting the following:

"(3) Of the remaining amount deposited in the Fund in a particular fiscal year—

"(A) 48 percent shall be available for grants under section 1403;

"(B) 48 percent shall be available for grants under section 1404(a); and

"(C) 4 percent shall be available for grants under section 1404(c).";

(3) strike paragraph (4) and inserting the following:

"(4) The Director may retain any portion of the Fund that was deposited during a fiscal year that is in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as a reserve for use in a year in which the Fund falls below the amount available in the previous year. Such reserve may not exceed $20,000,000."; and

(4) striking paragraph (5).

(b) Conforming Cross Reference.—Section 1402(g)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(g)(1) is amended by striking reference to "(d)(2)(A)(iv)" and inserting "(d)(2)".

(c) Amounts Awarded and Unspent.—Section 1402(e) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(e)) is amended to read as follows:

"(e) Amounts Awarded and Unspent.—Any sums awarded as part of a grant under this chapter that remain unspent at the end of a fiscal year in which such grant is made may be expended for the purposes for which such grant is made at any time during the next succeeding 2 fiscal years, at the end of which year any remaining unobligated funds shall be returned to the Fund.".

SEC. 112. RELATIONSHIP OF CRIME VICTIM COMPENSATION TO CERTAIN FEDERAL PROGRAMS.

Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by adding at the end the following:

"(e) Notwithstanding any other provision of law, if the compensation paid by an eligible crime victim compensation program would cover costs that a Federal program, or a federally financed State or local program, would otherwise pay, then—

"(1) such crime victim compensation program shall not pay that compensation; and

"(2) the other program shall make its payments without regard to the existence of the crime victim compensation program.".

SEC. 113. ADMINISTRATIVE COSTS FOR CRIME VICTIM COMPENSATION.

(a) Creation of Exception.—The final sentence of section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(1)) is amended by striking "A grant" and inserting "Except as provided in paragraph (3), a grant".

(b) Requirements of Exception.—Section 1403(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)) is amended by adding at the end the following new paragraph:

"(3) Not more than 5 percent of a grant made under this section may be used for the administration of the State crime victim compensation program receiving the grant.".

SEC. 114. GRANTS FOR DEMONSTRATION PROJECTS.

Section 1404(c)(1)(A) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(1)(A)) is amended by inserting "demonstration projects and" before "training".

SEC. 115. ADMINISTRATIVE COSTS FOR CRIME VICTIM ASSISTANCE.

(a) Creation of Exception.—Section 1404(b)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)(2)) is amended by striking "An eligible" and inserting "Except as provided in paragraph (3), an eligible".

(b) Requirements of Exception.—Section 1404(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)) is amended by adding at the end the following new subsection:

"(3) Not more than 5 percent of sums received under subsection (a) may be used for the administration of the State crime victim assistance program receiving such sums.".

SEC. 116. MAINTENANCE OF EFFORT.

Section 1407 of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by adding at the end the following new subsection:

"(h) Each entity receiving sums made available under this Act for administrative purposes shall certify that such sums will not be used to supplant State or local funds, but will be used to increase the amount of such funds that would, in the absence of Federal funds, be made available for these purposes.".

SEC. 117. CHANGE OF DUE DATE FOR REQUIRED REPORT.

Section 1407(g) of the Victims of Crime Act of 1984 (42 U.S.C. 10604(g)) is amended by striking "and on December 31 every two years thereafter", and inserting "and on June 30 every two years thereafter.".

Subtitle C—Report on Battered Women's Syndrome

SEC. 121. REPORT ON BATTERED WOMEN'S SYNDROME.

(a) Report.—Not less than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall transmit to the House Committee on Energy and Commerce, the Senate Committee on Labor and Human Resources, and the Committees on the Judiciary of the Senate and the House of Representatives a report on the medical and psychological basis of "battered women's syndrome" and on the extent to which evidence of the syndrome has been considered in a criminal trial.

(b) Components of the Report.—The report described in subsection (a) shall include—

(1) medical and psychological testimony on the validity of battered women's syndrome as a psychological condition;

(2) a compilation of State and Federal court cases in which evidence of battered women's syndrome was offered in criminal trials; and

(3) an assessment by State and Federal judges, prosecutors, and defense attorneys of the effects that evidence of battered women's syndrome may have in criminal trials.

TITLE II—APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES

SEC. 201. LIMITATION ON APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES.

(a) In General.—Section 3553 of title 18, United States Code, is amended by adding at the end the following:

"(f) Limitation on Applicability of Statutory Minimums in Certain Cases.—Notwithstanding any other provision of law, in the case of an offense under section 401, 404, or 406 of the Controlled Substances Act or section 1010 or 1013 of the Controlled Substances Import and Export Act, the court shall impose a sentence pursuant to guidelines established by the United States Sentencing Commission, without regard to any statutory minimum sentence, if the court finds at sentencing that—

"(1) the defendant does not have more than 1 criminal history point under the United States Sentencing Commission Guidelines Manual;

"(2) the defendant did not use violence or credible threats of violence or possess a firearm or other dangerous weapon (or induce another participant to do so) in connection with the offense;

"(3) the offense did not result in death or serious bodily injury to any person;

"(4) the defendant was not an organizer, leader, manager, or supervisor of others (as determined under the United States Sentencing Commission Guidelines Manual) in the offense; and

"(5) no later than the time of the sentencing hearing, the defendant has provided to the Government all information the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan. The fact that the defendant has no relevant or useful other information to provide shall not preclude or require a determination by the court that the defendant has complied with this requirement.".

(b) SENTENCING COMMISSION AUTHORITY.—

(1) IN GENERAL.—The United States Sentencing Commission (hereinafter in this section referred to as the "Commission") may—

(A) make such amendments as the Commission deems necessary to harmonize the sentencing guidelines and policy statements with this section and the amendment made by this section; and

(B) promulgate policy statements to assist in the application of this section and that amendment.

(2) PROCEDURES.—If the Commission determines it is necessary to do so in order that the amendments made under paragraph (1) may take effect on the effective date of the amendment made by subsection (a), the Commission may promulgate the amendments made under paragraph (1) in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that section had not expired.

(c) EFFECTIVE DATE AND APPLICATION.—The amendment made by subsection (a) shall apply to all sentences imposed on or after the 10th day beginning after the date of the enactment of this Act.

SEC. 202. DIRECTION TO SENTENCING COMMISSION.

The United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines with respect to cases where statutory minimum sentences would apply but for section 3553(f) of title 18, United States Code, to carry out the purposes of such section, so that the lowest sentence in the guideline range is not less than 2 years in those cases where a 5-year minimum would otherwise apply.

SEC. 203. SPECIAL RULE.

For the purpose of section 3582(c)(2) of title 18, United States Code, with respect to a prisoner the court determines has demonstrated good behavior while in prison, the changes in sentencing made as a result of this Act shall be deemed to be changes in the sentencing ranges by the Sentencing Commission pursuant to section 994(o) of title 28, United States Code.

TITLE III—ASSAULTS AGAINST CHILDREN

SEC. 301. ASSAULTS AGAINST CHILDREN.

(a) SIMPLE ASSAULT.—Section 113(e) of title 18, United States Code, is amended by striking "by fine" and all that follows through the period and inserting "—

"(A) if the victim of the assault is an individual who has not attained the age of 16 years, by a fine under this title or imprisonment for not more than one year, or both; and

"(B) by a fine under this title or imprisonment for not more than three months, or both, in any other case.".

(b) ASSAULTS RESULTING IN SUBSTANTIAL BODILY INJURY.—Section 113 of title 18, United States Code, is amended by adding at the end the following:

"(7) Assault resulting in substantial bodily injury to an individual who has not attained the age of 16 years, by a fine under this title or imprisonment for not more than 5 years, or both.".

(c) TECHNICAL AND STYLISTIC CHANGES TO SECTION 113.—Section 113 of title 18, United States Code, is amended—

(1) in paragraph (b), by striking "of not more than $3,000" and inserting "under this title";

(2) in paragraph (c), by striking "of not more than $1,000" and inserting "under this title";

(3) in paragraph (d), by striking "of not more than $500" and inserting "under this title";

(4) in paragraph (e), by striking "of not more than $300" and inserting "under this title";

(5) by modifying the left margin of each of paragraphs (a) through (f) so that they are indented 2 ems;

(6) by redesignating paragraphs (a) through (f) as paragraphs (1) through (6); and

(7) by inserting "(a)" before "Whoever".

(d) DEFINITIONS.—Section 113 of title 18, United States Code, is amended by adding at the end the following:

"(b) As used in this subsection—

"(1) the term 'substantial bodily injury' means bodily injury which involves—

"(A) a temporary but substantial disfigurement; or

"(B) a temporary but substantial loss or impairment of the function of any bodily member, organ, or mental faculty; and

"(2) the term 'serious bodily injury' has the meaning given that term in section 1365 of this title.".

(e) ASSAULTS IN INDIAN COUNTRY.—Section 1153(a) of title 18, United States Code, is amended by inserting "(as defined in section 1365 of this title), an assault against an individual who has not attained the age of 16 years" after "serious bodily injury".

TITLE IV—CONSUMER PROTECTION

SEC. 401. CRIMES BY OR AFFECTING PERSONS ENGAGED IN THE BUSINESS OF INSURANCE WHOSE ACTIVITIES AFFECT INTERSTATE COMMERCE.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce

"(a)(1) Whoever is engaged in the business of insurance whose activities affect interstate commerce and knowingly, with the intent to deceive, makes any false material statement or report or willfully and materially overvalues any land, property or security—

"(A) in connection with any financial reports or documents presented to any insurance regulatory official or agency or an agent or examiner appointed by such official or agency to examine the affairs of such person, and

"(B) for the purpose of influencing the actions of such official or agency or such an appointed agent or examiner,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as established under this title or imprisonment for not more than 10 years, or both, except that the term of imprisonment shall be not more than 15 years if the statement or report or overvaluing of land, property, or security jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court.

"(b)(1) Whoever—

"(A) acting as, or being an officer, director, agent, or employee of, any person engaged in the business of insurance whose activities affect interstate commerce, or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

willfully embezzles, abstracts, purloins, or misappropriates any of the moneys, funds, premiums, credits, or other property of such person so engaged shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if such embezzlement, abstraction, purloining, or misappropriation described in paragraph (1) jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court, such imprisonment shall be not more than 15 years. If the amount or value so embezzled, abstracted, purloined, or misappropriated does not exceed $5,000, whoever violates paragraph (1) shall be fined as provided in this title or imprisoned not more than one year, or both.

"(c)(1) Whoever is engaged in the business of insurance and whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, knowingly makes any false entry of material fact in any book, report, or statement of such person engaged in the business of insurance with intent to deceive any person, including any officer, employee, or agent of such person engaged in the business of insurance, any insurance regulatory official or agency, or any agent or examiner appointed by such official or agency to examine the affairs of such person, about the financial condition or solvency of such business shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if the false entry in any book, report, or statement of such person jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court, such imprisonment shall be not more than 15 years.

"(d) Whoever, by threats or force or by any threatening letter or communication, corruptly influences, obstructs, or impedes or endeavors corruptly to influence, obstruct, or impede the due and proper administration of the law under which any proceeding involving the business of insurance whose activities affect interstate commerce is pending before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of a person engaged in the business of insurance whose activities affect interstate commerce, shall be fined as provided in this title or imprisoned not more than 10 years, or both.

"(e)(1)(A) Any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined as provided in this title or imprisoned not more than 5 years, or both.

"(B) Any individual who is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A) shall be fined as provided in this title or imprisoned not more than 5 years, or both.

"(2) A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if such person has the written consent of any insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection.

"(f) As used in this section—

"(1) the term 'business of insurance' means—

"(A) the writing of insurance, or

"(B) the reinsuring of risks,

by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons;

"(2) the term 'insurer' means any entity the business activity of which is the writing of insurance or the reinsuring of risks, and includes any person who acts as, or is, an officer, director, agent, or employee of that business;

"(3) the term 'interstate commerce' means—

"(A) commerce within the District of Columbia, or any territory or possession of the United States;

"(B) all commerce between any point in the State, territory, possession, or the District of Columbia and any point outside thereof;

"(C) all commerce between points within the same State through any place outside such State; or

"(D) all other commerce over which the United States has jurisdiction; and

"(4) the term 'State' includes any State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"§1034. Civil penalties and injunctions for violations of section 1033

"(a) The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 1033 and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. If the offense has contributed to the decision of a court of appropriate jurisdiction to issue an order directing the conservation, rehabilitation, or liquidation of an insurer, such penalty shall be remitted to the appropriate regulatory official for the benefit of the policyholders, claimants, and creditors of such insurer. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

"(b) If the Attorney General has reason to believe that a person is engaged in conduct constituting an offense under section 1033, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 47 of such title is amended by adding at the end the following new items:

"1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.

"1034. Civil penalties and injunctions for violations of section 1033.".

SEC. 402. MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) TAMPERING WITH INSURANCE REGULATORY PROCEEDINGS.—Section 1515(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by inserting "or" at the end of subparagraph (C); and

(3) by adding at the end thereof the following new subparagraph:

"(D) a proceeding involving the business of insurance whose activities affect interstate commerce before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of any person engaged in the business of insurance whose activities affect interstate commerce; or".

(b) LIMITATIONS.—Section 3293 of such title is amended by inserting "1033," after "1014,".

(c) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Whoever—

"(A) acting as, or being, an officer, director, agent or employee of a person engaged in the business of insurance whose activities affect interstate commerce, or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

with intent to obstruct a judicial proceeding, directly or indirectly notifies any other person about the existence or contents of a subpoena for records of that person engaged in such business or information that has been furnished to a Federal grand jury in response to that subpoena, shall be fined as provided by this title or imprisoned not more than 5 years, or both.

"(2) As used in paragraph (1), the term 'subpoena for records' means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 1033 of this title.".

TITLE V—MANDATORY LIFE IMPRISONMENT FOR PERSONS CONVICTED OF CERTAIN FELONIES

SEC. 501. MANDATORY LIFE IMPRISONMENT FOR PERSONS CONVICTED OF CERTAIN FELONIES.

Section 3559 of title 18, United States Code, is amended—

(1) in subsection (b), by striking "An" and inserting "Except as provided in subsection (c), an" in lieu thereof; and

(2) by adding the following new subsection at the end:

"(c) IMPRISONMENT OF CERTAIN VIOLENT FELONS.—

"(1) MANDATORY LIFE IMPRISONMENT.—Notwithstanding any other provision of law, a person who is convicted in a court of the United States of a serious violent felony shall be sentenced to life imprisonment if—

"(A) the person has been convicted (and those convictions have become final) on 2 or more prior occasions in a court of the United States or of a State of—

"(i) a serious violent felony; or

"(ii) one or more serious violent felonies and one or more serious drug offenses; and

"(B) each serious violent felony or serious drug offense used as a basis for sentencing under this subsection, other than the first, was committed after the defendant's conviction of the preceding serious violent felony or serious drug offense.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'assault with intent to commit rape' means an offense that has as its elements engaging in physical conduct by which a person intentionally places another person in fear of aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242 of this title);

"(B) the term 'arson' means an offense that has as its elements maliciously damaging or destroying any building, inhabited structure, vehicle, vessel, or real property by means of fire or an explosive;

"(C) the term 'extortion' means an offense that has as its elements the extraction of anything of value from another person by threatening or placing that person in fear of injury to any person or kidnapping of any person;

"(D) the term 'firearms use' means an offense that has as its elements those described in section 924(c) or 929(a) of this title, if the firearm was brandished, discharged, or otherwise used as a weapon and the crime of violence or drug trafficking crime during and relation to which the firearm was used was subject to prosecution in a court of the United States or a court of a State, or both;

"(E) the term 'kidnapping' means an offense that has as its elements the abduction, restraining, confining, or carrying away of another person by force or threat of force;

"(F) the term 'serious violent felony' means—

"(i) a Federal or State offense, by whatever designation and wherever committed, consisting of murder (as described in section 1111 of this title); manslaughter other than involuntary manslaughter (as described in section 1112 of this title); assault with intent to commit murder (as described in section 113(a) of this title); assault with intent to commit rape; aggravated sexual abuse and sexual abuse (as described in sections 2241 and 2242 of this title); abusive sexual contact (as described in sections 2244 (a)(1) and (a)(2) of this title); kidnapping; aircraft piracy (as described in section 902(i)(2) or 902(n)(2) of the Federal Aviation Act of 1958); robbery (as described in section 2111 of this title); carjacking (as described in section 2119 of this title); extortion; arson; firearms use; or attempt, conspiracy, or solicitation to commit any of the above offenses; or

"(ii) any other offense punishable by a maximum term of imprisonment of 10 years or more that has as an element the use, attempted use, or threatened use of physical force against the person of another or that, by its nature, involves a substantial risk that physical force against the person of another may be used in the course of committing the offense;

"(G) the term 'State' means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States; and

"(H) the term 'serious drug offense' means—

"(i) an offense subject to a penalty provided for in section 401(b)(1)(A) or 408 of the Controlled Substances Act or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act; or

"(ii) an offense under State law that, had the offense been prosecuted in a court of the United States, would have been subject to a penalty provided for in section 401(b)(1)(A) or 408 of the Controlled Substances Act or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act.

"(3) NONQUALIFYING FELONIES.—

"(A) ROBBERY IN CERTAIN CASES.—Robbery, an attempt, conspiracy, or solicitation to commit robbery; or an offense described in paragraph (2)(F)(ii) shall not serve as a basis for sentencing under this subsection if the defendant establishes by clear and convincing evidence that—

"(i) no firearm or other dangerous weapon was involved in the offense; and

"(ii) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person.

"(B) ARSON IN CERTAIN CASES.—Arson shall not serve as a basis for sentencing under this subsection if the defendant establishes by clear and convincing evidence that.—

"(i) the offense posed no threat to human life; and

"(ii) the defendant reasonably believed the offense posed no threat to human life.

"(4) INFORMATION FILED BY UNITED STATES ATTORNEY.—The provisions of section 411(a) of the Controlled Substances Act (21 U.S.C. 851(a)) shall apply to the imposition of sentence under this subsection.

"(5) RULE OF CONSTRUCTION.—This subsection shall not be construed to preclude imposition of the death penalty.

"(6) SPECIAL PROVISION FOR INDIAN COUNTRY.—No person subject to the criminal jurisdiction of an Indian tribal government shall be subject to this subsection for any offense for which Federal jurisdiction is solely predicated on Indian country as defined in section 1151 of this title and which occurs within the boundaries of such Indian country unless the governing body of the tribe has elected that this subsection have effect over land and persons subject to the criminal jurisdiction of the tribe.

"(7) RESENTENCING UPON OVERTURNING OF PRIOR CONVICTION.—If the conviction for a serious violent felony which was a basis for sentencing under this subsection is found, pursuant to any appropriate State or Federal procedure, to be unconstitutional or is vitiated on the explicit basis of innocence, or if the convicted person is pardoned on the explicit basis of innocence, the person serving a sentence imposed under this subsection shall be resentenced to any sentence that was available at the time of the original sentencing.".

SEC. 502. LIMITED GRANT OF AUTHORITY TO BUREAU OF PRISONS.

Section 3582(c)(1)(A) of title 18, United States Code, is amended—

(1) so that the margin of the matter starting with "extraordinary" and ending with "reduction" the first place it appears is indented an additional 2-ems;

(2) by inserting a one-em dash after "that" the second place it appears;

(3) by inserting a semicolon after "reduction" the first place it appears;

(4) by indenting the first line of the matter referred to in paragraph (1) and designating that matter as clause (i); and

(5) by inserting after such matter the following:

"(ii) the defendant is at least 70 years of age, has served at least 30 years in prison, pursuant to a sentence imposed under section 3559(c) of this title, for the offense or offenses for which the defendant is currently imprisoned, and a determination has been made by the Director of the Bureau of Prisons that the defendant is not a danger to the safety of any other person or the community, as provided under section 3142(g) of this title;".

TITLE VI—VIOLENT REPEAT OFFENDER INCARCERATION

SEC. 601. GRANTS FOR CORRECTIONAL FACILITIES.

(a) GRANT AUTHORIZATION.—The Attorney General may make grants to individual States and to States, organized as multi-State compacts, to develop, expand, modify, or improve correctional facilities and programs to ensure that prison cell space is available for the confinement of violent repeat offenders.

(b) ELIGIBILITY.—To be eligible to receive a grant under this title a State or States, organized as multi-State compacts, shall submit an application to the Attorney General which includes—

(1) assurances that the State or States, have implemented, or will implement, correctional policies and programs that are designed to provide sufficiently severe punishment for violent repeat offenders, including violent juvenile offenders, and that the prison time served is appropriately related to the determination that the inmate is a violent repeat offender and for a period of time deemed necessary to protect the public;

(2) assurances that the State or States have implemented policies that provide for the recognition of the rights and needs of crime victims;

(3) assurances that funds received under this title will be used to develop, expand, modify, or improve correctional facilities and programs to ensure that prison cell space is available for the confinement of violent repeat offenders;

(4) assurances that the State or States have a comprehensive correctional plan which represents an integrated approach to the management and operation of correctional facilities and programs and which includes diversional programs, particularly drug diversion programs, community corrections programs, a prisoner screening and security classification system, prisoner rehabilitation and treatment programs, prisoner work activities (including, to the extent practicable, activities relating to the development, expansion, modification, or improvement of correctional facilities), and job skills programs, a pre-release prisoner assessment to provide risk reduction management, post-release assistance, and an assessment of recidivism rates;

(5) assurances that the State or States have involved counties and other units of local government, when appropriate, in the development, expansion, modification, or improvement of correctional facilities and programs designed to ensure the incarceration of violent offenders;

(6) assurances that funds received under this section will be used to supplement, not supplant, other Federal, State, and local funds; and

(7) documentation of the multi-State compact agreement that specifies the development, expansion, modification, or improvement of correctional facilities and programs.

(c) MATCHING REQUIREMENT.—The Federal share of a grant received under this title may not exceed 75 percent of the costs of a proposal described in an application approved under this title.

SEC. 602. RULES AND REGULATIONS.

The Attorney General shall issue rules and regulations regarding the uses of grant funds received under this title not later than 90 days after the date of the enactment of this title.

SEC. 603. TECHNICAL ASSISTANCE AND TRAINING.

The Attorney General may request that the Director of the National Institute of Corrections and the Director of the Federal Bureau of Prisons provide technical assistance and training to a State or States that receive a grant under this title to achieve the purposes of this title.

SEC. 604. EVALUATION.

The Attorney General may request the Director of the National Institute of Corrections to assist with an evaluation of programs established with funds under this title.

SEC. 605. DEFINITION.

For purposes of this title, the term "State or States" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $600,000,000 for each of the fiscal years 1994 through 1998 to carry out the purposes of this title.

TITLE VII—DEATH PENALTY

SEC. 701. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Special provisions for Indian country.

"§3591. Sentence of death

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381 of this title;

"(2) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(C) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(D) intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

"(3) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) of that section or twice the gross receipts described in subsection (b)(2)(B) of that section; or

"(4) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer, or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or members of the family or household of such a person;

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"§ 3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified

"(a) Mitigating Factors.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider any mitigating factor, including the following:

"(1) Impaired capacity.—The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) Duress.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) Minor participation.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) Equally culpable defendants.—Another defendant or defendants, equally culpable in the crime, will not be punished by death.

"(5) No prior criminal record.—The defendant did not have a significant prior history of other criminal conduct.

"(6) Disturbance.—The defendant committed the offense under severe mental or emotional disturbance.

"(7) Victim's consent.—The victim consented to the criminal conduct that resulted in the victim's death.

"(8) Other factors.—Other factors in the defendant's background, record, or character or any other circumstance of the offense that mitigate against imposition of the death sentence.

"(b) Aggravating Factors for Espionage and Treason.—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) Prior espionage or treason offense.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of either life imprisonment or death was authorized by law.

"(2) Grave risk to national security.—In the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security.

"(3) Grave risk of death.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"(c) Aggravating Factors for Homicide.—In determining whether a sentence of death is justified for an offense described in section 3591(2), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) Death during commission of another crime.—The death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 1118 (prisoners serving life term), section 1201 (kidnapping), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1203 (hostage taking), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. 1472 (i) or (n)) (aircraft piracy).

"(2) Previous conviction of violent felony involving firearm.—For any offense, other than an offense for which a sentence of death is sought on the basis of section 924(c) of this title, as amended by this Act, the defendant has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than one year, involving the use or attempted or threatened use of a firearm, as defined in section 921 of this title, against another person.

"(3) Previous conviction of offense for which a sentence of death or life imprisonment was authorized.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(4) Previous conviction of other serious offenses.—The defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) Grave risk of death to additional persons.—The defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) Heinous, cruel, or depraved manner of committing offense.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) Procurement of offense by payment.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) Pecuniary gain.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) Substantial planning and premeditation.—The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism.

"(10) Conviction for two felony drug offenses.—The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(11) Vulnerability of victim.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) Conviction for serious Federal drug offenses.—The defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise.

"(13) Continuing criminal enterprise involving drug sales to minors.—The defendant committed the offense in the course of engaging in a continuing criminal enterprise in violation of section 408(c) of the Controlled Substances Act and that violation involved the distribution of drugs to persons under the age of 21 in violation of section 418 of such Act.

"(14) High public officials.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a Chief of State, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if the official is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he or she is engaged in the performance of his or her official duties;

"(ii) because of the performance of his or her official duties; or

"(iii) because of his or her status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution or adjudication of an offense, and includes those engaged in corrections, parole, or probation functions.

"(15) PRIOR CONVICTION OF SEXUAL ASSAULT OR CHILD MOLESTATION.—In the case of an offense under chapter 109A (sexual abuse) or chapter 110 (sexual abuse of children), the defendant has previously been convicted of a crime of sexual assault or crime of child molestation.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, the attorney shall, a reasonable time before the trial or before acceptance by the court of a plea of guilty, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family, and may include oral testimony, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim and the victim's family, and any other relevant information. The court may permit the notice to include any aggravating factor that is not an element of the underlying offense. The court may also permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant.

A jury impaneled pursuant to paragraph (2) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. The defendant may present any information relevant to a mitigating factor. The government may present any information relevant to an aggravating factor for which notice has been provided under subsection (a). The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by 1 or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(1), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591(2), an aggravating factor required to be considered under section 3592(c) is found to exist,

the jury, or if there is no jury, the court, shall consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether the defendant should be sentenced to death, to life imprisonment without possibility of release, or to some other lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence and the jury shall be so instructed.

"(f) SPECIAL PRECAUTION TO ENSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon a recommendation under section 3593(e) that the defendant should be sentenced to death or life imprisonment without possibility of release, the court shall sentence the defendant accordingly. Otherwise, the court shall impose any lesser sentence that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without possibility of release.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) The court of appeals shall address all substantive and procedural issues raised on the appeal of a sentence of death, and shall consider whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor and whether the evidence supports the special finding of the existence of an aggravating factor required to be considered under section 3592.

"(2) Whenever the court of appeals finds that—

"(A) the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the admissible evidence and information adduced does not support the special finding of the existence of the required aggravating factor; or

"(C) the proceedings involved any other legal error requiring reversal of the sentence that was properly preserved for appeal under the rules of criminal procedure,

the court shall remand the case for reconsideration under section 3593 or imposition of a sentence other than death.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(4) The sentence shall be affirmed if the court finds that a remaining aggravating factor found to exist is one allowed under section 3592 of this title and that the remaining aggravating factor or factors found to exist sufficiently outweigh any mitigating factors found to exist.

"§3596. Implementation of a sentence of death

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does provide for the implementation of a sentence of death, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) PREGNANT WOMAN.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) MENTAL CAPACITY.—A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability, lacks the mental capacity to understand the death penalty and why it was imposed on that person.

"§3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections, the United States Department of Justice, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any prosecution or execution under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.

"§3598. Special provisions for Indian country

"Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 of this title, and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has elected that this chapter have effect over land and persons subject to its criminal jurisdiction.".

(b) AMENDMENT OF CHAPTER ANALYSIS.—The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence .... 3591.".

SEC. 702. CONFORMING CHANGES TO SPECIFIC OFFENSES FOR WHICH DEATH PENALTY IS AUTHORIZED.

(a) CONFORMING CHANGES IN TITLE 18.—Title 18, United States Code, is amended as follows:

(1) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the subsection and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense resulted in the identification by a foreign power (as defined in section 101(a) of the Foreign Intelligence Surveillance Act of 1978) of an individual acting as an agent of the United States and consequently in the death of that individual, or directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(2) MURDER.—The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(3) KILLING OF FOREIGN OFFICIALS OR INTERNATIONALLY PROTECTED PERSONS.—Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(4) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(5) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(6) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(7) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(8) EXPLOSIVE MATERIALS.—(A) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(B) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(C) Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(9) DEATH PENALTY FOR THE MURDER OF FEDERAL LAW ENFORCEMENT OFFICIALS.—Section 1114 of title 18, United States Code, is amended by striking "punished as provided under sections 1111 and 1112 of this title," and inserting "punished, in the case of murder, by a sentence of death or life imprisonment as provided under section 1111 of this title, or, in the case of manslaughter, a sentence as provided under section 1112 of this title,".

(b) CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.—Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473) is amended by striking subsection (c) and by striking the item relating to subsection (c) in the table of contents at the beginning of such Act.

(c) AIRCRAFT AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

SEC. 703. AUTHORIZATION OF DEATH PENALTY FOR EXISTING OFFENSES.

(a) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(b) MURDER FOR HIRE.—Section 1958(a) of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined under this title, or both".

(c) RACKETEERING.—Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine under this title, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine under this title, or both;".

(d) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking ", a fine of not more than $1,000,000 and imprisonment for life;" and inserting ", where death results, by death or imprisonment for life and a fine under this title, or both;".

(e) CARJACKING.—Section 2119(3) of title 18, United States Code, is amended to read as follows:

"(3) if death results, be punished by death or imprisoned for any term of years or for life, fined under this title, or both."

(f) DEATH PENALTY FOR RAPE AND CHILD MOLESTATION MURDERS.—

(1) OFFENSE.—Chapter 109A of title 18, United States Code, is amended by redesignating section 2245 as section 2246, and by inserting after section 2244 the following:

"§2245. Sexual abuse resulting in death

"Whoever, in the course of an offense under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 109A of title 18, United States Code, is amended by striking the item for section 2245 and adding the following:

"2245. Sexual abuse resulting in death.
"2246. Definitions for chapter.".

(g) DEATH PENALTY FOR SEXUAL EXPLOITATION OF CHILDREN.—Section 2251(d) of title 18, United States Code, is amended by adding at the end the following: "Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

(h) HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.—Section 930 of title 18, United States Code, is amended—

(1) by redesignating subsections (c), (d), (e), (f), and (g) as subsections (d), (e), (f), (g), and (h), respectively;

(2) in subsection (a), by striking "(c)" and inserting "(d)";

(3) inserting after subsection (b) the following:

"(c) Whoever kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113 of this title.";

(4) in subsection (e)(2) (as so redesignated), by striking "(c)" and inserting "(d)"; and

(5) in subsection (h) (as so redesignated)—

(A) by striking "and (b)" and inserting ", (b), and (c)"; and

(B) by striking "(d)" each place it appears and inserting "(e)".

(i) DEATH PENALTY FOR MURDER OF FEDERAL WITNESSES.—Section 1512(a)(2)(A) of title 18, United States Code, is amended to read as follows:

"(A) in the case of murder as defined in section 1111 of this title, the death penalty or imprisonment for life, and in the case of any other killing, the punishment provided in section 1112 of this title; and".

(j) PROTECTION OF COURT OFFICERS AND JURORS.—Section 1503 of title 18, United States Code, is amended—

(1) by designating the current text as subsection (a);

(2) by striking "fined not more than $5,000 or imprisoned not more than five years, or both." and inserting "punished as provided in subsection (b).";

(3) by adding at the end the following:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title;

"(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than twenty years, a fine under this title, or both; and

"(3) in any other case, imprisonment for not more than ten years, a fine under this title, or both."; and

(4) in subsection (a), as so designated by this section, by striking "commissioner" each place it appears and inserting "magistrate judge".

(k) FOREIGN MURDER OF UNITED STATES NATIONALS.—

(1) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§1118. Foreign murder of United States nationals

"(a) Whoever, being a national of the United States, kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113 of this title.

"(b) No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same conduct.

"(c) No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the conduct took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this subsection is not subject to judicial review.

"(d) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(2) CONFORMING AMENDMENT.—Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1118".

(3) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Foreign murder of United States nationals.".

(l) DEATH PENALTY FOR CIVIL RIGHTS MURDERS.—

(1) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(2) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(3) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by inserting ", or may be sentenced to death" after "or for life".

(4) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting ", or may be sentenced to death" after "or both".

SEC. 704. DEATH PENALTY FOR MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"§1119. Murder by a Federal prisoner

"(a) OFFENSE.—Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, commits the murder of another shall be punished by death or by life imprisonment.

"(b) DEFINITIONS.—For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murder' means a first degree or second degree murder as defined by section 1111 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1119. Murder by a Federal prisoner.".

SEC. 705. MURDER BY ESCAPED PRISONERS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"§1120. Murder by escaped prisoners

"(a) IN GENERAL.—Whoever, having escaped from a Federal prison where such person was confined under a sentence for a term of life imprisonment, kills another shall be punished as provided in sections 1111 and 1112 of this title.

"(b) DEFINITION.—As used in this section, the terms 'Federal prison' and 'term of life imprisonment' have the meanings given those terms in section 1119 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1120. Murder by escaped prisoners.".

SEC. 706. DRIVE-BY SHOOTINGS.

(a) IN GENERAL.—Section 922 of title 18, United States, Code, is amended by adding at the end the following:

"(v) It shall be unlawful for any person knowingly to—

"(1) discharge a firearm from within a motor vehicle; and

"(2) thereby create a grave risk to human life.".

(b) PENALTY.—Section 924(a) of such title is amended by adding at the end the following:

"(6) Whoever knowingly violates section 922(v) shall be fined under this title or imprisoned not more than 25 years, or both, and if death results, shall be punished by death or imprisonment for life or any term of years.".

SEC. 707. DEATH PENALTY FOR GUN MURDERS DURING FEDERAL CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES.

Section 924 of title 18, United States Code, is amended by adding at the end the following:

"(j) Whoever, in the course of a violation of subsection (c) of this section, causes the death of a person through the use of a firearm, shall—

"(1) if the killing is a murder as defined in section 1111 of this title, be punished by death or by imprisonment for any term of years or for life; and

"(2) if the killing is manslaughter as defined in section 1112 of this title, be punished as provided in that section.".

SEC. 708. DEATH PENALTY FOR THE MURDER OF STATE OR LOCAL OFFICIALS ASSISTING FEDERAL LAW ENFORCEMENT OFFICIALS AND STATE CORRECTIONAL OFFICERS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code is amended by adding at the end the following:

"§1121. Killing persons aiding Federal investigations or State correctional officers

"(a) Whoever intentionally kills—

"(1) a State or local official, law enforcement officer, or other officer or employee while working with Federal law enforcement officials in furtherance of a Federal criminal investigation—

"(A) while the victim is engaged in the performance of official duties;

"(B) because of the performance of the victim's official duties; or

"(C) because of the victim's status as a public servant; or

"(2) any person assisting a Federal criminal investigation, while that assistance is being rendered and because of it,

shall be sentenced according to the terms of section 1111 of this title, including by sentence of death or by imprisonment for life.

"(b)(1) Whoever, in a circumstance described in paragraph (3) of this subsection, while incarcerated, intentionally kills any State correctional officer engaged in, or on account of the performance of such officer's official duties, shall be sentenced to a term of imprisonment which shall not be less than 20 years, and may be sentenced to life imprisonment or death.

"(2) As used in this section, the term, 'State correctional officer' includes any officer or employee of any prison, jail, or other detention facility, operated by, or under contract to, either a State or local governmental agency, whose job responsibilities include providing for the custody of incarcerated individuals.

"(3) The circumstance referred to in paragraph (1) of this subsection is that—

"(A) the correctional officer is engaged in transporting the incarcerated person interstate; or

"(B) the incarcerated person is incarcerated pursuant to a conviction for an offense against the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1121. Killing persons aiding Federal investigations or State correctional officers.".

SEC. 709. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting after the section heading a new subsection (a) as follows:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole or release pending judicial proceedings given by a person to a law enforcement officer;

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title; and

"(B) in the case of an attempt, imprisonment for not more than twenty years, a fine under this title, or both.".

SEC. 710. WEAPONS OF MASS DESTRUCTION.

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by inserting after section 2332 the following new section:

"§ 2332a. Use of weapons of mass destruction

"(a) Whoever uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States;

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) For purposes of this section—

"(1) the term 'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) the term 'weapon of mass destruction' means—

"(A) any destructive device as defined in section 921 of this title;

"(B) poison gas;

"(C) any weapon involving a disease organism; or

"(D) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113A of title 18, United States Code, is amended by inserting after the item relating to section 2332 the following:

"2332a. Use of weapons of mass destruction.".

SEC. 711. VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"§ 36. Violence at international airports

"(a) Whoever unlawfully and intentionally, using any device, substance or weapon—

"(1) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious bodily injury (as defined in section 1365 of this title) or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport;

if such an act endangers or is likely to endanger safety at that airport, or attempts to do such an act, shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if—

"(1) the prohibited activity takes place in the United States; or

"(2) the prohibited activity takes place outside of the United States and the offender is later found in the United States.

"(c) It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved—

"(1) a domestic dispute solely affecting and between members of the same family or household or between social acquaintances; or

"(2) was during or in relation to a labor dispute, and such conduct was prohibited as a felony under the law of the State in which it was committed.

For purposes of this section, the term 'labor dispute' has the meaning set forth in section 2(c) of the Norris-LaGuardia Act (29 U.S.C. 113(c)).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"36. Violence at international airports.".

(c) EFFECTIVE DATE.—This section shall take effect on the later of—

(1) the date of the enactment of this Act; or

(2) the date the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

SEC. 712. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

(a) OFFENSES.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following:

"§ 2280. Violence against maritime navigation

"(a) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

"(3) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(4) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

"(5) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(7) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) through (6); or

"(8) attempts to do any act prohibited under paragraphs (1) through (7);

shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results, from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to do any act prohibited under paragraph (2), (3) or (5) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b)—

"(1) in the case of a covered ship, if—

"(A) such activity is committed—

"(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(ii) in the United States and the activity is not prohibited as a crime by the State in which the activity takes place; or

"(iii) the activity takes place on a ship flying the flag of a foreign country or outside the United States, by a national of the United States or by a stateless person whose habitual residence is in the United States;

"(B) during the commission of such activity, a national of the United States is seized, threatened, injured or killed; or

"(C) the offender is later found in the United States after such activity is committed;

"(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

"(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

"(d) It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved—

"(1) a domestic dispute solely affecting and between members of the same family or household or between social acquaintances; or

"(2) was during or in relation to a labor dispute, and such conduct was prohibited as a felony under the law of the State in which it was committed.

For purposes of this section, the term 'labor dispute' has the meaning set forth in section 2(c) of the Norris-LaGuardia Act (29 U.S.C. 113(c)).

"(e) The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that there is on board that ship any person who has committed an offense under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation may deliver such person to the authorities of a State Party to that Convention. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action to take. When delivering the person to a country which is a State Party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of the master's intention to deliver such person and the reasons therefor. If the master delivers such person, the master shall furnish to the authorities of such country the evidence in the master's possession that pertains to the alleged offense.

"(f) As used in this section, the term—

"(1) the term 'ship' means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles or any other floating craft; but such term does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up;

"(2) the term 'covered ship' means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country;

"(3) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) the term 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) the term 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.

"§2281. Violence against maritime fixed platforms

"(a) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(3) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(4) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;

"(5) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) through (4); or

"(6) attempts to do anything prohibited under paragraphs (1) through (5);

shall be fined under this title or imprisoned not more than twenty years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to do anything prohibited under paragraph (2) or (3) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(d) It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved—

"(1) a domestic dispute solely affecting and between members of the same family or household or between social acquaintances; or

"(2) was during or in relation to a labor dispute, and such conduct was prohibited as a felony under the law of the State in which it was committed.

For purposes of this section, the term 'labor dispute' has the meaning set forth in section 2(c) of the Norris-LaGuardia Act (29 U.S.C. 113(c)).

"(e) As used in this section, the term—

"(1) 'continental shelf' means the sea-bed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea;

"(2) 'fixed platform' means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes;

"(3) 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands and all territories and possessions of the United States.".

(b) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 111 of title 18, United States Code, is amended by adding at the end thereof the following:

"2280. Violence against maritime navigation.
"2281. Violence against maritime fixed platforms.".

(c) EFFECTIVE DATES.—This section and the amendments made by this section shall take effect on the later of—

(1) the date of the enactment of this Act; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

SEC. 713. TORTURE.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

"CHAPTER 113B—TORTURE

"Sec.
2340. Definitions.
2340A. Torture.
2340B. Exclusive remedies.

"§2340. Definitions

"As used in this chapter—

"(1) the term 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control;

"(2) the term 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from (A) the intentional infliction or threatened infliction of severe physical pain or suffering; (B) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality; (C) the threat of imminent death; or (D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality;

"(3) the term 'United States' includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301(38)).

"§ 2340A. Torture

"(a) Whoever, outside the United States and in a circumstance described in subsection (b) of this section, commits or attempts to commit torture—

"(1) shall be fined under this title or imprisoned not more than twenty years, or both; and

"(2) if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) The circumstance referred to in subsection (a) of this section is if—

"(1) the alleged offender is a national of the United States; or

"(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

"§ 2340B. Exclusive remedies

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 113A the following new item:

"113B. Torture .... 2340.".

(c) EFFECTIVE DATE.—This section shall take effect on the later of—

(1) the date of enactment of this section; or

(2) the date the United States has become a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

SEC. 714. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this title, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 715. PROTECTION OF JURORS AND WITNESSES IN CAPITAL CASES.

Section 3432 of title 18, United States Code, is amended by inserting before the period the following: ", except that such list of the veniremen and witnesses need not be furnished if the court finds by a preponderance of the evidence that providing the list may jeopardize the life or safety of any person".

TITLE VIII—HABEAS CORPUS REFORM

SEC. 801. FILING DEADLINES.

Section 2254 of title 28, United States Code, is amended by adding at the end the following:

"(g)(1) In the case of an applicant under sentence of death, any application for habeas corpus relief under this section must be filed in the appropriate district court not later than 1 year after—

"(A) the date of denial of a writ of certiorari, if a petition for a writ of certiorari to the highest court of the State on direct appeal or unitary review of the conviction and sentence is filed, within the time limits established by law, in the Supreme Court;

"(B) the date of issuance of the mandate of the highest court of the State on direct appeal or unitary review of the conviction and sentence, if a petition for a writ of certiorari is not filed, within the time limits established by law, in the Supreme Court; or

"(C) the date of issuance of the mandate of the Supreme Court, if on a petition for a writ of certiorari the Supreme Court grants the writ and disposes of the case in a manner that leaves the capital sentence undisturbed.

"(2) The time requirements established by this section shall be tolled—

"(A) during any period in which the State has failed to provide counsel as required in section 2257 of this chapter;

"(B) during the period from the date the applicant files an application for State postconviction relief until final disposition of the application by the State appellate courts, if all filing deadlines are met; and

"(C) during an additional period not to exceed 90 days, if counsel moves for an extension in the district court that would have jurisdiction of a habeas corpus application and makes a showing of good cause.".

SEC. 802. STAYS OF EXECUTION IN CAPITAL CASES.

Section 2251 of title 28, United States Code, is amended—

(1) by inserting "(a)(1)" before the first paragraph;

(2) by inserting "(2)" before the second paragraph; and

(3) by adding at the end the following:

"(b) In the case of an individual under sentence of death, a warrant or order setting an execution shall be stayed upon application to any court that would have jurisdiction over an application for habeas corpus under this chapter. The stay shall be contingent upon reasonable diligence by the individual in pursuing relief with respect to such sentence and shall expire if—

"(1) the individual fails to apply for relief under this chapter within the time requirements established by section 2254(g) of this chapter;

"(2) upon completion of district court and court of appeals review under section 2254 of this chapter, the application is denied and—

"(A) the time for filing a petition for a writ of certiorari expires before a petition is filed;

"(B) a timely petition for a writ of certiorari is filed and the Supreme Court denies the petition; or

"(C) a timely petition for certiorari is filed and, upon consideration of the case, the Supreme Court disposes of it in a manner that leaves the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel qualified under section 2257 of this chapter and after being advised of the consequences of the decision, an individual waives the right to pursue relief under this chapter.".

SEC. 803. LAW APPLICABLE.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"§ 2256. Law applicable

"(a) Except as provided in subsection (b), in an action under this chapter, the court shall not apply a new rule.

"(b) A court shall apply a new rule, if the new rule—

"(1) places the claimant's conduct beyond the power of the criminal law-making authority to proscribe or punish with the sanction imposed; or

"(2) requires the observance of procedures without which the likelihood of an accurate conviction or valid capital sentence is seriously diminished.

"(c) As used in this section, the term 'new rule' means a clear break from precedent, announced by the Supreme Court of the United States, that could not reasonably have been anticipated at the time the claimant's sentence became final in State court. A rule is not 'new' merely because it was not dictated or compelled by the precedents existing at that time or because, at that time, it was susceptible to debate among reasonable minds.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"2256. Law applicable.".

SEC. 804. COUNSEL IN CAPITAL CASES; STATE COURT.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding after the provision added by section 804 of this subtitle the following:

"§ 2257. Counsel in capital cases; State court

"(a) Notwithstanding section 2254(d) of this chapter, the court in an action under this chapter shall neither presume a finding of fact made in a State court proceeding specified in subsection (b)(1) of this section to be correct nor decline to consider a claim on the ground that it was not raised in such a proceeding at the time or in the manner prescribed by State law, unless—

"(1) the relevant State maintains a mechanism for providing legal services to indigents in capital cases that meets the specifications in subsection (b) of this section;

"(2) if the applicant in the instant case was eligible for the appointment of counsel and did not waive such an appointment, the State actually appointed an attorney or attorneys to represent the applicant in the State proceeding in which the finding of fact was made or the default occurred; and

"(3) the attorney or attorneys so appointed substantially met both the qualification standards specified in subsection (b)(3)(A) or (b)(4) of this section and the performance standards established by the appointing authority.

"(b) A mechanism for providing legal services to indigents within the meaning of subsection (a)(1) of this section shall include the following elements:

"(1) The State shall provide legal services to—

"(A) indigents charged with offenses for which capital punishment is sought;

"(B) indigents who have been sentenced to death and who seek appellate, collateral, or unitary review in State court; and

"(C) indigents who have been sentenced to death and who seek certiorari review of State court judgments in the United States Supreme Court.

"(2) The State shall establish a counsel authority, which shall be—

"(A) a statewide defender organization;

"(B) a resource center; or

"(C) a counsel authority appointed by the highest State court having jurisdiction over criminal matters, consisting of members of the bar with substantial experience in, or commitment to, the representation of criminal defendants in capital cases, and comprised of a balanced representation from each segment of the State's criminal defense bar.

"(3) The counsel authority shall—

"(A) publish a roster of attorneys qualified to be appointed in capital cases, procedures by which attorneys are appointed, and standards governing qualifications and performance of counsel, which shall include—

"(i) knowledge and understanding of pertinent legal authorities regarding issues in capital cases; and

"(ii) skills in the conduct of negotiations and litigation in capital cases, the investigation of capital cases and the psychiatric history and current condition of capital clients, and the preparation and writing of legal papers in capital cases;

"(B) monitor the performance of attorneys appointed and delete from the roster any attorney who fails to meet qualification and performance standards; and

"(C) appoint a defense team, which shall include at least 2 attorneys, to represent a client at the relevant stage of proceedings, within 30 days after receiving notice of the need for the appointment from the relevant State court.

"(4) An attorney who is not listed on the roster shall be appointed only on the request of the client concerned and in circumstances in which the attorney requested is able to provide the client with quality legal representation.

"(5) No counsel appointed pursuant to this section to represent a prisoner in State postconviction proceedings shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made, unless the prisoner and counsel expressly request continued representation.

"(6) The ineffectiveness or incompetence of counsel appointed pursuant to this section during State or Federal postconviction proceedings shall not be a ground for relief in a proceeding arising under section 2254 of this title. This limitation shall not preclude the appointment of different counsel at any phase of State or Federal postconviction proceedings.

"(7) Upon receipt of notice from the counsel authority that an individual entitled to the appointment of counsel under this section has declined to accept such an appointment, the court requesting the appointment shall conduct, or cause to be conducted, a hearing, at which the individual and counsel proposed to be appointed under this section shall be present, to determine the individual's competency to decline the appointment, and whether the individual has knowingly and intelligently declined it.

"(8) Attorneys appointed pursuant to this section shall be compensated on an hourly basis pursuant to a schedule of hourly rates as periodically established by the counsel authority after consultation with the highest State court with jurisdiction over criminal matters. Appointed counsel shall be reimbursed for expenses reasonably incurred in representing the client, including the costs of law clerks, paralegals, investigators, experts, or other support services.

"(9) Support services for staff attorneys of a defender organization or resource center shall be equal to the services listed in paragraph (8).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 153 of title 28, United States Code, is amended by adding after the provision added by section 303 the following:

"2257. Counsel in capital cases; State court.".

SEC. 805. SUCCESSIVE FEDERAL PETITIONS.

Section 2244(b) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by inserting ", in the case of an applicant not under sentence of death," after "When"; and

(3) by adding at the end the following:

"(2) In the case of an applicant under sentence of death, a claim presented in a second or successive application, that was not presented in a prior application under this chapter, shall be dismissed unless—

"(A) the applicant shows that—

"(i) the basis of the claim could not have been discovered by the exercise of reasonable diligence before the applicant filed the prior application; or

"(ii) the failure to raise the claim in the prior application was due to action by State officials in violation of the Constitution of the United States; and

"(B) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the applicant's guilt of the offense or offenses for which the capital sentence was imposed, or in the validity of that sentence under Federal law.".

SEC. 806. CERTIFICATES OF PROBABLE CAUSE.

The third paragraph of section 2253, of title 28, United States Code, is amended to read as follows:

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, unless the justice or judge who rendered the order or a circuit justice or judge issues a certificate of probable cause. However, an applicant under sentence of death shall have a right of appeal without a certification of probable cause, except after denial of a second or successive application.".

SEC. 807. DUTIES OF THE DISTRICT COURT.

Section 2254(a) of title 28, United States Code, is amended by adding at the end the following:

"In adjudicating the merits of any such ground, the court shall exercise independent judgment in ascertaining the pertinent Federal legal standards and in applying those standards to the facts and shall not defer to a previous State court judgment regarding a Federal legal standard or its application. Upon request, the court shall permit the parties to present evidence regarding material facts that were not adequately developed in State court. The court shall award relief with respect to any meritorious constitutional ground, unless, in the case of a violation that can be harmless, the respondent shows that the error was harmless beyond a reasonable doubt.".

SEC. 808. CLAIMS OF INNOCENCE.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding after the provision added by section 805 of this subtitle the following:

"§ 2258. Claims of innocence

"(a) At any time, and notwithstanding any other provision of law, a district court shall issue habeas corpus relief on behalf of an applicant under sentence of death, imposed either in Federal or in State court, who offers credible newly discovered evidence which, had it been presented to the trier of fact or sentencing authority at trial, would probably have resulted in—

"(1) an acquittal of the offense for which the death sentence was imposed; or

"(2) a sentence other than death.

"(b) An application filed pursuant to subsection (a) shall offer substantial evidence which, if credible, would establish one of the standards in subsection (a)(1) or (2). An application that fails to do so may be dismissed.

"(c) If the court concludes that an application meets the requirements in subsection (b), the court shall—

"(1) order the respondent to file an answer;

"(2) permit the parties to conduct reasonable discovery;

"(3) conduct a hearing to resolve disputed issues of fact; and

"(4) upon request, issue a stay of execution pending further proceedings in the district court and on direct review of the district court's judgment.

"(d) If the court concludes that the applicant meets the standards established by subsection (a)(1) or (2), the court shall order his or her release, unless a new trial or, in an appropriate case, a new sentencing proceeding, is conducted within a reasonable time.

"(e) If the court determines that the applicant is currently entitled to pursue other available and effective remedies in either State or Federal court, the court may, at the request of either party, suspend its consideration of the application under this section until the applicant has exhausted those remedies. A stay issued pursuant to subsection (c) shall remain in effect during such a suspension.

"(f) An application under this section may be consolidated with any other pending application under this chapter, filed by the same applicant.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 153 of title 28, United States Code, is amended by adding after the provision added by section 304 of this subtitle the following:

"2258. Claims of innocence.".

SEC. 809. PROCEDURAL DEFAULT IN STATE COURT.

Section 2254 of title 28, United States Code, is amended by adding the following:

"(h)(1) A district court shall decline to consider a claim under this section if—

"(A) the applicant previously failed to raise the claim in State court at the time and in the manner prescribed by State law; the State courts, for that reason, refused or would refuse to entertain the claim; such refusal would constitute an adequate and independent State law ground that would foreclose direct review of the State court judgment in the Supreme Court of the United States; and

"(B) the applicant fails to show cause for the failure to raise the claim in State court and prejudice to the applicant's right to fair proceedings or to an accurate outcome resulting from the alleged violation of the Federal right asserted, or that failure to consider the claim would result in a miscarriage of justice.

"(2) The court shall not find cause in any case in which it appears that the applicant or counsel deliberately withheld a claim from the State courts for strategic purposes. An applicant may establish cause by showing that—

"(A) the factual basis of the claim could not have been discovered by the exercise of reasonable diligence before the applicant could have raised the claim in State court;

"(B) the claim relies on a decision of the Supreme Court of the United States, announced after the applicant might have raised the claim in State court; or

"(C) the failure to raise the claim in State court was due to interference by State officials, counsel's ignorance or neglect, or counsel's ineffective assistance in violation of the Constitution.".

TITLE IX—RACIALLY DISCRIMINATORY CAPITAL SENTENCING

SEC. 901. AMENDMENT TO TITLE 28.

(a) PROCEDURE.—Part VI of title 28, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 177—RACIALLY DISCRIMINATORY CAPITAL SENTENCING

"Sec.

"2921. Prohibition against the execution of a sentence of death imposed on the basis of race.

"2922. Access to data on death eligible cases.

"2923. Enforcement of the chapter.

"2924. Construction of chapter.

"§ 2921. Prohibition against the execution of a sentence of death imposed on the basis of race

"(a) IN GENERAL.—No person shall be put to death under color of State or Federal law in the execution of a sentence that was imposed based on race.

"(b) INFERENCE OF RACE AS THE BASIS OF DEATH SENTENCE.—An inference that race was the basis of a death sentence is established if valid evidence is presented demonstrating that, at the time the death sentence was imposed, race was a statistically significant factor in decisions to seek or to impose the sentence of death in the jurisdiction in question.

"(c) RELEVANT EVIDENCE.—Evidence relevant to establish an inference that race was the basis of a death sentence may include evidence that death sentences were, at the time pertinent under subsection (b), being imposed significantly more frequently in the jurisdiction in question—

"(1) upon persons of one race than upon persons of another race; or

"(2) as punishment for capital offenses against persons of one race than as punishment for capital offenses against persons of another race.

"(d) VALIDITY OF EVIDENCE PRESENTED TO ESTABLISH AN INFERENCE.—If statistical evidence is presented to establish an inference that race was the basis of a sentence of death, the court shall determine the validity of the evidence and if it provides a basis for the inference. Such evidence must take into account, to the extent it is compiled and publicly made available, evidence of the statutory aggravating factors of the crimes involved, and shall include comparisons of similar cases involving persons of different races.

"(e) REBUTTAL.—If an inference that race was the basis of a death sentence is established under subsection (b), the death sentence may not be carried out unless the government rebuts the inference by a preponderance of the evidence. Unless it can show that the death penalty was sought in all cases fitting the statutory criteria for imposition of the death penalty, the government cannot rely on mere assertions that it did not intend to discriminate or that the cases in which death was imposed fit the statutory criteria for imposition of the death penalty.

"§ 2922. Access to data on death eligible cases

"Data collected by public officials concerning factors relevant to the imposition of the death sentence shall be made publicly available.

"§ 2923. Enforcement of the chapter

"In any proceeding brought under section 2254, the evidence supporting a claim under this chapter may be presented in an evidentiary hearing and need not be set forth in the petition. Notwithstanding section 2254, no determination on the merits of a factual issue made by a State court pertinent to any claim under section 2921 shall be presumed to be correct unless—

"(1) the State is in compliance with section 2922;

"(2) the determination was made in a proceeding in a State court in which the person asserting the claim was afforded rights to the appointment of counsel and to the furnishing of investigative, expert and other services necessary for the adequate development of the claim; and

"(3) the determination is one which is otherwise entitled to be presumed to be correct under the criteria specified in section 2254.

"§ 2924. Construction of chapter

"Nothing contained in this chapter shall be construed to affect in one way or the other the lawfulness of any sentence of death that does not violate section 2921.".

(b) AMENDMENT TO TABLE OF CHAPTERS.—The table of chapters of part VI of title 28, United States Code, is amended by adding at the end thereof the following new item:

"177. Racially Discriminatory Capital Sentencing .... 2921.".

SEC. 902. ACTIONS BEFORE ENACTMENT.

No person shall be barred from raising any claim under section 2921 of title 28, United States Code, as added by this Act, on the ground of having failed to raise or to prosecute the same or a similar claim before the enactment of the Act, nor by reason of any adjudication rendered before that enactment.

TITLE X—CRIME PREVENTION AND COMMUNITY JUSTICE

Subtitle A—Model Intensive Grant Programs

SEC. 1001. GRANT AUTHORIZATION.

(a) ESTABLISHMENT.—The Attorney General, who may consult with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, is authorized to award grants to not more than 15 chronic high intensive crime areas to develop comprehensive model crime prevention programs that—

(1) involve and utilize a broad spectrum of community resources, including nonprofit community organizations, law enforcement organizations, and appropriate State and Federal agencies, including the State educational agencies;

(2) attempt to relieve conditions that encourage crime; and

(3) provide meaningful and lasting alternatives to involvement in crime.

(b) PRIORITY.—In awarding grants described in subsection (a), the Attorney General shall give priority to proposals that—

(1) are innovative in approach to the prevention of crime in a specific area; and

(2) vary in approach to ensure that comparisons of different models may be made.

SEC. 1002. USES OF FUNDS.

(a) IN GENERAL.—Funds awarded under this subtitle may be used only for purposes described in an approved application. The intent of grants under this subtitle is to fund intensively comprehensive crime prevention programs in chronic high intensive crime areas.

(b) GUIDELINES.—The Attorney General shall issue and publish in the Federal Register guidelines that describe suggested purposes for which funds under approved programs may be used.

SEC. 1003. PROGRAM REQUIREMENTS.

(a) DESCRIPTION.—An applicant shall include a description of the distinctive factors that contribute to chronic violent crime within the area proposed to be served by the grant. Such factors may include lack of alternative activities and programs for youth, deterioration or lack of public facilities, inadequate public services such as public transportation, street lighting, community-based substance abuse treatment facilities, or employment services offices, and inadequate police or public safety services, equipment, or facilities.

(b) COMPREHENSIVE PLAN.—An applicant shall include a comprehensive, community-based plan to attack intensively the principal factors identified in subsection (a). Such plans shall describe the specific purposes for which funds are proposed to be used and how each purpose will address specific factors. The plan also shall specify how local nonprofit organizations, government agencies, private businesses, citizens groups, volunteer organizations, and interested citizens will cooperate in carrying out the purposes of the grant.

(c) EVALUATION.—An applicant shall include an evaluation plan by which the success of the plan will be measured, including the articulation of specific, objective indicia of performance, how the indicia will be evaluated, and a projected timetable for carrying out the evaluation.

SEC. 1004. APPLICATIONS.

To request a grant under this subtitle the chief local elected official of an area shall—

(1) prepare and submit to the Attorney General an application in such form, at such time, and in accordance with such procedures, as the Attorney General shall establish; and

(2) provide an assurance that funds received under this subtitle shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for programs funded under this subtitle.

SEC. 1005. REPORTS.

Not later than December 31, 1998, the Attorney General shall prepare and submit to the Committees on the Judiciary of the House and Senate an evaluation of the model programs developed under this subtitle and make recommendations regarding the implementation of a national crime prevention program.

SEC. 1006. DEFINITIONS.

For purposes of this subtitle:

(1) CHRONIC HIGH INTENSITY CRIME AREA.—The term "chronic high intensity crime area" is an area that meets criteria defined under regulations issued by the Attorney General. The criteria adopted by the Attorney General shall, at a minimum, define areas with—

(A) consistently high rates of violent crime as reported in the Federal Bureau of Investigation's "Uniform Crime Reports", and

(B) chronically high rates of poverty as determined by the Bureau of the Census.

(2) CHIEF LOCAL ELECTED OFFICIAL.—The term "chief local elected official" means an official designated under regulations issued the Attorney General. The criteria used by the Attorney General in promulgating such regulations shall ensure administrative efficiency and accountability in the expenditure of funds and execution of funded projects under this subtitle.

SEC. 1007. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $300,000,000 for each of the fiscal years 1995, 1996, 1997, 1998, and 1999.

Subtitle B—Ounce of Prevention Grant Programs

PART I—OUNCE OF PREVENTION GRANT PROGRAMS

SEC. 1010. OUNCE OF PREVENTION COUNCIL.

(a) IN GENERAL.—(1) The Secretary of Health and Human Services shall convene an interagency Task Force to be known as the Ounce of Prevention Council, which shall be chaired by the Attorney General, the Secretary of Education, and the Secretary of Health and Human Services, and which also shall include the Secretary of Housing and Urban Development, the Secretary of Labor, the Secretary of Agriculture, and the Director of the Office of National Drug Control Policy.

(2) The Council may obtain the necessary staff to carry out its functions through the detail or assignment of employees from the departments or offices which are represented by the Council.

(3) The Council may delegate any of its functions or powers to a member or members of the Council.

(b) ADMINISTRATIVE RESPONSIBILITIES AND POWERS.—The Council shall advise and counsel the Secretary regarding administration of the programs established by this title. In consultation with the Council, the Secretary may issue regulations and guidelines to carry out this title, including specifications concerning application requirements, selection criteria, duration and renewal of grants, evaluation requirements, limitation of administrative expenses, submission of reports by grantees, recordkeeping by grantees, and access to books, records, and documents maintained by grantees or other persons for purposes of audit or examination.

(c) TARGETING OF ASSISTANCE FOR DISTRESSED COMMUNITIES AND INDIVIDUALS WITH PARTICULAR NEEDS.—In consultation with the Council, the Secretary shall adopt regulations or guidelines to ensure that funding provided under this title shall be used primarily for—

(1) assistance in communities that are distressed as indicated by such factors as high incidences of crime, juvenile delinquency, gang involvement, substance abuse, unemployment, school dropouts, or pregnancy among adolescents; and

(2) assistance for individuals in any area who are particularly in need of the assistance for such reasons as involvement in juvenile delinquency, gangs, or substance abuse, unemployability, dropping out of school, or pregnancy during adolescence, or being at risk of such conditions.

SEC. 1011. OUNCE OF PREVENTION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary, after consultation with the Council, may make grants to States, local governments, educational institutions, coalitions, local educational agencies, State educational agencies, and other public and private entities, for—

(1) summer and after-school (including weekend and holiday education and recreation) programs;

(2) mentoring, tutoring, and other programs involving participation by adult role models;

(3) programs assisting and promoting employability and job placement; and

(4) substance abuse treatment and prevention, including outreach programs for at-risk families.

(b) PRIORITY.—In making such grants, the Secretary shall give preference to coalitions consisting of a broad spectrum of community-based and social service organizations that have a coordinated team approach to reducing gang membership and the effects of substance abuse, and providing alternatives to at-risk youth.

(c) DEFINITIONS.—For purposes of this section the term "Secretary" means the Secretary of Health and Human Resources.

PART II—FAMILY AND COMMUNITY ENDEAVOR SCHOOLS GRANT PROGRAM

SEC. 1015. PROGRAM AUTHORITY.

(a) IN GENERAL.—

(1) ALLOCATIONS FOR STATES.—For a fiscal year in which the sums reserved by the Secretary from the amounts appropriated for this subtitle to carry out this section equal or exceed $20,000,000, the Secretary shall allocate to community-based organizations in each State, an amount bearing the same ratio to such sums as the number of children in the State who are from families with incomes below the poverty line bears to the number of children in all States who are from families with incomes below the poverty line.

(2) GRANTS TO COMMUNITY-BASED ORGANIZATIONS FROM ALLOCATIONS.—For such a fiscal year, the Secretary may award grants from the appropriate State allocation determined under paragraph (1) on a competitive basis to eligible community-based organizations to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this section.

(3) REALLOCATION.—If, at the end of such a fiscal year, the Secretary determines that funds allocated for community-based organizations in a State remain unobligated, the Council may use such funds to award grants to eligible community-based organizations in another State to pay for such Federal share. Amounts made available through such grants shall remain available until expended.

(b) OTHER FISCAL YEARS.—For any fiscal year in which the sums reserved by the Secretary from amounts appropriated for this subtitle to carry out this section are less than $20,000,000, the Secretary may award grants on a competitive basis to eligible community-based organizations to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this section.

SEC. 1016. PROGRAM REQUIREMENTS.

(a) LOCATION.—A community-based organization that receives a grant under this section to assist in carrying out such a program shall ensure that the program is carried out—

(1) where appropriate, in the facilities of a public school; or

(2) in another appropriate local facility in a State, such as a college or university, a local or State park or recreation center, church, or military base, that is—

(A) in a location that is easily accessible to children in the community; and

(B) in compliance with all applicable local ordinances.

(b) USE OF FUNDS.—Such community-based organization—

(1) shall use funds made available through the grant to provide, to children in the eligible community, services and activities that—

(A) shall include supervised sports programs, and extracurricular and academic programs, that are offered—

(i) after school and on weekends and holidays, during the school year; and

(ii) as daily full-day programs (to the extent available resources permit) or as part-day programs, during the summer months;

(2) in providing such extracurricular and academic programs, shall provide programs such as curriculum-based supervised educational programs, work force preparation, entrepreneurship, cultural programs, arts and crafts, and health education and service programs, dance programs, tutorial and mentoring programs, and other related activities;

(3) may use such funds—

(A) for the renovation of facilities that are in existence prior to the operation of the program for which the organization receives the grant; and

(B) to develop or expand school programs (including programs that provide a variety of additional services to help meet the comprehensive needs of students, such as homework assistance and after-school programs (including educational, social, and athletic activities), nutrition services, family counseling, and parental training programs) that are designed to improve academic and social development of at-risk children by instituting a collaborative structure that trains and coordinates the efforts of teachers, administrators, social workers, guidance counselors, parents, and school volunteers to provide concurrent social services for at-risk students in the daily academic curriculum at public schools in the eligible community; and

(4) may not use such funds to provide sectarian worship or instruction.

SEC. 1017. ELIGIBLE COMMUNITY IDENTIFICATION.

(a) IDENTIFICATION.—To be eligible to receive a grant under this section, a community-based organization shall identify an eligible community to be assisted under this section.

(b) CRITERIA.—Such eligible community shall be an area that meets such criteria with respect to significant poverty and significant juvenile delinquency, and such additional criteria, as the Secretary may by regulation require.

SEC. 1018. APPLICATIONS.

(a) APPLICATION REQUIRED.—To be eligible to receive a grant under this section, a community-based organization shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require, and obtain approval of such application.

(b) CONTENTS OF APPLICATION.—Each application submitted pursuant to paragraph (1) shall—

(1) describe the activities and services to be provided through the program for which the grant is sought;

(2) contain an assurance that the community-based organization will spend grant funds received under this section in a manner that the community-based organization determines will best accomplish the objectives of this section;

(3) contain a comprehensive plan for the program that is designed to achieve identifiable goals for children in the eligible community;

(4) set forth measurable goals and outcomes for the program that—

(A) will—

(i) where appropriate, make a public school the focal point of the eligible community; or

(ii) make a local facility described in section 1016(a)(2) such a focal point; and

(B) may include reducing the percentage of children in the eligible community that enter the juvenile justice system, increasing the graduation rates, school attendance, and academic success of children in the eligible community, and improving the skills of program participants;

(5) provide evidence of support for accomplishing such goals and outcomes from—

(A) community leaders;

(B) businesses;

(C) local educational agencies;

(D) local officials;

(E) State officials; and

(F) other organizations that the community-based organization determines to be appropriate;

(6) contain an assurance that the community-based organization will use grant funds received under this section to provide children in the eligible community with activi-

ties and services that shall include supervised sports programs, and extracurricular and academic programs, in accordance with section 1016(b);

(7) contain a list of the activities and services that will be offered through the program for which the grant is sought and sponsored by private nonprofit organizations, individuals, and groups serving the eligible community, including—

(A) extracurricular and academic programs, such as programs described in section 1016(b)(2); and

(B) activities that address specific needs in the community;

(8) demonstrate the manner in which the community-based organization will make use of the resources, expertise, and commitment of private entities in carrying out the program for which the grant is sought;

(9) include an estimate of the number of children in the eligible community expected to be served pursuant to the program;

(10) include a description of charitable private resources, and all other resources, that will be made available to achieve the goals of the program;

(11) contain an assurance that the community-based organization will use competitive procedures when purchasing, contracting, or otherwise providing for goods, activities, or services to carry out programs under this section;

(12) contain an assurance that the program will maintain a staff-to-participant ratio that is appropriate to the activity or service provided by the program;

(13) contain an assurance that the community-based organization will comply with any evaluation under section 1023, any research effort authorized under Federal law, and any investigation by the Secretary;

(14) contain an assurance that the community-based organization shall prepare and submit to the Secretary an annual report regarding any program conducted under this section;

(15) contain an assurance that the program for which the grant is sought will, to the maximum extent possible, incorporate services that are—

(A) provided by program volunteers, parents, adult mentors, social workers, drug and alcohol abuse counselors, teachers, or other persons providing tutoring and college or vocational preparation; and

(B) provided solely through non-Federal private and nonprofit sources; and

(16) contain an assurance that the community-based organization will maintain separate accounting records for the program.

(c) PRIORITY.—In awarding grants to carry out programs under this section, the Secretary shall give priority to community-based organizations who submit applications that demonstrate the greatest effort in generating local support for the programs.

SEC. 1019. ELIGIBILITY OF PARTICIPANTS.

(a) IN GENERAL.—To the extent possible, each child who resides in an eligible community shall be eligible to participate in a program carried out in such community that receives assistance under this section.

(b) EXCLUSION.—

(1) NONDISCRIMINATION.—In selecting children to participate in a program that receives assistance under this section, a community-based organization shall not discriminate on the basis of race, color, religion, sex, national origin, or disability.

(2) PARENTAL APPROVAL.—To be eligible to participate in a program that receives assistance under this section, a child shall provide the express written approval of a parent or guardian, and shall submit an official application that agrees to the terms and conditions of participation in the program. All information and application forms shall be in a format and language accessible to and understandable to the parent or guardian of the child.

SEC. 1020. PEER REVIEW PANEL.

(a) ESTABLISHMENT.—The Secretary shall establish a peer review panel that shall be comprised of individuals with demonstrated experience in designing and implementing community-based programs.

(b) COMPOSITION.—Such panel shall include at least 1 representative from each of the following:

(1) A community-based organization.

(2) A local government.

(3) A local educational agency.

(4) The private sector.

(5) A charitable organization.

(c) FUNCTIONS.—Such panel shall conduct the initial review of all grant applications received by the Secretary under section 1018, make recommendations to the Secretary regarding—

(1) grant funding under this section; and

(2) a design for the evaluation of programs assisted under this section.

SEC. 1021. INVESTIGATIONS AND INSPECTIONS.

The Secretary may conduct such investigations and inspections as may be necessary to ensure compliance with the provisions of this section.

SEC. 1022. FEDERAL SHARE.

(a) PAYMENTS, FEDERAL SHARE, NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall, subject to the availability of appropriations, pay to each community-based organization having an application approved under section 1018 the Federal share of the costs of developing and carrying out programs referred to in section 1015.

(2) FEDERAL SHARE.—The Federal share of such costs shall be 70 percent for each of the fiscal years 1995, 1996, 1997, and 1998.

(b) NON-FEDERAL SHARE.—

(1) IN GENERAL.—The non-Federal share of such costs may be in cash or in kind, fairly evaluated, including plant, equipment, and services (including the services described in section 1018(b)(16).

(2) SPECIAL RULE.—At least 15 percent of the non-Federal share of such costs shall be provided from private or nonprofit sources.

SEC. 1023. EVALUATION.

The Secretary shall conduct a thorough evaluation of the programs assisted under this section, which shall include an assessment of—

(1) the number of children participating in each program assisted under this section;

(2) the academic achievement of such children;

(3) school attendance and graduation rates of such children; and

(4) the number of such children being processed by the juvenile justice system.

SEC. 1024. DEFINITIONS.

In this part the following definitions apply:

(1) CHILD.—The term "child" means an individual who is not younger than 5 and not older than 18.

(2) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" means a private, locally initiated community-based organization that—

(A) is a nonprofit organization, as defined in section 103(23) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(23)); and

(B) is operated by a consortium of service providers, consisting of representatives of 5 or more of the following categories of persons:

(i) Residents of the community.

(ii) Business and civic leaders actively involved in providing employment and business development opportunities in the community.

(iii) Educators and organizations of learning (such as local education agencies).

(iv) Student organizations.

(v) Law enforcement agencies.

(vi) Public housing agencies.

(vii) State government.

(viii) Other public agencies.

(ix) Other interested parties.

(3) ELIGIBLE COMMUNITY.—The term "eligible community" means an area identified pursuant to section 1024.

(4) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the same meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965.

(5) POVERTY LINE.—The term "poverty line" means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(6) PUBLIC SCHOOL.—The term "public school" means a public elementary school, as defined in section 1201(i) of the Higher Education Act of 1965 (20 U.S.C. 1141(i)), and a public secondary school, as defined in section 1201(d) of such Act.

(7) SECRETARY.—The term "Secretary" means the Secretary of Education.

(8) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.

PART III—ADMINISTRATION

SEC. 1025. TECHNICAL ASSISTANCE; TRAINING AND EVALUATION.

(a) TECHNICAL ASSISTANCE AND TRAINING.—The Secretary may provide technical assistance, training, and evaluations to further the purposes of this subtitle through grants, contracts, or other cooperative agreements with other entities.

(b) EVALUATIONS.—In addition to any evaluation requirements that may be required for grantees, the Secretary may conduct or support evaluations of programs that receive support under this subtitle, including assessments of the effectiveness of the programs in reducing delinquency, gang involvement, substance abuse, school dropout rates, and adolescent pregnancy, and in increasing employability and employment.

SEC. 1026. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS FOR PART I.—There are authorized to be appropriated to carry out the purposes of part I, $25,000,000 for each of the fiscal years 1995 through 1999.

(b) AUTHORIZATIONS FOR PART II.—There are authorized to be appropriated to carry out the purposes of part II, $230,000,000 for each of the fiscal years 1995 through 1999.

Subtitle C—Police Partnerships for Children

SEC. 1030. DEFINITION.

As used in this subtitle, "partnership" means a cooperative arrangement or association involving one or more law enforcement agencies, and one or more public or private agencies that provide child or family services.

SEC. 1031. GRANT AUTHORITY.

(a) PARTNERSHIP GRANTS.—The Attorney General, in consultation with the Secretary of Health and Human Services, may make grants to partnerships for—

(1) teams or units involving participants from both the law enforcement and child or family services components of the partnership that respond to or deal with violent incidents in which a child is involved as a perpetrator, witness, or victim, such as teams or units that provide a 24-hour crisis response or consultation service in relation to such incidents;

(2) training for law enforcement officers regarding behavior, psychology, family systems, and community culture and attitudes that is relevant to dealing with children who are involved in violent incidents or at risk of involvement in such incidents, or with families of such children; and

(3) programs for children and families that are designed jointly by the law enforcement and child or family services components of the partnership, including programs providing 24-hour response to crisis situations affecting children and such other programs as programs that provide training in nonviolent conflict resolution, after-school activity and neighborhood recreation programs, parent support groups that are led jointly by child or family services and law enforcement personnel, and mentoring programs.

(b) GRANTS FOR POLICE RESIDENCE IN HIGH CRIME AREAS.—The Secretary of Housing and Urban Development, in consultation with the Attorney General, may make grants to units of State or local government, public housing authorities, owners of federally assisted housing, and owners of housing in high crime areas in order to provide dwelling units to law enforcement officers without charge or at or substantially reduced rent for the purpose of providing greater security for residents of high crime areas.

SEC. 1032. ADMINISTRATION.

(a) USE OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this subtitle.

(b) REGULATORY AUTHORITY.—The Attorney General, for the purposes of section 1031(a), and the Secretary of Housing and Urban Development, for purposes of section 1031(b), may issue regulations and guidelines to carry out this subtitle, including specifications concerning application requirements, selection criteria, duration and renewal of grants, evaluation requirements, matching funds, limitation of administrative expenses, submission of reports by grantees, recordkeeping by grantees, and access to books, records, and documents maintained by grantees or other persons for purposes of audit or examination.

(c) APPLICATIONS.—In addition to any other requirements that may be specified by the Attorney General—

(1) an application for a grant under section 1030(a) of this subtitle shall—

(A) certify that the applicant is a partnership as defined in section 1030, or a law enforcement agency or public or private child or family services agency that is participating in a partnership and seeking support on behalf of the partnership;

(B) include a long-term strategy and detailed implementation plan;

(C) certify that the Federal support provided under this subtitle will be used to supplement, and not supplant, State and local sources of funding that would otherwise be available;

(D) identify any related governmental or community initiatives which complement or will be coordinated with the proposal; and

(E) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support;

(2) in addition to any other requirements that may be specified by the Secretary of Housing and Urban Development, an application for a grant under section 1031(b) shall—

(A) certify that there has been appropriate consultation with the employing agency of any law enforcement officer who is to be provided with a dwelling unit;

(B) identify any related governmental or community initiatives which complement or will be coordinated with the proposal;

(C) certify that the Federal support provided will be used to supplement, and not supplant, State and local sources of funding that would otherwise be available; and

(D) provide assurances that local police officers will not be required to reside in residences funded under this subtitle.

(d) MATCHING FUNDS.—The portion of the costs of a program provided by a grant under this subtitle may not exceed 75 percent, unless the Attorney General, for purposes of section 1031(a), or the Secretary of Housing and Urban Devlopment, for purposes of section 1031(b), waives, wholly or in part, the requirement under this subsection of a non-Federal contribution to the costs of a program.

(e) FUNDING PRIORITY.—In making grants under section 1031(a), the Attorney General shall give priority to applications by partnerships involving law enforcement agencies that engage in community-oriented policing for programs assisting distressed communities or populations with a high incidence of violence affecting children.

SEC. 1033. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

(a) TECHNICAL ASSISTANCE AND TRAINING.—The Attorney General may provide technical assistance and training to further the purposes of this subtitle.

(b) EVALUATIONS.—In addition to any evaluation requirements that may be prescribed for grantees, the Attorney General, may carry out or make arrangements for evaluations of programs that receive support under this subtitle.

(c) ADMINISTRATION.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, or through grants, contracts, or other cooperative arrangements with other entities.

SEC. 1034. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated $20,000,000 in fiscal year 1995, and such sums as may be necessary in each of fiscal years 1996 through 1999 to carry out this subtitle.

(b) LIMITATION.—Not more than 50 percent of the funds made available in a fiscal year for this subtitle may be expended for grants under section 1031(b).

Subtitle D—Midnight Sports

SEC. 1038. GRANTS FOR MIDNIGHT SPORTS LEAGUE ANTICRIME PROGRAMS.

(a) AUTHORITY.—The Secretary of Housing and Urban Development, in consultation with the Attorney General of the United States, the Secretary of Labor, and the Secretary of Education, shall make grants, to the extent that amounts are approved in appropriations Acts under subsection (k), to eligible entities to assist such entities in carrying out midnight sports league programs meeting the requirements of subsection (d).

(b) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—Grants under subsection (a) may be made only to the following eligible entities:

(A) Entities eligible under section 520(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a(b)) for a grant under section 520(a) of such Act.

(B) Nonprofit organizations providing crime prevention, employment counseling, job training, or other educational services.

(C) Nonprofit organizations providing federally-assisted low-income housing.

(2) PROHIBITION ON SECOND GRANTS.—A grant under subsection (a) may not be made to an eligible entity if the entity previously received a grant under such subsection.

(c) USE OF GRANT AMOUNTS.—Any eligible entity that receives a grant under subsection (a) may use the grant only—

(1) to establish or carry out a midnight sports league program under subsection (d);

(2) for salaries for administrators and staff of the program;

(3) for other administrative costs of the program, except that not more than 5 percent of the grant may be used for such administrative costs; and

(4) for costs of training and assistance provided under subsection (d)(9).

(d) PROGRAM REQUIREMENTS.—Each eligible entity receiving a grant under subsection (a) shall establish a midnight sports league program as follows:

(1) The program shall establish a sports league of not less than 8 teams having 10 players each.

(2) Not less than 50 percent of the players in the sports league shall be residents of federally assisted low-income housing.

(3) The program shall be designed to serve primarily youths and young adults from a neighborhood or community whose population has not less than 2 of the following characteristics (in comparison with national averages):

(A) A substantial problem regarding use or sale of illegal drugs.

(B) A high incidence of crimes committed by youths or young adults.

(C) A high incidence of persons infected with the human immunodeficiency virus or sexually transmitted diseases.

(D) A high incidence of pregnancy, or a high birth rate, among adolescents.

(E) A high unemployment rate for youths and young adults.

(F) A high rate of high school dropouts.

(4) The program shall require each player in the league to attend employment counseling, job training, and other educational classes provided under the program, which shall be held in conjunction with league sports games at or near the site of the games.

(5) The program shall serve only youths and young adults who demonstrate a need for such counseling, training, and education provided by the program, in accordance with criteria for demonstrating need, which shall be established by the Secretary of Housing and Urban Development, in consultation with the Attorney General, Secretary of Labor, the Secretary of Education, and with the Advisory Committee.

(6) The program shall obtain sponsors for each team in the sports league. Sponsors shall be private individuals or businesses in the neighborhood or community served by the program who make financial contributions to the program and participate in or supplement the employment, job training, and educational services provided to the players under the program with additional training or educational opportunities.

(7) The program shall comply with any criteria established by the Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, the Secretary of Education, and with the Advisory Committee.

(e) GRANT AMOUNT LIMITATIONS.—

(1) PRIVATE CONTRIBUTIONS.—The Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education, may not make a grant under subsection (a) to an eligible entity that applies for a grant under subsection (f) unless the applicant entity certifies to the Secretary of Housing and Urban Development, or the Attorney General, that the entity will supplement the grant amounts with amounts of funds from non-Federal sources, as follows:

(A) In each of the first 2 years that amounts from the grant are disbursed (under paragraph (5)), an amount sufficient to provide not less than 35 percent of the cost of carrying out the midnight sports league program.

(B) In each of the last 3 years that amounts from the grant are disbursed, an amount sufficient to provide not less than 50 percent of the cost of carrying out the midnight sports league program.

(2) NON-FEDERAL FUNDS.—For purposes of this subsection, the term "funds from non-Federal sources" includes amounts from nonprofit organizations, public housing agencies, States, units of general local government, and Indian housing authorities, private contributions, any salary paid to staff (other than from grant amounts under subsection (a)) to carry out the program of the eligible entity, in-kind contributions to carry out the program (as determined by the Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, the Secretary of Education, and with the Advisory Committee), the value of any donated material, equipment, or building, the value of any lease on a building, the value of any utilities provided, and the value of any time and services contributed by volunteers to carry out the program of the eligible entity.

(3) PROHIBITION ON SUBSTITUTION OF FUNDS.—Grants made under subsection (a), and amounts provided by States and units of general local government to supplement the grants, may not be used to replace other public funds previously used, or designated for use, under this section.

(4) MAXIMUM AND MINIMUM GRANT AMOUNTS.—The Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education, may not make a grant under subsection (a) to any single eligible entity in an amount less than $50,000 or exceeding $125,000.

(5) DISBURSEMENT.—Each grant made under subsection (a)(1) shall be disbursed to the eligible entity receiving the grant over the 5-year period beginning on the date that the entity is selected to receive the grant, as follows:

(A) In each of the first 2 years of such 5-year period, 23 percent of the total grant amount shall be disbursed to the entity.

(B) In each of the last 3 years of such 5-year period, 18 percent of the total grant amount shall be disbursed to the entity.

(f) APPLICATIONS.—To be eligible to receive a grant under subsection (a), an eligible entity shall submit to the Secretary of Housing and Urban Development an application in the form and manner required by the Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, the Secretary of Education, and with the Advisory Committee, which shall include—

(1) a description of the midnight sports league program to be carried out by the entity, including a description of the employment counseling, job training, and other educational services to be provided;

(2) letters of agreement from service providers to provide training and counseling services required under subsection (d) and a description of such service providers;

(3) letters of agreement providing for facilities for sports games and counseling, training, and educational services required under subsection (d) and a description of the facilities;

(4) a list of persons and businesses from the community served by the program who have expressed interest in sponsoring, or have made commitments to sponsor, a team in the midnight sports league; and

(5) evidence that the neighborhood or community served by the program meets the requirements of subsection (d)(3).

(g) SELECTION.—The Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, the Secretary of Education, and with the Advisory Committee, shall select eligible entities that submit applications under subsection (f) to receive grants under subsection (a). The Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, the Secretary of Education, and with the Advisory Committee, shall establish criteria for selection of applicants to receive such grants. The criteria shall include a preference for selection of eligible entities carrying out midnight sports league programs in suburban and rural areas.

(h) REPORTS.—The Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education, shall require each eligible entity receiving a grant under subsection (a) to submit for each year in which grant amounts are received by the entity, a report describing the activities carried out with such amounts.

(i) STUDY.—To the extent amounts are provided under appropriation Acts pursuant to subsection (k)(2), the Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education, shall make a grant to one entity qualified to carry out a study under this subsection. The entity shall use such grant to carry out a scientific study of the effectiveness of midnight sports league programs under subsection (d) of eligible entities receiving grants under subsection (a). The Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education, shall require such entity to submit a report describing the study and any conclusions and recommendations resulting from the study to the Congress and the Secretary of Housing and Urban Development and the Attorney General not later than the expiration of the 2-year period beginning on the date that the grant under this subsection is made.

(j) DEFINITIONS.—For purposes of this section—

(1) the term "eligible entity" means an entity described under subsection (b)(1); and

(2) the term "federally assisted low-income housing" has the meaning given the term in section 5126 of the Public and Assisted Housing Drug Elimination Act of 1990.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) for grants under subsection (a), $10,000,000 in each of fiscal years 1995, 1996, 1997, 1998, and 1999; and

(2) for a study grant under subsection (i), $250,000 in fiscal year 1995.

Subtitle E—Drug Courts

SEC. 1041. GRANT AUTHORITY.

The Attorney General may make grants to units of State and local government, and to other public and private entities, for programs that involve continuing judicial supervision over specified categories of persons with substance abuse problems, and that involve the integrated administration of other sanctions and services including—

(1) testing for the use of controlled substances or other addictive substances;

(2) substance abuse treatment;

(3) diversion, probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress; and

(4) programmatic or health related aftercare services such as relapse prevention, education, vocational training, job placement, housing placement, and child care or other family support services.

SEC. 1042. ADMINISTRATION.

(a) CONSULTATION.—The Attorney General shall consult with the Secretary of Health and Human Services and any other appropriate officials in carrying out this subtitle.

(b) USE OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this subtitle.

(c) REGULATORY AUTHORITY.—The Attorney General may issue regulations and guidelines to carry out this subtitle, including specifications concerning application requirements, selection criteria, duration and renewal of grants, evaluation requirements, matching funds, limitation of administrative expenses, submission of reports by grantees, recordkeeping by grantees, and access to books, records, and documents maintained by grantees or other persons for purposes of audit or examination.

(d) APPLICATIONS.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subtitle shall—

(1) include a long-term strategy and detailed implementation plan;

(2) explain the applicant's inability to fund the program adequately without Federal assistance;

(3) certify that the Federal support provided will be used to supplement, and not supplant, State and local sources of funding that would otherwise be available;

(4) identify related governmental or community initiatives which complement or will be coordinated with the proposal;

(5) certify that there has been appropriate consultation with all affected agencies, and that there will be appropriate coordination with all affected agencies in the implementation of the program;

(6) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and

(7) describe the methodology that will be utilized in evaluating the program.

SEC. 1043. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

(a) TECHNICAL ASSISTANCE AND TRAINING.—The Attorney General may provide technical assistance and training in furtherance of the purposes of this subtitle.

(b) EVALUATIONS.—In addition to any evaluation requirements that may be prescribed for grantees, the Attorney General may carry out or make arrangements for evaluations of programs that receive support under this subtitle.

(c) ADMINISTRATION.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, in collaboration with the Secretary of Health and Human Services, or through grants, contracts, or other cooperative arrangements with other entities.

SEC. 1044. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $280,000,000 in each of fiscal years 1995, 1996, 1997, 1998, and 1999 to carry out this subtitle.

Subtitle F—Assistance for Delinquent and At-Risk Youth

SEC. 1051. GRANT AUTHORITY.

(a) IN GENERAL.—(1) In order to prevent the commission of crimes or delinquent acts by juveniles, the Attorney General may make grants to public or private nonprofit organizations to support the development and operation of projects to provide residential services to youth, aged 11 to 19, who—

(A) have dropped out of school;

(B) have come into contact with the juvenile justice system; or

(C) are at risk of dropping out of school or coming into contact with the juvenile justice system.

(2) Such services shall include activities designed to—

(A) increase the self-esteem of such youth;

(B) assist such youth in making healthy and responsible choices;

(C) improve the academic performance of such youth pursuant to a plan jointly developed by the applicant and the school which each such youth attends or should attend; and

(D) provide such youth with vocational and life skills.

(b) APPLICATIONS.—(1) A public agency or private nonprofit organization which desires a grant under this section shall submit an application at such time and in such manner as the Attorney General may prescribe.

(2) Such application shall include—

(A) a description of the program developed by the applicant, including the activities to be offered;

(B) a detailed discussion of how such program will prevent youth from committing crimes or delinquent acts;

(C) evidence that such program—

(i) will be carried out in facilities which meet applicable State and local laws with regard to safety;

(ii) will include academic instruction, approved by the State or local educational agency, which meets or exceeds State and local standards and curricular requirements; and

(iii) will include instructors and other personnel who possess such qualifications as may be required by applicable State or local laws; and

(D) specific, measurable outcomes for youth served by the program.

(c) CONSIDERATION OF APPLICATIONS.—Not later than 60 days following the submission of applications, the Attorney General shall—

(1) approve each application and disburse the funding for each such application, or

(2) disapprove the application and inform the applicant of such disapproval and the reasons therefor.

(d) REPORTS.—A grantee under this section shall annually submit a report to the Attorney General that describes the activities and accomplishments of such program, including the degree to which the specific youth outcomes are met.

SEC. 1052. AUTHORIZATION OF APPROPRIATIONS.

For grants under section 1051, there are authorized to be appropriated $10,000,000 for each of the fiscal years 1995 through 1999.

Subtitle G—Police Recruitment

SEC. 1061. GRANT AUTHORITY.

(a) IN GENERAL.—The Attorney General may make grants to qualified community organizations to assist in meeting the costs of qualified programs which are designed to recruit and retain applicants of police departments.

(b) QUALIFIED COMMUNITY ORGANIZATIONS.—An organization is a qualified community organization which is eligible to receive a grant under subsection (a) if the organization—

(1) is a non-profit organization; and

(2) has training and experience in—

(A) working with a police department and with teachers, counselors, and similar personnel,

(B) providing services to the community in which the organization is located,

(C) developing and managing services and techniques to recruit individuals to become members of a police department and to assist such individuals in meeting the membership requirements of police departments,

(D) developing and managing services and techniques to assist in the retention of applicants to police departments, and

(E) developing other programs that contribute to the community.

(c) QUALIFIED PROGRAMS.—A program is a qualified program for which a grant may be made under subsection (a) if the program is designed to recruit and train individuals from underepresented neighborhoods and localities and if—

(1) the overall design of the program is to recruit and retain applicants to a police department;

(2) the program provides recruiting services which include tutorial programs to enable individuals to meet police force academic requirements and to pass entrance examinations;

(3) the program provides counseling to applicants to police departments who may encounter problems throughout the application process; and

(4) the program provides retention services to assist in retaining individuals to stay in the application process of a police department.

(d) APPLICATIONS.—To qualify for a grant under subsection (a), a qualified organization shall submit an application to the Attorney General in such form as the Attorney General may prescribe. Such application shall—

(1) include documentation from the applicant showing—

(A) the need for the grant;

(B) the intended use of grant funds;

(C) expected results from the use of grant funds; and

(D) demographic characteristics of the population to be served, including age, disability, race, ethnicity, and languages used; and

(2) contain assurances satisfactory to the Attorney General that the program for which a grant is made will meet the applicable requirements of the program guidelines prescribed by the Attorney General under subsection (i).

(e) ACTION BY THE ATTORNEY GENERAL.—Not later than 60 days after the date that an application for a grant under subsection (a) is received, the Attorney General shall consult with the police department which will be involved with the applicant and shall—

(1) approve the application and disburse the grant funds applied for; or

(2) disapprove the application and inform the applicant that the application is not approved and provide the applicant with the reasons for the disapproval.

(f) GRANT DISBURSEMENT.—The Attorney General shall disburse funds under a grant under subsection (a) in accordance with regulations of the Attorney General which shall ensure—

(1) priority is given to applications for areas and organizations with the greatest showing of need;

(2) that grant funds are equitably distributed on a geographic basis; and

(3) the needs of underserved populations are recognized and addressed.

(g) GRANT PERIOD.—A grant under subsection (a) shall be made for a period not longer than 3 years.

(h) GRANTEE REPORTING.—(1) For each year of a grant period for a grant under subsection (a), the recipient of the grant shall file a performance report with the Attorney General explaining the activities carried out with the funds received and assessing the effectiveness of such activities in meeting the purpose of the recipient's qualified program.

(2) If there was more than one recipient of a grant, each recipient shall file such report.

(3) The Attorney General shall suspend the funding of a grant if the recipient of the grant does not file the report required by this subsection or uses the grant for a purpose not authorized by this section.

(i) GUIDELINES.—The Attorney General shall, by regulation, prescribe guidelines on content and results for programs receiving a grant under subsection (a). Such guidelines shall be designed to establish programs which will be effective in training individuals to enter instructional programs for police departments and shall include requirements for—

(1) individuals providing recruiting services;

(2) individuals providing tutorials and other academic assistance programs;

(3) individuals providing retention services; and

(4) the content and duration of recruitment, retention, and counseling programs and the means and devices used to publicize such programs.

SEC. 1062. AUTHORIZATION OF APPROPRIATIONS.

For grants under section 1061 there are authorized to be appropriated $6,000,000 for each of the fiscal years 1995 through 1999.

Subtitle H—National Triad Program

SEC. 1065. FINDINGS.

The Congress finds that—

(1) older Americans are among the most rapidly growing segments of our society;

(2) currently, older Americans comprise 15 percent of our society, and predictions are that by the turn of the century they will constitute 18 percent of the Nation's population;

(3) older Americans find themselves uniquely situated in the society, environmentally and physically;

(4) many older Americans are experiencing increased social isolation due to fragmented and distant familial relations, scattered associations, limited access to transportation, and other insulating factors;

(5) physical conditions such as hearing loss, poor eyesight, lessened agility, and chronic and debilitating illnesses often contribute to a senior citizen's susceptibility to criminal victimization;

(6) older Americans are too frequently the victims of abuse and neglect, violent crime, property crime, consumer fraud, medical quackery, and confidence games;

(7) studies have found that older Americans that are victims of violent crime are more likely to be injured and require medical attention than are younger victims;

(8) victimization data on crimes against older Americans are incomplete and out of date, and data sources are partial, scattered, and not easily obtained;

(9) although a few studies have attempted to define and estimate the extent of abuse and neglect of older Americans, both in their homes and in institutional settings, many experts believe that abuse and neglect crimes are substantially underreported and undetected;

(10) similarly, while some evidence suggests that older Americans may be targeted in a range of fraudulent schemes, neither the Uniform Crime Report nor the National Crime Survey collects data on individual- or household-level fraud;

(11) many law enforcement agencies do not have model practices for responding to the criminal abuse of older Americans;

(12) law enforcement officers and social service providers come from different disciplines and frequently bring different perspectives to the problem of crimes against older Americans;

(13) the differences in approaches can inhibit a genuinely effective response;

(14) there are a few efforts currently under way that seek to forge partnerships to coordinate criminal justice and social service approaches to victimization of older Americans;

(15) the Triad program, sponsored by the National Sheriffs' Association (NSA), the International Association of Chiefs of Police (IACP), and the American Association of Retired Persons (AARP), is one such effort;

(16) the Assistant Secretary for Aging, as the senior executive branch officer formulating older Americans policy, is an appropriate leader in efforts to reduce violent crime against older Americans; and

(17) recognizing that older Americans have the same fundamental desire as other members of our society to live freely, without fear or restriction due to the criminal element, the Federal Government should seek to expand efforts to reduce crime against this growing and uniquely vulnerable segment of our population.

SEC. 1066. PURPOSES.

The purposes of this subtitle are—

(1) to support a coordinated effort among law enforcement, older Americans organizations, and social service agencies to stem the tide of violence against older Americans and support media and nonmedia strategies aimed at increasing both public understanding of the problem and the older Americans' skills in preventing crime against themselves and their property; and

(2) to address the problem of crime against older Americans in a systematic and effective manner by promoting and expanding collaborative crime prevention programs, such as the Triad model, that assist law enforcement agencies and older Americans in implementing specific strategies for crime prevention, victim assistance, citizen involvement, and public education.

SEC. 1067. NATIONAL ASSESSMENT AND DISSEMINATION.

(a) IN GENERAL.—The Director of the National Institute of Justice in consultation with the Assistant Secretary for Aging shall conduct a qualitative and quantitative national assessment of—

(1) the nature and extent of crimes committed against older Americans and the effect of such crimes on the victims;

(2) the numbers, extent, and impact of violent crimes and nonviolent crimes (such as frauds and "scams") against older Americans and the extent of unreported crimes;

(3) the collaborative needs of law enforcement, health, and social service organizations, focusing on prevention of crimes against older Americans, to identify, investigate, and provide assistance to victims of those crimes; and

(4) the development and growth of strategies to respond effectively to the matters described in paragraphs (1), (2), and (3).

(b) MATTERS TO BE ADDRESSED.—The national assessment made pursuant to subsection (a) shall address—

(1) the analysis and synthesis of data from a broad range of sources in order to develop accurate information on the nature and extent of crimes against older Americans, including identifying and conducting such surveys and other data collection efforts as are needed and designing a strategy to keep such information current over time;

(2) institutional and community responses to elderly victims of crime, focusing on the problems associated with fear of victimization, abuse of older Americans, and hard-to-reach older Americans who are in poor health, are living alone or without family nearby, or living in high crime areas;

(3) special services and responses required by elderly victims;

(4) whether the experience of older Americans with some service organizations differs markedly from that of younger populations;

(5) the kinds of programs that have proven useful in reducing victimization of older Americans through crime prevention activities and programs;

(6) the kinds of programs that contribute to successful coordination among public sector agencies and community organizations in reducing victimization of older Americans; and

(7) the research agenda needed to develop a comprehensive understanding of the problems of crimes against older Americans, including the changes that can be anticipated in the crimes themselves and appropriate responses as the society increasingly ages.

(c) AVOIDANCE OF DUPLICATION.—In conducting the assessment under subsection (a), the Director of the National Institute of Justice, in consultation with the Assistant Secretary of Aging, shall draw upon the findings of existing studies and avoid duplication of efforts that have previously been made.

(d) DISSEMINATION.—Based on the results of the national assessment and analysis of successful or promising strategies in dealing with the problems described in subsection (b) and other problems, including coalition efforts such as the Triad programs described in sections 1065 and 1066, the Director of the National Institute of Justice, in consultation with the Assistant Secretary of Aging, shall disseminate the results through reports, publications, clearinghouse services, public service announcements, and programs of evaluation, demonstration, training, and technical assistance.

SEC. 1068. PILOT PROGRAMS.

(a) AWARDS.—The Director of the Bureau of Justice Assistance, in consultation with the Assistant Secretary of Aging, shall make grants to coalitions of local law enforcement agencies and older Americans to assist in the development of programs and execute field tests of particularly promising strategies for crime prevention services and related services based on the concepts of the Triad model, which can then be evaluated and serve as the basis for further demonstration and education programs.

(b) TRIAD COOPERATIVE MODEL.—(1) Subject to paragraph (2), a pilot program funded under this section shall consist of a cooperative model, which calls for the participation of the sheriff, at least 1 police chief, and a representative of at least 1 older Americans' organization within a county and may include participation by general service coalitions of law enforcement, victim service, and senior citizen advocate second service organizations. If there exists with the applicant county an area agency on aging as defined in section 102(17) of the Older Americans Act of 1965, the applicant county must include the agency as an organizational component in its program.

(2) If there is not both a sheriff and a police chief in a county or if the sheriff or a police chief do not participate, a pilot program funded under this section shall include in the place of the sheriff or police chief another key law enforcement official in the county such as a local prosecutor.

(c) APPLICATION.—A coalition or Triad program that desires to establish a pilot program under this section shall submit to the Director of the Bureau of Justice Assistance an application that includes—

(1) a description of the community and its senior citizen population;

(2) assurances that Federal funds received under this part shall be used to provide additional and appropriate education and services to the community's older Americans;

(3) a description of the extent of involvement of each organizational component (chief, sheriff (or other law enforcement official), and senior organization representative) and focus of the Triad program;

(4) a comprehensive plan including—

(A) a description of the crime problems facing older Americans and need for expanded law enforcement and victim assistance services;

(B) a description of the types of projects to be developed or expanded;

(C) a plan for an evaluation of the results of Triad endeavors;

(D) a description of the resources (including matching funds, in-kind services, and other resources) available in the community to implement the Triad development or expansion;

(E) a description of the gaps that cannot be filled with existing resources;

(F) an explanation of how the requested grant will be used to fill those gaps; and

(G) a description of the means and methods the applicant will use to reduce criminal victimization of older persons; and

(5) funding requirements for implementing a comprehensive plan.

(d) DISTRIBUTION OF GRANT AWARDS.—The Director of the Bureau of Justice Assistance, in consultation with the Assistant Secretary for Aging, shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards for pilot programs authorized under this subtitle.

(e) POST-GRANT PERIOD REPORT.—A grant recipient under this section shall, not later than 6 months after the conclusion of the grant period, submit to the Director of the Bureau of Justice Assistance a report that—

(1) describes the composition of organizations that participated in the pilot program;

(2) identifies problem areas encountered during the course of the pilot program;

(3) provides data comparing the types and frequency of criminal activity before and after the grant period and the effect of such criminal activity on older Americans in the community; and

(4) describes the grant recipient's plans and goals for continuance of the Triad program after the grant period.

SEC. 1069. TRAINING ASSISTANCE, EVALUATION, AND DISSEMINATION AWARDS.

In conjunction with the national assessment under section 1067—

(1) the Director of the Bureau of Justice Assistance, in consultation with the Assistant Secretary for Aging, shall make awards to organizations with demonstrated ability to provide training and technical assistance in establishing crime prevention programs based on the Triad model, for purposes of aiding in the establishment and expansion of pilot programs under this section; and

(2) the Director of the National Institute of Justice, in consultation with the Assistant Secretary of Aging, shall make awards to research organizations, for the purposes of—

(A) evaluating the effectiveness of selected pilot programs; and

(B) conducting the research and development identified through the national assessment as being critical; and

(3) the Director of the Bureau of Justice Assistance, in consultation with the Assistant Secretary for Aging, shall make awards to public service advertising coalitions, for the purposes of mounting a program of public service advertisements to increase public awareness and understanding of the issues surrounding crimes against older Americans and promoting ideas or programs to prevent them.

SEC. 1070. REPORT.

The Director of the Bureau of Justice Assistance, in consultation with the Assistant Secretary for Aging, and the Director of the National Institute of Justice shall submit to Congress an annual report (which may be included with the report submitted under section 102(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712(b)) describing the results of the pilot programs conducted under section 1068.

SEC. 1071. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $2,000,000 to the Bureau of Justice Assistance for the purpose of making Triad pilot program awards in that amount under section 1068;

(2) $1,000,000 to the Bureau of Justice Assistance for the purpose of funding the national training and technical assistance effort under sections 1967 and 1068;

(3) $1,000,000 to the Bureau of Justice Assistance and $1,000,000 to the Administration on Aging, for the purpose of developing public service announcements under sections 1067 and 1069;

(4) $2,000,000 to the National Institute of Justice for the purposes of conducting the national assessment, evaluating pilot programs, and carrying out the research agenda under sections 1067 and 1069; and

(5) to the extent that funds are not otherwise available for the purpose, such sums as are necessary to pay the administrative costs of carrying out this subtitle.

Subtitle I—Local Partnership Act

SEC. 1075. ESTABLISHMENT OF PAYMENT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title 31, United States Code, is amended by inserting after chapter 65 the following:

"CHAPTER 67—FEDERAL PAYMENTS

"Sec.
"6701. Payments to local governments.
"6702. Local Government Fiscal Assistance Fund.
"6703. Qualification for payment.
"6704. State area allocations; allocations and payments to territorial governments.
"6705. Local government allocations.
"6706. Income gap multiplier.
"6707. State variation of local government allocations.
"6708. Adjustments of local government allocations.
"6709. Information used in allocation formulas.
"6710. Public participation.
"6711. Prohibited discrimination.
"6712. Discrimination proceedings.
"6713. Suspension and termination of payments in discrimination proceedings.
"6714. Compliance agreements.
"6715. Enforcement by the Attorney General of prohibitions on discrimination.
"6716. Civil action by a person adversely affected.
"6717. Judicial review.
"6718. Audits, investigations, and reviews.
"6719. Reports.
"6720. Definitions and application.

"§6701. Payments to local governments

"(a) PAYMENT AND USE.—

"(1) PAYMENT.—The Secretary of the Treasury shall pay to each unit of general local government which qualifies for a payment under this chapter an amount equal to the sum of any amounts allocated to the government under this chapter for each payment period. The Secretary shall pay such amount out of the Local Government Fiscal Assistance Fund under section 6702.

"(2) USE.—Amounts paid to a unit of general local government under this section shall be used by that unit for carrying out one or more programs of the unit related to—

"(A) education to prevent crime; or

"(B) substance abuse treatment to prevent crime.

"(b) TIMING OF PAYMENTS.—They shall pay each amount allocated under this chapter to a unit of general local government for a payment period by the later of 60 days after the date the amount is available or the first day of the payment period.

"(c) ADJUSTMENTS.—(1) Subject to paragraph (2), the Secretary shall adjust a payment under this chapter to a unit of general local government to the extent that a prior payment to the government was more or less than the amount required to be paid.

"(2) The Secretary may increase or decrease under this subsection a payment to a unit of local government only if the Secretary determines the need for the increase or decrease, or the unit requests the increase or decrease, within one year after the end of the payment period for which the payment was made.

"(d) RESERVATION FOR ADJUSTMENTS.—The Secretary may reserve a percentage of not more than 0.5 percent of the amount under this section for a payment period for all units of general local government in a State if the Secretary considers the reserve is necessary to ensure the availability of sufficient amounts to pay adjustments after the final allocation of amounts among the units of general local government in the State.

"(e) REPAYMENT OF UNEXPENDED AMOUNTS.—

"(1) REPAYMENT REQUIRED.—A unit of general local government shall repay to the Secretary, by not later than November 15, 1995, any amount that is—

"(A) paid to the unit from amounts appropriated for fiscal year 1995 under the authority of this section; and

"(B) not expended by the unit by October 31, 1995.

"(2) DEPOSIT OF AMOUNTS REPAID.—Amounts received by the Secretary as repayments under this subsection shall be deposited in the general fund of the Treasury as miscellaneous receipts.

"(f) EXPENDITURE WITH DISADVANTAGED BUSINESS ENTERPRISES.—

"(1) GENERAL RULE.—Of amounts paid to a unit of general local government under this chapter for a payment period, not less than 10 percent of the total combined amounts obligated by the unit for contracts and subcontracts shall be expended with—

"(A) small business concerns controlled by socially and economically disadvantaged individuals and women; and

"(B) historically Black colleges and universities and colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans.

"(2) EXCEPTION.—Paragraph (1) shall not apply to amounts paid to a unit of general local government to the extent the unit determines that the paragraph does not apply through a process that provides for public participation.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'small business concern' has the meaning such term has under section 3 of the Small Business Act; and

"(B) the term 'socially and economically disadvantaged individuals' has the meaning such term has under section 8(d) of the Small Business Act and relevant subcontracting regulations promulgated pursuant to that section.

"(g) NONSUPPLANTING REQUIREMENT.—(1) Funds made available under this chapter to units of local government shall not be used to supplant State or local funds, but will be used to increase the amount of funds that would, in the absence of funds under this chapter, be made available from State or local sources.

"(2) The total level of funding available to a unit of local government for accounts serving eligible purposes under this chapter in the fiscal year immediately preceding receipt of a grant under this chapter shall be designated the "base level account" for the fiscal year in which grant is received. Grants under this chapter in a given fiscal year shall be reduced on a dollar for dollar basis to the extent that a unit of local government reduces its base level account in that fiscal year.

"(3) The Secretary shall issue regulations to implement this subsection.

"§6702. Local Government Fiscal Assistance Fund

"(a) ADMINISTRATION OF FUND.—The Department of the Treasury has a Local Government Fiscal Assistance Fund, which consists of amounts appropriated to the Fund.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund $2,000,000,000 for fiscal years 1995 and 1996.

"§6703. Qualification for payment

"(a) IN GENERAL.—Under regulations issued by the Secretary, a unit of general local government qualifies for a payment under this chapter for a payment period only after establishing to the satisfaction of the Secretary that—

"(1) the government will establish a trust fund in which the government will deposit all payments received under this chapter;

"(2) the government will use amounts in the trust fund (including interest) during a reasonable period specified in the regulations issued by the Secretary;

"(3) the government will expend the payments so received, in accordance with the laws and procedures that are applicable to the expenditure of revenues of the government;

"(4) if at least 25 percent of the pay of individuals employed by the government in a public employee occupation is paid out of the trust fund, individuals in the occupation any part of whose pay is paid out of the trust fund will receive pay at least equal to the prevailing rate of pay for individuals employed in similar public employee occupations by the government;

"(5) if at least 25 percent of the costs of a construction project are paid out of the trust fund, laborers and mechanics employed by contractors or subcontractors on the project will receive pay at least equal to the prevailing rate of pay for similar construction in the locality as determined by the Secretary of Labor under the Act of March 3, 1931 (46 Stat. 1494 et seq.; popularly known as the Davis-Bacon Act), and the Secretary of Labor shall act on labor standards under this paragraph in a manner that is in accordance with Reorganization Plan No. 14 of 1950 (64 Stat. 1267) and section 2 of the Act of June 13, 1934 (48 Stat. 948);

"(6) the government will use accounting, audit, and fiscal procedures that conform to guidelines which shall be prescribed by the Secretary after consultation with the Comptroller General of the United States;

"(7) after reasonable notice to the government, the government will make available to the Secretary and the Comptroller General of the United States, with the right to inspect, records the Secretary reasonably requires to review compliance with this chapter or the Comptroller General of the United States reasonably requires to review compliance and operations under section 6718(b); and

"(8) the government will make reports the Secretary reasonably requires, in addition to the annual reports required under section 6719(b).

"(b) REVIEW BY GOVERNORS.—A unit of general local government shall give the chief executive officer of the State in which the government is located an opportunity for review and comment before establishing compliance with subsection (a).

"(c) SANCTIONS FOR NONCOMPLIANCE.—(1) If the Secretary decides that a unit of general local government has not complied substantially with subsection (a) or regulations prescribed under subsection (a), the Secretary shall notify the government. The notice shall state that if the government does not take corrective action by the 60th day after the date the government receives the notice, the Secretary will withhold additional payments to the government for the current payment period and later payment periods until the Secretary is satisfied that the government—

"(A) has taken the appropriate corrective action; and

"(B) will comply with subsection (a) and regulations prescribed under subsection (a).

"(2) Before giving notice under paragraph (1), the Secretary shall give the chief executive officer of the unit of general local government reasonable notice and an opportunity for a proceeding.

"(3) The Secretary may make a payment to a unit of general local government notified under paragraph (1) only if the Secretary is satisfied that the government—

"(A) has taken the appropriate corrective action; and

"(B) will comply with subsection (a) and regulations prescribed under subsection (a).

"§6704. State area allocations; allocations and payments to territorial governments

"(a) FORMULA ALLOCATION BY STATE.—For each payment period, the Secretary shall allocate to each State out of the amount appropriated for the period under the authority of section 6702(b) (minus the amounts allocated to territorial governments under subsection (e) for the payment period) an amount bearing the same ratio to the amount appropriated (minus such amounts allocated under subsection (e)) as the amount allocated to the State under this section bears to the total amount allocated to all States under this section. The Secretary shall—

"(1) determine the amount allocated to the State under subsection (b) or (c) of this section and allocate the larger amount to the State; and

"(2) allocate the amount allocated to the State to units of general local government in the State under sections 6705 and 6706.

"(b) GENERAL FORMULA.—(1) The amount allocated to a State under this subsection for a payment period is the amount bearing the same ratio to $5,300,000,000 as—

"(A) the population of the State, multiplied by the general tax effort factor of the State (determined under paragraph (2)), multiplied by the relative income factor of the State (determined under paragraph (3)), multiplied by the relative rate of the labor force unemployed in the State (determined under paragraph (4)); bears to

"(B) the sum of the products determined under subclause (A) of this paragraph for all States.

"(2) The general tax effort factor of a State for a payment period is—

"(A) the net amount of State and local taxes of the State collected during the years used by the Secretary of Commerce in the most recent Bureau of the Census general determination of State and local taxes made before the beginning of the payment period; divided by

"(B) the total income of individuals, as determined by the Secretary of Commerce for national income accounts purposes, attributed to the State for the same years.

"(3) The relative income factor of a State is a fraction in which—

"(A) the numerator is the per capita income of the United States; and

"(B) the denominator is the per capita income of the State.

"(4) The relative rate of the labor force unemployed in a State is a fraction in which—

"(A) the numerator is the percentage of the labor force of the State that is unemployed (as determined by the Secretary of Labor for general statistical purposes); and

"(B) the denominator is the percentage of the labor force of the United States that is unemployed (as determined by the Secretary of Labor for general statistical purposes).

"(c) ALTERNATIVE FORMULA.—The amount allocated to a State under this subsection for a payment period is the total amount the State would receive if—

"(1) $1,166,666,667 were allocated among the States on the basis of population by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the population of the State bears to the population of all States;

"(2) $1,166,666,667 were allocated among the States on the basis of population inversely weighted for per capita income, by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as—

"(A) the population of the State, multiplied by a fraction in which—

"(i) the numerator is the per capita income of all States; and

"(ii) the denominator is the per capita income of the State; bears to

"(B) the sum of the products determined under subparagraph (A) for all States;

"(3) $600,000,000 were allocated among the States on the basis of income tax collections by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the income tax amount of the State (determined under subsection (d)(1)) bears to the sum of the income tax amounts of all States;

"(4) $600,000,000 were allocated among the States on the basis of general tax effort by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the general tax effort amount of the State (determined under subsection (d)(2)) bears to the sum of the general tax effort amounts of all States;

"(5) $600,000,000 were allocated among the States on the basis of unemployment by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as—

"(A) the labor force of the State, multiplied by a fraction in which—

"(i) the numerator is the percentage of the labor force of the State that is unemployed (as determined by the Secretary of Labor for general statistical purposes); and

"(ii) the denominator is the percentage of the labor force of the United States that is unemployed (as determined by the Secretary of Labor for general statistical purposes);

bears to

"(B) the sum of the products determined under subparagraph (A) for all States; and

"(6) $1,166,666,667 were allocated among the States on the basis of urbanized population by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the urbanized population of the State bears to the urbanized population of all States. In this paragraph, the term 'urbanized population' means the population of an area consisting of a central city or cities of at least 50,000 inhabitants and the surrounding closely settled area for the city or cities considered as an urbanized area by the Secretary of Commerce for general statistical purposes.

"(d) INCOME TAX AMOUNT AND TAX EFFORT AMOUNT.—(1) The income tax amount of a State for a payment period is 15 percent of the net amount collected during the calendar year ending before the beginning of the payment period from the tax imposed on the income of individuals by the State and described as a State income tax under section 164(a)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 164(a)(3)). The income tax amount for a payment period shall be at least 1 percent but not more than 6 percent of the United States Government individual income tax liability attributed to the State for the taxable year ending during the last calendar year ending before the beginning of the payment period. The Secretary shall determine the Government income tax liability attributed to the State on the same basis as the Secretary of the Treasury determines that liability for general statistical purposes.

"(2) The general tax effort amount of a State for a payment period is the amount determined by multiplying—

"(A) the net amount of State and local taxes of the State collected during the years used by the Secretary of Commerce in the most recent Bureau of the Census general determination of State and local taxes made before the beginning of the payment period; by

"(B) the general tax effort factor of the State determined under subsection (b)(2).

"(e) ALLOCATION FOR PUERTO RICO, GUAM, AMERICAN SAMOA, AND THE VIRGIN ISLANDS.—(1)(A) For each payment period for which funds are available for allocation under this chapter, the Secretary shall allocate to each territorial government an amount equal to the product of 1 percent of the amount of funds available for allocation multiplied by the applicable territorial percentage.

"(B) For the purposes of this paragraph, the applicable territorial percentage of a territory is equal to the quotient resulting from the division of the territorial population of such territory by the sum of the territorial population for all territories.

"(2) The governments of the territories shall make payments to local governments within their jurisdiction from sums received under this subsection as they consider appropriate.

"(3) For purposes of this subsection—

"(A) the term 'territorial government' means the government of a territory;

"(B) the term 'territory' means Puerto Rico, Guam, American Samoa, and the Virgin Islands; and

"(C) the term 'territorial population' means the most recent population for each territory as determined by the Bureau of Census.

"§ 6705. Local government allocations

"(a) INDIAN TRIBES AND ALASKAN NATIVES VILLAGES.—If there is in a State an Indian tribe or Alaskan native village having a recognized governing body carrying out substantial governmental duties and powers, the Secretary shall allocate to the tribe or village, out of the amount allocated to the State under section 6704, an amount bearing the same ratio to the amount allocated to the State as the population of the tribe or village bears to the population of the State. The Secretary shall allocate amounts under this subsection to Indian tribes and Alaskan native villages in a State before allocating amounts to units of general local government in the State under subsection (b).

"(b) OTHER LOCAL GOVERNMENT ALLOCATIONS.—(1) The Secretary shall allocate among the units of general local government in a State (other than units receiving allocations under subsection (a)) the amount allocated to the State under section 6704 (as that amount is reduced by allocations under subsection (a)). Of the amount to be allocated, the Secretary shall allocate a portion equal to ½ of such amount in accordance with section 6706(1), and shall allocate a portion equal to ½ of such amount in accordance with section 6706(2). A unit of general local government shall receive an amount equal to the sum of amounts allocated to the unit from each portion.

"(2) From each portion to be allocated to units of local government in a State under paragraph (1), the Secretary shall allocate to a unit an amount bearing the same ratio to the funds to be allocated as—

"(A) the population of the unit, multiplied by the general tax effort factor of the unit (determined under paragraph (3)), multiplied by the income gap of the unit (determined under paragraph (4)), bears to

"(B) the sum of the products determined under subparagraph (A) for all units in the State for which the income gap for that portion under paragraph (4) is greater than zero.

"(3)(A) Except as provided in subparagraph (C), the general tax effort factor of a unit of general local government for a payment period is—

"(i) the adjusted taxes of the unit; divided by

"(ii) the total income attributed to the unit.

"(B) If the amount determined under subparagraphs (A) (i) and (ii) for a unit of general local government is less than zero, the general tax effort factor of the unit is deemed to be zero.

"(C)(i) Except as otherwise provided in this subparagraph, the adjusted taxes of a unit of general local government are the taxes imposed by the unit for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay), as determined by the Secretary of Commerce for general statistical purposes and adjusted (under regulations of the Secretary) to exclude amounts properly allocated to education expenses.

"(ii) The Secretary shall, for purposes of clause (i), include that part of sales taxes transferred to a unit of general local government that are imposed by a county government in the geographic area of which is located the unit of general local government as taxes imposed by the unit for public purposes if—

"(I) the county government transfers any part of the revenue from the taxes to the unit of general local government without specifying the purpose for which the unit of general local government may expend the revenue; and

"(II) the chief executive officer of the State notifies the Secretary that the taxes satisfy the requirements of this clause.

"(iii) The adjusted taxes of a unit of general local government shall not exceed the maximum allowable adjusted taxes for that unit.

"(iv) The maximum allowable adjusted taxes for a unit of general local government is the allowable adjusted taxes of the unit minus the excess adjusted taxes of the unit.

"(v) The allowable adjusted taxes of a unit of general government is the greater of—

"(I) the amount equal to 2.5, multiplied by the per capita adjusted taxes of all units of general local government of the same type in the State, multiplied by the population of the unit; or

"(II) the amount equal to the population of the unit, multiplied by the sum of the adjusted taxes of all units of municipal local government in the State, divided by the sum of the populations of all the units of municipal local government in the State.

"(vi) The excess adjusted taxes of a unit of general local government is the amount equal to—

"(I) the adjusted taxes of the unit, minus

"(II) 1.5 multiplied by the allowable adjusted taxes of the unit;

except that if this amount is less than zero then the excess adjusted taxes of the unit is deemed to be zero.

"(vii) For purposes of this subparagraph—

"(I) the term 'per capita adjusted taxes of all units of general local government of the same type' means the sum of the adjusted taxes of all units of general local government of the same type divided by the sum of the populations of all units of general local government of the same type; and

"(II) the term 'units of general local government of the same type' means all townships if the unit of general local government is a township, all municipalities if the unit of general local government is a municipality, all counties if the unit of general local government is a county, or all unified city/county governments if the unit of general local government is a unified city/county government.

"(4)(A) Except as provided in subparagraph (B), the income gap of a unit of general local government is—

"(i) the number which applies under section 6706, multiplied by the per capita income of the State in which the unit is located; minus

"(ii) the per capita income of the geographic area of the unit.

"(B) If the amount determined under subparagraph (A) for a unit of general local government is less than zero, then the relative income factor of the unit is deemed to be zero.

"(c) SMALL GOVERNMENT ALLOCATIONS.—If the Secretary decides that information available for a unit of general local government with a population below a number (of not more than 500) prescribed by the Secretary is inadequate, the Secretary may allocate to the unit, in lieu of any allocation under subsection (b) for a payment period, an amount bearing the same ratio to the total amount to be allocated under subsection (b) for the period for all units of general local government in the State as the population of the unit bears to the population of all units in the State.

"§ 6706. Income gap multiplier

"For purposes of determining the income gap of a unit of general local government under section 6705(b)(4)(A), the number which applies is—

"(1) 1.6, with respect to ½ of any amount allocated under section 6704 to the State in which the unit is located; and

"(2) 1.2, with respect to the remainder of such amount.

"§ 6707. State variation of local government allocations

"(a) STATE FORMULA.—A State government may provide by law for the allocation of amounts among units of general local government in the State on the basis of population multiplied by the general tax effort factors or income gaps of the units of general local government determined under sections 6705 (a) and (b) or a combination of those factors. A State government providing for a variation of an allocation formula provided under sections 6705 (a) and (b) shall notify the Secretary of the variation by the 30th day before the beginning of the first payment period in which the variation applies. A variation shall—

"(1) provide for allocating the total amount allocated under sections 6705 (a) and (b);

"(2) apply uniformly in the State; and

"(3) apply only to payment periods beginning before October 1, 1995.

"(b) CERTIFICATION.—A variation by a State government under this section may apply only if the Secretary certifies that the variation complies with this section. The Secretary may certify a variation only if the Secretary is notified of the variation at least 30 days before the first payment period in which the variation applies.

"§ 6708. Adjustments of local government allocations

"(a) MAXIMUM AMOUNT.—The amount allocated to a unit of general local government for a payment period may not exceed the adjusted taxes imposed by the unit of general local government as determined under section 6705(b)(3). Amounts in excess of adjusted taxes shall be paid to the Governor of the

State in which the unit of local government is located.

"(b) De Minimis Allocations.—If the amount allocated to a unit of general local government (except an Indian tribe or an Alaskan native village) for a payment period would be less than $5,000 but for this subsection or is waived by the governing authority of the unit of general local government, the Secretary shall pay the amount to the Governor of the State in which the unit is located.

"(c) Use of Payments to States.—The Governor of a State shall use all amounts paid to the Governor under subsections (a) and (b) for programs described in section 6701(a)(2) in areas of the State where are located the units of general local government with respect to which amounts are paid under subsection (b).

"§ 6709. Information used in allocation formulas

"(a) Use of Most Recent Information.—Except as provided in this section, the Secretary shall use the most recent available information provided by the Secretary of Commerce and the Secretary of Labor before the beginning of the payment period to determine an allocation under this chapter. If the Secretary decides that the information is not current or complete enough to provide for a fair allocation, the Secretary may use additional information (including information based on estimates) as provided under regulations of the Secretary.

"(b) Population Data.—(1) The Secretary shall determine population on the same basis that the Secretary of Commerce determines resident population for general statistical purposes.

"(2) The Secretary shall request the Secretary of Commerce to adjust the population information provided to the Secretary as soon as practicable to include a reasonable estimate of the number of resident individuals not counted in the 1990 census or revisions of the census. The Secretary shall use the estimates in determining allocations for the payment period beginning after the Secretary receives the estimates. The Secretary shall adjust population information to reflect adjustments made under section 118 of the Act of October 1, 1980 (Public Law 96-369, 94 Stat. 1357).

"(c) Additional Data Limitations.—The Secretary may not—

"(1) in determining an allocation for a payment period, use information on tax collections for years more recent than the years used by the Secretary of Commerce in the most recent Bureau of the Census general determination of State and local taxes made before the beginning of that period; or

"(2) consider a change in information used to determine an allocation for a period of 60 months if the change—

"(A) results from a major disaster declared by the President under section 401 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act; and

"(B) reduces the amount of an allocation.

"§ 6710. Public participation

"(a) Hearings.—(1) A unit of general local government expending payments under this chapter shall hold at least one public hearing on the proposed use of the payment in relation to its entire budget. At the hearing, persons shall be given an opportunity to provide written and oral views to the governmental authority responsible for enacting the budget and to ask questions about the entire budget and the relation of the payment to the entire budget. The government shall hold the hearing at a time and a place that allows and encourages public attendance and participation.

"(2) A unit of general local government holding a hearing required under this subsection or by the budget process of the government shall try to provide senior citizens and senior citizen organizations with an opportunity to present views at the hearing before the government makes a final decision on the use of the payment.

"(b) Disclosure of Information.—(1) By the 10th day before a hearing required under subsection (a)(1) is held, a unit of general local government shall—

"(A) make available for inspection by the public at the principal office of the government a statement of the proposed use of the payment and a summary of the proposed budget of the government; and

"(B) publish in at least one newspaper of general circulation the proposed use of the payment with the summary of the proposed budget and a notice of the time and place of the hearing.

"(2) By the 30th day after adoption of the budget under State or local law, the government shall—

"(A) make available for inspection by the public at the principal office of the government a summary of the adopted budget, including the proposed use of the payment; and

"(B) publish in at least one newspaper of general circulation a notice that the information referred to in subparagraph (A) is available for inspection.

"(c) Waivers of Requirements.—Under regulations of the Secretary, a requirement—

"(1) under subsection (a)(1) may be waived if the budget process required under the applicable State or local law or charter provisions—

"(A) ensures the opportunity for public attendance and participation contemplated by subsection (a); and

"(B) includes a hearing on the proposed use of a payment received under this chapter in relation to the entire budget of the government; and

"(2) under subsection (b)(1)(B) and (2)(B) may be waived if the cost of publishing the information would be unreasonably burdensome in relation to the amount allocated to the government from amounts available for payment under this chapter, or if publication is otherwise impracticable.

"(d) Exception to 10-Day Limitation.—If the Secretary is satisfied that a unit of general local government will provide adequate notice of the proposed use of a payment received under this chapter, the 10-day period under subsection (b)(1) may be changed to the extent necessary to comply with applicable State or local law.

"(e) Application to Governments Without Budgets.—The Secretary shall prescribe regulations for applying this section to units of general local government that do not adopt budgets.

"§ 6711. Prohibited discrimination

"(a) General Prohibition.—No person in the United States shall be excluded from participating in, be denied the benefits of, or be subject to discrimination under, a program or activity of a unit of general local government because of race, color, national origin, or sex if the government receives a payment under this chapter.

"(b) Additional Prohibitions.—The following prohibitions and exemptions also apply to a program or activity of a unit of general local government if the government receives a payment under this chapter:

"(1) A prohibition against discrimination because of age under the Age Discrimination Act of 1975.

"(2) A prohibition against discrimination against an otherwise qualified handicapped individual under section 504 of the Rehabilitation Act of 1973.

"(3) A prohibition against discrimination because of religion, or an exemption from that prohibition, under the Civil Rights Act of 1964 or title VIII of the Act of April 11, 1968 (popularly known as the Civil Rights Act of 1968).

"(c) Limitations on Applicability of Prohibitions.—Subsections (a) and (b) do not apply if the government shows, by clear and convincing evidence, that a payment received under this chapter is not used to pay for any part of the program or activity with respect to which the allegation of discrimination is made.

"(d) Investigation Agreements.—The Secretary shall try to make agreements with heads of agencies of the United States Government and State agencies to investigate noncompliance with this section. An agreement shall—

"(1) describe the cooperative efforts to be taken (including sharing civil rights enforcement personnel and resources) to obtain compliance with this section; and

"(2) provide for notifying immediately the Secretary of actions brought by the United States Government or State agencies against a unit of general local government alleging a violation of a civil rights law or a regulation prescribed under a civil rights law.

"§ 6712. Discrimination proceedings

"(a) Notice of Noncompliance.—By the 10th day after the Secretary makes a finding of discrimination or receives a holding of discrimination about a unit of general local government, the Secretary shall submit a notice of noncompliance to the government. The notice shall state the basis of the finding or holding.

"(b) Informal Presentation of Evidence.—A unit of general local government may present evidence informally to the Secretary within 30 days after the government receives a notice of noncompliance from the Secretary. Except as provided in subsection (e), the government may present evidence on whether—

"(1) a person in the United States has been excluded or denied benefits of, or discriminated against under, the program or activity of the government, in violation of section 6711(a);

"(2) the program or activity of the government violated a prohibition described in section 6711(b); and

"(3) any part of that program or activity has been paid for with a payment received under this chapter.

"(c) Temporary Suspension of Payments.—By the end of the 30-day period under subsection (b), the Secretary shall decide whether the unit of general local government has not complied with section 6711 (a) or (b), unless the government has entered into a compliance agreement under section 6714. If the Secretary decides that the government has not complied, the Secretary shall notify the government of the decision and shall suspend payments to the government under this chapter unless, within 10 days after the government receives notice of the decision, the government—

"(1) enters into a compliance agreement under section 6714; or

"(2) requests a proceeding under subsection (d)(1).

"(d) Administrative Review of Suspensions.—(1) A proceeding requested under subsection (c)(2) shall begin by the 30th day after the Secretary receives a request for the proceeding. The proceeding shall be before an administrative law judge appointed under section 3105 of title 5. By the 30th day after the beginning of the proceeding, the judge shall issue a preliminary decision based on the record at the time on whether the unit of general local government is likely to prevail in showing compliance with section 6711 (a) or (b).

"(2) If the administrative law judge decides at the end of a proceeding under paragraph (1) that the unit of general local government has—

"(A) not complied with section 6711 (a) or (b), the judge may order payments to the government under this chapter terminated; or

"(B) complied with section 6711 (a) or (b), a suspension under section 6713(a)(1)(A) shall be discontinued promptly.

"(3) An administrative law judge may not issue a preliminary decision that the government is not likely to prevail if the judge has issued a decision described in paragraph (2)(A).

"(e) BASIS FOR REVIEW.—In a proceeding under subsections (b) through (d) on a program or activity of a unit of general local government about which a holding of discrimination has been made, the Secretary or administrative law judge may consider only whether a payment under this chapter was used to pay for any part of the program or activity. The holding of discrimination is conclusive. If the holding is reversed by an appellate court, the Secretary or judge shall end the proceeding.

"§6713. Suspension and termination of payments in discrimination proceedings

"(a) IMPOSITION AND CONTINUATION OF SUSPENSIONS.—(1) The Secretary shall suspend payment under this chapter to a unit of general local government—

"(A) if an administrative law judge appointed under section 3105 of title 5 issues a preliminary decision in a proceeding under section 6712(d)(1) that the government is not likely to prevail in showing compliance with section 6711 (a) and (b);

"(B) if the administrative law judge decides at the end of the proceeding that the government has not complied with section 6711 (a) or (b), unless the government makes a compliance agreement under section 6714 by the 30th day after the decision; or

"(C) if required under section 6712(c).

"(2) A suspension already ordered under paragraph (1)(A) continues in effect if the administrative law judge makes a decision under paragraph (1)(B).

"(b) LIFTING OF SUSPENSIONS AND TERMINATIONS.—If a holding of discrimination is reversed by an appellate court, a suspension or termination of payments in a proceeding based on the holding shall be discontinued.

"(c) RESUMPTION OF PAYMENTS UPON ATTAINING COMPLIANCE.—The Secretary may resume payment to a unit of general local government of payments suspended by the Secretary only—

"(1) as of the time of, and under the conditions stated in—

"(A) the approval by the Secretary of a compliance agreement under section 6714(a)(1); or

"(B) a compliance agreement entered into by the Secretary under section 6714(a)(2);

"(2) if the government complies completely with an order of a United States court, a State court, or administrative law judge that covers all matters raised in a notice of noncompliance submitted by the Secretary under section 6712(a);

"(3) if a United States court, a State court, or an administrative law judge decides (including a judge in a proceeding under section 6712(d)(1)), that the government has complied with sections 6711 (a) and (b); or

"(4) if a suspension is discontinued under subsection (b).

"(d) PAYMENT OF DAMAGES AS COMPLIANCE.—For purposes of subsection (c)(2), compliance by a government may consist of the payment of restitution to a person injured because the government did not comply with section 6711 (a) or (b).

"(e) RESUMPTION OF PAYMENTS UPON REVERSAL BY COURT.—The Secretary may resume payment to a unit of general local government of payments terminated under section 6712(d)(2)(A) only if the decision resulting in the termination is reversed by an appellate court.

"§6714. Compliance agreements

"(a) TYPES OF COMPLIANCE AGREEMENTS.—A compliance agreement is an agreement—

"(1) approved by the Secretary, between the governmental authority responsible for prosecuting a claim or complaint that is the basis of a holding of discrimination and the chief executive officer of the unit of general local government that has not complied with section 6711 (a) or (b); or

"(2) between the Secretary and the chief executive officer.

"(b) CONTENTS OF AGREEMENTS.—A compliance agreement—

"(1) shall state the conditions the unit of general local government has agreed to comply with that would satisfy the obligations of the government under sections 6711 (a) and (b);

"(2) shall cover each matter that has been found not to comply, or would not comply, with section 6711 (a) or (b); and

"(3) may be a series of agreements that dispose of those matters.

"(c) AVAILABILITY OF AGREEMENTS TO PARTIES.—The Secretary shall submit a copy of a compliance agreement to each person who filed a complaint referred to in section 6716(b), or, if an agreement under subsection (a)(1), each person who filed a complaint with a governmental authority, about a failure to comply with section 6711 (a) or (b). The Secretary shall submit the copy by the 15th day after an agreement is made. However, if the Secretary approves an agreement under subsection (a)(1) after the agreement is made, the Secretary may submit the copy by the 15th day after approval of the agreement.

"§6715. Enforcement by the Attorney General of prohibitions on discrimination

"The Attorney General may bring a civil action in an appropriate district court of the United States against a unit of general local government that the Attorney General has reason to believe has engaged or is engaging in a pattern or practice in violation of section 6711 (a) or (b). The court may grant—

"(1) a temporary restraining order;

"(2) an injunction; or

"(3) an appropriate order to ensure enjoyment of rights under section 6711 (a) or (b), including an order suspending, terminating, or requiring repayment of, payments under this chapter or placing additional payments under this chapter in escrow pending the outcome of the action.

"§6716. Civil action by a person adversely affected

"(a) AUTHORITY FOR PRIVATE SUITS IN FEDERAL OR STATE COURT.—If a unit of general local government, or an officer or employee of a unit of general local government acting in an official capacity, engages in a practice prohibited by this chapter, a person adversely affected by the practice may bring a civil action in an appropriate district court of the United States or a State court of general jurisdiction. Before bringing an action under this section, the person must exhaust administrative remedies under subsection (b).

"(b) ADMINISTRATIVE REMEDIES REQUIRED TO BE EXHAUSTED.—A person adversely affected shall file an administrative complaint with the Secretary or the head of another agency of the United States Government or the State agency with which the Secretary has an agreement under section 6711(d). Administrative remedies are deemed to be exhausted by the person after the 90th day after the complaint was filed if the Secretary, the head of the Government agency, or the State agency—

"(1) issues a decision that the government has not failed to comply with this chapter; or

"(2) does not issue a decision on the complaint.

"(c) AUTHORITY OF COURT.—In an action under this section, the court—

"(1) may grant—

"(A) a temporary restraining order;

"(B) an injunction; or

"(C) another order, including suspension, termination, or repayment of, payments under this chapter or placement of additional payments under this chapter in escrow pending the outcome of the action; and

"(2) to enforce compliance with section 6711 (a) or (b), may allow a prevailing party (except the United States Government) a reasonable attorney's fee.

"(d) INTERVENTION BY ATTORNEY GENERAL.—In an action under this section to enforce compliance with section 6711 (a) or (b), the Attorney General may intervene in the action if the Attorney General certifies that the action is of general public importance. The United States Government is entitled to the same relief as if the Government had brought the action and is liable for the same fees and costs as a private person.

"§6717. Judicial review

"(a) APPEALS IN FEDERAL COURT OF APPEALS.—A unit of general local government which receives notice from the Secretary about withholding payments under section 6703(c), suspending payments under section 6713(a)(1)(B), or terminating payments under section 6712(d)(2)(A), may apply for review of the action of the Secretary by filing a petition for review with the court of appeals of the United States for the circuit in which the government is located. The petition shall be filed by the 60th day after the date the notice is received. The clerk of the court shall immediately send a copy of the petition to the Secretary.

"(b) FILING OF RECORD OF ADMINISTRATIVE PROCEEDING.—The Secretary shall file with the court a record of the proceeding on which the Secretary based the action. The court may consider only objections to the action of the Secretary that were presented before the Secretary.

"(c) COURT ACTION.—The court may affirm, change, or set aside any part of the action of the Secretary. The findings of fact by the Secretary are conclusive if supported by substantial evidence in the record. If a finding is not supported by substantial evidence in the record, the court may remand the case to the Secretary to take additional evidence. Upon such a remand, the Secretary may make new or modified findings and shall certify additional proceedings to the court.

"(d) REVIEW ONLY BY SUPREME COURT.—A judgment of a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28.

"§6718. Audits, investigations, and reviews

"(a) INDEPENDENT AUDIT.—(1) Except as provided in this section, a unit of general local government that receives a payment under this chapter shall have an independent audit made of the financial statements of the government at least as often as is required by paragraph (2) to determine compliance with this chapter. The audit shall be carried out under generally accepted government auditing standards issued by the Comptroller General of the United States.

"(2) Paragraph (1) does not apply to a unit of general local government for a fiscal year in which the government receives less than $25,000 under this chapter. A unit of general local government which receives at least $25,000 but not more than $100,000 under this chapter for a fiscal year shall have an audit made in accordance with paragraph (1) at least once every 3 years. A government which receives more than $100,000 under this chapter for a fiscal year shall have an audit made in accordance with paragraph (1) for such fiscal year, except that, if the government operates on a biennial fiscal period, such audit may be made biennially but shall cover the financial statement or statements for, and compliance with the requirements of the chapter during, both years within such period.

"(3) An audit of financial statements of a unit of general local government carried out under another law of the United States for a fiscal year is deemed to be in compliance with paragraph (1) for that year if the audit substantially complies with the requirements of paragraph (1).

"(b) WAIVER BY LOCAL GOVERNMENT.—A unit of general local government may waive application of subsection (a)(1) if—

"(1) the financial statements of the government are audited by independent auditors under State or local law at least as often as would be required by subsection (a)(2);

"(2) the government certifies that the audit is carried out under generally accepted auditing standards issued by the Comptroller General of the United States;

"(3) the auditing provisions of the State or local law are applicable to the payment period to which the waiver applies; and

"(4) the government submits to the Secretary a brief description of the auditing standards used under the relevant State or local law and specification of the payment period to which the waiver applies.

"(c) WAIVER BY SECRETARY.—Under regulations of the Secretary, the Secretary may waive any requirement under subsection (a)(1) or (b) for a unit of general local government for a fiscal year if the Secretary decides that the financial statements of the government for the year—

"(1) cannot be audited, and the government shows substantial progress in making the statements auditable; or

"(2) have been audited by a State agency that does not follow generally accepted auditing standards issued by the Comptroller General of the United States or that is not independent, and the State agency shows progress in meeting those auditing standards or in becoming independent.

"(d) SERIES OF AUDITS.—A series of audits carried out over a period of not more than 3 years covering the total amount in the financial accounts of a unit of general local government is deemed to be a single audit under subsections (a)(1) and (b) of this section.

"(e) AUDIT OPINION.—An opinion of an audit carried out under this section shall be provided to the Secretary in the form and at times required by the Secretary. No later than 30 days following the completion of the audit, the unit of general local government shall make the audit report available for public inspection.

"(f) INVESTIGATIONS BY SECRETARY.—(1) The Secretary shall maintain regulations providing reasonable and specific time limits for the Secretary to—

"(A) carry out an investigation and make a finding after receiving a complaint referred to in section 6716(b), a determination by a State or local administrative agency, or other information about a possible violation of this chapter;

"(B) carry out audits and reviews (including investigations of allegations) about possible violations of this chapter; and

"(C) advise a complainant of the status of an audit, investigation, or review of an allegation by the complainant of a violation of section 6711 (a) or (b) or other provision of this chapter.

"(2) The maximum time limit under paragraph (1)(A) is 90 days.

"(g) REVIEWS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall carry out reviews of the activities of the Secretary, State governments, and units of general local government necessary for the Congress to evaluate compliance and operations under this chapter.

"§6719. Reports

"(a) REPORTS BY SECRETARY OF TREASURY TO CONGRESS.—Before June 2 of each year, the Secretary personally shall report to the Congress on—

"(1) the status and operation of the Local Government Fiscal Assistance Fund during the prior fiscal year; and

"(2) the administration of this chapter, including a complete and detailed analysis of—

"(A) actions taken to comply with sections 6711 through 6715, including a description of the kind and extent of noncompliance and the status of pending complaints;

"(B) the extent to which units of general local government receiving payments under this chapter have complied with sections 6702 and 6718 (a), (b), and (d), including a description of the kind and extent of noncompliance and actions taken to ensure the independence of audits conducted under section 6718 (a), (b), and (d);

"(C) the way in which payments under this chapter have been distributed in the jurisdictions receiving payments; and

"(D) significant problems in carrying out this chapter and recommendations for legislation to remedy the problems.

"(b) REPORTS BY UNITS OF GENERAL LOCAL GOVERNMENT TO SECRETARY OF TREASURY.—(1) At the end of each fiscal year, each unit of general local government which received a payment under this chapter for the fiscal year shall submit a report to the Secretary. The report shall be submitted in the form and at a time prescribed by the Secretary and shall be available to the public for inspection. The report shall state—

"(A) the amounts and purposes for which the payment has been appropriated, expended, or obligated in the fiscal year;

"(B) the relationship of the payment to the relevant functional items in the budget of the government; and

"(C) the differences between the actual and proposed use of the payment.

"(2) The Secretary shall provide a copy of a report submitted under paragraph (1) by a unit of general local government to the chief executive officer of the State in which the government is located. The Secretary shall provide the report in the manner and form prescribed by the Secretary.

"(c) REGULATIONS.—The Secretary shall prescribe regulations for applying this section to units of general local government that do not adopt budgets.

"§6720. Definitions and application

"(a) DEFINITIONS.—In this chapter—

"(1) 'unit of general local government' means—

"(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

"(B) the District of Columbia and the recognized governing body of an Indian tribe or Alaskan Native village that carries out substantial governmental duties and powers;

"(2) 'payment period' means each 1-year period beginning on October 1 of 1994 and 1995;

"(3) 'State and local taxes' means taxes imposed by a State government or unit of general local government or other political subdivision of a State government for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay) as determined by the Secretary of Commerce for general statistical purposes;

"(4) 'State' means any of the several States and the District of Columbia;

"(5) 'income' means the total money income received from all sources as determined by the Secretary of Commerce for general statistical purposes;

"(6) 'per capita income' means—

"(A) in the case of the United States, the income of the United States divided by the population of the United States;

"(B) in the case of a State, the income of that State, divided by the population of that State; and

"(C) in the case of a unit of general local government, the income of that unit of general local government divided by the population of the unit of general local government;

"(7) 'finding of discrimination' means a decision by the Secretary about a complaint described in section 6716(b), a decision by a State or local administrative agency, or other information (under regulations prescribed by the Secretary) that it is more likely than not that a unit of general local government has not complied with section 6711 (a) or (b);

"(8) 'holding of discrimination' means a holding by a United States court, a State court, or an administrative law judge appointed under section 3105 of title 5, that a unit of general local government expending amounts received under this chapter has—

"(A) excluded a person in the United States from participating in, denied the person the benefits of, or subjected the person to discrimination under, a program or activity because of race, color, national origin, or sex; or

"(B) violated a prohibition against discrimination described in section 6711(b); and

"(9) 'Secretary' means the Secretary of the Treasury.

"(b) TREATMENT OF SUBSUMED AREAS.—If the entire geographic area of a unit of general local government is located in a larger entity, the unit of general local government is deemed to be located in the larger entity. If only part of the geographic area of a unit is located in a larger entity, each part is deemed to be located in the larger entity and to be a separate unit of general local government in determining allocations under this chapter. Except as provided in regulations prescribed by the Secretary, the Secretary shall make all data computations based on the ratio of the estimated population of the part to the population of the entire unit of general local government.

"(c) BOUNDARY AND OTHER CHANGES.—If a boundary line change, a State statutory or constitutional change, annexation, a governmental reorganization, or other circumstance results in the application of sections 6704 through 6708 in a way that does not carry out the purposes of sections 6701 through 6708, the Secretary shall apply sections 6701 through 6708 under regulations of the Secretary in a way that is consistent with those purposes.".

(b) DEFICIT NEUTRALITY.—Any appropriation to carry out the amendment made by this subtitle to title 31, United States Code, for fiscal year 1995 or 1996 shall be offset by cuts elsewhere in appropriations for that fiscal year.

SEC. 1076. CLERICAL AMENDMENT.

The table of chapters at the beginning of subtitle V of title 31, United States Code, is amended by adding after the item relating to chapter 65 the following:

"67. Federal Payments .... 6701".

Subtitle J—Employment and Skills Crime Prevention

SEC. 1081. STATEMENT OF PURPOSE.

(a) PURPOSE.—The purpose of this subtitle is to reduce crime in neighborhoods with high incidences of crime and poverty through intensive programs that provide employment opportunities for young adults in those neighborhoods.

(b) DEFINITION.—As used in this subtitle, "high crime area" means an area with severe crime problems, including a high incidence of violent crime or drug trafficking.

SEC. 1082. PROGRAM AUTHORIZED.

The Secretary of Labor in conjunction with the Attorney General and Secretary of Housing and Urban Development, and in consultation with appropriate other Federal officials, may make grants to local governments to fund targeted youth employment and skills development projects to help reduce crime in target areas as defined in section 1083.

SEC. 1083. PROGRAM TARGET AREA.

The target area or areas of each grant shall be neighborhoods which are high crime areas with high unemployment among young adults and other serious economic and social problems.

SEC. 1084. PARTICIPANTS.

(a) ELIGIBLE POPULATION.—Young adults residing or attending school in the target area shall be eligible to participate in programs funded under this subtitle if they are between 16 and 25 years of age. In certain circumstances, as determined by the Attorney General and the Secretaries of Labor and Housing and Urban Development (referred to in this subtitle as the "Secretaries"), young adults up to age 30 and youth age 14 to 15 may also be eligible to participate.

(b) RESPONSIBLE BEHAVIOR BY PARTICIPANTS.—Continued participation in a program under this subtitle shall be conditioned, during participation in the program, on the following—

(1) avoiding crime, including illegal drug use;

(2) regular attendance and satisfactory performance at work;

(3) paying child support when paternity has been established and the participant has an income;

(4) in-school young adults in high school remaining in school until graduation; and

(5) requiring young adults ages 16–17 who have dropped out of high school and who have not obtained a General Equivalency Diploma (GED) to return to school or an alternative education program.

SEC. 1085. ALLOWABLE ACTIVITIES.

(a) EXPENDITURE OF FUNDS.—Funds awarded under this subtitle shall be expended only for crime prevention related activities undertaken to carry out an approved application, such as—

(1) apprenticeship programs linking work and learning;

(2) on-the-job training in the private sector;

(3) youth conservation and service corps;

(4) programs emphasizing neighborhood infrastructure, such as YouthBuild and employment of public housing residents;

(5) work experience in private nonprofit organizations and public agencies;

(6) entrepreneurial and microenterprise development;

(7) crime prevention and security measures for profit and not-for-profit businesses employing substantial numbers of youth from high crime areas;

(8) transportation links to jobs in the labor market area;

(9) initiatives to increase the educational attainment, occupational skills, and career aspirations of target area young adults, including work-based learning; and

(10) job placement and related case management, followup, and other supportive services.

(b) WORK EXPERIENCE PROGRAMS.—Work experience programs funded under this subtitle shall—

(1) pay wages in accordance with the Fair Labor Standards Act and relevant State law;

(2) include adequate supervision, equipment, and materials and supplies to accomplish useful work projects;

(3) include a private sector job development component to facilitate the transition of participants to private sector jobs, which shall include developing portfolios of skill attainment, mentorship opportunities, and other efforts to increase job networks for participants; and

(4) include an extensive job placement component.

(c) 2-YEAR LIMITATION.—The combination of all subsidized employment for a participant shall not exceed 2 years.

SEC. 1086. APPLICATION FOR GRANTS.

(a) APPLICATION PLAN.—To be eligible to receive a grant under this subtitle, a chief local elected official, with the timely review and comment of the Governor, shall apply to the Secretary of Labor for a Youth Employment and Skills Crime Prevention grant by submitting an application that contains a plan for reducing crime by substantially increasing the employment levels of youth adults in the target area. Such a plan shall—

(1) describe the measurable outcomes that will be used to evaluate the local success of the program, including reduced crime and substance abuse, increased private sector employment, reduced school dropout rates, and increased educational attainment;

(2) specify the organization that will administer the program;

(3) describe the specific employment programs that will be offered by the program;

(4) describe the public/private partnership that will promote collaboration between the State and local governments, private sector, public housing authorities, local residents, community-based organizations, and nonprofit organizations, including linkage with community policing, gang prevention activities, and juvenile justice or delinquency prevention initiatives;

(5) specify how the public and private sectors will work together to assist youth and young adults to make the transition from subsidized to unsubsidized jobs;

(6) describe how links to jobs throughout the labor market area will be provided;

(7) specify the manner in which the job network for youth and young adults will be expanded by mentors and other programs; and

(8) such other information as the Secretary of Labor in conjunction with the Attorney General and Secretary of Housing and Urban Development may require.

(b) COORDINATION WITH OTHER FEDERAL PROGRAMS.—The application must demonstrate that the proposed Youth Employment and Skills Crime Prevention program will build upon and be coordinated with other Federal initiatives relating to such matters as crime control and prevention, youth employment, education, economic development, community service, or social services.

(c) LEVERAGING AND LINKAGES.—As a condition of a grant award, local areas shall establish linkages with the local private sector, local employment and job training programs, and other appropriate entities to enhance the provision of services under this subtitle. Such activities may include leveraging by and linkages with—

(1) the local private sector to—

(A) develop a mentoring program to improve the job network for young adults in the target area;

(B) develop a specified number of career-track jobs for young adults graduating from high school and college in the target area;

(C) develop part-time jobs to support young adults while they are receiving job training, or secondary or post-secondary education; and

(D) develop apprenticeship programs with unions that provide matching funds to create training and employment opportunities;

(2) the local service delivery area under the Job Training Partnership Act to identify funds—

(A) for on-the-job training and work-based training programs, based on successful program models, for residents of the target area;

(B) to develop a summer jobs program for in-school young adults residing in the target area;

(C) for new youth initiatives in the target area; and

(D) for child care and supportive services;

(3) local programs to provide employment services and supportive services, such as transportation service to link target area residents to jobs in the labor market area; and

(4) the local educational agency to provide activities that will support the program and assist in achieving the goals specified in the application.

SEC. 1087. AWARD PRIORITIES.

In evaluating the applications submitted under this subtitle, the Secretaries and the Attorney General shall give priority to applications that—

(1) demonstrate extensive community support and linkages to crime prevention programs and employment related programs;

(2) target areas that include public and assisted housing projects;

(3) demonstrate evidence of severe social and economic problems;

(4) demonstrate the highest quality program design, implementation plan, and goals to be achieved; and

(5) include other Federal and non-Federal funding, including State, local, or private resources.

SEC. 1088. GRANT DURATION AND NUMBER.

(a) DURATION OF GRANTS.—Grants shall be for 1 year, and renewable for each of the 4 succeeding years.

(b) NUMBER OF GRANTS.—There shall be no more than 10 grants awarded under this subtitle.

SEC. 1089. FEDERAL RESPONSIBILITIES.

(a) IN GENERAL.—The Secretary of Labor in conjunction with the Attorney General and the Secretary of Housing and Urban Development shall establish a system of performance measures for assessing programs established pursuant to this subtitle.

(b) EVALUATION.—The Secretary of Labor in conjunction with the Attorney General and Secretary of Housing and Urban Development shall conduct a rigorous national evaluation of Youth Employment and Skills Crime Prevention programs funded under this subtitle that will track and assess the effectiveness of those programs, and include an evaluation of the extent to which such programs reduce crime and substance abuse, enhance the employment and earnings of participants, promote entrepreneurship, reduce dropout rates, and increase educational attainment. The evaluation may include cost-benefit analyses and shall utilize sound statistical methods and techniques.

(c) TECHNICAL ASSISTANCE.—The Secretary of Labor in conjunction with the Attorney General and the Secretary of Housing and Urban Development may provide appropriate technical assistance to carry out Youth Employment and Skills Crime Prevention programs under this subtitle.

(d) ADMINISTRATION.—The technical assistance and evaluations authorized by this section may be carried out directly by the Secretary of Labor or through grants, contracts, or other cooperative arrangements with the Attorney General, the Secretary of Housing and Urban Development, or other entities or agencies.

SEC. 1090. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Labor $75,000,000 for fiscal year 1995, $100,000,000 for fiscal year 1996, $110,000,000 for fiscal year 1997, $115,000,000 for fiscal year 1998, and $125,000,000 for fiscal year 1999 to carry out this subtitle.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to this section are authorized to remain available for obligation until expended.

(c) EVALUATIONS AND TECHNICAL ASSISTANCE.—Of the amounts appropriated under subsection (a) for a fiscal year, the Secretary of Labor in conjunction with the Attorney General and Secretary of Housing and Urban Development may reserve not more than 5 percent of such amounts for each fiscal year to carry out evaluations and technical assistance.

SEC. 1091. SANCTIONS.

The Secretary of Labor may terminate or suspend financial assistance, in whole or in part, to a recipient or refuse to extend a grant for a recipient, if the Secretary of Labor in conjunction with the Attorney General and Secretary of Housing and Urban Development determines that the recipient has failed to meet the requirements of this subtitle, or any regulations or guidelines under this subtitle, or any approved application submitted pursuant to this subtitle.

SEC. 1092. LABOR STANDARDS.

Labor standards under the Job Training Partnership Act (29 U.S.C. 1553) shall apply to programs under this subtitle.

SEC. 1093. REGULATIONS OR GUIDELINES.

The Secretary of Labor in conjunction with the Attorney General and Secretary of Housing and Urban Development shall issue such regulations or guidelines as may be necessary to carry out the purposes of this subtitle.

SEC. 1094. WAIVERS.

The Secretary of Labor in conjunction with the Attorney General and Secretary of Housing and Urban Development may prescribe regulations or guidelines that establish criteria for waiver of application requirements of programs to the extent that they duplicate or conflict with the requirements specified in similar laws.

SEC. 1095. PROHIBITION ON PRIVATE RIGHTS OF ACTION.

Nothing in this subtitle shall be construed to establish a right for any person to bring an action to obtain services under this subtitle.

SEC. 1096. ACCEPTANCE OF GIFTS, AND OTHER MATTERS.

The Secretaries and Attorney General are authorized, in carrying out this subtitle, to accept, purchase, or lease in the name of the Department of Justice or the Department of Labor or the Department of Housing and Urban Development, and employ or dispose of in furtherance of the purposes of this subtitle, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of section 1342 of title 31.

Subtitle K—Miscellaneous

SEC. 1098. MULTIJURISDICTIONAL GANG TASK FORCES.

Section 504(f) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting "or multijurisdictional gang task forces" after "drug task forces".

TITLE XI—YOUTH VIOLENCE

SEC. 1101. PROSECUTION AS ADULTS OF CERTAIN JUVENILES FOR CRIMES OF VIOLENCE.

(a) PROSECUTION AS ADULTS.—The 4th undesignated paragraph of section 5032 of title 18, United States Code, is amended by striking "; however" and inserting ". In the application of the preceding sentence, if the crime of violence is an offense under section 113(a), 113(b), 113(c), 1111, 1113, or, if the juvenile possessed a firearm during the offense, section 2111, 2113, 2241(a), or 2241(c) of this title, 'thirteen' shall be substituted for 'fifteen' and 'thirteenth' shall be substituted for 'fifteenth'. Notwithstanding sections 1152 and 1153 of this title, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to the preceding sentence for any offense the Federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 of this title, and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has elected that the preceding sentence have effect over land and persons subject to its criminal jurisdiction. However".

(b) FEDERAL PRIORITY IN DEALING WITH CERTAIN CRIMES.—The first undesignated paragraph of section 5032 of title 18, United States Code, is amended by inserting " or an offense that is a crime of violence under section 113(a), 113(b), 113(c), 1111, 1113, or if the juvenile possessed a firearm during the offense, section 2111, 2113, 2241(a), or 2241(c) of this title" after "not exceed six months".

SEC. 1102. COMMENCEMENT OF JUVENILE PROCEEDING.

Section 5032 of title 18, United States Code, is amended by striking "Any proceedings against a juvenile under this chapter or as an adult shall not be commenced until" and inserting "A juvenile shall not be transferred to adult prosecution nor shall a hearing be held under section 5037 (disposition after a finding of juvenile delinquency) until".

SEC. 1103. SEPARATION OF JUVENILE FROM ADULT OFFENDERS.

Section 5039 of title 18, United States Code, is amended by inserting ", whether pursuant to an adjudication of delinquency or conviction for an offense," after "committed" the first place it appears.

TITLE XII—CHILD SEXUAL ABUSE PREVENTION ACT OF 1994

SEC. 1201. PENALTIES FOR INTERNATIONAL TRAFFICKING IN CHILD PORNOGRAPHY.

(a) IMPORT RELATED OFFENSE.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2259. Production of sexually explicit depictions of a minor for importation into the United States

"(a) USE OF MINOR.—A person who, outside the United States, employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor with the intent that the minor engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, intending that the visual depiction will be imported into the United States or into waters within 12 miles of the coast of the United States, shall be punished as provided in subsection (c).

"(b) USE OF VISUAL DEPICTION.—A person who, outside the United States, knowingly receives, transports, ships, distributes, sells, or possesses with intent to transport, ship, sell, or distribute any visual depiction of a minor engaging in sexually explicit conduct (if the production of the visual depiction involved the use of a minor engaging in sexually explicit conduct), intending that the visual depiction will be imported into the United States or into waters within a distance of 12 miles of the coast of the United States, shall be punished as provided in subsection (c).

"(c) PENALTIES.—A person who violates subsection (a) or (b), or conspires or attempts to do so—

"(1) shall be fined under this title, imprisoned not more than 10 years, or both; and

"(2) if the person has a prior conviction under this chapter or chapter 109A, shall be fined under this title, imprisoned not more than 20 years, or both.".

(b) TECHNICAL AMENDMENT.—

(1) CHAPTER ANALYSIS.—The table of sections at the beginning of chapter 110 of title 18, United States Code, is amended by adding at the end the following new item:

"2259. Production of sexually explicit depictions of a minor for importation into the United States.".

(2) FINE PROVISIONS.—Section 2251(d) of title 18, United States Code, is amended—

(A) by striking "not more than $100,000, or" and inserting "under this title,";

(B) by striking "not more than $200,000, or" and inserting "under this title,"; and

(C) by striking "not more than $250,000" and inserting "under this title".

(c) SECTION 2251 PENALTY ENHANCEMENT.—Section 2251(d) of title 18, United States Code, is amended by striking "this section" the second place it appears and inserting "this chapter or chapter 109A".

(d) SECTION 2252 PENALTY ENHANCEMENT.—Section 2252(b)(1) of title 18, United States Code, is amended by striking "this section" and inserting "this chapter or chapter 109A".

(e) CONSPIRACY AND ATTEMPT.—Sections 2251(d) and 2252(b) of title 18, United States Code, are each amended by inserting ", or attempts or conspires to violate," after "violates" each place it appears.

(f) RICO AMENDMENT.—Section 1961(1) of title 18, United States Code, is amended by striking "2251-2252" and inserting "2251, 2252, and 2259".

(g) TRANSPORTATION OF MINORS.—Chapter 117 of title 18, United States Code, is amended—

(1) by adding at the end the following new section:

"§ 2425. Travel with intent to engage in a sexual act with a juvenile

"A person who travels in interstate commerce, or conspires to do so, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, or conspires to do so, for the purpose of engaging in any sexual act (as defined in section 2245) with a person under 18 years of age that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States shall be fined under this title, imprisoned not more than 10 years, or both."; and

(2) in the table of sections at the beginning, by adding at the end the following new item:

"2425. Travel with intent to engage in a sexual act with a juvenile.".

SEC. 1202. SENSE OF CONGRESS CONCERNING STATE LEGISLATION REGARDING CHILD PORNOGRAPHY.

It is the sense of the Congress that each State that has not yet done so should enact legislation prohibiting the production, distribution, receipt, or simple possession of materials depicting a person under 18 years of age engaging in sexually explicit conduct (as defined in section 2256 of title 18, United States Code) and providing for a maximum imprisonment of at least 1 year and for the forfeiture of assets used in the commission or support of, or gained from, such offenses.

TITLE XIII—JACOB WETTERLING CRIMES AGAINST CHILDREN REGISTRATION ACT

SEC. 1301. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—

(1) STATE GUIDELINES.—The Attorney General shall establish guidelines for State programs requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, or being placed on parole, supervised release, or probation.

(2) DEFINITION.—For purposes of this subsection, the term "criminal offense against a victim who is a minor" means any criminal offense that consists of—

(A) kidnapping of a minor, except by a parent;

(B) false imprisonment of a minor, except by a parent;

(C) criminal sexual conduct toward a minor;

(D) solicitation of a minor to engage in sexual conduct;

(E) use of a minor in a sexual performance;

(F) solicitation of a minor to practice prostitution;

(G) any conduct that by its nature is a sexual offense against a minor; or

(H) an attempt to commit an offense described in any of subparagraphs (A) through (G) of this paragraph, if the State—

(i) makes such an attempt a criminal offense; and

(ii) chooses to include such an offense in those which are criminal offenses against a victim who is a minor for the purposes of this section.

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, SUPERVISED RELEASE, OR PROBATION.—An approved State registration program established under this section shall contain the following requirements:

(1) DUTY OF STATE PRISON OFFICIAL OR COURT.—If a person who is required to register under this section is released from prison, or placed on parole, supervised release, or probation, a State prison officer, or in the case of probation, the court, shall—

(A) inform the person of the duty to register and obtain the information required for such registration;

(B) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(C) inform the person that if the person changes residence to another State, the person shall register the new address with the law enforcement agency with whom the person last registered, and the person is also required to register with a designated law enforcement agency in the new State not later than 10 days after establishing residence in the new State, if the new State has a registration requirement;

(D) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(E) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(2) TRANSFER OF INFORMATION TO STATE AND THE F.B.I.—The officer, or in the case of a person placed on probation, the court, shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit the conviction data and fingerprints to the Federal Bureau of Investigation.

(3) ANNUAL VERIFICATION.—On each anniversary of a person's initial registration date during the period in which the person is required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the designated State law enforcement agency. If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the person shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(4) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—Any change of address by a person required to register under this section reported to the designated State law enforcement agency shall immediately be reported to the appropriate law enforcement agency having jurisdiction where the person is residing. The designated law enforcement agency shall, if the person changes residence to another State, notify the person of the law enforcement agency with which the person must register in the new State, if the new State has a registration requirement.

(5) PRIVACY OF DATA.—The information collected under a State registration program shall be treated as private data on individuals and may be disclosed only to law enforcement agencies for investigative purposes or to government agencies conducting confidential background checks with fingerprints on applicants for child care positions or other positions involving contact with children.

(c) REGISTRATION FOR CHANGE OF ADDRESS TO ANOTHER STATE.—A person who has been convicted of an offense which triggered registration in a State shall register the new address with a designated law enforcement agency in another State to which the person moves not later than 10 days after such person establishes residence in the new State, if the new State has a registration requirement.

(d) REGISTRATION FOR 10 YEARS.—A person required to register under this section shall continue to comply with this section until 10 years have elapsed since the person was released from prison, or placed on parole, supervised release, or probation.

(e) PENALTY.—A person required to register under a State program established pursuant to this section who knowingly fails to so register and keep such registration current shall be subject to criminal penalties in any State in which the person has so failed.

(f) COMPLIANCE.—

(1) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this Act in which to implement this section.

(2) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with the guidelines issued under this section 3 years after the date of enactment of this Act may be reduced by 10 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

TITLE XIV—COMMUNITY POLICING

SEC. 1401. COMMUNITY POLICING; "COPS ON THE BEAT".

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after part S (as added by section 2301(a)) the following new part:

"PART T—PUBLIC SAFETY AND COMMUNITY POLICING; 'COPS ON THE BEAT'

"SEC. 2001. AUTHORITY TO MAKE PUBLIC SAFETY AND COMMUNITY POLICING GRANTS.

"(a) GRANT AUTHORIZATION.—The Attorney General is authorized to make grants to States and units of local government, and to other public and private entities, to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety.

"(b) Rehiring and Hiring Grant Projects.—Grants made under the authority of subsection (a) of this section may be used for programs, projects, and other activities to—

"(1) rehire law enforcement officers who have been laid off as a result of State and local budget reductions for deployment in community-oriented policing; and

"(2) hire and train new, additional career law enforcement officers (including cadets and trainees) for deployment in community-oriented policing across the Nation.

"(c) Additional Grant Projects.—Grants made under the authority of subsection (a) of this section also may include programs, projects, and other activities to—

"(1) increase the number of law enforcement officers involved in activities that are focused on interaction with members of the community on proactive crime control and prevention by redeploying officers to such activities;

"(2) provide specialized training to law enforcement officers to enhance their conflict resolution, mediation, problem solving, service, and other skills needed to work in partnership with members of the community;

"(3) increase police participation in multidisciplinary early intervention teams;

"(4) develop new technologies to assist State and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime;

"(5) develop and implement innovative programs to permit members of the community to assist State and local law enforcement agencies in the prevention of crime in the community;

"(6) establish innovative programs to reduce, and keep to a minimum, the amount of time that law enforcement officers must be away from the community while awaiting court appearances;

"(7) establish and implement innovative programs to increase and enhance proactive crime control and prevention programs involving law enforcement officers and young persons in the community;

"(8) develop and establish new administrative and managerial systems to facilitate the adoption of community-oriented policing as an organization-wide philosophy; and

"(9) establish, implement, and coordinate crime prevention and control programs (involving law enforcement officers working with community members) with other existing Federal programs that serve the community and community members to better address the comprehensive needs of such community and its members.

"(d) Preferential Consideration of Applications for Certain Grants.—In awarding grants under this part, the Attorney General may give preferential consideration to grants for hiring and rehiring additional career law enforcement officers that involve a non-Federal contribution exceeding the 25 percent minimum under subsection (h) of this section.

"(e) Technical Assistance.—(1) The Attorney General may provide technical assistance to States and units of local government, and to other public and private entities, in furtherance of the purposes of this part.

"(2) The technical assistance provided by the Attorney General may include the development of a flexible model that will define for States and units of local government, and other public and private entities, definitions and strategies associated with community or problem-oriented policing and methodologies for its implementation.

"(3) The technical assistance provided by the Attorney General may include the establishment and operation of training centers or facilities, either directly or by contracting or cooperative arrangements. The functions of the centers or facilities established under this paragraph may include instruction and seminars for police executives, managers, trainers, and supervisors concerning community or problem-oriented policing and improvements in police-community interaction and cooperation that further the purposes of this part.

"(f) Utilization of Department of Justice Offices and Services.—The Attorney General may utilize any office or service of the Department of Justice in carrying out this part.

"(g) Minimum Amount.—Each qualifying State, together with grantees within the State, shall receive in each fiscal year pursuant to subsection (a) of this section not less than 0.25 percent of the total amount appropriated in the fiscal year for grants pursuant to such subsection. As used in this subsection, 'qualifying State' means any State which has submitted an application for a grant, or in which an eligible entity has submitted an application for a grant, which meets the requirements prescribed by the Attorney General and the conditions set out in this part.

"(h) Matching Funds.—The portion of the costs of a program, project, or activity provided by a grant under subsection (a) of this section may not exceed 75 percent, unless the Attorney General waives, wholly or in part, the requirement under this subsection of a non-Federal contribution to the costs of a program, project, or activity. In relation to a grant for a period exceeding one year for hiring or re-hiring career law enforcement officers, the Federal share shall decrease from year to year, looking towards the continuation of the increased hiring level using State or local sources of funding following the conclusion of Federal support, as provided in an approved plan pursuant to section 2002(c)(8) of this part.

"(i) Allocation of Funds.—The funds available under this part shall be allocated as provided in section 1001(a)(11)(B) of this title.

"(j) Termination of Grants for Hiring Officers.—The authority under subsection (a) of this section to make grants for the hiring and rehiring of additional career law enforcement officers shall lapse at the conclusion of six years from the date of enactment of this part. Prior to the expiration of this grant authority, the Attorney General shall submit a report to Congress concerning the experience with and effects of such grants. The report may include any recommendations the Attorney General may have for amendments to this part and related provisions of law in light of the termination of the authority to make grants for the hiring and rehiring of additional career law enforcement officers.

"SEC. 2002. APPLICATIONS.

"(a) In General.—No grant may be made under this part unless an application has been submitted to, and approved by, the Attorney General.

"(b) Form and Content of Application.—An application for a grant under this part shall be submitted in such form, and contain such information, as the Attorney General may prescribe by regulation or guidelines.

"(c) Compliance With Regulations or Guidelines.—In accordance with the regulations or guidelines established by the Attorney General, each application for a grant under this part shall—

"(1) include a long-term strategy and detailed implementation plan that reflects consultation with community groups and appropriate private and public agencies and reflects consideration of the statewide strategy under section 503(a)(1) of this part;

"(2) demonstrate a specific public safety need;

"(3) explain the locality's inability to address the need without federal assistance;

"(4) identify related governmental and community initiatives which complement or will be coordinated with the proposal;

"(5) certify that there has been appropriate coordination with all affected agencies;

"(6) outline the initial and ongoing level of community support for implementing the proposal including financial and in-kind contributions or other tangible commitments;

"(7) specify plans for obtaining necessary support and continuing the proposed program, project, or activity following the conclusion of Federal support; and

"(8) if the application is for a grant for hiring or rehiring additional career law enforcement officers—

"(A) specify plans for the assumption by the grantee of a progressively larger share of the cost in the course of time, looking towards the continuation of the increased hiring level using State or local sources of funding following the conclusion of Federal support;

"(B) assess the impact, if any, of the increase in police resources on other components of the criminal justice system;

"(C) explain how the grant will be utilized to re-orient the affected law enforcement agency's mission towards community-oriented policing or enhance its involvement in or commitment to community-oriented policing; and

"(D) ensure that, to the extent practicable, grantees seek and recruit members of racial, ethnic, and gender minority groups whose representation in the law enforcement agency for which funds are sought is less than in the general population qualified for such employment in such jurisdiction.

"SEC. 2003. REVIEW OF APPLICATIONS BY STATE OFFICE.

"(a) In General.—Except as provided in subsection (c) or (d), an applicant for a grant under this part shall submit an application to the State office designated under section 507 of this title in the State in which the applicant is located for initial review.

"(b) Initial Review of Application.—The State office referred to in subsection (a) of this section shall review applications for grants under this part submitted to it, based upon criteria specified by the Attorney General by regulation or guidelines, and rank such applications based upon the criteria specified by the Attorney General. The State office referred to in subsection (a) of this section shall submit the list along with all grant applications and supporting materials received to the Attorney General.

"(c) Direct Application to the Attorney General by Certain Municipalities.—Notwithstanding subsection (a) of this section, municipalities whose population exceeds 100,000 may submit an application for a grant under this part directly to the Attorney General. For purposes of this subsection, 'municipalities whose population exceeds 100,000' means units of local government or law enforcement agencies having jurisdiction over areas with populations exceeding 100,000, and consortia or associations that include one or more such units of local government or law enforcement agencies.

"(d) Direct Application to the Attorney General by Other Applicants.—Notwithstanding subsection (a) of this section, if a State chooses not to carry out the functions described in subsection (b) of this section, an applicant in the State may submit an application for a grant under this part directly to the Attorney General.

"SEC. 2004. RENEWAL OF GRANTS.

"(a) IN GENERAL.—Except for grants made for hiring or rehiring additional career law enforcement officers, a grant under this part may be renewed for up to two additional years after the first fiscal year during which a recipient receives its initial grant if the Attorney General determines that the funds made available to the recipient were used in a manner required under an approved application and if the recipient can demonstrate significant progress in achieving the objectives of the initial application.

"(b) GRANTS FOR HIRING.—Grants made for hiring or rehiring additional career law enforcement officers may be renewed for up to five years, subject to the requirements of subsection (a) of this section, but notwithstanding the limitation in that subsection concerning the number of years for which grants may be renewed.

"(c) MULTI-YEAR GRANTS.—A grant for a period exceeding one year may be renewed as provided in this section, except that the total duration of such a grant including any renewals may not exceed three years, or six years if it is a grant made for hiring or rehiring additional career law enforcement officers.

"SEC. 2005. LIMITATION ON USE OF FUNDS.

"(a) NON-SUPPLANTING REQUIREMENT.—Funds made available under this part to States or units of local government shall not be used to supplant State or local funds, but will be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State or local sources.

"(b) ADMINISTRATIVE COSTS.—No more than 5 percent of the funds available under this part may be used for the costs of States in carrying out the functions described in section 2003(b) or other administrative costs.

"(c) NON-FEDERAL COSTS.—States and units of local government may use assets received through the assets forfeiture equitable sharing program to cover the non-Federal portion of programs, projects, and activities funded under this part.

"(d) HIRING COSTS.—Funding provided under this part for hiring or rehiring a career law enforcement officer may not exceed $75,000, unless the Attorney General grants a waiver from this limitation.

"SEC. 2006. PERFORMANCE EVALUATION.

"(a) EVALUATION COMPONENTS.—

"(1) Each program, project, or activity funded under this part shall contain an evaluation component, developed pursuant to guidelines established by the Attorney General.

"(2) The evaluations required by paragraph (1) shall include outcome measures that can be used to determine the effectiveness of the funded programs, projects, activities and a description of the geographic dispersion, and racial, ethnic, and gender diversity of rehired and new employees. Outcome measures may include crime and victimization indicators, quality of life measures, community perceptions, and police perceptions of their own work.

"(b) PERIODIC REVIEW AND REPORTS.—The Attorney General shall review the performance of each grant recipient under this part. The Attorney General may require a grant recipient to submit to the Attorney General the results of the evaluations required under subsection (a) and such other data and information as the Attorney General deems reasonably necessary to carry out the responsibilities under this subsection.

"SEC. 2007. REVOCATION OR SUSPENSION OF FUNDING.

"If the Attorney General determines, as a result of the reviews required by section 2006 of this part, or otherwise, that a grant recipient under this part is not in substantial compliance with the terms and requirements of an approved grant application submitted under section 2002 of this part, the Attorney General may revoke or suspend funding of that grant, in whole or in part.

"SEC. 2008. ACCESS TO DOCUMENTS.

"(a) BY THE ATTORNEY GENERAL.—The Attorney General shall have access for the purpose of audit and examination to any pertinent books, documents, papers, or records of a grant recipient under this part, as well as the pertinent books, documents, papers, or records of States and units of local government, persons, businesses, and other entities that are involved in programs, projects, or activities for which assistance is provided under this part.

"(b) BY THE COMPTROLLER GENERAL.—The provisions of subsection (a) of this section shall also apply with respect to audits and examinations conducted by the Comptroller General of the United States or by an authorized representative of the Comptroller General.

"SEC. 2009. GENERAL REGULATORY AUTHORITY.

"The Attorney General is authorized to promulgate regulations and guidelines to carry out this part.

"SEC. 2010. DEFINITION.

"For the purposes of this part, the term 'career law enforcement officer' means a person hired on a permanent basis who is authorized by law or by a State or local public agency to engage in or supervise the prevention, detection, or investigation of violations of criminal laws.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711, et seq.) is amended by inserting after the matter relating to part S (as added by section 2301(b)) the following:

"PART T—PUBLIC SAFETY AND COMMUNITY POLICING; 'COPS ON THE BEAT'

"Sec. 2001. Authority to make public safety and community policing grants.
"Sec. 2002. Applications.
"Sec. 2003. Review of applications by State office.
"Sec. 2004. Renewal of grants.
"Sec. 2005. Limitation on use of funds.
"Sec. 2006. Performance evaluation.
"Sec. 2007. Revocation or suspension of funding.
"Sec. 2008. Access to documents.
"Sec. 2009. General regulatory authority.
"Sec. 2010. Definition.".

SEC. 1402. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) in paragraph (3) by striking "and O." and inserting "O, P, and T."; and

(2) by adding after paragraph (13) (as added by section 2302) the following:

"(14)(A) There are authorized to be appropriated to carry out part T, to remain available until expended, $200,000,000 for fiscal year 1994 and $650,000,000 for each of the fiscal years 1995, 1996, 1997, 1998, and 1999.

"(B) Of funds available under part T in any fiscal year, up to 5 percent may be used for technical assistance under section 2001(e) or for evaluations or studies carried out or commissioned by the Attorney General in furtherance of the purposes of part T, and up to 5 percent may be used for the costs of States in carrying out the functions described in section 2003(b) or other administrative costs. Of the remaining funds, 50 percent shall be allocated for grants pursuant to applications submitted as provided in section 2003(a) or (d), and 50 percent shall be allocated for grants pursuant to applications submitted as provided in section 2003(c). Of the funds available in relation to grants pursuant to applications submitted as provided in section 2003(a) or (d), at least 85 percent shall be applied to grants for the purposes specified in section 2001(b), and no more than 15 percent may be applied to other grants in furtherance of the purposes of part T. Of the funds available in relation to grants pursuant to applications submitted as provided in section 2003(c), at least 85 percent shall be applied to grants for the purposes specified in section 2001(b), and no more than 15 percent may be applied to other grants in furtherance of the purposes of part T.

"(C) Notwithstanding the provisions of section 2003, no funds allocated for grants pursuant to applications submitted as provided under subsections (a) or (d) of section 2003 shall be allocated for grants to a municipality (as defined in section 2003(c)).".

TITLE XV—DNA IDENTIFICATION

SEC. 1501. SHORT TITLE.

This title may be cited as the "DNA Identification Act of 1994".

SEC. 1502. FUNDING TO IMPROVE THE QUALITY AND AVAILABILITY OF DNA ANALYSES FOR LAW ENFORCEMENT IDENTIFICATION PURPOSES.

(a) DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM.—Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) is amended—

(1) in paragraph (20) by striking "and" at the end,

(2) in paragraph (21) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(22) developing or improving in a forensic laboratory a capability to analyze deoxyribonucleic acid (hereinafter in this title referred to as 'DNA') for identification purposes.".

(b) STATE APPLICATIONS.—Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end thereof the following new paragraph:

"(12) If any part of a grant made under this part is to be used to develop or improve a DNA analysis capability in a forensic laboratory, a certification that—

"(A) DNA analyses performed at such laboratory will satisfy or exceed then current standards for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 3 of the DNA Identification Act of 1994;

"(B) DNA samples obtained by, and DNA analyses performed at, such laboratory will be accessible only—

"(i) to criminal justice agencies for law enforcement identification purposes;

"(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged; or

"(iii) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes; and

"(C) such laboratory, and each analyst performing DNA analyses at such laboratory, will undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 3 of the DNA Identification Act of 1994.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by adding at the end the following:

"(11) There are authorized to be appropriated for each of the fiscal years 1994 through 1998 $10,000,000 for grants to the States for DNA analysis.".

SEC. 1503. QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.

(a) PUBLICATION OF QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.—(1) Not later than 180 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation shall appoint an advisory board on DNA quality assurance methods. The Director shall appoint members of the board from among nominations proposed by the head of the National Academy of Sciences and professional societies of crime laboratory officials. The advisory board shall include as members scientists from State and local forensic laboratories, molecular geneticists and population geneticists not affiliated with a forensic laboratory, and a representative from the National Institute of Standards and Technology. The advisory board shall develop, and if appropriate, periodically revise, recommended standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(2) The Director of the Federal Bureau of Investigation, after taking into consideration such recommended standards, shall issue (and revise from time to time) standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(3) The standards described in paragraphs (1) and (2) shall specify criteria for quality assurance and proficiency tests to be applied to the various types of DNA analyses used by forensic laboratories. The standards shall also include a system for grading proficiency testing performance to determine whether a laboratory is performing acceptably.

(4) Until such time as the advisory board has made recommendations to the Director of the Federal Bureau of Investigation and the Director has acted upon those recommendations, the quality assurance guidelines adopted by the technical working group on DNA analysis methods shall be deemed the Director's standards for purposes of this section.

(b) ADMINISTRATION OF THE ADVISORY BOARD.—For administrative purposes, the advisory board appointed under subsection (a) shall be considered an advisory board to the Director of the Federal Bureau of Investigation. Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the advisory board appointed under subsection (a). The board shall cease to exist on the date 5 years after the initial appointments are made to the board, unless the existence of the board is extended by the Director of the Federal Bureau of Investigation.

SEC. 1504. INDEX TO FACILITATE LAW ENFORCEMENT EXCHANGE OF DNA IDENTIFICATION INFORMATION.

(a) IN GENERAL.—The Director of the Federal Bureau of Investigation may establish an index of—

(1) DNA identification records of persons convicted of crimes;

(2) analyses of DNA samples recovered from crime scenes; and

(3) analyses of DNA samples recovered from unidentified human remains.

(b) CONTENT OF INDEX.—Such index may include only information on DNA identification records and DNA analyses that are—

(1) based on analyses performed in accordance with publicly available standards that satisfy or exceed the guidelines for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 3 of the DNA Identification Act of 1994;

(2) prepared by laboratories, and DNA analysts, that undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 3 of the DNA Identification Act of 1994; and

(3) maintained by Federal, State, and local criminal justice agencies pursuant to rules that allow disclosure of stored DNA samples and DNA analyses only—

(A) to criminal justice agencies for law enforcement identification purposes;

(B) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged; or

(C) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(c) EXCHANGE SUBJECT TO CANCELLATION.—The exchange of records authorized by this section is subject to cancellation if the quality control and privacy requirements described in subsection (b) of this section are not met.

SEC. 1505. FEDERAL BUREAU OF INVESTIGATION.

(a) PROFICIENCY TESTING REQUIREMENTS.—

(1) GENERALLY.—Personnel at the Federal Bureau of Investigation who perform DNA analyses shall undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 3(a). Within one year of the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall arrange for periodic blind external tests to determine the proficiency of DNA analysis performed at the Federal Bureau of Investigation laboratory. As used in this paragraph, the term "blind external test" means a test that is presented to the laboratory through a second agency and appears to the analysts to involve routine evidence.

(2) REPORT.—For five years after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committees on the Judiciary of the House and Senate an annual report on the results of each of the tests referred to in paragraph (1).

(b) PRIVACY PROTECTION STANDARDS.—

(1) GENERALLY.—Except as provided in paragraph (2), the results of DNA tests performed for a Federal law enforcement agency for law enforcement purposes may be disclosed only—

(A) to criminal justice agencies for law enforcement identification purposes; or

(B) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged.

(2) EXCEPTION.—If personally identifiable information is removed, test results may be disclosed for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(c) CRIMINAL PENALTY.—(1) Whoever—

(A) by virtue of employment or official position, has possession of, or access to, individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency; and

(B) willfully discloses such information in any manner to any person or agency not entitled to receive it;

shall be fined not more than $100,000.

(2) Whoever, without authorization, willfully obtains DNA samples or individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency shall be fined not more than $100,000.

SEC. 1506. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Federal Bureau of Investigation $4,500,000 for each of fiscal years 1994 through 1998 to carry out sections 1503, 1504, and 1505 of this Act.

TITLE XVI—VIOLENCE AGAINST WOMEN

SECTION 1600. SHORT TITLE.

This title may be cited as the "Violence Against Women Act of 1994".

Subtitle A—Safe Streets for Women

SEC. 1601. SHORT TITLE.

This subtitle may be cited as the "Safe Streets for Women Act of 1994".

SEC. 1602. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part Q as part R;

(2) redesignating section 1701 as section 1801; and

(3) adding after part P the following new part:

"PART Q—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1701. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, and other eligible entities to develop effective law enforcement and prosecution strategies to combat violent crimes against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide funds for personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women to reduce the rate of violent crime against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to identify and respond more effectively to violent crimes against women, including crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors that specifically target violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing more effective police and prosecution policies, protocols, orders, or services specifically devoted to the prevention of, identification of, and response to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or identifying and tracking arrests, protection orders, prosecutions, and convictions for the crimes of sexual assault and domestic violence;

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, developing or improving delivery of victim services to racial, cultural, ethnic, and language minorities, and increasing reporting and reducing attrition rates for cases involving violent crimes against women, including crimes of sexual assault and domestic violence; and

"(6) aiding Indian tribe grantees, exclusively, in financing the Violence Against Women Act of 1994.

"SEC. 1702. STATE GRANTS.

"(a) GENERAL GRANTS.—The Director of the Bureau of Justice Assistance (hereinafter in this part referred to as the 'Director') is authorized to make grants to States, Indian tribes, units of local government, tribal organizations, and nonprofit nongovernmental victim services programs in the States or Indian country.

"(b) APPLICATION REQUIREMENTS.—Applications shall include—

"(1) documentation from prosecution, law enforcement, and victim services programs to be assisted that demonstrates—

"(A) the need for grant funds;

"(B) the intended use of grant funds; and

"(C) the expected results;

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided pursuant to section 1603 of the Violence Against Women Act of 1994, except that Indian tribes are exempt from such requirement; and

"(3) proof of compliance with the requirements for paying filing and service fees for domestic violence cases pursuant to section 1604 of the Violence Against Women Act of 1994.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (b), an eligible entity shall be eligible for funds provided under this part by—

"(1) certifying that funds received under this part shall be used for the purposes outlined in section 1701(b); and

"(2) certifying that grantees shall develop a plan, implement such plan, and otherwise consult and coordinate with nonprofit nongovernmental domestic violence and sexual assault victim services programs, law enforcement officials, victim advocates, prosecutors, and defense attorneys;

"(3) providing documentation from the individuals and groups listed under paragraph (2) regarding their participation in development of a plan and involvement in the application process, as well as how such individuals and groups will be involved in implementation of the plan;

"(4) providing assurances that the plan developed under paragraph (2) shall meet the needs of racial, cultural, ethnic, and language minority populations;

"(5) providing assurances that prosecution, law enforcement, and nonprofit nongovernmental victim services programs in the community to be served by such plan each receive an equitable percentage of any funds allocated under this part; and

"(6) providing assurances that any Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(d) DISBURSEMENT OF FUNDS.—

"(1) IN GENERAL.—Not later than 60 days after the receipt of an application under this part, the Director shall either disburse the appropriate sums provided for under this part or shall inform the applicant regarding why the application does not conform to the requirements of this section.

"(2) RESPONSIBILITY OF DIRECTOR.—In disbursing funds under this part, the Director shall issue regulations—

"(A) to distribute funds equitably on a geographic basis, including nonurban and rural areas of varying geographic size; and

"(B) give priority to areas of varying geographic size with the greatest showing of need based on the availability of existing domestic violence and sexual assault programs in the population and geographic area to be served in relation to the availability of such programs in other such populations and geographic areas.

"(e) GRANTEE REPORTING.—(1) Not later than March 31 of each year during which funds are received under this part, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of such activities in achieving the purposes of this part.

"(2) The grantee shall arrange for assessments of the grantee's program from all organizations and government entities that were involved in the design of the grant plan.

"(3) Such assessments must be sent directly to the Director by the assessing entity.

"(f) SUSPENSION OF FUNDING.—The Director shall suspend funding for an approved application if—

"(1) an applicant fails to submit an annual performance report;

"(2) funds provided under this part are expended for purposes other than those set forth under this part; or

"(3) grant reports or accompanying assessments demonstrate to the Director that the program is ineffective or financially unsound.

"SEC. 1703. GENERAL DEFINITIONS.

"For purposes of this part—

"(1) the term 'domestic violence' means crimes of violence committed against a victim by a current or former spouse of the victim, an individual with whom the victim shares a child in common, an individual who is cohabiting with or has cohabited with the victim as a spouse, an individual similarly situated to a spouse, or any other individual who is protected under domestic or family violence laws of the jurisdiction that receives a grant under this part;

"(2) the term 'eligible entity' means a State, unit of local government, Indian tribe, and a nonprofit, nongovernmental victims services program;

"(3) the term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians;

"(4) the term 'Indian country' has the meaning given to such term by section 1151 of title 18, United States Code;

"(5) the term 'sexual assault' means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison and includes both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known or related by blood or marriage to the victim; and

"(6) the term 'victim services program' means a nongovernmental nonprofit program that assists domestic violence or sexual assault victims, including nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, and other sexual assault and domestic violence programs, including nonprofit nongovernmental organizations assisting domestic violence and sexual assault victims through the legal process.

"SEC. 1704. GENERAL TERMS AND CONDITIONS.

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under sections 1702, the Attorney General may request any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) to support State, tribal, and local assistance efforts under this part.

"(b) BUREAU REPORTING.—Not later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Congress a report that includes, for each State and Indian tribe—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which grants were provided and an evaluation of progress; and

"(3) an evaluation of the effectiveness of programs established with funds under this part.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), is amended by adding after paragraph (10) the following:

"(11) There are authorized to be appropriated for each of the fiscal years 1994 and 1995, $200,000,000 to carry out the purposes of part Q, with not less than 8 percent of such appropriation allotted specifically for Indian tribes.".

(c) ADMINISTRATIVE PROVISIONS.—(1) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "and O" and inserting "O, and Q"; and

(2) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "or O" and inserting "O, or Q".

(d) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part Q and inserting the following:

"PART Q—GRANT TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"Sec. 1701. Purpose of the program and grants.
"Sec. 1702. State grants.
"Sec. 1703. General definitions.
"Sec. 1704. General terms and conditions.

"PART R—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings".

SEC. 1603. RAPE EXAM PAYMENTS.

(a) RESTRICTION OF FUNDS.—No State is entitled to funds under this title unless the State incurs the full out of pocket cost of forensic medical exams described in subsection (b) for victims of sexual assault.

(b) MEDICAL COSTS.—A State shall be deemed to incur the full out of pocket cost of forensic medical exams for victims of sexual assault if such State—

(1) provides such exams to victims free of charge to the victim;

(2) arranges for victims to obtain such exams free of charge to the victims; or

(3) reimburses victims for the cost of such exams, if—

(A) the reimbursement covers the full cost of such exams, without any deductible requirement or limit on the amount of a reimbursement;

(B) the State permits victims to apply to the State for reimbursement for not less than one year from the date of the exam;

(C) the State provides reimbursement not later than 90 days after written notification of the victim's expense; and

(D) the State provides information at the time of the exam to all victims, including victims with limited or no English proficiency, regarding how to obtain reimbursement.

SEC. 1604. FILING COSTS FOR CRIMINAL CHARGES.

No State is entitled to funds under this title unless the State certifies that their laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the abused bear the costs associated with the filing of criminal charges against the domestic violence offender, or that the abused bear the costs associated with the issuance or service of a warrant, protection order, or witness subpoena.

SEC. 1605. EQUITABLE TREATMENT OF RAPE CASES.

No State is entitled to funds under this title unless the State can certify that its laws and policies treat sex offenses committed by offenders who are known to, cohabitants of, social companions of, or related by blood or marriage to, the victim no less severely than sex offenses committed by offenders who are strangers to the victim.

SEC. 1606. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1602, is further amended by—

(1) redesignating part R as part S;

(2) redesignating section 1801 as section 1901;

and

(3) adding after part Q the following new part:

"PART R—RAPE PREVENTION PROGRAMS

"SEC. 1801. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') is authorized to make grants—

"(1) to provide educational seminars, particularly developed with emphasis on seminars for elementary and secondary school age children, designed to develop an awareness of what acts meet the legal definition of rape;

"(2) to provide programs for elementary and secondary school age children that teach nonviolent conflict resolution, self defense, or other relevant skills;

"(3) to operate telephone hotlines for callers with questions regarding sexual assault and rape;

"(4) to design and disseminate training programs for professionals, including the development and dissemination of protocols for the routine identification, treatment, and appropriate referral of victims of sexual assault by hospital emergency personnel and other professionals;

"(5) to develop treatment programs for convicted sex offenders and make such programs available to the local community and to Federal and State prisons;

"(6) to prepare and disseminate informational materials designed to educate the community regarding sexual assault and prevention; and

"(7) to develop other projects to increase awareness and prevention of sexual assault, including efforts to increase awareness of sexual assault prevention among racial, ethnic, cultural and language minorities.

"SEC. 1802. APPLICATIONS.

"(a) IN GENERAL.—To be eligible to receive a grant under this part, a duly authorized representative of an eligible entity shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) ASSURANCES.—Each application must contain an assurance that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(c) REQUIRED PLAN.—Each application shall include a plan that contains—

"(1) a description of the projects to be developed;

"(2) a description of how funds would be spent;

"(3) a statement of staff qualifications and demonstrated expertise in the field of rape prevention and education; and

"(4) a statement regarding the ability to serve community needs and language minority populations in providing ethnically and culturally and linguistically appropriate programs where necessary.

"SEC. 1803. REPORTS.

"(a) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, each grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of such activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(b) BUREAU REPORTING.—Not later than 180 days after the end of each fiscal year for which grants are made under this subpart, the Director shall submit to the Congress a report that includes, for each grantee—

"(1) the amount of grants made under this subpart;

"(2) a summary of the purposes for which grants were provided and an evaluation of progress; and

"(3) an evaluation of the effectiveness of programs established with funds under this part.

"SEC. 1804. DEFINITIONS.

"For purposes of this part—

"(1) the term 'eligible entity' means a nonprofit, nongovernmental organization that directly serves or provides advocacy on behalf of victims of rape or sexual assault; and

"(2) the term 'sexual assault prevention and education' means education and prevention efforts directed at reducing the number of sexual assaults.".

(b) AUTHORIZATION OF APPROPRIATION.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), is amended by adding after paragraph (11), as added by section 1602 of this Act, the following:

"(12) There are authorized to be appropriated to carry out the purposes of part R, $60,000,000 for fiscal year 1994, $75,000,000 for fiscal year 1995, and $100,000,000 for fiscal year 1996.".

(c) ADMINISTRATIVE PROVISIONS.—(1) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 111 of this Act, is amended by striking "O, and Q" and inserting "O, Q, and R"; and

(2) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 1602 of this Act, is amended by striking "O, or Q" and inserting "O, Q, or R".

(d) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1602, is amended by striking the matter relating to part R and inserting the following:

"PART R—RAPE PREVENTION PROGRAMS

"Sec. 1801. Grant authorization.
"Sec. 1802. Applications.
"Sec. 1803. Reports.
"Sec. 1804. Definitions.

"PART S—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1901. Continuation of rules, authorities, and proceedings.".

SEC. 1607. NATIONAL INSTITUTE OF JUSTICE TRAINING PROGRAMS.

(a) IN GENERAL.—The National Institute of Justice, after consultation with victim advocates and individuals who have expertise in treating sex offenders, shall establish criteria and develop training programs to assist probation and parole officers and other personnel who work with released sex offenders in the areas of—

(1) case management;

(2) supervision; and

(3) relapse prevention.

(b) TRAINING PROGRAMS.—The Director of the National Institute of Justice shall attempt, to the extent practicable, to make training programs developed under subsection (a) available in geographically diverse locations throughout the country.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 for each of the fiscal years 1994 and 1995 to carry out the provisions of this section.

SEC. 1608. INFORMATION PROGRAMS.

The Attorney General shall compile information regarding sex offender treatment programs and ensure that information regarding community treatment programs in the community into which a convicted sex offender is released is made available to each person serving a sentence of imprisonment in a Federal penal or correctional institution for a commission of an offense under chapter 109A of title 18 of the United States Code or for the commission of a similar offense, including halfway houses and psychiatric institutions.

SEC. 1609. VICTIM COMPENSATION.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2246. Mandatory restitution for sex offenses

"(a) IN GENERAL.—Notwithstanding section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) IN GENERAL.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (3) of this subsection; and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) DEFINITIONS.—As used in this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order;

"(E) temporary housing;

"(F) transportation;

"(G) necessary child care;

"(H) language translation services; and

"(I) any other losses suffered by the victim as a proximate result of the offense.

"(3) MANDATORY NATURE OF ORDER.—(A) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(B) Subparagraph (A) of this paragraph does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(4) CONSIDERATION OF ECONOMIC CIRCUMSTANCES.—

"(A) IN GENERAL.—Notwithstanding paragraph (3) of this subsection, the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(B) LUMP-SUM OR PARTIAL PAYMENT.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(5) SETOFF.—Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—

"(1) IN GENERAL.—Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the U.S. Attorney (or delegate), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the U.S. Attorney (or delegate) and the victim. Should the victim object to any of the information included in the affidavit, the U.S. Attorney (or delegate) shall advise the victim that the victim may file a separate affidavit.

"(2) OBJECTIONS.—If, after notifying the defendant of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) of this subsection shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the U.S. Attorney (or such Attorney's delegate) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) ADDITIONAL DOCUMENTATION AND TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section, shall be maintained to the greatest extent possible.

"(4) FINAL DETERMINATION OF LOSSES.—In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1) of this section, the U.S. Attorney (or delegate) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 109A of title 18, United States Code, is amended by adding at the end the following:

"2246. Mandatory restitution for sex offenses.".

SEC. 1610. CAMPUS SEXUAL ASSAULT STUDY.

(a) STUDY.—The Attorney General shall provide for a national baseline study to examine the scope of the problem of campus sexual assaults and the effectiveness of institutional and legal policies in addressing such crimes and protecting victims. The Attorney General may utilize the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime in carrying out this section.

(b) REPORT.—Based on the study required by subsection (a), the Attorney General shall prepare a report including an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of campus sexual assaults, and to whom the allegations are reported (including authorities of the educational institution, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to authorities of educational institutions which are reported to criminal authorities;

(3) the number of campus sexual assault allegations that result in criminal prosecution in comparison with the number of noncampus sexual assault allegations that result in criminal prosecution;

(4) Federal and State laws or regulations pertaining specifically to campus sexual assaults;

(5) the adequacy of policies and practices of educational institutions in addressing campus sexual assaults and protecting victims, including consideration of—

(A) the security measures in effect at educational institutions, such as utilization of campus police and security guards, control over access to grounds and buildings, supervision of student activities and student living arrangements, control over the consumption of alcohol by students, lighting, and the availability of escort services;

(B) the articulation and communication to students of the institution's policies concerning sexual assaults;

(C) policies and practices that may prevent or discourage the reporting of campus sexual assaults to local criminal authorities, or that may otherwise obstruct justice or interfere with the prosecution of perpetrators of campus sexual assaults;

(D) the nature and availability of victim services for victims of campus sexual assaults;

(E) the ability of educational institutions' disciplinary processes to address allegations of sexual assault adequately and fairly;

(F) measures that are taken to ensure that victims are free of unwanted contact with alleged assailants, and disciplinary sanctions that are imposed when a sexual assault is determined to have occurred; and

(G) the grounds on which educational institutions are subject to lawsuits based on campus sexual assaults, the resolution of these cases, and measures that can be taken to avoid the likelihood of lawsuits;

(6) an assessment of the policies and practices of educational institutions that are most effective in addressing campus sexual assaults and protecting victims, including policies and practices relating to the particular issues described in paragraph (5); and

(7) any recommendations the Attorney General may have for reforms to address campus sexual assaults and protect victims more effectively, and any other matters that the Attorney General deems relevant to the subject of the study and report required by this section.

(c) SUBMISSION OF REPORT.—The report required by subsection (b) shall be submitted to the Committees on Education and Labor and the Judiciary of the House of Representatives and the Committees on Labor and Human Resources and the Judiciary of the Senate not later than September 1, 1995.

(d) DEFINITION.—For purposes of this subtitle, "campus sexual assaults" means sexual assaults committed against or by students or employees of institutions of postsecondary education and occurring at such institutions or during activities connected with such institutions.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $200,000 to carry out the study required by this section.

Subtitle B—Safe Homes for Women

SEC. 1621. SHORT TITLE.

This subtitle may be cited as the "Safe Homes for Women Act".

SEC. 1622. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 110 the following new chapter:

"CHAPTER 110A—DOMESTIC VIOLENCE

"Sec. 2261. Interstate domestic violence.
"Sec. 2262. Violation of protection order.
"Sec. 2263. Pretrial release of defendant.

"Sec. 2264. Restitution.
"Sec. 2265. Full faith and credit given to protection orders.
"Sec. 2266. Definitions for chapter.

"§ 2261. Interstate domestic violence

"(a) Whoever travels across a State line or enters or leaves Indian country with the intent to contact that person's spouse or intimate partner, and in the course of that contact intentionally commits a crime of violence and thereby causes bodily injury to such spouse or intimate partner, shall be punished as provided in subsection (b) of this section.

"(b) The punishment for a violation of subsection (a) of this section is a fine under this title, or imprisonment—

"(1) for life or any term of years, if the offender murders the victim;

"(2) for not more than 20 years, if the offender causes serious bodily injury to the victim;

"(3) for not more than 10 years, if the offender uses a dangerous weapon during the offense;

"(4) as provided for the applicable conduct under chapter 109A, if the offense constitutes sexual abuse, as described under chapter 109A (without regard to whether the offense was committed in the special maritime and territorial jurisdiction of the United States or in a Federal prison); and

"(5) for not more than 5 years, in any other case;

or both such fine and imprisonment.

"§ 2262. Violation of protection order

"(a) Whoever travels across a State line or enters or leaves Indian country with the intent to engage in conduct that—

"(1)(A) violates a protection order, any portion of which involves protection against credible threats of violence, repeated harassment, or bodily injury, to the person or persons for whom the protection order was issued, and—

"(B) violates that portion of such protection order; or

"(2) would violate paragraph (1) of this subsection if the conduct occurred in the jurisdiction in which such order was issued;

and does engage in such conduct shall be punished as provided in subsection (b) of this section.

"(b) The punishment for a violation of subsection (a) of this section is a fine under this title, or imprisonment—

"(1) for life or any term of years, if the offender murders the victim;

"(2) for not more than 20 years, if the offender causes serious bodily injury to the victim;

"(3) for not more than 10 years, if the offender uses a dangerous weapon during the offense;

"(4) as provided for the applicable conduct under chapter 109A, if the offense constitutes sexual abuse, as described under chapter 109A (without regard to whether the offense was committed in the special maritime and territorial jurisdiction of the United States or in a Federal prison); and

"(5) for not more than 5 years, in any other case;

or both such fine and imprisonment.

"§ 2263. Pretrial release of defendant

"In any proceeding pursuant to section 3142 of this title for the purpose of determining whether a defendant charged under this chapter shall be released pending trial, or for the purpose of determining conditions of such release, the alleged victim shall be given an opportunity to be heard regarding the danger posed by the defendant.

"§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) IN GENERAL.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (3) of this subsection; and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) DEFINITION.—As used in this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order;

"(E) temporary housing;

"(F) transportation;

"(G) necessary child care;

"(H) language translation services; and

"(I) any other losses suffered by the victim as a proximate result of the offense.

"(3) MANDATORY NATURE OF ORDER.—(A) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(B) Subparagraph (A) of this paragraph does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(4) CONSIDERATION OF ECONOMIC CIRCUMSTANCES.—

"(A) IN GENERAL.—Notwithstanding paragraph (3) of this subsection, the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) LUMP-SUM OR PARTIAL PAYMENT.—An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(5) SETOFF.—Any amount paid to a victim under this section shall be setoff against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—

"(1) IN GENERAL.—Within 60 days after conviction and, in any event, no later than 10 days before sentencing, the United States Attorney (or such Attorney's delegate), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the delegate) shall advise the victim that the victim may file a separate affidavit and assist the victim in the preparation of that affidavit.

"(2) OBJECTIONS.—If, after notifying the defendant of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) of this subsection shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or such Attorney's delegate) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) ADDITIONAL DOCUMENTATION OR TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section, shall be maintained to the greatest extent possible.

"(4) FINAL DETERMINATION OF LOSSES.—In the event that the victim's losses are not ascertainable 10 days before sentencing as provided in paragraph (1) of this subsection, the United States Attorney (or such Attorney's delegate) shall so inform the court, and the court shall set a date for the final determination of the victims's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 90 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) RESTITUTION AND CRIMINAL PENALTIES.—An award of restitution to the victim of an offense under this chapter is not a substitute for imposition of punishment under this chapter.

"§ 2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued that is consistent with subsection (b) of this section by the court of one State or Indian tribe (the issuing State or Indian tribe) shall be accorded full faith and credit by the court of another State or Indian tribe (the enforcing State or Indian tribe) and enforced as if it were the order of the enforcing State or tribe.

"(b) PROTECTION ORDER.—A protection order issued by a State or tribal court is consistent with this subsection if—

"(1) such court has jurisdiction over the parties and matter under the law of such State or Indian tribe; and

"(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State or tribal law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) CROSS OR COUNTER PETITION.—A protection order issued by a State or tribal court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) a cross or counter petition has been filed and the court did not make specific findings that each party was entitled to such an order.

"§ 2266. Definitions for chapter

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a spouse, a former spouse, a person who shares a child in common with the abuser, a person who cohabits or has cohabited with the abuser as a spouse, and any other person similarly situated to a spouse; and

"(B) any other person, other than a minor child, who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse, former spouse, or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion filed by or on behalf of an abused spouse or intimate partner;

"(3) the term 'State' includes a State of the United States, the District of Columbia, a commonwealth, territory, or possession of the United States;

"(4) the term 'travel across State lines' does not include travel across State lines by an individual who is a member of an Indian tribe when such individual remains at all times in the territory of the Indian tribe of which the individual is a member;

"(5) the term 'bodily harm' means any act, except one done in self-defense, that results in physical injury or sexual abuse; and

"(6) the term 'Indian country' has the meaning given to such term by section 1151 of this title.".

(b) TABLE OF CHAPTERS.—The table of chapters at the beginning part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following new item:

"110A. Violence against spouses .... 2261.".

SEC. 1623. ENCOURAGING ARREST POLICIES.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1606, is further amended by—

(1) redesignating part S as part T;

(2) redesignating section 1901 as section 2001; and

(3) adding after part R the following new part:

"PART S—GRANTS TO ENCOURAGE ARREST POLICIES

"SEC. 1901. ARREST POLICIES.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to encourage States, Indian tribes, and units of local government to treat domestic violence as a serious violation of criminal law. The Director of the Bureau of Justice Assistance may make grants to eligible States, Indian tribes, or units of local government for the following:

"(1) To implement mandatory arrest or proarrest programs, including mandatory arrest programs for protective order violations.

"(2) To develop policies, and training in police departments to improve tracking of cases involving domestic violence.

"(3) To centralize and coordinate police enforcement, prosecution, or judicial responsibility for domestic violence cases in groups or units of police officers, prosecutors, or judges.

"(4) To strengthen legal advocacy service programs for victims of domestic violence.

"(5) To educate judges in criminal and other courts about domestic violence and to improve judicial handling of such cases.

"(b) ELIGIBILITY.—Eligible grantees are States, Indian tribes, or units of local government that—

"(1) certify that their laws or official policies—

"(A)(i) encourage or mandate arrest of domestic violence offenders based on probable cause that violence has been committed; or

"(ii) certify that all their law enforcement personnel have received domestic violence training conducted by a State Domestic Violence Coalition as defined in section 10410(b) of title 42, United States Code; and

"(B) mandate arrest of domestic violence offenders who violate the terms of a valid and outstanding protection order;

"(2) demonstrate that their laws, policies, or practices, and training programs discourage dual arrests of offender and victim;

"(3) certify that their laws, policies, and practices prohibit issuance of mutual restraining orders of protection except in cases where both spouses file a claim and the court makes detailed finding of fact indicating that both spouses acted primarily as aggressors and that neither spouse acted primarily in self-defense;

"(4) certify that their laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the abused bear the costs associated with the filing of criminal charges or the service of such charges on an abuser, or that the abused bear the costs associated with the issuance or service of a warrant, protection order, or witness subpoena; and

"(5) certify that their laws and policies treat sex offenses committed by offenders who are known to, cohabitants of, or social companions of or related by blood or marriage to, the victim no less severely than sex offenses committed by offenders who are strangers to the victim.

"SEC. 1902. APPLICATIONS.

"(a) APPLICATION.—An eligible grantee shall submit an application to the Director that shall—

"(1) describe plans to implement policies described in subsection (b);

"(2) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(3) include documentation from nonprofit, private sexual assault and domestic violence programs demonstrating their participation in developing the application, and identifying such programs in which such groups will be consulted for development and implementation.

"(b) PRIORITY.—In awarding grants under this part, the Director shall give priority to an applicant that—

"(1) does not currently provide for centralized handling of cases involving domestic violence by policy, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving domestic violence.

"SEC. 1903. REPORTS.

"Each grantee receiving funds under this part shall submit a report to the Director evaluating the effectiveness of projects developed with funds provided under this part and containing such additional information as the Director may prescribe.

"SEC. 1904. DEFINITIONS.

"For purposes of this part—

"(1) the term 'domestic violence' means a crime of violence against a victim committed by a current or former spouse of the victim, an individual with whom the victim shares a child in common, an individual who cohabits with or has cohabited with the victim as a spouse, or any other individual similarly situated to a spouse, or any other person who is protected under the domestic or family violence laws of the eligible State, Indian tribe, municipality, or local government entity.

"(2) the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of domestic violence including temporary and final orders issued by civil and criminal courts (other than support or child custody provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), is amended by adding after paragraph (12), as added by section 1602 of this Act, the following:

"(13) There are authorized to be appropriated $25,000,000 for each of the fiscal years 1994, 1995, and 1996 to carry out the purposes of part S.".

(c) ADMINISTRATIVE PROVISIONS.—(1) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 121 of this Act, is amended by striking "O, Q, and R" and inserting "O, Q, R, and S"; and

(2) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 1606 of this Act, is amended by striking "O, Q, or R" and inserting "O, Q, R, or S".

(d) EFFECTIVE DATE.—The eligibility requirements provided in this section shall take effect 1 year after the date of enactment of this subtitle.

(e) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1606, is further amended by striking the matter relating to part S and inserting the following:

"PART S—GRANTS TO ENCOURAGE ARREST POLICIES

"Sec. 1901. Arrest policies.
"Sec. 1902. Applications.
"Sec. 1903. Reports.
"Sec. 1904. Definitions.

"PART T—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2001. Continuation of rules, authorities, and proceedings.".

Subtitle C—Domestic Violence

SEC. 1624. FINDINGS.

The Congress finds that—

(1) domestic violence is the leading cause of injury to women in the United States between the ages of 15 and 44;

(2) firearms are used by the abuser in 7 percent of domestic violence incidents and produces an adverse effect on interstate commerce; and

(3) individuals with a history of domestic abuse should not have easy access to firearms.

SEC. 1625. PROHIBITION AGAINST DISPOSAL OF FIREARMS TO, OR RECEIPT OF FIREARMS BY, PERSONS WHO HAVE COMMITTED DOMESTIC ABUSE.

(a) INTIMATE PARTNER DEFINED.—Section 921(a) of title 18, United States Code, is amended by inserting at the end the following:

"(29) The term 'intimate partner' means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabited with the person.".

(b) PROHIBITION AGAINST DISPOSAL OF FIREARMS.—Section 922(d) of such title is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; or"; and

(3) by inserting after paragraph (7) the following:

"(8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury, except that this paragraph shall only apply to a court order that (A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate, and (B) includes a finding that such person represents a credible threat to the physical safety of such intimate partner.".

(c) PROHIBITION AGAINST RECEIPT OF FIREARMS.—Section 922(g) of such title is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by inserting "or" at the end of paragraph (7); and

(3) by inserting after paragraph (7) the following:

"(8) who is subject to a court order that—

"(A) was issued after a hearing of which such person received actual or constructive notice, and at which such person had an opportunity to participate;

"(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury; and

"(C) includes a finding that such person represents a credible threat to the physical safety of such intimate partner,".

(d) STORAGE OF FIREARMS.—Section 926(a) of such title is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by inserting after paragraph (2) the following:

"(3) regulations providing for effective receipt and secure storage of firearms relinquished by or seized from persons described in subsection (d)(8) or (g)(8) of section 922.".

(e) RETURN OF FIREARMS.—Section 924(d)(1) of such title is amended by striking "the seized" and inserting "or lapse of or court termination of the restraining order to which he is subject, the seized or relinquished".

SEC. 1626. ALIEN SPOUSE PETITIONING RIGHTS FOR IMMEDIATE RELATIVE OR SECOND PREFERENCE STATUS.

(a) IN GENERAL.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended—

(1) in subparagraph (A)—

(A) by inserting "(i)" after "(A)",

(B) by redesignating the second sentence as clause (ii), and

(C) by adding at the end the following new clause:

"(iii) An alien who is the spouse of a citizen of the United States, who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i), and who has resided in the United States with the alien's spouse may file a petition with the Attorney General under this subparagraph for classification of the alien (and children of the alien) under such section if the alien demonstrates to the Attorney General that—

"(I) the alien is residing in the United States, the marriage between the alien and the spouse was entered into in good faith by the alien, and during the marriage the alien or a child of the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's spouse, or

"(II) the alien is residing in the United States with the alien's spouse, the alien has been married to and residing with the spouse for a period of not less than 3 years, and the alien's spouse has failed to file a petition under clause (i) on behalf of the alien."; and

(2) in subparagraph (B)—

(A) by inserting "(i)" after "(B)", and

(B) by adding at the end the following new clause:

"(ii) An alien who is the spouse of an alien lawfully admitted for permanent residence, who is eligible for classification under section 203(a)(2)(A), and who has resided in the United States with the alien's legal permanent resident spouse may file a petition with the Attorney General under this subparagraph for classification of the alien (and children of the alien) under such section if the alien demonstrates to the Attorney General that the conditions described in subclause (I) or (II) of subparagraph (A)(iii) are met with respect to the alien.".

(b) CONFORMING AMENDMENTS.—(1) Section 204(a)(2) of such Act (8 U.S.C. 1154(a)(2)) is amended—

(A) in subparagraph (A), by striking "filed by an alien who," and inserting "for the classification of the spouse of an alien if the alien,", and

(B) in subparagraph (B), by striking "by an alien whose prior marriage" and inserting "for the classification of the spouse of an alien if the prior marriage of the alien".

(2) Section 201(b)(2)(A)(i) of such Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended by striking "204(a)(1)(A)" and inserting "204(a)(1)(A)(ii)".

(c) SURVIVAL RIGHTS TO PETITION.— Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following new subsection:

"(h) The legal termination of a marriage may not be the basis for revocation under section 205 of a petition filed under subsection (a)(1)(A)(iii)(I) or a petition filed under subsection (a)(1)(B)(ii) pursuant to conditions described in subsection (a)(1)(A)(iii)(I).".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1994.

SEC. 1627. USE OF CREDIBLE EVIDENCE IN SPOUSAL WAIVER APPLICATIONS.

(a) IN GENERAL.—Section 216(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1186a(c)(4)) is amended by inserting after the second sentence the following: "In acting on applications under this paragraph, the Attorney General shall consider any credible evidence submitted in support of the application (whether or not the evidence is supported by an evaluation of a licensed mental health professional). The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to applications made before, on, or after such date.

SEC. 1628. SUSPENSION OF DEPORTATION.

Section 244(a) of the Immigration and Nationality Act (8 U.S.C. 1254(a)) is amended—

(1) at the end of paragraph (1) by striking "or";

(2) at the end of paragraph (2) by striking the period and inserting "; or"; and

(3) by inserting after paragraph (2) the following:

"(3) is deportable under any law of the United States except section 241(a)(1)(G) and the provisions specified in paragraph (2); is physically present in the United States; has been battered or subjected to extreme cruelty in the United States by a spouse or parent who is a United States citizen or lawful permanent resident; and proves that during all of such time in the United States the alien was and is a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in extreme hardship to the alien or the alien's parent or child.".

Subtitle D—Miscellaneous Provisions

SEC. 1641. REPORT ON CONFIDENTIALITY OF ADDRESSES FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) REPORT.—The Attorney General shall conduct a study of the means by which abusive spouses may obtain information concerning the addresses or locations of estranged or former spouses, notwithstanding the desire of the victims to have such information withheld to avoid further exposure to abuse. Based on the study, the Attorney General shall transmit a report to Congress including—

(1) the findings of the study concerning the means by which information concerning the addresses or locations of abused spouses may be obtained by abusers; and

(2) analysis of the feasibility of creating effective means of protecting the confidentiality of information concerning the addresses and locations of abused spouses to protect such persons from exposure to further abuse while preserving access to such information for legitimate purposes.

(b) USE OF COMPONENTS.—The Attorney General may use the National Institute of Justice and the Office for Victims of Crime in carrying out this section.

SEC. 1642. REPORT ON RECORDKEEPING RELATING TO DOMESTIC VIOLENCE.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine—

(1) the efforts that have been made by the Department of Justice, including the Federal Bureau of Investigation, to collect statistics on domestic violence; and

(2) the feasibility of requiring that the relationship between an offender and victim be reported in Federal records of crimes of aggravated assault, rape, and other violent crimes.

SEC. 1643. ESTABLISHMENT OF TASK FORCE.

Not later than 30 days after the date of enactment of this Act, the Attorney General shall establish a task force to be known as the Attorney General's Task Force on Violence Against Women (referred to in this subtitle as the "Task Force").

SEC. 1644. GENERAL PURPOSES OF TASK FORCE.

(a) GENERAL PURPOSE OF THE TASK FORCE.—The Task Force shall review Federal, State, and local strategies for preventing and punishing violent crimes against women, including the enhancement and protection of the rights of the victims of such crimes, and make recommendations to improve the response to such crimes.

(b) FUNCTIONS.—The Task Force shall perform such functions as the Attorney General deems appropriate to carry out the purposes of the Task Force, including—

(1) evaluating the adequacy of, and making recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluating the adequacy of, and making recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluating the adequacy of State and Federal rules of evidence, practice, and procedure to ensure the effective prosecution and conviction of violent offenders against women and to protect victims from abuse in legal proceedings, making recommendations, where necessary, to improve those rules;

(4) evaluating the adequacy of pretrial release, sentencing, incarceration, and post-conviction release for crimes that predominantly affect women, such as rape and domestic violence;

(5) evaluating the adequacy of, and making recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(6) evaluating the adequacy of, and making recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence;

(7) evaluating the adequacy of, and making recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crimes;

(8) assessing the issuance, formulation, and enforcement of protective orders, whether or not related to a criminal proceeding, and making recommendations for their more effective use in domestic violence and stalking cases;

(9) assessing the problem of stalking and persistent menacing and recommending an effective Federal response to the problem;

(10) evaluating the adequacy of, and making recommendations regarding, the national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(11) evaluating the treatment of women as victims of violent crime in the State and Federal criminal justice system, and making recommendations to improve such treatment; and

(12) assessing the problem of sexual exploitation of women and youths through prostitution and in the production of pornography, and recommending effective means of response to the problem.

SEC. 1645. MEMBERSHIP.

(a) CHAIR; NUMBER AND APPOINTMENT.—The Task Force shall be chaired by the Attorney General (or designee). Not later than 60 days after the date of the enactment of this Act, after consultation with the Secretary of Health and Human Services, the Secretary of Education, and the Secretary of Housing and Urban Development, the Attorney General shall select up to 14 other members to serve on the Task Force.

(b) PARTICIPATION.—The Attorney General (or designee) shall select, without regard to political affiliation, members who are specially qualified to serve on the Task Force based on their involvement in efforts to combat violence against women, assistance or service to victims of such violence, or other pertinent experience or expertise. The Attorney General shall ensure that the Task Force includes a broad base of participation by including members with backgrounds in such areas as law enforcement, victim services and advocacy, legal defense and prosecution, judicial administration, medical services, and counseling.

(c) VACANCIES.—The Attorney General may fill any vacancy that occurs on the Task Force.

SEC. 1646. TASK FORCE OPERATIONS.

(a) MEETINGS.—The Task Force shall hold its first meeting on a date specified by the Attorney General (or designee), but shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Task Force shall meet at the call of the Attorney General (or designee), but shall meet at least 6 times.

(b) PAY.—Members of the Task Force who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Task Force.

(c) PER DIEM.—Except as provided in subsection (b), members of the Task Force shall be allowed travel and other expenses including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

SEC. 1647. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Task Force is fully constituted under section 1645, the Task Force shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Task Force and of the findings and conclusions of the Task Force, including such recommendations for legislation and administrative action as the Task Force considers appropriate.

SEC. 1648. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Task Force shall have an Executive Director who shall be appointed by the Attorney General (or designee), with the approval of the Task Force.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable for a position above GS–15 of the General Schedule contained in title 5, United States Code.

(b) STAFF.—With the approval of the Task Force, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Task Force.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Task Force appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Task Force, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 1649. POWERS OF TASK FORCE.

(a) HEARINGS.—For the purposes of carrying out this subtitle, the Task Force may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Task Force considers appropriate. The Task Force may administer oaths for testimony before the Task Force.

(b) DELEGATION.—Any member or employee of the Task Force may, if authorized by the Task Force, take any action that the Task Force is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Task Force may request directly from any executive department or agency such information as may be necessary to enable the Task Force to carry out this subtitle, on the request of the Attorney General (or designee).

(d) MAILS.—The Task Force may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 1650. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $500,000 for fiscal year 1994.

SEC. 1651. TERMINATION.

The Task Force shall cease to exist 30 days after the date on which its final report is submitted under section 1647.

SEC. 1652. PAYMENT OF COST OF STD TESTING FOR VICTIMS IN SEX OFFENSE CASES.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)(7)) is amended by adding at the end the following: "The Attorney General shall authorize the Director of the Office of Victims of Crime to provide for the payment of the cost of up to two tests of the victim for sexually transmitted diseases, including, but not limited to gonorrhea, herpes, chlamydia, syphilis, and HIV, during the 12 months following sexual assaults that pose a risk of transmission, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of sexually transmitted diseases to the victim as the result of the assault.".

SEC. 1653. NATIONAL DOMESTIC VIOLENCE HOTLINE GRANT.

(a) FINDINGS.—Congress finds that—

(1) 4,000,000 women are battered by their partners each year, of which 4,000 die as a result of such abuse;

(2) victims of domestic violence need access to resources which will refer such victims and their children to safe homes and shelters; and

(3) there is a need for a national domestic violence hotline to provide information and assistance to victims of domestic violence because a privately funded national domestic violence hotline which handled more than 65,000 crisis calls annually no longer exists.

(b) In General.—The Attorney General, through the Bureau of Justice Assistance, shall provide a grant to a nonprofit private organization to establish and operate a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence. A grant provided under this subsection may extend over a period of not more than 3 fiscal years and the provision of payments under such grant shall be subject to annual approval by the Attorney General and subject to the availability of appropriations for the fiscal year involved to make the payments.

(c) Application.—

(1) In general.—The Attorney General may not provide a grant under subsection (b) unless an application that meets the requirements of paragraph (2) has been approved by the Attorney General.

(2) Requirements.—An application meets the requirements of this paragraph if the application—

(A) contains such agreements, assurances, and information, and is in such form and submitted in such manner as the Attorney General shall prescribe through notice in the Federal Register;

(B) demonstrates that the applicant has nationally recognized expertise in the area of domestic violence and a record of high quality service to victims of domestic violence, including support from advocacy groups, particularly State coalitions and recognized national domestic violence groups;

(C) demonstrates that the applicant has a commitment to diversity, including the hiring of and provision of services to ethnic, racial, cultural, and non-English speaking minorities, in addition to older individuals and individuals with disabilities;

(D) demonstrates that the applicant has the ability to integrate the hotline into existing services provided by the applicant to victims of domestic violence;

(E) includes a complete description of the applicant's plan for the establishment and operation of the hotline, including a description of—

(i) the hiring criteria and training program for hotline personnel;

(ii) the methods for the creation, maintenance, and updating of a resource database for the hotline;

(iii) a plan for providing service on a 24-hour-a-day basis to non-English speaking callers, including hotline personnel who speak Spanish;

(iv) a plan for access to the hotline by individuals with hearing impairments; and

(v) a plan for publicizing the availability of the hotline; and

(F) contains such other information as the Attorney General may require.

(d) Selection.—The Attorney General shall select a nonprofit private organization to receive a grant under subsection (b) which has been in existence for at least 5 years from the date of submission of the application by the organization.

(e) Uses.—A grant made under subsection (b) shall be used to establish and operate a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence. In establishing and operating the hotline, a nonprofit private organization shall—

(1) contract with a carrier for the use of a toll-free telephone line;

(2) employ, train, and supervise personnel to answer incoming calls and provide counseling and referral services to callers on a 24-hour-a-day basis;

(3) establish, maintain, and update a database of information relating to services for victims of domestic violence, including information on the availability of shelters that serve battered women; and

(4) publicize the hotline to potential users throughout the United States.

(f) Authorization of Appropriations.—

(1) In general.—There is authorized to be appropriated to carry out this section $1,000,000 for each of the fiscal years 1994 through 1996.

(2) Availability.—Funds authorized to be appropriated under paragraph (1) shall remain available until expended.

SEC. 1654. GRANTS FOR COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE.

(a) In General.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1623 of this Act, is amended by—

(1) redesignating part T as part U;

(2) redesignating section 2001 as section 2101;

and

(3) adding after part S the following new part:

"PART T—GRANTS FOR COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE.

"SEC. 2001. GRANT AUTHORITY.

"The Director shall provide grants to establish projects in local communities involving many sectors of each community to coordinate intervention and prevention of domestic violence.

"SEC. 2002. APPLICATIONS.

"(a) In General.—An organization that desires to receive a grant under this section shall submit to the Director an application, in such form and in such manner as the Director may reasonably require that—

"(1) demonstrates that the applicant will serve a community leadership function, bringing together opinion leaders from each sector of the community to develop a coordinated community consensus opposing domestic violence;

"(2) demonstrates a community action component to improve and expand current intervention and prevention strategies through increased communication and coordination among all affected sectors;

"(3) includes a complete description of the applicant's plan for the establishment and operation of the community project, including a description of—

"(A) the method for identification and selection of an administrative committee made up of persons knowledgeable in domestic violence to oversee the project, hire staff, assure compliance with the project outline, and secure annual evaluation of the project;

"(B) the method for identification and selection of project staff and a project evaluator;

"(C) the method for identification and selection of a project council consisting of representatives of the community sectors listed in subsection (b)(2);

"(D) the method for identification and selection of a steering committee consisting of representatives of the various community sectors who will chair subcommittees of the project council focusing on each of the sectors; and

"(E) a plan for developing outreach and public education campaigns regarding domestic violence; and

"(4) contains such other information, agreements, and assurances as the Director may require.

"(b) Eligibility.—To be eligible for a grant under this section, such application shall include—

"(1) an assurance that the applicant is a nonprofit private organization organized for the purpose of coordinating community projects for the intervention in and prevention of domestic violence; and

"(2) an assurance that such nonprofit organization includes representation from pertinent sectors of the local community, including—

"(A) health care providers;

"(B) the education community;

"(C) the religious community;

"(D) the justice system;

"(E) domestic violence program advocates;

"(F) human service entities such as State child services divisions; and

"(G) business and civic leaders.

"SEC. 2003. AWARD OF GRANTS.

"(a) Term.—A grant provided under this section may extend over a period of not more than 3 fiscal years.

"(b) Conditions on Payment.—Payments under a grant under this section shall be subject to—

"(1) annual approval by the Director; and

"(2) availability of appropriations.

"(c) Geographical Dispersion.—The Director shall award grants under this section to organizations in communities geographically dispersed throughout the country.

"SEC. 2004. USES OF FUNDS.

"(a) In General.—A grant made under subsection (a) shall be used to establish and operate a community project to coordinate intervention and prevention of domestic violence.

"(b) Requirements.—In establishing and operating a project, a nonprofit private organization shall—

"(1) establish protocols to improve and expand domestic violence intervention and prevention strategies among all affected sectors;

"(2) develop action plans to direct responses within each community sector that are in conjunction with development in all other sectors; and

"(3) provide for periodic evaluation of the project with a written report and analysis to assist application of this concept in other communities.".

(b) Authorization of Appropriations.—Section 1001 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding after paragraph (13), as added by section 1623 of this Act, the following:

"(14) There are authorized to be appropriated to carry out part T $20,000,000 for fiscal year 1994 and such sums as are necessary for each of the fiscal years 1995, 1996, and 1997, to remain available until expended.".

(c) Administrative Provisions.—(1) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 1623 of this Act, is amended by striking "O, Q, R, and S" and inserting "O, Q, R, S, and T"; and

(2) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 1623 of this Act, is amended by striking "O, Q, R, or S" and inserting "O, Q, R, S, or T".

(d) Conforming Amendment.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1623 of this Act, is amended by striking the matter relating to part T and inserting the following:

"PART T—GRANTS FOR COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE

"Sec. 2001. Grant authority.
"Sec. 2002. Applications.
"Sec. 2003. Award of grants.
"Sec. 2004. Uses of funds.

"PART U—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2101. Continuation of rules, authorities, and proceedings.".

Subtitle E—Equal Justice for Women in the Courts

SEC. 1661. GRANTS AUTHORIZED.

The State Justice Institute is authorized to award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by gender.

SEC. 1662. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, domestic violence, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the negative implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant and should not be held in contempt;

(18) the need for orders of protection, and the negative implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases; and

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims.

SEC. 1663. COOPERATION IN DEVELOPING PROGRAMS.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 1664. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1994, $600,000 to carry out the purposes of sections 1661 through 1664. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

SEC. 1665. AUTHORIZATIONS OF CIRCUIT STUDIES; EDUCATION AND TRAINING GRANTS.

(a) STUDY.—In order to gain a better understanding of the nature and the extent of gender bias in the Federal courts, the circuit judicial councils are encouraged to conduct studies of the instances of gender bias in their respective circuits. The studies may include an examination of the effects of gender on—

(1) the treatment of litigants, witnesses, attorneys, jurors, and judges in the courts, including before magistrate and bankruptcy judges;

(2) the interpretation and application of the law, both civil and criminal;

(3) treatment of defendants in criminal cases;

(4) treatment of victims of violent crimes;

(5) sentencing;

(6) sentencing alternatives, facilities for incarceration, and the nature of supervision of probation, parole, and supervised release;

(7) appointments to committees of the Judicial Conference and the courts;

(8) case management and court sponsored alternative dispute resolution programs;

(9) the selection, retention, promotion, and treatment of employees;

(10) appointment of arbitrators, experts, and special masters;

(11) the admissibility of past sexual history in civil and criminal cases; and

(12) the aspects of the topics listed in section 1662 that pertain to issues within the jurisdiction of the Federal courts.

(b) CLEARINGHOUSE.—The Judicial Conference of the United States shall designate an entity within the Judicial Branch to act as a clearinghouse to disseminate any reports and materials issued by the gender bias task forces under subsection (a) and to respond to requests for such reports and materials. The gender bias task forces shall provide this entity with their reports and related material.

(c) MODEL PROGRAMS.—The Federal Judicial Center, in carrying out section 620(b)(3) of title 28, United States Code, shall—

(1) include in the educational programs it presents and prepares, including the training programs for newly appointed judges, information on issues related to gender bias in the courts including such areas as are listed in subsection (a) along with such other topics as the Federal Judicial Center deems appropriate;

(2) prepare materials necessary to implement this subsection; and

(3) take into consideration the findings and recommendations of the studies conducted pursuant to subsection (a), and to consult with individuals and groups with relevant expertise in gender bias issues as it prepares or revises such materials.

SEC. 1666. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated—

(1) $600,000 to the Salaries and Expenses Account of the Courts of Appeals, District Courts, and other Judicial Services, to carry out section 1665(a), to be available until expended through fiscal year 1996;

(2) $100,000 to the Federal Judicial Center to carry out section 1665(c) and any activities designated by the Judicial Conference under section 1665(b); and

(3) such sums as are necessary to the Administrative Office of the United States Courts to carry out any activities designated by the Judicial Conference under section 1665(b).

(b) THE JUDICIAL CONFERENCE OF THE UNITED STATES.—(1) The Judicial Conference of the United States Courts shall allocate funds to Federal circuit courts under this subtitle that—

(A) undertake studies in their own circuits; or

(B) implement reforms recommended as a result of such studies in their own or other circuits, including education and training.

(2) Funds shall be allocated to Federal circuits under this subtitle on a first come first serve basis in an amount not to exceed $100,000 on the first application. If within 6 months after the date on which funds authorized under this Act become available, funds are still available, circuits that have received funds may reapply for additional funds, with not more than $200,000 going to any one circuit.

SEC. 1667. EXPERT TESTIMONY OF DOMESTIC VIOLENCE.

(a) FINDINGS.—The Congress finds that—

(1) State criminal courts often fail to admit expert testimony offered by a defendant concerning the nature and effect of physical, sexual, and mental abuse to assist the trier of fact in assessing the behavior, beliefs, or perceptions of such defendant in a domestic relationship in which abuse has occurred;

(2) the average juror often has little understanding of the nature and effect of domestic violence on such a defendant's behavior, beliefs, or perceptions, and the lack of understanding can result in the juror blaming the woman for her victimization;

(3) the average juror is often unaware that victims of domestic violence are frequently in greater danger of violence after they ter-

minate or attempt to terminate domestic relationships with their abuser;

(4) myths, misconceptions, and victim-blaming attitudes are often held not only by the average lay person but also by many in the criminal justice system, insofar as the criminal justice system traditionally has failed to protect women from violence at the hands of men;

(5) specialized knowledge of the nature and effect of domestic violence is sufficiently established to have gained the general acceptance which is required for the admissibility of expert testimony;

(6) although both men and women can be victims of physical, sexual, and mental abuse by their partners in domestic relationships, the most frequent victims are women; and

(7) a woman is more likely to be assaulted and injured, raped, or killed by her current or former male partner than by any other type of assailant, and over one-half of all women murdered are killed by their current or former male partners.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the executive branch, working through the State Justice Institute, should examine programs which would allow the States to consider—

(1) that expert testimony concerning the nature and effect of domestic violence, including descriptions of the experiences of battered women, be admissible when offered in a State court by a defendant in a criminal case to assist the trier of fact in understanding the behavior, beliefs, or perceptions of such defendant in a domestic relationship in which abuse has occurred;

(2) that a witness be qualified to testify as an expert witness based upon her or his knowledge, skill, experience, training, or education, and be permitted to testify in the form of an opinion or otherwise; and

(3) that expert testimony about a domestic relationship be admissible to include testimony of relationships between spouses, former spouses, cohabitants, former cohabitants, partners or former partners, and between persons who are in, or have been in, a dating, courtship, or intimate relationship.

TITLE XVII—HATE CRIMES SENTENCING ENHANCEMENT

SEC. 1701. DIRECTION TO COMMISSION.

(a) IN GENERAL.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide sentencing enhancements of not less than 3 offense levels for offenses that the finder of fact at trial determines beyond a reasonable doubt are hate crimes. In carrying out this section, the United States Sentencing Commission shall assure reasonable consistency with other guidelines, avoid duplicative punishments for substantially the same offense, and take into account any mitigating circumstances which might justify exceptions.

(b) DEFINITION.—As used in this section, the term "hate crime" is a crime in which the defendant intentionally selects a victim, or in the case of a property crime, the property which is the object of the crime, because of the actual or perceived race, color, religion, national origin, ethnicity, gender, or sexual orientation of any person.

TITLE XVIII—USE OF FORMULA GRANTS TO PROSECUTE PERSONS DRIVING WHILE INTOXICATED

SEC. 1801. GRANT PROGRAM DESCRIPTION.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by striking the period at the end of paragraph (21) and adding "; and"; and

(2) by adding at the end the following:

"(22) programs for the prosecution of driving while intoxicated and the enforcement of other laws relating to alcohol use and the operation of motor vehicles.".

TITLE XIX—YOUTH HANDGUN SAFETY

SEC. 1901. FINDINGS AND DECLARATIONS.

The Congress finds and declares that—

(1) Crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem.

(2) Problems with crime at the local level are exacerbated by the interstate movement of drugs, funds, and criminal gangs.

(3) Firearms and ammunition, and handguns in particular, move easily in interstate commerce, as documented in numerous hearings in both the Judiciary Committee of the House of Representatives and Judiciary Committee of the Senate.

(4) In fact, even before the sale of a handgun, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce.

(5) While criminals freely move from State to State, ordinary citizens may fear to travel to or through certain parts of the country due to the concern that violent crime is not under control, and foreigners may decline to travel in the United States for the same reason.

(6) Just as the hardened drug kingpins begin their life in the illicit drug culture by exposure to drugs at a young age, violent criminals often start their criminal careers on streets where the ready availability of guns to young people results in the acceptability of their random use.

(7) Violent crime and the use of illicit drugs go hand-in-hand, and attempts to control one without controlling the other may be fruitless.

(8) Individual States and localities find it impossible to handle the problem by themselves; even States and localities that have made a strong effort to prevent, detect, and punish crime find their effort unavailing due in part to the failure or inability of other States and localities to take strong measures.

(9) Inasmuch as illicit drug activity and related violent crime overflow State lines and national boundaries, the Congress has power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to combat these problems.

(10) The Congress finds that it is necessary and appropriate to assist the States in controlling crime by stopping the commerce in handguns with juveniles nationwide, and allowing the possession of handguns by juveniles only when handguns are possessed and used for legitimate purposes under appropriate conditions.

SEC. 1902. PROHIBITION OF THE POSSESSION OF A HANDGUN OR AMMUNITION BY, OR THE PRIVATE TRANSFER OF A HANDGUN OR AMMUNITION TO, A JUVENILE.

(a) OFFENSE.—Section 922 of title 18, United States Code, as amended by section 706(a) of this Act, is amended by adding at the end the following:

"(w)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a juvenile, or to a person who the transferor knows or has reasonable cause to believe is a juvenile—

"(A) a handgun; or

"(B) ammunition that is suitable for use only in a handgun.

"(2) It shall be unlawful for any person who is a juvenile to knowingly possess—

"(A) a handgun; or

"(B) ammunition that is suitable for use only in a handgun.

"(3) This subsection does not apply—

"(A) to a temporary transfer of a handgun or ammunition to a juvenile, or to the possession or use of a handgun or ammunition by a juvenile, if the handgun and ammunition are possessed and used by the juvenile—

"(i) in the course of employment, in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch), target practice, hunting, or a course of instruction in the safe and lawful use of a handgun;

"(ii) with the prior written consent of the juvenile's parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm;

"(iii) with the prior written consent in the juvenile's possession at all times when a handgun is in the possession of the juvenile; and

"(iv) in accordance with State and local law;

"(B) during transportation by the juvenile of an unloaded handgun in a locked container directly from the place of transfer to a place at which an activity described in subparagraph (A)(i) is to take place, and transportation by the juvenile of that handgun, unloaded and in a locked container, directly from the place at which such an activity took place to the transferor;

"(C) to a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun in the line of duty;

"(D) to a transfer by inheritance of title (but not possession) of a handgun or ammunition to a juvenile; or

"(E) to the possession of a handgun or ammunition by a juvenile taken in defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest.

"(4) A handgun or ammunition, the possession of which is transferred to a juvenile in circumstances in which the transferor is not in violation of this subsection shall not be subject to permanent confiscation by the Government if its possession by the juvenile subsequently becomes unlawful because of the conduct of the juvenile, but shall be returned to the lawful owner when such handgun or ammunition is no longer required by the Government for the purposes of investigation or prosecution.

"(5) For purposes of this subsection, the term 'juvenile' means a person who is less than 18 years of age.

"(6)(A) In a prosecution of a violation of this subsection, the court shall require the presence of a juvenile defendant's parent or legal guardian at all proceedings.

"(B) The court may use the contempt power to enforce subparagraph (A).

"(C) The court may excuse attendance of a parent or legal guardian of a juvenile defendant at a proceeding in a prosecution of a violation of this subsection for good cause shown.".

(b) PENALTIES.—Section 924(a) of title 18, United States Code, as amended by section 706(b) of this Act, is amended by adding at the end the following:

"(7)(A)(i) A juvenile who violates section 922(w) shall be fined under this title, imprisoned not more than 1 year, or both, except that a juvenile described in clause (ii) shall be sentenced to probation on appropriate conditions and shall not be incarcerated unless the juvenile fails to comply with a condition of probation.

"(ii) A juvenile is described in this clause if—

"(I) the offense of which the juvenile is charged is possession of a handgun or ammunition in violation of section 922(w)(2); and

"(II) the juvenile has not been convicted in any court of an offense (including an offense under section 922(w) or a similar State law, but not including any other offense consisting of conduct that if engaged in by an adult would not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if engaged in by an adult would constitute an offense.

"(B) A person other than a juvenile who knowingly violates section 922(w)—

"(i) shall be fined under this title, imprisoned not more than 1 year, or both; and

"(ii) if the person sold, delivered, or otherwise transferred a handgun or ammunition to a juvenile knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a crime of violence, shall be fined under this title, imprisoned not more than 10 years, or both.".

(d) TECHNICAL AMENDMENT OF JUVENILE DELINQUENCY PROVISIONS IN TITLE 18, UNITED STATES CODE.—

(1) SECTION 5031.—Section 5031 of title 18, United States Code, is amended by inserting "or a violation by such person of section 922(w)" before the period at the end.

(2) SECTION 5032.—Section 5032 of title 18, United States Code, is amended—

(A) in the first undesignated paragraph by inserting "or (w)" after "922(p)"; and

(B) in the fourth undesignated paragraph by inserting "or section 922(w) of this title," before "criminal prosecution on the basis".

(e) TECHNICAL AMENDMENT OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974.—Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(12)(A)) is amended by striking "which do not constitute violations of valid court orders" and inserting "(other than an offense that constitutes a violation of a valid court order or a violation of section 922(w) of title 18, United States Code, or a similar State law)".

(f) MODEL LAW.—The Attorney General, acting through the Director of the National Institute for Juvenile Justice and Delinquency Prevention, shall—

(1) evaluate existing and proposed juvenile handgun legislation in each State;

(2) develop model juvenile handgun legislation that is constitutional and enforceable;

(3) prepare and disseminate to State authorities the findings made as the result of the evaluation; and

(4) report to Congress by December 31, 1994, findings and recommendations concerning the need or appropriateness of further action by the Federal Government.

TITLE XX—SUBSTANCE ABUSE TREATMENT IN FEDERAL PRISONS

SEC. 2001. SUBSTANCE ABUSE TREATMENT IN FEDERAL PRISONS.

Section 3621 of title 18, United States Code, is amended—

(1) in the last sentence of subsection (b), by striking ", to the extent practicable,"; and

(2) by adding at the end the following new subsection:

"(e) SUBSTANCE ABUSE TREATMENT.—

"(1) PHASE-IN.—In order to carry out the requirement of the last sentence of subsection (b) of this section, that every prisoner with a substance abuse problem have the opportunity to participate in appropriate substance abuse treatment, the Bureau of Prisons shall provide substance abuse treatment—

"(A) for not less than 50 percent of eligible prisoners by the end of fiscal year 1995, with priority for such treatment accorded based on an eligible prisoner's proximity to release date;

"(B) for not less than 75 percent of eligible prisoners by the end of fiscal year 1996, with priority for such treatment accorded based on an eligible prisoner's proximity to release date; and

"(C) for all eligible prisoners by the end of fiscal year 1997 and thereafter, with priority for such treatment accorded based on an eligible prisoner's proximity to release date.

"(2) INCENTIVE FOR PRISONERS' SUCCESSFUL COMPLETION OF TREATMENT PROGRAM.—

"(A) GENERALLY.—Any prisoner who, in the judgment of the Director of the Bureau of Prisons, has successfully completed a program of residential substance abuse treatment provide under paragraph (1) of this subsection, shall remain in the custody of the Bureau for such time (as limited by subparagraph (B) of this paragraph) and under such conditions, as the Bureau deems appropriate. If the conditions of confinement are different from those the prisoner would have experienced absent the successful completion of the treatment, the Bureau shall periodically test the prisoner for substance abuse and discontinue such conditions on determining that substance abuse has recurred.

"(B) PERIOD OF CUSTODY.—The period the prisoner remains in custody after successfully completing a treatment program shall not exceed the prison term the law would otherwise require such prisoner to serve, but may not be less than such term minus one year.

"(3) REPORT.—The Bureau of Prisons shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives on January 1, 1995, and on January 1 of each year thereafter, a report. Such report shall contain—

"(A) a detailed quantitative and qualitative description of each substance abuse treatment program, residential or not, operated by the Bureau;

"(B) a full explanation of how eligibility for such programs is determined, with complete information on what proportion of prisoners with substance abuse problems are eligible, and

"(C) a complete statement of to what extent the Bureau has achieved compliance with the requirements of this title.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated in each fiscal year such sums as may be necessary to carry out this subsection.

"(5) DEFINITIONS.—As used in this subsection—

"(A) the term 'residential substance abuse treatment' means a course of individual and group activities, lasting between 6 and 12 months, in residential treatment facilities set forth from the general prison population—

"(i) directed at the substance abuse problems of the prisoner; and

"(ii) intended to develop the prisoner's cognitive, behavorial, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems; and

"(B) the term 'eligible prisoner' means a prisoner who is—

"(i) determined by the Bureau of Prisons to have a substance abuse problem; and

"(ii) willing to participate in a residential substance abuse treatment program.".

TITLE XXI—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

SEC. 2101. CERTAINTY OF PUNISHMENT FOR YOUNG OFFENDERS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), is amended—

(1) by redesignating part Q as part U;

(2) by redesignating section 1701 as section 2101; and

(3) by inserting after part P the following:

"PART Q—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"SEC. 1701. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

"(b) ALTERNATIVE METHODS.—The alternative methods of punishment referred to in subsection (a) should ensure certainty of punishment for young offenders and promote reduced recidivism, crime prevention, and assistance to victims, particularly for young offenders who can be punished more effectively in an environment other than a traditional correctional facility, including—

"(1) alternative sanctions that create accountability and certainty of punishment for young offenders;

"(2) boot camp prison programs that include education and job training activities such as programs modeled, to the extent practicable, after activities carried out under part B of title IV of the Job Training Partnership Act (relating to Job Corps) (29 U.S.C. 1691 et seq.);

"(3) technical training and support for the implementation and maintenance of State and local restitution programs for young offenders;

"(4) innovative projects, such as projects consisting of education and job training activities for incarcerated young offenders, modeled, to the extent practicable, after activities carried out under part B of title IV of the Job Training Partnership Act (relating to Job Corps) (29 U.S.C. 1691 et seq.);

"(5) correctional options, such as community-based incarceration, weekend incarceration, and electronic monitoring of offenders;

"(6) community service programs that provide work service placement for young offenders at non-profit, private organizations and community organizations;

"(7) demonstration restitution projects that are evaluated for effectiveness;

"(8) innovative methods that address the problems of young offenders convicted of serious substance abuse (including alcohol abuse, and gang-related offenses), including technical assistance and training to counsel and treat such offenders; and

"(9) the provision for adequate and appropriate after care programs for the young offenders, such as substance abuse treatment, education programs, vocational training, job placement counseling, and other support programs upon release.

"SEC. 1702. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part, the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(b) State Office.—The office designated under section 507 of this title—

"(1) shall prepare the application as required under subsection (a); and

"(2) shall administer grant funds received under this part, including review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 1703. REVIEW OF STATE APPLICATIONS.

"(a) In General.—The Director, in consultation with the Director of the National Institute of Corrections, shall make a grant under section 1701(a) to carry out the projects described in the application submitted by such applicant under section 1702 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application, the Director has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) Approval.—Each application submitted under section 1702 shall be considered approved, in whole or in part, by the Director not later than 45 days after first received unless the Director informs the applicant of specific reasons for disapproval.

"(c) Restriction.—Grant funds received under this part shall not be used for land acquisition or construction projects, other than alternative facilities described in section 1701(b).

"(d) Disapproval Notice and Reconsideration.—The Director shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 1704. LOCAL APPLICATIONS.

"(a) In General.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 1701(b).

"(2) Such application shall be considered approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If such application is approved, the unit of local government is eligible to receive such funds.

"(b) Distribution to Units of Local Government.—A State that receives funds under section 1701 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 45 days after the Director has approved the application submitted by the State and has made funds available to the State. The Director shall have the authority to waive the 45-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

"SEC. 1705. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) State Distribution.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the number of young offenders of such State bears to the number of young offenders in all the participating States.

"(b) Local Distribution.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in such State for the purposes specified under section 1701 that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for correctional programs in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for correctional programs in such preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by such State for purposes specified under section 1701.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for such fiscal year will not be used by such State or that a State is not eligible to receive funds under section 1701, the Director shall award such funds to units of local government in such State giving priority to the units of local government that the Director considers to have the greatest need.

"(c) General Requirement.—Notwithstanding the provisions of subsections (a) and (b), not less than two-thirds of funds received by a State under this part shall be distributed to units of local government unless the State applies for and receives a waiver from the Director of the Bureau of Justice Assistance.

"(d) Federal Share.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1702(a) for the fiscal year for which the projects receive assistance under this part.

"(e) Consideration.—Notwithstanding subsections (a) and (b), in awarding grants under this part, the Director shall consider as an important factor whether a State has in effect throughout such State a law or policy which—

"(1) requires that a juvenile who is in possession of a firearm or other weapon on school property or convicted of a crime involving the use of a firearm or weapon on school property—

"(A) be suspended from school for a reasonable period of time; and

"(B) lose driving license privileges for a reasonable period of time;

"(2) bans firearms and other weapons in a 100-yard radius of school property, but the State may allow exceptions for school-sponsored activities, as well as other reasonable exceptions.

"(f) Definition.—For purposes of this part, 'juvenile' means 18 years of age or younger.

"SEC. 1706. EVALUATION.

"(a) In General.—(1) Each State and local unit of government that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in accordance with guidelines issued by the Director and in consultation with the National Institute of Justice.

"(2) The Director may waive the requirement specified in paragraph (1) if the Director determines that such evaluation is not warranted in the case of the State or unit of local government involved.

"(b) Distribution.—The Director shall make available to the public on a timely basis evaluations received under subsection (a).

"(c) Administrative Costs.—A State and local unit of government may use not more than 5 percent of funds it receives under this part to develop an evaluation program under this section.".

(b) Conforming Amendment.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), is amended by striking the matter relating to part Q and inserting the following:

"Part Q—Alternative Punishments for Young Offenders

"Sec. 1701. Grant authorization.
"Sec. 1702. State applications.
"Sec. 1703. Review of State applications.
"Sec. 1704. Local applications.
"Sec. 1705. Allocation and distribution of funds.
"Sec. 1706. Evaluation.

"Part U—Transition—Effective Date—Repealer

"Sec. 2101. Continuation of rules, authorities, and proceedings.".

(c) Definition.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)), is amended by adding after paragraph (23) the following:

"(24) The term 'young offender' means an individual, convicted of a crime, 22 years of age or younger—

"(A) who has not been convicted of—

"(i) a crime of sexual assault; or

"(ii) a crime involving the use of a firearm in the commission of the crime; and

"(B) who has no prior convictions for a crime of violence (as defined by section 16 of title 18, United States Code) punishable by a period of 1 or more years of imprisonment.".

SEC. 2102. AUTHORIZATION OF APPROPRIATION.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended by adding after paragraph (10) the following:

"(11) There are authorized to be appropriated $200,000,000 for each of the fiscal years 1994, 1995, and 1996 to carry out the projects under part Q.".

SEC. 2103. SENSE OF THE CONGRESS.

It is the sense of the Congress that States should impose mandatory sentences for crimes involving the use of a firearm or other weapon on school property or within a 100-yard radius of school property.

TITLE XXII—JUVENILE DRUG TRAFFICKING AND GANG PREVENTION GRANTS

SEC. 2201. JUVENILE DRUG TRAFFICKING AND GANG PREVENTION GRANTS.

(a) The Omnibus Crime Control and Safe Streets Act of 1968, is amended by inserting after part Q (as added by section 2101(a)) the following new part:

"PART R—JUVENILE DRUG TRAFFICKING AND GANG PREVENTION GRANTS

"SEC. 1801. GRANT AUTHORIZATION.

"(a) In General.—The Director is authorized to make grants to States and units of local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective programs, including education, prevention, treatment and enforcement programs to reduce—

"(1) the formation or continuation of juvenile gangs; and

"(2) the use and sale of illegal drugs by juveniles.

"(b) USES OF FUNDS.—The grants made under this section may be used for any of the following specific purposes:

"(1) to reduce the participation of juveniles in drug related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools;

"(2) to reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles;

"(3) to develop new and innovative means to address the problems of juveniles convicted of serious, drug-related and gang-related offenses;

"(4) to reduce juvenile drug and gang-related activity in public housing projects;

"(5) to provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to identify drug-dependent or gang-involved juvenile offenders and to provide appropriate counseling and treatment to such offenders;

"(6) to promote the involvement of all juveniles in lawful activities, including—

"(A) school programs that teach that drug and gang involvement are wrong; and

"(B) programs such as youth sports and other activities, including girls and boys clubs, scout troops, and little leagues;

"(7) to facilitate Federal and State cooperation with local school officials to develop education, prevention and treatment programs for juveniles who are likely to participate in drug trafficking, drug use or gang-related activities;

"(8) to provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system; with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers;

"(9) to provide education and treatment programs for youth exposed to severe violence in their homes, schools, or neighborhoods;

"(10) to establish sports mentoring and coaching programs in which athletes serve as role models for youth to teach that athletics provide a positive alternative to drug and gang involvement;

"(11) to develop new programs that specifically address the unique crime, drug, and alcohol-related challenges faced by juveniles living at or near International Ports of Entry and in other international border communities, including rural localities;

"(12) to identify promising new juvenile drug demand reduction and enforcement programs, to replicate and demonstrate these programs to serve as national, regional or local models that could be used, in whole or in part, by other public and private juvenile justice programs, and to provide technical assistance and training to public or private organizations to implement similar programs; and

"(13) to coordinate violence, gang, and juvenile drug prevention programs with other existing Federal programs that serve community youth to better address the comprehensive needs of such youth.

"(c) FEDERAL SHARE.—(1) The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in applications submitted under this section for the fiscal year for which the projects receive assistance under this part.

"(2) The Director may waive the 25 percent matching requirement under paragraph (1), upon making a determination that such waiver is equitable due to the financial circumstances affecting the ability of the applicant to meet such requirements.

"SEC. 1802. APPLICATIONS.

"A State or unit of local government applying for grants under this part shall submit an application to the Director in such form and containing such information as the Director shall reasonably require.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), is amended by inserting after the matter relating to part Q (as added by section 2101(b)) the following:

"PART R—JUVENILE DRUG TRAFFICKING AND GANG PREVENTION GRANTS

"Sec. 1801. Grant authorization.
"Sec. 1802. Applications.".

SEC. 2202. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), is amended by adding after paragraph (11) (as added by section 2102) the following:

"(12) There are authorized to be appropriated $100,000,000 for each of the fiscal years 1994 and 1995 to carry out the projects under part R.".

TITLE XXIII—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS

SEC. 2301. RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS.

(a) RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), is amended by inserting after part R (as added by section 2201(a)) the following:

"PART S—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS

"SEC. 1901. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States and units of local government for the purpose of developing and implementing residential substance abuse treatment programs within State correctional facilities, as well as within local correctional facilities in which inmates are incarcerated for a period of time sufficient to permit substance abuse treatment.

"SEC. 1902. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(3) Such application shall coordinate the design and implementation of treatment programs between State correctional representatives and the State Alcohol and Drug Abuse agency (and, if appropriate, between representatives of local correctional agencies and representatives of either the State alcohol and drug abuse agency or any appropriate local alcohol and drug abuse agency).

"(b) SUBSTANCE ABUSE TESTING REQUIREMENT.—To be eligible to receive funds under this part, a State must agree to implement or continue to require urinalysis or similar testing of individuals in correctional residential substance abuse treatment programs. Such testing shall include individuals released from residential substance abuse treatment programs who remain in the custody of the State.

"(c) ELIGIBILITY FOR PREFERENCE WITH AFTER CARE COMPONENT.—

"(1) To be eligible for a preference under this part, a State must ensure that individuals who participate in the substance abuse treatment program established or implemented with assistance provided under this part will be provided with aftercare services.

"(2) State aftercare services must involve the coordination of the correctional facility treatment program with other human service and rehabilitation programs, such as educational and job training programs, parole supervision programs, half-way house programs, and participation in self-help and peer group programs, that may aid in the rehabilitation of individuals in the substance abuse treatment program.

"(3) To qualify as an aftercare program, the head of the substance abuse treatment program, in conjunction with State and local authorities and organizations involved in substance abuse treatment, shall assist in placement of substance abuse treatment program participants with appropriate community substance abuse treatment facilities when such individuals leave the correctional facility at the end of a sentence or on parole.

"(d) STATE OFFICE.—The Office designated under section 507 of this title—

"(1) shall prepare the application as required under section 1902, and

"(2) shall administer grant funds received under this part, including review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 1903. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Director shall make a grant under section 1901 to carry out the projects described in the application submitted under section 1902 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application the Director has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1902 shall be considered approved, in whole or in part, by the Director not later than 45 days after first received unless the Director informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Director shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 1904. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) ALLOCATION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the State prison population of such State bears to the total prison population of all the participating States.

"(b) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1902 for the fiscal year for which the projects receive assistance under this part.

"SEC. 1905. EVALUATION.

"Each State that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in such form and containing such information as the Director may reasonably require.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), is amended by inserting after the matter relating to part R (as added by section 2201(b)) the following:

"PART S—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS

"Sec. 1901. Grant authorization.
"Sec. 1902. State applications.
"Sec. 1903. Review of State applications.
"Sec. 1904. Allocation and distribution of funds.
"Sec. 1905. Evaluation.".

(c) DEFINITIONS.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)) is amended by adding after paragraph (24) (as added by section 2101(c)) the following:

"(25) The term 'residential substance abuse treatment program' means a course of individual and group activities, lasting between 9 and 12 months, in residential treatment facilities set apart from the general prison population—

"(A) directed at the substance abuse problems of the prisoner; and

"(B) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems.".

SEC. 2302. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), is amended by adding after paragraph (12) (as added by section 2202) the following:

"(13) There are authorized to be appropriated $100,000,000 for each of the fiscal years 1994, 1995, and 1996 to carry out the projects under part S.".

The CHAIRMAN. Except as provided in section 2 of House Resolution 401, no amendment shall be in order except the amendments printed in House Report 103-474. Each amendment may be offered only in the order printed in the report, may be offered only by a member designated in the report, shall be considered as read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent of the amendment, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.

If more than one of the following amendments printed in part 1 of House Report 103-474 relating to habeas corpus is adopted, only the last to be adopted shall be considered as finally adopted and reported to the House:

First, the amendment by the gentleman from Illinois [Mr. HYDE]; and

Second, the amendment by the gentleman from South Carolina [Mr. DERRICK].

It shall be in order at any time for the chairman of the Committee on the Judiciary, or a designee, to offer amendments en bloc consisting of amendments printed in part 2 of the report or germane modifications of any such amendment.

Amendments en bloc shall be considered as read, except that modifications shall be reported, shall be debatable for 10 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

For the purpose of inclusion in amendment en bloc, an amendment printed in the form of a motion to strike may be modified to the form of a germane perfecting amendment to the text originally proposed to be stricken.

The original proponent of an amendment included in the amendments en bloc may insert a statement in the CONGRESSIONAL RECORD immediately before disposition of the amendments en bloc.

The Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment made in order by House Resolution 401.

The Chairman of the Committee of the Whole may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall not be less than 15 minutes.

The chair will announce the number of the amendment made in order by the rule and the name of its sponsor in order to give notice to the Committee of the Whole the order of recognition.

AMENDMENTS EN BLOC OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer amendments en bloc made in order pursuant to the rule.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. BROOKS:

AMENDMENT OFFERED BY MR. PORTER

Insert at an appropriate place the following:

SEC. . DISPLAY OF FLAGS AT HALF STAFF.

(a) PUBLIC LAW 87-726.—The first section of Public Law 87-726 (36 U.S.C. 167) is amended—

(1) By striking "(2)" and inserting "(3)";

(2) by inserting after clause (1) the following new clause: "(2) directing the officials of the Government to display at half-staff the flag of the United States on all Government buildings on such day, as provided by section 3(m) of the Act of June 22, 1942 (Chapter 435; 56 Stat. 377; 36 U.S.C. 175),";

(3) by striking "(3)" and inserting "(4)"; and

(4) by inserting in paragraph (4) ", including the display at half-staff of the flag of the United States" after "activities".

(b) ACT OF JUNE 22, 1942.—Section 3(m) of the Act of June 22, 1942 (Chapter 435; 56 Stat. 377; 36 U.S.C. 175) is amended by inserting "The flag shall be flown at half-staff on Peace Officers Memorial Day, unless that day is also Armed Forces Day." after "a Member of Congress.".

AMENDMENT OFFERED BY MR. BARCA OF WISCONSIN

Insert at an appropriate place the following:

SEC. . SENSE OF CONGRESS WITH RESPECT TO VIOLENCE AGAINST TRUCKERS.

(a) FINDINGS.—Congress finds that—

(1) there are 8,000,000 workers in the trucking industry in the United States, some working for large carriers and some for small carriers, some for private carriers and some owner operators, all assisting the free flow commerce by transporting all types of commodities that enter, leave, or move within this country;

(2) unemployment, crime, and drug use have contributed to an increase of violence against commercial truckers, an increase that has gone unrecognized by the public at large;

(3) few State or local authorities report violent crimes against truckers as such to the Federal Bureau of Investigation, statistics do not reflect this fast-growing and increasingly violent segment of crime;

(4) the Federal Bureau of Investigation investigated 282 truck hijackings involving crimes of violence in 1993, not including attempted crimes and crimes addressed by State, county, and local authorities;

(5) the Federal Government in large measure finances the highway system the trucking industry uses, collecting large sums in taxes from the industry, and licenses and regulates the industry and its drivers, entailing a concomitant responsibility to protect them against crime;

(6) Federal law provides protections to truckers in among others, sections 33 and 1951 of title 18, United States Code, but currently Federal prosecutions are not undertaken unless certain monetary thresholds of loss are met.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) when there is Federal jurisdiction, Federal authorities should prosecute to the fullest extent of the law murders, rapes, burglaries, kidnappings and assaults committed against commercial truckers; and

(2) appropriate Federal agencies should acknowledge this problem and place a priority on evaluating how best to prevent these crimes and apprehend those involved, and continue to coordinate their activities with multi-jurisdictional authorities to combat violent crimes committed against truckers.

AMENDMENT OFFERED BY MR. OLVER

Page 272, line 5, after "minorities," insert "providing specialized domestic violence court advocates in courts where a significant number of protective orders are granted,".

AMENDMENT OFFERED BY MR. GILMAN

Add at an appropriate place the following:

SEC. . PASSPORT AND VISA OFFENSES PENALTIES IMPROVEMENT.

(a) IN GENERAL.—Chapter 75 of title 18, United States Code, is amended—

(1) in section 1541, by striking "not more than $500 or imprisoned not more than one year" and inserting "under this title or imprisoned not more than 10 years";

(2) in each of sections 1542, 1543, and 1544, by striking "not more than $2,000 or imprisoned not more than five years" and inserting "under this title or imprisoned not more than 10 years";

(3) in section 1545, by striking "not more than $2,000 or imprisoned not more than three years" and inserting "under this title or imprisoned not more than 10 years";

(4) in section 1546(a), by striking "five years" and inserting "10 years";

(5) in section 1546(b), by striking "in accordance with this title, or imprisoned not more than two years" and inserting "under this title or imprisoned not more than 10"; and

(6) by adding at the end the following.

"§1547. Alternative imprisonment maximum for certain offenses

"Notwithstanding any other provision of this title, the maximum term of imprisonment that may be imposed for an offense under this chapter (other than an offense under section 1545)—

"(1) if committed to facilitate a drug trafficking crime (as defined in 929(a) of this title) is 15 years; and

"(2) if committed to facilitate an act of international terrorism (as defined in section 2331 of this title) is 20 years.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 75 of title 18, United States Code, is amended by adding at the end the following new item:

"1547. Alternative imprisonment maximum for certain offenses.".

AMENDMENT OFFERED BY MR. WATT

Page 111, line 16, strike "and".

Page 111, line 18, strike the period and insert "; and".

Page 111, after line 18, insert the following:

(3) coordinate crime prevention programs funded under this program with other existing Federal programs to address the overall needs of communities that benefit from grants received under this title.

Page 172, line 15, strike "or".

Page 172, line 17, strike the period and insert "; or".

Page 172, after line 17, insert the following:

"(C) coordination of crime prevention programs funded under this title with other existing Federal programs to meet the overall needs of communities that benefit from funds received under this section.

AMENDMENT OFFERED BY MR. HOYER

Add at the end the following:

TITLE —FINANCIAL INSTITUTION FRAUD

SEC. . FINANCIAL INSTITUTION FRAUD.

Section 528 of Public Law 101–509, approved November 5, 1990, is amended by striking "with the authority of the Resolution Trust Corporation or its successor" at the end of subsection (b)(2) and inserting "on December 31, 2004".

AMENDMENT OFFERED BY MR. HOYER

At the end of the bill, add the following:

TITLE —AUTHORIZATION

SEC. . AUTHORIZATION OF APPROPRIATIONS

There is authorized to be appropriated for the activities of the Bureau of Alcohol, Tobacco and Firearms, the United States Customs Service, the Financial Crimes Enforcement Network, the Federal Law Enforcement Training Center, the Criminal Investigation Division of the Internal Revenue Service, and the United States Secret Service, in addition to sums authorized elsewhere in this Act, not to exceed $210,000,000 for each of the fiscal years 1995, 1996, 1997, 1998, and 1999 to help meet the Department of the Treasury's increased law enforcement activities.

AMENDMENT OFFERED BY MR. LIVINGSTON

Add at the end the following:

TITLE —CONVERSION OF CLOSED MILITARY INSTALLATIONS

SEC. . CONVERSION OF THREE CLOSED MILITARY INSTALLATIONS INTO FEDERAL PRISON FACILITIES.

(a) STUDY OF SUITABLE BASES.—The Secretary of Defense and the Attorney General shall jointly conduct a study of all military installations selected before the date of the enactment of this Act to be closed pursuant to a base closure law for the purpose of evaluating the suitability of any of these installations, or portions of these installations, for conversion into Federal prison facilities. As part of the study, the Secretary and the Attorney General shall identify the three military installations so evaluated that are most suitable for conversion into Federal prison facilities.

(b) SUITABILITY FOR CONVERSION.—In evaluating the suitability of a military installation for conversion into a Federal prison facility, the Secretary of Defense and the Attorney General shall consider the estimated cost to convert the installation into a prison facility, the proximity of the installation to overcrowded Federal and State prison facilities, and such other factors as the Secretary and the Attorney General consider to be appropriate.

(c) TRANSFER TO ATTORNEY GENERAL.—Notwithstanding any other provision of law regarding disposal of military installations selected to be closed pursuant to a base closure law, the Secretary of Defense shall transfer, without reimbursement, jurisdiction over the three installations identified under subsection (a) to the Attorney General for conversion into Federal prison facilities. The Federal prison facilities established using these installations shall be designed to incarcerate persons convicted of a Federal violent felony. Upon a space available basis, the Attorney General may accept transfers from overcrowded State prisons if the persons to be transferred had previously been convicted of a Federal violent felony or are serving a sentence of more then 20 years.

(d) TIME FOR STUDY.—The study required by subsection (a) shall be completed not later than 180 days after the date of the enactment of this Act.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "base closure law" means—

(A) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note); or

(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(2) The term "violent felony" has the meaning given that term in section 3581(c)(2) of title 18, United States Code.

AMENDMENT OFFERED BY MS. SLAUGHTER

At the appropriate place, insert the following (and redesignate accordingly):

SEC. . COMMISSION MEMBERSHIP AND APPOINTMENT.

(a) MEMBERSHIP.—Section 211(B)(f) of Public Law 101–515 (104 Stat. 2123) is amended to read as follows:

"(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 25 members as follows:

(1) Seven individuals appointed from national law enforcement organizations representing law enforcement officers, of whom—

(A) two shall be appointed by the Speaker of the House of Representatives;

(B) two shall be appointed by the majority leader of the Senate;

(C) one shall be appointed by the minority leader of the House of Representatives;

(D) one shall be appointed by the minority leader of the Senate; and

(E) one shall be appointed by the President.

(2) Seven individuals appointed from national law enforcement organizations representing law enforcement management, of whom—

(A) two shall be appointed by the Speaker of the House of Representatives;

(B) two shall be appointed by the majority leader of the Senate;

(C) one shall be appointed by the minority leader of the House of Representatives;

(D) one shall be appointed by the minority leader of the Senate; and

(E) one shall be appointed by the President.

(3) Two individuals appointed with academic expertise regarding law enforcement issues, of whom—

(A) one shall be appointed by the Speaker of the House of Representatives and the majority leader of the Senate; and

(B) one shall be appointed by the minority leader of the Senate and the minority leader of the House of Representatives.

(4) Two Members of the House of Representatives, appointed by the Speaker and the minority leader of the House of Representatives.

(5) Two Members of the Senate, appointed by the majority leader and the minority leader of the Senate.

(6) One individual involved in Federal law enforcement from the Department of the Treasury; appointed by the President.

(7) One individual from the Department of Justice, appointed by the President.

(8) One individual representing a State or local governmental entity, such as a Governor, mayor, or State attorney general, to be appointed by the majority leader of the Senate.

(9) One individual representing a State or local governmental entity, such as a Governor, mayor, or State attorney general, to be appointed by the Speaker of the House of Representatives.

(10) One individual representing a State or local governmental entity, such as a Governor, mayor, or State attorney general, to be appointed by the President.".

(b) REPORT.—Section 211(B)(p) of Public Law 101–515 (104 Stat. 2124) is amended by striking "the expiration" and all that follows through "this Act," and inserting "March 31, 1996,"

SEC. . CONFORMING AMENDMENT.

Section 3404(a) of Public Law 101–647 (42 U.S.C. 3721 note) is repealed.

AMENDMENT OFFERED BY MS. SLAUGHTER

Page 386, after line 16 (at the end of the bill), add the following new title (and amend the table of titles accordingly):

TITLE XXIV—EXPLOSIVES CRIME PENALTIES

SEC. 2401. ENHANCED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FELONY.

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate amendments to the sentencing guidelines to appropriately enhance penalties in a case in which a defendant convicted under section 844(h) of title 18, United States Code, has previously been convicted under that section.

SEC. 2402. THEFT OF EXPLOSIVES.

Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(k) A person who steals any explosives materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 2403. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18, United States Code, is amended by inserting "or possess" after "to receive".

SEC. 2404. THEFT OF EXPLOSIVES FROM LICENSEE.

Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(l) A person who steals any explosive material from a licensed importer, licensed manufacturer, or licensed dealer, or from any permittee shall be fined under this title, imprisoned not more than 10 years, or both.".

SEC. 2405. DISPOSING OF EXPLOSIVES TO PROHIBITED PERSONS.

Section 842(d) of title 18, United States Code, is amended by striking "licensee" and inserting "person".

AMENDMENT OFFERED BY MR. MARTINEZ

Add at the end of title X the following:

SUBTITLE —HOPE IN YOUTH PROGRAM

SEC. 1. FINDINGS.

The Congress finds the following:

(1) Larger cities around the country, particularly those those involved in empowerment zones, are attempting to empower low-income and ethnic minority communities.

(2) Programs that involve local government and local community leaders and which include significant participation by service providers, service participants, and service funders, as equal partners in the design and direction of a myriad of social service support programs have been among the most effective demonstration models.

(3) Programs that attempt to link disenfranchised and disconnected citizens through an umbrella organization that provides guidance to public and private service providers have proven to be an effective strategy for empowering local low-income communities.

(4) Families in low-income communities have not attained their full potential as productive citizens, and Federal efforts thus far, have been insufficient to assist them in fully realizing that potential.

SEC. 2. PROGRAM AUTHORITY.

The Secretary of Health and Human Services (in this subtitle referred to as the "Secretary") may make grants to eligible may make grants to eligible service providers in one or more political subdivisions of a State containing an area designated as an empowerment zone, as authorized under the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66), that have submitted an approved plan to establish advisory organization in low-in-come communities within the political subdivision containing an empowerment zone which will serve as umbrella agencies for strategic planning and evaluation of service programs serving the low-income communities in which the advisory organization operates.

SEC. 3. PROGRAM REQUIREMENTS.

Each advisory organization established as described in section 2 shall—

(1) provide a permanent multi-issue forum for public policy discussion which will serve as part of a stable infrastructure of community outreach and support,

(2) develop a mechanism by which local support service providers may be evaluated and assessed in the level of service they provide to the community, and which establishes a method for advisory organization participants to review and participate in efforts to maintain or increase the quality of services provided by such providers,

(3) create an Family Outreach Team approach which provides a youth worker, a parent worker, and a school-parent organizer to provide training in outreach, mentoring, community organizing and peer counseling and mentoring to locally recruited volunteers in a particular area. The Family Outreach Team assists such volunteers in outreach, development and coordination of service delivery from among the service providers in the area, including the schools,

(4) establish processes by which local public agencies can effectively involve the private sector in the provision of services that meet the needs of local communities,

(5) establish processes of coalition building in which diverse groups within low-income communities attempt to low-income communities, and

(6) create a training program to foster community-based leadership in low-income communities.

SEC. 4. ELIGIBLE PROVIDERS.

Consortia of public and private nonprofit local social service organizations that have a proven ability to involve disparate populations of low-income citizens and competing service providers are eligible to receive grants under section 2.

SEC. 5. APPLICATIONS.

Applications may be submitted, for approval by the Secretary, by eligible service providers at such time and in such manner as the Secretary may reasonably require. Such applications shall contain—

(1) assurances that selection of participants, organizations, and citizens will not be on the basis of religious preference or affiliation,

(2) assurances that participating organizations and citizens will not offer services based on any religious preference or affiliation, and

(3) assurances that such service provides will, to the extent practicable, involve participation by citizens not traditionally involved in such activities, including homeless individuals, alcohol- and drug-addicted individuals, and gang involved or violent youth.

SEC. 6. EVALUATION.

The Secretary shall commence a program to evaluate the success and effectiveness of this program 2 years after the program has received an appropriation, and such evaluation shall be completed no later than 1 year after the second program year has been completed. A report thereon shall be submitted to the Congress within 60 days of the completion of the evaluation.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as are necessary for each of fiscal years 1996, 1997, and 1998 to carry out this subtitle.

SUBTITLE —GANG PREVENTION SERVICES FOR BOYS AND GIRLS

SEC. 1. FINDINGS.

The Congress finds that—

(1) services provided through existing federally supported gang prevention programs do not adequately address the needs of boys and girls in communities with high levels of gang activity and other barriers to service (such as large concentrations of minority populations that have limited English speaking proficiency, geographically isolated populations, and communities in which social service providers are limited or nonexistent);

(2) children that are exposed to gang activity at an early age are more likely to become gang-involved than children who are exposed to such activity later in life, or children that are never exposed to such activity;

(3) gangs are increasingly targeting younger children for recruitment, especially children at middle schools and elementary schools;

(4) Federal studies indicate that violent crime has increased more significantly in the gang population compared to the adult population; and

(5) small community-based service agencies with strong ties to the educational and law enforcement systems offer the best chance to prevent young children from becoming involved in gangs.

SEC. 2. PROGRAM AUTHORITY.

The Administrator of the Office of Juvenile Justice and Delinquency Prevention (hereafter referred to as the "Administrator"), in consultation with the Department of Education and the Department of Health and Human Resources, may make grants to eligible service providers to carry out programs that prevent young children from becoming gang involved. In making such grants, the Administrator shall give a priority to eligible service providers that have a proven track record of serving young children and have an overall budget of not more than $750,000 a fiscal year, prior to receiving a grant under this section.

SEC. 3. PROGRAM REQUIREMENTS.

The eligible service providers receiving a grant under section 2 shall—

(1) provide a comprehensive array of support services to assist the participants to reach their full potential as a contributing law-abiding citizen (such support services may include, but not be limited to: education and health services; career development training; music/art/drama activities; physical fitness training; life skills training; mental health counseling; and job placement counseling);

(2) to the extent practical, involve the parents and other family members of participating children, and the members of local organizations that support the educational and law enforcement institutions of the community, as is appropriate, in the administration and operation of the gang prevention program;

(3) utilize community resources and related support services as needed in the operation of the program;

(4) accept referrals from public institutions, as is appropriate, such as law enforcement, mental health, local school systems, and other entities of local government; and

(5) utilize volunteer staff, including participants in programs funded under the National and Community Service Program, Public Law 103-62, to the maximum extent practicable in the operation of the program.

SEC. 4. ELIGIBLE PROVIDERS.

Community-based service providers, as defined in the Juvenile Justice and Delinquency Prevention Act of 1974, that have a proven track record of providing services to children ages 5 to 18 shall be eligible to apply for funds under this subtitle. A priority shall be given to those service providers that have a history of providing services uniquely designed to meet the needs of young children such as the Boys and Girls Clubs of America or service providers that display the potential for providing such targeted services.

SEC. 5. ELIGIBLE PARTICIPANTS.

Children that have the potential, because of community composition and other factors, to come into contact with gangs, or who have a family member that has come into contact with a gang, and are not more than 18 years old at the time of entry into the program, shall be eligible to receive services provided by programs receiving assistance under this subtitle.

SEC. 6. APPLICATIONS PROCESS.

Eligible service providers may submit to the Administrator, for approval, an application in such form at such time as the Administrator deems appropriate.

SEC. 7. EVALUATION.

The Administrator shall conduct an evaluation of the effectiveness of the program model grants authorized under this subtitle, and the extent to which it can be replicated by other local communities. The Administrator shall report to the Congress no later than January 1, 1999, on the details of such evaluations.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as may be necessary for fiscal years 1996, 1997, and 1998 to carry out this subtitle.

SUBTITLE —ANTICRIME YOUTH COUNCILS

SEC. . PURPOSE.

The purpose of this subtitle is to provide for the establishment of youth anticrime councils to give intermediate and secondary school students a structured forum through which to work with community organizations, law enforcement officials, government and media representatives, and school administrators and faculty to address issues regarding youth and violence. The purpose of such councils is to empower local youth and ensure that their recommendations for preventing youth involvement in crime and violence will be heard and possibly incorporated into community anticrime strategies.

SEC. . AUTHORITY TO MAKE GRANTS.

The Administrator of the Office of Juvenile Justice and Delinquency Prevention (in this subtitle referred to as the "Administrator") may make grants to public and nonprofit community-based organizations to establish regional anticrime youth councils each of which is composed of intermediate and secondary school students who represent all the schools in a separate congressional district.

SEC. . APPLICATIONS FOR GRANTS.

To request a grant under section 2, a public and nonprofit community-based organizations shall submit to the Administrator an application in such form and containing such information as the Administrator may require by rule, including assurances that—

(1) the anticrime youth council with respect to which such grant is requested will be—

(A) selected by a teacher or administrator of an intermediate or secondary school in the congressional district involved, in consultation with teachers and administrators of other intermediate and secondary schools in such district,

(B) composed of not more than 5 students from each of the intermediate and secondary schools in such district, selected as described in paragraph (1) from among individuals who have first-hand knowledge of issues and problems relating to students who attend schools in such district,

(C) supervised by an individual who—

(i) is familiar with issues regarding youth violence,

(ii) has strong ties to the communities in such district and to the organizations with which such council will interact, and

(iii) will be responsible for coordinating the dissemination of information to such council, supervising council meetings, and acting as a liaison between such council and communities in such district, and (D) meet not less frequently than monthly—

(i) to discuss issues of concern, including youth crime, school violence, job creation, and recreation, and

(ii) to develop creative solutions for assisting community organizations, laws enforcement officials, school officials, government officials, and others to address such issues, and

(2) the applicant will submit to the Administrator a report, not later than 180 days after the first year for which such applicant receives a grant under section 2, that—

(A) specifies the number of students and schools involved and represented on such council,

(B) specifies the number of organizations and individuals that council and its subcommittees met with,

(C) specifies the number of grants, policies, and programs submitted to the youth council for review and recommendation,

(D) contains evidence that—

(i) the community has consulted such council and adopted its recommendations, and

(ii) a grant review process has been established within a school system or police department that includes an evaluation by the youth council,

(E) describes the effect that participation on such council has had on the student representatives, (such as improved school attendance and academic performance, and decreased criminal involvement),

(F) describes the effect that participation on such council has had on the participating schools (such as decrease in incidence of school violence),

(G) describes the extent to which other students attended council and subcommittee meetings, and participated as members of the audience in such council's activities,

(H) describes the extent to which family service, youth service, and the education, police health, and judicial departments within such district coordinate anticrime efforts as a result of the recommendations and programs of such council,

(I) describing the extent to which such council raises public awareness and knowledge, via the media, about youth violence and such council's efforts to help prevent it.

SEC. . SECTION OF GRANT RECIPIENTS.

For the purpose of selecting eligible applicants to receive grants under section 2, the Administrator shall take into consideration—

(1) the extent to which all schools in a congressional district are represented on the proposed youth anticrime council,

(2) the extent to which youth crime and violence are an issue of concern in such district,

(3) the extent to which the community is committed to coordinating and meeting with the youth councils, and

(4) the extent to which the students selected to serve on such council are representative of the geographical area and knowledgeable about the issues that such council will consider.

SEC. . AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $5,000,000 for fiscal year 1995, and such sums as may be necessary for fiscal years 1996, 1997, and 1998, to carry out this subtitle.

AMENDMENT OFFERED BY MR. ABERCROMBIE

At the end add the following:

TITLE —TRAVELER PROTECTION

SEC. . AUTHORITY TO INVESTIGATE VIOLENT CRIMES AGAINST TRAVELERS

(a) Chapter 33 of title 28, United States Code, is amended by adding at the end the following:

"§ 540A. Investigation of violent crimes against travelers

"(a) Upon the request of an appropriate law enforcement official of a State or political subdivision, the Attorney General and the Federal Bureau of Investigation may assist in the investigation of a felony crime of violence in violation of the law of any State in which the victim appears to have been selected because he or she is a traveler. In a case in which the traveler is from a foreign nation, the Department of Justice and, where appropriate, the Department of State shall assist the prosecuting and law enforcement officials of a State or political subdivision to the fullest extent possible in securing from abroad such evidence or other information as may be needed for the effective investigation and prosecution of the crime.

"(b) For purpose of this section—

"(1) the term 'felony crime of violence' means an offense punishable by more than one year in prison that has as an element the use, attempted use, or threatened use of physical force against the person of another;

"(2) and for purposes of section 540, the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

"(3) the term 'traveler' means a person who is not a resident of the State in which the crime of violence occurred.".

(b) The chapter analysis for chapter 33 of title 28, United States Code, is amended by adding at the end the following:

"540A. Investigation of violent crimes against travelers.".

AMENDMENT OFFERED BY MR. SCOTT

Page 172, line 15, strike "or".

Page 172, line 17, strike the period and insert "; or".

Page 172, after line 17, insert the following: "(C) job program to prevent crime."

AMENDMENT OFFERED BY MR. BONILLA

Page 386, after line 16 (at the end of the bill), add the following new title (and amend the table of titles accordingly):

TITLE XXIV—STUDY AND REPORT BY ATTORNEY GENERAL

SEC. 2401. STUDY AND REPORT BY ATTORNEY GENERAL.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Attorney General shall make a study and submit a report of the results of that study to the Congress. Such study shall—

(1) address how to ease the overcrowding at traditional style prisons by allowing for the processing of new convicts and the housing of non-violent, elderly, and short-term Federal, State, and local inmates in prefabricated, temporary, or portable structures within a secure area; and

(2) determine what legal requirements may exist on the use of such structures for these purposes and suggest legislative measures or other appropriate actions to modify or eliminate those requirements.

(b) ACTION BY THE ATTORNEY GENERAL.—Not later 2 years after the report referred to in subsection (a) is submitted to the Congress, the Attorney General shall implement the actions recommended in the report.

AMENDMENT OFFERED BY MR. SMITH OF MICHIGAN

Page 34, line 13, after "(7)" insert "if applicable,".

AMENDMENT OFFERED BY MR. INSLEE

At the appropriate place insert the following new title:

TITLE XXXX. CRIMINAL ALIENS.

SECTION XXX1. CONGRESSIONAL FINDINGS.

The Congress makes the following findings:

(1) The Federal Government is responsible for controlling illegal immigration into the United States.

(2) Many States and localities are burdened with the financial costs of housing and processing aliens who are unlawfully within the United States and who are charged with violating criminal statutes.

(3) The Immigration and Naturalization Service is not permitted under current law to accept local and State assistance in its deportation responsibilities.

(4) Many communities with criminal alien populations would like to expedite the deportation of aliens who are charged with violating criminal statutes and who are either unlawfully within the United States or willing to submit to voluntary deportation under safeguard.

SEC. XXX2. AUTHORITY TO ACCEPT CERTAIN ASSISTANCE.

(A) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, the Attorney General, in the discretion of the Attorney General, is authorized to accept, hold, administer, and utilize gifts of property and services (which may not include cash assistance) for the purpose of assisting the Immigration and Naturalization Service in carrying out the deportation of aliens who are subject to charges for misdemeanor or felony crimes under State or Federal law and who are either unlawfully within the United States or willing to submit to voluntary deportation under safeguard. Any property acquired pursuant to this section shall be acquired in the name of the United States.

(b) LIMITATION.—The Attorney General shall terminate or rescind the excise of the authority under subsection (a) if the Attorney General determines that the exercise of such authority has resulted in discrimination in law enforcement on the basis of race, color, or national origin.

AMENDMENT TO BE OFFERED BY MR. FILNER

Page 378, line 25, strike "and", in line 4 on page 379 strike the period and insert "; and"; and after line 4 on page 379 insert the following:

"(14) to reduce the incidence of graffiti and to promote graffiti removal, prevention, and education programs.

AMENDMENT OFFERED BY MR. HALL OF OHIO

Page 233, line 7, after the quotation marks insert "victims assistance programs,".

AMENDMENT OFFERED BY MR. BECERRA

At the end insert the following new title:

TITLE XXIV—IMMIGRATION PROVISIONS

SEC. 2401. EXPEDITED DEPORTATION FOR DENIED ASYLUM APPLICANTS.

(A) The Attorney General may provide for the expeditious adjudication of asylum claims and the expeditious deportation of asylum applications whose applications have been finally denied, unless the applicant remains in an otherwise valid nonimmigrant status.

(b) There are authorized to be appropriated to carry out this section, such sums as are necessary for each of fiscal year 1994, 1995, 1996, 1997, and 1998.

SEC. 2402. IMPROVING BORDER CONTROLS.

(a) There are authorized to be appropriated such sums as are necessary to increase the Immigration and Naturalization Service's resources for the Border Patrol, the Inspections Program, and the Department Branch to apprehend illegal aliens who attempt clandestine entry into the United States or entry into the United States with fraudulent documents or who remain in the country after their nonimmigrant visas expire.

(b) The Attorney General shall report to the Congress every two years on the programs referred to in subsection (a).

SEC. 2403. EXPANDED SPECIAL DEPORTATION PROCEEDINGS.

(a) Subject to the availability of appropriations, the Attorney General may expand the program authorized by section 242A(d) of the Immigration and Naturality Act to ensure that such aliens are immediately deportable upon their release from incarceration.

(b) There are authorized to be appropriated such sums as necessary to carry out this section for each of fiscal years 1995 through 1998.

(c) The Attorney General shall report to the Congress every two years on the program referred to in subsection (a).

SEC. 2404. CONSTRUCTION OF INS SERVICE PROCESSING CENTERS TO DETAIN CRIMINAL ALIENS.

There are authorized to be appropriated such sums as are necessary in fiscal year 1996 to construct or contract for the construction of 2 Immigration and Naturalization Service Processing Centers to detain criminal aliens.

AMENDMENT OFFERED BY MR. WHEAT

At the end of the bill insert the following new title:

TITLE —COMMISSION ON CRIME AND VIOLENCE.

SEC. . FINDINGS.

The Congress finds that—

(1) there is no more important responsibility of government than the protection of the lives and property of its citizens;

(2) a violent crime occurs every 22 seconds in America;

(3) the Nation's law enforcement personnel and criminal justice system lack the resources they need to fully maintain law and order;

(4) the proliferation of drugs and guns in the last 3 decades has dramatically changed the nature of crime;

(5) it has been 27 years since the Brown Commission redefined the Federal Government's response to crime in America; and

(6) the Nation must commit itself to an energetic, innovative assault on the epidemic of crime in our society, including—

(A) alternative forms of sentencing to guarantee swift and sure punishment of criminals, including the Nation's growing number of youth offenders;

(B) initiatives by the public and private sectors designed to identify and alleviate the causes of criminal behavior; and

(C) an examination of current laws and law enforcement practices to determine where and how resources may be best utilized to fight crime, reduce burdens on courts and jails, and stop recidivism.

SEC. . ESTABLISHMENT OF COMMISSION ON CRIME AND VIOLENCE.

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Commission on Crime and Violence in America" (referred to as the "Commission").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 22 members, of whom—

(A) 6 shall be appointed by the President;

(B) 8 shall be appointed by the Speaker of the House of Representatives, of whom 2 shall be appointed on the recommendation of the minority leader; and

(C) 8 shall be appointed by the President pro tempore of the Senate, of whom 6 shall be appointed on the recommendation of the majority leader and 2 shall be appointed on the recommendation of the minority leader.

(2) GOALS IN MAKING APPOINTMENTS.—In appointing members of the Commission, the President, Speaker, President pro tempore, and the majority and minority leaders shall seek to ensure that—

(A) the membership of the Commission reflects the racial, ethnic, and gender diversity of the United States; and

(B) members are specially qualified to serve on the Commission by reason of their education, training, expertise, or experience in—

(i) sociology;

(ii) psychology;

(iii) law;

(iv) law enforcement;

(v) social work; and

(vi) ethnography and urban poverty, including health care, housing, education, and employment.

(3) DEADLINE.—Members of the Commission shall be appointed within 60 days after the date of enactment of this Act.

(4) TERM.—Members shall serve on the Commission through the date of its termination under section 8.

(5) MEETINGS.—The Commission—

(A) shall have its headquarters in the District of Columbia; and

(B) shall meet at least once each month for a business session.

(6) QUORUM.—Twelve members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(7) CHAIRPERSON AND VICE CHAIRPERSON.—Not later than 15 days after the members of the Commission are appointed, the members shall designate a Chairperson and Vice Chairperson of the Commission.

(8) VACANCIES.—A vacancy in the Commission shall be filled not later than 30 days after the Commission is informed of the vacancy in the manner in which the original appointment was made.

(9) COMPENSATION.—

(A) NO PAY, ALLOWANCE, OR BENEFIT.—Members of the Commission shall receive no pay, allowances, or benefits by reason of their service on the Commission.

(B) TRAVEL EXPENSES.—A member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. . DUTIES.

The Commission shall—

(1) review the effectiveness of traditional criminal justice approaches in preventing and controlling crime and violence;

(2) examine the impact that changes to Federal and State law have had in controlling crime and violence;

(3) examine the impact of changes in Federal immigration laws and policies and increased development and growth along United States international borders on crime and violence in the United States, particularly among our Nation's youth;

(4) examine the problem of youth gangs and provide recommendations on how to reduce youth involvement in violent crime;

(5) examine the extent to which assault weapons and high power firearms have contributed to violence and murder in the United States;

(6) convene hearings in various parts of the country to receive testimony from a cross section of criminal justice professionals, business leaders, elected officials, medical doctors, and other citizens that wish to participate;

(7) review all segments of the criminal justice system, including the law enforcement, prosecution, defense, judicial, corrections components, in developing the crime control and antiviolence plan;

(8) develop a comprehensive and effective crime control and antiviolence plan that will serve as a blueprint for action in the 1990's;

(9) bring attention to successful models and programs in crime prevention, crime control, and antiviolence;

(10) reach out beyond the traditional criminal justice community for ideas when developing the comprehensive crime control and antiviolence plan;

(11) recommend improvements in the coordination of Federal, State, local, and international border crime control efforts;

(12) make a comprehensive study of the economic and social factors leading to or contributing to crime and violence and specific proposals for legislative and administrative actions to reduce crime and violence and the elements that contribute to crime and violence; and

(13) recommend means of allocating finite correctional facility space and resources to the most serious and violent offenders, with the goal of achieving the most cost-effective crime control and protection of the community and public safety, after—

(A) examining the issue of disproportionate incarceration rates among black males and any other minority group disproportionately represented in Federal and State correctional populations; and

(B) considering increased use of alternatives to incarceration that offer a reasonable prospect of equal or better crime control at equal or less cost than incarceration.

SEC. . STAFF AND SUPPORT SERVICES.

(a) DIRECTOR.—

(1) APPOINTMENT.—After consultation with the members of the Commission, the Chairperson shall appoint a director of the Commission (referred to as the "Director").

(2) COMPENSATION.—The Director shall be paid at a rate not to exceed the rate of basic pay for level V of the Executive Schedule.

(b) STAFF.—With the approval of the Commission, the Director may appoint such personnel as the Director considers to be appropriate.

(c) CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(d) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(e) STAFF OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, personnel of that agency to the Commission to assist in carrying out its duties.

(f) PHYSICAL FACILITIES.—The Administrator of the General Services Administration shall provide suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for proper functioning.

SEC. . POWERS.

(a) HEARINGS.—The Commission may conduct public hearings or forums at its discretion, at any time and place it is able to secure facilities and witnesses, for the purpose of carrying out its duties.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure from any Federal agency or entity in the executive or legislative branch such materials, resources, statistical data, and other information as is necessary to enable it to carry out this Act. Upon request of the Chairperson or Vice Chairperson of the Commission, the head of a Federal agency or entity shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. . REPORTS.

(a) MONTHLY REPORTS.—The Commission shall submit monthly activity reports to the President and the Congress.

(b) INTERIM REPORT.—Not later than 1 year before the date of its termination, the Commission shall submit an interim report to the President and the Congress containing—

(1) a detailed statement of the findings and conclusions of the Commission;

(2) recommendations for legislative and administrative action based on the Commission's activities to date;

(3) an estimation of the costs of implementing the recommendations made by the Commission; and

(4) a strategy for disseminating the report to Federal, State, and local authorities.

(c) FINAL REPORT.—Not later than the date of its termination, the Commission shall submit to the Congress and the President a final report with a detailed statement of final findings, conclusions, recommendations, and estimation of costs and an assessment of the extent to which recommendations included in the interim report under subsection (b) have been implemented.

(d) PRINTING AND PUBLIC DISTRIBUTION.—Upon receipt of each report of the Commission under this section, the President shall—

(1) order the report to be printed; and

(2) make the report available to the public.

SEC. . TERMINATION.

The Commission shall terminate on the date that is 2 years after the date on which members of the Commission have met and designated a Chairperson and Vice Chairperson.

AMENDMENT OFFERED BY MR. VENTO

Page 115, line 13, after "Secretary of Agriculture" insert "Secretary of the Interior,".

AMENDMENT OFFERED BY MR. WISE

At page 386, after line 16, add the following new title:

TITLE XXIV—MISCELLANEOUS

SEC. 24 . EDWARD BYRNE MEMORIAL FORMULA GRANT PROGRAM.

Nothing in this Act shall be construed to prohibit or exclude the expenditure of appropriations to grant recipients who would have been or are eligible to receive grants under subpart 1 of part E of the Omnibus Crime Control and Safe Streets Act of 1968.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Page 233, after line 8, insert the following new subtitle:

Subtitle L—Urban Recreation and At-Risk Youth

SEC. 1099. FINDINGS.

Section 1002 of the Urban Park and Recreation Recovery Act of 1978 is amended by striking "and" at the end of subsection (d), by striking the period at the end of subsection (e) and inserting "; and" and by adding the following at the end thereof:

"(f) the quality of life in urban areas has suffered because of decline in the availability of park and recreation systems, including land, facilities, and services;

"(g) the deterioration of urban park and recreation facilities is due in part to the underfunding of Federal grant programs intended to assist in the revitalization of urban recreation facilities and allow us to take back our parks from crime, vandalism, and dilapidation;

"(h) the urban neighborhoods eligible for assistance under this title have deteriorated, in part, due to the rapid increase in violent crime among youth;

"(i) accessible, well-maintained recreational facilities and services have been shown to significantly decrease the incidence of violent crime among youth and can be an effective tool in efforts to prevent crime, increase public safety and improve the quality of life of urban residents; and

"(j) urban sport and recreation programs teach important values and life skills including teamwork, individual responsibility, respect, leadership, and self-esteem which help prevent young people from engaging in criminal behavior.".

SEC. 1099A. PURPOSE OF ASSISTANCE.

Section 1003 of the Urban Park and Recreation Recovery Act of 1978 is amended by adding the following at the end thereof: "It is further the purpose of this title to improve recreation facilities and expand recreation services in urban areas with a high incidence of crime and to help deter crime through the expansion of recreation opportunities for at-risk youth. It is the further purpose of this section to increase the security of urban parks and to promote collaboration between local agencies involved in parks and recreation, law enforcement, youth social services, and the juvenile justice system.".

SEC. 1099B. DEFINITIONS.

Section 1004 of the Urban Park and Recreation Recovery Act of 1978 is amended by inserting the following new subsection after subsection (c) and by redesignating subsections (d) through (j) as (e) through (k) respectively:

"(d) 'at-risk youth recreation grants' means—

"(1) rehabilitation grants,

"(2) innovation grants, or

"(3) matching grants for continuing program support for programs of demonstrated value or success in providing constructive alternatives to youth at risk for engaging in criminal behavior, including grants for operating, or coordinating recreation programs and services;

in neighborhoods and communities with a high prevalence of crime, particularly violent crime or crime committed by youthful offenders, in addition to the purposes specified in subsection (b), rehabilitation grants referred to in paragraph (1) of this subsection may be used for the provision of lighting, emergency phones or other capital improvements which will improve the security of urban parks;".

SEC. 1099C. CRITERIA FOR SELECTION.

Section 1005 of the Urban Park and Recreation Recovery Act of 1978 is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting "; and" and by adding the following at the end thereof:

"(8) in the case of at-risk youth recreation grants, the Secretary shall give a priority to each of the following criteria:

"(A) Programs which are targeted to youth who are at the greatest risk of becoming involved in violence and crime.

"(B) Programs which teach important values and life skills, including teamwork, respect, leadership, and self-esteem.

"(C) Programs which offer tutoring, remedial education, mentoring, and counseling in addition to recreation opportunities.

"(D) Programs which offer services during late night or other nonschool hours.

"(E) Programs which demonstrate collaboration between local park and recreation, juvenile justice, law enforcement, and youth social service agencies and nongovernmental entities, including the private sector and community and nonprofit organizations.

"(F) Programs which leverage public or private recreation investments in the form of services, materials, or cash.

"(G) Programs which show the greatest potential of being continued with non-Federal funds or which can serve as models for other communities.".

SEC. 1099D. PARK AND RECREATION ACTION RECOVERY PROGRAMS.

Section 1007(b) of the Urban Park and Recreation Recovery Act of 1978 is amended by adding the following at the end thereof: "In order to be eligible to receive 'at-risk youth recreation grants' a local government shall amend its 5-year action program to incorporate the goal of reducing crime and juvenile delinquency and to provide a description of the implementation strategies to achieve this goal. The plan shall also address how the local government is coordinating its recreation programs with crime prevention efforts of law enforcement, juvenile corrections, and youth social service agencies.".

SEC. 1099E. MISCELLANEOUS AND TECHNICAL AMENDMENTS.

(a) Program Support.—Section 1013 of the Urban Park and Recreation Recovery Act of 1978 is amended by inserting "(a) In General.—" after "1013" and by adding the following new subsection at the end thereof:

"(b) Program Support.—Not more than 25 percent of the amounts made available under this title to any local government may be used for program support."

(b) Extension.—Section 1003 of the Urban Park and Recreation Recovery Act of 1978 is amended by striking "for a period of five years" and by striking "short-term".

AMENDMENT OFFERED BY MR. FAZIO

Add at the appropriate place in the bill the following:

SEC. . FUNDING FOR RURAL AREAS.

It is the sense of Congress that—

(1) the Attorney General should ensure that funding for programs in this Act is distributed such that rural areas continue to receive comparable support for their broad-based crime fighting initiatives;

(2) rural communities should not receive less funding than they receive in fiscal year 1994 for anti-crime initiatives as a result of any legislative or administrative actions; and

(3) to the maximum extent possible, funding for the Edward Byrne Memorial State and Local Law Enforcement Assistance Program should be maintained at its fiscal year 1994 level.

AMENDMENT OFFERED BY MR. STRICKLAND

Page 33, line 18, after "includes" insert "appropriate professional training for corrections officers in dealing with violent repeat offenders,".

AMENDMENT OFFERED BY MR. BROOKS

Page 34, after line 16, insert the following:

(c) Consideration.—The Attorney General, in making such grants, shall give consideration to the special burden placed on States which incarcerate a substantial number of inmates who are in the United States illegally.

Page 34, line 17, strike "(c)" and insert "(d)".

Page 117, line 23, strike "Resources" and insert "Services".

Page 134, line 21, strike "or" the second place it appears and insert "a".

Page 154, line 18, strike "of" and insert "to".

Page 165, beginning in line 13, strike "sections 1065 and" and insert "section".

Page 166, line 23, strike "or Triad program".

Page 167, line 12, strike "Triad".

Page 167, line 20, strike "Triad endeavors" and insert "the program".

Page 167, line 24, strike "Triad" and insert "program's".

Page 169, line 4, strike "Triad".

Page 170, line 24, strike "Triad".

Page 221, line 10, insert "Youth" before "Employment".

Page 222, line 18, strike "youth age 14 to 15" and insert "youths of age 14 or 15".

Page 225, line 15, strike "youth" and insert "young".

Page 226, line 10, strike "youth" and insert "youths".

Page 226, line 16, strike "youth" and insert "youths".

AMENDMENT OFFERED BY MS. LONG

At the end of the bill, insert the following new title:

TITLE —RURAL CRIME

Subtitle A—Drug Trafficking in Rural Areas

SEC. . AUTHORIZATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) Authorization of Appropriations.—Section 1001(a)(9) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(9) There are authorized to be appropriated to carry out part O $50,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.".

(b) Amendment to Base Allocation.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "$100,000" and insert "$250,000".

SEC. . RURAL CRIME AND DRUG ENFORCEMENT TASK FORCES.

(a) Establishment.—Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, shall establish a Rural Crime and Drug Enforcement Task Force in each of the Federal judicial districts which encompass significant rural lands. Assets seized as a result of investigations initiated by a Rural Drug Enforcement Task Force shall be used primarily to enhance the operations of the task force and its participating State and local law enforcement agencies.

(b) Task Force Membership.—The task forces established under subsection (a) shall be chaired by the United States Attorney for the respective Federal judicial district. The task forces shall include representatives from—

(1) State and local law enforcement agencies;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Immigration and Naturalization Service;

(5) the Customs Service;

(6) the United States Marshals Service; and

(7) law enforcement officers from the United States Park Police, United States Forest Service and Bureau of Land Management, and such other Federal law enforcement agencies as the Attorney General may direct.

SEC. . CROSS-DESIGNATION OF FEDERAL OFFICERS.

(a) In General.—The Attorney General may cross-designate up to 100 law enforcement officers from each of the agencies specified under section 1502(b)(6) of the Omnibus Crime Control and Safe Streets Act of 1968 with jurisdiction to enforce the provisions of the Controlled Substances Act on non-Federal lands and title 18 of the United States Code to the extent necessary to effect the purposes of this Act.

(b) Adequate Staffing.—The Attorney General shall, subject to the availability of appropriations, ensure that each of the task forces established in accordance with this title are adequately staffed with investigators and that additional investigators are provided when requested by the task force.

SEC. . RURAL DRUG ENFORCEMENT TRAINING.

(a) Specialized Training for Rural Officers.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction developed to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) Authorization of Appropriations.—There are authorized to be appropriated to carry out subsection (a) $1,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.

SEC. . MORE AGENTS FOR THE DRUG ENFORCEMENT ADMINISTRATION.

There are authorized to be appropriated for the hiring of additional Drug Enforcement Administration agents $20,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.

Subtitle B—Drug Free Truck Stops and Safety Rest Areas

SEC. . DRUG FREE TRUCK STOPS AND SAFETY REST AREAS.

(a) Short Title.—This section may be cited as the "Drug Free Truck Stop Act".

(b) Amendment to Controlled Substances Act.—

(1) In general.—Part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"Sec. 409. (a) Definitions.—In this section—

"'safety rest area' means a roadside facility with parking facilities for the rest or other needs of motorists.

"'truck stop' means a facility (including any parking lot appurtenant thereto) that—

"(A) has the capacity to provide fuel or service, or both, to any commercial motor vehicle (as defined under section 12019 of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2716)) operating in commerce (as defined in that section); and

"(B) is located within 2,500 feet of the National System of Interstate and Defense Highways or the Federal-Aid Primary System.

"(b) FIRST OFFENSE.—A person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or safety rest area is (except as provided in subsection (b)) subject to—

"(1) twice the maximum punishment authorized by section 401(b); and

"(2) twice any term of supervised release authorized by section 401(b) for a first offense.

"(c) SUBSEQUENT OFFENSE.—A person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is subject to—

"(1) 3 times the maximum punishment authorized by section 401(b); and

"(2) 3 times any term of supervised release authorized by section 401(b) for a first offense.".

(2) TECHNICAL AMENDMENTS.—

(A) CROSS REFERENCE.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by inserting "409," before "418," each place it appears.

(B) TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking the item relating to section 409 and inserting the following new item:

"Sec. 409. Transportation safety offenses.".

(c) SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide an appropriate enhancement of punishment for a defendant convicted of violating section 409 of the Controlled Substances Act, as added by subsection (b).

Subtitle C—Rural Domestic Violence and Child Abuse Enforcement

SEC. . RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT ASSISTANCE.

(a) GRANTS.—The Attorney General may make grants to units of State and local governments of rural States, and to other public or private entities of rural States—

(1) to implement, expand, and establish cooperative efforts and projects between law enforcement officers, prosecutors, victim advocacy groups, and other related parties to investigate and prosecute incidents of domestic violence and child abuse;

(2) to provide treatment and counseling to victims of domestic violence and child abuse; and

(3) to work in cooperation with the community to develop education and prevention strategies directed toward such issues.

(b) DEFINITION.—In this section, "rural State" has the meaning stated in section 1501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb(B)).

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1995, 1996, and 1997.

(2) ADDITIONAL FUNDING.—In addition to funds received under a grant under subsection (a), a law enforcement agency may use funds received under a grant under section 103 to accomplish the objectives of this section.

AMENDMENT OFFERED BY MR. ROSTENKOWSKI

Add at the end of title X the following:

TITLE —BOYS AND GIRLS CLUBS IN PUBLIC HOUSING

SEC. 1. ESTABLISHMENT.

The Secretary for Housing and Urban Development, in consultation with the Attorney General, shall enter into contracts with the Boys and Girls Clubs of America, a national nonprofit youth organization to establish Boys and Girls Clubs in public housing.

SEC. 2. REPORT.

By May 1 of each fiscal year for which funds for this section are provided, the Secretary of Housing and Urban Development shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives that details the progress of establishing boys and girls clubs in public housing and the effectiveness of the programs in reducing drug abuse and gang violence.

SEC. 3. AUTHORIZATION OF APPROPRIATION.

There are authorized to be appropriated the following sums to carry out this section—

(1) $12,000,000 for fiscal year 1995;

(2) 12,000,000 for fiscal year 1996; and

(3) 12,000,000 for fiscal year 1997.

AMENDMENT OFFERED BY MR. FRANK OF MASSACHUSETTS

At the end, add the following:

TITLE —PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES

SEC. . PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.

Section 2320(a) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by striking "$250,000 or imprisoned not more than five years" and inserting "$2,000,000 or imprisoned not more than 10 years"; and

(B) by striking "$1,000,000" and inserting "$5,000,000";

(2) in the second sentence—

(A) by striking "$1,000,000 or imprisoned not more than fifteen years" and inserting "$5,000,000 or imprisoned not more than 20 years"; and

(B) by striking "$5,000,000" and inserting "$15,000,000";

AMENDMENT OFFERED BY MR. MCCANDLESS

At the end of the bill add the following:

TITLE —MILITARY MEDALS AND DECORATIONS

SEC.

That section 704 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever";

(2) by striking "not more than $250" and inserting "under this title"; and

(3) by adding at the end the following:

"(b)(1) If the decoration or medal involved in an offense under subsection (a) of this section is a Congressional Medal of Honor, in lieu of the punishment provided in such subsection the offender shall be fined under this title or imprisoned not more than one year, or both.

"(2) As used in subsection (a) of this section with respect to a Congressional Medal of Honor, the term 'sells' includes trades, barters, or exchanges for anything of value.

"(3) As used in this subsection, the term 'Congressional Medal of Honor' is a medal awarded under section 3741 of title 10.".

AMENDMENT OFFERED BY MR. KENNEDY

At the end of title 10, insert the following:

Subtitle —Community-Based Justice Grants for Local Prosecutors

SEC. . GRANT AUTHORIZATION.

The Attorney General may make grants to local prosecutors for the purpose of supporting the creation or expansion of community-based justice programs.

SEC. . USE OF FUNDS.

Grants made by the Attorney General under this section shall be used—

(1) to fund programs that require the cooperation and coordination of prosecutors, school officials, police, probation officers, youth and social service professionals, and community members in the effort to reduce the incidence of, and increase the successful identification and speed of prosecution of, young violent offenders;

(2) to fund programs in which prosecutors focus on the offender, not simply the specific offense, and impose individualized sanctions, designed to deter that offender from further antisocial conduct, and impose increasingly serious sanctions on a young offender who continues to commit offenses; and

(3) to fund programs that coordinate criminal justice resources with educational, social service, and community resources to develop and deliver violence prevention programs, including mediation and other conflict resolution methods, treatment, counselling, educational, and recreational programs that create alternatives to criminal activity.

SEC. APPLICATIONS.

(a) ELIGIBILITY.—In order to be eligible to receive a grant under this part for any fiscal year, a local prosecutor, in conjunction with the mayor from the jurisdiction in which the program will be placed, shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(b) REQUIREMENTS.—Each applicant shall include—

(1) a request for funds for the purposes described in section ;

(2) a description of the communities to be served by the grant, including the nature of the youth crime and violence problems within such communities;

(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this section; and

(4) statistical information in such form and containing such information that the Attorney General may require.

(c) COMPREHENSIVE PLAN.—Each applicant shall include a comprehensive plan that shall contain—

(1) a description of the youth violent crime problem;

(2) an action plan outlining how the applicant will achieve the purposes as described in section 1;

(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the

plan that cannot be filled with existing resources; and

(4) a description of how the requested grant will be used to fill gaps.

SEC. . ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

(a) ADMINISTRATIVE COST LIMITATION.—The Attorney General shall use not more than 5 percent of the funds available under this program for the purposes of administration and technical assistance.

(b) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant under this part, subject to the availability of funds, if—

(1) the Attorney General determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application; and

(2) the Attorney General determines that an additional grant is necessary to implement the community prosecution program described in the comprehensive plan required by section 2.

SEC. . AWARD OF GRANTS.

The Attorney General shall consider the following factors in awarding grants:

(1) Demonstrated need and evidence of the ability to provide the services described in the plan required under section .

(2) The Attorney General shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

SEC. . REPORTS.

(a) REPORT TO ATTORNEY GENERAL.—Local prosecutors that receive funds under this shall submit to the Attorney General a report not later than March 1 of each year that describes progress achieved in carrying out the plan described under section 2(c).

(b) REPORT TO CONGRESS.—The Attorney General shall submit to the Congress a report by October 1 of each year in which grants are made available under this which shall contain a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by applicants, and an evaluation of programs established under this .

SEC. . AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $20,000,000 for each of the fiscal years 1995 through 1999 to carry out the purposes of this .

SEC. . DEFINITIONS.

The term "young violent offender" means individuals, ages 7–22, who have committed crimes of violence, weapons offenses, drug distribution, hate crimes and civil rights violations, and offenses against personal property of another.

AMENDMENT OFFERED BY MR. OWENS

At the end of the bill add the following (and make such technical and conforming changes as may be necessary):

TITLE XXIV—AGE DISCRIMINATION IN EMPLOYMENT

SEC. 2401. REENACTMENT OF SUBSECTION WITH AN AMENDMENT.

(A) REENACTMENT.—Section 4(j) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(j)) as in effect immediately before December 31, 1993, is hereby reenacted.

(b) AMENDMENT.—Section 4(j) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(j)), as reenacted by subsection (a) of this section, is amended by striking "attained the age" and all that follows through "1983, and", and inserting the following:

"attained—

"(A) the age of hiring or retirement in effect under applicable State or local law on March 3, 1983; or

"(B) if the age of retirement was not in effect under applicable State or local law on March 3, 1983, 55 years of age; and".

(c) RETROACTIVITY.—Subsections (a) and (b) shall take effect immediately after the operation of section 3(b) of the Age Discrimination in Employment Amendments of 1986 (Public Law 99–592; 29 U.S.C. 523 note).

SEC. 2402. STUDY AND GUIDELINES FOR PERFORMANCE TESTS.

(a) STUDY.—Not later than 3 years after the date of enactment of this Act, the Chairman of the Equal Employment Opportunity Commission (in this section referred to as "the Chairman") shall conduct, directly or by contract, a study that will include—

(1) a list and description of all tests available for the assessment of abilities important for completion of public safety tasks performed by law enforcement officers and firefighters,

(2) a list of such public safety tasks for which adequate tests do not exist,

(3) a description of the technical characteristics that performance tests must meet to be compatible with applicable Federal civil rights Acts and policies,

(4) a description of the alternative methods available for determining minimally acceptable performance standards on the tests described in paragraph (1),

(5) a description of the administrative standards that should be met in the administration, scoring, and score interpretation of the tests described in paragraph (1), and

(6) an examination of the extent to which the tests described in paragraph (1) are cost effective, safe, and comply with Federal civil rights Acts and regulations.

(b) ADVISORY GUIDELINES.—Not later than 4 years after the date of enactment of this Act, the Chairman shall develop and issue, based on the results of the study required by subsection (a), advisory guidelines for the administration and use of physical and mental fitness tests to measure the ability and competency of law enforcement officers and firefighters to perform the requirements of their jobs.

(c) CONSULTATION REQUIREMENT; OPPORTUNITY FOR PUBLIC COMMENT.—(1) The Chairman shall, during the conduct of the study required by subsection (a), consult with—

(A) the United States Fire Administration,

(B) the Federal Emergency Management Agency,

(C) organizations that represent law enforcement officers, firefighters, and their employers, and

(D) organizations that represent older individuals.

(2) Before issuing the advisory guidelines required in subsection (b), the Chairman shall allow for public comment on the proposed guidelines.

(d) DEVELOPMENT OF STANDARDS FOR WELLNESS PROGRAMS.—Not later than 2 years after the date of the enactment of this Act, the Chairman shall propose advisory standards for wellness programs for law enforcement officers and firefighters.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000.

AMENDMENT OFFERED BY MR. EVANS

Page 34, line 12, strike "; and" and insert a semicolon, in line 16 strike the period and insert a semicolon, and after line 16 insert the following:

(8) assurances that the State or States have implemented, or will implement within 18 months after the date of the enactment of this Act, policies to determine the veteran status of inmates and to ensure that incarcerated veterans receive the veterans benefits to which they are entitled.

AMENDMENT OFFERED BY MR. RANGEL

Page 233, after line 8, insert the following:

SEC. . EXTENSION OF BYRNE GRANT FUNDING.

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1995, 1996, 1997, 1998, and 1999, to carry out the programs under parts D and E of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

AMENDMENT OFFERED BY MR. MANZULLO

Page 233, after line 8, add the following:

SEC. . BENEFITS FOR CHAPLAINS.

(a) IN GENERAL.—Section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by redesignating paragraphs (2) through (7) as (3) through (8), respectively;

(2) by inserting after paragraph (1) the following:

"(2) chaplain means any individual serving as an officially recognized or designated member of a legally organized volunteer fire department or legally organized police department, or an officially recognized or designated public employee of a legally organized fire or police department who was responding to a fire, rescue, or police emergency."; and

(3) in paragraph (8), as redesignated by paragraph (1) of this Act, by striking "or rescue squad or ambulance crew" and inserting "rescue squad or ambulance crew, or chaplain".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act and shall apply to injuries or deaths that occur in the line of duty on or after such date.

The CHAIRMAN. Under the rule, the en bloc amendments are considered as read.

Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] is recognized for 5 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER] is recognized for 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, of the amendments filed to H.R. 4092, I believe a number are noncontroversial and can be dealt with rather quickly. Because I think that this body should be given the chance to vote on them, I am now offering these amendments as an en bloc amendment.

My action is in no way meant to cut off debate on any of these important amendments. However, we do have many amendments to deal with, a whole bucket—I am told we may be on the floor for over 21 hours—and with this en bloc amendment, I am simply trying to move the process along.

The en bloc amendment before us includes amendments from both Republicans and Democrats. It ranges widely—covering many different subject areas—from Mr. PORTER's amendment requiring that the U.S. flag be flown at half staff on all Government buildings on Peace Officers Memorial Day to Congressman McCANDLESS' amendment strengthening penalties against illegal use of a Congressional Medal of Honor; from Congresswoman SLAUGHTER's amendment on a National Commission To Support Law Enforcement to Mr. LIVINGSTON's amendment requiring the Secretary of Defense and the Attorney General to study the suitability of converting military installations into prison facilities.

Congressman ABERCROMBIE's amendment allows local law enforcement officials the option to obtain Federal assistance in investigating violent crimes against travelers; Congressman BONILLA's amendment requires the Attorney General to study the issue of overcrowding in prisons. Ms. LONG, Mr. EWING, and Mr. BAESLER have provided a package to help rural areas deal with crime and drugs. Mr. RANGEL's amendment reauthorizes the Byrne Grant Program for 5 years, a matter of grant interest to many Members, I know both Republicans and Democrats. The list of amendments goes on, and I have noted just a few.

The list has been available since yesterday around 3 p.m.

I am sure that all of the Members included in the en bloc amendment care a lot about their individual amendments, and so do I. For those not now included, do not fear: Your time will come—later in the debate.

I thank all these Members for their efforts to perfect the bill and to assist in the fight against crime. I ask your support for the amendment.

Mr. Chairman, I reserve the balance of my time.

□ 1050

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the procedure that is being utilized in the consideration of these en bloc amendments is one of the things that is really an embarrassment to the House of Representatives. There are many very good ideas that are contained in the en bloc amendments, but they will drag along some really pretty bad ones and there is only going to be one vote up or down on this whole package.

First of all, this amendment further increases the unappropriated authorizations by approximately $460 million. That is almost one-half billion dollars more in spending, but no funding mechanism whatsoever. So this is once again a hollow promise that is being made at this time for some very worthwhile programs that Congress will undoubtedly not back up its promises with dollars to implement.

But also in this amendment there are a couple of really crazy amendments. Those who vote for this amendment will be voting for the Federal aid for graffiti prevention and removal. Can Members imagine a lower priority than to have the Federal Government borrow money at interest and run up the deficit and the national debt to provide aid to prevent and remove graffiti? But nonetheless, that is in here by a provision shoehorned in by the gentleman from California [Mr. FILNER].

I think I would be remiss in my duties as a Representative if I did not stand up and object to this procedure and object to spending the taxpayers' hard-earned dollars to establish a Federal program with a whole bunch of bureaucracy to decide which communities get grants for graffiti removal and prevention. I would hope that enough Members share this concern of mine to cast a protest no vote when I ask for a roll call in a few minutes.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman for yielding the time.

Mr. Chairman, there are many good amendments in this en bloc provision. I do not think that many of use are going to argue with 80 or 90 percent of the amendments that are in here. I agree with the gentleman from Wisconsin, there are two or three particularly egregious ones in here that add to what are already in title X, and add to the additional amount of money we are just spreading around for so-called root cause solution.

I would like to point out while there are also two or three amendments in here of a positive nature dealing with immigration, the Becerra amendment which is in this en bloc provision, while billed as something to correct the problems of illegal immigration and criminal aliens, does not really attack the criminal alien problem. It is not a substitute for legislation which would include authorizing a specific increase in border patrol agents or INS investigators, imposing effective limits on illegal alien access to Government benefits, and reforming employer sanctions to make them both more effective and less confusing for employers and employees alike; and criminal aliens, substantive legislation which would include swifter and more effective identification and deportation of deportable criminal aliens in State and local prisons, as well as Federal prisons. And it is certainly no substitute for asylum reform, which would include expedited exclusion, which we have offered in committee, and some of us would like to offer out here today.

It does include the Gilman proposal, and I would like to yield to the gentleman from New York [Mr. GILMAN] to explain that.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I welcome the opportunity to discuss and help to enact today the essence of legislation I have introduced, H.R. 3302, the Passport and Visa Offenses Penalties Improvement Act of 1993, as part of the en bloc amendments to the Violent Crime Control And Law Enforcement Act now before the House. I want to thank Chairman BROOKS, Mr. SOLOMON, Mr. HYDE, Mr. McCOLLUM, and Mr. SMITH of Texas of the Judiciary Committee, for their outstanding efforts to help enable most of the provisions of my bill being included in the en bloc amendments now before us. I was pleased the State Department also supported these increased penalties.

I look forward to working with the distinguished chairman of the Committee on Judiciary, and the other cosponsors and supporters of this important bill in exploring the possibility of providing badly needed asset forfeiture authority to the State Department, once the planned reform and current examination of our asset forfeiture laws are completed. I understand that such reform legislation is in the process of being developed following the uncertainty after a recent Supreme Court case and additional examinations of how this authority is being used today by our Federal law enforcement authorities.

Hopefully, any reform legislation moved through the Judiciary Committee, will present the opportunity to also provide this badly needed asset forfeiture authority to the State Department Diplomatic Security agents out there on the streets fighting today's massive visa and passport fraud problems.

Mr. Speaker, my amendment to the crime bill in the form of H.R. 3302, in essence which is included in the en bloc amendment, will help modernize our Nation's Federal laws as they relate to the outdated criminal penalties dealing with visa and passport fraud, and other offenses involving the misuse of these vital travel and entry documents.

There will be much debate about what crimes the House bill should be dealing with on the Federal, versus the State or local levels. This will not be the case with regard to my amendment. The U.S. State Department is solely charged with protecting the integrity of U.S. passports and visas, a role the Federal Government must and has to play in this particular area of Federal crime.

One of the main purposes of a crime bill is to increase Federal criminal penalties where appropriate and needed. The Senate crime bill already raises criminal penalties for visa and passport offenses. My amendment is a much stronger version of the criminal penalties for these offenses. It will give the State Department's Diplomatic Security agents the tough criminal sentences they need to help get a handle on these fraudulent travel and entry documents.

Our Nation received a terrorist wake-up call last February which we can not ignore. The World Trade Center bombing in New York made it vividly clear that this Nation can be the target of international terrorism, especially on the streets and in the offices of our cities. Some of the defendants in that case have been charged with possession and use of fraudulent travel documents. In fact, 9 of the 35 indictable counts in the Trade Center case, and the subsequent terrorist plots against commuter tunnels and other targets, were for passport and visa fraud. These events have shaken our confidence in our very safety and internal security from acts of international terrorism.

In light of these events, we must be more vigilant and concerned about international terrorism. In particular, we need to be concerned about the thousands of illegal travel documents that are out there, which facilitate terrorism, and other serious criminal activity such as drug trafficking, all directed at the United States.

The Inspector General of the State Department in a September 1993 Audit of the Department's Machine Readable Visa Program said, "The use of fraudulent nonimmigrant visas [NIV's] to enter the United States illegally is a serious and growing problem." Earlier, Newsweek in an August 9, 1993, article on our out-of-control borders stated, "The lax controls have spawned a robust market for counterfeit documents. Stolen U.S. passports, usually altered with a new photograph, are in special demand." So we all know the extent of the problem. Now, let us fix it and help restore America's security and control over illegal entry into this great Nation.

A post Trade Center bombing review of the Federal criminal penalties currently on the books regarding visa and passport fraud, which facilitate the entry of illegal aliens capable of committing acts of terrorism against the United States, reveals a serious need for improvement.

Recently, for example, it was reported that agents of the State Department's Bureau of Diplomatic Security arrested in Newark, NJ, a document counterfeiter who had produced numerous forged U.S. travel visas, using a color copier, whose inauthenticity were almost undetectable. Some of these rather excellent forged U.S. visas were sold to followers of radical Sheik Rahman. This is a serious and deadly business.

Yet, it is currently not unusual for major criminals convicted of passport and visa crimes—most of which are felonies—to receive light sentences, even probation. Few U.S. Attorneys are willing to take such low-level penalty cases involving 5 years or less under current law. Now is the time to change that. My amendment does so effectively by making the punishment fit the crime.

My amendment increases the maximum imprisonment time for these offenses specified in title 18 United States Code sections 1541 and 1546 to 10 years in most cases. The penalties have not been raised since 1948; more than 45 years ago. In addition, I have also added a new maximum 15-year term for offenses committed to facilitate drug trafficking, and a 20-year term for offenses done to facilitate terrorism.

With regard to the asset forfeiture penalties in my original bill that would have made the tools of these crimes, as well as the fruits, subject to civil forfeiture, I look forward to working with the gentleman from Texas [Mr. BROOKS], the distinguished Judiciary Committee chairman and the other members in the context of the planned reform of our asset forfeiture laws and procedures. So, for example the next time, in the Newark case of the many forged U.S. visas that I referenced, such items as the copier or printer, the vehicles used to transport them, and any illicit gains can all be seized by the Government as an additional deterrent to these crimes.

The victims of the Trade Center bombing in New York last year, will be pleased that their elected Representatives here in the Congress are closing some of the loopholes in our Federal laws that that bombing exposed. It is gratifying that today we have started to address an area of Federal criminal law that cries out for reform, and which may help protect all of us from another terrorist attack in the future.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I want to thank Chairman BROOKS for allowing Members from rural areas to include in this en bloc amendment the reauthorization of the Byrne Act and language offered by the gentleman from West Virginia [Mr. WISE] and the gentleman from Michigan [Mr. STUPAK] and myself on behalf of rural communities that truly need to continue to have Federal assistance to fight crime and drugs. We are concerned certainly about suburban and urban problems, but this amendment which the gentleman from Texas [Mr. BROOKS] has put together will give the assurance to rural communities that they are not going to be left out. And I want to thank him and the gentleman from New York [Mr. SCHUMER] for their assistance.

Mr. Chairman, I rise in support of the provision which my colleague from Michigan [Mr. STUPAK] and I are offering as part of the chairman's en block amendment. Our noncontroversial, but necessary, measure will help ensure that rural communities do not lose ground as the rest of the country moves forward on new anti-crime strategies.

The Fazio-Stupak amendment expresses the sense of Congress that rural areas should continue to receive the level of support that they had prior to enactment of this crime bill. It says that rural America should not receive less funding than it did in fiscal year 1994, and that the formula portion of the Edward Byrne Memorial State and Local Law Enforcement Assistance Program should be maintained at its fiscal year 1994 level.

Rural America relies heavily on Byrne formula grants for support for its law enforcement efforts. Sheriffs and police chiefs in my district have stressed how critical these funds are to their operations. Without Byrne formula grants, Tehama, Glenn, Colusa, Yolo, and other counties would have to do away with their narcotics task forces, leaving these communities wide open to drugs and the violence that accompanies this persistent problem.

Although, in response to input from rural law enforcement, a portion of these funds has been restored, it is critical that we maintain our previous level of support for this critical component of the rural anticrime effort. The amendment puts Congress firmly on record that, as we attempt to attack crime in the cities and suburbs throughout America, rural communities do not get left behind. I therefore thank both Chairman BROOKS and Chairman SCHUMER for including this provision in the en bloc amendment, and encourage my colleagues to support its passage.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I rise in support of Chairman BROOKS' en bloc amendment. Among the many important provisions included is my proposal to increase the number of Boys & Girls Clubs in public housing. For the young people growing up in public housing projects, one of the only safe havens from gang violence, drug abuse, and crime is their Boys & Girls Club.

Many of the most pressing problems of our inner cities are magnified and intensified in public housing developments. Young people living in this environment must be provided alternatives and hope for their future. Of the approximately 2,000 public housing sites that could sustain a Boys & Girls Club, only 251 sites currently have an active club. At those sites where clubs have been established, thee have been remarkable results.

A recent Columbia University study of the effects of Boys & Girls Clubs in public housing found 25 percent less presence of crack, 22 percent less drug activity, and 13 percent fewer juvenile crime.

Mr. Chairman, I will submit the executive summary of this report for publishing in the RECORD.

I could go on at great length about the merits of Boys & Girls Clubs in my district and in my State, but most of the Members are familiar with this organization's experience in helping high-risk boys and girls. Their track record has been impressive and it should be expanded.

My amendment would authorize the appropriation of $12 million per year for the next 3 years. With these funds, approximately 250 new clubs could be up and running in public housing. It is my understanding that the Secretary of Housing and Urban Development supports this proposal.

Mr. Chairman, as we move forward on this important crime legislation I feel that it is imperative that we enable more of America's neediest young people to build trust and confidence, acquire honest values, and pursue a better destiny. I urge my colleagues to support this amendment.

Mr. Chairman, I include for the RECORD the Executive Summary of the Final Research Report on the Effects of Boys & Girls Clubs on Alcohol and Other Drug Use and Related Problems in Public Housing.

EXECUTIVE SUMMARY OF THE FINAL RESEARCH REPORT ON THE EFFECTS OF BOYS & GIRLS CLUBS ON ALCOHOL AND OTHER DRUG USE AND RELATED PROBLEMS IN PUBLIC HOUSING

PURPOSE AND DESIGN

This comparative study evaluated the effects of Boys & Girls Clubs on children and adolescents who live in public housing and on the overall quality of life in public housing. Focused on alcohol and other drug use, crime, delinquency and vandalism, the study involved 15 public housing developments in a representative sample of American cities.

Beginning in September of 1987 and spanning three years, the study's external evaluation team compared rates of alcohol and other drug use and related problems among three groups of youth who live in public housing. Youth in the first group did not have access to Boys & Girls Clubs; youth in the second group had access to newly established Clubs with a core program and a comprehensive alcohol and other drug prevention program known as SMART Moves; and youth in the third group had access to older, existing Clubs with a core program that often included alcohol and other drug prevention programs other than SMART Moves.

To evaluate the five Boys & Girls Clubs initiated through OSAP funding, each of the Clubs with SMART Moves was assigned two control sites: one public housing site with a Boys & Girls Club without SMART Moves, and one public housing site without a Boys & Girls Club. These control sites were geographically and demographically matched with the Clubs with SMART Moves. Matching criteria included the size of the public hosing site, its geographic locale, and demographics of the population served.

An outside evaluation team of researchers from Columbia University and from the American Health Foundation in New York gathered qualitative and quantitative outcome data in all of the sites. The evaluators, using a standard interview protocol, polled local community leaders, housing authority administrators and residents, and school and police officials to learn the extent of problems and the effects of Boys & Girls Clubs on youth in public housing.

The outside evaluation team examined crime statistics in each site. They also conducted observations, noting the presence of graffiti, garbage, vandalism, drug-related paraphernalia and drug dealing. Through interviews, police officers and community leaders helped to interpret the statistics and assisted evaluators in explaining changes that occurred throughout the evaluation. In addition, housing authority managers and Boys & Girls Club directors profiled each site for the evaluators.

FINDINGS

For youth who live in public housing and who have excess to a Boys & Girls Club, the influence of Boys & Girls Clubs is manifest in their involvement in healthy and constructive educational, social, and recreational activities. Relative to their counterparts who do not have access to a Club, these youth are less involved in unhealthy, deviant, and dangerous activities.

Organized sports, one key element of Boys & Girls Clubs, prevail in neighborhoods that contain Clubs. Such support for youth in public housing without Boys & Girls Clubs is relatively rare. When a facility does exist for youth in public housing without Boys & Girls Clubs, it is usually not staffed by professionals or other trained personnel. These unregulated facilities are susceptible to drug dealing and other illicit activities. In contrast, the Boys & Girls Club staff are committed to enriching their Club members' social, emotional, educational, vocational and recreational well being. Most significantly, participation in organized sports and other after school activities have been linked to decreased use of alcohol and other drugs.

Data from the evaluation show that adult residents of public housing are also beneficially affected by Boys & Girls Clubs. Compared with parents in public housing sites that do not have Club programs and facilities, adult family members in communities with Boys & Girls Clubs are more involved in youth-oriented activities and school programs.

For adults and youth alike, Boys & Girls Clubs appear to be associated with an overall reduction in alcohol and other drug use, drug trafficking, and other drug-related criminal activity. The presence of crack cocaine is lowest in public housing sites with Boys & Girls Clubs that have the SMART Moves prevention program. The rates of drug dealing activity are also lowest in those sites that are served by Boys & Girls Clubs with the SMART Moves prevention program.

Further, the study demonstrated that public housing sites with Boys & Girls Clubs, when compared to public housing sites without Boys & Girls Clubs, experienced: 13% fewer juvenile crimes; 22% less drug activity; and 25% less crack presence.

Although school data are too preliminary to appear in the body of this report, they are suggestive of the potential environmental effects of Boys & Girls Clubs on school performance. Evidence for the positive environmental effects of Boys & Girls Clubs is suggested by lower percentages of school academic failure, repeated grades and behavior problems in schools attended by girls and boys from public housing sites that have Clubs, relative to schools serving public housing sites without Clubs.

CONCLUSION

Based on analyses of data collected from public housing sites that have newly established Boys & Girls Clubs, existing Boys & Girls Clubs, or no Clubs, several conclusions from the longitudinal study are empirically warranted. Foremost among those conclusions is that Boys & Girls Clubs exert a positive and palpable influence on the human and physical environment of the indexed public housing sites.

Through interviews, members of the evaluation team discovered that the presence of Boys & Girls Clubs in public housing encourages residents to organize and improve their community. The Clubs stimulate communication between public housing residents, the police, housing authority managing personnel, and other community groups. The increase in communication seems to have enriched the social quality of life in public housing. This informal interaction and communication is perhaps the most important effect of Boys & Girls Clubs and it is also the most difficult to measure.

On a qualitative and intuitive level the researchers find dramatic differences between public housing sites with Boys & Girls Clubs and those without Clubs. These indicators of potential for Boys & Girls Clubs merit further funding and further research.

Social support services are critical for youth in public housing. Yet comprehensive and sensitive services for young people in public housing are practically nonexistent. Public housing communities urgently need the kind of attention, community organization, and carefully designed intervention programs that Boys & Girls Clubs offer.

Although the long-term impact of Boys & Girls Clubs in public housing is yet to be seen, our evaluation reveals the positive influence of Clubs. Public and private agencies providing and/or supporting prevention efforts urgently need the kind of cost-effective strategy that Clubs provide in order to prevent alcohol and other drug use and maladaptive behavior before they are too costly to treat.

STEVEN P. SCHINKE, Ph.D.
MARIO A. ORLANDI, M.PH., Ph.D.
KRISTIN C. COLE.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, I would like to thank Chairman BROOKS for yielding this time and for offering these en bloc amendments.

I am pleased to rise today in favor of the Fazio-Wise-Stupak amendments to H.R. 4092. The purpose of the amendments are to express the sense of the Congress on the fund for rural communities, the formula portion of the Byrne grants which we ask be fully funded at the fiscal year 1994 level.

I am dismayed that I have to be here today to plead for the restoration of these much needed funds when there is already an insufficient amount of financial support to wage even the drug war effectively. These funds serve a great purpose at the State level. They fund 881 multijurisdictional drug task forces like SANE, UPSET, TNT, and HUNT in northern Michigan. Furthermore, this money may be used for up to 21 other programs administered by the Bureau of Justice administration. Most importantly, we know this is money well spent—that this program works. Earlier this year, law enforcement officials from California to Alabama to Michigan came before the Government Operations Subcommittee on Information, Justice, Agriculture and Transportation, of which I am a member, and testified as to the merits of this program.

Apparently, the administration has also recently recognized this program's value. They have decided to fund the formula portion of the Byrne memorial grant at one-third of its 1994 level. Unfortunately, Mr. Chairman, as many Members of this body know, this one-third proposal is not going to be sufficient.

We are here today trying to fashion legislation that will be tough on the criminal but easy on the crime fighter. Let us not take away one of our law enforcement officials' best weapons. Support full restoration of the Byrne formula grant. Support Fazio-Stupak and the en bloc amendments.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois [Mr. EVANS].

Mr. EVANS. Mr. Chairman, I want to salute the chairman for including in the amendments the amendment dealing with incarcerated veterans. This would require States seeking grants for correctional facilities under this act to determine the veteran status of inmates and take appropriate steps to ensure that incarcerated veterans receive the veteran benefits to which they are currently entitled.

This has the support of the major veterans' organizations, and I appreciate the support of the chairman.

Mr. Chairman, let me begin by thanking our distinguished colleagues, Chairman BROOKS and Chairman MOAKLEY, for allowing the provisions offered by Congressmen DON EDWARDS, DAVID BONIOR, GEORGE BROWN, and me dealing with incarcerated veterans to be included in the en bloc amendment.

Convicted criminals deserve to be punished for their offenses, but it is criminal on our part to deprive incarcerated veterans of the benefits that they have earned.

Our provisions do not excuse the behaviors of incarcerated veterans, they simply seek to ensure that the Government meets its obligations to all veterans. The provisions would require States seeking grants for correctional facilities under this act to determine the veteran status of inmates and take appropriate steps to ensure that incarcerated veterans receive the veteran benefits to which they are currently entitled.

The provisions have the strong support of the Vietnam Veterans of America, the American Legion, the Veterans of Foreign War, the Disabled American Veterans, AMVETS, the National Coalition for Homeless Veterans, and CURE.

There is little, if any, cost associated with the provisions since they would not alter the current eligibility criteria for veterans' benefits. The language simply ensures that those men and women who served and sacrificed for our Nation receive the veterans benefits to which they are entitled.

When our colleague, GEORGE BROWN, testified before the Judiciary Committee in 1990, he stated that "most veterans who are in prison are effectively prevented from receiving or even knowing about their rightfully due veterans services." He also explained that we have a special obligation to incarcerated veterans because their war-time experiences and PTSD may have been factors leading up to the crimes that they committed.

Adopting these provisions is not only the right thing to do, it's also the smart thing to do. Veterans are veterans no matter what else has transpired in their lives. These men and women served our Nation. Providing them with their rightful benefits can only remind them of their prior commitment to society, promote their sense of self, and further their rehabilitation.

I urge you to vote "yes" on the en bloc amendment.

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] has the right to close debate.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from West Virginia [Mr. WISE] to close debate.

Mr. WISE. Mr. Chairman, I thank the gentleman for yielding time to me. I too join to thank the chairman and to urge support of this en bloc amendment, including the amendments offered by the gentleman from California [Mr. FAZIO], the gentleman from Washington [Mr. SWIFT], the gentleman from California [Mr. CONDIT], the gentleman from Michigan [Mr. STUPAK], and myself, which would restore integrity to the Byrne program for our area, particularly in West Virginia, but for all areas across the country.

This guarantees that the multijurisdictional drug task forces which have been so successful, and the DARE Program, the Drug Abuse Resistance Education Program can continue.

This has been a bipartisan effort to restore these programs. They are very essential to our rural areas, so I urge support of these en bloc amendments. This gets the money to our State and local law enforcement where it does the most good.

Mr. Chairman, as many of you know, I have supported the Byrne Formula Grant Program since its inception. In my home State of West Virginia this program provides critical resources for local law enforcement efforts that could not be funded otherwise.

I look forward to working with the administration in their efforts to increase the police presence on the streets. I recognize the importance of providing adequate levels of law enforcement personnel for community policy activities and I have supported many of the President's anticrime initiatives.

However, in the interest of our communities, we must look to the existing programs that work. I believe that the Byrne Formula Grant Program should serve as the model for the administration's new anticrime initiatives, not be eliminated. While there is a need for additional attention to crime and law enforcement efforts, we don't need to reinvent the wheel—we should take the success of this program, and build on them.

The Byrne Formula Grant Program's flexibility and administration are in keeping with the Vice President's National Performance Review [NPR]. The NPR concluded that the President should empower communities by being "committed to solutions that respect bottom-up initiatives rather than top-down requirements." The 21 broad program purposes enable local law enforcement agencies to focus their resources on the tough problems in their communities; ranging from combating violent crime to drug control to prison alternatives and rehabilitation.

This program is the largest Federal crime-fighting resource for States, and I can attest that the grants are utilized by communities of all sizes. There are communities in my district that received grants of less than $1,000, but to those communities that is the difference between having a program like DARE or a neighborhood program which assists citizens in preventing crimes.

This program reaches the communities that most need it and the communities that are willing to make a commitment to the program. The Byrne Formula program requires that at least 25 percent of the cost of the program be paid with non-Federal funds—these matching funds ensure that the communities have a vested interest in seeing these programs succeed.

The most important aspect of the administration's crime package is the 100,000 additional cops on the beat. It is important to point out that the largest share, about one-third of the $1.4 million Byrne Formula Grant Funds, was used to pay expenses related to multi-jurisdictional task forces in the past 5 years, and 57 percent of those funds were used to pay the salaries of law enforcement officers. Eliminating the Byrne Program would take cops off the beat, in theory, to fund putting them on the beat.

During the last week in March, Attorney General Reno announced that $125 million has been restored to the Byrne Formula Program—last year funding for the Byrne Formula Program was $358 million. At the present time, the Department of Justice [DOJ] has focused this money on multijurisdictional task forces. While I believe that the task forces are of the utmost importance, I feel that all 21 of the general purposes under Byrne are important and that the States and local communities know best how to utilize these funds.

As you know, the Byrne Formula Grant Program is probably the single most important Federal program for the State of West Virginia. This year the Justice Department awarded $3,056,000 to West Virginia through the Byrne Memorial State and Local Law Enforcement Assistance Program. I have supported the Byrne Formula Grant Program since its inception, because this program provides critical resources for local law enforcement efforts that could not be funded otherwise.

The proposed elimination of the Byrne Formula Program would have the unintended effect of disbanding operational criminal task forces and threaten the existence of the highly successful DARE program. While I support enhanced law enforcement efforts in the community, I do not support eliminating active task forces or jeopardizing existing drug resistance efforts to do so. This administration is committed to finding ways to eliminate waste and improve efficiency—keeping this program in place would be another step in that direction.

I will continue to focus my efforts on restoring full funding for this vital program.

Mr. BARCA of Wisconsin. Mr. Chairman, first I'd like to thank Chairman BROOKS and the distinguished chairman of the subcommittee, Mr. SCHUMER, as well as the Rules Committee for their support in allowing me to offer this important amendment on violence against truckers.

The challenges truckers and their families must face was called to my attention at a townhall meeting by a local chapter of the Families of Truckers Support Group. They suggested that violence against truckers is pervasive and after researching the issue I agree.

In short, adoption of my amendment would result in no cost to the taxpayers, no additional federalization of crimes, but would benefit truckers on the road in every congressional district by:

First, raising public awareness of increase in crimes affecting this industry and its workers;

Second, reinforcing the protection truckers receive under current Federal law and encouraging increased Federal prosecution;

Third, encouraging further evaluation by the public and private sector of how to best deter these crimes and apprehend those involved.

Multijurisdictional authorities and private organizations have successfully used technology to reduce these crimes. My amendment encourages the extension of these efforts.

The threat of violence makes the rigorous job of truck drivers even harder. The Federal Government which is responsible for the collection of Federal highway taxes and the distribution of commercial driver licenses [CDL], at significant cost to the driver, must recognize the surge in violent crimes perpetrated against truckers and reaffirm that truckers who are victimized while working have a right to full protection under Federal laws.

This amendment is important to the 8 million workers in the U.S. trucking industry who earn their living by performing services vital to our Nation's economy. It has been drafted in consultation with and has received overwhelming support from many groups and government agencies concerned with violence against truckers.

In closing, I would urge Members to support truckers and owner operators who are victims of violent crime by passing this amendment.

Mr. MANTON. Mr. Chairman, I rise today to join my friend, Mr. RANGEL, in support of an amendment to authorize the extension of the Edward Byrne Memorial State and Local Law Enforcement Assistance Program. This grant program is an essential part of our fight against drug abuse, drug trafficking, and drug-related violent crime.

The Byrne Program was named for Eddie Byrne, a 22-year-old rookie New York City police officer, who was brutally killed in 1988 while on duty in the 103d precinct in Queens. Eddie Byrne was one of several officers assigned to around-the-clock protection of the home of a witness in a major drug trafficking trial. The young officer's murder was ordered by a drug kingpin from his Riker's Island cell, as a message to those citizens who are brave enough to stand up for their rights against drug dealers.

Failing to reauthorize this vitally important program would serve a crippling blow to our efforts to fight drug abuse and drug related crime. In New York, the Byrne Program funds drug interdiction efforts at JFK Airport, one of the principal points of entry into the United States, an alternative sentencing program providing drug treatment for two-time drug felony offenders, and the COMBAT antidrug program, combining local law enforcement with community groups to develop ways to combat drug crime in neighborhoods with a high incidence of drug trafficking.

Reauthorization of the Edward Byrne Memorial Grant Program is necessary to ensure that these successful antidrug programs will continue to help make our streets safer. I urge my colleagues to approve the amendment to restore full funding for the Eddie Byrne Memorial Grant Program. The program is an important weapon in our war on drugs, and fitting tribute to a young man who gave him life in a fight to make his neighborhood safe from crime and drugs.

Mr. BONILLA. Mr. Chairman, this amendment is a simple, common sense, low cost measure to make our streets just a little bit safer than before. We often hear that prisons are overcrowded. And that overcrowding is in violation of prisoners' civil rights. Well, if you talk to any of my constituents out in Texas—they'll ask, "What about our rights?" "If they don't have room in jail, put them in tents or barracks." I have introduced this amendment, because I hear the voices of my constituents and I promised them, that I would act on their behalf.

Weekend family campers sleep outdoors in canvas tents; American soldiers, airmen, and marines live in barracks; many of our Nation's high school students are instructed and do their school work in temporary buildings. So, why I ask, can't we house criminals in the very same structures that other Americans relax, live and learn in? Unfortunately, in the past, my State of Texas has been prevented from putting criminals in safe temporary housing to ease the problem of overcrowding. At least one Federal judge, it seems, has shown more concern for the comfort of our criminals than the safety of our citizens.

We all know that the best form of criminal control is keeping the people who steal, rape and murder in jail. Unfortunately, our prisons are full, forcing prison authorities to go to early release programs for criminals. In fact, many criminals never ever go behind bars because of prison overcrowding. Judges know that there is simply no room. This is at all levels of the penal system. Most of the country's most violent criminals only serve a third of their actual time sentenced. Murderers often are out in 4 years, rapists are out in 3 and armed robbers sometimes only serve 2 or even less. Our jails are revolving doors for criminals. Lack of space is no reason for early withdrawal. Fortunately though, tents don't have revolving doors.

That is why I have proposed this amendment. We need to have the Attorney General study and implement ways to house elderly, nonviolent, newly processed and short term Federal, State, and local inmates in prefabricated, temporary, or portable structures within a secure area, so that we can keep the murderers, rapists and robbers behind thick jailhouse walls. This amendment is a low cost measure to help keep our friends and families safe. I thank my colleagues for your time, consideration and support.

Mr. EWING. Mr. Chairman, I rise in support of the en bloc amendment and wish to thank Chairman BROOKS for including the rural caucus amendment in his amendment. I would also like to thank Congresswoman LONG and Congressman BAESLER for cosponsoring this amendment with me.

Crime is an overwhelming problem in small-town America. I have walked the beat with police officers in towns with a population under 40,000, and I've seen firsthand how gangs and drugs are chipping away at the safety of these small towns. There is an organized effort on behalf of gangs to recruit members in small towns and infiltrate these communities with drugs.

The rural caucus amendment will target $385 million in crime fighting dollars to rural areas where, according to the Federal Bureau of Investigation, violent crime increased by 5 percent from January to June 1993. This amendment will provide additional Drug Enforcement Agency agents to rural areas; allow the Attorney General to cross-designate Federal law enforcement agents for use in rural areas, and create rural antidrug task forces.

Our amendment will also increase prevention efforts for rural domestic violence and child abuse. Also, penalties will be increased for drug distribution at or near truck stops and safety rest areas.

As a former prosecutor, I know how beneficial these resources will be to apprehend, prosecute, and convict violent criminals. I urge my colleagues to support Chairman BROOKS amendment and help fight crime in rural America.

Mr. PORTER. Mr. Chairman, I would like to thank the gentleman from Texas and the gentleman from Wisconsin for including in the en bloc amendment legislation that I have introduced to fly the U.S. flag at half-staff on all Government buildings on Peace Officers Memorial Day to recognize the dedication and sacrifices made by police officers in our increasingly violent society.

For the past 32 years, May 15 has been designated by law as Peace Officers Memorial Day in honor of the Federal, State, and municipal officers who have been killed or disabled in the performance of their duties. My legislation would simply add a provision for lowering the flag on this important day; 13,256 law enforcement officers have died in the line of duty. A much greater number have incurred permanent disabilities. In 1992 alone, 144 law enforcement officers were killed.

Lowering the flag to half-staff is an appropriate way to show our appreciation to those officers who have made the ultimate sacrifice to ensure our safety and security.

My legislation has gained bipartisan support in Congress and widespread support from the law enforcement community. It has been endorsed by the National Association of Police Organizations, Concerns of Police Survivors, the Fraternal Order of Police, the American Federation of Police, the National Law Enforcement Council, the National Troopers Coalition, the United Federation of Police Officers, the Law Enforcement Memorial Association, the Law Enforcement Alliance, and many others.

This provision is a rather simple gesture, yet it is a very meaningful demonstration of our regard for those who put their lives on the line for us every day. Most significantly, perhaps, seeing the flag at half-staff on each May 15 will remind all of us of how fortunate we, as Americans, are to live in a society devoted to the rule of law and to be served by men and women of honor and courage dedicated to upholding and enforcing it and to our safety and security.

I thank you again and commend both gentlemen for including this legislation in the en bloc amendment.

Mr. OLVER. Mr. Chairman, I rise today in support of the amendment. Included is my amendment to authorize a grant program for court advocates for victims of domestic violence.

Domestic violence is among the most insidious of crimes. It is committed in the privacy of one's own home, behind drawn curtains and closed doors. The victims do not suffer on our streets or in our public parks but in their kitchens, their living rooms, and bedrooms all across America.

Despite the private scene of these crimes, they are violent nonetheless. The brutality of this violence is clear in my own State where in just the first quarter of 1992 alone, 22 women and 5 children were killed in what authorities labeled domestic violence but what were more specifically crimes of assault, rape, mutilation, and murder.

This amendment addresses the need for physical safety of the victims when they are most vulnerable. Studies prove the most dangerous time for victims of abuse is immediately after receiving a protective order or when they are attempting to leave an abusive relationship. Victims seeking protective orders need to know their legal options. They also need help designing a personal safety plan before leaving court with a protective order.

Victims may stay in a dangerous situation because they are more fearful of the court process than of their abuser. The abuse may intensify to extreme proportions before the victim is finally motivated to seek court protection.

My amendment would authorize the Director of the Bureau of Justice Assistance to provide grants to States for at least one specialized domestic violence court advocate in every court where a significant number of protective orders are granted.

Court advocates are needed to assist victims of domestic violence who seek court protection from their abusers. They have an urgent need for information on legal options; support through an intimidating court system; help with safety planning, and referrals to various support services.

This amendment is a result of a roundtable on crime I had with several of my local law enforcement officials. They said we must pay more attention to domestic violence. This led me to discussions with organizations in my district and throughout the State of Massachusetts focused on finding effective solutions for domestic violence. All of these organizations agreed that court advocates can be extremely effective in assisting domestic violence victims.

I ask for your support of this amendment.

Ms. SLAUGHTER. Mr. Chairman, just after Christmas last year, my area of upstate New York was rocked by a wave of bombings in which five people were killed. Since that time, I have been concerned that Federal law does not take explosives crimes as seriously as it should. While the plague of gun violence has motivated us to reform our firearms code, we have not made explosives laws nearly as tough.

In a few moments we will consider my amendment to the crime bill, which will rectify this imbalance. For example, I was shocked to discover that, under current law, unlawful possession of explosives is not a Federal felony. For years, we've said that certain people should not be allowed to carry guns, such as convicted felons. Yet these same people can drive around with 100 pounds of gunpowder in their trunk and that's not even a crime.

Similarly, theft of explosives is not a Federal crime, while stealing a gun is one.

Bombers commit murder by remote control. They don't have to be in the same room as their victims, or even in the same city. They never have to see the death and destruction they cause. And their ruthless method of murder often kills random bystanders—such as John O'Donnell of Cheektowaga, NY, who was killed by a bomb intended for his coworker.

Mr. Chairman, in recent years, we have seen mail bomb attacks on a judge and a civil rights activist in the South, a string of bombings at abortion clinics, and the terrorist attack on the World Trade Center. These cowardly crimes are clearly becoming more widespread. For the people of Rochester and for all Americans, we need to take this urgent corrective action now.

Mr. LIVINGSTON. Mr. Chairman, I would like to take this opportunity and thank Chairman BROOKS for incorporating my base conversation amendment as part of his en bloc amendment.

Mr. Chairman, my amendment originally was a provision of what I call my LIFER Plus bill, H.R. 3336. This measure puts hardened, violent criminals in jail for life and converts closed military installations into Federal prisons.

In order to properly address our growing crime problem, I believe that we need recognize that a very small percentage of violent felons commit the lion's share of all violent crime. By simply removing these criminals, we can have a profound impact on the prevalence of violent crime. Just 6 percent of all violent offenders commit a full 70 percent of violent crimes. Furthermore, there is a 76 percent recidivism rate among those with three or more convictions. Removing these one-man crime waves is a vital first step in reclaiming our streets.

According to the Justice Department, the bill's "Three Strikes" measure could possibly lock up 200 to 300 criminals a year. I feel it is important to ensure that we have ample space for these thugs. My amendment would do just that. Specifically, the amendment would require the Secretary of Defense and the Attorney General to study all military installations selected to be closed pursuant to the base closure law and evaluate the suitability of any of these military installations for conversion into Federal prison facilities. The amendment directs that they identify three of them most suitable for such conversion.

Upon the completion of this endeavor, the amendment directs the Secretary of Defense to transfer jurisdiction over the three installations to the Attorney General for conversion into Federal prison facilities designed to incarcerate persons convicted of a Federal violent felony.

The amendment will also help the States by authorizing the Attorney General to accept transfers from overcrowded State prisons of persons previously convicted of a Federal violent felony or are serving a sentence of more than 20 years.

Mr. HOYER. Mr. Chairman, I want to thank the gentleman from Texas, Chairman BROOKS and the gentleman from New York, Mr. SCHUMER for giving me the opportunity to speak on the two amendments I have offered to the Violent Crime Control and Law Enforcement Act. I rise today to urge my fellow colleagues to adopt these two amendments as part of the Violent Crime Control and Law Enforcement Act.

Mr. Chairman, my first amendment would provide the Treasury Department with a $210 million annual authorization for the next 5 fiscal years from the Violent Crime Reduction Trust Fund. In addition, it would allow the Treasury Department law enforcement bureaus to expand many of their programs that are directed toward combating and preventing crime.

These include programs such as Project Uptown, an ATF initiative which assists the New York City Police and Housing Authority deal with armed violent offenders and armed narcotics traffickers who operate in public housing projects. Other programs include Operation Ceasefire and Achilles Task Forces. Operation Ceasefire provides advanced computer technology to State and local police to identify weapons used in crimes in cities with large numbers of organized criminal gang and drug related shootings. The Achilles Task Forces which aims to make the unlawful possession and use of firearms the achilles heel of the small percentage of violent offenders that commit the majority of violent crimes. These are only a representative sample of the types of programs which would be funded.

Mr. Chairman, my second amendment provides for an extension of financial institutions fraud jurisdiction for the Secret Service.

In November of 1990, we passed Public Law 101–509 which gave the Secret Service concurrent jurisdiction with the FBI over financial institutions fraud cases. That authority is set to expire when the RTC is closed in December of 1995. The amendment would extend the time frame for Secret Service jurisdiction from December 31, 1995, to December 31, 2004.

The initial reason behind giving Secret Service the authority to investigate financial institutions fraud was the abundance of cases that came about as result of the savings and loans crisis. Although many of the institutions that caused the crisis have been closed, there are still far too many bank fraud cases reported each year for the FBI to handle alone.

Given that the FBI intends to move 25 percent of its current bank fraud resources to health care fraud cases, there is even greater need than ever for Secret Service to continue its work in this area.

Secret Service has been able to successfully investigate hundreds of cases that otherwise would have been below the FBI's threshold for opening an investigation.

Since the beginning of the program, the Secret Service has made over 600 arrests, seized over $20 million in assets, and scored a 97-percent conviction rate.

Mr. Chairman, both of these amendments coincide with the balanced approach Chairmen BROOKS and SCHUMER have taken in crafting the House crime bill. Again, I want to urge my colleagues to adopt these two amendments.

Mr. WHEAT. Mr. Chairman, I want to thank Chairman BROOKS for the opportunity to offer my amendment to create a National Commission on Crime and Violence as part of the en bloc. I rise to support the en bloc amendment and to discuss my amendment, which is contained therein.

It has been 27 years since the Brown Commission defined the Federal Government's response to crime in our society. Since that time, crime has been transformed by guns, drugs, and gangs into an ultra-violent epidemic that has left no neighborhood feeling safe. The Nation's police, courts, and prisons are overwhelmed, and every week seems to bring a new, unthinkable outrage into bloody reality.

The Brown Commission could not have envisioned the nature of criminal activity in today's society. The men and women who form the thin blue line that protects us are improvising desperately in a continual effort to gain the upper hand in the fight against crime. It's time that the Federal Government take active steps to assist them. My amendment would create a National Commission on Crime and Violence that would use the experience of a cross-section of talented Americans to seek innovative crime fighting and prevention techniques for the 21st century.

In my own hometown of Kansas City, MO, the city just inaugurated three neighborhood resource centers that are staffed with an innovative mix of bicycle patrol officers, city zoning officials, and neighborhood citizens serving as mobilizers and conducting liaison between police and residents. The city of St. Louis is expected to graduate a record six classes of police academy cadets this year, in an effort to greatly increase the visible police presence on the streets.

In the State of Illinois it was recently reported that the police are experimenting with an innovative community policing concept, and are creating strategies that could also help other towns and police forces. Neighborhood resource centers are made mobile in one community, so the police can show the flag in a variety of troubled areas. In another community, a police officer finds that gang members who once would have scattered at the sight of a police cruiser are now coming into his NRC to chat and share information about illegal activities they have observed. These are just a few examples of local initiatives that could eventually form the basis of a future national crime fighting strategy.

The Commission on Crime and Violence will be a 22-member panel, with appointments made by the President and congressional leaders of both parties. The panelists will be experts at crime fighting and crime prevention, and will hold hearings with citizens, crime victims, and police officials to discuss the nature of crime and the innovations needed to fight the crime epidemic. The commission will issue a mid-term report in 1 year, and will terminate after 2-years' work, issuing a final report detailing its findings.

The Commission on Crime will allow us to carefully examine the answers to some very important questions. How can we better coordinate local, State, and Federal resources to get the most bang for our crime-fighting dollars? What is the best way to address youth violence and gang activity? How effective are current criminal justice institutions in meeting the challenges posed by drugs, gun violence, and recidivism? What are some innovative solutions created by individuals on the front lines of America's fight against crime? The commission will examine the causes and effects, and its findings will help every level of government make critical decisions about how to protect the lives and property of the Nation's citizens.

The Commission on Crime and Violence will not solve our crime problem. It will, however, allow us to attack the epidemic with renewed efficiency and vigor, and it will demonstrate that all levels of government are fully committed to restoring order to our streets and neighborhoods.

Again, I offer my thanks to Chairman BROOKS for his assistance in bringing this amendment before the House.

Mr. CONDIT. Mr. Chairman, I rise today to express my strong support for an amendment offered by myself and my colleagues from West Virginia and New Mexico. The purpose of our amendment is simple, but the message it sends is profound.

Our amendment specifies that the anti-crime programs created by this bill are not intended to serve as a replacement for those already funded by the pre-existing Edward Byrne Memorial grant. The amendment also states that nothing in this bill shall be construed to exclude any Byrne participant from applying for a grant under any title created by this bill.

Mr. Chairman, the Edward Byrne Memorial grant is one of the things that the Federal Government is going right in its attempt to combat crime and narcotics abuse and the social problems that arise from them. The administration requested no funds for this program in its budget request for fiscal year 1995. I think it is safe to say many Members were somewhat surprised by that.

The Byrne grant can be used for 21 broad criminal justice purposes. To qualify, each State must submit a comprehensive State plan to the Justice Department. This assures both the involvement of as many jurisdictions as possible and that communities will have funding for the purposes that best suits their needs.

My home State of California has selected 10 of these categories for funding. These programs were selected after a series of town meetings to discuss possible options. My constituents decided on a variety of programs ranging from task forces to increasing criminal history accuracy. I find it hard to believe that Washington-based bureaucrats would know better how they should spend these funds.

This program is currently funding about 1,000 law enforcement task forces across the country. This fosters cooperation between Federal, State, county, and city law enforcement. If we are serious about fighting crime; we have to work together to fight it. The days of the Lone Ranger have long past. We have to spend our precious resources in the manner that proves most effective. The evidence shows that task forces work.

Besides task forces, there are 20 other purposes for which Byrne funds can be used. Some locations have opted for assistant prosecutors to handle small drug cases, others have opted for DARE programs in their schools and still others have found that drug treatment or money laundering programs are what is needed in their communities. Why on Earth would we want to deprive our constituents of the choice?

I chair the Government Operations Subcommittee on Information, Justice, Transportation and Agriculture. On March 2, 1994, I conducted a hearing on the potential impact of the loss of Byrne grant funds. Once word of our hearing got out, interest was so great, we literally had to turn away witnesses.

During the hearing representatives of State Government in California, Texas, and Illinois; Governors from West Virginia and Arkansas; police officials from Maryland, Alabama, and Virginia; prosecutors from New Jersey; and testimony from every major police agency in the United States all said the same thing: "Please do not take away what works, preserve the Byrne Program."

I understand that the White House has softened its stance on the Byrne grant; and for that they should be commended. I have worked with many of my colleagues in the House as well as with the House Budget Committee to make sure that the Appropriations Committee is aware of the need to continue funding this important program. I am also aware that there is considerable interest in the Senate in the preservation of this program and my subcommittee has been in contact with a number of our colleagues in the other body on this issue.

As we debate this important crime bill today we will hear great and detailed discussion about the right and wrong way to go about solving some of our most serious problems. The aim of our amendment is to save a program that has proven to be effective, efficient, and flexible. Please support this amendment and I urge my friends on the Appropriations Committee to provide funding for this program as you prepare the Commerce, State, Justice, and Judiciary appropriations bill for fiscal year 1995.

Mr. MANZULLO. Mr. Chairman, I rise in support of the en bloc package which contains my amendment that corrects what I perceive as an oversight of past Congress'—Federal death and disability compensation for police and fire chaplains.

Under current law, the family of any Federal, State, or local public safety officer killed in the line of duty is entitled to a one-time $100,000 Federal benefit. My amendment expand this coverage to include families of police and fire chaplains killed in the line of duty so that they can receive these well-deserved death benefits.

This provision will not cost very much money because there has only been one such documented death in the last 20 years of a police chaplain. Should, then, this rare occurrence take place, the families of these courageous men and women under my amendment will be treated the same as other public safety officers. I can think of nothing more important than spending this money on someone who has paid the highest price to public service—their lives. These chaplains will have the assurance of knowing that their loved ones will be taken care of with the one-time $100,000 Federal death benefit.

Police and fire chaplains are often called upon to enter dangerous circumstances. They walk into situations where criminals hold hostages, drive an ambulance if needed, and even pick up a fire ax. These men and women go to work every day and perform their duties diligently and quietly, responding to the same crime and fire scenes as their counterparts do. Most chaplains are volunteers and do not receive any pay from a governmental source.

This was undoubtedly an oversight when Congress debated and passed the Public Safety Officers' Benefits Act of 1976, which was also amended in 1988 to include those public safety officers 100 percent permanently disabled. However, while Congress asks the law enforcement community to do more with less, chaplains are indeed doing much more now than ever before. It is time to include and recognize these chaplains for who they are: public safety officers.

Day by day, the amendment I offer, which is H.R. 3660, gains more bipartisan support. I thank all 27 Members who cosponsored my legislation.

For the RECORD, I would like to submit a letter from Father William Wentink, a Rockford, IL, police chaplain. It was in my discussion with him that I discovered this obvious oversight in the law.

Mr. Chairman, I ask my colleagues to vote for the Manzullo amendment to the crime bill.

SAINT ANTHONY MEDICAL CENTER,
Rockford, IL, March 23, 1994.

Congressman DONALD A. MANZULLO,
Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN MANZULLO: For over 24 years I have served as Chaplain for the Rockford Police Department. I am also Chaplain for the Illinois State Police as well as the Federal Bureau of Investigation.

The City of Rockford Police Department has approximately 30 Police Chaplains. There is a Chaplain on duty 24 hours a day every day of the year. These are all volunteer positions. Our Chaplains are involved in many areas of Police work. This includes helping people who need a place to stay, food or medicine. We also talk with people who might be lonely or suicidal. We are also involved in death situations. Our Chaplains are on the scenes of major disturbances and incidents in our City.

More and more Law Enforcement Agencies are utilizing the expertise and professionalism of Police Chaplains. Estimates are that between 25% and 50% of the 17,000 Law Enforcement agencies in our County have Police Chaplains on Staff. Approximately 1,200 of these Police Chaplains belong to the International Conference of Police Chaplains. Of these 1,200 Police Chaplains over 93% are volunteer. They offer their time, talents and service to the Citizens of their Communities.

In the United States there are over 100 Police Officers killed in the line of duty each year. There is a Federal death benefit of over $100,000.00 that goes to the estate of a Police Officer whose life is taken in the performance of duty.

I am asking if it would be possible to include Police Chaplains in this benefit. Even though most are volunteer, they are officially appointed to their Departments and carry out their obligations and duties under the command and direction of the head of the agency.

Thank you for the consideration and efforts in this important matter.

Very truly yours,
REV. WILLIAM R. WENTINK,
Chaplain.

Mr. FILNER. Mr. Chairman, I rise today to urge support of my amendment to the omnibus crime bill of 1994, an amendment to authorize the use of juvenile trafficking and gang prevention grants for programs that reduce the incidence of graffiti and promote the removal and prevention of graffiti.

This may seem to be a minor amendment—but it addresses a very important piece in the fight against juvenile crime.

Graffiti is a huge problem in our cities. Gangs use it to mark territory and to challenge other gangs. It contributes to the decline of neighborhoods and leads to a sense of hopelessness in our communities.

As a former member of the San Diego City Council, I discovered that any attempt to regain control of our neighborhoods began with an attack on graffiti. I formed a graffiti patrol with a graffiti hotline to address the problem. We not only helped to paint out graffiti but to mobilize neighbors to continue to keep their neighborhoods clean and graffiti free.

The approval of this extremely important amendment will help to make the Federal Government a partner with local government in the fight against blight, against juvenile crime, and the fight to restore hope to our communities.

Many local government officials are overwhelmed by this problem. Let's give them a hand.

Ms. LONG. Mr. Chairman, I rise in support of the en bloc amendments. On behalf of the Congressional Rural Caucus, I commend Chairman BROOKS and Congressman FISH for their work to ensure that rural America is a full partner in this crime bill.

The amendment offered on behalf of the Congressional Rural Caucus attacks crime in rural America on three fronts: First, it authorizes significant funds for rural anticrime and antidrug initiatives; second, it provides for increased rural domestic violence and child abuse enforcement; third, it enhances penalties for drug distribution at or near truck stops and safety rest areas. In past anticrime legislation, rural areas have not received the attention or focus that the more visible crime problems in larger urban areas have received. This amendment will help alleviate the troubling crime trends in rural America and will send a strong signal to rural residents that we understand the problems facing them.

On behalf of Congressman EWING and Congressman BAESLER, I again thank the Chairman, and I thank the ranking minority member, Mr. FISH, for working to make this anticrime legislation fair for all areas of the country.

Mr. SPRATT. Mr. Chairman, I wish to express my strong support for Congressman HOYER'S amendment No. 49 to H.R. 4092 to provide extra resources for Treasury Department law enforcement activities. The Hoyer amendment would authorize $210 million for each of fiscal year 1995–99 to fund Treasury's increased law enforcement activities. This amendment has received broad support from a variety of sources, including the Clinton administration.

I believe that this enforcement money will, in the long run, more than pay for itself. For example, Customs personnel help catch importers who are evading tariff payments. If past experience is any guide, the resulting penalties and tariff should be worth many times the cost of the extra personnel. This money will also help Customs slow the import of narcotics and other contraband into our country. No one needs to be reminded of the enormous social and economic cost we pay because of easy availability of drugs on the streets of our country.

The House Government Operations Committee's Subcommittee on Commerce, Consumer and Monetary Affairs, which I chair, has held hearings which confirm that existing Treasury enforcement resources, particularly for international trade enforcement, are inadequate to police the growth in trade. Furthermore, our subcommittee found that in constant dollars, Customs' total budget has remained the same since 1987 even though the total value of goods imported into the United States in that period increased by 20 percent. Because of inadequate resources, Customs had less import specialists in fiscal year 1993—1,140—than it had 20 years ago—1,304—even though import specialists are critical to detect import fraud. The enactment of NAFTA and likely adoption of the GATT Uruguay round will result in even greater volumes of foreign goods for Customs to inspect. Yet Customs is not being given the resources or manpower it needs for its extra workload.

Let me illustrate the challenges facing Customs by describing the problems in the textile/apparel/fabric industry. In 1974, the total value of textile and apparel imports was $4.2 billion. By 1993, the value of imports grew by 1000 percent to $42 billion. Despite this exponential growth, textile enforcement resources and manpower has not even begun to keep pace. Customs agents have told me that in the 1970's, they inspected 10 percent of the containers crossing our borders. Now they are lucky if they inspect 1 percent. What has been the result? Today, foreign countries and foreign companies smuggle as much as $4 billion every year in illegal textiles and apparel. These illegal imports violate international trade agreements and take thousands of jobs away from American workers.

Extra funding for Customs will not eliminate the textile transshipment problem or stop all drugs from entering our country. But I believe that the money provided in the Hoyer amendment will help reduce these problems. I urge my colleagues to support the Hoyer amendment.

Mr. MILLER of California. Mr. Chairman, I rise to draw the attention of the House to a crime bill provision that came out of the Natural Resources Committee. Those of us who believe this bill should address more than the aftermath of crime are convinced that recreation can be an effective tool in weaning young people away from a life of gangs, drugs, and the streets.

The Urban Parks and Recreation Recovery Program of the National Park Service was authorized in 1978 to provide matching grants to economically distressed cities to build parks and recreation centers and provide programs aimed at inner city youth. It did a great job until 1985, when the administration and Congress stopped funding it. In the last 2 years, it has gotten a paltry $5 million per year.

The Natural Resources Committee has updated the program to make sure that high-crime urban neighborhoods are targeted and that programs directed at youth considered at-risk receive priority.

I have been simply amazed and gratified at the outpouring of support for this notion in the very short period of time since we launched this initiative. More than 60 organizations have endorsed it including government leaders like the U.S. Conference of Mayors, service and professional leaders like the Boys and Girls Clubs of America, the National Association of Police Athletic Leagues and the Child Welfare League of America, retailers, manufacturers and organizations representing thousands of businesses including Nike, Reebok, REI, Patagonia, the Sporting Goods Manufacturers Association and the National Sporting Goods Association, as well as environmental groups like the National Recreation and Parks Association and the Wilderness Society.

Before the recess, the House voted 361–59 for this provision as independent legislation and Chairman BROOKS has graciously agreed to incorporate its provisions in the en bloc amendments he will be offering to the crime bill later in the proceedings.

The issue of crime, and especially juvenile crime, has understandably angered and outraged our Nation. Today, perhaps 60 percent of violent crimes are committed by young people between the ages of 10 and 20 years old.

For millions of these young people, the only social network and family structure they know are the urban gangs that deal drugs, foster crime, and slaughter each other in our Nation's streets.

For many, the most promising avenue away from this life is through recreation, sports and other activities operated out of parks and recreation centers run by cities, schools, and non-profit organizations.

These programs bring at-risk youth in contact with caring adult mentors who teach them the kind of personal skills and job skills they need to stay out of the gangs and in school.

When I was growing up there was no question that we would have places to play ball, ride a bike, get in a sports league or have a place to go to be with friends and adults. Many of us can, to this day, point to experiences like this that were defining moments in our lives. But today that has all changed and our children, their families, the communities they live in and our Nation are much the worse for it.

We need to turn this around or you will never be able to build enough prisons and courtrooms and bootcamps to contain the criminals. Fortunately, we can do so without creating new mandates, new policies or new administrative costs. We can build on an existing, effective but undersupported program, the Urban Park and Recreation Recovery Program.

In its 15 years, only $192 million of the $750 million authorized for UPARR has been spent despite successful projects in more than 500 cities across America and a backlog of applications that always far exceeded the funds available. Using the program's established network and administrative infrastructure and by updating the program and funding it through the crime bill, we can literally get this money on the streets and young people off the streets in just 4 months. This is crucial.

Mr. Chairman, some provisions in the Senate and House Judiciary Committee bills recognize that if we don't do something to get young people off the track that puts them on a collision course with police, courts and prisons we are doomed. Programs like Ounce of Prevention, Midnight Basketball, and community schools are important, necessary steps in the right direction.

I strongly believe that the updated urban park program is highly compatible with and even necessary to these other laudable efforts and the breadth and depth of support this idea has generated in such a short period of time is ample testimony to the fact that this is simply the right thing to do.

I urge my colleagues to continue their support for this important effort.

An article from the San Francisco Examiner follows:

TAKING BACK MISSION PLAYGROUND—KIDS ARE IN, DRUG DEALERS OUT

(By Leslie Goldberg)

For Cathy Courtney and her neighbors, the sound of the crack of the bat is indeed sweet. Because when nearby residents hear kids playing baseball, basketball or tennis in Mission Playground, they know they won't be seeing drug dealers and their customers in the area.

"It's this very weird balance," said Courtney, who lives across the street from the park. "When the kids are there, the dealers are gone. But if for some reason the kids aren't in the park for a couple of days, the dealers start coming back."

Keeping kids playing in the park is no small feat in these times of scarce public funds for recreation. But it is crucial not only to the children themselves but to the safety and well-being of this working-class neighborhood.

Taking back this tiny space once dominated by drug dealers has been a year-long struggle that has required special effort by police, residents and especially the Recreation and Park workers who staff the rec center and playground.

"My cousin worked as a substitute recreation director at Mission Playground for one day about three years ago," said Lorraine Hanks, a rec worker. "She said she went into the center and locked the door. I asked her, 'But what about the kids?' She said, 'There were no kids—only these really scary guys hanging out outside.'"

Like many inner-city neighborhoods, the Mission Playground area was devastated when drug dealers moved in about three years ago. The ordinarily quiet street became clogged with traffic from buyers.

Brakes screeched. Fights broke out. Hypodermic needles were found in the sand beneath the play equipment. Broken glass littered the sidewalk.

Now, on most days, Mission Playground is filled with youngsters. In the morning, children from a nearby day-care center play on the wooden climbing structure. Later, older children play basketball, tennis and baseball.

"It's beautiful," said Courtney's husband, Frank Morales, who helped organize citizen street patrols to discourage loitering and crime in the neighborhood. "When the kids are here there's no room for dealers," Hanks said.

Like other rec centers in San Francisco, Mission Playground struggles with meager sports equipment.

"We have three basketballs for the 40 kids who have signed up on four teams," Hanks said. Those three balls have to also be shared among the children who are not on teams but just want to play. "Sometimes kids come in here (the rec center) wanting to check out a basketball and we have none. It gets to be embarrassing."

Right now Mission Playground has no kickball for the children, said Hanks.

The basketball teams also have to share 20 jerseys. "Sometimes there might be three different games in one day, so there's no time to take the jerseys home and wash them," said Hanks. "The girls really hate that if they have to put on a jersey that a boy just wore."

Nick Jacoban, another recreation worker, paid for the jerseys out of his own pocket—$20 each.

SOMETIMES THE BALLS POP

The baseball used for practice is worn and looks like an ancient, petrified ball of string. A part-time worker and a graduate student in social work at San Francisco State University, Jacoban personally put down a $200 deposit paid to Recreation and Parks so that the 13- and 14-year-old baseball players could have uniforms.

Two times a year, the Department of Recreation and Parks issues equipment to the playgrounds. This winter, Mission Playground got 8–10 kickballs and a box of 12 baseballs.

"Sometimes the balls pop," said Jacoban. "Sometimes they go over the fence and get lost; sometimes kids don't return them to the equipment room." Children who check out a ball are asked to leave a deposit of a key or a jacket, said the recreation worker.

To keep up with the constant demand for balls, bats and gloves, Jacoban scrounges thrift stores and flea markets. Whatever he can find, he pays for, again out of his own pocket.

He also sometimes pays the teams' league fees. Jacoban showed a $100 receipt from Daly City Parks and Recreation for a girls' softball team.

"San Francisco doesn't charge league fees, but it doesn't offer anything for girls after basketball (season)," he said. "If I didn't do this, they'd be sitting around with nothing to do."

Rec and Park does have a girls' softball league during the summer. But during the winter and spring, not enough girls sign up to have a league. Jacoban thinks the problem may be a lack of promotion.

On his own time Jacoban visits schools in the surrounding area to spread the word among youngsters about activities offered in Mission Park playground. "A little extra effort on the part of the recreation director can go a long way," he said.

DIFFERENCE IN A CHILD'S LIFE

Jacoban isn't the only one putting in extra effort at Mission Playground. Once a week, rec worker Lorraine Hanks, a single mother of two who works part-time making $12.75 an hour, buys food and cooks up a big pot of spaghetti or gumbo for the kids who show up to play.

"I know some of them are not getting enough to eat," she said. "They don't say anything; they have their pride. But you can just tell."

Both Hanks and Jacoban know what growing up poor is like. "I know their pain—I've been there," said Hanks.

Her mother, the family's sole support, worked as a bus driver and for Hanks, the Milton Meyer Recreation Center in Bayview Hunters Point became a second home. To this day Hanks fondly remembers a recreation worker, Jacqueline Battle. "She went out of her way to keep me off the streets," said Hanks.

Jacoban and his brothers and sisters also were raised by a single mother, who worked as a bookkeeper. "She signed us up for everything—Boys Club, scouts and rec center sports teams," he said. "I didn't have time to get in trouble. . . . I think staying active enabled me to do well in school.

"I see the difference it can make in a child's life when an adult makes a commitment," he said. "We have most of these kids from 3 to 6 p.m. Those are prime hours in their day."

Others, too, are making a commitment to the children and the neighborhood. Frank Morales paid $245 for a VCR so Mission Playground could offer "movie night" on Wednesdays. Courtney has bought paint and repeatedly painted over graffiti. The couple has helped organize a Mission Playground cleanup day and potluck barbecue, April 16 from 9 a.m. to 2 p.m.

Other neighbors, many of whom have no children, bought food and art supplies so the playground could stage a Children's Day barbecue a few months ago.

Morales said he's gone door-to-door asking for old baseball gloves for Mission Playground's children. He got five.

"If I had more equipment, I could have many more teams," said Jacoban. "We need more teams. I've got kids on waiting lists."

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Texas [Mr. BROOKS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SENSENBRENNER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 395, noes 25, not voting 17, as follows:

[Roll No. 104]

AYES—395

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Bryant
Bunning
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Crapo
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Faleomavaega (AS)
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Gordon
Goss
Grams
Green
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hansen
Harman
Hastert
Hastings
Hefley
Hefner
Herger
Hilliard
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pombo
Pomeroy
Porter
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stenholm
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff

NOES—25

Archer
Armey
Barton
Burton
Coble
Condit
Cox
Crane
DeLay
Duncan
Fields (TX)
Gekas
Goodling
Hancock
Johnson, Sam
Penny
Petri
Rohrabacher
Schaefer
Sensenbrenner
Stearns
Stump
Taylor (NC)
Walker
Zimmer

NOT VOTING—17

Bacchus (FL)
Brown (CA)
Brown (OH)
Fish
Gallo
Grandy
Greenwood
Hayes
Hinchey
Johnson (GA)
Neal (NC)
Portman
Rangel
Roukema
Stark
Washington
Whitten

□ 1120

Messrs. COX, PENNY, COBLE, CONDIT, and ZIMMER changed their vote from "aye" to "no."

Mr. LINDER changed his vote from "no" to "aye."

So the amendments en bloc were agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. HINCHEY. Mr. Speaker, during rollcall vote No. 104 on H.R. 4092 I was unavoidably detained. Had I been present I would have voted "yes."

PERSONAL EXPLANATION

Mr. PORTMAN. Mr. Chairman, as a result of a family emergency, I missed two votes. Had I been in attendance for the vote on the en bloc amendment to H.R. 4092, rollcall No. 104, I would have voted "aye." Had I been in attendance for the Journal vote, rollcall No. 105, I would have voted "no."

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MAZZOLI) having assumed the chair, Mr. TORRICELLI, Chairman of Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 4092) to control and prevent crime, had come to no resolution thereon.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the pending business is the question of the Speaker's approval of the Journal.

RECORDED VOTE

Mr. SOLOMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 237, noes 158, not voting 37, as follows:

[Roll No. 105]

AYES—237

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Barca
Barcia
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Bevill
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Byrne
Cantwell
Cardin
Chapman
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Engel
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Holden
Houghton
Hoyer
Hughes
Inglis
Inslee
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Myers
Nadler
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickle
Pombo
Pomeroy
Poshard
Price (NC)
Rahall
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sarpalius
Sawyer
Schenk
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Visclosky
Volkmer
Watt
Wheat
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—158

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Barrett (NE)
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clay
Coble
Collins (GA)
Cox
Crane
Crapo
Cunningham
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gilchrest
Gingrich
Goodlatte
Goodling
Goss
Grams
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Huffington
Hunter
Hutchinson
Hyde
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Murphy
Nussle
Oxley
Packard
Paxon
Petri
Porter
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—37

Applegate
Bacchus (FL)
Baesler
Ballenger
Berman
Bilbray
Brown (CA)
Bryant
Carr
DeLay
Dellums
Edwards (TX)
Fish
Gallo
Gekas
Grandy
Greenwood
Hochbrueckner
Hutto
Johnson (GA)
Lowey
McMillan
Neal (NC)
Owens
Pickett
Portman
Rangel
Roukema
Sangmeister
Stark
Synar
Vento
Washington
Waters
Waxman
Whitten
Williams

□ 1139

So the Journal was approved.

The result of the vote was announced as above recorded.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to House Resolution 401 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4092.

□ 1140

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4092) to control and prevent crime, with Mr. TORRICELLI in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the amendments en bloc offered by the gentleman from Texas [Mr. BROOKS] had been disposed of.

It is now in order to consider amendment No. 1 printed in part 1 of House Report 103–474.

AMENDMENT OFFERED BY MR. DUNCAN

Mr. DUNCAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DUNCAN: At the end of title VII, add the following:

SEC. . KIDNAPPING.

Section 1201(g)(1) of title 18, United States Code, is amended by inserting "to the penalty of death if the death of the victim results and, in any other case," after "shall be subject".

The CHAIRMAN. Pursuant to the rule, the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment is a very simple and noncontroversial amendment which conforms to language in the committee bill.

At the beginning of this session I introduced a bill that would allow, but not require, juries to impose the death sentence for federally prescribed kidnaping charges when the death of a minor results. I am very pleased that the committee has reported a bill which would allow the death sentence in these cases by amending section 1201(a) of title 18 U.S. Code.

However, because section 1201(g) of title 18 deals specifically with children, I believe that further clarification should be made so that there will be no doubt that cases covered under section 1201(a) will also be covered by section 1201(g) relating specifically to children. My amendment will make it clear that juries will have the option of imposing the death sentence in these instances.

Last year Americans were shocked by the case of 12-year-old Polly Klaas who was kidnaped from her home in Petuluma, CA, and later murdered. The suspect was a twice-convicted kidnaper who had been in police hands twice during the search for Polly.

Families are no longer safe in their own homes because violent criminals are not concerned about the consequences of their actions or the possibility of severe punishment. It is estimated that this year over 1,100 murderers will not go to prison and those that do will serve only an average of 8.7 years. Although many kidnaping cases are unreported, the National Center for Missing and Exploited Children has estimated that between 1984 and 1993 a total of 34,814 children were missing.

We cannot continue to send criminals the message that they will not be severely punished, and people who systematically prey on children must know that if they are caught and found guilty they could receive the death penalty.

I believe that this fear does not exist in the minds of many potential murderers and kidnapers. This amendment will change that, and I hope that my colleagues will support it.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I want to rise in support of the amendment and thank the gentleman from Tennessee [Mr. DUNCAN] for offering it. It clarifies the Federal death penalty for kidnaping presently contained in title VII, also applies to kidnaping of a minor that results in the death of that minor. That was always the intent of the committee.

Mr. Chairman, I thank the gentleman for clarifying this. I would urge support of the amendment.

Mr. DUNCAN. Mr. Chairman, I think the chairman for that kind offer. I certainly appreciate his support.

Mr. Chairman, I urge support of this amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. There being no Member in opposition to the amendment who has requested the time, the question is on the amendment offered by the gentleman from Tennessee [Mr. DUNCAN].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2, printed in part 1 of House Report 103-474.

AMENDMENT OFFERED BY MR. WATT

Mr. WATT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendments offered by Mr. WATT: Page 36, line 11, insert "or" after the semicolon.

Page 37, strike line 12 and all that follows through line 7 on page 38.

The CHAIRMAN. Pursuant to the rule, the gentleman from North Carolina [Mr. WATT] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Mr. MCCOLLUM. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 5 minutes in opposition to the amendment.

The Chair recognizes the gentleman from North Carolina [Mr. WATT].

Mr. WATT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the effect of this amendment would be to strike the provision in the bill which provides for a death penalty for drug kingpins. I am an opponent of the death penalty, but that is not what this argument is about.

I would say that if I were to support a death penalty, it would certainly be a death penalty for drug kingpins. One might wonder then why am I here offering this amendment. I would say to this body that there are three reasons.

No. 1, this language in the bill, which provides for a death penalty when death does not result from the underlying crime, is unconstitutional.

The Supreme Court has indicated that a death must result in order for a death penalty to be applicable. And the drug kingpin statute, of course, results in no death.

No. 2, although I would probably favor a death penalty for drug kingpins, the history of application of the existing drug kingpin statute has indicated that it will be applied in a racially discriminatory way. There have been 37 prosecutions since 1988, when the drug kingpin statute was passed. Thirty-three of those prosecutions have been against black or Hispanic individuals.

I do not think there is anybody in this country who could argue with any degree of credibility that blacks and hispanics are the drug kingpins in this country. So the underlying proposition is, we are passing a drug kingpin statute that gets to the drug kingpins. If that were so, that would be fine. But unfortunately, that has not been the history of application of the drug kingpin statute.

Finally, I would say that this particular provision in the bill may well end up defeating more death penalty prosecutions than it encourages. Most foreign governments will not extradite individuals to this country to be subjected to the death penalty. Many of the drug kingpins, we believe and the evidence has shown, are not resident in the United States. So to have a death penalty statute for drug kingpins is going to make it more difficult to get those drug kingpins into the country to be prosecuted.

I would ask my colleagues to take our responsibility seriously as Members of Congress. Do not just say we are going to be tough on crime and let the Supreme Court declare this provision unconstitutional. It is our responsibility, in the context of the constitutional government, to pass laws that are constitutional. It is our responsibility to be responsible to the people of this country.

I submit to my colleagues that in this particular case, we are being irresponsible to include this language in the bill. I would ask my colleagues to support my amendment.

Mr. Chairman, I reserve the balance of my time.

□ 1150

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all I have great respect for the gentleman who is offering the amendment, but I strenuously disagree with his decision to do so or his position on this amendment.

The provision in the bill that he wishes to strike is one that I offered in committee. It is a drug kingpin death penalty for those who are organizers and leaders of a continuing criminal enterprise trafficking in extremely large quantities of narcotics; for example, 300,000 grams of cocaine or 60,000 grams of heroin. We are not talking about the everyday, average street trafficker.

The drug kingpin death penalty that is in this bill passed the House as part of the conference report during the 102d Congress in precisely the language that is here. Major drug traffickers do commit murders as a result of trafficking in very large quantities of narcotics. There is no question in my mind or in the minds of many reputable analysts and former attorneys general that such a drug kingpin death penalty would be upheld as constitutional.

Former Attorney General Bill Barr, former Attorney General Ed Meese, former Solicitor General Ken Starr, Ted Olson, and Paul Cassell, a very famous professor, have all said in letters to us that they believe that the Supreme Court of the United States would uphold this as constitutional under the standards that now exist.

We have had death penalties in the past which have been upheld where there has been no murder or death proven directly. One good example of that is treason.

Another good example of that is espionage. In 1790 Congress passed the treason law, in 1917 the espionage law, and in 1946 passed a separate law that had a death penalty for the release of sensitive information concerning nuclear technology.

I think a recent Federal court decision probably stated it pretty well when Judge Gee said, and I quote:

> Except in rare cases, the murderer's red hand falls on one victim only, however grim the blow; but the foul hand of the drug dealer blights life after life and, like the vampire of fable, creates others in its owner's evil image—others who create others still, across our land and down our generations, sparing not even the unborn.

It is for this reason, because of the grave public harm which trafficking activities in large quantities cause, and because of the culpable state of mind of the individuals required under this drug kingpin death penalty proposal, that most of us and the experts I have cited believe the Supreme Court would uphold this as constitutional.

Congress has the right to speak the will of the people when danger to society is great enough, and certainly when we have drug kingpins, danger to society is great enough. The proportionality rule under the Eighth amendment is met, the blameworthiness of the offender is clear, and I would urge that the Watt amendment be defeated, that we enact once and for all the drug kingpin death penalty in this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. WATT. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Texas [Mr. BROOKS], and point out to the body that this provision was not in the original bill; it was added in committee, and it won by only one vote in the committee.

Mr. BROOKS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from North Carolina [Mr. WATT]. I am deeply concerned about the constitutionality of imposing the death penalty in any case where death does not directly result, a concern shared by the Department of Justice.

That concern is based on the 1977 Supreme Court case, Coker versus Georgia, in which the Court held that the death penalty for rape was unconstitutional unless the victim was actually killed. Imposing the death penalty in these non-death drug kingpin cases thus is of questionable constitutionality.

I have absolutely no use for drug kingpins and I support the life imprisonment penalties they currently face under existing law. Drug kingpins clearly are a scourge upon our Nation and are repugnant to every law-abiding citizen. As you are all aware, I very much support the death penalty in appropriate cases. I have no compunction about the ultimate punishment when heinous violent acts are committed. But, when we move down a path to passing an unconstitutional provision, we must proceed with care.

The amendment by the gentleman from North Carolina restores the constitutionality of title 7, while leaving in place the existing life imprisonment penalties for drug kingpins. I urge support for this amendment.

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. WATT] has expired.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to this amendment. I believe that if anybody is appropriate for the ultimate sentence, which is death, drug kingpins are. To me they are far more culpable and carry far greater burdens of creating turmoil in our society and ultimate death than the mule who may be at the bottom of the rung and pulls the trigger.

We have had instances where it is not unconstitutional to have a capital crime for those who do not pull the trigger: Spies, treason, espionage. When the Nation wants to show its ultimate opprobrium for those who may put in danger tens of thousands of individuals, of young lives, this is appropriate.

Mr. Chairman, I would urge support for the gentleman from Florida [Mr. McCOLLUM], defeat the Watt amendment, and keep the drug kingpin statute in the capital punishment parts of our bill.

Mr. McCOLLUM. Mr. Chairman, may I inquire how much time remains?

The CHAIRMAN. The gentleman from Florida [Mr. McCOLLUM] has 1½ minutes remaining, and the gentleman from North Carolina [Mr. WATT] has no time remaining.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, 70 percent of all crime in this country is drug related. We are not going to do anything with this crime bill if we do not address the drug problem. It is the major cause of crime in this country, and here is a major section of the bill they want to kill. It makes no sense. Drug kingpins are killing our kids, they are killing our society, they are costing the society billions and billions of dollars a year, and this is an essential part of this bill.

Mr. Chairman, this is not a white issue, a black issue, a red issue, a pink issue. This is an American issue. If we are going to solve the crime problem in America, we have to deal with the drug problem. If we do not have a strong provision in this bill, it is not worth the paper it is written on.

Mr. Chairman, this amendment should be defeated. In fact, I think this section should be have even stronger. There should be lower limits for the death penalty for major drug dealers. They are ruining this society.

Mr. McCOLLUM. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I would like to point out in the decision that the gentleman from Texas [Mr. BROOKS] pointed out regarding rape that there were clearly exceptions made by the Supreme Court in that decision stating that this was not a focus on the death penalty generally, where there were no murders or killings. It certainly says that wherever somebody has committed a crime heinous enough for Congress and for the public to be outraged, and to find public opprobrium, that the death penalty is appropriate, and those cases are there for us to define. That is what we are doing today.

The death penalty for drug kingpins and those who are leaders in trafficking in extremely large quantities of narcotics surely is appropriate. Hundreds of people, thousands of people, potentially are killed.

Mr. Chairman, I urge defeat of this amendment to allow the drug kingpin death penalty to stay in the bill.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from North Carolina [Mr. WATT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WATT. Mr. Chairman, I demand a recorded vote. A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 108, noes 316, answered "present" 1, not voting 12, as follows:

[Roll No. 106]

AYES—108

Andrews (ME)
Barca
Barrett (WI)
Becerra
Berman
Blackwell
Bonior
Boucher
Brooks
Brown (CA)
Brown (OH)
Clay
Clayton
Clyburn
Collins (IL)
Collins (MI)
Conyers
Coyne
DeFazio
Dellums
Dixon
Edwards (CA)
Ehlers
Engel
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Ford (MI)
Frank (MA)
Furse
Gonzalez
Hamburg
Hastings
Hilliard
Hinchey
Hoekstra
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kildee
Kleczka
Klug
Kopetski
LaFalce
Levin
Lewis (GA)
Lowey
Maloney
Mann
Markey
Mazzoli
McDermott
McKinney
McNulty
Meek
Mfume
Miller (CA)
Mineta
Mink
Mollohan
Nadler
Norton (DC)
Oberstar
Obey
Olver
Payne (NJ)
Pelosi
Penny
Rose
Roybal-Allard
Rush
Sabo
Sanders
Scott
Serrano
Sharp
Skaggs
Slaughter
Smith (IA)
Smith (NJ)
Stark
Stokes
Studds
Swift
Synar
Thompson
Towns
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Waters
Watt
Wise
Woolsey
Wynn
Yates
Young (AK)

NOES—316

Abercrombie
Allard
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Beilenson
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Brewster
Browder
Brown (FL)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clement
Clinger
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden

de la Garza
de Lugo (VI)
Deal
DeLauro
DeLay
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Doolittle
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Emerson
English
Everett
Faleomavaega (AS)
Fawell
Fields (TX)
Fingerhut
Foglietta
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hoagland
Hobson
Hochbrueckner
Hoke
Holden
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kim
King
Kingston
Klein
Klink
Knollenberg
Kolbe
Kreidler
Kyl
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Machtley
Manton
Manzullo
Margolies-Mezvinsky
Martinez
Matsui
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
Meehan
Menendez
Meyers
Mica
Michel
Miller (FL)
Minge
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Neal (MA)
Neal (NC)
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Romero-Barcelo (PR)
Ros-Lehtinen
Rostenkowski
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Sensenbrenner
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Torkildsen
Torres
Torricelli
Traficant
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wheat
Whitten
Williams
Wilson
Wolf
Wyden
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Owens

NOT VOTING—12

Ackerman
Dornan
Ewing
Fish
Gallo
Grandy
Gutierrez
Rangel
Roth
Roukema
Washington
Waxman

□ 1218

The Clerk announced the following pairs:

On this vote:

Mr. Ackerman for, with Mr. Grandy against.

Mr. Rangel for, with Mrs. Roukema against.

Ms. BROWN of Florida and Ms. ENGLISH of Arizona changed their vote from "aye" to "no."

Messrs. BERMAN, BECERRA, and SERRANO changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. ROTH. Mr. Chairman, during the vote on the Watt amendment rollcall 106, striking the crime bill's death penalty provision for drug kingpins, I was unavoidably detained. Had I been present, I would have voted "no."

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in part 1 of House Report 103–474.

AMENDMENT OFFERED BY MR. SCOTT

Mr. SCOTT. Mr. Chairman, I offer an amendment made in order by the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SCOTT: Page 62, strike line 6 and all that follows through line 10 and redesignate succeeding subsections accordingly.

Page 69, strike line 17 and all that follows through line 22 on page 70.

□ 1220

The CHAIRMAN. Pursuant to the rule, the gentleman from Virginia [Mr. SCOTT] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

Mr. McCOLLUM. Mr. Chairman, I rise in opposition.

The CHAIRMAN. The gentleman from Virginia [Mr. SCOTT] will be recognized for 5 minutes, and the gentleman from Florida [Mr. McCOLLUM] will be recognized for 5 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment strikes from the bill the death penalty crimes in which the States are far better suited to handle, murders committed during carjackings, drive-by shootings, drug and gun crimes.

A vote for this amendment is a vote against unnecessary and burdensome federalization of crimes.

Mr. Chairman, the Chair of the Judicial Conference on Criminal Law, in a letter to the Committee on the Judiciary, wrote,

> Our Nation's judicial system is premised on the principle that the Federal and State courts together comprise an integrated system for the administration of justice. Federalization of these crimes may result, paradoxically, in less rather than more effective law enforcement. Scarce judicial resources needed by the Federal courts to try major crimes, such as complex bank fraud and embezzlement cases and to provide forums for the prosecution of national and international drug and money-laundering conspiracies, will be diluted by a variety of cases that State courts are better equipped to handle.

Furthermore, Mr. Chairman, the director of the FBI testified, "The facts are that right now, I don't think I am fully staffed to fulfill all of my current responsibilities." If this bill passes, Mr. Chairman, the FBI will have to investigate local carjacking murders, drive-by shootings, drug and gun crimes, in addition to the espionage, drug kingpin, and racketeering cases.

Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

First of all, this is not a provision in the bill that deals with carjacking itself; it deals with murder when you have carjackings. I think the problem that is important here is how many crimes are being committed today all over this country involving interstate transportation of cars and kidnapping of people and murders that go along with them. There is no question there is a Federal concern when we have people who are brutally and heinously murdered in various and sundry locations in the process of a carjacking operation. That is a very common trait interstate and it is very appropriate for the Federal Government to be involved.

I would urge my colleagues to sustain the position of the committee and leave the murder of carjacking as a death penalty in this bill. That is all that we are about today. The effort is to strike the death penalty for murders committed during the course of a carjacking.

Mr. Chairman, I urge defeat of the amendment. There is really very little else that can be said on it. I urge a "no" vote.

Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I rise in support of Mr. SCOTT's amendment because I think it puts the responsibility for these crimes where it belongs—with the States.

I support the Federal death penalty and I support Federal law enforcement enforcing the Federal law to the fullest. But we cannot make every offense into a Federal death penalty offense.

These offenses that are in this amendment are already covered by State law—murders from cars by carjackers and by drug dealers or gun-runners are already crimes in every State.

For instance there is absolutely no Federal connection in the driveby shootings provision in this bill. There is no requirement that any driveby shooting occur on Federal property, or even across State lines and we have made it a Federal death penalty offense. Why? There's no reason.

And then we have added murders committed during Federal gun or drug crimes to the Federal death penalty list. So if a person commits a murder and uses an illegally possessed firearm that has been in interstate commerce, the Federal system now becomes involved in the murder prosecution. The Federal Government cannot handle the Federal criminals it already has to deal with.

The States are better equipped and better able to deal with these crimes, they are traditional responsibilities and we should not overload the Federal system with them. FBI Director Freeh recently said that they are already understaffed for the current workload. We are doing a disservice by adding these nonconnected Federal death penalty offenses.

Let us support the Federal death penalty, but let us support offenses that belong there, not those that do not.

Mr. SCOTT. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. I thank the gentleman for yielding to me.

I wish to thank my colleague on the Committee on the Judiciary, the gentleman from Virginia [Mr. SCOTT], for bringing this point to us, because it has been made so ably by our colleague from Kansas as well as the author of this provision that the federalization of State crimes, because they are heinous, is no more rational than for us to make any other local crimes we do not like a Federal crime.

We do not have places to put the people that we would convict. We do not have a system set up.

So I would merely join in strongly urging support for the Scott amendment.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman.

Mr. EDWARDS of California. I thank the gentleman from Michigan for yielding to me.

Mr. Chairman, I think what the gentleman said is entirely correct. We have fewer than 700 Federal judges. They have important constitutional issues. We should not turn them into police court judges. We should not keep federalizing these State crimes.

Mr. MCCOLLUM. Mr. Chairman, I yield myself 1 minute.

I wish simply to point out that while I respect the arguments being made on the other side, carjacking does involve, frequently, a Federal nexus; it does involve frequently interstate transportation of those vehicles; it involves, oftentimes, matters which are a Federal concern. The implementation of this requires some discretion so that not every carjacking murder is going to wind up being in Federal court. I would think this is an appropriate thing to keep in the bill for use in appropriate cases by Federal authorities. It is again, in my judgment, appropriate to have a death penalty for murder, and that is all this is, for murder in carjackings.

Mr. Chairman, I urge a "no" vote on this amendment to strike it from the bill.

Mr. SCOTT. Mr. Chairman, I yield myself the balance of my time.

Just very briefly, the passage of this amendment will avoid jurisdictional confusion and rivalries between local police and the FBI, local prosecutors, and U.S. attorneys.

I would hope we would leave this matter to the States. All of these are crimes in the States.

Mr. Chairman, I urge my colleagues to support the amendment.

The CHAIRMAN. All time having expired, the question is on the amendment offered by the gentleman from Virginia [Mr. SCOTT].

The amendment was rejected.

The CHAIRMAN. It is now in order to consider amendment No. 4, printed in part 1 of House Report 103–474.

AMENDMENT OFFERED BY MR. KOPETSKI

Mr. KOPETSKI. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. KOPETSKI: At the end of title VII, insert the following:

SEC. . SUBSTITUTION OF PENALTY OF LIFE IMPRISONMENT FOR DEATH PENALTY.

Notwithstanding any other provision of law, wherever a Federal law provides for the imposition of the penalty of death, the court shall instead impose the penalty of imprisonment for life.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Oregon [Mr. KOPETSKI] will be recognized for 10 minutes, and the gentleman from Texas [Mr. BROOKS] will be recognized for 10 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Oregon [Mr. KOPETSKI].

□ 1230

Mr. KOPETSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to offer an amendment on behalf of myself and my good friends, the gentleman from Maryland [Mr. MFUME] and the gentleman from New York [Mr. SERRANO].

The Kopetski-Mfume-Serrano amendment would, quite simply, strip out all the death penalty provisions in H.R. 4092, and insert, in their place, life imprisonment. And, as there is no parole in the Federal system, our amendment requires life imprisonment without opportunity for parole as a substitute for death sentencing.

Mr. Chairman, we have before us today one of the few instances where the Congress clearly legislates morality. Certainly, many of us are troubled by the death penalty on moral, and possibly, religious grounds. But more importantly, from my point of view, the Government—especially the Federal Government—sets the standards for society. I believe I speak for many in this Chamber when I say Government should be setting an example for our citizens on how to conduct their lives. Government, by its actions, should not, therefore, ratify and legitimize death in our society. But I do not want to dwell on that aspect. There are substantive policy grounds on which to oppose the death penalty. I will recount five of them here.

TOO EXPENSIVE

Life imprisonment without hope of release is more cost effective than the death penalty. Per case estimates of death sentences greatly exceed the cost of life imprisonment. In California, for example, death penalty cases cost an average of $600,000, according to the Loyola of Los Angeles Law Review, compared with $427,000 for life imprisonment. In Oregon the cost is $1.2 million for death penalty cases as opposed to $600,000 for life without parole.

EXECUTING THE INNOCENT

A sentence with the finality and irrevocability of death is inappropriate in a system where miscarriages of justice can and do occur. Stanford Law Review documented hundreds of cases in which innocent individuals were sentenced to death, 23 of whom were wrongly executed. Let me repeat that, because it's a staggering number: 23 people lay dead who were later exonerated of wrongdoing. In the last few years, several death-row prisoners have had their sentences reversed and were freed based upon wrongful convictions.

RACIAL DISCRIMINATION

Between 1930 and 1990, roughly 4,000 persons were executed in the United States, 53 percent of whom were black. During these years, African-Americans made up roughly 12 percent of the country, indicating they are executed in extreme disproportion to their representation in society. A 1990 GAO report confirms prior findings that a convicted perpetrator of a capital crime is much more likely to receive the death penalty if the victim is white and much less likely to receive the death penalty if the victim is black. Since 1976, 87 percent of those executed had white victims while only 11 percent had black victims. Besides race, the death penalty discriminates against the poor.

According to the U.S. Bureau of Justice Statistics, roughly 90 percent of those on death row could not afford to hire an attorney.

DOES NOT DETER CRIME

Study after study shows that certainty of punishment is the main deterrent to criminals, not severity of punishment, as some would have us believe. The murder rates in death penalty States have generally been higher than in non-death-penalty States. Even if severity were the leading factor in deterrence, however, I believe you could make the case that life imprisonment without parole is a sterner, more foreboding sentence. A survey of death-row inmates in Tennessee found that half felt a sentence of life without hope for release would be worse, in their minds, than the death penalty.

INEQUITY OF JUSTICE

We are casually, but unfortunately, federalizing what has traditionally been an area of States' rights. My colleagues may be interested to know that the Conference of Chief Justices, the association of State supreme court chief justices, opposes the federalization of State crimes as violative of long-held principals of federalism. Moreover the State chief justices, judging by the resolution I've read and will submit for the RECORD, find the provisions of this bill little more than insulting to current State efforts and illusory in their promised effects.

U.S. Supreme Court Justice Harry Blackmun recently reversed his long-standing support for the death penalty, in remarks made in the context of a dissenting opinion in Callins versus Collins. Twenty years ago, Justice Blackmun pointed out, when the Supreme Court swept away existing death penalties and asked the States to start over, governments and courts thought they could iron out the rough spots in the application of the death sentence. But, as Blackmun suggests to say in his recent dissent the courts and legislatures could not, and the experiment itself is a failure. I have copies of Blackmun's dissent, and I would be happy to share them with Members.

Mr. Chairman, this is our intent: To substitute the sternest alternative sentence possible in place of the death penalty. We do not deny that the crimes listed in the expansion of the Federal death penalty in H.R. 4092 are heinous crimes, and deserving of the stiffest sentences. In my view, life without any hope of release constitutes death by incarceration, a stiff penalty by any standard.

I urge support of the Kopetski-Mfume-Serrano amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Oregon [Mr. KOPETSKI] which would strike the death penalty provisions of H.R. 4092 and substitute mandatory life imprisonment.

I have the utmost respect for the gentleman's sincere philosophical beliefs about the death penalty. However, in a civilized society there are acts so despicable, so heinous, that society must collectively express its revulsion for these acts by imposition of the death penalty. That penalty must, of course, be imposed under constitutionally sound procedures, which I also support.

I believe the death penalty—in appropriate circumstances—to be a just penalty. I do not believe in theoretical disputes about how much deterrence or punishment is achieved by meting out the death penalty. Plain common sense tells us the death penalty is the only way to send an unequivocal message that some conduct simply will not be borne by innocent victims of heinous crimes without the highest price to be paid.

A civilized society cannot send out mixed or ambiguous signals about how certain heinous acts will be treated. H.R. 4092 reflects this sound philosophy, and I believe it should be preserved. I urge my colleagues on both sides of the aisle to oppose this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. KOPETSKI. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Chairman, the Kopetski-Mfume-Serrano amendment would replace the death penalty called for in H.R. 4092, the bill we are debating, with a bill more constitutionally morally sound and a less expensive sentence of life without parole.

Mr. Chairman, H.R. 4092 would apply the death penalty, as my colleagues know, to over 60 new Federal offenses. Yet, in February of this year, Supreme Court Justice Blackmun stated—and I quote, that "[t]wenty years have passed since this court declared that the death penalty must be imposed fairly, and with reasonable consistency or not at all," and he said, "despite the effort of the states and courts to devise legal formulas and procedural rules to meet this daunting challenge, "Justice Blackmun said," the death penalty remains fraught with arbitrariness, discrimination, caprice and mistake." History shows us, if we are wise, that minorities have continuously received a disproportionate share of society's harshest punishments, from slavery to lynchings. The race of the victim also constitutes a factor in the discriminatory fashion in which the death penalty is applied. The GAO stated, and I quote, that "those who murdered whites were found more likely to be sentenced to death than those who murdered blacks," when we all know, as we must, all murder is wrong.

Moreover, a large body of evidence shows that innocent people are often convicted of crimes, including capital crimes, and that some of them have been executed. There have been, on the average, more than four cases per year in which an entirely innocent person was convicted of murder, and many of those persons were sentenced to death.

Mr. Chairman, I have here a list of 46 cases that have either been overturned or where the prisoner was released in light of new evidence, and include it with my remarks for printing in the CONGRESSIONAL RECORD:

FORTY-SIX DEATH ROW CASES FOUND TO BE IN ERROR

RELEASED—1973

(1) David Keaton, Florida; Convicted: 1971. Sentenced to death for murdering an off duty deputy sheriff during a robbery. He was released after the actual killer was convicted.

RELEASED—1976

(2) Thomas Gladish, Richard Greer, Ronald Keine, Clarence Smith, New Mexico; Convicted: 1974. The four were convicted of murder, kidnapping, sodomy, and rape and were sentenced to death. They were released after a newspaper investigation caused a drifter to admit to the killings.

RELEASED—1977

(3) Delbert Tibbs, Florida; Convicted: 1974. Sentenced to death for the rape of a sixteen year old and the murder of her companion. The conviction was overturned by the Florida Supreme Court because the verdict was not supported by the weight of the evidence.

RELEASED—1978

(4) Earl Charles, Georgia; Convicted: 1975. Convicted on two counts of murder and sentenced to death. He was released when evidence was found that substantiated his alibi.

(5) Jonathan Treadway, Arizona; Convicted: 1975. Convicted of sodomy and first degree murder of a six-year-old and sentenced to death. He was acquitted at retrial by the jury after 5 pathologists testified that the victim probably died of natural causes and that there was no evidence of sodomy.

RELEASED—1979

(6) Gary Beeman, Ohio; Convicted: 1976. Convicted of aggravated murder and sentenced to death. Acquitted at the retrial when evidence showed that the true killer was the main prosecution witness at the first trial.

RELEASED—1980

(7) Jerry Banks, Georgia; 1975. Sentenced to death for two counts of murder. The conviction was overturned because the prosecution knowingly withheld exculpatory evidence.

(8) Larry Hicks, Indiana; Convicted: 1978. Convicted on two counts of murder and sentenced to death. He was acquitted at the retrial when witnesses established his alibi and when the eyewitness testimony at the first trial was proved to have been perjured.

(9) Johnnie Ross, Louisiana; Convicted: 1975. Sentenced to death for rape. He was released when his blood type was found to be inconsistent with that of the rapist's.

RELEASED—1981

(10) Charles Ray Giddens, Oklahoma; Convicted: 1978. Conviction and death sentence reversed by the Oklahoma Court of Criminal Appeals on grounds of insufficient evidence.

(11) Michael Linder, South Carolina; Convicted: 1979. Sentenced to death but was ac-

quitted at the retrial on the grounds of self defense.

RELEASED—1982

(12) Annibal Jaramillo, Florida; Convicted: 1981. Sentenced to death for two counts of first degree murder. He was released when the Florida Supreme Court ruled the evidence did not sustain the conviction.

(13) Lawyer Johnson, Massachusetts; Convicted: 1971. Sentenced to death for first degree murder. The charges were dropped when at this new trial a previously silent eyewitness came forward and implicated the state's chief witness as the actual killer.

RELEASED—1983

(14) Chol Soo Lee, California; Convicted: 1977. Convicted and sentenced to death for killing a fellow prisoner. The conviction was overturned because of improper jury instructions and Lee was released.

(15) Billy Jo Wallace, Georgia; Convicted and sentenced to death for murder. His conviction was overturned by the Supreme Court of Georgia based on perjured testimony.

RELEASED—1986

(16) Anthony Brown, Florida; Convicted: 1983. Convicted of first degree murder and sentenced to death. At the retrial, the state's chief witness admitted that his testimony at the first trial had been perjured.

(17) Neil Ferber, Pennsylvania; Convicted: 1982. Convicted of first degree murder and sentenced to death. He was released at the request of the state's attorney when new evidence showed that the conviction was based on perjured testimony.

RELEASED—1987

(18) Joseph Green Brown, Florida; Convicted: 1974. Charges were dropped after the 11th Circuit ruled that the conviction was based on suppression of exculpatory evidence by the prosecution.

(19) Perry Cobb, Darby Williams, Illinois; Convicted: 1979. They were convicted and sentenced to death for a double murder. They were acquitted at retrial when an assistant state's attorney came forward and destroyed the credibility of the state's chief witness.

(20) Henry Drake, Georgia; Convicted: 1976. Reconvicted to a life sentence at his second retrial. Six months later, the parole board freed him, convinced by an exoneration of Drake given by his alleged accomplice.

(21) John Henry Knapp, Arizona; Convicted: 1974. Released after the state Supreme Court ordered a new trial.

(22) Wilbert Lee, Freddie Pitts, Florida; Convicted: 1963. They were convicted of a double murder and sentenced to death. They were released when they received a full pardon from Governor Askew because of their innocence.

(23) Vernon McManus, Texas; Convicted: 1977. After a new trial was ordered; the prosecution dropped the charges because a key prosecution witness refused to testify.

(24) Anthony Ray Peek, Florida; Convicted: 1978. Convicted of murder and sentenced to death. He was acquitted at his second retrial because the erroneous conviction was based on faulty expert testimony.

(25) John Ramos, Florida; Convicted: 1983. Sentenced to death for a rape-murder. The decision was vacated by the Florida Supreme Court. At his retrial, he was acquitted.

(26) Robert Wallace, Georgia; Convicted: 1980. Sentenced to death for the slaying of a police officer. The 11th Circuit ordered a retrial because Wallace was not competent to stand trial. He was acquitted at the retrial because it was found that the shooting was accidental.

RELEASED—1988

(27) Jerry Bigelow, California; Convicted: 1981. Convicted of murder and sentenced to death. His conviction was overturned by the California Supreme Court and was acquitted at the retrial.

(28) Willie Brown, Larry Troy, Florida; Convicted: 1983. They were released when the evidence showed that the main witness at trial had perjured himself.

(29) William Jent, Earnest Miller, Florida; Convicted: 1979. They were released in a plea agreement at their retrial.

(30) Clarence Womack, Alabama; Convicted: 1982. Convicted of murder and sentenced to death. The conviction was overturned by the Supreme Court of Alabama based on suppression of evidence by the prosecution and false testimony.

RELEASED—1989

(31) Randall Dale Adams, Texas; Convicted: 1977. Convicted of murder and sentenced to death. He was ordered to be released pending a new trial by the Texas Court of Appeals. The prosecutors didn't seek a retrial due to substantial evidence of Adam's innocence.

(32) Jesse Keith Brown, South Carolina; Convicted: 1983. The conviction was reversed twice by the state Supreme Court. At the third trial he was acquitted.

(33) Nathan Brown, Georgia; Convicted and sentenced to death. U.S. District Judge Bowen reversed the conviction and sentence based on prosecutorial misconduct.

(34) Robert Cox, Florida; Convicted: 1988. Released by an unanimous decision of the Florida Supreme Court on the basis of insufficient evidence.

(35) Timothy Hennis, North Carolina; Convicted: 1985. Convicted on three counts of murder and was sentenced to death. The state Supreme Court granted a retrial. At the retrial, Hennis was acquitted.

(36) James Richardson, Florida; Convicted: 1963. Released after reexamination of the case by the Miami State's Attorney office concluded he was innocent.

RELEASED—1990

(37) Clarence Brandley, Texas; Convicted: 1980. Awarded a new trial when evidence showed prosecutorial suppression of exculpatory evidence and perjury by prosecution witnesses. The case was not retried.

(38) Patrick Croy, California; Convicted: 1979. Conviction overturned by the state Supreme Court because of improper jury instructions. Acquitted at retrial after argument of self defense.

(39) John Clifford Skelton, Texas; Convicted: 1982. Convicted of killing a 46 year old man by exploding dynamite in his pickup. The conviction was overturned by the Texas Court of Criminal Appeals due to insufficient evidence.

RELEASED—1991

(40) Bradley P. Scott, Florida; Convicted: 1988. Released by the Florida Supreme Court on the basis of insufficient evidence.

(41) Gary Nelson, Georgia; Convicted: 1979. Convicted and sentenced to death for the rape and murder of a 6-year-old girl. Released after it was shown that the willful suppression of evidence in the state's possession pointed to the guilt of another.

(42) Jimmy Lee Horton, Georgia. Horton, a black man, was convicted of murder and sentenced to death by an all white jury. The 11th Circuit Court of Appeals held that the pattern of wholesale strikes against black jurors by the prosecutor were unconstitutional.

RELEASED—1993

(43) Kirk Bloodsworth, Maryland; Convicted: 1984. Convicted and sentenced to death for the rape/murder of a young girl. He was granted a new trial and given a life sentence. He was released after further DNA testing proved his innocence.

(44) Fredrico Martinez Macias, Texas; Convicted: 1983. Convicted of the machete slaying of Robert Haney. A federal appeals court overturned the conviction and the prosecution was not able to get another indictment against him because the grand jury felt there was a lack of evidence.

(45) Walter "Johnny D" McMillian, Alabama, Convicted: 1986. Conviction was overturned by the Alabama Court of Criminal Appeals and was freed after prosecutors decided not to retry him.

(46) Gregory Ralph Wilhoit, Oklahoma, Convicted: 1985. Convicted of killing his estranged wife while she slept. He was released after 11 forensic experts testified that a bite mark found on his dead wife's breast did not belong to him.

Finally, seeking and imposing the death penalty is much more expensive than its closest alternative, life imprisonment without parole. Capital trials are longer, they are more expensive at every step of the way than other murder trials.

The death penalty is discriminatory, arbitrary, unfair, expensive and fraught with error. Those are the conclusions of everybody who has studied in a fair and objective way the imposition of this penalty, and so imposing the death penalty for over 60 new Federal crimes is a foolish attempt to appear tough on crime by seeking revenge instead of seeking solutions and putting an even greater burden on the taxpayers of this Nation. We all under stand; some of us do, what it is like to be victimized, but we must also understand that we have to be honest and fair in our assessment of what an enlightened society must do. It is less expensive to put people away for the rest of their lives despite those sorts of arguments to the contrary.

Mr. Chairman, I would urge support of the Kopetski-Mfume-Serrano amendment.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida [Mr. MCCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman from Texas [Mr. BROOKS] for yielding this time to me.

Mr. Chairman, I think this is a very important debate because many people genuinely do not agree that the death penalty is a deterrent or that it should be on the books.

□ 1240

Others believe that there is some discrimination that is carried out in the actual implementation of death penalties generically. I think both positions are wrong. The death penalty has a place in our society. We should defeat this amendment for that reason.

The death penalty with regard to deterrence is not going to deter everybody who might commit a murder or commit a heinous crime subject to the death penalty, but it does deter a certain number of people. Statistically it is impossible for us to be able to demonstrate that in every case because the people who do not commit those crimes or do not commit the murders that would get the death penalty are not around on death row or in jail somewhere to interview.

But it is just common sense, and I think it has been proven by many, many studies that the death penalty indeed does deter a substantial amount of crime when it is carried out properly.

The biggest problem we have with it today is that we do not have the swiftness and certainty of punishment, and we have the endless appeals that the death row inmates have, but that is another problem.

With regard to the discrimination aspect, I would submit that the real statistics show that in actuality, as far as black men or women who are sentenced to death are concerned, compared to white, normally what we will find in those studies is that most of the crimes that were committed by the blacks who get the death penalty were against other blacks or minority members, and that indeed in most cases where the studies have been done, whites actually have a greater chance in front of a sentencing panel of getting life imprisonment rather than the death sentence on a proportion of the number of cases that are brought to bear.

So I think that the bottom line is that neither argument is meritorious. The death penalty has a place. It is not discriminatory. It is very important that it be properly structured and carried out. but we do not want to strike the opportunity for the Federal Government to give the death penalty. We need to finally, after many years of not having it, reinstate the procedures in this legislation, which it does, to allow the death penalty to be carried out for things like assassination of the President, drug kingpins, and so forth.

Mr. Chairman, I thank the gentleman from Texas for yielding time to me, and I urge a no vote on the amendment.

Mr. KOPETSKI. Mr. Chairman, I yield 30 seconds to the distinguished chairman of the Subcommittee on Civil and Constitutional Rights and a great champion of the Bill of Rights, the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman for yielding time to me, and I compliment him on offering this important amendment.

Mr. Chairman, I think we ought to make it very clear that all of the evidence is that there is no deterrence in death penalties.

I do not know how many of you saw McNeil-Lehrer 3 nights ago where a triple murderer was asked over and over again by Robert McNeil, "Didn't you know if you murdered those people, you could get the death penalty?"

He said, "No, of course I didn't think about that." He said, "It doesn't deter anything. You feel you have to do it, you don't think you are going to get caught, and that's it."

And he said, "Throughout the prisons where I have been incarcerated, everyone has the same attitude."

There are 13 States that do not have the death penalty, and I can assure my colleagues that their murder rate is no higher in those States than in the rest of the country, including States like California that have the death penalty.

Mr. BROOKS. Mr. Chairman, I yield back the balance of my time.

Mr. KOPETSKI. Mr. Chairman, may I inquire how much time I have remaining?

The CHAIRMAN. The gentleman from Oregon [Mr. KOPETSKI] has 2½ minutes remaining.

Mr. KOPETSKI. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I want to reiterate one point for my colleagues: the death penalty is more expensive, not less, than life imprisonment. Again, estimates in California are that death penalty cases cost roughly $600,000, compared to $427,000 for life imprisonment.

Moreover, adding more death penalty cases would further clog up the already overburdened Federal courts, squeezing out not only other criminal cases, but also civil cases, including business law. According to a recent article in The Washington Post, nearly one-half the working hours of the Florida supreme court are spent on death penalty cases. The lesson from Florida is clear: death penalty cases crowd out other court business. The Congress should think carefully before imposing the same burden on the Federal system.

Mr. Chairman, let's instead learn from the experience of the States. According to a recent article in The Washington Post, last year's level of executions was the highest in 30 years, and yet, under present law, there were roughly six new death sentences for every execution. Under present law, the backlog of death sentences continues to grow, the average wait for execution may soon surpass 20 years, and death row inmates come to fear old age more than execution. Quite frankly, we can not kill them fast enough under current law. The system is broke. Adding even one new Federal death penalty would add hardship to an already overburdened system, yet, to my disbelief, the House is proposing to add over 60 new Federal death penalties!

Mr. David Sarasohn of the Oregonian newspaper recently wrote of the problems the Federal court system will encounter with death penalty cases, and I will include the article at the end of my remarks.

And, Mr. Chairman, in addition to moral questions and policy questions, there is another fundamental flaw with this provision, as written. That flaw is in the values the bill, as written, espouses. When I say the value systems are flawed, I should also point out, I mean this as separate from the moral aspects, which I described earlier.

We can only vote on what is before us, not on broad policy objectives that we may wish to read into each bill for political benefit or expedience. And before us today is a bill which places a higher value on the life of a Federal bureaucrat than on the men, women and children whom we represent. For example, if you murder a Federal court official, you get sentenced to death under this bill, but, if you murder the 4-year old down the street, you do not. If you are for the death penalty, you have to explain to your constituents why you value a Federal employee more than you value their life or the life of their child. There is another anomaly. Under the bill if you murder someone in a Federal courthouse you get the death penalty. If you murder them outside the courthouse, you don't.

And before us today is a bill which places a higher value on our lives, as Members of Congress, than on the men, women, and children we represent. Again, if you are for the death penalty, you have to explain to your constituents why you value your life and the lives of your colleagues in Congress higher than you value their life or the life of their child. If you are voting against the Kopetski-Mfume-Serrano amendment today, my colleagues, you are not just voting for the death penalty in the abstract, you are voting for some very troubling value systems.

Life has its ironies. Today Americans are outraged at the punishment by caning in Singapore. Our President has asked that the sentence not be carried out. Yet today we vote as a society to impose the death penalty.

I urge support of the Kopetski-Mfume-Serrano amendment.

Mr. Chairman, I include here the article to which I referred, as follows:

50 NEW DEATH PENALTIES! DO I HEAR 60?

(By David Sarasohn)

In 1988, faced with the embarrassing reality that eight years of loudly tough-on-crime government had somehow turned the country into an all-night drug store, Vice President George Bush had a great idea. The answer, he explained, was capital punishment for "drug kingpins."

Congress, most of which was running for re-election, ran to pass a new federal capital punishment bill before the polls opened. It was in such a hurry, in fact, that it failed to specify how the kingpins were to be executed—although there was some feeling that prolonged exposure to the Bush-Dukakis debates might do it.

Five and a half years later, how many drug kingpins has the federal government actually executed?

About as many as the nights George Bush has recently spent in the White House. The federal government, in fact, hasn't executed anybody for 30 years. The most dangerous thing a drug kingpin could do would be to hold his breath until it did.

On the other hand, the great majority of the congressmen who voted for the idea got re-elected.

Inspired by their stunning success with this approach, the Senate and House are now in the process of creating more federal capital crimes, filling up two crime bills with menacing poses. The House crime bill now includes 40 federal capital counts—although different people reach different courts—and the Senate includes 52.

Big talk from a jurisdiction that hasn't actually executed anyone lately—a lot bigger than the chance that any of this has anything to do with stopping crime.

Nobody's going to be terribly upset about the Senate's plan to make genocide a capital crime—especially not in Yugoslavia. And most people would stand behind execution for murdering the president, vice president or high-level members of their staffs, although this could immediately provoke an inside-the-Beltway quarrel about who is or isn't high-level.

But the Senate bill also contains language that federalizes any murder committed with a gun that crosses state lines, which could flood the federal courts and set off some substantial fights with states—many of which have recently actually executed people.

Among the new listings included in the House's 40 death penalties is "Use of a weapon of mass destruction resulting in death," which is probably already covered in most places. The House joins the Senate in specifying a death penalty for a killing on a maritime facility, such as an offshore oil rig.

Most of these dozens of new capital crimes are different ways of describing murder. Most of them will never be used; many are what Leigh Dingerson, of the National Coalition to Abolish the Death Penalty, calls "statistically non-existent."

"Murder on a maritime platform," she notes, "is not the kind of crime I'm concerned about in my neighborhood."

Kill a high-level member of the vice president's staff on a maritime platform, of course, and you'd really be in trouble.

All the experience of a federal death penalty shows that all this will be insignificant; the feds will not be executing large numbers anytime soon. Lots of other experience suggests that the federal courts are not currently set up as the places to deal with capital trials, and a sudden burst of them—the Senate's interstate gun amendment could potentially create 6,000 a year—could blow out the federal circuits' circuits.

"It's a foreign concept to this system," says Dennis Balske, an assistant federal defender in Portland and former chairman of the Death Penalty Committee of the National Association of Criminal Defense Lawyers. "It's a whole body of law totally different than anything else out there. It's incredibly specialized, and everyone in the system would have to go back to school." This, of course, is not Congress's goal; Congress' goal is to go home and explain that it's been tough on crime.

This entire approach has not been what you'd call closely thought out. There is, for example, the question of just how the federal government would execute someone.

The 1988 law, which currently has six people under federal sentence of death, didn't say anything about how it should happen. So just as the Bush administration was leaving office, it ordered the Justice Department to build a federal Death Row and lethal injection chamber at the federal prison in Terre Haute, Ind. It should be completed this year, but any attempt to use it—promises David Bruck of South Carolina, one of the federal system's two Federal Death Penalty Resource Counsels—will face a legal challenge arguing that means of execution has to be set legislatively, not bureaucratically.

The new laws suggest borrowing state facilities—which asks just what the point is of the Terre Haute location.

You could ask the same thing about the new death penalties—unless you're a congressman running for re-election.

After all, it worked once.

Mr. MFUME. Mr. Chairman, I ask unanimous consent, with the concurrence of the other side, that the gentleman from Oregon [Mr. KOPETSKI] have an additional 1 minute to speak in hopes that he may yield one-half of that time to me.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. KOPETSKI. Mr. Chairman, I yield 30 seconds to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Chairman, let me just say as we close this debate that the argument by the gentleman from Florida [Mr. MCCOLLUM] carries merit. I believe, also, that you can make sensible arguments on both sides of this issue, and you can be looked at as being laughable on both sides of this issue.

Mr. Chairman, what we are saying with our amendment is to take this burden off the taxpayers, millions of dollars wasted in appeal after appeal after appeal instead of giving somebody life without parole, using that money in the criminal justice system to enforce the law and to take care of others who are breaking the law.

Mr. Chairman, I thank the gentleman for his support of the amendment and I thank the gentleman from Florida [Mr. MCCOLLUM] as well.

Mr. KOPETSKI. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Oregon [Mr. KOPETSKI] is recognized for 30 seconds.

Mr. KOPETSKI. Mr. Chairman, in closing, we talk about being a civilized society in this debate and I think life is often full of ironies. This Nation has been debating whether the penalty in Singapore ought to be carried out on a young man because he is going to be caned. The irony is as that debate rages, and most Americans, I believe, are opposed to the caning of that young man, here we are, the representative body of the people, about to impose the most heinous form of punishment, the death penalty, and I believe that to be wrong.

Mr. NADLER. Mr. Chairman, I rise in support of this amendment. I had the honor of offering a similar amendment before the House Judiciary Committee last month.

This amendment replaces the death penalty with life imprisonment. Mr. Chairman, I do not believe the death penalty is right, and I know there are many who disagree with me. But even those who believe the death penalty is morally right should be worried about mistakes. The death penalty, once imposed, can never be recalled. Innocent people should never be put to death. As the late Justice Marshall said:

> No matter how careful courts are, the possibility of perjured testimony, mistaken honest testimony, and human error are all too real. We have no way of judging how many innocent persons have been executed, but we can be certain that there were some.

Last year, Chairman EDWARDS released a report which documents 48 people on death row who were released because of significant new evidence of their innocence since 1973. Gary Nelson of Georgia spent 11 years on death row, waiting to be executed. He was finally released after a review of the prosecutor's files revealed that material information had been improperly withheld from the defense. Later the district attorney admitted that there was not a single element of the prosecution's case which had not been impeached or contradicted.

In 1984, Federico Macias was convicted of murder in Texas. He was granted habeas because of ineffective assistance of counsel. He was released in 1993 after a grand jury refused to reindict him for lack of evidence.

Also in 1984, Kirk Bloodsworth was sentenced to death for the rape and murder of a young girl. In 1993, he was released after subsequent DNA testing confirmed his innocence.

These are not isolated incidents. In 1987 alone, nine people sentenced to death were released because of a finding of innocence or of guilt only of a lesser charge. The fact that so many came so close to death makes me wonder how many weren't so lucky. I urge you to vote to strike the death penalty, and substitute life imprisonment instead. I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Oregon [Mr. KOPETSKI].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. KOPETSKI. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 111, noes 314, not voting 12, as follows:

[Roll No. 107]

AYES—111

Abercrombie
Ackerman
Andrews (ME)
Barca
Barrett (WI)
Becerra
Berman
Blackwell
Bonior
Brown (CA)
Brown (OH)
Clay
Clayton
Clyburn
Collins (IL)
Collins (MI)
Conyers
Coyne
Dellums
Dixon
Edwards (CA)
Ehlers
Engel
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Furse
Gejdenson
Gonzalez
Goodling
Gutierrez
Hamburg
Hamilton
Hastings
Hilliard
Hinchey
Hoekstra
Jacobs

Jefferson
Johnson, E. B.
Kildee
Kleczka
Klug
Kopetski
LaFalce
Levin
Lewis (GA)
Lowey
Maloney
Markey
McDermott
McKinney
McNulty
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Nadler
Neal (MA)
Norton (DC)
Oberstar
Obey
Olver
Owens
Payne (NJ)
Pelosi
Penny
Rahall
Romero-Barcelo (PR)
Roybal-Allard
Rush
Sabo
Sanders
Scott
Serrano
Sharp
Shays
Skaggs
Slaughter
Smith (IA)
Smith (NJ)
Stark
Stokes
Studds
Swift
Thompson
Towns
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Waters
Watt
Waxman
Wheat
Wise
Woolsey
Yates

NOES—314

Allard
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Beilenson
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clement
Clinger
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
DeLay
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Emerson
English
Everett
Ewing
Faleomavaega (AS)
Fawell
Fields (TX)
Fingerhut
Foglietta
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Gordon
Goss
Grams
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hoagland
Hobson
Hochbrueckner
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Johnson (GA)
Johnson (SD)
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kim
King
Kingston
Klein
Klink
Knollenberg
Kolbe
Kreidler
Kyl
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Machtley
Mann
Manton
Manzullo
Margolies-Mezvinsky
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
Meehan
Menendez
Meyers
Mica
Michel
Miller (FL)
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Neal (NC)
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Sensenbrenner
Shaw
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Torkildsen
Torres
Torricelli
Traficant
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Williams
Wilson
Wolf
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—12

Fish
Gallo
Grandy
Green
Johnson (CT)
Murphy
Pickle
Rangel
Roukema
Synar
Washington
Whitten

☐ 1306

The Clerk announced the following pairs:

On this vote:

Mr. Rangel for, with Mr. Murphy against.

Mr. Washington for, with Mr. Green against.

Mr. SAXTON changed his vote from "aye" to "no."

Mr. GONZALEZ changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in part 1 of House Report 103–474.

AMENDMENT OFFERED BY MR. MC COLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. McCOLLUM:

Page 46, after line 21, insert the following:

"(d) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether to recommend a sentence of death for an offense described in paragraph (3), (4), or (5) of section 3591, the jury, or if there is no jury, the court, shall consider any aggravating factor for which notice has been provided under section 3593 of this title, including the following factors:

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm, as defined in section 921 of this title, to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER TWENTY-ONE.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(7) USING MINORS IN TRAFFICKING.—The offense or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

Page 51, line 7, strike ", in the case" and all that follows through "the jury" in line 14, and insert "an aggravating factor required to be considered under section 3592 is found to exist, the jury".

The CHAIRMAN. Pursuant to the rule, the gentleman from Florida [Mr. McCOLLUM] will be recognized for 7½ minutes, and a Member opposed will be recognized for 7½ minutes.

Mr. EDWARDS of California. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from California [Mr. EDWARDS] is opposed to the amendment and will be recognized for 7½ minutes.

The Chair recognizes the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the drug kingpin death penalty is for those who are organizers and leaders of trafficking in very large quantities of narcotics; for example, 300,000 grams of cocaine or 60,000 grams of heroin.

We just passed, a few minutes ago, approved, I should say, the drug kingpin death penalty and the technical terms of the actual language saying we want to impose that death penalty. But because of the bifurcated manner in which the legislation was brought to the floor through committee, the aggravating factors that are constitutionally essential to making this drug kingpin death penalty viable, which were a part of it in the last Congress, when we passed the conference report having the drug kingpin death penalty as part of it, because it was bifurcated in the Committee on the Judiciary, those aggravating factors were not a part of the bill. And they are not a part of it now.

□ 1310

Consequently, in order to make the vote that the Members took earlier, the majority of the Members of this body, valid, and have a drug kingpin death penalty in this bill in a way that can be implemented, we need to pass the amendment I am offering right now.

The general provisions of aggravating factors required by the Supreme Court after its 1972 ruling, which made all death penalties in this country unconstitutional, was that we come with specificity in naming aggravating factors to be used in the imposing of the death penalty.

The States that had the death penalty before have long since enacted those provisions. We today are getting our first shot at doing that at the Federal level for those things such as assassinating the President and other crimes on the books with the death penalty to be imposed. Most of those involve situations in which there is, or has been, a dead body or a murder that has clearly been committed.

In the case of the drug kingpin death penalty, no murder is required to be proven itself. As we explained in the debate on the amendment of the gentleman from North Carolina [Mr. WATT] to try to strike this from the bill, there would be, however, a very egregious situation created if anybody trafficked in the large quantities we are dealing with here, as an organizer of such trafficking, and that is why as a matter of public policy Congress wants to impose the death penalty.

In doing that, however, we need specific aggravating factors to be put in the law to make the carrying out of this particular death penalty for drug kingpins constitutional. The list of those that I have included in my amendment for aggravating factors for consideration to impose such a death penalty would be previous conviction of an offense for which the sentence of death or life imprisonment was authorized, previous conviction of another serious offense which is described in the amendment, a previous drug felony conviction, the use of a firearm in the commission of the drug crime that is described in the drug kingpin bill, the distribution to persons under 21 of the narcotics involved, distribution near schools, using minors in the trafficking and organized trafficking effort that these organizers are directing, and the use of a lethal adulterant in the process of doing this.

I believe that every one of these aggravating factors is an appropriate one to be considered. Of course, the normal mitigating factors could be used on the defense of the other side, as well.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I am glad to yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I am opposed generally to imposing the death penalty where death does not result. It seems to me that actual murder should be necessary to impose the harshest of punishments. For that reason, I supported the Watt amendment to strike the drug kingpin death penalty. Having lost that vote, I would have difficulty resisting the provisions which are constitutionally necessary and essential for the implementation of the drug kingpin death penalty—which is now the position of the House.

I will, therefore, support the McCollum amendment.

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman for his support and explanation. I particularly thank the chairman of the committee. He has done an excellent job of making his position clear and his support of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. EDWARDS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a repeat debate over an old issue. I certainly have not changed my position, but I do not think we ought to make it easier to implement a law that is very clearly wrong.

The law established in 1977 by Coker against Georgia by the Supreme Court was very explicit. That case was a terrible rape case, a brutal rape case, but the woman was not killed. The Supreme Court ruled, and I believe it was 7 to 2, that the death penalty was disproportionate, and therefore unconstitutional under cruel and unusual punishment, because for the Government to execute someone in connection with another crime, somebody should have been killed, somebody should have been murdered. Even in this brutal rape case, the Supreme Court said that it was inappropriate and unconstitutional, cruel and unusual, to have the death penalty.

Mr. Chairman, the subcommittee that I chair just in the last few weeks received a report on the implementation of the drug kingpin law that was put into effect a number of years ago. We found that, out of 37, I believe, Federal drug kingpin capital cases, the death penalty was administered disproportionately against minorities. The crimes were all similar.

African-Americans are 13 to 14 percent of our country, but in the report that we issued, we found, and this was confirmed by the General Accounting Office in an earlier report, that where the death penalty is administered, overwhelmingly for the same kind of crimes, whites do not get the death penalty, where African-Americans do.

In these drug kingpin cases, quite a number of them really are not drug kingpins. A lot of them are just low-level participants who are involved in drugs, and this law will be used conveniently to apply the death penalty even in cases where no homicide has occurred.

Mr. Chairman, although I know the House has already decided to approve the law generally, I think we ought to vote "no" on the amendment offered by the gentleman from Florida [Mr. McCOLLUM].

Mr. Chairman, I yield back the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just wish to reiterate my strong position on this particular matter in terms of the importance of putting the procedures in place. As the chairman, the gentleman from Texas [Mr. BROOKS] indicated in his reasoning for supporting this amendment, we need to have the right aggravating and mitigating factors in law for dealing with this peculiar beast that we have here, the drug kingpin death penalty. Without having my amendment that I am offering now, we will not have an effective death penalty, which the House recently voted—in the past few minutes—that it supported.

Consequently, it seems to me that it is very important that the Members understand that the vote is not, again, on the drug kingpin death penalty itself, but it might as well be. It is on what is required to sustain constitutional tests that the Supreme Court has set, and those mitigating and aggravating factors that we normally would have in a death penalty case are all available, but in addition to that, because there is not necessarily a death that has to be proven here, and because this is a very different kind of a death penalty reasoning, then there are peculiar aggravating factors that need to be put in law.

As I indicated earlier, we list those very explicitly, such as the previous conviction of an offense for which a sentence of death or life imprisonment was authorized, previous conviction of other serious offenses, a previous serious drug felony conviction, the use of a firearm, the distribution to persons under 21, distribution near schools, use of minors in trafficking, and a lethal adulterant, offenses involving adulterants.

The fact of the matter is that there are arguments that have been made before about this whole matter, but the bottom line is that when somebody is an organizer and leader of an organization that trafficks in huge quantities of narcotics, as is in the drug kingpin death penalty provision, clearly people are going to die as a result of that, and people are in harm's way.

There is an abundance of evidence of the constitutionality of this by experts, former attorneys general, like Barr and Meese and former Solicitor General Ken Starr.

It is important, however, that we now place in the law to supplement, to make sure it works, the drug kingpin death penalty, these procedures that I have just outlined and described, so I urge a "yes" vote on this amendment to put the procedures, the aggravating factors, into the law and let the drug kingpin death penalty work. Let it become a part of this bill, fully and completely.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. McCOLLUM].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 340, noes 87, answered "present" 1, not voting 9, as follows:

[Roll No. 108]

AYES—340

Abercrombie
Ackerman
Allard
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clement
Clinger
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
DeLay
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Ehlers
Emerson
English
Everett
Ewing
Faleomavaega (AS)
Fawell
Fazio
Fields (TX)
Fingerhut
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Gordon
Goss
Grams
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hoagland
Hobson
Hochbrueckner
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Machtley
Mann
Manton
Manzullo
Margolies-Mezvinsky
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
Meehan
Menendez
Meyers
Mica
Michel
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Neal (MA)
Neal (NC)
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Sensenbrenner
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sundquist
Swett
Swift
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Torkildsen
Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—87

Andrews (ME)
Barca
Barrett (WI)
Becerra
Blackwell
Bonior
Brown (CA)
Brown (OH)
Clay
Clayton
Clyburn
Collins (IL)
Collins (MI)
Conyers
Coyne
Dellums
Dixon
Edwards (CA)
Engel
Eshoo
Evans
Farr
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Furse
Gejdenson
Gonzalez
Gutierrez
Hamburg
Hastings
Hilliard
Hinchey
Hoekstra
Hughes
Jacobs
Jefferson
Kildee
Kopetski
Lewis (GA)
Lowey
Maloney
Markey
McDermott
McKinney
McNulty
Meek
Mfume
Miller (CA)
Mineta
Mink
Nadler
Norton (DC)
Oberstar
Obey
Olver
Owens
Payne (NJ)
Pelosi
Reed
Roybal-Allard
Rush
Sabo
Sanders
Scott
Serrano
Sharp
Smith (NJ)
Stark
Stokes
Studds
Synar
Thompson
Towns
Tucker
Underwood (GU)
Velazquez
Vento
Visclosky
Waters
Watt
Waxman
Woolsey
Wynn
Yates

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—9

Fish
Ford (MI)
Gallo
Grandy
Murphy
Rangel
Roukema
Washington
Whitten

□ 1340

The Clerk announced the following pairs:

On this vote:

Mr. Murphy for, with Mr. Rangel against.

Mrs. Roukema for, with Mr. Washington against.

Mr. HILLIARD and Mr. BROWN of California changed their vote from "aye" to "no."

Mr. EHLERS, Mrs. SCHROEDER, Mr. SKAGGS, Ms. BROWN of Florida, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. PENNY changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1340

The CHAIRMAN. It is now in order to consider amendment No. 6 printed in part 1 of House Report 103-474.

AMENDMENT OFFERED BY MR. GEKAS

Mr. GEKAS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment. The text of the amendment is as follows:

Amendment offered by Mr. GEKAS: Page 48, strike line 1 through line 2.

Page 51, strike line 14 and all that follows through line 3 on page 52 and insert the following: the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist outweigh any mitigating factors. The jury, or if there is no jury, the court shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants. The jury shall be instructed that its recommendation concerning a sentence of death is to be based on the aggravating factor or factors and any mitigating factors which have been found, but that the final decision concerning the balance of aggravating and mitigating factors is a matter for the jury's judgment.

Page 53, beginning in line 3, strike "or life imprisonment without possibility of release".

The CHAIRMAN. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 7½ minutes, and a Member opposed will be recognized for 7½ minutes.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 7½ minutes, and the Chair now recognizes the gentleman from Texas [Mr. BROOKS].

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to have the full attention of the Members of the Congress, especially those who oppose the death penalty or who oppose tightening up of the guidelines on the death penalty, for the purpose of illustrating my amendment, and I want to walk the Members through a trial, a first degree murder trial in which the antecedent crime was a rape.

We have in my hypothetical a criminal who would commit a vicious rape on a young woman. The jury had no difficulty, in my hypothetical case, in finding murder in the first degree. The defendant raped, then killed the victim. First degree murder was returned.

Now the jury was to set about the business of determining whether the death penalty or life imprisonment shall be the final outcome.

Now is a separate hearing the bifurcated or the second part of that hearing where the jury's responsibility was to weigh the factors to be presented to them for the purpose of determining death or life.

Now the prosecutor who successfully was able to bring about a first degree murder conviction has the burden of providing to the jury a set of, or perhaps only one, aggravating factor. The defense then, in turn, would bring into play a set of mitigating circumstances and the jury under all the language or any concept of bifurcated hearings would weigh the aggravating against the mitigating.

Now is the amendment, the language of the bill here, it is stated that—and they take the position do the authors of the bill—that in my hypothetical the prosecutor cannot produce as an aggravating factor the fact that the individual we talked about was raped. That is not an aggravating factor permissible for the second part of the hearing under the language of the bill.

My amendment would permit the prosecutor to present as an aggravating factor the fact that a woman was raped and then killed, so that the jury would have the right to say "Well, if she was raped", and they knew that because they convicted, then rape should be considered as an aggravating factor.

Then the defense attorney can bring in any kind of mitigating factors it wants.

Mr. Chairman, I am asking the Members of the House to vote for the Gekas amendment to allow the prosecutor to bring in evidence of the rape, that is, the antecedent cause of the death of this unfortunate victim. That is all we ask. If you leave the bill alone, it means that the prosecutor's hands are tied with respect to being able to present the rape, which was the real crime that led to the murder, into evidence at the hearing on whether the death penalty should apply. That is how unreasonable that is.

Now, am I conjuring up this idea for the purpose of making a speech? I did not just dredge this up from my own imagination.

In the Lowenfeld case, which found its way to the Supreme Court, the Supreme Court found that my theory, the one I am trying to propose through the Gekas amendment, is constitutional and is effective because it limits the parameters of aggravating factors. In that case there was a brutal murder, murder in the first degree, which called for the death penalty. In the second part of the hearing the jury was permitted to hear from the U.S. Prosecutor, was permitted to hear the evidence as to the multiple murders that took place, which were an essential part of the murder conviction in the first place. So we have ample precedent in the constitutional judgment of the Supreme Court, and we have the absolute common sense truth that a rape, in my hypothetical, should be accorded the status of an aggravating factor for the purpose of the decision on the part of the jury as to whether or not to inflict the death penalty.

Now if that is the case, then we revert to the second part of the Gekas amendment. Let us assume I am correct on that—and I am—we go to the second portion of the Gekas amendment. In the present language of the bill, even if we had 100 aggravating factors, I repeat that, if we had 100 aggravating factors that the prosecutor was able to present in the second part of the hearing and the defense was able to present no mitigating factors, under the present bill, under the language that is contained in the present bill, the jury could still be instructed by the judge to disregard all of what they have heard, the 100 aggravating factors, and find for the life imprisonment portion of the penalty.

Now you would say, "What is wrong with that?" What is wrong with that is that takes the bill back to the Neanderthal days, back before 1972. In 1972—and this is important for you to consider, ladies and gentlemen and fellow Members of the House—in 1972 the death penalty was struck down precisely because of what this bill would create, an unfettered, wide discretion on the part of the jury to find life or death based on their own whims, their own prejudices, their own biases, their own determination whether the smile of the defendant is worth considering or whether the ugliness of the defendant is worth considering, all of these factors that are nonstatutory would enter into play, and that is what the Supreme Court found so objectionable about the death penalty, said it was cruel and barbarous treatment and therefore struck it down.

□ 1350

The instruction that is permitted in this language that is now in the bill, which the Gekas amendment changes, the instruction that is now in the bill says:

> No matter what the aggravating factors are, you could disregard them and, despite all of that, find for life imprisonment.

What that does is allow these prejudices, biases, and all these other nonstatutory elements, to enter into the deliberation of the jury.

My amendment simply says, and it is structured so well that it was approved by the House of Representatives, this very same body, and the Senate, and the President of the United States when we passed, and passed into law, the drug kingpin murder statute of a few terms ago; in my amendment the jury will hear the aggravating factors. Then it will hear the mitigating factors. It will waive them, and, if they find that the aggravating factors outweigh the mitigating factors, they should find the death penalty, and vice versa.

Now here is the other thing:

We do have another saving feature for those who have such great pity for the convict, perhaps, who just killed this lady that I am talking about in my hypothetical. If they still have sympathy and still want to reach out to this defendant, still want to show how wonderfully sympathetic they might be, we still have a saving clause for them.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. GEKAS] has expired.

Mr. GEKAS. Mr. Chairman, I ask for unanimous support of the Gekas amendment.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to say I agreed with the second to the last statement of my distinguished friend, the gentleman from Pennsylvania [Mr. GEKAS].

Mr. Chairman, I believe the procedures we have in the bill before us are appropriate, workable procedures for carrying out the death penalty.

For those who believe that capital punishment has a place in our criminal justice system—and I certainly do—it is incumbent that there are procedures crafted to ensure that justice is done. Justice requires the procedures to be constitutionally sound—the bill's provisions achieve precisely that. They appropriately channel a sentencing jury's authority, so that we can separate out those killers who deserve the harshest of punishments, and provide for life without any possibility of release for others convicted of murder. They are tough, but they are fair.

Mr. GEKAS' amendment upsets the careful balance that is necessary to fully and fairly implement the death penalty. By double counting an offense as an aggravating factor, the Gekas amendment introduces a harmful degree of arbitrariness; it eliminates the jury's ability to impose life without the possibility of release if they decide against death. Moreover, the Gekas amendment mandates that a death sentence be imposed in certain circumstances—thus taking away the duly selected jury's discretion.

I urge the Members to maintain the careful balance in the bill before us by rejecting the amendment.

Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Pennsylvania [Mr. GEKAS].

Mr. Chairman, as has been stated, there are times when I believe that capital punishment is the appropriate punishment, but that does not mean a jury should not have a choice, and, as this amendment is written, my colleagues, the bill would give the sentencing jury three options: the death penalty, life without the possibility of parole, and a prison term set by the judge. The Gekas amendment would eliminate the option of life without parole or release. So, if the jury thought that this——

Mr. GEKAS. Mr. Chairman, would the gentleman yield on that point?

Mr. SCHUMER. After I make my point.

If this was a pretty horrendous crime, but they did not quite feel that it should get the ultimate sentence, capital punishment, they would then only get a term of years as sentenced by the judge, and I do not think that makes a great deal of sense. I think the jury should have the option. They can and should make the choice. But to eliminate the middle choice will force juries, because they will not go for a capital sentence, quite frankly, if they do not feel it merits it. So, actually in effect it would reduce the sentence on those that have committed pretty serious acts.

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, I thank the gentleman for yielding on only one point:

The Gekas language does provide for life without parole by the court imposing same——

Mr. SCHUMER. OK; reclaiming my time, it is simply that the jury would not be able to do that, and that is my point. We want to give the jury the flexibility there because otherwise they would not find, they are not going to find, for a capital crime unless they truly believe it is needed.

Mr. Chairman, I thank the gentleman from Texas [Mr. BROOKS] for having yielded this time to me, and I urge opposition to the amendment offered by the gentleman from Pennsylvania [Mr. GEKAS].

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I thank the distinguished gentleman from Texas [Mr. BROOKS], the chairman of the Committee on the Judiciary, for yielding this time to me.

Let me say that I support the death penalty, as most of my colleagues know, where I believe it can be constitutionally imposed, and those of my colleagues who are basically opposed to the death penalty, opposed to it, should support GEKAS because he is going to put at risk the Federal death statute, and he is doing it for this reason:

When the Supreme Court a few years ago upheld the death penalty, Mr. Chairman, it did so because elements of the offense cannot be used as a basis for aggravating offenses, and let me explain why.

When a jury finds that in fact the death penalty should be imposed, they have already made a decision about the elements of the offense: premeditation, malice aforethought. Those are the elements of the offense.

When the gentleman from Pennsylvania talks about not being able to consider a vicious rape, the gentleman from Pennsylvania is not explaining basically the bill before us because under subsection c, page 43, of the bill a jury can consider, as one of the aggravating factors, the heinous nature of the offense, cruel nature of the offense, or severe or serious physical abuse, all factors that can be considered under six——

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I do not have the time—under six of the aggravating factors. The gentleman from Pennsylvania would have us, under his amendment, basically consider the elements of the offense which, I think, is going to open up the constitutional attack, so the gentleman weakens the bill.

Second, Mr. Chairman, as the gentleman from New York [Mr. SCHUMER] has indicated, the gentleman from Pennsylvania would eliminate life imprisonment without parole.

So, Mr. Chairman, we are going to have those situations where a jury does not want to give the discretion to the judge because they want to put him away for a number of years. A jury is going to have to make a decision as to whether to return capital punishment or give the judge that discretion.

Mr. Chairman, the gentleman from Pennsylvania [Mr. GEKAS] weakens the bill by what he has done, and I would urge a rejection of his amendment.

Mr. GEKAS. Mr. Chairman, may I inquire how much time the gentleman from Texas [Mr. BROOKS] has?

The CHAIRMAN. The gentleman has a minute and a half remaining.

Mr. GEKAS. Mr. Chairman, would the gentleman yield to me as a stroke of surprise here?

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I repeat: The latest case from the Supreme Court, the Lowenfield case versus Phelps, 1988, found constitutional the prospect of having a rape in my hypothetical be used as an aggravating factor, and if it is just an ordinary rape, if there happens to be such a thing as an ordinary rape, then the language that the gentleman from New Jersey [Mr. HUGHES] was projecting, heinous, and vicious, and so forth, may not apply to a rape. Yet we believe that a rape is a rape is a rape and, therefore, should be considered as an aggravating circumstance in the rape murder which I outlined to my colleagues.

Moreover, the gentleman from New Jersey [Mr. HUGHES] misstates what he says was my misstatement. The jury at all times can recommend life without parole, under my language, and further, if they fail to do so, the court on its own motion, when it is determined by the jury that life imprisonment is the final answer, the judge himself can impose life without parole.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. GEKAS] has expired.

Mr. BROOKS. Mr. Chairman, I yield the balance of the time to the distinguished gentleman from New Jersey [Mr. HUGHES].

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] is recognized for 30 seconds.

Mr. HUGHES. Mr. Chairman, I do not think the gentleman from Pennsylvania [Mr. GEKAS], my friend, understands his own amendment. He eliminates life imprisonment without parole where the death penalty is involved.

Mr. GEKAS. That is not so.

Mr. HUGHES. Second, the gentleman has misread the bill. A rape, a heinous rape or serious physical abuse, is an aggravating factor under the bill as written.

Mr. GEKAS. Then vote for the Gekas amendment.

Mr. HUGHES. It is not an element of the offense. The gentleman misunderstands what an element of the offense is. That is not an element of the offense.

I say to my colleague from Pennsylvania, "I tried capital cases. The gentleman is trying to tell me that rape is an only offense."

Mr. GEKAS. Aggravating factor.

☐ 1400

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GEKAS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GEKAS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 226, noes 198, answered "present" 1, not voting 12, as follows:

[Roll No. 109]

AYES—226

Allard
Andrews (NJ)
Applegate
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Carr
Castle
Chapman
Clement
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Darden
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fingerhut
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Gordon
Goss
Grams
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoke
Holden
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kaptur
Kasich
Kim
King
Kingston
Klein
Klink
Knollenberg
Kolbe
Kyl
Lancaster
LaRocco
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Machtley
Manton
Manzullo
Margolies-Mezvinsky
McCandless
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Montgomery
Moorhead
Moran
Morella
Myers
Nussle
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Rowland
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Torkildsen
Torricelli
Traficant
Upton
Valentine
Vucanovich
Walker
Walsh
Weldon
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—198

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bishop
Blackwell
Bonior
Borski
Boucher
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Cantwell
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Coyne
Danner
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Durbin
Edwards (CA)
Ehlers
Engel
English
Eshoo
Evans
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoekstra
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lantos
Laughlin
Levin
Lewis (GA)
Long
Lowey
Maloney
Mann
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Owens
Pastor
Payne (NJ)
Pelosi
Penny
Peterson (FL)
Pickett
Pickle
Pomeroy
Price (NC)
Rahall
Rangel
Reed
Reynolds
Romero-Barcelo (PR)
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Skaggs
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Thompson
Thornton
Thurman
Torres
Towns
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Wheat
Williams
Wilson
Wise
Woolsey
Wynn
Yates

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—12

Fish
Ford (MI)
Ford (TN)
Gallo
Grandy
Hayes
Murphy
Murtha
Roukema
Washington
Waxman
Whitten

☐ 1422

The Clerk announced the following pair:

On this vote:

Mr. Grandy for, with Mr. Washington against.

Messrs. SCOTT, FLAKE, BRYANT, and STUPAK changed their vote from "aye" to "no."

Mr. KLINK, and Mr. FINGERHUT changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WALKER. Mr. Chairman, the gentleman from Florida [Mr. MCCOLLUM] is about to offer a privileged motion pursuant to the provisions of clause 7 of rule XXIII, relating to striking out the enacting clause of this bill.

Mr. Chairman, the rule states that if a motion that the committee rise and report to the House a recommendation that the enacting clause be stricken out is adopted in the Committee of the Whole, then the committee must rise, but before the House acts on whether or not to kill the bill, I am quoting now, "It is in order to entertain a motion to refer the bill to any committee with or without instructions."

My inquiry of the Chair is this: If we have reached this stage, is it in order for the gentleman from Florida to offer a motion to refer with instructions to report back forthwith with a germane amendment to this bill?

The CHAIRMAN. The Chair cannot speculate on who would be recognized, but the gentleman's point is correct, that it could be done in the House.

Mr. WALKER. Mr. Chairman, further, if this motion to refer with instructions to report an amendment forthwith is adopted by the House, it has the effect of making in order in the Committee of the Whole the gentleman's amendment; is that correct?

The CHAIRMAN. That could occur.

Mr. WALKER. That being the case, then, as I understand it, the Chair has affirmed my position that this procedure allows the House the opportunity to make in order additional germane amendments to be considered by the House in committee.

The CHAIRMAN. The series of events that the gentleman has stated could occur.

Mr. WALKER. I thank the Chair.

PREFERENTIAL MOTION OFFERED BY MR. MCCOLLUM

Mr. MCCOLLUM. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. MCCOLLUM of Florida moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] is recognized for 5 minutes.

Mr. MCCOLLUM. Mr. Chairman, the purpose of offering this motion, as was discussed in the parliamentary procedure, is to get the opportunity to offer an amendment on the floor that the Committee on Rules denied us and which we do now have out here today.

This amendment is one which was adopted in the 99th Congress, the 100th Congress, the 101st Congress, and the 102d Congress right here on the floor of the House in a crime bill. Unfortunately, the bill never became law because it never got through the conference committee with the Senate. But it is one that I would suggest that the vast majority of this body would vote for and adopt again, if given the opportunity to vote on it.

What it would do would be to establish what is known as the good-faith exception to the exclusionary rule of evidence.

What the amendment that I would like to offer would allow would be evidence to be admitted, if gained in an objectively, reasonable belief that conduct was unlawful. If that evidence was gained by police in a search and seizure in an objectively, reasonable belief that the conduct was lawful, that the police conduct it, then we should not have technical evidentiary procedures set up by the courts of this country blocking that evidence and keeping us from getting convictions in many, many cases. That is what has been occurring.

The exclusionary rule is a rule created by courts.

It is not a rule of the Constitution of the United States. We have certain protections against unlawful searches and seizures, and those protections are enforced in a number of ways.

The court has chosen to use this rule, but it has also granted a good-faith exception and said that it is the appropriate method of dealing with certain cases where warrants are involved. It has not ever ruled on the case where warrants are not involved.

All my amendment does is to expand or would expand the opportunity for a good-faith exception to exist in cases where there are no search warrants and we are getting evidence that should be admitted into court to get convictions.

The exclusionary rule has a major impact on drug prosecutions over a 3-year period. Also 3,000 felony drug arrests in California were not prosecuted because of the exclusionary rule problems.

It is something that police all over this country have asked us to adopt, a good-faith exception to that, we are establishing that clearly in those cases involved good faith, there was no improper conduct by the police.

The McCollum amendment would not eliminate the exclusionary rule. Rather, it would maximize the availability over liable evidence bearing on the guilt or innocence of the defendant. So that is the purpose of what I am offering this motion for today.

The motion for us to rise, as was explained in the parliamentary discussion, and striking the enacting clause for the opportunity that we would then have to instruct the Committee on Rules to come back out here on the Floor with a bill that would let us offer this rule, this good-faith exception to the exclusionary rule, to have a vote on it, to offer an amendment and to have a vote on it, again, an amendment that has passed in five previous House meetings and five previous Congresses but was not allowed by the Committee on Rules to come out here today.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding to me.

I thank the gentleman for explaining the amendment that he has proposed to bring forward. The House should know that because of the ruling of the Chair that has taken place just previous, the Members are really voting on the subject matter that the gentleman suggests. Because what we have now established is that there is a procedure for bringing this subject matter to the floor. And if, in fact, Members vote against striking the enacting clause, they are in fact casting a real vote against a procedure to bring this particular amendment at this particular time to the floor.

It seems to me Members need to be clear now that they are not simply voting on a procedural matter. They are voting on something that ultimately could lead to a real vote on a real issue as described by the gentleman from Florida.

☐ 1430

Mr. MCCOLLUM. Reclaiming my time, Mr. Chairman, I want to make absolutely clear the point that what we are voting on today is a good-faith exception to the exclusionary rule by this vote. It is the only opportunity this House will have to do what it has done in the past and give the police of this country and the citizens of this country the proper exception to the exclusionary rule to let evidence in to get convictions in the court proceedings that police all over this country have asked again and again and again for.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, I just would like to make a parliamentary inquiry to the Chair, if I may.

Mr. MCCOLLUM. Mr. Chairman, I believe the gentleman can do that without my time.

Mr. VOLKMER. Mr. Chairman, I am not a member of the Committee on the Judiciary.

The CHAIRMAN. The Chair would inquire, is the gentleman yielding to the gentleman from Missouri [Mr. VOLKMER]?

PARLIAMENTARY INQUIRIES

Mr. MCCOLLUM. Mr. Chairman, I have a parliamentary inquiry. If I would yield to the gentleman from Missouri [Mr. VOLKMER] for the purposes of one, am I using my time up on the debate we are involved with here for purposes of this privileged motion?

The CHAIRMAN. The gentleman would be.

Mr. MCCOLLUM. Mr. Chairman, another parliamentary inquiry.

Mr. Chairman, do I have the right to reserve time or on this motion do I have to consume all my 5 minutes?

The CHAIRMAN. Under the rules of this House, the gentleman does not have the right to reserve time.

Mr. MCCOLLUM. I do not?

The CHAIRMAN. The gentleman does not.

Mr. MCCOLLUM. Then I do not wish to yield at this point, Mr. Chairman.

Mr. Chairman, I would inquire how much time I have remaining.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] has 5 minutes remaining.

Mr. MCCOLLUM. Mr. Chairman, once and for all, so the Members understand why this motion is being made, it is being made because it is our only opportunity to get a vote on the good-faith exclusionary rule which would allow us once and for all to win for the police of this country what they have been asking for for a long time, to end the technicalities that are stopping good and well-founded evidence from getting into court to get convictions in case after case.

An aye vote is for the good-faith exception to the exclusionary rule this House has adopted in five previous Congresses.

Mr. WALKER. Mr. Chairman, would the gentleman yield for a parliamentary inquiry?

Mr. MCCOLLUM. I yield to the gentleman from Pennsylvania.

PARLIAMENTARY INQUIRIES

Mr. WALKER. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Chairman, am I correct that should the motion carry, and this is not a motion to kill the bill, this is simply a motion for the Committee to rise, and it can at that point decide that another amendment can be made in order, is that right?

The CHAIRMAN. The motion is to report to the House with a recommendation that the enacting clause be stricken out, an action that would reject the bill if carried in the House.

Mr. WALKER. Mr. Chairman, a further parliamentary inquiry:

Mr. Chairman, as we established in the previous colloquy, I think that there is also an action available to the House at that point to further amend the bill, is that correct?

The CHAIRMAN. A motion to refer would be in order.

Mr. WALKER. Mr. Chairman, it would be in order, and it could be a motion to refer and report back forthwith, which would in effect at that point allow an amendment on the floor?

The CHAIRMAN. The Chair would say that a motion to refer could include that instruction.

Mr. WALKER. Mr. Chairman, that has precedence over the motion to strike the enacting clause, is that correct?

The CHAIRMAN. A motion to refer would be in order pending the question of the House's concurrence in the recommendation to strike out the enacting clause.

Mr. WALKER. I thank the Chair.

The CHAIRMAN. The time of the gentleman from Florida [Mr. McCOLLUM] has expired.

PARLIAMENTARY INQUIRY

Mr. VOLKMER. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. VOLKMER. Mr. Chairman, in the event that the motion presently pending by the gentleman from Florida [Mr. McCOLLUM] would prevail, would any Member then be eligible for recognition to make a motion to refer, or is the gentleman from Florida [Mr. McCOLLUM] the only one that can make that?

The CHAIRMAN. At that point we would be proceeding in the House and it would be for the Speaker to recognize.

Mr. VOLKMER. I would ask the Chair, the Speaker could recognize any Member?

The CHAIRMAN. The Speaker would have his usual power of recognition under the precedents.

Does the gentleman from Texas [Mr. BROOKS] seek time?

Mr. BROOKS. Mr. Chairman, I rise in opposition to the motion.

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] is recognized for 5 minutes.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to say that this is a dilatory effort to stop this bill. Originally, it was my impression that the other side over here wanted to get 5 minutes to discuss some facet of the bill that was not included as an amendment. Now I see that it is a rather divisive effort to stop the entire bill, go back to what would be an open rule, which is not what I want to do at all, which I think would be counterproductive. I think we ought to kill this amendment to strike the enacting clause if we have got the sense God gave a goose.

Mr. SOLOMON. Mr. Chairman, would the gentleman yield?

Mr. BROOKS. I yield to the gentleman from New York [Mr. SOLOMON], a distinguished former Marine.

Mr. SOLOMON. Mr. Chairman, the gentleman knows we have the greatest respect for him, but this is not an attempt to kill the bill. This is simply an attempt to make one amendment in order that was not made in order under the rule. It is a very, very germane amendment. It is very critical to the bill. We would like to have the opportunity to not only debate it for 5 minutes, but to vote on it.

Mr. BROOKS. Reclaiming my time, Mr. Chairman, I would say to the gentleman that that was not my understanding of the proposal. They wanted 5 minutes to talk about something else, and that is fine. However, if they want to amend this bill, they will have to go through the Committee on Rules. The Committee on Rules had enough amendments on this bill to choke a horse, a big horse.

Mr. SOLOMON. If the gentleman will continue to yield, we do not even want it to come back to us. We want it to go through them.

Mr. BROOKS. We do not need any more amendments, Mr. Chairman. There are enough amendments now available on this bill, and I am trying to edit this to where it makes sense, to where it would be unbelievable that they would want to have any more.

Mr. SCHUMER. Mr. Chairman, would the gentleman yield?

Mr. BROOKS. Mr. Chairman, I yield to the distinguished gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the Chairman for yielding.

Mr. Chairman, I hope all of my colleagues on this side of the aisle will oppose this motion. We voted on the rule yesterday. That was a vote. There was a great deal of debate and controversy, and the other side amply had its chance to say there were not enough amendments, 68 was not enough, that we were not debating every controversial provision, although anyone who listened on the floor this morning knows we are debating every controversial provision two or three times over.

Now what we could do if we voted for this, what is to prevent another motion and another motion and another motion?

I say to my colleagues, particularly those who were not here last year and the year before, this is the same kind of delay. This is the same kind of "Well, let us bring the whole bill down unless it is exactly my way" that has led us not to pass any bills in the last several years.

I would say to my colleagues on the other side of the aisle, Mr. Chairman, they may not agree with every provision in this bill, but they know overall it is a very good bill. They had their fight on the rule, they know it, they know it, and many of them will vote for it. They have had their fight on the rule. They have lost it.

Mr. Chairman, let us get on with the people's business and move this crime bill, carefully crafted with both punishment and prevention, so that the President can sign it and the voters and the people can finally get some relief from the lack of safety that is plaguing every home and every car and every street and every school.

We must defeat, we must defeat any of these attempts to delay us on our path. We have already had that debate.

Mr. SOLOMON. Mr. Chairman, what the gentleman is saying, he is afraid to let the House work its will. Why is he so afraid?

Mr. BROOKS. Mr. Chairman, I would inquire of the Chair if the other side has any additional time.

The CHAIRMAN. They do not. The gentleman from Texas [Mr. BROOKS] has the only time remaining.

Mr. BROOKS. Mr. Chairman, I yield back the balance of my time, and move the previous question on the preferential motion.

The CHAIRMAN. All time has expired.

The question is on the preferential motion offered by the gentleman from Florida [Mr. McCOLLUM].

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 257, not voting 10, as follows:

[Roll No. 110]

AYES—170

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley

Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce (OH)
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—257

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Romero-Barcelo (PR)
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Wheat
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—10

Fish
Gallo
Grandy
Hilliard
Murphy
Quillen
Roukema
Washington
Waxman
Whitten

□ 1457

Mr. SMITH of Michigan changed his vote from "no" to "aye."

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 7 printed in part 1 of House Report 103–474.

AMENDMENT OFFERED BY MR. WATT

Mr. WATT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WATT:

Page 40, strike lines 23 through 25.

Page 46, strike lines 22 through 24.

Page 47, line 17, after "tors" insert "listed in section 3592".

Page 48, line 2, after "factor" insert "listed in section 3592".

Page 50, beginning in line 19, strike "and any other" and all that follows through "exist" on line 21.

The CHAIRMAN. Pursuant to the rule, the gentleman from North Carolina [Mr. WATT] will be recognized for 7½ minutes, and a Member opposed will be recognized for 7½ minutes.

Mr. MCCOLLUM. Mr. Chairman, I am opposed to the amendment and would like to be recognized.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 7½ minutes in opposition to the amendment.

The Chair recognizes the gentleman from North Carolina [Mr. WATT].

Mr. WATT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me put this amendment in perspective. The criminal defendant has been convicted at this point, and we are at the penalty stage, and we are deciding whether to impose the death penalty or not to impose the death penalty.

□ 1500

The statute provides this this bill provides for consideration of certain aggravating factors. Now we are at the penalty stage in a criminal proceeding and deciding whether the defendant lives or dies, is submitted to the death penalty or not. This bill specifies, starting at page 40 of the bill and running for six solid pages, aggravating factors which can be considered in determining whether the defendant is put to death. Under an earlier amendment, if the defendant is a drug kingpin, there are an additional six aggravating factors which can be considered. In addition, the bill goes forward to say that in addition to those aggravating factors, the prosecuting attorney can specify whatever other aggravating factors he or she wishes to specify. And that is where the problem arises, Mr. Chairman.

That provision which allows a prosecuting attorney to specify other aggravating factors which are not specified in this bill, delegates to the executive branch the authority to make up whatever the law is going to be in that particular case and is unconstitutional.

I would appeal to my colleagues in this body, those on both sides of the aisle who customarily argue that we should not be giving up our authority to the executive branch, to exercise our responsibility in this body and limit the prosecutor to the aggravating factors which are specified in the bill which currently take up six or seven pages already.

Mr. Chairman, I reserve the balance of my time.

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this debate over this amendment is something which I think is very important but probably not understood by many of the Members. In this case of the death penalty, there is an opportunity normally given in the State courts, and we certainly think we should do it here in Federal courts, for there to be aggravating factors presented as a possible matter by a jury, or a judge if he is doing the sentencing, in determining the death penalty, that are particularly tailored to the circumstances of an individual case. We cannot as legislators think of all the circumstances that might exist that would present aggravating factors that would warrant the giving of the death penalty.

So, the bill as it is now constructed lists a number of very specific aggravating factors, and there could of course also be mitigating factors that could be listed here as well, but we outline certain very specific ones so that we meet the Supreme Court guidelines, if there are some clear paths that can be followed legislatively by those who are making the decision on death penalties. But we should not do what the gentleman wants to do; we should not strike and eliminate the opportunity that is given in this bill for other aggravating factors that we cannot think of now for every possible contingency or for every possible type of case where the death penalty is warranted, to be presented to a jury or a judge in making his or her decision.

There should be a chance with due notice which is given in this bill—and I think a constitutionally correct way of doing it—for the prosecutor to present some other well-crafted aggravating factor to argue in favor of capital punishment being given.

If the gentleman's amendment passes, then the prosecutors will not have that opportunity to tailor any aggravating factors to the peculiarity of the case. I think that would bring about the potential for grave injustice for death penalty perhaps not being imposed in a case that has circumstances that are unusual or peculiar to it. I think that is indeed the weakness of the gentleman's amendment. If it is clear to everyone that that is what we are talking about and all we are talking about, it seems to me we all would want to vote "no" on this amendment and leave the discretion in the hands of the prosecutors to look on each death penalty case on a case-by-case basis and be able to craft an appropriate aggravating factor or two which is indeed beyond the parameters of what we have written in our proposals here in the bill as it now reads.

Mr. Chairman, I reserve the balance of my time.

Mr. WATT. Mr. Chairman, I believe I have the right to close, and I have reserved the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina [Mr. WATT].

Mr. WATT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would point out the inconsistency of my colleague's argument. Typically, he is the very person in this body who is talking against the delegation of authority that we should be exercising to the executive branch. There is nothing in the language in this bill which even requires the prosecuting attorney to tailor the aggravating factors in any way. There is not even any language that suggests that the prosecuting attorney must make it somehow appropriate, as he has characterized it. The prosecuting attorney could say the defendant got an F on his report card in the 10th grade and that could be an aggravating factor. He could pull any aggravating factor, unrelated to this offense, unrelated to anything else, that he wanted to pull and specify it. I would suggest, and I would ask my colleagues not to give that kind of discretion to prosecuting attorneys. We should not be pulling in prosecutors and giving them the authority to write the laws in this way.

Additionally, the defendant deserves to know in advance the aggravating factors that will be considered.

I would say that under this bill, given this discretion, the defendant will never be able to understand and know what aggravating factors will be considered.

Mr. HUGHES. Mr. Chairman, will the gentleman yield to me?

Mr. WATT. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Chairman, I thank the gentleman for yielding and congratulate him. When the Supreme Court invalidated all death penalties more than 20 years ago, it did so because of the uncertainty in the law and practice at that time. The Court found that it was not possible to find any rational pattern or set of rules regarding which conduct would lead to a death penalty and which would not.

A key factor in the Court's subsequent approval of new death penalty systems was the addition of specific, statutory aggravating factors. Uncertainty was substantially reduced, and guidance to jurors enhanced, by the enumeration of specific aggravating factors, which, if found to exist, could form the basis of a jury finding in support of a death penalty.

The bill before us contains some 15 specific aggravating factors. This is a proper exercise of legislative and policymaking authority, and is in keeping with the Supreme Court's mandate that specificity and certainty be built into death penalty statutes.

Much of that is lost, and the constitutionality of our death penalty laws threatened, if we give prosecutors unrestricted and unguided authority to fashion their own subjective aggravating factors, which would then assume a stature equal to those aggravating factors spelled out in the law.

The 15 statutory aggravating factors are not only quite extensive, but quite broad. They include such far-reaching factors as a "heinous, cruel, or depraved manner of committing an offense." We should not allow prosecutors and jurors to go beyond these already broad provisions.

I support the Watt amendment.

Mr. WATT. I thank the gentleman for his comments.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. WATT. I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for yielding.

Mr. Chairman, I also want to support the amendment. I disagree with the gentleman, ultimately, on capital punishment on other provisions in this bill. I certainly believe, when you are going to invoke the ultimate punishment, that is capital punishment, we ought to be very careful and very delineating in what we do.

□ 1510

To say that there should be an opened aggravating factor, that anything could be an aggravating factor, does, in my opinion—it is a close case, but it does, in my opinion, tip the scales over in favor of too much discretion and too much abuse leading to some of the other kinds of things that we have seen in certain capital cases, and so I would urge my colleagues to support this amendment. Those of us who believe in capital punishment have an obligation, I think, to see that it is administered fairly, carefully, and with every, every, every predisposition so that mistakes are not made, and for that reason I urge that we adopt this amendment.

Mr. WATT. Mr. Chairman, in conclusion I would simply say that we have a death penalty, we have added a number of additional death penalty provisions. There ought to, at least, be standards for evaluating when the death penalty will apply. If we do not have standards, the problem that we have had with racially disparate application of the death penalty will become that much more of a problem, and I would ask my colleagues to support this amendment.

Mr. McCOLLUM. Mr. Chairman, may I inquire how much time I have remaining?

The CHAIRMAN. The gentleman from Florida has 5 minutes remaining.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have again a great deal of respect for the gentleman from North Carolina [Mr. WATT], but I want to read the actual language he is striking that is pertinent to this so we all understand what it says in the bill. After the aggravating factors that are delineated for imposing the death penalty there is this clause or sentence. It says:

> The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

One thing is very clear from reading that, and that is that notice must be given. The defense is not going to be surprised by what is brought forward by the prosecutor.

In addition, it is just the common way of doing things, to allow some flexibility in creating aggravating factors or mitigating factors when we start considering sentences, including the death penalty. No way, shape or form can we perfect here in the legislative body every single conceivable circumstance which would be something we would find aggravating enough in every case to be able to warrant the death penalty or to be able to warrant any other sentence for that matter. There are always new and strange cases coming about. That is why we have so many varied court opinions all over this country. It is almost mind boggling to look at how many different nuances we can find to try cases and try to resolve issues that come up or how many new decisions the Supreme Court is called upon to make over contentious matters every term of court.

Mr. Chairman, we just simply find that there are a lot of variations on factual circumstances that we cannot think of when we sit down here and try to draft them all out in a neat little form. If we are going to have an effective death penalty back again in the fall, which we should have put in place for the Federal crimes that warrant the death penalty a long time ago, then we need to do the right procedures, and one of those procedures which is in this bill already the gentleman wants to strike is to provide a catch-all for prosecutors to be able, with notice, to frame and craft additional aggravating factors that might warrant the death penalty, and I would submit we should not take that type of opportunity away and foreclose an appropriate drafting of an aggravating factor.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. WATT].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 116, noes 308, answered "present" 1, not voting 12, as follows:

[Roll No. 111]

AYES—116

Abercrombie
Ackerman
Andrews (ME)
Barrett (WI)
Beilenson
Bishop
Blackwell
Bonior
Brown (CA)
Brown (OH)
Cardin
Clay
Clayton
Clyburn
Collins (IL)
Collins (MI)
Conyers
Coyne
de Lugo (VI)
Dellums
Dixon
Edwards (CA)
Engel
Eshoo
Evans
Faleomavaega (AS)
Farr
Fields (LA)
Filner
Flake
Foglietta
Ford (MI)
Frank (MA)
Furse
Gejdenson
Gonzalez
Gutierrez
Hamburg
Hastings
Hilliard
Hinchey
Hochbrueckner
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kopetski
Levin
Lewis (GA)
Lowey
Maloney
Mann
Markey
McCloskey
McDermott
McKinney
McNulty
Meek
Mfume
Miller (CA)
Mineta
Mink
Mollohan
Nadler
Norton (DC)
Oberstar
Obey
Olver
Owens
Payne (NJ)
Pelosi
Rangel
Reed
Reynolds
Romero-Barcelo (PR)
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schumer
Scott
Serrano
Sharp
Skaggs
Slaughter
Smith (NJ)
Stark
Stokes
Strickland
Studds
Swift
Synar
Thompson
Towns
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Waters
Watt
Waxman
Wheat
Woolsey
Wynn
Yates

NOES—308

Allard
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Carr
Castle
Chapman
Clement
Clinger
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Costello
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de la Garza
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DeLauro
DeLay
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
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Dooley
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Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Ehlers
Emerson
English
Everett
Ewing
Fawell
Fazio
Fields (TX)
Fingerhut
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Gordon
Goss
Grams
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hoagland
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kim
King
Kingston
Klein
Klink
Knollenberg
Kolbe
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Machtley
Manton
Manzullo
Margolies-Mezvinsky
Martinez
Matsui
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
Meehan
Menendez
Meyers
Mica
Michel
Miller (FL)
Minge
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Neal (MA)
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Ravenel
Regula
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schenk
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (IA)
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Stump
Stupak
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Torkildsen
Torres
Torricelli
Traficant
Upton
Vucanovich
Walker
Walsh
Weldon
Williams
Wilson
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—12

Becerra
Fish
Gallo
Grandy
Laughlin
Murphy
Neal (NC)
Quillen
Roukema
Valentine
Washington
Whitten

☐ 1533

The Clerk announced the following pairs:

On this vote:

Mr. Washington for, with Mr. Grandy against.

Mr. Becerra for, with Mrs. Roukema against.

Ms. SHEPHERD, Mr. ROSE, and Mr. MOAKLEY changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. HAYES. Mr. Chairman, I would like this opportunity to step back from all the rhetoric over the impact of this crime bill. Preventing and fighting crime is not about the many meaningless provisions in this bill that in actuality only serve political purposes and will have little effect on how the law enforcement community protects the public. Fighting crime is indeed about protecting people's lives and livelihoods and making everyone feel safe and secure enough to walk outside their own homes. It is about providing resources and technical assistance to local law enforcement officials so that they can do their job effectively.

It was for this very reason that Congressman CHARLIE TAYLOR, Congressman SCHUMER, and I introduced the National Triad Program Act. This bill advocates a strategy that in this age of cynicism is unheard of—cooperation. It proposes to form a coalition between local sheriffs, police chiefs, and senior citizens groups to reduce the victimization and unwarranted fear of crime which disproportionately plagues senior citizens. This program has been incorporated into the prevention title of H.R. 4092, establishing 50 pilot such programs across the country. The premise behind Triad is to make seniors feel more comfortable about reporting crimes inflicted upon them, which they have been reluctant to do in the past. It would, further, get seniors directly involved through outreach and volunteer efforts to better prevent crimes in their communities.

There are presently 100 Triad programs already operating under local and State jurisdictions throughout the country. One of the first programs was started in my district in St. Martin Parish, LA, by Sheriff Charles Fuselier. It was through his tireless efforts and those of the National Sheriff's Association that this program has become such a nationwide success. Sheriff Fuselier has received more than a tenfold return on his investments in terms of the volunteers, which work in his office 2 to 3 days a week, and the crimes that have been quickly resolved because of greater senior participation.

By the year 2030 there will be approximately 66 million senior citizens in American society. Accordingly, the Triad information network has the potential to be the cornerstone of future crime fighting activities within the seniors community. We must put our muscle and limited resources behind programs that work.

Ms. VELÁZQUEZ. Mr. Chairman, in the ancient Near Eastern empire once ruled by the great Hammurabi, criminals would be punished for their offenses by his code of law—"an eye for an eye." I would think that by the year 1994 this uncivilized and barbaric concept of law would have long since been made obsolete. Yet, I stand here in front of you today debating over a modern version of Hammurabi's Code—the death penalty.

It is my strong belief that criminals who commit violent crimes should be adequately punished for their offenses, but that punishment should not result in their death. Mr. KOPETSKI has offered an amendment that punishes them for their violent acts with life imprisonment.

The death penalty is plagued by racial disparity and error. Numerous studies have shown that racial minorities are being prosecuted under the death penalty law far beyond their proportion in the general population or the population of criminal offenders. An analysis of prosecutions under the Federal death penalty provisions of the Anti-Drug Abuse Act signed by President Reagan in 1988, reveals that 89 percent of the defendants selected for capital prosecution have been either African-American or Mexican-American. Moreover, studies have shown that innocent people are being sentenced to death. In 1993 alone, 4 men sentenced to death were found innocent.

These figures paint a sad portrait of a discriminatory and ineffective system of justice. They only confirm the conclusion's of the Honorable Justice Harry Blackmun who wrote of the death penalty, "the death penalty remains fraught with arbitrariness, discrimination, caprice, and mistake. The death penalty experiment has failed."

Mr. Chairman, let us bring fairness and constitutionality back into our justice system. I urge my colleagues to vote for Mr. KOPETSKI's amendment.

Mr. SANTORUM. Mr. Chairman, as Congress begins its debate on anticrime legislation, I find it extremely telling that we as legislators have ignored the wisdom of the people who are implementing the laws that we write. I would like to share with you a letter I recently received from the Pennsylvania District Attorney's Association which states that some of the provisions in the bill we are debating are so slanted in favor of the criminal that they relegate victims to a "position of irrelevance".

DEAR CONGRESSMAN SANTORUM: We are writing to express the views of the Pennsylvania District Attorney's Association and virtually all of the prosecutors across the nation to ask you to vote for the Hyde amendment to strike Title VIII from House Bill 4092, the Omnibus Crime Bill. We also urge you to support the McCollum amendment to substitute the Equal Justice Act provisions for the so-called "Racial Justice Act" provisions presently in the bill. It is scheduled for a vote on the House floor on Wednesday, March 23, 1994.

Title VIII, the Habeas Corpus Revision Act of 1994, is a virtual wish list for criminal defense attorneys. It overturns significant United States Supreme Court case law and authorizes Federal judges to overturn death sentences on the basis of certain belated claims even if there was no constitutional error.

As prosecutors, we don't want, nor do we expect, Congress to stack the deck in our favor. We are, however, looking for a level playing field. Title VIII is so defense oriented that it doesn't approach fairness and relegates victims to a position of irrelevance.

Title IX, the Racial Justice Act, is designed to effectively end the death penalty in America by death penalty opponents who, faced with overwhelming public opposition to their position, cannot repeal the death penalty directly. It mandates a highly offensive "racial quota" system to the application of the death penalty and destroys the fundamental principal that prosecutors must conduct death penalty litigation in a manner that is entirely color blind.

Very truly yours,
BILL RYAN,
President.
LYNNE ABRAHAM,
Legislative Chairman.

Mr. Chairman, the message in this letter is clear, by passing these provisions in the crime bill, we are not streamlining our appeal process or correcting inequities in our implementation of the death penalty. Instead, we are making it easier for criminals to continue to abuse our system and rendering our criminal justice system paralyzed. I believe it is time Congress stops talking about being tough on crime and cleaning up our system, while we ignore the expert advise of people who recognize the problems in our criminal justice system and experience the frustration brought on by our inability to correct them. With our Nation's escalating violent crime problem, we can no longer ignore the opinions of law enforcement and simply pass legislation designed to protect criminals.

Mr. ABERCROMBIE. Mr. Chairman, I rise today to draw attention to an important provision in H.R. 4092 designed to protect the traveling public. Specifically, the purpose of the Abercrombie amendment is to facilitate in the investigation of violent crimes against travelers.

Over the past few months we have seen an increasing number of crimes of violence directed at travelers, both domestic and foreign, in the United States. Unfortunately some of the incidents have been so notorious that they have received international attention.

Our Nation is dependent on the travel and tourism industry. In 34 States, it is already the first, second or third largest employer. Travel and tourism is the Nation's second largest employer, providing 6 million jobs. The $74 billion we earn from international visitors make it our single biggest export. In the State of Hawaii, for example, the travel and tourism industry accounts for over 30 percent of the State's GDP. We cannot afford to stand by and let these crimes of violence affect the travel patterns of individuals.

The Abercrombie amendment is not meant to increase the Federal role, that is, federalize the crime, or diminish the authority of local jurisdictions. Also, the amendment does not mandate States to provide greater protection for travelers than for their own citizens. Instead, the amendment gives local law enforcement officials the option to utilize the resources of the Federal Government to assist in the investigation of violent crimes against travelers. This is the approach taken by the Department of Justice in mutual legal assistance treaties, that is, assist in the investigation and prosecution of crimes. For the purpose of the amendment the definition of a traveler is an individual who is not a resident of the State in which the crime of violence occurs. It applies to domestic and foreign travelers.

The amendment was drafted in consultation with Department of Justice [DOJ] and is consistent with Attorney General Reno's notion of working together. The DOJ recognizes that offenses against travelers may be difficult for State authorities to prosecute because of problems in securing testimony and other evidence, emphasizes the importance of the Department of Justice fully assisting State authorities in their efforts to obtain evidence needed for effective investigation and prosecution. Thus, this provision underscores both the availability of Federal assistance and the expectation that the Departments of Justice and State will use their best efforts to secure evidence needed by State and local prosecutors and investigators in cases involving serious crimes against travelers.

The amendment has the strong support of law enforcement officials and the travel and tourism industry. Accordingly, I ask my colleagues to support the Abercrombie amendment.

Mr. GOODLING. Mr. Chairman, as the ranking member on the House Committee on Education and Labor, I have serious concerns about many of the provisions included in H.R. 4092, the Omnibus Crime Control Act, as well as many of the amendments which have been made in order by the Rules Committee. In attempting to address the crime problem which faces our Nation, the House Judiciary Committee brought several bills to the floor aimed at preventing crime and rehabilitating prisoners. However, many of these programs relate to issues within the jurisdiction of the Education and Labor Committee and are substantially similar or duplicative of existing programs.

I am not opposed to providing targeted assistance to youth in neighborhoods with high incidence of crime and poverty, yet I am opposed to creating duplicative programs. I strongly believe there should be linkages between what we are doing in the area of crime prevention, employment, and education and training if we are to be successful in salvaging this Nation's youth. However, in creating these linkages, we must build on existing programs, establishing a comprehensive system of assistance, not a series of fragmented Federal programs through which millions of limited dollars are wasted on duplicative administrative structures. In fact, the GAO recently identified 154 Federal programs that in some capacity provide job training and assistance to disadvantaged adults and youth through a wide variety of delivery mechanisms.

For example, title X of H.R. 4092 would establish a new Youth Employment and Skills

Crime Prevention Program. Currently, we have numerous Federal statutes which provide very similar and in many cases identical forms of employment, education, and training assistance to disadvantaged and at-risk youth, as are provided under this legislation's YES Program. We have the year-round training program for disadvantaged youth, established under title II–C of the Job Training Partnership Act [JTPA]; the Summer Youth Employment and Training Program for disadvantaged youth, established under title II–B of JTPA; the Youth Fair Chance Program, which targets assistance for disadvantaged youth to high poverty communities established under title IV, part H of JTPA. In addition, we have the Job Corps Program established under title IV, part B of JTPA, which also provides intensive assistance and services to severely disadvantaged the at-risk youth. These are just the programs established under the Job Training Partnership Act, not to mention numerous other Federal statutes which independently provide employment and training assistance to youth and young adults. I attempted to offer an amendment which would strike title X, subtitle J of the bill, however, my amendment was not made in order.

To further illustrate this point, the following is a list of amendments which are duplicative of existing programs within the jurisdiction of the Education and Labor Committee:

The Olver amendment would authorize the Attorney General to make 10 State demonstration grants that provide for at least one specialized domestic violence court advocate in every court where a significant number of protective orders are granted. This is substantially similar to the Family Violence Prevention and Services Act, which already provides for demonstration grants to deal with family violence. This existing program was appropriated $27.7 million for fiscal year 1994.

The Martinez amendment would authorize demonstration grants for umbrella agencies in enterprise zones for strategic planning and evaluation of service programs in low-income communities and gang prevention programs, such as Boys and Girls Clubs. These grants duplicate: First; the Community Services Block Grant Act which provides funds for Community Action Programs [CAPS] in all communities, not just enterprise zones. This program was already appropriated $464 million for fiscal year 1994; and second; part D of the Juvenile Justice and Delinquency Prevention Act, which provides grants for gang prevention activities which was appropriated $5 million in fiscal year 1994.

The McCurdy amendment would establish a Police Corps Program to allow State and local law enforcement agencies to recruit young people to serve a term with the police in return for aid for a college education. It would also establish a Law Enforcement Scholarship Matching Grant Program for current law enforcement personnel and young people interested in a career in law enforcement. The first part of this amendment is duplicative of the National Services Act, which specifically lists programs that address unmet public safety needs as eligible for national service grants and was appropriated $370 million in fiscal year 1994.

The Gorton amendment would prohibit awarding Pell basic grants to anyone incarcerated in a Federal or State prison.

I have serious concerns in regard to this amendment. During the 1992 Reauthorization of the Higher Education Act, Congress enacted changes affecting the eligibility of prisoners to receive Pell grants aimed at preventing the abuse of the Pell Grant Program. These changes included: First, determining that Pell funds can only be used for tuition and books and not for cost of living; second, eliminating persons on death row; third, limiting a schools total enrollment of prisoners; fourth, prohibiting schools from participation in the Pell program if they offer more than 50 percent of their courses by correspondence; and fifth, prohibiting States from shifting the costs of post secondary education for prisoners onto the Pell program.

The Wynn amendment would prohibit Pell grants to Federal or State prisoners after January 1, 1996 unless it is certified by the Secretary of Education or the Governor.

The Martinez amendment which would establish requirements for States under which they would enact regulations regarding background investigations and training requirements that apply to all persons providing private security services.

The Owens amendment would permanently exempt State and local public safety agencies from the Age Discrimination in Employment Act in order to permit them to consider age in their hiring and retirement policies.

In the Education and Labor Committee, we are currently looking into ways to reform this array of education, welfare, training, and employment assistance programs into a comprehensive system of services designed to serve the many needs of youth and adults. I would be happy to work with proponents of this legislation to amend our current programs, where necessary, to address crime prevention and poverty concerns. I do think however, that such amendments would be better developed under the jurisdiction of the Education and Labor Committee through comprehensive reforms of our existing systems.

Mr. PACKARD. Mr. Chairman, Americans are tired of living in fear and are demanding crime legislation that deals with the root of decay in our criminal justice system. Nationwide there is consensus that our criminal justice system has failed and innocent Americans have become the victims of a system originally conceived to protect them.

The President's rhetoric has stressed the importance of reforming our criminal justice system, but he has failed to introduce a crime bill that effectively reforms the process. His proposal is a weak attempt at piecemeal legislation that is all talk and no action. He attempts to offer short-term flawed solutions to intricate problems that merit comprehensive responses.

The administration's crime bill squanders $8 billion into several new useless social-welfare programs. Specifically it provides a formula that gives $2 billion to localities with the highest self-imposed tax rates. The theory is that since these communities have the highest tax levels, they will also have the highest levels of unemployment and poverty. To help alleviate their problems, President Clinton wants the Federal Government to send these communities a blank check. This is ludicrous. Why are we rewarding communities that have contributed to their own economic chaos. Higher taxes do not create employment or business and they certainly do not bring people out of poverty. In fact, they have the reverse effect.

The remainder of the $8 billion from these social-welfare programs will be used toward several Great Society-style programs. These programs are targeted to crime-prone areas for recreation activities. For example, there is a program called midnight sports where criminals can participate in basketball games from 10 p.m. to 2 a.m. I fail to see how a friendly taxpayer financed basketball game will deter these criminals from committing other crimes.

Even more disturbing than this, are the major loopholes that exist under habeas corpus. The bill claims to reform habeas corpus, but in reality it weakens current law and even overturns previous Supreme Court decisions. These loopholes allow criminals to abuse and prolong the appeals process in an effort to avoid the death penalty.

The administration's approach further weakens the legislative language of the three strikes and you're out provision. The bill imposes mandatory life imprisonment without parole for criminals convicted of three violent crimes, but it requires that the third strike must be a Federal crime. By diluting this language, repeat offenders are not permanently removed from the street. Without permanently removing these criminals from the street, the system fails once again to close the revolving door that is at the core of the crime epidemic in this country. How will these criminals be deterred when they do not serve the whole portion of their sentence? As they say in baseball, and I strongly believe the American people now echo this sentiment, "three strikes and you are out."

The Clinton plan also allocates $3 billion in Federal grant money to assist State in building new prisons or improve existing ones so they have room to keep violent repeat offenders behind bars. However, there is nothing in the bill's language to ensure that these offenders will serve a significant portion of their sentence. Currently, convicted criminals are only serving about 37 percent of their sentence. Why should tax-paying citizens pour Federal money into State prison systems without there being and type of guarantee that these reforms will keep criminals behind bars. We must tie Federal funds to truth-in-sentencing reforms, otherwise we are throwing taxpayer's money away.

The only way that we are going to stop the crime epidemic in this country is by repairing our current criminal justice system and permanently nailing shut the revolving door that enables violent criminals from terrorizing innocent victims in our society.

The crime crisis in this country is real and it affects everyone. This crime proposal does not reform the criminal justice system as promised. Instead, we are once again left with empty political rhetoric that fails to respond to the public's cry for criminal justice reform.

Mrs. KENNELLY. Mr. Chairman, I rise today in strong support of the crime bill before us today. This is an issue which affects every citizen in every district.

But let me tell you a story from my district. Less than 2 weeks ago, 7-year-old Marcellina Delgado was shot near the Charter Oak housing project in Hartford. She was on her mother's lap as her family drove to her grandmother's house. What did Marcellina do to deserve such a fate? She was riding in a car that one gang member mistakenly thought belonged to an enemy gang member.

We have all heard this story. Law abiding citizens, going about their business, are getting caught in gang crossfire. How many innocent victims must get hurt or be killed before we stand up and support those fighting this battle every day? Today, we in the House must give the answer: Enough is enough—enough crimes, enough bloodshed, and enough deaths.

I know that there are Members on both sides of the aisle with concerns over provisions included in H.R. 4092. But now more than ever, we need a bipartisan approach to the fight against crime. We can no longer afford to argue over Democratic and Republican responses to this demoralizing problem. We must put our differences aside and directly confront this issue. The American people are asking us to act and it is high time we did.

H.R. 4092 contains much we can support. It addresses not only methods of punishment, but methods of prevention as well. The legislation authorizes more than $15 billion through fiscal year 1999 for a variety of anticrime strategies over 5 years, half of which is for crime control, with the other half for crime prevention. We are also voting on whether to approve $3.5 billion to hire State and local police officers for community policing programs, $3 billion for grants to State prisons and $600 million for alternative incarceration for young offenders. Roughly $7 billion is included in H.R. 4092 for community crime prevention programs. Other important provisions in this bill call for life imprisonment for three time violent offenders, more severely punish crimes of violence against women, and make it a Federal crime to sell or transfer a handgun to a juvenile.

The time for talk has passed. The time to act is upon us. I urge my colleagues to support this bill so we can begin to take back our streets.

Mrs. LLOYD. Mr. Chairman, I rise in support of the community justice program provisions included in the Violent Crime Control and Enforcement Act. These provisions focus on crime prevention. The provisions take positive steps in instilling confidence and self-worth among many of our at-risk youth.

Too many of our youth are subjected to the hostile environment on the streets where selling drugs and committing crimes are a way of life. Unfortunately, many American communities do not have the resources to provide alternatives for at-risk youth. Thus, many juveniles are exposed to a life of crime. We must provide alternatives to at-risk youth. We need to catch them during their most impressionable years, before they follow the pernicious path of crime.

I particularly applaud the authorization of grants for midnight sports leagues. Hamilton County Juvenile Court in my district has expressed interest in implementing such a program, as an addition to a crime prevention initiative known as Project: About Face. The objective of the project is to encourage juvenile delinquents to do an about face into a positive contributing member of society, and effectively reducing the crime rate. The court witnesses the everyday afflictions experienced by juvenile delinquents. For many of these at-risk youths, their initial entry into the judicial system is the start of a vicious cycle.

The midnight sports league help communities keep youth off the streets, by allowing them to use local gymnasiums and community facilities throughout the night. In addition, the program will provide individuals participating in the league with job training, educational seminars, and counseling services.

Mr. Chairman, the midnight sports program and other prevention programs included in the crime bill give at-risk youth a sense of community and support. The minimal cost in providing sports leagues, educational resources, and community activities is certainly a worthwhile investment in changing juvenile delinquents into productive adults.

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. GIBBONS] having assumed the chair, Mr. TORRICELLI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 4092) to control and prevent crime, had come to no resolution thereon.

APPOINTMENT OF CONFEREES ON HOUSE CONCURRENT RESOLUTION 218, CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1995

Mr. SABO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (H. Con. Res. 218) setting forth the congressional budget for the U.S. Government for the fiscal years 1995, 1996, 1997, 1998, and 1999, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. KASICH

Mr. KASICH. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. KASICH moves that the managers on the part of the House to the conference on the disagreeing votes on H. Con. Res. 218, be instructed to agree to the Senate amendment reflecting a $26 billion reduction in the deficit over five years by agreeing to reduce the total spending levels specified in section 2(2) and 2(3) of the House-passed resolution as follows:

Fiscal year 1995—$4.4 billion in budget authority and $1.6 billion in outlays;

Fiscal year 1996—$4.9 billion in budget authority and $1.5 billion in outlays;

Fiscal year 1997—$5.8 billion in budget authority and $4 billion in outlays;

Fiscal year 1998—$9.9 billion in budget authority and $7 billion in outlays; and

Fiscal year 1999—$21.8 billion in budget authority and $9.9 billion in outlays.

Provided further, That conferees be instructed to agree to that portion of section 50 of the Senate amendment which provides that "If the President's defense budget request is approved, since 1985 real defense spending will have been reduced by 45 percent by 1999; and President Clinton, during his State of the Union Address on January 25, 1994, promised no further cuts in defense spending" and therefore insist that no further cuts be made in defense by agreeing to the highest possible level of funding for defense (within the scope of the conference).

The SPEAKER pro tempore. The gentleman from Ohio [Mr. KASICH] is reorganized for 30 minutes.

Mr. KASICH. Madam Speaker, I yield myself 4 minutes.

Madam Speaker, we are facing a very important vote again here. In fact, it is the last opportunity the House will have for deficit reduction this year. Because of the nature of the rules of this House, as many of my colleagues know, if we cut spending out of discretionary spending later in the year, those cuts do not reduce the deficit. So this is the last opportunity, the last train leaving the station in order to reduce the deficit, in order to cut Federal spending.

This motion I am offering, but also working in concert with the gentleman from Minnesota [Mr. PENNY] and the gentleman from Texas [Mr. STENHOLM].

This proposal, which endeavors to cut defense, which has been voted on already in the Senate, which has passed the Senate, imposes another $26 billion in deficit reduction.

□ 1540

It would be the first additional deficit reduction proposal that would be enacted since the President raised taxes in this Congress.

Madam Speaker, what we do is we are asking the House conferees to cut this spending by $26 billion over 5 years. That represents 0.3 percent of Federal spending over the next 5 years. If Members would focus their attention on this chart, they will see that the big orange ball represents total Federal spending. There is a sliver in there. It is very difficult to see that sliver. In fact, I have in my hand a magnifying glass that I need to look very closely at in order to see how much spending is done.

This is a magnifying glass, I say, because I am sure the Members cannot see that sliver of spending cuts on this chart. We do need a magnifying glass in order to see the spending cuts that will occur under this proposal.

Aside from that, let us look at it graphically another way. This represents total Federal spending over the next 5 years, well over $8 trillion. If we compare how much Federal spending will occur over the next 5 years with this sliver of a cut, as Members can see by putting the rules up there, frankly, we need a magnifying glass in order to see the difference between what Federal spending will do without the Grassley-Exon cuts and what it will do with them.

Madam Speaker, this is an opportunity in this House to finally try to cut some spending. Every time we come to the floor to cut spending, we hear a litany of reasons why we should not do it.

"We should not cut now, we ought to cut later," reason No. 1.

Reason No. 2, "The proposal is not specific enough."

Reason No. 3 to reject spending cuts, "The proposal is too specific. Therefore, we should not adopt it."

The fourth reason why we should not do it, "We cannot cut spending. We have to use the savings to fix the health care problem in this country."

Reason No. 5, "We are not cutting entitlements."

Reason No. 6, "Why are you cutting entitlements?"

Reason No. 7, "You do not need to cut the deficit in good times."

Reason No. 8, "Well, you cannot in good conscience cut the deficit in bad times."

In other words, every time an effort is made on this House floor to reduce spending, whether it is the Penny-Kasich bill that cut a penny out of a dollar, or whether it is the Exon-Grassley motion to instruct conferees, where we are making the smallest sliver of cuts in Federal spending, this House figures out or brings every ghost and goblin and every strawman it can conjure in its imagination to this House floor to scare Members into voting no.

I would say to the Members of this House, when the American people get the message that this House is not capable of cutting one red cent from any program under any circumstance in any condition, they are going to feel their outrage. What I say to the Members of this House is, come to this House floor. Instruct conferees to agree with the Senate, and let us just do the smallest bit of down payment to reduce the national debt and the growing Federal deficit.

Mr. Speaker, it should come as no surprise that 18 organizations—and the millions of individuals they speak for—have announced their support for the Penny-Kasich motion to cut spending by $26.1 billion over the next 5 years. They understand that it represents our last chance on this year's budget to cut the deficit.

I ask Members to please review the following list and consider their reasons for supporting this motion. Then consider this motion to keep the cuts that were passed in the Senate. We think you will agree that cutting spending by just a fraction over the next 5 years is the least our constituents can expect from us.

ORGANIZATIONS ENDORSING THE KASICH MOTION

American Business Conference—A coalition of chief executive officers from the fastest growing mid-sized companies in America.

Americans for Tax Reform—A non-profit, non-partisan national taxpayer advocacy group, Americans for Tax Reform promotes free market economic policies and lower taxes.

Associated Builders and Contractors—A national construction association representing 16,000 merit (open) shop construction and construction-related firms in 80 chapters across the United States.

Association of Concerned Taxpayers—A grassroots lobbying organization working for tax simplification and tax reduction and opposing tax increases.

Chamber of Commerce—The world's largest federation of business companies and associations and is the principal spokesgroup for the American business community.

Christian Coalition—A pro-family organization with over 1 million members.

Citizens Against Government Waste—A 550,000 member private sector, non-partisan, non-profit organization which educates the American people about the waste, mismanagement, and inefficiency in the Federal Government.

Citizens for a Sound Economy—A 250,000 member citizen advocacy group that promotes market- based solutions to public policy problems.

Concerned Women for America—The nation's largest non-partisan, politically active women's organization with over 600,000 members.

Concord Coalition—A bipartisan, grassroots organization dedicated to eliminating the deficit.

Family Research Council—The Family Research Council is an independent, non-profit, advocacy organization dedicated to ensuring that the interests of the family are considered and respected in the formation of public policy.

Financial Executive Institute—Represents over 14,000 senior financial executives from over 8,000 companies throughout the United States. As financial executives, they are primarily committed to bringing greater financial responsibility to the Federal Government

National Association of Manufacturers.

National Federation of Independent Business—The nation's largest advocacy organization representing small and independent business owners. With a membership of more than 600,000 business owners, NFIB is a melting pot of commercial enterprise: high tech manufacturers and family farmers, neighborhood retailers and service companies.

National Taxpayers Union—Founded in 1969, The National Taxpayers Union is the nation's largest non-partisan, non-profit taxpayers' organization. NTU represents over 250,000 taxpayers dedicated to limited government and fiscal responsibility.

Responsible Budget Action Group—A bipartisan organization formed to lobby on major budget and fiscal policy issues. RBAG undertakes a lobbying campaign only when it is the consensus of the board that the issue is of such overwhelming significance and importance to warrant involvement.

Senior's Coalition—A non-profit, non-partisan senior educational and advocacy group with over 2 million members and supporters nationwide, the Senior's Coalition is America's third largest senior's organization.

Small Business Survival Committee—A small business advocacy group that works to oppose taxes, regulations, and pending legislation at all levels of government that impose unfair burdens on American businesses and impede economic growth.

AMERICAN BUSINESS CONFERENCE RESOLUTION ON FISCAL YEAR 1995 BUDGET

Resolved, The American Business Conference (ABC), reaffirming its view that persistent federal budget deficits, combined with a low rate of national saving, are serious impediments to long-term economic growth, calls on the House and Senate budget resolution conferees to adopt the spending cuts approved by the Senate in its budget resolution for fiscal year 1995. These spending cuts represent an additional reduction over five years of $43.2 billion in budget authority and $26 billion in outlays from the Clinton Administration's budget proposal and the budget resolution of the House of Representatives. Believing, with the President, that the defense budget should not be subject to additional cuts beyond those achieved in OBRA 1993, ABC calls on House and Senate conferees to direct that the spending cuts fall on non-defense programs.

AMERICANS FOR TAX REFORM,
Washington, DC, April 12, 1994.

Hon. JOHN KASICH,
House of Representatives,
Washington, DC.

DEAR MR. KASICH: On behalf of the members of Americans for Tax Reform, I want to thank you for your efforts to achieve real deficit reduction, without raising taxes.

As we approach April 15, the real pain of a growing tax burden is being felt by millions of Americans. All the more important then, is your motion to instruct House conferees to accept the modicum of spending cuts enacted by the Senate in the Budget Bill. I am happy to support this effort, and to commit the members of ATR to the battle. Feel free to make whatever use of this letter you wish.

Sincerely,

GROVER G. NORQUIST.

ASSOCIATED BUILDERS
AND CONTRACTORS, INC.,
Rosslyn, VA, April 13, 1994.

House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE: On behalf of the 16,000 member companies of the Associated Builders and Contractors we strongly urge you to support the motion by Representatives Tim Penny, John Kasich and Charles Stenholm to instruct the House conferees for the FY 1995 Congressional Budget Resolution to accept the $26 billion in cuts approved by the Senate.

Senators James Exon and Charles Grassley were successful in passing their amendment to cut discretionary spending by $26 billion. ABC feels that it is important to retain these Senate cuts in the House Resolution to set an example for fiscal responsibility in our nation's budget process.

While attempting to cut an extra $26 billion from the $1.5 trillion budget will not balance the budget, it does send an important message to the American people that Congress is willing to take a small step toward curbing the runaway budget deficit.

Further, ABC strongly urges you to retain the House amendment by Representative Mike Parker to the Resolution which assumes savings from an increase in the Davis-Bacon threshold to $100,000 and a reduction in the reporting requirements from weekly to monthly. This amendment is identical to Vice President Gore's National Performance Review which recommended an increase in the Davis-Bacon threshold to $100,000 and reduction of the paperwork associated with the law.

Please support the motion to instruct to accept the $26 billion in cuts approved by the Senate. Also retain the increase in the Davis-Bacon threshold to $100,000 and a reduction in the reporting requirements from weekly to monthly.

Sincerely,

CHARLOTTE W. HERBERT,
Vice President, Government Relations.

ASSOCIATION OF CONCERNED TAXPAYERS,
Washington, DC, April 12, 1994.

Hon. JOHN KASICH,
U.S. House of Representatives, Washington, DC.

DEAR JOHN: Your efforts to achieve a reasonable substitute for the Clinton Budget are of primary importance. It is critical that we continue to move towards fiscal sanity, and clear that your proposal did that.

Unfortunately, the House saw fit to continue its profligate ways. The taxpayer fared somewhat better in the Senate, if the House will accept the Exon-Grassley amendment cutting the budget by $26 billion over five years. While this does not achieve the level of savings in the original Kasich substitute, it is a good step in the right direction, and deserves support.

Please count the members of the Association of Concerned Taxpayers among the supporters of your effort to instruct the House conferees to accept the Senate position.

And thanks again for your efforts.

Sincerely,

GORDON S. JONES.

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
Washington, DC, April 14, 1994.

Hon. JOHN R. KASICH,
U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE KASICH: As the House appoints conferees to the FY 93 Budget Resolution, the U.S. Chamber of Commerce strongly supports your motion to instruct House conferees to agree to Senate language on discretionary spending caps. As you know, the Senate version of the Budget Resolution would lower these caps by $26.1 billion over five years, reflecting an amendment by Senator Grassley (R–IA).

The Chamber believes the Grassley amendment would place renewed pressure on discretionary spending programs. As Congress works to meet these ambitious targets, we are hopeful that a solid examination and prioritization of federal programs will result. Our nation can no longer afford programs that are ineffective, inefficient, or that fail to advance the broader national interest.

The U.S. Chamber of Commerce, representing 215,000 businesses, 3,000 state and local chambers of commerce, 1,200 trade and professional associations, and 69 American Chambers of Commerce abroad, applauds your leadership on this issue. We look forward to working with you on other opportunities to return the nation's government to fiscal responsibility.

Sincerely,

R. BRUCE JOSTEN.

CHRISTIAN COALITION,
CAPITOL HILL OFFICE,
April 4, 1994.

DEAR MEMBER OF CONGRESS: On behalf of the one million members and supporters of the Christian Coalition, we urge you to resist any efforts to weaken the spending cuts now contained in S. Con. Res. 63., the concurrent budget resolution for fiscal year 1995.

A bipartisan effort, led by Senators Exon and Grassley, in the Senate Budget Committee resulted in a resolution which includes an amendment to cut discretionary spending outlays by $26 billion over the next five years. Now the bipartisan team of Representatives Penny, Stenholm and Kasich is leading this effort in the House to keep these cuts. These spending reductions are only a modest step in reducing the deficit, yet it is imperative that they be preserved.

Congress has had several opportunities, but has failed, this year to reduce the deficit and provide tax relief for families. We know this is to the frustration to many of those Members who for years have tried to cut spending and to those Members who were elected in the last cycle on pledges of fiscal reform.

On April 15, millions of American families will be required to pay almost 40 percent of their income on taxes combined for all levels of government. Families have no choice but to spend within their means. It is time for Congress to do the same.

The legacy of debt we are leaving for our children is a disgrace. We urge you to preserve the $26 billion in spending reductions. The fiscally responsible votes will be "YES" on the previous question and "YES" on the original Kasich Amendment.

Sincerely,

MARSHALL WITTMANN,
Director, Legislative Affairs.
HEIDI SCANLON,
Director, Governmental Affairs.

THE CONCORD COALITION,
1025 VERMONT AVENUE NW., SUITE 810,
Washington, DC, April 14, 1994.

A MODEST GESTURE IN THE RIGHT DIRECTION

The Concord Coalition today indicated its support for a motion to instruct House conferees on the budget resolution to support a 5-year, $26 billion spending reduction that was added by Senators Exon (D–NE) and Grassley (R–IA) to the Senate's version of the budget resolution.

"Compared to Concord's recommendations, the proposed reduction of $26 billion is a pittance," said former Senator Warren B. Rudman, Co-chair of The Concord Coalition. "It would translate into only $1.6 billion of spending cuts next year, a mere 3 tenths of one percent of discretionary spending, and less than a 1 percent cut over the next five years. Nevertheless, it is a move in the right direction. Anyone serious about reducing the federal budget deficit should be willing to trim appropriations by these small amounts," Rudman added.

"Reconciliation legislation to trim entitlements is off the agenda for this year and the health care reform debate calls into question whether or how son health costs can be brought under control," said Martha Phillips, Executive Director of The Concord Coalition. "The modest discretionary cuts proposed in the Senate Budget Resolution would be at least a symbolic gesture in the direction of deficit reduction."

The Concord Coalition's own Zero Deficit Plan, which would balance the budget by the year 2000, calls for fifty specific domestic discretionary spending terminations and reductions totalling $94 billion over the next five years, plus another $14 billion in defense and international spending reductions. In the same five years, the Zero Deficit Plan would add $19 billion in new domestic discretionary spending for investments. Thus, Concord's net discretionary reductions would total $89 billion. In addition, The Concord Coalition's plan required increased revenues and major reductions in entitlement spending.

The Concord Coalition is a bipartisan nonprofit grass roots organization dedicated to strengthening America's economy by eliminating the federal budget deficit. It is cochaired by former Senators Paul E. Tsongas (D–MA) and Warren B. Rudman (R–NH).

CITIZENS AGAINST GOVERNMENT WASTE,
Washington, DC, April 8, 1994.

DEAR REPRESENTATIVE: The House soon will consider a motion to instruct the conferees on the FY 1995 Congressional Budget Resolution to be offered by Representatives John Kasich (R–OH), Tim Penny (D–MN), and Charles Stenholm (D–TX). The goal of the motion to instruct is to preserve $26 billion in budget cuts adopted last month in the Senate version of the Budget Resolution. As you are aware, Senators James Exon (D–NE) and Charles Grassley (R–IA) offered the successful amendment, and we are anxious to see the House of Representatives follow suit.

It is time to make the cuts count. This is not just another motion. This instruction to the conferees would set an example for fiscal responsibility in our nation's budget process. The effort in the Senate to include the cuts totaling $26 billion was completely bipartisan. Three attempts to strip some or all of the spending cuts were defeated.

Inside the Beltway, this may be a tough vote for some members of Congress. But American taxpayers know that adding to the deficit is more painful than a single vote in the U.S. House of Representatives.

The 600,000 members of the Council for Citizens Against Government Waste (CCAGW) urge you to vote to recede to the spending cuts in the Senate Budget Resolution. It is a vote in the best interest of our children and their children. CCAGW will rate this vote in our annual ratings.

Sincerely,

TOM.

CSE KEY VOTE NOTICE

APRIL 12, 1994.

Issue: Budget resolution (motion to instruct House conferees).

Vote: For the previous question and the Kasich amendment.

DEAR REPRESENTATIVE: On behalf of the 250,000 members of Citizens for a Sound Economy (CSE), I urge you to vote *yes* on the previous question and *yes* on the original Kasich Amendment to instruct House conferees to accept the $26 billion in spending cuts. A vote *for* both issues signifies your support to preserve the spending cuts passed by the Senate.

CSE will count this as a KEY VOTE to be reported to our members in your district. This KEY VOTE will be used to determine your eligibility for our Jefferson Award, to be presented at the conclusion of this Congress.

Sincerely,

MICHELE ISELE,
Vice President of Government Relations.

CONCERNED WOMEN FOR AMERICA,
April 6, 1994.

U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE: Concerned Women for America's members throughout the United States are very disturbed by the increased tax burden on families which often compels both parents to enter the work force in order to make financial ends meet. Ironically, two-thirds of a working mother's salary in the average two parent, two-income household, will still go to pay for federal taxes rather than additional income for her family.

Representatives John Kasich (R-OH), Tim Penny (D-MN) and Charlie Stenholm (D-TX) recognize the overwhelming burden placed on American families and are working to secure America's future through deficit reduction and responsible government spending. In continuation of the bipartisan amendment passed in the Senate, Concerned Women for America urges Members to cut discretionary spending outlays by $26 billion over the next five years. These cuts are the first step assuring a sound economic future for America's children. In order to achieve deficit reduction, the government must work the way American families reduce their own personal budget problems—through the reduction of spending.

CWA believes this is a winning issue. Our members strongly urge you to vote "yes" on the previous question and "yes" on the original Kasich Amendment to the FY 95 Budget.

Thank you for your time and attention. We look forward to working with you further on this issue. Concerned Women for America is the largest non-partisan, politically active women's organization in the Nation, representing over 600,000 members.

Sincerely,

BEVERLY LAHAYE,
President.

FAMILY RESEARCH COUNCIL,
April 7, 1994.

DEAR MEMBER OF CONGRESS: We strongly urge you to support the Kasich/Penny/Stenholm motion to instruct the House conferees on the Budget Resolution to accept the Exon-Grassley amendment as added in the Senate. The Exon-Grassley amendment will require an additional $26 billion in discretionary spending cuts over the next five years.

This step towards greater deficit reduction is important to families because of the special interest that families have in future generations. Parents are concerned that any debt that is passed on to the next generation will serve as a serious hindrance to their children's economic well-being. Reducing the deficit is vital to the long-term strength of the U.S. economy and thus the long-term economic strength of the family.

The cuts in Exon-Grassley are small, calling for only one-third of one percent over the next five years. The benefits, however, of beginning to reduce the deficit are great. Please do not pass up this opportunity for deficit reduction.

Please support the Exon-Grassley amendment by voting for the Kasich/Penny/Stenholm motion to instruct the conferees.

Sincerely,

GARY L. BAUER,
President.

FINANCIAL EXECUTIVES INSTITUTE,
Washington, DC, April 8, 1994.

Hon. JOHN R. KASICH,
U.S. House of Representatives, Ranking Member, House Budget Committee, Ford House Office Building, Washington, DC.

DEAR CONGRESSMAN KASICH: On behalf of Financial Executives Institute, I am writing to offer FEI's strong support to the bipartisan effort in the House led by you, Rep. Tim Penny, and Rep. Charlie Stenholm to preserve the Senate's $26 billion in spending cuts passed in S. Con. Res. 63.

Financial Executives Institute (FEI), is a professional association of 14,000 senior financial executives from some 8,000 major corporations throughout the United States and Canada.

As senior financial executives, we have long understood the correlation between fiscal responsibility and the efficient operation of our corporations. Indeed, if any corporation operated in the same manner as the Federal Government, the SEC would shut it down.

While attempting to cut an extra $26 billion from the $1.5 trillion budget will not balance the budget, it does send an important message to the American people that Congress is willing to take a small step toward curbing the runaway budget deficit.

We commend you and your colleagues for your tireless dedication to effect real change in the way Congress spends the American people's hard earned dollars. FEI stands ready to assist you in this important effort.

Sincerely,

JAMES A. KAITZ.

NATIONAL ASSOCIATION
OF MANUFACTURERS,
April 14, 1994.

Hon. CHARLES W. STENHOLM,
U.S. House of Representatives
Washington, DC.

DEAR REPRESENTATIVE STENHOLM: This letter is to inform you of NAM's strong support for the pending motion to instruct House conferees on the budget resolution to accept the $26 billion in spending cuts passed by the Senate.

We believe these additional spending cuts are a necessary step in further reducing federal budget deficits that are still too high.

The NAM therefore urges the House of Representatives to accept the Senate's $26 billion in discretionary spending cuts over the next five years.

Sincerely,

PAUL R. HUARD.

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC, April 11, 1994.

DEAR REPRESENTATIVE: On behalf of the over 600,000 members of the National Federation of Independent Business (NFIB), I urge you to support the motion to instruct House conferees on the Budget Resolution to accept the $26 billion in spending cuts approved by the Senate. I strongly encourage you to support this motion when it comes to the House floor for a vote.

The vote is likely to take place on Wednesday, April 13. Representatives Penny and Kasich are planning to offer the bipartisan motion to accept the spending cuts approved by the Senate. Senators Grassley and Exon led a bipartisan effort resulting in the Senate Budget Committee reporting out a resolution which included an amendment to cut discretionary spending by $26 billion over the next five years. The full Senate adopted the resolution including the cuts by a vote of 57–40.

The House motion to accept the $26 billion in cuts represents just a fraction of all federal spending; however, it is a necessary step to reduce the deficit and the size of the federal government. NFIB members have consistently and overwhelmingly voted in favor of immediate deficit reduction, 88% in favor most recently.

NFIB members believe that spending must be cut now. Again, I urge you to vote for the bipartisan motion to instruct conferees to adopt the $26 billion in spending cuts passed by the Senate.

Sincerely,

JOHN J. MOTLEY III,
Vice President,
Federal Government Relations.

NATIONAL TAXPAYERS UNION,
Washington, DC, April 13, 1994.

DEAR REPRESENTATIVE: The 250,000-member National Taxpayers Union (NTU) strongly urges you to vote in favor of the Penny-Kasich Motion to accept the $26 billion in cuts approved by the Senate.

A bipartisan effort, led by Senators Exon and Grassley, in the Senate Budget Committee resulted in a resolution which includes an amendment to cut discretionary spending by $26 billion. In the House, a bipartisan team led by Representatives John Kasich, Tim Penny, and Charlie Stenholm is working to keep the Senate cuts intact.

While no plan to cut federal spending is painless, this motion is an important step to avoid the greater economic pain of deficits spiraling out of control.

The American people have sent a clear message to Congress—cut spending and balance the budget. A vote for the Penny-Kasich Motion proves that you hear the people and heed their voices.

Vote YES on the Penny-Kasich Motion to preserve the Senate cuts.

Sincerely,

JILL LANCELOT,
Director, Congressional Affairs.

COMMITTEE FOR A RESPONSIBLE
FEDERAL BUDGET,
Washington, DC, April 11, 1994.

DEAR FORMER COLLEAGUE: This week, the House is expected to vote on a resolution to be offered by Representatives Penny, Kasich, Stenholm and others. The resolution will instruct House Conferees to agree, in the conference on the budget resolution to the Exon/Grassley amendment, to cut spending and the deficit.

We believe that now, while the economy is growing, unemployment is declining, interest rates are edging up and inflation fears are surfacing, is the optimum time to do more to reduce Federal spending and the deficit. We urge you, therefore, to support the Penny/Kasich/Stenholm resolution and other serious proposals to achieve that goal. Let us know what we can do to support your efforts toward that end.

Best regards,

ROBERT N. GIAIMO.
HENRY BELLMON.

THE SENIORS COALITION,
April 12, 1994.

DEAR MEMBER OF CONGRESS: We at The Seniors Coalition, a non-profit, non-partisan organization representing over 2,000,000 members and supporters in all fifty states, support budget cuts in pork-barrel discretionary spending in order to protect the Social Security Trust Funds.

Accordingly, we urge you to help protect Social Security by supporting the Penny-Kasich motion to preserve the Senate's $26.1 billion in spending reductions over five passed in S. Con. Res. 63.

How do spending cuts and progress toward a balanced budget help Social Security?

Currently, Social Security is operating with a cash reserve of less than 2 years. Some claim that today's high FICA taxes are creating a much larger surplus to "cushion" the system when the "baby boomer" generation retires, but where is the money?

The answer is that it has been "borrowed" by the government through U.S. bonds to finance the federal deficit.

Many in Congress claim that these "I.O.U.s" will be paid back to Social Security to meet the needs of tomorrow's retirees, but when a nation has a debt of over 4 trillion, and not a penny has been paid back since the last balanced budget in 1969, can we trust Social Security's future to a government IOU?

The farther into debt the nation falls, the less likely we will ever pay off the nation's debt to the Social Security Trust Fund. Future benefits (guaranteed by the then worthless bonds) will have to be paid for with higher taxes or benefit cuts.

Balancing the budget would mean no additional government bonds to finance the deficit, and no more "borrowing" from the Social Security Trust Fund. This would truly protect the future of our nation's retirees.

The Penny-Kasich motion is an excellent start. If we can't cut $26.1 billion today, what kind of future do we have. What kind of future does Social Security have. Please think of that before you vote. Thank you for your consideration.

Sincerely,

JAKE HANSEN,
Director of Governmental Affairs.

[From the Small Business Survival Committee, Apr. 4, 1994]

LEGISLATIVE ALERT

DEAR SMALL BUSINESS OWNER: A coalition of national grassroots organizations are working to cut spending and save taxpayers money, but their efforts may be wasted unless we act now to let our voice be heard!

Recently, the U.S. Senate Budget Committee adopted a resolution to cut $26.1 billion dollars in discretionary spending from the budget. That means $26.1 billions of wasteful spending taxpayers and small business owners won't have to pay for! This measure was approved by the Senate in a 70-40 vote.

The House of Representatives is now considering a motion offered by Rep. John Kasich (R-OH), Tim Penny (D-MN), and Charles Stenholm (D-TX) to preserve $26 billion in spending cuts adopted by the Senate. There is a danger that some congressmen may try to substitute an alternative resolution for the Kasich amendment that won't cut spending. In fact, the $26 billion dollars in savings could be spent on new and wasteful programs!

The voice of small business must be heard on this critical issue! The Small Business Survival Committee believes that spending must be cut now, not sometime in the future. All SBSC members are urged to contact their congressional representatives before April 12 and tell them to vote "YES" on the original Kasich amendment.

Your congressional representative can be reached at 202.224.3121 (Capitol switchboard), or through your local district office.

Thank you for your effort. Every day small business owners have to make tough financial decisions—its about time Congress does the same. Your voice counts!

Sincerely,

KAREN KERRIGAN,
President.

[From the Heritage Foundation Backgrounder, Apr. 12, 1994]

HOW DOMESTIC CUTS CAN PAY FOR THE EXON-GRASSLEY BUDGET AMENDMENT

(Updating Backgrounder No. 931, "The Clinton Challenge Answered," March 5, 1993)

This week, lawmakers in the House will debate whether to adopt the Exon-Grassley amendment to the Administration's fiscal year 1995 budget. This Senate-passed amendment, sponsored by Senators James Exon (D-NE) and Chuck Grassley (R-IA), requires $26 billion in unspecified cuts from discretionary spending over the next five years, with all of the savings to be applied to deficit reduction. Critics of the amendment claim that cutting what amounts to $1 from every $320 of federal spending will result in draconian reductions in sensitive programs. Such claims are little more than variations on the "Washington Monument Ploy," in which bureaucrats and politicians mobilize public opinion against budget cuts by warning that an agency's most visible program might be shut down.

Since the House-passed budget did not contain a similar measure, the differences between the two bills will have to be worked out in a conference committee composed of leading budgeteers from the House and Senate. As it now stands, the House conferees will argue for stripping the Senate language from the budget. But a bipartisan team, led by Representatives John Kasich (R-OH), Tim Penny (D-MN), and Charles Stenholm (D-TX) has drafted a motion to instruct House conferees to maintain the discretionary spending cuts approved by the Senate.

The Kasich-Penny-Stenholm effort faces stiff opposition from many camps, including the White House. Oddly, the principal argument used by the White House is that this tiny cut in federal spending will have a serious impact on an already shrinking defense budget. Such claims are erroneous. There is no need to touch defense spending to meet the requirements of the Exon-Grassley amendment. Lawmakers could easily find the necessary cuts in the fattened domestic discretionary area of federal spending. Any claims to the contrary are simply thinly veiled attempts by the White House to protect its new spending initiatives—which Clinton calls "investments."

There are three common arguments against the Exon-Grassley spending cuts:

Claim #1. Because of last year's deficit reduction bill, spending is under control, so no further spending cuts are needed.

Wrong. According to the Administration's own budget, released in February, total federal spending will grow by $370 billion over the next five years, to a level of $1.85 trillion in fiscal 1999. This hike in spending exceeds the $340 billion increase in the budget over the past five years.

Clinton's own budget figures show that he will become one of the biggest spending Presidents in history. And since defense spending is projected to fall in nominal terms by some $22 billion by 1999, all of the growth in government is on the domestic side of the federal budget. After adjusting for inflation, domestic spending (excluding net interest and savings and loan bailout costs) will grow 14 percent more in four years under Bill Clinton than it did during the twelve years of Jimmy Carter and Ronald Reagan combined.

By fiscal 1997, aggregate domestic spending will exceed 15 percent of gross domestic product (GDP). By contrast, the entire government consumed only 17.6 percent of GDP at the beginning of the Great Society era in 1965.

Claim #2. The 1993 budget deal placed tight caps on discretionary spending; more cuts would force the gutting of essential programs.

Wrong. The "hard" freeze in overall discretionary spending gives the illusion of austerity, but actually allows for a boost in domestic spending at the expense of the defense budget. Domestic discretionary spending currently stands at over $247 billion, the highest level in history, even after adjusting for inflation. This level is $19 billion higher than George Bush's last budget and some $79 billion higher than Reagan's last budget. For the big spenders who have enjoyed such large increases in domestic discretionary spending, any reasonable restraints in spending would seem "draconian."

Since Reagan's last budget in fiscal 1989, defense spending has declined $61 billion, in 1993 constant dollars. Half of these cuts have gone toward deficit reduction, but the other half have funded increases in domestic discretionary spending.

Because of these trends, the end result of six years of collective Bush-Clinton spending decisions will be that domestic discretionary spending in fiscal 1996 will surpass defense spending for the first time. This is quite an achievement considering that defense spending exceeded all domestic spending by 30 percent at the time young Bill Clinton posed with President Kennedy in the White House Rose Garden.

If lawmakers are serious about cutting spending in order to reduce the deficit, they can easily find $26 billion in cuts over five years from the bloated domestic part of the discretionary budget. Indeed, for those who are looking for cuts, the Congressional Budget Office last month released its annual guide, "Reducing the Deficit: Spending and Revenue Options." This publication contains hundreds of possible spending cut measures, all of which seem to have been omitted from last year's deficit reduction package. The following examples, totaling nearly $52 billion, would be more than sufficient to comply with the Exon-Grassley amendment:

Claim #3. The Exon-Grassley cuts are not specific, and lawmakers will have to take all or most of the savings out of defense spending.

Wrong. Defense spending has been cut to the bone, and Washington's big spenders are now using this fact to protect their own pork barrel programs. This ploy worries many Members who rightfully believe that defense spending has been cut far below what is prudent for the nation's defense needs. Indeed, the Clinton budget projects that by fiscal 1999, defense spending will fall to 2.9 percent of GDP, the lowest level since the 1930s. The Clinton Administration's five-year defense budget is already $100 billion short of the amount needed to fund the forces called for in its own defense plan.

These cuts in defense spending over the next five years are especially severe when compared with the disproportionately large increases in aggregate domestic spending during the same period. Adjusting for inflation (in 1993 dollars), every $1 decline in defense spending is met by a $2.42 increase in domestic spending. This means that Washington is poised to spend a "peace dividend" twice, not return it to Americans in the form of tax relief. Under these conditions, lawmakers should ferret out every dollar of wasteful spending from domestic programs before they turn to defense for more cuts.

House lawmakers should think twice before rejecting the Exon-Grassley amendment to cut a mere $26 billion from federal spending over the next five years. Indeed, they should ignore the scare tactics used by critics at the White House who are trying to protect wasteful domestic spending at the expense of an already anemic defense budget. If members need suggestions on where to cut domestic spending, they need look no further than the find work of their own Congressional Budget Office.

SCOTT A. HODGE,
Grover M. Hermann Fellow in Federal Budgetary Affairs.

Mr. SABO. Madam Speaker, I yield myself 4 minutes.

Madam Speaker, I rise in strong opposition to the Kasich motion. This is not an instruction that deals with a sliver. It is a motion that deals with reducing discretionary spending, which represents a little over a third of the Federal budget. It is the portion of the budget where a year ago we adopted a freeze at or below the estimated 1993 levels for the next 5 years, unprecedented.

We are complying with the tough restrictions on discretionary spending that we set in 1993, which will put us at the lowest level of discretionary spending in relation to GDP in, I believe, close to 50 years, 45 years. It is on top of cuts and discipline of last year, a 1.5 percent cut in this portion of the budget that funds our investment programs, and funds our programs in education, pays for our national defense, builds the infrastructure of this country.

My friend, the gentleman from Ohio [Mr. KASICH] would suggest it should have no impact on defense, and quotes some words from part of a Senate amendment. He takes the whereas clause and skips the resolve clause, which understands that the Senate amendment would have impact on both domestic discretionary spending and defense spending.

The reality is that this amendment this year and over the next 4 years would have significant impact on everything that we choose to do on a discretionary basis, whether it is investing in kids, paying for health research, or defending our country.

As a matter of fact, if we take the assumptions of the Senate author, the three areas that have the biggest impact are national defense, education, and criminal justice. We have the Senate, which just a short time ago insisted on a new trust fund for the crime bill, and this amendment, saying we are going to take our $1 billion away from it, consistency I do not understand.

Madam Speaker, we passed a good program a year ago. It has been working economically. In discretionary spending, which we are dealing with today, it has discipline tougher than this Congress has known in years. Let us stay with it. Let us not go beyond it. Let us keep our common sense so we can deal with the common problems of this country.

Madam Speaker, for the RECORD I include the following information on the Distribution of 1995 Exon-Grassley cuts:

DISTRIBUTION OF 1995 EXON-GRASSLEY CUTS

(In millions of dollars)

	As described by Exon-Grassley		Proportionately	
	Budget authority	Outlays	Budget authority	Outlays
050 Defense	−1,333	−391	−2,648	−775
150 International Affairs	−220	−64	−205	−60
250 General Science	0	0	−168	−49
270 Energy	−9	−3	−63	−19
300 Natural Resources	0	0	−207	−61
350 Agriculture	0	0	−42	−12
370 Commerce and Housing Credit	−137	−40	−34	−10
400 Transportation	−138	−40	−375	−110
450 Community and Reg. Development	−357	−105	−89	−26
500 Education and Training	−1,421	−416	−394	−115
550 Health	−163	−48	−215	−63
570 Medicare	−9	−3	−29	−9
600 Income Security	−241	−71	−364	−107
650 Social Security	0	0	−25	−7
700 Veterans Affairs	−78	−23	−173	−51
750 Adinistration of Justice	−986	−288	−163	−48
800 General Government	−225	−66	−123	−36
920 Allowances	0	0	0	0
Total	−5,317	−1,558	−5,317	−1,558

Mr. KASICH. Madam Speaker, I yield 2 minutes to the very distinguished gentleman from Arizona [Mr. KOLBE], a member of both the Committee on Appropriations and the Committee on the Budget.

Mr. KOLBE. Madam Speaker, I thank the gentleman for yielding time to me.

Madam Speaker, I do rise in my role as a member of the Committee on Appropriations, as well as a member of the Committee on the Budget. Frequently, we hear those who serve on the Committee on Appropriations say that "We just really cannot make these cuts. They are going to cut too deeply into the programs that make such a difference."

Let us harken back and remember last fall, when we had the Penny-Kasich amendment on the floor here to make some of the cuts that we have been talking about in the last several days and last several months. That was defeated.

When it was defeated the chairman of the Committee on the Budget said, "We will have a separate set, a different set of cutting priorities." We had that list of cuts and we passed that list as a substitute for Penny-Kasich.

Madam Speaker, what has happened since then? Some of them have been implemented. During the earthquake relief bill we implemented some of them, 25 percent, 30 percent, I do not know, but I think it is less than 50 percent of them have been implemented. We have not implemented what we said we were going to.

Over and over again, members of the Committee on Appropriations say, "Gee, we just cannot make these cuts in the area that we are in," whether it is defense or whatever. This amendment recognizes, this motion to instruct recognizes that there are priority areas; that education, that defense, that protecting things like Social Security and some of the underlying social service programs are important.

However, it does say that there are areas of discretionary spending where we can make cuts. Madam Speaker, this is the last opportunity we have to make cuts that are deeper than those that we have, and we should adopt this motion to instruct.

Mr. YATES. Madam Speaker, will the gentleman yield?

Mr. KOLBE. Madam Speaker, I believe my time has expired, but I will yield to the gentleman from Illinois.

Mr. YATES. Madam Speaker, the gentleman is a member of the subcommittee which I chair on the Committee on Appropriations, and the gentleman knows that Indian health has been cut by $250 million. Where are we going to get the money to make up that necessary sum?

Mr. KOLBE. Reclaiming my time, Madam Speaker, I would just point out these are cuts, but we are not cutting into some of the basic programs here. We are talking about cuts that can be made without cutting into the fundamental social service programs we all recognize need to be protected. We need to make these cuts for our children and our grandchildren's future.

Mr. SABO. Madam Speaker, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Madam Speaker, I thank the gentleman for yielding time to me.

Madam Speaker, I rise in opposition to the Kasich amendment. I do not think we will need a magnifying glass to find the cuts that will fall on the criminal justice system if this amendment passes. I have not brought mine up to the well here, because Members will not need it. What I would say to my colleagues very simply is this. We have done a very good job of cutting the deficit. The deficit is coming down, but we have to do it with care and with rationality.

□ 1550

We face a crisis in the criminal justice system. This is one area I think there is unanimous consensus in America that we are not spending enough.

Madam Speaker, in our crime bill, we set up a trust fund. I think that is a good thing, but that mostly involves aid to localities, for cops on the beat, for building prisons, and for prevention programs. It would be ridiculous, it would made no sense, to put those programs out and then cut the sinew of Federal law enforcement which must also go along with our aid to the localities in the crime bill.

Madam Speaker, if we were to cut the FBI and cut the DEA and cut the ATF the amounts of dollars as prescribed by Exon-Grassley, that is $1 billion, that would be thousands of FBI agents, thousands of DEA agents, and we would be involved in what this body and what this town and what this Congress does too often, giving with one hand and taking away with the other so there is no net result.

Madam Speaker, it is all clear that when the Senate tried specific amendments on what to cut, they could not agree, and so they passed this broad amendment. This broad amendment with the across-the-board kinds of cuts that would have to exist would decimate—decimate Federal law enforcement.

Madam Speaker, let us not next week vote on a crime bill that will increase dollars to fighting the necessary fight against crime and yet today quietly and stealthily take away those same dollars by voting for this amendment.

I urge defeat of the motion.

Mr. KASICH. Madam Speaker, may I ask the Chair how much time is remaining on each side?

The SPEAKER pro tempore (Ms. SHEPHERD). Each side has 24 minutes remaining.

Mr. KASICH. Madam Speaker, I yield 1 minute to the very distinguished gentleman from Arizona [Mr. KYL].

Mr. KYL. Madam Speaker, I rise in support of the Penny-Kasich motion to instruct members of the House-Senate Conference Committee to cut spending by $26.1 billion over the next 5 years.

This represents a cut of just $1 from every $320 that the Federal Government will spend over that period.

Mr. KASICH. Madam Speaker, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Ohio.

Mr. KASICH. Madam Speaker, how much is that I ask the gentleman?

Mr. KYL. Just $1, only $1 out of $320 for every dollar the Government spends.

This is not so much a serious effort at deficit reduction as it is an indicator of just how serious Congress really is about even beginning to solve the problem.

If we can't even cut spending by three-tenths of just 1 percent, how are we ever going to eliminate annual deficits that will amount to $176 billion next year climbing to at least $201 billion in fiscal year 1999 according to the administration's estimates?

One of the concerns being expressed about this motion is that it will somehow gut defense. That's just not true. There is no reason to touch defense—which even President Clinton has conceded has been cut as far as it can be—to meet the requirements to the Penny-Kasich motion.

Congress can find the necessary cuts in domestic programs, including the new spending initiatives the Clinton administration has proposed. Domestic discretionary spending currently amounts to over $247 billion, the highest level in history, even after adjusting for inflation.

That is $19 billion higher than George Bush's last budget.

Madam Speaker, every time a cut in spending is proposed, the special interest groups shift into high gear to scare people into believing that programs important to them will bear the full brunt of deficit reduction. There is always some excuse for not cutting spending.

That has got to end here and now. Support the Penny-Kasich motion.

Mr. SABO. Madam Speaker, I yield 2 minutes to the distinguished gentleman from Mississippi [Mr. MONTGOMERY], the distinguished chairman of the Committee on Veterans' Affairs, another area cut by Exon-Grassley.

Mr. MONTGOMERY. Madam Speaker, I thank the chairman of the Committee on the Budget for giving me this time.

Madam Speaker, I rise in opposition to the motion to instruct the conferees to agree to Senate provisions that would cut discretionary spending over 5 years by an additional $43 billion and outlays by $26 billion below the caps set by last year's deficit reduction package.

I will oppose the motion because if enacted it would have a serious impact on VA's health care system. You have already heard from many of your constituents about the inadequate budget for VA hospitals, outpatient clinics, and nursing homes. You've heard complaints about inadequate equipment and long waiting periods in order to get appointments with specialists. If we cut an additional $43 billion in budget authority over the next 5 years, I can tell you that you will hear even more complaints from veterans than you have in the past.

Since there is no indication how the cuts will be made, we assume that VA would take its fair share of the cuts and, therefore, I shall oppose the motion to instruct the conferees.

I know some Members are saying, "There's SONNY again, defending veterans' programs," but I am on the right track.

Madam Speaker, what we are getting ready to do if we adopt the Exon-Grassley amendment, we are going to cut veterans' programs further by $173 million this year. Cuts in discretionary funds are killing us. Every time we come in here, someone is trying to take it away from veterans' programs. I get complaints from Members on both sides of the aisle that "you are not giving us good service in the outpatient clinics, you are closing wards in our veterans' hospitals, that we cannot continue to cut, cut, cut."

Madam Speaker, over 2,000 veterans a month are moving into the State of Florida. There is a desperate situation down there. They are not handling these veterans' claims and requests for health care in a timely manner.

I ask the Members to vote against this motion to instruct the conferees, and support the House-passed budget resolution.

Mr. KASICH. Madam Speaker, I yield myself 10 seconds, and I read from the letter from the sponsors of this amendment:

> Our amendment did not designate where the spending reductions should be made in the budget. The distribution charts attached to Chairman Sabo's letter do not reflect how either one of us would make the cuts required by our amendment.

That is from the sponsors of the amendment.

Madam Speaker, I yield 1 minute to the very distinguished gentleman from Texas [Mr. SAM JOHNSON].

Mr. SAM JOHNSON of Texas. Madam Speaker, I am favoring this cut and I tell you why: It seems like every time we get in here we argue about whether or not to cut. People are tired, tired, tired of hearing more spending, more spending, more spending. And can we cut the budget? Yes, we can cut the budget. Do we have a surplus? No, we do not have a surplus and, no, do we have a strong defense? No, I agree with the gentleman from Mississippi [Mr. MONTGOMERY], we do not. But we do not have to cut defense. We can vote for this reduction in spending and get this country back on track, and it is a minimal cut, without cutting defense.

Madam Speaker, I would say that no American in his right mind would cut our defense any further than it has already been cut in view of what is going on in the Nation today. So let us vote for these reductions and keep our country strong.

Mr. SABO. Madam Speaker, I yield 2 minutes to the gentleman from Connecticut [Mr. GEJDENSON], and maybe he can help me understand the stealthy cut. It does not apply to defense, veterans' affairs; I thought I heard education, vital social programs. I am not sure what is left, but I yield to the gentleman from Connecticut for some explanation.

Mr. GEJDENSON. Madam Speaker, there are two overriding issues here: One is, where are we? The fundamental economic concern from people appointed to the Fed by the former Presidents is that the economy is getting too hot, that the budgets that the Democrats in this Congress have passed have brought this economy back to life and it may get out of control and get so hot that we are going to have inflation.

The other thing to remember is what Mo Udall always said: "May our words be gentle and kind for tomorrow we may have to eat them," and let us go back to the past and figure out if we ought to listen to the gentleman from Minnesota [Mr. SABO], who says to reject this amendment or some of the folks on the other side.

Madam Speaker, a rhetoric versus reality test.

Rhetoric: This is August 5, 1993. "We will try to help you when this puts the economy in the gulch."

Reality: During President Clinton's first year, we had the largest increase in GDP in a decade.

Rhetoric on this side: "This is really Dr. Kevorkian's plan for the economy."

On our side, the reality is, confidence in retail sales and business investments; housing starts are up; all these things are up. That is the reality.

The rhetoric, August 3, 1993: "It is like a snakebite," meaning the President's plan. "the venom is going to be injected into the body of the economy and kill jobs that Americans now have."

The reality: Employment shot up by almost half a million jobs in March of this year.

Rhetoric: "The deficit will reach another high." August 5.

The reality: The deficit at its lowest point since 1979.

Rhetoric: "Not a single Federal program will be eliminated, not one."

What happened? The budget eliminated 115 Federal programs and cut more than 300 others.

Madam Speaker, let us do what is responsible. The responsible and right thing is to follow the chairman of the Committee on the Budget that working with this administration has given us a budget that brought the economy back to life, that is starting to bring jobs into my district and across this country and not end up in this foolishness that will cause this body and this country damage.

Mr. KASICH. Madam Speaker, I yield 3½ minutes to the very distinguished gentleman from Pennsylvania [Mr. MCDADE], the ranking Republican on the Committee on Appropriations.

Mr. MCDADE. Madam Speaker, I thank the distinguished gentleman from Ohio for yielding me the time, and I thank my colleagues for participating in this important debate.

Madam Speaker, I have concluded that I am going to support this motion to instruct conferees with respect to finding the money to save $26 billion in outlays over the next 5 fiscal years, and I want to explain to Members the process by which I arrived there.

□ 1600

The first and most important thing to me, as the ranking member on the Defense Appropriations Subcommittee, is that the Kasich amendment exempts from these proposed cuts the defense budget of the United States, and I think that is tremendously important.

The second thing the Kasich amendment, which is a bipartisan effort sponsored by Members on the other side of the aisle, does is to expand the base from which these cuts are sought. It does not require that the cuts be taken from just the discretionary budget. It attempts to say, look at the total spending, except Social Security, that occurs in the Federal Government, which is roughly $1.2 trillion annually to find that relatively small amount with relation to the trillion, $26 billion over a 5-year period.

In fact and in reality, as we all know, the budget resolution applies to the next fiscal year and the next fiscal year only, so we are really talking about the first year portion of those cuts, and I have got to say, Madam Speaker, I hope that we will adopt this one small step.

I need to say further no matter what we do today with respect to the defense budget there is so much to be done as we look down the road, because in my view, the Clinton blueprint for the defense budget is a blueprint toward a hollow force and a broken budget. It is a blueprint that simply destroys the defense and national security of this Nation. It says to the people in the military that if you wear a uniform you cannot get a pay raise. That is what the budget says that has been presented to us.

We have got to change that. We changed it last year. We have got to change it this year.

It says that we are not going to invest in adequate housing and quarters for our troops. It said that last year. It says it this year. We have got to change it. It says we are not going to invest all the money required to repair equipment.

The backlog in depot maintenance for the Marine Corps alone is up 700 percent over 2 years, and it says we are not going to make the necessary investments to keep our forces modern and at the cutting edge.

Madam Speaker, the defense budget is based on a group of rosy scenarios that would make even Harry Houdini feel embarrassed. It is no secret all we have to do is look at what has been said on the public record, from the Secretary of Defense on down; Pentagon officials have been telling us we can save tens of billions of dollars by changing the procurement process. How many times have we heard that around here? We can save tens of billions of dollars, they say, by changing management reform. Those are plug lines in their budget that are never going to occur.

They say we can save tens of billions of dollars in infrastructure changes and base closings. In fact, that costs money up front. That is not going to happen. All of those anticipated savings that we have heard have been around for years. They are nothing but a house of cards, leaving the defense budget underfunded enormously.

There is at least a $20 billion underfunding for inflation alone.

Let me say that if we look at the hearing record when the Secretary of Defense testified, I asked him about the underfunding in the defense budget. He agreed to the $20 billion that was underfunded with respect to inflation. We agreed the pay raise was underfunded to the extent of about $14 billion. He agreed they were putting a plug line in for $14 billion for acquisition reform.

They are all phony, phony figures. The defense budget as it has been proposed will not stand up to scrutiny.

I say to my friends that I hope that we will adopt the Kasich motion. We have got to make some room some place for additional savings. The $1.2 trillion Federal budget is the base that we are trying to focus on as an area where we can find this amount of money, without impacting on an already overstrained defense budget.

I hope we will do so.

Mr. SABO. Madam Speaker, I yield 15 seconds to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Madam Speaker, I sat on the same budget as my friend from Pennsylvania does. Make no mistake about it, if we adopt this, defense is going to take another cut. There is no doubt about it. My friend knows it, and everybody in this House knows that we are going to take another cut. We are going to absorb another cut in defense if this passes. You know it, and everybody that has studied the budget in this House knows it.

Mr. SABO. Madam Speaker, I yield 3 minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Madam Speaker, the gentleman from North Carolina is right. Just as sure as the good Lord made little green apples, there will be a cut in defense as a result of this.

The gentleman from Pennsylvania terms this incorrectly. This is not an amendment. This is a motion to instruct to accept the Senate language proposal.

Madam Speaker, the unintended consequences of this will be drastic for those who serve in uniform throughout our Nation and elsewhere. If the House accepts this proposal, the fiscal year 1995 cut to discretionary spending would be $5.3 billion. Using the Senate's author's own language, defense could be cut $1.3 billion in fiscal 1995. If these same discretionary cuts were distributed proportionately, defense spending would be cut as much as $2.6 billion in fiscal year 1995.

As you know by my votes and my talks on this floor, I am very concerned about the deficit. But I am also concerned about the young men and young women who serve our Nation's Armed Forces.

The President made a pledge to cut the deficit, and he stood by that pledge. In support, the majority of the House helped him achieve that goal by passing the deficit-reduction package last year.

Moreover, the President made another pledge, and that was to hold the line against further defense cuts, and that is what this is an attempt to do.

Madam Speaker, deployments for the U.S. military are up drastically since the cold war ended. There is not enough money in the pipeline for training of our soldiers and sailors and airmen and marines adequately. The spare-parts problem is growing.

This is more than a National Guard armory problem. This is more than having a reserve unit in your area closed down. We are talking about lives and training and capability of those in uniform. This is a very important issue for the United States of America.

The special interest of which someone spoke a moment ago, the special interest is that of national security.

Let us vote this down. Let us live by the President's pledge. Let us do what we did earlier against the Frank amendment, and let us go forward and keep our forces adequately funded.

This will do drastic damage to them just as sure as we are in this Chamber today.

Mr. KASICH. Madam Speaker, I yield 30 seconds to the gentleman from Pennsylvania [Mr. McDADE], the senior Republican on the defense appropriations subcommittee.

Mr. McDADE. Madam Speaker, I thank my colleague, the gentleman from Ohio, for yielding this time to me.

Madam Chairman, I take this time to say to my colleagues that there have been a lot of versions that have been floated and negotiated back and forth, as Members discussed what would be done with respect to this resolution, this motion to instruct.

Let me read from it: The only reason that I support it is because no further cuts can be made in defense, none. That is in the instruction itself. All you have to do is pick it up and read it. I have a copy of it here if you want to see what you are going to vote on. It says no further cuts will be made in the defense levels that are approved already.

So the defense numbers are not an issue. The defense numbers are not an issue and off the table, and I hope this motion will be agreed to.

Mr. KASICH. Madam Speaker, I yield 4 minutes to the very distinguished gentleman from Texas [Mr. STENHOLM], a leader in the fight to reduce the deficit.

Mr. STENHOLM. Madam Speaker, just as God made little green apples, a $6 trillion national deficit growing continuously at $200 billion plus is going to become a national defense issue for this country someday.

One month ago I spent 2 days here on the House floor as we debated four different approaches to a balanced budget constitutional amendment. From speaker after speaker opposing these four amendments, I heard these words: "We don't need a Constitutional Amendment. We just need to be willing to make the tough choices!"

I have noticed that a favorite pastimes here in Washington these days is to point out any balanced budget amendment supporter who votes against spending cuts. I have no problem with that sort of attention. But I must say that I am wondering when I will have an opportunity to read some articles about all the people who proclaim, "Make the hard choices, Make the hard choices" but never do just that.

Today, those people who opposed the constitutional amendment will have the chance to force some hard choices. Likewise, those who support a constitutional amendment will be given the chance to show that they are willing to back up that support with real deficit reduction. Will this one provision get us a balanced budget? Of course not. There are some who seem to believe that unless you can show how you will take every step of the journey to a balanced budget your effort is not credible. I believe we should search for every possible foothold on that journey and make each step we can.

Today we have the opportunity to vote to retain $26 billion in spending cuts included by the Senate. As usual, everyone who feels threatened by hard choices has engaged in the all-too-familiar refrain of the coming of the end of the world.

SUMMARY OF PROPOSED REDUCTIONS FOR FISCAL YEAR 1995 FROM HOUSE-PASSED BUDGET RESOLUTION BY FUNCTION

[In millions of dollars]

		Budget authority	Outlays
150	International affairs		
250	Science		
270	Energy	334	162
300	Natural resources	459	394
350	Agriculture		
370	Commerce, credit	353	123
400	Transportation	312.3	231.3
450	Comm. development		
500	Educ, training	830	430
550	Health		
570	Medicare		
600	Income security		
650	Social Security		
700	Veterans		
750	Administration of Justice	100	31
800	Gen. Government	260.6	86
920	Allowances	450	145
	Total (billions)	3.099	1.602

These choices are indeed hard because they come out of discretionary spending. Now, that's not so hard for most domestic programs because domestic programs are slated to continue growing by more than 8 percent compared to last year's spending. In fact, even with the $26 billion cut and even if all $26 billion comes from programs other than defense, nondefense discretionary spending in 1999 will be $40 billion higher than it is this year.

But for defense and agriculture, these cuts could be very hard indeed because these two areas have suffered an inordinate share of the past cuts. For defense, even in the House-passed budget, actual dollar spending in fiscal 1995 budget would go down by 7.3 percent from last year's spending.

For that reason, I am pleased that the Kasich-Penny motion explicitly states that the House conferees insist on the highest level of defense spending within the scope of the conference. Since the House and Senate included levels to meet the President's defense request, the motion reaffirms our commitment to protecting the President's defense request. Although the entire motion is nonbinding, passage of the motion would in effect put the House on record in support of "firewalls" to protect the President's defense level.

But the bottom line, regardless of whether you want to hold defense harmless or would like to cut more from defense programs, is that this battle will be fought on another day. Either there will be 218 votes to protect defense or there will be 218 votes to make cuts in defense. If there are 218 votes to make deeper defense cuts, those cuts will be made in the appropriations process regardless of what defense level is included in the budget resolution. The difference is that if the cuts occur in the appropriations process, the savings will be spent on nondefense programs and not applied to reducing the deficit. Only the Kasich-Penny motion will move us toward applying any savings to the deficit.

My strong preference would be to have additional cuts come from the entitlement side of spending. Clearly, it is entitlements which are driving the persistent deficits we are experiencing. That criticism notwithstanding, I believe we cannot afford to pass up this opportunity for deficit reduction. Instead of criticizing the spending cuts for what they do not do, it is more constructive to support the cuts as a step in the right direction while pursuing additional efforts to control entitlements.

The simple truth is that this $26 billion in discretionary spending cuts provides the only deficit reduction option in the budget resolution. We urge your support of that cut by supporting this motion to instruct conferees.

□ 1610

Mr. SABO. Madam Speaker, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Madam Speaker, as a member of the Budget Committee, I rise in strong opposition to the motion to instruct.

Mr. KASICH'S motion would instruct the House conferees to agree to the Exon-Grassley amendment which would cut discretionary spending by an additional $26 billion in outlays over 5 years. This is an additional cut of 25 percent above and beyond the discretionary cuts of $102 billion in last year's budget package.

This is simply unacceptable. Yes, the deficit is important, along with sustaining economic recovery. We know that increased productivity is one of the factors driving the recovery so why would we vote to cut education $1.4 billion when we know that education drives productivity.

This country needs a balanced economic policy and last year's budget package put the deficit on a downward trend. But balance is not cutting education, or cutting criminal justice programs by $986 million on the same day we begin to debate the crime bill. Balance is about setting priorities. Yes, the deficit is a priority, along with other equally important priorities. A recent GAO report found that the number of poor children in the Nation grew by 26 percent between 1980 and 1990. And in my home town of Hartford, CT, nearly half of the children 2 and under, live in poverty. I stand here today to say that each and every one of those children is a priority.

Let us look at where the real problem lies. Both OMB and CBO forecasts show domestic discretionary spending declining and scheduled to continue declining as a share of GDP. My colleagues, discretionary spending is not the problem. Despite all the rhetoric we will hear today, we all know that entitlements are the problem. Interestingly enough, entitlement spending, other than Medicare and Medicaid, also is projected to come down as a percentage of GDP. Rather, nearly 100 percent of the problem is in Medicare and Medicaid. I would hope my colleagues remember that when health care reform comes to the floor.

Vote "no" on this motion to instruct. A "yes" vote will come back to haunt your constituents for it will harm the future of our children and our country.

Mr. KASICH. Madam Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. I thank the gentleman for yielding this time to me.

Madam Speaker, what we need today is a little more common sense. The Federal Government will spend in excess of $8 trillion over the next 5 years.

The motion before us presently contemplates cutting back only $25 billion of the spending level. That represents a three-tenths of 1 percent cut in the total Federal spending.

Who are we kidding that this is draconian? A three-tenths of 1 percent cut in total spending over the next 5 years? We here a lot of discussion today about how this is draconian, it is going to kill every program in the budget. This is more Washington nonsense.

Over the past few days, the White House and party leaders here on Capitol Hill have been telling Members whatever it takes to get them to vote "no." To some, the case has been made that—you can't vote for this recommendation for cuts because it exempts defense, and we have got to take more money out of defense. To others, they say that there is language in this motion that exempts strongly—that does not strongly enough exempt defense and, therefore, these cuts are going to hit domestic programs. To others they say the language is generic, it does not specify where the cuts should fall and, therefore, it could hit some program that you like. To still others they say, "Evidently the language is quite specific because it is now going to slash criminal justice and veterans programs and education programs." It is all nonsense.

Something has to give, yes. We talk about spending freeze in today's budget. That is an overall freeze. What it really represents is $110 billion less in defense spending over 5 years and a comparable increase in domestic spending over that same time period. Common sense tells you that a $26 billion cut is not a cut at all. Domestic discretionary spending will increase nearly $100 billion in 5 years. We are talking about scaling back that increase by only $26 billion.

The problem with this amendment is not that it cuts too much but that it cuts too little. I wish we could do more at this time to address entitlement spending. That is the big bugaboo in the Federal budget.

Half of all of our money goes to entitlement spending. We need to deal with that. I wish we could deal with that in this amendment. All we can do is deal with a very small sliver of the budget, and that happens to be discretionary spending. All we are suggesting is that we take a three-tenths of 1 percent cut of the total budget and scale back part of our discretionary spending increases over the next 5 years.

To argue that this proposal cuts too much does not pass that common sense test. Let us reject Washington's nonsense and vote for the Kasich amendment.

Mr. SABO. Madam Speaker, I yield myself 1 minute before I yield to the gentleman from Pennsylvania [Mr. MURTHA].

I have to say to my friend from Minnesota [Mr. PENNY] this instruction relates to discretionary spending, which is a little over a third of the budget. Its impact is significant on discretionary spending, which is a part of the budget that we also put tight restrictions on, as the gentleman knows, in the 1993 budget agreement. It is over 1.5 percent in budget authority over this period of time on top of real restraint that we stopped earlier.

So, to talk about these as slivers is misleading.

Mr. SKELTON. Madam Speaker, will the gentleman yield?

Mr. SABO. I yield to the gentleman from Missouri.

□ 1620

Mr. SKELTON. Defense is discretionary spending; is that right?

Mr. SABO. The gentleman is correct.

Mr. SKELTON. And there is nothing to keep it from legally being cut; is that right?

Mr. SABO. That is correct.

Madam Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. MURTHA], the chairman of the Subcommittee on Defense of the Committee on Appropriations.

Mr. MURTHA. Madam Speaker, I was just down to Fort Campbell and saw the real property maintenance problems they are having. I talked to the wives of some of the people down at Fort Campbell, and they were telling me how they were having trouble getting access to medical care. These are just small examples of my growing concern about military readiness. I am starting to see some frays in military readiness, and I think it is because our defense cuts have put us on the very edge. We still have a high level of deployments around the world. Our military people are deployed—I think they said 50 percent of the time and that must be paid for. We have cut $150 billion from Defense in 15 years. It's the only major part of the budget that has taken sizable cuts. We have reduced it to the point where we cannot reduce it any more.

Now let me just tell my colleagues the facts and how the budget allocation process works. We have 13 subcommittee chairmen on the Committee on Appropriations who will sit down after this budget resolution is finished. They will make a decision and a recommendation to the Democratic caucus of the committee and then to the full Committee on Appropriations—a recommendation about how the money in the budget resolution is going to be spent among the 13 appropriations subcommittees. In the 20 years that I have been on the Committee on Appropriations Madam Speaker, I have never seen a recommendation by the 13 members, the chairmen of the subcommittees, ever change. And that recommendation always is guided by the principle that half the cuts come from Defense, and half of the spending cuts come from nondefense spending.

Madam Speaker, I say to my colleagues, "These are real facts of life. This is what will happen when the real money is allocated. And if this were to go through, there most likely will be roughly an $800 million outlay cut in Defense. We cannot afford it."

Madam Speaker, I would urge the Members to carefully consider this vote, and even though this vote and the instructions to the conferees are nonbinding, I would urge my colleagues not to send such a strong and inappropriate signal that Defense can be cut further. I would urge the Members of the House to vote against these instructions which will cut Defense.

Mr. KASICH. Madam Speaker, I yield myself 1 additional minute.

I am going to need my magnifying glass again for the three charts to respond to the Budget Committee chairman. These cuts right here are Federal spending with the Exon-Grassley cuts in it. My colleagues can see a microscope is needed to see the difference in spending when we count all total Federal spending. If we are just looking at discretionary, nondefense discretionary, we also need a magnifying glass to see the difference here because this is nothing but a sliver.

Mr. PENNY. Madam Speaker, will the gentleman yield?

Mr. KASICH. I yield to the gentleman from Minnesota to make his comment.

Mr. PENNY. Madam Speaker, I take this time simply to respond to the chairman of the committee. He objected that we suggested this represented a three-tenths of 1 percent cut of total Federal spending over 5 years because this amendment or these cuts would actually be applied to discretionary accounts only. I will grant him that. If we talk about the measurement of these cuts against the discretionary spending items over the next 5 years, it represents a 1-percent cut over 5 years. That is minuscule.

Madam Speaker, to say this is Draconian does not pass the commonsense test.

Mr. KASICH. Madam Speaker, I yield myself an additional 15 seconds to take this back to the big picture.

This little sliver here, my colleagues, is all we are talking about saving, and to the people who are concerned about this I say: "You see what is happening to the deficit in the outyears. It goes up, and it threatens the financial security of this country if we don't begin to deal with Federal spending. This is you chance to do it."

Mr. SABO. Madam Speaker, I yield 2 minutes to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Madam Speaker, I rise in support of both fiscal restraint and a strong defense, but against the Kasich motion to instruct conferees on the budget resolution.

My reason is simple: I cannot support 26 billion dollars' worth of uncertainty. I voted for the $90-billion package of cuts in the Penny-Kasich amendment to the reinventing Government bill last fall. I supported the historic 5-year budget plan initiated by the President that was predicted to cut the deficit by almost $500 billion and is now performing better than anyone expected. I also supported the House version of the fiscal year 1995 budget resolution which, by its terms, will take us $53 billion below the fiscal year 1994 deficit.

I supported these measures because their spending cuts were enumerated. In contrast, the Exon-Grassley proposal adopted in the Senate is anything but; 26 billion dollars' worth of discretionary cuts could have been distributed among the various functions of the Senate budget resolution, but that is not what happened. I support that portion of the motion offered by the gentleman from Ohio [Mr. KASICH] which attempts to provide some order to the decisions regarding defense spending and its impact on our industrial base, which is critical to the economy of my district, but I cannot support the motion as a whole because its protections are nonbinding and it does nothing to add certainty to the Senate action it endorses.

Madam Speaker, Federal spending needs to be cut further, but we must do much more on the front end to make sure our choices for cuts are integrated into a carefully crafted strategy to fund a strong defense, maintain high skill, high wage jobs for American workers, and invest in critical priority programs like more cops on the beat.

Mr. KASICH. Madam Speaker, I yield 30 seconds to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Madam Speaker, I would like to speak to the comments of the gentlewoman from Connecticut [Mrs. KENNELLY] who said children will be impacted by this bill. My children are impacted by the debt service that we are building up in this country.

I say to my colleagues, if you take a look at $1.3 billion a day that we are spending on just the interest, we could take that money and apply it to some of the things that we want to in this Chamber. But if we continue and cannot cut a sliver out of $1.2 trillion over a 5-year period, you cannot tell the American people that we cannot do that.

Mr. KASICH. Madam Speaker, I yield a minute and a half to the gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. Madam Speaker, I thank the gentleman from Ohio [Mr. KASICH] for yielding this time to me.

Madam Speaker, I rise in strong support of the Kasich-Penny-Stenholm motion to instruct. This would cut spending by $26 billion over 5 years. This is only one-third of 1 percent of total spending for 5 years.

Now, if Congress cannot cut spending this much, Congress cannot cut spending at all.

Now let us look at Congress' record for the last year. We have to cut spending first, an alternative to a tax increase, and the House turned it down, and the House turned it down. A Republican alternative to the 1994 reconciliation bill, and that got a big "no." We got the Penny-Kasich amendment, and that was "no." We got the earthquake aid offset. That was a "no." Got the balanced budget amendment, another "no." Republican fiscal year 1995 budget to reduce the deficit an additional $150 billion, and that was a "no." And now we have the Exon-Grassley cuts saving $26 billion. I think that we need to have the courage to make this simple effort to reduce spending over 5 years.

Last month many Members argued against a balanced-budget amendment by stating that Congress should just have the fortitude to make the tough choices and cut spending. Well, here is our chance. Support the motion to instruct.

Mr. SABO. Madam Speaker, before I yield I would suggest to my colleague, the gentleman from Colorado, that a little less than a year ago we passed a $500 billion deficit reduction package which has actually resulted in deficit reduction of over $600 billion. That was voted "yes" by this side of the aisle, voted "no" by the other side of the aisle.

I yield 1½ minutes to the gentleman from Illinois [Mr. GUTIERREZ], and I also would inform the gentleman from Ohio [Mr. KASICH] that we only have one speaker left.

□ 1630

Mr. GUTIERREZ. Madam Speaker, I rise today not to introduce a new idea, but simply to remind my colleagues of an old one—the idea that we have a deep and ongoing commitment to the veterans of our Armed Forces.

As we are asked by some to consider cutting the budget even further, this notion should be kept not only in the back of our minds, but at the forefront of the argument.

Members of the Veterans' Committee, like all Members of this House, have already made difficult choices in the name of deficit reduction. We have done so with care and attention.

After all, that is what our veterans deserve—care and attention—whether it comes from a VA doctor who stands by a veteran's bedside, or from a Member of Congress who stands at this lectern.

Several distinguished veterans' groups have spoken out against further, unspecified cuts in the budget, like those proposed in a motion to instruct budget conferees. They know what less funding—in the amount of tens of millions of dollars—really means: It means less medical care for veterans, longer delays in the adjudication of claims, more lives at risk.

Whatever districts we represent—conservative or liberal, wide-open farmland or a beautiful, big city like Chicago—all Members of this body share a common constituency: The men and women who put their lives on the line to protect this flag, and this institution.

The budget is not simply about numbers. It is about the omen and women who served us. It is now time for us to serve them.

We can do so by opposing the motion to instruct conferees and by supporting the budget passed by the House.

Mr. KASICH. Madam Chairman, I yield 1 minute to the distinguished gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Speaker, my wife and I have two teenage daughters, and every day we go through the same battle with them. Will you clean your room? Yes, mom, yes, dad, we will clean it tomorrow.

Well, tomorrow comes and we ask them about cleaning their room. Oh, yeah, dad, we will do it tomorrow.

I have been a Member of this Chamber for 3 years, and during those 3 years I have heard virtually every Member of this Chamber talk about cutting spending, and I have heard about half of them talk about cutting spending tomorrow. There are always a million reasons why we cannot cut spending, but it is time now to do it.

I do not know who the author of the old saying was, "Don't put off until tomorrow what you can do today," but it certainly speaks well of what we need to do today. Stand up and be counted, put the rhetoric aside, and let us cut spending today.

Mr. SABO. Madam Speaker, I yield 4 minutes to the distinguished gentleman from Missouri [Mr. GEPHARDT], the majority leader.

Mr. GEPHARDT. Madam Speaker, members of the committee, I would rise to ask Members to vote against this motion, and I do it for the reason that we are now at a stage in our budget process where we have made important decisions.

We have decided what the spending level will be last year, and we put into place caps, hard caps, with a hard freeze through the leadership of many people on our budget committees that we have convinced the financial markets are meaningful, and they are.

To now come in with a motion to instruct that in essence says no, we did not mean what we passed in the budget, we want to do something different, is really trying to pass another budget. For the life of me, I cannot understand why we would want to make this what is allegedly called a small change.

The problem with it is once again it is in the general. It is not in the specific. There is not a one of us that would answer the question, do you think we ought to cut spending, who would not say yes, in general. But then when it comes to the specific, whether it is defense, whether it is highway program, or whether it is some other part of the budget, that is when it gets tough. That is when getting the consensus together gets much more difficult.

If we were not prepared in the budget to say where it would be, how are we prepared to say where it will be?

Finally, all of us know that if we are going to make significant reductions in the budget, it is going to have to come in the area of entitlement growth. I think all of us belief that we have stringent caps in discretionary spending. Our problem in the future in getting this deficit down is in entitlement growth.

So if we really want to do this, we have got to do it in the area of entitlement growth. That takes you to health care and Social Security. Health care is going to be before us, hopefully later this year, and hopefully we will do something significant in that area. I hope we can. The Social Security Commission came forward the other day and said they are going to have problems beginning in 2026. Maybe it is time to have problems beginning in 2026. Maybe it is time to have another Social Security Commission to look at where that problem is going and what needs to be done there. That is valuable suggestion. That is something that we ought to do.

We also have a proposal for entitlement review, and that may be a way to put further pressure on that. I am for that.

But to come in today and to say let us add another x number of billions, that may cut defense, may not cut defense; may cut domestic, may not cut domestic, really does not make any sense.

I urge Members to vote against this motion. Let us go to conference. We have got our figure; the Senate has their figure. We are going to come in with a figure that probably is somewhere in between. We will live with that in discretionary spending. Let us get on with the process. Let us not vote for this motion. Let us get this budget done for this year, and move on and tackle the tough large problems that are out in front of us for the future.

Mr. KASICH. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, well, it is amazing, it is deja vu all over again. I wish the distinguished majority leader had been here when I opened. Because what I said is there is always a lot of good reasons to do nothing. Shouldn't cut now; well, you are not specific enough; well, you are too specific.

I have two very interesting letters here. One is from the President of the United States, who wrote to me this week saying that we should not enact the Kasich-Penny motion because it is too general.

Then I have in my hand a letter from November 19, 1993, from the same President of the United States, who writes to the Speaker opposing the Penny-Kasich motion. You know why? Because it was too specific.

Now, which is it? Are we going to object to spending cuts because they are specific, or are we going to object to them because they are not specific? Or are we going to object to any spending cuts for any reason that serves us the day we are going to vote to cut?

Now, when we passed the tax increase last year in this House, as opposed to the cut spending first plan that the Republicans offered on a bipartisan basis, Democrat leadership came to the floor and said, "This will not be the last time that we will cut spending. We will be back to do more. But this is all we can do at this point in time."

Yet every time we have come to the floor, the result has been, "Can't do it." "It is too general." "It is too specific." "We have to wait for health care." There is always a reason why we cannot do it.

I myself have great respect for the people on the Democrat side. In fact, this coalition includes Democrats. Why are we here? We are here because, first of all, we are not happy with the fact that in the out years, ladies and gentlemen, the deficits continue to go back up. And they continue to go back up under a scenario that implies strong economic growth. And I will tell you that everybody who watches the financial markets today, we are all nervous. You wake up every day and you try to figure out whether the market is going up, or whether the market is going down, and what is the bond market doing, and what is the Fed going to do, and what is happening with interest rates. And it all gets down to economic growth in this country.

Well, I want to tell you that the President said a couple weeks ago that whenever he puts a plan forward, the Republicans always say, and you might remember, no, no, no, no, no, no, no, no.

□ 1640

Every time we bring a bipartisan effort to this floor to cut spending, be it specific or general, the seven times that we have brought significant spending cuts to this floor, the response from the President and the response from the majority in this Chamber has been no, no, no, no, no, no, no.

What I would suggest is, today, let us break the pattern. Let us break the pattern and let us come to the floor and let us just say yes one time for one spending cut on a bipartisan basis so that we do not continue to risk the financial security of this Nation by refusing to break the gridlock created by this Washington establishment.

I would urge my colleagues on both sides of the aisle, this is not going to solve the budget deficit, but do they know what it does, it creates momentum, momentum for change in this city. I urge Members to vote yes on the Kasich-Penny-Stenholm motion to reduce Federal spending for this country.

Ms. PELOSI. Madam Speaker, I rise in strong opposition to the motion to instruct conferees on the budget resolution for fiscal year 1995. The one-third of the Federal budget that is subject to annual appropriations is not the problem.

For the first time since 1969, the House-passed budget resolution would result in spending less money in 1995 than in 1994—without even an adjustment for inflation. Thus, it should be absolutely clear that discretionary spending programs are not the cause of projected Federal deficits. Further reductions in these programs will place many programs of high priority to the American people at great risk.

What is at risk? $700 million for Head Start is at risk. $517 million for the National Institutes of Health is at risk. $619 million to respond to the backlog of Social Security disability claims is at risk. $93 million for the Ryan White AIDS Program is at risk. The health and well-being of the American people is at risk.

I urge my colleagues to leave the appropriations caps alone. Vote no on the motion to instruct.

Mr. FAWELL. Madam Speaker, I rise in strong support of the Kasich-Penny-Stenholm motion to instruct House budget conferees to accept the additional $26.1 billion in spending reductions initiated by Senators EXON and GRASSLEY. When I came to Congress 9 years ago, the national debt stood at $1.4 trillion, and the deficit stood at $185 billion. Despite all the much heralded deficit reduction proposals such as Gramm-Rudman-Hollings, the 1990 budget agreement, and most recently the 1993 Clinton tax bill, the national debt is currently $4.3 trillion, and even if all the promised spending cuts occur and projected tax revenues appear—which we know will not happen—we will still add $1.7 trillion to the national debt over the next 5 years. During House consideration of the budget resolution earlier this year, Congressman JERRY SOLOMON, FRED UPTON, and I offered a substitute amendment which would have balanced the budget over 5 years. The Solomon-Fawell-Upton proposal would have cut an additional $47 billion in fiscal year 1995 alone. Regrettably, the House defeated our substitute and the substitute offered by Congressman KASICH, opting instead for a largely status quo budget without any additional deficit reduction.

As the General Accounting Office reported in 1992, the current budget imbalance is unsustainable in the long term. The report states, "the key question facing policymakers is not whether to undertake major deficit reduction, but when and how". The report further stated that, "regardless of the approach that is chosen, prompt and meaningful action is essential. In the end, action is unavoidable. The longer it is delayed, the more painful, it will be."

While this report was issued prior to passage of the Clinton tax bill, its message is no less appropriate today. Those who would tell you that we are on the right path and that further deficit reduction should be delayed are dead wrong. While the deficit will decline over the next 2 years, it resumes an upward path beginning in 1997. Furthermore, even if all the proposed spending cuts occur, Federal outlays will increase by $334 billion over the next 5 years. Do not count on health care reform to produce additional deficit reduction. The Joint Economic Committee reports that the Clinton health care reform proposal could cost as much as $918 billion over 5 years, and the Congressional Budget Office confirms that the Clinton proposal will add to the deficit, not subtract from it.

Madam Speaker, the Congressional Budget Office predicts that gross interest payments on the Federal debt will approach $300 billion this year, a figure larger than all Federal outlays 20 years ago. As interest payments continue to crowd out Federal programs, it will only force more programmatic cuts to balance the budget. We must not continue to delay meaningful action on the deficit. We owe it to our grandchildren, who will have to pay for our largess, to take this further step toward fiscal sanity. I urge all members to support the Kasich-Penny-Stenholm motion.

Mr. PACKARD. Madam Speaker, today, this House faces yet another integrity test. This test involves matching our rhetoric to our actions. When it comes to cutting spending in the Federal budget, principle is routinely sacrificed to parcohial interests and pork projects. I fear once again, that the soundbites will again outweigh substance by as much as two-to-one. The odds on favorite in this budget battle is the status quo.

My colleague Mr. KASICH is seeking to actually make real spending cuts. His motion to instruct budget conferees to accept the $26 billion in additional cuts included in the Senate version would be a first step in scaling back escalating Federal spending. The usual suspects have lined up against Mr. KASICH, Mr. STENHOLM and Mr. PENNY. The administration has engaged in what they called a full court press to defeat the motion. The Democratic leadership has been lobbying Members frantically and galvanizing forces outside Congress to kill the motion. Special interests who are supposedly threatened by deeper budget cuts will no doubt cry foul.

We saw the same opponents of fiscal sanity when we debated the Penny/Kasich proposal which would have resulted in one penny saved out of every Federal dollar spent over 5 years. Of course, the big spenders in Congress, backed by the administration, lined up a chorus of cries about the pain that would be inflicted on their favorite Government programs if Penny/Kasich passed. Of course the motion failed.

We heard the same hysterical language about jeopardized national security and threats to everything from crime-fighting, education, and long-term economic growth if we passed a balanced budget amendment to the Constitution. It is absolute anathema to the big spenders in Congress that their ability to spend other people's money exactly as they choose would be restricted.

Spending cuts to the Federal budget have been the belle of the ball lately, the most popular idea for Members to trot out in front of constituents. But time after time, Congress only flirts with the possibility, refusing to take a turn on the dancefloor of fiscal sanity.

I urge my colleagues to support the Kasich motion to instruct conferees.

Mr. MINGE. Madam Speaker, I will support the Penny-Kasich motion because I believe that we must continue to pursue options to reduce Federal spending and bring our Federal deficit under reasonable control.

However, spending cuts must be part of a balanced approach. We need to look at all sides of deficit reduction, including the income side, or more accurately, the nonincome side.

It would not be popular, and it may even be quite painful for many of my colleagues, but we must be even-handed in our deliberations on deficit reduction. It is not enough to recommend an arbitrary $26 billion in cuts in discretionary programs—many of which have already felt the budget ax—while ignoring entitlement programs and the myriad provisions of the tax code through which the Federal Government makes tax expenditures by foregoing tax revenues. To eliminate the deficit, we need a military base closing commission approach. Everything should be on the table. Nothing is so sacred it cannot be considered. We even need to ask if tax free bonds are the fairest, most efficient way for the Federal Government to provide assistance to municipalities, localities and States.

I believe that any meaningful examination of Federal revenues and expenditures must include close, unbiased analysis of the various means whereby we spend through the creation and continuation of programs and the authorization and appropriation of funds.

Mr. ROTH. Madam Speaker, the Kasich/Penny/Stenholm motion to instruct conferees on the Budget Resolution is a golden opportunity to show the Nation that we're serious about reducing the deficit. By passing this motion, we will cut $26.1 billion in discretionary spending. This would be a small but real dent in the 4 trillion dollar national debt, a bill so big that every man, woman and child in America owes $17,000.

The American people have sent a loud, clear signal for reduced government spending and an end to huge budget deficits. The people of my district are particularly concerned by the waste, fraud and abuse in government today. I send a questionnaire every year to survey my constituents' opinions on the important issues of the day. This year, the vast majority of people have indicated that wasteful and excessive government spending is their single greatest concern. How many more times must the American people call for cutting government before the big spenders in Congress get the message?

By supporting the Kasich-Penny motion to instruct, we will cut $26 billion directly from the deficit. This vote represents a clear opportunity to start bringing our financial house in order.

Let's not miss this opportunity. A short time ago, the House defeated the largest and most comprehensive deficit-cutting proposal ever considered in the House of Representatives. I joined a number of my colleagues in drafting this budget plan, which contained over 500 specific cuts and slashed over $600 billion in Federal spending. Our proposal would have balanced the budget in 5 years without reducing Social Security, cutting earned veteran's benefits, gutting defense or raising taxes. Yet the House of Representatives voted it down.

More recently, Congress had another opportunity to reduce government spending with the balanced budget amendment. As in the past, I supported it, but a majority of Congress did not. And another chance at putting our country's finances in order was lost.

We can't afford to continue down this path. The vote today to cut $26 billion is the last chance for Congress to cut the deficit this year. Any further cuts Congress makes in the fiscal year 1995 budget can be used on other spending programs and not to reduce our deficit.

Remember, our national debt is getting bigger by the hour. By this time tomorrow, it will be nearly a billion dollars more than it is right now. Government spending is completely out of control. Congress simply can't continue to spend beyond its means.

The American people will no longer tolerate representatives that ignore their calls for reduced government spending. Today's vote to slash $26 billion from the budget should be the first step towards Congress' return to fiscal sanity.

I call upon my colleagues to act responsibly. By passing this motion and pulling the reins on reckless deficit spending, we will help guarantee a brighter future for us and our children for generations to come. Join me in supporting the Kasich/Penny/Stenholm motion to instruct conferees. Let's take advantage of this great opportunity to take control of government spending.

The SPEAKER pro tempore (Ms. SHEPHERD). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Ohio [Mr. KASICH].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. KASICH. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 202, nays 216, not voting 15, as follows:

[Roll No. 112]

YEAS—202

Allard
Andrews (NJ)
Andrews (TX)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barca
Barrett (NE)
Bartlett
Bateman
Bentley
Bereuter
Bliley
Blute
Boehner
Bonilla
Brewster
Browder
Brown (OH)
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cantwell
Castle
Clement
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Cox
Crane
Crapo
Cunningham
Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Dooley
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Ewing
Fawell
Fields (TX)
Fingerhut
Fowler
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Gordon
Grams
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hoagland
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Inslee
Istook
Johnson (CT)
Johnson (GA)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lambert
LaRocco
Lazio
Leach
Lehman
Levy
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Mann
Manzullo
Margolies-Mezvinsky
McCandless
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McKeon
McMillan
Meehan
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Moorhead
Myers
Nussle
Orton
Oxley
Packard
Pallone
Paxon
Payne (VA)
Penny
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quinn
Ramstad
Ravenel
Regula
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Saxton
Schaefer
Schenk
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Talent
Tauzin
Taylor (NC)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Zeliff
Zimmer

NAYS—216

Abercrombie
Ackerman
Andrews (ME)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bilirakis
Bishop
Boehlert
Bonior
Borski
Boucher
Brooks
Brown (CA)
Brown (FL)
Bryant
Byrne
Cardin
Carr
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
Darden
de la Garza
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Durbin
Edwards (CA)
Edwards (TX)
Engel
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Goss
Green
Gutierrez
Hall (OH)
Hamburg
Harman
Hastings
Hefner
Hilliard
Hinchey
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lancaster
Lantos
Laughlin
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Parker
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Pickle
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (FL)

NOT VOTING—15

Barton
Blackwell
Doolittle
Fish
Franks (CT)
Gallo
Grandy
Kaptur
Lewis (CA)
Murphy
Quillen
Ridge
Roukema
Thomas (CA)
Washington

☐ 1703

The Clerk announced the following pair:

On this vote:

Mr. Lewis of California for, with Mr. Washington against.

Mr. VALENTINE changed his vote from "yea" to "nay."

Messrs. POMEROY, YOUNG of Alaska, and BLILEY changed their vote from "nay" to "yea."

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. TUCKER). Without objection, the Chair appoints the following conferees: Messrs. SABO, GEPHARDT, KILDEE, BEILENSON, BERMAN, WISE, BRYANT, STENHOLM, and FRANK of Massachusetts, Ms. SLAUGHTER, Messrs. KASICH, MCMILLAN, KOLBE, and SHAYS, Ms. SNOWE, and Mr. HERGER.

There was no objection.

PERSONAL EXPLANATION

Mrs. ROUKEMA. Mr. Speaker, due to urgent family business, I was absent from the House on April 14, and was unable to cast the following votes. Had I been present, I would have voted as follows:

Rollcall 104, H.R. 4092, Brooks: en bloc amendments: "nay."

Rollcall 105, approving the Journal: "nay."

Rollcall 106, H.R. 4092, Watt: striking death penalty/drug kingpin: "nay."

Rollcall 107, H.R. 4092, Kopetski: death penalty/life imprisonment: "nay."

Rollcall 108, H.R. 4092, McCollum: drug kingpin death penalty procedures: "yea."

Rollcall 109, H.R. 4092, Gekas: death penalty/aggravating factors: "yea."

Rollcall 110, H.R. 4092, McCollum: rise and strike enacting clause: "yea."

Rollcall 111, H.R. 4092, Watt: death penalty/strike aggravating factors: "nay."

Rollcall 112, House Concurrent Resolution 218, instructing House budget resolution conferees: "yea."

GENERAL LEAVE

Mr. KASICH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks, and include extraneous material, on the motion to instruct on House Concurrent Resolution 218.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There were no objection.

LEGISLATIVE PROGRAM

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I have asked for this time for the purpose of ascertaining the schedule for next week, and I yield to the gentleman from Missouri [Mr. GEPHARDT], the distinguished majority leader, for that purpose.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

There will be no more votes today. On tomorrow, Friday, there will be no votes.

On Monday, April 18, the House will meet at 10:30 a.m. for morning hour, and then we will meet at noon on the following bills on suspension:

H.R. 4013, Veterans' Health Programs Improvements Act of 1994;

H.R. 1617, Use of VA Property At Hines, Illinois, For Temporary Accommodations For Family Members of Severely Ill Children;

H.R. 821, Reserve Armed Forces Eligibility For Burial In National Cemeteries;

H. Con. Res. 222, Raul Wallenberg Bust Placement In The Capitol;

S. 1654, To Make Certain Technical Corrections;

H.R. 3813, Environmental Export Promotion Act Of 1994;

H. Con. Res. 124, Concerning The Emancipation Of The Iranian Baha'i Community; and

H.R. 2333, Motion To Go To Conference On State Department And Related Agencies Authorization.

I would expect there would be two votes, one on the motion to go to conference, and perhaps one on one of the suspension bills. But our plan would be not to have more votes than that, and to roll other suspension votes if there are suspension votes until Tuesday.

The reason we need to go forward with the motion to go to conference vote is that the conference needs to meet on Tuesday morning. And votes will be postponed until 5 p.m. on Monday.

On Tuesday, April 19, the House will meet at 10:30 a.m. for the morning hour. We will meet at noon on Tuesday to continue H.R. 4092, the Omnibus Crime Control Act, hopefully completing consideration next week.

There will be another vote on suspension on Tuesday, House Resolution 329, designating 1994 as a year to honor the Honorable Thomas "Tip" O'Neill, Jr.

On Wednesday, April 20, and Thursday, April 21, we will meet at 2 p.m. on Wednesday and 11 a.m. on Thursday to complete the Omnibus Crime Control Act. We hope to finish that by Thursday at the end of business, and it could be late.

Then on Friday, April 22, we hope, therefore, to not have legislative business.

Mr. WALKER. I thank the gentleman. Do we expect to have the budget conference report come back next week?

Mr. GEPHARDT. I have to consult with the chairman, and obviously we are hopeful we can get it back.

Mr. WALKER. Just to reiterate, the gentleman does not expect more than two votes on Monday, or we would not have more than two votes on Monday, if I understand correctly, and they would not be before 5 p.m., is that correct?

Mr. GEPHARDT. The gentleman is correct.

Mr. WALKER. I thank the gentleman.

ADJOURNMENT TO MONDAY, APRIL 18, 1994

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10:30 a.m. on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 180. Joint resolution to provide for the appointment of an executive secretary for the United States Capitol Preservation Commission, and for other purposes.

LAW ENFORCEMENT CAUCUS

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, yesterday 18 Members of the House joined with me to announce the formation of the Law Enforcement Caucus. The gentleman from Iowa [Mr. LIGHTFOOT] and I will cochair the caucus.

As we begin the debate on the crime bill, I believe much of the debate could have been avoided if we only had input from law enforcement officers. During the upcoming debate we will hear about victims' rights. We will hear about defendants' rights. But what about the men and women who are going to be asked to carry out these new policies. Where was their input before we got to the House floor?

We need to open dialog with law enforcement officers throughout the whole Nation. That will be the purpose of the Law Enforcement Caucus. From the county sheriff in northern Michigan to the beat cop in New York City, we urge you to have input into the Law Enforcement Caucus. We urge you to utilize the Law Enforcement Caucus.

To all of our Members, both Democrats and Republicans, we urge you to join the Law Enforcement Caucus.

I rise today to announce the formation of the Congressional Law Enforcement Caucus, a bipartisan organization of House membership who, in many cases, have a background in law enforcement and in all cases, have a keen interest in issues that affect the law enforcement community. Congressman LIGHTFOOT and myself will be serving as cochairs of the caucus.

The main reason for the formation of this caucus is to provide the law enforcement community with an avenue to participate in the political and legislative process. Upon arriving in Congress I was struck by the fact that seemingly every group, from the firefighters to the soybean growers, were well represented in Congress. But conspicuously absent was the law enforcement community.

Why? When during almost every session of Congress, the lives and jobs of Americans involved in law enforcement change as Congress legislates.

We believe it will be a benefit to Congress now and in the future to have a better dialog with the people that keep America's streets safe. This caucus will provide members of the House and the law enforcement community with just this opportunity.

We will serve as a clearinghouse for information and grants, a means for holding hearings, and a sounding board for ideas brought forth by the law enforcement community. We will seek to build consensus where possible understanding that views on issues affecting the community are many and varied. Most importantly, the caucus will act as a single point of contact for the law enforcement community when they have questions about things that take place in Congress.

My background in law enforcement goes back to the early 1970's. I was a State trooper in Michigan from 1973 until 1984. After retiring from the force, I became a trial attorney back in my home of Menominee, MI.

I look forward to working with my House colleagues as well as the law enforcement community. I am sure this will be a productive relationship.

Any Members wishing to join the Congressional Law Enforcement Caucus should not hesitate to contact my office.

EXPRESSING DISGUST AND OUTRAGE AT REVELATION OF CORRUPTION WITHIN DISTRICT OF COLUMBIA SUBSIDIZED HOUSING ADMINISTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, this Member rises today as a member of the Housing Subcommittee of the House Banking Committee to express disgust and outrage at the revelation of widespread corruption within the District of Columbia's Subsidized Housing Administration. Five District of Columbia housing employees have been charged with mail fraud and accepting bribes. These officials were allegedly involved in corruption so widespread that nearly everyone benefiting from the District's Housing Subsidy Program, which includes the use of Federal section 8 funds, during the last four years did so by bribing city officials. Only 10 of 400 vouchers distributed in the recent past did not involve bribery.

According to a spokeman for the U.S. Attorney's office "the fact that public and assisted housing could only be attained through bribery was a well-known fact of life within certain segments of the community." The Department of Housing and Urban Development, which is charged with oversight and management of Federal housing funds distributed to the District, was apparently not within these certain segments. Indeed the housing agency of the District of Columbia has been considered to be a badly troubled housing authority.

That this corruption could be so rampant, and go on so long, without the Department of Housing and Urban Development's knowledge or action, is appalling and totally unacceptable. According to news accounts, at least one individual living in Chicago illegally received vouchers issued by the District of Columbia under this long running scam. Certainly, this situation confirms once again the fact that there is widespread, endemic corruption within the government of the District of Columbia. The Washington Post, in an editorial today, provides a litany of the abuses of the District government uncovered only in the last year. This Member attaches the whole editorial, but also, quotes the Post in part:

> In the past year, District residents have seen Bureau of Traffic Adjudication workers arrested for taking bribes to fix parking tickets and remove automobile boots. They've seen employees arrested for stealing thousands of dollars in quarters from city parking meters. They've read about large-scale busts of current and former correctional officers for smuggling drugs to inmates, and about a halfway house scandal that bolsters the idea that the inmates are running the jails. Residents have even seen a dozen police officers arrested on conspiracy and drug charges. But with this week's unfolding bribery scandal residents may just about have seen it all.

This Member is astounded that a jurisdiction with this record of criminal behavior by its government could even be considered for statehood. Such a notion boggles the mind. Even beyond that, however, the fact that this fraud extended beyond the District and halfway across the Nation is indicative of the inability of HUD to adequately oversee the use of Federal funds it distributes.

For years, the HUD inspector general has recognized that the Department of Public and Assisted Housing in the District is troubled. During that time, HUD has taken over the housing authorities in Philadelphia, PA; East St. Louis, IL; Chester, PA; Passaic, NJ; Bridgeport, CT; New Orleans, LA; and Kansas City, MO. It certainly is time, if not beyond the time, for HUD to consider taking over the District's housing program by appointing a grand master to run it or some other approach.

Corruption of this kind hurts not just the American taxpayer, it's first and foremost victims are those people in the District of Columbia who have gone day after day, night after night without safe, decent housing, because they play by the rules. It is an obvious failure of the government of the District of Columbia that its residents have been betrayed by their local government. Let's not have the Federal Government betray them as well.

HUD should immediately take action to assure that corruption is rooted out, here in the District, and anywhere else that law abiding citizens are being victimized by those who illegally would use Federal programs for personal profit. As the attached Washington Post editorial says of HUD's programs "we need honest people to administer them."

Honest administrators—that is a simple first step that must be taken immediately. Not only do taxpayers deserve to have their tax dollars spent wisely and honestly, but those who truly need these housing programs deserve to be served by honest administrators who are not tainted by bribery or corruption. It's not too much to ask—even of the D.C. government.

[From the Washington Post, Apr. 14, 1994]

GOVERNMENT THAT BETRAYS

You may recall a March 3 news story in The Post about a woman trudging through the freezing rain with two toddlers, one strapped to his mother's chest. They and other homeless families had been put out of the city's overnight shelter and were looking for a meal, some dry clothes and a place to stay until nightfall. The story suggested that it wouldn't have mattered if their names had been placed on the city's clogged waiting list for affordable housing, since the city maintained that nothing was available. Please bear that account in mind as you digest yesterday's story about top-level corruption in the city's Subsidized Housing Administration and the disgusting way in which families like hers have been wronged.

While thousands of legitimately eligible poor families have been playing by the rules and languishing for months or years at a time on a near-stationary waiting list for government-subsidized rent vouchers, hundreds of ineligible families have been bypassing the line by allegedly paying bribes demanded by officials in the Department of Public and Assisted Housing. According to U.S. Attorney Eric Holder, just about everyone who has benefited from the federally supported "Section 8" voucher and "Mod Rehab" programs during the past four years has done so by greasing the palms of city officials on the take. Only about 10 of 400 new rent vouchers went to families that didn't pay bribes. The rip-off was such a "good thing" that out-of-town bribers even got in on the action. No less than the agency head is among those charged, a career employee in place before the Kelly administration assumed office, who was reassigned, along with the others charged, when senior officials got suspicious and took steps leading to the investigation. She is accused of sending a rent subsidy voucher to her sister in Chicago. The investigation disclosed an abuse of office and corruption on a shocking scale and level of complicity.

Mayor Kelly said the case shows the city means business about cleaning house. To bring real meaning to the term, however, the city can start by rooting out all corrupt DPAH workers and the families that weren't qualified but wormed their way into the Section 8 program by paying off city workers. But ending corruption can't stop with housing programs.

In the past year, District residents have seen Bureau of Traffic Adjudication workers arrested for taking bribes to fix parking tickets and remove automobile boots. They've seen employees arrested for stealing thousands of dollars in quarters from city parking meters. They've read about large-scale busts of current and former correctional officers for smuggling drugs to inmates, and about a halfway house scandal that bolsters the idea that the inmates are running the jails. Residents have even seen a dozen police officers arrested on conspiracy and drug charges. But with this week's unfolding bribery scandal, residents may just about have seen it all.

In explaining why that woman with two tiny kids had to wander in the freezing rain until the shelters opened again at 7 p.m., an official of the city's Office of Emergency Shelter and Support Services spoke of the lack of affordable housing and complained to The Post: "We need Section 8 subsidies from HUD." We need more than that: We need honest people to administer them.

SIGNING OF URUGUAY ROUND TRADE AGREEMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, tomorrow in Marrakesh, Morocco, the United States and 124 other nations will sign the Uruguay round trade agreements. This historic trade pact was concluded last December after 7 long years of multilateral negotiations under the GATT. I congratulate President Clinton and the administration for their efforts in successfully concluding the Uruguay round.

Our trade negotiators were generally able to achieve U.S. objectives at the bargaining table. These include improved market access for U.S. industrial and agricultural exports; new rules for areas such as services and intellectual property rights; and an improved process for resolving trade disputes.

The economic impact from the Uruguay round will be highly beneficial for the U.S. economy, including a significant increase in U.S. income, exports, and employment.

Mr. Speaker, the Uruguay round has been a bipartisan effort from the outset. I look forward to working with the administration and my colleagues on both sides of the aisle in passing this year, legislation to implement the trade agreements to be signed in Marrakesh tomorrow.

THE FDA IS HARMFUL TO THE HEALTH AND POCKETBOOKS OF OUR PEOPLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, almost no agency is more harmful to the health and pocketbooks of our people than the Food and Drug Administration.

Already the FDA has driven the cost of medicine out of sight by making it unbelievably expensive and bureaucratic to get a drug approved.

Now the Wall Street Journal, on its front page 2 days ago, reported on a 9-year battle the FDA has had with a small company in Illinois:

Let me read a portion of this story:

It is as simple as a medical device can get: two sealed plastic sheets with lubricant in between. It is laid over a woman's breast like a clot during an examination, to reduce friction.

Glenda Richardson thinks it probably spared her death from breast cancer. John Withers, a surgeon at the Maui Clinic in Hawaii, says it is one of the most effective weapons against breast cancer in years. And Patricia Redmond, a New York radiologist, says it "can absolutely save lives."

But don't try buying it in the U.S. Though many doctors and cancer specialists hail the Sensor Pad as a useful tool in detecting the disease that many women fear most, and though it years ago sailed through approval processes in countries in Europe and Asia, the Food and Drug Administration won't let Inventive Products Inc. sell it in this country.

Grant Wright, the president of Inventive Products, and his father, Earl, the pad's co-inventor, have been fighting for nine years to get clearance for the product. What began as an FDA request for more information has degenerated into a long, debilitating struggle and allegations that the Wrights violated federal law. So frustrated did the Wrights become about the bureaucratic maze that six years ago they started selling the pad to U.S. hospitals without FDA clearance. That triggered a court battle that they lost in 1992. Now they are back to trying to win FDA blessing for the pad.

Stifling innovation?

But if the dispute is not resolved soon, Grant Wright says, he will close his Decatur, Ill., company, which costs about $4,000 a month to operate and has already burned through $356,000 in legal fees. 'I'm 33, with a wife and three kids,' he says 'I've got to do something with my life.'

Mr. Wrights's struggle, in the eyes of some, is more than just the tale of a small-town entrepreneur's tangle with far-away bureaucrats; it is more, too, than a study of how the medical-devices industry in the U.S. copes with the world's most stringent regulatory system. To some advocates of his simple device, it is a manifestation of the way the nation's litigation-driven aversion to risk can stifle innovation in the medical marketplace. 'We as a society refuse to take risks and want 100% guarantees that our lives are going to be perfect,' says Mary Palmore, a Chicago gynecologist."

Breast cancer killed an estimated 46,000 women in the United States last year and was the second-biggest cancer killer of women.

This is a device that has saved the lives of women all over the world because early detection is essential.

This product was approved after 30 days in Canada. It has been approved easily in Japan, Singapore, Korea, Thailand, and most of Western Europe.

The only place where the company has had trouble is in the United States.

Why? because Washington bureaucrats are so arrogant that they think they can run our lives better than we can ourselves.

They think they can spend our money for us better than we can ourselves.

They justify everything in the holy name of safety.

I have no objection to some testing for safety. But you can go overboard on anything.

But there is no such thing as a perfectly 100 percent safe drug or anything else.

I have had a bleeding ulcer three times. For me aspirin is an unsafe drug. But for most people it is a good thing and I am glad it is on the market?

How in the world can they justify taking 9 years for something that took 30 days in Canada?

All it really is, is a power play on the part of the FDA. A bureaucratic temper tantrum. They want to show who is boss.

Apparently this small company in Illinois did not bow down to them far enough. It did not show the proper respect.

The company sold the product for awhile on the legal theory that it was not strictly a medical device and thus was outside the FDA's jurisdiction.

In 15 months' time, they sold 250,000 pads to 200 hospitals.

Do people want to buy this product? You bet they do.

But because of the FDA, they are not going to be allowed to buy something that could potentially save their lives.

Another sad thing, in addition to lives that will not be saved, is that if this product had been produced by some extremely big business, it probably would have been easily approved years ago.

I have said many times that big government really helps only the bureaucrats who work for it and extremely big businesses.

Only big business can comply with all the rules and red tape and get the favorable rulings from the bureaucrats and the tax breaks, government contracts, and so forth.

Small businesses simply cannot sit on a product for years or come up with the often times many millions that it takes to gain bureaucratic approval.

The American Medical Association has estimated that it now takes almost $300 million and several years to get a drug to market.

Only one out of every 4,000 drugs gains final approval.

No wonder the drug industry has become concentrated in the hands of a few giants.

Almost no small companies could afford to go through this bureaucratic maze.

If somebody comes up with a cure for cancer, we probably won't hear about it for years because the FDA will bog it down.

And if somebody does discover a cure, they will be forced to sell out to one of the pharmaceutical giants, unless they have many millions to play the FDA game.

All of this is really driving up the cost of medicine in this country and is really hurting the poor and working people of this Nation.

I call on the FDA to get off its bureaucratic duff and approve this product that hospitals, doctors, and patients all over this country want to use.

To not do so would be one of the worst abuses of power that has ever occurred in the city.

This is supposed to be a free country. This is supposed to be a Government of, by, and for the people—not of, by, and for the bureaucrats.

I ask to include the story about this bureaucratic horror story in today's RECORD.

HOW A DEVICE TO AID IN BREAST SELF-EXAMS IS KEPT OFF THE MARKET

(By Brent Bowers)

It is about as simple as a medical device can get: two sealed plastic sheets with lubricant in between. It is laid over a woman's breast like a cloth during an examination, to reduce friction.

Glenda Richardson thinks it probably spared her death from breast cancer. John Withers, a surgeon at the Maui Clinic in Hawaii, says it is one of the most effective weapons against breast cancer in years. And Patricia Redmond, a New York radiologist, says it "can absolutely save lives."

But don't try buying it in the U.S. Though many doctors and cancer specialists hail the Sensor Pad as a useful tool in detecting the disease that many women fear most, and though it years ago sailed through approval processes in countries in Europe and Asia, the Food and Drug Administration won't let Inventive Products Inc. sell it in this country.

Grant Wright, the president of Inventive Products, and his father, Earl, the pad's co-inventor, have been fighting for nine years to get clearance for the product. What began as an FDA request for more information has degenerated into a long, debilitating struggle and allegations that the Wrights violated federal law. So frustrated did the Wrights become about the bureaucratic maze that six years ago they started selling the pad to U.S. hospitals without FDA clearance. That triggered a court battle that they lost in 1992. Now they are back to trying to win FDA blessing for the pad.

STIFLING INNOVATION?

But if the dispute isn't resolved soon, Grant Wright says, he will close his Decatur, Ill., company, which costs about $4,000 a month to operate and has already burned through $356,000 in legal fees. "I'm 33, with a wife and three kids," he says. "I've got to do something with my life."

Mr. Wright's struggle, in the eyes of some, is more than just the tale of a small-town entrepreneur's tangle with faraway bureaucrats; it is more, too, than a study of how the medical-devices industry in the U.S. copes with the world's most stringent regulatory system. To some advocates of his simple device, it is a manifestation of the way the nation's litigation-driven aversion to risk can stifle innovation in the medical marketplace. "We as a society refuse to take risks and want 100% guarantees that our lives are going to be perfect," says Mary Palmore, a Chicago gynecologist.

Dr. Palmore acknowledges that the FDA has a legal duty to ensure that the pad isn't falsely promoted as a diagnostic tool, but suggests that the agency itself may be caught up in what she sees as a national obsession with safety. "The FDA is concerned that in our litigious society, a woman will say: 'I used it, and I got cancer anyway,'" Dr. Palmore says.

The agency says that safety, not litigation, is its main concern. And it strongly defends its refusal to authorize the Sensor Pad. "Their intention is very worthy," Susan Alpert, director of the FDA's Office of Device Evaluation, says of the Wrights. "But the issue for the agency is of ensuring that we don't allow to market any device that poses significant risk without an attendant benefit."

Indeed, many consumer advocates and health-care specialists applaud the FDA's rigor in screening devices, and some complain that it doesn't act forcefully enough. The FDA, meanwhile, faces a huge backlog of applications for new medical devices, which has stretched the average review time to 196 days. The agency says it is working hard to whittle the backlog of more than 5,000 applications.

Breast cancer took an estimated 46,000 lives in the U.S. last year and was the second-biggest cancer killer of women. Early detection is essential in defeating it, and frequent self-examination is essential to that effort. But many women don't find this easy, and that is where the pad comes in. Its lower sheet clings to the skin while the top sheet "floats" on a thin layer of liquid silicon, eliminating friction so a finger can explore the contours of an object as small as a grain of salt.

"The thing that amazes me," says the younger Mr. Wright, "is that the research spending [on breast cancer] keeps going up and I can't get this simple $7 product into the hands of women who want it."

His father, Earl, once thought the Sensor Pad would be a big success. Mr. Wright, 63, is an established inventor whose products range from a blood-serum filter used in laboratories to nonaerosol foaming pumps used by hospital surgeons. Mr. Wright in 1986 set up Inventive Products as a subsidiary of his Earl Wright Co. solely to make and market the Sensor Pad. He put his son in charge.

Gaining approval to sell it in other countries wasn't a problem. Inventive Products applied for marketing authorization in Canada in 1985 and got it within 30 days, Grant Wright says. He also says the pad has been approved in Japan, Singapore, Korea, Thailand and most West European countries, although Inventive Products hasn't actively promoted it abroad. "We've had no problems anywhere in the world," he says.

Except at home. When the Wrights sought FDA clearance for the device in 1985, the agency's initial response was positive. Still, the government wanted more information. "Every time we submitted information, they asked for more," the son recalls. After several months, the agency denied approval for the pad—but indicated its concerns might be met by extensive labeling changes.

The FDA wanted the labeling to state that the Sensor Pad could be sold by prescription only. And it wanted all references to breast cancer deleted. The label was to include the chemical composition of the device. It also was to describe the 10-inch-diameter pad's "susceptibility to heat, sunlight, soap, Formalin, alcohol and other mechanical agents."

Mr. Wright says he immediately set about complying with the requests. But about three months later, he says, the FDA inexplicably notified him that it wouldn't reconsider approving the product. Instead, he was told, Inventive Products would have to go through a laborious "premarket approval" process for new medical devices.

This process is meant to keep new, mostly high-technology instruments off the market until they can be adequately tested for safety. Few people would disagree that the FDA should get convincing evidence that invasive devices are safe. More than 200 people died in the 1980s when their Bjork-Shiley heart valves fractured, for instance. But Mr. Wright argues that the Sensor Pad poses no direct risk to users.

The FDA responds that the indirect risk—that a cancerous lump would go undetected—is potentially lethal.

The agency's Dr. Alpert says the fact that a device is simple doesn't necessarily mean it is benign; everything depends on its "intended use." She dismisses endorsements from doctors and patients—which, she says, many device makers trot out—as anecdotal evidence that is insufficient to make a scientific case. "Reporting doesn't do it—data does," she says.

In 1992, only 12 medical devices were given FDA premarket approval, including heart pacemakers, lenses that are implanted into the eye after cataract surgery and devices for smashing kidney stones. Of the simple, noninvasive pad, "I've never seen a product like this held off the market," says John Isaacs, a gynecologist in Evanston, Ill., who is the author of a textbook on breast disease.

But the FDA says the Sensor Pad needs to be scrutinized because it isn't "substantially equivalent" to a product already on the market, a legal requirement for quick approval of simple devices. The Wrights argue that the pad is substantially equivalent to soap and water, a mixture the medical community has long recommended to reduce friction in breast self-examination.

To obtain premarket approval, the FDA said, Inventive Products would have to conduct exhaustive clinical tests on women, comparing the number of breast-cancer cases detected through self-examination with and without the Sensor Pad. Such tests, Mr. Wright says, would require a huge sample—a minimum of 82,000 women—to produce statistically meaningful results. An FDA spokeswoman disputes that figure. "We want to be as reasonable as we can," she says. "The number will be much less than that."

Mr. Wright says he has already done two trials with simulated breast models, which he claims yield more accurate results. In the first, women examined the artificial breasts for lumps using both the pad and their bare hands. In the second, they used both those methods and also a third method—soap and water on their hands. The tests showed that the pad enhanced sensitivity and resulted in increased lump detection, Mr. Wright says.

The FDA rejected his trials as insufficient. The prospect of starting over with the lengthy, expensive tests the FDA demanded pushed the Wrights to change their course. Because they never considered the pad to be a medical device as defined by federal law, they decided in 1988 to market the product directly to hospitals. The Wrights say they—and their attorney—figured the FDA either would recognize its lack of jurisdiction or take Inventive Products to court and force the issue.

Over 15 months, the Wrights sold 250,000 pads to some 200 hospitals. But in April 1989, federal agents raided the company's Decatur plant and a number of hospitals and confiscated the pads.

The action came one day after Earl Wright was named a finalist in the Intellectual Property Owners Foundation's inventor-of-the-year contest for his "touch-enhancing device."

Grant Wright challenged the FDA's claim to jurisdiction over the pad. But in 1990, a U.S. district court in Danville, Ill., ruled for the FDA. Mr. Wright appealed, and two years later an appellate court in Chicago upheld the ruling. At that point, Inventive Products told the FDA it had ceased marketing the pad.

But Mr. Wright didn't give up. In March 1992, he filed an ethics complaint with the FDA's integrity office against some agency officials after learning that they had met with a minority shareholder of the company without his knowledge. After he filed the complaint, he says, the FDA turned hostile. At a meeting in Washington in August 1992 to discuss requirements for premarket approval, he says, an FDA lawyer—flanked by 10 other agency officials and a Justice Department lawyer—"told us we'd never get our product to market."

An agency spokeswoman says it is doubtful such a remark was made. "We have gone out of our way to show the Wrights how to get their product marketed. Such a comment doesn't make sense," she says.

Mr. Wright promptly fired off letters of complaint about the meeting to the FDA and to Rep. John Dingell of Michigan, who is known for flailing the FDA for its missteps. More letters flew back and forth. An FDA integrity officer wrote that the FDA was acting in good faith. Mr. Wright responded by demanding an investigation of the FDA lawyer who attended the August meeting. A couple of days later, his Washington lawyer sent a seven-page letter to a Dingell staffer, accusing the FDA of "hounding" Inventive Products.

Four months later, the Wrights received notice from an FDA compliance officer that the agency was investigating them for possible violations of federal law for selling the pad in 1990–91. Mr. Grant says he has received no word about the investigation since an FDA administrative hearing in Chicago last June. But, he says, he has gotten the message: "If you squawk, they will slap you around." The FDA denies taking any retaliatory actions.

Meanwhile, members of the medical community continue to support the Sensor Pad. Dr. Withers, the surgeon at Maui Clinic, says the pad has twice enabled him to feel otherwise undetectable lumps. He scoffs at the idea that using it might give women a false sense of security, one of the FDA's main concerns. "There is no question that the Sensor Pad increases my tactile ability," he says. "It makes it 100% easier."

Gale Katterhagen, medical director of the cancer center at St. Joseph Medical Center in Burbank, Calif., says tests he conducted for Inventive Products several years ago indicated that women who used the pad were 22% more likely to perform monthly breast exams. "This device is harmless," Dr. Katterhagen says.

Women who use the pad swear by it. Ms. Richardson, a 43-year-old Decatur resident, doubts that she would have found two small lumps without the pad. She had a double mastectomy. "It probably saved my life," she says, adding that she gave one to her 19-year-old daughter.

Mary Gorman, a 55-year-old writer in Washington, is certain the pad saved her breast. "I found my cancer before it was detectable on a mammogram," she says. Her surgeon, Katherine Alley, says the device may have saved Ms. Gorman's life. Considering the lethality of breast cancer, Dr. Alley says, "it is just ridiculous" to keep the pad off the market.

Potential demand appears to be huge. When a Pittsburgh hospital offered on local TV in 1990 to send out free samples, it was flooded with 36,000 calls and letters.

For all that, the FDA's Dr. Alpert believes that Inventive Products is largely responsible for the delays it has encountered. "There are lots of different kinds of trials they could do to show this is effective." she says. "It doesn't have to be years and years."

The elder Mr. Wright has managed to commercialize the Sensor Pad's antifriction technology for a much smaller market. He has built the Slipp, a nylon and plastic sheet used in hospitals to transfer patients from a gurney to a bed. About 500 have been sold.

But his son spends much of his time in his nearly empty headquarters explaining to doctors why he can't send them samples of the Sensor Pad. Last year, he laid off his own brother, reducing his work force to himself and his secretary from a peak of 28 six years ago. "We're at the point of surrender," he says.

☐ 1720

FAMILY AND MEDICAL LEAVE ACT

The SPEAKER pro tempore (Mr. TUCKER). Under a previous order of the House, the gentleman from Michigan [Mr. FORD] is recognized for 5 minutes.

Mr. FORD of Michigan. Mr. Speaker, little over a year ago, this Congress passed H.R. 1, the Family and Medical Leave Act. President Clinton quickly signed this measure into law. Its enactment was the culmination of a decade-long struggle which was successful only when a Democrat was elected to the White House.

Throughout the debate on the bill, opponents claimed that the measure would impose a costly new mandate on businesses. We argued that the requirement of a modest period of unpaid family leave would only be used by employees who had a pressing need to care for themselves or family members. On March 20, The New York Times carried an article that surveyed many in the human resources field and concluded that the supporters of the act were right and that the opponents were not.

WE'RE DOING JUST FINE, THANK YOU

(By Barbara Presley Noble)

Despite the worst expectations of companies large and, especially, small, the Family and Medical Leave Act, which entitles employees to up to 12 weeks of unpaid leave a year for family medical emergencies, appears to have had little negative impact since it went into effect last August. If anything, according to a recent survey by William M. Mercer Inc., the benefits consultant, and the University of California, Berkeley, small businesses have felt the law's impact less than large companies.

"In large employers, there are so many levels of bureaucracy and different policies," said Janice Stanger, an associate at Mercer who worked on the study with researchers at the Work and Family Task Force of the university's Institute of Industrial Relations. "Small business is more flexible, more used to working around people's idiosyncrasies and changes in schedule. There has not been a disproportionate impact." The survey included questions on the impact of California's family and medical leave law, a measure similar to the Federal mandate that has been on the books since the beginning of 1992.

There has been little impact in part because few employees have taken advantage of the new leave entitlement. Two-thirds of employers covered by the earlier California leave law reported that less than 1 percent of their employees have taken a leave; just 1.5 percent of the employers said that more than 3 percent of their people have used the leave option. Employees at small businesses are the least likely to take advantage of the law.

Another business fear—an F.M.L.A.-related escalation in administrative costs—has also failed to materialize since the California law went into effect. More than 90 percent of employers said they had experienced either insignificant or minor costs.

The 4 percent who incurred major costs were businesses with 10,000 or more employees, a finding that probably reflects the paradox of largeness: big companies have the infrastructure in place to cope with government's whimsical excursions into regulation, but as regs beget regs, inevitably they collide. At one large company Ms. Stanger works with, the new leave law conflicts with its many pre-existing leave policies.

Compliance efforts by large companies have been made more difficult by cutbacks, which have hit human resources departments especially hard. "Large employers are very leanly staffed," Ms. Stanger said. "They are trying to do more with less. It is difficult to cope with the mandate because they don't have the staff."

A significant minority of companies are hanging tough, taking no compliance action until, presumably, tested by an employee in search of a leave. About a quarter of companies responding had not developed a leave policy, one step beyond the legal requirement that employers post a notice about the leave law and make sure their workers are informed of their rights. Perhaps surprisingly, perhaps not, more than a mere blip of employers—8.5 percent—said they do not guarantee a leave-taker's job, although the legislation specifically requires that an employee be allowed to return to the same or equivalent position.

Researchers received 299 completed questionnaires out of 980 sent to employers in the West. Companies sampled represent a variety of industries and an even distribution of company sizes.

The results may have been shaped somewhat by the sample: 80 percent of the companies responding were from California. Because that state's family leave law has been in effect for two years, those employers "were more attuned to leaves, and they saw the Federal law coming for awhile," Ms. Stanger said. "They were further along in decision-making."

But the results comport with the experience of other people familiar with the impact of the law nationally. John T. Koss, a vice president in the New York office of the Segal Company, another big benefits consultant, said the sound and fury that accompanied the signing of the bill in February 1993 has decrescendoed notably since then. "When the act first passed, a lot of employers overreacted," he said. "They thought they would have to do a lot and would have all sorts of people going on leave for a sprained ankle."

Most employers have by now completed the first step: informing employees and devising leave policies in line with Labor Department regulations issued last summer. Step two was bracing themselves for what did not happen: all these people going on leave. And while some implementation details of the legislation remain unclear, such as how to coordinate leave and group health benefits for former employees, "the doomsday predictions were not true," Mr. Koss said. "I can't confirm this statistically, but I suspect that those who would have gone went. If you have to take a leave for chemotherapy, you don't have much of an option."

D.C. PHONE COMMUNICATION NEEDS IMPROVEMENT

THE SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for 5 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, we have been hearing a lot about the information superhighway which will ease our lives in the future. But any such superhighway will need road signs, so that we can find our way, and my review of an existing part of that system—the local phone service here in Washington—suggests that low-tech ignorance and insensitivity can exist in even the most state-of-the-art electronic network.

More specifically, if you use the local phone book, you will have a very hard time reaching most of the islands in the South Pacific. This is the case because the local phone company has not chosen to list the country codes of all the nations of the world.

A friend tried to make some calls to the Pacific. First, he found that the

Marshall Islands, formerly a U.S. trust territory, and now an associated state to the United States, with an Embassy in this city, did not have either a country or an area code listed in the phone book. The Federated States of Micronesia, also an associated state to the United States, is in the same situation. So in Western Samoa.

Worse is the treatment of the Commonwealth of the Northern Mariana Islands, a U.S. territory. It is not mentioned in the phone book, but Saipan is. It would be like listing Georgetown but not the District of Columbia. Saipan is the largest of the Marianas Islands, but is not a separate entity.

The phone company should provide a complete listing of all the nations of the world and major islands not just what appears to be a list of the big ones and a random sample of the rest.

Let we point out some of the places listed, and not listed on pages 28, 29, and 30 of the District of Columbia phone book. There is a country code for St. Helena—Napoleon's prison in the South Atlantic—with a population of 7,000, but none for the Solomon Islands, where there are 360,000 people. There are two listings for Greenland, both for the island as a whole, and for its capital Godthaab—but none for Tonga. Similarly, tiny, land-locked San Marino and Liechtenstein each have two listings, but there is not one for Kiribati, the former Gilbert Islands, with a population larger than the two European enclaves combined.

In short, there seems to be a strong Eurocentric, Atlantic Basin bias at work here. These kinds of listings show a disrespect for the Pacific Islands and the people therein.

Even within the Pacific there is a randomness that suggests a lack of either concern or knowledge. But list Palau, but not the Marshalls and Micronesia? Why list Nauru with a population of about 8,000, and not Vanuatu with a population of 175,000? And why not use the correct name of the country, which is Fiji; it has not been Fiji Islands for decades.

This was called to the local phone company's attention, but all we got was a lame reply that since they, as a corporation, do not handle international calls, they really had no obligation to provide any listings at all.

While I have not studied the matter, I am told that the telephone company in Fort Lauderdale handles this matter much better. The difference is simple; they seem to list all the nations in the world, and just use smaller type; why can't that be done here?

Meanwhile, thanks to another insensitivity on the part of the national phone system the U.S. territories in the Pacific are all treated like foreign countries. You have to dial 011 and then a country code to reach Palau, Guam, the Northern Marianas and my own American Samoa. You can just dial 1 and an area code to all of Canada, to Puerto Rico, to the U.S. Virgin Islands, and to most of the other nations in the Caribbean. Some places are more equal than others.

Fixing the dialing system to the Pacific islands would be complicated, I am sure; but the local phone company can remedy the problem with the country codes in the next edition of the phone books. It does not seem to be too much to ask.

A VISIT FROM THE TAX MEN—WITH APOLOGIES TO CLEMENT C. MOORE AND ST. NICK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HORN] is recognized for 5 minutes.

Mr. HORN. Mr. Speaker, knowing the friendship you and I have and operating on a bipartisan basis, I only wish that the House were meeting tomorrow, since tomorrow is a day that the Democrats should really be celebrating, which is the national tax day. I have a little bit of advice based on a visit from the tax man, with apologies to Clement C. Moore and also to St. Nick.

□ 1730

Twas the night before Tax Day, When all through the land, Not a creature was stirring, Not a soul was on hand.

But the tax forms were hung by the doors with great fear; In hopes that the Democrats wouldn't come near.

The taxpayers were cowering, hiding under their beds, While visions of "tax and pretend" Democrats danced in their heads.

And Mama with her 1040's, and I with my pen, Were waiting with our wallets to be cleaned out again.

When out on the lawn there arose such a clatter, I sprang from my bed to see what was the matter.

Away to the window I flew like a flash, Tore open the shutters and threw up the sash, not the cash.

The moon shown down with a strange, eerie glow, Giving luster to the broken tax promises strewn out below.

When what to my wondering eyes should appear, But a Democratic Congress and their tax collecteers.

With a jolly-faced driver and his tax bags to fill, I knew in a moment it must be Saint Bill.

More rapid than eagles the collectors they came, While the Democrats whistled and called them by name:

"On Increased Spending." "On Retroactivity."

"On Middle Class Poverty. "Yes, onward Proclivity."

"To the largest tax boost in history, passed by a margin of one."

"To the greatest tax hike ever under the sun."

They went straight to their work, deterred they were not. Now they've got what it takes to get what we've got.

They sprang to their sleigh, to the collectors gave a whistle, And the taxes flew higher than the pollen of a thistle.

"Now dash away, dash away, let's watch the taxpayers fret. They said the Democratic tax boost will sink them even deeper in debt."

But I heard the Democrats explain, ere they drove out of sight, "Happy Tax Day to all, and to all a good night."

WE NEED A WAR AGAINST GUNS

The SPEAKER pro tempore. Under a previous order of the House the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

Mr. OWENS. Mr. Speaker, the House is presently considering the crime bill, and this afternoon we experienced something that might be called a frenzy, a frenzy of applications of the death penalty. We seem to be preoccupied with death. In fact, Mr. Speaker, the entire approach to crime in the United States of America by this body appears to be a barbarian's approach. We are acting as if we were uncivilized. Never before have so many educated, well educated, men and women behaved in such a ridiculous way. I am as concerned about crime as anybody in America, but I do not think we are going to solve the crime problem with a preoccupation with death. I do not think we are going to solve the crime problem by expending enormous amounts of money to build prisons.

Mr. Speaker, what we are doing is contrary to what scientific evidence shows and contrary to people who know about crime, and penology, and rehabilitation geriatrics. Most of the crime is committed by young people, and yet we are moving to put people in prison for long periods, which means we will have nursing homes on a massive scale paid for by the taxpayers.

There are numerous things that just do not add up, Mr. Speaker, but nobody wants to look at it now. The frenzy is on, and I say, "You jump in the middle of the frenzy, and nobody is going to hear you, so I'm delighted to have this 5 minutes to just speak in a quiet moment when reason might be heard."

There is one element of fraud in all of these proceedings related to crime. I do not want to appear to say to my colleagues they are not sincere. Large numbers of them are sincere. I think most are sincere. I think most want to solve the crime problem, and they think they are doing the right thing. But there is an element of fraud in the proceedings in that guns are not addressed at all in terms of the dimensions that guns contribute to the problem.

Mr. Speaker, guns in America are the major problem of crime. Guns are the element that make crime so deadly. There is less crime according to the surveys being done by the FBI and all other studies. There is really less crime. The crime rate is going down in most of our big cities. But the perception of the citizenry is that there is more crime because crime is more deadly and more dangerous, and what makes crime more dangerous? The proliferation of guns in our society, the fact that there are so many more guns.

Mr. Speaker, a few months ago they were quoting a figure of 200 million guns available in America right now. Already they modify the figure. It is more like 215 million available. Pretty soon we will have a gun for every American.

Unlike any other industrialized nation, Mr. Speaker, we continue to ignore the power of guns and the impact of guns on our society, the way guns make life more dangerous for Americans. Crime is more deadly because there are more guns. More noncriminals, innocent people, die because of guns, and the danger of guns, bullets, do not know who their targets are. We have had a lot of organized crime battles in the streets in the past: St. Valentine's Day massacre, criminals shooting criminals. But now it is innocent people who die when this gunplay takes place on the streets of New York and other big cities where the population is dense. Innocent people die because guns are in the hands of younger and younger people who do not know how to use them and do not have any conscience in many cases.

Right across the country guns are in the hands of enormous numbers of teenagers and young people. The statistics show every year that more and more people die from guns at a younger and younger age.

We need a people's crusade against guns. Obviously it is not going to come from the Congress. Obviously we are going to act as if guns are not a problem. We are going to turn our back on the obvious statistics where nations, like Japan, have less than a hundred people killed by guns last year as well as nations like Great Britain, nations like France, nations like Belgium, Germany. All of the industrialized nations have very tight controls on guns, and there is a definite correlation between their tight controls and the number of people who die from guns each year. We had something like 10,000 or more last year, 10,000 versus less than 100 in Japan, and Germany, and France, and we proceed with a crime bill and have no, no, intelligent discussion of guns and the need to control guns.

The gun lobby has all kinds of friends here. There are people who get very indignant when we talk about controlling guns. But, if we do not talk about controlling guns, we are perpetuating a fraud on the American people. We are endangering our citizens. We are not tackling the crime problem. We are endangering the tourism industry. There are numerous problems which flow from the refusal to address the problem of guns on the floor of this House.

The House will not do it; Congressmen will not do it. We need a people's crusade. The people are going to have to make war against guns in order to really begin to end the crime that is most dangerous in our streets.

PARLIAMENTARY INQUIRY

Mr. DORNAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. TUCKER). The gentleman will state his parliamentary inquiry.

Mr. DORNAN. Are there any 60-minute special orders tonight?

The SPEAKER pro tempore. The Chair is not aware of any.

Mr. DORNAN. Then I would ask unanimous consent to be allowed to address the House for 20 minutes and to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California [Mr. DORNAN] for 20 minutes.

THE TRAGEDY OF FRIENDLY FIRE

Mr. DORNAN. Mr. Speaker, the reason I made that parliamentary inquiry is that I did not want to be rude, because I had not been on the earlier call for special orders and inserted myself with an even 20 minutes ahead of someone who is waiting patiently for 60 minutes. This is the getaway Thursday, and that is why I will speak for only 20 minutes. I could speak for a full hour on this issue because it is one of the most tragic subjects in military affairs: the subject of friendly fire; the subject of hurting, wounding, and killing our own allies, our own men.

□ 1740

Mr. Speaker, we had far too many incidents of friendly fire death in Desert Storm. As a matter of fact, it was such a high percentage—25 percent—it was shocking. Of the 146 killed in action, 35 were friendly fire. That means 111 were killed by combat operations, and 35 by mistake.

Now, the reason I took this time tonight is because of a ghastly tragedy that has taken place in the northern no-fly zone of Iraq, where American F-15's the world's greatest fighter, I believe a flight of two, shot down two United States UH-60 Blackhawks, the world's best and largest utility helicopter. This aircraft serves in many, many roles ranging from the Coast Guard and Navy in what they call guard duty, to pick up pilots out of the water. Along with Kanan Sea-Sprite, the Seahawk is still being purchased by the Navy. It is also used, as the MH-60, by our Special Operations forces. It is just an absolutely superb Sikorski helicopter.

Today, 2 of them, with 6 crewmen and at least 14 passengers, including U.N. observers in the Provide Comfort Zone, the Kurdish area north of the 36th parallel, these 2 UH-60 Blackhawks were shot down by 2 U.S. Air Force F-15's.

The President has just had a press conference, and said there were 26 killed. I have called over to the Pentagon for more information. There isn't much available, even to a Member of Congress who is on the Intelligence Committee and Armed Services Committee.

The tapes, the audio, and possibly videotapes of the incident, this horrible incident, have been impounded for an investigation ordered by the White House. The time the incident took place is 0730 zulu. All flying time is predicated on that meridian that runs through Greenwich, England, zulu time.

Zulu time would be 3:30 here. So this happened in the dead of night in Washington, at 3:30 a.m., eastern daylight time.

Now, let us move the daylight, the loss of daylight across the world. 3:30 here is 7:30 in England, 8:30 in Paris and Rome, 9:30 Cairo, and probably 10:30 out in the gulf. So in midmorning, over Iraq, a bright clear sunny day, with what I am hearing, not yet confirmed from the Pentagon, the F-15's were flying out of Incirlik, Turkey, assigned down from Europe. I was in Incirlik the day the Desert Storm land war started and managed to get an observer ride on a Texas KC-135 that was refueling F-15's on the first day of the war, 24 February, 1991. I was the only Member of the Senate or House in the gulf area when the war started, so I know Incirlik very well.

These F-15's out of Incirlik did not want to shoot down two of our own helicopters, filled with people, using the operational name Provide Comfort to help the besieged Kurds in northern Iraq.

This could be prevented some day soon by what is known as millimeter wave technology, which is already developed in the Longbow, as in archery, model of the AH-64 Apache, and this is a battle I am having with the executive branch, that I would hope you, Mr. Speaker, and every Congressman on both sides of the aisle will help me in a crusade to expedite the purchase as fast as we can of off-the-shelf technology which will do something about this horror of friendly fire.

Now, this Hill is already in a turmoil with all the subcommittee meetings on Armed Forces that I have been going to this month. The truth is coming out that the President and the Secretary of Defense, Mr. Perry, were not informed of the F-16 strikes in Bosnia a few days ago, two sorties, or the Marine Corps F-18 strikes the next day, which were delivered in bad weather. You can see that on the audio tapes. My son Mark just called me. I haven't seen them yet. On CNN you can hear the pilot grunting as he pulls G's. You can see the dark river that the infrared camera shows up which actually separates the city of Gorazde, probably the Drina River. One of the planes went back to a field in Italy with a hung bomb, and two of the dropped bombs were duds. One struck near the tank that they were trying to take out that was firing on U.N. military observers, the UNMO's, that are holed up in a bank in Gorazde. I found out yesterday they live in the vault in the bank. The indignities going on that involve U.N. forces, who are trying to stop this genocidal, incestuous civil war that is still tearing apart the Balkans, are unbelievable.

Sooner or later we are going to have a friendly fire incident there, unless we get better command and control. I spoke to 40 NATO officers up to and including several 3-star generals, 1 4-star general, over at the Hyatt Regency today, member of the NATO Warfare College. I had to be the one to bring them the bad tidings of this story as it was first breaking, the friendly fire story in Iraq.

The theme of my remarks to them is that we must have a proper known and understood chain of command, and it must be practiced over and over and over. And that is why we cannot continue to gut our operations and maintenance money, or to be stingy with money that involves identification, friend or foe [IFF] systems. And the resistance I am getting from the Pentagon, because they are receiving such savage meat ax attacks, is that they want to wait and delay all new friendly fire electronic technology, because they are going to wait until the whole army is wired with state-of-the-art, turn-of-the-century, perfect real-time communications, and digitization between every Abrams tank, every Bradley fighting vehicle, every light armored vehicle, every single "Little Bird" MH-6 gunship, every special ops helicopter, every fast moving F-14, -15, -16, -18, Harrier, and A-10. We want everybody to talk to everyone all at once, a billion dollars of new electronic technology, and we want to save all of our dollars, the Pentagon tells me, until we can get that done perfectly at the turn of the century.

That is garbage. We have got to spend the money now for off-the-shelf technology to save lives, even if that system cannot be integrated later with whatever perfect electronic real-time system we come up with to integrate all of our combat systems together.

Mr. Speaker, and the million and a half people that are watching this afternoon, listen to this from the Gulf. These are all good people who put their lives on the line to keep commerce open in the Gulf, to keep oil flowing.

By the way, imagine what Saddam Hussein is doing. Is he out on his porch, this tin pot dictator, shooting off his 9 millimeter in the air because more people died today than died in the entire operation in Grenada? That was 19, with one friendly fire.

How about Urgent Fury in Panama? That operation was 23 lives, plus the young Navy officer, Lieutenant Roberto Paz, Bob Peace, who was executed at the gate the first day, the incident that triggered President Bush's move into Panama. That was 23.

We lost 26 men today. This may be the biggest friendly fire incident since World War II.

Listen to these incidents from the Gulf. January 29, four Marines killed when their LAV is struck by a Tow missile fired from another light armored vehicle west of Kachi.

□ 1750

That was a month before the land war started.

Valentine's Day, February 14, 1991, three soldiers wounded in a small arms exchange during urban clearing operations in the town of Arky Amah Al Jadid, Saudi Arabia. February 24, one Marine killed when his convoy is fired upon by a tank.

February 26, three soldiers killed, three wounded when their armored personnel carrier is hit by machine-gun fire from a tank. February 26, same day, one soldier killed when his vehicle is hit by a premature burst of an artillery round. That is the kind of thing where there is not too much you can do. That sounds like the T.V., 2-hour movie with Carol Burnett, "Friendly Fire," where an artillery shell hit a tree and detonated over friendly forces. Those kind of incidents are almost impossible to prevent in the heat of battle.

The same day, February 26, five soldiers wounded when their Bradley fighting vehicle is incorrectly identified and hit by a TOW missile. That missile is guided by a wire right through the target, always a direct hit.

Same day, February 26, two big M1A1 Abrams tanks hit by fire from another Abrams tank. No casualties. Thank God for the reactive armor on an M1A1 tank.

Same day, February 26, this is all the third day of the land war, two soldiers killed, six wounded when their Bradley, operating in reduced visibility, is fired upon by a friendly M1 Abrams tank. That is one, two, three, four, five incidents happening, well, given that the war started the night before, the second day in the land war.

The sixth incident that day, two Bradleys, operating at night in reduced visibility, fired upon by an M1. Thank God, no casualties.

Next day, February 27, six soldiers killed, 25 wounded when five M1 tanks and five Bradleys are fired upon by an M1 tank because of incorrect identification.

February 27, two soldiers killed, nine wounded when three Bradleys were fired upon by an M1 tank.

February 27, third of six incidents that day, one soldier killed, one wounded when two Bradleys are identified incorrectly at night in the rain and fired upon by an M1 tank.

February 27, this would be incident four of six, one soldier killed, two wounded, two Bradleys hit by fire from, again, an M1 Abrams while operating in rain and smoke at night during an attack on a bunker.

February 27, two soldiers killed, two wounded when their Bradley is fired upon by an M1 tank. The last incident that day, six of six, one soldier killed, one wounded by machine gun fire when they are identified incorrectly as Iraqi troops.

Now, that was all ground to ground. Let us go back to January, to the 23d. The air war is still going on, a month before the ground war.

An Air Force A-10 Thunderbolt fires on a Marine observation post. Luckily, no one hit. Lucky for that A-10 pilot. He would carry that the rest of his life.

The next day, January 24, one Marine, one soldier wounded, another Thunderbolt A-10 strafes a Marine Corps Humvee and a 5-ton truck 60 miles outside Kafji.

January 29, seven Marines killed, two wounded when an Air Force A-10, this is another "Wart Hog" Thunderbolt II, fires a Maverick missile which malfunctions in flight and hits an LAV—cannot do much about a malfunction.

February 2, still no land war, one Marine killed, two wounded during an attack by a Marine Corps A-6E Intruder using 500-pound bombs after their vehicles are incorrectly identified as being Iraqi.

February 2, same day, two soldiers wounded when a HARM missile, that is a radar killing missile, fired by an Air Force F-4G Wild Weasel does not properly acquire its intended target and locks on the soldiers' radar instead of enemy radar.

February 4, another HARM missile. It is suspected to have landed close to a guided missile frigate, the U.S.S. *Nicholas*. That is the frigate that I launched, laid the keel in, good grief, in Long Beach Shipyards. No casualties; superficial damage to the ship.

February 17, two soldiers killed when a Bradley is struck by a Hellfire missile from an AH-64 Apache, six soldiers wounded. I have seen some of them burned over most of their bodies, face almost burned off on one. They appeared on Phil Donohue's Show with the excellent career lieutenant colonel who, when he fired, after trying to recheck and recheck and recheck, the instant he fires he hears, "Hold fire, friendly fire report."

I can hear his voice now forever in my head: "Don't say that. Don't you tell me that." Because he had a bad feeling something was going to go wrong. This was a lieutenant colonel out in the field with his gunship Apaches. Terrible.

Six days later, the eve of the land war, one Marine is killed, one wounded when a HARM missile from an unarmed source strikes a radar unit. February 24, first day of the land war, a HARM missile, again, a radar killer developed in the last 2 years of the Vietnam War, is suspected to have landed close to another guided missile frigate, the *Jarrett*. Luckily, no casualties.

Here is ship-to-ship. February 25, second day of the land war, guided missile frigate *Jarrett* again fires a chaff rocket, fires at a rocket launched by the battleship *Missouri*, now mothballed, no casualties, some damages, superficial, to the *Missouri*.

March 27, a mine countermeasures ship, the *Avenger*, MCM–1, the ship's alphabetical designation, receives small-arms fire from Kuwait. No casualties.

Ground-to-air, a Navy A–6E pilot reports he is fired upon by a surface-to-air missile in the "good guy" air. No casualties.

What do we do about all these friendly fire incidents? For some of them, it is the fog of battle. Others can be stopped by this, I dug into my files. Here is a DORNAN letter, May 12, 1992, press release, "DORNAN seeks to prevent friendly fire. Amendment added to defense legislation."

And then we are talking about positive things we did. It says:

> The amendment was attached to the Defense Authorization Act for fiscal year 1993 during a hearing Tuesday. The measure must now be considered by the full committee.

It passed. Here is my press release later. It says:

> Here we go, conspicuously horrific shortcomings on friendly fire in the Gulf.

It says:

> I drafted and successfully introduced on Tuesday language to next year's Pentagon funding bill that directs the Army to report on testing of combat identification systems, report due to Congress by January 15, 1993.

That is a year and 3 months ago. It went nowhere. Went nowhere. Why am I being stiffed on this? We are all on the same team here. Let us get this Millemeter Wave Technology going; let's buy these systems. This is one of these things all Congressmen would say, "To blazes with the cost. We want to defend our young men and women out there putting their lives on the line for their country."

We have to fight even to get Purple Hearts for friendly fire. I was in the middle of that fight, leading that fight with Pete Peterson, as a matter of fact, to get Purple Hearts for friendly fire victims, and we got them.

Because they said, well, it may have happened in the heat of combat, but when you are hit by your own troops, you do not get a Purple Heart. How do we know for sure that every incident is not friendly fire, how do we know that bullet does not hit a bullet in the sky or an artillery shell is hit by another shell and the debris drops on our guys. That is combat.

We got these men Purple Hearts that a lot of them did not get in World War II and Korea and Vietnam.

Now, if my figures were correct, 35 out of 146 combat deaths, nearly one-quarter as a result of friendly fire. Add to that the 9 British soldiers killed inadvertently by an A–10 "Wart Hog" Thunderbolt II pilots, it tore these pilots up. They begged to remain anonymous, but they have been sent letters by the British families, demanding that these young pilots come over there and talk to them.

I ask you this question, Mr. Speaker. The AWACS crew that directed these F–15 Eagles in on these two Blackhawk Helicopters today, can they ever fly again together as a crew—Absolutely not. I talked to some of these NATO generals and a couple American flag officers. And I said, that team will have to be busted up and those young men all sent into other AWACS units. Can these two pilots ever fly again?

I would not want to end their careers, but if I were one of those F–15 pilots, I would say, retire me.

I have had it. My flying days are over. This is a tragedy. I will live with the rest of my life.

Suffice it to say, in closing, Mr. Speaker, everybody in the sound of my voice who reads the CONGRESSIONAL RECORD in our libraries across America the next few days and my colleagues watching in their offices, I will be sending you another "Dear Colleague" as soon as we get it out tomorrow. It will be in your offices Monday.

Get behind my proposal to find some money in the defense budget to get state-of-the-art technology off the shelf, irrespective of cost. Get it out in the field as fast as humanly possible. And while we are discussing that, I started flying with IFF, Identification Friend or Foe, back in the middle 1950's. Why were not both of the helicopters and the fast-moving Eagles all equipped with IFF or required to turn on IFF so we would not fire on our own choppers filled with U.N. people trying to help the starving, abused Kurds in the northern Provide Comfort zone.

□ 1800

Trying to provide them comfort, we brought agony to 26 families around the world. Let us get busy on combat identification systems. We sure as heck have the technology.

Mr. Speaker, I include for the RECORD two press releases regarding my efforts on the friendly fire issue, and one article from the Army Times written by Chris Murray:

DORNAN SEEKS TO PREVENT "FRIENDLY FIRE"—AMENDMENT ADDED TO DEFENSE LEGISLATION

WASHINGTON, DC.—Preventing American military casualties from "friendly fire" is the focus of language which U.S. Rep. Robert K. Dornan (R-CA/38) successfully added to next year's Pentagon funding bill.

The amendment was attached to the Defense Authorization Act for fiscal year 1993 during a hearing Tuesday of the House Armed Services Research and Development Subcommittee. The measure must now be considered by the full committee.

Dornan, an avid history buff, said the lessons of the past point to the need for more effective ways of distinguishing between enemy and American or allied forces.

"The majority of our armored vehicles destroyed in the Persian Gulf War was due to friendly fire," said Dornan, who spent the last several months studying various combat identification programs, "but this pales to insignificance to the high percentage of American and allied combatants who lost their lives from the fire of their own friends."

"We have an electronic interrogation device which identifies allied and enemy aircraft, but similar technology needs to be applied to our ground vehicles. Right now, it's definitely a problem that needs to be resolved."

Dornan's amendment directs the Army to submit a report to Congress by January 15, 1993, detailing the results and recommendations of combat identification testing. Provisions in the report would include a description of the technologies tested, the cost and effectiveness of each system, potential detection of the technology by the enemy, and problems which could be caused by environmental factors.

The report will provide Congress with the most accurate and complete information regarding the different combat identification technologies available, according to the congressman.

"The report will allow the House and Senate Armed Services Committees to make informed decisions in the future on these life-saving devices."

Dornan said he discussed his efforts to develop more effective combat identification technology several months ago with Secretary of Defense Dick Cheney.

"The Secretary was immediately interested in my enthusiasm to solve the land identification problem," explained Dornan.

DORNAN PURSUES "FRIENDLY FIRE" SOLUTION—ACCIDENTS WERE "SHORTCOMING" OF PERSIAN GULF WAR, CONGRESSMAN SAYS

WASHINGTON, DC.—U.S. Rep. Robert K. Dornan (R–CA/38) said Wednesday that "friendly fire" accidents were a "conspicuously horrific shortcoming" of the American military's performance in the Persian Gulf War.

Out of 147 U.S. military personnel killed in action during Operation Desert Storm, 35 resulted from "friendly fire." At least nine allied fatalities were so-called victims of "friendly fire."

Since the war's conclusion, Dornan has studied the Pentagon's various combat identification programs. The congressman, having flown Air Force fighters in the late 1950s and early 1960s, said he is very familiar with airborne IFF (identification, friend or foe) systems. What he found during his investigation of the last several months was an effective electronic interrogation system to identify enemy aircraft but no system that adequately identifies ground vehicles.

The Defense Department utilized a makeshift ground identification system in the Middle East but canceled it after the war because of numerous deficiencies. Among its many shortcomings, according to Dornan, was it could not be used during the day, could be copied by enemy forces, and could be used by the enemy to pinpoint American targets.

"The majority of our armored vehicles destroyed during the Persian Gulf War were due to friendly fire," said Dornan, "but an even worse tragedy was the large number of American and allied combatants who lost their lives from the fire of their own friends."

His comments come amid controversy over the "friendly fire" deaths of nine British soldiers who died when American pilots mistook British personnel carriers for Iraqi tanks. Parents of the soldiers have recently petitioned both governments for more information on the accident.

Dornan drafted and successfully introduced on Tuesday language to next year's Pentagon funding bill that directs the Army to report on testing of combat identification systems. The report, due to Congress by January 15, 1993, would include a description of the technologies tested, the cost and effectiveness of each system, potential detection of the technology by the enemy, and problems that could be caused by environmental factors.

"The report will allow both the House and Senate Armed Services Committees to make informed decisions in the future on these life-saving devices," said Dornan.

Several months ago, Dornan discussed his efforts to develop more effective combat identification technology with Secretary of Defense Dick Cheney.

"The Secretary was immediately interested in my enthusiasm to solve the land identification problem," Dornan said.

NEW DEVICES LOWER RISK OF FRIENDLY FIRE

(By Chris Murray)

WASHINGTON.—A report critical of the Army's Battlefield Combat Identification System (BCIS) may jeopardize its funding in the 1995 budget.

The General Accounting Office, in an Oct. 22, 1993, report to Congress, said the Army would be spending money on equipment that eventually might be discarded if it cannot be integrated into a long-term solution to preventing friendly-fire deaths.

The Army had asked for $100 million in the 1995 budget to test a system that uses millimeter-wave signals to identify friendly forces. After the GAO issued its report, the Army scaled back the request to $50 million, said Lt. Col. Bob Sigl, product manager for BCIS.

The Army wants to field the system on 1,520 helicopters and combat vehicles.

But GAO said that would not be enough to support a major conflict and would still leave forces subject to fratricide.

It further concludes the proposed system would not provide adequate coverage to ground forces because it cannot be used on fixed-wing aircraft.

GAO advised the secretary of defense to order the Army not to produce the equipment until it is sure the system can be integrated into long-term combat identification solutions.

Working within the Department of Defense's recommended budget of $50 million, the Army plans to build 45 prototype BCIS systems for testing and evaluation by the end of fiscal 1995, said Sigl.

The Army has been studying ways to prevent friendly fire casualties through its Combat Identification Program ever since 35 American deaths in the Persian Gulf war were attributed to friendly fire.

The specific goal is to provide ground soldiers with equipment that will enable them to identify friendly forces during the heat of battle.

FLASHING LIGHTS

As a quick but temporary fix to the problem, field units now are using battlefield identification systems that employ infrared lighting.

Two of those devices use directional flashing lights that only can be seen with night-vision goggles. They are developed by the Defense Advanced Research Projects Agency and the Army's Communications and Electronic Command.

"Fratricide [friendly fire casualties] can occur almost any time forces are engaged. . . . If you limit the visibility and reduce the information available to those people, you could have units moving parallel and coming in contact with each other," said Col. Thomas Rosner, project manager of the Army's Battlefield Combat Identification System.

"Fighting under nighttime conditions with limited visibility and limited information is probably an excellent scenario for a fratricide."

HEAVY TOLL

During the Persian Gulf War, 24 percent of U.S. battle fatalities and 15 percent of battle injuries were caused by friendly fire.

Of the U.S. tanks and Bradley fighting vehicles disabled during the Gulf War, 77 percent were damaged by friendly fire.

The approach under study and criticized by the GAO report involves the use of millimeter-wave technology. This radio frequency system employs an antenna mounted on the outside of a tank. It would be a separate system integrated into the overall makeup of the tank.

Normally, when a target is acquired, the gunner is ordered by his tank commander to send an invisible laser to determine the vehicle's range. The range appears on the gunner's.

The millimeter wave is activated when the gunner presses the laser button as part of his normal fire control sequence, Sigl said. "It sends a question [invisible signal] to [the unidentified vehicle] that [asks,] 'Are you a friend or foe?'" said Sigl, product manager for the Battlefield Combat Identification System.

Sigl said that when the signal from the millimeter wave is returned from the targeted tank, a light with the word "friend" will appear in the target sight of the tank that sent the signal.

The tank gunner also can activate the millimeter-wave signals by using his target sight, Sigl said.

The Army is studying ways to miniaturize and adapt the millimeter-wave antennas for eventual use by ground soldiers, Sigl said.

The use of soldier-to-soldier voice communications also is being studied for combat identification, Rosner said. The system would use walkie-talkie type-equipment.

The Army had planned to conduct an advanced warfighting demonstration in 1994 to let the soldiers decide which item will do the best job in helping the Army avoid fratricide incidents with ground troops, said Rosner.

"We're trying to look at all of them, let the user play with it, and he can determine which technology is the best way to fit with my tactics and doctrine," he said.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TUCKER). The Chair will note that the gentleman from California [Mr. DORNAN] was recognized as the designee of the minority leader, and that his unanimous consent request should not be considered a precedent under the current announced procedures for special orders longer than 5 minutes.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. WASHINGTON (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of official business.

Mr. BLACKWELL (at the request of Mr. GEPHARDT) for April 13, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CANADY) to revise and extend their remarks and include extraneous material:)

Mr. HORN, for 5 minutes, today.

Mr. BEREUTER, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

(The following Members (at the request of Mr. KOPETSKI) to revise and extend their remarks and include extraneous material:)

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. SABO, for 5 minutes, today.

Mr. FORD of Michigan, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. OWENS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. CANADY) and to include extraneous matter:)

Mr. SHUSTER.

Ms. ROS-LEHTINEN.

Mr. QUINN.

Mr. GILMAN in 3 instances.

Mr. BEREUTER.

Mr. HORN.
Mr. GOODLING.
Mr. BUNNING.
Mr. KYL.
Mr. SAM JOHNSON of Texas.
Mr. GILLMOR.
Mr. YOUNG of Alaska.
Mr. GUNDERSON.
Mr. GOODLING.
Mr. PACKARD.
Mr. PORTMAN.

(The following Members (at the request of Mr. KOPETSKI) and to include extraneous matter:)

Mrs. SCHROEDER.
Mr. SCHUMER.
Mr. TRAFICANT.
Miss COLLINS of Michigan.
Ms. PELOSI.
Mr. ACKERMAN.
Mr. RICHARDSON, in four instances.
Mr. FAZIO.
Mr. MATSUI, in three instances.
Mr. BLACKWELL.
Mr. GORDON.
Mr. LANTOS, in two instances.
Mrs. THURMAN.
Mr. SARPALIUS.
Mr. STUPAK.
Mr. CLAY, in two instances.
Mr. FRANK of Massachusetts, in two instances.
Ms. MARGOLIES-MEZVINSKY.
Mr. MINETA.
Mr. COYNE.
Mr. DEUTSCH, in two instances.
Mr. TUCKER.
Mr. NADLER.
Mr. HAYES.
Mr. HINCHEY, in three instances.
Mr. TOWNS.

(The following Members (at the request of Mr. DORNAN) and to include extraneous matter:)

Mr. EMERSON.
Mr. SAXTON.
Mr. JOHNSON of South Dakota.
Mr. DE LA GARZA.
Mr. ROSTENKOWSKI.
Ms. VELÁZQUEZ.
Mrs. FOWLER.
Mr. REED.
Mr. MILLER of California.
Mr. PARKER.
Ms. KAPTUR in four instances.
Ms. LAMBERT.
Mr. SAXTON.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 455. An act to amend title 31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes to the Committee on Natural Resources.

SENATE ENROLLED BILL SIGNED

The Speaker announced his signature to an enrolled bill of the Senate of the following title:

S. 2004. An act to extend until July 1, 1998, the exemption from ineligibility based on a high default rate for certain institutions of higher education.

ADJOURNMENT

Mr. DORNAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock p.m.), under its previous order, the House adjourned until Monday, April 18, at 10:30 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 1617. A bill to authorize the establishment on the grounds of the Edward Hines, Jr., Department of Veterans Affairs Hospital, Hines, II, of a facility to provide temporary accommodations for family members of severely ill children being treated at a nearby university medical center, (Rept. 103–476); Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 4013. A bill to amend title 38, United States Code, to provide the Secretary of Veterans Affairs with necessary flexibility in staffing the Veterans Health Administration, to authorize the Secretary to establish pilot programs for health care delivery, and for other purposes; with amendments (Rept. 103–477). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of Rule X the following action was taken by the Speaker:

Referral to the Committee on the Judiciary of H.R. 1593 extended for a period ending not later than April 29, 1994.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GILMAN:

H.R. 4210. A bill to authorize the President to establish a program to assist the transition to full NATO membership of Poland, Hungary, the Czech Republic, and Slovakia by January 1999; to the Committee on Foreign Affairs.

By Mr. BLUTE (for himself and Ms. ESHOO):

H.R. 4211. A bill to provide for the coordination within the Federal Government of biotechnology research and development; jointly, to the Committees on Energy and Commerce and Science, Space, and Technology.

H.R. 4212. A bill to stimulate the research and development of biotechnologies; to the Committee on Ways and Means.

By Mr. RICHARDSON (for himself, Ms. FURSE, Mr. WYNN, Mr. KOPETSKI, Mr. DEFAZIO, Ms. NORTON, Mr. KILDEE, Mr. OLVER, Mr. ROSE, and Mr. HAMBURG):

H.R. 4213. A bill to amend the Land and Water Conservation Fund Act to authorize the Secretary of the Interior to establish a national registry of rivers and watersheds to be protected and restored, and for other purposes; jointly, to the Committees on Natural Resources, Merchant Marine and Fisheries, and Agriculture.

By Mr. APPLEGATE:

H.R. 4214. A bill to amend chapter 83 of title 5, United States Code, to provide that the 2 percent reduction in annuity for each year a Federal employee is under 55 years of age at the time of retiring be eliminated if the separation is due to a reduction in force; to the Committee on Post Office and Civil Service.

By Mr. BAKER of California (for himself, Mr. CRAPO, Mr. GALLEGLY, Mr. EMERSON, Mr. SOLOMON, Mr. STUMP, Mr. BARTLETT of Maryland, Mr. LEVY, Mr. LIPINSKI, Mr. DOOLITTLE, Mr. LIVINGSTON, Mr. COX, and Ms. ESHOO):

H.R. 4215. A bill to amend the Internal Revenue Code of 1986 to increase the deduction for retirement savings, to permit nonemployed spouses a full IRA deduction, and for other purposes; to the Committee on Ways and Means.

By Mr. COYNE:

H.R. 4216. A bill to amend title XVIII of the Social Security Act to limit the amount a provider may charge an individual for an outpatient hospital service furnished under part B of the Medicare Program to 20 percent of the reasonable cost of the service, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. DE LA GARZA (for himself, Mr. JOHNSON of South Dakota, and Mr. MINGE) (all by request):

H.R. 4217. A bill to reform the Federal crop insurance program, and for other purposes; to the Committee on Agriculture.

By Mr. DIAZ-BALART (for himself, Ms. ROYBAL-ALLARD, Mr. BECERRA, Mr. BONILLA, Mr. DE LA GARZA, Mr. GUTIERREZ, Mr. DE LUGO, Mr. MENENDEZ, Mr. ORTIZ, Mr. PASTOR, Mr. RICHARDSON, Mr. ROMERO-BARCELÓ, Ms. ROS-LEHTINEN, Mr. SERRANO, Mr. TEJEDA, Mr. TORRES, Mr. UNDERWOOD, and Ms. VELÁZQUEZ):

H.R. 4218. A bill to reform certain housing programs administered by the Secretary of Housing and Urban Development; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. FOWLER (for herself, Mr. HUTTO, Mr. PETERSON of Florida, Mrs. THURMAN, Mr. MICA, Mr. YOUNG of Florida, Mr. GOSS, Mr. BACCHUS of Florida, Mr. LEWIS of Florida, Ms. BROWN of Florida, Mr. STEARNS, Mr. MCCOLLUM, Mr. BILIRAKIS, Mr. CANADY, Mr. MILLER of Florida, Mrs. MEEK of Florida, Ms. ROS-LEHTINEN, Mr. JOHNSTON of Florida, Mr. DEUTSCH, Mr. DIAZ-BALART, Mr. SHAW, and Mr. HASTINGS):

H.R. 4219. A bill to direct the Secretary of the Interior to make technical revisions to maps relating to the Coastal Barrier Resources System; to the Committee on Merchant Marine and Fisheries.

By Mr. GOODLING (for himself, Mr. CUNNINGHAM, Mr. FAWELL, and Mr. MCKEON):

H.R. 4220. A bill to amend the National School Lunch Act to protect school districts and the Department of Agriculture from anticompetitive activities of suppliers that sell commodities to schools that participate in the school lunch program, the school breakfast program, the special milk program, and the summer food service program for children, and for other purposes; to the Committee on Education and Labor.

By Mr. GOODLING (for himself and Mr. Ford of Michigan):

H.R. 4221. A bill to amend the National School Lunch Act to provide increased flexibility relating to the use of information submitted to determine eligibility under programs under that act and the Child Nutrition Act of 1966, to provide for the establishment of commodity letter of credit [CLOC] demonstration programs in certain States, and to establish a program to assist schools in offering greater quantities of fresh fruits and vegetables under the school lunch program; jointly to the Committees on Education and Labor and Agriculture.

By Mr. GUNDERSON (for himself, Mr. Goodling, Mr. Petri, Mr. Castle, Mr. Hobson, Mr. Shays, Mr. Johnston of Florida, and Mr. Poshard):

H.R. 4222. A bill to amend the Job Training Partnership Act to establish a workforce skills and development loan program to provide grants to States to guarantee loans made to employers, representatives of employees, and other entities to provide skills upgrading for non-managerial employees, and for other purposes; to the Committee on Education and Labor.

By Mr. KYL:

H.R. 4223. A bill to establish a commission to examine the costs and benefits, and the impact on voter turnout, of changing the deadline for filing Federal income tax returns to the date on which Federal elections are held; to the Committee on Ways and Means.

By Mr. LAMBERT (for himself, Mr Emerson, Mr. Barlow, Mr. Thornton, Mr. Whitten, Mr. Dickey, Mr. Fields of Louisiana, Mr. Jefferson, Mr. Baker of Louisiana, Mr. McCrery, and Mr. Tanner):

H.R. 4224. A bill to direct the Secretary of the Interior and the Secretary of Energy to undertake initiatives to address certain needs in the Lower Mississippi Delta Region, and for other purposes; jointly, to the Committees on Natural Resources, Energy and Commerce, Science, Space, and Technology, and Banking, Finance and Urban Affairs.

By Mr. LEHMAN:

H.R. 4225. A bill to amend the Internal Revenue Code of 1986 to prevent fraudulent claims for the earned income credit; to the Committee on Ways and Means.

By Mr. MACHTLEY:

H.R. 4226. A bill to amend the Federal Water Pollution Control Act to provide for a national estuary pollution prevention demonstration program; jointly, to the Committees on Public Works and Transportation and Merchant Marine and Fisheries.

By Mr. MANTON (for himself, Mr. Rose, and Ms. Dunn):

H.R. 4227. A bill to amend title 5, United States Code, to provide that the mandatory retirement age for members of the Capitol Police be made the same as the age applicable to law enforcement officers; jointly, to the Committee on Post Office and Civil Service and House Administration.

By Mr. MILLER of California (for himself, Mr. Doolittle, and Mr. Richardson):

H.R. 4228. A bill to extend Federal recognition to the United Auburn Indian Community of the Auburn Rancheria of California; to the Committee on Natural Resources.

By Mr. RICHARDSON (for himself and Mr. Thomas of Wyoming):

H.R. 4229. A bill to amend the Solid Waste Disposal Act to enable Indian tribes to enforce provisions of the act relating to leaking underground storage tanks on Indian lands, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. RICHARDSON:

H.R. 4230. A bill to amend the American Indian Religious Freedom Act to provide for the traditional use of peyote by Indians for religious purposes, and for other purposes; to the Committee on Natural Resources.

By Mr. RICHARDSON (for himself and Mr. Thomas of Wyoming):

H.R. 4231. A bill to prohibit regulations that classify, enhance, or diminish the privileges and immunities of an Indian tribe relative to other federally recognized Indian tribes, and for other purposes; to the Committee on Natural Resources.

By Mr. STUPAK:

H.R. 4232. A bill to reaffirm and clarify the Federal relationship of the Burt Lake Band as a distinct federally recognized Indian tribe, and for other purposes; to the Committee on Natural Resources.

By Mr. SUNDQUIST:

H.R. 4233. A bill to amend the Internal Revenue Code of 1986 to allow a taxpayer to elect to deduct either State and local income taxes or State and local sales taxes; to the Committee on Ways and Means.

By Ms. VELAZQUEZ:

H.R. 4234. A bill to make grants to local educational agencies and community-based organizations to provide assistance to localities most directly affected by hate crimes; to the Committee on Education and Labor.

By Mr. VOLKMER (for himself, Mr. Rose, Mr. Stenholm, Ms. Long, Mr. Sarpalius, Mr. Peterson of Minnesota, Mr. Holden, Mr. Pomeroy, Ms. Danner, Mr. Andrews of Maine, and Ms. Snowe):

H.R. 4235. A bill to enable milk producers to implement a national Class IV Pool to establish a fair and equitable blend price for milk use in export dairy products, to establish the Dairy Export Marketing Board to administer the Class IV Pool and otherwise work to expand exports of and develop markets for milk and dairy products, and for other purposes; to the Committee on Agriculture.

By Mr. MINETA (for himself, Mr. Bateman, Mr. Cramer, Mr. Klein, Mrs. Byrne, Mr. Walsh, Mr. Oxley, Mr. Brown of California, Mr. Bacchus of Florida, Mr. Valentine, Mr. Kopetski, Mr. Hansen, Mr. Skeen, Mr. Baker of California, Ms. Danner, Mr. Hughes, Mr. Pickett, Mr. Tanner, Mrs. Meek of Florida, Mr. Rohrabacher, Mr. Packard, Mr. Bevill, Ms. Brown of Florida, Mr. Filner, Mr. McCloskey, Ms. Eshoo, Mr. Borski, Mr. Frost, Mr. Andrews of Texas, Mr. Mollohan, Mr. Fingerhut, Mr. Pete Geren of Texas, and Mr. Lipinski):

H.J. Res. 353. Joint resolution designating July 16 through July 24, 1994, as "National Apollo Anniversary Observance"; to the Committee on Post Office and Civil Service.

By Mr. REED:

H.J. Res. 354. Joint resolution designating May 22, 1994, as "National Neighbor Day"; to the Committee on Post Office and Civil Service.

By Mr. SCHUMER:

H. Con. Res. 239. Concurrent resolution concerning the 27th anniversary of the reunification of Jerusalem; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. Filner.

H.R. 300: Mr. Packard.

H.R. 326: Mrs. Kennelly, Mr. Fazio, Mr. Sawyer, Mr. Gingrich, and Mr. Cramer.

H.R. 350: Mr. Minge.

H.R. 417: Mr. Barton of Texas and Mr. Castle.

H.R. 441: Mr. Stark.

H.R. 551: Mr. Rogers.

H.R. 635: Mrs. Vucanovich.

H.R. 649: Mr. Washington.

H.R. 710: Mr. Hutchinson.

H.R. 769: Mr. Gilchrest.

H.R. 790: Mr. Sanders and Mrs. Roukema.

H.R. 885: Mr. Knollenberg and Mrs. Meyers of Kansas.

H.R. 911: Mr. Kasich.

H.R. 1048: Mr. Combest, Mr. Everett, and Mr. Taylor of Mississippi.

H.R. 1056: Mr. Ackerman, Mr. Herger, Mr. Chapman, Mr. Wilson, Ms. Lowey, Mr. Schumer, and Mr. Barlow.

H.R. 1097: Mr. Calvert.

H.R. 1099: Mr. Franks of New Jersey.

H.R. 1164: Mr. Romero-Barcelo, Mr. Zimmer, and Mr. Dixon.

H.R. 1280: Mr. Abercrombie, Mr. Watt, Ms. Brown of Florida, Ms. Cantwell, Mr. Kleczka, Mr. Oberstar, Mr. Farr, Mr. Lipinski, and Mr. Klink.

H.R. 1349: Mr. Stearns.

H.R. 1402: Ms. Danner.

H.R. 1403: Mr. Hutchinson.

H.R. 1434: Mr. Johnson of South Dakota.

H.R. 1444: Mr. Mineta.

H.R. 1452: Mr. Calvert.

H.R. 1487: Mr. Ravenel.

H.R. 1500: Mrs. Unsoeld, Mr. Conyers, and Mr. Zimmer.

H.R. 1527: Mr. Calvert.

H.R. 1627: Mr. Kolbe, Mr. Laughlin, and Mr. Stenholm.

H.R. 1843: Mr. Calvert.

H.R. 1864: Mr. Duncan.

H.R. 1968: Mr. Sam Johnson and Mr. Lewis of Florida.

H.R. 2012: Mr. Bevill, Mr. Dooley, Ms. Eshoo, Mr. Hamburg, Ms. Harman, Ms. Schenk, Mr. Skaggs, Mr. Smith of Iowa, Mr. Andrews of Maine, Mr. Markey, Ms. Slaughter, Mr. Towns, Mrs. Clayton, Mr. Derrick, Mr. Brooks, Mr. Bryant, Mr. Chapman, Mr. Coleman, Mr. Gonzalez, Mr. Hall of Texas, Mr. Laughlin, Mr. Ortiz, Mr. Pickle, Mr. Washington, Mr. Brown of California, Mr. Poshard, Mr. Torricelli, Mr. Schumer, Mr. Ford of Tennessee, Mr. Gordon, and Mr. Mollohan.

H.R. 2019: Ms. Velazquez and Mr. Hamburg.

H.R. 2120: Mr. DeLay.

H.R. 2228: Mr. Calvert.

H.R. 2418: Mr. Oxley.

H.R. 2420: Mr. Lipinski, Mr. Thompson, Mr. Reynolds, Mr. Deutsch, Mr. Manton, and Mrs. Lloyd.

H.R. 2438: Mr. Hinchey.

H.R. 2541: Mr. Hutchinson.

H.R. 2708: Ms. Danner and Mr. McCrery.

H.R. 2720: Mr. Herger, Mr. Stark, and Mr. Machtley.

H.R. 2727: Mr. Wheat, Mr. Hamburg, and Mr. Waxman.

H.R. 2873: Mr. McMILLAN, Mr. LANTOS, Mrs. THURMAN, Mr. EMERSON, Mr. HORN, Mr. McDADE, Mr. FIELDS of Texas, Mr. PALLONE, Mr. HOAGLAND, Mr. DICKEY, Mr. GALLEGLY, Mr. TALENT, Mr. SANTORUM, Mr. KYL, Mr. KLEIN, and Mr. WALSH.

H.R. 3017: Mr. KLUG, Mr. INGLIS of South Carolina, and Mr. PACKARD.

H.R. 3100: Mr. JOHNSTON of Florida.

H.R. 3246: Mr. BAESLER, Mr. BOEHNER, Ms. BROWN of Florida, Mr. BUNNING, Mr. KANJORSKI, Mr. LEWIS of Georgia, Mr. McNULTY, Mr. REYNOLDS, Mr. SCHAEFER, Mr. SWETT, Mr. VOLKMER, and Mr. KLUG.

H.R. 3261: Mr. BARTLETT of Maryland, Mr. ROTH, Mr. HASTINGS, Ms. NORTON, Mr. RICHARDSON, Mr. KLINK, Mr. CRAPO, Mr. ROSE, Mr. VISCLOSKY, Ms. ESHOO, Mr. DeFAZIO, Mr. CALLAHAN, Mr. DREIER, Mr. HOBSON, Mr. GILLMOR, Mr. COMBEST, Mr. SANTORUM, Mr. SMITH of Michigan, Mr. MARTINEZ, and Mr. LIGHTFOOT.

H.R. 3266: Mr. KYL, Ms. SNOWE, Mr. SENSENBRENNER, Mr. CLEMENT, Mr. HUTTO, Mr. GOODLING, and Ms. CANTWELL.

H.R. 3293: Mr. SMITH of New Jersey, Mr. WILLIAMS, and Mr. JEFFERSON.

H.R. 3309: Mr. RAMSTAD, Ms. KAPTUR, and Ms. WOOLSEY.

H.R. 3327: Mr. UNDERWOOD.

H.R. 3333: Mr. COX.

H.R. 3347: Ms. WATERS, Mr. PAYNE of New Jersey, and Mrs. SCHROEDER.

H.R. 3389: Mr. EVANS and Mr. LIPINSKI.

H.R. 3482: Mr. REYNOLDS.

H.R. 3486: Mrs. JOHNSON of Connecticut.

H.R. 3490: Mr. PETERSON of Minnesota and Mr. MONTGOMERY.

H.R. 3491: Mr. STEARNS, Mr. DORNAN, Mr. CALVERT, and Mr. BATEMAN.

H.R. 3513: Ms. ESHOO.

H.R. 3523: Mrs. VUCANOVICH, Mr. DELLUMS, and Ms. WOOLSEY.

H.R. 3527: Mr. SERRANO.

H.R. 3561: Mr. WATT, Ms. MOLINARI, Mr. MORAN, Mr. McDERMOTT, Mr. HILLIARD, and Mr. DELLUMS.

H.R. 3634: Ms. FURSE, Mr. ANDREWS of Maine, and Mr. MEEHAN.

H.R. 3636: Mr. KENNEDY, Mr. SHAYS, Mr. TAUZIN, and Mr. SCHAEFER.

H.R. 3651: Mr. OXLEY.

H.R. 3694: Mr. ORTON, Mr. VENTO, Mr. PARKER, Mr. YATES, Ms. McKINNEY, Mr. SAWYER, Mr. CALVERT, Mr. SCOTT, Mr. ENGEL, Mr. VELAZQUEZ, Mrs. JOHNSON of Connecticut, Mr. CLEMENT, Mr. HOCHBRUECKNER, Mr. ABERCROMBIE, Mr. PETERSON of Minnesota, and Mr. REYNOLDS.

H.R. 3704: Mr. GILCHREST.

H.R. 3739: Mr. DUNCAN, Mr. CALLAHAN, Mr. INHOFE, and Mr. ISTOOK.

H.R. 3771: Mr. BISHOP.

H.R. 3811: Mr. LEWIS of California.

H.R. 3818: Mr. RAHALL.

H.R. 3830: Mr. ANDREWS of Texas, Mr. CANADY, Mr. DIAZ-BALART, Mr. GORDON, Mr. KOPETSKI, Mr. MINETA, Mr. SHAYS, and Mr. WYNN.

H.R. 3843: Mr. REYNOLDS.

H.R. 3844: Mr. REYNOLDS.

H.R. 3853: Mr. EVANS and Mr. FILNER.

H.R. 3873: Ms. FURSE and Mr. RICHARDSON.

H.R. 3879: Mr. DARDEN, Mr. STARK, Mr. ANDREWS of New Jersey, Mr. FLAKE, Mr. THOMAS of Wyoming, Mr. DIAZ-BALART, Mr. GRAMS, Mr. SKELTON, and Mr. RUSH.

H.R. 3895: Mr. SOLOMON.

H.R. 3897: Mr. BAKER of California.

H.R. 3900: Ms. DeLAURO, Mr. DELLUMS, Mr. MOLLOHAN, Mr. GONZALEZ, and Mr. QUINN.

H.R. 3932: Mrs. SCHROEDER.

H.R. 3947: Mr. ROSE, Ms. PELOSI, Mr. McDERMOTT, Mr. THORNTON, Mr. DeFAZIO, Mr. BARRETT of Wisconsin, and Mr. STUDDS.

H.R. 3948: Mr. TUCKER, Ms. COLLINS of Michigan, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 3955: Mr. BARLOW, Mr. BOEHNER, Mr. VALENTINE, and Mr. COLLINS of Georgia.

H.R. 3966: Mr. GUTIERREZ.

H.R. 3978: Mr. HERGER.

H.R. 3986: Mr. SOLOMON and Mr. GUTIERREZ.

H.R. 3990: Mr. JOHNSON of South Dakota, Mr. MOAKLEY, and Mr. REYNOLDS.

H.R. 4013: Mr. SANGMEISTER.

H.R. 4019: Mr. ACKERMAN, Mr. EVANS, Mr. TRAFICANT, Mr. FROST, and Mr. FRANK of Massachusetts.

H.R. 4042: Mr. BROWN of California.

H.R. 4051: Mr. BROWN of California.

H.R. 4057: Mr. WYNN, Mr. PARKER, Mr. MINGE, Mr. INHOFE, Mr. RAVENEL, Mr. STUPAK, Mr. BARTLETT of Maryland, Mr. BEREUTER, Ms. CANTWELL, Mr. JOHNSON of Georgia, Mr. BROWN of Ohio, Mr. KNOLLENBERG, Mr. DOOLITTLE, Mrs. VUCANOVICH, Mr. INSLEE, Mr. SCHAEFER, and Mr. DOOLEY.

H.R. 4064: Mr. ROMERO-BARCELÓ and Mr. GUTIERREZ.

H.R. 4065: Mr. ROMERO-BARCELÓ and Mr. GUTIERREZ.

H.R. 4094: Mr. GOODLING.

H.R. 4095: Mr. LEWIS of Florida and Mr. GOODLING.

H.R. 4135: Mrs. MEYERS of Kansas, Mr. SARPALIUS, Mr. CHAPMAN, Mr. TEJEDA, Mr. EDWARDS of Texas, Mr. BROOKS, Mr. GENE GREEN of Texas, Mr. PORTER, and Mr. SWIFT.

H.R. 4138: Mr. MORAN, Mr. MEEHAN, Mr. BARLOW, and Mr. STARK.

H.J. Res. 20: Mr. BARRETT of Wisconsin.

H.J. Res. 163: Mr. KIM.

H.J. Res. 171: Mr. DUNCAN and Mr. CRANE.

H.J. Res. 199: Mr. FAWELL, Mr. HORN, Mr. EMERSON, Mr. ROSE, Ms. PRYCE of Ohio, Mr. BACCHUS of Florida, Mr. BLUTE, Mr. GOSS, Mr. CRAMER, Mr. REGULA, Mr. SKEEN, Mr. ROEMER, Mr. BERMAN, Mr. HANCOCK, Mr. McCANDLESS, Mr. BROWN of California, Mr. TORRES, Mr. FINGERHUT, Mr. DICKS, Mr. DREIER, Mr. SANDERS, Mr. GENE GREEN of Texas, Mr. NEAL of North Carolina, Mr. CLAY, Mr. WALSH, Mr. DeFAZIO, Mr. SHAYS, Mr. LINDER, Mr. BISHOP, Ms. LONG, Mr. EHLERS, Mr. MEEHAN, Mr. MONTGOMERY, Ms. LOWEY, Ms. WOOLSEY, Mr. BALLENGER, Mr. TALENT, Ms. NORTON, Mr. RIDGE, Mr. YOUNG of Alaska, and Mr. GUTIERREZ.

H.J. Res. 209: Mr. RAVENEL, Mr. NEAL of Massachusetts, and Mr. LIPINSKI.

H.J. Res. 284: Mr. DURBIN.

H.J. Res. 302: Mr. RICHARDSON, Mr. KLUG, and Mrs. BENTLEY.

H.J. Res. 320: Mr. BATEMAN and Mr. MARTINEZ.

H.J. Res. 327: Mr. RICHARDSON, Mr. McDADE, Mr. OXLEY, Mr. TALENT, and Mr. PETRI.

H.J. Res. 328: Mr. HOCHBRUECKNER, Mr. GALLEGLY, Mr. HOBSON, and Mr. STOKES.

H.J. Res. 333: Ms. SLAUGHTER.

H.J. Res. 344: Mr. WOLF, Mr. WILSON, Mrs. THURMAN, Mr. JOHNSON of South Dakota, Mr. McNULTY, Mr. REYNOLDS, Mr. HOCHBRUECKNER, Mr. KING, Mr. DEUTSCH, and Mr. ACKERMAN.

H. Con. Res. 120: Mr. DeLAY.

H. Con. Res. 124: Mr. VISCLOSKY and Mr. PETRI.

H. Con. Res. 162: Mr. DURBIN.

H. Con. Res. 202: Mrs. LLOYD.

H. Res. 26: Mr. BEREUTER and Mr. KINGSTON.

H. Res. 117: Mr. HUTCHINSON.

H. Res. 122: Mr. ZELIFF.

H. Res. 291: Mr. BURTON of Indiana.

H. Res. 368: Mr. SCHIFF, Mr. MORAN, Mr. LEWIS of Georgia, Mr. BARRETT of Wisconsin, and Mrs. MEEK of Florida.

H. Res. 377: Mr. SOLOMON.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 1 by Mr. SOLOMON on the bill H.R. 493: Robert K. Dornan and J. Dennis Hastert.

Petition 10 by Mr. McCOLLUM on House Resolution 295:

Petition 11 by Mr. RAMSTAD on House Resolution 247: Bill Baker.

Petition 12 by Mr. TRAFICANT on H.R. 3261: Luis V. Gutierrez, Toby Roth, Don Young, Gene Taylor, Joel Hefley, John J. Duncan, Jr., Bill Emerson, Dan Burton, Michael D. Crapo, Sonny Callahan, Larry Combest, Paul E. Gillmor, Nick Smith, David Dreier, Rick Santorum, David L. Hobson, Bill Baker, Fred Upton, Philip M. Crane, Matthew G. Martinez, and Christopher H. Smith.

Petition 13 by Mr. SMITH of New Jersey on House Resolution 281: Jim McCrery, James T. Walsh, and Richard H. Baker.

Petition 15 by Mr. BILIRAKIS on House Resolution 382: Porter J. Goss, Corrine Brown, Tillie K. Fowler, Robert K. Dornan, Peter Blute, Frank Tejeda, and James M. Inhofe.

SENATE—*Thursday, April 14, 1994*

(Legislative day of Monday, April 11, 1994)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Behold, how good and how pleasant it is when we dwell together in unity!—Psalm 133:1.

Gracious Father in Heaven, we ask for a very special touch of God upon the Senators today and throughout this weekend as they meet in their party conferences to do whatever their agenda may be. Grant to them safety in travel going and coming, a sense of Your presence in the conference, and a desire to be servants of God as well as of the people. Grant them guidance as their agenda unfolds, wisdom in approaching whatever issues arise, a fresh sense of the desperate need of the world for American leadership, and the desperate need in America for strong leaders who will guide the Nation in its vital responsibility to the world.

May the weekend be a time of strengthening family relationships for those families present, to deepen personal relationships between the Senators, and enlarge their vision to comprehend the strategic position in which they serve the people, the Nation, and the world.

We pray in His name who is the King of Kings and the Lord of Lords. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 14, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

In my capacity as a Senator from Wisconsin, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GORTON. Mr. President, is the Senate in morning business?

The ACTING PRESIDENT pro tempore. That is correct.

AIRSTRIKES IN GORAZDE

Mr. GORTON. Mr. President, one of the bitter lessons of the Vietnam war was that before engaging in any military conflict, the United States should be clear in its objectives and assure that it has the support of the American people. This lesson served us well in the Gulf war, but was forgotten during our operations in Somalia.

Over the last several days, the Clinton administration seems again to have ignored that lesson, this time in an area that could be far more dangerous to American servicemen than was Somalia. Our airstrikes in Gorazde pursue vague goals, which by themselves do not seem worthy of American lives.

Earlier this week, President Clinton said that the United States provided airstrikes in order to protect endangered peacekeepers, but peacekeepers have been endangered in a number of earlier instances, and neither the United States or any other country has provided air support. Instead, it appears that the administration has begun a wider campaign to use airstrikes to bring a peace settlement in Bosnia, and may be on the verge of increasing our engagement in a conflict in which victory is likely to be elusive, and in which we can discern no vital national interest.

Last weekend's strikes appear to have increased Serb aggression in Gorazde. The Washington Post reported one Gorazde city official as saying, "As a result of the NATO airstrikes, the Serbs are destroying everything * * * this is the worst day since the offensive started." Many military analysts predicted this outcome. A week ago, the Chairman of the Joint Chiefs of Staff, John Shalikshavili, warned that the threat of airstrikes may not be as effective in U.N.-mandated safe havens as they were in Sarajevo.

This raises the question of how the United States, or United Nations, should respond. Does the Clinton administration increase the number of airstrikes, or should it avoid a larger engagement, in the face of increasing hostilities? If we have, in fact, worsened the fighting, can we simply leave? These are questions that we hope the administration has considered.

The administration openly admits, however, that it has not done so. Rather, it has abdicated these decisions to the United Nations. So far, it has used airstrikes only at the request of the British lieutenant general in charge, Michael Rose. The Secretary of State has said that he is comfortable with General Rose's abilities, and will execute any of his requested airstrikes. He had better be comfortable, because apparently he is not only deciding logistics, but other foreign policy issues as well; for example, whether we should continue in the face of worsening hostilities, or how the United States or NATO will end their engagement. This circumstance bears an uncomfortable resemblance to the situation 10 months ago when the administration left its foreign policy in the hands of the United Nations and lost nearly two dozen marines in Mogadishu.

Also as in Somalia, it is unclear that we are risking our servicemen for a worthwhile goal. If we are to take the administration at its word, we are protecting peacekeepers that the Bosnians themselves would prefer be absent if it afforded them the ability to defend themselves. In Gorazde, we are hoping only to stop the siege; we have no plans of removing the troops surrounding the city. And we have no plan at all to help the Bosnians gain the lands that have been stolen from them in this 2-year civil war. At our most optimistic, we hope that the airstrikes will bring the Serbs to agree to a partition that will ratify the gains of their aggression.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Mr. President, this operation is indicative of many of the foreign affairs problems of this administration: we have relinquished much of our decisionmaking to the United Nations, and have not explained how the operation relates to our national interests.

But it also appears to be the sort of incrementalism that we most hoped to avoid after the Vietnam war. With our support the United Nations has taken intermediate steps, and is now considering expanding its role. It has not defined a clear objective and it does not understand how this conflict will end. The United States, for its part, has offered its services without knowing whether the American people support its risks and its expense. All we really know is that a great majority of the American people oppose our direct intervention in this conflict.

It is perhaps just because of this, that the U.N.-arms embargo represents such bad policy, that it approaches and surpasses the boundary between pure policy and immorality. As recently as the Soviet invasion of Afghanistan we provided billions of dollars in aid to people expressing ideas with which we did not agree, except for their desire to be free and to be independent. Yet, almost from the time that the United Nations recognized Bosnia, we have accepted the notion that its citizens were not entitled to fight for their own independence with arms secured, not just from the United States, but from anyplace in the world.

Rather than begin these misplaced and dangerous efforts at ending aggression through airstrikes, the United States should lift this embargo, through the United Nations or unilaterally if necessary, and give the people of Gorazde, and other besieged towns, the opportunity to defend themselves, and the hope for a lasting and just peace.

Mr. HARKIN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Iowa [Mr. HARKIN] is recognized.

THE TAXPAYER EMPOWERMENT ACT

Mr. HARKIN. Mr. President, tomorrow is tax day—the infamous April 15. Millions of Americans will be working through the night today and tomorrow working through the annual rite of preparing their taxes. For most Americans, it is a day they would rather do without. Nobody likes paying taxes. And filling out your tax returns is often not only time consuming and annoying but frustrating. People are frustrated not just over the amount of taxes they pay—they know we need to fund education, training, health, defense, and other things—but more because they feel they do not have any real control over how their tax dollars are spent.

Well, legislation I plan to introduce will begin to change that.

The Taxpayer Empowerment Act will put power directly in the hands of the American people by giving them a real say over how their tax dollars are spent. It says to the American taxpayer it is your money and you deserve to participate directly in how and on what it is spent.

Certainly today people have a voice in how tax dollars are spent through the democratic election process. If they are unhappy with the actions of their representatives, they can vote their Congressman or Senator out of office, and that is the way it ought to be. But the people's control over the budget is at best indirect and often really nonexistent.

Elected officials like to talk about mandates they have from the vote of the people who elected them. In fact, Mr. President, campaigns are often without a great deal of substance. At the congressional level and the senatorial level, they can come down to opposing 30-second TV ads with all too few voters actually understanding the positions of the candidates. Even where there is understanding, the voters in the system face two real choices and only two, of the two major parties. Assuming a vote is made with full knowledge there is considerable likelihood any elected official's view is not going to be the full embodiment of the views of the people that elected that official.

Of course, we live in a representative democracy. In high school and college we learned about Athenian democracy and why this kind of direct democracy cannot work in a more populated and complex society. Certainly it cannot. But I do believe that it would be very beneficial if American citizens had a more direct role and a little bit more power in deciding some issues, particularly in the budget area.

Most taxpayers, of course, do not want to spend hours trying to develop an in-depth understanding of the complex details of the Federal budget. None of us do. But I do believe that people would take the time to carefully consider how major parts of the budget are allocated and how their tax dollars are spent by those of us here in Washington.

So, Mr. President, what I am proposing is a departure from the past, a change, if you will. I am proposing that every American citizen age 18 and older be given an opportunity to express their views in a meaningful way in how their tax dollars are spent. And this should be done at the time they fill out their tax forms every year.

The Taxpayer Empowerment Act is simple and straightforward. Under my proposal, every year, with the tax returns, taxpayers would get one additional form, a single page. On it would be four columns. I have a mock up here of what that single page might look like.

First, there would be a listing of all of the various major spending areas of the budget, what is called the budget functions here in Washington. Again, I want to point out I have taken this from what the President sends to Congress. So these are the kinds of areas that the President will send to Congress indicating what the President's choices are in terms of where money should be allocated.

The next column over here would be the spending in billions of dollars in each one of those categories for that year. In the third column over here would be the percent of the budget, the total percent of the budget that each one of these functions is allocated to. And the last column would be what counts, a blank column. In that blank column we would like taxpayers to fill out what she or he believes we ought to be spending within each of these areas in the next year's budget.

Again, the taxpayers would get this. He or she would be able to see that national defense was $263.7 billion. It was 16.68 percent of the budget. And they are asked how much do you believe we ought to be spending in a percent of the budget? Should it be 16 percent? Should it be 17 percent? Should it be 15 percent?

Here is national resources and environment; 1.37 percent of the budget. We ask the taxpayers do they believe that is where the money ought to be? Do you think it ought be lower? Let us have the taxpayers vote every year when they fill out the tax returns to find out how they would like to have their tax dollars spent.

Now, a few of the categories where people have been investing their own funds and which are in trust funds are listed here: Medicare, Social Security, Government, and other separate pensions like railroad workers pensions. I have included veterans pensions here as well. We filled these columns out to show how much money is spent and what percent of the budget it is. We have not left those blank because those are things that we should not adjust.

So Social Security should not be part of the budget anyway because that is the trust fund that people pay into. Of course, pensions are contracts we made with people. We cannot reduce people's pension because that is a contractural agreement. Nor can we decrease the interest on the national debt and say we are just going to cut it and not pay the interest that is due to bondholders.

So we set these out as an indication of what we spend and what the percent is. But obviously we cannot leave that up to being changed.

There is nothing we can do about interest. We have to pay it.

Again, Mr. President, what I am saying under the Taxpayers Empowerment Act I believe every year when the taxpayer fills out his or her form they ought to give us their idea of how they wish their hard-earned tax dollars are spent.

Now, accompanying this chart would be a detailed explanation of what programs and activities are funded so people would have some basic information. This could be an informational sheet, for example, saying what is Commerce, what are the programs funded under Commerce, or what are the programs funded under education, income security, or veterans benefits. There could be separate informational sheets that could go out so they could have that kind of information. And I would hope that newspapers, magazines, TV, and radio would all increase their discussion of these budget issues recognizing that Americans would be facing this issue and that Americans would have a real say in how their taxpayers' dollars are going to be spent and, therefore, I think it would engender a broader more in-depth public debate.

I think using the main budget functions with some adjustment is a good starting point for discussion. The division of the budget should be sufficiently detailed to give people a real say. But again, we should not make the list so minute that a taxpayer would have to hire an accountant to figure it out.

Obviously, under each one of these divisions there are subdivisions. We can get into hundreds, probably thousands of different programs.

There are those that might say, "Well, I do not want to spend anything on national defense, I want to zero it out, I want to spend zero percent," we all know too well we cannot do that. We cannot make huge changes in 1 year, in defense or energy or transportation or any of these. We can make changes, but obviously we could not zero out a program or make a 50-percent increase or 50-percent decrease. The dislocation would be too great. What I suggest is that the maximum amount any one of these could be shifted either up or down in the single year would be 10 percent. Again, it is difficult to do more than that without causing some serious dislocation. Some areas of the budget could, let us say, over a 5-year period be greatly expanded or reduced if the taxpayers indicated by a great preponderance that they want these decreased or increased by 10 percent a year for 5 years. It is an indication from the taxpayers where they want us to start spending the money.

People should also have the opportunity, Mr. President, to reduce or increase the total amount of spending as well. Again, the amount would be a maximum of 10 percent of the budget subject to the people's choice.

So what I am saying is they would fill out the percent. If it was less than 100 percent that would indicate they want the budget reduced. They say I want 90 percent—I want 90 percent of my tax dollars allocated a certain way, and 10 percent not allocated. That would be 10 percent for deficit reduction. In other words, reduce the overall budget subject to the people's choice by 10 or 5 or 3 percent, or whatever they might suggest.

Mr. President, some might suggest that it is not reasonable that these types of decisions be left to the people as a whole. Some would say they do not have the knowledge or the understanding to do this. I think that is just the kind of inside-the-beltway thinking that has led to the deterioration in public confidence in Government. I believe that Americans would take the responsibility seriously. I think the existence of the process would create a substantive broad public debate about how public funds are really spent.

Some have told me that if we use such a system some crucial areas of the budget like the funds we use for what is called general Government, the money for IRS, some parts of the General Services Administration, the Congress—our salaries and pay—some say that these would be slashed to a point that the Government could not function. Others might say foreign aid is very important to the international standing of our Nation and fear that international affairs would be drastically cut because people are opposed to foreign aid. If that happened it would undermine our position in the world and would hurt various important humanitarian efforts abroad. Well, let us just take a look at that one function, international affairs, listed as the second item up here. The estimated obligations of the Government in that area is $18.8 billion for 1995. That translates into 1.19 percent of the total budget.

Now, the common view is that the public would really slash spending in that area. That is what I have heard. But last year, the Harris poll asked people what percent of the budget was foreign aid. The median person asked said it was 20 percent. Well, 20 percent, I think, would be outrageous. How would taxpayers react if they saw it is 1.2 percent of the total budget? Well, I trust them with this knowledge. I trust the taxpayers with this knowledge. If they saw that, they might want to increase it or decrease it, but I do not think they would slash it to zero and pull us out of the world community.

Again that is sort of inside-the-beltway thinking. I think the more power we give people and the more information they have on which to act, the more responsibly they will act.

So I believe that people will seriously read the summaries that would be provided. As I said before, the existence of this system would result in considerable increases in both printed and media discussion of the pros and cons of spending in various areas. People will look at the percentage devoted to each budget area. And I expect people will, overall, make a reasonable set of choices.

My proposal specifically calls for the President's budget sent to Congress to incorporate the people's choices within this limit of a 10-percent shift in each functional area. The President would propose the precise account-by-account modification within the broad budget area to reach the decreases or increases determined by the people. If the President desires, alternative options could be displayed by the President, if he wanted an alternative. A point of order would stand against the Congress passing budget spending that would not meet the people's choice, as indicated on their tax returns.

Now, of course, that point of order could be overturned by the Congress. And, again, Members of Congress who vote to overturn that would have an opportunity to make their point at that time and in the next election campaign.

Taxpayers, as I said, Mr. President—and I want to make this point very clearly—could call for an overall increase or decrease in spending, as well. Again, if they set their priorities and it added up to 90 percent of the spending, then the total budget would be cut by that much. If on average, taxpayers called for spending of 97 percent of last year's level, that would mean that there was a call for a reduction in projected spending for the following year of 3 percent. But, like the change in the amount that could be spent on a budget function, there would be a limit of a 10-percent shift, 10 percent of the amount subject to the people's choice.

This week, when income taxes are due, it is the appropriate time to begin the drive to give Americans a direct say at how their money is spent and towards the passage of a Taxpayers Empowerment Act.

I ask that those who are interested in this proposal to please contact me, contact my office. Please let me know your thoughts and your specific ideas on how to make this proposal better.

This is an initial proposal. It is subject to change. There may be others who have different views, other better thoughts than I have come up with on how to delineate this and how better to do it. But I do believe it ought to be incorporated in our tax returns every year.

The taxpayers, when they file their tax returns, ought to be able to indicate to us how they want their tax dollars spent. I believe we have an obligation to pay attention to that.

So I am going to try to incorporate new ideas into my proposal prior to introduction. I hope to be introducing this legislation within the next few weeks. I hope that those who are interested in this effort will please let me know and give me the benefit of their advice and their consultation and their suggestions.

Mr. President, tomorrow is tax day, the day when the American citizens stand up in line and pay their taxes to keep our country running. I say it is time to give them a little bit more power and a little bit more choice in saying how those taxpayer dollars are spent.

Finally, I would like to note some miscellaneous points that I think should be included in legislation that I am developing.

The decisions will be based on a one-person, one-vote basis. The vote will be done through a form to be attached to the Federal individual income tax form. Filing of the form would not be mandatory. But, there would be a requirement that a certain percentage of the eligible population fill out the forms in order for the process to be used.

Those who do not otherwise need to file a tax form may file this form without filing a 1040. They would need to list their Social Security number.

The IRS would not be allowed to make any use of the informational forms submitted under this legislation except for the purposes of doing the calculations and cross checking of Social Security numbers to assure that there is not double voting.

Forms by those who are less than 18 years of age on April 15 of the year the tax form is due would not be counted. Similarly, those who are not citizens, have been deemed to be mentally incompetent or who are convicted felons would not be able to have their ballots counted.

In order to reduce costs, the development of a listing of who is mentally incompetent and who is a convicted felon will only be determined by the acquisition of computerized records, the providing of which would be of minimal cost to State and local governments.

For purposes of calculations, I believe that budget authority should be used. The chart I have been using is in budget authority. That is the amount that the Government can obligate, not actually how much is spent. Money might be obligated to build a bridge in 1995. For example, money might not be paid out for several years. The numbers in the chart are not precise because I have not shown offsetting receipts, allowances and other factors in creating the numbers because the chart taxpayers would receive would not need to list those technical points. OMB would accurately prepare the chart.

Areas of the budget that are paid for by trust funds would be included in the calculations. Those that equal more than $1 billion in a year would be noted in the explanatory materials.

The Congress could consider a bill that would overcome the budget allocation requirements. But, it would be subject to a point of order in each House.

The timing would be such that forms filled out in 1995 would use numbers based on fiscal year 1995 budget estimates made on the latest date in 1994 that would allow the smooth printing of the forms. The President's budget request using the people's choices would be made in early 1996. The Congress would consider the details through 1996. And, the people's priorities would be in the fiscal year 1997 budget starting in October 1996. That is a very tight time line. Some would argue that it needs to be more drawn out. But, I believe that the Congress could meet the goal.

Mr. DOLE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Kansas.

Mr. DOLE. Was leader time reserved?

The ACTING PRESIDENT pro tempore. That is correct.

(The remarks of Mr. DOLE, Mr. HARKIN, and Mr. BIDEN pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

INS DECISION TO HALT IMMIGRANT FINGERPRINT PROCESSING

Mr. ROTH. Mr. President, the Washington Post reported today that despite administration pledges to crack down on criminals and terrorists slipping into the country as immigrants, the Federal Government has stopped running routine fingerprint checks on immigrants. I find this outrageous.

During the past year, as ranking member of the Permanent Subcommittee on Investigations, I conducted a lengthy investigation of criminal aliens in the United States. Our investigation found that criminal aliens are a serious threat to our public safety that is costing Federal, State, and local criminal justice systems hundreds of millions of dollars. The very last thing this country needs to do is import more criminals—we have more than enough of our own.

The INS decision to stop immigrant fingerprint processing will allow criminals and terrorists to immigrate to our country. Last year fingerprint processing prevented some 9,000 criminals from immigrating to the United States. The INS claims that this is only 1 percent of the total numbers fingerprinted, but that 1 percent still represents 9,000 criminals, a very significant number. Nine thousand more criminals can ruin the lives of an enormous number of law-abiding citizens.

What the INS apparently does not realize is that fingerprint processing deters criminals from even attempting to immigrate to the United States.

Who knows how many criminals have been deterred from applying for visas because of the fingerprint check? INS might as well post a big billboard at the border that says "Criminals and Terrorists Welcome: No Background Check Required."

The Post report quoted an INS official stating that this action is necessary due to the current budget situation. What the INS does not say is that only the INS is to blame for this so-called budget situation.

Immigrant fingerprint processing is paid for out of the examination fee account. The account is funded by fees the INS charges to those who immigrate to the United States. These fees have not been raised in over a decade.

The fees for fingerprint processing, on the other hand, have been raised. The so-called budget situation is due to the fact that the INS has not raised its fees along with rising costs for processing immigrant applicants. The simple solution is to raise immigration fees. The taxpayers should not have to pay more.

But due to the INS' action, the taxpayers will have to pay more. While the INS claims that it will save $3 million by eliminating this program. Nine thousand additional criminal aliens will cost the taxpayers a lot more; not only the additional costs to the justice system, where these criminal aliens commit more crimes, but also the cost of the social welfare programs these criminal aliens will be eligible for. The INS decision may be penny wise, but it is surely pound foolish.

In short, this is bureaucracy at its worst.

Our country is facing a serious crime problem. It is facing a serious terrorist threat from abroad. We need only point to the World Trade Center bombing in New York, or the wanton murders of CIA employees outside CIA Headquarters. It is time for the administration and the INS to wake up to reality. The American public is fed up with crime and wants terrorism stopped. Eliminating fingerprint checks is the wrong way to go.

I ask unanimous consent that the Washington Post article by Roberto Suro be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 14, 1994]

U.S. HALTS IMMIGRANT FINGERPRINT CHECKS

(By Roberto Suro)

Despite administration pledges to crack down on criminals and terrorists slipping into the country as immigrants, the federal government has stopped running routine fingerprint checks on immigrants, a procedure that has blocked thousands of people a year from entering the United States because of criminal records.

In a policy change effective April 1, the Immigration and Naturalization Service (INS) now will send only a handful of fingerprints from prospective immigrants to the FBI for a criminal record check and only in exceptional cases.

Applicants for a wide range of immigration benefits including citizenship, permanent residence and political asylum will continue to submit fingerprints to the INS.

An internal memorandum from INS headquarters here to offices around the world states that although the agency "is taking this action reluctantly, it is necessary due to the current budget situation."

Richard Kenney, an INS spokesman, said the agency hopes to save $3 million the remaining six months of the fiscal year by drastically reducing what he termed "an expensive, labor-intensive process."

In 1993 nearly 890,000 sets of prints were sent to the FBI for criminal record check, and less than 1 percent had applications turned down, Kenney said.

That amounts to nearly 9,000 people who were kept from acquiring immigrant status here last year because they had been convicted of a felony or had some other serious criminal matter on record with the FBI.

In the wake of the shooting outside the CIA headquarters in Langley, the World Trade Center bombing in New York and other recent violent incidents, there has been growing public concern that terrorists and other malefactors are too readily entering the United States as immigrants.

The costs of incarcerating immigrants who commit crimes once they are in this country has been a further cause of concern, lawmakers say.

With Congress demanding action, President Clinton unveiled a package of proposals July 27 which he said would deal with "the growing problems of immigrant smuggling and international terrorists hiding behind immigrant status."

Among the measures promised was greater coordination among federal agencies.

Attorney General Janet Reno complained at the announcement ceremony that the INS "too often did not communicate with law enforcement and vice-versa." She said, "It is imperative that we bring everyone together to communicate to do everything that we can to address the critical issue of terrorism."

Demetrios Papademetriou, director of the immigration policy program at the Carnegie Endowment, said, "On the face of it giving up this form of cooperation with the FBI seems rather inconsistent with the administration's law-and-order body language on immigration."

The memorandum ordering the new policy makes clear budget constraints are behind the change. Aside from cases involving orphans coming into the United States, the memorandum calls for a 95 percent cut in FBI fingerprint checks and requires senior regional officials to submit a written justification for every request to INS headquarters.

Kenney of the INS said no specific criteria had been developed for determining what would now justify a fingerprint check. He said adequate screening would be accomplished by checking applicants' names in data bases with the identities of known criminals.

THE 38TH AIRLIFT SQUADRON

Mr. FORD. Mr. President, this past winter, stepped up violence and harsh weather in Bosnia required an increase in United States aircraft, missions, and personnel. This increase resulted in the reactivation of the famous 38th Airlift Squadron, better known as the Delta Squadron.

This squadron was an active duty last response airlift unit that could be called up for any mission during the early cold war years, until it was finally deactivated in 1977.

For the first time in history, this entire airlift squadron is made up entirely of Guard and Reserve personnel and aircraft. And I am proud to say, its flight commander is Lt. Col. Rick Ash of the Kentucky Air National Guard.

A recent article from the National Guard magazine chronicles many of the accomplishments of the Delta Squadron in Bosnia and exemplifies the large role the National Guard and Air Reserve play in crucial tactical airlift missions. I ask unanimous consent that the article be printed in the RECORD immediately after my remarks.

Mr. President, I urge my colleagues to read this article, because the Senate will soon consider the fiscal year 1995 Defense Department authorization legislation.

In that authorization is an effort by the active duty Air Force to place more reliance on their own forces, which have older and less cost-efficient C–130's, and less on the Guard and Reserve forces.

I firmly believe this decision would be casting aside a more cost-effective alternative.

Clearly, the Air National Guard's ability to perform is unquestionable. We need only look to their performance in Desert Storm, Somalia, and Bosnia for proof. And clearly, emphasizing integration of all forces with heavy reliance on the Guard is more cost effective and in no way jeopardizes our Air Force readiness.

That is why a Senate Armed Services Committee report recommended a provision directing the Secretary of Defense to transfer the tactical airlift mission exclusively to the Air National Guard and Air Force Reserve.

Because the Air Force chose to follow a very different course, I have sent a letter to Armed Services chairman SAM NUNN, asking that as we look at possible reductions we reject the Active Duty Air Force proposal and instead approve a stepped-up role for the Guard and Reserve.

The Air National Guard/Reserve role in tactical airlift should be expanded because the quality of the Air Guard and Reserve's readiness, personnel, and equipment has never been at a higher level. The Air Guard and Air Reserve already represents over 65 percent of the total tactical force structure. And Bosnia is only one example of their stellar performance.

Mr. President, in closing, I once again urge my colleagues to read this article and to support a solution that takes into consideration both our pressing fiscal restraints and the need for a national security force with the highest quality tactical airlift capabilities.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FLYING THE BOMB-RIDDEN SKIES OVER BOSNIA AND HERZEGOVINA—KENTUCKY AIR GUARD OFFICER COMMANDS FAMOUS REACTIVATED DELTA SQUADRON AS MISSION GROWS DANGEROUS

(By Lt. Col. Edward W. Tonini, HQ, Kentucky Air National Guard)

The historic Berlin Airlift, which took place in 1948 and 1949, had been the longest sustained relief effort in U.S. Air Force history until Operation Provide Promise. Today's humanitarian relief operation, which has been providing the basics of life to the people of war-torn Bosnia-Herzegovina, surpassed Berlin's milestone on October 8, 1993—last year!

By the end of February, Provide Promise had been in operation for 605 days, which dwarfs the Berlin Airlift record of 462 days. The humanitarian relief operation is conducted by the United States, Germany and France as part of the multinational United Nations (UN) effort to provide food, clothing, equipment and medical supplies to the victims—Muslim and Christian—of the Serb-Croat-Bosnian war.

Almost two years ago, on July 3, 1992, the Air Force began flying in food supplies and equipment into Sarajevo. However, the war ravaged the citizenry so much that Provide Promise required Air Guard and Air Force Reserve volunteer units and equipment to work with the U.S. Air Force in Europe (UI07 SAFE) and other active duty units from the Continental United States (CONUS) to deliver the much needed food and supplies.

As of February 1, 1994, the Air National Guard and the Air Force Reserve have airlifted more than 34,423 tons of supplies, food and equipment into Sarajevo, and airdropped 14,567.8 tons of food, 192 tons of medical supplies and 280.2 tons of winterization bundles into eastern Bosnia-Herzegovina.

As the conflict increased in violence and the winter weather grew harsher, the Air National Guard and Air Force Reserve mission requirements were increased from six to 15 C–130s, with aircrews doubling to 24 and more than 200 maintenance personnel. The increase in aircraft, missions and personnel turned into the reactivation of the famed 38th Airlift Squadron (AS)—better known as the Delta Squadron.

The Delta Squadron was an active duty fast response airlift unit on the ready for any requirement during the early Cold War years from Rhine-Main, Germany, until 1977, when it was deactivated. For the first time in history, this fast response airlift squadron is entirely made up of Guard and Reserve personnel and aircraft.

With Delta Squadron's reactivation came Lt Col Rick Ash, a flight commander of the Kentucky Air National Guard's 123d Airlift Wing (AW), the first Air National Guard commander of the Delta Squadron. Ash, an American Airlines pilot, is commanding the unit for three months from February to the end of this month. But in all actuality, it's not a new mission. In fact, it is quite familiar because he spent 30 days last August as the mission commander of Provide Promise's Guard and Reserve elements. During that first tour of duty, he commanded six C–130s, their crews and the support personnel.

Of his newest command responsibilities, he said: "The job is very similar, just on a much larger scale. American Airlines has been very supportive of the Guard and Reserve commitment by its employees. They were great during Desert Storm, and they are continuing their support throughout Restore Hope and now Provide Promise. The chief pilot at American believes this is a unique leadership opportunity that will be advantageous to me and to American Airlines.''

Delta Squadron's normal schedule is four C–130 aircraft flying multiple shuttles into Sarajevo daily. Each mission, originating from Rhein-Main Air Base (AB), and the full length of a single mission, to include stops, is 11 hours. Most important is the fact that each flight varies, not all flights fly the same route and up to three landings in Sarajevo are scheduled for each aircraft.

An average of 12 C–130s, one French and three German C–160 Transalls fly each day to identified areas that UN convoys cannot reach to deliver the much needed food or medical supplies. To make the airdrops and simultaneously avoid ground fire, the C–130s must complete high altitude airdrops—well over 10,000 feet. Even though a C–130 presents itself as a very large, relatively slow flying target to potential hostile fire, its airdrop precision is just as accurate as those from altitudes less than a third as high. Kentucky completed its first high altitude drop on March 17, 1993.

Another declared first was accomplished 10 days later, when the Kentucky Air Guard joined in airdrop operations with the French and the Germans. The Air Force has called this the first joint formation airdrop of allied forces in flying history in a combat environment.

Landing at the Sarajevo Airport is no easy task. The C–130s come down at up to 2,000 feet a minute, twice as fast as a normal decent. Their pace must slow during final descent, however. The takeoffs also are much steeper than normal. This is done to limit the aircraft's exposure to small arms fire from the ground. Involved since February 26, 1993, two of Kentucky's C–130H2s were assigned to the mission and, at this time, 90 percent of the unit has either performed or is performing the mission.

Nor is the mission getting any easier, according to the Guard members. On January 19, while the C–130 was being unloaded of 31,000 pounds of flour on the ground, a Kentucky aircrew experienced exploding mortar rounds within 200 yards of it on the Sarajevo airport runway. When the plane later landed at Split, Croatia, four holes were discovered in the aircraft.

While on the ground, the Kentucky crew, consisting of Maj Mark Heininger, Capt Steven Cochran, MSgt Jose Fernandez and SrAm Robert Allen, that was flying an Air Force Reserve C–130, kept the engines running as loadmasters unloaded the vital cargo through the rear door with help from UN ground crews. Unloading taking an average of 12 minutes. But for the anxious aircrew members, that 12 minutes is like eternity because of the potential of being hit by mortars and snipers from the surrounding hills.

The Kentucky crew discovered its battle damage on the ground in Split, with holes in its left wing near the engine, the left wing near the fuel tank, the tip of the right wing and the fourth hole in the fuselage toward the rear of the cargo bay. A day earlier, a German cargo plane also had been hit by gunfire at the airport. No one was injured in either incident, but UN officials suspended aid flights to the Bosnian capital until the situation had stabilized.

Heininger and his crew returned to Kentucky over varying times and they all said they have no qualms about going back. The reason: The humanitarian aid flights are the main lifeline for the almost 400,000 residents of Sarajevo, who are enduring their second winter under Serb siege. ''We never want to lose sight of what this is all about,'' Ash said. ''We're helping keep a lot of innocent people alive.''

Today, two Kentucky C–130s and about 40 unit members are attached to the Delta Squadron and operating out of Rhein-Main AB under the command of the 435th Airlift Wing, U.S. Air Force. All are volunteers; since whole units are not being activated for the mission. The length of the individual tours depend upon their personal availability. Some Guard members are serving as little as two weeks and others have been on duty for more than four months.

Ultimately, most of the Guard units participating in Provide Promise have all their unit members at one time or another participate in a deployment outside of the United States. With the situation as it is now in Bosnia-Herzegovina, it doesn't look like there will be any let up from the demand of C–130 airlift support.

The Kentucky Guard unit has the newest equipped C–130H2 aircraft, which enables it to meet the high accuracy rate that it does at the high altitude airdrops. The accurate drops are achieved through the satellite-derived global positioning, inertial navigation systems, coupled with the adverse weather aerial delivery systems (AWADS). These systems enable the bundles to drop with almost pinpoint accuracy. The parachutes bring the bundles to earth at about 60 miles per hour and special packaging techniques ensure the survival of the contents. On one occasion, 4,000 glass vials of penicillin were dropped near a hospital and not one was broken.

New procedures developed during Provide Promise have revolutionized airdrops. They include the 10,000-plus-foot drop and the Tri-Wall Aerial Delivery System. Better known as TRIADS, the system has proved to be an effective way of ensuring large numbers of people receive food without the strongest controlling or hoarding what is delivered. The C–130s also are equipped with the latest in self-contained navigation systems (SCNS) and aircraft defense systems (ADS).

Besides the supply delivery mission, the Delta Squadron also has been called upon to perform medevac missions since February 2, last year. The Air Force flies a C–9 medevac twice a month into the former Yugoslavia. Kentucky Air National Guard C–130s were used to evacuate injured Bosnians, Serbs and Croats to Ramstein AB, Germany, after the recent downtown market bombing that has since promoted the allied no-fly zone restrictions and other increased UN involvement.

The outcome, of course, is not over. The negotiations continue. The battle weary citizens continue to face death daily. Serbian aircraft are being shot down by U.S. F–16s to ensure that the no-fly zone policy is being met. It doesn't look like an ending to Provide Promise any time soon. The totals in sorties and flying hours keep mounting.

There are no regrets, like Ash said, keeping the mission in perspective: They are saving lives at 10,000 feet high.

U.S. DISTRICT JUDGE SAM B. HALL, JR.

Mr. GRAMM. Mr. President, this week, U.S. district judge Sam B. Hall, Jr., a dear friend who served the people of Texas for most of his adult life, passed away. Sam Hall, a lifetime resident of Marshall, TX, was my mentor in the House of Representatives, and it was my distinct honor and privilege to have served with him during my tenure there from 1979 to 1985. I was further honored to recommend him to President Reagan for a Federal judgeship, in the eastern district of Texas, which he assumed upon leaving Congress. He has left a legacy of public service that has seldom been duplicated and will be long remembered by those of us who knew and loved him.

This past Monday, I, with Senator HUTCHISON, introduced a bill to rename the Federal building and U.S. courthouse in Marshall, TX, the ''Sam B. Hall, Jr. Federal Building and United States Courthouse.''

This is an appropriate memorial for a man who devoted his life to serving the people of Marshall and east Texas, by practicing, making, and applying the law with remarkable ability and compassionate concern.

Sam was an archetypal Texan: honest, courageous, and tough. It is no exaggeration to say that without Sam Hall, much of the good we accomplished in the 1980's in Washington would not have happened. He was a man who placed principle above party, and service to God, country, and family above all else.

Sam will be deeply missed by the community he loved so well and so ably served. But his good deeds and fine example will be a model of public service for generations to come. I am proud to call him my friend.

AS THEY SAY BACK HOME, HOW 'BOUT THEM LADY TAR HEELS

Mr. HELMS. Mr. President, it was about this time a year ago that I did some bragging in the Senate about University of North Carolina's men's basketball team that had just won the NCAA championship. Many college basketball fans expected a repeat performance from that team this year. It didn't happen—but whatta you know? The UNC Lady Tar Heels basketball team earned the championship spotlight this time around.

While a lot of folks in Washington are celebrating the championship of a university from another southern State—the name escapes me—the remarkable accomplishments of UNC's Lady Tar Heels, in winning the 1994 NCAA Women's National Basketball Championship, are at least as thrilling as those of the guys from Arkansas.

Consider this: On April 3, just down the road in Richmond, the poised, unflappable young women from UNC–CH defeated Louisiana Tech University, 60–59.

Talk about a thriller! Charlotte Smith's heart-stopping three point basket with seven-tenths of a second—repeat; second—remaining, the Lady Tar Heels completed their astonishing drive to their first-ever national title. No doubt, Miss Smith was inspired by her uncle, David Thompson, who—remember?—led the N.C. State Wolfpack to the NCAA men's championship in 1974—20 years ago.

Miss Smith's stunning three-pointer provided an appropriate climax to UNC–CH's amazing 33–2 season. Led by Coach Sylvia Hatchell, these young women captured the Atlantic Coast Conference title, then marched onward to Richmond and the national crown—all from a team that finished last in the ACC just 3 years ago.

Mr. President, this Tar Heel victory continues the importance of the Old North State in the NCAA basketball championships. I would be remiss if I didn't take note of the splendid performance by Coach Mike Krzyzewski and his Duke Blue Devils who almost made it two for two. The Blue Devils were edged out in a fine effort, losing 76–72 in Charlotte, to that talented team from the University of Arkansas.

Allow me also to congratulate the folks in Charlotte who did such a tremendous job in hosting this year's NCAA Final Four. It is a measurement of North Carolina's hospitality that this event was such a success.

So, Mr. President, it is on behalf of Dot Helms—a UNC–CH alumna—and all of the many other thousands who have been graduated from, or who have attended the University of North Carolina at Chapel Hill, that I express my pride in, and extend my best wishes to, UNC–CH's Lady Tar Heels. This Wake Forest alumnus is delighted that one of the two NCAA national basketball championship trophies will remain in the State of North Carolina for the fourth straight year.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EXECUTIVE SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go to executive session to consider the nomination of Rosemary Barkett, of Florida, to be U.S. circuit judge for the eleventh circuit.

NOMINATION OF ROSEMARY BARKETT, OF FLORIDA, TO BE U.S. CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT

The assistant legislative clerk read the nomination of Rosemary Barkett, of Florida, to be U.S. circuit judge for the eleventh circuit.

The ACTING PRESIDENT pro tempore. Time for this nomination is limited to 6 hours, to be equally divided between the chairman and ranking member of the Judiciary Committee or their designees.

The Chair recognizes Senator BIDEN.

Mr. BIDEN. Mr. President, speaking of never complain and never explain, I think we should move to the nomination of Rosemary Barkett and confirm her. I think there is really no need for lengthy explanation as to the qualifications of this woman to be on the court.

Mr. President, I rise in support of the nomination of Rosemary Barkett, chief justice of the Florida Supreme Court, to become a judge in the U.S. court of appeals for the eleventh circuit.

I see my distinguished colleague from Florida, the main sponsor and supporter and friend of Rosemary Barkett, is here, Senator GRAHAM, and my colleague, the ranking Republican on the Judiciary Committee, Senator HATCH. For purposes of allowing people to plan at least the initial scheduling, I intend on speaking at the outset here for about 20, 25 minutes and then I will yield the floor.

But I think it is important for me to lay out why I feel so strongly that Rosemary Barkett is supremely qualified to be on the U.S. court of appeals for the eleventh circuit. It seems to me there can be no doubt that she is qualified for the position for which she has been nominated. Her educational background and her career as a lawyer and a judge demonstrate a commitment to service, a depth of experience, and a strength and character that makes her an excellent choice for the Federal bench.

Justice Barkett, as a young woman, joined the order of the Sisters of St. Joseph. I know something about the Sisters of St. Joseph as well since for 8 years they were my primary teachers, and I probably learned more from them than any other group of people with whom I have been associated my entire life.

As a sister she maintained her vocation from 1956 until 1967. During this time, while she taught in the elementary and secondary schools, she earned her BS degree summa cum laude from Spring Hill College. The nominee then entered the law school at the University of Florida. She finished at the top of her law school class in 1970, earning the award for the outstanding graduate.

After Justice Barkett had worked for 9 years as a lawyer in private practice, then-Governor BOB GRAHAM, now U.S. Senator BOB GRAHAM, appointed her to fill an unexpired term as a trial judge in 1979, and in 1984 elevated her to the State court of appeals. One year later, Governor GRAHAM appointed Rosemary Barkett to the Florida Supreme Court, making her the first woman to sit on that court.

Facing an election to retain her seat—and that is how they do it in Florida. You get appointed, as I understand it, but then after a set amount of time you stand before the people of Florida and say what do you think of the job I did and are you going to retain me or do you want me to move on. And facing her election to retain her seat on the supreme court in 1992, Justice Barkett garnered an impressive 61 percent of the vote cast, I expect a percentage that any Member of this body would be overwhelmingly pleased with being able to generate in their home States, although I do know some of my colleagues do better than that on occasion and we all envy that ability.

Following that election, her colleagues on the court named her chief justice. Justice Barkett has observed the practice of law from the perspective of a litigator and as a trial judge, ultimately undertaking the task of appellate review. Her more than 20 years in the legal profession, her thousands of cases on the courts, the supreme court, the court of appeals, the trial court, and in private practice, provide her with a wealth and breadth of experience that make her an excellent choice in my view for the eleventh circuit. This history must be considered. The laudatory comments of her peers in her profession, both practicing lawyers and her colleagues on the bench, as well as the overwhelming confidence placed in her by the people in Florida, I think should be taken into account by our colleagues as they vote today.

The American Bar Association gave her its highest rating of well qualified by a unanimous vote. All these factors indicate that Rosemary Barkett is a woman possessing the outstanding character necessary for service as a Federal judge.

I might add that State court judges in my State, a majority of whom are Republican because our judges are appointed; they do not stand for election, I have had a handful of them come up to me and ask me about Rosemary Barkett. And we are very proud, by the way, as all States are, we are very proud of the quality of our bench in the State of Delaware. It has been for 150 years viewed as one of the outstanding benches of all the State courts, and these are very, very solid Republicans who have come up to me who, in fact, are suggesting to me strongly, I hope there is no problem with Rosemary Barkett; she is such a fine judge. They have worked with her. They know her and they support her.

Given her outstanding qualifications and commitment to service, some of my colleagues wonder why this nomination is commanding so much of the Senate's attention. The fact is that Justice Barkett's critics object to some of her decisions and therefore her confirmation on ideological grounds. Far be it for me to suggest that ideological grounds in certain circumstances are not appropriate things for Senators to consider. This ideological attack on the nominee for the court of appeals, though, in my view, is inappropriate for reasons I will explain in a moment.

I am not suggesting it is malevolent. I am just suggesting it is inappropriate. It is not at all inappropriate, when the President of the United States nominates a Justice for the Supreme Court, which he will be doing in the coming months, for my Republican or Democratic colleagues to take issue with the ideology of whomever the President appoints because a Supreme Court Justice can, in fact, change the law.

An appellate court judge and a trial court judge, though, are bound by Supreme Court precedent. I have long maintained that a nominee's judicial philosophy is an appropriate consideration for a person seeking a seat on the Supreme Court. The reason for this view is really quite simple. Supreme Court Justices cannot be reversed. Supreme Court Justices, other than by constitutional amendment, are the final arbiters of the law and the meaning of the Constitution. For this reason, their judicial philosophies are a proper focus for the Senate, I think a necessary focus for the Senate.

(Mrs. FEINSTEIN assumed the chair.)

Mr. BIDEN. By contrast, judges in the lower Federal courts are bound by precedents of the Supreme Court. Notwithstanding their personal views, their obligation is to follow and interpret the law in a manner consistent with the Supreme Court's precedents.

Moreover, lower court justices can be reversed when they err. As a member, and for the last 7 years as chairman, of the Judiciary Committee, I have relied on a three-pronged standard that has traditionally guided the Senate in evaluating lower court nominees. Again, I do not presume that because this is my standard there is nothing in the Constitution that says that under the advise-and-consent clause any Senator has to adopt a particular standard. I want to make that very clear. But what I also want to make clear is that is a standard which I have adopted, which has been a standard which I believe and understand the vast majority of the Members of the Senate in the 22 years I have been here have adopted as well. It is a three-pronged standard:

First, that the nominee has the capacity, competence, and temperament to be on the court of appeals or a trial court.

Second, is the nominee of good character and free of conflict of interest?

Third, would the nominee faithfully apply the Constitution and the precedents of the Supreme Court?

If they meet those three tests, assuming they are not on the ideological fringe and they are not someone who is so out of the mainstream that you either question their competence, you question their character, you question their temperament as a consequence of where they sit, then it seems to me they should be given the opportunity to fulfill the seat for which they have been named.

Using this test through 12 years of Republican nominees, I voted to confirm numerous lower court judges who were far more conservative than I am. Because I view the Supreme Court and the lower courts differently, I supported the nominations of Robert Bork and Clarence Thomas for the court of appeals, while I opposed their nominations for the Supreme Court for the very reasons which I have stated. They swore that they would uphold the Constitution as interpreted by the Supreme Court. I took them at their word. They honored their word.

So on the court of appeals, it did not matter to me that they had such divergent views on how to interpret the Constitution from what I thought was an appropriate way. But once they are going to be moved to the Supreme Court where they are no longer bound by stare decisis, where they are no longer bound by prior Supreme Court decisions, and the Constitution was in the eye of the beholder, the beholder being those two individuals in question, I disagreed with their philosophy. Therefore, I opposed them on that circumstance for the Supreme Court, but voted for them for the lower court.

Justice Barkett's critics seem to apply to Justice Barkett a standard previously applied only to Supreme Court nominees. In my view, this effort is unwise, and I urge my colleagues to reject this ideological test for nominees for the lower court while again emphasizing that I do not criticize and I would suggest that it is appropriate and necessary for Senators to apply such an ideological test for the Supreme Court.

I outlined, a moment ago, Justice Barkett's sterling personal history and professional background, including her reputation within the legal profession. Thus, it is clear that she satisfies the first two prongs of this inquiry. She unquestionably possesses the competence and character essential in a nominee for the court of appeals.

Let me speak for a moment about the third prong, respect for precedent, or stated another way, respect for the role of a court of appeals judge and an understanding of what that role is.

I am convinced that Justice Barkett understands the job for which she is nominated. At her hearing, I asked Justice Barkett about the differences between what she does now in the Florida Supreme Court and what she seeks to do; that is, sit on an intermediate Federal court of appeals.

Justice Barkett currently sits on the court of last resort in the State of Florida. She and her colleagues are the final arbiters of questions arising under the Constitution and laws of the State of Florida. Because the Florida court is required to evaluate both State and Federal claims, some results that would not follow through if from Federal precedent are mandated by State law and the State constitution. In other words, as a State judge, Justice Barkett is bound to follow Federal precedent only to the extent that she is interpreting the Federal Constitution and Federal law. She is not required to adhere to the U.S. Supreme Court precedents when she interprets State law, in almost all instances.

In fact, as a State court judge, she should not follow Federal precedent when the State constitution commands a result different from Federal law so long as the State result is not proscribed by Federal law. This principle flows from the fundamental notion of federalism based within our constitutional system.

By contrast, a judge on the eleventh circuit is bound by Federal precedent. When interpreting questions arising under the Federal constitutional laws, the eleventh circuit judge must look for guidance to the decisional law of the U.S. Supreme Court. I am satisfied that Justice Barkett fully appreciates the distinction between the State supreme court and the Federal courts of appeal. She testified as follows and I quote:

> As a member of the court of last resort in the State, it is the State supreme court's job to look and act in our State (Florida) within the context of Florida's Constitution and Florida's laws and Florida's precedent, which in some cases may be different from that of Federal precedent or the Federal Constitution. In the Federal system of courts, you would not be looking at a case in front of you when in the context or ambit of the Florida Constitution or Florida law. You will, of course, be looking only to Federal laws and be guided by the precedent that the U.S. Supreme Court has established, and I, of course, would do that.

Thus, Justice Barkett, under oath, quite clearly stated that she, in fact, understands the distinction and, from my perspective, satisfies my three-pronged inquiry into a nominee's competence, character, and respect for precedent. For this reason, I support her nomination enthusiastically.

Let me repeat. Were Justice Barkett before us here today as the President's nominee for the Supreme Court vacancy that has just been announced, I think I would still support her because philosophically I do not have a problem with her position as a supreme court justice in Florida. But, it would be totally appropriate for Members of this body to stand before the Presiding Officer this morning and say, "I oppose this nominee because of her ideology and her philosophy." It would be totally appropriate. It might be misguided. It may be in disagreement with me. But it would be constitutionally, I think, dictated if they had a different philosophy and a different point of view than Justice Barkett.

But she is not here for the Supreme Court of the United States of America, although someday, who knows, maybe she would be. But she is here today for the eleventh circuit court of appeals.

So let me repeat again: Justice Barkett enjoys the competence, character, and respect for precedent essential in any nominee for a Federal court of appeals. Justice Barkett has written some 3,000 opinions and participated in more than 12,000 cases since her appointment to the Florida court. I am aware the critics have raised some questions about some of those opinions, and I wish to address just a few of those at the outset because I am sure my distinguished and learned colleague—and he is learned in the law—Senator ORRIN HATCH will raise a number of cases with which he has disagreement as do others on the Republican side of the aisle.

First, there is a suggestion that Justice Barkett is unwilling to uphold the death penalty. We do not know what Justice Barkett thinks about the death penalty as a personal, moral matter. In fact, her personal views at this point, for the job she is seeking, are irrelevant. Justice Barkett's record belies any notion that she is unwilling to uphold the State's ultimate punishment.

Justice Barkett has voted to affirm the death sentence of well over 100 separate defendants during her tenure on the Florida Supreme Court. I will say that again. You will hear about how she is not willing to uphold the death penalty, because they say she opposes it. We do not have it anywhere in the record where she has said that. But we do have a record, notwithstanding some individual cases—and the Presiding Officer, as a member of the Judiciary Committee has already heard what was presented by her.

The Senate and the Presiding Officer will hear today, from our colleagues, individual cases where Justice Barkett did not uphold the death penalty. That will be read to the Senate as an unwillingness to uphold the death penalty. But there are 100 times, or more, that she has sat as a judge in the Florida Supreme Court and affirmed—affirmed—the death penalty of the lower court. She said: Yes, if that is the will and the decision of the jury in the lower court, based on Florida law, it is appropriate.

In the vast majority of cases in which she has voted to reverse a sentence of death, she has not, as some critics have suggested, voted to "spare the killer." Instead, she has voted to lock up the killer for life. Of relevance here is the fact that Justice Barkett has demonstrated a willingness to apply the law. If the question is whether Justice Barkett has voted to affirm the death penalty in every case to come before her, the answer is clearly: No, she has not.

I think this is fortunate, quite frankly. I am a supporter, as the Presiding Officer is—we both sit on the Judiciary Committee. I have, for 22 years, been involved in criminal justice matters. I am the primary author of the bill being considered in the U.S. Congress today called the crime bill. I am the original author of that bill; I sat down and wrote it. There are over 50 different death penalties in it. I am a supporter of the death penalty. I also think that when you apply the death penalty, you better darn certain be right, and all the procedures and safeguards that are reasonably necessary under our Constitution should be built in before you reach that decision.

Well, I looked at Justice Barkett's record, and although I may have disagreed with her on some of her votes, the fact is that she, in some cases, has reversed the sentence of death and made it life in prison. I do not think it is an unhealthy thing to have a judge who discriminates between the imposition of the death penalty and the imposition of life in certain circumstances where it may be warranted.

Again, I emphasize that what is relevant here is the fact that Justice Barkett demonstrated the willingness to apply the law. If the question is whether she voted to affirm the death penalty in every case before her, the answer is "no." Again, I say that I think that is fortunate, for if she had, I would have serious questions about her capacity for judging, because I find it difficult to think that every single solitary death case that came before a justice in the entirety of his or her career with hundreds of them, there is not a single one where there was reversible error. That would make me worry a little bit.

If the question is whether Justice Barkett applies the laws to the facts and circumstances of a particular case, giving due consideration to the fundamental fairness of the proceedings and weighing carefully those factors in aggravation and mitigation of the death sentence, the answer is clearly that she does.

It is this exercise, carefully applied to the law of Florida, that allows the State of Florida to carry out its death penalty in accordance with the U.S. Constitution and the rulings of the U.S. Supreme Court.

Keep in mind, as my learned colleague in the chair knows, the reason why the death penalty was, for a fair amount of time in our recent history, viewed by the Supreme Court as not reasonably able to be applied, was because States were not applying it fairly. The courts—without going into them—in some famous landmark cases in the last 15 years, have sent out guidelines for States and said: "Look, it is OK to have the death penalty. It is constitutional to have the death penalty. But you have to go by certain rules, certain procedures, and there are certain ways to apply it."

So quite frankly, the reason why Florida has been able to apply the death penalty as often as it has, in my view, is because of the discriminating judgment as applied by their supreme court, including Justice Barkett. It is this existence of carefully applying the law that allows the State of Florida to carry out its death penalty.

In every murder case, the law requires consideration of the mitigating circumstances. Thus, even where heinous facts exist, mitigating evidence must be considered under the Florida law and, in some cases, may still outweigh the factors supporting the death penalty.

Granted, this is a judgment call; but it is one that a judge is required to enter into. A judge cannot merely say: "Under Florida law, by the way, this is a heinous crime. It is such a heinous crime that I am not considering what the law says I must consider, which are any mitigating factors. I am just not going to do that. It is just so bad—death."

If they did that, in all probability, the Supreme Court of the United States would say: Wrong, you cannot apply that death penalty. You have to show us you are applying the law.

So, granted, it comes down to literally what judging is about; applying judgment.

My friend from Utah and I may disagree with Judge Barkett in a handful of cases where we say our judgment would have concluded that the mitigating factors did not outweigh the nature and the heinous nature of the crime and, therefore, the death penalty should be applied. But to suggest that because Judge Barkett may have reached the conclusion that what she was required to consider, added up to a sufficient grounds to say, no, life in prison as opposed to death, does not go to whether or not she is willing to apply the death penalty. It is in those handful of cases where her judgment may be different from the judgment of Members of this body as to what constitutes sufficient mitigating evidence to, in effect, be required to withhold the death penalty and put the person in jail for life.

Reasonable judges may, and do, differ about what is appropriate in particular cases. Thus, when a judge has heard literally hundreds of death penalty appeals, as Justice Barkett has, there is little value in looking at cases out of their context within her entire record.

In all these cases, Justice Barkett has demonstrated the willingness to apply the law meticulously. Such rigorous adherence to the law is, in my view, a qualification, not a disqualification, for service on the Federal Court of Appeals for the Eleventh Circuit.

As a matter of fact, Madam President, it makes me realize that she is going to apply the precedents of the Supreme Court of the United States. She understands fully the requirements of a lower court judge, that they cannot wander the landscape even when philosophically they do not like a Supreme Court ruling. This should give my friends who worry she is going to go off on a toot of her own, they should be reading the opposite way. They should say: Here is a woman, here is a person, here is a judge who meticulously applies the law, as opposed to disregarding the law, because the murder was so heinous that every instinct in you says, death notwithstanding, the law says you must consider these other questions.

Similar objections were raised in an effort to defeat Justice Barkett in a retention election for the Supreme Court of Florida. I am not expert on that election, but a man who is expert on that election, as expert as anyone, is sitting here. I suspect before the day is over our distinguished colleague, Senator GRAHAM of Florida, will speak to this issue.

My understanding is that those opponents of the retention of Justice Barkett in Florida raised all of the issues for all the people of Florida, and 61 percent of them said: Not only do we think that she applied the law, at least in a figurative sense, but we think her judgment was good.

Who are we up here in the U.S. Senate, assuming we agree, as I think is inescapable—we must agree—with the fact that she applied the law, but maybe we disagree with her judgment, who are we to say that 61 percent of the people of Florida are wrong about her judgment? They debated it. They campaigned on it. They discussed it. It was written about. And it was finally voted on. And 61 percent of the people of Florida said: Her judgment we do not disagree with.

They may have said: We do not like the law. They may have said: We do not like the law that says you have to consider mitigating circumstances. But since that is the law, she did it, and we do not disagree with how she, in fact, did it.

As I have noted earlier, she won the election overwhelmingly. And then after she won the election, her colleagues on the bench, some of whom voted against her on the particular cases that my friend from Utah is going to mention, where she ruled that the death penalty should not be applied, turned around and said: By the way, Rosemary, why not be our chief while you are at it? Why not be the chief justice?

During that retention campaign, Justice Barkett was endorsed by the Florida Police Benevolent Association, not known for their opposition to the death penalty; the Fraternal Order of Police, both groups with which I work very closely, as does my friend from Utah, not known for their opposition to the death penalty; and the Florida Police Officers Association, not known as some radical liberal group running around the country deciding that the death penalty is the bane of freedom in America.

I am not suggesting those who think it is the bane of freedom in America are radical. Decent, honorable people can disagree on whether or not the death penalty is moral or immoral.

But here, police organizations endorsed her. Again, they know her well. And we are here going to second-guess a handful of cases that she decided on, and say we can draw a conclusion from that that this is a woman opposed to the death penalty and she will not apply the death penalty, will not apply the law.

In addition, her retention was endorsed by Florida's attorney general, Bob Butterworth, with whom I have worked. Bob is a Democrat, but he is also, if I am not mistaken, a relatively strong supporter of the death penalty; and former Attorney General Jim Smith, a Republican. I might also add there are two Senators from Florida, as we all know, one a Republican and one a Democrat. Both of them endorse Judge Barkett, and I may be mistaken, but I think both of them are supporters of the death penalty.

There is a man sitting here who has, as Governor, had to see executed the death penalty. I think it occurred during his tenure.

So here we are going, all of sudden, to say: By the way, this person is not qualified because she is ideologically so far to the somewhere, and she is against the death penalty, and we should vote her down. That is one of the arguments you are going to hear. When you hear it, just put it in focus. A Republican Senator and Democratic Senator—I have never heard BOB GRAHAM labeled a liberal on criminal justice issues. I have never heard CONNIE MACK labeled a liberal on criminal justice issues, or for that matter, on any other issues. I have never heard the Fraternal Order of Police, the Police Benevolent Association, nor the Florida Police Officers Association labeled a liberal anti-death-penalty group.

I imagine former Attorney General Republican Jim Smith will be surprised to learn that he was supporting someone who would not apply the death penalty and apply the law; and I know from my discussions with Bob Butterworth, the present attorney general, a Democrat, that he would be surprised, since he is such a strong supporter.

So you are going to hear a lot of specifics, and it is relevant, it is not unimportant, and it is appropriate that we hear it. But when it is all said and done, as my old senior partner—he is not much older than I am, but my former senior partner, one of the best trial lawyers in the State of Delaware, Sidney Balick—used to say: Keep your eye on the ball. When he talked to the jury, he started his summation: You have heard all this from the prosecutor, but I want you to keep your eye on the ball. The issue is not would you want to invite this person home for dinner. The issue is did this person commit the crime. Keep your eye on the ball.

Here I would like you all to keep your eye on the ball. Listen to what my friends have to say, but keep your eye on the ball. Is this a person who will not apply Federal precedent as it relates to the death penalty, in particular? Because the implication will be, the assertion will be, she did not do it in Florida and, therefore, she will not do it as a Federal appeals court judge. In fact, the police; former attorneys general, Republican and Democrat; a Republican Senator; a Democratic Senator—all of whom support the death penalty, along with 61 percent of the people of the State of Florida who had this issue aired, among others, not too long ago—all concluded that she does, has, and will.

It is difficult for me to believe that all these folks can be wrong. In my view, most of the remaining questions about Justice Barkett's record may be answered by reference to the distinction between State judges interpreting State constitution and Federal judges applying Federal law.

Let me illustrate by discussing two areas of criticism—privacy analysis and equal protection analysis. Justice Barkett has been criticized for some of her opinions, or opinions in which she has joined, that construed the constitutionality requirement of privacy overly generously, from the perspective of my friends who will criticize her. Regardless of the merits of these opinions, as a matter of Federal constitutional law, these cases, I think, have to be understood in the proper and legal context.

These were decisioned arising under both Federal and State law. Justice Barkett reached her conclusions by applying the State constitution and State law. The people of Florida approved a privacy amendment to the Florida Constitution in 1980. Even former Judge Bork could not deny the existence of the right to privacy in the Florida Constitution. It is expressly stated.

I spend time with my students. I teach a course in constitutional law at Widener Law School on separation of powers issues, trying to explain the distinction between, when the Founding Fathers came up with a Bill of Rights, how it comported with or did not comport with State constitutions.

And when you go back and try to interpret the second amendment or the first amendment or the fifth amendment, what you do in trying to determine the original intent of the Founders—and granted the Bill of Rights was not ratified at the same time the Constitution was originally ratified, it came along later—but you go back and look what the State constitutions did to try to give meaning to the intent of the Framers, and it is interesting.

Students sometimes are perplexed and surprised to realize that States have gone further than the Federal Government in protecting individual rights.

Under our form of Government, our separated powers, separated among the three branches at the Federal level, between the Federal and State level, and between Government and individuals, there is the ability of States, and always has been, to grant greater protection. They cannot grant less protection since the incorporation doctrine, they cannot apply less protection than the Federal Government does, but they can apply greater protection. And the State of Florida, in its wisdom, made a judgment about the right of privacy. The people of Florida approved a privacy amendment to the Constitution of Florida in 1980.

Let me get my glasses out to make sure I absolutely read that date. Yes, 1980. I was able to read that date without my glasses. But the Florida amendment was amended in 1980.

That amendment provides, and I will quote it:

> Every natural person has the right to be let alone and free from governmental intrusion into his private life.

Now, we have, and I predict my distinguished friend from Utah and I will debate the concept embodied in that amendment all through the month of August and September and maybe July, June, whenever we get an appointment, because that is always a central issue of debate and a difference between my distinguished friend and I, whether the Federal Constitution embodies by implication such a right, an unenumerated right of privacy.

But here I want my colleagues to understand when they come to debate this issue, this is not a Scalia debate, this is not a Bork debate, this is not a Kennedy debate about privacy, which was raised in every recent Supreme Court nomination. This is a different debate. This is black and white.

As I said, even Judge Bork would have to acknowledge that there is a constitutional right of privacy enumerated in the Florida Constitution. It is an important point to keep in mind, I think.

Unlike the Federal Constitution, it includes this expressed privacy guarantee. The drafters of the amendment, Florida legal scholars, and the entire Florida Supreme Court agree that this amendment was designed to be more expansive than the Federal right to privacy, as recognized by, and to the extent it has been recognized by, the U.S. Supreme Court. Nobody disagrees with that that I am aware of, even those who may have opposed the inclusion of that right of privacy in the Florida Constitution.

It was this State right of privacy upon which Justice Barkett relied in finding that Florida's Constitution protected behavior that would not be protected under the Federal Constitution.

Likewise, she has been criticized for opinions in which the Florida Supreme Court struck down State laws on the grounds that those laws were violative of equal protection guarantees.

Let me put these opinions in context. In these equal protection cases, the Florida court struck down the laws in question based upon Florida law, not Federal law. Although the court made references in the opinions to the Florida Constitution, the precedent cited to support the court's conclusions were all Florida cases.

Before the Judiciary Committee, Justice Barkett testified that Florida law requires a stronger legislative rationale than does the Federal Constitution when the legislature makes distinctions among people.

And I know my distinguished colleague knows but the public may not have focused on it as much, what we mean by "equal protection," when we talk about the equal protection clause, we are almost always, in the Federal context, talking about whether or not the law is able to constitutionally, whether legislators like us can get together and discriminate between and among the treatment of women as opposed to men, or blacks as opposed to whites, or Hispanics, or any categorization of people. And the overwhelming notion adopted by the American people, I think embodied in the 14th amendment, but there is disagreement about this among us, is that the law is the law and it should not be applied in a discriminatory manner. It should be applied equally.

Now, in Florida, whatever disagreements my friend and I and others who will come and speak on this issue might have about how expansive the 14th amendment is, how expansive the equal protection clause of the U.S. Constitution is, there seems to be little doubt that the Florida Constitution is more expansive; that is, under Florida law and the Florida decisions, at least, Justice Barkett believes that the Florida court was applying a more stringent Florida standard.

As this review of privacy cases and equal protection cases reveals, Justice Barkett, in some of these cases joined by a large majority of the Florida Supreme Court and, I might add, never alone, applied the law as called for in each case. When litigants raised both Federal and State constitutional claims, she resolved the cases under State law, where appropriate.

Reasonable judges might disagree with her conclusions in one case or another, but it seems clear that she performed the job of judging with due prudence and respect for the applicable law, and the most controversial cases that is Florida law.

For all these reasons, her high integrity, her unquestionable competence, her respect for precedent, I am pleased to support Rosemary Barkett's nomination for the eleventh circuit. Based on the standards this body has long applied to the court of appeals nominees, she deserves to be confirmed.

Let me conclude this portion of my remarks, Madam President, by saying that someone's personal journey to this point of being considered is, in my opinion, often used as a cover to keep us from looking at their competence and how good they are. So I have not dwelt at all on what I will at a later time, the extraordinary character of this woman, the extraordinary gains she has made, the absolutely admirable and almost enviable familial ties she has with numerous brothers and sisters, having been born in Mexico, emigrating to the United States, having made her way through her first language to her new language to her present language, to all the impediments that were in her way, never having lost for a moment this incredible optimism she has; absolutely incredible optimism.

I know it is overused and so I even hesitate to say it here, but talk about the American dream, talk about the personal qualities that Americans admire, talk about the story that says anything can be overcome, you have it all written in the journey of this woman's life to this point.

But I have not gone into that because I think we need not even look at that to go by every objection as to why she should not be in the court. It is flatout integrity, commitment to your job, superior intellectual and educational credentials that qualify this woman to sit on this court at this moment in our history—or, I might add, any moment in our history.

But I will return to speak to some of these issues later. I thank my colleagues for their indulgence and I now yield the floor to my distinguished friend and ranking member of the committee.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Madam President, I have really enjoyed listening to the distinguished Senator from Delaware, the chairman of the Judiciary Committee, explain his reasons for supporting this rather extraordinary woman.

I want to say at the outset I do not think anybody would find fault with her as a person. She is a lovely person, a good person. I have a great deal of admiration for her life and what she has done with it. I like her personally very much. I have expressed that both in committee and outside of committee. So it is not a question of her individuality—she is a good person and she has proven that throughout all these years. I like her family. I have met many members of her family. I feel badly, in a sense, having to oppose this nomination because I do like her so much and I like her family so much.

But let me just mention a few things. Senator BIDEN mentioned the 61 percent vote down there in Florida, where she ran unopposed. That is an important issue. He mentioned the support of various people in Florida, including police organizations. There were plenty who were opposed to her, too. Those may be good points, but this is not an election we are talking about. This is not a forum for voting, in the sense of rubberstamping whatever the people of Florida did. More important, the argument that her 61 percent vote in Florida proves that she is very well qualified to be on the Federal Circuit Court of Appeals for the Eleventh Circuit, I think, is faulty. Let me begin by noting that success in a retention election, where a person is unopposed, may say something about a judge's skills as a politician but it often says little or nothing about a judge's ability as a judge.

In addition, the standard for retaining a judge may understandably be much lower than the standard for elevating a judge to the Federal appellate bench. That is, the standard for retaining a judge in any State may be much lower than the standards for elevating a judge to the Federal bench. I will note that Chief Justice Barkett's supporters in the retention election emphasized that there should be a strong presumption in favor of retaining a sitting justice.

Justice Barkett's supporters speak as though this 61 percent vote was a ringing endorsement. In fact, it was the second-lowest vote ever in a retention election in the State of Florida, for retaining a Florida Supreme Court Justice, even though, according to press reports, Chief Justice Barkett outspent those opposing her retention by a factor of 3 to 1. Let me note that a justice in a retention election is not running against anybody. Yet she only got 61 percent of the vote and outspent her opponents 3 to 1. Let me say, voters vote only on whether or not to retain that justice in that Florida election.

So what is remarkable is that 2 out of 5 Florida voters have sufficiently strong dislike for Justice Barkett's record that they, in effect, regarded any replacement for her as an improvement over her tenure on the court. That point has to be made because it is important.

Somehow, when 2 out of 5 Americans voted for him, President Clinton claimed that he had a mandate. When 2 out of 5 Floridians voted against Justice Barkett, the White House considers their opposition insignificant. It was not insignificant, nor should that point be made as though we should rubberstamp this appointment because 61 percent, the second-lowest number in the history of Florida, voted to retain her in an election where she had no opponent other than people who were upset with her standards of judging.

The Senate has an obligation under the Constitution to provide its independent advice and consent on this nomination. That means that we have to examine the nominee's record. Although she is a very fine person and a good person and a person I like, if you look at the record—I do not care who you are—you have to be concerned. To defer instead to the 1992 retention election would be nothing less than a dereliction of our constitutional duty. So do not raise that with me as though that is what we should do just because of that.

Another argument the distinguished Senator from Delaware made, basically, is that Justice Barkett's role as a Federal appellate judge would be fundamentally different from her role as a State supreme court judge and that you cannot make judgments on the latter based on the former.

That just is not true. This argument cannot be taken seriously. In the first place, the role of a State supreme court justice and the role of a Federal appellate court judge are identical, absolutely identical, in terms of their obligation to follow the U.S. Supreme Court precedent on issues involving Federal constitutional law. As I have discussed and shown at length in prior speeches on the floor, Justice Barkett has not been faithful to U.S. Supreme Court precedent while on the Florida supreme court. There is no reason to believe that she will be any more faithful to Supreme Court precedent once she reaches the Federal bench.

Second, State court judging and Federal judging have a common core. At bottom, they turn on legal reasoning. A judge who shows excessive sympathy for criminals, as Justice Barkett does, or who engages in sloppy reasoning in one court, can be expected to display the same flaws on any other court. And that is one of the problems.

Finally, Justice Barkett's supporters cannot have it both ways. They cannot claim on the one hand that her record as a State supreme court justice somehow shows that she would make a good Federal appellate judge, yet contend on the other that her record as a State supreme court justice cannot be used to show that she would be a poor Federal judge.

I noticed in the discussion of the distinguished Senator from Delaware on this issue he did not cite many of her cases. In fact, I do not recall him citing one of her cases.

On this matter of softness on crime, which pervades Justice Barkett's opinions, her opinions are filled with soft versions of judging. It should be noted President Clinton is meeting today with hundreds of police officers. This may make good public relations, but if the President continues to appoint judges who handcuff the police, then all of the President's anticrime rhetoric is just empty talk—just plain empty talk. Unfortunately, I am coming to the conclusion that most of his rhetoric on the issue is empty talk, especially when you notice he has cut prisons again. The last budget cut them $500 million plus. This budget cuts them $73 million. He has cut 1,500 positions—almost 1,600 positions out of the FBI, Drug Enforcement Administration, Drug Task Force, prosecutors down at Justice; he has cut basic grants to the States—all at a time he is saying, "I want my crime bill passed through the Senate and through the House," and meeting with all these police people today, very ironically while we are debating Justice Barkett's record.

For those who think this is a debate over capital punishment, or who believe we are only raising the death penalty issue—they are important in her decisions, because you are going to find her death penalty approaches, or at least one, would completely outlaw the death penalty. It would completely make it impossible to ever implement it or enforce it. She would have to be a pretty poor justice not to go along with an awful lot of the opinions that upheld the death penalty—it used to be 250, now it is down to 100, according to the Senator from Delaware; I am sure it is between 100 and 150—but you almost have to. Most of the decisions made by these people are decisions that are matter of course decisions. But it is where she gets down to the nitty-gritty and expresses her own opinion or opinions with regard to the death penalty that you will find that she is wanting.

But it is not just the death penalty, which the media tends to make these debates turn on.

That is important, and that is an important part of the opposition, but it is not the most important part.

Upon review of her judicial record and of her testimony before the Judiciary Committee, I have to oppose this nomination, even though I like her, even though I would like to put her on the bench and even though I wish her well and even though I recognize the travails of her lifetime.

I just do not think she should be a judge on the U.S. Court of Appeals for the Eleventh Circuit, and I do this with regret, as I say, because I like her and I consider her to be a fine person, and her family as well. But I do so with a firm view that her record establishes that she will substitute her own policy views for the written law and take too soft an approach to criminal law enforcement. At a time when we are awash in drugs, awash in crime, awash in all kinds of difficulties, I do not think we should be putting people on the bench who do not hold fealty to the law and who are not going to be tough on crime.

In reaching this conclusion, I stress that no judicial nominee needs to agree with my reading of the law or any other Senator's reading in all or nearly all cases. But there just are too many cases, across too wide a range of subjects, where I believe that this nominee stepped well past the line of responsible judging. I and other Senators inquired about many of these cases at her hearing before the Senate Judiciary Committee. Incidentally, I notified Chief Justice Barkett in advance of the cases that would be the subject of inquiry that I intended to raise with her. I gave her time to look at them. I was not reassured by her testimony even though she had adequate time to look at them. Indeed, Chief Justice Barkett ultimately admitted that she overreached or was careless in a number of important opinions.

For example, in her dissent in the University of Miami versus Echarte, Chief Justice Barkett voted to strike down statutory caps on noneconomic damages in medical malpractice cases. In addition to a variety of State law grounds, her dissent also relied on the Federal equal protection clause, and without citing any legal precedent or any Federal precedent, she asserted:

> I fail to see how singling out the most seriously injured medical malpractice victims for less than full recovery bears any rational relationship to the legislature's stated goal of alleviating the financial crisis in the medical liability insurance industry.

In fact, the rational relationship between the means and the goal is self-evident and was clearly spelled out by the legislature. One might well disagree with caps on noneconomic damages as a policy matter. But Chief Justice Barkett's purported application of rational-basis review is a stark overreach and a flagrant misuse of the Federal equal protection clause. At her hearing, she acknowledged that she should not have relied on that clause.

In another case, Shriner's Hospital versus Zrillic, the nominee again relied on the rational basis standard under the Federal equal protection clause—as well as on a variety of State law grounds—in again striking down a statute. In her opinion, she took the remarkable position that "underinclusive or overinclusive classifications fail to meet even the minimal standards of the rational basis test." This distortion of rational basis review into something akin to strict scrutiny clearly flies in the face of equal protection principles set forth in nearly 50 years of U.S. Supreme Court precedent.

Now, neither of these cases, though extremely important cases, are death penalty cases, and I hope the media understands that, because this type of judging is pervasive and could cross all kinds of constitutional lines.

Justice Barkett's misreliance on the Federal equal protection clause in those two cases is all the more striking to me in light of her partial dissent in Foster versus State. There, in seeking to rely on a theory of statistical racial discrimination in a challenge to the death penalty, she expressly acknowledged that the Federal equal protection clause was unavailable to her in light of a Supreme Court decision, McCleskey versus Kemp, which rejected her view under the Constitution.

McCleskey versus Kemp squarely rejected her position and her view under the U.S. Constitution. She admits that. Accordingly, in her Foster opinion, she only relied on the Florida equal protection clause. Yet she did not recognize the error of relying on the Federal Constitution when she wrote her opinions in Echarte and Zrillic. Her failure to appreciate in these two opinions that a Supreme Court precedent foreclosed her reliance on the U.S. Constitution deeply troubles me. Supreme Court precedent governs lower courts not only when the claim presented is identical to that previously rejected by the Supreme Court but also when the basic doctrinal principles enunciated by the Supreme Court are applicable to a case.

The failure to appreciate this opens the door to judicial activism—a door, I regret to add, I believe this nominee has repeatedly walked through.

I do not think anybody doubts that I have been as fair to judicial nominees through my history in the Senate of 18 years as anybody could be. I have certainly bent over backwards to try to help any judge and certainly any President who has appointed a judge. So I reluctantly oppose this person for this particular position but not because I am unsure of what I am talking about.

I also find Chief Justice Barkett's reliance on Federal substantive due process very troubling. In State versus Saiez, she wrote an opinion holding that a State law criminalizing the possession of embossing machines capable of counterfeiting credit cards "violated substantive due process under the 14th amendment to the U.S. Constitution."

Briefly, let me just say here this expansive, substantive use of the due process clause is insupportable under Supreme Court precedent. The nominee testified that she was really relying on State due process grounds and her inclusion of the Federal due process clause was, to put it in her words, "careless."

Now, I can accept that, on occasion, a sitting judge may wish to phrase an opinion differently, in hindsight, or even believe that he or she got an opinion wrong. But tossing into her opinion the Federal equal protection clause and the Federal due process clause, on occasions where they very clearly do not belong, raises concerns that I do not find assuaged by testimony acknowledging this was erroneous. These two clauses are among the most powerful tools a judge can use, if so inclined, to legislate from the bench—or put it another way, to be a "superlegislator" in black robe on the bench.

In the case of the equal protection clause, virtually every law classifies people into at least two classes on some basis. Congress might enact limits on medical or product liability, which are subject to equal protection analysis as a component of the due process clause of the fifth amendment. States or Congress may seek to remove recipients from welfare rolls after a time limit of 2 years. A misreliance of Federal equal protection in reviewing these laws would lead to their erroneous invalidation. In the case of the due process clause, there is a tendency by some judges and commentators to read almost anything into it. This is all the more troubling because the misuse of these two clauses is not subject to limiting principles of judging but only to the whim of the judge. So they can really be misused.

There will be many cases of first impression before the eleventh circuit court of appeals, the court to which she aspires. There will also be many times when precedents must be construed, and they may be construed broadly or narrowly. Most appellate decisions are not reviewed by the Supreme Court. These errors then are not merely technical or academic. They could be errors that could stand for years and hurt an awful lot of people because of the misjudging by people who use the logic that this judge has.

My concern about the nominee's approach to judging is heightened by other cases. For example, in a redistricting case [In re Constitutionality of Senate Joint Resolution 2G], the Florida Supreme Court selected from among six different modifications to a state legislative redistricting plan. Writing "dubitante," Justice Barkett stated that she was—

> loath to agree to any of the convoluted plans submitted under these hurried circumstances * * * If I had to choose only among those presented, however, I would choose the plan submitted by the NAACP simply because this is the organization that has traditionally represented and promoted the position that advances all minority interests.

At her hearing, Justice Barkett recognized that this opinion gave a clear appearance of partiality, as it expressed a preference for a party based on who the party was rather than the merits of that party's argument. She stated that she wished she had written her opinion differently.

In any case, I am willing to give the benefit of the doubt to a nominee. But there are just too many instances in Justice Barkett's judicial record—the principal basis for evaluating her nomination—of overreaching, and on very significant issues, to leave me comfortable with elevating her to the eleventh circuit.

There are many other cases that concern me. For example, in Stall versus State, Chief Justice Barkett joined a dissent striking down a state obscenity statute on State law grounds. She also wrote separately in an opinion that, again, is sweeping and overbroad.

There are several problems with this dissent.

First, her statement that, "A basic legal problem with the criminalization of obscenity is that it cannot be defined" is flatly contradicted by the U.S. Supreme Court's landmark opinion in *Miller* v. *California* [413 U.S. 15 (1973)], which Chief Justice Barkett does not even acknowledge, much less discuss.

The fact is that obscenity can be defined, and it has been defined by the court.

Second, she sweepingly claims that an obscenity law such as the one in Florida violates "every principle of notice and due process in our society"—not, I might add, a statement limited to State law principles, and, again, contradicted by the Miller decision.

Third, Chief Justice Barkett's opinion mischaracterizes the Florida law in the case: that law does not turn on the "subjective" view of a handful of law enforcement people and jurors or judges, as she incorrectly suggests. The Florida law incorporates the standard set forth by the U.S. Supreme Court in Miller. The law bans materials that, judged by contemporary community standards, appeal to the prurient interest, that depict or describe, in a patently offensive way, specifically defined sexual conduct, and that lack serious literary, artistic, political, or scientific value. Thus, the role of jurors or judges under this law would not be to make their own "subjective definition" of what is obscene, but rather to discern and apply existing community standards.

Incidentally, while I am pleased that she voted to uphold a Florida child pornography statute in a different case, I make two observations. First, this does not mitigate her sweeping views about the more general subject of obscenity. Second, contrary to her testimony, the child pornography statute is a different statute from the one she voted to strike down in Stall.

I have all of these concerns, and have yet to reach the issue of criminal law enforcement generally and the issue of the death penalty specifically. There is much to say on these subjects.

With respect to criminal law issues aside from the death penalty, I believe that the nominee has too often erroneously come down on the side of lawbreakers and against police officers and law enforcement. She has exhibited an unduly restrictive view of the fourth amendment that would handcuff the police, especially with regard to controlling drugs. [See, e.g., *Bostick* v. *State*, 554 So.2d 1153 (Fla. 1989), rev'd, 111 S.Ct. 2382 (1991), on remand, 593 So.2d 494 (Fa. 1992); *State* v. *Riley*, 511 So.2d 282 (Fla. 1987), rev'd, 488 U.S. 445 (1989), on remand, 549 So.2d 673 (Fla. 1989); *Cross* v. *State*, 560 So.2d 228 (Fla. 1990); *Sarantopoulos* v. *State* (Fla. Dec 9, 1993)].

For example, in Bostick, a case involving cocaine trafficking, Justice Barkett adopted an across-the-board, per se ban on passenger searches on intercity buses even though Supreme Court precedent clearly called for an analysis of a search's legality based on all of the particular circumstances of the search. Justice Barkett even saw fit to compare the police search method at issue to methods used by "Nazi Germany, Soviet Russia, and Communist Cuba." The U.S. Supreme Court reversed her.

The U.S. Supreme Court also reversed her in the Riley case, where her misapplication of precedent would have led to dismissal of charges against criminals growing marijuana. In yet another drug case, the Court criticized her overbroad reading of precedent.

In her dissent in a case called Cross, Justice Barkett refused to credit the testimony of police officers that they had seen cocaine packaged in the same peculiar way on hundreds of occasions in their combined 20 years of law enforcement. In so doing, she ignored Florida precedent cited by the majority that provided that the observation of an experienced policeman of circumstances associated with drugs could provide probable cause for an arrest.

In another dissent, she ignored settled principles enunciated in U.S. Supreme Court precedent in finding that someone who was growing marijuana in his backyard had his Fourth Amendment rights violated when police, acting on a tip, looked over a six-foot fence, spotted the marijuana plants and then obtained a search warrant. Rather than inquiring whether the defendant had an expectation of privacy that was objectively reasonable, Chief Justice Barkett simply displayed her personal opposition toward what she regarded as overly intrusive law enforcement.

That is amazing because we just heard the distinguished Senator from Delaware talk about how important this law of privacy is that is not enumerated right in the Constitution, he claims. Normally, when liberals talk about privacy, they are talking about abortion, they are talking about homosexual rights, they are talking about obscenity and pornography and the rights to them, and any number of other things, mainly dealing with sexual aberrations.

(Mr. GRAHAM assumed the chair.)

Mr. HATCH. But in this case, she held that the privacy right to stop the police operating on a tip from looking over a fence making sure there was marijuana there and then going and getting a lawful search warrant. That bothers me quite a bit.

Justice Barkett has also written opinions striking down narrowly drawn laws that ban loitering for the purpose of prostitution and drug dealing. Think about that. These opinions are badly flawed and misapply precedent. Moreover, they seriously disable communities from preventing harmful crime.

Keep in mind as I am discussing these matters that she is appointed by a President who is claiming that he is going to be as tough on crime as anybody in history while at the same time his Office of Management and Budget is cutting criminal law enforcement by leaps and bounds and at the same time he is appointing judges like this one to higher positions in the Federal court system where they can decide opinions that may never be decided by the Supreme Court to become followed by other circuits and by other people who at least in this case—and I believe we will find others—are really soft on crime. This bothers me a lot.

In my view, there are too many other instances where she unjustifiably construed criminal statutes in favor of criminals. [See, e.g., *State* v. *Bivona*, 460 So.2d 469 (Fla. DCA 1984), rev'd, 496 So.2d 130 (Fla. 1986); *Gayman* v. *State*, 616 So.2d 17 (Fla. 1993).]

With regard to the death penalty, I appreciate that the nominee has voted to uphold the death penalty a number of times. And as the distinguished Senator from Delaware has said, I would expect as much in a state with a lawful death penalty and, unfortunately, a great deal of violent crime. But as I stated at Justice Barkett's hearing, a proper inquiry into a nominee's judicial outlook on the death penalty is not ended merely by noting that the nominee has upheld the death penalty in a number of cases, where even the most activist of judges cannot avoid its imposition.

If a nominee exhibits a clear tendency to strain for unconvincing escapes from the imposition of the death penalty, as this one does, in cases where that penalty is appropriate, then that raises concerns in my mind about the nominee's fidelity to the law, no matter how many times the nominee may have upheld the death penalty in other cases.

From my review of Justice Barkett's record, I have concluded that Justice Barkett clearly exhibits such a tendency.

Let me further note at this point that one of Justice Barkett's dissenting opinions would render the death penalty virtually unenforceable, unless imposed on the basis of racial quotas. Her partial dissent in Foster versus State, had it been the law in Florida when she joined the Florida Supreme Court, would likely have led to a different outcome in many, if not virtually all, of the cases where she voted to uphold the death penalty. Indeed, the theory she embraced in Foster, until its rejection by the Supreme Court in 1987, had become a principal weapon in the anti-death-penalty movement's arsenal and will be a principal weapon in the anti-death-penalty arsenal of those arguing against the death penalty in the House of Representatives this week, and probably next week, as they discuss the crime bill.

It is all right to differ on whether you believe or disbelieve in the death penalty. People have sincerely held beliefs there, I understand, and I do not have any problem with people in the legislative bodies debating whether or not we should impose the death penalty in American constitutional and criminal law. But I do have problems where it is imposed and is currently the state of the law of the land, where judges like Justice Barkett find every excuse they can to try not to impose it and, in this particular case, would impose it only by racial quotas. That bothers me.

Overall, I believe Justice Barkett, in reviewing death penalty sentences, views aggravating circumstances much too narrowly; construes mitigating circumstances much too broadly; creates unjustified categorical exclusions from death penalty eligibility; subjects the death penalty to racial statistical analysis that would paralyze its implementation, as I have just discussed; and creates various procedural anomalies.

Let me mention two of the many cases that concern me. They were mentioned in the hearings.

Dougan versus State was a 1992 Florida Supreme Court case. Dougan was the leader of a group that called itself the "Black Liberation Army," which, according to the trial judge, had as its "apparent sole purpose"—this is the trial judge speaking—"to indiscriminately kill white people and thus start a revolution and a race war."

One evening in 1974, Dougan and four other members of his group, armed with a pistol and a knife, went in search of victims. They picked up a white hitchhiker, Steven Orlando.

I am quoting:

> They picked up a white hitchhiker, Steve Orlando, drove him to an isolated trash dump, stabbed him repeatedly, and threw him to the ground.

Continuing:

> As Orlando writhed in pain and begged for his life, Dougan put his foot on Orlando's head and shot him twice—once in the chest and once in the ear—killing him instantly. Subsequent to the murder, Dougan made several tape recordings bragging about the murder, and mailed them to the victim's mother, as well as to the media.
>
> The following excerpt from one of the tapes aptly illustrates the content:
>
> "He was stabbed in the back, in the chest and the stomach; ah, it was beautiful. You should have seen it. Ah, I enjoyed every minute of it. I loved watching the blood gush from his eyes."

The Florida Supreme Court upheld the death penalty for Dougan, as it should have. Justice Barkett and another justice joined a remarkable and very disturbing dissent by Justice McDonald in which she voted to reduce the death penalty to life imprisonment, with eligibility for parole in 25 years.

I rarely fault a nominee about an opinion the nominee has joined rather than written. I do not hold a nominee to every word or phrase in an opinion he or she joins. There is an outlook which pervades this dissenting opinion, however, which is so striking and disturbing that I believe it is appropriate to consider that outlook in evaluating this nomination. This is especially so in light of the fact that in many other cases Justice Barkett has written separately, or merely stated that she concurred in, or dissented from, the result, when another opinion had not suited her.

Normally, I would summarize this dissent, but I do not want anyone listening to think that I am distorting it. Accordingly, I am going to read verbatim excerpts from the dissent in which she joined:

> This case is not simply a homicide case, it is also a social awareness case. Wrongly, but rightly in the eyes of Dougan, this killing was effectuated to focus attention on a chronic and pervasive illness of racial discrimination and of hurt, sorrow, and rejection.

I am sorry, but I have to interpolate here for a minute. Tell that to the victim's mother to whom he sent that tape, saying how much he enjoyed seeing the blood gush from her son's eyes.

Continuing on in the direct quote from the dissent, and that is remarkable language:

> This case is not simply a homicide case, it is also a social awareness case. Wrongly, but rightly in the eyes of Dougan—

That is the murderer—

> this killing was effectuated to focus attention on a chronic and pervasive illness of racial discrimination and of hurt, sorrow, and rejection. Throughout Dougan's life, his resentment to bias and prejudice festered. His impatience for change, for understanding, for reconciliation, matured—

Note the word "matured"—

> to taking the illogical and drastic action of murder. His frustrations, his anger, and—

Get this—

> his obsession of injustice overcame reason. The victim was a symbolic representation of the class causing the perceived injustices.

Let me go on:

> To some extent, Dougan's emotions were parallel to that of a spouse disenchanted with marriage, full of discord and disharmony which, because of frustration or rejection, culminates in homicide. We seldom uphold a death penalty involving husbands and wives, or lovers, yet the emotions of that hate-love circumstance are somewhat akin to those which existed in this case.
>
> Such a sentence reduction should aid in an understanding and at least a partial reconciliation of the wounds arising from discordant racial relations that have permeated our society. To a large extent, it was this disease of racial bias and discrimination that infected an otherwise honorable person and contributed to the perpetration of the most horrible of crimes. An approval of the death penalty would exacerbate rather than heal those wounds still affecting a large segment of our society.

This is a man who was trying to foment revolution by going out and finding whites and killing them. And she went along with this dissent. This opinion reeks of moral relativism and excuse-making that I find shocking and unacceptable.

Again, as much as I personally like Chief Justice Barkett, I find it disturbing that President Clinton would nominate someone to a judgeship who would apply these views to judicial decisions.

In the October 11, 1992, Sunshine magazine, the following reactions to this Dougan dissent are quoted:

> "How can they compare a cold-blooded, premeditated, torturous crime that's motivated by racial hate and equate that to the emotional circumstances in domestic murders?" asks prosecutor Chuck Morton, himself a black man, after rereading the Dougan case.
>
> Adds Tallahassee prosecutor Ray Markey: "To say that this white victim was a sacrificial lamb and call it a social awareness case—that's scary."

The Dougan majority had this to say in response to the dissent that Justice Barkett joined:

> We disagree with the dissent that this pitiless murder should be equated with the emotional circumstances often existent in homicides among spouses. While Dougan may have deluded himself into thinking murder justified, there are certain rules by which every civilized society must live. One of these rules must be that no one may take the life of another indiscriminately, regardless of what that person may perceive as a justification.
>
> Our review must be neutral and objective. This Court recently upheld the death penalty in the indiscriminate killing of two blacks by a white defendant. The circumstances of this case merit equal punishment. To hold that death is disproportionate here would lead to the conclusion that the person who put the bomb in the airplane that exploded over Lockerbie, Scotland, or any other terrorist killer should not be sentenced to death if the crimes were motivated by deepseated philosophical or religious justifications.

Let me explain why the general attitude and outlook adopted by Justice Barkett in that dissent concern me so much. The approach taken in that dissent is certainly applicable to others besides Dougan, including criminals of all races. Let me note that we have many cases in our country of racially motivated, disgusting, violent crimes against racial minorities. I do not view the perpetrators of such violence as worthy of a lesser penalty on account of their backgrounds or personal histories either.

If a person of any race, ethnic background, or social class considering violent or other crimes comes to believe that the judicial system views past mistreatment or discrimination against them as mitigating the seriousness of the crimes they commit or the penalties they face, I believe you undermine the principle of neutral justice and seriously reduce the deterrent value of the law. You create, frankly, an environment or atmosphere of permissiveness if these kinds of reasons can be used to justify lesser sentences. And I am not only talking about murder cases, such as the recent Colin Ferguson case on a Long Island commuter train. I mean other crimes as well, assault, robbery, carjackings. Do not view this as just a murder case or just a capital punishment matter or a death penalty matter. It is a lot more than that.

Before Senators cast their votes on this nominee, they should read the opinions in this Dougan case, along with any other opinions they deem relevant.

In another case, *LeCroy* v. *State* [533 So.2d 750 (Fla. 1988)], the Florida Supreme Court, by a vote of six to one, affirmed a death sentence for two brutal first-degree murders by LeCroy, who was 17 years and ten months old when he committed the murders. The court noted, among other things, that the sentencing judge gave great weight to LeCroy's youth but found him mentally and emotionally mature. It also noted that Florida statutes clearly provided for some decades that 17-year-olds charged with capital crimes should be punished as adults. Construing U.S. Supreme Court precedent, it ruled that there was no constitutional bar to the imposition of the death penalty on those who were 17 at the time of the capital offense.

In her lone dissent, Justice Barkett concluded that the eighth amendment of the Federal Constitution prohibited Florida from executing those who were under 18 at the time of the crime. Reaching out to overturn this death sentence seems to be another clear instance of the nominee injecting her own policy preferences for the law because that is not what the Florida law was. It is an unfortunate fact that 16 and 17-year-olds are committing the most vicious of adult crimes, including much-noted murders of tourists in Florida and elsewhere around this country. If a State wishes to treat them as adults when they commit such crimes, then the substitution of a judge's personal views for the legislature's enactment under Supreme Court precedent is clearly wrong. Not surprisingly, the U.S. Supreme Court later confirmed that it was the majority in LeCroy, rather than Justice Barkett, who had correctly read the Federal Constitution. That is in the Stanford versus Kentucky case.

I have many other concerns about this nominee—including, for example, her openness to pervasive quotas—and many other opinions of hers that trouble me. These concerns are outlined in some detail in three memoranda on Justice Barkett's cases that I attached to my March 22 floor statement on this nomination. I urge my colleagues to review those memoranda.

Some may claim that those of us who have concerns over this nomination have focused on a relatively small number of cases and that this is not an appropriate way to evaluate the nominee. I have a three-part response to this concern.

First, a large number of cases of any appellate court are, frankly, routine, and I would expect that virtually all judges would rule unobjectionably in most cases before them.

Second, and more importantly, if a small number of cases gives rise to large concerns, it is appropriate to base a vote on those cases. For example, the flagrant misuse of the Federal equal protection clause and the Federal due process clause may have occurred in just a handful of cases. But these two constitutional provisions are far too powerful, far too open to picking and choosing among democratically enacted statutes based on the policy preferences of a judge, for me to be much comforted by unobjectionable decisions in numerous other, routine cases. A single dissent that would sweepingly invalidate obscenity laws, notwithstanding clear U.S. Supreme Court precedent to the contrary, is tremendously significant for what it says about a nominee's legal outlook in a very important area of law. And it gives rise to doubts about whether the nominee will properly apply that Supreme Court precedent, especially in light of other opinions that give cause for the same concern in other contexts. A series of search and seizure opinions, improperly hamstringing the police in significant ways—especially in the war on drugs—has an importance beyond the mere number of these cases. An opinion, like her partial dissent in Foster, that would paralyze enforcement of the death penalty counts more than scores of routine death penalty cases. Joinder in an opinion like the Dougan dissent speaks volumes about a nominee's outlook on crime and personal responsibility, and you cannot just limit it to the death penalty.

I could go on and on, but this leads me to my third point:

The concerns about this nominee arise from more than a handful of cases, and they arise across numerous areas of the law, not just the death penalty, although that is important as well.

I therefore have concluded with regret that I cannot in good conscience support this nomination.

I will close by noting that all of the tough-on-crime rhetoric the President is serving up these days means less than his actions, including selection of judges. Placing more police officers on the street will avail us little if judges hamstring them in their work and hamstring them in their constitutional duties; if these judges construe our criminal laws in an unduly narrow fashion that will hamstring criminal law enforcement; or if they sentence criminals they do convict with unwarranted sympathy for the criminal, which will hamstring Federal criminal law enforcement and frankly law enforcement across the country. And in this judge's case that is what she has done and has a propensity to do and I believe will do if she is placed on the eleventh circuit court of appeals.

So I am extremely concerned about putting judges like this on the higher courts of the Federal courts of this land where they have lifetime tenure, where they can do whatever they want to, where they can allow all the emotional predilections to take over and where most of their cases are not going to be heard by the Supreme Court because the Supreme Court can only hear about 100 or 200 cases a year and where other judges can start to follow this type of soft-headed, soft-on-crime judicial analysis. So I am very concerned about it.

Again, I will close by saying that I like this person as a human being. She is a good person. She came up the hard way. She has a good family. I like them. I grieve having to make these points, but I have to place my responsibilities as a person who loves and upholds the Constitution above my personal likes or predilections and frankly ahead of my likes or dislikes.

In this case, I like this person, but I do not believe that she has exhibited the type of judicial analysis that justifies appointing her for this lifetime position in this very, very important circuit court of appeals under these circumstances.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 25TH ANNIVERSARY OF SENATOR DOLE'S MAIDEN SPEECH

Mr. HATCH. Mr. President, I would like to take a brief time out from the debate on the nomination of Judge Barkett to salute our distinguished Republican leader, BOB DOLE, on the silver anniversary of his maiden speech in the Senate.

On April 14, 1969, the Senator from Kansas delivered a speech that was both moving and substantive on the difficulties faced by Americans with disabilities. If you read that speech today, you find that it is in many ways, still very relevant.

While it took us 22 years from the date of that speech to enact the Americans With Disabilities Act, the speech of the Senator from Kansas taught us that no legislation can restore physical ability. He helped us view the handicap through the eyes of the individual who copes with it every day.

While the ADA and other Federal programs have been enacted over the years since that speech, programs that I have been proud to support since I have served in this body, the speech of the Senator from Kansas helped us understand that our focus ought to be on people, not programs.

Too often, I believe, we concentrate on the impact of regulations, appropriations, legislative changes, or judicial decisions on the programs, not on the people. We listen to program administrators, not to the individuals who we expect to benefit from these efforts. Senator DOLE observed in his 1969 speech:

> When more of this emphasis on the individual better influences the agencies and professions dealing with the handicapped, I believe we can begin to open new, more meaningful vistas for more persons with handicaps.

In my view, this advice for all of us involved in disability policy is as good today as it was in 1969.

I congratulate the distinguished Republican leader on the anniversary of his maiden speech, an occasion that has special significance for anyone who has served in this body.

I congratulate him for being an advocate for persons with disabilities all those years he has served in the Senate and for being one of the principal reasons why the Americans With Disabilities Act passed. There are very few people in my life that I have as much respect for. But I have to say I certainly have it for the distinguished Senator from Kansas, our leader, who everyone here knows is one of the all-time great Senators.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent I may speak out of order for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

A SPECIAL ANNIVERSARY FOR SENATOR DOLE

Mr. BYRD. Mr. President, I call attention to an historic moment that the Senate experienced today. Twenty-five years ago today—on April 14, 1969—our friend and colleague, the Senate Republican leader, Senator ROBERT DOLE, delivered his maiden speech to the United States Senate.

We are living in times, now, when Senators who come to the Senate, the first day they are sworn in, speak. They do not wait. They speak at the drop of a hat. If the hat drops the first day, they go to it.

I can remember when Senators who came to the Senate waited for weeks before they made what we referred to as their maiden speech. And the word would go out to the offices that Senator So-and-So was going to make a speech tomorrow, or on a certain day next week. And Senators would come over and listen to that freshman Senator make his speech. They gathered to hear him. It was an event.

Those days are gone. But our friend and colleague, Senator ROBERT DOLE, delivered his maiden speech to the United States Senate on April 14, 25 years ago.

Not too many of us are still present who were Senators on that day a quarter century ago.

And not many Senators throughout the history of the Congress have played as momentous a role in the affairs of the United States Senate—indeed, in the affairs of the United States itself—as has our esteemed friend and colleague from Kansas. So I congratulate Senator DOLE on this informal commemoration of an important milestone in his life.

Further, I commend Senator DOLE for the personal contributions, as well as the professional contributions, that he has made to his country.

Most of us are familiar with Senator DOLE's war record and with the long, painful, and poignant struggle that was his to recapture his strength and to embark on the inspiring saga that has been his career in public life.

Mr. President, I have no doubt that I speak for all of our colleagues in saluting Senator DOLE on the occasion of an important anniversary in his very distinguished career, and I take advantage of this opportunity once again to express to him my personal appreciation for our association and friendship over the more than a quarter of a century that we have been yoked in service to this Senate and to this Nation.

Erma and I join in our congratulations to my friend today. I hope I am around when Senator DOLE speaks again to us on the half-century mark, 25 years from now. I expect to be here. I am sure STROM THURMOND will be here. I have a strong feeling that Senator BIDEN will be here, as will Senator HATCH and Senator GRAHAM.

Mr. President, I thank Senators for their patience and I yield the floor.

THE 25TH ANNIVERSARY OF SENATOR DOLE'S FIRST SENATE STATEMENT

Mr. MITCHELL. Mr. President, and Members of the Senate, today is the 25th anniversary of Senator DOLE's maiden statement on the Senate floor. On April 14, 1969, a young, newly elected BOB DOLE rose to address the Senate for the first time.

The subject of his statement then says a lot about BOB DOLE then and now. It was a topic of enduring and personal interest to him, and one to which he has devoted an immense amount of time and energy in his 25 years of Senate service.

BOB DOLE spoke, of course, about the abilities of those who were in 1969 generally called handicapped Americans.

It was not just Senator DOLE's first Senate statement; it was more than that. It was a groundbreaking event in the Senate as well, because for the first time this body was asked to focus its attention in a systematic manner on the broad issue of national policy toward disabled Americans.

He addressed the full spectrum of disability issues in that first statement.

He spoke of the rights of persons with disabilities to receive a complete education, to hold a job, to get health insurance, to participate in recreational activities.

He presented a compelling case for the Federal Government's responsibilities in this area and offered a legislative proposal to that end.

He spelled out, in 1969, much of the legislative agenda which he subsequently and successfully pursued with other Senators over many years.

Senator DOLE has never made much of the fact that he, himself, has a disability as a result of serious war injuries.

Instead, he has used his very formidable abilities to make it possible for all disabled Americans to achieve to the peak of their potential, as every American should have the right to do.

His voice remains today uniquely persuasive on the subject, because he has always been able to speak of disabled Americans as "us," not "them."

On the anniversary of that statement, I wish to draw the Senate's attention to it and to congratulate my colleague and friend, BOB DOLE, for his many successes in working for the rights of disabled Americans and to wish him success in his future endeavors in every area.

THE 25TH ANNIVERSARY OF SENATOR DOLE'S MAIDEN SPEECH IN THE SENATE

Mr. MOYNIHAN. Mr. President, as the majority leader and others have noted this afternoon it was 25 years ago today that the distinguished Republican leader, Senator DOLE, delivered his maiden speech to the Senate. He spoke eloquently on that day, April 14, 1969, about persons with disabilities. And it has been in no small measure due to Senator DOLE'S energies in this area that America has made such great progress in ridding itself of the various forms of exclusion to which disabled persons were once so widely subjected.

The Senator from Kansas brings those same remarkable energies to everything he does, making him an inimitable ally, and, on occasion, a fearsome opponent. He is a revered colleague to many of us, and a great friend indeed to the Senator from New York. I congratulate the distinguished Republican leader on a quarter century of incomparable service in the U.S. Senate.

THE 25TH ANNIVERSARY OF SENATOR DOLE'S MAIDEN SPEECH

Mr. DODD. Mr. President, it was 25 years ago today that one of our colleagues gave a maiden speech on the floor of the U.S. Senate. I speak of our distinguished friend and colleague, the minority leader, Senator BOB DOLE.

On that day, Mr. President, Senator DOLE chose as the subject of his remarks the issue of disabilities, and the problems that people face in this country who were afflicted with various disabilities.

I rise this afternoon to join with others to pay tribute to our friend from Kansas. We have our differences from time to time, as we all do in this body on various issues. But it was that speech and his commitment to this issue, bringing a unique perspective, obviously, of someone who could speak about this issue not in the abstract but in very real and personal terms because of his own affliction as a result of a war-related injury.

Twenty-five years ago people who suffered from disabilities faced mountains of obstacles in order to become part of the mainstream in our society. BOB DOLE gave a speech on that April 14, 1969, and raised the awareness of people in this body. As a result of actions taken by Congress during this past quarter of a century, today the plight of our fellow citizens who suffer from disabilities has been significantly improved.

A great deal of that effort, a great deal of that progress is due to BOB DOLE. I wanted to join with others today in recognizing that landmark of a quarter of a century ago, to commend him for it and to wish him well. I know he will continue his fight on behalf of people who have suffered from disabilities, be they physical or otherwise, to see to it that every American in this country has an opportunity to make a contribution to the maximum of his or her potential and possibilities.

BOB DOLE made a great speech on that day. His service and his words on behalf of his constituency have made us a richer, a stronger, and a better country. I commend him for it.

Mr. DOLE. Mr. President, I thank my good friend and colleague from Connecticut. When I made comments this morning, I talked about the efforts by Senator DODD and Senator JEFFORDS as far as special education is concerned. We made a promise years ago to fund that. We have not done it yet. We have to find a way to do that because many people expect us to keep our promise.

But I thank him for his kind comments. I also thank the others of my colleagues on both sides who have made statements today, particularly the President of the United States who was gracious enough to come to a little luncheon we had in my office. I thank very much Tony Coelho and Justin Dart, the former chairman of the President's Commission on Disabilities, and the present chairman. I thank everyone who has participated. And I do believe, not because of anything I may have done, but I do think there has been a big, big change the past 25 years and there has finally been a recognition that disabled Americans can fit into the mainstream. It has been in large part because of the strong bipartisan efforts made in Congress. I thank my colleagues.

A TRIBUTE TO THE REPUBLICAN LEADER, SENATOR ROBERT DOLE

Mr. THURMOND. Mr. President, it is with the greatest pleasure that I rise today to pay tribute to the Republican leader, the Honorable Senator ROBERT DOLE, who is celebrating his 25th year of service in this body.

As anyone who has been fortunate enough to meet Senator DOLE knows, he is a man who has selflessly dedicated his life to serving his State and Nation. From his days as a fearless young infantryman during World War II to his brilliant leadership in the U.S. Senate, BOB DOLE has never shied away from a challenge or compromised his beliefs. Such integrity and dedication has ensured his success as a county attorney; a State legislator; a Member of the U.S. House of Representatives; as chairman of the Republican National Committee; and as a U.S. Senator.

Mr. President, as I am sure you are aware, I was present when Senator DOLE first arrived in this House and he immediately impressed me as an individual of great ability and candor. I have always had complete faith in Senator DOLE'S abilities and I have been pleased to witness both his rise to the most important leadership position in the Senate, and his emergence as one of our Nation's most prominent and respected statesmen. In 1988, I believed that Senator DOLE's strong personal characteristics made him ideally suited to serve as our Nation's Chief Executive and I was proud to endorse his candidacy. While I am sorry that he did not win our party's nomination, I cannot say that I am disappointed that he did not leave the Senate.

Mr. President, I know that all of my colleagues join me in congratulating Senator DOLE on marking a quarter century of service in the U.S. Senate. I look forward to continuing to serve with him—and most importantly, sharing his friendship—for many years to come.

The PRESIDING OFFICER. The Senator from Delaware.

TRADITION

Mr. BIDEN. Mr. President, I would, as usual, like to salute my leader, the chairman of the Appropriations Committee, Senator BYRD, as he spoke to what tradition used to be. I am reminded that in my first very inconsequential speech before the Senate—but my maiden speech before the Senate—I recall coming on the floor—and at the time we still had our temporary assignments. That was in the good old days when there were 64 Democrats in the U.S. Senate—good old days from my partisan perspective. And I remember not having my permanent seat. I was number 100 in seniority. My permanent seat ended up being the one nearest the rolltop desk at the back row, but at the time, my temporary seat was, I believe, the second or third seat in the back row, in the main section.

And I recall coming over to speak and being told by a person in the Cloakroom that I should wait a few moments. I initially thought that I had already breached protocol in some way unknown to me, because a staff person in the Cloakroom asked me to wait. And to my great surprise—and I might add to my not little, not embarrassment, but I guess the best way to say it is it made me a little nervous—a distinguished U.S. Senator, one of the finest men whom I have ever served around—I expect Senator BYRD would share my view—Senator John Stennis, came over. He had called the Cloakroom to tell the Cloakroom that he wanted to hear my speech.

And he sat in, if I am not mistaken, this row, and he turned his chair so that his back was not quite to the Presiding Officer, but looked intently at me throughout my speech. And I must say, it was one of the few times when I stood to speak—maybe I would be better off if it occurred more often—but it was one of the few times I stood to speak that I was actually nervous about what I was going to say. Because at the moment I stood up, I can recall, and I hope the Senate will excuse my personal references here, forgive me for reminiscing, but I stood up and I thought to myself, "My gosh, I am 30 years old, and "I am standing." And at the time I was standing next to Senator McIntyre's desk.

Senator McIntyre had the desk that the senior Senator from the State of New Hampshire was always given the honor of having, one of the great, great, famous Senators and speakers in the history of the United States. I stood there and I thought to myself, my Lord, I am standing in the spot that men like Daniel Webster stood to speak, and looking at John Stennis watching me, and I froze. I could not remember how to begin my inconsequential speech.

But I remember one other thing. I received a letter from one of the most powerful Members of the Senate then and now congratulating me on how I comported myself in my maiden speech. That letter was from ROBERT C. BYRD of West Virginia, who was the whip of the Senate when I arrived, and a letter that I appreciated then and treasure now.

So I wish to make the point that not only did the tradition exist, that we used to come over and listen, that those of us who were newly elected waited a moment before we spoke, but once we spoke senior Members who were considerably more busy than we were took the time and the courtesy and the interest in listening to what we had to say and responded.

My friend from West Virginia is not only a man of the Senate and a man who knows more about the Senate than I suspect any man or woman who has ever served in the Senate, but he is also a man who honored those traditions and spent time with a 30-year-old kid from Delaware making his first speech, and making me feel as though the speech I made really made a difference, when in reflection I know it was of little or no consequence other than that I was able to muster the courage to stand in the spot where women and men—men, in that case at that time in our lives—stood, of much greater significance than me, then and now.

It was a great honor to have heard my colleague this morning paying tribute to ROBERT DOLE, as I did a moment earlier, but also an honor to have been treated with the respect and decorum that I was, almost 22 years ago this month, by the distinguished senior Senator from West Virginia.

I yield the floor.

Who yields time?

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

NOMINATION OF ROSEMARY BARKETT, OF FLORIDA, TO BE U.S. CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT

The Senate continued with the consideration of the nomination.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. HATCH. I yield such time as the distinguished Senator may need.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise today to speak on the nomination of Justice Rosemary Barkett to serve on the U.S. Court of Appeals for the Eleventh Circuit.

During her courtesy call to my office and her nomination hearing, I found Justice Barkett to be an engaging and talented individual. However, I cannot support her nomination to serve on the eleventh circuit.

I have serious concerns with a number of her opinions as a Florida Supreme Court Justice. Her responses during the nomination hearing did not alleviate my concerns regarding her decision making process in constitutional law, particularly in capital cases, criminal law, and the equal protection clause.

My concerns rise in a number of areas—in capital cases and others—where she dissented from the majority and engaged in result-oriented jurisprudence. Her consistent pattern of judicial activism was influential in my decision to oppose her nomination to serve on the eleventh circuit.

For example, she narrowly construed aggravating factors time and time again which would prohibit imposition of a death sentence if her opinion had been adopted. In Cruse versus State, the defendant went on a brutal and calculated shooting spree which left six people dead, including two police officers, and 10 wounded. By a 6–to–1 vote the Florida Supreme Court affirmed the convictions and death sentences given to the defendant, Cruse. In her lone dissent, Justice Barkett voted to reverse the convictions and believed in any event that the death sentence was not appropriate for Cruse. Justice Barkett did not believe that the brutal murder of the two police officers met the cold-calculated-and-premeditated aggravator requirement. This was her view despite evidence that Cruse had loaded his car with a rifle, a shotgun, a pistol and 180 rounds of ammunition, and drove to a shopping center where he killed two shoppers and wounded a third. When approached by a police officer, Cruse inserted a new clip into his rifle and fired eight times into the car, killing Officer Grogan. Then Cruse wounded another police officer, searched out this wounded man in a parking lot, found him and killed him with several more shots. It was for the murder of these two gallant policemen that the trial court imposed the death penalty and that Justice Barkett would reverse for lack of aggravating factors.

In another case Hodges versus State, Hodges was convicted of killing a 20-year-old clerk who had previously complained of indecent exposure by Hodges. The Florida Supreme Court affirmed Hodges conviction and death sentence by a 6-to-1 vote. In her lone dissent to overturn the death penalty, Justice Barkett again gave what I believe was a strained and narrow construction of the aggravating factors involved in the killing. At her nomination hearing, Justice Barkett claimed that her dissent followed Cherry versus State, even though she did not cite that case in her opinion in the Hodges case. In any event, the Cherry opinion also cited precedent which would be interpreted as favorable to the prosecution in the Hodges case concerning aggravating factors counted separately where they relate to "separate analytical concepts."

These are but two examples of Justice Barkett's approach in a number of capital cases. It is my belief that Justice Barkett has broadly construed plain statutes and case law to avoid imposition of the death penalty.

Also, Justice Barkett has invoked the Federal equal protection and Federal substantive due process clauses in cases where they need not be used. In fact, at her hearing, Justice Barkett conceded that she misused the Federal equal protection clause in her dissent in University of Miami versus Echarte. Senator Hatch has adequately addressed the cavalier manner in which the Federal equal protection and Federal substantive due process clauses have been used in Justice Barkett's opinions. I urge my colleagues to review Senator HATCH's remarks which are printed in the March 22, 1993 CONGRESSIONAL RECORD on page S3380.

Mr. President, there are other areas where Justice Barkett's opinions give me concerns. Particularly in the area of criminal law where I see a pattern of opinions which would restrict law enforcement in their fight against drugs and violent crime. I believe that her interpretation of the fourth amendment would unnecessarily retard the legitimate and reasonable efforts by law enforcement as they work to rid our communities of drug dealing and violent crime.

In conclusion, Mr. President, I give much deference to the President in choosing a nominee to fill vacancies in the Federal courts. However, I must rely on my own judgment as the Senate exercises its advice and consent responsibility under the Constitution when reviewing these nominees. Justice Barkett is a fine woman but I firmly believe that her record establishes a precedent of judicial activism which is not advisable on such an important court as the court of appeals for the eleventh circuit.

President Clinton has denounced the growing wave of violent crime across the Nation and clearly the American people deserve our most sincere efforts in fighting crime. Federal judges have an important role in maintaining a peaceable society while ensuring that constitutional protections are not ignored in the process. Yet, I believe that this particular nominee submitted by President Clinton would be too soft on crime, hamper the efforts of law enforcement, and substitute her own policy views for the written law.

I encourage my colleagues to review the hearing transcript and study the opinions of Justice Barkett for themselves. In the end, I believe we will reach the same conclusion.

I yield the floor.

Mr. President, I yield the floor.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER (Mr. DORGAN). The Chair recognizes Senator HEFLIN.

Mr. HEFLIN. Mr. President, I will vote to confirm the nomination of Florida Chief Justice Rosemary Barkett for a seat on the U.S. Court of Appeals for the Eleventh Circuit. Having reviewed Justice Barkett's overall record—I emphasize "overall record"—as well as her responses to questions asked of her at her confirmation hearing before this committee, I believe that Justice Barkett possesses all of the necessary qualities to warrant her confirmation to this distinguished appellate court which comprises the States of Florida, Georgia, and Alabama.

I am convinced that she possesses the intelligence, integrity, and temperament necessary to be a fair and impartial judge. It appears to me that her overall record demonstrates that the vast majority of her judicial decisions are within the judicial mainstream and reflect that she will attempt to faithfully apply precedent established by the U.S. Supreme Court.

Justice Barkett has been a trial judge and an appellate judge for over 15 years in the State of Florida, and she has the full support of both Florida Senators, as well as its distinguished Governor Lawton Childs who was a former member of this body. Furthermore, she has been endorsed by a vast number of newspapers and organizations within her State and throughout the Nation. Most of these State newspapers have even gone so far as to say that Justice Barkett is "hardly soft on crime." In a retention election in the State of Florida in 1992, she won reelection to her post by over 60 percent of the total vote from the people of the State of Florida. The American Bar Association has given Justice Barkett its highest rating of being well qualified.

I do acknowledge that there are some philosophical matters in which Justice Barkett and I may differ. The confirmation hearing record before the committee demonstrates a troubling aspect that State courts can often encounter when following Supreme Court requirements in death penalty cases regarding the weighing of mitigating versus aggravating factors. While I might have taken a different position on some of the individual cases discussed at her hearing, I respect her judgment in these specific cases as she attempted to apply Supreme Court precedent as faithfully as possible.

I agree that fine philosophical lines can often be drawn when trying to balance the legal rights of a defendant with the Government's interest in punishing an individual for a particular crime. The key to being a good judge, in my opinion, is the ability of that judge not to let his or her personal opinions outweigh his or her diligence in seeking a correct interpretation of precedent handed down by a higher court. Justice Barkett's record has displayed this ability.

In reviewing her hearing record, I particularly noted a statement that she made to Chairman BIDEN in this regard in which she said, and I quote, "And I neither flinch from applying it when the death penalty is called for, nor do I flinch from vacating it when I think the law requires it." Justice Barkett has voted to enforce the death penalty in cases that involved at least 125 individuals, and while I know there may be some disagreement on that figure I do not think it really makes any difference what the figure is, if it has been applied in a manner of say, 60, 70, 80, or 100.

I think it does demonstrate that she will not flinch from her duties to make decisions in these difficult areas of the law when necessary. I will, therefore, vote in favor of Justice Barkett's nomination for a seat on the U.S. court of appeals for the eleventh circuit.

Mr. President, I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I also rise to support the nomination of Rosemary Barkett as a member of the eleventh circuit court of appeals. I do so for a variety of reasons. First, I do so from personal knowledge.

I have known Ms. Barkett for the better part of 15 years. She is an outstanding human being. She would bring to this court a unique and valuable personal set of life experiences and the values formed from those life experiences.

I believe that in a collegial court, a court of multiple judges, it is valuable to have a diversity of backgrounds so that the full experience of the American people can be brought to bear in rendering judicial opinions.

Rosemary Barkett has a unique personal background. Her parents were immigrants from the area of Syria and Lebanon. They sought to come to the United States of America, but at the same time, they were unable to secure the legal right to enter this country because of limitations in our immigration law. So they migrated to Mexico, and it was in Mexico that Rosemary Barkett was born. While still a child, her family was able to realize its ambition and come to the United States. She and her parents and siblings migrated to the United States, eventually settling in the State of Florida.

Ms. Barkett grew up in a very religious family and decided at an early age to commit her life to one of religious service and thus became a nun in the Roman Catholic Church. As such, she served in a variety of positions, particularly as teacher. As a person in her late twenties, she decided that there were other areas in which she could render service to the people, particularly through the law. And so as an adult, she left her religious order and went to the University of Florida to attend law school. She graduated at the top of her class in law school and returned to her home in West Palm Beach, FL to engage in the private practice of law.

While I was Governor, a vacancy occurred in the circuit court, the basic trial court, in her community. Under Florida law, there is a rigorous process by which judicial vacancies are filled. A judicial nominating commission made up of three persons appointed by the Florida bar among the legal profession, three persons appointed by the Governor, and three persons selected by those six, who have the responsibility of reviewing and interviewing candidates for vacancies in the court and making a recommendation of three persons to the Governor.

Rosemary Barkett went through that process, was recommended, and I had the privilege of appointing her to the circuit court.

A few years thereafter, a vacancy occurred in the intermediate appellate court in our State that had jurisdiction over the area of her home community. Again, there was the same process of judicial nomination and screening by a carefully selected group of individuals, and a recommendation to the Governor, which gave me the opportunity to appoint her a second time to the intermediate court of appeals.

Then, in 1985, a vacancy occurred on the Florida Supreme Court. A special judicial nominating committee has singular responsibility for recommending those persons who are considered to be most qualified to sit on Florida's highest court.

I provide this background because it indicates that Justice Barkett was not casually appointed to any of the judicial positions that she held. She was analyzed by persons from the community, from the State, persons both trained in the law, and concerned lay people.

For a third time, she was recommended—this time for the highest position in Florida's judiciary—as a member of the Florida Supreme Court. And for a third time, applying the procedures that I did, which included rigorous analysis of background and a personal interview, I recommended and appointed Justice Barkett to the Florida Supreme Court.

She is a person who has been consistently analyzed in terms of her intellect, her judicial quality, her demeanor, her capacity for personal growth, and the qualities that she would bring, whether it was judging at the trial level, at the intermediate trial level, or at the highest level in our State judicial system.

She has been subjected to other analyses. Under our system, after a judge has served a period of years, they are subject to a retention election at which they stand on their record before the people of Florida. Justice Barkett was subject to that retention election in 1992. She faced virtually the same arguments against her retention by the people of Florida as had been made on the floor today, and in previous forums, against her record. She rallied to her support a wide array of concerned Floridians, including the major law enforcement agencies, the Benevolent Association and the Fraternal Order of Police, who both supported her retention as a member of the Florida Supreme Court.

I suggest, Mr. President, that if those organizations, who are closest to the criminal justice system and its proper enforcement, had felt that she had the characteristics described about her, they would hardly have recommended to the people of Florida that she be retained in her position. But they did, as did virtually every other legal organization and major opinion commentator in our State.

The result of that retention election—probably the most contested retention election for a Supreme Court justice in our State's history—was that Justice Barkett received 61 percent of the vote of the people of Florida. I believe that is a strong statement of the people's attitude as to whether she has properly enforced the law, applied the law as a judge is called upon to do, and it has reflected what the people of Florida expect from a member of their highest court.

She has had another election since that. She was elected by her colleagues on the Florida Supreme Court to be its chief justice, the position that she currently holds.

So in a whole variety of forums—judicial nomination on three occasions, by the people of Florida, and by her colleagues on the Florida Supreme Court—she has received the strongest commendation for her judicial qualities.

She brings all of this background to her current nomination to serve on the eleventh circuit court of appeals. I believe that she will be an outstanding justice there as she has been in the Florida judicial system.

Mr. President, I would like to comment on a few of the criticisms that have been made about Rosemary Barkett and reserve time to comment further as this debate proceeds.

It has been suggested that she is unwilling to uphold the death penalty. Again, I submit the fact that she has had the strong support of law enforcement in our State for her continued service on the Florida Supreme Court and how she has the support of national law enforcement organizations for her confirmation to serve on the eleventh circuit is evidence that those who are closest to the enforcement of the law place their confidence in Rosemary Barkett. As a member of the Florida Supreme Court, she has participated in some 500 to 600 opinions which relate to the imposition of the death penalty. Many of those opinions related to multiple defendants or defendants who had multiple cases before the Florida Supreme Court.

Approximately 125 to 150 individuals have had their death penalty affirmed in an opinion in which Rosemary Barkett concurred in that affirmance. She is not a judge who by demonstrated record has been unwilling where appropriate to enforce the death penalty. She has been admittedly a rigorous judge in terms of assuring that the law was properly applied in death penalty cases.

As one who supports the death penalty, as a member of the State legislature who voted for its reimposition in Florida in the 1970's, as a Governor who signed over 100 death warrants, as a Member of the Senate today who supports expanded Federal use of the death penalty, I believe it is critical that we have judges of Rosemary Barkett's temper who are willing to rigorously review cases and are willing to see that the law is applied. None of us want to see the death penalty utilized against an innocent person. None of us want to see the death penalty utilized where it does not fulfill its legal purposes. There would be no greater attack against the continuation of the death penalty than its casual application.

I believe that Justice Barkett has served the ends of justice and specifically served the ends of justice appropriate to the death penalty by the rigorous way in which she has conducted her office.

A second criticism of Justice Barkett has been that she has inappropriately enforced due process and equal protection standards in the U.S. Constitution. Mr. President, I would point out the obvious. The United States is a Federal system. Part of that Federal system is a dual system of justice. We have State laws; we have Federal laws. Federal laws are supreme, but States have the authority to adopt State standards that go beyond the protections of the Federal Constitution. No State can fall below those standards, but States can augment the protection of individuals.

We have done so in Florida in a number of instances. I would cite as illustrative a provision that was adopted to our State constitution in 1980 by a very strong majority of the people of Florida voting to amend our Constitution to insert this provision. It is article 1, section 23 of the Florida Constitution entitled "Right of Privacy." And that provision reads:

> Every natural person has the right to be let alone and free from governmental intrusion into his private life except as otherwise provided herein. This section shall not be construed to limit the public's right of access to public records and meetings as provided by law.

That is the Florida constitutional provision that ensures the right of privacy, the right to be left alone, to be free from governmental intrusion.

That goes beyond the right of privacy as has been found not in its words but by its meaning to be in the U.S. Constitution. That provision was in the Florida Constitution some 5 years before Rosemary Barkett became a member of the Supreme Court of Florida. That provision had been interpreted by Supreme Courts of the State of Florida prior to her service. She has been a faithful member of the Florida Supreme Court in terms of carrying out that as well as the other provisions of our State Constitution.

In doing so, yes, she has provided protections for privacy that go beyond the U.S. Constitution but for her now to be criticized as having done so because of fidelity to her oath of office to enforce the Constitution both of the United States of America and of the State of Florida I think is to turn one of her great assets, her fidelity to the law, to become an apparent weakness.

She also understands that in the area of due process and equal protection of the law there are areas in which the State constitution as interpreted by this and previous Florida Supreme Courts provides protections to Floridians that go beyond those that are provided under the U.S. Constitution as Americans. She has been rigorous in the enforcement of those State due process provisions.

One of the cases that was cited to her detriment is the case of Foster versus State. I might say, parenthetically, Mr. President, I know this case well. I signed the death warrant that led in part to this opinion.

In this case, the defendant had raised the issue that he had been denied due process not under the Federal Constitution, but under the State of Florida's Constitution. It was the opinion of Justice Barkett in a dissent in which she was joined by two of the other members of a seven-person Florida Supreme Court that that claim of denial of due process under the Florida Constitution had not been adequately adjudicated. Her disposition in the dissent of this was to the effect that there had been a charge that a particular judicial officer had applied the death penalty in a racially discriminatory way. She did not resolve whether that allegation had a factual basis or not but rather said that it was a legitimate claim under the Florida due process provision of our State constitution and deserved to have an appropriate judicial resolution.

Whether you agree or do not agree with her dissent, it is not an unreasonable position that she was advocating. It was not a position which indicates that she was soft on crime or unwilling to enforce the death penalty.

Third, Mr. President, it has been suggested that she will not enforce the law and, therefore, will hamstring the criminal justice system. The very criticisms that have been made against her is the fact that she is so faithful in enforcing the law in applying the precedents and the special provisions of the Florida Constitution and she has said, including on numerous occasions during her appearance before the Judiciary Committee, that she understands that as a member of the Federal eleventh circuit court of appeals that she will have a different set of responsibilities than she has had as a justice and now chief justice of the Florida Supreme Court. She understands the significance of a judge's responsibility to enforce the law and to follow the precedents, particularly the precedents of the United States Supreme Court.

I believe, Mr. President, that her demonstrated extended career, a career of distinction and faithfulness to the law, qualifies her to be a member of the Eleventh Circuit Court of Appeals. She will bring to that court a very special and valuable personal background. The people of America and the system of justice in America have been enriched by her service to date and will be further enriched by her elevation to this important Federal judicial post.

I thank the Chair.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HATCH. Mr. President, how much time does the Senator need?

Mr. SMITH. Ten minutes.

Mr. HATCH. I yield 10 minutes to the distinguished Senator from New Hampshire.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. SMITH. Thank you, Mr. President. And I thank my colleague from Utah for his leadership in regard to the opposition to Judge Barkett.

I rise to oppose this nomination of Rosemary Barkett to be the circuit judge of the U.S. court of appeals for the eleventh circuit.

The President of the United States has used a great deal of rhetoric in the last several days, several weeks, several months, since he has been President. He used it also in the campaign about his being a tough anticrime candidate, and later as President. He even favors the death penalty, he says.

Well, as a President of the United States, one has a great opportunity to back up that rhetoric with action by the judicial nominations that he makes. Talking tough on crime is one thing, but appointing tough judges against crime is another. And in this case, the action does not equate in any way with the rhetoric. In fact, there is the trite expression "actions speak louder than words," and this action of making this nomination speaks very loudly, a lot louder than the words.

The nomination of judges is one of the most important actions that any President can take on anything. But in this case, especially in the area of fighting crime, the President's nomination of Judge Barkett speaks volumes. Long after a President leaves office, long, long after a President leaves office, that judge continues in that position to make decisions which affect all of our lives.

I ask my colleagues, if they are tough against crime, to take that into consideration as they evaluate this nomination.

Judge Barkett has a long record as a judge on the Florida Supreme Court. On a wide range of criminal law issues, she established a record of unabashed liberalism—opposite, directly opposite, of the President's tough-on-crime rhetoric.

On the Florida Supreme Court, Judge Barkett has voted in favor of series of unduly restrictive fourth amendment search-and-seizure decisions that would hamstring police fight against crime. In fact, two of her opinions have been reversed by U.S. Supreme Court.

Likewise, Barkett was voted to strike down carefully crafted antiloitering laws—including laws proscribing loitering for purpose of drug dealing and loitering for purpose of prostitution. Once again, this judge's liberal view of constitutional law hinders police in fight against crime.

Judge Barkett believes criminal obscentiy laws "run counter to every principle of notice and due process in our society." she argues that obscenity "cannot be defined," even though the U.S. Supreme Court has set forth how it can be defined. Barkett's soft-on-obscenity view is sadly consistent with the Clinton Justice Department's notorious soft-on-child-pornography position that Senate denounced by 100 to 0 vote last fall.

But by far most disturbing aspect of this judge's criminal law record is with respect to the death penalty—again, the death penalty that this President says he supports, that this Congress says it supports, that the American people support. And yet, we get a judge who is by far the most militantly anti-death-penalty member of the Florida Supreme Court, maybe in the whole country let alone the Florida Supreme Court.

In case after case, this judge has strained—strained—to find a way, anyway she can, to avoid voting to uphold the death penalty, even in the most outrageous and violent murder cases, the most outrageous. We are not talking about marginal murder cases here with marginal evidence. We are talking about the most violent.

Let me give you an example, the Dougan case. We heard a lot about it today, but we ought to hear more about it. We ought to hear it again and again and again. Our colleagues should understand what kind of a judge we are talking about here. It is no wonder. It is a case that illustrates most clearly Judge Barkett's antideath penalty, criminal-as-victim-of-society philosophy.

Murderer Dougan was leader of group called "Black Liberation Army." The group's avowed goal, said trial judge in case, was "to indiscriminately kill white people and thus start a revolution and a race war." That was the stated goal.

One evening in 1974, Dougan and four other members of group picked up white hitchhiker, drove him to trash dump, stabbed him repeatedly, and threw him to ground. As youth writhed in pain and pleaded for his life, Dougan put his foot on youth's head and shot him twice—once in chest and once in ear.

After brutal murder, Dougan made several tape recordings bragging about murder and mailed them to victim's mother. In the tape, Dougan made this unspeakably grotesque and disgusting statement—

> He [the youth] was stabbed in the back, in the chest and the stomach, ah, it was beautiful. You should have seen it. Ah, I enjoyed every minute of it. I loved watching the blood gush from his eyes.

That is the quote from this person. This person deserves the death penalty and this country deserves a judge and judges who have the guts to administer it, not the opposite.

Although the Florida Supreme Court commendably and understandably upheld the death penalty in Dougan's case, Barkett dissented. She joined a dissent written by one of her fellow anti-death-penalty justices. That dissent made the following remarkable statement, which I will quote at length because it so clearly illustrates Barkett's blame-society-first, not-the-criminal's-fault, coddle-the-criminals philosophy of judging: Here is what they said:

> This case is not simply a homicide case, it is also a social awareness case. Wrongly, but rightly in the eyes of Dougan, this killing was effectuated to focus attention on a chronic and pervasic illness of racial discrimination and of hurt, sorrow, and rejection. Throughout Dougan's life his resentment turned to bias and prejudice festered. His impatience for change, for understanding, for reconciliation matured to taking the illogical and drastic action of murder. His

> frustrations, his anger, and his obsession of injustice overcame reason. The victim was a symbolic representation of the class causing the perceived injustices.

This is the person this President wants to put on this court, this anticrime President? Actions speak louder than words.

The Dougan case says it all, Mr. President. Barkett is soft on crime, to say it nicely. She has a right to her opinion; absolutely. This is America. But we have a right to ours. And if you are an anticrime President, you have no business putting her on the circuit court. If you are pro-death penalty, you have no business appointing this judge, Mr. President, with all due respect. Back up your rhetoric with action.

Barkett subscribes to the blame-society, blame-anybody-but-the-criminal philosophy of criminal law. She epitomizes the kind of judge the American people do not want. But we are going to get her. Do not kid yourself. The votes are here. We are going to get her. The American people do not want her, but we are going to get her. The American people are sick and tired of these liberal judges who coddle the criminals and find any way they can to allow the most vicious killers, the most vicious, despicable people to escape the consequences of their acts and blame everybody else.

We have societal problems. That is another issue. But when you break the code and you do what Dougan did, and people like Dougan did, you deserve to pay the price. No other victim, no other person in our society should ever have to face this animal again.

Poll after poll after poll shows that the American people have grave doubts about this President and some of his policies. The Barkett nomination is a prime nomination of why. As I said earlier, actions do speak louder than words. The President is talking tough on crime and then serves up an endless parade of these liberal judicial nominees who are soft on crime.

It is more than being soft on crime. As I said, any judge has a right to her position. Many judges oppose the death penalty. That is their right.

But again, when you are the President and you say you are for the death penalty, why do you appoint judges who are not? Why? Maybe the American people would have some explanation for this. I think it is pretty obvious. You do not mean what you say.

The American people are not going to be fooled by this. They are not going to be fooled. No President who would nominate a person like this to the circuit court, like Rosemary Barkett, means a word he says when he claims he is tough on crime. That is the conclusion. He does not mean what he says.

I urge the people who might be looking at this debate, or hearing this debate, frankly—and I do not do this often on the floor of the Senate—but I urge you to call your Senators and urge them to vote "no" on the nomination. I will give you the number. It is 202-224-3121. That is how important I feel this is. Call your Senators.

While you are at it give the White House a call. Say, "Mr. President, I do not understand. I do not understand how you can be anticrime and be in favor of the death penalty and give us a judge like this. I do not understand, Mr. President." Let me give you that number: 202-456-1414. Let him know how you feel.

I hope and I pray—and my colleague from Utah may know more about this than I do at this point—we are not going to see this type of nomination appear on the Supreme Court of the United States with the pending Blackmun vacancy.

Let me conclude. I think I have made my point. My colleague has been very generous with his time. I commend Senator HATCH for his leadership. He has done this so many times. I know how he feels. He feels a President does have a right to make his appointments, but he feels very strongly, as I do, that this is just simply inconsistent with the stated policies of this President, it is inconsistent with what is in the best interests of the anticrime feeling of this country right now and the disgust with it. He has had the courage to stand up and lead opposition to this nomination.

I have seen him also on the floor of this Senate stand up and support strongly the nomination of other judicial appointments by this President. So it is not political. This is a moral issue with him, one he feels very strongly about. I say to my colleague from Utah, he has performed a great service to his country in exposing the true nature of this nomination, and I know he will continue to keep up the good fight.

Again, I compliment the Senator for making this known to the American people. I hope the American people will express those views as I have outlined to their Senators and to the President, and somehow by the grace of God, we could stop this very, very bad nomination.

I thank my colleague.

The PRESIDING OFFICER. Time of the Senator has expired.

The Chair recognizes the Senator from Utah.

Mr. HATCH. I thank my dear colleague from New Hampshire for his kind remarks, but also for his remarks about the nominee. No one here wants to find fault with the nominee as a human being. But if you look at these opinions and you read them, you really have to be concerned. Especially at the time when we are awash in drugs, awash in crime, awash with all kinds of difficulties in this society, we do not need another person who ignores the laws and starts to put his or her own emotional predilections into the law instead of interpreting the laws made by elected representatives, who are elected to make them. Judges are not elected. If she gets this position she will be confirmed for life. If she continues to operate in the way she has on the Florida Supreme Court, I can predict a lot of difficulties in the fight against crime, not only in Florida, now, but throughout the country.

I thank my colleague and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I just want to put in a word or two.

Judge Barkett, from every evidence I have seen—and I have gone through the record, I was there for part of the hearing—is eminently well qualified. The charge that she is soft on crime, or does not favor the death penalty—that really should not be a consideration. The reality is the soft on crime stuff just does not hold up under examination. And if someone happens to be opposed to the death penalty and is a judge, or favors some change, other change in the law, that judge is not there to make the law. That judge is there to enforce the law.

She has indicated that she will do that.

I think it is interesting the Orlando Sentinel concluded that the "soft on crime" attacks by Justice Barkett's opponents are, "reckless and unfair." The Sun-Sentinel called the charges false.

The Miami Herald concluded that the President, "could not have found anyone better prepared."

The Orlando Sentinel called it a "top notch choice."

The reality is this is a good nominee. I am pleased our colleagues, Senator GRAHAM and Senator MACK, are supporting the nomination. I think we are making a mountain out of a molehill here. I think she ought to be approved, and approved quickly, and I hope we get on about our other business.

If no one else seeks the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I oppose the confirmation of Chief Justice Rosemary Barkett of the Florida Supreme Court to the court of appeals for the eleventh circuit. I do so with some reluctance because I know that both of our colleagues from Florida, Senator MACK and Senator GRAHAM, support this nomination.

I have also received very strong words of support from constituents of mine in Pennsylvania and from the people whom I know in Florida.

In opposing Chief Justice Barkett's nomination, I am not unmindful of the fact that her confirmation is virtually assured. But I want to register my vote in opposition perhaps more as a protest vote on the nominee's judicial philosophy and reasoning, which I believe go beyond the appropriate bounds of judicial activism, which I think ought to be minimized, to a judicial philosophy which is very strongly result oriented.

In casting this vote, which I plainly denominate as a protest vote, I think to the extent that the activities of the Judiciary Committee on which I serve or the Senate which has the ultimate responsibility for confirmation can provide a forum for our views for whatever guidance they might be for the State judges and lawyers of America who aspire to be on the Federal bench, that it does have some value. Of course, people will take it for what it is worth. I am glad for what they think it is worth.

I am glad to see that this issue is coming before the full Senate for a vote on the merits without a filibuster requiring 60 votes for cloture to bring the nomination to a vote. Had there been a filibuster or an effort to stop this issue—Chief Justice Barkett's nomination—from coming to a vote, I would have opposed a filibuster. I think that a filibuster—that is where Senators refuse to conclude the debate until at least 60 Senators vote in favor of concluding the debate—is a procedure which ought to be used very, very sparingly, and not in this sort of a case.

I will refer to some of the nominee's decisions somewhat briefly, as I made a full statement in the Judiciary Committee, which is a matter of record. Some of the cases which illustrate Chief Justice Barkett's result orientation are found, illustratively, in her dissenting opinion in the case of Foster versus Florida. This case challenged the constitutionality of a death penalty under the equal protection clause where there is an effort, through a statistical analysis, to show that there is unfairness in the imposition of the death penalty.

At the outset on my analysis of this case, I wish to be as emphatic as I can that while I favor the death penalty—and have done so consistently since my days as an assistant district attorney and then as district attorney of Philadelphia many years ago—I believe it has to be very carefully applied. I believe that the essence of justice is individualized justice. I believe that we have moved too far in the direction of mandatory sentencing, generally, which takes away discretion from judges to apply justice on an individualized basis.

I think that in following the decision of the Supreme Court of the United States, in Furman versus Georgia in 1972, prohibiting the imposition of the death penalty unless imposed by juries after very careful consideration and analysis of the aggravating circumstances and the mitigating circumstances of each particular case, we have moved a long way in terms of seeing to it that there is individualized justice in death penalty cases.

During my tenure as district attorney of Philadelphia, where my city had some 500 homicides a year, the death penalty was requested in the very limited number of cases which I, as the district attorney, approved personally. I believe that the death penalty is going to have to be very carefully applied if we are to keep it in our society. While the vast majority of the American people favor the death penalty—something in excess of 70 percent—and while I believe there is very strong evidence that the death penalty is a deterrent, it is not being applied in America today.

Thirty-seven States have the death penalty. There are approximately 2,800 men and women on death row, and last year there were 38 cases where the death penalty was carried out. So, as a society, I think we have failed to utilize the death penalty as a deterrent and as an effective weapon in the fight against violent crime. But it is very necessary to apply it in a very careful and in a very precise way. The lengthy appeals process which goes on in the Federal courts—some taking as long as 17 years, the average between 8 and 9 years—has very substantially reduced the impact of the death penalty. I think each case has to be individually analyzed, and the kind of statistical analysis that some seek to apply—that is, to show that there is, on a statistical equation, more application of the death penalty for minorities than for others—is unsound as a matter of legal principle.

The Supreme Court of the United States took up this issue at some length in a landmark decision called McCleskey versus Kemp, and ruled that statistical analysis was not a fair or an appropriate basis to challenge the imposition of a particular death sentence. This issue has been considered in the Senate in our 1990 crime legislation. The Senate voted to follow the rule set out in McCleskey versus Kemp—where the Supreme Court rejected this statistical analysis.

In the dissenting opinion in Foster versus Florida, Chief Justice Barkett says the following:

> Accordingly, because the majority has applied a Federal constitutional standard in Foster's case that is impossible to me, and has missed the opportunity to craft a State constitutional standard, such as that discussed above, I dissent.

It may be that the Constitution of the State of Florida differs from the Constitution of the United States. On its face, I do not think that is so. But as I read this opinion in its totality, there is very definitely an effort by Chief Justice Barkett to reach a result in a line of reasoning that is result oriented and is not based—at least in my opinion—on a sound analysis of the cases.

Another case which draws the same sort of an inference, as I see it, is the case of University of Miami versus Echarte, where Chief Justice Barkett again dissented, saying that the equal protection clauses of the Florida and U.S. Constitutions were violated. When Chief Justice Barkett had her hearing in the Judiciary Committee, under questioning—not by this Senator, but by others—she backed away from her assertion that a violation of the U.S. Constitution on equal protection grounds had occurred, but she continued to assert that there was a violation of the Florida Constitution on equal protection grounds. She cited as authority Kluger versus White. Without going into a detailed analysis of that case, it simply does not stand for that proposition and does not govern University of Miami versus Echarte on an interpretation of the equal protection clause of the Florida Constitution. Again, I submit that her decision in this case is a reflection of the nominee's result-oriented jurisprudence.

Perhaps the most troubling opinion of Chief Justice Barkett was a reapportionment case in which she wrote that she would support a reapportionment plan simply because it was submitted by the NAACP, "an organization that has always had the best interests of minorities at heart." I firmly reject using any categorization, of whatever group it may be, as a basis for accepting their judgment. You can listen to and you can analyze what a party has to say, but I think that it is a judicial responsibility not to rely on labels, reputations, or the identity of the parties before the court, but to go to the underlying legal issues. I thought this case was especially problemsome, because there were very substantial other interests, such as Hispanic interests, involved in that case.

Mr. President, I do know that Chief Justice Barkett has a commendable academic record, a commendable record as a practicing lawyer, and many recommend her as a jurist. I have not read all of her cases on the death penalty, and without having done so I will not quarrel with any of her decisions, which others say have been too lenient. I believe that a very careful analysis in death penalty cases is warranted. There is substantial latitude for judicial discretion in applying and weighing the standards of aggravating circumstances and mitigating circumstances in each case.

As I survey Chief Justice Barkett's record, I believe that it shows more than judicial activism; there is a very heavy tilt in her decisions toward result orientation. For this reason I will cast a vote against her nomination. As I say, knowing the tenor of the Senate and the support she has from her home State Senators, I recognize that her confirmation is a virtual certainty. This, in effect, is just a protest vote.

I thank the Chair.

I see no other Senator on the floor, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia is recognized.

PUBLIC SERVICE INCARNATE

Mr. BYRD. Mr. President, more than four decades ago, a young 14-year-old boy arrived in Washington, DC, from Florida. He came here to serve as a Senate page under the patronage of the late colleague and friend of some of us who are still here, Senator Spessard Holland.

That young Florida boy literally grew up in the U.S. Senate, graduating from our Page School, attending George Washington University for his undergraduate degree, and finally earning his law degree from the American University, most of the time simultaneously serving in some capacity here in the Senate.

During the same period and subsequently, that young man matured into a very gifted, qualified, and helpful nonelected official.

Mr. President, with much regret and with sincere gratitude, I want on this occasion to acknowledge the announced retirement from our ranks of Walter Joseph Stewart, the current Secretary of the Senate.

To his legion of friends and associates, Joe Stewart is known simply and affectionately as just that—"Joe" Stewart, and I shall presume thus to call him in my following remarks, both from habit and from choice.

In truth, as I indicated, Joe Stewart grew up in the United States Senate.

With a quick wit and an almost uncanny ability to grasp the relative significance of details great and small, Joe Stewart mastered the advice of Ralph Waldo Emerson, who, when asked the secret of success, responded, "Make yourself necessary to somebody."

Indeed, Joe Stewart has made himself necessary to legions of people during his various tenures here in the U.S. Senate by guiding the confused and the inquiring individuals through the shoals and rapids of arcane Senate practice, lo, these several decades.

Joe Stewart is, in short, a marvel. He speaks quickly, moves quickly, and thinks quickly. He is one of the busiest staffers on Capitol Hill. Yet, he always has time to attend to the smallest of details. He always remembers the thoughtful gesture, the human touch, the personal note. Joe Stewart is a unique combination of efficient capability and thoughtful, empathetic kindness. He has helped many people over the years, and his generous spirit will be long remembered by hundreds of current and former employees of the Senate. His gracious assistance to my wife and me, and to members of my family and staff has very often made difficult situations much more tolerable. For this I personally thank him and will remain forever in his debt.

Joe Stewart is a problem solver. He has a gift for thinking clearly and seeing a solution when one is not readily at hand.

Providence crossed my path with Joe Stewart's not too long after I assumed a position on the Senate Appropriations Committee and he assisted me, as I served as a member of that committee.

He later joined my own staff, and after I was elected Senate majority leader, Joe Stewart served as Secretary for the majority from 1979 until January 1981, and as Secretary for the minority from January 1981 until August 1981. He was an outstanding employee in both very difficult and very different positions.

At that point, Joe Stewart temporarily departed Capitol Hill to serve as Vice President for Government Affairs for Sonat, Inc., a private firm involved in energy-related matters.

But in January 1987, I was successful in convincing Joe Stewart to return to the U.S. Senate as Secretary of the Senate, a position in which he has served with notable distinction ever since.

Mr. President, to borrow from the vernacular, Joe Stewart is "a Class Act," Joe Stewart has brought to every position in which he has served on my staff and in related responsibilities a degree of dedication and perfection that might have impressed even Zeus on Mount Olympus. Joe Stewart has an uncanny ability to gage almost exactly the result one desires and then to produce of that ideal a finished product of triumphant proportions.

Moreover, Joe Stewart has been motivated by a sense of patriotism—a patriotism of the private citizen and of the public servant that has been marked by selflessness in behalf of his country and in behalf of the Senate and by unstinting service for the sake of this institution and causes that magnify our American heritage.

What was he doing? Well, he decided to sacrifice hours and hours of his personal time when others were off enjoying the weather or the weekend to see to essential details of this or that, and always with the benefit of the Senate first in his heart. His unceasing efforts in service to the United States Capitol Preservation Commission and the Commission Advisory Board must also be noted here. As Co-Chairman of the Commission with Speaker of the House TOM FOLEY, I have witnessed personally the energies and efforts that Joe Stewart has expended in behalf of the restoration and enhancement of this great Capitol building—the "People's Palace"—efforts aimed at making this shrine of American Democracy an unforgettable experience for the thousands upon thousands of Americans who visit this vast building every year. For Joe Stewart, I know this particular endeavor has been a labor of love. I believe that Joe still feels as I do, even after all these many years, when he looks up at that gleaming, resplendid white marble dome in the bright blue air above this fair city.

My friend ROBERT DOLE often speaks in jest of a view from the White House as being the "best view in town." Well, I must say facetiously, and yet very seriously, that the White House is not the best view in town. The best view in this town or anywhere in the world is from this Capitol, this great Capitol, this great palace of the people. This is the best view in this town and the best view in any town across this land—the Capitol Building of the United States, where the people's branch sits, where the House and the Senate sit.

I believe that Joe still feels the fresh wonder of a boy filled with awe and expectation as he gazes upon this symbol of the greatest nation on Earth and realizes that he, too, has played a part—that he, too, has made a contribution, that he, too, has made a difference. And, indeed, what a part he has played, what a difference that young page boy has made.

Mr. President, Joe Stewart will be remaining here in Washington, re-entering the private sector and making himself further available to those who need the borrowed wisdom of a seasoned, serious, and perceptive veteran of the legislative process.

I know that I speak for all of our colleagues and for the army of staff people who have been fortunate enough to know Joe Stewart as a friend and coworker, in wishing for Joe Stewart the best of Destiny's favors and every fulfillment possible in the years ahead.

Mr. President,

It isn't enough that we say in our hearts
That we like a man for his ways;
It isn't enough that we fill our minds
With psalms of silent praise;

Nor is it enough that we honor a man
As our confidence upward mounts;
It's going right up to the man himself
And telling him so that counts.

If a man does a work that you really admire,
Don't leave a kind word unsaid.
In fear to do so might make him vain
And cause him to lose his head.
But reach out your hand and tell him, "Well done."
And see how his gratitude swells.
It isn't the flowers that we strew on the grave,
It's the word to the living that tells.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The Chair recognizes the Senator from North Carolina.

Mr. HELMS. Mr. President, before I proceed, let me say that I always dislike following the Senator from West Virginia. He is, by all odds, the most eloquent Member of this Senate. On top of that, I say to him here that he is my friend.

Mr. BYRD. Mr. President, will the able Senator allow me to interrupt him?

Mr. HELMS. Certainly.

Mr. BYRD. I thank the Senator for his kind felicitations. The aisle, may I say, separates us. But friendship is not separated by an aisle, and he and I do not always vote together, as no other Senator and I vote together always. But there are many times when I do vote with the Senator and I have an admiration for him. He is my friend. And he contributes a great service to the Senate.

Sometimes he makes us vote on matters we do not want to vote on, but I honor him for that. And that is what we need. Sometimes we need to screw up the courage to vote on tough issues, and I am proud that he makes us do it.

Mr. HELMS. Mr. President, I thank the Senator very much. He is my role model. I find myself wishing that I knew as much as he does—or half as much. Nobody who has ever served in this Senate has upheld the traditions of the Senate more highly than he has.

And besides that, the distinguished Senator from West Virginia and the Senator from North Carolina were both born in the same State.

NOMINATION OF ROSEMARY BARKETT, OF FLORIDA, TO BE U.S. CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT

The Senate continued with the consideration of the nomination.

Mr. HELMS. Mr. President, all my life I have heard, as the distinguished occupant of the chair has heard, that everybody talks about the weather but nobody does anything about it. I have been in the Senate going on 22 years, and I think every year I have been here—maybe minus 1 or 2—there has been a crime bill and there have been all sorts of assurances that this is going to take care of the crime problem once and for all. The crime bill is going to stop the crime in the streets. It is going to put an end to drug trafficking. It is going to stop the murders.

I know these statements were made by men and women in good faith. But I have come to the conclusion—now that I am older than I have ever been before and have thought much about the crime situation and crime legislation—that we are not going to solve the crime problem in America until we solve one or two other problems first.

Namely, we have to make up our minds, as Americans, that we are going to restore some fundamental principles in this country, principles on which and for which this country was founded.

I do not mean to sermonize, but as a society we have drifted so far away from being a good Nation. Of course, I am referring implicitly to Alexis de Tocqueville, the great French diplomat and scholar who came to this country in the middle of the 19th century in search of the genius of this relatively new country.

Every school boy knows that story. Alexis de Tocqueville went everywhere in America. He went to the seaports and he went to the cities and he went to the towns and he went to the farms, and he said: They are not substantially different from what I have seen in my own homeland of France.

And then he went to one other place. And when he got back to France he recounted and recited all of the other trips he had made around America and he said: It was not until I went into the churches of America that I discovered the genius of America. Because there I found that these Americans, they seek to be good. They are not perfect, but they are trying to be good. And as long as America and Americans try to be good, America is going to be great. But when America stops being good, America will stop being great.

Mr. President, let us contrast that with the psychological attitude that is so prevalent today. Look at what we see on television. And, yes, there are some of us who have been ridiculed and mocked because we contend that traditional values such as prayer in school ought to be restored. School prayer, and the respect for morality that it engenders, was taken away back in the 1960's by an unwise Supreme Court that completely misinterpreted history and the U.S. Constitution. But school prayer ought to be restored. And fundamental civil and personal decency ought to be restored, as well as concern for one's fellow human beings.

Mr. President, no crime bill can substitute for that.

I was struck by these thoughts 2 or 3 months ago when President Clinton came up for his State of the Union Address. My soul, I have heard few more eloquent human beings in my life. He can look you right in the eye and tell you something that you know is not so, and you halfway believe it. He is without question a charming man in the podium. And he was certainly charming that night.

I remember his exhortation to the American people—and he held up his hand—"Let us reclaim our streets from violent crime and drugs and gangs." And they stood up as one in the House of Representatives and cheered. And well they should, because we should reclaim our streets.

Then he said, "While Americans are more secure from threats abroad, I think we all know that in many ways we are less secure from threats here at home. Every day the national peace is shattered by crime * * *"

And at that point, Members stood up again and cheered. If you watched it on television, you got sick and tired of people getting up and sitting down, getting up and sitting down, every time the President finished a sentence.

The President continued, "Violent crime and the fear it provokes are crippling our society, limiting personal freedom, and fraying the ties that bind us."

That is pretty good rhetoric, Mr. President. I wish I had thought of it myself. As Ronald Reagan said afterward, "Imitation is the sincerest form of flattery, but this is wholesale robbery."

And then Mr. Clinton said, "The crime bill before Congress gives you a chance to do something about it, a chance to be tough and smart. And what does that mean? Let me begin by saying I care a lot about this issue."

Well, I remember thinking—knowing that Mr. Clinton had nominated the chief justice of Florida's Supreme Court to sit on the U.S. Court of Appeals for the Eleventh Circuit—I thought mercy, is he really going to put this lady on the U.S. Court of Appeals feeling as he says he does about crime?

Mr. Clinton continued his speech and said, "My fellow Americans, the problem of violence is an American problem. It has no partisan nor philosophical element. Therefore, I urge you to find ways as quickly as possible to set aside partisan differences and pass a strong, smart, tough crime bill."

Tough words. Tough words, I say to the distinguished occupant of the chair. And this is what the American people heard from their President. It was an impressive flow of rhetoric. That is what he said and continues to say, and it is what the American people approve of.

But you have to look and see what actions he is really taking on the issue of crime. For instance, today, the Senate is spending much of the day considering Mr. Clinton's nominee to sit on the Eleventh Circuit Court of Appeals the lady I just mentioned, namely, Rosemary Barkett. If confirmed, she will have lifetime tenure and will henceforth be accountable to no one. If she conducts herself as other liberal activists have on the bench, she will allow her liberal philosophy to permeate her decisions, using her judicial power to override the actions of the elected representatives of the people.

That is why I am here. I am no lawyer, and I sometimes brag about it. But I have the greatest faith and hope that the judicial system in this country will return to its proper constitutional role of interpreting and not rewriting the Constitution.

But let us examine Judge Rosemary Barkett's record.

During her tenure on the Supreme Court of Florida, she has tried to prevent the enactment of laws to ban obscenity and preserve community order and decency, laws which I think everybody should acknowledge are important to community policing, which Mr. Clinton says he so strongly supports.

She has issued a series of search and seizure decisions which if implemented, would severely hamper the ability of the police to enforce laws against drug trafficking and other crimes, the kind of crimes about which the President says he is so concerned and he said so eloquently a few short months ago in January.

This liberal lady judge has also endorsed a capital punishment theory that would make it impossible to impose the death penalty unless it is carried out according to racial quotas. She has attempted at every turn to make excuses for the acts of brutal criminals based on the fallacious liberal philosophy that criminals are the victims of society—you know, the old society-is-to-blame game.

So I am inclined to say so much for Mr. Clinton's appeals regarding crime and punishment when he sends this Senate a judicial nominee more interested in making excuses for criminals than in having them held responsible for their actions—a judge that believes that the criminals are the victims.

Mr. President, I am not going to take up much more of the Senate's time. I am shortly going to ask to have inserted in the RECORD an analysis of the nominee's record and a number of her judicial opinions. But before I do that, I do want to discuss a few of the cases which may help reveal to those watching on C-SPAN the kind of nominee Mr. Clinton has submitted to the Senate to sit on the U.S. Court of Appeals.

In the case of *Stall* v. *State* (570 So. 2d 257 (Fla. 1990), for example, Chief Justice Barkett joined a dissent that called for striking down a State obscenity statute. She stated, "A basic legal problem with the criminalization of obscenity is that it cannot be defined." I say to the lady, with all respect, you are crazy as the devil. It can and has been defined by the U.S. Supreme Court—I do not know why she could not find the case. It is called Miller versus California and was decided way back in 1973.

She went on to say in that opinion that the Florida obscenity law violated "every principle of notice and due process in our society."

Senators may also be aware of Barkett's decision in *Bostick* v. *State*, which is cited as 544 So.2d 1153 (Florida 1989). In that case, the Broward County Sheriff's Department had tried to combat the flow of illegal drugs by randomly boarding, at scheduled stops, buses traveling interstate. Once on the buses, officers would ask the passengers for permission to search their luggage for drugs.

Now, a fellow named Bostick was a passenger on such a bus. The sheriffs boarded the bus. They announced they were narcotics agents. They asked Bostick for permission to search his luggage. Bostick consented to the search, and during the search, what do you know, the sheriffs discovered illegal drugs.

Now, in finding this search to be illegal—and how she arrived at that conclusion baffles me—Barkett wrote an opinion completely prohibiting the police from ever using this means of combatting drug trafficking again.

And I say again, President Clinton was so eloquent in his address to the Joint Session of Congress. Oh, he was so eloquent. And then he sends up a nominee like this.

In her opinion in the Bostick case—which was subsequently overturned by the U.S. Supreme Court (*Florida* v. *Bostick*, 111 S.Ct. 2382 (1991))—Barkett wrote: "This is not Hitler's Berlin, nor Stalin's Moscow, nor is it white supremacist South Africa."

How does this mesh, I ask the presiding officer, with President Clinton's appeal to the American people to support the honorable and difficult work of our law enforcement officers?

Mr. President, there is more. As Senator HATCH concluded after her confirmation hearings: "Judge Barkett exhibits a clear tendency to strain for unconvincing escapes from the imposition of the death penalty."

One of Justice Barkett's dissenting opinions would render the death penalty virtually unenforceable—unless imposed on the basis of racial quotas. She laid out her theory in a dissent in *Foster* v. *State* (No. 76,639 (Florida, April 1, 1993)). This theory has been used in Senate debate by Senator KENNEDY and others opposed to the death penalty.

Before voting on this nomination, Senators may wish to review a 1992 Florida Supreme Court case, *Dougan* v. *State* (595 So. 2d 1 (Florida 1992)). Dougan was the leader of a group that called itself the Black Liberation Army. According to the trial judge, its "apparent sole purpose * * * to indiscriminately kill white people and thus start a revolution and a race war." One evening in 1974, Dougan and four other members of his group went in search of victims. They picked up a white hitchhiker, Steven Orlando, drove him to an isolated trash dump, and stabbed him repeatedly. Dougan then put his foot on Orlando's head and shot him twice. In one of several tape recordings he made bragging about the murder, Dougan said: "* * * it was beautiful. You should have seen it. Ah, I enjoyed every minute of it. I loved watching the blood gush from his eyes."

Justice Barkett and one of her colleagues joined in a dissent calling for Dougan's death sentence to be reduced to life imprisonment, with eligibility for parole in 25 years, which stated:

> This case is not simply a homicide case, it is also a social awareness case. This killing was effectuated to focus attention on a chronic and pervasive illness of racial discrimination and of hurt, sorrow, and rejection. Throughout Dougan's life his resentment to bias and prejudice festered. * * * His frustration, his anger, and his obsession of injustice overcame reason. The victim was a symbolic representation of the class causing the perceived injustices.

Mr. President, the dissent concluded that giving Dougan a life sentence instead of the death penalty would be:

> * * * a partial reconciliation of the wounds arising from discordant racial relations that have permeated our society. To a large extent, it was this disease of racial bias and discrimination that infected an otherwise honorable person and contributed to the perpetration of the most horrible of crimes.

Mr. President, is this what President Clinton meant 3 months ago, when he told the American people that "those who commit crimes should be punished?"

Adds Tallahassee prosecutor Ray Markey: "To say that this white victim was a sacrifice and call it a social awareness case—that's scary."

Mr. President, the outrageous rationale Judge Barkett agreed with in this opinion would justify killings by terrorists, and Mr. Clinton wants to elevate this woman to the Federal Court of Appeals. Has she not done enough damage in Florida already?

Mr. President, the bottom line is that Congress can—as called upon by President Clinton—pass history's toughest crime bill—but that will not make any difference in the world if the President turns around and appoints to the Federal bench individuals such as Rosemary Barkett, the pending nominee.

If this lady is confirmed and brings these points of view to the Federal judgeship to which she has been nominated, she is not going to help crime in the streets. She is going to help build up the incidence of crime in the streets and everything else.

That is the reason I shall not and cannot support her nomination.

Mr. President, I ask unanimous consent that an analysis of this nominee prepared by Mr. Thomas L. Jipping of the judicial selection monitoring project and a copy of a column printed in the Washington Times of October 15, 1993, and written by Sam Francis, titled "Rosemary Barkett: Clinton Nominee," be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BEYOND JUDICIAL ACTIVISM

(By Thomas L. Jipping, M.A., J.D.[1])

President Bill Clinton has exercised his power under Article II, Section 2 of the United States Constitution[2] and nominated Rosemary Barkett to be a judge on the United States Court of Appeals for the Eleventh Circuit, which includes Florida, Alabama, and Georgia. The U.S. Senate Judiciary Committee voted 11–7 to approve the nomination on March 17, 1994, the narrowest approval margin of any Clinton judicial nominee to date. This analysis is provided by the Judicial Selection Monitoring Project[3] to assist the U.S. Senate in fulfilling its constitutional role of "advice and consent" and in considering the Barkett nomination.

I. PERSONAL INFORMATION

Rosemary Barkett was born in Mexico in 1939 and moved with her family to Miami in 1944. A former nun in the St. Joseph order, Barkett graduated from Spring Hill College (Mobile, AL) in 1967 and the University of Florida School of Law in 1970. She has experience as a trial lawyer (8 years) and state circuit judge (6 years). Governor (now Senator) Bob Graham appointed her to the Supreme Court of Florida in 1985. Floridians voted to retain her in 1986 and 1992, when she was named chief justice.

II. THE NOMINEE'S RECORD

Rosemary Barkett has been a member of the Supreme Court of Florida for nearly a decade and has amassed a sizable judicial record. Perhaps the most striking thing about Barkett's supporters, therefore, is that they simply refuse to defend or even talk about that record. This is not an overstatement. There exists in Barkett's record dozens and dozens of very controversial opinions which demonstrate her aggressively activist approach to judging and views on important issues that are far outside the mainstream. Her supporters never defend those decisions.

Instead, Barkett's supporters use two strategies. First, they simply claim that these radical opinions are a small fraction of the opinions Barkett has written and the cases in which she has participated over the years. This observation, of course, leaves these many controversial opinions entirely undefended. Second, Barkett's supporters retreat behind a smokescreen of statistical arguments and number-crunching. This approach also ignores, much less defends or justifies, the many decisions across a range of issues that clearly identify Barkett as an aggressive judicial activist with views far outside the mainstream.

This analysis, in contrast, will examine the actual opinions that this nominee has written and for which she is responsible. Neither the nominee nor her supporters can avoid, run from, or ignore the public record she has compiled. The real issue, after all, is judicial philosophy and the best place to determine the nominee's judicial philosophy is the nominee's judicial record.

A. Rule by empathy

As Senator Arlen Specter (R-PA) put it when voting against Barkett's nomination in the Judiciary Committee on March 17, 1994, her record shows a "result-oriented approach that goes beyond judicial activism." One scholarly analysis of Barkett's record concluded that she makes decisions on the basis of personal "empathy." The author observed that "[c]riminal defendants, especially those on death row, are often subjects of her empathy."[4] Her approach "allows her . . . to empathize with each capital defendant."[5] This analysis concluded that "Barkett has great empathy for capital defendants."[6]

The real issue is judicial philosophy. Judges are not philosopher kings, cultural commentators, or social therapists. Their sworn duty is to apply the law, not to rule by empathy. It is possible that her supporters might again tell the author of this scholarly analysis that the many opinions she examined were merely a fraction of the total, but the conclusion is the same nonetheless. The review that follows will examine many of Barkett's decisions across a range of issues to clearly identify this pattern.

B. Criminal law

Barkett's empathy for criminals and her aggressive judicial activism is evident at every point in the process of our society's attempt to address crime: The passage of criminal laws, the enforcement of criminal laws, and the implementation of criminal penalties. First, she tries to prevent legislative bodies from enacting laws for preserving community order and decency. Second, she tries to impose Draconian rules that hamstring the police in their efforts to enforce criminal laws that are enacted. Third, she goes out of her way to excuse even the most heinous crimes and to keep criminals from receiving the just punishment for their crimes.

1. Striking down laws for preserving community order and decency

Barkett's aggressive judicial activism is evident at each stage of society's attempt to maintain order and protect its citizens. She attempts to prevent legislative bodies from passing laws or ordinances to combat community problems.

Wyche v. *State* (1993).[7] Wyche was convicted of violating a Tampa ordinance prohibiting loitering by a street or public place "in a manner and under circumstances manifesting the purpose of" prostitution or other sexual acts. The ordinance lists specific circumstances "which may be considered in determining whether this purpose is manifested." These include specific actions by persons known to be prostitutes or pimps. The Supreme Court of Florida voted 4–3 to strike down the statute.

Barkett wrote the court's principal opinion, though it was joined in part or in full by only two other justices. She found three basic flaws with the ordinance. First, she considered the ordinance "overbroad" because it could potentially be used to punish innocent conduct by known prostitutes such as "chatting on a public street, and simply strolling aimlessly." There are a least two fundamental problems with this position.

The correct standard is not merely whether the language of a statute is "overbroad." Rather, to avoid mistaking an over-active imagination for a sound constitutional argument, the U.S. Supreme Court requires showing "substantial" overbreadth.[8] Barkett provided little that even arguably meets this correct standard.

In addition, Barkett refused to interpret the statute in a way that will avoid finding a constitutional defect. Justice McDonald's dissent emphasized this point and, citing U.S. Supreme Court precedent, argued that the overbreadth doctrine "is to be employed as a last resort, and it is not to be applied when a limiting construction can be placed on the statute or ordinance to narrow it." The Supreme Court of Florida has explicitly held that courts "have a duty to avoid a holding of unconstitutionality if a fair construction of the legislation will so allow."[9] Barkett ignored this duty.

Barkett's second problem with the Tampa ordinance was that it was vague, failing to give "adequate notice of what is prohibited" and inviting "arbitrary and discriminatory enforcement." She said that it did not require a finding that the defendant intended to engage in prostitution. Arriving at this conclusion required completely ignoring the plain language of the ordinance, which plainly states that conviction requires providing loitering "in a manner and under circumstances manifesting the purpose of" prostitution or other sexual acts. How can any judge read a statute that requires showing a specific purpose and claim that the statute does not require showing intent? Justice McDonald also cited numerous court decisions from other states offering the same conclusion about similar ordinances.

Barkett's third problem was that the ordinance violated "substantive due process" because it intruded upon "individual rights and liberties." She made this amazing constitutional assertion with no hint of what rights and liberties were supposedly involved. As discussed more fully below, this use of the due process clause is a favorite tool of judicial activists for striking down legislation they do not personally support.

Barkett's position would probably invalidate any regulation of public behavior, including disorderly conduct. Indeed, in cases decided along with Wyche, Barkett struck down as facially unconstitutional ordinances prohibiting loitering for the purpose of engaging in drug-related activity.[10] The Supreme Court of Florida previously had upheld a general anti-loitering statute[11] and Barkett's opinion, though never citing her own court's perhaps most relevant precedent, appears to overrule this previous holding.

Stall v. State (1990).[12] Stall was convicted of violating Florida's anti-obscenity law and challenged the constitutionality of the statute. The trial court concluded that the statute violated the Florida Constitution. The appeals court reversed. The Supreme Court of Florida voted 5–2 to uphold the statute.

Even though this case involved the state constitution, it is very important to accurately describe Barkett's position. In voting to strike down Florida's anti-obscenity law, Barkett focused not on any constitutional provision, but on obscenity itself. In so doing, she took a much broader position that would apply if the U.S. Constitution were also involved. She wrote: "A basic legal problem with the criminalization of obscenity is that it cannot be defined . . . . [T]his crime, unlike all other crime, depends, not on an objective definition obvious to all, but on the subjective definition."[13]

Barkett's dissent appears to rest on the Florida Constitution, though she insisted that the anti-obscenity statute violated "every principle of notice and due process in our society."[14] Since the statute's definition of obscenity tracks the U.S. Supreme Court's definition of Miller v. California,[15] Barkett's position appears to apply in the federal context as well. The U.S. Supreme Court has never held that some subjectivity in defining obscenity creates a constitutional barrier to

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Footnotes at end of article.

state's attempts at regulating it. Curiously, Barkett never even cited Miller.

Barkett insisted that operation of the Florida anti-obscenity statute required a completely subjective individual judgment "first, of those who happen to be enforcing the law at the time, and, second, of the particular jury or judges reviewing the case."[16] This characterization may help create the feeling of subjectivity that is central to Barkett's argument, but it is flatly false and is contradicted by the plain language of the statute itself. The statute, again tracking the U.S. Supreme Court's decision in Miller, required determination and application of contemporary community standards, not the subjective individual judgment of prosecutors, jurors, or judges. In a recent celebrated case, for example, the U.S. Court of Appeals for the 11th Circuit—the very court to which Barkett has been nominated—reversed a decision that the rap group 2 Live Crew had violated the state's anti-obscenity statute because the trial judge had relied on his personal judgment rather than on objective evidence of community standards.[17]

Barkett also specifically joined what she called the "correct legal analysis"[18] in Justice Kogan's dissent which focused on the right to privacy in the Florida Constitution. That opinion recognized a constitutional "right of discreet access to entertainment."[19] Barkett also agreed with Kogan's statement that anti-obscenity laws are merely vehicles "for restricting individual autonomy."[20]

"At her confirmation hearing, Barkett insisted that Stall involved 'the very same statute' as another case in which she voted to uphold a conviction under Florida's child pornography statute.[21] She repeatedly said that 'in both those cases, the same statute was being decided, the same statute was being considered.'"

"This is not true. Stall involved the definition of obscenity[22] while Schmitt v. State involved the definition of child pornography.[23] The definitions are different and the breadth of Barkett's position in Stall makes it even more surprising that she did not take the same approach in Schmitt."

2. Hobbling law enforcement

Barkett goes out of her way to strike down legitimate legislative efforts to preserve community order and decency. Her activism goes further, however, and includes efforts to impose onerous and unwarranted restraints on effective law enforcement. She seeks to impose per se rules restricting the tools available to the police, particularly in the war on drugs. A few examples follow.

Cross v. State (1990).[24] Detectives saw Cross in the Miami Amtrak station boarding an interstate train with only a small tote bag. They asked permission to search her bag, advising her that she need not consent to the search. She consented and they observed a round object wrapped in brown tape. The officers later testified at trial that they had seen cocaine packaged this way in literally hundreds of cases. They arrested Cross and later found cocaine in the package. A divided court of appeals concluded that there was no probable cause for the arrest. The Supreme Court of Florida reversed, voting 5–2 that the officers had probable cause. Past decisions by the court make clear that police officers' training and experience must be considered in deciding whether probable cause exists for an arrest.[25]

Barkett dissented for the reasons expressed by the author of the appellate court's decision.[26] That judge argued that the object observed by the officers was "not an inherently suspect item."[27] This kind of per se rule completely ignores judicial precedent mandating consideration of police officers' experience and neither the appellate judge nor Barkett offered any legal authority for this radical new rule. Would Barkett have found probably cause if the object had been wrapped in clear plastic rather than brown tape? Does that make it an "inherently suspect item" or could it still be a container of sugar or a white ball? Must the package literally be labeled "COCAINE" for it to be inherently suspect as the Barkett rule would require?

Bostick v. State (1989).[28] To battle the flood of drugs through Florida, the Broward County sheriff's department began a practice of randomly boarding interstate buses at scheduled stops and asking passengers for permission to search their luggage for drugs. In this case, police boarded a bus bound from Miami to Atlanta, announced they were narcotics agents, asked Bostick for permission to search his luggage, and advised him of his right to refuse permission. Bostick consented to the search and the officers found drugs. Bostick was convicted of drug trafficking and appealed, claiming the cocaine had been illegally seized in violation of the Fourth Amendment to the U.S. Constitution. The Supreme Court of Florida voted 4–3 that the search was illegal.

Barkett wrote the majority opinion and created an automatic per se rule against police boarding buses to search for drugs, even with the travelers' permission. She wrote: "This is not Hitler's Berlin, nor Stalin's Moscow, nor is it white supremacist South Africa."[29] After Barkett wrote these words, the St. Petersburg Times (1/23/90) reported that Florida Attorney General Robert Butterworth gave a speech to the Florida Sheriffs Association and said that in this opinion Barkett "compared the searches conducted by Broward County sheriff's deputies on commercial buses with the roving patrols and arbitrary searches conducted in Nazi Germany, Soviet Russia and communist Cuba. It is an insult to the 36,000 police officers in our state to be likened to Nazis."

"At her confirmation hearing, Barkett denied ever writing these words: 'I would never compare the conduct of any of our police officers in this country to those of Nazi Germany or Soviet Russia.'"

The U.S. Supreme Court reversed Barkett by a 6–3 margin.[30] The Court criticized Barkett's "per se rule" that essentially prohibited police officers from utilizing exactly the same kind of search-with-permission approach on buses that they may legitimately use in public places.[31]

3. Empathy for criminals

In addition to her attempts to block passage of criminal laws and to limit enforcement of those laws, Barkett also attempts to prevent convicted criminals from receiving the due penalty for their crimes. Her record is full of examples of her "rule by empathy" approach justifying the conclusion offered by the University of Miami Law Review. There is no better way of understanding this nominee's judicial philosophy than by examining this nominee's judicial decisions. Examination immediately reveals a clear pattern. Here are just some of the decisions that Barkett's supporters refuse to defend or even discuss. A few cases will receive more extensive review because they particularly reflect Barkett's judicial philosophy.

Dougan v. State (1992).[32] Dougan was the "unquestioned leader" of the Black Liberation Army (BLA), a group "whose apparent sole purpose was to indiscriminately kill white people and thus start a revolution and racial war."[33] In 1974, he and three other BLA members set out armed to kill a "devil" (any white person) they could find. They picked up a hitchhiking teenager and drove him to a trash dump, where they first stabbed and then shot him. Dougan made several tape recordings describing and bragging about the killing[34] and sent them to the victim's mother and the media. One tape included the following: "He was stabbed in the back, in the chest and the stomach, ah, it was beautiful. You should have seen it. Ah, I enjoyed every minute of it. I loved watching the blood gush from his eyes."[35]

Dougan was convicted of murder. The jury found three aggravating factors and no mitigating factors[36] and Dougan was sentenced to death. He repeatedly appealed, and the Supreme Court of Florida repeatedly affirmed his conviction and sentence. On this latest visit, the court voted 4–3 to affirm the death sentence.

Barkett voted to spare Dougan. She joined Justice McDonald's dissent in its entirety. Her supporters repeatedly try to avoid attributing the very disturbing views in that opinion to Barkett. They know, however, that Barkett could have voted and written her own opinion. She could have voted without joining any opinion. She could have joined a portion of an opinion. In fact, she is regularly very deliberate about these choices. If she disagreed with anything in McDonald's opinion, she could and should have said so. By concurring fully in that opinion, she claims those views as her own.

Barkett admitted that "[t]here is evidence to support the conclusions of the trial judge on the aggravating factors"[37] yet she still voted against the death penalty. The evidence did not matter. Her "great empathy for capital defendants"[38] led her to focus instead on "the environment in which the events" took place as well as on "Dougan's mind-set" during "tumultuous times" in race relations across America.[39] She chose to look at the facts through "the eyes of the defendant, his friends, and most of those situated in [his] circumstances."[40] The opinion she joined stated:

"This case is not simply a homicide case, it is also a social awareness case. Wrongly, but rightly in the eyes of Dougan, this killing was effectuated to focus attention on a chronic and pervasive illness of racial discrimination and of hurt, sorrow, and rejection. Throughout Dougan's life his resentment to bias and prejudice festered. His impatience for change, for understanding, for reconciliation matured to taking the illogical and drastic step of murder. His frustration, his anger, and his obsession of injustice overcame reason. The victim was a symbolic representation of the class causing the perceived injustices."[41]

The choice was clear: "Understandably, in the eyes of the victim, or potential victims, the aggravating factors clearly outweigh the mitigating; in the eyes of the defendant, his friends, and most of those situated in the circumstances of Dougan, the death penalty is not warranted."[42] Barkett's "great empathy for capital defendants" led her to reject the evidence and to side with the killer rather than the victim and the potential victims (society).

Barkett believed Dougan did not deserve the death penalty because he had "redeeming values" such as education and leadership in the black community.[43] Never mind that Dougan manifested these values by leading others to kill people whose only crime is being white. Barkett believed that this was a "racially caused homicide" not because Dougan and his fellow BLA thugs went about "indiscriminately kill[ing] white people" but because "it was this disease of racial bias and discrimination [throughout society] that . . . contributed to the . . . crime[]."[44]

In Barkett's view, Dougan's punishment should be determined by what will "aid in an understanding of the wounds arising from discordant racial relations which have permeated our society. . . . An approval of the death penalty would exacerbate rather than heal those wounds."[45]

Wickham v. State (1991).[46] When a woman companion flagged down a passing motorist, Wickham shot him in the back, chest, and head and robbed his corpse of $4.05. The trial court found six aggravators and no mitigators and sentenced Wickham to death. The Supreme Court of Florida voted 4-2 to affirm the death sentence.

In Dougan, Barkett had said the death penalty was inappropriate because the killer was intelligent and a community leader. In this case, Barkett agreed that Wickham was guilty, but insisted that the death penalty was inappropriate because Wickham was "mentally deficient" and "socially maladjusted."[47] She voted to spare the killer, blaming this murder on the "milieu of violence" in which he grew up[48] and the fact that inadequate provision of social services had left him "unable to function in an appropriate manner."[49]

LeCroy v. State (1988).[50] LeCroy was 17 years and 10 months old when he killed a man, robbed him and killed the man's wife to silence her as a witness. The trial court found three aggravators and two mitigators, including the killer's age. "The trial court gave great weight to [this] mitigating factor but found that the evidence showed that [LeCroy] was mentally and emotionally mature and that he understood the distinction between right and wrong and the nature and consequences of this actions."[51] Noting this finding and that Florida law "mandates that a child of any age charged with a capital crime 'shall be tried and handled in every respect as if he were an adult,'"[52] the Supreme Court of Florida voted 6-1 to affirm the death sentence.

Barkett again agreed that the killer was guilty but voted to spare him. She insisted that executing anyone under the age of 18 violates the U.S. and Florida Constitutions, something the U.S. Supreme Court has never done. She blamed all youth crime on "a failure of family, school, and the social system."[53]

Hall v. State (1993).[54] Hall and a companion raped, beat, and shot to death a woman who was seven months pregnant. The trial court found seven aggravating factors and sentenced Hall to death. The Supreme Court of Florida voted 5-2 to affirm the death sentence, concluding that "this cruel, cold-blooded murder clearly falls within the class of killings for which the death penalty is properly imposed."[55]

Barkett voted to spare the killer because he had an IQ of 60, a learning disability, and a speech impediment and had experienced "emotional deprivation" during his life.[56] She had no choice but to admit the holding of the U.S. Supreme Court that the U.S. Constitution's ban on cruel and unusual punishment "does not categorically prohibit execution of the mentally retarded."[57] While "evolving standards of decency" have not forged a national consensus on this subject, "Floridians' attitudes" have indeed "evolved significantly" so that execution of even the mildly retarded is both "cruel" and "unusual" under Article I of the Florida Constitution.

It remains virtually impossible to extract Barkett's theory of constitutional interpretation. Here, she felt confident articulating something as subjective as "evolving standards of decency." Yet in Stall v. State,[58] discussed above, she believed that Florida's anti-obscenity statute was unconstitutional because defining obscenity involves a subjective judgment!

Porter v. State (1990).[59] Porter left his live-in-lover but returned three months later, stalked her for two days, stole a gun, and murdered her and her new boyfriend. The trial court found five aggravators and no mitigators and sentenced Porter to death. The Supreme Court of Florida voted 5-2 to affirm the death sentence.

Barkett again agreed that the killer was guilty but voted to spare him. Even though Porter's relationship with the victim had ended three months earlier, Barkett said that this case arose from "a lovers' quarrel" and that Porter was not capable of premeditation because of his "emotionally charged, desperate, frustrated desire to meet with his former lover."[60]

Hudson v. State (1989).[61] Hudson left his girlfriend but returned two months later and broke into her house. He was surprised by her roommate and stabbed her to death, stuffed her body in the trunk of her car, and dumped her in a tomato field drainage ditch. The trail court convicted Hudson of first-degree murder and sentenced him to death. The Supreme Court of Florida voted 6-1 to affirm the death sentence.

Barkett cast the lone vote to spare the killer. She believed that since Hudson "was apparently surprised by the victim during [his] burglarizing of the home," he was "unable . . . to conform his behavior to the requirements of the law."[62] She offered nothing to explain this amazing conclusion, that "surprise" by the rightful occupant of a home should warrant a more lenient punishment for a murdering intruder.

Adams v. State (1989).[63] Adams was convicted in 1978 of murdering an 8-year-old girl with whom he tried, unsuccessfully, to have sexual relations. State and federal courts ruled nearly a dozen times against his attempts to avoid the death penalty. The Supreme Court of Florida finally voted 5-2 to again affirm the sentence. Barkett voted to spare the killer and thought he should have had even more opportunity to present evidence of "learning problems" while growing up.

Cruse v. State (1991).[64] Cruse loaded his car with guns and ammunition and headed for a shopping center. On the way, he attempted to kill a 14-year-old boy, as well as the boy's parents and brother, with a shotgun. At the shopping center, he killed two shoppers and wounded a third while they were leaving a grocery store. He then killed another customer, wounded another, killed two police officers, killed one more shopper, wounded several more, and held two women hostage for several hours. The Supreme Court of Florida voted 6-1 to affirm Cruse's multiple convictions of first-degree murder and his death sentence.

Barkett cast the lone vote to spare the killer, insisting that this was not a cold, calculated, or premeditated killing spree. She said Cruse was "acting in response to his delusions that people were trying to harm him." The consensus of expert testimony did not support this conclusion.

Hayes v. State (1991).[65] Hayes and two of his drinking and drugging friends decided to rob a taxi driver for more money to buy cocaine. Hayes shot a driver in the back of the neck and robbed the corpse of $40.00. The Supreme Court of Florida voted 5-2 to affirm his conviction for first-degree murder as well as his death sentence. Barkett voted to spare the killer because of evidence that he had a neglectful, abusive, and deprived upbringing.

4. Reflexive activism

The cases reviewed above are but a few in which Barkett goes out of her way to construe aggravating factors narrowly and mitigating factors expansively. Her "great empathy for capital defendants" leads her to make excuses for heinous crimes and to treat criminals as the victims of society. These decisions are often reflexive, without any explanation or analysis, even when Barkett is alone in dissent.

White v. State (1990).[66] The Supreme Court of Florida affirmed White's conviction for murder as well as his death sentence and voted 5-2 to deny his petition, claiming ineffective assistance of counsel, for post-conviction relief. Barkett voted to spare the killer.

"Barkett's dissent read in its entirety: 'I cannot concur in the majority's conclusion that appellant received a fair trial with effective assistance of counsel.'"

"At her confirmation hearing, Barkett was asked why she did not provide any further explanation or analysis for disputing a sentence rendered after trial and reviewed and upheld on appeal. She responded that 'our court is an extremely busy court . . . I would have liked to have had, I am sure, the opportunity to have expanded here. But time constraints sometimes preclude you from amplifying any further than that.'"

Engle v. Florida (1987).[67] Engle and another man robbed a convenience store and killed the female cashier. The interior of her vagina was severely lacerated, probably by a fist. The trial judge rejected the jury's recommendation of life in prison and, finding four aggravators and no mitigators, sentenced Engle to death. The Supreme Court of Florida voted 6-1 to affirm the death sentence. Barkett cast the lone vote to spare the killer. Her dissent stated, without any explanation, her conclusion that "the record adequately supports the jury's recommendation of life imprisonment."

C. Constitutional law

The power of judicial review, of literally invalidating the actions of the elected political branches, is an awesome power indeed. As such, it is vital to determine whether a judicial nominee is properly respectful of the political process by faithfully and dispassionately applying the Constitution as written and intended or shows a willingness to substitute her own policy preferences or ideas in place of the law. Just as Barkett's "great empathy for criminal defendants" drives her jurisprudence in the criminal context, her aggressive activism leads her to use constitutional provisions to legislate from the bench.

Two constitutional provisions, the due process clause and the equal protection clause, have proven to be favorites of those judges seeking an activist vehicle for legislating from the bench. Barkett's record puts her squarely in this category.

1. Due process clause[68]

One of the most powerful weapons at an activist judge's disposal is the due process clause, which requires "due process" when a state deprives persons of life, liberty, or property. This provision allows a judge both to determine substantive ends (especially by defining the word "liberty") and to assess the means for achieving those ends (whether the process was "due"). Particularly when a judge engages in "substantive due process," she can literally declare constitutional rights to exist when no such rights exist in the text, history, or intended meaning of the Constitution. By so doing, she creates her own mechanism for eliminating policies she does not support.

The U.S. Supreme Court has rejected the substantive due process approach. Justice Hugo Black once wrote that "we refuse to sit as a 'superlegislature' to weight the wisdom of legislation."[69] Legislative judgments are presumptively valid and assumed to rest upon a rational basis unless proved otherwise.[70] As long as government regulation not violating a separate constitutional provision is rationally related to a legitimate state interest, it is valid under the due process clause.[71]

Barkett has repeatedly demonstrated her willingness to sit as a superlegislature. Her aggressive judicial activism, evidenced through her use of the due process clause, is a way for her to achieve her preferred policy goals.

State v. Saiez (1986).[72] In an attempt to combat trade in counterfeit credit cards, Florida law criminalizes possession of the kind of embossing machine capable of manufacturing fake cards. Barkett's opinion in this case held that the statute "violate[d] substantive due process under the fourteenth amendment to the United States Constitution"[73] because it was not "reasonably related to achieving [the] legitimate legislative purpose" of combatting credit card fraud. Without citing a single authority, she simply declared that "[i]t is unreasonable to criminalize the mere possession of embossing machines when such a prohibition clearly interferes with the legitimate personal and property rights of a number of individuals who use embossing machines in their businesses and for other non-criminal activities."

Observing that criminalizing possession interferes with personal liberty is merely to state the obvious. Barkett turns this observation into her conclusion. Yet the question for the court is whether this interference with personal liberty is nonetheless reasonable because it is related to a permissible state goal. Barkett fails to answer this question with such irrational circularity.

Simply because an object (or controlled substance, for that matter) can conceivably be used for non-criminal purposes does not mean that the state is constitutionally prohibited from regulating or prohibiting its possession. No legitimate constitutional principle disables society from weighing benefits and costs and determining that possession of some objects must be prohibited. This, indeed, is the point—Barkett's aggressive judicial activism operates on the basis of her personal policy choices and cites manipulable constitutional theories such as substantive due process to create the impression that there is some sound legal basis for her decisions.

Wyche v. State (1993).[74] The case is discussed more fully above. Barkett wrote the opinion for a narrow majority of the Supreme Court of Florida striking down a Tampa ordinance prohibiting loitering for the purpose of prostitution. One of her three fundamental problems with the ordinance was that it violated "substantive due process" because it intruded upon "individual rights and liberties." Barkett completely ignored the proper standard courts should follow, gave no hint of what "rights and liberties" were supposedly involved, and simply struck down a legislative enactment she did not think wise or desirable.

"At her confirmation hearing, Barkett was asked why she invoked the due process clause of the U.S. Constitution rather than simply relying on the Florida Constitution. She replied that 'I can accept that in a body of law there are going to be occasions when you are going to be careless.'"

2. Equal protection clause[75]

Another favorite tool for judicial activism is the equal protection clause. Every statute or ordinance imaginable uses classification, categories, or distinctions. It does not treat everything or everyone in exactly the same way. Sound and clear guidelines are, therefore, essential to avoid invalidating virtually all legislative actions and choices. Fortunately, those guidelines are well-established. Justice Clarence Thomas, writing for a nearly unanimous U.S. Supreme Court, succinctly described it this way:

"[E]qual protection is not a license for courts to judge the wisdom, fairness, or logic of legislative choices. In areas of social and economic policy, a statutory classification that neither proceeds along suspect lines nor infringes fundamental constitutional rights must be upheld against equal protection challenge if there is a reasonably conceivable state of facts that could provide a rational basis for the classification . . . This standard of review is a paradigm of judicial restraint."[76]

Justice Harry Blackmun also wrote for the Court that unless a statutory classification "jeopardizes exercise of a fundamental right to categorize on the basis of an inherently suspect characteristic, the Equal Protection Clause requires only that the classification rationally further a legitimate state interest."[77] There only needs to be a "plausible policy reason for the classification" and the statute need only be "rationally" related to that reason.[78] This standard, in most cases, is very deferential to legislative judgments.

The real test is whether a judge who personally disapproves of a legislative scheme equates "rational" or "plausible" with "to my liking." Barkett's record shows that she has succumbed to this approach. She has not been content with upholding legislative enactments using classifications that, while rational, she does not like. She has instead attempted to use the equal protection clause to eliminate legislative actions she thinks unwise or undesirable.

University of Miami v. Echarte (1993).[79] Florida law provides for an investigation process prior to filing malpractice claims,[80] a voluntary arbitration process to encourage settlement of claims,[81] and a cap on noneconomic damages in medical malpractice cases.[82] Noneconomic damages include pain and suffering, inconvenience, mental anguish, and loss of capacity for enjoying life. Those damages are capped at $250,000 when the parties opt for arbitration and at $350,000 when they refuse arbitration and go to trial. In this case, parents suing for allegedly negligent treatment of their child challenged the constitutionality of this statutory scheme.

The Supreme Court of Florida voted 4–2[83] to uphold the statutory scheme, finding that the statute provided "commensurate benefits" to offset the limitation on damages, as required by relevant judicial precedents. Barkett dissented and did not even address the basis for the majority's decision. She instead addressed the equal protection question.

That task seems simple. A judge evaluating an equal protection challenge to this statutory scheme must decide whether it is a "rational" means of addressing a "legitimate" end. In this case, Barkett herself saw the statute's goal as addressing the "financial crisis in the medical liability insurance industry." Addressing this crisis is certainly a "legitimate" end. A legislative task force had found that "the dramatic increase in the size or amounts of paid claims" was at the root of the liability insurance crisis. The statute, which limits the "size or amount of paid claims," appears self-evidently to be more than "rationally" related to its purpose.

Barkett, however, concluded that the statutory scheme violates "the equal protection clauses of the Florida and United States Constitutions" by "creating two classes of medical malpractice victims, those with serious injuries whose recovery is limited by the caps and those with minor injuries who receive full compensation." She wrote: "I fail to see how singling out the most seriously injured medical malpractice victims for less than full recovery bears any rational relationship to the Legislature's stated goal."

It is Barkett's opinion that is irrational. The statutory scheme is not based on some distinction between those with "serious" or "minor" injuries. While it is true that the more serious injury will likely be accompanied by a higher claim for damages, this is not always the case. In any event, actual or compensatory damages—which will certainly be higher in cases of more serious injury—are not capped. Barkett's deliberate choice of this dichotomy to describe the statutory scheme clearly signals her personal distaste for the policy but is entirely irrelevant to proper analysis of the legal question before her.

Just as she had in Saiez above, Barkett invoked the U.S. Constitution, yet cited no federal judicial precedents for her bizarre conclusion and did not even attempt to explain its obvious conflict with settled U.S. Supreme Court doctrine in this area.

"At her confirmation hearing, Barkett was again asked about her invocation of the U.S. Constitution when state constitutional grounds were sufficient for her conclusion. She again admitted this was error, saying 'I should not have done that.'"

Shriners Hospitals v. Zrillic (1990).[84] Barkett wrote the opinion for the Supreme Court of Florida striking down a state law allowing an heir to cancel a charitable contribution made in a will that was executed less than six months before the testator's death. The obvious purpose of the law was to prevent undue pressure to make such contributions in a will.

Barkett held that the state law in this case was both underinclusive and overinclusive and again cited the equal protection clause of the U.S. Constitution, claiming that "underinclusive or overinclusive classifications fail to meet even the minimal standards of the rational basis test." She cited no federal authority for this proposition. Indeed, the U.S. Supreme Court has held exactly the opposite, namely, that a classification does not violate the equal protection clause simply because it "is to some extent underinclusive and overinclusive."[85] She faulted the statute for drawing a line at six months when some gift provisions added to a will earlier might be coerced, while others added later might be made knowingly and willingly.

"At her confirmation hearing, Barkett was again asked about her citing the U.S. Constitution when state constitutional grounds were sufficient for her conclusion. She actually denied that equal protection was 'at all the focus of what concerned me in Zrillic.' Even though she explicitly cited the federal equal protection clause in Zrillic, she claimed at her hearing that 'when I am thinking equal protection, generally I am thinking in terms of the prior case law of my own court in my own State.'"

Barkett's opinion fails the rationality test and is another example of her cloaking her own policy preferences in legal-sounding language. Very little legislation could survive the kind of test that Barkett created in this case, since most statutes draw lines (many involving specific time limits). Again, she chose to invoke the U.S. Constitution when state law grounds were fully sufficient to reach her desired result.

D. Civil rights and quotas

Barkett served on the Florida Commission on the Status of Women. This group's February 1993 report recommended legislation mandating that 50% of the members on all state boards, commissions, and other decisionmaking bodies be women. Most rational people would identify this as a quota. Black's Law Dictionary similarly defines "quota" as "a proportional part or share. . . . An assigned goal . . . a limiting number of percentage."[86] Barkett was quoted in the St. Petersburg Times as insisting this was "not in the context of a quota system. It is simply an acknowledgement that women make up one-half of the population of this state." This is utter nonsense. The percentage of women in the Florida population may be the way the commission arrived at its quota, but its recommendation was for a quota system nonetheless. The Orlando Sentinel Tribune reported that even Democratic Governor Lawton Chiles opposed the commission's proposal because he said it would indeed create a quota system.

Foster v. State (1993).[87] Foster killed a white man by slitting his throat, dragging him into some bushes, and slitting his spine. He then robbed the corpse. Foster's lawyers delayed his execution for nearly two decades, finally arguing that killers of white victims were more likely to receive the death penalty than killers of black victims. The U.S. Supreme Court had already rejected this statistically manipulative way of avoiding the merits of individual cases, saying that convicted killers claiming racial discrimination must actually prove racial discrimination in their own case.[88] In *Foster*, the Supreme Court of Florida followed this common sense course.

Barkett dissented. Referring repeatedly to "unconscious racism" pervading the criminal justice system, Barkett opposed any "standard that requires showing . . . purposeful discrimination" and would recognize a constitutional equal protection claim by convicted murderers based on statistical evidence alone. This includes evidence about the disposition of murder cases—the extent of the theory rejected by the U.S. Supreme Court—but "also other information that could suggest discrimination, such as the resources devoted to the prosecution of cases . . . and the general conduct of a [prosecutor]'s office, including hiring practices and the use of racial epithets and jokes."

D. Partiality

Pursuing an aggressively activist approach to judging, Barkett often turns from judge to legislator. She also turns from judge to advocate. This raises very disturbing questions about her ability to render impartial justice.

Burr v. State (1987).[89] Barkett's activism goes even beyond reaching out to construe a case as it is brought to her in any way that will treat a killer with empathy. Her empathy also leads her to decide cases on grounds not even raised by a killer appearing before her. In this case, Burr was convicted of first degree murder and robbery with a firearm. The Supreme Court of Florida affirmed his death sentence and Burr filed a motion for post-conviction relief, claiming ineffective assistance of counsel. The court voted 6-1 to reject this argument.

Barkett again cast the lone vote to void the death sentence, but for a reason the killer never even raised! She wrote that "I am deeply troubled . . . and cannot see the sense in waiting for a formal petition for writ of habeas corpus to argue a point I believe should have been argued on direct appeal."[90] This clearly crosses the line between judge and advocate; because Barkett thinks an argument "should have" been raised but was not by the lawyer actually representing the convicted killer, Barkett sees no problem taking up his cause and doing the work herself. It is one thing to display the kind of empathy and aggressive activism, as Barkett clearly does, regarding the cases that are actually brought before the court. It is something even more egregious to attempt literally to create a case that does not actually exist because it would be more favorable to the convicted killer!

In re Constitutionality of Senate Joint Resolution 2G (1992).[91] The Supreme Court of Florida approved a legislative resolution reapportioning the state for electoral purposes. The U.S. Department of Justice objected to the plan regarding one county because "there are no districts in which minority persons constitute a majority of the voting age population." The legislature refused to modify the plan so the court invited interested parties to submit proposals, choosing a plan that "gives minority voters in the [county] the greatest opportunity to elect a senator of their choice."

The entire substance of Barkett's separate opinion reads: "I am loath to agree to any of the convoluted plans submitted under these hurried circumstances. . . . If I had to choose only among those presented, however, I would choose the plan submitted by the NAACP simply because this is the organization that had traditionally represented and promoted the position that advances all minority interests." In so doing, Barkett chose to decide this case not on the basis of the arguments and evidence presented on the legal questions involved, but by the identity of the parties before her. This is the antithesis of equal justice under law.

"At her confirmation hearing, Barkett admitted that her words were 'very inartful.'"

University of Miami v. Echarte (1993). This case is reviewed more thoroughly above. In October 1991, the Academy of Florida Trial Lawyers submitted an amicus brief in this case arguing that statutory caps on noneconomic damages in medical malpractice cases are unconstitutional. In 1992, the Academy established the Rosemary Barkett Award end, in November 1992, Barkett agreed to present the first award at the organization's annual convention. That gathering took place one week after Barkett won her retention election, after significant contributions of time and money from the state's trial lawyers. In May 1993, Barkett wrote her dissent in Echarte arguing that statutory caps on noneconomic damages in medical malpractice cases are unconstitutional.

This kind of involvement with an organization then involved in litigation before her raises a serious question of impropriety.

III. THE DEFENDERS' ARGUMENTS

Perhaps the most significant thing about Barkett's supporters is that they never defend her actual record, the dozens and dozens of very controversial opinions that express the substance of the nominee's real views. They prefer instead to make three statistical arguments. They remind us, first, that Barkett won her last retention election in 1992; second, that she votes with the majority on her court a majority of times; and third, that she has voted for the death in a number of cases.

A. She won her retention election

First, Barkett's supporters note that she was retained by a 61% vote in 1992. They never mention that this is the second-lowest level of support of any justice ever sitting for retention. They also never mention that no justice in Florida history has ever failed to win retention for an obvious reason. Political scientist Stuart Rothenberg, Ph.D. says: "Retention elections aren't like other elections. Voters are far less likely to vote out an incumbent when the alternative is a vacancy than when they have competing candidates to choose from."

Neither Barkett nor her supporters mention the unprecedented level of opposition to her retention, reflecting deep dissatisfaction about the Supreme Court of Florida in general and Justice Barkett in particular.

Complaints about the Supreme Court of Florida's leniency in death penalty cases also came from the judiciary itself. Circuit Judge Richard Eade said last year that "if I sentenced Adolf Hitler and imposed the death penalty, the Supreme Court would say there is some mitigating factor. They'd probably overturn the death penalty because he made sure the trains ran on time and he wasn't lazy."[92]

State Attorney General Robert Butterworth publicly supported Barkett during her 1992 retention election. Yet just two years before, he said that "the Florida Supreme Court has begun to show itself substantially more liberal on crime issues than the U.S. Supreme Court."[93] Two of three cases Butterworth singled out for particular criticism were authored by Barkett. Both were later reversed by the U.S. Supreme Court.

Other expressions of opposition to retaining Justice Barkett in 1992 include:

28 assistant state attorneys in the First Judicial Circuit signed a letter dated October 20, 1992 "strongly opposed to Rosemary Barkett's retention. . . . [O]ur opposition stems as much from her judicial activism as it does from our dissatisfaction with her judicial opinions. She has repeatedly sided with criminals and defense lawyers on issues ranging from the death penalty, double jeopardy, statutory constructions, to search and seizure. . . . Simply stated, Justice Barkett is a judicial activist whose beliefs and agenda are not consistent with those of main stream citizens."

The Fraternal Order of Police Lodge #69 in Vero Beach voted to oppose Barkett's retention because of "her preferential treatment being given to criminals and the lack of concern shown for victims." They noted that in more than 150 criminal cases, Barkett voted in favor of law enforcement just five times.

The Polk County Chiefs Association voted unanimously to oppose Barkett's retention, stating that "[h]er record as it relates to criminal justice matters and the manner in which she has undermined an already troubled system were cause for shock and concern to all present." The Dade County Association of Chiefs of Police also voted to oppose Barkett.[94]

Writing in the Orlando Sentinel, the state attorney for the Ninth Judicial Circuit, stated that "I do not stand alone in my opposition to Barkett. A number of other state attorneys have publicly stated their opposition, as well as at least 16 sheriffs, dozens of police chiefs and hundreds of police officers."[95]

A full 21 percent of Florida lawyers opposed her, the highest negative tally of the four state supreme court justices considered for retention in 1992[96] and "the second-lowest in the 18 Supreme Court retention elections since they began in 1980."[97] The only supreme court justice who received a lower rating "was tainted by scandal and nearly impeached."[98]

A newspaper ad listed 49 chiefs of police, 18 country sheriffs, and six state attorneys opposing Barkett's retention. By letter dated October 29, 1992, Jerry Blair, state attorney for the Third Judicial Circuit, confirmed that five more country sheriffs in his jurisdiction had formally announced their opposition as well. By letter of the same date, Tom Tramel, Sheriff of Columbia County, announced a list of 21 county sheriffs opposed to Barkett.

Announcing his opposition to Barkett's retention on October 29, 1992, Bruce Colton, state attorney for the Nineteenth Judicial Circuit, stated that she "has demonstrated that she will not follow precedent, and has led the charge to change the law in several areas so that it provides a greater benefit to those convicted of crimes. The truth is that her rulings have adversely affected the ability of the officer on the street and the prosecutor in the trenches to do their job effectively, and she has never demonstrated a care for victims of crimes. . . . Barkett has a judicial philosophy that embraces a social agenda that is clearly out of touch with the legitimate needs of all law abiding citizens in this state."

William Meggs, state attorney for the Second Judicial Circuit, announced his opposition to Barkett's retention by a letter dated August 11, 1992, which stated that "the decisions of Justice Barkett hinder and defeat the efforts of our law enforcement officers on the front lines of [the drug] war . . . Those of us who labor in the criminal justice arena are very concerned with protecting the rights of those accused of crimes. However, the pendulum has swung so far protecting the accused that our streets are not safe for law abiding citizens."

B. She votes with the majority most of the time

Second, Barkett's supporters claim that she votes with the majority the majority of times. Yes, and on the U.S. Supreme Court, conservative Justice William Rehnquist and liberal Justice William Brennan often voted together as well. In April 1987, the Washington Post speculated that Justice Antonin Scalia, the Court's most conservative member, would actually strengthen the liberal wing of the Court because he was voting with Justice Brennan so often.

The Supreme Court of Florida decides two-thirds of its cases by unanimous votes, meaning only that liberal activists vote with their more restrained colleagues on relatively easy cases. Senator Orrin Hatch, ranking member of the Judiciary Committee, stated in a Senate floor speech on March 22, 1994, that "a large number of cases of any appellate court are, frankly, routine, and I would expect that virtually all judges would rule unobjectionably in most cases before them."[99] This also means most judges will vote the same way in most of those cases.

Just as Barkett's supporters ignore her actual record, they also exalt form over substance. Where it counts, Barkett stakes out clearly activist positions placing her outside the mainstream of what is required for the federal courts. Looking at the easy cases, where Barkett or any other judge would vote with the majority, still ignores—as Barkett's supporters routinely do—the many controversial opinions she has written.

C. She has voted for the death penalty

The heart of the case for this nomination is a single number. In an attempt to overcome the nominee's activist record, Barkett's supporters claim that she has "voted for the death penalty" in 275 cases. This number comes from Professor Stephen Gey of Florida State University School of Law and is offered by the White House as supposed proof that Barkett is "tough on crime." The media outlets which quickly repeated—but did not examine—this statistical claim, make similar statements. Responding to a column in the Wall Street Journal,[100] Professor Gey wrote that Barkett "has voted to uphold the death penalty more than 200 times."[101] A reporter for the St. Petersburg Times wrote that "she has voted to uphold the death penalty many times."[102] The Wall Street Journal reported that Barkett "has voted more than 200 times to affirm capital sentences."[103]

None of these statements is true. The list of cases in which Barkett's supporters claim she has "voted for the death penalty"' is so full of misrepresentation as to constitute an attempt deliberately to mislead the U.S. Senate.

This analysis offers a brief overview of how deceptive and unreliable this list is. Each case discussed below is on the Gey/White House list and represented by Barkett's supporters as a "vote for the death penalty." Even this cursory review shows that the foundation for the most critical argument in favor of the Barkett nomination is fundamentally flawed and inaccurate. As such, the case for her nomination collapses and the Senate is left with the many controversial opinions reflecting aggressive activism and views far outside the mainstream that remain undefended because they are indefensible.

1. Cases not properly counted as "votes for the death penalty"

The claim that Barkett has "voted for the death penalty" in 275 cases leaves the impression that the vote in each of these cases was actually on the death penalty. This is not true at all. In fact, the list includes many cases where Barkett actually voted against the death penalty. Many of the cases on the list should not be there at all. Barkett's supporters, for example, count the following as "votes for the death penalty":

Cases in which Barkett voted for the conviction but explicitly voted against the death sentence.[104]

Cases in which the court refused, but Barkett would grant, a stay of execution.[105]

Cases in which the court refused, but Barkett would grant, some post-conviction relief for the killer.[106]

Cases in which the court refused, but Barkett would grant, a stay of execution and other post-conviction relief for the killer.[107]

Cases in which Barkett joined the court in granting a stay of execution.[108]

Cases in which Barkett joined the court in vacating a death sentence.[109]

Cases in which Barkett joined the court in granting post-conviction relief for the killer.[110]

Cases in which Barkett would grant more post-conviction relief for the killer than the court.[111]

Cases in which Barkett joined the court in reducing a sentence from death to life.[112]

Cases in which Barkett dissented from the court's denial of post-conviction relief and a stay of execution for the killer.[113]

None of these cases, or many others like them, properly belongs on any list of "votes for the death penalty."

Believe it or not, Barkett's supporters are attempting to persuade the U.S. Senate, the media, and the American people that a vote to vacate a death sentence is a "vote for the death penalty." They claim that a vote against a death sentence is nonetheless a "vote for the death penalty." How can they possibly justify this?

First, the list includes many cases in which the merits of a killer's conviction and death sentence had already been decided, but the killer was still trying to avoid execution by making motions for a variety of post-conviction relief. Barkett's supporters sometimes refer to these as votes "to enforce" the death penalty rather than votes "for" the death penalty. Any time, for example, the court denies a motion for post-conviction relief—no matter how frivolous or repetitious—the case would go on the list because that decision's effect was to allow implementation of the death penalty.

Second, the list includes many cases in which Barkett, either with or against the court, would oppose some form of post-conviction relief (justifying its placement on the list as a vote to "enforce" the death penalty) but would grant some other relief (dictating the actual outcome in the case).

2. Gimmicks for inflating Barkett's "votes for the death penalty"

In addition to including many cases which do not properly belong on any legitimate list of "votes for the death penalty," Barkett's supporters also use various gimmicks to inflate the number even further. The first is multiple counting of cases reviewing the merits of a killer's conviction and death sentence and all subsequent efforts by the same killer to avoid execution.[114]

A second gimmick is multiple counting the very same case when the court denies different kinds of post-conviction relief at the same time. Death-row inmates can pursue two different avenues of relief after the Supreme Court of Florida rules against them on the merits of their conviction and sentence. The first is under Florida Rule of Criminal Procedure 3.850 and the other is a petition for a writ of habeas corpus. Convicted killers often file a Rule 3.850 motion in the trial court and add a habeas petition when appealing that motion's denial. The Supreme Court of Florida will often consider both requests for post-conviction relief together and decide both matters in the same opinion. Barkett's supporters count such cases at least twice.[115]

As Senator Orrin Hatch put it: "This doublecounting has the predictable effect of padding the list of cases in which the White House says that Justice Barkett has voted to enforce the death penalty. Even more remarkably, it has the perverse effect of including in this list of supposed votes to enforce the death penalty numerous cases in which Justice Barkett has in fact voted to grant relief to the petitioning convicted murderer."[116]

Consider, for example, that in Adams v. State,[117] the Supreme Court of Florida affirmed the conviction and death sentence, affirmed the trial court's denial of Adams' motion to vacate the judgment, denied Adams' motion for a writ of habeas corpus, and affirmed the trial court's denial of Adams' motion to vacate the judgment two more times. In Professor Gey's analysis, any justice voting with the majority in these decisions would receive five "votes for the death penalty." Yet each of these rulings—on the merits of a conviction and sentence, reviewing a trial court's denial of a motion to vacate, and considering a motion for a writ of habeas corpus—has a different legal standard, raises different issues, and requires a different method of analysis. None but the substantive review on the merits actually considered the conviction of a death-eligible crime or the death sentence itself.

A third gimmick is counting decisions on purely procedural issues as "votes for the death penalty."[118]

A fourth gimmick is counting decisions where Barkett explicitly states opposition to precedent which precludes post-conviction relief as "votes for the death penalty." In Hamblen v. State,[119] the Supreme Court of Florida held that a trial court is not automatically required to appoint counsel to present evidence against imposing the death penalty on someone convicted of a capital crime when that individual chooses not to present such evidence. Barkett dissented. In several subsequent cases, she appeared to join the majority in one of those "votes for the death penalty," but specifically said that she adhered to her dissent in Hamblen, meaning that she really opposed imposition of the death penalty in those cases.[120]

As usual, it is what Barkett's supporters do not say that tells the real story. As Senator Bob Dole put it in his Senate floor speech on February 24, 1994:

"Yes, it is true that Justice Barkett has, on numerous occasions, joined with her colleagues on the Florida Supreme Court in voting to uphold the imposition of the death penalty. But it's also true that she is the most anti-death penalty member of the Florida court, having dissented more than one hundred times—and often without explanation—from the court's decision to enforce a capital sentence. By contrast, Justice Barkett has never—not once—dissented from a majority decision of the Florida Supreme Court that granted relief to a convicted capital murderer."

In other words, she has dissented from the majority to argue that the court should be more lenient on a convicted killer, but has never dissented from the majority to argue that the court should be more harsh.

IV. BARKETT'S RECORD IS FAR OUTSIDE THE MAINSTREAM

In many areas, Barkett's stated positions are at odds with clear holdings of the U.S. Supreme Court, congressional decisions, and views of criminal justice officials around the country. Here are just a few examples.

Executing Minors. In LeCroy above, Barkett was alone in stating that executing anyone under the age of 18 violates the U.S. Constitution. Her position would prevent the states as well as the federal government from ever executing minors, no matter how brutal the crime or how mature the criminal. The U.S. Supreme Court has rejected this blanket position.[121] On November 8, 1993, the U.S. Senate rejected a proposal to prohibit even the states from executing anyone under the age of 18. The following Senators voted against the measure:

Baucus (MT), Bennett (UT), Bond (MO), Breaux (LA), Brown (CO), Bryan (NV), Burns (MT), Byrd (WV), Cochran (MS), and Craig (ID).

D'Amato (NY), Daschle (SD), Dole (KS), Domenici (NM), Exon (NE), Faircloth (NC), Feinstein (CA), Ford (KY), Gorton (WA), and Graham (FL).

Gramm (TX), Grassley (IA), Hatch (UT), Heflin (AL), Helms (NC), Johnston (LA), Kassebaum (KS), Kempthorne (ID), Kerrey (NE), and Lieberman (CT).

Lugar (IN), Mack (FL), Mathews (TN), McCain (AZ), McConnell (KY), Murkowski (AK), Nickles (OK), Nunn (GA), Packwood (OR), and Pressler (SD).

Pryor (AR), Reid (NV), Riegle (MI), Roth (DE), Sasser (TN), Simpson (WY), Smith (NH), Specter (PA), Stevens (AK), Thurmond (SC), Wallop (MY), and Warner (VA).

Pornography and Obscenity. In Stall above, Barkett insisted that all obscenity laws are unconstitutional. The U.S. Supreme Court has rejected this position for decades, holding instead that obscenity is not protected by the Constitution at all.[122] On November 4, 1993, the U.S. Senate voted 100–0 to repudiate the Reno Justice Department's effort to weaken interpretation of the federal child pornography statute and, six days later, President Clinton also called for "the broadest possible protection against child pornography." The Supreme Court has held that child pornography is similarly unprotected by the Constitution.

Racial Statistics and the Death Penalty. In Foster above, Barkett argued that statistical ratios comparing the race of murders and victims to society at large can establish an equal protection constitutional claim against implementation of the death penalty. As Senator Hatch put it, this position "would virtually paralyze implementation of the death penalty."[123]

When it debated the 1990 crime bill, Congress considered the "Racial Justice Act" which would have established this kind of numbers game. It would have allowed by defense lawyer with a calculator to void the death penalty. The Los Angeles Times (4/23/90) concluded that "the practical effect may be to abolish the death penalty nationwide." In a letter dated March 12, 1990, the attorneys general of 23 states with death penalty statutes stated their opposition to this measure which, they wrote, "is designed to do nothing less than end the death penalty in this country." Barkett's statistical theory goes far beyond the Racial Justice Act by allowing consideration of a much broader universe of statistics, including budget allocations, hiring practices, and intra-office humor.

The following presently serving U.S. Senators were in the majority that rejected the Racial Justice Act in 1990:

Baucus (MT), Bingaman (NM), Bond (MO), Breaux (LA), Bryan (NV), Bumpers (AR), Burns (MT), Byrd (WV), and Coats (IN).

Cochran (MS), D'Amato (NY), Dole (KS), Domenici (NM), Exon (NE), Ford (KY), Gordon (WA), Graham (FL), and Gramm (TX).

Grassley (IA), Hatch (UT), Heflin (AL), Helms (NC), Hollings (SC), Johnston (LA), Kassebaum (KS), Lieberman (CT), and Lott (MS).

Lugar (IN), Mack (FL), McCain (AZ), McConnell (KY), Murkowski (AK), Nickles (OK), Nunn (GA), Pressler (SD), and Pryor (AR).

Robb (VA), Roth (DE), Shelby (AL), Simpson (WY), Specter (PA), Stevens (AK), Thurmond (SC), Wallop (WY), and Warner (VA).

Senator Robert Dole (R–KS) announced his opposition to Barkett on the Senate floor on February 24, 1994. In his floor speech, he noted the Supreme Court of Florida's rejection of the "statistical-evidence defense" in Foster and the similarity of Barkett's position in that case to the Racial Justice Act which the Senate, let by Senator Bob Graham (D–FL), rejected in 1990. He quoted Senator Graham from the debate on the Racial Justice Act as saying: "The very nature of the criminal justice [system] does not lend itself to statistical precision. . . . The Constitution requires an individualized determination as to the appropriateness of the death penalty."

Senator Graham was obviously in a difficult position, having led the opposition to legislation in 1990 embodying this radical theory while supporting a judicial nominee in 1994 who embraces an even more radical version of the same theory. He gave a floor speech hours after Senator Dole's remarks in which he tried to draw a clear distinction between the two. He insisted that the Racial Justice Act dealt with broad "statistical evidence as to a wide variety of cases" covering "an entire judicial jurisdiction."[124] In contrast, he argued that Barkett's theory in Foster related to "a specific act of racial discrimination"[125] by "a specific Florida State prosecutorial official."[126] Senator Graham said, simply put, that the Racial Justice Act's theory was broad while Barkett's theory in Foster was narrow.

To prove his point, Senator Graham asked that Barkett's opinion in Foster be included in the public record. In so doing, he acknowledged that Barkett's own words answer the question about her views on this issue. That opinion appears at pages S1838–39 in the February 24, 1994, edition of the Congressional Record. It omits the three most important paragraphs demonstrating that Barkett's theory goes far beyond the Racial Justice Act. One of those paragraphs reads:

"Statistical" evidence should be construed broadly to include not only historical analysis of the disposition of first-degree murder cases in a particular jurisdiction, but also other information that could suggest discrimination, such as the resources devoted to the prosecution of cases involving white victims as contrasted to those involving minority victims, and the general conduct of a [prosecutor]'s office, including hiring practices and the use of racial epithets and jokes.

Senator Graham said that Barkett's theory related only to specific acts by a specific prosecutor in a specific jurisdiction. Barkett's opinion says that relevant evidence goes beyond "the disposition of . . . cases in a particular jurisdiction." The Racial Justice Act dealt only with statistical evidence derived from analyzing the disposition of actual murder cases. Barkett's theory says that relevant evidence goes completely beyond such evidence to include budget allocations, hiring decisions, and intra-office humor. Senator Graham offered Barkett's opinion but eliminated the very portion that proved him dead wrong.

Senator Graham's chief of staff said that the mysteriously missing paragraphs were "contained on a single missing facsimile page that may have been omitted by the staff who assembled the Record."[127] He said that they would know for sure by Monday, February 28. As of March 29, 1994, Senator Graham's office had not produced any missing facsimile page or any other evidence to explain how the very three paragraphs most critical to the dispute between Senator Graham and Senator Dole not only ended up cleanly isolated on one facsimile page, but also were the only paragraphs to be omitted from the opinion Senator Graham entered into the Congressional Record. It also remains a mystery why Senator Graham's office had to receive Barkett's opinion in Foster suddenly by facsimile since that opinion had been the focus of controversy for at least four months and Senator Graham has been Barkett's leading Senate supporter. Senator Graham has issued no clarification or admission that the paragraphs he omitted prove him wrong.

V. CONCLUSION

The proper way to evaluate a judicial nominee is by examining her judicial philosophy as reflected in her substantive record. Rosemary Barkett's aggressive judicial activism is evident throughout her record, across a range of issues. She goes out of her way to block attempts to enact criminal laws, to limit enforcement of criminal laws, and to prevent implementation of criminal laws. Barkett uses constitutional provisions such as the due process and equal protection clauses to legislate from the bench, all the while ignoring judicial precedent, wrongly citing the U.S. Constitution, and failing to properly defer to legislative judgments. Barkett's record clearly shows sympathy for rigid numerical quotas based on gender or race. That record also raises serious questions about her ability or commitment to dispense impartial justice—the very essence of the judicial function.

Barkett's supporters never defend the many controversial opinions and positions she has adopted over the years. Rather, they retreat to three basic statistical arguments. The most important of these is that Barkett has voted for the death penalty in many cases. In what can only be called a scandal, however, the list offered by the White House of these cases contains so many misrepresentations as to constitute an attempt deliberately to mislead the Senate, the media, and the American people.

Finally, Barkett has embraced positions on important issues, including execution of murderers under the age of 18, the "statistical evidence defense" to the death penalty, and obscenity laws that are far outside the mainstream. The U.S. Supreme Court and U.S. Senate have repeatedly rejected these positions.

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[1] Director, Judicial Selection Monitoring Project, Free Congress Research & Education Foundation. B.A. with honors, Calvin College (1983); J.D. cum laude, State University of New York (SUNY) at Buffalo (1987); M.A., SUNY-Buffalo (1989). Law clerk, U.S. Court of Appeals, Third Circuit (1988–89).

[2] Article II, Section 2 states in part that the President "shall nominate, and by and with the advice and consent of the Senate, shall appoint . . . Judges of the Supreme Court, and all other Officers of the United States."

[3] A project of the Free Congress Foundation's Center for Law & Democracy, the Judicial Selection Monitoring Project is supported by a coalition of more than 50 national and state organizations. It was launched in August 1992 to expand the Foundation's participation in the discussion over judicial nominations.

[4] Comment, "Justice Barkett's Feminist Jurisprudence," 46 *Univ. of Miami Law Review* 1161, 1162 (1992).

[5] *Id.* at 1175.

[6] *Id.* at 1178.

[7] 619 So.2d 231 (Fla. 1993).

[8] See *Broadrick* v. *Oklahoma*, 413 U.S. 601, 613 (1973).

[9] *State* v. *Ecker*, 311 So.2d 104, 109 (Fla. 1975).

[10] *Holliday* v. *City of Tampa*, 619, So.2d 244 (Fla. 1993); *E.L.* v. *State*, 619 So.2d 252 (Fla. 1993).

[11] *State* v. *Ecker*, 311 So.2d 104 (Fla. 1975).

[12] 570 So.2d 257 (Fla. 1990).

[13] *Id.* at 263 (Barkett, J., dissenting) (emphasis added).

[14] *Id.* at 263.

[15] 413 U.S. 15 (1973).

[16] *Stall*, 570 So.2d at 263.

[17] *Luke Records, Inc.* v. *Navarro*, 960 F.2d 132 (11th Cir. 1992).

[18] *Stall*, 570 So.2d at 263.

[19] *Id.* at 264 (Kogan, J., dissenting).

[20] *Id.* at 268.

[21] *Schmitt* v. *State*, 590 So.2d 404 (Fla. 1991).

[22] Florida Statutes §827.001.

[23] Florida Statutes §827.071.

[24] 560 So.2d 228 (Fla. 1990).

[25] See, e.g., *P.L.R.* v. *State*, 455 So.2d 363 (Fla.1984), *cert. denied*, 469 U.S. 1220 (1985); *Palmer* v. *State* 467 So.2d 1063 (Ct. App. 1985); *State* v. *Ellison*, 455 So.2d 424 (Ct. App. 1984); *State* v. *Redding*, 362 So.2d 170 (Ct. App. 1978).

[26] *Cross*, 50 So.2d at 231 (Barkett, J., dissenting).

[27] *Florida* v. *Cross*, 535 S.2d 282, 283 (Ct. App. 1988).

[28] 554 So.2d 1153 (Fla. 1989).

[29] *Id.* at 1158.

[30] *Florida* v. *Bostick*, 111 S.Ct. 2382 (1991).

[31] *Id.* at 2385.

[32] 595 So.2d (Fla. 1992).

[33] *Id.* at 2, quoting the trial judge who "accurately set forth the fact of this murder."

[34] A transcript of the tapes is available upon request from the Judicial Selection Monitoring Project.

[35] *Dougan*, 595 So.2d at 3, quoting the trial judge.

[36] Under Florida law, a jury convicting someone of a capital crime must separately consider whether to impose the death penalty. The death penalty is warranted if the "aggravating" circumstances outweigh the "mitigating" circumstances. Florida law lists 11 aggravators and seven mitigators. See Florida Statutes §921.141. The U.S. Supreme Court has held that a jury may choose only from the aggravators listed in the statute but may consider any mitigators, whether listed or not. See *Eddings* v. *Oklahoma*, 455 U.S. 104 (1982); *Lockett* v. *Ohio*, 438 U.S. 586 (1978) (plurality opinion).

[37] *Dougan*, 595 So.2d at 6 (McDonald, J., dissenting).

[38] Comment, *supra* note 4, at 1178.

[39] *Id.* at 7.

[40] *Id.*

[41] *Dougan*, 595 So.2d at 7–8 (emphasis added).

[42] *Id.* at 7.

[43] *Id.* at 8.

[44] *Id.*

[45] *Id.*

[46] 593 So.2d 191 (Fla. 1991).

[47] Id. at 195 (Barkett, J., concurring in part and dissenting in part).

[48] Id.

[49] Id.

[50] 533 So.2d 705 (Fla. 1988).

[51] Id. at 755–56 (emphasis added).

[52] Id. at 756, quoting Florida Statutes §39.02(5)(c).

[53] Id. at 759.

[54] 614 So.2d 473 (Fla. 1993).

[55] Id. at 479.

[56] Id. (Barkett, J., dissenting).

[57] Id. at 480, citing Penry v. Lynaugh, 492 U.S. 302 (1989).

[58] 570 So.2d 257 (Fla. 1990).

[59] 564 So.2d 1060 (Fla. 1990).

[60] Id. at 1065 (Barkett, J., concurring). This is an example of how the label attached to an opinion written by a single justice can be very misleading. Here, Barkett agreed with the conviction but disagreed with the sentence, yet her separate opinion is labeled a "concurrence."

[61] 538 So.2d 829 (Fla. 1989).

[62] Id. at 832 (Barkett, J., concurring in part and dissenting in part). This opinion, in which Barkett agrees with the conviction but not the sentence, is labeled a partial concurrence/dissent. As noted above, her opinion in Porter, in which she also agreed with the conviction but not the sentence, is labeled a concurrence.

[63] 543 So.2d 1244 (Fla. 1989).

[64] 588 So.2d 983 (Fla. 1991).

[65] 581 So.2d 121 (Fla. 1991).

[66] 559 So.2d 1097 (Fla. 1990).

[67] 510 S.2d 881 (Fla. 1987).

[68] The 14th Amendment to the U.S. Constitution reads in part that "nor shall any State deprive any person of life, liberty, or property, without due process of law." State constitutions have a parallel provision.

[69] *Ferguson* v. *Skrupa*, 372 U.S. 726, 731 (1963).

[70] *United States* v. *Carolene Products Co.*, 304 U.S. 144, 152 (1938).

[71] See *Williamson* v. *Lee Optical Co.*, 348 U.S. 483 (1955).

[72] 489 So.2d 1125 (Fla. 1986).

[73] She also held the provision violated the Florida Constitution.

[74] 619 So.2d 231 (Fla. 1993).

[75] The 14th Amendment to the U.S. Constitution states in part that "nor shall any State . . . deny to any person within its jurisdiction the equal protection of the laws."

[76] *FCC* v. *Beach Communications*, 113 S.Ct. 2096, 2101–02 (1993) (emphasis added).

[77] *Nordlinger* v. *Hahn*, 112 S.Ct. 2326, 2331–32 (1992).

[78] *Id.* at 2332.

[79] 618 So.2d 189 (Fla. 1993).

[80] Florida Statutes §766.203–206.

[81] Florida Statutes §766.207.

[82] Florida Statutes §766.207(7).

[83] Justice Kogan recused himself from this case.

[84] 563 So2d 64 (Fla. 1990).

[85] *Vance* v. *Bradley*, 440 U.S. 93,108 (1979).

[86] *Black's Law Dictionary*, Fifth Edition (St. Paul: West Publishing Co., 1979), at 1130.

[87] No. 76,639 (Fla. April 1, 1993).

[88] *McKleskey* v. *Kemp*, 481 U.S. 279 (1987).

[89] 518 So.2d 903 (Fla. 1987).

[90] *Id.* at 908 (Barkett, J., dissenting).

[91] 601 So.2d 453 (Fla. 1992).

[92] Associated Press, "Judge Says Hitler Could Avoid Death Penalty in Florida," *Tallahassee Democrat*, May 29, 1992.

[93] See Morgan, "State High Court's Rulings Called an Insult to Police," *St. Petersburg Times*, January 23, 1990.

[94] See O'Neal, "Barkett Camp Disputes Foes' Claims," *Orlando Sentinel*, September 30, 1992, at B-5.

[95] Lamar, "Lamar Responds to Editorial on Rosemary Barkett," *Orlando Sentinel*, September 10, 1992, at A–15.

[96] Associated Press, "Florida Bar Endorses Justice Barkett, But 21 Percent Oppose Her," *Miami Herald*, September 12, 1992, at 5B.

[97] Halldin & Reardon, "Barkett's Support Lags Behind Others in Poll of Lawyers," *Tampa Tribune*, September 12, 1992, at 1.

[98] Rado, "Barkett's Support in Bar Poll is Low," *Times*, September 12, 1992, at 6B.

[99] *Congressional Record*, March 22, 1994, at S3383.

[100] See Gigot, "Crime Choice: She's No Hanging Judge," *Wall Street Journal*, October 15, 1993.

[101] "Unjust Criticism of a Chief Justice," *Wall Street Journal*, November 9, 1993, at A19 (emphasis added).

[102] Dahl, "Florida's Ex-Nun Chief Justice Challenged as Appeals Choice," *Washington Times*, October 19, 1993, at A4 (emphasis added).

[103] Barkett, "Conservatives Tear a Page from Liberals' Book, 'Borking' Clinton's Nominees for Legal Positions," *Wall Street Journal*, November 29, 1993, at A14 (emphasis added).

[104] See, e.g., *Stewart* v. *State*, 549 So.2d 171,177 (Fla. 1989), where Barkett's opinion states: "I concur in the conviction, but dissent as to the sentence." Her supporters count this as a "vote for the death penalty."

[105] See, e.g., *Kennedy* v. *Wainwright*, 483 So.2d 424,428 (Fla. 1986) (Barkett "would grant the application for stay of execution"); *Kight* v. *Dugger*, 574 So.2d 1066, 1073 (Fla. 1990) (Barkett wrote that one of the killer's claims "requires an evidentiary hearing"); *Thomas* v. *Wainwright*, 486 So.2d 574, 577 (Fla. 1986) (Barkett "would grant the motion for stay of execution"); *Adams* v. *Wainwright*, 484 So.2d 1211, 1213 (Fla. 1986).

[106] See, e.g., *Kight* v. *Dugger*, 574 So.2d 1066, 1073 (Fla. 1990).

[107] See, e.g., *White* v. *State*, 565 So.2d 322, 323 (Fla. 1990) (Barkett "would grant a stay of execution and relief"); *Hamblen* v. *State*, 565 So.2d 320, 322 (Fla. 1990) (Barkett "would grant a stay of execution and relief").

[108] See, e.g., *Breedlove* v. *Singletary*, 595 So.2d 9 (Fla. 1992) (court denied habeas corpus relief but granted post-conviction relief and stay of execution); *Smith* v. *Dugger*, 565 So.2d 1293 (Fla. 1990), (court denied habeas corpus relief but granted stay of execution).

[109] See, e.g., Way v. Dugger, 568 So.2d 1263 (Fla. 1990) (court denied post-conviction relief but granted habeas relief, vacated death sentence and remanded for new sentencing hearing).

[110] See, e.g., Harich v. Dugger, 542 So.2d 980 (Fla. 1989) (court granted post-conviction relief and remanded the case for an evidentiary hearing); Scott v. Dugger, 604 So.2d 465 (Fla. 1992).

[111] See, e.g., Heiney v. Dugger, 558 So.2d 398, 400 (Fla. 1990); O'Callaghan v. State, 542 So.2d 1324, 1327 (Fla. 1989).

[112] See, e.g., Cherry v. State, 544 So.2d 184 (Fla. 1989).

[113] See, e.g., Thomas v. State, 486 So.2d 577, 578 (Fla. 1986) (Barkett dissented from decision to deny post-conviction relief and stay of execution).

[114] See, e.g., Sims v. Singletary, 622 So.2d 980 (Fla. 1993); Johnston v. Dugger, 583 So.2d 657 (Fla. 1991); Mitchell v. Dugger, 595 So.2d 942 (Fla. 1992);

Ponticelli v. State, 618 So.2d 154 (Fla. 1993); Happ v. State, 618 So.2d 205 (Fla. 1993); Breedlove v. State, 595 So.2d 8 (Fla. 1992); Davis v. State, 620 So.2d 152 (Fla. 1993); Medina v. State, 586 So.2d 317 (Fla. 1991); Kelley v. State, 597 So.2d 262 (Fla. 1992).

[115] See, e.g., Turner v. Dugger, 614 So.2d 1075 (Fla. 1992) (Barkett on result only); Henderson v. Singletary, 617 So.2d 313 (Fla. 1993) (second motion for post-conviction relief, Barkett on result only); Parker v. Dugger, 550 So.2d 459, 461 (Fla. 1989) (second motion for post-conviction relief, first motion for habeas); Scott v. Dugger, 550 So.2d 459, 461 (Fla. 1989) (second motion for post-conviction relief, first motion for habeas); Scott v. Dugger, 604 So.2d 465 (Fla. 1992); Puiatti v. Dugger, 589 So.2d 231 (Fla. 1991); Mendyk v. State, 592 So.2d 1076 (Fla. 1992); Jennings v. State, 583 So.2d 316 (Fla. 1991); Johnston v. Dugger, 583 So.2d 657 (Fla. 1991) (Barkett on result only); Koon v. Dugger, 619 So.2d 246 (Fla. 1993); Kight v. Dugger, 574 So.2d 1066, 1073 (Fla. 1990).

[116] Congressional Record, March 22, 1994, at S3394.

[117] 543 So.2d 1244 (Fla. 1989).

[118] See, e.g., Gaskin v. State, 615 So.2d 679 (Fla. 1993); Mills v. Singletary, 606 So.2d 623 (Fla. 1992).

[119] 527 So.2d 800 (Fla. 1988).

[120] See, e.g., Clark v. State, 613 So.2d 412, 415 (Fla. 1992); Henry v. State, 613 So.2d 429, 434 (Fla. 1992); Durocher v. State, 604 So.2d 810, 812 (Fla. 1992); Henry v. State, 586 So.2d 1033, 1038 (Fla. 1991).

[121] See Thompson v. Oklahoma, 487 U.S. 815 (1988). Not surprisingly, Barkett insists in her lone dissent in LeCroy that the Supreme Court has "left this question open."

[122] See Miller v. California, 413 U.S. 15 (1973).

[123] Congressional Record, March 22, 1994, at S3394.

[124] Congressional Record, February 24, 1994, at S1835.

[125] Id.

[126] Id. at S1834.

[127] Roman, "Judicial Nominee's Missing Words Hit," Washington Times, February 26, 1994, at A5.

[From the Washington Times, Oct. 15, 1993]

ROSEMARY BARKETT: CLINTON NOMINEE

(By Samuel Francis)

In his weekly radio address to the nation last week, President Clinton chose for his theme the subject of what a tough guy he is on crime. He seized the opportunity to plug his crime bill now before Congress and struck postures on the need to catch criminals, convict criminals, and—sometimes—kill criminals.

"This bill," preached the president, "will help to restore a system where those who commit crimes are caught, those who are found guilty are convicted, those who are punished—sometimes by imposition of the death penalty for especially serious crimes."

Well, no it won't. Whatever the merits of Mr. Clinton's crime bill, it will have no effect whatsoever on catching, convicting and punishing criminals. To do that, you have to have tough judges, and at the same time Mr. Clinton is blustering about his own toughness on crooks, he's sending to the federal bench some of the sorriest substitutes for judges since Joseph Stalin held the Moscow Show Trials.

One recent Clinton judicial appointment is Rosemary Barkett, now a justice of the Florida Supreme Court, whose name the administration sent up to the Senate Judiciary Committee last month. Her hearings for a seat on the 11th U.S. Circuit Court of Appeals haven't been scheduled yet, and if Mr. Clinton were wise, the hearings would never take place. Judge Barkett will be to the Clinton administration what Lani Guinier was to the Clinton administration.

In 1992, Judge Barkett joined in a dissent to a Florida capital punishment case that involved one of the most brutal racial murders in that state's history. The defendant, Jacob Dougan, was the leader of a group styling itself the Black Liberation Army, the "apparent sole purpose of which" the trial judge described as being to "indiscriminately kill white people and start a revolution and a race war."

In 1974 Dougan and four of his liberators kidnapped an 18-year-old white man at random, took him to a trash dump and stabbed him repeatedly. When their victim pleaded for his life, Dougan himself shot him twice. Dougan then made tape recordings of his boasting of the murder and sent one to his victim's mother. "Ah, it was beautiful," exulted the killer on the tape, "You should have seen it. Ah, I enjoyed every minute of it. I loved watching the blood gush from his eyes."

After 18 years in what passes for a criminal justice system in this country, Dougan's death sentence was affirmed by the state supreme court, but not without one last gurgle from Judge Barkett about love and understanding. "This case," reads the dissenting opinion in which she joined, "is not simply a homicide case, it is also a social awareness case."

Dougan, you see, thought he was doing the right thing when he decided to slaughter white people, and that makes it different. "His frustrations, his anger, and his symbolic obsession of injustice overcame reason," Judge Barkett's dissent blathers. "The victim was a symbolic representation of the class causing the perceived injustices." Dougan shouldn't be executed, she concluded.

In other words, Judge Barkett endorsed the quackery that committing murder as a response to purported injustices, even if the victim himself had nothing to do with them, justifies a lighter sentence. That kind of reasoning is consistent with some of her other dissents as well.

In yet another death penalty dissent in 1991, Judge Barkett concluded that the killer, one Jerry Wickham, didn't merit death because at the time of the crime, he was a "mentally deficient, socially maladjusted individual." Wickham and his family were about to run out of gas, so he robbed and killed a passing motorist, taking $4.05 from his pockets.

"If the death penalty is supposed to be reserved for the most heinous of crimes and the most culpable of murderers," Judge Barkett herself wrote in dissent from the court's affirmation of the death sentence, "Jerry Wickham does not seem to qualify." You have to wonder. Just what sort of crime, in this woman's learned opinion, would be sufficiently heinous to qualify for a two-minute snuggle with Old Sparky?

There are several other such cases of Judge Barkett's dissents in death penalty cases, almost always on the most specious and subjective grounds. It's neither the law nor justice that guides her gavel but whatever feelings and heartthrobs flutter in her attic that day.

If Judge Barkett makes it through the Senate to a federal judgeship, she'll be within easy reach of a future seat on the U.S. Supreme Court, whence she could shoot her judicial poison into the jugular of the Constitution itself. Mr. Clinton knows that, so when he tells you how tough on crime he is, he's simply lying. With generals like Judge Barkett in charge of his war on crime, you can place your bets on the enemy.

Mr. HATCH. Mr. President, I yield 6 minutes to the distinguished Senator from Delaware.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Delaware is recognized for 6 minutes.

Mr. ROTH. Mr. President, among the most serious responsibilities that the Constitution entrusts to those of us in this body is to provide our advice and consent regarding nominees to the Federal Bench. Every nominee, if confirmed, will potentially have a broadbased lifetime influence on the law. While we should be prepared to defer to the President's judgment in most cases, these nominees must be reviewed with careful scrutiny.

Based upon her judicial record and her testimony before the Judiciary Committee, I must oppose the confirmation of Florida Chief Justice Rosemary Barkett to be a judge of the U.S. Court of Appeals for the Eleventh Circuit. In a number of cases, Chief Justice Barkett has gone well beyond the proper judicial role into that more properly occupied by the legislature, ignoring precedent and well-settled principles of law in the process.

While I am troubled, for example, by Chief Justice Barkett's misuse of the Federal equal protection clause and of Federal substantive due process, which the nominee herself testified as being "careless," I am most disturbed by her philosophy regarding criminal law issues. At a time when violent crime has reached epidemic proportions throughout our Nation, I do not believe the American people will abide us confirming a nominee who has consistently and mistakenly accorded greater concern to those who break the law than to their victims or to those who enforce the law.

Let me provide some examples of Justice Barkett's troubling criminal law decisions. In the case of Stall versus State, Justice Barkett joined a dissent striking down a State obscenity statute, stating that, "A basic legal problem with the criminalization of obscenity is that it cannot be defined." That statement is contradicted by the U.S. Supreme Court's landmark obscenity decision in Miller versus California, which the nominee failed to even mention in her dissent.

Another important area of criminal law in which I believe Chief Justice Barkett goes beyond the acceptable limits of a judge's responsibility to fairly apply the law concerns death penalty cases.

One of the most disturbing of Chief Justice Barkett's opinions was the dissent she joined in the death penalty case of Dougan versus State. This case has been much discussed during the course of this nomination process. Briefly, this involved a grotesque murder of a hitchhiker, following which the killer sent tapes bragging about the murder to the victim's mother. The nominee joined a very troubling dissent that would have reduced the death penalty to life imprisonment, with eligibility for parole in 25 years. The dissent compared this cold-blooded, premeditated murder—which the evidence indicated was motivated by racial hatred—with the emotional conditions of a disenchanted marriage that results in domestic homicide. That was the basis on which she voted to not impose the death penalty. I believe this is an unacceptable standard for judges to use. We rely on judges to apply the law evenly and to objectively apply penalties based on the facts of the case. To expect less is to badly distort our criminal justice system.

There are many other criminal cases which could be cited in which this nominee has shown an untoward concern for criminal defendants and only perfunctory concern for criminal victims.

Judges have the ability to either enforce or reverse the efforts of legislators, police and prosecutors in fighting our Nation's violent crime problem. It does little good for Congress to pass tough crime bills if our efforts are thwarted by judges motivated more by sympathy for criminals than by an understanding of the fear honest citizens face each day on the streets of our Nation. What kind of message is the administration sending when it talks tough on crime in town meetings but sends up judicial nominees who are squishy soft on crime? I would urge my colleagues to reject this nomination.

Mr. President, I yield the floor.

Mr. HATCH. Mr. President, I yield 9 minutes to the distinguished Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa [Mr. GRASSLEY], is recognized for 9 minutes.

Mr. GRASSLEY. Mr. President, I thank Senator HATCH for his leadership on this matter and taking the time to make sure that this issue is fully discussed. This nomination is important from the standpoint of the signal that it sends about the real predilection of this administration on judicial appointments. It is quite contrary to the direction that they want us to believe that they are taking, of being tough on crime. That aspect of this debate is as important as the personal qualifications of their nominee.

So because of the importance of this nominee, as well as very substantive reasons for disagreeing with this nominee's qualifications to be on the eleventh circuit court of appeals, I rise to talk for a few moments about this nomination, and to say why I oppose Justice Rosemary Barkett for the U.S. court of appeals for the eleventh circuit.

When the Judiciary Committee considered this nomination—that was just last month—I voted against her. I want to explain the reasons why I will vote against her again today when the full Senate votes.

First, I share the concerns that many of my colleagues have expressed regarding her theories on criminal law. Many of her decisions are quite inconsistent with President Clinton's stated stance of being tough on crime and wanting to do everything he can to fight crime. This nominee substitutes her own subjective sense of fairness, often finding defendants who have committed outrageously violent murders to be victims of their own circumstances.

Second, in my discussions with her, she conceded that she had made mistakes in some of her opinions, or that they were "inartfully drafted." Those last two words are her words.

Mr. President, we must demand of people who are being placed on the judiciary, particularly on the highest courts of this land, the highest, and most rigorous standards.

There can be no place for a judge on this court, or any court, who says that she "mistakenly" cited the U.S. Constitution in an obscenity case as a basis for her own reasoning that there was no standard under which obscenity can be defined. In making that statement, she ignored the Miller test and again applied her own standard of fairness.

Third, I have very serious doubts about her impartiality. In a reapportionment case, among many that I could cite, she asserted that she would choose a specific reapportionment plan just because it was submitted by a particular party—the NAACP. In her words: "because it is the organization that has traditionally represented the position that advances all minority interests."

Will she decide other cases on the basis of who the litigant is instead of what the law is? And in the Echarte case, she wrote a dissent adopting the position of the Florida Trial Lawyers, stating that a cap on noneconomic damages in medical malpractice cases was unconstitutional. It just happens that that group had just named an award for her. She presented the award at the Florida Trial Lawyers Annual Dinner.

Let us look at the ABA code of judicial conduct, canon 2, in regard to this. It states:

> A judge should not lend the prestige of her office to advance the private interests of others, nor should she convey or permit others to convey the impression that they are in a special position to influence her.

Then in canon 3, the ABA code states that:

> A judge should disqualify herself in a proceeding in which her impartiality might reasonably be questioned.

The Judicial Conference has interpreted these canons and applied them in situations involving Federal judges. There is a 1975 advisory opinion which states the following:

> Judges who have achieved a preeminence such as to prompt public recognition [as in a public testimonial or award] should ordinarily be able to accept such honors.

It goes on to say:

> Before accepting such recognition, however, a judge should take certain factors into consideration.
>
> Notwithstanding the spirit in which the award was proffered, it should not be accepted from an organization whose public image embodies a clearly defined point of view on controversial legal, social, or political issues. Neither should [it] be accepted from an organization which is apt to be before the court as a litigant.

Canon 5 cautions against a judge being a speaker or guest of honor at an organization's fundraising events. The canon states:

> In addition to the nature of the organization involved, the judge should be concerned that his presence is not merely a device to promote publicity and the sale of tickets.

I am not familiar enough with the trial lawyers' dinner in this specific case to know if it was in fact a fundraiser. But I do not think there can be any disagreement about the legal and political positions of the trial lawyers, and they were before the Florida Supreme Court in the Echarte case at the time Justice Barkett lent her name to the award.

For these reasons, I cannot support elevating Justice Barkett to the eleventh circuit.

I yield the floor and the remainder of the time allotted to me.

Mr. HATCH. Mr. President, how much time does the distinguished Senator from Idaho need?

Mr. CRAIG. Five minutes.

Mr. HATCH. I yield 5 minutes to the Senator from Idaho [Mr. CRAIG].

The PRESIDING OFFICER. The Senator from Idaho [Mr. CRAIG], is recognized.

Mr. CRAIG. Mr. President, I thank my colleague from Utah, the ranking senior Republican on the Judiciary Committee, for yielding me time to speak in relation to the nomination of Chief Justice Rosemary Barkett to a seat on the U.S. court of appeals of the eleventh circuit.

Some today have called literally any opposition to this confirmation politically motivated. However, as my colleagues know, in the past I have voted to confirm even when political beliefs of the nominee differed radically from my own.

Frankly, not all of my advisers have thought that wise. In fact, some of my constituents would prefer me to make political beliefs a litmus test for judicial nominees. My respect for the Constitution, though, frankly, Mr. President, prohibits me from doing that.

If the President's powers to nominate a judge means anything, it must mean the power to nominate one of the President's own philosophical bent or political views. But, just as important, if the Senate's power to confirm means anything, it must mean the responsibility to disagree with the President when the nominee is unqualified for reasons other than political beliefs.

My decision on a judicial nominee is based on my evaluation of his or her character, competence, and judicial philosophy; that is, how the nominee views the duty of the court and its scope and authority. It is my strong belief that members of the Federal judiciary should neither rubberstamp legislative decisions nor overreach to act as a substitute legislator.

In this case, character is not in question. On the contrary, there is much to admire about a nominee who overcame language and cultural barriers to become the first woman to serve on the Florida Supreme Court, whose background includes service as a nun and a school teacher, who is a highly regarded and awarded achiever for the Florida bar.

As to competence, I know this nominee received the American Bar Association's highest rating. Even so, I am aware that some members of the legal profession believe Justice Barkett's very unusual handling of constitutional and other issues puts her competency in reasonable question. While that may be a legitimate and important subject to debate among lawyers and judges trained in legal theory, I am not going to attempt to enter into that scholarly debate—except to note in passing that competence does not appear to be a question in this instance.

Some of those unusual opinions do, however, concern me because of what they reveal about the nominee's judicial philosophy. In short, this judge does not appear to be constrained by constitutional limits or on judicial decisionmaking, and instead has given every indication that she is likely to pursue a political activist agenda if appointed to a position on the Federal bench.

An example that I found particularly striking was her opinion on the LeCroy case. The perpetrator in the case was 17 years and 10 months old at the time of the crime. The sentencing judge found that this was no constitutional bar in imposing a death penalty. Although he gave careful consideration to the age factor, he found the individual in question was mentally and emotionally mature enough to have realized the difference between right and wrong in the brutal killing of another human being. Furthermore, it was a longstanding principle of Florida law that a child of any age charged with a capital crime must be tried and handled in every respect as if he or she were an adult.

The Florida Supreme Court voted 6 to 1 to affirm the death penalty, with Judge Barkett the lone dissenter. Remarkably, her view was that imposing the death penalty violated both the Florida law and the eighth amendment to the U.S. Constitution, a position the U.S. Supreme Court later rejected.

This Senator was one of the majority in this body who voted 6 months ago to table a proposal banning the death penalty for juveniles. I can understand the discomfort some have with this issue, and I can even understand why Justice Barkett may have personally abhorred the decision of the sentencing judge. However, that does not justify ignoring State law forcing Federal jurisprudence to conform to her own sociological theory.

There are clearly other issues that question whether this person, if properly placed, will stay within the bounds of the Constitution or move on as she has throughout her career on her political philosophy in rendering decisions based on that. It is for that reason that I stand in opposition to her confirmation and will vote accordingly.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. I yield 5 minutes to the minority whip.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Thank you, Mr. President. I want to make a very brief comment about this nomination. Mr. President, Justice Barkett and I had a long visit in my office to discuss some of her cases, as well as her background and qualifications for the circuit court of appeals position to which she has been nominated. It was a very good visit. I was very impressed by her as a person, and I enjoyed very much my time with her.

We discussed a few of Justice Barkett's more controversial cases, and she explained her position and the reasons for her decisions or dissents. I thought that was very important.

Mr. President, in most cases she attributed the controversy over her decisions to the critics lack of understanding of "capital punishment jurisprudence." Justice Barkett pointed out that the Supreme Court requires justice's "to look behind every case—considering aggravating factors as well as mitigating factors."

That is indeed the law of the land, but I do not agree with Justice Barkett's application of that law in certain cases during the years she has served on the Supreme Court of Florida.

Mr. President, I want to point out here that Justice Barkett obviously has the legal and judicial experience for the Federal bench, and I have no doubt that her judicial temperament is fully acceptable and appropriate.

However, I am very disturbed when she finds it necessary during her hearing before the Judiciary Committee to retract or explain that she mis-spoke—"mis-wrote" actually would be the term—when she cited the U.S. Constitution as the basis for a decision she authored in a particular case. That simply should not occur.

I am also concerned that Justice Barkett may too quickly, and too often, see the criminal as a "victim of society," and argue that the criminal's illegal activity should somehow be mitigated because of the perceived injustices that he or she has suffered at the hands of our society, a convenient scapegoat in our times.

I do not believe that the courts should somehow attempt to excuse criminal activity by placing a share of responsibility for heinous crimes on society.

I am also concerned that Justice Barkett seems, in some instances at least, to stretch far in efforts to reach a position that I fear may represent her personal views more than it represents existing law and precedent.

That constitutes judicial activism, one of the most important disqualifications for a Federal judgeship, as far as I am concerned.

Mr. President, I firmly believe that the President has not only the duty, but also the right, to choose nominees to the Federal judiciary who share his views. We must expect that he will nominate persons who share his philosophy and ideology.

And when the nominee is qualified by education, experience and judicial temperament, he or she should not be opposed because I, or any other senator, disagree with the ideology of the nominee.

However, the ideology and the social values of the nominee must be within the "mainstream" of American views and values.

At a time when crime, particularly violent crime, is viewed by the American public as the most serious problem facing our country, and at a time when the Congress is debating legislation to deal in a firm and serious way with violent crime, and at a time when the President of the United States is calling for congressional action to address violent crime, I believe we must look closely at the thinking and the social values of judicial nominees who will be dealing with this very serious problem.

I have reluctantly decided that Justice Barkett's views of the criminal and the causes of criminal activity, and her record on and the application of the criminal laws and sentencing are not within the mainstream of American thinking on this issue.

This, combined with Justice Barkett's tendency toward judicial activism, has brought me to the conclusion that I must vote against the confirmation of Justice Barkett to the U.S. Court of Appeals.

I thank the Chair, and I thank my colleague from Utah and commend him on his fine work as the ranking member of the Senate Judiciary Committee.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I yield 15 minutes to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Utah for yielding me this time. I am sorry I have not been able to be here for all of the discussion. But I do think this is a very important nomination, and it goes way beyond just this particular nomination to a circuit court.

I rise in opposition to the nomination of Judge Rosemary Barkett, currently the chief justice of the Florida Supreme Court, to be judge on the U.S. circuit court for the eleventh circuit.

Before I present my objections to this nomination, I want to talk briefly about the state of things in this country. Recently the issue of crime has overtaken the economy and, yes, even health care as the number one issue of Americans. There is a national sense of unease.

I just spent 2 weeks back in my State, and I found that people have gone, when it comes to crime, from being concerned and worried and scared, to mad. They really do not understand the type of crime that we are having now—crack cocaine in our schools, shootings in our schools, children carrying guns in our schools, senseless, motiveless drive-by shootings, and they really are angry about it and they want some action.

They know the Federal Government cannot totally control it, but they know the Federal Government has a role, they know the States have a role, and the local governments and, yes, the individuals in the communities have a responsibility.

But the main thing they want is some results. The American people want to stop the mayhem they see on our streets, not only in our big cities but in the suburban areas and in rural areas. Crime is everywhere.

We have an executive or Presidential commitment to crack down on crime. The President has been having some events just this week to emphasize his concern about crime, and many of the things he talks about that we need to do, certainly I agree with. I offered the amendment in the Senate last year for three strikes and you are out: commit three violent felonies, and you get life. And the President stood in the well of the House of Representatives in his State of the Union Address this year, and he endorsed that concept.

Now we have Harvard lawyers and social reformers and others saying, oh, well, the three-strikes-and-you-are-out amendment, it might fill up our jails.

The only thing I run into when I have spoken to different groups from New York City to Mississippi, is why do you give them three violent crimes?

So it makes good sense, and the President has endorsed it. So, we have a Presidential resolve of sorts. We have a legislative resolve because the Senate passed a very comprehensive crime package last year. The other body is having some difficulty getting its act together passing little slithers of the crime package. But today they are trying to get a bigger package together. I hope they do not follow their usual rule, which has been to be soft on the criminal and not worried at all about the victim. That is what has been basically the crime legislation that has come out of the House over the past 20 years.

But we do have movement in this legislative area and that is important.

But Americans are very uneasy about the third branch of Government. A recent Gallup Poll showed 83 percent of Americans felt that the judicial system is not harsh enough—not harsh enough—on criminals.

I do not want to put down the thousands of State and Federal judges who deal with wave after wave of criminal depravity every day. The American people appreciate it. It is a tough job. A lot of these judges do a wonderful job and they have innovative ideas for dealing with criminals and for trying to rehabilitate them where it may be possible. So you do not indict them all.

But the problem with some judges is that they put their personal politics before the law, and the rights of society and the people upholding the law. There are judges who forget the first duty of Government is to protect life and property. There are judges in the Federal judiciary of this country who for the past 20 or 30 years have twisted the law and precedents to protect the thug, making the criminal a victim and leaving the real victim with no recourse.

That went on for part of 1950's and 1960's and 1970's. In the 1980's, we started to slowly turn that around a little bit by getting, yes, if you will, strong law-enforcement lawyers and judges on the bench and moving them up the line.

Judge Rosemary Barkett is an activist judge. She is one of those who has been worried about the criminal, sometimes appearing to forget about the victims. She has called criminals the victims of society. I have heard that somewhere before, usually in articles written by certain liberal groups and lawyers.

Judge Barkett has written against curbs on obscenity and against curbs on unseemly public conduct. She backs organized labor instead of the rights of the working man or woman. And these are the reasons why I oppose her nomination to the U.S. Court of Appeals. I think she epitomizes, she is a perfect example of the problem with the Federal judiciary over the past 30 years, and she has indicated that time after time after time.

Maybe she did go along with the death penalty sometime, but other times she dissented. I will not go over all the Florida cases that the Judiciary Committee has already looked at. Perhaps they have been mentioned on the floor.

But I ask unanimous consent that a summary of Judge Barkett's questionable decisions be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LOTT. Let me point out what Judge Barkett has said about criminals. In 1991, in the Wickam versus State case, Wickam shot a man in the back, chest, and head and stole $4.05 from the corpse. Can you believe that—kill a man for $4?

The Florida Supreme Court voted to affirm the death sentence, but Judge Barkett dissented, blaming the "milieu of violence" that the killer grew up in. He had a rough life, therefore there were mitigating circumstances. Judge Barkett said the killer was "mentally deficient" and "socially maladjusted"—thus, he should be spared.

In the Dougan versus State case, 1992, the judge voted to overturn the death sentence of Jacob Dougan, who brutally murdered a teenager, and sent a tape describing the killing to the victim's mother.

Now that is pretty heinous; worse than just about anything I ever heard of. You kill someone and then you send a tape of the killing to the victim's mother. Judge Barkett called the case a "social awareness case" and blamed the killing on "discordant racial relations which have permeated our society." I wonder what the victim's mother would have called it.

In the Hall versus State case in 1993, Hall and an accomplice raped, beat, and shot to death a woman who was 7 months pregnant. The Florida Supreme Court again affirmed the death penalty, but Judge Barkett dissented. She said the killer had had "emotional deprivation" in his life.

In Hudson versus State, in 1989, Hudson broke into his former girlfriend's house, killed her roommate when the roommate surprised him. The Florida Supreme court voted 6 to 1 to affirm the death penalty. Judge Barkett dissented, saying the fact that the killer had been "surprised by the victim during his burglarizing of the home" meant that he was "unable, to a certain extent, to conform his behavior to the requirements of law."

That is a new one. How can burglarizing and murder ever confirm to "the requirements of the law?"

There is more, but I will not take up that much more of the Senate's time. Judge Barkett was very evasive. And from what I saw during her hearing, Senators got very little information out of her. What we do know is what we have read of her opinions. This is a case where she has voted, she has ruled, she has written and her opinions are out of the mainstream.

Over the past few weeks, I have been reading some of the comments of Senators here on the floor about possible Supreme Court nominees, and why they would not support this nominee or that nominee. One of the phrases I have heard is, he or she was out of the mainstream. Well, Judge Barkett is a nominee who is out of the mainstream.

Maybe intentionally or absentmindedly, the administration has sent to this legislative body judicial nominees from the lower courts whose political philosophy overrules their duties of impartiality in judging the law. The political philosophy of some of these nominees also has been contrary to what the administration has been saying about crime in this country. Some of these past, present, and future nominees, not bound by State or local precedent, might use their Federal offices to further erode the protections that Americans should enjoy by right.

The right to walk the streets safely at night, the right to see justice done, the right of victims to have redress—all of these Americans are entitled to. Only a triple resolve of all three branches of Government—the executive, the legislative, and, yes, especially the judiciary—to make tough laws, to execute them faithfully, and to interpret them fairly—only this would ensure the security that we deserve in this country.

And when I talk to citizens and when I talk to law enforcement people, they say, without the cooperation of the courts, what use is there? If policemen arrest a criminal and they get out on a technicality because the policemen did not read them their rights just so, because they did not have the proper arrest papers, and the criminals' appeals go on, people get tired of that. The only way to stop this is to change the law, or change the judges who are misinterpreting the law in my opinion.

President Clinton talks a lot about security, and he should. Some of his judicial nominees, though, undermine his message and undermine the law. Judge Barkett is one of these nominees.

I believe the President has a right to choose whomever he wants for a post, but the Senate has a right, under the Constitution, to reject that nominee. The President is not the only one that is responsible. We have a very high responsibility, especially when it comes to the judiciary.

And I put a greater emphasis on the judiciary than I do other executive branch appointments. I really am going to give the President the benefit of the doubt on a Federal Maritime Commission appointment or an Assistant Secretary of Education, unless there is some really debilitating problems.

But when it comes to the judiciary and lifetime appointment to these appellate courts, the Senate really needs to ask questions, and we need to pursue their record with great relish.

If we say to the American people that we want to get tough on crime, we should not be confirming some of these nominees. Anyone who seeks to undermine the law and public order should not become a Federal judge.

This is not about politics. This is not about partisan politics. This is about the safety and security of the American people.

It is time for Senators to not only talk the talk but walk the walk. This vote is not about the nominee; it is about her record.

The question for us today is, will our rhetoric match our actions? We talk tough on crime and yet if we let a judge go through confirmation with this long history of voting to let criminals off the death penalty and a whole myriad of other areas, then we are not going to pass muster.

A vote for this nominee—for this philosophy—says to the American people that all we have to offer them is rhetoric, not judges who will help make the streets safe by rightly interpreting the law.

Judge Barkett is an activist judge who will sabotage this Nation's fight against criminals. Let me say again that she has been the most antideath-penalty member of the Florida Supreme Court. She has a record. She believes antiobscenity laws are unconstitutional. She has struck down antiloitering laws used against drug-dealing and prostitution.

Judge Barkett believes cold-blooded murderers are victims of society, and has voted to restrict police powers.

Tell me, is this a judge who will be tough on crime? Obviously, no. From now on, the standard judicial nominees will have to meet is whether they have been tough on crime. I think the American people are demanding that.

If these nominees have not been tough on crime, then they should not be confirmed. Judge Barkett has been soft on criminals in many, many instances.

Oh, perhaps you could say she voted for the death penalty here or there. But in many, many instances she voted against it. In many instances, she voted what most people would say were soft-on-crime positions, "Because of society."

So I urge my colleagues to vote against her confirmation.

I yield the floor.

EXHIBIT 1

MEMORANDUM: CONFIRMATION HEARINGS ON JUDGE ROSEMARY BARKETT

President Clinton has nominated Rosemary Barkett, currently chief justice of the Supreme Court of Florida, to the U.S. Court of Appeals for the 11th Circuit (FL, GA, AL). Her hearing before the Judiciary Committee begins Thursday, February 3.

I. BARKETT BLAMES EVERYONE BUT THE CRIMINAL

Dougan v. *State* (1992). Barkett voted to overturn the death sentence of Jacob Dougan, the leader of the Black Liberation Army who slaughtered a teenager and sent a tape describing the killing to the victim's mother. The court voted 4-3 to affirm the death sentence. Barkett joined an opinion saying that the case was "a social awareness case. * * * The victim was a symbolic representation of the class causing the perceived [racial] injustice." Barkett blamed the killing on "discordant racial relations which have permeated our society" and found "redeeming values" in the killer that meant the death penalty was inappropriate.

Wickham v. *State* (1991). Wickham shot a man in the back, chest, and head, and robbed his corpse of $4.05. The court voted 4-2 to affirm the death sentence. Barkett voted again to spare the killer, this time blaming this murder on the "milieu of violence" in which the killer grew up. Here, she said the death penalty was inappropriate because the killer was "mentally deficient" and "socially maladjusted."

LeCroy v. *State* (1988). LeCroy was 17 years old when he killed a man, robbed him, and killed the man's wife to silence her as a witness. The trial judge found LeCroy mature. The court voted 6-1 to affirm the death sentence. Barkett alone voted to spare the killer, blaming all youth crime on "a failure of family, school, and the social system." She said executing anyone under 18—no matter what their crime—violates the U.S. Constitution.

Hall v. *State* (1993). Hall and a companion raped, beat, and shot to death a woman who was seven months pregnant. The supreme court voted 5-2 to affirm the death sentence. Barkett voted to spare the killer because he had an IQ of 60 and had experienced "emotional deprivation" during his life.

Porter v. *State* (1990). Porter stalked his former lover for two days, and then murdered her and her new boyfriend. The court voted 5-2 to affirm the death sentence. Barkett voted to spare the killer. She said that this case arose from "a lovers' quarrel" and that Porter was not capable of premeditation because of his "emotionally charged, desperate, frustrated desire to meet with his former lover."

Hudson v. *State* (1989). Hudson broke into his former girlfriend's home. Her roommate surprised him and he killed her. The court voted 6-1 to affirm the death sentence. Barkett alone voted to spare the killer. The fact that he had been "surprised by the victim during [his] burglarizing of the home" meant that he was "unable, to a certain extent, to conform his behavior to the requirements of the law."

Adams v. *State* (1989). Adams was convicted in 1978 of murdering an 8-year-old girl with whom he tried, unsuccessfully, to have sexual relations. State and federal courts ruled nearly a dozen times against his attempts to avoid the death penalty. The court finally voted 5-2 to again affirm the sentence. Barkett voted to spare the killer and thought he should have had more opportunity to present evidence of "learning problems" while growing up.

II. BARKETT TIES THE HAND OF LAW ENFORCEMENT

Cross v. *State* (1990). With Cross' permission, detectives searched her bag and found a round object wrapped in brown tape, a common way of transporting drugs. They arrested her and later found cocaine. Barkett said the search was illegal and wanted a per se rule that an object must be an "inherently suspect item" for probable cause to exist.

Bostick v. *State* (1989). With Bostick's permission, police searched his bag on a bus and found drugs. Barkett wrote the opinion establishing a per se rule against police searching for drugs on buses, even with permission. "This is not Hitler's Berlin, nor Stalin's Moscow, nor is it white supremacist South Africa." The Supreme Court reversed her 6-3.

III. BARKETT OPPOSED LAWS AGAINST OBSCENITY AND PROSTITUTION

Stall v. *State* (1990). The court upheld Florida's anti-obscenity law. Barkett dissented: "A basic legal problem with the criminalization of obscenity is that it cannot be defined." She joined an opinion recognizing a constitutional right of access to entertainment and condemning anti-obscenity laws as vehicles "for restricting individual autonomy."

Wyche v. *State* (1993). The court upheld Wyche's conviction for loitering for the purpose of prostitution. Barkett dissented; her position would probably invalidate any regulation of public behavior, including disorderly conduct.

IV. BARKETT OPPOSES THE RIGHT TO WORK

United Teacher of Dade v. *Dade County School Board* (1986). Barkett joined a dissenting opinion holding that Florida could not give bonuses to outstanding teachers because it would infringe on the teachers' union's bargaining power. She admitted this was a "liberal construction" of state law.

Florida Bar re Amendment to Rule 2-9.3 (Legislative Policies). Barkett joined in approving a rebate scheme that denied procedural protections for members of the Florida Bar who objected to use of their compulsory union dues for political purposes. The U.S. Supreme Court has held that these protections are constitutionally necessary.

The PRESIDING OFFICER. Who yields time?

Mr. LOTT. Mr. President, I suggest the absence of a quorum and I ask the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the vote on the confirmation of Rosemary Barkett to be U.S. circuit judge for the eleventh circuit court of appeals be set for 3:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I suggest the absence of a quorum and ask that the time under the quorum call be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, some have suggested that the Foster case is not as broad as some of the critics say. I believe the distinguished Senator from Florida has made that suggestion.

Let me just say this.

Justice Barkett's partial dissent in the Foster case adopts an approach that is akin to the so-called Racial Justice Act that the Senate has repeatedly rejected, and rightly so. As I have pointed out, Justice Barkett's approach in Foster would effectively paralyze enforcement of the death penalty.

Now, Senator GRAHAM of Florida has defended Justice Barkett's Foster opinion. In particular, he has claimed that her approach was highly specific compared to that proposed by the so-called Racial Justice Act, which Senator GRAHAM has opposed. Senator GRAHAM attached to his remarks a purported copy of Justice Barkett's Foster opinion.

Curiously, for one reason or another, the copy of Justice Barkett's Foster opinion that is attached to Senator GRAHAM'S comments omits three key paragraphs from that opinion—paragraphs that conclusively rebut the contention that Justice Barkett's approach in that case is highly specific or indeed significantly different in any respect from the so-called Racial Justice Act. In particular, Justice Barkett asserts in these missing paragraphs:

> I believe that statistical evidence of discrimination in capital sentencing should * * * establish a violation of article I, section 2 of the Florida Constitution. "Statistical" evidence should be construed broadly to include not only historical analysis of the disposition of first-degree murder cases in a particular jurisdiction, but also other information that could suggest discrimination, such as the resources devoted to the prosecution of cases involving white victims as contrasted to those involving minority victims, and the general conduct of a state attorney's office, including hiring practices and the use of racial epithets and jokes.

So much for the claim that Justice Barkett's approach in Foster was limited to allegations of specific acts of racial discrimination.

This is hardly the first time that the supporters of Justice Barkett have made false claims in her defense. Indeed, the strategy of her supporters—especially of the White House—appears to be one of misstatements and misdirection. This is not surprising, since a candid assessment of Justice Barkett's record shows that she is starkly at odds with the President's tough-on-crime rhetoric.

The standard for reviewing judicial nominees must be less deferential than the standard for reviewing executive branch nominees.

Federal judges have lifetime tenure and are unaccountable to the political branches.

If the President nominates liberal activist judges, they will override the political branches and impose their own agenda in the guise of constitutional and statutory interpretation. The second point I would like to make here is the basic measure of any lower court nominee's fitness for the Federal bench is whether that nominee will faithfully apply Supreme Court precedent and will construe the Constitution and the Federal laws as they are written, or whether that nominee will instead attempt to impose his or her own policy or ideological preferences.

In the constitutional arena, this standard has important application with regard, for example, to the equal protection and due process clauses, which, if misused, can become completely unconstrained tools of judicial activism.

This standard is also particularly important in a broad array of criminal law matters. For example: Search-and-seizure law: The fourth amendment strikes a careful balance between the interests of the community in detecting crime and the interests of suspects in not being subjected to unreasonable searches and seizures. Overly expansive readings of search-and-seizure protections cripple the police battle against drug dealing and other crimes. Will the nominee be faithful to Supreme Court precedent in this area? Or will the nominee evade or misconstrue Supreme Court precedent and find new ways to hamstring the police?

Maintaining community standards: The Constitution and Supreme Court cases leave local communities substantial leeway to combat such scourges as obscenity, drug dealing, and prostitution. Will the nominee respect the rights of communities to regulate these illegal activities? Or will the nominee twist the Constitution to interfere with communities' ability to protect themselves from these crimes?

Holding criminals accountable: Criminals can and should be held full accountable for their crimes. Does the nominee recognize that society is victimized by criminals? Or does the nominee believe that the criminal is the victim of society?

Death penalty. Will the nominee consistently apply Supreme Court precedent? Or will the nominee strain for unconvincing escapes from imposing the death penalty?

Florida Chief Justice Rosemary Barkett, President Clinton's nominee to the important eleventh circuit seat, does not measure up to this minimal standard. Justice Barkett believes that a "basic problem with the criminalization of obscenity is that it cannot be defined"—even though the Supreme Court has set forth in unmistakable terms how it can be defined. She believes that laws against obscenity "run counter to every principle of notice and due process in our society."

That is important stuff. I do not see how anybody on this floor can misconstrue it.

Justice Barkett has voted to strike down narrowly tailored antiloitering laws that are essential to community policing, including laws prohibiting loitering for the purposes of drug dealing and loitering for the purpose of prostitution.

Justice Barkett has a pattern of unduly restrictive fourth amendment search and seizure decisions that would hamstring police in their battle against drugs. Two of her opinions have been reversed by the Supreme Court, another has been criticized, and two others have been dissents.

Justice Barkett too often subscribes to criminal-as-victim-of-society rhetoric. This is illustrated by the extraordinary dissent she joined in the Dougan case, which involved an extremely vicious and heinous murder. Senators voting on this nomination should read cases like Dougan.

While it is true that Justice Barkett has voted to enforce the death penalty on a substantial number of cases, she has clearly been the single most anti-death-penalty member of the Florida Supreme Court. Moreover, she has exhibited a clear tendency to strain for unconvincing escapes from the death penalty in numerous cases. She has also adopted a position—akin to the Racial Justice Act that the Senate has repeatedly rejected—that would virtually paralyze implementation of the death penalty unless it is imposed on a quota basis.

Concerns over Justice Barkett's nomination for the Federal appellate bench extend beyond her criminal law record. Her constitutional decisionmaking reflects a clear failure to follow precedent. For example, she took the position in a dissent that a statutory cap on noneconomic damages in medical malpractice cases violates the Federal equal protection clause—a conclusion that simply ignored longstanding equal protection principles.

Justice Barkett similarly misused the Federal equal protection clause and the Federal due process clause in other cases. Her record also raises a serious concern that she would be prone to impose her basic race and gender quotas.

Certain actions that Justice Barkett has taken also raise certain questions about her impartiality and her adherence to the canons of judicial ethics. For example, in the medical malpractice case, she refused to recuse herself even though a trial lawyers group that had named an award after her was participating as an amicus—and then she voted with the trial lawyers. In a redistricting case, she stated that she would favor one plan not on its inherent merits but simply on the organization that had proposed it.

Justice Barkett's supporters say that she will follow Supreme Court precedent, but the simple fact is that she has not followed Supreme Court precedent: She has not followed Supreme Court precedent on the equal protection clause. She has not followed Supreme Court precedent on the due process clause. She has not followed Supreme Court precedent on fourth amendment search and seizure law. She has not followed Supreme Court precedent on obscenity. She has not followed Supreme Court precedent on the death penalty. She has not followed Supreme Court precedent in all of these very important fundamental areas.

This is an important thing. I think none of us want to go against somebody we personally like, we personally think is a good person, but in all honesty she has not followed the precedents in all of these areas, and it is a dangerous thing to trust her, suddenly, that she is going to get on the court and follow Supreme Court precedents.

In all these other areas she has, instead, pursued a liberal judicial activist agenda, and there is every reason to believe that she will do so if confirmed to the eleventh circuit court of appeals.

Mr. President, this is really important. We have at this time a President who is saying that he is going to be tough on crime; he is going to do everything he can to stop crime; he is challenging us up on Capitol Hill to provide him with his crime bill. I do not think the rhetoric matches the actions, while at the same time we have seen judge after judge up here who seems to be softer on crime than his rhetoric would imply, and this one in particular not only seems to be, she is, and that is one of the problems we have.

Mr. President, I have to say that, again, this is a fine person. None of my remarks should have any bearing on that. I think she is a good person. I think she is well intentioned. But those are not the issues.

The issues are, will she follow the law as it is written or is she going to use her own social and ideological preferences and enact those into laws as a supermajority legislator from the bench?

Frankly, I have not seen many judges in my 18-year history that really meet that qualification of being a legislator from the bench or a judicial activist in the worst sense of that term any more than this one has. And so I have to vote against her.

I understand that she will be confirmed here today. The fact is, I hope we do not have judges who have ignored the law as much as she has, come up here in the future.

Mr. MITCHELL. Mr. President, I wish to state just briefly that I strongly support the pending nomination. This is an outstanding person, an outstanding jurist, an outstanding judge, and someone who will serve with distinction on the Federal court.

Now, an argument has been made about the President appointing people who are soft on crime. That is a popular political slogan. Someone is soft on crime. What does that mean? Are we supposed to believe that someone who is serving as a judge tolerates crime, condones crime, likes crime? The answer is, of course, "no" to all of those.

What it does do is to create what I believe to be a false impression, that somehow in America if you believe in the Constitution, if you believe in the Bill of Rights, and if you believe in the rights of individual freedom and the limitations on the power of the government, you are somehow soft on crime.

Mr. President, I served as a prosecutor at the State level and at the Federal level, and I daresay I am probably responsible for more criminals going to prison than most other Senators and, perhaps, all combined.

And I say to you that here in America we can enforce the law and we can be tough on criminals without ignoring constitutional rights of law-abiding Americans.

It is a false choice to suggest that adherence to, commitment to, and a deep conviction in favor of the Bill of Rights, which preserves the liberties of individual Americans and limits the power of Government, somehow makes one soft on crime. How often we have heard this argument about technicalities being used to let criminals off. Frequently, those "technicalities" are rights that are included in the Constitution, in the Bill of Rights.

Mr. President, I want to say that the most eloquent, most concise, and most effective statement of the individual liberties of human beings that has ever been devised and written down is the American Bill of Rights, the first 10 amendments to the Constitution.

They set forth in a very brief, yet eloquent, way the values and principles which motivated the men who wrote the Constitution and the Americans who founded this great land. And it was this: that Americans are free people. And in order to ensure their freedom and to provide the broadest measure of individual liberty, we will restrain the power of Government. And that Bill of Rights is not a technicality. It is the essence of what makes Americans free.

And I think we ought to have judges who honor the Bill of Rights. I think we ought to have judges who recognize that we can be tough on crime, that we can prosecute criminals, that we can punish criminals without violating the individual liberties of law-abiding Americans.

It is a false choice to think that we must choose one or the other. We do not have to. We can do both. And I think this kind of judge will do both.

I encourage the Members of the Senate to vote for this nomination.

I want to say that we are going to get a crime bill this year, a comprehensive crime control bill. And we are going to get it because of the leadership of President Clinton and Senator BIDEN, who is the chairman of the committee. And I thank Senator HATCH for the work he has done on that as well.

We ought to do it in a way that meets both objectives—tough on crime and observing and adhering to and revering rights guaranteed to every American under our Constitution. They are not inconsistent. They both can be attained, and we should attain them.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Florida.

Mr. GRAHAM. Mr. President, I yield such time as I might require.

Mr. President, we have a unique responsibility today, the responsibility to place on one of the highest courts of the United States a person who will serve for the balance of her natural life. I am very honored to have the opportunity to urge my colleagues to vote for the confirmation of Rosemary Barkett to the eleventh circuit court of appeals.

This is a person who, by virtue of her personal life experience, by virtue of her preparation and education, by virtue of her experience, is especially uniquely qualified to serve as a Federal appellate judge; the daughter of immigrants, an immigrant herself, a nun, a teacher, a private practitioner, a trial judge, an appellate judge, and now the Chief Justice of the Florida Supreme Court, a background, a wellspring of personal preparation, development and experience now being made available to the people of America.

Those qualifications, Mr. President, are not just written on a résumé on paper. They have been regularly, arduously, and consistently and affirmatively reviewed by the people of our State and now by the President of the United States of America.

She has three times been recommended for appointment to the judicial positions in our State through a rigorous judicial selection process. She has three times been appointed by Governors of our State to the highest positions of judicial responsibility.

She has received the support of the broadest possible range of the people of our State, including the major law enforcement and police agencies.

Most significantly, when she was placed before the people of Florida for a vote as to whether she should be retained in her position as a justice of the Florida Supreme Court, when she was subjected to exactly the same types of charges that have been made on this floor today, 61 percent of the people of Florida voted to retain this fine woman as a member of the Florida Supreme Court.

I believe, Mr. President, that those repeated affirmative approvals of Rosemary Barkett indicate the respect in which she is held, the admiration and the confidence by those who know her best.

Mr. President, I ask unanimous consent to submit for the RECORD a series of endorsements by organizations, law enforcement, legal and others, and editorial boards in support of the nomination of Rosemary Barkett for the eleventh circuit court of appeals.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE FLORIDA BAR,
OFFICE OF THE PRESIDENT,
Miami, November 16, 1993.

Re: The Honorable Rosemary Barkett.

Sen. JOSEPH R. BIDEN, JR.,
Chair, Senate Judiciary Committee, Washington, DC.

DEAR SENATOR BIDEN: It is with pleasure that I forward to you, on behalf of the Board of Governors of The Florida Bar, a resolution in support of the nomination of Chief Justice Rosemary Barkett by President William J. Clinton to serve as Judge of the United States Circuit Court of Appeals for the Eleventh Circuit. By this resolution, the Board of Governors of The Florida Bar urges the United States Senate to confirm Chief Justice Barkett's nomination. If I, or The Florida Bar, can be of any further assistance to the United States Senate in this regard, please do not hesitate to call.

Sincerely yours,
PATRICIA A. SEITZ,
President, The Florida Bar.

RESOLUTION

Whereas, Chief Justice Rosemary Barkett has served the legal profession as a member of The Florida Bar for over 23 years;

Whereas, Chief Justice Rosemary Barkett has always been an example and an inspiration to others in the legal profession to live up to the highest standards of ethics and professionalism;

Whereas, Chief Justice Rosemary Barkett, the first female Supreme Court Justice in Florida, has served the judicial branch with intelligence, wisdom and professional distinction for 14 years;

Whereas, Chief Justice Rosemary Barkett served as trial Judge for five years, having been appointed to the Fifteenth Judicial Circuit in 1979, appointed administrative judge of the Fifteenth Circuit Civil Division in 1982, and elected Chief Judge of the Fifteenth Judicial Circuit in 1983;

Whereas, Chief Justice Rosemary Barkett has served as an appellate judge for nearly nine years, having been appointed to the Fourth District Court of Appeals in 1984, appointed Justice on the Supreme Court of Florida in 1985 and elected Chief Justice in 1992;

Whereas, Chief Justice Rosemary Barkett was retained as Justice of the Supreme Court of Florida by a majority vote of the electorate in Florida in the merit retention election of 1992;

Whereas, Chief Justice Rosemary Barkett has served the justice system as a member of the American Judicature Society Board of Directors, faculty member of the National Judicial College, faculty member of the Florida Judicial College, and holds seven honorary Doctorate of Laws degrees;

It is, Therefore, Resolved, that Chief Justice Rosemary Barkett is hereby congratulated and commended by the Board of Governors of The Florida Bar upon her nomination by President William J. Clinton to serve as Judge, United States Circuit Court of Appeals for the Eleventh Circuit. The Board of Governors urges her confirmation by the United States Senate for that office.

Dated, this 9th day of November, 1993.

PATRICIA A. SEITZ,
President.
JOHN F. HARKNESS, JR.,
Executive Director.

DECEMBER 7, 1993.

Re: Nomination of Rosemary Barkett, Eleventh Circuit Court of Appeals.

Sen. JOSEPH BIDEN,
Chairperson, Senate Judiciary Committee, Washington, DC.

DEAR SENATOR BIDEN: We, the undersigned, are all former Presidents of The Florida Bar.

The purpose of this letter is to advise you and your distinguished Committee, of our total support of the nomination of Chief Justice Rosemary Barkett to the Office of Circuit Judge of the Eleventh Circuit Court of Appeals.

We know and attest to Chief Justice Barkett's commitment to the rule of law. As both a trial and appellate judge, she has compiled a brilliant record of dispensing justice without fear or favor.

The nominee has a proven record of judicial excellence. Her opinions are scholarly and reflective of her keen analytical mind. We hold Justice Barkett in high esteem. Her brilliance and her high integrity are recognized throughout our State.

Chief Justice Barkett possesses every attribute required for exemplary service as a United States Circuit Judge.

The undersigned unqualifiedly and enthusiastically support the President's nomination of Rosemary Barkett to the Federal appellate bench.

Respectfully,

Marshall M. Criser, Alan T. Dimond, Robert M. Ervin, Robert L. Floyd, Leonard H. Gilbert, William O.E. Henry, Benjamin H. Hill, III, Mark Hulsey, Rutledge R. Liles, James Fox Miller, Joe Reiter, Gerald F. Richman, James C. Rinaman, Jr., Fletcher G. Rush, L. David Shear, Chesterfield Smith, Samuel S. Smith, Wm. Reece Smith, Jr., Russell Troutman, Burton Young.

TRIAL LAWYERS SECTION,
THE FLORIDA BAR,
January 20, 1994.

Sen. JOSEPH BIDEN,
Chairman, Senate Judiciary Committee, Washington, DC.

DEAR SENATOR BIDEN: Enclosed please find a resolution passed by the Executive Council of the Trial Lawyers Section of The Florida Bar. The Trial Lawyers Section represents over 6,000 lawyers regularly appear and try cases in both the state and federal courts in Florida.

The Executive Council urges the Senate Judiciary Committee and the full Senate to consider their resolution on behalf of Chief Justice Barkett.

Further the Trial Lawyers Section requests that a representative of the trial lawyers of Florida be allowed to address your committee during hearings on Chief Justice Rosemary Barkett's confirmation.

Very truly yours,
BILL HOPPE.

[From the Trial Lawyers Section of the Florida Bar, Tallahassee, FL]

RESOLUTION IN SUPPORT OF CONFIRMATION OF ROSEMARY BARKETT

Whereas, Chief Justice Rosemary Barkett has served as a trial judge in the 15th Judicial Circuit, Appellate in the 4th District Court of Appeals and for the last fourteen years as a Florida Supreme Court Justice.

Whereas, Chief Justice Rosemary Barkett is well known to the trial lawyers of Florida for her intelligence, knowledge of the law and judicial temperament.

Whereas, Chief Justice Rosemary Barkett has been nominated to serve as judge of the United States Court of Appeals for the 11th Circuit.

Whereas, opposition to Chief Justice Barkett's nomination comes from organizations and persons whose opposition is not to the chief justice's qualifications, but to the chief justice's position on certain legal issues.

It is therefore resolved that the executive council of the Trial Lawyers Section of the Florida Bar which as representatives of over 6,000 trial lawyers in Florida, urges the chief justice's confirmation by the United States Senate. The executive council is opposed to single issue opposition to judicial nominations and believes that such opposition is contrary to the concept of an independent judiciary. The executive council finds that Justice Barkett is highly qualified to serve as judge of the United States Court of Appeals for the 11th Circuit and endorses her nomination for that position.

HISPANIC NATIONAL BAR ASSOCIATION,
Melville, NY, October 25, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Senate Judiciary Committee, U.S. Senate, Washington, DC.
Hon. ORRIN G. HATCH,
U.S. Senate, Washington, DC.

GENTLEMEN: The Hispanic National Bar Association has reviewed the qualifications of Florida Supreme Court Chief Justice Rosemary Barkett for the United States Eleventh Circuit Court of Appeals, and find her highly qualified to serve. Accordingly, we urge the Senators' confirmation of her to fill the vacancy on this court.

Justice Barkett has served on the Florida Supreme Court since 1985, and as Chief Justice since 1992. Before serving on the Supreme Court, she served on the Fourth District Court of Appeals, State of Florida, from 1984–1985. From 1979 to 1984, Justice Barkett served on the Fifteenth Judicial Circuit, State of Florida, as a circuit judge (appointed 1979), administrative judge in the civil division (appointed 1982), and as chief judge (elected 1983). Before becoming a judge, Justice Barkett was in private practice in West Palm Beach, Florida, from 1971 to 1979.

Justice Barkett received her Juris Doctor in 1970 from the University of Florida Law School. She received a Bachelor of Science, Summa Cum Laude, from Spring Hill College in Mobile, Alabama, in 1967. Justice Barkett has been bestowed with Honorary Doctorates of Laws, Civil Laws, and Humane Letters, from Nova University, Rollins College, Spring Hill College, University of South Florida, John Marshall Law School, Florida International University and Stetson University.

Justice Barkett has demonstrated her commitment to the legal community and the state of Florida by serving on various committees of the American and Florida Bar Associations; Florida Bar Foundation; Child Welfare Study Commission; Child Support Study Commission; Study Commission on Guardianship Law; Juvenile Justice Center; Palm Beach Marine Institute, Inc.; American Judicature Society; and Court Statistics and Workload Committee. Additionally, she is a member of several other associations and organizations, including Children, Families, and the Law Judicial Council; Florida Kids Count Advisory Council; National Association of Women Judges; Florida Commission on the Status of Women; Gender Bias Study Implementation Commission; Florida Association of Women Lawyers; National Association for Court Management; Sentencing Guidelines Commission; and Statewide Prosecution Function Commission; and Statewide Prosecution Function Commission; and is a fellow of the Academy of Matrimonial Lawyers.

Justice Barkett has been the recipient of numerous awards, including "Breaking the Glass Ceiling Award," presented by the Palm Beach Chapter of the National Association of Women Business Owners; Latin Business and Professional Women Lifetime Achievement Award; ABA Minority Justice Award Honoree; Judge Matties Belle Davis Award, presented by the Florida Association for Women Lawyers, Dade County; Hannah G. Solomon Award, presented by the National Council of Jewish Women; an Achievement Award presented by the Academy of Florida Trial Lawyers; Judicial Achievement Award for the State of Florida, presented by the Association of Trial Lawyers of America; Woman of Achievement Award, presented by the Palm Beach County Commission on the Status of Women; American Academy of Matrimonial Lawyers Award; and the J. Hillis Miller Memorial Award from the University of Florida Law School. Justice Barkett has been inducted into Florida Women's Hall of Fame, and the Academy of Florida Trial Lawyers has established the Rosemary Barkett award to be presented annually.

Justice Barkett is a faculty member of several colleges, universities, and seminars, including National Judicial College, Florida Judicial College, American Bar Association Appellage Judges Continuing Education Seminars, and Institute of Judicial Administration, New York University, appellage Judges Seminars. She is an adjunct professor, Constitutional Law Class, for Florida State University College of Law. Justice Barkett also serves several institutions of higher education in an advisory capacity.

The legal and professional abilities Justice Barkett has exhibited in her distinguished career as a Florida state jurist and private practitioner make her an excellent choice for appointment to the Eleventh Circuit Court of Appeals. For these reasons, the Hispanic National Bar Association strongly supports her prompt confirmation.

If I may be of any assistance to you in answering questions you may have about Justice Barkett, please do not hesitate to contact me.

Sincerely,

CHRISTOPHER A. MIRANDA,
Chair, Judiciary Committee.

NATIONAL CONFERENCE OF
WOMEN'S BAR ASSOCIATIONS,
Edenton, NC., November 23, 1993.

Re: The Hon. Rosemary Barkett 11th Circuit Court of Appeals.

Hon. JOSEPH R. BIDEN,
U.S. Senate, Washington, DC.

DEAR SENATOR BIDEN: President Clinton has nominated Chief Justice Rosemary Barkett of the Florida Supreme Court for a position on the 11th Circuit Court of Appeals. The Board of the National Conference of Women's Bar Associations, which represents several hundred voluntary bar associations across the United States, has endorsed her appointment and urges you to recommend approval to the Senate.

Justice Barkett brings to the Judiciary a background rich in diversity and based on a strong family work ethic. Justice Barkett was born of Syrian parents in Ciudad Victoria, Mexico. At age six, when she entered school in Miami, Florida, she did not speak English; nevertheless, she excelled. Her life has also been one of public service. At age 17 she became a Catholic nun, devoted for eight years primarily to teaching children. Justice Barkett has long advocated children's issues and the improvement of juvenile justice.

When she left the convent, she continued her education by obtaining her undergraduate degree summa cam laude, and was the outstanding law graduate at the University of Florida College of Law. In 1979, after practicing civil and criminal law for nine years, she was appointed as a circuit court judge in the Fifteenth Judicial Circuit of Florida. She has since served on the Florida Fourth District Court of Appeals and is presently the Chief Judge of the Florida Supreme Court.

Justice Barkett is not "soft on crime" contrary to the allegations in some letters you may be receiving from opponents of her confirmation. She has voted with a majority of the Florida Supreme Court 89 percent of the time. Furthermore, she voted to uphold the death penalty in more than 200 cases.

Justice Barkett is a woman of experience, scholarship, and high moral principles who deserves your support. Her opinions are well reasoned and in the best interest of fairness and justice for all citizens. She would be a tremendous asset to the bench of the 11th Circuit and an inspiration to all of our citizens whose family language was not English.

Thank you for you consideration.

Very truly yours,

KATHERINE H. O'NEIL,
President.

FLORIDA ASSOCIATION FOR
WOMEN LAWYERS,
Tallahassee, FL., October 26, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, U.S. Senate,
Washington, DC.

DEAR SENATOR BIDEN: As president of the 3,000 member-strong Florida Association for Women Lawyers, I want to encourage you to give positive consideration to the nomination of Florida Supreme Court Justice Rosemary Barkett to the federal bench. Justice Barkett is a jurist of the highest caliber. Her intellect and her integrity are an inspiration to the many lawyers who seek clear legal reasoning and just results consistent with the law.

In supporting Justice Barkett, I realize that Florida will lose a great jurist. But the nation will realize a great gain, and those of us in Florida who will miss her keen legal insight and her dedication to our system of law, cannot stand in the way—indeed must hardly support—her ascension to the federal arena.

Sincerely,

VIRGINIA DAIRE.

THE GOVERNOR OF THE
STATE OF FLORIDA,
November 4, 1993.

Hon. JOSEPH R. BIDEN, Jr., Chairman,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: Your committee will soon take up the confirmation of Rosemary Barkett, Chief Justice of the Florida Supreme Court and President Clinton's nominee for appointment to the 11th U.S. Circuit Court of Appeals. The nomination has the enthusiastic support of our citizens, who know that the interests of justice and the people of the 11th circuit will be well served by the confirmation of this extraordinary Floridian.

The selection of Justice Barkett is another significant milestone in a life that demonstrates a modern day version of the American Dream. The daughter of immigrants who came to the United States when she was a child, Rosemary Barkett is an exemplary individual whose record of success is a direct result of hard work, determination and a commitment to fairness. The zeal with which she pursued her education is typical of the energy she has brought to her other diverse experiences—as nun, teacher, community leader, lawyer and judge. All have been marked by a singular dedication to excellence and service.

Justice Barkett has served the people of Florida with distinction during a career that has consistently won her respect, admiration and praise. She has offered a strong and steady voice for justice and reason in Florida through her long record of leadership that resonates with integrity. Her judicial colleagues are continually impressed by her scholarship, intellect, temperament and focused sense of fairness.

Last year, during the statewide merit retention election for Florida Supreme Court justices, some splinter groups waged a nasty and shallow campaign that unfairly attempted to portray Justice Barkett as soft on crime. Floridians, familiar with the truth about Justice Barkett's long and strong record of protecting public safety, were not fooled. Not surprisingly, voters overwhelmingly cast their ballots—by nearly a two-to-one margin—to return their Chief Justice to the state's highest court. I am concerned that any similarly misguided effort to misrepresent the facts and the record of Justice Barkett be identified for what it is.

Rosemary Barkett's example of leadership in Florida is one that surely reflects all that is best about America today. We are proud of her achievements and commend her to you and your committee. I personally offer my highest recommendation for Justice Barkett. She deserves timely consideration and action in the confirmation process. The people of the 11th U.S. Circuit Court of Appeals deserve her service, strength and humanity.

I know that you are being inundated by recommendations and criticisms about each nominee whom you review. In this case, however, I believe you will find that Rosemary Barkett is an outstanding nominee who is fully deserving of your support.

With kind regards, I am,

Sincerely,

LAWTON CHILES.

AMERICAN JEWISH CONGRESS,
Miami Beach, FL, December 27, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, Washington, DC.

DEAR MR. CHAIRMAN: We are writing on behalf of the 50,000 members of the American Jewish Congress to voice our strong support for the nomination of Florida Supreme Court Chief Justice Rosemary Barkett to the United States Court of Appeals for the 11th Circuit. The American Jewish Congress advocates for a federal judicial system whose members are vigorously independent and committed to equal justice for all. Rosemary Barkett has made the dispensation of justice in support of these values the foundation of her legal career.

We would like to respectfully request that a confirmation hearing date be set for Chief Justice Barkett as soon as possible after the Senate reconvenes in January. We are aware of the fact that a small number of extreme special interest groups have attempted to distort Chief Justice Barkett's judicial record in an effort to scuttle the nomination and deny her a hearing before the Committee. We believe these actions amount to nothing more than an irresponsible and repugnant effort to smear the reputation of a distinguished and respected jurist.

Chief Justice Barkett's nomination enjoys strong bipartisan support because her judicial record and philosophy are well within the mainstream of American jurisprudence. She has been endorsed for confirmation by Senator Bob Graham and Senator Connie Mack of Florida, and in last year's merit retention election Chief Justice Barkett received the approval from nearly two-thirds of Florida's diverse electorate. She deserves nothing less than swift confirmation so she might serve our nation as ably as she has served the people of Florida.

Sincerely,

RABBI RALPH P. KINGSLEY,
President, Southeast Region.
RICHARD F. WOLFSON,
Chairman, Commission on Law and Social Action, Southeast Region.
MARK S. FREEDMAN,
Executive Director, Southeast Region.

[From the American Jewish Congress, Washington, DC, Dec. 28, 1993]

AMERICAN JEWISH CONGRESS ENDORSES ROSEMARY BARKETT FOR APPEALS COURT NOMINATION AND CALLS FOR CONFIRMATION HEARINGS

The American Jewish Congress today endorsed the nomination of Florida Supreme Court Chief Justice Rosemary Barkett to the United States Court of Appeals for the 11th Circuit, and called upon Senate Judiciary Committee Chairman Joseph R. Biden, Jr. to schedule a confirmation hearing date as soon as possible after the Senate reconvenes in late January.

Rabbi Ralph P. Kingsley, president of the Southeast Region of the AJCongress, said that setting an early hearing date is important to counteract the campaign orchestrated by those who have attempted to distort Chief Justice Barkett's judicial record in an effort to scuttle the nomination.

In a letter to Senator Biden written by Rabbi Kingsley, AJCongress' Southeast Region Commission on Law and Social Action Chairman Richard F. Wolfson, and Regional Director Mark S. Freedman, AJCongress asserts, "We believe these actions amount to nothing more than an irresponsible and repugnant effort to smear the reputation of a distinguished and respected jurist."

Rabbi Kingsley also praised Republican Senator Connie Mack for joining his Democratic Florida colleague, Senator Bob Graham, in endorsing the nomination. Mack concluded his own independent review of Justice Barkett's judicial record and announced his support in advance of any confirmation hearing.

The AJCongress letter notes, "Chief Justice Barkett's nomination enjoys strong bipartisan support because her judicial record and philosophy are well within the mainstream of American jurisprudence. . . . She deserves nothing less than swift confirmation so she might serve our nation as ably as she has served the people of Florida."

NATIONAL ASSOCIATION OF
POLICE ORGANIZATIONS, INC.,
Washington, DC, October 22, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, Senate Office Building, Washington, DC

DEAR SENATOR BIDEN: The National Association of Police Organizations ("NAPO") which represents over 143,000 sworn law enforcement officers in more than 2000 associations throughout the United States wholeheartedly supports the nomination of Florida Chief Justice Rosemary Barkett to the Federal Judiciary. The 26,000 NAPO members in Florida are represented by Area Vice Presidents who have unanimously voted for this endorsement.

During the recent retention election in Florida there was much debate and rhetoric. Representatives of the Florida PBA reviewed Justice Barkett's record and the Florida PBA Board of Directors, as well as most mainstream law enforcement associations, voted unanimously to endorse Justice Barkett's retention. She subsequently won a resounding victory indicating the electorate's support for her efforts on behalf of the citizens of Florida.

It is our hope that after careful consideration of her record you will agree that Justice Barkett has the professional experience, personal integrity and judicial temperament to serve as a Federal Judge. We respectfully request that you support and vote for this nomination.

Sincerely,

ROBERT T. SCULLY,
Executive Director.

[From the News-Journal, Sept. 28, 1993]

FINE CHOICE FOR APPEALS COURT

Florida Supreme Court Justice Rosemary Barkett would be an excellent addition to the 11th Circuit Court of Appeals in Atlanta. Her nomination by President Clinton announced Friday deserves swift Senate confirmation.

Justice Barkett has been an outstanding jurist. Appointed to the state's high court in 1985 by then-Gov. Bob Graham, she became Florida's first female justice. The other members of the state high court voted her the state's first female chief justice in 1992.

The child of immigrants, she was a nun and teacher before becoming a lawyer. Her experiences in overcoming a humble background, her intellect, integrity and scholarship have combined to produce a first-rate judge.

Because Florida's high court judges face an in-or-out merit retention vote every six years, Justice Barkett was on the ballot in 1992. She faced a negative campaign from groups which distorted her record and tried unsuccessfully to paint her as an out-of-control left-wing judicial activist.

Most of these complaints came from a few activists who want to outlaw abortion in Florida and nullify the state's privacy amendment.

The labels these groups peddled during the campaign were nonsense and the voters rejected them. Justice Barkett stayed on the bench by a 2–1 margin.

The same talents Justice Barkett brought to the Florida courts would serve the country well, particularly on the Circuit Court of Appeals. This is the court which has the final say in all appeals not heard by the U.S. Supreme Court. Because the high court hears relatively few cases, the federal appellate courts are powerful arbiters of constitutional issues.

A judge on such a court must possess rigor of intellect tempered by broad sympathies for litigants. In this regard, Justice Barkett is an unusually strong candidate.

The Senate should take note and vote to confirm her.

[From the Miami Herald, Sept. 28, 1993]

A BOON FOR THE BENCH

To those who say that it can't be done and feel like quitting: Rosemary Barkett has just done it—again.

The only woman ever to sit on the Florida Supreme court, she has been nominated to the 11th U.S. Circuit Court of Appeals, one rung below the Supreme Court. What a triumph!

Her Syrian family emigrated from Mexico to Miami when she was 6. At 18 she became a U.S. citizen and a nun. After nine years of teaching, she entered the University of Florida Law School. She became a top-notch trial lawyer in West Palm Beach. Appointed a trial judge in 1979, she moved to the Fourth District Court of Appeal, then to the Supreme Court.

True, some critics don't like her for holding that the Florida Constitution's privacy section protects a woman's right to abortion, or for her opinion declaring unconstitutional the Broward sheriff's random drug searches of interstate bus passengers. Others like her decisions but find her writing murky.

Florida voters looked seriously at Justice Barkett's "liberal" record in 1992. Up for merit retention, she was "targeted" for removal by abortion opponents and conservative organizations, which called her "soft on crime." Justice Barkett, who has voted 200 times to uphold the death penalty, was re-elected easily.

The best measure of a judge is not splendid writing but fair decisions. By that measure, Justice Barkett stands tall on merit and on the full range of her life's experience. That experience, of course, is different from that of her male predecessors on the bench. The judiciary ought to welcome that diversity.

Maybe somewhere in the 11th Circuit there's a "better qualified" nominee. But President Clinton could hardly have found anyone better prepared.

"I'd like to think that I've made a contribution and a difference in terms of protecting the people of this state, and in terms of caring," says Justice Barkett, 54. She has made a difference. More important, she has more to contribute.

[From the Orlando Sentinel, Sept. 29, 1993]

BARKETT RIGHT FOR U.S. BENCH

For eight years, Rosemary Barkett has served Florida with distinction and quiet aplomb—her integrity beyond reproach.

It was no surprise that such a solid record of fairness on the state Supreme Court bench would catch the attention of President Clinton.

Last week, Mr. Clinton nominated Florida's chief justice to serve on the federal appeals court in Atlanta, which hears cases from Florida, Georgia and Alabama.

Ms. Barkett, Florida's first and still only woman on the state Supreme Court, is a top-notch choice for the 11th U.S. Circuit Court of Appeals.

Last year, Floridians expressed their vote of confidence for Ms. Barkett in her merit-retention election, despite a campaign by detractors who tried to make her seem soft on crime. By focusing on a smattering of controversial cases, though, her critics ignored the bulk of Ms. Barkett's rulings.

Chances are good that those critics will try to revive such diversionary tactics.

A look at her state Supreme Court record since 1985 produced an indisputable fact: Ms. Barkett placed solidly in the mainstream, voting with the majority in 91 percent of civil and criminal cases and supporting the death penalty in more than 200 cases.

She is hardly out of step with the law or on a campaign to wage an activist agenda from the bench, as some of Ms. Barkett's critics charged.

The 54-year-old jurist has shown an uncompromising obligation to uphold Florida's constitution.

Such was the case when her vote decided that the privacy amendment in Florida's constitution protects all the state's citizens, including pregnant minors who want an abortion.

Surely, deciding that case must have been difficult for Ms. Barkett, a former Catholic nun, but the state's constitution did not allow for anything else. It is an issue that should be settled by voters changing Florida's constitution, not by a campaign to smear Ms. Barkett's good name.

U.S. Sen. Bob Graham, who appointed Ms. Barkett to a judgeship when he was governor calls her "a rigorous legal scholar with an understanding of how the law affects the everyday lives of men and women.."

And the lives of children, too. Ms. Barkett serves on an American Bar Association panel that is looking at the unmet needs of children. It's heartening that she plans to continue her work on that panel.

When senators meet Ms. Barkett during confirmation hearings, they will find a committed judge who strives for justice under the law.

[From the Sun-Sentinel, Oct. 1, 1993]

BARKETT A HIGH-QUALITY NOMINATION FOR COURT, SOURCE OF PRIDE FOR SOUTH FLORIDA

As expected, President Clinton has nominated Rosemary Barkett, chief justice of Florida's Supreme Court, to become a federal appellate judge.

The choice is an excellent one, reflecting well on Clinton's commitment to quality in making appointments. If confirmed, she would join the 11th U.S. Circuit Court of Appeals in Atlanta, which hears cases from Florida, Georgia and Alabama.

Barkett's rise up the legal and judicial ladder has been swift, earned by skill as a trial attorney and judge, leadership as chief judge and chief justice, intelligence as a legal scholar (tops in her law school class), tenacity in problem-solving, plus a commitment to social justice, particularly the needs of the poor.

Her confirmation by the Senate should be swift, despite likely opposition from groups like Florida Right to Life and the National Rifle Association, which mounted a noisy but ineffective campaign in 1992 to defeat her in a merit retention election.

Her critics have claimed, falsely, that she is "soft" on crime and criminals and engages in a pattern of "liberal activism" to free convicted killers, weaken law enforcement and usurp crime victims' rights.

To the contrary, the court almost always upholds death penalty convictions (she has done so 200 times) and avoids engaging in "judge-made law." So-called liberal activism really involves overturning convictions or sentences based on major trial court errors, protecting people from abusive police and prosecutorial tactics and upholding federal laws and higher court rulings.

An evaluation of Barkett's rulings shows she is not an extremist, going against the grain, but is clearly in the court's mainstream, siding with the majority 91 percent of the time.

Barkett, 54, is a University of Florida Law School graduate who has been on the court since her appointment in 1985 by then-Gov. Bob Graham, who as a senator will vote on her confirmation.

In a sense, she exemplifies one aspect of the American dream—an immigrant who moves to America, learns English and achieves success. Born in Mexico of Syrian parents, she is a former nun and schoolteacher.

South Floridians have particular cause for pride. Raised in Miami, Barkett served as a private attorney in West Palm Beach for nine years before being appointed a Circuit Court judge in 1979. She became Palm Beach County's chief judge in 1983 and joined the 4th District Court of Appeals in West Palm Beach in 1984, moving to the Supreme Court a year later. In July 1992, she was named Florida's first female chief justice.

Barkett is also living proof of why Florida's "merit selection" appointment process does a far better job than elections in putting high-quality people on the bench.

[From the Tampa Tribune, Oct. 2, 1993]

CLINTON WISE TO CHOOSE BARKETT

President Clinton made a wise and courageous choice in nominating Florida Supreme Court Chief Justice Rosemary Barkett to fill a seat on the 11th Circuit Court of Appeals in Atlanta.

Wise because Barkett, a former non and schoolteacher, would bring a lifelong commitment to fairness and justice unsurpassed on the appellate court responsible for hearing cases from Florida, Georgia and Alabama.

Courageous because despite Barkett's long record of upholding the law while defending the rights of all people, her critics will be out in force when the U.S. Senate confirmation hearing begin.

Her detractors will be quick to falsely portray Barkett as soft on crime, careless of the rights of children and promoting a liberal agenda.

Senators, including Florida's owns Connie Mack, will do well to dispense with the rhetoric and, instead, take a hard look at Barkett's record.

The senators will find that while she has refused to accept the death penalty carte blanche, she has voted to uphold it more than 200 times. She is one of the state's strongest and most outspoken defenders of children's rights. Of the more than 3,000 cases in which she and the other justices have rendered opinions based on a vote of the court, she has voted with the majority in 91 percent of the cases. That scarcely indicates she is guided by her own personal agenda or is out of the mainstream.

Of the 19 specific cases used to attack her record during the 1992 retention election, seven were unanimous decisions by the court. The 270 cases cited as evidence that she somehow favors criminals were chosen from among 3,000 decisions because they supported the critics' points; her supporters would easily select 270 that would have refuted them.

Fortunately,. voters saw through the smoke and returned her to the bench with more than 60 percent of the vote.

A 1970 honors graduate of the University of Florida Law School, Barkett has experience with the law that includes nine years as a lawyer in West Palm Beach, six years as a circuit and state appellate judge and eight years as a member of the state Supreme

Court, the last year as chief justice. She has consistently spoken out for public participation in and inspection of fiscal and managerial matters of the government and courts. But she also recognizes the need to shield some judicial files, including psychological evaluations of children and private papers filed in divorce disputes.

"She is everything you want in a judge," said Florida Attorney General Bob Butterworth. "Someone who listens thoroughly to a case, researches both sides fully and renders a decision which is in accordance with the law."

Off the bench, Barkett, 54, has touched many lives on the lecture circuit and served admirably as chairwoman of the Study Commission on Child Welfare, which helped lead to the ongoing overhaul of the state Department of Health and Rehabilitative Services (HRS).

Overall, Barkett's reputation—as dynamic thoughtful, intelligent and personable—makes her amply suited to serve on the federal bench.

The Senate should move swiftly to confirm her appointment.

[From the St. Petersburg Times, Oct. 19, 1993]

RIGHT WING IS RECYCLING OLD GARBAGE

(By Philip Gailey)

The Wall Street Journal editorial page and the Free Congress Foundation—the hard-right team that seeded the political controversy that engulfed Lani Guinier's nomination to a top Justice Department post—have discovered another threat to the republic. This time it is Florida Supreme Court Justice Rosemary Barkett, who is President Clinton's nominee to a seat on the 11th U.S. Circuit Court of Appeals.

To hear the rap sheet they have compiled on Barkett, you'd think she is personally responsible for most of the crime and mayhem in Florida, that she is aggressively pro-criminal and anti-police, and that she spend most of her waking hours looking for technicalities to spare brutal killers from the hot seat.

In his Wall Street Journal column last Friday, Paul Gigot wrote that "to wade through Ms. Barkett's opinions is to encounter root causes, 'unconscious discrimination,' fear of police and other liberal explanations for crime. This is especially true in death penalty cases, which she attempts to overturn on the smallest technicality."

Gigot and his friends on the right are recycling the same garbage that anti-abortion forces, the National Rifle Association and some state prosecutors threw at her in last year's retention election. The smell is even fouler this time around. They're using the same distortions, oversimplifications and untruths that her Florida opponents used in their smear campaign.

The state's voters sorted through the garbage and affirmed Barkett, the first woman to serve on Florida's high court, for another term. She won 61 percent of the vote. Remember, Florida's conservative voters stuck with George Bush last year, and they overwhelmingly support the death penalty.

Sen. Orrin Hatch of Utah, a conservative Republican on the Senate Judiciary committee, plans to lead the inquisition at Barkett's confirmation hearings. If President Clinton is willing to nominate to federal judgeships men and women who personally oppose abortion, you would think Republicans would be willing to accept nominees who have shown they can uphold the death penalty regardless of their personal feelings.

What will it take to convince people like Hatch that Barkett has not attempted to pull the plug on Florida's electric chair?

Barkett was nominated to the Florida Supreme court by then-Gov. Bob Graham, who signed dozens of death warrants. She has hardly been a disappointment to Graham on that score: Barkett has upheld the death penalty in more than 200 cases since she joined the court.

A study by Steven Gey, a professor of constitutional law at Florida State University, found that Barkett voted with the majority of the court in 88 percent of the criminal cases it decided from 1986 to September 1992. No one would call the Florida Supreme Court a bunch of bleeding heart liberals, and Barkett has often stood with some of the court's most conservative members in her opinions.

Yes, Barkett has voted to overturn death sentences. But what appeals judge hasn't? The criminal justice system makes mistakes. The courts are there to correct them. The thing that really bothers her critics is Barkett's obvious lack of enthusiasm for the death penalty.

Barkett, a former nun, refuses to say what her personal views are. I assume she personally opposes capital punishment but understands a judge must follow the law. Attorney General Janet Reno personally opposes state executions, but as Dade County state attorney she sought the death penalty in plenty of cases. And what about Ruth Bader Ginsburg? The newest member of the U.S. Supreme Court, which has the final word on these matters, was confirmed even though senators still don't know much about her views on capital punishment.

When the Senate Judiciary Committee opens its confirmation hearings on the Barkett nomination, the Florida jurist will be escorted to the witness table by Democratic Sen. Bob Graham. It would be a shame if the state's Republican senator, Connie Mack, doesn't join Graham for the customary introduction of the nominee.

Mack, who voted to confirm Ginsburg, says he won't make up his mind about Barkett until he sees what the hearings produce. That's a cop-out. It is usually Graham, not Mack, who waits until the last minute to take a position on a controversial issue.

Mack, who is facing an easy re-election campaign next year, has grown as a senator in recent years. Even many of his old critics grudgingly acknowledge that much. That's why it's disappointing to see Mack holding back while the hard-right ideologues in Washington circle Barkett for the kill.

For Mack, the choice is simple: He can stand with Florida voters, who stuck with Barkett last year, or he can stand in the slimy swamp with the vipers who poison nearly every issue they touch.

[From the Orlando Sentinel, Oct. 25, 1993]

BARKETT IN THE MAINSTREAM

Consevatives on Capitol Hill have started to question whether Chief Justice Rosemary Barkett of the Florida Supreme Court is too soft on crime to be a federal appeals judge.

Nothing new there.

President Clinton's choice for the 11th U.S. Circuit Court of Appeals already fought that war last year during her retention election to Florida's top court. Armed with the facts, she won over Floridians with 61 percent of the vote.

Last year, Ms. Barkett's detractors—from the National Rifle Association to abortion-rights opponents—used a few high-profile cases in which Ms. Barkett sided with the minority to try to paint her as out of step with Florida's judiciary.

A review of Ms. Barkett's record from 1985, when she was appointed to the Supreme Court, to September 1992, however, shows the jurist to be solidly in the mainstream. She voted with the majority in 91 percent of all cases before the court, and in 88 percent of the criminal cases.

That apparently isn't enough for Utah Republican Sen. Orrin Hatch or the Free Congress Foundation, an ultra-conservative, judicial watchdog group. Both Mr. Hatch and, the foundation are questioning Ms. Barkett's commitment to uphold the death penalty.

Certainly, Ms. Barkett has been cautious about applying the death penalty in certain instances. Taking into account that there is no turning back on such a decision, however, that caution is warranted.

Consider that a study released Thursday by Death Penalty Information Center, a group that opposes capital punishment, documents the cases of 48 men who were released from death row in their states during the past 20 years when new evidence emerged to prove their innocence.

The report concludes that, in those cases, perjured testimony or improper conduct of prosecutors led to guilty verdicts. It points out several cases in which coincidence, rather than courtroom procedure, produced evidence of an inmate's innocence.

As it stands, Ms. Barkett voted to uphold the death penalty 200 times when the issue came before the Florida Supreme Court in the past eight years she has been on the bench.

Not only that, but of seven cases in which the U.S. Supreme Court decided to overturn Florida death sentences while George Bush was president, Ms. Barkett had voted to execute in four.

That would seem to make Ms. Barkett much tougher than the U.S. Supreme Court majority appointed by two Republican presidents in the past decade.

Clearly, drawing conclusions from a few cases about Ms. Barkett's integrity and her commitment to the law is reckless and unfair. Let the Senate judge Ms. Barkett based on her overall record.

Senators are sure to find Ms. Barkett's caution to be well-reasoned and in the best interests of fairness and justice for all Americans.

[From the Orlando Sentinel, Oct. 31, 1993]

CHEAP-SHOT ARTISTS WASTE TAXPAYERS DOLLARS TO TAKE AIM AT BARKETT

(By Charley Reese)

To sue mild language, I don't have much use for the U.S. Senate Judiciary Committee. In recent years, it has allowed the confirmation process for judicial appointments to become show and circus in which the news media and special-interest groups play a bigger role than the senators themselves.

That is wrong. It doesn't matter which nominee is being trashed or smeared or which party is in the White House. As citizens, we have a vested interest in the integrity of our governmental processes. We have a vested interest in those processes not becoming so distorted and destructive of people's reputations that no decent person would even accept a presidential nomination.

Finally, we as citizens have a vested interest in our governmental processes always being fair and just.

For all those reasons, I was ticked off—I'm really trying to use mild language—to find a large package in my mailbox from the Senate Judiciary Committee. It was addressed to me in care of my syndicate and was unsolicited.

In it was a couple of memoranda from some public servant named Mark R. Disler, who identifies himself as Republican Staff Director, Senate Judiciary Committee. The two memos are addressed to "interested parties" and to "interested persons." One dated Oct. 5, states: "Re: Nomination of Great Interest." The second, dated Oct. 12, states: "Re: Rosemary Barkett."

They are both about Florida Supreme Court Justice Rosemary Barkett, who has been nominated by President Clinton to be a federal appeals court judge in the 11th Circuit.

The packages contain a number of cases in which she has written dissents, as well as a so-called analysis of them. He urges me to feel free to use them, though they are not for attribution. Disler has been in Washington too long. I don't let some staff turkey I never laid eyes on send me an unsolicited package of information, all acquired and paid for at the public's expense, and then be told not to attribute the information. I don't grant anonymity to cheap-shot artists. The public has a right to know how their public servant, in this case Mr. Mark Disler, is wasting their money.

If you see some other pundit pontificating about Justice Barkett as if he or she actually knew anything about her, you'll know the source—Little Mr. Leaker on the minority staff of the Judiciary Committee.

In the second memo, while repeating that his memoranda are not for attribution, he states, "but you can feel free to use the information in them. Please write early and often. Thanks. You can contact Ed Whelan of my staff at the above number if you have questions."

I don't know what the official duties of the Republican Staff Director of the U.S. Senate Judiciary Committee are, but they surely do not include instigating a disinformation campaign against a nominee. Somebody ought to fire the jerk. The so-called analyses of the cases he includes are inept distortions. They are wrong characterizations, not analyses. Some are so far off the mark one wonders if the writer can even comprehend the English language.

The drift of this poisonous partisan, so-called analyses is that Justice Barkett is soft on crime. In one such bit of garbage, it says, "Barkett views herself as one of the enlightened elite who must override democratically enacted laws in order to bring about what the riff-raff would really want." That's a damned lie.

Listen, I happen to know this lady justice. She is not soft on crime. She has one of finest legal minds in the country, a terrific set of moral values, and abiding respect for the U.S. Constitution and the principles of liberty and law. Thomas Jefferson, James Madison and Patrick Henry would love her—and respect her brilliant mind. They would despise dimwit partisan pipsqueaks like Disler who abuse their positions and the taxpayers.

[From the New Yorker, Dec. 20, 1993]

CLINTON'S JUDGES

George Bush has been out of there for less than a year, and already it's hard to remember much of anything about his Presidency—except that he waged the Gulf War and appointed David Souter and Clarence Thomas to the Supreme Court. In the long view of history, the appointments will probably loom larger than the war. In fulfilling their constitutional duty to populate the federal judiciary, Presidents leave a legacy that long outlasts them. Federal judges hold office for life; they serve as arbiters of the Constitution's magnificent—and magnificently vague—commands; on issues as various as racial equality, personal privacy, and religious liberty, they shape the society in which we live. Whatever questions may obsess and torment us in the future (Do clones have inheritance rights? Are speed traps permissible on the information highway?), we can pretty sure that federal judges will have the last word on them.

With Congress in recess, President Clinton has done all the judicial nominating he can do for his first year in office, and it is possible to make an early assessment of how he has discharged this pivotal duty. He turns out to have launched a quiet revolution in the "diversity"—Beltway shorthand for ethnic and gender heterogeneity—of the federal judiciary. A glance at the record of his predecessors shows the dimensions of the change. According to a comparative analysis by the Clinton White House Counsel's Office, Jimmy Carter, by Thanksgiving of his first year in office, had nominated thirty-four judges, one of whom was a woman; in that same span, Ronald Reagan had nominated forty, two of them women, and George Bush had nominated twenty-three, four women among them. Bill Clinton has nominated forty-eight judges—and eighteen of them are women, including, of course, his most important appointee, Justice Ruth Bader Ginsburg of the Supreme Court. The same pattern holds true for minorities. In the first eleven months of their terms, Carter nominated five black or Hispanic judges, Reagan one, and Bush two. Clinton has nominated fourteen. To put it another way, eighty-two percent of Carter's first-year nominees were white males, and so were ninety-two percent of Reagan's and seventy-four percent of Bush's, while only thirty-eight percent of Clinton's first-year nominees to the federal bench were members of that not yet long-suffering breed. The first-year trends among Clinton's predecessors continued with little change, and it's logical to expect this President to maintain his pace as well.

All this good news on the diversity of Clinton's nominees would be bad news indeed if the President had achieved diversity at the expense of quality. But, if the ratings of judicial candidates put out by the American Bar Association are any guide, that hasn't happened. Of the Clinton nominees rated so far this year, three-quarters have received the A.B.A.'s "well qualified" label—a higher percentage than Carter's Reagan's, or Bush's first-year nominees achieved. A look at a few of the nominees themselves shows what's behind this favorable consensus. In New York, for example, Pierre N. Leval has long been among the region's most eminent district-court judges; he richly deserved to be elevated to the court of appeals. Dean David Trager of Brooklyn Law School, who likewise has a long and distinguished record in public service, clearly belongs on the district-court bench. Highly qualified nominees of diverse backgrounds have been the rule throughout the country. Martha Craig Daughtrey, whom Clinton appointed to the court of appeals, was the first female prosecutor in Tennessee, the first woman to serve as a state-court judge in Tennessee, and the first woman to serve on that state's supreme court. Martha Vázquez, an appointee to the district court in New Mexico, is the daughter of Mexican immigrants and is a distinguished trial lawyer. And Nancy Gertner, a nominee to the district court in Massachusetts, has been a leading civil-liberties practitioner and a professor at Harvard Law School.

The nominee who has generated the most controversy may be the most highly qualified of all. The life story of Rosemary Barkett reads like a gloss on the American dream. She was born in 1939 in a small town in Mexico. Her parents, who were immigrants from Syria, had sixteen children, of whom only five survived. The Barkett family moved to Miami when Rosemary was five. About the time she turned eighteen, she became both a Roman Catholic nun and a United States citizen. After teaching school for several years, she graduated from college, and then, having left the convent, she graduated near the top of the University of Florida College of Law's class of 1970. Following a successful stint as a litigator, Barkett became a lower-court judge in the Florida state system in 1979, and by 1985 she had worked her way up to an appointment to the Florida Supreme Court. As a justice on that court—she is now its chief justice—she won a reputation as one of the most progressive and intelligent judges in the nation, gaining particular notice for her 1989 vote that the Florida Constitution protects a woman's right to choose abortion.

A handful of conservative critics have assailed Barkett for insufficient zeal in support of Florida's death-penalty statute. One may question whether such zeal is something to be desired in a judge; in any event, Barkett has shown nothing but evenhandedness in enforcing that doleful law, voting more than two hundred times to approve death sentences. Barkett's opponents managed to prevent her confirmation to a seat on the court of appeals from going forward before Congress adjourned in November, but, since she has virtually the entire Florida legal establishment behind her—and most of the state's major newspapers as well—she stands every chance of winning approval early next year.

Clinton's nominees are different from those of his Republican predecessors in more suprising ways, too. Bush and, especially Reagan nominated any number of aggressively opinionated young academics to the federal bench. Clinton has resisted the temptation to match that record ideologue for ideologue; rather, he has drawn in significant measure from a deep pool of judges on state courts, which served as a refuge for many moderate jurists over the past twelve years. Nor has Clinton sought to magnify his legacy by reaching out for notably youthful nominees; his selections include many judges in their fifties and a few in their sixties. It's true that, as the Washington Post pointed out the other day, the Clinton judge-picking machinery has moved slowly, and that the age factor will cause vacancies to remain endemic in the system. But this President seems to recognize that, in the long run, who the judges are rather than how long they serve will determine their contribution to the judicial system and the nation.

Mr. GRAHAM. Mr. President, the question that has been asked is, "Will she carry out the law?" The statement has been made that she did not follow the edicts of the U.S. Supreme Court as it related to equal protection, to due process, to privacy, and a list of other items, a charge to which I would say she would enthusiastically plead guilty. And the reason is because she was not sitting as a Federal judge with responsibilities singularly for enforcing the Constitution of the United States of America. She took a dual oath of office to enforce not only the Constitution of the United States of America, but where it went beyond the standards available to all Americans to enforce the constitution of the State of Florida.

Mr. President, let me just bring to your attention, as I did earlier today to the Members of the Senate, a provision which was adopted in our Constitution in 1980, 5 years before Justice Barkett became a member of the supreme court. It was adopted by an overwhelming vote of the people of Florida in November 1980. It is our State's right to privacy. That amendment reads:

> Every natural person has the right to be left alone, has the right to be free from governmental intrusions into his private life.

Mr. President, those words are part of the protections available through the Florida Constitution to the citizens of our State. The arguments against her would state that she was disqualified from being a member of the Federal judiciary because she had faithfully carried out the mandates of the State constitution to which she swore an oath of allegiance. Had she failed to do so, I think that would have been the disqualifying factor. Yes. Under provisions like that, as well as other State constitutional provisions, which give additional protections in important areas of equal protection and due process, she has judged the constitution of Florida as it has been interpreted in the past and as it is written, by the vote of the people, to give those additional protections. She has been a faithful jurist in discharging her responsibilities.

Mr. President, if she had been less than that, she would not have had the support of the law enforcement agencies, of the legal community, of the leading observers of the civic life of our State, as she did when she continued in service in the Florida Supreme Court in 1992, and now, as she has been nominated by the President of the United States of America to serve in this high Federal judicial position.

I am surprised that her opponents would essentially argue for a unitary judicial system in America, which would deny States the right to afford to their citizens a different standard of protection.

Mr. HATCH. Will the Senator yield?

Mr. GRAHAM. Mr. President, I will finish my remarks, and then I will yield for whatever questions or comments the Senator cares to make.

As Senator MITCHELL referred to the first 10 amendments to the Constitution of the United States as being man's highest statement of human rights and civil rights, I point out that the 10th of those 10 first amendments was one which reserved to the States and to the people all powers not delegated by the Constitution to the central Government. The State of Florida and other States have exercised that reserve power, including exercising it to grant additional protections to the people of their State.

Mr. President, in conclusion, this is a uniquely qualified woman to serve in the Federal judiciary. She has served our State with distinction for a significant portion of her adult life. She has met every test in terms of her personal, professional, and judicial qualifications, and has passed each of those tests. She has demonstrated her knowledge and her willingness to enforce the law. She has stated that she understands the difference between her service as a member of the Florida Supreme Court—now the chief justice of the supreme court—and the responsibilities she will have as a member of the Federal judiciary. And in her new position, she will follow the precedents as established by the U.S. Supreme Court.

She has the support of law enforcement, of those persons who know what contributions she has made toward the provision of criminal justice in our State.

Mr. President, this is a person whom I know personally; this is a person whom I recommend in the strongest terms for this important Federal judicial responsibility.

I am now pleased to yield.

Mr. HATCH. I thank my colleague for yielding.

Mr. President, I know the distinguished Senator from Florida is very sincere and very dedicated in getting this nominee through. I admire him for that and appreciate it. Keep this in mind: When I listened to the majority leader saying that the Bill of Rights is what is involved here, I think it is the Bill of Rights. Nobody reveres the Bill of Rights more than I do. That is precisely why I do not think this judge should be confirmed.

Second, the Senator from Florida has indicated that, yes, there have been some problems with Justice Barkett's not following Federal precedents. There really have, and she has admitted it. In the first place, the role of a State supreme court justice and of a Federal appellate court judge are absolutely identical in terms of their obligation to follow U.S. Supreme Court precedent on issues of Federal constitutional law. The issue is not whether she reads the Florida Constitution more broadly—as has been argued here—than the U.S. Constitution. The issue is that she has a clear pattern of misreading the U.S. Constitution and clear-cut Supreme Court precedent. That has to be said. Nobody believes in the Bill of Rights more than I do. That is why I do not think this judge should be confirmed for the circuit court of appeals.

Mr. GRAHAM. Mr. President, in the remaining 30 seconds, I will briefly respond. In case after case that has been cited on the principle that Justice Barkett is not following precedent, those are the cases which she resolved under State standards, not under Federal standards. There has been no allegation that she was not faithfully adhering to the law and precedent, and applying her judgment as she felt it appropriate to do to carry out her dual responsibilities as a State supreme court justice and to the Federal Constitution.

She will meet that same high standard of fidelity and judicial commitment to the law as a judge on the Eleventh Circuit Court of Appeals, to which I am confident this Senate will soon confirm her.

Mr. WALLOP. Mr. President, last January 25, President Clinton used his State of the Union Address to assure Americans that he was tough on crime. He urged that we pass a "strong, smart, tough crime bill," and endorsed, among other things, boot camps for young offenders and the "three strikes, you're out" provision which mandates life in prison for criminals convicted of a third serious felony.

I applaud those statements. I would suggest, however, that what we need is not more rhetoric, but firm leadership, actions that speak louder than words.

A President who is tough on crime would not appoint judges who believe in coddling criminals because they are the victims of society. A President who was tough on crime would not appoint Justice Rosemary Barkett to sit on the U.S. Court of Appeals for the Eleventh Circuit.

In particular, I am referring to decisions by Justice Barkett that would severely hamper the ability of police officers to enforce laws against drug trafficking and other crimes. I am not a lawyer, Mr. President, but when the ranking member of the Judiciary Committee describes a pattern of unduly restrictive fourth amendment decisions on search and seizure then I understand that the result is a soft-on-crime approach.

A person certainly does not have to be trained in the law to understand just how outrageous was the dissent in which she joined in the Dougan case. Let me briefly outline the facts in that case.

Dougan was the leader of a group called the Black Liberation Army, a group which had the sole purpose of killing white people in order to start a revolution and racial war. In 1974, Dougan and four other members of the group picked up a white hitchhiker, drove him to a dump, and repeatedly stabbed and then shot him in the chest and head.

Later Dougan made several tape recordings bragging about the murder, describing it in graphic detail and stating that he thought it was beautiful and that he enjoyed every minute of the grisly scene.

Dougan was ultimately sentenced to death because the trial court found aggravating circumstances and no mitigating circumstances. The Florida Supreme Court agreed. However, Justice Barkett joined in a dissent which stated:

> This case is not simply a homicide case, it is also a social awareness case. Wrongly, but rightly in the eyes of Dougan, this killing was effectuated to focus attention on a chronic and pervasive illness of racial discrimination and of hurt, sorrow, and rejection.

On a side note, Mr. President, I find it ironic that a Senate which recently passed a strong anticrime measure containing a provision to enhance sentences for hate crimes—where a defendant selects a victim because of race—would affirm any nominee who finds hate a mitigating, rather than an aggravating factor.

This is just a short synopsis of Justice Barkett's record. This nomination typifies the hypocrisy of an administration that on the one hand says it is tough on crime but on the other does its level best to see that no one can, or will by their own admission ensure that happens.

President Clinton can use a high-visibility speech or he can use the weight of his office to convince America that he cares about the problem of crime.

Mr. NICKLES. Mr. President, Rosemary Barkett, chief justice of the Florida Supreme Court, has been nominated to the U.S. Court of Appeals for the Eleventh Circuit. I am going to vote against her.

To help explain my vote, I will refer to three capital punishment cases. These cases help illuminate Justice Barkett's views of life and the law—and it seems to me that these views disqualify her for elevation to the court of appeals.

Justice Barkett has, of course, written hundreds of opinions and participated in thousands of cases, and perhaps it is unfortunate that we must focus on a small number of her cases. I acknowledge that Justice Barkett has often, indeed usually, voted with the majority of her court. However, her dissents most vividly outline her views, and when we turn to the dissents we see most clearly those cases where she has drawn a line between her and her colleagues.

Former Associate Justice William J. Brennan has written:

> [D]issents are * * * critical to an understanding of [a] justice. Just as we judge people by their enemies, as well as their friends, their dislikes as well as their likes, the principles they reject as well as the values they affirmatively maintain, so do we look at judges' dissents, as well as their decisions for the court, as we evaluate judicial careers. *In Defense of Dissents*, 37 *Hastings L.J.* 427, 428 (1986).)

Let us now turn to the cases that illustrate Justice Barkett's views:

First, *Dougan* v. *State*, (595 So.2d 1 (Fla. 1992) (per curiam)), a case where a racially motivated murder was committed in the hope that it would trigger a race war. Here are the facts as reported by the court:

Jacob Dougan and four of his friends belonged to the Black Liberation Army [BLA]. They were, perhaps, the only members of this group "whose apparent sole purpose was to indiscriminately kill white people and thus start a revolution and race war."

In June 1974, Dougan and his accomplices drove around Jacksonville, FL, searching for victims, but they saw no one who could be murdered secretly. Dougan did, however, write a note that was to be placed on the body of the eventual victim. Later that night the BLA chose its victim, a lone, white hitchhiker named Stephen Orlando, age 18. Orlando was kidnaped, taken to an isolated garbage dump, stabbed repeatedly, and shot by Dougan.

Dougan then took to bragging about the murder. He made audiotape recordings which he mailed to the media and, as if that weren't villainous enough, to the victim's mother. The following excerpt is from one of Dougan's tapes—which the court said aptly illustrates their contents:

> The reason Stephen was only shot twice in the head was because we had a jive pistol. It only shot twice and then it jammed; you can tell it must have been made in America because it wasn't worth a (expletive deleted). He was stabbed in the back, in the chest, and the stomach, ah, it was beautiful. You should have seen it. Ah, I enjoyed every minute of it. I loved watching the blood gush from his eyes.

At trial, one of Dougan's accomplices testified for the State, and the other four were convicted of murder. Only Dougan, however, was sentenced to death. The trial court found three aggravating factors and no mitigating factors.

The dissent, which sought life imprisonment rather than death, was not written by Justice Barkett, but she joined it. It said:

> This case is not simply a homicide case, it is also a social awareness case. Wrongly, but rightly in the eyes of Dougan, this killing was effectuated to focus attention on a chronic and pervasive illness of racial discrimination and of hurt, sorrow, and rejection. Throughout Dougan's life his resentment to bias and prejudice festered. His impatience for change, for understanding, for reconciliation matured to taking the illogical and drastic action of murder. His frustrations, his anger, and his obsession of injustice overcame reason. The victim was a symbolic representative of the class causing the perceived injustices.

At her hearing in the Senate Judiciary Committee on February 3, 1994, Justice Barkett said that she was attempting to follow the law in Dougan, and that although she didn't pen the dissenting opinion she had no problem in agreeing with it.

The majority of the Florida Supreme court said that the dissenters' logic in the Dougan case "would lead to the conclusion that the person who put the bomb in the airplane that exploded over Lockerbie, Scotland, or any other terrorist killer should not be sentenced to death if the crime were motivated by deep-seated philosophical or religious justifications."

Mr. President, in his recent book, "The Moral Sense," Prof. James Q. Wilson writes of the "philosophical doubts, therapeutic nostrums, and ideological zealotry" that have "infected" the modern age. He said:

> "The moral relativism of the modern age has probably contributed to the increase in crime rates. * * * It has done so by replacing the belief in personal responsibility with the notion of social causation and by supplying to those marginal persons at risk for crime a justification for doing what they might have done anyway. If you are tempted to take the criminal route to the easy life, you may go further along that route if everywhere you turn you hear educated people saying—indeed proving—that life is meaningless and moral standards arbitrary.

Mr. President, I am unwilling to confirm Justice Barkett because this dissenting opinion sounds to me like an apology for murder—so long as the murder is politically correct. I cannot vote for a judge who would write, or join, such an opinion.

The second case is *Cruse* v. *State*, (588 So.2d 983 (Fla. 1991) (per curiam), cert. denied, 112 S. Ct. 2949 (1992), a case involving a notorious mass murderer and cop killer. Here are the facts as reported by the court:

In the spring of 1987, in Palm Bay, FL, William Cruse shot and killed rookie police officers Ronald Grogan and Gerald Johnson and four others. They were shot with a powerful semiautomatic rifle—which Cruse had purchased a month earlier—fitted with special ammunition clips—which Cruse had purchased a week earlier.

Cruse's first three victims were killed at a Kmart shopping center. When Cruse heard sirens approaching, he got in his car and drove across the street to another shopping center where he began firing into a Winn Dixie store. When officers Grogan and Johnson drove into the Winn Dixie parking lot in separate police cars, Cruse turned his attention from the store, inserted a fresh 30-round clip into his assault rifle, and fired eight times through Grogan's windshield, killing him. As Officer Johnson was getting out of his car, Cruse wounded him in the leg. Officer Johnson then attempted to find cover among the cars but Cruse pursued him and killed him with three shots. When a rescue team tried to retrieve Grogan's car, Cruse opened fire on them, shouting, "Where is the cop? Get away from the cop. I want the cop to die."

At trial, the jury found Cruse guilty of six counts of first-degree murder and numerous other counts and recommended the death penalty for each of the murders. However, the trial judge upheld those recommendations only for the murders of Grogan and Johnson. All 12 jurors agreed that Officer Johnson's murder was worthy of the death penalty; 11 of them agreed that Officer Grogan's murder called for death. The trial judge concurred in both cases. On appeal, six of the seven members of the Florida Supreme Court also concurred—the one exception was Rosemary Barkett.

In sentencing Cruse to death, the trial court found one mitigating circumstance—extreme mental or emotional disturbance—to which it gave great weight. That court also found four aggravating circumstances, including that the murders were committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification.

Although Cruse had procured the weapons, clips, and ammunition in advance, driven to one shopping center and then another, reloaded before opening fire on Officer Grogan, and tracked Officer Johnson through the parking lot, Justice Barkett held that Cruse was too mentally disturbed for cool and calm reflection. Furthermore, she wrote, Cruse had acted with a pretense of moral or legal justification because he "was acting in response to his delusions that people were trying to harm him." Justice Barkett would have revoked the death sentences and imposed life sentences.

Justice Barkett also dissented because she believed that the prosecution in Cruse had withheld evidence from the defense in violation of the U.S. Supreme Court's mandate in *Brady* v. *Maryland*, (373 U.S. 83 (1963)). On this ground, she would have reversed the convictions and remanded for a new trial. No other justice agreed with her on this point, either.

Justice Barkett was asked about Cruse in her hearing before the Senate Judiciary Committee on February 3. She said she had merely followed precedent, and she asked not to be judged on this one case.

The question is, is Cruse an aberration, or is it illustrative?

Senator DOLE has pointed out that "Justice Barkett has never—not once—dissented from a majority decision of the Florida Supreme Court" when the court was overturning a capital sentence, but she has dissented more than 100 times when the court enforced a capital sentence (140 Cong. Rec. S1822 (daily ed. Feb. 24, 1994)). Her dissent in Cruse was one of those 100-plus dissents. Justice Barkett does not always oppose capital sentences, though. According to one count, she has voted to uphold them some 120 times. Here, then, is Justice Barkett's record:

Voted with majority to uphold capital sentence: some 120 times,

Voted against majority when it upheld capital sentence: 100-plus times,

Voted against majority when it struck down capital sentence: zero.

This is not, Mr. President, a balanced judicial record.

The third case is, *LeCroy* v. *State* (533 So.2d 750 (Fla. 1988), cert. denied, 109 S.Ct. 3262 (1989)), a case where a double murder was committed by a 17-year-old. Here are the facts as reported by the court:

> While camping in a wild area of Palm Beach County, FL, in January, 1981, husband and wife John and Gail Hardeman were murdered by Cleo LeCroy. Mr. Hardeman was killed by a shotgun blast to the head. Mrs. Hardeman was shot in the chest, head, and neck with a small caliber gun. There was some evidence that Mrs. Hardeman was sexually molested after she was shot. LeCroy was 17 years and 10 months old when he killed the Hardemans.

The jury found LeCroy guilty of first-degree felony murder in the murder of Mr. Hardeman because the murder was part of a robbery. LeCroy was found guilty of first-degree premeditated murder in the murder of Mrs. Hardeman because that murder was committed to silence a witness. The jury recommended a life sentence for the murder of Mr. Hardeman but recommended death for the murder of Mrs. Hardeman. The trail judge agreed with the jury on both counts.

In his sentencing order for the murder of Mrs. Hardeman, the judge found there aggravating circumstances and two mitigating circumstances.

> The trial court gave great weight to the second mitigating factor [LeCroy's age] but found that the evidence showed that [he] was mentally and emotionally mature and that he understood the distinction between right and wrong and the nature and consequences of his actions.

Florida, like all States, recognizes numerous distinctions between adults and minors, but a Florida statute provided that a minor of any age charged with a capital crime "shall be tried and handled in every respect as if he were an adult." The Florida Supreme Court deferred to the legislature's judgment and upheld the death sentence against the 17 year old.

Only Justice Barkett dissented. She said:

> I believe that imposing the death penalty on one who was a child at the time of the crime violates the [proscription against cruel and unusual punishments in] the eighth amendment to the federal constitution and article I * * * of the Florida Constitution. * * * I believe the death penalty is totally inappropriate when applied to persons who, because of their youth, have not fully developed the ability to judge or consider the consequences of their behavior.

When asked about LeCroy at her Judiciary Committee hearing, Justice Barkett said she was applying principles she had derived from a case decided by the U.S. Supreme Court four months earlier. That case was *Thompson* v. *Oklahoma*, (48 U.S. 815 (1988) (plurality opinion), where the Court held that the Constitution of the United States does not allow capital punishment for a person who was 15 years old when he committed murder. To be more precise, the Court did not announce a flat rule against such executions, although four members of the U.S. Supreme Court were prepared to do so. Justice O'Connor, who cast the deciding vote, was willing to strike down the Oklahoma statute but unwilling to announce a per se rule.

On the other hand, the six-member majority of Justice Barkett's court gave four reasons for believing that Thompson versus Oklahoma did not control LeCroy. The reasoning of the majority was subsequently justified when a few months later in *Stanford* v. *Kentucky*, (492 U.S. 361 (1989)), the U.S. Supreme Court held that the Constitution of the United States does not forbid a State to impose capital sentences on persons who were 16 or 17 years old when they committed murder. At the time Stanford was decided, of the 37 States that permitted capital punishment, 25 States allowed the death penalty for 17 year olds and 12 States did not. (492 U.S. at 370 n. 2).

In her dissent in LeCroy, Justice Barkett cited "evolving societal standards" which are, of course, a fixture of eighth amendment law. Many Americans wonder, though, why some judges have society evolving in ways that make it more and more difficult to punish criminals. As criminals themselves become younger and more vicious and more efficient in their lawlessness, the law seems to evolve into confusion and powerlessness. What kind of evolution is this, Mr. President?

I cannot support Justice Barkett's nomination and will vote against her. I encourage our colleagues to do likewise.

Mr. KENNEDY. Mr. President, I commend President Clinton for nominating Justice Rosemary Barkett to the U.S. Court of Appeals.

Justice Barkett's career is a powerful symbol of the American dream and the achievement that is possible through hard work and commitment to the Nation's ideals. One of 16 children born to an immigrant family living in Mexico, she came to America at the age of 5. She knew only a few words of English. She became a Roman Catholic nun and taught school for several years before attending the University of Florida Law School, where she graduated near the top of her class.

After 8 years in practice, she was appointed to the State trial court in 1979, then to the State appellate court, and finally to the Florida Supreme Court in 1985, the first woman to be accorded that high honor. For the past 2 years, she has served as chief justice of that distinguished court. She has been a leader in assuring that the courts are accessible to persons with disabilities, and she has been a strong advocate of pro bono work by all members of the bar.

Justice Barkett has been harshly attacked by a small group of critics who claim that she is soft on crime. Few people are in a better position to understand and appreciate the falsity of that charge than the people of Florida, who have overwhelmingly rejected such claims. On two occasions, the people of Florida have voted overwhelmingly to retain her on the State supreme court. She was endorsed in her most recent election by the Police Benevolent Association, the Fraternal Order of Police, and the Peace Officer's Association.

The impressive bipartisan support she has received for this position is a tribute to her outstanding qualifications for this important court. Elected officials from Florida, including Senator GRAHAM and Senator MACK, Gov. Lawton Chiles, and the attorney general and his Republican predecessor in the State all support Justice Barkett's nomination. None of them supports coddling criminals, and none of them would support Justice Barkett's nomination if they though she was soft on crime.

Her critics have sought to characterize Justice Barkett as opposed to the death penalty, because she has voted in selected cases to set aside a death sentence.

In our system of justice, if the death penalty is to be imposed, the courts must take care to ensure that it is not imposed on an innocent person. These life or death cases are among the most important responsibilities of the courts, and Justice Barkett clearly takes that responsibility seriously.

In fact, Justice Barkett has voted to enforce the death penalty more than 100 times. It would be wrong to oppose an outstanding nominee with a distinguished record on the bench simply because she has voted to set aside the death penalty in a few cases.

Justice Barkett is an outstanding jurist. She is well qualified to serve on the court of appeals, and I urge the Senate to reject the baseless charges against her, and confirm her nomination.

Mr. BURNS. Mr. President, President Clinton has exercised his constitutional power and nominated Judge Rosemary Barkett to the U.S. Court of Appeals for the Eleventh Circuit. While the President has the right to choose his political appointments, we as Members of the U.S. Senate have the responsibility to thoroughly review these nominations.

I believe the proper way to evaluate a judicial nominee is by examining her judicial philosophy as reflected in her substantive record. While there's no question that I have philosophical differences with Justice Barkett on some of her political viewpoints, my greatest concern is that she is too soft on crime. Her record has shown that she has gone out of her way to block attempts to enact criminal laws, to limit enforcement of criminal laws, and to prevent implementation of criminal laws.

The most salient of her efforts to soften criminal law are her efforts to block the implementation of the death penalty. Rosemary Barkett has tried to set a precedent for great empathy for convicted killers. While this position is borne out of the best intentions, her personal empathy has led her to blame even the most heinous crimes on everything from troubled racial relations to a failure of the social system and learning problems during a killer's youth. To this end, she has embraced a radical theory of statistical manipulation—rejected by both the U.S. Supreme Court and the U.S. Senate, as well as State attorneys general across America—that would effectively abolish the death penalty without regard to whether actual killers in actual cases deserved execution.

At a time when violent crime is one of the foremost concerns across the United States, and the Senate has focused an unprecedented amount of time and effort to produce legislation that will finally address the crime problem and alleviate the growing concerns of American citizens. I am frustrated that the President, with his tough-on-crime rhetoric, would counteract these efforts and nominate a judge whose record has made evident that she will not uphold tough criminal laws in our judicial system.

I urge my colleagues to review Justice Barkett's judicial opinions, as a member of Florida's supreme court, and cast their votes with Justice Barkett's views on crime in mind. We have made great strides in our unified support for the passage of the crime bill. But, placing more police officers on the street and building new regional prisons will do little good if judges will misconstrue our intentions and narrow the scope of the criminal laws.

Ms. MIKULSKI. Mr. President, I just want to take this opportunity to offer my support for the nomination of Rosemary Barkett, of Florida, to serve on the eleventh circuit court of appeals.

I have three criteria that I apply to all nominees for Federal judicial appointments: First, is the nominee competent? Second, does the nominee possess the highest personal and professional integrity? Third, will the nominee protect and preserve the core constitutional values and guarantees that are central to our system of Government?

First, Chief Justice Barkett's background is evidence of her competency and qualifications to serve on the circuit court. Not surprisingly, she graduated among the top of her class in law school. In 1979, she was appointed to the trial court and became the first woman to serve as a chief judge of the Florida circuit court and Florida supreme court. Justice Barkett is held in high regard by her colleagues, supported by both U.S. Senators representing Florida and Florida's Gov. Lawton Chiles, and endorsed by several organizations including the Fraternal Order of Police.

Second, prior to becoming a lawyer, Justice Barkett was a school teacher and was a Roman Catholic nun. She taught religious and public school children while at the convent and her life exemplifies the utmost in personal and professional integrity.

It may seem unusual to some for a former nun to serve on the court, but I will tell you what her nomination actually represents. This nomination is indicative of the progress we have made. It shows that we are able to judge individuals on their qualifications and merit. Judge Barkett through her efforts and hard work is refuting old stereotypes—religious and gender.

Finally, I believe that Chief Justice Barkett has shown that she will continue to be a great jurist. She will serve the court well to protect and preserve our core constitutional values. I commend the President for nominating her and demonstrating his support for diversity on the court.

Mr. McCAIN. Mr. President, after reviewing Judge Barkett's judicial record and her testimony before the Judiciary Committee, I regret that I must oppose her confirmation to be a judge of the U.S. court of appeals for the eleventh circuit. I believe that Justice Barkett is a fine person, but I am greatly concerned by many of her judicial opinions which have led me to believe the judge might misconstrue the written law in order to support her own personal views and that she will take a weak stance on criminal law enforcement.

One of the most important issues in which she has ruled and would rule on the eleventh circuit is the death penalty. According to a January poll by the Prodigy Service, 71 percent of the American people favor the death penalty and would like to see it applied to more violent crimes. The people are correct on this issue. However, if Justice Barkett's opinions were to be followed, application of the death penalty would be rendered much less likely an option.

For example, Judge Barkett has advocated that a seemingly limitless and legally tortuous defense against the death penalty be applied to the Florida State Constitution in response to U.S. Supreme Court ruling against the use of "disparate impact" statistical evidence under the Federal Equal Protection Clause in *McCleskey* v. *Kemp*, 461 U.S. 279 (1987). Judge Barkett then responded to the ruling by stating that McCleskey failed to address the problems concerning "unconscious discrimination," and that statistical evidence should include not only the disposition of first degree murder cases, but also "other information that could suggest discrimination" including "the general conduct of a state attorney's office, including hiring practices. * * *" The defendant can then use this "statistical" evidence to prove that discrimination influenced the decision by the State attorney's office to seek the death penalty, which the State is then forced to disprove.

This opinion would allow any death penalty defendants to investigate the offices of the State attorneys to find latent discrimination resulting in discriminatory death penalty prosecution. Under Judge Barkett's skewed standard, there could be cases where defendants can claim discrimination based upon race, religion, or sex. Judge Barkett's opinion, if applied, could drive the legal system to a halt, clogging the courts with cases where death penalty defendants appeal their sentences not on their innocence or guilt but on the basis of the atmosphere in the State attorney's office.

Justice Barkett's supporters will argue that this is merely one case, and that she has, on occasion, voted in favor of the death penalty. However, I want to point out that well over 100 times she dissented from the majority of the Florida Supreme Court, and voted against the death penalty. She never once dissented from the majority to vote in favor of the death penalty. Judge Barkett's record raises serious doubts about her true support for the death penalty and her judicial judgment.

Mr. President, Justice Barkett has also proven herself to be soft in other areas of crime, especially on the issue of obscenity. In the case of Stall versus State of Florida, Justice Barkett dissented from the Florida Supreme Court majority by ruling that a Florida obscenity law violated due process. In her opinion, she stated that, "A basic legal problem with criminalization of obscenity is that it cannot be defined."

This is a direct contradiction of the U.S. Supreme Court case, Miller versus California, which stated that obscene material can be defined as material that appeals to the prurient interest, or offensively describes sexual conduct without artistic, political or literary standards, when it is judged by the contemporary community standards. It appears that Justice Barkett did not know that these Florida laws were based on the Miller standard. I'm particularly concerned that she did not even mention this important Supreme Court case in her decision.

Finally, Justice Barkett also suffers from some troubling ethical problems. Serious concerns have been raised regarding her impartiality, specifically her actions during the deliberation on the case of University of Miami versus Echarte. In October 1991, the Academy of Florida Trial Lawyers submitted an amicus brief in this case, and argued that a cap on noneconomic damages in medical malpractice cases were unconstitutional. In 1992, this organization set up an annual award to be named after Judge Barkett, and she was invited to present the first annual award at the trial lawyers' convention in November. In May 1993, she dissented from the court's ruling, and followed the trial lawyers' argument that the caps were unconstitutional.

Her actions in this case were inconsistent with her duty as a Justice to be impartial in both appearance and fact. By deciding a case in which an organization that had named an award after her filed a brief, Judge Barkett may have violated the ABA Code of Judicial Conduct. Canon 2, subpart B of the code clearly states that a judge "shall not lend the prestige of judicial office to advance the private interests of others; nor * * * convey the impression that they are in a special position to influence the judge." I am troubled by the fact that during the confirmation hearings, Justice Barkett did not see any way a possible appearance of an ethical lapse.

In conclusion, Mr. President, I must regretfully oppose the nomination of Justice Rosemary Barkett. I am greatly concerned by the fact that her decisions on the death penalty seem to have more to do with her personal views on the subject than the dictates of the law. In the case of the obscenity law, I am disturbed not only by her belief that obscenity cannot be defined, but also by her refusal to even address important Federal Supreme Court precedents. Finally, her appearance of partiality toward one group, and her refusal to even acknowledge that she might have acted unethically when deliberating the Echarte case makes me wonder if she possesses the proper judicial temperament to serve as a circuit court judge.

Mr. President, we recently passed a tough crime bill. We now need tough judges who will not undermine that tough legislation. I believe, as Senator HATCH has noted, that the President's tough-on-crime rhetoric will certainly be downgraded if he appoints judges, such as Rosemary Barkett, who will contradict his stances and go easy on criminals. In order to successfully carry out the war against crime, we must be prepared not only to have enough police to arrest the criminals, but we must also have enough tough judges to see that these criminals are brought to justice.

Mr. President, I urge my colleagues to oppose this nomination and I yield the floor.

Mr. DURENBERGER. Mr. President, I rise today to briefly explain my reasons for supporting the nomination of Rosemary Barkett to the U.S. Court of Appeals for the Eleventh Circuit.

I have served with four Presidents during my career in the U.S. Senate, and I have always used the same standard to evaluate the nominees of each administration. The criteria I use are whether the nominee has the experience necessary to do the job, the temperament to serve honorably, and the character to be entrusted with this serious responsibility. After a review of Chief Justice Barkett's record, I believe that she deserves confirmation.

As an opponent of capital punishment, I am probably much less troubled than many of my Republican colleagues about Justice Barkett's dissent in several capital cases. I do not believe that a lack of enthusiasm for the death penalty in several cases should disqualify a nominee from serving on the Federal bench. I respect retiring Supreme Court Justice Harry Blackmun for his recent renouncement of the death penalty, and I very much doubt that his position makes him an unfit jurist.

I do not always agree with the ideology of nominees that I vote to confirm. I have never considered applying an ideological test to be an appropriate part of my duty as a Senator to advise and consent on Presidential nominations. I am supporting this nomination because Chief Justice Barkett has had a distinguished career of service on the State bench in Florida, and I believe that she has the experience, temperament, and character to serve with distinction at the Federal level.

The PRESIDING OFFICER. Under the previous order, the hour of 3:15 p.m. having arrived, the Senate will now vote on the President's nomination of Rosemary Barkett to be U.S. Circuit Judge for the Eleventh Circuit.

Mr. BIDEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Colorado [Mr. CAMPBELL] is necessarily absent.

I also announce that the Senator from Alabama [Mr. SHELBY] is absent because of illness.

The result was announced—yeas 61, nays 37, as follows:

[Rollcall Vote No. 92 Ex.]

YEAS—61

Akaka
Baucus
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Chafee
Cohen
Conrad
Danforth
Daschle
DeConcini
Dodd
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mack
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray

Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Simon
Wellstone
Wofford

NAYS—37

Bennett
Bond
Brown
Burns
Byrd
Coats
Cochran
Coverdell
Craig
D'Amato
Dole
Domenici
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Helms
Hutchison
Kassebaum
Kempthorne
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner

NOT VOTING—2

Campbell
Shelby

So the nomination was confirmed.

Mr. DODD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. GRAHAM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

Mr. FORD. Mr. President, I ask unanimous consent that, under the regular order, we now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent we now have a period for morning business with Senators permitted to speak therein for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from New York [Senator D'AMATO].

WHITEWATER

Mr. D'AMATO. Mr. President, tomorrow, April 15, is the deadline for millions of American people to pay massive, retroactive tax increases that President Clinton pushed through the Congress last year. President Clinton raised income taxes, gas taxes, taxes on seniors and small businesses. The President sought to tax everything that moves and some things that do not.

On November 21, 1991, Bill Clinton told an audience here in Washington:

> For 12 years of this Reagan-Bush era, Republicans have led the S&L crooks and self-serving CEO's to try to build an economy out of paper and perks, instead of people and products. It is the Republican way. Every man for himself, and get it while you can. They stacked the deck in favor of their friends at the top and let everybody else wait for whatever trickles down.

If you omitted the reference to Republicans, candidate Clinton's own words should provide President Clinton with ample evidence of why Whitewater has become an issue of importance to the American people and why congressional hearings must be held.

Well, now that the President has raised everyone else's taxes, we discover he has not paid all of his own. Worse yet, President Clinton's health care plan will be the single-largest tax increase in the history of the world.

It seems like the President never met a tax he did not like, except his own.

Mr. President, I believe I am speaking for millions of hard-working American taxpayers when I say we expect our President to pay his full and fair share of taxes, and to pay them on time. In yesterday's and today's "Doonesbury" cartoons, Republican leadership is depicted brainstorming about Whitewater.

Let me refer to yesterday's cartoon, "Doonesbury." GOP leadership is brainstorming. It has Congresswoman Davenport:

"If I may, Bob, dear?"

"The Chair recognizes Congresswoman Davenport."

She goes on to say: "I think we should tread carefully with these hearings. If there is, in fact, malfeasance, then by all means, we should bring it to light.

"But if there is no real scandal at the center of Whitewater, this all could backfire. We should ask ourselves, honestly: Why we are doing this?"

And a voice from the back comes: "Because it's payback time, Baby."

The Chair then recognizes Senator D'AMATO, who goes on to say: "C'mon, everybody, it's payback time."

And Senator Davenport says,

> Alphonse, that is exactly the impression we don't want to create. In fact, dear, the little lapses that you and Newt [Gingrich] had on the ethics front are rather a problem for us.

She goes on to say: "Lest we appear merely vindictive, it might be best if you kept a low profile during the actual hearings."

"Um, [how do I do that?] how low?"

And she goes on to say, "Cleveland? Seattle? It's up to you, dear."

Mr. President, the only payback I have seen is to watch President Clinton pay back his back taxes.

Mr. President, notwithstanding that, the fact is we do need hearings. It has not a whit to do with payback, but rather accountability. The same accountability that candidate Clinton called for, before he became President Clinton.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington [Mr. GORTON].

HABEAS CORPUS REFORM

Mr. GORTON. Mr. President, just an hour ago in Olympia, the attorney general of the State of Washington, my distinguished successor in that office, Christine Gregoire, held a news conference together with several prosecuting attorneys from the State, of both political parties.

The news conference was on a topic of overwhelming and urgent and immediate importance, the habeas corpus provisions contained in the House bill on crime, a bill, and perhaps an amendment, which is being discussed at the present time.

Ms. Gregoire denounced those provisions in the House bill and urged the Congress to remove the entire title, all of the provisions in title VII of H.R. 4092 relating to habeas corpus.

In her judgment, and I am quoting:

> The proposal does not constitute meaningful reform and will increase delays in the appellate process in capital cases. We support efforts to strike the habeas provisions from the bill and address the issue outside the context of the omnibus crime legislation.

The citizens of the State of Washington are particularly sensitive to this case of endless appeals. Today marks the 12th anniversary of the brutal murders of three women in Clearview, WA, by a man named Campbell. Mr. Campbell was sentenced to death some considerable time ago, but in the course of the last 7 or 8 years, he and his attorneys have filed 44 motions and briefs in State and Federal courts, and 5 separate appeals in a so-far successful attempt to delay his execution.

On March 28 we marked the fifth anniversary of a stay of that execution, imposed by the Ninth Circuit Court of Appeals. Five years and seventeen days have elapsed—that period of time. Campbell appeals have cost our State and our Nation's taxpayers an estimated $2.3 million. I need to emphasize that his murders were perhaps the most brutal and callous undertaken in the State of Washington at any time in the last several decades.

Some in the State of Washington in positions of legal authority feel that, should the House provisions on habeas corpus become law, that the Campbell appeals would start all over again. As a consequence, provisions which are advertised as simplifying the appeals structure in fact add additional and unnecessary complications to that procedure, and focus attention not on the guilt or innocence, not even on the trial in the State courts before a jury, but on various procedural aspects of those appeals themselves.

Our attorney general and our prosecuting attorneys have gotten together to ask for changes in the habeas corpus rules that apply in the Federal courts at the present time: First, to allow one appeal and one appeal only through the Federal court system; second, to require that such a petition be filed within 6 months of final adjudication in State court; third, to ensure that appeals are judged by legal standards prevailing at the time of conviction and not new standards that invite constant new petitions; and fourth, to impose deadlines on Federal courts for their decisions to end the unconscionable delays which were involved in the Campbell appeal the first time through in the ninth circuit which actually resulted in an order from the Supreme Court to the Ninth Circuit Court of Appeals actually to act.

Mr. President, on the surface of it, any provision which states that it is a reform of habeas corpus procedures is deemed to be a plus by most of the people of the country when, in fact, we are faced with one which makes the process more complicated, which adds to the time and the expense and the delay. That proposal should be defeated. It was removed by this body in the debate last November over a crime bill. It ought to be removed from the House bill as well.

Mr. HATCH. Will the Senator yield on that particular point?

Mr. GORTON. I am happy to yield to the Senator from Utah.

Mr. HATCH. If the Senator will allow me to comment, it is pretty apparent the House leadership is doing everything it can to thwart the passage of the true crime bill. Frankly, the current House crime bill contains a habeas corpus proposal which would result in a de facto elimination of the death penalty. Does the Senator agree with me on that?

Mr. GORTON. The Senator regretfully does agree that that is very likely to be the net result of that provision if it should become law.

Mr. HATCH. If I could go on, the leadership in the House appears set on keeping this measure in the bill to obtain leverage in the conference between the House and the Senate. They know that we are very upset about the habeas corpus provision. We kept it out of our bill because it is so controversial. The Senate passed a very tough habeas corpus provision in the prior Congress. They want to put it in to get leverage.

Now, the Rules Committee over there has reported the rule which, aside from dumping most of the Republican initiatives or amendments, also stacks the deck against efforts to remove the liberal habeas corpus provision. The rule also fails to allow Republicans to offer an amendment which will ensure funding for the crime bill—again, a leverage position so they can get a softer bill than what we have done over here.

Mr. President, despite the odds, Republicans are prevailing in the House on other death penalty amendments. The habeas votes were supposed to occur this afternoon over there, but when it looked to the leadership that their efforts to pass a liberal habeas corpus —that is, to allow more multiple appeals up through the State courts, Federal Courts—when it looked like their efforts to pass that type of provision might fail, the House leadership promptly decided to adjourn until next week. Now they are talking about a "king of the hill" group of amendments.

Now, the way that works is—and it is a big game—the way it works is they know their habeas corpus provision is going to go down, and so they come up with two votes. One is to strike, I believe, the habeas corpus provision. But nothing happens even if they vote to strike until the second when they move to correct it. What it means is that the liberals in the House can vote to strike their habeas corpus provision, and then they turn right around and move to correct it and put it right back into effect. Nobody else can have another amendment, and the Republicans and conservative Democrats who want to straighten this incessant number of habeas corpus appeals out, they are just out in the crime debate.

Now, does the Senator agree with me on that particular analysis?

Mr. GORTON. This Senator certainly does agree with that analysis, and the reason this Senator came to the floor was to point out that from the point of view of the country as a whole, this is not a partisan issue. The attorney general, my successor in the State of Washington, is a member of the Democratic Party. Most of the prosecuting attorneys who appeared with her today are members of the Democratic Party. And they reflect the views of the vast majority of State attorneys general across the United States, Republicans and Democrats and nonpartisans combined. They want true habeas corpus reform just as the senior Senator from Utah wants true habeas corpus reform.

But just as the senior Senator from Utah feels that doing nothing is far preferable to doing the terrible job which was proposed here at one point in the Senate in our debate but defeated, so this group of attorneys general and prosecuting attorneys wants this provision stricken from the House bill and this issue taken up at a later time separately when it can be debated on its own merits.

I am certain that their advice to Members of Congress, my attorney general to my members, probably the Senator's attorney general to his members, would be, under this set of circumstances, to vote to strike the present provisions and not to insert anything in their place, to separate this issue out entirely for future debate. And if that is the result, then it may very well be that the House will have passed a bill which will be constructive in connection with dealing with crime.

If, in fact, the House passes a bill that includes its present habeas corpus provisions or anything remotely similar to them, what is called an anticrime bill will, in fact, be a procriminal bill. It will add to the time that people like Campbell can delay justice and can add to the costs to the people of the United States and frustrate the administration of justice.

Mr. HATCH. If the Senator will yield again, I wish to compliment the Senator because the Senator is a former attorney general of his State. He understands this situation. It is a very difficult issue to understand. A lot of people in both Houses do not understand it, except everybody understands that there are now unlimited appeals through both systems, the State and the Federal system.

Just so we all understand, those crafting the House rules have passed a rule, or will pass a rule, that contains what is called the "king of the hill" provision, and by this I mean Republicans will get their amendment to strike the liberal habeas corpus provisions of the House bill. It is the prevailing view that this effort to strike the liberal habeas will pass, but immediately after that vote there will be a vote on another liberal Democrat habeas corpus amendment which the ACLU, the American Civil Liberties Union, supports. This will allow liberal Democrats to vote to strike the original habeas corpus provision but ensures the passage of another one of these provisions that is not going to do anything to solve the problem.

So Democrats in the House have been blaming Republicans for delaying their crime bill, but when it was apparent that Republicans might win on some votes, especially habeas corpus, the leadership folded their tents until next Tuesday so that they could put it together in a way that they could not lose even though a majority of Members of the House would like to have a different habeas corpus provision.

So we here, as the distinguished Senator from Washington has said, avoided the issue. We just kept habeas out of the bill hoping that we could work it out separately later. But we know that, if the House is intent on keeping their liberal habeas provision that will exacerbate the situation in their bill, then, in all honesty, it is going to be kept there for leverage during the conference because they know that we do not want that liberal provision in the bill that is going to exacerbate the problem, not alleviate the problem. I think the distinguished Senator from Washington has done us all a favor in pointing this out.

Mr. GORTON. It is exactly for that reason that I came to praise my successor, Ms. Gregoire, as the attorney general of Washington, for a very cogent presentation of her point of view and that of our prosecuting attorneys. I think they are doing the State a great service. I hope and I expect that many or most of the members of the congressional delegation of my State in both parties will defer to her judgment in this connection and see to it that we deal with the crime bill and leave this issue to later and not do something which adds to the complexity of appeals in the guise of making them more simple.

Mr. BIDEN. Mr. President, as I say, I just happened to be walking through and heard this discussion on habeas corpus.

We worked for a long, long time, as the Presiding Officer knows, to arrive at a compromise on habeas corpus. I met for the better part of 7 months with the National District Attorneys Association, and the National Attorneys General. Both of those associations officially signed on to a meticulously detailed and compromised habeas corpus provision which we thought we could have agreement on in this body.

I made a commitment, although I do not agree with the characterization of the House provision on habeas corpus as being this great get-out-of-jail free card that is being painted. But I do acknowledge one important fact; this will complicate matters greatly.

I would remind my colleagues that we had in the underlying crime bill, the so-called Biden bill, to which we added amendments—I had included my provision on habeas corpus that had been negotiated with the DA's, and negotiated with the attorneys general, the National Attorneys General Association. Although over a third of the national attorneys general did not ultimately support it, the majority of the association did, and an overwhelming majority of the DA's, and the National District Attorneys Association supported it.

It did not go as far as I believe the Derrick amendment; that is, the alternative amendment that is going to be offered in the House. But I withdrew it. I withdrew it in order to get a crime bill passed. I withdrew it in order to make sure that we would also be able to get the Brady bill passed. I withdrew it in order for us to be able to attend to other matters in the crime bill.

We reached an agreement here on the floor that as part of that extensive compromise that brought about the most significant crime bill we have ever passed through this body, that we would, in fact, put it aside and not raise it in this calendar year.

Mr. SPECTER. Will the Senator from Delaware yield for a question?

Mr. BIDEN. I am delighted to.

Mr. SPECTER. This Senator knows fully the sequence of events, having participated in the discussion on habeas corpus for many years in the Judiciary Committee. I am sure the chairman will recall that my amendment on habeas corpus was separated out, was taken up as a freestanding bill. But in that procedural posture, realistically, it lacked the impact of being considered as part of the crime bill.

I understand fully why the Senator from Delaware did what he did, as he has explained, to get the crime bill passed. I thought at the time that the habeas was very important and should have been taken up.

My question to my colleague from Delaware is will we not have in conference an opportunity worthy, of necessity—naturally depending on what the House of Representatives does—to deal with habeas corpus?

Mr. BIDEN. The answer is, unfortunately, possibly, yes. I say "unfortunately" because the one thing that the police officers of America need urgently is assistance. I am fearful that by having to bring up habeas corpus in conference and then on the floor in both bodies again through a conference report, based on my 22 years of experience in dealing with these crime bills here, and 9 years of experience—I see some of the staff on the floor here who are on the Republican side who know as much or more about this than I do—we know from our vast experience that this is an incredibly difficult topic to reach any accommodation on. In fact, in the past it has been used as a rationale, and sometimes was a rationale to allow, in effect, what amounted to a filibuster to keep any crime legislation from passing.

That is why I committed on the Senate side—and I would like to ask the RECORD to be held open so I can get my exact quotes because I know I will be quoted on this 75 more times if I get it wrong—but my recollection is during the debate on the crime bill this Congress last year, I indicated that we would—in the unanimous-consent agreement we had, other than attending to the separate amendment that the Senator from Pennsylvania had—that we would not attempt a return, forgetting an agreement on what amendment would be considered—we would not raise on either side habeas corpus in this Congress, in this Senate, or at least until the crime bill was passed in this Senate. I will go and check the RECORD precisely on what it was.

The reason for that was not because I disagreed with what the House is attempting to do, not because I disagree with the so-called Biden compromise reached with the district attorneys and attorneys general. I agree. But because I recognize the reality of what will happen to something I care much more about, and that is putting 100,000 cops on the street, building boot camps, setting up $1 billion for drug courts, $9 billion for preventive programs, drug treatment, et cetera, et cetera. I care much more about those things than reforming habeas corpus at the moment.

So what I am fearful of, in answer to the question of the Senator, is if the House of Representatives passes any—forget "liberal." Let us assume they pass, from my perspective, a draconian habeas corpus provision that essentially eliminates habeas corpus. Whatever position they take on habeas, once habeas is in the conference, the fat is in the fire, and the one thing other than guns that has been the thing that has kept the crime bills from passing here will have to be resolved.

We have never been able to resolve it thus far. It has always been used as an excuse by everyone who has any reason to be against the legislation to say they are against it, and we end up stalemated.

So I sincerely hope that we do not have to consider habeas in the context of the crime bill.

Mr. SPECTER. If the Senator from Delaware will yield for one moment, my suggestion is that the habeas issue can be dealt with and can be resolved if we can separate out those who are really opposed to capital punishment, who use the habeas issue as a vehicle for stalemated legislation.

The issue boils down to two critical points. One was what would happen on intervening judicial decisions with the kind of language on fundamental rights very close among the participants in the last Senate debate; that is, the Senator from Delaware and the Senator from Utah, and this Senator; and what would happen on successive petitions?

We passed the habeas bill in 1989 which had the agreement of Senator HATCH and Senator THURMOND, and I think it was very close to what the Senator from Delaware had in mind. Of course, we have to deal with the semicolons. We cannot deal with the generalizations. But my view has always been that the death penalty is so important as a deterrent, and that this is one area of Federal law which touches State law directly because of the 37 States which have the death penalty, it cannot be carried out because of the lengthy appeals on Federal habeas corpus that the Senator from Washington has talked about—one case today—and that there are about 2,800 people on death row. I think last year the number of executions was 38.

From my own experience as a district attorney, with the view that capital punishment is a deterrent, and the need for some imposition and fair timeframe, which I have addressed on timeliness, part of which the Senator from Delaware has subscribed to in terms of filing it 6 months after the process is finished, if we take a close look at getting the case into the Federal court early and one comprehensive hearing without the rules set up by the Supreme Court on bouncing back and forth—on a conservative Supreme Court has not made any real practical sense—it is my view that when JOE BIDEN, ORRIN HATCH, ARLEN SPECTER and some of the House Members get together to talk about the specifics, we can solve it.

(Mrs. MURRAY assumed the chair.)

Mr. BIDEN. Madam President, I say to my friend from Pennsylvania, if we could get the people who are viewing habeas as a means to curtail application of the death penalty out of the debate, and if you can get the conservatives looking for full and fair essentially to eliminate Federal habeas out of the debate, we can get an agreement.

Unfortunately, some of my right- and left-wing friends arrive at the same point, which is they are intractable, unwilling to acknowledge any change.

The Senator from Pennsylvania and the Senator from Delaware can most likely arrive at an agreement, but I doubt whether Senator GRAMM from Texas and the Senator from Delaware and the Senator from Pennsylvania and the Senator from Massachusetts could arrive at an agreement.

Mr. SPECTER. I will make the Senator an offer he cannot refuse. I will deliver from the right wing, this side of the aisle, being a centrist myself. I think the Senator from Delaware can deliver the other side, which I prefer not to characterize.

Mr. BIDEN. I would not want to ask the Senator to carry such a heavy load, because I am confident my shoulders are not strong enough to carry the corresponding load.

Mr. GORTON. If the Senator will yield, I am delighted that the Senator from Delaware and this Senator from Washington have, by different roads, reached the same point on this issue.

Mr. BIDEN. On the procedure, not the issue.

Mr. GORTON. That is exactly correct. And it is because there have been so many differences on substance that the Senator from Delaware reached that procedural decision, reluctantly as he may have come to it, in any event.

I began in this discussion by praising the attorney general for the State of Washington for asking the congressional delegation to keep the House bill clean on this issue—as the Senate has already done—so that we may concentrate on a number of areas in connection with crime that may be controversial, but at least on which there is a greater degree of agreement than there is on this issue.

Habeas corpus is vitally important. We undercut respect for the law by the observation on the part of citizens that these appeals go on forever and ever. The way in which we are to solve that question has obviously become a matter not only of controversy on its own merits, but as the Senator from Pennsylvania said, as a vehicle to get at other things often stated in the debate.

I reiterate my praise for the prosecuting attorneys and the attorney general from my State. I hope we will be able to debate habeas corpus, but along with them, I trust we will do it independently.

(Mrs. BOXER assumed the chair.)

Mr. BIDEN. I thank the Senator from the great Northwest.

Madam President, I want to point something out here. I worked for 7 months on a compromise. I got an absolute majority of the attorneys general of the United States of America, including a Republican attorney general from the State of Pennsylvania, and other Republicans, as well, and an overwhelming majority of all of the district attorneys in America, to agree to it.

The Senator from Washington still would not agree to that compromise. The conservatives still would not agree to it. So we have a phrase that we use in the law—and there are three lawyers on the floor—and the phrase is: You come with unclean hands when you make an assertion for which you have, in fact, put yourself in the position to have no credibility to make because of actions earlier.

It is one thing to come and praise a single attorney general for being opposed to a House provision. It is another thing to imply that if we let the attorneys general make the decision, and the DA's, we could be for what they were for. In truth, they were for the Biden compromise. Your attorney general was in the minority. But the attorneys general were for the Biden compromise. The DA's were for the Biden compromise. The conservative Republicans were against the Biden compromise on the floor. We took it out of the bill because the conservative Republicans were not for what the prosecutors of America were for.

They are the facts, nothing but the facts. They used to say in that show with Walter Brennan, "Ain't brag, ma'am, just fact." Those are the facts.

I say that not to be critical, but to underscore that the idea that we can get together in a conference and arrive at a conclusion is bizarre, because even when I came to this floor with a document in hand, negotiated in detail for 7 months, with the imprimatur of the District Attorneys' Association and the United States Attorneys General Association, I could not get my Republican friends to be for that. I respect that.

But it is mildly disingenuous for somebody to suggest the reason to be against the House provision is because the district attorneys and attorneys general are against it—which they are. I assume that the corollary of that would be true—if they were for something, we should be for it—because, clearly, the district attorneys are not for preventing the death penalty from being imposed.

So this Senator from the State of Delaware, after 7 months of frustration, dealing in good faith with honorable men and women who prosecute these offenses at a State level, reached an accommodation with them, for which they said: We agree with BIDEN. And I said: I agree with the attorneys. The liberals became very angry with me, and the conservatives became very angry with me because we, the prosecutor-types, agreed.

So I say: Either say the attorneys general know what they are talking about, and the DA's know what they are talking about, and be for it; or say that nobody knows what they are talking about except me, whoever "me" happens to be speaking. But this is a perfect illustration of why I hope the House does not pass anything on habeas corpus, because we will have some of it—I am not characterizing the last two arguments. I want the RECORD to show that I am not speaking of the Senator from Washington nor the Senator from Pennsylvania. But we will hear on the floor the most humorous and outlandish assertions relative to habeas corpus.

The reason they can make them is because our distinguished fellow citizens in the gallery, who are not lawyers, should not, and most times do not, know the details of habeas corpus. So I can stand here and say: "Habeas corpus is the root of all evil," and people up in the gallery would say, "He may be right. I kind of like the guy," or, "I do not like him, and he is probably wrong." Half of the people I ran into out in the street when this was a big issue thought it was the name of a convicted felon crouched behind a garbage can in an alley waiting to jump on someone.

Habeas corpus is the cause of our problems. Habeas "schmabeas." Most people do not understand it. I know everybody comes to the floor and brags about not being a lawyer. Well, ignorance is sometimes bliss. I know my friend from the State of Washington is a fine lawyer, a better lawyer than the Senator from Delaware. He was a prosecutor, and understands it fully. That is not the point I am making.

The point is, when we get to the debate on the floor and we are trying to pass either a $15 billion or $23 billion crime bill that could really do something about crime, Congress will spend weeks talking about habeas corpus. In the meantime, people will get shot and killed. Forget the death row guy.

There is one thing I want to remind everyone of, and I will stop. Anyone filing a habeas corpus petition is not a threat to any American. If they are filing a petition, by definition that means they are in jail. You do not file a petition, you cannot file a petition unless you are behind bars. Those are the facts in terms of impact.

So anybody who files a petition and says, "Hey, judge, I've got a habeas corpus petition; here read it," is already in jail.

Now you may argue that justice is being delayed in that they are not being hung and they are only in jail.

OK, fine. I understand that argument. Sometimes it is a correct argument. But we are not putting anybody in this gallery or anybody on the street, or anybody in this Chamber in jeopardy because we have not fixed habeas corpus.

The only people in jeopardy are the people in the jail who might be innocent. And, I might add, an outrageously high percentage of the petitions filed in Federal court—and, I might add, in the Federal courts out of 735 Federal judges, three-quarters of them were appointed by Ronald Reagan. So they are not your left-wing judiciary if really an outrageously large percentage of those criminals who pass that paper out through the bars and give it to a court and say, "Check me out, habeas corpus." The court says: "Hey, you are right. Your rights were violated."

Funny thing, but that is a separate issue.

The issue here is, will anybody understand the habeas corpus debate if we bring it up when we have to pass this crime bill? My suggestion is people here will understand it.

Will it get confused in the public? What will the end result of it be? That we do not get a crime bill?

If we do not get a crime bill that means more people will be murdered, more people will be mugged, more people will be battered, more people will be without protection. Less help will go to the community because we will stand here left, right, and center, myself included, all of us, and we will either speak intelligently or pontificate not so intelligently on habeas corpus.

I say let us pass the crime bill. Let us put habeas corpus over here. Let us go help the communities and come back and fight over habeas corpus.

I will conclude by saying if you cite prosecutors as a reason why to be against a particular position that is credible, that is worth doing. That carries weight.

I respectfully suggest if you cite them as evidence for why we should be against a position when they are overwhelmingly for a position, you should also take that into consideration.

Mr. GORTON. Madam President, will the Senator yield?

Mr. BIDEN. Yes.

Mr. GORTON. It is a great pleasure to listen to the Senator from Delaware in his enthusiasm as well as his knowledge of this subject. Occasionally he may get slightly more enthusiastic than the facts warrant. This Senator began with the discussion of this subject by quoting only his own attorney general——

Mr. BIDEN. I understand.

Mr. GORTON. And prosecuting attorneys from his own State. When, however, the Senator from Delaware says that his compromise was endorsed by the National District Attorneys Association and by the Association of Attorneys General, he is exaggerating to a certain degree.

The National Association of Attorneys General did not endorse the Biden compromise. It might very well have been he got agreement from a slight majority of individual attorneys general. He did not get the support of the majority of attorneys general from States which impose capital punishment.

When the board of directors of the National District Attorneys Association, a relatively small group, endorsed the Biden compromise, there was literally an uprising across the country among the members of that association. Undoubtedly, the board of directors, having worked for 7 months with the very distinguished and forceful Senator from Delaware who wished to do something in this area, figured that they better endorse the Biden compromise or they might get something worse. They did not have their troops with them.

Mr. BIDEN. Will the Senator yield on that point?

The PRESIDING OFFICER. The Senator from Delaware controls the time and has yielded to the Senator from Washington.

Mr. BIDEN. Madam President, I want to intervene on that point. I will relinquish the floor back to the Senator.

If the Senator will recall what I said, I knew he was speaking only for his attorney general. I pointed out his attorney general was against the Biden compromise and I pointed out that a majority of the attorneys general were for the compromise and a third to half ended up being opposed to the compromise.

The official endorsement came from the District Attorneys Association. The Senator is correct in that the attorneys general board of directors endorsed it. He is also correct that a majority of the attorneys general of the United States of America beginning and at the end endorsed, and he is correct that the Attorneys General Association as an association did not officially endorse because at that point when, by, I guess it was—how many attorneys general—I think there were—do not hold me to this. I will do it for the RECORD. But I think there were 11 attorneys general officially opposed, 11 State district attorneys general, and there was as many as 18 that had questions about it, if I recall correctly.

So, my enthusiasm was not overblown or overborne. My enthusiasm, as characterized by my friend from Washington, was accurate in that by his own admission a clear majority of attorneys general in the United States did, in fact, support the compromise, No. 1; and No. 2, the organization of district attorneys officially, their organization and an overwhelming number of their membership as characterized to me by the organization, endorsed the compromise.

Essentially what there was, was a very articulate, very forceful attorney general from the State of California named Dan Humbert who led the charge against the compromise and was able to get, I think, at the top of the line, 12 attorneys general to agree with him.

But the point is that I am flattered. I am flattered that I now know that a majority of the attorneys general of the United States are fearful of me, that they are fearful that if they do not agree with me they are going to get something worse.

I wish my colleagues would take some lead from them and follow their genuine concern and fear and drop habeas corpus from our discussion, because I want to get cops on the street as quickly as I can get them there, and habeas corpus should be delayed for another day.

Mr. GORTON. Will the Senator yield?

Mr. BIDEN. I yield the floor.

Mr. GORTON. Good.

The PRESIDING OFFICER. The Senator from Washington has the floor now.

Mr. GORTON. Madam President, maybe it is just that the colleagues know the Senator better than the attorneys general do.

Mr. BIDEN. I suspect that is true.

Mr. GORTON. In any event, the numbers in this connection are perhaps not as important as the substance. Clearly, they are not as important as the substance, and the numbers are somewhat murkier than the Senator from Delaware would have the membership believe.

Mr. BIDEN. If the Senator will yield, I frankly resent the constant reference to my attempting to mislead the United States Senate.

Mr. GORTON. I am not making any such statement.

Mr. BIDEN. Does the Senator question whether the majority of attorneys general endorse the compromise? Does he have any doubt about that?

Mr. GORTON. This Senator does not know first hand the answer to that question. This Senator accepts——

Mr. BIDEN. Then the Senator should resist suggesting that I exaggerate.

Mr. GORTON. This Senator accepts the statement that the Senator from Delaware made. This Senator did dispute the proposition which the Senator from Delaware has withdrawn, that the National Association of Attorneys General endorsed his position. That did not happen. They took no position on it. This Senator asserts that a majority of the attorneys general from the States which impose capital punishment did not endorse his position.

This Senator also points out that the board of directors of the National District Attorneys Association did, in fact, agree with the position that the

Senator from Delaware ultimately reached, but that many—I cannot say most and neither, I suspect, can the Senator from Delaware, because there are literally hundreds of district attorneys throughout the United States—that there was a considerable revolt among district attorneys with respect to that matter. And it is the belief of this Senator that if the district attorneys of the United States and the attorneys general of the United States were asked whether or not they support the provision which is before the House of Representatives today, it is the view of this Senator that they would reject it by a rather substantial majority.

Mr. BIDEN. Will the Senator yield on that point?

Mr. GORTON. In that connection, of course, the Senator from Delaware and the Senator from Washington have reached the same position.

Mr. BIDEN. If the Senator will yield, I not only would guess, I know that the leadership, Democrat and Republican, of the National Attorneys General Association and the District Attorneys Association would be and are opposed to either the proposition offered in the House Judiciary Committee-passed provision or the anticipated alternative about to be offered, I believe, I am not certain of this, by Congressman DERRICK.

But I think, regardless of whether or not anyone accepts either of our characterizations of where the prosecutors of America stand on this issue, I think this discussion, where we are trying to agree and cannot, is illustrative of how difficult it will be to reach a compromise where we do not agree and we are trying to reach agreement.

We cannot even agree when we are trying to agree when it comes to habeas corpus. I would suggest it is nearly impossible for us to agree in time to pass a crime bill where we have serious substantive disagreements.

I will conclude my comments on this for the day by saying, I happen to substantively agree with the approach taken, as I understand it, by the Derrick amendment that is going to be proposed in the House. But I practically do not agree with this incorporation because it will have the effect of torpedoing something I have worked now 5 years to put together—5 years—and that is the core of the crime bill we passed out of here and that they are about to pass on the floor of the House.

So I want the record to be clear. There is nothing altruistic in my opposition to including habeas corpus. There is nothing that relates to substantive concerns I have with the House approach. It relates to the ability to put 100,000 cops on the street and $9 billion or $7 billion, whether you take the House or Senate bill, of prevention methods and efforts on the street to help protect Americans and to help keep children at risk out of the drug stream and the crime stream.

That is my reason for hoping that the House, by whatever method they arrive at, chooses not to include a habeas corpus provision.

Because although I enjoy negotiating with my Republican friends, I know that what will happen is I will be spending more nights at 3 o'clock in the morning with Mr. Manus Cooney, who is not even a Senator, but just a brilliant staff person—and he is, by the way, first-rate—on the Republican side. Manus and I have spent more time with one another having to deal with habeas corpus than we have with our families on occasion.

As much as I like him—and I see him in the back—I do not want to spend any time with him this spring, because we basically agree on the crime bill. And as one of the lead staff persons, the most knowledgeable staff person in this place on these criminal justice issues, he can tell you, on behalf of Senator HATCH and on behalf of Senator THURMOND before him, he and I as two principals in the past, one in the present, we have spent a lot of time trying to resolve this. We tried very hard and we do not know how though do it, and we are not bad at trying to reach compromises.

I envy and admire the optimism of my friend from Pennsylvania, Senator SPECTER, who says he has a compromise but he forgets to point out to you, not only do the liberals not agree with him, the conservatives do not agree with his compromise. Nobody does. Nobody.

I mean the Senator from Delaware could probably reach an accommodation, because I am an accommodating fellow and I am his neighbor. But nobody really agrees with his compromise.

That in no way goes to the merits of the compromise. That goes to the political reality of the compromise.

So, you know, as I said, here we have spent probably 40 minutes so far, or longer, and the poor Senator from Arkansas is here to get the floor on a totally different matter, and the Senator from Washington, Senator MURRAY, is here probably on a different matter. I have been a party to and maybe the principal reason we have absorbed almost 40 to 50 minutes on an issue that is not even before us. Can you imagine, Madam President, what will happen when it comes before us?

So my plea is that the House has the wisdom and the fortitude to forgo putting this in the crime bill this time around and we can visit it another time when we have a year or so to deal with it.

I yield the floor for the evening.

I thank my colleague.

Mr. GORTON. Madam President, does the Senator from Washington have the floor?

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. BIDEN. I will not seek the floor for the evening.

Mr. GORTON. I thank the distinguished Senator from Delaware.

At the ultimate end of this discussion we find ourselves in agreement procedurally, though not necessarily with the Derrick amendment in the House of Representatives. I am relieved we have exhausted the subject and I yield the floor.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

THE PAYMENT OF BACK TAXES

Mr. PRYOR. Madam President, I thank the Chair for recognizing me.

Madam President, a few moments ago, on the floor of the U.S. Senate, in fact it was about 1 hour ago, I believe, now—the distinguished junior Senator from New York, Senator D'AMATO, spoke on the floor relative to the coming tax deadline, April 15, which is tomorrow at midnight.

Because I was not in the Chamber where I could listen to the entirety of his statement, as the Senator from New York was leaving the Chamber, I requested of the Senator if he would be so kind as to give me a copy of his speech. He did.

On page 2 of the Senator's speech, Madam President, I would like to quote from his statement.

> Well, now that the President has raised everyone else's taxes, we discovered that he had not paid all of his own. Worse yet, President Clinton's health care plan will be the single-largest tax increase in the history of the world.
>
> It seems like the President never met a tax he did not like except his own.
>
> Mr. President, I believe I am speaking for the millions of hardworking American taxpayers when I say that we expect our President to pay his full and fair share of taxes, and to pay them on time.

End of the quote of the Senator from New York, Senator D'AMATO.

Well, Madam President, guess what? Apparently our friend from New York had forgotten the fact that President Nixon had to pay $280,000 of back income taxes after he became President when his deductions were challenged by the Internal Revenue Service. I did not hear the Senator from New York make reference to President Nixon having to pay $285,000 in back taxes.

Nor did I hear the distinguished Senator from New York or anyone else on that side of the aisle or this side of the aisle complain when Vice President Bush, as Vice President, Madam President, had to fork up $198,000 in back taxes because of a change in the interpretation of his legal residence. I did not hear the Senator from New York complaining about Vice President Bush.

I did not see him take the floor of the U.S. Senate and complain that we have to pay our taxes on time and that millions of Americans are upset about this. Nor, Madam President, did I hear the distinguished Senator from New York—I wish he were in the Chamber now; maybe he could be asked to come over and talk about some of this—I do not recall the distinguished Senator from New York criticizing President Reagan, who had to pay $20,000 in back taxes because of gifts to his wife.

Madam President, where was the Senator from New York when these back taxes were paid? Where was his outcry? And do you not think it might have been a little worthy of comment, about President Clinton's taxes, that he and Mrs. Clinton on their own, voluntarily, without any encouragement whatsoever from the Internal Revenue Service, reached back, like every other American has the right to do if they think they may have committed an error, and wrote a check to the Internal Revenue Service for the amount so owed to the U.S. Government?

This is what the President and Mrs. Clinton did after they reconstructed their very complicated tax forms of many—several years ago. And, once again, every American citizen, from the lowest to the highest, has that right, Madam President, under the law of this land.

Finally, I might state that with regard to President Clinton's and Mrs. Clinton's payment of back taxes, the IRS had not discovered that. The statute of limitations had run. There could be no criminal sanctions against the President and the First Lady. It was all over. But they did it because they found an error, and they did it because they think it is right.

I am just very hopeful, as we continue in this ongoing debate—I hate it has to happen on the floor of the U.S. Senate, almost on a daily basis—as we talk about the so-called Whitewater issue and other issues that the Senator from New York is constantly bringing to our attention, I hope all of us will continue to be a little more objective and that when we talk about back taxes being paid voluntarily by this President and his wife, that they will also remind the American people that, yes, President Nixon had to pay $280,000, Vice President Bush had to pay $198,000, and that former President Reagan had to pay $20,000 in back taxes.

So, once again, this is only one attempt to set the record straight and to get the facts before the American people and to put them in some perspective.

Madam President, I yield the floor. I understand my good friend from Washington State is present and ready to speak.

The PRESIDING OFFICER. The Senator from Washington.

FOREST MANAGEMENT CRISIS IN PACIFIC NORTHWEST

Mrs. MURRAY. Madam President, I would like to address my colleagues for a few minutes about an old subject that is about to undergo a new beginning. I am referring to the forest management crisis in the Pacific Northwest. Many of you have been hearing about this issue for a long time. Some of you are probably tired of hearing about it. You are all quite aware that it has defied resolution over the past 5 years.

Today could be the end of the conflict. I make that statement with very cautious optimism. This is the day the Clinton administration forest plan for the spotted owl forests of the Pacific Northwest goes to court for final judicial review.

It has been a long process. Since the President convened his forest conference in Portland, OR, 1 year ago, the plan has been through every conceivably legal, regulatory, and bureaucratic twist and turn. Let me give you a sampling:

Upon completion of the forest conference, the President created the Forest Ecosystem Management Assessment Team, charged with creating options for ecologically sound land management, based on the highest legal integrity, and capable of providing a long-term, sustainable timber supply for businesses and communities.

At the same time, he set up a task force to work with us in Congress to create the Northwest Economic Adjustment Initiative, a 5-year, $1.3 billion economic development and diversification plan.

July 2, 1993, President Clinton announced the completion of FEMAT's work, and the selection of option 9 as the preferred alternative.

Option 9 was subjected to an environmental impact statement that included a 3-month public comment period that generated over 100,000 public comments.

Then came 5 months of agency review. On February 23 of this year, a final EIS was published. This was followed by an additional 30-day comment period.

During this time, a multidisciplinary EIS team coordinated review in Portland. Within the team there were no less than 17 task forces established to work with State and local officials, tribes, and stakeholder groups of every kind.

The Office of Forestry and Economic Development was established to coordinate agencies, oversee implementation of the economic strategy, and give the White House strong presence in the region.

Most of these actions were carried out pursuant to court order. Two extensions were requested and granted. Today, the record of decision embodying the plan has been completed for Federal court to review.

It has taken a little over a year, untold thousands of documents, innumerable meetings, heated discussions, and lot of Rolaids. But that is a small amount of work to repair a problem that has festered nearly a decade. I believe all of us in the Northwest owe a debt of gratitude to the administration for investing an extraordinary amount of time and energy in resolving what is essentially a thorny regional conflict.

We need to see the Clinton forest plan for what it represents: the best attempt yet to balance competing needs and make the law work. It is an honest effort to bring forest management out of the courts, and put it back into the hands of the Forest Service, the Bureau of Land Management, and the Fish and Wildlife Service.

I have said it before and I will say again: It is my strong feeling that this plan is not perfect; I am particularly concerned about its short-term economic implications. There are people on all sides who take issue with this plan. But I want to remind my colleagues, and the citizens of the Pacific Northwest, how little progress was made on this issue before the President began working on this issue last spring.

Parties are lining up on all sides and preparing their lawsuits. Some lawsuits have already been filed. But I would caution everyone against hasty action.

Let me be very clear about this: Our region suffered because of legal and political gridlock. A return to conflict will not heal our wounds. Given the extraordinary effort dedicated to this plan, I hope everyone involved will give it a chance to work.

If there are environmentalists out there, or workers, or forest products companies, I urge you to find solutions through the implementation phase. The plan is a fluid document. It is subject to the National Forest Management Act, the National Environmental Policy Act, and everything these two important laws represent. You all have recourse to seek assistance in the forest planning process, if you only give the agencies a chance to put it in place.

Equally important now is the need for the Federal agencies to work together to implement this plan. In the past, we saw agencies at odds with one another, working actively to disrupt each other. The Pacific Northwest cannot tolerate such behavior in the future. I am impressed by what I have heard from the agencies to date, but the proof will be in seeing results.

The road ahead is rough. But we have a plan—if all goes well—that will afford the agencies an opportunity to restore public confidence; that will ensure the responsible stewardship of our resources; that will bring some certainty to businesses and communities; that will give a solid sense that there is a bright future for Northwest culture.

Beyond this plan we will have to address the 4-D rule under the Endangered Species Act. This rule is critically important to private land owners in my State—large and small. This rule has been held in abeyance, awaiting approval of the Federal forest plan. Frankly, the flexible 4-D rule is contingent on finishing a management plan for the Federal forests. Once that is done, I am committed to working out a 4-D rule as well.

Let us give Option 9 a chance to work. As I said before, we have a tremendous opportunity to make this a new beginning for an old issue that has divided my region—and this Nation—for too long.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:01 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3498. An Act to establish the Great Falls Historic District, and for other purposes.

H.R. 3770. An Act to designate the United States courthouse located at 940 Front Street in San Diego, California, and the Federal building attached to the courthouse as the "Edward J. Schwartz Courthouse and Federal Building."

The message also announced that the House has passed the following bill, without amendment:

S. 2004. An Act to extend until July 1, 1998, the exemption from ineligibility based on a high default rate for certain institutions of higher education.

The message further announced that the House insists upon its amendment to the amendment of the Senate to the bill (H.R. 965) to provide for toy safety and for other purposes, and agrees to a conference with the Senate on the disagreeing votes of the two House thereon; and appoints the following Members as the managers of the conference, on the part of the House: from the Committee on Energy and Commerce, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mrs. COLLINS of Illinois, Mr. TOWNS, Mr. MOORHEAD, and Mr. STEARNS. As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 201-203, 205 and 206 of the Senate amendment, and modifications committed to conference: Mr. MINETA, Mr. OBERSTAR, Mr. RAHALL, Mr. SHUSTER, and Mr. PETRI.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2659) to amend the Public Health Service Act to revise and extend programs relating to the transplantation of organs and of bone marrow, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. DINGELL, Mr. WAXMAN, Mr. WASHINGTON, Mr. MOORHEAD, and Mr. BLILEY as the managers of the Conference on the part of the House.

MEASURES REFERRED

The following measures were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3498. An Act to establish the Great Falls Historic District, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3770. An Act to designate the United States courthouse located at 940 Front Street in San Diego, California, and the Federal building attached to the courthouse as the "Edward J. Schwartz Courthouse and Federal Building"; to the Committee on Environment and Public Works.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on April 13, 1994, he had presented to the President of the United States, the following enrolled bill:

S. 1206. An Act to redesignate the Federal building located at 380 Trapelo Road in Waltham, Massachusetts, as the "Frederick C. Murphy Federal Center."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2458. A communication from the Principal Deputy Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, the Select Acquisition Reports for the quarter ending December 31, 1993; to the Committee on Armed Services.

EC-2459. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, the report evaluating civilian separation incentives cost and benefits for fiscal year 1993; to the Committee on Armed Services.

EC-2460. A communication from the Principal Deputy Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, the annual report on the Foreign Comparative Testing Program for fiscal year 1993; to the Committee on Armed Services.

EC-2461. A communication from the Deputy Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, the annual report of the Defense Environmental Cleanup Program for fiscal year 1993; to the Committee on Armed Services.

EC-2462. A communication from the Deputy Assistant Secretary of the Air Force (Communications, Computers and Support Systems), transmitting, pursuant to law, notice relative to the costs of operating the grounds maintenance function on Ellsworth Air Force Base; to the Committee on Armed Services.

EC-2463. A communication from the Deputy Assistant Secretary of the Air Force (Communications, Computers and Support Systems), transmitting, pursuant to law, notice relative to the costs of operating the Military Family Housing maintenance function on Langley Air Force Base; to the Committee on Armed Services.

EC-2464. A communication from the Secretary of the Air Force, transmitting, pursuant to law, notice relative to the Unit Cost of a major defense acquisition program; to the Committee on Armed Services.

EC-2465. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the report of the plan for alternative assessment of the survivability of the C-17A aircraft; to the Committee on Armed Services.

EC-2466. A communication from the Principal Deputy Assistant Secretary of Defense (Economic Security), transmitting, pursuant to law, a report entitled "Adequacy of the United States Shipbuilding Industry"; to the Committee on Armed Services.

EC-2467. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the annual report on the Panama Canal Treaties for fiscal year 1993; to the Committee on Armed Services.

EC-2468. A communication from the Secretary of the Navy, transmitting, pursuant to law, the report on the Strategic Sealift Program for fiscal year 1993; to the Committee on Armed Services.

EC-2469. A communication from the Secretary of Energy, transmitting, pursuant to law, the report of the activities relating to the Defense Nuclear Facilities Safety Board for calendar year 1993; to the Committee on Armed Services.

EC-2470. A communication from the Chairman of the Federal Financial Institutions Examination Council, transmitting, pursuant to law, the annual report for calendar year 1993; to the Committee on Banking, Housing, and Urban Affairs.

EC-2471. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on a transaction involving U.S. exports to Italy; to the Committee on Banking, Housing, and Urban Affairs.

EC-2472. A communication from the Acting Director of the Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report on the preservation of minority savings associations for calendar year 1993; to the Committee on Banking, Housing, and Urban Affairs.

EC-2473. A communication from the Acting Director of the Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the annual report on consumers; to the Committee on Banking, Housing, and Urban Affairs.

EC–2474. A communication from the Director (Office of Governmental Relations), Resolution Trust Corporation, transmitting, pursuant to law, the report on covered property for fiscal year 1993; to the Committee on Banking, Housing, and Urban Affairs.

EC–2475. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report on the administration of the Manufactured Home Construction and Safety Standards Program; to the Committee on Banking, Housing, and Urban Affairs.

EC–2476. A communication from the Chair of the Public and Assisted Housing Occupancy Task Force, transmitting, pursuant to law, the report of the Public and Assisted Housing Occupancy Task Force; to the Committee on Banking, Housing, and Urban Affairs.

EC–2477. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report on foreign investment in U.S. agricultural land for calendar year 1993; to the Committee on Agricultural, Nutrition and Forestry.

EC–2478. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–2479. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals dated April 1, 1994; referred jointly, pursuant to the order of January 30, 1975, as modified by the order April 11, 1986, to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition and Forestry, the Committee on Armed Services, the Committee on Banking, Housing and Urban Affairs, the Committee on Commerce, Science and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on the Judiciary, and the Committee on Small Business.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

Rudy deLeon, of California, to be Under Secretary of the Air Force;

Gilbert F. Decker, of California, to be an Assistant Secretary of the Army; and

Sara E. Lister, of the District of Columbia, to be an Assistant Secretary of the Army.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

The following named officer to be placed on the retired list in the grade indicated under the provisions of Title 10, United States Code, Section 1370:

To be admiral

Adm. Frank B. Kelso, II, U.S. Navy, 410–50–8737.

(The above nomination was reported with the recommendation that he be confirmed.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1341. A bill to establish the Wheeling National Heritage Area in the State of West Virginia, and for other purposes (Rept. No. 103–249).

By Mr. BAUCUS, from the Committee on Environment and Public Works, without amendment:

S. 2019. An original bill to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act"), and for other purposes (Rept. No. 103–250).

By Mr. ROCKEFELLER, from the Committee on Veterans Affairs, with amendments:

S. 1904. A bill to amend title 38, United States Code, to improve the organization and procedures of the Board of Veterans' Appeals.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOLE:

S. 2016. A bill to establish a National Commission on the Future of Disability, and for other purposes; to the Committee on Finance.

By Mr. McCAIN (for himself and Mr. INOUYE):

S. 2017. A bill to prohibit regulations that classify, enhance, or diminish the privileges and immunities of an Indian tribe relative to other federally recognized Indian tribes, and for other purposes; to the Committee on Indian Affairs.

By Mr. PRESSLER:

S. 2018. A bill to reauthorize Public Law 81-815 (School Construction), and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BAUCUS:

S. 2019. An original bill to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act"), and for other purposes: from the Committee on Environment and Public Works; placed on the calendar.

By Mr. SARBANES (for himself, Mr. WARNER, and Ms. MIKULSKI):

S. 2020. A bill to authorize the establishment of a pilot program to provide environmental assistance to non-Federal interest in the Chesapeake Bay watershed, and for other purposes; to the Committee on Environment and Public Works.

By Mr. RIEGLE (for himself, Mr. D'AMATO, Mr. KERRY, and Mr. METZENBAUM) (by request):

S. 2021. A bill to clarify the statute of limitations for actions brought by the Federal Deposit Insurance Corporation and the Resolution Trust Corporation as conservator or receiver; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. STEVENS:

S. 2022. A bill to reduce waste of fishery resources off Alaska by eliminating the catch of prohibited species, requiring full retention of economic discards and full utilization of processing waste, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 2023. A bill to provide for the transfer of certain real property to the General Services Administration and for other purposes; to the Committee on Governmental Affairs.

By Mr. BYRD:

S.J. Res. 180. A joint resolution to provide for the appointment of an executive secretary for the United States Capitol Preservation Commission, and for other purposes; considered and passed.

By Mr. SIMON (for himself, Ms. MOSELEY-BRAUN, Mr. COCHRAN, and Mr. THURMOND):

S.J. Res. 181. A joint resolution to designate the week of May 8, 1994, through May 14, 1994, as "United Negro College Fund Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE:

S. 2016. A bill to establish a National Commission on the Future of Disability, and for other purposes: to the Committee on Finance.

NATIONAL COMMISSION ON THE FUTURE OF DISABILITY ACT

Mr. DOLE. Mr. President, 25 years ago today I rose to give my maiden speech as the newly elected junior Senator from Kansas. It concerned a minority group whose existence affects every person in our society and the very fiber of our Nation.

It is an exceptional group which I joined another April 14th, during World War II. As I said then, it is a group no one joins by personal choice, and neither respects nor discriminates by age, sex, wealth, education, skin color, religious beliefs, political party, power, or prestige.

It is a group that for too long had known exclusion—maybe not exclusion from the front of the bus, but perhaps from even climbing aboard it; maybe not exclusion from pursuing advanced education, but perhaps from experiencing any formal education; maybe not exclusion from day-to-day life itself, but perhaps from an adequate opportunity to develop and contribute to his or her fullest capacity.

Mr. President, it is a minority, yet a group to which at least one out of every five Americans belongs.

PROGRESS IN 25 YEARS

Mr. President, I was speaking then about Americans with disabilities—today 49 million persons, 24 million of whom are severely disabled. As I said in 1969, and which is still true today, the challenge to our Nation is to help foster their independence, dignity, and security.

As my fellow Senators know well, we have worked hard over the years to meet these goals. In fact, they are the foundation of the Americans with Disabilities Act, a sweeping law to promote equal opportunity and full participation.

Mr. President, today I will speak of the progress we have made in the past 25 years, and what remains to be done.

ARCHITECTURAL BARRIERS

In 1969, I called for greater removal of architectural barriers. At that time, there was only a single Federal law requiring accessibility, and it applied only to new or newly renovated Federal buildings.

In 1973, the Rehabilitation Act expanded this mandate to all federally funded programs, including State and local governments. People with disabilities are citizens and taxpayers, and it was unconscionable that they were denied the benefits of publicly supported services.

Since then, we have learned that providing accessibility is often not difficult—where there is the will. Thus, in 1990, with ADA, we required reasonable accommodations by businesses and other private entities.

Perhaps in no other area have we had such visible success. Last May, even before the effective dates of ADA, GAO reported that accessibility is generally good. ADA should eliminate many of the remaining barriers. I have been deeply impressed, in my home State of Kansas and elsewhere, that despite the real costs and some uncertainties about what ADA requires, people recognize how important accessibility is and are willing to do their part.

EDUCATION OF CHILDREN WITH DISABILITIES

Mr. President, I also spoke about the need to improve education for children with disabilities. Back then, the Council for Exceptional Children estimated that less than one-third of children needing special ed received it. And many thousands with severe or multiple disabilities had little or no education.

In 1975, Congress passed a national law, the Education of All Handicapped Children Act, based on pioneering State laws, to make sure children with disabilities had the same opportunity as others for a "free and appropriate education."

Today, almost 5 million young people, 10 percent of all students, have a disability. Their education poses many challenges. As Senators DODD and JEFFORDS recently pointed out, Congress has never kept its promise to pay 40 percent of the extra costs of special ed. Inclusive education works when supports are available, and that costs money. And I am also deeply concerned about the high percentage of African-Americans and other minorities assigned to special education.

I hope when we reauthorize the Individuals with Disabilities Education Act next year we can help fix these and other problems.

HEALTH CARE

Mr. President, then as now, health care is an important and understandably emotional issue for many people with disabilities. We have done much, if not enough, through Medicare and Medicaid, to provide medical insurance. In fact, coverage of people with severe disabilities is about the same as for the general population—85 percent—though they more often depend on these Federal programs.

There is perhaps no other group for whom health care reform offers such opportunity and such peril. For those who have stayed out of the job market in order to keep their Medicare or Medicaid, health care reform will hopefully mean they can look for work with the confidence they can obtain other—and perhaps better—medical insurance.

Like all Americans, people with disabilities want security, simplicity, and portability. I also know they are looking for services which today are not covered or only partly covered by many insurance plans—including personal assistance, assistive technology and durable medical equipment, and rehabilitation services. I can make no promises, but I hope we can do better.

But, Mr. President, we must also be sobered by the very real limits of medical care. Medical science has never been more successful at keeping people alive, but sometimes at the price of severe, lifelong disability.

I recently received a letter from the parents of a child in a small town in south central Kansas, near the Oklahoma border. They wrote:

> We desperately love our [1-year-old] son and want to do everything we possibly can for him. His health problems were so severe that specialists in Wichita told us we probably would never take him home from birth. . . . [H]e does not have the part of the brain needed for intellect, reasoning, etc.
>
> We live in a rural area where there are not many resources for a family such as ours. Where do we turn for special help?

Yes, there is help for this family, but we are still humbled by what medical science cannot do.

INTERNATIONAL HUMAN RIGHTS

Mr. President, disability is a matter of human rights. In July I introduced a bill to require the Secretary of State to examine discrimination against people with disabilities in the annual report on human rights. My bill received broad bipartisan support—26 cosponsors across the political spectrum.

The Secretary of State was listening. In this year's report, each of the 190 countries covered, from Angola to Zimbabwe, includes a short section on people with disabilities. Some of the accounts are distrubing. In our country, for example, infants born with birth defects are considered sorcerers, and sometimes killed at birth. But other reports are encouraging. Even in some low-income countries, there are real efforts at advocacy and opportunity.

Mr. President, this report sends the message around the world that America respects the rights of all people, including those with disabilities.

DIGNITY AND RESPECT

We have also made important contributions in other areas—including housing, transportation, assistive technology, and help to families of people with disabilities. I have been proud to be part of many of these initiatives. In 1983, I created the Dole Foundation, which I am pleased to say has awarded over $5 million in grants.

But perhaps the greatest success has been in how people with disabilities are viewed—no longer with pity, but with respect for their dignity and recognition that disability is a natural part of the human condition. Where institutional care and dependency were often considered inevitable, today independent living is an important goal. The Federal Government backs this view with dollars. In August, I cut the ribbon at a brand new independent living center in Dodge City, in the western, most rural part of my State. Kansas now has 12 independent living centers, bringing their services within reach of most citizens.

Indeed, 50 years ago, we had a President, Franklin Roosevelt, who could not walk and believed it necessary to disguise that fact from the American people. Today I trust that Americans would have no problem in electing as President a man or woman with a disability.

But this is not something Congress can take credit for. It is something people with disabilities have done for themselves.

In 1970, I spoke on the Senate floor about a young woman, Judy Heumann, who I read about in the New York Times. Ms. Heumann filed a lawsuit because the New York City School Board had refused her a teaching job simply because she was unable to walk and used a wheelchair.

Well, she won that lawsuit and today is the Assistant Secretary for Special Education and Rehabilitation Services in the U.S. Department of Education.

And I, congratulate the advocacy community. When I arrived in the Senate, there were few organizations representing the interests of people with disabilities in Washington. In the early 1970's, the forerunner of today's Consortium for Citizens With Disabilities was formed. Now CCD is a vigorous association of over 130 member agencies, representing millions of Americans with disabilities and their families.

PERSISTENT JOBLESSNESS AND POVERTY

Mr. President, the news is not all good, however. The poet Archibald Macleish once wrote, "America is always promises." But America's biggest promise—a job—is too often an empty promise to the disabled. According to a Census Bureau report released several weeks ago, only 52 percent of people with disabilities are working, and only 23 percent of those with a severe disability.

Even more disturbing, other surveys have shown that over the past 15 years, the percentage of people with disabilities not working has remained constant, or even increased.

I would not be concerned if people were well off. But they are not. According to a 1992 GAO study, 45 percent of families headed by a person with a disability, and 65 percent of single parents or single persons with a disability, live in poverty. These numbers are startling, and I bet unknown to most people.

The Federal Government certainly has tried to help. Between just two programs, social security disability insurance and supplemental security income, it spent $54 billion last year for cash incomes to people with disabilities.

There is no career ladder for social security recipients. The lesson here is simple: for people with disabilities, as for most Americans, working is essential to a decent income. We need to help people get off the disability check and onto a paycheck.

DISABILITY FUTURE

Mr. President what's wrong, and what's the remedy? In my view, there are two big problems. First, as I said back in September, our vocational rehabilitation program is outdated. Our social security disability programs still discourage people from going to work. True, we have created work incentives, but few use them.

Second, our expectations for people with disabilities have changed. What was once acceptable is not any longer. Indeed, many Federal disability programs are in trouble. We can have little confidence that our priorities are right or that our money is well spent.

There are also other nondisability programs that serve large numbers of people with disabilities that need attention. For example, 27 percent of welfare mothers are either disabled or have a child with a disability. Both Republican and Democratic welfare proposals generally exempt such individuals from reforms. We mean well, I know, but I fear we are doing these individuals no favor.

Mr. President, if we are in trouble today, consider the future. Little attention is paid to the rapidly growing number of people with disabilities. In my view, disability will soon become the Nation's No. 1 health care and social welfare issue.

Unfortunately, good ideas for change are in short supply, especially compared to many other areas of policymaking—such as defense and national security, telecommunications, education, and employment. The Federal Government itself funds little disability policy research. Worse, as one disability expert has stated bluntly, "We in disability services continue to plan for yesterday * * * to overcome the problems of a decade ago."

Our Federal agencies haven't been much help, either. As Senator MOYNIHAN has said at least twice in the past 6 months, the Social security administration "has been brain dead in a policy sense for 15 years."

A NATIONAL COMMISSION ON THE FUTURE OF DISABILITY

Mr. President, for these reasons I introduce today a bill to establish a National Commission on the Future of Disability. Its purpose is to examine all the Nation's disability programs; evaluate them according to the Goals of ADA—equal opportunity, full participation, independent living, and economic self-sufficiency; recommend priorities; and prepare us for the 21st century. It must interpret this charge very broadly. And it must look to the unfulfilled opportunities of rehabilitation science.

This commission is also charged with actually writing bill text. Good ideas are fine, but we need something to work with.

CONCLUSION

This, then, Mr President, is the sum and substance of my 25th anniversary speech in the Senate. I know of no more important subject matter, not solely because of my personal interest, but because in our great country, to quote the President, "we have not a single person to waste." I think this is something we can all agree on, Republican or Democrat.

No doubt about it, much work remains. But I know we are ready and willing.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2016

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Commission on the Future of Disability Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Nation's proper goals regarding individuals with disabilities are to ensure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals;

(2) the vast changes underway in the workplace, information technologies, and other aspects of society have been insufficiently studied for the opportunities and hazards such changes present for individuals with disabilities;

(3) the Federal Government has created many programs to serve the needs of individuals with disabilities, including programs that provide financial assistance, medical care, education, vocational rehabilitation, housing, transportation, legal assistance, and rehabilitation research and training, but many of these programs operate in a manner that is inconsistent with the Nation's goals, work at cross-purposes with each other, are outdated, or could otherwise be improved, and new programs to serve individuals with disabilities may need to be established;

(4) there are Federal programs that are not viewed as disability programs, yet serve significant numbers of individuals with disabilities, and the impact and value of such programs for individuals with disabilities have received insufficient attention;

(5) the Nation is not well informed about the increasing number of Americans with disabilities, and disability is a health and social welfare issue of growing proportions, for which the Nation is ill prepared; and

(6) it is incumbent upon the Federal Government to examine its programs that serve individuals with disabilities to ensure they are consistent with the Nation's goals, reflect the best use of the its resources, and properly anticipate societal and technological change.

SEC. 3. ESTABLISHMENT.

There is established a commission to be known as the National Commission on the Future of Disability (referred to in this Act as the "Commission").

SEC. 4. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall develop and carry out a comprehensive study of all matters related to the nature, purpose, and adequacy of all Federal programs serving individuals with disabilities, in particular, programs authorized under the Social Security Act, in terms of both current performance and future value.

(b) MATTERS STUDIED.—The Commission shall prepare an inventory of Federal programs serving individuals with disabilities, and shall examine—

(1) trends and projections regarding the size and characteristics of the population of individuals with disabilities, and the implications of such analyses for program planning;

(2) the feasibility and design of performance standards for the Nation's disability programs;

(3) the adequacy of Federal efforts in rehabilitation research and training, and opportunities to improve the lives of individuals with disabilities through all manners of scientific and engineering research; and

(4) the adequacy of policy research available to the Federal Government, and what actions might be undertaken to improve the quality and scope of such research.

(c) RECOMMENDATIONS.—The Commission shall submit to the appropriate committees of the Congress and to the President recommendations and, as appropriate, proposals for legislation regarding—

(1) which (if any) Federal disability programs should be eliminated or augmented;

(2) what new Federal disability programs (if any) should be established;

(3) the suitability of the organization and location of disability programs within the Federal Government;

(4) other actions the Federal Government should take to prevent disabilities and disadvantages associated with disabilities; and

(5) such other matters as the Commission considers appropriate.

SEC. 5. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) IN GENERAL.—The Commission shall be composed of 12 members, of whom—

(A) four shall be appointed by the President, of whom not more than 2 shall be of the same major political party;

(B) two shall be appointed by the Majority Leader of the Senate;

(C) two shall be appointed by the Minority Leader of the Senate;

(D) two shall be appointed by the Speaker of the House of Representatives; and

(E) two shall be appointed by the Minority Leader of the House of Representatives.

(2) REPRESENTATION.—The Commission members shall be chosen based on their education, training, or experience. In appointing individuals as members of the Commission, the President and the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives shall seek to ensure that the membership of the Commission reflects the diversity of individuals with disabilities in the United States.

(b) COMPTROLLER GENERAL.—The Comptroller General shall serve on the Commission as an ex officio member of the Commission to advise and oversee the methodology and approach of the study of the Commission.

(c) PROHIBITION AGAINST OFFICER OR EMPLOYEE.—Each individual appointed under subsection (a) shall not be an officer or employee of any government.

(d) DEADLINE FOR APPOINTMENT; TERM OF APPOINTMENT.—Members of the Commission shall be appointed not later than 60 days after the date of enactment of this Act. The members shall serve on the Commission for the life of the Commission.

(e) MEETINGS.—The Commission shall locate its headquarters in the District of Columbia, and shall meet at the call of the Chairperson, but not less than four times each year during the life of the Commission.

(f) QUORUM.—Ten members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—Not later than 15 days after the members of the Commission are appointed, such members shall designate a Chairperson and Vice Chairperson from among the members of the Commission.

(h) CONTINUATION OF MEMBERSHIP.—If a member of the Commission becomes an officer or employee of any government after appointment to the Commission, the individual may continue as a member until a successor member is appointed.

(i) VACANCIES.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made not later than 30 days after the Commission is given notice of the vacancy.

(j) COMPENSATION.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(k) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 6. STAFF AND SUPPORT SERVICES.

(a) DIRECTOR.—

(1) APPOINTMENT.—Upon consultation with the members of the Commission, the Chairperson shall appoint a Director of the Commission.

(2) COMPENSATION.—The Director shall be paid the rate of basic pay for level V of the Executive Schedule.

(b) STAFF.—With the approval of the Commission, the Director may appoint such personnel as the Director considers appropriate.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(e) STAFF OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist in carrying out the duties of the Commission under this Act.

(f) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, statistical data, and other information from the Library of Congress and agencies and elected representatives of the executive and legislative branches of the Federal Government. The Chairperson of the Commission shall make requests for such access in writing when necessary.

(g) PHYSICAL FACILITIES.—The Administrator of the General Services Administration shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for proper functioning of the Commission.

SEC. 7. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may conduct public hearings or forums at the discretion of the Commission, at any time and place the Commission is able to secure facilities and witnesses, for the purpose of carrying out the duties of the Commission under this Act.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable the Commission to carry out its duties under this Act. Upon request of the Chairperson or Vice Chairperson of the Commission, the head of a Federal agency shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devices shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 8. REPORTS.

(a) INTERIM REPORT.—Not later than 1 year prior to the date on which the Commission terminates pursuant to section 9, the Commission shall submit an interim report to the President and to the Congress. The interim report shall contain a detailed statement of the findings and conclusions of the Commission, together with the Commission's recommendations for legislative and administrative action, based on the activities of the Commission.

(b) FINAL REPORT.—Not later than the date on which the Commission terminates, the Commission shall submit to the Congress and to the President a final report containing—

(1) a detailed statement of final findings, conclusions, and recommendations; and

(2) an assessment of the extent to which recommendations of the Commission included in the interim report under subsection (a) have been implemented.

(c) PRINTING AND PUBLIC DISTRIBUTION.—Upon receipt of each report of the Commission under this section, the President shall—

(1) order the report to be printed; and

(2) make the report available to the public upon request.

SEC. 9. TERMINATION.

The Commission shall terminate on the date that is 2 years after the date on which the members of the Commission have met and designated a Chairperson and Vice Chairperson.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Mr. HARKIN. Mr. President, I commend the distinguished majority leader—or minority lead, excuse that little slip of the tongue there—the Senator from Kansas, for his tireless leadership of the people of this country in the area of disabilities. Last night I went home and sat down on the sofa and reread Senator DOLE's maiden speech given in this Chamber 25 years ago. I first read it during the debates on the ADA, and I went home last night and read it again.

I thought, as I read it, just how prescient he was at that time, in 1969, and how far ahead of the curve he really was in thinking, conceptualizing about the role of people with disabilities in our society.

For 25 years he has been a tireless leader in breaking down those barriers, the physical barriers and the attitudinal barriers, that people have in this country against people with disabilities.

He has been in the forefront of every fight that this Congress had had to break down those barriers and open up opportunities from the Rehabilitation Act of 1973, the Education for all Handicapped Americans Act of 1975; of course, the Americans with Disabilities Act could not have gotten through without his strong leadership. Even in the international arena, Senator DOLE has consistently pushed for the rights of people with disabilities.

Indeed, since that maiden speech of his 25 years ago, we have come a long way in this country, but we could not have come this far in these 25 years without the strong leadership of Senator DOLE, who understood these disability issues far better and far before many of us who came after, and who was willing to work in a bipartisan effort to see that our policies and our legislative activities moved us in the direction of independence, inclusion, and empowerment for all Americans.

So while Senator DOLE and I may have various disagreements on other issues, this is one in which I am proud to stand by his side and to back him up in every effort that he has taken since I have been privileged to be a Member of the Senate, again in enhancing opportunities and breaking down the barriers to people with disabilities. The speech that he gave 25 years ago was really a call to conscience, and it was a call for us as Americans to put aside the prejudices and the fears that we have had in the past of people with disabilities and to understand that not only was it in their best interests that we break down those barriers, that we gave them full inclusion and empowerment in society, but that it was in all of our interests as Americans to do so.

So again I commend today Senator DOLE for those 25 years of courageous leadership, to commend him for the new legislative effort he has undertaken, and to let him know I will do whatever I can to work with him in a bipartisan spirit to continue the great efforts that he started 25 years ago.

Mr. DOLE. Mr. President, let me extend my thanks to the Senator from Iowa. As we all know, he has been the real leader on disability issues. We have been able to work together. This is not a partisan issue, as he knows. He has experienced as a family member what disability is all about, and I think that makes us all a little bit more sensitive.

So I wish to congratulate the Senator from Iowa for the great work he has done over the years, and it has been my privilege to join with him on many of those occasions. And again, as he said, this transcends partisanship. There is nothing partisan about dealing with these issues, never has been in this body, and I do not expect there ever will.

Mr. BIDEN. Mr. President, I, too, would like to congratulate Senator DOLE. Senator DOLE has always reminded me of a comment my father would often make to his children. He used to say, "Never complain and never explain. Just go do it."

One of the things about BOB DOLE is his character is reflected in all that legislation that was recited here. I have never heard the man complain. I never heard him explain. I have just seen him fight for the things he thinks important.

I admire him and say congratulations for 25 years of making life better for a whole lot of people in this country.

By Mr. MCCAIN (for himself and Mr. INOUYE):

S. 2017. A bill to prohibit regulations that classify, enhance, or diminish the privileges and immunities of an Indian tribe relative to other federally recognized Indian tribes, and for other purposes; to the Committee on Indian Affairs.

THE INDIAN REORGANIZATION ACT OF 1934 AMENDMENTS ACT

• Mr. MCCAIN. Mr. President, today I am introducing legislation to amend section 16 of the Indian Reorganization Act of 1934. I am pleased that the distinguished chairman of the Committee on Indian Affairs, Senator INOUYE, has joined me as a cosponsor of this bill.

This bill is intended to stimulate discussion about the interpretation of section 16 of the Indian Reorganization Act [IRA] by the Department of the Interior. It has recently been brought to my attention that for most of the past 60 years the Department has interpreted section 16 to authorize the Secretary to categorize or classify tribes as being either "created" or "historic." A created tribe is apparently regarded as lacking retained inherent sovereign authority because it is viewed as being something less than a tribe. According to the Department, created tribes are only authorized to exercise such authority as the Secretary may confer on them. On the other hand, historic tribes are deemed to retain all inherent sovereign authority not otherwise limited or divested by a treaty or an act of Congress.

I find absolutely no basis in law or policy for the manner in which section 16 has been interpreted by the Department of the Interior. One of the reasons stated by the Department for distinguishing between created and historic tribes is that the created tribes are new in the sense that they never existed before. At the same time, the Department insists that it cannot tell us which tribes are created and which are historic because this is determined through a case-by-case review. All of this ignores a few fundamental principles of Federal Indian law and policy. Neither the Congress nor the Secretary can create a tribe where none previously existed. Not only is this simple common sense, it is also the law as enunciated by the Federal courts.

Section 16 of the IRA did not authorize the Secretary to create Indian tribes. Congress itself cannot create Indian tribes, so there is no authority for the Congress to delegate to the Secretary in this regard. The recognition of a tribe by the Federal Government is just that—the recognition that there is a sovereign entity with governmental authority which predates the U.S. Constitution and with which the Federal Government has established formal relations. All that section 16 was intended to do was to provide authority and procedures for the adoption, amendment, and approval of tribal constitutions for those tribes that choose to employ its provisions.

I have concluded that a serious mistake has been made by the Department in construing the intent of Congress in enacting section 16. Such a mistake would be possible since this section of the IRA was literally written in a conference between the House and Senate by taking "* * * phrases from the bill that had passed the House and other phrases from the bill that had passed the Senate * * *" according to the great legal scholar Felix Cohen, who urged caution in the interpretation of section 16.

Clearly, the interpretation which has been developed by the Department is inconsistent with the principal policies underlying the IRA, which were to stabilize tribal governments and to encourage self-government. These policies have taken on additional vitality in the last 20 years as the Congress has repudiated and repealed the policy of termination and enacted the Indian Self-Determination and Education Assistance Act and the Tribal Self-Governance Project. The effect of the Department's interpretation of section 16 has been to destabilize tribal governments. Tribes face uncertainty about which category the Department would place them in and, in addition, those tribes placed in the created category face uncertainty about the specific governmental authorities the Department believes they possess.

On its face, section 16 does not authorize or require the Secretary of the Interior to draw distinctions between tribes or to categorize them based on their powers of governance. As Mr. Cohen noted in his 1942 Handbook on Federal Indian Law, the IRA "* * * had little or no effect upon the substantive powers of tribal self-government vested in the various Indian tribes * * *". The courts have consistently construed the IRA to have had no substantive effect on tribal sovereign authority.

One example of the absurdity of the Department's interpretation of section 16 involves the Pascua Yaqui Tribe in Arizona. Despite explicit direction from the Congress in 1978, the Department has determined that the Pascua Yaqui Tribe is a created tribe and that it therefore lacks the authority to provide law enforcement services on its reservation under the Indian Self-Determination and Education Assistance Act. This interpretation of the IRA, the Self-Determination Act, and the Pascua Yaqui legislation of 1978 not only flies in the face of these acts of Congress, it completely ignores centuries of history of the Pascua Yaqui people and their Toltec forebears.

In decisions involving other tribes, the Department has determined that created tribes lack the authority to establish judicial systems or to enact laws setting forth procedures for evicting tenants from tribal housing. I am sure that we will never know the number and the full extent of the absurd and unnecessary determinations which have resulted from the Department's reading of section 16. We do know that the implementation of the basic policies implicit in the IRA and the self-determination and self-governance laws will continue to be impeded by the Department's interpretation of section 16 unless we act to correct this situation.

I believe that Federal Indian law and policy clearly supports the view that tribes that have been recognized by the Federal Government stand on an equal footing to each other. That is, each federally recognized Indian tribe has the same governmental status as other federally recognized tribes by virtue of their status as Indian tribes with a government-to-government relationship with the United States. Each federally recognized tribe is entitled to the same privileges and immunities as other federally recognized tribes and have the right to exercise the same inherent and delegated authorities.

The legislation we are introducing today will prohibit the Department from implementing its erroneous interpretation of section 16. By enacting this bill we will provide the stability for tribal governments which the Congress thought it was providing 60 years ago when the IRA was enacted and we will remove a barrier to the full implementation of the policies of self-determination and self-governance.

We have been advised that the Department may soon take action on its own to correct its interpretation of section 16. I would certainly welcome such action by the Department. Depending on what action is taken, it may well be necessary to consider revising the legislation we are introducing today. As I stated earlier, this bill is intended to promote discussion about this issue. Any actions taken by the Department to correctly interpret section 16 of the IRA will be a welcome and constructive addition to those discussions.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2017

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 16 of the Act of June 18, 1934 (25 U.S.C. 476) is amended by adding at the end the following new subsections:

"(f) PRIVILEGES AND IMMUNITIES OF INDIAN TRIBES; PROHIBITION ON NEW REGULATIONS.—Departments or agencies of the United States shall not promulgate any regulation or make any decision or determination pursuant to the Act of June 18, 1934, as amended, or any other Act of Congress, with respect to a federally recognized Indian tribe that classifies, enhances, or diminishes the privileges and immunities available to the Indian tribe relative to other federally recognized tribes by virtue of their status as Indian tribes.

"(g) PRIVILEGES AND IMMUNITIES OF INDIAN TRIBES; EXISTING REGULATIONS.—Any regulation or administrative decision or determination of a department or agency of the United States that is in existence or effect on the date of enactment of this Act and that classifies, enhances, or diminishes the privileges and immunities available to a federally recognized Indian tribe relative to the privileges and immunities available to other federally recognized tribes by virtue of their status as Indian tribes shall have no force or effect.".•

By Mr. PRESSLER:

S. 2018. A bill to reauthorize Public Law 81-815 (School Construction), and for other purposes; to the Committee on Labor and Human Resources.

SCHOOL CONSTRUCTION IMPACT AID PROGRAM REAUTHORIZATION ACT

Mr. PRESSLER. Mr. President, I rise today to introduce legislation to reauthorize Public Law 81-815, the construction portion of the Impact Aid Program.

As Congress continues the reauthorization of the elementary and secondary education programs, I feel strongly that school facility funding can not be overlooked. Some young people are striving to gain their education in school facilities that provide a less than ideal learning environment.

Out-dated equipment coupled with overall deplorable school facilities in some parts of this country distract rather than support the learning environment. Updating equipment and renovating school facilities would be a big step towards providing a level playing field. But this costs money, lots of money for construction projects.

In the case of the Impact Aid Program, providing additional funding is a Federal responsibility. Public Law 81-815 authorizes funds for constructing and renovating schools where federally connected students are in attendance.

For the benefit of my colleagues, a federally connected student is the term used to describe students in school districts affected by a Federal Government activity; for example a military base, Indian reservation, or a national park. These federal activities remove taxable land or have other revenue consequences for local funding of school districts. The Impact Aid Program, under both Public Law 81-874 and Public Law 81-815, authorizes Federal funds to make up for this loss of local revenue.

I have already introduced legislation to revise and reauthorize Public Law 81-874. S. 874, cosponsored by 15 of my colleagues, is awaiting further action by the Committee on Labor and Human Resources. Today, I am pleased to introduce legislation to reauthorize and improve Public Law 81-815.

During the last reauthorization of the Elementary and Secondary Education Act, I offered an amendment to require the General Accounting Office [GAO] to examine Public Law 81-815 in order to determine: First, the gap between the eligible requests and the amount available for school construction funds; and second, whether the Department's criteria for ranking unfunded projects are equitable. Mr. President, I ask unanimous consent that the GAO letter to me dated July 12, 1990 (GAOHRD90-90), be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. GENERAL ACCOUNTING OFFICE,
Washington, DC, July 12, 1990.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate.

Hon. LARRY PRESSLER,
U.S. Senate.

The Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988 directed us to review the federal school construction program for school districts affected by federal activities. This program (authorized by P.L. 81-815) provides federal funds for constructing and renovating schools in districts that educate "federally connected" children, such as those whose parents live and/or work on military installations and Indian reservations. These funds are used to provide classrooms and classroom equipment to qualifying school districts. The Department of Education determines applicant eligibility, calculates the federal share of construction project costs,[1] and awards grants to school districts.

The Congress funded almost all eligible requests for school construction assistance between 1950 (when the program began) and 1967. However, since 1967, federal appropriations have been insufficient to fund the estimated federal share of all construction projects in federally impacted school districts. The continuing shortfall has resulted in a substantial backlog of eligible unfunded projects in districts with federally connected enrollment increases,[2] nontaxable federal property, children residing on Indian land, and Indian land. The Department ranks, for funding purposes, these unfunded projects in priority order based, in part, on the number of federally connected children eligible for payment in the school district.

As agreed with your offices, we determined (1) the gap between the eligible requests for school construction funds and the amount of available Public Law 81-815 funds and (2) whether the Department's criterion for ranking unfunded projects is equitable.

RESULTS OF OUR ANALYSIS

Department records show that as of fiscal year 1988, the estimated funding gap was about $200 million. This figure, however, is misleading because it includes the estimated federal costs of projects in school districts that may no longer be eligible for the program, as well as the costs of projects that are no longer needed by the districts. This figure also includes project cost estimates that have not been revised to reflect increased school construction costs. Therefore, the actual amount of the gap is unknown because the Department does not regularly reconfirm applicants' eligibility nor revise outdated funding estimates.

The Department's criteria for (1) computing priority numbers (scores) of eligible projects for funding purposes and (2) ranking projects are equitable, but the Department does not periodically reevaluate these scores once projects are ranked on waiting lists. Priority scores reflect federally connected enrollments and school construction needs when districts applied for assistance; however, most project requests are at least 12 years old. These project scores may be outdated and invalid because for many of the projects we reviewed, the school districts subsequently completed their projects without federal assistance. In addition, federally connected enrollments have declined in some districts. Thus, since the Department does not periodically reevaluate project priority scores to reflect this kind of information, it cannot provide the Congress with an accurate ranking of federally impacted schools with current school construction needs.

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[1] For example, the federal share of school construction costs to certain eligible school districts is the product of the number of federally connected children eligible for payment and the state's average per pupil cost of school construction.

[2] "Enrollment" is referred to by the Department as "membership." If state law does not define membership, the Department defines it as the number of children listed on a school district's current enrollment records.

The law requires that those school districts that qualify for assistance based on federally connected enrollment increases receive payments based on the average state per pupil construction costs near the time of application. Because of increased construction costs, such school districts with projects that have been waiting for federal payments for many years will receive a smaller share of total construction costs than they would have received had they been funded promptly.

RECOMMENDATION TO THE CONGRESS

We recommend that the Congress amend Public Law 81-815 to require that school construction payments to eligible school districts with federally connected enrollment increases (those eligible under section 5) be based on average state per pupil construction costs in the year these projects are funded.

RECOMMENDATION TO THE SECRETARY OF EDUCATION

To ensure that the Congress and the Department have accurate information when they make program decisions, we recommend that the Secretary require school districts to apply annually for school construction assistance so that project requests reflect (1) school districts' current enrollments of federally connected children and school construction needs and (2) the current estimate of the federal share of school construction costs. (See p. 20.)

MATTER FOR CONSIDERATION BY THE CONGRESS

To provide federal assistance to more eligible school districts and thereby reduce the backlog of unfunded projects, the Congress may want to consider authorizing the Secretary of Education to distribute available appropriations among a greater number of higher-priority projects. This could be accomplished by reducing on a pro-rata basis funds awarded to school districts with the greatest school construction needs. (See p. 20.)

AGENCY COMMENTS

The Department of Education generally agreed with our recommendation to the Congress. However, it said that our recommendation to the Secretary, requiring annual school construction applications, may also require a legislative change to implement.

The Department raised several concerns about the (1) disposition of currently unfunded projects if an annual process was instituted and (2) the administrative burden that such a process may place on school districts. The National Association of Federally Impacted Schools had similar comments about this recommendation.

Both the Department and the association disagreed with our suggestion to distribute limited program funds on a pro-rata basis. These and other comments along with our evaluation are included on pages 20–25 of this report. We made changes to the text where appropriate.

We are sending copies of this report to the Secretary of Education, appropriate congressional committees, the National Association of Federally Impacted Schools, and other interested parties. Please call me on (202) 275-1793 if you or your staff have any questions about this report. Other major contributors are listed in appendix VIII.

FRANKLIN FRAZIER,
Director, Education and Employment Issues.

Mr. PRESSLER. Mr. President, one of the major problems, as identified in this GAO letter is out-dated eligible requests. A good example of this would be the application from the Dupree School District in my home State. Their application to the Department of Education has remained unfunded since 1974—20 years, Mr. President. Other school districts have had the same problem—growing enrollments causing overcrowded school facilities, but no construction funding available.

The bill I am introducing today limits the eligibility of a construction funding request to three years. If the eligible request has not received funding, a new request may be submitted to the Secretary of Education, thereby keeping school district applications current to reflect accurate funding needs under this law.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2018

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SCHOOL CONSTRUCTION.

The Act entitled "An Act relating to the construction of school facilities in areas affected by Federal activities, and for other purposes" approved September 23, 1950 (20 U.S.C. 631 et seq.) is amended to read as follows:

"SECTION 1. STATEMENT OF PURPOSE AND AUTHORIZATION OF APPROPRIATIONS.

"(a) STATEMENT OF PURPOSE.—It is the purpose of this Act to provide financial assistance to federally impacted school districts which are urgently in need of—

"(1) school facilities in school districts—

"(A) that have substantial increases in school membership as a result of new or increased Federal activities; and

"(B) the membership of which includes children in need of minimum school facilities; and

"(2) facility improvements or structural modifications due to the need to meet life safety codes, average daily attendance requirements, Federal laws, rules or regulations, or curriculum improvements.

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated $29,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1999, to carry out sections 5, 9, 10, and 13.

"(2) ADMINISTRATIVE EXPENSES.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1995 through 1999 for the administrative expenses of the Department of Education.

"(3) AVAILABILITY.—Funds appropriated pursuant to the authority of paragraph (1) shall remain available until expended.

"SEC. 2. PORTION OF APPROPRIATIONS AVAILABLE FOR PAYMENTS.

"(a) IN GENERAL.—For each fiscal year the Secretary shall determine the portion of the funds appropriated pursuant to the authority of section 1 which shall be available for carrying out the provisions of sections 9 and 10. The remainder of such funds shall be available for paying to local educational agencies the Federal share of the cost of projects for the construction of school facilities for which applications have been approved under section 6.

"(b) ALLOCATION BETWEEN SECTIONS 5 AND 13.—In any fiscal year the remainder of funds described in the second sentence of subsection (a) shall be used so that—

"(1) 50 percent of such funds are used for payments under section 5 for such year; and

"(2) 50 percent of such funds are used for payments under section 13 for such year.

"(c) ALLOCATION WITHIN SECTION 5.—In any fiscal year, the amount of funds available for payments under section 5 for such year shall be used so that—

"(1) 50 percent of such funds are available for activities described in section 1(a)(1)(A); and

"(2) 50 percent of such funds are available for activities described in section 1(a)(1)(B).

"SEC. 3. ESTABLISHMENT OF PRIORITIES.

"(a) IN GENERAL.—In the event that funds appropriated pursuant to the authority of section 1 and remaining available for payment to local educational agencies under this Act are less than the Federal share of the cost of the projects with respect to which applications have been filed prior to such date (and for which funds under section 1 have not already been obligated), the Secretary shall make payments under section 5—

"(1) in the case of activities described in section 1(a)(1)(A), on the basis of the highest percentage of children in need of minimum school facilities; and

"(2) in the case of activities described in section 1(a)(1)(B), on the basis of the highest percentage of federally connected students eligible for payment.

"(b) SPECIAL RULE.—Only applications meeting the conditions for approval under this Act (other than section 6(b)(2)(C)) shall be considered applications for purposes of subsection (a).

"(c) INCREASES.—

"(1) IN GENERAL.—The priorities described in this section shall be applied so that applications for payments based upon increases in the number of children residing on, or residing with a parent employed on, property which is part of a low-rent housing project assisted under the United States Housing Act of 1937 shall not be approved for any fiscal year until all other applications for payments under paragraph (1) of section 5(a) for payments relating to military connected children, and under subsections (a) and (b) of section 13 for payments relating to Indian children, have been approved for that fiscal year.

"(2) MILITARY CONNECTED CHILDREN.—For the purpose of paragraph (1), the term 'military connected children' means children described in—

"(A) section 3(a) of Public Law 81-874 who reside on a military installation;

"(B) section 3(b)(1) of such Public Law who reside on a military installation;

"(C) section 3(b)(2) of such Public Law who have a parent employed on a military installation; and

"(D) section 3(b)(3) of such Public Law.

"SEC. 4. FEDERAL SHARE FOR ANY PROJECT.

"(a) IN GENERAL.—Subject to section 5 (which imposes limitations on the total of the payments which may be made to any local educational agency), the Federal share of the cost of a project under this Act shall be equal to such cost, but in no case to exceed the cost, in the school district of the applicant, of constructing minimum school facilities, and in no case to exceed the cost in such district of constructing minimum school facilities for the estimated number of children who will be in the membership of the schools of such agency at the close of the second year following the increase period and who will otherwise be without such facilities at such time.

"(b) DETERMINATION.—For the purposes of subsection (a), the number of such children who will otherwise be without such facilities at such time shall be determined by reference to those facilities which as of the date the application for such project is approved, are included in a project the application for which has been approved under this Act.

"SEC. 5. LIMITATION ON TOTAL PAYMENTS TO ANY LOCAL EDUCATIONAL AGENCY.

"(a) LIMITATION.—

"(1) IN GENERAL.—Subject to the limitations in subsection (c), the total of the payments to a local educational agency under this Act may not exceed the sum of the following:

"(A) The estimated increase, since the base year, in the number of children determined with respect to such agency who live on Federal property and have a parent who works on Federal property multiplied by 100 percent of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated.

"(B) The estimated increase, since the base year, in the number of children determined with respect to such agency who have a parent who lives on or works on Federal property multiplied by 50 percent of such cost.

"(2) COMPUTATION RULE.—In computing for any local educational agency the number of children in an increase under subparagraph (A) or (B) of paragraph (1), the estimated number of children described in such subparagraphs who will be in the membership of the schools of such agency at the close of the increase period shall be compared with the estimated number of such children in average daily membership of the schools of such agency during the base year, except that the base year average daily membership shall be adjusted to exclude the number of children that formed the basis for previous payments on applications approved 30 or more years prior to the close of the increased period for the application for which the determination is made.

"(b) ELECTION.—If both subparagraphs (A) and (B) of subsection (a)(1) apply to a child, the local educational agency shall elect which of such subparagraphs shall apply to such child, except that, notwithstanding the election of a local educational agency to have such subparagraph (B) apply to a child instead of such subparagraph (A), the determination of the maximum amount for such agency under subsection (a)(1) shall be made without regard to such election.

"(c) MINIMUM INCREASE REQUIREMENT.—A local educational agency shall not be eligible to have any amount included in its maximum by reason of subparagraph (A) or (B) of subsection (a)(1) unless the increase in children referred to in such subparagraphs is—

"(1) at least 20; and

"(2)(A) equal to at least 6 percent of the number of federally connected children who were in the average daily membership of the schools of such agency during the base year; or

"(B) at least 750,

whichever is the lesser.

"(d) EXCEPTIONAL CIRCUMSTANCES.—Notwithstanding the provisions of subsection (c) of this section, whenever and to the extent that, in the Secretary's judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purposes of the Act, the Secretary may waive or reduce the minimum number requirement or any percentage requirement described in subsection (c).

"(e) COUNT LIMITATION.—

"(1) IN GENERAL.—In determining under this section the total of the payments which may be made to a local educational agency on the basis of any application, the total number of children counted for purposes of subparagraph (A) or (B) of subsection (a)(1) may not exceed—

"(A) the number of children whose membership at the close of the increase period for the application is compared with average daily membership in the base period for purposes of that paragraph (except that the base year average daily membership shall not include any children counted for purposes of a payment pursuant to an application approved 30 or more years ago), minus

"(B) the number of such children whose membership at the close of the increase period was compared with membership in the base year for purposes of such subparagraph under the last previous application, if any, of the agency on the basis of which any payment has been or may be made to that agency.

"(2) LAST PREVIOUS APPLICATION.—For the purpose of paragraph (1)(B) the term 'last previous application' means the last application for assistance under this Act that was funded within 4 fiscal years preceding the fiscal year for which the determination is made.

"SEC. 6. APPLICATIONS.

"(a) APPLICATION REQUIRED.—No payment may be made to any local educational agency under this Act except upon application therefore which is submitted through the appropriate State educational agency and is filed with the Secretary in accordance with regulations prescribed by the Secretary.

"(b) CONTENTS.—

"(1) IN GENERAL.—Each application by a local educational agency shall set forth the project for the construction of school facilities for such agency with respect to which it is filed, and shall contain or be supported by—

"(A) a description of the project and the site therefore, preliminary drawings of the school facilities to be constructed thereon, and such other information relating to the project as may reasonably be required by the Secretary;

"(B) assurance that such agency has or will have title to the site, or the right to construct upon such site school facilities as specified in the application and to maintain such school facilities on such site for a period of not less than 20 years after the completion of the construction;

"(C) assurance that such agency has legal authority to undertake the construction of the project and to finance any non-Federal share of the cost thereof as proposed, and assurance that adequate funds to defray any such non-Federal share will be available when needed;

"(D) assurance that such agency will cause work on the project to be commenced within a reasonable time and prosecuted to completion with reasonable diligence;

"(E) assurance that, except for emergency relief under section 7 of the Act of September 30, 1950 (Public Law 81-874), all laborers and mechanics employed by contractors or subcontractors on all construction and minor remodeling projects assisted under this Act shall be paid wages at rates not less than those prevailing on similar construction and minor remodeling in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5) and the Secretary of Labor shall have, with respect to the labor standards specified in this subparagraph, the authority and functions set forth in Reorganization Plan Numbered 14 or 1950 and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c), (20 U.S.C. 1232(b));

"(F) assurance that the school facilities of such agency will be available to the children for whose education contributions are provided in this Act on the same terms, in accordance with the laws of the State in which the school district of such agency is situated, as such facilities are available to other children in such school district; and

"(G) assurance that such agency will from time to time prior to the completion of the project submit such reports relating to the project as the Secretary may reasonably require.

"(2) APPROVAL.—Except as provided in paragraph (3), the Secretary shall approve any application if the Secretary finds—

"(A) that the requirements of paragraph (1) have been met and that approval of the project would not result in payments in excess of those permitted by sections 4 and 5;

"(B) after consultation with the State and local educational agencies, that the project is not inconsistent with overall State plans for the construction of school facilities; and

"(C) that there are sufficient Federal funds available to pay the Federal share of the cost of such project and of all other projects for which Federal funds have not already been obligated and applications for which, under section 3, have a higher priority.

"(c) NOTICE AND HEARING.—No application under this Act shall be disapproved in whole or in part until the Secretary has afforded the local educational agency reasonable notice and opportunity for hearing.

"(d) SUBMISSION.—An application for a payment under this Act shall be submitted by June 30 of the fiscal year preceding the fiscal year for which payment is requested. An application submitted pursuant to the preceding sentence shall remain active for a period of 2 fiscal years following the fiscal year for which payment under this Act is requested. If a local educational agency wishes to make an application for payment under this Act after the expiration of the 2-year period described in the preceding sentence such agency shall resubmit an application in accordance with this section.

"SEC. 7. PAYMENTS.

"(a) IN GENERAL.—Upon approving the application of any local educational agency under section 6, the Secretary shall pay to such agency an amount equal to 10 percent of the Federal share of the cost of the project. After final drawings and specifications have been approved by the Secretary and the construction contract has been entered into, the Secretary, in accordance with regulations prescribed by the Secretary and at such times and in such installments as may be reasonable, shall pay to such agency the remainder of the Federal share of the cost of the project.

"(b) REPAYMENT.—Any funds paid to a local educational agency under this Act and not expended for the purposes for which paid shall be repaid to the Treasury of the United States.

"SEC. 8. ADDITIONAL PAYMENTS.

"(a) IN GENERAL.—Not to exceed 10 percent of the funds appropriated pursuant to the authority of section 1(b)(1) for any fiscal year may be used by the Secretary, under regulations prescribed by the Secretary, to make grants to local educational agencies where—

"(1) the application of such agencies would be approved under this Act but for the agencies' inability, unless aided by such grants, to finance the non-Federal share of the cost of the projects set forth in their applications; or

"(2) although the applications of such agencies have been approved, the projects covered by such applications could not, without such grants, be completed, because of flood, fire, or similar emergency affecting either the work on the projects or the agencies' ability to finance the non-Federal share of the cost of the projects.

"(b) SPECIAL RULE.—The grants described in subsection (a) shall be in addition to the payments otherwise provided under this Act, shall be made to those local educational agencies whose need for additional aid is the most urgent and acute, and insofar as practicable shall be made in the same manner and upon the same terms and conditions as such other payments.

"(c) ADDITIONAL APPROPRIATIONS REQUIRED.—The provisions of this section shall take effect only when funds are specifically appropriated to carry out this section.

"SEC. 9. WHERE EFFECT OF FEDERAL ACTIVITIES WILL BE TEMPORARY.

"Notwithstanding the preceding provisions of this Act, whenever the Secretary determines that the membership of some or all of the children, who may be included in computing under section 5 the maximum on the total of the payments for any local educational agency, will be of temporary duration only, such membership shall not be included in computing such maximum. Instead, the Secretary may make available to such agency such temporary school facilities as may be necessary to take care of such membership; or the Secretary may, where the local educational agency gives assurance that at least minimum school facilities will be provided for such children, pay (on such terms and conditions as the Secretary deems appropriate to carry out the purposes of this Act) to such agency for use in constructing school facilities an amount equal to the amount which the Secretary estimates would be necessary to make available such temporary facilities. In no case may the amount so paid exceed the cost, in the school district of such agency of constructing minimum school facilities for such children. The Secretary may transfer to such agency or its successor all the right, title, and interest of the United States in and to any temporary facilities made available to such agency under this section; and such transfer shall be without charge, but may be made on such other terms and conditions, and at such time as the Secretary deems appropriate to carry out the purposes of this Act.

"SEC. 10. CHILDREN FOR WHOM LOCAL AGENCIES ARE UNABLE TO PROVIDE EDUCATION.

"(a) IN GENERAL.—In the case of children who it is estimated by the Secretary in any fiscal year will reside on Federal property at the end of the next fiscal year—

"(1) if no tax revenues of the State or any political subdivision thereof may be expended for the free public education of such children; or

"(2) if it is the judgment of the Secretary, after the Secretary has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children,

the Secretary shall make arrangements for constructing, leasing, renovating, remodeling, or rehabilitating or otherwise providing the minimum school facilities necessary for the education of such children. In any case in which the Secretary makes arrangements under this section for constructing, leasing, renovating, remodeling, or rehabilitating or otherwise providing minimum school facilities situated on Federal property in Puerto Rico, Wake Island, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands, the Secretary may also include minimum school facilities necessary for the education of children residing with a parent employed by the United States though not residing on Federal property, but only if the Secretary determines, after consultation with the appropriate State educational agency, (A) that the construction or provision of such facilities is appropriate to carry out the purposes of this subsection, (B) that no local educational agency is able to provide suitable free public education for such children, and (C) that English is not the primary language of instruction in schools in the locality. Such arrangements may also be made to provide, on a temporary basis, minimum school facilities for children of members of the Armed Forces on active duty, if the schools in which free public education is usually provided for such children are made unavailable to such children as a result of official action by State or local governmental authority and it is the judgment of the Secretary, after the Secretary has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children.

"(b) SPECIAL RULES.—

"(1) COMPARABILITY.—To the maximum extent practicable school facilities provided under this section shall be comparable to minimum school facilities provided for children in comparable communities in the State.

"(2) INAPPLICABILITY.—This section shall not apply to—

"(A) children who reside on Federal property under the control of the Atomic Energy Commission; and

"(B) Indian children attending schools supported by the Bureau of Indian Affairs.

"(3) SPECIAL RULE.—Whenever it is necessary for the Secretary to provide school facilities for children residing on Federal property under this section, the membership of such children may not be included in computing under section 5 the maximum on the total of the payments for any local educational agency.

"(c) TRANSFERS.—When the Secretary determines it is in the interest of the Federal Government to do so, the Secretary may transfer, upon the written request of the local educational agency, to the appropriate local educational agency all the right, title, and interest of the United States in and to any facilities provided under this Act (or section 204 or 310 of Public Law 81–815 as such law was in effect January 1, 1958). Prior to any transfer, the facility shall meet all State and Federal building health and safety codes, regulations and laws. Any such transfer shall be without charge, but may be made on such other terms and conditions and at such time as the Secretary deems appropriate to carry out the purposes of this Act.

"(d) SPECIAL RULE REGARDING TAX REVENUES.—If no tax revenues of a State or of any political subdivision of the State may be expended for the free public education of children who reside on any Federal property within the State, or if no tax revenues of a State are allocated for the free public education of such children, then the property on which such children reside shall not be considered Federal property for the purposes of section 5 of this Act.

"SEC. 11. WITHHOLDING OF PAYMENTS.

"(a) IN GENERAL.—Whenever the Secretary, after providing reasonable notice and opportunity for hearing to a local educational agency, finds that—

"(1) there is a substantial failure to comply with the drawings and specifications for the project;

"(2) any funds paid to a local educational agency under this Act have been diverted from the purposes for which paid; or

"(3) any assurance given in an application is not being or cannot be carried out,

the Secretary may notify such agency that no further payment will be made under this Act with respect to such agency until there is no longer any failure to comply or the diversion or default has been corrected or, if compliance or correction is impossible, until such agency repays or arranges for the repayment of Federal moneys which have been diverted or improperly expended.

"(b) JUDICIAL REVIEW.—The final refusal of the Secretary to approve part or all of any application under this Act, and the Secretary's final action under subsection (a) of this section, shall be subject to judicial review on the record, in the United States court of appeals for the circuit in which the local educational agency is located, in accordance with the provisions of the Administrative Procedure Act.

"SEC. 12. USE OF OTHER FEDERAL AGENCIES TRANSFER AND AVAILABILITY OF APPROPRIATIONS.

"(a) ADMINISTRATION.—In carrying out the provisions of this Act, the Secretary is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or institution, in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

"(b) REQUESTS FOR INFORMATION.—All Federal departments or agencies administering Federal property on which children reside, and all such departments or agencies principally responsible for Federal activities which may give rise to a need for the construction of school facilities, shall to the maximum extent practicable, comply with requests of the Secretary for information the Secretary may require in carrying out the purposes of this Act.

"(c) SPECIAL RULE.—No appropriation to any department or agency of the United States, other than an appropriation to carry out this Act, shall be available for the same purposes as this Act.

"SEC. 13. SCHOOL CONSTRUCTION ASSISTANCE IN OTHER FEDERALLY AFFECTED AREAS.

"(a) ASSISTANCE AUTHORIZED FOR CERTAIN INDIAN CHILDREN.—

"(1) IN GENERAL.—If the Secretary determines with respect to any local educational agency that—

"(A) such agency is providing or, upon completion of the school facilities for which provision is made under this subsection, will provide free public education for children who reside on Indian lands, and whose membership in the schools of such agency has not formed and will not form the basis for payments under other provisions of this Act, and that the total number of such children represents a substantial percentage of the total number of children for whom such agency provides free public education, or that such Indian lands constitute a substantial part of the school district of such local educational agency, or that the total number of such children who reside on Indian lands located outside the school district of such agency equals or exceeds 100;

"(B) the immunity of such Indian lands to taxation by such agency has created a substantial and continuing impairment of such agency's ability to finance needed school facilities;

"(C) such agency is making a reasonable tax effort and is exercising due diligence in availing itself of State and other financial assistance available for the purpose of this section; and

"(D) such agency does not have sufficient funds available to such agency from other Federal, State, and local sources to provide the minimum school facilities required for free public education of a substantial percentage of the children in the membership of its schools,

then the Secretary may provide the additional assistance necessary to enable such agency to provide such facilities upon such terms and in such amounts (subject to the provisions of this section) as the Secretary may consider to be in the public interest, except that such additional assistance may not exceed the portion of the cost of such facilities or improvements or structural modifications which the Secretary estimates has not been, and is not to be, recovered by the local educational agency from other sources, including payments by the United States under any provision of this Act or any other law.

"(2) WAIVER.—Notwithstanding the provisions of this subsection, the Secretary may waive the percentage requirement described in paragraph (1)(A) whenever, in the Secretary's judgment, exceptional circumstances exist which make such actions necessary to avoid inequity and avoid defeating the purposes of this section. Assistance may be furnished under this subsection without regard to paragraph (1)(B) (but subject to the other provisions of this subsection and subsection (e)) to any local educational agency which provides free public education for children who reside on Indian lands located outside its school district.

"(3) DEFINITION.—For purposes of this subsection 'Indian lands' means Indian reservations or other real property referred to in the second sentence of section 14(4).

"(b) ASSISTANCE AUTHORIZED FOR OTHER INDIAN CHILDREN.—

"(1) IN GENERAL.—If the Secretary determines with respect to any local educational agency that—

"(A) such agency is providing or, upon completion of the school facilities for which provision is made under this subsection will provide free public education for children who reside on Indian lands, and whose membership in the schools of such agency has not formed and will not form the basis for payments under other provisions of this Act, and that the total number of such children represents a substantial percentage of the total number of children for whom such agency provides free public education, or that such local educational agency, or that the total number of such children who reside on Indian lands located outside the school district of such agency equals or exceeds 100; and

"(B) the immunity of such Indian lands to taxation by such agency has created a substantial and continuing impairment of such agency's ability to finance needed school facilities,

then the Secretary may, upon such terms and in such amounts (subject to the provisions of this section) as the Secretary may consider to be in the public interest, provide the additional assistance necessary to enable such agency to provide the minimum school facilities required for free public education of children in the membership of the schools of such agency who reside on Indian lands, except that such additional assistance may not exceed the portion of the cost of constructing such facilities which the Secretary estimates has not been, and is not to be, recovered by the local educational agency from other sources, including payments by the United States under any provisions of this Act or any other law.

"(2) WAIVER.—Notwithstanding the provisions of this subsection, the Secretary may waive the percentage requirement in paragraph (1)(A) whenever, in the Secretary's judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purpose of this section. Assistance may be furnished under this subsection without regard to paragraph (1)(B) (but subject to the other provisions of this subsection and subsection (e)) to any local educational agency which provides free public education for children who reside on Indian lands located outside its school district.

"(3) DEFINITION.—For purposes of this subsection 'Indian lands' means Indian reservations or other real property referred to in the second sentence of section 14(4).

"(c) ASSISTANCE AUTHORIZED FOR INADEQUATELY HOUSED CHILDREN.—

"(1) IN GENERAL.—If the Secretary determines with respect to any local educational agency that—

"(A) such agency is providing or, upon completion of the school facilities for which provision is made under this subsection, will provide, free public education for children who are inadequately housed by minimum school facilities and whose membership in the schools of such agency has not formed and will not form the basis for payments under other provisions of this section, and the total number of such children represents a substantial percentage of the total number of children for whom such agency provides free public education, and Federal property constitutes a substantial part of the school district of such agency;

"(B) the immunity of such Federal property from taxation by such agency has created a substantial and continuing impairment of such agency's ability to finance needed school facilities;

"(C) such agency is making a reasonable tax effort and is exercising due diligence in availing itself of State and other financial assistance available for the purpose of this section; and

"(D) such agency does not have sufficient funds available to such agency from other Federal, State, and local sources to provide the minimum school facilities required for free public education of a substantial percentage of the children in the membership of its schools,

then the Secretary may provide the assistance necessary to enable such agency to provide minimum school facilities for children in the membership of the schools of such agency whom the Secretary finds to be inadequately housed, upon such terms and conditions, and in such amounts (subject to the applicable provisions of this section) as the Secretary may consider to be in the public interest. Such assistance may not exceed the portion of the cost of such facilities or improvements or structural modifications which the Secretary estimates has not been, and is not to be, recovered by the local educational agency from other sources, including payments by the United States under any other provisions of this Act or any other law.

"(2) WAIVER.—Notwithstanding the provisions of this subsection, the Secretary may waive the percentage requirement in paragraph (1)(A) whenever, in the Secretary's judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purposes of this section.

"(d) APPLICATION.—No payment may be made to any local educational agency under subsection (a) or (b) except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Secretary in accordance with regulations prescribed by the Secretary, and which meets the requirements of section 6(b)(1). In determining the order in which such applications shall be approved, the Secretary shall consider the relative educational and financial needs of the local educational agencies which have submitted approved applications and the nature and extent of the Federal responsibility. No payment may be made under subsections (a) or (b) unless the Secretary finds, after consultation with the State and local educational agencies, that the project or projects with respect to which the payment is made are not inconsistent with overall State plans for the construction of school facilities. All determinations made by the Secretary under this section shall be made only after consultation with the appropriate State educational agency and the local educational agency.

"(e) PAYMENTS.—Amounts paid by the Secretary to local educational agencies under subsections (a) or (b) may be paid in advance of, or by way of reimbursement for, work performed or purchases made pursuant to the agreement with the Secretary under this section, and may be paid in such installments as the Secretary may determine. Any funds paid to a local educational agency under this section and not expended or otherwise used for the purposes for which paid shall be repaid to the Treasury of the United States.

"(f) INAPPLICABILITY OF CERTAIN PROVISIONS.—None of the provisions of sections 1 through 10, other than section 6(2)(A) shall apply with respect to determinations made under this section.

"SEC. 14. DEFINITIONS AND DETERMINATIONS.

"(a) DEFINITIONS.—As used in this section:

"(1) BASE YEAR.—The term 'base year' means the third or fourth regular school year preceding the fiscal year in which an application was filed under section 6, as may be designated in the application.

"(2) CHILD.—The term 'child' means any child who is within the age limits for which the applicable State provides free public education.

"(3) CONSTRUCT; CONSTRUCTING; AND CONSTRUCTION.—The terms 'construct', 'constructing', and 'construction' include the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, modifying, or extending school facilities; and the inspection and supervision of the construction of school facilities.

"(4) FEDERAL PROPERTY.—(A) The term 'Federal property' means real property which is owned by the United States or is leased by the United States, and which is not subject to taxation by any State or any political subdivision of a State or by the District of Columbia. Except for purposes of sections 5, 10, and 13(c), such term includes—

"(i) real property held in trust by the United States for individual Indians or Indian tribes, and real property held by individual Indians or Indian tribes which is subject to restrictions on alienation imposed by the United States;

"(ii) any low-rent housing (whether or not owned by the United States) which is part of a low-rent housing project assisted under the United States Housing Act of 1937; and

"(iii) any interest in Federal property (as defined in the provisions of clauses (i) and (ii)) under an easement, lease, license, permit, or other arrangement, as well as any improvements of any nature (other than pipelines or utility lines) on such property even though such interests or improvements are subject to taxation by a State or political subdivision of a State or by the District of Columbia.

"(B) Notwithstanding the provisions of subparagraph (A), such term does not include—

"(i) any real property used for a labor supply center, labor home, or labor camp for migratory farm workers; and

"(ii) any real property under the jurisdiction of the United States Postal Service and used primarily for the provision of postal services.

"(5) FREE PUBLIC EDUCATION.—The term 'free public education' means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State.

"(6) INCREASED PERIOD.—The term 'increased period' means the period of 4 consecutive regular school years immediately following such base year.

"(7) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' means a board of education of any public school or other legally constituted local public school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State. Such term includes any State agency which directly operates and maintains facilities for providing free public education or which has responsibility for the provision of such facilities.

"(8) PARENT.—The term 'parent' includes a legal guardian or other person standing in loco parentis.

"(9) SCHOOL FACILITIES.—The term 'school facilities' includes classroom and related facilities; and initial equipment, machinery, and utilities necessary or appropriate for school purposes. Such term does not include athletic stadiums, or structures or facilities intended primarily for athletic exhibitions, contests, or games or other events for which admission is to be charged to the general public. Except as used in sections 9 and 10 such term does not include interests in land and offsite improvements.

"(10) SECRETARY.—The term 'Secretary', unless otherwise specified, means the Secretary of Education.

"(11) STATE.—The term 'State' means a State, the Commonwealth of Puerto Rico, Guam, the District of Columbia, American Samoa, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, or Wake Island.

"(12) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

"(b) DETERMINATIONS.—

"(1) MEMBERSHIP OF SCHOOLS.—(A) The membership of schools shall be determined in accordance with State law or, in the absence of State law governing such a determination, in accordance with regulations of the Secretary, except that, notwithstanding any other provisions of this section, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this section the membership of such child, shall be held and considered—

"(i) if the 2 local educational agencies concerned so agree, and if such agreement is approved by the Secretary, as membership of a school of the local educational agency receiving such tuition payment; and

"(ii) in the absence of any such approved agreement, as membership of a school of the local educational agency so making or contracting to make such tuition payment.

"(B) In any determination of membership of schools, children who are not provided free public education (as defined in subsection (a)(5)) shall not be counted.

"(2) AVERAGE PER PUPIL COST.—The average per pupil cost of constructing minimum school facilities in the State in which the school district of a local educational agency is situated shall be determined by the Secretary on the basis of the average State per pupil construction cost in the year previous to the year of funding (including costs of minimum site improvements, minimum initial equipment, and applicable architectural, engineering, and legal fees). The cost of constructing minimum school facilities in the school district of a local educational agency shall be determined by the Secretary, after consultation with the State and local educational agencies, on the basis of such information as may be contained in the application of such local educational agency and such other information as the Secretary may obtain.

"(3) TIMING AND INFORMATION REQUIREMENT.—Estimates of membership, and all other determinations with respect to eligibility and maximum amount of payment, shall be made as of the time of the approval of the applications for which made, and shall be made on the basis of the best information available at the time of such approval.

"(4) MINIMUM SCHOOL FACILITIES.—Whether or not school facilities are minimum school facilities shall be determined by the Secretary, after consultation with the State and local educational agencies, in accordance with regulations prescribed by the Secretary. Such regulations shall—

"(A) require the local educational agency concerned to give due consideration to excellence of architecture and design;

"(B) provide that no facility shall be disqualified as a minimum school facility because of the inclusion of works of art in the plans therefor if the cost of such works of art does not exceed 1 percent of the cost of the project; and

"(C) require compliance with such standards as the Secretary may prescribe or approve in order to ensure that facilities constructed with the use of Federal funds under this Act shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by individuals with disabilities.".

SECTION-BY-SECTION ANALYSIS OF S. 2018

SECTION 1—PURPOSE AND APPROPRIATION

Purpose—To provide financial assistance to federally impacted schools urgently in need of:

(1) School facilities due to increased enrollment.

(2) School facility improvements or modifications due to ADA or safety codes.

Appropriations—In FY1995, $29 million and FY1996, FY1997, FY1998 and FY1999 such sums as necessary.

SECTION 2—DIVISION OF FUNDS

Priority: Section 9 (temporary facilities), Section 10 (Department of Education Schools) and then divide remaining funds equally between military districts and districts on Indian lands.

SECTION 3—ESTABLISHMENT OF PRIORITIES

All applicants will be reviewed and a priority list will be developed by the Secretary of Education. Projects will be funded starting with highest percentage of students and go on down the list of applicants.

SECTION 4—FEDERAL SHARE OF ANY PROJECT

No project can exceed that actual cost of construction of minimum school facilities.

SECTION 5—LIMITATION ON TOTAL PAYMENTS TO ANY LOCAL EDUCATION AGENCY

Establishes formula for payments to districts serving military dependents. For a district to apply for PL815 funds, the district must have a growth in student enrollment of at least 6% of their enrollment or 750 students, which ever is less

SECTION 6—APPLICATIONS

(1) Description of project

(2) Assurance that LEA has title to site and right to construct. LEA must be able to maintain facility for at least 20 years.

(3) Assurance that LEA has legal authority to undertake construction and finance any non-federal share of project.

(4) Assurance LEA will cause work to be commenced in reasonable time.

(5) Assurance LEA will follow Davis-Bacon Act.

(6) Assurance facilities will be available to children whose education contributions are provided for in this Act.

(7) Assurance LEA will provide reports requested by the Secretary of Education.

(8) Applications due June 30 of fiscal year.

(9) Application not funded within three years will need to be updated to remain active.

SECTION 7—PAYMENTS

Approved applications will be given 10% of the federal share upon approval. Other payments will follow as work is completed. Any unused funds are returned to the U.S. Treasury.

SECTION 8—ADDITIONAL PAYMENTS

Allows the Secretary to make additional payments to school districts which have had their application approved, but cannot finance the non-federal share of the cost of the project.

SECTION 9—WHERE THE EFFECT OF FEDERAL ACTIVITIES WILL BE TEMPORARY

Establishes a procedure for an LEA to receive funds under Section 5 if need is temporary. Secretary of Education has authority to transfer title of temporary facilities to LEA.

SECTION 10—CHILDREN FOR WHOM LEA ARE UNABLE TO PROVIDE EDUCATION

Outlines the criteria for eligibility for schools requesting Department of Education to provide facility. These facilities are built and owned by federal government, however, at some point the Secretary of Education may transfer facility to LEA if LEA agrees.

SECTION 11—WITHHOLDING PAYMENTS

Allows the Secretary of Education to withhold any future payments (after reasonable notice and opportunity for a hearing are extended) from a LEA, if there is a reasonable failure to comply with the drawings and specifications of the project or if any of the funds have been diverted to other purposes.

SECTION 12—USE OF OTHER FEDERAL AGENCIES TRANSFER & AVAILABILITY OF APPROPRIATIONS

Requires federal agency cooperation.

SECTION 13—SCHOOL CONSTRUCTION ASSISTANCE IN OTHER FEDERALLY AFFECTED AREAS

Establishes formula for payments to districts serving students on Indian lands.

Criteria for eligibility:

Immune from taxation; substantial number of students on Indian land; LEA making all efforts to seek funds from state and local sources; insufficient funds from all sources to provide minimum school facilities.

Allows LEA's to construct facilities and renovate existing facilities to meet ADA or safety codes.

SECTION 14—DEFINITIONS AND DETERMINATIONS

By Mr. SARBANES (for himself, Mr. WARNER, and Ms. MIKULSKI):

S. 2020. A bill to authorize the establishment of a pilot program to provide environmental assistance to non-Federal interest in the Chesapeake Bay watershed, and for other purposes; to the Committee on Environment and Public Works.

CHESAPEAKE BAY ENVIRONMENTAL RESTORATION ACT OF 1994

Mr. SARBANES. Mr. President, today I am introducing legislation together with Senator WARNER and Senator MIKULSKI to expand the authority of the U.S. Army Corps of Engineers to assist in the environmental restoration of the Chesapeake Bay. The legislation specifically authorizes a $30 million pilot program for the corps to design and construct water-related environmental and resource protection projects in the Chesapeake Bay including such projects as making beneficial use of dredge material to restore eroding islands and shoreline, creating wetlands, and removing barriers to fish passage in the bay watershed.

The Corps of Engineers has been an integral part of the Chesapeake Bay Program for many years. As the lead Federal agency in water resource management, the corps has completed some of the most comprehensive investigations of the entire Chesapeake Bay basin including a landmark report in 1984 which identified many of the serious problems facing the bay. In addition to the agency's responsibilities for maintaining the navigational channels in the bay, the corps has conducted numerous water resource planning studies and projects, constructed water supply and wastewater treatment systems, implemented regulatory activities, and has provided support to DOD and Army installations within the bay watershed. The corps has played a vital role in the development of the program's complex computer simulation modeling needs, improving our understanding of the watershed's fresh water inflow needs, and regulating valuable wetlands habitats. Clearly, the corps has an important civil engineering, planning, and technical expertise that can be of invaluable help in addressing the myriad of environmental problems facing the bay.

The Chesapeake Bay suffers from several problems which the corps has perhaps the unique capabilities to address—shoreline erosion and sedimentation, wetlands losses, and impediments to fish passage.

Shoreline erosion continues to be a very serious problem in the Chesapeake Bay watershed. The geography and topography of the Chesapeake Bay region make this area particularly susceptible to the processes of erosion and sedimentation. At Smith and Popular Islands in the Maryland waters of the bay, to name only two locations, erosive forces are taking land at such an alarming rate that the very existence of these islands is threatened.

Erosion is not only causing serious property damage, but also contributes nearly 5 million cubic yards of sediment annually to the bay, adversely impacting water quality, habitat, and navigation. During storms, tremendous amounts of sediments are released from these properties and from behind the dams on the Susquehanna, blanketing the bay in a plume of sediment and robbing the bay of life-sustaining sunlight and oxygen. Valuable wetlands, submerged aquatic vegetation, and woodlands, which are a vital part of the bay's ecological system, providing nesting, breeding and feeding areas for populations of finfish, shellfish, and migratory and resident bird species, are being lost to erosion. The sediments are also clogging the bay's navigational channels—our water highways and harbors—creating an additional problem of dredged material disposal.

Over the past century, approximately 45,000 acres, or 70 square miles of land—an area equal in size to the District of Columbia—have been lost to forces of erosion. Unless the problem is addressed soon, under present conditions, many of the bay's lowlands will disappear in the next 100 years.

There is a creative solution that can address the serious erosion problem and help protect and promote the recovery of the bay—making environmentally beneficial use of clean dredged material to stabilize eroding shorelines and restore lost wetlands in the bay. Past efforts have shown that these restoration efforts can be successful. Through its operation and maintenance activities for navigation, the corps has demonstrated successful beneficial use projects using clean dredged material which include: the rebuilding of eroding islands and enhancement of the environment at Barren Island, and wetlands creation and restoration on the James and Anacostia Rivers.

Unfortunately, the corps is currently limited in the degree to which it can participate in environmental restoration projects in the bay. Beneficial use projects using dredged material are generally more expensive than traditional disposal alternatives, such as open water dumping, and Federal policies presently limit the funding and contain other disincentives to making this a viable long-term option. This legislation seeks to provide the Corps of Engineers with the authority and funding to undertake such projects.

The legislation would also permit the corps to play a greater role in the restoration and enhancement of wetlands and aquatic habitat in the Chesapeake Bay. Wetlands have been a vital component of the Chesapeake Bay ecosystem and historically, have been abundant throughout the bay. Unfortunately, our Nation's estuary has experienced a dramatic decline in wetlands averaging over 2,800 acres annually. According to a 1991 report by the Department of the Interior, 73 percent of the wetlands in Maryland that existed in the 1780's are now gone. For Virginia the estimate is 42 percent, and for Pennsylvania, the wetlands loss is 56 percent. These figures together represent a cumulative loss of over 2 million acres of wetlands in the principal three-State Chesapeake basin.

These are some of the most extensive and valuable wetlands along the Atlantic coast, and in the Nation. In fact, the Chesapeake was one of the first wetland areas in the United States to qualify under the "Convention on Wetlands of International Importance Especially as Waterfowl Habitat," commonly known as the Ramsar Convention. The wetlands serve as a source of food and habitat for waterfowl and fish, help filter out sediments and other pollutants, and provide dissolved oxygen to the watercolumn. They are, in short, absolutely essential to the biological integrity of the Chesapeake Bay.

The Chesapeake Bay Program has made restoration and enhancement of wetlands in the bay and its tributaries a top priority for restoring the bay. The program has developed a wetlands policy and implementation plan and committed to no-net loss in the short term, and net-gain in the long term. The Corps of Engineers and other State and Federal agencies have been assigned important responsibilities under that plan, including wetland restoration and creation activities. This legislation would give the corps additional authority to carry out these responsibilities.

A third problem inhibiting the recovery of the Chesapeake Bay which this legislation would enable the corps to address is man-made barriers to fish passage. Through the years, we have seen record declines in stocks of migratory fish including striped bass, American shad, hickory shad, river herring, white and yellow perch, and American eel. These species have historically been among the most economically and ecologically important species in the Chesapeake Bay, supporting extensive fisheries in the States of Maryland, Pennsylvania, and Virginia. Over 1,000 man-made barriers to migratory fish, ranging in size from large hydroelectric projects to road culverts, exist on tributaries throughout the bay watershed. These barriers prevent passage of fish to spawning and nursery habitat essential to the viability of the breeding populations. The general ecology of the bay and its tributaries has been adversely affected by the absence of these fish species which play important roles in the ecosystem's aquatic food chain.

The bay program has devoted significant resources to provide for fish passage at dams and to remove stream blockages wherever necessary to restore natural passage for migratory fish. Significant progress has been made to identify priority tributaries for fish passage initiatives. The coordinated work of the bay community has resulted in the provision of fish passage at four dams in the James River basin, at Conowingo, Holtwood, Safe Harbor, and York Haven Dams in the Susquehanna basin, and at many sites in Maryland. With these larger blockages removed, a magnitude of work remains to be done to restore the historic habitat above these dams. The Corps of Engineers has a critical role to play in the bay program's fish passage initiatives. This legislation will enable the corps to provide its technical expertise in these efforts.

Mr. President, this legislation is a modest proposal. It recognizes the budget constraints and is limited in scope and funding authority. It does not seek to address all of the challenges facing the bay, but it will enable the corps to bring its expertise to bear on some key problems in the Chesapeake Bay watershed.

The legislation is strongly supported by the Chesapeake Bay Commission, the Chesapeake Bay Foundation, and the Maryland Department of Transportation. I ask unanimous consent that letters from these organizations endorsing the legislation be printed in the RECORD. I also ask unanimous consent that the bill be printed in the RECORD.

It is my hope that this legislation will be considered when the Senate takes up the Water Resources Development Act of 1994.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2020

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHESAPEAKE BAY ENVIRONMENTAL RESTORATION AND PROTECTION PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of the Army (referred to in this section as the "Secretary") shall establish a pilot program to provide environmental assistance to non-Federal interests in the Chesapeake Bay watershed.

(2) FORM.—The assistance shall be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects affecting the Chesapeake Bay estuary, including projects for sediment and erosion control, protection of eroding shorelines, protection of essential public works, wastewater treatment and related facilities, water supply and related facilities, and beneficial uses of dredged material, and other related projects that may enhance the living resources of the estuary.

(b) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned, and will be publicly operated and maintained.

(c) LOCAL COOPERATION AGREEMENT.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) REQUIREMENTS.—Each local cooperation agreement entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal, State, and local officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications and an estimate of expected resource benefits.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation and maintenance of the project by the non-Federal interest.

(d) COST SHARING.—

(1) FEDERAL SHARE.—Except as provided in paragraph (2)(B), the Federal share of the total project costs of each local cooperation agreement entered into under this section shall be 75 percent.

(2) NON-FEDERAL SHARE.—

(A) VALUE OF LANDS, EASEMENTS, RIGHTS-OF-WAY, AND RELOCATIONS.—In determining the non-Federal contribution toward carrying out a local cooperation agreement entered into under this section, the Secretary shall provide credit to a non-Federal interest for the value of lands, easements, rights-of-way, and relocations provided by the non-Federal interest, except that the amount of credit provided for a project under this paragraph may not exceed 25 percent of total project costs.

(B) OPERATION AND MAINTENANCE COSTS.—The non-Federal share of the costs of operation and maintenance of carrying out the agreement under this section shall be 100 percent.

(e) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS AND AGREEMENTS.—

(1) IN GENERAL.—Nothing in this section waives, limits, or otherwise affects the applicability of any provision of Federal or State law that would otherwise apply to a project carried out with assistance provided under this section.

(2) COOPERATION.—In carrying out this section, the Secretary shall cooperate fully with the heads of appropriate Federal agencies, including—

(A) the Administrator of the Environmental Protection Agency;

(B) the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration;

(C) the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service; and

(D) the heads of such other Federal agencies and departments and agencies of a State or political subdivision of a State as the Secretary determines to be appropriate.

(f) DEMONSTRATION PROJECT.—The Secretary shall establish at least 1 project under this section in each of the States of Maryland, Virginia, and Pennsylvania. A project established under this section shall be carried out using such measures as are necessary to protect environmental, historic, and cultural resources.

(g) REPORT.—Not later than December 31, 1998, the Secretary shall transmit to Congress a report on the results of the program carried out under this section, together with a recommendation concerning whether or not the program should be implemented on a national basis.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $30,000,000 for fiscal year 1995, to remain available until expended.

CHESAPEAKE BAY COMMISSION,
Annapolis, MD, April 11, 1994.
Hon. Paul Sarbanes,
309 Hart Senate Building,
Washington, DC.

DEAR SENATOR SARBANES: It is my understanding that you will soon be introducing a bill that expands the authority of the Army Corps of Engineers to put clean dredge material to beneficial use. The legislation also provides for enhanced Corps activities related to habitat restoration and fish passage. The Chesapeake Bay Commission strongly endorses this proposal.

The Commission is a tri-state legislative authority composed of members from Maryland, Pennsylvania and Virginia. As a signatory to the Chesapeake Bay Agreements, the Commission serves as the legislative arm of the Bay restoration effort. Federal partnerships have always been viewed by the Commission as pivotal to the cleanup campaign.

We believe that enhanced Corps involvement will serve as a catalyst for activity throughout the region. It will also help to leverage additional dollars from state, local and private sources for beneficial use of dredged material, wetlands creation and the provision of fish passage.

The Commission is a strong supporter of beneficial use of dredged materials and has worked hard to provide fish passage within the watershed. I have enclosed several resolutions which speak to this commitment.

We are encouraged by your shared dedication to these issues and offer our assistance to you as you shepherd this legislation through the Congress. Thank you for your efforts.

Sincerely,

ANN PESIRI SWANSON,
Executive Director.

CHESAPEAKE BAY FOUNDATION,
Annapolis, MD, April 13, 1994.
PAUL S. SARBANES,
309 Senate Hart Office Building, Washington, DC.

DEAR SENATOR SARBANES: I am writing to enthusiastically support your proposal for a pilot program for watershed restoration programs in the Bay. As you know, I have long maintained that we cannot be satisfied with merely stopping the decline of the Chesapeake Bay—Saving the Bay means restoring its health and productivity. The expertise and capability of the Army Corps of Engineers is an essential component of that effort.

There is certainly no lack of need for the types of projects described here—oyster reef construction and wetlands restoration are two that immediately spring to mind. I am sure there will be no difficulty in identifying worthy projects that far outstrip the available funding. I also believe that the success of this effort will provide the kind of national demonstration for which the Chesapeake Bay Program has become justly famous.

In short, this is precisely the kind of program we have been advocating for some time, and we look forward to working with you and the Corps to implement it. Thank you again for all of your efforts on behalf of the Bay.

Very truly yours,
WILLIAM C. BAKER,
President.

MARYLAND DEPARTMENT
OF TRANSPORTATION,
April 14, 1994.
Hon. PAUL SARBANES,
309 Hart Senate Office Building,
Washington, DC.

DEAR SENATOR SARBANES: I was pleased to learn you will introduce a bill authorizing the U.S. Army Corps of Engineers to participate in a $30 million pilot program to design and construct environmental and resource protection projects in the Chesapeake Bay.

Your legislation will not only have a positive impact on the environment of the Bay, but will also be of assistance to Maryland in its effort to maintain the competitive position of the Port of Baltimore.

We have seen a turnaround in the health of the Port of Baltimore in the last two years. While we expect continued growth in cargo and jobs, we are concerned about the ability to adequately and economically maintain channels leading to the port. Each year, the U.S. Army Corps of Engineers needs to dredge approximately 3.5 million cubic yards of clean, environmentally safe material from shipping channels in the Maryland portion of the Chesapeake Bay—just to maintain these channels at their authorized depths. It is becoming increasingly difficult to locate sites where dredged material can be placed in an environmentally sensitive manner. Clearly we must do this—otherwise the competitive position of the Port of Baltimore would be adversely affected.

The State of Maryland, the U.S. Army Corps of Engineers, and other parties concerned with the Chesapeake Bay are working to devise a master plan for dredge disposal which combined "beneficial use projects"—those that actually enhance the bay environment—with more conventional disposal techniques. The bill that you plan to introduce will greatly assist us in this effort.

Increased federal participation in environmental restoration projects in the Chesapeake Bay will improve both the environment and the economic health of the Port of Baltimore. This is one partnership that is needed in Maryland. Your legislation allowing the federal government to participate in this partnership is greatly welcomed. My Department is ready to assist you as this legislation moves through Congress.

Sincerely,
O. JAMES LIGHTHIZER,
Secretary.

Ms. MIKULSKI. Mr. President, I rise today as an original cosponsor to express my strong support for the Chesapeake Bay environmental restoration and protection bill introduced by Senator SARBANES.

This bill expands the authority of the U.S. Army Corps of Engineers to assist in the restoration of the Chesapeake Bay. It establishes a pilot program for the corps to assist in the design and construction of water-related environmental infrastructure and resource protection and development projects.

I have consistently fought for the future of the bay, supporting projects as diverse as erosion control structures at Eastern Neck National Wildlife Refuge, oyster reseeding programs, and funding of improvements to the Back River sewage treatment plant.

This bill represents an important step in my fight for continued protection and restoration of the bay. This bill will allow beneficial uses of dredge materials, protect eroding shorelines, and restore wetlands habitats.

Under this legislation, dredge materials could be used for creative solutions to shoreline erosion and the resulting water quality degradation. By using clean dredge material to rebuild and protect eroding islands, the sediment dumped in the bay would be significantly reduced. Less sediment means improved water quality and a healthier bay. Clean dredge material could also be used to rebuild lost wetlands. Wetlands are a vital link in the bay's ecosystem. They provide essential habitat for waterfowl, fish, and other wildlife.

The corps is an important part of the Federal team that works to protect and restore the bay. It is therefore appropriate for the corps to be allowed to use clean dredged material to improve and restore the bay's environment. It is a natural extension of the corps' current authority.

Unfortunately however, the corps is limited in the extent to which it can participate in such projects. This legislation would reduce the barriers and allow the corps to play a more active and positive role in the bay program. It would remove the disincentives that now stop the corps from using clean dredged materials for environmental restoration. The Chesapeake Bay Commission and the Chesapeake Bay Foundation both strongly support this bill.

I thank my colleague from Maryland, Senator SARBANES, for his vision and leadership on this issue, and I urge all my colleagues in the Senate to support this important effort.

By Mr. RIEGLE (for himself, Mr. D'AMATO, Mr. KERRY, and Mr. METZENBAUM) (by request):

S. 2021. A bill to clarify the statute of limitations for actions brought by the Federal Deposit Insurance Corporation and the Resolution Trust Corporation as conservator or receiver; to the Committee on Banking, Housing, and Urban Affairs.

BANK AND THRIFT STATUTE OF LIMITATIONS CLARIFICATION ACT OF 1994

Mr. RIEGLE. Mr. President, I rise today, along with Senators D'AMATO, KERRY, and METZENBAUM, to introduce by request of the Federal Deposit Insurance Corporation a bill titled the "Bank and Thrift Statute of Limitations Clarification Act of 1994." The bill is the FDIC's proposal to clarify the statute of limitations for actions brought by the FDIC and the RTC as conservator or receiver. The FDIC estimates that over $500 million in claims in pending lawsuits involving FDIC and old FSLIC receiverships, and millions more for claims still under investigation, are at risk for dismissal on statute of limitations grounds if the provisions contained in this bill are not enacted into law. The FDIC further indicates that claims of the same general order of magnitude involving RTC receiverships are similarly at risk.

The FDIC informs me that this legislation is necessary to correct certain court decisions that have interpreted the statute of limitations provisions contained in FIRREA in a manner contrary to the expressed congressional intent regarding those provisions. This legislation would clarify the statute of limitation provisions originally passed in 1989. The FDIC advises that this legislation is critical to allowing them and the RTC to fulfill their missions to hold wrongdoers accountable and to recover losses for the insurance funds and the taxpayers.

I ask unanimous consent that a letter from Acting FDIC Chairman Andrew Hove asking me to introduce the bill on behalf of the FDIC, a copy of the bill, and explanatory materials be reprinted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2021

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bank and Thrift Statute of Limitations Clarification Act of 1994".

SEC. 2. AMENDMENTS TO FEDERAL DEPOSIT INSURANCE ACT.

Section 11(d)(14)(B)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)(B)(i)) is amended by inserting after "receiver" the following: ", regardless of whether the claim may have been barred under any otherwise applicable statute of limitation at the date of such appointment, unless such claim was barred more than 5 years before the date of such appointment".

SEC. 3. APPLICABILITY.

The provisions of this Act shall apply to all actions pending or brought by the Corporation as conservator or receiver on or after August 9, 1989.

FEDERAL DEPOSIT
INSURANCE CORPORATION,
Washington, DC, April 11, 1994.

Hon. DONALD W. RIEGLE, Jr.
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I would like to bring to your attention concerns that the Federal Deposit Insurance Corporation has with respect to recent court decisions interpreting the statute of limitations governing actions brought by the FDIC and the Resolution Trust Corporation as receiver or conservator of failed institutions.

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) provides that the statute of limitations for tort claims brought by the FDIC and the RTC as conservator or receiver is the longer of three years or the period applicable under state law. FIRREA also clearly states that the date on which the statute of limitations begins to run is the *later of* the date of the appointment of the Corporation as conservator or receiver or the date on which the cause of action accrues. Nevertheless, the courts have added the further requirement that the claim must not be barred under state law at the time the FDIC takes over.

As described in the enclosed analysis of the issue, we believe the courts have incorrectly applied the statute of limitations that was established under FIRREA. Also enclosed is legislation intended to clarify FIRREA with respect to this issue. How the statute of limitations is computed is critical to the FDIC's mission to hold bank and tariff officials and professionals accountable and to maximize recoveries from failed institutions. We estimate that over $500 million in claims in pending lawsuits involving FDIC and old FSLIC receiverships, and millions more for claims still under investigation, are at risk for dismissal on statute of limitations grounds if the proposed legislation is not enacted. We understand that claims of the same general order of magnitude involving RTC receiverships are similarly at risk.

I urge you to introduce the proposed legislation and to promote its passage. Legislation to clarify the statute of limitations is critical to allowing the FDIC and the RTC to fulfill their missions to hold wrongdoers accountable and to recover losses for the insurance funds and the taxpayers. Without such legislation, more and more RTC and FDIC professional liability cases will continue to be dismissed on the "technicality" of the statute of limitation having run before the institution failed. Such legislation is important not only to maximize recoveries involving institutions that failed in the past but also to ensure the orderly resolution of institutions that may fail in the future.

Please let me know if you have any questions or need assistance with respect to our proposal.

Sincerely,

ANDREW C. HOVE, JR.,
Acting Chairman.

EXPLANATION OF NEED TO CLARIFY THE STATUTE OF LIMITATIONS

Recent Cases

Courts recently have dismissed a number of FDIC professional liability lawsuits as time-barred. In those cases, the FDIC has sued former officers and directors and professional advisors for negligence, gross negligence or breach of fiduciary duty, for loans that were approved several years before the bank failed and that subsequently defaulted. These loans generally contained serious defects in underwriting, lacking the most basic requirements to protect the bank's interest, such as adequate collateral or adequate financial information indicating that the borrower had the means to repay the loan. In other cases, loans violated specific laws or regulations, such as limits to a single borrower.

Despite the clear misconduct involved in approving such loans, courts have dismissed lawsuits against the responsible bank officials because the claims for the bad loans, which were approved and funded several years before the bank failed, were deemed to have accrued and expired under state statute of limitations *before* the FDIC was appointed receiver. Thus, although such flagrantly irresponsible loan decisions may have been the major cause of the bank's failure, the FDIC has been prevented from seeking recoveries from those who made such damaging decisions.

Until recently, the FDIC and the RTC have had some success in invoking the doctrine of adverse domination to toll the statute of limitations and proceed with lawsuits against responsible officers and directors. *See, e.g., FDIC v. Bryan*, 902 F.2d 1520 (10th Cir. 1990) (copy attached). That doctrine recognizes that the members of the board of directors cannot be expected to sue themselves while they continue to control the board, and thus the statute of limitations is tolled while those members remain in control.

In the past year, however, several courts have, for various reasons, refused to apply the doctrine of adverse domination, at least as established under federal law, to toll the limitations period. The leading case is *FDIC v. Dawson*, 4 F.3d 1303 (5th Cir. 1993), petition for cert. filed, 62 U.S.L.W. —— (U.S. March 21, 1994) (No. 93–1486), where the Fifth Circuit upheld the trial court's decision finding the FDIC's claims against three members of the Board of Directors of the Texas Investment Bank were time-barred (copy attached). In so finding, the court refused to apply federal tolling principles and instead looked to Texas law on adverse domination, which the court found to be more stringent in the requirements that must be met to toll the statute. The court stated that the adverse domination theory would be applied only when the culpable directors constituted a majority of the board and when "wrongdoing or fraud" were involved, not negligence.

Subsequently, a number of courts, particularly district courts in the Fifth Circuit, have followed *Dawson*. *RTC v. Seale*, 13 F.3d 850 (5th Cir., Jan. 26, 1994); *FDIC v. Bel Fay*, Civil Action No. H–91–1273 (S.D. Tex., Dec. 17, 1993); *RTC v. Action*, Civil No. 3:92–CV–0624–H (N. D. Tex., Feb. 1, 1994); *FDIC v. Allison*, No. 6–93–CV–59C (N.D. Tex., Jan. 21, 1994); *FDIC v. Benson*, Civil Action No. H–93–640, (S.D. Tex., March 3, 1994); *FDIC v. Henderson*, 6:91cv481, (E.D. Tex., March 9, 1994). In the *Bel Fay* case, for example, the court applied *Dawson* to dismiss claims against outside directors for gross negligence, and total abdication of duty in approving defective loans, including an insider loan to another director. Further, just this month, the FDIC's case against the defendant owner, CEO and president of the thrift in *Henderson* was dismissed for not satisfying *Dawson* requirements on the adverse domination doctrine even though a federal jury had returned a verdict finding that the defendant was grossly negligent and had breached his fiduciary duty.

The problem is not limited to Texas and the Fifth Circuit. In *FDIC v. Cocke*, 7 F.3d 396 (4th Cir. 1993), petition for cert. filed, 62 U.S.L.W. —— (U.S. March 21, 1994) (No. 93–1485), the Fourth Circuit refused to toll Virginia's one-year statute of limitations and held that the FDIC's claims based on bad loans were time-barred by the time the FDIC was appointed receiver. Under such a short statute of limitations, it is virtually impossible for the FDIC to hold bank officials accountable because it normally takes at least one year from approval of even patently defective loans before the bank is forced to admit that the loans are in default and have caused damage to the institution.

CONGRESSIONAL INTENT

We believe the courts have been incorrectly applying the statute of limitations that was established under FIRREA. As codified at 12 U.S.C. §1821(d)(14), FIRREA provides that the statute of limitations for tort claims brought by the FDIC or RTC as conservator or receiver (the most common type of professional liability claim) is the longer of three years or the period applicable under state law. 12 U.S.C. §1821(d)(14)(A).

As set forth at 12 U.S.C. §1821(d)(14)(B), FIRREA clearly states that the date on which the statute of limitations "*begins to run* . . . shall be the *later of*—

(i) the date of the appointment of the Corporation as conservator or receiver; or

(ii) the date on which the cause of action accrues." (emphasis supplied)

This provision is clear on its face that the statute does not start to run, at a minimum, until the FDIC (or RTC) takes over a bank. Nevertheless, the courts have added the further requirement that the claim must not be barred under state law at the time the FDIC takes over. In other words, FIRREA, despite its plain language to the contrary, has been interpreted not to revive claims that had expired under the state statute of limitations. *E.g., Randolph v. RTC*, 995 F.2d 611 (5th Cir. 1993); *FDIC v. Shrader & York*, 991 F.2d 216 (5th Cir. 1993), *petition for cert. filed*, 62 U.S.L.W. 3336 (Oct. 26, 1993).

That this interpretation may be contrary to Congressional intent, was acknowledged by the court in *RTC v. Sealt*, 13 F. 3d 850 (5th Cir., Jan. 26, 1994) (copy attached), even while it rejected the RTC's claims as time-barred. As the *Seale* court pointed out, there is evidence in the legislative history that Congress intended FIRREA to revive claims that would have been considered stale under state law. As Chairman of the House-Senate Conference on FIRREA, Mr. Chairman, you stated that the statute was intended "to maximize potential recoveries by the Federal Government by preserving to the greatest extent permissible by law claims that otherwise would have been lost due to the expiration of hitherto applicable limitations periods." 135 Cong. Rec. s 10205 (daily ed. Aug. 4, 1989). Moreover, the House-Senate Conference Committee *rejected* a provision stating that FIRREA could *not* revive stale claims. *See Seale*, 13 F.3d 850, 853.

PROPOSED LEGISLATION

Section 1 of the attached legislation makes clear that FIRREA was intended to be interpreted as already written—that is, that the statute of limitations for the claim begins to run on the date the receiver was appointed, *regardless* of whether it was still viable under state law on that date.

However, recognizing a need for some limit on the revivability of claims (*see RTC v.*

Krantz, 757 F. Supp. 915, 921 (N.D. Ill. 1991)), section 1 further provides that claims may not be revived if they had expired more than five years before the FDIC or RTC is appointed receiver. The five-year revival period is designed to strike a balance. It recognizes the reality that defective loans that contribute to bank failure often are approved several years before the institution actually fails and often before the relatively short period (typically, only one, two or three years) under state statute of limitations. At the same time, a revival period of only five years promotes the public policy of a reasonable limit to protect citizens from stale claims.

A time-certain revival is preferable to federal legislation codifying adverse domination because it is mechanical and mathematical. It is thus less likely to spawn litigation on the facts necessary to make or defeat a showing of adverse domination.

Section 2 provides that this legislation applies to all cases filed or pending on or after August 9, 1989, the effective date of FIRREA. Because this legislation is intended to clarify and amplify Congressional intent when originally passing FIRREA, we believe it should not be criticized or dismissed as retroactive. Rather, it merely effects the original intent of FIRREA. But even if it were considered retroactive, this does not in any way raise a constitutional concern. *See Chase Securities Corp. v. Donaldson*, 325 U.S. 304 (1944).

Mr. D'AMATO. Mr. President, today I join with Senators RIEGLE, KERRY, and METZENBAUM in introducing, by request, legislation suggested by the Federal Deposit Insurance Corporation concerning the statute of limitations governing actions by the FDIC and the RTC against parties that have caused losses to closed banks and savings and loans.

In 1989, Congress passed the Financial Institutions Reform, Recovery and Enforcement Act [FIRREA]. In this legislation, Congress provided that the applicable statute of limitations for either the FDIC or RTC would begin on the date the Government is appointed conservator or receiver, or the date on which the cause of action accrues, whichever is later.

According to the FDIC, some courts have dismissed a number of FDIC and RTC suits against parties alleged to have caused losses in Federally-insured institutions on the ground that the applicable State statute of limitations had run prior to the appointment of the FDIC or RTC as conservator or receiver. Due to these cases, the Federal Government may not be able to recover from parties who may have caused substantial losses to the Federal deposit insurance system, and in the case of failed savings institutions, to the American taxpayer. In fact, the FDIC estimates that over $500 million in claims in pending lawsuits could be dismissed on statute of limitations grounds, even though suit was brought within the applicable time limits set out in the 1989 FIRREA legislation.

The legislation proposed by the FDIC provides that the statute of limitations shall begin to run when the Government is appointed receiver or conservator, regardless of whether the claim may have been barred under State law when the institution was taken over. This amendment would apply to all actions pending or brought by the FDIC or RTC as of August 9, 1989.

Mr. President, this legislation would clarify the 1989 legislation, and prevent the continued misinterpretation of a Federal statute of limitations provision that could cost the American taxpayer hundreds of millions of dollars. However, I do have some concerns about retroactive features of the amendment recommended by the FDIC with respect to cases that have already been finally decided. The FDIC has advised that it does not intend to use this authority retroactively, even though as drafted it could be. With this understanding, I am pleased to join Chairman RIEGLE in introducing this bill at the request of the FDIC. I hope to work with the FDIC and my colleagues in the Senate to further perfect this legislation.

By Mr. STEVENS:

S. 2022. A bill to reduce waste of fishery resources off Alaska by eliminating the catch of prohibited species, requiring full retention of economic discards and full utilization of processing waste, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NORTH PACIFIC FISHERIES WASTE REDUCTION ACT

Mr. STEVENS. Mr. President, at the close of these remarks I wish to introduce and have appropriately referred the North Pacific Fisheries Waste Reduction Act of 1994.

The U.N. Food and Agricultural Organization recently listed 12 of the world's 17 major fisheries as overfished or in serious trouble. Luckily, none of our Alaskan fisheries were on that list. My bill will help make sure that Alaska fisheries never get on that list.

The bill would require the North Pacific Fishery Management Council to adopt conservation and management measures to address the excessive waste of valuable fishery resources that does occur in fisheries off Alaska.

Mr. President, specifically, this bill will require the elimination, to the extent practicable, of the incidental harvest of prohibited species, the full retention of economic discards and full utilization of processing waste, the reduction of bycatch of nontarget species, and rebuilding of fish stocks that are at risk of being overfished.

As Members of the Senate know, roughly 60 percent of the fish caught in the U.S. waters, the waters off our continent, are caught off Alaska. That is true in terms of value as well as, I think, in terms of number.

Now, while this bill would apply only to fisheries off Alaska, I believe it would address a significant portion of the United States fisheries where excessive discards, bycatch and waste are occurring. In terms of harvesting fisheries, the problem in Alaska is not necessarily the gear being used but the way the gear is being used. Virtually all the gear in use in the fisheries of the North Pacific could be used more cleanly.

In 1993, some trawl fisheries discarded over half of the target species for economic reasons. Those fish were either too big or too small to be processed by the facilities on board. Some hook and line fisheries discarded 30 percent of the fish they caught.

In 1993, fishermen off Alaska discarded 693 million pounds of groundfish, 14 million pounds of halibut, 19 million crab, and 372,000 salmon.

Now, I do not want to be too critical of this. I think the Senate knows one of my sons is the captain of a fishing vessel. There are many trawl, longline, and pot fisheries off Alaska that take only a very minimal amount of economic discards, bycatch, or prohibited species. It is almost impossible to fish without catching some fish that are not targeted. It is the reduction in waste that is possible in all of these fishing practices, I think, we are after. We want to maximize the number of clean fishermen that we have in the waters off Alaska.

The bill I introduce today would define "bycatch" "economic discards," "processing waste" and "prohibited species" to help delineate between the types of waste that do occur in the North Pacific. By January 1, 1996, our North Pacific Council would be required to include fees or other incentives to reduce economic discards and processing waste in each fishery management plan.

By January 1, 1998, these incentives would be required to include an allocation preference for cleaner fishing practices within each gear group. In other words, those who eliminate waste would be given a preference in the allocation of fishery species in the North Pacific.

My bill would also require the North Pacific Fishery Management Council to submit a plan to the Secretary of Commerce by January 1, 1996, to phase in the full retention and full utilization of all fisheries resources except prohibited species.

The council would also establish a cap for those prohibited species, and on reaching that cap a commercial fishery would be closed for that season.

I wish to make sure the Senate understands that. We would set a limit on the incidental harvesting of species that are not targeted species for that fishery. If the combined fishery catches that amount of fish, then all commercial fishery practices in the area where the prohibited species exist would close.

I was pleased that at a recent appropriations hearing Commerce Secretary

Brown told me the administration would consider fees to reduce waste and bycatch as a part of the fish fee package the administration intends to submit this spring. I urge the Secretary to do that. The fishing industry is not in good shape. It really cannot pay $75 million a year, as the administration proposed, particularly when one remembers that 60 percent of those fees would be paid by people fishing off Alaska's shores. But if the administration proposal creates disincentives for wasteful practices and a way for responsible fishermen to avoid those fees, I believe the fishermen and Members of the Senate—as a matter of fact, I believe the whole Congress—would be willing to support such a concept.

Both the North Pacific Fishery Management Council and the fishing industry have been progressive in the conservation of valuable fisheries resources off Alaska in the past. As I said, the findings show that we have the healthiest area in the world for fisheries; our wild fisheries are the best in the world, we believe. While we sometimes disagree about the means, I think all involved in the Alaska fisheries share the goal of conserving the resources and thereby preserving the fabric of the Alaska economy and the Alaska coastal communities.

Mr. President, the fishing industry is the major employer in my State. The bill I am introducing does not attempt to address the intricate details needed to reduce the waste in those fisheries. It establishes the goals and gives the North Pacific Fishery Management Council the mandate to achieve those goals. I believe they can do it with the full participation of those involved in the fisheries off our State.

I anticipate a healthy reaction. Perhaps some people will disagree. But the bill I am introducing today I believe is one that will cause people to think. It is my hope that this bill will be considered as an amendment to the Magnuson Act, and I look forward to receiving comments as the Congress focuses our attention this year on the reauthorization of that act.

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 2023. A bill to provide for the transfer of certain real property to the General Services Administration and for other purposes; to the Committee on Governmental Affairs.

WRANGELL INSTITUTE ACT OF 1994

Mr. STEVENS. Mr. President, I am introducing legislation today to authorize the return of the Wrangell Institute to the General Services Administration [GSA].

The Wrangell Institute was owned and operated by the Federal government as a Bureau of Indian Affairs [BIA] boarding school and medical facility for Indian and Eskimo children between 1932 and 1975. In 1977, the Department of the Interior [DOI] requested that GSA accept the Wrangell Institute as surplus property. DOI did not mention any contamination in their reports to GSA. In fact, BIA stated there was no contamination and no need for cleanup of the site in the statement of intent to relinquish the property.

In 1977 the GSA surplused the Wrangell Institute and the property was obtained by Cook Inlet Region, Inc. [CIRI] in 1978 with monetary credits from the CIRI Property Account at the U.S. Treasury. CIRI is an Alaska Native Corporation. The Property Account was established by Congress to compensate CIRI for relinquishing their holdings in the Lake Clark National Park in Alaska.

The properties that CIRI relinquished to the government were pristine acreage and are now part of one of the crown jewels of the National Park System. Unfortunately, the property that CIRI received in return was contaminated.

The contamination was left by the Government. The BIA was the sole tenant of the property other than for a short period during World War II when the Army used the Wrangell Institute as a relocation center for Alaska Natives who were evacuated from the Aleutian Islands after the Japanese attack of Dutch Harbor and the Island of Attu.

This legislation would return the property to GSA in return for the original monetary credits, interest on the credits for the period after the contamination was discovered, and expenses incurred due to the contamination. CIRI would be relieved of any liability associated with the contamination caused by the U.S. Government. This is just a matter of fairness. CIRI was not aware of the contamination when GSA transferred the property and they should not have to bear the costs of contamination created by the Federal Government.

The Congressional Budget Office reviewed the bill and found it to have "no net impact on the Federal budget."

By Mr. SIMON (for himself, Ms. MOSELEY-BRAUN, Mr. COCHRAN, and Mr. THURMOND):

S.J. Res. 181. A joint resolution to designate the week of May 8, 1994, through May 14, 1994, as "United Negro College Fund Week"; to the Committee on the Judiciary.

UNITED NEGRO COLLEGE FUND WEEK

• Mr. SIMON. Mr. President, next month the United Negro college Fund [UNCF] celebrates its 50th anniversary. All of us are familiar with UNCF's slogan, "A mind is a terrible thing to waste." And most of us—especially those of us who have served in the other Chamber—know Bill Gray, UNCF's outstanding president and chief executive officer.

But few of us are familiar with the history of UNCF. The organization was the brainchild of Dr. Frederick D. Patterson, who wrote in January, 1943, that the Nation's private black colleges and universities need to "pool their small monies and make a united appeal to the national conscience." Otherwise, he argued, these schools risked their very existence.

It was on May 13, 1944, that "Dr. Pat," as he was affectionately known, formed UNCF by bringing together college, foundation, and business leaders, including: the presidents of private black colleges, including Fisk University, Howard University, Spelman College, Dillard University, Morehouse College, Tuskegee Institute, Clark College, Gammon Theological Seminary—now Interdenominational Theological Seminary; key philantropic leaders representing the Rockefeller Foundation, the Rosenwald Fund; and key business executives such as the head of Lord & Taylor and a representative from John Price Jones. At the time, Dr. Benjamin E. Mays, president emeritus of Morehouse College, said, "Of course, you have in mind our doing this for two or three years, and then going back to what we were doing, don't you?"

Mr. President, I give thanks that UNCF was not just a temporary effort. The first UNCF campaign grossed an impressive $760,000; last year, UNCF's annual campaign grossed more than $58 million, and more than $190 million was raised for Capital Campaign 2000. These efforts have helped support UNCF member institutions so that today they educate nearly 55,000 students.

The Nation, too, should give thanks that UCNF never altered course. Many of our African American leaders attended UNCF member institutions: The Rev. Dr. Martin Luther King, Jr., Vernon Jordan, and former Atlanta Mayor Maynard Jackson attended Morehouse College; Andrew Young, former U.N. Ambassador and Atlanta Mayor, and Ellis Marsalis, jazz musician and instructor, attended Dillard University; Ralph Wiley, author and columnist, attended Knoxville College; attorney and children's advocate Marian Wright Edelman attended Spelman College; Larry Little, Temple University basketball coach and Hall of Fame Miami Dolphins guard, attended Bethune Cookman College; opera diva Leontyne Price attended Wilberforce University; our outstanding Surgeon General, Dr. Joycelyn M. Elders, attended Philander Smith College; Secretary of Energy Hazel Rollins O'Leary attended Fisk University; and former Virginia Governor L. Douglas Wilder attended Virginia Union University.

While UNCF member institutions are not in every state, the alumni are nationwide. In Illinois, they are among the most prominent attorneys, doctors, elected officials, teachers and school administrators. Many of my colleagues have had graduates of UNCF member institutions serve with distinction on their staffs. For almost 9 years, William A. "Bud" Blakey, who attended Knoxville College, served as my subcommittee counsel and staff director in the House of Representatives and here in the Senate. Much of what I accomplished in the areas of education and training was achieved through his counsel and hard work.

Mr. President, we have come a long way in achieving equal opportunity in higher education. But we still have many miles to go. UNCF member institutions are leading the way by providing a quality higher education for a broad cross-section of African-American students.

I commend UNCF's fine work, and I encourage my colleagues to join me and Senator MOSELEY-BRAUN, Senator THURMOND, and Senator COCHRAN in supporting this resolution commemorating the fiftieth anniversary.

I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 181

Whereas in 1943, Dr. Frederick D. Patterson of the Tuskegee Institute convened the first meeting to consider the feasibility of a united appeal on behalf of historically black private colleges and universities;

Whereas on May 13, 1944, the organizing meeting of the United Negro College Fund was held at the Waldorf-Astoria Hotel in New York City;

Whereas Atlanta University, Bethune-Cookman College, Clark College, Dillard University, Fisk University, Gammon Theological Seminary, Morehouse College, Spelman College, and the Tuskegee Institute were the founding member institutions of the United Negro College Fund;

Whereas the initial combined campaign of the United Negro College Fund raised $760,000;

Whereas through the year 1993, the 41 member institutions of the United Negro College Fund now enroll more than 55,000 students, have shared more than $58,000,000, and have raised more than $889,000,000 for the 50th Annual Campaign, and more than $190,000,000 for the United Negro College Fund Capital Campaign 2000; and

Whereas the United Negro College Fund continues to provide students quality academic instruction in a positive learning environment and assists the mission of the Federal Government to promote equal opportunity in higher education: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the week of May 8, 1994, through May 14, 1994, is designated "United Negro College Fund Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate programs, ceremonies, and activities;

(2) Congress salutes and acknowledges the United Negro College Fund, the president of the United Negro College Fund, William H. Gray, III, and the presidents, faculties, staff, and trustees of the 41 member institutions of the United Negro College Fund for their vigorous and persistent efforts in support of equal opportunity in higher education, and commends the students who benefit from the United Negro College Fund for their pursuit of academic excellence; and

(3) this joint resolution may be cited as the "United Negro College Fund 50th Anniversary Resolution".●

ADDITIONAL COSPONSORS

S. 297

At the request of Mr. STEVENS, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 297, a bill to authorize the Air Force Memorial Foundation to establish a memorial in the District of Columbia or its environs.

S. 774

At the request of Mr. WOFFORD, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 774, a bill to authorize appropriations for the Martin Luther King, Jr. Federal Holiday Commission, extend such Commission, establish a National Service Day to promote community service, and for other purposes.

S. 929

At the request of Mr. BREAUX, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 929, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for contributions to individual investment accounts, and for other purposes.

S. 1208

At the request of Mr. WOFFORD, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 1208, a bill to authorize the minting of coins to commemorate the historic buildings in which the Constitution of the United States was written.

S. 1350

At the request of Mr. INOUYE, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1350, a bill to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes.

S. 1485

At the request of Mr. DECONCINI, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 1485, A bill to extend certain satellite carrier compulsory licenses, and for other purposes.

S. 1539

At the request of Mr. INOUYE, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 1539, a bill to require the Secretary of the Treasury to mint coins in commemoration of Franklin Delano Roosevelt on the occasion of the 50th anniversary of the death of President Roosevelt.

S. 1669

At the request of Mrs. HUTCHISON, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 1669, a bill to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction.

S. 1696

At the request of Mr. HATFIELD, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 1696, a bill to amend the Military Selective Service Act to terminate the registration requirement and to terminate the activities of civilian local boards, civilian appeal boards, and similar local agencies of the Selective Service System.

S. 1805

At the request of Mr. WARNER, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1805, a bill to amend title 10, United States Code, to eliminate the disparity between the periods of delay provided for civilian and military retiree cost-of-living adjustments in the Omnibus Budget Reconciliation Act of 1993.

S. 1837

At the request of Mr. RIEGLE, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Illinois [Ms. MOSELEY-BRAUN], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of S. 1837, a bill to suspend temporarily the duty on the personal effects of participants in, and certain other individuals associated with, the 1994 World Cup soccer games.

S. 1952

At the request of Mr. JOHNSTON, the names of the Senator from Oregon [Mr. HATFIELD], the Senator from Hawaii [Mr. INOUYE], the Senator from Vermont [Mr. JEFFORDS], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Maine [Mr. MITCHELL], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 1952, a bill to authorize the minting of coins to commemorate the 175th anniversary of the founding of the United States Botanic Garden.

S. 1983

At the request of Mr. HEFLIN, the names of the Senator from Alaska [Mr. STEVENS] and the Senator from Missouri [Mr. BOND] were added as cosponsors of S. 1983, a bill to provide that the provisions of chapters 83 and 84 of title 5, United States Code, relating to reemployed annuitants shall not apply with respect to postal retirees who are reemployed, on a temporary basis, to serve as rural letter carriers or rural postmaster.

S. 1986

At the request of Mr. BREAUX, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 1986, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the preservation of low-income housing.

SENATE JOINT RESOLUTION 146

At the request of Mr. WOFFORD, the names of the Senator from Louisiana [Mr. BREAUX] and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of Senate Joint Resolution 146, a joint resolution designating May 1, 1994, through May 7, 1994, as "National Walking Week."

SENATE JOINT RESOLUTION 161

At the request of Mr. BUMPERS, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of Senate Joint Resolution 161, a joint resolution to designate April 1994, as "Civil War History Month."

SENATE JOINT RESOLUTION 166

At the request of Mr. SPECTER, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Joint Resolution 166, a joint resolution to designate the week of May 29, 1994, through June 4, 1994, as "Pediatric and Adolescent AIDS Awareness Week."

SENATE JOINT RESOLUTION 172

At the request of Mr. DOLE, the names of the Senator from New York [Mr. MOYNIHAN] and the Senator from Nevada [Mr. REID] were added as cosponsors of Senate Joint Resolution 172, a joint resolution designating May 30, 1994, through June 6, 1994, as a "Time for the National Observance of the Fiftieth Anniversary of World War II."

SENATE JOINT RESOLUTION 174

At the request of Mr. BIDEN, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Ohio [Mr. GLENN], the Senator from Maine [Mr. MITCHELL], the Senator from New Hampshire [Mr. GREGG], the Senator from Colorado [Mr. BROWN], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of Senate Joint Resolution 174, a joint resolution designating April 24 through April 30, 1994 as "National Crime Victims' Rights Week."

SENATE JOINT RESOLUTION 179

At the request of Mr. DOLE, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of Senate Joint Resolution 179, a joint resolution to designate the week of June 12 through 19, 1994, as "National Men's Health Week."

SENATE CONCURRENT RESOLUTION 61

At the request of Mr. WOFFORD, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of Senate Concurrent Resolution 61, a concurrent resolution expressing the sense of the Congress in support of the President's actions to reduce the trade imbalance with Japan.

SENATE CONCURRENT RESOLUTION 62

At the request of Mr. D'AMATO, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of Senate Concurrent Resolution 62, a concurrent resolution expressing the sense of the Congress that the President should not have granted diplomatic recognition to the former Yugoslav Republic of Macedonia.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The hearing will take place on Thursday, April 28, 1994, beginning at 2 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on two bills pending before the subcommittee pertaining to the management of the Presidio in San Francisco. The bills are:

S. 1549, to amend the act establishing Golden Gate National Recreation Area to provide for the management of the Presidio by the Secretary of the Interior, and for other purposes; and

S. 1639, to provide for the management of portions of the Presidio under the jurisdiction of the Secretary of the Interior, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit a written statement is welcome to do so by sending two copies to the Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information regarding the hearing, please contact David Brooks of the subcommittee staff at (202) 224-8115.

NOTICE OF POSTPONEMENT OF HEARING

SUBCOMMITTEE ON WATER AND POWER

Mr. BRADLEY. Mr. President, I regretfully announce for my colleagues and the public the postponement of a hearing scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources. The purpose of the hearing was to receive testimony on the implementation of the Central Valley Project Improvement Act and the coordination of these actions with other Federal protection and restoration efforts on the San Francisco Bay/Sacramento-San Joaquin Delta.

The hearing had been scheduled to take place Tuesday, May 3, 1994 at 2:30 p.m. in room 366 of the Dirksen Senate Building, Washington, DC.

The hearing will be rescheduled for June 1994.

For further information, please contact Dana Sebren Cooper, counsel for the subcommittee at (202) 224-4531, or Leslie Palmer at (202) 224-6836.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 9:30 a.m. on Thursday, April 14, 1994, in open session, to consider the nomination of Adm. Jeremy M. Boorda, USN, to be the Chief of Naval Operations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., April 14, 1994, to receive testimony on the operating and economic environment of the domestic natural gas and oil industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today, April 14, 1994, at 10 a.m., to hear testimony on the subject of academic health centers in health care reform, and to hear and consider the nomination of Joan Logue-Kinder to be Assistant Secretary of the Treasury for Public Affairs and Public Liaison.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. MITCHELL. The Committee on Veterans' Affairs would like to request unanimous consent to hold a markup on pending legislation at 2:45 p.m. on Thursday, April 14, 1994. The markup will be held in room 418 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, April 14, 1994, at 2:30 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGING

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources' Subcommittee on Aging be authorized to meet for a hearing on long-term care and health care reform, during the session of the Senate on April 14, 1994, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH, CONSERVATION, FORESTRY AND GENERAL LEGISLATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research, Conservation, Forestry and General Legislation be allowed to meet during the session of the Senate on Thursday, April 14, 1994, at 3 p.m., in SR-332, on ecosystem management.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAN AIR AND NUCLEAR REGULATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air and Nuclear Regulation, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, April 14, beginning at 9:30 a.m., to conduct a hearing to examine implementation of the administration's climate change action plan and issues associated with adapting to changing circumstances which may result from potential climate change.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EDUCATION, ARTS AND HUMANITIES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources' Subcommittee on Education, Arts and Humanities be authorized to meet for a hearing on ESEA reauthorization, during the session of the Senate on April 14, 1994, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORCE REQUIREMENTS AND PERSONNEL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Force Requirements and Personnel of the Committee on Armed Services be authorized to meet on Thursday, April 14, 1994, at 2 p.m. in open session, to receive testimony regarding the Department of Defense manpower, personnel, and compensation programs related to the national defense authorization request for fiscal year 1995 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE 75TH ANNIVERSARY OF THE NATIONAL EASTER SEAL SOCIETY

• Mr. LIEBERMAN. Mr. President, I rise today before you to acknowledge the 75th anniversary of the National Easter Seal Society which has worked tirelessly to allow people with disabilities to gain independence.

The organization was founded in 1919 by Edgar F. Allen after his son died in a streetcar accident in Elyria, OH. The town did not have a decent health care center and it became Allen's mission to see that one was built. Even after this goal was realized, he continued to work to establish a system of quality care for children with disabilities, administered at the local level.

By 1929, Easter Seals had formed affiliates in 23 States, and since then, it has grown immensely in size and importance. Easter Seals now has 160 affiliates nationwide involved in a wide range of projects which include working to create community-based rehabilitation programs and promoting important legislation such as the Americans with Disabilities Act.

The Easter Seal network of Connecticut, established in 1935, includes six outpatient rehabilitation centers located in Hartford, New Haven, Stamford, Waterbury, Meriden, and Uncasville. These provide the necessary comprehensive outpatient medical and vocational rehabilitation services.

In addition, the Easter Seal Society of Connecticut owns and operates Camp Hemlocks, a barrier-free year-round camping facility located on 160 acres in Hebron, CT. The camp provides recreational and social programs for campers of all ages with various disabilities.

The National Easter Seal Society has been honored by the National Health Council for the past 14 years for being one of the best voluntary health organizations in America. Their work is invaluable and the services they provide are priceless. It is my great privilege to recognize the outstanding work of the National Easter Seal Society as it celebrates 75 years of achievement.•

ALBANIAN-AMERICANS TO MARCH

• Mr. LAUTENBERG. Mr. President, on April 15, members of the Albanian-American community will march in front of the United Nations seeking support for the Albanians in Kosovo.

The human rights of ethnic Albanians, who comprise 90 percent of the population in Kosovo, continue to be violated and their personal safety threatened. The Serbs have tried to recolonize Kosovo with Serbs from elsewhere. Paramilitary forces harass ethnic Albanians and have reported engaged in random beatings of the population. These conditions make life difficult for the ethnic Albanians on a day-to-day basis and encourage many Albanians to leave Kosovo. Indeed, many Albanian males flee Kosovo to avoid being drafted into the Serb dominated Yugoslav army.

More subtle forms of repression permeate the lives of the ethnic Albanians in Kosovo. Hundreds of thousands of ethnic Albanians have been fired from their jobs, and professors of Albanian decent have been dismissed form the local university. Additionally, Albanian children suffer educationally as the Serbs control the curriculum at schools, effectively keeping Albanian children away from school. These conditions should not persist.

The international community must not forget about the ethnical Albanians in Kosovo. Their human rights must be guaranteed Human rights monitors, such as the CSCE monitors who were expelled by the Serbian Government in 1993, should be redeployed to the region. Additionally, resolution of Kosovo and the rights of the ethnic Albanians should be addressed as part of any broader agreement on the Balkans.

Mr. President, I commend all the Albanian-Americans who are marching in front of the United Nations to show their support for the people of Kosovo, and I hope that someday the Albanian community in Kosovo will live in peace.•

DR. NAN S. HUTCHISON BROWARD SENIOR HALL OF FAME NOMINEES

• Mr. GRAHAM. Mr. President, today I would like to recognize and congratulate a group of 11 inspiring citizens from Broward County. These exemplary volunteers have each given their time, talents, and love to their communities.

On May 12, 1994, the following men and women were honored as the new members of the Dr. Nan S. Hutchison Broward Senior Hall of Fame, and their names were added to a commemorative plaque housed in the Broward County government building.

Mildred Cleinman is a dynamic senior who has dedicated countless hours to the Broward County Area Agency on Aging. In addition, she has participated as a guest lecturer for the Broward County School System and she often collects crocheted afghans and shawls for the needy elders of her community.

Shirley Sumner, a true woman of valor, has earned this recognition for her fine work with the American Cancer Society, her efforts as a member of the advisory board of the Broward Homebound Program, for her volunteer work for the Broward County library board, and many other contributions she makes every day to the city of Sunrise.

Aaron Neuhaus has displayed true dedication to the Broward County Council of Senior Citizens. He also helped plan activities to raise money for the Hurricane Andrew Disaster Fund and served as an exceptional president of the Men's Club of Sunrise Lakes.

Theodora Williams is truly a gifted person with an ability to make positive alms to her community. Among her notable contributions, she currently serves as the secretary of the Broward chapter of MADD and as president of the Northeast Federated Woman's Club.

Sylvia Schreiber merits applause for helping enhance the quality of life for seniors residing in Broward County. She has been actively involved with her condominium, serving both as the editor of the condo's official newspaper and as the assistant secretary of the board of directors.

Sid Marcus has dedicated himself to nearly 5,000 young students in Broward County. His ability to teach children effective communications skills have led the county to request his volunteer services to teach the same lesson to other educators.

Ida Kolber has used her musical skills in so many wonderful ways. She has dedicated over 1,200 volunteer hours to Show Shoppers, an organization of senior entertainers which donates all proceeds from its extravaganzas to the Area Agency on Aging.

Joe Welsh has joined the Star of David Memorial Gardens to help families deal with the loss of loved ones. His great compassion is also seen as a volunteer for Meals on Wheels.

Ethel Glass' volunteer efforts in the health-care field are quite extensive. She serves as community liaison for the Sunrise Rehabilitation Hospital, is a member of the community advisory board of Florida Medical Center, is an ongoing speaker for Universal Health Care, and is credited as a very active advocate for the creation of Florida's Department of Elder Affairs.

Anne Oler is a superlative volunteer. She has served as president for the Seniors Foundation of Northwest Broward, Inc., and coordinates the work of over 70 other volunteers.

Lucy Conca is the vice president of the Southwest Focal Point Senior Center in Pembroke Pines. She is also a member of the Sunshine Club, which is a group of entertainers who perform for the elderly.

I wish to congratulate these fine senior citizens who have served diligently and tirelessly in their quest to enhance the lives of others. Florida and Broward County are very fortunate to have such exceptional men and women who give so much to their communities.•

TRIBUTE TO JANE SCHULTZ, RECIPIENT, 1994 MOTHER OF THE YEAR AWARD

• Mr. LAUTENBERG. Mr. President, I rise today to commend an outstanding individual, Mrs. Jane Schultz of Ridgefield, CT. For her unflagging commitment to ensuring the commemoration of her son, Thomas, and the other victims of Pan Am flight 103, Jane Schultz has received the 1994 National Outstanding Mother Award from the Father's Day and Mother's Day Council, Inc.—an honor which she truly deserves. All mothers, of course, devote themselves to their children. But what Jane has accomplished in memory of Thomas is truly extraordinary.

On December 21, 1988, Pan Am flight 103 was destroyed by a terrorist bomb over Lockerbie, Scotland. In the aftermath of that tragedy, Jane devoted herself to honoring her son and the 269 other individuals who died on that flight, the result of a terrorist act against the United States. On the fifth anniversary of the bombing, a cairn of 270 Scottish sandstones, a gift from the people of Scotland, was erected at Arlington National Cemetery. I was honored and touched to be in attendance at the groundbreaking ceremony, to hear Jane speak of her and her husband's loss, standing in front of the memorial site with President Clinton by her side.

I have known Jane for 5 years—since the tragic explosion. I have been inspired by her dedication and that of the other families and friends of the victims of flight 103, in their efforts to effect change and to ensure that we never forget. That is why I felt so strongly about sponsoring the resolution that allowed the placement of the cairn in Arlington Cemetery. Jane was instrumental in this effort, which overcame considerable opposition.

The cairn will serve as a meeting place, allowing the families and friends of the victims to truly grieve and to feel a sense of purpose and unity in their struggle to make this world a better place in the names of their sons, daughters, fathers, mothers, friends, and relatives.

As the executive vice-president of the Victims of Pan Am Flight 103, Jane Schultz also led the struggle to ensure passage of the 1990 Aviation Security Act, a measure designed to protect U.S. citizens from further terrorist attacks. She has worked tirelessly, not only to establish a permanent reminder of her son's passing, but also to present his death as a symbol of tragedy for the world. Thomas and the other passengers aboard flight 103 were innocent victims of ruthless terrorism.

Jane Schultz has proven beyond a doubt that she is not only a wonderful mother, but a true humanitarian as well. I am proud of and humbled by Jane. Her dedication is an inspiration to us all.•

FACES OF THE HEALTH CARE CRISIS

• Mr. RIEGLE. Mr. President, I rise today in my continuing effort to put a face on the health care crisis in our country. I would like to share the story of Robert from Lansing, MI. Robert has a chronic medical condition, is unemployed, and he lost his health insurance in a recent divorce. Robert does not want his last name used because he fears it might hurt his employment search.

Robert is 55 years old. Last summer during a routine physical examination he was diagnosed with type II diabetes. This is the most common type of diabetes and affects about 13 million Americans. This type of diabetes can be well controlled. But if left untreated, type II diabetes can lead to kidney failure, gangrene and amputation, blindness or stroke. It is important that people with diabetes follow a daily treatment plan that includes monitoring their blood-sugar levels and seeing a health care practitioner regularly. Robert monitors his blood sugar at home and has a borderline level. But he does not see a physician because he has no insurance and he cannot afford one.

In January of this year, Robert lost his health insurance when his divorce was finalized. Prior to the divorce, he and his family had obtained coverage for the past 15 years through his wife's employer, Michigan State University. Their plan provided excellent, comprehensive benefits with limited copayments to the employees. Robert's 14-year-old son, John, continues to receive benefits through this policy. Because he is unemployed, Robert could not afford to continue his health insurance policy by paying the $200 a month premium.

During Robert's career he has been a science and math teacher, an elected local public official and, most recently, the owner of a small business. Robert has never needed to obtain benefits through his own employment because of the comprehensive benefits offered through his former wife's employer. For 5 years he was a co-owner of a small solar energy conservation firm that failed in 1993. Since that time he has been looking for employment as a teacher, but the market is saturated and he has not found a position yet. He has been told on several occasions that his masters degree makes him overqualified and unaffordable for the school district.

Robert would go to the doctor for his borderline blood sugar level, but since he no longer has insurance, he feels he cannot afford it. After losing his health insurance benefits, Robert was forced to cancel a followup appointment with a nerve specialist for a pinched nerve condition that developed last summer.

Robert had been seeing this specialist when he had coverage, but after losing his benefits, he could not afford to pay for the $75 office visit out-of-pocket.

Robert is concerned about his future as an uninsured individual. At 55, he is getting to the age where it is difficult to find a job. Currently, he is living on savings and borrowed money while he looks for a teaching position. Because of his unemployed status, Robert is unable to purchase a health insurance policy.

In addition, Robert fears that diabetes will be considered a preexisting condition by health insurance companies and prevent him from obtaining the coverage he needs when he becomes financially able to purchase it.

Robert is in a situation facing many Americans across the country. Because health insurance coverage is usually tied to the employment of an individual or spouse, unemployment and divorce leave many people struggling to get affordable coverage. Robert has a chronic medical condition that can be controlled with proper treatment but can lead to devastating and expensive complications if not medically monitored. Lack of insurance means that cost-effective opportunities to prevent serious medical problems are missed. And preexisting condition exclusions in health insurance policies means that individuals with great need for care will be denied coverage.

Robert and every American deserve to have affordable health care coverage regardless of their unemployment or marital status. Existing medical conditions should not pose a barrier to getting coverage for care. Mr. President, I will continue to work with my colleagues in the House and Senate, and with the White House to make sure that comprehensive health care reform is enacted this year.●

ACTIONS OF HAMAS IN ISRAEL

● Mr. LAUTENBERG. Mr. President, I rise to express my outrage over the recent violent actions of the extremist fundamentalist group HAMAS in Israel.

Over the past 2 weeks, HAMAS supporters unleashed the worst terrorist violence Israel has experienced in 5 years.

Yesterday, a suicide bomber killed 5 Israelis and wounded another 30 people by blowing up a commuter bus in Hadera.

Last week, another suicide bomber pulled up to a bus stop in Afula, Israel, and detonated his car bomb, killing himself and 7 innocent people and wounding 44 others.

The following day, a Palestinian opened fire on a group of passengers waiting at a bus stop in Ashdod, killing one and injuring four. As the victims were being carried from Ashdod site, sirens wailed to commemorate the 6 million Jewish victims of the Nazi Holocaust.

HAMAS is responsible for unleashing these acts of wanton violence. HAMAS has stated that the Afula bombing was but the first of five attacks they are planning to avenge the Hebron massacre of last February. They had specifically threatened a terrorist action for Thursday's Independence Day celebration in Israel.

There is nothing ambiguous about HAMAS' goals: HAMAS supporters seek to derail the peace process. This sort of violent behavior by HAMAS is not out of character.

This group of militant fundamentalists has done its best to wreak havoc on the peace process since the Madrid Conference in the fall of 1991.

When Israel and the PLO signed the Declaration of Principles on the White House lawn last September, enemies of peace such as HAMAS became alarmed that the chronic state of war between Israelis and Arabs might actually be coming to an end, and they have redoubled their efforts to stop the process in its tracks.

Mr. President, HAMAS' terrorism must not be allowed to succeed. All along, we have known that the road to peace would not be easy or without violence. We have known that success would depend on leaders with vision and with the steadfastness required to see that vision realized.

The battle lines now are drawn between those who are for peace and those who want to continue the misery and bloodshed that has characterized the Arab-Israeli struggles for decades.

When a radical extremist killed 29 Palestinians in Hebron in February, Prime Minister Rabin acted forcefully. He condemned the act in the strongest terms and cracked down on extremist organizations.

Arafat has expressed regret about the latest senseless attack against innocent civilians and recognized that it "strikes at the heart of the peace process." Unfortunately, he stopped short of an absolute condemnation of the act.

And when innocent Israelis—and indeed Arabs—were brutally murdered and maimed in HAMAS' terrorist actions last week, PLO leader Arafat refused to condemn the act. When asked to do so, he turned and walked away. This is unacceptable. Arafat must condemn every senseless act of terrorism against innocent civilians.

We should not allow HAMAS to triumph by pushing Arafat away from the peace process. No one but HAMAS wins if any party abandons the peace process.

Mr. President, terrorist incidents such as occurred in Afula and Ashdod last week are putting a severe strain on the Israeli people's faith in the peace process.

Mr. Arafat's failure to distinguish himself and his organization from murderous groups like HAMAS and the Palestinian Islamic Jihad will only increase Israelis' distrust and undermine the Israeli Government's ability to continue to negotiate with the PLO.

Time is not on the side of the peacemakers in the Middle East. The longer people are prevented from realizing the benefits of the peace process, the longer murderous groups like HAMAS will have the ability to continue their bloody ways.●

HOSPICE CARE VOLUNTEERS

● Mr. LIEBERMAN. Mr. President, I rise today before you to acknowledge the volunteers of Hospice Care and their significant contributions to the care of persons with life-threatening illnesses. Hospice Care Inc. of Connecticut, a nonprofit organization, was founded in 1981 to provide patients and their families with the medical care and support services that they require to maintain a comfortable level of life during difficult times. Throughout its 13 years of service, these highly trained volunteers, along with company professionals, have provided home care and short-term inpatient care for over 2,000 of southwestern Fairfield County's residents.

Hospice Care volunteers are involved in every aspect of the organization's daily operations. They assist patients with household chores, provide companionship and support, and offer other invaluable services. Volunteers also serve in administrative positions, work to increase public awareness, raise funds for the organization, and function as the board of directors. Many have been with the organization since its founding and will remain to carry on its fine work in the future.

These volunteers have selflessly given their time and energy to help their fellow residents of Connecticut, and the emotional stresses of providing such service cannot be denied. I am extremely proud to acknowledge the success and commitment of Hospice Care's volunteers.●

REPEAL OF SOUTH AFRICAN DIVESTMENT LAW

● Mr. LAUTENBERG. Mr. President, in New Jersey this week, legislation repealing New Jersey's historic South African divestment law was signed into law.

South African now stands in the crossfire of change and opportunity as a new nation, one nation for all people. Breaking down the racist apartheid regime of the past has been a long and difficult task for the people of South Africa. I believe economic sanctions were the one tool that had the effect of influencing a country to live up to its responsibility to all of its citizens. The victory is for those who supported the sanctions which made the movement toward democracy possible.

New Jersey and America must never be afraid to use its economic power to promote justice and freedom. That is why I am so pleased that Willie Brown led the charge in the New Jersey State legislature many years ago to write the law requiring divestment. It is also why, in the Senate, I cosponsored and supported Federal legislation to impose tough sanctions against South Africa as one way to influence the end of abuses under the apartheid system.

In my own visit to South Africa many years ago, I witnessed first-hand, the injustice and oppression of the apartheid system. As I walked the streets of Soweto, I saw people living in squalor, barred by law from having equal educational or professional opportunity. Those that protested were imprisoned, tortured, or killed.

Now, as we look to investment again in South Africa, we must look to economic programs which will have a meaningful impact on education, health, and business development in the townships. For the first time, blacks will vote and ensure their part in crafting that agenda.

World attention has recently been drawn to the fighting that has erupted between the Zulu Nation and the supporters of the ANC. These incidents raise the troubling prospect that violence may stand as an obstacle to democratic reform in a country desperate to embrace that very theme. Violence must not derail this historic process. The people of South Africa have waited too long for the apartheid regime to come crumbling down. The United States must play a constructive role in promoting and facilitating the move to democracy and work to ensure that South Africa has the economic ability to make the transition to democracy.

Mr. President, I am proud that Assemblyman Brown led the fight to focus New Jersey's attention on the plight of South Africans, without apology and with a steely resolve. He made New Jerseyans understand that we could not support a system which mandated that a majority of its citizenry had no voice in government.•

S. 21, CALIFORNIA DESERT PROTECTION ACT

• Mr. MACK. Mr. President, while I believe that it is important to respect the wishes of Senators on public land issues in their State, I am concerned that this legislation will have an impact beyond the borders of California.

I do not think that you can add 4 million acres to the National Park System without impacting the existing parks in the system. Operation and maintenance at existing parks and monuments is currently inadequate. Over the break I had the chance to visit the Fort Jefferson National Monument in the Florida Keys. While this is a beautiful and historical part of American history, I was saddened to see the walls of the fort crumbling. This is just one small example of the enormous backlog of existing needs in the current system.

This legislation also requires the purchase or exchange of about 700,000 acres of private and State lands by the Federal Government. I am told that there are already 12,000 private land owners with land inholdings to be acquired at a cost of around $6 billion. With a total land acquisition budget of approximately $100 million per year it will take around 60 years to finish the task currently at hand.

I understand the importance of this legislation to the Senators from California, but I am concerned about the health of the existing park system, and most critically the Everglades National Park. As my colleagues know, the Everglades is in critical condition, and Florida Bay is experiencing massive algae blooms and a 100,000 acre sea grass die off that threatens the breeding grounds for young shrimp, crabs, lobsters, and fish. Part of the solution of this problem is increasing the water flows through the Everglades National Park to Florida Bay. In order to do this we must raise the water tables and periodically flood lands surrounding the Everglades National Park. If we are going to flood this land, we have to buy it.

As a final point, there is not a clear consensus from the State of California that they want this legislation. Should we be spending scarce Federal dollars to add land to an already overburdened national park system when it is not clear that the State wants those dollars to be spent?

I cannot in good conscience support an additional 4 million acres to the national park system until some of the existing problems are resolved.•

THE CALIFORNIA DESERT PROTECTION ACT

• Mr. LAUTENBERG. Mr. President, I am pleased to support S. 21, the California Desert Protection Act. This bill will extend important and necessary natural resource protection to over 6 million acres of the California desert, lands that are of national significance and worthy of our investment. I am proud to be an original cosponsor of this legislation.

The ecological, scientific, recreational, and cultural value of these fragile and spectacular lands is unquestioned. The lands preserved by this bill are home to over 750 species of animals and 2,000 species of plants, some of which may hold the key to scientific discoveries. A visitor to the California desert witnesses spectacular beauty in sand dunes rising to 600 feet, extinct volcanoes, badlands, dry lakes, and the world's largest Joshua-tree forest.

This visitor to the national parks and wilderness area designated by this bill will also pump millions of dollars into the local economy. The National Park Service estimates that the three new parks—Death Valley, Joshua Tree, and Mojave—will generate more than $215 million in sales, $27.5 million in tax revenues from tourists, and create more than 4,000 jobs.

Mr. President, this bill was first introduced in 1986. For 8 years those who wanted to preserve their option to engage in activities that degrade the land and its wildlife—grazing, mining, hunting, riding in off road vehicles—have stalled passage of the bill. But the hard work of Senator DIANNE FEINSTEIN and advocates of the bill have made a difference.

Throughout the process, many concessions were made. I applaud the consensus. But, Mr. President, I am disappointed that the 200,000 acres of the Landfair Valley were deleted from the bill. This area is among the most ecologically diverse and scenic valleys of the proposed Mojave Park. However, sometimes it is necessary to concede on one issue for the greater good. Mr. President, this bill is indeed for the greater good.

In these times of fiscal restraint, it is often difficult to justify committing Federal resources to preserve land. We, as Federal legislators, must always keep in mind our priorities, and the funding that must be appropriated—for our children, their education, their safety. This bill is an investment in our children and their future, not just for those who live near there, but for the children, perhaps from New Jersey, who may have the benefit of visiting the desert's great geological and cultural gifts or of learning about those who lived there centuries ago.

We need this bill to preserve the desert's natural resources, protect its rich cultural heritage, and promote tourism and economic development. We need this bill to ensure that the spectacular California desert as we know it today will still be there years from now for our children and their children.•

TRIBUTE TO SENATOR ALAN CRANSTON ON PASSAGE OF THE CALIFORNIA DESERT PROTECTION ACT

• Mr. DECONCINI. Mr. President, I rise today to hail the passage of the California Desert Protection Act. The bill that passed the Senate yesterday is a good bill that represents a lot of hard work and compromise. The debate was open and fair, and I think that is a credit to the chairman and ranking member of the Energy and Natural Resources Committee. The forthright manner in which Senator FEINSTEIN approached this issue is a tribute to her legislative skills and her dedication and perseverance as well as that of Senator BOXER. Both of the Senators from California are in large measure responsible for the ultimate passage of this legislation. I worked many long hours to pass an Arizona wilderness bill not too long ago, so I know firsthand the difficulties involved in dealing with the diverse groups affected by such designations. Senator FEINSTEIN did a remarkable job of satisfying many competing concerns while preserving the heart of the bill.

Today, however, I want to pay special tribute to the original driving force behind this bill, Senator Alan Cranston. Senator FEINSTEIN enthustically picked up where Senator Cranston left off. She has put her own stamp on S. 21 and has successfully steered it through Senate passage, but it was Senator Cranston's vision of protecting the California desert for present and future generations that began the process. He introduced the first version of the California Desert Protection Act on February 6, 1986, and in every subsequent Congress until his retirement.

I know that passing a bill to protect the fragile ecosystems and unique wildlife and geography of the California desert was one of Senator Cranston's most important environmental issues and ranked near the top of his legislative agenda. I regret that Senator Cranston is not here to witness the successful culmination of his vision. I know that he will be pleased with the Senate's action yesterday. It shows a strong commitment to preserving this magnificent natural and cultural resource and is an affirmation of Senator Cranston's dedication.

Mr. President, the idea of protecting these desert lands as wilderness areas and national parks was not a result of an impulsive desire by Senator Cranston to overburden the National Park System or to randomly remove land from private hands. I know that Senator Cranston thought this idea was so important that he spent many hours traveling through the desert to see firsthand its diverse environment. He saw the value—and the fragility—of the desert and the increasing threat cased by incompatible use and encroaching development. The passage of this legislation is a tribute to the innumerable hours Senator Cranston spent traveling the desert studying the ecosystems, meeting with interest groups, developing legislation and laying the groundwork that brought us to the passage of S. 21 yesterday.

I commend Senator Cranston's work. His efforts and those of Senators FEINSTEIN and BOXER will now provide us with the opportunity to enjoy the desert of southern California for a long time to come.•

VALUABLE INFRASTRUCTURE LOST

• Mr. LAUTENBERG. Mr. President, when it comes to collecting taxes, Uncle Sam does not accept excuses. Americans know that if they do not settle their accounts by April 15, the IRS will come knocking, demanding that they pay up. Uncle Sam should be as strict with our European allies as he is with the American taxpayer. We should demand they pay us for the infrastructure we leave behind as we close military bases and withdraw our troops from Europe.

With the demise of the Soviet Union and the reduced threat of an invasion of Western Europe, the Pentagon announced plans to close or reduce our presence at 867 military sites overseas. Most are in Europe, where America has already closed 434 military sites. These closures are part of an overall plan to reduce U.S. troop strength in Europe from 323,432 in 1987 to 100,000 by the end of 1996.

When we close bases in Europe, we bring our troops home, but we leave buildings, roads, sewers, and other physical improvements behind. This valuable infrastructure, which cost us $6.5 billion to build, represents a significant American investment in the collective security of the West. Through a series of "residual value" agreements, some allies have acknowledged they will inherit all the structures we built. As a result, they agreed to repay us for what we leave behind.

Despite those agreements, so far we have gotten a lot of talk and very little cash. We have recouped only $33.3 million, less than 1 percent of our initial investment. Most of that money was recovered in 1989.

Mr. President, our military drawdown has been rapid since 1990, but our European allies do not appear to be in a similar hurry to pay us what they agreed to pay. In Germany, we have already withdrawn from over 60 percent of the military sites slated for closure. Yet the German Government has only budgeted $25 million this year to compensate us—when our overall capital investment in German bases is almost $4 billion. To be sure, the amount we can recover from Germany is subject to negotiations. The $4 billion capital investment may not reflect the current value of the facilities.

However, the U.S. Government has been slow to respond to our allies' reluctance to pay. The Pentagon will not even say how much it is asking our allies to pay, or when it must be paid. Imagine Uncle Sam refusing to tell a taxpayer what his tax bill is or refusing to demand that it be paid.

Clearly, collecting this money from the allies will not be easy. Europe's economies have lagged behind ours. German citizens are no more eager to pay America for its military infrastructure than many Americans were to pay to maintain that infrastructure for the past 40 years. But, a deal is a deal.

It is not as if our Government is abandoning Europe by asking for compensation. We spent $10 billion last year just to operate our forces and maintain military installations in foreign countries, mostly in Europe. That does not include the substantial cost of paying our soldiers and buying their weapons. In fact, in fiscal year 1993, according to Department of Defense figures, our NATO allies paid less than 25 percent of the costs of maintaining troops in their countries while Japan paid more than 75 percent. If the European allies matched the Japanese contributions, the Congressional Budget Office estimates we could save the United States taxpayer $9.6 billion over 5 years.

The NATO allies have not just failed to pay for the infrastructure we leave behind. They also refuse to pay for the infrastructure required to keep our forces at foreign bases today. And the cost of that infrastructure is rising. The administration wants Congress to provide more than $300 million to support new military infrastructure and projects in NATO countries next year.

Even worse, the money we spend to defend Europe is cutting into our own military readiness to respond to conflicts, according to Gen. David Maddox, commander in chief, U.S. Army, Europe.

With a little persistence, our Government should be able to recoup billions from our NATO allies. After the Persian Gulf war, the international community pledged $54 billion to offset costs of United States military activities. With a nudge from the Congress, our Government pressed the gulf allies until they provided every penny. We can and should do the same in this case.

Mr. President, the American Government should not treat our allies better than its own citizens. Every American knows the consequences of not paying their taxes. The Pentagon ought to take a page from the IRS. It should knock a bit harder on the allies' door, and persist in demanding that we receive fair compensation for the value of the multibillion-dollar investment we are leaving behind in Europe.•

ORDER OF PROCEDURE

Mr. MITCHELL. Madam President, I had earlier announced my intention to proceed next week to consideration by the Senate of S. 1491, the Airport and Airway Improvement bill. However, the principals have informed me that they would rather proceed next week to compromise legislation that would put a 90-day freeze on airport and airline fees and permit the FAA to free up funds for airport projects during that 90-day period.

It will be my intention to proceed to this compromise legislation on Tuesday morning, with the expectation that it will be disposed of swiftly and, if a vote is necessary, to have that vote at 12 noon on Tuesday.

It is my intention then to proceed on Tuesday, following the party conference luncheons, to the consideration of S. 540, the bankruptcy reform legislation. Accordingly, I now ask unanimous consent that the Senate proceed to the consideration of S. 540 at 2:30 p.m. on Tuesday, April 19.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT OF EXECUTIVE SECRETARY TO THE U.S. CAPITOL PRESERVATION COMMISSION

Mr. MITCHELL. Madam President, I now ask unanimous consent that the Senate proceed to the consideration of Senate Joint Resolution 180, introduced earlier today by Senator BYRD, providing for the appointment of an Executive Secretary for the U.S. Capitol Preservation Commission; that the joint resolution be passed, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (S.J. Res. 180) was passed, as follows:

S.J. RES. 180

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPOINTMENT OF EXECUTIVE SECRETARY FOR THE UNITED STATES CAPITOL PRESERVATION COMMISSION.

Section 801(e) of the Arizona-Idaho Conservation Act of 1988 (40 U.S.C. 188a(e); Public Law 100-696; 102 Stat. 4608) is amended by inserting at the end thereof "The co-chairmen of the Commission shall jointly appoint an executive secretary of the Commission from public or private life to serve without compensation and to advise and assist the Commission at the direction of the co-chairmen.".

WHITEWATER, WHITEWATER, WHITEWATER

Mr. MITCHELL. Madam President, a short while ago, the Senator from New York delivered a sharp attack on President Clinton here on the Senate floor. I wish now to respond to that attack, and I advised the Senator from New York that I would do so at the earliest opportunity.

The Senator's attack appears to have been provoked by a cartoon which appeared in newspapers across the country yesterday and today. That cartoon is called "Doonesbury", and it apparently included comments referring to the Senator from New York and the Whitewater issue.

I have not seen the cartoon, and I know nothing about it. If the Senator is offended by a reference to him in a cartoon, that is his business, and it is nothing over which I have any control, nor do I have any concern. But I am distressed that a comment about the Senator in a cartoon would cause him then to launch such a sharp attack on President Clinton, especially an attack which included statements which I believe to be incorrect.

He stated, and I quote, "The President has sought to tax everything that moves and some things that don't."

We have become so accustomed in American political life to hear and accept false statements that we have become numb to them, and it has become an unfortunate part of the American political process that people make false statements apparently to make a political point.

That is obviously a false statement. It is untrue. The speaker surely knew it to be untrue when he made the statement. And yet it was made apparently to make a political point, apparently to embarrass the President, apparently to cause political damage to the President. But I would say to my colleagues, words have meaning and words have consequences. And if we are to use words in making political attacks, at the very least we should make an effort to have those words bear some semblance of truthfulness.

A further statement: "The President has raised everyone else's taxes." Those are the exact words of the statement. "The President has raised everyone else's taxes."

Madam President, that statement is not true. It is a false statement. Surely, the speaker knew it to be false. But again it is plainly intended to make a political point, to cause embarrassment and political damage to the President.

Are we not confident enough of the merit of our argument to restrict our arguments to the facts? Or do we need to embellish those arguments with statements that are obviously false and obviously untrue.

I think it is a debasing of the political debate in our society that so much is said that everyone knows to be false, the person saying it and the person hearing it all knowing it to be false and yet accept it as somehow a normal part of political debate in our society.

The President has not raised everyone else's taxes. Let me go back, if I might, in time, to discuss last year's economic bill which is what this statement must be based upon and its current relationship to the so-called Whitewater issue.

Last summer, in this Chamber, we had a long, difficult and controversial debate. It was over President Clinton's economic plan. It was the largest deficit reduction plan presented in our Nation's history, the largest deficit reduction plan approved in our Nation's history. Some will argue about the accuracy of that later statement depending upon the changing value of the dollar. And so I should make it clear that it was either the largest or by a very small amount the second largest, depending upon which value of the dollar applied at which time. It included spending cuts and tax increases.

Now, opponents of the President's plan including the Senator from New York and every other Republican Member of the Senate voted against the President's economic plan. And during that debate they stood here on the Senate floor and in press conferences and in statements outside the Senate Chamber and said in effect that the President's economic plan was the wrong plan for the country and that, if it passed, interest rates would go up, unemployment would go up, the deficit would go up, and economic growth would go down.

Well, we passed that plan, and every single Republican Member of the Senate voted against it. What has happened in the months since then? About the opposite of what they predicted. Interest rates have gone down, although they are now starting to rise again as a consequence of recent actions taken by the Federal Reserve Board. Unemployment has come down. And the deficit has come way down. Economic growth is up. Indeed, economic growth was so rapid in the last quarter of last year that the Federal Reserve Board took action to increase interest rates to restrain the rate of growth so as not to ignite a new round of inflation.

So what do our colleagues have to talk about? The real need in this country is for economic growth and the creation of jobs, and more jobs were created in America in the first year of President Clinton's term than in all the previous 4 years. So those who had advocated the economic policies of the previous administrations, those who had opposed President Clinton's plan now face the reality that the economy is doing reasonably well—not in every part of the country, not in my region, not in California, not in others, but overall the figures look good and the future looks good.

So for them Whitewater represents an opportunity to distract the attention of the American people away from the state of the economy. Every single American who follows the news knows the Republican program on Whitewater, but I ask is there a single American who knows the Republican program for economic growth and creating jobs in America? And I think the answer must be not one because there is not any such plan.

Whitewater, Whitewater, Whitewater, that is the Republican program in the spring of 1994.

We have a responsibility on Whitewater, and we are going to meet it in a responsible and appropriate way. We are going to meet Congress's oversight responsibilities at a time and under a circumstance that does not undermine the special counsel's investigation, and that meets our responsibilities. It will include hearings at an appropriate time under an appropriate structure.

I have had meetings with the distinguished Republican leader on the subject, and those will continue.

But we are not going to let the Republican obsession with Whitewater prevent this Congress from dealing with health care. We are not going to let the Republican obsession with Whitewater prevent this Congress from dealing with crime. We are not going to let the Republican obsession with

Whitewater prevent this Congress from dealing with welfare reform and all of the other important bills that we must deal with as a Congress. That is our job. We are sent here by the American people to deal with the problems that exist in their daily lives.

I think the attitude of most Americans was well summed up last week when, during the Easter recess, I was walking down the street in Portland, ME, and I came to an intersection. As I waited for the light to change, a fellow driving a pickup truck pulled up to the light, rolled down the window, and yelled out to me, "Senator, why don't you guys do something about health care and forget about this Whitewater stuff?"

I think that is the way the American people feel. I think they realize that what is going on here has been purely partisan politics by our colleagues in a transparent effort to embarrass President Clinton, to politically damage President Clinton, and to keep the Congress from meeting its responsibility, its primary responsibility, in the areas of health care, welfare, crime, and so many other important issues.

Madam President, we are not going to be sidetracked. We can do both and do them responsibly. That is what we are going to do. And I do not think we should let this kind of attack on President Clinton go without response, or detract us from doing our duty. And our duty is clear. The American people want us to act on the problems that affect their daily lives. And that is health care reform; that is welfare reform; that is controlling crime in this country; and dealing with the many other important issues we must confront.

So I encourage my colleagues, when we debate these, let us try to keep the debate within the bounds of fact. Let us try to keep our debate with some fidelity to truth and reality. There are honest differences of opinion here. There are honest differences of philosophy; they ought not be the subject of meaningful debate. I hope we will do that.

But I do not think we ought to let this kind of statement about the President go without responding. And I do not intend to permit such comments to go without response.

Madam President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FEINGOLD). Without objection, it is so ordered.

SENATOR LUGAR'S WORK ON THE AGRICULTURE BILL

Mr. DOLE. Mr. President, yesterday, by a vote of 98 to 1 the Senate passed S. 1970, the Department of Agriculture Reorganization Act of 1994. I offer today my congratulations to Senator DICK LUGAR, the ranking Republican on the Senate Agriculture Committee, for successfully steering this important reform legislation through the Senate with such overwhelming support.

The success of this legislation is primarily the result of the bold work of Senator LUGAR. In November 1991, prompted by a report from the General Accounting Office and a series of articles printed in the Kansas City Star, DICK LUGAR began a comprehensive review of USDA. He is a farmer and a businessman and used this knowledge to recommend some common sense reforms at USDA. Senator LUGAR urged then-Secretary of Agriculture Ed Madigan to close inefficient local field offices. Madigan eventually identified over 1,200 offices that were no longer needed. Prior to Senator LUGAR's investigation, USDA could not even identify where these employees were located—let alone propose a bold downsizing plan.

The passed bill reduces the number of USDA agencies from 43 to 28. USDA payroll will be reduced by 7,500 employees, and the stage is set for the closing of over 1,200 field offices. According to administration budget estimates, spending on salaries and overhead will be reduced by $2.3 billion over 5 years. Two years ago most thought this task was impossible. But with Senator LUGAR's leadership we have achieved the impossible. Bureaucracy has been dealt a serious setback and taxpayers and farmers will be better off as a result.

I ask unanimous consent that an article regarding Senator LUGAR be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 20, 1992]

LUGAR FINDS UNEARTHING FACTS ON USDA IS A HARD ROW TO HOE

Employees of the Department of Agriculture have long boasted that they have an office in practically every county in the United States, dispensing everything from bank loans to farm subsidy payments and advice about seed corn, catfish farms and the mating habits of various species of bees.

In fact, Sen. Richard G. Lugar (R-Ind.) found, USDA has fallen short—but not by much. There are 3,158 counties in the country, and USDA has offices in 2,977, or 94 percent.

And that, Lugar said, is too many. In 1986 only 516 counties—16 percent of the U.S. total—were farm counties. "On the face of it," Lugar said in a recent interview, "some of these offices need to be closed."

NUGGETS OF INFORMATION

Lugar, quiet-spoken ranking minority member of the Senate Agriculture, Nutrition and Forestry Committee, has made Agriculture Department reform his cause for 1992 and perhaps beyond.

In as-yet-sketchy research he and his staff have discovered several not-so-golden nuggets of information:

Fifty-three counties have Agricultural Stabilization and Conservation Service offices (the ones paying subsidies) that spend more than $1 on administrative expense for every $1 they disburse to farmers. ASCS in eastern Kentucky's Pike County spends $8.50 in overhead for every paid-out dollar.

The Farmers Home Administration, the poor farmer's lender of last resort, spends an annual average of $250 to administer each loan. The rest of the farm credit system (land banks, co-ops and the like) averages $92.

Twenty-five percent of counties have at least two USDA offices, doubling administrative costs (copiers, telephone switchboards, etc.). Even in cases where all the agencies are under one roof, personnel in one office often share nothing with the others and may not even know their colleagues.

In 1932, when 25 percent of the population lived on farms, the USDA had 32,000 employees, one for every 100 farm residents. Today the ratio is about one employee for every 45 farm residents.

Changing USDA may be a noble task, but it is also a daunting one, made even more difficult because almost no one seems to know all the tunnels in the USDA's rabbit-warren bureaucracy.

Even the USDA is scratching its head. In September and November 1991, for instance, the Office of Personnel Management listed 135,478 and 118,645 people respectively as the number of full- and part-time Agriculture Department employees, attributing the discrepancy to the need for extra seasonal labor during the September harvest.

But don't believe everything you read. OPM said there is no "standard or average" figure for USDA employment, even though USDA uses 110,000 people as its rule of thumb.

Lugar's staff, however, also noted that the OPM figures did not include 19,075 county employees working for USDA, which would have raised the September 1991 total to 154,553. If true, this means USDA could be undercounting by as many as 44,553, or 29 percent.

Lugar became interested in USDA's problems last year after reviewing a General Accounting Office study which suggested that the venerable agency—created in 1862—needed a "major overhaul," an exercise not attempted with any seriousness since the Great Depression.

The study found that USDA appeared to be overstaffed, over-represented and inefficient in many areas of the country.

Bureaucratic jealousy mitigated against sharing office equipment and facilities, computer training was woefully inadequate and certain areas of emerging importance, like food safety, water quality, biotechnology and marketing, were not getting the attention they deserved. Agriculture Secretary Edward R. Madigan issued a brief statement saying, "I believe many of the criticisms of the GAO report are justified, but all are not."

FOOT-DRAGGING BY THE DEPARTMENT

Nothing further was heard for some time. Lugar's staff in November asked USDA to provide information on size of the USDA payroll, amount of money spent by employees and nature of the work being performed.

The USDA dragged its feet through the last part of 1991, but staffers are not sure whether it was because they were reluctant to part with the information, had not collected it or simply did not know.

"I was patient," Lugar said. "I was aware we had gaping holes of data that needed to be filled. I told USDA that, 'This is for real, and it would be helpful if you came forward promptly.' "

On Feb. 3, Lugar said, the USDA produced some documents with an accompanying memorandum, which said in part: "You asked for the number of local USDA offices around the country. We have tried to get a straight answer to this question. * * * Our staff still cannot give us an accurate number."

[From the South Bend Tribune, Feb. 13, 1992]

LUGAR VERSUS USDA

There are many reasons why U.S. Sen. Richard G. Lugar is and deserves to be one of the most respected members of the Senate. Now there is another one.

The Indiana Republican is taking on the U.S. Department of Agriculture. He describes it as a "bloated" bureaucracy, with a $61 billion budget, that administers a farm policy that is a "gargantuan mess."

It will be a tough battle for Lugar as he seeks to force the USDA to cut out waste and duplication and to move away from market-distorting policies. But it is a job that needs to be done.

And Lugar is the man to do it. He is not going after the USDA as a foe of agriculture. Far from it. Lugar, the ranking Republican on the Senate Agriculture Committee, has represented the interests of agriculture in Indiana and still manages his family's 604-acre farm.

What the senator is proposing is a leaner USDA, reorganized for the first time since the 1930s, that will be better able to serve agriculture.

Virtually every member of Congress rails against waste in government these days. Few, however, point to specific and substantial savings that could be obtained and then plunge into a fight with the bureaucrats and their protectors to bring about change. Lugar has cited where costly duplication and inefficiency exist and is demanding change.

He is calling, for example, for consolidation of various USDA offices that operate in the same county and elimination of some offices that operate in non-farming counties.

All the changes won't be popular with people in agriculture. And Lugar, obviously aware of that, is willing to take the heat.

But he is convinced that most farmers will welcome consolidation and reorganization because of the greater efficiency and less buck-passing that would occur.

In the speech on the Senate floor in which he took aim at the USDA, Lugar called on "all farmers who have wrestled desperately with the overwhelming tangle of red tape and form filling to let us hear about it loud and clear." He added, "To every farmer I ask: If you have ever stomped out of a local ASCS, Farmers Home, SCS or Cooperative Extension Services office in frustration, let us know now that you support a remedy such as consolidation."

Yes, anybody in agriculture and anybody who is sincere in wanting to trim government waste ought to salute the efforts of Sen. Lugar and back him in this effort.

FCC GORES COMMUNICATIONS INDUSTRY

Mr. DOLE. Mr. President, the administration is sending conflicting messages about running government. On one hand, it talks about reinventing government to make it more simple. At the same time, it actively supported the Cable TV Act's new bureaucracies and redtape. The administration says it wants to give Americans more for less, but what we will really get is more paperwork with less service.

Take the Federal Communications Commission's latest effort to roll back cable TV rates through rate regulation. The most basic form that every cable TV system operator must fill out is 8 pages long and has 28 pages of instructions. That is more complicated than an IRS form. But, hold on—that is just the beginning. A complete set of forms is 48 pages long, with 97 pages of instructions, while the regulations total more than 500 pages. That is more than 5 pounds of paper.

If it takes this much paperwork for MTV and CNN, how much will it take for an appendectomy?

In fact, the forms are so complex that the FCC also sent along a computer disk so cable TV operators can figure out their new rates. Even so, a multiple-page worksheet must be completed before operators will know what data they must enter into their computers.

DISCLAIMER STATEMENT AND CONGRESSIONAL INTENT

No doubt about it. The cable TV industry had its bad apples who have gouged consumers and delivered poor service. And while I did not agree with the Cable TV Act's approach, I did agree that these problems must be dealt with. But I must remind my friends that we did not authorize the FCC to go after all operators, just the few bad guys. I must assume then that the FCC did not read the law when it established a goal of cutting rates for 90 percent of cable TV consumers.

It should also be remembered that the law did not mandate means-testing of cable TV rates, but that such actions should be voluntary. But under the new regulations, it appears that rates will be based on subscriber income.

WHERE IS THE STUDY?

Mr. President, the FCC said it would justify its actions by releasing a comprehensive study. That was a month and a half ago. It has been my understanding, however, that the FCC had said it would only take 2 weeks. Even so, that was unacceptable. As I have said before, the study should have come first before any rules were issued. While I am not sure what the holdup is, some say it's very simple—the Commission ran out of whiteout while trying to get the study and the rules to match up.

CABLE RATE CUTS A MAJOR ROADBLOCK ON THE INFORMATION HIGHWAY

Mr. President, when the FCC adopted its rules back in February, Chairman Hundt and his Berkeley economist, Michael Katz, said that these cuts won't hurt. Let us face it, there is a difference between theory and reality. The Bell Atlantic-TCI deal went sour. The Southwestern Bell-Cox Enterprises Cable went sour. And many cable companies that had considered selling out have now taken themselves off the auctioning block.

Last week, Chairman Hundt defended his cuts and believes that one day the cable industry will someday thank him. He stated that cable operators only have 60-percent market penetration, while telephone companies have 100 percent, and lower prices will bring more consumers. By the way, actual telephone service penetration is between 92 and 94 percent, not 100 percent. It should be remembered, however, that cable TV is entertainment and not a necessity.

For the time being, cable TV companies will not have the revenues or the borrowing power to build out their systems to the remaining 40 percent. If Chairman Hundt does not want to believe these facts, that is his prerogative. But I can assure him that these deals are not being called off just to embarrass him.

INCREASING REGULATIONS WILL NOT BUILD INFORMATION HIGHWAY

Mr. President, I am very troubled by the FCC's current mindset and the negative impact it can have on the future of American telecommunications. I realize that these are very complex issues, but I must question the Congress' judgment when it considers granting the FCC greater regulatory control of the communications industry. Especially when the FCC does not seem to realize that it dropped the ball with the implementation of the Cable TV Act.

I also do not like hearing that the FCC supports the Hollings-Danforth communications bill because the Commission will get more power. Instead of power grabs, it seems to me that the FCC should be more interested in advancing the development of the information highway so that schools and hospitals can better educate and heal.

Mr. President, I ask my colleagues to seriously consider these comments as they think about supporting future communications legislation. Over the last few months, Senator HOLLINGS has been pushing the most comprehensive communications measure in the last 60 years, and it will have an even greater impact. Its regulatory requirements are far more numerous and far more complex than the Cable TV Act's. And we all know what a fiasco the Cable Act has become. But Mr. President, I can assure you that it will look like child's play if we decide to expand the FCC's authority—and that is not what I have in mind when I think of reinventing government.

Mr. President, I ask unanimous consent that a series of articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Apr. 8, 1994]

REVIEW & OUTLOOK: BLOCKING THE INFORMATION HIGHWAY

Come to think of it, Al Gore really does look like a state highway cop. Put a helmet and mirrored aviator glasses on the Vice President and you're looking at the guy whose Federal Communications Commission is setting up radar traps and roadblocks all along the Information Highway.

The Gore-FCC's 55 mph speed limit is a mandated 17% reduction in cable TV rates, due to take effect May 15, not to mention some 700 pages of attendant regulatory caution lights. This week, Southwestern Bell and Cox Enterprises junked their proposed $4.9 billion venture into exploring the synergies of cable TV and telephones. The deal foundered principally on the same roadblock that recently thwarted the union of Tele-Communications and Bell Atlantic: an almost certain reduction in cash flow to the cable operators from the 17% cut in their subscriber rates.

Also, Tuesday, Judge Harold Greene, overseer of the AT&T consent decree since 1982, flagged down AT&T's purchase of McCaw Cellular. Judge Greene wants the companies to show that the acquisition is "in the public interest," but even more breathtaking, they have to actually pay their lawyers to prove to Judge Greene that circumstances in telecommunications have changed since the consent decree.

Now, the folks at the FCC are getting testy over the charge that their rate reduction is wrecking the information highway. Their responses, as reported in Wednesday's Washington Post, deserve a lot of attention.

First there was Mr. Gore's handpicked FCC chairman, Reed Hundt, until recently a Beltway lawyer. Mr. Hundt offered that the 17% cut will be good for business because the cheaper rates will attract more customers. (Several weeks ago, when TCI-Bell Atlantic collapsed, we likened the FCC's mindset to that of French bureaucrats. We apologize the French bureaucrats.)

Another, anonymous FCC source got closer to the heart of it: "Our job is not to make mergers work or not work. Our job is to effectuate Congress's mandate that consumers pay reasonable prices for cable and for the industry to have reasonable incentives for future investment." Succinctly, that is the regulators' credo.

Granting the sincerity of the cops here, there is in fact a serious philosophical difference at the center of this tension between the public servants and the road runners on the information highway.

Vice President Gore especially talks a good game about embracing the vision of an information-driven economy riding along electronic pathways. But at crunch time, Mr. Gore and his allies are choking. They're afraid that somewhere, somehow consumers could be "hurt" when the corporate giants start competing hard for the information market. That is, even high-tech Democrats don't trust the market to produce good on its own. No, "in the public interest" they will set up roadblocks on the information highway to mandate safety inspection and extract tolls. Slower is safer.

Our own view is that it is truly hubris for these politicians to think they can somehow fine tune or stage manage the rapidly developing world of advanced technologies. That includes its emerging financial and corporate structure. No doubt the investment bankers are right that the deals will get done eventually. But the famous executives aren't the only ones gridlocked by these decisions. Entire armies of engineers and software wizards, the people who will actually bring this exciting future to life, are put in lead shoes when the FCC micro-manages like this. Our guess is that consumers would happily risk exposure to these folks right now, but the tekkiecrats of Clinton Administration think otherwise.

Of course, even in a down market there are winners. One potential beneficiary that comes to mind could be John Malone's Tele-Communications. With FCC's rate mandate suppressing the income of the remaining small cable operators, they're likely to become vulnerable to acquisition, at a reduced price. Incidentally, we notice that TCI has just elected to its board of directors former House majority whip Tony Coelho, the ultimate Beltway gamesman. Makes sense to us, under the circumstances. But we'd feel safer if these fellows were doing their deals beyond the Beltway, out in the open market where we could seen them.

[From the Washington Post, Apr. 6, 1994]

FCC HEAD DEFENDS CUTS IN CABLE FEES

(By Paul Farhi)

Cable companies should be grateful that the FCC is cutting their rates, says FCC Chairman Reed Hundt. The reason: They'll make more money in the long run.

Hundt said yesterday that the 17 percent in price reductions ordered by his agency will enable cable companies to attract customers who until now have been scared away by the cost of monthly service. Cable subscriptions, he noted, have "plateaued" at about 60 percent of the nation's households, and lower prices will help operators "break through" to more customers.

"The question begged is why does the telephone industry have 100 percent penetration and cable only 60 percent, and I would suggest that price has something to do with it."

Hundt, a protege of Vice President Gore who was named by the White House to run the FCC in November, made his remarks at a luncheon meeting with editors and reporters of The Washington Post. Soon after he spoke, Southwestern Bell Corp. and Cox Enterprises Inc. announced they have called off their proposed partnership, blaming the FCC's rate action for depressing the value of the cable properties.

Hundt said the rate cut is good for consumers because it will bring either lower prices or better value for the same price. He said it hasn't harmed the cable industry's ability to raise capital "in any way. * * * It all remains to be seen. It should not be prejudged."

But Decker Anstrom, president of the National Cable Television Association, argued that Hundt is wrong on both counts. If price cuts could attract more customers, "cable operators would have been cutting prices five to 10 years ago," he said. "Anytime the government forces you to cut your prices 17 percent, there's going to be fallout."

[From the Washington Post, Apr. 6, 1994]

SOUTHWESTERN BELL, COX CALL OFF CABLE MERGER; FCC'S MOVE TO CUT RATES DRAWS BLAME AGAIN

(By Paul Farhi)

A second multibillion-dollar deal between a cable company and a major phone company fell apart yesterday, and once again the federal government got the blame.

Citing the adverse impact of new cable TV rate regulations, Cox Enterprises Inc. and Southwestern Bell Corp. called off a partnership they had struck in December that would have combined Southwestern's deep pockets and technological prowess with Cox-owned cable systems worth about $3.3 billion. Cox has about 1.6 million subscribers.

The collapse of the proposed partnership follows by six weeks the implosion of a much larger merger between Bell Atlantic Corp., the regional phone company in this area, and Tele-Communications Inc., the world's largest cable company.

As in the aftermath of the Bell Atlantic-TCI divorce, executives from both Cox and Southwestern said they could not agree on a price as a result of lower earnings and cash flow projections in the wake of the Federal Communications Commission's order in February to cut cable prices by 7 percent.

The 7 percent cut, which followed an initial rollback of 10 percent last fall, has been blamed for upsetting smaller deals as well. In February, Falcon Cable of Los Angeles canceled a planned stock offering, and last month Canada's BCE Telecom said it would renegotiate a $400 million investment in Jones Intercable, a major cable operator, as a result of the rate changes.

In each case, executives say the FCC's action has not only diminished the value of cable properties, but also has crimped the industry's ability to attract money for investment in the hardware that will create the promised "information superhighway."

Cable and phone companies own the wire-based networks likely to form the main arteries of the highway, and the combination of their capital and expertise has been touted as a way to speed up the construction.

Noting Vice President Gore's advocacy for building advanced telecommunications system, Cox Cable President James Robbins said bitterly yesterday, "The administration seems intent on creating the information highway and the FCC seems intent on blowing up the bridges."

Firing back at industry critics, a high-level FCC source said yesterday, "Our job is not to make mergers work or not work. Our job is to effectuate Congress's mandate that consumers pay reasonable prices for cable and for the industry to have reasonable incentives for future investment. I think we did that."

Rather than curtail the phone industry's appetite to enter the cable business, the new FCC rate rules ultimately may reduce the price of smaller cable companies and inspire cash-rich telephone companies to buy them on the cheap, said Berge Ayvazian, an analyst with the Yankee Group in Boston. Such a strategy, he said, reflects the notion that it may be cheaper for the telephone industry to buy existing cable systems than to build costly new ones outside their home markets.

While both Southwestern and Cox urged the FCC to revisit its regulations, agency officials said yesterday that was unlikely to happen anytime soon. The new rules, contained in 500 pages of documents released by the FCC last week, go into effect on May 15 and will likely affect prices paid by most of the 58 million households that subscribe to cable.

Under the proposed deal, Southwestern, the San Antonio-based regional phone company, was to have invested $1.6 billion for 40 percent of 21 cable systems owned by Cox, the privately held Atlanta media company that owns the Atlanta Journal-Constitution. But the deal has been subject to renegotiation for several weeks, and a final breakdown occurred yesterday morning, sources close to the Bell company said.

Southwestern in January became the first Baby Bell to enter the cable business when it took over ownership of the cable systems in Montgomery and Arlington counties; those systems were not part of the Cox venture. The company will invest the $1.6 billion earmarked for the Cox deal in other, unspecified ventures in the wireless communications field, said Jim Kahan, Southwestern senior vice president.

[From USA Today, Apr. 6, 1994]

SOUTHWESTERN BELL, COX CALL OFF DEAL

(By James Cox)

Southwestern Bell on Tuesday killed plans to team up with Cox Cable, blaming federal regulators for the demise of the $4.9 billion joint venture.

Southwestern Bell said nationwide cuts in cable TV rates ordered Feb. 22 by the Federal Communications Commission spoiled the deal. It said the 7% cuts would have kept Cox cable systems from generating enough cash flow to justify its $1.6 billion investment.

Another regional telephone giant, Bell Atlantic, and the USA's largest cable company, Tele-Communications Inc., blamed the FCC's rate cuts for the collapse of their megamerger in February.

The FCC is a "convenient whipping boy," but its rate rules were widely anticipated and have not discouraged dealmaking, says William Kennard, FCC general counsel.

The cuts "have in no way put an end to new ventures in the telecommunications era," says FCC chairman Reed Hundt.

Consumer groups said the two deals more likely fell through because of higher interest rates and uncertainty about Congress' efforts to set terms under which telephone and cable companies can get into each other's businesses.

In December, Southwestern Bell agreed to buy a 40% stake in Cox Cable, an arm of Cox Enterprises, a privately held media company that also owns newspapers and TV stations.

Cox Cable intended to use Southwestern Bell's cash and technology to upgrade its cable systems to offer telephone service and interactive TV. Together, the two considered buying other cable systems that would have made Cox the USA's No. 3 cable operator.

Cox, now the 6th-largest cable company, serves 1.8 million households. San Antonio-based Southwestern Bell provides telephone service in the Southwest and owns a cable system serving 230,000 households in suburban Washington, DC.

Southwestern Bell shares closed at $39½, up ⅞ Tuesday.

[From the Washington Post, Mar. 31, 1994]

RULES ISSUED FOR CUTTING CABLE RATES; INDUSTRY MAY TAKE FCC TO COURT

(By Sandra Sugawara)

The Federal Communications Commission yesterday issued rules designed to cut cable television prices an average of 7 percent. A key consumer group praised the rules, but a cable industry group threatened legal action.

The new rules implement a rate cut the FCC approved last month, on top of another 10 percent reduction the commission mandated last year. Last month the FCC had few details of how it would determine cable rates.

The National Cable Television Association said it intended to challenge the rules in court. It said the regulations are "intended to drastically reduce the industry's revenues and that cannot help but reduce our options when it comes to introducing new programming, new services and new technologies."

The new rules, which will take effect May 15, say that generally, rates should be reduced by as much as 17 percent from Sept. 30, 1992 levels—the sum of the two rate cuts.

But the actual rates will depend on a number of factors, including how many channels and subscribers a cable system has and the wealth of the region it serves.

An FCC official said an analysis by the commission showed that cable operators in wealthy regions charged more than cable operators in poor areas. Even though operators in more affluent areas may reduce rates by an average of 17 percent, they will still charge more than operators in poorer regions, because they will be starting from a higher level.

"We would prefer that price be based on actual cost rather than the income of people," said Bradley Stillman, general counsel of the Consumer Federation of America.

Cable companies also will be allowed rate increases for inflation and additional channels. And they will be allowed to pass on to customers the cost of new programming, plus a 7.5 percent profit margin.

Stillman said he was concerned that companies such as Tele-Communications Inc., the biggest U.S. cable operator and owner of both cable systems and programming, would be able to offset rate cuts by raising programming charges.

The FCC says the average subscriber will pay less, but that a customer who is getting more channels and more programming than in September 1992 probably will pay the same or more.

Stillman said the FCC appeared to have "closed the loopholes" that had allowed cable operators to get around the last FCC rate cut. Rates increased for about one third of cable subscribers after the agency ordered the 10 percent reduction.

To try to simplify the process for cable operators, who have complained about the rules' complexity, the FCC plans to put the rate formula on computer disks, so that all operators have to do is plug in numbers. The disk probably will be available next week at a minimal charge, the FCC said.

[From Broadcasting Cable, Apr. 1, 1994]

SEES NO EVIL

Reed Hundt still doesn't get it. On the same day that Southwestern Bell and Cox called off their joint venture for wont of cash flow, the chairman of the FCC was telling the *Washington Post* that cable would prosper under his new regulatory juggernaut; not to worry.

We wonder what it will take to crack that certitude on the part of Hundt and his cadre of social engineers. A few bankruptcies might help, although none have yet volunteered. Some further pullbacks from investment in the information highway? Definitely in prospect. There's certainly the likelihood that smaller cable systems will be squeezed into selling out—probably to telcos in their own service areas that can take advantage of the depressed price and the lightened regulatory environment. Perhaps the chairman will accept the depletion of cable's capital markets as a measure of the bad news.

Hundt is right, of course, in the larger sense. Even his Draconian cutback won't be able to dismantle the cable industry or eliminate its viability for the future. It will, there's no doubt, slow down cable's progress and send the telcos down another path in developing the information highway. The irony is that if cable is back in bloom 10 years from now, Reed Hundt will be the first to take the credit.

GOOD MONEY AFTER BAD

A congressional report on TV Marti concludes that sweeping changes are necessary in the service. The study found that the program wastes as much as $10 million each year (including more than a million dollars a year in salaries to people who "supervise, review and evaluate" but do not actually contribute to production [the study also suggests a review of hiring practices]). Among its other findings: that problems identified by the General Accounting Office almost two years ago have not been resolved; that the service is characterized by "politicized journalistic decisions and an atmosphere of suspicion, cronyism and hostility"; that those problems are nothing compared to the fact that almost no one sees the broadcasts due to limited hours of operation and Cuban jamming, and that current federal budget concerns demand that programs such as TV Marti "must have sufficient justification for their funding, and returns on investment must be commensurate with the expenditure.

No-brainer, right? Critics have charged that TV Marti is wasteful and inefficient, and here's an independent study that finds the same thing, as the GAO report of 1992 concluded before it. So what's the study conclusion? TV Marti is a vital service, but should be moved to the UHF band at a cost of an additional $1 million and with the hope of projected savings down the line. Savings, of course, defined as wasting only $10 million a year instead of $20 million. The price of that waste could be the livelihood of some radio broadcasters, whose signals are at risk from stepped-up Cuban jamming. This boondoggle has more lives than a Hindu cat and is fast becoming an entrenched symbol of politicization and waste in government.

We have our own recommendation for sweeping change. It involves a broom, a dustpan and the nearest trash can.

TAX DAY

Mr. GRASSLEY. Mr. President, April 15, tax day, is upon us. Not the most popular day on most people's calendars. The taxpayers worry about this day for two reasons: The ever-growing level of taxes we must pay, and two, the IRS.

First let me discuss the level of taxes. Americans still view their tax payments as burdensome and unfair. Most people feel they pay too much to Uncle Sam. But, we will never get taxes down until we first cut spending.

It is sadly ironic that just when the American people are getting hit with their tax bill, the big spenders here in Congress are fighting as hard as they can to kill the Exon-Grassley amendment which would reduce spending by one-third of 1 percent over 5 years—just $26 billion.

Like Chicken Little, the big spenders here in Congress are claiming that the sky will fall as a result of this minuscule cut. So when you're making that check out to the IRS, and you think it is too big, you can thank in part the big spenders who oppose the Exon-Grassley amendment, because they believe we cannot even cut one-third of 1 percent out of the budget.

As ranking Republican of the Finance subcommittee responsible for oversight of the IRS let me now turn to a few serious problems within the Internal Revenue Service.

I would like to commend Senator PRYOR, the chairman of the subcommittee, for his long-time efforts to win passage of the Taxpayers Bill of Rights Two, which we coauthored. The intent of this bill is to build upon the original Taxpayers Bill of Rights by addressing many of the horror stories that people tell from encounters with the tender mercies of the IRS.

I intend to work closely with Senator PRYOR to ensure that come next April 15 the Taxpayers Bill of Rights Two becomes law.

As Americans work through the night, well, at least until midnight tonight, wading through all this paperwork, I know many are saying there must be a better way. I think they are right.

Let me give you one example. Many of you, myself included, have to fill out forms for the Keogh program. In fact, over 889,290 people use Keogh plans, deducting over $7 billion.

We all know how complicated and time consuming it is for businesses and individuals to establish Keogh programs and then update them every year. It is certainly time that could be much better spent with our families.

You would think that all this paperwork is absolutely essential. Yet, how much can the IRS identify that they received from audits of Keogh plans? Six million dollars in 1992. Yes, that is million, with an "m".

Mr. President, I really wonder if that is a fair tradeoff. The Congress needs to pursue tax simplification and not ask the American people to waste their time filling out forms that only gather dust in warehouses.

It is a great concern of mine that taxpayers realize fair and equitable treatment in their dealings with the IRS. That is why I am particularly concerned about the findings of the Transactional Records Access Clearinghouse [TRAC] located at Syracuse University.

Prof. Susan Long and David Burnham have conducted an ongoing review of the IRS's management and have made some disturbing findings. For example, individuals in Nevada are three times more likely to be audited as people from New Jersey. You are twice as likely to be audited if you live in Manhattan than if you live in Brooklyn. You are twice as likely to be audited if you live in Wyoming than if you live in Philadelphia.

I can see tax cheats reading this report and deciding to move where they are less likely to get caught.

TRAC found that there was great variance nationwide in the IRS agreeing to an installment agreement for taxpayer delinquent accounts. There was a 1,000-percent difference in the IRS agreeing to installment payments if you lived in Indiana versus New Hampshire. Taxpayers are more than three times as likely to get an installment agreement if you live in San Francisco versus Los Angeles and more than twice as likely to get an agreement if you lived in Cleveland versus Cincinnati.

Similar disparities exist when the IRS decides to seize the accounts of delinquent taxpayers. A 1,000-percent difference in deciding to seize or not seize exists between Austin and Dallas. Los Angeles and San Francisco, and Manhattan and Brooklyn.

Even the IRS admits that you are more than four times as likely to have the IRS offer to compromise in Iowa than you are in California. So the message is clear, if you want to negotiate with the IRS move to Iowa, although I am not sure the Iowans who have to negotiate with the IRS would agree.

The underlying assumption is disturbing: The kind of treatment you get depends on where you live. Mr. President, I ask unanimous consent that these TRAC findings be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IRS seizure rate taxpayer delinquent accounts

[In percent]

TX (Austin)	4.1
CA (San Jose)	3.1
FL (Ft. Lauderdale)	2.7
PA (Pittsburgh)	2.6
CA (Los Angeles)	2.4
NY (Brooklyn)	1.9
Connecticut	1.3
TX (Dallas)	0.4
TX (Houston)	0.3
FL (Jacksonville)	0.3
Massachusetts	0.3
New Jersey	0.2
CA (San Francisco)	0.2
NY (Manhattan)	0.2
PA (Philadelphia)	0.2
U.S. Average	0.5

IRS installment agreements taxpayer delinquent accounts

[In percent]

Indiana	22.7
TX (Houston)	19.0
OH (Cleveland)	17.2
CA (San Francisco)	16.3
TX (Dallas)	15.5
New Jersey	13.3
NY (Manhattan)	8.7
CA (San Jose)	7.2
OH (Cincinnati)	6.4
CA (Los Angeles)	5.9
PA (Philadelphia)	5.3
TX (Austin)	5.3
NY (Brooklyn)	5.1
PA (Pittsburgh)	3.4
New Hampshire	2.2
U.S. Average	12.7

IRS audits of individual income tax returns

[In percent]

Nevada	1.9
Wyoming	1.5
NY (Manhattan)	1.4
North Dakota	1.1
Georgia	1.0
NY (Brooklyn)	0.7
PA (Philadelphia)	0.6
Connecticut	0.6
Massachusetts	0.5
New Jersey	0.5
U.S. Average	1.0

Mr. GRASSLEY. I asked the Department of the Treasury what steps the IRS has taken to ensure that there is uniformity nationwide in the treatment of taxpayers. I ask unanimous consent that the Department's response—a nonanswer—be printed in the RECORD as an example of bureaucratspeak at its finest.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TAXPAYER UNIFORM TREATMENT

Question 6: What management steps has the IRS taken to ensure that there is uniformity nationwide in the treatment of taxpayers for tax violations?

Answer: The Service's primary selection for auditing returns begins with our Taxpayer Compliance Measurement Program (TCMP). This involves the random selection of taxpayers for comprehensive audits. The results of the audits are analyzed to develop discriminant functional (DIF) data which is used to score returns as they are filed. A return with a higher DIF score is more likely to have errors. The system also is used to determine levels of compliance for various classes of taxpayers and to develop yield curves. The yield curves are used to predict the amount of additional taxes that would be assessed at varying levels of coverage.

Management considerations in allocating resources for the auditing of tax returns and the collection of amounts due is based on resource availability and workload. The IRS determines the number of returns by taxpayer class to audit. The returns are generally selected based on DIF scores which cause the returns with the highest potential tax adjustment to be selected first, regardless of location. This allows the IRS to maximize revenue to the government and ensures that the most non-compliant classes of taxpayers are most likely to be audited. The IRS uses the Collection Resource Database and Information Tracking System (CREDITS) to base its resource allocation decisions. Recommendations by the Collection Resource Allocation Study Group are being implemented (See Attachment A). These actions will improve the staffing/workload balance among District Offices.

Because of geographic and demographic differences, workload/staffing balance among District Offices will never be perfect. However, actions are being taken to improve it by designating some District Offices as "no growth areas" where resources will be allocated sufficient to fund permanent employees less attrition.

In addition, the IRS has instituted new ways of doing business such as Compliance 2000 and the Market Segment Specialization Program (MSSP) which have resulted in the creation of industry agreements on the way certain issues should be reported and auditing guidelines to standardize the audit techniques used by examiners nationwide. The Office of Penalty Administration serves as a focal point for assuring Servicewide consistency of the application of penalties.

Mr. GRASSLEY. Another issue that concerns me is the IRS' handling of anonymous tips. Before the Berlin Wall came down, we all heard about places where friends and neighbors called in and informed on each other. Its something totalitarian governments like to encourage.

The IRS has its own peculiar program that rewards and encourages people to point the finger at private citizens. The IRS will open an investigation on you or me without our knowledge based on minimal information. If the IRS finds nothing wrong, your faceless accuser will not be punished for his mistake.

I asked the Department of the Treasury several questions about this program, and its replies are disturbing. Approximately 40 percent of the people investigated by the IRS based on outside accusations were found to be completely innocent. However, that does not mean they were not subject to intense scrutiny by the IRS.

And how much did the IRS recover from the rest of the people? A couple million bucks out of well over $1 trillion in revenue. The Congress needs to consider whether this policy is a cost-efficient use of the time of IRS agents; but more importantly, whether the benefits from this policy are really worth the drawbacks to the freedoms we all cherish.

Finally, let me note that these concerns about the IRS are not specific to this administration. These are issues that well predate the current administration. I know that the Department of the Treasury has good intentions, and I hope to work with them to address these and other issues and report to the taxpayers better news next April 15.

I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

THE CLINTON TAX HOAX

Mr. COVERDELL. Mr. President, at the conclusion of my first year in the United States Senate, as we were approaching the new year, I was asked, "Well, what was your greatest disappointment?" I indicated at the time that my single greatest disappointment was the fact that we had been unable to defeat in this body the Nation's largest tax increase in its history; the largest tax increase in its history.

And then, with all the business that we deal with here in the Senate, the pain of that loss began to ameliorate and we moved on to other activities and I did not think about it every day.

And then, as we come upon tomorrow, April 15, when the bill comes due, all the memories of that 7-month battle renew themselves for me.

Everybody is writing about the impact and the effect. None of it makes very good reading, Mr. President.

I was reading an article by Alan Reynolds of the Hudson Institute that appeared in the Wall Street Journal on April 12. He goes back to that long, arduous battle over the fact that, well, this tax increase is not going to affect many Americans; just 1.2 percent, I believe, was the figure that kept being used, just a small number of Americans and, therefore, we should excuse the fact that we are imposing this economic burden on America because it did not affect very many people.

This article says, if that were true, that would equate to 1.4 million Americans. But it goes on to say:

> This is much worse than misleading. It leaves out millions of unmarried professionals and managers. The 36 percent tax applies to all taxable income above $115,000 for singles, $127,500 for household heads, and $70,000 for married people who file separately. There are 5.6 million families with expanded incomes between $100,000 and $200,000.

The article goes on a bit, and it concludes by saying, Mr. President:

> In reality, the punitive new tax rates on success will indeed hurt saving and will also shrink labor force participation.

That means losing jobs.

> The statistical tricks used to make incomes of affected taxpayers look higher than they are, or to pretend that only families filing joint returns are in the higher tax brackets, will not fool those who are now filing their 1993 tax returns. If legislators who voted for higher tax rates really believe that only 1.2 percent of voters would be directly affected, they will be surprised by the number of angry taxpayers they have to face in November.

And I think that is absolutely accurate.

But the gloomiest report, the one that really set me back in my chair, was the statistical data that now, long after the final vote and the cheering that occurred in this gallery when it passed by one vote, now that we can look at this data and sort of get a true fix on how it affects my State, the State of Georgia, it is not a pretty picture.

The data now show that, over the next 5 years, $6.4 billion will be moved from the families, the individual citizens, and the businesses of my State to Washington, where, theoretically, we have people that feel they are more able to know what to do with these funds than had they been left in the hands of families and businesses at home in my State.

I harken back to the argument, "Well, it is not going to affect anybody except somebody that is terribly wealthy." But $443 million, that is nearly a half billion dollars, will come from Social Security recipients in my State over the next 5 years. It does not sound like those folks are necessarily just wealthy folks, Social Security recipients.

Over $1 billion will come from people who pay additional gas taxes. Now, that is not just wealthy folks. Those are people that are taking the kids to school, taking the route to work and back, going to pick up groceries. That is everybody. Everybody who owns an automobile in my State is going to shell out another $1 billion to send to Washington.

The sum of $1.5 billion comes from just miscellaneous impositions in the bill, user fees, et cetera. That is everybody. That is not just wealthy folks, as was portrayed in these hallowed Halls.

The sum of $3.2 billion is the number for half that is directed at this target that has been rebutted by the Wall Street Journal. But it was directed at this group that, theoretically, is so wealthy that it will be unaffected by this kind of tax increase.

I am reminded every time one of those self-styled wealthy people, many of whom are entrepreneurs, small businesses, every time $20,000 of this amount is written out in a check and sent to Washington for better use, that $20,000 is not left there in that little town and community to hire the graduate from high school or college this May, when they are out looking for a job. That figure is the exact amount that is coming right out of the workplace, that is denying somebody standing there in line with a job application in the private sector.

Mr. President, the 1992 election was virtually a rebellion and the message was, quit doing this kind of thing. The message was, you get spending under control. The promise was, we are going to bring relief to the average American. And the result was, in my State, the largest tax increase in American history and the loss of $1.5 billion a year for my citizens, my neighbors, and businesses.

This is the beginning of President Clinton's economy, tomorrow, April 15, when this economic plan is imposed on the citizens of my State and this Nation.

Mr. President, I ask unanimous consent to have the article by Mr. Reynolds that appeared on April 12 printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Apr. 12, 1994]

THE CLINTON TAX HOAX

(By Alan Reynolds)

President Clinton has assured us that when we get around to filing our tax returns, nearly all of us will be pleasantly surprised to find that our taxes have not gone up after all. "In fact," says The Economic Report of the President, "the income tax increases apply only to families with taxable incomes over $140,000—the top 1.2% of households."

Where did they come up with that 1.2% figure anyway? It turns out to be a count of the number of families earning more than $200,000. That comes to 1.4 million, or 1.3% of all families. These families are said to be those with taxable incomes above $140,000, which is where the new 36% tax kicks in on a joint return.

How does a before-tax income of $200,000 turn into a taxable income of only $140,000?

When the administration says 81% of its tax increases affects only those earning more than $200,000, it is defining income in a rather creative way. The small print under Table 2.1 in the budget (omitted from the same table in the economic report) explains: "Family income includes all federal income, social insurance and corporate income taxes." Thus, families supposedly earning $200,000 are really earning closer to $180,000 in the conventional sense. This figure then becomes $140,000 of taxable income, assuming an average deduction of $40,000.

Even if the number of families with "expanded" income above $200,000 is really equivalent to the number of joint returns with a taxable income over $140,000, that still does not tell us what percentage of workers or taxpayers will be affected. For one thing, most high-income families have at least two family members working. That means there are nearly twice as many workers as families affected by the new higher tax rates. By my calculation approximately 2% of all workers who are in married families filing joint returns are now in a 36% or higher tax bracket.

But that is only a fraction of the problem. Recall that the economic report claims that "only 1.2% of households" are affected by higher tax rates. This is much worse than misleading. It leaves out millions of unmarried professionals and managers. The 36% tax applies to all taxable income above $115,000 for singles, $127,500 for household heads and $70,000 for married people who file separately. There are 5.6 million families with expanded incomes between $100,000 and $200,000. That figure includes many singles who are indeed affected by the 36% tax bracket, as well as married people who do not file joint returns and have taxable incomes above $70,000. Not one of these taxpayers is counted among thè 1.4 million families earning over $200,000. Retired people hit hard by higher income tax rates on Social Security benefits are not counted either.

Adding singles and second-earners into the ranks of those shoved into the higher tax brackets would be more honest, but would still understate the percentage of taxpayers in that plight. That is because low-income families do not pay any income tax. More than 10% of all households have instead been receiving a federal check at tax time from the earned income tax credit. This proportion will soon rise quite substantially because the earned income tax credit was made far more generous last year. As a result, many second-earners in two-paycheck households may stop working—which further expands the percentage of taxpayers hit by higher tax rates.

In fairness, nobody on the Clinton team ever claimed that higher tax rates would have no bad effects on the economy. What they claimed is that higher tax rates would only affect 1.2% of households, which is simply untrue. They also claimed that higher tax rates would result in lower long-term interests rates, which never made sense and is now discredited by six months of rising bond yields.

There is a new line of defense, but it does not look more promising than the first two. Mr. Clinton's economic report claims tax rates won't be so bad because "high income taxpayers are presumably more likely to make the payments out of savings." In demand-side, trickle-up economics, savings don't matter. Those "rich" families and singles can simply pay their taxes by liquidating stocks and bonds at distress-sale prices.

Besides, says the economic report, payment of the EITC will tend to stimulate demand." Just send out more government checks on the condition that one spouse stays home, and the economy will remain almost as rosy as the budget forecast of perpetual 5.8% yields on 10-year bonds.

In reality, the punitive new tax rates on success will indeed hurt saving and will also shrink labor force participation. The statistical tricks used to make incomes of affected taxpayers look higher than they are, or to pretend that only families filing joint returns are in the higher tax brackets, will not fool those who are now filing their 1993 tax returns. If legislators who voted for higher tax rates really believed that only 1.2% of voters would be directly affected, they will be surprised by the number of angry taxpayers they have to face in November.

The PRESIDING OFFICER. The Senator from Pennsylvania.

SENATOR DOLE

Mr. SPECTER. Mr. President, earlier today there had been a number of comments commemorating the 25th anniversary of the speech by Senator DOLE concerning the issue of disability. I believe reference was made to that being his initial speech as a U.S. Senator.

I wish to add my voice of congratulations to Senator DOLE for that speech, and more important for his outstanding service as a U.S. Senator and before that as a Member of the U.S. House of Representatives, and before that as a member of the Kansas Legislature, and before that as the county attorney of Russell, KS.

I have known Senator DOLE for many years since moving to Russell in 1942, so that my association with, friendship with BOB DOLE goes back some 52 years. Of course I am much younger than Senator DOLE. When I moved to town he was already a hero of athletics in Russell High School, a big man on campus at the University of Kansas, and then shortly thereafter he was a war hero. BOB DOLE's courageous story as a wounded veteran from World War II is well known. His disability was extreme. And he fought back from that disability, being hospitalized, convalescing over a very long period of time until he regained his strength and went on to a brilliant career.

BOB DOLE became the county attorney in Russell, KS. One of the stories which BOB DOLE tells, and I think he would not mind having it repeated, is that both parties sought him to run as the nominee for county attorney in the 1950's, very much like Dwight Eisenhower was drafted to be President of the United States. He could have taken his pick of either party.

As BOB tells the story, he was somewhat perplexed at the outset until he checked the registration and then found he was a Republican. Coincidentally, the Republicans had a 2 to 1 majority in Russell County, KS.

Being county attorney in Russell County, a county of some 10,000, a city of some 5,000—actually I say Russell is a town of 4,998 people. It used to have 5,000 until DOLE and I left town. We left our brothers there and his brother Kenny Dole and my brother Morton Specter lived there for many years. Unfortunately, both passed away just about a year ago.

But BOB went from being county attorney in Russell to the State legislature. He went to law school at Washburn Law School, then was elected to the U.S. House of Representatives in 1960, served 4 terms, and was elected to the Senate in 1968, and has been reelected in 1974, 1980, 1986, and again in 1992. He has served as the chairman of the National Republican Party. He was the Vice Presidential nominee in 1976, was elected the majority leader in an election held in late 1984, served there in 1985 and 1986, and has been the Republican leader since 1987.

His work on this floor, and in this body, is legendary. It is better referred to in the CONGRESSIONAL RECORD, where he has made some of the most important pronouncements of any political leader in the history of the country, or on national television, or in the media.

His speech on disability has already been heralded as a milestone, leading other activists into the field of disability so that the disabled have equal opportunity. And we enacted recently the Americans with Disabilities Act as a result of leadership by Senator DOLE, and it was signed into law by President Bush.

Earlier today I noted the presence in the Senate complex of President Clinton, who was here to join Senator DOLE in a lunch in Senator DOLE's office to pay tribute to Senator DOLE's outstanding accomplishments.

I just wanted to take a few minutes of the Senate's time this afternoon—I note my colleague, Senator PELL, has come to the floor so I shall conclude—just to add my voice in tribute to ROBERT J. DOLE, a man whom I have known for many, many years with great respect and admiration.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

SENATOR DOLE

Mr. PELL. Mr. President, just to follow up the words of the Senator from Pennsylvania, I share in his regard for Senator DOLE. He is a man of his word. He is a man of honor. He knows what war is all about. And in this day of celebration of his work, I want to join in expressing my regard for him.

THE TRAGEDY IN KURDISTAN

Mr. PELL. Mr. President, this morning a somber President Clinton addressed the Nation about the tragedy that unfolded overnight in Iraqi Kurdistan. As all of us know, two United States Army Blackhawk helicopters, carrying military personnel from several countries—including possibly Britain, France, Turkey, and the United States—were shot down early this morning by United States F-16 C jets.

As of now, few details are available. It is unclear who or how many people were killed, or what exactly led to the incident. It is certain, however, that something went terribly awry, and that a number of fine people from several countries have died in a tragic mishap.

I want to take a moment to stress that these military personnel made the ultimate sacrifice in service of a noble cause. The international combined task force [CTF] in northern Iraq was established to prevent the wholesale slaughter of the Iraqi Kurdish and other minorities located there. My staff has traveled to Iraqi Kurdistan on a number of occasions—at times using the same route taken by the two helicopters that were shot down—and has spent a great deal of time with CTF and U.N. personnel. Those killed early this morning were more than just statistics; they were able and committed people working selflessly in the most difficult of circumstances. They, like anyone else, had families, hopes, and dreams. It is a tremendous loss for us all.

The protection of the Kurds—and the containment of Iraq—continues to be a fundamental interest of the international community. It is important that we in the Senate, and the American public, remember that fact. This is a day to honor the fallen and to remember the high cause for which they gave their lives. President Clinton, in his poignant statement this morning, cut right to the heart of the issue when he said,

> Those who died today were part of a mission of mercy. They lost their lives while trying to save the lives of others. The important work they were doing must and will continue.

On behalf of all of us, Mr. President, I offer my profound regret and condolences to the families of the victims.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I certainly join with the Senator from Rhode Island, the chairman of the Foreign Relations Committee, Senator PELL, in expressing sympathy to the families in his eloquent tribute to those who did lose their lives today over Iraq.

THE ANNIVERSARY OF SENATOR DOLE'S FIRST SENATE SPEECH

Mrs. KASSEBAUM. Mr. President, I rise to congratulate my colleague from Kansas on this special remembrance of a speech that is no less compelling today than it was a quarter of a century ago. In choosing the topic for his first speech in this body, Senator DOLE elected to discuss an issue of tremendous importance to him personally and to all of us as U.S. citizens. Issues relating to persons with disabilities—whether physical, mental, or emotional—remain a great challenge to our Government, to businesses and to families, and we have certainly come a long way in many of these areas since 1969.

Senator DOLE laid out a number of his concerns with the state of persons with disabilities in his maiden speech, and he has kept those thoughts in sight throughout his career. His personal commitment and dedication to this issue is felt from communities in Kansas to points across this country, and is evident in his work with the Dole Foundation and here in the U.S. Senate. He has always approached the complex challenges of disability with thoroughness and depth, as well as understanding and compassion, and we owe him a great debt of gratitude for his leadership on this important issue.

As the Senator from Pennsylvania, Senator SPECTER, mentioned, this issue in particular has been mentioned by many who spoke. There are many other aspects of Senator DOLE's leadership that have gone on and beyond this issue, but this is one he has cared about in a very particular and personal way.

It certainly is a tribute to Senator DOLE as well as, I would suggest, a very gracious gesture that the President of the United States came to call on Senator DOLE today on this special anniversary.

Mr. President, I yield the floor.

HONORING WILLIAM RASPBERRY

Mr. DURENBERGER. Mr. President, I rise today to congratulate one of the most valuable journalists we have in America—William Raspberry of the Washington Post—on the occasion of his Pulitzer Prize.

I think this recognition is not only richly deserved—it is in fact long overdue. I have been a Raspberry fan for many years, and I would like to share with my colleagues the chief reasons why.

Anyone who believes in a reasoned, thoughtful approach to our national problems can only have watched in dismay the trend in our political discourse in recent years. Never in America's history have public issues been talked about so much—with so little intelligence and illumination.

I like to refer to it as the "Crossfirization" of politics. On any issue, there are two and only two sides. We determine which side is right by judging the slogans on their bumper stickers. Because pretty much everybody today has clever media consultants, the slogans tend to be of a uniform quality—so we need a tiebreaker. The tiebreaker is, who can shout the slogans loudest on TV.

It is against this background that the eminence of William Raspberry takes on its true dimensions. Diogenes—the Greek philosopher of the 4th century B.C.—walked around in the daylight with a lantern "in search of an honest man." Today, he would have to look no further than William Raspberry.

The truth is an iceberg, and Raspberry recognizes this. A poor columnist lacks insight entirely. A good columnist provides some insight. A great columnist—like Raspberry—uses an original insight as a springboard for a full-scale investigation into the heart of social and political reality.

Earlier this week, Raspberry did something characteristic. He began a column about the rage of professional African-Americans who confront bigotry in their daily lives. In the middle of the column, Raspberry stopped: "(I)f I were smart, I'd simply acknowledge the truth of the thesis . . . and let it go at that. Instead, I'm about to turn a no-brainer into one of the most difficult columns I've ever written." He admitted that he personally didn't share that rage—and the rest of the column was devoted to his attempt to understand it in others.

A lesser columnist would have made the easy point about discrimination—and avoided the personal admission that ostensibly undercuts it. William Raspberry—in contrast—recognizes that scrupulous honesty increases the credibility and seriousness of one's arguments.

This approach animates the work of William Raspberry from start to finish. When he writes about social disintegration and the crisis of values, he writes in the voice of one who lives with these issues and takes them seriously. He is a man who listens—and a voice to be listened to.

I congratulate Mr. Raspberry on his Pulitzer. He deserves it. And I hope that the journalists of tomorrow take note of William Raspberry's example: Good guys can finish first.

I ask unanimous consent that a selection of excerpts from Raspberry's work—from the Washington Post of April 13—be included in the RECORD at the conclusion of my remarks.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

PRIZE-WINNING THOUGHTS ON RACE, RAPPROCHMENT, REDEMPTION

Following are excerpts from Washington Post columnist William Raspberry's Pulitzer Prize-winning entry:

On a Supreme Court desegregation decision, likely to result in the closure of at least one predominately-black Mississippi college (1/29/93):

"It's impossible to grow up as I did—as a poor, black Mississippian forced into segregated and third-rate schools—and not admire the man most responsible for bringing an end to school desegregation. . . .

"But if the death of Thurgood Marshall prompts these thoughts, the threatened death of a tiny college in the Mississippi delta prompts other, contradictory notions, among them this question: Must integration be the overriding priority for those who care about the education of young African Americans?"

On the birthday of black abolitionist Frederick Douglass (2/22/93):

"What would Frederick Douglass say . . . now? Wouldn't he be overjoyed to see college attendance rates for blacks approaching those of whites? Wouldn't he smile in satisfaction to see the growth of the black middle class, in affluence and influence . . . in knowing that the top military man in America is Colin Powell, a black man. . . .

"What would Frederick Douglass say if you seated him in the parlor of the Executive Mansion in Virginia—Virginia—and bade him sit while you fetched the governor, and then you walked in with Doug Wilder? . . .

"Suppose you ticked off the academic and political accomplishments of the grandchildren of slaves, even while informing him that there were still in America those who were indifferent, even hostile, to the advancement of his people. . . .

"And then suppose you put him in the governor's limousine and drove him through the slums of Richmond, or Washington or Los Angeles and let him see what my wife and I have seen too many times: the aimless drifters, the homeless in their cardboard shelters, the bullet-riddled walls, the vandalized schools, the pitifully undereducated children, the drug dealers and their prey.

"What would Frederick Douglass say?

"I think he would say nothing at all. I think that . . . Frederick Douglass would simply cry."

On gangsta rap and violence (6/2/93):

"My generation worried about racial segregation, mean southern sheriffs and the lynching of Emmett Till, but we sang about young love. My children's generation worries about being 'dissed' and sings about killing cops. . . .

"I wish their songs could be more like ours.

"But . . . I wish their world could be more like ours—that we could come together across the generations to reduce the amount of violence and despair in their lives. It'll take a lot more than censorship to get us there."

On reports that President Clinton planned to drop Lani Guinier's nomination as assistant general for civil rights (6/4/93):

"Something other than principle is at stake in the get-Guinier campaign. And something besides newly discovered information has led Cuban to confide that he doesn't agree with 'all' of her writings. Of course he doesn't. I don't either. I doubt that she does, no matter how serious she may have been when she wrote them.

"There are some things I'd like to hear her on. I'd like to know, for instance, how many of the proposals . . . would require new legislation and . . . in her view, are doable under the voting rights legislation she would interpret and administer as assistant attorney general.

"Hearings before the Senate Judiciary Committee are the place to get these matters cleared up. . . .

"Bork may have added a new verb ('to Bork') to our vocabulary. But at least Bork had his hearing. Ronald Reagan insisted upon it.

"Can't Clinton muster the guts to do as much for his nominee?"

On the long-term prospects for "rapprochement" between the Nation of Islam headed by Louis Farrakhan and mainstream black leaders troubled by his "baggage of anti-semitism" (2/20/93):

"For Farrakhan, all this may be a sign of wimpishness. . . . For the black political-civil rights establishment, on the other hand, Jewish support is critical . . . most of them simply don't subscribe to Farrakhan's notions about Jews, and they are troubled by his apparent fixation with Jews.

"But they are also intrigued by the prospect of a unity that could link mainstream activists with the disaffected masses that Farrakhan can . . . turn out by the thousands. Can they bring Farrakhan into the camp without triggering the defection of other critical allies?

"My guess is that they can't. . . . If he insists on going his own unreformed way, taking his occasional shot at Jews and equating black disconfiture with wimpishness, it's hard to see how last week's shining show of unity can turn out to be more than just another flash in the pan.

Repeating his call, first made in 1989, to "bring out the troops" in Washington (9/29/93):

"I believe we need to deal with the depression and despair of our young people—their joblessness, their hopelessness, their empty vision of the future. But I also believe that none of this is possible unless our children's homes and schools and playgrounds are safe places. We're got to do what it takes to make our cities safe again: with federal help and with federal troops, if necessary."

On Jesse L. Jackson's call for the black community to take a stand against violence (10/6/93):

"It does not absolve America of its racism. It does not contend that racism is no longer of much importance. It simply gives voice to what all of us know but have so much trouble talking about: that the major forces that threaten black America—family deterioration, teen pregnancy, drugs, violence—are things that have to be dealt with from the inside."

On stiffer sentences in the new crime bill (10/27/83):

"The crime that may lead to frightened America to take a chance on this flawed bill has its roots not in inadequate punishment but in unformed consciences. The rest of us may violate societal rules whose validity we nonetheless accept. The youngsters we so fear are not backsliders from an accepted faith; they are social infidels. Our values are not their values, our expectations are not their expectations, our fears are not their fears.

"None of this means that we shouldn't punish—even severely—those who violate the law. It means only that the problem—and any hope for solution—begins much, much earlier. . . .

"Maybe it's too much to expect a nation petrified by crime to do different things a different way—by undertaking serious prevention and, yes, redemption."

SENATE ARMED SERVICES COMMITTEE ACTION ON THE NOMINATION OF ADM. FRANK KELSO

Mr. NUNN. Mr. President, this afternoon the Committee on Armed Services favorably reported the nomination of Adm. Frank B. Kelso II, U.S. Navy, to retire in grade as a four-star admiral. The committee carefully considered this nomination and I want to share with my colleagues the statement I made at the time the committee voted on Admiral Kelso's nomination.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

OPENING STATEMENT OF SENATOR SAM NUNN, CHAIRMAN, COMMITTEE ON ARMED SERVICES, TO CONSIDER THE NOMINATION OF ADM. FRANK B. KELSO II, USN, THURSDAY, APRIL 14, 1994

The Committee meets to vote on the nomination of Admiral Frank B. Kelso II to retire in grade as a four-star admiral. At a meeting earlier today, the Committee decided we needed no additional witnesses and that was unanimous and I have received no request for additional testimony and were ready to vote.

Admiral Kelso is completing 38 years of distinguished service in the U.S. Navy. He has been serving as the Chief of Naval Operations since June 1990 and prior to that he served as Commander, SIXTH Fleet; as Commander in Chief, U.S. Atlantic Fleet; and as Supreme Allied Commander, Atlantic and Commander in Chief, U.S. Atlantic Command.

Admiral Kelso was serving as the Chief of Naval Operations at the time of the 1991 Tailhook Symposium, and he attended the symposium. Allegations of misconduct at the Tailhook Symposium, as well as allegations relating to the conduct of subsequent investigations, resulted in various well-publicized reports and disciplinary proceedings.

I would like to reiterate at this point the steps taken by the Committee in connection with alleged improper conduct by naval officers at the 1991 Tailhook Symposium. At the outset, it must be noted that the Committee proceeded very carefully in this area in order not to interfere with ongoing investigations and disciplinary proceedings.

After receipt of the report of investigation of the Navy Inspector General, the Committee wrote to then Secretary of Defense, Dick Cheney, to ensure the Committee was properly informed in connection with the confirmation process of Navy and Marine Corps officers. We made it clear that the Committee would not consider any nominee from the Navy or Marine Corps until the Department had answered specific questions on each nominee relating to Tailhook. We worked with the Navy and the Office of the Secretary of Defense to ensure that we established a fair and reasonable system under which the Committee would receive necessary information and the promotions of officers who were not involved in Tailhook could be accomplished without undue delay.

As a result, there was a necessary delay in the Committee's action on all pending Navy and Marine Corps officer promotion boards while the Department of the Navy gathered the information required by the Committee. Additionally, a number of nominations of flag and general officers were held up resulting in a major impact on the normal summer of 1992 reassignment plan in the Navy and Marine Corps.

At the same time, the Committee wrote to then Secretary of the Navy, Lawrence Garrett, expressing our concerns over the results of the Navy's investigations and suggesting that a more formal process might be in order. Our concerns were obviously well placed as shortly thereafter, Secretary Garrett requested the Inspector General of the Department of Defense to review the Navy's investigations and to conduct such additional investigation as may be necessary.

The DoD Inspector General then conducted a detailed investigation and issued two reports. Ultimately, Tailhook and its aftermath led to the resignation of the Secretary of the Navy, early retirement for a number of senior admirals, and administrative and nonjudicial punishment for a number of naval officers.

On Tuesday, the Committee received testimony in open session from Secretary of Defense, William Perry; Secretary of the Navy, John Dalton; and Chairman of the Joint Chiefs of Staff, General John Shalikashvili concerning the nomination of Admiral Kelso. I want to note for the record that the Committee has not received a request from Admiral Kelso to testify before us and that if we had, we would have been prepared to have him testify had he requested.

I will vote to recommend to the Senate that Admiral Kelso be retired in grade as a four-star admiral. I do so on the basis of the following:

First, the testimony we received on Tuesday, from Secretary Perry, Secretary Dalton, and General Shalikashvili, each of whom had concluded that Admiral Kelso did not personally witness misconduct during the Tailhook Symposium and that he did not manipulate the investigative process to shield himself and senior naval officers.

While the testimony we received on Tuesday differed from the findings of Judge Vest, it is important to note the different responsibilities of the judge and of senior DoD officials. The judge was charged with the responsibility of determining whether, as a matter of law, there was a basis for dismissing the allegations against three defendants in prosecutions related to Tailhook. Although the judge made certain findings about Admiral Kelso, Admiral Kelso was not a party to those proceedings and did not have personal representation by counsel or the opportunity to confront or cross-examine adverse witnesses.

Secretary Dalton and Secretary Perry had the independent duty to assess the evidence, to determine whether administrative or disciplinary proceedings should be brought against Admiral Kelso, and whether he should be retired in grade. In exercising that duty, they took into account—but were not bound by—the ruling of the military judge. They also took into account five other sources of information according to their testimony:

First, the conclusion by the Department of Defense Inspector General—who has statutory independence—that Admiral Kelso did not observe misconduct and did not thwart the investigation.

Second, their own review of the material compiled by the Inspector General.

Third, their personal knowledge of Admiral Kelso and their view of his veracity, based upon their experiences with him and the views of others.

Fourth, Secretary Dalton's interviews with Admiral Kelso and others involved in the Tailhook matter.

Fifth, their personal knowledge of the facts surrounding the custody of the investigative files on flag officers, including the file on Admiral Kelso.

Based upon all those sources of information, they concluded that Admiral Kelso did not witness misconduct, did not manipulate the process, and should be retired in grade.

In my view, the information cited by Secretary Perry and Secretary Dalton provides a reasonable basis for reaching findings that differ from those rendered by the military judge.

In addition, there are a number of other points which I believe are worth considering.

In making a judgment about a nomination, it is appropriate to consider your own observations about a person and their behavior. I have known Admiral Kelso since the 1970s. I have always found him to be an individual of the highest integrity and veracity. Based upon my own personal observations, moreover, I believe Admiral Kelso to be one of the least manipulative persons I have ever known in the military. It would be totally out of character for him to deliberately deceive the investigators or to manipulate the investigative process.

I note that Secretary Perry and Secretary Dalton believe that there was a failure of leadership by Admiral Kelso that:

Prior to the Symposium when he could have made a more diligent effort to find out what had happened there in the past;

During the Symposium, when he could have interceded during the flag panel, even though he was not on the panel, when some junior officer did not show the proper respect for the flag officers on the panel;

After the Symposium, when he could have been more forceful in overseeing the Navy Inspector General and Naval Investigative Service investigations even though he was not in the chain of command of the Navy IG and even though the Under Secretary of the Navy was personally overseeing those investigations.

I find it important that Admiral Kelso was the first to go to the Secretary of the Navy after he read the Navy IG's report and to recommend that an independent body come in and investigate the matter.

I am aware that Admiral Kelso received a non-punitive administrative letter of reprimand from Secretary Dalton for his failure of leadership. I am also aware that other flag officers, whom Secretary Dalton decided were guilty of specific acts of failure of leadership, received punitive letters, and one three-star admiral was retired as a two-star admiral with the attendant loss of pay.

I am aware that former Secretary of the Navy, Larry Garrett, resigned from that position as a direct result of the Tailhook incident.

I am aware that Secretary Dalton attempted to have Admiral Kelso retired earlier but I accept his statement that he did not ever intend for Admiral Kelso to retire as anything but a four-star admiral, which is consistent with Secretary Dalton's decision not to award a punitive letter to Admiral Kelso.

I believe it is important that Admiral Kelso was not a party to the trials that led to the military judge's ruling and thus he was not represented by counsel, did not have the right to cross examine witnesses, did not have the right to have witnesses called on his behalf, did not have the right to have an argument made on his behalf, and so forth. The prosecutor in that trial did have an interest in presenting evidence to attempt to establish that Admiral Kelso did not witness improper conduct at Tailhook and did not manipulate the investigative process. It is obvious, however, that he did not produce available evidence—evidence that would have been very important to rebut the suggestion that Admiral Kelso manipulated the process—which would have shown that Admiral Kelso did not have custody of the so called "flag files." Secretary Perry and Secretary Dalton from personal knowledge established that fact and clearly rebutted that important part of the military judge's findings with respect to Admiral Kelso. The judge was limited to the evidence presented in his court in reaching his conclusions and making his ruling.

I believe it is important that the DoD Inspector General, whose investigators interviewed hundreds of people and who reviewed the evidence adduced at trial as well as the voluminous evidence in the IG's files, concluded that Admiral Kelso did not personally witness any Tailhook misconduct and did not manipulate the investigative process.

I am aware of Admiral Kelso's 38 years of outstanding service to the nation, of which 14 years have been as a flag officer and the last 8 of those years have been in the four-star admiral grade.

I am also aware of Admiral Kelso's leading role in enhancing the ability of women in the Navy to serve at sea and in combat aviation positions and in ensuring the proper treatment of all Navy members. I doubt that there is any member of this Committee whom Admiral Kelso has not explained what he is doing in this regard.

I do not believe that we should deny retirement in grade to Admiral Kelso solely on the basis that he was the Chief of Naval Operations at the time of Tailhook. I do not subscribe to what I might call the "absolute accountability" rule.

Based upon my knowledge of Admiral Kelso, I am confident that he would rather sustain severe personal injury rather than have to retire early as a result of Tailhook, with the facts not fully resolved. That he has chosen to retire a couple of months early demonstrates to me that he is putting the needs of the Navy before his personal desires.

Finally, I have thought about the message we will send if we confirm this nomination. I have thought about Senator Hutchison's excellent and very thoughtful opening statement and the several problems that have occurred in the Navy during Admiral Kelso's watch as the CNO. By the way, I might clarify the record with respect to the Navy's investigation of the tragic explosion on board USS IOWA. The Senate Armed Service's activities in bringing Sandia National Laboratories into that matter and Sandia's demonstration of an alternative theory for the explosion served as the catalyst for the decision by Admiral Kelso to reopen that investigation and to ultimately overturn the previous conclusions and to apologize to the family of the sailor who had been charged with responsibility for the explosion. I am sure that Admiral Kelso took a lot of heat from many active and retired Navy officers for his decision in that matter. But he did so and did so courageously.

I am proud of the men and women in our armed forces. However, I realize that people in the military will continue to commit criminal offenses, including sexual harassment. I hope there will never again be a case involving sexual harassment on as wide a scale as occurred at Tailhook. I do not believe that every problem of misconduct in the Department of Defense can be attributed to poor leadership.

Finally, I would like to make a few observations about the issue of accountability. Military commanders and their civilian leaders have responsibility for the operation and maintenance of the awesome arsenal of America's armed forces. Their actions—and their omissions—can have enormous consequences in terms of life, property, and the very security or our nation. As a result, we hold them to a very high level of accountability.

We do not, however, subject our leaders to discipline or demotion for every problem that occurs during their tenure. We have more than 2.5 million men and women in our armed forces, and nearly a million civilians in the Department of Defense. Given the large, complex, and dangerous activities of the Department, not a day goes by without something going wrong. As we graphically learned today, the consequences can be very tragic, as we have seen in northern Iraq.

As Secretary Perry noted on Tuesday, when something goes wrong, the primary issue with respect to accountability involves the question of due diligence. Given the individual's position, scope of responsibilities, and relationship to the incident, we must ask whether the individual acted with due diligence and, if not, how serious was the individual's deficiency. As the senior uniformed officer in the Navy, Admiral Kelso had supervisory responsibility for those who planned and conducted the Tailhook Symposium, and for those who conducted the investigations. The responsibility, however, was also and ultimately in the hands of his civilian superiors. While he could have done better, it is clear in my own personal view that he was not made aware of misconduct before or during Tailhook, and did not impede or interfere with the subsequent investigations. On the other hand, there is substantial evidence that he intended the Navy to undertake proper investigation, and that he acted vigorously to combat the problems that were at the root of the Tailhook misconduct. Therefore, I personally agree with the judgment of Secretary Perry and Secretary Dalton that while early retirement is an appropriate measure in terms of his accountability, a two grade reduction in rank would not be appropriate. There is certainly room for people to have honest disagreements on the accountability issue in this case, however.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. STEVENS pertaining to the introduction of S. 2023 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

TERMINATION OF THE ALASKA PULP CO. CONTRACT

Mr. STEVENS. Mr. President, it is with deep regret that I announce to the Senate that the U.S. Forest Service has terminated the long-term contract with the Alaska Pulp Co. I am told that today the contracting officer, the regional forester of the Tongass Forest, has notified the Alaska Pulp Co. [APC] that the Government is terminating the APC contract because of the 1993 shutdown of the mill in Sitka.

I think that this is a very difficult decision for Alaska. We have tried to meet with the administration to discuss this. The contract to provide timber for the Sitka pulp mill was the first investment entered into by the nation of Japan following World War II. It was a 50-year contract that had 17 years left to run. The impact of the economy was such that the mill was shut down in order to consider a new system, a pressed-wood system which would be more environmentally sound and employ about two-thirds to three-fourths of the employees that are currently there in the mill.

The long-term contract gives permission for APC to close down the mill temporarily. As a matter of fact, it specifically provides that the contract may be extended for the period that it is closed down for economic reasons.

We have been received courteously by the Secretary of Agriculture, the Assistant Secretary of Agriculture, and the regional forester in our protest against this action.

I deeply regret the impact this action will have on southeastern Alaska in general, and the community of Sitka in particular. As a lawyer, I informed the Secretary of Agriculture that I do not believe that they are on sound ground. Unquestionably, the matter now will go to the court to determine the damages for the cancellation of the 17 years remaining on the long-term contract.

Clearly, the Forest Service has not carefully considered the matter of breach. The Sitka mill has been receiving timber and cutting timber in their sawmill ever since the time that the matter of a cancellation of this contract was first raised by the Forest Service.

I would challenge anyone to read the contract and find any ground for the cancellation of the contract because the mill was shut down for economic reasons in order to pursue a different process to preserve the jobs that were brought about by the investment of Japanese nationalists in our State.

It is a matter that was not anticipated by us. I think it is a reaction to extreme environmental interests. I predict now that we will have a very difficult time in the Tongass Forest in trying to maintain a job base utilizing the forest resources that are there.

The Tongass Forest was created at a time when people believed that having a sizable amount of timber in Federal ownership would create a yardstick whereby the Government could measure the performance of the private timber industry in the United States. The theory was that under Government management, under Federal management, with scientific management concepts, with the concepts of sustained yields, that the Federal forest system would be a way to measure the capabilities of the private forest system in our country, and would provide alternative sources of supply in the event that some of the forest products, or many of the forest products of our country, came under a monopoly ownership.

Unfortunately, over the years Congress has restricted more and more of the timber that was available for harvest to sustain the basic processing industry of southeastern Alaska, and the consequences of that restriction have been that now only 10 percent of this forest is available for harvest, and under a 100-plus-year timeframe. In other words, the cutting cycle is more than 100 years for 10 percent of the forest.

This action today I think is a contract termination action in name only. It is an announcement that this administration no longer will countenance the harvest of timber from the Federal forests in order to carry out long-term commitments for the sale of timber that is necessary to support the substantial investments necessary to bring about modernization of the industry, and particularly modernization for processes that are pollution-free, and are such that they would be producing products that have a greater economic viability on the world scene.

Again, Mr. President, I regret the action of the administration that was announced today in Juneau, canceling the balance of the 50-year contract with those members of the Japanese nation that invested in a long-term program in my State.

I ask unanimous consent that this news service report from the Forest Service be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE—ALASKA REGION,
Juneau, AK, April 14, 1994.

U.S. FOREST SERVICE TERMINATES LONG-TERM CONTRACT WITH ALASKA PULP

Juneau, Alaska—In a letter to the Alaska Pulp Corporation (APC) today, Contracting Officer Michael A. Barton, Regional Forester of the U.S. Forest Service, notified the corporation that the 50-year timber sale contract between the government and APC was being terminated as a result of APC's 1993 mill shutdown in Sitka.

The decision to terminate comes six months after the corporation's closing of the Sitka pulp mill and followed numerous discussions between APC and the Forest Service concerning contract obligations. The termination means that the Forest Service will offer no more timber under the APC long-term contract.

The Wrangell mill currently has a five month operating supply of wood. The Forest Service will continue to work with APC to supply wood for its Wrangell mill. However, the company would have to bid on short term timber sales as part of the Tongass independent sales program or obtain wood for its mills from other purchasers.

Barton expressed concern over the disruption caused by APC's September 30, 1993 closing of the pulp mill. "We deeply regret APC's closure of the mill and the loss of jobs to not only the Sitka area, but the potential effects throughout Southeast Alaska. We are willing to explore with earnest the economic viability of any facilities with APC or any other interest using the Forest Service authority to prepare a ten-year timber sale package for advertisement and bidding. We remain committed to helping communities through collaborative planning to develop year-round industries in the Southeast using existing authorities and the forest resources."

In his April 14 letter, Barton said APC had not demonstrated sufficient cause to show why the contract should not be terminated. The Contract requires continued year-round operation of the pulp mill. Barton concluded that lack of present commitment to reopen the existing or converted mill facility and other factors warranted contract termination.

The contract with APC is one of two long-term timber sale contracts awarded in the 1950's to utilize low-grade wood from the Tongass National Forest and help establish an employment base in Southeast Alaska. The APC contract would have expired in 2011. The other contract is with Ketchikan Pulp Company and is not affected by this decision.

Mr. STEVENS. I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). The Senator from Arizona is recognized.

SENATOR DOLE'S FIRST SPEECH

Mr. McCAIN. Madam President, I want to take this opportunity to recognize the 25th anniversary of Senator DOLE's first speech before this body. This statement on disability policy was particularly important and was remarkable for its time.

Delivered on April 14, 1969, the 24th anniversary of BOB DOLE's own disability resulting from a World War II injury, this was the first time to my knowledge that a Senator addressed the issue of disability policy from both a personal and a national policy perspective on the Senate floor. It was a visionary speech, discussing the broad range of issues affecting the disability community and recognizing autonomy, independence, and productivity for people with disabilities as the ultimate goals of disability policy.

At a time when the general public believed that people with disabilities could only live desperate lives of dependence on their families and government, and the independent living movement was only beginning to build momentum, Senator DOLE said in his speech that the daily challenge of a person with a disability is to accept and work with his or her functional limitations to "become as active and useful, as independent, secure, and dignified as his disability allows."

Senator DOLE recognized the difficult situation of the many people with disabilities at that time. He stated that "only one-third of America's blind and less than half of the paraplegics of working age are employed, while only a handful of about 200,000 persons with cerebral palsy who are of working age are employed." He added that "far too many handicapped persons and their families bear serious economic problems—despite token Government pensions and income tax deductions for a few, and other financial aids."

After discussing private and public sector efforts, Senator DOLE called for the creation of a Presidential task force or commission to review the various disability programs and policies. He specifically asked that the task force consider the following issues: expansion of employment, transportation, and recreation opportunities; development of a directory or central clearinghouse on available public and private assistance; removal or architectural barriers; improvement of access to health care; improvement of special education; increased financial assistance; more attention to families, and increased program coordination between the public and private sectors.

Progress has been mixed since Senator DOLE made his speech 25 years ago. On the one hand, some important laws have been passed, including the landmark Americans With Disabilities Act, the Fair Housing Amendments, and the various amendments to the Rehabilitation Act. These have begun to address the many problems that Senator DOLE identified. On the other hand, the disability employment figures and other social indicators today are no better than they were then. Clearly, much still needs to be done.

To understand how far ahead of its time Senator DOLE's speech was, his vision of the objectives of disability policy remains true a quarter of a century later, and many of his same words could be made on the Senate floor today.

Recognizing that this is an appropriate time to seriously consider how far we have gone, how far we must still go, and what changes we must make to improve the lives of people with disabilities, Senator DOLE has again introduced legislation to create a bipartisan commission to examine our disability programs and policies. I strongly support this legislation and believe that we must now reconsider all aspects of disability policy to ensure that it is consistent with the independence and community integration goals of the ADA.

I applaud Senator DOLE's longstanding leadership in the area of disability policy. As he said in 1969, our citizens with disabilities "are one of our Nation's greatest unmet responsibilities and untapped resources. We must do better."

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR D'AMATO'S SPEECH ON THE TAX INCREASE

Mr. NICKLES. Madam President, a few moments ago, the majority leader, Senator MITCHELL, made a speech where he was critical of Senator D'AMATO for some of the statements that he had made. One of the statements he criticized Senator D'AMATO for was because of Senator D'AMATO's characterization of the tax increase that passed last year, which was a very partisan tax increase, the largest tax increase in history.

The majority leader is critical because the Senator said in his statement that it was a tax increase on everybody. The majority leader said that was incorrect. I will respond, since this is tax day, that the tax increase that passed last year was a tax on everybody, including my now 18-year-old daughter. She drives an automobile, and gasoline taxes went up for everybody. So anybody who drives a car had a tax increase. Some individuals had personal income tax increases, and corporate taxes went up. So there were very significant tax increases. I might well mention that a strong majority of Americans, at least those driving automobiles, had a tax increase.

The majority leader said there was the largest deficit reduction in history and said maybe not if you look at the present value of dollars. CBO says it is not the largest deficit reduction package in history.

I want to mention one other thing, and that is the fact of using figures. We continued to hear today that it had more spending cuts than tax increases. I think that statement is totally false. It is predicated on a false baseline, and we have inflated baselines. The reason I say that is, I think if you use what most people call a baseline as actual dollars that we spend this year, you will find spending goes up every year. So from that analogy of using common-sense budgeting, we had no spending cuts in the package compared to what we are spending today.

We are spending $1.5 trillion today, and next year $1.6 trillion, and the following year, increases I think over a period of time to almost $2 trillion. So it is hard for me to say that we have spending cuts. Spending continues to increase. It may increase at a less progressive rate, or less than what was indicated or what was anticipated.

I tell my colleagues that in the budget package we passed, we passed a resolution I sponsored that said we should use baselines, not next year's projections, but this year's reality. I think that is a commonsense budget approach, and I think Senator BOXER, and others on both sides of the aisle, supported this resolution, even though it was opposed by Chairman SASSER of the Budget Committee. We passed it overwhelmingly in the Budget Committee, and it was part of the budget resolution that passed in the Senate. It is also in the House budget resolution.

Both Houses are passing resolutions that will say we should use real dollar figures when we set our baseline, not projected inflated baselines. We have used projected inflated baselines going all the way back to 1974, 1975 in the Budget Control Act. I think it has been responsible for inflated budgets and distorted budgets, certainly, and distorted facts, when you get into these deficit reduction debates. The tax increase that passed in last year's budget were real, and some were even retroactive, even before Clinton was sworn into office. We had a very contentious, partisan debate. Our side lost on that by one vote. That was twice, and that is OK; that is the way the legislative procedure works.

I am still irritated when I hear some of the rhetoric on spending cuts, because spending cuts are based on inflated baselines, so it is something that was anticipated to go up 15 percent, and he reduced it, through difficult decisions, to 10 percent. Somebody says you cut 5 percent in whatever program that is, and I find that to be misleading. In any program—defense, entitlements, whatever—we need to say what are we spending this year. If we are spending more next year due to inflation or cost-of-living adjustments, whatever, if it increases, we should call it an increase; if it decreases, we should call it a decrease. I think if we do that, it would simply tighten our accounting and get us away from some of the partisan rhetoric we have had over deficit battles, because it has been so confusing and misleading.

I remember in the budget battle we had last year, a great deal of our time was focused on: Are these cuts real? Many said they were not, because spending goes up every year.

I come to Senator D'AMATO's defense, because it seems like if he or somebody else makes a comment on Whitewater, or requests hearings, or says that some questions have not been answered, two or three colleagues come to the floor and attack him. That is exactly what happened today.

It reminds me that in Arkansas you had a State trooper that made allegations concerning President Clinton's sexual activities, and he was attacked. You had two Arkansas troopers that made allegations a few months ago, and they were attacked. So Mr. Hale made an allegation—this was a judge appointed by then Governor Clinton—that Governor Clinton pressured him to make a loan to Mrs. McDougal, and $110,000 of that went into Whitewater. He made that allegation, and he was attacked.

So anybody who makes an allegation against this administration or the then Governor Clinton is attacked. Senator D'AMATO makes a statement on the floor, and he is attacked. People are going back researching. Did he say such and such? And they are basically saying he distorted the truth, and so on.

Frankly, I heard his comments saying almost everybody had a tax increase. I think that was correct. I agree with the comments made by the majority leader that we should stick to the facts, and we should be very plainspoken when we talk about deficit reduction, and plainspoken when we talk about Whitewater, or any other issue. We should stay to the facts.

President Clinton has stated that he has been bending over backwards—maybe I will find the quote. Yes. On March 24, he said: "Cooperation, disclosure, and doing the people's business are the order of the day."

But he has not disclosed a lot of information. He has never disclosed how much money he invested in Whitewater. I mean, really, if this is an investment or a real estate deal, how much money did he invest, or how much did he lose? We never had that information come out, and he never disclosed it. It is kind of basic. If it was an investment, how much money was put in or taken out? How much did you win? How much did you lose?

It should not be that tough. But the President is saying cooperation and disclosure is the order of the day. That is not the case.

The Whitewater files were in Mr. Foster's office for months. Actually, Mr. Nussbaum and others in the White House looked at some of those documents the day Mr. Foster died. Yet the White House kept control over them or turned them over to President Clinton's attorney for months before they were ever disclosed. Yet they were not disclosed to the public. They were disclosed to the special counsel.

If President Clinton's comments are correct that cooperation and disclosure are the business of the day, why are not those documents just made public? Maybe Mr. McDougal will make some public by selling them. I do not know. Maybe those are some of the same documents. I know we have never seen the information on how much money did the President and Mrs. Clinton invest? It would be nice to know.

What about the fact that the corporation did not file tax returns? That is kind of a basic thing. You know, it is not optional. Tomorrow is tax day. All people all across the country will file their tax returns. We have people who are cramming in trying to do their tax returns. It is going to be very frustrating. Lots of Americans are going to be frustrated late tonight trying to do their tax returns.

The reason is you have to pay the amount owed or the amount refunded or you can file and request an extension. Those are your options. One option that is not there is "I would rather not."

And yet the Clintons, President and Mrs. Clinton, who own 50 percent of Whitewater, did not file tax returns for 3 years. Why? You know, it is against the law not to file tax returns. There is not an option. There is not a box that says "I would rather not." They have never been asked that question. When I say "they," I am talking about the President and Mrs. Clinton. I do not know. I have never seen it. I watched it kind of close. Maybe they have. But I do not believe they ever answered that question.

I have been involved in corporations. I see my friend and colleague from Alaska, Senator MURKOWSKI. He ran a bank and has been involved in private sector business.

You do not have an option not to pay taxes. But they did not file returns for 3 years.

Also, I will just mention a little coverup. They had the Lyons report done during the campaign to investigate Whitewater because the New York Times—not Republicans, the New York Times—made some report about Whitewater, and so the Lyons report was put together to answer all questions.

The Lyons report never told anybody that Whitewater never filed tax returns. Yet those tax returns which now have been filed—Mr. Foster filed those shortly before his death last year. But those tax returns, to my knowledge, have yet to be made public.

So, when I look at Mr. Clinton's comment, and this sounds so good, "Hey, we are cooperating and disclosing, maybe they are already disclosing them to the special counsel because they have been subpoenaed, but they have not been subject to the Freedom of Information Act. They have not been turned over to the public. And both President and Mrs. Clinton said, "Hey, this is just a real estate investment that happened years ago."

These tax returns, I believe, were for the years 1990, 1991, and 1992. That is not 14 years ago. Those tax returns were done, I believe, just last June, June of 1993.

So we are not talking about digging up the archives. They are available. They should be turned over and they should be made public. Why should they be under the guise of a subpoena? Why should just Mr. Fiske see them? If this is just a real estate deal, let us get all the information out.

Frankly, I think that is good advice for President and Mrs. Clinton. I think they would be well advised to turn over all this information and get it out and make it public and be done with it, get this Whitewater issue behind them.

Many of us have called for congressional hearings and have said we need to have some of these questions answered. I know Mr. Clinton yesterday, when he was speaking to the Association of Newspaper Editors, just answered all these questions. But I do not think he answered these very basic questions, not to mention the more detailed, more complicated questions.

I think we are probably going to need to have congressional hearings to get these questions answered, and Mrs. Clinton, who was involved in the issues in a very big way, I think misled people when she said they were just passive investors. I do not think that was accurate. I think it was very misleading.

I do not believe they have answered hardly any questions concerning Whitewater. I do not think they have had a press conference. I do not think she ever asked the press. Maybe she granted one or two selective interpretation views with friendly reporters, but I do not believe she ever answered questions to the extent of her involvement dealing with Whitewater.

Now, there is this issue on commodity futures, and, Madam President, I find it to be very unusual for someone to make a $1,000 investment and in less than a year make $100,000. I find that to be more than unusual. You realize that is about a 10,000 percent rate of return. Most of us feel like we are doing pretty good if we make a 10-percent rate of return or maybe a 12-percent rate of return. If you did real well, maybe you made a 15-percent rate of return. This was not 10 or 15; it was not a 100-percent rate of return; it was not a 1,000-percent rate of return; it was a 10,000-percent rate of return.

I do not know that much about commodity futures and trading in commodity futures, but I realize, according to the data that she has turned over, they turned, in 1 day, a $1,000 investment into $6,300. I have yet to find an investment where you can do that.

I do not know all the answers, but I think we need some answers, and I think many of the statements that Mrs. Clinton and President Clinton have submitted since this commodity futures thing came out—again, I think that information came out originally from a story by the New York Times, not by Republicans. But I do think we are entitled to know the answers.

Is there graft involved? Is there corruption involved? Is there bribery involved? I do not know. But I think we are entitled to know the answers.

I mentioned I do not know that much about commodity futures, but an article in the Wall Street Journal by someone who does, David Brandon—this was in the April 7 edition of the Wall Street Journal. He is the former head of the IRS chief counsel's commodities industry specialization team in the mid-1980's. He says:

> . . . I have followed with great interest the media stories on Hillary Clinton's excellent adventures in the commodities markets.

I skip a couple lines and read the conclusion in the first paragraph:

> In fact, the chances of someone making almost $100,000 in the futures markets on her first try are about as great as walking into a casino in Las Vegas, hitting the million dollar jackpot on your first try at the slots, then walking out never to play again. It just doesn't happen that way.

You know, I think he is exactly right.

Madam President, I ask unanimous consent to print the entire article of Mr. Brandon in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Apr. 7, 1994]

THE MYSTERY OF HILLARY'S TRADES

(By David L. Brandon)

As former head of the IRS chief counsel's Commodities Industry Specialization Team in the mid-1980s, I have followed with great interest the media stories on Hillary Clinton's excellent adventures in the commodities markets. As a proud capitalist and free market proponent—and an avid beef eater—I would be the first in line to salute this woman's success with cattle futures. But, based on my years of experience with these markets, her story just doesn't add up. In fact, the chances of someone making almost $100,000 in the futures markets on her first try are about as great as walking into a casino in Las Vegas, hitting the million dollar jackpot on your first try at the slots, then walking out never to play again. It just doesn't happen that way.

For those unfamiliar with the details of Mrs. Clinton's remarkable venture into the commodities markets, she allegedly made more than $99,000 in cattle futures—and other commodities—in late 1978 and 1979, withdrawing from trading just before the markets went bust. No explanation has been offered of how Mrs. Clinton managed to satisfy state laws that require futures investors to demonstrate a minimum net income and net worth, nor how a novice could have such uncanny timing.

There is, in fact, a much more probable explanation for Mrs. Clinton's good fortune. The media have already suggested that trades may have been moved to Mrs. Clinton's account after gains had been realized. However, the stories thus far have not clearly focused on a common trading strategy called a "straddle" that was very much in vogue at the time.

Straddles have the unique ability to produce exactly equal and offsetting gains and losses that can be transferred or used by the straddle trader for a variety of purposes. During the late 1970s and early 1980s, straddles were used for all kinds of illegal activities, ranging from tax evasion to money laundering and bribes. In fact, this activity prompted a number of legal and regulatory changes by the Reagan administration to curb the abuses.

Although it sounds somewhat esoteric, a commodities straddle is a relatively simple trading device.

A commodities futures contract is nothing more than an agreement between two parties to buy or sell a certain type of commodity—in Mrs. Clinton's case, cattle—for a stated price on some date in the future. If the price of the commodity goes up before the contract delivery date, the individual who agreed to buy the commodity will realize a gain equal to the difference between the current price and the contract price. The individual who agreed to sell will realize a loss in an equal amount. Conversely, if the price goes down, the buyer will lose and the seller will gain.

A straddle is created when an investor enters into contracts to both buy and sell the same commodity. In this case, any gain on one contract will be exactly offset by a loss on the opposite contract. While straddle trading today is used in a variety of legitimate ways, these transactions lend themselves to all sorts of abuses as well. Before regulatory changes in the 1980s, it was common to enter into straddles to wipe out large capital gains for tax purposes. For example, an investor who realized a $100,000 capital gain in the stock market might enter into a large straddle in the commodities market. When the commodity price moved, the investor would close the loss leg of the straddle and realize a $100,000 loss, which offset his gain in the stock market. The investor was not required to report the unrealized $100,000 gain in the opposite leg of the straddle until that leg was closed in the following year. Typically the investor entered into another straddle in the following year, thereby indefinitely rolling over the capital gain into subsequent years.

Another ploy common during that time required the assistance of a friendly broker. An investor could create a straddle using two separate investment accounts with his broker. After the straddle had moved, so that a gain and an offsetting loss had been created, the friendly broker simply wrote in the name of the investor's tax exempt retirement fund on the account that held the gain leg of the straddle. The result was that a loss was realized that was reported on the investor's tax return, while the gain went unreported in the tax exempt retirement account.

In the late 1970s and early 1980s, the IRS began noticing large numbers of individual tax returns that curiously showed commodities losses just big enough to wipe out unrelated capital gains; no corresponding commodities gains, which would suggest a straddle, ever appeared on subsequent returns. Even more curiously, the profile of these investors always had one thing in common, which was limited experience or no prior experience in commodities trading. In the early 1980s, an IRS agent in Chicago thought to look into one taxpayer's retirement fund and, of course, found the hidden gain leg of the straddle.

After that experience, the IRS redoubled its efforts to seek out thousands of missing straddle gains. It found them in retirement accounts, in London, in the Cayman Islands—almost anywhere a taxpayer thought he might hide them from the IRS. With respect to these thousands of mysterious, isolated commodities transactions that showed up on tax returns, the IRS uncovered some form of questionable trading in virtually 100 percent of the cases it investigated. Well before the close of the 1980s, the IRS had assessed more than $7 billion in delinquent taxes and penalties attributable to these transactions and eventually settled these cases out of court for approximately $3.5 billion.

While most of the IRS's efforts were directed at finding hidden gains of the ubiquitous straddle, the trading device could just as easily be used to openly transfer gains while hiding the offsetting loss. If someone desired to make an illicit payment to another party, a straddle could be used to accomplish this purpose with no incriminating or suspicious looking bank withdrawals or deposits. In fact, the IRS found numerous incidents of straddle being used for money laundering purposes.

Does Mrs. Clinton's trading activity fit the profile of the illegitimate straddle trader? She was a novice in the commodities markets who, against all odds, realized large gains. Although she intermittently realized losses, it does not appear that she ever had to risk her own capital beyond her initial $1,000 deposit, which itself may have been insufficient to cover even her first transaction, which netted her $5,300. According to the trading records released by the White House, most of Mrs. Clinton's gains were recorded as intra-month transactions. This means that these records include no information regarding key elements of the trade, such as the type and quantity of the contracts, acquisition dates, acquisition prices, etc. Such information is needed to determine whether trades were part of a prearranged straddle.

It also appears that Mrs. Clinton's broker, Robert L. "Red" Bone, was no stranger to the spicier practices of commodities trading, according to the Wall Street Journal's front page article last Friday.

It seems more than coincidental that Mr. Bone was a former employee of Tyson Foods and that Mrs. Clinton's investment adviser, James Blair, was the company's legal counsel. Tyson, the poultry concern, is one of the largest employers in the state of Arkansas. The fact that the Clintons withheld disclosing only those tax returns that included their commodities gains until the transactions were reported by the New York Times in February also appears quite suspicious. From my standpoint as a former government staff attorney with extensive experience in these matters, Mrs. Clinton's windfall in the late 1970s has all the trappings of prearranged trades.

How would a straddle have been used in Mrs. Clinton's case? The Journal has already reported that gains theoretically could have been transferred to Mrs. Clinton's account, while "others" may have absorbed losses. Such a transaction could be accomplished with a straddle.

A party desiring to transfer cash to another's personal account for legal or illegal purposes could enter into a straddle in a particularly volatile commodity, such as cattle futures in the late 1970s. After gains and losses were generated in the opposite sides of the straddle, the gain side would be marked to the beneficiary's account, while the loss side would remain in the account of the contributor. The contributor might even be entitled to use the loss to offset other gains. Such a transaction would be not only well-hidden from government authorities but potentially tax deductible.

No direct evidence of wrongdoing has been produced in the case of Mrs. Clinton's trading activity. In fact, no conclusive evidence of anything has been produced. In order to settle the legitimate questions surrounding her trades, a satisfactory explanation is needed for her apparently low initial margin deposit and whether the requirements relating to an investor's minimum net income and net worth were satisfied. In addition, the details of her numerous intra-month trades should be provided, as well as the details of the trades of persons who may have had a special interest in how well she did. If it is discovered that certain interested parties happened to realize losses in cattle futures at the same time, and they were comparable in size to the gains reported by Mrs. Clinton, this would amount to a "smoking gun."

This is not a matter of partisan politics. Even if the public had never heard of Hillary Rodham Clinton, the circumstances surrounding her unusual good fortune would still appear suspicious to anyone awake to abuses of the commodities markets. In this writer's experience, the normal trading world just doesn't work that way.

Mr. Brandon was a career attorney in the Office of Chief Counsel of the Internal Revenue Service from 1983 to 1989. During that time he also served as head of that department's Commodity Industry Specialization Team, which was responsible for coordinating and developing the IRS's legal positions on tax issues arising in connection with commodities transactions.

Mr. NICKLES. Madam President, I do not know all the answers, and I do not have answers to all the questions, but I am concerned about this. I am concerned when I know we have one colleague in the Senate who is under investigation by the Justice Department for basically expensing or being reimbursed improperly for about $4,000 and that one individual has been under investigation for a couple years and has had to spend hundreds of thousands of dollars defending himself.

Mrs. Clinton made $5,300 in 1 day in commodity futures. She made $100,000 in about 10 months. I find that to be very unusual. And the information that they have submitted is not conclusive. They did not give all the information on trades. And originally, too, I might mention, the comments were that the trades were made by Mrs. Clinton, who was very shrewd and prudent and read the Wall Street Journal. Now we find out that that was not the case, that now they say Mr. Blair, who is outside counsel for Tyson Foods, a huge poultry firm affected by the usual State agencies, made many of the trades.

President Clinton said she discontinued to trade when she became pregnant with Chelsea. Now we found that was not the case either. Talking about a new account, they said, well, in this account we lost money. Now it turned out they made several thousand dollars and they forgot to pay taxes on it. Now they just recently made payment on taxes and on interest.

My point is I think there are some questions here. I am concerned about integrity. I heard the majority leader, and again I am referring to Senator MITCHELL, say we should be held accountable.

I think the President and Mrs. Clinton should be held accountable. And I think questions need to be answered. They need to be answered truthfully. I do not think they have been answered truthfully in some of these cases. I am not here to make a partisan row. I am not here to try to tear down the Presidency. I am here trying to seek the truth, and I think the American people are entitled to the truth.

I think concerning the issues of Whitewater and the commodity futures, I do not think they had the truth. Until all the truth and all the information comes out and until the administration releases all the Whitewater documents to the public or at least to the press, many of us will continue to clamor for hearings until we get that information out.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

TIMBER CONTRACTS

Mr. MURKOWSKI. Madam President, my office was just advised by the Department of Agriculture that they have seen fit to cancel timber contracts affecting the Alaska Pulp Co. and, as a consequence of that, my State faces a future of some 1,100 Alaskans losing their jobs. These are jobs in Wrangell, Sitka, Hoona, Corner Bay, False Island, Rowan Bay, small communities that depended on the Alaska lumber and pulp timber contracts to provide an assured supply of pulp timber so that the pulp mill in Sitka and the sawmill in Wrangell can continue to operate.

Madam President, these are relatively small communities. Wrangell has a population of about 2,300. The sawmill is a main source of employment of about 300 jobs associated with longshoring and timber cutting. While the Sitka pulp mill is down, every effort has been made to try to convince the Forest Service that the sanctity of the contract should be maintained, and that time should be allocated so that a medium-density fiberboard plant can be considered and placed in the pulp mill.

Now, what we have here is an extraordinary example, I think, of the Clinton administration not practicing what it preaches. This is rural America, Madam President. These are situations in my State, as far as the pulp mill is concerned, where we have very little year-round manufacturing. As a matter of fact, we have two major plants that operate year round, one in Sitka and one in Ketchikan. The one in Sitka was forced to close for economic reasons. However, they appealed to the Forest Service to allow them approximately 6 months to complete a feasibility study for refitting the mill to manufacture medium-density fiber pulp.

Now, the advantage of that and how it coincides with the objective of the administration, which is encouraging development in rural America by using new technology that would upgrade processing facilities and reduce air and water pollution, would seemingly fit into the administration's goals.

The proposed medium-density fiber mill would use 25 percent less timber, and water pollution is virtually eliminated. The concept of jobs is a major factor in the administration's relative analysis of how America should progress because conversion of that pulp mill to medium-density fiber would involve about 150 high-paying jobs in the city of Sitka, replacing some 300-plus jobs lost with the closure of the pulp mill.

Now, what we have here is extraordinary, because we have an interpretation, a rather unique interpretation, I might add, by the lawyers for the Forest Service in the Department of Agriculture that have extrapolated that indeed it is an obligation of the Government to cancel this contract based on the fact that there is a termination of Alaska pulp companies' continuous year-round operation in violation of the contract.

I challenge that. That is totally inaccurate. They have continued to cut timber. That timber has been going to the Wrangell mill, going through the sawmill; other timber that cannot go to the sawmill has been sold to the Ketchikan pulp mill. To suggest that the conditions of the contract are unfulfilled as a consequence of the termination of the pulp mill is absolutely inconsistent with reality. Yet, they have chosen to come down with that decision.

What they have done is they have made a policy decision instead of a legal decision.

It was rather interesting to note, and I am quite aware of this, that the Department of Agriculture had two letters. They had one letter authorizing an extension, if you will, considering the aspects of the feasibility study, which still has some 4 months to go, and then they had another letter of outright rejection.

Well, the attorneys prevailed, and the letter calling for outright canceling of the contract was issued, and now there are about 1,100 Alaskans that are going to be out of jobs and are not going to sleep very well tonight, Madam President, because there is an arbitrary decision that the Government is holding this company in breach of contract.

Now, what are the damages to the Government? It is pretty hard to make a case. You know, if timber is being cut, jobs are being provided, a tax base is occurring. Is that not of some benefit to the Government?

But they have chosen to cancel the contract, saying the company is in breach because it shut down the pulp mill. But the pulp mill is not the only function. There is a sawmill that company owns, and there is a timber operation that provides employment.

Now, what this is going to do, Madam President, is result in a full employment act for lawyers. This is going to be litigated. The cost to the taxpayers is in the millions of dollars, close to $1 billion, and the Government could very well, in the opinion of the Senator from Alaska, lose this suit.

The administrators that call these shots, those lawyers, do you think we are going to be able to hold them accountable? Absolutely not. They are nameless. They are faceless. They are out there and they are responding to the extreme environmental community in the United States that wants to cease timber cutting in the national forest.

The southern part of my State is all in the national forest. But it is just not a national forest, Madam President. People live there. They raise their children there; they have their homes there; they have their jobs there. And now, arbitrarily, we have come down and said their contract is in breach because they shut down the pulp mill. No consideration for the continuing timber cutting that goes on, for the continuation of the Wrangell mill.

It is absolutely inexcusable. It is the height of governmental irresponsibility. And to suggest that there is any rational explanation is one I guess that we will simply have to wait for because we do not have the full text.

This decision shows a total callous disregard for Alaskans. This is one issue we have been totally unified on. The Governor, bipartisan, Republicans and Democrats, all of our cities have said: Give this company an opportunity to continue with its feasibility study another 4 months; give this company the consideration to invest $60 million in new technology. The State of Alaska, through its loan program, has committed to fund in excess of $40 million to let this new technology be introduced and save those jobs.

Madam President, I wish you could take a tour through southeastern Alaska timber with me. You would recognize that, yes, this is virgin old-growth timber. But it lives and dies. Just like with wheat, 30 percent is dead or dying. That percentage that is dead or dying has no other use than wood fiber. You cannot run it through a sawmill because you do not have a viable, live, healthy log. You have dead or dying trees, and the consistency is only utilized in an operation that utilizes fiber.

It is rather interesting to note that in the new plant, the medium-density fiberboard is suited for just that kind of timber.

Now we are left with a situation where the dead and dying trees—30 percent of the timber, I might add, most of which is western hemlock—will have little or no market. Or perhaps some of it can be sent to the Ketchikan mill, which is down, obviously, on difficult economic times because their pulp mills are being replaced by pulp mills in other areas of the world where the timber grows much faster. So the economics of Alaska's two pulp mills, I might add, are very questionable.

So we have this decision by the Department of Agriculture. I, personally, as well as Senator STEVENS, met with the Secretary of Agriculture. We met with the Assistant Secretary of Agriculture, Jim Lyons. We met with the Chief of the Forest Service, Jack Ward Thomas, to communicate our concern, to ask for consideration, recognizing that these people have the administrative authority to make the recommendations and make the decisions.

But it was not made by them, in my opinion, Madam President. It was made by the lawyers, the lawyers who have been bamboozled by the extreme environmentalists who want to cease timber cutting in the forest.

They look upon the forest as something that is out there. They do not realize that people live there. They do not realize that a big chunk of our State is made up of the Tongass National Forest.

I suggest that without the dependable supply of a long-term timber contract, it is going to be very, very difficult to finance the fiberboard plant in the Sitka region. They gave us a rather curious window, I guess, in offering that perhaps a 10-year contract to induce the fiberboard plant can be put together, replacing the existing contract which has about 17 years left to run.

We all know that an effort to negotiate a new contract will face an environmental impact statement process and be a field day for the environmental group that is opposed to any timber cutting in the Tongass National Forest. So it is a doubtful alternative.

The Forest Service really should have tried to promote the usage of this new technology to produce the clean product that will aid the environment. Instead, it made a purely political decision. And I might add this decision was not made in Alaska by the Forest Service. This decision was made by the bureaucrats in Washington, DC, dictated by the extreme environmental community and its access at the very top levels of this administration at the expense of the hardworking people of my State of Alaska.

I think it is terrible. It is a heartless, crass, sellout. An administration that so bases its recommendations on rural economic development, simply plays into the hands of the extreme environmentalists who do not care about real people. They only want to see the Tongass locked up, its resources locked up.

We have more of the Tongass in perpetual wilderness—two-thirds tied up in wilderness forever—than we do available for timber cutting. We are not arguing that. We are not asking for opening of the wilderness. We are simply asking for the Forest Service to practice what they preach, and that is multiple use, instead of arbitrarily shutting down half of the total year-round manufacturing in our State of Alaska, and not giving us breathing room for an alternative.

So, Madam President, I saw my senior Senator, Senator STEVENS, earlier expressing his frustration with this decision. I, personally, tonight attempted to contact the Secretary of Agriculture, Mr. Espy. He is out of the country. I attempted to personally contact the Assistant Secretary. He happened to be in the Pacific Northwest. I finally got the Chief of the Forest Service, Jack Ward Thomas, leaving town, and I said we are entitled to an explanation. We are entitled to have these people in Alaska, in Sitka and Wrangell, who are going to be put out of work, told how they can still have hope, some kind of hope for their homes and their future and their children. I said, "Will you come up to Wrangell, and will you come up to Sitka, and explain to us how this medium-fiber-density plant can possibly be encouraged under this 10-year window of contract that might be out there?"

Much to the chief's credit, Jack Ward Thomas indicated yes, that was his job; and yes, he would do it. So we look forward to him coming back to Washington. He has not seen this letter. We look forward to him reviewing the letter, finding out, and interpreting just what this window of hope might mean. For Wrangell, I understand there is about a 6-month supply of timber, so the likelihood of the mill continuing to operate for that period seems reasonable.

But it is a black day for Alaska, Madam President. And it is certainly frustrating to have to deal with an administration that on one hand suggests that, yes, use your new technology, use the natural resources, and then turns around and makes a legal decision that ultimately is going to cost the taxpayers of this country millions and millions, and perhaps $1 billion.

SANCTIONS ON TAIWAN TRADE IN TIGER BONES AND RHINOCEROS HORNS

Mr. MURKOWSKI. Madam President, I have one other point I want to bring up. I know it is late, but I will be brief. This matter, I think, is receiving a great deal of attention among those of us who follow the attitude of our State Department toward both Taiwan and China. The issue that I want to discuss is the sanctions that have recently been imposed by the administration, singling out Taiwan for punishment. Can you imagine that? Our allies have been singled out for punishment.

I rise to express my concern over the administration's recommendation that Taiwan alone be sanctioned for trade in tiger bones and rhinoceros horns. These are traditional Chinese medicines. The issue is not over whether Taiwan should stop trading in endangered species. Certainly it should. We all agree to that. But so should China. And yet China does not face any sanctions, or any mention of sanctions. The administration has chosen to single out Taiwan for punishment.

In 1993 the Convention on International Trade and Endangered Species, that is CITES, recommended the imposition of sanctions against both China and Taiwan—both. The administration deferred the action in 1993 as an incentive for both countries to take steps to meet the CITES standards.

According to the Departments of State and Interior, both countries have made progress in eliminating illegal trade, but further progress is needed. This is a reasonable recommendation so far.

But the question is: Why did the administration single out Taiwan for enforcement? There seems to be some disagreement among the agencies over the official explanation, as you might expect. One explanation is that the Taiwanese have not passed tougher legislation through the Yuan, but the Chinese have decreed new laws.

Is it not ironic that Taiwan, which is a legitimate democracy, is being sanctioned because it faces a delay in getting legislation enacted? Have we ever faced delay around here in getting legislation enacted?

And China, compare the two—China, the Communist dictatorship, is being rewarded for decreeing, if you will, new laws overnight, and for staging public events. That is the reality.

Just as in the United States, lawmaking in Taiwan faces political and legal challenges that can delay enactment of new legislation. China's Communist leaders, on the other hand, can decree whatever they like without any due process. Think about that.

Finally, a second unspoken explanation is that the administration's China policy is in such disarray since Secretary Christopher's trip that it just will not risk slapping the Chinese when they deserve it.

Madam President, I think this is the wrong signal to send to both Taiwan and China. China is rebuffing the United States on everything from North Korea to human rights, but we are rewarding their lack of progress by letting them slide on trade in animal parts and taking it out on Taiwan. Taiwan has consistently acted as a friendly ally that is cooperating on a whole range of issues, but we are punishing them now. And Madam President, we are punishing them for being a democracy.

The administration's action reminds me of the parent who punishes the quiet child who does his work but brings home a B on his report card, and does nothing to the loud child who perhaps forges his B on his report card and threatens to quit school if he gets punished.

I think this administration should rethink its policy. Equal progress should receive equal treatment. Taiwan should not be forced to take the rap for China too, and we should certainly not take this action at the expense of our friends in Taiwan, who are simply turning the other cheek on China.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 93-29, as amended by Public Laws 98-459 and 102-375, reappoints the following individuals to the Federal Council on the Aging:

Rudolph Cleghorn of Oklahoma, reappointed to a 3-year term; and

Stephen M. Farnham of Maine, reappointed to a 3-year term.

ADDITIONAL COSPONSORS—SENATE RESOLUTION 148

Mr. MURKOWSKI. Madam President, I ask unanimous consent that I, Senator JEFFORDS, and Senator NICKLES, be added as cosponsors to Senate Resolution 148.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PAYMENT IN LIEU OF TAXES

Mr. SIMPSON. Madam President, two or three items, and when the majority leader is desirous of concluding the day's activity, I would appreciate being advised because his schedule is important. But as we wait in the interim for further activity that must be concluded before the end of the day, let me express my support for the legislation yesterday which was offered by our most able ranking member on the Appropriations Committee, Senator HATFIELD, with regard to payment in lieu of taxes. That may seem rather arcane to many people, but it is very critically important to Western States, and particularly to my State of Wyoming.

There has not been an increase in these PILT payments—and we call it PILT, payment in lieu of taxes—to the States in over 10 years, even though costs of providing these needed services by county and municipal governments have risen constantly.

This is not some giveaway, Madam President. The PILT Program represents nothing more than fair compensation to State and local governments, and the Federal Government is getting a very good deal. Local government revenues have plummeted, often as a direct result of some action by the Federal Government. Wyoming, for example, funds its schools and infrastructure from property taxes and royalty receipts, and PILT payments are a form of property taxes. Wyoming property taxes have increased. Many small towns and cities in these past years have approved property tax increases, and those tax increases have been levied against all property owners except the Federal Government. It is time the Federal Government ponied up a fair share, as well.

These Federal land management policies and our country's reliance on imported fuels have caused painful reductions in the amount of royalties received by the States and by the State of Wyoming. These reductions in royalties, combined with the fact that the PILT payments have not kept up, have caused severe financial hardship to our counties.

Senator HATFIELD's legislation will ease that hardship somewhat. It is very needed; it is very fair; and it was approved here. We are very pleased that it passed the Senate. We look forward to its enactment into law after conference committee and other activity.

THE USDA REORGANIZATION ACT OF 1994

Mr. SIMPSON. Madam President, I rise in support of S. 1970, the USDA Reorganization Act of 1994 which we passed overwhelmingly yesterday. I favor the important efforts to reorganize the Department of Agriculture. This bill will ultimately result in a new and improved USDA. The Department will now more effectively deliver farm service programs to its customers while remaining true to the mandated mission of the Department—no more shoe-box accounting methods.

I particularly commend the distinguished chairman and ranking member of the Senate Agriculture Committee for their diligence over the past 2 years to make this much needed reorganization a reality. A very significant portion of the bill was the establishment of the Farm Service Agency, a new single agency that will provide commodity price and income support, farm loans and crop insurance to eligible farmers. I supported this concept 2 years ago when Senator LUGAR began his crusade to determine whether the 1930's-style Department of Agriculture was still effectively serving American farmers. I am most pleased with the results of his efforts. The new agency will include the Agriculture Stabilization and Conservation Service (ASCS), farmers programs located in the Farmers Home Administration (FmHA) and the Federal Crop Insurance Corporation (FCIC).

I have serious concerns with the Senate's reorganization of the USDA's Delivery of Rural Development Programs. The Rural Utilities Service will combine the electric and telephone programs of the Rural Electrification Administration (REA) with the water and sewer programs of the Rural Development Administration (RDA). The Rural Community Development Service will include FmHA rural housing programs as well as RDA and REA rural community loan programs.

This effort is clearly an extraordinary scheme to expand the mission of the REA, an agency that has surely fulfilled its original mission. The co-ops will now have full authority to deliver not only electric and telephone services, but housing, water and sewage and economic development programs in rural America. The REA will no longer just be providing electricity and light to rural America, but flushing toilets, too—and trying to expand into health care too. This should not stand.

I appreciate the cooperation of the chairman and ranking member for their efforts in correcting a major flaw in the reorganization act by their acceptance of my amendment. The bill would have given the Secretary extensive authority to alter, discontinue, and consolidate any function of the Department of Agriculture. This broad-based authority for the Secretary could have led to elimination of important agricultural programs. This flaw has now been corrected.

I look forward to introducing a bill in the coming weeks that will address many of my concerns with the expansion of Rural Electrification Administration authorities into areas in which electric co-ops have no expertise—housing, water and sewage, economic development, and health care to name a few. The commitment of my fine friend and colleague from Alabama, Senator HOWELL HEFLIN to hold hearings in his Subcommittee on Rural Development and Rural Electrification is so very much appreciated.

I believe a major stride has been made towards exposing the sweet deal rural cooperatives have in regard to their use of Federal funds. I look forward to working with the members of the Senate Agriculture Committee in the future to correct these problems.

SENATOR DOLE'S FIRST SENATE SPEECH

Mr. SIMPSON. Madam President, 49 years ago today, on a hillside near Bologna, Italy, a young lieutenant lead his squad through a complex array of bunkers and gun emplacements manned by German defenders. While executing a flanking maneuver, the squad approached a farmhouse from which German machinegun fire was coming. The young lieutenant was severely and gravely wounded. He lie face down in the mud, paralyzed from his neck down, his collarbone crushed, his lung punctured, and his vertebrae damaged.

He endured numerous operations, and for nearly a year the wounded soldier could not feed himself, not even the basic elements of personal care. It took even longer for him to be able to dress himself without assistance. When he was wounded, he weighed 194 pounds. One year later, he weighed 122 pounds. He ultimately spent 39 months in rehabilitation hospitals, and death was near several times.

Movement gradually returned to his body, and his last operation took place in November 1947. Through sheer guts, determination, mental toughness, and faith the young man not only survived, he excelled. He went back to college. He received a law degree in 1952. He was elected to the Kansas House of Representatives in 1950. In 1960, he was elected to the U.S. House of Representatives. In 1968, he was elected to the Senate.

As a Senator, he wanted to be very sure that his first speech in this remarkable Chamber was a significant one; that it dealt with an issue which combined what was in his heart with his vision for Federal policy in the future. And, of course, there were many things going on in our Nation during that turbulent period—the Vietnam war, campus dissent, inner-city riots. There was surely no shortage for potential topics.

I am told that he and his staff received thousands of suggestions for this first speech. I am also informed that there was never any doubt in the mind of this new Senator as to what the topic of that speech would be.

Twenty-five years ago today the junior Senator from Kansas then, now our friend, our leader, Bob DOLE, rose on this floor to discuss an issue with which he was intimately familiar, and for which he had a remarkable vision: Federal disability policy. I understand that it was the first time that a Senator had ever addressed disability as a personal issue as well as a national issue on the floor of the Senate.

The speech was a comprehensive discussion of the broad sweep of disability issues. He spoke of concepts like independence for people with disabilities, such ideas that are mainstream today, but they were not 25 years ago.

He talked about where our Government was on disability policy issues, where it needed to be in terms of employment issues, transportation issues, architectural barriers, better health care, education issues, technology for the disabled, how Federal tax policy might assist those with disabilities, private sector-public sector partnerships, and how to better incorporate the family of those with disabilities.

The recurring theme of the speech was how our policy might best help to move along those who had disabilities, from their feelings of helplessness and hopelessness, and move them along toward greater independence and security.

Madam President, today, Senator DOLE came to the floor, and in commemoration of his speech 25 years ago, he outlined where we are today in regard to Federal disability policy. I certainly concur with my friend, BOB DOLE. We have come a very long way since 1969. Great progress has been made in all the areas he discussed in that first speech.

He should be especially proud of his critical leadership role in the passage of the Americans With Disabilities Act, a bill which also had the strong support of so many on both sides of the aisle and President George Bush.

Much of the progress that has been made in the area of disability policy in this country is due to the leadership of this one respected man, our Republican leader. There is no one in Congress that has done more for those who have disabilities or who has helped more to increase the awareness and sensitivities of those Americans who do not. That has been one of his greatest contributions as a Member of Congress, and there are many.

However, Senator DOLE also noted that there is still much to do in the area of disability policy. As so many of our colleagues in Congress have done in the last 25 years, I intend to follow the leadership of Senator Bob DOLE as he continues to point out areas where we must do better, how we might best accomplish our Nation's goals.

I am so very proud to serve as assistant Republican leader to a highly regarded man who has such a superb record not only in defense, law and order, civil rights, foreign and trade policy issues, but on a great number of critical domestic issues, none of which may be more important to him than the Federal disability policies of our country.

So congratulations to our friend, my friend, my leader. It is a great honor to serve as a lieutenant to this fine captain who proved himself not only in the field of battle but in the fray here which can sometimes be nearly as brutal but without the shellfire.

So congratulations to him on the 25th anniversary of his first of so many important speeches on this floor. I am very proud of this man.

THE AMERICAN ASSOCIATION OF RETIRED PERSONS

Mr. SIMPSON. Madam President, I spoke during the past session on some very deep concerns that I have had regarding the AARP, the American Association of Retired Persons.

As I stated, the AARP is one enormously influential organization in our society. I wanted to make all persons, especially AARP members themselves, aware of just what kind of organization AARP actually is. I did that. It was rather politically harrowing, I might add, telling that they have in their coffers $37 million listed as "yield" on their investments, which would make one wonder that the principal must be quite tight if you have a $37 million yield; the fact that they receive 3 percent of the premium from every single policy they place with Prudential Life Insurance, or RV insurance, or any other insurance that they have; the fact that they are 33 million strong paying $8.

All you have to do is be 50 years old and regardless of your net worth or your income, you are joined together in a common bond with those who love airline discounts, automobile discounts, hotel discounts, and free VISA cards. And that is the AARP.

They do good things, and they do things which in my mind are not so good, such as killing off the balanced budget amendment which was worked on so diligently by our colleague from Illinois, our colleague in the chair, sharing her Senate tenure with that remarkable friend of ours, Senator PAUL SIMON, who worked doggedly on that issue.

You will recall the AARP rose, rose from wherever they rise from, and smoked the legislation on the basis I think that every person on Social Security in America will lose $1,122—I mean they had it right down to the nub and 50 cents, whatever it was—if the balanced budget amendment passed. I thought that was egregious. I shall continue to think it.

They also receive an $80 million grant from the Federal Government that I have still been unable to find out exactly what it is or why it is, more importantly, when they have the yield on investments of $37 million.

I am trying to find out what the salaries of their members are. I have not been able to determine that—the salaries of their officers. I hope I will receive that.

I visited with John Roberts. I find him a delightful gentleman. He is a pleasant enough man. He is committed. He is sharp. He is dedicated. So we are going to visit to see where we are going because I think it is wrong that all of us seem to cower in the trenches here when the AARP rises from wherever they rise. They have a huge legal network. They pay out a great deal on legal fees. There was at one time a retainer paid to the law firm of the original originators of the AARP. I think that is now just a normal—whatever that is; payment to attorneys; quite a battery of those. I visited with the counsel—a very pleasant, articulate, and very bright person.

So I intend to visit with them. I do not intend to come to the floor because I realize the political hazards entailed in this kind of work. I want to look into their manual. It is said that if their field people do not concur with the orders and instructions from the national office, they are subject to being sacked, dismissed. I would like to know a little bit more about that.

I would like to know how it is they can tell their membership that what we need in this country is long-term health care for everyone in America regardless of their net worth or their income which would bring this country to its knees fiscally. It cannot be. Means testing is apparently a horrid expression to them. I am going to call it "affluence testing" from now on, and we will see where we go from there as we use the phrase "affluence testing," which is a phrase used by our good former colleague, Senator Paul Tsongas of Massachusetts and Senator Warren Rudman of New Hampshire; as they worked diligently with the Concord Coalition group to see if we could bring some sense into the entitlements issue and the issue of, again, affluence testing.

So I have had some good mail from the AARP members, and a majority of it is very supportive from AARP members, saying, believe it or not, "I agree with you. I am in it just for the discounts. That is what I am doing, and that is what I am up to. I like the cards, the insurance, the RV insurance." I do not have any argument with that at all. I am a member of the AARP, and their magazine is a stirring magazine; it looks like the Smithsonian magazine. It is a very interesting magazine, and it has some dazzling advertising in it. It has some of the sleekest looking gray-haired cats you have ever seen playing golf, tennis, and it talks about cruises and things to do. It is pretty, we would say in Wyoming.

Yet, the editorial comment is a continual reference to what the Congress is doing to senior citizens, regardless of their net worth or income. I think that is wrong, and I think we need to look into that, and I hope there will be colleagues on the floor who will jump off the cliff with me into the stygian pits of despair when we get to taking them on. I want to find out more things, and we will.

I am sure others in the audience, or others who are listening on the floor, will wonder with me, what is the purpose of the AARP receiving $80 million in a grant from the Federal Government? The best I have been able to find up to this point is that it is used to assist senior citizens, and somehow it is best used by the AARP because of their ability to reach senior citizens. We have all sorts of things to reach senior citizens through the Government, without going to private organizations. We have the Rolling Meals; we have the senior programs, senior citizens programs; the green thumb program, and we have all sorts of programs. So I have not yet been able to find out what the $80 million is for. I do think that an organization that has that much dues income—all you do is multiply 33 million by 8, and that ought to give anybody an idea that there is enough petty cash lying around to serve a lot of different forces. That is what we hope to find out.

There was an article in Money magazine, I believe, some years ago, that said that the cash flow through the AARP in nine different businesses—remember what they are in: Pharmacy, insurance, RV, Scudder—I have not found out what is all involved in the premiums and brokerage fees they receive. They have investment funds, and the cash flow is $9 billion a year through the agencies of the AARP. That does not mean they make that. It just means that that is the kind of flow that goes between 33 million members and the various things that they operate at a very high intensity level.

Nevertheless, so often people write to me and say that there is some poor beleaguered emaciated soul that has the political—it is not courage at all; it may be political ignorance—to take on such a powerful force as the AARP and criticize its propaganda and money-making business machine, but I am just ornery enough to be that one.

In addition, in the past, I have been very vocal in my discontent with another senior citizen group, the National Committee to Preserve Social Security and Medicare. This group almost single-handedly perpetuated the notch baby issue with the ramblings about the terrible inequity toward persons who happened to be born within the notch years. In the past, the national committee had been the only fairly well-known organization pushing for notch legislation, because they believed the notch babies were not receiving their rightful due, and the legislation is critically needed to provide them with additional benefits.

This entire issue is based on the perception that legislation enacted in 1977 somehow unfairly reduced benefits for people born within a 5 to 10 year period after 1916. The clear problem was that many of those persons who were retiring in the late 1970's and early 1980's, those born in 1915 and 1916, received higher benefits than was ever intended. The notch babies who came after, in later years, actually received an actuarially correct amount. What is more eye-popping is to take a good look at what persons born in those notch years actually have paid into the Social Security System over their working lives.

Hear this: As a 20-year-old in 1937, the maximum amount a worker contributed to the system was $30 a year. That comes out to $2.50 a month.

In 1945, that amount was still $30 per year, as to what people were paying into the Social Security System.

In 1957, 3 years after I was married, the maximum was $84 per year.

In 1967, $234 per year. This is maximum stuff.

In 1977, as a 60-year-old worker, $722 per year.

In 1992, these persons who had made an "average wage" and retired at age 65 received $797 per month in Social Security benefits.

Does anyone need a computer? Does anyone need to know where our problems lie? I hope the entitlements commission—of which I am very proud to be a member, as the President appointed me to that—will seriously present to the American people this remarkable set of statistics. That does not mean we are going to go out chopping people up, but it means at some point in time, you have to have some relationship with what you paid in and what you get out, even if you take the base, put compound interest on it. And, yes, I have heard the old story that had we invested it ourselves and not given it to you slobs, it would have worked, and we could have done it. Add all that in there, too.

I have a form I take to town meetings, and it costs 29 cents. You send it to Social Security, and they show you what you put in, what you are going to get out. I say, "If you still feel you are getting cheated, write me after you get the material back." I have never heard from anybody, not a soul. How could they? I got mine back. In 1945, my first job at Cody bakery, I put in $5. Then I worked at the B4 ranch and put in $7. I really got ripped that year. And then the army did not do any. And then as a self-employed lawyer, $300 a year and $400 a year. They really stuck me one year for $1,500. My wife, Ann, is a very wonderful woman, a homemaker, businesswoman and mother, and all things, a very hardworking woman, who taught and earned money. The two of us, when we role into our 65th year, will be picking about $1,100 or $1,300 a month out of the system.

And that is the biggest year I ever remember before I ever got here, and I pay the maximum, which I suppose now is about $3,300 a year and will go up to $3,500. I will get that all back in 2 months. That is where we are.

Nobody listens, and I cannot believe that these groups have the desire to just leave their children and grandchildren just wallowing in nothing, regardless of their net worth or their income, and I will be visited by free spirits in the middle of the night probably tonight and there they will be clinking the tin cup giving me the business. And I am not talking about poor people. I am not talking about people who dug ditches. I am not talking about poor guys who never made over 20 grand a year. They are in this system and they should be in this system and the replacement weight of their wages is weighted to take better care of them than it is for the rich who should never forget that is our obligation. It is not to people who are earning $70,000 in retirement and are receiving a COLA, a cost-of-living allowance when they have 40,000, 50,000, 60,000, 70,000 bucks coming to them a year in retirement income whether earned or unearned.

What is really even more eye-opening is to then compare this amount that I just gave as to what they are receiving $797 a month in 1992, for a guy who made an average wage, retired at 65, but compare that with what today's worker pays. Today's worker is paying into the Social Security System in 1993, working persons paid a maximum of $3,225 per year into Social Security. That is only for Social Security. It does not include what persons contributed for Medicare or what they pay in income tax, and you have a situation right now in America where young people are paying more in Social Security tax than they are paying in income tax. That has never happened in this country. It is happening all day every day.

And I do so admire Leon Panetta and Dr. Alice Rivlin who placed in the President's budget a full paragraph, more than a paragraph of detailed information on generational analysis that shows that unless these things are corrected and unless we do something with Medicare and Medicaid, pensions, Social Security, COLA's, all the rest, that in the year 2035 people will be paying 82 percent of their income in to take care of themselves through the system. I do not think many people will sit still for that.

Those are things that we must address and the National Committee for the Preservation of Social Security and Medicare now probably remains as the last lone hysterical voice on notch reform legislation. Since they have discovered that this issue also generates sufficient heat and indignation and possibly indigestion and it keeps those donations nicely flowing into their outfit. I have visited with their people. I admire them. I enjoy them. I said, why don't you quit talking about notch babies since this is the phoniest issue that has ever confronted us, and they say we will, but they do not because I get their mail and they are still doing it. And so "notch reform" has been kept alive. I think they are wholly irresponsible on this issue, and I have never hesitated to bring this to their attention as well as to the public's attention. The folks with the committee have told me time and time again that they have left the notch issue "behind them" and are focusing now on the budget deficit and health care reform. At the present time, they are finding it very difficult to get Congress' attention on the notch reform with the problems of the budget. In the meantime, seniors continue to send additional contributions from their meager pensions to the committee so they may line their own coffers and continue their "good works." The committee's mailings and "alerts" contain misleading and distorted statements about the budget bill, the Social Security trust fund. That is always the one: "You guys steal it. You know you stole it all." We did not steal a nickel of it. It all has to be invested in Federal securities and federally backed securities. And they talk about cuts in Medicaid. One statement contained in a recent mailing, even ricochets off the wall to state that, "The Congress has pulled some last minute, closed door deals—deals that actually bring the Social Security trust funds back into the budget * * * If entitlement spending exceeds the budget, Congress can then go looking anywhere in entitlements to pay for the overspending * * * and they are going to be looking at the Social Security trust funds." This is absolutely not true. During the budget deliberations this past summer Congress never attempted to meddle with the Social Security trust funds. It has never been healthy to even think of doing that. We tried one night doing that in 1987 and went for 24 hours, and we sealed that hole and never tapped into it again but you never know that when you get out and read the material from this group. It is one more stamp of how the national committee twists the facts.

With regard to the balanced budget amendment, the committee's latest legislative alert states that, "The balanced budget amendment requires that the total expenditures of the Federal Government not exceed total receipts or revenues. The problem for seniors is that "revenues" or "receipts" include the funds the Government takes in for specific purposes—and this includes Social Security trust fund dollars. It allows the Government to officially use the Social Security trust funds moneys to reduce the deficit." The legislative alert goes on to note that, "* * * If Social Security is back on the budget, there will be intense pressure on Congress to resist benefit improvements, such as cost-of-living adjustments, so that the huge Social Security surplus is maintained for deficit reduction purposes." The committee then urges members to contact their Senators and Representatives to tell them that the Social Security trust funds should not be used to balance the budget, and they are not and they never were and they never will.

The type of propaganda currently being churned out by the national committee through communications to their membership is intentionally confusing and diverts attention from the real issues which lawmakers face in trying to balance the budget. As an integral part of the Federal budget, Social Security certainly darn sure does have an impact on the budget and should be directly linked to the budget deficit problem. Simply put, the budget deficit—and the national debt of 4 trillion, 500 billion—yes, that is the figure—is a terrible threat to our entire Nation's financial stability and security. All Federal programs and all Americans must participate in some way in helping to reduce the budget deficit. It is no more sinister or mysterious and no less real than that. The deficit is caused by unrestrained Federal spending and a deep part of this spending is tied directly into entitlement programs such as Social Security, Medicare, civilian and military pensions, veterans' benefits, railroad retirement, and unemployment compensation. Does anyone want to step up and take on some of those? The one thing that all of these programs have in common is that they are not subject in any way to the scrutiny of the annual appropriations process. Spending for these programs occurs "automatically"—regardless of a person's net worth or income—without any action or review by Congress. In short, entitlements represent uncontrolled Government spending. That is the essence of our most serious national problem.

With the enormous amount of funds that are concentrated in Social Security and other entitlement programs, one can understand the need to include these programs in any real and significant effort to reduce the horrid budget deficit. But, it is surely not an easy task when every time I turn around, someone says, "I'm all for helping to reduce the horrid budget deficits, but don't do anything to my favorite program." Or the other good one is, "We are ready to do something if everybody else will," and they know everybody else will not so they know they are off the hook on that. Unfortunately, that kind of an attitude, which the national committee loves to perpetuate, only further compounds the difficulty of lowering the deficit.

No one in Washington is asking senior citizens to bear the brunt of deficit reduction. But they, too, have to be part of the "mix" if we are to achieve any honest deficit reduction. What we are asking all the American people to do—and I surely include seniors in this—is to save for our future so your Federal Government is not forced to borrow more and plunge the American people—that is called their children and grandchildren—ever deeper into the black hole of decline.

That is what groups like the National Committee, with their scare tactics and propaganda machines, are forcing us to do. We simply cannot stand back and watch groups like the National Committee and the AARP let their dramatic and draconian charges go unanswered. They are going to have to be examined very carefully: Their income, what they do, what they invest; and we have to know it all. And I intend to do that.

So, in conclusion and finally, both the National Committee and the AARP have been blatantly misleading seniors on the decreases in Medicare spending contained in the Clinton budget package.

And I will conclude. Listen to this.

Once again, the reduction in Medicare spending by $55.8 billion—that is what was in there—has been classified as a "spending cut" by the National Committee. These are not cuts. We cannot continue to allow groups like the AARP and the National Committee and other "senior spokesmen" to sell our country's senior citizens a bill of goods on that stuff. The fiscal year 1992 increase in Medicare spending was 14 percent. The fiscal year 1993 increase is estimated to be 10.9 percent. So they are not "cuts." We are simply not going to allow the program to go up as fast as it has in past years. When a 9- or 10-percent increase—instead of a 13- or 14-percent increase—is described as a "cut", someone is not telling the truth, because increases are not cuts.

I want to emphasize, I have not the slightest desire to "muzzle" the National Committee or any other interest group, or the AARP or the Gray Panthers or the Pink Panthers. Let them rip and snort. That is America. All I want is for them to tell the truth. I always say that "everyone is entitled to their own opinion, but no one is entitled to their own facts." I happen to believe that is a pretty good rule to follow. In fact, if I could get the National Committee to do only one thing, it would be stick with the facts and tell the truth. I sure will not hold my breath waiting for the National Committee to adopt such a policy, but I will continue to keep my eyes peeled on all of their future activities.

I hope some of my colleagues will join me as we review the material they thunder in upon us.

Well, I have taken too much time. I appreciate the generosity of the occupant of the chair.

If the majority leader is available for whatever may be necessary, I think at this point a quorum call would be appropriate. So I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Order No. 796; Calendar Order Nos. 815, up to and including 824; and all nominations placed on the Secretary's desk in the Public Health Service.

I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that, upon confirmation, the motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

INTER-AMERICAN FOUNDATION

Alexander Fletcher Watson, of Massachusetts, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 1996.

NATIONAL COUNCIL ON DISABILITY

Larry Brown, Jr., of Maryland, to be a Member of the National Council on Disability for a term expiring September 17, 1995.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Mary Lucille Jordan, of Maryland, to be a Member of the Federal Mine Safety and Health Review Commission for the remainder of the term expiring August 30, 1996.

NATIONAL SCIENCE FOUNDATION

Shirley Mahaley Malcom, of Maryland, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 1998.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Martha B. Gould, of Nevada, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 1997.

Gary N. Sudduth, of Minnesota, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 1997.

Frank J. Lucchino, of Pennsylvania, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 1998.

Bobby L. Roberts, of Arkansas, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 1998.

Robert S. Willard, of Ohio, to be a Member of the National Commission on Libraries and Information Science for the remainder of the term expiring July 19, 1994.

Robert S. Willard, of Ohio, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 1999.

DEPARTMENT OF EDUCATION

Rodney A. McCowan, of Oklahoma, to be Assistant Secretary for Human Resources and Administration, Department of Education.

IN THE PUBLIC HEALTH SERVICE

Public Health Service nominations beginning Michael A. Fallon, and ending Lori A. Willinghurst, which nominations were received by the Senate and appeared in the Congressional Record of January 26, 1994.

Public Health Service nominations beginning Susan S. Carlson, and ending Thomas R. Tahsuda, which nominations were received by the Senate and appeared in the Congressional Record of January 26, 1994.

Public Health Service nominations beginning Stephen E. Epstein, and ending Patricia R. Warne, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 1994.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

TEMPORARILY SUSPENDING THE DUTY ON PERSONAL EFFECTS OF PARTICIPANTS IN THE WORLD CUP SOCCER TOURNAMENT AND THE 1996 OLYMPICS

Mr. MITCHELL. Madam President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4066, a bill to temporarily suspend the duty on personal effects of participants in the World Cup Soccer Tournament and the 1996 Olympics; that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements thereon appear at the appropriate place in the RECORD as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4066) was passed.

Mr. MOYNIHAN. Mr. President, I rise today regarding the bill H.R. 4066, to facilitate the entry of foreign athletes coming to the United States to participate in five international sporting events over the next 2 years. The five events are soccer's World Cup, the World Rowing Championships, the Special Olympics, the Paralympics, and the 1996 Summer Olympics.

The U.S. has routinely granted duty-free entry in the past for such events, most recently for the World University Games held last year in Buffalo. Without this bill, teams, athletes, and officials would have to go through an extensive Customs paperwork process and pay temporary duties for their equipment and personal effects. This Customs paperwork process can be particularly onerous when large and unusual equipment, such as rowing shells as long as 60 feet, complicate the entry process. As well, the sheer volume of athletes entering for the World Cup and the three Olympic events would make it extremely difficult for Customs officials to handle the volume in anything resembling a timely manner.

As soccer fans well know, the World Cup begins in 2 months. And teams will begin arriving in the U.S. in the next 3 to 4 weeks. Foreign nations, without exception, assure hassle-free entry for U.S. athletes participating in similar events. For example, the U.S. athletes traveling to Lillehammer for the recently concluded Winter Olympics encountered no problems entering Norway. And in recent memory, the U.S. has similarly provided such consideration for incoming athletes. Given the urgency and unusual time sensitivity of the situation, I decided to take the exceptional step of expediting full Senate consideration by having the bill be held at the desk rather than referred to the Finance Committee, which has jurisdiction over the bill's provisions. I note that the Finance Committee consulted closely with the Ways and Means Committee to ensure comfort with the language of the bill.

Measures to provide expedited treatment for the World Cup (S. 1837) and the World Rowing Championships (S. 1931) have been introduced in the Senate by Senator RIEGLE and by Senators LUGAR and COATS, respectively. H.R. 4066 provides the same treatment contemplated in each of these bills, and as well includes the other three events.

Two notes on the language of the bill. First, the bill explicitly states that none of its provisions apply to any goods to be sold or distributed to the public. The intent of this legislation is strictly to expedite entry for participants in these events.

Second, we have also included a clause allowing the Organizing Committees to import equipment in connection with these events. The Organizing Committees often use the same equipment each time they hold an event. For example, timing equipment used by the International Olympic Committee at the Barcelona Olympics will be brought into the United States for the 1996 Olympics, before being sent on to Sidney, Australia, for the 2000 Summer Games. The language of H.R. 4066, in granting this authority, implicitly places the trust of the United States in the Organizing Committees. I have full faith that the Organizing Committees will use this authority responsibly and judiciously. However, given the wide range of events, and their sheer size, the Finance Committee will closely follow implementation of this bill.

PROGRAM

Mr. MITCHELL. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:55 a.m. on Friday, April 15, and that on Friday, the Senate meet in pro forma session only; that at the close of the pro forma session, the Senate then stand in recess until 9:30 a.m. on Tuesday, April 19; that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each; and that on Tuesday, the Senate stand in recess from 12:30 p.m. until 2:30 p.m. in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Madam President, I am awaiting one more matter, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLARIFICATION OF EARLIER REMARKS

Mr. MITCHELL. Madam President, earlier today in a statement which I made extemporaneously on the floor of the Senate, I made the following statement: "Interest rates have gone down, although they are now starting to rise again as a consequence of recent actions taken by the Federal Reserve Board." I then went on to say, "Economic growth is up. Indeed, economic growth was so rapid in the last quarter of last year that the Federal Reserve Board took action to increase interest rates to restrain the rate of growth so as not to ignite a new round of inflation."

Madam President, I am advised that while it is correct that interest rates went down following the passage of the budget last year, and it is correct that they have risen since then, that the current level of rates is slightly higher than they were at the time the budget was adopted. I want to make absolutely clear that I have not misspoken with respect to that. So I wanted to clarify my remarks and make clear that, following passage of the budget, interest rates went down, bottoming in the months following the passage of the budget last year, have since begun to rise again, and are now at a level that is slightly higher than they were at the time that the budget was adopted.

My remarks are ambiguous as to that point and I wanted to make that clear so there can be no misunderstanding.

RECESS UNTIL 8:55 A.M. TOMORROW

Mr. MITCHELL. Madam President, I note that there is no other Senator present seeking recognition and no further business to come before the Senate today.

I therefore ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 7:44 p.m., recessed until Friday, April 15, 1994, at 8:55 a.m.

NOMINATIONS

Executive nominations received by the Senate April 14, 1994:

FEDERAL COMMUNICATIONS COMMISSION

RACHELLE B. CHONG, OF CALIFORNIA, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR A TERM OF 5 YEARS FROM JULY 1, 1992, VICE SHERRIE PATRICE MARSHALL, RESIGNED.

SUSAN NESS, OF MARYLAND, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 30, 1994, VICE ERVIN S. DUGGAN, RESIGNED.

SUSAN NESS, OF MARYLAND, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR A TERM OF 5 YEARS FROM JULY 1, 1994. (REAPPOINTMENT.)

DEPARTMENT OF LABOR

CYNTHIA A. METZLER, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF LABOR. (NEW POSITION.)

DEPARTMENT OF THE TREASURY

RONALD K. NOBLE, OF NEW YORK, TO BE UNDER SECRETARY OF THE TREASURY FOR ENFORCEMENT. (NEW POSITION.)

DEPARTMENT OF TRANSPORTATION

RAYMOND G. ROMERO, OF ILLINOIS, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION, VICE JEFFREY NEIL SHANE, RESIGNED.

CORPORATION FOR PUBLIC BROADCASTING

ALAN SAGNER, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 31, 1998, VICE DAVID P. PROSPERI.

DEPARTMENT OF TRANSPORTATION

DHARMENDRA K. SHARMA, OF CALIFORNIA, TO BE ADMINISTRATOR OF THE RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, DEPARTMENT OF TRANSPORTATION. (NEW POSITION.)

IN THE ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. THOMAS P. CARNEY, [redacted], U.S. ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. JAMES R. ELLIS, [redacted], U.S. ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. MERLE FREITAG, [redacted], U.S. ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. LEO J. PIGATY, [redacted], U.S. ARMY

IN THE NAVY

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) IN THE LINE OF THE U.S. NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICER

To be rear admiral

REAR ADM. (LH) DAVID SPENCER BILL III, [redacted], U.S. NAVY
REAR ADM. (LH) MICHAEL WILLIAM BORDY, [redacted] U.S. NAVY
REAR ADM. (LH) FRANK LEE BOWMAN, [redacted], U.S. NAVY
REAR ADM. (LH) HERBERT ARCHIBALD BROWNE, JR., [redacted], U.S. NAVY
REAR ADM. (LH) ARTHUR KARL CEBROWSKI, [redacted] U.S. NAVY
REAR ADM. (LH) VERNON EUGENE CLARK, [redacted], U.S. NAVY
REAR ADM. (LH) WINFORD GERALD ELLIS, [redacted], U.S. NAVY
REAR ADM. (LH) ANDREW ALOYSIUS GRANUZZO, [redacted] U.S. NAVY
REAR ADM. (LH) ALEXANDER JOSEPH KREKICH, [redacted] U.S. NAVY
REAR ADM. (LH) JOHN MICHAEL LUECKE, [redacted], U.S. NAVY
REAR ADM. (LH) JOHN JAMES MAZACH, [redacted], U.S. NAVY
REAR ADM. (LH) JOHN ROY RYAN, [redacted], U.S. NAVY
REAR ADM. (LH) JOHN FRANCIS SHIPWAY, [redacted], U.S. NAVY
REAR ADM. (LH) JOHN FLEET SIGLER, [redacted], U.S. NAVY
REAR ADM. (LH) BERNARD JOHN SMITH, [redacted], U.S. NAVY
REAR ADM. (LH) GEORGE FRANCIS ADOLF WAGNER, [redacted] U.S. NAVY
REAR ADM. (LH) WILLIAM HARRY WRIGHT IV, [redacted], U.S. NAVY

ENGINEERING DUTY OFFICER

To be rear admiral

REAR ADM. (LH) MICHAEL THOMAS COYLE [redacted] U.S. NAVY

SPECIAL DUTY OFFICER (PUBLIC AFFAIRS)

To be rear admiral

REAR ADM. (LH) KENDELL MILFORD PEASE, JR., [redacted] U.S. NAVY

IN THE COAST GUARD

THE FOLLOWING-NAMED OFFICERS OF THE U.S. COAST GUARD FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL:

ROGER T. RUFE, JR. HOWARD B. GEHRING

CONFIRMATIONS

Executive nominations confirmed by the Senate April 14, 1994:

NATIONAL COUNCIL ON DISABILITY

LARRY BROWN, JR., OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1995.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Mary Lucille Jordan, of Maryland, to be a Member of the Federal Mine Safety and Health Review Commission for the remainder of the term expiring August 30, 1996.

NATIONAL SCIENCE FOUNDATION

Shirley Mahaley Malcom, of Maryland, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 1998.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Martha B. Gould, of Nevada, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 1997.

Gary N. Sudduth, of Minnesota, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 1997.

Frank J. Lucchino, of Pennsylvania, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 1998.

Bobby L. Roberts, of Arkansas, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 1998.

Robert S. Willard, of Ohio, to be a Member of the National Commission on Libraries and Information Science for the remainder of the term expiring July 19, 1994.

Robert S. Willard, of Ohio, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 1999.

INTER-AMERICAN FOUNDATION

ALEXANDER FLETCHER WATSON, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 1996.

DEPARTMENT OF EDUCATION

RODNEY A. MCCOWAN, OF OKLAHOMA, TO BE ASSISTANT SECRETARY FOR HUMAN RESOURCES AND ADMINISTRATION, DEPARTMENT OF EDUCATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

ROSEMARY BARKETT, OF FLORIDA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT.

PUBLIC HEALTH SERVICE

PUBLIC HEALTH SERVICE, NOMINATIONS BEGINNING MICHAEL A. FALLON, AND ENDING LORI A. WILLINGHURST, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 26, 1994.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING SUSAN S. CARLSON, AND ENDING THOMAS R. TAHSUDA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 26, 1994.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING STEPHEN E. EPSTEIN, AND ENDING PATRICIA R. WARNE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 1994.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

MARTHA B. GOULD, OF NEVADA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1997.

GARY N. SUDDUTH, OF MINNESOTA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1997.

FRANK J. LUCCHINO, OF PENNSYLVANIA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1998.

BOBBY L. ROBERTS, OF ARKANSAS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1998.

ROBERT S. WILLARD, OF OHIO, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR THE REMAINDER OF THE TERM EXPIRING JULY 19, 1994.

ROBERT S. WILLARD, OF OHIO, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1999.

INTER-AMERICAN FOUNDATION

ALEXANDER FLETCHER WATSON, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 1996.

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EXTENSIONS OF REMARKS

NURTURING THE AFRICAN-AMERICAN FAMILY: A CONGRESSIONAL RESPONSE

HON. BARBARA-ROSE COLLINS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Miss COLLINS of Michigan. Mr. Speaker, the structure of the American family varies greatly today. Indeed, many question whether there is in fact one model of "the American family."

No one can question the fact, however, that American families of all colors have undergone many changes in recent decades. We have seen lower marriage rates, higher divorce rates, earlier sexual activity, and higher proportions of births to unmarried mothers. These changes have been more pronounced, however, for African-American families. The August 30, 1993, Newsweek magazine went so far as to call the African-American family "endangered."

A brief historical view offers perspective. Many historians have documented the importance, the strength and the varied forms of the African-American family throughout our Nation's history. For example, during slavery, the family was a powerful, cohesive force. Gerald D. Jaynes and Robin M. Williams put it this way:

> Blacks evinced a remarkable loyalty to the family unit in the face of the disruptive treatment of their families by many slaveowners. When families were not broken apart by the slavery system, nuclear family units of two parents and their children were common. Some families were headed by females and many kinship units were extended, often including grandparents and grandchildren. Other relatives and their young children could be part of a single household. Near-dwelling relatives formed networks of mutual aid and social support. For enslaved Blacks, the family was important since it was the primary Black institution to which they could openly be committed.

African-American families, whatever form they take—nuclear, single-parent, extended or otherwise, face unprecedented threats today. Held hostage are innocent victims, African-American children. The African-American male, faced with an uphill struggle, has become increasingly invisible, particularly in African-American family life. Female-headed, single-parent households, are becoming the norm in many communities. Here are a few telling statistics:

Ninety-four percent of those single mothers are unmarried teenagers;

Nearly half of the children in single-parent homes live in poverty;

Only 1 African-American child in 5 will be raised in a traditional two-parent home;

An American child is 15 times more likely to die from gunfire as a child in Northern Ireland, a country engaged in civil war for at least 26 years; and

The number of African-Americans in their twenties who had completed college dropped 6 percent between 1982 and 1991.

The challenges confronting our children are becoming increasingly difficult to address. Violence and drug and alcohol abuse are rampant. Liquor stores sit on virtually every corner where there should be schools, recreation centers and parks. Gang life is replacing family life. For African-American boys, firearm homicide is the leading cause of death. Our children are having sex earlier without taking the necessary precautions.

I know firsthand the conditions that have brought despair and paralysis to many African-American families. As a single parent, I raised my son and daughter in the face of many obstacles. At times, I worked three jobs to provide for my children, and I had no family health insurance. Exhaustion was a close companion. But I still found time and energy to love my children. I still found time and energy to help them with their homework, and I found the time to teach them right from wrong. That was my responsibility as their parent. I was very lucky. Unfortunately, as a female single-parent, I could teach my daughter how to be a woman, but I could not teach my son how to be a man.

I am thankful that I was not totally alone. I knew I could turn to my family, my friends, my neighbors and my church for support. In my neighborhood, my children had surrogate mothers on every block that took responsibility not only for their own children, but the other children in the neighborhood. When I was at my wits end, I could depend on them. When I needed guidance, they were there. This is a real strength in so many American communities, black, white or whatever.

The problems facing African-Americans today are not solely the problems of African-Americans. In one form or another, we are all touched by them. We all ultimately pay.

It is time for Americans to discuss these issues openly. Government has the responsibility to ensure that every American has equal opportunity to achieve the American dream. While there is no question that no level of government can legislate family values, as policymakers, we must promote policies that support families as the basic units of our country.

To enhance what Government can do, yesterday I introduced five bills, a first step of a coordinated effort to bring hope and opportunity to African-American families and restore their strength. To do otherwise would be irresponsible and deny future generations of African-Americans hope and opportunity.

PROVIDING GOOD JOBS

Jobs are critical to holding families together. In the words of Robert Griswold, a historian and author of "Fatherhood in America," "When men lose their ability to earn bread, their sense of self declines dramatically. They lose rapport with their children."

One of the most destructive forces a family can face is joblessness. Joblessness has been linked to divorce, crime, drugs, poverty, and family violence. It is hard to head a family if one lacks self-respect. One cannot pass on the values of hard work, self-discipline and perseverance if one has no work.

In my home of Detroit, over one-third of the population lives in poverty, while 26 percent receive public assistance. Not coincidentally, 19.3 percent of African-Americans are without jobs.

Americans want jobs. Last October, over 20,000 men and women showed up to register for U.S. Postal Service jobs that will not even be available until 1996. Later, 10,000 Detroiters showed up to apply for 4,500 jobs in a casino, jobs that do not yet exist.

I introduced the Infrastructure Jobs Act, a bill that would authorize three types of grants for local public works projects. The first are direct grants to State and local governments to complete "ready-to-go" public works projects where architectural design or preliminary engineering has already begun. The second are supplemental grants to increase to 100 percent the Federal share for a project for which Federal financial assistance is already authorized. The third are grants for all or any portion of a State and local share on projects authorized by State or local laws. The bill would give priorities to areas of long-term, hardcore unemployment. In this way, money will go to areas with the direst needs.

We know from experience that this type of legislation will work quickly to create jobs and reduce local unemployment rates. During the 1970's, a $6 billion local public works program created more than 340,000 full-time direct and indirect jobs.

PROVIDING MEANINGFUL JOB TRAINING

As companies become leaner in an effort to compete globally, many low-skill jobs vanish or are replaced by new high-tech, high-skills jobs. As a result, many families are headed by Americans trapped in a cycle of joblessness, poverty, and out-of-date work skills. These Americans have not only lost hope in their ability to find a job, but in their ability to acquire skills needed to hold down a job.

Many folks don't even look for a job because they know they are considered unqualified. They know that the workplace is changing. They have seen firsthand the results of the loss of about 1.5 million jobs in basic manufacturing.

Studies of the Job Training Partnership Act found that the program largely ignores the needs of the most disadvantaged. The Labor Department acknowledged this problem when it issued new regulations to address concerns that the program benefits white males almost exclusively.

My second bill, the Full Employment Opportunity and Infrastructure Improvement Act of 1993, would give hard-to-employ Americans a chance at a job and, more than that, a chance

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

at a career. This legislation would enable unemployed Americans in economically distressed areas to learn a trade by working side-by-side with skilled craftsmen, artisans and other professionals.

This is accomplished by providing assistance to service delivery areas under JTPA to set up new public works and public services training programs as part of public works and public services projects that would not otherwise be undertaken.

Participants would receive wages and benefits through the program as well as invaluable on-the-job training while working alongside professionals. Infrastructure would be rebuilt and services would be performed in those areas most desperate for revitalization, because the bill gives priority to areas of high unemployment and targets the hard-to-employ in an effort to give a chance to those who have been ignored by these types of programs in the past.

In the public works training programs, participants would get a chance to learn a trade on the job. Private contractors, for their effort in training participants, would get public works business. Cities and municipalities would get infrastructure.

In the public services training programs, participants would receive on-the-job training in fields such as environmental quality, health care, education, public safety, prison rehabilitation, maintenance of public parks, pollution control, and other fields of human betterment and community improvement. Communities would receive services they could not otherwise afford, and America would get individuals trained in the types of jobs that will become very important as we head into the 21st century.

A strength of my bill is that it would provide training while on the job. Studies show that training with specific ties to the job market is the most effective type of job training. The Full Employment Opportunity Act would offer the kinds of skills and knowledge that will help millions become productive members of our economy. It will give them the chance to be better mothers and fathers, by bringing long-term economic security to their homes.

HELPING COMMUNITIES HELP THEMSELVES

Our urban communities must help themselves. No government official or agency knows more about the problems confronting a community more than the people who live and work in that community. An effective government recognizes this point and seeks to provide assistance to those people on the front lines. I introduced the Community Safety and Empowerment Act so that individuals, rather than government, can identify and solve their own problems while at the same time promoting their own strengths. Specifically, a new interagency council would award grants to public and non-profit private entities for projects to improve the health, education, and safety of the residents in economically distressed communities.

The Federal Coordinating Council on Community Safety and Empowerment would be composed of the Attorney General, the Secretaries of the Departments of Health and Human Services, Education, Housing and Urban Development, and Labor, and would award grants for projects: First, to prevent gangs and juvenile delinquency, including drug and alcohol abuse; second, to preserve or reunite families, particularly projects that emphasize fatherhood; and third, to help youth enjoy and appreciate learning.

At present, Federal agencies make grants to States and localities with little to no coordination with other agencies. Under my bill, problems can be addressed from many perspectives, not from the compartmentalized mission of one department.

This legislation is an affirmation of the belief that government cannot legislate individual responsibility, but government can lay the groundwork for people to take charge of their own lives. We owe our citizens no less.

PROVIDING ROLE MODELS FOR YOUTH

I also introduced a mentoring bill which is modeled on the Growth and Afrocentric Program in the Saginaw, MI school district. It emphasizes the African proverb, "It takes a whole village to raise a child." Specifically, this legislation authorizes the Secretary of Education to award demonstration grants to local government agencies and community-based organizations for mentoring programs for minority youth.

American media glamorizes, as African-American role models, athletes and entertainers. But the real role models in our community, like any other community, are the men and women who interact with children on a daily basis, whether they be clergy, teachers, coaches, family friends or parents. My bill would connect these role models with the children in their communities and provide loving and nurturing relationships.

Many of our most troubled youth lack self-esteem, which is reinforced daily as the media bombards them with images of African-American crime and delinquency. The mentoring process can offer and reinforce positive images of adulthood in children. This legislation builds on the strengths of our communities by involving everyone in the process.

KEEPING FAMILIES TOGETHER

My fifth bill addresses the need to keep children with their parents, to prevent children's placement in foster care and to help those children who must for their own welfare be placed in foster care.

Since the 1980's, an increasing number of children have been entering foster care and experts predict that over 500,000 children may be in out-of-home care by 1995. With joblessness, drugs and violence unabating, the number of children in foster care rises. Sadly, some call them discarded children. As the need for foster placements has grown, the supply of licensed foster homes has declined. Many authorities say the system is in crisis.

Joblessness, stress, and poverty can have a devastating effect on family life. In the poorest inner-city neighborhoods, more than 1 out of every 10 infants will be placed in foster care. The national placement rate is 6 per 1,000 children.

Foster care has never promised a good life outcome and I am sure no parent wants to turn his or her child over to someone else. Nevertheless, foster care has a place in our society and in the interest of our children, we should make it as good as we can.

My bill has two thrusts: First, it would provide assistance for training parents in parenting, child development, conflict resolution and stress reduction, in an effort to help families avoid placing their children in foster care; and second, it would provide assistance for community-based programs to train foster parents and the people who work with them in parenting, conflict resolution and coping with stress. Rather than targeting the child only, my bill focuses on the family as a functioning unit, providing local trained personnel to help preserve families and provide good "second" homes for children that must leave their own home.

CONCLUSION

Children learn the value of family and community from family and community. In the words of writer Marilyn French, "To nourish children and raise them against odds is in any time, any place, more valuable than to fix bolts in cars or design nuclear weapons." As a society, to this goal—to nourish children—we must all rededicate ourselves.

TWO STARS ARE PLENTY

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mrs. SCHROEDER. Mr. Speaker, the New York Times has it right. Admiral Kelso was the captain of the ship and two stars are enough. I hope the Senate agrees.

[From the New York Times, Apr. 14, 1994]

TWO STARS ARE PLENTY

Navy Secretary John H. Dalton had it right the first time. Last year he urged the removal of Adm. Frank B. Kelso 2d as Chief of Naval Operations for failing to show proper leadership during Tailhook '91—the infamous reunion of aviators featuring a gantlet of drunken gropers that female guests, among them 15 officers, were forced to run. This week, however, Mr. Dalton joined Defense Secretary William Perry and Gen. John Shalikashvili, chairman of the Joint Chiefs of Staff, in asking that the Senate retire Admiral Kelso at his four-star rank.

Two stars, which rank the admiral will automatically revert to unless the Senate says otherwise, are enough.

Admiral Kelso agreed to step down early in exchange for a tribute that would clear his name. Mr. Perry gave him that tribute two months ago, and America got a good look at the Navy at its brassiest. Now Secretaries Dalton and Perry and General Shalikashvili are polishing that brass to an inappropriately higher shine. The general at least conceded that his support was "likely to fuel charges that we in the services are operating an old boy network by trying to shield Admiral Kelso from blame." Likely? How about "certain"?

There is much illustrious about Admiral Kelso's career. As head of the Sixth Fleet, he commanded Navy forces that helped seize the Palestinian terrorists responsible for the killing of an American aboard the cruise ship Achille Lauro. He was also in charge of air strikes against Libya in 1986; and he has been conspicuously progressive in his attitude toward women's role in the Navy. True, his initiatives may have been designed partly to sweeten the aroma arising from Tailhook. Yet his concern with giving military women a fair chance was commendable and rare.

Even so, allowing Admiral Kelso to keep four stars, and the pension that goes with them, would require the Senate to dismiss—as his three advocates have done—the findings of the Navy's own judge, Capt. William T. Vest Jr. Captain Vest concluded that the admiral had lied about his own activities at Tailhook '91, and then used his rank to impede the investigations.

And if the captain's 111-page report is the last word on the subject, it is because Admiral Kelso's retirement ends any review of his conduct, and because Mr. Perry's coerced tribute curtailed the formation of a special court of inquiry.

In claiming that he had always supported retiring Admiral Kelso with four stars, Secretary Dalton is willfully overlooking one of the armed services' first principles: Senator Kay Bailey Hutchison was less myopic: "[Admiral Kelso's] character is not the issue here. The issue is his captaincy of the ship—what happened on his watch—and the signal his performance sends to the Navy and to the world."

Should Admiral Kelso keep his four stars, the signal sent to the Navy is that Admirals and such can get away with what lower-ranking officers cannot. The signal sent to the world is that the American military's old-boy network is, despite the general's disclaimer, operating at full tilt.

FIFTY-FIRST WEDDING ANNIVERSARY

HON. ROBERT T. MATSUI

OF CALIFORNIA

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. MATSUI. Mr. Speaker, Mr. FAZIO and I rise today to pay tribute to a special union which is now in its 51st year. On February 24, 1994, Ruth and Wayne Hultgren celebrated their 50th wedding anniversary here in Sacramento, CA.

As a founder of the Sacramento Modern Transit Society, Mr. Hultgren led the grassroots movement which brought light rail to Sacramento, as an alternative to another freeway. For this, he is known in Sacramento as the Father of Light Rail and was recognized for his role by the American Lung Association, the Environmental Council of Sacramento and the California State Legislature.

Mrs. Hultgren, in her career as an early childhood educator, was also an organizer. She founded the very successful Legislative Symposium for Children, a statewide advocacy event now in its 14th year. She has been named to the Hall of Fame of the Child Care Coalition of Sacramento County and also as a trendsetter by the Association for Education of Young Children.

In 1982, Mr. And Mrs. Hultgren joined the growing antinuclear weapons campaign. For a decade they have held lead positions in the Sacramento Nuclear Weapons Freeze, now called Peace Action. Mrs. Hultgren has served as president for three terms and Mr. Hultgren has twice served as coordinator for the group's most successful petition campaigns.

Mrs. Hultgren founded the August Women's Peace Event, now in its 10th year, to commemorate the bombing of Hiroshima and Nagasaki by inspiring women to join the peace movement. She also founded and cochaired the Campaign for New Priorities, Sacramento chapter. Her efforts in the peace movement have been recognized by the California State Assembly and by designation as "Woman of the Year" in State Senator Leroy Greene's district in 1988.

Apart from their tireless dedication to peace campaigns and their professions, the Hultgrens have supported numerous other causes and have inspired countless Sacramentans to volunteer time and resources toward the enrichment of this city's services and programs.

Mr. Speaker, we ask our colleagues to join us in saluting the Hultgren's outstanding community spirit and in congratulating them on their 50 years together.

TRIBUTE TO RUTH Q. DODGE FOR A LIFETIME OF VOLUNTEER SERVICE

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Ms. KAPTUR. Mr. Speaker, next Monday we will begin honoring our Nation's volunteers by marking National Volunteer Week and today I would like to offer one of the greatest examples possible of what the week will commemorate—the lifetime of service of Ruth Q. Dodge.

She began her lifetime of service at the age of 18 when she was admitted to the Junior League of the city of New York in 1929. For 2 years she volunteered from 9 a.m. to 4 p.m., Monday through Friday, at a Charity Organization Society location which filled clothing requisitions from caseworkers for their clients. In 1933, Ruth moved to Toledo and transferred to the Junior League of Toledo, becoming its president in 1936 and serving in that capacity until 1938. Her commitment to social service volunteer work culminated in the Junior League's creation in 1948 of what was then called the Volunteer Bureau. The bureau matched volunteers with certain skills and interests with community agencies in need of those skills. The Volunteer Bureau was a project of the Junior League for 4 years, logging thousands of volunteer hours and costing the Junior League over $28,000 in 1950's money to establish and administer. In 1952, the Junior League turned the Volunteer Bureau over to the United Way of Greater Toledo and it is now called the United Way of Greater Toledo's Voluntary Action Center [VAC]. Just as it did in 1948, VAC links volunteers with area not-for-profit organizations and promotes the recognition of these volunteers.

To mark National Volunteer Week this year, the United Way Voluntary Action Center and the Junior League of Toledo are joining together to honor their volunteers. The centerpiece of these efforts will occur on Monday, April 18, when the Ruth Q. Dodge Volunteer Garden will be dedicated on the grounds of the Community Service Building in Toledo, OH, to serve as a constant reminder of the glowing example of service that is Ruth Q. Dodge. I ask all my colleagues gathered here today to join me in recognizing Ruth for her lifetime of service which continues on in the work of the Voluntary Action Center in Toledo, OH. America needs more citizens like Ruth.

THE SOLID WASTE DISPOSAL ACT AMENDMENTS

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. RICHARDSON. Mr. Speaker, I am pleased to be joined by my colleague from Wyoming, Mr. THOMAS, in introducing a bill to amend the Solid Waste Disposal Act to enable Indian tribes to enforce provisions of the act relating to leaking underground storage tanks on Indian lands.

Over the many years that States have received assistance from the Environmental Protection Agency [EPA], States have developed comprehensive environmental protection programs and the regulatory capacity to directly administer federally delegated programs under the Safe Drinking Water Act, the Clean Water Act, the Clean Air Act, and the Resource Conservation and Recovery Act [RCRA]. Over this same period of time, Indian tribes were not eligible to receive assistance from the EPA to develop environmental protection programs on their reservations, nor were they able to build tribal environmental regulatory capacities.

Although Congress has amended the Safe Drinking Water Act, the Clean Air Act, and the Clean Water Act to treat Indian tribes as States, Congress has yet to amend the Resource Conservation and Recovery Act to allow Indian tribes to be treated as States. Under the provisions of RCRA, Indian tribes are treated as municipalities. Therefore, Indian tribes are precluded from receiving any program funds under RCRA and are unable to use other sources of funding from EPA to carry out activities which would fall under the provisions of RCRA. There has been very little assistance to Indian tribes to address problems related to RCRA. Over the 5-year period from 1985 through 1990, EPA has expended just over $2 million on Indian lands under RCRA. Because of the lack of Federal assistance to Indian tribes to address problems under RCRA, there are increasing numbers of serious environmental problems on Indian reservations.

One pervasive problem on Indian lands is the presence of leaking and abandoned underground storage tanks. There are many Indian tribes who are now faced with the prospect of identifying and cleaning up abandoned or leaking underground storage tanks on their lands. Because Indian tribes are treated as municipalities under the RCRA, they are not eligible for funds to clean up these leaking underground storage tanks. Because States do not have jurisdiction over Indian reservations, States will not provide financial assistance for the clean up of these tanks from the State trust funds. Nether the BIA nor the IHS provide any financial assistance to Indian tribes to clean up leaking underground storage tanks.

Mr. Speaker, as chairman of the Subcommittee on Native American Affairs, I have heard testimony from Indian tribes about the serious environmental hazards caused by leaking underground storage tanks and their frustrations in seeking Federal assistance in their attempts to clean up these facilities. In my subcommittee, representatives of the Bureau of Indian Affairs, the Indian Health Service, and the Environmental Protection Agency appeared and testified on this disturbing issue. Each Federal agency denied responsibility for this problem and stated that it was not their responsibility to provide assistance to Indian tribes to clean up leaking underground storage tanks on Indian lands. Although the Bureau of Indian Affairs is the principal land manager of Indian lands and the Secretary of the Interior must approve all leases on Indian lands, the Bureau of Indian Affairs does little to afford protection of Indian lands. The EPA is charged with regulating underground storage tanks and provides assistance to States to address problems related to underground storage tanks, yet the EPA provides no assistance to Indian tribes to address these problems on their lands. We cannot allow the Federal Government continue to stand idly by, while Indian tribes' precious resources are being contaminated.

Mr. Speaker, what was especially troubling to me was that there is no reliable data on how many underground storage tanks are located on Indian lands. We have no idea what other associated problems exist because of leaking underground storage tanks on Indian lands. We must develop a coordinated approach to environmental protection on Indian lands. This legislation will treat Indian tribes in the same fashion as States for purposes of the regulation of underground storage tanks on Indian lands. It provides assistance to Indian tribes for the regulation of underground storage tanks. It also provides financial and technical assistance for clean up of leaking underground storage tanks and any costs incurred for a corrective action on Indian lands. Finally, this bill requires the EPA to conduct a study and inventory of an underground storage tanks located on Indian lands so that we can determine the scope of the problem facing Indian tribes.

Mr. Speaker, this bill is a first step in providing the same level of environmental protection on Indian lands as is enjoyed by the rest of the Nation. I urge my colleagues to support this legislation.

WORLD FOOD DAY TELECONFERENCE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. GILMAN. Mr. Speaker, for 10 years the U.S. National Committee for World Food Day has offered a teleconference on critical food policy issues to colleges and universities in the United States, and through the facilities of the U.S. Information Agency WorldNet service to embassies and institutions through the Western Hemisphere. In 1993, WorldNet also made it possible for the telecast to be received in Africa and Asia.

The World Food Day Program dealt with the frightening pace of genetic erosion and its impact on food security. This danger is acknowledged at the level of scientific literature and international technical conferences but there is a general lack of public awareness. There is an urgent need for the international community, national governments, and citizen organizations to act quickly and forcefully to preserve and protect the world's genetic resource base.

I want to thank the U.S. Committee for World Food Day and the Committee's National Coordinator, Ms. Patricia Young, for their efforts in bringing this important subject to public attention. I also want to thank the Agency for International Development and the U.S. Information Agency for their support of this program.

Mr. Speaker, I urge my colleagues to read the executive summary of the World Food Day Teleconference, and request it to be printed in full in the RECORD at this point.

1993 TELECONFERENCE EXECUTIVE SUMMARY

The tenth annual World Food Day Teleconference was broadcast from the studios of George Washington University Television in Washington, DC, on October 15, 1993. It linked a distinguished international panel of experts on food, agriculture and biological diversity to 1,000 receive sites in the United States and throughout the Western Hemisphere. There were also a number of passive sites in Asia and Africa. The theme for the teleconference was "Seeds of Conflict: Biodiversity and Food Security."

After years of growth since the World Food Day teleconference series began in 1984, the program is believed to be the largest, single development education broadcast ever organized in the U.S. The Spanish-language broadcast, involving simultaneous interpretation from English, began in 1990 with a pilot project in Mexico through the cooperation of the Instituto Tecnológico de Monterrey, which relayed the broadcast in Spanish to its 26 national campuses over Mexico's Morelos II satellite. Outreach to the rest of Latin America and the Caribbean was initiated in 1992 with the support of the UN Food and Agriculture Organization and the U.S. Information Agency WorldNet system.

World Food Day, held for the first time in 1981 and marking the anniversary of the founding of FAO in 1945, has captured the imagination of people throughout the world. In the U.S. the day is observed in virtually every community in the country, with especially strong support in schools, worship centers and food banks. The U.S. National Committee for World Food Day has grown in membership to more than 450 private voluntary organizations and works directly at the grassroots through more than 20,000 community organizers.

Serving on the teleconference expert panel in 1993 were Jeffrey Bennetzen, professor of genetics and plant science at Purdue University in Indiana, José Esquinas-Alcázar, secretary of the FAO Commission on Plant Genetic Resources, Geoffrey Hawtin, director-general of the International Board for Plant Genetic Resources, and Hope Shand, research director of the Rural Advancement Foundation International. The moderator was CBS-TV Washington reporter Miriam Hernandez. FAO Director-General Edouard Saouma and the Secretary of Agriculture Mike Espy also appeared on the program through special videotaped messages.

THE TELECONFERENCE CONCEPT

In the U.S. the World Food Day teleconference has become a model for development education on global issues, in part because of the enormous growth in interactive site participation and the additional millions of viewers accessed through collaborating networks and in part because of the year-around use of the program's study materials and the teleconference videotape itself in college-level courses in a great variety of disciplines. The "internationalization" of the program since 1990 has further increased its impact and was broadly welcomed by participating colleges and universities in the U.S. The main components of the teleconference package are: (1) A Study/Action Packet of print materials prepared by the non-governmental U.S. National Committee for World Food Day and distributed to all participating schools and other study centers (and distributed in Spanish to the participating sites in Latin America); (2) the three-hour satellite telecast on World Food Day composed of three hour-long segments for expert panel presentations, site consideration of the issues and a site-panel question and answer interchange; (3) publication of the teleconference report including written responses by panelists to questions that were not taken up on the air for reasons of time; and (4) analysis by selected site organizers after each year's program to make recommendations for the year to follow. All of the main teleconference components are designed as college-level curricular aids.

THE STUDY/ACTION PACKET

The Study/Action Packet is designed as an integral part of the teleconference package, but also serves as a separate study resource for groups planning World Food Day observances but not participating in the telecast. More than 1,500 copies of the packet were distributed on request in the months prior to the broadcasts to colleges, other institutions, community study groups, schools and individuals. All or part of the packet materials were reproduced by many of the participating sites.

Again in 1993 the Study/Action Packet was translated into Spanish and reprinted by the FAO Regional Office for Latin America and the Caribbean and distributed throughout the region by the network of FAO country representatives. Copies of the English version were also distributed to U.S. embassies on request.

The 1993 packet was developed by the U.S. National Committee for World Food Day with the cooperation of several institutions and organizations which contributed material from their own research and analysis. The theme for the 1993 teleconference, exploring the effect of the global erosion of plant genetic resources on present and future world food security, offered a specifically Western Hemisphere perspective of the worldwide World Food Day theme selected by FAO—"Harvesting Nature's Diversity." The Study/Action Packet, although not intended as a comprehensive analysis of all the issues raised by biodiversity loss, served as an overview on these issues. Special viewpoint paper included in the packet and donated by their authors came from R. David Simpson and Roger A. Sedjo of Resources for the Future, Jeffrey A. McNeely of the International Union for the Conservation of Nature and Natural Resources, Stephen A. Vosti of the International Food Policy Research Institute through the courtesy of Diversity Magazine, Dr. Juan Izquierdo of the FAO Regional Office for Latin America, and Vice-President Al Gore as author of the book "Earth in the Balance." The vice-president (then senator) was a World Food Day teleconference panelist in 1989. For the fourth year the packet also included a special "manual of modules" for integrating the teleconference and study packet into college curriculum and continuing education programs. Twelve specific course outlines and study activities contributed by university professors using the materials in their own teaching were included as well as an organizing plan for arranging the teleconference site programs.

This was the tenth study/action packet prepared in conjunction with the teleconference series and the fifth to be undertaken directly by the U.S. National Committee for World Food Day. Previous packets were prepared by the Center for Advanced International Studies at Michigan State University and by the Office of International Agriculture at the University of Illinois. Funding for the 1993 packet was partially provided by the Agency for International Development. General funding for the teleconference program was provided by the U.S. National Committee for World Food Day, FAO, Covenant Presbyterian Church of Scranton PA and the Xerox Foundation.

TELECONFERENCE OUTREACH

The WFD teleconference has grown each year since it was begun in 1984. Teleconference impact continued to grow in 1993 in at least three other ways. For the eighth year the program was used by professional organizations for continuing education credits. These credits (or professional development units) were offered again in 1993 by the American Dietetic Association, the American Home Economics Association and through the Catholic University of America to clergy and social service professionals. Beginning in 1989 there has been a steady rise in teleconference participation by high school students, initiated by both individual schools and school systems. The audience of home television sets accessed by cooperating networks is believed to be in the millions, reached through the Catholic Telecommunications Network of America, AgSat, Vision Interfaith Satellite Network, PBS Adult Learning Satellite Service and individual PBS and cable stations.

THE TELECONFERENCE BROADCAST SUMMARY

The telecast opened with a brief background statement by the moderator on the importance of protecting the world's plant genetic resources and the alarming rate of genetic loss in recent decades. FAO Director-General Saouma, in his statement, then noted the long history of FAO in protecting agricultural biodiversity and the expansion of programs in recent years falling under the concept of sustainable agriculture. The moderator then introduced the panel and posed the first question to Dr. Esquinas, asking him to explain how the biodiversity issues are linked to the world's daily food supply. Esquinas noted that world food problems were still very serious, with someone dying of hunger causes every two seconds, and that genetic resources were vital to food crop improvement. He also noted the emergence in recent years of a number of international organizations and programs to deal with genetic resources, especially issues had evolved, specifically under the aegis of FAO.

Geoffrey Hawtin, whose organization monitors the global network of "genebanks" where genetic resources are stored, pointed out that people in general were aware of only a small part of the biodiversity represented in their food, comparing the few kinds of apples sold in stores to the more than 80,000 types of rice held in seed storage by the International Rice Research Institute in the Philippines. The genebanks, he said, had been able to save the huge number of plant species that otherwise would have been lost through agricultural modernization in past decades, and that these seeds were the basic stock used by plant breeders to create new and better food varieties.

Dr. Bennetzen noted that storage in genebanks has to be complemented by conservation of wild relatives of crop seeds in a state of nature. Seeds of crop plants, he said, represented only a tenth on one percent of the total genetic materials extant and that more needs to be done to protect these natural preserves as well as building up the genebank network.

Hope Shand then pointed out the vital link between genetic diversity and sustainable agriculture and the contribution made by farmers over millennia in plant selection and breeding. It is critically important, she said, that the small individual farmers around the world maintain control of their own seeds and plant varieties but that this control is being lost with the introduction of "high yielding varieties" sold by international seeds companies. Shand defined biodiversity as the total diversity of life on earth, including all living organisms, genes and species and the ecosystems of which they are a part. Bennetzen added a point on the importance of biodiversity to biotechnology, noting that genes cannot be created in a laboratory but only modified. Biotechnology, he said, is simply a tool by which biodiversity is utilized more efficiently.

The panel then discussed the causes of biodiversity shrinkage, with each panelist analyzing the impact of modern high-yield plant varieties in the previous decades. Esquinas noted that the slow, farmer-based evolution of crop seeds over hundreds of years had suddenly given way to modern science, mass production and commercial distribution, and that the substitution of traditional varieties had been very rapid. Shand added that the new varieties were very uniform genetically and more vulnerable than the older traditional varieties which held greater genetic complexity. Hawtin noted that these problems needed to be balanced by the enormous increase in production introduced by the new varieties which has enabled farmers to keep up with world population growth and even to reduce the cost of basic foods, which he said was especially important in poor regions. In response to a question from the moderator, Hawtin also noted that a number of countries had been able to introduce high production systems (seed, fertilizers, pesticides, etc.), but still make a major effort to protect biodiversity.

The panel then turned to national and international issues of biodiversity protection. Esquinas noted as a starting point the difficulty of incorporating biodiversity value into modern economic terms. Market economies, he said, can only give a value based on current supply and demand, but the needs of future generations are left out of the economic equation. Shand then added that the teleconference theme was "seeds of conflict" in part because genetic diversity is a natural resource of the poor countries of the world, but is most needed and most used by the rich, without compensation. As an example, she noted that the only food crop of any major importance originating in the U.S. was the sunflower, while all the major crops came from other parts of the world and our plant breeders and genetic engineers are still dependent on these genetic resources for vital plant improvements. The early plant breeders in the Third World are given no return for centuries of work, she said, a fact leading to the concept of "farmers' rights" now under discussion in UN agencies such as FAO. Esquinas agreed, asking why it should be that a new variety always is based on the combination of natural resources and new technology, but compensation is provided to the side with the technology but not to the supplier of the raw materials (i.e., the genetic resources). It was for this reason, he said, that FAO member countries had agreed to the concept of compensation to the genetic suppliers under the term farmers' rights.

The panel then turned to the issues of plant patents and how farmers' rights could be implemented. Bennetzen noted that the issue went beyond agricultural seed companies and had to include pharmaceuticals, which have developed the concept of patenting even faster. There was a history, he said, for both pharmaceutical and plant protection patents. The issue is complicated, he said, because there is no doubt that the technology side reaps greater rewards than the genetic material suppliers, but that the argument is also made that patents and plant protection are vital incentives to plant breeding, at least in the private sector. Shand disagreed that the patenting systems were that old, especially in comparison with the centuries taken by farmers in their plant selection and breeding. For people in the Third World, she noted, they find themselves in the position of playing royalties on products that are based on their own knowledge and their own genetic resources.

Hawtin noted that part of the concern is the use of patent legislation per se over new life forms, which is very new. Plant protection rights are older, he noted, and have very different characteristics from plant patents. Plant protection, he said, still allowed farmers to produce and store their own seed and allows researchers to use a seed as a parent in new research and development. Plant breeders traditionally use previous years' new lines as the starting point for further development. Patents, he said, call all of this into legal question—even the right of farmers to store seeds from year to year. It is using a host of legislation not originally meant for life forms, and that leads to untenable positions.

Shand noted that all of this was going on without consideration of the international consequences. A system of industrial-like patents over life forms, she said, is leading countries to restrict availability of genetic resources under their sovereignty. Hawtin added that this was, in fact, already beginning. He said further that an unfortunate side effect of the Rio Biodiversity Convention has been to give many Third World countries huge expectations of profit from their genetic resources, which will almost never be the case. Esquinas added that there was a further danger of great importance in that the main stimulus of scientists in the past to do research and to publish findings was recognition. With patent systems will come to kind of secretism, he said, whereby research will be kept hidden until a monetary profit is assured. Hawtin noted that when the debate over genetic resources began the most often used understanding of ownership was "the common heritage of mankind," that a good was owned jointly by all people on earth. Now, he said, the common heritage has been given over to national sovereignty. Bennetzen said he wanted to return to the needs of biotechnology. Genetic diversity is of no value unless it is utilized, or if it is stored and there is no effort to use what is stored. The genetic engineering industry cannot function unless there is a profit to be made, and the same is true of seed companies. Repaying farmers in the Third World is a good concept and worthwhile pursuing, he said, but we also have to recognize the realities of modern industry.

The moderator then asked where the international community finds itself now in the search for a consensus on all these issues. Esquinas said that for the first time they were at the point of a meeting of views. He noted that he and Geoffrey Hawtin had recently attended a meeting of the Biodiversity Committee in Geneva where a general framework for international cooperation was nearly complete, including a fund for the compensation of farmers' rights and a number of components now being put in place, using the genebanks as an example. Twenty years ago there were fewer than 10 properly functioning genebanks in the world, he said, while now there are more than a hundred. The genebanks work with the Consultative Group on International Agricultural Research, which is now, in turn, working with FAO to create a truly global, interactive resource network. Shand agreed that there had been great progress, but that some of the hopes of the Convention on Biological Diversity were not yet fulfilled, including implementation of the concept of farmers' rights. She said many colleagues were concerned about a new tendency toward bilateral agreements—between one company and one government—rather than realization of a truly global system under auspices of an appropriate UN agency.

With time short for further discussion, the moderator asked each panelist to give site participants one important point to take away with them. Hawtin said the overriding lesson of the genetic diversity problem is that no country can be independent and all are interdependent; therefore, cooperation and consensus were absolutely in the interests of all. Shand said her point would be that it wasn't enough just to rescue the genetic diversity and put it into a bank, but that it was even more important to recognize the need to continue the evolution of indigenous farmer knowledge systems. Bennetzen suggested that the key point was that biodiversity is absolutely vital, not just to future crop breeding but to basic science as well, and that this resource has to be protected. Esquinas made two points: one, that protecting biodiversity was not a matter for international charity but international cooperation and the sharing of benefits; and two, that the world has to find a way to understand that the cost of a product must include the cost of preserving the natural resources that will allow future generations to consume the same product.

THIRD HOUR QUESTIONS AND ANSWERS

As in previous years, the third hour of the teleconference program was devoted to questions directed to the panelists by the participating sites. All questions received were answered either on the air during this third hour segment or by the panelists in writing afterward. These written answers are part of this teleconference report. Questions were received from Canada, the U.S. and countries of Latin America and the Caribbean.

Subjects in which there tended to be the greatest interest among the participating sites included: How food production and biodiversity conservation could be maintained in the light of rapid world population growth; What kind of system can reward those who develop new seeds, products, drugs, etc., but without patents; Is it ethical or moral to conceive of patenting life forms; How will farmers be compensated in practice for their contributions under the concept of farmers' rights. In general, all the panelists agreed on the need to find solutions to these questions while admitting that the issues were extremely complex and none of the basic problems could be said to be solved at this time.

SUPERFUND

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. FRANK of Massachusetts. Mr. Speaker, we should proceed this year to the kind of reform of the Superfund law that the Clinton administration has proposed, and that many of our colleagues in the House have been advocating. I am a cosponsor with the gentlewoman from Connecticut [Mrs. JOHNSON] of one approach to that, particularly affecting municipalities. And a broader overhaul is necessary. While some environmentalists have expressed concern about this, I think the attached editorial from the New Bedford Standard Times effectively refutes that argument and makes a compelling case for going forward. The people of New Bedford, and the Standard Times which reports on their activities, have a good deal of experience with the strengths and weaknesses of the Superfund Program. This editorial from the Standard Times draws quite sensibly on the experience of New Bedford and of other industrial communities, and I believe it sets forward a very strong case for proceeding to reform Superfund. Because it does deal so thoughtfully with a major issue before us, I ask that it be reprinted here.

LEAVE SUPERFUND UNTOUCHED, AND YEARS OF DELAY GUARANTEED

New Bedford harbor has been on the Environmental Protection Agency's Superfund list since 1983. Sullivan's Ledge, near the city's municipal golf course, has been on it since 1984. The Re-Solve site in North Dartmouth has been listed since 1983. And the Atlas Tack site in Fairhaven has been listed since 1990.

None of them has been cleaned up. The Resolve site is well ahead of the others, having been the subject of EPA attention from the moment it was put on the list. Re-Solve early on was designated as a demonstration project to show the world what the 1980 Superfund law could do in action. But in 1994 it is still in progress. As for the others—they lag far behind, for various reasons.

But they are not unique. There are dozens of Superfund hazardous waste sites in Massachusetts, and 1,289 listed across the United States—a number expected to reach 3,000. Yet just 58 have been officially "de-listed," and 234 others have been cleaned but not yet given official clearance.

If anyone wants to know what is holding up the works, observe the old adage: Follow the money. Paying for these cleanups is extremely expensive and those held responsible have spent fortunes taking others to court to share in the pain of undoing what they did in the old days of rampant pollution. And as anyone who has ever had anything to do with a civil lawsuit knows, going to court means delays and added costs heaped upon one another.

So it is no surprise that the slow-moving, fine-grinding judicial system has thrown a monkey wrench into the Superfund works, frustrating virtually everyone involved.

Now President Clinton has proposed an alternative method of financing the cleanups via a surcharge on insurance companies and a system of mediation to replace the endless litigation. A coalition of corporations and insurance companies is backing something very similar.

And environmentalists are in a panic.

"Any opening by Congress of the Superfund law at this point is an environmental Pandora's box resulting in one of the most serious setbacks in environmental policy in 20 years," huffed Rick Hind of Greenpeace. He and others want to put off for at least a year any rewrite of the Superfund law; they fear that the polluters are in cahoots with the insurance companies to avoid forking over the money that is their responsibility.

But Greenpeace and others cannot possibly be happy with the lack of progress being made under Superfund as it is. If we are married to the existing system, then we are guaranteed year upon year of delay while we spend a third or more of the cleanup money on lawyers. This cannot possibly be what Mr. Hind wants, and it is certainly not what Mr. Clinton wants.

So while it is reasonable to be suspicious about those polluters and insurers who might want to escape responsibility, it is also sensible to realize that the Superfund law is so hamstrung by the judicial system and the money chase that some way has to be found to speed things up. Unless, of course, environmental lawyers are enjoying too much of a good thing, too.

BRIGHT IDEA NETS ST. LOUIS POSTAL EMPLOYEE $35,000 AWARD

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. CLAY. Mr. Speaker, I would like to take this opportunity to offer my congratulations to Georgia Stribling, an account technician at the Postal Service's St. Louis, MO, Accounting Service Center. Ms. Stribling recently became the first female to earn $35,000, the Postal Service's highest monetary award, for a suggestion implemented through the employee suggestion program.

Her idea involved a process to eliminate duplicate payments on replacement money orders. The use of the plan has saved the government more than $2 million and the savings will continue to mount on a year-to-year basis.

Ms. Stribling also had made many previous suggestions for improving service and saving money. Nineteen of her ideas have been implemented. She received bonus money for 16 of these, but had never received more than $800. Some of these suggestions resulted in the elimination of duplicate work in the data entry of the Treasury check information and simplifying the process to find out when international money orders were issued simply by suggesting the date be printed on the money orders.

Ms. Stribling's 21 years of dedicated service with the Postal Service speak well for many loyal Postal workers who often go unheralded and Ms. Stribling most certainly deserves the acclaim of all of us.

TRIBUTE TO REGI TAYLOR

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Ms. VELÁZQUEZ. Mr. Speaker, I rise before you today to pay special tribute to the work of one of this Nation's great citizens, Mr. Regi Taylor. An individual whose social conscience and devoted community service make him a true role model for people throughout this country.

In recognizing Mr. Taylor's work, we must make special mention of his artistic abilities and the wonderful message of peace, love, and unity that he has so masterfully conveyed through his design of the official symbol of the Foundation for Ethnic Understanding. At a time when our cities are plagued with violence and fear, it is our responsibility as leaders to recognize and foster the spread of such messages. I cannot emphasize enough the importance of promoting cultural diversity and awareness. Ours is a country based on the rich traditions of innumerable cultures—a country filled with individuals whose backgrounds encompass the globe. Mr. Taylor's participation in the activities of the Foundation for Ethnic Understanding, illustrates his commitment to a doctrine of diversity and cultural wealth realization—pushing us to act in unison for a better tomorrow.

Mr. Taylor's and the Foundation's efforts for the improvement of New York City's community surroundings have been recognized and appreciated by all who have benefited from their time and service. Today, I ask my colleagues to join me in recognizing their service to this country as a whole. From the 103rd Congress, and on behalf of the American people we thank Mr. Regi Taylor and the Foundation for Ethnic Understanding for their work and wish them continued success.

BRIDGES

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. DEUTSCH. Mr. Speaker, in light of recent events, I would like to bring this editorial piece to the attention of my colleagues. It ran recently in the Baltimore Sun.

BRIDGES

(By Evelyn Avery)

Last weekend a few hundred Americans of different faiths and races, shivering in the wintry night air, assembled at Baltimore's Holocaust Memorial to protest the appearance of anti-Semites in a city public school. Only 50 years ago, an advanced, civilized nation exterminated one third of the world's Jews. How could this be happening?

The microphones appeared defective, silencing some of the speakers' words. "Build bridges," the crowd was told but to whom? A safe, sturdy bridge requires support at both ends.

In America, Jews have become consummate bridge builders. Organizations such as the American Jewish Committee, the Anti-Defamation League, and religious social-action groups devote themselves to justice and opportunity for all. American Jews preach and practice equality, demonstrating against racism, writing against bigotry, teaching against hate.

Jewish bigots are chastised by their community, not applauded as anti-Semites are today. Because of their religious beliefs, their sense of justice and their history of persecution, Jews have made common cause with other minorities, especially black Americans.

But for black extremists, like the Nation of Islam and its bogus academic disciples, Black-Jewish relations have always been destructive. Thus, civil-rights workers are really civil-wrong doers. According to the Farrakhans the marches never happened legal battles were a myth, and Martin Luther King never dreamed.

Despite the faulty microphones, the demonstrators understood the speakers' words, words engraved in their memories of Jewish and black persecution. Were they wrong to protest? Were they exaggerating anti-Semitism and offering publicity to black racists? In the background, a faint chant, a counterpoint to the speakers, grew louder as a dozen or so white neo-nazis, flaunting swastika flags, shouted "Sieg Heil" and pledged themselves to white American purity.

Against the dark sky, the gray concrete memorial witnessed the ironies. Across town, the anti-Semite Tony Martin, a black professor, defamed Jews and nourished hate mongers. By the Holocaust Memorial, neo-nazis claimed to march for white Christian America. On television a neo-nazi proclaimed that his group supported Mr. Farrakhan's message.

A bridge of hatred was being erected by bigots of different races.

Before it is too late, the speakers warned, all decent Americans must speak out. Elected officials and institutional representatives must refuse, for any reason, to excuse prejudice or negotiate with bigots.

Instead, a powerful alliance, an invincible bridge, must be forged by all freedom-loving Americans.

TRIBUTE TO THE JUNIOR LEAGUE OF NEWBURGH

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. HINCHEY. Mr. Speaker, it was 1949 when the Junior League of Newburgh, NY, had the wisdom to unite to form the Club 60 senior citizen's club, which this year will celebrate its 45th anniversary. It's active and civic-minded membership is well known to Newburgh residents and it is an honor and a privilege to pay tribute to this long standing group of dedicated citizens.

That these 250 energetic members are so committed to providing the elderly and other Newburgh residents with social services indeed warrants a moment to recognize their years of outstanding service. Club 60 stands dedicated to serving the senior community and its longevity speaks volumes to the role it has played in the Newburgh area, its dedication and its commitment.

I look forward to supporting and championing the continued success of Club 60 and thank you, Mr. Speaker, for this opportunity to recognize its 45th Anniversary.

AMENDMENTS TO THE INDIAN REORGANIZATION ACT OF 1993

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. RICHARDSON. Mr. Speaker, I am pleased to be joined by my colleague from Wyoming, Mr. THOMAS, in introducing a bill to amend section 16 of the Indian Reorganization Act.

This bill is intended to clarify certain provisions of the Indian Reorganization Act to prohibit any Department of the United States from promulgating regulations which classify or diminish the privileges and immunities of an Indian tribe relative to any other federally recognized Indian tribe. I have developed this legislation to address a recent policy development in the Bureau of Indian Affairs. The Bureau of Indian Affairs has taken the position that there are two classifications of Indian tribes, historic Indian tribes and created Indian tribes. Historic Indian tribes are Indian tribes that still possess inherent sovereign authority of their members and their lands. Created Indian tribes are Indian tribes that only possess those authorities that are expressly conferred by the Secretary of the Interior. The Bureau of Indian Affairs cited the provisions of the Indian Reorganization of Act of 1934 in support of this authority to divest certain Federally recognized Indian tribes of their sovereign powers.

This distinction between historic and created Indian tribes was first presented by the Bureau of Indian Affairs in testimony before my subcommittee during hearings on H.R. 734, a bill to provide relief to the Pascua Yaqui Indian tribe of Arizona. The Bureau of Indian Affairs took the position that the Pascua Yaqui Indian tribe was a created Indian tribe and therefore did not have the inherent authority to regulate law and order on their reservation. Their position was not persuasive then nor is it persuasive today. There is no basis in law or policy for the Bureau of Indian Affairs' position on historic and created Indian tribes.

Mr. Speaker, it has been a longstanding principle in Federal Indian law that Indian tribes possess all inherent sovereign authorities not expressly divested by the Congress. The policy that has been developed in the Bureau of Indian Affairs flies in the face of this longstanding principle. In fact, policy is in direct conflict with the very act that the Bureau of Indian Affairs has cited as authority for this distinction, the Indian Reorganization Act of 1934. This law was passed by Congress to provide stability for Indian governments and has formed the basis for future statutes which enhanced tribal self-governance and self-determination.

Mr. Speaker, there is great danger in a policy that recognizes the authority of the Department of the Interior and the Bureau of Indian Affairs to limit the inherent sovereign authority of Indian tribes by the Solicitor's pen. If carried to an extreme, the Solicitor could by fiat significantly erode tribal sovereignty through a series of opinions and carry out his or her own termination policy. With the exception of the framework imposed by the judicial branch, the formulation of Indian policy is virtually the sole province of the Congress and Indian tribes. The Congress has never acknowledged distinctions in or classifications of inherent sovereignty possessed by federal recognized Indian tribes. Tribal sovereignty must be preserved and protected by the executive branch and not limited or divided into levels which are measured by the Bureau of Indian Affairs and the Department of the Interior. I have introduced this legislation with the ranking member of the subcommittee on Native American Affairs to put a stop to this policy before great harm occurs. We must not revisit the darkest period of Federal Indian policy by allowing the termination of tribal sovereign authority through the implementation of the Bureau of Indian Affairs policy distinction between historic and created Indian tribes.

I urge my colleagues to support this legislation.

TRIBUTE TO ISRAEL STOLLMAN

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Ms. KAPTUR. Mr. Speaker, it is my great honor to pay tribute to one of the pioneers in the field of urban planning, Mr. Israel Stollman. As an urban planner myself, Israel Stollman represents the best our profession has to offer—a desire and ability to make the world a better and more aesthetically pleasing place to live. It is those qualities that attracted me, and thousands of other students, to the discipline of urban planning.

Israel Stollman has given his vocation 45 years of distinguished service. Beginning in 1947 when he graduated with a major in housing and planning from the City College of New York and through to his position as executive director of the American Planning Association, Israel Stollman has been a pioneer in his profession.

As a native Ohioan, I am especially pleased that many of the cities in my State benefited from Israel Stollman's guidance and foresight. From the beginning of his Ohio days as a junior planner with the Cleveland Planning Commission to his creation of the City and Regional Planning Department at Ohio State University, Israel Stollman's impact on Ohio and on the field of urban planning is surpassed only by his impact on the Nation as a whole.

In 1968, Israel Stollman was appointed the executive director of the American Society of Planning Officials. During his tenure, he took major steps toward integrating the urban planning profession by seeking to elect more African-American members to the board of directors and recruit more minorities into the profession.

One decade later, in 1978, under Israel Stollman's steady guidance, the American Society of Planning Officials merged with the American Institute of Planners to form the American Planning Association. Due in large part to Israel Stollman's remarkable leadership capabilities, the American Planning Association has grown into a highly respected and immensely effective organization.

While Israel Stollman will be missed as the guiding force at the American Planning Association, he will no doubt continue to contribute to the field of urban planning. On behalf of the U.S. Congress, I would like to take this opportunity to pay tribute to Israel Stollman and his decades of service to the field of urban planning and our Nation.

TRIBUTE TO WASHINGTON SCHOOL

HON. BARNEY FRANK

OF MASSACHUSETTS

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. FRANK of Massachusetts. Mr. Speaker, I offer these remarks on behalf of myself and my colleague from New Jersey, Mr. MENENDEZ. He and I have something very much in common besides the fact that we are both proud to be Members of this House—a fondness for Bayonne, NJ, which he currently represents in the House, and where I was born, grew up, and went through school.

One of the schools I had the privilege of attending was Washington School, which I attended from kindergarten through eighth grade, and which is celebrating its 75th anniversary this year. I have very fond memories of the years I spent at that school, as does my entire family, since my two sisters and my brother also received their entire elementary school education at Washington School. Between my sister Ann's entering kindergarten, going through the years when I and my sister Doris attended, and ending with my brother David's graduation from eighth grade, my mother logged 21 years consecutively as a member of the Washington School PTA.

Mr. MENENDEZ and I are delighted to join in extending our congratulations to Principal Carol Grasz and all of the students, faculty, and other staff at Washington School for the excellent job they continue to do in the field of education. I was particularly pleased to note that the event will take place in the John C. Josefowicz Auditorium. Mr. Josefowicz, as I of course always called him, was the principal for most of my years in the school and for years after. He was an outstanding educator, and I am delighted to join in honoring the memory of the excellent work he did there.

Mr. Speaker, on behalf of Mr. MENENDEZ and myself, I am pleased to note the very happy occasion of the 75th anniversary of Washington School.

BLIND ARE UNABLE TO READ BRAILLE TODAY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. TRAFICANT. Mr. Speaker, according to goal five of the recently enacted Goals 2000: Educate American Act: "By the year 2000, every American will be literate." Yet, nearly half of all blind elementary and secondary level students cannot read Braille or print.

In fact, the numbers of the blind who can read at all are declining. In 1968, out of 19,902 blind students enrolled in elementary and secondary education, 40 percent read Braille, 45 percent read large type or regular print, and 4 percent read both. In January, 1993, out of 50,204 blind students, fewer than 9 percent could read Braille, 27 percent could read print, and 40 percent could not read at all. In other words, while there are 40,000 more blind children in school today, only 30 percent can read—a far cry from 95 percent in 1968. These figures reflect the shocking magnitude of the literacy crisis among the visually impaired in our Nation today.

Basic literacy skills are a fundamental part of education. Undoubtedly, impaired vision can have a profound impact on reading and writing skills. Therefore, the selection of instructional materials and methodology such as Braille, large print, auditory instruction, or combinations thereof is a key decision in improving the literacy rate among the blind.

Language designed to increase literacy among the visually impaired through the use and combinations of instructional materials has been enacted in 25 States. These State laws, as written, generally require blind students to receive a Braille literacy skills assessment to determine whether a student's visual impairment affects his or her ability to read and write proficiently. The proficiency standard, identical for the visually impaired and their sighted counterparts, is based on the student's ability and grade level.

The Traficant "Braille Literacy Amendment" which I had intended to offer under H.R. 6, the Improving America's Schools Act is in essence, the same language enacted in 25 States. The Traficant amendment would have extended this language to all 50 States, requiring all States to develop a literacy plan for the blind and to manage existing funding to match those needs.

During consideration of H.R. 6, the Improving America's Schools Act, several representative organizations of the blind community, as well as the committee itself, had objections to certain provisions and definitions in the amendment. As a result, I respectfully withdrew my amendment from consideration under H.R. 6.

The issues of the declining rate of literacy among the visually impaired was first brought to my attention by the National Federal of the Blind. My intent, however, was and still is to assist the entire blind community. My intent is to ensure that every American, regardless of race, religion, economic background, or physical disability, is literate or is given every opportunity to perform to the best of his or her ability.

Representative organizations of blind community and I are currently in the process of negotiating and working together to reach a consensus on language that everyone, including the committee, can agree upon. The Traficant amendment is the foundation from which a consensus will be derived. With the support of the blind community, I stand ready to submit the consensus agreement to the committee once it has been finalized.

The basic provisions of the Traficant amendment, which in principle will be maintained in the consensus agreement are as follows:

The first section calls for an individual assessment of each student's literacy skills. Based on the assessment, each student would then receive an appropriate level of instruction of Braille to ensure the student is able to read and write on the same level as their sighted counterparts.

Under the current system, if a visually impaired student has some visual acuity, he or she is taught to read standard print. This is appropriate for most children, but there are some with progressive eye conditions who will lose sight as time goes on. As the print shrinks, as the white space and pictures disappear, and as the assignments lengthen, the student finds it more and more difficult to accomplish the simple task of reading, let alone the more complex task of learning the material. Without fundamental Braille instruction in the early grades, the student is forced to learn it years later when it is more difficult, falling further and further behind his peers. The amendment instructs parents and teachers to take steps to ensure that literacy will be retained by the child into adulthood, regardless of the medium used to achieve this goal, and instructs the teaching of an alternative medium if print will not meet this standard. Braille instruction, based on an assessment of a student's literacy skills and physical disability, is necessary component in any literacy program for the blind.

The second section establishes teacher competency standards for Braille instruction and specialized training for special and general education teachers.

Under the current system, an applicant for teacher certification to teach the visually impaired may have attended a college or university which passes students without making them demonstrate competence in reading and writing Braille. Under the Improving America's School Act we required all general education teachers to be masters in any subject area that they teach. Braille instructors should be held to the same standard by demonstrating competency in reading and writing Braille.

The third section facilitates production of Braille and digital texts and materials at essentially no cost to education agencies or textbook publishers. The digital format would give local education agencies ready access and reproduction of Braille an printed text with very little time and expense.

Until about 5 years ago, the only way to produce a Braille book was for someone to sit down with a printed copy of the book and copy it into Braille with a Braille writer, one letter at a time. With a digitized version of the book, books can be produced by computers as easily as it could be printed. Digital text requirements would make most textbooks readily available in Braille at a minimal cost. The development of a national disk depository from which States could borrow could greatly defray costs as well.

Finally, the Traficant amendment does not authorize new funding. The amendment requires schools for the blind to develop a literacy plan. By developing a plan, evaluating the reading level of the students, and obtaining digital texts for cost-effective reproduction, schools will be better able to manage existing funding to meet the needs of the students. Of the 25 States that have already established a similar program, all have done so with minimal or no additional cost. Schools for the blind currently receive a direct Federal appropriation for literacy programs under IDEA. This appropriation has been in existence since 1879. The 1994 appropriation for IDEA was $6.5 million.

INTRODUCTION OF NATO EXPANSION ACT OF 1994, H.R. 4210

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. GILMAN. Mr. Speaker, I have today introduced the NATO Expansion Act of 1994, H.R. 4210.

This bill is intended to help adapt one of the great institutions of the cold war—the North Atlantic Treaty Organization—to the post-Cold War era. At the same time, it will recognize the great progress that the countries of Central and Eastern Europe have made since the demise of communism and the fall of the Iron Curtain in 1989.

An important first step in this direction was taken at the NATO summit last January, with the establishment of the Partnership for Peace. The Partnership for Peace provided a mechanism for stepped-up cooperation between NATO and the emerging democracies of Central and Eastern Europe, but it stopped short of promising eventual NATO membership to those countries.

The strong interest of those countries in forging closer ties to NATO is demonstrated by the fact that 14 of them already have joined the Partnership. At the same time, a number of them have expressed disappointment that NATO has not done more to acknowledge their progress and provide for their legitimate security concerns.

The Partnership for Peace was a good start, but it is now time to go farther. We cannot afford continued ambiguity while nations with strong roots in Western culture and a growing commitment to democratic values struggle in the shadow of uncertainty.

In particular, Poland, Hungary, the Czech Republic, and Slovakia have demonstrated their commitment to economic and political reform and to the values for which NATO stands. It is increasingly apparent that they are now, or soon will be, in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area, satisfying the test for admission to NATO under Article 10 of that Treaty.

The United States and NATO must demonstrate their recognition of the progress these countries have made by moving to integrate them into the NATO Alliance.

The NATO Expansion Act of 1994 will help achieve this goal by declaring the sense of Congress that Poland, Hungary, the Czech Republic, and Slovakia should be made full NATO members by 1999 at the latest—5 years after the establishment of the Partnership for Peace, provided they satisfy criteria specified in the bill. Among these criteria are continued progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, protection of minority rights, and the rule of law.

Further, the bill will authorize the President to provide transition assistance to these countries in order to facilitate their integration into NATO. Such assistance, which could include the provision of excess United States defense articles and other forms of security assistance, will be designed to encourage and support joint military exercises, greater interoperability of military equipment and air defense systems, and conformity of military doctrine. Such assistance will be drawn from existing resources and will not increase foreign aid spending.

The bill does not limit the possibility of NATO membership to the four countries identified in the bill. To the contrary, it opens the door to NATO membership for other European countries emerging from Communist domination by authorizing the President to provide them NATO transition assistance if he determines they are on track for NATO membership.

The countries of Central and Eastern Europe are concerned—with good cause—about whether NATO will recognize the progress they have made and provide for their legitimate security concerns. The NATO Expansion Act of 1994 will give the President the legal authority and congressional support he needs for continued American leadership in adapting NATO to the post-cold war era.

Mr. Speaker, I request that the full text of the NATO Expansion Act of 1994 be inserted at this point in the RECORD.

H.R. 4210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "NATO Expansion Act of 1994".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) On January 10, 1994, the leaders of the NATO member nations meeting in Brussels, Belgium, issued an invitation to European countries that do not belong to NATO to participate in a program of expanded cooperation with NATO called the Partnership for Peace.

(2) In that invitation, the leaders of the NATO member nations stated: "We reaffirm that the Alliance, as provided in Article 10 of the Washington Treaty, remains open to the membership of other European states in a position to further the principles of the Treaty and to contribute to the security of the North Atlantic area. We expect and would welcome NATO expansion that would reach to democratic states to our East, as part of an evolutionary process, taking into account political and security developments in the whole of Europe.".

(3) The political and economic transformation of the formerly communist-ruled

countries of Europe has been under way since 1989. In establishing a new Strategic Concept for NATO in November 1991, the leaders of the NATO member nations observed: "All the countries that were formerly adversaries of NATO have dismantled the Warsaw Pact and rejected ideological hostility to the West. They have in varying degrees, embraced and begun to implement policies aimed at achieving pluralistic democracy, the rule of law, respect for human rights and a market economy.".

(4) In particular, Poland, Hungary, the Czech Republic, and Slovakia have made significant progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law since the fall of their previous communist governments.

SEC. 3. SENSE OF THE CONGRESS.

It is the sense of the Congress that—

(1) the leaders of the NATO member nations are to be commended for reaffirming that NATO membership remains open to European countries emerging from communist domination and for welcoming eventual expansion of NATO to include such countries;

(2) Poland, Hungary, the Czech Republic, and Slovakia should be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area not later than January 10, 1999, 5 years from the date of the establishment of the Partnership for Peace, and, in accordance with Article 10 of such Treaty, should be invited to become full NATO members not later than that date, provided these countries—

(A) maintain their progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law; and

(B) remain committed to protecting the rights of all their citizens and respecting the territorial integrity of their neighbors;

(3) the United States, other NATO member nations, and NATO itself should furnish appropriate assistance to facilitate the transition of Poland, Hungary, the Czech Republic, and Slovakia to full NATO membership not later than January 10, 1999; and

(4) other European countries emerging from communist domination may be in a position at a future date to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area, and at the appropriate time they should receive assistance to facilitate their transition to full NATO membership and should be invited to become full NATO members.

SEC. 4 AUTHORITY FOR PROGRAM TO FACILITATE TRANSITION TO NATO MEMBERSHIP

(a) IN GENERAL.—The President may establish a program to assist the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other European countries emerging from communist domination designated by the President pursuant to subsection (e).

(b) CONDUCT OF PROGRAM.—The program established under subsection (a) shall facilitate the transition to full NATO membership of the countries described in such subsection by supporting and encouraging, inter alia—

(1) joint planning, training, and military exercises with NATO forces;

(2) greater inter operability of military equipment, air defense systems, and command, control, and communications systems; and

(3) conformity of military doctrine.

(c) TYPE OF ASSISTANCE.—In carrying out the program established under subsection (a), the President may provide to the countries described in such subsection the following types of security assistance:

(1) The transfer of excess defense articles under section 516 of Foreign Assistance Act of 1961, without regard to the restrictions in paragraphs (1) through (3) of subsection (a) of such section (relating to the eligibility of countries for such articles under such section).

(2) The transfer of nonlethal excess defense articles under section 519 of Foreign Assistance Act of 1961, without regard to the restriction in subsection (a) of such section (relating to the justification of the foreign military financing program for the fiscal year in which a transfer is authorized).

(3) Assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the Economic Support Fund).

(4) Assistance under chapter 5 of part II of that Act (relating to international military education and training).

(5) Assistance under section 23 of the Arms Export Control Act (relating to the "Foreign Military Financing Program").

(d) ADDITIONAL ASSISTANCE.—In addition to the security assistance provided under subsection (c), the President may, in carrying out the program established under subsection (a), provide assistance from funds appropriated after the date of the enactment of this Act under the following accounts:

(1) The "Nonproliferation and Disarmament Fund" account.

(2) The "Countries in Transition" account.

(e) DESIGNATION OF OTHER EUROPEAN COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—The President may designate other European countries emerging from communist domination to receive assistance under the program established under subsection (a) if the President determines and reports to the appropriate congressional committees that such countries—

(1) have made significant progress toward establishing democratic institutions, a free market economy, civilian control of their armed forces, and the rule of law; and

(2) are likely, within 5 years of such determination, to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area.

SEC. 5. AUTHORIZATION OF STATUS OF FORCES AGREEMENTS.

The President is authorized to confer, pursuant to agreement with any country eligible to participate in the Partnership for Peace, rights in respect of the military and related civilian personnel (including dependents of any such personnel) and activities of that country in the United States comparable to the rights conferred by that country in respect of the military and related civilian personnel (including dependents of any such personnel) and activities of the United States in that country.

SEC. 6. REPORTING REQUIREMENT.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and at least once every year thereafter, the President shall submit to the appropriate congressional committees a report on the implementation of this Act.

(b) CONTENTS.—Each such report shall include—

(1) an assessment of the progress made by Poland, Hungary, the Czech Republic, Solvakia, and other European countries emerging from communist domination designated by the President pursuant to section 4(e) toward meeting the standards for NATO membership set forth in Article 10 of the North Atlantic Treaty, including—

(A) an assessment of the progress of such countries toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law; and

(B) the commitment of such countries in protecting the rights of all their citizens and respecting the territorial integrity of their neighbors;

(2) a description of all assistance provided under the program established under section 4, or otherwise provided by the United States Government to facilitate the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other European countries emerging from communist domination designated by the President pursuant to section 4(e);

(3) a description of all assistance provided by other NATO member nations or NATO itself to facilitate the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other European countries emerging from communist domination designated by the President pursuant to section 4(e); and

(4) a description of any agreement entered into pursuant to section 5.

SECTION 7. DEFINITIONS.

For purposes of this Act, the following definitions apply:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES— The term "appropriate congressional committees" means the Committee on Foreign Affairs, the Committee on Armed Services, and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations, the Committee on Armed Services and the Committee on Appropriations of the Senate.

(2) NATO.—The term "NATO" means the North Atlantic Treaty Organization.

(3) OTHER EUROPEAN COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—The term "other European countries emerging from communist domination" means—

(A) Any member of the Conference on Security and Cooperation in Europe located—

(i) in the territory of the former Union of Soviet Socialist Republics; or

(ii) in the territory of the former Socialist Federal Republic of Yugoslavia; or

(B) Estonia, Latvia, Lithuania, Romania, Bulgaria, or Albania.

NATIONAL NEIGHBOR DAY

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. REED. Mr. Speaker, I rise today to introduce a Resolution designating May 22, 1994, as National Neighbor Day.

The neighborhoods we once knew as places of peace and harmony are now engaged in the fight against the rising tide of crime and violence. One of the saddest results of this increasing crime is that neighbors fear for their safety and become alienated from one another.

Two years ago, my constituents in Westerly, RI, came up with the idea of celebrating Neighbor Day as a way of reaching out to none another, introducing themselves to new neighbors and renewing old friendships. With parties, and open house gatherings, Neighbor Day in Westerly gave people a sense of neighborhood pride and positive community spirit.

Neighbor Day has now been adopted throughout the entire State of Rhode Island and I believe the next logical step is to adopt a National Neighbor Day. Through the creation of a National Neighbor Day, we can bring people across America closer together and overcome the atmosphere of fear and mistrust that comes with changing times.

Mr. Speaker, I ask my colleagues to join me, along with my nearest congressional neighbor, Congressman RON MACHTLEY, in cosponsoring this legislation.

LEGACY OF GOLD MOUNTAIN

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to the Chinese American Council of Sacramento and the Sacramento History Museum. These two organizations have formed a partnership which has yielded Legacy of Gold Mountain, an exhibition which celebrates and chronicles the rich history of the Sacramento's Chinese community from 1850 to the present. On April 8, 1994, the exhibit will be unveiled during a reception at the Sacramento History Museum in Old Sacramento.

This project does the import job of acknowledging and validating the legacy of the Chinese in their quest for a better life in a new land; a quest familiar in chronicles of the Europeans' trek to early America, yet sometimes overlooked with regard to others' immigration.

By focusing on the community that settled in Sacramento, this exhibition spotlights people very real and relevant to this community. The exhibition planning committee devoted hours of research to the project, scouring government records, newspapers, public and private collections of photographs, manuscripts, correspondence, journals, and business and association records, and conducted extensive personal interviews to ensure that visitors who travel through this exhibit actually travel through time.

The result is an outstanding community and cultural resource. The exhibit follows the trials and tribulations of the Chinese through their involvement in gold mining, railroading, business, reclamation, and agriculture. It examines the effects of the anti-Chinese movements of the late 1800's through the emergence and disappearance of Sacramento's first Chinatown, and documents the record wave of immigration and the ensuing creation of a second Chinatown.

The five chronological slices of history which comprise the exhibit, vividly chronicles the lives of Chinese men and women as they slowly evolved from sojourner to settler to citizen. The exhibit underscores the essential role education plays in fostering understanding and respect for our Nation's many diverse cultures.

Mr. Speaker, I ask that my colleagues join me in saluting the Chinese American Council of Sacramento and the Sacramento History Museum for their outstanding work in the creation of Legacy of Gold Mountain.

WORK FORCE SKILLS AND DEVELOPMENT LOAN BILL

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. GUNDERSON. Mr. Speaker, I am pleased to introduce legislation on behalf of myself, and Representatives GOODLING, PETRI, CASTLE, HOBSON, SHAYS, JOHNSTON, POSHARD, designed to charter a new course for the Federal Government in meeting the training needs of the U.S. work force.

The Work Force Skills and Development Loan bill creates opportunities for businesses to obtain State guaranteed loans for the purpose of upgrading the skills of their work force. Although many employers are aware of the benefits of such training, few have the resources necessary to institute such programs. Furthermore, many businesses find it difficult to secure loans from banks and other lenders for the purpose of work force investment.

The need for upgrading the skills of our Nation's workers should not be underestimated. A study by the Competitiveness Policy Council found that approximately 40 percent of business executives say they cannot modernize their equipment due to worker skill deficiencies. In addition to promoting the implementation of new technologies, skills upgrading has been documented to result in a host of other positive outcomes including increased productivity, quality improvements, and decreased job related injuries. In fact, studies of work force development programs show employers' return on investment for every dollar spent on job training is at a rate of $3.

The benefits to the employees are equally impressive. Employees who receive formal skill upgrading enjoy earnings advantages of 25 percent or more over those with no such training. They also benefit from increased job security and mobility in the event they do lose their job. Unfortunately, not enough of this type of training is being provided. It is estimated that nationally, only about 7 percent of the work force is receiving formal training. Recent statistics have found of the roughly 2 million workers who are losing their jobs, nearly one quarter lack the skills being demanded in the U.S. economy. Many of these dislocated workers end up in government administered job training programs which are often unable to provide training which has the same quality and relevancy as that provided in the workplace. It is well documented that providing skills upgrading and other early intervention services to workers facing dislocation, is one of the most successful means of both averting dislocation or drastically reducing the time of unemployment should dislocation occur.

The Work Force Development and Skills Loan Program is designed to meet the work force skill needs of both employers and employees. Using a small portion of funds currently under the Secretary of Labor's discretionary funds under title III of the Job Training Partnership Act, matching grants would be made available to States for the purpose of establishing work force skills and development reserve funds. Working with financial institutions, States would make loans available to employers and employee representatives instituting programs providing work force skills and development upgrading.

As a Nation, we need to reexamine the proper Federal role in the preparation and reskilling of the U.S. work force. As a part of that transition we must move away from the "reactionary policies indicative of our current Federal job training programs which wait until workers are laid off, then send them through a job training system which is oftentimes out of touch with the true needs of both workers and the work place. Federal policies should instead be proactive and recognize the value of training existing workers as a means of providing increased job security and as a way to meet the needs and changes in our competitive economy.

THE AUBURN INDIAN RESTORATION ACT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. MILLER of California. Mr. Speaker, today I am introducing the Auburn Indian Restoration Act. The bill is cosponsored by Representative DOOLITTLE and I note that the tribe is located in the district. The bill is also cosponsored by Representative RICHARDSON, the chairman of the Subcommittee on Native American Affairs.

The bill restores the rights and privileges of Indian tribes to the United Auburn Indian Community. This Indian tribe was terminated by Congress under the act of August 18, 1958 (P.L. 85–671).

The policy of terminating Indian tribes during the 1950's was a dismal failure. The termination policy simply meant severing the Federal trust responsibility which flows from the United States to Indian tribes. Although this trust relationship was promised to last into perpetuity through treaties and statutes, during the 1950's the Congress unilaterally determined that it would end the trust relationship between the Federal Government and several Indian tribes. The Auburn Rancheria was terminated under a 1958 act which ended the trust relationship with 41 California Rancherias.

The results of the Federal termination policy were increased poverty and despair among terminated tribes. Many tribal members were forced on to State welfare rolls. Others relocated from tribal lands, were dispersed and ceased to act as tribes.

In 1973, the Menominee Tribe of Wisconsin which had been terminated, petitioned the Congress for restoration. Because these tribes were terminated by statute, legislative restoration was the only way to restore the Federal trust responsibility. The fight to restore Menominee was led successfully by Ada Deer who today is the Assistant Secretary for Indian Affairs at the Bureau of Indian Affairs. Indeed, times have changed.

Since Ada Deer and the Menominee led the way 20 years ago, almost all of the approximately 120 terminated tribes have been restored.

The Catawba of South Carolina were restored by statute last year. There are still several tribes who remain terminated. The restoration of the California Rancherias will truly signal an end to the unfortunate era. The bill is the first step for the Auburn Indian Community.

Mr. Speaker, I urge my colleagues to support the restoration of the Auburn Indian Community.

CELEBRATING THE INSTALLATION OF RABBI BORUCH HALEVI LEIZEROWSKI

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. NADLER. Mr. Speaker, I rise today to join my many neighbors in saluting Rabbi Boruch Halevi Leizerowski, Shlita, chief rabbi of Philadelphia, who was recently installed as the associate chief justice of the Rabbinical Court of the Rabbinical Alliance of America.

The installation was held on Rosh Chodesh Nissan, Sunday, March 13, 1994. Rabbi Avrohom B. Hecht the president and Rabbi Yitzchok I. Liebes, the chief justice, as well as Rabbi Shlomo Eisner and Rabbi Nachum Zvi Josephy, the cochairmen, were in attendance as were Rabbi Herschel Kurzrock and Rabbi Dov Aaron Brisman.

The installation of an associate chief justice of the Rabbinical Court is always an important occasion, but especially so when so distinguished a scholar assumes that office. Rabbi Leizerowski is highly respected and will bring a vast store of knowledge and keen sense of justice to his new work.

The institution of the Rabbinical Court, and careful observance of halacha, has always played a central role in Jewish life both in Eretz Yisroel and in the diaspora. It is indeed impossible to understand Jewish life and the Jewish community without fully comprehending the critical role the Rabbinical Court plays in ensuring scrupulous adherence to God's laws. With the dedicated work of scholars like Rabbi Leizerowski the Rabbinical Court will remain a source and guidance and justice for the entire community.

Mr. Speaker, I am pleased to join my neighbors, and the Members of this House, in congratulating Rav Leizerowski and wishing him a hearty yasher koach.

STATEMENT OF HUNGARIAN PRESIDENT ARPAD GONCZ AND HUNGARIAN FOREIGN MINISTER GEZA JESZENSZKY ON THE 50TH ANNIVERSARY OF THE HOLOCAUST IN HUNGARY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. LANTOS. Mr. Speaker, just a few weeks ago, a special commemoration was held in New York to mark the 50th anniversary of the Holocaust in Hungary. On March 19, 1944, Nazi German military forces occupied Hungary and began the systematic eradication of Hungary's Jewish population. Under the malevolent direction of Adolf Eichmann, in a few short months, the Jewish population of Hungary was reduced from 750,000 to only 139,000.

Mr. Speaker, in to commemorate the 50th anniversary of the Holocaust in Hungary, a special remembrance ceremony was held on March 20 in New York City under the sponsorship of the U.S. Commission for the Preservation of America's Heritage Abroad, the World Federation of Hungarian Jews, the American Gathering/Federation of Jewish Holocaust Survivors, and the Emanuel Foundation. On that occasion two moving messages were read from Hungarian leaders—the President of the Republic of Hungary Arpad Goncz and the Minister of Foreign Affairs Geza Jeszenszky.

Mr. Speaker, I am placing in the Record their messages on this occasion, and I urge my colleagues to carefully and thoughtfully consider them.

STATEMENT OF ARPAD GONCZ, PRESIDENT OF THE REPUBLIC OF HUNGARY

Dear Friends,

It is extremely difficult to express my feelings about the tragedy of the Holocaust of Hungarian Jewry fifty years ago. Difficult because so much has been told of the story never to be entirely told, and yet, so many of us still do not know and do not understand. Difficult because one single death can overwhelm us when it occurs close to us, and the death of millions is unbearable to feel and even more to speak of, unless we manage to keep it at a distance. Maybe this is why many refuse to lend more than one ear, and some prefer to turn a blind eye to something explained many times, and yet unexplainable.

When I heard of your day of remembrance, the words the eighty-two-year-old cantor of the Szeged synagogue recently told a friend who visited there came to my mind: "The Jewish community of the city numbered five thousand before the war, and there are three hundred of us now. With assistance from the United States, we managed to renovate the church building. We now have a splendid, although not flawless building, but no people. Would it not be better to have it the other way round?"

Those who heard, or heard of his words will not forget, I trust. And if people do not *forget*, but do everything in their power to *forgive*, there is no reason to fear the future. Forgetfulness is unjustifiable whereas forgiveness is justified, but only if we have the courage and the will to stop any recurrence of hatred and violence against Jews—or any other community. And let us hope together that the cantor, this one or the next, will see people *and* church building in Szeged.

ARPAD GONCZ

STATEMENT OF GEZA JESZENSZKY, FOREIGN MINISTER OF HUNGARY

Rabbi Schneier, Distinguished Members of the Memorial Committee, Ladies and Gentleman,

On the occasion of your gathering I have the privilege to address this honorable assembly, commemorating the 50th anniversary of the Holocaust of Hungarian Jewry. Unfortunately, I can only be present through these remarks, not in person.

This commemoration in New York coincides with two events in Hungarian history, both related to the fate of Hungarian Jewry.

Today, we solemnly remember one of the darkest days in Hungary's history; Nazi Germany occupied Hungary on March 19, 1994. The relatively short but extremely violent German occupation has disastrous consequences for the whole nation, and especially the country's Jewish community. Hundreds of thousands of Hungarian Jews were to be deported to concentration camps. Most of them never came back. We, the survivors and the descendants, must perform the duty of the eternal survivor: never again may we let history unfold in such a way that hate and greed gain space.

This most tragic day coincides with another event of historic significance: one hundred years ago today, on March 20, 1894. Lajos Kossuth, the leader of the 1848–49 Hungarian revolution and freedom-fight, died in exile in Turin, Italy. Lajos Kossuth was a remarkable advocate of the emancipation of the Hungarian Jews. During the short term in office of Kossuth as governing president, an emancipation bill was passed which was quite unprecedented in the whole of Europe. However, since the revolution was crushed, it would not be implemented. Only later, in 1867, in the year when Austria and Hungary reached their historic compromise, did the Hungarian legislature accept the principles of the bill, and accordingly the Emancipation Act came into force. The period starting in 1867 witnessed an unprecedented economic and cultural prosperity in Hungary, from which both Jews and non-Jews benefitted.

Of the several lessons one could draw of these two turns in our history, I would like to say this: only an independent and democratic Hungary can protect her citizens and prevent irrational hatred and inhuman acts.

The denial of the values of democracy and freedom under Nazi rule in Germany, led to the Holocaust all over Europe. The Holocaust was the most terrible manifestation of Satan's appearance on earth. "And the Lord said unto Satan, Behold, all that he hath is in thy power." Like Job in Biblical times, modern man too experienced evil to its full: to us the Holocaust became the embodiment of evil. But the Bible does not leave us without hope; ". . . only upon himself put not forth thine hand." Thus, Satan could neither destroy Job, nor . . . After communism collapsed, Hungary regained her sovereignty and established a democratic sytem, leaving no room for discrimination and oppression. This, we believe, is the set of principles which will safeguard us from any repetition of history. The Hungarian government, let me assure you, will continue to realize that "most glorious monument," Kossuth's dream of democracy. While building and maintaining democracy, we should follow the words of the Psalms and should "depart from evil, and do good, seek peace, and pursue it."

THE ULSTER COUNTY ASSOCIATION FOR RETARDED CITIZEN'S MISSION, OF DIGNITY

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. HINCHEY. Mr. Speaker. I rise today to speak in tribute to the 13th Annual Humanitarian Awards being held by the Ulster County Association of Retarded Citizens on Friday, April 29. UARC is a group that I have long been associated with and I support their tireless advocacy on behalf of and services provided to people with disabilities in our community. Their commitment to enabling all people the ability to live dignified, productive lives to the fullest ability of each and every individual is a commitment that is too often undervalued in our society. I endorse, applaud, and champion that mission and I thank them for all of their continuing efforts.

I would also laud Alex Palo, who is being awarded the Pilot Industries' 1994 Employee of the Year Award. Mr. Palo is a living example of the potential an individual can strive for and achieve. He has thrived at JM Originals in Ellenville NY, and is now a conscientious, and hard-working individual, and taxpayer. I congratulate him on his achievements and wish him much continued success in the future.

THE RIVER AND WATERSHED PROTECTION AND RESTORATION ACT OF 1994

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. RICHARDSON. Mr. Speaker, today, I have introduced legislation to create a national river and watershed registry. My bill, the River and Watershed Protection and Restoration Act of 1994, has been cosponsored by Representatives ELIZABETH FURSE, ALBERT WYNN, MIKE KOPETSKI, PETER DEFAZIO, ELEANOR HOLMES NORTON, DALE KILDEE, JOHN OLVER, CHARLIE ROSE, and DAN HAMBURG.

In creating a national river and watershed registry my legislation will establish a national policy to: First, protect the relatively undisturbed components of our riverine systems and restore those that may be more disturbed; second, provide better river and watershed management mechanisms; third, foster the involvement of local communities and citizens to develop their own locally specific protection and restoration strategies; and fourth, identify new opportunities for economic revitalization.

This legislation would establish a nomination process which would allow State agencies, Indian tribes, watershed councils, and local conservation organizations to nominate rivers or watersheds for inclusion in the national registry. The nomination process will be entirely voluntary, however, and the bill does not authorize Federal land acquisition, condemnation or land use control. The bill does not modify existing regulatory authorities of local, State, and Federal agencies.

I am especially proud that this legislation recognizes the unique needs and capabilities of Native American peoples. By establishing Native American tribes as equals under the provisions of the bill, we will ensure that rivers and watersheds on tribal land receive the same attention as other areas throughout the country.

Current law provides some measures for protection and restoration in both the Wild and Scenic Rivers Act and the Clean Water Act. I strongly believe that both of these statutes help to protect and preserve our precious natural resources. Rather than replace the effectiveness of these current provisions, my legislation complements them by utilizing local solutions for river and watershed protection and restoration:

The Wild and Scenic Rivers Act provides protection for high quality rivers that are largely federally managed. My legislation allows for restoration of all rivers and emphasizes the need to protect entire rivers and watersheds, well beyond riverbeds and adjacent riparian areas.

The Clean Water Act is primarily a Federal and State regulatory program controlling pollution discharge into surface water. My legislation is not a regulatory approach to conserving rivers and watersheds. Instead, it is a planning, local cooperation and financial incentive driven approach to river protection that is entirely voluntary.

The River and Watershed Protection and Restoration Act is needed now because rivers and streams need more help than existing laws provide. Nearly one-third of the Nation's waters do not meet State water quality standards. More than one-third of all North American fish species are classified by the Nature Conservancy as rare, imperiled, critically imperiled, extinct, or near extinction.

Recognizing these threats, the River and Watershed Protection and Restoration Act has been endorsed by the Pacific Rivers Council, Trout Unlimited, American Rivers, River Network, River Federation, and American Whitewater Affiliation. In addition, local river conservation groups across the country are lining up in support of this legislation.

Mr. Speaker, I do not pretend that the River and Watershed Protection and Restoration Act will singlehandedly restore the health of all America's rivers. I do know that it will provide river conservationists and local citizens with the ability to utilize a Federal program to directly benefit their own local conservation efforts.

The intent of this legislation is not to create a new class of bureaucrats in Washington. That will not help clean up our rivers or provide enjoyment of our precious natural resources for future generations. Instead, this legislation will empower local citizens to protect and restore rivers and watersheds for future generations.

As Congress works to address local problems, I believe it is important that we begin to find ways to allow local citizens to utilize local-based solutions to solve river and watershed protection and restoration problems. Local citizens know their river best, understand their potential and will work to restore them. The River and Watershed Protection and Restoration Act provides the mechanisms for these solutions. I urge my colleagues to support this legislation.

TRIBUTE TO BEVERLY ANN BENNER

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Ms. KAPTUR. Mr. Speaker, today I rise to recognize a devoted member of the Ninth District Of Ohio, who is being honored on April 16 by the Ladies Auxiliary to the Veterans of Foreign Wars at the Testimonial Dinner of VFW Post 5536. It is with great pleasure that I stand and pay tribute to Beverly Ann Benner, District 1 President.

Ms. Benner joined the Lucas County Ladies auxiliary to the Veterans of Foreign Wars Post 2898 in Toledo, Ohio on September 7, 1977, under the eligibility of her husband, Mark Benner, and continues even now to promote patriotism and community service. Beverly became Auxiliary President in 1980, the first in a series of four terms. She also served as the Lucas County Council Auxiliary President in 1992 and now serves as District 1 President for the 1993–1994 year. Her dedication and diligence as Auxiliary President has thrice earned her the title of Outstanding Auxiliary President by the State of Ohio.

Beverly has chaired a number of programs on the Auxiliary, Council and District levels, including Historian, Buddy Poppy, Safety, P.A.C., and VFW National Home. Her greatest joys as a Ladies Auxiliary member derive from the work organization does with the Youth and Hospital programs. She continues to assist our hospitalized Veterans and the youth in our communities due to her strong convictions on community outreach.

Mr. Speaker, it gives me great pleasure to rise on this occasion in honor of Ms. Beverly Benner. I am confident that my Colleagues will agree that Ms. Benner deserves recognition for her commitment to those who have given so much to all of us and our Nation.

TRIBUTE TO LESLIE ALLEN TAYLOR

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. TOWNS. Mr. Speaker, I am honored to recognize the contributions and achievements of Mr. Leslie Allen Taylor, a vital contributor to the health and welfare of senior citizens in Brooklyn, NY.

Mr. Taylor was born in Plainfield, NJ. After graduating from Plainfield High School he served in the Army and subsequently attended and graduated from North Carolina Central University. He met and married Carnell Fuller and they have four children, and one granddaughter.

Mr. Taylor embarked upon his service to seniors after working in different capacities for the Department of Welfare as a counselor and later as a social investigator. He was appointed director of I.H. Pink Senior Center in 1978, and maintained that position until his retirement in 1991.

Currently he serves as the director for the East New York Interagency Council, which is responsible for Department of Aging services. He has served with distinction, and is one of the founders of the East New York Interagency Council for the Aging. His efforts were instrumental in providing transportation services for seniors in the Ocean Hill/Brownsville and East New York areas.

An avid sports enthusiast and fan, Mr. Taylor is active in a softball league. He has played on a number of championship softball teams, and has also done some umpiring.

Mr. Taylor is a member of Kappa Alpha Psi Fraternity. He is known throughout Brooklyn for his total commitment to improving his community, particularly, senior citizens. I am proud to acknowledge the sterling achievements of this dedicated and humble man.

HONORING MIDWESTERN STATE UNIVERSITY CHAMPIONSHIP COLLEGE BOWL TEAM

HON. BILL SARPALIUS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. SARPALIUS. Mr. Speaker, it is with great pride and enthusiasm that I rise today to honor the Midwestern State University Academic College Bowl Team for their recent first place finish at the region 12 College Bowl Regional Tournament.

This year's tournament included 17 outstanding colleges and universities from Texas, Louisiana, and Arkansas. Participants are required to answer questions on facts and figures on topics ranging from Presidents of the United States to Oscar winners and everything in between. Team members, including captain Mike Mahurin, who was named most valuable player of the tournament; John Gerhard, Michael Koofer, David Morris, and alternate David Dunsmore, practiced long hours weeks in advance with the assistance of coach Dr. Jeff Campbell and sponsors, Dr. Charles Ramser, Dr. Dick King, and Mrs. Marsha May. I want to extend my congratulations to all of these hard-working individuals for an exceptional job well done.

Since it was founded in 1922, Midwestern State University has grown from a local junior college to a regional State university serving a wide and varied public and promoting the opportunity for higher education and cultural advancement. Midwestern's drive for excellence has again been demonstrated by its outstanding performance at the College Bowl Regional Tournament. And, by this achievement, the university has further succeeded in encouraging and developing the intellectual curiosity of its students.

Once again, I want to congratulate the team members and offer my continued support as they enter the National Championship Tournament.

LIVINGSTON ACADEMY LADY WILDCATS DESERVE RECOGNITION

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. GORDON. Mr. Speaker, you, I, our fellow members, and the entire Nation have spent much of the past month with one eye on the NCAA men's and women's basketball tournaments. The Southeastern Conference and Tennessee were well represented in both. Many of the players that propelled those terms came out of Tennessee schools and played on state championship teams of the Tennessee Secondary School Athletic Conference.

On Saturday, March 2, 1994, the Livingston Academy Lady Wildcats achieved their dream by claiming the Class AA basketball State championship in Murfreesboro, TN.

Led by tournament MVP Tiffany Krantz and all tournament players LaDonna Wright and Sunday Watson, the Wildcats downed Giles County 63–58 in the semifinals and outlasted South Greene 53–47 in overtime for the championship. These games followed Livingston Academy's 69–54 victory over previously unbeaten Gibson County.

Throughout the season, the Lady Wildcats exhibited the determination that brought them their second championship in 4 years. They lost only one game while maintaining relentless defense throughout all 38 victories. When faced with a four-point deficit after the championship game's first quarter, they fought back to take the lead. In the end, they avenged last year's second place finish and awarded coach Larry Looper another net for the school's trophy case.

The young team includes Bridgett Robbins, Sonia Davis, Jean Mitchell, LaDonna Wright, Carrie Long, Rhonda Williams, Angela Dickerson, Rachel Poston, Sunday Watson, Melinda Poston, Saundra Leach, Bethany Melton, Christie Jenkins, Lora Franklin, Tiffany Krantz, Katherine Gore, and Melanie Moore.

Their winning efforts and true sportsmanship have brought pride to Overton County and recognition to all of middle Tennessee.

High school athletics at their finest not only build physical conditioning in the student athletes, they also build strength of character, teamwork and an increased sense of responsibility. The Livingston Academy Lady Wildcats are a perfect example of those traits.

Successful teams bring the entire school and community together in a common cause. They encourage students, teachers and administrators to work toward their overriding goal—preparing our next generation of young men and women to take their place as productive citizens of the Nation. In the community, the teams unite young and old, friend and foe, with pride in their school's team.

This spirit of cooperation and support will impart good memories that will last a lifetime for the athletes, their families, their friends and the community.

I congratulate the Livingston Academy Lady Wildcats and everyone involved with the school, and I wish them the best of luck in the future. They have made us all proud.

HONORING THE COURAGEOUS MEN WHO FOUGHT IN CUBA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Ms. ROS-LEHTINEN. Mr. Speaker, April 17th marks the 33d anniversary of the gallant battle that thousands of courageous men fought, unsuccessfully, to liberate their fatherland against the most cruel tyranny that this continent has experienced.

On April 17, 1961, Cuban patriots disembarked on the Bay of Pigs trying to put an end to the despotic rule of the man who has enslaved their people and has exported terrorism and revolution throughout the hemisphere.

Mr. Speaker, the desire for liberty that moved these men is firmly rooted in the new generations of Cubans who maintain alive the hope of seeing the fatherland of Jose Marti finally free.

IN RECOGNITION OF DR. JAMES W. WASHINGTON, JR., RENOWNED ARTIST AND NATIVE MISSISSIPPIAN, UPON THE CELEBRATION OF HIS GLOSTER, MS, HOMECOMING

HON. MIKE PARKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. PARKER. Mr. Speaker, today I stand in the Halls of Congress, in the people's chamber, to recognize a native son of my district and an esteemed citizen of our great country, Dr. James W. Washington, Jr.

In 1911, Dr. Washington was born in Gloster, Mississippi, in Amite County. Gloster was not an art center. There was no art institute in which a talented young person might develop his skills. Through correspondence courses, books, pure observation and self-teaching, Dr. Washington emerged from a rural, small-town upbringing to become the internationally renowned painter and sculptor for which he is known today. Dr. Washington also is widely recognized as a poet and philosopher. He is a true renaissance man and has been recognized as "One of the Founders of the Age of Enlightenment."

Dr. Washington enjoyed a career in U.S. government service from 1927 to 1960, at which point his artistic success allowed him to devote his full attentions to his creative talents. Beginning with his first exhibition in 1938 at the YWCA in Vicksburg, Mississippi, the works of Dr. Washington have since been exhibited across the country and abroad. He has traveled extensively and been acquainted with many of his famed contemporaries from the Mexican artist Diego Rivera to Rev. Martin Luther King, Jr.

After spending his first 30 years in Mississippi, Dr. Washington left in 1941 and has resided in Washington State for many years with his wife of 5 decades, Janie R. Miller. However, Mississippians all know that we are Mississippians for life. No matter where we go or how long we are absent, we always come home. We also never forget the simple and good way of life that we enjoy in our native state. Dr. Washington remembers rabbit hunting, homemade muscadine jelly, and walks in the old woods near his boyhood home.

Dr. Washington is coming home on May 1, 1994. For the first time in his long and illustrious career, he will receive the accolades of his home state and his hometown community. I will be present for his homecoming, and look forward to meeting this great man.

Please join with me today in expressing admiration and gratitude to an honored native of my state and a respected citizen of the world, Dr. James W. Washington, Jr.

INTRODUCTION OF CHILD NUTRITION LEGISLATION

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. GOODLING. Mr. Speaker, today I am introducing two bills which I believe will improve the operation of our current child nutrition programs.

The first bill addresses growing concerns about anticompetitive activities and fraud encountered by school food service authorities in the procurement of food products for the child nutrition programs. To allow these types of activities to continue unchecked is a serious waste of limited Federal dollars which could be better spent on improving the nutrition of this Nation's children.

This bill has three main purposes. One is to save school districts, parents, and taxpayers millions of dollars by reducing the instances of bid-rigging, price-fixing and fraud in connection with the child nutrition programs. The second purpose is to deter companies and individuals from engaging in these types of anticompetitive and fraudulent activities by strengthening the existing debarment requirements. The third purpose is to encourage the Secretary of Agriculture to provide training and technical advice to food service authorities in the identification of fraud and anticompetitive activities when procuring products for the child nutrition programs.

To accomplish the above-stated purposes, the bill identifies specific activities, which upon their occurrence, shall result in the initiation of debarment proceedings by the Secretary of Agriculture against individuals and companies participating in the child nutrition programs. These activities include: (i) Substantial and material violations of child nutrition program regulations; and (ii) criminal and/or civil findings of anticompetitive activities, other violations of antitrust laws, fraud, bribery, embezzlement, theft, forgery, breach of contract, and false claims in connection with the child nutrition programs.

A company or individual subject to debarment as determined by the Secretary shall be prohibited from participating in any child nutrition programs for a period of 3 years. If the company or individual has been previously debarred by the Secretary, a subsequent debarment shall be for a period of not less than 5 years. A company or individual wishing to challenge a debarment proceeding in court must first exhaust all administrative remedies prior to seeking judicial review.

Last, the Secretary is authorized through the Food Service Management Institute to provide advice, training, technical assistance, and guidance to representatives of States and local agencies regarding means of identifying and preventing fraud and anticompetitive activities relating to the provision of goods or services in conjunction with the participation of a local agency in a child nutrition program.

The second bill I am introducing would provide schools with greater flexibility in providing students with fresh fruits and vegetables, make permanent the current cash/CLOC demonstration projects, and provide for a broader demonstration of the effectiveness of the Commodity Letter of Credit CLOC Program.

Commodity support is currently provided to schools in two ways: entitlement commodities, which meet a legislatively specified mandate, and bonus commodities, offered when USDA needs to reduce excess commodity holdings or alleviate a specific unexpected agricultural surplus. Entitlement commodities valued at 14 cents were distributed to schools for the 1993–94 school year.

Two alternatives to the standard commodity distribution system are currently in place. One alternative allows schools to receive cash in lieu of commodities, while the other allows schools to receive commodity letters of credit CLOC, which are used to purchase the same types of products that USDA distributes under the regular commodity distribution program.

According to CLOC participants, the demonstration program has been a successful alternative to the standard commodity distribution program. Schools participating in the CLOC alternative are able to control storage costs by purchasing quantities as needed, and are also in a better position to control the nutritional content of the food served since they can require their suppliers to provide products which meet specified dietary guidelines. Also, those participating in the alternative programs indicate that they are able to purchase commodities in a form most usable by school food service personnel and most acceptable to students. This ability to purchase preprocessed foods saves schools the costs related to processing commodities received in an unusable form. As an additional benefit, CLOC achieves USDA's goal of removing specific commodities from the marketplace within USDA timelines.

One criticism of the CLOC alternative is that the demonstration is not large enough to provide an accurate picture of the program's ability to remove agricultural commodities from the marketplace. The legislation I am proposing would address this concern in two ways. First, the bill would allow the establishment of one statewide demonstration, provided that 80 percent or more of the schools in the State agree to participate. Second, the legislation would allow for one CLOC project in each State.

This legislation also addresses the criticism that, in spite of efforts to increase the amounts of fresh fruit and vegetables in the school lunch program, the commodity distribution system is unable to deliver such commodities while they are still fresh. This legislation would allow interested schools to receive 10 percent of their commodity entitlement in the form of a CLOC to be used for the purchase of fresh fruits and vegetables.

Finally, the bill I am introducing would allow an individual's eligibility for programs under the National School Lunch and Child Nutrition Act to serve as a determination of eligibility for other nutrition programs with comparable standards. Often a school must obtain and process separate applications for School Lunch, Child Care Food and other nutrition programs. This legislation would reduce paperwork for schools and release families from the burden of applying separately for a variety of nutrition programs for which they are eligible.

I urge my Colleagues to cosponsor and support these bills.

WOMEN AND HEART DISEASE: A HISTORY OF INEQUITY

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mrs. SCHROEDER. Mr. Speaker, I am distressed by an article in the April 5, 1994, health section of the Washington Post telling how women were slighted in a new heart study.

The article relates how researchers at St. Louis University School of Medicine found that women who scored poorly on a standard treadmill stress test were only half as likely as their male counterparts to be referred for more evaluation. And that was true even when the women had a greater number of predisposing cardiac problems.

The Post article also refers to several recent studies showing that among adults already diagnosed with heart disease, women got less aggressive treatment than men.

This new report documenting the unequal treatment women get in our health care system comes as the American Heart Association is reminding the Congressional Caucus for Women's Issues that cardiovascular diseases, including heart attack and stroke, remain the No. 1 killer of American females. Heart disease kills 240,000 American women every year, while stroke claims another 88,000, according to the association.

The Heart Association also draws attention to an article in the October 3, 1993, New York Times Magazine called "Are Women's Hearts Different: Or Are They Treated Differently?" The article tells how doctors often refer women with chest pains to psychotherapists, while they send men with chest pains for medical tests.

Even when women are tested, the tests aren't suited to many of their heart problems, according to the article. And when they do get treatment, that treatment is often less aggressive than that given to men.

I feel like a broken record on this issue of health care equity for women, but lately it seems as if the bad news has come in waves. If we're not breaking the news to women about fraud in breast cancer research, we're trying to help them deal with conflicting signals or when to get mammographies. If we're not helping them grapple with Government and researchers' failure to expeditiously warn them about the risks of taking the cancer drug tamoxifen, we're telling them that many of the diseases affecting them are often mis-diagnosed.

All of this is set against an historical backdrop of women being excluded from Government-sponsored clinical trials and drug studies, which we are in the process of correcting.

We women are not going to let up on our demands for health care equity. I trust my colleagues will keep this in mind as we try to reform the system.

I take this opportunity to insert the Post article into the CONGRESSIONAL RECORD.

[From the Washington Post, Apr. 5, 1994]

WOMEN IN HEART STUDY SLIGHTED IN FOLLOW-UP

(By Rick Weiss)

Women who score poorly on a standard treadmill stress test are only half as likely to be referred for further evaluation as are their male counterparts, even when the women have a greater number of predisposing cardiac problems, a new study has found.

The gender-based difference in care may make a deadly difference. Compared to men in the study, the women were twice as likely to have died or had a heart attack within two years after taking the test.

Several recent studies have shown that among adults already diagnosed with heart disease, women get treated differently from men. In one study of adults who had experienced a heart attack or suffered from periodic angina attacks, women were up to 28 percent less likely than men to get an arteriogram, the most definitive measure of heart vessel health. Another study found that among adults with heart disease, men are almost twice as likely as women to get "revascularized," a medical treatment to reopen their arteries.

Now comes a report of differences in care among men and women not known to suffer from heart disease but with enough early symptoms to get referred for preliminary tests. Leslee J. Shaw and her colleagues at St. Louis University School of Medicine tracked the medical care and outcomes of 850 adults who came to a clinic for a stress test, in which a person's heart is monitored while on a treadmill.

Approximately equal numbers of men and women got abnormal scores on the test. But 62 percent of the men and only 38 percent of the women were referred for additional evaluation. Moreover, twice as many men as women went on to get revascularization.

The women in the study had a greater frequency of abnormal chest pain, longer duration of symptoms before testing, higher blood pressure, higher cholesterol levels and a greater number of risk factors for heart disease overall.

Two years later, differences persisted in terms of mortality. Five percent of the women and only two percent of the men had experienced heart attacks during that period. And two percent of the women had died of heart disease, compared to one percent of men. When the researchers analyzed each person's care and fate, it was those who had received the least follow-up care who were most likely to have had a heart attack or other cardiac problem.

The researchers note that upon initial testing, the men were more likely to show problems in several of their coronary arteries, while the women were more likely to show problems in only one, perhaps explaining the greater attention given to men. The study, which appears in the April 1 issue of the Annals of Internal Medicine, sought only to see what doctors do, not why they do what they do, so it included no questions about how decisions were made. Cardiologist Douglas Miller, a coauthor on the paper, said there is a perception among doctors that abnormal stress test results in women are often not accurate. In fact, women are more likely to get "false positive" results, he said, but the study shows that women would benefit if both they and their doctors took abnormal results more seriously.

That, the researchers conclude, remains to be measured in another study.

TRIBUTE TO MAYOR OMAR BRADLEY OF COMPTON, CA

HON. WALTER R. TUCKER III

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. TUCKER. Mr. Speaker, I rise today to recognize and pay tribute to a young man, a native son of the city of Compton, Mayor Omar Bradley.

Mayor Bradley comes from simple beginnings—To understand him one has to trace his origin. He grew up on 131st Street, in Compton, CA, the son of Henry and Ovelmar Bradley. As a child, Mayor Bradley developed a strong work ethic, working at his fathers gas station until he was 9 years old. That sense of purpose, discipline, and dedication remained alive in him and was demonstrated as he displayed his talents as a member of the Centennial High School Football Team. After high school, the mayor attended The California State University at Long Beach where he majored in radio and television communications.

Mr. Speaker, there is a saying, "To teach is to give life to those who might otherwise die of ignorance." Soon after completing his college education, Omar Bradley began to focus on the education of our youth. In the 12 years that he has taught high school English, he has observed that people, no matter what color they are, have the same life experiences and that it is not a question of race; it's about how you treat people. That philosophy became evident in 1990 when he ran for city council and won. As a councilman, representing the first councilmanic district of Compton, Omar Bradley was a tireless advocate for our youth. As mayor, that concern still burns deep within his heart. When he is not teaching at Lynwood High School, or giving a speech, or spending time with his son and daughter, who are 16 and 10, Mayor Bradley is likely to be found organizing kids to clean up graffiti, helping to instill in them the same work ethic and pride in self that was instilled in him at a young age, by his parents. One may also find him smoothing a running track, installing a sprinkler system in a public facility, cleaning a canal, or personally painting an elementary school. The mayor has also founded a volunteer service organization called 100 Strong Men, which is dedicated to the uplift of the city of Compton, and also serves as a mentor network for young black males.

If an individual is a friend to youth—that individual is an enemy to violence and the proponents and perpetrators of violence. If a person is a friend to the women of his community—that person is also an enemy of those who disrespect and denigrate those women. Mayor Omar Bradley is an enemy of those negative forces that permeate our society. Because he is an enemy to those that would leave our community in ruin and despair—he is my ally and we will stand together.

Mr. Speaker, I have worked side by side with Omar Bradley, whether we were both running for office in the beginning of our political careers or working to bring jobs to the city. I have found him to be a sincere man, dedicated to the citizenry that elected him, and the village that raised him. In the past the mayor and I have had our personal differences—and from this day forth—we shall put aside those differences and work together toward a brighter future for the city of Compton and the citizens that make the city a great place to call home.

THE MEDICARE BENEFICIARY COINSURANCE PROTECTION ACT

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. COYNE. Mr. Speaker, I rise today to introduce the Medicare Beneficiary Coinsurance Protection Act. This legislation amends Medicare part B with regard to the amount seniors pay for outpatient hospital services.

Currently, Medicare part B covers physician and outpatient hospital services. However, the financial burden placed on Medicare beneficiaries is different in these two settings. Physician services are reimbursed at 80 percent of the Medicare fee schedule and beneficiaries are responsible for the remaining 20 percent. The beneficiary's obligation is referred to as a coinsurance payment. There is no comparable fee schedule for outpatient services. When care is rendered in an outpatient setting, the beneficiary's coinsurance payment is 20 percent of whatever the hospital charges. Because hospital charges are higher than the Medicare reimbursement rates, beneficiaries bear more than 20 percent of the burden for paying for these procedures. In fact, HCFA estimated that in 1992, beneficiaries paid 40 percent of the hospital's total reimbursement for these services. The legislation that I am introducing today ensures that beneficiaries pay closer to 20 percent for outpatient hospital surgery.

In 1983, Medicare changed the way it reimburses most hospitals for inpatient services to a prospective payment system [PPS]. Under PPS, Medicare inpatient hospital payments are made at predetermined, specific rates which represent the average cost, nationwide, of treating a patient according to his or her medical condition. These rates are commonly referred to as DRG's or diagnostic related groups. Under this system a hospital that can treat a patient for less than the payment amount may keep the savings. If the treatment costs more, the hospital must absorb the loss.

Hospital outpatient procedures were not included under PPS at that time due to a lack of data concerning the costs of these services. In 1986 the Omnibus Budget Reconciliation Act [OBRA] required HHS to develop a PPS system for hospital outpatient surgery by January 1, 1991. As of now, a PPS system for outpatient hospital services has not been developed and until it has, Medicare will continue to reimburse for these procedures based on the lesser of the hospital's customary charge, reasonable costs, or a blend of costs. In other words, Medicare does not base its reimbursement on hospital charges. However, beneficiary liability is based on that amount.

Evidence suggests that since the implementation of PPS, Medicare recipients have increasingly been treated in the outpatient setting. Consequently, Medicare recipients' out-of-pocket payments have increased. In a 1990 report, the General Accounting Office [GAO] wrote:

> * * * with the current hospital payment system, beneficiary's share of the hospital payment—or coinsurance—is based on hospital charges rather than on Medicare-allowable costs. This means that the beneficiary's share of the hospital payment for outpatient hospital surgery is almost always greater than the 20 percent coinsurance for certain other Medicare-covered services, such as physician costs.

The Prospective Payment Commission [ProPAC], the group which advises Congress and the HHS Secretary on hospital payment issues, noted in their March 1993 annual report to Congress that,

> * * * beneficiary liability is now set at 20 percent of charges rather than 20 percent of payments as it is in other settings. Since hospital charges are generally higher than the costs or payments for outpatient services, Medicare beneficiaries are responsible for substantially more than 20 percent of costs or payments.

They went on to observe that,

> * * * beneficiaries who receive services in hospital outpatient departments pay a disproportionate share of the total payments.

Recently, I heard from a gentleman in my district who had cataract surgery performed in an outpatient hospital setting. He paid his coinsurance based on hospital charges. However, had his financial liability been based on the amount Medicare reimbursed the institution—like other services under the Medicare Program—he would have saved over $300 in out-of-pocket expenses. This man's situation is a good illustration as to why the present system needs to be changed.

The bill I am introducing today will solve this problem by limiting beneficiary coinsurance for outpatient hospital services to 20 percent of the reasonable cost of the service. This straightforward solution has been recommended by ProPAC and GAO. Further, this approach and this bill has the support of the American Association of Retired Persons [AARP]. If enacted, this legislation will ensure that Medicare recipients are paying closer to 20 percent coinsurance for all medical services—not the 40 and 50 percent estimated by HCFA. Under my legislation, the gentleman in my district would have saved $300, not paid it out in medical bills. The Medicare Beneficiary Coinsurance Protection Act guarantees that seniors pay an equitable amount for their health care and that their coinsurance for these services be more consistent with other parts of the program.

This legislation also revises the formula used to calculate payments to hospitals for ambulatory surgery center-approved procedures, radiology services, and diagnostic services. Presently, Medicare reimburses facilities the lesser of costs, charges or a blended amount for these procedures. As I noted earlier, regardless of the reimbursement amount that the facility receives from Medicare, beneficiary coinsurance is always based on 20 percent of charges. For institutions reimbursed the blended amount, program payments are not reduced by the full amount of the beneficiary copayment. Thus, ProPAC notes "total payments to hospitals for outpatient services are higher than Congress intended." To fix this, the Medicare Beneficiary Coinsurance Protection Act subtracts the beneficiary out-of-pocket payment after the total payment has been calculated. This formula revision has been suggested by GAO, ProPAC and President Clinton.

Mr. Speaker, the President has made a commitment to reform the present health care system and has developed a proposal to achieve that objective. He has stated that he wants to "fix what's broken" with the current system. The fact that beneficiaries are paying much more than 20 percent coinsurance for certain Medicare services is a good example of what's not working in the current system and what needs to be fixed. Until HHS establishes a PPS system for outpatient services, recipients will continue to pay more out-of-pocket for coinsurance than necessary. In the interim, seniors need the Medicare Beneficiary Coinsurance Protection Act to ensure that they are paying what they should for outpatient services under the program. I urge my colleagues to join with me in this effort. Mr. Speaker, I have requested that the Congressional Budget Office prepare a revenue estimate for this proposal.

Mr. Speaker, I ask that a letter from AARP be included in the RECORD.

AARP.

Hon. WILLIAM COYNE,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE COYNE: The American Association of Retired Persons commends you for introducing the Medicare Beneficiary Coinsurance Protection Act. This legislation would strengthen the Medicare program by correcting an inequity in beneficiary coinsurance for hospital outpatient services that has existed for several years.

As you are well aware, beneficiaries now pay a disproportionate share of the cost of hospital outpatient services. This happens because beneficiary coinsurance is based on hospital charges rather than on Medicare's payment amount. As a result of this anomaly, the Prospective Payment Assessment Commission estimates that beneficiaries are now paying anywhere from 37 to 54 percent of the cost of their outpatient care. This is a significant out-of-pocket cost for beneficiaries and will only increase as more and more services are provided on an outpatient basis.

AARP believes that, ultimately, an outpatient prospective payment system is the best approach for both restoring coinsurance to the standard 20 percent and for controlling Medicare spending for outpatient care. Unfortunately, the implementation of an outpatient DRG system is several years away and the inequity in beneficiary coinsurance continues to worsen. Your legislation offers a reasonable interim solution to the beneficiary coinsurance problem that will help to restore a fair system of payment for outpatient services. You are also to be commended for including a financing mechanism in the bill and we are hopeful that the CBO estimates will prove the feasibility of implementing this long-overdue improvement in the Medicare program.

AARP supports your efforts and we look forward to working with you and your colleagues on passage of this legislation.

Sincerely,

JOHN ROTHER,
Director, Division of Legislation and Public Policy.

COASTAL BARRIER RESOURCES ACT

HON. TILLIE K. FOWLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mrs. FOWLER. Mr. Speaker, today I have introduced a bill to make minor amendments to correct errors in the Coastal Barrier Resources Act [CBRA]. This bill is limited to minor technical changes of certain coastal barrier units in Florida.

When Congress enacted the CBRA in 1982, it established the Coastal Barrier Resources System [CBRS], consisting of undeveloped coastal barriers located on the Atlantic and Gulf coasts of the United States. The Act prohibited the Federal Government from offering Federal flood insurance to properties included within the CBRS. After a process involving aerial photography and on-site inspections, the Department of the Interior [Interior] designated areas that were both a coastal barrier and undeveloped. Land qualified as undeveloped, if less than one building existing per five acres of developable land. Even if less than one structure existed, Interior considered the land developed if it contained infrastructure, such as vehicle access, reasonable availability of water supply, a wastewater disposal system, or electrical service.

In 1990, Congress adopted the Coastal Barrier Improvement Act [CBIA] which substantially increased the size of the system. Again, Interior recommended additions to the system based on the extent of development of the land. The CBIA also established, for the first time, units of otherwise protected areas, defined as undeveloped coastal barriers within the boundaries of Federal or State-owned property or held by organizations for wildlife refuge or sanctuary, recreational or resource conservation purposes.

Unfortunately, when Congress designated land to be included in the units, it made some mistakes in drawing the boundaries. This bill removes a small amount of land, less than 350 acres of a total 1.3 million acres in the system, to correct these problems. In some cases, a small parcel of land was mistakenly designated as undeveloped coastal barrier within the system even though the owner had made substantial investments in local or State approvals, roads, utility systems, or had partially or completely developed the land prior to its designation. In other cases, private property was mistakenly included in an otherwise protected area, a designation that should only have been made for land owned by Federal or State governments or by conservation organizations.

The exclusions cover nine Florida congressional districts, and each House member representing these districts has cosponsored this bill. The purposes for which the Coastal Barrier System was created were sound. However, under these very unique circumstances, the act should be amended. Our bill meets the following standards:

First, the bill affects land in a single State;

Second, a bipartisan delegation from the State supports the bill;

Third, in each district in which land is affected, the member supports the bill;

Fourth, the total affected acreage is small; and

Fifth, each exclusion is warranted based on the criteria originally used for designating the units: Either there was one structure per 5 acres of developable land, or the land was partially or fully developed at the time of its inclusion in the Coastal Barrier System.

Under these narrow circumstances, Congress should be able to make minor technical adjustments to the units to ensure that equity is served.

Four of the bill's corrections affect land in my district. Each is justified under the bill's criteria.

In Butler Beach, a community on Anastasia Island in St. John's County, approximately 60 acres of single and multifamily homes and businesses were incorrectly included in the Coastal Barrier Resources System in 1990. At the time of its inclusion, the community had existing homes, electric and water utilities, roads and commercial businesses. This neighborhood borders a State park, which was included as an otherwise protected area in the CBRA amendments of 1990. Unfortunately, Congress misdrew the line of the otherwise protected area, mistakenly capturing this historic developed community.

In an area known as Carcaba Road, three private homes built in 1955, 1956 and 1971, the Seaside of Vilano Condominium complex completed in 1983 and a commercial area containing a recreational vehicle park and campground which were built prior to 1982, were mistakenly included in Unit P04A when the CBRS was established in 1982. These individual residential and commercial properties, which total less than 8 acres, should be excised from the CBRS for equitable reasons.

In Porpoise Point at Vilano Beach, 41 lots on less than 10 developed acres were mistakenly included in the CBRS in 1982. At the time of inclusion, a water treatment facility on the affected property was fully constructed. one private residence was completed. The community had paved roads and electrical utilities.

In Summer Haven a beachfront residential community in St. John's County, located on a narrow strip of fastland between the Matanzas River to the west and the Atlantic Ocean to the east, was included in the CBRS in 1982. At the time of its inclusion, the eastern section of Summer Haven had significant residential development dating back to 1930. The bill excludes eight residences on less than 7 acres which were under construction by October 1983.

These properties, as well as the others reflected in the bill, should be excluded from the CBRS. Congress did not intend to include land in the system which had been partially or fully developed when the law was enacted. These minor technical corrections address these unique circumstances.

SOUTH DAKOTA VOICE OF DEMOCRACY WINNER

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. JOHNSON of South Dakota. Mr. Speaker, Marcus Stubbles of Brookings, SD, was recently selected as a State winner in the Voice of Democracy broadcast script writing contest conducted each year by the Veterans of Foreign Wars of the United States and its Ladies Auxiliary. The contest theme for this year was "My Commitment to America," and of the more than 138,000 secondary school students who participated in this year's contest, Marcus also placed 27th at the national level. Mr. Speaker, I ask that Marcus' winning script be reprinted in the CONGRESSIONAL RECORD. Marcus deserves to be commended for his exceptional efforts in writing this script and participating in this contest. His insights and enthusiasm will serve as a model to others his age.

MY COMMITMENT TO AMERICA

What is America?

This question sounds simple and silly, but it can be answered in many different ways. You could look in a dictionary, and it would tell you that the term "America", used in this context, is the common shortened name for a nation known officially as the United States of America. Technically, I suppose that this is what "America" is. But all we've done by answering the question this way is to replace one word with others.

What is America?

Look at an encyclopedia, and it will tell you that America is composed of 50 states and assorted territories, covers three million, six hundred and eighteen thousand, seven hundred and seventy square miles, has about 250 million citizens, with a per capita income of about sixteen thousand U.S. dollars. Again, I suppose that this, technically, is America. But I don't think that's all there is to America.

So, what is America?

Look at an atlas. It will show you that America includes almost every type of terrain and climate documented on Earth. It has thousands of unique and beautiful plant and animal species. On the human side, it has farms and factories, homes and businesses, and every scale of settlement from small towns with only a few dozen residents to vast metropolitan areas covering hundreds of square miles with millions of people. Again, this is America. But I don't think we've really found the core of what America truly is.

The word America, to me, is a symbol representing an emotional intangible. America, more than anything else, is a state of mind, a feeling in the heart comprised of defiance, courage, and loyalty to principles and ideals above men and institutions. Let me give you some examples of what I mean.

The colonial leaders who signed the Declaration of Independence did so knowing full well that it meant war, a war in which their families and friends could be killed or imprisoned, and they themselves could be executed for treason. But they risked it all in the name of liberty and justice. That was the true beginning of America.

When John Paul Jones was called upon by his British opponent to surrender the badly damaged Bonhomme Richard, his response was nothing of the kind. Boldly declaring that he "had not yet begun to fight," he pressed the battle against the British frigate—and won. His fighting spirit, even in the face of terrible odds, was America.

When the pioneers struck out for the midwest, they faced disease, starvation, danger, and the extremes of the elements. To meet these risks, they had only what they could haul with them and their own ingenuity to use those supplies to best advantage. And they did it all for the promise of a piece of land to call their own, to work for no landlord, no master. This fierce independence and determination was America.

When the depression changed America from a carefree, prosperous land to a dustbowl filled with the unemployed and the poor, President Franklin Delano Roosevelt took to the airwaves to personally calm and reassure the country and lead it toward its former security and prosperity. This firm leadership, coupled with true concern for the people, was America.

When refugees give up what property and friends they have, and risk their lives to cross an armed border or enter the sanctuary of an embassy, they have already proved themselves to be great Americans, for they have done it all to reach a place they have never seen, only heard of. America is the gleam of hope in their eyes that this new land might be free and just.

I believe that we must commit ourselves to keeping this concept of America alive. We must commit ourselves to the ideas of liberty and justice, and be as committed as the daring colonists who started America. We must maintain a fighting spirit against the worst of odds, like John Paul Jones. We must be as determined and as independent as the daring pioneers of the great plains. We must be resolute and confident in our course, and keep the common man at heart, like Franklin Delano Roosevelt. And we must always hope for a better future, and be willing to risk our property and even lives to grasp it like the refugees who have come to America since the pilgrims and who continue to dream of America today.

So, what is America? America is a nation built upon the ideals of liberty and justice, determination and confidence, spirit and defiance, courage and hope. These values have made America a great nation and have kept it strong through the years. My commitment to these values is my commitment to America. Thank you.

VOTER TURNOUT ENHANCEMENT STUDY COMMISSION ACT

HON. JON KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. KYL. Mr. Speaker, I rise today to introduce the Voter Turnout Enhancement Study [VoTES] Commission Act, a bill to establish a temporary commission to determine whether changing the deadline for filing federal income tax returns to the date on which federal elections are held will enhance voter turnout rates.

Mr. Speaker, the only regular contacts most Americans have with their government are on Election Day and when they pay their income taxes. However, while nearly all Americans fulfill their tax obligations, far fewer people regularly exercise their right as citizens to participate in the electoral process.

In fact, in 1992, nearly 115 million income tax returns were filed by individuals and couples, whereas a total of only 104 million people voted in that year's presidential election. That discrepancy is alarming.

I believe that more closely tying individuals' rights as voters to their obligations as taxpayers—creating, if you will, an "Obligations of Citizenship Day"—will provide additional incentives for persons to both participate in the political process and scrutinize the costs and benefits of government policies.

People are probably the most focused on government when they are preparing their tax returns. So, what better time to hold an election that when people are most focused on, and interested in, what their government means to them? What better time than when people's concerns—and choices—can bring about the real change they want in government policy?

Mr. Speaker, the VoTES Commission Act provides for a thoughtful and thorough analysis of the date change, its potential impact on voter turnout, as well as any economic impact it might have. To minimize costs, members of the commission would serve on a voluntary basis, and any staff needed would be detailed from other agencies.

The bill has been endorsed by Americans for Tax Reform, the Small Business Survival Committee, the Association of Concerned Taxpayers, and the Free Congress Foundation.

I invite my colleagues to cosponsor this important legislation, and I insert the text of the bill in the RECORD at this point:

H.R.—

Be it enacted by Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Voter Turnout Enhancement Study Commission Act".

SECTION 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the right of citizens of the United States to vote is a fundamental right;

(2) Federal, State, and local governments have a duty to promote the exercise of the right to vote to the greatest extent possible;

(3) the power to tax is only guardedly granted to Federal, State, and local governments by the citizens of the United States.

(4) the only regular contact that most Americans have with their government consists of filing personal income tax returns and voting in Federal, State, and local elections.

(5) in 1992, almost 115,000,000 Federal income tax returns were filed by individuals and couples, but only approximately 104,000,000 votes were cast in the year's presidential election; and

(6) more closely tying the rights of individuals as voters to their obligations as taxpayers will provide additional incentives for individuals to both participate in the electoral process and scrutinize the costs and benefits of government policies.

SEC. 3. ESTABLISHMENT.

There is established a commission to be known as the Voter Turnout Enhancement Study Commission (in this Act referred to as the "Commission").

SEC. 4. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members appointed as follows:

(1) 3 members appointed by the President.

(2) 3 members appointed by the President pro tempore of the Senate, upon the joint recommendation of the majority leader and the minority leader of the Senate.

(3) 3 members appointed by the Speaker of the House of Representatives, upon the joint recommendation of the Speaker and the minority leader of the House of Representatives.

(b) POLITICAL AFFILIATION.—Not more than 2 of the 3 members of the Commission appointed under any 1 paragraph of subsection (a) may be of the same political party.

(c) TIME OF APPOINTMENT.—Members of the Commission shall be appointed not later than 30 days after the date of the enactment of this Act.

(d) TERMS.—Members of the Commission shall be appointed to serve for the life of the Commission.

(e) VACANCIES.—Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(f) COMPENSATION.—

(1) RATE OF PAY.—Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) TRAVEL EXPENSES.—Each member of the Commission shall be entitled to receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(g) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold a hearing.

(h) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among its members.

(i) MEETINGS.—

(1) IN GENERAL.—The Commission shall meet at the call of the Chairperson or a majority of its members.

(2) INITIAL MEETING.—The Commission shall hold its initial meeting not later than 30 days after the date on which all members of the Commission have been appointed.

SEC. 5. DUTIES.

(a) STUDY.—The Commission shall conduct a comprehensive study of all matters relating to the possibility of changing the filing date for Federal income tax returns to the 1st Tuesday after the 1st Monday in November. The study shall include an analysis of—

(1) the costs and benefits of the change in filing date; and

(2) the likelihood that establishment of a single date on which individuals can fulfill obligations of citizenship as both electors and taxpayers will increase participation in Federal, State, and local elections.

(b) CONSULTATION.—The Commission shall consult with Governors, Federal and State election officials, the Commissioner of Internal Revenue, and any other person, agency, or entity that the Commission determines to be appropriate.

SEC. 6. POWERS.

(a) HEARINGS.—The Commission may hold the hearings, sit and act at the times and places, take the testimony, and receive the information that the Commission considers advisable to carry out the purposes of this Act.

(b) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as any other Federal department or agency.

(c) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this section.

(d) REQUESTS FOR OFFICIAL INFORMATION.—The Commission may request from a Federal department or agency information necessary to enable the Commission to carry out this Act. The head of the department or agency shall provide the information to the Commission unless release of the information to the public by the agency is prohibited by law.

SEC. 7. STAFF ASSISTANCE FROM FEDERAL AGENCIES.

Upon the request of the Commission or the Chairperson of the Commission, the head of any Federal department or agency may detail any of the personnel of the department or agency to the Commission to assist the Commission to carry out this Act.

SEC. 8. REPORT.

Not later than 1 year after the date of the enactment of this Act, the Commission shall submit to the President and the Congress a report that contains—

(1) a detailed statement of the findings and conclusions of the study required by section 5; and

(2) recommendations of the Commission regarding any legislation or administrative action the Commission considers appropriate.

SEC. 9. TERMINATION.

The Commission shall terminate upon the submission of the report required by section 8.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

MY COMMITMENT TO AMERICA

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. YOUNG of Alaska. Mr. Speaker, I submit the following for printing in the CONGRESSIONAL RECORD.

MY COMMITMENT TO AMERICA

(By Jamey Duhamel, Post 2509, Palmer, AK)

America, and for what it stands, has made me proud since I was old enough to understand the meaning of this land. Being a very open-minded person, I am grateful to have been born in a melting pot of diverse people, where opportunity is what you make of it, and where second chances are in abundance. This nation means to me the freedom to live our individual lives. The freedom to share our lives with others. The freedom to learn what makes every person wonderful in their own right.

As a child, I was always respectful when chanting the Pledge of Allegiance with my classmates. With my right hand across my heart, the vow range with truth in my ears. It wasn't until I was older, however, that I learned of the glory behind those words. The days of western expansion are, for me, a time of dedication, hardship, and triumph. A time for new beginnings and a taming of the wild land. Today, we reap the fruits of freedom that the frontiersman gave their lives to sow.

Everyday I learn something new. Whether it be about this great nation, or about electron microscopes, I am never sheltered from a storm of knowledge that showers me in my high school classrooms. Ever since I was born, my parents have instilled in me the desire to achieve my potentials. America gives this opportunity to me through my education. Therefore, my commitment to America is expressed in my continued learning. By bettering myself and my volume of knowledge, I fell I can contribute to the betterment of America. With this in mind, I have become an avid learner. In today's highly competitive world, I am taking advantage of the wonderful opportunity given to me by the United States of America. I am taking

> free education and using it to get a jump start on those who choose to throw away this unique chance.
>
> Life in America throws many possibilities at us. But, there is no greater opportunity to succeed in our lives than the education handed to us for thirteen years. A crucial, impressionable time is spent in a house of learning. School life itself seems an almost separate society. Decisions for the future are made here, likes and dislikes are developed here, impressions of the world are stamped here, and hobbies, friends, weaknesses and strengths are all learned in school. Also, the strength and courage to strike out on your own and consciously continue your learning is instilled here.
>
> Without knowledge, what kind of country would we be? It is what makes this country great. The men and women of the frontier did not give their lives for future Americans to be nothing but farmers and trade workers. America, in their eyes, was a land with a potential to succeed far beyond anyone's imagination. A chance to better the standard of living, to create medicines to fight polio and other illusive, deadly illnesses, and a chance to allow people to be happy in any way they see fit. Every human being is different, with their own separate needs, desires, and beliefs. I am eternally grateful that the founders of this nation knew that and created a land in reflection of the people who inhabit it. So, stand tall America. Because I believe that we have fulfilled the prayers of the men and women of yesteryear. And education will continue to draw us farther into the light of freedom, justice, and happiness. As the Pledge of Allegiance always promises:
>
> "I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one National under God, indivisible, with liberty and justice for all.

Every year for 47 years, the Veterans of Foreign Wars of the United States and its Ladies Auxiliary have conducted the Voice of Democracy Broadcast Scriptwriting Scholarship Competition. More than 138,000 high school students participated in the competition this year. This year's theme was "My Commitment to America."

Jamey Duhamel, a 17-year-old senior at Colony High School in Palmer, AK, is this year's Alaska State Winner. She is a member of the first graduating class at Colony High School. Her interests include speaking, reading, and dramatics. She has been the captain of her school's speech team, vice-president of Students Against Drunk Driving chapter, and a student government representative. She is planning on majoring in biology at the University of Alaska or Washington and Lee University.

PARTY SMART AT THE DERBY

HON. JIM BUNNING

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. BUNNING. Mr. Speaker and colleagues, I would like to take a moment to recognize the significant contribution of a major national alcohol education and awareness program called Party Smart. This program is visible, effective commitment by the non-profit organization Beer Drinkers of America to promote responsible alcohol consumption.

The message of Party Smart is simple yet vital: If you make the adult decision to drink alcohol, do it responsibly and in moderation. By implementing education programs in cooperation with major spring break cities, promoting the use of designated drivers, and sponsoring enjoyable non-alcoholic events, Party Smart consistently has shown, since its inception in 1988 that quality, objective, and positive alcohol education not only enhances people's lives, but helps save lives in the process.

One Party Smart program in particular has enjoyed a special relationship with my state of Kentucky. For the past three years, The Party Smart Designated Driver Program has been an integral part of the Kentucky Oaks and Derby at Churchill Downs. The Party Smart Designated Driver booths are highly visible from all areas of Churchill Downs, with two booths located at the inside track and two more at trackside.

Why is the Party Smart Designated Driver Program adopted by the management and concessionaires of the Kentucky Oaks and Derby, and endorsed every year by Churchill Downs?

The answer is simple. Because it works.

More than 2,000 Derby-goers sign up each year to be designated drivers and provide safe rides home for their friends. In exchange for their pledge not to drink alcohol, designated drivers receive free non-alcoholic beer and soft drinks.

The Kentucky Derby isn't the only place, by the way, where you'll find Party Smart. The Party Smart Designated Driver and Fan Alcohol Awareness programs also have been used successfully by a number of Major League Baseball and National Football League teams, the National Hockey League's New York Rangers, and by the U.S. Jaycees.

Every year, Party Smart continues doing what it does best—providing quality, privately-funded alcohol awareness information to those who decide not to drink. Beer Drinkers of America, with more than 750,000 members in all fifty States, is working through Party Smart to make this year's Kentucky Oaks and Derby memorable, enjoyable, and above all, safe.

Mr. Speaker, "Party Smart" neither encourages nor discourages drinking. Rather, by targeting those who already have made the adult decision to consume alcohol, Party Smart promotes personal responsibility and moderation.

Party Smart is positive, not preachy—and that, I believe, is the key to its continued success. The Party Smart model of quality education and services such as the Designated Driver Program should not be an isolated effort, but rather one that should be encouraged, emulated and implemented by others. Thank you.

The Kentucky Derby is the greatest two minutes in the sporting universe and the Party Smart program is making it even better.

AWARDING OF THE THOMAS J. D'ALESANDRO, JR. GOOD CITIZENSHIP AWARD TO MARY APICELLA

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Ms. PELOSI. Mr. Speaker, on Friday, April 16, 1994, the Order Sons of Italy will bestow the Thomas J. D'Alesandro, Jr. Good Citizenship Award on Mary Apicella of Baltimore, MD, for her distinguished service to the community.

The award is named for the late Mayor of Baltimore, former Member of Congress and lifelong resident of Little Italy. The award is given to Mary Apicella for her dedication to her church, the Little Italy community and the great city of Baltimore.

Mary Apicella, proud mother and grandmother, is active in the Sodality and Saint Gabriel Society of Saint Leo the Great Roman Catholic Church in Baltimore, MD.

On Saturday, Mary Apicella will be honored as the president of the Little Italy Lodge of the Order Sons of Italy. Active in its founding, Mrs. Apicella has led the lodge during its era of greatest growth and success. By building new quarters for the lodge, Mary is largely responsible for the esteem in which the lodge is held.

Mr. Speaker, Mary Apicella is a good citizen indeed. Her dedication to the values of family, church, and ethnic pride make her an excellent recipient of the award in the tradition of Thomas D'Alesandro, Jr.

HOLOCAUST REMEMBRANCE DAY

HON. MARJORIE MARGOLIES-MEZVINSKY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Ms. MARGOLIES-MEZVINSKY. Mr. Speaker, I rise today to focus national attention on the anniversary of Israel's independence. In 1948, a homeland was finally established by the United Nations for the Jewish people around the world. On this day we are grateful for the existence of the State of Israel, as we recognize the significant role it played in light of the Holocaust. Thousands of displaced Holocaust survivors were literally saved by the land of Israel.

One week ago, on April 8, Holocaust Remembrance Day, Israel and the Jewish people halted their daily routines to reflect on the destruction and tremendous loss perpetrated by the Nazi regime. Although this event affected the Jewish people uniquely, its impact is universal. This genocide speaks to all mankind, serving as a reminder of the gruesome potential of man's evil instincts. In an age of revisionism, when its often easier to overlook what may be painful and difficult to understand, it is our duty to not let these events be forgotten.

In his report to the President as part of the President's Commission on the Holocaust, Elie Wiesel referred to the necessity of this responsibility:

> First, we cannot grant the kills a posthumous victory. Not only did they humiliate

and assassinate their victims, they wanted also to destroy their memory. They killed them twice, reducing them to ashes and then denying their deed. Not to remember the dead now would mean to become accomplices to their murderers. Second, we cannot deny the victims the fulfillment of their last wish—to bear witness. Every ghetto had its historians, every death camp is chroniclers. Young and old, learned and unlearned, everybody kept diaries—composed poems and prayers. They wanted to remember and to be remembered—to defeat the enemies conspiracy of silence, to communicate a spark of the fire that nearly consumed their generation, and, above all, to serve as warning to future generations. And third, we must remember for our own sake, the sake of our own humanity.

In this spirit of remembrance, 5,000 Jewish teenagers marched from the work camp at Auschwitz to the death camp at Birkenau as participants in a program called the March of the Living. Joined by Holocaust survivors, these young people honored the 6 million who were murdered, simultaneously affirming life. As they retraced this path of death, they forced the world to recognize the dangers of hatred, ignorance, and prejudice. I celebrate their moral courage and commend their willingness to lead our Nation in the task of remembrance. Please joint me in vowing never to forget.

CLINTON ADMINISTRATION PERSONNEL POLICIES SACRIFICE EXPERTISE IN FAVOR OF DIVERSITY

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. BEREUTER. Mr. Speaker, at a time when many observers have raised concerns about the quality and consistency of U.S. foreign policy, one would assume that President Clinton would want the very best people to provide advice and implement his policies. It seems, however, that this is not the case. In an effort to enhance diversity, President Clinton has opted to emphasize the selection of women and minorities for senior policymaking positions. Obviously, there is great merit in such an objective and the President has the right to appoint anyone he chooses to serve in his administration; this Member would not suggest otherwise. But competence, knowledge, and experience must remain the fundamental criteria in the selection of key Executive branch personnel.

It is with this thought in mind that this Member would call to the attention of his colleagues an editorial in the March 23, 1994 edition of the Omaha World-Herald. Entitled "Diversity Drives Seasoned Man Out," the editorial laments the Administration's unwillingness to respect the State Department's recommendation and appoint one of our nation's most experienced diplomats, the Honorable Warren Zimmerman, to a position of responsibility. Having run headlong into the diversity wall Ambassador Zimmerman was placed in a position where he had no option but to end his career. This Member has no doubt that Ambassador Zimmerman will prosper in the years ahead, and that it will be our Nation that suffers from his premature retirement.

DIVERSITY DRIVES SEASONED MAN OUT

The story of Warren Zimmerman illustrates why a number of people are concerned about the Clinton administration's criteria for filling high government positions.

Zimmerman, 59, was a career foreign service officer in the State Department. He had held diplomatic posts in Paris and Moscow and served as ambassador to Yugoslavia. The New York Times said he was "universally respected within the foreign service" and that he had "a reputation for loyalty and a nonconfrontational approach to problem-solving."

State Department officials had created a new post, that of assistant secretary of state for population and refugee migration affairs. Zimmerman hoped to be appointed. Secretary of State Warren Christopher backed him. The Times said Zimmerman was widely considered the best qualified person available.

But the White House said no. Zimmerman is a white male. The Clinton administration wanted the job to go to a woman or a man from a minority group.

So Zimmerman resigned, ending a three-decade State Department career. He said he disagreed with the administration's Bosnia policy, although sources told The Times that Zimmerman would have stayed if he had received the promotion he desired.

The administration's goal of bringing more women and minority-group members to the higher levels of government is commendable. But surely the goal can be pursued without driving away career officials whose reservoir of expertise is needed to give the government continuity and direction.

OPPORTUNITIES FOR THE DELTA REGION

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. EMERSON. Mr. Speaker, I am pleased to join with my friend and colleague from Arkansas, Ms. LAMBERT, in introducing the Lower Mississippi Delta Initiatives Act of 1994. This bill establishes a comprehensive Federal effort to promote expanded educational opportunities, economic development, and cultural tourism in the seven-State lower Mississippi Delta region.

The lower Mississippi Delta region of the country consists of 219 counties and parishes that are among the Nation's poorest. When the Lower Mississippi Delta Development Commission, chaired by then-Governor Bill Clinton, issued its report in May 1990, the statistics were eye opening. Substantial poverty, poor health, high infant mortality, lack of education, and lack of suitable infrastructure are among the factors which have limited the opportunities available to residents of the delta region.

Despite these adverse conditions, the people of the delta prefer hope to despair. They are hard-working and forthright, and they are one of the region's most tremendous resources. They did not come to the Congress looking for a handout; rather, the Congress is, by virtue of this bill, offering the region a hand up.

This bill would expand the Department of Energy's Institutional Conservation Program and Low-Income Weatherization Assistance Program to provide energy efficiency improvements to schools, hospitals, and low-income dwellings within the delta region. It would also establish educational initiatives and scholarships in the areas of natural resources, the environment, the sciences, cultural resource management, historic preservation, aquaculture, and archeology. In addition this bill would authorized Federal grants to States for upgrading or maintaining public roads and trails that provide access to designated tourist sites. Also this bill would authorize funding to the Lower Mississippi Delta Development Center in Memphis to continue coordinating the goals of the Delta Development Commission's report to Congress.

I am truly excited about the potential unleashed by the Lower Mississippi Delta Initiatives Act of 1994. This bill takes the suggestions and recommendations of the Delta Commission's report to Congress in 1990 a big step forward. This bill provides further hope to improve the quality of life for folks in the Mississippi Delta region. A similar bill passed last November in the Senate and I would like to see this bill swiftly enacted in the House.

TRIBUTE TO ERIE COUNTY VOLUNTEER FIREFIGHTERS

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. QUINN. Mr. Speaker, I rise today to pay tribute to the Erie County Volunteer Firefighters of Western New York for the donation of spare firematic gear to a volunteer-based relief effort in Bosnia. Three companies stood above all the rest in their response last spring.

The Hamburg, NY, Fire Department, North Evans, NY, Fire Department, and Sheridan Park, NY, Fire Company are the fall 1993 winners of the Excellence Through Teamwork Award presented by the Erie County Volunteer Fire Fighter Newspaper.

The equipment donation from Erie County was at the top of the list—our firefighters and those from Prince Georges County, MD, gave the most gear to the leaders of the Rhode Island Volunteer Group, an organization for the United Nations High Commission for Refugees.

What they did in western New York may save a life thousands of miles away. There is no clearer definition of the unselfish spirit of the American volunteer fire service. The generosity, the concern, and the dedication exhibited by these volunteer firefighters from Erie County for people half a world away is the same that they exhibit every day in the protection of their fellow citizens, and the people of Erie County are very grateful.

TRIBUTE TO MATTHEW G. VOLLBRECHT

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. SHUSTER. Mr. Speaker, I rise today to pay tribute to an extraordinary young man from Everett, PA, Matthew G. Vollbrecht. Matthew is young, only 10 years old, and blind, yet he has managed to overcome his handicap to accomplish great things as an musician.

This year, Matthew was awarded the 1994 Panasonic Young Soloists Award. This high honor comes with a $5,000 scholarship to continue his study of music and a performance at the John F. Kennedy Center for the Performing Arts. This award was established by Very Special Arts to recognize students with disabilities who have exhibited unique talents as either a vocalist or an instrumentalist.

Although he is only 10 years old, Matthew has a long list of achievements. He began studying the piano at the age of 4 and voice when he was 6; when he was only 8, he composed his first composition, "Since Your Love's Come Back to Me".

Matthew has appeared in concert more than 110 times, including a performance with the Altoona Symphony Orchestra. In 1992, he released his first cassette, Melodic Insight—With Love, Matthew.

Mr. Speaker, I would urge all of my colleagues to join me in congratulating Matthew and complimenting him for this award and all of his past and future accomplishments.

TRIBUTE TO RAY BURROWS

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Ms. KAPTUR. Mr. Speaker, on April 16, 1994, Mr. Ray Burrows, the District I commander, and commander of Post 5536, will be recognized at the testimonial dinner of the Toledo VFW Post 5536. It is my pleasure to stand and pay tribute to this outstanding member of my community.

He has served his country to the fullest, beginning with the Navy in 1958. While stationed in Cuba, he was awarded the National Defense Service Medal, Armed Forces Expeditionary Medal, and the Navy Expeditionary Medal. His military service ended in 1962; however, he has tirelessly committed his life to community service as president of the Interlake Federal Credit Union for 4 years, treasurer of the USWA for 3 years, delegate to Toledo Labor Council for 4 years, and a delegate to the Toledo Area AFL–CIO for 8 years.

Mr. Burrows joined the VFW post in 1985 and his past offices include post commander for 4 years and Lucas County Council chaplin. He has received numerous honors, including the All-State Post Commander for 1990, 1991, and 1992 as well as National Aide-de-Camp Recruiter for 1991 and 1992.

Ray Burrows is a man of integrity, committing himself to his wife, Marge for 30 years, their 7 children and their 13 grandchildren.

Mr. Speaker, it gives me great pleasure to rise on behalf of a man of such devotion. Mr. Burrows has been quoted as stating that he is proud to be an American and will serve his country in any way possible. I ask my fellow colleagues to join me today in recognition of this fine man. May he be an inspiration to us all.

S. 2004, STUDENT LOAN ELIGIBILITY FOR CERTAIN INSTITUTIONS OF HIGHER EDUCATION

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. CLAY. Mr. Speaker, I rise in support of S. 2004, the extension of the college loan default exemption for certain institutions of higher education.

This legislation will extend the exemption for historically black colleges and universities, Tribally controlled community colleges and Navajo community colleges from the 25 percent default cutoff for participation in the student loan program until July 1, 1998.

My remarks will address the necessity of this legislation for historically black colleges and universities (HBCUs).

First, institutional measures to reduce default rates are already underway and time must be allotted to permit these measures to have an impact on the default rates. Second, this extension will allow the higher education community time to work with the Department on developing criteria to address the issue of loan defaults.

Mr. Speaker, postponing congressional action on this exemption places these institutions at very serious risk of closure because the institutions affected enroll disproportionately large numbers of students who rely on student loans in order to be able to even attend institutions of higher education. The cessation of funding for the students would have a calamitous effect on the operations and even the survival of a significant number of HBCUs.

Although defaults at historically black colleges and universities make up less than three percent of all higher education defaults, based on the 1990 cohort default data, more than one-third of the historically black colleges and universities could be eliminated from the student loan program this year, if the exemption is not extended.

Many of the students that attend HBCUs have unusual conditions. What has historically been true, and that fact remains today, is that HBCUs have been the college of last resort for a great number of black students who have the scholastic ability but lack the fiscal and monetary resources in order to attend colleges and universities.

I firmly believe that, in spite of the current fiscal difficulties, that it is in our national interest to support black and minority young people in the Nation's historically black colleges and universities. The other vital dimension is that the graduates of these HBCUs contribute to the national economy.

Mr. Speaker, these students represent a previous and vital human capital that we can ill-afford to sacrifice because of their property. The national leadership in black America today is overwhelmingly products of HBCUs. It is imperative, I believe, that we continue this proud and valuable tradition as a service, not only to these young people, but also to our Nation.

Mr. Speaker, I urge my colleagues to support this vital legislation.

STATEMENT BY THE HONORABLE DAN ROSTENKOWSKI

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. ROSTENKOWSKI. Mr. Chairman, I rise today in strong support of H.R. 6, Improving America's Schools Act.

Providing our children with a quality education is one of the most important responsibilities we have as a Nation. America's future economic welfare depends on having a well-trained, well-educated labor force capable of maintaining and advancing the competitive position which the United States currently enjoys.

H.R. 6 will reauthorize Federal programs under the Elementary and Secondary Education Act which will help local school districts break down the barriers that have too often prevented our children from obtaining the education they deserve. The bill will fund drug-free school programs, help special education and low-income students, and train the teachers who work with these at-risk children.

The chapter 1 program is one of the most important ways in which the Federal Government assists low-income children. I am pleased that the formula has been revised so that more funds will go to the school districts with the largest indigent populations. Under the new formula, the Chicago School District will receive over $173 million over the next 2 years to help educate its large population of poor children. Chicago will also receive $17 from the chapter 2 block grant program for teacher training, library resources, technical assistance, and innovation and flexibility; $4 million for Chicago Magnet Schools; $4 million for drug-free school programs; $4 million for immigrant and bi-lingual education. These Federal funds will enable local districts like Chicago to better meet their responsibilities in educating our elementary and secondary school children.

Mr. Chairman, I urge my colleagues to support H.R. 6. By giving full support to our education system, we are making a strong commitment to the future of our children and our Nation.

IN HONOR OF CHARLES WHITSETT

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. FAZIO. Mr. Speaker, I rise today to honor a selfless community leader and constituent, Mr. Charles Whitsett, who recently retired from the school system in the city of Orland after 37 years of service.

Mr. Whitsett embodies the spirit of the Orland community. He is always available to lend a hand to a good cause.

He is a member of the Educators Hall of Fame since 1992. It is a distinguished achievement that neither he nor the community take lightly. Mr. Whitsett describes the feat as a memorable milestone. I consider it a very worthy, yet small recognition, for the countless young lives he has influenced.

Mr. Whitsett served for 28 years in Glenn County as a member of the board of education.

His reputation as an activist for student counseling services is legendary in rural Glenn County. Mr. Whitsett believes counseling to be an essential part of the education process and was a vocal advocate whenever fiscal constraints threatened to curtail or eliminate the service. His battle cry was, "Cut Elsewhere!"

Mr. Whitsett's educational roots are deep in Glenn County, where a building is named after his great aunt, Mae Reager. His great uncle, Frank Reager, was Orland's first high school principal almost 100 years ago.

His mother, Phyllis Reed Whitsett, was a Class of 1923 graduate from the Orland school system. His sister, Dorothy Smith, was a graduate of the Class of 1943 and his brother, Kenneth, was a graduate of the Class of 1947.

Mr. Whitsett is a 1945 graduate of Orland High School.

He attended the University of California at Davis and graduated from Chico State College, which is what it was called at the time. After that, he was a student teacher at Orland High School and upon completion of the program, he was hired by the high school to teach drafting and other industrial arts. Mr. Whitsett was a class advisor and school counselor.

He was the principal at C.K. Price Middle School for 6 years during the early 1970's. In 1977, Mr. Whitsett returned to Orland High School as counselor. He served in this capacity for the remaining 16 years of his career.

Mr. Whitsett is an original member of the Phi Delta Kappa education fraternity in Chico. In fact, he played an instrumental role in helping the organization get its charter.

Mr. Whitsett has been active in a program to promote foreign student exchange. He was also one of the main organizers and workers who established Lollipop Land playground in Vinsonhaler Park.

Mr. Whitsett and his wife, Carolyn, have two sons and five grandchildren.

Mr. Speaker, I ask my colleagues to join me today in honoring Mr. Whitsett for his many years of service to the Orland community and I wish him much happiness and continued success in all his future endeavors.

HOLOCAUST MEMORIAL ACTIVITIES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. GILMAN. Mr. Speaker, this past week many commemorative activities have taken place around our nation which recall the terrible events that took place during the Holocaust. The Days of Remembrance Ceremony was held once again in the Rotunda of out Nation's Capitol, and similar, moving commemorations were held in cities and towns throughout our congressional districts.

This year, however, there were a number of striking differences. This year the U.S. Holocaust Memorial Museum is open and fully operational, hosting substantially more visitors each month than had been anticipated. And this year Holocaust education throughout the country is taking on added dimensions to increase public knowledge and awareness.

Yet, the most recent acquisition to Holocaust education and commemoration activities is the landmark film, "Schindler's List", directed by Steven Spielberg and which garnered seven Academy Awards. This tour de force has instantly exposed the horrors of the Holocaust and its many ethical and moral messages to the world at large.

Mr. Speaker, with every year that passes there are fewer and fewer survivors of the Holocaust alive to bear witness. It therefore behooves us to make a special effort to ensure that their experiences, as terrible as they were, are transmitted to future generations. We can do no less for those who have perished, and for those who follow in the years to come.

TRIBUTE TO JUDGE LOREN S. DAHL

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to Judge Loren S. Dahl, who is retiring from 14 years of dedicated service to the bench of the Eastern District of California.

As Chief Judge of the U.S. Bankruptcy Court for the Eastern District of California, Judge Dahl was named 1993 Judge of the Year by the Sacramento County Bar Association. In bestowing the award, the bar association cited Judge Dahl's work as a "sterling example of how to increase access to justice for the benefit of the general public, debtors and creditors alike."

Judge Dahl was appointed to the bench in 1980 and since 1986 he has served as the Chief Judge of the court. During his tenure on the bench, the number of bankruptcy cases filed increased 281%. In order to deal with this staggering case load, Judge Dahl effected a number of changes including the adoption of local rules, the development of streamlined law and motion practices and a self-set calendar system—the only one of its kind in the federal courts—where litigants are able to schedule matters on the court's calendar without advance approval from the court. Moreover, Judge Dahl streamlined the chapter 13 process and expedited the taking of direct testimony during trials.

Besides his duties as Chief Judge, Judge Dahl served as Chairman of the Ninth Circuit Conference of Chief Bankruptcy Judges and as such was an observer-member of the Ninth Circuit Judicial Council.

Prior to his judicial appointment, he practiced law for 30 years as a senior partner of the Sacramento firm Dahl, Hefner, Stark and Marios specializing in bankruptcy and other matters.

He has been active in many Sacramento civic organizations, including a lifelong involvement in Boy Scouts of America. Since 1980, he has been a member of the Board of Regents of the University of the Pacific as well as the Board of Visitors of McGeorge School of Law, University of the Pacific.

Mr. Speaker, it is with great pleasure that I salute the many contributions Judge Loren Dahl has made to the legal community. His leadership on the bench has been instrumental to the effective administration of justice in the Eastern District and I ask my colleagues to join me in congratulating him and wishing him continued success in all of his future endeavors.

THOUSAND ISLAND LAKE INCIDENT IN ZHEJIANG, CHINA

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. DEUTSCH. Mr. Speaker, I would like to draw my colleagues' attention to the Thousand Island Lake incident which occurred in Zhejiang province, China, on March 31, 1994. I believe that this incident is of great concern to all people who place a premium on basic human rights and dignity.

When 24 Taiwanese citizens were boating on Thousand Island Lake, their boat inexplicably caught fire. All of the passengers and six crew members burned to death aboard the vessel. When the boat was discovered, the charred corpses were rounded up and held in the boat by Chinese officials. No valuables, wallets, or identification were reported found on the bodies.

Chinese officials refused to allow the removal or inspection of the bodies. In addition, it denied the requests of family members to bring the bodies home or have them cremated according to Taiwanese tradition. Subsequently, the families were informed that if they did not agree to this course of action they would be detained. Despite enormous opposition from the families of the deceased, the Chinese government then burned all of the bodies.

Official inquiries about the deaths from Taipei to Beijing have gone unanswered. The frustrated Taiwanese Government has responded by announcing a total boycott of travel to China. This action, however, can not bring back those individuals who perished at Thousand Island Lake. I urge the Chinese Government to respond immediately with full information regarding the events that led to the boaters' deaths and the government's decision to burn the bodies.

STATEMENT IN SUPPORT OF U.S. DISTRICT COURT JUDGE JOSÉ CABRANES' NOMINATION TO THE U.S. SUPREME COURT

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Ms. VELÁZQUEZ. Mr. Speaker, I take great pride in standing before you today, both as the first Puerto Rican woman elected to the U.S. House of Representatives and as a Latina. I say proud, because this Nation is on the brink of an historic step—proud because a Latino—this time a son of Borinquen—is a front-runner in the candidacy to one of this Nation's most important posts. I am referring to U.S. District Judge José Cabranes, a leading candidate in President Clinton's list of Supreme Court Justice nominees.

I have known Judge Cabranes since 1976, when I met him during his tenure as director of the Office of the Commonwealth of Puerto Rico. Since then I have come to know him as both a man of reason and a brilliant jurist. He is truly an individual objective in his approach to the law, and unfaltering in his commitment to fairness. In fact, it is perhaps the L.A. Times that said it best when it referred to him as a pragmatic intellectual.

Judge Cabranes' professional credentials speak for themselves, beginning with his involvement in numerous national organizations, a list that includes such distinctions as the Chairmanship on the Board of Directors for New York's Aspira, a key role as one of the Puerto Rican Legal Defense Fund's founding members, and the General Councilship at Yale University. As far as his work on the bench is concerned, José Cabranes' career can only be referred to as "exceptional". He is the first Puerto Rican jurist appointed to a mainland Federal court, and is praised by his colleagues for the highly uncommon ability to approach a case as both a detached arbiter and a firm advocate of justice. His decisions are noted by all who know him, for their nonpartisanship and unwavering objectivity.

President Clinton has stated that he is looking for "someone of genuine stature and a largeness of spirit" to fill the large shoes of retiring Supreme Court Justice Blackmun—José Cabranes is that someone. He represents the very best that the law profession has to offer—unbiased, kind in spirit and strong in resolve—in short, he is the individual the American people need on the Supreme Court.

It is truly a pleasure to stand before you today and join my colleagues of the Congressional Hispanic Caucus in urging President Clinton to nominate U.S. District Judge José Cabranes to the United States Supreme Court. He is truly this country's best.

TRIBUTE TO LEONARD VAN DYKE

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. HINCHEY. Mr. Speaker. It is both an honor and a privilege,to bring to your attention the ceremony which will take place on April 23d at the New Central Baptist Church in Kingston, New York, celebrating the naming of Van Dyke Lane after the late Leonard Van Dyke, the first African American in Ulster County to be so honored. I have had the good fortune to enjoy the support of the Van Dyke family for many years now and can safely say that such an honor is indeed appropriate.

Mr. Van Dyke was also a political pioneer; he was the first African American to hold elected office in Kingston, serving as a Ward 6 Alderman. His commitment to civil rights was well known not only within our community, but statewide, with local achievements including the establishment of the Ulster County branch of the Congress of Racial Equality.

Mr. Van Dyke's leadership in the trade union community was well respected and his work again led the way for minority participation and representation in the union community. Yet despite his many civic duties and responsibilities, Mr. Van Dyke always found time to devote to local church affairs.

It has been a privilege to be associated with the Van Dyke family for as many years as I have, and I feel honored to be able to share in the recognition that is so justly being bestowed upon Mr. Leonard Van Dyke.

INTRODUCTION OF THE FEDERAL CROP INSURANCE REFORM ACT OF 1994

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. DE LA GARZA. Mr. Speaker, I am pleased to introduce today the Federal Crop Insurance Reform Act of 1994, legislation developed by the administration to revamp the current crop insurance and disaster assistance programs.

The need for reform in the way the Federal Government provides risk management assistance to our Nation's farmers has never been greater. The current system is simply not working as desired.

The Federal Government currently operates a crop insurance program that loses nearly $1 billion a year because too few farmers participate to make it actuarially sound. For every dollar collected in premiums since 1981 by the Federal Crop Insurance Corporation—the U.S. Department of Agriculture agency that administers the program—$1.47 is paid out in claims. This high-loss ratio and the government costs it entails are a cause of growing concern to the administration and to Congress.

Low farmer participation and the poor financial performance of the program have been attributed to several factors. There are farmers who say the premiums charged are too high relative to the indemnities that would be paid out in a claim. Others say the yield coverage is too low. Some farmers have found the paperwork burden and foulups not worth the bother. There also seems to be a willingness of some producers to just take a gamble on the weather.

But most experts agree that the biggest factor dissuading farmers from participating in the current crop insurance program is the availability—or at least the probability—of emergency disaster payments appropriated by Congress. Ad hoc disaster payments in the wake of major natural disasters have been approved by Congress and signed into law, by Republican and Democratic Presidents alike, in each of the past 8 years. Over the past 6 years alone the Federal Government has funded an average of $1.5 billion in disaster payments to farmers.

It is obvious that crop insurance and ad hoc disaster assistance work at cross purposes. It should also be obvious that adequately funding two separate risk management programs will become more and more politically difficult given the budget pressures facing Congress.

Mr. Speaker, the U.S. Department of Agriculture recognizes the seriousness of these problems. They understand that our Nation's farmers need a workable and affordable risk management program that helps protect them from production losses associated with the vagaries of nature. The Department's proposal embodied in the legislation I am introducing is a comprehensive reform package designed to make crop insurance the primary risk management tool for farmers. This is a proposal which will rechannel Federal farm disaster relief spending into a single, more disciplined, on-budget insurance program.

For this kind of bold and comprehensive insurance program to work, Congress will have to agree to provide adequate funding for the new insurance program. This bill also asks Congress to agree to parliamentary and budget changes that are designed to discourage future ad hoc disaster bills. While I have concerns about certain aspects of the administration's plan and whether the congressional budget resolution will allow for adequate funding, I believe the administration proposal merits our consideration in the event these issues can be addressed.

Mr. Speaker, I ask permission to have a brief summary of the Federal Crop Insurance Reform Act of 1994 printed in the CONGRESSIONAL RECORD following this statement.

SUMMARY OF THE FEDERAL CROP INSURANCE REFORM ACT OF 1994

REPEAL OF AD HOC DISASTER AUTHORITY

The bill repeals the current legal authorities for ad hoc crop loss disaster relief. It erects a parliamentary hurdle to the congressional passage of ad hoc crop loss disaster relief bills by requiring that future ad hoc crop disaster bills be "on-budget."

CATASTROPHIC CROP INSURANCE COVERAGE

The bill establishes a new catastrophic coverage level for all crops covered by Federal crop insurance. This coverage would be available to all farmers for a nominal processing fee of $50 per crop per county, capped at $100 per farmer per county. It provides protection against yield losses greater than 50 percent at a payment rate of 60 percent of the expected market price—a level comparable to disaster relief programs in recent years. The bill waives the processing fee for eligible limited resource farmers.

The bill encourages farmers to purchase additional private insurance coverage providing higher yield or price protection levels. It provides targeted subsidies to encourage farmers to pursue these higher coverage levels.

LINKAGE TO FARM PROGRAMS

The bill requires participants in Federal commodity support programs or Farmers

Home Administration farm loans to purchase at least the new catastrophic level of crop insurance. This provision is designed to ensure a participation sufficient in scope to achieve an actuarially-sound insurance program.

DELIVERY SYSTEM FOR NEW PROGRAM

The bill allows farmers the choice of purchasing the catastrophic coverage either through a private reinsured company or through a USDA county office. Higher levels of insurance coverages remain available only through private insurers.

FOSTERING INDUSTRY COMPETITION

The bill restructures premium rates to reflect both direct Federal premium subsidies and the insurers' expense reimbursement allowance. It allows more-efficient insurance companies to pass along lowered overhead costs in reduced rates charged to farmers, creating a more competitive market environment.

DISASTER ASSISTANCE FOR UNINSURABLE CROPS

The bill establishes a permanent disaster assistance program for those crops not coverage by Federal crop insurance. Eligibility and payments would be triggered by area-wide loss levels. Protection levels are similar to those under the catastrophic insurance plan.

FISCAL AND ACTUARIAL SOUNDNESS

The bill requires that the new catastrophic coverage be governed by Actual Production History (APH) yields and all other program changes outlined in FCIC's recently-announced "Blueprint for Financial Soundness" initiative designed to move the Federal crop insurance program toward fiscal and actuarial soundness.

BUDGET AUTHORITY AND PROGRAM COST

The bill combines congressional spending for crop insurance (currently designated on-budget) and ad hoc disaster spending (currently designated emergency, off-budget spending) into a single unified on-budget program. Costs for operating the new program are estimated at about $8.1 billion for fiscal years 1995 through 1999. This represents a five-year savings of about $750 million compared to the projected cost of the current Federal crop insurance program plus the average annual cost for ad hoc crop loss disaster relief programs over the past decade.

RECOGNIZING DR. GEORGE SEUFFERT'S RECEIPT OF THE CRYSTAL AWARD

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. SCHUMER. Mr. Speaker, one of the pleasures of serving in this legislative body is the opportunity we occasionally get to acknowledge publicly the outstanding citizens of our nation.

I am pleased to announce today that conductor Dr. George Seuffert will be presented with the Music Performance Trust Fund's first Crystal Award. I can think of no man more deserving of this honor than Dr. Seuffert. This newly-established annual award is given to that musician whose work exemplifies the Fund's goal of enhancing music appreciation and education through the presentation of admission-free performances to the public, as Dr. Seuffert has done for the last 35 years. He has devoted his life to presenting music of the highest quality and diversity. As evidence, the program at the award ceremony will feature selections ranging from Verdi to Sousa, Gershwin to Wagner, and will include arrangements of country music, rock, and vocal arrangements.

I congratulate Dr. Seuffert on the receipt of this award and I hope he and his band will continue to bring us music for many years to come.

MIDDLE EAST

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. SAXTON. Mr. Speaker, there is no doubt that honest, sincere people on both sides of the peace talks in the Middle East want a peaceful, diplomatic solution in that area.

But, as the most recent and horrifying act of terrorism in the town of Afula suggests, there are people and groups who want no solution in the Middle East that does not include blood and devastation.

Constituents in my district often ask, as I'm sure they do in everyone's district, "What is our stake in the Middle East? Why are we involved there?"

One need not travel farther than Manhattan or Brooklyn in New York to find an answer to that question. The same groups who preach hate and blood revenge exhibited their brand of public relations by blowing up a bomb in the World Trade Center.

And it is rumored that these same groups may be involved in the attempted murder of a busload of American schoolchildren.

What is this Government doing about the spread of well-financed and well-organized terrorist cells in the United States?

I am inserting in the RECORD the names of civilians murdered in Israel since the signing of the Declaration of Principles, the so-called Middle East Peace Accord in September, 1993. These are names like Mizrahi, Vaknin, Ozana. Over 30 civilians murdered in over 22 terrorist attacks in 7 months.

Will this Government step up its investigation of these groups who have already attacked Americans when the roll call of their dead starts reading Smith or Jones?

Or will this Government move decisively against these groups before more Americans are added to the list?

ATTACKS AGAINST ISRAELI CITIZENS SINCE THE SIGNING OF THE DECLARATION OF PRINCIPLES

Since the signing of the Declaration of Principles between Israel and the PLO on September 13, 1993, 39 Israeli civilians and soldiers have been killed in terrorist attacks, as follows: In Judea, Samaria and the Gaza Strip—14 civilians and 5 soldiers; within the Green Line—19 civilians and 1 soldier.

CIVILIANS

Sep. 24, 1993—Yigal Vaknin was stabbed to death in an orchard near the trailer home where he lived near the village of Basra. A squad of the HAMAS' Iz a-Din al Kassam claimed responsibility for the attack.

Oct. 9, 1993—Dror Forer and Aran Bachar were murdered by terrorists in Wadi Kelt in the Judean Desert. The Popular Front and the Islamic Jihad 'Al-Aqsa Squads' each publicly claimed responsibility.

Oct. 29, 1993—Chaim Mizrahi, resident of Beit-El, was kidnapped by three terrorists from a poultry farm near Ramallah. He was murdered and his body burned. HAMAS publicly claimed responsibility for the attack.

Nov. 7, 1993—Efraim Ayubi of Kfar Darom, Rabbi Chaim Druckman's personal driver, was shot to death by terrorists near Hebron. HAMAS publicly claimed responsibility for the murder.

Nov. 9, 1993—Salman 'Id el-Hawashla, age 38, an Israeli Bedouin of the Abu Rekaik tribe who was driving a car with Israeli plates, was killed by three armed men driving a truck hijacked from the Gaza municipality, in a deliberate head-on collision.

Dec. 1, 1993—Shalva Ozana, age 23, Yitzhak Weinstock, age 19, were shot to death by terrorists from a moving vehicle, while parked on the side of the road to Ramallah because of engine trouble. Weinstock died of wounds the following morning. Iz a-Din al Kassam claimed responsibility for the attack, stating that it was carried out in retaliation for the killing by Israeli forces of Imad Akel, a wanted HAMAS leader in Gaza.

Dec. 6, 1993—Mordechai Labpid and his son Shalon Lapid, age 19, were shot to death by terrorists near Hebron. HAMAS publicly claimed responsibility for the attack.

Dec. 22, 1993—Eliahu Levine and Meir Mendelovitch were killed by shots fired at their car from a passing vehicle in the Ramallah area. HAMAS claimed responsibility.

Dec. 23, 1993—Anatoly Kolisnikov, an Ashdod resident employed as a relief watchman at a construction site there, was stabbed to death while on duty.

Dec. 31, 1993—Chaim Weizman and David Bizi were found murdered in a Ramle apartment. ID cards of two Gaza residents were found in the apartment, together with a leaflet of the Popular Front 'Red Eagle' group, claiming responsibility for the murder.

Jan. 12, 1994—Moshe Becker of Rishon Le-Zion was stabbed to death by three Palestinian employees while working in his orchard. The Popular Front claimed responsibility for the murder.

Jan. 14, 1994—Grigory Ivanov was stabbed to death by a terrorist in the industrial zone at the Erez junction, near the Gaza Strip. HAMAS claimed responsibility for the attack.

Feb. 9, 1994—Ilan Sudri, a taxi driver, was kidnapped and murdered while returning home from work. The Islamic Jihad Shekaki group sent a message to the news agencies claiming responsibility for the murder.

Feb. 10, 1994—Nafrali Sahar, a citrus grower, was murdered by blows to his head. His body was found in his orchard near Kibbutz Na'an.

Feb. 17, 1994—Yuval Golan, stabbed on December 29, 1993 by a terrorist near Adarim in the Hebron area, died of his wounds.

Feb. 19, 1994—Zipora Sasson, resident of Ariel and five months pregnant, was killed on the trans-Samaria highway in an ambush by shots fired at her car. The terrorists were members of HAMAS.

Feb. 25, 1994—Sam Eisenstadt, age 80, was assaulted with an axe in the center of Kfar Saba. He died of his wounds shortly afterwards.

Mar. 23, 1994—Victor Lashchiver, employed as a guard at the Income Tax offices in East Jerusalem, was shot and killed near Damascus Gate on his way to work. The Popular Front claimed responsibility for the attack.

Mar. 29, 1994—Yitzhak Rothenberg, age 70 of Petah Tikva, was attacked on a construction site by two residents of Khan Yunis by axe blows to the head. He died several days later of his wounds. The murderers, apprehended the next day, stated that they carried out the attack in order to clear themselves of suspected collaboration with the Israel authorities.

Mar. 31, 1994—Yosef Zandani, age 28 of Bnei Ayish, near Gedera, was found murdered in his apartment. Near the body was a leaflet of the DFLP "Red Star", explaining that the murder was carried out in revenge for the shooting of one of its members by an Israeli citizen. The Israeli acted in self-defense.

Apr. 6, 1994—Asher Attia, 48, of Afula, bus driver; Vered Mordechai, 13, of Afula; Maya Elharar, 17, of Afula; Ilana Schreiber, 45, a teacher from Kibbutz Nir David; Meirav Ben-Moshe, 16, of Afula; Ayala Vahaba, 40, a teacher from Afula; and Fadiya Shalabi, 25, of Iksal were killed in a car-bomb attack on a bus in the center of Afula. HAMAS claimed responsibility for the attack.

Apr. 7, 1994—Yishai Gadassi, age 32 of Kvutzat Yavne, was shot and killed at a hitchhiking post at the Ashdod junction by a member of HAMAS. The terrorist was killed by bystanders at the scene.

SOLDIERS AND SECURITY PERSONNEL

Oct. 24, 1993—Two IDF soldiers, Staff Sergeant (res.) Ehud Rot, age 35, and Sergeant Ilan Levi, age 23, were killed by a HAMAS Iz a-Din al Kassam squad. The two entered a Subaru with Israeli license plates outside a Jewish settlement in the Gaza Strip, whose passengers were apparently terrorists disguised as Israelis. Following a brief struggle, the soldiers were shot at close range and killed. HAMAS publicly claimed responsibility for the attack.

Nov. 17, 1993—Sergeant First Class Chaim Darina, age 37, was stabbed by a Gazan terrorist while seated at the cafeteria at the Nahal Oz road block at the entrance to the Gaza Strip. The perpetrator was apprehended. The Islamic Jihad claimed responsibility for the murder.

Dec. 5, 1993—David Mashrati, a reserve soldier, was shot and killed by a terrorist attempting to board a bus on route 641 at the Holon junction. The Islamic Jihad Shekaki group claimed responsibility for the attack.

Dec. 24, 1993—Lieutenant Colonel Meir Mintz, commander of the IDF special forces in the Gaza area, was shot and killed by terrorists in an ambush on his jeep at the T-junction in Gaza. The HAMAS Iz a-Din al Kassam squads publicly claimed responsibility for the attack.

Feb. 13, 1994—Noam Cohen, age 28, member of the General Security Service, was shot and killed in an ambush on his car. Two of his colleagues who were also in the vehicle suffered moderate injuries. HAMAS claimed responsibility for the attack.

TERRORIST ATTACKS IN ISRAEL

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. ACKERMAN. Mr. Speaker, I rise today to express my outrage at the two recent terrorist attacks that occurred in Israel over the past week: The first massacre in Afula, which killed 7 and seriously wounded forty, and yesterday's incident in Hadera which killed six people and wounded 25. This blast in Hadera came about an hour before a nationwide 2-minute siren for Memorial Day, which honors Israeli soldiers killed in the Mideast wars. Israel's Independence Day starts tonight, and Hamas has said a new bombing campaign will be tied to this observance.

Mr. Speaker, if you recall, after the Hebron incident, the PLO refused to resume peace talks with Israel unless there was a U.N. Resolution condemning it. The Rabin government condemned the Hebron incident and offered compensation to the families of the victims. There was a lot of effort expended between the United States, Israel and the PLO to work out a compromise to condemn Hebron in order to satisfy PLO demands that action be taken. In addition, an international police force has been set up in Hebron to protect the Palestinians.

Mr. Speaker, at this time, to my knowledge, Mr. Arafat has not condemned these acts at all. I find this double standard reprehensible and unacceptable. The Government of Israel is not threatening to cut off the peace talks, in fact, Prime Minister Rabin has insisted—despite these horrendous terrorist acts—that the talks continue in order to complete the pullout from Gaza and Jericho as soon as possible.

As a matter of fact, all Arafat was quoted in Strasbourg today as saying was that this incident "strikes at the heart of the peace process." He said that he did not know who carried out the bombing. When Israeli President Ezer Weizman attacked Arafat for failing to condemn the Afula killing, Arafat said that "Israeli counter-measures after Hebron had prompted regrettable reactions, which we reject, from Palestinian extremists against Israeli citizens, as happened in Afula." But, wary of losing support to Hamas as autonomy negotiations drag on with few tangible results, he also said "Israel had created the conditions for such attacks." This is from a man that will be responsible for keeping Gaza and Jericho in control?

Arafat also said that yesterday should have been the day for final withdrawal of Israeli forces from Gaza and Jericho under the Declaration of Principles—as if to suggest that if Israel had pulled out on the original timetable, these incidents would not have occurred. Arafat also said "it's the delay in implementing the decisions (of the automony talks) that causes these catastrophes because it gives the extremists the possibility to have a good reason to act." In his prepared text to the parliamentary assembly of the 32-nation Council today, which promotes democracy and human rights, Arafat made these tough remarks and his speech ran counter to a conciliatory note struck by PLO negotiator Nabil Shaath at the autonomy talks which were adjourned for at least four days in Cairo on Tuesday.

Mr. Speaker, I am absolutely disgusted and appalled at the lack of response by Mr. Arafat. How can it be that the world condemns Hebron but there is no pressure to bear upon Arafat and the PLO to condemn the incidents in Afula and Hadera in the strongest terms! Why is it that there is a double standard applied here for the PLO, which has repeatedly engaged in terrorist activities and yet is not held accountable in condemning them. This peace process cannot go forward at any price, and the Israelis have been restrained after these two incidents by agreeing to continue the negotiations despite these murderous acts. But how much longer can this be allowed to continue?

Mr. Speaker, I call upon the PLO to condemn these acts immediately as well as for the world community to speak out.

APOLLO 11 MISSION REMEMBERED

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. MINETA. Mr. Speaker, July 20, 1994, marks the 25th anniversary of the historic Apollo 11 mission to the Moon.

The moment when Astronaut Neil Armstrong planted his foot onto the surface of the Moon will be heralded for all time as one of the greatest achievements of humankind in the 20th century.

The Apollo 11 Moon Landing renewed faith in our Nation's ability to respond to any challenge, no matter how great and captured the imagination and dreams of the entire world.

I introduce this resolution designating July 16–24, 1994, as "National Apollo Anniversary Observance" in hopes of recapturing and rekindling the spirit that landed man on the Moon.

Mr. Speaker, I urge my colleagues to join me in cosponsoring this resolution that will serve to remind use that our Nation has the ingenuity and the will to meet the challenges of progress that await us as we near the dawn of the 21st century.

COMMEMORATION OF THE 50TH ANNIVERSARY OF THE HOLOCAUST IN HUNGARY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. LANTOS. Mr. Speaker, March 19 marks the tragic 50th anniversary of the Holocaust in Hungary. Fifty years ago on March 19, 1944, Nazi German military forces occupied Hungary and established complete control of Hungary, although the Hungarian government at that time was already an ally of Germany.

Even before the Nazi occupation of Hungary, Adolf Eichmann was personally preparing to supervise the extermination of the Jews in Hungary. Eichmann was the notorious SS officer who headed the Nazi "Jewish Department" and had been involved in implementing the "final solution" in a number of other areas before he arrived in Budapest in the spring of 1944. By this time, Eichmann and his henchmen had become particularly skillful and efficient in their hellish task. Women, children, old people and the few men who had not already been pressed into forced labor to serve the Hungarian and German military forces on the Russian front were packed into sealed box-cars and forced to stand for days in damp, cold and searing heat, without food or drink or sanitary facilities. The lucky ones died, the strong survived to reach the death camps.

It was in July of 1944 that Raoul Wallenberg, at the request of the United States War Refugee Board, arrived in Budapest in a last effort to rescue as many as he could save. During the final seven months of the nightmare—at a time when the rest of the world was blind and deaf to the suffering millions—Wallenberg's selfless and heroic acts saved the lives of tens of thousands of his fellow women and men. Mr. Speaker, as many of my colleagues know, my wife Annette and I were among those fortunate individuals who were saved through the efforts of Raoul Wallenberg and others who were inspired by his example to fight against the vicious evil unleashed by Hitler and his henchmen like Eichmann.

Mr. Speaker, I am fortunate enough to have 15 grandchildren, and every time I look at them, play with them, talk to them—and I do that every spare moment I have—I see the tens of thousands of little Hungarian children—the infants, the toddlers, grade schoolers, high schoolers, the ones who were university age—and I think what the world has lost as this mindless insanity devoured these beautiful and promising lives.

I knew that this year would be a year of commemoration of the tragic events. For me that commemoration started a little early—just a year ago, President Clinton called me and asked me to be his representative and take a remarkable group of men and women, leaders of the American Jewish and American Polish community, to Warsaw for the commemoration of the 50th anniversary of the Warsaw Ghetto Uprising. It was an incredible experience to walk through the streets of that ghetto with Yitzhak Rabin and AL GORE to pay tribute to that incredible Jewish community. It is now the time to remember the Hungarian Jews.

We commemorate, but that is not enough. We must also make a commitment to fight with every conceivable weapon at our command every sign of bigotry and hatred, whether it involves Jews or not. I commend Warren Christopher for telling the Chinese leadership that the rape of Buddhist nuns must come to an end, so must the incarceration of people who have committed no crime except to articulate the basic views of the founders of this republic, and I look with disdain upon some members of the business community who feel that pragmatic considerations must have the upper hand. By pragmatic considerations I understand that you sell them the gas chambers and that improves the bottom line. When Saddam Hussein said that he will burn down half of Israel, he had on his side some of the industrial and financial leadership of Western Europe. It is not without risk to speak out against these things, but we must speak out.

We have the mission to commemorate and educate upcoming generations about what it means when the forces of evil are unleashed and prevail. The Holocaust did not begin with gas chambers—it began with words, hatred and bigotry. It began with Austria's population cheering as Hilter's troops entered Vienna. If you have any doubt of that, go to the Holocaust Museum and see newsreel film of that time. I was ten years old at that time, and I remember the day because the headlines of the newspapers in Budapest spoke of the Anschluss. I bought a newspaper with my own money that day. I took it home and I felt, as a 10 year old boy, that something fundamentally had changed in the lives of millions of people in Europe. And it did.

Our mission is to fight. There is no room in 1994 in the United States for silent Jews or silent citizens of any kind. The bystander who chooses not to notice or participate in the perpetration of hatred is almost as guilty as the perpetrator of hatred. We have seen them throughout Europe. A few days ago I was telling President Kravchuk of Ukraine that we are anxious and eager to build a new relationship with his country, but not at the cost of sweeping under the rug the nightmarish history of the past. We will not remain silent when a German court in 1994 considers German public figures innocent when they deny that the Holocaust ever occurred. Denial is the first step towards the commission of crimes of unspeakable proportions.

As we commemorate, as we educate and as we are determined to fight, we should be filled with the knowledge that long after the Hilters, the Saddam Husseins, and Kadhaffis of this world have been thrown into the dust heap of history, every single one of our loved ones and what they stood for, what they preached, and what they fought for will remain forever as a beacon to humankind.

Mr. Speaker, to observe the 50th anniversary of the unspeakable tragedy and horror of those who suffered in Hungary, a special commemoration was held on March 20 in New York City. This observance was sponsored by the U.S. Commission for the Preservation of America's Heritage Abroad, the World Federation of Hungarian Jews, the American Gathering/Federation of Jewish Holocaust Survivors, and the Emanuel Foundation.

Mr. Speaker, I am placing in the Record the outstanding remarks of the participants on that occasion: Rabbi Arthur Schneier, Chairman of the Commission for the Preservation of America's Heritage Abroad and Senior Rabbi of the Park East Synagogue in New York; remarks of Ambassador Andre Erdos, Permanent Representative of Hungary to the United Nations; and remarks of Tsuriel Raphael, Deputy Consul General of Israel in New York.

Mr. Speaker, I urge my colleagues to give serious and thoughtful attention to these remarks.

ADDRESS BY RABBI ARTHUR SCHNEIER, CHAIRMAN, U.S. COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

Congressman Lantos, your excellencies, Ambassador Erdos, distinguished clergy, dear friends, first I would like to introduce the representatives of the diplomatic corps because during the darkest days there was some light—there were embassies in Budapest who in the fall of '44 tried to rescue some Jews. Raul Wallenberg is a great hero, but so there were others: I'd like to call on representatives of Swiss, Sweden, Spain, Portugal, the Vatican, also the Ambassador of Romania to the U.N.

I remember that on the eve of my birthday on Sunday, March 19, 1944 I was in Budapest on a rainy afternoon when I saw the first Nazi troops marching on the streets of Budapest. That caused a total change in my life and in all our lives, survivors who are here today. Life was never the same. You remember the law that was passed, if you can call it a law, ordering that every Jew wore the yellow star and all those other laws that were enacted to deprive Hungarian citizens of rights that belonged to them, only because they were Jews. And what was remarkable, friends, that Adolph Eichmann, the Beast, with a 150 Gestapo aided and abetted by the Gendarmerie and the Fascist cohorts of Hungary, were able to cleanse the Hungarian country side—within three months Hungarian Jews of the country side with the exception of Budapest were deported first to ghettos, just like my grandparents from Korozsmezo the Mateszalka ghetto, that in cattle cars to Auschwitz to be gassed and never to be seen alive.

We, who survived, went through hell of persecution and oppression, we lost our dear and loved ones in the gas chambers of Auschwitz and Treblinka and the death marches to Mauthausen. I am glad Cantor Malovany chose Psalm 16, because it was God who saved us, and he saved us not because you and I were any better, but because he extended our lives for a purpose: we have to be the conscience and we have to remind the world that indeed the human tragedy of the Holocaust took place. Never mind the revisionist historians who challenge it, we are the witnesses, many of us still carry the numbers on our arms and the stark haunting memories. How dare they challenge the tragedy of our people. So, unfortunately the clock is ticking—we are 50 years older, but what we must do today in memory of those of our loved ones who didn't make it, is to make a pledge, to a resolution that as long as God gives us life, we will make sure that their memory is not forgotten.

Furthermore, we pledge ourselves on this 50th Anniversary that the neo-nazis and those who are spreading venom and hatred that divide man from man, that they will not have their day on earth. Who would have thought after the loss of 600,000 Hungarian Jews that in democratic Hungary today there are forces who are trying to undermine that fragile democracy, who use code names that we are all familiar with: bolshevik which is a code word for Jew, for they claim that too many non-Hungarians are in the press and the television. And what about some of the antisemitic onslaught by extremists, by fascists who once brought about the disaster to the Hungarian nation and to the Hungarian Jewish community and are tempering with the destiny and the future of Hungarian democracy.

So, it is a painful commemoration: we see ethnic cleansing in our days, we see antisemitism, xenophobia, hate the stranger, and it is all happening 50 years after the tragic days of the Holocaust. And finally my friends, another painful recollection: I fled Vienna as a child in Budapest and I can tell you that I spoke German in Vienna and because I spoke German and Hungarian I worked as a messenger for the Jewish community and I carried some of the correspondence to the headquarters of the Beast Eichmann and that black uniform is still before me for as long as I live. And I also met the Knight of Righteousness on a white horse, Raul Wallenberg. The Beast of Men and the Best of Men. Human nature hasn't changed, my friends: there is the beast of us and the best of us and the beasts are raising their voices and too many of the best are keeping silent. Let us make sure that the beasts will not prevail, let us make sure that the Eichmanns will not prevail again. That is your task and my task.

But the world has changed; we carry the pain, we carry the scars . . . . look at these two flags. There is a state of Israel—had there been a state of Israel at that time many of our loved ones would have been spared. Had there been a Hungary at that time based on democratic institutions, those laws couldn't have been enacted. Then the greatest bastion of democracy, the United States; had America at the time taken the same position on human rights that Tom Lantos is taking in Congress and that the U.S. President is taking today, Nazi Germans and their Hungarian collaborators would not have dared do what they did. A world of silence, but no longer. Human rights is a basic corner stone of the American policy today and let that be understood by any nation who wants to enter the international community. The only way there is an entry to that standard is a commitment to human rights and religious freedom.

So the world has changed and we say in our prayers . . . to life and not to death. Hungarian Jews were transplanted to different parts of the world: here in the U.S., Israel, Australia, Canada, Sweden. They have made their contribution to those countries and we are committed and determined to work for life not for destruction.

ADDRESS BY AMBASSADOR ANDRÉ ERDÖS, PERMANENT REPRESENTATIVE OF THE REPUBLIC OF HUNGARY TO THE UNITED NATIONS

We are gathered here today to commemorate events that took place half a century ago. Fifty years is a rather long period of time. It definitely is by human standards. And so much can change and has, indeed, changed in the course of five decades, the ranks of those who went through hell are wearing thin with each passing day. As the number of survivors dwindles, the need to recall seems to grow. To recall hell, to recall the darkest pages of mankind's history, of Hungary's history.

I feel privileged to be able to address you on this day as Permanent Representative of the Republic of Hungary to the United Nations. I feel honored to join in and add democratic Hungary's voice to the solemn commemoration of the fiftieth anniversary of the holocaust of Hungarian Jewry. Fifty years ago, it was 1944, a particularly dramatic year in contemporary Hungarian history, fateful for the German occupation of the country, for the deportation of hundreds of thousands of Hungarians of Jewish faith or descent, for the beginning of devastating military operations on Hungarian territory, for the last minute desperate and unsuccessful attempt at extricating Hungary from the war, and for the seizure of power by thugs of the Hungarian Nazi Arrow-Cross Party and the introduction of a reign of terror unparalleled in Hungarian history in its consistency and brutality.

The world has definitely changed since then. Even that somber year of 1944, after its procession of destruction and sufferings, ended with more than a glimmer of hope: as a result of the combined efforts of the Allied Powers both from the East and the West, the last chapter in the crushing of the German war-machine finally began, the Hitlerites and their Hungarian accomplices were being driven out of the country, the siege of Budapest to rid it of the Nazi presence commenced and the Provisional National Assembly of a new, free Hungary held its first session in Debrecen. In the course of this last half a century, we have seen the emergence of an alliance of powerful and democratic States, the establishment and consolidation of Israel, a member State of the United Nations, the collapse of totalitarian States and ideologies, and the triumph worldwide of the ideas of democracy and human rights. As a result of epochal changes that, like a whirlwind, swept across the globe 4-5 years ago, our conviction about the power of truth, the power of freedom and justice have become stronger than ever.

However the optimistic predictions about a new world order after the euphoric transformations in the international landscape have proven painfully premature. The simultaneous assault of old and new problems has brought about a world that might seem, on sowing division amongst us, on turning neighbor against neighbor and on contaminating people's, especially young people's minds with the venom of exclusion and unbridled fundamentalism. And we sure know that those who, half a century ago, were killed and exterminated, who perished in the flames of a well-planned, methodic barbarism are with us today, they are here in this synagogue, their sacrifices and their memories won't go away, making our commitment ever stronger not only to be sensitive to violations of fundamental human rights, of the rights of national, religious, linguistic, racial or other minorities, not only to raise awareness of such infringements and discriminations, but also to be ready to act, not in words, but in deeds, by sending out the only right message at the end of this much-suffering century; the world, the powerful forces of democracy reaffirm faith in the dignity and worth of the human being and they shall simply not tolerate attempts at undermining the very foundations upon which our civilization rests.

To make good on this promise is the best we all can do in Hungary, in the United States, in Israel and elsewhere to keep alive the names and faces, the smiles and tears, the humanity of the millions of martyrs, so that their fate, long after the holocaust, would continue to inspire and keep alert generations to come.

ADDRESS BY TSURIEL RAPHAEL, DEPUTY COUNSUL GENERAL OF ISRAEL, NEW YORK

Rabbi Schneier, Congressman Lantos, Ambassador Erdos, distinguished guests and friends, on behalf of Medinat Yisrael and the Consulate of Israel, I am honored to bring you greetings on this solemn occasion.

On the eve of World War II, 650,000 Jews lived in Hungary and in the areas under Hungarian control. In March 1944, Germany invaded Hungary and Eichmann marched into Budapest to begin the "final solution" for the Jews of Hungary. By the end of the war, most of the Jews who had lived in Hungary were no more. They had joined the other 5.5 million Jews, altogether 6 million Jews—men, women, and children—who were murdered by Nazi Germany and its supporters. A once vibrant community was torn asunder and destroyed.

Today we honor the memory of the Jews of Hungary, as, indeed, we honor the other victims of the Holocaust.

Ladies and gentlemen, dear friends, it is called in English the Holocaust, in Hebrew Hashoah—but the immensity of the crime and the evil that was perpetrated, the intensity and depth of the horror and despair, the massiveness of the destruction and slaughter cannot be contained in just one word.

At the time, most of the world cast a blind eye to the horrors of what was happening to the Jews in the ghettos and in the death camps. The nations of the world convened in Bermuda in 1943 and decided to do nothing. Quotas barring Jewish refugees from entering the democratic countries forced them to turn back to their deaths. The gates of Palestine were kept closed by the British.

Some even helped the Nazis do the devil's handiwork. The fascist allies and collaborators of the Nazis in Hungary and elsewhere assisted in the process of murdering Jews.

But there were the others: the Righteous Gentiles—Hasidei Umot Haolam—who are their very own peril, risking their lives and the lives of their own families, acted to save the Jews.

Heading this effort in Hungary was the Swedish diplomat, Raoul Wallenberg. His courage saved many Jewish lives. We shall never forget him. He shall always be remembered as a hero in our history. He did not deserve his ultimate fate, and someday, hopefully, light will be shed on what befell him.

Although the State of Israel did not yet exist, the Yishuv in Eretz Yisrael was determined to do its part—despite the obstacles set by others—to fight Hitler and help the Jews in peril. Young men and women were parachuted into Europe. One such person was Hannah Senesh, a brave and talented young woman who immigrated to Israel from Hungary in 1939. After parachuting into Hungary, she was captured, imprisoned, tortured and finally executed. Her heroism and courage have forever earned her a very special place in the history and memory of the Jewish people. Today she rests along with the other heroes of Israel on Har Herzl.

The Jewish people suffered a calamity, a horrible and traumatic loss of one-third of our people. But in the end it was the Nazis who were defeated, and it is we who have survived.

The Holocaust meant death. The State of Israel means life. Israel rose like a phoenix from the ashes—home to many of the survivors of the Holocaust, from Hungary and from the other lands of war-torn Europe.

It is incumbent upon us to remember what happened so that we will honor the memory of the victims—for it is only their memory that they have left.

We also must not forget, because the Holocaust has a vital lesson for the future. Hatred and fanaticism are evils that must never be ignored. What may begin only as words, in the writings or speeches of extremist demagogues, can lead to horrible atrocities, mass murder, and genocide.

The antisemitism and extremism of Zhirinovsky, Pamyat, HAMAS, Hizbollah, Islamic Jihad, Farrakhan, the Nation of Islam, Khaddafi, Teheran, the skin-heads and the neo-Nazis follows the path set by the Nazis a half century ago. Those who deny that the Holocaust ever happened are allies of these hatemongers.

We applaud the decision taken by the UN Human Rights Commission in Geneva this month to condemn antisemitism as a form of bigotry and racism, and to include the monitoring of antisemitism as one of the Commission's tasks.

Israel will continue to fight its own battle against antisemitism and the violence of extremism. We believe that in our part of the world—in the Middle East—the quest for peace with security will enable us ultimately to defeat the advocates of hate and the perpetrators of terror, murder, and aggression—from wherever they come.

This we owe to the memory of our brothers and sisters in Hungary and throughout Europe who perished in the Holocaust. This we owe to the survivors who made their home in Israel.

Dear friends, on behalf of the State of Israel and the Consulate General here in New

York, I thank you for holding this commemoration today. The flags of the United States, democratic Hungary, and Israel here today symbolize the friendship between our three nations, and the values in which we believe.

Next week we shall be celebrating Passover (Pessah) and three weeks after that Yom Haatzmaut, rejoining in our liberation from bondage in ancient Egypt and in modern times the rebirth of the State of Israel.

As we remember the Jews of Hungary who had nowhere to turn, losing first their freedom and then their lives in the Holocaust, let us cherish our own freedom and be thankful that we live in a time when there is a State of Israel in which Jews can find refuge, and a home.

TRIBUTE TO THE NCAA DIVISION I NATIONAL CHAMPION LAKE SUPERIOR STATE UNIVERSITY LAKERS HOCKEY TEAM

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. STUPAK. Mr. Speaker, I rise today to pay tribute to the NCAA Division I National Champion Lake Superior State University Lakers Hockey Team. Although they are a small school, they are as large as the Soo Locks when it comes to hockey. In addition to their 1988 national championship, they have been to the finals in each of the past 3 years, winning the national championship in 1992 and again this year. It wasn't easy. The Lakers registered a fabulous first round overtime victory over their downstate rivals, the University of Michigan. In the semifinals they notched another victory against the Crimson of Harvard, thanks to team captain, Clayton Beddoes' overtime goal. In the finals, Lake Superior State dropped the Boston Terriers quicker than the temperature falls in Michigan's Upper Peninsula. LSSU won the Championship with a second period storm of goals leading to a 9–1 final score. Sean Tellaire picked up a hat trick on his way to being honored as tournament MVP. Goalie Blaine Lacher came up big with a NCAA record 375 minutes between the pipes without giving up a goal. Defensemen Steven Barnes and Keith Aldridge, who made the all-tournament first team, reinforced the old sports adage; defense wins championships. Although there were many spectacular performances, this was truly a team effort. Coach Jeff Jackson emphasizes the team and his teams are consistent winners on and off the ice.

The athletic achievement at Lake State is only matched by its excellence in academics. Its 3,300 students benefit from modern facilities and extension programs in Traverse City, Alpena, Petskey, Escanaba, and Ironwood. The school specializes in baccalaureate degrees in such diverse subjects as Business, Nursing, Engineering Tech, along with Biology, Chemistry and Criminal Justice. Because of the small size, students receive personal attention from professors and faculty. Students graduate well-trained, capable, and prepared to conquer todays job market.

Nestled on the beautiful eastern end of Lake Superior, Lake State boasts a campus of exceptional scenic charm. Located on the original site of Fort Brady, an old army post built in 1822, LSSU looks out over the St. Marys River and the Soo Locks where today 70 percent of our country's iron ore passes on its way to production in Detroit, Cleveland and the rest of the world.

Northern Michigan and the Upper Peninsula are proud of the accomplishments of the Lakers. They are champions in academics and on the frozen pond. On behalf of Michigan's First District, I congratulate the Lake Superior State University Lakers for their Championship in men's Division I hockey. I look forward to next year's run at the championship and dare I say DYNASTY.

LOWER MISSISSIPPI DELTA INITIATIVES ACT

HON. BLANCHE M. LAMBERT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Ms. LAMBERT. Mr. Speaker, I am pleased today to introduce a bill to help revitalize the Mississippi Delta region through economic development, expanded tourism and educational opportunities.

As our Nation has moved from an economy based on agriculture to a more industrial base, we have watched the delta slip behind. Employment opportunities have plummeted and educational reputations have sagged. But we have everything we need to attract new industries and jobs right there in the Delta. Simply put, this bill will help us to organize our most valuable resources—people.

As chairman of the Delta Caucus, I am honored to offer this bill as the beginning of my commitment to transform the Delta Initiatives into public policy. This bill will set up partnerships between universities and private businesses. It will help us pool our resources, share ideas and expand economic growth in a seven-State region along the Mississippi River. The Lower Mississippi Delta Initiatives Act will cover all of Arkansas, Louisiana, Mississippi, and parts of Tennessee, Illinois, Kentucky, and Missouri.

Many of the ideas contained in this bill have been implemented with success in our States. Business incubators, which this bill encourages, have produced amazing results. By offering fledgling businesses office space and technical assistance, incubators have helped 80 percent of the businesses they've worked with succeed. In contrast, 80 percent of the small businesses that have started out on their own have failed. Ideas in this bill are results-oriented, with the bottom line being economic development.

The Delta Initiatives Act establishes a Federal effort led by the Departments of Interior and Energy to, among other things:

Stimulate economic development through an operating grant to the Lower Mississippi Delta Development Center located in Memphis, TN.;

Boost growth in energy services, manufacturing and exports through a newly created Delta technology and business development center;

Establish educational initiatives and scholarships in the area of aquaculture, natural resources, the environment, the sciences, cultural resource management, historic preservation, and archeology;

Preserve the heritage of the delta region and promote cultural tourism through designating historically significant roads and waterways within the region; and

Provide energy efficient improvements to schools, hospitals and low-income dwellings within the delta region.

INTRODUCTION OF LEGISLATION PROTECTING THE RELIGIOUS USE OF PEYOTE BY INDIANS IN TRADITIONAL CEREMONIES

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 14, 1994

Mr. RICHARDSON. Mr. Speaker, today I am introducing legislation to make statutory the protection now provided by Federal regulation and the laws of 28 States for the religious use of peyote by Indian practitioners. This legislation to protect the first amendment right of Indians to use peyote as a sacrament is made necessary by the ruling of the Supreme Court of the United States in the case of *Employment Division* v. *Smith,* 494 U.S. 872 (1990).

Peyote, the scientific name of which is Lophophora willaimsii, is a small, spineless cactus that grows only in the Rio Grande valley of Texas and northern Mexico. Native American religious use of peyote was discovered by Spanish explorers in the 1600's and has continued to the present. Such use exists today, largely through the Native American Church of North America [NAC], among about 50 Indian tribes in the United States. The NAC is the present-day embodiment of one of the oldest religious traditions in the Western Hemisphere. Anthropologists date the sacramental use of the peyote cactus among indigenous peoples back 10,000 years. The contemporary NAC was first incorporated in Oklahoma in 1918, and now has chapters in 20 States. About 250,000 American Indians are affiliated with the NAC.

Mr. Speaker, the Federal District Court in New Mexico, in the 1986 case of Toledo v. Nobel-Sysco, Inc., held that the religious use of peyote was not illegal. The court found that—

> Church peyote users believe that peyote is a sacred and powerful plant. Peyote is seen as a medicine, a protector, and a teacher. In terms used by other religions, peyote can be called a sacrament, something which when eaten gives awareness of God. The use of peyote is central to the Native American peyote religion. The religion teaches that those who use peyote must not use alcohol. It encourages love of parents and obedience to parents, fidelity to a spouse, and charity towards others. The peyote religion does not prohibit members from also practicing other religions.

While the first amendment right of Indian practitioners of the peyote religion is endangered by the Smith decision, its religious use is basically noncontroversial. Attempts by the Congress to recognize and protect this right have a long history. When the House of Representatives passed H.R. 2, which became the Drug Abuse Control Amendments of 1965, it protected the right of Indians to use peyote in connection with the ceremonies of a certified religious organization. The Senate omitted that specific protection, preferring that substances be included on such a list on a case-by-case basis. Congressman Harris assured House members that such omissions would not prevent bona fide religious use because courts had already upheld peyote use as a first amendment right. The administration then added peyote to Schedule I by administrative regulation in 1966, but provided an exemption for nondrug use of peyote in religious ceremonies of the Native American Church.

When Congress passed the Controlled Substance Act of 1970, it enacted Schedule I into law. During hearings on the legislation, Congressman Satterfield expressed concern that the religious use of peyote by Indian practitioners be protected. The administration assured him that this would be taken care of by regulation. The regulations adopted in 1971 to implement the act included such an exemption and provides, at 21 CFR 1307.31, that—

> The listing of peyote as a controlled substance in Schedule I does not apply to the nondrug use of peyote in bona fide religious ceremonies of the Native American Church.

Since that time, Native American Church use of peyote as a religious sacrament has had the limited protection of that Federal regulation. Also, 28 States have included some degree of protection of the religious use of peyote by Indians in their laws. Unfortunately, neither the Federal regulations nor the State laws provide the full range of protection needed for the unhindered religious use of peyote by Indians, and 22 of the States still have no laws protecting that right.

Mr. Speaker, there have been some perceptions expressed about the religious use of peyote by Indian people as a part of the severe drug problems of this Nation. Nothing could be further from the truth. Officials of the Drug Enforcement Administration of the Department of Justice testified at a House hearing in 1993 that the religious use of peyote by Indians has nothing to do with the vast and violent traffic in illegal narcotics that plagues this country. The NAC enjoys a good, cooperative relationship with DEA in ensuring that peyote is lawfully harvested and distributed solely for American Indian religious use. The distribution of peyote is strictly controlled by Federal regulations, and by the laws and regulations of the State of Texas, the only State in which the sacrament grows in significant quantities. I am attaching to my statement a chart listing the number of States which do have protective laws and the nature of such laws.

In addition, the medical evidence, based on the opinion of scientists and other experts, including medical doctors, former directors of the Indian Health Service, and anthropologists, is that peyote is not injurious to the Indian religious user, and, in fact, is often helpful in controlling that scourge which afflicts many Indian people, alcoholism and alcohol abuse. All courts that have made factual findings regarding the religious use of peyote by Indians have correctly concluded that such is not harmful.

If there already exists an exemption in Federal regulations for the religious use of peyote by Indians, and if 28 States have some similar protective laws, the question could be raised as to why this legislation is necessary to protect this first amendment right of members of the Native American Church.

First, while the church has appreciated the existence of the Federal and State protective laws, such laws do not provide the range of protection necessary to meet the standards of the first amendment. For instance, in some States, the legal protection for Native Americans is limited to the opportunity to provide the religious use of peyote is an affirmative defense in the context of felony prosecution. This means bona fide NAC members can be arrested, finger-printed, incarcerated, and subjected to all the indignities of a felony prosecution before they can hope to be vindicated and set free. Even then, they will have a criminal record—simply for practicing a bona fide religion that predates the founding of this country by some 10,000 years. Mr. Speaker, it is an intolerable irony that the First Americans still do not have the right to worship freely in our great Nation—which was founded in large part on the fundamental democratic principle guaranteeing religious liberty to all. We must rectify this inequity.

Second, as noted 22 States make no provision for the protection of the religious use of peyote by Indians. As a result of the diverse State laws governing the use of peyote, Indians in different tribes from different States, as well as from different tribes within some States, are treated differently regarding that use. NAC members who have lawfully acquired the sacrament in Texas can still be arrested and subjected to felony prosecution and imprisonment in those 22 States, States in which they may live or through which they must travel on their way home from Texas after lawfully acquiring the sacrament. Legislation is therefore needed to assure comprehensive equal, and uniform protection of the religious use of peyote by Indians throughout the United States, without regard to State or reservation of residence, or tribal affiliation.

Finally, the legislation remains necessary despite the recent enactment of the Religious Freedom Restoration Act of November 16, 1993. This act, which was supported by all of the major religious denominations of the United States, in effect reversed the ruling of the Supreme Court in the Smith case, which rejected the longstanding "compelling government interest" test in determining government infringements on religious freedom. On behalf of the Nation's religions, the act reinstated this test. Ironically, however, the act left endangered the very religious practice, the traditional use of peyote by Indians, which was impaired in the Smith case. Justice O'Connor made clear in her concurring opinion in the Smith case that, even if the "compelling government interest" test was applied, she would still find that the State of Oregon had a right to abrogate Smith's religious right to the use of peyote. This is an unacceptable result to the NAC and its members, particularly in light of the fact that, as correctly pointed out by Justice Blackmun in his dissent, Oregon's position that it has an interest in protecting its citizens from the dangers of peyote rests on no evidentiary foundation at all, and is therefore entirely speculative.

Mr. Speaker, the only remaining objection which could be made regarding this legislation is one of constitutional problems. That is easily met and answered. The granting of a religious exemption for the sacramental use of peyote solely by American Indians presents no equal protection or establishment clause problems. At the urging of the U.S. Department of Justice, the long-standing rationale for special Indian treatment by the Federal Government was recently applied by the Fifth Circuit Court of Appeals regarding the religious use of peyote in the case of *Peyote Way Church of God* v. *Thornburgh,* 922 F.2d 1210 (1991). Finding that the Native American Church members were also members of federally recognized tribes, the court upheld the constitutionality of the DEA's protective regulation—

> We hold that the federal NAC exemption allowing tribal Native Americans to continue their centuries-old tradition of peyote use is rationally related to the legitimate governmental objective of preserving Native American culture. Such preservation is fundamental to the federal government's trust relationship with tribal Native Americans.

Last year, this Congress passed the Religious Freedom Restoration Act to restore religious liberty to the vast majority of this great Nation. Unfortunately, that law does not adequately protect American Indians who worship in traditional ways. As President Clinton emphasized when he signed the act on November 15, 1993:

> The agenda for restoration of religious freedom in American will not be complete until traditional Native American religious practices have received the protection they deserve. My administration has been and will continue to work actively with Native Americans and the Congress on legislation to address these concerns.

Mr. Speaker, it is important that we pass this legislation this Session to secure to these American citizens the most basic of the rights guaranteed by our Constitution, the right of religious workship. It will be my intention to schedule early hearings on this subject and to move expeditiously on the legislation. I invite all Members to cosponsor the bill.

SENATE—*Friday, April 15, 1994*

(Legislative day of Monday, April 11, 1994)

The Senate met at 8:55 a.m., on the expiration of the recess, and was called to order by the Honorable BARBARA BOXER, a Senator from the State of California.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 15, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BARBARA BOXER, a Senator from the State of California, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. BOXER thereupon assumed the chair as Acting President pro tempore.

RECESS UNTIL 9:30 A.M. TUESDAY, APRIL 19, 1994

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until the hour of 9:30 a.m. Tuesday, April 19, 1994.

Thereupon, at 8:55 o'clock and 13 seconds a.m., the Senate recessed, under the order of Thursday, April 14, 1994, until Tuesday, April 19, 1994, at 9:30 a.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

HOUSE OF REPRESENTATIVES—*Monday, April 18, 1994*

The House met at 10:30 a.m., and was called to order by the Speaker pro tempore (Mr. MAZZOLI).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

HOUSE OF REPRESENTATIVES,
WASHINGTON, DC,
April 18, 1994.

I hereby designate the Honorable ROMANO L. MAZZOLI to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of Friday, February 11, 1994, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leaders limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. GOSS] for 5 minutes.

THE BURDENS OF ILLEGAL IMMIGRATION

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, crime and deficit reduction are top issues. Last Friday, millions of Americans wrote checks to Uncle Sam to meet their Federal tax obligations. Families are working harder, paying more and getting less for their money. With the Federal Government growing ever bigger and spending far beyond our means every year—State and local governments and American taxpayers are increasingly being asked to pick up the slack—to find the resources to pay for the demands and shortcomings of Federal policies. Now, backed into a corner by pressing needs and an irresponsible Federal Government, States are beginning to fight back. In Florida, the Governor has filed a lawsuit against the Federal Government, to recoup millions of dollars spent by the State to pick up the pieces of our failed national immigration policy. This is not a partisan issue—the Governor of Florida is a member of the President's own Democratic Party. The fact is that Florida cannot afford to pay the estimated $884 million annual bill for the 345,000 illegal aliens living within its borders, using its health services, attending its schools, and crowding its prisons. In our State, we spend more than $50 million a year to keep more than 3,000 illegal criminal aliens in prison—sapping critical resources needed to ensure that dangerous criminals are kept locked up. It is clearly the responsibility of the Federal Government to protect U.S. borders and control immigration. Yet, nationwide, there are an estimated 4 million illegal immigrants living within our borders. Since the early 1980's, Federal officials charged with controlling these borders have openly admitted failure. Today, the situation is desperate and its consequences are enormous. According to the INS, 85 percent of all undocumented aliens live in six States—Florida, California, New York, Texas, Illinois, and New Jersey—causing tremendous budgetary pressures. Although Congress in 1986 authorized the Federal Government to reimburse States for this ongoing immigration emergency, to date the State of Florida has received no such funds. This is yet another Federal promise left unfilled. In fact, not only is the Federal Government abdicating its financial responsibility to the States, but it is now cutting back on the national border-control services it already supplies. Last week, we were told that INS is slashing its finger-print verifications of potential immigrants. The INS calls this $3 million service an expensive, labor-intensive process. This is truly penny-wise and pound-foolish. What are the relative costs of this commonsense screening program when compared with the cost of the World Trade Center bombing and other violent acts by criminals who make it through the leaky sieve of U.S. borders?

This week the House will continue deliberation of an omnibus crime bill. But, as we discuss the need for more prisons, more cops on the streets, more neighborhood programs and tougher sentencing, we have got to come to terms with the cost of illegal immigration and its serious impact on our criminal justice system. The majority leadership shut out a key amendment to establish a criminal alien tracking center, beef up deportation procedures and crack down on criminal aliens. This is a missed opportunity to bring the Federal Government back into partnership with the States in managing immigration. Yes, we will have the chance to debate whether we need 6,000 additional border patrol agents, and we will have the chance to reaffirm our commitment to the 1986 law that mandates Federal reimbursement to the States for some of the costs of illegal and criminal immigration. But before anyone gets the wrong impression that the Federal Government is finally stepping up to its responsibility, keep in mind that the crime bill, for all its good intentions and promises, comes to the House floor without a funding mechanism. Once again, it seems, the Federal Government is failing to back up its policies with the resources needed to get the job done.

Americans are compassionate people whose first instinct is to come to the aid of those in need. Our Nation is still viewed as a haven, a land of opportunity for people around the world. But we are also a Nation of finite resources, and the Federal Government's blank check has bounced. Everyone will have a reminder of that every April 15 from now to eternity. But I say to my colleagues, "When you send in your check to the Government make sure it doesn't bounce. That's against the law."

THE TAILHOOK CONSEQUENCES

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I take to the floor to talk a bit about a New York Times editorial that I will later put in the RECORD when we go into official session. This is about what the other body did recently, and that is allow Admiral Kelso to have two additional stars as he retired as head of the Navy operations. The New York Times editorial takes this to task saying that one more time the Senate Armed Services Committee has joined the old boys network, that it protects top military brass no matter what and really holds them above accountability. Part of this goes to the Tailhook decision, which was a very, very painful one. When Tailhook happened, Mr. Speaker, the civilian leadership of the Navy stepped down, understanding the captain-of-the-ship principle better than the one who was in uniform and supposedly

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

came from the captain-of-the-ship tradition.

□ 1040

The civilian leadership stepped down, and the gentlemen who were on the military side continued to have all sorts of problems with Tailhook. As we know, two Navy investigations under the admiral both had to be derailed, and they finally had to bring in investigators from the outside.

One of the frustrating things is that people keep wanting to ignore what the investigators from the outside said. This really is not about sexual harassment; this is about sexual assault. Assault is very different than harassment. Harassment is basically words. Assault is really going after someone.

This is about 15 fellow officers who attended this convention and, because they were female, were sexually assaulted. This is about 87 people in all who attended this convention and were assaulted, 6 of whom were men, but they happened to be from the other service, the Air Force.

Tailhook is a command problem because everyone knew this had been going on for a very long time, and if we look at the decision which came down through military justice, the judge put in the record the long histories of memos going to the command saying "Tailhook is out of control. What are we going to do?" And they answered in silence.

Not only did they answer in silence, but the top command went to Tailhook. The top command went to Tailhook, and there were all sorts of sightings of the admiral, who is about to get a promotion, at that Tailhook party. There were all sorts of devastating things in the Navy military decision, and the military decision said that none of the people should be accountable because anyone at this party must have thought it was OK. Since they saw an admiral with four stars there and they saw the Secretary of the Navy attended.

Now, I go back to where I started. This is not about whether or not the person was a nice person. I am sure they were very nice people. But it goes to the very point that women's issues never were taken very seriously. They tried to cover up the investigation twice, and it had to be taken away from the Navy under his command. The civilian side understands it and resigned in embarrassment. We go forward and see that in the post-Tailhook environment nothing has really changed. They changed the rules, but they have not changed the enforcement, as we had hearings in the Committee on Armed Forces about many women who have continued to be attacked and nothing really happened except maybe the woman got put in a mental hospital for 3 days or something.

So it really has not changed. For policymakers to have in front of them all this evidence and for them to say, "Well, we're going to cover for the top command," that sends a very poor message to the lower ranks. We should really have justice for all in this society or we had better be very honest about it and admit that we do not.

So I salute the New York Times for this editorial.

I certainly hope that some of my sisters who moved to the other body will take this up, and I hope there is a raging fight on the Senate floor so we can see how many people really feel that there should be a promotion for an admiral who had all this happen under his command and never seemed to be able to get it under control.

Mr. Speaker, until we send this message, no one will get it under control because the message will be, "Well, women are important, and we can throw some words around, but we aren't really going to do anything about it."

CRIMINALS, NOT VICTIMS MUST BEAR THE COST OF CRIME

The SPEAKER pro tempore (Mr. MAZZOLI). Under the Speaker's announced policy of February 11, 1994, the gentleman from Wyoming [Mr. THOMAS] is recognized during morning business for 5 minutes.

Mr. THOMAS of Wyoming. Mr. Speaker, I, too, want to talk a little about crime. Crime is on our agenda in the House this week.

Crime is on the agenda of most Americans. Even in my State of Wyoming, where we are far from the inner city, where we are far from population areas, crime is important. It is important because we have crime in rural areas. It is important because crime from urban areas begins to move in from urban areas to rural areas.

I want to talk about crime, but I hope that is not all we do in the Congress this week, is talk about crime. I hope we do not just talk endlessly and come forth with a bill that really does not do much. I hope we do not just talk tough and walk away from it.

We are looking at a bill that does not have any money. We are looking at one that does not deal with truth in sentencing. We are looking at one that does not redefine appeals, endless appeals. We are looking at one that does not put 100,000 officers on the street. We are looking at one that provides for racial quotas in terms of the death penalty. We are looking at one that has $8 million in it for social programs, one that is not tough on crime.

It seems to me there is a very basic fundamental issue here, and that is that caring for citizens and protecting citizens is a fundamental basic issue of government. We can argue about a lot of the things that Government does or does not do, whether they should do it, whether it can best be done in the private sector or in other ways, but protecting citizens is clearly a function of government at all levels.

This is a crime bill that tends to talk tough, but then to shift away to causes. We are not talking here about welfare programs, we are not talking about education programs, we are talking about crime programs. We are not talking about excuses for crime, whether someone has been rejected in their early childhood or discriminated against or whether there has been boredom or a lack of training. We are talking here about getting a bridle on crime. Our emphasis should be on putting the price of crime on the criminal, not on the victim.

Habeas corpus, it seems to me, and the idea of endless appeals is one of the most difficult problems.

It is interesting. We talked about this when I was in the Wyoming legislature, and we were told—and I think it is true—that the cost of the death penalty, the cost of executing the criminal, is higher than the cost of life imprisonment. Why? Because of endless, year-after-year appeals, and the legal costs that go with it.

We can change this. We ought to change it. This bill does not. On the contrary, the bill that is before the House provides for an endless appeal process, and any new policy made by the Supreme Court would be basis for an additional appeal, an endless one.

Racial quotas: Would you like to be a victim of a crime, a murder, a crime against your family, and have the judge say, "Well, I'm sorry. Because the perpetrator does not fit into the racial quota for this, there will be a life sentence instead of the death penalty"? It does not seem to me that is appropriate at all.

Prisons: We are talking about building prisons. This bill provides for $3 billion. The alternative provides for $10 billion.

About 95 percent of the crimes come under the jurisdiction of State and local agencies, as they should. This alternative proposition provides for $10 billion to be worked in cooperation with States in grants, States that would agree to have truth in sentencing or 85 percent of the sentence served, which is far beyond what we have now, not an unfunded mandate but, rather, a cooperative arrangement with States.

Finally, it seems to me we have to be very careful of some basic things. One of them is not to federalize the criminal system. The most effective crime fighting is going to take place in communities, in neighborhoods, in cities, and in States. There is a clear definition, and a proper one, of what the Federal role ought to be and the kinds of crimes the Federal Government ought to be involved in, but the preponderance of safety for our citizens will be carried on by State and local agencies, and we need to help them, not restrict them and not federalize them.

A good deal of criticism arises about government, particularly the Federal Government. It seems to me it comes from promises that are never carried out. It comes from tough talk and very little action.

Mr. Speaker, we should not let that happen. We need truth in sentencing, but we also need truth in promising. Let us come forward with a tough crime bill that deals with crime and causes the cost of crime to be on the criminal and not on the victim.

□ 1050

DEMOCRATS' CRIME BILL A CRIME

The SPEAKER pro tempore (Mr. MAZZOLI). Under the Speaker's announced policy of February 11, 1994, the gentleman from Georgia [Mr. LINDER] is recognized during morning business for 5 minutes.

Mr. LINDER. Mr. Speaker, we are again presented with an administration that talks to the right and walks to the left on all bills that we have seen. The language that this administration uses does not match with the words that they write in their bills.

You will recall the very first commercial that Candidate Clinton put out during the campaign was to end welfare as we know it, to get tough on welfare, get people out working for themselves.

Again, that rang well in the ears of the electorate. That is something the Americans have been thinking and worrying about for some time. We spent $5 trillion since 1965 on the poor, and the poverty rate has gone from 12.8 to 14.1 percent.

What has the administration written on this welfare reform? Not one word. Indeed, the liberals on the Democrat side will not let welfare reform come to the fore, because those folks on those plantations are their voters.

Last year on the budget, the President you will recall during the campaign said we are going to have a middle class tax cut. In the last debate, he said if any of my proposals would require any tax increase, I will drop them.

Then he said in December, well, I have been surprised by a budget deficit that was much larger than I thought, and we are going to have to have the largest tax increase in history. However, it will only affect the top 1.2 percent of the income earners.

Well, he needs to talk to those people who are retired and making $40,000 a year and who have got a 70 percent increase in the taxes on their Social Security. I am sure they do not consider themselves in the top 1.2 percent, but they got the tax increase. He needs to talk to the truck driver who makes a living going across our roads, who pays 4.3 cents per gallon more in new taxes every day.

On health care the President made it clear he was going to provide everybody with universal coverage that you cannot lose, lifetime security in health care. He was going to improve your choices, improve the quality of care, and reduce the cost.

Well, words mean things. Words are the currency of this profession, and you cannot just keep lying to the American people. We learned you do not listen to what they say; you read what they write.

When the President was interviewed on CBS by Paula Zahn, she said could someone go to their own doctor and pay them with their own cash? The President said of course you can. That is not what his bill says. You may do it, but you would be guilty of bribery, and the doctor who takes the money is guilty of a felony worth a $10,000 fine.

The most recent example, of course, is the crime bill we are working on on the floor of the House at this time. The President promised to expand the number of crimes for which capital punishment can obtain, and they brag about that. But in fact, the procedural roadblocks put into this bill make it unlikely that anyone will ever be put to death for any Federal crime again.

The President promised to get tougher on habeas corpus, the endless appeals, to shorten them. In fact, as the speaker before me said, they are dramatically lengthened. We even add an additional government-paid lawyer for those appealing.

The President promised in a press conference last September and in his State of the Union that he is going to endorse three strikes and you are out, three violent felonies and you are in prison forever. Well, the bill says that, but procedurally it makes it virtually impossible to apply to anyone, and, indeed, of the thousands and thousands of people in prison on Federal charges today, only 500 would be eligible for the difficult procedure to use the three strikes and you are out.

It has been said that somewhere between 15 and 25 percent, in some states, of all the people in our Federal prisons are there as illegal aliens. Did we get tough on that and send them home? No, we do not address that.

The President did not do one thing in his crime bill about addressing the root cause of crime, which is not insecurity and lack of self-confidence. It is drugs, neighborhood use of drugs. The communicable disease spread by user to user in our neighborhoods, we do not address that.

It is obvious to everyone who looks at this problem, and it is repeated over and over, that 6 percent of Americans commit 70 to 80 percent of all crimes. Those are studies that go back as far as 1945.

Are we taking them off the streets? The way you do that is to build prisons or, even better yet, take these hundreds and hundreds of military bases we are shutting down and turn them into boot camps with fences around them. They have eating and sleeping facilities. Take the repeat offenders off the streets.

The President provides $3 billion in his crime bill to build prisons and $8 million for social welfare programs. $8 billion of pork that failed last year in the stimulus package, 8 percent of which will be handed out by the President and the administration themselves to cities and mayors that they choose to help. Nothing but payoffs, Indeed, some of the programs to be used in that $8 billion are self-esteem courses, removal of graffiti, and, indeed, even the 100,000 officers that were promised turns out to be 50,000 officers, and they do not even have to be police officers. Many of them will be social workers.

Ladies and gentlemen, the biggest crime we are facing today is this bill. It is a crime what they have written.

CRIME BILL

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from Texas, Mr. SMITH, is recognized during morning business for 5 minutes.

Mr. SMITH of Texas. Mr. Speaker, last July the Nation was shocked when James Jordan, the father of basketball great Michael Jordan, was shot by hoodlums after pulling his car over at a rest stop.

What made the murder even more outrageous was the fact that the two have been charged with committing the murder should never had been on the streets in the first place.

One had a record of fourteen burglary, forgery, and larceny charges, most of which had never come to trial. In fact, he was awaiting trial in August for bashing the skull of a 61-year-old convenience store clerk. The second had taken an axe to the head of a classmate 3 years earlier in a fight over a girl.

That predators like these should roam our streets, free to terrorize law-abiding citizens, is a national tragedy. That they should be able to do so even after passing through the criminal justice system—which doesn't have the resources to prosecute them or the jails to hold them—is also a national disgrace.

Since 1960 the population of the United States has risen about 40 percent. In that same period of time the rate of violent crime has shot up by 500 percent. We now have a higher crime rate than any other developed country in the world.

These stark statistics illustrate numerically what every American who has ever been a victim probably felt upon hearing of Mr. Jordan's death. Violent crime in this country is simply out of control, and the old solutions aren't working.

Ask any police officer why criminals seem to operate with impunity and you'll probably find out it is because most have little fear of getting caught or doing any real time in prison.

Statistics bear them out. Washington, DC for instance, does not even have the resources to fully investigate all of the hundreds of murders that happen here every year, much less bring them to conviction. Their conviction rate is about one in four, and even then the average murderer spends less than 6 years in prison.

The first step in deterring crime is restoring the legitimate fear of punishment. Punishment that fits the crime.

The Republican crime bill would have done this by putting the Federal Government shoulder-to-shoulder with States, cites and counties to build a national system of regional prisons through cooperative agreements. To be eligible for 50 percent matching funds to build these prisons, States would have to enact truth-in-sentencing laws, pre-trial detention laws, and mandatory minimum sentences for violent and repeat offenders.

The Republican plan would also have enacted stiff new sentences to protect children, women's and victims' rights, and crack down on terrorism, and gangs. It would have provided $2 billion in grants to cities and counties to hire 20,000 more police officers, and more grants to school districts to buy security equipment. And since almost one-quarter of Federal prisoners are illegal aliens, the Republican plan would also have streamlined the process of deporting convicted criminal aliens, and beefed up the Border Patrol to keep criminal aliens out before they get here.

The Republican plan would have done all these things, but as is so often the case in Congress, it won't be allowed to because of a Democrat majority as afraid of Republican bills as Americans are of criminals.

Instead of spending this week debating a real crime bill, a Republican crime bill, the House will busy itself with a weak crime bill that reflects the administration's lack of commitment to the issue. The President has never sent a crime package to Congress.

Instead of an administration crime bill, a we have an administration budget that cuts the funds for drug enforcement and prison construction. Instead of an administration commitment on crime, we have a Surgeon General who talks about the legalization of drugs and an Attorney General who is making it harder to convict child pornographers. The administration's police care is sauntering to the crime scene with the siren off, the lights dark, and in reverse.

Not only will there be no Republican crime bill, but their will be precious few Republican amendments. There will be no provisions against criminal aliens in spite of the fact that America has criminal aliens. I offered an amendment that would have comprehensively addressed this problem. the Democrats unanimously rejected it.

Perhaps Democrats were afraid that some group would have been offended. Well I know that one group would have been offended by my amendment: criminals. I can assure you that they were against my amendment. They opposed it because it said if you're an alien and you're a criminal, then you're going to jail, then you're going home, and you're not coming back. The Democrats opposed it because they though it might win.

Americans are outraged by criminals on their streets and revolving doors on their prisons. They have begged Congress to send help. The Republicans' crime bill would have sent America "Dirty Harry."; the Democrats' crime bill is going to send them the smurfs.

□ 1100

RECESS

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to clause 12, rule I, the House will stand in recess until 12 noon.

Accordingly, (at 11 a.m.) the House stood in recess until 12 noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. MAZZOLI) at 12 noon.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

You have created us as one people, O gracious God, and we share together in the hopes and fears that touch the human community. Yet, O God, we know that our unity is fragmented and our solidarity can be shattered and we do not witness to the wholeness and harmony that is Your gift to us. With all our differing circumstances and backgrounds and situations, may we hold strong to the high purposes to which we have been called, and express in our words and deeds our shared message of faith and hope and love. Bless all Your people, O God, this day and every day. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentleman from Ohio [Mr. TRAFICANT] will please come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

TWO COLORADANS AMONG VICTIMS OF AIR FORCE DOWNING IN IRAQ

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute.)

Mrs. SCHROEDER. Mr. Speaker, as a Coloradan, I rise with a very heavy heart today because of the 26 young people who were killed when the Air Force downed the helicopters. Two of those young people were from Colorado.

These two young people were very, very special, and it has been a very hard weekend for people in my State to deal with. The first was a young man named Mark Ellner. He was 22 years old. He was an absolute straight "A" student, a total perfectionist, and he really felt he was doing something to make a great difference in the world. He also showed up a playfulness that some of us in the West show that people do not understand who are outside the West, and that is that even though he was a straight "A" student and very serious about everything else, he liked to dress up like Elvis Presley every now and then. So he had a very human side to him, and he was thrilled to be over there trying to help in a humanitarian mission, because he felt he would learn a lot and be able to serve. I am sure he felt that this would probably be the last thing that would ever happen to him in that theater.

The other young man was a 33-year-old from Rifle named Rick Robinson. He was in the Special Forces as a medic, and he again had been thrilled at the privilege of being there, to go over there and help.

I think we have many questions we want to ask about all of this, and I certainly hope the Armed Services Investigations Committee gets to the bottom of the questions that just do not seem to be answerable, the questions on how this could ever happen when it seemed almost foolproof and it seemed that it could not possibly happen.

I think it is also part of our learning about how we are to perform tasks in a humanitarian mission mode rather than the normal military mission mode and what the differences are and what all of that means.

To the families and to all my fellow Coloradans, this is indeed very, very sorrowful news, and we certainly hope that their families and their friends realize they did make a tremendous contribution, and that helping in that very difficult area in Project Comfort or Provide Comfort for the Kurdish refugees was indeed a very, very important mission.

CAVEAT EMPTOR

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, the President has been logging thousands of miles and thousands of dollars on Air Force One—attempting once again to sell his health plan to skeptical Americans. Today it's Milwaukee. Some people see the President as a master salesman who could get us to buy just about anything, but the polls actually show his health care plan just is not selling. Determined to reverse their public relations disaster, the White House now has a new strategy. They have repackaged the Clinton health care plan with a glitzy new sales pitch that is short on details, loose on facts and long on warm and fuzzy, feel-good rhetoric. Remember the time-honored phrase caveat emptor—let the buyer beware? Well, Mr. Speaker, more and more Americans are becoming aware to beware because they now know there are better choices than the Clinton health plan.

CHANGE THE BURDEN OF PROOF IN IRS TAX CASES

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, I ask the Members to check this out. Hector Alva and Ray Alva are brothers. Now, Ray Alva owes the IRS almost $200,000.

Hector Alva has a small business. He owns a couple pieces of farm equipment, and he hires 150 farm workers to do custom farm service work.

The IRS shows up and takes Hector Alva's equipment. Hector Alva says, "My brother owes you money, not me."

The IRS says, "Hector, prove it."

He says, "You're taking my equipment without even giving me notice. This is illegal."

They said, "Hector, prove it. You don't look like an American businessman, and we don't think you can own that expensive equipment. Prove it, Hector. Prove it, Hector."

Mass murderers do not have to prove it, but they say, "Prove it, Hector Alva. You don't look like you could own such equipment."

Shame, Congress. It is time to change the burden of proof in tax cases. Before the IRS comes out and takes anybody's property and accuses them of fraud or wrongdoing, the IRS should have to prove it, and a taxpayer should be innocent until proven guilty. After all, mass murderers are treated that way.

Think about it. I ask the Members to sign Discharge Petition No. 12 and help me. This is H.R. 3261, Discharge Petition No. 12, and I ask for this help because I say to the Congress that I do not know who they represent anymore.

THE COOPER PLAN

(Mr. ALLARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLARD. Mr. Speaker, according to the CBO, the Cooper version of health reform will cost the taxpayers $125 billion more than Mr. Cooper first anticipated.

As the American people pay their taxes tomorrow, I urge them to think about the implications of even more taxes.

Clearly, the Cooper solution is the wrong answer to the health care reform question.

If the Cooper plan is bad and the Clinton plan is worse, what is the best way to cure our health care crisis?

House Republicans have an approach to health care that will not cause the taxpayers heartburn, that will not inflate our deficit, and that will not limit doctor choice, and that will not hurt our health care quality.

This plan will allow folks to take their health care plans with them if they change jobs, increase access to all who want quality health care insurance, and eliminate preexisting conditions.

Mr. Speaker, the Cooper and Clinton plans are dead on arrival. Support the best approach to health care reform. Support the Michel plan.

CESAR E. CHAVEZ: A GREAT AMERICAN CIVIL RIGHTS LEADER

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, Cesar E. Chavez was one of America's greatest civil rights leaders. This week, thousands of people across the country who were touched by the life of Chavez remember him on the 1 year anniversary of his death, April 23, 1993. Today I am introducing a House joint resolution to establish "Cesar E. Chavez Day" on March 31, 1995, so that on his birthday this Nation may honor a man who dedicated his life to empowering people to free themselves from oppression.

I ask my colleagues to join me in recognizing the importance of sharing Cesar Chavez' history so that all Americans can see the results that are possible by working for justice through nonviolence in their communities. Through his commitment to nonviolent social action, Cesar Chavez brought dignity, respect, self-worth and inspiration to millions of farmworkers, students, other Americans and people throughout the world. Chavez dedicated his life to helping the poor and oppressed obtain livable standards of housing and food, and safe working conditions.

Chavez, the grandson of a Mexican immigrant farmworker spent his childhood picking grapes, melons, beans, and other staple crops at low wages for long hours. As early as 1949, Chavez was committed to eliminating the unfair and dangerous environments of some farmworkers. In 1962, Chavez united 70,000 farmworkers to form the National Farmers Workers Association, predecessor to the United Farm Workers of America. Throughout his life, Chavez lived along side his campesino brothers and sisters in humble surroundings. He died on April 23, 1993, in San Luiz, AZ, a small farming town near the Mexican border.

Cesar Chavez' struggles for equal rights and equal opportunity reached beyond labor issues for migrant workers. Chavez was one of the first to address the nationwide state of Hispanics in this country. Chavez advocated Hispanic concerns in meetings with heads of state and was strongly supported by Robert F. Kennedy and his family. In his lifetime Chavez championed environmental campaigns against pesticide and chemical abuse and worked for equal rights for millions of urban Hispanics to achieve educational, housing, and political opportunities.

It is only fitting that we as a nation establish a day to honor Cesar Chavez as a great American and as an internationally respected humanitarian renowned for his tireless advocacy on behalf of the poor and exploited. This commemorative legislation will compliment the grassroots movements to honor Cesar Chavez throughout the United States. My State of New Mexico was the first State in the Nation to pass legislation honoring Cesar Chavez. Right now hundreds of people in California are retracing the historic steps that Cesar Chavez and farmworkers took through the San Joaquin Valley of California in 1966 bringing attention to the plight of migrant farmworkers. Thousands of other supporters in Texas, Michigan, and Arizona have also organized efforts to commemorate Chavez.

I urge my colleagues to join me in honoring Cesar Chavez by cosponsoring the resolution honoring his birthday.

□ 1210

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

THE SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

The first recorded vote ordered will be taken after debate has concluded on the first 3 motions to suspend the rules, but not before 5 p.m. today. Recorded votes ordered on the remaining bills considered under suspension of the rules will be taken on Tuesday, April 19.

AUTHORIZING ESTABLISHMENT OF FACILITY AT HINES, IL, FOR TEMPORARY ACCOMMODATIONS FOR FAMILY MEMBERS OF SEVERELY ILL CHILDREN

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1617) to authorize the establishment on the grounds of the Edward Hines, Jr., Department of Veterans Affairs Hospital, Hines, IL, of a facility to provide temporary accommodations for family members of severely ill children being treated at a nearby university medical center.

The Clerk read as follows:

H.R. 1617

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO ENTER INTO AGREEMENT FOR USE OF PROPERTY AT EDWARD HINES, JR., DEPARTMENT OF VETERANS AFFAIRS HOSPITAL.

(a) IN GENERAL. The Secretary of Veterans Affairs may enter into a long-term lease or similar agreement with the organization known as The Caring Place at Loyola, Inc., a not-for-profit organization operating under the laws of the State of Illinois, to permit that organization to establish on the grounds of the Edwards Hines, Jr., Department of Veterans Affairs Hospital, Hines, Illinois, a facility to provide temporary accommodations for family members of severely ill children who are being treated at the Loyola University of Chicago Medical Center and other hospitals.

(b) CONDITIONS.—An agreement under subsection (a) shall ensure that there shall be no cost to the United States as a result of the property use authorized by that subsection and may permit the use of the property without rent.

THE SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY], will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 1617 and the next veterans bill which we will consider today, H.R. 4013.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1617 would make it possible to set up a Ronald McDonald House at the VA hospital at Hines, IL.

This facility would provide a temporary place to stay for parents of severely ill children being treated at the Loyola University of Chicago Medical Center.

I want to thank the author of the bill, the gentlewoman from Illinois, Mrs. COLLINS, for introducing this worthy legislation. I am pleased to join her and all members of the Committee on Veterans' Affairs in support of the bill.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Speaker, I am very pleased to speak in support of H.R. 1617, which would authorize the Caring Place at Loyola, Inc. to use a vacant piece of property on the campus of Edward Hines, Jr., Department of Veterans Affairs Hospital for a facility to provide temporary lodging for family members of severely ill children being treated at Loyola University of Chicago Medical Center and other hospitals. The Caring Place at Loyola, Inc. is an Illinois not-for-profit corporation which has identified the need for such a facility close to Loyola University Medical Center. Because of its location, unused status, and Hines officials' willingness to make it available, the property on the grounds of the VA hospital is ideal for this project.

This undertaking will be of no expense to the Federal Government because its entire cost of $3.5 million will be raised from private funds. Interested citizens, as well as hospital administrators, doctors, and nurses at Loyola Medical Center and the surrounding communities are working diligently as we speak to raise the funds needed to build this 15-room structure.

Initially, the organizing committee for this project had hoped to accomplish a long-term lease agreement for the establishment of this facility through administrative action by the Department of Veterans Affairs, but they were advised by the Department that they needed to pursue this legislation and that is the reason for our bill today.

In his letter endorsing this project, Secretary Jesse Brown of the Department of Veterans Affairs, called it "* * * a much-needed service * * * a good example of a successful joint public-private venture that benefits the community at no out-of-pocket cost to the Government."

By establishing the Caring Place at Loyola we can help relieve the psychological and physical stress suffered by the families of children being treated for the most serious medical conditions. In many cases the physical presence and care of loved ones is as important to the healing process as the treatment plan or medicine regime that these children are receiving. To a severely ill child there is no substitute for his or her mother and father. This bill will provide a place for these families to stay nearby so that they can be with their loved ones when they are needed most.

I would like to thank Chairman MONTGOMERY, Ranking Member BOB STUMP, Subcommittee Chairman ROWLAND, and the other members of the Committee on Veterans Affairs for their positive and nonpartisan support for this project effort. Certainly, I speak for the many volunteers and the future families who will use this facility. Mr. Speaker, I urge my colleagues to join me in voting for this simple but necessary legislation.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 1617, a bill to establish a Ronald McDonald House at the Hines VA Medical Center in Illinois.

I would like to join Chairman MONTGOMERY in applauding Congresswoman CARDISS COLLINS for introducing this important legislation and I will yield to the ranking member of the Subcommittee on Hospitals and Health Care, CHRIS SMITH, for an explanation of the bill.

I urge my colleagues to support H.R. 1617.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. SMITH], the ranking member of the Subcommittee on Hospitals and Health Care.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in support of H.R. 1617, a bill which will authorize the establishment of a Ronald McDonald House at the VA Medical Center at Hines, IL.

Most of my colleagues are familiar with these houses as they are available at many private-sector medical centers throughout the country. Their purpose is to provide temporary housing for the parents of seriously ill children who are undergoing medical treatment. What is envisioned in H.R. 1617 is that the Secretary of Veterans Affairs would enter into a long-term lease with the caring place at Loyola, Inc., to establish and operate a Ronald McDonald House on unused grounds of the Edward Hines, Jr., VA Medical Center. The Ronald McDonald House authorized by this measure would provide housing for the families of children being treated at the Loyola University of Chicago

Medical Center which is adjacent to the Hines VA Medical Center.

This House will provide a much needed service to the community served by these medical centers at no cost to the Federal Government. The VA does not use and has no plans to use the site on which the Ronald McDonald House would be located.

Mr. Speaker, I know of no objections to passage of this bill and I urge my colleagues to support it.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, again I want to congratulate the gentlewoman from Illinois [Mrs. COLLINS], for this excellent legislation. As the gentlewoman said, this is private, public, and veterans programs working together. That is what it is all about, to help all people in the different communities.

Also, Mr. Speaker, we have at the desk these blue sheets that explain this bill and the next bill that we will take up.

I would also like to mention of the loss of our American soldiers and others in that tragedy that happened in northern Iraq. These American soldiers could have had up to $200,000 of veterans life insurance. I hope they did. I hope they had the maximum, because certainly that would help the families to adjust and to carry on with life at this sad time.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rule and pass the bill, H.R. 1617.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1220

PROVIDING FOR CONCURRENCE BY THE HOUSE WITH AMENDMENTS TO SENATE AMENDMENT TO H.R. 821, EXTENDING ELIGIBILITY FOR BURIAL IN NATIONAL CEMETERIES

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 406) providing for the concurrence by the House with amendments in amendment of the Senate to H.R. 821.

The Clerk read as follows:

H. RES. 406

Resolved, That upon the adoption of this resolution the bill (H.R. 821), to amend title 38, United States Code, to extend eligibility for burial in national cemeteries to persons who have 20 years of service creditable for retired pay as members of a reserve component of the Armed Forces, with the Senate amendment thereto, shall be considered to have been taken from the Speaker's table to the end that the Senate amendment thereto be, and the same is hereby, agreed to with amendments as follows:

In lieu of the matter proposed to be inserted by the amendment of the amendment of the Senate to the text of the bill, insert the following:

SECTION. 1 ELIGIBILITY OF CERTAIN RESERVISTS AND DEPENDENTS FOR BURIAL IN NATIONAL CEMETERIES.

(a) RESERVISTS.—Section 2402 of title 38, United States Code, is amended by inserting after paragraph (6) the following new paragraph (7):

"(7) Any person who at the time of death was entitled to retired pay under that chapter but for the fact that the person was under 60 years of age."

(b) DEPENDENTS.—Paragraph (5) of such section is amended by inserting "and paragraph (7)" after "paragraphs (1) through (4)".

Amend the title so as to read: "An Act to amend title 38, United States Code, to extend eligibility for burial in national cemeteries to persons who have 20 years of service creditable for retired pay as members of a reserve component of the Armed Forces and to their dependents".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the compromise measure we have agreed to with the Senate would extend burial eligibility in national cemeteries to members of the National Guard and reservists who have qualified service of 20 or more years and their next of kin can ask to be buried in the national cemetery. The only difference between this measure and the bill we passed last August is that the spouse or minor child would also be made eligible for these benefits.

Several years ago, an advisory committee on military pay and benefits recommended the provision of these benefits to the Reserve Forces as a reflection of the service voluntarily rendered their country. The requirement that guardsmen and reservists be prepared to report within 24 hours of notification of a callup underscores the fact that today's selected reservists are truly members of the total force.

Mr. Speaker, I want to take this opportunity to commend GEORGE SANGMEISTER, chairman of the Subcommittee on Housing and Memorial Affairs. As we all know, Mr. SANGMEISTER has announced his plans not to seek reelection at the end of the Congress. He has done an outstanding job of chairing the subcommittee and he will be missed. I also want to thank my friend, the very able ranking minority member of the full committee, BOB STUMP, and the ranking member of the subcommittee, DAN BURTON, for their leadership on this bill. Last, I want to acknowledge Congressman HENRY BONILLA of Texas and CHARLIE STENHOLM of Texas, for their efforts in behalf of reservists and National Guardsmen with his sponsorship of H.R. 821.

Mr. Speaker, I urge my colleagues to support this compromise measure.

Mr. Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this resolution and the compromise it represents to provide full burial benefits in national cemeteries to Nation Guard and Reserve retirees who have completed 20 years or more as members of a Reserve component of the armed services and their dependents.

I commend my colleague, HENRY BONILLA, for introducing the original bill. Together, our efforts will ensure that reserve component forces receive the Nation's full recognition as a final tribute for their service.

Mr. Speaker, I also wish to thank my good friend SONNY MONTGOMERY, chairman of the Veterans' Affairs Committee, for his consideration of this matter.

In addition, I wish to recognize the gentleman from Illinois [Mr. SANGMEISTER], chairman of the Subcommittee on Housing and Memorial Affairs, and the gentleman from Indiana [Mr. BURTON], the subcommittee's ranking member for their leadership on this measure.

I recommend that the resolution be passed.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. BONILLA], the original sponsor of the bill.

Mr. BONILLA. Mr. Speaker, the price of freedom is high and never ending. From Saratoga to Normandy to Khe Sanh, America's finest have risked their lives to preserve the freedom we all cherish and all too often take for granted. During peacetime, citizen soldiers have stood watch defending our borders and shores. Their vigilance and sacrifice have deterred countless foes and saved countless lives.

Our fellow Americans serving in the National Guard and Reserves have played a fundamental role in deterring these potential aggressors. This legislation before us today offers but a small recognition of the sacrifices of these true Americans.

H.R. 821 will permit those members of the National Guard and Reserve with 20 years of service creditable to military retirement, along with their dependents, to be buried in our national cemeteries.

My colleagues, we certainly owe no less to these individuals who have been on call for 20 years defending the freedom each and every one of us enjoys.

The important role played by modern day minutemen was evident during Operations Desert Shield and Desert Storm when 228,000 Reserve and National Guard personnel were called up.

These dedicated Americans left their families at a moment's notice to serve. During floods, earthquakes, and other national disasters, these individuals remain on call to offer a helping hand to their fellow citizens in need.

H.R. 821 represents but one small means of saying your sacrifices are recognized and America thanks you.

I would like to thank Chairmen MONTGOMERY and SANGMEISTER, ranking members STUMP and BURTON, and the committee's diligent and able staff for their hard work and commitment to passing this legislation which helps America meet it's responsibilities to those who have served. I look forward to continuing to work with the committee to make sure that America never forgets its commitments to those who have served.

My colleagues, I believe our task today is simple. To honor the American virtues of loyalty, freedom, duty, and honesty please join me and vote yes to pass this bill.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 30 seconds.

I would like to congratulate, again, the gentleman from Texas [Mr. BONILLA] for this legislation and my colleague, the gentleman from Arizona [Mr. STUMP] for getting it to the floor. This will be a great help and boost to the national guardsmen and reservists who are about a third of the forces out there now defending our country.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. SANGMEISTER].

Mr. SANGMEISTER. Mr. Speaker, H.R. 821 passed the House on August 2, 1993 and the Senate passed it with amendments on November 11, 1993. The bill before us represents the compromise between the House and the Senate on the differences.

Mr. Speaker, the proposed compromise would extend eligibility for burial in national cemeteries to members of the Reserves and National Guard who have qualified service of 20 or more years. Burial eligibility would also be extended to their dependents.

Our Nation has long depended upon and recognized the contribution of our citizen soldiers. From the Minutemen of the Revolution to the valiant men and women who served during Desert Storm, our Reserve and National Guard members must satisfy the full mobilization requirements of all active duty forces. During a 20-year career the men and women of our Reserve Forces perform more than 2 years of collective military service, an amount of time equivalent to that which currently qualifies active duty veterans for burial in a national cemetery. According the Congressional Budget Office, the costs associated with this measure are insignificant.

Mr. Speaker, I submit for the RECORD a joint explanatory statement outlining in greater detail the differences between the House and the Senate passed bills.

I would like to commend the gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the full committee for his leadership and ongoing support of this measure. I would also like to thank the gentleman from Arizona [Mr. STUMP] and the gentleman from Indiana [Mr. BURTON], the ranking minority members of the full committee and subcommittee for their efforts and support. In particular, I would like to thank HENRY BONILLA who introduced this bipartisan bill along with CHARLIE STENHOLM, TOM DELAY and Veterans' Affairs Committee members FRANK TEJEDA and STEPHEN BUYER.

Mr. Speaker, I urge favorable consideration of the House amendments to H.R. 821.

JOINT EXPLANATORY STATEMENT OF H.R. 821

This document explains the provisions and legislative history of measures relating to eligibility for burial in national cemeteries for individuals who have served 20 years in the reserve component and for their dependents. These provisions have been passed by the Senate and House of Representatives, agreed upon by the Senate and House Committees on Veterans' Affairs, and are offered as a proposed House amendment to the Senate amendment to H.R. 821.

The measures referred to above are H.R. 821 as passed by the House on August 2, 1993 (hereinafter referred to as the "House bill"), and the text of S. 1620 as reported (without written report) as an original bill on November 4, 1993, and as passed by the Senate on November 11, 1993, as a substitute amendment to H.R. 821 (hereinafter referred to as the "Senate amendment"). The Senate amendment was derived from S. 1128, which was introduced on July 17, 1993.

The differences between the House bill and the Senate amendment are noted below, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

Current law: Under current law, the only members of Reserve components of the Armed Forces who are eligible for burial in a national cemetery are those who:

1. Die under honorable conditions while hospitalized or undergoing treatment at the expense of the United States for injury or disease contracted or incurred under honorable conditions while such member is performing active duty for training, inactive duty training, or traveling to and from such duty;

2. Are disabled or die from disease or injury incurred or aggravated in line of duty during or enroute to or from active duty for training; and

3. Are disabled or die from injury (but not disease) incurred or aggravated in line of duty during or enroute to or from inactive duty training.

House bill: The House bill would grant eligibility for burial in a national cemetery to any person who at the time of death was entitled to retirement pay for service in a reserve component of the Armed Forces or would have been entitled to retirement pay but for the fact that the person was under 60 years old.

Senate amendment: The Senate amendment is substantively similar to the House bill, but adds a provision granting eligibility for burial in national cemeteries to the spouses and dependents of eligible reservists.

Compromise agreement: The compromise agreement follows the Senate amendment with some minor technical and conforming changes.

Mr. MONTGOMERY. Mr. Speaker, I want to say again to the gentleman from Illinois [Mr. SANGMEISTER] how we will miss him, as we note how dedicated he has been to this committee.

□ 1230

Mr. STUMP. I yield myself such time as I may consume.

Mr. Speaker, I would like to add once again my thanks to the gentleman from Illinois [Mr. SANGMEISTER] for the great job he has done. He has been a great leader. We wish him the very best in his new endeavors.

Mr. GILMAN. Mr. Speaker, last August when the House of Representatives first debated H. Res. 406, I was pleased to be a strong supporter. As the House now reconsiders an amended version of this legislation, I remain committed to ensuring its passage.

As a supporter of H. Res. 406, legislation that extends eligibility of national cemetery burial benefits to National Guard and reservist retirees, who have completed 20 or more years of service, I am pleased that this legislation has been amended to include burial eligibility for spouses and dependents.

I commend our distinguished colleague from Texas [Mr. BONILLA], the original sponsor of this legislation, as well as the House and Senate Members of the Committee on Veterans' Affairs, who have worked so diligently to ensure that our Nation's veterans receive the benefits that they have valiantly earned.

I believe that final passage of the amended version of H. Res. 406, is essential, as this legislation pays final tribute to National Guard and reservist retirees who have given so much to our Nation. Under current law, members of the Reserves may be buried in national cemeteries only if they are disabled or die as a result of active duty. However, final passage of House Resolution 406, will guarantee that Guard and Reserve members, as well as their spouses and dependents, receive the burial benefits that they deserve. I must add that the outlays for this legislation are minimal—the Congressional Budget Office estimates less than $400,000 a year. I believe this is a small price to pay for those who have given so much for the freedom that we in America enjoy.

As a long time supporter of veterans issues, I am pleased that the House of Representatives is discussing this important issue. The death of a loved one causes and unfortunate emotional strain. However, the death of a loved one should not cause a financial strain too. Accordingly, I have introduced legislation, H.R. 34, that will boost funeral benefits to a level previously afforded to all our wartime veterans.

Prior to 1981, a burial allowance of up to $300 was provided in all cases where a veteran died: First, of service-connected disability; second, if he was veteran of any war; third, if he was discharged for a disability incurred or aggravated in the line of duty; or fourth, if he was in receipt of, or entitled to, disability compensation.

Under the Omnibus Budget Reconciliation Act of 1981, the veterans' burial benefits were decreased significantly by limiting funeral benefits to veterans receiving pension or compensation benefits, or residing in a VA supported health facility at the time of death. That reduction mistakenly placed an economic value on a benefit given by Congress to ensure that all veterans would be buried with dignity and respect, regardless of their income or social standing at time of death. I believe this is also in direct violation of the longstanding principle held by the American Legion which calls for equal benefits for equal service.

The 1990 Omnibus Budget Reconciliation Act further limited burial plot allowances. The 1990 Veterans Benefits and Services Reconciliation Conference Agreement eliminates the plot allowance of $150, with the exception of veterans who are in receipt of DVA disability benefits, such as compensation or pension.

H.R. 34, restores the pre-1981 eligibility for veterans for the purposes of receiving funeral benefits, increases the amount of those benefits from $300 to $400, and increases the plot allowance from $150 to $300.

As a nation, we have a moral obligation to provide our service men and women with funeral benefits. For this reason I am pleased to support the amended version of House Resolution 406. However, I believe that we must go a step further. I urge my colleagues to support my legislation which will reinstate our veterans' funeral benefits. By doing this we will fulfill our obligation to all those who have fought and risked their lives to protect the ideals and the people of our great Nation. We should do no less, for those who have given so much to defend our freedom.

Mr. STUMP. Mr. Speaker, I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY], that the House suspend the rules and pass the resolution, House Resolution 406.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

RAOUL WALLENBERG BUST PLACEMENT IN THE U.S. CAPITOL

Mr. ROSE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Con. Res. 222) authorizing the placement of a bust of Raoul Wallenberg in the Capitol.

The Clerk read as follows:

H. CON. RES. 222

Resolved by the House of Representatives (the Senate concurring), That the Joint Committee on the Library is authorized to accept a bust of Raoul Wallenberg and to place the bust in an appropriate location in the Capitol, as determined by the Joint Committee on the Library.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina [Mr. ROSE] will be recognized for 20 minutes, and the gentleman from Nebraska [Mr. BARRETT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. I yield myself such time as I may consume.

Mr. Speaker, I want to commend my colleague, Mr. LANTOS, for introducing this important resolution, and I am honored to be able to manage the measure on the floor today.

Mr. Speaker, it is appropriate that, in this time when we approach the 50th anniversary of World War II, and we reflect on the tragic holocaust that took so many lives, Jewish and others, that the United States honor a man whose dedication to compassion for fellow human beings was remarkable.

I am not referring to the worthy German, Oskar Schindler—the subject of the film "Schindler's List"—but to a Swede, Raoul Wallenberg, who volunteered to enter Nazi-occupied Europe in an effort to save Jews from mass murder. In Hungary he saved an estimated 100,000 men, women and children from Hitler's gas chambers.

Wallenberg, a graduate of the University of Michigan, restored our faith in humanity when he left the safety of neutral Sweden, his homland, to risk his life on behalf of others. Sweden was neutral, but Wallenberg was not neutral. He was committed to the cause of justice and humanity.

I favor the placement of a bust honoring Wallenberg in the U.S. Capitol to join the busts of other great foreign champions of freedom—like Garibaldi and Pulaski.

As we gaze upon this likeness of Wallenberg, we can reflect on the need to support the human rights of all those throughout the world who are subjhected to tyranny.

It is my pleasure now, Mr. Speaker, to yield such time as he may consume to my distinguished colleague, the gentleman from California, the Honorable TOM LANTOS, who is the architect of this worthy undertaking.

Mr. LANTOS. Mr. Speaker, let me first thank my good friend and distinguished colleague, the gentleman from North Carolina [Mr. ROSE], the Chair of the Committee on House Administration, for managing, supporting and making possible this legislation.

Let me also thank all my friends on the Republican side who have been so instrumental in moving this legislation.

Most of all, let me thank my wife, Annette, who has been the inspiration and the driving force behind this legislation.

Mr. Speaker, within a few weeks we will be debating on this floor another resolution that I had the privilege of submitting, the resolution commemorating the 50th anniversary of the Allied landing in Normandy, which was the pivotal point in the liberation of Europe from Nazi tyranny. Today we honor a man who—behind Nazi lines, at enormous risk to his own life—put himself between persecuted victims of the Holocaust and the mighty Nazi German war machine and saved as many as 100,000 lives.

My first act in this body, Mr. Speaker, some 13 years ago, was to introduce legislation conferring honorary citizenship on Raoul Wallenberg, the Swedish hero of the Holocaust, and I want to thank you for being so instrumental in the passage of that legislation.

Today we are considering a resolution that would authorize the placing of a bust of Wallenberg in this Capitol, along with busts of a number of other heroes whom we have honored, from Kosciusko and Kossuth to Garibaldi and Winston Churchill.

Raoul Wallenberg, against overwhelming odds, placed himself in a situation of ultimate danger, but through his heroism and sacrifice, 100,000 human beings were allowed to survive the Second World War.

It is so appropriate that we do this today, when apparently—not having learned the lesson that we cannot yield to aggression—some 200,000 innocent human lives have been lost in Bosnia, and over 1 million innocent people are refugees in 1994, 50 years after the conclusion of the Second World War.

The Normandy landings and the heroism of Raoul Wallenberg a half century ago taught us that we cannot yield to tyranny. We must stand up to oppression and brutality, and we must be willing to take risks to save human lives.

Raoul Wallenberg, who paid for his heroism with decades of nightmarish existence in the Soviet gulag, is the ultimate inspiration to all of us, teaching us that we are all our brother's and sister's keeper; that we cannot look away at moments of the most danger, but we must have the courage and the determination and the will to resist tyranny.

When Raoul Wallenberg's statue is unveiled in this Capitol, we will pay tribute not just to this great humanitarian, this great son of Sweden, but we will pay tribute to all men and women who recognize that there are issues beyond themselves, there are causes that transcend their lives, for which they are prepared to sacrifice their own.

I want to thank all of my colleagues for their support.

Mr. BARRETT of Nebraska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I, like the gentleman from North Carolina [Mr. ROSE], want to commend the gentleman from California [Mr. LANTOS] for bringing this matter to the attention of this body.

Mr. Speaker, at a time when many lives have been lost throughout the world due to crime and military conflicts, it is encouraging to go back in history and remember the plight of a real life hero who ended up saving 100,000 innocent men, women, and children.

Many people from Europe will proudly tell you the story of Raoul Wallenberg. However, Mr. Wallenberg's legacy is not limited to Sweden or Eastern Europe. You can go to so many towns and cities in my district, and elsewhere across this country, and the many people of Swedish descent will tell you the story of this remarkable individual.

Raoul Wallenberg was a son of one of Sweden's most distinguished families and a graduate architect of the University of Michigan. During World War II, at the request of the United States, Raoul Wallenberg volunteered to conduct a dangerously complex rescue mission in the heart of the Hungarian Holocaust.

He armed himself with documents he printed as Swedish protective passports, that he would later provide Jewish victims who were condemned to death. Wallenberg also set up safe havens in large apartment houses in Budapest.

After retrieving these victims from certain death, he would put them in the shelters he had created. There, his underground messengers could provide food and medicine to the rescued individuals.

Mr. Speaker, we have the opportunity to commemorate this heroic man and his incredible feat. This gentleman was the second person in the history of the United States, behind Winston Churchill, to be awarded honorary American citizenship by the U.S. Congress.

House Concurrent Resolution 222 will authorize the placement of a bust of Mr. Raoul Wallenberg in the Capitol. I urge my colleagues to support this resolution.

□ 1240

Mr. Speaker, I reserve the balance of my time.

Mr. ROSE. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Georgia [Mr. LEWIS]

Mr. LEWIS of Georgia. Mr. Speaker, I rise today to voice my strong support for House Concurrent Resolution 222, authorizing the placement of a bust of Raoul Wallenberg in this Capitol Building. I also want to commend my good friend and colleague TOM LANTOS for introducing this resolution and for his tireless efforts on behalf of Raoul Wallenberg.

Raoul Wallenberg was a Swedish diplomat who literally put his life on the line to save the lives of tens of thousands of Hungarian Jews during the dark dark days of World War II. Wallenberg issued thousands of Swedish protective passports to Jews in Hungary, set up international safe houses where refugees were kept alive with food and medical treatment, and repeatedly put himself in harm's way to literally pull people from the death trains headed for the Nazi extermination camps.

Raoul Wallenberg was a man of uncommon courage and incomparable spirit. His story is a testament of the good that one man can do, a legacy of heroism in the face of ultimate adversity, or righteousness in an era of insanity. He is a hero whose deeds serve as an inspiration for all mankind. It is only appropriate that Rauol Wallenberg's bust stand in the U.S. Capitol alongside other great champions of freedom and human liberty like Taddeaus Kosciusko, Casimir Pulaski, and Rev. Martin Luther King, Jr.

Mr. Speaker, the fate that ultimately befell Raoul Wallenberg after his arrest by Russian troops in Hungary in 1945 is still not known. We hope and pray, Mr. Speaker, that one day soon that mystery will be solved.

Mr. Speaker, today let Raoul Wallenberg's bust stand in our U.S. Capitol as an inspiration to us all, as a testament to the triumph of good over evil, as a tribute to the notion that one man or woman can make a difference.

Support House Concurrent Resolution 222.

Mr. BARRETT of Nebraska. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Speaker, I thank my colleague, the gentleman from Nebraska [Mr. BARRETT] for yielding me this time, and I commend my colleague, the gentleman from California [Mr. LANTOS], for bringing this matter before Congress.

Mr. Speaker, as we look around this Chamber, we see above the galley of 24 medallions of the great lawgivers of history. As we look on our side of the Chamber, we see a portrait of one of the first foreigners to be imbued with the spirit of liberty and freedom and with compassion for humanity, the Marquis de Lafayette, a French nobleman who came over here in his twenties to become a major general in Washington's army and to help a band of revolutionaries gain their freedom from the tyranny of that day.

Mr. Speaker, a few decades ago, we honored a British statesman and Prime Minister who was one of the great men of the 20th century, Winston Churchill, who came back to the land of his mother to be honored by Congress as one of the leaders of the free world. Churchill was the lone leader, who in the 1930's protested the growing tyranny—and the butchery to be—of Adolf Hitler.

Mr. Speaker, today we honor Raoul Wallenberg, son of a distinguished Swedish family; a diplomat himself who carried on the spirit of freedom and the spirit of compassion for humanity by his actions in wartime Hungary.

Mr. Speaker, at that time in the 1940's Hungary was dominated by the puppets of Adolf Hitler, one of the horrible tyrants of the modern age. In his early thirties, Wallenberg defied that tyranny, took great risks, and overcame great odds in his dedicated quest to preserve human life, liberty, and freedom for 100,000 Jews. His bust in this Capitol will stand as a beacon of freedom and compassion for people who are oppressed all over the world. Today, he joins Lafayette and Churchill.

Mr. Speaker, I am delighted to participate in this ceremony. In conclusion, I say to our new friends in Russia who have democracy in their eyes and hopefully in their hearts that someday we must get at the truth as to what happened to Raoul Wallenberg when one of the other principal butchers of this century, Joseph Stalin, had Wallenberg in his hands. What happened to this great humanitarian remains to be told. I hope, Mr. Speaker, that our new friends in Russia will help reveal that untold story before the end of this century. Men and women who believe in freedom need to know.

Mr. SWETT. Mr. Speaker, I rise today in strong support of House Concurrent Resolution 222, which authorizes the placement of a bust honoring Raoul Wallenberg in the U.S. Capitol. I would like to commend two of our distinguished colleagues for their leadership on the matter before the House today.

First, Mr. Speaker, I commend the distinguished gentleman from North Carolina, Chairman ROSE of the Committee on House Administration, for his support of this legislation and his leadership in bringing this measure to the floor of the House today.

Second, I commend the distinguished gentleman from California [Mr. LANTOS] for his consistent efforts in Congress to honor Raoul Wallenberg and to seek the freedom of Wallenberg from Soviet prisons. As the Members of this body know, Mr. LANTOS is more than a colleague to me—we share considerably more. His daughter is my wife; my children are his grandchildren.

Mr. Speaker, the direct efforts of Raoul Wallenberg in saving the lives of tens of thousands of Hungarian Jews and the motivation to numerous others which his example inspired have very directly touched my life. Tom and Annette Lantos were saved through those efforts—without that effort, my wife Katrina, never would have been born.

Mr. Speaker, it is most appropriate that we honor Raoul Wallenberg by placing a bust in our Nation's Capitol. Wallenberg's life-saving activities in Budapest were undertaken at the request of and with significant financial support from the United States War Refugee Board. By 1944 the unmitigated horror of the mass slaughter of innocent women, children, and men by Nazi officials was so blatant and well-known, that Americans could not continue to deny the Holocaust. When Nazi military forces occupied Hungary and Adolf Eichmann arrived in Budapest personally to supervise the massacre of Hungarian Jews, our Government could no longer look the other way. Raoul Wallenberg undertook a mission to save the lives of those destined for the gas chambers of Auschwitz at the request of representatives of our Government.

Furthermore, Mr. Speaker, Raoul Wallenberg is the second person following Sir Winston Churchill to be granted honorary American citizenship. It is appropriate that, as we honor Churchill with a bust in our Nation's Capitol, we also so honor Wallenberg.

The time when the Congress takes this fitting action, Mr. Speaker, is also most appropriate. Just a few weeks ago we marked the 50th anniversary of the Nazi German occupation of Hungary and the beginning of the Holocaust in Hungary, as well as the arrival in Budapest of Raoul Wallenberg on his mission of mercy.

It is appropriate that just 2 weeks ago in the rotunda of our Nation's Capitol, just a few steps from this Chamber, the U.S. Holocaust Memorial Council conducted the annual National Civic Commemoration to remember the victims of the Holocaust in connection with the annual Days of Remembrance. This year the commemoration was dedicated to the Hungarian Jewish community which was decimated in the Holocaust—when Nazi military forces occupied Hungary in March 1944 there were 750,000 Jews in Hungary but 10 months later in January 1945 when the Soviet Army liberated Budapest, there were only 139,000 remaining. Without Wallenberg's mission of mercy tens of thousands more would have been wiped out.

If my wife and six children had lived in Hungary in 1944, they would have been declared racially unfit to live. They could well have been among those forced into cattle cars by Nazi soldiers or Hungarian Arrow Cross troops and sent to Auschwitz, as TOM LANTOS' mother was. Or they might have been lined up on the banks of the Danube River, and shot in the back and pushed into the river, as Annette Lantos' father was.

In the face of this brutality and horror, the actions of Raoul Wallenberg stand in stark contrast. It is one of the horrible ironies of history that after saving the lives of tens of thousands, Wallenberg's own life was snatched away from him by the Soviet Union. On January 17, 1945, he was taken into custody by Soviet military authorities in Eastern Hungary. He was subsequently imprisoned in the Soviet gulag. Although Soviet authorities claimed that he died of natural causes in a Soviet prison in 1947, there were a number of reliable sightings of him within the Soviet prison system as late as the late 1970's and possibly into the early 1980's.

It is truly tragic that this man who personally did so much to save the lives of other languished for decades in Soviet prisons. Despite the changes that have transformed the Soviet Union over the past few years, we still have not received staisfactory information regarding his whereabouts since 1945 and an accounting of his life in the Soviet prison network.

Mr. Speaker, it is most appropriate that the American people, acting through their representatives in Congress by this resolution today, honor this genuine hero who did so much to serve and save others, but who suffered such a tragic fate. I urge my colleagues to support this resolution.

Mr. Speaker, I ask that the brief description about the activities of Raoul Wallenberg taken from the program of the National Civic Ceremony of the Days of Remembrance be included in the CONGRESSIONAL RECORD.

RAOUL WALLENBERG

Early in January 1944, Secretary of the Treasury, Henry Morgenthau, successfully persuaded President Franklin Roosevelt to actively involve the United States in rescue attempts in Europe. Later that month Roosevelt established the War Refugee Board (WRB); its staff began immediately to seek help from the international community for rescue efforts. Only Sweden responded.

On the recommendation of the Swedish branch of the World Jewish Congress and with the support of the WRB, the Foreign Ministry in Stockholm sent Raoul Wallenberg to Hungary as the Third Secretary to their Legation. Wallenberg was a Swedish aristocrat, the heir of a prominent banking family who has received architectural training at the University of Michigan. He arrived in Budapest on 9 July 1944, as the massive deportations of Hungarian Jews to Auschwitz-Birkenau were ending. However, keenly aware of the continuing precarious position of Budapest Jews, Wallenberg quickly formed a special section within the embassy to aid these Jews, personally designing the famous "letters of protection" (Schutz-pass) that would save many Jewish lives when deportations resumed on 8 November.

During the fall and winter of 1944, Wallenberg's feats were not only courageous but effective. He organized "safe houses" where Jews holding Swedish letters of protection cold find refuge and comparative safety from arrest and murder by Arrow Cross thugs linked to the Hungarian fascist government, which came into power in October. Disregarding threats to his own person, he placed himself between Jews and Arrow Cross squads. During the siege of Budapest, he arranged to feed the Jews in the ghetto and his protected houses. He intervened to prevent the destruction of the Ghetto in January shortly before the liberation. To aid those condemned to the forced marches and deportation, he and his staff often appeared suddenly, offering food and medical care, or demanding that Jews possessing Swedish protective passes be returned to Budapest.

As a result of the rescue work of Raoul Wallenberg and the Swiss diplomat Charles Lutz, more than twenty-five thousand Jewish lives were saved.

After the liberation by the Red Army of the eastern sector of Budapest on 17 January 1945, Wallenberg was taken into custody by the Soviets. He is alleged to have died in their hands in 1946, but his fate is still unknown.

Mrs. KENNELLY. Mr. Speaker, I want to add my strong support for House Concurrent Resolution 222, which would authorize a bust of Raoul Wallenberg to be placed in the Capitol.

This is a most appropriate way to commemorate the fiftieth anniversary of the Hungarian Holocaust and the heroic efforts of Raoul Wallenberg who helped save 100,000 lives during 1944–45. Raoul Wallenberg has already been honored by Congress by being awarded honorary American citizenship—the second man in history so honored—and this bust further commemorates his heroic efforts and lends support to the fact that one person, or a small number of people, can make a significant difference.

The facts surrounding this mission by Raoul Wallenberg are well documented. This was a man who volunteered at the request of the U.S. Government to go to Nazi-occupied Hungary to organize a network to save lives. Using Swedish passports and safe houses in Hungary, he developed a network that saved thousands and thousands of lives—people who otherwise would have been sent to the gas chambers of Nazi Germany.

After World War II, Raoul Wallenberg was arrested by the Soviet Army when they occupied Budapest, and after years of denial it was finally revealed that he had been taken to Lubyanka prison. What happened to him there remains in doubt, but no doubt exists about his heroism, his sacrifice, his unselfish devotion to the cause of humanity, and to the tens of thousands of people who owe their lives to his devotion to duty. These people, their children and their grandchildren, are a living legacy to the world. This bust will commemorate that legacy to every school class, every guided tour group, and every individual who walks by.

Mr. Speaker, I commend the full House Administration Committee chairman, CHARLIE ROSE, for introducing this resolution, Representative TOM LANTOS for working so hard to make this a reality, and Libraries and Memorials Chairman BILL CLAY for moving this resolution expeditiously for our consideration.

Mr. GILMAN. Mr. Speaker, I am proud to rise in the strong support for House Concurrent Resolution 222, legislation that authorizes the Joint Committee on the Library to accept a bust of Raoul Wallenberg, and to place the bust in an appropriate location in the Capitol Complex.

I can thing of a no more fitting manner in which to honor and commemorate the life and contributions of Raoul Wallenberg, a truly righteous individual.

I praise the distinguished chairman of the Committee on House Administration, the gentleman from North Carolina, [Mr. ROSE] for introducing this important concurrent resolution. And, I commend my colleague from California [Mr. LANTOS] for his tireless commitment to promoting freedom and justice throughout the World.

As we remember the life and remarkable accomplishments of Swedish diplomat, Raoul Wallenberg, we are reminded of the goodness and kindness that human beings are capable of achieving. His life represents a triumph of good over evil and glorifies freedom and humanity.

At a time of the world's instability and chaos, Raoul Wallenberg provided strength, hope, and compassion to a people in need. Armed with Swedish diplomatic protective passports, Raoul Wallenberg saved the lives of over 100,000 Jews during World War II. He also organized the distribution of food, clothing, and medicine to those in need. Even when his own life was in danger, Raoul

Wallenberg pressed on; performing daily, what many thought could never be done.

It is because of the courage of people like Raoul Wallenberg that 50 years later, the world remembers the 6 million Jews who lost their lives during the Holocaust.

Many remember by visiting the U.S. Holocaust Memorial Museum here in Washington, DC. The museum, which is visited by hundreds daily, chronicles the horrors and the atrocities that were systemically committed just 50 years ago. For years to come, the museum will continue to serve, not only as a memorial, but also as an educational tool—reminding us of man's greatest transgression.

Others are able to remember by viewing academy award winner, Steven Spielberg's cinematic production of "Schindler's List, which tells the true story of Oskar Schindler, an unlikely hero who is credited with saving the lives of thousands of Polish Jews. Oskar Schindler's achievements, like those of Raoul Wallenberg, serve as a testimony, demonstrating the greatness that individuals are capable of.

I am hopeful that in the near future visitors to our Nation's Capitol will also be reminded by the placement of Raoul Wallenberg's bust in the U.S. Capitol. It reminds us of the righteous individual who gave the precious gift of life to many. Although his fate is still unknown, the legacy of Raoul Wallenberg and his spirit continue to live on.

Accordingly, I urge my colleagues to support this important resolution.

Mr. SCHAEFER. Mr. Speaker, I was pleased to join my colleagues on Monday, April 18, in voting unanimously for House Concurrent Resolution 222, providing for the placement of the Raoul Wallenberg bust in the U.S. Capitol.

Mr. Speaker, we heard stirring stories from a number of Members on Monday about how Raoul Wallenberg risked his own life in order to save the lives of tens of thousands of Hungarian Jews from Nazi German clutches during World War II. Since that time, Mr. Wallenberg's heroism has been an inspiration for generations of freedom-loving people. I am glad that Raoul Wallenberg will be properly honored by the placement of his bust in our Nation's Capitol.

Today, I would like to recognize the person who donated this bust to the people of the United States: Lillian Hoffman of Denver, CO. A Colorado native herself, Lillian's father immigrated from Russia in 1903. Lillian chairs the Colorado Committee of Concern for Soviet Jewry, a group in Denver which has played a vital role in the emigration of numerous Soviet and Russian "refuseniks"—Jews who have been denied exit visas due to spurious reasons. Active in this movement for 25 years, she has spent over 20 years working on the Wallenberg case as well. I have known Lillian, and her late husband Harry, for many of these years and have helped the committee on many refusenik cases during my tenure in Congress. Though the Soviet and Russian bureaucracy has denied exit visas to many refuseniks on whose behalf we have worked, we have been able to celebrate a number of successes as well.

Lillian's generosity to the people of the United States is vividly demonstrated in her gift of the Raoul Wallenberg bust, sculpted by Miri Margolin of Israel. I salute Lillian's compassion and her ongoing work at the Colorado Committee of Concern for Soviet Jewry. Jews still waiting for exit visas in the countries of the former Soviet Union should know that they are not forgotten so long as Lillian Hoffman and her committee are active. Thank you Lillian for your compassion and generosity.

Mr. BARRETT of Nebraska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from North Carolina [Mr. ROSE] that the House suspend the rules, and agree to the concurrent resolution, House Concurrent Resolution 222.

The question was taken.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. ROSE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 222, the resolution just considered.

The Speaker pro tempore. Is there objection to the request of the gentleman from North Carolina.

There was no objection.

COMMUNICATION FROM HON. GARY A. CONDIT, MEMBER OF CONGRESS

The SPEAKER pro tempore, laid before the House the following communication from Hon. GARY A. CONDIT, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, April 6, 1994.

Hon. THOMAS S. FOLEY,
Speaker of the House, House of Representatives, the Capitol, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that my office has been served with a subpoena for records of a member of my staff issued by the Stanislaus County Superior Court in Modesto, California in connection with a civil case.

After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

GARY A. CONDIT,
Member of Congress.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately 4:30 p.m.

Accordingly (at 12 o'clock and 50 minutes p.m.), the House stood in recess until approximately 4:30 p.m.

□ 1644

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HAYES) at 4 o'clock and 44 minutes p.m.

APPOINTMENT OF CONFEREES ON H.R. 2333, STATE DEPARTMENT, USIA, AND RELATED AGENCIES AUTHORIZATION ACT, FISCAL YEARS 1994 AND 1995

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2333) to authorize appropriations for the Department of State, the U.S. Information Agency, and related agencies, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. GILMAN moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2333 be instructed to insist upon the provision contained in section 132(f) of the House bill relating to the continuation of the Office of the Coordinator for Counterterrorism at the Department of State.

The SPEAKER pro tempore. The gentleman from New York [Mr. GILMAN] will be recognized for 30 minutes, and the gentleman from Indiana [Mr. HAMILTON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I yield myself as much time as I may consume.

My motion to instruct is very simple. It is my intent to have the conferees instructed to insist on language in the House bill that requires the State Department to retain the independent Office of the Coordinator for Counterterrorism.

The language prevents the implementation of a proposed State Department reorganization plan that would downgrade the Office of Coordinator for Counterterrorism to the level of a Deputy Assistance Secretary of State.

The Senate's language will permit this reorganization and thus the elimination of this important office.

My bipartisan amendment to H.R. 2333, agreed to by the House last June, creates a permanent statutory office maintaining this counterterrorism function at the highly visible equivalency level of Assistant Secretary of State.

I was especially pleased that my good friend and colleague from New York, Mr. NADLER, who represents lower Manhattan, where the Trade Center terrorist bombing occurred, joined in supporting the amendment that passed the House last June.

Under the proposed reorganization plan, the current Office of the Coordinator for Counterterrorism will be eliminated unless we act.

Unless this language is retained by the conference, the counterterrorism function will be delegated down to that of a midlevel Deputy Assistant Secretary. It will be part of a new multiple function office whose responsibilities also will include narcotics and international crime.

The international narcotics function alone, as we know, could easily consume the entire time, focus and attention of the Assistant Secretary of the proposed new multifunction bureau.

Since early last year, the United States has seen an increased level of international terrorism directed at American political leaders, citizens, their property, and their very safety.

For example, the New York World Trade Center bombing took the lives of 6 Americans, including a constituent of mine, injured 1,000 people and cost over $600 million in property damage and business disruption.

We have seen reports of the terrorist plot against commuter tunnels, other Government facilities, and political leaders in New York.

Given these incidents here in the United States, the rise of new, loosely knit terrorist groups, and other forces promoting terrorism around the globe, this is not the time for America to lower its guard against the horrors and threats of international terrorism.

We must make international terrorism a national priority in our foreign policy plans, and structure as well.

The State Department proposal to diminish the counterterrorism function sends the wrong signal at the wrong time, both to our friends and foes alike, the world over.

Former career Ambassador at Large for Counterterrorism Paul Bremer, an expert in this area, said it best when he told Congress:

> * * * I am disappointed, indeed, dismayed by the administration's decision to downgrade the bureaucratic level of the State Department's office for combatting terrorism.

Further, he said, and I quote:

> This will not only make interagency coordination more difficult and problematic in our Government, but will make us much less effective when we go to our allies or to State sponsors and ask them for help. In my experience, other governments are not often persuaded by importuning deputy assistant secretaries.

Mr. Speaker, I urge my colleagues to support this motion to instruct our House conferees. The Nation and the victims of the Trade Center bombing would expect nothing less from their elected representatives here in the Congress than the maintenance of this critical office in the battle against international terrorism.

Let us today go firmly on the record in favor of continuing the high priority the United States places on combating international terrorism.

☐ 1650

Mr. Speaker, I reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to say to the gentleman from New York that it is not my intention to oppose his motion. I want to commend him for the work that he has done in the whole field of counterterrorism. He has made that quite a specialty, and he has made constructive suggestions to our policy on counterterrorism over a period of several years.

I think he knows the Department of State does oppose his amendment, so what I will say to him this evening is simply that we will not oppose his motion to instruct. He understands the administration opposes the content of his motion to instruct, and I will try to work with him and the administration and the Department of State in the conference to work out an acceptable solution for both parties.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I am happy to yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his comments, our distinguished chairman.

I certainly look forward to working with him in the conference to see if we can arrive at a practical solution to this problem.

Mr. HAMILTON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BERMAN], the distinguished chairman of the Subcommittee on International Operations.

Mr. BERMAN. Mr. Speaker, as the chairman, the gentleman from Indiana [Mr. HAMILTON], indicated, I do not rise to oppose this amendment and will not seek a rollcall vote on this amendment.

I think it is fair though to elaborate on this administration's feelings about how this office should be organized.

The gentleman from Indiana, the chairman of the full committee, made reference to the work that the gentleman from New York, the sponsor of this motion, had done in the area of counterterrorism. I am happy to have worked with him on a number of these causes. I would be terribly concerned if I thought that this administration, through its organizational changes, was in any way eroding its commitment to do what it can at diplomatic levels, at technological levels, and at all levels against terrorism. I would join him enthusiastically in a second.

I do not think that is the case. The administration's plan is designed to revitalize the counterterrorism office to make it more active, to make it less reactive. The coordinator for counterterrorism will be an Assistant Secretary of State, not a Deputy Assistant Secretary. He will be in the mainstream chain of command within the State Department, not an adjunct office lost in a big bureaucracy.

The coordinator will be the official in the Department responsible for counterterrorism.

Under the amendment of the junior Senator from New York, which is in the Senate's version of this bill and which the administration does not oppose, the Deputy Assistant Secretary for Counterterrorism, who will have a day-to-day responsibility for counterterrorism, would have the rank of ambassador subject to Senate confirmation. The new bureau will combine all of the State Department's counterrorism capabilities into a single bureau. In a crisis or emergency, there will be wider resources to draw upon to support counterterrorism efforts.

That, by the way, Assistant Secretary, the person who will take over the responsibility for coordinator, who will have a Deputy Assistant Secretary whose full responsibility will be in counterrorism, will be reporting to the Under Secretary that is being created by the administration's reorganization, our former colleague from Colorado, Mr. Wirth, who under the processes now existing in the State Department on a regular basis meets with the Secretary, avoiding the problem that we saw too many times in the past where the issue of counterterrorism is shunted off to the side, and the inputs from that office do not come into play in the geographic bureaus and, therefore, are not given sufficient credence in policy determinations.

Counterterrorism under the reorganization plan of the administration will remain a separate function within the reorganized Bureau of Narcotics, Terrorism, and Crime. It will not be folded into counternarcotics operations. However, given the close ties between drug trafficking and terrorism around the world, it makes sense to bring the resources of the Department on these important issues into one bureau.

Moreover, the new bureau will mirror the organization of some of our key allies who are focusing on terrorism, narcotics, and crime. Furthermore, Ambassador Robert Gelbard, who was recently confirmed to be Assistant Secretary for International Narcotics Matters, would become, under the reorganization plan, the Assistant Secretary for Narcotics, Terrorism, and Crime and the coordinator for counterterrorism. Ambassador Gelbard has both a professional and a personal interest in counterterrorism, professionally as a distinguished career diplomat with 27 years in the Foreign Service, and long experience in counterterrorism and narcotics issues. He is an expert in this field. He will bring enormous experience and energy to combating terrorism around the world.

It has been alleged and asserted by our former Ambassador at Large for Counterterrorism, Paul Bremer, that the administration has somehow by this reorganization gutted the current Office of Counterterrorism by cutting 40 percent of the staff. This claim is simply not true.

According to the State Department, the number of personnel in the Office of Counterterrorism at the working level is the same as it always has been and will remain that way under the reorganization plan.

Mr. Speaker, I think in the end the best argument I can make as to why we should not build too much hopes on how we particularly decide to reorganize this office within the executive branch is to recall that at the time when the Assistant Secretary ambassadorial rank Office of Counterterrorism existed in earlier years during the 1980's, there was a complete failure of that bureau to be able to impact on the policies of the geographic bureau, so you saw, for instance, the Bureau of Near East Affairs, and the gentleman from New York pointed out this problem many times during that time, the Bureau of Near East Affairs, notwithstanding Iraq and Saddam Hussein's continuous support for terrorism, having tremendous influence on the Secretary of State and on the whole executive branch in urging that Iraq be taken off the list of countries supporting terrorism, and resisting all efforts to put Iraq back on that list and not effectively denying Iraq the kind of materials and exports that a country on the terrorism list would otherwise have been eligible for even though we had a freestanding office headed by an Assistant Secretary, a distinguished ambassador; he could not infiltrate, he could not make his voice heard. He knew. He briefed us on the problems in Iraq, but he could not get his own Bureau of Near East Affairs to do anything about it.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. BERMAN. I am happy to yield to the gentleman from New York.

Mr. GILMAN. Just on that point with regard to Iraq being allowed to be taken off the terrorist list, I have been informed that removal was in 1982 before the office was created in 1985. So it was before there was an independent office.

Mr. BERMAN. The gentleman is correct. Iraq was taken off the list of countries supporting terrorism in 1982. The gentleman may remember the bill he cosponsored that I introduced to place Iraq back on the list of countries supporting terrorism. The gentleman, I know, had many of the same briefings I had from that terrorism office in 1985 and afterwards about the work of Abu Nidal, who had been based in Baghdad, about the fact that the *Achille Lauro* hijacking, that the individual who perpetrated that terrorism act was given safe haven in Baghdad, about the support of Ibu Abrahim, the suitcase bomber in Baghdad during that time. That terrorism office was telling us these problems with Iraq, and notwithstanding that, the Secretary of State and the administration were opposing our mutual efforts to put Iraq back on the list of countries supporting terrorism.

□ 1700

My point is it does not matter how you organize it; it is how much weight you give to it and how you organize so that policies that focus on counterterrorism can permeate the Department.

I would suggest that the structure that this administration has proposed, which would have the Undersecretary who meets with the Secretary on a daily basis, on a regular basis, bringing the concerns of the terrorism unit to the Secretary of State, can have more impact in the fight on terrorism than we did the old way, where you had a freestanding official who was floating around without the kind of access that allowed him to do that.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, is it not true that under the existing structure, the Office of Counterterrorism is a separate entity; is that not true?

Mr. BERMAN. It is.

Mr. GILMAN. It is not folded into any other organization. And the present person who coordinates that office is known as a coordinator with Assistant Secretary responsibilities.

Mr. BERMAN. That is right.

Mr. GILMAN. And what we are doing now under the reorganization plan is taking that coordinator in a separate office with ambassadorial title and Assistant Secretary status and folding him in with an office where we have crime responsibilities and narcotics responsibilities; is that accurate?

Mr. BERMAN. It is correct. The coordinator for counterterrorism will also have responsibilities, overall responsibilities, for narcotics and for crime.

Mr. GILMAN. That is why I am concerned that this is hardly the time to essentially downgrade our Government's attention to terrorism. There is no efficiency and no symbiosis to be gained for either policy by lumping these two disparate functions together.

And finally, the administration's proposal, I think, is a blueprint for bureaucratic incompetence. The Deputy Assistant Secretary for Counterterrorism will not have the bureaucratic muscle to pursue aggressive counterterrorism policies, at home or abroad. And so it will not be able to get its work done.

Since 1986, the agency, in developing and implementing our Government's counterterrorism policy, has been a separate entity. This it can do only when the Department's Office on Counterterrorism has sufficient bureaucratic clout within the Department of State and with other agencies.

It is for that reason that I have this letter before me signed by Ambassador Paul Bremer III, former Ambassador-at-Large for Counterterrorism; Peter C.W. Flory, former Associate Coordinator for Counterterrorism in the State Department; John P. Walters, former Deputy Director, Office of National Drug Control Policy; and William J. Olson, former Deputy Assistant Secretary for International Narcotics Matters, Department of State—all saying that their concern is not partisan. In fact, the reorganization plan, they state, was first prepared in the previous administration; rather, they are united in their professional concern that the Department of State not make a mistake certain to be costly to American security and Americans lives in the years to come.

DON'T GUT OUR COUNTER-TERRORISM CAPABILITY

DEAR SENATOR: As the Senate prepares to debate the State Department authorization bill (S. 1281), we respectfully urge you to support the House position retaining a strong U.S. counter-terrorism capability. The House bill would maintain an independent office of the Coordinator for Counter-Terrorism (S/CT), and underline the importance our country continues to place on fighting the scourge of terrorism.

Today the State Department is implementing a reorganization plan that would downgrade the Coordinator for Counter-Terrorism from an independent Assistant Secretary-level position to one among several Deputy Assistant Secretaries, under a new Assistant Secretary responsible for narcotics and international crime as well as terrorism.

This plan is deeply flawed.

1. This is hardly the time to downgrade our government's attention to terrorism.

The Administration's plan seems to assume that terrorism is no longer a serious threat. It is. Just in the past year, terrorism has arrived at America's shores in the World Trade Center bombing and the subsequent plots to assassinate a U.S. Senator and bomb other targets in New York City. President Saddam Hussein planned to assassinate former President Bush. Meanwhile, radical Shiite terrorism sponsored by Iran continues and is ominously joined by growing Sunni terror. Ethnic conflicts are expanding across the world, spawning more terror from which the U.S. will not be immune. Hijackings, which had been brought largely under control, have staged a dramatic return in Russia and China.

2. There is no efficiency and no symbiosis to be gained for either policy by lumping these two disparate functions together.

The plan's concept of linking counter-terrorism to counter-narcotics is superficial and flawed. While much has been written about the overlap of terrorism and narcotics trafficking, in fact these connections are limited and unimportant. True, some Latin American narcotics traffickers have used terrorism. Some terrorists, like Peru's Shining Path, have sold drugs. But the overwhelming majority of terrorist attacks against American targets has always been and remains rooted in political issues. Lumping these two unrelated functions together as proposed will eviscerate our counter-terrorism policy and needlessly undermine our counter-narcotics efforts. Proposing to friendly governments joint meetings of counter-terrorism and counter-narcotics agencies, as the Administration has done, will only confuse both the issues and our foreign interlocutors.

3. Finally, the Administration's proposal is a blueprint for bureaucratic impotence. The Deputy Assistant Secretary for Counter-Terrorism will not have the bureaucratic muscle to pursue aggressive counter-terrorism policies, at home or abroad. And so it will not get done.

The measures required to fight terrorism are never popular with vested interests, whether in the American or other countries' bureaucracies. It can only be done well with a relentless, high-level push, at home and overseas. Since 1986, the State Department has served as the lead agency in developing and implementing our government's counterterrorism policies. This it could do only when the Department's Office of Counter-Terrorism had sufficient bureaucratic clout, within the State Department, with other agencies in Washington, and abroad. Until now, the head of the State Department Counter-Terrorism office reported directly to the Secretary of State and had the appropriate rank to insist on seeing responsible foreign government officials.

Instead, the Administration proposes to bury the job in a new bureau, lowering its level to Deputy Assistant Secretary. The incumbent will report to the new Assistant Secretary, who will report to an Undersecretary—whose other global responsibilities include international population control, environmental matters, refugees, human rights, democratization, labor, oceans policy, and crime—who in turn will report to the Secretary of State. This long, cumbersome chain will fool no one, not least terrorists and foreign governments. It can only undermine our ability to pursue an effective counter-terrorism policy, and signal that the United States has decided terrorism is no longer a priority issue.

This mistake has been made before, for it was into precisely this bureaucratic morass that America's counter-terrorism policy had fallen in the early 1980s. Recognizing the need for better high-level coordination of counter-terrorism policy, in 1985 the President directed the State Department to upgrade the terrorism position to Ambassador-at-Large, with direct access to the Secretary of State. It worked. The policy was taken seriously by other agencies and governments.

Some have suggested resolving this bureaucratic flaw by designating the Assistant Secretary "Coordinator for Counter-Terrorism." But fighting terrorism and fighting narcotics is each a full time job. The new Assistant Secretary will necessarily devote most of the time to the demanding day-to-day budgetary, administrative, inter-agency, diplomatic and Congressional demands of the counter-narcotics portfolio. So the reality is that the Deputy Assistant Secretary will be the most senior person with time to focus on terrorism. Denying this person the title "Coordinator" will only compound the mistake of downgrading the job.

The solution to this deeply flawed plan is to leave things as they were a year ago, which is the specific intent of the House version of the State authorization bill.

Our concern is not partisan. In fact, the reorganization plan was first prepared in the previous administration. Rather we are united in a professional concern that the Department of State not make a mistake certain to be costly to American security and American lives, in the years to come.

Sincerely,

AMBASSADOR L. PAUL BREMER, III,
Former Ambassador-at-Large for Counter-Terrorism, Department of State.

PETER C.W. FLORY,
Former Associate Coordinator for Counter-Terrorism, Department of State.

JOHN P. WALTERS,
Former Deputy Director, Office of National Drug Control Policy.

WILLIAM J. OLSON,
Former Deputy Assistant, Secretary for Int'l Narcotics Matters, Department of State.

Mr. BERMAN. If I may reclaim my time, I want to make it very clear that I do not think that the gentleman from New York [Mr. GILMAN] is motivated by partisan concerns; I know that he passionately believes in an effective counterterrorism operation and that he also believes his suggested way of achieving it makes the most sense organizationally.

The only thing sillier for me to do than to get worked up on a motion that I do not intend to vote against is to keep the body here much longer getting worked up about a motion that I do not intend to oppose or vote against.

Mr. GILMAN. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SOLOMON], the distinguished ranking member of the Committee on Rules.

Mr. SOLOMON. I thank the gentleman from New York for yielding this time to me.

Mr. Speaker, you know, as the World Trade Center bombing last year so clearly displayed, terrorism remains a major threat to America and to her citizens. That is why I joined last year with our colleagues, the gentleman from New York [Mr. GILMAN], the gentleman from New York [Mr. NADLER], a Democrat, and the gentlewoman from New York [Ms. MOLINARI], a Republican, in offering an amendment to H.R. 2333, which would have preserved the Office of the Coordinator of Counterterrorism at the State Department.

Mr. BERMAN. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from New York.

Mr. BERMAN. I thank the gentleman for yielding.

Mr. Speaker, at the time of the World Trade Center bombing, we had an assistant secretary solely responsible, and the head of, the Office of Counterterrorism.

Mr. SOLOMON. The gentleman is absolutely right.

Let me just say that this Office has been in the forefront of our fight against this menace, and it must be preserved at all costs. The cost is not that great; as a matter of fact, it is a minus.

Mr. Speaker, there is absolutely no reason to believe that the terrorist threat is so diminished that we can afford to do away with that Office. Without question, without question, this is precisely the wrong time to send a signal to the world that we are downgrading our counterterrorist effort.

The language of the Senate in this bill would do just that. I therefore urge support of the Gilman motion to instruct conferees to maintain this vital Office that will save the Federal Government money. It will actually save the Federal Government money in the long run; but more importantly, Mr. Speaker, it will save American lives.

I do not know how many Members have taken the time to be briefed by the various intelligence agencies, whether it is the CIA or the Defense Intelligence Agency, or any of the agencies about the potential threat which is there. You know, you hate to even mention this on the floor for public consumption, but one simple little act in the water supply of a metropolis like the city of New York, with 8 million people, could kill 2 million people in a matter of minutes. Yet here we are going to deemphasize this terribly, terribly important Office. I do not like to play politics either, but the same thing came up this year when we talked about trying to preserve the drug czar's office and to zero in on the deadly drugs being brought into this country and being sold in schools right next door in Baltimore, where we have one individual bringing in a ton of cocaine and then using fifth graders to distribute it for them.

The Drug Czar's Office, in order to cut back like we did on our own staffs here, they laid of three-fourths of the Drug Czar's Office and hardly anybody else. Now that whole issue is being deemphasized.

I say to my good friend, the gentleman from California [Mr. BERMAN], I know he is sincere and not politically motivated in any way, but I am afraid that is what is going to happen to this office. We cannot afford to let that happen.

So, please vote for the motion to instruct.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his poignant remarks.

Mr. BERMAN. Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. SAXTON].

Mr. SAXTON. I thank the gentleman for yielding this time to me.

Mr. Speaker, I have enjoyed the colloquy taking place here between Mr. BERMAN, Mr. GILMAN, and Mr. SOLOMON. I guess all of us have to decide for ourselves whether the language in the Senate bill represents a downgrading of the effort carried out by the Office of Counterterrorism.

It appears to me, and the people who have been advising me, that it does constitute at least a potential downgrading of the Office of Counterterrorism, and I think everybody who has participated in the discussion and debate here to date this afternoon has agreed on that point. If it is a downgrading, certainly the State Department proposal would reduce the Office of Counterterrorism, which now focuses strictly on terrorism, to a lower level, Deputy Assistant Secretary, who would be responsible for 3 areas, as was pointed out by the gentlemen from New York, Mr. SOLOMON and Mr. GILMAN, and of course they are crime, narcotics, and terrorism.

□ 1710

So, Mr. Speaker, there are two reasons, I think two very distinct reasons, why I believe this is ill-conceived and that the Gilman motion should be supported.

Mr. BERMAN. Mr. Speaker, will the gentleman yield for one clarification?

Mr. SAXTON. I yield to the gentleman from California.

Mr. BERMAN. The Deputy Assistant Secretary under the administration's proposal would be responsible only for counterterrorism. It is the Assistant Secretary that would have the responsibilities for terrorism, narcotics, and——

Mr. SAXTON. That is correct; I am sorry if I misspoke. The gentleman is correct. But in effect we would have three departments rolled into one under one leader, and of course that is what those of us who think that this is ill-advised object to, and there are two reasons for this.

Mr. Speaker, the first and very distinct one is that the downgrading of this office would bury counter- terrorism in the battle against drugs. It would all be rolled into the same department.

The second distinct reason is that by downgrading this office, Mr. Speaker, the Clinton administration would send a signal that we have forgotten, to some degree at least, the bombings of the Marines in Lebanon and that we are not concerned, as much at least, with the future acts of Hamas, the Hezbollah, and Fatah, and others in our country and around the world.

Mr. Speaker, I think it is very clear that those are two very distinct concerns that we need to address in conference. The threat of terrorism in the United States today is greater than it has ever been before.

The State Department, I believe, is wrong to focus on the number of terrorist incidents in this country and say that this move is OK because that number has not been great. As a matter of fact, one of the reasons that that number has been kept low is because we have been able, through our efforts, to uncover potential acts of terrorism, planned acts of terrorism, before they have taken place.

So, Mr. Speaker, by downgrading this office we send a message to the families of the victims of Pan Am 103, a bombing, that we are not interested in pursuing the perpetuators of these brutal murders as we perhaps at one time were. This is not a time to be scaling back on our efforts against terrorism, and so I believe we must bolster our efforts to prevent terrorist acts against Americans both here and abroad as in the Gilman language, and the Gilman motion, I believe, moves in that direction.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from New Jersey [Mr. SAXTON] for his supporting remarks.

Mr. Speaker, I would like to note in response to the remarks of the gentleman from California [Mr. BERMAN] that an equivalent assistant secretary for counterterrorism was extremely helpful in being able to bring back to our country one of the defendants from Egypt to stand trial in New York for the World Trade Center bombing, and I would like to submit, Mr. Speaker, that this is the first recorded vote on our Government's position and posture toward international terrorism since the New York World Trade Center bombing occurred last February.

Mr. Speaker, this motion will help us maintain the independent, high level office of the coordinator for counterterrorism in the State Department, and without this amendment the State Department will reduce the counterterrorism office to a low-level deputy assistant secretary in an office handling both international narcotics and crime, and without it the State Department would downgrade the counterterrorism function at the very time the terrorism has come to American soil.

Do not let the State Department send a wrong signal to friends and foes alike around the globe that the threat of international terrorism is not a top priority of our own Government and our State Department. Please support the Gilman-Nadler-Solomon-Molinari amendment to H.R. 2333.

Mr. Speaker, I am waiting for another speaker who is supposed to be on his way.

Mr. Speaker, I yield to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I am sorry that I cannot oblige the gentleman from New York [Mr. GILMAN], but I have no more speakers.

Mr. GILMAN. Then, Mr. Speaker, at this time I would like to insert in the RECORD a letter from the Anti-Defamation League that was dated January 25, 1994. It is from the Klinghoffers, and we may recall that they were victims of terrorism, and they state on behalf of the Leon and Marilyn Klinghoffer Memorial Foundation of the Anti-Defamation League:

> * * * we are writing to express our concern over the proposed State Department reorganization that would eliminate the independent office of the Coordinator for Counterterrorism.

Mr. BERMAN. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from California.

Mr. BERMAN. Mr. Speaker, I gather the gentleman is waiting for someone to come to the floor. I just want to say with all due respect, I think it is a little tortured to use the Klinghoffers' letter or the World Trade Center bombing, both of which occurred while there was a "high level coordinator of counterterrorism," the halcyon days which you are seeking to go back to, as an argument for why we should go back to them when these horrible incidents happened during that time. I think that buttresses the point that how you organize it is less important than what we do.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from California [Mr. BERMAN] for his remarks. there is no question that organization within the agency is the most effective way to approach it, but we do not want to bury it in with the massive problems that an office on crime and an office on narcotics would have which would detract from the time that would be taken from an administrator on counterterrorism.

Mr. Speaker, I ask unanimous consent that the letter to which I referred from the Klinghoffer Foundation be made part of the RECORD.

The Speaker pro tempore (Mr. HAYES). Is there objection to the request of the gentleman from New York?

There was no objection.

The letter in its entirety is as follows:

ANTI-DEFAMATION LEAGUE
OF B'NAI B'RITH,
New York, NY, January 25, 1994.

DEAR SENATOR, on behalf of the Leon and Marilyn Klinghoffer Memorial Foundation of the Anti-Defamation League, we are writing to express our concern over the proposed State Department reorganization that would eliminate the independent office of the Coordinator for Counterterrorism.

We welcome the President's demonstrated commitment to the fight against terrorism and respect to changing budgetary and political realities that pose new challenges to the State Department operations. However, we are concerned that the country's counterterrorism mission may be weakened when one Assistant Secretary is also responsible for such critical national priorities as narcotics and international crime—two areas that, individually, demand very substantial resources and attention.

At a time when the threat of international and domestic terrorism is growing, and at a time when terrorists have carried out attacks against the United States on our soil, the proposed delegation of responsibility for the Coordinator for Counterterrorism to a Deputy Assistant Secretary sends the wrong signal. We must avoid any suggestion that combatting terrorism is a diminishing national priority. We must do all we can to maintain U.S. credibility and effectiveness in dealing with foreign officials on this issue.

We urge the Senate to vote to maintain the integrity of a separate Office of Counterterrorism, headed by an Assistant Secretary-level official, to ensure the most effective implementation of the administration's counterterrorism policies and initiatives.

Sincerely,
LISA KLINGHOFFER and
ILSA KLINGHOFFER,
Leon and Marilyn Klinghoffer Memorial Foundation of the Anti-Defamation League.

Mr. GILMAN. Mr. Speaker, they concluded that they urge a vote to maintain the integrity of a separate office of counterterrorism headed by an assistant-secretary level official to make certain that there would be most effective implementation of the administration's counterterrorism policies and initiatives.

Mr. Speaker, having no further requests for time, I yield back the balance of my time.

Mr. BERMAN. Mr. Speaker, I, too, yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from New York [Mr. GILMAN].

The question was taken; and the Speaker pro tempore announced that the nays appeared to have it.

Mr. GILMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 357, nays 2, not voting 73, as follows:

[Roll No. 113]

YEAS—357

Abercrombie
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baker (CA)
Ballenger
Barca
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Clayton
Clinger
Clyburn
Coble
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Ford (MI)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Gordon
Goss
Grams
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Klein
Klink
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Levin
Levy
Lewis (CA)
Lewis (GA)
Lightfoot
Linder
Lloyd
Long
Machtley
Maloney
Mann
Manton
Manzullo
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDermott
McHale
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Myers
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Poshard
Price (NC)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaugther
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Studds
Stump
Stupak
Swift
Synar
Tanner
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thurman
Torkildsen
Torres
Traficant
Tucker
Unsoeld
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Waters
Watt
Waxman
Weldon
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynh
Yates
Young (AK)
Zeliff
Zimmer

NAYS—2

Kanjorski
Penny

NOT VOTING—73

Ackerman
Baesler
Baker (LA)
Barlow
Barrett (WI)
Becerra
Blackwell
Burton
Chapman
Clay
Clement
Coleman
Cooper
DeLay
Doolittle
Engel
English
Fields (TX)
Fish
Foglietta
Ford (TN)
Gallegly
Gallo
Goodling
Grandy
Gunderson
Hastings
Hefner
Houghton
Jefferson
Kaptur
Kleczka
Klug
Lehman
Lewis (FL)
Lipinski
Livingston
Lowey
Margolies-Mezvinsky
McCollum
McDade
McHugh
Mfume
Murphy
Murtha
Nadler
Owens
Payne (NJ)
Peterson (FL)
Portman
Pryce (OH)
Ridge
Rose
Rostenkowski
Sanders
Sangmeister
Santorum
Slattery
Stark
Stokes
Sundquist
Swett
Talent
Tauzin
Thornton
Torricelli
Towns
Valentine
Walsh
Washington
Wheat
Whitten
Young (FL)

□ 1738

Mr. PENNY changed his vote from "yea" to "nay."

Mr. SKEEN changed his vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. ENGLISH of Arizona. Mr. Speaker, because of a family illness, I was unavoidably absent during rollcall vote No. 113 regarding the motion to instruct on H.R. 2333, State Department authorization. Had I been present I would have voted "aye."

PERSONAL EXPLANATION

Mr. MFUME. Mr. Speaker, I was unavoidably detained in my Congressional district on official business and thus was not able to make rolecall vote No. 113, on instructing the conferees to retain the House position when in conference on the bill H.R. 2333, the State Department authorization.

Had I been here, I would have voted "aye."

□ 1740

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Ms. DELAURO). The Chair will appoint conferees on House Concurrent Resolution 222 after the next vote.

GENERAL LEAVE

Mr. GILMAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the motion to instruct just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

RAOUL WALLENBERG BUST PLACEMENT IN THE U.S. CAPITOL

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 222.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. ROSE] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 222, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 358, nays 0, not voting 74, as follows:

[Roll No. 114]

YEAS—358

Abercrombie
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baker (CA)
Ballenger
Barca
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Clayton
Clinger
Clyburn
Coble
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Gordon
Goss
Grams
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Klein
Klink
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Levin
Levy
Lewis (CA)
Lewis (GA)
Lightfoot
Linder
Lloyd
Long
Machtley
Maloney
Mann
Manton
Manzullo
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDermott
McHale
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Myers
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Pelosi
Penny
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Poshard
Price (NC)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Studds
Stump
Stupak
Swift
Synar
Tanner
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thurman
Torkildsen
Torres
Traficant
Tucker
Unsoeld
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Waters
Watt
Waxman
Weldon
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Zeliff
Zimmer

NOT VOTING—74

Ackerman
Baesler
Baker (LA)
Barlow
Barrett (WI)
Becerra
Blackwell
Burton
Chapman
Clay
Clement
Coleman
Cooper
DeLay
Doolittle
Engel
English
Fields (TX)
Fish
Foglietta
Ford (MI)
Ford (TN)
Gallegly
Gallo
Goodling
Grandy
Gunderson
Hastings
Hefner
Houghton
Jefferson
Kaptur
Kleczka
Klug
Lehman
Lewis (FL)
Lipinski
Livingston
Lowey
Margolies-Mezvinsky
McCollum
McDade
McHugh
Mfume
Murphy
Murtha
Nadler
Owens
Payne (NJ)
Peterson (FL)
Portman
Pryce (OH)
Ridge
Rose
Rostenkowski
Sanders
Sangmeister
Santorum
Slattery
Stark
Stokes
Sundquist
Swett
Talent
Tauzin
Thornton
Torricelli
Towns
Valentine
Walsh
Washington
Wheat
Whitten
Young (FL)

□ 1756

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. ENGLISH of Arizona. Mr. Speaker, because of a family illness, I was unavoidably absent during rollcall vote No. 114 regarding House Concurrent Resolution 222, the Raoul Wallenburg bust placement within the Capitol. Had I been present I would have voted "aye."

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, I regret that I was not present on Monday, April 18, 1994 to vote on rollcall vote No. 113 and No. 114. Had I been present I would have voted the following:

No. 113, House Concurrent Resolution 222 which would authorize the placement of the bust of Raoul Wallenberg in the Capitol, "yes."

No. 114, H.R. 2333, a motion to instruct conferees on the State Department authorization bill, "yes."

I believe we can ill-afford to downgrade our counterterrorism efforts by eliminating the counterterrorism desk at the State Department. I support Mr. GILMAN'S efforts to ensure strong U.S. counterterrorism efforts.

PERSONAL EXPLANATION

Mr. MFUME. Mr. Speaker, due to some pressing business in my congressional district in Baltimore, I was unable to be on the floor during the vote on House Concurrent Resolution 222, placing a bust of Raoul Wallenberg in the Capitol.

Mr. Wallenberg is an extremely deserving individual of this high praise, and had I been here I certainly would have voted "aye."

PERSONAL EXPLANATION

Mr. NADLER. Mr. Speaker, I was unavoidably detained in my district on official business and was granted a leave of absence.

Had I been present, I would have voted "yea" on the Gilman motion to instruct House conferees on H.R. 2333 [Roll No. 113] to insist upon the provision contained in section 132(f) of the House bill relating to the continuation of the office of the Coordinator for Counterterrorism at the Department of State. I had offered this language with my colleague from New York [Mr. GILMAN] when the House considered its version of the bill.

I would also have voted "yea" on House Concurrent Resolution 222 [Roll No. 114] to authorize the placement of a bust of Raoul Wallenberg in the Capitol. As a member of the Holocaust Memorial Council, and the congressional representative of the largest number of holocaust survivors in the country, I am pleased to join this unanimous House in supporting the placement of a bust to honor the distinguished work of that courageous diplomat.

PERSONAL EXPLANATION

Mr. PORTMAN. Mr. Speaker, as a result of a death in my family, I missed two votes. Had I been in attendance, I would have voted "aye" on Rollcall votes numbers 113 and 114.

PERSONAL EXPLANATION

Mr. PETERSON of Florida. Due to an illness in my family, I was unable to attend House votes on April 18. Had I been present, I would have voted "aye" on rollcall votes 113, 114.

EXPLANATION OF MISSED ROLLCALL VOTE

Mr. BECERRA. Mr. Speaker, I unavoidably missed rollcall votes No. 113 and No. 114. Had I been present I would have voted "aye" to House Concurrent Resolution 222 which would authorize the placement of the bust of Raoul Wallenberg in the Capitol. I would have also voted "aye" to H.R. 2333, a motion to instruct conferees on the State Department authorization bill.

APPOINTMENT OF CONFEREES ON H.R. 2333, STATE DEPARTMENT, USIA, AND RELATED AGENCIES AUTHORIZATION ACT, FISCAL YEARS 1994 AND 1995

The SPEAKER pro tempore (Ms. DELAURO). Without objection, the Chair appoints the following conferees on H.R. 2333:

From the Committee on Foreign Affairs, for consideration of the House bill (except sections 163, 167, 188, 190–93), and Senate amendment (except titles V, VI, IX–XV and sections 162–170E, 189, 701–22, 724–28, 730–31, 734–36, 774–46, 748–61, 763), and modifications committed to conference:

Messrs. HAMILTON, BERMAN, FALEOMAVAEGA, MARTINEZ, ANDREWS of New Jersey, MENENDEZ, LANTOS, JOHNSTON of Florida, and GILMAN, Ms. SNOWE, and Messrs. HYDE, DIAZ-BALART, and LEVY.

From the Committee on Foreign Affairs, for consideration of sections 188, 190–93 of the House bill, and titles V, VI, IX–XII, and XIII–XIV, sections 163–64, 168–69, 189, 701–22, 724–26, 728, 730–31, 734–36, 744–46, 748–57, 759–61 and 763 of the Senate amendment, and modifications committed to conference:

Messrs. HAMILTON, GEJDENSON, LANTOS, TORRICELLI, BERMAN, ACKERMAN, JOHNSTON of Florida, FALEOMAVAEGA, GILMAN, and ROTH, Ms. SNOWE, Mr. HYDE, and Mr. BEREUTER.

From the Committee on Foreign Affairs, for consideration of title XII, sections 727 and 758 of the Senate amendment, and modifications committed to conference:

Messrs. HAMILTON, GEJDENSON, LANTOS, TORRICELLI, BERMAN, ACKERMAN, JOHNSTON of Florida, FALEOMAVAEGA, GILMAN, and ROTH, Ms. SNOWE, Mr. HYDE, and Mr. ROHRABACHER.

From the Committee on Foreign Affairs, for consideration of sections 163 and 167 of the House bill, and title XV, sections 162, 165–67, 107A–E, and 190 of the Senate amendment, and modifications committed to conference:

Messrs. HAMILTON, GEJDENSON, LANTOS, TORRICELLI, BERMAN, ACKERMAN, JOHNSTON of Florida, FALEOMAVAEGA, GILMAN and GOODLING, Ms. SNOWE, Mr. HYDE, and Mr. BEREUTER.

As additional conferees from the Committee on Armed Services, for consideration of section 170B, 170C(a), 170E(a), 721, 726(b)(2), 734, 749(b)(4), 760, 804, 810, and 1329 of the Senate amendment, and modifications committed to conference:

Messrs. DELLUMS, SISISKY, SPRATT, SPENCE, and HUNTER.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 759, 1003, 1104, and 1323–25 of the Senate amendment, and modifications committed to conference:

Messrs. GONZALEZ, FRANK of Massachusetts, NEAL of North Carolina, LEACH, and BEREUTER.

As additional conferees from the Committee on Energy and Commerce, for consideration of section 731 of the Senate amendment, and modifications committed to conference:

Mr. DINGELL, Mrs. COLLINS of Illinois, and Messrs. MANTON, MOORHEAD, and STEARNS.

As additional conferees from the Committee on Government Operations, for consideration of sections 189 and 721 of the Senate amendment, and modifications committed to conference:

Messrs. CONYERS, SYNAR, CONDIT, CLINGER, and THOMAS of Wyoming.

As additional conferees from the Committee on the Judiciary, for consideration of section 133(n) of the House bill, and sections 136, 605, 704, 705, 723, 727, 748, 751, 758, 1201 and 1202 of the Senate amendment, and modifications committed to conference:

Messrs. BROOKS, MAZZOLI, BRYANT, MCCOLLUM, and SMITH of Texas.

As additional conferees from the Committee on Natural Resources, for consideration of section 164(c) of the House bill, and section 171(c) of the Senate amendment, and modifications committed to conference:

Messrs. MILLER of California, VENTO, DEFAZIO, YOUNG of Alaska and SMITH of Oregon.

As additional conferees from the Committee on Post Office and Civil Service, for consideration of sections 132(a), 133(e), 141–50, 254, 302(b) and 307 of the House bill, and sections 131, 141–53, 155, 229, 234, 309(h), 405(e), 407, 734, 747 and 814 of the Senate amendment, and modifications committed to conference:

Mr. CLAY, Mr. MCCLOSKEY, Ms. NORTON, Mr. MYERS of Indiana, and Mrs. MORELLA.

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 764, 1104–05, and 1402(g) of the Senate amendment, and modifications committed to conference:

Messrs. MINETA, OBERSTAR, APPLEGATE, SHUSTER, and CLINGER.

As additional conferees from the Committee on Rules, for consideration of sections 714, 1003 and 1326 of the Senate amendment, and modifications committed to conference:

Messrs. MOAKLEY, DERRICK, and SOLOMON.

There was no objection.

INTRODUCTION OF THE TRANSPORTATION EMPLOYEE EQUITABLE TREATMENT ACT OF 1994

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute.)

Mrs. UNSOELD. Mr. Speaker, most people think taxation without representation ended a few years after the Boston Tea Party. Well, it did not.

Those who work on America's waterways—on the Columbia and Mississippi Rivers, on the Great Lakes and along our seaboards—are subject to income taxes in States other than the one in which they reside. If their work takes them over a State line, they could be a victim of unfair taxation.

What makes this particularly objectionable is that air, rail, and road transportation workers are exempted from State income taxes except in their home States.

Today, I am introducing the Transportation Employee Equitable Treatment Act of 1994. My bill offers water carriers the same safeguard from unfair taxation that other transportation workers already enjoy.

I urge my colleagues to join in this effort to end taxation without representation. It is only fair.

□ 1800

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MILLER of California). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each further motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, April 19, 1994.

ENVIRONMENTAL EXPORT PROMOTION ACT OF 1994

Mr. GEJDENSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3813) to amend the Export Enhancement Act of 1988 to promote further United States exports of environmental technologies, goods, and services as amended.

The Clerk read as follows:

H.R. 3813

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Environmental Export Promotion Act of 1994".

SEC. 2. PROMOTION OF UNITED STATES ENVIRONMENTAL EXPORTS.

(a) ENVIRONMENTAL TECHNOLOGIES TRADE ADVISORY COMMITTEE.—Section 2313 of the Export Enhancement Act of 1988 (15 U.S.C. 4728) is amended—

(1) by striking subsection (d);

(2) by redesignating subsection (c) as subsection (e); and

(3) by inserting after subsection (b) the following:

"(c) ENVIRONMENTAL TECHNOLOGIES TRADE ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT AND PURPOSES.—The Secretary, in carrying out the duties of the chairperson of the TPCC, shall establish the Environmental Technologies Trade Advisory Committee (hereafter in the section referred to as the 'Committee'). The purpose of the Committee shall be to provide advice and guidance to the Working Group in the development and administration of programs to expand United States exports of environmental technologies, goods, and services.

"(2) MEMBERSHIP.—The members of the Committee shall be drawn from representatives of—

"(A) environmental businesses, including small businesses;

"(B) trade associations in the environmental sector;

"(C) private sector organizations involved in the promotion of environmental exports;

"(D) States (as defined in section 2301(i)(5)) and associations representing the States; and

"(E) other appropriate interested members of the public.

The Secretary shall appoint as members of the Committee at least 1 individual under each of subparagraphs (A) through (E).

"(d) EXPORT PLANS FOR PRIORITY COUNTRIES.—

"(1) PRIORITY COUNTRY IDENTIFICATION.—The Working Group, in consultation with the Committee, shall annually assess which foreign countries have markets with the greatest potential for the export of United States environmental technologies, goods, and services, Of these countries the Working Group shall select as priority countries 5 with the greatest potential for the application of United States Government export promotion resources related to environmental exports.

"(2) EXPORT PLANS.—The Working Group, in consultation with the Committee, shall annually create a plan for each priority country selected under paragraph (1), setting forth in detail ways to increase United States environmental exports to such country. Each such plan shall—

"(A) identify the primary public and private sector opportunities for United States exporters of environmental technologies, goods, and services in the priority country;

"(B) analyze the financing and other requirements for major projects in the priority country which will use environmental technologies, goods, and services, and analyze whether such projects are dependent upon financial assistance from foreign countries or multilateral institutions; and

"(C) list specific actions to be taken by the member agencies of the Working Group to increase United States exports to the priority country.".

(b) ADDITIONAL MECHANISMS TO PROMOTE ENVIRONMENTAL EXPORTS.—Section 2313 of the Export Enhancement Act of 1988 is further amended by adding at the end the following:

"(f) ENVIRONMENTAL TECHNOLOGIES SPECIALISTS IN THE UNITED STATES AND FOREIGN COMMERCIAL SERVICE.—

"(1) ASSIGNMENT OF ENVIRONMENTAL TECHNOLOGIES SPECIALISTS.—The Secretary shall assign a specialist in environmental technologies to the office of the United States and Foreign Commercial Service in each of the 5 priority countries selected under subsection (d)(1), and the Secretary is authorized to assign such a specialist to the office of the United States and Foreign Commercial Service in any country that is a promising market for United States exports of environmental technologies, goods, and services. Such specialist may be an employee of the Department, an employee of any relevant United States Government department or agency assigned on a temporary or limited term basis to the Commerce Department, or a representative of the private sector assigned to the Department of Commerce.

"(2) DUTIES OF ENVIRONMENTAL TECHNOLOGIES SPECIALISTS.—Each specialist assigned under paragraph (1) shall provide export promotion assistance to United States environmental businesses, including, but not limited to—

"(A) identifying factors in the country to which the specialist is assigned that affect the United States share of the domestic market for environmental technologies, goods, and services, including market barriers, standards-setting activities, and financing issues;

"(B) providing assessments of assistance by foreign governments that is provided to producers of environmental technologies, goods, and services in such countries in order to enhance exports to the country to which the specialist is assigned, the effectiveness of such assistance on the competitiveness of United States products, and whether comparable United States assistance exists;

"(C) training Foreign Commercial Service Officers in the country to which the specialist is assigned, other countries in the region, and United States and Foreign Commercial Service offices in the United States, in environmental technologies and the international environmental market;

"(D) providing assistance in identifying potential customers and market opportunities in the country to which the specialist is assigned;

"(E) providing assistance in obtaining necessary business services in the country to which the specialist is assigned;

"(F) providing information on environmental standards and regulations in the country to which the specialist is assigned; and

"(G) providing information on all United States Government programs that could assist the promotion, financing, and sale of United States environmental technologies, goods, and services in the country to which the specialist is assigned.

"(g) ENVIRONMENTAL TRAINING IN ONE-STOP SHOPS.—In addition to the training provided under subsection (f)(2)(C), the Secretary shall establish a mechanism to train—

"(1) Commercial Service Officers assigned to the one-stop shops provided for in section 2301(b)(8); and

"(2) Commercial Service Officers assigned to district offices in districts having large numbers of environmental businesses, in environmental technologies and in the international environmental marketplace, and ensure that such officers receive appropriate training under such mechanism. Such training may be provided by officers or employees of the Department of Commerce, and other United States Government departments and agencies, with appropriate expertise in environmental technologies and the international environmental workplace, and by appropriate representatives of the private sector.

"(h) INTERNATIONAL REGIONAL ENVIRONMENTAL INITIATIVES.—

"(1) ESTABLISHMENT OF INITIATIVES.—The TPCC shall establish one or more international regional environmental initiatives the purpose of which shall be to coordinate the activities of Federal departments and agencies in order to build environmental partnerships between the United States and the geographic region outside the United States for which such initiative is established. Such partnerships shall enhance environmental protection and promote sustainable development by using in the region technical expertise and financial resources of United States departments and agencies that provide foreign assistance and by expanding United States exports of environmental technologies, goods, and services to that region.

"(2) ACTIVITIES.—In carrying out each international regional environmental initiative, the TPCC shall—

"(A) support, through the provision of foreign assistance, the development of sound environmental policies and practices in countries in the geographic region for which the initiative is established, including the development of environmentally sound regulatory regimes and enforcement mechanisms;

"(B) identify and disseminate to United States environmental businesses information regarding specific environmental business opportunities in that geographic region;

"(C) coordinate existing Federal efforts to promote environmental exports to that geographic region, and ensure that such efforts are fully coordinated with environmental export promotion efforts undertaken by the States and the private sector;

"(D) increase assistance provided by the Federal Government to promote exports from the United States of environmental technologies, goods, and services to that geographic region, such as trade missions, reverse trade missions, trade fairs, and programs in the United States to train foreign nationals in United States environmental technologies; and

"(E) increase high-level advocacy by United States Government officials (including the United States ambassadors to the countries in that geographic region) for United States environmental businesses seeking market opportunities in that geographic region.

"(i) Environmental Technologies Project Advocacy Calendar and Information Dissemination Program.—The Working Group shall maintain a calendar, updated at the end of each calendar quarter, of significant opportunities for United States environmental businesses in foreign markets and trade promotion events, which shall be made available to the public. Such calendar shall—

"(1) identify the 50 to 100 environmental infrastructure and procurement projects in foreign markets that have the greatest potential in the calendar quarter for United States exports of environmental technologies, goods, and services; and

"(2) include trade promotion events, such as trade missions and trade fairs, in the environmental sector.

The Working Group shall also provide, through the National Trade Data Bank and other information dissemination channels, information on opportunities for environmental businesses in foreign markets and information on Federal export promotion programs.

"(j) Regional Centers.—The Secretary, through the Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service, is authorized to provide matching funds for the establishment in the United States of regional environmental business and technology cooperation centers that will draw upon the expertise of the private sector and institutions of higher education and existing Federal programs to provide export promotion assistance related to environmental technologies, goods, and services.

"(k) Definition.—For purposes of this section, the term 'environmental business' means a business that produces environmental technologies, goods, or services.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut [Mr. GEJDENSON] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. ROTH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, under an agreement with the gentleman from Wisconsin [Mr. ROTH], I yield such time as he may consume to the gentleman from Massachusetts [Mr. STUDDS] who has played a very important role in this legislation.

Mr. STUDDS. Mr. Speaker, I thank the gentleman for his kindness.

Mr. Speaker, as an original cosponsor of this bill and avid proponent of the programs it establishes to promote U.S. exports of environmental technologies, goods, and services, I rise in strong support of H.R. 3813.

I wish to especially thank the chairman of the Foreign Affairs Subcommittee on Economic Policy, Trade and Environment for his cooperation in crafting this legislation. It has been a pleasure working with Mr. GEJDENSON and with Ms. FURSE on this proposal.

H.R. 3813 shares a common goal with legislation Congresswoman FURSE and I introduced last year—the National Environmental Trade Development Act of 1993—H.R. 2112—and that is to help U.S. companies export their environmental products and services and to help other countries solve their environmental problems.

This legislation is needed if American businesses are to take advantage of the growing global market for environmental technologies. The market stands at $200 billion a year now, and experts project that it will grow to close to $600 billion by the year 2000. The United States, which pioneered the concept of strong environmental protection laws, must be in the forefront of capturing this market. If we establish a viable public-private partnership, we can take advantage of the expanding market for environmental technologies and create as many as 30,000 new jobs in this country.

In Massachusetts alone, there are over 1,300 companies employing over 40,000 people in "green" businesses. Many of these companies have been leaders in the development of environmental technologies. They have developed ways to recycle laundry grey water, have developed a method using the natural properties of plants and sunlight to treat sewage, and, in the case of Molten Metals, have figured out how to safely recycle chemical waste. I applaud their ingenuity and support their efforts with this legislation.

The New England region has also been at the forefront of recognizing the importance of overseas markets for the sale of U.S. environmental technologies. New England companies and institutions, including the University of Massachusetts, have formed the Environmental Business Council of New England and launched the Environmental Business Council of the United States, the first truly national trade association for "green" companies. The efforts and foresight of the EBC under the wise leadership of Don Connors and Jack Driscoll have brought us to where we are today. I applaud their efforts as well as those of President Michael Hooker of the University of Massachusetts who has played a key role in linking the university and industry in promoting environmental technology and business.

The Gejdenson-Studds-Furse bill supports the public-private partnership that the EBC and others have already begun. I wish to point out two principal examples of how the legislation does this. One is the creation of the Environmental Technologies Trade Advisory Committee, a committee of business, State, and private sector organizations, that will advise the Secretary of Commerce and other agencies involved in export promotion on how to expand U.S. exports of environmental technologies, goods, and services. The committee will also help identify five priority countries with the greatest potential for acquiring U.S. environmental exports and develop a marketing plan for each priority country.

The other significant way the bill fosters a public-private partnership is by sponsoring Regional Environmental Business and Technology Cooperation Centers. These centers, to be funded by matching grants from the Commerce Department, will be run by the private sector. They will provide hands-on technical assistance to environmental businesses in the region they serve on how to export their products as well as provide training to foreign nationals on uses of U.S. products and services. States like Massachusetts and Oregon where environmental companies are already clustered are ideal locations to try out the regional center concept.

Finally, I wish to point out that the bill is consistent with the administration's own environmental export strategy, which it released last November at a ceremony in which representatives of Massachusetts companies and I were pleased to participate. There is no doubt Secretary Ron Brown and the Clinton administration recognize the need to help U.S. companies promote their products and services overseas by finding new and innovative ways for the Government and the private sector to work together. Passage of this bill will help the administration move its strategy forward.

I am proud to be associated with this legislation and urge my colleagues to support its passage in the House.

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the U.S. economy is littered with industries that have fallen victim to unfair trade practices and to the high levels of export assistance provided by other countries. For decades, the U.S. Government simply waited too long to go to bat for key sectors of our economy on the international trade front.

Today, we have an opportunity to work with the administration to change this pattern of failure. In considering H.R. 3813, the Environmental Export Promotion Act, Congress has an opportunity to help ensure the continued vitality of the U.S. environmental sector in the international marketplace. We also have an opportunity to protect jobs here at home.

This legislation grew out of hearings held by the Subcommittee on Economic Policy, Trade and Environment, which I chair. Unlike many of the subcommittee's hearings, the Government and private-sector witnesses actually arrived at strikingly similar conclusions.

First, the United States had a $4 billion trade surplus in the environmental sector in 1990, but our major competitors are gaining fast. The American environmental industry must not be allowed to lose its competitive position.

Second, environmental exports not only help American firms and American workers, but also help to protect the global environmental. We all benefit from the diffusion on state-of-the-art environmental technology to developing countries.

Third, the international market for environmental goods and services is growing rapidly. It currently stands at $270 billion annually, and is likely to grow to $400–$600 billion by the end of the decade.

If U.S. firms manage to capture 20 percent of the growth anticipated in the overseas environmental market, an estimated 300,000 new American jobs will be created over the next 7 years. In my home State of Connecticut, for instance, increased envirotech exports will increase employment at over 500 environmental firms throughout the State.

Based upon these three conclusions, I introduced the Environmental Export Promotion Act, which is before the House today. I would like to thank Representative LEE HAMILTON and Representative BEN GILMAN, the chairman and ranking Republican member of the committee, for moving this bill through the committee, as well as Representative TOBY ROTH for his leadership on this issue.

I would also like to recognize the leadership of Representative GERRY STUDDS, the chairman of the Merchant Marine and Fisheries Committee, and Representatives ELIZABETH FURSE, MARIA CANTWELL, and JAN MEYERS, all of whom joined me in introducing this legislation.

H.R. 3813, as amended, is designed to fine-tune the U.S. Government's export promotion efforts to increase environmental exports. The bill, in large part, is drawn from recommendations made by the administration in its November 1993 report on this issue.

Since the Foreign Affairs Committee ordered H.R. 3813 reported, the committee has made five minor changes in the text of the bill. At this time, I would like to introduce into the RECORD an exchange of letters between Chairman HAMILTON and Chairman DINGELL.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, April 15, 1994.
Hon. LEE H. HAMILTON,
Chairman, Committee on Foreign Affairs, U.S. House of Representatives, Washington, DC.

DEAR LEE: Thank for your letter concerning H.R. 3813, the "Environmental Export Promotion Act of 1994," which was ordered reported by the Committee on Foreign Affairs on March 16, 1994.

As you indicated, the Committee on Energy and Commerce requested sequential referral of the bill because it included matters within the jurisdiction of this Committee. I understand that you plan to offer an amended version when the bill is considered on the suspension calendar. Those changes, which have been worked out with this Committee, are welcome. Accordingly, we will not insist on sequential referral. If, as you note, the Senate does not accept the House bill as amended and requests a conference, we understand that we would be represented in that conference. I appreciate the opportunity to work out these matters with you.

With every good wish.

Sincerely,

JOHN D. DINGELL,
Chairman.

U.S. CONGRESS,
HOUSE COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, April 15, 1994.
Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, Washington, DC.

DEAR JOHN: The Committee on Energy and Commerce has raised various jurisdictional concerns regarding H.R. 3813, as ordered reported by the Committee on Foreign Affairs on March 16, 1994.

Pursuant to discussions between the staff of our committees, the text of H.R. 3813 to be considered by the House contains several changes, reflected in the attached text, from the amendment in the nature of a substitute that the Committee on Foreign Affairs ordered reported. if the Senate approves legislation with provisions in the areas in which the Committees on Energy and Commerce has raised concerns, the Committee on Foreign Affairs would not object to the placement of conferees from the Energy and Commerce Committee on those provisions of the Senate bill.

Thank you for your assistance in this matter.

Sincerely,

LEE H. HAMILTON,
Chairman.

Mr. GEJDENSON. H.R. 3813, as modified: establishes an Environment Technologies Trade Advisory Committee to guide Federal environmental export promotion activities; requires the annual designation of five priority countries whose markets have the greatest potential for U.S. environmental exports, and a plan to help U.S. firms capture those five markets must then be developed; requires the Commerce Secretary to place environmental specialists in the five priority markets; authorizes international environmental initiatives to encourage other regions to adopt American-style environmental standards and to buy U.S. environmental products; establishes an environmental technologies project advocacy calendar containing an updated list of all major overseas environmental projects; and, authorizes the Secretary of Commerce to provide matching funds for regional centers promoting environmental exports.

The legislation will help to ensure that American environmental companies remain on the cutting edge of the international environmental marketplace. It will also help to create export-related jobs here at home.

I urge my colleagues to support its passage.

□ 1810

Mr. Speaker, before reserving my time, I would like to take this opportunity to point out that one of the things that moved me in moving this piece of legislation was when my colleague who now sits in the chair, the gentleman from California [Mr. MILLER], returned from the International Conference on Environment in Brazil, with the great frustration that he had, indicating that the Japanese were there marketing their products while America virtually had no presence. We need to make sure that in these areas where we have such a technological advantage, that we stay active and get our products known.

Mr. Speaker, I reserve the balance of my time.

Mr. ROTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a cosponsor of this legislation, the Environmental Export Promotion Act, I join our chairman, the gentleman from Connecticut [Mr. GEJDENSON], in thanking the chairman of our full committee, the gentleman from Indiana [Mr. HAMILTON], the gentleman from New York [Mr. GILMAN], the ranking member, and all those people who have worked on this legislation. I also thank the chairman, the gentleman from Connecticut [Mr. GEJDENSON], for his kind remarks, and the feeling is mutual.

Chairman GEJDENSON shows real leadership on our subcommittee, and that is one of the reasons that we have been able to pass, in the last number of years, such legislation that has promoted so many jobs here in America.

Mr. Speaker, this measure is the product of close bipartisan cooperation among all the members of our Subcommittee on Economic Policy.

This bill is in keeping with the focus of our subcommittee, which is to create new jobs for American workers by expanding American exports, because we realize if we want to have good jobs here in America, we have got to be able to export our products.

In the last Congress, our subcommittee produced two measures that, according to Commerce Department estimates, are adding 100,000 new jobs for American workers. In this Congress, our subcommittee is again working on legislation to create more jobs.

During the past year we held a series of hearings on how to add new jobs by expanding our exports. The bill before us today is the first of several measures that our subcommittee will bring to the House this year to create jobs through exports.

In this bill, we strengthen the export promotion for environmental technologies. As our hearings last year showed, the United States is a world leader in environmental technology.

American companies now hold nearly half of the total world market—which is now $300 billion a year.

So we are talking about big money and big job opportunities. By the end of the decade, this world market will double—to $600 billion a year.

But other nations have discovered this market.

Our competitors in this field—Germany, Japan, the United Kingdom, and the Nordic countries—all are moving to increase their exports of environmental technology. Their goal is to take market share away from American exporters.

If American companies are to stay on top, then we have to strengthen our own export promotion efforts.

The payoff is that if we can maintain our share of this rapidly expanding market, we will add some 300,000 new jobs for American workers.

Our bill reflects the findings of two recent authoritative reports: One by the Office of Technology Assessment, and the second by an interagency group headed by the Commerce Department.

As recommended, our bill has three key provisions: First, it requires that export promotion assistance is targeted at the five top markets for this technology.

This will give us the biggest return on our export promotion effort.

Second, our bill requires closer coordination of the Federal Export Promotion Programs with State and local agencies.

Third, our bill strengthens the expertise available in our overseas missions to our environmental technology exporters.

This will give American firms more help on the ground in these overseas markets.

Finally, let me emphasize that this bill does not add any new Federal spending.

Instead, it redirects existing resources into the field, to give us a bigger return on our export promotion investment.

This is a well-crafted bill that will help our exporters and create new jobs for American workers.

I urge my colleagues to join me in voting for this measure.

Mr. GEJDENSON. Mr. Speaker, at this time I yield such time as she may consume to the gentlewoman from the State of Washington [Ms. CANTWELL], who has really been one of the architects helping us to put this and a number of other initiatives on the subcommittee together.

Ms. CANTWELL. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I just want to take a moment this afternoon to applaud the manager of this legislation for his leadership. Mr. GEJDENSON has provided us with what I think will be one of the most important economic bills impacting my State's environmental industries in this session of Congress.

Mr. Speaker, there is no one in this body who better understands the need to marry international environmental protection with the promotion of our own environmental technology industries than Mr. GEJDENSON. I am pleased to be a cosponsor of this effort.

With the leadership of President Clinton, Vice President GORE, and congressional leaders like Mr. GEJDENSON and Mr. ROTH and Mr. GILMAN, the ranking member of the subcommittee and committee, I believe we have finally reached an understanding that environmental protection and economic growth are not mutually exclusive.

Increasingly, foreign nations and companies are relying on U.S. environmental technology, products, and services to help them solve environmental problems. By supporting environmental protection internationally, we can create the very world markets that our environmental technology firms need to grow and expand.

This is particularly true in my home State of Washington. Washington has been a national leader in promoting its environmental technology industry. Washington's environmental industry currently includes more than 450 firms, employing 27,000 people with annual revenues estimated at more than $3 billion.

These firms vary from solid and hazardous waste management to lab testing and analysis.

This bill is strongly supported by environmental community and by environmental technology companies. It incorporates the best steps we can take today to help promote both environmental protection and economic growth.

I urge my colleagues to support final passage.

Mr. ROTH. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN], the ranking member on our committee.

Mr. GILMAN. I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like to express my support for this legislation H.R. 3813 which should benefit American exporters of environmental technology by identifying key overseas markets and by directing Government agencies to provide hands on assistance to our companies trying to enter those markets. I commend the gentleman from Connecticut, the distinguished chairman of the Foreign Affairs Committee of Economic Parity, Trade and Environment and its ranking member, the gentleman from Wisconsin, [Mr. ROTH] for their extensive work in bringing this measure to the floor.

This legislation enacts proposals contained in the industry, technology and environment study undertaken by the Office of Technology Assessment and directs the administration to create regional environmental initiatives.

One such initiative, the United States-Asia Environmental Partnership, was created in 1989 under the Bush administration to increase our environmental exports to Asian countries and to encourage them to adopt compatible standards and technologies.

It is my understanding that the version of the legislation we are considering today reflects the minor changes requested by the Energy and Commerce Committee. To avoid a sequential referral of this legislation, its provisions have been changed to include only those entities and activities in the exclusive domain of the Foreign Affairs Committee and to delete any superfluous reference to the trade coordinating role of the Secretary of Commerce.

Accordingly, I urge the adoption of this legislation.

Mr. ROTH. I thank the gentleman.

Mr. Speaker, I yield 4 minutes to the gentleman from Nebraska [Mr. BEREUTER], and I thank him for the tremendous contribution he makes. He does his homework, understands all the nuances of the bill and amendments, and it is a real pleasure to yield to my friend from Nebraska.

Mr. BEREUTER. I thank the gentleman for yielding this time to me.

Mr. Speaker, this Member rises in support of H.R. 3813, the Environmental Export promotion Act. This legislation, better coordinates the Federal Government's promotion of U.S. environmental technology, goods, and services to the world's developing countries.

Mr. Speaker, the global market for environmental technology, goods, and services is growing at an unprecedented rate. By the year 2000, the OECD expects this infant market to reach $300 billion annually.

Although the United States has traditionally enjoyed a substantial trade surplus in environmental technologies, goods, and services, other industrialized countries including France, Germany, and Japan have also recognized this lucrative and growing market and are aggressively promoting their own environmental technology, goods, and services.

Mr. Speaker, our competitors are focusing their efforts on developing countries where 95 percent of the world's population growth is expected to occur in the next 30 years. They are aggressively competing for emerging markets in China and India where one-third of the world's population currently live and where 1 billion more people are expected to live in 30 years. And Mr. Speaker, our competitors are directing their efforts at the world's rapidly emerging megacities and urban areas where over half of the world's population will live by the end of the century.

Clearly, the greatest future demand for U.S. environmental exports, including the services of U.S. engineers, scientists, and technicians, will come from the developing world. Emerging megacities will desperately need the housing, sanitation, transportation, communication, and power generation facilities in order to prepare them for the 21st century.

Unfortunately, while U.S. engineers, contractors, and exporters already recognize this great potential, I am afraid that until recently our Federal Government and our foreign policy initiatives for the developing world have not sufficiently recognized this potential.

Therefore, Mr. Speaker, the Environmental Export Promotion Act is a good first step toward the aggressive promotion of this leading U.S. industrial sector. This legislation carefully refines our environmental export promotion strategy by establishing an Environmental Technologies Trade Advisory Committee to guide promotion activities and to designate priority countries whose markets have the greatest potential for U.S. environmental exports of services and goods.

Additionally, Mr. Speaker, the Environmental Trade Advisory Committee will promote and encourage emerging markets to adopt U.S. environmental standards, and it will monitor major overseas environmental projects so it can quickly alert U.S. environmental technology, goods, and service exporters to potential procurement and contract opportunities.

Mr. Speaker, the World Resources Institute recently predicted that the United States would lose its competitive lead in environmental technology if it failed to respond to the challenge of our foreign competitors. Because we cannot afford to lose another vast and lucrative market to foreign competition, this Member commends the chairman of the House Foreign Affairs. Subcommittee on Economic Policy, Trade, and the Environment, Mr. GEJDENSON, and the ranking minority member, Mr. ROTH, for their farsighted and excellent work in crafting this legislature to promote America's environmental exports.

I urge my colleagues to support H.R. 3813.

Ms. FURSE. Mr. Speaker, I rise today in strong support of H.R. 3813, the Environmental Export Promotion Act of 1994. I am an original cosponsor of this important legislation which marks the culmination of an effort which began a year ago when Chairman STUDDS of the Merchant Marine and Fisheries Committee and I introduced the National Environmental Trade Development Act, H.R. 2112. The intent of H.R. 2112 was to help U.S. companies increase exportation of environmental goods and services across the globe, and bolster their already formidable presence in this increasingly important market. We were greatly assisted this year by the commitment and dedication to this issue of my good friend from Connecticut, Mr. GEJDENSON of the Foreign Affairs Subcommittee on Economic Policy, Trade, and the Environment. The Environmental Export Promotion Act before the House today is the result of our collaboration, and this bill is important because it proves that protecting and enhancing our environment works hand-in-hand with job creation. Because of this bill, countries all across the globe will no longer be forced to look the other way when faced with serious environmental problems; they will have American envirotech businesses knocking on their door with solutions.

I would like to cite a few remarkable numbers with regard to job creation and environmental technologies, goods, and services. In my home State of Oregon, the 400 envirotech companies currently employ nearly 14,000 people. Moreover, the average salary paid in the envirotech field is around $31,000—nearly $9,000 higher than the next closest industry. Both numbers will grow in the next 10 years. In fact, all signs point to a boom before the turn of the century for U.S. environmental technology companies. The global envirotech market is currently worth $200 billion a year, and is expected to reach $600 billion over the next 6 years. Hundreds of American companies currently have a substantial lead over their foreign competitors in the production of environmental technologies, goods, and services. The challenge we faced was to link all American envirotech businesses—from large corporations to small, entrepreneurial startups—with opportunities for success in the global marketplace. The bottom line is that we needed to help these businesses that have created the new technologies and services find direct access to the world markets that are open for business. We needed—and this bill delivers—a clearly defined national commitment to environmental technologies.

I have been concerned from the beginning that any environmental technology legislation passed by this Congress be driven by the private sector. No export strategy can be successful unless the private sector has a primary role in its development. As the primary beneficiary of a national environmental technology policy, businesses know what they need to be successful. For too long, Government has either been too intrusive or too hands-off. It is time to have a policy which acknowledges that taxpayers deserve to get a return on their investment, and that business has to be part of the solution. Business executives and entrepreneurs are traveling the globe to clean up the mess left behind by years of misuse and neglect. The Gejdenson-Studds-Furse bill ensures that our role is to help—not hinder—these people of vision.

I am pleased to report that this legislation achieves our laudable goals in a number of important ways. First, the Environmental Export Promotion Act increases American businesses' access to foreign envirotech markets. It establishes a true public-private partnership to ensure that Federal agencies and private business work in concert with one another to tap these markets. It ensures that information is made available to companies which can use it, and does so with a coordinated approach. Lastly, this legislation establishes regional environmental business and technology cooperation centers to provide technical assistance to envirotech companies in their region. These centers will help existing envirotech businesses in export promotion and foster regional strengths within environmental trade.

Across the country, firms in the envirotech business are creating associations and consortiums to help disseminate information about global environmental opportunities. Businesses in Oregon and Massachusetts, for example, are already working together to help foster an informational network to promote envirotech. The Environmental Export Promotion Act realizes the importance of these associations, and works with the private sector to maximize these relationships. The Oregon Environmental Technology Association [OETA] from my home State has played an important role in the development of this legislation. Personally, I would like to thank Bill Snyder of the OETA who has contributed his expertise and his hard work to this effort.

I would also like to point out that in addition to working well with the private sector, this bill is consistent with the administration's environmental export strategy which was released last November. I have spoken on a number of occasions with Vice President GORE about this legislation; he is committed to environmental technology as part of our Nation's future. I have had numerous discussions with the Department of Commerce, including Secretary Brown, on how we can all work together on a coordinated environmental export policy. Dr. Katherine Sullivan, chair of the interagency environmental technologies exports working group, did a great job in putting together the Commerce Department's role in environmental trade. The Gejdenson-Studds-Furse bill fits in perfectly with the goals of the working group and the efforts that have been undertaken in the administration.

By the way, the legislation before us today will help crate literally thousands of private-sector, high-wage jobs in our Nation by increasing environmental exports. These are the types of jobs that prove that helping our environment is not a zero-sum game. When you use environmental technologies to help restore land which has been rendered useless from contamination, for example, you pay the salaries of the envirotech firms which develop effective environmental products or services, you pay the salaries of the people who work and use that technology to clean up the land, and the entire community regains an asset. Investing in the development and export environmental technologies, goods, and services is our future—both here in the United States and the world.

I am proud to have committed so much of my time in my first term in Congress to passage of this legislation. The Environmental Export Promotion Act is our first step into the future, and I urge all my colleagues to support passage of H.R. 3813, the Environmental Export Promotion Act.

☐ 1820

Mr. ROTH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GEJDENSON. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MILLER of California). The question is on the motion offered by the gentleman from Connecticut [Mr. GEJDENSON] that the House suspend the rules and pass the bill, H.R. 3813, as amended.

The question was taken.

Mr. PORTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed until Tuesday, April 19, 1994.

CONCERNING THE EMANCIPATION OF THE IRANIAN BAHA'I COMMUNITY

Mr. GEJDENSON. Mr. Speaker, I move to suspend the rules and agree to the Senate concurrent resolution (S. Con. Res. 31) concerning the emancipation of the Iranian Baha'i community.

The Clerk read as follows:

S. CON. RES. 31

Whereas in 1982, 1984, 1988, 1990, and 1992, the Congress, by concurrent resolution, declared that it holds the Government of Iran responsible for upholding the rights of all its nationals, including members of the Baha'i Faith, Iran's largest religious minority;

Whereas in such resolutions and in numerous other appeals, the Congress condemned the Government of Iran's religious persecution of the Baha'i community, including the execution of more than 200 Baha'is, the imprisonment of additional thousands, and other repressive and discriminatory actions against Baha'is based solely upon their religious beliefs;

Whereas in 1992, the Government of Iran summarily executed a leading member of the Baha'i community, arrested and imprisoned several other Baha'is, condemned two Baha'i prisoners to death on account of their religion, and confiscated individual Baha'is' homes and personal properties in several cities;

Whereas the Government of Iran continues to deny the Baha'i community the right to organize, to elect its leaders, to hold community property for worship or assembly, to operate religious schools and to conduct other normal religious community activities; and

Whereas on February 22, 1993, the United Nations Commission on Human Rights published a formerly confidential Iranian government document constituting a blueprint for the destruction of the Baha'i community, which document reveals that these repressive actions are the result of a deliberate policy designed and approved by the highest officials of the Government of Iran: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) continues to hold the government of Iran responsible for upholding the rights of all its nationals, including members of the Baha'i community, in a manner consistent with Iran's obligations under the Universal Declaration of Human Rights and other international agreements guaranteeing the civil and political rights of its citizens;

(2) condemns the repressive anti-Baha'i policy adopted by the Government of Iran, as set forth in a confidential official document which explicitly states that Baha'is shall be denied access to education and employment, and that the government's policy is to deal with Baha'is "in such a way that their progress and development are blocked";

(3) expresses concern that individual Baha'is continue to suffer from severely repressive and discriminatory government actions, solely on account of their religion; and that the Baha'i community continues to be denied legal recognition and the basic rights to organize, elect its leaders, educate its youth, and conduct the normal activities of a law-abiding religious community;

(4) urges the Government of Iran to extend to the Baha'i community the rights guaranteed by the Universal Declaration of Human Rights and the international covenants on human rights, including the freedom of thought, conscience, and religious, and equal protection of the law; and

(5) calls upon the President to continue—

(A) to emphasize that the United States regards the human rights practices of the Government of Iran, particularly its treatment of the Baha'i community and other religious minorities, as a significant factor in the development of the United States Government's relations with the Government of Iran;

(B) to urge the Government of Iran to emancipate the Baha'i community by granting those rights guaranteed by the Universal Declaration of Human Rights and the international covenants on human rights; and

(C) to encourage other governments to continue to appeal to the Government of Iran, and to cooperate with other governments and international organizations, including the United Nations and its agencies, in efforts to protect the religious rights of the Baha'is and other minorities through joint appeals to the Government of Iran and through other appropriate actions.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut [Mr. GEJDENSON] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the gentleman from New York [Mr. GILMAN], the gentleman from California [Mr. LANTOS], and the gentleman from Illinois [Mr. PORTER] for bringing this important resolution to the attention of the House.

This resolution states that the Congress continues to hold the Government of Iran responsible for upholding the rights of all nationals, including members of the Baha'i community, consistent with the Universal Declaration of Human Rights and other international agreements; condemns the repressive policies adopted by the Government of Iran toward members of the Baha'i community; and calls on the President to emphasize the human rights practices of the Government of Iran as a significant factor in the development of United States relations with that Government.

Mr. Speaker, the horrendous treatment of the Baha'i community by the Government of Iran has been addressed by this House before. We need to condemn this outrageous treatment at every opportunity.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate Concurrent Resolution 31, concerning the emancipation of the Iranian Baha'i community, is the latest in a series of resolutions concerning the continuing repression of the Baha'i community in Iran that have been adopted by the Congress since 1982. This resolution allows us once again to express our outrage and revulsion with regard to the brutal and systematic denial of one of the most basic of human freedoms—freedom of conscience—which has been denied by the Mullahs of Iran.

Each time we consider these resolutions it seems that there has been a new twist added to the outrages Iranian authorities have perpetrated against their own citizens. During the past year, we received disturbing reports from Iran on the continued repression of the Baha'i community. We learned that the Tehran authorities have destroyed gravesites located in the principal Baha'i cemetery in Tehran. Bodies have been removed to unknown destinations, and grave markers have been sold to construction firms to be used as ordinary building stones. The municipal authorities reportedly intend to build a cultural center on the site of the cemetery.

These acts are consistent with guidelines detailed in a secret Iranian Government plan which came to light last year which calls for suppression of the Baha'i community in Iran and the destruction of its cultural roots. It is frighteningly similar to Hitler's plans for dealing with the Jewish community in Germany.

The desecration of the Baha'i cemetery in Tehran is not only a despicable attempt by the Iranian Government to add to the misery of the living by denying to their loved ones interred at this site the respect that all civilized peoples accord to the dead, but an attempt to obliterate the heritage of the Baha'i and all traces of their culture which originated in Iran.

The United States has spoken out consistently and repeatedly on Iran's continued brutal repression of the Baha'i. In its latest Human Rights Report, the State Department includes Iran among the few countries that are the very worst abusers of the rights of their own citizens in the world. We owe it to the victims of these repressive regimes to continue to raise this issue in international human rights forums, and to press those governments that conduct commerce and diplomatic relations with the Government of Iran to use their influence and speak out against these outrages.

Resolutions of the Congress, such as the one we now consider, representing the clear voice of the American people, are an invaluable tool for our diplomats in bodies such as the U.N. Human Right Commission. I hope my colleagues on this Committee will join me in supporting Senate Concurrent Resolution 31, which is identical to House Concurrent Resolution 124.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Illinois [Mr. PORTER] who, along with the distinguished cochair of the Human Rights Caucus, the gentleman from California [Mr. LANTOS], has worked to keep this issue alive before the Congress.

□ 1830

Mr. PORTER. Mr. Speaker, I thank my very able colleague, a leader on human rights issues throughout all of his service in the Congress, for yielding to me.

Mr. Speaker, as the sponsor of House Concurrent Resolution 124, I would like to thank the gentleman from New York [Mr. GILMAN], the gentleman from Indiana [Mr. HAMILTON], and the gentleman from Connecticut [Mr. GEJDENSON], for their support in bringing this measure, Senate Concurrent Resolution 31, to the floor of the House.

Senate Concurrent Resolution 31, the Baha'i Community Emancipation Resolution, condemns the Government of Iran for denying the 300,000 strong Baha'i community their basic human rights. Since the fundamentalist Islamic regime took power in 1979, Mr. Speaker, hundreds of Baha'is, the largest religious minority in Iran, have been executed, and thousands have been imprisoned because of their religion. Many have disappeared or been kidnapped.

Because the regime does not recognize the Baha'i faith, calling it a conspiracy and a heresy, tens of thousands of Baha'is are deprived of jobs, housing, school, and other social services in Iran.

Intolerance, Mr. Speaker, religious, ethnic, sexual, and racial, has been the hallmark of far too much of our world with the end of the cold war, motivation for strife in many places where the cold war previously had kept such intolerance in check.

Iran in particularly, since it turned away from moderation and modernization toward fundamentalism, has become a paradigm of intolerance.

What if the United States were to follow Iran's model and declare Islam, not nearly so old as either Christianity or Judaism, as the Iranians have declared Baha'ism, a heresy, and therefore all Moslems heretics, to be discriminated against at will by the government and by private citizens alike in our country? Mr. Speaker, what a disaster that would be.

Intolerance is the trail of the backward, the ignorant, and the insecure. In Iran, intolerance of Baha'is, people who threaten no one, who accede to legitimate civil authority wherever they define, reside, defines not the Baha'is, but the Iranian fundamentalists for what they are.

Mr. Speaker, the Baha'i religion is in fact founded upon the nine dominant religions of the world, including, of course, Islam, and draws on the best of all of them as the basis of its faith. What irony there is in the fact that the Iranians, in the name of Islam, repress Baha'is, who in reality respect and revere their religion more than the Iranians do.

While in the mid-1980's diplomatic pressure and negative publicity forced the Iranian leadership to lessen the severity of their grievous official campaign against the Baha'is, there are disturbing signals that the repression of the Baha'is has increased greatly in this past year.

Last summer the Baha'i cemetery in Iran was desecrated by local officials, who decided to build a community center on the site of Baha'i graves, a particularly reprehensible and unseemly act.

In September, two Iranians were found guilty of murdering a Baha'i, but did not face retribution because their victim was a member of the Baha'i community, a nonrecognized religious sect.

As recently as last December, three Baha'is were condemned to death because of apostasy or of being unprivileged infidels at war with the Moslem nation.

A year ago, an official government document obtained in Iran confirmed for the first time that the ongoing persecution of the Baha'i community has been a calculated policy, written and approved by Iran's highest officials.

This document reveals that the official Iranian policy is to repress Baha'is at every opportunity, while maintaining plausible deniability.

While it says they will not be expelled or arrested without reason, it makes evident that the Iranian Government's intent is to isolate, persecute, and ultimately destroy the Baha'is in Iran.

The resolution that we are considering today condemns the document's plan to confront and destroy Baha'i cultural roots outside of Iran, something that is tantamount to a program of cultural genocide.

The response of the United States and civilized world to this document must be clear: So long as it continues its calculated persecution of the Baha'is and rejects basic human rights, Iran will continue to be ostracized from the community of nations.

These revelations mean that any discussion of Iran renewing ties with the West is completely out of the question. The Congressional Human Rights Caucus, which I cochair along with my colleague, the gentleman from California [Mr. LANTOS], has written to parliamentarians in countries around the world to urge them to condemn the Iranian Government for its repressive practices. The overwhelming positive responses we have received from those parliamentarians demonstrate the concern about the rights of the Baha'is transcend languages, cultures and borders.

We, Mr. Speaker, each of us, must tell the world of the official planned, premeditated oppression which the Iranian Government inflicts upon its own people, particularly upon the Baha'is. Iran must continue to be ostracized from the community of nations until its conduct can begin to approach a respect for the basic rights of each human being to live, worship, and speak according to the dictates of his or her own conscience.

With the passage of this resolution today, Congress will once again go on record in support of the basic rights of the Baha'i people and other religious minorities in Iran. I urge the adoption of the resolution.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his eloquent remarks. He has been a longstanding fighter for human rights throughout his career, and particularly as cochairman of the Human Rights Caucus.

Mr. Speaker, I have no further requests for time and yield back the balance of my time.

Ms. CANTWELL. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MILLER of California). The question is on the motion offered by the gentleman from Connecticut [Mr. GEJDENSON], that the House suspend the rules and concur in the Senate concurrent resolution, S. Con. Res. 31.

The question was taken.

Mr. PORTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed until Tuesday, April 19, 1994.

□ 1840

SPECIAL ORDERS

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from Georgia [Mr. KINGSTON] is recognized for 60 minutes as the designee of the minority leader.

TWO SUBJECTS OF UPCOMING DEBATE

HEALTH CARE REFORM

Mr. KINGSTON. Mr. Speaker, what I wanted to talk about are two of the subjects that we will be debating in the course of this spring. The first one, of course, is health care reform; the second one, gun control.

I wanted to talk first about health care and specifically about an article I read and, unfortunately, I am not exactly sure which publication it was in, but I believe it was the New York Times. It was about the Columbia Health Corp., which is the largest hospital company in the United States, has a net worth of about $267 million, and has a game plan to double in size over the next 5 years.

Currently, Columbia Health Corp., owns 195 hospitals across the country, and that is up from about 22 when the company was founded in 1988. They have all kinds of plans to grow. But the question about how they are going to grow, I think, is interesting and something that probably we should consider as we debate health care. And that is that what they plan to do is, because of the volume, get discounts from the suppliers when they buy things and have lower overhead and use this to basically negotiate better provider contracts.

Now, as we all know, health care is shifting from a cost-plus based reimbursement system. The way the cost-plus arrangement traditionally was is that the more services a doctor or a hospital performed, the more they got paid for it. So if you went in for a broken arm and they could x ray it three different ways, put on two different kinds of bandages, maybe test your blood, each procedure you got billed for.

And Medicare has changed that because of a lot of their reimbursements. But now managed health care is changing that as well. A long of insurance plans, HMO's and PPO's, are doing the same sort of thing.

So now we are seeing hospital and provider groups seeing how they can cut some of the expenses out. One example that this article showed that Columbia was using is, instead of testing a patient's blood after and operation, the blood gases, every 15 minutes, what would happen if you let it go for 30 or maybe 20 minutes. They were not saying there was an absolute but just stretching it out a little bit more.

There was a savings there, and there is a savings to be realized.

Obviously, early release of patients is going to save a lot of money, and they encourage their doctors in their provider networks to get folks out of the hospitals a lot faster. So that is another method that they are using.

Then one that I thought was real interesting, when you look at the economies of scale, and I thought this was particularly interesting because one of the proposals that we are talking about is allowing the formation of purchasing groups. And we are debating if that should be voluntary or mandatory. But in any case, listen to this.

Prior to Columbia's merge with the Hospital Corporation of America, they were purchasing a volume of x-ray film. That level now is about $30 million worth of x ray film each year. As a result of such a volume, they actually pay 40 percent less now than they did prior to the merger with HCA. I thought that that was very indicative of what we are looking at in terms of potential health care savings, because $30 million by one corporation which, incidentally, only owns 3 percent of the for-profit hospitals in America, which for-profit hospitals, I believe, only constitute about 13 to 14 percent of the total hospital marketplace, the total delivery system for health care. So that shows what a relatively small player can do. Think what we can do as we merge together.

Another thing that they are practicing is somewhat controversial, and that is the cookbook type medicine where computer programs are getting doctors, nurses, and everyone else along the provider line to go and prescribe certain after-treatment therapy or certain treatment, depending on the ailment, by a computer program rather than "It is all in my head and I know what to do next." That structured application of medicine sometimes is called a cookbook form. I do not think that is always the case. Sometimes that is a good description, but it is not necessarily a derogatory term.

I think that is interesting. But to give you an idea what all this has meant to Columbia is that last year for the county contract in Lee County, FL, for the county employees, they underbid their closest competitors 38 to 58 percent providing health care services. I think there is a lesson out there, Mr. Speaker. I think this says something about the volume argument, something about purchasing groups, something that I would hope would be voluntary purchasing groups.

But it also shows you that reform is happening right now in the private sector. As I talked to hospitals and physicians around the country, I always ask, are you doing things differently this year than you did last year or 2 years ago. Every time the answer is yes. And if you say 5 years ago, you are talking ancient history.

So I think that the lesson of Columbia Health Corp. is that reform is going on. It is going on in the private sector right now. The sabre rattling by the administration and by Congress is very helpful in this. It is a catalyst to the private initiatives.

What I would hate to see us do in Congress is come in with a cookie-cutter approach on health care reform which would stifle initiatives. Certainly, Columbia is going to have its detractors, as does anyone else. But there are some positive things that are going on. I wanted to bring that to the attention of the Members here.

GUN CONTROL

Mr. Speaker, rather than continue talking about health care, I want to talk about gun control. I do not want to talk about all of gun control, because there are so many different aspects. And there is so much emotion. But I think because there is emotion, it is important for Members of Congress to look at gun control not based on philosophical bias but based on empirical data and objectivity.

Yet, I realize this is one of those issues that whenever you talk about it, you will have people already bristling, Where is he going with this?

Here is where I am going. I am going to talk about an article that was in the March Journal of Medicine, which is the publication of the Georgia Association of Medicine. In it they took to task some of the articles that have been printed by the CDC and the New England Journal of Medicine. They have done a good job, because they have referenced everything that they have put in there. They back it up.

The article that I am going to talk about was written by a lawyer named David B. Kopel. I hope I pronounced it correctly.

The name of the article is, "The Lure Of Foreign Gun laws."

☐ 1850

In it he talks about countries that have strict gun control laws and what it has meant in terms of the crime rate. The first example he uses is in Japan.

In Japan, and incidentally, Mr. Speaker, anyone who wants a copy of this, please call my office, because I will be happy to share it. This magazine has more objective data on gun control than any publication I have seen.

It talks about Japan. Japan has strict gun control laws which actually go back to 1588, when the Emperor put a nationwide ban of swords and went through the samurai and the shoguns, I guess, and basically disarmed the peasants, and went up from the aristocracy from there. Today you cannot own a gun or a rifle in Japan. You can own a shotgun, only through very rigorous licensing laws.

Is it a safe country? It certainly is a safe country. They have a very low crime rate. What does that mean? Maybe if we look at it at first glance, get rid of the guns and you get rid of the crime problem, if you only look at the law and the crime rate.

Let us look at Switzerland, as Mr. Kopel did. In Switzerland, it actually has a lower murder rate than Japan. They have strict gun control laws, but in a completely different way. Every male in Switzerland has to join the militia. If you are between the age of 20 and 50 and you are male, you are a member of the militia. You spend 3 or 4 weeks per year training, and as part of your duty in the militia you are given a fully automatic assault rifle which you take home. You do not leave that at the National Guard armory for weekend duties. You do not pick it up for your 3 weeks of summer training. You take that home to suburban Zurich or wherever you live, and you keep it at home. Every male must be proficient in marksmanship. Every male between the ages of 20 and 50 will get tested on marksmanship.

In a country which is about two-thirds the size of West Virginia, there are over 3,000 shooting ranges. Ammunition, while we have one proposal right now to tax it, is subsidized in Switzerland. To get a handgun or rifle there is a very easy permitting process. Just about any adult can get one. You can even get an antitank gun, antiaircraft gun, and you can buy some types of cannons. This is just the folks on the street.

I said earlier, Switzerland has a lower murder rate than Japan, which has a lot smaller murder rate than America. Are the Swiss just great people? Are they more responsible than Americans? Are they safer?

Are they smarter? What is it about them that is different than us?

I would submit that they are not more responsible, they are not safer, and they are not smarter, but what they do have in Switzerland, and they also have in Japan, is a strong family structure, tightly knit communities, and good relationships from generation to generation.

In short, in these two countries culturally young people are socialized into noncriminal behavior. That is so important, because as we look at the murder rates in America, and we have some of the diagrams and graphs in here, and I do not know that we will have time to get into them, but it does show that the homicide rates in America, the correlation is that it is still going up in the inner city, where you do not have the strong family structure and the tightly knit communities, and that is such an integral part of crime control and criminal justice reform that we as a Congress would be negligent if we do not put these folks into it.

If we just superficially kid ourselves and say we are going to get rid of the guns, we are going to get rid of the problems, the statistics do not show that at all. They show it to be a cultural socializing process which we are not doing a good job at in America, particularly in the inner cities, where we have the highest murder rates.

In Britain, they have very tough gun control laws. They have had those, I think, for about 30 or 40 years right now. Mr. Koppel says yet, despite that, in a country where only 4 percent of the households legally have guns, their murder rates are higher now than they were before the strict gun control laws went into effect.

Let us talk about Jamaica, because one of the things we hear so often from second amendment proponents is that you are not necessarily owning a gun to defend yourself against a burglar, but you are doing it to defend yourselves against the government.

In 1974 Jamaica enacted very strict gun control laws, which include house-to-house searches randomly, secret trials, detention incommunicado, mandatory life sentences for possession of a single bullet, very strict gun control laws.

What happened? Violent crime dropped significantly for about 6 months, but then, within a year, it went back up to the level it was before the gun control laws, and in fact has been increasing since.

What is the most significant is that one-third of the murders in Jamaica were perpetrated by the police. Think about that in terms of the second amendment people who are saying, "You have to worry about the government, not just the burglar," because what human rights groups are saying is that the police, what they would do is shoot their enemies, because their enemies were not armed, and then they would later go back and report that the citizen, the private citizen, had started it, and that he was killed in a shootout and the police shot him in self-defense. Of course, there were no witnesses.

Could government potentially be the enemy? Ask one-third of the people murdered in Jamaica and they would tell you absolutely yes, if they were around to say so, but they are not.

Think about what we are saying, Mr. Speaker. Why is it that police can have guns but you and I and the average American citizen cannot? Are they going to be that much safer, allowing police to have them and disarming ourselves? I do not think that is the case.

I trust my fellow Americans, as I know you do and most Members of Congress do, but I trust them to use their judgment.

This article, as I said, I can give any Member of Congress or anyone else a copy, but the publication itself is so full of statistics and facts and nonemotional discussion of the gun control issue that I think it ought to be required reading, particularly as we go into this debate.

Is this by a group that is an NRA-backed group? Certainly not. This group, if anything, is a more progun control group, but they have come to the conclusion that you cannot argue with the fact that the statistics do not merit outlawing guns. You are not going to get the achieved results. What you will do is have an argument that takes the emphasis off using the death penalty, off mandatory sentencing, off truth in sentencing, and so forth, but that is where we need to change. We do not need to take the guns.

Mr. Speaker, I am going to conclude with that for the time being. I look forward to discussing this magazine with Members of the House. I look forward to citing some of the graphs that are in here. There is just tons of good information. I appreciate the opportunity to address the House tonight.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. ENGLISH of Arizona (at the request of Mr. GEPHARDT) for today, on account of family illness.

Mr. PETERSON of Florida (at the request of Mr. GEPHARDT) for April 18 and 19, on account of family illness.

Mr. NADLER (at the request of Mr. GEPHARDT) for today, on account of official business.

Mr. CLEMENT (at the request of Mr. GEPHARDT) for today, on account of official business.

Mr. GUNDERSON (at the request of Mr. MICHEL) for today, on account of illness in the family.

Mr. FISH (at the request of Mr. MICHEL) for today, on account of recuperating from recent surgery.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. BARRETT of Nebraska) to revise and extend his remarks and include extraneous material:)

Mr. BACHUS of Alabama, for 5 minutes, on April 21.

(The following Member (at the request of Mr. LANTOS) to revise and extend her remarks and include extraneous material:)

Mrs. UNSOELD, for 5 minutes, today.

(The following Member (at the request of Mr. PORTER) to revise and extend his remarks and include extraneous material:)

Mr. GOSS, for 5 minutes, on April 26.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BARRETT of Nebraska) and to include extraneous matter:)

Mr. GALLEGLY.
Mr. TAYLOR of North Carolina.
Mr. WALSH.
Mr. SOLOMON.

(The following Members (at the request of Mr. LANTOS) and to include extraneous matter:)

Mr. TOWNS.
Mr. PASTOR.
Mr. DOOLEY.
Mr. STARK in two instances.
Mr. ACKERMAN in three instances.
Mr. SWETT.
Mr. HOYER.

(The following Members (at the request of Mr. PORTER) and to include extraneous matter:)

Mr. GOODLING.
Mr. QUINN.
Mr. SHAW.
Mr. DORNAN.
Mrs. ROUKEMA.
Mr. BEREUTER in two instances.
Mr. GILMAN in two instances.

(The following Members (at the request of Ms. CANTWELL) and to include extraneous matter:)

Mr. DINGELL.
Mr. RICHARDSON.
Mr. DURBIN in two instances.
Mr. LAROCCO.
Mr. FOGLIETTA.
Mrs. THRUMAN.
Mrs. MEEK of Florida.
Mrs. SCHROEDER.
Mr. ORTIZ.
Mr. MORAN.
Mr. QUINN.
Mr. FRANK of Massachusetts.
Mr. REED in two instances.
Mr. GEJDENSON.
Mr. STARK in two instances.
Mrs. UNSOELD.
Mr. SABO.

ADJOURNMENT

Mr. KINGSTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 58 minutes p.m.) under its previous order, the House adjourned until Tuesday, April 19, 1994, at 10:30 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2966. A communication from the President of the United States, transmitting his request to make available appropriations totaling $329 million in budget authority for the Departments of Commerce, Housing and Urban Development, the Interior, the GSA, NASA, the SBA, and the Legal Services Corporation, and to designate these amounts as emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, pursuant to 31 U.S.C. 1107 (H. Doc. No. 103–238); to the Committee on Appropriations and ordered to be printed.

2967. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of April 1, 1994, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 103–239); to the Committee on Appropriations and ordered to be printed.

2968. A letter from the Director of Legislation, Department of the Navy, transmitting notice that the Navy intends to renew the lease of vessels to the Government of Brazil, pursuant to 10 U.S.C. 7307(b)(2); to the Committee on Armed Services.

2969. A letter from the Secretary of Housing and Urban Development, transmitting a report on the administration of the Manufactured Home Construction and Safety Standards Program for the years 1988–90, pursuant to 42 U.S.C. 5425; to the Committee on Banking, Finance and Urban Affairs.

2970. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting proposed transactions of $100 million or more involving United States exports to Italy, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking, Finance and Urban Affairs.

2971. A letter from the Chairman, Board of Governors, Federal Reserve System, transmitting the Board's 80th annual operation report during calendar year 1993, pursuant to 12 U.S.C. 247; to the Committee on Banking, Finance and Urban Affairs.

2972. A letter from the Deputy and Acting CEO, Resolution Trust Corporation, transmitting the semiannual report on the Affordable Housing Disposition Program which covers the reporting period defined as July 1, 1993, through December 31, 1993, pursuant to Public Law 102–233, section 616 (105 Stat. 1787); to the Committee on Banking, Finance and Urban Affairs.

2973. A letter from the Secretary of Housing and Urban Development, transmitting notification of the implementation of certain regulations; to the Committee on Banking, Finance and Urban Affairs.

2974. A letter from the Secretary of Education, transmitting a copy of Final regulations—Federal Family Education Loan Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

2975. A letter from the Secretary of Education, transmitting Notice—Student Assistance General Provisions, Federal Perkins Loan, Federal Work-Study, Federal Supplemental Educational Opportunity Grant, Federal Family Education Loan, Federal Direct Student Loan, and Federal Pell Grant Programs, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

2976. A letter from the Department of Energy, transmitting meeting notice of the Industry Advisory Board of the International Energy Agency; to the Committee on Energy and Commerce.

2977. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting a report on hydroelectric licensing in the State of Hawaii, pursuant to Public Law 102–486, section 2408; to the Committee on Energy and Commerce.

2978. A letter from the Director, Defense Security Assistance Agency, transmitting the Navy's proposed lease of defense articles, to Brazil (Transmittal No. 14–94), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

2979. A letter from the Director, Defense Security Assistance Agency, transmitting the Navy's proposed lease of defense articles to Brazil (Transmittal No. 13–94), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

2980. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to the Netherlands (Transmittal No. 12–94), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

2981. A letter from the Director, Defense Security Assistance Agency, transmitting the Navy's proposed lease of defense articles to Brazil (Transmittal No. 15–94), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

2982. A letter from the Director, Defense Security Assistance Agency, transmitting the price and availability report for the quarter ending March 31, 1994, pursuant to 22 U.S.C. 2768; to the Committee on Foreign Affairs.

2983. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of original reports of political contributions by nominees, Ambassadors-designate and members of their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

2984. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by Robert Krueger, of Texas, to be Ambassador to the Republic of Burundi, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

2985. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by Irvin Hicks, of Maryland, Ambassador-designate to Ethiopia, and members of his family, pursuant to 22 U.S.C. 3944 (b)(2); to the Committee on Foreign Affairs.

2986. A letter from the Federal Housing Finance Board, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1993, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2987. A letter from the Chairman, Interstate Commerce Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1993, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

2988. A letter from the Chairman, U.S. Railroad Retirement Board, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1993, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

2989. A letter from the Secretary of the Interior, transmitting the 13th annual report on the progress that has been made on oil and gas leasing, exploration, and development activities on Federal lands in Alaska, other than on the North Slope or the National Petroleum Reserve during fiscal year 1993, pursuant to Public Law 96–487, section 1008(b)(4); to the Committee on Natural Resources.

2990. A letter from the Secretary, Department of Transportation, transmitting a study of State and Federal regulations governing the movement of water well drilling rigs on public highways, pursuant to Public Law 102–240, section 5004(b) (105 Stat. 2160); to the Committee on Public Works and Transportation.

2991. A letter from the Deputy Administrator, General Services Administration, transmitting informational copies of building project surveys for London, KY, and Covington, KY, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

2992. A letter from the Secretary of Transportation, transmitting a report of the National Scenic Byways Advisory Committee concerning the Committee's recommendations on establishment of a National Scenic Byways program, pursuant to Public Law 102–240, section 1047(a)(4); to the Committee on Public Works and Transportation.

2993. A letter from the Under Secretary of Defense, transmitting a report as of the end of the fiscal year 1993 on the effectiveness and costs of carrying out the Department of Defense Civilian Separation Pay Program; jointly, to the Committees on Armed Services and Post Office and Civil Service.

2994. A letter from the Assistant Secretary for Policy, Management and Budget, Department of the Interior, transmitting a draft of proposed legislation to promote entrepreneurial management of the National Park Service, and for other purposes; jointly, to the Committees on Natural Resources and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HAMILTON: Committee on Foreign Affairs. H.R. 3813. A bill to amend the Export Enhancement Act of 1988 to promote further U.S. exports of environmental technologies, goods, and services; with an amendment (Rept. 103–478). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ORTIZ (for himself, Mr. WELDON, Mr. FIELDS of Texas, Mr. GENE GREEN of Texas, Mr. LAUGHLIN, Mr. ANDREWS of Texas, Mr. WASHINGTON, Mr. ROSE, and Mr. GEJDENSON):

H.R. 4236. A bill to establish a National Undersea Research Program within the National Oceanic and Atmospheric Administration; to the Committee on Merchant Marine and Fisheries.

By Mr. DURBIN:

H.R. 4237. A bill to prohibit the possession in a public housing zone of a firearm the possession of which is otherwise unlawful, and to prohibit the discharge of a firearm in a public housing zone; to the Committee on the Judiciary.

By Mr. FLAKE (for himself, Mr. JOHNSTON of Florida, Mr. PAYNE of New Jersey, Mr. BLACKWELL, Ms. BROWN of Florida, Mr. TOWNS, Mr. HASTINGS, Mr. RUSH, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. CLAYTON, Mr. BISHOP, Mr. CLAY, Mrs. MEEK of Florida, Mr. LEWIS of Georgia, Mr. SCOTT, Mr. OWENS, Mr. WATT, Ms. COLLINS of Michigan, Mr. TUCKER, Mr. MARKEY, Mr. REYNOLDS, Mr. WHEAT, Mr. FRANK of Massachusetts, Mr. STOKES, Mr. HALL of Ohio, and Mr. MFUME):

H.R. 4238. A bill to authorize supplemental appropriations for fiscal years 1994 and 1995 for relief, rehabilitation, and reconstruction in Liberia; to the Committee on Foreign Affairs.

By Mr. GEJDENSON (for himself and Mr. ROTH):

H.R. 4239. A bill to provide for the establishment of a foreign assistance program to support efforts by other countries to protect intellectual property; to the Committee on Foreign Affairs.

By Mr. MACHTLEY:

H.R. 4240. A bill to ensure that defense conversion, reinvestment, and transition assistance programs of the Department of Defense are directed primarily toward those States, and areas within those States, that have experienced the greatest number of job losses as a result of reductions in defense spending or the closure or realignment of military installations; jointly, to the Committees on Education and Labor and Armed Services.

By Mrs. SCHROEDER:

H.R. 4241. A bill to amend title 5, United States Code, to require the use of standardized claim forms under the health benefits program for Federal employees, and to amend title 10, United States Code, to require the use of such forms in the Civilian Health and Medical Program of the Uniformed Services; jointly, to the Committees on Armed Services and Post Office and Civil Service.

By Mr. STARK (for himself and Mr. BLILEY):

H.R. 4242. A bill to enforce the law regulating the height of buildings in the District of Columbia by prohibiting the District of Columbia from issuing any building or occupancy permit for the project described in Zoning Commission case 93–9C unless the project is modified to conform to such law; to the Committee on the District of Columbia.

By Mr. STARK:

H.R. 4243. A bill to confirm limitations on the height of buildings and roof structures in the District of Columbia, to expand the authority of the National Capital Planning Commission to enforce such limitations, and for other purposes; to the Committee on the District of Columbia.

By Mrs. UNSOELD (for herself and Mr. STUDDS):

H.R. 4244. A bill to amend title 46, United States Code, to provide equitable treatment for certain individuals employed on vessels with respect to State and local income taxes; jointly, to the Committees on Merchant Marine and Fisheries and the Judiciary.

By Mr. HUGHES:

H.J. Res. 355. Joint resolutiong designating 1995 as the "Year of the Grandparent"; to the Committee on Post Office and Civil Service.

By Mr. RICHARDSON (for himself, Mr. SERRANO, Ms. ROYBAL-ALLARD, Mr. DE LUGO, Mr. ROMERO-BARCELO, Mr. TORRES, Mr. BERMAN, and Mr. BECERRA):

H.J. Res. 356. Joint resolution designating March 31, 1995, as "Cesar E. Chavez Day"; to the Committee on Post Office and Civil Service.

By Mr. GEJDENSON (for himself and Mr. ROTH):

H. Con. Res. 240. Concurrent resolution expressing the sense of the Congress with respect to intellectual property protection; to the Committee on Ways and Means.

By Mr. MONTGOMERY (for himself, Mr. BONILLA, and Mr. SANGMEISTER):

H. Res. 406. Resolution providing for the concurrency by the House with amendments in amendment of the Senate to H.R. 821; considered under the suspension of the rules and agreed to.

By Mr. ZELIFF (for himself and Mr. ANDREWS of New Jersey):

H. Res. 407. Resolution providing for the consideration of the bill (H.R. 3266) to provide for automatic downward adjustments in the discretionary spending limits for fiscal year 1994 set forth in the Congressional Budget Act of 1974 equal to the amount of rescissions contained in this act; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

333. The SPEAKER: Memorial of the Legislature of the State of Idaho, relative to the tenth amendment to the Constitution; to the Committee on Education and Labor.

334. Also, memorial of the Legislature of the State of Idaho, relative to safe drinking water; to the Committee on Energy and Commerce.

335. Also, memorial of the Legislature of the State of Idaho, relative to all waters of the State of Idaho; to the Committee on Natural Resources.

336. Also, memorial of the Legislature of the State of Arizona, relative to the desecration of the American flag; to the Committee on the Judiciary.

337. Also, memorial of the Legislature of the State of Alaska, relative to motorcycle helmets in Alaska; to the Committee on Public Works and Transportation.

338. Also, memorial of the Legislature of the State of Maine, relative to the national highway system; to the Committee on Public Works and Transportation.

339. Also, memorial of the Legislature of the State of Idaho, relative to the Intermodal Surface Transportation Efficiency Act; to the Committee on Public Works and Transportation.

340. Also, memorial of the Legislature of the State of Idaho, relative to the public assistance programs; to the Committee on Ways and Means.

341. Also, memorial of the Legislature of the State of Idaho, relative to grain producers; to the Committee on Ways and Means.

342. Also, memorial of the Legislature of the State of Alaska, relative to the Oil Pollution Act of 1990; jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

343. Also, memorial of the Legislature of the State of New Jersey, relative to the New Jersey urban core project; jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

344. Also, memorial of the Legislature of the State of Alaska, relative to the export of Alaska North Slope crude oil; jointly, to the Committees on Foreign Affairs, Energy and Commerce, and Natural Resources.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 429: Mr. WELDON.

H.R. 512: Mr. FRANK of Massachusetts, Ms. PELOSI, and Mr. REYNOLDS.

H.R. 566: Mr. BATEMAN.

H.R. 790: Ms. ESHOO and Ms. MCKINNEY.

H.R. 1106: Mr. ACKERMAN, Mr. FILNER, Mr. GUTIERREZ, Mr. MANTON, Mr. OWENS, and Mr. VENTO.

H.R. 1295: Mr. LAROCCO.

H.R. 1596: Mrs. BENTLEY.

H.R. 1620: Mr. RAVENEL.

H.R. 1627: Mr. MATSUI.

H.R. 1671: Mr. BLILEY and Mr. BATEMAN.

H.R. 1687: Mr. STUPAK.

H.R. 1712: Mr. JOHNSON of South Dakota.

H.R. 1840: Mr. HASTERT, Mr. EHLERS, Mr. FALEOMAVAEGA, and Mr. CALVERT.

H.R. 1900: Mr. LEVIN.

H.R. 1906: Mr. VENTO, Mr. OWENS, Mr. TORRES, and Mr. DEFAZIO.

H.R. 1957: Mr. SOLOMON.

H.R. 2175: Mr. SLATTERY.

H.R. 2433: Mr. STUMP.

H.R. 2467: Mr. ANDREWS of New Jersey, Mr. BISHOP, Mr. BORSKI, Mr. COX, Mr. HERGER, Ms. HARMAN, Mr. KLEIN, Mr. SMITH of New Jersey, and Mr. WISE.

H.R. 2572: Mr. DELLUMS.

H.R. 2710: Mr. ANDREWS of New Jersey, Mr. HAMBURG, Mr. WYDEN, Mr. WYNN, and Mr. TORRES.

H.R. 2839: Mr. TALENT.

H.R. 2898: Mr. MARTINEZ.

H.R. 2930: Mr. ROMERO-BARCELO, Mr. ACKERMAN, Ms. FURSE, and Mr. GUTIERREZ.

H.R. 3005: Mr. KYL.

H.R. 3023: Mr. FARR, Mr. INHOFE, Mr. SMITH of New Jersey, Mr. LEHMAN, Mr. HASTINGS, Mr. MOORHEAD, Mr. BARTON of Texas, and Mr. SARPALIUS.

H.R. 3039: Mr. MORAN and Mr. LIVINGSTON.

H.R. 3109: Mr. DELLUMS.

H.R. 3261: Mr. SMITH of New Jersey and Mr. HOLDEN.

H.R. 3278: Mr. TORRES.

H.R. 3288: Mr. FAWELL.

H.R. 3407: Mr. DARDEN, Mr. SHAW, Mr. COMBEST, Ms. DANNER, Mr. BLILEY, and Mr. LEWIS of Florida.

H.R. 3421: Mrs. VUCANOVICH, Mr. LEWIS of Florida, and Mr. GLICKMAN.

H.R. 3424: Ms. DELAURO.

H.R. 3656: Mr. OWENS, Mr. FRANK of Massachusetts, Ms. SLAUGHTER, Ms. SHEPHERD, Mr. HUGHES, and Mr. LEWIS of Georgia.

H.R. 3695: Mr. HOKE and Mr. DELAY.

H.R. 3705: Mr. SHAYS and Mr. ANDREWS of New Jersey.

H.R. 3744: Mr. KING.

H.R. 3785: Mr. BEREUTER, Mr. FROST, Mr. HUGHES, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. ORTON, Mr. PARKER, and Mr. TAYLOR of Mississippi.

H.R. 3790: Mr. MYERS of Indiana.

H.R. 3820: Mr. STENHOLM, Mr. EDWARDS of Texas, Mr. TEJEDA, Mr. WAXMAN, Mr. WILSON, Mr. PETE GEREN of Texas, Mr. FROST, Mr. BRYANT, Mr. TORKILDSEN, Mr. FALEOMAVAEGA, Mr. ROMERO-BARCELO, Mr. SARPALIUS, Mr. SLATTERY, Mr. HYDE, Mr. LAUGHLIN, Mr. RAVENEL, Mr. LEWIS of Florida, Mr. BILIRAKIS, Mr. FISH, Mr. HUTTO, Mr. QUILLEN, Mr. MURPHY, Mr. SANTORUM, Mr. DREIER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BARRETT of Wisconsin, and Mrs. MEYERS of Kansas.

H.R. 3835: Mr. COPPERSMITH, Ms. SCHENK, Mr. CRAPO, Mr. GOODLING, Mr. TALENT, and Mr. KIM.

H.R. 3870: Mr. JEFFERSON.

H.R. 3901: Mr. WATT, Mr. BLACKWELL, Ms. BROWN of Florida, Mrs. CLAYTON, Mr. CLYBURN, Mr. CONYERS, Mr. FLAKE, Mr. FORD of Tennessee, Mr. HASTINGS, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. MEEK of Florida, Mr. MFUME, Mr. RANGEL, Mr. REYNOLDS, Mr. SCOTT, Ms. WATERS, Mr. WYNN, Mr. FIELDS of Louisiana, Mr. BISHOP, Mr. DELLUMS.

H.R. 3902: Mr. UPTON, Mr. KNOLLENBERG, Mr. BARCIA of Michigan, and Mr. CAMP.

H.R. 3951: Mr. STEARNS.

H.R. 3992: Mr. BURTON of Indiana.

H.R. 3994: Mr. ANDREWS of New Jersey.

H.R. 4028: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 4050: Mr. HASTINGS.

H.R. 4056: Mr. COYNE, Mr. CRAMER, Mr. THOMAS of California, Mr. RAHALL, Mr. LEVY, Mr. MCHUGH, and Mr. SUNDQUIST.

H.R. 4178: Mr. HERGER.

H.J. Res. 145: Mr. ZIMMER, Mr. EWING, Mr. BACHUS of Alabama, and Mr. SHAYS.

H.J. Res. 209: Mr. SARPALIUS, Mr. SUNDQUIST, and Mr. EDWARDS of Texas.

H.J. Res. 302: Mr. ABERCROMBIE, Mr. GRANDY, Mr. FAWELL, Mr. LAROCCO, Mrs. JOHNSON of Connecticut, Mr. SYNAR, Mr. LEWIS of California, Mr. WYNN, Mr. PETE GEREN of Texas, and Mr. TRAFICANT.

H.J. Res. 303: Mr. WALSH, Mr. EDWARDS of Texas, Mr. KREIDLER, Mr. LIVINGSTON, Mr. SHAW, Ms. VELAZQUEZ, Ms. SLAUGHTER, Mr. KIM, and Mr. SKELTON.

H.J. Res. 304: Mr. HOCHBRUECKNER, Mr. LAFALCE, Mr. CHAPMAN, Mr. STUPAK, Mr. GONZALEZ, Mr. LANTOS, Mr. BILBRAY, Mr. PALLONE, Mr. MACHTLEY, Mr. MANTON, Mr. DELLUMS, Mr. BATEMAN, Mr. JEFFERSON, Mr. FAZIO, and Mr. TANNER.

H.J. Res. 332: Mr. VENTO, Mrs. MORELLA, Mr. HUGHES, Mr. DELLUMS, Mr. FROST, and Mr. EVANS.

H. Con. Res. 124: Mr. CONYERS, Mr. PAYNE of New Jersey, Mr. LEWIS of Georgia, and Mr. CRAMER.

H. Con. Res. 148: Mr. MANTON, Mr. ENGEL, and Mr. HALL of Texas.

H. Con. Res. 212: Mr. COSTELLO, Mr. DEFAZIO, Mr. EDWARDS of California, Mr. FARR, Mr. FORD of Michigan, Mr. GENE GREEN of Texas, Mr. GUTIERREZ, Mr. JOHNSON of South Dakota, Mr. KOPETSKI, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LEWIS of Georgia, Mr. MAZZOLI, Mr. MEEHAN, Mr. MILLER of California, Mr. PENNY, Mr. PARKER, Mr. POMEROY, Mr. PRICE of North Carolina, Mr. REED, Mr. RUSH, Mrs. SCHROEDER, Mr. SHAYS, Ms. SLAUGHTER, and Mrs. UNSOELD.

H. Con. Res. 227: Mr. HANCOCK.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

87. By the SPEAKER: Petition of the Township of Denville, NJ, relative to military funds; to the Committee on Foreign Affairs.

88. Also, petition of the city of Cincinnati, city hall, Cincinnati, OH, relative to expenses of SORTA; to the Committee on Public Works and Transportation.

EXTENSIONS OF REMARKS

HOW SCHOOL CHOICE IMPROVES PUBLIC SCHOOLS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. DORNAN. Mr. Speaker, I commend the attention of my colleagues an editorial about school choice and how it would improve the disastrous state of our public school system.

The article follows:

HOW SCHOOL CHOICE IMPROVES PUBLIC SCHOOLS

(By Robert J. Barro)

School-choice programs that include private schools are a promising way to deliver improved education, especially for children from poor families. Experiments such as Milwaukee's have shown some success, but systems that include any funding for private schools are rare. Not coincidentally, in 1990 only 12% of elementary and secondary students attended private schools, with only 12% of the private enrollment in nonsectarian institutions (8% at the primary level and 14% at the secondary level). Catholic schools were the dominant private provider, with about 70% of overall private enrollment.

The overwhelming choice of public over private education does not, of course, mean that most people view public schooling as superior. Various studies, notably those by sociologist James Coleman and his associates, have found that students with a given level of native ability do better when they attend private institutions, especially Catholic schools in inner cities.

What sustains the dominance of public schools is that individual consumers regard the public option as free and the private one as expensive. Catholic schools are able to thrive in spite of this obstacle because church subsidies maintain low levels of tuition.

Nonsectarian schools—including elite places such as Andover and St. Paul's—typically have to rely on high levels to tuition and limited amount of financial aid and therefore can serve only a small, privileged market.

The central element of school-choice plans is the use of vouchers or tax credits to level the playing field between public and private schools. Vouchers would increase the demand for private education and, hence, improve the average performance of graduate. The most dramatic change would be predicted for poor families, who now typically lack access to private schools or high-quality public schools.

A substantial part of the opposition to school-choice plans comes from two groups: well-off suburbanites and public-school employees. Suburbanites are usually at least somewhat satisfied with their local public schools and do not wish to pay higher taxes to give money to people who already use private schools. Public-school employees do not want to lose an entrenched position that ensures a reasonable income even when their performance is bad. For these opposition groups, a key concern is how a school-choice plan and the consequent expansion of private alternatives would affect the public schools. Would the quality and levels of funding diminish, or would the increased competition force the public schools to do better?

Recent research by Caroline Minter-Hoxby in her doctoral dissertation at the Massachusetts Institute of Technology ("Do Private Schools Provide Competition for Public Schools?") offers evidence on this issue. The main information in her study comes from the interaction between an area's use of private schools—especially Catholic schools—and the quality of public education. The information in these data is better than that provided by existing school-choice programs because in the latter case it is hard to discern long-run responses to experiments (such as the one in Milwaukee) that are relatively new and perceived as temporary. Moreover, existing school-choice plans tend to contain serious restrictions on the options of schools and students.

The key challenge is to isolate the effect of greater availability of private schools on the performance of the public schools. This work is a challenge because the simple relation between an area's private-school use and the quality of the public schools could, in theory, be positive or negative.

First, if an area's public schools are performing badly, then more families would be motivated to use private schools. This response tends to generate a negative relation between public-school quality and private-school use. Second, if an area's families are wealthier and better educated, then private-school use and public-school quality are both likely to be higher. This interaction tends to generate a positive relation between public-school quality and private-school use. Finally, if an increased availability of private schools provides competition that motivates the public schools to perform more efficiently, this creates a positive relationship. It is this relation that we would like to measure if it exists.

The Minter-Hoxby study shows how cross-county differences in the costs of providing private education affect the quality of public schools. In practice, the U.S. experience dictates a reliance on information about sectarian private schooling. The cost difference for operating these sectarian schools come from variations across counties, in the population density of Catholics or of other religious denominations that run significant numbers of private schools.

The key conclusion is that greater use of private schools, driven by differences in costs, leads to improved performance by public-school students and to greater per-pupil spending in the public schools. These results remain true after adjusting for an array of individual and county differences, including levels of income and parental education and a person's religion and race.

One finding is that an increase of 10 percentage points in the share of a county's enrollment in private secondary schools adds 0.3 years to the highest grade completed by the average public-school student by age 24. This increase in the share of private enrollment is also estimated to raise a public-school student's probability of receiving a high-school diploma by age 19 by 2% and to increase the wage earned by the average public-school student at age 24 by 5% partly because the student is more likely to move to a more prosperous area and partly because the student's position in the earnings distribution improves). Thus the presence of private alternatives means that the students who remain in the public schools achieve at higher levels.

The data also show that governments respond to greater competition from private schools by raising teachers' salaries and overall spending per student in the public schools. An increase by 10 percentage points in the share of a county's enrollment in private secondary schools is estimated to raise the starting salary for a teacher with a B.A. by $160 in public secondary schools and to raise per pupil spending in these schools by $340 (all measured in 1980 dollars). Hence, at least the public-school teachers who retain their positions—presumably the most qualified ought to be happy when private schools become more available.

If we combine the Minter-Hoxby evidence with previous results on the performance of private schools, then the inference is that full school choice programs would improve student achievement whether the students shift to private schools or stay in the public system. In other words, school choice is a good idea.

HONORING PETER HEANEY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. ACKERMAN. Mr. Speaker, I rise today to join with my constituents of the Fifth Congressional District in recognizing Peter Heaney, a businessman selflessly dedicated to the improvement of the less fortunate and the continued growth of the community.

A native of Massachusetts, Peter moved to New York in 1951 and attended local schools. Attracted to St. John's University, he excelled in its management and marketing program and was graduated in 1964.

Through innovative telemarketing and a keen sense of business development, Mr. Heaney now heads Skaggs-Walsh Inc., a company providing heating oil to over 9,000 customers throughout New York City and Nassau County. He has headed this firm for over 30 years and has consistently demonstrated a commitment to energy conservation.

Peter Heaney's expertise as a business leader extends well beyond his own company. Recognizing his expertise and willingness to share his broad experience, his colleagues have appointed him to such leadership positions as director of the New York Oil Heating Association, a trustee of the Oil Heating Insurance Fund, and president of the Empire State

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Petroleum Association. In addition, he is former director of the College Point Board of Trade and a sponsor of the Queens Half Marathon.

Peter constantly utilizes his business and organizational expertise to enhance civic and philanthropic associations. His efforts on behalf of the Queens Chamber of Commerce, the American Cancer Society, the Cardinal's Committee of the Laity, the Family Services Association, Phillips Exeter Academy, Georgetown, Yale, St. John's Universities, and the North Shore University Hospital have served to enhance the efforts of these groups in supporting the general community.

Mr. Speaker, I ask all of my colleagues in the House of Representatives to join with me today in honoring a fine philanthropist and entrepreneur, Peter Heany. His is a most truly talented and compassionate individual who constantly has given of himself for the enhancement of others.

IN HONOR OF MARIE MARTIN

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. STARK. Mr. Speaker, today I would like to take a few minutes to recognize Marie Martin's distinguished career of service to the schools and community of Fremont, CA.

For more than 23 years, Marie Martin has committed herself to service in the field of education. Beginning in 1973, Mrs. Martin taught grades K–6 for over a decade. From 1983 to 1985, she served as a reading specialist, before becoming a staff development trainer in the Fremont Unified School District. In July 1986, Mrs. Martin became the principal of the Chadbourne School in Fremont, where she has served faithfully for the last 8 years.

Mrs. Martin has previously served as a trainer in the mentor teacher program of the Fremont Unified School District. She also has been a member of the National Education Association and the American Association of University Women. Currently, Mrs. Martin is a member of Partners in Education, the Alameda County Staff Development Network, and is serving as a trainer in the school improvement program of lead and non-lead program reviewers.

On May 20, 1994 Marie Martin's colleagues and friends will hold a retirement celebration to acknowledge her as an outstanding educator and principal. I would like to join with those who have recognized her for her excellent achievements.

Marie Martin will be sorely missed at the Fremont Unified School District. I wish her much happiness and success in all of her future endeavors.

NATIONAL UNDERSEA RESEARCH PROGRAM

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. ORTIZ. Mr. Speaker, I rise today to introduce legislation to establish the National Undersea Research Program within the National Oceanic and Atmospheric Administration.

The National Undersea Research Program [NURP] has been in existence since 1980 and is the Nation's sole civilian agency whose primary mission is to provide researchers access to advanced undersea technologies to conduct marine research. The objective of NURP is to provide an integrated program focusing on research relating to processes in the oceans and Great Lakes in order to better understand the global marine ecosystem. This mission is carried out by a network of National Undersea Research Centers which fund and conduct scientific research through a competitive, merit review grant process. The Centers provide underwater research systems including shallow and deep diving submersibles, remotely operated vehicles, and specialized SCUBA systems through a combination of leased and in-house capabilities. In addition, the Centers provide technical expertise in the operation of these systems. This allows scientists access to the newest undersea technologies and methods, as well as guidance in the application of these tools to complex research projects.

The bill I introduce today is very similar to H.R. 3247, which was introduced and passed by the House last Congress. The bill directs the Under Secretary of Commerce for Oceans and Atmosphere to establish and maintain an Office of Undersea Research within the National Oceanographic and Atmospheric Administration [NOAA] to contain the National Undersea Research Program. The bill directs the Under Secretary to appoint a Program Director to oversee the Office of Undersea Research and to administer NURP. The Under Secretary is also directed to establish an independent steering committee to advise the Under Secretary and the Program Director concerning the operation of NURP, the need to revise the priority research areas, and the designation and operation of the National Undersea Research Centers. The bill sets out procedures for the establishment of undersea research regions and Centers, as well as for reviewing and funding research within the Centers. In addition, the legislation establishes a new undersea research center for the Gulf of Mexico region.

Authorization for funding the NURP regional Centers is set at $20,000,000 for fiscal year 1995, increasing by $2,000,000 per year until fiscal year 1999. A separate authorization of $2,100,000 for fiscal year 1995 (increasing by $100,000 through fiscal year 1999) is provided for management, administration and support the ALVIN undersea research submersible.

Mr. Speaker, this program has been a proven leader in the oceanographic research community for many years. This authorization will legislatively establish the program with many of the existing operational processes, and additionally, provide needed guidance through a high level steering committee. I urge you and the other members of the House to support this initiative.

GUN-FREE PUBLIC HOUSING ZONES ACT OF 1994

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. DURBIN. Mr. Speaker, today I am introducing legislation that is designed to help reduce the terror of gunfire in our country's public housing facilities. I am proposing that the Federal Government lend a helping hand to housing authorities which are struggling to cope with the violent crime plaguing their communities. Today, I am introducing the Gun-Free Public Housing Zones Act of 1994.

The proliferation of violence, including the scourge of gun violence, in public housing is well documented from Los Angeles to Chicago to New York City. In some local housing authority facilities, violent incidents are two to six times greater than the local average. For example, in Los Angeles between 1986 and 1989, reported violent crime, including firearm violations, occurred at an average annual rate of 67 per 1,000 people in public housing developments, compared to 22 per 1,000 citywide.

Weapons seizures in public housing facilities have increased dramatically since 1990 in Chicago. Last year alone, housing authority and Chicago police confiscated over 1100 firearms from inside Chicago housing projects, a 22 percent increase from the nearly 900 seizures in 1990. Equally as disturbing are some recent statistics on the incidence of gun shots. Authorities estimate that during one weekend late last month, there were over 300 reports of shots fire at one Chicago Housing Authority property, the Robert Taylor Homes.

Last year, the New York City Housing Authority Police Department listed 1063 firearms seized and over 1,500 reports of gunfire in public housing facilities. The housing authority also reported 135 gun-related deaths.

Across America, weapons and gunfire are quickly becoming commonplace in public housing facilities. Children are afraid to play outside or even walk to school. Parents risk their lives everytime they walk to the bus stop or make a trip to the grocery store. These conditions are very real for public housing residents in Chicago and around the country.

And it is not just an urban problem—smaller communities are also suffering the horrors of gun violence in public housing. My home town of Springfield, IL, has seen a rash of violence and gunfire in the Evergreen Terrace housing project and other facilities around the city. In Marion County, IL, gun shots frequently ring out from public housing units.

The Department of Housing and Urban Development has responded to the proliferation of gun violence by initiating Operation Safe Home. Many local public housing authorities have also responded by initiating sweeping measures to rid the projects of weapons. I believe it is time for Congress to step up and assume some of the responsibility for addressing this deadly issue.

My legislation, the Gun-Free Public Housing Zones Act of 1994, would prohibit the possession of an illegal firearm on public housing property, punishable by up to 5 years in prison, a $5,000 fine, or both. It would also prohibit, with certain exceptions, the reckless discharge or attempted discharge of any firearm on public housing property.

The Federal Government has a responsibility for the protection and well-being of society's most vulnerable citizens. In the past several years, Congress has recognized this responsibility by consistently passing legislation that prohibits the possession of any guns in special school zones.

This legislation does not prohibit all guns from public housing zones. However, it does recognize the special vulnerability of public housing residents by increasing the punishment for those caught with illegal weapons there. Currently, the penalty for being caught with an illegal weapon on public housing property is not an overwhelming concern of lawbreakers. If this measure is enacted, it certainly will be.

Mr. Speaker, our response to the ever-growing nightmare of gun violence in public housing facilities must be comprehensive and decisive. I believe this legislation is an important step in the right direction.

SALUTE TO THE SULTAN JIHAD AHMAD SCHOLARSHIP

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. FOGLIETTA. Mr. Speaker, I rise on this occasion to inform my colleagues of the Sultan Jihad Ahmad Scholarship Fund Dinner Dance to be held this Wednesday, April 20. Two years ago, Sultan Jihad was tragically killed, a victim of senseless violent crime. Sultan Ahmad, his father and executive director of the Mayor's office of community services in Philadelphia, has put together this annual event as a tribute to his son and as a message that we must focus our attention and energies on our youth so that they grow up with real opportunities.

Sultan Ahmad was a guest at a White House crime briefing back in February, and took the opportunity to remind Vice President GORE and others present at the meeting that crime is something that must be stopped through the presentation of opportunities to our youth rather than the implementation of penalties after a life of crime has begun. Sultan explained at the White House that we are only fooling ourselves with tough rhetoric about crime, and that the only way to truly change the violent nature of our society is to fundamentally alter the atmosphere in which our children grow up. To quote Sultan:

> We won't have to mourn the loss of kids to drugs if we go beyond the slogans and instead, commit genuine resources to ending the demand for drugs on the street. We won't suffer the agony of losing our kids to violence if we spend real dollars to make our schools a place where kids want to learn and are safe to attend.

We must take Sultan's words to heart. Everyday our children are further corrupted by the evil side of society, while being presented with very few positive opportunities for growth and learning. Sultan Ahmad is following his own words by honoring the memory of his lost son with a memorial scholarship. As the House of Representatives considers anticrime legislation this week, we, as Members of Congress, must also learn from Sultan's example by opening doors for our children and providing them with opportunities and resources instead of hollow rhetoric. I salute Sultan Ahmad and join him in honoring the memory of his son.

INTRODUCTION OF THE INSURANCE FORM SIMPLIFICATION ACT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mrs. SCHROEDER. Mr. Speaker, today I am introducing the Insurance Form Simplification Act. This bill requires insurance claims under both the Federal Employees Health Benefits Program [FEHBP] and the Civilian Health And Medical Program of the Uniformed Services [CHAMPUS] to use a standard form. In other words, it will standardize and simplify insurance claims for Federal employees and for military personnel.

This is an important first step in reforming health care. If we can't use one form for health care claims I don't know how we are going to eliminate waste.

There are nearly 15 million military and civilian employees, retirees, and family members who participate in these plans.

Since many of the health care proposals either exclude these programs or in some cases use them as a model, it is especially important that we take steps to reduce the cost of these plans.

If we can reduce paper work, we can save money. I hope my colleagues will join me in cosponsoring the Insurance Form Simplification Act.

TRIBUTE TO KINGS PARK CENTRAL SCHOOL DISTRICT IN HONOR OF ITS 150TH ANNIVERSARY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to the Kings Park Central School District on its 150th anniversary.

The Kings Park School District is one of the oldest public school systems in the United States. On February 1, 1844, Kings Park held its first school board meeting. During these early years, like most school systems, it operated out of a one-room school house. By 1872, Kings Park had 34 students and the entire annual budget for teacher's wages was $292.

By the late 1800's, the community had grown due to the establishment of the Kings County Farm, today known as the Long Island State Hospital at Kings Park. A new one-room school house was built, which covered grades one to eight. One teacher taught all grade levels.

After the turn of the century, a new, two-story, four-room school house was built, and several teachers were now hired. However, students who wanted to go to high school had to attend nearby Smithtown or Northport High Schools. This changed in 1928 when a new school was built that included a high school. By now the student population had grown to 250.

Since the late 1920's the Kings Park School District has grown as the population of the community increased significantly. This continued until 1987 when the district went through a major reorganization. The district was scaled back to two elementary schools, a middle school for grades 5, 6, 7, and 8, and a high school. A new student population increase is now taking place and the district has reopened the Ralph Osgood Elementary School.

Mr. Speaker, I ask all my colleagues in the House of Representatives to join me in paying tribute to District Superintendent Dr. Mary DeRose, School Board President Charles Gardner, and to all of the students, parents, teachers, administrators, and staff of the Kings Park School District as the district celebrates 150 years of quality education to our youth.

IN HONOR OF TONY NIEVES

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. STARK. Mr. Speaker, today I would like to take a few minutes to recognize Tony Nieves' distinguished career of service to the citizens of Fremont, CA.

For over 39 years, Mr. Nieves has dedicated himself to the safety and well-being of the students in the Fremont Unified School District. Hired in 1955, Mr. Nieves worked on the building maintenance staff, helping to ensure the smooth operation of the schools of Fremont. He later began specializing in carpentry and drafting, before becoming the coordinating assistant for facilities construction. In 1976, Mr. Nieves served as an administrative assistant in the management office. Currently, he is the director of facilities management, a position that he has held for the last 14 years.

Throughout his years of service, Mr. Nieves' goal has been to ensure that the district's school facilities would provide the safest and best possible learning environment for the students. His dedication to this goal has made him an integral part of the education of Fremont's youth.

On September 30, 1994, the friends and colleagues of Tony Nieves will be hosting a retirement party to honor his years of faithful service to the Fremont Unified School District. I would like to join them in their commendation of his hard work and dedication.

MY COMMITMENT TO AMERICA

HON. H. MARTIN LANCASTER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. LANCASTER. Mr. Speaker, I rise today to extend my congratulation to a young man, Matthew Kirby-Smith of Beaufort, NC, located in my congressional district, for being the overall winner for the State of North Carolina in the Veterans of Foreign Wars Voice of Democracy scholarship program. Matthew submitted his essay through Jones-Austin VFW Post 2401 and Ladies Auxiliary.

This past year more than 138,000 students participated. The contest theme for this year was "My Commitment to America." Matthew is an active participant in school activities at East Carteret High School and in his community. I am proud to include this following essay in my remarks for the RECORD.

"MY COMMITMENT TO AMERICA"

(By Matthew Kirby-Smith, Post 2401, Beaufort, NC, 1993/94 VFW Voice of Democracy Scholarship Program North Carolina Winner)

"America is a country founded by the people, for the people." This statement is more than just a simple statement by our forefathers. It is the ideal that our country is founded on. The government is here by the people, for the people. Those peoples are us; you, me, and everyone else that lives here. In order for life to be what we want it—free, fair, and just—we must all realize our responsibilities to our ideal. America is not merely a free country of opportunity, it is a group of free people pursuing their happiness. To retain this privilege we must all contribute to the ideal. My responsibility to this country is what everyone's is: to fight for my country, me life; to help ensure good leadership, to vote; and to ensure the immortality of this country and her ideals, I must help others. The key to our lives in freedom is our stand together, as the people of the country, for this country.

To elaborate on these responsibilities is necessary to ensure true understanding of what I, along with my generation, must be ready, willing, and able to do.

One of the most obvious responsibilities I have is that of service. Service in the military, and the will to fight for what I believe our country should be; this is a responsibility handed down to me by countless other patriots who fought and died for this idea. This is a responsibility not to be taken lightly. From the War of 1812, in which 2,200 died, to WWII where 407,000 Americans died; it has always been a struggle for American freedom. To keep our way of life, we sometimes must fight. In order for the deaths of these patriots to mean something, we must be ready to uphold their efforts, even if it means fighting.

When I turn 18 I will receive a gift that was established early in American history (first for whites, then blacks and women), the right to vote. This right is truly a trademark of the American way. To choose the leaders of the government is unheard of in many countries. It will be my job to use this privilege correctly, and to help others to use theirs. Our country really depends on all of our contributions. We have the chance to choose who leads us. I am proud of this right! I choose who I follow. To a certain extent, I am the master of my fate. It makes me incredibly happy to know that no one is telling me what to do unless I choose him to do so. It should make you happy, too.

We truly do not realize what voting is. The power is in my hands. It is in our hands.

The right to vote and the willingness to fight are two important parts of our country and of my responsibilities. Perhaps an even more important responsibility of mine is to myself and others. Although voting is a direct way of making our will known, more important is our personal impact on each other. My major responsibility to our country's life is my influence on my peers. I am capable of influencing my generation. This responsibility becomes evident as we become older. We start to form parties and to lobby for different causes. If I can't be in the government, I can still help direct it by my vote, and by my actions on others. I can help to teach other people about their abilities; the ability to vote and to change things with letters to congressmen and to senators. The simple action of obeying laws, and just setting examples for others. These are two very subtle, but effective ways of helping our country.

To be ready to fight, to vote, to lead by example and influence—these are my responsibilities to America. These are mine and all of ours. This country will only survive if we want it to. We all influence its change and growth. It truly is a place in which I am very happy to be. It is up to me.

HONORING NORTH MIAMI BOY SCOUT TROOP 39

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mrs. MEEK of Florida. Mr. Speaker, on Friday, May 13, 1994, North Miami's Boy Scout Troop 39 will celebrate its 39th anniversary.

Founded in 1955, and originally meeting in the old north Miami firehouse, Troop 39 has been a guiding force behind generations of Scouts in the north Dade area. Presently under the leadership of Scoutmaster Joe Alterman, Troop 39 continues to serve the community in a variety of ways. They have sponsored a breakfast for local war veterans and coordinated an Easter egg hunt in a local park.

Troop 39's May 13 celebration will serve as a homecoming for past Scouts and leaders. As they gather on this important occasion, I want to join with our community in honoring the past and present members of Boy Scout Troop 39 and their sponsor, the North Miami Elks Lodge 1835. Their efforts on behalf of the community set a high standard of service. I know they will continue their outstanding work well into the next century.

TRIBUTE TO DONALD L. BROWN

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. MORAN. Mr. Speaker, on April 30 of this year, Mr. Donald L. Brown will conclude 10 years of service to Children's National Medical Center. As many of my colleagues know, Children's is a premier pediatric health care facility. Last year, more than 1,600 children were admitted to the trauma service at Children's National Medical Center, where they received immediate treatment for their injuries.

Mr. Brown began his association with Children's in 1984, when he joined the hospital as executive vice president and chief operating officer. In October 1986, he was named president and chief executive officer. Throughout his association with Children's National Medical Center, Don Brown has demonstrated exceptional leadership in guiding the growth and development of Children's National Medical Center to protect, preserve, and advance the unique medical needs of children in this region.

Under Mr. Brown's leadership, the hospital developed a 5-year strategic plan to guide the growth of the hospital's programs and services, including a corporate restructuring in 1989 that enabled the hospital to function more effectively and efficiently. In 1989, in anticipation of a changing market, Mr. Brown constituted a hospital task force to examine future challenges in pediatric health care and their potential impact on Children's National Medical Center. This group produced "Vision for the Year 2000" which outlined strategies to address such issues as increasing operating costs and decreasing reimbursements. The medical center has been employing those strategies effectively in recent years.

Under Don Brown's leadership, Children's National Medical Center expanded a number of its clinical activities in ways that greatly improved access to high quality pediatric health care for the children and families in northern Virginia. Children's National Medical Center built a helipad as part of their renowned trauma service so that children could arrive by helicopter as well as by ambulance. They also developed the national safe Kids campaign, which is a nationwide effort to reduce the number of childhood accidents. The Safe Kids campaign now has more than 160 State and local coalitions in 46 States, the District of Columbia, and Canada.

Another notable accomplishment was the expansion and enhancement of the main hospital facility. Under Don Brown's leadership, the hospital has grown facility. Under Don Brown's leadership, the hospital has grown by 175,000 square feet between 1986 and 1993. A long-range facilities plan was developed, and construction of new facilities for research and expanded ambulatory and emergency care areas undertaken. These physical changes to the infrastructure symbolize the commitment of Children's National Medical Center to the continued health and vitality of the children and families of this region.

Most notably, Children's has worked to enhance and expand services and access for the children of northern Virginia. The Children's satellite center in Annandale, VA, is an important pediatric health care follow-up clinic and referral center for our families and our community's primary care physicians. The hospital is developing even stronger ties to children in northern Virginia by expanding its clinics. Clearly, Mr. Speaker, Children's National Medical Center is very important to me and to my constituents. I was pleased to participate in last year's Children's Miracle Network Telethon on behalf of the hospital. Our regional community raised a record breaking $2.2 million.

Mr. Speaker, I would like to ask my colleagues to join with me in saluting Don Brown for his accomplishments as president of Children's National Medical Center and his continued leadership on behalf of the special needs of children. Don Brown's vision and commitment have helped ensure that the children of northern Virginia and their families will be able to count on Children's National Medical Center and its unique brand of pediatric health care well into the next century.

TRIBUTE TO JOHN CULLEN AND BERNARD KENNEDY, RECIPIENTS OF THE 1994 LONG ISLAND ASSOCIATION MEDAL OF HONOR

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to John Cullen and Bernard Kennedy, who will be honored by the Long Island Association with its 1994 Medal of Honor.

The Long Island Association is the leading business and civic group for the Long Island region. It is also one of the largest business organizations in the country. The Medal of Honor is the association's highest award, and is presented once a year to individuals who distinguished themselves by significantly contributing to the lives of all of the residents of Long Island.

John Cullen is chairman and chief executive officer, and Bernard Kennedy is president and chief operating officer, of King Kullen Grocery Co., the Nation's oldest supermarket chain. The King Kullen Grocery Co., which was founded in 1930 by Michael J. Cullen, has been recognized by the Smithsonian Institute as America's first supermarket. The company is family-owned and operated, and currently employs 4,500 people at its 46 stores throughout Suffolk, Nassau, Queens, and Richmond Counties in New York.

In 1930, founder Michael Cullen leased a vacant garage in Jamaica, Queens, and started the first supermarket. Immediately he revolutionized the retail food industry by allowing customers for the first time to obtain all their groceries from one store. Consumers no longer had to visit separate shops to obtain all their provisions. John Cullen and Bernard Kennedy continue this tradition today. They have also been major supporters of a wide variety of not-for-profit organizations and charities. Various Long Island hospitals, the Little Flower Children's Services of New York and the Family Service League of Nassau and Suffolk Counties are among the many organizations King Kullen supports through the leadership of John Cullen and Bernard Kennedy.

Mr. Speaker, I ask all my colleagues in the House of Representatives to join me in saluting these two fine philanthropists and entrepreneurs, John Cullen and Bernard Kennedy, for their outstanding contributions to the Long Island community, and to congratulate them on being awarded the Long Island Association's 1994 Medal of Honor.

HONOR IN PUBLIC SERVICE: THE VALUE IN EFFORT

HON. LARRY LaROCCO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. LAROCCO. Mr. Speaker, I recently had the privilege of attending the 11th annual Frank Church Conference on Public Affairs at Boise State University. As part of the conference on Honor in Public Service, Bryndi Joyce, a senior at Boise High School was awarded first prize for her essay, entitled, "The Value in Effort." I ask that the essay be printed in the RECORD.

FIRST-PLACE ESSAY PRAISES VALUE OF HELPING OTHERS

The following is the text of an essay written by Bryndi Joyce, a senior at Boise High School. The essay won first place in a contest sponsored by the Frank Church Conference on Public Affairs. The topic is, "Who Me? Responsibility to Public Service."

THE VALUE IN EFFORT

It is hard for me to imagine a life without endless opportunities. Having a father who devotes his time to saving the lives of others, knowing wonderful teachers, and being a volunteer has allowed me to experience the benefits of public service. I realize that my success is a result of others, and by becoming more publicly involved, I can give this time and devotion back to society.

My father's occupation as a firefighter has driven me towards public involvement throughout my life. I see his happiness each time he has saved the life of another human being, or risks his own life at times when others are in need. His efforts have embodied the importance of providing services for the public, because without people to fill these jobs, society could not function. People too often take these services for granted, and fail to imagine what it would be like without firefighters to extinguish the burning flames of a house. My father's occupation has also demonstrated that one's willingness to give up something brings about a stronger community. My family and I have witnessed his sacrifices for public safety as he works 24-hours shifts and often misses out on valuable sleep. I, too, want to help the individuals who have given up their own time for me.

The teachers who devote energy and thought into students' learning provide another source of public service that cannot be appreciated enough. Considering the amount of time a teacher spends with a student each day, the teacher becomes one of the greatest influences in developing our minds and attitudes. I have been fortunate enough to know individuals who have shown me that my efforts do make a difference. These teachers have encouraged me, as well as other students, to have a voice in society and value our own opinions. This motivates me to be a part of school clubs and organizations because I know that my ideas are important in helping others succeed.

I believe that others would become more involved with clubs and volunteering if they realized the power each individual has in shaping society. I would like to be in a position that encourages every type of student to develop and pursue his/her talents, and provide an atmosphere where students can become familiar with playing a part in society. I can, and by devoting my time to individuals who need tutoring or improvement in certain areas, inspire students to take part in public services. Once a person sees that my effort to help them are making a difference, he/she can also do the same for someone else. A teacher's positive attitude and enthusiasm offer a basis for students to learn the benefits of public service.

Volunteering to serve the public has demonstrated that individual efforts benefit society. Contributing services to our community is so important in preventing crime and maintaining a healthy atmosphere for everyone.

Unfortunatley, I see many individuals steering towards private business jobs and concerning themselves with only their personal goals. More responsibility must be taken by everyone in order to create better education systems and a less violent country. There are no quick solutions to these problems facing society, but the best measure for prevention is to assume an active role in helping troubled teens or other individuals who need direction. Designing youth involvement programs makes volunteer work more accessible, allowing students to see that a solution to violence and crime relies on their own individual effort. As students see that their efforts are valued by teachers and other citizens, they will have a greater interest to continue public involvement.

I feel that this attitude is implemented by those around us. Teachers, parents, and other people who are serving the public should encourage more students to have a functioning voice in society. This influence will allow students to recognize a responsibility for the well-being of citizens at the same time they are pursuing personal goals and interests.

Those who aspire to "save the earth" or "change the world" often fail to recognize that achieving these goals depends on their dedication to get people involved with public service. My individual efforts can encourage others to have a more active voice in society, and as James Baldwin suggests, our aspirations for a better community will begin to take place. "The world will change according to the way people see it, and if you alter, even by a millimeter, the way a person sees reality, then you can change (the world)."

TRIBUTE TO LOUIS A. FAZZANO

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. REED. Mr. Speaker, I rise today to pay tribute to an outstanding Rhode Islander, Louis A. Fazzano who is being honored by the Providence Rotary as their distinguished citizen of the year.

Mr. Fazzano has been a leader in Rhode Island for many years and he is known for his success as a businessman, his commitment to community service and his unselfish dedication to charitable and philanthropic endeavors.

Mr. Fazzano began his succession of accomplishments and service to Rhode Island when he moved here in 1946. After 37 years, he retired from the Imperial Knife Co., Inc., as its treasurer and chief administrative officer and within a year, he was named director of the Rhode Island Department of Economic Development. During his stewardship of Rhode Island's lead economic development agency, he led an aggressive campaign to bring new industry to the State, while at the same time, expanding existing businesses and developing the tourism industry in Rhode Island.

Louis Fazzano then left state service to embark on the difficult challenge of restoring financial stability to an institution which today is one of the State's largest employers, Rhode Island Hospital.

When Mr. Fazzano became president of Rhode Island Hospital in 1989, his leadership and dedication reversed the hospital's record deficit of $18.5 million to a break-even position in only 3 years. His keen business sense and unwavering determination are evident and his efforts have been instrumental in the hospital's emergence as a leader in healthcare, research and education. At the end of 1993, Mr. Fazzano retired as chairman of the board of trustees.

Mr. Fazzano's leadership qualities and results-oriented attitude have earned him the respect and affection of many, and I urge my colleagues to join me in honoring an outstanding Rhode Islander, Louis A. Fazzano.

BOYS' TOWNS OF ITALY MAN OF THE YEAR

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. QUINN. Mr. Speaker, I have the distinct pleasure today to rise in honor of a gentleman from my district who was recently named the Boys' Towns of Italy 1994 Man of the Year, Roger L. Palczewski.

Roger Palczewski is a lifelong resident of Buffalo. He attended St. Francis High School and graduated from the University of Buffalo with a B.S. in Administration. Roger returned to St. Francis to serve as business administrator after service in the U.S. Air Force.

Roger Palczewski has been very active in the dairy industry—an extremely important industry to the western New York. Roger is the former president and chief executive officer of Sorrento, Inc. and its subsidiaries. He began his career with the Sorrento Cheese Co. in 1972 as controller and later became senior vice president finance and senior vice president administrative.

Currently, a member of the board for Perry's Ice Cream Company, Inc. and Rosina Food Products, Inc., Roger continues to work for the best interests of dairy producers and processors. Roger has been active as a member of the National Cheese Institute and the American Producers of Italian Type Cheese Association.

Playing an important role in the community, Roger serves as a trustee at Hilbert College and is past director of Our Lady of Victory Hospital.

Along with his wife Carol and their children Todd, Tracey, and Jennifer, Roger Palczewski makes enormous contributions to Buffalo and is always willing to offer his support and assistance.

Mr. Speaker, I ask my colleagues to join me in extending hearty congratulations and best wishes to the Boys' Towns of Italy Man of the Year, Roger Palczewski.

DISTRICT OF COLUMBIA BUILDING HEIGHTS ACT OF 1994

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. STARK. Mr. Speaker, I am today reintroducing the District of Columbia Building Heights Act of 1994. This legislation was originally introduced on March 23, 1994.

While certain provisions have been modified, its purpose and essential elements remain unchanged. It confirms the limitations Congress enacted in the 1910 Height of Buildings Act and the intent that it be strictly construed.

When Washington, DC, was granted home rule in 1973, Congress expressly prohibited the city from raising the height limit. In 1991, Congress acted to prevent a waiver of the height limit for a proposed Pennsylvania Avenue Development Corporation building. Unfortunately, there are numerous examples of successful efforts to avoid the Height Act which were not brought to the attention of Congress. This bill is intended to prevent vitiation of the 1910 statute by administrative action.

Mr. Speaker, I did receive a number of useful suggestions regarding the original version of the District of Columbia Building Heights Act of 1994, and have incorporated many of them into the bill introduced today.

I have deleted from my original bill several provisions better left to the local process, particularly since the National Capital Planning Commission will be more closely involved in that process in the future. Unlike the original bill, the version introduced today would not require all towers, minarets, spires, and similar structures to be set back from exterior walls.

The bill will also allow a penthouse to be built out to an outside wall that directly abuts another building whose roof is as high or higher, and grants some administrative discretion in truly unusual circumstances. I have also expanded the buildings to which the modifications would apply and clarified the authority of National Capital Planning Commission members to enforce the height limits.

Because it is clearly a matter of Federal interest to defend the height limits and preserve the character of our Capital City, Mr. Speaker, I plan to move quickly on this legislation. I will press for swift committee and floor consideration of the measure.

THE PUBLIC HOUSING MORASS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. BEREUTER. Mr. Speaker, this Member would like to commend to his colleagues the following editorial from the April 15, 1994, Washington Times, concerning the corruption and scandal surrounding the District of Columbia's Department of Public and Assisted Housing.

Both daily newspapers in the city have condemned the mismanagement, corruption and betrayal of the District's citizens by this agency. As the Washington Post reported on April 15, 1994, the Department of Housing and Urban Development will move to establish more oversight over the District's housing programs. The Post reported that "One of the first changes will be for the District's housing department to put all Federal funds it receives into a bank account separate from those used by other city agencies." Certainly this is a needed step, and one which should have been taken long ago.

[From the Washington Times, April 15, 1994]

THE PUBLIC HOUSING MORASS

Now we know why thousands of families can languish on waiting lists for public housing in the District, some for as many as seven years: They don't have enough money to bribe their way into an apartment. The allegations of bribery lodged against five employees of the Department of Public and Assisted Housing (DPAH) are absolutely stunning. Of about 400 tenants who received housing assistance payments over the past four years, as few as 15 did so through proper channels, according to a two-year investigation.

Some people held the process in such disregard that they acted as brokers, coordinating bribes between friends and relatives and housing employees. One top administrator allegedly sent vouchers, which are used as money to subsidize rent for the poorest tenants, to her sister in Chicago. Meanwhile, families unable to afford housing try to play it by the rules and end up waiting it out in city shelters or on the streets.

The question is not whether the District's Department of Public and Assisted Housing should be placed into receivership, but when. Corruption is evidently so extensive and mismanagement so thorough that only a body that is independent of city politics will be able to actually "see" the problems, fix them and prevent them from occurring again.

The bribery investigation began in early 1992 courtesy of Ray Price, who was then director of DPAH. He notified police and the U.S. Department of Housing and Urban Development that he suspected grants were being exchanged for bribes. The FBI joined the probe in 1993. Not long afterward, Mr. Price quit, having run headlong into the same obstacles that frustrated several of his predecessors—a politically motivated, meddlesome administration.

Receivership is the recommendation of the special master appointed by a D.C. Superior Court judge last spring to identify the source of the department's malfunction. Clearly, something drastic is needed to wrench the agency out of its chronic misery. Nothing else has worked so far—certainly not the stream of a dozen directors in 15 years, not scathing reports from federal reviewers, not the threat of fines from the court and not a new mayor with big promises.

Politics is the precise factor that has kept public housing mired in its persistent problems. Public housing units have become no more than convenient backdrops for capturing political agendas in photo opportunities. That was true of the last administration and is no less true of the present one. Removing the mayor's office from the formula seems a sensible idea.

Politics, after all, is what drove the passionate though unrealistic promises Mayor Sharon Pratt Kelly made three years ago about restoring 2,200 units within 18 months. She was completely unaware of the land mines, from unhelpful personnel rules to incompetence to (it appears now) corruption.

She made an impossible vow, and when the heat came on she rolled a head. The last one belonged to Robert Jenkins, who was canned after less than a year on the job despite a court recommendation to keep him in place. He succeeded Mr. Price, who also was appointed by Mrs. Kelly. One of Mr. Stockard's earlier reports had pinpointed the continued problems to the constant change in directors.

Naturally, Mayor Kelly and city leaders are resistant to a takeover. It is a political liability to concede turf or have it snatched from you at any time, let alone in an election year. The administration reportedly is contemplating creation of a special five-member policy-making board that would provide the department with direction. But with the mayor as chairman, as the mayor proposes, such a board will be useless. What seems to have escaped notice here is that the mayor's office and her practice of excessive interference have been identified as major stumbling blocks to progress at DPAH.

No one doubts that Mayor Kelly and other city leaders truly want to improve public housing in the District. The problem is that many of them have been at it for more than a decade, and their heartfelt desires are not turning into results. If results there are to be, they are probably going to have to come from the outside.

PREVENT A BLATANT VIOLATION OF FEDERAL LAW

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. STARK. Mr. Speaker, today, I join the ranking minority member of the Committee on the District of Columbia, Mr. BLILEY, in introducing legislation to stop a blatant and unquestionable violation of Federal law. Specifically, the current building designed for relocating the studios of WETA television station on the campus of George Washington University violates the 1910 Height Act. What we have found takes this controversy far beyond a matter of mere differing views of architectural technicalities, but rather illustrates a rather shrewd—and nearly successful—attempt to sneak around longstanding Federal law.

Simply, the issue is this: The original GW/WETA proposal clearly stated that their building was over 116 feet high and that the appropriate Height Act limitation was 130 feet. There are numerous official documents from both the GW/WETA applicants and the District of Columbia government stating the building's height at more than 116 feet. However, they had made an error because the maximum height allowed on this site under the Height Act is only 110 feet.

When they discovered their error, instead of reviewing and redesigning the building, GW/WETA simply introduced an invisible roof. When the D.C. Zoning Administrator ruled that this nonsense failed compliance, the D.C. Zoning Commission allowed GW/WETA to submit a revised plan which simply added a solid line at 110 feet and labeled it "solid studio roof." No details were requested or required, and opponents were not allowed to ask questions about the revised plan, which was approved last week.

The District of Columbia Zoning Commission and a misinformed National Capital Planning Commission have mistakenly approved construction of a building that exceeds the federally prescribed height limit for any structure placed at that location. I say misinformed NCPC because they were never told about the above history of the project. The applicants have never voluntarily disclosed these material facts. A manipulation of the original design involving redesignation of the roof is the most egregious, but not the only, attempt to evade the Height Act in the planned construction of the GW/WETA building.

Our bill to prohibit the planned construction is not a case of improper interference with local regulation. Congress has intended for centuries to protect the unique skyline of our Nation's Capital from overzealous development. Protection of this city's skyline was, is, and will remain a matter of the Federal interest.

In 1991, Congress acted to disapprove a D.C. City Council act that would have raised the height limit for a Pennsylvania Avenue Development Corporation building. The legislation we are introducing today similarly stops administrative action that would vitiate the 1910 Act. And as guardians of that Federal interest, we are required to identify and guard against such assaults. No one is above the law.

We intend to move this bill through to final passage expeditiously. We urge our colleagues to support us.

PIRACY OF U.S. PATENTS AND COPYRIGHTS COSTS OUR COMPANIES BILLIONS

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. GEJDENSON. Mr. Speaker, today I am introducing legislation to get companies like Pfizer pharmaceutical of Groton, CT, real help in combating the theft of American know-how.

The piracy of U.S. patents and copyrights by foreign countries costs our companies $15 to 17 billion each year. That means over 300,000 American jobs are put at risk every year by foreign pirates. Pharmaceutical companies like Pfizer lose $5 billion or more each and every year, jeopardizing at least 100,000 American jobs.

America's strongest asset in this competitive world is its ingenuity and its creativity. From the pencil-making machine to the microchip, U.S. inventors have created millions of groundbreaking products over the years. But products like these are being stolen every day by countries that have no respect for the rights of the inventor. From the scientists who invent the products to the men and women who make and ship them, American workers are being ripped off by foreign pirates.

My legislation would put a stop to that by calling on the administration to use every possible policy lever, including withholding trade benefits, to end the thievery of our intellectual property.

And for those countries that are earnestly trying to stop the thievery but do not have the wherewithal to do so, my legislation helps them to get the training and technology needed to put in place a real system of intellectual property protection.

Everything that Americans create or invent for the marketplace gets a patent or copyright in this country to ensure that the creators get a return for their labors. No less should be expected in other countries that want to benefit from our ingenuity and creativity. Whether they want to get relief from common arthritis pain, or to keep their accounts on Lotus 1–2–3 or just to watch a Steven Spielberg movie, foreign benefactors of American ingenuity should pay for the privilege.

RUSSIAN IMPERIAL DECREE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. SOLOMON. Mr. Speaker, I would like to insert into the RECORD the following decree signed on April 5 by President Yeltsin of Russia.

The decree declares that Russia will build several military bases in the Commonwealth of Independent States and Latvia. Mr. Speaker, this is truly an ominous development. Russian foreign policy has become more and more aggressive over the past year, and this latest decree seems to confirm the worst of our fears.

Russian retractions on Latvia's inclusion in the decree, claiming that it was a technical error, are not to be taken at face value. Recall, Mr. Speaker, that Soviet maps from 1939, before the Baltic annexations of 1940, had already begun to show the Baltics as Soviet territory. When asked about this, Stalin replied that the maps were a "mistake."

While the decree does allude to "negotiations" with these other countries, there is in the decree an air of inevitability. The Russians are obviously assuming that the other countries will capitulate.

And given the Moscow-Washington tag team against the former Soviet Republics, it is probably a good bet that they will. Economic and military threats by Moscow combined with economic carrots and political threats by Washington have already broken the will of several former Soviet Republics.

Witness the case of Latvia. As several thousand Russian troops continue to loiter in that

Baltic country, the Clinton administration recently pressured the Latvians to be "more accommodative" to Russian concerns and held out the prospects of further aid to Latvia. The result was the initialing of a pact which called for the final withdrawal of Russian troops by August 31, but only under the conditions that the Russians will continue to operate a radar base in Latvia and that the Latvian Government will pay the pension of thousands of Russian military retirees. This is not the way it was supposed to be, Mr. Speaker.

Or how about Ukraine? The Moscow-Washington axis was successful in pressuring President Kravchuk into unilateral nuclear disarmament, and everybody applauded. But given recent events, and especially this decree, does anybody seriously still believe that Ukrainian nuclear weapons represent the threat in that part of the world?

Mr. Speaker, the Eurasian Continent is on the verge of a great deal of trouble, and the Clinton administration seems oblivious. Congress must stand up and be heard. I thank the Speaker for the time and submit the text of the decree for the RECORD.

DECREE BY THE PRESIDENT OF THE RUSSIAN FEDERATION

APRIL 5, 1994.

Consent to the proposal of Russia's Defense Ministry, which has been approved by Russia's Foreign Affairs Ministry, to create Russian Federation military (hard to read, perhaps, "eight") bases on the territory of CIS and Latvia, to ensure the security of the Russian Federation and the above named nations, as well as to test new weapons and military machinery.

The Russian Foreign Affairs Ministry, together with the Defense Ministry and other interested ministries and departments of the Russian Federation are to negotiate this question with CIS members and the Republic of Latvia and the obtained agreements have to be formulated by appropriate documents.

B. YELTSIN.

MANAGEMENT WEEK IN AMERICA

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. GALLEGLY. Mr. Speaker, I rise today in recognition of the men and women who play a critical but sometimes underappreciated role in keeping America in business—the Nation's managers.

This year marks the 16th observance of Management Week in America. Sponsored by the National Management Association, the week of June 5–11 has been set aside to recognize management as a valued profession and to promote our American competitive enterprise system.

Since it's inception in 1978 by the National Management Association, Management Week in America has grown each year in size and scope, and deservedly so. For just as we need people with vision to develop the ideas that keep America moving forward and people with the skills to produce the goods and services that result from those ideas, so too do we need the people to ensure that those ideas are carried out.

The National Management Association, with more than 60,000 members in 200 chapters covering the spectrum of American business, industry and the public sector, helps those managers improve their skills and abilities, and contributes to improving our productivity and our economy. Founded in 1925 in Dayton, OH, the association is a nonprofit, nonpolitical educational society committed to fostering the development of individuals as managers through personal effort, motivation, and participation.

I would like to pay special recognition today to the association's Rockwell Valley Chapter, which has more than 1,100 members located at Rockwell facilities in Canoga Park, Chatsworth, Santa Susana, Westlake Village, and Thousand Oaks.

Mr. Speaker, I ask my colleagues to join me in commemorating Management Week in America, and in supporting policies to make our free enterprise system stronger and even more capable of meeting the economic challenges of the years ahead.

RWANDA'S SITUATION BEARS WATCHING

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. TOWNS. Mr. Speaker, I come before my colleagues today to bring attention to the atrocities occurring in Rwanda. To date, 20,000 have been massacred as a result of conflicts between warring factions. The world is witnessing the mass exodus of foreigners from Rwanda in the aftermath of the killing of its President in a plane crash explosion along with the former President of Burundi.

It is important for those of us who cherish the notion of democracy and freedom, to raise our voices in support of the notion of democratic rule, but against wanton killing and political repression. At the same time, it is important that we not typify this as a tribal conflict, because it is in fact a political conflict among principals who happen to be from different tribes.

The stated goal of the rebels warring against the military government is to implement a democratic government. It is a lofty goal indeed. However, the method, the chaos, and the human toll being exacted is beyond comprehension. I ask my colleagues to be equally mindful of the scenario being played out in Africa, as we have in other parts of the world. We should not send the wrong message, that African lives are of less importance than those being lost in other parts of the world.

WESTERN NORTH CAROLINA SMALL BUSINESS HEALTH CARE INITIATIVE

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. TAYLOR of North Carolina. Mr. Speaker, for the past several years, Congress and the Nation have been debating health care. Being a small businessman myself, I have been concerned that this debate has often excluded the impact to our largest provider of jobs in this country, the small businesses.

In western North Carolina, small businesses provide 90 percent of the jobs for our people. More than two-thirds of the new jobs created in our country come from small businesses.

We must include the impact of any health care initiative by Congress on our small employers. In western North Carolina, it is encouraging to report of a new initiative being undertaken to assist small businesses with health care for their employees. I believe Congress should provide for alternatives such as the one being undertaken in my district.

In 1993, the North Carolina General Assembly passed a bill allowing regional health care purchasing cooperatives. Specifically, the measure was aimed at allowing businesses with 50 employees or less to pool their financial resources to shop more effectively for health care insurance. This will increase the affordability, efficiency, and fairness of health coverage for small businesses.

Following the ratification of this bill, the Asheville Area Chamber of Commerce established a communitywide team to evaluate prospects for creating a voluntary small business health alliance. This 20-person panel was comprised of physicians, hospital administration officials, health educators, small business owners, and insurance professionals. They named the WNC initiative Health Link.

Health Link will become North Carolina's first voluntary alliance of small businesses dedicated to reducing the costs associated with health care insurance for small businesses across western North Carolina.

Health Link will be administered by a newly chartered private, nonprofit corporation. Health Link will work through chambers of commerce and other business organizations. Health Link will develop a system for qualifying agents to sell approved health plans and provide regular education programs to assure that agents maintain the latest information on current plans.

Health Link will drive down insurance costs to small businesses by providing competition for alliance business among insurance companies and developing a large pool of alliance participants.

The principle which will make Health Link successful is that small business will gain bargaining power from strength in numbers. Health Link is allowing the free enterprise system to work.

It is an honor for me to be a community sponsor for Health Link. I look forward to sharing this concept with other Members of Congress as we proceed in our health care debate.

TRIBUTE TO OTIS CHIDESTER

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. PASTOR. Mr. Speaker, I would like to take this opportunity to honor Mr. Otis H.

Chidester, who on April 5, 1993, became the oldest man in history to receive the Distinguished Eagle Scout Award from the National Council of the Boy Scouts of America. This award recognizes men who have been an Eagle Scout for at least 25 years, have distinguished themselves in their chosen profession, and have accumulated an exceptional record in community service.

On June 12, 1912, in Susquehanna, PA, Otis Chidester joined the Boy's Brigade which later merged with the Boy Scouts of America. Over the years, Mr. Chidester received numerous honors in connection with his service. Today, over 80 years later, Otis is still actively involved with the Boy Scouts. He is only the sixth man to accomplish 80 years of service. Currently, Mr. Chidester is in his 31st year as Scout historian and is acknowledged as the dean of all Boy Scout Council historians in the United States.

Mr. Chidester received an M.A. degree in education at the University of Arizona and taught for 43 years before his retirement in 1973. He and his wife, Martha, spent many of their summers at Camp Lawton where he served as camp director. In 1940, Mr. Chidester founded the graphic arts department at Tucson High School and served as departmental chairman for 28 years. He is also the founder, curator, and benefactor of the Otis H. Chidester Scout Museum of Southern Arizona.

At 91 years of age, Otis is the Nation's and the world's senior living active Boy Scout. His distinguished contributions to society serve as an example to the youth of Arizona and should be commended. Mr. Chidester, thank you for your years of dedication and hard work and service to our community, State, and Nation.

ARMENIAN GENOCIDE

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. WALSH. Mr. Speaker, central New York is a place of diverse cultures, very much a cross-section of America in the late 20th century. Our Nation is stronger because of immigrants who have come searching for freedom. Among those groups are Armenian Americans, who have thrived in my hometown and have laid groundwork for their children's future. Sadly, as we salute their hard work and faith, we must mention in the same breath the very reason most Armenians came to America. Because today, as we do each April, we force ourselves to remember the Armenian genocide, a holocaust victimizing not only the 1.5 million people massacred by the Turkish Ottoman Empire, but those who were forced to abandon their ancient homeland.

The details of the inhumanity are repulsive to us who live side-by-side with children and grandchildren of the survivors. We remember, easily in some cases, the prejudice has taken many forms against many groups of immigrants. But in few cases has the horror of intense hatred in the homeland reached a level of viciousness that it bears the name of genocide. This has been true of the Armenian people.

I sympathize today with the descendants of those who died, and those who came to America. I condemn the acts, past and present, which are carried out against a people in the name of nationalism or any other cause. And I thank God with my Armenian American friends today that they have brought their culture to our great Nation. Their children will carry forward their customs, their pride, their spirit into the ages, and all our children are better for knowing this.

I urge my colleagues to join us in supporting Armenian Americans on this day, and in condemning the aggression of genocide against their ancestors.

COMMEMORATING THE 79TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. REED. Mr. Speaker, I rise today to join the Armenian-American community in Rhode Island and across the Nation in commemorating the 79th anniversary of the Armenian genocide.

In this month in 1915, the religious, political and intellectual leaders of the Armenian community in the Ottoman Empire were rounded up and exiled from their homes. Over the next 8 years, they, and 1.5 million other Armenian men, women, and children were executed by the brutal Ottoman regime. Where before there stood a thriving community of 2,500,000, now only 80,000 remain. Where there were once mothers and fathers, sons and daughters, friends and relatives, now there are only memories.

To the world's horror, the Government of Turkey continues to deny that the massacre occurred. In doing so, they deny the very existence of the 1½ million people who were killed.

As long as this policy of denial continues, we must redouble our determination to uphold the memory of the victims of the slaughter and make the truth known. Not only for those who perished, but for those Armenians who are suffering today, and for those who are yet to be born.

CRIME BILL STRAYS INTO SOCIAL PROGRAMS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. BEREUTER. Mr. Speaker, this Member would like to commend to his colleagues the following editorial from the April 18, 1994, Omaha World-Herald, concerning the anticrime measure pending before the House. Crime prevention programs are important, and must be adequately funded, yet, as the editorial makes clear, the majority party's leadership has confused fighting crime with creating expensive social programs. It is a thoughtful editorial and this Member urges his colleagues to heed its message.

[From the Omaha World-Herald, Apr. 18, 1994]

CRIME BILL STRAYS INTO SOCIAL PROGRAMS

Christmastime returns in April to Capitol Hill. At least that's how it appears as Santa Claus wannabes in Congress decorate the crime bill with additional ornaments.

For cities, the House version includes $6.9 billion in community-based crime "prevention" programs. That's nearly half the cost of the bill—and all for social programs that may or may not have any effect on the crime rate.

Congress would pay local governments to run midnight sports leagues. It would create yet another jobs program. The House version includes $2 billion that would be sent to cities under a revenue-sharing plan. Cities wouldn't have to apply for the money but would get it automatically according to a formula based on the number of residents who met poverty guidelines. Recipients would be encouraged to use the money for health and education programs.

The $6.9 billion package for cities isn't the only gift that Santa Congress plans to leave. For trial attorneys, the package includes the so-called Racial Justice Act. The residents of the nation's death rows could use it to clog court dockets with even more appeals. It would give the government's blessing to the use of sentencing statistics to challenge the death penalty as racically discriminatory.

Congress sometimes seems to confuse creating more court cases with fighting crime. That confusion is apparent in the Violence Against Women Act, another "anti-crime" measure that isn't included in the main crime bill.

Violence against women is a problem in this country, to be sure. But it's hard to see how this bill would stop violence against women. The bill would allow a person to file a civil suit to seek compensation for an assault by a person of the opposite sex. A woman who was assaulted by her husband's girlfriend couldn't sue, for example, but an abusive husband could use the act to sue his wife if she fought back. The bill could also open the door for women to harass men with civil suits on the basis of alleged assaults for which no evidence existed to justify a criminal charge.

Putting real teeth in sentences for rape and assault would do more to prevent violence against women than would this misguided act.

Fighting crime means putting police officers on the streets, prosecuting cases in a timely manner and handing down sentences that provide real punishment. It also means restoring respect for authority and reverence for the sanctity of the family—a field in which government has so far displayed little ability to bring about a positive effect.

In Congress, fighting crime apparently still means forking over huge sums of cash for questionable social programs and pushing the agenda of interest groups in search of a vehicle to carry their politically correct cause. It hasn't reduced crime in the past, and there's no reason to assume that it would in the future.

CLEANING UP FLORIDA BAY

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. SHAW. Mr. Speaker, I would like to commend to my colleagues, the following article from the Miami Herald on April 18, written by Donald Smith.

HOW SOON IS SOON ENOUGH TO CLEAN UP FLORIDA BAY?

ISLAMORADA.—It was a sunny Florida Keys morning, the kind of day when death should have been on vacation. Charter fishing guide John Kipp revved up his 16-foot skiff and joked with his two passengers as they glided through flat bay water and headed for Rabbit Key. They were after big game: tarpon, which they would cut loose after capture to allow the silver monsters to fight again another day.

Kipp saw the dead fish about eight miles out. Hundreds, perhaps thousands of them were lying on their sides, motionless except for the rocking caused by the boat's bow wave as he throttled back for a better look. The button-like eyes of the fish stared into the sun, as if in shock.

"They were not small fish," Kipp recalls. "These were large snappers, barracuda. It certainly wasn't a good sign."

The fish devastation that Kipp saw last August has become a distressingly common sight in Florida Bay, a 1,040-square-mile wedge of water, between the Florida Keys and the Gulf of Mexico, once haunted by the likes of Zane Grey and Ernest Hemingway.

Everyone agrees that Florida Bay is dying. The question is how to bring it back to life. As it expires, it threatens to take with it much of South Florida's sport and commercial fishing industry.

Floridians also fear harm to other natural assets, including 500,000 acres of mangroves that line the shores and islands, and the chain of coral reefs just offshore in the Atlantic Ocean that annually draw hordes of scuba divers and snorkelers.

Dusky blooms of algae sometimes stain as much as half of the bay. The brown and green smudges suck up oxygen that fish need for life and choke off beds of sea grass and sponges that lobsters, stone crabs, and other species call home.

"This is an ecosystem on the verge of collapse," says Michael Collins, an Islamorada charter boat owner who used to help run fishing expeditions for President Bush and his friends.

"Just five years ago you could read a newspaper lying on the bottom through 10 feet of water," Collins tells National Geographic. "Now, sometimes the visibility is less than six inches."

Commercial fishermen and marine scientists report declines of 80 percent in catches of pink shrimp and 30 percent in juvenile spiny lobsters. Average lobster catches on the east side of the bay are down 40 percent, and commercial catches of pompano and mackerel have plummeted by 75 percent. The damage is all the more remarkable because it has occurred in an area nominally protected by the federal government. The bay is part of Everglades National Park.

For years, environmentalists, along with fishermen and others who depend on Florida Bay for a living, have argued that the chief culprit has been the diversion of fresh water that once flowed into the bay from the Everglades. That view is now disputed by scientists who blame high nitrogen levels caused by pesticides and other chemicals.

Since early in the century, water has been siphoned off from the vast wetlands to the north to create farmland, control flooding, and provide drinking water for cities on both of Florida's coasts. Today 1,364 miles of canals drain off more than a trillion gallons of water a year. Park hydrologists estimate that the bay now receives as little as 10 percent of the fresh water that it once did.

These diversions, the environmentalists say, have upset the delicate balance between fresh water and salt water that sustains Florida Bay's diverse plant and animal life, elevating salinity levels, and setting off chains of destruction.

All this has produced a bitter struggle between the bay advocates and the farmers whose livelihoods depend on the diverted water. After years of controversy and delay, state, and federal agencies have agreed that the way to save the bay is to restore the flow of fresh water.

The Army Corps of Engineers recently proposed that the federal government buy a belt of farmland north of the bay to act as a buffer zone between the Everglades and other farmland. The immense plumbing system would be redesigned to restore much of the freshwater flow into the bay. The initial estimated cost of the whole project is $100 million.

Other scientists argue that the biggest problem isn't salinity, but pollution. Some say that chemical runoff from farms and cities raises the levels of nitrogen in bay waters, sustaining the death-producing algae. Others attribute the high nitrogen content to decaying sea grasses.

Principal proponent of the runoff view is marine biologist Brian LaPointe, who operates an independent laboratory at Florida's Big Pine Key. "Nutrient pollution is the No. 1 threat to water quality in Florida Bay," he says. "Adding more water is like adding fuel to the fire."

Last September a panel of experts, convened at the request of Interior Secretary Bruce Babbitt, decided that more research is needed.

Bruce Rosendahl, dean of the University of Miami's Rosenstiel School of Marine and Atmospheric Science, advocates a federally financed two-year study of the bay's ecosystem. "We think lack of water flow into the bay is certainly a problem," he says. "But it's probably a complex series of issues, including pollution. I would like to know what the entire problem is before I start dumping money into any one part of it."

In the meantime, veteran fisherman John Kipp doubts that anything will be done soon: "We'll probably all be dead before it's cleaned up."

RECOGNITION OF ROBERT LESLIE AND HOME BUILDERS INTERNATIONAL OF HOPKINS, MN

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 18, 1994

Mr. SABO. Mr. Speaker, it is all too easy, unfortunately, for those of us who take the roof over our heads for granted, to disregard what it means to live without clean, safe housing. Yet, one of every four people on Earth, including many Americans, is faced with these circumstances. Their plight is made painfully clear to us when a natural disaster, such as the midwestern floods, the Los Angeles earthquake, or Hurricane Andrew, ravages a region of our country and leaves our family members or friends without shelter.

That's why, Mr. Speaker, it gives me great pleasure to share with my colleagues an article that appeared in last week's Parade magazine about a revolutionary new type of house—one that can be built for less than $5,000, yet is durable enough to withstand hurricane-force winds, seismic shock, and resist cold, heat, and humidity. The inventor of this UniHome concept, Robert Leslie, produces these homes at Home Builders International in Hopkins, MN.

I know my colleagues will want to join me in congratulating Home Builders International for its success in applying innovative technology to one of today's most pressing domestic and global human needs.

The article from Parade, "A Different Kind of House" follows:

A DIFFERENT KIND OF HOUSE

In recent months—because of recurring natural disasters across the U.S., like the fires, earthquakes and mudslides that hit California—many Americans have experienced housing problems similar to those in the Third World.

There is an urgent need for low-cost homes that can be assembled quickly. One out of every four people around the world—1.25 billion—lives in an unsanitary and unsafe shelter, according to the United Nations Center for Human Settlements. Now, many disaster victims in America and people in Third World nations may be able to obtain new, permanent housing, thanks to one man's creative idea.

I went to Hopkins, Minn., to meet that man—Robert Leslie, a 56-year-old inventor born in Australia—and to find out more about his creation.

For 26 years, Leslie had worked in more than 20 nations and designed farm equipment and building products. His idea for a new type of house came from a conversation in 1991 with Philip Johnston, present of CARE, the relief and development agency. Was it possible, Johnston wondered, to build a safe strong home that indigent governments, humanitarian groups and private developers in poor nations could afford? The typical core house of concrete block costs an average of $8000 worldwide. Could one be built for less than $5000?

Leslie went home and thought about it. Within months, he came up with an answer. First, he envisioned the "skin" of the house—the walls, windows, doors and roof—as a unique interlocking system. "I had used slots before in other inventions," Leslie explained, "and that was my solution." The house sections would be joined with deep grooves, slots and pockets—not nails and staples—and bound with strong adhesives, roof clips and foundation fasteners to create a "monolithic" structure.

By "thickening the skin" with more material at key points—corners, window and door frames, and trim—a network of posts, beams and headers evolved. The wall panels acted as diagonal braces, further enhancing the strength. The result was the Shelter Series house, designed to withstand hurricane-force winds and seismic shock.

Philip Johnston said Leslie "is on to something with his Shelter Series house that will have great impact both through-out the Third World and the U.S."

Leslie builds the components for the Shelter Series house in Minnesota at his company, Home Builders International. The houses range in size from 320 square feet to more than 1000 square feet. The basic home costs about $4000. It is 20 feet long and 16 feet wide—small by Western standards but quite large in most developing nations. Larger models, which can accommodate several families, cost about $7000.

"I always had the idea of building housing for people in developing nations," Leslie told me. "Along with food and education, it is the most important challenge."

The durability of the houses was tested in Guam during the hurricane season two years ago. Despite the winds, the houses remained intact. Unlike a traditional home, which might fly apart from punishing winds, the Shelter Series house has no unbonded openings or corners. It locks together and works as one piece. In addition, it can be put together by two people in one day and is easy to transport. Electricity and plumbing are optional.

In Oglala, S.D., Adam and Ina Espinosa and their nine children have been enjoying their Shelter Series house since 1992. For nearly 10 years, the family was cramped inside a three-room trailer, but the four oldest boys now live in a four-room Shelter Series house, situated near the trailer. "It's worked out real good for us," said Adam. "There are no problems during bad weather."

The Espinosa family's home was assembled in three days by 12 high school students from the Good Samaritan Ministries of the Immanuel Lutheran Church of Palatine, Ill., led by their ministeries director, Tim Hetzner.

"It's quite exciting what Leslie has come up with," said Thomas H. Stahl, the architect who prepared the blueprints for Leslie's invention. "It fills the housing gap that Andrew created."

Stahl was referring to Hurricane Andrew, which left 160,000 people homeless in southern Florida 18 months ago. Currently, 1300 families remain without homes, according to the Federal Emergency Management Agency (FEMA). Although three Shelter series houses have been built there, none is inhabited, since the blueprints haven't been approved by country officials. "The bureaucracy is very slow," said Leslie.

In the past two years, Leslie's homes have been assembled—and inhabited—in Mexico and Micronesia, and more will soon appear on Pacific Ocean atolls and mountainsides in Central America. More than 100 were constructed last year on nine remote locations in the Marshall Islands, a U.S. protectorate in the Western Pacific.

Working with the Persons Helping People Foundation, a nonprofit organization, Home Builders International recently agreed to build 1200 houses in La Argentina, El Salvador, a hillside village populated mostly by refugees.

This project will be an important test for Leslie. It is based on the idea that the people of the village will learn how to make the material needed to create their homes from resources in their own environment. That material is another Leslie invention, called "enviroboard." It is made from a mixture of cement and crop residues—straw, rice or wheat shafts and husks, corn stalks, sugar cane, grasses, papyrus or other fibrous materials. By adding chemicals to bind the cement and the crop residues, entire house panels, rafters, headers and beams can be created right on the site. The enviroboard panels are cut into the precise pieces—including slots and pockets—needed to assemble the house.

"The people of La Argentina are very excited by the idea of building their homes and learning the technology to do it," said Michael A. Olson, the executive director of the Persons Helping People Foundation.

There is excitement in the U.S. as well. Last month, Leslie's company constructed 32 homes in Monte Alto, Tex, for employees at a large food-processing plant. They are now renting the homes for $250 to $300 a month. Each house measures 400 square feet.

"The North American Free Trade Agreement is bringing a lot of companies to the U.S.-Mexico border region, and there is a big need for well-built, affordable housing," said Leslie, who expects to construct more houses in the area.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, April 19, 1994, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 20

9:30 a.m.

Armed Services

To resume hearings on proposed legislation authorizing funds for fiscal year 1995 for the Department of Defense, and to review the future years defense program, focusing on the unified commands military strategy and operational requirements.

SR-222

Energy and Natural Resources

To hold hearings to review the Department of the Interior's proposed rule to amend the Department's regulations concerning livestock grazing, and on S. 1326, to establish a forage fee formula on lands under the jurisdiction of the Department of Agriculture and the Department of the Interior, and S. 896, to revise the Federal Land Policy and Management Act of 1976 to promote ecologically healthy and biologically diverse ecosystems on rangelands used for domestic livestock grazing.

SD-366

Indian Affairs

To hold oversight hearings on the regulation of Indian gaming.

SH-216

10:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on issues relating to the General Agreement on Tariffs and Trade (GATT).

SD-562

Appropriations

Treasury, Postal Service, General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of the Treasury, and the United States Postal Service.

SD-116

Foreign Relations

Terrorism, Narcotics and International Operations Subcommittee

To hold hearings on recent developments in transnational crime affecting United States law enforcement and foreign policy, the Mutual Legal Assistance Treaty in Criminal Matters with Panama (Treaty Doc. 102-15), and the 1994 International Narcotics Control Strategy Report.

SD-419

Judiciary

Courts and Administrative Practice Subcommittee

To hold hearings on S. 1404, to revise chapter 111 of title 28, United States Code, relating to protective orders, sealing cases, and disclosures of discovery information in civil actions.

SD-226

2:00 p.m.

Foreign Relations

Terrorism, Narcotics and International Operations Subcommittee

To continue hearings on recent developments in transnational crime affecting United States law enforcement and foreign policy, the Mutual Legal Assistance Treaty in Criminal Matters with Panama (Treaty Doc. 102-15), and the 1994 International Narcotics Control Strategy Report.

SD-419

Governmental Affairs

Oversight of Government Management Subcommittee

To hold hearings on proposed legislation to authorize funds for programs of the Office of Government Ethics.

SD-342

APRIL 21

10:00 a.m.

Appropriations

Defense Subcommittee

To hold closed hearings on proposed budget estimates for fiscal year 1995 for the Department of Defense, focusing on intelligence programs.

S-407, Capitol

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of Housing and Urban Development.

SD-106

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Securities and Exchange Commission, and the Federal Communications Commission.

S-146, Capitol

Commerce, Science, and Transportation
To hold hearings on the nominations of Ricardo Martinez, of Louisiana, to be Administrator, National Highway Traffic Safety Administration, Department of Transportation, and Carrye Burley Brown, of the District of Columbia, to be Administrator, United States Fire Administration, Federal Emergency Management Agency.
SD-628

Finance
To resume hearings on health care reform issues, focusing on access to medical care in rural and urban areas.
SD-215

Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee
To continue hearings on recent developments in transnational crime affecting United States law enforcement and foreign policy, the Mutual Legal Assistance Treaty in Criminal Matters with Panama (Treaty Doc. 102-15), and the 1994 International Narcotics Control Strategy Report.
SD-419

Governmental Affairs
Business meeting, to consider pending calendar business.
SD-342

Labor and Human Resources
Education, Arts and Humanities Subcommittee
To resume hearings on S. 1513, authorizing funds for programs of the Elementary and Secondary Education Act of 1965.
SD-430

Joint Economic
To hold a roundtable discussion on the state of the economy.
Room to be announced

2:00 p.m.

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Federal Aviation Administration, Department of Transportation.
SD-138

Commerce, Science, and Transportation
To hold hearings on the nomination of William D. Hathaway, of Maine, and Joe Scroggins Jr., of Florida, each to be a Federal Maritime Commissioner.
SR-253

Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee
To continue hearings on recent developments in transnational crime affecting United States law enforcement and foreign policy, the Mutual Legal Assistance Treaty in Criminal Matters with Panama (Treaty Doc. 102-15), and the 1994 International Narcotics Control Strategy Report.
SD-419

Commission on Security and Cooperation in Europe
To hold a briefing to review the results of the Commission on Security and Cooperation in Europe Migrant Workers Seminar, held March 21-25, 1994 in Warsaw, Poland.
2359 Rayburn Building

2:30 p.m.

Agriculture, Nutrition, and Forestry
Agricultural Research, Conservation, Forestry and General Legislation Subcommittee
To hold hearings to review new management directives for the U.S. Forest Service.
SD-628

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 1509, to transfer a parcel of land to the Taos Pueblo Indians of New Mexico, S. 1897, the Santa Fe National Forest Boundary Adjustment Act, S. 1975 and H.R. 2921, bills to establish a grant program to restore and preserve historic buildings at historically black colleges and universities, S. 1980, the Cane River Creole National Historical Park and National Heritage Area Act, and S. 1919, the Rio Puerco Watershed Act.
SD-366

Foreign Relations
To hold hearings on the nominations of William J. Crowe, Jr., of Virginia, to be Ambassador to the United Kingdom of Great Britain and Northern Ireland, and Ralph R. Johnson, of Virginia, for the rank of Ambassador during his tenure of service as Coordinator of the Support for East European Democracy (SEED) Program.
SD-226

Judiciary
To hold hearings on the nominations of Carl E. Stewart, of Louisiana, to be United States Circuit Judge for the Fifth Circuit, James G. Carr, to be United States District Judge for the Northern District of Ohio, Mary M. Lisi, to be United States District Judge for the District of Rhode Island, Frank M. Hull, to be United States District Judge for the Northern District of Georgia, W. Louis Sands, to be United States District Judge for the Middle District of Georgia, and Clarence Cooper, to be United States District Judge for the Northern District of Georgia.
SD-226

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

APRIL 22

9:00 a.m.

Environment and Public Works
To hold hearings to examine the Administration's compromise with Venezuela regarding changing the final reformulated gasoline rule.
SD-406

9:30 a.m.

Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings to examine waste, fraud, and abuse in the health care industry.
SD-192

Armed Services
Defense Technology, Acquisition, and Industrial Base Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1995 for the Department of Defense, and the future years defense program, focusing on research, development, test and evaluation infrastructure.
SR-222

APRIL 25

10:00 a.m.

Commerce, Science, and Transportation
To hold hearings on S. 1945, to authorize funds for fiscal year 1995 for certain maritime programs of the Department of Transportation.
SR-253

Finance
Health for Families and the Uninsured Subcommittee
To hold hearings on health care reform issues, focusing on consumer protection and quality assurance.
SD-215

2:00 p.m.

Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for International Affairs and Commodity Programs, Natural Resources and Environment, Agricultural Stabilization and Conservation Service, Foreign Agriculture Service, Soil Conservation Service, and Federal Crop Insurance Corporation, all of the Department of Agriculture.
SD-138

APRIL 26

9:30 a.m.

Armed Services
Nuclear Deterrence, Arms Control, and Defense Intelligence Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1995 for the Department of Defense, and the future years defense program, focusing on the chemical demilitarization program.
SR-222

10:00 a.m.

Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1995 for the Department of Defense, focusing on National Foreign Intelligence Programs (NFIP) and Tactical Intelligence and Related Activities (TIARA).
S-407, Capitol

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Office of Justice Programs, and the Immigration and Naturalization Service, both of the Department of Justice.
S-146, Capitol

2:30 p.m.

Armed Services
Business meeting, to mark up S. 1587, to revise and streamline the acquisition laws of the Federal Government.
SR-222

APRIL 27

9:30 a.m.

Commerce, Science, and Transportation
To resume hearings on S. 1350, to provide for an expanded Federal program of hazards mitigation and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions.
SR-253

10:00 a.m.

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Fed-

eral Transit Administration, Department of Transportation, and the Washington Metro Transit Authority.

SD-138

Veterans' Affairs

To hold oversight hearings on dangerous exposures in the Persian Gulf War.

SD-G50

APRIL 28

9:30 a.m.

Governmental Affairs

To resume hearings to examine the impact of unfunded Federal mandates on how State and local governments provide programs, services, and activities, and on related measures including S. 563, S. 648, S. 993, and S. 1604.

SD-342

Rules and Administration

To resume hearings on S. 1824, to improve the operations of the legislative branch of the Federal Branch, focusing on Subtitle A, Parts I and II of Title III, relating to Congressional biennial budgeting and additional budget process changes.

SR-301

10:00 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Environmental Protection Agency, and the Council on Environmental Quality.

SD-106

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the United States Information Agency.

S-146, Capitol

2:30 p.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Bureau of Indian Affairs, Department of the Interior.

SD-116

MAY 3

9:30 a.m.

Energy and Natural Resources

To hold hearings on Boron-Neutron Cancer Therapy.

SD-366

10:00 a.m.

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for Food and Consumer Services, Food and Nutrition Service, and Human Nutrition Information Service, all of the Department of Agriculture.

SD-138

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of Defense, focusing on defense conversion programs.

SD-192

MAY 5

9:30 a.m.

Rules and Administration

To resume hearings on S. 1824, to improve the operations of the legislative branch of the Federal Branch, focusing on Title III, Subtitle B (Staffing, Administration, and Support Agencies), and Subtitle C (Abolishing the Joint Committees).

SR-301

10:00 a.m.

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Legal Services Corporation.

S-146, Capitol

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the National Transportation Safety Board, and the National Highway Traffic Safety Administration, Department of Transportation.

SD-138

MAY 10

10:00 a.m.

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Commodity Futures Trading Commission, the Farm Credit Administration, and the Food and Drug Administration, Department of Health and Human Services.

SD-138

MAY 11

10:00 a.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the National Park Service, Department of the Interior.

S-128, Capitol

MAY 12

9:30 a.m.

Rules and Administration

To hold hearings on proposed legislation authorizing funds for fiscal year 1995 for the Federal Election Commission.

SR-301

10:00 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Corporation for National and Community Service.

SD-106

MAY 15

9:00 a.m.

Office of Technology Assessment Board meeting, to consider pending business.

EF-100, Capitol

MAY 17

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of Defense, focusing on the Pacific Rim, NATO, and peacekeeping programs.

SD-192

MAY 19

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of Defense.

SD-192

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of Veteran's Affairs, and the Selective Service System.

SD-106

MAY 20

9:00 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Departments of Veteran's Affairs and Housing and Urban Development, and independent agencies.

SD-138

MAY 25

10:00 a.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of the Interior.

S-128, Capitol

MAY 26

10:00 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the National Aeronautics and Space Administration.

SD-106

JUNE 8

10:00 a.m.

Appropriations

Interior Subcommittee

To hold hearings proposed budget estimates for fiscal year 1995 for the Department of Energy.

S-128, Capitol

JULY 19

10:00 a.m.

Appropriations

Defense Subcommittee

Business meeting, to mark up proposed legislation authorizing funds for fiscal year 1995 for the Department of Defense.

SD-192

CANCELLATIONS

APRIL 19

9:30 a.m.

Rules and Administration

To resume hearings on S. 1824, to improve the operations of the legislative branch of the Federal Branch, focusing on Subtitle A, Parts I and II of Title III, relating to Congressional biennial budgeting and additional budget process changes.

SR-301

2:30 p.m.
Veterans' Affairs
To hold hearings to examine proposals to finance veterans health care reform.
SR-418

MAY 3

2:30 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings to review the implementation of the Central Valley Project Improvement Act (Title 34 of P.L. 102-575) and the coordination of the program with other Federal protection and restoration efforts in the San Francisco Bay/Sacramento-San Joaquin Delta.
SD-366

POSTPONEMENTS

APRIL 21

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the United States Fish and Wildlife Service, Department of the Interior.
S-128, Capitol

SENATE—*Tuesday, April 19, 1994*

(Legislative day of Monday, April 11, 1994)

The Senate met at 9:30 a.m, on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer will be led by the Senate chaplain, Rev. Dr. Richard C. Halverson. Mr. Halverson, please.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

In a moment of silence, let us all pray for the Official Reporter, Mary Jane McCarthy, and her family, in the loss of her mother.

As the hart panteth after the water brooks, so panteth my soul after thee, O God. My soul thirsteth for God, for the living God: when shall I come and appear before God? My tears have been my meat day and night, while they continally say unto me, Where is thy God? When I remember these things, I pour out my soul in me: for I had gone with the multitude, I went with them to the house of God, with the voice of joy and praise, with a multitude that kept holyday. Why art thou cast down, O my soul? and why art thou disquieted in me? hope thou in God: for I shall yet praise him for the help of his countenance.—Psalm 42:1–5.

The Lord is my shepherd; I shall not want. He maketh me to lie down in green pastures; He leadeth me beside the still waters. He restoreth my soul. He leadeth me in the paths of righteousness for His name's sake. Yea, though I walk through the valley of the shadow of death, I will fear no evil, for Thou art with me. Thy rod and Thy staff they comfort me. Thou preparest a table before me in the presence of mine enemies; Thou anointest my head with oil; my cup runneth over. Surely goodness and mercy shall follow me all the days of my life, and I will dwell in the house of the Lord forever.—Psalm 23. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President, we will begin today's session of the Senate with the swearing in of Martha Pope to be the Secretary of the Senate.

Immediately thereafter, I will ask the Senate to act on two resolutions relevant to that office. There will then be a period for morning business which was originally scheduled and by prior order will extend until 10 a.m., and then we will proceed to the airport improvements bill.

The amount of time for morning business may extend somewhat beyond 10. And so we will proceed to the bill no earlier than 10, and perhaps a little after, to accommodate Senators who ask for the opportunity to address the Senate in morning business.

ADMINISTRATION OF OATH TO THE SECRETARY OF THE SENATE, MARTHA POPE

The PRESIDENT pro tempore. The Secretary of the Senate will now present herself for the taking of the oath of office.

Miss Pope, escorted by Mr. MITCHELL, advanced to the desk of the President pro tempore and the oath was administered to her by the President pro tempore.

[Applause.]

Mr. MITCHELL addressed the Chair.

The PRESIDENT pro tempore. The majority leader.

NOTIFICATION TO THE HOUSE OF REPRESENTATIVES OF ELECTION OF SECRETARY OF THE SENATE

Mr. MITCHELL. Mr. President, I send a resolution to the desk and ask that it be stated by the clerk, and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will state the title of the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 200) notifying the House of Representatives of the election of a Secretary of the Senate.

The PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 200) was considered and agreed to, as follows:

Resolved, That the House of Representatives be notified of the election of the Honorable Martha S. Pope as Secretary of the Senate.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. PRESSLER. I move to lay that on the table.

The motion to lay on the table was agreed to.

NOTIFICATION TO THE PRESIDENT OF THE UNITED STATES OF ELECTION OF SECRETARY OF THE SENATE

Mr. MITCHELL. Mr. President, I send a resolution to the desk and ask that it be stated, and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will state the title of the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 201) notifying the President of the United States of the election of a Secretary of the Senate.

The PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 201) was considered and agreed to, as follows:

Resolved, That the President of the United States be notified of the election of the Honorable Martha S. Pope as Secretary of the Senate.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. PRESSLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10 o'clock, with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. PRESSLER addressed the Chair.

The PRESIDENT pro tempore. The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, I ask to speak for 4 minutes as in morning business.

The PRESIDENT pro tempore. The Senate is in morning business and, under the order, the Senator is recognized for no more than 5 minutes.

PUBLIC USE REQUIREMENT

Mr. PRESSLER. Mr. President, 1 year ago today, the Governor of South Dakota, George Mickelson, died in a plane crash, along with seven other South Dakota citizens. Our State lost a great deal of leadership in that plane crash. They are still deeply mourned today.

I plan to offer an amendment later today regarding the status of public aircraft. This amendment will impose on public use planes, planes used by the States and the Federal Government, the same regulations now applicable to all private and commercial aircraft.

It may be surprising to some that public aircraft are exempt from most Federal Aviation Administration regulations. The Governor's plane crash was, according to the National Transportation Safety Board, caused by a defect in the plane's propeller hub. This defect could have been tested for, as was urged by the NTSB in letters sent to the FAA. However, had the FAA acted on the NTSB's recommendations, the State would have been under no legal obligation to abide by the FAA's regulations.

In any event, I do not blame this tragedy on any person or on any agency. But I think we should be vigilant in our efforts to improve the safety of public aircraft.

Later today, I shall offer an amendment to require that public aircraft meet the same standards. We should take all steps necessary to promote aviation safety.

AIRLINE PRICING POLICY

Mr. PRESSLER. Mr. President, on the subject of airlines and aircraft, I continue to be greatly disturbed about what is happening to our smaller airports. Not only in the Midwest, but in States across the country, our smaller airports are struggling to maintain adequate and affordable air service. Unfortunately, the ticket prices for people who do not live near hub airports are going up and up.

I am a Senator who is against regulation, generally speaking. I hope that the airlines will take the steps necessary to carry out a pricing policy that is even and fair, without the Government getting involved.

As ranking member of the Aviation Subcommittee, I do not want to see us go back to full-scale economic regulation, but our smaller cities, where airline profits could be made are crying out for increased air service. I will concede that perhaps more money can be made for the airlines when they fly in and out of urban areas, but small cities and rural areas need reliable air service, too.

I know that many other States are facing similar air service problems. In fact, some small airports have lost all, or nearly all, jet service. This problem is growing. The Senate of the United States should not sit still if our air service struggles continue.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from North Dakota [Mr. DORGAN] is recognized for not to exceed 5 minutes.

FEDERAL RESERVE BOARD'S OUTRAGEOUS ACTIONS

Mr. DORGAN. Mr. President, last year, the Congress, with the participation of the American people, debated fiscal policy in a wrenching, crippling manner. We debated taxing policies and spending policies to try to find a way to reduce the Federal deficit, to lower interest rates, and to promote new jobs and economic growth. That debate lasted a long, long time. And we successfully passed by one vote the largest deficit reduction bill in history.

Yesterday, and twice before in the last 2½ months, the Federal Reserve Board took action to increase interest rates, to slow down this economy, and to thwart job creation. There were stark differences between the two actions. The deficit reduction bill was debated openly by Members of the House and Senate who are ultimately accountable to the American people. The Federal Reserve Board's actions were made in secret, behind closed doors, with no public debate and input. Yet the Federal Reserve Board is accountable to no one.

Mr. President, the action by the Federal Reserve Board is an outrage. Yes, they have a right to do what they have done. It is the last policy dinosaur that exists in this country that operates secretly behind closed doors. Yes, they have the right to do that, but we ought to change things down at the Fed. And we ought to do it soon.

At the very time this country needs economic growth and new jobs, at the very time we need a coordination between fiscal policy and monetary policy that recognizes reality and tries to promote this economy and raises the economy, we have the Fed putting on the brakes. This is like an economic bicycle built for two. We are on the front seat peddling hard uphill and the Fed, on the back seat, is applying the brakes.

Now, why does the Fed do what it does? There is no credible evidence that inflation is rearing its ugly head again. For 4 straight years, we have had lower inflation. We have plenty of capacity left in the economy. We have people still out of work. The signs are good signs for our economy, and there are no signs of renewed rampant inflation. The Fed is now behaving like a doctor who says, "I can't find anything wrong with you, Mr. or Mrs. Patient, but let me give you some medicine just in case."

What is the real reason then for the behavior of the Federal Reserve Board? The real reason is this is a collection of bankers and economists whose interest is to serve the big money center banks in this country. We have twin goals in America: Full employment and stable prices. Those have always been our twin economic goals. But they do not have equal weight at the Federal Reserve Board. The Federal Reserve Board has consistently, and now especially, valued stable prices much more than full employment. Why? Because they are a creature of the banking system and they serve their constituency, the big money center banks. They are more concerned about inflation because big money center banks are injured by inflation. Families are injured by losing their jobs. So we have a Fed that chooses financiers over families; it chooses bankers over builders.

I hope that we one day can get a bill in this Chamber, which I have coauthored, that opens the doors of the Fed and blinds them with the shining light of public inspection to find out how they make their policies and on whose behalf they act.

Tomorrow, I hope to bring to the floor a chart which shows the pictures of all the folks who make these decisions—yes, the Board of Governors, but even more than that, the Open Market Committee, on which serves some regional Fed presidents who have neither been elected to anything, nor appointed to anything by the Senate or the House. They make public policy decisions that will cost families and businesses billions of dollars in this country, and they are unaccountable. They are accountable to no one.

That ought to change and ought to change soon. I just think we ought to give the opportunity to America to see who these people are, so I will tomorrow bring their pictures to the floor. We will talk about who is making the decisions to increase interest rates, to slow down the economy at the very time this economy continues to need a lift. We have come through a difficult, dangerous recession. We have not nearly reached cruising speed in our economy. We desperately need the creation of new jobs and more jobs, and the Federal Reserve Board acts to salve the interests of the big money center banks, in my judgment, to the detriment of the American people.

Yes, they have a right to be wrong, but they do not have a right to be unaccountable, in my judgment.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Massachusetts [Mr. KENNEDY], is recognized for not to exceed 5 minutes.

Mr. KENNEDY. I thank the Chair.

79TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. KENNEDY. Mr. President, this Sunday, April 24, marks the 79th anniversary of the commencement of one of the most tragic events in recorded history: the extermination of more than 1½ million Armenian men, women, and children during the final years of the Ottoman empire.

Today, in recognition of this cruel and senseless outrage, we honor the courage and the memory of the individuals who perished, and we renew our commitment to stand firm against such crimes against humanity—whether in Armenia, Bosnia, or Rwanda.

I commend the tireless efforts of the Armenian National Committee of America, the Armenian Assembly of America, and other groups to ensure that the memory of the victims of this genocide is not dimmed by the passage of time.

These groups have also been instrumental in promoting a peaceful settlement of the current conflict in Armenia and Nagorno-Karabakh and in educating all Americans about the issues facing the Armenian people.

Between 1915 and 1923, officials in the Ottoman empire carried out a systematic campaign of genocide against all Armenians. In a July 16, 1915 telegram to the Secretary of State, U.S. Ambassador Henry Morgenthau stated that,

> Deportation of and excesses against peaceful Armenians is increasing and from the harrowing reports of eyewitnesses it appears that a campaign of race extermination is in progress under a pretext of reprisal against rebellion.

In the course of this campaign, large numbers of innocent Armenian civilians were murdered and many more were forced into exile.

Members of the Armenian leadership were executed. Those already conscripted by the Ottoman army were disarmed, placed in work battalions, and often starved to death.

Armenian civilians were deported from their homes and villages. Women, children, and elderly Armenians were sent on forced death marches, during which many were brutally assaulted and tortured. Within a scant few years, over 1 million innocent Armenians were killed through massacres, disease, and starvation.

These people had committed no crime. They were killed not for what they had done, but for who they were, as part of an inhuman, racist policy that robbed its victims of both life and dignity.

The bravery with which the Armenians bore this tragedy is a timeless tribute to their enduring faith.

In recognition of their remarkable courage, I have strongly supported efforts to make April 24 a national day of remembrance for the Armenian victims.

Miraculously, half a million refugees escaped across the Russian and Arab borders, and many later made their way to Europe and the United States. More than 130,000 Armenian orphans were sent to the United States for adoption or foster care.

These Armenian Americans and their descendants have found security and opportunity in this country and have made significant contributions to every aspect of American life.

The Armenian people's courage and perseverance in surviving brutal repression in their homeland is a monument to their endurance and their will to live. Today, we honor both the victims and their descendants who have continued to keep the faith with this proud heritage.

Since 1991, in spite of overwhelming challenges and difficulties, the Armenian people have constructed a stable republic under which the rights of all citizens are respected. President Ter-Petrosyan's government strongly supports the ideals and principles of democracy and stands as a model for other New Independent States.

Unfortunately, the Armenian people face continued violence and ethnic hatred, the 6-year conflict between Armenia and Azerbaijan for control over Nagorno-Karabakh has claimed the lives of more than 15,000 people, displaced over 1 million innocent civilians, and undermined progress toward democracy and respect for human rights.

Thousands more have died in Armenia for lack of food, fuel, and medical care due to the blockade by Azerbaijan of products for Armenia.

As we commemorate the tragic deaths at the beginning of this century, we must redouble our efforts to end the current crisis.

In honoring the victims of the Armenian genocide, we also strengthen our resolve to deal with injustice and conflict in other parts of the world, and bring all peoples on our planet closer to peace.

Mr. LAUTENBERG. Mr. President, I rise today to commemorate the 79th anniversary of the Armenian genocide.

The Armenian genocide marks an ignominious chapter in world history. It reminds us, once again, how low unchecked hatred can drag the human spirit, unleashing cruelty and brutality. As we memorialize the Armenians who died needlessly in the genocide, we must resolve never to forget how they suffered at the hands of their oppressors.

Nor can we forget how the Armenian people suffer today as the country struggles to cope with the devastating impact of Azerbaijan's blockade. The blockade has put a strangle-hold on the Armenian people. Basic necessities—like food and heating oil—are in scarce supply. Such shortages endanger the lives of many in Armenia, especially during the harsh winter months.

Fortunately, the United States is able to provide some humanitarian assistance. We've provided home heating oil. We've provided seed stock to assist the Armenians in combating food shortages. As a member of the Senate Foreign Operations Appropriations Subcommittee, I have worked to set aside this and other humanitarian assistance for Armenia to help the people meet these life threatening challenges.

While our humanitarian assistance can help alleviate the pain, it cannot erase the blockade. Only the Government of Azerbaijan can do that.

That is why I am so opposed to efforts to provide foreign aid to the Government of Azerbaijan as long as the blockade of Armenia remains in place. I supported legislation to ban aid to Azerbaijan when the Senate considered the Freedom Support Act, and I will continue to support the ban until blockade is lifted. Azeri cruelty cannot be rewarded with U.S. foreign assistance.

Mr. President, I hope my colleagues will join me in commemorating this anniversary and vow to support efforts that will provide the Armenian people an opportunity to live in peace.

Mr. BRADLEY. Mr. President, each April we pause to remember the first great crime of the 20th century, the massacre of 1½ million Armenians by the Ottoman empire and its successor state between 1915 and 1923. It is particularly appropriate that in this year, a year in which "Schindler's List" won the Oscar for best motion picture, and a year in which we are shamed by the continued ethnic cleansing in Bosnia, that we take a moment to think back to the first European genocide of this tragic century.

The international community did not act in 1915. The international community was slow to act in the 1930's and 1940's. The international community is just now acting in the 1990's. Every time we soberly intone, "never again." And every time the murderers catch us napping. We do not get involved and stop the horror until tens of thousands or even millions have died.

The American Armenian community has done much to enrich this country. Armenia itself has now emerged as an independent state in which Armenians can control their own destiny. This is, tragically, a state forced to devote its resources to war rather than to building a peaceful, prosperous life for its people. Nevertheless, these reasons alone justify the statements I my colleagues are making today. But, Mr. President, the real reason I stand here this morning, and the real reason I am moved to remember the criminal events of 1915–23, is because remembering is the only way to have any hope of rousing ourselves to give meaning to the pledge of "never again."

Mr. JEFFORDS. Mr. President, April 24 marks the 79th anniversary of one of history's greatest atrocities: The slaughter of more than 1 million Armenians. It is a day on which we mourn the victims and honor their memory. But it is also a day on which we commemorate the triumph of human courage and spirit over adversity. For this attempt to annihilate a people did not succeed, nor did it quell the Armenian desire for freedom and justice.

The Armenian people, with perseverance and pride, have maintained their cultural and historical identity despite the oppression they endured. Survivors of the massacre have not let the flame of freedom be extinguished. Their children and grandchildren, many of whom live in America, have continued to make positive contributions to the world community. And many now are building the foundations of the free and independent Armenian nation which has emerged from the ashes of the Soviet Union.

Today we call attention to the tragic events of the past in order to draw lessons for the future.

Mr. GLENN. Mr. President, I rise today to join my colleagues in commemorating the 79th anniversary of the Armenian genocide. Annual remembrance of the tragedy of 1915–23 does not dim the horror. On April 24, 1915, some 200 Armenian religious, political and intellectual leaders were arrested in Constantinople, exiled or taken to the interior and executed. Similar atrocities followed in Armenian centers across the Ottoman Empire. In a July 16 cable to the Secretary of State, Henry Morgenthau, U.S. Ambassador to the Ottoman Empire, reported—

> Deportation of and excesses against peaceful Armenians is increasing and from harrowing reports of eye witnesses it appears that a campaign of race extermination is in process under a pretext of reprisal against rebellion.

When the horror ended in 1923, 1.5 million Armenians have been killed and another 0.5 million had been forced to flee their homeland.

Sadly, this was the first but by no means the last genocide of this century. The Armenian tragedy was followed by the horrors of the Holocaust, when Adolph Hitler is said to have asked, when contemplating the "final solution", "Who remembers the Armenians?" The later part of this century saw the massacre of Cambodians during the brutal reign of the Khmer Rouge, Saddam Hussein's extermination campaigns against Iraqi Kurdish and Shia populations, and even today the scourge of ethnic cleaning in former Yugoslavia. It is distressing to look around the post-cold war world and see more and more examples of religious, ethnic, or tribal based conflict. A common denominator of all these conflicts is that civilian populations are the innocent victims.

Today we pause to remember the 1½ million men, women, and children who died or were forced to flee simply because they were Armenians. It is not comfortable to regularly remind ourselves of this past example of man's inhumanity to man or to see the daily reminders on our television screens of other ongoing atrocities. But we cannot erase history's ugly chapters or ignore present day horrors.

In the words of Edmund Burke, "the only thing necessary for the triumph of evil is for good men to do nothing." In solidarity with the people of free Armenia and Armenian-Americans across the country, and in memory of all victims of genocide, let us vow to strive never by our indifference or inaction, to allow the scourge of genocide to be visited upon any people anywhere on this Earth.

Mr. SARBANES. Mr. President, today marks the 79th anniversary of the Armenian genocide. Every year at this time we pay tribute to the memory of 1½ million Armenian men, women and children who perished as a result of the brutal and systematic policy of extermination orchestrated by Ottoman rulers.

Countless victims and survivors have attested to what can be characterized as one of the darkest periods and most tragic human episodes in this century. Incredibly, the Armenian genocide, which followed years of recorded massacres under Ottoman rule during the latter part of the 19th century, continues to be denied as a matter of course by modern day Turkish governments, despite a wealth of historical and contemporaneous documentation and accounts by scholars and historians.

In 1918, Henry Morgenthau, the distinguished U.S. Ambassador to the Ottoman Empire, gave us valuable testimony in this regard. He wrote:

> Whatever crimes the most perverted instincts of the human mind can devise, and whatever refinements of persecutions and injustice the most debased imagination can conceive, became the daily misfortunes of this devoted people. I am confident that the whole history of the human race contains no such horrible episode as this. The great massacres and persecutions of the past seem almost insignificant when compared to the sufferings of the Armenian race in 1915. The killing of the Armenian people was accompanied by the systematic destruction of churches, schools, libraries, treasures of art and history, in an attempt to eliminate all traces of a noble civilization some three thousand years old.

As David Fromkin recounts in his noted book A Peace to End All Peace, regarding the fall of the Ottoman Empire, the Ottoman Turkish leadership:

> Ordered the deportation of the entire Armenian population from the northeastern provinces to locations outside of Anatolia. . . . Rape and beating were commonplace. Those who were not killed at once were driven through mountains and deserts without food, drink or shelter. Hundreds of thousands of Armenians eventually succumbed or were killed.

In fact, Fromkin goes on to state that:

> Observers at the time, who were by no means anti-Turk reported that there was no evidence to support the claim that an Armenian uprising had taken place prior to the indiscriminate deportation and wholesale slaughter of the community.

Diplomats and consular officials in the field, including German Ambassador Hans Von Wangenheim, reported details of the atrocities. Both the German and Austrian ambassadors, apprehensive about the scale of the barbarity against the Armenians, conveyed their concerns to the Ottoman leadership. In July 1915, Wangenheim related to the German Chancellor that it was positively Ottoman policy to "exterminate the Armenian race in the Turkish empire" and proceeded to advise Germany to distance itself from the savage campaign.

In recent years, the Armenian community in the Caucasus has continued to face adversity by enduring years of struggle under Soviet rule, a catastrophic earthquake in 1988, an unrelenting and devastating economic embargo, and hostile forces arrayed against the enclave of Nargorno-Karabagh.

I remind my colleagues of the chilling words of Adolf Hitler when he stated, scarcely two decades after the Armenian genocide as he referred to the liquidation of the Polish intelligentsia and deportation of millions of Poles in the fall of 1939:

> It is only in this manner that we can acquire the vital territory which we need. After all, who today remembers the extermination of the Armenians?

Mr. President, we have not forgotten the Armenian genocide and remember it for more than just the work of human cruelty and savagery. It is fulfilling for us to acknowledge and come to terms with the past. As we seek to do this, the past becomes part of our building for a better future and inspires hope for the triumph of human spirit over tragedy.

Perhaps the Armenian genocide's most vivid and enduring legacy, one which is tangible and cannot be denied, has been its resulting worldwide diaspora of Armenians—few families have been unaffected by this experience, including Americans of Armenian origin. These Americans share a deeply held adherence to the values of hard work, education, religious faith, and importance of tradition and heritage. The Nation and my State of Maryland are fortunate to have a thriving and vibrant Armenian American community which has flourished and contributed so generously to the well being and fabric of our society.

Mr. LIEBERMAN. Mr. President, today we commemorate the 79th anniversary of the Armenian genocide—one of the great tragedies of this century: the death of over 1.5 million Armenians and their exile from their homeland.

Like the Nazi Holocaust, the liquidation of the kulaks in Ukraine and Russia by Stalin, the killing fields of Cambodia. and the repulsive ethnic cleansing underway in the Balkans, the Armenian tragedy is an example of the horrors that have befallen ethnic groups during this century. What can we learn from these tragedies? The first, and in some ways, the most important lesson is to recognize the horror and to admit that a tragedy occurred. That is what we are doing here today on the floor of the U.S. Senate.

The horror that befell the Armenian people came about during the collapse of the Ottoman Empire. The rule of law, such as it was, ceased to exist as the empire crumbled. The victims of this chaos were the Armenian people. And now, a similar situation has taken place in the former Soviet Union, where the implosion of the Soviet Union has created a crisis in Armenia and Nagorno-Karabakh. Although history seems to be repeating itself before our very eyes, I have hope for the future.

In early March, negotiators from Armenia and Azerbaijan reached a preliminary accord on how to end the tragic 6-year conflict over the disputed enclave of Nagorno-Karabakh—a conflict that has claimed the lives of more than 15,000 people, and displaced over 1 million refugees. Although there is much to be done, I am greatly encouraged by this dialogue. I have joined a number of my colleagues in urging President Clinton to seize the opportunity presented by these recent events and help bring about a peaceful resolution of this tragic conflict.

We have recommended to President Clinton that he invite the President of Armenia, Levon Ter-Petrosian, to visit Washington in the coming weeks to discuss opportunities for a negotiated settlement. Although the Armenian people have suffered grievous losses during this brutal war, President Ter-Petrosian's government is standing firm for the ideals and principles of democracy. A meeting between these two leaders would demonstrate America's support for democracy in the New Independent States and our strong interest in resolving the conflict in the Transcaucasus. We have also recommended that a Transcaucasus Enterprise Fund, along the lines of the funds established for other regions of the former Soviet Union, be created as an incentive for regional integration and stability.

I am very much encouraged by the positive role the Conference on Security and Cooperation in Europe has played in bringing together representatives of the world community to deal with the Nagorno-Karabakh conflict. The recent appointment of a new U.S. negotiator at the CSCE is a hopeful sign. I urge him to facilitate and expedite discussions on the CSCE and Russian peace proposals with respect to this conflict and the future status of Karabakh. It is critical that he make clear to the Governments of Russia, Armenia, Azerbaijan, and Turkey that Washington is aware of the sensitive issues in the Transcaucasus, concerned about the future of the peoples living there, and eager to see a lifting of the blockage of Armenia and the free flow of humanitarian supplies across all borders.

We must do whatever we can to stop the killing in Karabakh. We must use all available resources to see that the tragedy which befell Armenians in the first part of this century is not repeated as the century comes to a close. Helping to end the violence in the region would be a fitting tribute to the memory of all Armenians who have given their lives for their nation and their heritage. Let us learn from the lessons of the past and stop the bloodshed.

Mr. DECONCINI. Mr. President, today we commemorate the massacre of Armenians in Turkey during and after the First World War. We mourn the dead, and express our condolences to their living descendants. During that terrible tragedy, an estimated 1.5 million people were killed in what historians call the first of this century's state-ordered genocides against a minority group.

These victimized minorities have included ethnic-religious groups, like the Armenians and the Jews, and those seen as class enemies, as in Cambodia under Pol Pot. The range of the victims—geographial, ethnic, religious and political—testifies to the universality of human cruelty and fanaticism. The response of the survivors, however, testifies to the indestructibility of the human spirit, even in the face of the most dreadful catastrophes.

Many of the Armenians who survived the slaughter fled their native lands and came to the United States. Here they found sanctuary and have become an integral part of American life and the democratic political process. But they never forgot their origins, their sorrow, and their relatives across the ocean. In the small territory that became Soviet Armenia, their fellow Armenians strove to develop their cultural heritage. They defended their language and traditions and kept alive their national consciousness in the face of Moscow's denationalizing policies. At the same time, they maintained a sense of solidarity with their conationals in the West. As the U.S.S.R. opened up in the late 1980s, this transoceanic unity became stronger, as Armenians in the West returned to their roots to help in the struggle for national liberation. In 1991, their common efforts culminated in the attainment of independence, as Armenia joined the international community as a member of the United Nations.

Independent Armenia, the realized promise and the living memorial to the victims of 1915 and later years, has endured a difficult 3 years. The Nagorno-Karabakh conflict has cost thousands of lives, created hundreds of refugees, and kept the entire region from enjoying the blessings of independence. Blockaded by its neighbors, Armenia's people have suffered through cold, hunger and deprivation. But their spirit remains sturdy, and their sacrifices link them in an unbreakable bond with past generations of Armenians.

I hope, as do we all, that future generations will not have to sacrifice as their ancestors have. Nothing could honor the memory of the victims of 1915 as much as a free, prosperous Armenia living in peace with all its neighbors, and moving and impressing the world with the spiritual and material products of the unbreakable Armenian spirit.

Mr. SIMON. Today we reflect on one of the worst crimes against humanity committed in our century: the Turkish massacre of 1½ million Armenians beginning in 1915.

Nationalism based on notions of ethnic purity is not something most Americans identify with or accept. So it is fitting that many of the descendants of survivors of the Armenian genocide found homes in the United States. Armenians are a great and talented people. Their achievements are disproportionate to their numbers. I have myself seen, during a visit to Armenia last year, the fortitude of Armenians in coping with post-Soviet economic dislocations, blockades by Turkey and Azerbaijan, and the war over Nagorno-Karabakh. History and geography have been unkind to the Armenians and I understand and join in the sentiments of Armenians, like all victims of ethnic cleansing: "never again."

That feeling is, I am sure, in the hearts of the refugees and inhabitants trapped in Gorazde, subjected to bombardment from Serbian tanks, artillery, mortars, and machineguns in a town which the world community has declared to be a "safe area." The hysteria and cruelty which led to the Armenian massacres is still with us and, wherever it occurs, Americans and their Government should decisively reject it—not wring their hands and try to look the other way.

Armenians deserve a homeland which is as prosperous as the people are industrious and talented, and which is as secure as the Armenian past was difficult. In order to accomplish this, the war between Armenia and Azerbaijan must end. The war has caused untold suffering in both countries.

Today, as we memorialize 1½ million dead Armenians of a past generation, I would urge the administration to redouble its efforts, and its commitment, to work with the parties directly and with the international community to stop the war.

Mr. D'AMATO. Mr. President, I rise today to commemorate the 79th anniversary of the Armenian genocide.

The Armenian genocide, which began on April 24, 1915, subjected an entire population to a campaign of genocide by the Turks, resulting in the deaths of 1.5 million people, one-third of the population.

The genocide began with adult males being rounded up and taken from their homes only to be slaughtered by the masses. This left the women, children, and elderly defenseless when they were forced to walk in a death march through the southern Anatolian Deserts. Faced with the blistering heat of the day and the bitter cold of the night, they went without food, water, or shelter. The hardship of the journey resulted in the deaths of thousands more.

Despite the overwhelming evidence, Turkey continues to deny the Armenian genocide. In an attempt to rewrite history by burying the truth, the Turkish Government is refusing to acknowledge its past guilt. This continued denial is an insult to the memory of the 1.5 million who perished at the hands of the Turks. Turkey must acknowledge its guilt in the Armenian genocide and come to terms with its past.

I fear that we have not learned anything from this experience. Hitler said "Who will remember the Armenians?" No one did and 6 million Jews and 5 million others were exterminated. Then came Pol Pot, who killed 1 million Cambodians. Now, to date, the Bosnian Serbs have killed perhaps 200,000 people in Bosnia. When will the killing stop? George Santayana said that those who fail to heed the lessons of history, are doomed to repeat them. Never has this been more true.

Mr. President, on this 79th anniversary of the massacres, let us pause to remember the 1.5 million victims of Armenia and to all those who have suffered similar crimes against humanity.

Mr. FEINGOLD. Mr. President, I rise today to join my colleagues in commemorating the 79th anniversary of the horrific period of Armenian slaughter during the years of 1915 to 1923.

From 1915 to 1923, the Ottoman Government systematically murdered 1.5 million Armenians, and drove 500,000 into exile. On April 24, 1915, Armenian leaders were accosted and later executed. Soldiers serving in the Ottoman army were disarmed and placed in labor camps where they were executed or left to die of starvation. Armenians living in Asia Minor and Turkish Armenia were deported, the men and older male youths quickly removed from their families and executed. The remaining women and children were led on death marches into the desert where they were raped, tortured, and mutilated. Disease, starvation, and massacre claimed the lives of most, and survivors were forced into foreign homes and harems. On the eve of the First World War, 2.5 million Armenians were living in the Ottoman empire. Following the Ottoman campaign of terror, less than 100,000 remained.

The U.S. Government has rightfully denounced these atrocities and has been generous in its efforts to assist survivors of these horrors. From 1915 to 1930, American relief efforts contributed over $100 million to aid the survivors, and over 130,000 Armenian orphans became foster children of the American people.

We must never desist in our reminders of the terrible events of this war. For despite our reminders, Mr. President, today, tragically, we see similar campaigns perpetrated on innocent peoples. Today we see the equally ugly brutality characterized by the sanitized term of "ethnic cleansing." Most notably, we see it in the former Yugoslavia.

Mr. President, as we commemorate the brutal massacre of the Armenian people by the Ottoman Government, let us also remind ourselves to keep a vigilant watch on our world so that these horrors might not be repeated again, and again, and again. And when they do occur, we must, armed with the memory of past massacres, take stronger action. History means nothing if we do not learn from it. These deaths should not be in vain.

I yield the floor, Mr. President.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDENT pro tempore. The Senator from California [Mrs. FEINSTEIN].

Mrs. FEINSTEIN. Thank you very much, Mr. President.

A SECOND UPDATE ON MILITARY-STYLE ASSAULT WEAPONS

Mrs. FEINSTEIN. Mr. President, I rise to give an update on military-style assault weapons and their use in the United States.

Last November, the U.S. Senate considered and passed by a vote of 56 to 43 legislation to ban the sale, possession, and future manufacture of 19 semiautomatic assault weapons and their copycat versions.

On February 24, I provided the Senate with the first of a series of updates on shootings and other incidents across America since the Senate began consideration of this legislation. I rise today to provide the second update.

Despite the NRA's contention that assault weapons constitute but a fraction of the 15,377 gun murders in 1992—per FBI Uniform Crime Reports—the fact is that a steady stream of assault weapons are available to the drug dealers, grievance killers, cop killers, and drive-by shooters—many of them youngsters—who terrorize our communities.

The fact is that, today, virtually anyone can obtain a weapon that was designed for military purposes—to kill large numbers of people in close combat. A weapon which often can be easily concealed, and which can pump out 30 bullets in just a few seconds.

Every week brings with it incidents in which innocent people are mowed down—in offices, restaurants, bars, trains, tax offices, shopping malls, schools, parks, markets, and even in their own homes.

No place is safe from these weapons of war and those who use them.

Officer Christy Lynn Hamilton, a rookie on the Los Angeles police force just 4 days out of the academy, was not safe from an assault rifle in February as she crouched, fully armed with pistol drawn and bullet proof vest in place: behind the door of her squad car, after responding to a domestic disturbance report in a residential neighborhood.

A bullet from an AR-15, a high velocity slug more than one-half inch in length, pierced the car door, slipped past her vest—which would not, in any event, have stopped it—and lodged in her chest. She died an hour later.

Officer Hamilton thus joined the ranks of the 490 police men and women slain since 1986, 50 of whom are estimated to have been killed by assault weapons—50 police officers across this Nation.

The unrestricted availability and indiscriminate circulation of these weapons are causing police across America to be routinely outgunned. That is one of the reasons that virtually every major police organization in the Nation strongly supported the assault weapons title of the Senate crime bill, which is presently before the House of Representatives.

Since late October, as far as we can tell, at least 35 people have been killed, and 41 wounded by assault weapons in the United States of America. On this map, in red and black, are assault weapon shootings that have taken place since the Senate prepared to take up its crime bill in late October.

There are 10 AK-47 symbols in red, each representing an assault weapon shooting or assault that has occurred since my first report to the Senate just 7 weeks ago.

Let me review some of these, and a number of other, episodes—culled from newspapers in computer databases that do not cover the Nation—all of which have occurred since February 24, the date of my last update. They make one thing alarmingly clear. No place is safe from assault weapons, Mr. President. No longer are these incidents isolated to only the "rough parts of town."

Gunfire from semiautomatic assault weapons is becoming more and more common everywhere—outside shopping centers and movie theaters, in front of schools in suburban communities, on subway platforms in broad daylight.

From Indiana to Connecticut, from Texas to Louisiana, from Oklahoma to Ohio, from Arizona to Virginia, assault weapons attacks are occurring without warning and with increasing frequency.

Consider these examples from just the last 7 weeks:

Outside a music store in Venice, CA, on April 11, gunfire from an AK-47 critically wounded one man and hit another in a drive-by shooting. The same vehicle and assailants moments before riddled another car with 10 rounds, wounding four people.

At a nightclub in Anaheim, on April 6, six young people were wounded when an unknown assailant, hidden behind a phone booth across the street, sprayed the club with gunfire from an AK-47. A 21-year-old victim was in critical condition after being shot in the stomach;

Worshipers at a Sikh temple were threatened on April 3, in Houston, TX, by a deranged man demanding to know how funds from the temple were being spent. Luckily, as women of the congregation pleaded with him not to fire, several men tackled and subdued the madman;

At a neighborhood market located less than a mile from the White House, four gunmen—one reportedly with a TEC-9 assault pistol—opened fire on March 31, killing a 15-year-old boy and wounding nine others, including an elderly woman and a 1-year-old girl. Police on the scene said it was a miracle more people in the crowded market complex were not shot or killed in this gang-related "hit;"

On a street in Centerville, TX, a 33-year veteran of the Houston Police Department was shot and seriously wounded on March 30 when the driver of a car pulled over for a routine traffic violation opened fire with a MAC-11 assault pistol illegally converted to fully automatic operation.

This is one of the kinds of cases in which our police are really outgunned. They pull someone over for a routine stop; that individual has an assault weapon, and the officer has no chance, no chance at all against this kind of weapon.

In this instance, the sergeant, shot twice, remains in critical condition. His assailant, a Kansas parolee on a crime spree, was shot dead in a gun battle with authorities the next day.

Outside a movie theater in Pittsburg, CA, Becky Martin, 8 months pregnant with her second child, was shot five times as 17 bullets were fired at her "4-by-4" on March 30. Her husband and 11-year-old son stood 100 feet away, buying tickets for a movie. By some miracle, the victim's baby was delivered by Caesarean section and the victim has been upgraded to good condition.

Interestingly enough, in this case, the perpetrator is believed to be the girlfriend of the victim's husband, and their plan was to pretend that this was a gang shooting. The girlfriend was to shoot the pregnant mother, and then spray bullets at passers-by to show that this was not a personal attack but in fact a random gang shooting. Fortunately, for other mall shoppers, that aspect of the plan was not carried out.

On a crowded subway train station in the middle of the afternoon on March 25 in Berkeley, CA, five rounds from an AP-9 assault pistol were fired as a 19-year-old tried to settle an argument.

Mr. President, in my day, youngsters would have an argument, and they would go out and settle it with their fists.

Today, when youngsters have an argument, one goes home, gets an assault pistol, comes back, shoots the person he was arguing with and—if they are standing in the wrong place at the wrong time—anyone around him. We cannot continue to condone this.

A high school in Seattle provides another example. There, a young girl was mowed down when gunfire from a MAC-12 erupted from a passing automobile. Her killer was a 16-year-old private school honor student. And the irony in this case is that the young woman had just transferred to what her mother believed was a safer school.

Unfortunately, the examples of assault weapons killings, shootings, and chilling near-misses from just the past 7 weeks goes on:

Outside an apartment house last Wednesday, police in New Orleans arrested a 20-year-old man wanted for the February murder in cold blood of the 34-year-old director of the Gospel Soul Choir. The suspect, according to published reports, dropped a fully loaded Uzi when confronted by two officers. He allegedly killed the choirmaster for almost hitting him with his car after the suspect stepped into its path.

Police had another near miss with assault weapons on the same day—April 13—in Atlanta, when they and the FBI surprised a man on New Jersey's "Ten Most Wanted" list in the shower. Agents found a TEC-22 Scorpion assault pistol, fully loaded with a 30-round magazine, in the pocket of shorts that they retrieved for him to wear. The suspect, age 32, was wanted for beating another man to death in a drug dispute.

Four juveniles, three 16-year-olds and a 14-year-old, were arrested on April 2 in Baton Rouge, LA, for a string of seven armed robberies of convenience stores near Louisiana State University. Police believe that a TEC-9 assault pistol—the same gun suspected in Washington's "O Street Market" shooting and many other incidents that I have discussed on the floor—was used in at least one of the robberies.

After a high-speed chase on March 21, police recovered a fully loaded MAC-10 from the front seat of a car in Encino, CA.

Two men riding in a taxi near the busy North Blount Street Market in Raleigh, NC, on March 20 were hit by gunfire from three assailants, one of whom was believed to have been using a TEC-9 assault pistol. Both passengers were wounded.

As police officers in Inglewood, CA, were enforcing a new curfew to keep kids under 18 off the streets late at night, they approached a beer-drinking 17-year-old on March 19. He had with him an AK-47 assault rifle and, in his pocket, a full loaded 30-round ammunition clip.

In a residential neighborhood in West Palm Beach, FL, on March 11, an ambush occurred in which more than a dozen rounds are believed to have been fired from an AK-47 and an AR-15. Meant to settle a dispute over the ownership of car tires, the attack left the intended victim dead and one by-stander wounded.

Mr. President, I ask unanimous consent that a full list of these events, and others be printed in the RECORD at the conclusion of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mrs. FEINSTEIN. Mr. President, the point I want to make today is illustrated on this chart, which shows the attacks with assault weapons that have taken place in this Nation since the Senate prepared to consider the crime bill. This bill is now in the House of Representatives, where reasonable assault weapons restrictions are being heavily lobbied against by the National Rifle Association. The NRA will say: "Guns do not kill, people kill." And, yes, there is an element of truth in that. But when the guns so powerful can kill so many so fast, when weapons meant for military purposes are routinely used to settle grievances, to shoot innocent civilians, and to kill police officers, the time has come, I believe, to do something about those weapons and to outlaw their future production in the United States.

Thank you, Mr. President, I yield the floor.

EXHIBIT 1

ASSAULT WEAPON INCIDENTS

[Partial listing]

Date	Location	Gun(s)[1]	Incident
Oct. 25, 1993	Indianapolis, IN	AK-47	Retaliatory gang shooting kills teen 50-shot fusillade and wounds 7 year-old watching TV at home.
Oct. 26, 1993	Waterbury, CT	TEC-9	Botched drive-by shooting leads to 10 mile high-speed police chase.
Oct. 27, 1993	Paterson, NJ		TEC-9 assault pistol pointed at school principal's head as gunmen race through elementary school; none injured.
Oct. 28, 1993	Paterson, NJ	TEC-9	17 year-old and 21 year-old killed by 19 year-old rooftop sniper firing into group of men on sidewalk below.
Oct. 30, 1993	El Cajon, CA	AR-15	"Child-hating" sniper kills woman and 9 year-old child in parking lot; wounds 5 others.
Nov. 1, 1993	Newbury, NH	1927A-1	Grievance killer slays 2 and wounds a third in attack on tax collector's office with "Tommy" gun replica.
Nov. 1, 1993	Houston, TX	AK-47	Teenage boy killed at Halloween party by rival gang members.

ASSAULT WEAPON INCIDENTS—Continued

[Partial listing]

Date	Location	Gun(s)[1]	Incident
Nov. 22, 1993	Baltimore, MD	AK–47	13 year-old boy killed by one of a dozen bullets fired into public housing project by 17 year-old gunman; rifle found by police loaded with 61 shells.
Nov. 23, 1993	New Orleans, LA	AK–47, MAC–11	Jealous husband kills 4 month-old twin girls in crib, 8 year-old sister, and their mother before wounding children's 10 year-old brother in the head and committing suicide.
Dec. 11, 1993	Mechanicsville, MD	MAC–11	16-year-old held in shooting death of younger brother in possible accident; gun, stolen from neighbor's house, found with 30 round clip.
Dec. 13, 1993	Chicago, IL	AK–47	16 year-old basketball player murdered outside supermarket; 17 year-old arrested and charged.
Dec. 17, 1993	Hugo, OK	MAK–90	Two killed and 3 wounded in Wal-Mart parking lot attack with AK–47 rifle variation.
Dec. 30, 1993	De Kalb County, GA	MAC–11	A 13 year-old girl intentionally wounds her step-grandmother with two shots to the abdomen.
Jan. 23, 1994	St. Paul, MN	AK–47	17 year-old kills another teen in dispute over stolen stereo.
Jan. 29, 1994	Buffalo, NY	AK–47	A 16 year-old and his 14 year-old accomplice commit carjacking.
Jan. 31, 1994	Seattle, WA	AR–15	Teacher killed in early morning ambush on middle school grounds.
Feb. 1, 1994	Clifton, NJ		37 weapons seized from residence along with 10,000 rounds of ammunition and 5 explosive devices.
Feb. 3, 1994	Chicago, IL		Three men, all sons of police officers, arrested for conspiracy to commit murder and drug dealing; 29 stolen weapons seized, including AR–15, TEC–9, SKS, and M–11.
Feb. 4–5, 1994	Lincoln, NE		State troopers find TEC–9 assault pistols with 30 round magazines in drug-courier stops on Interstate 80.
Feb. 7, 1994	Minneapolis, MN		Fugitive from Detroit murder investigation apprehended with small arsenal, including AR–15.
Feb. 14, 1994	Torrance, CA		Car and home of masked killer of 2 police officers at motivational seminar yield, respectively, Uzi carbine and AR–15 illegally modified to fire as fully-automatic machine gun.
Feb. 21, 1994	Winston-Salem, NC		Police drug raid nets over $200,000 in drugs, $34,000 in cash and more than 10 guns including, AK–47.
Feb. 22, 1994	Los Angeles, CA	AR–15	Drug-abusing 17 year-old kills LAPD rookie in 4th day on job, and his father, with gun from father's collection; fatal bullet passed through police car door and part of officer's "bullet-proof" vest; officers from three cars pinned down by hail of bullets.
Feb. 22, 1994	Buffalo, NY	MAC–10	17-year old fatally wounded in housing project hallway argument over stolen stereo speakers.
Feb. 24, 1994	Youngstown, OH	AK–47	Thirty year-old mother of 4, including 1 year-old twins, allegedly killed by her estranged husband.
Feb. 25, 1994	Los Angeles, CA	AK–47	7 year-old enrolled in after school enrichment program accidentally killed by 9 year-old friend with assault rifle found under bed in friend's home.
Feb. 27, 1994	Palm Springs, CA	AK–47 [suggested by casing/witnesses].	Two wounded, including a 3 year-old child, in attack on Black History Month picnic believed to be gang-related.
Feb. 27, 1994	Fort Worth, TX	AR–15 or AK–47 [suggested by casing/witnesses].	3 killed and 1 wounded in suspected drive-by gang shooting by 16 and 17 year-old gunmen; witnesses say more than 2 dozen rounds fired in less than a minute.
Feb. 28,, 1994	Phoenix, AZ		Police called to home by boy reporting that 15 year-old friend had threatened to fire AK–47 into nearby school.
Mar. 1, 1994	New York, NY		One man killed and another grievously wounded (neither expected to survive) in drive-by assault on Brooklyn Bridge; attack believed perpetrated with large-capacity pistols, but arsenal including Street Sweeper shotgun, AK–47, and assault pistol seized from suspect's home.
Mar. 1, 1994	Buffalo, NY	AK–47	29 year-old killed by at least four shots to the body in high speed car chase lasting several blocks; over 30 rounds fired; victim's car eventually crashed into utility poll as witnesses dove for cover.
Mar. 4, 1994	Kerrick, MN		Three police officers on task force to find illegal guns fired on while investigating reported gunfire in housing development; 20 year-old gunman wounded in arm by officer returning fire.
Mar. 11, 1994	Wallingford, CT		20 guns, including AK–47, and thousands of rounds, including AK–47, recovered in nightclub; 40 more guns recovered from owner's home.
Mar. 12, 1994	New Orleans, LA	MAC–11, SKS	10 year-old boy critically wounded in neck when .22 caliber pistol dropped while playing went off; police on scene also confiscated 37 other guns, some loaded, including: Mitchell AK–47, Norinco SKS, SKS with folding stock and an AR–15.
Mar. 13, 1994	Richmond, VA	Uzi [?]	21 year-old passenger in car wounded while riding on Interstate 95; car fired on 5 times by car that pulled alongside.
Mar. 17, 1994	San Diego, CA	AK–47	31 year-old man distraught over failed relationship held police SWAT team at bay with assault rifle in 11-hour stand-off beginning at 4:30 a.m.; more than 100 rounds fired by gunman and police; one police officer wounded; gunman committed suicide; police evacuated more than 75 residents of gunman's apartment complex.
Mar. 20, 1994	Raleigh, NC	TEC–9 [witnesses and casings]	Two men wounded in 8:30 p.m. attack on taxicab near busy North Blount St. Market.
Mar. 21, 1994	Encino, CA		Loaded MAC–10 assault pistol recovered from front seat of car apprehended by police after high-speed chase.
Mar. 19, 1994	Inglewood, CA		17 year-old stopped by police in curfew enforcement found with AK–47 assault rifle land fully-loaded 30-round ammunition clip.
Mar. 23, 1994	Seattle, WA	MAC–12	16 year-old uninvolved in gangs killed in drive-by shooting at high school to which her mother moved her to avoid violence on city's south side; gun used reportedly circulated among gang for a year.
Mar. 30, 1994	Centerville, TX	MAC–11	33-year veteran of Houston police force wounded twice in traffic stop by Kansas parolee with concealed fully automatic assault pistol.
Mar. 30, 1994	Pittsburg, CA	HK–94	Woman eight months pregnant shot 5 times in 17 bullet fusillade in mall parking lot reportedly orchestrated by husband and his lover for insurance money; plot originally called for spraying other shoppers to conceal targeted nature of crime.
Mar. 31, 1994	Washington, DC	TEC–9	15 year-old boy killed and 9 others wounded in dinner hour retaliatory gang attack on busy neighborhood market.
Apr. 3, 1994	Houston, TX	Uzi	Deranged and irate member of Sikh temple holds crowded worship service at gunpoint demanding information on use of congregation funds.
Apr. 6, 1994	Anaheim, CA	AK–47	6 wounded, one critically, in sniper attack on popular teenage club.
Apr. 11, 1994	Venice, CA	AK–47	Carload of men with assault rifle perpetrate two gang-related drive-by shootings in 10 minutes. 4 wounded in hail of at least 10 bullets in first shooting of another vehicle; 2 others wounded in drive-by strafing of music store, including stage and screen actor Byron Keith Minns (ironically, played a criminal trying to spare his son from gang violence in Oliver Stone's 1992 feature film, "South Central.")
Apr. 2, 1994	Baton Rouge, LA		Four teenagers, including a 14 year-old arrested for a string of seven armed robberies of convenience stores, one with a TEC–9 assault pistol.
Apr. 13, 1994	New Orleans, LA		20 year-old man, arrested for the murder of a choir director, armed with a fully loaded Uzi when confronted by two police officers.
Apr. 13, 1994	Atlanta, GA		Police and FBI agents arrest man on New Jersey's "Ten Most Wanted" list for beating a man to death in a drug dispute. Taken while in the shower, police found a TEC–22 assault pistol with full 30-round magazine in shorts handed to the suspect to wear.

[1] Entry in "Gun(s)" column indicates specified weapon used or brandished.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Ms. MOSELEY-BRAUN). Without objection, it is so ordered.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,563,273,358,539.03 as of the close of business yesterday, Monday, April 18. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $17,503.19.

TRIBUTE TO SENATOR MATTHEW FELDMAN

Mr. LAUTENBERG. Mr. President, I stand before you saddened by the news that Senator Matthew Feldman has passed away. He made a lifelong committment to serving the citizens of New Jersey. During his 35 years in politics, including 22 years in the New Jersey State Senate, Matty, as his friends and family knew him, worked constantly to improve the lives of all New Jerseyans.

The son of immigrants, Matty Feldman was born in Jersey City, NJ. He attended the University of North Carolina, Chapel Hill, and Panzer College. After serving as an Army Corps captain during World War II, he moved to Teaneck, where he resided with his wife Muriel and their three children. He began his political career in 1958, first as a member of the Teaneck Township Council and later as mayor of Teaneck. After his election to the New Jersey Senate in 1965, he served from 1966–68 and again from 1974 until his retirement in January 1994. As senate majority leader from 1974 to 1975, president of the senate in 1977 and 1978, and chairman of the senate education committee for many years, Matty Feldman was a leader in bringing about the passage of historic legislation in the fields of education, youth issues, taxes, and labor.

As the education senator, Matty was a tireless advocate of the public school system. Along with the 1966 landmark legislation which created the Department of Higher Education and the State and county system of colleges and universities, he was extremely proud of passing the law which allowed State takeover of local school districts. He also sponsored the Quality Education Act of 1990 and, as chairman of the Joint Committee on the Public Schools, he took personal interest in and responsibility for the implementation of the school aid law, one of the most ambitious in the United States. He was also a member of the nationwide Education Commission on the States for over 5 years.

It is difficult to think of another New Jersey legislator who cared more about how government treats its citizens. Matty Feldman labored for 17 years to pass the Social Workers Licensing Act. He also created the New Jersey Motion Pictures and Television Commission. In his private life, he was extremely active in Jewish affairs, serving as State commander of the Jewish War Veterans and on the New Jersey-Israel Commission. Just last week, despite his ailing health, Matty was present for the signing by Governor Whitman of the Holocaust education bill, an issue about which he cared deeply.

In each of his endeavors, Matty Feldman demonstrated uncompromising commitment, spirit and enthusiasm. His many accomplishments, including more than 30 laws designed to improve educational opportunities, symbolize his outstanding service to the people of New Jersey. Matty Feldman will be sorely missed by his friends, his family, and even those who knew him only through his legislative efforts. His personal example of dedication, integrity, and leadership will serve as a model for generations of public servants to follow. I am proud I knew him and thankful for his advice and friendship through the years.

YANKTON AND KANGNUNG: BUILDING A BRIDGE OF UNDERSTANDING

Mr. PRESSLER. Mr. President, I wish to express my support for and confidence in the growing relations between the United States and Republic of Korea. I am particularly proud of the efforts of officials in Yankton, SD, who are encouraging diplomatic ties between my home State of South Dakota and the Republic of Korea.

Yankton leaders are working to make Yankton a sister city with Kangnung City of the Republic of Korea. I believe that Yankton and Kangnung, as growing tourist centers in their respective nations, will become excellent sister cities. I have also extended a personal invitation to the mayor and city council chairman of Kangnung City to visit Yankton in support of the sister city efforts.

I applaud the efforts of Mr. Milo Dailey, a Yankton resident, who traveled to the Republic of Korea as a liaison between the people and city government of Yankton and the people of the Republic of Korea. Milo's hard work, dedication, and sincerity are commendable. His efforts are designed to promote diplomacy and good will.

Joining Milo were a group of citizens from Yankton, including his wife Carla—the managing editor of Taekwondo World magazine, Marian Gunderson—chairman of the South Dakota water development board, Marge Gross, Dr. Duane and Kay Reany, and Karen Pederson.

Another group from Yankton soon will be visiting Korea and Kangnung City, including Carla Dailey, Yankton City commissioner Bill Fejfar and his wife, and chamber of commerce executive vice president Mary Anne Hoxeng.

I support strong ties between cities in the United States and cities in foreign countries. Such grassroots local efforts establish foundations for stronger, more informed, diplomatic relations at higher levels of government. I encourage the work of the Yankton Chamber of Commerce and their liaison, Milo Dailey, in fostering stronger ties with the Republic of Korea.

The city of Yankton is a lovely city with much to offer its residents and visitors. It is a fine example of a small, rural city willing to promote positive relations with a foreign country. I commend Yankton city residents and local government officials for extending their hands in friendship to people in the Republic of Korea. Mr. President, again I applaud the sincere endeavors of Milo Dailey and the people of Yankton, SD, as they continue strengthening our friendly relations with the people of the Republic of Korea.

Mr. President, I ask unanimous consent that a trip report from Milo Dailey concerning his recent visit to the Republic of Korea be inserted in the RECORD.

There being no objection, the report was ordered to printed in the RECORD, as follows:

TRIP REPORT ON YANKTON, SD, DELEGATION VISIT TO KANGNUNG, KANGWON-DO, REPUBLIC OF KOREA FOR SISTER CITY PROGRAM DEVELOPMENT

DEAR SENATOR PRESSLER: First, let me thank you on behalf of a small delegation of Yankton, South Dakota, people who visited Kangnung City in Korea. Your personal efforts have had a special role in paving the way for the Sister City program between our two cities. As our Senator and member of the Foreign Relations Committee, these efforts have, we believe, been vital in our small effort to improve our international relationships with Korea.

We visited Kangnung City November 9 and 10 of 1993. Included in the delegation were Milo Dailey, chairman of the Yankton Sister City Commission and managing editor of the Yankton Daily Press and Dakotan newspaper; Carla Dailey, managing editor of Taekwondo World Magazine, one of the nation's largest martial arts magazines and the largest home circulation magazine in martial arts; Marian Gunderson, chairman of the South Dakota Water development board appointed by three state governors to the board; Marge Gross, a well-known Yankton, state and national level volunteer worker; Dr. Duane Reaney and Kay Reaney; and Karen Pederson.

We were accompanied by a well-known leader in the Korean-American community, Taekwondo Grand Master H.U. Lee and his wife, both of Little Rock, Arkansas; his brother and Taekwondo Master Soon Ho Lee of Panama City, Florida.

Grand Master Lee, a longtime U.S. citizen and head of the American Taekwondo Association, has been instrumental in aiding our Sister City program. As a leader in the Korean-American community, he is very interested in helping to improve relations between his native and his adopted countries. Although he had other business to conduct in Korea, he took special time to accompany us to Kangnung as well as several special tours in and around Seoul. Master Soon Ho Lee accompanied us on special tours of the Seoul area; and the specific purpose for his trip was to be a full-time guide and translator for the Yankton group. He traveled at his own and Grand Master Lee's expense.

The purpose of this trip for the Yankton delegation was:

1. To show more Yankton people the Kangnung community.

2. To cement relations with Kangnung City during the Korean government's consideration for approval of the relationship required for Korean cities.

3. To show our continuing interest after Mr. Dailey had visited Kangnung in April of this year with Grand Master Lee, and a visit of a Kangnung delegation to Yankton over the September Labor Day weekend to determine suitability of the relationship for their government to approve the relationship.

4. We discovered on the trip that we also played a role in helping Kangnung civic entities to meet and work together as well as experience we had already found true in Yankton during the September visit of the Kangnung delegation.

5. Indirectly, to help both Americans and Koreans better understand each other as partners in trade, cultural exchange and world security arrangements.

Also, Mr. and Mrs. Dailey gathered material for editorial use in both local and national publications to promote good relations between the two communities and nations.

Grand Master Lee first handled the travel arrangements for the Yankton group, and secured exceptional travel and accommodations rates for us.

We arrived in Seoul, spent a short night there, then flew to Sok Cho airport north of Kangnung City. Sok Cho currently serves Kangnung while an international airport is under construction there. On our arrival, we were met by a delegation of Kangnung city officials and members of their own Sister City Commission. They drove us south to their community along the northwest coast of Korea.

On our arrival at Kangnung City, we were greeted at the Hotel Kangnung with a huge banner on the front of the building proclaiming welcome to the Yankton delegation.

During the next two days came a rapid-fire circuit of talks, tours and meals hosted by various segments of Kangnung public and private society.

At a formal reception in the office of the mayor of Kangnung City, we presented a traditionally-crafted antler-handled Sioux knife and head-beaded sheath to Mayor Dae Keun Lee (Lee, Dae-keun). We received in return the first of many special gifts presented to us as in Korean custom. We chose the knife as a gift because our city is the location of the first major meeting between the expedition of Lewis and Clark and representatives of Sioux Indian tribal groups. Our city's name is derived from the Dakota name for end (of the) village.

Although the rest of the receptions and dinners were a whirl of activity, there are several major points that may be of special interest to you both as our U.S. Senator and as a member of the Senate Foreign Relations Committee:

1. Although all of us have been only too aware that North Korea had been rattling sabers at the time of our visit, no mention of this was made to us during our trip.

2. We have been told that efforts are being made in the R.O.K. government to speed the Sister City approval there. This, again, indicates interest in an improving relationship between peers at a state and national level, as well as at the city level of government.

3. The growth in Kangnung which was obvious to our delegation indicates a vital economy and interest in nationwide development in Korea. The new international airport, highway improvement and major growth at the national university there all attest to this.

4. Among tour and entertainment segments of our visit, we saw local historic sites, a newly-created ethnological museum, and a reception featuring traditional music and some of the most modern arts. We met outstanding young artists as well as senior area officials; and all seemed very supportive of improving relations between our cities and countries.

5. All indications are of a city and nation which reveres the best of its long history, yet is making subtle cultural and obvious material changes to be a full national partner with the U.S., and one with whom we can be very proud to accompany to a common future. It is obvious we share many common economic and cultural interests, as well as a desire for democratic free market economies with individual opportunity encouraged.

6. Grand Master H.U. Lee of Little Rock, Arkansas, Master Soon Ho Lee of Panama City, Florida, Mr. C.S. Kim of Kim Pacific Trading in San Francisco, California, and Dr. Jong-pil Kim, chairman of the Korean Democratic Liberal Party all have made special personal efforts in the promotion of the Yankton-Kangnung Sister City relationship. Their only thanks are those words which we and fellow Americans can offer them for their efforts in improving international understanding. Other personal friends of Grand Master Lee were instrumental in making our visit and tours unique for American tourists and more than enjoyable. This commitment to international understanding is exemplary.

7. Our Yankton group was accompanied by letters from our state's Sen. Pressler of the foreign relations committee, Sen. Tom Daschle and Rep. Tim Johnson. This bipartisan support was reflected at one reception that apparently was more special than we recognized. Representatives of different parties and governmental agencies that seldom meet with each other did indeed meet with us together. The support of South Dakota leaders of both parties toward this civic and cultural exchange is reflected in the response from the Kangnung area.

We also would like to give special mention to other Korean people from Kangnung City whose personal efforts and leadership in international relations are worthy of emulation:

1. Mayor Dae-Keun Lee of Kangnung City deserves special mention. Although new in this position, the common ground of martial arts in making a more peaceful world through mutual respect plays a major role in his support. He is a senior Taekwondo practitioner with a solid background of government service. Grand Master Lee is the head of the largest U.S. martial arts (and Taekwondo) group and the fastest-growing worldwide martial arts association. Yankton's Sister City Commission Chairman Dailey and Mrs. Dailey also are longtime practitioners of the Korean martial art of Taekwondo.

2. Kangnung City officials Young-nam Kim and Yang-jin Kim. Mr. Young-nam Kim has studied in the United States, served as translator during Mr. Dailey's April visit to Kangnung and this trip, and visited Yankton in September. He is a district city manager. Mr. Yang-jin Kim is head of the Kangnung planning department and was very active as a special host to the Yankton group. He also visited Yankton in September.

3. Mr. Soon-ok Lee, of the Kangnung Sister City commission. Mr. Lee helped to host Mr. Dailey last April, visited Yankton in September and currently is wearing one of Mr. Dailey's South Dakota-purchased western hats.

4. Prof. Kyung-dae Min, professor of English literature at Kangnung National University, and his wife. Prof. Min studied literature in the U.S., and he and his wife both polished English skills informally during their stay in our country. He also is a poet published both in English and Korean languages. Prof. Min aided in translating and guiding us during the November trip, as did his wife.

5. President Lee of Kangnung National University whose support of our visit in November was obvious in his luncheon hosting of our group as well as special gifts.

6. Many others, including well-known Kangnung architect and artist Mr. Ahn, Moon Hyo.

Overall, although there was no official meeting, the members of the Yankton delegation felt that the trip to Kangnung, and the subsequent tour of Seoul and the area, were of great value in our understanding of Korean culture past and present. It seems also that our delegation also had a unifying value in Kangnung.

We hope that our visit is only the first of continuing relationship with Kangnung; and that our example will be one for other American cities and individuals to follow.

Although Mr. Dailey has been to Korea a number of times and has great appreciation for the Korean people and their culture and goals, the other members of the delegation on their first trips to Korea very rapidly developed a similar appreciation.

The Korean people obviously share the American traditional work ethic that so often is exemplified in South Dakota people. They are very proud of their accomplishments and much prefer to emphasize these rather than the difficulties they have encountered in building modern national, cultural and industrial power over the past 35 years.

The growing importance of Asia in South Dakota and American trade and other relationships was continuously made obvious to members of our group. We hope sincerely that our delegation has played a small role in improving relationships between our nations.

As the U.S. was the first nation to have a treaty with Korea over a century ago, we hope that our two nations will continue a strong, friendly and fruitful relationship. As our relationship has weathered misunderstandings and local problems in the past, we sincerely support efforts to continue this natural and friendly relationship over the years, decades and centuries to come.

TRIBUTE TO REPRESENTATIVE WILLIAM NATCHER, KENTUCKY GENTLEMAN WAS A TRUE PUBLIC SERVANT

Mr. McCONNELL. Mr. President, Kentucky and the Nation recently suffered a tremendous loss as William Natcher of Kentucky's Second Congressional District passed away. As my colleagues know, Bill Natcher was a giant among men. He brought a unique dignity to his position and this Capitol which elevated him above most who serve in this institution.

Kentucky has been blessed throughout its history with marvelous Representatives in Congress. Although a Representative from Illinois, Abraham Lincoln was born in and spent much of his early life in Kentucky. In addition, Henry Clay, Alben Barkley, and John Sherman Cooper all distinguished themselves as pillars of this legislative body from the great Commonwealth of Kentucky. I believe history will reflect that Bill Natcher deserves to be mentioned with this impressive group of public servants.

Mr. President, by now everyone has heard of Chairman Natcher's 18,401 consecutive votes, a record that will live forever. By itself this mark is indeed an impressive accomplishment, but when looked at in conjunction with his other feats one realizes the void that Kentucky is being asked to fill.

As chairman of the House Appropriations Committee, he earned a reputation as a diligent and fair leader who was willing to go the extra mile in order to enact the complicated and often controversial legislation that was necessary for our Nation to function. Whether one agreed or disagreed with the chairman, all knew that he would above all else be fair in his efforts to move the committee forward.

I am sorry that all of my colleagues were not able to join me and scores of others in Bowling Green, KY for Bill Natcher's funeral. It was truly a moving tribute to a deserving man. President Clinton and Speaker FOLEY each delivered touching eulogies which combined humor and reverence in honoring this wonderful and charming Kentucky gentleman.

But as so often is the case, it was not the most famous of the speakers that shone most brightly this day. Pastor Richard W. Bridges of First Baptist Church in Bowling Green gave a poignant sermon which was among the best I have ever heard.

Mr. President, I know my colleagues join me in remembering Bill Natcher; he will not easily be replaced. As a role model he may have no equal on both personal and professional levels. In addition, I ask that Pastor Bridges' sermon be included in the RECORD at this point and hope that my colleagues will have a chance to read and enjoy it.

There being no objection, the sermon was ordered to be printed in the RECORD, as follows:

THE MAN FOR ALL SEASONS

(By Richard W. Bridges)

Alexander Pope said, "An honest man's the noblest work of God." So it is that we have come to mourn the death of William Natcher who was, above everything, simply an honest man who served his country.

He has been called everything from the "Iron Man of Congress" to an "Old Bull" to an "antebellum man." Everyone in the room today knows the essential characteristics of his remarkable career as a public servant. We know that he cast 18,401 consecutive votes on the floor of the House, we know that he never accepted a campaign contribution, we know that he drove himself to work, we know that he waxed his own car, we know that he handled the news media by ignoring them, we know that he did not even know how to spell "lobbyist," we know that he wrote his grandchildren every week, and we know that he kept those famous journals of the days in Congress since 1954. We know that he "tried to do it right."

We know other things, as well. We know that he did his work for the people in the spirit of non-partisanship. He had, as he used to say, "as many friends across the aisle as on this side of the aisle." We know that he was a centrist. When I asked him, more than a decade ago, to explain where he stood in the political climate of this century, he pointed me to the First Inaugural Address of Thomas Jefferson and the brilliant words, ". . . every difference of opinion is not a difference of principle. We have called by different names bretheren of the same principle. We are all Republicans, we are all Federalists."

We know that he was a man of the people, considering the prompt delivery of the mail at the end of the furtherest dirt road in Warren County as significant as the concerns of the Chambers of Commerce of Bowling Green or Owensboro. The quality of the individual lives of working men and women captured his devotion and commitment. Woodrow Wilson said, "The great voice of America does not come from the seats of learning, but is a murmur from the hills and the woods and the farms and the factories and the mills, rolling on and gaining volume until it came to earth to us. The voice (comes) from the homes of the common men." Mr. Natcher heard that voice.

We know that he made an enormous difference in the life of the country. And we know that he cherished the House of Representatives the way lovers cherish one another.

He was a man of character. He was a man of integrity. He was a man of honor. He was a man of friendship. He was a man of a word to be kept and honored to his own hurt. He was a man who gave his heart and soul and all that he had, tangible and intangible, to the American ideal of government on behalf of, and through, the people.

Many have pondered his remarkable ability to have been elected to public office by the people of this area every year since he was 27 years old. Here is how he did it: he walked the streets, went into the courthouses and the law offices, met in union halls and with civic clubs, visited the churches and sat down in neighborhood gathering places and said, to anyone he encountered, "What do you think?" And then he went back and represented through his votes and diligence to duty what the people of the 2nd Congressional District had said to him.

It was really very simple. He never mixed personal ambition with public duty. He held his office as a sacred trust, worshipped at the shrine of liberty, and held all men and women of his district in high esteem and confidence. And so, being a good judge of character, we elected him again and again.

The truth is, if his name were to appear on the ballot at the next election he would win again though he is no longer living. And he would win because most of us in the 2nd District would rather vote for a dead Bill Natcher than a living somebody else.

Why? Because he was a statesman; "a statesman, yet friend to truth, of soul sincere, in action faithful, and in honor clear. Who broke no promise, served no private end, who gained no title and who lost no friend." (Alexander Pope)

He has been called, in commendation and in appreciation, an antebellum man, a courtly Southerner, genteel and refined, a man without rancor. But these very characteristics qualify him, in the opinion of some, as an anachronism, even an antique, a man out of step with these times and these tempers. An oddity. An accident of circumstance.

But we of this district call him the man for all seasons, for the characteristics of honor, integrity, duty, faithfulness and civility never go out of style. They are appropriate and dependable in any century and at any time of crisis. They are right in any language, in any culture, in any state of the Union. They belong to men or women of persuasion, of every opinion, and of every party. His character never grows outdated, never goes out of style, and is never found to be unworkable. Indeed, there is a great hunger in the land for men and women like him.

So we mourn this small man, this little wisp of a man, yet this giant of a man because we know that he was in private exactly what he was in public—he was an honest and dependable man who loved his country more than his own life.

The local paper ran a headline the other day: "Who Will Replace Natcher?" The story beneath it speculated on the identity of the man or woman who would next represent this district. But when we picked up the paper and read the headline we all said, silently yet as though we spoke with one voice, "No one. No one will replace him." After all, we thought, he was one of a kind. But we were wrong to think it.

One of the reasons we have gathered from across the country in this church house today is that as long as Bill Natcher was in Congress we maintained our faith in the institutions of government. But an honest man can never serve alone. He can only serve when he is in the company of others equally brave, equally devoted, and equally without guile.

The word is abroad in the land that government is bumbling, caught in gridlock, impossibly incompetent, foolishly distracted. That word is false.

The word is abroad in the land that government is populated only by the shrill voices of rancor, only by people of zero virtue, seeking their own gain, and playing loosely with the truth. That word is false.

The word is abroad in the land that government cannot be trusted, that it serves causes other than those of the people, that it is mired in the culture of only one American city, that it is blind to values that are right and good and noble. And that word is false.

I know it to be false because I knew Bill Natcher. Because he was part of the government, I knew that the American character was intact, that the American dream was alive, and that the American vision was undimmed.

Mr. Natcher would have us remember here at this hour that he was not alone. The truth is, there are thousands of them—strong men and strong women—who are in government service this very day. His replacements are already in office, already employed, already at work, men and women of decency, faith, virtue, and honor who serve the American people.

It is true: the robe of Lady Liberty is frayed at the cuff, perhaps a smudge or two that needs to be cleaned, and it is wrinkled from overwork and great stress, but beneath the frayed robe there may be found the heart and soul of the American government that is as pure and as deep as gold.

Mr. Natcher was not the only good and decent man to ever serve this nation. The American people need to know that there are more—many more great hearted men and women like Mr. Natcher in the government today. And there are more of them than those who seek their own pitiful private aims. Many of them are in this room today.

We are somewhat amused that only now, at his death, has the rest of the country discovered him. The country, as a whole, did not know that for forty years, this great and good man was one of those politicians who made the country work. That fact should stand as a reminder to us whenever anyone, regardless of his or her credentials, levels sweeping condemnation of the government, let them pause to remember that good men and women deserve better, that great men and great women hard at patriotism's honest tasks outnumber the shiny laggards, and that decency and love of country have not evaporated from the chambers of delegated power.

The nation stands secure today on the shoulders of the political brothers and sisters of William Natcher.

On the front of your Order of Service, beneath Mr. Natcher's picture, is the matchless text from 2 Timothy: I have fought a good fight, I have finished [my] course, I have kept the faith:

Someone said to me that he certainly fought the good fight and that he finished the course, but they weren't as sure about his keeping the faith. It is true that his attendance record in Congress was far better than his record of church attendance. But as his friend and pastor, I suggest that when it comes to faith one should measure a man by the words of Scripture. Consider the life and times of Mr. Natcher by these words:

The Bible says, "Whatsoever thy hand findeth to do, do [it] with thy might;" (Ecclesiastes 9:10)

The Bible says, ". . . by their fruits ye shall know them." (Matthew 7:20)

The Bible says, "the fruit of the Spirit is love, joy, peace, longsuffering, gentleness, goodness, faith, meekness, temperance: against such there is no law." (Galatians 5:22–23)

The Bible says, "Finally, brethren, whatsoever things are true, whatsoever things [are] honest, whatsoever things [are] just, whatsoever things [are] pure, whatsoever things [are] lovely, whatsoever things [are] of good report; if [there be] any virtue, and if [there be] any praise, think on these things." (Philippians 4:8)

The Bible says, "Verily I say unto you, Inasmuch as ye have done [it] unto one of the least of these my brethren, ye have done [it] unto me." (Matthew 25:40)

The Bible says, ". . . all [of you] be subject one to another, and be clothed with humility: for God resisteth the proud, and giveth grace to the humble." (1 Peter 5:5)

The Bible says, ". . . whatsoever ye would that men should do to you, do ye even so to them:" (Mathew 7:12)

The Bible says, "No one who puts his hand to the plow and looks back is fit for the kingdom of God." (Luke 9:62)

Mr. Natcher was a life-long member of the First Baptist Church of Bowling Green, and the only way one becomes a member of our church is to recognize that God is to be found with a certainty in Jesus of Nazareth. Mr. Natcher was a faithful Christian believer, a disciple of Jesus and an honorable man. He followed those words of the Bible and matched his life to them.

Unlike so many—preachers . . . politicians . . . and others—Mr. Natcher practiced what he preached.

One of his most cherished circles of friends was his breakfast club. In a memorable conversation one day he said to me, referring to his breakfast friends, fellow servants of the public good, "Do you know what they call us behind our backs?" Of course, I didn't.

"The old wolves," he confessed. He shook his head, eyes twinkling. "Do you think that I am a wolf?" he asked.

"No, Mr. Natcher, I don't," I answered.

"The Bible," he said, "says that the wolf will lie down with the lamb." I nodded, affirming his Bible knowledge (Isaiah 11:6). Then he added, "But Richard," he said, "some of the lambs have their own ideas. And they don't always listen."

John Dewey, in speaking of the character of Thomas Jefferson, once said, "There are few men in public life whose course has been so straight, so uninterruptedly in one direction." That judgment applies to Mr. Natcher. Now his voice is stilled, his last vote is cast, his last letter written, and it is time for the other great and honest and quiet men and women of American government to now come forth, where the nation can see them and hear them, and follow in his track.

THREE DISTINGUISHED CALIFORNIANS

Mrs. BOXER. Mr. President, I rise today to honor three distinguished Californians—Army WO Michael Hall, Army WO Erik Mounsey, and Col. Jerald Thompson—who lost their lives last Thursday in the helicopter accident over Iraq.

My heart goes out to the families of these fine officers, and to the families of all of those killed in this tragic event.

Erik Mounsey joined the Air Force to fulfill his dream of becoming a pilot. A man who loved children and helping others, Erik couldn't see himself behind a trigger. He requested a transfer to the Army, so that he could fly humanitarian aid missions. Erik also demonstrated his commitment to helping others in his personal life—he was known for dressing up as Santa Claus and passing out presents to children at the base in Germany where he was stationed. While in the Middle East, Erik flew aid missions to help feed Turkish children.

Michael Hall's first love was also flying. With the help of his father, a recreational pilot, Michael took flying lessons at the Sonoma County airport and received his pilot's license when he was only 16—a week before he got his driver's license.

Michael was eager to help others. He flew combat missions in the Persian Gulf war, but was much happier in his most recent assignment, flying goodwill missions for the United Nations. He delivered supplies to the Kurds in the remote mountain villages of northern Iraq. Michael recently sent his father a video of himself and fellow army pilots offering clothes, shoes, and candy to Kurdish children.

Jerald Thompson was stationed in northern Iraq as commander of the military coordination center in Zakho. He supervised efforts to rebuild Kurdish villages, deliver food to those in need, and provide a safe haven for Kurds escaping Iraqi persecution. Jerald, who obtained a master's degree in Middle East history, was chosen for this assignment because of his expertise and previous work in the Middle East. He served as a United Nations military observer in Jerusalem, and in the Pentagon, he was considered an expert in the history and culture of North Africa.

Erik Mounsey, Michael Hall, and Jerald Thompson died not just in service to their country but in service to humanity. I deeply respect their willingness to lay their lives on the line to relieve the suffering of others. They helped to ensure the survival of hundreds of children and adults who received aid and shelter through their humanitarian missions.

I know that all Senators join me in expressing their deepest respect and condolences to the family of WO Michael Hall, WO Erik Mounsey, and Col. Jerald Thompson. Their sacrifice will not be forgotten.

AIRPORT IMPORVEMENT PROGRAM TEMPORARY EXTENSION ACT

Mr. FORD. Madam President, I ask unanimous consent that the Senate now proceed to consideration of the bill introduced earlier by myself to provide temporary obligational authority for the airport improvement program and to provide for certain airport fees to be maintained at existing levels for up to 60 days.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

A bill (S. 2024) to provide temporary obligational authority for the airport improvement program and to provide certain airport fees to be maintained at existing levels for up to 60 days, and for other purposes.

Mr. FORD. Madam President, this bill, the Airport Improvement Program Temporary Extension Act of 1994, is a piece of authorizing legislation, which would be S. 1491, and that will be postponed to a time within the next 60 days, hopefully, that we will bring that legislation up. The National Transportation Safety Board is available and we will be going to that one shortly.

But, Madam President, I want to use this period of time for a little background. I do not want to use the word "history," but I want to use it for a little background.

Madam President, at the request of Senator FEINSTEIN last Thursday, in order to avoid a floor fight on the airport fee issue I am introducing a bill that the Senate will consider today to allow a portion of airport grants to be awarded by the Federal Aviation Administration for a 60-day period. A number of Senators have indicated to me that they do not want to jeopardize an entire construction season and would like to see the airport grant money start flowing to airports, especially to small airports. I am in complete agreement and this legislation will authorize the FAA to issue grants for 60 days.

Also, in this temporary bill the Secretary of Transportation will have temporary authority for 60 days on airport fee increases. If the Secretary receives a complaint from an airline he would issue an order freezing the increase in the fee or make a determination that the fee is reasonable. This provision will not affect existing airport contracts—only those in dispute. A vast majority of airports have existing contracts with the airlines and nothing that the Senate is doing today will change that situation.

During the 60-day period there will be an effort to resolve the airport fee issue. At the end of the 60-day period, or earlier if a compromise is reached, the Senate will take up and consider S. 1491, the Federal Aviation Administration Authorization Act of 1993.

This is 1994, I understand, but we are now several months into the fiscal year of 1993–94. The House has already passed their bill before the budget period ran out.

I must add that my colleagues in the House of Representatives have been very patient. Representative OBERSTAR passed his legislation before the authorization lapsed at the end of the fiscal year. I have attempted since last November to move an airport bill but the issues of general aviation product liability became linked to the FAA authorization.

On March 16, 1994 the Senate passed S. 1458, the general aviation product liability legislation. For the past month I have been struggling with the airport fee issue and have tried to craft a compromise between the airports and the airlines. My State's most famous legislator, Henry Clay, would be very disappointed in my efforts.

Since the dawn of aviation, airport revenues have been used on the airport. Prior to 1970, the Federal Government, through the FAA, operated the National Airways System, but took only a small role in the development of airport facilities. With the passage of the Federal Airports Act of 1946—Public Law 79-377—the FAA did provide financial assistance to those airports having financial difficulties. In 1970, Congress decided that limited assistance was not adequate and enacted the Airport and Airways Development Act of 1970, Public Law 91-258. The effort in 1970 was to expand and improve the airport and airway system. Planning grants were established and the capital funding program was targeted for the development and improvement of airports in conformity with national objectives. The Federal funds were made available through formula mechanisms, which are referred to as entitlement, and discretionary mechanisms. In accepting a Federal grant, the airport agrees to comply with certain grant conditions called assurances, including those aimed at restricting the use of airport revenue for aviation purposes.

Entitlement grants are awarded by the FAA to airports by a formula based on the number of enplaning passengers. Discretionary grants are awarded for capital projects for capacity enhancement, safety and noise-abatement. A large portion of the discretionary grants are set aside to achieve funding for various types of airports.

Madam President, I am trying to go back in history here to make the point that we are beginning to get away from the intent that Congress started out with, as part of our airports and airway system.

The Congress has authorized the Airport Improvement Program five times since 1970. Each authorization has expanded the use of Federal funds for other airport programs besides airfield or terminal improvements. The most recent authorization allowed airports to use AIP funds for parking lots and interactive computer equipment.

The Congress imposes specific conditions on airports that accept Federal AIP funds, including a requirement that such airports certify to the Secretary of Transportation that all funds generated by the airport are dedicated to airport use. Now we are trying to get outside of that dedication. In agreeing to a statutory arrangement for supporting the National Transportation System, Congress intended for airports to be self-supporting. Neither Congress nor the airports have ever expected a profit from running an airport. Airports are monopoly landlords.

In 1990, Congress authorized the use of passenger facility charges—we refer to that as PFC's—to allow airports to prepare for the vast number of capital projects needed throughout the country. The original intent of the PFC was to apply the tax to airport projects which are intended to preserve or enhance safety, security, capacity, and reduce noise or enhance competition among air carriers. That is all it was authorized for. Unfortunately, a number of airports have interpreted this law to mean that PFC funds could be used for mass transit and other modes of transportation. It has been an ongoing struggle since the authorization of the PFC to keep the funds for airport development and improvement.

Now local governments are looking to the airports to solve the problems of diminishing resources. Communities want the airports to shift their profile away from the improvement of the airports to downtown. The Office of Inspector General at the Department of Transportation, which is the only Federal office of which I am aware that is reviewing the use of airport revenues has issued 15 reports over the last few years documenting revenue diversion by airport sponsors. In December, 1993 Representative BOB CARR, chairman of the Subcommittee on Transportation in the Committee on Appropriations in the House of Representatives released a report which detailed numerous revenue diversion activities at airports. The revenue diversion found in the report included fund transfers, improper charges for indirect services, charitable contributions, commingling of airport revenue with other city funds and payments in lieu of taxes, which was never the intent of the PFC. When the report was released Representative CARR stated that the FAA was not in any meaningful way enforcing the prohibitions against using airport generated revenues for non-airport purposes. Representative CARR believes that the U.S. taxpayers have extended a privileged revenue sharing to communities diverting revenue.

Last November, when the Committee on Commerce, Science, and Transportation reported S. 1491, the Federal Aviation Administration Authorization Act of 1993, the subject of revenue diversion was addressed. The committee was aware that the city of Los Angeles had announced its desire to divert revenue derived from the airport for use "downtown." The committee restated that under applicable Federal law airport fees must be reasonable and any revenue derived from the fees must be utilized only for airport purposes and may not be diverted off the airport. The issue of lockouts was also covered. The committee stated that if Los Angeles intended to lock out air carriers such an action would constitute a major interference with the free flow of commerce and violate the prohibition contained in section 105 of the Federal Aviation Act—49 U.S.C. section 1305—which states:

> (N)o state or political subdivision thereof * * * shall enact or enforce any law, rule regulation, standard, or other provision having the force and effect of law relating to rates, routes, or services of any air carrier have authority under title IV of this Act to provide air transportation.

The Los Angeles International Airport's efforts to divert revenues downtown has received a great deal of press attention. The airport, owned and operated by the city of Los Angeles, has received over $180 million in Federal AIP grants since 1982. This plan to get money out of the airport to pay for unrelated municipal services is the problem the Senate faces today. Airport funding is a very complicated matter, and I would like to take a little time to explain the issue for the benefit of my colleagues.

Presently, most commercial airports are financially self-sufficient, and receive no revenue from the local taxpayers. It is interesting to note that as the financial condition of the airlines are reduced airports have retained their healthy profit margins. Let us look at that a minute. It is interesting to note that as the financial condition of airlines are reduced, airports have retained their healthy profit margins, and their revenues have increased faster than their airport traffic.

According to Airline Business magazine in 1992 airport profits and revenues rose by 14 percent. This summary was based on the financial performance of 40 airport authorities throughout the world. U.S. airports did not generate as much revenue as airports throughout the rest of the world in that most terminals are operated by airlines and not by local governments. For 1992, U.S. airports report profit margins in the 30 to 50 percent range. Across the country, airports seem to be on a building binge while the airlines industry is just beginning to recover from record losses. Airline travel has declined, a number of airlines have been in bankruptcy, airlines have been forced to seek foreign investment, and everyone agrees there is too much capacity.

Airports in the United States are built and operated almost exclusively at the expense of airport users. That is the consumer; that is the passenger, that is the individual trying to get from one community to another on the airlines. They are the ones who pay for the operation. The operations at these airports are funded from airline landing fees, terminal charges and rents from nonairline tenants such as concession shops, car rental agencies, and parking lots. In addition to airport development that is funded by bonds underwritten by specific airlines, airports can also levy passenger facility charges [PFC's] on airline passengers and apply for Federal funding from the Airport Improvement Program.

Fees charged to the airlines and in turn passed on to the airline passenger are calculated on two general ratemaking systems—residual and compensatory.

Under a residual fee, the airport collects fees for parking, rental cars, and other concessions and then turns to the airlines for the balance necessary to run the airport. In other words, the airlines guarantee the full cost of the airport. The risk to the airlines in extending this guarantee is that concession revenues will be inadequate and the airlines will be forced to subsidize the concessions. The possible benefit to the airlines of a residual agreement is that if the concessions are highly successful, the balance to be paid by the airlines will be reduced.

From the standpoint of the airport, the benefit of a residual agreement is that the airport's costs are guaranteed. This also makes it easier to finance large capital projects. Frequently, these agreements extend the full term of any bonds issued, since the agreement itself provides financial support for the bonds. The drawback to the residual agreement to the airport is that if the airport's concessions are highly successful, some or all of these profits are used to reduce airline rates instead of surpluses accumulating at the airport.

The large majority of airport agreements are based on residual methods. For example—the airline hubs at Cincinnati, in my State, Detroit, Nashville, and Pittsburgh have residual agreements. Non-hub airports in Cleveland, Orlando, and Tampa have residual agreements.

Under the compensatory system, the airlines pay only for the debt service and maintenance and operating costs of the space they use. They receive no credit for parking, rental car, or other income.

Without the airlines' guarantee of all airports costs which is at the heart of the residual agreement, a compensatory agreements put the airport at risk that it will not break even. However, some airport have learned that their concessions readily turn a profit. These airports benefit from compensatory methods because they can retain the full amount of that profit without passing it on to the airlines or the airline passenger. Examples of airports which use compensatory ratemaking include Boston, Los Angeles, and Grand Rapids.

A much more common approach to airport ratemaking is to use a modified compensatory approach to apply a compensatory system but to share the profits generated so that a portion of the profit is used to reduce airline fees and the remainder is retained by the airport to be spent for airport purposes. Examples of airports which use the modified compensatory approach are Allentown, Manchester, and Savannah.

While different ratemaking approaches make sense in different situations, recent events in Grand Rapids and Los Angeles are setting the trend for airports to adopt compensatory methods without attempting to share the profits generated with the airlines or the traveling consumer. This is one factor contributing to the rapid increase in airport rates and charges.

For the past 2 months I have been attempting to get the airports and the airlines to agree to compromise on the airport fee issue. The Air Transport Association, which represents most the airlines, the Airports Council International, and the American Association of Airport Executives have met on three occasions to try to come to some agreement on revenue diversion, lockouts, surpluses, and a standard and process for decisions at the Department of Transportation to determine reasonable fees. I wish I could report to my colleagues that progress has been made. Unfortunately, the parties now seem further apart and there are many bogus issues which keep appearing.

For the benefit of my colleagues I would like to explain my views on the airport fee issue. Every airport in the country is attached some way to a unit of local government—a city, county, State, or regional compact. Even through airports are a part of local government and receive Federal entitlement and discretionary funds there are a number of airports where no one can ascertain the revenues. In the 1992 authorization I included a provision which requires airports to make public their budgets. Unfortunately, neither the annual report or the budget of some airports give a breakdown of information on airport revenues. Airlines are often negotiating airport fee agreements without any knowledge of the concession revenues.

Airports are public bodies with public responsibilities and should be responsible to the public to open their books. Let me read that again. Airports are public bodies with public responsibilities and should be responsible to the public to open their books. I am not just talking about the airlines having access to the various fees. As local government units, airport revenues should be part of the public record.

Besides the public accountability issue a fundamental problem is that the airport trade associations do not believe that the Congress should act on the airport fee issue. The airlines are of the opposite opinion. I understand the Department of Transportation is currently considering definitions, policy, and a process for settling airport fee disputes. Since this exercise is based on current law I see no reason why the Congress should not be able to address these issues. The meetings during the past 2 months have been an effort to come to agreement on definitions when allow the DOT to develop a process by when complaints are filed and acted upon.

DOT presently administers airport fee complaints by a regulation referred to as a part 13 complaints process. Seven cases have been filed and the average length of time that the fee level case has been pending is 33 months. One airport advised me of a part 13 complaint in which they were involved which had been under consideration for 48 months.

Madam President, it is obvious there is not a process that can settle disputes over airport fees. Most airport fee agreements are not disputed nor would anything that is being considered to address this issue attempt to change any current agreement. If the airlines have signed a contract, the fee they are paying is not an issue. Nor is inflationary indexing which is a provision in a number of airport contracts. The only issue that we are considering is when the airport fee is in dispute. Less than 10 lawsuits have been filed in over 25 years on airport fees. Contrary to what you have probably heard on this issue it involves a very small number of airports. Unfortunately, it seems to be a trend.

No one seems to be representing the airline passenger. It is the airline passenger who pays the landing fee, the PFC and a portion of the passenger's ticket goes into the Aviation Trust fund. I believe there is a compromise on the airport fee issue and I strongly believe that it is in the interest of the airline passenger to resolve this impasse.

In the 60 days that this bill allows before S. 1491 is considered I will bring back to the table the airports, the airlines, Senator FEINSTEIN and other interested Members to develop an amendment to be added to S. 1491. I will continue to address the many aviation issues raised by my colleagues and it is hoped that before the end of the sixty day delay the Senate will be considering S. 1491.

Madam President, I yield the floor.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. I ask unanimous consent to speak for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Madam President, I want to commend Senator FORD, Chairman of the Aviation Subcommittee, for his leadership on this bill to temporarily extend the Airport Improvement Program. I think it is very important we work out an agreement to get this bill passed before our airports lose an entire construction season. I commend both Senator FORD and Senator DANFORTH for their leadership on this issue.

As ranking member on the Aviation Subcommittee, I, too, am very concerned about moving this legislation expeditiously. I would like to see an agreement worked out to move this bill forward as quickly as possible. While I originally intended to offer an amendment to this bill, I understand the subcommittee chairman's desire to move this legislation without amendments. Therefore, I will work with Senator FORD to include my amendment on another piece of legislation.

Again, Madam President, I thank both Senator FORD and Senator DANFORTH for their leadership.

I suggest the absence of a quorum.

Mrs. FEINSTEIN. Will the Senator withhold that?

Mr. PRESSLER. I withdraw that.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, I ask unanimous consent to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Madam President, I would like to commend the subcommittee chairman, Senator FORD, for working to forge this temporary compromise. I believe it achieves two important goals. First, it turns on the tap for the Federal Airport Improvement Program funds to begin flowing and, secondly, it allows the airports and the airlines an additional 60 days to come to the table and establish a methodology for a fair system of setting rates and charges that would be agreeable to both sides.

Madam President, I must say, I speak with some experience in knowing that this can be done because while mayor of San Francisco, I forged such an agreement involving San Francisco International Airport and the air carriers. And today that agreement, in effect, is a win-win for the airlines and the airport operators. So I know firsthand that it can be done.

We are approaching a very critical construction season, and it is more important than ever that we make these moneys available promptly. Grants from this program are vital, particularly for small airports. They are used to do such things as improve runways, install navigational equipment, conduct master plans, soundproof residents that are near airports, acquire firefighting vehicles, among others.

In 1992, the last year for which a report is available, this program provided $100 million to the State of Florida, $100 million to my State of California, $84 million to Colorado, $47 million to Michigan, $12 million to New Hampshire, and on and on. This bill affects airports, large and small, in every State. And the way the chairman has worked this interim measure out, it would not delay funding any longer.

Let me for a moment speak to the issue which is at hand. The issue basically revolves around two different methodologies of setting rates and charges. One is called a residual methodology, which airports and airlines have historically used to set the rates and charges, and a newer methodology called compensatory ratemaking.

The airlines challenged compensatory ratemaking in a case before the U.S. Supreme Court called Northwest Airlines, Inc., et al versus County of Kent, MI, et al. The air carriers effectively lost the Supreme Court case, when the Court upheld the right of an airport operator to establish rates according to a compensatory methodology.

Put plainly, under a compensatory methodology, airports can base their landing fees on the airport's cost to operate those facilities that the airlines actually use—runways and navigational facilities—and utilize other revenues such as concession revenues for airport improvements. The airlines do not like this.

Those landing-fee agreements that are at issue today really revolve around some of these issues, and it is fair to say that significant differences of opinion remain between the principal parties.

Compounding the situation, there is currently no clear guidance from the Department of Transportation to aid the resolution of disputes between airlines and airports about what is and what is not a reasonable fee. For the last couple of months, the Department of Transportation has been in the process of developing these guidelines, and I strongly urge Secretary Peña, the Department, and the FAA to do everything within their power to expedite the issuance of these guidelines so that they may be subject to public comment and we may put in place rules to resolve future disputes.

It is important to recognize that the legislation before us is simply an interim measure. It provides time, 60 days, to allow airports and airlines to reach an agreement that is fair. The measure is not perfect. In a sense, it is a cooling-off period. I recognize that there are significant concerns, concerns that I share, about Congress directing the Secretary of Transportation to freeze disputed rate increases should they arise in the next 60 days. I do not support congressional authority over setting rates and charges in the long term and do not see this as a preview of things to come.

But I strongly support the need to develop a workable relationship between airport operators and air carriers. I know firsthand that this can be achieved, and when it is, it will be a win-win for the airport operators as well as for the air carriers. I hope that continued discussions between the principals over the next 60 days will achieve this goal.

I offer my assistance, as I have previously, to the subcommittee chairman to work with him and all the principals in this discussion to develop a real compromise that is a win-win for airports, for airlines and, most importantly, for the traveling public.

Again, I thank the subcommittee chairman for working to put together a bill which allows airports to begin receiving funds that are critical to them and allows an opportunity to develop fair policy regarding rates and charges upon which all parties can agree.

I thank the Chair. I yield the floor.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Madam President, I wish to join with other Senators in expressing my admiration for the work that Senator FORD has done in bringing this legislation to the floor.

This bill is a short-term fix for a very real problem, and the problem is the imminent needs of airports to proceed with construction, to have available to them construction funds that would be made available by the airport improvement program, and to get to work during the current construction season. If we waited for a longer-term authorization bill, we could be waiting through the year, and this was recognized by the chairman of the subcommittee, Senator FORD, and therefore we are bringing to the floor today a bill which lasts just 60 days, a 60-day authorization.

It is my understanding that a permanent authorization bill will be brought to the floor of the Senate before the expiration of 60 days. This really is the concern of a lot of us I think, that the short-term authorization will be the end of it. It cannot be the end of it. We need a long-term authorization lasting at least 3 years so that airports can have a sense of what the future holds and so that they can make their plans and get on with the long-term work that they will have to be doing.

I listened very carefully to the comments of the Senator from Kentucky. I have spoken to him in person on this. I know it is his intention that within the 60-day period of time a bill must be brought to the floor of the Senate which is a long-term authorization.

It is on that understanding, the understanding that it is essential and that this is something that will happen, I am willing and in fact delighted to be going forward with this short-term authorization.

I would like to say just a word about the needs of the airports. I say this from the standpoint of a Senator who has located in his State an airline which has had considerable perils in the past. TWA is an airline which is locating its headquarters in St. Louis. It is an airline which has approximately half of its employees worldwide who reside in the State of Missouri, and it controls about 80 percent of the traffic at Lambert in St. Louis, so it is a major, major economic factor in our State as well as the employer of thousands of people—12,000 to 13,000 people I believe. So its health is exceptionally important to my State, and it is something that has consumed a great deal of my attention for a long number of years.

On the other hand, having said that, I am intensely interested in the problems of the airlines—very concerned, for example, about the faré war that is now going on among the airlines and what that will do to the health of the airlines. As a believer that Congress should address the various problems which exist with respect to the health of the airlines, I am also cognizant of the needs of the airports.

Anybody who travels through my State and who has gotten off a plane at Lambert in St. Louis, anybody who has changed planes at Lambert, recognizes the degree of the problem. This is one airport—and there are others in this country—that has obvious capital needs and these are going to be very expensive capital needs.

On the ability of the airports to meet those capital needs hangs not only the future of the airport in question but also hangs the economic future and the long-term future of the community as a whole.

So there is no doubt in my mind that the airports are going to have to come up with capital. In order to do that, the airports are going to have to have sources that are consistent, that are reliable, and that are predictable for the financing of the issuance of bonds in order to finance airport construction. In order to have that kind of revenue source to finance the bonds, the airports are going to have to charge fees.

Therefore, Madam President, it is very important that, whatever we do in order to address the problems of the airlines, it not create the kind of situation where there is such unpredictability in the minds of the purchaser of bonds and in the minds of the airports and those who operate the airports that they cannot go forward with the construction needs.

This bill provides a mechanism for addressing the fee question that exists between the airports and the airlines. It is important to note that it is a short-term mechanism. It is not a mechanism that provides a precedent for anything. It is a short-term mechanism which lasts for the 60-day period of this bill and does not extend beyond the 60-day period of this bill.

The issue of fees and the issue of charges by airports to the concessionaires at the airports are matters that are going to be before the country in the future, and they are not all going to be resolved in a 60-day authorization bill.

I note that the Secretary of Transportation is planning to complete a rulemaking to resolve disputes between airlines and airports on airport rate-making issues. That is good news. And I encourage the Secretary of Transportation to go forward with this program, and hopefully to do so before this legislation reaches the floor of the Senate again, because the Secretary of Transportation and the Department of Transportation have the expertise to weigh the various competing airlines with respect to this question.

Again, Madam President, I would like to reiterate the essential requirement that the long-term legislation come to the floor of the Senate within the next 60 days. Indeed, I think that the knowledge that it will is, in the mind of this Senator and, I am sure, in the minds of other Senators as well, really the necessary component in our thinking in going forward with the 60-day extension.

Mr. FORD. Madam President, let me just say to my good friend from Missouri, Senator DANFORTH, that I intend to bring up the major piece of legislation, S. 1491, in 60 days or less. I underscore "less." That is my intention. I understand where he is coming from, I hope, and I believe he understands where I am coming from.

The main thing that he has said here is that we are freezing the fees unless there is an agreement. That is No. 1. No. 2, we are releasing moneys so that we may take advantage of this construction season and there are many airports out there, small and large, that need the funding. We should not restrict them because of a disagreement here as it relates to the local communities making their effort and then being stymied because we have gone now 6 months without reauthorization.

So I agree with him. I want to make that public so he will understand my intention as it relates to S. 1491.

Madam President, we have one question left going forward with this legislation. At some point, I will ask unanimous consent that all the statements made by myself, Senator FEINSTEIN, Senator DANFORTH, and Senator PRESSLER be included in the RECORD along with the passage, hopefully, of the small 60-day or short 60-day piece of legislation.

PASSENGER FACILITY CHARGES AT THE CHATTANOOGA METROPOLITAN AIRPORT

Mr. MATHEWS. Madam President, I would like to take a moment during discussion of the Airport and Airway Improvement Act to discuss with the Senator from Kentucky a problem facing the Chattanooga Metropolitan Airport Authority.

Mr. FORD. I would be happy to discuss this matter with my friend, the Senator from Tennessee.

Mr. MATHEWS. The Chattanooga Metropolitan Airport Authority has submitted an application to the Federal Aviation Administration for authority to impose a passenger facility charge [PFC] of $3 on each passenger enplaned at the Chattanooga Metropolitan Airport. The FAA is to make a decision on approval of this application by the end of this month.

Approval of this request is very important to the airport authority. It plans to use a portion of the PFC revenues to fund current and future property acquisitions and construction at the airport. In addition, the PFC's would be used to recover that portion of the cost of reconstructing and expanding the passenger terminal that was incurred after November 5, 1990. The airport authority has been advised by the FAA that costs incurred after November 5, 1990 may not be recovered unless the contract under which the work was done was entered after November 5, 1990. This is the issue that I wish to discuss with my friend from Kentucky. I believe that the FAA is misinterpreting its mandate from Congress. Congress cannot have intended for airports watching the progress of the PFC law and counting on the imminent availability of PFC revenues to somehow cancel existing construction contracts on November 5, 1990 and then negotiate replacement contracts in order to make costs incurred after November 5, 1990 allowable for PFC funding. Would the Senator from Kentucky care to comment on this point?

Mr. FORD. Neither the PFC enabling legislation nor the implementing Federal Air Regulations—FAR 158—contain any requirements concerning the contract or the notice to proceed. They mention only costs incurred after November 5, 1990. This would also be consistent with the way the FAA has understood and uniformly treated AIP allowability in thousands of cases since 1982. When the work is actually done—when the cost is actually incurred—is the determining factor. As an example, if an airport let a contract to pour 1,000 yards of concrete and 10 years were poured before the AIP grant was confirmed, then the cost of the first 10 yards of concrete would be disallowed, but the cost of the remaining 990 yards would be allowed. Congress enacted the PFC program to supplement AIP and to provide additional funding for airport operators in order to achieve, as quickly as reasonably possible, significant expansion and improvement of the National Airspace System. Congress expected the FAA to follow AIP principles and practices in administering the PFC program so that the PFC program would supplement and complement AIP.

Mr. MATHEWS. I thank the Senator from Kentucky for clarifying that issue. That is also my understanding of the PFC enabling legislation. If the FAA position prevails, the Chattanooga Airport Authority will be unable to use PFC revenues to recover approximately $2.5 million of the costs of construction on the passenger terminal occurring after November 5, 1990. This would have serious economic implications for the airport authority.

Again, I thank the Senator from Kentucky for his assistance and his clarification of the intentions of Congress regarding airport authorities' use of passenger facility charges.

ESSENTIAL AIR SERVICE—INTERNATIONAL TRANSIT ENPLANEMENTS COLLOQUY

Mr. MITCHELL. Madam President, along with Senator COHEN, I would like to ask the chairman of the aviation subcommittee if he could help clarify the intent of an aviation program of particular importance to Maine.

Mr. FORD. I will be glad to offer my assistance.

Mr. MITCHELL. I thank the chairman. As the chairman knows, the essential air service program is an important safety net which ensures that many small communities will not lose the scheduled air service that is so important to their economic development. In so doing, EAS ensures that our Nation's aviation system is truly national by connecting even the remotest points to our larger economy.

Mr. FORD. That is true. EAS indeed provides an important service to many small communities across the Nation.

Mr. MITCHELL. Of course, there are limits to the EAS program. Present law disqualifies any point that is within 70 miles of a large or medium hub airport from receiving subsidized air service through EAS. Section 419 of the Federal Aviation Act defines such a hub airport as an airport that annually has 0.25 percent or more of the total annual enplanements in the United States. Because EAS is meant to provide communities with an essential link to the national aviation system, I take it that the enplanements criterion for defining hub airports is meant to identify airports within a reasonable driving distance of a proposed EAS point which offer a sufficient volume of domestic air service as to undermine the need for EAS subsidies.

Mr. FORD. Yes; I believe the majority leader is correct.

Mr. MITCHELL. I thank the chairman.

Mr. COHEN. I also thank the chairman. However, I understand that the term "enplanement" as used in section 419 is not specifically defined. Instead, the Department of Transportation uses data compiled by the FAA and published in "Airport Activity Statistics of Certified Route Air Carriers" for this purpose.

I understand that because the purpose of EAS is to provide small communities with an essential link to the domestic aviation system, the FAA data used to define hub airports for EAS purposes traditionally has included only the traffic of certificated U.S.-flag carriers, and has excluded commuter carrier and foreign air carrier operations, as well as international transit passengers.

Mr. FORD. Yes; I believe that is correct.

Mr. COHEN. I thank the chairman.

Mr. MITCHELL. I believe it makes good sense to exclude these other types of enplanements for EAS purposes because they do not provide data relevant to the underlying purpose of the EAS; namely, to connect small communities to the national aviation system.

Mr. COHEN. I agree with my colleague. As an example, Bangor International Airport in Maine provides transit services to many foreign air carriers that need to refuel in the United States before completing flights to other points in the United States and foreign countries. These flights which carry international transit passengers through Bangor are almost never available for sale to local passengers; they have no bearing on whether Bangor should be considered a hub airport that would disqualify other communities in the region from receiving the EAS subsidies that are critical to their economic development and their continued role in the national aviation system.

Mr. FORD. I understand my colleagues' concern. Any change in the enplanement criterion for EAS purposes to include foreign and commuter carrier operations and international transit flights would be inappropriate. This is especially true since transit flights operated by foreign air carriers are disqualified under cabotage rules from carrying local traffic between U.S. points. These international transit flights are prohibited from providing a domestic service to U.S. customers that would affect the need for EAS subsidies to help connect small communities to the domestic aviation system.

Mr. MITCHELL. I thank the chairman for his insight on this matter.

Mr. COHEN. I also thank the chairman.

Mr. MITCHELL. We hope very much that the Secretary will continue to use enplanement data that is relevant to the domestic aviation system when determining hub airports for EAS purposes. Such data includes passengers who actually board a flight operated by a U.S. certificated air carrier at an airport in question. On the other hand, passengers on international flights which transit an airport for nontraffic purposes, passengers boarding commuter carrier flights, and passengers boarding foreign air carrier flights are not relevant indicators of an airport's ability to connect a community to the larger domestic system. Consistent with this approach, I hope the Secretary will continue to use the traditional data reported in "Airport Activity Statistics of Certificated Route Air Carriers" for EAS purposes.

Mr. DANFORTH. Madam President, I would like to engage the Senator from Kentucky in a colloquy concerning the pending legislation. My strong preference would be for a full multiyear reauthorization of the Airport Improvement Program. I understand that there are a few issues still being worked out, and that it may take a little longer to bring a multiyear bill to the floor. In the meantime, however, this measure will free up some of the funding needed by airports this year. I do understand, however, that it is not intended to be anything more than a temporary measure. Is that the understanding of the Senator from Kentucky?

Mr. FORD. I agree with Senator DANFORTH that this is only intended to be a temporary measure. I hope he will work with me to ensure that we pass a multiyear bill in the next 2 months.

Mr. DANFORTH. This legislation gives the Transportation Secretary emergency authority to find an airport rate increase on airlines to be unreasonable. The Secretary, in reviewing whether a fee is reasonable, as I understand it, would have the ability to review not only the fees being proposed, but other instruments, such as bond indentures, letters of credit, or their financing obligations.

Mr. FORD. There is nothing in this legislation that would preclude the Secretary from taking into account those types of documents or situations.

Mr. DANFORTH. My concern is that in imposing a freeze, the Secretary be extremely cognizant of the consequences to the bond market. I would not want to see an airport's bond ratings impaired as a result of a freeze.

Mr. FORD. Nor would I. I suspect that in those cases where a bond, for example, might require that the airport maintain certain coverage, the Secretary would be able to review the fee proposed and any other relevant information to determine if the fee is reasonable. In addition, nothing in this bill prohibits an airline and airport from reaching an agreement on a fee.

Mr. DANFORTH. I have another concern which I consider significant. Ordinarily, the law gives actions of State or local governments a presumption of validity. This legislation does not. In fact, it says that the Secretary must issue an order preventing an airport rate from going into effect unless the Secretary finds that the rate is reasonable. While this result may be unobjectionable if embodied in a short-term bill, I cannot support the inclusion of this concept in permanent legislation.

Mr. FORD. I understand your concerns about a long-term solution. Let me assure my colleague that this emergency legislation expires on June 30 and is not intended as a model for a long-term solution—it is only, and solely, a short-term mechanism.

Mr. DANFORTH. I thank the Senator from Kentucky.

Mr. FORD. Madam President, I know of no other Senators who wish to speak. Again I thank all my colleagues for their help and support in securing the passage of this legislation.

Mr. BURNS. Madam President, I would like to speak on behalf of a particularly important issue to my State of Montana.

Rural aviation is at a crossroads in our country. Reliable, affordable airline transportation, and modern aviation facilities are absolutely critical to the survival of our towns, our schools, and our businesses. Bruce Putnam, director of aviation and transit for the city of Billings, MT, put it best in a letter to me requesting funds for airport improvements: "Conrad" he wrote, "these aren't frills. We simply must find the resources to meet our important needs."

The primary source of Federal funds for airport improvements comes from the FAA's Airport Improvement Program [AIP] and I am pleased to offer my support of the short-term reauthorization of this program to pen the taps on the AIP Program get this money out to the airports as soon as possible.

Following the September 30, 1993, lapse in the AIP Program, airports across the Nation have been cut off from these Federal funds. For the last 7 months, the Federal Aviation Administration has been held back from issuing grants, which have already been appropriated for new AIP projects, because Congress failed to enact reauthorizing legislation before adjourning for the year.

While this is a troublesome situation for all U.S. airports, States in the Northwest region are hardest hit by this delay. In my State of Montana, for example, rural airports are struggling to keep the few contractors available to complete these projects, and they are faced with losing the entire construction period to winter weather if these funds are not reauthorized soon enough.

If these funds are not available the important and necessary infrastructure improvements for airports across the Nation will be delayed for at least another year. At the Missoula International Airport in Missoula, MT, for example, the airport authority will not have the resources to acquire the new handicap passenger lift device, to service regional air carrier aircraft, to bring the airport into compliance with American's With Disabilities Act. At the Bert Mooney Airport in Butte, MT, the airport authority will not be able to replace the outdated and unreliable 1974 fire equipment with the new aircraft rescue and firefighting [ARFF] equipment, and for another season, these Montana firefighter's safety will be put at risk.

As we continue our consideration of this legislation, I would like to offer my support to my colleagues on the Aviation Subcommittee for their work on a multiyear reauthorization of the Airport Improvement Program. A multiyear reauthorization will allow the airports to plan long-term safety improvements and reconstruction projects in advance, and these important projects will not be held back by a lack of congressional action again.

AIPORT IMPROVEMENT PROGRAM

Mr. KOHL. Madam President, I am here to commend the leadership of my esteemed colleague from Kentucky, Senator FORD, chairman of the Senate Subcommittee on Aviation. As you know, Madam President, the Airport Improvement Program [AIP] is a valuable source of much-needed funds for airport construction and maintenance. Similarly, airport-air carrier fees are an important source of funding for airports. Given the demand for airport improvements and the need to ensure high quality and safety standards, it is imperative that AIP funds be distributed and that any disputes about fees be resolved. However, it would be a disservice to Northern States like Wisconsin to delay the AIP funds simply to resolve the fee dispute; we would be cutting off all sources of airport revenue for an indefinite period of time, and Wisconsin just doesn't have this time to spare.

Due to short summers, Wisconsin has a limited construction season. The longer AIP funds are delayed, the more narrow that window of opportunity becomes.

Madam President, I twice contacted my good friend from Kentucky to express these concerns and to ask that these funds be released while we resolve the fees dispute. I know that my friend from Kentucky is sympathetic to Wisconsin's position and the need for AIP funds, and that he has worked diligently to get us to this point. This has been a difficult task, and the dispute has yet to be resolved. Recognizing the gravity of the situation, however, Senator FORD has done the right thing by separating this dispute from at least a portion of AIP funds. Many airports will now be able to get the funds that they desperately need, and, separately, there will be an opportunity to resolve the dispute over airport-air carrier fees. For this work, Wisconsin and the Nation must thank him.

Mr. MURKOWSKI. Madam President, while the Senate considers a temporary extension of the Airport Improvement Act, which I will support, I would like to take this opportunity to bring the Senate up to date on a report due to Congress on the safety of the flight service station modernization in Alaska.

On October 5, 1993, I offered an amendment to the DOT appropriations bill that was accepted and required the Secretary of Transportation to do a report on the safety of closing and consolidating the flight service stations in Alaska. This report was due no later than 90 days after enactment of the legislation, October 27, 1993. The amendment halted the progress of the modernization program until 90 days after the report was received by Congress.

The report was due on January 25, 1994. Today, 84 days later, it is still missing.

On March 9, 1994, I wrote to Secretary of Transportation Penã asking when we will receive the report. Now I have something else to wait for: An answer to my letter.

Mr. DOLE. Mr. President, I am hopeful we have taken a major step toward resolving several major issues that have been pending during the AIP debate. I am particularly encouraged that two important items will be resolved in the final extension of the program later this summer.

First, with regard to the dispute over diversion of airport fees, I know Senator FORD and Senator DANFORTH have expended an enormous effort to find resolution of this issue. In fact, I have heard from a great many airlines and airports—particularly the Wichita and Salina Airports in my State of Kansas, and Kansas City International Airport which serves the Greater Kansas City Area—regarding their concerns this problem be worked out appropriately.

I have also spoken to Mayor Dick Riordan of Los Angeles on at least two occasions. I know he has been seeking to find a constructive solution to this dispute and has contributed a lot of time and effort to this process.

Let me say as we move into this 60-day period where extended negotiations between the airports and the airlines will be taking place, I encourage all the parties to bargain in good faith and move expeditiously toward resolution of this problem because I agree with Senators FORD and DANFORTH that we need to release the rest of these AIP funds to the States as soon as possible.

On another subject I have been following closely, I understand that it is the manager's intention when we take up the multiyear AIP extension bill this June to include language modifying the Federal Aviation Act with regard to defining the types of carriers that would be considered intermodal all-cargo air carriers for purposes of the act. I have had a serious concern that during early deliberations over these provisions that one significant Kansas carrier, Yellow Corp., the parent company of Yellow Freight System of Overland Park, may find itself in a competitive disadvantage if this language does not include additional provisions for their utilization of air carrier service. Mr. President, Yellow Corp. employs 3,000 people in my State of Kansas with a payroll of $79 million.

My understanding is that the managers agree, and I have been assured, that Yellow's operations will be included and their concerns will be accommodated in any final agreement reached on this air freight carrier provision. It is my view that an important goal under this legislation is to create a level playing field for intrastate trucking operations of intermodal all-cargo air carriers. This legislation, when adopted, will open up greater competition in these markets and greater innovation in the service provided to consumers by these carriers all helping to create jobs in Kansas and the Nation and a truly integrated system of cargo delivery.

Mr. President, I note with sadness that today is the 1-year anniversary of the tragic death of South Dakota Governor George Mickelson and seven other South Dakotan's. My friend and colleague Senator PRESSLER will at some point, perhaps later today, offer an amendment that would advance the safety of public aircraft—that is, those aircraft that are used exclusively to serve Federal, State, and local governments. Under current law, these types of aircraft are not subject to Federal Aviation Act safety requirements. I commend Senator PRESSLER in his efforts in this regard. It is unfortunate that a tragedy oftentimes highlights problems we must address. We will miss this most popular and capable South Dakota Governor and his accomplishments for his State. I urge my colleagues to consider and support this important legislation proposed by Senator PRESSLER.

Mr. FORD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Madam President, I have two unanimous-consent agreements that have been cleared on both sides.

Madam President, I ask unanimous consent that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2024), as amended, was deemed read the third time and passed; as follows;

S. 2024

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Airport Improvement Program Temporary Extension Act of 1994".

TITLE I—AIRPORT IMPROVEMENT PROGRAM

SEC. 101. AIRPORT IMPROVEMENT PROGRAM AUTHORIZATION.

(a) AUTHORIZATION.—The second sentence of section 505(a) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2204(a)) is amended—

(1) by striking "and" immediately after "1992,"; and

(2) by inserting ", and $17,528,700,000 for fiscal years ending before October 1, 1994" immediately before the period at the end.

(b) DISCRETIONARY FUND.—Section 507(c) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2206(c)) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULE.—(A) In any fiscal year in which the amount made available under section 505(a) is less than $1,800,000,000 and not less than $1,700,000,000, the total amount calculated under subparagraph (C) of this paragraph shall be reduced by $50,000,000 and such $50,000,000 shall by credited to the discretionary fund established by paragraph (1) for distribution without regard to section 508(d).

"(B) In any fiscal year in which the amount made available under section 505(a) is less than $1,700,000,000, the total amount calculated under subparagraph (C) of this paragraph shall be reduced by $100,000,000 and such $100,000,000 shall be credited to the discretionary fund established by paragraph (1) for distribution without regard to section 508(d).

"(C) The total amount, for any fiscal year, that is subject to reduction pursuant to subparagraph (A) or (B) shall be the sum of—

"(i) the amount determined under section 508(d)(2);

"(ii) the amount determined under section 508(d)(4);

"(iii) the amount determined under section 508(d)(5); and

"(iv) the amount to be credited to the fund established under subsection (d) of this section.

"(D) To accomplish a reduction pursuant to subparagraph (A) or (B), each of the amounts that otherwise would have been available for distribution under subsection (d) of this section and sections 508(d)(2), 508(d)(4), and 508(d)(5), respectively, shall be reduced by an equal percentage.".

(c) OBLIGATIONAL AUTHORITY.—Section 505(b)(1) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2204(b)(1)) is amended—

(1) by striking "September 30, 1993" and inserting in lieu thereof "June 30, 1994"; and

(2) by adding at the end the following new sentence: "Notwithstanding any other provision of this title, the Secretary shall not, during fiscal year 1994, incur obligations in excess of $800,000,000 to make grants from funds made available under subsection (a).".

SEC. 102. APPORTIONMENT OF FUNDS.

Section 507(b)(3)(A) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2206(b)(3)(A)) is amended—

(1) by striking "or reducing the amount authorized or" and inserting in lieu thereof "the amount";

(2) by inserting "to less than $1,900,000,000" immediately after "to be obligated"; and

(3) by striking "limited or reduced".

SEC. 103. USE OF APPORTIONED AND DISCRETIONARY FUNDS.

Section 508(d) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2207(d)) is amended—

(1) in paragraph (1), by striking "10" and inserting in lieu thereof "5"; and

(2) in paragraph (3), by striking "2.5" wherever it appears and inserting in lieu thereof "1.5".

SEC. 104. EXPENDITURES FROM AIRPORT AND AIRWAY TRUST FUND.

Section 9502(d)(1)(A) of the Internal Revenue Code of 1986 (relating to expenditure from Airport and Airway Trust Fund) is amended by striking "(as such Acts were in effect on the date of the enactment of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992)" and inserting in lieu thereof "or the Airport Improvement Program Temporary Extension Act of 1994 (as such Acts were in effect on the date of the enactment of the Airport Improvement Program Temporary Extension Act of 1994)".

TITLE II—AIRPORT-AIR CARRIER DISPUTES REGARDING AIRPORT FEES

SEC. 201. EMERGENCY AUTHORITY TO FREEZE CERTAIN AIRPORT FEES.

(a) COMPLAINT BY AIR CARRIER.—(1) An air carrier may, prior to June 30, 1994, file with the Secretary a written complaint alleging that any increased fee imposed upon such air carrier by the owner or operator of an airport is not reasonable. The air carrier shall simultaneously file with the Secretary proof that a copy of the complaint has been served on the owner or operator of the airport.

(2) Before issuing an order under subsection (b), the Secretary shall provide the owner or operator of the airport an opportunity to respond to the filed complaint.

(3) If the Secretary determines that a complaint is frivolous, the Secretary may refuse to accept the complaint for filing.

(b) ORDER BY THE SECRETARY.—(1) Except as provided by paragraph (2), the Secretary shall, within 7 days after the filing of a complaint in accordance with subsection (a), issue an order prohibiting the owner or operator of the airport from collecting the increased portion of the fee that is the subject of the complaint, unless the Secretary makes a preliminary determination that the increased fee is reasonable. The order shall cease to be effective on June 30, 1994.

(2) The Secretary shall not issue an order under this subsection prohibiting the collection of any portion of a fee for which the Secretary's informal mediation assistance was requested on March 21, 1994.

(c) OPPORTUNITY TO COMMENT AND FURNISH RELATED MATERIAL.—Within a period prescribed by the Secretary, the owner or operator of the airport and any affected air carrier may submit comments to the Secretary on a complaint filed under subsection (a) and furnish any related documents or other material.

(d) ACTION ON COMPLAINT.—Based on comments and material provided under subsection (c), the Secretary may take appropriate action on the complaint, including but not limited to termination or other modification of any order issued under subsection (b).

(e) APPLICABILITY.—This section does not apply to a fee imposed pursuant to a written agreement binding on the air carriers using the facilities of an airport.

(f) EFFECT ON EXISTING AGREEMENTS.—Nothing in this section shall adversely affect any existing written agreement between an air carrier and the owner or operator of an airport.

SEC. 202. DEFINITIONS.

For purposes of this title—

(1) the term "fee" means any rate, rental charge, landing fee, or other service charge for the use of airport facilities; and

(2) the term "Secretary" means the Secretary of Transportation.

UNANIMOUS-CONSENT AGREEMENT—S. 540

Mr. FORD. Madam President, I thank all my colleagues. I have one more unanimous-consent agreement to offer.

I ask unanimous consent that when the Senate considers S. 540, the bankruptcy reform bill, that Senator McCAIN be recognized to offer the first floor amendment, providing that he is on the floor and ready with his amendment at that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FORD. Madam President, I ask unanimous consent there now be a period for morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. We are in morning business?

The PRESIDING OFFICER. That is correct.

Mr. DOLE. Leaders' time was reserved?

The PRESIDING OFFICER. That is correct.

PRESIDENT NIXON

Mr. DOLE. Madam President, like all of my Senate colleagues, I was saddened to learn last night that former President Nixon had suffered a stroke.

I do want to report that I was in contact with President Nixon's office this morning, and related the concern of the Senate.

They reported to me that the President is holding his own, and that he and his family are grateful for the thousands of phone calls and telegrams of concern which have come from across the country and the world.

I have been privileged to know Richard Nixon for three decades—I have seen him in moments of victory and defeat—and if there is one thing I know, it is that Richard Nixon is a fighter.

Like countless other Americans, my prayers are with President Nixon and his family in this fight. I look forward to his recovery, and to benefiting from his experience and wisdom for many years to come.

ARMENIA GENOCIDE DAY

Mr. DOLE. Madam President, on April 24 each year, we commemorate the anniversary of the first genocide of the 20th century. Beginning on April 24, 1915 with the arrest, exile and/or murder of 200 Armenian religious, political and intellectual leaders, the Armenian genocide continued on through 1923, claiming 1½ million lives. Sadly, 79 years later, genocide remains a reality. One need look no further than Bosnia to see ethnic extermination in progress.

Madam President, before planning the final solution, Hitler asked, "Who remembers the Armenians?" As we commemorate the deaths of so many innocent people, let us not allow the same question to be asked by Serbian leaders.

I rise today to join my colleagues in an expression of profound sadness at the remembrance of the tragic events of the Armenian genocide. It was the first occurrence of genocide in the 20th century, but it was not the last. We must do all in our power to assure that the evils of history do not repeat themselves. That is the only way to fully pay tribute to past victims of genocide.

Madam President, in an era of increased ethnic unrest, we must remain ever more vigilant. Almost eight decades after the beginning of the genocide in Armenia, ethnic tensions remain in Armenia. It has been said that those who forget the past are doomed to repeat its mistakes. Let us not forget the past.

Last Saturday's New York Times described the continuing agony of Armenia today—independent but isolated by an immoral economic embargo. The United States is able to provide humanitarian aid, but only with many delays, and at great cost. Current United States law prohibits aid to the Government of Azerbaijan until it lifts the embargo on Armenia. This provision—section 907—must remain the law of the land, despite the administration's efforts to repeal it. Foreign aid reform may happen this year, but I will do all I can to ensure any reform does not include the repeal or weakening of section 907. As long as Azerbaijan strangles Aremenia, it does not deserve United States aid.

As we commemorate the victims of the Armenian genocide, we must also remember that some would like to repeat the horrors of the past. The United States must stand with the brave and long-suffering Armenian people, work for lasting peace in the caucasus, and never forget the Armenian genocide. I ask unanimous consent that the article on Armenia's plight be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 16, 1994]

WAR, BLOCKADE AND POVERTY "STRANGLING" ARMENIA

(By Raymond Bonner)

YEREVAN, ARMENIA.—Two and a half years after its independence, this tiny Caucasus nation should be enjoying the excitement of new-found freedom. Instead, it is experiencing little but pain.

The capital has electricity two hours a day, shop after shop is closed, and lines form early for bread and kerosene, rationed and doled by international relief agencies.

Little wonder people are fleeing. By unofficial accounts, more than half a million people have abandoned Armenia in the last three years, reducing the population to three million in an area slightly larger than New Jersey.

Although the countryside is still reeling from a catastrophic earthquake in 1988, Armenia's enduring burden is a man-made plague of the post-cold-war era: deadly ethnic warfare and the resulting social, political and economic isolation.

The battlefield is a tiny mountainous area, Nagorno-Karabakh, populated by ethnic Armenians but part of Azerbaijan for 70 years. Since the collapse of the Soviet empire, Nagorno-Karabakh has been waging a war to secede, but this year has been the deadliest. And it has expanded in the last three months, as the Armenian Government, long a not-so-secret patron of the Karabakh cause, has itself sent men to fight at the front.

SUFFERING FROM BLOCKAGE

But economic warfare can be equally deadly, and one of Azerbaijan's weapons in the war has been a blockage of Armenia. "It is strangling us," a man in a mountain village said, voicing a lament echoed throughout the country.

This landlocked nation has long been dependent on imports, for more than two-thirds of its food and all of its oil and natural gas. Most of it passed through Azerbaijan. Armenia's neighbor to the west is Turkey. But Turkey backs the Azerbaijanis, and has sealed its border with Armenia. Turkey will not allow even relief aid across its land to Armenia.

Wheat and oil could reach Armenia through Georgia, Armenia's northern neighbor. But Georgia is being sundered by its own ethnic wars. Trains operate infrequently in Georgia for lack of fuel or because the tracks have been blown up, often by Azerbaijani guerrillas.

Armenia is so desperate that it hopes to reactivate a nuclear power plant that was shut after the earthquake in 1988. The United States contended that the Soviet-built plant was unsafe, but Russia agreed in March to provide nuclear fuel and technicians so that the plant could be reopened.

"At this point, Armenia has no option, just no option," said Steve Tashjian, Armenia's Deputy Prime Minister for Energy. "It is unfair to tell the people of Armenia, we will not turn the lights on for you with nuclear power."

NEW CLINIC IS UNUSED

In the village of Shirakamut, which is midway on the rail line between Yerevan and Tbilisi, the Georgian capital, there is a sparkling medical clinic. It has a modern forced-air heating system and fluorescent light bulbs. But the clinic is cold and empty—no heat, no light. And it has no medicines, not even bandages.

The clinic, at the base of mountains on the north side of the village, was built by Liechtenstein after the earthquake, which killed more than 300 of the 3,000 villagers and at least 25,000 people in northern Armenia.

"I lost my mother and father, and a brother, and my daughter," 25-year-old Nora Torasian said, standing in the kitchen of her home—a metal container 10 feet wide and 30 feet long where she lives with her husband and two children.

More than half of the 700 families in Shirakamut live in such containers, which were brought in as temporary shelter after the earthquake. There is no running water, no electricity, no heat.

Throughout Armenia, industry operates at 30 percent of capacity. Almost no one in Shirakamut, which was called Nalband before independence, has a job. A textile factory, which specialized in men's handkerchiefs, was destroyed in the earthquake—60 women were killed—but rebuilt. Today, the sheds comprising the factory are unused, for lack of raw materials and power.

One of the fortunate in Skirakamut is Mrs. Torasian's husband. He is one of two men working at the train station, which employed 100 a few years ago. But his salary, 170 drams a month, which is 40 drams more than a schoolteacher earns, buys little. A loaf of bread costs 25 drams, a kilogram (2.2 pounds) of butter 600 drams, and a flat of 30 eggs, the customary way they are sold, 500 drams.

Like just about everyone in Armenia, the Torasian family lives hand to mouth, scrounging a few things here, selling them there.

"We took two sacks of potatoes to the market, but the money we got was not enough to buy three kilos of sugar," Mrs. Torasian said. "I work hard to grow the potatoes, and I don't want to sell them."

The family eats potatoes for breakfast and dinner.

"I forgot what meat is," Mrs. Torasian's 72-year old mother-in-law said. "But I know what potatoes are, and they know me."

As the Torasian family talked, a parakeet chirped from a cage in the corner of the rusting container, which leaks when it rains. The bird was one of two that had belonged to Mrs. Torasian's sister-in-law, who lives in Yerevan. The other one froze to death this winter. But as soon as the weather warms, the family will release this one. They cannot afford to keep it. It eats food the family needs.

To alleviate the hardship, would the people of Armenia allow Nagorno-Karabakh to remain part of Azerbaijan? Based on interviews and conversations, from streets of the capital to villages like Shirakamut, the answer seems to be an unequivocal no.

For Armenians, the war is about memories, and fears and vows of "Never again!" In the early part of the century, word reached the West of mass killings of Armenian civilians at the hands of the Ottoman Turks, through forced resettlement, starvation and shooting.

The Armenians talk of the "genocide," and in fighting for Karabakh, they say they are fighting to prevent another deportation, another genocide. This time, they say, it is at the hands of the Azerbaijanis, a Turkic people, whom the Armenians even call Turks.

TIDE TURNED IN DECEMBER

At the end of last year, it seemed that Nagorno-Karabakh had won the war. It controlled virtually all of the enclave, and a wide swath of territory ringing it. Then in December, Azerbaijan started a counter-offensive. As the Azerbaijanis continued to pour men into battle, the Armenian Government began to worry. The call went out for volunteers. Many responded.

Among them was Arsen Gevorkian, who was laid to rest at the Martyrs Cemetery one afternoon in March. A 17-year-old aspiring artist, Mr. Gevorkian had gone to fight in Karabakh "to save his land, to protect his brothers and sisters from the Turks," an aunt said through tears.

The Armenian Government has long contended that the only Armenian citizens fighting in Karabakh have been volunteers like Mr. Gevorkian and that no Government troops have fought there. But the Martyrs Cemetery tells a different story.

While dirt was being shoveled over Mr. Gevorkian's coffin, soldiers in camouflage fatigues struggled under the weight of the open coffin bearing the body of Gagik Stepanian, 27, his head still bandaged from the wounds that killed him.

He died on March 16 during heavy fighting on a mountain pass in the Kelbajar region of Azerbaijan, said his commanding officer, Alik Yeghoian. Six more of his soldiers were killed in the battle, he said. All of them, Mr. Yeghoian said, were members of the Armenian Government's Internal Forces, a special military branch of the Ministry of Internal Affairs.

TROOPS CALLED VOLUNTEERS

In an interview, the Minister of Internal Affairs, Vano Siradeghian, said any Internal Affairs men who had fought in Azerbaijan were "volunteers," having gone to the war "on their vacation."

But there is evidence to the contrary. A few feet from Mr. Stepanian's grave a mound of dirt covers the coffin of Lieut. Karapet Deleyan. He was killed on March 3, in a firefight with Azerbaijani forces in Fuzuli, which is just outside Nagorno-Karabakh on the southeast, said his brother, Haroutun, and three friends worked on the gravesite.

The friends said Lieutenant Deleyan had been an officer in the Internal Forces for four years and had been sent to other places in Azergaijan to fight. "He was sent from here to there when he was needed," one said.

Whether direct Armenian participation will draw in outsiders like Turkey and Russia, as some Armenians and diplomats fear, it is certain that until the war ends, the transition from Communism to capitalism will have to wait.

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOTIFICATION TO THE HOUSE OF REPRESENTATIVES

Mr. MITCHELL. Madam President, I send a resolution to the desk. I ask that it be stated and immediately considered.

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 202) notifying the House of Representatives of the election of a Sergeant at Arms and Doorkeeper of the Senate.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 202) was agreed to, as follows:

Resolved, That the House of Representatives be notified of the election of the Honorable Robert Laurent Benoit as Sergeant at Arms and Doorkeeper of the Senate.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NOTIFICATION TO THE PRESIDENT OF THE UNITED STATES

Mr. MITCHELL. Madam President, I send a resolution to the desk and ask that it be stated and immediately considered.

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 203) notifying the President of the United States of the election of a Sergeant at Arms and Doorkeeper of the Senate.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 203) was agreed to, as follows:

Resolved, That the President of the United States be notified of the election of the Honorable Robert Laurent Benoit as Sergeant at Arms and Doorkeeper of the Senate.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. MITCHELL. Madam President, I ask unanimous consent that when I yield the floor, Senator DODD be recognized to address the Senate for such time as he may wish and, at the conclusion of his remarks, the Senate stand in recess until 2:30 p.m. to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Madam President, for the information of Senators, we will be proceeding at 2:30 to the matter reported by the Senate Armed Services Committee relating to Admiral Kelso. That will be debated and, it is my intention, disposed of today, and then tomorrow we will proceed to the bankruptcy bill which is on the calendar. We may actually have that presented before we go to Admiral Kelso and then return to it tomorrow morning. But that will be the schedule for the remainder of the day. I expect there will be lengthy debate on the matter to be considered this afternoon, and then I understand there will be several amendments offered to the banking bill when that is brought to the Senate floor for amendments tomorrow.

I thank my colleagues for their cooperation. I thank the Senator from Connecticut for his cooperation. I yield the floor.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Connecticut is recognized.

(The remarks of Mr. DODD and Ms. MOSELEY-BRAUN pertaining to the introduction of S. 2027 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:30 p.m.

Thereupon, at 12:37 p.m., the Senate recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. KOHL].

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the hour of 2:30 p.m. having arrived, the Senate will now proceed to S. 540, which the clerk will report.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BANKRUPTCY AMENDMENTS ACT

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 540) to improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE IMPROVEMENT.—This Act may be cited as the "Bankruptcy Amendments Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVED BANKRUPTCY ADMINISTRATION

Sec. 101. Expedited hearing on automatic stay.
Sec. 102. Expedited filing of plans under chapter 11.
Sec. 103. Expedited filing of plans under chapter 12.
Sec. 104. Expedited procedure for reaffirmation of debts.
Sec. 105. Powers of bankruptcy courts.
Sec. 106. Participation by bankruptcy administrator at meetings of creditors and equity security holders.
Sec. 107. Definition relating to eligibility to serve on chapter 11 committees.
Sec. 108. Increased incentive compensation for trustees.
Sec. 109. Dollar adjustments.
Sec. 110. Premerger notification.
Sec. 111. Allowance of creditor committee expenses.
Sec. 112. Judicial conference report.
Sec. 113. Service of process.
Sec. 114. Meetings of creditors and equity security holders.
Sec. 115. Tax assessment.

TITLE II—COMMERCIAL ISSUES IN BANKRUPTCY

Sec. 201. Small business chapter.
Sec. 202. Single asset real estate.
Sec. 203. Aircraft equipment, vessels, and rolling stock equipment.
Sec. 204. Unexpired leases of personal property in chapter 11 cases.
Sec. 205. Protection of assignees of executory contracts and unexpired leases approved by court order in cases reversed on appeal.
Sec. 206. Protection of security interest in post-petition rents.
Sec. 207. Anti-alienation.
Sec. 208. Exemption.
Sec. 209. Indenture trustee compensation.
Sec. 210. Payment of taxes with borrowed funds.
Sec. 211. Return of goods.
Sec. 212. Exception to discharge.
Sec. 213. Proceeds of money order agreements.
Sec. 214. Limitation on liability of non-insider transferee for avoided transfer.
Sec. 215. Perfection of purchase-money security interest.
Sec. 216. Airport gate leases.
Sec. 217. Trustee duties.
Sec. 218. Payments.
Sec. 219. Continued perfection.
Sec. 220. Payment of insurance benefits to retired employees.
Sec. 221. Notices to creditors.

TITLE III—CONSUMER BANKRUPTCY ISSUES

Sec. 301. Period for curing default relating to principal residence.
Sec. 302. Nondischargeability of fine under chapter 13.
Sec. 303. Protection of child support and alimony.
Sec. 304. Bankruptcy petition preparers.
Sec. 305. Conversion or dismissal.
Sec. 306. Contents of plan.
Sec. 307. Stay of action against codebtor.
Sec. 308. Exemption for household goods.
Sec. 309. Professional fees.
Sec. 310. Interest on interest.

TITLE IV—BANKRUPTCY REVIEW COMMISSION

Sec. 401. Short title.
Sec. 402. Establishment.
Sec. 403. Duties of the commission.
Sec. 404. Membership.
Sec. 405. Compensation of the commission.
Sec. 406. Staff of commission; experts and consultants.
Sec. 407. Powers of the commission.
Sec. 408. Report.
Sec. 409. Termination.
Sec. 410. Authorization of appropriations.

TITLE V—TECHNICAL CORRECTIONS

Sec. 501. Title 11, United States Code.
Sec. 502. Title 28, United States Code.

TITLE VI—SEVERABILITY; EFFECTIVE DATE; APPLICATION OF AMENDMENTS

Sec. 601. Severability.
Sec. 602. Effective date; application of amendments.

TITLE I—IMPROVED BANKRUPTCY ADMINISTRATION

SEC. 101. EXPEDITED HEARING ON AUTOMATIC STAY.

The last sentence of section 362(e) of title 11, United States Code, is amended—

(1) by striking "commenced" and inserting "concluded"; and

(2) by inserting ", unless the 30-day period is extended with the consent of the parties in interest or for a specific time which the court finds is required by compelling circumstances" before the period at the end.

SEC. 102. EXPEDITED FILING OF PLANS UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking "On" and inserting "(1) Subject to paragraph (2), on"; and

(2) by adding at the end the following new paragraph:

"(2) Under paragraph (1)—

"(A) the 120-day period referred to in this section may not be increased beyond the 1-year period beginning on the date of the order for relief under this chapter; and

"(B) the 180-day period referred to in this section may not be increased beyond the 425-day period beginning on the date of the order for relief under this chapter,

unless the need for such an increase is attributable to circumstances for which the debtor should not justly be held accountable.".

SEC. 103. EXPEDITED FILING OF PLANS UNDER CHAPTER 12.

Section 1221 of title 11, United States Code, is amended by striking "an extension is substantially justified" and inserting "the need for an extension is attributable to circumstances for which the debtor should not justly be held accountable".

SEC. 104. EXPEDITED PROCEDURE FOR REAFFIRMATION OF DEBTS.

(a) REAFFIRMATION.—Section 524(c) of title 11, United States Code, is amended—

(1) in paragraph (2)—

(A) by inserting "(A)" after "(2)";

(B) by adding "and" at the end; and

(C) by inserting after subparagraph (A), as designated by subparagraph (A), the following new subparagraph:

"(B) such agreement contains a clear and conspicuous statement that advises the debtor that the agreement is not required under this title, under nonbankruptcy law, or under any agreement that is not in accordance with the provisions of this subsection;"; and

(2) in paragraph (3)—

(A) in the matter preceding subparagraph (A) by striking "such agreement" the last place it appears;

(B) in subparagraph (A)—

(i) by inserting "such agreement" after "(A)"; and

(ii) by striking "and" at the end; and

(C) in subparagraph (B)—

(i) by inserting "such agreement" after "(B)"; and

(ii) by adding "and" at the end; and

(3) by adding at the end the following new subparagraph:

"(C) the attorney fully advised the debtor of the legal effect and consequences of—

"(i) an agreement of the kind described in this subsection; and

"(ii) any default under such an agreement;".

(b) EFFECT OF DISCHARGE.—The third sentence of section 524(d) of title 11, United States Code, is amended in the matter preceding paragraph (1) by inserting "and was not represented by an attorney during the course of negotiating the agreement" after "this section".

SEC. 105. POWERS OF BANKRUPTCY COURTS.

(a) STATUS CONFERENCES.—Section 105 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) The court, on its own motion or on the motion of any party in interest, may—

"(1) hold a status conference regarding any case or proceeding under this title after notice to the parties in interest; and

"(2) unless it would be inconsistent with another provision of this title or with applicable Bankruptcy Rules, issue an order at any such conference prescribing such limitations and conditions as the court deems to be appropriate to ensure that the case is handled expeditiously and economically, including an order that—

"(A) sets the date by which the debtor must accept or reject an executory contract or unexpired lease; or

"(B) in a case under chapter 11—

"(i) sets a date by which the debtor, or the trustee if one has been appointed, shall file a disclosure statement and plan;

"(ii) sets a date by which the debtor, or the trustee if one has been appointed, shall solicit acceptances of a plan;

"(iii) sets the date by which a party in interest other than a debtor may file a plan;

"(iv) fixes the notice to be provided regarding the hearing on approval of the disclosure statement;

"(v) provides that the hearing on approval of the disclosure statement may be combined with the hearing on confirmation of the plan; and

"(vi) directs the use of standard-form disclosure statements, plans, or other forms that have been adopted by the court.".

(b) ESTABLISHMENT, OPERATION, AND TERMINATION OF BANKRUPTCY APPELLATE PANEL SERVICE.—Section 158(b) of title 28, United States Code, is amended—

(1) by striking paragraphs (3) and (4);

(2) by redesignating paragraph (2) as paragraph (4);

(3) by striking paragraph (1) and inserting the following new paragraphs:

"(1)(A) Except as provided in subparagraph (B), the judicial council of a circuit shall establish a bankruptcy appellate panel service composed of bankruptcy judges of the districts in the circuit who are appointed by the judicial council in accordance with paragraph (3), to hear and determine, with the consent of all parties to an appeal, appeals under subsection (a).

"(B)(i) The judicial council of a circuit need not establish a bankruptcy appellate panel service if the judicial council finds that—

"(I) there are insufficient judicial resources available in the circuit; or

"(II) establishment of such a service would result in undue delay or increased cost to parties in cases under title 11.

"(ii) Not later than 90 days after making a finding under clause (i), the judicial council shall submit to the Judicial Conference a report containing the factual basis of the finding.

"(2)(A) A judicial council may reconsider a finding described in paragraph (1)(B) at any time.

"(B) On the request of a majority of the district judges in a circuit for which a bankruptcy appellate panel service is established under paragraph (1), made after the expiration of the 1-year period beginning on the date on which the service is established, the judicial council of the circuit shall determine whether a circumstance described in paragraph (1)(B)(i) (I) or (II) exists.

"(C) On its own motion, after the expiration of the 3-year period beginning on the date on which a bankruptcy appellate panel service is established under paragraph (1), the judicial council of a circuit may determine whether a circumstance described in paragraph (1)(B)(i) (I) or (II) exists.

"(D) If the judicial council of a circuit finds that a circumstance described in paragraph (1)(B)(i) (I) or (II) exists, the judicial council may provide for the completion of the appeals then pending before a bankruptcy appellate panel service and the orderly termination of the service.

"(3) Bankruptcy judges appointed under paragraph (1) shall be appointed for a term of 2 years and may be reappointed under that paragraph."; and

(4) by inserting after paragraph (4), as redesignated by paragraph (2), the following new paragraphs:

"(5) An appeal to be heard under this subsection shall be heard by a panel of 3 members of the bankruptcy appellate panel service, except that a member of the service may not hear an appeal originating in the district for which the member is appointed or designated under section 152.

"(6) Appeals may not be heard under this subsection by a panel of the bankruptcy appellate panel service unless the district judges for the district in which the appeals occur, by majority vote, have authorized the service to hear and determine appeals originating in that district.".

(c) APPEALS TO BE HEARD BY BANKRUPTCY APPELLATE PANEL SERVICE.—Section 158 of title 28, United States Code, is amended—

(1) in subsection (c) by striking "(c) An appeal" and inserting the following:

"(c)(1) Subject to subsection (b), an appeal under subsection (a) shall be heard by a 3-judge panel of the bankruptcy appellate panel service established under subsection (b)(1) unless—

"(A) the appellant elects, at the time of filing the appeal; or

"(B) any other party elects, not later than 30 days after service of notice of the appeal, to have the appeal heard by the district court.

"(2) An appeal".

(d) RULES OF PROCEDURE AND EVIDENCE; METHOD OF PRESCRIBING.—Section 2073 of title 28, United States Code, is amended—

(1) in subsection (a)(2) by striking "section 2072" and inserting "sections 2072 and 2075"; and

(2) in subsections (d) and (e) by inserting "or 2075" after "2072" each place it appears.

(f) EFFECTIVE DATE OF BANKRUPTCY RULES.—The third undesignated paragraph of section 2075 of title 28, United States Code, is amended to read as follows:

"The Supreme Court shall transmit to Congress not later than May 1 of the year in which a rule prescribed under this section is to become effective a copy of the proposed rule. The rule shall take effect no earlier than December 1 of the year in which it is transmitted to Congress unless otherwise provided by law.".

SEC. 106. PARTICIPATION BY BANKRUPTCY ADMINISTRATOR AT MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

(a) PRESIDING OFFICER.—A bankruptcy administrator appointed under section 302(d)(3)(I) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note; 100 Stat. 3123), or the bankruptcy administrator's designee, may preside at—

(1) a meeting of creditors convened under section 341(a) of title 11, United States Code; and

(2) a meeting of equity security holders convened under section 341(b) of title 11, United States Code.

(b) EXAMINATION OF THE DEBTOR.—The bankruptcy administrator or the bankruptcy administrator's designee may examine the debtor at the meeting of creditors and may administer the oath required under section 343 of title 11, United States Code.

SEC. 107. DEFINITION RELATING TO ELIGIBILITY TO SERVE ON CHAPTER 11 COMMITTEES.

The definition of "person" in section 101 of title 11, United States Code, as amended by section 501(a), is amended to read as follows:

"'person' includes an individual, partnership, and corporation, but does not include a governmental unit, except that a governmental unit that—

"(A) acquires an asset from a person—

"(i) as a result of the operation of a loan guarantee agreement; or

"(ii) as receiver or liquidating agent of a person;

"(B) is a guarantor of a pension benefit payable by or on behalf of the debtor or an affiliate of the debtor; or

"(C) is the legal or beneficial owner of an asset of—

"(i) an employee pension benefit plan that is a governmental plan, as defined in section 414(d) of the Internal Revenue Code of 1986; or

"(ii) an eligible deferred compensation plan, as defined in section 457(b) of the Internal Revenue Code of 1986,

shall be considered, for purposes of section 1102, to be a person with respect to such asset or such benefit.".

SEC. 108. INCREASED INCENTIVE COMPENSATION FOR TRUSTEES.

Section 326(a) of title 11, United States Code, is amended to read as follows:

"(a)(1) In a case under chapter 7 or 11, the court may allow reasonable compensation of the trustee under section 330 for the trustee's services, payable after the trustee renders such services, in an amount that does not exceed—

"(A) the value of the funds and other property disbursed or turned over by the trustee to parties in interest in the case (excluding the debtor but including holders of secured claims), multiplied by

"(B) the applicable percentage stated in paragraph (2).

"(2) The applicable percentage stated in this paragraph is the following percentage of the value of the funds and other property disbursed or turned over by the trustee:

"(A) 25 percent of any amount up to $4,999.

"(B) 10 percent of any amount between $5,000 and $49,999 inclusive.

"(C) 5 percent of any amount between $50,000 and $999,999 inclusive.

"(D) A reasonable percentage, not to exceed 3 percent, of any amount greater than $999,999.".

SEC. 109. DOLLAR ADJUSTMENTS.

(a) Who May Be a Debtor Under Chapter 13.—Section 109(e) of title 11, United States Code, is amended—

(1) by striking "unsecured debts of less than $100,000 and noncontingent, liquidated, secured debts of less than $350,000" and inserting "debts of less than $1,000,000"; and

(2) by striking "unsecured debts that aggregate less than $100,000 and noncontingent, liquidated, secured debts of less than $350,000" and inserting "debts in the aggregate of less than $1,000,000".

(b) Involuntary Cases.—Section 303(b) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "$5,000" and inserting "$10,000"; and

(2) in paragraph (2) by striking "$5,000" and inserting "$10,000".

(c) Priorities.—Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (3)(B) by striking "$2,000" and inserting "$4,000";

(2) in paragraph (4)(B)(i) by striking "$2,000" and inserting "$4,000";

(3) in paragraph (5) by striking "$2,000" and inserting "$4,000"; and

(4) in paragraph (6)—

(A) by striking ", to the extent of $900 for each such individual,"; and

(B) by inserting ", to the extent of $1,800 for each such individual or, in the case of a deposit made jointly by 2 or more individuals with respect to the same purchase, lease, or rental, for each such group of individuals" before the period.

(d) Exemptions.—Section 522(d) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "$7,500" and inserting "$15,000";

(2) in paragraph (2) by striking "$1,200" and inserting "$2,400";

(3) in paragraph (3)—

(A) by striking "$200" and inserting "$400"; and

(B) by striking "$4,000" and inserting "$8,000";

(4) in paragraph (4) by striking "$500" and inserting "$1,000";

(5) in paragraph (5)—

(A) by striking "$400" and inserting "$800"; and

(B) by striking "$3,750" and inserting "$7,500";

(6) in paragraph (6) by striking "$750" and inserting "$1,500";

(7) in paragraph (8) by striking "$4,000" and inserting "$8,000"; and

(8) in paragraph (11)(D) by striking "$7,500" and inserting "$15,000".

(e) Appointment of Examiner in Certain Circumstances.—Section 1104(b)(2) of title 11, United States Code, is amended by striking "$5,000,000" and inserting "$10,000,000".

SEC. 110. PREMERGER NOTIFICATION.

Sections 363(b)(2) (A) and (B) of title 11, United States Code, are amended to read as follows:

"(A) notwithstanding subsection (a) of that section, the notification required to be given by the debtor shall be given by the trustee; and

"(B) notwithstanding subsection (b) of that section, the required waiting period shall end on the 10th day after the date of receipt of the notification, unless the waiting period is extended—

"(i) pursuant to subsection (e)(2) or (g)(2) of that section; or

"(ii) by the court, after notice and a hearing.".

SEC. 111. ALLOWANCE OF CREDITOR COMMITTEE EXPENSES.

Section 503(b) of title 11, United States Code, is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(7) the actual, necessary expenses incurred by a member of a committee appointed under section 1102 in the performance of the duties of the committee (including fees of an attorney or accountant for professional services rendered for the member to the extent allowable under paragraph (4)), other than claims for compensation for services rendered as a member of the committee.".

SEC. 112. JUDICIAL CONFERENCE REPORT.

Not later than 1 year after the date of enactment of this Act, the Judicial Conference of the United States shall produce and submit to the appropriate committees of Congress a report containing a description of—

(1) the efforts of the Federal judiciary to automate and computerize the Federal bankruptcy courts;

(2) the types of information that are currently available to Congress and the public regarding the number, size, and types of bankruptcy cases filed in the Federal courts;

(3) the types of additional information that the Federal judiciary believes are necessary and desirable to enhance its ability to manage the affairs of the bankruptcy system; and

(4) the projected timetable for being able to supply those additional types of information to Congress and the public in the future.

SEC. 113. SERVICE OF PROCESS.

Rule 7004(b)(3) of the Bankruptcy Rules is amended—

(1) by inserting ", by certified or registered mail," after "complaint"; and

(2) by inserting ", by certified or registered mail," after "copy".

SEC. 114. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) Prior to the conclusion of the meeting of creditors or equity security holders, the United States trustee shall orally examine the debtor under oath and make recommendations on a preserved record regarding the debtor's knowledge of—

"(1) the potential consequences of seeking a discharge in bankruptcy, including the effects on credit history;

"(2) the debtor's ability to file a petition under a different chapter of this title;

"(3) the effect of receiving a discharge of debts under this title;

"(4) the effect of reaffirming a debt, including the debtor's knowledge of the provisions of section 524(d);

"(5) the debtor's duties under section 521; and

"(6) the potential penalties and fines for committing fraud or other abuses of this title.".

SEC. 115. TAX ASSESSMENT.

Section 362(b)(9) of title 11, United States Code, is amended to read as follows:

"(9) under subsection (a), of an audit by a governmental unit to determine tax liability, of the issuance to the debtor by a governmental unit of a notice of tax deficiency, of a demand for tax returns, or of an assessment of an uncontested or agreed upon tax liability;".

TITLE II—COMMERCIAL ISSUES IN BANKRUPTCY

SEC. 201. SMALL BUSINESS CHAPTER.

(a) Definition.—Section 101 of title 11, United States Code, is amended by inserting in its proper alphabetical position the following new definition:

"'small business' means a person engaged in commercial or business activities (but does not include a person whose primary activity is the business of owning or operating real property and activities incidental thereto) whose aggregate liquidated secured and unsecured debts as of the date of the petition do not exceed $2,500,000.".

(b) Who May Be a Debtor Under Chapter 10.—Section 109 is amended by adding at the end the following new subsection:

"(h) Only a small business may be a debtor under chapter 10.".

(c) Temporary Chapter Applicable to Small Businesses.—Title 11, United States Code, is amended by inserting after chapter 9 the following new chapter:

"CHAPTER 10—SMALL BUSINESSES

"SUBCHAPTER I—OFFICERS, ADMINISTRATION, AND THE ESTATE

"Sec.
"1001. Definitions for this chapter.
"1002. Commencement of case.
"1003. Trustee.
"1004. Rights and powers of debtor.
"1005. Removal of debtor as debtor-in-possession.
"1006. Property of the estate.
"1007. Conversion or dismissal.

"SUBCHAPTER II—THE PLAN

"1021. Filing of plan.
"1022. Contents of plan.
"1023. Postpetition disclosure and solicitation.
"1024. Modification of plan before confirmation.
"1025. Confirmation hearing.
"1026. Confirmation of plan.
"1027. Payments.
"1028. Effect of confirmation.
"1029. Modification of plan after confirmation.
"1030. Revocation of order of confirmation.

"Subchapter I—Officers, Administration, and the Estate

"§ 1001. Definitions for this chapter

"In this chapter, 'disposable income' means income that is received by a debtor and that is not reasonably necessary to be expended for the payment of expenditures necessary for the continuation, preservation, and operation of the debtor's business.

"§ 1002. Commencement of case

"(a) Election by Debtor.—A person that is eligible to be a small business debtor may commence a case under this chapter by filing a voluntary petition electing to be treated as a small business.

"(b) Conversion.—

"(1) This chapter to chapter 11.—Upon the motion of a party in interest, and after notice and a hearing, the court may determine that a person subject to an order for relief electing treatment under this chapter does not qualify as a small business, and that the case shall be converted to a case under chapter 11, 12, or 13.

"(2) Compensation of trustee.—Prior to the court's conversion of a case under this section, the court shall charge upon and require to be paid from the estate such compensation as the court finds reasonable under the circumstances to compensate the trustee appointed and serving under section 1003.

"§ 1003. Trustee

"(a) Person To Serve.—If the United States trustee has appointed a person under section 586(b) of title 28 to serve as a standing trustee in cases under this chapter and if that person qualifies as a trustee under section 322, that person shall serve as a trustee in any case filed under this chapter. If such a person has not been appointed, the United States trustee shall appoint one disinterested person to serve as trustee in the case or the United States trustee may serve as trustee in the case.

"(b) Duties.—The trustee shall—

"(1) perform the duties described in section 704 (2), (3), (5), (6), (7), and (9);

"(2) perform the duties described in section 1106(a) (3) and (4) if the court, for cause and on a request of a party in interest, the trustee, or the United States trustee, so orders;

"(3) appear and be heard at any hearing that concerns—

"(A) the value of property subject to a lien;

"(B) the operation of the business activity of the person by the debtor;

"(C) the filing of a plan and the approval of a disclosure statement;

"(D) confirmation of a plan;

"(E) modification of a plan after confirmation; or

"(F) the sale of property of the estate;

"(4) ensure that the debtor timely files a plan and disclosure statement;

"(5) ensure that the debtor commences making timely payments required by a confirmed plan;

"(6) if the debtor ceases to be a debtor-in-possession, perform the duties described in sections 704(8) and 1106(a) (1), (2), (6), and (7);

"(7) investigate the financial affairs of the debtor including, but not limited to, the proper use of disposable income;

"(8) file and serve the report required by section 1029(d); and

"(9) file such motions as are appropriate under section 1029.

"§ 1004. Rights and powers of debtor

"Subject to such limitations as the court may prescribe, a debtor-in-possession shall have all the rights, other than the right to compensation under section 330, and powers, and shall perform all the functions and duties, except the duties described in section 1106(a) (3) and (4), of a trustee serving in a case under chapter 11, including operating the debtor's business activities.

"§ 1005. Removal of debtor as debtor-in-possession

"(a) Order for Cause.—On request of a party in interest, and after notice and a hearing, the court shall order that the debtor shall not be a debtor-in-possession if cause, including fraud, dishonesty, incompetence, or gross mismanagement of the affairs of the debtor, either before or after the commencement of the case, is shown.

"(b) Reinstatement.—On request of a party in interest, and after notice and a hearing, the court may reinstate the debtor-in-possession.

"§ 1006. Property of the estate

"(a) Property Included.—Property of the estate includes, in addition to property described in section 541, all property of the kind specified in that section that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, whichever comes first.

"(b) Possession.—Except as provided in section 1005 or in a confirmed plan or order confirming a plan, a debtor shall remain in possession of all property of the estate.

"§ 1007. Conversion or dismissal

"(a) Conversion by Debtor.—A debtor may convert a case under this chapter to a case under chapter 7 at any time if the debtor may be a debtor under that chapter. Any waiver of the right to convert under this subsection is unenforceable.

"(b) Dismissal by Debtor.—On request of the debtor at any time, if the case has not been converted under section 706 or 1112, the court may dismiss a case under this chapter.

"(c) Conversion or Dismissal at Request of Party in Interest.—

"(1) In general.—On request of a party in interest, and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 (if the debtor may be a debtor under this chapter) or may dismiss the case for cause.

"(2) Cause.—For purposes of paragraph (1), cause includes—

"(A) unreasonable delay or gross mismanagement by the debtor that is prejudicial to creditors;

"(B) nonpayment of any fees and charges required under chapter 123 of title 28;

"(C) failure to file a plan timely under section 1021;

"(D) failure to file a disclosure statement timely under section 1023;

"(E) failure to commence making timely payments required by a confirmed plan;

"(F) denial of confirmation of a plan under section 1026 or denial of a request made for additional time to filing another plan or a modification of a plan;

"(G) material default by a debtor with respect to a term of a confirmed plan;

"(H) revocation of an order of confirmation under section 1030 or denial of confirmation of a modified plan under section 1029;

"(I) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and

"(J) continuing loss to or diminution of the estate and absence of a reasonable likelihood of rehabilitation.

"(d) Compensation of Trustee.—Prior to the court's conversion or dismissal of a case under this section, the court shall charge upon and require to be paid from the estate such compensation as the court finds reasonable under the circumstances to compensate the trustee appointed and serving under section 1003.

"Subchapter II—The Plan

"§ 1021. Filing of plan

"The debtor shall file a plan not later than 90 days after the date of entry of the order for relief under this chapter, except that the court may, for cause shown, and after notice and hearing, shorten or extend that period if such shortening or extension is substantially justified.

"§ 1022. Contents of plan

"(a) Required Contents.—The plan shall—

"(1) provide for the submission of all or such portion of future earnings or other future income of the debtor to the supervision and control of the trustee as is necessary for the execution of the plan; and

"(2) if the plan classifies claims and interests, provide the same treatment for each claim or interest within a particular class unless the holder of a particular claim or interest agrees to less favorable treatment.

"(b) Additional Contents.—Subject to subsections (a) and (c), the plan may—

"(1) designate a class or classes of unsecured claims, as provided in section 1122, but may not discriminate unfairly against any class so designated; however, the plan may treat claims for a consumer debt differently from other unsecured claims if another individual is liable on the consumer debt with the debtor;

"(2) modify the rights of holders of secured claims or holders of unsecured claims, or leave unaffected the rights of holders of any class of claims, but the plan may not modify a claim pursuant to section 506 of a person holding a primary or junior security interest in real property or a manufactured home (as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402(6)) that is the debtor's principal residence, except that the plan may modify the claim of a person holding such a junior security interest that was undersecured at the time the interest attached to the extent that the interest remains undersecured;

"(3) provide for the curing or waiving of any default;

"(4) provide for payments on any unsecured claim to be made concurrently with payments on any secured claim or any other unsecured claim;

"(5) notwithstanding paragraph (2), provide for the curing of any default within a reasonable time and maintenance of payments while the case is pending on any unsecured claim or secured claim on which the last payment is due after the date on which the final payment under the plan is due;

"(6) subject to section 365, provide for the assumption, rejection, or assignment of any executory contract or expired lease of the debtor not previously rejected under that section;

"(7) provide for the payment of all or part of a claim against the debtor from the property of the estate or property of the debtor;

"(8) provide for the sale of all or any part of the property of the estate among those having an interest in such property;

"(9) provide for payment of allowed secured claims, consistent with section 1026(a)(5), over a period exceeding the period permitted under section 1022(c);

"(10) provide for the vesting of property of the estate on confirmation of the plan or at a later time, in the debtor of any other entity; and

"(11) include any other appropriate provision not inconsistent with this title.

"(c) Limitation.—Except as provided in subsection (b) (5) and (9), the plan may not provide for payments over a period that is longer than 3 years unless the court for cause approves a longer period, but the court may not approve a period that is longer than 5 years.

"§ 1023. Postpetition disclosure and solicitation

"(a) Plan and Disclosure Statement.—In a case under this chapter, an acceptance or rejection of a plan may not be solicited after the commencement of the case from a holder of a claim or interest with respect to the claim or interest unless, at the time or before such solicitation, there is transmitted to the holder the plan or a summary of the plan and a written disclosure statement that includes information sufficient to show whether or not the plan meets the requirements of section 1026.

"(b) Form.—The court may require that the summary of the plan and the disclosure statement employ a standard form approved by the court.

"§ 1024. Modification of plan before confirmation

"(a) IN GENERAL.—A debtor may modify a plan at any time before confirmation but may not modify the plan so that the plan as modified fails to meet the requirements of section 1022.

"(b) EFFECT.—After a debtor files a modification under this section, the plan as modified becomes the plan.

"(c) ACCEPTANCE.—A holder of a secured claim that has accepted or rejected a plan is deemed to have accepted or rejected, as the case may be, the plan as modified, unless—

"(1) the modification provides for a change in the rights of the holder under the plan before modification; and

"(2) the holder changes the holder's previous acceptance or rejection.

"§ 1025. Confirmation hearing

"(a) HEARING.—After expedited notice, the court shall hold a hearing on confirmation of the plan.

"(b) OBJECTION TO CONFIRMATION.—A party in interest, the trustee, or the United States trustee may object to the confirmation of the plan.

"(c) OBJECTION TO DISCLOSURE OF INFORMATION.—A party in interest, the trustee, or the United States trustee may object to the disclosure of information that is required to be disclosed under section 1023.

"(d) CONCLUSION OF HEARING.—Except for cause, the hearing shall be concluded not later than 45 days after the filing of the plan.

"§ 1026. Confirmation of plan

"(a) CRITERIA.—Except as provided in subsection (b), the court shall confirm a plan if—

"(1) the plan complies with all applicable provisions of this title;

"(2) any fee, charge, or amount required under chapter 123 of title 28, or by the plan, to be paid before confirmation, has been paid;

"(3) the plan has been proposed in good faith and not by any means forbidden by law;

"(4) the value of property to be distributed under the plan on account of each unsecured claim, as of the effective date of the plan, is not less than the amount that would be paid on the claim if the estate of the debtor were to be liquidated under chapter 7 on that date;

"(5) with respect to each allowed secured claim provided for by the plan—

"(A) the holder of the claim has accepted the plan;

"(B)(i) the plan provides that the holder of the claim will retain the lien securing the claim; and

"(ii) the value of property to be distributed by the trustee or the debtor under the plan on account of the claim, as of the effective date of the plan, is not less than the allowed amount of the claim; or

"(C) the debtor surrenders the property securing the claim to the holder;

"(6) the debtor will be able to make all payments under the plan and to comply with the plan;

"(7) except to the extent that the holder of a claim has agreed to a different treatment of the claim, the plan provides that—

"(A) with respect to a claim of a kind described in section 507(a) (1) or (2), on the effective date of the plan, the holder of the claim will receive on account of the claim cash equal to the allowed amount of the claim;

"(B) with respect to a class of claims of a kind described in section 507(a) (3), (4), (5), or (6), each holder of a claim of the class will receive cash or deferred cash payments of a value, as of the effective date of the plan, equal to the allowed amount of such claims; and

"(C) with respect to a claim of a kind described in section 507(a)(7), the holder of the claim will receive on account of the claim deferred cash payments, over a period ending on the later of—

"(i) the date of termination of the plan; or

"(ii) the date that is 6 years after the date of assessment of the claim,

of a value, as of the effective date of the plan, equal to the allowed amount of the claim; and

"(8) confirmation of the plan is not likely to be followed by the liquidation or the need for further financial reorganization of the debtor or any successor to the debtor under the plan, unless liquidation or reorganization is proposed in the plan.

"(b) CONFIRMATION NOTWITHSTANDING NONCONFORMANCE OR OBJECTION.—If the trustee or the holder of an allowed unsecured claim objects to the confirmation of the plan, the court may not approve the plan unless, as of the effective date of the plan—

"(1) the value of the property to be distributed under the plan on account of the claim is not less than the amount of the claim; or

"(2) the plan provides that all of the debtor's projected disposable income to be received in the 3-year period, or such longer period as the court may approve under section 1022(c), beginning on the date on which the first payment is due under the plan, will be applied to make payments under the plan.

"§ 1027. Payments

"(a) RETENTION BY TRUSTEE.—Payments and funds received by the trustee shall be retained by the trustee until confirmation or denial of confirmation of a plan.

"(b) DISTRIBUTION FOLLOWING CONFIRMATION.—If a plan is confirmed, the trustee shall distribute in accordance with the plan payments and funds retained pursuant to subsection (a).

"(c) RETURN FOLLOWING NONCONFIRMATION.—If a plan is not confirmed, the trustee shall return any payments and funds retained pursuant to subsection (a), after deducting—

"(1) any unpaid claim allowed under section 503(b); and

"(2) if a standing trustee is serving in the case, the percentage fixed for the standing trustee under section 1003.

"(d) PAYMENTS PRECEDING PAYMENTS TO CREDITORS.—Before or at the time of each payment to creditors under the plan, there shall be paid—

"(1) any unpaid claim of a kind described in section 507(a)(1); and

"(2) if a standing trustee is serving in the case, the percentage fee fixed for such standing trustee under section 1003.

"(e) PAYMENTS TO CREDITORS.—Except as otherwise provided in the plan or in the order confirming the plan, the trustee shall make payments to creditors under the plan.

"§ 1028. Effect of confirmation

"(a) PERSONS BOUND.—Except as provided in subsection (d) (2) and (3), a confirmed plan binds the debtor, any entity issuing securities under the plan, any entity acquiring property under the plan, and any creditor, equity security holder, or general partner of the debtor, whether or not the claim or interest of such creditor, equity security holder, or general partner is impaired under the plan and whether or not such creditor, equity security holder, or general partner has accepted the plan.

"(b) VESTING OF PROPERTY.—Except as otherwise provided in the plan or order confirming the plan, the confirmation of a plan vests all of the property of the estate in the debtor.

"(c) FREEDOM OF PROPERTY FROM CLAIMS AND INTERESTS.—Except as provided in subsection (d) (2) and (3), and except as otherwise provided in the plan or in the order confirming the plan, after confirmation of a plan, the property dealt with by the plan is free and clear of all claims and interests of creditors, equity security holders, and general partners of the debtor.

"(d) DISCHARGE OF DEBTOR.—

"(1) ON COMPLETION OF PAYMENTS.—As soon as practicable after completion by the debtor of all payments under the plan, other than payments to holders of allowed claims provided for under section 1022(b) (5) or (9), unless the court approves a written waiver of discharge executed by the debtor after the order for relief under this chapter, the court shall grant the debtor a discharge of all debts provided for by the plan allowed under section 503 or disallowed under section 502, except any debt—

"(A) provided for under section 1022(b) (5) or (9); or

"(B) of the kind specified in section 523(a).

"(2) WHEN PAYMENTS ARE NOT COMPLETED.—At any time after the confirmation of the plan and after notice and a hearing, the court may grant a discharge to a debtor that has not completed payments under the plan if—

"(A) the debtor's failure to complete such payments is due to circumstances for which the debtor should not be justly held accountable;

"(B) the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed secured claim is not less than the amount that would have been paid on the claim if the estate of the debtor had been liquidated under chapter 7 on that date; and

"(C) modification of the plan under section 1029 is not practicable.

"(3) EFFECT.—A discharge granted under paragraph (2) discharges the debtor from all unsecured debts provided for by the plan or disallowed under section 502, except any debt—

"(A) provided for under section 1022(b) (5) or (9); or

"(B) of a kind specified in section 523(a).

"(4) REVOCATION.—On request of a party in interest made before the date that is 1 year after the date on which a discharge under this section is granted, and after notice and hearing, the court may revoke the discharge if—

"(A) the discharge was obtained by the debtor through fraud; and

"(B) the requesting party did not know of the fraud until after the discharge was granted.

"(e) TERMINATION OF SERVICES OF TRUSTEE.—After the debtor is granted a discharge, the court shall terminate the services of any trustee serving in the case.

"§ 1029. Modification of plan after confirmation

"(a) IN GENERAL.—At any time after confirmation of a plan but before the completion of payments under the plan, the plan may be modified, on request of the debtor, the trustee, or the holder of any allowed unsecured claim, to—

"(1) increase or reduce the amount of payments of claims of a particular class provided for by the plan;

"(2) extend or reduce the time for such payments; or

"(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of the claim other than under the plan.

"(b) APPLICABILITY OF REQUIREMENTS.—Sections 1022 (a) and (b) and 1024 and the requirements of section 1025(a) apply to a modification under subsection (a).

"(c) LIMITATION.—A plan modified under subsection (a) may not provide for payments over a period that expires after 3 years after the date on which the first payment under the original confirmed plan was due, unless the court, for cause, approves a longer period, but the court may not approve a period that expires after 5 years after that date.

"(d) REPORT.—Not later than 60 days after each anniversary of the confirmation of the plan, the trustee shall file a report with the court, and serve a copy on all creditors requesting service of a copy of the report, setting forth—

"(1) the amount of distributions made to creditors during the preceding year;

"(2) a description of the debtor's compliance with the provisions of the plan during the preceding year;

"(3) a description of the debtor's disposable income in relation to the continued ability to comply with the terms of the confirmed plan; and

"(4) any modifications to the plan that are necessary to ensure the reorganization of the debtor and the payment to creditors of all disposal income.

"§ 1030. Revocation of order of confirmation

"(a) REVOCATION FOR FRAUD.—On request of a party in interest at any time within 180 days after the date of the entry of an order of confirmation under section 1028, and after notice and a hearing, the court may revoke the order if the order was procured by fraud.

"(b) DISPOSITION OF CASE AFTER REVOCATION.—If the court revokes an order of confirmation under subsection (a), the court shall dispose of the case under section 1007, unless, within a time fixed by the court, the debtor proposes and the court confirms a modification of the plan under section 1029.".

(d) TECHNICAL AMENDMENTS.—

(1) TABLE OF CHAPTERS IN TITLE 11, UNITED STATES CODE.—Title 11, United States Code, is amended in the table of chapters by inserting after the item relating to chapter 9 the following new item:

"10. Small Businesses .... 1001".

(2) CROSS-REFERENCES IN TITLE 11, UNITED STATES CODE.—Title 11, United States Code, is amended—

(A) in section 321(a) by inserting "10," after "7," each place it appears;

(B) in section 322(a) by inserting "1005" after "703,";

(C) in section 326(b)—

(i) by striking "12 or 13" and inserting "10, 12, or 13"; and

(ii) by striking "1202(a) or 1302(a)" and inserting "1005, 1202(a), or 1302(a)";

(D) in section 327—

(i) in subsection (b) by inserting "1005," after "721,"; and

(ii) in subsection (c) by inserting "10," after "7,";

(E) in section 329(b)(1)(B) by inserting "10," after "chapter";

(F) in section 330(c) by striking "12 or 13" and inserting "10, 12, or 13";

(G) in section 346—

(i) in subsection (b) by inserting "10," after "7,";

(ii) in subsection (g)(1)(C) by striking "11 or 12" and inserting "10, 11, or 12"; and

(iii) in subsection (i)(1) by inserting "10," after "7,";

(H) in section 347—

(i) in subsection (a)—

(I) by inserting "1027," after "726,"; and

(II) by inserting "10," after "7,"; and

(ii) in subsection (b)—

(I) by inserting "10," after "9,"; and

(II) by inserting "1026," after "943(b),";

(I) in section 348—

(i) in subsections (b), (c), and (e) by inserting "1009," after "706," each place it appears; and

(ii) in subsection (d) by inserting "1009," after "section";

(J) in section 362(c)(2)(C) by inserting "10," after "9,";

(K) in section 363—

(i) in subsection (c)(1) by inserting "1006," after "721,"; and

(ii) in subsection (l) by inserting "10," after "chapter";

(L) in section 364(a) by inserting "1006, 1007," after "721,";

(M) in section 365—

(i) in subsections (d)(2) and (g) (1) and (2) by inserting "10," after "9," each place it appears; and

(ii) in subsection (g)(2) (A) and (B) by inserting "1009," after "section" each place it appears;

(N) in section 502(g) by inserting "10," after "9,";

(O) in section 523(a) by inserting "1028(d)," after "727,";

(P) in section 524—

(i) in subsections (a)(1), (c)(1), and (d) by inserting "1028(d)," after "727," each place it appears; and

(ii) in subsection (a)(3) by inserting "1028(d)," after "523,";

(Q) in section 546(a)(1) by inserting "1005," after "702,";

(R) in section 557(d)(3) by inserting "1005," after "703,";

(S) in section 706—

(i) in subsection (a)—

(I) by inserting "10," before "11,"; and

(II) by inserting "1009," after "section"; and

(ii) in subsection (c) by striking "12 or 13" and inserting "10, 12, or 13";

(T) in section 726(b) by inserting "1009," after "chapter under section";

(U) in section 1106(a)(5) by inserting "10," after "7,";

(V) in section 1306(a) (1) and (2) by inserting "10," after "7," each place it appears; and

(W) in section 1307—

(i) in subsection (b) by inserting "1009," after "706,";

(ii) in subsection (d) by striking "11 or 12" and inserting "10, 11, or 12"; and

(iii) in subsection (e) by inserting "10," after "7,".

(3) BANKRUPTCY RULES.—The rules prescribed under section 2075 of title 28, United States Code, and in effect on the date of the enactment of this Act shall apply to cases filed under chapter 10 of title 11, United States Code, to the extent practicable and not inconsistent with the amendments made by this Act.

(4) AMENDMENT OF TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended—

(A) in section 157(b)(2)(B) by inserting "10," after "chapter";

(B) in section 586—

(i) in subsection (a)—

(I) in paragraph (1)(C)—

(aa) by striking "12 and 13" and inserting "10, 12, and 13"; and

(bb) by inserting "1025, 1029," after "sections"; and

(II) in paragraph (3) in the matter preceding subparagraph (A), by inserting "10," after "7,";

(C) in subsections (b), (d), and (e) by striking "12 or 13" each place it appears and inserting "10, 12, or 13"; and

(D) in section 1930(a)—

(i) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(ii) by inserting after paragraph (2) the following new paragraph:

"(3) For a case commenced under chapter 10 of title 11, $600.".

(5) AMENDMENT OF THE BANKRUPTCY, JUDGES, UNITED STATES TRUSTEES, AND FAMILY FARMER BANKRUPTCY ACT OF 1986.—Section 302 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (100 Stat. 3119) is amended in subsections (d) and (e) by inserting "10," after "7," each place it appears.

(e) APPLICATION OF CHAPTER 10 OF TITLE 11.—

(1) SELECTION OF DEMONSTRATION DISTRICTS.—Not later than 90 days after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall—

(A) select 8 judicial districts in which chapter 10 of title 11, United States Code, shall be effective for a period of 3 years; and

(B) identify those districts by notice in the Federal Register.

(2) EFFECTIVE PERIOD.—Chapter 10 of title 11, United States Code, shall become effective only in the 8 judicial districts selected under paragraph (1), beginning on the date that is 90 days after the date of enactment of this Act and ending on the date that is 3 years after that date.

(3) REPEAL.—(A) Chapter 10 of title 11, United States Code, is repealed on the date that is 3 years after the date that is 90 days after the date of enactment of this Act. All cases commenced or pending under that chapter and all matters and proceedings in or relating to those cases shall be conducted and determined under that chapter as if the chapter had not been repealed. The substantive rights of parties in connection with those cases, matters, and proceedings as if the chapter had not been repealed.

(B) The Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives shall prepare and report to the Senate and the House of Representatives, respectively, not later than 90 days before the repeal date described in subparagraph (A), legislation proposing such technical amendments as may be necessary or appropriate at that time in view of the repeal made by subparagraph (A).

SEC. 202. SINGLE ASSET REAL ESTATE.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting in its proper alphabetical position the following new definition:

" 'single asset real estate' means real property constituting a single property or project, other than residential real property with fewer than 4 residential units, which generates substantially all of the gross income of a debtor and on which no substantial business is being conducted by a debtor other than the business of operating the real property and activities incidental thereto.".

(b) AUTOMATIC STAY.—Section 362 of title 11, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (1) by striking "or" at the end;

(B) in paragraph (2) by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(3) with respect to a stay of an act against single asset real estate under subsection (a), by a creditor whose claim is secured by an interest in such real estate, unless, not later than the date that is 90 days after the entry of the order for relief (or such later date as the court may determine for cause by order entered within that 90-day period)—

"(A) the debtor has filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; or

"(B) the debtor has commenced monthly payments to each creditor whose claim is secured by such real estate, which payments are in an amount equal to interest at a current fair market rate on the value of the creditor's interest in the real estate."; and

(2) by adding at the end the following new subsection:

"(i)(1) Upon request of a creditor whose claim is secured by an interest in single asset real estate, if the interest has more than de minimis value, the court shall issue an order granting limited relief from the stay provided under subsection (a) to permit the creditor to continue a foreclosure proceeding commenced before the commencement of the case up to, but not including, the point of sale.

"(2) An order under paragraph (1) shall not issue before the date that is 30 days after the date of entry of the order for relief, but thereafter shall issue promptly after such a request.

"(3) A hearing shall not be required for the granting of relief under paragraph (1) unless the debtor files an objection to the request and shows the court extraordinary circumstances requiring such a hearing.".

SEC. 203. AIRCRAFT EQUIPMENT, VESSELS, AND ROLLING STOCK EQUIPMENT.

(a) AMENDMENT OF SECTION 1110.—Section 1110 of title 11, United States Code, is amended to read as follows:

"§ 1110. Aircraft equipment and vessels

"(a)(1) The right of a secured party with a security interest in equipment described in paragraph (2) or of a lessor or conditional vendor of such equipment to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract is not affected by section 362, 363, or 1129 or by any power of the court to enjoin the taking of possession unless—

"(A) before the date that is 60 days after the date of the order for relief under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after the date of the order under such security agreement, lease, or conditional sale contract; and

"(B) any default, other than a default of a kind specified in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

"(i) that occurs before the date of the order is cured before the expiration of such 60-day period; and

"(ii) that occurs after the date of the order is cured before the later of—

"(I) the date that is 30 days after the date of the default; or

"(II) the expiration of such 60-day period.

"(2) Equipment is described in this paragraph if it is—

"(A) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301)) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is an air carrier (as defined in that section, except that for the purposes of this section the term also includes an air carrier in intrastate commerce); or

"(B) a documented vessel (as defined in section 30101(1) of title 46, United States Code) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that holds a certificate of public convenience and necessity or permit issued by the Interstate Commerce Commission.

"(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

"(c) If the trustee makes an agreement of the kind described in subsection (a)(1)(A) with respect to a security agreement, lease, or conditional sale contract, any costs and expenses incurred by the secured party, lessor, or conditional vendor to remedy the failure of the trustee to perform the obligations of the estate to maintain or return equipment in accordance with the security agreement, lease, or conditional sale contract constitute administrative expenses under section 503(b)(1)(A).

"(d) With respect to equipment first placed in service on or prior to the date of enactment of this subsection, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term 'security interest' means a purchase-money equipment security interest.".

(b) AMENDMENT OF SECTION 1168.—Section 1168 of title 11, United States Code, is amended to read as follows:

"§ 1168. Rolling stock equipment

"(a)(1) The right of a secured party with a security interest in or of a lessor or conditional vendor of equipment described in paragraph (2) to take possession of such equipment in compliance with an equipment security agreement, lease, or conditional sale contract is not affected by section 362, 363, or 1129 or by any power of the court to enjoin the taking of possession, unless—

"(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after the date of commencement of the case under such security agreement, lease, or conditional sale contract; and

"(B) any default, other than a default of a kind described in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

"(i) that occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period; and

"(ii) that occurs or becomes an event of default after the date of commencement of the case is cured before the later of—

"(I) the date that is 30 days after the date of the default or event of default; or

"(II) the expiration of such 60-day period.

"(2) Equipment is described in this paragraph if it is rolling stock equipment or accessories used on such equipment, including superstructures and racks, that is subject to a security interest granted by, leased to, or conditionally sold to the debtor.

"(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

"(c) If the trustee makes an agreement of the kind described in subsection (a)(1)(A) with respect to a security agreement, lease, or conditional sale contract, any costs and expenses incurred by the secured party, lessor, or conditional vendor to remedy the failure of the trustee to perform the obligations of the estate to maintain or return equipment in accordance with the security agreement, lease, or conditional sale contract constitute administrative expenses under section 503(b)(1)(A).

"(d) With respect to equipment first placed in service on or prior to the date of enactment of this subsection, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term 'security interest' means a purchase-money equipment security interest.".

(c) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—The amendment of sections 1110 and 1168 of title 11, United States Code, made by subsections (a) and (b) shall not apply to cases commenced under title 11, United States Code, prior to the date of enactment of this Act.

(2) PLACEMENT IN SERVICE.—The amendment of section 1168(a) of title 11, United States Code, made by subsection (b) shall take effect with respect to equipment that is first placed in service after the date of enactment of this Act, including rolling stock equipment that is substantially rebuilt after that date and accessories used on such equipment.

SEC. 204. UNEXPIRED LEASES OF PERSONAL PROPERTY IN CHAPTER 11 CASES.

Section 365(d)(3) of title 11, United States Code, is amended in the first sentence by inserting after "real property" the following: "and, in a case under chapter 11, under an unexpired lease of personal property".

SEC. 205. PROTECTION OF ASSIGNEES OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES APPROVED BY COURT ORDER IN CASES REVERSED ON APPEAL.

Section 365 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(p) The reversal or modification on appeal of an authorization under this section of an assignment of an executory contract or unexpired lease does not affect the validity of the assignment to an entity that obtained the assignment in good faith, whether or not the entity knew of the pendency of the appeal, unless the authorization and the assignment were stayed pending appeal.".

SEC. 206. PROTECTION OF SECURITY INTEREST IN POST-PETITION RENTS.

POSTPETITION EFFECT OF SECURITY INTEREST.—Section 552(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking "rents," each place it appears; and

(3) by adding at the end the following new paragraph:

"(2)(A) Except as provided in sections 363, 506(c), 522, 544, 545, 547, and 548, if—

"(i) the debtor and an entity entered into a security agreement that was duly recorded in the public records before the commencement of the case; and

"(ii) the security interest created by the security agreement extends to—

"(I) property of the debtor acquired before the commencement of the case; and

"(II)(aa) to amounts paid as rents of such property; or

"(bb) to amounts paid for the use or occupancy of such property (including fees, charges, accounts, or other payments for the use or occupancy of rooms and other public facilities in a property such as a hotel, motel, or other lodging),

the security interest extends to such amounts paid to the estate as rents or as fees, charges, accounts, or other payments after the commencement of the case to the extent provided in the security agreement, whether or not the security interest in such rents or such fees, charges, accounts, or other payments is perfected under applicable nonbankruptcy law, except to the extent that the court, after notice and a hearing and based on the equities of the case, orders otherwise.

"(B) If a security interest extends under subparagraph (A) to rents acquired by the estate after the commencement of the case, the security interest in such rents shall be deemed to be perfected for the purpose of section 544(a).".

(b) USE SALE, OR LEASE OF PROPERTY.—Section 363(a) of title 11, United States Code, is amended by inserting: "and the fees, charges, accounts or other payments for the use or occupancy of rooms and other public facilities in hotels, motels, or other lodging properties" after "property".

SEC. 207. ANTI-ALIENATION.

(a) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 501(a), is amended—

(1) by striking "or" at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(18) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, pursuant to the debtor's agreement authorizing such withholding and collection for the benefit of a pension, profit sharing, stock bonus, or other plan qualified under section 401 (a) or (b), 403(b), or of the Internal Revenue Code of 1986, which is sponsored by the employer of the debtor, or an affiliate, successor or predecessor of such employer, to the extent that the amounts withheld and collected are used solely for payments relating to a loan from the plan that satisfies the requirements of section 408(b)(1) or of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)) or section 4975(d)(1) of the Internal Revenue Code of 1986 or, in the case of a loan from the Thrift Savings Plan described in subchapter III of chapter 84 of title 5, United States Code, that satisfies the requirements of section 8433(i) of that title.".

(b) EXCEPTIONS TO DISCHARGE.—Subsection 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(13) owed to a pension, profitsharing, stock bonus, or other plan qualified under section 401(a), 403 (a) or (b), or 408(k) or a governmental plan under 414(d) or 457 of the Internal Revenue Code of 1986 pursuant to a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)(1)) or section 4975(d)(1) of the Internal Revenue Code 1986 or pursuant to a loan from the Thrift Savings Plan described in subchapter III of title 5, United States Code, that satisfies the requirements of section 8433(i) of that title.".

(c) PROPERTY OF THE ESTATE.—Subsection 541(c) of title 11, United States Code, is amended by adding at the end the following new paragraph:

"(3)(A) Subject to subparagraph (B), assets and benefits accumulated for the benefits of a debtor pursuant to a pension, profitsharing, stock bonus, or other plan qualified under section 401(a), 403(a), 403(b), or 408(k) of the Internal Revenue Code of 1986 and any rights of debtor to such assets or benefits shall be excluded from the property of the estate.

"(B) Subparagraph (A) does not apply to plan assets or benefits attributable to contributions of the debtor to the extent that such contributions were in excess of the applicable limits on such contributions under section 401(k), 401(m), or 415 of the Internal Revenue Code of 1986.".

(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) The plan may not materially alter the terms of a loan described in section 362(b)(18).".

(e) PLAN CONFIRMATION.—Section 1325 of title 11, United States Code, is amended—

(1) in subsection (b)(2) by striking "debtor and" and inserting "debtor (not including income that is withheld from the debtor's wages for the purposes stated in section 362(b)(18)) and"; and

(2) in subsection (c) by striking "income to" and inserting "income (except income that is withheld from a debtor's wages for the purposes stated in section 362(b)(18) after confirmation of a plan) to".

SEC. 208. EXEMPTION.

Section 109(b)(2) of title 11, United States Code, is amended by inserting after "homestead association," the following: "a small business investment company licensed by the Small Business Administration under section 301 (c) or (d) of the Small Business Investment Act of 1958 (15 U.S.C. 681 (c) and (d)),".

SEC. 209. INDENTURE TRUSTEE COMPENSATION.

Section 503(b) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(B) by inserting after subparagraph (C) the following new subparagraph;

"(D) an indenture trustee;"; and

(C) in subparagraph (E), as redesignated by subparagraph (A), by striking "an indenture trustee,"; and

(2) in paragraph (5) by striking "for services rendered by an indenture trustee in making a substantial contribution" and inserting "for reasonable and necessary services rendered by an indenture trustee".

SEC. 210. PAYMENT OF TAXES WITH BORROWED FUNDS.

Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (11);

(2) by adding "or" at the end of paragraph (12); and

(3) by adding at the end the following new paragraph:

"(13) incurred to pay a tax or customs duty that would be nondischargeable pursuant to paragraph (1).".

SEC. 211. RETURN OF GOODS.

(a) LIMITATION ON AVOIDING POWERS.—Section 546 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(h) Notwithstanding the rights and powers of a trustee under sections 544(a), 545, 547, 549, and 553, if the court determines, after notice and a hearing, that a return is in the best interests of the estate, the debtor, with the consent of a creditor, may return goods shipped to the debtor by the creditor before the commencement of the case, and the creditor may offset the purchase price of such goods against any claim of the creditor against the debtor that arose before the commencement of the case.".

(b) SETOFF.—Section 553(b)(1) is amended by inserting "546(h)," after "365(h)(2),".

SEC. 212. EXCEPTION TO DISCHARGE.

Section 523(a)(2) of title 11, United States Code, is amended by striking "forty" and inserting "60".

SEC. 213. PROCEEDS OF MONEY ORDER AGREEMENTS.

Section 541(b) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(4) any interest in cash or cash equivalents that constitute proceeds of a sale by the debtor of a money order that is made—

"(A) on or after the date that is 14 days prior to the date on which the petition is filed; and

"(B) under an agreement with a money order issuer that prohibits the commingling of such proceeds with property of the debtor (notwithstanding that, contrary to the agreement, the proceeds may have been commingled with property of the debtor),

unless the money order issuer had not taken action, prior to the filing of the petition, to require compliance with the prohibition.".

SEC. 214. LIMITATION ON LIABILITY OF NON-INSIDER TRANSFEREE FOR AVOIDED TRANSFER.

Section 550 of title 11, United States Code, is amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) The trustee may recover under subsection (a) a transfer avoided under section 547(b) from a first transferee or an immediate or mediate transferee of a first transferee only to the extent that—

"(1) all the elements of section 547(b) are satisfied as to the first transferee; and

"(2) the exceptions in section 547(c) do not protect the first transferee.".

SEC. 215. PERFECTION OF PURCHASE-MONEY SECURITY INTEREST.

Section 547 of title 11, United States Code, is amended in subsection (c)(3)(B) and subsection (e)(2) by striking "10" and inserting "20".

SEC. 216. AIRPORT GATE LEASES.

Section 365(d) of title 11, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) Notwithstanding paragraphs (1), (2), and (4), and subject to subparagraphs (B) and (C) of this paragraph, if the trustee in a case under any chapter of this title does not assume or reject an unexpired lease or executory contract with an airport operator under which the debtor has a right to the use or possession of an airport terminal, aircraft gate, or related facility within 60 days after the date of the order for relief, or within such additional time (not to exceed 120 additional days) as the court sets during such 60-day period, such lease or executory contract is deemed rejected, and the trustee shall immediately surrender the airport terminal, gate, or related facility to the airport operator.

"(B)(i) The court may enter an order extending beyond 180 days after the date of the order for relief the time for assumption or rejection of an unexpired lease or executory contract described in subparagraph (A) only after finding that such an extension of time does not cause substantial harm to the airport operator or to airline passengers.

"(ii) In making the determination of substantial harm, the court shall consider, among other relevant factors—

"(I) the level of use of airport terminals, gates, or related facilities subject to the unexpired lease or executory contract;

"(II) the existence of competing demands for the use of the airport terminals, gates, or related facilities;

"(III) the size and complexity of the case; and

"(IV) air carrier competition at the airport.

"(iii) The burden of proof for establishing cause for an extension of time under this subparagraph shall be on the trustee.

"(iv) An order entered under this subparagraph shall be without prejudice to the right of a party in interest to request, at any time, a shortening or termination of the extension of time granted under this subparagraph.".

SEC. 217. TRUSTEE DUTIES.

Section 586(a)(3)(A) of title 28, United States Code, is amended to read as follows:

"(A)(i) reviewing, in accordance with procedural and substantive guidelines adopted by the Executive Office of the United States Trustee (which guidelines shall be applied uniformly by the United States trustee except when circumstances warrant different treatment), applications filed for compensation and reimbursement under section 330 of title 11; and

"(ii) filing with the court comments with respect to each such an application and, if the United States Trustee considers it to be appropriate, objections to such application.".

SEC. 218. PAYMENTS.

Section 1326(a)(2) of title 11, United States Code, is amended in the second sentence by striking the period and inserting "as soon as practicable.".

SEC. 219. CONTINUED PERFECTION.

(a) AUTOMATIC STAY.—Section 362(b)(3) of title 11, United States Code, is amended by inserting ", or to maintain or continue the perfection of," after "to perfect".

(b) LIMITATIONS ON AVOIDING POWERS.—Section 546(b) of title 11, United States Code, is amended to read as follows:

"(b)(1) The rights and powers of a trustee under sections 544, 545, and 549 of this title are subject to any generally applicable law that—

"(A) permits perfection of an interest in property to be effective against an entity that acquires rights in the property before the date of perfection; or

"(B) provides for the maintenance or continuation of perfection of an interest in property to be effective against an entity that acquires rights in the property before the date on which action is taken to effect such maintenance or continuation.

"(2) If—

"(A) a law described in paragraph (1) requires seizure of property that is subject to a perfected interest or commencement of an action to accomplish perfection or maintenance or continuation of an interest in property; and

"(B) the property has not been seized or an action has not been commenced before the date of the filing of the petition,

the interest in such property shall be perfected, or perfection of such interest shall be maintained or continued, by notice within the time fixed by that law for the seizure of property or commencement of an action.".

SEC. 220. PAYMENT OF INSURANCE BENEFITS TO RETIRED EMPLOYEES.

Section 1114(e) of title 11, United States Code, is amended by adding at the end the following new paragraph:

"(3) Notwithstanding any other provision of this title, if there are not sufficient unencumbered assets available to make a timely payment required by paragraph (1), an order approving the use, sale, or lease of cash collateral or the obtaining of credit or incurring of debt shall require the debtor to use such cash collateral, credit, or incurring of debt to make the payment.".

SEC. 221. NOTICES TO CREDITORS.

Section 342 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(c) If notice is required to be given by the debtor to a creditor under this title, any rule, any applicable law, or any order of the court, such notice shall contain the name and address of the debtor and the account number, if any, of the debt owed to the creditor if the account number is known to or reasonably ascertainable by the debtor.".

TITLE III—CONSUMER BANKRUPTCY ISSUES

SEC. 301. PERIOD FOR CURING DEFAULT RELATING TO PRINCIPAL RESIDENCE.

Section 1322 of title 11, United States Code, as amended by section 207(d), is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e); and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding State law and subsection (b)(2), and whether or not a claim is matured or reduced to judgment, a debtor who at the time of filing a petition under this title possesses any legal or equitable interest, including a right of redemption, in real property securing a claim—

"(1) may cure a default and maintain payments on the claim pursuant to subsection (b) (3) or (5); or

"(2) in a case in which the last payment on the original payment schedule for the claim is due before the date on which the final payment under the plan is due, may provide for the payment of the claim pursuant to section 1325(a)(5).".

SEC. 302. NONDISCHARGEABILITY OF FINE UNDER CHAPTER 13.

Section 1328(a)(3) of title 11, United States Code, is amended by inserting ", or a fine to the extent such fine exceeds $500," after "restitution".

SEC. 303. PROTECTION OF CHILD SUPPORT AND ALIMONY.

(a) RELIEF FROM AUTOMATIC STAY.—Section 362(b)(2) of title 11, United States Code, is amended to read as follows:

"(2) under subsection (a) of this section—

"(A) of the commencement or continuation of an action or proceeding for—

"(i) the establishment of paternity; or

"(ii) the establishment or modification of an order for alimony, maintenance, or support; or

"(B) of the collection of alimony, maintenance, or support from property that is not property of the estate;".

(b) PRIORITY OF CLAIMS.—

(1) ALIMONY OR SUPPORT.—Section 507(a) of title 11, United States Code, is amended—

(A) in paragraph (8) by striking "(8) Eighth" and inserting "(9) Ninth";

(B) in paragraph (7) by striking "(7) Seventh" and inserting "(8) Eighth"; and

(C) by inserting after paragraph (6) the following new paragraph:

"(7) Eighth, allowed claims for debts to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

"(A) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

"(B) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support.".

(2) TECHNICAL AMENDMENTS.—Title 11, United States Code, is amended—

(A) in section 502(i) by striking "507(a)(7)" and inserting "507(a)(8)";

(B) in section 503(b)(1)(B)(i) by striking "507(a)(7)" and inserting "507(a)(8)";

(C) in section 523(a)(1)(A) by striking "507(a)(7)" and inserting "507(a)(8)";

(D) in section 724(b)(2) by striking "or 507(a)(6)" and inserting "507(a)(6), or 507(a)(7)";

(E) in section 726(b) by striking "or (7)" and inserting ", (7), or (8)";

(F) in section 1123(a)(1) by striking "507(a)(7)" and inserting "507(a)(8)"; and

(G) in section 1129(a)(9)—

(i) in subparagraph (B) by striking "or 507(a)(6)" and inserting ", 507(a)(6), or 507(a)(7)"; and

(ii) in subparagraph (C) by striking "507(a)(7)" and inserting "507(a)(8)".

(c) PROTECTION OF LIENS.—Section 522(f)(1) of title 11, United States Code, is amended to read as follows:

"(1) a judicial lien (other than a judicial lien that secures a debt to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of the spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, to the extent that the debt—

"(A) is not assigned to another entity, voluntarily, by operation of law, or otherwise; and

"(B) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support).".

(d) PROTECTION AGAINST TRUSTEE AVOIDANCE.—Section 547(c) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by redesignating paragraph (7) as paragraph (8); and

(3) by inserting after paragraph (6) the following new paragraph:

"(7) to the extent that the transfer was a bona fide payment of a debt to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

"(A) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

"(B) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support; or".

(e) APPEARANCE BEFORE COURT.—A child support creditor or its representative shall be permitted to appear and intervene without charge and without meeting any special local court rule requirement for attorney appearances in any bankruptcy proceeding in any bankruptcy court or district court of the United States if the creditor or representative files with the court a statement describing in detail the child support debt, its status, and other characteristics.

SEC. 304. BANKRUPTCY PETITION PREPARERS.

(a) AMENDMENT OF CHAPTER 1.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following new section:

"SEC. 110. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

"(a) DEFINITION.—In this section—

"'bankruptcy petition preparer' means a person, other than an attorney or an employee of an attorney, who prepares for compensation a document for filing.

"'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b) SIGNING OF DOCUMENTS.—(1) A bankruptcy petition preparer who prepares a document for filing shall sign the document and print on the document the preparer's name and address.

"(2) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(c) FURNISHING OF IDENTIFYING NUMBER.—(1) A bankruptcy petition preparer who prepares a document for filing shall place on the document, after the preparer's signature, an identifying number that identifies the individuals who prepared the document.

"(2) For purposes of this section, the identifying number of a bankruptcy petition preparer shall be the Social Security account number of each individual who prepared the document or assisted in its preparation.

"(3) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(d) FURNISHING OF COPY TO THE DEBTOR.—(1) A bankruptcy petition preparer shall, not later than the time at which a document for filing is presented for the debtor's signature, furnish to the debtor a copy of the document.

"(2) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(e) NO AUTHORIZATION TO EXECUTE DOCUMENTS.—(1) A bankruptcy petition preparer shall not execute any document on behalf of a debtor.

"(2) A bankruptcy petition preparer may be fined not more than $500 for each document executed in violation of paragraph (1).

"(f) ADVERTISING.—(1) A bankruptcy petition preparer shall not use the word "legal" or any similar term in any advertisements, or advertise under any category that includes the word "legal" or any similar term.

"(2) A bankruptcy petition preparer shall be fined not more than $500 for each violation of paragraph (1).

"(g) COURT FEES.—(1) A bankruptcy petition preparer shall not collect or receive any payment from the debtor or on behalf of the debtor for the court fees in connection with filing the petition.

"(2) A bankruptcy petition preparer shall be fined not more than $500 for each violation of paragraph (1).

"(h) FEES FOR SERVICES.—(1) Within 10 days after the date of the filing of a petition, a bankruptcy petition preparer shall file a declaration under penalty of perjury disclosing any fee received from or on behalf of the debtor within 12 months immediately prior to the filing of the case, and any unpaid fee charged to the debtor.

"(2) The court shall disallow and order the immediate turnover to the bankruptcy trustee of any fee referred to in paragraph (1) found to be in excess of the value of typing services for the documents prepared. The debtor may exempt any funds so recovered under section 522(b).

"(3) The debtor, the trustee, a creditor, or the United States trustee may file a motion for an order under paragraph (2).

"(4) A bankruptcy petition preparer shall be fined not more than $500 for each failure to comply with a court order to turn over funds within 30 days of service of such order.

"(i) DAMAGES.—(1) If a bankruptcy case or related proceeding is dismissed because of the failure to file bankruptcy forms, the negligence or intentional disregard of this title or the bankruptcy rules by a bankruptcy petition preparer, or if a bankruptcy petition preparer violates this section or commits any fraudulent, unfair, or deceptive act, the bankruptcy court shall certify that fact to the district court, and the district court, on motion of the debtor, the trustee, or a creditor and after a hearing, shall order the bankruptcy petition preparer to pay to the debtor—

"(A) the debtor's actual damages;

"(B) the greater of—

"(i) $2,000; or

"(ii) twice the amount paid by the debtor to the bankruptcy petition preparer for the preparer's services; and

"(C) reasonable attorneys' fees and costs in moving for damages under this subsection.

"(2) If the trustee or creditor moves for damages on behalf of the debtor under this subsection, the bankruptcy petition preparer shall be ordered to pay the movant the additional amount of $1,000 plus reasonable attorneys' fees and costs incurred.

"(j) INJUNCTIVE RELIEF.—

"(1) IN GENERAL.—A debtor for whom a bankruptcy petition preparer has prepared a document for filing, the trustee, a creditor, or the United States trustee in the district in which the bankruptcy petition preparer resides, has conducted business, or the United States trustee in any other district in which the debtor resides may bring a civil action to enjoin a bankruptcy petition preparer from engaging in any conduct in violation of this section or from further acting as a bankruptcy petition preparer.

"(2) CONDUCT.—(A) In an action under paragraph (1), if the court finds that—

"(i) a bankruptcy petition preparer has—

"(I) engaged in conduct in violation of this section or of any provision of this title a violation of which subjects a person to criminal penalty;

"(II) misrepresented the preparer's experience or education as a bankruptcy petition preparer; or

"(III) engaged in any other fraudulent, unfair, or deceptive conduct; and

"(ii) injunctive relief is appropriate to prevent the recurrence of such conduct,

the court may enjoin the bankruptcy petition preparer from engaging in such conduct.

"(B) If the court finds that a bankruptcy petition preparer has continually engaged in conduct described in clause (i) (I), (II), or (III) and that an injunction prohibiting such conduct would not be sufficient to prevent such person's interference with the proper administration of this title, or has not paid a penalty imposed under this section, the court may enjoin the person from acting as a bankruptcy petition preparer.

"(3) ATTORNEY'S FEE.—The court shall award to a debtor, trustee, or creditor that brings a successful action under this subsection reasonable attorney's fees and costs of the action, to be paid by the bankruptcy petition preparer.

"(k) UNAUTHORIZED PRACTICE OF LAW.—Nothing in this section shall be construed to permit activities that are otherwise prohibited by law, including rules and laws that prohibit the unauthorized practice of law.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 11, United States Code, is amended by adding at the end the following new item:

"110. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.".

(b) AMENDMENT OF TITLE 18, UNITED STATES CODE.—

(1) OFFENSES.—Chapter 9 of title 18, United States Code, is amended—

(A) by amending sections 152, 153, and 154 to read as follows:

"§ 152. Concealment of assets; false oaths and claims; bribery

"A person who—

"(1) knowingly and fraudulently conceals from a custodian, trustee, marshal, or other officer of the court charged with the control or custody of property, or, in connection with a case under title 11, from creditors or the United States Trustee, any property belonging to the estate of a debtor;

"(2) knowingly and fraudulently makes a false oath or account in or in relation to any case under title 11;

"(3) knowingly and fraudulently makes a false declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, in or in relation to any case under title 11;

"(4) knowingly and fraudulently presents any false claim for proof against the estate of a debtor, or uses any such claim in any case under title 11, in a personal capacity or as or through an agent, proxy, or attorney;

"(5) knowingly and fraudulently receives any material amount of property from a debtor after the filing of a case under title 11, with intent to defeat the provisions of title 11;

"(6) knowingly and fraudulently gives, offers, receives, or attempts to obtain any money or property, remuneration, compensation, reward, advantage, or promise thereof for acting or forbearing to act in any case under title 11;

"(7) in a personal capacity or as an agent or officer of any person or corporation, in contemplation of a case under title 11 by or against the person or any other person or corporation, or with intent to defeat the provisions of title 11, knowingly and fraudulently transfers or conceals any of his property or the property of such other person or corporation;

"(8) after the filing of a case under title 11 or in contemplation thereof, knowingly and fraudulently conceals, destroys, mutilates, falsifies, or makes a false entry in any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor; or

"(9) after the filing of a case under title 11, knowingly and fraudulently withholds from a custodian, trustee, marshal, or other officer of the court or a United States Trustee entitled to its possession, any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor,

shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"§ 153. Embezzlement against estate

"(a) OFFENSE.—A person described in subsection (b) who knowingly and fraudulently appropriates to the person's own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"(b) PERSON TO WHOM SECTION APPLIES.—A person described in this subsection is one who has access to property or documents belonging to an estate by virtue of the person's participation in the administration of the estate as a trustee, custodian, marshal, attorney, or other officer of the court or as an agent, employee, or other person engaged by such an officer to perform a service with respect to the estate.

"§ 154. Adverse interest and conduct of officers

"A person who, being a custodian, trustee, marshal, or other officer of the court—

"(1) knowingly purchases, directly or indirectly, any property of the estate of which the person is such an officer in a case under title 11;

"(2) knowingly refuses to permit a reasonable opportunity for the inspection by parties in interest of the documents and accounts relating to the affairs of estates in the person's charge by parties when directed by the court to do so; or

"(3) knowingly refuses to permit a reasonable opportunity for the inspection by the United States Trustee of the documents and accounts relating to the affairs of states in the person's charge,

shall be fined not more than $5,000 and shall forfeit the person's office, which shall thereupon become vacant."; and

(B) by adding at the end the following new section:

"§ 156. Willful disregard of bankruptcy law or rule

"(a) DEFINITIONS.—In this section—

"'bankruptcy petition preparer' means a person, other than an attorney or an employee of an attorney, who prepares for compensation a document for filing.

"'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b) OFFENSE.—If a bankruptcy case or related proceeding is dismissed because of a willful attempt by a bankruptcy petition preparer in any manner to disregard the requirements of title 11, United States Code, or the Bankruptcy Rules, the bankruptcy petition preparer shall be fined $5,000.".

(2) TECHNICAL AMENDMENTS.—The chapter analysis for chapter 9 of title 18, United States Code, is amended—

(A) by amending the item relating to section 153 to read as follows:

"Sec. 153. Embezzlement against estate.";

and

(B) by adding at the end the following new item:

"Sec. 156. Willful disregard of bankruptcy law or rule.".

SEC. 305. CONVERSION OR DISMISSAL.

Section 1307 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(g) The clerk of the court shall give notice to all creditors not later than 30 days after the entry of an order of conversion or dismissal.".

SEC. 306. CONTENTS OF PLAN.

Section 1322(b)(2) of title 11, United States Code, is amended by striking "claims;" and inserting "claims, but the plan may not modify a claim pursuant to section 506 of a person holding a primary or a junior security interest in real property or a manufactured home (as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402(6)) that is the debtor's principal residence, except that the plan may modify the claim of a person holding such a junior security interest that was undersecured at the time the interest attached to the extent that the interest remains undersecured;".

SEC. 307. STAY OF ACTION AGAINST CODEBTOR.

Section 1301 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "or" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(4) the claim is for an amount valued at not greater than $25,000, and such relief is not a substantial impediment to an effective reorganization by the debtor, and unless the codebtor has demonstrated an inability to pay such claim or a substantial portion of such claim."; and

(2) by adding at the end the following new subsection:

"(e) If the relief sought by the creditor pursuant to subsection (c)(4) is granted by the court, the codebtor shall by subrogation have the same rights as the creditor, under this title, against the debtor to the extent of the amount of relief obtained from the codebtor. Pending any delay in obtaining relief from the codebtor, after the court order, payment by the debtor shall continue to be paid to the creditor, but subject to the developing subrogation rights of the codebtor.".

SEC. 308. EXEMPTION FOR HOUSEHOLD GOODS.

Section 522(a) of title 11, United States Code, is amended—

(1) by striking "and" at the end of paragraph (1) and redesignating that paragraph as paragraph (2);

(2) by inserting before paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(1) 'antique', for purposes of subsection (d), means an item that was more than 100 years old at the time it was acquired by the debtor, including such an item that has been repaired or renovated without changing its original form or character;";

(3) by redesignating paragraph (2), as designated prior to the date of enactment of this Act, as paragraph (4); and

(4) by inserting after paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(3) 'household goods', for purposes of subsection (d), means clothing, furniture, appliances, linens, china, crockery, kitchenware, and personal effects of the debtor and the debtor's dependents, but does not include—

"(A) works of art;

"(B) electronic entertainment equipment (except to the extent of 1 television and 1 radio);

"(C) antiques; and

"(D) jewelry other than wedding rings; and

SEC. 309. PROFESSIONAL FEES.

Section 330(a) of title 11, United States Code, is amended to read as follows:

"(a)(1) After notice to the parties in interest and the United States trustee and a hearing, and subject to sections 326, 328, and 329, the court may award to a trustee, an examiner, a professional person employed under section 327 or 1103, or the debtor's attorney, after considering comments and objections submitted by the United States Trustee in conformance with guidelines adopted by the Executive Office for United States Trustees pursuant to section 586(a)(3)(A) of title 28—

"(A) reasonable compensation for actual, necessary services rendered by the trustee, examiner, professional person, or attorney and by any paraprofessional person employed by any such person; and

"(B) reimbursement for actual, necessary expenses.

"(2)(A) In determining an amount of reasonable compensation to be awarded under paragraph (1)(A), the court—

"(i) may, on its motion or on the motion of the United States trustee or any party in interest, award compensation that is less than the amount of compensation that is requested; and

"(ii) shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including—

"(I) the time spent on such services;

"(II) the rates charged for such services;

"(III) whether the services were necessary in the administration of or beneficial toward the completion of a case under this title; and

"(IV) the total value of the estate and the amount of funds or other property available for distribution to all creditors both secured and unsecured.

"(B) In calculating compensation for services for the purpose of subparagraph (A)(ii), the court shall consider—

"(i) whether tasks were performed within a reasonable amount of time commensurate with the complexity, importance and nature of the problem, issue or task addressed; and

"(ii) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in nonbankruptcy cases.

"(3)(A) Subject to subparagraph (B), the court shall not allow compensation for duplication of services or for services that are not either reasonably likely to benefit the debtor's estate or necessary in the administration of the case.

"(B) In a case in which the debtor is an individual, the court shall allow reasonable compensation for services by the debtor's attorney representing the interests of the debtor without regard to the benefit of such services to the estate.

"(4)(A) The court shall take into account the amount and timing of interim compensation, if any awarded and paid, in awarding final compensation.

"(B) If interim compensation was awarded and paid in an amount that exceeds the amount the court awards as final compensation the court may order the return of the excess to the trustee or other entity that paid it.

"(5) In determining the amount to be awarded for the preparation of fee applications, the court shall recognize the difference between the cost of professional services and services for the preparation of fee applications. The costs awarded for the preparation of fee applications shall be reasonable and based on the level of skill required.".

SEC. 310. INTEREST ON INTEREST.

(a) CHAPTER 11.—Section 1123 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) Notwithstanding subsection (a) of this section and sections 506(b), 1129(a)(7), and 1129(b) of this title, the amount necessary to cure a default under a plan, if any, shall be determined in accordance with the underlying agreement and applicable nonbankruptcy law.".

(b) CHAPTER 12.—Section 1222 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) Notwithstanding subsection (b)(2) of this section and sections 506(b) and 1225(a)(5) of this title, the amount necessary to cure a default under a plan, if any, shall be determined in accordance with the underlying agreement and applicable nonbankruptcy law.".

(c) CHAPTER 13.—Section 1322 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(f) Notwithstanding subsection (b)(2) of this section and sections 506(b) and 1325(a)(5) of this title, the amount necessary to cure a default under a plan, if any, shall be determined in accordance with the underlying agreement and applicable nonbankruptcy law.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements described in sections 1123(d), 1222(d), and 1322(f) of title 11, United States Code, as added by this section, that are entered into after the date of enactment of this Act.

TITLE IV—BANKRUPTCY REVIEW COMMISSION

SEC. 401. SHORT TITLE.

This title may be cited as the "National Bankruptcy Review Commission Act".

SEC. 402. ESTABLISHMENT.

There is established the National Bankruptcy Review Commission (referred to as the "Commission").

SEC. 403. DUTIES OF THE COMMISSION.

The duties of the Commission are—

(1) to investigate and study issues and problems relating to title 11, United States Code (commonly known as the "Bankruptcy Code");

(2) to evaluate the advisability of proposals and current arrangements with respect to such issues and problems;

(3) to prepare and submit to the Congress, the Chief Justice, and the President a report in accordance with section 408; and

(4) to solicit divergent views of all parties concerned with the operation of the bankruptcy system.

SEC. 404. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members as follows:

(1) Three members appointed by the President, 1 of whom shall be designated as chairman by the President.

(2) One member shall be appointed by the President pro tempore of the Senate.

(3) One member shall be appointed by the Minority Leader of the Senate.

(4) One member shall be appointed by the Speaker of the House of Representatives.

(5) One member shall be appointed by the Minority Leader of the House of Representatives.

(6) Two members appointed by the Chief Justice.

(b) TERM.—Members of the Commission shall be appointed for the life of the Commission.

(c) QUORUM.—Five members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.

(d) APPOINTMENT DEADLINE.—The first appointments made under subsection (a) shall be made within 60 days after the date of enactment of this Act.

(e) FIRST MEETING.—The first meeting of the Commission shall be called by the chairman and shall be held within 90 days after the date of enactment of this Act.

(f) VACANCY.—A vacancy on the Commission resulting from the death or resignation of a member shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(g) CONTINUATION OF MEMBERSHIP.—If any member of the Commission who was appointed to the Commission as a member of Congress or as an officer or employee of a government leaves that office, or if any member of the Commission who was not appointed in such a capacity becomes an officer or employee of a government, the member may continue as a member of the Commission for not longer than the 90-day period beginning on the date the member leaves that office or becomes such an officer or employee, as the case may be.

(h) CONSULTATION PRIOR TO APPOINTMENT.—Prior to the appointment of members of the Commission, the President, the President pro tempore of the Senate, the Speaker of the House of Representatives, and the Chief Justice shall consult with each other to ensure fair and equitable representation of various points of view in the Commission and its staff.

SEC. 405. COMPENSATION OF THE COMMISSION.

(a) PAY.—

(1) NONGOVERNMENT EMPLOYEES.—Each member of the Commission who is not otherwise employed by the United States Government shall be entitled to receive the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which he or she is engaged in the actual performance of duties as a member of the Commission.

(2) GOVERNMENT EMPLOYEES.—A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation.

(b) TRAVEL.—Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 406. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—

(1) APPOINTMENT.—The chairman of the Commission may, without regard to the civil service laws and regulations, appoint, and terminate an executive director and such other personnel as are necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter II of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(b) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

SEC. 407. POWERS OF THE COMMISSION.

(a) HEARINGS AND MEETINGS.—The Commission or, on authorization of the Commission, a member of the Commission, may hold such hearings, sit and act at such time and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission or a member of the Commission may administer oaths or affirmations to witnesses appearing before it.

(b) OFFICIAL DATA.—The Commission may secure directly from any Federal department, agency, or court information necessary to enable it to carry out this title. Upon request of the chairman of the Commission, the head of a Federal department or agency or chief judge of a Federal court shall furnish such information, consistent with law, to the Commission.

(c) FACILITIES AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such facilities and support services as the Commission may request. Upon request of the Commission, the head of a Federal department or agency may make any of the facilities or services of the agency available to the Commission to assist the Commission in carrying out its duties under this title.

(d) EXPENDITURES AND CONTRACTS.—The Commission or, on authorization of the Commission, a member of the Commission may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Commission or member considers appropriate for the purposes of carrying out the duties of the Commission. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in appropriation Acts.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal departments and agencies of the United States.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 408. REPORT.

The Commission shall submit to the Congress, the Chief Justice, and the President a report not later than 2 years after the date of its first meeting. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislative or administrative action as it considers appropriate.

SEC. 409. TERMINATION.

The Commission shall cease to exist on the date that is 30 days after the date on which it submits its report under section 408.

SEC. 410. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,500,000 to carry out this title.

TITLE V—TECHNICAL CORRECTIONS

SEC. 501. TITLE 11, UNITED STATES CODE.

(a) ALPHABETIZATION AND ELIMINATION OF PARAGRAPH DESIGNATIONS.—Section 101 of title 11, United States Code, is amended to read as follows:

“§ 101. Definitions

“In this title—

“‘accountant’ means an accountant authorized under applicable law to practice public accounting, and includes professional accounting association, corporation, or partnership, if so authorized.

“‘affiliate’ means—

“(A) an entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities—

“(i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or

“(ii) solely to secure a debt, if such entity has not in fact exercised such power to vote;

“(B) a corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor, or by an entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities—

“(i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or

“(ii) solely to secure a debt, if such entity has not in fact exercised such power to vote;

“(C) a person whose business is operated under a lease or operating agreement by a debtor, or person substantially all of whose property is operated under an operating agreement with the debtor; or

“(D) an entity that operates the business or substantially all of the property of the debtor under a lease or operating agreement.

“‘attorney’ means an attorney, professional law association, corporation, or partnership, authorized under applicable law to practice law.

“‘claim’ means—

“(A) a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or

“(B) a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.

“‘commodity broker’ means a futures commission merchant, foreign futures commission merchant, clearing organization, leverage transaction merchant, or commodity options dealer (as defined in section 761) with respect to which there is a customer (as defined in section 761).

“‘community claim’ means a claim that arose before the commencement of the case concerning the debtor for which property of the kind specified in section 541(a)(2) is liable, whether or not there is any such property at the time of the commencement of the case.

“‘consumer debt’ means debt incurred by an individual primarily for a personal, family, or household purpose.

“‘corporation’—

“(A) includes—

“(i) an association having a power or privilege that a private corporation, but not an individual or a partnership, possesses;

“(ii) a partnership association organized under a law that makes only the capital subscribed responsible for the debts of such association;

“(iii) a joint-stock company;

“(iv) an unincorporated company or association; or

“(v) a business trust; but

“(B) does not include a limited partnership.

“‘creditor’ means—

“(A) an entity that has a claim against the debtor that arose at the time of or before the order for relief concerning the debtor;

“(B) an entity that has a claim against the estate of a kind specified in section 348(d), 502(f), 502(g), 502(h), or 502(i); or

“(C) an entity that has a community claim.

“‘custodian’ means—

“(A) a receiver or trustee of any of the property of the debtor, appointed in a case or proceeding not under this title;

“(B) an assignee under a general assignment for the benefit of the debtor's creditors; or

“(C) a trustee, receiver, or agent under applicable law, or under a contract, that is appointed or authorized to take charge of property of the debtor for the purpose of enforcing a lien against such property, or for the purpose of general administration of such property for the benefit of the debtor's creditors.

“‘debt’ means liability on a claim.

“‘debtor’ means a person or municipality concerning which a case under this title has been commenced.

“‘disinterested person’ means a person that—

“(A) is not a creditor, an equity security holder, or an insider;

“(B) is not and was not an investment banker for any outstanding security of the debtor;

“(C) has not been, within 3 years before the date of the filing of the petition, an investment banker for a security of the debtor, or an attorney for such an investment banker in connection with the offer, sale, or issuance of a security of the debtor;

“(D) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor or of an investment banker specified in subparagraph (B) or (C); and

“(E) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor or an investment banker specified in subparagraph (B) or (C), or for any other reason.

“‘entity’ includes a person, estate, trust, governmental unit, and United States trustee.

“‘equity security’ means—

“(A) a share in a corporation, whether or not transferable or denominated ‘stock’, or similar security;

“(B) an interest of a limited partner in a limited partnership; or

“(C) a warrant or right, other than a right to convert, to purchase, sell, or subscribe to a share, security, or interest of a kind specified in subparagraph (A) or (B).

“‘equity security holder’ means a holder of an equity security of the debtor.

“‘family farmer’ means—

“(A) an individual or individual and spouse engaged in a farming operation whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse unless such debt arises out of a farming operation), on the date the case is filed, arise out of a farming operation owned or operated by such individual or such individual and spouse, and such individual or such individual and spouse receive from such farming operation more than 50 percent of such individual's or such individual and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

“(B) a corporation or partnership in which more than 50 percent of the outstanding stock or equity is held by one family, or by one family and the relatives of the members of such family, and such family or such relatives conduct the farming operation—

“(i) more than 80 percent of the value of its assets consists of assets related to the farming operation;

“(ii) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for one dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a farming operation), on the date the case is filed, arise out of the farming operation owned or operated by such corporation or such partnership; and

“(iii) if such corporation issues stock, such stock is not publicly traded.

“‘family farmer with regular annual income’ means a family farmer whose annual income is sufficiently stable and regular to enable such family farmer to make payments under a plan under chapter 12.

“‘farmer’ means (except when such term appears in the term ‘family farmer’) a person that received more than 80 percent of such person's gross income during the taxable year of such person immediately preceding the taxable year of such person during which the case under this title concerning such person was commenced from a farming operation owned or operated by such person.

“‘farming operation’ includes farming, tillage of the soil, dairy farming, ranching, production or raising of crops, poultry, or livestock, and production of poultry or livestock products in an unmanufactured state.

“‘Federal depository institutions regulatory agency’ means—

“(A) with respect to an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)) for which no conservator or receiver has been appointed, the appropriate Federal banking agency (as defined in section 3(q) of that Act);

“(B) with respect to an insured credit union (including an insured credit union for which the National Credit Union Administration has been appointed conservator or liquidating agent), the National Credit Union Administration;

“(C) with respect to any insured depository institution for which the Resolution Trust

Corporation has been appointed conservator or receiver, the Resolution Trust Corporation; and

"(D) with respect to any insured depository institution for which the Federal Deposit Insurance Corporation has been appointed conservator or receiver, the Federal Deposit Insurance Corporation.

"'financial institution' means a person that is a commercial or savings bank, industrial savings bank, savings and loan association, or trust company and, when any such person is acting as agent or custodian for a customer in connection with a securities contract (as defined in section 741(a)), the customer.

"'foreign proceeding' means a proceeding, whether judicial or administrative and whether or not under bankruptcy law, in a foreign country in which the debtor's domicile, residence, principal place of business, or principal assets were located at the commencement of such proceeding, for the purpose of liquidating an estate, adjusting debts by composition, extension, or discharge, or effecting a reorganization.

"'foreign representative' means a duly selected trustee, administrator, or other representative of an estate in a foreign proceeding.

"'forward contract' means a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity, as defined in section 761, or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, but not limited to, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any combination thereof or option thereon.

"'forward contract merchant' means a person whose business consists in whole or in part of entering into forward contracts as or with merchants in a commodity (as defined in section 761) or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade.

"'governmental unit' means—

"(A) the United States, a State, Commonwealth, or Territory, the District of Columbia, a municipality, and a foreign state;

"(B) a department, agency, or instrumentality of the United States (but not a United States trustee while serving as a trustee in a case under this title), a State, Commonwealth, or Territory, the District of Columbia, a municipality, a foreign state; or

"(C) any other foreign or domestic government.

"'indenture' means a mortgage, deed of trust, or indenture, under which there is outstanding a security, other than a voting-trust certificate, constituting a claim against the debtor, a claim secured by a lien on any of the debtor's property, or an equity security of the debtor.

"'indenture trustee' means a trustee under an indenture.

"'individual with regular income' means an individual whose income is sufficiently stable and regular to enable such individual to make payments under a plan under chapter 13, other than a stockbroker or a commodity broker.

"'insider' includes—

"(A) if the debtor is an individual—

"(i) a relative of the debtor or of a general partner of the debtor;

"(ii) a partnership in which the debtor is a general partner;

"(iii) a general partner of the debtor; or

"(iv) a corporation of which the debtor is a director, officer, or person in control;

"(B) if the debtor is a corporation—

"(i) a director of the debtor;

"(ii) an officer of the debtor;

"(iii) a person in control of the debtor;

"(iv) a partnership in which the debtor is a general partner;

"(v) a general partner of the debtor; or

"(vi) a relative of a general partner, director, officer, or person in control of the debtor;

"(C) if the debtor is a partnership—

"(i) a general partner of the debtor;

"(ii) a relative of a general partner in, general partner of, or person in control of the debtor;

"(iii) a partnership in which the debtor is a general partner;

"(iv) a general partner of the debtor; or

"(v) a person in control of the debtor;

"(D) if the debtor is a municipality, an elected official of the debtor or relative of an elected official of the debtor;

"(E) an affiliate, or insider of an affiliate as if such affiliate were the debtor; and

"(F) a managing agent of the debtor.

"'insolvent' means—

"(A) with reference to an entity other than a partnership and a municipality, being in a financial condition such that the sum of the entity's debts is greater than all of the entity's property, at a fair valuation, exclusive of—

"(i) property transferred, concealed, or removed with intent to hinder, delay, or defraud such entity's creditors; and

"(ii) property that may be exempted from property of the estate under section 522;

"(B) with reference to a partnership, being in a financial condition such that the sum of the partnership's debts is greater than the aggregate of, at a fair valuation—

"(i) all of the partnership's property, exclusive of property of the kind specified in subparagraph (A)(i); and

"(B) the sum of the excess of the value of each general partner's nonpartnership property, exclusive of property of the kind specified in subparagraph (A), over such partner's nonpartnership debts; and

"(C) with reference to a municipality, being in a financial condition such that the municipality is—

"(i) generally not paying its debts as they become due unless such debts are the subject of a bona fide dispute; and

"(ii) unable to pay its debts as they become due.

"'institution-affiliated party'—

"(A) with respect to an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act) (12 U.S.C. 1813(c)(2)), has the meaning given it in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)); and

"(2) with respect to an insured credit union, has the meaning given it in section 206(r) of the Federal Credit Union Act (12 U.S.C. 1786(r)).

"'insured credit union' has the meaning given it in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7)).

"'insured depository institution'—

"(A) has the meaning given it in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)); and

"(B) includes an insured credit union (except as provided in the definition of 'Federal depository institutions regulatory agency' and in subparagraph (B) of the definition of 'institution-affiliated party').

"'intellectual property' means—

"(A) a trade secret;

"(B) an invention, process, design, or plant protected under title 35;

"(C) a patent application;

"(D) a plant variety;

"(E) a work of authorship protected under title 17; and

"(F) a mask work protected under chapter 9 of title 17, to the extent protected by applicable nonbankruptcy law.

"'judicial lien' means a lien obtained by judgment, levy, sequestration, or other legal or equitable process or proceeding.

"'lien' means a charge against or interest in property to secure payment of a debt or performance of an obligation.

"'margin payment', as used in sections 362(b)(6), 546 (e) and (f), 548 (d)(2) (B) and (C), 556, 741(5), 761(15), 764(b), 766(a), and any other provision of this title in relation to forward contracts, means a payment or deposit of cash, a security, or other property that is commonly known in the forward contract trade as original margin, initial margin, maintenance margin, or variation margin, including market-to-market payments or variation payments.

"'mask work' has the meaning given it in section 901(a)(2) of title 17.

"'municipality' means a political subdivision or public agency or instrumentality of a State.

"'person' includes an individual, partnership, and corporation, but does not include a governmental unit, except that a governmental unit that acquires an asset from a person as a result of operation of a loan guarantee agreement, or as receiver or liquidating agent of a person, shall be considered to be a person for purposes of section 1102.

"'petition' means a petition filed under section 301, 302, 303, or 304 commencing a case under this title.

"'purchaser' means a transferee of a voluntary transfer, and includes an immediate or mediate transferee of such a transferee.

"'railroad' means a common carrier by railroad engaged in the transportation of individuals or property or owner of trackage facilities leased by such a common carrier.

"'relative' means an individual related by affinity or consanguinity within the third degree as determined by the common law and an individual in a step or adoptive relationship within such third degree.

"'repo participant' means an entity that, on any day during the period beginning 90 days before the date of the filing of a petition, has an outstanding repurchase agreement with the debtor.

"'repurchase agreement' and 'reverse repurchase agreement' mean an agreement, including related terms, which provides for the transfer of certificates of deposit, eligible bankers' acceptances, or securities that are direct obligations of, or that are fully guaranteed as to principal and interest by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, or securities with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, or securities as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds.

"'security'—

"(A) includes—

"(i) a note;

"(ii) stock;

"(iii) treasury stock;

"(iv) a bond;

"(v) a debenture;

"(vi) a collateral trust certificate;

"(vii) a preorganization certificate or subscription;

"(viii) a transferable share;

"(ix) a voting-trust certificate;

"(x) a certificate of deposit;

"(xi) a certificate of deposit for security;

"(xii) an investment contract or certificate of interest or participation in a profit-sharing agreement or in an oil, gas, or mineral royalty or lease, if such contract or interest is required to be the subject of a registration statement filed with the Securities and Exchange Commission under the provisions of the Securities Act of 1933 (15 U.S.C. 77a et seq.), or is exempt under section 3(b) of that Act (15 U.S.C. 77c(b)) from the requirement to file such a statement;

"(xiii) an interest of a limited partner in a limited partnership;

"(xiv) another claim or interest commonly known as a 'security'; and

"(xv) a certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase or sell, a security; but

"(B) does not include—

"(i) currency or a check, draft, bill of exchange, or bank letter of credit;

"(ii) a leverage transaction (as defined in section 761);

"(iii) a commodity futures contract or forward contract;

"(iv) an option, warrant, or right to subscribe to or purchase or sell a commodity futures contract;

"(v) an option to purchase or sell a commodity;

"(vi) a contract or certificate of a kind specified in subparagraph (A)(xii) that is not required to be the subject of a registration statement filed with the Securities and Exchange Commission and is not exempt under section 3(b) of the Securities Act of 1933 (15 U.S.C. 77c(b)) from the requirement to file such a statement; or

"(vii) debt or an evidence of indebtedness for goods sold and delivered or services rendered.

"'security agreement' means an agreement that creates or provides for a security interest.

"'securities clearing agency' means a person that is registered as a clearing agency under section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1) or whose business is confined to the performance of functions of a clearing agency with respect to exempted securities (as defined in section 3(a)(12) of that Act (15 U.S.C. 78c(12)) for the purposes of that section 17A.

"'security interest' means a lien created by an agreement.

"'settlement payment' means, for purposes of the forward contract provisions of this title, a preliminary settlement payment, partial settlement payment, interim settlement payment, settlement payment on account, final settlement payment, net settlement payment, or any other similar payment commonly used in the forward contract trade.

"'State' includes the District of Columbia and Puerto Rico, except for the purpose of defining who may be a debtor under chapter 9.

"'statutory lien' means a lien arising solely by force of a statute on specified circumstances or conditions, or lien of distress for rent, whether or not statutory, but does not include a security interest or judicial lien, whether or not such interest or lien is provided by or is dependent on a statute and whether or not such interest or lien is made fully effective by statute.

"'stockbroker' means a person—

"(A) with respect to which there is a customer (as defined in section 741); and

"(B) that is engaged in the business of effecting transactions in securities—

"(i) for the account of others; or

"(ii) with members of the general public, from or for such person's own account.

"'swap agreement' means—

"(A) an agreement (including terms and conditions incorporated by reference therein) which is a rate swap agreement, basis swap, forward rate agreement, commodity swap, interest rate option, forward foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency option, or any other similar agreement (including any option to enter into any of the foregoing);

"(2) any combination of the foregoing; or

"(3) a master agreement for any of the foregoing together with all supplements.

"'swap participant' means an entity that, at any time before the filing of a petition, has an outstanding swap agreement with the debtor.

"'timeshare interest' means an interest purchased in a timeshare plan which grants the purchaser the right to use and occupy accommodations, facilities, or recreational sites, whether improved or unimproved, pursuant to a timeshare plan.

"'timeshare plan' means an interest in any arrangement, plan, scheme, or similar device (but not including an exchange program), whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, right to use agreement, or by any other means, whereby a purchaser of the interest, in exchange for consideration, receives a right to use accommodations, facilities, or recreational sites, whether improved or unimproved, for a specific period of time less than a full year during any given year, but not necessarily for consecutive years, and which extends for a period of more than 3 years.

"'transfer' means a mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the debtor's equity of redemption.

"'United States', when used in a geographical sense, includes all locations where the judicial jurisdiction of the United States extends, including territories and possessions of the United States.

(b) REFERENCES TO DEFINITIONS IN TITLE XI.—

(1) SECTION 362.—Section 362(b) of title 11, United States Code, is amended—

(A) in paragraph (6)—

(i) by striking "section 761(4)" and inserting "section 761";

(ii) by striking "section 741(7)" and inserting "section 741";

(iii) by striking "section 101(34), 741(5), or 761(15)" and inserting "section 101, 741, or 761"; and

(iv) by striking "section 101(35) or 741(8)" and inserting "section 101 or 741"; and

(B) in paragraph (7)—

(i) by striking "section 741(5) or 761(15)" and inserting "section 741 or 761"; and

(ii) by striking "section 741(8)" and inserting "section 741".

(2) SECTION 507.—Section 507(a)(5) of title 11, United States Code, is amended—

(A) by striking "section 557(b)(1)" and inserting "section 557(b)"; and

(B) by striking "section 557(b)(2)" and inserting "section 557(b)".

(3) Section 546 of title 11, United States Code, is amended—

(A) in subsection (e)—

(i) by striking "section 101(34), 741(5), or 761(15)" and inserting "section 101, 741, or 761"; and

(ii) by striking "section 101(35) or 741(8)" and inserting "section 101 or 741"; and

(B) in subsection (f)—

(i) by striking "section 741(5) or 761(15)" and inserting "section 741 or 761"; and

(ii) by striking "section 741(8)" and inserting "section 741".

(4) SECTION 548.—Section 548(d)(2) of title 11, United States Code, is amended—

(A) in subparagraph (B)—

(i) by striking "section 101(34), 741(5) or 761(15)" and inserting "section 101, 741, or 761"; and

(ii) by striking "section 101(35) or 741(8)" and inserting "section 101 or 741"; and

(B) in subparagraph (C)—

(i) by striking "section 741(5) or 761(15)" and inserting "section 741 or 761"; and

(ii) by striking "section 741(8)" and inserting "section 741".

(5) SECTION 555.—Section 555 of title 11, United States Code, is amended by striking "section 741(7)" and inserting "section 741".

(6) SECTION 556.—Section 556 of title 11, United States Code, is amended by striking "section 761(4)" and inserting "section 761".

(c) REFERENCES TO DEFINITIONS IN OTHER LAWS.—

(1) FEDERAL CREDIT UNION ACT.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended—

(A) in clause (ii)(I) by striking "section 741(7)" and inserting "section 741";

(B) in clause (iii) by striking "section 101(24)" and inserting "section 101";

(C) in clause (iv)(I) by striking "section 101(41)" and inserting "section 101"; and

(D) in clause (v) by striking "section 101(50)" and inserting "section 101".

(2) FEDERAL DEPOSIT INSURANCE ACT.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(A) in clause (ii)(I) by striking "section 741(7)" and inserting "section 741";

(B) in clause (iii) by striking "section 761(4)" and inserting "section 761";

(C) in clause (iv) by striking "section 101(24)" and inserting "section 101";

(D) in clause (v)(I) by striking "section 101(41)" and inserting "section 101"; and

(E) in clause (viii) by striking "section 101(50)" and inserting "section 101".

(d) OTHER TECHNICAL AMENDMENTS.—Title 11 of the United States Code is amended—

(1) in section 322(a) by striking "1302, or 1202" and inserting "1202, or 1302",

(2) in section 346—

(A) in subsection (a) by striking "Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.)" and inserting "Internal Revenue Code of 1986"; and

(B) in subsection (g)(1)(C) by striking "Internal Revenue Code of 1954 (26 U.S.C. 371)" and inserting "Internal Revenue Code of 1986";

(3) in section 348—

(A) in subsection (b) by striking "728(a), 728(b), 1102(a), 1110(a)(1), 1121(b), 1121(c), 1141(d)(4), 1146(a), 1146(b), 1301(a), 1305(a), 1201(a), 1221, and 1228(a)" and inserting "728 (a) and (b), 1021, 1028, 1102(a), 1110(a)(1), 1121 (b) and (c), 1141(d)(4), 1146 (a) and (b), 1201(a), 1221, 1228(a), 1301(a), and 1305(a)"; and

(B) in subsections (b), (c), (d), and (e) by striking "1307, or 1208" each place it appears and inserting "1208, or 1307";

(4) in section 349(a) by striking "109(f)" and inserting "109(g)";

(5) in section 362(b)—

(A) by striking "or" at the end of paragraph (10);

(B) in paragraph (12) by striking "the Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et seq.)" and inserting "section 31325 of title 46, United States Code";

(C) in paragraph (13)—

(i) by striking "the Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et seq.)" and inserting "section 31325 of title 46, United States Code"; and

(ii) by striking "or" at the end;

(D) in paragraph (14), as added by section 102 of Public Law 101–311 (104 Stat. 267) at the end of the subsection, by removing it from the end of the subsection, inserting it after paragraph (13), and striking the period at the end and inserting a semicolon; and

(E) by redesignating paragraphs (14), (15), and (16), as added by section 3007(a) of the Student Loan Default Prevention Initiative Act of 1990 (104 Stat. 1388–28), as paragraphs (15), (16), and (17);

(6) in section 363(c)(1) by striking "1304, 1203, or 1204" and inserting "1203, 1204, or 1304";

(7) in section 364(a) by striking "1304, 1203, or 1204" and inserting "1203, 1204, or 1304";

(8) in section 365—

(A) in subsection (g)(2) (A) and (B) by striking "1307, or 1208" each place it appears and inserting "1208, or 1307";

(B) in subsection (n)(1)(B) by striking "to to" and inserting "to"; and

(C) in subsection (o) by striking "the Federal" the first place it appears and all that follows through "successors," and inserting "a Federal depository institutions regulatory agency (or predecessor to such an agency)";

(9) in section 507—

(A) in subsection (a)(8) by striking "the Federal" the first place it appears and all that follows through "successors," and inserting "a Federal depository institutions regulatory agency (or predecessor to such an agency)"; and

(B) in subsection (d) by striking "(a)(3), (a)(4), (a)(5), or (a)(6)" and inserting "(a) (3), (4), (6), or (7)";

(10) in section 522(d)(10)(E)(iii) by striking "401(a), 403(a), 403(b), 408, or 409 Internal Revenue Code of 1954 (26 U.S.C. 401(a), 403(a), 403(b), 408, or 409)" and inserting "section 401(a), 403 (a) or (b), 408, or 409 of the Internal Revenue Code of 1986";

(11) in section 523(a) —

(A) in subsection (a)—

(i) by striking "1141,, 1228(a), 1228(b)," and inserting "1141, 1228 (a) or (b),"; and

(ii) in paragraph (12) by striking the semicolon at the end and inserting a period; and

(B) in subsection (e) by striking "depository institution or insured credit union" and inserting "insured depository institution";

(12) in section 524—

(A) in subsection (a)(3) by striking "or 1328(c)(1)" and inserting "1228(a)(1), or 1328(a)(1)";

(B) in subsection (c)(4) by striking "recission" and inserting "rescission"; and

(C) in subsection (d)(1)(B)(ii) by adding "and" at the end;

(12) in section 541(b)(3) by striking the period at the end of paragraph (3) and inserting "; or";

(13) in section 542(e) by striking "to to" and inserting "to";

(14) in section 543(d)(1) by striking "of equity" and inserting "if equity";

(15) in section 546(a)(1) by striking "1302, or 1202" and inserting "1202, or 1302";

(16) in section 549(b) by inserting "the trustee may not avoid under subsection (a) of this section" after "involuntary case,";

(17) in section 553—

(A) in subsection (a)(1) by striking "other than under section 502(b)(3) of this title"; and

(B) in subsection (b)(1) by striking "362(b)(14)," and inserting "362(b)(14),";

(18) in section 706(a) by striking "1307, or 1208" and inserting "1208, or 1307";

(19) in section 724(d) by striking "Internal Revenue Code of 1954 (26 U.S.C. 6323)" and inserting "Internal Revenue Code of 1986";

(20) in section 726(b) by inserting a comma after "section 1112";

(21) in section 743 by striking "342(a)" and inserting "342";

(22) in section 745(c) by striking "Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.)" and inserting "Internal Revenue Code of 1986";

(23) in section 1104(c) inserting a comma after "interest";

(24) in section 1123(a)(1) inserting a comma after "title" the last place it appears;

(25) in section 1129(a)—

(A) in paragraph (4) by striking the semicolon at the end and inserting a period; and

(B) in paragraph (12) inserting "of title 28" after "section 1930";

(26) in section 1145(a) by striking "does" and inserting "do";

(27) in section 1226(b)(2)—

(A) by striking "1202(d) of this title" and inserting "1202(c)"; and

(B) by striking "1202(e) of this title" and inserting "1202(d)";

(28) in section 1302(b)(3) by striking "and" at the end;

(29) in section 1328(a)(2) by striking "(5) or (8)" and inserting "(5), (8), or (9)"; and

(30) in the table of chapters by striking the item relating to chapter 15.

SEC. 502. TITLE 28, UNITED STATES CODE.

Section 586(a)(3) of title 28, United States Code, is amended in the matter preceding subparagraph (A) by inserting "12," after "11,".

TITLE VI—SEVERABILITY; EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 601. SEVERABILITY.

If any provision of this Act or amendment made by this Act or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remaining provisions of and amendments made by this Act and the application of such other provisions and amendments to any person or circumstance shall not be affected thereby.

SEC. 602. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as provided in section 115(c) and in paragraph (2) of this subsection, the amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the date of enactment of this Act.

(2) SECTION 1110 OF TITLE 11.—Section 1110 of title 11, United States Code, as amended by section 203, shall apply with respect to any lease (as defined in section 1110(c)), entered into in connection with a settlement of any litigation in any case pending under title 11, United States Code, on the date of enactment of this Act.

EXECUTIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to executive session to consider Executive Calendar item No. 828, the nomination of Adm. Frank B. Kelso II.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report the nomination.

NAVY

The legislative clerk read the nomination of Adm. Frank B. Kelso II, U.S. Navy, to be placed on the retired list in the grade of admiral.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska [Mr. EXON].

Mr. EXON. I thank the Chair.

Mr. President, the Senate has now before it President Clinton's nomination of Adm. Frank B. Kelso II, U.S. Navy, to retire in grade as a four-star admiral. That nomination was reported favorably by the Armed Services Committee by a vote of 20 to 2.

Admiral Kelso is completing 38 years of distinguished service in the U.S. Navy, of which 14 years have been as a flag officer and last 8 of which have been in the four-star grade.

Over the last 9 years, Admiral Kelso has served as Commander, 6th Fleet; as Commander in Chief, U.S. Atlantic Fleet; and as Supreme Allied Commander, Atlantic, in his NATO hat and Commander in Chief, U.S. Atlantic Command in his U.S. hat.

When he served as Commander, 6th Fleet, forces under Admiral Kelso's command forced down the aircraft carrying terrorists who murdered an American citizen on board the *Achille Lauro*. In that position, Admiral Kelso commanded the U.S. forces which responded to Libyan armed aggression in the Gulf of Sidra and also commanded the joint air strike on Libya itself in retaliation for Libyan terrorism against United States servicemen in Germany.

When he served as Commander in Chief, U.S. Atlantic Fleet, Admiral Kelso led the way in planning and executing the integration of women in combat logistic force ships.

As the Chief of Naval Operations, Admiral Kelso has overseen a fundamental shift for naval forces from global open ocean warfare to joint and combined operations conducted from the sea in littoral regions.

Also as the Chief of Naval Operations, Admiral Kelso has overseen the admission of women to service in all ships now closed to them and sought legislation that opens combat ships and aircraft to women. Women are joining combatant ships today and the first woman combat pilot has qualified aboard an aircraft carrier and many more are in the combat aviation, particularly in the up-front pipeline.

Admiral Kelso has also established the standing committee on the status of women in the Department of the Navy. During his tenure as the Chief of Naval Personnel, for the first time in the history of the Navy, women have become commanding officers of ships, aviation squadrons, major naval stations, a naval base, and brigades at the Naval Academy.

During Admiral Kelso's tenure as the Chief of Naval Operations, nine women have been promoted to flag rank.

In the absence of Senator NUNN, the chairman of the committee, who will be here a little bit later on, I would like to read into the RECORD a letter that Senator NUNN received from the Women Officers' Professional Association. The letter is dated April 14, 1994, to the Honorable Sam NUNN, Chairman, Armed Services Committee, U.S. Senate, Washington, DC.

> Dear Chairman NUNN. On behalf of the board of the Women Officers' Professional Association (WOPA), I express our—

And this is underlined—

> wholehearted support for Admiral Frank Kelso's well earned right to retire at his present rank of full admiral.
>
> Admiral Kelso should be congratulated for his leadership, not criticized. He, more than any other person, changed the Navy by eliminating the gender-based prejudices and restrictions which previously limited the contribution of Navy women. The world will learn from our example.

It is appalling that some people judge Admiral Kelso by whatever did or did not happen at the 1991 Tailhook convention. The important lesson of this terrible event is that it was Admiral Kelso, as Chief of Naval Operations, who forced the Navy to change for the good. Because of it, it will never happen again.

And then underlined:

> We, the professional women of the Navy, are beyond Tailhook.
>
> The WOPA is a predominantly female organization of almost 400 commissioned and noncommissioned officers. We have seen our members become part of the U.S.S. *Eisenhower's* ships company, and report that the Navy is the only service with multiple female flag officers.
>
> Admiral Kelso will be remembered with much respect by the Navy's women. Please do not dishonor him by a rank reduction.
>
> Sincerely, Jayne Hornstein, Lieutenant Commander, USN, Vice-President for Programs.

Mr. President, I ask that the letter I have just read be printed in the RECORD in full at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. Mr. President, returning to what I think is critically important that we judge, women have done very well under the leadership of Frank Kelso. If you know Frank Kelso, as many of us do, you will know that he is a straightforward individual. He speaks frankly and on point, and he says time and time again what he thinks should be done and the right manner for all of the people in the U.S. Navy.

I simply say to you, Mr. President, that if you do not know Frank Kelso well, then you have missed meeting one of the finest men or women that I think has ever served in the U.S. Navy.

We have had him on numerous occasions before the Senate Armed Services Committee. I have never seen him other than absolutely forthright, always honest, always up front, and even understanding when I felt he was under unjust attack.

I certainly simply say that the Chief of Naval Operations, Admiral Kelso, put real teeth into the policy of zero tolerance of sexual harassment by directing that all persons found guilty of one incident of aggravated sexual harassment be automatically processed for discharge. Repeat offenders where incidents are less serious are also subject to mandatory processing for discharge. Thus far, 85 officers or enlisted personnel have been removed from the Navy under this policy.

Mr. President, let us turn for a moment to what I am sure will be a matter of some discussion on the floor of the Senate today. Of course, that is the 1991 Tailhook Symposium, if that is the proper name for it. Admiral Kelso attended the symposium. He determined that the issues facing the Navy's aviation community, including the question of women piloting combat aircraft, required that he find out firsthand the mood of the aviation community. He testified under oath that he did not witness any misconduct at the said symposium.

A military trial judge concluded that Admiral Kelso witnessed such misconduct and, further, manipulated the investigative process to shield himself and senior naval officers. The Department of Defense Inspector General, whose investigation involved the interviews of hundreds of witnesses and who reviewed the evidence introduced at the trial, determined that there was no credible evidence that Admiral Kelso had specific knowledge of the improper incidents and offenses that took place at the Tailhook Symposium and there was no evidence that Admiral Kelso sought to thwart the Navy's investigation into the Tailhook matter.

Secretary of Defense William Perry, Secretary of the Navy John Dalton, and Chairman of the Joint Chiefs of Staff General Shalikashvili each testified before the Armed Services Committee. I asked each and every one of them to specifically respond to this question, because I thought it was critically important as to whether or not the general should be retired at the four-star rank. I remind you that these are the people that are in control of our national defense: William Perry, the Secretary of Defense; John Dalton, the Secretary of the Navy; and a very distinguished officer, General Shalikashvili, whom we have come to recognize and realize as on outstanding man.

I believe I asked the question of General Shalikashvili first, and then I said, "I would like the other two of you before us today to answer also." The question was simple. It was straightforward. "Do you believe or, to put it more precisely, do you have any hesitation or mental reservation whatsoever about whether or not Admiral Kelso saw or was present at any improper activity at the Tailhook Symposium in Las Vegas in 1991?" Each one of those individuals, in whom we place great respect, said no.

I do not know how the question could be asked any more directly than this Senator did in that event. Somewhere along the line you have to believe somebody. You have to believe in people that have stood the test of time, not only in the service but in very important civilian positions as we have now under President Clinton.

I would simply emphasize, Mr. President, that each one of these individuals, the Secretary of Defense, the Secretary of the Navy, and the Chairman of the Joint Chiefs, have conducted their own review of the evidence that they had and determined that Admiral Kelso did not personally witness improper conduct at Tailhook and did not—I emphasize "did not"— manipulate the investigative process.

Of particular note, the trial judge concluded that Admiral Kelso, and I quote: "* * * received the separately maintained files containing information describing the alleged failure of leadership and other personal involvement of a number of flag officers, including his own file."

Let me emphasize that is what the trial judge said. And I expect that the statements from the trial judge will be cited at some length in our discussion on this matter today.

But the trial judge said, and I just quoted that, that Admiral Kelso "* * * received the separately maintained files containing the information describing * * *" and so forth. However, both Secretary Perry and Secretary Dalton testified on their personal knowledge that the so-called flag files were under the custody of the Secretary of Defense until they were turned over to Secretary Dalton or his general counsel and that Admiral Kelso never had the authority nor the ability to withhold these files from the Navy admiral who convened the trials relating to Tailhook.

Mr. President, in conclusion on this part of my statement, I want to say that I have known Admiral Kelso for a number of years. He has testified before the Armed Services Committee and has worked closely with us on that committee over the years. I personally consider him to be an individual of the highest integrity, who is committed to the elimination of prejudice, whether it be based on race, gender or religion, in the U.S. Navy. I also believe that his performance over the last 38 years of his career merit his retirement as a four-star admiral, as recommended by the President of the United States, by the Secretary of Defense, by the Secretary of the Navy, and by the Chairman of the Joint Chiefs of Staff.

Just for clarification at this time, Mr. President, because I am sure we will be discussing this at some length, under the retirement rules of the military services, particularly now talking about the Navy—the same general rules apply to the other branches of the service, as well—when you get two stars and the salary that goes with two stars, that is where the monthly retirement is set. And as you go to receive a third star or a fourth star, as has been commonplace over the years, those last two stars, the third star and the fourth star, are temporary ranks. And when you retire, unless by action and recommendation of the President and confirmation or agreement by the Congress, you revert back to the two-star rank, as far as retirement compensation is concerned.

I do not believe that there has ever been a three- or a four-star flag officer, or officer who has retired, who has ever been denied that request when made by the President of the United States. I hope this will not be the first time because, if so, I think a grave injustice will take place.

Madam President, I yield the floor.

EXHIBIT 1

WOMEN OFFICERS'
PROFESSIONAL ASSOCIATION,
April 14, 1994.

Hon. SAM NUNN,
Chairman, Armed Services Committee, U.S. Senate, Washington, DC.

DEAR CHAIRMAN NUNN: On behalf of the board of the Women Officers Professional Association (WOPA), I express our wholehearted support for Admiral Frank Kelso's well earned right to retire at his present rank of full admiral.

Admiral Kelso should be congratulated for his leadership, not criticized. He, more than any other person, changed the Navy by eliminating the gender-based prejudices and restrictions which previously limited the contributions of Navy women. The world will learn from our example.

It is appalling that some people judge Admiral Kelso by whatever did or did not happen at the 1991 Tailhook convention. The important lesson of this terrible event is that it was Admiral Kelso, as the Chief of Naval Operations, who forced the Navy to change for the good. Because of it, it will never happen again. We, the professional women of the Navy, are beyond Tailhook.

The WOPA is a predominately female organization of almost 400 commissioned and noncommissioned officers. We have seen our members become part of the USS EISENHOWER's ship's company, and report that the Navy is the only service with multiple female flag officers.

Admiral Kelso will be remembered with much respect by the Navy's Women. Please do not dishonor him by a rank reduction.

Sincerely,

JAYNE HORNSTEIN,
Lieutenant Commander, USN, Vice President for Programs.

The PRESIDING OFFICER (Mrs. MURRAY). The Senator from Maryland.

Ms. MIKULSKI. Thank you very much, Madam President.

I rise today to take the position that Admiral Frank Kelso should be retired at the rank of two stars. The question is what are we considering on the floor today of the U.S. Senate? We will be debating whether or not Admiral Kelso should retire as a four-star admiral rather than a two-star admiral. Why does this take a vote by the U.S. Senate?

Under current law, any admiral, regardless of what rank he or she holds, three-star or four-star, is automatically retired at two stars unless there is an affirmative action by the Senate to allow them to retire at an additional star or two. Let me make it clear it is the current law that an admiral automatically retires at two stars, regardless of the rank he or she holds, unless there is an action taken by the Senate to increase those stars.

To retire above the two-star level is meant to be an extraordinary reward, not something to be routinely granted, not to rubberstamp something advised by a Secretary of Defense or a Secretary of one of the military organizations. It is meant to be an extraordinary reward and something so special that the entire Senate must vote to give advice and consent to such a reward.

My position is this: That two stars is enough for Admiral Frank Kelso. I am not advocating that he be stripped of his rank, nor am I advocating that he be demoted. What I am advocating is that he be retired according to current law. I believe that he should not retire at four stars and the pay that goes with it.

A lot of the arguments that I wish to make are best summarized in a New York Times editorial of April 14.

Madam President, there is much to commend the Senate and the Nation about the record of Admiral Frank Kelso. For 38 years, he has served in the U.S. military. He is a graduate of the class of 1958 at the Naval Academy.

Our distinguished colleague, Senator EXON, has detailed many of the outstanding things that Admiral Kelso has done during those 38 years he served in the Navy. Most recently, it was being in charge of the Navy that supported General Schwarzkopf during Desert Storm. He did play a significant role in fighting the perpetrators of the Achille Lauro incident. And it is true that he has also done many significant things affecting women in the military from the standing committee on the status of women in the Department of Navy to admitting women to service on all ships not closed to them by law. We also know that he fought to convince the Secretary of Defense that the Navy must open up combat aviation and service aviation jobs to women.

There are many things he has done, as I said, for which we could commend him.

So then why am I opposing a four-star retirement? Madam President, I am opposing the two additional stars because of, No. 1, the Tailhook matter; No. 2, the failure of leadership at all levels of the U.S. Navy related to sexual harassment and sexual assault and scandal in general; and No. 3, the unchanged culture of the Navy regarding these matters. And I believe that if we do not take action to change the culture, as well as the law and the rules, this type of activity that went on at Tailhook and other forms of sexual harassment will happen again and again and again.

The Tailhook matter is a sordid, sleazy stain on the U.S. Navy. All are familiar with what happened there. During a 1991 convention, what was supposed to be a convention of Navy aviators, there was a series of actions that no one disputes in which several women were sexually harassed, sexually battered, and sexually assaulted. It was a scene of drunkenness, debauchery, vulgarity, and violence.

But what happened after the incident was made public is as much of a problem as Tailhook itself. It was an all too familiar pattern that happens in the Navy and happens in the U.S. military.

Let me tell you what the familiar pattern is. First, a victim comes forth and declares what has happened. Then there is an outcry, followed by an investigation, but a bungled investigation. There has been a persistent pattern after every scandal that there is a bungled investigation, characterized by mishandling, inept gathering of information and evidence, so damaging the evidence that often further prosecution is unable to go forward with any degree of credibility.

Even after the investigation is bungled, there is the coverup role, often the coverup role of junior officers, and this is where that the buddy system takes over from the honor system. It is the buddy system that takes over from the code of conduct where junior officers lie and conspire to protect their buddies.

Madam President, the honor system says this: That Naval officers do not lie, cheat, or steal. But the buddy system says that does not count if you are out to protect one of your own. And this is an all-too-familiar pattern in the Navy. I believe in the military, in general. My own experience as a member of the Board of Visitors at the Naval Academy demonstrates that.

I was part of a committee to investigate sexual harassment at the U.S. Naval Academy. A young midshipman by the name of Gwenn Dwyer was chained to a latrine where she was then sexually harassed by a whole group of midshipmen taunting, abusing her, and which no junior officer or no one stepped in to protect her. And then, once again, that was followed by a bungled investigation and the role of both the mid and the junior officers to cover up to conspire and to make sure the buddy system overrode this.

We see this pattern and culture all too often and, therefore, this pattern and culture must change. It must change in matters affecting sexual harassment, discrimination of any kind, or scandals of any kind. And if it is to stop, it will only stop if there are consequences to the behavior of the leadership at the top. It will not change if there are no consequences associated to the behavior of the leadership in the U.S. military and its organizations.

I believe right now the military believes that if you ride it out, that if you hang tough and you hang low, all of it will blow over. All you have to do is just bide your time and there will be no penalty or no price paid for retirement or promotion. It will go on. And every effort focused on instituting cultural change will be a failure unless we show that there is a penalty to those at the top or those on their way to the top either in their promotion or their retirement.

That is why I say two stars is enough for Admiral Kelso. He was the Chief of Naval Operations. He was the Chief of all Naval Operations. To give him four stars is a message that there is no penalty for Tailhook. And if there is no penalty for Tailhook, there will never be a penalty for anything like it.

There is much to dispute about what happened at Tailhook. There is much that even disputes Admiral Kelso's role in Tailhook—what did he know before; what did he know during? And it is also so disputed that there is even confusion within the Navy itself. The Navy is confused between a military judge's finding and two IG reports. We can look at those, and others will speak to that.

But what is not disputed is the bungled investigation, the coverups, and the buddy system over the honor system. That is what happened on Kelso's watch and, therefore, he must take the responsibility, pay the price, and send a message that there is no reward either in a pension, a retirement, or a promotion.

Now there are those who would say, "Judge Admiral Kelso by his entire record, not by this single, scandalous matter."

I would like to do that. However, it is not only Admiral Kelso that is being judged, but the entire U.S. Navy and the military. Regrettably, it falls on the shoulders of Frank Kelso.

When we say two stars is enough, we know—the women of the Senate and those men who support us know—that this will trigger an outrage among naval officers currently holding office and those in retirement. We anticipate that maybe even the veterans' organizations are going to be volcanic in their reaction.

However, know this: It is not the women of the Senate who should be blamed for this. It is not the Senate or the women of the Senate and the men who support us who are pulling Admiral Kelso down. It is the U.S. Navy that let Frank Kelso down. It is the U.S. Navy and the men who served under Kelso that torpedoed the career of Frank Kelso by bungling the investigation and by this buddy system over the honor system. It was the Navy who did this and, therefore, it is they who should bear their responsibility. And they must take the responsibility for changing the culture.

For those who are outraged at the Senate for speaking up, they are outraged at the wrong people. For those who will be outraged by us daring to challenge this promotion, they themselves should be outraged that Tailhook ever happened. They should be outraged over bungled investigations. They should be outraged over the buddy system, over the honor system.

It is they, those who often will now attack us, who should call for the restoration of the honor system and the code of conduct. For too often, when there are issues of sexual harassment or sexual assault, there is a pattern of blaming the victim or those of us who defend the victim.

This is not only an issue about women. Men must also speak up. I said this at the conclusion of the Anita Hill hearings. After we had gone through the intense hearings and debate on Anita Hill, I said this:

> I call upon the men of the United States of America now to speak out on the issue of sexual harassment. This is not a women's issue. It is an issue that profoundly affects men and women and I call upon the men to claim the power that they have in order to speak out and speak up, to be able to speak up about this issue. I call upon the men to speak out in the workplace, to speak out in newspapers, to speak out in talk shows, to speak out in the gym the way they have spoken to me. And I say if you speak out and you speak up, you may prevent what has happened to your wife or to your daughter, but you will help others everywhere.

I also said this to the women watching during that time. I said to them: Do not lose heart, but we will lose ground." And we have lost ground. Otherwise, we would not be debating this today.

I said this to the women:

> I know how you feel the sting of this, how you feel battered and bullied whenever you have been a victim of much sexual harassment. Speak up to a friend. And if you are ever harassed, take good notes. When you speak up, make sure you are not alone, because there will be few there to protect you.

And now we see that through the Military Code of Conduct.

Madam President, I feel very strongly about this. I want to conclude that now we have an opportunity to send a message to victims everywhere, but also to change the culture of the military by saying two stars is enough.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, thank you very much.

I am very glad to see my colleagues here from the House of Representatives. I had the distinct privilege of serving with many of them and, as a matter of fact, I made a walk over from the House on another matter, that is very close to the one they just made.

I want to say in particular that the leadership of Congresswoman PAT SCHROEDER is going to go down in history on issues of sexual harassment and sexual assault in the military. It swells my heart with pride to see her here.

Ms. MIKULSKI. Will the Senator yield?

Mrs. BOXER. I yield to the Senator.

Ms. MIKULSKI. Senator BOXER, I too wish to acknowledge the presence of our colleagues from the House, many who serve on the Armed Services Committee, and many who have stood with us on battles for social justice and equal rights and dignity for all.

Mrs. BOXER. Thank you very much.

Madam President, I urge my colleagues to vote no on the issue before us; that is, the vote to retire Adm. Frank Kelso at four stars. I think he should retire with his pension intact at a two-star level.

I realize this is a highly unusual action for us to take. But, by the presence of my female colleagues on both sides of the aisle and my female colleagues from the House, I think the country will note that the facts before us require us to take unusual action.

This is the first time that the seven women of the Senate have pulled together across party lines. And I want to say that our unity should be noticed. It is important.

Madam President, someone in the military must pay a tangible, quantifiable price for Tailhook, and no one in the military has—except those women who were sexually assaulted. Please note that I did not say sexually harassed. I said sexually assaulted.

What was Tailhook?

Madam President, as you know, for 3 days in September 1991, the Las Vegas Hilton was a haven for misconduct, where lewd and often criminal behavior was either ignored or, worse, encouraged by officers of the U.S. Navy.

At Tailhook '91, no place in the Las Vegas Hilton was safe. Women were harassed and assaulted by the pool, in the hallways, in the hotel casino, and in private rooms. The majority of the 80 assaults occurred in the so-called gauntlet, a dimly lit hallway packed with junior officers on the third floor. I want everybody to think about this gauntlet as if they were walking down it, or their wife was walking down that hall, or their sister or their aunt or their daughter was walking down that hall.

As women approached the gauntlet, officers pretended to be merely socializing in small groups. They would quiet down and create an opening in the crowd so unsuspecting women might think there was a clear passageway. But as women entered the gauntlet, they were immediately surrounded by officers who then blocked their exit. Once trapped, most victims were groped and many of them were bitten. All of them were assaulted in some form.

In the interest of decency, Madam President, I will refrain from entering the contents of the Department of Defense inspector general's final report on Tailhook into the RECORD. However, because it is so important for Senators to understand the seriousness of the offenses, I will read carefully worded selections into the RECORD.

Victim No. 26 was walking through the third floor "gauntlet" when, according to the inspecter general, "suddenly men reached out grabbing and groping * * * She screamed and covered herself with her arms."

Victim No. 41 was also assaulted in the "gauntlet." As she walked into the crowd "men began hooting and hollering at her. A group of men surrounded her and began groping her body. Several men ran their hands up her legs * * * and fondled her. * * * She attempted to defend herself by striking out at them, but as she twisted and turned, another group of men fondled her * * * from behind."

Victim No. 50 was a lieutenant in the Navy. She testified that as she walked through the third floor hallway a "man * * * moved in immediately behind me with his body pressed against mine. He was bumping me, pushing me forward down the passageway where the group on either side was pinching and pulling at my clothing. The man then put both his hands down the front of my tanktop [and grabbed me]. I dropped to a forward crouched position and placed my hands on the wrists of my attacker"——

She did not say harasser. She said on the hands of my attacker. —"on the wrists of my attacker, in an attempt to remove his hands. * * * I sank my teeth into the fleshy part of the man's left forearm, biting hard. I think I drew blood. * * * I then turned and bit the man on the right hand at the area between the base of the thumb and the base of the index finger. The man removed his hands, and another individual reached up under my skirt and grabbed [me]. I kicked one of my attackers. * * * I felt as though the group was trying to rape me."

Not harass me, "rape me."

"I was terrified and had no idea what was going to happen next."

Those are just three examples, I say to my colleagues. And I have made them far more gentle than as they appeared in the inspector general's report.

The DOD inspector general's report is filled with dozens of harrowing accounts similar to the ones I have read. I say to my colleagues who are listening in their offices, read these before voting and ask the question: Who in the military paid a price for Tailhook? No one has, my friends. No one except the victims. Oh, there has been embarrassment, yes; a couple of letters of reprimands. Admiral Kelso is retiring 2 months early. No one in the military is paying a price but the people who were hurt at Tailhook, the women who were hurt at Tailhook.

The first investigations conducted by the Naval Investigative Service and then the Navy's IG were so botched, as Senator MIKULSKI stated so clearly, that before he quit, civilian Secretary of the Navy Lawrence Garrett called in the DOD inspector general.

The DOD inspector general's review of the previous investigations revealed gross incompetence, if not outright coverup. Remember, the Department of Defense inspector general took over the investigation from the Navy because the Navy had botched it up so badly. The Department of Defense inspector general criticized four of the five officers responsible for the Navy's investigation of Tailhook. I will put into the record his specific criticisms.

I ask unanimous consent they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VII. PERSONAL FAILURES AND RESPONSIBILITIES

We believe that personal failures on the part of four of the five management officials were largely responsible for the inadequacy of the Navy investigative response to the Tailhook matter.

A. The Under Secretary of the Navy

The Under Secretary failed to ensure that the Navy conducted a comprehensive investigation.

B. The Commander, NIS

The Commander, NIS, demonstrated an attitude that should have caused an examination of his suitability to conduct the investigation.

C. The Navy JAG

The Navy JAG failed to ensure that the Navy investigations fully addressed the issues, and he failed to remedy properly a significant conflict of interest on the part of the Special Assistant to the Secretary of the Navy for Legal and Legislative Affairs.

D. The Naval IG

The Naval IG did not ensure that his reports would have an adequate factual basis and made questionable referrals of individuals to the chain of command for consideration of disciplinary action.

Mrs. BOXER. The DOD inspector general reports that, during his investigation, many naval officers systematically lied to hide the truth. He called it collective stonewalling. It "increased the difficulty of the investigation," says the DOD IG, "and adversely affected [the DOD IG's] ability to identify many of those officers who had committed assaults."

That is in the record. This is not a group of women in the Congress saying this may have happened. This is not a group of victims saying we think this happened. This is the Department of Defense inspector general who said it did happen and that the Navy people lied systematically, to use his words.

In other words, the Navy coverup worked. And under whose watch? Admiral Kelso's.

So, how were the women treated who came forward to tell what happened? Let us talk about Lieutenant Paula Coughlin. She told her immediate supervisor, a vice-admiral, of her experience in the gauntlet. Do you know what he said? "That's what you get when you go to a hotel party with a bunch of drunk aviators."

Blame the victim. It should not surprise anyone that just 2 months ago Lieutenant Coughlin resigned her commission, citing continuing harassment as the reason for cutting short her promising career.

Those on the other side say Admiral Kelso was wonderful at changing the military, at changing the way they think about things. Then why did Lieutenant Coughlin have to quit? She felt herself run out of the Navy. This is what she wrote when she submitted her letter of resignation: "The physical attack on me by the naval aviators at the Tailhook Convention and the covert attacks on me that followed "have stripped me of my ability to serve."

That is what she wrote in her letter of resignation. And if you think, my friends, that the climate has changed since Tailhook—which many of our colleagues have said—I want to tell you that it has not. Congresswoman SCHROEDER has recently held hearings on this subject. She heard from several witnesses, including a lawyer who was locked into the mental ward because she complained of sexual harassment.

Madam President, justice has not been done in the Tailhook scandal. The victims have been harmed, the guilty have not been punished; just the opposite of what justice is supposed to be. Tailhook has been justice turned on its head, and today we can set justice on her feet again if we vote in the right fashion and keep the admiral at a two-star level.

The Department of Defense IG found the following in his final report. This is not Senator BOXER, this is not Senator FEINSTEIN, this is not Senator MURRAY, Senator MOSELEY-BRAUN, Senator HUTCHISON, Senator MIKULSKI, nor is it Senator KASSEBAUM.

"What happened at Tailhook '91 was the culmination of a long-term failure of leadership."

"A long-term failure of leadership." And who, I ask, was the leader of the Navy at that time, the CNO? Admiral Kelso, the highest ranking officer in the Navy. He must shoulder the responsibility for that lack of leadership. I say, if you have pride in the Navy, then you take the heat for Tailhook.

It happened on Admiral Kelso's watch and, as my colleague, Senator MIKULSKI, has stated, the minutes have ticked by and the months have ticked by and the years have ticked by without a price being paid by anyone in the military.

Tailhook was not a case of junior officers running amuck without their superiors' knowledge. Admiral Kelso attended the Tailhook convention, although he claims he witnessed no misconduct. I want to put on the record that the DOD IG agrees that there is no evidence that places Admiral Kelso at the scenes of the crimes. Several junior officers and a prominent Navy judge disagree. I do not want to get into whether or not he saw what was going on or he did not see what was going on. I say it is not critical to the central point. I say that even if Admiral Kelso did not personally witness the misconduct, I believe Admiral Kelso knew what Tailhook was. I think if you were alive and you were breathing and you were in the Navy at that time, you knew what Tailhook was.

Way back in 1985, a Navy vice admiral wrote another senior officer about the behavior he had seen.

Madam President, he wrote:

> The general decorum and conduct last year was far less than expected of mature naval officers. Certain observers even described some of the activity in the hotel halls and suites as grossly appalling, "a rambunctious melee". * * Heavy drinking and other excesses were not only condoned, they were encouraged. * * * We can ill-afford this type of behavior and, indeed, we must not tolerate it.

That is what was written way back in 1985 by a Navy vice admiral who wrote another senior officer. Can I believe that Admiral Kelso did not know what happened at Tailhook? Organizers of Tailhook '91 knew of the potential problems less than 1 month before the convention. On August 15, 3 weeks before the convention opened, the president of Tailhook sent a shocking letter to all Tailhook representatives.

Madam President, I ask unanimous consent to print the text of that letter in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE TAILHOOK ASSOCIATION,
BONITA, CA,
August 15, 1991.

NFWS,
Nas Miramar, San Diego, CA.

DEAR TAILHOOK REPRESENTATIVE: Enclosed you will find a copy of the floor plan and the location of your suite. If you have any questions, please feel free to contact Tailhook at our toll free number 1-800-322-HOOK. Please be patient, our lines are crazy this time of year.

This year we want to make sure everyone is aware of certain problems we've had in past year's.

As last year, you will only be charged for damage inside your suite. The Association will pay for common area damage. In order to keep damage charges to a minimum inside your suite, please make sure you check-in with someone from the Association. You may do this by calling the Tailhook Suite prior to moving into your suite. Our representative, a Hilton representative from housekeeping, and you will go over your suite prior to move-in. Please make sure you sign the form our representative will have and retain a copy. On Sunday, 9 September we will again inspect the suites in the same manner. Damage not listed on the check-in form will be the squadron's responsibility. If you do not check-in with the Association we will not be able to dispute any damage charges made by the Hilton Hotel.

In past years we have had a problem with under age participants. If you see someone who does not look like they belong in our group, or look under age please ask for a ID. If they are under age, or do not have ID, please ask them to leave or contact Security. It is important that we try to eliminate these under age of 21. If they were to leave the hotel and cause an accident, hurting themselves or anyone else, the Association, along with the squadron, the Navy, and the Hilton could be sued and Tailhook would come to an end. Please assist us in this matter.

Also, in the past we have a problem with late night "gang mentality." If you see this type of behavior going on, please make an effort to curtail it either by saying something, calling security or contacting someone from the Association. We will have people on the floor in blue committee shirts should you need them for any reason.

Tailhook will also have a flight surgeon aboard this year. Should you, or anyone you know need a "doc", please call the Tailhook Suite or make contact with a committee member. Security will also have his beeper number.

Remember, when bringing in your suite supplies do so with discretion. We are not allowed to bring certain articles into the Hilton. Please cover your supplies by putting them in parachute bags or boxes. Do not borrow laundry baskets from the Hilton. Their sense of humor does not go that far!!!

Supplies may be purchased in town from "WOW". They have a number of items that may be purchased or rented for your suite. The lanai suites do not have wet bars. You will need to set-up your own bar. The Hilton does not supply such items.

We suggest you remove your telephones from your suites so you are not paying for someone else's long distance calls. This has happened in the past. Also, make sure the phones are returned to the room. This is an item we have all forgotten to check on our check-in/check-out inspection. Please look for outlets in your suite by the beds and in the bathroom. Almost all suites have a phone outlet in the bathroom. It is very important that you check the bathroom for a phone or an outlet and note it!

Please make sure your duty officers are SOBER and prepared to handle any problems that may arise in your suite. It is necessary for them to be willing to work with the Association staff. We will make every effort to handle all problems.

Remember. . . . There Are To Be No "Quick Hit" Drinks served. Lewd and Lascivious behavior is unacceptable. The behavior in your suite reflects on both your squadron and your commanding officer.

Have a great time. Thank you for your continued support of the Tailhook Association. We look forward to seeing you in Las Vegas.

Sincerely,
FREDERIC G. LUDWIG, JR.,
Captain, U.S. Navy, President.

Mrs. BOXER. Madam President, he wrote in part:

> * * * In the past we have had a problem with late night "gang mentality."

How many times have I heard my colleagues on this floor talk about the evils of a gang mentality? Here it is admitted by the Navy that that is what Tailhook was about. He wrote:

> If you see this type of behavior, please make an effort to curtail it * * *

This frank admission of gang mentality is absolutely astonishing. I view it, frankly, as irrefutable evidence that high-ranking Navy officers knew what had happened at past conventions and what could happen in the future.

Madam President, how is it possible that this paper trail, not to mention all of the word of mouth that circulated around the Pentagon escaped the attention of Admiral Kelso?

Navy Judge William Vest does not believe it at all.

The DOD inspector general reached a similar conclusion:

> Throughout our investigation, officers told us that Tailhook 91 was not significantly different from earlier conventions with respect to outrageous behavior. Most of the officers we spoke to said excesses seen at Tailhook 91, such as excessive consumption of alcohol, strippers, indecent exposure and other inappropriate behavior were accepted by senior officers, simply because those things had gone on for years. Indeed, heavy drinking, the gauntlet, and widespread promiscuity were part of the allure of Tailhook conventions to a number of Navy and Tailhook attendees.

In summary, even if Admiral Kelso did not see what was occurring on the now infamous third floor where most of the assaults took place, he surely knew what Tailhook was about. It was not about good, clean fun or mom or apple pie. It was not even about sexual harassment. It was about disgusting, hostile aggressive sexual assault. The IG said that Tailhook had a well-known "can you top this" atmosphere that "appeared to increase with each succeeding Tailhook convention."

Admiral Kelso chose to attend the Tailhook convention despite its raunchy reputation. His appearance left the impression of official condonation.

Condonation. Had he refused the invitation to participate, it would have conveyed the message of condemnation. Condone or condemn Tailhook—that was Kelso's choice and he chose to condone.

Madam President, the failure of Admiral Kelso to exercise leadership and prevent this sickening attack on women is absolutely inexcusable, even put into the context of his other important activities, which my colleagues, Senator EXON and Senator MIKULSKI have discussed.

Indeed, Admiral Kelso has much to be proud of. I thank him for those contributions. The American people thank him for those contributions. But for Tailhook, we should not thank him, nor should we reward him.

In summary—and I will close here, Madam President—First, Admiral Kelso went to the Tailhook convention, known quite broadly in the Navy for its history of inappropriate conduct. He should have known what went on there. If he did not, then I say he was out of touch with his own people. He condoned Tailhook by his presence there.

Second: the investigation by the Navy, under Admiral Kelso, was so bungled that the DOD IG had to take it over. They had to walk away from it and bring in a new team because the Navy bungled it.

Third: the only ones to pay a price for Tailhook in the military are the women who were assaulted physically and mentally.

Fourth: the DOD inspector general found Tailhook 91 resulted—and I am quoting them—from a long-term failure of leadership.

My friends, we are on the spot. What kind of message will we send today? I say it should be a message of responsibility. We talk a great game around here about responsibility. We talk about making sure our children are responsible, parents are responsible, taxpayers are responsible, businesses are responsible.

I will tell you, it is easy to blame the other guy, but it is a sign of maturity not to do that. In the military, individual responsibility is the key. I had the honor of serving on the Armed Services Committee in the House for several years. The chain of command is clear. It is clear where the buck stops, and that is at the top.

A series of dirty deeds occurred at Tailhook. People were eventually scarred for life, and for that you do not give two additional stars and $1,400 additional a month. For that you say, "We're sorry, sir, but the honorable thing to do is to walk away with your many good and fine deeds, with your mistakes and with your two stars."

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Madam President, the women elected to serve in this body and in the House get it. We suggest to our colleagues that business as usual is not good enough. We believe that sexual misconduct, harassment, abuse, and assault in the military must stop, and that refusal to promote Admiral Kelso for purposes of retirement is a way to stop it.

I am pleased to join my colleagues in speaking against the retirement of Admiral Kelso at four stars and in this initiative.

What is at issue here is not Admiral Kelso's character. It is unanimously agreed by the Armed Services Committee and by the top levels of the military that Admiral Kelso is a fine, upstanding gentleman. Nor at issue is Admiral Kelso's 38-year record in the Navy. Secretary Dalton outlined the long distinguished career of Admiral Kelso in his testimony before the committee.

The issue, Madam President, is not Admiral Kelso's commitment to the U.S. Navy or to the people of this country. I would like to speak to the issue of the Navy itself and Admiral Kelso's stewardship of the Navy which, unfortunately, has had a very poor record of investigating and disciplining itself.

The Tailhook convention of 1991 and the subsequent investigation, if we can call it that, into the charges of what occurred there are symptoms of a larger problem and of the need to reform the system of justice in the Navy.

A string of inappropriate behavior and inexcusable conduct has been recurring in the last few years in the Navy. Whether it was the Miramar incident with Congresswoman Schroeder; the first report on the explosion of the U.S.S. *Iowa*, which I recognize Admiral Kelso overturned; the Tailhook convention of 1991; or, most recently, the cheating scandals at the Naval Academy, this pattern underscores that the leadership of the Navy is not doing what it should do to prevent what is considered inappropriate behavior in or out of the armed services. Nor is it properly addressing these incidents after the fact and disciplining its members in such a way that everyone is put on notice that such behavior will not be tolerated.

As Chief of Naval Operations, Admiral Kelso set the tone for the entire Navy. He is the captain, as it were, of the ship. Tailhook occurred on his watch. Male Navy officers engaged in behavior that brought real discredit to the Navy and to themselves. They treated female Navy officers as though they were not part of the Navy, as if they had no place being in the Navy. At its best, Tailhook reflected a culture of resistance to gender equality. At its worst, it reflected criminal conduct for which there is no accountability.

The behavior at Tailhook demonstrated an attitude that seemed prevalent in at least some parts of the Navy and that Admiral Kelso had a responsibility to change. The Department of Defense Inspector General's report on Tailhook says that senior Navy officers were aware that significant misconduct had taken place at previous Tailhook conventions going back to the 1980's, and that the events that occurred at Tailhook 1991 did not occur in a historical vacuum; that, in fact, those disgraceful activities had taken on the aura of tradition.

Did Admiral Kelso meet his responsibility to the Navy and to its women? The answer clearly is no. Tailhook 1991, as the Defense Department itself said, was not an aberration. Rather, it was indicative of a basic attitude in the Navy, a problem that needed to be addressed at the highest level, at the leadership of the Navy. The fact that Admiral Kelso is retiring early and the fact that Secretary of the Navy Dalton recommended he resign suggests he recognizes that he did not fully meet his responsibility to the Navy in general, or to women Navy personnel in particular.

The admiral's responsibility did not end there. The Navy's investigation of Tailhook compounded the disgrace of that incident. The investigation was slipshod; navy officers were able to get away with covering up their misbehavior. They got away with stonewalling any inquiries.

Let me make my position clear. I do not think we are here to criticize Admiral Kelso for what he did or did not witness at Tailhook, specifically. He states forcefully that he did not personally witness the conduct, and I am prepared, as I think most of us are, to take him at his word for that.

What Admiral Kelso must take responsibility for, however, is the attitude in the Navy that Tailhook betrayed, an attitude clearly condoned at higher ranks. And what Admiral Kelso must take responsibility for is the Navy's system of justice. He knew when he took office that Navy justice needed reform, and he failed to reform it. I assume that is in part, frankly, why he overturned the Navy's finding in the *Iowa* disaster when he became Chief of Naval Operations. Most importantly, Admiral Kelso must take responsibility for the Navy's failure to ensure fairness in the treatment of all of its members, male and female alike. More needed to be done in that regard, much more, and it was not done. Admiral Kelso's watch will be as much remembered for this disgraceful disregard for women as for any of his purely military achievements. The question today is whether that disregard will be rewarded. The women of the Senate say no.

Madam President, the Armed Services Committee voted 20 to 2 to give congressional approval of Admiral Kelso's retirement at four stars. The retirement at the rank of admiral carries with it tremendous prestige and a very generous pension. It is so significant that the Senate must approve that retirement.

I would like to bring a reality check to this debate. In the real world, Madam President, to ordinary folks, when someone is recommended to retire because he or she is being held accountable for misdeeds committed during his or her tenure, this is not an event that is celebrated or rewarded. It does not carry with it prestige or a generous increase in pension. And yet, Madam President, that is what is suggested we do here today.

I suggest to this body that if we are to apply a real-world standard, we would allow Admiral Kelso to retire at the rank of the two stars which he currently holds.

Over and over again during the committee hearing, Senators said that sexual harassment is wrong and cannot be condoned in any way. It is ironic, Madam President, Lt. Paula Coughlin, the woman who first brought charges concerning the events that occurred at Tailhook, has resigned also, but in her case without a promotion and without an increase in pension. The committee, however, voted to allow Admiral Kelso to retire with four stars.

I think that the committee's vote sends a signal to all the men and the women in the armed services. It sends a signal to the Navy that the Congress approves of its system of justice. I think the resignation of Lieutenant Coughlin also sends a signal.

Madam President, I submit to you and to my colleagues that the signals are crossed. The Senate must be clear. Sexual assault and misconduct will neither be rewarded nor condoned in the military. Responsibility for the events known as Tailhook must be borne by the admiral in charge of naval operations. The buck for Tailhook stops with Admiral Kelso.

Madam President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Madam President, I do not wish to interrupt the debate. I will just take the floor for a moment. We had discussed previously before we came on board—we have been here about an hour and 15 minutes on the matter now. I was wondering, we had talked earlier off the floor about the possibility of a 4-hour time agreement equally divided. I do not want to cut off debate or end debate, but I was wondering maybe if we were at a stage now when both sides could maybe agree to such a unanimous consent request.

Mr. SPECTER. Madam President, reserving the right to object, if that is a request for a unanimous consent agreement, I would ask for 20 minutes under any such agreement. Otherwise, I would lodge a formal objection.

Ms. MIKULSKI. Madam President, I object to——

Mr. EXON. I have not proposed a unanimous consent request. I was just asking if there was any sympathy for such a suggestion.

Ms. MIKULSKI. I thank the Senator from Nebraska for raising the issue. I think, as of yet, we are not quite sure how many Senators wish to speak, and at this time would object to a unanimous consent time agreement.

Mr. EXON. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Senator from Georgia is recognized.

Mr. NUNN. Madam President, I think at the outset of my comments I want to stipulate just a couple of things.

First of all, the Tailhook symposium activities were totally repugnant, repugnant to the U.S. Navy, repugnant to the women who were there, whether they were uniformed or not, but especially to the uniformed women who are serving this country with dedication and with courage and with effectiveness, and I think repugnant to the entire Department of Defense.

This conduct was unacceptable in 1991. In my view, it would have been unacceptable in 1951 or 1931 or 1911. I do not think we have to be in an age of political correctness for this conduct to be labeled repugnant at any interval of our history.

I believe that Admiral Kelso has said virtually the same thing and said it many times. I will come back to this key point before I conclude my remarks. But the theory here seems to be more and more that the captain should go down with the ship. That is a time-honored tradition in the U.S. Navy.

In this case, I think everyone should understand that Admiral Kelso offered to resign in 1992. He was willing to go down with the ship. He was willing to be held accountable. That resignation was turned down by his civilian superiors, and he was asked to stay on and to try to remedy these problems, to try to straighten out what I would also stipulate was a botched investigation, and to try to bring dignity and honor to the U.S. Navy.

He also took on the job of making sure that everything that could be done from his level was done to end sexual harassment in the Navy, to end sexual discrimination in the Navy, and to treat everyone in the U.S. Navy with the kind of dignity and honor they deserved.

So the captain of this ship, Admiral Kelso, offered to go down with the ship.

Now the question is, 3 years later, 2½ years later, we find the captain of the ship, Tailhook, on the shore, on the shore, and now the question is, do we say to the captain of this ship, you should have been down on the bottom with the ship when it went down? There was a mistake made in 1992. You should have gone down with the ship. So we are going to take a rowboat, put you in the rowboat, tie an anchor to your leg, and throw you down to the ship where you should have been all along.

That is what we face here today. That is what we face here. If you want accountability with the captain going down with the ship—and there is something to be said for that—it has to be viewed on a case-by-case basis, and it relates to a lot of different considerations. But if you want accountability under that theory, it ought to be contemporaneous accountability, not accountability 2½ or 3 years later from an individual who has done everything he could do to straighten up this mess, and to end the repugnant conduct that led to this unacceptable behavior in 1991.

Madam President, last Thursday evening when the Armed Services Committee favorably reported Admiral Kelso's nomination, I put the statement that I made at the committee's open session prior to the committee's vote in the RECORD. Since those comments which describe in detail my views on this nomination are now in the RECORD, and since there are so many people who want to speak here this afternoon, I am going to make my remarks more brief than I did at the committee meeting.

I want to state at the outset—and I will discuss this more fully—that if you agree with the military trial judge findings that Admiral Kelso witnessed misconduct at Tailhook, and if you agree that Admiral Kelso manipulated the investigative process to shield both himself and senior naval officers, then you should clearly vote against this nomination.

If I agreed with those findings, I would vote "no," and I would lead the charge voting "no." If you agree with the findings of the DOD inspector general who viewed this in a much more comprehensive and exhaustive fashion, if you agree with the findings of Secretary Perry, Secretary Dalton, and the Chairman of the Joint Chiefs, General Shalikashvili, that Admiral Kelso neither witnessed misconduct nor manipulated the investigative process, then I believe the issue shifts to one of accountability. And there are serious issues relating to accountability that have been brought up today.

Obviously, there are some in this body who believe in absolute accountability, even if it is 3 years later or 2½ years later, and those views are being expressed very forcefully here today.

I believe we need to look at the implications of this in the broader context. First of all, I want to note my own thinking, where I am on this matter, and why I arrive at my judgment. I relied on the conclusions of the DOD Deputy Inspector General, Dereck Vander Schaaf, who has a well-deserved reputation for all who followed his career of telling it like it is. He does not pull punches, and everybody that has followed his career knows that.

His first report on Tailhook led to the early retirement of two Navy admirals. It led to the replacement of the Navy inspector general with a three-star admiral, and the replacement of the uniform head of the Naval Investigative Service with a civilian.

To say there have been no uniform military people punished is simply wrong. It is wrong. That report by the IG was a scathing attack on the Navy investigations. You can get a flavor of that report in the following sentence in the forwarding memorandum. "We also concluded that the inadequacies in the investigations were due to the collective management failures and personal failures on the part of the Under Secretary, the Navy IG, the Navy JAG, and the Commander of the Naval Investigative Service." The DOD IG concluded that Admiral Kelso did not observe misconduct at Tailhook and did not thwart the investigation.

Second, I rely on the testimony of Secretary of Defense William Perry, Secretary of Navy John Dalton, and Chairman of the Joint Chiefs of Staff, General Shalikashvili. Secretary Perry and Secretary Dalton had the independent duty to assess the evidence to determine whether administrative or disciplinary proceedings should be brought against Admiral Kelso and whether he should be retired in grade.

Secretary Perry, Secretary Dalton, and General Shalikashvili concluded that Admiral Kelso did not personally witness misconduct during Tailhook and did not manipulate the investigative process to shield himself and senior naval officers.

Third, I rely on Admiral Kelso's 38 years of distinguished service to our Nation, and his leading role in enhancing the ability of women in the Navy to serve at sea and in combat aviation positions and dramatically changing the Navy's focus from open ocean to littoral warfare and in urging an independent investigation of Tailhook when he received the result of the Navy's investigation.

Finally and most importantly, I relied on my personal knowledge of Admiral Kelso. I have known Admiral Kelso since the 1970's. I have always found him to be an individual of the highest integrity and veracity. I believe Admiral Kelso is one of the least manipulative persons I have ever known in the U.S. military. Like anyone else, he has his faults, but deceit and manipulation are not even part of his style, and everyone who knows him understands that.

So one cannot divorce one's personal observations when you are judging someone's integrity, and when you are judging their record.

As I stated earlier, if you believe the trial judge's finding that Admiral Kelso actually witnessed misconduct at Tailhook, and that he manipulated the process, then you would necessarily conclude that he lied in court when he denied seeing any misconduct or manipulating process. In that case, he not only should be denied a fourth star, he probably should have been court martialed for perjury. On the other hand, if you believe the DOD IG, the Secretary of Defense, the Secretary of Navy, the Chairman of the Joint Chiefs, then you will conclude, as I did, that Admiral Kelso told the truth and did not witness any misconduct at Tailhook and did not manipulate the process.

The issue then, if you believe the IG and the Secretary of Defense, becomes one of accountability. And the issue becomes a standard of performance we expect of our military leaders.

Madam President, we hold our military leaders to a very high standard, but it is not one, and it never has been one, of strict liability for anything that goes wrong during that tenure. If that were the case, few of our senior leaders would retire in grade. Think how many times in our military history a standard of absolute accountability would have meant termination, early retirement, demotion, and even court martial for people in charge when disasters occurred.

Let us take the failed attempt to rescue American hostages from Iran in 1980. There were serious deficiencies in planning and execution of this critical operation. Gen. David Jones, Chairman of the Joint Chiefs of Staff at that time, was subsequently nominated by the President and confirmed by the Senate to retire in a four-star grade.

The 1983 bombing of the Marine barracks in Beirut was another disaster marked by serious deficiencies in planning and preparation.

Gen. P.X. Kelly was the Commandant of the Marine Corps, subsequently nominated by the President and confirmed by the Senate to retire in a four-star grade.

In 1987, the U.S.S. *Stark* was struck by an Iraqi missile in circumstances demonstrating problems in training and preparation.

In 1988, the explosion of the gun turret on the U.S.S. *Iowa* led to 47 deaths in circumstances reflecting problems in training, as well as serious deficiencies in the subsequent investigations and review.

By the way, on that one, Admiral Kelso was not the CNO when it happened. He was the one who came in and cleaned it up after our committee produced independent evidence from the laboratories. He said: Let us go back and look at it again. He not only went back and looked at it again, he apologized for the Navy investigation. I have seen some references to that being part of his tenure. It is just the contrary. He came in after it occurred and he cleaned it up.

In 1989, another ship, the U.S.S. *Vincennes*, mistakingly shot down an Iranian civilian airliner in circumstances reflecting problems in training and operations. Adm. Carlisle Trost, who was the Chief of Naval Operations during each of these problems, subsequently was nominated by the President and confirmed by the Senate to retire in the four-star grade.

In 1976, the Army had a major cheating scandal at West Point, reflecting serious deficiencies at the Academy. Gen. Frederick Weyand, the Chief of the Army at that time, was nominated by the President and confirmed by the Senate to retire in the four-star grade.

Going back a little further, in 1968, the North Koreans captured the U.S.S. *Pueblo*. That was a very humiliating incident, for those who recall. Adm. Thomas Moorer, who was the Chief of Naval Operations at the time, and Gen. Earle Wheeler, who was then the Chairman of the Joint Chiefs, both were subsequently nominated by the President and confirmed by the Senate to retire in the four-star grade.

In the 1960's and early 1970's, the military, as we all know, was beset by severe racial problems, including race riots such as those that occurred on the U.S.S. *Constellation* and on the U.S.S. *Kitty Hawk* in 1971. The then Chief of Naval Operations, Adm. Elmo Zumwalt, subsequently was nominated by the President and confirmed by the Senate to retire in grade.

Could any of these problems have been avoided if senior leadership had performed their duties with absolute perfection? Yes, perhaps. Did the President or the Senate hold any of them to a standard of strict liability for deficiencies that occurred during their tenure? We did not. And if we do so today, make no mistake about it. We are sending a different signal. We are creating a different precedent.

I want to emphasize, the issue of accountability is very important to the Committee on Armed Services. Military commanders and civilian leaders have responsibility for the operation and maintenance of the awesome arsenal of America's Armed Forces. We hold them to a very high level of accountability for their actions, as well as their omissions.

As Secretary Perry noted in his testimony before our committee, when something goes wrong, the primary issue with respect to accountability involves the question of due diligence—due diligence. Given the individual's position, scope of responsibility, and relationship to the incident, we must ask whether the individual acted with due diligence; and if not, how serious was the individual's deficiency?

(Mrs. BOXER assumed the chair.)

Mr. NUNN. Madam President, our committee spends an extensive amount of time reviewing nominations on the issue of accountability. Our actions in the Tailhook matter are a prime example. All Navy and Marine Corps nominations were held up by our committee. The Senator from Virginia and I made the joint announcement when we found that the investigation was going awry, and the Senator from California, who now occupies the chair, I remember, was very much involved and attentive to that at that time because she called me and wrote me a very nice letter about it. All Navy and Marine Corps nominations were held up until a process was put in place to ensure that the committee obtained all the information necessary to assess every officer's accountability and responsibility with respect to the operation or scenario we call Tailhook symposium. Every one of them was held up. We disrupted the whole promotion system of the Navy for a matter of months because we were disturbed, because we felt that the investigation had not been handled properly, and because we were demanding accountability.

Madam President, we require that the executive branch provide us with all adverse information regarding each flag and general officer nominee in all branches of the service, Navy and Marine Corps, including nominations for retirement in grade. We scrutinize that information with care. We take it into account when acting on a nomination. We have done that for 2½ years; we have done it on every one of them.

Madam President, there is such a thing as retiring without three and four stars, and I do not want to lead anyone to believe today, by my defense of Admiral Kelso and my vote for him, which will come later, or assume today that I do not believe it is appropriate to review these matters and to take action where the record so indicates.

A recent example involves our review of the Air Force promotion system in 1992. The committee conducted a review. We issued a report documenting serious systemic deficiencies in the procedures used by the Air Force to select officers for promotion. During the period in which the committee considered the deficiencies in the Air Force promotion process reported by the Department of Defense, the committee also considered the nomination to retire in grade of a three-star officer who had served as Deputy Chief of Staff of the Air Force for personnel.

The committee carefully reviewed his specific responsibilities for the promotion system. We concluded he had not acted with due diligence with respect to an ongoing major responsibility for his office, and we determined that his nomination should not be reported to the Senate. As a result, he retired in a two-star grade.

I think our committee probably spent more time on this nomination than any other single thing during that particular interval. I personally probably spent 50 to 75 hours reviewing that one record.

But we did it with a great deal of care, and we applied the standard of due diligence. We looked at not only his overall record, which was splendid, but we looked at his tenure in office. We looked at his connection to the wrong that had taken place in the promotion system, and we applied the standard of due diligence.

Neither the executive branch nor the Congress, however, applied a standard of absolute accountability, because if we had, we would have also held accountable the Chief of Staff of the Air Force during that period. We would have held accountable the four-star above him, and everybody else in the chain of command.

We did not sweep out and condemn the whole Air Force because of that deficiency. We tried to find who was at fault.

The tragedy in Tailhook and the reason we are here today is because the Navy investigative system and the Navy justice system did not produce convictions. If there had been three or four junior officers or even senior officers convicted under court martial, we would not be here today. We all know that.

There is a frustration, and an understandable frustration, that nobody has been convicted. I am frustrated, too, because we all know that crimes took place. But in our frustration, we also have the duty of justice, the duty of looking at this case, the duty of looking at an individual. We cannot, in the U.S. Senate, abandon looking at an individual case in our frustration because the system in this case did not work.

It did not work, and I think Admiral Kelso would probably be the most frustrated person in the Navy because this system did not work.

Was it lack of due diligence on his part? That is what everybody has to ask. In my opinion, I know it was not, because I talked to him too many times. I do not expect everybody in the Senate to understand that. Nor do I expect it to be persuasive evidence. But to me, it is persuasive because I talked to him time after time after time. At one point, the Navy became so aggressive trying to convict people that they had to be cautioned to apply due process and not to scapegoat someone because they just happened to be in the way.

We have to have the same standard here. I had to call several of the senior people in the Navy into the armed services room and say: You have to be diligent; you have to pursue this investigation; you have to do everything you can on it. But you cannot throw out due process and eliminate all rights of individuals. And that was the tendency at one time, because they were so intent on bringing about some sense of justice in this outrage, which leaves us all frustrated.

Ms. MIKULSKI. Madam President, will the distinguished chairman of the Armed Services Committee yield for a question?

Mr. NUNN. I am glad to yield for a question.

Ms. MIKULSKI. Acknowledging what the Senator is saying, in his own very fine record on these matters, is it the Senator's findings that the investigation of the Tailhook matter was bungled?

Mr. NUNN. Yes.

Ms. MIKULSKI. And there is conflicting evidence between the military court and the IG reports?

Mr. NUNN. Yes, definitely.

Ms. MIKULSKI. And, essentially, the culture seems to lend itself to these bungled investigations?

Mr. NUNN. I would say we have a serious problem in the whole investigative services, not just for the Navy but for the other services. But we also have it not simply in sexual harassment cases, it is across the board. And I have talked at length with the new Secretary of Defense and with Secretary Aspin about that. We need to have more continuity. We need to have more professionalism. There is too much rotation in the military for people to become professional.

I have run an investigative subcommittee now for 10 or 12 years. Investigators are wonderful people, but they have to have supervision, they have to have careful supervision. I think that is what we are missing. We do have a system.

Ms. MIKULSKI. So it is not the issue of sexual harassment, but there are bungled investigations.

In the matter of the Tailhook, is it also the Senator's finding or observation—perhaps "finding" is too strict a legal word—that there was this coverup and there is this conspiracy of what I have said, the buddy system over the honor system, and which there is an actual conspiracy to lie and to distort the events, a bonding, if you will, among the junior officers not to come forth with the facts of the occasion?

Mr. NUNN. I could not identify with that broad a statement that the Senator from Maryland made. But I would readily agree that, based on what I have read, there certainly was not cooperation by a number of Navy officers. They did not cooperate with the original investigation; some of them did not. I am sure that within that there must have been some misleading statements and there must have been some effort by individuals to cover up.

I would not conclude from that that there was a broad conspiracy, because I do not have enough evidence to warrant that. But there certainly was not cooperation by a number of Navy personnel with the Navy investigation, as well as the IG investigation. I would agree.

Ms. MIKULSKI. So as we can see, there is a lot to be changed, both the law and the culture.

I thank the Senator for yielding.

Mr. NUNN. Madam President, the Senator from Maryland is correct, the culture does need changing. And I happen to know that Admiral Kelso spent more time trying to change the culture of the Navy in this area, probably than any other feature, during his entire CNO tenure.

That is why I am here defending him, knowing that there is a search and a frustration to find someone to punish. That is the mood of the Senate today, is to find someone to punish.

The Senate of the United States needs to administer due process and justice and make sure that when we vote to basically, in effect, punish Admiral Kelso—if we do, and I hope we do not —that we should do so after searching our conscience and after looking at the evidence and after looking at his tenure and after looking at his due diligence and after looking at the entire case, not simply out of frustration and not simply because nobody has yet been punished severely enough for this body in terms of the transgressions that occurred.

Mr. WARNER. Will the Senator yield for a brief question?

Mr. NUNN. Yes, I yield to my friend from Virginia.

Mr. WARNER. Madam President, first I wish to commend Senators to read the CONGRESSIONAL RECORD of April 14, page S. 7581, when the distinguished chairman of the Armed Services Committee spoke to this body about this issue before. His previous statement, and the statement that he has just made, reflect one of the most courageous statements ever made in the history of the Armed Services Committee when he addressed the full Senate just prior to the vote.

But I would like to proceed to a question, Madam President, of the chairman.

He used the word "punishment." And he referred only to Admiral Kelso. But I would hope that those who are debating here today would broaden the word punishment to include Admiral Kelso's partner for 38 years in the U.S. Navy, his wife and his family. They are subject to the same punishment that this body is considering.

For 38 years, Mrs. Kelso has packed and unpacked and traveled throughout the world, as have other Navy wives, other Army wives, other Air Force wives, other Marine Corps wives. Military service is a partnership. It is a family.

Part of that punishment will be monetary. And, Madam President, I ran this calculation. Assuming Admiral Kelso elected to participate in the survivor's benefit plan, which the great majority of regular officers have participated in, his surviving spouse, again should she survive the admiral, would lose $770 a month if he retired, subject to Senate action, as a two-star versus four.

Madam President, I ask the chairman, is that fair to the Navy family? Is that fair to a wife? What message does that send to the wives at all ranks, from seaman to four star, as to the fairness of this body in judging this case?

I hope those standing in opposition to Admiral Kelso today will address that question, but I pose it first to the distinguished chairman.

Mr. NUNN. I would say to my friend from Virginia, I think the military personnel, men and women in the military, will be looking at the U.S. Senate vote today to determine basically whether they believe that the U.S. Senate is capable of looking at a case that has very broad symbolism, but to look beyond the symbolism and to look for justice to the individual.

I would say to my friend from Virginia, the monetary consideration certainly would be significant. But knowing Admiral Kelso as I do, I believe he would give up the money in a moment, and I believe his wife would also. I believe he would rather have physical mutilation than for the U.S. Senate to vote, in effect, that he is responsible for Tailhook and that we are holding him absolutely accountable, notwithstanding the fact that the Navy IG, the Secretary of Defense, the Chairman of the Joint Chiefs, the Secretary of the Navy, and everyone concerned in the Department of Defense chain of command believes that he did not manipulate the process and that he did not personally witness the kind of transgressions that later came to light.

So I believe that the money is a part of it, but I believe it is a very small part of it, because this goes to integrity, it goes to a man's career, it goes to honor.

And I would say that the question of the Senator from Virginia, certainly, about the family and the wife and all of the people that are part of the Kelso family, is not only appropriate but very pertinent.

Mr. WARNER. Madam President, a second question to my distinguished chairman.

Yes, I tried to make the point money was an example. But a military at all levels is a partnership between that service person who wears the uniform—be he or she male or female—and the spouse and the family. That is what is being judged by the Senate today.

And I put that question to the chairman: Does he recall the Chairman of the Joint Chiefs during the hearing? Our record reflects the following:

> So, my question to you, General Shalikashvili, how would the men and women of United States military today, of all branches, view it as an act of fairness if this committee and the Senate were to reject the request of the President to retire Admiral Kelso at fours stars?

The general replied:

> I believe, without any hesitation, that they would not see a reduction in rank as a fair act. They would see that as a reaction to something that was very wrong at Tailhook, and trying to find someone to hold accountable for it and that settling on Admiral Kelso. And that would not be correct, nor considered fair.

It is the issue of fairness.

And I say to every Senator, as you proceed to cast your vote—hopefully today—ask of yourselves: How will the men and women of the Armed Forces, particularly those from your respective States serving at this moment on 120 ships on the high seas, serving in over 50 military installations in the Navy alone—but this is not just a Naval question; this is all branches; the issue of fairness—how would that serviceperson from your State wearing the uniform view your vote? Was it fair or unfair to them as well as Admiral Kelso?

I thank the chairman.

Mr. NUNN. I thank the Senator from Virginia. I agree with his remarks.

Madam President, I will wind up my remarks because I know there are others who would like to speak. Let me just summarize by saying, as the senior uniformed officer in the Navy, Admiral Kelso had supervisory responsibility for those who planned and conducted the Tailhook symposium and for those who conducted the investigation. The responsibility, however, was also ultimately in the hands of his civilian superiors.

He could have done better, and I would venture to say that, if he was standing here today, he would tell all of us that, if he could go back, he would probably think of some things he could do better. If that is our standard, though, we are adopting a new standard. It is my view that he was not made aware of this conduct before and during Tailhook, he did not impede or interfere with the subsequent investigation.

On the other hand, there is substantial evidence that he intended the Navy to undertake a proper investigation and that he acted vigorously to combat the problems that were at the root cause of the Tailhook misconduct.

Make no mistake about it, this effort has to go on. This is not one of those things where you say, "We have cleaned up this mess. Now we can go on to other things." The effort in giving women an equal opportunity and preventing sexual misconduct in the military is an ongoing, continuous effort that must be followed by everyone in the chain of command. No matter who the new CNO is—and I hope we will confirm Admiral Boorda next week—there is no way he can supervise the conduct of several hundred thousand personnel—no way. He can set a standard. He can set the kind of atmosphere that we all desire and want. But we are going to continue to have problems in the U.S. military in sexual areas, just as we continue to have some problems in the racial areas—although, thankfully, with the leadership of the military, those problems have gone down immensely. The real question is, once something happens, do we have accountability, and do we do everything we can to prevent and deter that conduct to begin with?

I repeat, for those who believe the captain ought to go down with the ship, Admiral Kelso offered to resign in 1992 in order to allow other individuals to chart a new course for the U.S. Navy. His civilian superior declined to accept his resignation. If he had resigned in 1992, contemporary to any kind of failure of leadership that may have occurred, would we have denied him his fourth star, in 1992? If he said, "I am taking the responsibility, I am resigning," would we, on the floor of the Senate in 1992, say, "Not only are you going to resign and take the responsibilities; we are going to deny you your 38 years of service in achieving your fourth star"?

I think the answer is obvious. No, we would not. So what are we doing? Since he is the last one standing, we are saying: No, you did not resign because your superiors did not allow you to resign. They wanted you to stay on. They thought you were the best person to try to straighten up this tragedy we call Tailhook. You stayed on. You have done everything you could do to get the women in the military, women in the Navy, an equal opportunity. You made tremendous strides. But since nobody else has been convicted, the target is Kelso. That is where we are today.

Is that justice? Is that fairness?

I ask everyone to examine his or her conscience on this matter. If the standard which the Senate wishes to apply is absolute accountability, then Admiral Kelso does not meet that standard. Nor would virtually every CNO we have had for the last 45 years. You could go back and look at military history. You will not find a one that did not have something bad, something tragic occur during that tenure as Chief of Naval Operations. If, however, the standard is the high degree of due diligence that we have applied in the past with respect to our military leaders on the issue of retirement in grade, then Admiral Kelso should be confirmed to retire as a four-star admiral.

Mr. EXON. Before yielding the floor, will the Senator yield for a question from me?

Mr. NUNN. Yes.

Mr. EXON. I have been listening with great interest to the excellent comments by the chairman of the committee. I have some statistics on point here, and I was wondering, they seem to indicate—basically to prove—what the Senator from Georgia said and also the remarks made by the Senator from Virginia.

Is the Senator aware of the exact numbers, over the last 5 years, of those who have been nominated for and received retirement in the third or fourth star grade?

Mr. NUNN. I do not have those numbers in my head, but they are substantial numbers.

Mr. EXON. I think they might fit in right now. If I might read them into the RECORD, they may prove the point the Senator has made so well.

Earlier today it was suggested in debate that there was something extraordinary, that we were somehow rewarding Admiral Kelso if we retired him in the four grade status. That certainly is not the case. The Senator from Georgia has made that point. In fact, it would be extraordinary if he did not retire in the fourth grade.

In the last 5 years, there have been 206 individuals in the third or fourth star grades of admirals and generals to retire; 200 of the 206—all but 6—retired on their highest grade, basically along the specific items that were cited earlier by the Senator from Georgia. Three were eligible to retire at the three star, but were not nominated by the President for that rank. In other words, of the six that did not receive the higher rank, three, for reasons best known to the President, were not so indicated. Three others were nominated by the President to retire, but were not confirmed to retire at the four-star or three-star grade by the Senate.

It seems to me that these figures show that it is normal and customary for three and four grade generals and admirals to retire at the higher grade. But it is not automatic, which shows that we do take a look at these things. Both the President and the Senate review these retirements in great detail.

I simply say, once again, I thank my chairman for his excellent remarks. There is no rubberstamp under the leadership of Senator NUNN on this or any other matter that comes before our body. Certainly in the case of Admiral Kelso, both the President and 20 of the 22 members of the Armed Services Committee recommended the admiral retire in his rank of admiral. We looked at it. We reviewed it. And I certainly agree with my friend from Georgia that to do otherwise in this instance would be a complete reversal and have some ill effects on other people that are looking to retirement in the future.

I thank my friend from Georgia.

Mr. NUNN. I thank my friend from Nebraska. I commend him for those facts, which I think are very important.

This would be an exception. This would be a dramatic exception. I am not against exceptions where the facts warrant them. I am not against retiring people at a lower rank if the facts warrant it. My view is the facts do not warrant it here.

Madam President, in closing, let me commend those who are on the other side of this debate today—not because I agree with them, not because I think their logic is impeccable. Obviously, I do not in this case. But they are sincere. They are absolutely dedicated to making sure that we honor the men and women who serve in our military; that we treat everyone equitably in our military.

They recognize that women are an indispensable part of our national security now. I commend them for that point, which needs to be made over, and over, and over again on the floor of the Senate.

I hope that everyone in the military in uniform who listened to this debate will understand that the facts of this case divide us. There is no division in terms of condemning the activity that took place at the Tailhook symposium. There is no division in terms of the kind of honor and integrity that we expect of our military leaders and that we expect of the men and women who serve in the military. We simply cannot have an effective national security unless the women in the military are treated equitably and with respect and with dignity.

I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Madam President, I believe that there has been a new and higher standard, as those who argue for Admiral Kelso getting four stars are attempting to inject into this argument, that is fallacious. I do not see that this is an issue, to quote the chairman of the Armed Services Committee, of "absolute accountability."

I do not think this is an issue as to whether or not Admiral Kelso witnessed the events at the Tailhook Convention, those that were clearly found to be sexual harassment. I accept that he did not witness these events, because if he did, and if he perjured himself, why, then, this proceeding would have taken place sooner. He would have been drummed out of the Navy long before now.

I accept the contention that maybe he should have and would have even been offered the opportunity to resign in 1992 and may have even resigned as a four-star admiral. But that is not the situation today, because I do not believe that he has exercised due diligence, and I do not believe that he has met the standard of accountability as the commanding officer that he should have, subsequent to the events mentioned at the convention.

When we talk about fairness and justice, let me ask my colleagues who argue for fairness and justice for the admiral—and I understand the pain he and his family must be enduring—but what about the fairness and justice for Lt. Paula Coughlin? What about the victim who first came forward? What about the victim who continues to be victimized today? What about the victim who has literally been drummed out of the Navy, who just several months ago resigned, that resignation being tendered in February, accepted in April and effective in May?

Let me ask you where was the admiral and where was his followup and where was his counsel to meet with and have his people meeting with the lieutenant and to see to it that the harassment that continued, that kind of freezing out, that kind of situation that has left the lieutenant embittered today? Where was her justice?

Where was this new revolution that really gave meaning to the fact that we understand that sexual harassment cannot and should not be condoned? I do not hold the admiral to a new and higher standard of strict accountability. That is not what this question is about.

No one seeks to say that because it happened on your watch, any unfortunate incident of this kind, that we hold the commander accountable for it, but we certainly do as it relates to dealing with it afterward.

Was the problem dealt with appropriately? I think the answer clearly is no. If we were to go forward and give him his four stars, we would be saying that the admiral has conducted himself appropriately; that the victim was given justice; that we have really turned the situation around. I say let us look at the record, and I see that the record is clear. Paula Coughlin was victimized at Tailhook. Lt. Paula Coughlin still continues to be victimized, and that it is the failure of the commanding officer, Admiral Kelso. I intend to vote no on this nomination.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, I listened very carefully to what Senator NUNN and Senator WARNER had to say. I have great respect for both of them. I do not think there are any two Members of this body that know more about the military than do they. I think we are very privileged to have their service in this body.

However, I must say I look at this a little differently. I took the time to read the IG report, to read the trial judge's ruling, and also read a Navy policy document with which I would like to begin. This is entitled "The Navy Policy Book. A Single Reference of the Most Important Guiding Principles of Our Navy."

There is one section, and it is titled "Accountability is critical to our success." It is very short, and I want to read it. It says:

> We accept the consequences of our own actions. In leadership positions, we bear responsibility for the actions of our subordinates. We are members of the naval service 24 hours a day, and we are accountable for our professional and personal behavior, both on and off the job.

This is signed by the Commandant of the Marine Corps, the Secretary of the Navy, and the Chief of Naval Operations, Admiral Kelso himself.

I find it a very difficult thing not to give someone full honors when they retire after a lifetime of good service. I also find it very difficult to put a Senate imprimatur on a nomination when the issue is about the personal behavior of people at a Navy convention, sanctioned by the Navy, and the fact that there were hundreds of Navy officers and those of flag rank present who saw, who knew, who condoned, who participated, and who did nothing.

That, I think, is the crux of the matter. Is what appears in this Navy policy book a statement that is going to be followed, or do we practice tacit hypocrisy?

Admiral Kelso has had a distinguished career of 38 years in the U.S. Navy, and he has risen to its highest rank. Under normal circumstances, he would be nominated and go out with his four stars. But what I contend is, these are not normal circumstances.

We, the women of the Senate, have been bringing to public attention the issue of sexual harassment. It started in different ways. Everywhere we turn, we see it. We know but one way to send a message, and that is to send a message to every flag officer in the U.S. Navy and every officer in every other branch of the military, that if you come before this body, and if you have not exercised your full command responsibility, as put out in policy books like this one, the Senate of the United States is not going to put their imprimatur on your retirement.

I feel constrained to make some other statements about some of the specifics of this. Many of my colleagues have outlined what took place at Tailhook, and I do not want to rehash that entire incident. But I think we must look into this a little more deeply.

According to the Department of Defense inspector general, at least 90 indecent sexual assaults took place at the 1991 convention. This, though, apparently was nothing. Tailhook 1991 was tame compared to earlier conventions.

This has been pattern and practice in the U.S. Navy. The annual event began in 1956, and rowdy and improper behavior supposedly culminated at the 1985 convention.

The president of the Tailhook Association itself warned members in preparation for the 1991 convention that there were problems with "gang mentality." It appears that Tailhook conventions of the past have been tolerated with the notion that boys will be boys, a notion which simply can no longer be permitted in today's Armed Forces. That is the message of our stand. You have a responsibility in the U.S. Armed Forces that is both personal as well as professional, and that responsibility exists 24 hours a day.

The Department of Defense inspector general is quite specific in detailing the various kinds of assaults that took place. When a female entered what was called a gauntlet—and I wish to point out in this report one chart which indicates where the assaults took place.

This is the notorious third floor of the Hilton Hotel, and the title of this chart is "Incidents of Indecent Assault on Saturday, September 7." There were approximately 80 such assaults which all took place in a corridor. This corridor is known as the gauntlet. Women were abused as they ran that gauntlet.

The question is, on whose watch did this happen? The question is why did not someone stop it? This went on for several hours. And this was not the only behavior. There were incidents that took place which, frankly, I do not want to mention on the Senate floor. I do not believe it is appropriate.

But as a woman walked the gauntlet, as she was molested, if a woman resisted, it got worse. So the more a woman fought and resisted, the more the males attacked.

This is part of the problem of leadership. I recognize it would not be popular, if admirals were out on the patio, to go in and say, "Hey, guys, knock it off; this thing is at an end." But do I think they should have? Yes.

Let me read one comment from trial judge Captain Vest's findings, and this is quoting Vice Admiral Dunleavy. It is on page 6. Vice Admiral Dunleavy says:

> I've seen some wild stuff over the years—broken furniture and spilled drinks. I heard of the '90 gauntlet from my son. He says it's a bunch of drunks running around chasing girls. It's a grabass of JO's [junior officers]. Everyone just lines up in the passageway and every good looking girl that goes through, they grab at some of that.

This is what we are trying to put an end to. This is the statement of a vice-admiral in the U.S. Navy. This statement says this attitude had been condoned.

Now, when you talk about Admiral Kelso, you also have to speak about what exactly did he do. And one of the things that disturbed me when I read the testimony of the trial judge—and I recognize that this trial judge's findings are contested.

However, with Admiral Kelso's retirement, we will never really know the truth because the Navy decided not to appeal the ruling. So this is the testimony which remains on record, the findings of a military trial judge. Let me quote, and I will begin on page 3.

In short, they reason as follows:

> Admiral Kelso's presence on the patio during the evening hours of 6 and 7 September '91, at which times he either observed or knew of the inappropriate behavior of his subordinates and failed to act to stop such behavior; Admiral Kelso's subsequent status

> as a criminal suspect and as a potential material witness; and the current controversy regarding Admiral Kelso's denial that he was ever physically present on the patio during the evening hours of 7 September '91, viewed either separately or collectively, give him an interest other than "official" in the outcome of the prosecution of courts martial stemming from Tailhook '91.
>
> If Admiral Kelso has an "other than official interest" in this litigation generally, or these three accused cases specifically, he is an "accuser" within the meaning of article 19 United States Code of Military Justice. As an accuser, Admiral Kelso was disqualified from appointing any subordinate in rank of command to convene a court martial stemming from Tailhook '91, and as a subordinate in rank and command to Admiral Kelso, Vice-Admiral Reason became a junior accuser and was disqualified from acting as the convening authority in these cases pursuant to RCM 504(C)2.

And I go on reading:

> Finally, that Admiral Kelso's action in appointing a subordinate, Vice-Admiral Reason, to act as the CDA, when Admiral Kelso knew himself to be a possible suspect for his own actions relating to Tailhook '91, which appointment effectively shielded himself and possibly other officers senior to Vice-Admiral Reason from courts martial, amounted to unlawful command influence within the meaning of article 7 UCMJ.

Now, that is the record of the trial judge.

Mr. STEVENS. Will the Senator yield right there?

Mrs. FEINSTEIN. May I please finish my statement. I would appreciate it. I have been here for 2, almost 3 hours now waiting for the opportunity, and I would like to finish the statement.

If I might go now to the inspector general report and read from section 10 of that report, the third paragraph. This is under the section "Officer Attitudes."

> Although there were approximately 4,000 naval officers at Tailhook '91 and significant evidence of serious misconduct involving 117 officers has been developed, the number of individuals involved in all types of misconduct or other inappropriate behavior was more widespread than these figures would suggest.
>
> Furthermore, several hundred other officers were aware of the misconduct and chose to ignore it. We believe that many of these officers deliberately lied or sought to mislead our investigators in an effort to protect themselves or their fellow officers.

And then let me go on and read from the IG report on "Attitudes."

> One disturbing aspect of the attitudes exhibited at Tailhook '91 was the blatant sexism displayed by some officers toward women. The attitude is best exemplified by a T-shirt worn by several male officers. The back of the shirt reads "Women Are Property," while the front reads, "He-man Women-Haters Club." The shirts, as well as demeaning posters and lapel pins, expressed an attitude held by some male attendees that women were at Tailhook to serve the male attendees, and that women were not welcome within naval aviation.

And then it goes on to cite the failure of leadership.

> One of the most difficult issues we sought to address was accountability from a leadership standpoint for the events at Tailhook '91. The various types of misconduct that took place on the third floor corridor, if not tacitly approved, were nevertheless allowed to continue by the leadership of the naval aviation community and the Tailhook Association.
>
> The military is a hierarchical organization which requires and is supposed to ensure accountability at every level. As one moves up through the chain of command, the focus on accountability narrows to fewer individuals. At the highest levels of the command structure, accountability becomes less dependent on actual knowledge of the specific actions of subordinates. At some point, "the buck stops here" applies.

And I will stop at this point reading from the IG report.

So, Madam President, what I believe we women are saying is it cannot be business as usual in the U.S. military. Women are taking their places in the ranks of the military, defending our Nation proudly, and they must be treated with respect. They are not property. They are not to serve people who view themselves as women haters. They are individuals. They are there to serve one entity, and that is their country, the United States of America, and they are to be treated with respect, their minds as well as their bodies. And I hope this is not looked at as any—at least it is not on my part, and I know it is not on the part of my female colleagues—any kind of female need to speak out. What it is is that we have suddenly come head-on with the whole ethic, a whole mentality, a whole period of decades of condoning activity of people at official conventions, official behavior at conventions, and in their personal lifestyle as well.

These activities at wild parties—heavy drinking, lewd behavior, molestation, attacks of women, indecent gestures made to passersby—cannot be condoned on the part of anyone in the American military. I believe that we by our actions are simply trying to send a message that if leaders come before the Senate expecting the body to put their imprimatur on their leadership, that leadership must be complete; and when incidents happen on your watch, and when you are there, and when you may know they are going on and you do nothing to stop them, it is a mistake. It is failed leadership. And you must be held accountable.

So I hope that our votes are viewed in this light. I believe a man should not be judged by the last thing he did. He should be judged in his life by the best thing he did. Nonetheless, the issues here have been joined, and the Senate simply cannot sanction these kinds of activities at officially sponsored conventions of the U.S. military.

I ask unanimous consent that the full text of my statement now appear in the RECORD.

I thank you. I yield the floor.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR DIANNE FEINSTEIN REGARDING THE RETIREMENT OF ADM. FRANK B. KELSO II, TUESDAY, APRIL 19, 1994

I rise today concerning a very important and difficult issue to come before the Senate: the nomination of Frank Kelso to retire as a four-star admiral.

Admiral Kelso has had a distinguished 38-year career as a Navy officer. Under normal circumstances, the Senate would most likely confirm his retirement with four stars—the rank he currently holds as Chief of Naval Operations.

However, the action, or non-action, that the Senate takes will send a signal through the entire Defense Department. I do not think that the Senate imprimatur should be put on the leadership of a Navy that endorsed and poorly investigated a major military scandal.

As we all know, the controversy over Admiral Kelso's retirement dates back to the infamous 1991 Tailhook convention at the Hilton Hotel in Las Vegas—an event which cast a dark shadow over the entire United States Navy, a shadow that remains even today. In addition, the Navy has been shaken by investigation into the USS Iowa accident and wide-spread cheating at the Naval Academy.

While this debate is not about what happened at the 1991 Tailhook Convention, and I do not want to re-hash that entire incident, I do think it is appropriate to briefly review what happened at Tailhook '91 to provide a little background and put things into context.

According to the Department of Defense Inspector General, at least 90 indecent sexual assaults took place at the 1991 Tailhook convention. This, though, apparently was nothing. Tailhook '91 was "tame" compared to earlier conventions. The annual event began in 1956, and rowdy and improper behavior supposedly culminated at the 1985 convention.

The President of the Tailhook Association warned members in preparation for the 1991 convention that there had been problems with "gang mentality". It appears that Tailhook conventions of the past have been tolerated with the notion of "boys will be boys"—a notion which simply can no longer be permitted in today's armed forces.

Most of the sexual assaults at Tailhook '91 centered around a "gauntlet" on the third floor of the hotel, in which women would walk through a hallway and be sexually assaulted by scores of men lining the hallway.

The DoD Inspector General is quite specific in detailing the various types of assaults that took place. Let me quote the report: "When a female entered the gauntlet, the participants would surround her and touch, pat and grab her while she was funnelled down the hall."

On numerous occasions, the DoD Inspector General cites instances where women would walk through the gauntlet and be "groped and molested". And if someone resisted, it got worse: ". . . the more the women fought the men who were attacking them, the more the males attacked."

Further, many witnesses described women who had articles of clothing ripped or removed as they went through the gauntlet, and of men grabbing women's breasts, buttocks and crotch. One female Navy officer said she felt as if the men were trying to rape her.

There were other indecent actions commonplace at the Tailhook convention, which I do not want to mention on the Senate floor.

I cannot imagine any officer permitting these activities to occur, not to mention participating in these activities. But, apparently many did.

In addition to the fact that many naval officers lied to investigators and tried to obstruct the DoD Inspector General investigation, probably the most disturbing aspect of the 1991 Tailhook convention is that many in the Navy still believe that nothing inappropriate happened.

According to the DoD Inspector General, many officers stated that the events at Tailhook '91 were "no big deal". One officer said that "it is an annual tradition at Tailhook conventions to harass women physically and verbally in the hallway . . ." He implied that any women present would be labeled a "slut" and said that they have been assaulting women "since cavemen days".

In other words any woman present should expect this treatment. Should the Senate put an imprimatur on this kind of leadership? I think not.

After the incidents, some of those assaulted began to report what occurred. The convention was followed by a botched Navy investigation—involving both the Naval Investigative Service and the Navy Inspector General—in which the Navy simply could not investigate itself and assign responsibility for what occurred. In the end, the Department of Defense Inspector General was asked to provide a detailed report of the entire incident and subsequent Navy investigation.

Still, almost four years since the infamous Tailhook convention took place, not one single person has been convicted of any crime. 28 officers received non-judicial punishment, 32 officers received non-punitive counseling, and 51 cases received no action.

The then-Secretary of the Navy was forced to resign. Only three mid-level Admirals received any form of punishment—a "Secretarial Letter of Censure"—and one of those admirals retired with one star lower than the highest rank in which he served.

The question this body has before it today, though, does not involve the entire Tailhook incident or the investigation that followed. Nor does it involve the investigation into the specifics of the USS Iowa explosion or the cheating scandal at the Naval Academy (though these do raise the question of a pattern of botched investigations within the Navy).

The question we have before us today relates specifically to Admiral Kelso and his retirement.

Admiral Kelso was the Chief of Naval Operations—the highest ranking naval officer—during the 1991 Tailhook convention and the subsequent investigation. In addition, Admiral Kelso was present at the Las Vegas Hilton during the 1991 Tailhook convention. It happened on his watch, and he was there.

I believe there are two, independent issues that must be addressed. First, what was Admiral Kelso's personal involvement with and/or knowledge of the indecent activities occurring at Tailhook '91? And second, what was Admiral Kelso's leadership responsibility as the Chief of Naval Operations?

I realize that Admiral Kelso's personal involvement and knowledge of the activities which occurred at Tailhook '91 has been in dispute. The DoD Inspector General found "no evidence that Admiral Kelso has specific knowledge of the improper incidents and events that took place" and goes on to say that they "believe" Admiral Kelso did not witness any indecent acts.

However, I find a recent ruling by a Navy judge, Captain William Vest, to be quite compelling. In a 59-page ruling, Judge Vest states:

"Based on the convincing nature of the testimonial evidence and the many corroborating facts and circumstances surrounding such evidence, this court finds ADM Kelso is in error in his assertion that he did not visit the patio area on Saturday evening. This court specifically finds ADM Kelso visited the third deck patio at some time during the evening hours of 07 September 1991. This court further finds ADM Kelso was exposed to incidents of inappropriate behavior while on the patio on Saturday evening, including public nudity and leg shaving activities."

Judge Vest cites numerous credible eyewitnesses in accounts personally linking Admiral Kelso to indecent activities at the Tailhook convention.

Even if one discredits Judge Vest's charges and assumes that Admiral Kelso was not present when indecent acts and sexual assaults occurred, I find it hard to believe that the Chief of Naval Operations did not know what occurred at Tailhook conventions, past and present.

As both the DoD Inspector General report and Judge Vest's ruling assert, the Tailhook convention—an annual event since 1956—was notorious throughout the ranks of the Navy and was an officially sanctioned Navy event.

The DoD Inspector General report states that the Navy "knowingly supported and encouraged" attendance at the Tailhook convention. And, the report says, "Clearly, some of the activities that took place at Tailhook conventions were known within the Navy to be incompatible with Navy policies dealing with sexual harassment and abuse of alcohol."

Judge Vest, in his ruling, supports this assertion when he states:

"This court finds that this quantum of information concerning the symposium's notorious social reputation prior to Tailhook 1991 * * * could not have escaped ADM Kelso's attention. It served to place him and other high ranking officers on notice as to the social climate at past Tailhook Symposiums, and the kind of social environment to expect at Tailhook '91."

After carefully weighing Judge Vest's ruling and the DoD Inspector General report and other information, I believe the question of Admiral Kelso's personal involvement at the 1991 Tailhook convention and his knowledge of the types of activities for which Tailhook conventions were notorious, remain in question. Unfortunately, due to Admiral Kelso's decision to retire early, this question will probably never be fully answered.

The second question that must be addressed deals with leadership, responsibility and accountability.

One of the first questions I asked myself was how could something like this take place in one of the most professional and highly regarded military institutions in the world.

Well, as the DoD Inspector General report states, "Tailhook '91 is the culmination of a long-term failure of leadership in naval aviation."

Not only was the indecent activity not stopped when it was occurring, but it appears that these activities were commonly known to occur. As the report states, the "heavy drinking, the gauntlet, widespread promiscuity were common, and were part of the allure of Tailhook conventions * * *."

Regardless of Admiral Kelso's personal involvement with or knowledge of the incidents at Tailhook '91, I believe that the Chief of Naval Operations—as the highest ranking naval officer—has ultimate command responsibility for what occurred at the 1991 convention.

Let me quote from the DoD Inspector General report:

"The military is a hierarchical organization, which requires and is supposed to ensure accountability at every level. As one moves up through the chain of command, the focus on accountability narrows to fewer individuals. At the highest levels of the command structure, accountability becomes less dependent on actual knowledge of the specific actions of subordinates. At some point, 'the buck stops here' applies."

Well, I believe that the buck stops at the top.

In the case of Tailhook 1991, with such widespread misconduct that had occurred for years and years, I believe that the buck stops with the head civilian and military leader of the Navy: the Secretary of the Navy and the Chief of Naval Operations.

Then-Secretary of the Navy Garrett resigned in June 1992 after a botched Navy investigation into the Tailhook affair. Admiral Kelso, the Chief of Naval Operations, has only received a non-punitive "Letter of Caution" for his lack of leadership.

I believe that the Chief of Naval Operations must be held accountable for what occurs on his watch. As The Navy Policy Book (which Admiral Kelso helped write) states, "Accountability is critical to our success. . . . In leadership positions, we bear responsibility for the actions of our subordinates."

I do not want to question Admiral Kelso's 38-year Navy career, beginning with his days in the Naval Academy to his command of the Sixth Fleet. I am sure that anyone who becomes Chief of Naval Operations certainly has had a long and distinguished career.

However, I believe it would be a mistake to confirm Admiral Kelso's retirement with four-stars. The Senate would be overlooking the entire Tailhook incident, Judge Vest's ruing, and exonerating Admiral Kelso of any responsibility or accountability for what occurred at the 1991 Tailhook convention.

And, what signal will the Senate's action send to the men and women of today's Navy and our entire armed forces? Does the Senate condone sexual abuse and indecent activity? What about the victims of Tailhook? Is this just business as usual in the United States Senate? Is it okay for lower ranking officers to be held accountable, but not top admirals? Will the Senate's inaction simply reinforce the culture of sexual harassment still prevalent in the military today? And, will boys continue to be boys?

I believe the Senate must send a clear message throughout the ranks of the military—from the newly enlisted private and seaman, to the highest ranking generals and admirals. That message is simple: sexual abuse, misconduct, harassment, and other forms of lewd conduct and indecent activity will not be tolerated in today's military. And, there will be accountability at all ranks.

I urge my colleagues to oppose the nomination of Admiral Kelso to retire with four stars.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The manager.

The Chair would just note that the Senator from Texas was on her feet first, and it would be the intention of the Chair——

Mr. EXON. Will the Senator from Texas yield for a unanimous-consent, please?

Mrs. HUTCHISON. I yield for that.

ORDER OF PROCEDURE

Mr. EXON. In consultation with both sides of the issue, we are now proposing to offer a unanimous consent request that I will pose at this time. We would like to enter into a unanimous consent request for the remaining debate on this issue with 1½ hours of time to be controlled by the Senator from Maryland, 1 hour of time to be controlled by the Chair for a total of 2½ hours, with a vote scheduled not before 7:30.

Mr. MCCAIN. Reserving the right to object, I would be interested to know why there would be 1 hour on one side for who would be managing the other side. I understand it might be the Chair. Why is not someone designated on the other side of this debate and—let me finish my question, if I might—and I need at least 10 to 15 minutes before I would agree to a unanimous consent request.

Mr. EXON. In response to the Senator, I will simply say that, as I stated in the unanimous consent request, it would be those in opposition who would have 1½ hours to be controlled by the Senator from Maryland, and those in support would have 1 hour controlled by the Senator from Nebraska. I had already scheduled those Senators who had indicated to me that they wanted to speak. I have the Senator down for 5 minutes. I would be glad to extend that time. How much time does he wish?

Mr. MCCAIN. Fifteen minutes.

Ms. MIKULSKI. If the Senator from Nebraska would yield, as part of 1½ hours, we wish to acknowledge that we have reserved 30 minutes for the Senator from Pennsylvania, Mr. SPECTER; 10 minutes for the Senator from Texas, Mrs. HUTCHISON; and 5 minutes for the Senator from Kansas, Senator KASSEBAUM as well as 15 minutes for Senator BYRD, 5 minutes for Senator CONRAD, and some time for wrap-up.

Mr. STEVENS. In behalf of leadership, I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Madam President.

Madam President, our debate this afternoon should not be construed as an assault on the U.S. military, on the Navy, or on any individual in the armed services. Instead, I believe this is a debate involving two very different approaches to a common objective. I am convinced that all parties to this discussion are intent on pursuing improvement in the reputation and the record of the U.S. Navy.

Last week, I outlined my concerns over this nomination at the Armed Services Committee hearing. Some have said I am trying to hold Admiral Kelso accountable for what happened at Tailhook in 1991. That is not the case. I spent hours reading all of the reports on the Tailhook investigation. That study led me to conclude that there are three areas of concern. I believe Admiral Kelso is responsible for two of those.

Area one: Before the convention. It is clear that abuses of alcohol and degradation of women were part of the regular activity at the Tailhook convention, and there was no secret about that. In fact, many of these actions had reached ritual or traditional status. For the Secretary of the Navy and the Chief of Naval Operations to attend and lend their stature to such activity was clearly wrong.

Area two: During the convention. There has been a dispute about whether Admiral Kelso actually saw any of the debauchery or unseemly behavior. He says he did not. I believe him. I do not hold him accountable for actual knowledge of the events there.

Then we come to the third area: After the convention. Lt. Paula Coughlin stepped up immediately to reveal what happened to her and other Navy women and civilians. There was a studied effort by officers in senior responsible positions to ignore or overlook offenses at Tailhook, followed by an equally serious failure to follow up on complaints from victims of the affair, including from Navy officers and personnel.

Finally, there was a complete breakdown of the naval investigatory process that resulted in the Department of Defense inspector general stepping in to conclude the inquiry.

Active interference in the investigation by senior officers was the rule, not the exception. Even Admiral Kelso's defenders admit a failure of leadership on his part before and after Tailhook '91.

But there is another issue beyond conduct at the convention. Whenever we have a mistake or accident or incompetence that leads to an unfortunate incident, we have the responsibility to investigate fully, to ascertain the facts and, most of all, to take whatever steps are necessary to prevent similar problems in the future. Only by a full investigation, with the chips falling where they may, will we be able to learn from our mistakes.

Internal investigations, in the military or anywhere else, are never easy. They will produce the truth, however, only when the individual at the top decrees, in no uncertain terms, that he or she insists that the truth be found. It is no secret to anyone that few officers believed the Navy was serious about getting to the bottom of Tailhook '91. In fact, officer after officer stymied the investigation, refusing to produce witnesses and tolerating lying by others.

This all occurred on Admiral Kelso's watch. I believe Admiral Kelso is a patriotic man, an officer of integrity and honesty. But, in my view, his excellent character is not the issue here. The issue is his captaincy of the ship, what happened on his watch, and the signal his performance sends to the Navy and the world.

The proper standard in a similar situation was described by Secretary Perry himself last week, following the tragic downing of two U.S. Army helicopters over northern Iraq. Secretary Perry said: "As the Secretary, I feel the full responsibility for this action, and * * * I will be accountable for following up on it." The individual at the top must take responsibility, because it is his actions that will prevent future accidents like this from happening, and it is what will save future lives in the U.S. Army and our helicopter pilots.

I am a great believer in our military and its great history and traditions. I want the best of those standards to be reinforced and bolstered, and I have concluded that the best way to do so is to insist upon full accountability by those honored with positions of leadership in our armed services. For that reason, I believe we should not give our consent to the request for Admiral Kelso to be placed on the retired list in his current grade.

What I want for the future of the Navy is the best. In expanding the role of women in our Navy, we must offer them equality of opportunity and, most of all, basic respect so they can fulfill their own potential for themselves and for our country. We cannot settle for less.

I fully understand that we must now focus on the future. I have met with Admiral Boorda, who will be the next Chief of Naval Operations, and I have discussed these issues with him. I believe he is committed to equality of opportunity for women, and to achieving ethics and high morale for all of our Navy men and women.

When I voted in committee last week, I did not know if I would be the lone vote. I did not know if I would be the lone vote in the U.S. Senate. But I did what I thought was right under the circumstances at the time. Each person must make up his or her own mind.

I understand that there are those among my colleagues here who share my goal of strengthening our services, but they will differ with me on the appropriate method of achieving those goals. Our military today is facing a very difficult transition period, and it is vital that we in Congress demand the highest quality of leadership. We must have the highest quality for our armed services, to remain the greatest superpower in the world. I think that goal is best reached by saying no to this nomination.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. WELLSTONE). The Chair heard the Senator from Arizona first. The Senator is recognized.

Mr. McCAIN. Mr. President, I noticed with interest the dramatic presence of some of our colleagues from the other body at the beginning of this debate. I would say to our colleagues who seek to punish the captain for a scandal which occurred on his watch, a scandal he did not cause, did not participate in, and tried his best to correct—I would say to our guests from the other body and Members here who, like the Senator from California, was formerly a Member of that body: Will you demand the leadership of the House be held accountable for the scandals that have occurred on their watch?

I must say, I cannot remember any one of the Members of the House who joined us here today calling for the Speaker or the majority leader of the other body to be punished for the House bank scandal or the House post office scandal. Perhaps our House colleagues hold themselves, their leaders, and their institution to lesser standards than they hold Admiral Kelso, the U.S. Navy, and the Members of the U.S. Senate.

Mr. President, I do not intend to take a long time because this is a very unpleasant chore for me. I would like to note that the Women Officers Professional Association, an organization of 400 commissioned and noncommissioned women officers who serve in the U.S. Navy, feel differently than those women Members who have spoken here today on the floor.

This letter is addressed to the Honorable SAM NUNN, chairman of the Senate Armed Services Committee.

> DEAR CHAIRMAN NUNN: On behalf of the board of the Women Officers Professional Association (WOPA), I express our wholehearted support for Admiral Frank Kelso's well earned right to retire at his present rank of full admiral.
>
> Admiral Kelso should be congratulated for his leadership, not criticized. He, more than any other person, changed the Navy by eliminating the gender-based prejudices and restrictions which previously limited the contributions of Navy women. The world will learn from our example.
>
> It is appalling that some people judge Admiral Kelso by whatever did or did not happen at the 1991 Tailhook convention. The important lesson of this terrible event is that it was Admiral Kelso, as the Chief of Naval Operations, who forced the Navy to change for the good because of it; it will never happen again. We, the professional women of the Navy, are beyond Tailhook.
>
> The WOPA is a predominately female organization of almost 400 commissioned and noncommissioned officers. We have seen our members become part of the U.S.S. *Eisenhower*'s ship's company, and report that the Navy is the only service with multiple female flag officers.
>
> Admiral Kelso will be remembered with much respect by the Navy's Women. Please do not dishonor him by rank reduction.
>
> Sincerely,
>
> JAYNE HORNSTEIN,
> *Lieutenant Commander, USN,*
> *Vice President for Programs.*

Here is a letter from the Department of Defense, Defense Advisory Committee on Women in the Services. Mr. President, this is a committee that is appointed by the President of women who are knowledgeable, experienced, and seriously involved in the multitude of issues involving women in the military and various military family issues.

On April 8, 1994, Wilma Powell, the 1994 chairperson of the Defense Advisory committee on Women in the Services, known as DACOWITS, sent the following letter to Admiral Kelso.

> DEAR ADMIRAL KELSO: Congratulations on the occasion of your retirement. Your many years of commitment and dedication to men and women in the United States Navy is very much appreciated by former and current members of the Defense Advisory Committee on Women in The Services (DACOWITS). As Ellen Murdoch and I mentioned to you at our meeting in December 1993, DACOWITS is extremely gratified with the recent policy changes that will allow military women to be more fully utilized in the Armed Services. We are particularly pleased with your vision and leadership that has opened opportunities to Navy Women. In particular, we appreciate your efforts in the late 1980's to open Combat Logistics Forces Ships to women which was a DACOWITS supported initiative. Under your leadership, more women have been selected for operational command, flag rank and major shore command that at any other time in the Navy's history. We share the view of many military women that you are the one individual who has done more to further opportunities for women than anyone since Admiral Zumwalt in the early 1970's.
>
> While "quality of life issues" are not strictly "women's issues", they are of critical concern to the members of DACOWITS. We would like to express our appreciation for your commitment to quality of life issues. During your leadership, you have worked to secure additional funding for quality of life programs including child care, medical care and Morale, Welfare and Recreation Facilities. We recognize and appreciate your aggressive approach to increase and retain minority officers and enlisted personnel and the vigor you displayed in ensuring that peacetime deployment lengths were controlled to the maximum extent, thereby allowing Sailors to spend as much time as possible with families.
>
> While the Committee regrets the incidents of Tailhook, we accept this as a watershed which focused attention on a substantive problem, and which provided the impetus for discussion and growth. Although DACOWITS continues to be concerned about sexual harassment throughout the Armed Services, the zero tolerance policy initiated for the Navy under your leadership makes a statement about your position on this very undesirable unacceptable behavior. The mandatory sexual harassment prevention training for all Sailors is an important component in eradicating this despicable behavior. As a proponent of military readiness, DACOWITS believes harassment or discrimination of any kind, i.e. gender or racial negatively impacts military readiness.
>
> Again, on behalf of the Defense Advisory Committee on Women in The Services and Women of the American Armed Forces, I would like to take this opportunity to say thank you for your visionary leadership, to wish you all the best and to say "God Bless" you in your future endeavors.
>
> Sincerely,
>
> WILMA D. POWELL,
> *1994 Chair, Defense Advisory Committee on Women in The Services (DACOWITS).*

Mr. President, there is very little I can add to the Women Officers' Professional Association, professional military women with years and years of military service who have actually served on Admiral Kelso's watch, and the Defense Advisory Committee on Women in the Services, who work day to day on issues affecting women servicemembers. There is very little I can add, except to highlight the following facts.

Mr. President, I was the first elected official in either body of Congress to go to the floor of the Senate and express outrage and indignation at the events that took place at Tailhook. I immediately made a statement on the floor of the Senate condemning the abuses and demanded an investigation and full and complete cooperation of the Defense Department in seeing that those who were guilty of such evil transgressions were punished. The first and immediate respondent to that was Admiral Kelso. The first action taken in the Department of Defense was Admiral Kelso's immediate action calling this type of behavior that had occurred at Tailhook unacceptable and would not be tolerated—period.

I urge my colleagues to not simply accept the word of people about what Admiral Kelso did or did not know about the events of Tailhook, because there may be some difference of opinion. But, again, facts are facts.

And what does the inspector general of the Department of Defense say. He says:

> During our investigation we were unable to find any credible evidence that Admiral Kelso had specific knowledge of the improper incidents and events that took place. We reached that conclusion based on numerous witness interviews. We found individuals who believed they saw Admiral Kelso on the third floor during that infamous Saturday night. However, based on all the testimony, we believe that he was not present on Saturday and that those who believed they saw him are mistaken. We continue to believe that Admiral Kelso had no specific knowledge of the indecent activity that took place. We have not had a chance to examine the entire court record, however we are in the process of comparing testimony from the court proceedings with information from our investigation files. We have identified several discrepancies in the court's opinion that call into question the factual basis for the court's conclusion that Admiral Kelso had specific and detailed knowledge of those events and the implication that he lied to Federal investigators and the court when he testified that he did not have such knowledge.
>
> In addition, it should be noted that Admiral Kelso's conduct during our investigation was beyond reproach. He offered his assistance in making himself and other senior witnesses available and ensured that the Navy provided "logistical" support and related as-

> sistance. Additionally, we found no evidence either testimonial or documentary that Admiral Kelso sought to thwart the Navy's internal investigation of the Tailhook matter. In short, his conduct was certainly not what one would expect from a person in authority who had a lot to lose from a thorough public airing of the facts.

Unfortunately, clearly Admiral Kelso did have a lot to lose because of the way that this situation is being treated.

On March 30, 1994, with respect to Admiral Kelso's presence at Tailhook, again from the inspector general of the Department of Defense—no higher authority, no higher authority to investigate anything that goes on in the Department of Defense than the inspector general. And this particular inspector general, by the way, has a superb reputation, Mr. Derek J. Vander Schaaf.

> We concluded that Admiral Kelso was not on the patio Saturday evening and did not visit the hospitality suites at any time. Further, we were unable to find any credible evidence that Admiral Kelso had specific knowledge of the improper incidents and events that took place. Finally, we found no evidence that Admiral Kelso sought to thwart the Navy's internal investigation into the Tailhook matter.
>
> With respect to Admiral Kelso's presence on the patio Saturday evening, virtually all the key witnesses who said they saw Admiral Kelso on the patio Saturday evening stated that they saw him in the company of Secretary Garrett, Vice Admiral Dunleavy, and/or Vice Admiral Fetterman. Each of these individuals, as well as other witnesses who were in a position to know Admiral Kelso's whereabouts, consistently stated that Admiral Kelso was not on the patio Saturday evening.

Mr. SPECTER. Will my colleague from Arizona yield for a question?

Mr. McCAIN. No, I will not until I finish my statement, and then I will yield for questions from him.

I think it might be of interest also for the RECORD to note that during his 38-year military career, among many distinguished assignments both in combat and in peace, Admiral Kelso received the Defense Distinguished Service Medal, the Distinguished Service Medal with two gold stars, Legion of Merit with three gold stars in lieu of subsequent awards, Meritorious Service Medal, Navy Commendation Medal, Navy Achievement Medal, Navy Unit Commendation with two bronze stars in lieu of subsequent awards, Meritorious Unit Commendation, Navy Expeditionary Medal, National Defense Service Medal with two bronze stars in lieu of third award, Armed Forces Expeditionary Medal, and the Sea Service Deployment Ribbon.

A distinguished career, Mr. President, a distinguished career of a decent, honorable, and widely respected person.

I might add that the DACOWITS members are a group of approximately 36 women—mostly women—who have many significant and respected credentials as far as the issue of the military is concerned. I have dealt directly with many of the members over the years and know them to be heavily involved in issues relevent to military life, including women in the military.

Mr. President, I will conclude, because I find this such an unpleasant and distasteful exercise.

There has not been a lot said about what will be the impact on the military, the men and women of the military, of allowing Admiral Kelso to retire at a four-star rank, his involvement or noninvolvement with the Tailhook, how he handled it, what he saw or did not see, et cetera.

I can tell you that there are men and women throughout the Navy today, some of whom have access to C-SPAN, are watching and paying attention to these proceedings. I will tell you what they are thinking, because I know them, I know them better than anybody in this body. I know them well.

What they are thinking is: Here is a person who served for 38 years, for whom there is no evidence, according to the inspector general of the Department of Defense, for having done anything wrong, a person who served honorably and with distinction in war and in peace. And now, in a precedent shattering move, some Members of the U.S. Senate, because of what happened on his watch, seek to reduce him in rank and humiliate him and force him from the service under a cloud which will stain and destroy his reputation for the rest of his life.

These men and women in our Armed Forces are wondering whether they indeed might be a victim of this same kind of situation. Maybe they might serve for 38 years with honor and distinction, reach the highest position attainable in the U.S. Navy, have something go wrong that at least in their mind they had no involvement with, and did their very best—and be faced with the same humiliation. The record is clear that Admiral Kelso did his very best to try and remedy these terrible, tragic events that took place at Tailhook. What is to be accomplished by the Senate's piling on at this late date—3 years later? The message has already been sent by Admiral Kelso's early resignation.

I also think that they will be impressed by the Women Officers Professional Association, over 400 commissioned and noncommissioned women in the military, and their view of Admiral Kelso. Many of these women have worked with him on a daily basis.

They may also be impressed with the Department of Defense Advisory Committee on Women in the Services—highly qualified women who deal with issues affecting the military and professional military service members on a day-to-day basis. And then they will wonder whether a military career is the proper course for them to pursue.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, yes, it is a distasteful discussion, but I remind my colleagues it is the result of a distasteful experience of over 80 women that lead us to this today.

I stand today to urge every one of my colleagues to listen carefully and thoughtfully to this debate and ask themselves whether the U.S. Senate should confer this extremely high honor on retiring Adm. Frank Kelso, an honor received by relatively few people in the history of this Nation.

There is no doubt that Admiral Kelso served a distinguished military career. He is the Chief of Naval Operations. Without our action today, he can retire with two stars and a pension of $5,600 per month. Our job is to decide if Admiral Kelso should be given a monthly pension supplement of $1,100 and two additional stars.

This is the question before the Senate: Did Admiral Kelso serve to a higher standard? Did he serve above all reproach? Should thousands of young men and women coming behind him use him as a role model in their own lives as they shape their military careers?

As U.S. Senators, we cannot ignore the tarnish of Tailhook in today's debate.

I have reviewed carefully the documents and history that bring us to today's debate. There is no doubt the stories and the secrets of the Tailhook conventions are well known, and beyond comparison in abhorrent behavior.

We talk a lot in this body about moral decay, taxpayers' funds and personal responsibility. Tailhook 1991 had it all. The Navy paid for transportation for officers to attend. Naval personnel on official time actively recruited officers to attend in numbers which were double that which could be accommodated at the official—as opposed to social—functions of the convention. The tales of the gauntlet are well documented and not disputed.

No one has described the conduct exhibited toward women at those events as that to which you would want your daughter, sister, mother, or wife subjected.

Young women and men who attended Tailhook had no way to defend themselves. There was no one in a leadership position who said, "You are my responsibility. You will be safe."

For more than a decade before the infamous 1991 Tailhook Convention, alarm bells were sounding throughout the Pentagon and the Navy on the issue of sexual harassment.

According to Naval Judge William Vest:

> Despite the worthy official purpose [of Tailhook], the evidence is replete with references to the annual symposium's longstanding and widely-known reputation for wild partying, heavy drinking and lewd behavior.

Beginning in 1986, some naval officials had begun to document their fears about the Tailhook conventions, aware as they were that the trend had been for these meetings to degenerate into drunken brawls where inappropriate behavior by Navy personnel was commonplace.

Was Admiral Kelso out-of-the-loop? Did his staff not tell him about past problems? While he was at the convention, did he see nothing, hear nothing?

The evidence suggests that would have been nearly impossible. So well known was the climate at Tailhook that, by 1991, the president of the Tailhook Association wrote to squadron commanders and urged them to guard against "late night gang mentality."

Year after year, however, little was done to correct the situation.

As Judge Vest stated:

> It should go without saying that this behavior should have never been permitted to start; having started, should have swiftly ended; and that due to years of permissive leadership, the situation had gotten completely out-of-hand.

Admiral Kelso was at the very top of that "permissive leadership." It was under his charge these events occurred. It was under his leadership.

The U.S. Senate cannot say with one voice "we do not condone sexual harassment," and then, look the other way and reward those who are in charge when harassment and abuse occur.

I fear that the message from the Navy and the Pentagon has not changed, and that many sailors, soldiers and officers still consider the whole Tailhook incident to be a joke. Women have testified before Congress that the message to all ranks is "you can get away with sexual abuse and harassment in the U.S. military."

It is very discouraging to talk with young women and hear them say that although a lot of adults talk about the evils of sexual harassment and violence, no one backs that message with actions. No one pays.

We continue to send the message that violence will go unpunished. Abuse will be overlooked. Harassment is OK.

Among the most prominent public cases that have been aired over the past few years, those who have been accused continue to receive top salaries and remain in high public offices. Nothing seems to change.

Any mother or father who sends their son or daughter to serve in the military should be assured at a minimum that the commanders-in-charge will not allow behavior such as this to occur. And, if it does occur, they should be assured at a minimum that it will be investigated to the fullest extent. And, if their son or daughter is the victim of harassment or abuse, they should be assured at a minimum, they will not be the ones to suffer the consequences.

To vote to reward and honor Admiral Kelso today with an additional two stars would continue to send the wrong message.

I want my daughter and thousands of our country's young women and men to see service in the military as an outstanding career opportunity, as a place where those who serve with dignity and honor are rewarded—and most importantly, as somewhere they can succeed without becoming the victims of abuse while those at the top look the other way.

This is what bothers me most. I have to face young women and men across my State who say to me, "I want to be an astronaut, or an aviator, or a U.S. Senator." I tell them these are great goals. They are difficult and rewarding jobs that come with a great deal of responsibility.

What do I tell them about Tailhook if they dream of a career in the Armed Forces? Do I say to young women, "Go ahead, be all that you can be, but don't expect the top person to protect you if you get in a situation that gets out of control—even if she or he is present at the time."

It is appalling to me that 30 admirals, 2 generals, and 3 Reserve generals attended Tailhook 1991 and not one of those individuals exercised the responsibility of their command. And Admiral Kelso was at the top of that chain of command. So much authority; so little leadership.

I urge my colleagues to remember why we are present at this time. The voters continue to call for change, and they are watching. Part of that change is sending a strong message that we do not approve an action simply because that is the way it has always been done.

My colleague from Georgia earlier stated that if we vote against four stars today we are sending a different signal and setting a different standard with regard to these awards. That is exactly what we should do. It is time for a change.

In closing, as we exercise our constitutional responsibilities to advise and consent on the retirement status of Admiral Kelso, it is to the American people that we will ultimately have to answer. We must be able to tell them that those who are honored by this body have passed the highest test: They are the figures to whom we, as parents, can point with pride and say we want our children to grow up just like them. Admiral Kelso did not pass that test.

Thank you.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

UNANIMOUS-CONSENT AGREEMENT

Mr. EXON. Mr. President, I pose a unanimous-consent request that we have been working on for some time now.

I ask unanimous consent that the following time limitations apply to the remainder of the debate on the motion regarding Admiral Kelso: 90 minutes for opponents, under the control of Senator MIKULSKI or her designee, 30 minutes of which will be under Senator SPECTER's control; 60 minutes for the proponents of the motion, under the control of Senator EXON or his designee, with the following Senators to be recognized for the following time limitations out of Senator EXON's time: Senator MATHEWS, 5 minutes; Senator STEVENS, 20 minutes; Senator WARNER, 10 minutes, with the remainder of the time scheduled to the Senator under his control or his designee; that at the conclusion or the yielding back of time, the Senate, without any intervening action or debate, vote on the nomination; that if the nomination is confirmed, the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

I will add here, for the understanding of all—I believe it is the understanding—that in any event, the rollcall vote will not occur before 7:35 p.m.

The PRESIDING OFFICER. Is there objection?

Ms. MIKULSKI. Mr. President, to amplify the Senator's unanimous-consent request, the opposition requests 90 minutes, 30 of which is to be controlled by Senator SPECTER; 15 minutes for Senator BYRD; 10 minutes for Senator KASSEBAUM; 10 minutes for Senator METZENBAUM; 5 minutes for Senator CONRAD; 10 minutes for Senator BOXER; and 5 minutes for myself.

Mr. GORTON. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. This Senator simply does wish to speak for 5 minutes in opposition and did not total up all those minutes, but they sounded suspiciously like they were all occupied, I say to the Senator from Maryland. If he can be recognized for 5 minutes in due course, he would appreciate it; otherwise, I suspect he is going to have to object.

Ms. MIKULSKI. Acknowledging the request of the Senator from Washington, we hotlined this and had not received word that the Senator from Washington had wished to speak. Senator SPECTER wished to speak for 20 minutes, and we have added an additional 10. Will the Senator from Pennsylvania yield some time to——

Mr. SPECTER. Mr. President, if I may respond, I will be glad to yield 5 minutes of my 30 to the Senator from Washington.

Mr. GORTON. Then this Senator has no objection.

Ms. MIKULSKI. I thank the Senator from Pennsylvania.

Mr. EXON. I have no objection to so amending the unanimous consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, on this date of the record, I am at a loss to understand the testimony of the Secretary of Defense and the Chairman of the Joint Chiefs of Staff and the testimony of the Secretary of the Navy in recommending four stars for Admiral Kelso, because the report of the general court-martial judge is very explicit in finding the facts contrary to the sworn testimony of Admiral Kelso.

When arguments have been advanced on the floor about the findings of the inspector general's report, those findings are, on their face, at variance with what the military judge has outlined and backed up with very detailed evidence.

I note that the Secretary of Defense said in his prepared statement:

> Admiral Kelso could have chosen an additional judicial forum to resolve conflicts between the military judge and the inspector general's conclusions.

The Secretary of Defense goes on to point out that Admiral Kelso chose, rather, to spare the Navy yet another drawn-out hearing with attendant costs and distractions. But what has happened is there has been a drawn-out Senate proceeding, first in the Armed Services Committee and now on the floor, to try to figure out the facts.

Had Admiral Kelso chosen the judicial forum, that body would have taken into account the very exhaustive opinion and finding of fact by the military judge running some 59 single-spaced pages filed by Capt. William T. Vest, Jr., circuit military judge, with very abbreviated documents which have been filed by the inspector general.

When my staff requested the inspector general's report on Admiral Kelso, my staff was advised that it was not public, which was a curious response to a Senator who has to vote on an important issue. This is an important issue because it involves the integrity of an admiral and it involves the integrity of the court-martial system.

Secretary of the Navy Dalton said in his prepared testimony before the Armed Services Committee:

> Even the appearance of command influence over military courts must be avoided.

As I read that statement, I wonder how Secretary Dalton explains his conclusion which contradicts the military court or explains the conclusion of the Secretary of Defense which contradicts the military court. What the Senate is being asked to do today is to approve the Armed Services report, which does not make any effort to reconcile or to explain why the military judge was wrong and why the very brief summary statements of the inspector general are correct.

I read the memorandum for the Secretary of Defense from the inspector general dated February 11, 1994, in which he comes to the following conclusion:

> During our investigation, we were unable to find any credible evidence that Admiral Kelso had specific knowledge of the improper incidents and the events that took place.

Then farther on the first page of a 1⅓-page memorandum, the inspector general notes:

> We have not had a chance to examine the entire court record. However, we are in the process of comparing testimony from the court proceedings with the information from our investigation files.

It is amazing to me that anyone would make a conclusion of the absence of credible evidence, acknowledging on the same page that they have not examined the entire court record.

There was an effort to cure that with a later memorandum on March 30, 1994, which says that the inspector general has since reviewed all of the evidence now available. It still raises the question in my mind about the preliminary memorandum of February 11, and I wonder as to the procedures used by the inspector general.

I am at a loss to understand the inspector general's conclusion that there is no credible evidence, when the inspector general does not contradict, at least as to the Friday evening event, the testimony which is detailed on page 12 of the military judge's opinion about the testimony of Captain Beck, which was corroborated by Lieutenant. Commander Fordham.

There was one other evidentiary piece noted that someone had not seen Admiral Kelso in the area, but that hardly undercuts the forceful, explicit testimony of Captain Beck that Admiral Kelso was well within view of a major incident, and that Captain Beck talked to Admiral Kelso, and that Admiral Kelso in effect acknowledged what was happening.

Now, it surprises me in the course of our consideration of this matter that so little weight is given to the detailed opinion of the military judge. One of my colleagues was in the Chamber saying that Senator SPECTER was going to present some details and inquired, yielding for a question. I raised the question about how anybody could say this is not credible evidence on the Friday night incident.

Admiral Kelso concedes he was present, says he did not see any of the events in question. One witness testifies positively that Admiral Kelso was on the site of the event, talked about the event. Another witness corroborates the event occurred. Is that not credible evidence? I have had some experience in the field of evidence, and that certainly is credible evidence.

On the Saturday event, the military judge notes at page 16 of his 59-page opinion, single spaced opinion:

> The Court further finds that many of the eyewitnesses gave detailed accounts of their observations of Admiral Kelso's presence on the patio on Saturday evening. Notwithstanding disparities regarding times, exact times, most address the specific locations.

Now, perhaps someone could say, if there is some variation as to exact times or modes of dress or specific locations, that raises some question; but not really. The testimony does not become incredible because of such minor deviations, or at least I do not understand on the face of this record, if the inspector general makes that contention, that we ought not see why he makes it, what the facts are and what leads him to that result.

The military judge went on to note some ambivalence at pages 22 and 23, stating:

> The court further finds that a number of the witnesses who testified were ambivalent regarding their prior statements to DCIS investigators. Some of these witnesses admitted to being personally intimidated in knowing that Admiral Kelso denied ever being on the patio during his in-court testimony. However, the majority of these witnesses confirmed the accuracy of their prior statements. These witnesses include Rear Admiral Paul Parcells, Deputy Commander Naval Forces Central Command—

Not an unsubstantial individual.

> Captain Daniel Weyland, USN Retired, Miss Margaret Hendly, Lt., and more.

Mr. President, I do not know how someone could take a look at that and come to a conclusion that there was no credible evidence.

The military judge at page 26 then makes a finding that:

> Based upon the convincing nature of the testimonial evidence and the many corroborating facts and circumstances surrounding such evidence, the Court goes on to find that Admiral Kelso is in error in his assertion that he did not visit the patio on Saturday evening. This court specifically finds that Admiral Kelso visited the third deck patio at some time prior to the evening hours of 7 September 1991. This court further finds Admiral Kelso was exposed to incidents of inappropriate behavior while on the patio on Saturday evening including public nudity and "leg-shaving activities".

The military judge made a further finding at pages 39 and 40 of his report as follows:

> Captain Gutter indicated that Rear Admiral Williams had also personally briefed Admiral Kelso on the results of the NIS investigation. During that briefing, according to Captain Gutter, Admiral Kelso had asked Rear Admiral Williams point blank, "Is there anything in your investigation that's going to place the Secretary on the third floor of Tailhook?" or words to that effect.
>
> Rear Admiral Williams responded to the effect, "I've taken the pulse of all the agents in the field and there's nothing out there that's going to implicate the Secretary." This court finds that while this statement expressed a direct interest in any information linking Secretary Garret to misconduct that occurred on the third floor, it also signaled Admiral Kelso's personal concern for any information that might link him to such conduct.

Now, that is not the voluminous evidence which is quoted before, but these are all matters which are detailed in the record in a very specific way. It is my view, Mr. President, that the Senate has a right to know what the answers to these questions are when we are being asked to approve a four-star status.

We have a right—and I will pursue the inquiry beyond today—to ask the inspector general just how he squares that evidence with his conclusion: "We are unable to find any credible evidence that Admiral Kelso had specific knowledge of the improper incidents and events that took place."

The proceedings in court have the degree of sanctity which is recognized by Secretary Dalton in his prepared statement, that even the appearance of command influence over military courts must be avoided. Without dealing with the detailed statements of fact, the inspector general provides us with a very abbreviated statement and does not give to Senators who have to vote on this issue the information at hand.

I think it is very unfortunate that this matter has reached the Senate floor, because there is a record here of a naval officer which is longstanding, and it surprises me that anyone would want to bring this matter to the Senate floor on the issue of the promotion for two stars and some additional retirement compensation. Speaking for myself, I do not see how this body can turn its back on a 59-page detailed report which stands on this record and stands certainly in the face of a conclusory statement by the inspector general that there is no competent evidence.

I personally would prefer to have had the Senate avoid this. I personally would have preferred to have had a record which would have supported the four stars for Admiral Kelso. But in good conscience, I cannot support that kind of a promotion in the face of this record.

I yield the floor.

Mr. GORTON. Will the Senator yield his time to me?

Mr. SPECTER. I do yield. I thank the Senator from Washington. I yield 5 minutes to my colleague from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, nothing is more fundamental to the doctrine of effective and responsible armed services than command responsibility. That responsibility finds its way all the way up through the chain of command, affecting the duties of and responsibilities of each officer in that chain, but being diminished in no way whatsoever by the time it reaches the highest military authority, in this case, the Chief of Naval Operations.

Under those circumstances, Admiral Kelso is ultimately responsible for the actions and conduct of his inferior officers in the U.S. Navy.

This Senator is impressed with the remarks of his colleague from Pennsylvania. He is deeply disturbed by the findings of the judge advocate denoting the denial of the accuracy of those findings, and is not entirely certain whether or not findings on individual conduct rather than command responsibility fall into his theory of that command responsibility.

This Senator would be reluctant, without having studied it far more deeply, to ground his decision in this matter solely on stating that he believes Captain Vest as against Admiral Kelso; or for that matter, vice-versa.

Far closer to the doctrine of chain of command, however, is the method, the way in which the investigation of Tailhook was conducted—obviously defective, obviously with a great deal of resistance on the part of a number of officers, and ultimately resulting in no significant disciplinary actions being taken against any of the officers who participated in illegitimate forms of conduct at Tailhook.

For the failure of the effectiveness of that investigation, I suspect that Admiral Kelso can properly be called to account, and can properly be said not to have conducted his office of Chief of Naval Operations in an appropriate fashion. But there are still cloudy circumstances in connection with that investigation and his responsibility.

What is, however, crystal clear, it seems to this Senator, Mr. President, is the fact that the one officer who is no longer in the Navy as a result of Tailhook is Lieutenant Coughlin, the victim, one of the principal victims, the victim who reported what went on in Tailhook itself. And that, this Senator finds to be unsupportable with backing the promotion of Admiral Kelso to full admiral for his retirement.

To have all of the time and money expended with no disciplinary action beyond the merest of reprimands directed at any of the officers engaged in the sexual harassment, and to have allowed the overt and covert attack, as Lieutenant Coughlin wrote in her letter of resignation to have taken place in such fashion as to have destroyed her career in the Navy, although she was the victim of these attacks, is utterly and profoundly wrong, and over her failure Admiral Kelso clearly had a high degree of control.

Had she been treated appropriately, had the chain of command been ordered to, required to treat her appropriately, had she been individually encouraged by the admiral himself that she retain a future in the Navy, my own views in this case might very well be different. But I cannot in any way accede to the proposition that Lieutenant Coughlin loses her career, and that no one else does.

This Senate is required by law to approve of the promotions of flag officers in the armed services, granted that this, at the time of retirement, is almost automatic, but it is not quite automatic, and it should not be. To grant this promotion, to vote for this promotion, is to approve of all of, including the last part of, Admiral Kelso's career. That career is, most respectfully, extraordinary and distinguished. He would not have reached four-star rank even temporarily without it. But at this point, he must rise or fall on the way in which he dealt with this matter, either as an individual or——

Mr. NUNN. Will the Senator from Washington yield briefly?

Mr. GORTON. Yes.

Mr. NUNN. I listened to some of the Senator's remarks. I have not heard them all. But I believe the Senator said no one except Lieutenant Coughlin lost a job. That simply is not correct. The Secretary of Navy resigned in light of all of this, and then Admiral Dunleavy, who was the Chief of Naval Aviation, was forced to retire and would have retired with three stars, but retired with only two stars.

So there has been punishment at the very top. The IG of the Navy was also given a reprimand. So the Senator's information—I do not know where he gets that information, but it is simply incorrect.

Mr. GORTON. The Senator stands corrected with respect to Admiral Dunleavy. The Secretary of the Navy, however, does not wear a uniform. Under the circumstances in which the Secretary went, it is the view of this Senator that Admiral Kelso should have gone at the same time and under the same circumstances.

In any event, with the principal person losing her career in midcareer, perhaps the only person losing her career in midcareer being Lieutenant Coughlin, it is the view of this Senator that Admiral Kelso does not deserve the affirmative promotion in retirement to four-star admiral which he here seeks.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, the Navy JAG, Judge Advocate General, resigned over this. The head of Naval Investigative Service resigned over this. We held up nominations for months and months, and looked at every single record of those coming before us, as to their possible involvement here.

So the Senator's information—I do not know where that information comes from, but it is simply erroneous. There have been a number of people at the very top of the Navy whose careers have been completely disrupted, some of whom have been forced into early retirement, one of whom was head of aviation and retired on two stars rather than three.

So I do not know where this information is coming from. But the RECORD should reflect that it is erroneous.

Mr. STEVENS. Who is controlling the time?

Mr. EXON. How much time would the Senator from Alaska like? I believe we had the Senator down for 20 minutes.

Mr. STEVENS. Let me have about 10 minutes of that right now. We will see what happens.

Mr. EXON. I yield 10 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I do not know about other Members of the Senate, but I have dealt with Admiral Kelso now, I think, for at least 14 years; maybe longer. I know that he, at the time of the Tailhook incident, sought to retire to take the total responsibility as then CNO.

Secretary Garrett decided to retire, and the admiral was convinced to stay on board. He had a substantial job to do in downsizing the Navy.

I further want to call the Senate's attention to the fact that this has developed into an unfortunate situation.

I am the father of three daughters. I know Admiral Kelso to be the father of two daughters and two sons he is very proud of. One is a naval lieutenant. One of the daughters is married to a naval lieutenant.

I do not know about the rest of you. I know this man as a man, and I have talked to him as a man about Tailhook. He is not an aviator. He was not there at that event as an aviator participating in Tailhook, whatever it was that was going on.

I have before me now a statement that was made by the Secretary of Navy to the Chairman of the Joint Chiefs. It is signed by John Dalton as Secretary of the Navy.

My good friend from California said that we had to understand that women must be treated with respect. I know of no naval officer who seeks to treat women in the Navy better than Admiral Kelso. He wanted to take the responsibility, and now 2 years later, having taken the responsibility for what he was assigned to do, he was not assigned the investigation of Tailhook

Three Secretaries of the Navy have looked through his record as regards to Tailhook, and support this man. Three Secretaries of Defense looked through the record with regard to Tailhook, and support this man. Two chairmen of the Joint Chiefs have signed off that he was not in any way responsible for, nor should be connected to, Tailhook. And now two Presidents have relied upon him as the CNO, and one of them, President Clinton, has sent to us a request that this man be retired with four stars, with the rank of admiral.

I think it is unfortunate that people who say they have read, for instance, the record of the military judge, do not read what the Secretary of Navy said when he wrote this to the Chairman of the Joint Chiefs.

Mr. President, I ask unanimous consent that this memorandum for the Secretary of Defense, dated 17 February 1994 be printed in the RECORD at the closing of my remarks.

The PRESIDING OFFICER (Mr. FEINGOLD). Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. I now read from this memorandum for the Secretary of Defense, dated February 17, 1994:

> Investigative files and all systems of records maintained in this Department referring to this officer by name or identifying particulars, including Standard Form 278 (Financial Disclosure Report), have been reviewed since last Senate confirmation, and we find no evidence of conflict of interest. To our knowledge, there is no pending investigation of alleged misconduct by this officer.
>
> Admiral Kelso was present at the Tailhook '91 Convention. He did not engage in any personal wrongdoing with respect to the planning for Tailhook or conduct at Tailhook. Accordingly, he was not the subject of any adverse action concerning those matters. However, because of his accountability as Chief of Naval Operations for the conduct of subordinates, he received nonpunitive correspondence in that regard. As guidance for the future performance of his duties, that letter described the Secretary of the Navy's standards concerning the leadership responsibilities of Flag Officers. By its express terms it was not intended to have any adverse impact upon Admiral Kelso's retirement in the grade of admiral at the conclusion of his service in that grade.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, if I may continue, this memo goes on to point out to the Chairman of the Joint Chiefs the circumstance concerning the ruling on a pretrial motion in a general court martial. It pointed out the military judge determined that Admiral Kelso was an accuser within the meaning of article 1, paragraph 9, of the Uniform Code of Military Justice with regard to each accused and, therefore, had an actual and apparent unlawful command influence in each case. And the military judge dismissed the charges.

The military judge's order—and this is the Secretary of Navy now writing this—was based in part upon certain findings of fact concerning Admiral Kelso. Those findings of fact reflect the military judge's assessment of the credibility of witnesses Admiral Kelso was unable to confront or cross-examine.

> An impartial official fact-finder has reached a conclusion contrary to that of the military judge concerning the issues about Admiral Kelso that the military judge considered. On February 11, 1994, the Department of Defense Deputy Inspector General issued a statement describing the findings reached by him as the result of his office's investigation of Tailhook '91 and Admiral Kelso. His statement declared that during his investigation, his office found no credible evidence that Admiral Kelso had specific knowledge of the incidents and events that took place. He also stated his belief that, based on all the testimony, Admiral Kelso was not present on the third floor patio on Saturday night and that those who believed they saw him are mistaken. The Deputy Inspector General further stated that Admiral Kelso's conduct during the DODIG investigation "was beyond reproach" and was inconsistent with the conduct of an individual who was motivated to hide misconduct from public scrutiny.

Mind you, Mr. President, this is the current Secretary of Navy who has recommended that the President send this nomination to us to retire Admiral Kelso in the grade of Admiral.

But the main point I want to make is, the people who are here now asking that he not be retired at that grade do not realize that this man wanted to take responsibility because of the way he was totally revolted by the evidence of Tailhook. He wanted to be the symbol himself. He was asked in the interests of our country to stay on board, and he did stay on board. He has conducted himself extremely well in his duties. He was not responsible for this investigation and, on the contrary, an active Secretary and then subsequently the new Secretary had people review this, particularly through the Office of Inspector General of the Department of Defense.

Admiral Kelso has been at the center of the planning of the base force concept that was advocated by Gen. Colin Powell when he was Chairman of the Joint Chiefs, and the Bottom-Up Review that was led by Secretary Les Aspin. During this period he stayed on board, the Navy has radically reduced the number of ships, aircraft, and submarines, while conducting nonstop missions in the Persian Gulf, off Bosnia, and around North Korea. He continued the combat readiness and high morale of the Navy during this period. These are tributes of leadership of what he has done.

Instead, people here want to use him as a symbol of the Tailhook incident and the fact that someone ought to pay.

This man wanted to take that responsibility, but, in the interest of the Navy and in the interest of the United States, he was asked to stay on board and he did stay on board.

To punish him now as a symbol of misconduct of other naval officers to me is just wrong. I think that it is time we recognized what is happening.

Senator INOUYE and I conducted hearings this morning on recruitment. Recruitment is down. The quality of people who are coming into the Armed

Forces is down. The problem is that people who are interested in a career are looking to see what Congress is doing to the armed services.

And here is an incident of just total, total wrongful interpretation of this man's record and what he has done. I cannot believe that a man who has done what he has done ought to be in some way blamed for what went on at Tailhook or the cheating incidents at the Naval Academy. I think the people here fail to recognize what he tried to do to respond to those crises. But, above all, I think they fail to recognize what he has done for the country.

Just think, how many of you here have had complaints from people in the Navy about the downsizing? We have downsized our Navy. We have put our Navy under greater stress than it has been under since World War II, and we have done it at a time when we got through a complete review, three Secretaries of Defense, and three Secretaries of the Navy. This man's watch has been one of the most difficult watches in the history of this office.

I think he is entitled to the rank he has earned through 38 years of service for this country.

I was just walking down the hall and I met a young ex-officer I know. He said, "You know, one of these days all of the people who have defended this country under fire are just going to resign en masse." He was just irritated over what he had heard out here on this floor.

And some of the Senators making some comments, on the one hand, "Oh, he is entitled to credit for his service; but then, we don't want him to retire in that rank because we want a symbol, a symbol somehow that Tailhook was wrong."

Tailhook was wrong. My God, if there was anybody who knew it was wrong and wanted to show it was wrong immediately, it was Admiral Kelso.

I think to strip him of his rank, to not allow him to retire to the rank he served in now as CNO—some people seem to think this is a last-minute promotion. This is a permanent recognition of the rank he served under as the admiral of the Navy.

Admiral Kelso cannot come here to the floor to answer the critics who oppose this nomination. It is not a nomination in the normal sense. It is a confirmation. We are asked to confirm this man in retirement status as a four-star admiral because he has earned it.

I implore the people who are here to recognize the lifetime of dedication to this country of a man who was a distinguished naval officer. But particularly, to the women Senators here, I ask you to remember he is a father. He is a father of two young women who are very sensitive about their father's role in this matter. And there are others around here who are fathers who are sensitive of their own daughters' impressions of Tailhook.

I cannot quite understand why any Senator wants to take a person and hold him up as a symbol. Everyone on the floor today has recognized this man's service. I have not heard anyone condemn his service—38 years of dedicated service to our country and his leadership in peacetime and wartime.

The PRESIDING OFFICER. The Senator has used his time.

Mr. STEVENS. I will take 2 more minutes, if I may.

Mr. EXON. I yield 2 additional minutes to the Senator.

Mr. STEVENS. Mr. President, I am just hard put to understand it.

I guess I cannot understand it because I participated in some of the conversations at the time we urged him not to step down. We urged him to continue what he was doing. I am one of those who urged this man to stay in office.

And now he is going to be given worse treatment.

As one Senator said before, how many people would have denied him his four-star rank if he had retired and taken on the full responsibility of Tailhook at the time the incident first came to light? How many people would have said, "No, you cannot retire in the grade you have served this country in as Chief of Naval Operations"?

I think the conclusion to be reached is somehow or another, it should be taken away from him because of what he did or did not do since then.

If you know what he has done, as I know what he has done, in that period of time, he has downsized, he has led the country to a better Navy, a smaller Navy, a more affordable Navy, a more capable Navy. If for nothing else in his whole career, he deserves that rank for what he has done since Tailhook, but I think he deserves that rank for his total service to the country.

I thank my friend for yielding time.

EXHIBIT 1

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, DC, February 17, 1994.

Memorandum for the Secretary of Defense

Thru: Chairman, Joint Chiefs of Staff, Deputy Secretary of Defense

Subject: Navy Flag Officer Nomination

Recommend the President nominate Admiral Frank B. Kelso II, United States Navy, age 60, for appointment to the grade of admiral in the retired list. Admiral Kelso is currently serving as Chief of Naval Operations. He will retire in Spring 1994.

In accordance with the provisions of Title 10, United States Code, and DOD Instruction 1320.4, a proposed memorandum for the President is attached.

Investigative files and all systems of records maintained in this Department referring to this officer by name or identifying particulars, including Standard Form 278 (Financial Disclosure Report), have been reviewed since last Senate confirmation, and we find no evidence of conflict of interest. To our knowledge, there is no pending investigation of alleged misconduct by this officer.

Admiral Kelso was present at the Tailhook '91 Convention. He did not engage in any personal wrongdoing with respect to the planning for Tailhook or conduct at Tailhook. Accordingly, he was not the subject of any adverse action concerning those matters. However, because of his accountability as Chief of Naval Operations for the conduct of subordinates, he received nonpunitive correspondence in that regard. As guidance for the future performance of his duties, that letter described the Secretary of the Navy's standards concerning the leadership responsibilities of Flag Officers. By its express terms it was not intended to have any adverse impact upon Admiral Kelso's retirement in the grade of admiral at the conclusion of his service in that grade.

On February 8, 1994, a ruling on a pretrial motion was issued in the general courts-martial of three officers accused of Tailhook offenses. Because Admiral Kelso was not an accused, he was not a party to those cases or to the motion. In consequence, Admiral Kelso did not have the right or opportunity to be represented by his own counsel, present evidence or argument to the Court or cross-examine witnesses.

In his ruling, the military judge determined that Admiral Kelso was an "accuser" within the meaning of Article 1(g), UCMJ, with regard to each accused and that there had been actual and apparent unlawful command influence in each case. As a result, the military judge dismissed the charges against the three accused officers. (A copy of the military judge's written ruling and order is attached as exhibit A.)

The military judge's order was based in part upon certain findings of fact concerning Admiral Kelso. Those findings reflected the military judge's assessment of the credibility of witnesses Admiral Kelso was unable to confront or cross-examine.

An impartial official fact-finder has reached a conclusion contrary to that of the military judge concerning the issues about Admiral Kelso that the military judge considered. On February 11, 1994, the Department of Defense Deputy Inspector General issued a statement describing the findings reached by him as the result of his office's investigation of Tailhook '91 and Admiral Kelso. His statement declared that during his investigation, his office found no credible evidence that Admiral Kelso had specific knowledge of the incidents and events that took place. He also stated his belief that, based on all the testimony, Admiral Kelso was not present on the third floor patio on Saturday night and that those who believe they saw him are mistaken. The Deputy Inspector General further stated that Admiral Kelso's conduct during the DODIG investigation "was beyond reproach" and was inconsistent with the conduct of an individual who was motivated to hide misconduct from public scrutiny. (A copy of the DODIG's statement is attached as Exhibit B.)

On February 15, 1994, you issued a statement concerning Admiral Kelso. Your statement was based upon your review of the DODIG's conclusions and discussions with me about the military judge's ruling. You noted that Admiral Kelso had not been a party to the courts-martial proceedings. You also noted the DODIG's findings and conclusions about Admiral Kelso. You stated that you had personal knowledge that Admiral Kelso did not himself decide on the disposition of the Flag Officer files developed by the Inspector General and that then-Secretary Aspin decided to hold those files for review by civilian leadership. (A copy of SECDEF's statement is attached as Exhibit C.)

On February 15, 1994, I also issued a statement concerning Admiral Kelso. My statement declared that I have never questioned the personal integrity and honor of Frank Kelso. I further stated my full concurrence with your judgment regarding Admiral Kelso's character. I know that Admiral Kelso was not given custody or control of any of the Flag Officer files prior to the Consolidated Disposition Authority's decision to refer cases to trial. (A copy of SECNAV's statement is attached as Exhibit D.)

If you desire any additional information about the preceding matters, I will provide it at your request.

Admiral Kelso has rendered exceptionally meritorious service in the grade of Admiral. In addition, he discharged even more substantial responsibilities while serving for approximately six months as Acting Secretary of the Navy on the basis of his distinguished service to our Navy and our Nation in peacetime and in war, I most strongly recommend that this retirement in the grade of admiral be confirmed.

This action will not result in any change to the Navy's authorized number of admirals.

JOHN H. DALTON,
Secretary of the Navy.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I yield to the distinguished chairman of the Appropriations Committee, the Senate President pro tempore, Senator BYRD, 15 minutes.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Maryland for her yielding 15 minutes. I will not use that much time.

LEADERSHIP AND ACCOUNTABILITY

Mr. President, the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the Secretary of the Navy, have all maintained that the Chief of Naval Operations, Adm. Frank Kelso, should be allowed to retire as a four-star admiral. They believe that his long and distinguished career, 38 years of service in the Navy, merits retirement at four stars, regardless of the blot on his escutcheon known as the Tailhook scandal. Mr. President, I respect the individuals who have made this recommendation, and I appreciate their thoughtfulness in considering the full scope of Admiral Kelso's contributions to the Navy as they have made their recommendation and as Senators have stated here on the floor today. But I cannot agree with them on this issue. As the Chief of Naval Operations since 1990, Admiral Kelso must assume responsibility for the failure of leadership that allowed the events at the Tailhook convention to occur.

The continuing disgrace of the Tailhook scandal was clearly a failure of leadership, a "deficiency of leadership" noted by Secretary Perry. I quote from a letter from then-Secretary of the Navy Lawrence Garrett to the president of the Tailhook Association, dated 29 October 1991, terminating the Navy's support of the Tailhook Association:

> There are certain categories of behavior and attitudes that I unequivocally will not tolerate. You know the phrase: "Not in my Navy, not on my watch." Tailhook '91 is a gross example of exactly what cannot be permitted by the civilian or uniformed leadership of the Navy, at any level. No man who holds a commission in this Navy will ever subject a woman to the kind of abuse in evidence at Tailhook '91 with impunity. And no organization which makes possible this behavior is in any way worthy of a naval leadership or advisory role.

As we may recall, Mr. President, Secretary Garrett resigned as a result of his role in the Tailhook scandal. But his words still ring true, and Tailhook '91 remains a gross example of what cannot be permitted by the civilian or uniformed leadership of the Navy, at any level.

The presence of senior officers, including Secretary Garrett and Admiral Kelso, at a convention renowned for its parties, drinking, and lewd behavior makes a mockery of official statements about a "zero tolerance for sexual harassment," a policy that Secretary of Defense Perry notes in his testimony was instituted by Admiral Kelso in November 1991. The Department of Defense inspector general's report notes that:

> Clearly, some of the activities that took place at Tailhook conventions were known within the Navy to be incompatible with Navy policies dealing with sexual harassment and abuse of alcohol. To some, the presence of the Secretary and flag officers gave tacit approval to the event, including those aspects of the convention that were contrary to established Navy policies.

To fail to censure the leadership, Mr. President, that allowed this, while holding junior officers responsible and accountable, in my judgment, is not reasonable.

In response to concerns generated by the leadership failures related to the Tailhook scandal, the Senate included in the fiscal years 1992 and 1993 National Defense Authorization Act a provision that made the retirement of the Chief of Naval Operations and the Commandant of the Marine Corps at the highest grade subject to confirmation by the Senate. Mr. President, that is why this retirement is being debated today. In 1991, the Senate recognized the need to hold leaders accountable for failures of leadership. Secretary Garrett resigned. Admiral Kelso was recommended for an early retirement by our current Secretary of the Navy, John Dalton, a recommendation that was not accepted by then-Secretary of Defense Les Aspin. While the Senate did not have the opportunity to act on Admiral Kelso's retirement earlier, he ultimately must be held accountable for his failure of leadership. If the Senate does act today to hold Admiral Kelso accountable, it will do more than any sexual harassment training session to bring home the responsibility and accountability of all uniformed personnel to conduct themselves professionally and to respect the rights of women, civilian and military. So, Mr. President, I shall cast my vote to hold Admiral Kelso accountable.

I yield back the remainder of my time.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, am I correct in my understanding that under the agreement now governing the disposition of this matter, that the time for debate will expire, if all used, at 8:04 p.m. this evening?

The PRESIDING OFFICER. The majority leader is correct.

Mr. MITCHELL. Mr. President, I ask unanimous consent that an additional 26 minutes for debate be added, to be equally divided and controlled in a form consistent with the prior agreement, and that a vote on the pending matter occur at 8:30 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. I yield 5 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, this is clearly a difficult time for all of us, particularly the Navy. Tailhook was an ugly incident. I am pleased to be able to use the past tense, because it is an incident that will not be repeated. I doubt if any institution is more sensitive to that fact than the U.S. Navy at this particular point.

No one on this Senate floor condones what happened at Tailhook. Any incident of sexual harassment, sexual intimidation, is not something that we can condone. The question before us, I believe, is whether we look at what has transpired in the Navy since the occurrence of this particular incident and others, or whether we make a final point by demoting a man who has given 38 years of service in the service of his country and reached the pinnacle of success in the branch of service that he has served in.

As Senator NUNN has said, the Armed Services Committee has very thoroughly investigated this matter. We held the almost unprecedented procedure of bringing before our committee the Secretary of the Navy, the Chairman of the Joint Chiefs of Staff, and the Secretary of Defense. We particularly were interested in finding out whether Admiral Kelso did, in fact, have knowledge of the incident that occurred at Tailhook. I was persuaded, as many on the committee were—and those who I think have seriously investigated it—that Admiral Kelso did not have specific knowledge of the incident that took place.

We also very seriously investigated the matter as to whether Admiral Kelso in any way interfered with the investigation. Based on the testimony before us and my review of the case, I have concluded along with many others that he in no way interfered with the investigation that took place. In fact, Secretary of Defense William Perry indicated to us that he had spent well over 100 hours of his personal time—not just reading the IG report, but talking to those who were present at Tailhook, talking to anyone who was even remotely involved in this matter; and that he had personally satisfied himself as to these two facts that I just related.

So one question that I think has been answered to the satisfaction of this Senator and most on our committee is Admiral Kelso's knowledge and Admiral Kelso's involvement, if any, in the investigation.

The question then comes, because this was his watch, do we take this step of demoting him—in a sense demoting him in his retirement—which is accelerated? I think it is important, as long as we are talking about what has taken place on Admiral Kelso's watch, it is important to balance the scales somewhat to talk about what else has taken place on Admiral Kelso's watch in regards to the question of women in the military, and particularly women in the Navy.

The role of women in the day-to-day operations of the Navy as we all know has been very significantly increased. We have expanded women's aviation assignments. Three women aviators were recently promoted to captain. None had achieved that rank as a woman aviator prior to 1990. Promotion opportunities have been expanded very substantially. Nine women have been promoted to flag rank. All of this has taken place during Admiral Kelso's tenure.

Admiral Kelso also has greatly expanded command opportunities for women officers, both ashore and afloat. He has instituted a strong, workable prevention policy to combat sexual harassment. He has put teeth into the zero tolerance policy among both military and civilian personnel. He has established a forceful training initiative which outlines for every Navy man and woman acceptable and unacceptable behavior; the procedure for filing complaints, the role of commanding officers in preventing harassment, actions they are required to take; the role that alcohol abuse has; and discharge procedures used.

I can go on, but given the limitations of time I think it is important to note what Admiral Kelso has done on his watch in this regard is very positive. I think it is also important to understand that Admiral Kelso has, as Senator STEVENS said, volunteered to be a symbol but was persuaded not to be a symbol by then-Secretary of Defense Les Aspin, and confirmed by the President of the United States.

It is important to understand the Chairman of the Joint Chiefs of Staff, current Secretary of the Navy, the Secretary of Defense, and the President of the United States, have all recommended, after thorough review of this matter, that Admiral Kelso be retired in his current rank.

The man has suffered. The man has been punished. The man and his family now have a blot on his record that cannot be erased regardless of what we do here. He has suffered personally, I think, very substantially, as has his family. Because he has not been engaged in any delay or had any involvement in interfering with the investigation, and because I think it has been proven that he has not had knowledge of what took place at Tailhook, in the opinion of this Senator, Admiral Kelso has paid the price. He should be retired at his current rank, and I will vote accordingly.

I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. The Senator from Ohio is allocated 10 minutes, I believe, under the order; is that correct?

Ms. MIKULSKI. I yield to Senator METZENBAUM 10 minutes.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I thank the Senator from Maryland.

Mr. President, I rise because I am somewhat disturbed that so much of this debate has revolved around female Members of this body, who have led the charge on this issue. But I rise because I believe it is an issue that belongs to the other 94 Members of this body, the male Members. I believe that what is involved here has to do with what the American people, and the world, for that matter, will perceive as to how the Senate treated the entire Tailhook incident.

There are probably few incidents in the Navy's history more embarrassing than Tailhook. I can see the headlines tomorrow: "U.S. Senate Confirms Admiral in Charge of Tailhook Investigation, and One Most Directly Involved, a Four-Star Admiral." That is not the way it should be. That is not the message that should be sent. I think it is an embarrassment that we are being forced to take up this issue.

The argument is made that this man is a fine admiral and he has done his job well. I do not question the fine work he has done in the U.S. Navy. I am sure he has been an excellent member of the naval forces. I have no quarrel with that at all. But we send a signal if 94 male Members of the U.S. Senate see fit to confirm him with four stars. He would retire under any circumstances with two stars.

We somehow look totally aside from the findings of that man who had to be a very courageous captain, the findings of the Navy's own judge, Capt. William T. Vest. Captain Vest concluded that the admiral had lied about his own activities at Tailhook '91 and then used his rank to impede the investigation. Somehow some on this floor would have us totally disregard the findings of that captain and say, "Well, look what the inspector general did and look what the Secretary of the Navy did." I think you have to look at the findings of that person who was on the scene who was charged with the responsibility and look at his conclusions.

There is not much question about the fact that Admiral Kelso was responsible for the botched investigation, and for that we promote him to a four-star general? A Navy judge accused him of lying when he denied he had witnessed any misconduct there and charged he used his rank to impede the investigation. I do not know if all that is true. But that is what the Navy judge concluded, and I have to assume that when he was placed in that position to be the Navy judge, it is because he had the qualifications, the ability, and the character to be in that position.

But I cannot see how we, who are males in this body, can literally slap in the face all the women in this country who are concerned about what happened to those women who were forced to run the gauntlet at Tailhook. When we learned about that, the whole Nation was embarrassed by it. Then the investigation was botched.

Now what do we do? We turn around and we say, "Oh, yes, oh, yes, but the fact is, he has had a distinguished naval career, and, therefore, we want to retire him with four stars." It is not the amount of money involved. We are talking about a difference of $1,100 or $1,400 a month. That is not the issue. The issue is whether or not the U.S. Senate, a body dominated, as far as numbers are concerned, by males, who see fit to turn our backs on this issue and to say that we will give our stamp of approval to the "old boys network," that we will be willing to stand up and say, "Well, yes, he did it, but you know how those things are; let's just go along and give him four stars." I do not think that is right. I think it is the wrong thing to do, but I think it is an embarrassment to do it as well.

I think that we ought to be out here on the floor—no, we should not be on the floor. This issue should not even be before us. It should never have gotten this far. As long as it got this far, I think the U.S. Senate ought to refuse to award Admiral Kelso four stars.

I yield the floor.

Mr. EXON. Mr. President, I yield 8 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. MATHEWS. Mr. President, I rise this evening as one of the Senators from the home State of Admiral Kelso, and I rise to ask my colleagues to join me in judging a man on the basis of a long history of positive accomplishments, rather than what some say is an incident, and I would say serious incident, of failure to perform. I ask you to join me in judging him on what he did rather than what he failed to do.

As a former Navy man, I followed the repercussions of the 1991 Tailhook convention with some concern and at times with considerable distress. The professionalism, character, and behavior of the Navy's officer corps are not small matters to me or for the Nation.

The Senate does not make a judgment that reflects on the professionalism, the character, and behavior of the Navy's seniormost officer, and that, too, is not a small matter. There is not a Senator among us who condones or excuses the repugnant events of Tailhook '91. Admiral Kelso was present at that event. Testimony by the admiral's superiors before the Armed Services Committee concluded, however, he did not personally witness any misconduct. Nevertheless, Admiral Kelso is a 38-year veteran of the Navy. He knew the reputation of the Tailhook Symposium, or certainly he should have known. The men involved were active-duty officers, and I suspect that the admiral himself wishes he had taken more direct personal control of its goings-on.

But Admiral Kelso has already been judged for his failure to do so in a court of public opinion, whose verdict has been less than generous.

That said, Mr. President, I also point out that we are about to make a judgment not about a single episode in the admiral's career, but about that career as a whole. Deciding whether Admiral Kelso retires with four stars is a decision that we must base upon his performance throughout an entire career. Mr. President, I point out there has not been any question that he has had a distinguished career.

It was his leadership that assured naval forces were prepared, fit, and able to perform superbly during Operation Desert Storm. As commander of the 6th Fleet, he commanded naval forces that helped seize Palestinian terrorists responsible for killing Americans aboard the *Achille Lauro*. He headed operations that conducted air raids on Libya after the terrorism against United States personnel in Berlin.

He showed immense integrity in reopening the investigation into the explosion above the U.S.S. *Iowa* that overturned the conclusions of an earlier inquiry.

His leadership and foresight were the driving forces on shaping the Navy's modern warfare strategy that changed focus from open-ocean warfare to beach warfare. This strategy created greater cohesion between the Navy, Marines and other services. It is a major contribution in the reorientation on American forces.

I also point out that Admiral Kelso has been at the forefront of efforts to open shipboard service to women. He has been vocal and earnest in recommending that the law be changed to permit women to serve on combat warships and Navy aircraft. I have long believed that our fighting forces become more effective when their composition reflects more fully the society they protect.

Admiral Kelso's leadership in opening naval opportunities for women would promote that goal and leave a legacy for which I hope he will be remembered.

Mr. President, I have listened to the reasoned and thoughtful comments of our colleagues, who speak their perspective so rightly and convincingly. I am persuaded by much of what they have to say.

At bottom, however, I ultimately am persuaded by remarks from Senator NUNN, capable chairman of the Armed Services Committee, who has differentiated between Admiral Kelso's accountability as Chief of Naval Operations and his sole responsibility as senior officer present.

Mr. President, our task today would be considerably less difficult if the facts about Admiral Kelso's direct personal and professional involvement in Tailhook were clear. To the contrary, however, the facts are in dispute. The report of the inspector general leads us in one direction. The finding of the special military judge leads us in another. By the same token, our task would be less difficult if Admiral Kelso's service record indicated previous blemishes, repeated failures to exercise command, incidents of not upholding standards, or winking at unacceptable behavior.

However, if anything can be said to be clear, it is that the record shows the opposite. Admiral Kelso has served his Nation and the Navy in an exemplary career.

When we are to make a judgment about how the admiral ends that career, we should make it on the evidence of that career, not on the basis of disputed testimony, conflicting facts, and the intensity of our indignation over a single moment in that career.

Mr. President, I ask my colleagues to join me in voting to retire Adm. Frank Kelso at his current rank. We are not giving him a gratuity. He has earned the rank which he now holds, and I ask you to join me in retiring him at this rank.

Mr. President, I thank the Chair. I yield the floor.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. I thank the Chair.

This concludes the number of people who had designated times, with the exception of Senator BOXER and myself. Senator Nancy KASSEBAUM intends to submit a statement for the RECORD.

Later on this evening, I know we will be doing our wrapup and rebuttal prior to the vote.

It is very hard to debate this on the Senate floor. The reason it is hard is that when one reads what happened in Tailhook, and when one hears about the chants that Admiral Kelso allegedly heard and turned his back on, it is so vulgar I cannot bring myself to even read from the report on the Senate floor. I will not do that to the Senate. But let me say to the American people and to everyone watching on C-SPAN, because that is the where it is, it is pretty bad. In fact, it is so bad that we, the women of the Senate, do not wish to use the type of language that is described.

But I am going to talk about some things. For example, pornography. Some squadron hospitality suites did feature pornography. Witnesses described various types of pornography ranging from softcore to hardcore videos and slides. A few suites simply used the Hilton Hotel's pay-per-view. However, it was openly condoned.

There were other things that went on there that created an atmosphere of degradation to women, and actually degradation to all men who regard themselves as officers and gentlemen.

For a lot of people who saw "Top Gun", that is what they thought it was all about, being an officer and a gentleman. And what is this that we expect of the officers? We expect them to be gentlemen, just as we would expect the female officers to be gentleladies.

What then is the code of conduct? The code of conduct is not monastic behavior. It is not schoolmarmish behavior. But it is a code that, first of all, recognizes the dignity of all people. There is a saying that often goes around in events like that: Boys will be boys.

Well, when will men be men? The men I know do not take great joy in watching pornography. They think it is repugnant behavior for a man to demean anyone, be it a woman or another man. Also, they take great pride in the fact that in order for them to look strong, they do not have to make someone else look weak, and debase and humiliate them. That is what they call being an officer and a gentleman. Or if you are not an officer, it is what is called a gentleman.

The other is that the code of conduct calls for a sense of honor, meaning that when something goes astray others step in. If something gets out of hand, like a rumble, and just escalates into an environment that has punched itself into chaos and out-of-bounds behavior and, almost, a group behavior, like out of Deliverance, takes over, that others would step in. Well, nobody stepped in—like nobody, but nobody, stepped in.

There are those who would say, "Well, Senator MIKULSKI, you are describing Tailhook. What's that got to do with Admiral Kelso?"

The facts are in dispute. The facts are that no one disputes Tailhook and the violent, vulgar behavior that went on there. No one disputes that. And no one disputes that the Navy could not even get its act together to conduct an investigation. There is incredible dispute between the inspector general's report as well as the military court. Here we have a whole U.S. Navy, it equipped itself with night optics, but it has myopia when it goes to investigate this matter.

Well, put your goggles on, guys. It is time to look and see what is going on.

No dispute over the dispute. Is that not a shock in a United States of America that prides itself on its legal system, its competency in investigation? Yet we have disputes over who knew what, and what Admiral Kelso knew or what he did not know. And he presided over that.

Now, in the course of the debate, what so disturbed me was those who spoke in favor of the admiral's four-star retirement talked about how we have targeted Kelso; that we are looking for a symbol; that we are out to punish him; and that we are out to humiliate him.

We did not start out this way. It is not us that torpedoed Admiral Kelso. It is his own United States Navy. It was his own inspector general that has bungled the investigation. It was his own head of naval aviation. It was one source of Navy involved in this after another that bungled it. They torpedoed Kelso. The junior officers at Tailhook torpedoed Kelso and torpedoed the reputation of the U.S. Navy as top gun and as officers and gentlemen.

We did not do that. We are not out to humiliate Kelso.

Then there is this whole thing about what President Clinton did and the Secretary of Defense, and they agreed to this, that he retire.

Well, that might be fine. But the Senate function here is an advise and consent one. We are recommending that Admiral Kelso retire as the current law dictates. He is by law entitled to a two-star retirement. We are not advocating anything less than what he is entitled to by law.

He was entitled to that two-star retirement when he signed up for the Navy, when his wife followed him around the world, when his devoted daughters supported him. They knew that the retirement was two stars.

We hear that there have been 200 military personnel allowed to move through this august body above the two-star rank—some distinguished, some mediocre, some very distinguished, and some close to the edge.

Well, Mr. President, I cannot be held responsible for star bloat or star inflate. The law says you retire at two stars unless there is advice and consent by the Senate. My understanding is that that was not automatic. It was meant for something extraordinary and exemplary. Maybe if we want to have people retire in grade, change the law. But do not change the rules when we are talking about Kelso. We are saying retire Admiral Kelso at what he is entitled to by law, nothing more and nothing less. We do not think that is humiliating. We do not think that is punishing. We do not think that is singling him out. We are not saying retire at one star. We are not saying retire at no star. We are saying retire according to the law.

About these 200 who retired, perhaps we need to change the law. The distinguished chairman of the Armed Services Committee talks about how there were other members of the military who retired at full grade or the grade that they held and talked about terrible things that happened while they were commanding officers. And certainly many of those things were terrible, going back from the Korean war through now. However, when a lot of those things happened, there were not bungled investigations. There was not the coverup by junior officers. There was not the lying by junior officers. There was not the buddy system taking over for the honor system.

Instead of everyone being worried about what the women in the Senate and the men who support us are saying, I would worry about the failure of the honor system. I would worry about the code of conduct. I would hope my critics are worried about the code of conduct. I would hope our critics are worried about the honor code. I would hope they would be concerned about this pattern of bungled investigations when it occurs during these issues relating to scandal.

We know that this is not a perfect world. We know that there are always errors in judgment. We know there are technological failures. We know in some of those matters that the distinguished chairman outlined there were human errors in judgment, that there were technological failures, and there were great tragedies.

At the same time, we also know that for many of them, when we were investigating, we could get to the bottom of it and make sure it never happened again. And guess what? We want to get to the bottom of this and make sure it never happens again, just the way we correct our technology, just the way we try to have better judgment. We have to change the culture. That is what we are trying to do here. We are trying to do the lessons learned, and perhaps through the lessons learned there have to be lessons conveyed.

So for all of those who believe that somehow or another we are the problem by raising this issue, I will respectfully bring to their attention that I believe it is not us who have spoken out on the issue that are the problem. The problem is the failure of the bungled investigation and the tarnishing of the Navy's reputation.

Mr. President, I yield the floor.

Mr. MATHEWS addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. MATHEWS. Mr. President, on behalf of the Senator from Nebraska, I yield 10 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I thank the distinguished Senator from Tennessee, Mr. President.

Mr. President, I would like to make several comments regarding the debate concerning Admiral Kelso's pension. My thoughts are influenced to some degree by my experience as Secretary of the Navy in the early 1970's. But I am also influenced by the manner of the legal profession.

First, I want to review the admiral's career. At the age of 19, Frank Kelso went into the U.S. Naval Academy, and for the next 38 years made a career in the Navy. By all accounts, Admiral Kelso has been a distinguished officer. He led the 6th Fleet, commanded Navy forces that seized the terrorists responsible for the killing of an American aboard the *Achille Lauro* cruise ship, and was in charge of the air strikes against Libya in response to that nation's sponsorship of international terrorism. He became a four-star admiral in 1986. In short, Admiral Kelso has had an impressive career.

In June of 1990, 4 years after having become a four-star officer, Admiral Kelso became Chief of Naval Operations. As we all know, it was during this period that the infamous Tailhook convention took place. It was there that the Navy aviators in 1991 harassed, abused, and assaulted female sailors and female guests in one of the Navy's worse moments. Tailhook was a disgrace for the Navy. Sexual harassment has no place in our society and certainly no place in the armed services.

Tailhook took place on Admiral Kelso's watch, and I strongly believe in and commend accountability regardless of what the admiral knew and when he knew it. He was present in the very building where these reprehensible actions took place. Furthermore, his investigation of the incidents was badly handled.

I make these stern statements, Mr. President, in spite of the fact that the deputy inspector general of the Department of Defense, Derek J. Vander Schaaf, a civilian, reported on March 30, which was just 3 weeks ago, as follows. This is what his report said:

> We concluded that Admiral Kelso was not on the patio Saturday evening and did not

visit the hospitality suite at any time. Further, we are unable to find any credible evidence that Admiral Kelso had specific knowledge of the improper incidents and events that took place. Finally, we find no evidence that Admiral Kelso sought to thwart the Navy's internal investigation into the Tailhook matter.

When a Navy commander fails in his responsibilities such as Admiral Kelso did, the Secretary of the Navy has two options. First, the Secretary can relieve the officer of his command. Second, the Secretary can initiate a court-martial. In Admiral Kelso's place, Secretary John Dalton recommended the first option: Relief of the admiral from his command as Chief of Naval Operations. In my judgment, the Secretary of the Navy acted correctly, and I admire him for it. Admiral Kelso should have been relieved as Chief of Naval Operations. Regrettably, Secretary Aspin, Secretary of Defense Aspen, chose to overrule that recommendation.

Today, however, Mr. President, the Senate is being asked to review a different subject, which is the admiral's pension earned over a 38-year Navy career. Today's debate is not a referendum on whether the Navy did a good job handling Tailhook and its subsequent investigation. Clearly, it did not. It also is not a vote on whether sexual harassment is wrong and should be severely punished. Clearly, it should be.

Mr. President, the specific question the Senate is being asked to consider today is as follows: Does the U.S. Senate levy a severe penalty, deprivation of a portion of an earned pension, without any form of due process?

Admiral Kelso had 4 years of service, as I mentioned before, as a four-star admiral before he became Chief of Naval Operations in 1990. Had he chosen to retire in 1990, he clearly would have been entitled to his full pension as a four-star admiral.

What the Senate now proposes is to punish him by denying him part of that earned pension with no process whatsoever, no hearing, no chance to face his accusers, no right to counsel, and without having been convicted of anything.

Clearly, if Admiral Kelso had been through a trial and had been convicted, then consideration of the amount of his pension would be legitimate. That is not the case here. To those who say Admiral Kelso has not been held accountable for his failure to act, the answer is that there are proceedings to ascertain whether such a charge is valid. No such proceedings have been held here.

Mr. President, the Senate is abusing its powers when it commences to take earned pensions away from any retirees, including military, without any formal proceedings. Therefore, I oppose the effort to reduce the admiral's pension, and I plan to support the retirement of Admiral Kelso as a four-star admiral.

I yield the floor.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Who yields time?

Mr. MATHEWS. On behalf of the Senator from Nebraska, I yield to the Senator from Hawaii such time as he may require.

Mr. INOUYE. Mr. President, it was not my intention to participate in this debate, but I have spent the last hour watching my colleagues discuss this matter on television. I came to the floor because I felt I had to make my position known.

I believe all of us agree that the admiral's record is an exemplary one, that he has served this country well in peace and in war. The question arises as to whether we believe the trial judge or the inspector general.

Second, do we believe the Secretary of Defense and the Chairman of the Joint Chiefs of Staff?

If we believe the trial judge, then, as the chairman of the Armed Services Committee has suggested, this should not be a matter of debate; we should court-martial him. But having known the admiral all these years, I cannot question his honesty and veracity. I believe he was telling the truth.

The argument that has been brought up by many of my colleagues that this happened during his watch. The word "accountability" has been used on many occasions. In some cases, the words "absolute accountability" have been used. It reminded me of the Nuremberg trials. In this trial, some of the most vicious and evil men in mankind's history were being tried. But in each case our prosecutors had to demonstrate that these men on the dock had some knowledge, or had participated in, or were involved in the commission of a crime.

No one has come forward to suggest that he was involved in the commission of these crimes. The question is: Did he know about it? He has said under oath that he did not, and his position has been backed up by the inspector general.

Because I have such great respect for my colleagues in the Senate—and I wish to commend them for bringing this matter to this point of debate—and because I agree with them that the charges are serious, it is deserving of our full attention and full discussion. But in this case, I find myself disagreeing with their conclusions.

I will vote for the admiral.

Mrs. BOXER addressed the Chair.

Ms. MIKULSKI. I yield to the Senator from California such time as she may consume.

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). The Senator from California [Mrs. BOXER] is recognized.

Mrs. BOXER. Madam President, I thank my friend from Maryland, and I commend her for her excellent job managing this side of the debate. It has been a very, very long and difficult debate, and I thank both sides for their contributions.

The reason I am rising again at this point in the debate, is to rebut some of the comments made to support this nomination to grant Admiral Kelso four stars and an additional $1,400 a month on his pension.

Many arguments were made, and I listened very carefully. I have been on the floor, as many of my colleagues have been, continuously. I think they deserve to be analyzed.

I say to my friend, Senator CHAFEE, who said that this is not the proper venue to make a stand on this issue: This is our only venue. I used to serve on the Armed Services Committee in the House. I no longer do in the U.S. Senate. I enjoyed my tenure there. I did not have a chance to express myself in that committee, so this is my only opportunity.

Senator NUNN points out that maybe we should not have the responsibility to review retirements in this manner. Maybe we ought to reform the system. I am very happy to look into it.

But the fact is that this issue is before us, and those of us who have been troubled by Tailhook and its aftermath, and some of the continuing problems in the military, feel this is an appropriate venue and feel that our vote is far more than symbolic. Our vote is the right vote—to vote "no" on granting these two additional stars.

My dear friend from Hawaii, Senator INOUYE, says the issue to him is whether Admiral Kelso knew what was going on at the time. He backs the Senator from Georgia, Senator NUNN, who says that the issue you have to decide is simple: was he there, or was he not there?

I respect that approach, Madam President, but I think that it is the wrong question. I do not think this is about whether Admiral Kelso was on the third floor, heard the kind of chants the Senator from Maryland referred to, saw the T-shirts that said "women are property," and heard the screams and the noises that came from the gauntlet.

I say that it is beyond that, because I believe that Admiral Kelso, the chief of Naval Operations, had to know what Tailhook was about. It seems that everybody did.

But he went to the symposium. He gave it the dignity of his presence. I think that was wrong. Then, when the investigation came to the Navy, it was bungled. Nobody was brought to justice, and the only victims are the women. By the way, that is not a passing victimization. Anybody who could tell you—and I know my friend from Maryland was a social worker and my friend from Washington was a teacher—that the effects of abuse do not wash away easily.

Senator NUNN said to search your conscience before you vote. Absolutely, of course, we should do that on all votes. We should search our consciences. He also says: "Do not vote out of frustration." Well, I am not sure that it is altogether frivolous to vote out of frustration. I am sure if I asked the good Senator if he ever cast a vote out of frustration, if he was true to himself, he would agree that once in a while you do cast such a vote. The frustration in this case is that not one person in the military really paid a tangible price for the Tailhook scandal. Yes, a few letters of reprimand, a couple of early retirements. But really, there has been no tangible price paid.

Only the women, only the women who were assaulted are the victims. And, again, that will not be easily forgotten. Any of us who have had any experience with sexual assault, any of us who have had any experience with sexual harassment, will tell you straight from the heart, you do not forget it.

I myself had an experience when I was very young, a senior in college, and I can tell you every single detail of what happened to me. And I was not bleeding and I was not subjected to the same kind of groping and pain that some of these women faced in the gauntlet.

So the good Senator from Georgia, the chairman of the committee, says do not vote to punish Admiral Kelso. I want to say to him and to others, this is not about punishment. This is not a court martial. We are not here presiding over a court martial of Admiral Kelso. This is about whether an admiral retires with honor, with two stars or with four stars. This is not about a punitive court martial.

Who were the victims? Is Admiral Kelso a victim, a man who is going to retire with either two or four stars? Or is it the women who were brutally attacked in the gauntlet.

Senator MCCAIN wonders about what people in the military are thinking as they watch us. He is clearly upset about that. Well, I say, maybe they are thinking that we are finally serious about the way we treat our people in the military; that people should not be viewed as someone else's property, but as dignified human beings.

Senator MCCAIN finds this vote distasteful. But Senator MURRAY said just ask the women who were accosted in that gauntlet. Distasteful does not begin to describe it. It was revolting. It was criminal. So if this vote is distasteful, we really apologize to Senators who find it so. But it is far more than a distasteful vote that is at stake here.

Senator WARNER talked about Mrs. Kelso. He warns us that she is being hurt. I was sitting in the chair when he made that argument, and I found it to be a bit of a disconnect. I do not know what the point was in bringing her name into this. Was it to give a message to the women of the Senate that we are hurting another woman; namely, Mrs. Kelso? We do not want to hurt Mrs. Kelso and, as Senator MIKULSKI has said in a very clear way, Senators did betray Admiral Kelso or Mrs. Kelso. It was the culture of the Navy. It was an inability for them to get their act together, even after warning after warning and letter after letter that this was a rude and terrible tradition that was being carried on at Tailhook.

We all feel pain when our loved ones are hurt, and I feel for Admiral Kelso's family in these difficult times. It is hard, and I know that. But how about the families of the women who were assaulted? My colleagues should know that these events leave lasting scars, not only on the victim but the people who love them. If we are going to focus on Admiral Kelso's family, we surely should focus on the families of the victims.

You know, Admiral Kelso gets a chance to retire on a pretty good pension, whether it is two stars or four. Lieutenant Paula Coughlin quit the military in the middle of a promising career. I think we should grieve for that.

Senator NUNN says if we deny four stars, we are setting, and I quote him, "a new standard of accountability in the military." Maybe we need one. Maybe we need a new standard of accountability.

I never served in the military. As I said, I did serve on the Armed Services Committee, and I always thought that there was a chain of command, and that the buck stopped at the top. If in any place in our society we have a chain of command, it is in the military.

Senator NUNN asked a very important question, and I admit, it made me think: What would we have done if this came to us in 1992 on the floor of the U.S. Senate? He speculated that had this nomination come to the floor in 1992, that this would have happened; that the nomination would have been confirmed overwhelmingly.

It is important to recall that in 1992, Senator CAROL MOSELEY-BRAUN was not in the U.S. Senate. She came here in 1993 with me, Senator MURRAY, and Senator FEINSTEIN, and we joined Senator MIKULSKI. Senator HUTCHISON was not here, either. So I do not know what would have happened in 1992. Knowing my colleague, Senator MIKULSKI, who knows? She may have taken this battle on and stood on her feet hour after hour, hopefully with Senator KASSEBAUM.

I do not know, but I will tell you one thing. It is 1994, and here we are, and we are making this an issue with good reason.

I also want to add something else: The final report of the inspector general came out in February 1993. In 1992, we did not know all this. So I do not know what would have happened in 1992. But in 1993, this final report came out, and we ought to pay attention to what it said.

On page 1, section 4, it said that "inappropriate behavior was accepted by officers because it had gone on for years." And it says that "naval officers consistently lied during the investigation." It says on section 10 on page 5 what I consider to be the most damaging thing in the report: "Tailhook is the culmination of a long-term failure of leadership in naval aviation." Failure of leadership, and the ultimate leader was Admiral Kelso.

It is not the women of the Senate saying there was a failure of leadership. It is this report, which did not come out until 1993.

Senator STEVENS is angry with us for raising this issue. He was quite angry when he spoke. He has a right to be angry. I respect his anger. He said we, meaning the women in the Senate, are ruining the military. He said that.

Madam President, I find that unbelievable. I say when you stand up for the dignity of individuals in the military, regardless of who they are, you are standing up for the rank and file. That is a good signal to send. I hope we are going to send that signal tonight, whether we win this vote, which I hope we do, or make a strong show of support.

I applaud Senator BYRD and Senator HUTCHISON for being the only two Senators on the Armed Services Committee to oppose this nomination in committee. And I hope others on the committee listening to this debate tonight, will reconsider their previous vote based on the comments that are made here today.

Madam President, in conclusion, I want to rebut Senator COATS, who says—and this is very important—that Admiral Kelso moved to take charge of the Navy culture after Tailhook. I want to point this out. He said Admiral Kelso brought in a zero tolerance policy on sexual harassment. Make no mistake, this was a terrific thing, and many of us were involved, including Senator NUNN. He was a terrific leader on this.

But let me tell you, we can do a lot of talking about changing the culture, we can write new regulations, we can put on sexual harassment workshops, but without accountability, it will not be enough. After Tailhook, a long time after Tailhook, here comes another interesting story—the testimony of Lt. Darlene Simmons, a lawyer in the Navy. She gave her testimony before the House Armed Services Committee. I want to very briefly read a few passages from her testimony.

She complained about sexual harassment on the job, and this is what happened to her. And I remind my colleagues, this was after Tailhook, after Admiral Kelso introduced the zero tolerance for harassment policy. Lt. Simmons testified:

> I was placed in a locked psychiatric unit and evaluated by a Navy psychiatrist," and she gives the psychiatrist's name. "I was found fit for full duty after a 24-hour period of observation. Hospital policy at Naval Air Station, Jacksonville, where I was sent, is not to release psychiatric patients on weekends unless a command requests that release. My command did not request my release, and I, therefore, had to remain in a locked psychiatric unit for the rest of the weekend and through Tuesday, the 13th of October, because Monday, the 12th of October, was a holiday. The experience of the psychiatric evaluation was humiliating and unnecessary.

This is a woman who complained about sexual harassment after—after—Admiral Kelso supposedly clamped down and there was going to be zero tolerance.

She goes on:

> I relied on my chain of command to protect me from reprisal and to take swift and tough action when there was reprisal. My good faith reliance was not justified. Instead, my chain of command used the opportunity to cover up yet another act of reprisal.

And this is interesting. And does this sound familiar, I say to my friends?

> It is ironic that the only person to suffer adverse career consequences from the incidents related in this testimony was me. I am convinced that, despite the rhetoric, the Navy will not tolerate those who report sexual harassment. The failure by the system to take timely action compounds the damage done by the original victimization. The lack of an effective corrective mechanism means that victims of sexual harassment have little hope of restoration.

So here we see it. This is a woman, after Tailhook, when everything was supposed to be better, who gets treated so badly that her case still has not been resolved.

So, my friends, in conclusion, this is about a lot more than Admiral Kelso. This is about each and every one of us standing up for the right of individuals in the military to be free from discrimination of any kind, harassment of any kind, and to enjoy the dignity that he or she deserves simply as a member of the human race.

I yield the floor.

Ms. MIKULSKI. Madam President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. I thank the Presiding Officer.

I thank my distinguished colleague from California for her eloquent synopsis and point-counterpoint to the debate and discussion we had today.

Much is said about 1991 and what would we have done in 1992. Well, I would like to remind everybody what happened in 1991. In September 1991, there was Tailhook. In October 1991, there were the hearings of Clarence Thomas for the Supreme Court, in which we saw Anita Hill undergo one of the most serious, grueling, humiliating experiences that anyone has ever endured before the U.S. Senate. That happened in October 1991.

At that time, in the closing hours of the debate, I stood up and said that, "These hearings have men and women across the country talking and thinking about sexual harassment."

This was on Tuesday after that marathon weekend of hearings that I know many of you were gripped by, as was the Nation. I said this:

> These hearings have men and women across the country talking and thinking about sexual harassment. That is important. The Nation is going through a very important teach-in on sexual harassment. But I am afraid the Senate is about to flunk the course. I am very concerned that the victim who had the courage to stand up and say, "No, this is not right," has been treated as if she were the villain. This is where the process has failed and I am quite angry and disappointed about it. If you talk to the victims of abuse the way I have, they will tell you they are often doubly victimized. First, they are victimized by the event itself and then victimized by the way the system treats them.

That is exactly what happened in the investigation of Tailhook in 1992.

I had hoped, as the only Democratic woman in the Senate at that time, that America had learned a lesson on sexual harassment; that harassment is not a form of irritability, it is a form of humiliation, it is a form of battery. And in the case of Tailhook, it was actually a form of sexual assault and even borderline, if not actual, rape.

So there is the Navy, there is the military, having gone through it, as we have.

There is no place in the world that does not have a TV set that does not know about the hearings on Anita Hill and that sexual harassment in this issue was the subject of national debate and international debate and global focus, except when it came to investigating Tailhook.

And who got what promotion in 1992? Well, hey, it is about time that lessons need to be learned. And I hope, once again, we do not flunk the test in the U.S. Senate. Where are we ever going to be heard? Where will we ever be protected?

Now, who asked the Armed Services Committee to retire Admiral Kelso above the law, above the grade guaranteed? It was the Secretary of Defense, the Secretary of the Navy, the head of the Joint Chiefs, and our President. They brought it over. They had this hearing.

But, guess what? It did not dawn on them that maybe this is going to be a problem. Well, it is a big problem.

And an even bigger problem is that the Secretary of Defense, the Secretary of the Navy, the head of the Joint Chiefs and the President did not remember that once before the U.S. Senate had flunked the test on sexual harassment, and now there were seven of us, along with several very fine men, who were going to raise this issue.

Now, if they did not get it with Anita Hill and if they did not want to bring this issue up, we would not be on this floor had they not gone to the Armed Services Committee. Now they said, "Well, we have cut a deal and the deal is the admiral retires early and we will close the books."

We did not cut a deal.

I cut a deal with the American people: To stand up and be an independent Senator. And if it means taking on a Democratic administration, and their lack of judgment on this matter, then by God I am willing to do it, because somewhere they have to understand they cannot expect these matters to just glide through the U.S. Senate. It is no longer business as it was in 1991, or in 1891. It is over. And the Presiding Officer in the Chair knows exactly of what I speak.

We might win tonight and we might not. The vote could be a very close one. I hope our colleagues would reexamine what had been the lessons learned since 1991, and are we still going to operate as in 1891, or as a 1994 Senate?

I have nothing but the greatest respect for the U.S. military and for the men and women who serve in it and for the families who love them and support them. When a President of the United States calls 911, they have to be ready to go anywhere in the world, make enormous sacrifices, and put their lives on the line.

This new world order is indeed a new world of disorder. We have men and women involved in peacekeeping, peace enforcing, standing sentry in all parts of the world, often with little backup and support. And in the days and weeks ahead we might even be calling them forth to do more.

Why is it that we count on our military? Because they are brave; because they are courageous; and because we believe that they are something special. We look to them in some ways to be the model for the rest of society. Why? Because in a time where American society seems to be falling apart, where we seem to have lost our way in terms of values, the U.S. military has always stood as having a code of honor and a code of conduct. We want the U.S. military to have that reputation. We want the entire Nation and the entire world to know that our U.S. military has that code of conduct and that code of honor.

I believe what has happened is that because of old habits, old attitudes, and a very old and dying culture, that change needs to occur. I believe one of the changes that will occur is that when we vote, we say that two stars are enough for Admiral Kelso, and we hope that never again will this Senate have to deal with the bungled matter on things related to sexual harassment or discrimination of any kind, or scandal that brings dishonor to the U.S. military or to any aspect of the United States Government.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. MATHEWS. Madam President, I see Senator SMITH here. Does the Senator seek time on this question?

Mr. SMITH. Yes, I do.

Mr. MATHEWS. On behalf of the Senator from Nebraska, I yield such time as Senator SMITH might require.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Madam President, this has been quite an emotional debate. I rise today, maybe in a calmer manner, to pay tribute to the departing Chief of Naval Operations, and to urge my colleagues to support the recommendation of the Armed Services Committee that Adm. Frank Kelso be permitted to retire in grade as a four-star admiral, a grade that I believe he has earned.

Admiral Kelso is completing 38 years of distinguished service to our Nation. His career is an American success story, from his commissioning as an ensign from the Naval Academy in June 1956 to his final tour as Chief of Naval Operations. Although the seas have at times been turbulent, Admiral Kelso has always brought a steady hand and unshakable spirit of loyalty and integrity to our U.S. Navy.

In assessing Admiral Kelso's suitability for retirement in grade, some have sought to denigrate his distinguished career by applying to him an unrealistic standard of accountability for the Tailhook affair.

I want to say as others have said, especially the comments made by Senator NUNN earlier today, that event was a disgusting event and no one I know of condones it or anything that happened there.

While I share the outrage of my colleagues and, indeed, the American people over this incident, it would be unfair and inappropriate to tarnish 38 years of exemplary service under the guise of some lofty theory of accountability without specific evidence to the contrary. As Defense Secretary Perry and Senator NUNN have emphasized, the primary issue with respect to accountability involves the question of due diligence.

I have reviewed the data on the Tailhook affair as is my responsibility on the committee that I serve. Admiral Kelso's actions in conjunction with the event lead me to the conclusion that Admiral Kelso acted responsibly to investigate Tailhook and eradicate the root causes of sexual harassment in the Navy. Those are facts. There is nothing emotional about it. It does not make a lot of headlines. But those are the facts—he has.

Clearly, the Tailhook issue is germane to our deliberations here today. However, it is but one of many issues that must be examined in the context of a 38-year career, especially when you talk about taking two stars away from a distinguished military officer. While reasonable people can disagree over Tailhook and the issue of ultimate accountability, I think it is important to emphasize certain other aspects of Admiral Kelso's career that are beyond reproach and directly relevant to the issue at hand. To be fair, those who seek to hold Admiral Kelso accountable for Tailhook, must also consider his achievements as a naval officer to render an informed judgment on his retirement.

During the last 8 years, Admiral Kelso has served in the grade of Admiral. According to the Secretary of Navy, Admiral Kelso has been at the forefront of the Navy's intellectual growth and social-cultural change in the post-cold-war restructuring. Let me give some examples of his strong leadership.

As commander-in-chief of the Atlantic fleet, he took the lead role in integrating women in combat logistic force ships, thereby expanding opportunities for women in the Navy. Again it is somewhat sad—and ironic, perhaps, but sad as well—that this has become a gender issue on the floor of the U.S. Senate. It is not a gender issue.

I can assure my colleagues, if I felt Admiral Kelso was in any way connected with Tailhook, condoned it, was involved with it, covered it up or any of the above, I would not be here supporting him, period.

I look upon my colleagues of the opposite sex, who have spoken today, as U.S. Senators. Not female U.S. Senators, U.S. Senators.

I hope we would be looked upon as U.S. Senators, here today, those of us who happen to be male through circumstances beyond our control.

Admiral Kelso led the DOD humanitarian response to Hurricane Hugo in the U.S. Virgin Islands, Puerto Rico, and South Carolina, receiving a personal commendation from Secretary Cheney for the effectiveness and speed of this unprecedented mission.

He established a new focus for Navy forces in littoral areas of the world and developed the from-the-sea doctrine.

He published the Navy policy book, which is the first comprehensive reference to the guiding values and principles of the Navy in 92 years.

And, of interest to many of my colleagues today, regarding the assignment and promotion of women, under Admiral Kelso's leadership.

The percentage of naval officers who are women increased from 10.8 to 12.3 percent.

The percentage of enlisted personnel who are women increased from 10 to 10.7 percent.

Seven women have become commanding officers of ships, whereas none were commanding ships prior to 1990.

Small strides, some may say, but strides. Maybe not enough for some, but strides.

Three women have become commanding officers of aviation squadrons, whereas none were prior to 1990.

Three women have become commanding officers of major naval stations, whereas none were prior to 1990.

One woman has assumed the command of a naval base, whereas there were none prior to 1990.

Two women have become brigade commanders at the Naval Academy, whereas there were none prior to 1990.

Frankly, with this kind of a record, Admiral Kelso deserves a lot better than some of the comments and treatment he has received today on the floor of the U.S. Senate.

Nine women have been promoted to flag rank.

Three women aviators have been promoted to captain, whereas none were prior to 1990.

Adm. Frank Kelso has put teeth into the zero tolerance policy of sexual harassment by directing that all individuals found guilty of one incident of aggravated sexual harassment are automatically processed for discharge. So far, 85 officers and enlisted personnel have been discharged under the new policy, and the everyday working environment for Navy women has improved dramatically.

I heard all these comments today that there is no accountability here. A Secretary of the Navy lost his job over this issue. People have been disciplined over this issue.

Admiral Kelso recommended that combat exclusion laws be repealed completely. Congress repealed some laws, and all ship types, except submarines and mine sweepers, are now open to women. This all took place under Frank Kelso, I say to my colleagues.

Under Frank Kelso's leadership, all combat aviation squadrons have been open to women.

The first combat pilot has qualified aboard the carrier *Eisenhower*.

And 63 women aviators are either in the combat aviation pipeline or already in combat squadrons.

That is a remarkable record. It is a record that we ought to be out here praising Admiral Kelso for and commending Admiral Kelso for and thanking Admiral Kelso for in his retirement. Instead, we are out here saying we need to take two stars from Admiral Kelso because of one incident that has not been clearly—in any way clearly—linked to Admiral Kelso, No. 1; and, No. 2, on the contrary, has been in one case and one very strong investigation by the Navy itself and by the Secretary of the Navy and others, and the Secretary of Defense, found not involved in it at all.

Madam President, in and of itself these things I have just cited are an impressive record of achievement. But it should also be noted that from January to July 1993, Admiral Kelso performed distinguished service beyond his grade as the Acting Secretary of the Navy. Thus, he shouldered two extremely demanding positions simultaneously, and still kept our Navy on track and functioning smoothly. Would anyone like to think about how difficult it is to be the Chief of Naval Operations and the Secretary of the Navy at the same time? The man was asked to do that after Tailhook, I might add. What do we want to do now? Take two stars away from him. Maybe somebody is on a wave length that I am not understanding here, but I have not been able to figure it out.

I would like to reference Admiral Kelso's declarations and commendations, as well. Not too much has been said about them today. He has been awarded the Defense Distinguished Service Medal, the Navy Distinguished Service Medal, the Legion of Merit, Meritorious Service, Navy Commendation, and Navy Achievement medals.

During his 38 years of selfless devotion to duty and to country, Adm. Frank Kelso also found the time to marry and raise a family. Along with his wife, Landess, Admiral Kelso helped raise four children: Tom, a lieutenant in the U.S. Naval Medical Corps; Don, a Navy lieutenant commander; Mary, who is married to a Navy lieutenant; and Kerry, a student attending college. He has effectively balanced the rigors of a military career with the responsibility and commitment to family that is so important to our society.

And lest you think it is just the official duties that he had to do, Admiral Kelso, I have seen at many functions, at the Naval Academy and other places, working with people. And he also took the time out of a very busy schedule to say some nice remarks at the funeral of my mother at Arlington National Cemetery last summer.

Madam President, let me conclude my remarks with some other personal observations. During my 10 years in Congress, I have known Adm. Frank Kelso both personally and professionally. He is a man of utmost integrity, honesty, and dedication. If he said he was not involved in Tailhook, he was not involved in it. He is not that kind of man. It is about time we stop demeaning people's character and record around here and look at what they say, and look and judge them on the actions that they have taken.

He is extremely intelligent, and has shown great courage and foresight in challenging outdated cultural and strategic assumptions with the Navy bureaucracy. He has provided a steady hand in both times of war and peace, and his initiatives to streamline and modernize our naval programs have been instrumental in maintaining the readiness and combat effectiveness of our Navy.

I believe—and I will go on record right here and now saying it—that history will look very kindly upon this great man as a man of vision, of dedication and uncompromising professionalism, and yes—and yes—great service to improving the lot of women in the U.S. Navy.

I urge my colleagues to support the recommendation of the very distinguished chairman of the Senate Armed Services Committee, Senator NUNN; a very distinguished Secretary of Defense, Bill Perry; and those of us on the Armed Services Committee who took the time to dig into the facts of this case, to review it properly, and give it a proper hearing. None of us would be out here today supporting this nomination, this four-star retirement, if it was anything else other than what we have indicated.

I urge my colleagues to approve the retirement of Adm. Frank Kelso in grade as a four-star admiral and allow him to retire and pursue a life after the Navy and after this great service to his country. To do anything other than that would be a terrible, terrible act, in my opinion, that would reflect upon a career and reflect upon the service, frankly, in such a way that I think it could influence others perhaps to look the other way the next time their country calls. It is not the way to treat an officer of this kind of distinction. I understand the motivations; I understand the emotions; and I understand the concerns. If they were true, I would agree. But they are not true. They are not true. That is it. Pure and simple.

Frank Kelso was not involved in Tailhook; understanding he was not involved, and if you do not know that he was, you ought not be out here on the floor of the Senate demeaning the man's character. He was not involved, period.

I urge my colleagues to support Admiral Kelso retiring at the grade of four-star. I thank the Senator from Nebraska for yielding time.

The PRESIDING OFFICER. Who seeks recognition?

Mr. EXON. Madam President, how much time is remaining on each side?

The PRESIDING OFFICER. Senator EXON has 15 minutes; Senator MIKULSKI has 25 minutes.

Mr. EXON. I will be glad to yield to that side for any more comments, reserving the remainder of our time.

The PRESIDING OFFICER. If no one yields time, time will be deducted equally from both sides.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I suggest the absence of a quorum with the time equally divided on both sides.

Mr. EXON. Madam President, I object to that. If I had twice as much time as we had on this side, I would suggest the absence of a quorum and suggest the time be equally divided. Then it would run out and they would have the last say so. So I object to that.

I am pleased to recognize the Senator from Alaska, who indicated he may wish some additional remarks.

Did the Senator wish to make them at this time?

Mr. STEVENS. I would be happy to make my comments again. I say to my friend that I agree. I sort of think the other side with all the time—

The PRESIDING OFFICER. The Senator from Alaska.

Mr. EXON. I yield 5 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I understand the Senator from California [Mrs. BOXER], made some comment about my earlier remarks. She said that I was angry. I agree with that. The balance of her comments I do not agree with. Too bad she was not here to hear me before she criticized my remarks.

I highlighted for the Senate the views of Secretary John Dalton on this nomination. But let me now talk about the Secretary of Defense Bill Perry. He testified before the Armed Services Committee on April 12 on this nomination, and I emphasize again it is not really a nomination; it is a confirmation. This man has been a four-star admiral for some time now. But Secretary Perry stressed to the Senate Admiral Kelso's leadership in combating sexual harassment in the Navy. Let me quote what he said:

> One of the factors that gives me confidence that the Department can deal with this problem is the fact that the senior leadership of the military departments recognize the problem and have developed momentum in dealing with it. At the top of that leadership list is Admiral Frank Kelso. In his capacity as Chief of Naval Operations, Admiral Kelso has been aggressive and consistent in addressing this problem.

I am still quoting Secretary Perry.

> During his almost 4 years as Chief of Naval Operations, he has taken the lead with action to deal with sexual harassment:
>
> In September 1990, he sent a message to all Navy personnel to reemphasize the Navy's "zero tolerance" policy on sexual harassment.
>
> In November 1991, he directed the Chief of Naval Personnel to develop new enforcement procedures for the "zero tolerance" policy, including mandatory discharge processing of those found guilty of aggravated or repeated instances of sexual harassment.
>
> In February 1992, he established new enforcement policies, including discharge processing after the first substantiated incident of aggravated sexual harassment.

Secretary Perry described his role as Deputy Secretary of Defense in reviewing the Department's investigation of Tailhook. This is the current Secretary of Defense, Bill Perry. He observed:

> In October 1993, as the then Deputy Secretary of Defense, I was asked by the former

> Secretary of Defense Les Aspin to review the files prepared by the Inspector General of the Department of Defense that pertained to Admiral Kelso. I took the time to read the complete file. My conclusion—then as it is now—was that Admiral Kelso's veracity was supported by the full reading of the files.

Now, that is the Secretary of Defense. The President has presented this. Many of us are here supporting the President when those who are on his side of the aisle are not supporting him at all. I wonder really what is going to happen here concerning these nominations.

Secretary Perry told the Armed Services Committee:

> Admiral Kelso could have chosen an additional judicial forum to resolve conflicts between the military judge and the Inspector General's conclusions. He chose rather to spare the Navy yet another drawn out hearing with attendant costs and distractions. He chose to let the Navy focus on the real issue—eliminating sexual harassment and assuring the opportunity to military women in the Navy. I believe his choice is an honorable one, symbolic of this honorable officer's proud career.

Why is not the Secretary of Defense being listened to? He testified that he personally read every file pertaining to Admiral Kelso. Mr. Perry went on to say:

> On that basis, I believe Admiral Kelso is a man of personal integrity who has served 38 years with loyalty to the men and women of the United States Navy, his Commanders in Chief, and the American people. I urge this committee to approve his retirement at the rank of admiral.

I cannot find any better words than Secretary Perry used. If that makes me an angry man, then put me down as an angry man. I really think that people ought to get angry out here once in a while. And this instance makes me angry. It makes me think that people are using a dedicated career servant as a symbol, as a symbol of their position on sexual harassment when this man did something about it. If the people who are talking about Admiral Kelso today had done what he has done with his career to deal with sexual harassment, to change the policies of the Navy, to bring about an important role for women in the Navy, then I would listen to them a lot better, without getting angry.

The PRESIDING OFFICER. The Senator's time has expired.

Who seeks recognition?

Mr. EXON. How much time is remaining?

The PRESIDING OFFICER. The Senator from Nebraska has 9 minutes 30 seconds; the Senator from Maryland has 25 minutes.

Mr. EXON. Twenty-five minutes on the other side?

The PRESIDING OFFICER. That is correct.

Mr. EXON. I reserve the remainder of our time.

The PRESIDING OFFICER. If no one seeks recognition, time will be equally divided from both sides.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. STEVENS. Will the Senator yield?

Mr. EXON. I will be glad to yield.

Mr. STEVENS. Why not just request in this instance that this time be charged proportionally to the amount of time remaining. Why should we sit here——

Mr. EXON. I would be happy to offer that if it would be—I was about to say that since 12:30 this afternoon, this Senator has been trying to get time constraints so that we could move. Here we are, 8 o'clock at night. We could have had this vote, I think, at 6 and the outcome would have been the same. I even agreed, I say to my friend from Alaska, to take less time, to try to accommodate the Senate. Any time you try to accommodate the other side, you find yourself in a situation where, because you agreed to equal time, the time runs out and you do not have any chance to make any last-minute response to the opposition.

Now, I understood when we entered into the time agreement that most or all of the time which was insisted on by that side was all lined up. They had all the names there, and they did not think they would possibly get it in in the time allowed. Here we are waiting and waiting and waiting, and I think this is not the proper way to conduct the business of the Senate.

I would ask, since we are way short of time on the other side, that the time in a quorum call be charged exclusively to the side that has the most time remaining.

Mrs. MURRAY. Madam President, I object.

The PRESIDING OFFICER. Objection has been made.

Mr. FORD. Madam President, will the Senator from Washington yield me 1 minute?

Mrs. MURRAY. The Senator from Kentucky has 1 minute.

Mr. FORD. Madam President, I am trying to work with my distinguished friend from Nebraska. We have some Senators who wish to speak and probably will be here in the next minute or two, and once they have completed, I think we can accommodate the Senator from Nebraska as it relates to the time. Until that is cleared, we will not be able to. So if he will just bear with us, I think we will work it out in due time and that within moments we will have a Senator here to take the time on the other side.

Mr. EXON. I thank my friend from Kentucky for his usual good help. I have no other option under the circumstances but to agree with him.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Washington.

Mrs. MURRAY. Mr. President, I yield the Senator from Illinois as much time as she will use on our side.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you very much, Mr. President. I thank the Senator from Washington very much.

In light of the fact that we have an agreement that we will not vote until 8:30, rather than just let this time go by, I thought I would take a moment, even though I have already spoken on this issue, to at least, hopefully, give some clarity to the position of those who oppose granting four-star status for Admiral Kelso's retirement.

The issue as I see it, Mr. President, is simply this: Are we in the U.S. Senate prepared to give a golden parachute to leadership that failed to act appropriately in response to Tailhook? It is just that simple.

In my earlier statement I made a reference, or an analogy, to private sector retirements. We have seen it happen before, when someone is called on to retire from the CEO position because the corporation has fallen apart, the stock has plummeted, or when someone is called upon to retire because of some misconduct that he—normally he; I started to say he or she—may not have been directly involved with, but certainly had operational authority and responsibility over.

In those situations the hue and cry goes forward, Mr. President, when those individuals are given what is called a golden parachute, are given an extra benefit, something that in the South we sometimes called the little something extra, for purposes of their retirement; a hue and cry goes for it because the people have a sense of the unfairness of that in that it is your watch.

If something major has gone wrong during your watch; if somehow in the discharge of your responsibilities, either your responsibilities to the taxpayers, or your responsibilities to the stockholders, or your responsibilities to the American people; if you have failed to discharge your responsibility, and have failed to use the authority that comes with your office to see to it that a culture exists in the organization that is respectful of people based on gender; if you fail to do that, then, no, we will not give you the little something extra. No, we will not give you the bonus. No, we will not give you the golden parachute.

That, Mr. President, is the issue today. I know there has been a lot of back and forth over whether or not Admiral Kelso is an honorable man. I am certain he is. I do not know the admiral personally, but I am sure in his 38 years of service he has done some terrific things. And whether or not he has tried to change the culture, yes, there have been some changes on the books. Yes, there have been some changes in a few promotions. And no one is trying, I think, in this effort to detract in any way from the positive things that this admiral has contributed.

But I daresay, Mr. President, it would be a huge mistake for us to ignore the negative things that accompany this admiral's retirement from the Navy. Tailhook is one of the most significant scandals, particularly with regard to gender inequality—or gender equity; the flip side of it—one of the most significant scandals of our time. That is clear to everyone who has followed this debate.

Given that fact, is it not appropriate for this body to hold the chief operating officer, if you will, the CEO, or the CNO of the Navy, responsible for the failures of responsibility on the one hand, and the failure to exercise his authority on the other?

It seems to me this is not a question of punishment for punishment. This is a question, are we going to give a little something extra? Are we going to give a golden parachute to Admiral Kelso? The answer that comes from those of us who suggest that he should retire with the two-star rank that he properly holds, is no, he should not be given a golden parachute. No, he should not be rewarded that Tailhook has so far gone along and the efforts have been made to sweep it under the rug.

It will not be swept, Mr. President. It will not be swept. It will lay there like a huge lump in the middle of the room under the rug unless we take action here in this U.S. Senate to do something about it; to send a signal not just to the military, not just to the military brass, but to send a signal to the American people that this is a new day; that times really have changed, that we are no longer content to stand by and watch women treated as less than equal citizens whether it is in the military, or in our social order, or in any walk of life whatsoever; that we are prepared at this point to make a firm statement with real consequences, not just words on a piece of paper; not just a new directive, a new memoranda that gets lost with all the other directives and memoranda.

But we are prepared to make a firm statement here in this U.S. Senate that the kind of assaults, sexual harassment, sexual assault, sexual abuse, gender inequality, gender discrimination that Tailhook represented will never again happen in the U.S. military, in the U.S. Navy, indeed in any instrument of Government over which this U.S. Senate has any say or control.

That is the issue before the Senate this afternoon. Is it personal as to this gentleman? Well, it is a personal consequence. But I daresay that in any circumstance, when we stand and when you hold high public office, whether it is as an elected official or an appointed official, as a career officer—when you hold high public office, there is an accountability and a responsibility that goes with it. You enjoy the emoluments and the benefits of that office, but you also take the responsibilities of that office.

As the folks back home say, you take the bitter with the better. Well, the bitter here is that because there has been no accountability for Tailhook, because there was no responsibility for Tailhook, because we have seen nothing happen except sweeping this ugly matter under the rug, because of that, the person who was in charge, the person at whose desk the buck stopped, has to be responsible in some way.

And whether this is considered to be symbolic or not, the issue is that symbols are important. The issue is that this action by the U.S. Senate is important, because what it will say to the American people is that we are serious about this matter, that we are not prepared to see the rug with the lump in the middle any longer; we are prepared to say, yes, there is accountability, and the chain of command means just that—that when you get to the top of the chain, someone is responsible for what has happened along the way.

What happened at Tailhook must never happen again. The anger that you have heard from women on both sides of the aisle—on both sides of the aisle, I point out—on this issue is born of a frustration that women have throughout this Nation over the lack of sensitivity, the incapacity to see why this is important. Who is the victim here? I know there has been conversation about that. It is not just Admiral Kelso and his family. Nobody wishes them ill. But the victim here is our entire social fabric if we do not get to the point to say that, yes, there has to be accountability and responsibility for sexual misconduct, for sexual discrimination, for gender discrimination, as there is for other kinds of discrimination that are not permissible in our society.

That is where the victimization has happened here, and that is the wrong that I believe we have to right this evening.

So, Mr. President, this is a matter of accountability. This is a matter not of trying to take it out on one person, but rather to say that where goes the authority also goes the responsibility. As that responsibility is being placed, we in the Senate believe that responsibility and accountability are the same thing, and that the accountability for Tailhook rests with the Navy brass. It is just that simple.

Mr. President, I yield time to my colleague, and I thank my colleague from Washington for giving me this opportunity to extemporize on this issue. I say in closing that I have sensed confusion among some of the colleagues on this issue. This is not anyone trying to be nasty to anybody else.

Mr. STEVENS. Will the Senator yield for a question?

Ms. MOSELEY-BRAUN. Yes.

Mr. EXON. How much time is remaining?

The PRESIDING OFFICER. The Senator from Nebraska has 6 minutes. The Senator from Illinois has yielded to the Senator from Alaska for a question.

Mr. STEVENS. I want to ask the Senator a question that is a simple one. Does the Senator realize this man tried to take this responsibility himself personally at the time of the discovery of Tailhook and asked to resign? Did the Senator know that?

Ms. MOSELEY-BRAUN. I did.

Mr. STEVENS. Did the Senator know he has stayed on at the request of his supervisors now for a period of almost 2 years and has conducted himself impeccably as an officer during that period?

Ms. MOSELEY-BRAUN. To the Senator from Alaska, I am aware that Admiral Kelso offered to resign.

Mr. STEVENS. He did take the blame you say he should have taken as the top Navy officer, but he was ordered to stay on duty. And had he retired then, he would have left with a four-star rank.

Ms. MOSELEY-BRAUN. Well, then I submit to the Senator that he should have gone with his original instincts in this regard and accepted the retirement at the time instead of standing by and waiting to have that decision overturned by those who were less sensitive even than he.

Mr. STEVENS. I suggest that those who want to discipline him should discipline his superiors who asked him to stay.

Mrs. MURRAY. If the Senator will yield, I want to speak to this point again because it has been brought up several times. Yes, he could have resigned as he requested several years ago. We cannot predict what could have happened on a vote of the Senate several years ago. He may well indeed have retired with four stars, and it may have come to a debate for a different reason. Things could have been different. We cannot predict what could have happened 3 years ago.

We have in front of us today the question of whether or not this U.S. Senate will yield this man an additional two stars with the knowledge that we have. And some of these reports have just come to us in the last several months and, indeed, some of them in the last few weeks. We have to base our vote tonight on the knowledge that we have in front of us, and that is what we are debating, and that is why we are saying to our colleagues that we will allow him to retire with his two stars. And it is with honor that he retires. However, we cannot add an additional two stars to that and give him an honor above and beyond that at this time.

I thank the Chair.

Ms. MOSELEY-BRAUN. In conclusion, again, I say to my colleagues that it is no accident that all of the women of this Chamber are of one mind about this issue. That is no accident. We have found in the last year and a half that I have been here women in this Chamber have not really voted as a block on many issues. We have been separated on issues as diverse as—I will not go into them, but on just about every issue. In fact, when asked whether or not we as women voted as a block, I think the answer has consistently been that we vote on issues, and where we come together on issues, then you can call that a block if you want, but generally we vote our conscience and constituency and what we believe is the principled position on issues before the U.S. Senate.

I say to you that it is no accident that on this issue there is unanimity of opinion among those who are on the receiving end of this scandalous activity. Tailhook represents the most reprehensible, the worst aspect of women in the workplace, and that is sexual harassment—sexual harassment, sexual abuse, and sexual assault. This took it all the way out as far as you could go.

Why is it an issue for women? Let me digress. Let me talk about why this issue is important. It is important because, at its base, it is an issue both about dignity on the one hand and about economics on the other. If women are going to be able to participate in the work force as equal partners, to have the opportunity to function and to move through the ranks or the corporation or whatever, then it has to be based on merit, it has to be based on qualifications and capability and what they bring to the job with their minds and their spirit and inventiveness and creativity and not on the fact that they have breasts, that they have a smaller waist and hips, or that they walk cute. The days when women are characterized or limited in the workplace by gender have to be over; they have to be over. It has to get to the point where, as women, we are respected and regarded for what it is that we bring to the work force in our professional capacity, and not otherwise.

Tailhook represented, at best, a situation of gender insensitivity and gender inequality. At worst, it was a matter of absolute assault. That is why the feelings are so strong on this issue, and that is why the women of this body are of one mind: That there must be some responsibility and accountability of Admiral Kelso with regard to this matter. The Senator raised the question: Why was this not taken up 2 years ago, and what if he had resigned then and if he decided to do otherwise and if the superior officers said, "We are ready to take your resignation?" In response, I say the kids at home say if grandma had wheels, she would be a bicycle. "If" is not relevant here. What is relevant is that he did not resign. He has come to this body at this time, in the presence of seven women in the U.S. Senate, asking for a golden parachute.

We say "no" to that.

Mr. STEVENS. Mr. President, will the Senator yield there?

The PRESIDING OFFICER. Does the Senator yield for a question?

Ms. MOSELEY-BRAUN. Yes, I yield for a question.

Mr. STEVENS. Does the Senator think Admiral Kelso is here asking? The President of the United States is asking the Senator to confirm him in the rank he held for 5 years. That is the difference. The Senator does not understand it.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Ms. MOSELEY-BRAUN. The Senator from Illinois is going to defer so that I can calm down.

I yield to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Chair will indicate the Senator from Maryland has 5 minutes remaining.

Ms. MIKULSKI. I yield myself 5 minutes.

Mr. President, during this entire debate, the women of the Senate and the men who support us in this cause have attempted to conduct this debate with civility and courtesy.

The distinguished Senator from Illinois knows full well that the President of the United States made this request. We know full well it was the Secretary of Defense, Secretary of Navy, and the Joint Chiefs. We know that.

That does not make a difference. The fact is—and the Senator from Illinois knows that full well—we the women of the Senate are not stupid. We know the rules. We know the rules better than most people because we have to live by them and often we are held to a different standard and a higher standard ourselves.

Now we are being criticized because we are raising the Kelso issue and raising the retirement issue of Admiral Kelso beyond that which he was guaranteed by law.

Now, Mr. President, we are going to return in the concluding hours of this debate to the civility and to the dignity that this occasion calls for, and we ask all who participate to do the same.

This is about the honor code and the code of conduct, and this is not about whether Senator MOSELEY-BRAUN gets it. Senator MOSELEY-BRAUN gets it. It is whether the rest of the Senate gets it.

There are those who would say that somehow or other we are the problem for raising this. I must bring to everyone's attention it is not the Senate pulling Admiral Kelso down. It is the U.S. Navy that let Admiral Kelso down. It is the U.S. Navy that had the Tailhook incident in the first place. It is the U.S. Navy that bungled the investigation. It is the U.S. Navy that had the buddy system over the honor system. It was the U.S. Navy who torpedoed Admiral Kelso. It was not the women of the Navy, and it was not the women of the U.S. Senate. It was his own Navy that torpedoed him.

I yield to the Senator from Illinois for a question.

Ms. MOSELEY-BRAUN. I thank very much Senator MIKULSKI. I do not want to interrupt the Senator. I thought she was going to head in another direction.

I wanted to raise the point, as she did, about knowing and raising the rules.

It was my understanding that the rules of this body suggest that we refrain from ad hominem attacks on other Senators. An ad hominem attack, in my view, means suggesting that a Senator who is speaking to an issue does not know the facts pertaining to that issue.

I would suggest to the Senator from Alaska that not only do I know the facts pertaining to this issue, but that it defines chauvinism, if the Senator will look that up in the dictionary. It defines chauvinism to suggest that I do not in the context of this debate.

I yield the floor back to the Senator from Maryland.

Ms. MIKULSKI. Mr. President, reclaiming my time, we must change the culture, and this very debate is about changing the culture.

We hope we win this. But whether we win the vote or not, we feel that we have won a victory here today because we have raised this issue to show that from now on when we look at what is going to happen in promotions and in retirements and in rewards, the issues will be raised, and they will be raised not only about the U.S. military, they will be raised about the FBI, they will be raised about the Bureau of Alcohol and Firearms, they will be raised about Social Security, they will be raised about the gender discrimination going on at the National Institutes of Health. They will be raised. We would hope that whoever is President and whoever is in his Cabinet or her Cabinet knows that we are serious and these are serious matters.

We hope now that in the concluding minutes of this debate we reflect on the fact that Admiral Kelso is being recommended for four stars, two stars above the law in which he is guaranteed two stars for retirement.

Now if we are just going to pass everyone through because of the way they want to retire in grade, then change the law, but do not change the rules now and do not try to change the tradition that essentially the vote of giving additional stars is meant to be a reward for extraordinary service, and there is no doubt there is much to commend us for Admiral Kelso but it is the U.S. Navy that torpedoed him and not the women of the Senate.

The PRESIDING OFFICER. The time of the Senator from Maryland has also expired.

The Senator from Nebraska has 5 minutes and 40 seconds remaining.

Mr. EXON. Mr. President, is that all the time that remains on both sides?

The PRESIDING OFFICER. That is all time remaining on both sides. The Senator is correct.

Mr. EXON. I thank the Chair.

I say to the Chair that the Senator from Nebraska is going to try and be as reserved, considerate, and congenial as possible. But I must tell you, Mr. President, that having served 16 years now in the U.S. Senate, I guess I have never seen a time when I think the Senate might be on the verge of creating one of the greatest injustices that the U.S. Senate has ever created.

I have been listening to the statements that have been made here, and it finally came home completely. The statements that I think I jotted down, and I think the RECORD will show that they were made, say we are sweeping the Tailhook under the rug. Tailhook must never happen again. I agree with that. It is a golden parachute for the admiral. Women are less than equal citizens. And women must be treated fairly. I agree with that statement. They must be treated fairly in the workplace. We must be prepared to make a firm statement. Now, that is some statement to make. We must be prepared to make a firm statement.

What this all amounts to is that Admiral Frank Kelso, 38 years of dedicated service to the United States of America, recommended for the four-star position by a gentleman called Bill Clinton, President of the United States, leader of the Democratic Party, his Secretary of Defense, the Secretary of the Navy, the inspector general of the Department of Defense, all of that can go by, 38 years down the drain, and the newspapers tomorrow if they are accurate and we turn this down will probably say "Kelso sacrificed for a symbol."

I think that is wrong. I am upset about it. I think we have Frank Kelso on trial when he should not be. Frank Kelso is a dedicated, decent human being. He is a father and I suspect a grandfather. He is a type of man you would like to have in your home. Yet we are about to consider whether or not we are going to sacrifice Frank Kelso and all that he stands for for a symbol.

That is wrong under whatever guise we consider it in the U.S. Senate.

I hope that we will vote to support Frank Kelso, and I hope that I do not see a time when I think the U.S. Senate deteriorates as much as it has in this instance to try and seek a symbol.

Mr. DOLE. Mr. President, let me say at the outset that I intend to support the retirement of Admiral Kelso at a grade of four stars. I agree with President Clinton, with the Secretary of Defense, and with the overwhelming majority of the members on the Armed Services Committee that Admiral Kelso has earned a 4-star retirement for his 38 years of service to our country.

But, Mr. President, let me also be clear on another point: Sexual harassment is wrong, period. And it is doubly wrong when it occurs within the ranks of our Nation's armed services.

Equal opportunity does not mean equal opportunity just for men. It means opportunity for all Americans—black and white, Hispanic and Asian, male and female. And if the women of this country are to enjoy the full promise of America, they deserve nothing less than a workplace free of discrimination and free of sexual harassment.

That is why I introduced a bill in 1991—the Women's Equal Opportunity Act—that sought to close a loophole in title VII by providing a monetary remedy for the victims of workplace sexual harassment. A monetary remedy was ultimately included in the 1991 civil rights law.

Now, no one has accused Admiral Kelso of engaging in sexual harassment himself. No one has accused him of linking job promotions or job advancement to the performance of sexual favors. No one has accused Admiral Kelso of himself engaging in the type of despicable activity that took place at the Tailhook convention.

If Admiral Kelso is guilty of anything, he is guilty of a sin of omission, rather than the act itself. Could he have been more aggressive in pursuing Tailhook? Of course. Could he have been more responsive to the charges of misconduct? You bet. Should he have shown more sensitivity? Absolutely.

But the bottom line is that no one has accused Admiral Kelso of himself engaging in any of the misdeeds that made Tailhook such an embarrassment to the Navy—and to our country.

Mr. President, Naval tradition holds that the "captain" is responsible for everything that happens on "his watch." I have no problem with holding the Admiral to this standard, but when Admiral Kelso offered to resign in the wake of Tailhook, he was persuaded by several Members of Congress to stay on, pending the appointment of a new Secretary of the Navy. These Members knew Admiral Kelso to be a man of integrity who had always served his country honorably—and that is why they prevailed upon him to remain at his post. If Admiral Kelso deserved to be punished for the misguided actions of his subordinates, this punishment should have been meted out a long time ago, and not here on the Senate floor.

We have come a long way since Tailhook. And we still have some distance to go—not just in the military but in the larger society as well. No doubt about it, Tailhook happened on Admiral Kelso's watch, and Naval tradition holds him responsible—A responsibility he readily accepts. But, Mr. President, I am not so sure what will be gained by taking one, or two, or even three stars away from an officer who has served our Nation with honor and with distinction for more than three decades.

I understand that, in a broad sense, he is probably responsible. But the thing that troubles me is he could have left a couple of years ago and had four stars, but he was persuaded by Members of Congress to stay on to do his duty to his country, and now we want to penalize him. I cannot reconcile that with the argument of many of my colleagues who feel otherwise, who have a different view. They prevailed upon him to remain in his post.

He is a man of integrity. He has served his country honorably for 38 years, and I do not think he deserves to be punished for the misguided actions of his subordinates. If we are going to do that, we should have meted out the punishment a long time ago, and not here on the Senate floor.

I yield back my time.

Mr. WARNER. Mr. President, the Armed Services Committee held a hearing on April 12, which in my view was unprecedented. The Secretary of Defense, the Secretary of the Navy and the Chairman of the joint Chiefs of Staff all appeared before the committee to indicate their strong support for the President's recommendation that Admiral Kelso be retired in the grade of admiral. I want to take this opportunity to commend the chairman of the Armed Services Committee, Senator NUNN and the ranking member, Senator THURMOND for holding that hearing. Members of the committee had the opportunity to question the witnesses on their views concerning Admiral Kelso's character and performance of duty as well as his role and the allegations that have been made against him regarding the tailhook incident. In my view, this hearing was extremely valuable as the members of the committee considered the character and performance of Admiral Kelso and reached their individual judgments on whether or not to support the President's recommendation.

The Armed Services Committee held another open hearing to vote on the President's recommendation to retire Admiral Kelso in the grade of admiral. At the outset of that hearing, the chairman of the committee delivered one of the most courageous statements I have heard during my 15 years tenure on the committee. I recommended earlier that all members read Senator NUNN's statement prior to voting. His statement can be found in the RECORD of April 14, 1994, on page 7581.

Mr. President, during the Armed Services Committee hearing on April 12, I asked the Secretary of Defense, Dr. William Perry, and the Secretary of the Navy, John Dalton, the following question:

> Will a decision by this committee to accept the recommendation of the President be in any way interpreted as a step back or a slowdown or any impediment in the efforts that you, Secretary Perry, and that you, Secretary Dalton, are endeavoring today to assure that the quality of life for women is equal in every respect to that of male members of the military?

Secretary Perry indicated his own commitment to continuing that progress and further stated, "no, it will not impede that progress."

Secretary Dalton replied, "Senator, I am convinced that, indeed, this committee voting in favor of Admiral Kelso's four-star retirement would not be viewed as a step backward. As a matter of fact, DACOWITS, the women's committee on women in the armed forces, particularly endorsed the fact that Admiral Kelso should retire in grade."

Those who have a genuine interest in the advancement of opportunities for women have indicated their strong support for Admiral Kelso and the initiatives he has taken to increase opportunities for women in the Navy. The Defense Advisory Committee on Women in the Services [DACOWITS] and the Women Officers Professional Association have both written letters supporting Admiral Kelso and his retirement in the grade of admiral.

Earlier today, I referred to a question I asked of the Chairman of the Joint Chiefs of Staff, General Shalikashvili, whether the men and women of the U.S. military would view it as an act of fairness if this committee and the Senate were to reject the request of the President to retire Admiral Kelso with four stars. General Shalikashvili replied, "I believe, without any hesitation, that they would not see that as a fair act. They would see that as a reaction to something that was very wrong at Tailhook, and trying to find someone to hold accountable for it and that settling on Admiral Kelso. And that would not be correct, nor considered fair."

Mr. President, I believe that a vote against the nomination to retire Admiral Kelso in grade as an admiral will have an adverse effect on the personnel in the Navy who will see this as unfair. Sailors serving around the world will view an unfavorable vote as an unfair attempt to make Admiral Kelso the scapegoat for Tailhook.

Mr. President, Admiral Kelso's family will also be affected by adverse action against Admiral Kelso—without any credible evidence of wrongdoing on his part. The Members of the Senate who are speaking in opposition to Admiral Kelso's retirement in grade, I'm sure are insistent on fairness to others. I hope they will apply the same standards of fairness to Admiral Kelso and his family.

Admiral Kelso has served with distinction in the Navy for 38 years. He has been a flag officer for 14 years and a four-star admiral for 8 years. As has been stated several times on the floor today, Admiral Kelso offered to retire 2 years ago when Tailhook occurred. He was asked to remain on the job. He did so and made unprecedented progress in the advancement of opportunities for women in the Navy.

The Secretary of Defense, the Secretary of the Navy and the Chairman of the Joint Chiefs of Staff have all recommended that Admiral Kelso be retired at four-star rank. Today, President Clinton indicated again that he continues to believe that Admiral Kelso should be retired in the grade of admiral.

Mr. President, Admiral Kelso's naval career is marked by a very long and personal commitment to equal opportunity for all members of the Navy. I believe that Admiral Kelso's overall naval record warrants his retirement in the grade of admiral and urge that the Senate confirm his retirement in his present grade.

Mr. President, I ask unanimous consent that a brief résumé of Admiral Kelso's distinguished career be included in the RECORD.

The PRESIDING OFFICER. Without objection, the résumé was ordered to be printed in the RECORD, as follows:

ADMIRAL FRANK B. KELSO II

Thirty-eight years of distinguished Naval Service: 14 years as a flag officer; 8 years as a four star.

Served as Commander, Sixth Fleet: Located, forced down and apprehended terrorists who murdered an American citizen aboard the Achille Lauro.

Served as Commander-in-Chief, U.S. Atlantic Fleet.

Served as Commander-in-Chief, U.S. Atlantic Command and Supreme Allied Commander, Atlantic.

While CNO, also served as Acting Secretary of the Navy for 7 months Directed Navy/Marine Corps contribution to Bottom Up Review.

Trained, equipped and readied Navy for Desert Shield/Storm: Largest, most complex sealift since WW II.

Personally established a new focus for the employment of naval forces in littoral areas through the ". . . From the Sea" doctrine.

Preserved and reinforced Navy's core values of Honor, Courage, and Commitment.

During his tenure as CNO, Navy made greatest gains in history in rights and opportunity for women in the Navy.

As CINCLANTFLT, he integrated women into combat logistic ships.

As CNO, he assigned women to all ships not closed to them by law and successfully initiated legislation to change the law to open more ships to women.

Successfully fought to put women in cockpit of combat aircraft.

Formed Standing Committee on Military and Civilian Women in the DoN.

Instituted policy of "zero tolerance" of sexual harassment in the Navy, ie., automatic processing for discharge of aggravated or repeat offenders.

While he has been CNO, for the first time women have commanded ships, aviation squadrons, naval stations, a naval base and brigades at the Naval Academy. Nine women have been promoted to flag rank and three women aviators have been promoted to Captain.

Mr. ROBB. Mr. President, nobody condones sexual assault or harassment. Whether in uniform, in a business, or on the street, that kind of conduct has no place in this society, period. That is beyond question or debate.

But the question of whether to retire Adm. Frank Kelso in grade does not turn on that issue.

As Senator HUTCHISON said in the Armed Services Committee, the decision was a very close call, on which people of good intentions and serious mind can reach different conclusions. It would be wrong for anyone to ascribe motives to any Member beyond those to be found in the evidence.

Admiral Kelso and his supporters admit that his term as Chief of Naval Operations included an uncharacteristic lapse of performance. For that lapse, he was officially reprimanded and is being forced into early retirement.

Nobody questions that life in the naval service is what Frank Kelso loves. You can see that in his exemplary 38-year record. Others have spoken in great detail of his career; I will say only that it involves repeatedly volunteering for ever more difficult assignments, then carrying them off professionally, effectively, and in the finest military tradition.

The question before the Senate is whether an exemplary sailor with one mark on his record should be denied the fruits of 38 years because of that one incident.

In some cases, such a penalty may be justified. If Admiral Kelso had run a deliberate coverup, or lied to his superiors, that would be sufficient reason to tarnish an otherwise outstanding career. Indeed, Secretary Perry told the committee that, if he believed Admiral Kelso had lied about his role, his recommendation would have been very different.

And Admiral Kelso agreed with that. By volunteering to resign, as he did some 2 years ago, the admiral showed that he was willing to accept responsibility. But because the DOD leadership knew that nobody had done more to integrate the Navy than Frank Kelso, he was kept on, and allowed to proceed with remedying the problems made so obvious at Tailhook '91.

Therefore, Mr. President, the question comes down to which side has the stronger case. On one hand, we have the Secretary of Defense, the Secretary of the Navy, the Chairman of the Joint Chiefs of Staff, and the DOD inspector-general. On the other hand is the opinion of a military judge who only heard half the case. The Secretaries and the chairman are new to their posts, and have no stake, institutional or personal, in seeing Admiral Kelso beat this or any rap. The judge was not even allowed to hear testimony from the admiral, who was not even represented in the courtroom. On that balance, I come down on the side of the admiral's superiors.

I also go with my knowledge of the man. I have worked with him since he became CNO. One may say many things about Frank Kelso, but nowhere on that list will you find dishonesty, untruthfulness, or evasion. He tells the truth with the bark off.

And he follows his beliefs with action. That is evident in his commitment to making women an inseparable part of the naval service. On Frank Kelso's watch, women were allowed on combat vessels. On his watch, women were given the same job opportunities as men. On his watch, the Navy began comprehensive training programs aimed at breaking down sexual stereotypes and prejudice within the ranks. These groundbreaking actions led the military services, and I applaud them.

By confirming Admiral Kelso's retirement, I do not want to send the wrong message to the ranks. If provable cases against the actual perpetrators were dismissed because of unfounded allegations against Admiral Kelso, I believe that the judge erred, and that error is regrettable. But we should not seek to remedy that error at the expense of one man, who was not directly involved in the events.

Anyone who doubts the seriousness of the Navy's commitment to justice need only look at Admiral Kelso's successor. In a very real sense, Adm. Mike Boorda, the new CNO-designate, broke the Tailhook case. Serving as deputy CNO for personnel, he brought Lt. Paula Coughlin's charges to the Pentagon's attention, and even hired Lieutenant Coughlin for his personal staff to shield her from possible retaliation elsewhere in the Navy. That commitment to justice should be a clear warning to others who would commit harassment or other offenses against their fellow sailors.

In considering the worth of any individual, we must look fairly at the good they have done and weigh it against any errors they may have committed, and what they have done to atone for those mistakes. In this case, I believe that the good Frank Kelso has done over 38 years of meeting challenges, fixing problems, opening the Navy to women, and changing the mission of our Navy should not be superseded by the errors for which he has atoned. I will vote to retire Admiral Kelso in the grade which he has earned.

Mrs. KASSEBAUM. Mr. President, I oppose this effort to allow Admiral Kelso to retire from the Navy with a four-star rank. While this is not by any means a simple issue, I do believe it would be a mistake to accord Admiral Kelso the same privilege we have given to others of the past.

Admiral Kelso has served our Nation for 38 years with great skill, courage, and ability. He should be honored not only for that service, but for what I believe were significant efforts to improve and strengthen the role of women in the Navy.

The Defense Advisory Committee on Women in the Service recently wrote to Admiral Kelso praising his efforts on behalf of women. As they noted:

> Under your leadership, more women have been selected for operational command, flag rank, and major shore command than at any other time in the Navy's history. We share the view of many military women that you are the one individual who has done more to further opportunities for women than anyone since Admiral Zumwalt in the early 1970s.

The advisory committee went on to cite specific steps Admiral Kelso has taken on behalf of women. Those steps are real and important in changing the Navy in ways that will not only lead to greater acceptance of women in the service but will allow them to be fully integrated into the life and work of the Navy.

While these efforts deserve genuine praise, I think we must face the fact that Admiral Kelso also demonstrated a complete failure of leadership in the so-called Tailhook investigation. This matter was badly handled from start to finish. Admiral Kelso cannot avoid blame for that failure and the Senate cannot simply look the other way and pretend it did not happen.

The question before us is not whether we approve of sexual harassment and will give a wink and a nod when it happens. The real issue is whether we will hold accountable those we entrust with the leadership of our Armed Forces. I believe we must hold Admiral Kelso responsible for his direct failure of command.

Mr. SIMPSON. Mr. President, I note that the Armed Services Committee reported out the retirement nomination of Adm. Frank Kelso to retain his four-star rank, by an overwhelming bipartisan, 20–2 vote last week. I would simply say that I will listen to my colleagues on the Armed Services Committee and will defer to their expertise and research done on such matters.

All of us are concerned about the issues surrounding the so-called "Tailhook Incident." Those that were responsible should be severely reprimanded. I believe that the resignation of the former Secretary of the Navy and others in the Navy chain-of-command was an appropriate response. The criticism of Admiral Kelso has not withstood strict scrutiny or proper rules of evidence, and I believe he should be entitled to retire with four-star rank. Both Democrats and Republicans on the Armed Services Committee have expressed that view overwhelmingly.

Mr. WELLSTONE. Mr. President, I have listened to today's debate carefully, and have tried to assess appropriate summary documents of the inspector general's conclusions which serve as the most comprehensive documentary record on this controversial case.

In addition to the conclusions drawn by the Pentagon inspector general, I reviewed the judicial ruling issued by military judge William T. Vest, Jr., captain, JAGC of the U.S. Navy, and documents submitted for the record by Chairman Nunn. I also took into account the resignation of former Navy Secretary Garrett over Tailhook, and Navy Secretary Dalton's judgment last year that Admiral Kelso should be removed for failures of leadership surrounding this incident. I also took into account the recommendations of Defense Secretary Perry, Chairman of the Joint Chiefs Shalikashvili, and Navy Secretary Dalton that he be allowed to retire at his current four-star rank.

The evidence was often conflicting and contradictory. In my judgment, however, the essential findings of the military judge who heard the evidence in a case involving naval officers facing charges stemming from the 1991 Tailhook Association Convention were not sufficiently rebutted by the inspector general's conclusions regarding Admiral Kelso's conduct during the convention.

While people of good will can disagree about the standards of evidence, procedural rules, and administrative and management standards that should apply in such cases, I was ultimately unpersuaded that Admiral Kelso met the management standard of due diligence at the convention. Whether or not he actually witnessed the egregious and rampant sexual misconduct by aviators that weekend—and the evidence on that is conflicting—I believe that he must be held to a very high standard of command responsibility for the behavior of those under his command. This is especially true because he was in such close proximity to those engaged in the misconduct who were his subordinates. Given the evidence, it is difficult for me to believe he could have been completely unaware of this misconduct during the convention.

Despite its efforts to address the problem of sexual harassment, the Navy still has a long way to go. In the 3 years that I have served in the Senate, my staff have intervened repeatedly with Pentagon officials on behalf of many Navy servicewomen in Minnesota who have been victims of sexual harassment by their male colleagues. This continues to be a serious problem, and must be dealt with more aggressively by Navy leadership.

But even against this backdrop, I believe that we should separate the symbolic significance of this vote from the actual case in front of us today, and the specific questions of misconduct, accountability, and management due diligence that it raises. I have tried to keep this in mind as I have thought through my views on this case.

Based on my review of the documentary evidence, I intend to oppose Admiral Kelso's retirement with the rank of four-star admiral.

Mr. HATCH. Mr. President, I must reluctantly vote to accept the retirement of Adm. Frank Kelso at the two-star rank. While I have no doubt that Admiral Kelso has contributed significantly to the defense of the United States in an honorable manner throughout his career, our decision at this point in time is whether or not he is to be permanently designated with the supreme grade afforded to military officers. He has, in fact, served very well throughout his tenure as Chief of Naval Operations while wearing four stars.

As one who has lost a brother in war, I have nothing but the highest admiration for those who go into harm's way to protect us all. Admiral Kelso has devoted his adult life to the service of our country. He has demonstrated his courage in combat and his leadership in all of his duty assignments.

My decision tonight is whether his judgment, strength of leadership, and tenacity in ensuring that his direction was carried out were consistent with that expected of a four-star admiral. He had the ultimate position of authority and responsibility in the U.S. Navy. His performance as the Chief of Naval Operations must be evaluated in its entirety.

During his challenging tour as CNO, he confronted and tackled numerous issues for which there were few or no precedents. He was successful in guiding the Navy through uncertain times with downsizing and reorganization; he was decisive and effective in many operational situations that reflected his broad experience and superior knowledge.

During his tour, he also was provided an extraordinarily complicated and sensitive problem. I am not satisfied, however, with his faltering forthrightness in accounting for his presence at Tailhook and his lack of effectiveness in ensuring that a comprehensive and credible investigation was immediately conducted. It must be expected of the Chief of Naval Operations, the ultimate position in the U.S. Navy, that the response to discovering a scenario as despicable and clearly illegal as what took place at the Tailhook convention in Las Vegas, would have been swift, strong, clear, and effective. The apparent uncertainty that was pervasive throughout the Naval service regarding the consequences of the conduct in question, whether or not the participants would be able to get away with it, and what sort of effect there would be on business as usual in the Navy lingered on and on. Forceful and effective leadership was not forthcoming from the office of the CNO.

The investigations that ensued from this incident were at best inconclusive. Admiral Kelso, as CNO, bears direct responsibility for the inept handling of the inquiries into the Tailhook incident. I further maintain that the four-star command position with which Admiral Kelso was entrusted provided him with sufficient authority and resources to accurately determine culpability and with provisions to take appropriate action. Unfortunately, Admiral Kelso has permitted the Navy to live under a black cloud of uncertainty. While I believe Admiral Kelso has directed the Navy on a course that will permit these issues to be more effectively dealt with in the future, I am sorry that it took the office of CNO so long to get there.

After much consideration, I have concluded that the leadership of Admiral Kelso, while wearing four stars, was not in every regard demonstrative of the extraordinary trust and confidence which must be placed in military officers of that grade.

Mr. DURENBERGER. Mr. President, I rise today to support the retirement of Adm. Frank Kelso at his current rank of full admiral.

I will take a back seat to no one in this chamber in my support for equal treatment of women in the Armed Forces or anywhere else. And I will not deny for a minute that the Navy, perhaps worst among the armed services, is ill-equipped to deal with sexual harassment to the point of being tolerant of it.

Just today I wrote a letter to Navy Secretary Dalton concerning a case of a young woman from Minnesota who is a victim of the Navy's inability to handle sexual harassment complaints. It is an intolerable situation. And if any good is to come out of this debate today I hope it will be that the Navy will finally understand that they will lose the confidence of this Congress and this country if they do not shape up.

But even that strongly held view does not justify what has been proposed here today. It is quite simply wrong to reach a judgment and carry out a sentence in a case with disputed facts on the floor of the U.S. Senate.

As far as I can tell, one Navy judge found that the greater weight of the evidence was that Admiral Kelso was present during and probably witnessed inappropriate activities at the Tailhook convention. Admiral Kelso has denied these allegations under oath.

The question of his guilt is hardly an open and shut case. Admiral Kelso's position is supported by the deputy defense inspector general who interviewed over 1,000 people who were at the Tailhook convention, by the independent investigation of Adm. J. Paul Reason and by the conclusions of both Navy Secretary Dalton and Defense Secretary Perry.

The same Navy judge also criticized Admiral Kelso for interfering with the investigation of Tailhook by appointing Admiral Reason to conduct the independent investigation, in spite of Admiral Kelso's personal interest in the outcome.

But this is also not an open and shut case. The Navy Secretary at the time, Sean O'Keefe, has said that he chose Admiral Reason on his own to conduct the investigation.

As far as I can tell we are being asked to impose a punishment based on the disputed findings of a judge in a proceeding where Admiral Kelso was not a party—where he had no right to cross-examine his accusers, where he had no right to counsel and where he had no right to be heard in his own defense. In short, where he had none of the basic rights that we afford any accused person in this country. I simply refuse to go along with this denial of due process.

My colleagues on the other side of this question certainly raise a valid point when they say that the responsibility for Tailhook ultimately must rest at the top. But I cannot believe that admonition contemplates a trial, verdict, and sentence affecting his pension on the floor of the U.S. Senate where Admiral Kelso also has no right to speak, no right to face his accusers and no right to due process. The Uniform Code of Military Justice or the decisions of the civilian leadership of the Navy are the appropriate means for exacting that responsibility.

I share the suspicion of many of my colleagues that those appropriate proceedings did not occur because of a failure of leadership in the Navy and in the armed services as a whole. But that suspicion of mine does not translate into a vote to condemn and sentence Admiral Kelso without benefit of due process of law. That is not our proper rule and does not address the problem.

That those appropriate proceedings did not happen lays squarely at the door of the Navy inspector general, the Secretary of the Navy, the Secretary of Defense and, ultimately, the Commander in Chief. If Admiral Kelso is so clearly guilty of misconduct, then our inquiry ought to be with the civilian leaders who let him off the hook. They are the ones with the clear responsibility to hold Admiral Kelso accountable, not the U.S. Senate.

Mr. President, we do not cure the crisis of leadership in the military by acting against one officer's pension. If we want to address the crisis of leadership in the military on sexual harassment, we need to do it directly.

In the final analysis, I believe the Navy has a tremendous problem with sexual harassment. I think that the civilian and military authorities in the Pentagon had better give this a long hard look. I think this Congress should give this a long hard look. But I cannot make this vote today on Admiral Kelso's pension a symbolic vote on Tailhook. That is not fair to him, it does nothing to address the lack of leadership in the military, and it moves us nowhere nearer the solution to sexual harassment that we all seek.

Mr. LEVIN. Mr. President, as a member of the Armed Services Committee, I voted to confirm Admiral Kelso for retirement in grade, and I will vote again today for his retirement in grade.

Admiral Kelso's retirement is entangled with the Tailhook affair because he attended the convention in 1991. In addition, a Navy court martial judge considering three cases arising out of Tailhook made findings that Admiral Kelso actually witnessed inappropriate activities there and that he manipulated the Navy's subsequent investigation. However, the Department of Defense inspector general did an indepth investigation, interviewing over 2,000 people, and disagreed with the judge's findings in a number of crucial ways. He also found no evidence of wrongdoing by Admiral Kelso. In fact, the DOD inspector general said that Admiral Kelso was helpful during their investigation.

In light of this conflicting information, I was not willing to cast my vote on Admiral Kelso's retirement without an indepth understanding of the entire record of his involvement in the Tailhook affair. I have considered the court martial judge's 60-page opinion, both volumes of the DOD inspector general's report, a variety of letters and affidavits submitted by individuals with knowledge of Admiral Kelso's Tailhook-related activities, excerpts from the court martial trial transcript, and the testimony of Secretary Perry, Secretary Dalton, and General Shalikashvili before the Armed Services Committee. In addition, when I identified a gap in the factual record, I forwarded a question to Admiral Kelso and received a written response from him.

My conclusion, after consulting these sources, is that Admiral Kelso did not observe inappropriate conduct during his attendance at Tailhook and that he did not interfere with the subsequent investigation. I believe that the judge's conclusions to the contrary are mistaken and are not supported by the weight of the evidence.

In particular, with respect to the aftermath of Tailhook, the initial investigation was conducted by the naval inspector general and the Naval Investigative Service under the supervision of the Under Secretary of the Navy, who reported to the Secretary. The DOD inspector general found that neither Admiral Kelso nor his staff were invited to participate in the weekly meetings that were held to discuss the progress of the investigation, although Kelso did receive periodic briefings. He also had to be careful not to become too involved in the Navy's investigation in order to avoid the appearance of undue command influence. When a serious omission in the Navy's investigative report later came to light, Admiral Kelso insisted that the matter be referred to the DOD inspector general for a full and impartial review. The DOD inspector general describes Admiral Kelso's reaction to the omission as "outraged." According to former Under Secretary of the Navy Daniel Howard, upon the discovery of the omission, Admiral Kelso had threatened to resign unless further steps were taken. I request that the full text of the letter from Mr. Howard to Under Secretary of the Navy Danzig be attached to my statement.

Having come to the conclusion that Admiral Kelso did not witness misconduct or interfere with the Navy's Tailhook investigation, and in light of his otherwise distinguished career, I support his retirement in grade.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

J. DANIEL HOWARD,
Tokyo, Japan, February 10, 1994.

Hon. RICHARD DANZIG,
Under Secretary of the Navy, The Pentagon, Washington, DC.

DEAR MR. SECRETARY: I am deeply concerned about the press reports regarding the judge's ruling in the Tailhook court martials. By the time you receive this all the decisions will probably already have been made. Nevertheless, I feel the need to add my voice to the process.

If there is a blameless individual among the leaders of the department with respect to Tailhook, it is Frank Kelso. To my knowledge he never sought to constrain the investigation in any way. On the contrary, he took one particular action which indicated his determination that the investigation shield nobody. By this action he most probably precipitated the resignation of Secretary Garrett. Shortly after the close of the DON investigation and public release of the reports of the DON IG and NTS. I was contacted by the then Vice Chief, ADM Jerry Johnson. He said that the CNO had heard that a statement implicating Mr. Garrett had been left out of the NIS report and the CNO wanted to know how that could have happened. I was completely surprised because RADM Williams, the head of NIS, had not mentioned it. I, too, wanted to know how this could have happened. A few days later Mr. Garrett called me to his office and said that the CNO had apparently concluded that RADM Williams had purposely suppressed this statement. The CNO had demanded that RADM Williams be relieved from duty pending an investigation. Mr. Garrett said that he refused that demand because he had been assured by RADM Williams that he too had been unaware of the existence of the written statement but said that because the CNO was not satisfied and had threatened to resign unless further steps were taken, Mr. Garrett had just asked the DOD IG (acting) Derek Vanderschaeff to investigate the manner in which the NIS investigation had been conducted.

All of the above is by way of saying that Frank Kelso did not shrink from his responsibility to investigate involvement in Tailhook by anyone, high or low. Furthermore, it was Frank who supported me when I decided to take on the entire cultural problem, and the aviation community, in the wake of Mr. Garrett's resignation. It was Frank who visited command after command to read the riot act. It was Frank Kelso who acknowledged to me that every leader who wore the Navy uniform bore some responsibility for allowing Tailhook to happen.

Why then did he attend Tailhook 93? He did so at the request of Mr. Garrett who said that the two of them must go to Las Vegas to attempt to put down a near mutiny in the ranks of naval aviators. We had killed the F14D and the remanufacturing program for older F–14s. We had decided to go with the F–18 E/F instead. The F–14 community was up in arms and the evidence of open warfare was daily in the press. Frank was the third submariner in a row to be CNO. Submariners are isolated from the rest of the Navy and Frank knew that he had no particular credibility with the naval aviation community. That is why he had an aviator as VCNO. He knew that Jerry Johnson was the proper person to accompany Mr. Garrett, but he reluctantly agreed to go. Frank later told me that he did not approve of the raucous atmosphere of the Q&A session in the seminar in which he spoke and commented that one would not see anything like that in the submarine community. Even though he was Chief of Naval Operations for the whole Navy, he clearly felt out of place among this ritual gathering of naval aviators. Mr. Garrett believed that he and the CNO had sold the aviation plan. Indeed, until the sexual harassment charged emerged about two months later, everyone familiar with the convention felt that it was the most successful event in the association's 35 year history with standing room only at most of the thirteen hours of seminar sessions held.

There was a failure of leadership in Tailhook. I believe that most of that failure was in the aviation chain of command. I conclude that this failure of leadership was because of the belief among some, but certainly not all, senior aviators that naval aviation was so demanding that the institution should tolerate occasional anti-social behavior outside the cockpit.

Both the CNO and I spoke with senior naval aviators to solicit their support to assist the investigation and to address the cultural problem. The responses varied but most of them were negative. I can recall, however, two exceptions. Then RADM Tony Less sent a letter to every aviator in his command (LANTAIR). He followed it up with visits to bases. VADM Barney Kelly, CINCPACFLI, sent a message and then embarked upon a very aggressive schedule of visits to all his commands where he held public sessions to discuss the matter. Their efforts came late in the investigation. I do not know whether or not they did any good but I was very pleased that they took action. However, the overall reaction was disappointing. As ADM (retired) Bud Edney said (I think that it was on CNN) "we let the CNO down, we let Secretary Garrett down and we let the Navy down." Bud is a former fighter pilot, VCNO and CINCLANT. He is one of the naval aviators who never went to Tailhook (Stan Arthur is another) but knew that there was a long-standing problem with aberrant behavior there. He says that all the leadership in naval aviation failed to measure up. I agree that the primary responsibility was there. It does not excuse me or Larry Garrett or Frank Kelso or any of the many other leaders who failed to address the cultural problem over the years. All of us must bear our share. But Frank Kelso does not deserve more than his share and he did attempt to address the problem after the event.

During the brief time I was acting secretary Frank supported me strongly in the establishment of the Standing Committee on Women in the Navy and Marine Corps, on the proposal to make sexual harassment a specific offense under the UCMU, on the plan to do a one-day training standdown for the Navy and Marine Corps (all made public) and on my efforts to convince the Secretary of Defense that we should immediately open combat aviation and more surface vessels to women (not made public awaiting the findings of the Presidential Commission). Those later ideas were his and they later resurfaced and were approved.

Frank Kelso is a fine man and a solid leader. He has had an enormous challenge over the past four years. He did an outstanding job during the Gulf War of martialing the naval resources for the conflict and of maintaining peace between the Navy and Air Force (probably the tougher part of the job). I think that the future Navy owes him a great debt for his reorganization of the naval staff. Many of his predecessors thought about it. Only he had the guts to do it. Finally, he supported the huge effort to downsize the infrastructure to match the operating forces and to match the latter to the budget. All of this was hard, and made even harder because much of it was accomplished under the cloud of Tailhook.

I have no idea what Secretary Dalton and SECDEF will choose to do with the judge's opinion. I clearly believe that it was a totally erroneous finding. I sincerely believe that ADM Frank Kelso has done his job right and that he deserves to serve out his term with dignity.

Sincerely yours,

DAN HOWARD,
Under Sec., Navy.

Mr. NUNN. Mr. President, have the yeas and nays been ordered?

Ms. MIKULSKI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on the confirmation of the nomination of Adm. Frank B. Kelso, II, U.S. Navy, to be placed on the retired list in the grade of admiral.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio [Mr. GLENN] is necessarily absent.

I further announce that the Senator from Alabama [Mr. SHELBY] is absent due to illness.

I also announce that the Senator from Michigan [Mr. RIEGLE] is absent because of death in family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 54, nays 43, as follows:

[Rollcall Vote No. 93 Ex.]

YEAS—54

Bingaman
Bond
Brown
Bryan
Bumpers
Burns
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
Danforth
DeConcini
Dodd
Dole
Domenici
Durenberger
Exon
Faircloth
Ford
Graham
Gramm
Gregg
Hatfield
Heflin
Helms
Hollings
Inouye
Johnston
Kempthorne
Kennedy
Kerrey
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
Mitchell
Murkowski
Nickles
Nunn
Pell
Pryor
Robb
Sasser
Simpson
Smith
Stevens
Thurmond
Wallop
Warner

NAYS—43

Akaka
Baucus
Bennett
Biden
Boren
Boxer
Bradley
Breaux
Byrd
Campbell
Conrad
D'Amato
Daschle
Dorgan
Feingold
Feinstein
Gorton
Grassley
Harkin
Hatch
Hutchison
Jeffords
Kassebaum
Kerry
Kohl
Lautenberg
Leahy
McConnell
Metzenbaum
Mikulski
Moseley-Braun
Moynihan
Murray
Packwood
Pressler
Reid
Rockefeller
Roth
Sarbanes
Simon
Specter
Wellstone
Wofford

NOT VOTING—3

Glenn
Riegle
Shelby

So the nomination was confirmed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMEMORATING THE 79TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. RIEGLE. Mr. President, I rise today to pay tribute to the victims of one of the bleakest episodes in human history. This Saturday, April 24, marks the 79th anniversary of the beginning of the Armenian Genocide. On that date in 1915, the Ottoman Turks began escalating their campaign to wipe out the Armenian population of the Ottoman Empire. By 1923, more than 1.5 million Armenians had died and more than 500,000 had been forced from their homes. Today we honor those who died during the first genocide of the 20th century and refocus on the repeated instances of genocide that have occurred this century.

At the time of the Armenian Genocide, Europe was being torn apart by World War I and the Ottoman Empire was experiencing a rapid decline in power. By the end of the war, Russia, fighting on the side of the allies, would invade Turkey and deal a crushing blow to the Ottoman rulers. Internally, the Ottomans had turned to a leadership that espoused pan-Turkish nationalism, and sought to annihilate non-Turkish populations within the empire. In particular, the Ottomans escalated their campaign designed to eliminate the entire Armenian population.

On the night of April 24, 1915, more than 200 Armenian religious, political, and intellectual leaders were rounded up in Constantinople. In a gruesome preview of what was in store for other Armenians, these leaders of the community were taken to a remote location inside Turkey and brutally executed.

Following the executions of these leaders, the Ottomans began their campaign of mass deportations and systematic extermination. Virtually all Armenians throughout the empire were either rounded up and massacred or forced to march to remote areas of Turkey. Countless Armenians died during these forced marches, although 500,000 miraculously escaped to Russia, other Arab countries, and to Europe and the United States. By 1923 1.5 million Armenians were dead, and the Armenian population of the Ottoman Empire had been virtually eliminated.

Today, the memory of this tragic episode in history serves to unite Armenians worldwide, many of whose family members were lost during this brutal crusade. We must continue our efforts to commemorate this event, despite the efforts of those who would deny its very existence. Even the present government of Turkey seeks to erase the memory of the Armenian Genocide despite the wealth of information that exists. By paying tribute to those Armenians who died, we do not seek to confront Turkey, which has been a valuable ally both economically and militarily. Rather, we seek to remind ourselves of the brutality of the ethic conflicts that have exploded this century. Only by acknowledging past episodes such as this can we hope to prevent them from recurring.

The Armenian Genocide is especially important since it appears to have emboldened Hitler in his persecution of the Jews. It has often been reported that one of Hitler's aides suggested that world public opinion would be extremely hostile if he proceeded with his plans to exterminate the Jews. To this he replied, "Who remembers the Armenians?" One of the most painful episodes in history would follow in which more than 6 million Jews would perish in the concentration camps of the Holocaust. Soon, untold Soviet citizens would die in Stalin's gulags and millions of Cambodians would suffer the same fate under Pol Pot's regime.

Today, the world is again witnessing another, similar conflict in Bosnia and

Herzegovina. In this as well as other republics of the former Yugoslavia, the ruthless policy of ethnic cleansing continues, yet the world community is still ill-equipped to stop it. The end of the bipolar system that existed since World War II means that more of these conflicts will erupt in the future. We are working slowly to redefine the international institutions that will deal with world crises. As we do, we must remember that throughout the 20th century there have been numerous episodes in which a group of people attempted to eliminate another group. The Armenian Genocide was not the first in history; the conflict in Bosnia will not be the last.

Commemoration of the Armenian Genocide is also important in light of the continued suffering of the people of present-day Armenia. In 1991 Armenia gained its independence from the Soviet Union, but has struggled since then to rebuild its economic and political structures. Armenians are still engaged in a conflict with neighboring Azerbaijan over the disputed territory of Nagorno-Karabagh. Thousands more Armenians have died during this conflict and continue to die today. The United States, as a member of the Commission for Cooperation and Security in Europe, must continue its efforts to end this brutal conflict and allow the Armenian people to begin the process of rebuilding their country.

Mr. President, I would finally like to note that this will be the last year that I will have the opportunity, as a Member of the Senate, to commemorate the Armenian Genocide. Throughout my years in the Congress I have worked closely with the Armenian community. I am proud of the strong Armenian-American population in Michigan and I am proud of the important work of the Armenian Studies Center at the University of Michigan. I will always remember the close and strong relationship I have had with Armenian-Americans and I strongly encourage my colleagues to continue the fight for the rights of Armenians around the world.

Most importantly I encourage my colleagues to continue to commemorate April 24 as the beginning of the Armenian Genocide. The Armenian people's ability to survive in the face of the repression carried out against them stands as a monument to their endurance and will to live. The world must speak with one voice in condemning the atrocities committed against the Armenian people. Only by working to preserve the truth about this tragedy can we hope to spare future generations from the horrors of the past.

THE 79TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. DODD. Mr. President, I rise today to draw attention to the 79th anniversary of the Armenian Genocide, which is being commemorated today. It is important to recall and recount the tragedy that befell the Armenians 79 years ago, not only to keep alive the memory of the past but also to make sure that it can never happen again in the future.

Mr. President, in the early part of World War I, the Ottoman Turkish Army began a prolonged campaign to separate Armenian troops from the rest of its forces, fearing them disloyal. The turning point came on April 24, 1915, when Turkish leaders arrested 200 Armenian religious, political, and intellectual leaders in Constantinople. Many of them were executed.

On May 27, 1915, the Armenian Genocide was officially launched with the edict of deportation. This edict legalized the murder of Armenian men and set in place a policy of forced death marches in the Syrian desert for Armenian women, children, and elderly. During the next 7 years appropriately 1.5 million Armenians were killed as a result of this policy of genocide.

Mr. President, our history is riddled with examples when we have closed our eyes to the murder of an entire people, with predictable and horrible results. The Armenian Genocide is one such example, and in commemorating it today we remind ourselves that we must never let such a tragedy happen again.

AIRPORT IMPROVEMENT PROGRAM TEMPORARY EXTENSION ACT OF 1994

Mr. McCAIN. Mr. President, in my remarks at an Aviation Subcommittee hearing on September 28, 1993, I stated to the chairman of the Aviation Subcommittee that I would support a single-year Airport Improvement Program [AIP] reauthorization this fiscal year but urged him to consider a multiyear reauthorization next year as a major reform in assisting airport managers in a long-term stabilized-funding program.

I regret that we are unable to consider a 1-year authorization, and that we are resorting to a stop-gap measure which merely puts off the same difficult issues for another day. This is most unfortunate. The inability to resolve the issues involved with the AIP reauthorization has serious consequences.

We have all received hundreds of letters on this important issue of AIP reauthorization. Letters like this one from Stephen Coffman of Phoenix, AZ:

> Senator, it is very late in the year; you all get lost in the fact that it is a new session, but we will have less than five months to put fiscal year 1994 together if you act immediately.
>
> I have had to explain to our employees that this delay in funding for fiscal year 1994 is severely affecting our firm now, and may result in our demise * * * We have a staff of 36 highly trained and experienced persons. We have gone through a very competitive and costly selection process to win the contracts that make up our service. Virtually all these contracts are funded from this legislation. Our clients want our work done quickly (in less than a year), so our contracts seldom extend more than a year. We have been selected for enough work to meet our needs for all of fiscal year 1994.
>
> Unfortunately, we have no funding and, as the fees from our existing contracts dwindle, so does our firm. If this delay lasts even one more month, we will have to lay off a significant number of our employees. We will also become less competitive without them. Another month or two and we will be forced out of business; a business we have worked 15 years to build and spent another 15 years learning before we started our firm.
>
> I've noticed the President and several Congressmen quoting "the little guy" in their speeches lately. Well, Senator, we are "the little guy" and there isn't much time to quote us unless its posthumously.

Mr. President, I think it is important that I read the main body of this hardworking businessman's letter to remind my colleagues of the very real threat that exists in delaying for one moment more, S. 1491, the Airport Improvement Program [AIP] reauthorization. We are killing businesses and putting hard-working Americans out of work.

I am fully prepared to move forward on the full AIP legislation today, but again the Senate has reached an impasse.

After initially introducing a single-year authorization bill, S. 1491, the distinguished chairman of the Aviation Subcommittee, my friend and colleague, Senator FORD and his staff have worked in a bipartisan fashion to respond to the concerns of businessmen like Stephen Coffman. The committee has worked hard to produce an AIP legislative substitute that in fact provides for a multiyear authorization.

However, at the 11th hour under some classic congressional brinkmanship, the interests of just a few airports, particularly one in southern California, who do not want any restrictions on rates and charges, are forcing the Senate to settle for a piece-meal, stop-gap legislation. This accommodation comes at the expense of our entire Federal air transportation system.

The issue that has brought the Senate to its knees and will most probably cost jobs in the long run is a simple requirement that rates and charges at airports must be reasonable and there must be iron-clad assurances that diverting them for purposes other than aviation needs will not be allowed.

Years ago the Congress created the Aviation Trust Fund, the intent of the Congress, then and is now, was to create much needed airport capital development and maintenance. However something has gone awry—we now have a $7 to $8 billion surplus in the Aviation Trust Fund. Such unjustified surpluses, were never intended by the laws under which the Government funds airports. Such surpluses not intended by the law, should not be used to shield the size of the deficit and justify spending on other projects.

Nearly every airline will agree that to some extent a reasonable nest egg to fund a long-term capital project is necessary. However, it is the unjustified surpluses which cleverly subsidize non-aviation projects or which are reserved for a day they can be used for other than air transportation purposes. This outcome perpetuates a continuing fraud on the traveling consumer.

Mr. President, by allowing this to happen for some time, the Government has broken faith with the traveling public and everyone involved in aviation.

Mr. President, again I'm sorry that we have been unable to deal with these issues. It's important that we do so. I realize that funding for airports is critical and that any further delay would harm the air transportation system and innocent contractors like Stephen Coffman. However, I also believe that it is in the interest of the aviation industry, the traveling public, the airports, and all concerned that we act on an AIP bill within the next 60 days. It was with this understanding and assurance from the leadership that I granted my consent to passage of this stopgap measure.

I want to thank my colleagues and I look forward to Senate consideration and passage of a responsible AIP bill reauthorization in a timely fashion.

ARMENIAN GENOCIDE

Mr. MITCHELL. Mr. President, today the Senate honors the memory of 1½ million Armenians murdered between 1915 and 1923. Each year we stop to reflect on this heinous crime and remember it with the hope that no future generation will be subjected to such a cruel fate.

The massacre of the Armenians was not the last such attempt in this century, rather it was one of many. The 79th anniversary of one people's attempt to eliminate another is especially fitting because it reminds us that the continuing ethnic cleansing in Bosnia and the slaughter in Rwanda are not isolated phenomena and should not be casually dismissed. We condemn genocide everywhere and must remain vigilant of renewed efforts to annihilate a race, a people, or a tribe.

SERB AGGRESSION AND GENOCIDE

Mr. DECONCINI. Mr. President, just when I was beginning to have a glimmer of hope that our generally disgraceful policy with respect to Serb aggression and genocide was starting to turn around, this weekend the United Nations, our NATO allies and the United States carried it to a new low. Only a week ago it seemed that maybe, just maybe, we are finally willing to stand up to the Serbs. At that time, we took direct action, albeit very limited, putting the Serbs on notice that they must stop. When they regrouped and called our bluff, however, rather than demonstrate the seriousness of our resolve, NATO, the strongest security alliance in the world, scrambled in humiliating defeat.

For more than 2 years and through two administrations and two Congresses, we have all allowed the position of the United States both as leader of the world's greatest democracy and as the world's only superpower to erode to a dangerous and humiliating degree.

For the past 2 years both former President Bush and now President Clinton has chosen to pursue a course of action in which the United States went along with the collective decisions taken within the United Nations and amongst our NATO allies. At times we were able to influence those decisions. For the most part, however, because our attempts were so half-hearted and overwhelmingly guided by our insistence on multilateralism at all costs, we were simply rebuffed when efforts were made to persuade our NATO allies to lift the arms embargo on the Bosnian Government.

Mr. President, I strongly support the adoption of a foreign policy which is closely tied to multilateral cooperation whenever that is possible. But multilateral cooperation and leadership are not mutually exclusive. In fact, such cooperation is only effective when leadership is exercised. U.S. interests are closely tied to Europe's stability. We have provided critical leadership to Europe in the past and we must do so again even if it means standing out in front of our allies in a serious crisis.

Apparently genocide and the brazen landgrab by the Serbs of Bosnia and Hercegovina, a sovereign, member state of the United Nations, is viewed as having so little effect on the stability of Europe that we are willing to allow might to make right and extreme religious bias stand undeterred in post-cold war Europe. If the Europeans don't want to do much or can't, neither should we, goes the prevailing wisdom.

I must join my voice, once again, to the many who strongly disagree with that view.

To begin with, like it or not, the national interest of the United States is firmly tied to the stability of Europe. Moreover, the United States and our NATO allies in Europe are viewed by much of the rest of the world as the safeguards of democracy. We cannot and should not police the world, but Bosnia has come to symbolize the extent to which territorial aggression and genocide will be tolerated in what was to be the dawn of a new era grounded in the expansion of democracy in Europe. When the NATO countries stand aside and allow such aggression to go unchecked, they make a mockery of the democratic principles they profess to champion. This sets a dangerous example for fledgling democracies just emerging from decades of communist domination.

For the past 2 years we have been told that the only way to peace is through diplomatic means. I agree, but only if the diplomats negotiate from a position of credible strength. For the past 2 years we have watched parades of diplomats, including our own, shake the hands of Serb leaders across polished conference tables while Serb militants in the field continue their slaughter, flaunting their contempt for those who appease them. Serb militants are today boasting they are going to take even more land around the Gorazde area than they have now.

But this past weekend, Mr. President, the United States and its NATO allies crossed a line. We rendered NATO nearly as impotent as the United Nations. A NATO plane was shot down, and we did nothing. This comes on the heels of repeated hostage-taking by the Serbs of United Nations peacekeeping troops—actions which have rarely triggered any of the existing United Nations resolutions authorizing the use of force in such cases.

I certainly agree that the downing of the British jet was a jolting reminder of the risks involved in any military action. But we must not pretend to be serious about taking actions we are not prepared to carry through. NATO is far too important to allow it to be toyed with. I, for one, seriously question subordinating NATO to the United Nations in future crises. The United Nations has time and again in Bosnia allowed itself to be humiliated beyond belief. We must not let the same happen to NATO.

Mr. President, as if all of this were not enough of a frightening and shameful commentary on the West, we have not even allowed a sovereign country, against which genocide is being committed, to defend itself. Apparently the articles of the U.N. apply only to a select group of member states. The United States is standing by while a horrific slaughter rooted in ethnic and religious racism occurs because the Europeans have decided that only some people have the right to defend themselves. I fear we and our allies will pay a heavy price for permitting our respective countries and NATO to be so egregiously mocked by Serbian thugs but history will judge us harshly for not taking unilateral action, if necessary, to at least help the Bosnian people defend themselves. Mr. President at this point, we should be bombing the Bosnian Serb political headquarters as well as Serbian supply routes and depots within Serbia itself. But I know this is not a realistic option politically. I understand consultations are underway in the United Nations regarding the use of NATO air strikes to help protect other areas of Bosnia. If NATO's actions to date are any pattern, I am not hopeful that these will amount to much of a deterrent but at least they are something. However, regardless of what else we do, we must immediately lift the arms embargo against Bosnia. We have no moral right to deny this to the Bosnians. I will be introducing an amendment to that effect and urge my colleagues to support it.

Surely, Congress can find the courage to say enough is enough. The American people feel the embargo should be lifted. They understand the legitimacy of self defense and the imperative of defending one's principles.

THE GENOCIDE OF ARMENIANS

Mr. LEVIN. Mr. President, today we are commemorating the 79th anniversary of the Armenian genocide. This is the week when people around the world pause to remember the victims of the intentional genocide of the Armenian people in 1915–23.

There are those who deny that this atrocity ever occurred. But there is an overwhelming and objectively undeniable body of historical documentation and eyewitness account proving beyond a doubt that the appalling events of 1915–23 occurred during the time of the Ottoman Empire. Because of systematic and intentional policies, up to 1.5 million Armenians perished.

This commemoration is not intended as a condemnation of our ally, the Republic of Turkey. But our mutual interests with our NATO partner and our close friendship with, and respect for, the Turkish people are not reasons to rewrite or deny historical fact. The historical evidence that the Armenian people were the victim of a genocide is unambiguous. Indeed, the founder of modern Turkey, Kemal Ataturk, recognized the crimes committed by the Ottoman Empire. As I've discussed on this floor before, in a 1926 interview Ataturk himself stated that those responsible "should have been made to account for the lives of millions of our Chistian subjects who were ruthlessly driven en masse from their homes and massacred."

Denying the events of 1915–23 is as offensive and corrupting as denying the Holocaust in the 1940's. The current Turkish Government is not the issue. The issue is the role of the preceding government in the Armenian genocide. The present German Government has acknowledged the crimes of the Holocaust. That acknowledgment by Germany has enhanced its international and moral standing. An acknowledgment by Turkey relative to the actions of an earlier government would do the same.

We owe it to the victims of the Armenian genocide—and we owe it to ourselves and the future—to perpetuate the memory and historical record of what happened.

Mr. President, we commemorate today the first genocide of the 20th century, but woefully not the last. In our commemoration today, let us pledge our best efforts to honor the innocent victims of the past and work to secure a future free of such evil.

ARMENIA

Mrs. BOXER. Mr. President, I wish to speak today in tribute to the courage and tenacity of the Armenian people, to recall the horrors they have suffered over the centuries, and to remind us all that we must never let these events be repeated.

For generations these courageous people have fought against attempts to destroy their culture and erase their existence.

In 1915, the Ottoman Empire began a genocidal campaign against the Armenian people. Armenians were forced from their homes and slaughtered by the millions. Armenian leaders were arrested by the Turks and executed en masse. Survivors of this horror—women, children and the elderly—were forced to march into the Syrian Desert. Approximately 1.5 million people lost their lives during the march, due to torture, starvation, and disease.

The surviving Armenians lived under Ottoman Empire repression, until May 28, 1918. On this day, Armenian refugees, with the help of volunteers from abroad, defeated a Turkish attack and gained freedom.

Sadly, the Armenian people were once again subjugated when the Soviet Union joined with Ottoman Empire forces to attack and defeat Armenia. The Armenians remained under Soviet domination until the breakup of the Soviet Union in 1991, when the Armenian people voted for independence. The Republic of Armenia was born.

The Armenians' hardship, unfortunately, did not end with the designation of their homeland. Fierce ethnic clashes with neighboring Azerbaijan in Nagorno-Karabakh have plagued them for the past 6 years. An Azerbaijani blockade and continued ethnic violence have devastated Armenia.

The Armenian genocide that we commemorate today effectively eliminated the Armenian population of the Ottoman Empire and marked the beginning of a century of cruelty and suffering, unparalleled in history. Indeed, it served as an inspiration for Adolf Hitler, who asked, before planning the extermination of European Jewry, "Who remembers the Armenians?"

We all must remember the Armenians and we all must work together to ensure that genocide is permitted never again.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, is the leader's time reserved?

The PRESIDING OFFICER. Without objection, the minority leader is recognized.

CONGRATULATIONS ON IMPENDING MARRIAGE

Mr. DOLE. Mr. President, first, on an entirely different matter. I congratulate the distinguished majority leader on his impending marriage. I read the wire copy and I am very happy for him and also Heather MacLachlan. No date has been set for the wedding. I certainly wish my colleague well.

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the provisions of the order of January 5, 1993, the Secretary of the Senate on April 15, 1994, during the recess of the Senate, received a message from the House of Representatives announcing that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 6. An act to extend for five years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for certain other purposes.

ENROLLED BILLS SIGNED

The message also announced that Speaker has signed the following enrolled bill:

S. 2004. An act to extend until July 1, 1998, the exemption from ineligibility based on a high default rate for certain institutions of higher education.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:17 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the concurrent resolution (H. Con. Res. 218) setting forth the congressional budget for the United States Government for the fiscal year 1995, 1996, 1998, and 1999, and agrees to a conference with the

Senate and appoints the following as conferees on the part of the House:

Mr. SABO, Mr. GEPHARDT, Mr. KILDEE, Mr. BEILENSON, Mr. BERMAN, Mr. WISE, Mr. BRYANT, Mr. STENHOLM, Mr. FRANK of Massachusetts, Ms. SLAUGHTER, Mr. KASICH, Mr. MCMILLAN, Mr. KOLBE, Mr. SHAYS, Ms. SNOWE, and Mr. HERGER.

At 5:56 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1617. An act to authorize the establishment on the grounds of the Edward Hines, Jr., Department of Veterans Affairs Hospital, Hines, Illinois, of a facility to provide temporary accommodations for family members of severely ill children being treated at a nearby university medical center.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 222. Concurrent resolution authorizing the placement of a bust of Raoul Wallenberg in the Capitol.

The message further announced that the House agrees to the Senate amendments to the bill (H.R. 821) to amend title 38, United States Code, to extend eligibility for burial in national cemeteries to persons who have 20 years of service creditable for retired pay as members of a reserve component of the Armed Forces; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2333) to authorize appropriations for the Department of State, the United States Information Agency, and related agencies, and for other purposes; and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following Members as managers of the conference on the part of the House:

From the Committee on Foreign Affairs, for consideration of the House bill (except sections 163, 167, 188, and 190–193), and the Senate amendment (except titles V, VI, IX–XV and sections 163–170E, 189, 701–722, 724–728, 730–731, 734–736, 744–746, 748–761, and 763), and modifications committed to conference: Mr. HAMILTON, Mr. BERMAN, Mr. FALEOMAVAEGA, Mr. MARTINEZ, Mr. ANDREWS of New Jersey, Mr. MENENDEZ, Mr. LANTOS, Mr. JOHNSTON of Florida, Mr. GILMAN, Ms. SNOWE, Mr. HYDE, Mr. DIAZ-BALART, and Mr. LEVY.

From the Committee on Foreign Affairs, for consideration of sections 188, and 190–193 of the House bill, and titles V, VI, IX–XII, and XIII–XIV, sections 163–164, 168–169, 189, 701–722, 724–726, 728, 730–731, 734–736, 744–746, 748–757, 759–761, and 763 of the Senate amendment, and modifications committed to conference: Mr. HAMILTON, Mr. GEJDENSON, Mr. LANTOS, Mr. TORRICELLI, Mr. BERMAN, Mr. ACKERMAN, Mr. JOHNSTON of Florida, Mr. FALEOMAVAEGA, Mr. GILMAN, Mr. ROTH, Ms. SNOWE, Mr. HYDE, and Mr. BEREUTER.

From the Committee on Foreign Affairs, for consideration of title XII, sections 727 and 758 of the Senate amendment, and modifications committed to conference: Mr. HAMILTON, Mr. GEJDENSON, Mr. LANTOS, Mr. TORRICELLI, Mr. BERMAN, Mr. ACKERMAN, Mr. JOHNSTON of Florida, Mr. FALEOMAVAEGA, Mr. GILMAN, Mr. ROTH, Ms. SNOWE, Mr. HYDE, and Mr. ROHRABACHER.

From the Committee on Foreign Affairs, for consideration of sections 163 and 167 of the House bill, and title XV, section 162, 164–165, 170A–E, and 190 of the Senate amendment, and modifications committed to conference: Mr. HAMILTON, Mr. GEJDENSON, Mr. LANTOS, Mr. TORRICELLI, Mr. BERMAN, Mr. ACKERMAN, Mr. JOHNSTON of Florida, Mr. FALEOMAVAEGA, Mr. GILMAN, Mr. GOODLING, Ms. SNOWE, Mr. HYDE, and Mr. BEREUTER.

As additional conferees from the Committee on Armed Services, for consideration of sections 170B, 170C(a), 170E(a), 721, 726(b)(2), 734, 749(b)(4), 760, 804, 810, and 1329 of the Senate amendment, and modifications committed to conference: Mr. DELLUMS, Mr. SISISKY, Mr. SPRATT, Mr. SPENCE, and Mr. HUNTER.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 759, 1003, 1104, and 1323–1325 of the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Mr. FRANK of Massachusetts, Mr. NEAL of North Carolina, Mr. LEACH, and Mr. BEREUTER.

As additional conferees from the Committee on Energy and Commerce, for consideration of section 731 of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mrs. COLLINS of Illinois, Mr. MANTON, Mr. MOORHEAD, and Mr. STEARNS.

As additional conferees from the Committee on Government Operations, for consideration of sections 189 and 721 of the Senate amendment, and modifications committed to conference: Mr. CONYERS, Mr. SYNAR, Mr. CONDIT, Mr. CLINGER, and Mr. THOMAS of Wyoming.

As additional conferees from the Committee on the Judiciary, for consideration of section 133(n) of the House bill, and sections 136, 605, 704, 705, 723, 727, 748, 751, 758, 1201, and 1202 of the Senate amendment, and modifications committed to conference: Mr. BROOKS, Mr. MAZZOLI, Mr. BRYANT, Mr. MCCOLLUM, and Mr. SMITH of Texas.

As additional conferees from the Committee on Natural Resources, for consideration of section 164(c) of the House bill, and section 171(c) of the Senate amendment, and modifications committed to conference: Mr. MILLER of California, Mr. VENTO, Mr. DEFAZIO, Mr. YOUNG of Alaska, and Mr. SMITH of Oregon.

As additional conferees from the Committee on Post Office and Civil Service for consideration of sections 132(a), 133(e), 141–150, 254, 302(b), and 307 of the House bill, and sections 131, 141–153, 155, 229, 234, 309(h), 405(e), 407, 734, 747, and 814 of the Senate amendment, and modifications committed to conference: Mr. CLAY, Mr. MCCLOSKEY, Ms. NORTON, Mr. MYERS of Indiana, and Mrs. MORELLA.

As additional conferees from the Committee on Public Works and Transportation for consideration of sections 764, 1104–1105, 1402(g) of the Senate amendment, and modifications committed to conference: Mr. MINETA, Mr. OBERSTAR, Mr. APPLEGATE, Mr. SHUSTER, and Mr. CLINGER.

As additional conferees from the Committee on Rules, for consideration of sections 714, 1003, and 1326 of the Senate amendment, and modifications committed to conference: Mr. MOAKLEY, Mr. DERRICK, and Mr. SOLOMON.

MEASURES REFERRED

The following bill, previously received from the House of Representatives, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 6. An act to extend for five years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for certain other purposes; to the Committee on Labor and Human Resources.

The following bill was read the first and second times, by unanimous consent, and referred as indicated:

H.R. 1617. An act to authorize the establishment on the grounds of the Edward Hines, Jr., Department of Veterans Affairs Hospital, Hines, Illinois, of a facility to provide temporary accommodations for family members of severely ill children being treated at a nearby university medical center; to the Committee on Veterans' Affairs.

The following concurrent resolution was read and referred as indicates:

H. Con. Res. 222. Concurrent resolution authorizing the placement of a bust of Raoul Wallenberg in the Capitol; to the Committee on Rules and Administration.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2480. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, a report relative to cigarette sales and advertising data for 1991; to the Committee on Commerce, Science, and Transportation.

EC–2481. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the development of electric motor vehicles; to the Committee on Commerce, Science, and Transportation.

EC–2482. A communication from the Chairman of the Interstate Commerce Commission, transmitting, pursuant to law, the annual report of the Commission for fiscal year 1993; to the Committee on Commerce, Science, and Transportation.

EC–2483. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the annual report of the Commission for fiscal year 1993; to the Committee on Commerce, Science, and Transportation.

EC–2484. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report relative to the modernization of the National Weather Service; to the Committee on Commerce, Science, and Transportation.

EC–2485. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report of the Office of Surface Mining Reclamation and Enforcement for fiscal year 1993; to the Committee on Energy and Natural Resources.

EC–2486. A communication from the Acting Chief Financial Officer, Department of Energy, transmitting, pursuant to law, a report relative to uncosted obligation balances for fiscal year 1993; to the Committee on Energy and Natural Resources.

EC–2487. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report relative to the Renewable Energy and Efficiency Technologies Program; to the Committee on Energy and Natural Resources.

EC–2488. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the Government's helium program; to the Committee on Energy and Natural Resources.

EC–2489. A communication from the Secretary of Energy, transmitting, pursuant to law, the management plan relative to the Renewable Energy and Energy Efficiency Technologies Program; to the Committee on Energy and Natural Resources.

EC–2490. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a draft of proposed legislation, to designate a segment of the Nolichucky River in the States of North Carolina and Tennessee as a component of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

EC–2492. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the water quality of the Colorado River Basin; to the Committee on Energy and Natural Resources.

EC–2493. A communication from the Deputy Associate Director for Compliance, Department of the Interior, transmitting, pursuant to law, a report relative to refunds of offshore lease revenues; to the Committee Energy and Natural Resources.

EC–2494. A communication from the Secretary of Energy, transmitting, pursuant to law, a notice of delay in the submission of a report from the Interagency Working Group relative to renewable energy; to the Committee on Energy and Natural Resources.

EC–2495. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to actions taken under the Power Plant and Industrial Fuel Use Act and the Energy Supply and Environmental Coordination Act during calendar year 1993; to the Committee on Energy and Natural Resources.

EC–2496. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the establishment of an oil and gas leasing program for the non-North Slope Federal Lands; to the Committee on Energy and Natural Resources.

EC–2497. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the transportation of low-level radioactive waste; to the Committee on Energy and Natural Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–440. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on Agriculture, Nutrition, and Forestry.

"HOUSE JOINT MEMORIAL NO. 14

"Whereas, the Congress of the United States has passed laws to implement programs to control production of surplus crops and to retire lands marginally suited for production of these crops; and

"Whereas, some of the lands involved in the federal programs setting aside cropland have been irrigated and have an appurtenant ground water right obtained under state law; and

"Whereas, Idaho law and some other state laws protect these rights from forfeiture while the land is contracted in the federal cropland set-aside program; and

"Whereas, Idaho law and other state laws allow the holder of ground water rights to seek the transfer of the ground water rights if the requirements of state laws are met, and some of those holders of the water right have changed the place of use of the water right to other agricultural land thereby circumventing the intent and purpose of the federal law as additional crops are being grown on land that is not in the federal set-aside program; and

"Whereas, transfer of ground water rights from lands contracted in a federal cropland set-aside program to irrigate other lands capable of producing surplus crops can have a deleterious effect to the aquifer, to surrounding wells and to entire communities.

"*Now, Therefore, Be It Resolved*, By the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that when Congress reauthorizes the federal cropland set-aside program that it include a provision prohibiting participants in the program from transferring water rights to irrigate other lands capable of producing surplus crops.

"*Be It Further Resolved*, That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States."

POM–441. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Armed Services.

"SENATE JOINT MEMORIAL 8013

"Whereas, the recent conflict in the Persian Gulf has brought to our attention once again the valuable contribution of our servicemen and servicewomen; and

"Whereas, citizens who choose to make a career of military service and who have served their country for at least twenty years receive military retirement pay based on the longevity of their service; and

"Whereas, veterans who have a service-connected disability have made a very personal sacrifice for their country and receive compensation in proportion to the severity of their disabilities; and

"Whereas, under current federal law, those individuals who have a service-connected disability and who have chosen to devote twenty or more years of service to the military are prohibited from receiving concurrently their full retirement pay and their full disability compensation. Instead these individuals may receive their retirement pay or their disability compensation, or they must waive an amount of retirement pay equal to the amount of their disability compensation; and

"Whereas, this is an inequitable situation which effectively requires disabled military retirees to pay for their own disability compensation benefits out of their retirement pay earned through years of dedicated service; and

"Whereas, there are a number of measures that have been introduced in the United States Congress which would reduce or eliminate this inequity by allowing disabled military retirees to receive concurrently their retirement pay and their disability compensation benefits;

"Now, therefore, your Memorialists respectfully pray that the United States Congress amend existing federal law to permit career military retirees with service-connected disabilities to receive concurrently their full retirement pay and their full disability compensation.

"*Be it Resolved*, That copies of this Memorial be immediately transmitted to the Honorable Bill Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and to each member of Congress from the State of Washington."

POM–442. A joint resolution adopted by the Legislature of the Commonwealth of Virginia; to the Committee on Commerce, Science, and Transportation.

"SENATE JOINT RESOLUTION NO. 25

"Whereas, the safety and convenience of the motoring public requires the installation and maintenance of numerous highway signs; and

"Whereas, these signs inform motorists of distances to various destinations, advise them of maximum safe speeds, and warn them of weight, height, and width limitations of bridges and tunnels; and

"Whereas, in order to be effective, the messages on these signs must be simple, clear, and understandable by passing motorists at a glance; and

"Whereas, it is particularly important that the measurements of distance, speed, size, and weight used on highway signs be uniform and familiar to the vast majority of motorists; and

"Whereas, it has been proposed that measurements of distance, speed, size, and weight presently used on highway signs throughout the United States be replaced with metric measurements or shown in both English and metric units; and

"Whereas, very many motorists in the United States have little or no familiarity with metric measurements; and

"Whereas, this lack of familiarity would impair the motoring public's ability to understand the meaning of highway signs at a glance; and

"Whereas, the simultaneous use of both English and metric measurements on highway signs would increase the number of characters needed on the signs, possibly increase the size of the signs, probably decrease the public's ability to understand sign messages at a glance, and certainly increase the cost of the signs; and

"Whereas, Virginia, like most states, already has more transportation needs than its transportation revenues can meet, without the additional expense of replacing existing highway signs solely for the purpose of displaying metric measurements; now, therefore, be it

"*Resolved*, By the Senate, the House of Delegates concurring, That the Congress of the United States be hereby memorialized to refrain from any requirement that otherwise functional highway signs be replaced or reconfigured solely for the purpose of replacing English measurements with metric measurements or adding metric measurements to English measurements; and, be it

"*Resolved Further*, That the Clerk of the Senate transmit a copy of this resolution to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Virginia Delegation to the Congress in order that they may be apprised of the sense of the General Assembly of Virginia in this matter."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2000. A bill to authorize appropriations for fiscal years 1995 through 1998 to carry out the Head Start Act and the Community Services Block Grant Act, and for other purposes (Rept. No. 103–251).

By Mr. MOYNIHAN, from the Committee on Finance, with amendments:

S. 1231. A bill to provide for simplified collection of employment taxes on domestic services, and for other purposes (Rept. No. 103–252).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. FORD:

S. 2024. A bill to provide temporary obligational authority for the airport improvement program and to provide for certain airport fees to be maintained at existing levels for up to 60 days, and for other purposes; considered and passed.

By Mr. CHAFEE:

S. 2025. A bill to authorize a certificate of documentation for the vessel INTREPID; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 2026. A bill to amend the Panama Canal Act of 1979 to require the payment of interest on certain damages awarded by the Panama Canal Commission; to the Committee on Armed Services.

By Mr. DODD (for himself, Mr. HARKIN, Ms. MOSELEY-BRAUN, Mr. FEINGOLD, Mr. WELLSTONE, and Mr. KERRY):

S. 2027. A bill to provide for the reinstatement of democracy in Haiti, the restoration to office of the duly elected President of Haiti, Jean-Bertrand Aristide, the end of human rights abuses against the Haitian people, support for the implementation of the Governors Island Agreement, and for other purposes; to the Committee on Foreign Relations.

By Mr. HATFIELD (for himself and Mr. HARKIN):

S. 2028. A bill to amend the Internal Revenue Code of 1986 to improve revenue collection and to provide that a taxpayer conscientiously opposed to participation in war may elect to have such taxpayer's income, estate, or gift tax payments spent for nonmilitary purposes to create the United States Peace Tax Fund to receive such tax payments, and for other purposes; to the Committee on Finance.

By Mr. BREAUX (for himself, Mr. CHAFEE, and Mr. JOHNSTON):

S. 2029. A bill to amend the Internal Revenue Code of 1986 to allow the taxable sale or use, without penalty, of dyed diesel fuel with respect to recreational boaters; to the Committee on Finance.

By Mr. ROTH (for himself, Mr. WALLOP, and Mr. PRESSLER):

S. 2030. A bill to amend the Internal Revenue Code of 1986 to limit the tax rate for certain small businesses, and for other purposes; to the Committee on Finance.

By Mr. D'AMATO (for himself, Mr. MOYNIHAN, Mr. INOUYE, Mr. COCHRAN, and Mr. DURENBERGER):

S. 2031. A bill to amend the Merchant Marine Act of 1936, to prohibit the imposition of additional charges or fees for attendance at the United States Merchant Marine Academy, and to express the sense of the Senate that no additional charges or fees shall be imposed for attendance at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the United States Coast Guard Academy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL:

S. Res. 200. A resolution notifying the House of Representatives of the election of a Secretary of the Senate; considered and agreed to.

S. Res. 201. A resolution notifying the President of the United States of the election of a Secretary of the Senate; considered and agreed to.

S. Res. 202. A resolution notifying the House of Representatives of the election of a Sergeant at Arms and Doorkeeper of the Senate; considered and agreed to.

S. Res. 203. A resolution notifying the President of the United States of the election of a Sergeant at Arms and Doorkeeper of the Senate; considered and agreed to.

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 204. A resolution relating to the retirement of Walter J. Stewart, Secretary of the Senate; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHAFEE:

S. 2025. A bill to authorize a certificate of documentation for the vessel *Intrepid;* to the Committee on Commerce, Science, and Transportation.

CERTIFICATE OF DOCUMENTATION FOR THE VESSEL INTREPID

• Mr. CHAFEE. Mr. President, I am introducing a bill today to direct that the vessel *Intrepid*, official number 508185, be accorded coastwise trading privileges and be issued a coastwise endorsement under title 46, United States Code, section 12106.

The *Intrepid* was constructed at the Minneford Boat Yard in City Island, NY in 1967 as a recreational vessel. It is a 12-meter yacht that is 65 feet in length.

After being built in the United States and having a long history of U.S. ownership, including representing the United States in America's Cup and winning that competition for the United States in 1967 and 1971, the vessel was purchased by French, and later Canadian owners.

The *Intrepid* is again under U.S. ownership and is currently the Flagship of the America' Cup Hall of Fame.

Although the vessel was built in the United States and has a long and prestigious American history, the owners of the *Intrepid* are seeking a waiver of the existing law because the *Intrepid* was sold to non-U.S. owners and therefore became ineligible to participate in the U.S. coastwise trade. The owners plan to use the vessel for the purpose of engaging in limited commercial use. Their desired intentions for the vessel's use will not adversely affect the coastwise trade in U.S. waters. If granted this waiver, it is their intention to comply fully with U.S. documentation and safety requirements.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2025

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for the vessel INTREPID, United States official number 508185.•

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 2026. A bill to amend the Panama Canal Act of 1979 to require the payment of interest on certain damages awarded by the Panama Canal Commission; to the Committee on Armed Services.

PANAMA CANAL COMMISSION FAIR CLAIMS ACT

• Mr. AKAKA. Mr. President, today I am introducing the Panama Canal Commission Fair Claims Act. This legislation would direct the Commission to pay interest on valid damage claims from the date the claim is filed until the date the claim is paid. The bill will prevent the abuse suffered by one Hawaii shipping company after its ship ran aground while under the control of a Panama Canal Commission pilot.

The background on this incident is as follows: On April 21, 1988, the Hawaiian Sugar Transportation Co.'s [HSTC] ship, the *Moku Pahu*, ran aground while transiting the Panama Canal under the command of a Panama Canal Commission pilot. The official investigatory body of the Commission concluded that the grounding was entirely the fault of the Canal Commission pilot, and that the *Moku Pahu* and its crew were blameless.

Damages totaled $7.5 million, and, on December 27, 1989, HSTC filed a detailed claim with the Commission to recover its losses. Despite repeated requests by HSTC, the Commission declined to meet with company representatives until April 1991, and finally made its first settlement offer 3 months later, for just $2.8 million. When the Commission was unwilling to significantly increase its offer, HSTC filed suit in October 1991. HSTC and the Commission ultimately reached agreement in July 1992, more than 4 years after the accident, and the claim was settled for $6.5 million.

The Panama Canal Act of 1979 compels the Panama Canal Commission to "promptly adjust and pay damages * * * caused by (its) fault." Despite that mandate, the Commission refused to fairly compensate HSTC for the damages it suffered as a result of the accident. These included actual damages, loss of interest, additional borrowing costs, higher insurance premiums, legal fees, and other costs stemming from the accident.

The fact that the Commission raised its offer from $2.8 million to $6.5 million, the amount ultimately agreed upon, suggests that the initial offer was an attempt by the Federal Government to low-ball the company. This put HSTC in an untenable position. The company's losses continued to mount with each passing day but it couldn't go to court before exhausting administrative remedies. Lending credence to the low-ball theory is a statement the Secretary of the Commission made to company representatives about the Commission's determination to "pay as little as possible."

The amendment I have proposed would simply require the payment of interest, from the date the claim is filed to the date of payment, on damages awarded by the Panama Canal Commission in cases where the Commission is at fault. Even if the Panama Canal Commission acted in accordance with the act's mandate that it "promptly adjust and pay damages," which it clearly has not, the payment of interest on awards is necessary if the injured parties are to be made whole for their losses. Given the Commission's egregious conduct, amending the law to provide for the payment of interest on damage claims will serve a dual purpose: to make injured parties whole and to create an incentive for the Commission to promptly and fairly adjust claims.

When the Panama Canal Commission pilot ran the *Moku Pahu* aground, causing millions of dollars worth of damage, the shipowner probably thought that things couldn't get any worse. But that was before the company tried to obtain reimbursement for its losses and ran aground a second time while navigating its claim for damages through the Panama Canal Commission. While the damage to the company's ship appears to have been an accident, the aftermath was a crime.

After numerous attempts to obtain compensation from the Panama Canal Commission for the damage caused by the Commission's pilot, officials at the Hawaii Sugar Transportation Co. reached an inescapable conclusion: the bureaucrats at the Commission were simply stalling. The Commission had no incentive to reach a settlement, and every reason to invoke delay.

Because of inadequacies in current law, the longer the Commission stalled, the less it would pay in real terms and the more likely the owners of the damaged ship would accept a partial recovery for their losses. Since the Commission does not pay interest on claims, the amount that is eventually recovered by injured parties will be considerably discounted by the time a claim is finally paid. In the case of the *Moku Paku*, the Hawaii Sugar Transportation Co. settled for $1 million less than its actual damages, and suffered an additional loss of $1,742,110 in interest. This situation is grossly unfair to those who were victims of negligence by Commission employees.

My amendment would require the Panama Canal Commission to pay interest on damage awards, beginning on the date that a valid claim is filed. It will create a financial incentive for the Commission to resolve claims promptly. No longer will the Panama Canal Commission be able to employ stall tactics to thwart legitimate claims.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2026

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1411 of the Panama Canal Act of 1979 (22 U.S.C. 3771) is amended—

(1) in subsection (a), by inserting ", including interest under subsection (c)," after "damages"; and

(2) by adding at the end the following new subsection:

"(c) Damages which are adjusted and payable under subsection (a) shall include interest calculated from the date of filing of the claim to the date of payment. Such interest shall be computed at the rate the Secretary of the Treasury establishes for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611).".

(b) The amendment made by subsection (a) shall be deemed to have become effective as of April 1, 1988.●

By Mr. DODD (for himself, Mr. HARKIN, Ms. MOSELEY-BRAUN, Mr. FEINGOLD, Mr. WELLSTONE, and Mr. KERRY):

S. 2027. A bill to provide for the reinstatement of democracy in Haiti, the restoration to office of the duly elected President of Haiti, Jean-Bertrand Aristide, the end of human rights abuses against the Haitian people, support for the implementation of the Governors Island Agreement, and for other purposes; to the Committee on Foreign Relations.

HAITIAN RESTORATION OF DEMOCRACY ACT

Mr. DODD. Mr. President, today I am introducing a bill that is designed to strengthen our efforts to restore the democratically elected leadership of Haiti. This legislation would close a number of loopholes in the present United States sanctions against Haiti and would call on the Clinton administration to negotiate the extension of these sanctions throughout the rest of the international community.

This bill is being introduced on behalf of myself, Senator HARKIN, Senator MOSELEY-BRAUN, Senator FEINGOLD, Senator WELLSTONE, and Senator JOHN KERRY.

The purpose of this legislation is simple and very straightforward: to encourage the military regime in Haiti to fulfill its obligations under the 1993 agreement known as the governers island accord. But in truth, Mr. President, this legislation also has a more important purpose, and that is to uphold the promise of democracy that has eluded the people of Haiti for far too long.

Mr. President, as we consider the recent events that have taken place in Haiti, we would do well to remind ourselves of the historical context in which they occur.

First of all, I should tell you of my own history involving the island of Hispaniola. I served for almost 3 years as a Peace Corps volunteer in the Dominican Republic very close to the border of Haiti. I know both countries and that island very, very well. There are very few communities within Haiti that I have not visited. I have very, very many personal friends in Haiti that go back almost 30 years. I have a great affection for the country of Haiti and for its people. They are a noble and proud people, and they deserve far better than they have been getting.

Mr. President, ever since Haiti gained its independence in 1804, the citizens of that tiny Caribbean nation have suffered under an endless cycle of poverty, despair, and misrule.

It is a nation that remains one of the poorest, if not the poorest, in the hemisphere, and one of the poorest anywhere in the world, with consistently high levels of illiteracy, malnutrition, and infant mortality. It is also a land where the free expression of the popular will has been repeatedly and brutally thwarted by those who hold the reins of power.

The present events in Haiti trace their roots back to the era of Francois Duvalier, the notorious dictator who ruled Haiti with an iron hand after assuming power in a fixed election in 1957. The Duvalier regime had close ties with the military and security forces and it kept the population in fear with the help of a secret branch of the police, the dreaded so-called Tontons Macoutes.

Duvalier's legacy of repression and state-sponsored brutality was passed on to his son, Jean-Claude, who faithfully continued the work of his father until being overthrow in 1986.

Despite the hopes of the world community, the overthrow of the so-called Baby Doc did not bring an end to the violence and repression in Haiti. Instead, it brought only more false hopes, a cycle of military regimes, and a heap of broken promises, to put it mildly.

The world soon became familiar with names like Henri Namphy, Prosper Avril, Leslie Manigat, Herard Abraham—all of whom, in their time, promised that they would work to restore democracy and respect human rights. But unfortunately, not one of these leaders was able to live up to his word, and the cycle of military rule went on.

In fact, we were told in this country in every single example I just cited that if we would only give General Namphy a chance that democracy would be restored. We were told the same with Prosper Avril, and we were told the same with Herard Abraham, and yet in every single case democracy was not restored, and the situation unfortunately seemed to get worse.

Finally, and unbelievably, on December 16, 1990, Haitians went to the polls and chose as their president a Roman Catholic priest by the name of Jean-Bertrand Aristide. The election of President Aristide, in the most free and fair elections in that nation's history, gave hope to a watching world that Haiti had finally overcome a bitter legacy of repression and military rule. President Aristide took office on a platform of social justice for the poor, and immediately set out to dismantle the old repressive structures of the Duvalier era.

Sadly, for all the hope that was ushered in with the election of President Aristide, Haiti's encounter with democracy would come to an end almost as soon as it began.

In September 1991, only a few short months after President Aristide had been elected, military and security forces overthrew the Aristide government and resumed their iron grip on the people of Haiti. Today, repression in Haiti has a new set of names and faces, people like Gen. Raoul Cedras, the leader of the Armed Forces, and Col. Michel Francois, the chief of security. But although the names in Haiti may have changed, unfortunately and regrettably, the policies and the practices remain very much the same.

In response to the events of September 1991, the Bush administration lent its vocal support to the restoration of democracy in Haiti and to the return of President Aristide. Much to the credit of the Bush administration, the administration moved quickly to end all nonhumanitarian aid programs in Haiti and to comply with a trade embargo on Haiti that was imposed by the Organization of American States.

These efforts were continued by the new administration of President Clinton, who came into office with a strong personal commitment to the restoration of democratic rule in Haiti, a commitment I happen to believe is still very strong in the mind of the President. In June of 1993 the administration imposed additional sanctions on the coup plotters in Haiti, freezing their U.S. assets and prohibiting their travel into the United States.

The United States then made use of its leadership at the United Nations to bring a worldwide fuel and arms embargo into effect on June 23. These sanctions took a heavy economic toll on the business elite in Haiti and brought a quick response from the leaders of the coup. It was having an immediate and significant effect.

On July 3, only a few days after the imposition of the embargo and with the active involvement of the Clinton administration and in particular U.N. negotiator Dante Caputo, President Aristide and General Cedras reached agreement on an arrangement to restore democratic rule to Haiti. This agreement was called the Governors Island accord, so named for the New York island where it was signed.

The accord, which was hailed throughout the international community, promised a just and honorable end for all parties involved. It set out a 10-step process toward reducing the role of the military in Haiti's daily affairs, concluding with the retirement of General Cedras and the restoration of President Aristide by no later than October 30.

In return, Aristide has to name a new prime minister and to issue an amnesty for all the political crimes carried out in connection with the coup.

Imagine: Amnesty for all those people who had been responsible for the overthrow of President Aristide.

It is important to note—and I emphasize that last point—that the Governors Island accord represented a compromise for both parties. The military, for its part, agreed to cede the power that it had won through the force of arms and to submit to civilian control. President Aristide, for this part, agreed to accept a document that did not require the resignation from the military of anyone other than General Cedras, requiring only that all others associated with the coup accept their retirement or reassignment to posts out of the country.

In addition, the plan called for sanctions on Haiti to be suspended as soon as a new Prime Minister had been approved by the legislature, well in advance of President Aristide's return on October 19.

Despite these and others shortcomings in the Governors Island Accord, President Aristide signed the document, I might point out under heavy pressure from U.S. and U.N. negotiators. Not only did he agree to abide by the terms of the accord, Mr. President, but he kept faith with the promises that he had made.

President Aristide wasted no time in naming a new Prime Minister, Robert Malval, and issuing the required political amnesty as called for in the accord.

Regrettably, the Haitian military leaders did not respond in kind. In fact, no sooner was the ink dry on the accord, and no sooner had sanctions on Haiti been lifted, than the military signaled its disdain for the agreement and the commitments it had made.

Most notably, the military prevented the arrival of U.N.-sanctioned military personnel and engaged in a number of serious human rights abuses, including the high-profile murders of several of President Aristide's close associates.

I might point out that those murders were most brutal. They were done in view of the international community. One individual was literally dragged from a church service and executed outside of the church in front of the international TV crews. And the other, of course, was the Minister of Justice, who was executed a block away again in broad daylight in view of a large community that watched the assassination take place. That was done to send a message that the agreement, the Governors Island Accord, may be lived up to by President Aristide but the military, their financial backers, and the thugs they support were totally to abrogate that agreement. That is what happened on the streets.

By the time the appointed date of October 30 had arrived, it was clear that the deal was off and President Aristide would not be allowed to come back to his own country where he had been so overwhelmingly elected.

In the time since the collapse of the Governors Island Accord, the human rights situation in Haiti has grown perilously worse, deteriorating to a point that many believe, and I believe, surpasses even the height of the Duvalier era. A report that was released several days ago by Human Rights/Watch Americas and the National Coalition for Haitian Refugees illustrates the case quite clearly.

The report notes that political killings and suspicious murders in Haiti rose from a reported 9 last May and 5 last June to a total of 34 in July, 33 in August, more than 60 in September, and more than 80 in October. The number of killings has remained at or near the rate to the present day. In fact, Mr. President, some estimate that between 3,000 and 4,000 people have lost their lives in Haiti since the overthrow of President Aristide for the simple crime of supporting the return of President Aristide to their country.

What is particularly disturbing, in addition, is the emergence of a new organization known as the Front for the Advancement and Progress of Haiti, or FRAPH as it is called. This organization, a loose arrangement of Duvalier supporters with close ties to the present military establishment, has carried out with impunity the barbaric killings of anyone suspected to be a supporter of President Aristide.

In perhaps the single most notorious incident of violence, FRAPH supporters were responsible for starting a fire in the shantytown of Cite Soleil, a poor barrio community in Haiti, on December 27, leaving dozens of people dead and hundreds of families homeless.

Let me add here, in talking about some of these human rights violations, there is a new level of atrocities occurring in Haiti. I mentioned earlier that 25 years ago I served as a Peace Corps volunteer on the Haitian border. Even under the worst days of Papa Doc, the government did not engage in the systematic kidnapping of children, the rape of women, and the mutilation of corpses. Those violations never occurred in Haiti before. This is a systematic attempt to intimidate the supporters of democracy in that country, and it is a new level of violence that that Nation has never seen even in its worst days.

In response to these and other transgressions on the part of the Haitian military, the administration has moved quickly, I point out, to reimpose sanctions and to condemn the violations of the Governors Islands Accord. Mr. President, while I commend the administration for doing so, I think it is fair to say there are a number of serious questions that have arisen in regard to the present direction of U.S. policy toward Haiti.

Mr. President, last month I had the opportunity to explore some of these questions, including the human rights issues, at a hearing that I chaired in the Foreign Relations Committee with administration witnesses and outside experts. In addition, I spent several days in Haiti, only a couple weeks ago, and the Dominican Republic on a trip to the region, at which time I got a firsthand look at the serious conditions that prevail today in Haiti.

The most serious of these questions, in my view, surround the willingness of the administration to push for tougher measures against the present leadership in Haiti. On December 21 of last year the nations known collectively as the Four Friends of Haiti—the United States, Canada, France, and Venezuela—announced that they would call for additional sanctions if no progress had been made by January 15 on negotiations to restore President Aristide to office.

It is now April 19. That was January 15. That deadline has now come and gone, and no additional sanctions have been imposed.

Instead, it appears that the administration has chosen to focus its efforts on developing new political arrangements for the restoration of power in Haiti. Working with parliamentarians and other political leaders in Haiti, the administration has helped to develop several proposals that call on President Aristide to make even more concessions in order to entice the military high command to step aside.

While I am convinced that our negotiators in the State Department and other administration agencies are acting with the best of intentions, it is my view that these efforts ignore some very important realities.

The first, Mr. President, is that President Aristide has already made significant major concessions, and to ask him to make even further concessions is to run the risk of putting pressure on the wrong side. Let us not forget that it was President Aristide who won nearly 70 percent of the vote in Haiti, a popular mandate that would be the envy of any politician in any nation, including our own.

Let us not forget that it was the military, and not President Aristide, that backed out of the Governors Island Accord. Let us not forget that it is the military, and not President Aristide, that stands accused of murdering thousands of innocent civilians in their homes, in their churches, and in their streets.

The second reality, Mr. President, that appears to be overlooked in the present course of diplomatic negotiations is that the military regime in Haiti has shown absolutely no interest whatsoever in any new diplomatic solution. I have met personally with General Cedras and his high command in recent weeks, and I am prepared to assure my colleagues that this is the case.

The truth of the matter is that the military leaders in Haiti have already called our bluff. They believe that they can simply wait us out, just as they have done time and time again in the past.

And that brings us back, Mr. President, to the Governors Island Accord. It is a fact that under the Governors Island Accord both President Aristide and the military made certain profound commitments to bring about the restoration of democratic rule in Haiti.

President Aristide, I would emphasize, has fulfilled his part of that bargain. Now it is time for the military leaders and their supporters to fulfill their side of the deal, and for the United States and the international community to put the needed pressure on them to do so.

That is the purpose, Mr. President, of the legislation that I am submitting today.

This legislation would put the clamp on the Haitian military regime by banning virtually all private and commercial transactions between the United States and Haiti. In particular, this legislation would prohibit entirely the following activities:

All trade between the United States and Haiti, with the only exemptions being made for humanitarian articles such as food and medicine and for news publications and broadcasts;

The purchase by any United States person of any goods for export from Haiti to any other Nation;

The performance by any United States person of any contract in support of an industrial or commercial or governmental project in Haiti;

The grant or extension of credits or loans by any United States person to anyone affiliated with the Haitian military regime;

Any transaction by a United States person relating to air transportation to and from Haiti; and

The operation in the United States of any Haitian registered aircraft.

In addition, Mr. President, this legislation also contains a provision requiring the President to cut off all United States assistance to any country that has not imposed equivalent sanctions against Haiti. This is an important provision that I believe will help to assure that the sanctions enacted under this measure will be respected and adopted by the rest of the international community.

Finally, Mr. President, this legislation contains a provision that is intended to reverse the administration's policy in regard to the issue of Haitian refugees.

Under the present policy, begun in the previous administration, refugees who are intercepted by the Coast Guard are returned to Haiti to be screened for asylum. Unfortunately, this policy has made it very easy for the Haitian military to single out and identify those who are opposed to the present regime.

In fact, Mr. President, human rights groups have reported an increasing number of incidents of returning refugees being arrested, harassed and, in some cases, even murdered.

Accordingly, the legislation that we are introducing this afternoon would prevent the expenditure of United States funds for the return of any refugee who has not been properly screened on his or her claim for asylum.

Let me add here as an aside, Mr. President, that I visited the immigration offices in Haiti. I have nothing but the highest regard and respect for the conditions under which our immigration personnel are working. They are doing an incredibly fine job of trying to manage this situation. Despite their good efforts, however, I think it is expecting too much to assume that people who are caught on the high seas and brought back to their own country for processing can avoid the detection of the military in that nation as to who are the ones trying to seek political asylum.

But I want to emphasize that I was deeply, deeply impressed and moved by the quality and demeanor of the people working for the U.S. Immigration Service in Port-au-Prince.

In addition, Mr. President, the legislation would designate temporary protective status for any Haitian not affiliated with the coup, in accordance with the Immigration and Nationality Act, for as long as the military remains in power in Haiti.

I would point out that this is basically the policy we follow with Cuban refugees who come from virtually the same neighborhood. Any time we find these people on boats trying to flee Cuba, we do not fly them back to Havana to find out whether or not they can then get out again. We allow them to come to our shores.

What we are suggesting here today is that we are dealing with a Government in Cuba that is repressive, that violates human rights. The same exists in Haiti. You cannot have a dual standard. If it is good enough to allow people on boats trying to flee the country of the Government of Cuba, then it ought to be the same when it applies to those trying to leave the thugs and the repressive policies that exist in Haiti today. You cannot have one policy for one group of refugees in the Caribbean and a different one for another set.

Let me point out here, Mr. President, there is a great concern and a legitimate concern about how many refugees and immigrants this country can continue to accept, given the pressures that exist domestically in our own Nation with unemployment and the hard times many Americans are feeling. I will tell you that if we do not put the screws to this Government down there as quickly and as strongly as we can, we are going to have a flood of refugees trying to leave that nation.

And who could blame them? Which one of us would continue to reside in a country where our families and children face kidnaping, our wives and sisters and mothers are raped by the military and their thug supporters, or people are killed and their bodies are mutilated? Any decent person would try to protect their family and to escape that kind of situation.

So unless there is a change in Haiti and we get some decency back in that nation, I think you are going to see an absolutely incredible invasion, if you will, of people pouring out of that nation.

So while there are problems posed by any sanctions bill, to merely allow the situation to continue as it is, I think, only invites an explosion of the numbers that will be arriving at our shores seeking asylum.

At the same time, Mr. President, I want to emphasize that the best solution to the refugee crisis, as I have said—and ultimately the only solution—is a political solution in Haiti that is responsive to the Haitian people. That is what President Aristide represents and that, in my view, is why it is so important that he be returned as the rightful, freely elected leader of his nation.

And that, in the end, Mr. President, is what this legislation is all about.

Mr. President, in every corner of the world, from the former Soviet Union to China to the emerging democracies of Latin America, the United States is making an effort to promote respect for democracy and the rule of law. What we are trying to promote, above all else, is the concept that if you abide by certain principles, if you play by the rules, your cause and the cause of the people you represent will always be advanced.

Today, that principle is under direct challenge in Haiti. The people of Haiti have played by the rules. They went to the polls. They stood hours, I might point out, in the boiling sun to vote for their choice to lead their nation. They voted for a president, they supported that president as he made a deal with the military, and they supported that president as he abided by the terms of that deal.

Now those very same people are being told that they have not done enough, that they have to make further concessions, that those who broke their faith with the international community will not be punished for their misdeeds. This is wrong, Mr. President, and it does no honor to the very principles of democracy that this administration and that this Congress have committed themselves to promoting.

Mr. President, today in Haiti democracy is under siege, an elected leader is in exile, and a population lives in dreaded fear. Haitians need the help of the international community and they need the leadership of the United States.

President Aristide has done his part, Mr. President. He has played by the rules. I think it is only fair now to ask the military and those who support them in Haiti to do the same.

Mr. President, I would stand here today and tell you that with this sanctions bill I am introducing, along with my colleagues, there will be those who will say, "Well, that is just a handful of Senators offering a bill." Let me send a message here today to those who think otherwise. We intend to stick with this issue. It may take a month, it may take 6 months, it may take 6 years, but, Mr. President, we will not cease in our determination to try to achieve a restoration of democracy in Haiti. It is important that the people of Haiti understand that, but, most importantly, that the military leaders and those who support them understand it.

This is serious. We take it seriously. And we will not retreat until the people of Haiti have democracy restored.

Mr. President, I urge the adoption of this legislation and I send the bill to the desk and ask for its appropriate referral.

The PRESIDING OFFICER. The bill will be referred to the appropriate committee.

The Senator yields the floor.

Ms. MOSELEY-BRAUN. Mr. President, I would like to associate myself with the remarks of the Senator from Connecticut with regard to the Haitian Restoration of Democracy Act of 1994. I am proud to be a cosponsor for that legislation, along with Senators HARKIN, FEINGOLD, and WELLSTONE.

We are introducing this legislation, Mr. President, to make the strongest possible statement in support of the restoration of democracy to Haiti, and the return of its elected President, Jean Bertrand Aristide.

Mr. President, United States policy toward Haiti is not working. In fact, I think it is appropriate to say that it has been an abject failure. Repression in Haiti continues to escalate and human rights violations are worse today than at any time since the overthrow of President Aristide in September 1991. There are reports from the United Nations/Organization of American States Mission of the systematic use of rape to terrorize the population. Along with rapes, we have seen human rights violations consisting of murders, intimidation, and threats. The situation there is totally out of control. This legislation proposes a series of concrete steps for the United States and the international community to follow in order to reverse the situation. We must redirect our policy to restore democracy, decency, and hope in Haiti.

The economic sanctions imposed by the United Nations in 1993 were highly effective in isolating the Haitian military and bringing them to the negotiating table. The Haitian military signed the Governors Island Accord in July 1993 because of the deleterious effect of these sanctions. Sanctions were lifted at the end of August 1993, as part of the accord. In light of the fact that the military has failed to live up to its part of the agreement to that accord, it is certainly time to reimpose sanctions and that is part of what this legislation would do.

This legislation would prohibit all trade between Haiti and the United States except humanitarian assistance. It would prohibit Americans from purchasing any goods originating in Haiti through a third country. All loans and credits by any American to the unelected military leaders would be forbidden, and no contract between any American and industrial, commercial or Government entity would be permitted. We also urge President Clinton to take measures that employ a multinational border patrol between the Dominican Republic and Haiti, to halt the continuing smuggling of goods over land.

In brief, this legislation says we should not have trade with those who would so blatantly violate the terms of their own agreement, the Governors Island agreement, those who would so blatantly flout human rights with regard to the rest of the world, who would so egregiously violate every principle of decency, of democracy, that we believe, as Americans, we have to stand for not only here in the United States but in other parts of the world.

This legislation also physically isolates the Haitian military. Air transport between the United States and Haiti would be terminated and members of the Haitian military, including anyone who provides financial or military support for the military coup, would also be ineligible to receive a visa to enter the United States. This bill also freezes all assets of Members of the Haitian military in the United States.

I point out that is important because, as things stand, the current situation in Haiti is such that those who participated in the coup, those who support this military dictatorship, those part of the repression we see there, are able because of their financial means to travel freely from Haiti to other parts of the world, particularly the United States, and indeed have done so.

The specter of wealthy Haitians coming to the United States to shop while poor Haitians are starving and dying in the streets of that country is a specter I think, as Americans, we are automatically, revolted by and must seek to end.

But the United States cannot act alone. The isolation of Haiti's military regime must be an international effort. This legislation instructs our President to direct Ambassador Albright to assume a leadership role within the United Nations Security Council to ensure the international community imposes the same comprehensive sanctions as are suggested in this bill. If another country is not cooperating with these efforts, the legislation ensures the United States will cut off all assistance including credits, loans, and grants to that country.

In addition to sanctions, our country, the United States, must take measures to alleviate the escalating human rights abuses in Haiti. We support the return of a full contingent of human rights observers under the auspices of the United Nations, or the Organization of American States. By their very presence these observers play, and will play, a vital role in protecting Haitian people from abuse because they will be the eyes and the ears of the international community.

This legislation will also reverse the current United States policy of returning Haitian migrants to that country without properly ascertaining their refugee status under internationally recognized standards and guidelines. The policy we are presently following is inhumane, it is morally wrong, and it violates the values that Americans hold dear.

We have not seen recently the specter of the boatloads of people being turned back, but the notion that people fleeing repression, trying to seek out democracy; the notion that refugees from a repressive, oppressive, military dictatorship such as we have in Haiti would be turned back on the open seas—in many instances to die there—is one that I and other Members who are supporting this legislation are not prepared to support by our silence. This legislation says the current policy of return, repatriating Haitian refugees, Haitian migrants, is wrong. We have to go forward and apply to them the same standards that are applied to immigrants and migrants from other parts of the world who are fleeing repression and human rights abuses.

Finally, this legislation would grant temporary protected status for Haitian immigrants already in the United States until democracy is restored to Haiti. Temporary protected status was written into the 1990 Immigration and Naturalization Act to provide temporary designation for migrants who need short-term relief in the United States due to war or upheaval in their home country. TPS allows the United States Government to react to the type of political upheaval that is currently affecting Haiti and its people. We should use this tool to allow Haitians to remain in the United States until it is safe for them to return to their own country.

I believe these actions are appropriate and necessary and, taken together, will work to achieve an end to military rule and a restoration of democracy.

Mr. President, I am therefore proud to join my colleagues in introducing this legislation to redirect United States policy toward Haiti. Our foreign policy has to have some meaning to it in order for it to work over the short or the long term. Protection of human rights, particularly in this hemisphere, it seems to me, should be at the top of the list of the motivations of our foreign policy. To single out Haiti by our inaction, by a set of standards or set of approaches that flies in the face of the standards we have articulated for the rest of the world, seems to me not only to help undermine the situation there but also undermines the moral authority of our foreign policy. It undermines our capacity to intervene and to be an effective voice for democracy and for human rights in the rest of the world.

I strongly suggest that the current nonpolicy—and I call a nonpolicy the course that our administration has unfortunately followed with regard to Haiti—must end. This legislation hopes to put us on the right track to make certain our foreign policy in this regard comports with our values, comports with our stated policy, and that we are consistent in fighting and rebuffing human rights abuses, dictatorship, repression, and murder as it has been employed by the military dictatorship in Haiti.

We hope these efforts will bring about a return of democracy to Haiti and the restoration of the democratically elected President there, who was elected by a 2-to-1 margin, President Aristide.

Mr. FEINGOLD. Mr. President, I rise as an original cosponsor of the bill introduced by the Senator from Connecticut. [Mr. DODD]. This bill, the Haitian Restoration of Democracy Act of 1994, clearly states policy toward Haiti as supporting the restoration of democracy in Haiti and the return to office of Jean Bertrand Aristide, the duly elected President of Haiti. To implement that, this bill mandates tough sanctions against the Haitian military regime, and outlines a fair and humane policy on Haitian refugees seeking protection in the United States I congratulate Senators DODD and HARKIN for their leadership on this pressing issue.

The disaster in Haiti demands our attention. Human rights abuses have reached crisis proportions. The military, which seized power illegally from the democratically-elected President, has instituted a reign of terror. Observer missions report that there have been more than 345 political murders since September 1993. Since the military took over, thousands of Haitians have disappeared, and been beaten, tortured, raped, and arrested. Human Rights Watch reports that bands of armed civilians have kidnapped, tortured, and murdered Aristide supporters, and the military regime has restricted basic freedoms by outlawing public support for Aristide and intimidating the press. The UN/OAS Civilian Mission revealed last week that rape is used by paramilitary forces to terrorize women. Every attempt at reconciliation has been flagrantly violated by the generals.

Unfortunately, to date, United States policy toward Haiti has failed. In fact, the most observant characterization I have hear was from Dr. Harold Koh, a professor of international law at Yale University, who recently testified before the Senate Subcommittee on Western Hemisphere and Peace Corps Affairs that "watching the U.S. Government's Haitian policy unfold over the last 2 years has been like watching a slow-motion train wreck. * * *" He is not alone in his assessment of U.S. policy. In fact, I find myself wondering what exactly is our policy toward Haiti.

Last month, the Senator from Connecticut, Senator DODD, chaired the hearing at which Dr. Koh made his analogy. In his opening remarks, Senator DODD said, "it is fair to say that a number of questions have been raised in recent months about the present direction of administration policy." I, too, feel that some questions need to be addressed, especially concerning the dilemma of the Haitian refugees, the feasibility of the sanctions currently in place against the Haitian Government, the role of the Central Intelligence Agency in trying to discredit President Aristide, and, most puzzling, the apparent willingness on the part of the administration to bargain with the Haitian military. This bill makes great strikes in addressing these issues.

There are several interests at stake here for United States First, Haiti is in our backyard and, furthermore, is the poorest country in our hemisphere. Second, the United States pushed the Haitians to institute democracy, and thus, we have a responsibility to continue to support its transition—particularly when just 9 months after Aristide's inauguration, he was overthrown in a violent military coup. Third, the refugee flow created by the instability and oppression in Haiti lands on our shores: Given our involvement in the democratic movement there and our national ethic of protecting those fleeing persecution, we have an interest in supporting a Haiti in which its citizens can live freely and without the danger of persecution. Finally, as Senator HARKIN testified at the recent hearings, we should care about Haiti because "if we cannot support duly elected democratic governments of a nation just 800 miles from our shores, what kind of message will that send to other potential coup leaders considering the overthrow of other democratically-elected governments?" This is a question that deserves our serious consideration.

I fully support a policy which includes President Aristide as the central part of the solution—after all, he was elected in democratic elections with over 67 percent of his country's vote, a solid, resounding block of support. We are not promoting democracy if we ignore democratically elected leaders. We want Haiti to become a democratic nation. And though it took the first steps, we find ourselves contemplating negotiating with a military regime which seized power, rather than trying to force the thugs out. This is not support for democracy—it is appeasement, and it should be reversed. This bill will reinforce our support of President Aristide and the cause of democracy in Haiti.

President Aristide's 6-year term will expire in 1996. Under the Haitian Constitution, he cannot run for reelection. The military is hoping they can stonewall Aristide until his term has run out. It is incumbent upon supporters of democracy to show them that they cannot. In the Governors' Island Accord of July 1993, President Aristide made numerous concessions for the cause of democracy in his country which I believe were far more generous than necessary, such as granting the coup leaders amnesty upon his return and acquiescing in the lifting of sanctions against Haiti before his return. He also appointed a Prime Minister. However, the military forced out his Prime Minister, continues to assassinate his supporters, and has not held up any of its parts of the accord. We must do nothing less than force the military to live up to its part of the bargain.

Sadly, the military regime that is currently in power is not the only vicious, anti-democratic group the Haitians are forced to live with. The extremist right-wing paramilitary organization known as FRAPH (Haitian Front for Advancement and Progress) is also making its presence known through myriad illegal arrests, acts of torture and intimidation and murders of those who support democracy in general and Aristide in particular.

The group, which was founded in October 1993 to oppose Aristide's return under the Governor's Island Accord, is composed of former members of the police force and their supporters. Its members are reportedly loyal to Michel Francois, the current police chief. In most places, FRAPH works in concert with the military to impose terror on the Haitian people. Many members have official-looking ID cards which are signed by military officers.

FRAPH's agenda has four main points: First, they are committed to preventing Aristide's return to Haiti; second, they wish to eradicate completely democracy in the country; third, they wish to consolidate as an organization; fourth—and perhaps most worrisome to the international community—they wish to create an air of legitimacy that will allow them to legally assume power within the framework of the constitution, most likely through the 1996 elections.

The State Department seems to feel that FRAPH is not a threat. Its existence was not even mentioned in the State Department's annual Country Reports on Human Rights Practices for 1993. According to United States Special Advisor on Haiti Lawrence Pezzullo, FRAPH is merely "an invention of desperate people" which is "probably associated with death squads" and which will eventually cease to be an issue. The administration seems more interested in worrying about the future than concentrating on the tragic present. The fact is that FRAPH is a powerful force in Haiti and they do not plan to go away—they plan to run the country.

Another regret I have about United States policy, Mr. President, is the administration's initial backing of the so-called parliamentarian plan for Haiti, which I understand we are only partially retreating from now. Much of this plan is similar to the original United States-supported plan on Governors Island—with one glaring inconsistency: It does not provide a date certain for President Aristide's return to Haiti. Instead, it provides a means for the military to share power with a democratic President and to obtain complete amnesty for all crimes committed since the coup. It addition, this plan calls for Aristide to name again a Prime Minister—something he has already done once at great peril. It calls for the sanctions to be lifted and the resignation of General Cedras. Once the sanctions have been lifted, however, Cedras will have no incentive to resign and leave Haiti—as we saw with the initial attempt to implement the Governors Island Accord.

Another disturbing difference between the current plan and the Governors Island Accord is that the Parliamentarian's plan allows Francois—the same man who has led the reign of terror on the Haitian civilians—to remain in Haiti and retain a position within the same police department he is currently running—albeit at a lower level. By allowing Francois to stay, the plan almost certainly ensures that the military thugs and organizations like FRAPH will remain a political force and will not just go away as Mr. Pezzullo seems to think. Thus, this plan would keep Aristide's government under the thumb of the military and allow extremist groups such as FRAPH to continue their assault on the Haitian people. This is hardly a democracy worth U.S. support.

Aristide has flatly rejected the Parliamentarian's plan and is still determined to make the provisions of Governors Island work. One of the most meaningful provisions of the bill introduced today is that it will bring U.S. policy in line with Aristide's position, and conform it to the democratic values and commitment to human rights we champion. It will show President

Aristide that we, too, are committed to making Governors Island work. The text of the bill is crystal clear on that point: "No officer or employee of the United States shall attempt, directly or indirectly, to amend, reinterpret, or to amend, re-interpret, or nullify the Governors Island Agreement." Governors Island must be the framework from which we operate to return democracy to Haiti. Any diversion from its text must come from President Aristide or his advisors.

I had hopes that after a year of the Organization of American States and the United Nations dealing seriously with the military takeover in Haiti that there would have been progress. Unfortunately, there has been little, if any. Various sanctions have been in place on and off since the coup, but they have been implemented with little resolve, and as a result, there are enough holes that the very targets of these sanctions have the resources to circumvent them. Consequently, the sanctions are hurting the very ones we purport to want to help: The Haitian people.

The current sanctions, which were levied in October 1993, include an oil and arms embargo as well as a freeze on the visas and assets of military officers and their supporters. To date, the military has been able to get around these sanctions due to a porous border with the Dominican Republic and assistance from other sources who stand to profit by violating the embargoes. Sanctions levied against the military regime must be universal and constant and cannot be lifted until President Aristide has returned to Haiti—not a day or months before. Otherwise, the military will continue to evade the measures designed to force them out of power, and the people will continue to suffer.

Some controversy has arisen about what the nature of these new, tougher sanctions should be. Aristide is in favor of squeezing the military out of power via the harshest sanctions possible. That is, tightening the sanctions and making them truly effective. These sanctions must be enforced and must work quickly or, as Ms. Holly Burkhalter of Human Rights Watch points out, the people of Haiti may be subject to conditions which are in violation of the Geneva Convention on torture.

The bill introduced today, Mr. President, prescribes tough and thorough sanctions against the unselected, military rulers of Haiti. The bill calls for a full commercial trade embargo, including the suspension of all United States licenses in Haiti. Of course, humanitarian aid is exempt from this sanction. The bill also restricts United States air travel to and from Haiti, which is intended to isolate the military leaders—and their spouses—who take these flights. The bill also requires the levying of sanctions by the United States, against any country which does not comply with the embargo against Haiti. The threat of these additional sanctions can be used to strengthen the blockade around Haiti. Further, this bill calls for a worldwide freeze on the visas and assets of the military officers and their supporters. This practice has been in place in the United States since October 1993, but in order to be truly effective, it must have worldwide support. Otherwise, this military and its supporters will continue to travel freely and obtain goods from those countries which choose to violate the sanction agreement.

This bill summons United States leadership at the United Nations to institute multinational, U.N.-mandated sanctions against Haiti to ensure that pressure on the military rulers comes from the international community as a whole, not just from the United States. These embargoes must be strictly enforced via aerial, naval, and border blockades in order to be effective. If these steps are followed, the sanctions would begin to be felt by the military instead of just the civilian population. The purpose of these measures is to increase the pressure on the military; this will happen if they are enforced and if there is international cooperation. The United States cannot do it alone.

In addition to the implementation of sanctions, this bill urges the President to take whatever steps necessary to support the admission of United Nations and/or Organization of American States human rights observers to Haiti. This bill calls upon the President to support an effective multinational border patrol to monitor the border between Haiti and the Dominican Republic to ensure that there are no leaks across the border. The purpose of these measures—and what the crux of United States policy should be—is to isolate and pressure the ruthless military regime in Haiti, and pave the way for the return of Haiti's elected President.

This bill also reaffirms the United States commitment to support multilateral socioeconomic and peacekeeping assistance to Haiti upon President Aristide's return.

Finally, one of most disturbing aspects of this crisis relates to the Haitian refugees. When I came to the Senate and was appointed to its Foreign Relations Committee 1 year ago, one of the first issues which confronted me was the admission of Haitian refugees into the United States. I agreed with President Clinton's campaign promise to show a more humanitarian and supportive attitude, and to assist those who were fleeing "a well-founded fear of persecution" in a repressive regime. Now, 1 year later, this humane policy has evaporated. Thousands of Haitians still sail to our shores in the hope of escaping the oppressive government of their homeland only to be picked up by the United States military, at sea, and returned to Haiti and General Cedras. We say we want Haiti to be democratic, yet we—the country that is supposed to be the shining example of democracy—send them back to a military regime that tortures, starves, rapes, and even murders its own people.

This practice also demonstrates a glaring inconsistency in the refugee policy of the United States. The blanket rejection of Haitian refugees into this country smacks of racism, as the Congressional Black Caucus recently charged. Others, such as Russians and Cubans, are welcomed into this country with open arms while the Haitians are sent home.

Boats carrying hundreds of Haitian refugees are interdicted at sea by the United States Coast Guard before they ever reach United States waters and are sent back home without so much as an informal hearing to determine if they qualify for refugee status—that is, "fleeing a well-founded fear of persecution." According to one Defense Department official who spoke at the recent hearings, the Coast Guard "interdicted 16 Haitian vessels with 853 migrants during fiscal year 1994. During the month of February, a total of 345 immigrants were interdicted." This example illustrates what Dr. Koh referred to as America's don't ask policy regarding Haitian immigrants—they are turned away before we even ask them why they have come.

This bill will put an end to this outrageous practice. First of all, this bill will bring the United States in compliance with international law, and direct authorities to assess each refugee's situation individually to determine whether or not they qualify for asylum. At the same time, the bill requires the United States to refuse refugee status to any Haitian serving in or receiving support from the military or to anyone who has violated United Nations resolutions.

Instead of the current deplorable practice of automatic repatriation, Senator DODD'S bill requires that Haitian refugees be granted temporary protected status by the United States Government. In the past, we have extended this status to refugees from countries such as Kuwait, Somalia, El Salvador, and Bosnia. This would allow these people a safe haven until democracy is restored in their country. They would be in our protection until President Aristide has been successfully returned to office and the military leaders have been removed.

Representative CARRIE MEEK has introduced a bill with similar provisions, the Haitian Refugee Fairness Act in the House, which currently has 65 cosponsors. According to Representative MEEK, this bill will "bring the treatment of Haitian refugees by the United States Government into conformity with international law and make the treatment that Haitian refugees receive from the United States Government consistent with the treatment given to refugees from other nations."

Both these bills propose what is fair and what should have been done from the beginning. By sending Haitian refugees back to the oppressive government from which they are fleeing without first determining if there is significant risk to them in their own country is in violation of international law. We must act to correct this policy before we send thousands more Haitians back to perilous lives under tyrannical rule.

Another procedure that must be reformed is the current in-country processing that is used when Haitians want to leave their country. The Haitians must apply for asylum in the United States while they are still in Haiti and wait in Haiti to find out if their application has been approved. This process strips applicants of any protection, and intimidates them from supplying any kind of information to support their claim to asylum. Human Rights Watch has documented numerous instances of persecution in Haiti against those applying for asylum. Instead of helping refugees to flee their country, in-country processing exposes them to further abuse from the Haitian military.

During the 9 months President Aristide was in office, there was hardly a trickle of refugees leaving Haiti. Since the coup, there has been a flood. The United States is now seen as subscribing to a double standard—we don't want the Haitians to live under the oppressive military regime of Cedras and Francois, but we won't help them to escape it, either. This is wrong. Until President Aristide can be returned to power, we must find a better solution to help his people. We must not let the Haitians' support of and desire for democracy wane while we cater to the demands of the likes of General Cedras and Michel Francois.

In my estimation, the United States has been negotiating with the wrong side. We should be pressuring the military to accept President Aristide's terms and not the other way around. The time to act is now. Too many lives have been lost in the name of democracy in Haiti. We must not let them die in vain and we must not let democracy itself become the final casualty.

By Mr. HATFIELD (for himself and Mr. HARKIN):

S. 2028. A bill to amend the Internal Revenue Code of 1986 to improve revenue collection and to provide that a taxpayer conscientiously opposed to participation in war may elect to have such taxpayer's income, estate, or gift tax payments spent for nonmilitary purposes to create the U.S. Peace Tax Fund to receive such tax payments, and for other purposes; to the Committee on Finance.

U.S. PEACE TAX FUND ACT

• Mr. HATFIELD. Mr. President, every year in April, Members of Congress receive letters from constituents who write to explain why they have not paid their taxes in full. These letters from sincere conscientious objectors share with us their moral or religious opposition to payment of taxes to the military. These people write Congress because they want to stop violating their consciences. They want Congress to enact the U.S. Peace Tax Fund.

I am introducing this legislation once again because I believe it is important. Our Nation has embraced the concept of conscientious objection for those who are called to serve in the Armed Forces. Yet Congress fails to provide relief to those Americans who cannot violate their consciences by paying military taxes. If we give the right of a person to withhold their body from military services, why is this principle not extend to those who seek to withhold their money?

Just a few days ago I read a news story about a woman in Denver, CO, who had her car seized, was forced to sell her house, and lost half her paycheck to the IRS, all because she is a conscientious objector who had refused to pay a portion of her taxes. When interviewed by the media, the woman called for enactment of this bill. Clearly, she wants to obey the law. She wants to pay her taxes in full.

By passing the Peace Tax Fund Act, we will not only end the hardship imposed upon qualified conscientious objectors, we will achieve this without any significant loss of revenue, according to the Joint Committee on Taxation. And as the ranking member of the Appropriations Committee, I would like to point out that the Peace Tax Fund Act does not improperly alter our congressional funding authority. The bill stipulates that a portion of the participants tax funds will be deposited into the Peace Tax Fund and then disbursed to four Federal programs: Head Start, WIC, the U.S. Institute of Peace, and the Peace Corps. The bill will not reduce the amount of funding for military activities.

I urge my colleagues to join us in addressing this glaring inequity by cosponsoring the U.S. Peace Tax Fund Act.•

By Mr. BREAUX (for himself, Mr. CHAFEE, and Mr. JOHNSTON):

S. 2029. A bill to amend the Internal Revenue Code of 1986 to allow the taxable sale or use, without penalty, of dyed diesel fuel with respect to recreational boaters; to the Committee on Finance.

CORRECTING THE IMPLEMENTATION OF THE RECREATIONAL BOAT DIESEL FUEL TAX

• Mr. BREAUX. Mr. President, I rise today to introduce legislation to clarify the implementation of a law that we adopted last year. One of the provisions included the 1993 Budget Reconciliation Act removed the exemption from payment of the diesel fuel tax that recreational boaters previously had.

At the same time, the 1993 Budget Act modified the collection point for all of the fuel taxes and imposed fuel dying requirements. The combination of these two changes have made the implementation of the fuel tax a disaster creating a situation where many recreational boaters cannot find any fuel to pay tax on.

Under the 1993 changes, fuel that is subject to taxation is clear and fuel that is exempt from taxation is dyed. The problem for boaters arises because most marinas have only one fuel tank, however, they provide fuel to both commercial boats and recreational boats. Commercial boat fuel is exempt from any tax and therefore commercial boat operators seek to purchase dyed fuel. Recreational boat fuel is taxable and recreational boaters want to purchase clear fuel. For those marina operators with only one fuel tank, they must decide if they will offer clear, taxable fuel for the recreational boaters or offer dyed tax exempt fuel for the commercial boaters. Most marina operators in my State of Louisiana, find that their primary customer base is commercial boaters and they are choosing to sell the dyed fuels. Thus, recreational boaters have no place to purchase the clear fuel.

Mr. President, this is a clear case of unintended consequences. The boaters want to pay the tax they simply cannot find the place to buy the fuel and pay the tax. My bill is very simple. It modifies the collection process for diesel boating fuel. Very simply, it allows marina operators to purchase dyed, exempt fuel and then collect the tax directly from recreational boaters and remit the tax to the Government directly.

Mr. President, I believe that this is a very simple solution to this very difficult problem. I urge the Senate act on this important issue as soon as possible.•

By Mr. ROTH (for himself, Mr. WALLOP, and Mr. PRESSLER):

S. 2030. A bill to amend the Internal Revenue Code of 1986 to limit the tax rate for certain small businesses, and for other purposes; to the Committee on Finance.

SMALL BUSINESS INVESTMENT AND GROWTH ACT

Mr. ROTH. Mr. President, I rise to introduce this legislation to save small businesses from the dramatic tax increase in last year's budget reconciliation tax bill. That tax increase could be as much as 37 percent for these small businesses and they should be removed.

Just this morning, the National Association of Manufacturers [NAM] released a survey of their small manufacturing members. That survey includes this question: "As a result of the 1993 tax increase, and taking interest rates into account, how do you expect your investment and employment decisions to be affected in 1994?" The results, according to the survey, show a startling difference between small manufacturers that are subchapter S corporations and regular C corporations. Some 51.5 percent of sub S corporations said they would reduce investment, and 29.7 percent said they would reduce hiring new employees in 1994. Regular C corporations, which had a rate increase from 35 to 36 percent said only 21 percent would reduce investment and 17 percent would hire fewer workers. Clearly, the small businesses that had the biggest tax increase are going to cut back dramatically in their investments.

The NAM survey also asked what tax incentive would offer the most positive impact on growth and job creation. Subchapter S corporations agreed by over 65 percent that repealing the tax rate increase from 1993 would do the most for them. Clearly, small businesses would invest and hire more if the 1993 tax rate increase were repealed.

Indeed, American small business is the goose that lays the golden egg. The legislation I'm introducing today recognizes that. We have drafted this legislation so that this precious goose might be spared the debilitating and counter-productive income tax rate increases and the Medicare health insurance payroll tax increase from 1993. Does this legislation relieve small businesses from paying these higher tax rates under any circumstance? No. Rather, this legislation encourages small businesses, through tax relief, to keep their earnings in their business, to reinvest in new equipment and more jobs. If a small business does these things, then this legislation assures that they will not be subject to the punishing new tax rates Congress and the President imposed on them last year.

There's no question about it, Mr. President, these new tax rates are punishing successful small businesses—businesses that mean jobs and growth. Under the Clinton tax bill, small businesses with earnings as low as $250,000 will have to pay marginal tax rates as high as 42.5 percent. That's an increase from the 1992 rate of 31 percent, and it approaches the level of taxes that these businesses had to pay when Jimmy Carter was President—a time of great suffering and stagflation for this country. In fact, when the additional burden of State and local taxes are added to these new tax rates, these small businesses will have to give more than half of their profits just to pay their tax collectors.

This, of course, means less money available for these businesses to hire more employees, less money to grow, less money to invest, less money to compete and provide jobs and security for American families. We all know that these businesses are the backbone of our country's economic growth. In fact, firms with fewer than 20 employees have created an amazing 4.1 million net new jobs from 1988 to 1990, while large businesses had a net loss of 500,000 jobs. Our Nation's 20 million small businesses employ almost 56 percent of the private work force, contribute 44 percent of all sales, and are responsible for 47 percent of GNP. These businesses are expected to create 75 percent of the 43 million jobs needed over the next 25 years. That's a tall order. And I'm afraid it will be an impossible order if Congress doesn't act responsibly and loosen the tax chokehold it imposed last year.

They won't succeed with that goal if their taxes remain increased by 37 percent as they were last year, especially now that interest rates are higher than they've been in the last 2 years. Suddenly, for our small businesses, all the promises the President and his tax-hike proponents made last year—that increased taxes would bring down interest rates—are beginning to ring hollow. Now comes the pain, as these valiant small business men and women grapple not only with the President's record-setting tax increase, but with these increasing interest rates that have followed that tax increase.

And when I say small business men and women, I want to emphasize women. Today, women own more than 30 percent of all U.S. businesses—almost all of them small, and women will own 50 percent of the Nation's small businesses by the 21st century. The legislation I introduce today is certainly good fiscal policy for them. Likewise, it will benefit America's minorities—men and women whose businesses generate $60 billion in gross receipts annually, men and women whose businesses provide almost a million jobs to working Americans.

This legislation is equitable. It resolves a gaping injustice now created by the Clinton tax increase. On several occasions, I have come to this floor to explain that the Clinton taxes raise rates on small businesses from 31 percent to 42.5 percent if they have profits of $250,000 or more, but the largest corporations in the world, making $250 million in profits will only pay a maximum rate of 35 percent. I have explained how big corporations now get a lower tax rate than, say, a small family restaurant supporting 20 employees on the Rehoboth, DE boardwalk. Is this the tax equity President Clinton promised?

You hear the President talk about the "rich" paying more, and "fairness"—but here you have small family businesses paying tax rates of more than 21 percent more than the biggest corporations in America. Thus, under current law, small family businesses, farmers, restaurants, manufacturers, and others pay tax rates that are 21 percent higher rates than the largest corporations in America, including foreign corporations.

Some have argued that the income tax rates of a small business should not be compared to the income tax rates of a corporation based on the fact that corporations have to pay taxes twice—once at the corporate level, and a second time when they pay dividends to the shareholders. Small businesses, by comparison, only pay one level of tax, at the owner's level.

However, our legislation is designed to treat the same kind of retained corporate earnings of small businesses and large businesses in a fair manner. This is because only profits that are left in the small business for reinvestment qualify for the lower rate of 31 percent rate in our legislation. When major corporations do the same thing, they are taxed only once at a maximum rate of 35 percent. If small businesses do the very same thing, they have to pay as much as 42.5 percent or more, even when they want to reinvest the money back into the business—under the Clinton tax hike.

Let me explain a few things about this legislation. First, in order for a small business' income to qualify for the reduced tax rate in our legislation, the income must come from the active conduct of a trade or business in which the taxpayer is a material participant. This means that the taxpayer must actually work in that business. There is no loophole here for investors, or those who do not spend a significant amount of time working in that business. This requirement means that the true entrepreneur will gain the benefit of this legislation, and not some taxpayer taking advantage of a loophole.

Second, the small business income can not exceed the earnings from self-employment income. This excludes income from things like the renting of real estate or capital gains from the sale of business assets. We intend that the legislation will not benefit a business' profits unless the profits come from the active participation in that business, and not indirect profits from other sources.

Finally, the small business income must be retained in the business in a qualified retained earnings account. Under this rule, if a business simply accumulates money and invests it then the investment income from that savings would not be eligible for the lower rates.

A small business will be able to make distributions from this retained earnings account in order to make an investment in itself, or to pay its tax liability. But, if a small business makes a distribution to its owners, or does not spend the money in its retained earnings account to invest in itself, or provide jobs, then an excise tax will apply so that the owners are subject to the maximum tax rate. So, this legislation does what it is suppose to do. It requires a small business to accumulate its earnings and invest in itself if it wants to take advantage of the lower tax rates—the tax rates that before Bill Clinton became President were 31 percent.

Last year, during debate on the budget and tax bill, I offered this legislation as an amendment and gained 56 votes in favor of it. I hope that those 56 Senators will join us by sponsoring it with me.

I would ask that this statement, two summaries of the legislation, a table on tax rates, a letter from the National Federation of Independent Business, a statement by Senator WALLOP, a statement by Senator PRESSLER, and a copy of the bill be included in the RECORD in full.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Investment and Growth Act".

SEC. 2. MAXIMUM SMALL BUSINESS TAX RATE.

(a) IN GENERAL.—Section 1 of the Internal Revenue Code of 1986 (relating to tax imposed) is amended by adding at the end the following new subsection:

"(i) MAXIMUM SMALL BUSINESS TAX RATE.—

"(1) IN GENERAL.—Except as provided in paragraph (4), if a taxpayer has taxable small business income for any taxable year to which this subsection applies, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the amount of taxable small business income, or

"(ii) the amount of taxable income taxed at a rate below 31 percent, plus

"(B) a tax of 31 percent of the amount of taxable income in excess of the amount determined under paragraph (1).

"(2) TAXABLE SMALL BUSINESS INCOME.—For purposes of this subsection, the term 'taxable small business income' means, with respect to any taxable year, the least of—

"(A) the taxable income of the taxpayer for such year attributable to the active conduct of any trade or business of an eligible small business in which the taxpayer materially participates (within the meaning of section 469(h) (other than paragraph (4))),

"(B) the net earnings from self-employment (within the meaning of section 1402(a), applied without dollar limitation) of the taxpayer for such year attributable to the active conduct of such trade or business, or

"(C) the taxpayer's share of additions for such taxable year to the qualified retained earnings account of such trade or business.

For purposes of determining net earnings from self-employment under subparagraph (B), an S corporation shall be treated as if it were a partnership.

"(3) QUALIFIED RETAINED EARNINGS ACCOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified retained earnings account' means an account established by a trade or business—

"(i) which is designated as a qualified retained earnings account for purposes of this subsection,

"(ii) additions to which may only be made in cash,

"(iii) distributions from which may only consist of qualified distributions, and

"(iv) any earnings on which are not allocated to the account.

"(B) QUALIFIED DISTRIBUTIONS.—For purposes of subparagraph (A), distributions from a qualified retained earnings account shall be treated as qualified distributions if used—

"(i) to pay ordinary and necessary expenses paid or incurred in carrying on the trade or business of the eligible small business to which the account relates, or

"(ii) to pay the tax imposed under this subtitle on amounts in the account.

"(4) ADDITIONAL TAX ON NONQUALIFIED DISTRIBUTIONS.—

"(A) IN GENERAL.—If—

"(i) a distribution other than a qualified distribution is made from a qualified retained earnings account, and

"(ii) such distribution is made from additions to the account for a taxable year with respect to which paragraph (1) applied to the taxpayer by reason of such additions,

then the tax imposed by this section for the taxable year of the taxpayer with or within which the taxable year of the eligible small business in which the distribution was made ends shall be increased by the amount determined under subparagraph (B).

"(B) AMOUNT OF ADDITIONAL TAX.—The amount of tax determined under this subparagraph is an amount equal to the sum of—

"(i) the product of the taxpayer's pro rata share of the distribution described in subparagraph (A)(i) and the number of percentage points(and fractions thereof) by which the highest rate of tax in effect under this section for the taxpayer's taxable year exceeds 31 percent, plus

"(ii) the product of—

"(I) the amount by which the taxpayer's pro rata share of such distribution, when added to the taxpayer's pro rata share of previous distributions from additions to the account for the same taxable year, exceeds $135,000, and

"(II) the rate of tax imposed by section 1401(b) for the taxpayer's taxable year.

"(C) ORDER OF DISTRIBUTIONS.—For purposes of this paragraph, distributions shall be treated as having been made from the qualified retained earnings account on a first-in, first-out basis.

"(D) TREATMENT OF HEALTH INSURANCE TAX.—For purposes of this title, the tax described in subparagraph (B)(ii) shall be treated as if it were a tax imposed by section 1401(b).

"(5) ELIGIBLE SMALL BUSINESS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'eligible small business' means, with respect to any taxable year, a sole proprietorship, partnership, or S corporation which is a small business concern (within the meaning of section 3(a) of the Small Business Act) as of the beginning of the taxable year.

"(B) ELECTION TO USE 3 PRECEDING YEARS.—If the determination under subparagraph (A) is made on the basis of number of employees or gross receipts, the taxpayer may elect to have the determination made on the basis of the average number of employees or the average gross receipts of the taxpayer for the 3 taxable years preceding the taxable year.

"(6) YEARS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any taxable year if the highest rate of tax set forth in subsection (a), (b), (c), (d), or (e) (whichever applies) for the taxable year exceeds 31 percent.

"(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations preventing the characterization of distributions for purposes of compensation or personal use as qualified distributions under paragraph (3)(B)(i)."

(b) CERTAIN TAXABLE SMALL BUSINESS INCOME NOT SUBJECT TO HI TAX.—Section 3121(a) (defining wages) is amended—

(i) by striking "or" at the end of paragraph (20),

(ii) by striking the period at the end of paragraph (21) and inserting "; or", and

(iii) by adding at the end the following new paragraph:

"(22) the portion of any taxable small business income (as defined in section 1(i)) properly allocable to the calendar year which is in excess of $135,000."

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

ROTH-WALLOP-PRESSLER SMALL BUSINESS INVESTMENT AND GROWTH ACT

The President's tax package in 1993 forces small businesses to pay tax rates at higher levels than our nation's largest corporations. It discourages small businesses from investing in themselves. By allowing businesses to continue paying at the 1992 tax rate of 31 percent for all active trade or business income retained or reinvested, this legislation will help small businesses expand, modernize and create jobs.

PURPOSE

The Roth-Wallop-Pressler bill exempts active trade or business income reinvested or retained in a small business or family farm from the increased individual tax rates and the unlimited Medicare hospital insurance (H.I.) wage tax enacted in 1993. Taxing small businesses at these high rates will severely reduce their ability to act as our engine of job creation. Small businesses that are hiring the most new employees, growing the fastest and investing more are punished the most, while larger corporations making the very same investments are taxed at significantly lower tax rates.

WHO QUALIFIES

Businesses organized as sole proprietorships, Subchapter S corporations and partnerships who qualify as "small businesses" under the Small Business Administration's definition will qualify.

WHAT THE LEGISLATION WOULD DO

Profits that remain in a business or farm would continue to be taxed at the 1992 31 percent rate rather than the new 36 and 39.6 percent rates. The reinvested profits would also be exempt from the 2.9 percent unlimited self employment H.I. tax increase imposed in 1993.

This legislation would not change the tax rates on wages for business owners or partners. Only properly retained or invested earnings of the business, invested in ordinary and necessary business expenses would receive favorable tax treatment.

This legislation would require that these lower rates only apply to active income. In other words, passive income or portfolio income would be taxed at the new, higher rates, while profits that remained in the business would be subject to the 1992 lower tax rates. Interest earnings or other corporate dividends, for example, would not benefit from the lower tax rates.

EXAMPLE

Assume a diary farmer has $275,000 of taxable income. If the business owner takes out wages of $90,000 then those wages would be taxed at the applicable tax rate, but if $150,000 is spent on a new milk processing system and then $35,000 is kept in a "retained" account for future use and to pay tax liabilities then that business income would be taxed at the 31 percent rate.

REASONS TO SUPPORT THE ROTH-WALLOP-PRESSLER SMALL BUSINESS INVESTMENT AND GROWTH ACT

Eight out of ten small businesses pay taxes as individuals, rather than as corporations—that's 21 million small businesses nationwide.

Raising individual tax rates to "tax the rich" has directly impacted small businesses and family farms. A new survey by the National Association of Manufacturers (NAM) states that more than half of the Subchapter S businesses polled expect to decrease their investment as a result of the 1993 tax increase, while three in ten expect the new tax to hold down employment. The Clinton tax plan *punishes* the very people we need to get our economy moving.

A great majority of the so-called "wealthy" under last year's tax plan are small businesses—sole proprietorships, Subchapter S corporations, partnerships and family farms.

THE FACTS

Individual tax rate:

36 percent—passed as part of the Budget Act of 1993 (OBRA).

31 percent—1992 rate and retained earnings rate in SBIG Act of 1994.

Additional Burdens from OBRA of 1993:

2.9 percent—Medicare self employment H.I. tax.

10 percent—"Millionaire" surtax over $250,000 "Pep" and "Pease" and the "transportation tax."

Corporate tax rate:

35 percent—Passed as part of OBRA of 1993 for corporations making $10 million or more.

34 percent—1992 rate and actual rate for C corps. making under $10 million in taxable income.

1. According to the U.S. Treasury Department, 67 percent of the revenue paid by the top two percent of taxpayers is paid by small businesses and family farms.

2. Fifty-two percent of those making over $100,000 are small businesses—and 66 percent of those making over $200,000 are small businesses.

3. Critics of this legislation will say the answer is simple; get small businesses to incorporate. Incorporation is neither simple nor inexpensive; it requires complex legal and financial documents prepared by lawyers and accountants. Additionally, there are questions about Boards of Directors, annual meetings, the effects of double taxation and numerous other issues.

4. Critics will also argue that small businesses have the advantage of paying only one level of tax, because there is no corporate level of tax on profits. But major corporations, too, only pay one level of tax on the same kind of income in this legislation (i.e. reinvested profits of the business!)

5. Between 1988 and 1990, small businesses created 4.1 million jobs and big business lost 500,000 jobs. But regardless of this proven record, last year's budget deal clearly favored large businesses as a matter of tax policy.

TAX RATES ON RETAINED BUSINESS PROFITS

[In percent]

	Current tax rate	Roth-Wallop-Pressler tax rate
Family farm earning $150,000	38.9	31
Family run restaurant earning $250,000	42.5	31
Small manufacturer earning $300,000	42.5	31
Big corporations earning $250 million	35	35

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC, April 19, 1994.

Hon. WILLIAM V. ROTH, Jr.,
U.S. Senate,
Washington, DC.

DEAR SENATOR ROTH: On behalf of the over 600,000 members of the National Federation of Independent Business (NFIB), I am writing to support your legislation to repeal the tax rate increases as they apply to small businesses, which were signed into law in the 1993 Omnibus Budget Reconciliation Act. As the nation's largest small business advocacy organization, we supported this legislation when you, Senator Wallop and Senator Pressler offered it as an amendment to the 1993 budget and are pleased to offer our endorsement once again.

The law, as currently written, punishes small businesses and family farms organized as sole proprietorships, Subchapter S corporations, and partnerships with a tax rate higher than that of America's largest corporations. Most small business growth is financed by profits reinvested in the business.

Your legislation will encourage America's entrepreneurs to reinvest their profits into their businesses—allowing businesses to expand and create more jobs. Reinvested or retained business earnings will then be taxed at the 1992 maximum tax rate of 31 percent, provided the earnings resulted from an active trade or business. Profits that do not remain in the business, or are later distributed, will be subject to the new higher tax rates.

Over 84 percent of small business owners opposed the 1993 budget act because they thought it was damaging to business. Small businesses strongly believe that the deficit will not be reduced until the federal government makes tough decisions on cutting spending. In their opinion, raising taxes only allows the government to delay these tough decisions.

Again, thank you for your support of small business. I look forward to working with you.

Sincerely,

JOHN MOTLEY III,
Vice President,
Federal Governmental Relations.

Mr. WALLOP. Mr. President, on April 15, many small businesses were painfully reminded of the 1993 Clinton tax hike. Sole proprietors, partnerships, and subchapter S corporations found themselves subject to tax rates of 36 percent and 39.6 percent and the 2.9 percent unlimited self-employment health insurance tax.

During debate on the tax bill last year, and even now, we see the administration trying to justify and downplay the negative impact that these increased individual taxes will have on small business. In fact, on April 16, Treasury Secretary Bentsen spent time on CNN's "Evans & Novak" rejecting claims that the higher tax rates caused the recent losses in the bond and stock markets. He also rejected out of hand a comment by Alan Reynolds in the Wall Street Journal, April 12, 1993, that 2 percent of households will pay higher rates—instead of the 1.2 percent President Clinton was so quick to tout.

But no matter what the administration says, small business knows different. Over 80 percent of businesses in America are unincorporated. This year alone, almost 1 million small businesses will be exposed to these higher rates.

Last year during debate on the tax bill Republicans predicted that the increased individual tax rates would directly impact the ability of small business to expand and to hire new employees. We were right. These new taxes are stifling investment and job creation. Today, the National Association of Manufacturers announced that more than 50 percent of the subchapter S firms polled expected their investment to decline—and they directly attributed this decline to the increased tax rates. Three in ten firms polled expected to hold down hiring.

Last year, Bill Clinton and the Democrats painted a rosy economic scenario. They promised that the largest tax increase in history would lead to low interest rates and greater economic growth. Instead, we now have high tax rates and the highest interest rates in 2 years. And small business will pay the price. Higher taxes, more regulations, and health care are all combining to drain the resources of small businesses. The administration has continually forgotten that prosperous small businesses are the engines of growth in this economy and that the higher taxes confiscate the very investment income necessary to grow this economy.

That is why I have sponsored this bill with Senators ROTH and PRESSLER. Under our bill, sole proprietors, partnerships, and subchapter S corporations that reinvest or retain their active trade or business income will only be taxed at last year's rate of 31 percent instead of the new higher tax rates. Profits that are not retained or are later distributed will continue to be subject to the current tax rates. Only small businesses that meet the Small Business Administration's definition of small business will qualify for the reduced tax rates.

This is a good bill. It will encourage job creation and economic growth by reducing—not increasing—taxes on small businesses. It will allow small businesses and family farms and ranches to expand, modernize, and create jobs. Instead of placing more burdens on employers, this bill will lift those burdens. I urge my colleagues to cosponsor this legislation and keep this economy on track.

Mr. PRESSLER. Mr. President, I rise today, both as an original sponsor of this bill and as the ranking member of the Small Business Committee, to urge adoption of this important measure. This legislation, the Small Business Investment and Growth Act, is critical to the success of small business and job creation in our country.

Nearly a year ago, I joined with Senator ROTH and Senator WALLOP in sponsoring an identical piece of legislation in the form of an amendment to the budget resolution. Despite significant bipartisan support, the amendment was defeated narrowly.

The Clinton administration claims to be a friend of small business, but what kind of a friend imposes a staggering tax hike on our Nation's foremost job creator? Small businesses are suffering the effects of the President's 1993 Budget Reconciliation Act. Since the passage of this budget, some small businesses have been forced to pay taxes at a higher rate than America's largest corporations.

Mighty percent of businesses in this country pay taxes as individuals, not corporations. They are sole proprietorships, Subchapter S corporations, and partnerships. This means the profits from their businesses are taxed at the individual rather than the corporate rate. Thus, a great majority of the so-called wealthy targeted for increased taxes under the President's 1993 budget actually were small business owners who do not take home all the wealth on which they are now paying higher taxes.

The top income tax rate for these entrepreneurs increased from 31 percent to an effective rate of nearly 45 percent, after adding up the impact of the two new brackets, an unlimited Medicare tax, and the phasing out of various deductions. All of this comes in addition to asking America's entrepreneurs to pay the lion's share of the cost of mandated health care.

By increasing the top effective small business tax rate, the President's plan punished the very people we have consistently counted on to keep the economy moving. As a matter of fact, 52 percent of those making over $100,000 are small businesses—and 66 percent of those making over $200,000 are small businesses.

As a result of President Clinton's tax increases and new Government mandates, small business optimism has weakened in this past year. Businesses are afraid of higher taxes and all that comes with them—lower profits, increased Government mandates and an overpowering regulatory environment. Mr. President, Congress is doing nothing to inspire confidence among America's small business women and men.

By repealing the damaging tax hike of 1993, we would restore the concept of tax fairness to a system currently plagued by unfairness. Corporations with taxable incomes of $250 million now are taxed at a rate of 35 percent—up from 34 percent. At what rate is a small business earning $250,000 currently taxed? Almost 45 percent—up from 31 percent. Does this sound fair to you?

Our bill would repeal the tax rate increases as they apply to small businesses, passed into law as part of the 1993 Budget Reconciliation Act. However, it will apply only to active trade or business income retained or reinvested in a small business or family farm. This bill will help small businesses expand, modernize and create jobs.

Opponents of this bill will tell you the legislation will be a tax break for the wealthy. This is one of the oldest and most overused arguments in the Senate—and it simply is not true.

Our bill was carefully crafted. Not all income is exempt. Let me repeat, only those profits that are reinvested or retained in the business or farm will be taxed at the 1992 maximum tax rate of 31 percent, rather than the 36- and 39.6-percent rates that recently went into effect. Those profits also would be exempt from the 2.9 percent self-employment hospital insurance tax.

This bill would not change the tax rate on wages for business owners or partners. In other words, profits removed from the business would be subject to the new tax rates. Thus, no fat cat law firm partners or investment bankers would get a reduced rate on the income they take home as some have argued.

The President and certain Members of Congress do not seem to grasp the simple proposition that small businesses respond to incentives and disincentives. Additional taxes and more government intervention represent serious disincentives. Our Tax Code should encourage small businesses to start up, expand and create jobs; currently, it does just the opposite.

Mr. President, this bill has nothing to do with tax breaks for the wealthy. It has everything to do with rewarding, not punishing, the small business owners who properly retain or reinvest their profits.

Now, more than ever, small business owners need a friend—the kind of friend who will allow and encourage them to expand and create jobs. By enacting this legislation, Congress can provide entrepreneurs the kind of incentives they need desperately.

I urge all of my colleagues to look beyond the rhetoric to the facts. If they do, they quickly will understand the benefits of the approach taken by this bill and support its passage.

By Mr. D'AMATO (for himself, Mr. MOYNIHAN, Mr. INOUYE, Mr. COCHRAN, and Mr. DURENBERGER):

S. 2031. A bill to amend the Merchant Marine Act, 1936, to prohibit the imposition of additional charges or fees for attendance at the U.S. Merchant Marine Academy, and to express the sense of the Senate that no additional charges or fees shall be imposed for attendance at the U.S. Military Academy, the U.S. Naval Academy, the U.S. Air Force Academy, and the U.S. Coast Guard Academy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MERCHANT MARINE ACADEMY REFORM ACT OF 1994

Mr. D'AMATO. Mr. President, I rise today to offer legislation to save the U.S. Merchant Marine Academy, and protect the other national service academies—the U.S. Military Academy, the U.S. Naval Academy, the U.S. Air Force Academy, and the U.S. Coast Guard Academy.

The legislation I am introducing would prohibit charging tuition for attendance at the U.S. Merchant Marine Academy at King's Point, and express the sense of the Senate that no additional charges or fees shall be imposed for attendance at the other national service academies. Charging tuition will jeopardize the academies. When educational costs increase, the more affluent and not necessarily the most able participate in higher education programs. With respect to the Merchant Marine Academy, news about possibly charging tuition already has had a negative impact for the class entering in 1994—applications for admission dropped 25 percent from last year. Charging tuition would be devastating to the ability of the Academy to recruit top prospects. One of King's Point's best assets, its ethnic, racial, economic, geographic, and gender diversity would be lost.

The academies educate qualified young men and women for service to their country. The training these men and women receive, both in the classroom and during their summer seafaring obligations outside of the classroom, prepares them to be leaders unlike any other program at any other institution of higher learning. Graduates are prepared to serve the United States in times of peace, war, and national emergency.

Mr. President, this legislation will send a clear message to the shipping industry of the United States that Congress stands ready to support this vital industry. The U.S. Merchant Marine Academy has a long history of providing the shipping industry with leaders to serve on board its vessels. If the United States is to remain a strong competitor in international commerce, we must support a strong merchant marine. The Academy at Kings Point is one of the best ways I know to ensure America's dominance on the high seas.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2031

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TILE.

This Act may be cited as the "Merchant Marine Academy Reform Act of 1994".

SEC. 2. PROHIBITION OF IMPOSITION OF ADDITIONAL CHARGES OR FEES FOR NATIONAL DEFENSE ACADEMY ATTENDANCE.

Section 1303 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295b) is amended by adding at the end the following new subsection:

"(j) PROHIBITION ON FEES AND CHARGES FOR ATTENDANCE BY UNITED STATES CITIZENS AT THE MERCHANT MARINE ACADEMY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no tuition or charge for room or board may be imposed in connection with attendance at the Merchant Marine Academy by an individual selected for attendance pursuant to subsection (b).

"(2) EXCEPTION.—The prohibition specified in paragraph (1) shall not apply with respect to any item or service provided to midshipmen at the Merchant Marine Academy for which a charge is imposed on the date of enactment of the Merchant Marine Academy Reform Act of 1994.

"(3) CHANGE IN APPLICABLE FEE.—The Secretary of Transportation shall notify Congress of any change made in the amount of a charge exempted by paragraph (2) from the prohibition in paragraph (1).".

SEC. 3. SENSE OF SENATE.

It is the sense of the Senate that no charges or fees should be imposed for attendance at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, or the United States Coast Guard Academy.

ADDITIONAL COSPONSORS

S. 530

At the request of Mr. MITCHELL, the name of the Senator from Tennessee [Mr. MATHEWS] was added as a cosponsor of S. 530, a bill to amend the Harmonized Tariff Schedule of the United States to clarify that certain footwear assembled in beneficiary countries is excluded from duty-free treatment.

S. 915

At the request of Mr. BAUCUS, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 915, a bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of semiconductor manufacturing equipment.

S. 984

At the request of Mr. SIMON, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 984, a bill to prevent abuses of electronic monitoring in the workplace, and for other purposes.

S. 1063

At the request of Mr. HATCH, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1063, a bill to amend the Employee Retirement Income Security Act of 1974 to clarify the treatment of a qualified football coaches plan.

S. 1485

At the request of Mr. DECONCINI, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 1485, a bill to extend certain satellite carrier compulsory licenses, and for other purposes.

S. 1539

At the request of Mr. INOUYE, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 1539, a bill to require the Secretary of the Treasury to mint coins in commemoration of Franklin Delano Roosevelt on the occasion of the 50th anniversary of the death of President Roosevelt.

S. 1669

At the request of Mrs. HUTCHISON, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1669, a bill to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction.

S. 1690

At the request of Mr. PRYOR, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from Virginia [Mr. ROBB) were added as cosponsors of S. 1690, a bill to amend the Internal Revenue Code of 1986 to reform the rules regarding subchapter S corporations.

S. 1715

At the request of Mrs. HUTCHISON, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1715, a bill to provide for the equitable disposition of distributions that are held by a bank or other intermediary as to which the beneficial owners are unknown or whose addresses are unknown, and for other purposes.

S. 1822

At the request of Mr. HOLLINGS, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1822, a bill to foster the further development of the Nation's telecommunications infrastructure and protection of the public interest, and for other purposes.

S. 1839

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1839, a bill to authorize the study of the equity of Forest Service regional funding allocations, and for other purposes.

S. 1852

At the request of Mr. KENNEDY, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Iowa [Mr. GRASSLEY], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of S. 1852, a bill to amend the Head Start Act to extend authorizations of appropriations for programs under that Act, to strengthen provisions designed to provide quality assurance and improvement, to provide for orderly and appropriate expansion of such programs, and for other purposes.

S. 1920

At the request of Mr. DOMENICI, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1920, a bill to amend title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") to ensure the safety of public water systems, and for other purposes.

S. 1928

At the request of Mr. WELLSTONE, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 1928, a bill to require the availability of adequate waste emplacement capacity for the future licensing of construction and operation of nuclear utilization facilities, and for other purposes.

S. 1942

At the request of Mr. MITCHELL, his name was added as a cosponsor of S. 1942, a bill to authorize appropriations for the local rail freight assistance program.

S. 1943

At the request of Mrs. KASSEBAUM, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1943, a bill to consolidate Federal employment training programs and create a new process and structure for funding the programs, and for other purposes.

S. 1997

At the request of Mrs. FEINSTEIN, the names of the Senator from Nevada [Mr. BRYAN], the Senator from Texas [Mrs. HUTCHISON), the Senator from Nevada [Mr. REID], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 1997, a bill to amend title 13, United States Code, to require that the Secretary of Commerce produce and publish, at least every 2 years, current data relating to the incidence of poverty in the United States.

S. 2000

At the request of Mr. KENNEDY, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Maryland [Ms. MIKULSKI], the Senator from Hawaii [Mr. INOUYE], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of S. 2000, a bill to authorize appropriations for fiscal years 1995 through 1998 to carry out the Head Start Act and the Community Services Block Grant Act, and for other purposes.

SENATE JOINT RESOLUTION 169

At the request of Mr. WARNER, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of Senate Joint Resolution 169, a joint resolution to designate July 27 of each year as "National Korean War Veterans Armistice Day."

SENATE JOINT RESOLUTION 172

At the request of Mr. DOLE, the names of the Senator from Alabama [Mr. SHELBY], the Senator from New Mexico [Mr. BINGAMAN], the Senator from California [Mrs. FEINSTEIN], and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of Senate

Joint Resolution 172, a joint resolution designating May 30, 1994, through June 6, 1994, as a "Time for the National Observance of the Fiftieth Anniversary of World War II."

SENATE JOINT RESOLUTION 174

At the request of Mr. BIDEN, the names of the Senator from Texas [Mrs. HUTCHISON], the Senator from Alabama [Mr. HEFLIN], and the Senator from Nevada [Mr. REID] were added as cosponsors of Senate Joint Resolution 174, a joint resolution designating April 24 through April 30, 1994 as "National Crime Victims' Rights Week."

SENATE JOINT RESOLUTION 175

At the request of Mr. MCCAIN, the names of the Senator from Missouri [Mr. BOND], the Senator from Mississippi [Mr. COCHRAN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Maryland [Ms. MIKULSKI], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Rhode Island [Mr. PELL], the Senator from Arkansas [Mr. PRYOR], the Senator from Delaware [Mr. ROTH], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Joint Resolution 175, a joint resolution to designate the week beginning June 13, 1994, as "National Parkinson Disease Awareness Week."

SENATE JOINT RESOLUTION 176

At the request of Mr. PRYOR, the names of the Senator from Maine [Mr. COHEN], the Senator from Vermont [Mr. JEFFORDS], the Senator from Vermont [Mr. LEAHY], the Senator from Arizona [Mr. MCCAIN], the Senator from Tennessee [Mr. SASSER], the Senator from Tennessee [Mr. MATHEWS], the Senator from Louisiana [Mr. BREAUX], the Senator from Wisconsin [Mr. FEINGOLD], the Senator from Nevada [Mr. BRYAN], the Senator from Nevada [Mr. REID], the Senator from Alabama [Mr. SHELBY], the Senator from Alabama [Mr. HEFLIN], the Senator from Pennsylvania [Mr. WOFFORD], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of Senate Joint Resolution 176, a joint resolution to designate the month of May 1994 as "Older Americans Month."

SENATE JOINT RESOLUTION 179

At the request of Mr. DOLE, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Joint Resolution 179, a joint resolution to designate the week of June 12 through 19, 1994, as "National Men's Health Week".

SENATE CONCURRENT RESOLUTION 45

At the request of Mr. D'AMATO, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of Senate Concurrent Resolution 45, a concurrent resolution relating to the Republic of China on Taiwan's participation in the United Nations.

SENATE CONCURRENT RESOLUTION 60

At the request of Mr. GRAMM, the names of the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Ohio [Mr. METZENBAUM], the Senator from South Dakota [Mr. DASCHLE], the Senator from Colorado [Mr. BROWN], the Senator from Wisconsin [Mr. KOHL], and the Senator from Nevada [Mr. REID] were added as cosponsors of Senate Concurrent Resolution 60, a concurrent resolution expressing the sense of the Congress that a postage stamp should be issued to honor the 100th anniversary of the Jewish War Veterans of the United States of America.

SENATE RESOLUTION 185

At the request of Mr. D'AMATO, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of Senate Resolution 185, a resolution to congratulate Phil Rizutto on his induction into the Baseball Hall of Fame.

SENATE RESOLUTION 195

At the request of Mr. SPECTER, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Resolution 195, a resolution expressing the sense of the Senate that the President currently has authority under the Constitution to veto individual items of authority without awaiting the enactment of additional authorization.

SENATE RESOLUTION 200—NOTIFYING THE HOUSE OF REPRESENTATIVES OF THE ELECTION OF A SECRETARY OF THE SENATE

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 200

Resolved, That the House of Representatives be notified of the election of the Honorable Martha S. Pope as Secretary of the Senate.

SENATE RESOLUTION 201—NOTIFYING THE PRESIDENT OF THE UNITED STATES OF THE ELECTION OF A SECRETARY OF THE SENATE

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 201

Resolved, That the President of the United States be notified of the election of the Honorable Martha S. Pope as Secretary of the Senate.

SENATE RESOLUTION 202—NOTIFYING THE HOUSE OF REPRESENTATIVES OF THE ELECTION OF A SERGEANT AT ARMS AND A DOORKEEPER

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 202

Resolved, That the House of Representatives be notified of the election of the Honorable Robert Laurent Benoit as Sergeant at Arms and Doorkeeper of the Senate.

SENATE RESOLUTION 203—NOTIFYING THE PRESIDENT OF THE UNITED STATES OF THE ELECTION OF A SERGEANT AT ARMS AND A DOORKEEPER

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 203

Resolved, That the President of the United States be notified of the election of the Honorable Robert Laurent Benoit as Sergeant at Arms and Doorkeeper of the Senate.

SENATE RESOLUTION 204—RELATING TO THE RETIREMENT OF WALTER J. STEWART, SECRETARY OF THE U.S. SENATE

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 204

Whereas the Senate has been advised of the retirement of its Secretary, Walter J. Stewart, on April 14, 1994; and

Whereas Walter J. Stewart has served the Senate with distinction for 38 years, the last seven of which were as Secretary of the Senate: Now, therefore be it.

Resolved, That, effective April 15, 1994, as a token of the appreciation of the Senate for his long faithful service, Walter J. Stewart is hereby designated as Secretary Emeritus of the United States Senate.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding an Oversight Hearing on Wednesday, April 20, 1994, beginning at 9:30 a.m., in 216 Hart Senate Office Building on the regulation of gaming.

Those wishing addition information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The hearing will take place on Thursday, May 5, 1994, beginning at 2 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on two bills currently pending before the subcommittee. The bills are:

S. 471, to establish a new area study process for proposed additions to the National Parks System, and for other purposes; and,

S. 528, to provide for the transfer of certain U.S. Forest Service lands located in Lincoln County, MT, to Lincoln County in the State of Montana.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit a written statement is welcome to do so by sending two copies to the Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact David Brooks at (202) 224-9863, or Sue McGill at (202) 224-2366.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BRADLEY. Mr. President, I would like to announce for my colleagues and the public that an oversight hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on the potential role of Federal reclamation projects in meeting the water supply needs of the Colonias in Texas.

The hearing will take place on Tuesday, May 10, 1994 at 2:30 p.m. in room 366 of the Dirksen Senate Office Building, First and C Streets, NE, Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attention: Leslie Palmer.

For further information, please contact Dana Sebren Cooper, counsel for the subcommittee at (202) 224-4531, or Leslie Palmer, (202) 224-6836.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BRYAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., April 19, 1994, to receive testimony on the recent failure of a natural gas pipeline in New Jersey and current policies regarding pipeline rights of way in congested urban areas.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BRYAN. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today, April 19, 1994, at 10 a.m., to hear testimony on the subjects of long-term care and drug benefits under health care reform, and to hear testimony from Senator WILLIAM COHEN on health care reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BRYAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, April 19, 1994 at 10 a.m. to hold a hearing on "medicines in drug abuse: reviewing the strategy.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BRYAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, April 19, 1994, at 4 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICES

Mr. BRYAN. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practices of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Tuesday, April 19, 1994, at 10:15 a.m., to hold a hearing on "the Bayh-Dole Act: A review of patent issues in federally funded research"

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EDUCATION, ARTS AND HUMANITIES

Mr. BRYAN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources' Subcommittee on Education, Arts and Humanities be authorized to meet for a hearing on ESEA reauthorization, during the session of the Senate on April 19, 1994, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EDUCATION, ARTS AND HUMANITIES

Mr. BRYAN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources' Subcommittee on Education, Arts and Humanities be authorized to meet for a hearing on the Role of Libraries in the Information Infrastructure, during the session of the Senate on April 19, 1994, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON LABOR

Mr. BRYAN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources' Subcommittee on Labor be authorized to meet for a hearing on Age Discrimination and Public Safety Officers, during the session of the Senate on April 19, 1994, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON REGIONAL DEFENSE AND CONTINGENCY FORCES

Mr. BRYAN. Mr. President, I ask unanimous consent that the Subcommittee on Regional Defense and Contingency Forces of the Committee on Armed Services be authorized to meet on Tuesday, April 19, 1994, at 11 a.m., in open session, to receive testimony on C-17 settlement and strategic mobility issues in review of the Defense authorization request for fiscal year 1995 and the future years Defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NEW ZEALAND'S ECONOMY

• Mr. GRASSLEY. Mr. President, I commend to my colleagues for their reading two pieces regarding New Zealand's economy. We can do well by learning from New Zealand's economy, which over the past few years has successfully reduced the Government's deficit, lowered taxes, deregulated industry, and opened New Zealand markets to trade.

The people of New Zealand are now realizing the benefits of these decisions through solid economic growth and greater competitiveness.

The first piece is a speech by my good friend His Excellency Denis B.G. McLean, Ambassador from New Zealand. I first became acquainted with Ambassador McLean and his wife Anne when they toured Iowa with me last year. I am sorry to say that Ambassador McLean will be leaving his post this May. His fine work has gone far in strengthening United States-New Zealand ties. His departure is a loss to both countries.

The second, is an article by John McMillan, professor at the University of California, San Diego. I believe my colleagues will find it well worth their time to read these two pieces.

The material follows:

PARADISE RESTRUCTURED: A CAUTIONARY TALE

(By Ambassador Denis B.G. McLean)

John Milton wrote of losing and regaining paradise. The New Zealanders have had more or less the same thing in mind as they have turned their paradise inside-out.

New Zealand is known around the world for its great natural beauty. But New Zealand these days is much more than a pretty place. It has become a work-out centre for radical new ideas how best to get fit for the tough economic competition out there. A quiet social welfare society has been put on a rigorous regime so that the country can be up there with the winners in the vigorous Asian-Pacific world.

Once upon a time all New Zealanders had jobs, there was modest prosperity all round, the material things of life were well distributed, nobody was too rich and nobody too poor. The country did well on the back of an efficient farming industry with guaranteed markets on the other side of the world in Britain.

What happened next is in many ways a familiar story. Expenditure on social welfare and other well-meaning programmes together with grand public sector projects mounted—seemingly inexorably. The debt accumulated.

Charles Dickens once observed: "Annual income twenty pounds, annual expenditure nineteen pounds nineteen shillings and sixpence, result—happiness. Annual income twenty pounds, annual expenditure twenty pounds and sixpence, result—misery: We are at last realizing that it is the same with nations as with individuals. In New Zealand's case an enviable standard of living declined as a heavily protected domestic industry became uncompetitive. Prices rose and inflation seemed to be endemic. There was little cause to diversify and pursue new market opportunities abroad. Competition was stifled. Expenditure in the vital areas of education and research fell away. New Zealand was at the same time hard-hit by external factors—the oil price shock and agricultural protectionism in the major industrial countries, including the United States. The economy was almost static. The country seemed to be headed for third world status, a charming but irrelevant rural arcadia.

The New Zealanders' response, beginning about eight years ago, was to bite the proverbial bullet. It has not been easy. There is a good deal of discontent around. As in all other mature Western democracies public esteem for the political process is less than total. Unemployment has risen to unacceptable levels. Social problems have accumulated. But the success of the restructuring of New Zealand has now begun to attract foreign investment, to renew the confidence of the business community and to draw favorable interest from around the world.

New Zealand is among the smaller powers. We are not thereby dismayed. In fact New Zealanders believe that size confers a certain quickness of foot and a readiness to adjust. This is a strength in this day of rapid and increasing change.

In particular the size and character of New Zealand has made it possible to embark on a process of comprehensive reform. The question is not so much "what have these New Zealanders done?", but rather "what haven't they done?"

The key objective was to restore national competitiveness. To do what it was necessary to put all national income to work to best advantage. The first aim was to get rid of inflation and begin to bring down the debt. This meant getting control of the money supply, opening up to competition; paring back protectionism and giving market forces free reign in an economy which had for decades been heavily oriented around the role of the State.

Government expenditures had to be brought under control and economic performance made more efficient—by the introduction of competition. Where previously State-owned enterprises had operated as monopolies, a far-reaching programme of reform of the whole structure of the public sector removed the regulatory constraints and the controls to expose those Government enterprises to market forces. Finally the social welfare, health and education systems were reformed to bring greater efficiency to their operations and to direct Government assistance to those most in need. Labour laws have been restructured to remove the monopolistic hold on the collective bargaining process formerly held by business and Trade Unions.

Devolution of responsibility has been a central objective. Miraculously, two successive Governments in New Zealand, of opposite political stripe, came to the same conclusion: Big Daddy Government doesn't know best. Give the people their heads. Release their creative energies.

Let's get a little closer to the detail: the New Zealand programme of reform has had the following main features:

At the microeconomic level the Reserve Bank has been set free of Government direction and control. The Governor of the Reserve Bank has been made accountable for reducing the rate of inflation to between 0% and 2% and is left free to do it.

A large number of microeconomic reforms have been instituted, with the overall aim of making our businesses more internationally competitive. For example: regulations on land transport, air transport, shop trading hours, telecommunications, transfers of foreign exchange, and many other facets of New Zealand commercial life have largely been stripped away.

Controls on prices, interest rates and wages have been removed.

Exchange controls were lifted and the New Zealand dollar allowed to "float".

Capital markets were deregulated, allowing more competition among banks and the free flow of currency into and out of the country.

Income tax rates were lowered, and the range of activities subject to tax was increased; an across-the-board Goods and Services tax was introduced.

We have had comprehensive reform of our public sector, with commercial operations turned into publicly owned corporations, and sometimes sold. I'll talk about that later.

The rest of the Government has undergone big changes to its structures and rules.

Subsidies have been removed from the New Zealand agricultural sector and from industries such as steel.

Quantity restrictions on imports have been eliminated and most tariffs significantly reduced, with more falls to come.

More recently, the labour laws have been changed so that the management and workers in individual businesses may enter into individual contracts giving the workers more control over conditions of work, pay rates, and the like. This is a big change from the former system where groups of monopoly employers and monopoly unions made rules for whole industries, leaving relatively little scope for individual enterprises to define their own terms.

What has happened? Now we find farmers who have been deprived of their subsidies rejoicing in their new found freedom to run their properties as businesses free of artificial incentives. Thanks to reform of education administration the School Committees now have their hands on the money and can direct and guide their schools without reference to the bureaucracy. In the work force individuals, formerly salaried employees, are able to bid for their own contracts and determine their own conditions of employment free of the collective bargaining process.

When strict rules governing the operation of our ports were taken away, cargo-handling costs fell by up to two-thirds, and the time ships spend in port fell by as much as half.

When the telecommunications industry was deregulated—our telecommunications market is now said to be the least regulated in the OECD, and possibly the world—prices fell by 21% in the first year, and the time to wait for phones to be installed fell from six weeks to less than two days. Another benefit has been that Telecom has invested huge sums in New Zealand's telecommunications infrastructure without any tax-payer money being involved. Now we have a very modern telephone system based largely on fibre-optic cable and digital switching.

At the smelter in the south of New Zealand, the time taken to produce a tonne of aluminum has fallen by 31% as a result of more flexible labour arrangements. In exchange, the workers have received much improved benefits and significant wage increases.

The OECD has said that New Zealand's tax system is "now probably the least distorting" of all its member countries. By this the OECD mean we have a tax system less likely than others' to divert investment away from its most productive use, or to impose unnecessary costs in its collection.

The magazine "Canadian Business" said in August that New Zealand's reforms amount to "a social revolution almost as sweeping as anything now being attempted in Eastern Europe".

As you would expect, and as many other countries have found, the reforms have not been easy. Most importantly, unemployment has been higher than anyone in the community finds acceptable, and is much higher than New Zealanders have known for half a century.

On the other hand—to accentuate the positive—New Zealand now has one of the lowest inflation rates in the industrialized world—a huge improvement over our performance over the last 30 years. Because of our reformed monetary policy arrangements—in particular the independent role of the Reserve Bank—we are confident of being able to sustain this performance.

Partly as a result of our progress against inflation, our interest rates are now closer to the world average than in many years.

Productivity in the labor force has improved dramatically across the economy as a whole.

As a result of improved productivity New Zealand's international competitiveness is rising. This in turn has led to a dramatic rise in exports.

Manufactured exports are leading the way—a big change from the days when most of our exports were agricultural commodities with very little processing added before export.

Not surprisingly in such an environment, business confidence has risen sharply and is now higher than at any time in the past 25 years. Investment intentions are up too.

These early results have not yet translated into lower unemployment—but the number of jobs now seems to be steadily increasing, which is the first step to lower unemployment.

Of course in the United States there is no similar heritage from a comprehensive social welfare philosophy as we have had in New Zealand. You have not had large-scale Government involvement in business as in New Zealand. The Government in New Zealand in the mid-1980's owned enterprises, some of them huge for the size of our country, in a large number of industries. Indeed, the number of major businesses owned by the government and run by government bureaucracies was striking for what was otherwise a capitalist, private-enterprise country.

In 1984, at the start of our public sector reforms, the public sector as a whole—its businesses and its other functions—accounted for 22% of all economic activity and consumed 28% of all investment.

Each country's politics and history is different. Every country's reason for government involvement in businesses, and the nature of those businesses, differs. The economic situation in which reform of government businesses begins is also different.

The key consideration is that in New Zealand State sector reform, beginning in 1987, was an integral part of a much bigger package of changes that began before then, and which continue today. The reforms to our State businesses wouldn't have been so successful without the other changes to our economy and public sector—and vice versa.

Let me try to give an idea of how pervasive the state sector was before the changes were instituted beginning in 1984:

The New Zealand Post Office ran the postal network (the nation's largest transportation system), the telephone and telecommunications network (by law the only telecom system allowed in New Zealand), as well as a large retail bank.

Apart from the Post Office Savings Bank, the government was deeply involved in the finance sector in other ways: it owned the largest bank, an investment bank, two large pension funds, and a huge fund to compensate people for any losses they might suffer in earthquakes.

Most of the nation's electricity system was run by the Energy Ministry: coal, gas, geothermal and hydroelectric power stations; as well as the transmission wires taking electricity around the country, including an undersea cable connecting our two main islands.

The Government was deeply involved in oil exploration.

The largest farmer in New Zealand was the Government, through its Lands and Survey Department.

The largest single owner, grower and planter of forests in New Zealand was also the Government, through its Forest Service.

The country's largest coal-mining company was Government-owned.

So was a large civil engineering and construction business.

The Government was also deeply involved in the transport sector. It owned and operated the only railway system, the nation's only international and largest internal airline, and the largest fleet of passenger buses.

The Government ran large numbers of other businesses within government departments: the air traffic control system, a printing office, a large computer agency, and the country's largest insurance firm—to name just a few.

In general, the performance of these businesses was not as good as New Zealanders expected. This system produced what the Deputy Prime Minister in 1986 called "massive economic waste".

For example, the time taken to get a telephone installed (six weeks) was a huge disadvantage for a business trying to compete in an open marketplace. This was in effect a consequence of under-investment.

There were areas of over-investment as well. We had built too much capacity to generate electricity. The State coal mines had made losses in 22 of the previous 20 years, and was mining coal that was difficult to reach while ignoring coal that was easier to exploit. At one airport, money was spent to instal an air traffic control system that wasn't needed, and was then dismantled. In 1986 the number of staff at the Post Office Savings Bank had grown by 75% in 10 years, while the bank's business had strunk in size by more than one-third.

What has to be done to bring such a system into line with modern economic demands? First it was necessary to begin the process of getting Government out of business. Progressively most of these formerly State-run enterprises were turned into public corporations—run very much like private-sector companies—except that Government Ministers remained the shareholders.

They were given clear commercial objectives and told to be successful businesses. They were set up with competitive neutrality. That is, the advantages and disadvantages of being owned by the State were removed as far as possible. For example, instead of getting all their money from the Government, they were required to borrow from private sector banks just like privately owned companies have to. The Government does not guarantee the borrowing of State-owned enterprises. Governments have shown themselves willing to close down businesses that weren't profitable. The companies are required to earn profits comparable to private firms, and to pay taxes on those profits.

Managers were given the authority and flexibility to manage. Each enterprise is run by a board of directors—comprising experienced private sector businesspeople, not public servants. Once the general business plan is agreed with Government Ministers, the board and management has the authority to make investments and strategic decisions, to decide who to hire and fire, how much to pay the staff, where to buy supplies, and where to sell the goods and services produced.

Performance monitoring held managers accountable for their performance. Each business's performance is compared with both their own plans and other companies in the industry. Ministers have access to analysts from Treasury department, analysts from the private sector, and a "steering committee" of private sector people who report directly to Ministers.

The State businesses were given explicit grants to cover non-commercial objectives. This meant an end to cross-subsidies like the one I mentioned before on telephone calls.

Five/six years on, it is possible to draw some conclusions from our State-owned enterprises policy. One lesson we learned is that, in business terms, the policy has been very successful overall. Labour productivity has increased substantially; prices have tended to fall in real terms, where previously they had risen steadily; service has improved; profits have been made (and dividends and taxes paid) where previously there was a long history of losses.

For example, the Coal Corporation increased its level of production while cutting its staff numbers in half.

The Electricity Corporation reduced prices in real terms while cutting the cost of production by over 25%. Productivity per employee increased by over 75%. Accidents rates fell from over 70 per million hours worked to about five.

The postal service, which used to make losses fairly regularly, is now a steady profit-maker, while the price of the standard letter is down in real terms, the number of retail outlets where postage services are available has increased, and delivery standards are improved.

After the railway system was turned into a corporation, freight rates fell by over half. Losses turned into profits and worker productivity almost trebled.

In almost every case, there are examples of these kinds of efficiencies after our government businesses were turned into market-oriented corporations. It is important to remember that making a profit is only part of the story; improving these companies has also contributed to making the whole economy more efficient and work better.

Another lesson is the importance of what the New Zealand Treasury have called "getting the regulatory regime right". I think a lot of the benefits we found would not have arisen if we simply turned our government departments into corporations and continued to give them monopoly protection.

For example, the New Zealand Government took away Telecom's monopoly on providing telephones, on wiring houses and businesses to connect to telephones, and on long-distance calls. In each of those areas, new firms have arisen to compete for the business. As a result, costs are down and service is improved for all customers. Productivity is up by 85%; the real price of telephone services is down by 20%; waiting time for new services is greatly reduced; there is better directly service and outdated systems have been computerised.

We then found that it made sense to sell some of these businesses to private enterprise. In the last four-and-a-half years, the New Zealand Government has sold all or part of about 35 of its businesses, and has received around $11 billion for them.

There were a number of reasons behind this move.

The Labour Government advocated selling as a means of reducing debt. The current Government emphasises its expectation that the companies will be more efficient, and will thus contribute more to the economy, in private hands.

There is a more general issue about whether the Government should be taking large business risks, or whether the private sector is better placed to assess and accept those risks. This factor was especially relevant to the decision to sell the government's interests in petroleum and gas mining.

Privatisation may not in all cases be appropriate. But sale of the enterprise completes the commercialisation process. It removes any expectation that the Government will guarantee lending to the enterprise concerned, or otherwise protect it. It places the enterprise squarely in the market—able to be bought and sold. It also permits maximum flexibility of operation—ie expansion into new areas of business, where Government may be more cautious.

Clearly the question of the extent of Government responsibility is clouded, under the half-way house, public corporation concept. Would Ministers be willing to sack boards of directors who are performing badly, or will they find that too politically embarrassing? Will Ministers have enough time to devote to State-owned Enterprises, given that they are very busy on other issues? Over time, will Ministers create pressures for political or non-commercial objectives to be met in businesses whose best contribution to New Zealand's welfare is a commercial one?

By moving through two stages—to a corporate structure and then into private ownership—the New Zealand State-owned Enterprises have been doubly invigorated. Each stage has added extra efficiencies, and extra benefit to the economy.

The New Zealand approach to realisation of state assets has been very cautious. The aim has been both to maximise the price received, and to make sure the business is sold in a way that maximised the competitiveness of the market in which it operated. Each sale was considered separately; a sales process appropriate to it was designed specially; and each was sold in a carefully managed process and without rush. We never set deadlines for a sale to be completed, because that would be used by buyers for negotiating advantage.

Where multinational companies have purchased New Zealand State enterprise the country has gained immediate and direct access to some of the best technology and management techniques in the industry—without having to buy it from third parties, without having to wait, and without the Government having to find the money and bear the risk.

New Zealand has undergone great change. The process has been invigorating and at times very unsettling. The social consequences of increased unemployment have been very hard to accept and the stresses involved in restructuring health, social security and education programmes have been politically very unpopular. But in the final result New Zealand has established itself as a productive, confident and competitive economy in the dynamic world of the Pacific.

[From International Economic Insights, Jan.-Feb. 1994]

KIWIS CAN FLY: REFORMING NEW ZEALAND'S ECONOMY

(By John McMillan)

New Zealand has leapt from being the most over-regulated of the world's advanced economies to one in which market mechanisms have free play. New Zealand's reforms came straight out of the economics journals. But their effects did not. The average New Zealander had a lower standard of living in 1991 than in 1984, when the reforms began. Only in 1991 did growth start to pick up: in 1993 it was a healthy but unspectacular 3 percent.

The reforms were innovative and well designed. Political considerations contaminated the reform strategy remarkably little: economic efficiency was the chief criterion. New Zealand provides a model for how to deregulate an economy. The sluggishness of the response, therefore, is noteworthy. New Zealand adds to evidence emerging from other reforming economies—Chile, Trukey, Mexico—that reforms, no matter how urgently needed or how cleverly implemented, can take several years to succeed.

New Zealand is a case study in the politics as well as the economics of reform. Conventional categories were overturned. Deregulation—usually seen as a right-wing policy—was introduced by a Labour, or left-wing, government. Changes were often made against the wishes of the public: when the publicly-owned telephone monopoly was sold, opinion polls showed a majority of New Zealanders opposing the sale. Conspiracy theories abound: some see the reforms as the work of the New Right, a sinister cabal of big-business leaders, Treasury officials and certain politicians.

New Zealand's policy radicalism was not confined to economic matters. There were transformations in foreign affairs—the banning of nuclear ships from New Zealand ports and the resulting collapse of the military alliance with the US—and in social relations—the reinterpretation of the 1840 Treaty of Waitangi to give broad legal recognition to Maori land-rights claims.

The impetus for economic reform was anemic economic performance. New Zealand had the world's fifth-highest income per head in 1955; by 1984 it had dropped to 19th. Between 1965 and 1984, per capita income grew by 1 percent per year. Low productivity growth was the cause: total factor productivity grew by 0.3 percent per year in 1965–84 by one estimate, or 0.6 percent by another. By the larger of these estimates, this was half the productivity growth of the United States, Britain and Australia—countries no one regards as paragons of efficiency—and a fifth of Japan's. The problem was not new. As early as 1962, Sir Frank Holme said, of the period 1949 to 1961, "the New Zealand economy has earned the unfortunate distinction of having one of the slowest annual rates of growth of productivity among all the advanced countries of the world."

New Zealand's problems were partly external. Agricultural exports, the source of most overseas earnings, were affected by the closing of the EC market, the dumping of EC surpluses, and by the decline in wool's competitive position vis-a-vis synthetics. Mostly, however, New Zealand's problems were self-induced. The government's response to external shocks consisted of controls on imports, prices and wages, interest rates and foreign exchange. Firms were subsidized and regulated and large-scale investment projects (dubbed by the then prime minister Robert Muldoon, "Think Big", but relabelled by the opposition Labour Party, "Sink Big") were led by the government.

The bizarre workings of the old economy are illustrated by an anecdote from the industrialist Alan Gibbs. For the sake of employment, the government required television sets to be assembled locally. Mr. Gibbs went to Japan to haggle over the price of components. He was greeted with disbelief: Japanese firms could supply them only by having workers unscrew complete TVs. The New Zealand firm had to pay 5 percent more for the parts than for the complete TV. When shipped to New Zealand and assembled, the sets were then sold for twice the world price.

New Zealand's low productivity reflected irrational prices. Distortions came from subsidies to firms and import controls and tariffs, which were not only the highest in the OECD but varied greatly, preventing the price system from allocating resources to their best uses.

Low productivity further reflected misaligned incentives. The labor market was centralized: union membership was compulsory and pay was based on national awards, with little scope for wages to vary across firms or to be based on performance. The income-tax schedule, with a top marginal rate of 66 percent, inhibited effort, except in tax avoidance. Import controls, together with the small population, meant that in many industries only one or two firms served the entire market. The lack of competition meant firms had little incentive to innovate.

Persistent refusals to face the chronic productivity problem resulted in a large government deficit (7 percent of GDP in 1987) and high foreign debt (46 percent of GDP, higher per head than Brazil's). Prime Minister Muldoon once said the New Zealand public would not know a deficit if they tripped over one, but the budget deficit did have consequences: inflation averaged 12.5 percent between 1970 and 1982. Like the reforming former Soviet-bloc countries, New Zealand had a two-pronged problem, microeconomic and macroeconomic. Market-oriented reforms were needed to increase productivity, by reducing price distortions and introducing incentives for productive effort. There was also an urgent need to reduce the deficits and tame inflation.

A remarkable minister of finance, Roger Douglas, enacted a package of reforms (dubbed "Rogernomics") to spread the pain. As Douglas explained: "Packaging reforms into large bundles is not a gimmick but political efficiency. The economy operates as an organic whole, not an unrelated collection of bits and pieces. When reform is packaged in this way, the linkages in the system can be used to see that each action effectively enhances every other action. Large packages provide the flexibility to ensure that losses suffered by any one group are offset by gains for the same group in some other area."

The newly elected Labour government began by devaluing the dollar 20 percent in 1984 and later floated it. It enacted anti-inflationary macroeconomic policies; farm subsidies and export subsidies were eliminated.

Trade opening began with the formation of a free-trade agreement with Australia (this predated the Labour government). This was successful: full free trade in goods was attained by 1990, five years ahead of schedule. Restrictions on trade with the world at large were also drastically reduced. Import quotas were auctioned, quota amounts were increased until the quotas ceased to bind and tariffs were reduced on a pre-announced schedule. The trade reforms, as well as reduced price distortions, increased the competitive pressure on New Zealand's firms, forcing them to become more efficient.

A value-added tax replaced the higgledy-piggledy sales taxes. The income tax schedule was rewritten, the top marginal rate dropping to 33 percent. The corporate tax rate fell to 33 percent. New Zealand's tax system now is "probably the least distortionary in the OECD," according to the OECD. Taxation remains high, however, with government spending 42 percent of GDP.

State-owned enterprises were corporatized: converted into companies fully accountable for their commercial performance to their owner, the state. This was successful: Telecom lowered its real prices 20 percent, NZ Rail 43 percent, and the Electricity Corporation 15 percent.

Privatization followed corporatization in several cases. Privatization was intended to reduce the government's debt, but also to improve efficiency, by eliminating political intervention in the firms' decisions. The privatized firms are lightly regulated: the telecommunications industry, for example, is now virtually unregulated; competition is relied on to hold down prices.

In 1990, the new National party government with another reformist finance minister, Ruth Richardson, revolutionized the labor market, abolishing centralized wage-setting. (This was controversial: cabinet ministers' effigies were burnt in protest.) Enterprise-level contracts replaced national, occupation-based awards. The role of unions was downplayed, with contracting now between employer and individual employee. Average wages appear not to have changed much, but the variance of wages has gone up and employment conditions are more flexible.

This economic-policy revolution has been painful. Although the top 20 percent of full-time workers enjoyed an 8 percent increase in their real income between 1981 and 1991, the other 80 percent saw their real incomes fall, with the lowest 20 percent becoming 7 percent worse off. Unemployment rose to over 10 percent, before starting to fall in 1993.

Can the gain justify all the pain? Although it took seven years for the economy to be growing, important gains have been achieved. The macroeconomic imbalances have been at least partially corrected, inflation is dead and the budget deficit had fallen to 1.2 percent of GDP by 1992–93. The microeconomic front also has some good news. Firms have reorganized themselves to be more efficient and are achieving impressive success: manufactured exports are rising by 15 percent a year. Macroeconomic balances and firm efficiency are not, however, ends in themselves. The reforms will only be justified if and when they generate higher living standards. Why, in New Zealand as in other reforming economies, has this taken so long?

First, the economy is a system. Reforms complement each other: a reform may be ineffective if implemented alone, and only be beneficial if introduced together with certain other reforms. The full effect of the trade reforms will come only after the 1991 labor-market reforms have taken root.

Second, the problems cannot be blamed entirely on the reforms: the plight of low-income people is caused, at least in part, by worldwide trends. Unemployment had been rising steadily before the reforms, from zero in 1974 to 5.6 percent in 1983. The shift toward labor-saving machinery and increasing trade have meant that unskilled workers are having a hard time in every rich country. Europe and Australia have higher unemployment than New Zealand; and unskilled workers' incomes have been falling in the United States.

Because of the reforms, the next decade should be much more prosperous for New Zealanders than the last. Prospects for further reform have been dimmed, however, by the November 1993 election results. The National Party scraped in with a one-seat majority; and, in a referendum on the electoral system, the first-past-the-post system lost to a form of proportional representation. "Every political revolution," as Henry Kissinger said, "sooner or later reaches its end after the public becomes exhausted from being jolted into one new effort after another."

NOTE.—McMillan is a professor of the Graduate School of International Relations and Pacific Studies of the University of California, San Diego.•

SONICS AND MATERIALS INC.'S 25TH YEAR IN BUSINESS

• Mr. LIEBERMAN. Mr. President, I rise today to acknowledge Sonics and Materials Inc.'s 25th year in business at its Danbury, CT headquarters. Sonics and Materials has a remarkable reputation for its commitment to building world-class products for customers around the globe. Offering a wide range of ultrasonic welding equipment and plastics assembly systems, the company's products are found in automotive, electronic, hardware, textile, medical device, packaging, and toy industries.

In 1963, founder and chief executive officer Robert S. Soloff received a patent for first applying the principles of ultrasonics to weldings rigid thermoplastics. Since then, there has been a dramatic growth in these welding techniques, enabling plastics to be assembled up to five times faster than previous methods. These developments can be largely attributed to Sonics and Materials' Technological innovation and achievement.

Sonics and Materials is committed not only to product excellence and customer satisfaction, but also to the well being of the community and the environment. The company maintains an energy-efficient, employee-safe, and environmentally friendly, work place. Ultrasonic plastics assembly does not use chemically based adhesives or any potentially dangerous solvents and is an easily recyclable product.

I would like to congratulate Robert S. Soloff and the 75 employees of Sonics and Materials Inc. for their 25 years of responsible, dedicated, and successful work. I am honored to recognize the outstanding achievements of this Connecticut-based company.•

MOTHERS' PEACE DAY 1994

• Mr. LEVIN. Mr. President, on May 2, in Birmingham, MI, the members of Women's Action for New Directions [WAND] will celebrate Mothers' Peace Day by honoring three very special local women.

Judith Doner Berne, managing editor of the Eccentric Newspapers, was selected for the Peace Day Award because of her community contributions. She brought the idea of "First Night" from Boston to Birmingham. It is an alcohol-free New Year's Eve celebration for families and senior citizens which attracts people from the entire metropolitan Detroit area and has been met with great enthusiasm. She also spearheaded a move to encourage all universities in Michigan to provide alcohol-free rooms and facilities.

Lisa Blackburn, an artist and teacher, created, along with her husband, a unique book called "Imagine/Render: A Gift of Peace." This book was created for the Michigan Art Education Association. Today, it is used in schools throughout the country as a curriculum for peace education through the arts. Miss Blackburn also participated in WAND's "Stop War Toys Campaign."

Hon. Jan Dolan, a member of the Michigan House of Representatives, will also receive the Peace Day Award. Ms. Dolan, a former mayor of Farmington Hills, is being honored because of her commitment to and leadership in community activities over and above her legislative work.

Mr. President, these three women exemplify the commitment of WAND to empower women to participate in the democratic process in order to reduce violence and militarism, redirect military resources toward human and environmental needs, and guarantee a future of peace and security for all our children.

I congratulate the honorees and commend WAND for recognizing their contributions to society.•

THE FLYING DUTCHMEN OF LEBANON VALLEY COLLEGE

• Mr. WOFFORD. Mr. President, on Saturday March 19, 1994, a group of inspired and determined athletes from Lebanon Valley College, a liberal arts college of only 950 students, defeated the Violets of New York University, a school with over 49,000 enrolled, to win the 1994 NCAA Division III Men's Basketball Championship. This victory was the first national championship in Lebanon Valley's 129-year history.

The Flying Dutchmen of Lebanon Valley College have accomplished a remarkable feat, despite the college's small size. Because Division III schools can not award athletic scholarships, the student-athletes of Lebanon Valley play for their love of the game. These men are truly talented and represent the very best that our schools have to offer.

The dedication and commitment of the athletes and coaches, in addition to the incredible support from their fans, demonstrate that a united effort brings the ultimate reward—the thrill of reaching a lofty but achievable goal.

I congratulate the Flying Dutchmen and Lebanon Valley College on its success, and I send my best wishes for future achievement.•

TRIBUTE TO LEONARD J. KATOSKI

• Mr. GRASSLEY. Mr. President, I am honored today to speak briefly about Leonard J. Katoski of Waterloo IA. Leonard was born in Gostynin, Poland on November 5, 1912 and arrived in Waterloo in 1913 where he has lived and worked ever since.

Leonard was greatly interested in golf and spent 12 years working as a caddie, a caddie master, and an assistant to three golf professionals.

Leonard once wrote a critical letter to the editor of the Waterloo Courier concerning what he saw as indifference and ineffectiveness of the local park board regarding some of the parks. That letter caused a group to be formed, which Leonard headed for 2 years before being named to the park board. During the next 5 years he served on the park board, liaison between the park and the recreations boards, and chairman of the recreation commission. Finally, Leonard was appointed Superintendent of Parks, a position he would hold until his retirement, 27 years later.

His involvement and awards to have been extensive. He was named Public Servant of the Year by the Waterloo Chamber. He also became a charter member of the Cedar Valley Historical Society, serving as its chairman from 1992–1994, and was elected to the post of president. Leonard has also been active in the Elks Club, Knights of Columbus, and St. Edwards Church.

Leonard, married 48 years to Marguerite Clarahan has 4 children: Carol, Cathy, Peg, and William.

I wish Leonard well and I want to thank him for all he has done.•

NATIONAL LIBRARY WEEK

• Mr. SARBANES. Mr. President, this week from April 17-23 we are celebrating the 36th anniversary of "National Library Week." As a strong and vigorous supporter of Federal initiatives to strengthen and protect libraries, I rise to draw my colleagues' attention to this important event and to take a few moments to reflect on the significance of libraries to our Nation.

When the free public library came into its own in this country in the 19th century, it was from the beginning a unique institution because it was committed to the same principle of free and open exchange of ideas as the Constitution itself. Libraries have always been an integral part of all that our country embodies: freedom of information, an educated citizenry, and an open and enlightened society. They are the only public agencies in which the services rendered are intended for, and available to, every segment of our society.

It has been my longstanding view that libraries play an indispensable role in our communities. From modest beginnings in the mid-19th century, today's libraries provide well-stocked reference centers and wideranging loan services based on a system of branches, often further supplemented by travelling libraries serving outlying districts. They promote the reading of books among adults, adolescents, and children and provide material and reference centers where every citizen may obtain reliable information on a vast array of topics.

Libraries gain even further significance in an age of rapid technological advancement where they are called upon to provide not only books and periodicals, but many other things as well. In today's society, libraries provide audio-visual materials, computer services, facilities for community lectures and performances, tapes, records, videocassettes, and works of art for exhibit and loan to the public. In addition, special facilities libraries provide services for older Americans, people with disabilities, and hospitalized citizens.

Of course, libraries are not merely passive repositories of materials. They are engines of learning—the place where a spark is often struck for disadvantaged citizens who for whatever reason have not had exposure to the vast stores of knowledge available. I have the greatest respect for those individuals who are members of the library community and work so hard to ensure that our citizens and communities continue to enjoy the tremendous rewards available through our library system.

My own State of Maryland has 24 public library systems providing a full range of library services to all Maryland citizens and a long tradition of open and unrestricted sharing of resources. This policy has been enhanced by the State Library Network which provides interlibrary loans to the State's public, academic, special libraries, the school library media centers. The network receives strong support from the State Library Resource Center at the Enoch Pratt Free Library, the Regional Library Resource Centers in western, southern, and Eastern Shore counties, and a statewide database of library holdings of over 140 libraries.

The result of this unique joint State-county resource sharing is an extraordinary level of library services available to the citizens of Maryland. Marylanders have responded to this outstanding service by borrowing more public library materials per person than citizens of almost any other State, with 67 percent of the State's population registered as library patrons.

I have had a close working relationship with members of the Maryland Library Association and others involved in the library community throughout the State, and I am very pleased to join with them and citizens throughout the Nation in this week's celebration of National Library Week. I look forward to a continued close association with those who enable libraries to provide the unique and vital services available to each and every one of us.•

ANNOUNCING THE APPOINTMENT OF THE FIRST LIAISON FOR COMMUNITY COLLEGES WITHIN THE U.S. DEPARTMENT OF EDUCATION

• Mr. HATFIELD. Mr. President, over the years, I have learned that a character trait essential to public service is the virtue of patience. I know my colleagues share my view that when representing millions of citizens, all possessing diverse needs and concerns, a little patience goes a long way. Without it, surviving the dehumanizing effects of the labyrinth of the Federal bureaucracy is an impossible task.

On February 22, 1990, I introduced legislation that would create a new position within the Department of Education dealing with community and junior colleges. I was unaware at the time that this legislative commitment would take me down a long, lonely bureaucratic road. I reintroduced this legislation on February 21, 1991, this time with a few cosponsors. One year later, I attached this legislation to the Higher Education Act amendments and saw it signed into public law.

My legislation required that within 6 months of enactment, a liaison for community and junior colleges be appointed at the Department of Education—an individual who either held a degree from a community or junior college or had worked in a community or junior college setting for at least 5 years. This act was signed by the President on July 23, 1992. I looked forward to an impending appointment.

The need was critical. While in the past the Department had an Office for Community Colleges, in recent years there has been no official structure and very few if any high-level employees at the Department who came from a community college setting. At the same time, growth within community colleges was exponential. Community college students represent the largest segment of the postsecondary student population. Forty-five percent of those in postsecondary education are enrolled in a community college and 55 percent of all incoming freshmen get their start in a community college. Enrollment in 2-year institutions continued its upward trend with a total of 6.5 million students enrolled this year. In 1987, this figure was 1.5 million. These institutions have special needs, needs that differ from traditional 4-year colleges and universities.

After enactment of the liaison position under the Bush administration, we next faced a transition of leadership. With the new administration came new delays. Despite promises from incoming administration officials to work as quickly as possible to fill the position, they were faced with filling many new appointments and the timetable for the liaison position slipped. The new position created by Public Law 102-325 remained vacant for another year and a half.

Mr. President, after 4 years of hard work and making the case several times over, I am pleased to announce the Department of Education has formally filled the liaison position. The first liaison for community and junior colleges will be Betty Duvall, executive dean of Portland Community College, and she will join us in Washington within a few weeks. Good things come to those who wait.

Betty Duvall has formally accepted the position and I have the utmost confidence in her ability to perform the duties of the liaison. She has a lifetime of experience in the field both as an instructor and a high-level administrator. Betty Duvall's record indicates her overwhelming commitment to not only innovation and excellence in education, but also meeting the needs of individuals who are often overlooked in our society.

Her new job description positions her to serve as a senior advisor to the Secretary on community college issues. While doing policy research and analysis, she will plan, coordinate, and carry out projects effecting community colleges. Her involvement will be crucial as the Department continues to carry out school-to-work and Goals 2000 opportunities.

Perhaps it is fitting that this tale culminates this week. April is National Community College Month and just a few weeks ago, we honored 20 Americans for their distinguished achievements in community colleges. This group of individuals faced enormous odds including depression, substance abuse, physical disabilities, and unemployment. They overcame these barriers and achieved the highest level of academic honor in their field.

They are the 20 community college students who were named to the 1994 All-USA Academic First Team for Two-Year Colleges. Their accomplishments were published in the April 7 edition of USA Today. These celebrated scholars represent the highest level of academic excellence obtainable in this Nation's 2-year colleges. All of the inductees have grade point averages of 3.5 or better with many reaching the 4.0 mark. I am pleased that several Oregon students were included in this group.

Jack Josewski, a student from Linn-Benton Community College in Oregon, was a member of this first team and his story is a tribute to the opportunities afforded by community colleges. Mr. Josewski was a displaced timber worker who had to make a new beginning in lieu of the major economic transitions in Oregon. Finding himself out of work, Mr. Josewski went back to school to pursue journalism. He devoted his efforts to this pursuit serving as a photographer, ad manager, reporter, and editor for his campus newspaper. During his work on the campus publication, he was awarded the Best Series Award by the Oregon's Newspaper Publishers Association for a series on displaced timber workers. Despite his heavy involvement in the campus paper, he also managed to maintain a 3.9-grade-point average.

Two other Oregonians were honored for their achievements in 2-year colleges. Heidi Scott who is studying music therapy at Southwestern Oregon Community College in Coos Bay, OR was named to the third team all academic and Brenda Leonard, a nursing student at Portland Community College, received a honorable mention.

These are just a few of the many examples of the positive impact of our community colleges. It is stories like these that have inspired my lifetime support of these institutions. One of my most rewarding moments as Governor of Oregon was the creation of the community college network in Oregon. I am joined in my pursuit for community colleges by good friends such as Keith Skelton, a visionary ahead of his time who spurred me to take on the liaison legislation, and the good folks who oversee the Oregon Community College Association—a linchpin in the fight to secure the liaison.

I firmly believe that an investment in the Nation's community colleges is an investment in our Nation's future. The passage of Goals 2000 and the school-to-work initiative demonstrate this body's recognition of education as a high priority issue. It appears as if we have given serious credence to the words of Aristotle when he said that,

> * * * all who have meditated on the art of governing mankind have been convinced that the fate of empires depends on the education of youth.

If we are truly going to heed this ancient wisdom we must not ignore the needs of the Nation's community colleges. It is in these institutions where workers are being trained and retrained, careers are being started, and students are cultivating diverse and nontraditional opportunities. I can think of no greater aim for our education system and I am pleased that Betty Duvall will soon be in place at the Department of Education to assist in these efforts.

I ask that a description of the position of liaison for community and junior colleges be entered into the CONGRESSIONAL RECORD.

The material follows:

LIAISON FOR COMMUNITY AND JUNIOR COLLEGES—GS-0301-15

INTRODUCTION

Part H, Sec. 1553 of Public Law 102-325, the Higher Education Amendments of 1992 establishes a Liaison for Community and Junior Colleges to be appointed by the Secretary. The incumbent of the position must have attained an associate degree from a community or junior college; or have been employed in a community or junior college setting for not less than 5 years.

As the Liaison for Community and Junior Colleges the incumbent shall:

Serve as advisor to the Secretary of Education, reporting through the Assistant Secretary for Vocational and Adult Education, on matters affecting community and junior colleges.

Serves as liaison to the Office of Postsecondary Education in matters related to community colleges.

Provide direct staff assistance on the formulation, development and implementation of Department policies and programs affecting community and junior colleges.

Perform liaison and coordination activities vis a vis community colleges as assigned.

Prepare research, background materials and reports on community colleges and conducts special projects as assigned.

Chair or serve on a variety of Departmental committees, task forces and teams.

Work through the School to Work and Goals 2000 teams to assist community and junior colleges to participate in the department's systemic reform efforts.

Represent the Department at meetings with representatives from interagency and external businesses and interest groups, as assigned.

Serving as the Liaison for Community and Junior Colleges, the incumbent performs special and continuing assignments and projects concerned with policy analysis and confidential program matters with which the Assistant Secretary is personally concerned. The performance of these assignments requires a thorough knowledge of the views, plans, and interest of the Assistant Secretary. The incumbent of the position requested for Schedule C exception will not be able to adequately perform his/her duties without being privy to the political, personal, and management philosophies of the Assistant Secretary. A confidential relationship of a Schedule C nature is imperative since the incumbent will speak for the Assistant Secretary and as such, will be expected to reflect his/her supervisor's philosophies in conversations with leading groups. The incumbent will also present the views of the Assistant Secretary in correspondence and other communications with agency managers and program officials.

MAJOR DUTIES AND RESPONSIBILITIES

Performs a broad spectrum of special and continuing assignments and projects of a confidential and policy making nature concerning a variety of program issues related to community and junior colleges which are of special concern to the Assistant Secretary.

Applies professional knowledge and skill sufficient to generate and apply new hypotheses and concepts in planning, conducting, and evaluating long-range projects or proposals for the solution of complex public policy questions and issues related to community and junior colleges.

Undertakes policy research, performs policy analysis and prepares reports and research papers of a confidential nature for the Assistant Secretary affecting community and junior colleges. Assembles facts and analyzes data of a highly sensitive and confidential nature providing interpretations and recommendations to the Assistant Secretary.

Coordinates the work of other professionals to accomplish several phases of complex projects concurrently or sequentially.

Serves as an advisor to the Assistant Secretary and Secretary on broad initiatives and high priority issues related to community and junior colleges which require the immediate attention of the Assistant Secretary and or Secretary. Provides comprehensive analysis relating to the proposed initiatives, conducts broad background research and short-term feasibility studies, develops general plans to coordinate work to be undertaken and prepares broad position papers to define objectives. Insures consistency with Departmental policies, objectives and other initiatives such as the School to Work Initiative and Goals 2000 and monitors results and progress achieved.

Anticipates the need for policy studies and advises the Assistant Secretary and Secretary of the need for study of long-range problems.

SUPERVISION

The incumbent reports directly to the Assistant Secretary for vocational and Adult Education. The supervisor typically provides administrative direction. Overall assignments are made in terms of broadly defined functions of the organization. Specific assignments frequently originate out of liaison activities of the incumbent with community and junior colleges, who independently negotiates the scope and objectives with Assistant Secretary.

The incumbent assumes responsibility for planning, coordinating, and carrying out projects and informs the Assistant Secretary of programs as appropriate.

The work is generally considered to be technically accurate and is often not subjected to detailed substantive review by the supervisor. Work products are examined for compliance with broad Administration and agency policy.

In all matters, the Assistant Secretary's viewpoints and the policy consideration of the Department and the Administration guide the incumbent's actions and recommendations. This position requires a confidential relationship between the incumbent and the Assistant Secretary.•

COMMENDING CAROL ANN SHUDLICK, UNIVERSITY OF MINNESOTA

• Mr. DURENBERGER. Mr. President, this past Thursday, University of Minnesota senior Carol Ann Shudlick was named the winner of the 1994 Margaret Wade Trophy. This distinguished award is given to the most outstanding woman college basketball player in the Nation, and is based not only on athletic achievement, but also the qualities of leadership and academic accomplishment.

Carol Ann's contributions to both the University of Minnesota and her local community reach far beyond the basketball court. She will graduate this spring with a degree in advertising and has been invited to participate in the USA women's basketball team trials in Colorado Springs. I ask that the attacked articles which appeared in the Minneapolis Star/Tribune and the Saint Paul Pioneer Press be included in the Record at the conclusion of my remarks.

Mr. President, each and every Minnesotan should feel pride in all Carol Ann has accomplished and, more importantly, all she will contribute to the future of our country.

The articles follow:

[From the Minneapolis Star Tribune, Apr. 16, 1994]

Shudlick Wins Top Honor—"U" Basketball Star To Get Wade Trophy

Like a defender coming from behind, the Margaret Wade Trophy crept up on Carol Ann Shudlick.

The University of Minnesota center was unaware until Thursday that she was one of six senior finalists for the most-coveted award in women's college basketball. Late that night, coach Linda Hill-MacDonald called to tell her she had won it.

"She asked what I was doing and then told me," Shudlick said Friday afternoon at a hastily called news conference. "I was unbelievably excited and overwhelmed. . . . It's a tremendous honor. I look at the previous winners, just to be considered in the same company, I'm in awe."

The Wade Trophy is named for former Delta State coach Margaret Wade, who in 1985 became the first college coach inducted into the National Basketball Hall of Fame. Past recipients of the trophy include such well-known college players as Nancy Lieberman, Lynette Woodard and Cheryl Miller. Shudlick will receive her award Nov. 19 in Jackson, Tenn.

Shudlick averaged 23.4 points this season and led the Gophers to an 18–11 record and their first appearance in the NCAA tournament. Recently, she was named to the Kodak first All-America team, one of the criteria for Wade Trophy consideration. A national selection committee of women's athletic administrators also judged candidates for the award on character and academics. Shudlick is an advertising major with a 3.13 grade-point average who has volunteered for numerous public service causes.

"This is the women's equivalent of the Heisman Trophy," said Hill-MacDonald, referring to the award given annually to the best player in college football. "It's an honor for all of us. I was so thrilled when I got the word, I started crying."

The 6-foot Shudlick, a three-time Gophers team MVP, is the first Big Ten Conference player to receive the award.

"She was a fundamentally sound player," Hill-MacDonald said. "There was not a lot of flash in her game, but flash players develop inconsistencies. She would get it done game after game. . . . And for Carol Ann, her accomplishments were not enough if we were not winning."

Shudlick finished with a school-record 2,097 points and scored in double figures in her last 56 games. Her best game might have been against 1993 national champion Texas Tech on Dec. 18 when Shudlick tied her school single-game record with 44 points, 12 in overtime, in a 92–82 victory.

Said Hill-MacDonald, "In overtime, she seemed possessed. Nobody could stop her. She had the heads of their post players spinning."

Shudlick came to Minnesota after being named Miss Basketball as a senior at Apple Valley. "She was a phenomenal player and athlete in both basketball and volleyball," said Ruth Sinn, who coached Carol Ann in basketball as a senior and all three of her younger sisters, too.

"I know she was going to be a star. She had great hands, great speed for her size and her jumping ability was phenomenal. She was one of those players without limitations. A lot of times you get players like that and they don't have a work ethic. But she was constantly asking how she could make herself better. She worked to improve."

Shudlick is still that way. Although her college career is over, she hopes her basketball days are not. Friday night, she was to leave for a college all-star game Sunday at Capital University in Columbus, Ohio.

She also is one of 54 players invited to the USA women's basketball team trials April 28–May 4 in Colorado Springs. Two teams will be picked there to compete in international tournaments this summer and some of those players could be Olympians someday.

Shudlick also has an agent trying to find a spot for her on a professional women's team next season in Europe, preferably in France. She took six quarters of French in college.

"I'll miss my family and friends," Shudlick said. "I'd like to stay at home if I could do the same thing in the U.S."

The Wade Trophy should help Shudlick in her job search: "As with anything, people ask, 'What have you done?'" Notes/ Louisiana Tech coach Leon Barmore, who has coached three Wade Trophy winners: "It's a tremendous honor. It will be meaningful to (Shudlick) for the rest of her life and will bring a lot of recognition to her school."

THE SHUDLICK FILE

A look at the career of Gophers senior basketball player and Wade Trophy winner Carol Ann Shudlick:

Age/21, Height/6-0, Hometown/Apple Valley, Position Post/forward, Honors and achievements/1993–94 Kodak All-America. . . . 1994 Big Ten MVP. . . . Three-time All-Big Ten selection, first team as a junior and senior. . . . Leading scorer in Gophers women's history. . . . Nine-time Big Ten Player of the Week. . . . Named to Big Ten All-Academic team three consecutive years. . . . Owns Gophers record for points in a single game, twice scoring 44. . . . Named Miss Basketball in Minnesota in 1990.

Year	G	FG–FGA	FT–FTA	Pts.	Avg.
90–91	24	107–230	71–97	285	11.9
91–92	27	226–440	95–133	547	20.3
92–93	26	253–470	81–104	587	22.6
93–94	29	268–542	142–189	678	23.4
Totals	106	854–1,682	389–523	2,097	19.8

Recipients of the Wade Trophy Award, given to the top senior women's basketball player in the nation:

1994/Carol Ann Shudlick, Gophers, 1993/Karen Jennings, Nebraska, 1992/Susan Robinson, Penn State, 1991/Daedra Charles, Tennessee, 1990/Jennifer Azzi, Stanford, 1989/Clarissa Davis, Texas, 1988/Teresa Weatherspoon, La. Tech, 1987/Shelly Pennefather, Villanova.

1986/Kami Ethridge, Texas, 1985/Cheryl Miller, USC, 1984/Janice Lawrence, Louisiana Tech, 1983/LaTaunya Pollard, L. Beach St., 1982/Pam Kelly, Louisiana Tech, 1981/Lynette Woodard, Kansas, 1980/Nancy Lieberman, Old Dominion, 1979/Nancy Lieberman, Old Dominion, 1978/Carol Blazejowski, Montclair St.

[From the Saint Paul Pioneer Press, Apr. 18, 1994]

Gophers' Shudlick Gets Her Sport's Top Honor

(By Charley Hallman)

Carol Ann Shudlick of the University of Minnesota won the Wade Trophy on Friday, an award her coach, Linda Hill-MacDonald, referred to as the Heisman Trophy for collegiate women basketball players.

"I'm so thrilled for Carol Ann, I started crying," Hill-MacDonald said at a press conference at the University Women's Sports Pavilion. "It's hard to express how I feel, but she is an extremely deserving recipient."

Shudlick, of Apple Valley, became the Gophers' top career scorer this season (2,097 points) while leading her team to a fourth-place finish in the Big Ten and a berth in the NCAA championships. Minnesota beat Notre Dame in the first round but lost to Vanderbilt in its second game.

A two-time Big Ten all-conference selection, Shudlick was honored as a first team All-America player two weeks ago. Since then, she has received several other All-America honors, was named the Big Ten's most valuable player and, earlier this week, was named Chicago Tribune Big Ten player of the year.

Surrounded by her father, Harold, her mother, Barbara, and her three sisters, Nancy (a Gophers teammate), Linda and Susan, Carol Ann said, "This is a great honor and one I've never thought about getting. I'm overwhelmed with everything that I've gotten. I'm surprised."

Criteria for the Wade Trophy which is awarded by the National Association of Girls and Women in Sport, include being a positive role model for women in sports, being committed to academics, and demonstrating leadership.

Shudlick has a 3.13 grade-point average; has been named to the Big Ten all-academic team for three years, and will graduate this spring with a degree in advertising.

The Wade Trophy has been given since 1978 to the "nation's most outstanding female senior basketball player" by the National Association for Girls & Women in Sport.

One player, Nancy Lieberman of Old Dominion, won the award twice before it was decided in 1981 to award the trophy to only a senior.

The award is named for Lily Margaret Wade, who retired in 1979 after compiling a 610–112 coaching record at Delta State in Mississippi. The winner is chosen by women athletic administrators from across the U.S.

The trophy is on permanent display in a prominent location of the U.S. Basketball Hall of Fame in Springfield, Mass.

Shudlick is the first Minnesota athlete to receive the award and the first from the Big Ten (Susan Robinson of Penn State was given the trophy in 1992, the year before the Nittany Lions were an official member of the conference).

Hill-MacDonald said Shudlick is one of 53 players who has been selected for a national team pool that will compete in trials later this year to help select the U.S. National and 1996 Olympic teams. She will play in the Women's Collegiate All-Star Game in Columbus, Ohio, on Sunday.

"I'd like to go to Europe and play professionally," Shudlick said. "We'll just have to see how all of this works out."•

THE BICENTENNIAL OF VIENNA, WV

• Mr. ROCKEFELLER. Mr. President, I rise today to celebrate the 200th birthday of the city of Vienna. Vienna, located on the western side of West Virginia and in the heart of the Mid-Ohio Valley, is celebrating the historic occasion of its bicentennial this year.

Vienna was founded in 1794 when Dr. Joseph Spencer received a grant of land on the banks of the Ohio River after faithfully serving his country in the Revolutionary War. He decided to sell 100 acres of this breathtaking land for others to settle, thus the creation of the city of Vienna.

Dr. Spender would no longer recognize his original land today. Vienna has expanded from its original 100 acres to over 2,300 acres and is home to over 10,000 residents. Vienna has become one of the major economic and retail centers of the Mid-Ohio Valley. In the last 10 years alone, the budget of Vienna has almost tripled because of the tremendous growth of businesses in the area.

In a time when crime is dramatically increasing throughout the United States, Vienna remains one of the safest areas in the country. As part of West Virginia, Vienna contributes to one of the lowest crime rates in the Nation and achieves this impressive crime level with only 13 police officers.

Also contributing to this outstanding level of safety is Vienna's fire department. In 1938, the entire community joined together to recruit volunteer firemen and purchase the first fire engine through fundraisers and donations. A year later, the city approved money to build the first fire station. Vienna is now one of the few cities which still has a volunteer fire department. The fire department remains one of the greatest prides of the city and is supported by an annual festivity which continues to unite the entire community.

Throughout the years, Vienna has prospered and grown; however, it has never strayed far from its roots of family and home. Its bicentennial represents not only a landmark in the history of West Virginia but also in the history of the United States.

Happy 200th birthday to the city of Vienna and to the people whose homes still grace this glorious land.•

HOMICIDES BY GUNSHOT IN NEW YORK CITY

• Mr. MOYNIHAN. Mr. President, I rise today to announce to the Senate that 16 people were killed by gunshot in New York City this past week.•

S. 1852—REAUTHORIZATION OF THE HEAD START ACT

• Mr. RIEGLE. Mr. President, I rise today to add my name to a growing list of cosponsors for S. 1852, the reauthorization and strengthening of the Head Start Act.

Mr. President, we hear a great deal about how government can fail, how government can spend billions of dollars with no result. With this program, and with this legislation we are recognizing the good that we can do. The Head Start Program has truly made a difference in the lives of our Nation's most valued resource—our children. Head Start has also been important to the families it has touched—indeed some parents have later gone on to teach in the Head Start Program.

S. 1852 not only reauthorizes Head Start but incorporates many of the recommendations made by the bipartisan Advisory Committee on Head Start Quality and Expansion. Funds are set aside for quality improvements, minimum standards are enforced, assistance is provided for staff training, and provisions are included that will help Head Start increase parental involvement and transition to K through 12 schools.

All of us are aware of the risks and the challenges that face our children in the years ahead. Far too many of them enter this world at a disadvantage and we must do everything possible to provide them with a brighter future. This legislation attempts to do that. S. 1852 provides a Head Start for children and it is a good start for us to take in 1994.

I want to thank Senator KENNEDY for his leadership on this issue and the support which members of the Labor and Human Resources Committee have given. I also commend the Secretary of Health and Human Services and the administration for their efforts at both expanding and improving this program.•

Mr. MITCHELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BRYAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CIVIL WAR HISTORY MONTH

NATIONAL CRIME VICTIMS RIGHTS WEEK

Mr. BRYAN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged, en bloc, from consideration of the following joint resolutions: Senate Joint Resolution 161, designating "Civil War History Month," and Senate Joint Resolution 174, designating "National Crime Victims Rights Week," and the Senate then proceed, en bloc, to their immediate consideration; that the joint resolutions be deemed read three times, passed, the motions to reconsider be laid upon the table, en bloc; that the preambles be agreed to, en bloc; further, that any statements relative to the passage of these joint resolutions be placed in the RECORD at the appropriate place; and the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (S.J. Res. 161) was agreed to.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 161

Whereas the period of American history known as "The Civil War" is universally recognized as one of the most significant landmark eras in our Nation's heritage;

Whereas, the continuous growth of public awareness of and interest in the Civil War period remains an integral part of America's cultural heritage;

Whereas, the study, preservation, and interpretation of literature and sites associated with this period is imbedded in the educational and cultural heritage of our country;

Whereas, the beginning of the Civil War occurred in April 1861, with the firing on Fort Sumter in Charleston, South Carolina, and the effective ending of the Civil War occurred in April 1865, with the surrender of the Army of Northern Virginia at Appomattox, Virginia, making April the most important month of the year in Civil War History; and

Whereas, the heritage of the Civil War deserves the attention and respect of all individuals in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 1994, is designated as "Civil War History Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

So the joint resolution (S.J. Res. 174) was agreed to.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. Res. 174

Whereas public opinion polls clearly indicate that crime and violence is the number one concern among all United States citizens;

Whereas six million four hundred thousand violent crimes are committed each year in the United States;

Whereas every minute in the United States, four women are battered, one woman is raped, six children are abused, and one person is robbed;

Whereas there is a crucial need to provide crime victims with quality programs and services to help them recover from the devastating psychological, physical, emotional and financial hardships resulting from their victimization;

Whereas there are ten thousand public and private agencies and organizations in the United States that are dedicated to improving the plight of crime victims;

Whereas victims play an indispensable role in bringing offenders to justice and thus preventing further violence;

Whereas law abiding citizens are deserving of rights, resources, restoration and rehabilitation;

Whereas victim service providers, counselors and advocates should enjoy full support from all public and private institutions, entities and individuals in their efforts to render critical assistance to those whom our Nation failed to protect;

Whereas the Nation's victims' rights movement and allied professions deserve recognition for their tireless efforts on behalf of victims of crime and their struggle to reduce senseless violence in America; and

Whereas whether measured in dollars, domestic tranquility, dread or death, crime represents the greatest threat to Americans and America: now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 24 through 30, 1994, be designated as "National Crime Victims' Rights Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

RIO GRANDE DESIGNATION ACT OF 1993

Mr. BRYAN. Madam President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (S. 375) to amend the Wild and Scenic Rivers Act by designating a segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 375) entitled "An Act to amend the Wild and Scenic Rivers Act by designating a segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rio Grande Designation Act of 1994".

SEC. 2. DESIGNATION OF SCENIC RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following new paragraph:

"( ) RIO GRANDE, NEW MEXICO.—The main stem from the southern boundary of the segment of the Rio Grande designated pursuant to paragraph (4), downstream approximately 12 miles to the west section line of Section 15, Township 23 North, Range 10 East, to be administered by the Secretary of the Interior as a scenic river.".

SEC. 3. DESIGNATION OF STUDY RIVER.

(a) STUDY.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end the following new paragraph:

"( ) RIO GRANDE, NEW MEXICO.—The segment from the west section line of Section 15, Township 23 North, Range 10 East, downstream approximately 8 miles to the southern line of the northwest quarter of Section 34, Township 23 North, Range 9 East.".

(b) STUDY REQUIREMENTS.—Section 5(b) of such Act (16 U.S.C. 1276(b)) is amended by adding at the end the following new paragraph:

"( ) The study of the Rio Grande in New Mexico shall be completed and the report submitted not later than 3 years after the date of enactment of this paragraph.".

SEC. 4. RIO GRANDE CITIZENS ADVISORY BOARD.

As soon as practicable after the date of enactment of this Act, the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall take appropriate steps to obtain the views of the residents of the village of Pilar and of those persons who are the owners of property adjoining the river segments described in sections 2 and 3 concerning implementation of this Act, and to assure that those views will be considered in connection with preparation of a comprehensive management plan for the segment designated by section 2 and the study required by section 3.

SEC. 5. WITHDRAWAL OF ORILLA VERDE RECREATION AREA.

(a) IN GENERAL.—Subject to valid existing rights, the lands described in subsection (b) are withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under all laws pertaining to mineral and geothermal leasing.

(b) LANDS.—

(1) DESCRIPTION.—The lands referred to in subsection (a) comprise an area known as the "Orilla Verde Recreation Area", including—

(A) approximately 1,349 acres which were conveyed to the United States by the State of New Mexico on July 23, 1980, April 20, 1990, and July 17, 1990; and

(B) an additional 4,339 acres of public lands, all as generally depicted on the map entitled "Orilla Verde Recreation Area, New Mexico", and dated February, 1994.

(2) PUBLIC ACCESS.—The map referred to in paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

SEC. 6. COMPLETION OF PREHISTORIC TRACKWAYS STUDY.

The Secretary of the Interior is authorized to contract with the Smithsonian Institution for the completion of the prehistoric trackways study required under section 303 of the Act entitled "An Act to conduct certain studies in the State of New Mexico", approved November 15, 1990 (Public Law 101-578).

Mr. BRYAN. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

Mr. BRYAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COASTAL HERITAGE TRAIL ROUTE APPROPRIATIONS AUTHORIZATION ACT

Mr. BRYAN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (S. 1574) to authorize appropriations for the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1574) entitled "An Act to authorize appropriations for the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That section 6 of Public Law 100-515 (16 U.S.C. 1244 note) is amended—

(1) by striking "There" and inserting "(a) There"; and

(2) by adding at the end the following:

"(b)(1) Notwithstanding the provisions of subsection (a), there are hereby authorized to be appropriated to the Secretary to carry out the purposes of this Act $1,000,000, which is in addition to any sums appropriated for such purposes for use during fiscal years ending on or before September 30, 1993.

"(2) Funds appropriated pursuant to this subsection to carry out the purposes of this Act shall be used solely for technical assistance and the design and fabrication of interpretive materials, devices and signs. In addition to the limitation on funds contained in subsection (a), no funds made available under this subsection shall be used for operation, maintenance, repair or construction except for construction of interpretive exhibits.

"(3) The Federal share of any project carried out with funds appropriated pursuant to this subsection may not exceed 50 percent of the total cost for that project and shall be provided on a matching basis. The non-Federal share of such cost may be in the form of cash, materials or in-kind services fairly valued by the Secretary.

"(c) The authorities provided to the Secretary under this Act shall terminate five years after the date of enactment of this subsection.".

Mr. BRYAN. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

Mr. BRYAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMPENSATION FOR LOSSES IN KUWAIT

GOVERNMENT OF ITALY COMMENDATION RESOLUTION

Mr. BRYAN. Mr. President, I ask unanimous consent that the Senate proceed, en bloc, to the immediate consideration of calendar Nos. 226 and 391; that the resolutions be agreed to, en bloc, and the motions to reconsider be laid upon the table, en bloc; that the preambles be agreed to; further, that any statements relating to these calendar items appear at the appropriate place in the RECORD, and the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 134) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 134

Whereas during the Iraqi invasion of Kuwait in August 1990, the United States Government evacuated numerous families within a 48-hour period;

Whereas many of these families consisted of one or more American citizens and their immediate relatives;

Whereas the urgent nature of the evacuation process forced these families to leave personal property and assets in Kuwait;

Whereas since the liberation of Kuwait, the Government of Kuwait has not permitted these families to return to Kuwait to settle their financial accounts;

Whereas many of these families have not been compensated for contractual and business obligations that existed before the invasion of Kuwait;

Whereas the Government of Kuwait has acknowledged that it is "well aware of the indispensable contributions made by many of the foreign workers who resided in Kuwait before August 2, 1990"; and

Whereas these families are at present residing in several States throughout the United States and are being supported through public assistance programs and loans from the United States Government: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should encourage the Government of Kuwait to compensate the American citizens and their families which were evacuated from Kuwait during the Iraqi invasion of August 1990, in accordance with the applicable contractual, business, and financial obligations of the Government of Kuwait or of its citizens, as the case may be.

So the resolution (S. Res. 155) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 155

Whereas the software industry estimates that United States and European software firms lost more than $4,600,000,000 in sales in Europe in 1992 due to illegal piracy of their products;

Whereas the illegal piracy of software threatens the continued development of the software industry throughout the world and the availability of new and better products for computer users;

Whereas the illegal piracy of software causes significant tax revenue losses from lost sales and gives criminal organizations a new area of activity through the supply of counterfeit product;

Whereas the Government of Italy enacted new legislation in December 1992, to strengthen the protection of software under Italy's copyright law;

Whereas the Guardia di Finanza, the Carabinieri, and the Italian national police have recently undertaken a number of significant and highly successful antipiracy actions against illegal software use throughout Italy;

Whereas much of the software uncovered during these actions has been pirated copies of products of leading American software companies; and

Whereas the recent antipiracy actions by Italian authorities have resulted in a significant reduction in software piracy in Italy; Now, therefore, be it

Resolved, That the Senate—

(1) commends the Government of Italy on its commitment to halting software piracy;

(2) congratulates the Guardia di Finanza, the Carabinieri, and the Italian national police for their continuing antipiracy actions; and

(3) expresses its hope that the Italian authorities will continue to prosecute software laws vigorously and that copyright agencies around the world will follow the example set by the people and Government of Italy.

SECRETARY EMERITUS WALTER J. STEWART

Mr. BRYAN. I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 204 now at the desk, the resolution be agreed to and the motion to reconsider laid upon the table, and that the preamble be agreed to.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

So the resolution (S. Res. 204) was agreed to.

The preamble was agreed to.

The Resolution, with its preamble, is as follows:

S. RES. 204

Whereas the Senate has been advised of the retirement of its Secretary, Walter J. Stewart, on April 14, 1994; and

Whereas Walter J. Stewart has served the Senate with distinction for 38 years, the last seven of which were as Secretary of the Senate: Now, therefore be it

Resolved, That, effective April 15, 1994, as a token of the appreciation of the Senate for his long and faithful service, Walter J. Stewart is hereby designated as Secretary Emeritus of the United States Senate.

ORDERS FOR TOMORROW

Mr. BRYAN. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. Wednesday, April 20; that following the prayer, the Journal of proceedings be deemed approved to date, and that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each, with Senator MOSELEY-BRAUN recognized for up to 15 minutes; that at 10 a.m. the Senate resume consideration of Calendar No. 251, S. 540, the Bankruptcy Amendments Act of 1993.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BRYAN. I am informed that the Chair may have an announcement that needs to be made.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair would like to make two announcements.

The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d-276g, as amended, appoints the Senator from Alaska [Mr. MURKOWSKI], as Vice Chairman of the Senate delegation to the Canada-United States Interparliamentary Group during the 2d Session of the 103d Congress, vice the Senator from Alaska [Mr. STEVENS].

The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276c-276k, as amended, appoints the following Senators as Members of the Senate delegation to the Mexico-United States Interparliamentary Group during the 2d Session of the 103d Congress, to be held in Huatulco, Mexico, April 22-25, 1994:

The Senator from Iowa [Mr. GRASSLEY]; the Senator from Pennsylvania [Mr. SPECTER]; and the Senator from Alaska [Mr. MURKOWSKI].

CONGRATULATIONS TO SENATOR MITCHELL

Mr. SIMPSON. Mr. President, I wish to just briefly give my hardiest congratulations to our majority leader. I have just read about this little social note here, and I wish to express my pleasure in that and to wish our majority leader and Heather MacLachlan a full and complete life and every degree of happiness in their coming union. I think that is very appropriate and a lovely thing and important for the majority leader and his intended. I wish them well.

I thank the Chair.

Mr. BRYAN. Mr. President, I would like to be associated with the remarks of my distinguished colleague, the senior Senator from Wyoming.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BRYAN. If there is no further business to come before the Senate

today, and if no other Senator is seeking recognition, I now ask unanimous consent the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 9:03 p.m., recessed until Wednesday, April 20, 1994, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 19, 1994:

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

SIMON FERRO, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1994, VICE CARLOS SALMAN, TERM EXPIRED.

SIMON FERRO, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1997. (REAPPOINTMENT.)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PAUL M. IGASAKI, OF CALIFORNIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JULY 1, 1997, VICE EVAN J. KEMP, JR., RESIGNED.

DEPARTMENT OF DEFENSE

MANUEL TRINIDAD PACHECO, OF ARIZONA, TO BE MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF 4 YEARS, VICE RICHARD F. STOLZ.

DEPARTMENT OF JUSTICE

LAURIE O. ROBINSON, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE JIMMY GURULE, RESIGNED.

JEREMY TRAVIS, OF NEW YORK, TO BE DIRECTOR OF THE NATIONAL INSTITUTE OF JUSTICE, VICE CHARLES B. DEWITT, RESIGNED.

FEDERAL AGRICULTURAL MORTGAGE CORPORATION

MARILYN FAE PETERS, OF SOUTH DAKOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION, VICE DERRYL MCLAREN, RESIGNED.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

JAN PIERCY, OF ILLINOIS, TO BE U.S. EXECUTIVE DIRECTOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT, VICE E. PATRICK COADY, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN P. JUMPER [redacted] U.S. AIR FORCE

IN THE ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. HAROLD T. FIELDS, JR. [redacted] U.S. ARMY

CONFIRMATION

Executive nomination confirmed by the Senate April 19, 1994:

IN THE NAVY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be admiral

ADM. FRANK B. KELSO II, U.S. NAVY [redacted]

HOUSE OF REPRESENTATIVES—*Tuesday, April 19, 1994*

The House met at 10:30 a.m.

MORNING BUSINESS

The SPEAKER. Pursuant to the order of the House of Friday, February 11, 1994, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leaders limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. GOSS] for 4 minutes.

AT WHAT COST REFORM?

The SPEAKER. Under the Speaker's announced policy of February 11, 1994, the gentleman from Florida [Mr. GOSS] is recognized during morning business for 4 minutes.

Mr. GOSS. Mr. Speaker, underlying the entire national health care reform debate lie two central philosophical questions: How much Government do we want in the American system? How much Government can we afford?

Some people believe the Government should take over and manage our entire national health care delivery system—with centralized control and decisionmaking. On the other end of the spectrum are those of us who believe that our health care decisionmaking must remain predominantly private, personal, and market driven.

Clearly, the current patchwork of Government and market forces that crisscross our health structure have left an imperfect situation in which millions of Americans lack access to quality care and the cost of providing that quality care is skyrocketing. But is more Government control—some of us might say "interference"—the answer? Looking at the history of American health care spending, we see alarming trends that raise serious red flags about the costs of Government-run health care.

In 1940, this Nation spent $4 billion on health care. In 1960, total national health expenditures were $27.1 billion. In 1965, the year Government became a health service payor for millions of Americans through Medicare and Medicaid, national health spending had increased to $41.6 billion. Over the next 15 years, national health spending quintupled, reaching more than $250 billion in 1980. Over the next decade, health spending more than doubled again, and by 1991, this Nation was spending $751.8 billion on health care. Put another way, in 1960 we spent 7.8 percent of our gross domestic product on health care. By 1991, that number was 14.1 percent. Not only has Government's entry into a major portion of our health care market not had a positive effect on the cost of care, but, rather, many of us believe Government's intrusion into the marketplace has been a major factor in the enormous increase in health spending.

Simply put, Government control tends to inflate, rather than lower costs.

The President keeps telling us that his health reform plan will control health spending, while ensuring that everyone has health care and bringing down the national debt. If it sounds too good to be true, that is because it is. Even the Congressional Budget Office, which was under enormous political pressure to provide a favorable review of the Clinton plan, has found that under the best of circumstances—that is, if price controls are 100 percent effective—the Clinton health plan will generate additional deficits of $130 billion over the next 5 years.

When has anything the Government does been anywhere close to 100 percent effective? A more realistic review, conducted by the well-respected policy firm of KPMG Peat Marwick, found the Clinton plan will likely add $579 billion to the national debt in the next 7 years if its price controls are 50 percent effective—which is also a stretch for the Federal Government.

As we look at other analyses—like those that predict massive job loss under the Clinton plan, and those that show the President's approach has severely underestimated the costs of the new health entitlement he promises—it's no wonder Americans are increasingly rejecting the Clinton plan.

The answer to those two central questions is becoming loud and clear: Americans do not want Government making their health care decisions, and they cannot afford it either, and they know it, and they are asking us to look at the other choices.

LIFT THE ARMS EMBARGO ON BOSNIA

The SPEAKER pro tempore (Ms. DANNER). Under the Speaker's announced policy of February 11, 1994, the gentleman from Michigan [Mr. BONIOR] is recognized during morning business for 5 minutes.

Mr. BONIOR. Madam Speaker, how many innocent people have to die in Bosnia before the world does something about it?

How many innocent children have to be slaughtered in Gorazde before we respond?

Are 200,000 dead Bosnians enough? Are 16,000 slaughtered children enough?

That's how many have died in Bosnia in less than 2 years.

As we stand here this morning, Serbian bombs continue to rain down on the defenseless Moslem enclave of Gorazde.

The body count from 3 weeks of savage Serbian shelling stands at 302 and counting.

Nearly 1,100 men, women, and children in Gorazde have been injured.

Half the population has been rendered homeless.

Madam Speaker, this is not just a humanitarian disaster of epic proportions. It's one of the great moral tragedies of our time.

As we speak, bombs are falling in Gorazde at a rate of 1 every 20 seconds.

The town hospital—which is trying to treat the sick and injured—has been hit so many times they don't know how much longer it will last.

Serbian snipers are randomly shooting at people as they walk the streets, in search of shelter out of the line of fire.

Every new village that Serbian troops capture on the way to Gorazde—is another village burned to the ground.

One U.N. plane has already been shot down. One British soldier has already been killed.

Meanwhile, the Moslem population in Gorazde continues to starve, and bleed, and die.

Madam Speaker, how can this have happened?

How can civilized nations have sat back silently and watched this situation unfold?

There is no question that the hottest places in hell today are reserved for the butcher of Belgrade, Slobodan Milosevic, and the shameless leader of the Bosnian Serbs, Radovan Karadzic.

And we cannot let them commit these atrocities any longer.

This is nothing less than ethnic genocide.

And we cannot be willing partners to genocide any longer.

We must take action now.

Madam Speaker, it is clear that the Serbs cannot be trusted.

Time and time again at the bargaining table, they have lied to the United

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Nations. They have lied to the international community. They have even lied to the Russians.

And even though negotiations will and must continue, they have given us no reason to trust them now.

The only thing that is going to stop the Bosnian Serbs now is if their force is met by force, and if they are made to realize that further force will get them nowhere.

Madam Speaker, it is incomprehensible to me that the combined power of the United States and NATO cannot stop the Bosnian Serbs.

Some say air strikes have failed. But let us be honest—we have not really tried air strikes. We just dropped a few bombs and then backed off when it got dangerous.

Madam Speaker, it is time to use the full weight of United States and NATO war planes in Bosnia.

It is time to pound the Bosnian Serbs into submission.

And if the Serbs continue to hit targets in Bosnia—then select targets in Serbia itself ought to be hit in return.

And even if the United Nations is unwilling to step in and defend the people of Bosnia with all guns blazing, at the very least, we must let the people of Bosnia defend themselves.

To deny them both is unconscionable.

For nearly 2 years now, some of us have been calling for an end to the U.N. arms embargo on Bosnia, to let the people of Bosnia defend themselves from these brutal attacks.

But for 2 years, the international community has just waited and watched.

Madam Speaker, we have already waited far too long. And we can't wait any longer.

It is time to lift the U.N. arms embargo on Bosnia today.

To have imposed the arms embargo in the first place was incomprehensible. To have kept it in place for so long, and after so much suffering, is utterly shameful.

We promised the Moslem people that Gorazde would be a safe haven.

We promised that their children and their families would be safe there.

We promised that no harm would come to them if they trusted the United States.

Well, they trusted us, Madam Speaker. And now they are dying.

And unless we act right now to let the Bosnian people defend themselves, unless we act right now to lift the arms embargo, and to use the full force of the United States and NATO to increase air strikes, then the blood of Bosnia is not just on the hands of the Serbs.

It is on all of us.

LIVING WITHIN OUR MEANS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from New Hampshire [Mr. ZELIFF] is recognized during morning business for 3 minutes.

Mr. ZELIFF. Madam Speaker, about 9 months ago we started a project here in the House to address the greatest challenge we all have, and that is to live within our means to turn over a stewardship to the future of our country, to our grandchildren and our children, and in early August we had 234 cosponsors of a letter to the Speaker asking for a time certain to address the challenge of living within our means, to cut spending.

□ 1040

After those 234 cosigners, during that following week we signed on and basically passed the deficit reduction bill that added a trillion dollars to our debt, the bill called the Clinton Economic Plan. We then dropped the bill, and we now have 227 cosponsors.

We have 172 Republicans and we have 55 Democrats, for a total of 227 cosponsors.

It is a bipartisan spending mission. It is a mission because it is a major grassroots effort to address the No. 1 challenge in this House. It is kind of like a small town meeting in New Hampshire or a small business meeting where people sit around the table, look at their expenses and their problems, and cut back their expenses so they can live within their means. It is a very simple process.

We think that we can cut $100 billion from this deficit. The key is that we are going to be doing it line by line, and we basically have a proposal on a particular program. There would be an open rule, a full debate, and an up-or-down vote. We think we can cut even more than $100 billion.

It is going to be the reversal of what Congress normally does. What they normally do well is spend a lot of money. What they do not do well is spend within their means, cut their spending, and get rid of inefficiency in Government. It is going to be kind of like turning the tables on the U.S. Congress from a grassroots effort. It is as simple as A to Z. It is going to break down the walls of this House.

Low taxes come from low spending. That is the way we do it in New Hampshire.

There are just a few other things to be aware of. On April 7, the Wall Street Journal came out in a lead editorial on the A-to-Z concept. George Will last Thursday came out with his editorial in the Washington Post, and since then we have had syndicated columns of George Will across the country.

Many, many organizations have signed on. The National Chamber of Commerce signed on yesterday. United We Stand signed on yesterday, I believe. Other organizations supporting the plan are the American Conservative Union, the American Legislative Exchange Council, Americans for a Balanced Budget, the American Small Business Association, Americans for Tax Reform, Christian Coalition, Citizens Against Government Waste, Citizens for a Sound Economy, Free the Eagle, National American Wholesale Grocers Association, National Federal of Independent Business, National Taxpayers Union, Pennsylvania Leadership Council, Small Business Survival Committee, and the United Seniors Association.

Again we are talking about this nationwide, and on Thursday, April 28, we will initiate a discharge petition where we will hopefully get 277 Members or more to sign on a discharge so we can get it out on the floor for a full debate.

Madam Speaker, it is time to take the pork to the slaughterhouse, I say to my friends.

TWO MAJOR ISSUES—DIETARY SUPPLEMENTS AND CRIME CONTROL

The SPEAKER pro tempore (Ms. DANNER). Under the Speaker's announced policy of February 11, 1994, the gentleman from New Mexico [Mr. RICHARDSON] is recognized during morning business for 5 minutes.

Mr. RICHARDSON. Madam Speaker, there are a couple of issues that Members' offices continue to get a flood of mail on and that we need to address in the Congress. One obviously is the crime bill, which hopefully we will conclude soon. The other is legislation on vitamins and dietary supplements.

The public expects a resolution on the dietary supplements issue. I have a bill, H.R. 1709, that has 242 cosponsors in the House. That is the Dietary Supplements Health and Education Act. Senator HATCH in the Senate has a similar bill that has 63 cosponsors in the Senate. With such a strong show of support, the public expects action, and I believe we must give them what they want. Undoubtedly most Members hear a lot about this issue when they go home.

The final update on this matter is that Congressmen DINGELL and WAXMAN and myself and Senators HATCH and KENNEDY and KASSEBAUM are meeting, along with our staffs, to see if we can work out our differences. I think it is possible for us to work out our differences and find sensible ways to ensure the health of the public while also guaranteeing their access to dietary supplements and truthful and nonmisleading information about those products.

Madam Speaker, what we are talking about is consumer choice. The Government should not tell us what to do when it comes to vitamins or dietary supplements. The FDA is attempting to be the arbiter on many health care issues on which they are not expert. Final determinations should be based on science, and what we want is for consumers to have access to dietary supplements and to base their choices on truthful and nonmisleading information.

Madam Speaker, consumers can make their own decisions without excessive FDA interference. That is the basis of the Richardson-Hatch bill, and hopefully we will work out a compromise. Bureaucrats should not make decisions for consumers on health care. The public must have freedom of choice.

On the crime bill, Madam Speaker, I think what we will pass shortly is a very exciting and positive piece of legislation that combines more police, more punishment, and more prevention programs.

All around the country our constituents have been insisting that we do something to make our schools, our neighborhoods, and our homes safe again. The President has called on us to vote for a crime package that is strong and that is tough, a package that will punish offenders, yet will promote measures to prevent crime. This bill does that. It punishes criminals and offers very strong and new prevention measures.

It sends a message to repeat offenders that enough is enough. It tells them that if you do violence to others, you are going to be punished. The three-strikes-you're-out provision is going to send criminals with three serious offenses to prison for life with no possibility of release. In addition, those who commit certain offenses will also be subject to the death penalty, making this crime bill extremely tough on criminals, in addition to providing stronger sentencing measures.

The bill is also smart for it ensures that racial discrimination is prohibited in death sentencing.

Smart crime prevention measures are also included in the crime bill. Billions of dollars are going to be directed to youth crime prevention, including measures to keep kids occupied and off the streets. This bill is going to allow grants to develop effective programs to reduce juvenile gang participation and juvenile drug trafficking. It also supports drug treatment programs within State and local correctional facilities.

Prevention measures in the bill focus on kids by, for example, creating youth recreational programs which will give young people an opportunity to exercise and play sports, in hopes that this will build teamwork incentives and get them off the streets.

There will be 50,000 more cops on the beat, with the Senate provision calling for 100,000 more cops on the beat. This is significant. This is a strong addition to the police population in this country. And there is a focus on rural areas to ensure that rural areas get the benefit of these programs.

Madam Speaker, everyone, from mayors to high school students to parents to cops must realize that stopping crime is a joint effort, and that the battle against crime is not going to be won unless everyone participates.

THE FAILURES OF THE CLINTON FOREIGN POLICY

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from Pennsylvania [Mr. WALKER] is recognized during morning business for 2 minutes.

Mr. WALKER. Madam Speaker, in the modern era you cannot have an effective economic policy without global security. The weaknesses showing up in our domestic economic arena are related to an ineffective foreign policy. This administration's foreign policy failures are jeopardizing the Atlantic Alliance, the Pacific Rim, the Middle East, and the Caribbean. The fallout of the resultant instability is undermining world economic markets and our domestic economy.

President Bush was criticized for concentrating his attention on world affairs at the expense of domestic policy. It is now becoming increasingly clear that this administration is not paying enough attention to its foreign policy. The Washington Post in this morning's edition puts it this way, and I quote:

> President Clinton has backed off in Haiti, in Somalia and now, not for the first time, in Bosnia. Positioning himself as the pawn of a self-driven international machine, he has abdicated what ought to be a great power's serious effort to win, first, the American people and then others to policies of American design. * * * As Gorazde shudders under point-blank Serb shelling—a war crime, by the way—he flees Washington for a rally of Mustang owners.

Madam Speaker, the questions about the Clinton foreign policy are whether it exists at all and whether our foreign policy failures will not end up destroying jobs here at home.

□ 1050

GENOCIDE IN BOSNIA

The SPEAKER pro tempore (Ms. DANNER). Under the Speaker's announced policy of February 11, 1994, the gentleman from Indiana [Mr. MCCLOSKEY], is recognized during morning business for 5 minutes.

Mr. MCCLOSKEY. Madam Speaker, today is truly on this beautiful, quiet Washington day an important historical watershed day as to not only Bosnia, but our role in the world and the immediate future and international security of this planet.

As we talk here, thousands and thousands of people are dying. They are dying in Gorazde, they stand to die elsewhere in Bosnia, Zepa, Srebenica, Tuzla, and now perhaps even Sarajevo. As we know, the Serbs have confiscated various heavy weaponry which had been in the possession of the United Nations, now leaving Sarajevo, besides all these other places, awaiting their tender mercies.

Quite frankly, what are we doing? We are talking about it. We are reviewing it. We are studying it. We then are consulting with allies. But as months and months go by and as some 200,000 Bosnians have died, we continue to be in a stilted and almost inert position.

There is more at stake here than Bosnia and the people in it. What truly is at stake is our political leadership, our moral leadership, and, indeed, the feeling that somehow, with this semicollapsed post-card war order, that we can have a role in making this planet the secure and stable place it needs to be for all its citizens.

Over the Easter break I had the fortunate opportunity to be in both Mostar and Sarajevo. One of the most joyous experiences of my life was to attend Easter Sunday mass at Sarajevo with Archbishop Pulish, I might say a Croat, speaking out for unity and peace and tolerance and civil rights in Bosnia, regardless of relgious or ethnic background. I might note he is a Croat who has gone through the agonies of the deaths of hundreds of thousands of people, of his people, of all backgrounds. And still, since that time, since we have had credit for the ceasefire in Sarajevo, since we have had credit for the implementation of the Bosnian-Croat alliance, we stand now on the verge of losing all that as people are openly slaughtered in Gorazde, as NATO planes are shot down, as British soldiers are murdered on the spot by Serbs, as U.N. forces are in essence, one way or another, our own Western personnel, are seized by these thugs, and in essence we hear Mr. Akashi and others talking about getting out of the country.

As Mr. BONIOR so eloquently stated, and I think we will be addressing this concern in a special order again tonight, what we need now, among other things, is air strikes, real air strikes, and a lifting of the arms embargo. We do not need two puny, pinpoint numbers where, unfortunately, whatever happened with the technology, four of five bombs did not go off. We do not need to pretend to continue to impose an illegal arms embargo, which is illegal and immoral on its face, in contravention of the U.N. charter and the right of every country and every people to defend themselves. It is illegal on its face. It is also contrary, I think, to any reasonably gifted person as to any aspect of natural law.

So as we do these air strikes, hopefully as President Clinton exercises real leadership at this most important time in the Bosnian conflict, we should not confine ourselves to pin strike attempts. We need to be knocking out the supply bridges over the Drina and the Sava. We need to be knocking out tanks. We need to be knocking out roadways. We need to show the world, show the Bosnians and the Croats and the Serbs, that our military and moral authority means something, and that we will not continue to stand by and abdicate any moral leadership while a genocide goes on. What do the words "never again" mean if we all of us together allow genocide to go on?

So again, as tragic as Bosnia is, this issue is bigger than Bosnia. It is as big as the planet. It is as big as the personal and national security of every person and good citizen in it. If we do not act today, Mr. President, not a bunch of more deliberations and reviews, we all stand imperiled and we all stand fearful of the collapse of American moral authority.

CAMPAIGN FINANCE REFORM LONG OVERDUE

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from California [Mr. HORN], is recognized during morning business for 5 minutes.

Mr. HORN. Madam Speaker, Republicans, like the public and Congress, do not support taxpayer dollars being used to fund political campaigns. Even the Democratic majority does not support such funding. That is why their bill contains none.

S. 3, as amended by the House of Representatives, is not reform. So-called $600,000 spending limits actually approach $1 million once all the loopholes are added up. I cannot call a bill campaign reform when less than one out of every four campaigns approaches the so-called limit on spending.

American voters want an end to excessive campaign spending. American voters also want an end to political action committees. Instead of limiting the influence of special interests, the $5,000 limit from a PAC can contribute to a candidate in each election, primary and general, is a sacred cow for House Democrats, many of whom are in safe seats and can collect $10,000 from a PAC in a few months. Even Senate Democrats, however, agreed to a ban on political action committees.

S. 3 is now public financing without enforcement. Democrats want to fill the bank with money, and then fire all the guards. Outside experts say enforcing these proposed regulations will require a 50 percent to 200 percent increase in funding for the Federal Election Commission, the FEC. Instead of funding these new responsibilities, what has the Clinton administration done? It has cut the FEC funding.

Does the President and members of his administration really care about campaign finance reform? Of course not. If they cared, they would not cut the budget of the FEC.

As a member of the Republican campaign reform task force, I helped write a real reform bill. We banned political action committees. We required candidates to get their money from the voters who primarily elected them, not from the special interest lawyers in Washington DC, who pay $500 at a clip for a PAC-based breakfast, lunch, or dinner, and then just happen to want an appointment the next day in the Member's office.

We need to pass a bill with real reforms. S. 3 is an absolute sham. In its own words, "The Provisions of this Act (other than this section) shall not be effective"'' until the enactment of revenue legislation."

Rumors are that the leadership wants to fund this bill with an income tax add-on. Recently we had to bail out the presidential campaign fund because only 17 percent of the taxpayers checked "yes" to a tax transfer that added nothing to their tax bill. Now the Democrats expect taxpayers to add $5 or $10 to their tax bill to fatten the candidate war chests.

Why not let the taxpayers make up their own mind about writing a candidate a check? Even the President and the First Lady had not checked the presidential fund transfer box until he began running for President. If a career politician will not check the box, who will? The idea that "we will find the money somewhere" is what put this country $4.5 trillion in debt.

This bill continues that thinking. The gentleman from Connecticut [Mr. GEJDENSON], was recently quoted as saying, "Next year we can find another source" when the funding comes up short. Mr. GEJDENSON, the American taxpayer is tired of hearing about "next year."

The taxpayers are demanding that we get serious about reform and deficit reduction. This bill does not do either. We desperately need campaign finance reform. There are a number of good proposals out there. All of us stand ready to talk with Members of Congress interested in real reform, in bipartisan reform.

Recently the gentleman from Illinois [Mr. MICHEL], the gentleman from Georgia, [Mr. GINGRICH] the gentleman from Louisiana [Mr. LIVINGSTON], and the gentleman from California [Mr. THOMAS], sent a letter to the Speaker last Thursday expressing the Republican party's support for reform without giving taxpayer moneys to candidate war chests.

I urge the Democratic leadership to get serious about reform. Give up the S. 3 charade, as amended by the House, and negotiate with Republicans on true reforms: A ban or limit on PACs; an end to the soft money, which was behind the corruption of the Keating scandal; an end to the leadership PACs designed to spread money among Members of the House, so some Members can go on prestigious committees or be elected to various leadership positions.

☐ 1100

The estimates are that S. 3 will transfer about $93 million of taxpayer dollars into campaign war chests. Millions of dollars more will be needed by the FEC to even attempt to distribute the money and enforce campaign laws. The proposals discussed so far do not approach those levels of funding. It is time to acknowledge that the misguided attempt to force public funds through the House will fail. It is time to negotiate a bipartisan reform plan with real reforms that can pass this House and become the law of the land.

The entire process that this bill has followed through the House of Representatives is wrong. As usual, the leadership has stifled debate by refusing to name a conference committee. Reporters were told on February 2 that conferees would be named just after the February Presidential birthday break. It is now mid-April. Where is the conference committee? Is it waiting for the Democratic leaders to decide what they will order the conferees to say? I think so.

We have House rules for a reason, to presumably promote debate and to make sure that through national argument the laws we pass are good laws. The process S. 3 has followed guarantees that it will fail. It is the result of secret back-door negotiations. It will not reform the campaign mess that our fellow Americans are about to face again this year. I know that real reform is:

It is the Republican task force proposals.

It is the bipartisan Synar-Livingston bipartisan effort in which a number of us on both sides of the aisle joined.

It is what an overwhelming majority of the U.S. Senate has passed.

Madame Speaker, a number of us in both parties live by what we advocate:

We take no political action committee money.

Most of the money we raise comes from the voters who elect us.

We ask our colleagues to join with us in cleaning up this mess, these scandals in the making.

The American people have a right to expect no less.

Madame Speaker, I ask unanimous consent to include, one, a table which shows the differences between the House Democratic plan and the Senate approved bipartisan plan and the House Republican plan; and, two, the letter from Messrs. MICHEL, GINGRICH, THOMAS, and LIVINGSTON to Speaker, THOMAS S. FOLEY, dated April 13, 1994.

PLAN SIMILARITIES

Item	House Democratic plan	Senate Bipartisan plan	House Republican plan
PAC ban	No	Yes	Yes.
Leadership PAC	No change	Banned	Banned.
Soft money ban	Yes	Yes	Yes.
Bundling	Partial	Yes	Yes.
Public funding	Yes	Very limited	No.

PLAN SIMILARITIES—Continued

Item	House Democratic plan	Senate Bipartisan plan	House Republican plan
Majority in-district requirement for funds raised.	No	For first 4 of 6 years in term.	Yes.

Office of the Republican Leader,
U.S. House of Representatives,
Washington, DC, April 13, 1994.

Hon. Thomas Foley,
Speaker, U.S. House of Representatives, Washington, DC.

Dear Mr. Speaker: We understand that Democrats have been meeting behind closed doors on campaign reform prior to appointment of a conference committee. This signals that the majority believes it alone can write a campaign reform conference report that passes in both houses. We are not so confident.

We wholeheartedly agree with your strong public statements that the Congress should enact meaningful campaign reform in 1994. House Republicans have long argued that campaign reform is needed, and have presented legislation offering real reform.

Unfortunately, both bills now awaiting appointment of conferees contain provisions for the public financing of campaigns, and the House bill does not contain a mechanism to pay for this public financing.

We remain opposed to public financing. We are also opposed to telling the American people that we have enacted "reform" when, without a funding mechanism, such reform will never occur. Rather than attempt to pass a flawed conference agreement that does nothing, we stand committed to achieving real reform this Congress.

We believe that real reform must contain significant reforms on political action committee, Leadership PACs, bundling, and political party soft money. We are committed to working with you to achieve these goals.

Whether you work with us is your decision, but if you are willing to drop your insistence on taxpayer funded campaigns, significant bipartisan reform is possible.

Sincerely,
Bob Michel,
Bob Livingston,
Newt Gingrich,
Bill Thomas.

MORE ON CAMPAIGN FINANCE REFORM AND THE FED'S RAISING OF INTEREST RATES

The SPEAKER pro tempore (Ms. Danner). Under the Speaker's announced policy of February 11, 1994, the gentleman from Connecticut [Mr. Gejdenson] is recognized during morning business for 5 minutes.

Mr. GEJDENSON. Madam Speaker, I think that the record does need to be set straight here. There is a general disagreement. The other party does not believe in limiting wealthy people's power in the political process. They would like to go back to a system that had individuals with large resources be able to control the political process. And what we are trying to do on this side is put together a bill, and it is primarily the votes on this side which will pass reform, as it was in 1974, when real campaign finance reform was passed but damaged somewhat by the court decision in Buckley versus Valeo, that we will have a bill that limits spending, that limits political action committees and does not use taxpayer dollars, but uses fees on political action committees and will use not just fees on political action committees but voluntary contributions from citizens to fund the system.

I think that is the right way to go. Whether the match is a dollar for a dollar or 50 cents on a dollar, I think is less relevant than whether or not we can get 100 percent of a limit on spending, that there is not an unlimited race for dollars, that we have a limit on spending, we have a limit on political action committees. And the bill that we are working on does those things.

It has passed the House before. It was vetoed by President Bush. We are going to pass a very similar bill again, hopefully improved, that will be signed by President Clinton.

The difference is, we have this time a President who supports limits on spending, limits on wealthy contributors, and limits on political action committees.

While the other side oftentimes tries to create issues that are unreal in that whether or not we have a dollar for dollar match or a 70 cents per dollar match from voluntary funds, to try to bury this somehow in taxpayer funds or to attack the proposal on whether or not you do a one for one match or a 90 cents to a dollar match, I think, is frankly irrelevant. The real goal has to be to limit spending, to limit political action committees, and to move on with it.

My main purpose for coming today, I diverted somewhat to answer some of what my colleague had raised as issues, is frankly to raise concerns about the Fed action. I know that the administration is in a difficult position, because they do not want to create a situation where the debate with the Fed ends up damaging the economy. I know that the administration is frustrated by this continued increase in interest rates, in spite of the fact that there is no evidence of inflation returning.

I think that the Fed action is the most damaging thing that could be done to the economy today. It will make it more difficult to sell new houses and old houses. It will make it more difficult for industry, businesses to refinance debt as they come out of the recession of the 1980's.

It is clear to me that we have to use all of our pressure that we can bring to bear from this institution, Democrats and Republicans alike who believe that this economy is finally headed in the right direction, that the danger to the economy is not inflation, the danger is that these increases in interest rates by the Fed will somehow trip up this recovery. The danger of inflation has, frankly, been mitigated by a worldwide economy where working people's, in this country, incomes have not grown as a result of worldwide competition. It has made it more difficult to, frankly, keep the standard of living, to have it keep pace as we always had in the past in this country. So I think the Fed is looking at the wrong problem.

The Fed is going to damage this economy, if it continues to raise interest rates. And, frankly, I believe the Fed should reverse itself as quickly as possible in this most recent increase.

American industry and American workers are ready to rebuild America. The Clinton economic plan, the budget that has passed this House, will help move this economy forward. It is outrageous to see the Fed taking actions that will damage our ability to rebuild the economy. I think that the administration and many Members of Congress share this frustration with the American people, and I am hopeful to see that the Fed hears this message and more of my colleagues join me in sending a message to the Fed to stop raising interest rates.

We need to grow this economy. From Connecticut to California, this recession that started in the 1980's is not over. We need to get our jobs back. We need to put our people back to work. The challenge here is not inflation. The challenge is getting more jobs to people who want to work in building this economy up again.

BOSNIA

The SPEAKER pro tempore (Ms. Danner). Under the Speaker's announced policy of February 11, 1994, the gentleman from Georgia [Mr. Gingrich] is recognized during morning business for 5 minutes.

Mr. GINGRICH. Madam Speaker, appeasement, incompetence and failure, the Clinton policy on Bosnia. We need a thorough top to bottom revision of American policy in Bosnia. We have to recognize that there are three reasons for the Clinton administration failure in that country.

First, the Clinton administration allowed the United Nations to replace the United States as the leading institution in foreign policy, and the United Nations has failed in Bosnia.

Second, the Clinton administration has attempted again and again to appease an aggressor. The Reagan-Bush policy of peace through strength has been replaced by a Clinton policy of failure through appeasement.

Third, the Clinton administration is now repeating the worst mistakes of Lyndon Johnson in micromanaging and misusing the U.S. military. For a great power to use two airplanes with three out of four bombs failing to work is simply pathetic. Let me expand on these three failures.

First, the Clinton administration seems addicted to exaggerating and romanticizing the role of the United Nations. This addiction is dangerous because it misinforms the American people, and it leads people around the world to place a false hope that the United Nations will protect them. Given the recent record in Gorazde and elsewhere, how secure would you feel if you were told your neighborhood was going to be protected by the United Nations and how rapidly would you want to move to get away from their protection.

But it is also dangerous here in America. I was shocked this morning to read the Vice President's statements at the GATT plenary meeting in Morocco last Thursday when he said, speaking of the Americans who died in northern Iraq, "I want to extend condolences to the families of those who died in the service of the United Nations."

Let me say, I certainly hope, Mr. Vice President, that there is not going to be a blue United Nations flag on their coffin, and I certainly hope you will not explain to their children and their families that it was not America that they risks their lives serving but it was Boutros Boutros-Ghali and the United Nations.

I can assure this administration that if its goal is to place Americans under the United Nations so they are in the service of the United Nations, I will oppose any effort on any part of this planet by this administration to have Americans risking their lives for the U.N. Secretariat.

But the danger of appeasement is even deeper. Anthony Lewis, who normally has been a dove, who normally has criticized those of us who have advocated peace through strength, wrote a column yesterday of shocking power.

□ 1110

It is entitled, "Peace At Any Price." He said:

> For 50 years American power, purpose, and resolve have kept the peace in Europe. They faced down the severest challenges, and prevented a third great war.
>
> That age is over now. So we have to conclude from the humiliation in Bosnia. There the United States and NATO, the most powerful military alliance in the world, have allowed themselves to be intimidated by a minor force of ultra-nationalist Serbs under demagogic leadership.
>
> The reason for this seismic change in the balance of effective power in the world is plain. The United States has in office an administration that does not believe in the commitment of American power, purpose and resolve to keep the peace.

Mr. Lewis goes on to say, of what he calls the Clinton doctrine.

> Bosnia is a dramatic demonstration of the loss of purpose and resolve abroad. President Clinton has repeatedly seemed to take on the mantle of leadership there, then wavered. As a show of irresolution it might have been plotted by a playwright.

Finally, Mr. Lewis says,

> The public collapse of American will at Gorazde has gravely injured the interests that just 10 days ago the President's National Security Adviser, Anthony Lake, said were at stake in Bosnia: "NATO's credibility and our very vision of a post-cold war Europe" were at stake.

Lewis goes on to say, "It is a moral defeat, too: for resistance to genocide."

Even many of those who opposed American force in Bosnia thought that, if it was once employed, the United States should not retreat. That is the view, for example, of former Secretary of State Lawrence Eagleberger:

> In drawing back from the world, president Clinton might say he is following the will of the American people. That may be. Harry Truman had a different view of political leadership.

Let me make clear, we were on an airplane back from Russia, on an official delegation, last Sunday. We were told the United States was committed to bombing near Gorazde. I said at the time, in my only advice, "We must be strong. We must communicate that America's resolve is unshakable. Once you have crossed that decision point, you have to be prepared to win."

We met with the President last week. I said to him, "We must be strong." Instead, we have had tragic weakness.

TAKE ME OUT TO THE BALL GAME, BUT DON'T TAKE ME TO THE HOSPITAL

The SPEAKER pro tempore (Ms. DANNER). Under the Speaker's announced policy of February 11, 1994, the gentleman from Ohio [Mr. BOEHNER] is recognized for 3 minutes.

Mr. BOEHNER. Madam Speaker, take me out to the ball game, but don't take me to the hospital—that's the way the song goes in Canada. Last week the Cincinnati Reds' catcher, Joe Oliver, learned the hard way about how government-run health care works in Canada.

In a game last week in Montreal, Oliver hurt his ankle in a collision at home plate and was taken to the hospital for x rays. The hospital was complete with battered tables and beaten-up chairs and a 1970's style telephone system, complete with rotary dials.

After waiting hours to see a doctor, Oliver was even less impressed with the care that he received. "I got a look at socialized medicine here in Canada and I don't like it. It is a joke. If that is the future, I don't want any part of it." On the quality of service he received, Oliver commented: "In fact, I am not so sure the x ray was even mine."

It is not just Canada today, and it is not just ball players. In this morning's Washington Post, in the A section, there is an article entitled, "Canada's vaunted health care system: Limiting coverage, reducing services." Why? Because they are out of money.

Members may recall last December in the Province of Ontario, the Canadian Government limited services in hospitals to only emergency care, and all other elective surgery was put aside until January because the Government was out of money. Yet, this week on Thursday, the House Committee on Education and Labor is going to meet. They are going to make up, apparently, and move out of committee two different versions, a version of the Clinton health care plan which is just one step shy of the other plan they are going to move out of committee, and single-payer Canadian-style health care system.

Mr. Speaker, the American people do not want a Government-run health care system. If the President gets his way, that is exactly what we are going to have. President Clinton's health care plan will establish a Government-run bureaucracy here in Washington and in each of the States that is going to determine what kind of health care the American people will get.

That is not what the American people want. They want to control their own health care, and they want to make those choices about health care themselves. That is exactly what various Republican proposals, including the Michel-Lott bill, that has more cosponsors than any other bill in the Congress, proposes to do, change medical malpractice, put medical standards in place for doctors, deal with those that have preexisting conditions, deal with portability.

In fact, the Michel-Lott bill has more cosponsors and it is a bill that could have broad bipartisan support. Take it from an American citizen who has experienced the Canadian Government-run health care system. The American people are counting on us to deliver for them. Let us not strike out in our efforts.

URGING AMERICAN ACTION AGAINST THE MILITARY INFRASTRUCTURE IN SERBIA

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from California [Mr. ROHRABACHER] is recognized during morning business for 2 minutes.

Mr. ROHRABACHER. Madam Speaker, today the free world is witnessing tanks roll into Gorazde. This would not really be such a shame if you don't know what is going on. What is really happening here is, we have not seen like aggression taking place, and under U.S. leadership. The West has an arms embargo against the people of Gorazde, and this arms embargo prevents them from defending themselves against tanks and heavy artillery. We are treating the victims the same as the murderers. The arms embargo affects not only the Serbians but the people who are being attacked.

President Clinton has known of this embargo since the day he became President of the United States. The free world's response to 100,000 Bosnian Moslems being slaughtered by heavily armed Serbians has been economic sanctions and an embargo against both sides.

Then, of course, a few days ago we dropped a few dud bombs on a Serbian tent. Of course, the Serbians continued their murderous assault on their neighbors. That is something that should turn the stomachs of every red-blooded American. The world should know now, because the word is out, that America may be suggesting to the Serbs that if they just withdraw from Gorazde after they have stamped the United Nations line into the dirt, if they just withdraw, perhaps some of the economic sanctions will be eased.

Teddy Roosevelt said that the worst sin is to try to hit someone softly. Serbian aggression, the slaughter of their neighbors, the genocide on the Serbians' part in an attempt to grab the territory of their neighbors, should solicit from the West a strong response, or we should just ignore it and say we have no moral obligation to interfere.

Either we should inform the world that we have no interest or we should act like leaders of the free world. If we are going to affect the decision of these gangsters in Belgrade who are slaughtering their neighbors, committing acts of genocide, we must have military actions against Serbia itself. We can destroy the military infrastructure. We can destroy it without hurting any Serbian civilians.

We must act boldly as leaders of the West, or we will see this kind of genocide continue.

AMERICAN PENSION FUNDS INVESTED IN FOREIGN COUNTRIES

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized during morning business for 5 minutes.

Mrs. BENTLEY. Madam Speaker, China's new goal of enticing the world's fund managers with offers of shares in 22 state-owned companies is meeting with success. Last fall China attracted the heads of American corporate and municipal pension funds with $500 million for investment in China and Asian mutual funds.

In that earlier meeting 100 of our biggest funds were matched up with 100 Chinese banking and financial ministers in a conference to plan how to take our pension fund money to use in building up China in what the organizers of the trip called "The Last Frontier of Capital."

Most revealing about the intentions of both China and the managers was the title of the conference, which was billed as "The Chinese Century—From Wall Street to the Great Wall."

A recent Wall Street Journal editorial had an interesting question about the drive to attract foreign wealth. It pointed out, "It would be interesting to know what China's home-grown wealthy are doing with their own money. The data strongly hints that large sums are being funneled out of China without anybody knowing where they're going or whom they belong to."

The Wall Street Journal raised some interesting questions about China and its trade statistics. The figures are revealing. In checking the balance of payments in 1992, it is suspected that $8 billion disappeared offshore.

The article quoted Frank Gunter of Lehigh University, who compared China's trade statistics with its major trading partners. He found that $20 billion a year is lost through phony import and export invoices. The money is going somewhere and the speculation is the newly rich in China are scattering their funds so they will be able to keep their money. Obviously, there is plenty of risk in investing in China.

The question was raised in the article whether or not lenders to China can be so confident—

> that the billions loaned directly to Beijing aren't being squandered or salted away. Nor can the share investors now being courted to become Beijing's partners in dozens of state enterprises discount the possibility that their funds will not end up in the regime's retirement accounts rather than paying to upgrade production and return them a profit.

That's ironic, when the Wall Street Journal is reporting that some American government workers are forced into working longer because the State has postponed their retirement because of costs. In fact State and local government pensions are underfunded by $125 billion. Counting in Federal and military pensions there is a $1.24 trillion shortfall.

We should also consider that China intends to lift everyone out of poverty by the year 2000. That is an admirable goal, but it will require a great deal of money and extraordinary effort on the part of government officials and the money must come from somewhere.

It also means that the industrialized world will be greatly affected. We are investing $500 million of American pension money in a country which pays low wages and practices minimal human rights. The other countries of Asia also pay low wages.

Our funds will help China to build railroads, highways, and other infrastructure projects, which could take decades to show a return on investment. Why not use those funds to help working Americans instead of having fund managers play their games of international financial intrigue?

Pension funds should be a ready source of funds for American business. Investing pension funds in China or Asia ultimately helps countries and companies which can come back and compete with the very American companies and municipal governments investing their money abroad. This is called "hollowing out" the job market and our pension funds. Good deeds begin at home, and that means better treatment of the American people. They deserve better treatment from both the fund managers and the Government.

□ 1120

RANDOM ACTS OF KINDNESS WEEK

The SPEAKER pro tempore (Ms. DANNER). Under the Speaker's announced policy of February 11, 1994, the gentleman from California [Mr. TUCKER] is recognized during morning business for 3 minutes.

Mr. TUCKER. Madam Speaker, this week on the House floor has been dubbed "The Crime Bill Week," and, indeed, all week and in late sessions tonight, we will be debating and discussing how we, the Representatives in the House, can come up with a crime bill, a national crime bill that would hopefully ease some of the tension and some of the fear and some of the frustration out in our streets, not only in the inner cities in America but certainly all across America, even in the rural and in the heartland of America.

Madam Speaker, last week I had a very interesting experience. I had the occasion to whip the entire House of Representatives on a kind of tangential piece of what I call anticrime legislation; and, that is, a House resolution that I have submitted for the House's consideration today, asking for Random Acts of Kindness Week to be instituted and celebrated in the year 1995 on the week of Valentine's week.

Madam Speaker, "random acts of kindness," that is an interesting saying and an interesting phrase, indeed, because all we hear about are random acts of violence. In fact, you cannot turn on your television set any day and not hear a report about another random act of violence. We have gotten so conditioned to it, we have gotten unfortunately to some degree desensitized to it. And, Madam Speaker, when I heard about this campaign, actually inspired by Dr. Chuck Wall, a professor out in Bakersfield, CA, I knew then and my staff knew then that it was my mission to get the requisite 218 signatures in order to have a House resolution commemorating random acts of kindness.

Madam Speaker, as I went throughout this floor and I lobbied and whipped my colleagues and I asked them to support me in the Random Acts of Kindness Week, I got many responses. First of all, people looked at me and they smiled. I guess nervous energy made them beam and wonder if this was a pun, a joke. But as they began to commiserate with me and understood that I was serious in my quest to get their support, I found out quite refreshingly, Madam Speaker, that this House restored my faith in their integrity to restore some type of kindness back to America.

Indeed, as I was on this quest to get these 218 signatures, calls came into my office, more and more, from all parts of the country indicating to me, "Representative TUCKER, you must continue in this quest to get the Random Acts of Kindness Week."

Madam Speaker, I am happy to say today that I not only got the 218 signatures, but as of today I have gotten 255 signatures and I am very happy to say today that those signatures were not just from one side of the aisle, meaning just the Democratic Party, but they were from both sides of the aisle, a bipartisan effort, and so in this crime week and on this initiative to overcome crime, I am happy to say that the House of Representatives has restored my faith that we are trying to be more kind in this country and we are trying to encourage more people to do what they can, not only to fight crime but to be proactive and promote kindness and good samaritanship in America.

RECESS

The SPEAKER pro tempore. The House will stand in recess until 12 noon.

Accordingly (at 11 o'clock and 26 minutes a.m.), the House stood in recess until 12 noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 noon.

PRAYER

His Eminence Archbishop Khajag Barsamian, Primate of the Diocese of the Armenian Church in America, New York, NY, offered the following prayer:

Lord of Creation, we come before You to pray for Your blessing, and to render thanks for the bounty of this great country of the United States of America. According to Your will, America is a beacon of hope in a troubled world, which exerts its might in the cause of justice, and extends its concern to the weakest among us.

We thank You Lord for providing in America a safe haven for the people of the world, when they escape persecution and turmoil in their native lands. We are mindful of the events of 79 years ago, when America opened its doors to the Armenian people, who were fleeing persecution and genocide.

Have mercy on all Your servants, O Lord, whenever and wherever they suffer injustice. Grant wisdom to the leaders of the world, so that episodes like the Genocide of the Armenians may never be repeated on this this Earth.

Finally, Lord, bestow Your blessing on this august body, which labors in the name of justice and human dignity. Renew in the Members of the United States House of Representatives the strength, perseverance, and dedication to fight the good fight on behalf of others.

For all Your blessings, Lord, may Your Name be praised from generation to generation. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MCNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MCNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 246, nays 155, not voting 31, as follows:

[Roll No. 115]

YEAS—246

Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoke
Holden
Houghton
Hoyer
Hughes
Hutto
Inglis
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kingston
Kleczka
Klein
Klink
Kopetski
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCrery
McCurdy
McDermott
McHale
McInnis
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Myers
Nadler
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Penny
Peterson (MN)
Pickett
Pickle
Pombo
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rostenkowski
Roybal-Allard
Rush
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Wilson
Wise
Woolsey
Wyden
Yates

NAYS—155

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clay
Coble
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gingrich
Goodlatte
Goodling
Goss
Grams
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Horn
Huffington
Hunter
Hutchinson
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kim
King
Klug
Knollenberg
Kolbe
Kreidler
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Manzullo
McCandless
McCollum
McDade
McHugh
McKeon
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Murphy
Nussle
Oxley
Packard
Paxon
Petri
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent

Taylor (MS)
Taylor (NC)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—31

Abercrombie
Brown (CA)
Collins (IL)
Conyers
Engel
Fish
Ford (MI)
Ford (TN)
Gallo
Grandy
Hamburg
Hyde
Livingston
Lloyd
McCloskey
McMillan
Moakley
Neal (NC)
Pelosi
Peterson (FL)
Ridge
Rose
Rowland
Sabo
Thomas (CA)
Valentine
Vento
Washington
Whitten
Williams
Wynn

□ 1224

Messrs. KLECZKA, WILSON, and GUTIERREZ changed their vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair will ask the gentleman from Virginia [Mr. GOODLATTE] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. GOODLATTE led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

HOUR OF MEETING ON WEDNESDAY, APRIL 20, 1994

Mr. SCHUMER. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m. on Wednesday, April 20, 1994.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

STATEMENT OF WELCOME FOR ARCHBISHOP KHAJAG BARSAMIAN, PRIMATE OF THE EASTERN DIOCESE OF THE ARMENIAN CHURCH OF AMERICA

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, it is for me a great honor to welcome Archbishop Barsamian, primate of the Eastern Diocese of the Armenian Church of America, to offer the opening prayer today. As primate of the largest Armenian Church diocese in the Armenian diaspora, the archbishop has been for many years one of the great leaders of the Armenian community in the United States and throughout the world. He has helped to bring together Armenian religious communities from all over the world and assisted in the organization of new parishes. Through his work with a variety of ecumenical organizations, he has become a spiritual leader known and admired by people of all faiths.

His Eminence was born on July 4, 1951, in Arapkir, Turkey. At the age of 13 he began his religious studies in Istanbul, and was later sent to Jerusalem to study at the Seminary of St. James Armenian Patriarchate. Since his ordination in 1971, he has continued his religious studies in Europe and the United States. He has also taught, lectured, and conducted extensive research at St. John's and New York Universities, as well as at universities and institutions in Italy, England, Germany, Armenia, and Israel. The archbishop has also participated in symposia and seminars in many countries, and has published articles in educational bulletins and scholarly journals. He is currently a member of the International Society of Liturgical Studies and a member of the teaching faculty at St. Nersess Armenian Seminary in New Rochelle, NY.

Education and community building have always been among Archbishop Barsamian's top priorities—in his earliest days as a priest, in fact, when he organized Armenian classes for the children of the Armenian communities in Israel, and brought Armenian children from the interior of Turkey to Israel to supervise their education. Since his arrival in America, he has served in Worcester, MA, New York City, and Minneapolis-St. Paul. He has attended meetings of the World Council of Churches in the United States, Greece, Switzerland, and the Soviet Union. He has also represented the diocese at meetings of the Appeal of Conscience Foundation and Religion in American Life, and in 1990 he was elected vice chairman of the board of Religion in American Life.

In short, Mr. Speaker, Archbishop Barsamian has been a great spiritual leader, scholar, teacher, and community leader for more than two decades. It is an honor for us to have him here in the Chamber, and on behalf of all the Members I would like to extend a heartfelt welcome to Archbishop Barsamian to our Nation's Capital and thank you for delivering the opening prayer here today.

BEHIND THE FOREIGN POLICY WHEEL

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, as the President was driving his Mustang last Sunday, 2 hours late because of his golf game, the U.S. position in Bosnia was worsening.

You have to wonder where this President's priorities are.

According to many reports, Mr. Clinton simply does not care about foreign policy. The results of this indifference are obvious.

From North Korea to Bosnia, from Haiti to Iraq, American resolve is questioned. We seem to be getting ourselves deeper and deeper into trouble without a clear plan or understanding of our mission.

But the Clinton doctrine is: "If it doesn't show up on the polls, don't worry about it."

Mr. Speaker, that is a heck of a way to lead the most powerful Nation on earth.

I urge the President to jump out of his Mustang, and behind our foreign policy steering wheel.

We need a President who knows where he is going on foreign policy.

CLINTONOMICS, READY OR NOT

(Mr. GOODLATTE asked and was given permission to address the House for 1 minute.)

Mr. GOODLATTE. Mr. Speaker, well, there it goes again.

For the third time in 2 months, the Fed has pushed up interest rates. And this time, the impact will be felt by middle class consumers and small business owners.

Here comes Clintonomics, whether the American people are ready or not.

Clintonomics means higher interest rates, higher inflation, and low job growth.

It means higher taxes on the middle class and more spending by the Government.

If the Congress enacts the Clinton health reform bill, the middle class taxpayer will have even more taxes to look forward to, while sacrificing health care quality.

That is a sacrifice no one should be forced to make.

Mr. Speaker, Clintonomics is coming, ready or not. I hope the American people are ready.

AMERICA SHOULD DISCONTINUE ITS SUPPORT OF THE ARMS EMBARGO IN THE FORMER YUGOSLAVIA

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute.)

Mr. TORRICELLI. Mr. Speaker, for more than a generation we told ourselves it was never going to happen again. After the destruction of the Armenian people by the Ottomans, the Jews by the Nazis, and the Cambodians by Pol Pot, we were going to live in a more civilized time when the international community would not sit idly by during genocide. Tell that today to the people of Bosnia. Tell it to the 60,000 poor souls encircled and being overrun today in Gorazde. For them it means nothing.

What is it that the international community does to these safe areas?

Two airplanes, dropping four bombs, while tanks roll through city streets, taking potentially hundreds, if not thousands, of lives.

President Clinton says, accurately, there is an international embargo. We cannot unilaterally lift it. We cannot unilaterally defy it. Perhaps, Mr. President, but we do not have to be enforcing it, either. Withdraw the U.S. Navy from the Adriatic, pull America out of this enforcement, allow these poor, desperate people to get the arms they want to buy with their own money to defend their own families with their own lives, lest we be in complicity in yet another international genocide.

JOBS AND LIVELIHOODS SHIFTED OUT OF EXISTENCE

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, yesterday in a speech in Milwaukee the President said that his health care plan will "cause a shift of jobs." Just exactly what does a shift of jobs mean? It means if a person is a small business owner, their job will be shifted right out of existence. It means if they work for a firm that cannot afford to provide health insurance yet, that job will be shifted to oblivion. It means if a person is currently unemployed and wants to find a job, their chances of finding one will be shifted to slim.

Mr. Speaker, the Democratic majority has acknowledged that the Clinton health care plan will further hurt small businesses and retard economic growth. I encourage them to join with Republicans to find ways to enact responsible health care reform without giving American people the shift.

WE MUST TAKE THE HANDCUFFS OFF POLICE IF CRIME REFORM IS TO WORK

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, three strikes and you're out, more death penalty crimes, more cops on the street, more habeas corpus reform, and it sounds good but it is not going to work unless we take the handcuffs off of the police and let them do what they are trained to do and what they are paid to do.

What else we need, tougher standards have to be put on the judges in this land, elected or appointed. We have to get rid of the wimpy judges who slap perpetrators of heinous crimes on the wrist and send them back onto the streets to rob, mug, and murder our people. There is something wrong.

Last, let us change our trade policy to bring our jobs back into the country instead of shipping them out, because people that are working do not get into trouble. Think about it.

THE CRIME BILL

(Ms. DUNN asked and was given permission to address the House for 1 minute.)

Ms. DUNN. Mr. Speaker, let me suggest an anthem for victims of crime.

> Victims of crime unite, throw off the chains of fear that bind you to your home after dark. Live in a world where your children can play safely on their playgrounds, where they can go into school without fear of violence.

Mr. Speaker, this should be the anthem of revolution against crime in our streets. Instead, the crime bill we will consider today is a muted response to a massive problem. Instead of building more prisons, it builds more social welfare programs. Rather than giving the police a greater ability to prosecute known criminals, it limits that ability. Rather than removing obstacles to swift justice, it places more obstacles in the way. Instead of sending Charles Campbell to the death chamber, it encourages even more appeals to help him escape his rightful sentence.

Mr. Speaker, the President and the Democrats in the Congress talk a good anticrime game, but when it comes to real anticrime measures they would rather sit on the bench.

PERSECUTION BY THE IRS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker,

There once was a newsman from Miami.
His newspaper made the IRS feel quite clammy.
He began to reveal the IRS's illegal deals,
and wound up with inmates as family.

That is no joke, Mr. Speaker, Attorney Heller for the Miami News wrote stories about illegal tactics of the IRS. He was then targeted by the IRS, and a court finally said this and wrote in their report, he was hounded, he was hassled, he was harassed, he was prosecuted, he was persecuted, he was terrorized, he was stigmatized, and they ultimately imprisoned him, and the judge said, what was very simple, Attorney Heller could not prove he was innocent, and said the IRS used illegal testimony to put him in jail.

This is no joke. Today is the anniversary of the Battle of Concord in Lexington. Minutemen and Founders are rolling over in their graves. Congress has allowed the IRS to trash the Constitution. H.R. 3261 and Discharge Petition 12 says the burden of proof is on the IRS.

If Jeffrey Dahlmer is innocent until proven guilty, why in God's name is not a taxpayer? Think about it.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair would like to welcome our guests in the balcony, but must advise them that they cannot participate by applauding.

IN SUPPORT OF A TRUE BIPARTISAN APPROACH TO HEALTH CARE

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, I stand in support today of a true bipartisan approach to health care. The American people have rejected the big bureaucracy system of health care delivery. They are afraid of a program that will be handed to them via the way of huge government, State and Federal bureaucracies that will give them the efficiency of the Post Office and the compassion of the IRS.

They have seen the waiting lines in Canada and they do not want their health care rationed. They have seen people coming across the border to get those essential health cares which we in this country have provided, a secondary system for our Canadian brethren.

□ 1240

Ladies and gentlemen, the American people believe there is a common sense approach to health care reform. And do my colleagues know what? The American people also believe that our two parties on both sides of the aisle can get together and, as a matter of fact, that they should work together to find a middle ground that would provide health care security, health care that cannot be taken away, one that can control spiraling health care costs, and that we can provide these Americans who either cannot get it today or cannot afford it with health care.

What the American people really want, Mr. Speaker, is the quality of health care we have today, the choice in health care we have today and not having it rationed, and a common sense, bipartisan approach will do that.

PASS THE CRIME BILL

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, last week, the House began debate on a historic crime bill that is both tough and smart. It contains tough new penalties for violent, repeat offenders and it contains smart new programs to steer our kids clear of crime and drugs. Punishment and prevention. This bill contains both.

But, while most agree that this bill is the most sweeping anticrime legislation that has come out of Congress in decades, sadly there are still those in this Chamber who see only political opportunity in an issue of vital importance to Americans. In fact, last week, one Member wrote in a letter to his Republican colleagues saying, and I quote:

"If we work together, we can defeat this bill and craft a real crime bill that will give the crime issue back to Republicans for the upcoming elections."

And we wonder why the American public holds this body in low esteem? This is a cynical (and shameful) political strategy. It belittles this historic legislation and ignores the pain and fear of real people. Real people like Jeffrey Brown.

Yesterday, 18-year-old Jeffrey Brown was shot and killed in broad daylight in my hometown of New Haven. It doesn't matter to the family of Jeffrey Brown who gets credit for this crime bill. All they know is for them it is too late. We need to put politics aside—pass this crime bill and pass it now.

DEATH PENALTY URGED IN CRIME BILL

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Speaker, this past Sunday began as a warm, beautiful spring day in Minnesota. As they have done for years, young people gathered at Lyndale Field next to Richfield High School in my district, to play soccer. Then in broad daylight, into a crowd of 150 players and spectators, three gunmen drove by and opened fire, killing one of those soccer players, critically injuring another soccer player, and hitting two more, including a 12-year-old boy.

Mr. Speaker, these cold-blooded murders deserve nothing less than the death penalty. We need to equip Federal prosecutors with the power to try these cowardly drive-by killers who show the utmost disregard for human life.

Mr. Speaker, the crime bill we will vote on later this week provides that death penalty and I truly hope we can put partisan politics aside and pass this much needed legislation. The American people and the victims of crime in America deserve nothing less.

BOMB SERBIA

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. ROHRABACHER. Mr. Speaker, Serbian forces are entering Gorazde. Tens of thousands of Bosnian Muslim civilians face an enemy who has already slaughtered over 100,000 of their countrymen.

The West sits on its hands.

Weak leadership and spinelessness in the West have doomed the people of Gorazde. Serbian strongman Milosevic and his psychopathic allies in Bosnia are the Nazis of our day, and Bill Clinton and our European friends are playing their role as well.

American troops do not need to fight on the ground in the Balkans, but if we act we must act aggressively—and act as the moral and military leaders of the free world. Time has long since passed when we should lift the arms embargo on the Bosnians and Croatians, who are the victims of a genocidal landgrab by their Serbian neighbors.

And, if we decide to use force again, we should bomb Serbia's military infrastructure, in Serbia—get that, in Serbia—rather than dropping a couple of duds on tents, which only provides the West's gutlessness, and emboldens Serbian cutthroats.

SUPPORT THE PRYCE-STUPAK AMENDMENT TO THE CRIME BILL

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, I rise today in strong support of the Pryce-Stupak amendment to H.R. 4092, the crime bill. Our amendment prohibits the use of free weights by, and the teaching of self-defense to, Federal prisoners. This amendment will go a long way toward ensuring a higher degree of workplace safety for our corrections officers.

In last year's Easter riot at the Lucasville Prison, inmates used free weights to batter down a concrete wall protecting guards. This enabled the inmates to take 11 guards hostage. One of those 11 guards was murdered. Last month, inmates used weight-lifting equipment as weapons against corrections officers in a riot at Rikers Island Prison in New York. One guard was beaten within an inch of his life with a 50 pound weight.

We must do a better job to ensure that the danger associated with working in prisons is minimized. We must do more to ensure that these dedicated correctional officers can tell their families, with some degree of certainty, that they'll be home at the end of the day. The Pryce-Stupak amendment is not the singular solution to the increasing violence against correctional officers by bigger, stronger bulked up prisoners. But this is an amendment, in the right direction, and will help to send the message that prison is for punishment and rehabilitation, not a place to refine the skills that landed one in prison.

I would urge all of my colleagues to support the Pryce-Stupak amendment to the crime bill.

NO LONGER OPERATIVE

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, then-candidate Clinton said he wanted to change things in the White House. Fifteen months into his administration, Americans are learning just what he meant. It seems the White House has a new game plan: If you don't like time-honored rules, change them, ignore them, or make them no longer operative. When statements about the First Couple's business deals proved untruthful, the White House simply dismissed those statements as no longer operative. When the security clearance forms prove too cumbersome and perhaps too embarrassing, the staff simply avoids them. When the numbers on those pesky back tax forms do not add up, the penalty is simply deemed not applicable. Mr. Speaker, it seems following the rules is no longer operative in the White House. It also seems President Clinton's trust deficit is growing faster than his budget deficit as a result, and that is not good for America.

CRIME CONTROL IN PUBLIC HOUSING

(Mr. OWENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS. Mr. Speaker, crime in public housing developments certainly deserves special attention. A tiny percentage of criminal predators prey upon the overwhelming majority of hard-working families in public housing. Periodic police sweeps of public areas and vacant areas is very much in order, but knocking down the doors of occupied apartments is never in order.

Mr. Speaker, crime control for public housing requires a comprehensive approach. One of the newest proposed components of such a comprehensive approach is the establishment of tenant-owned and tenant-operated security firms. Tenant-operated security firms must be a key part of the permanent control of crime in public housing; that well-trained tenants with the best state-of-the-art communications equipment working in concert with the police do part of the crime eradication job in public housing. Tenants can do this job well and tenants can probably do this job at much lower expense than any others.

□ 1250

PUBLIC HEARINGS REQUESTED ON SOMALIA INCIDENT AND TRAGEDY OVER IRAQ

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, when U.S. military personnel enter into dangerous situations, they do so with the full awareness that their lives are on the line. Our brave men and women give literally their all for us—and they should expect no less from us. Army Specialist Jeffery Colbert—a constituent of our district—was on one of the two Blackhawks shot down over Iraq last week by our own military personnel. It is a tragedy beyond words for our Nation—but mostly for the families left to cope with the tragedy.

We cannot undo what happened last Thursday, but I believe there are steps we can take to prevent future needless deaths. It is becoming frighteningly clear that something is going wrong with the leadership our soldiers are receiving.

Last year, when our servicemen were killed in Somalia, I stood in this well and asked for open hearings so the mistakes that lead to the death of those men would not be repeated. Today, I rise again to ask that public hearings be held on the Somalia tragedy and also on the tragedy of last week.

These brave military personnel gave literally their all for us. When young men and women die needlessly we cannot respond to those deaths with silence. Once again, I ask that the House Armed Services Committee hold public hearings on the Somalia incident and the incident last week.

WELCOME TO ARCHBISHOP BARSAMIAN

(Mr. BARCA of Wisconsin asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARCA of Wisconsin. Mr. Speaker, I also would like to join in welcoming Archbishop Barsamian to the House of Representatives and thank him for his words of inspiration that he offered here in the House just a few minutes ago.

Hopefully it will serve as some guidance when our good colleague, the gentleman from California [Mr. LEHMAN] leads us tonight in remembrance of the Armenian genocide, just as last week we recognized the Holocaust of European Jews.

This Sunday is National Armenian Remembrance Day to help the world to never forget the horrific genocide against humanity that took place between 1915 and 1923 that left 1.5 million Armenian victims.

CRIME BILL

(Mr. GRAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAMS. Mr. Speaker, May 15 is opening day for fishing season in Minnesota. Catch and release may work well for Minnesotans out on the lake, but the catch and release of drug criminals does not work for Minnesotans and all Americans who are scared to leave their homes, safely walk their streets, or confidently send their children to school.

The so-called reform of the mandatory minimum sentencing guidelines, H.R. 3979, typifies the superficial nature of the crime bill.

This bill allows Federal judges to retroactively drop mandatory penalties for individuals who sell, possess, or import drugs if five criteria apply.

The supporters of this measure just do not get it. Drugs are dangerous; drugs kill; drugs leads to gang wars. When someone snorts cocaine, they might as well be putting a .45 up their nose and pulling the trigger. Drug criminals are culpable. Simply put, drug criminals are killing our youth.

By letting an estimated 16,000 drug offenders off the hook, what kind of message are we sending to criminals and youth? For years we have tried to steer kids away from drugs by drilling the expression, "Just Say No" into their heads. Now along comes a crime bill that stomps all over those efforts.

I strongly urge my colleagues to vote against this measure and listen to the demands of all our constituents by supporting tough, substantive crime reform.

LET US WORK AS HARD FOR WELFARE REFORM AS FOR HEALTH CARE REFORM

(Mr. SARPALIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SARPALIUS. Mr. Speaker, I would like to share with you a letter that I received from one of my constituents within my district from the city of Denton where she wrote about her career as working for an advertising company, was prospering very well, and her dreams were coming true. Her son was born with a genetic disease, and she had to get on welfare to qualify for assistance for her son who had to undergo 33 different surgeries.

In her letter she describes his intestines as scrambled eggs. She talks about in her letter where now next year her son will turn 18 and he will be able to qualify for those same Federal programs, so then she can go back to work.

My friends and colleagues, that is why health care and welfare must be addressed. There is something wrong with the system, and I commend the President for putting it on the table.

I challenge my colleagues to work just as hard for welfare reform as we do for health care reform.

ECONOMICS OF EMPLOYER MANDATES IN HEALTH CARE REFORM IS SUBJECT OF UPCOMING SPECIAL ORDER

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, tonight I will be holding a special order on the economic implications of an employer mandate in health care reform. I believe this is one of the most critical issues involved in the health care reform debate. For that reason, I along with several of my colleagues will discuss the very serious economic and health care cost containment implications of requiring America's employers to finance health care reform.

Tonight we will look at the significant job losses the American worker can expect if an employer mandate, similar to the administration's or the mandate included in the Stark proposal, were to pass this Congress. We will also discuss the very serious disincentives an employer mandate would have on job creation and job growth among small employers.

We will look very closely at the serious impact an employer mandate would have on the ability of women to enter into our work force and, more importantly, on their ability to expand upon the very real gains they have made recently in creating new businesses.

Finally, we will focus on the real world experiences of American businesses successfully managing their health care costs, much more effectively than the Congress has managed the costs of public programs. An employer mandate would completely eliminate the most promising means of restraining cost increases and replace it with a system that has already proven itself as an utter failure in providing high quality cost effective care.

I encourage my colleagues to tune in to this special order this evening as it is perhaps the most important aspect of the health care reform debate and is certainly worthy of your attention.

CRIME BILL ALREADY POLITICIZED

(Mr. SCHIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHIFF. Mr. Speaker, in the last several minutes we have heard several lectures from Members of the majority party to us on the minority side, particularly demanding that we on our side not politicize the coming crime bill. I find that remarkable, because the majority party has already highly politicized the crime bill through its control of the Committee on Rules.

Under action by the Committee on Rules, a number of amendments which

Republicans would have liked to have offered to the crime bill and which, in my opinion, would have vastly improved it will not even be considered because they are not allowed to be considered.

Let me just give three examples: If allowed, there would have been an amendment offered that would have said that for two convictions for violent crimes, particularly two convictions for being a serial violent crime committer, violent crime criminal, then life in prison would apply. That amendment will not be heard on the House floor today.

The bill, as written, says that it lowers, actually lowers, the penalty for certain drug traffickers. A Republican offered an amendment to take that provision out of the bill, but that amendment will not be considered here today.

In the prevention section, quite a number of pork-barrel projects have been put in there, bills Members have been trying to pass for years without success. They have added the words to their bill for the purpose of preventing crime, and we are not allowed to amend to take those out.

I suggest that the call for an end to politicization of this bill is a little late.

VICTIMS DESERVE RIGHT TO BE HEARD

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, this week the House will take up the crime bill. Included in this package is a provision which would grant the victim the right to speak at the sentencing. It is important to let the victims of brutal acts of violence know they will have an opportunity to confront their attackers and provide evidence which could have a bearing on the sentence which is handed out.

Nationally, the high incidence of crimes committed is alarming. The Department of Justice reports that every year nearly 5 million people are victims of violent crimes. With these kinds of statistics it is understandable that crime is fast becoming the No. 1 concern of the American people.

My hometown of Ocala has a population of approximately 43,000 people. It is not unlike a host of mid-sized towns across the country. Unfortunately, that means we have our share of crime. In fact, in 1992 Ocala had 6,627 reported crimes. Of these, there were 6 murders, 29 rapes, 344 robberies, and 477 aggravated assaults. These statistics are an outrage to the law abiding citizens who go to work every day and pay their taxes.

This provision will have a positive effect because it allows the victims of wanton acts of violence to face their attackers and offer evidence which will ensure that the sentence fits the crime.

□ 1300

MAKING CERTAIN TECHNICAL CORRECTIONS

Mr. RICHARDSON. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1654) to make certain technical corrections, as amended.

The Clerk read as follows:

S. 1654

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NORTHERN CHEYENNE INDIAN RESERVED WATER RIGHTS SETTLEMENT ACT OF 1992.

(a) ENVIRONMENTAL COSTS.—Section 7(e) of the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992 (Public Law 102–374, 106 Stat. 1186 et seq.) is amended by adding at the end thereof the following new sentences: "All costs of environmental compliance and mitigation associated with the Compact, including mitigation measures adopted by the Secretary, are the sole responsibility of the United States. All moneys appropriated pursuant to the authorization under this subsection are in addition to amounts appropriated pursuant to the authorization under section 7(b)(1) of this Act, and shall be immediately available.".

(b) AUTHORIZATIONS.—The first sentence of section 4(c) of the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992 (Public Law 102–374; 106 Stat. 1186 et seq.) is amended to read as follows: "Except for authorizations contained in subsections 7(b)(1)(A), 7(b)(1)(B) and 7(e), the authorization of appropriations contained in this Act shall not be effective until such time as the Montana water court enters and approves a decree as provided in subsection (d) of this section.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be considered to have taken effect on September 30, 1992.

SEC. 2. SAN CARLOS APACHE TRIBE WATER RIGHTS SETTLEMENT ACT OF 1992.

(a) AMENDMENT.—Section 3704(d) of the San Carlos Apache Tribe Water Rights Settlement Act of 1992 (Public Law 102–575) is amended by deleting "reimbursable" and inserting in lieu thereof "nonreimbursable".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be considered to have taken effect on October 30, 1992.

SEC. 3. TRIBALLY CONTROLLED COMMUNITY COLLEGES.

The part of the text contained under the heading "BUREAU OF INDIAN AFFAIRS", and the subheading "OPERATION OF INDIAN PROGRAMS", in title I of the Department of the Interior and Related Agencies Appropriations Act, 1994, which reads "Provided further, That any funds provided under this head or previously provided for tribally-controlled community colleges which are distributed prior to September 30, 1994 which have been or are being invested or administered in compliance with section 331 of the Higher Education Act shall be deemed to be in compliance for current and future purposes with title III of the Tribally Controlled Community Colleges Assistance Act." is amended by deleting "section 331 of the Higher Education Act" and inserting in lieu thereof "section 332(c)(2)(A) of the Higher Education Act of 1965".

SEC. 4. WHITE EARTH RESERVATION LAND SETTLEMENT ACT OF 1985.

Section 7 of the White Earth Reservation Land Settlement Act of 1985 (25 U.S.C. 331, note) is amended by adding at the end thereof the following:

"(f)(1) The Secretary is authorized to make a one-time deletion from the second list published under subsection (c) or any subsequent list published under subsection (e) of any allotments or interests which the Secretary has determined do not fall within the provisions of subsection (a) or (b) of section 4, or subsection (c) of section 5, or which the Secretary has determined were erroneously included in such list by reason of misdescription or typographical error.

"(2) The Secretary shall publish in the Federal Register notice of deletions made from the second list published under subsection (c) or any subsequent list published under subsection (e).

"(3) The determination made by the Secretary to delete an allotment or interest under paragraph (1) may be judicially reviewed in accordance with chapter 7 of title 5, United States Code, within 90 days after the date on which notice of such determination is published in the Federal Register under paragraph (2). Any legal action challenging such a determination that is not filed within such 90-day period shall be forever barred. Exclusive jurisdiction over any legal action challenging such a determination is vested in the United States District Court for the District of Minnesota.".

SEC. 5. AMENDMENTS.

Section 1(c) of the Act entitled "An Act to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes", approved September 9, 1988 (102 Stat 1594), is amended as follows:

(1) delete "9,811.32" and insert in lieu thereof "9,879.65"; and

(2) delete everything after "5 9 17 All 640.00" and insert in lieu thereof the following:

"6 8 1 SW¼SW¼, W½SE¼SW¼	*53.78*
"6 8 1 S½E½,SE¼SW¼	*9.00*
"6 7 8 Tax lot 800	*5.55*
Total	*9,879.65".*

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the rule, the gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 20 minutes, and the gentleman from Minnesota [Mr. GRAMS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter on the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1654 makes certain technical amendments to various Federal statutes affecting Native Americans. The bill has technical amendments to five Federal statutes.

The first provision would amend the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992 to clarify that the costs of environmental compliance and mitigation related to the repair and enlargement of the Tongue River Dam are the sole responsibility of the United States. It also clarifies that the environmental compliance funds under section 7(e) are authorized in addition to the funds authorized under 7(b)(1) for the Tongue River Dam project. Finally, it makes clear that these environmental compliance funds may be expended prior to the Montana water court's issuance of a settlement decree.

The second provision amends the San Carlos Apache Tribe Water Rights Settlement Act of 1992 to correct an error in the text of the title 37 of Public Law 102-575. This amendment changes the word from "reimbursable" to "nonreimbursable" in order to ensure that the construction costs associated with water transferred to the tribe pursuant to the settlement are deferred pursuant to the Leavitt Act. This change reflects the intent of the Congress and is supported by all parties to the settlement.

The third provision amends a provision included in the 1994 Interior Appropriations Act to reference section 332(c)(2)(A) of the Higher Education Act of 1965. The original provision cited the wrong section of the Higher Education Act. It would allow tribal community colleges to invest endowment funds in Government securities in addition to federally insured banks and savings and loans.

I note that a slight change to this provision correcting the date was added after committee consideration. This minor change has been agreed to by the Committee on Education and Labor and improves the bill.

The fourth provision amends the White Earth Reservation Land Settlement Act of 1985 to authorize the Secretary of the Interior to make necessary corrections to the listing of allotments eligible for compensation pursuant to the Settlement Act.

The last provision amends the Grand Ronde Reservation Act of 1988 to clarify that three additional parcels of land which are held in trust by the Federal Government for the benefit of the Grand Ronde tribe are included as part of the tribe's reservation.

I urge my colleagues to support it.

STATE OF MONTANA, DEPARTMENT
OF NATURAL RESOURCES AND CONSERVATION,
Helena, MT, April 19, 1994.

Hon. GEORGE MILLER,
Chairman, Committee on Natural Resources, Washington, DC

DEAR CHAIRMAN MILLER: I have reviewed the letter provided to you by the Congressional Budget Office (CBO) regarding S. 1654 and would like to clarify two issues.

First, the CBO letter implies that S. 1654 creates a federal obligation to the Northern Cheyenne Tribe for completion of environmental compliance and mitigation on tribal projects under their water rights compact. The Department of Interior currently has a trustee obligation to provide those services to the tribe: consequently the fiscal impact of S. 1654 for these purposes is zero. It is incredulous that the Department of Interior, after promising the tribe that it has a trustee responsibility to provide environmental compliance and mitigation services to the Northern Cheyenne Tribe, would suggest to the CBO that this obligation is created by S. 1654.

Second, it is the position of the Northern Cheyenne Tribe and the State of Montana that Section 7(e) of the Northern Cheyenne Settlement Act of 1992 clearly directs the Department of Interior to pay for all environmental compliance and mitigation costs associated with the compact, therefore we believe that S. 1654 creates no additional federal cost.

Furthermore, the CBO letter overstates the fiscal impact of S. 1654 to the federal government regarding the Tongue River Dam Project even if the Department of Interior interpretation of the Settlement Act is correct. Because the Department of Interior would pay $1,300,000 of the $2 million cost of environmental compliance and mitigation costs associated with the Tongue River Dam Project (assuming the Department of Interior interpretation of the Settlement Act is correct) S. 1654 represents an increased federal exposure of only $700,000.

Thank you for the opportunity to provide this clarification.

Sincerely,
GARY FRITZ,
Administrator.

STATE OF MONTANA, DEPARTMENT
OF NATURAL RESOURCES AND CONSERVATION,
Helena, MT, March 8, 1994.

Hon. DANIEL K. INOUYE,
Chairman, Committee on Indian Affairs, U.S. Senate, Washington, DC.

Hon. GEORGE MILLER,
Chairman, Committee on Natural Resources, House of Representatives, Washington, DC.

Hon. BILL RICHARDSON,
Chairman, Native American Affairs Committee, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Department of Interior has suggested that S. 1654 be amended to satisfy their concerns regarding Section 1, amendments to the Northern Cheyenne Water Rights Settlement Act of 1992. We believe that the suggested amendments are either unnecessary or deleterious to the Northern Cheyenne Tribe. Therefore, we believe that S. 1654 should not be amended and should be moved quickly so that the Agreement can be fully implemented.

The first amendment suggested by the Department is that the word "Compact" be deleted from Section 7(e) and replaced with the words "Tongue River Dam Project." We oppose this amendment because it would remove the current federal obligation to complete environmental compliance and mitigation work for Northern Cheyenne Tribe activities.

The other amendments address issues that are resolved by a proposed "Letter of Understanding" that was transmitted to John J. Duffy by David W. Pennington, Chairman of the Northern Cheyenne Federal Implementation Team, on January 21, 1994. We believe it is more efficient to complete the letter of understanding than it is to amend S. 1654.

Best Regards,
MARK SIMONICH,
Director.
LLEVANDO FISHER,
Tribal Council President.

NORTHERN CHEYENNE TRIBAL COUNCIL,
NORTHERN CHEYENNE RESERVATION, LAME DEER, MT

RESOLUTION NO. 122 (94)

A resolution of the Northern Cheyenne Tribal Council expressing Northern Cheyenne Tribal Council sentiment to any congressional legislative amendments in our Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992.

Whereas, in September of 1992 the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992 was signed into law by the President of the United States of America; and,

Whereas, this federal legislation was the end product of many many years of work by the Northern Cheyenne Tribe; and,

Whereas, this federal water settlement legislation is viewed by the Northern Cheyenne Tribe as the federal recognition, at long last, of what amount of water the Northern Cheyenne Tribe now will own forever and ever; and,

Whereas, this federal recognition, through the legislation, contains other federal promises made by the federal government to the Northern Cheyenne Tribe; and

Whereas, before the Water Rights Settlement Act was passed into law it was thoroughly reviewed by the Northern Cheyenne Tribe, the State of Montana, and the U.S. Government; and,

Whereas, the Northern Cheyenne Tribe now expects that this legislation shall be fully honored by ourselves, the State of Montana, and the U.S. Government; and,

Whereas, certain amendments are now being advanced by both the State of Montana and the Department of Interior concerning certain changes in the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992; and,

Whereas, the Northern Cheyenne Tribal Council, after thoroughly reviewing the amendments which are offered by the State and the Department of Interior, wishes to go on record regarding our position on any legislation changes in our Northern Cheyenne Indian Reserved Water Rights Settlement Act; now,

Therefore be it resolved by the Northern Cheyenne Tribal Council that any and all amendments that either the State of Montana or the Department of Interior would propose for possible amendments to our Water Settlement Act will be scrutinized by the Northern Cheyenne Tribe and will not be supported, and in fact will be vigorously opposed, if the amendment dilutes or weakens any of the promises or responsibilities made by the United States Government in our 1992 Water Rights Settlement Act. In particular, the long term environmental compliance costs that the Secretary of Interior is to provide the Northern Cheyenne Tribe when the Tribe makes use of our Compact water is to remain as it now reads in our 1992 Settlement Act.

Passed, Adopted and Approved by the Northern Cheyenne Tribal Council by 13 votes for passage and adoption and no votes against passage and adoption this 22nd day of March, 1994.

LLEVANDO FISHER, PRESIDENT,
Northern Cheyenne Tribal Council.

Mr. GRAMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the gentleman from Wyoming [Mr. THOMAS], who is the ranking member on the Subcommittee on Native American Affairs, I would simply state today that we have no opposition to the passage of this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume for the purpose of thanking the gentleman from Minnesota for his assistance today. I especially want to thank the gentleman from Wyoming [Mr. THOMAS], a very valued member of the subcommittee who has worked very diligently on native American issues.

Mr. Speaker, as I have stated in my statement, this is a bill that is basically just technical corrections; they are needed. Many tribes are affected by what we are doing here today.

Mr. KOPETSKI. Mr. Speaker, I rise to express my support for S. 1654, a bill making technical corrections to various Indian laws. In particular, I support section 5 of the bill as reported from the Natural Resources Committee, which clarifies the status of three parcels of land held in trust by the United States for the Confederated Tribes of the Grand Ronde Community of Oregon. I also want to take this occasion to thank Representative RICHARDSON, the chairman of the Natural Resources Subcommittee on Native American Affairs, and Representative MILLER, chairman of the full Natural Resources Committee, for their support and timely consideration of this legislation. And the support and assistance of my Oregon colleague, Representative ELIZABETH FURSE, is especially appreciated.

Section 5 of S. 1654 as reported will clarify that three parcels of land, totaling 68.33 acres and already held in trust by the United States for the Confederated Tribes of the Grand Ronde, are to be recognized as reservation for the tribes. The Confederated Tribes of the Grand Ronde were terminated in 1954 and restored to Federal recognition in 1983. Subsequent legislation, enacted in 1988, established their new reservation, and identified specifically described tracts of commercial timberland as reservation lands. The Reservation Act also clearly envisioned that lands other than the timberlands be included in the reservation, but at the time of enactment, the Grand Rondes had no land in trust, so no other lands were included in the specified acreage. However, following enactment of the Reservation Act, the tribes secured three additional parcels of land within the community of Grand Ronde, which today are occupied by the tribal headquarters, elders facility, and forestry headquarters. These parcels are within the Grand Ronde's old reservation and have been taken in trust for the tribes. The tribes desire that the parcels be made a part of the new reservation, but the U.S. Interior Department has determined that for these parcels to be considered restored lands, they must be statutorily established. Accordingly, section 5 of S. 1654 would simply amend the specific reservation description in the 1988 Grand Ronde Reservation Act to include these three parcels.

The U.S. Department of the Interior, in a March 10, 1994 letter from Assistant Secretary for Indian Affairs Ada Deer to Chairman GEORGE MILLER, supports this change in the Grand Ronde Reservation Act, stating:

> We particularly support Section 6 now Section 5, of the bill which would amend the Grand Ronde Reservation Act of 1988, by adding to the reservation three parcels acquired in trust for the tribe since the legislation. The inclusion of these lands in the reservation is entirely consistent with the act and we fully support it.

Mr. Speaker, section 5 of S. 1654 is supported by your Committee on Natural Resources, the administration, my Oregon colleague and myself. It is time that we, as a nation, begin to repay the debt we owe our native Americans by giving them sufficient land and economic opportunities to thrive in modern American society. I urge my colleagues to support S. 1654.

In closing, Mr. Speaker, I note with sadness the death Saturday, April 16, of Mr. Ray McKnight, who joined the Grand Ronde Tribal Council in his later years. Mr. McKnight was instrumental in the Grand Ronde Reservation Act, active on the tribes' timber committee, and participated in the tribes' acquisition of lands addressed in the legislation before us today. I join the Confederated Tribes of Grand Ronde and the wider community in mourning his passing, and wish to pay tribute to his leadership and public service.

Mr. WILLIAMS. Mr. Speaker, this technical corrections bill contains language which clarifies the original intent of Congress when we enacted Public Law 102–374, the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1991. This act was passed to finally quantify the water rights of the Northern Cheyenne Tribe and to provide for the repair and enlargement of the Tongue River Dam to hold those water rights. The repair of the dam is high priority because the spillway is too small creating unsafe conditions during high flow periods.

Due to a drafting error in the original bill however, the funds for the environmental compliance and fish and wildlife mitigation for the dam reconstruction were frozen by the Department of Interior because questions were raised concerning whether environmental compliance and fish and wildlife mitigation costs were covered under the authorization for the Tongue River Dam project.

Mr. Speaker, the entire Montana congressional delegation along with Chairman MILLER of the Natural Resources Committee and Chairman RICHARDSON and Senator INOUYE of the House and Senate Indian Affairs Committees support this legislation. In fact, they sent a letter to the Department in February of 1993 clarifying our intent that the environmental compliance and mitigation was to be provided under a separate authorization found in Public Law 102–374.

Because of the continuing concern by the Department of Interior on environmental compliance and mitigation, we introduced a bill last spring which was rolled into S. 1654 and was passed the end of last year by the Senate.

I now hope with passage of this bill, we will be able to move forward and implement this long-awaited law.

Mr. RICHARDSON. Mr. Speaker, I urge my colleagues to support the bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the Senate bill, S. 1654, as amended.

The question was taken.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will announce that this is a 15-minute vote to be followed by two votes of 5 minutes each.

The vote was taken by electronic device, and there were yeas 414, nays 2, not voting 16, as follows:

[Roll No. 116]

YEAS—414

Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coble
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur

Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Penny
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—2

Royce
Sensenbrenner

NOT VOTING—16

Abercrombie
Blackwell
Clinger
Collins (IL)
Cox
Fish
Gallo
Grandy
Livingston
Pelosi
Peterson (FL)
Stokes
Thomas (WY)
Washington
Whitten
Wynn

□ 1326

Mr. ROYCE changed his vote from "yea" to "nay."

Messrs. SHAYS, LEWIS of Georgia, and PENNY changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. THOMAS of Wyoming. Mr. Speaker, I regret that I was not present during rollcall vote No. 116. Had I been present, I would have voted "yes."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed on Monday, April 18, 1994, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 3813, as amended, on which the yeas and nays are ordered; and

Senate Concurrent Resolution 31, on which the yeas and nays are ordered.

These will be 5-minute votes

ENVIRONMENTAL EXPORT PROMOTION ACT OF 1994

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3813, as amended.

The Clerk read the title of the bill.

□ 1335

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Connecticut [Mr. GEJDENSON] that the House suspend the rules and pass the bill, H.R. 3813, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 416, nays 0, not voting 16, as follows:

[Roll No. 117]

YEAS—416

Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Penny
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen

Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—16

Abercrombie
Collins (IL)
Cox
Fish
Gallo
Grandy
Livingston
Payne (VA)
Pelosi
Peterson (FL)
Quinn
Sanders
Stokes
Washington
Whitten
Wynn

□ 1336

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H.R. 3813, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 4066. An act to suspend temporarily the duty on the personal effects of participants in, and certain other individuals associated with, the 1994 World Cup Soccer Games, the 1994 World Rowing Championships, the 1995 Special Olympics World Games, the 1996 Summer Olympics, and the 1996 Paralympics.

The message also announced that pursuant to Public Law 93-29, as amended by Public Laws 98-459 and 102-375, the Chair, on behalf of the President pro tempore, reappoints Rudolph Cleghorn of Oklahoma, reappointed to a 3-year term; and Stephen M. Farnham of Maine, reappointed to a 3-year term; to the Federal Council on the Aging.

CONCERNING THE EMANCIPATION OF THE IRANIAN BAHA'I COMMUNITY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and concurring in the Senate concurrent resolution, Senate Concurrent Resolution 31.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut [Mr. GEJDENSON] that the House suspend the rules and concur in the Senate concurrent resolution, Senate Concurrent Resolution 31, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 414, nays 0, not voting 18, as follows:

[Roll No. 118]

YEAS—414

Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Penny
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—18

Abercrombie
Baker (CA)
Berman
Brown (CA)
Collins (IL)
Cox
Fish
Gallo
Grandy
Kleczka
Livingston
Pelosi
Peterson (FL)
Quinn
Stokes
Washington
Whitten
Wynn

□ 1344

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. WYNN. Mr. Speaker, I regret that as a result of an auto accident involving my mother, I was not present for the first 4 votes of todays proceedings. Had I been present I would have voted the following:

"Yes" on rollcall votes numbers 115, 116, 117, and 118.

GENERAL LEAVE

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate concurrent resolution just concurred in.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Connecticut?

There was no objection.

MODIFICATION OF APPOINTMENT OF CONFEREES ON H.R. 2333, STATE DEPARTMENT, USIA, AND RELATED AGENCIES AUTHORIZATION ACT, FISCAL YEARS 1994 AND 1995

The SPEAKER pro tempore. Without objection, pursuant to clause 6 of rule X, the Chair announces the following modification in the appointment of conferees on the bill (H.R. 2333) to authorize appropriations for the Department of State, the United States Information Agency, and related agencies, and for other purposes:

In the second panel from the Committee on Foreign Affairs, Mr. DIAZ-BALART is appointed in lieu of Mr. ROTH only for consideration of section 755 of the Senate amendment.

There was no objection.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

The SPEAKER pro tempore. Pursuant to House Resolution 401 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the future consideration of the bill, H.R. 4092.

☐ 1346

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4092) to control and prevent crime, with Mr. TORRICELLI in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, April 14, 1994, amendment No. 7 printed in part 1 of House Report 103-474, offered by the gentleman from North Carolina [Mr. WATT], had been disposed of.

It is now in order to consider amendment No. 8 printed in part 1 of House Report 103-474 relating to the subject matter of habeas corpus.

If more than one of the amendments on this subject is adopted, only the last to be adopted shall be considered as finally adopted.

AMENDMENT OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HYDE: Page 91, strike line 15 and all that follows through line 16 on page 106.

The CHAIRMAN. Pursuant to the rule, the gentleman from Illinois [Mr. HYDE] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Is the gentleman from Texas [Mr. BROOKS] opposed to the amendment?

Mr. BROOKS. Yes, I am, Mr. Chairman.

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I yield myself 7½ minutes.

Mr. Chairman, the basic rule in the medical profession was announced about 500 B.C. in the Hippocratic oath, and, among other things in that oath is a line, "First do no harm." I must say that the habeas corpus provisions in this bill really do harm. They are not an improvement on the existing sorry situation, they are an exacerbation. They make things far worse. They weaken habeas corpus proceedings and therefore, I urge Members to follow support my amendment and strike the Edwards-Washington habeas corpus provisions from the bill.

Mr. Speaker, my amendment to simply strike what they have done to this bill in habeas corpus is supported by the National District Attorneys Association, as well as the National Association of Attorneys General. I have a letter signed by 30 State attorneys general, 16 of them Democrats, 14 of them Republicans, all opposed to the Edwards-Washington habeas provisions in this bill, and all of them supporting my motion to strike.

Mr. Speaker, other State attorneys general, including Massachusetts and Georgia, have sent separate letters supporting my amendment. The National District Attorneys Association supports this amendment to strike the habeas title because the provisions in the bill are worse than current law.

In addition, all these law enforcement professionals are opposed to the Derrick amendment, which is the king-of-the-hill treatment that my amendment is going to get, and we will be debating that shortly.

☐ 1350

The intent of the legislation we are now debating is to overturn a series of Supreme Court victories won by law enforcement over the past few years. These decisions have made habeas corpus more fair to the victims, the forgotten victims, and to law enforcement; they have reduced delay, they have enhanced finality in criminal cases and secured the "one bite at the apple" approach to post-conviction litigation. The proposed legislation in this bill overturns a whole series of Supreme Court decisions that have been necessary and beneficial to law enforcement.

So let us not kid our constituents if we defeat the Hyde amendment and keep this habeas corpus provision in the bill that we are tough on crime. We are weakening, we are yielding, we are regressing, we are stepping back.

Mr. Chairman, among the important decisions that the habeas corpus provisions in this bill reverse are:

Teague versus Lane which prohibits new rules from applying retroactively on collateral review;

Butler versus McKellar which requires Federal courts to validate reasonable, good faith State court rulings;

Stone versus Powell which bars Federal habeas review of exclusionary rule claims which were fully and fairly adjudicated in State court;

Brecht versus Abrahamson which requires the petitioner to prove that a trial error had a "substantial and injurious effect" in order to obtain relief on collateral review;

Kenny versus Tamayo-Reyes, and Herrera versus Collins.

Mr. Chairman, there are nine Supreme Court cases which are helpful to law enforcement which are overturned by the legislation supported by the gentleman from Texas [Mr. BROOKS].

Now, in title VIII, this is really interesting, it is bizarre, has an appointment of counsel provision which requires the States now to set up a counsel authority made up of criminal defense attorneys. This counsel authority will be required to appoint not one but two highly qualified criminal attorneys to represent a defendant who is charged in a capital case. Both of these lawyers have to meet certain qualifications, including lots of experience in capital cases, in negotiating, in dealing with psychiatric testimony. In other words, one does not go to trial on a capital case until Alan Dershowitz and Lawrence Tribe are defending you or, if you cannot get them, Jerry Spence and Melvin Belli. And the State will pay for that, not one, but two. The similar situation in health care would require two specialists instead of one. And the statute of limitations does not begin to run until both of these attorneys have been appointed and are functioning.

And, of course, there is no enforcement mechanism in the bill to require the appointment of counsel, so these capital cases can sit and sit and sit.

Mr. Chairman, taken together, these provisions guarantee the prolonging of Federal habeas corpus for many years.

My colleagues, over 14 years ago John Wayne Gacy was convicted of killing 33 young men and boys in a suburb near Chicago. In 14 years of litigation, he has raised more than 100 claims. Just last year, one of his claims was that a survey conducted by a death penalty opponent showed that some jury members might have difficulty understanding instructions on mitigating factors. If the writ had been granted, the court could have ordered a new sentencing proceeding. This claim was rejected by a Federal court because it was barred by Teague versus Lane, but this bill reverses Teague versus Lane, thus giving a further opportunity to John Wayne Gacy to carry his appeals into the next century.

Mr. Chairman, I have here an article from the Chicago Tribune, April 13:

> Lawyers for convicted serial killer John Wayne Gacy, who has been on death row for the past 14 years, said Tuesday they have uncovered new evidence that could block Gacy's scheduled May 10 execution.

When does it all end?

Mr. Chairman, I believe that meaningful habeas corpus reform is still desirable but it makes more sense to strike this provision rather than to enact harmful retrogressive legislation.

Mr. Chairman, when the other body considered its crime legislation last year, it adopted on a bipartisan vote a motion to strike habeas from the bill. They knew what we should know, that this issue will hold up passage of a crime bill.

Mr. Chairman, we should strike this provision and keep it out. This is a faulty measure, it will thwart the use of death penalty laws in the States and expand opportunities for delay and litigation abuse by prisoners in capital cases.

Ladies and gentlemen, if the Edwards-Washington provisions in the bill were so good, why are all the professionals in law enforcement against it? Why are all the attorneys generals, all the States attorneys opposed to this? They know because they deal with it every day. This is a step back. It will prolong these appeals which are already criminally long enough.

Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may use.

Mr. Chairman, I want to express my opposition to this amendment. I share the view of many that changes are needed in our system to reduce the passage of time between conviction of heinous murders and their execution. Endless hearings and delays—many spawned by attorneys unable to follow the complex procedure which applies in habeas corpus proceedings—have unfortunately cast into question the validity of one of our most cherished rights, and of the working of the judicial system itself.

This amendment unfortunately does nothing to correct these problems. By moving to strike any attempt at reform, it leaves us without a short statute of limitations, without strict limits on successive petitions and without providing competent counsel in capital cases so that we can reduce the errors at the front end which only lead to hearings and new trials.

We must move forward with our efforts to reduce delay, achieve finality and promote efficiency in the habeas corpus process. I urge the rejection of the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. HYDE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Chairman, this amendment is critical to the debate on what direction this crime bill will take. Will it be a crime bill that gives the tools to our police and prosecutors and other law enforcement authorities to put people away and to have them serve their sentences even if it should be a sentence of death? Or will it be another wolf in sheep's clothing where people posture, saying that they want to be tough on crime but, looking at the details, comes up with the opposite conclusion?

Mr. Chairman, this bill, I think, represents legislative schizophrenia in the area of the death penalty and in many other areas, and the amendment that is offered by the gentleman from Illinois [Mr. HYDE] is medicine to cure schizophrenia in the area of habeas corpus.

Mr. Chairman, what the amendment of the gentleman from Illinois proposes to do is to reinstate existing law on the subject of appeals in death row cases.

Mr. Chairman, I would prefer a restriction on existing laws as would the commission that was held by the eminent retired justice of the U.S. Supreme Court, Lewis Powell, when he made the recommendation several years ago. But the gentleman from Illinois [Mr. HYDE] figured that was asking too much, so all he is asking is that we keep the existing law the way it is. And that is a reasonable request and that is why his amendment should be supported and the amendment that will be proposed later on by the gentleman from South Carolina [Mr. DERRICK] should be opposed.

Mr. Chairman, the key in Mr. HYDE's amendment is the reinstatement of the Teague case which is repealed both by this law unamended as well as by the amendment to be offered by the gentleman from South Carolina [Mr. DERRICK].

□ 1400

The Teague case is vitally important to put some type of limitation on death-row appeals. Without the Teague case, anytime the Supreme Court renders a new decision on the procedural aspects of the death penalty, every prisoner on death row will have another kick at the habeas corpus cat, and that means that the business of endless appeals, and people who have been convicted and sentenced to death by a jury of their peers will never face the electric chair or the gas chamber.

So without the amendment offered by the gentleman from Illinois [Mr. HYDE], all of the people who say they support the death penalty in the Congress can vote that way knowing that no prisoner will ever be executed. I do not think that is the way we should be legislating. I do not think we should pass schizophrenic bills that give the appearance of going one direction when the details and the procedures go in the opposite direction.

Support Hyde and oppose Derrick.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. EDWARDS], the distinguished chairman of the subcommittee.

Mr. EDWARDS of California. Mr. Chairman, I thank the chairman of the Committee on the Judiciary for yielding me this time.

Mr. Chairman, I listened with great interest to the gentleman from Wisconsin and my good friend, the gentleman from Illinois [Mr. HYDE] and they have been complaining for months and even years that the habeas system is not working, that there is petition after petition; we have 3,000 people on death row; nothing can get done; delay, delay, delay.

And then when they have the opportunity to offer something that will cure this deplorable situation, and it is deplorable, what do they do? they offer nothing. They just strike a very good provision in this bill that is real reform. It is conservative reform in a lot of ways, because the person condemned can only appeal once under a petition in habeas corpus, and it must be done within 1 year after the final appeal in the State courts.

The heart of the matter is, my colleagues, that it provides for decent counsel, competent counsel, in the trial and in the appeal process. That is the reason that we have these delays. There is no disagreement that this is the reason these delays take place.

We are curing that ill. The gentleman from Illinois [Mr. HYDE] is offering no attorney provisions at all. It is an empty gesture. He apparently likes the present system.

Mr. WASHINGTON. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I am happy to yield to the gentleman from Texas.

Mr. WASHINGTON. I want to underscore the point that the gentleman is making. The gentleman from Illinois [Mr. HYDE] and others have complained mightily about the state of the law as it now exists; is that correct?

Mr. EDWARDS of California. That is correct.

Mr. WASHINGTON. They say the appeals take too long in death penalty cases?

Mr. EDWARDS of California. Right.

Mr. WASHINGTON. It is a fact that over 80 percent of the death row appeals, and specifically the reversals, are based upon lawyer error, that is, people had incompetent lawyers to try death penalty cases to begin with; right?

Mr. EDWARDS of California. That is exactly right.

Mr. WASHINGTON. You cure that by giving them good lawyers and one bite of the apple on appeal; is that right?

Mr. EDWARDS of California. That is exactly right.

Mr. WASHINGTON. This is not the Washington-Edwards amendment. My amendment would have done a lot more, a lot more forcefully and a lot more, but the committee decided on your version rather than mine, which is quintessentially, in my judgment, a much better version, the stronger version; is that right?

Mr. EDWARDS of California. That is correct.

Mr. WASHINGTON. So yours is the moderate, watered down habeas corpus reform that gets us beyond where we are now with all the delays?

Mr. EDWARDS of California. That is right

Mr. WASHINGTON. What is wrong with that?

Mr. EDWARDS of California. This is real streamlining. It takes care of these endless delays. It provides for counsel. It is a real reform.

The gentleman from Illinois [Mr. HYDE] offers us nothing but more of the same delays, delay, delay.

Mr. HYDE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Florida [Mr. CANADY]. Maybe he can explain why, if this is real reform, nobody in law enforcement is for it.

Mr. CANADY. Mr. Chairman, I rise in support of Mr. HYDE's amendment—an amendment which the prosecuting attorneys and the State attorneys general from throughout the land believe is absolutely essential to make this bill a true crime fighting measure.

Nothing has done more to undermine public confidence in the administration of justice than the seemingly endless cycle of appeals pursued by death row inmates.

And now unless we adopt the Hyde amendment, the habeas corpus provisions of this bill threaten to make a bad situation intolerable.

How can anyone justify this massive step in the wrong direction?

How can anyone explain to the American people that we should grant convicted murderers on death row more opportunities to delay the execution of their sentences, more opportunities to thwart justice—and more opportunities to torment the families of their victims.

Let me tell you, the people will not buy it. They want real reform. They do not want to further slow down the wheels of justice.

Let us cure this deplorable situation. I urge you to vote for the Hyde amendment—and remove the unwise and unjust habeas provisions of the bill.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. LAUGHLIN].

Mr. LAUGHLIN. Mr. Chairman, I rise in opposition to the Hyde amendment, with all due respect to the gentleman from Illinois.

It has been said no law enforcement people are in favor of the Derrick amendment, and they all want the Hyde amendment, and I am confused by that, I have to confess to the gentleman.

I prosecuted for 4 years, and I have read these statutes, and I realize reasonable, and many are very bright, lawyers differ on interpretations. But for the life of me, as I travel around this district that I represent, people are saying to me, "We want change in habeas corpus," and with all respect, I say to the gentleman from Illinois [Mr. HYDE], I do not understand your amendment, keeping it the way it is.

While there needs to be change, perhaps this bill does not take it to perfection the way you and the gentleman from Wisconsin [Mr. SENSENBRENNER] and others with long, strong law enforcement backgrounds would want, but it is an improvement to have a 1-year statute of limitations. It is an improvement not to allow more than one appeal.

So I submit to my colleagues that this is improvement to the mess that we have on our hands as others have described it, and I would urge defeat of the Hyde amendment.

Mr. WASHINGTON. Mr. Chairman, will the gentleman yield?

Mr. LAUGHLIN. I am happy to yield to the gentleman from Texas.

Mr. WASHINGTON. The question was raised and has not been answered: Why would prosecutors oppose this amendment? It is like any work product. Once you put your work into something, you are duty-bound to defend that work product, are you not?

Mr. LAUGHLIN. Well, you are, and the problem I have is in talking to some, I have found that they have not read the statute and others have.

Mr. WASHINGTON. That is right.

When there are good lawyers on the other side, does it not make your job a lot easier? You and I used to try cases against each other. Really when you are trying a good, hard-fought case, do you not want a good lawyer on the other side rather than somebody you have got to hold their hand and spoonfeed them and do your job half as good as you are capable of doing it just so that you do not look bad in front of the jury and the judge? Every lawyer in here knows that. Every lawyer knows that.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina [Mr. DERRICK].

(Mr. DERRICK asked and was given permission to revise and extend his remarks.)

Mr. DERRICK. Mr. Chairman, well, there is one thing for sure, that the attorneys general are for the amendment offered by the gentleman from Illinois [Mr. HYDE], those who have read it, and once they have read it, they understand that their work will be reviewed. Their work will be reviewed, and they do not want their work reviewed. Of course they do not.

We have our supporters as well, and the Emergency Committee to Save Habeas Corpus, which was founded by four former U.S. Attorneys General, two Democrats and two Republicans, oppose the gentleman from Illinois [Mr. HYDE] and support the Derrick amendment. The Hyde amendment to strike the committee provision on habeas corpus is no reform.

We talk about what people want. I guarantee you that you can go to any one of your districts and tell people about the Derrick amendment and they would support it, because they are tired of people having a sentence handed down and 15 years later sentence has not been executed.

What the Derrick amendment does is it says one time, one shot at the apple, within 1 year with a competent attorney.

□ 1410

What the Hyde amendment does is say, "Let's just keep it like it has always been, let's keep them on death row for 10, 15 years."

It is the easiest way that I can think of not to execute the death penalty—and I support the death penalty.

So if you want to do nothing and you want to keep the system like it has always been in the inefficient way that it does work, and if you want to keep it like most of the American people do not want it, then I suggest you vote for Hyde. If you do not, vote against it and vote for the Derrick amendment.

Mr. HYDE. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. I thank the gentleman for yielding this time to me.

I simply want to say, in answer to one of the questions raised a moment ago by a party on the other side of the aisle, the reason why the prosecutors and the folks involved at the AG's office is pretty simple: Their main problem with the habeas corpus language in this bill as it is now drafted is that it would reverse the Supreme Court decision that has kept death row inmates from being able to take every new decision of the Supreme Court that comes out on criminal procedure and go to Federal court and seek to get their death penalty overturned, and then appeal that.

Since the Supreme Court of the United States comes down with a new criminal procedure ruling at least once every term, if we pass this legislation as it is now written, they would be able to go into court and add to their already existing endless appeals to the point that you would never have a death penalty carried out in this country again. At least that is one view of most prosecutors and most attorneys general. And I respect that. We should not be reversing Teague versus Lane, we should not be reversing any of the other Supreme Court decisions. Yet you cannot end the endless appeals by doing it; you only compound the problem, and it means the death penalty will never be carried out in this country.

I urge adoption of the Hyde amendment to strike that language.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, when I was in law school, the Gideon case came down, and I thought that once and for all my country stood for the proposition that whenever accused of a serious crime you were entitled to counsel, indeed to competent counsel. In case that principle in our law is not sacred enough for you, surely the pragmatic knowledge that 40 percent of the reversals today are for serious constitutional error, would lead you to want to avoid that by the only means at hand, and that is to provide competent counsel.

One would think that the two sides would come together on this proposition, if on none other—that you do not send a man or woman to death without the opportunity to have the case presented fairly by a competent lawyer.

If the Hyde Amendment passes, we are left with the law as it is.

At the fulcrum of the problem are the cases after the Teague decision on what constitutes "a new rule of law." A new rule of law cannot be applied retroactively in a habeas petition case. And so enterprising lawyers have spent much energy trying to discover what "a new rule of law" means. It is whenever reasonable judges could disagree, under prevailing law. Instead, we would, with the Derrick amendment, give the courts definitive guidance and say that the standard now is "a clear break from precedent."

Mr. HYDE, you need that, you need that codification. Without it, mark my word, what enterprising lawyers have already done with Teague they will continue to do. Hyde does not stop anything. What Hyde does is to leave us where we are.

Mr. HYDE. Mr. Chairman, how much time does the gentleman from Texas have remaining?

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] has 4½ minutes remaining, and the gentleman from Illinois [Mr. HYDE] has 2½ minutes remaining.

Mr. HYDE. Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished Chairman of the Subcommittee on Crime, the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, first let me thank the distinguished chairman, the gentleman from Texas, for yielding to me.

I am really at a loss to understand what my colleague and good friend, the gentleman from Illinois [Mr. HYDE] is all about. In essence, what he is doing is striking habeas corpus reform from the bill.

Now, I have received in my some 20 years in Congress probably as much mail on the abuses of the habeas corpus process as any other process that we have in our criminal justice system. And that is because it has been abused.

You hear the legion of cases, as I have over the years, that have gone up from State courts to Federal courts, back to State courts, back to Federal courts. Sometimes defendants have filed as many as 10 to 15 repetitious petitions, and that is an abuse of the process.

A vote for Hyde is a vote to preserve the present process.

Now, my "Dear Colleague" alludes to the fact that in this bill is the requirement that we appoint competent counsel. Well, shame on us, that we want to appoint competent counsel throughout the country. He knows as well as most Members who have followed this issue over the years that one of the reasons why we have so many reversals in capital cases is because of incompetent counsel. I mean there are instances where lawyers right out of law school have represented a capital defendant. We have had drunks, intoxicated individuals, representing capital cases. Sometimes it takes 10 or 12 years before the Supreme Court catches up with it; but they reverse.

Now, my colleague would have us set up two systems of justice, apparently one for the rich and one for the poor. If you want to reform the habeas corpus process, you have to appoint competent counsel; if not, you do not. Reject Hyde, and let us reform habeas corpus.

Mr. HYDE. Mr. Chairman, may I ask do I have the right to close?

The CHAIRMAN. No. The distinguished chairman of the committee, the gentleman from Texas [Mr. BROOKS] has the right to close, and the gentleman from Illinois [Mr. HYDE] and the gentleman from Texas [Mr. BROOKS] each has 2½ minutes remaining.

Mr. HYDE. Mr. Chairman, I yield myself the 2½ minutes remaining.

Mr. Chairman, the question has been asked why keep it as it is? "Why don't we reform habeas corpus?" Well, because we have gone down that road. The last two Congresses habeas corpus torpedoed the crime bill. So the professionals, the people in the trenches every day, not retired professors, say leave habeas out of this crime bill. Let us get a crime bill and let us deal with habeas, which is like advanced calculus, as freestanding. Let us have some hearings, not file something, slip something in under the door at the last minute. Let us have hearings and deal with it in an intelligent way.

Now, I will be pleased to read to this body, to this gallery, the letter from Attorney General Janet Reno supporting Mr. EDWARDS' habeas corpus, supporting Mr. DERRICK's habeas corpus, if they have one, but, folks, I just do not think they do. I just do not think they could get a letter from the Justice Department supporting their position.

Now, Mr. HUGHES said shame on us that we want to appoint incompetent counsel. My God, who said that? I want competent counsel, but not two, not a chorus of them, just one, just one. And I want that one to be appointed by the court, the same court that appointed Lawrence Walsh, that appointed Mr. Fiske. Courts can appoint these people, and they can be competent. But you do not need two highly qualified criminal lawyers, experienced in psychiatric; these people are getting treated better than anybody else in the country, if that is what you want.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. HYDE. Yes, I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Chairman, you have to have cocounsel because that team has to handle the appeals as well as the trial.

□ 1420

Mr. HYDE. Mr. Chairman, it is kind of like a copilot on an airplane; right? You would not want to fly with just one because he might get sick. I understand that, and I take back my time.

I simply say that competent counsel is required under Gideon versus Wainwright. We are not repealing any Supreme Court cases; you are. You are repealing nine of them in the Edwards-Washington version. It is not quite the Washington version; it is not liberal enough, and I understand that. You gentlemen are militant opponents of the death penalty, and, frankly, I would like somebody to be executed within two decades of the time they are convicted. That is all I ask.

Mr. WASHINGTON. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from Texas.

Mr. WASHINGTON. Mr. Chairman, I say to the gentleman, if you want somebody to be executed, why do you not just assist in reforming habeas corpus so you can get on with the appeals? I am opposed to the death penalty, and that only delays the appeal.

Mr. HYDE. Before the gentleman came here, we tried twice and we were defeated in conference.

Mr. WASHINGTON. And you can try it again after I leave here, too.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. HYDE] has expired.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the chairman of the committee, and I rise in opposition to the Hyde amendment and in support of the Derrick amendment.

Let me just say to my colleagues first that as the gentleman from Illinois knows, the gentleman from New Jersey, the gentleman from Texas, and I are in support of the death penalty. But it seems to me quite logical, overwhelmingly logical, that if we are going to use the ultimate punishment, yes, we have to be careful, and one would argue you have to be extra careful, because the decision is irrevocable.

After this amendment there will be the Derrick amendment. It limits things to one major appeal. That is necessary because I do believe that lawyers have delayed and delayed for the sake of delay. But if we pass the Hyde amendment, we will knock one important provision of this bill out, one, it seems to me, that fairminded men and women have to agree on, and that is that there has to be fair and adequate counsel.

Let me read to the Members some of these cases. Attorneys representing defendants in capital cases have been known to refer to an accused as a "nigger" in front of the jury. They indicate that they are representing the client with reluctance. They absent themselves from the court while the prosecuting witness takes the stand or present no evidence in favor of the client if the death penalty is not filed, and they file no brief on appeal.

Mr. Chairman, if the Members believe in capital punishment, they still should believe—and I believe most of us do, and most Americans do—that defendants ought to be adequately represented, not just slightly above the margin but fully and fairly.

The Hyde amendment would knock that out. The committee print keeps it, and the Derrick amendment would then limit the appeals. That is the thing to do. I ask the Members to vote no on Hyde amendment and yes on Derrick.

Mr. BROOKS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, in the final analysis, this amendment does not change the status quo. Leaving the status quo in place would allow a steady stream of postconviction habeas appeals to any number of courts. It also leaves intact perhaps the greatest problem area in habeas litigation: The failure of the present system to require competent counsel at the very beginning of the proceedings. Without competent counsel appointed at the front end, we should not be surprised that habeas appeals are allowed at the back-end of the process.

In contrast the substitute that will be offered shortly by the gentleman from South Carolina [Mr. DERRICK] will procedurally streamline the habeas process to one appeal in 12 months and set out impeccable counsel standards to ensure adequate representation from the start. I would therefore urge my colleagues to reject the gentleman's strike amendment and cast an aye vote for the Derrick substitute which follows.

Mr. THOMAS of Wyoming. Mr. Chairman, I rise in strong support of the Hyde amendment. In the bill's current form, the initiative does nothing to reform habeas corpus, but rather prolongs the appeals process—allowing prisoners on death row to further delay their sentences, requires two lawyers on the public dole to be appointed to represent defendants in each appeals process, and overturns Supreme Court cases that prohibit new appeals each time the high court makes an additional ruling. When a prisoner on death row can almost indefinitely delay their punishment, it's obvious the system is broken and needs fixing. However, habeas corpus reform in this bill is only in theory. It will do nothing but clog the system and increase litigation.

Habeas corpus petitions were originally designed to determine whether a person is lawfully imprisoned. It is now, however, a device of Federal and State defendants who have been convicted and have exhausted all direct appeals. Because of this, many petitions that are filed are lacking in quality and merit. In addition, the current proposal attempts to overturn such Supreme Court cases as McClesky versus Zant, which limits a prisoner to file only one habeas corpus petition in Federal court unless there is sufficient proof why any new constitutional claim was not brought out in the case the first time.

Mr. Speaker, if we cannot place a 1-year limitation on the filing of a habeas corpus petition, without creating additional loopholes in which criminals stand the chance of reducing their punishment, we do not need habeas corpus reform in this bill. I urge my colleagues to vote in favor of this amendment.

Mr. PACKARD. Mr. Chairman, we have heard several people comment that the administration's crime bill will reform the habeas corpus process. In reality it dilutes current law.

The Democrats' crime bill enables criminals to abuse and prolong the appeals process. Death row inmates routinely abuse State appeals process in an effort to contest their sentence. There is no room for relaxing these rules in our judicial system which already prolongs swift justice to the perpetrators of crime. These rules increase litigation and have a devastating effect on the lives of the victims.

In addition, the habeas corpus provision proposed by the Democrats requires that two lawyers be appointed at all stages of the appeals process. I fail to see the need for mandating such an intricate and burdensome system for appointing lawyers that will only serve to augment the appeals process.

The administration's crime bill further allows Federal district appeals courts to overturn Supreme Court rulings that allow courts to apply new rules to cases on review. These rules open a Pandora's box that allows inmates on death row to endlessly appeal their conviction and prolong their sentence. This is ludicrous. The immediate effect of this will fall on the 36 States that have death penalties. Their criminal justice systems will be undermined.

The bottom line is the endless appeals process should be reformed. The Democrat's bill does not do this. The Hyde amendment does. It strikes the Democrat's habeas corpus provision and terminates the abusive appeals process that currently clogs our criminal justice system.

The Hyde amendment reminds us that criminals are not victims of society; they victimize society. It sends criminals a clear message that their behavior will not be tolerated, and their punishment will be certain, swift, severe, and not open to debate. Passage of the Hyde amendment signifies the restoration of truth and justice back into our criminal justice system.

I urge my colleagues to support passage of Hyde and defeat the Derrick amendment.

Mr. FISH. Mr. Chairman, there are many reasons why I cannot support the amendment offered by the gentleman from Illinois. But a primary one is that it risks the execution of innocent people.

Last year, the Supreme Court's decision in the case of Herrera versus Collins made it unclear whether the Federal courts can hear the claim of a person on death row who says he or she is innocent.

Obviously, many of these claims will be frivolous. We should not waste the courts' time with them. However, unfortunately not all of these claims are frivolous. In just the past few years, we have seen many people from around the country who have been on death row for years who have been able to prove their innocence. They have been released from prison, and rightly so. Let me just mention a few—Walter McMillian from Alabama, Fred Macias from Texas, and Joseph Green Brown from Florida.

No civilized society can tolerate the execution of an innocent person, and if we adopt this amendment we risk doing exactly that. This Congress has a solemn responsibility to state clearly that the Federal courthouse door is open to prisoners on death row who have newly discovered, persuasive claims of innocence. This is a very tough standard, and I am not saying that the Federal courts must release these people. But I am saying that these people are entitled to a hearing in Federal court.

I strongly oppose the amendment of the gentleman from Illinois because it doesn't give these people a hearing. No matter whether you are a liberal or a conservative, no matter what your position on this bill overall, you should also oppose this amendment. The amendment by the gentleman from South Carolina [Mr. DERRICK], guarantees that the courthouse doors will be open to serious claims of innocence, and I urge my colleagues to support it instead.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BROOKS] has expired, and indeed all time has expired.

The question is on the amendment offered by the gentleman from Illinois [Mr. HYDE].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HYDE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 270, noes 159, not voting 8 as follows:

[Roll No. 119]

AYES—270

Allard
Andrews (NJ)
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Brewster
Browder
Brown (OH)
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Carr
Castle
Chapman
Clement
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Ehlers
Emerson
English
Everett
Ewing
Fawell
Fazio
Fields (TX)
Fingerhut
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Green
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kim
King
Kingston
Klein
Klink
Klug
Knollenberg
Kolbe
Kreidler
Kyl
Lambert
Lancaster
LaRocco
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Lloyd
Long
Machtley
Manzullo
Martinez
McCandless
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Neal (NC)
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Pastor
Paxon
Payne (VA)
Penny
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schenk
Schiff
Sensenbrenner
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Stump
Stupak
Sundquist
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thurman
Torkildsen
Traficant
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Williams
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—159

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bilbray
Bishop
Blackwell
Bonior
Boucher
Brooks
Brown (CA)
Brown (FL)
Bryant
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Coyne
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Dingell
Dixon
Durbin
Edwards (CA)
Engel
Eshoo
Evans
Farr
Fields (LA)
Filner
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gutierrez
Hall (OH)
Hamburg
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoyer
Hughes
Jacobs
Jefferson
Johnson, E.B.
Johnston
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
LaFalce
Lantos
Laughlin
Levin
Lewis (GA)
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Matsui
Mazzoli
McCloskey
McDermott
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Murphy
Nadler
Neal (MA)
Norton (DC)
Oberstar
Obey
Olver
Owens
Pallone
Payne (NJ)
Pelosi
Pickle
Price (NC)
Rahall
Rangel
Reed
Reynolds
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sharp
Skaggs
Slaughter
Smith (IA)
Stark
Stokes
Strickland
Studds
Swett
Swift
Synar
Thompson
Thornton
Torres
Torricelli
Towns
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Washington
Waters
Watt
Waxman
Wheat
Whitten
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—8

Collins (IL)
Faleomavaega (AS)
Fish
Gallo
Grandy
Livingston
Peterson (FL)
Romero-Barcelo (PR)

□ 1446

The Clerk announced the following pair:

On this vote:

Mr. Grandy for, with Mrs. Collins of Illinois against.

Mr. SHARP changed his vote from "aye" to "no."

Ms. DANNER, and Messrs. RICHARDSON, GENE GREEN of Texas, KLEIN, and PENNY changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 9 printed in part 1 of House Report 103-474.

AMENDMENT OFFERED BY MR. DERRICK

Mr. DERRICK. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DERRICK:

TITLE VIII—HABEAS CORPUS REFORM

SEC. 801. FILING DEADLINES.

Section 2254 of title 28, United States Code, is amended by adding at the end the following:

"(g)(1) In the case of an applicant under sentence of death, any application for habeas corpus relief under this section must be filed in the appropriate district court not later than 1 year after—

"(A) the date of denial of a writ of certiorari, if a petition for a writ of certiorari to the highest court of the State on direct appeal or unitary review of the conviction and sentence is filed, within the time limits established by law, in the Supreme Court;

"(B) the date of issuance of the mandate of the highest court of the State on direct appeal or unitary review of the conviction and sentence, if a petition for a writ of certiorari is not filed, within the time limits established by law, in the Supreme Court; or

"(C) the date of issuance of the mandate of the Supreme Court, if on a petition for a writ of certiorari the Supreme Court grants the writ and disposes of the case in a manner that leaves the capital sentence undisturbed.

"(2) The time requirements established by this section shall be tolled—

"(A) during any period in which the State has failed to provide counsel as required in section 2257 of this chapter;

"(B) during the period from the date the applicant files an application for State postconviction relief until final disposition of the application by the State appellate courts, if all filing deadlines are met; and

"(C) during an additional period not to exceed 90 days, if counsel moves for an extension in the district court that would have jurisdiction of a habeas corpus application and makes a showing of good cause.".

SEC. 802. STAYS OF EXECUTION IN CAPITAL CASES.

Section 2251 of title 28, United States Code, is amended—

(1) by inserting "(a)(1)" before the first paragraph;

(2) by inserting "(2)" before the second paragraph; and

(3) by adding at the end the following:

"(b) In the case of an individual under sentence of death, a warrant or order setting an execution shall be stayed upon application to any court that would have jurisdiction over an application for habeas corpus under this chapter. The stay shall be contingent upon reasonable diligence by the individual in pursuing relief with respect to such sentence and shall expire it—

"(1) the individual fails to apply for relief under this chapter within the time requirements established by section 2254(g) of this chapter;

"(2) upon completion of district court and court of appeals review under section 2254 of this chapter, the application is denied and—

"(A) the time for filing a petition for a writ of certiorari expires before a petition is filed;

"(B) a timely petition for a writ of certiorari is filed and the Supreme Court denies the petition; or

"(C) a timely petition for certiorari is filed and, upon consideration of the case, the Supreme Court disposes of it in a manner that leaves the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel qualified under section 2257 of this chapter and after being advised of the consequences of the decision, an individual waives the right to pursue relief under this chapter.".

SEC. 803. LAW APPLICABLE.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"§ 2256. Law applicable

"In an action under this chapter, the court shall not apply a new rule. As used in this section, the term "new rule" means a clear break from precedent, announced by the Supreme Court of the United States, that could not reasonably have been anticipated at the time the claimant's sentence became final in State court. A rule is not 'new' merely because it was not dictated or compelled by the precedents existing at that time or because, at that time, it was susceptible to debate among reasonable minds.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 153 of title 28, United States Code, is amended by adding at the end the following new item:

"2256. Law applicable.".

SEC. 804. COUNSEL IN CAPITAL CASES; STATE COURT.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding after the section added by section 803 the following:

§ 2257. Counsel in capital cases; State court

"(a) Notwithstanding section 2254(d) of this chapter, the court in an action under this chapter shall neither presume a finding of fact made in a State court proceeding specified in subsection (b)(1) of this section to be correct nor decline to consider a claim on the ground that it was not raised in such a proceeding at the time or in the manner prescribed by State law, unless—

"(1) the relevant State maintains a mechanism for providing legal services to indigents in capital cases that meets the specifications in subsection (b) of this section;

"(2) if the applicant in the instant case was eligible for the appointment of counsel and did not waive such an appointment, the State actually appointed an attorney or attorneys to represent the applicant in the State proceeding in which the finding of fact was made or the default occurred; and

"(3) the attorney or attorneys so appointed substantially met both the qualification standards specified in subsection (b)(3)(A) or (b)(4) of this section and the performance standards established by the appointing authority.

"(b) A mechanism for providing legal services to indigents within the meaning of subsection (a)(1) of this section shall include the following elements:

"(1) The State shall provide legal services to—

"(A) indigents charged with offenses for which capital punishment is sought;

"(B) indigents who have been sentenced to death and who seek appellate, collateral, or unitary review in State court; and

"(C) indigents who have been sentenced to death and who seek certiorari review of State court judgments in the United States Supreme Court.

"(2) The State shall establish a counsel authority, which shall be—

"(A) a statewide defender organization;

"(B) a resource center; or

"(C) a counsel authority appointed by the highest State court having jurisdiction over criminal matters, consisting of members of the bar with substantial experience in, or commitment to, the representation of criminal defendants in capital cases, and comprised of a balanced representation from each segment of the State's criminal defense bar.

"(3) The counsel authority shall—

"(A) publish a roster of attorneys qualified to be appointed in capital cases, procedures by which attorneys are appointed, and standards governing qualifications and performance of counsel, which shall include—

"(i) knowledge and understanding of pertinent legal authorities regarding issues in capital cases; and

"(ii) skills in the conduct of negotiations and litigation in capital cases, the investigation of capital cases and the psychiatric history and current condition of capital clients, and the preparation and writing of legal papers in capital cases;

"(B) monitor the performance of attorneys appointed and delete from the roster any attorney who fails to meet qualification and performance standards; and

"(C) appoint a defense team, which shall include at least 2 attorneys, to represent a client at the relevant stage of proceedings, within 30 days after receiving notice of the need for the appointment from the relevant State court.

"(4) An attorney who is not listed on the roster shall be appointed only on the request of the client concerned and in circumstances in which the attorney requested is able to provide the client with quality legal representation.

"(5) No counsel appointed pursuant to this section to represent a prisoner in State postconviction proceedings shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made, unless the prisoner and counsel expressly request continued representation.

"(6) The ineffectiveness or incompetence of counsel appointed pursuant to this section during State or Federal postconviction proceedings shall not be a ground for relief in a proceeding arising under section 2254 of this title. This limitation shall not preclude the appointment of different counsel at any phase of State or Federal postconviction proceedings.

"(7) Upon receipt of notice from the counsel authority that an individual entitled to the appointment of counsel under this section has declined to accept such an appointment, the court requesting the appointment shall conduct, or cause to be conducted, a hearing, at which the individual and counsel proposed to be appointed under this section shall be present, to determine the individual's competency to decline the appointment, and whether the individual has knowingly and intelligently declined it.

"(8) Attorneys appointed pursuant to this section shall be compensated on an hourly basis pursuant to a schedule of hourly rates as periodically established by the counsel authority after consultation with the highest State court with jurisdiction over criminal matters. Appointed counsel shall be reimbursed for expenses reasonably incurred in representing the client, including the costs of law clerks, paralegals, investigators, experts, or other support services.

"(9) Support services for staff attorneys of a defender organization or resource center shall be equal to the services listed in paragraph (8).

"(10) This section shall take effect one year after the date of the enactment of this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 153 of title 28, United States Code, is amended by adding after the item added by section 803 the following new item:

"2257. Counsel in capital cases; State court."

SEC. 805. SUCCESSIVE FEDERAL PETITIONS.

Section 2244(b) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by inserting ", in the case of an applicant not under sentence of death," after "When"; and

(3) by adding at the end the following:

"(2) In the case of an applicant under sentence of death, a claim presented in a second or successive application, that was not presented in a prior application under this chapter, shall be dismissed unless—

"(A) the applicant shows that—

"(i) the basis of the claim could not have been discovered by the exercise of reasonable diligence before the applicant filed the prior application; or

"(ii) the failure to raise the claim in the prior application was due to action by State officials in violation of the Constitution of the United States; and

"(B) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the applicant's guilt of the offense or offenses for which the capital sentence was imposed, or in the applicant's legal eligibility for that sentence.".

SEC. 806. CERTIFICATES OF PROBABLE CAUSE.

The third paragraph of section 2253, of title 28, United States Code, is amended to read as follows:

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, unless the justice or judge who rendered the order or a circuit justice or judge issues a certificate of probable cause. However, an applicant under sentence of death shall have a right of appeal without a certification of probable cause, except after denial of a second or successive application.".

SEC. 807. DUTIES OF THE DISTRICT COURT.

Section 2254(a) of title 28, United States Code, is amended by adding at the end the following:

"In adjudicating the merits of any such ground, the court shall exercise independent judgment in ascertaining the pertinent Federal legal standards and in applying those standards to the facts and shall not defer to a previous State court judgment regarding a Federal legal standard or its application. Upon request, the court shall permit the parties to present evidence regarding material facts that were not adequately developed in State court. The court shall award relief with respect to any meritorious constitutional ground, unless, in the case of a violation that can be harmless, the respondent shows that the error was harmless beyond a reasonable doubt.".

SEC. 808. CLAIMS OF INNOCENCE.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding after the provision added by section 804 of this title the following:

"§ 2258. Claims of innocence

"(a) At any time, and notwithstanding any other provision of law, a district court shall issue habeas corpus relief on behalf of an applicant under sentence of death, imposed either in Federal or in State court, who offers credible newly discovered evidence which, had it been presented to the trier of fact or sentencing authority at trial, would probably have resulted in—

"(1) an acquittal of the offense for which the death sentence was imposed; or

"(2) a sentence other than death.

"(b) An application filed pursuant to subsection (a) shall offer substantial evidence which, if credible, would establish one of the standards in subsection (a)(1) or (2). An application that fails to do so may be dismissed.

"(c) If the court concludes that an application meets the requirements in subsection (b), the court shall—

"(1) order the respondent to file an answer;

"(2) permit the parties to conduct reasonable discovery;

"(3) conduct a hearing to resolve disputed issues of fact; and

"(4) upon request, issue a stay of execution pending further proceedings in the district court and on direct review of the district court's judgment.

"(d) If the court concludes that the applicant meets the standards established by subsection (a)(1) or (2), the court shall order his or her release, unless a new trial or, in an appropriate case, a new sentencing proceeding, is conducted within a reasonable time.

"(e) If the court determines that the applicant is currently entitled to pursue other available and effective remedies in either State or Federal court, the court may, at the request of either party, suspend its consideration of the application under this section until the applicant has exhausted those remedies. A stay issued pursuant to subsection (c) shall remain in effect during such a suspension.

"(f) An application under this section may be consolidated with any other pending application under this chapter, filed by the same applicant.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 153 of title 28, United States Code, is amended by adding after the item added by section 804 the following new item:

"2258. Claims of innocence.".

The CHAIRMAN. Pursuant to the rule, the gentleman from South Carolina [Mr. DERRICK] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Is the gentleman from Illinois [Mr. HYDE] opposed to the amendment?

Mr. HYDE. Yes, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, habeas corpus is the way that the Federal courts consider whether prisoners are unconstitutionally imprisoned. Habeas is the principal way the Federal courts enforce the Bill of Rights in State criminal cases.

I am a supporter of the death penalty, and I want State criminal cases to move faster. It is unacceptable for victims and their families to wait years for State criminal convictions to become vital.

There are many abuses in the current system, and it is time for Congress to put a stop to them. For example, prisoners may file multiple petitions, and there are no time limits for filing these petitions.

Incompetent lawyers representing death row defendants make mistakes that give these defendants issues for appeal, and reduce the chances for a fair trial. Procedural technicalities prevent courts from deciding the merits of a claim in a timely way. They also create new issues for litigation that further delay finality.

I want to bring a halt to these abuses and delays. But I recognize that habeas corpus is an essential part of our criminal justice system. The Federal courts are finding serious constitutional errors in an astounding 40 percent of State capital cases. This is simply not the time to restrict access to the Federal courts beyond what is absolutely necessary.

The Judiciary Committee habeas provision restricts habeas petitions, but in my view, it does not go far enough in eliminating abuses and in expediting habeas cases.

My amendment represents real habeas reform. It makes several major changes in response to criticisms of the committee bill by various prosecutors.

For example, the committee bill says that Federal courts can sometimes upset State court decisions by applying new rules of law retroactively. My substitute says no retroactivity under any circumstances. This guarantees that final State judgments will remain final.

The committee bill says defendants can sometimes raise issues for the first time in Federal court, even when they were not raised in State court. My amendment says absolutely not. These issues may never be raised in Federal court.

The committee bill says a second or subsequent petition may be heard by the Federal court if it attacks the validity of a death sentence. prosecutors have said this standard is too vague, and may give defendants a loophole. My substitute takes the language from the amendment the gentleman from Illinois [Mr. HYDE] offered at committee. It says these petitions may only be heard if they go to the defendant's guilt or legal eligibility for the death sentence. In other words, multiple petitions will be a thing of the past.

This is a tough, streamlined bill. It is similar to what the House passed on two occasions in the last Congress. But, to accommodate the concerns of prosecutors, it is even more restrictive in important areas.

Mr. Chairman, the Derrick amendment protects the essence of habeas corpus, but it eliminates the abuses and delays that are plaguing the system. I urge my colleagues to vote for the Derrick habeas corpus reform amendment.

□ 1450

Mr. Chairman, I reserve the balance of my time.

Mr. HYDE. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, the amendment by the gentleman from South Carolina [Mr. DERRICK] to the Edwards-Washington habeas provision of this bill, H.R. 4092, does nothing to improve an already disastrous piece of legislation insofar as habeas is concerned. The bill will continue to reverse a series of Supreme Court victories won by law enforcement over the past few years that have reduced delay and have enhanced finality, and brought us a lot of closer to the one bite at the apple approach.

These decisions have made the habeas system, imperfect as it is, more fair to the forgotten victims and to law enforcement.

I have said it before and I am going to say it again, the reason habeas corpus reform is not being offered this year is because it is the opinion of the professionals in law enforcement that they want a crime bill, they want the good things that are in this bill, and habeas reform has upset any progress in criminal legislation in the last two Congresses, as it goes into conference. The liberals and the conservatives struggle in conference and everything is held up.

The decision was made that habeas corpus is too complicated, too important, to get subsumed, to get submerged in an otherwise good bill that most people want.

Habeas should be addressed as a freestanding subject with hearings, not filing last-minute amendments like the gentleman from South Carolina did. Distinguished as he is, we never had hearings on his bill. We never had testimony on it. He filed it two days before we debated the bill.

The Derrick amendment does two things. First of all, it is the king of the hill, and it is designed to restore what they just lost on the last amendment. It substantially does that. It brings back the invidious aspects of their habeas corpus reform.

Everything that changes is not for the better. What the bill of the gentleman from South Carolina [Mr. DERRICK] does, as the last bill did, it weakens already existing law. First, it overturns the U.S. Supreme Court cases that have taken very important steps toward creating finality, and second, where reforms are proposed, they are ineffective or they are drafted in a way that there will be more delay and more litigation.

Please look at the bill. Read pages 101, 102, 103, and Members will see the formula for endless petitions for habeas corpus. Instead of bringing finality to this problem, they extend it, they attenuate it, they stretch it out.

There is a man who has been on death row in Arizona 29 years, the Harris case in California 14 years. Every State has their horror stories, where repeated petitions are granted and stays and hearings, and through the State system, through the Federal system, to the Supreme Court. We have got to think of the victims of these crimes and bring some closure, once the accused has had fair hearings, once through the State system and once through the Federal system.

These reforms are filled with loopholes that create more litigation and more delay. My friend, the gentleman from South Carolina [Mr. DERRICK] has said, as I wrote down, "No retroactivity under any circumstances."

Here is a "Dear Colleague" letter that he signed on March 23 with the gentleman from Texas [Mr. LAUGHLIN]. Let me read his words: "The committee bill says a second or subsequent petition may be heard by the Federal court if it attacks the validity of a death sentence. This is too vague. Our substitute says these petitions," plural, "may only be heard if they go to the defendant's guilt or legal eligibility for the death sentence."

Which is it, Mr. Chairman, multiple petitions or not? By his own words, he says, "These petitions may be heard if they go to the defendant's guilt or legal eligibility for the death sentence."

Onward and onward, the process never ends. Mr. Chairman, I request that Members not compound the problem. Let us deal with habeas corpus in an intelligent way. Let us follow the recommendations of the professionals in law enforcement, the attorneys general of Members' States, the States attorneys who are trying these cases in court, and put habeas to the side, where we can deal with it intelligently.

Last, if this was a good amendment, do Members not think they would have a letter form Janet Reno saying, "Please support the Derrick amendment." Ask yourself, where is that letter? Call your office to see if your staff got hold of it and is keeping it from you. Members will not find it, because they do not support this, and please do not support it, either.

Mr. Chairman, I reserve the balance of my time.

Mr. DERRICK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just simply say that everything in my bill has been debated, and we have had hearings many, many times in the Committee on the Judiciary.

Mr. Chairman, for purposes of debate only, I yield 3 minutes to the distinguished gentleman from Texas [Mr. BROOKS] chairman of the committee.

Mr. BROOKS. Mr. Chairman, I support Mr. DERRICK's amendment, which makes some necessary improvements in the text of the committee bill. It maintains the laudable goals of the committee product—a death penalty appeals process that is streamlined not only by strict limitations on the timing and number of habeas corpus petitions, but also by the provision of competent counsel to insure a trial process that protects against errors. It is certainly a step in the right direction.

Some would have you believe that the concept of habeas corpus was created out of whole cloth—the work of some overzealous, activist judge in the late 1960's looking for a novel way to help criminals escape their just punishment under the law. This view not only distorts history but also ignores the development of fundamental rights in this Nation.

The doctrine of habeas corpus goes back at least 500 years to the laws of England. In his classic commentaries on Anglo-Saxon law, Blackstone referred to habeas corpus simply as the "great writ" whose antecedents lie deep in the "Genius of our common law." Habeas Corpus was called the great writ because it afforded the most basic of rights to a wronged individual—that of a remedy to cases of illegal restraint or confinement. The doctrine immediately became part of our own law in the colonial period, was given explicit recognition in article I, section 9 of the Constitution, and was incorporated in the first grant of Federal court jurisdiction in the Judicial Act of 1789. Early in his tenure, Chief Justice John Marshall termed habeas corpus as perhaps our greatest constitutional privilege.

In voting for the Derrick amendment, let us not us forget that we are talking about procedural streamlining without substantively gutting a doctrine which is absolutely fundamental to American an Anglo-Saxon jurisprudence.

□ 1500

Mr. HYDE. Mr. Chairman, I am pleased to yield 2 minutes to the learned gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman from Illinois for yielding time to me.

Mr. Chairman, I want to point out that the Derrick amendment does not do a thing for the underlying bill with respect to what was in the provisions that I complained about and most of the attorneys general and the district attorneys complained about. By passing the Derrick amendment, by knocking out the Hyde provisions here and reinstating, in essence, the underlying provisions, what we are going to do is to give the opportunity for death row inmates to have another endless appeals opportunity, another bite at the apple.

Mr. Chairman, it is very straightforward, under present law a death row inmate may not take a new ruling of the Supreme Court on criminal procedures and go into Federal court and try to challenge his death penalty. He may not do that.

If the amendment by the gentleman from South Carolina [Mr. DERRICK] became final and became the law, then a death row inmate would be able to do that. He would be able to take every new Supreme Court decision that came down the pike and go into Federal court and challenge his death penalty. And since the Supreme Court of the United States comes down with at least one criminal procedure ruling every term and often more than that, the appeals would be endless and the reforms that are supposedly here to streamline all of this are a mockery. They are made a mockery.

Mr. Chairman, again, that is why we want to see the Derrick amendment defeated. We do not want law that is worse than present law. We do not want to end effectively the death penalty in this country as it is known today.

Mr. Chairman, in addition, of course, there are other problems with this. The Derrick amendment takes back the idea of having to have two attorneys appointed and creates all kinds of procedural problems. But the underlying, bottom line question is, that if the Derrick amendment passes, this is king of the hill, the Hyde effort is for naught and we are back to square one where we were before, which is where the AGs and the DAs do not want us, we are back to giving death row inmates the opportunity every time the U.S. Supreme Court comes down with a new criminal procedure ruling to go into Federal court and try to overturn their death penalty. And if that is the case, there will never be another death penalty carried out in the United States again. That is the bottom line.

So vote no against the Derrick amendment if Members want the death penalty to survive in this country.

Mr. DERRICK. Mr. Chairman, that is one of the most ridiculous arguments I have ever heard.

Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Ladies and gentleman, the Derrick amendment is of such enormous importance now that I cannot begin to tell my colleagues that unless we have this amendment we are going to be doing what four attorneys general have begged us not to do to the Constitution of the United States. And these are Ben Civiletti, Nicholas Katzenbach, Edward Levi, and Eliot Richardson who have said the Federal courts have no higher mission than to uphold the Constitution, and habeas corpus has been since the founding of the Republic the primary means of access to the Federal courts for the people who are unconstitutionally imprisoned.

Mr. Chairman, remember, the courts have found constitutional errors in 40 percent of the cases reviewed.

Do we want to leave our crime bill with that glaring fact in front of us?

Mr. Chairman, Curt Bloodworth, for instance, sat on death row in Maryland from 1983 to 1994 before genetic evidence proved him innocent. Thanks, habeas corpus.

Joseph Brown was within 15 hours of being executed but the Federal court freed him after it found that prosecutors had deliberately misled the jury. Thanks, habeas corpus.

Roger Coleman was not so lucky. He was executed when the Federal courts refused to hear his appeal because a lawyer had missed a deadline by 3 days.

I urge my colleagues to support the Derrick amendment if we believe in the Constitution.

Mr. HYDE. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. Chairman, would the gentleman from Wisconsin yield to me for just a brief moment?

Mr. SENSENBRENNER. I am delighted to yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I want to thank the gentleman from Michigan [Mr. CONYERS] for his contribution to this debate that we just heard. He is arguing for more and more and more hearings and that is precisely my point. That is what we get under the Derrick amendment. I thank the gentleman.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the Derrick amendment and I am addressing my remarks to the 98 Democrats who supported the gentleman from Illinois [Mr. HYDE] in the last rollcall. If they voted yes on Hyde, they must vote no on Derrick.

Mr. Chairman, those who are supporting the Derrick amendment would have the membership believe that if the Derrick amendment fails, then the writ of habeas corpus is completely gutted. That is not true. The Hyde amendment simply keeps the present law in place on habeas corpus. The Derrick amendment should it be adopted would give death row inmates the opportunity to appeal every time the Supreme Court issues another ruling on the death penalty, and that means that effectively nobody who is sentenced to death by a jury of their peers will be executed in the United States.

Mr. Chairman, it is no secret that the district attorneys and the attorneys general are opposed to this. They are the ones who are in charge of the prosecutions.

Mr. Chairman, I would like to quote from a letter sent to the Congress by 30 attorneys general, including Travis Medlock, the Democratic attorney general of South Carolina.

> We understand that a new habeas amendment is also expected to be offered by Congressman Butler Derrick of South Carolina. Preliminary review shows that this amendment is also worse than current law and would overturn numerous key U.S. Supreme Court cases governing habeas corpus.

Do not support the Derrick amendment which is worse than current law. Vote against the Derrick amendment to keep at least some type of operational habeas corpus procedure that will allow people who are guilty to be executed.

Mr. DERRICK. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. LAUGHLIN].

Mr. LAUGHLIN. Mr. Chairman, I believe in the death penalty. In fact, I tried some murder cases where if the law would have allowed it I would have pulled the switch. But today we are faced with the Hyde amendment that has passed and the law is still the same and the victims' families are wondering what are we going to do about it. Are we going to leave it the same or will we adopt the Derrick amendment that puts in a statute of limitations of 1 year, limits one petition, and something no one has addressed is the Derrick amendment says new rules will not be treated retroactively.

Mr. Chairman, I want to say something about competent counsel. There have been attacks on the Derrick amendment about competent counsel. I understand about 40 percent of the death penalty cases that are reversed on appeal are because of incompetent counsel. The barbarians did not allow the defendants and the accused to have lawyers before they executed them and in this century we had a tragic, sorry state of affairs in Europe where people were put to death without benefit of counsel.

Mr. Chairman, I commend the gentleman and I would urge support of the Derrick amendment and I would encourage support of competent lawyers for the accused.

Mr. HYDE. May I inquire, Mr. Chairman, how much time is remaining on each side?

The CHAIRMAN. The gentleman from Illinois [Mr. HYDE] has 5½ minutes remaining, and the gentleman from South Carolina [Mr. DERRICK] has 6 minutes remaining.

Mr. HYDE. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Chairman, we have just done the right thing by passing the Hyde amendment. Let us not throw it out.

Mr. Chairman, although I believe habeas reform is long overdue to streamline the appeals process, no reform is better than the so-called reforms included in the Derrick amendment.

Virginia's attorney general, Jim Gilmore, has told me that based on his experience as a prosecutor, all habeas provisions should be stricken from this crime bill.

□ 1510

We have just done that.

Let us not weaken the death penalty by putting most of it back in. These are not reforms. They simply undermine current law by guaranteeing criminals the right to continue endless appeals and will lead to more and not less litigation.

The U.S. Supreme Court has ruled inmates cannot challenge their convictions and sentences years after the fact based on new rules. We just struck from the bill language that would open the door for endless appeals based on new laws.

The Derrick amendment still gives more opportunities for appeal on new rules than under current law. The Derrick amendment would allow endless claims of newly discovered evidence to be brought at any time.

Current law provides for appointment of counsel and provision of other related services for Federal review of habeas petitions, but the Derrick amendment guarantees capital defendants to counsel for every stage of the proceedings. Judges will no longer be permitted to appoint counsel in capital trials. They will be picked by members of the criminal defense bar.

This promises to create even more litigation in the Federal courts.

Mr. Chairman, these reforms will liberalize, not shorten, the habeas appeals process. These so-called reforms will weaken the death penalty.

I urge my colleagues to vote against the Derrick amendment and keep the Hyde amendment we just passed.

Mr. DERRICK. Mr. Chairman, for purposes of debate only, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, an example of the misimpression that has been conveyed of the Derrick amendment came from the gentleman from Illinois when he said, to show how inconsistent it was, he cited a statement by the gentleman from North Carolina that said there was no retroactivity in the bill and then compared that to a sentence which talked about petitions in the plural. There is no inconsistency between petitions in the plural and retroactivity.

The gentleman from Illinois started out with one point and ended up with another. That is typical of, I think, the lack of accuracy that we have had with regard to the way this was described. In fact, let us be very clear about what we are talking about.

No one is talking about letting anybody loose. Nothing here says you walk the streets. We are talking about people who are on death row. That is conceded. They are confined.

The question is: Do we trust the Federal court system to have a chance to retry or rehear a case in an exceptional situation?

The amendment offered by the gentleman from South Carolina says no retroactivity, unrefuted, in fact, by the gentleman from Illinois. So the question is: If someone comes up with some new evidence a little late, if someone can find a good reason that would persuade the courts to overturn a death sentence, should they be allowed to do it?

No one, as I said, is menaced. No one is talking about anyone being let loose. The amendment is a procedural amendment. it is not creating any new rule of law. It is not changing the terms of decisions.

It is saying that there may be some exceptions such as those the gentleman from Michigan talked about where, after a period of years, we may find out that we have convicted an innocent man. It happens.

We have a very good system. But occasionally an innocent person is convicted. And we are now talking about the extent to which we will retain within our system a capacity for self-correction when someone's life is at stake. That is the issue here.

We have a carefully worked out set of rules that say where someone's life is at stake and someone can come forward with a plausible argument that he wants to bring before a judge, we will let the Federal courts hear it and decide it.

Mr. HYDE. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, in response to the gentleman from Massachusetts, he said it happens, innocent people get convicted. Yes; and they get saved by habeas corpus under current law.

All of this 40 percent that got their convictions turned around because of incompetent counsel, they were benefited by current law. So it happens that they are saved.

Now, we do not need to attenuate the process decades into the future, meanwhile causing great pain and anguish to the families of the victims who wonder if justice will ever be done.

Yes, retroactivity is covered under Teague versus Lane. And what the Derrick amendment does is redefine what a new rule is to make everything an old rule, to make Teague versus Lane inoperative, so that more and more and more petitions can be brought.

The idea of multiple petitions, however, is from your own language, not yours, my friend from Massachusetts, but the gentleman from South Carolina [Mr. DERRICK] and the gentleman from Texas [Mr. LAUGHLIN], when they say, "Our substitute," speaking of their substitute, "says these petitions," plural, "may only be heard if they go to the defendant's guilt or legal eligibility for the death sentence." Well, that seems to me like multiple petitions.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I was not denying that there was a reference to multiple petitions. My point was the gentleman counterposed that to retroactivity. I think the gentleman wrote down one thing and found another. I think he just made a mistake. If you want to prove that he is inconsistent on retroactivity, an "s" on petitions does not do it.

Mr. HYDE. The redefining of a new rule makes for retroactivity and multiple petitions under a lower standard of proof are permissible under the Derrick amendment. This is a giant leap backwards.

I am still waiting for Janet Reno's letter recommending your amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. DERRICK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would suggest to the gentleman who just spoke that he is talking about multiple defendants. We are talking about one defendant at a time, on petition, within a year that must be handled by a capable attorney. I would suggest to you that most of the people in this country would support that. They are tired of seeing people hanging around on death row for 10 or 15 years.

Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, first of all, I think Members should understand that Hyde has basically returned us to existing law, which is a mess. I mean, if anything, habeas corpus has been substantially abused in this country, and I think most Members want to reform it.

Our colleague from Florida indicated that there are no differences between what is in the committee bill and Derrick, and that is nonsense. The Derrick amendment makes four major important changes.

First of all, insofar as new rules, the Derrick amendment prohibits any retroactivity for new rules. That means that any new rules that come out of the Supreme Court after the defendant was convicted cannot be raised in a habeas corpus proceeding, period.

Second, it absolutely prohibits defendants from raising claims in Federal court that were not raised in State courts. That is a major change over what is in the committee bill which I support.

Third, it eliminates multiple petitions, one bite at the apple, with the exception of where the claim goes to the defendant's guilt or legal eligibility for the death sentence.

I would like to hear from those who would not want to permit that to be raised if it goes to the defendant's guilt.

Finally, it says the courts, the States, have 1 year to implement procedures for giving defendants competent counsel. Now, if you want to reform habeas corpus, you provide competent counsel. That is 40 percent of the reversals in this country.

It is a good amendment. I urge my colleagues to support it.

Mr. HYDE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, let me just say about the last gentleman from New Jersey who is such an experienced prosecutor, I would hope he has read page 103 of the bill: "Claims of innocence. At any time and notwithstanding any other provision of law, a district court shall issue habeas corpus relief on behalf of an applicant under sentence of death," et cetera, et cetera. Do not read that and tell me that multiple petitions are not possible. They are indeed possible.

I have a letter here from some 30 attorneys general, and here is what they say:

> We understand a new habeas amendment is expected to be offered by Congressman DERRICK. Preliminary review shows this amendment is worse than current law and would overturn numerous key U.S. Supreme Court cases governing habeas. For this reason, we oppose the Derrick amendment or any other amendments which may be offered at the last minute.

Now, this is signed by the attorneys general of Idaho, Nevada, Texas, California, Montana, Florida, Arizona, South Dakota, North Carolina, Alaska, Virginia, Pennsylvania, North Dakota, Vermont, Alabama, Colorado, Hawaii, New Jersey, Wyoming, Utah, New Mexico, New Hampshire, Nebraska, Rhode Island, South Carolina, Kansas, Indiana, Connecticut, Guam, Missouri, and more signatures on the way. They are the professionals and they are bi-partisan. They should be persuasive with us.

Mr. FISH. Mr. Chairman, I supported the habeas corpus provision reported by the Judiciary Committee. I think it strikes a fair balance between streamlining the process and ensuring fairness. But I also support the Derrick amendment. It is tougher than the committee bill, but it also strikes a fair balance.

Habeas corpus is an essential part of our criminal justice system. If our Bill of Rights is to mean anything, we simply must preserve the Great Writ. What convinces me is that the Federal habeas courts have found serious constitutional error in a full 40 percent of State death penalty cases. This is simply no time to be unduly cutting back on habeas corpus.

At the same time, however, the system is plagued by delays and other abuses. The Derrick amendment gets rid of these abuses, by imposing a short statute of limitations for filing petitions, by virtually eliminating multiple petitions, and by getting rid of the procedural technicalities that bog down the courts and delay finality.

The Derrick amendment preserves the Great Writ, and I support that. But it also streamlines and expedites the process. I support that too. I urge a "yes" vote on the amendment offered by the gentleman from South Carolina.

Mr. Chairman, I yield back the balance of my time.

□ 1520

Mr. DERRICK. Mr. Chairman, I yield the balance of my time to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. It was in 1215 that King John assented to the First Charter of Liberties. That document, the Magna Carta, read in part: "No free man shall be arrested or imprisoned or in any way victimized, neither will we attack him or send anyone to attack him, except by the lawful judgment of his peers or by the law of the land."

Each successive generation has endorsed that protection of liberties; in 1628, through the petition of right; in 1679 through the habeas corpus act.

These simple principles inspired our own Founding Fathers in 1787 to guarantee these liberties in our own precious Constitution. They wrote these words, article I, section 9: "The privilege of the writ of habeas corpus shall not be suspended."

This "simple" writ of habeas corpus insures that all our constitutional liberties and our own Bill of Rights are enforceable.

Why? Because our Founding Fathers knew, from firsthand experience, that a government could and would commit illegal searches. Our Founding Fathers knew, from firsthand experience, that a government could and would force confessions. Our Founding Fathers knew that a government could and would trample an individual's right to a fair trial without effective counsel. Our Founding Fathers also knew one more thing that a right without a remedy is no right at all.

My colleagues, let us not be the first generation to fail to uphold that constitution vision. Let us show some political courage. Let us share that vision of 200 years.

Vote to protect and defend the Constitution, vote for the Derrick amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from South Carolina [Mr. DERRICK].

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 19, noes 8.

RECORDED VOTE

Mr. HYDE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 171, noes 256, not voting 10, as follows:

[Roll No. 120]

AYES—171

Abercrombie
Ackerman
Andrews (TX)
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bilbray
Bishop
Bonior
Boucher
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Coyne
Danner
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Durbin
Edwards (CA)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamburg
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoyer
Hughes
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
LaFalce
Lantos
Laughlin
Levin
Lewis (GA)
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Matsui
McCloskey
McDermott
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Owens
Pallone
Parker
Pastor
Payne (NJ)
Pelosi
Penny
Pickle
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Skaggs
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Thompson
Thornton
Torres
Torricelli
Towns
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Washington
Waters
Watt
Waxman
Wheat
Whitten
Wilson
Wise
Woolsey
Wynn
Yates

NOES—256

Allard
Andrews (ME)
Andrews (NJ)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Brewster
Browder
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Carr
Castle
Chapman
Clement
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Cox
Cramer
Crane
Crapo
Cunningham
Darden
de la Garza
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fingerhut
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Johnson (CT)
Johnson (GA)
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kim
King
Kingston
Klein
Klink
Klug
Knollenberg
Kolbe
Kreidler
Kyl
Lambert
Lancaster
LaRocco
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Lloyd
Long
Machtley
Manzullo
Martinez
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nussle
Ortiz
Orton
Oxley
Packard
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schenk
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thurman
Torkildsen
Traficant
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Williams
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—10

Blackwell
Collins (IL)
Faleomavaega (AS)
Fish
Gallo
Grandy
Livingston
Peterson (FL)
Romero-Barcelo (PR)
Underwood (GU)

□ 1543

The Clerk announced the following pair:

On this vote:

Mrs. Collins of Illinois for, with Mr. Grandy against.

Mr. KYL and Mr. GLICKMAN changed their vote from "aye" to "no."

Mr. JEFFERSON changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PREFERENTIAL MOTION OFFERED BY MR. MCCOLLUM

Mr. McCOLLUM. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. MCCOLLUM moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

The CHAIRMAN. Under the rules of the House, the gentleman from Florida [Mr. MCCOLLUM] is recognized for 5 minutes in support of his preferential motion.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman I am offering this motion, as I did a day or two ago, in order for us to have an explanation of one of the amendments that we on this side of the aisle believe the Committee on Rules very egregiously failed to allow us to offer that would have improved the situation in criminal justice immensely in dealing with criminal aliens.

Almost 25 percent of the prisoners of this country are criminal aliens. We ought to be doing something about identifying them, deporting them, and so forth.

Mr. Chairman, the gentleman from Texas [Mr. SMITH] had an amendment that was perfectly appropriate to this situation, and I yield 3½ minutes to the gentleman to explain the amendment that he was not allowed to offer.

Mr. SMITH of Texas. Mr. Chairman, I thank my friend, the gentleman from Florida [Mr. MCCOLLUM] for yielding time to me.

Mr. Chairman, the crime bill we are now considering has many shortcomings, but none is shorter than its overlooking of an entire criminal category—criminal aliens.

To address that oversight, I offered an amendment that would have included numerous criminal alien provisions. To ensure that this oversight remained, the Committee on Rules rejected it.

The problem of criminal aliens is real. Nationwide they make up 25 percent of Federal prisoners. In Texas, they make up over 40 percent. And in Los Angeles it was found that once released, 4 out of 10 criminal aliens returned to jail within 1 year.

The American people have asked us to protect them against all criminals. Instead, this crime bill has a domestic-content law: only American criminals apparently need apply.

As the law now stands, we cannot expeditiously deport criminal aliens. As the law now stands, we cannot even find criminal aliens because there are inadequate means for tracking or positively identifying them. As the law now stands, we cannot even properly define their crimes because kidnappings, child pornography, and commercial alien smuggling are not even classified as "aggravated felonies."

According to this so-called crime bill, all that is OK because it contains nothing to change it.

Criminal aliens is not a partisan issue. Yet my amendment was defeated in the Committee on Rules on a partisan vote.

Perhaps some on the other side were worried about offending some groups.

It is true one group would have been offended: criminals. I can assure you that they are against my amendment. Because it says "if you're an alien and you're criminal, then you're going to jail, then you're going home, and you're not coming back."

Regrettably some were not equally concerned about offending American crime victims, who suffer at the hands of criminal aliens, or American taxpayers, who foot the bills for them.

I urge the Members to vote for the motion to rise and send this bill back to the House so that we can send criminal aliens back and keep them out in the first place.

The CHAIRMAN. The Chair will state that the gentleman from Florida [Mr. MCCOLLUM] has 2 minutes remaining.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. KING].

□ 1550

Mr. KING. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, when the Chinese freighter, the *Golden Venture*, ran aground off the coast of New York last June, it alerted the Nation to the evil reality of human smuggling and slave trade.

Subsequent hearings by the Congressional Human Rights Caucus detailed the network of Chinese gangs in New York, and also in States such as Virginia and Florida, which amass great fortunes by trafficking in human cargo.

These gang lords amass great fortunes by charging $30,000 per immigrant, or $6 to $9 million per ship, and then enslave their human cargoes in lives of narcotics, gambling, and prostitution.

Yet the Federal Government and local law enforcement officials have their hands tied, because the average sentence for slave trading is 18 months, and the maximum fine is $5,000. Not a bad cost of doing business when the profit is $9 million per cargo.

Mr. Chairman, last July I introduced the Alien Smuggling Prosecution Act, cosponsored by the gentleman from Massachusetts [Mr. KENNEDY], which would have extended the RICO statute to human smuggling. If RICO applies to the smuggling of tobacco, it should certainly apply to the smuggling of human beings.

Mr. Chairman, the gentleman from Texas [Mr. SMITH] included my bill in his crime package, which was rejected by the Committee on Rules. I believe that it deserves full debate, and I ask that the motion of the gentleman from Florida [Mr. MCCOLLUM] be adopted.

Mr. McCOLLUM. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I would like to just point out that the reason why we are offering this amendment procedure is to make an effort to get a chance to vote on the Smith amendment on criminal aliens. A vote for the McCollum amendment, to report this bill back and rise at this point in time, will give us the only opportunity to have a vote on a criminal alien amendment, a chance to vote on deporting some of these aliens that constitute about 25 percent of our prison population in this country.

Mr. Chairman, I would urge a "yes" vote on McCollum. It is a procedural vote, but it is the only way, because the Committee on Rules denied this amendment for us to have an opportunity to vote on a meaningful criminal alien deportation amendment out here on the floor today.

Mr. Chairman, this is what it is all about. We have got to have a chance to improve this bill, to make some sense, to help the States free up some prison space.

Please vote yes on this procedurally, and give us a chance to have a criminal alien vote today.

The CHAIRMAN. Is the gentleman from Texas [Mr. BROOKS] opposed to the preferential motion?

Mr. BROOKS. Mr. Chairman, I rise in opposition to the motion.

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] is recognized for 5 minutes.

Mr. BROOKS. Mr. Chairman, this is a hodgepodge of immigration provisions, some of which have some merit. But they should all be considered in the deliberative process of the Committee on the Judiciary. Everybody knows that. But some other provisions are downright harmful. One section would immediately jeopardize U.S. treaties which allow us to deport criminal aliens to their home countries.

I believe that would be a mistake. I think we want to retain that.

Already, we have passed a number of important immigration amendments in the en bloc amendment: the Inslee amendment, to allow and help the INS accept aid in deporting undocumented criminal aliens who volunteer, and the Becerra amendment, adding a provision on criminal aliens and immigration enforcement. We still have pending, approved by the Committee on Rules to come before this floor, the Hunter amendment authorizing 6,000 new border patrol agents, a Beilenson amendment on Federal pay to incarcerate illegals.

I believe this is a delaying tactic plain and simple, which just adds time to the consideration of this bill. It adds time tonight, it might add time tomorrow, and it might add time Thursday evening. And I would just say it is unnecessary and not constructive. I would ask Members to vote no on this motion to kill the bill.

Mr. Chairman, I yield 2 minutes to my friend, the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, as ranking member of the Subcommittee on International Law, Immigration, and Refugees, I have to say there are many estimable provisions in this bill. I carry the legislation that would require criminal aliens to be deported more quickly.

The problem is there are real technical problems with this bill. The chairman mentioned one. If we abrogate treaties for deportation now, before renegotiating new ones, we will be able to send no one back. We should be sending more people back more quickly, so the States do not pay for them.

The second thing I would say, my colleagues, is this: Aside from the deliberative process, you know, we could end up like the other body, where anyone comes along, offers any amendment they want, and we get a hodgepodge, a mess. I think everyone agrees, everyone who has looked at both bills, the bill from the other body and this body, that our bill is focused, our bill does not have contradictory provisions, our bill is really aimed at what we have to do.

So the rule did not do certain things I wanted, such as a trust fund. I have supported actually the gentleman's proposal for his amendment, because I thought most of the provisions were worthy. But the Committee on Rules has ruled. If we are going to undo this, we will be back to the old situation where we have millions of amendments come on the floor and we get no bill at all. This is a sure path of good intentions paving the road to nothing. I would urge all my colleagues to reject this, let us get on with the business of the House, let us move along. As you can see by the last vote, the process has not been so jaundiced that changes in the bill could not have been made. So let us get on with the bill, not change it. They lost the vote on the rule; we should not be redoing it.

Mr. BROOKS. Mr. Chairman, I yield back the balance of my time, and I ask for a "no" vote.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Florida [Mr. MCCOLLUM].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MCCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 184, noes 246, not voting 7, as follows:

[Roll No. 121]

AYES—184

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cooper
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lancaster
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Tanner
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Traficant
Upton
Valentine
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—246

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (MN)
Pickett
Pickle
Pomeroy
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Romero-Barceló (PR)
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Underwood (GU)
Unsoeld
Velázquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—7

Collins (IL)
Faleomavaega (AS)
Fish
Frank (MA)
Gallo
Grandy
Peterson (FL)

□ 1613

Mr. APPLEGATE changed his vote from "aye" to "no."

Mr. HORN changed his vote from "no" to "aye."

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 10 presented in part 1 of House Report 103-474.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SOLOMON: Page 24, line 23, strike "Violent Felons" and insert "Criminals".

Page 25, line 4, insert "or a serious drug offense" after "serious violent felony".

Page 25, line 9, strike "of—" and all that follows through "drug offenses" in line 12 and insert "serious violent felonies or serious drug offenses, or any combination of such felonies and offenses.".

The CHAIRMAN. Pursuant to the rule, the gentleman from New York [Mr. SOLOMON] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Is the gentleman from Texas [Mr. BROOKS] opposed to the amendment?

Mr. BROOKS. I am, Mr. Chairman.

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] will be recognized for 5 minutes.

The Chair recognizes the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I cannot believe my friend, the gentleman from Texas [Mr. BROOKS], is opposed to my amendment. As this bill was reported from the committee, a serious drug offense may count as only one of the first of two strikes under the three-strikes-and-you-are-out concept.

My amendment would allow a serious drug offense to count as any or all of those three strikes, Mr. Chairman. The definition of a serious drug offense was already defined in the committee bill, and it involves only, I repeat only, a major, major violation. More precisely, it means that the person has been convicted for trafficking in large quantities of the most dangerous drugs.

Mr. Chairman, serious drug criminals should be treated exactly like violent criminals, because drug criminals are the primary cause of violent crime in this country.

Everyone here is familiar with the great work done by the organization called Partnership for a Drug-Free America. Listen to what the president of that organization had to say about the relationship between crime and violence and drugs:

> This country of ours cannot and will not make progress with crime and violence until we make a serious commitment to addressing the common denominator in these problems. That common denominator is drug abuse.

I would say to the Members, drug-related activity and the violence it encourages is on the increase on the streets of this Nation, in the schools, in our neighborhoods. Drug use by 8th graders is way up. Use of crack and marijuana and LSD and heroin and cocaine is way up.

According to yesterday's Washington Post, as a matter of fact, heroin-related cases are up by 44 percent. Emergency rooms nationwide report a 10-percent increase in drug-related activities.

Mr. Chairman, clearly a serious drug crime should be considered a strike under the three-strikes-and-you-are-out rule, and I would ask that my amendment be adopted.

Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to this amendment. I believe the gentleman from New York [Mr. SOLOMON], as always, has offered a well-intentioned amendment, but one that gives precedence to drug offenses over violent crimes. The committee has voted to count drug offenses but wants the three-time-loser statute to be ultimately triggered by violent crimes.

For this reason, title 5 of H.R. 4092 is aimed squarely at repeat violent offenders. Its whole purpose is to send a particular message to those who would commit violence in our society—after the third time, you have lost your right to be a part of this society. You are going to prison for life.

Title 5 already includes drug offenses via a carefully-tailored amendment offered during the committee's work on the excellent proposal by the gentleman from New Mexico [Mr. SCHIFF], who is a thoughtful Republican member of the Judiciary Committee. It ensures that people who use violence in the drug trade are captured by the three-time-loser proposal. Thus, title 5 permits one of the first two strikes to be solely a serious drug offense, with no violence involved. But, the third strike must involve violence—in keeping with the nature and purpose of the proposal.

Title 5 of H.R. 4092 is not intended to deal with other types of crimes. It is not intended to supplant existing Federal criminal penalties for habitual offenders or career criminals. Under existing Federal sentencing guidelines, those people already face up to 30 years in prison.

So, I would say to my colleagues, let us not lose sight of the target and keep focused on violent criminals. They are the ones who undermine the very fabric—the national security—of this Nation. I urge a nay vote on this amendment.

□ 1620

Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding me the time and must again rise in opposition to the Solomon amendment.

Mr. Chairman, I support "three strikes and you're out." "Three strikes and you're out" makes a great deal of sense when we aim it at the most violent, repetitive criminals in our society. What we have learned through the years is if we extend that over and over and over again, we will lose the focus on those violent criminals.

Mr. Chairman, under this bill, somebody who sells 1,000 marijuana plants 3 times would get life imprisonment. That should be punished, it should be punished severely, but if we are going to fill up our jails with people like that, then people who commit one and two violent crimes will get much less of a sentence.

Mr. Chairman, we have learned through the years that unless we focus our scarce prison resources on the most violent, other people fall through the cracks and our system does not work.

So I say to my colleagues, "three strikes and you're out" is a worthy proposal. We should support it. And there is not enough punishment against the severe violent criminal. But to add in drug offenses all three times is not only going to fill up the prisons with the nonviolent in many cases but will also lead to violent criminals, who maybe do not commit three strikes but who commit one and two, to be let out far too early because there is not enough space for them.

Do not take a good thing and ruin it and dilute it. We want to go after drug criminals but the No. 1 group we want to go after is the violent, repetitive criminal that is wreaking havoc in our society. And by doing things that sound good, saying let us add in this, let us add in that, let us add in this, in effect what we are doing is not going to be punishing the drug criminals but letting some of the violent criminals off the hook.

Mr. SOLOMON. Mr. Chairman, I have but one speaker and if the gentleman from Texas is going to sum up and has only one speaker, then I will conclude.

The CHAIRMAN. The Chair advises the Members that the gentleman from Texas [Mr. BROOKS] has the right to close debate, and he has only 30 seconds remaining.

Mr. SOLOMON. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, we are trying to hard to vote for this bill. As I have already pointed out in my statement, serious drug violations as defined by my amendment involve large-scale trafficking of the most dangerous types of drugs. The ACLU and the National Organization for Legalizing Marijuana are telling people, and I think I just heard it on the floor here, that this amendment would apply to the possession of small amounts of marijuana. According to the Office of Legislative Counsel, the ACLU is dead wrong. It is not true.

Mr. Chairman, the fact is that my amendment uses the definition of serious drug offenses which is already in the bill. It is the Judiciary Committee's language. I do not want to change that. The provision under this act requires possession of 1,000 kilos. Do Members know how much that is? That is 2,000 pounds of marijuana.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. You call that a small amount? I will not yield.

Mr. Chairman, I take exception.

The gentleman knows better than to be rude like that.

Mr. Chairman, I hope I did not lose any time just now.

I take strong exception to those who deny the relationship between drugs and violence in our country. Violent crime in this country is caused by people who sell drugs.

Mr. Chairman, let us examine the facts. Illegal drugs play a part in nearly half of all homicides and violent crime in this country. This is a fact. In fact, 48 percent of all men arrested for homicides test positive for illicit drugs at the time of arrest.

Did my colleagues know that? Forty-eight percent. Illegal drug use is a factor in half of all family violence. Most of this violence is directed against whom? Women and children.

Drug dealing has bought unprecedented violence to our schools. We read about it every day in the paper.

And what about the effect of illegal drugs on younger children? The fact is that 30 percent of all child abuse cases involve a parent using illegal drugs. Is that not violence?

Even worse, infants in this country are now suffering under the pain and violence of drug pushers. The number of drug-exposed babies has soared in recent years.

Mr. Chairman, listen to the fact. Drug-addicted babies account for 11 percent of all births in the United States of America.

Mr. Chairman, what is this country coming to when one out of every nine babies is born already addicted to drugs? And that is not violence?

Ladies and gentlemen, an individual involved in a serious drug violation, just like a person who commits a violent crime, should be put away behind bars for good.

Mr. Chairman, I just do not understand why we are deemphasizing this terrible scourge which is running this Nation. If we pass this amendment we will send a message to the drug dealers who commit violent crimes of feeding drugs to our children. We are not going to put up with it.

The Members have to vote for this amendment, please.

Mr. Chairman, I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I would like to observe that the language of the bill says 1,000 kilograms or more, or 1,000 plants, regardless of their weight. There is a difference. Either one may be used. This bill is designed to put violent criminals who want to kill you in jail, not to just put people who are hauling marijuana around and smoking pot in their backyard.

I tell my colleagues, it is a lot more important to put rapists and violent criminals in jail than it is to put a few minor drug dealers. We have already addressed serious drug offenses in the bill and in a sufficient manner.

Mr. Chairman, I would ask for a no vote on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 303, noes 126, not voting 8, as follows:

[Roll No. 122]

AYES—303

Abercrombie
Ackerman
Allard
Andrews (NJ)
Andrews (TX)
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Boucher
Brewster
Browder
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clement
Clinger
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Ehlers
Emerson
Engel
English
Everett
Ewing
Fawell
Fields (TX)
Fingerhut
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Grams
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, Sam
Kaptur
Kasich
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
Kreidler
Kyl
Lambert
Lancaster
Lantos
LaRocco
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Machtley
Manton
Manzullo
Margolies-Mezvinsky
Martinez
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
Menendez
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Penny
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Romero-Barceló (PR)
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schenk
Schiff
Sensenbrenner
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Torkildsen
Torres
Torricelli
Traficant
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—126

Andrews (ME)
Applegate
Barrett (WI)
Becerra
Beilenson
Berman
Blackwell
Bonior
Brooks
Brown (CA)
Brown (FL)
Clay
Clayton
Clyburn
Collins (MI)
Conyers
Coppersmith
Coyne
DeFazio
DeLauro
Dellums
Derrick
Dingell
Dixon
Edwards (CA)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Furse
Gejdenson
Gephardt
Glickman
Gonzalez
Gutierrez
Hamburg
Hastings
Hilliard
Hinchey
Hughes
Jacobs
Jefferson
Johnson, E.B.
Johnston
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Klein
Kopetski
LaFalce
Laughlin
Levin
Lewis (GA)
Lowey
Maloney
Mann
Markey
Matsui
Mazzoli
McDermott
McKinney
McNulty
Meehan
Meek
Mfume
Miller (CA)
Mineta
Mink
Moakley
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Owens
Payne (NJ)
Pelosi
Pickle
Rangel
Reed
Rohrabacher
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sharp
Skaggs
Slattery
Slaughter
Smith (IA)
Stark
Stokes
Studds
Swift
Synar
Thompson
Towns
Tucker
Underwood (GU)
Unsoeld
Velázquez
Vento
Visclosky
Waters
Watt
Waxman
Williams
Woolsey
Wynn
Yates

NOT VOTING—8

Collins (IL)
Faleomavaega (AS)
Fish
Gallo
Grandy
Peterson (FL)
Rose
Washington

□ 1648

The Clerk announced the following pair:

On this vote:

Mr. Grandy for, with Mrs. Collins of Illinois against.

Mr. HAMBURG changed his vote from "aye" to "no."

Mr. LIVINGSTON and Mr. HEFNER changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 11, printed in part 1 of House Report 103-474.

AMENDMENT OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FRANK of Massachusetts:

Page 25, line 12, strike "and one or more serious drug offense".

Page 25, line 14, strike "serious drug offense".

Page 25, line 18, strike "serious drug offense".

Page 16, line 16, strike subparagraph (H).

The CHAIRMAN. Pursuant to the rule, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

Mr. SCHIFF. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from New Mexico [Mr. SCHIFF] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

□ 1650

Mr. FRANK of Massachusetts. Mr. Chairman, I am far more strongly convinced of the merits of this amendment than of its chances for success, but, given the possibility that a hundred Members may have made a mistake on the last vote, I will offer it.

What this amendment would do would be to undo what the House just did, plus it would remove from the bill in the "three strikes and you're out" provision nonviolent drug crimes; that is, drug crimes, possession of an awful lot of marijuana that can now be a third crime which will send someone to jail for life. It is known as the joints to the joint amendment or possession of a much smaller amount of crack or cocaine from which we infer intent to distribute. My amendment would knock those out.

Mr. Chairman, we are, in my judgment, as a society making a profound error in our approach to drugs of which the bill, particularly the bill as amended, is an example. The approach that we have been taking, which is heavily law enforcement oriented against users, and this bill, as amended, especially, step up the extent to which users will be very severely penalized, in some cases sent away for life; it distorts our resources, it makes the problem of crime, in my judgment, worse rather than better. We ought to be following a strategy with regard to drugs that is heavily oriented towards treatment and prevention and education.

Mr. Chairman, the punitive approach in which users are treated not simply as criminals, but as criminals so dangerous that even where no violence has occurred they must be locked up forever under provisions of this amendment, does not work. It does not protect people. It means that users of drugs will be competing for prison space with violent criminals. It means that they will be clogging the justice systems, and we could talk about building more prisons and talk about more prosecutors, but, as a practical matter, we will always be crowded. There will always be a push up against the limit of those resources.

Mr. Chairman, I offer this amendment in the hopes that the membership will begin a turnaround in which we will deemphasize the penal approach to drug users. If people who because they are drug users commit other crimes, if they steal, if they murder, if they mug, they ought to be severely punished. I am talking now only to the extent to which one can be punished purely for possession of a sufficient amount from which we infer one is going to distribute or purely because they are a user who shares and trades with others; to treat that as if it were a violent crime is to continue a wholly mistaken, self-defeating, expensive and damaging approach to the drug problem, and that is why I offer this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SCHIFF. Mr. Chairman, as the gentleman who offers this amendment has stated, this amendment, if it passed, would undo what the House did just a moment ago. The bill, as presented to the House floor from the Committee on the Judiciary, said that one serious drug offense could be used as one of the three strikes for the purpose of life imprisonment. The House voted a moment ago to raise that to all three strikes. All three convictions could be for serious drug offenses.

It must be emphasized first that we are talking here about serious drug offenses as defined already in the bill, and that includes major people who are major traffickers in drugs. Second of all, it has to be emphasized that for all of the so-called strikes in the bill a conviction is a strike, not an offense, so the way this bill would actually work in operation is somebody would have to commit one or more offenses under this act because it could be more than one, be convicted, and that would be strike one. They would then have to go out and commit one or more offenses under this bill, and that would be strike two. Then they would have to go out and commit one or more offenses under this bill, and that finally would be the so-called strike three that would implement the life in prison.

Mr. Chairman, the House has just shown its will in terms of the overwhelming vote, and for that reason I ask for a rejection of the amendment offered by the gentleman from Massachusetts [Mr. FRANK].

Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, this approach, the approach in the bill, as it came out of committee, and the approach that the House took, is throwing good money after bad by this society. The question is not whether it is a good thing for people to be taking drugs. It is not. The question is whether we are better going to deal with that problem by the current situation in which we take an overwhelmingly penal approach to people who use drugs. The most amount of money we spend, the most activity we do right now, is to catch people who use drugs and put them in prison. That is the direction this amendment goes in. I think that is disastrously mistaken, and I oppose it here as part of an effort to substitute for this enormous expenditure of money on locking up for very, very long periods of time people who are simply users, because I say to my colleagues, If you simply use and have enough we'll infer you're going to distribute, and, if you use and share, then you're a distributor under this law.

Mr. Chairman, I want to redirect these resources into education programs which can work with people who are young enough and into treatment. We should not kid ourselves. We are in a mood where people talk about cutting the Federal budget, where they talk about voting for less and less. We are not going to simultaneously substantially increase expenditures from prison and also increase to the extent we should funds for drug treatment.

I do not think there is a solo policy which has failed as badly as our drug policy, and I do not understand the desire to carry out that failure further.

Mr. SCHIFF. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman from New Mexico [Mr. SCHIFF].

Mr. Chairman, I would like to point out this amendment is really one to strike one of the underlying causes of opportunity for us to get to "three strikes and you're out." One of the strikes could be a serious drug offense, and, if we pass this amendment, it would not be. It is inconsistent completely with the amendment of the gentleman from New York we just adopted a few minutes ago, as the gentleman from New Mexico [Mr. SCHIFF] has just pointed out. It would strike one of the underlying predicate offenses; that is, instead of just a serious violent felony, a serious drug offense.

So, Mr. Chairman, I would hope that all of our body understands that fact and votes against this amendment. It really weakens this considerably and makes "three strikes and you're out" quite different from what came out in committee.

I urge a no vote and thank the gentleman from New Mexico for having yielded to me.

Mr. SCHIFF. Mr. Chairman, because Members just considered this issue in the previous vote, I would ask for a "no" vote.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. FRANK].

The amendment was rejected.

The CHAIRMAN. It is now in order to consider amendment No. 12 printed in part 1 of House Report 103–474.

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. VOLKMER:

Page 27, line 22, after "2111" insert ", 2113, or 2118".

Page 29, strike lines 14 and 15 and insert the following:

"(i) no firearm or other dangerous weapon was used in the offense and no threat of use of a firearm or other dangerous weapon was involved in the offense; and

□ 1700

The CHAIRMAN. Pursuant to the rule, the gentleman from Missouri [Mr. VOLKMER] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes. Is there a Member who seeks recognition in opposition to the amendment?

If not, the gentleman from Missouri [Mr. VOLKMER] is recognized for 5 minutes.

Mr. VOLKMER. Mr. Chairman, this amendment would merely add two more Federal offenses to the "three strikes and you're out" provision, bank robberies and robberies and burglaries involving controlled substances.

Mr. Chairman, also in the second part, under the nonqualifying felonies section, it adds language to require proof that there was no threat of use of firearm or other dangerous weapon during a robbery, or an attempt, conspiracy, or solicitation to commit robbery.

Mr. Chairman, this is basically all the amendment does.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I would say to my distinguished friend, I support the amendment offered by the gentleman from Missouri [Mr. VOLKMER], and thank the gentleman for his thoughtful contribution in the development of this legislation. The gentleman has been a strong and ardent supporter of strong law enforcement from his early days as a prosecutor through his time here in the Congress. I hope we pass this amendment, and urge an affirmative vote.

Mr. VOLKMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I wish to say I support this amendment. I think the gentleman has made a good contribution to improving this legislation. The gentleman and I discussed several weeks ago how the legislation has some weaknesses in the definition.

Mr. Chairman, I urge the adoption of the Volkmer amendment.

Mr. HOYER. Mr. Chairman, I want to congratulate Chairman BROOKS and Chairman SCHUMER for crafting a bill which takes a balanced approach toward combating and preventing crime. I also want to thank them for ensuring that the three-time loser provision was included in the Violent Crime Control and Law Enforcement Act.

Mr. Chairman, I rise today in support of the amendment offered by the gentleman from Missouri [Mr. VOLKMER]. I introduced the three-time loser bill in November of last year, so that it could serve as a mechanism to close the revolving door on people who have themselves proven by their actions that they do not deserve to live in a civilized and ordered society. One week later three-time loser was passed by the U.S. Senate.

Three-time loser has also been endorsed by numerous States, a majority of the American people, and the President of the United States. Hopefully, the House of Representatives will soon be added to this list.

Mr. Chairman, the three-time loser bill targets only a small number of those who commit the most serious crimes in America, and it is sharply focused upon removing those individuals who repeatedly pose a threat to their fellow citizens.

Enough is enough! The time has come for us to rid our streets, schools, workplaces and communities of these repeat offenders.

Mr. Chairman, Mr. VOLKMER's amendment strengthens the bill by increasing the number of repeat offenders subject to the three strikes and it serves to close loopholes which may have been left open.

Mr. Chairman, I thank my distinguished colleague for allowing me to speak and I urge my colleagues to vote for this amendment today.

Mr. PACKARD. Mr. Chairman, Americans have become paralyzed by fear in a society that condones crime. The time has come for violent chronic repeat offenders to fully understand that their behavior will not be tolerated and they will not be excluded from the "three strikes and you're out provision." Furthermore, individuals contemplating repeated criminal activity must believe that their chances of being caught are real. And once caught, they must know they will be punished swiftly, and in a manner to match the severity of the crime they committed.

The Democrats' crime proposal fails to deter chronic offenders from carrying out repeated attacks on innocent victims. This is illustrated in the "three strikes and you're out" provision. The administration's language weakens this provision, and neglects to add many felonies to the list.

The legislative language the Democrats use in their crime bill also dilutes the provision. It mandates life imprisonment without parole for criminals convicted of three violent crimes, although one of the first two strikes may be a nonviolent drug offense, and requires the third strike to be a Federal crime. This is not feasible since 95 percent of violent crimes fall under State or local laws, and many chronic offenders will be unaffected by the provision.

The administration's crime bill also requires that each of the three strikes must be from different criminal episodes. This language allows criminals to carry out any number of State crimes that can be from the same episode, and escape severe punishment. Where is the justice in this equation. The sobering truth about the Democrats' "three strikes and you're out" provision is that it will have very little effect on deterring repeat offenders.

The Solomon and Volkmer amendments remedy this flaw by strengthening the provision. Their amendments add serious drug offenses, bank robbery, robberies and burglaries involving controlled substances to the series of felonies that would count toward the "three strikes and you're out" provision.

There is no reason we should keep turning habitual offenders convicted of crimes back into society. As they say in baseball, and I strongly believe the American people now echo this sentiment, "three strikes and you are out".

The CHAIRMAN. There being no Member having sought recognition in opposition to the amendment, the question is on the amendment offered by the gentleman from Missouri [Mr. VOLKMER].

The amendment was agreed to.

PREFERENTIAL MOTION OFFERED BY MR. MCCOLLUM

Mr. MCCOLLUM. Mr. Chairman, I offer a preferential motion.

The CHAIRMAN. The clerk will report the preferential motion.

The Clerk read as follows:

Mr. MCCOLLUM moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

Mr. CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 5 minutes. Is the gentleman from Texas [Mr. BROOKS] in opposition to the amendment?

Mr. BROOKS. Mr. Chairman, I am in opposition to the amendment.

The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 5 minutes, and the gentleman from Texas [Mr. BROOKS] will be recognized for 5 minutes.

The gentleman from Florida is recognized for 5 minutes.

Mr. MCCOLLUM. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I wish to explain the fact that this particular amendment we are offering to rise right now is the third in a series of four to point out to the body and to the public the fact that there are some very significant amendments that the Committee on Rules did not allow that most of this body would be more than willing to vote for and that should be in any good, tough criminal justice matter.

There are three amendments in this case dealing with crimes against women, and I am going to yield to each of the authors of those amendments.

Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Ms. MOLINARI] to explain the amendment she would have offered.

Ms. MOLINARI. Mr. Chairman, I would like to talk about one amendment that the Democrats on the Rules Committee did not think important enough to allow for debate.

It changes the Federal rules of evidence to let prosecutors in sexual assault and children molestation cases introduce evidence that the defendant has committee similar crimes in the past.

This is not point for frivolous discussion. This same amendment was adopted by the other body 75–19 and is part of their crime bill.

Under the present rules prior evidence is sometimes excluded from a trial for fear it may prejudice the jury into rendering a verdict based on emotion rather than fact. The ironic result is that serial rapists and child molesters go free because current law encourages reversals.

Rape and child molestation are crimes usually committed in secret and neutral witnesses are usually lacking. Many trials become a matter of the victim's word against the defendant's, forcing the jury to decide who is more credible.

The past conduct of a person with a history of rape or child molestation provides evidence that he or she has the combination of aggressive and sexual impulses that motivates the commission of such crimes and lacks the inhibitions against acting on these impulses. A charge of rape or child molestation has greater plausibility against such a person.

Usually, rapists develop a pattern among their victims. Their assaults show striking similarities as they move from victim to victim. When these patterns are outstanding, these patterns can be helpful in determining true guilt and true innocence.

I would stress that prior evidence is not automatically allowed. The judge must still determine that it has direct relevance on the case at hand. All of a defendant's usual rights of rebuttal and cross-examination remain unchanged.

Mr. Chairman, if now is not the time to act on these proposals, when will the time come? The other body adopted this important amendment overwhelmingly. So it will in fact have to be debated, in conference, behind closed doors.

It is not a delaying tactic.

If this crime prevention bill is not the proper vehicle for making these changes to address the serious crimes of sexual assault and child molestation, then what is the proper forum?

I would like to know. Hundreds of thousands of victims of sexual assault and child molestation each year would like to know.

Mr. MCCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Chairman, I rise in support of striking the enacting clause in order that the full House will have the opportunity to consider important amendments by Representatives MOLINARI, DUNN, and myself dealing with the issue of sexual violence.

The process by which we are considering this crime bill on the floor is symbolic of how more than 100 Members have been shut out of offering amendments to H.R. 4092. I was one of those members shut out of the process. In the interest of time, I will include only part of my amendment—requiring those accused of sexual offenses to be tested for HIV. I am supportive of Representative MOLINARI's amendment to change the Federal rules of evidence (which was also a provision of the amendment I offered to the Rules Committee) and Rep. Dunn's amendment to encourage States to establish tracking procedures with respect to released sexual violent predators.

My amendment would require testing of accused sex offenders for HIV, with disclosure of test results to the victim. Test results would be inadmissible at trial. This provision passed as section 531 of the Omnibus Crime Control Act of 1991 (which did not pass into law). A number of States have passed laws providing for HIV testing of accused sex offenders. It's time now to pass a law allowing for HIV testing of accused sex offenders in Federal cases.

The trauma of victims of sex crimes maybe greatly magnified by the fear of contracting AIDS as a result of the attack. Victims have the right to know whether they have been exposed to the virus, without waiting months or years while the case is pending. And, paying for victims to be tested for HIV (which is provided for in the bill and which I support) will not provide the same necessary information that testing of the accused will provide. Finally, if the accused sex offender does test positive, the victim must be given the opportunity to seek early treatment and counseling.

Defendants in rape cases have no privacy interests which outweigh the victim's right to know whether the victim will die as a result of the crime. Probable cause to believe that a person has committed a crime is a sufficient basis for arresting and detaining the person, and for taking blood samples. It is an equally sufficient basis for conducting an HIV test on the accused.

The House should have the opportunity to consider these important sexual violence amendments. I urge my colleagues to vote in support of striking the enacting clause to H.R. 4092.

Although other important provisions of my amendment will not be considered today, they are equally important. The bill on which they are based, H.R. 688, introduced last year by Representative MOLINARI and myself, would expand and toughen sexual violence laws and increase the rights of victims. H.R. 688 would:

Double the maximum penalty for recidivists convicted of sexual assaults;

Require HIV testing of accused sex offenders (results inadmissible at trial);

Provide for pre-trial detention of the accused;

Suspend Federal benefits to offenders who refuse to comply with restitution obligations;

And, equalize the number of peremptory challenges accorded to the defense and to the prosecution in felony cases;

Protect victims from abuse in legal proceedings;

And, allow for evidence in court of similar crimes of the accused.

Allowing for evidence of similar crimes of the accused at trial, as Rep. MOLINARI has pointed out today, is particularly important. It would go a long way toward neutralizing the psychological damage a rape victim often experiences going through the judicial process. It is common in rape and child molestation cases that the victim is too traumatized, intimidated, or humiliated to file a complaint and go through the full procedure of a criminal prosecution. However, the victims in such cases are often willing to bear the burden of testifying when they find out that the person who marred their lives has also victimized others.

As the cochair of the Republican Policy Committee Task Force on Women's Issues, I have held a number of hearings dealing with sexual violence. At those hearings, witnesses testified that the most important thing we can do to protect and empower citizens from sexual and domestic violence is by restructuring our criminal justice system, including increasing penalties for offenders.

Paul McNulty, former director of policy at the Department of Justice, said at one of the hearings:

> Given what we know about the recidivist nature of sex offenders, you might think that the criminal justice system does all that it can to keep them in prison. Unfortunately, nothing could be further from the truth. The majority of those who are arrested for rape are not sentenced to prison. Only 33 percent of all such arrestees go to prison. For those who are sent to prison, only a fraction of their sentences are actually served * * *. It is, therefore, quite clear that the most effective way to prevent sexual assault is to punish violent criminals by removing them from the streets * * *. That is why we strongly endorse H.R. 688 (the Kyl bill) * * *. As former Attorney General William Barr stated last year when discussing this bill, "It brings criminals to justice and justice to victims."

The Sexual Assault Prevention Act is an extremely important component of our efforts to combat crime, particularly violence against women and children. The Congress should have the opportunity to pass this bill in its entirety as part of comprehensive crime legislation.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the gentlewoman from Washington [Ms. DUNN].

Ms. DUNN. Mr. Chairman, today, I rise in support of striking the enacting clause in order to consider three important bipartisan amendments. My amendment, offered along with Mr. DEAL, a member from the other side of the aisle, would encourage States to establish registration and tracking procedures and community notification with respect to released sexually violent predators.

This amendment, modeled after a successful Washington State law, would monitor sexually violent predators—including those convicted of stalking—wherever they may locate once they are released, even if they move across State lines. Washington State leads the Nation in coping with this small group of criminals who terrorize mostly women in their neighborhoods, homes and workplaces.

Already, both the House and Senate have passed legislation that requires law enforcement officials to notify communities when child molesters and others who pose a threat to children are released. That is right and good, a warning that society owes to parents and their children. Likewise, our society owes to women some notification that a predator is being released. And law enforcement officials should be encouraged to track their movement.

The Senate has done just that by including in its crime bill virtually identical language which was accepted with little debate on the Senate side by Senator BIDEN and the Republican leadership. The House should do the same on behalf of women all across America.

Mr. McCOLLUM. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I wish to say that all three of the proposed amendments were not allowed by the Committee on Rules, but go to violence against women and stalking, which is something that this body understands need to be addressed federally. We all would support these amendments if they were out here. They were one of a very limited list of select amendments that we on this side of the aisle thought should be given preference, and the Committee on Rules chose not to.

Mr. Chairman, the only way these amendments can be brought up for a vote today is if we give them the opportunity by granting this preferential motion to rise. It would then allow us to offer these amendments through the process of the Speaker recognizing me.

Mr. Chairman, I urge a "yes" vote on the motion to rise to allow these amendments to be offered.

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] is recognized for 5 minutes in opposition to the preferential motion.

Mr. BROOKS. Mr. Chairman, this is another amendment to try and kill the entire bill, a delaying tactic that I find really a little tiresome, when the bill includes the Title XIII the Jacob Wetterling Crimes Against Children Act, Title V, the proposed three-time loser section covers sexual abuse, abusive sexual contact and assaults with intention to commit rape. Title III includes assaults against children. Title XII includes the Child Sexual Prevention Act. Title XVI has the omnibus violence against women provisions, which I trust Members are for. Still to be acted upon, we have amendments approved by the Committee on Rules covering child pornography, introduced by a Republican, the gentleman from New Jersey [Mr. SMITH]. We have yet to cover a stalking and domestic violence amendment introduced by the gentleman from Massachusetts [Mr. KENNEDY].

Mr. Chairman, we have a lot of good material in here to protect children and women. We want to keep it in here. We cannot add every untried idea that has ever been dreamed up but has never had a minute of hearings or this bill will be a little bit too cumbersome to fly. So I am hopeful that we can defeat this procedural amendment to strike, and go on with the consideration of this crime bill.

☐ 1710

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Florida [Mr. McCOLLUM].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote taken by electronic device, and there were—ayes 180, noes 245, not voting 12, as follows:

[Roll No. 123]

AYES—180

Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lancaster
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Packard
Paxon
Penny
Petri
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Stupak
Sundquist
Talent
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Traficant
Upton
Valentine
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—245

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barlow
Barrett (WI)
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Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
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Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
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Cardin
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Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
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Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Neal (MA)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer

Romero-Barceló (PR)
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Swett
Swift
Synar
Tanner
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Underwood (GU)
Unsoeld
Velázquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—12

Allard
Buyer
Collins (IL)
Faleomavaega (AS)
Fish
Gallo
Grandy
Kaptur
Neal (NC)
Peterson (FL)
Washington
Williams

☐ 1729

The Clerk announced the following pair:

On this vote:

Ms. Kaptur for Mrs. Collins of Illinois against.

Messrs. REED, LIPINSKI, and RUSH changed their vote from "aye" to "no."

Mr. BARCIA of Michigan changed his vote from "no" to "aye."

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

☐ 1730

The CHAIRMAN. It is now in order to consider amendment No. 13 printed in part 1 of House Report 103-474.

AMENDMENT OFFERED BY MR. CHAPMAN

Mr. CHAPMAN. Mr. Chairman, I offer an amendment made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CHAPMAN:

Add at the appropriate place the following:

TITLE —TRUTH IN SENTENCING

SEC. . GRANTS.

The Attorney General is authorized to provide grants to States to build, expand, or operate space in correctional facilities in order to increase the prison bed capacity in such facilities in order to reach the goals set forth in section

SEC. . FEDERAL FUNDS.

(a) Distribution of Funds in Fiscal Year 1995.—Of the total amount of funds appropriated under this title in fiscal year 1995, there shall be allocated to each State an amount which bears the same ratio to the amount of funds appropriated pursuant to this title as the number of part I violent crimes reported by the States to the Federal Bureau of Investigation for 1993 bears to the number of part I violent crimes reported by all States to the Federal Bureau of Investigation for 1993.

(b) Distribution of Funds in Fiscal Years 1996 Through 1999.—75 percent of the total amount of funds appropriated under this title in fiscal years 1996, 1997, 1998, and 1999 shall be allocated to each State according to the formula establish in subsection (a) adjusted to reflect in each year the most recent data from the Federal Bureau of Investigation reporting Part I violent crimes.

(c) Good Faith Effort.—In order to be eligible for funding under subsections (a) and (b), a State shall submit an application and give the Attorney General assurances that it will make a good faith and cost effective effort to become eligible for a grant under subsection (d).

(d) Truth in Sentencing Incentive Fund.—25 percent of the total amount of funds appropriated under this title in each of the fiscal years 1996, 1997, 1998, and 1999 shall be allocated to each eligible State according to the same ratios established in subsection (b) multiplied by the percentage change in the States' percentage of time to be served by the persons convicted of violent crimes divided by the average of all States' percentage change in percentage of time to be served by the persons convicted of violent crimes. States which have achieved a Truth in Sentencing standard of violent criminals serving 85 percent of prison time assessed shall receive the incentive funds based on the average of such percentage change ratios of all States multiplied by the States percentage of total Part I violent crime reported.

(e) Eligibility for Truth in Sentencing Incentive Fund.—In order to be eligible for grants under subsection (d), a State must demonstrate that it has since 1993—

(1) increased the percentage of convicted violent offenders sentenced to prison;

(2) increased the average prison time actually to be served in prison by convicted violent offenders sentenced to prison; and

(3) increased the percentage of sentence to be actually served in prison by violent offenders sentenced to prison.

(f) Law Changes.—As evidence of such good faith effort to meet the goals contained in subsection (e), a State may make changes to its laws and regulations which may include—

(1) truth in sentencing laws which will require persons convicted of violent crimes to serve not less than 85 percent of the sentence imposed;

(2) mandatory prison sentences for persons convicted of the most serious violent crimes;

(3) pretrial detention for persons whose release it can be shown would pose a danger to any other person or the community;

(4) sentencing authority to allow the defendant's victims or the family of victims the opportunity to be heard regarding the issue of sentencing and provide that the victim or the victim's family will be notified whenever such defendant is to be released; or

(5) that a person who is convicted of a serious violent crime shall be sentenced to life imprisonment if—

(A) the person has been convicted on 2 or more prior occasions in a court of the United States or of a State of a serious violent crime, or of 1 or more serious violent crimes and 1 or more serious drug offenses; and

(B) each serious violent crime or serious drug offense used as a basis for sentencing under this subsection, other than the first, was committed after the defendant's conviction of the preceding serious violent crime or serious drug offense.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—For purposes of this title, there are authorized to be appropriated—

(1) $2,500,000,000 for fiscal year 1995;

(2) $2,000,000,000 for fiscal year 1996;

(3) $2,000,000,000 for fiscal year 1997;

(4) $2,000,000,000 for fiscal year 1998; and

(5) $2,000,000,000 for fiscal year 1999.

(b) Limitations on Funds.—

(1) Nonsupplanting requirement.—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

(2) Administrative costs.—Not more than 3 percent of the funds available under this section may be used for administrative costs.

(3) Matching funds.—The portion of the costs of a program provided by a grant under this section may not exceed 90 percent of the total costs of the program as described in the application.

(4) Carry over of appropriations.—Any funds appropriated but not expended as provided by this section during any fiscal year shall be carried over and will be made available until expended.

SEC. . DEFINITIONS.

For purposes of this title—

(1) the term "violent crime" means—

(A) a felony offense that has an element the use, attempted use, or threatened use of physical force against the person of another, or

(B) any other offense that is a felony and that, by its nature, involves substantial risk that physical force against the person of another may be used in the course of committing the offense.;

(2) the term "serious drug offender" has the same meaning as that is used in section 924(e)(2)(A) of title 18, United States Code;

(3) the term "State" means any of the United States and the District of Columbia;

(4) the term "convicted" means convicted and sentenced to a term in a State corrections institution or a period of formal probation; and

(5) the term "Part I violent crimes" means murder, rape, robbery, and aggravated assault as those offenses are reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

The CHAIRMAN. Pursuant to the rule, the gentleman from Texas [Mr. CHAPMAN] will be recognized for 10 minutes and a Member opposed will be recognized for 10 minutes.

Is there a Member who seeks recognition in opposition?

Mr. McCOLLUM. Mr. Chairman, if I could claim the time by unanimous consent, I would do so, but I am not opposed to this amendment. I ask unanimous consent that I may claim the time in opposition to the amendment.

The CHAIRMAN. There being no Member in opposition, the Chair recognizes the gentleman from Texas [Mr. CHAPMAN].

Mr. CHAPMAN. Mr. Chairman, since there is no Member in opposition, may I ask unanimous consent to claim the entire 20 minutes of time under the amendment?

PARLIAMENTARY INQUIRY

Mr. McCOLLUM. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. McCOLLUM. Mr. Chairman, I indicated to the Chair a moment ago when the Chair asked whether there was any opposition to this and no one stood in opposition, I requested the opportunity by unanimous consent to have the 10 minutes that otherwise would be in opposition.

The CHAIRMAN. Is the gentleman's inquiry whether or not he can make a unanimous consent request?

Mr. McCOLLUM. Mr. Chairman, that is correct.

The CHAIRMAN. The gentleman is entitled to make a unanimous consent request.

Mr. McCOLLUM. Mr. Chairman, I ask unanimous consent that I be allowed to have 10 minutes in support of this amendment in lieu of no Member being in opposition.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. CHAPMAN] for 10 minutes.

Mr. CHAPMAN. Mr. Chairman, I yield myself as much time as I may consume. Mr. Chairman, it seems quite clear that the basic thrust of the crime bill under consideration in the House of Representatives based from a policy standpoint has two prongs: The first and very important is prevention. The legislation that we have considered and will ultimately decide contains very important, innovative programs, but also a part of the crime bill and a part I think our constituents expect us to address is the enforcement provisions. And while we have considered three strikes legislation, while we have considered new death penalties under the Federal Criminal Code, it seems that what we have yet to consider and what up to this point has been lacking in our legislation is an effort on the part of the Congress through the Federal statutes to influence the conduct of State legislatures in the incarceration of violent criminals at the State level.

Mr. Chairman, we know from statistics that 96 percent or 97 percent of the prosecution for felony offenses in this country occurs in the State courts, not in the Federal courts.

Mr. Chairman, the Chapman amendment is an effort to influence the outcome of the sentencing and the time that violent and repeat offenders will serve as a result of State prosecutions in America.

Mr. Chairman, our prisons across this country are bursting at the seams. In my home State of Texas in previous years, we were full in our State prisons and State prisoners in fact were serving much of their time in the county jails.

If we can help the States through a grant program build the prison space to house the most serious and violent offenders in our communities, in our neighborhoods across this land, we can make a difference in Washington on the rate of violent crime in every community in America.

Mr. Chairman, while some quibble with the statistics, we are told that a very small percentage of the felon population commit a very large percentage of the violent crimes in this country.

What the Chapman amendment does quite honestly and quite simply is target that small percentage of violent and repeat offenders who are wreaking havoc, dealing carnage in our communities, in our schools, across this country of ours. And it does it by simply having a funded incentive that tells the States:

> If you will incarcerate and keep the violent and repeat offenders in prison for longer periods of time, we will help you construct those prisons to hold them.

Mr. Chairman, my amendment does not mandate an 85-percent result, and I want that to be very clear. It does not mandate that States have to incarcerate violent and repeat offenders for any set percentage of their time. But let me tell you what it does do, and it is very important.

For States to qualify for the grant funds under this amendment, the States must in each of the next 5 years increase the percentage of convicted violent offenders that are sentenced to prison. That is, if you commit a violent crime, you must, to qualify for the funds, commit a larger percentage each year to prison. You must at the State level increase the average prison time that is actually served in the prisons when you have been convicted of a violent crime, and you must increase the percentage of sentence that is to be served by violent offenders.

Mr. Chairman, what this does is simply say that States to qualify for these funds must get tougher and tougher and tougher on violent criminals across this land. And if they do that, and if they will perform by targeting that small percentage of felons that are committing the majority of violent crimes, then we in Washington will say, "We will help you with the resources you need to keep those people in jail." You cannot rape, you cannot pillage, you cannot plunder, you cannot kidnap, you cannot murder if you are in jail. And that is the goal and I think it will be the result of the Chapman amendment.

Mr. Chairman, let me say, because it has been an issue, that there has been some concern about the cost of this amendment, because my amendment would be added as an addition to the crime bill and I am sensitive to those concerns expressed by the Department of Justice and the administration and a number of my colleagues, and I want to see the conferees in a conference with the Senate work that issue out. But we should not diminish or minimize the impact that this kind of legislation can have on violent crime in America.

Mr. Chairman, this amendment is supported by the President, by the Department of Justice, the Attorney General, the Law Enforcement Alliance of America, the National District Attorneys Association, the Safe Streets Alliance, and a variety of other associations.

□ 1740

Mr. Chairman, I believe that the Chapman amendment is a commonsense approach to dealing with the issue of violent crime, and I urge my colleagues to support it.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Under a previous unanimous-consent request, the Chair recognizes the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

I support the Chapman amendment. I want to say why and what I think is good about it and what may not be quite enough that is in it.

First of all, the underlying bill is deficient in ways that need to be remedied in terms of prison grant programs to try to correct the problem of too many people in State prisons around this country and not enough room to keep the repeat violent felons. It is a very difficult problem, because the underlying bill does not (a) provide enough money, or (b) provide any real teeth in requirements that States move their laws along in return for getting the money to the point where they actually abolish parole for repeat violent offenders.

The problem is we have 6 percent of the criminals in this country committing about 70 percent of the crimes and serving only an average of about one-third of their sentences. It is this group of people getting out again and again and again to repeat their crimes that are the key problem that the American public wants us to address across this Nation right now with crime legislation. Anything else we do here today or tomorrow is not going to resolve the problem the American public sees if we do not move the States in the direction of actually implementing truth in sentencing and getting rid of the opportunity for these violent felons to get back out on the street to repeat their crimes.

What the gentleman from Texas [Mr. CHAPMAN] is doing in his amendment is, first of all, providing an adequate amount of money. About $10 billion is what we have been told by the experts is what will be required to build enough prison space in this country to put violent felons away who are repeat offenders and keep them there for the full duration or at least 85 percent of their sentences. To that degree, I applaud particularly this amendment.

Second, I believe this amendment goes a long way to encouraging the States to do some of the things they should do by saying they must demonstrate they will increase the percentage of convicted violent offenders sentenced to prison, increase the average prison term actually served, and increase the percentage of the sentence to be actually served in prison.

However, as the gentleman from Texas [Mr. CHAPMAN] knows, I do not think his amendment goes far enough, which is why I am offering one a little bit later to correct what I think are deficiencies still in his. He does say they must show evidence of good faith that they are doing these things, and maybe they may show good faith by going to an 85-percent rule, in other words, by abolishing parole and by doing some mandatory sentences for violent felons and by changing their pretrial detection laws. They may do that. But there is no requirement in the proposal offered by the gentleman from Texas [Mr. CHAPMAN] that States actually go to an 85-percent rule for those who are convicted of serious violent felonies.

There is no requirement for them to be eligible to get prison construction money that they do so. And I think that that is a very, very big deficiency in this amendment. That is why a little bit later, as I said, I am going to offer an amendment that will do that, that will say to put some teeth in this and say to the States that you must, in order to get prison grant money from the Federal Government, change your laws to do this.

However, I want to point out to my colleagues that the Chapman amendment is a freestanding amendment. It does not substitute for the underlying language in the bill. It would not be in any way affected by an amendment I am going to offer in a little while or the substitute by the gentleman from New Jersey [Mr. HUGHES] to mine. It is totally a freestanding addition to this bill. It adds $10 billion to it. It is a constructive amendment. It moves us somewhat in the direction of truth in sentencing.

I wish he had left his original language the way it was in the original bill. But I support the amendment the way it is now, and I urge that it be adopted.

Mr. Chairman, I reserve the balance of my time.

Mr. CHAPMAN. Mr. Chairman, I want to thank the gentleman from Florida for his comments. I appreciate his willingness to work together on this important issue.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BROOKS], the chairman of the full committee.

Mr. BROOKS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Texas [Mr. CHAPMAN], distinguished Member of our delegation, for contributing in a positive fashion to development of this bill.

As a former district attorney, he is very familiar with the State criminal justice system, and to his credit, he listens very carefully to the concerns raised by State and local government officials who did not want to be tied to specific mandates to receive Federal assistance in their struggle to provide adequate prison space, yet were strongly impressed by the general thrust of the proposal.

I think the solution of incentives for the States is a very creative one which deserves our strong support, and I would urge an "aye" vote for the Chapman amendment.

Mr. CHAPMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. HUGHES], a member of the Committee on the Judiciary.

Mr. HUGHES. Mr. Chairman, I congratulate the gentleman. I support his amendment. It puts $10.5 billion in for prison grant programs for the States.

The gentleman has done a good job of working with the Governors and corrections officials around the country. It is complementary to what we have done in the bill relative to prison grants to the States, and I intend to support it.

Mr. CHAPMAN. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I yield 1 minute to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Chairman, I rise today to urge my colleagues to support the Chapman truth-in-sentencing amendment.

The need to have violent criminals serve out their full term became tragically evident to me.

In 1969 a man from my home State in Oregon embarked on a drug and alcohol binge which ended with the murder of two women, and he was sentenced to two life imprisonments, but unfortunately life does not mean life. He was recently released after serving 25 years, and just a few months after his release, he has been charged with the alleged rape of a 4-year-old girl.

This man would have been in prison today, Mr. Chairman, if Oregon's truth-in-sentencing law had been enacted at the time of his conviction.

It was not until 1989 that Oregon passed a truth-in-sentencing law. It is for 82 percent of the sentence, and the State department, Oregon State Department of Corrections, has reported it is successful.

Let us assure that our prison space is used to keep violent criminals in prison.

I urge that my colleagues support the Chapman amendment.

Mr. MCCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the Chapman amendment and urge my colleagues to vote for it.

I want to say very, very briefly, although I agree with the gentleman from Florida, I wish this was even a stronger statement in favor of the truth in sentencing in this bill. It makes the point we wish to promote truth in sentencing around the country.

It is my opinion that one of the greatest failings in the system today is that sentences do not mean what they say that they mean. Life in prison, as indicated by the previous speaker, is not life in prison. All too often when a judge sentences a convicted violent criminal to, say, 5, 10, 20 years in prison, whatever the case may be, the actual sentence is 2½ or 5 or even less sometimes.

The point is the sentences that appear in the newspapers to our communities' convicted violent criminals sentenced to so many years in prison are not for real. In all too many cases, the individual is released through either discretionary parole or through the operation of good-time credit or through some other means that allows this individual to be back on the street.

That is why this amendment is constructive, is a useful addition to the bill, and why I support it.

Mr. MCCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BAKER].

Mr. BAKER of California. Mr. Chairman, I rise to support the Chapman amendment and urge my colleagues to do the same.

It is for this Congress to address the need to keep violent felons locked up and not out wandering the streets.

This amendment gives States financial incentives to build and operate new prisons with just a 10-percent State match.

Truth in sentencing targets violent offenders only the first time they victimize an innocent citizen, not the third time.

The Chapman amendment would allow States to house approximately 100,000 new violent prisoners. My California colleagues should take note that the Golden State would be eligible for $447 million in additional prison construction funds in 1995.

The potential savings to society and victims over 5 years would be between $48 billion and $62 billion.

The memory of Polly Klaas demands that we pass truth in sentencing. Polly Klaas' father, Mark, has devoted himself to passing truth-in-sentencing laws, and I applaud Mark for his tremendous courage. Mark is trying to bring some good out of the senseless tragedy of his daughter, Polly, and truth in sentencing is a good place to start.

It is time to get serious about locking up the 7 percent of violent criminals which commit two-thirds of all violent crimes. Support the Chapman amendment.

Mr. MCCOLLUM. Mr. Chairman, I yield 1½ minutes to the gentleman from Arkansas [Mr. DICKEY].

Mr. DICKEY. Mr. Chairman, the people in the fourth district, the law enforcement officials of the Fourth District of Arkansas, have told me explicitly there are five things that need to be done: more prisons, more police, better equipment, criminal law reform, and preventive measures.

We have here one of those particular needs that is being taken care of by this amendment, the Chapman amendment, and that is having more prisons.

□ 1750

We have people at home who are afraid to go into their driveways without being robbed, they are afraid to go into automatic teller machines, they are afraid to sit in front of their homes because of drive-by killings, and this is in rural Arkansas.

We need to put these people away so the police do not have to look at them again, so that the people who testify against these criminals do not have to face them again, and so that society does not have to face them again. Somehow we will get a message across to other criminals that we are serious about what we are doing.

If we look at the States who have used more incarceration, we have a 12.7 percent decrease in crime. If we look at those who have not had such incarceration rates, the rate of violent crime has gone up 6.9 percent. It is time for us to help the policeman, it is time for us to help ourselves and to vote for the Chapman amendment so that we can get more prison space and keep prisoners in jail and in prison.

Mr. CHAPMAN. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. SCHENK].

Ms. SCHENK. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the Chapman amendment for truth-in-sentencing which provides States with over $10 billion in prison funds and makes those funds contingent on States requiring violent criminals to serve most of their sentences.

Our fellow citizens across the country have sent this Congress a clear message: "Stop early parole for rapists, murderers, and child molesters, and maybe we will stop them from striking again."

My State, California, has the fourth highest violent crime rate in the Nation, and yet murderers spend an average of only 14 years in prison, rapists an average of 4, and child molesters an average of only 3 years. The damage they do, of course, lasts a lifetime.

This amendment will change that. It actually provides funds to build prisons and does not simply institute another unfunded mandate. The issue here is simple: If a criminal does the crime, he or she must serve the time.

I urge my colleagues to pass this amendment.

Mr. MCCOLLUM. I yield myself the balance of my time.

Let me urge my colleagues to vote again for the Chapman amendment, at the same time pointing out the fact that there are some deficiencies in it. It provides the $10 billion that is really needed for building enough prisons to house repeat violent offenders. As I said previously 6 percent of the criminals in this country commit about 70 percent of the crimes and are serving only about a third of their sentences. So what we must do is to move to get these people off the streets before we do anything else. It is very much like somebody who is run over with a truck. They have a lot of internal injuries, and we would like to get at the root causes of those problems that they have got and repair them. But if they have got their arm cut off and they are bleeding to death, the first thing you have to do is apply a tourniquet. That means taking that 6 percent off the streets, in this case, locking them up and keeping them more permanently.

What the Chapman amendment does not do—it wants to move in that direction, but it has not put the teeth in it that my amendment which I will offer will—it does not have the quid pro quo for the States to require them to go to the system that we all want to see them get to, truth-in-sentencing, and that is to abolish parole for repeat violent offenders and require them to serve at least 85 percent of their sentences instead of the third they are doing now.

So I urge the Chapman amendment be adopted. It is freestanding.

Then I would hope that my amendment could be heard, and Mr. HUGHES' effort to substitute for it will be denied so that we can get on and put the teeth in it where CHAPMAN goes about two-thirds of the way of doing but does not quite complete.

I thank the gentleman. I appreciate his offering the amendment.

I urge its adoption.

Mr. Chairman, I yield back the balance of my time.

Mr. CHAPMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I rise in support of the Chapman amendment.

I support Mr. CHAPMAN's amendment.

It would provide States a potential of $10.5 billion in prison money over and above $3 billion they'll receive under the prisons title crafted by Mr. HUGHES' subcommittee.

Seventy-five percent of the funds in the Chapman amendment would be allocated based on States' relative rates of violent crime nationally.

Twenty-five percent of the funds would be allocated to a "Truth-In-Sentencing Incentive Fund." For this 25 percent, States would receive funds based on evidence that they have made a good faith effort to adopt truth-in-sentencing laws * * * laws guaranteeing that State prisoners serve 85 percent of their sentence.

There is no doubt that States need this money for prisons, because every State in the Union has a dire emergency of prison overcrowding. In my home State of New York, prisons are at 130 percent of capacity. In California, they are at 165 percent of capacity. And in Ohio, which has the worst problem of prison overcrowding, they are at 179 percent of capacity.

It's the kind of overcrowding that's forcing States to throw violent criminals back on the streets. According to a recent Bureau of Justice statistics survey of State prisoners who have committed every kind of violent crime, the average sentence is 18 years, but the average time served is only 8 years.

This amendment does raise the issue of how different programs should be funded under the crime bill. The crime bill reported out by the full Judiciary Committee is indeed a good balance between prevention and punishment, and I want to make sure this amendment does not take away any money from the $9 billion in crime-prevention and treatment programs that we authorized at full committee.

Mr. CHAPMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. CONYERS] for the purpose of a colloquy.

Mr. CONYERS. I thank the gentleman for yielding.

As the gentleman knows, the bill reported by the Committee on the Judiciary contains about $8 billion in programs to prevent crime, including $2 billion for the Local Partnership Act. Is it the gentleman's intent that during the conference on this bill the $10.5 billion or so authorized by his amendment would not come by cutting the funds authorized in the bill for these prevention programs, including the LPA funds?

I yield to the gentleman from Texas.

Mr. CHAPMAN. I thank the gentleman for yielding.

Mr. Chairman, I support the prevention package at the full level in the House bill, particularly that portion that contains the LPA funds because of its positive impact on rural areas in crime prevention.

I congratulate the gentleman for his positive role in constructing that amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Texas [Mr. CHAPMAN].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CHAPMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 377, noes 50, not voting 10, as follows:

[Roll No. 124]

AYES—377

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (TX)
Applegate

Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Carr
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
DeLay
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Filner
Fingerhut
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mica
Michel
Miller (FL)
Mineta
Mink
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Neal (MA)
Neal (NC)
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Romero-Barceló (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—50

Becerra
Blackwell
Brown (FL)
Cardin
Clay
Collins (MI)
Conyers
Dellums
Dixon
Ehlers
Fields (LA)
Flake
Foglietta
Ford (MI)
Frank (MA)
Hilliard
Kanjorski
Lewis (GA)
McDermott
McKinney
Mfume
Miller (CA)
Minge
Mollohan
Nadler
Norton (DC)
Oberstar
Obey
Olver
Owens
Payne (NJ)
Pelosi
Penny
Rangel
Rush
Sabo
Scott
Serrano
Skaggs
Stokes
Swift
Synar
Towns
Tucker
Underwood (GU)
Velázquez
Washington
Waters
Watt
Yates

NOT VOTING—10

Andrews (NJ)
Collins (IL)
Faleomavaega (AS)
Fish
Gallo
Grandy
Johnson (CT)
Kaptur
Peterson (FL)
Stark

□ 1815

Messrs. OBERSTAR, FLAKE, TUCKER, BLACKWELL, TOWNS, FOGLIETTA, and MFUME changed their vote from "aye" to "no."

Mr. BROWN of California changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 14 printed in part 1 of House Report 103-474.

AMENDMENT OFFERED BY MR. SCHIFF

Mr. SCHIFF. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SCHIFF:

Page 33, strike line 14 and all that follows through line 3 on page 34.

The CHAIRMAN. Pursuant to the rule, the gentleman from New Mexico [Mr. SCHIFF] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

Mr. HUGHES. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] will be recognized for 10 minutes in opposition to the amendment.

The Chair recognizes the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, my amendment would remove a portion of section 6 of this bill. My amendment would not add any new language. It would remove a portion of the bill which requires the States to have certain correctional department policies in exchange for being qualified to have funds to help them incarcerate violent criminals.

Mr. Chairman, I might add that following my amendment, regardless of the result of that amendment, the gentleman from Florida [Mr. MCCOLLUM] will offer an amendment, and the gentleman from New Jersey [Mr. HUGHES] has a substitute for Mr. MCCOLLUM's amendment that would totally delete this portion of the bill and add new language.

What I want to explain is why I am offering this amendment. I am offering it for two reasons: First of all, for those who support the McCollum amendment, which will be offered next, I would urge a yes vote, because the McCollum amendment, as any other amendment before this body, may or may not pass.

□ 1820

And if it does not pass, at least, though I do support it, if it does not pass at least we would remove the language that is in the bill today.

Second of all, this amendment that I am offering would offer a neutral alternative in terms of Federal policy toward the States in exchange for the States' accepting aid to build custodial facilities to hold violent criminals.

Frankly, a number of Members on both sides of the aisle have said to me that they would prefer to assist the States without dictating policy either on the correctional end, as the bill does, or on the sentencing end.

Therefore, for those of my colleagues who believe that the Federal Government should be neutral in terms of policy but give the grants to help the States incarcerate violent criminals as the States deem best, I would also urge a yes vote on this amendment.

I would like to go into that second reason first.

Mr. Chairman, the existing language of the bill, of title VI, says that the States, in order to qualify for Federal funds, must give assurances, and that is the word out of the bill, I think one can translate that "mandate," assurances that, for example, they have a prisoner rehabilitation and treatment program. Well, I wonder what the rehabilitation and treatment programs for a serial murderer are going to turn out to be.

The point is, for this and for all the other provisions in this section, including post-released assistance to those who have been released from custody, the Department of Justice, the Federal Department of Justice will be the final arbiter as to whether the States' programs for corrections meet the standards of this bill. In other words, instead of having the Federal courts run the State prison systems, which have happened so many times, we would substitute with the bill as written the Department of Justice running the State correctional systems.

And passing my amendment would take this provision out of the bill. It was for that reason that the National District Attorneys Association have endorsed my amendment. And I would like to read the letter from their president to me which reads:

> The association has long been concerned with the intrusion of the Federal Government into issues that are by right within the realm of the State. In keeping with this belief, we are vehemently opposed to the requirement for assurances that social programs will be provided as currently incorporated in title VI of H.R. 4092 or the amendment offered by Mr. Hughes.

That is the later amendment which is the substitute for the McCollum amendment.

> To this end, we fully support your efforts to remove this language from the crime bill and strongly urge the passage of your amendment to this effect.

So my amendment, if passed, would take out the language which gives the Department of Justice the approval or disapproval authority over State correctional policies.

Second of all, I believe that this bill as written constitutes a poor policy. If we are going to have a policy that dictates to the States, I do not think it should be this one. This policy seeks to set up an integrated management policy which has been described as using resources wisely.

I believe that that means, on the part of the sponsors, releasing certain individuals from prison early or setting up a system where certain individuals are not sentenced to prison in the first place for the sole purpose of creating enough room in the penitentiary for other criminals. In other words, I believe this is intended to promote, keep some prisoners out of prison to allow more prisoners to be incarcerated.

I want to stress that standing by themselves, there is absolutely nothing wrong with alternative sentencing policies. I promote such policies. Even though I had a career in law enforcement before being elected to the House, I do not believe that every convicted criminal needs to go to prison. But that decision should be made individually on the merits of the individual case of the criminal and the criminal's crime and the criminal's threat to repeat the crime again. No criminal should be released from prison, no criminal should avoid being able to avoid being sent to prison to make room for someone else.

It is true that we do not want to see our citizens robbed at gun point by violent criminals. But it is also true that we do not want to see our citizens' houses broken into or their cars stolen or their goods taken by the so-called nonviolent criminals. Those criminals who are a threat to society should be behind bars, and the decision of the space, of the number of prison spaces should be set by who needs to be in prison rather than the other way around, of releasing somebody who may continue to commit crimes just to create space for others.

Mr. Chairman, I reserve the balance of my time.

Mr. HUGHES. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BROOKS], the distinguished chairman of the Committee on the Judiciary.

Mr. BROOKS. Mr. Chairman, I rise in opposition to this amendment offered by the gentleman from New Mexico [Mr. SCHIFF].

I think the committee-reported bill has treated the State assurance issue very well in developing a tough yet workable program to create more prison space. What the bill requires is that the State assure the Federal Government that it has a comprehensive correctional plan.

That strikes me as an eminently reasonable general requirement, and I am informed that it is widely supported by the Governors, State legislators, and others who have weighed in on the issue.

Surely, any State correctional system should have a comprehensive plan on how to classify prisoners, how to manage its resources, how to rehabilitate those prisoners that can be rehabilitated, and so forth. However, to congressionally mandate specific changes to State criminal law before allowing States to build new prisons for violent offenders is contrary to the goal of incarcerating the bad actors we want off the street.

I think language in the bill is perfectly appropriate, and I urge rejection of this amendment that would strike it.

Mr. HUGHES. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, the gentleman from New Mexico [Mr. SCHIFF] basically would strike provisions in the bill that would create a comprehensive plan on the part of the States to be eligible for Federal money. How can anybody be opposed to developing a comprehensive plan to manage precious Federal resources or State resources?

I do not know how my colleague, who is a dear friend of mine, from New Mexico can argue that there is something pernicious about developing a comprehensive plan. I mean, part of our problem in this country is that we have not done a very good job of managing resources. Members can ask any Governor throughout the country and they all support basically developing a comprehensive plan, or any corrections official, and they will tell us we have not done a very good job.

And it is true, as part of that plan, they should be identifying those defendants who basically are the ones that should be moved into diversion programs.

Now, the gentleman from New Mexico does support diversion programs. Not every individual who is a nonviolent offender, who has not carried a weapon, who has not committed an offense that has seriously hurt anybody is a fit subject for diversion. And any correction official, Democrat or Republican, throughout the country will tell us that we need to do a better job of basically managing our resources. That is an important component.

Yes, we do have to lock up more violent offenders and we do have to have truth in sentencing. I support that. And we do have to ensure that inadequate sentences, particularly if violent offenders are involved, need to go to jail and stay there. And we do have to do a better job of classification of individuals when they are in the system.

□ 1830

We do have to develop, it seems to me, policies within the system to track those individuals. Mr. Chairman, one of the problems we have in this country is that folks that are going to be released on the streets sometime in the future come into the system illiterate and they leave illiterate. They come in without skills and they leave without skills. They come in with drug problems and they leave with drug problems. They come in with psychiatric problems and they leave that way.

It should not surprise anybody to know that when we do not deal with those problems when they are in the system, they are going to be back in the system in 6 months. It has become a revolving door. States all agree that they need to move in that direction.

That is why just about every Governor throughout the country supports this initiative. Every corrections official throughout the country supports the direction we are trying to move the States. That is a direction the Federal Government is going and it is a good direction.

I say to my colleague, the gentleman from New Mexico [Mr. SCHIFF], I do not know where he is reading into this statute that in some way we are going to be releasing inmates that should not be released. That is not the thrust of this bill. I think the gentleman has seriously misread it. I urge my colleagues to reject the amendment.

Mr. SCHIFF. Mr. Chairman, may I ask how much time I have remaining?

The CHAIRMAN. The gentleman from New Mexico [Mr. SCHIFF] has 4 minutes remaining, and the gentleman from New Jersey [Mr. HUGHES] has 5½ minutes remaining.

Mr. SCHIFF. Mr. Chairman, I yield myself two minutes.

Mr. Chairman, the gentleman from New Jersey asked where did I get the idea that the policy in this bill as written is designed to release people that should not be released. The answer is in the idea of where alternative sentencing is placed.

If alternative sentencing programs were set as an independent portion of this bill, then I would support it, but in this particular section it is placed in the area of prison space. That is a direct message to the States: "If you want more space for violent criminals, release some other criminals or do not let them go to prison in the first place."

It is interesting, this bill among other things makes insurance fraud a Federal crime. The sponsor recognizes that there are nonviolent offenders who do damage society, and they should not be released if they are going to continue to damage society, whether they are burglars, whether they are auto thieves, whether they have ripped off savings and loans, or whatever the offense is.

Equally, if not more important than that, who decides whether the State has an adequate Department of Corrections policy? According to this bill, "the States will have to give assurances," that is a quote from the bill, to the Department of Justice that they have these policies in order to qualify for Federal funds to incarcerate violent criminals. This gives the Department of Justice the power to say whether all the policies of the State are correct or not.

Mr. Chairman, I reserve the balance of my time.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Ohio [Mr. STRICKLAND], who worked at the Lucasville State Prison.

Mr. STRICKLAND. Mr. Chairman, before coming to Congress I did serve for 6 years at Ohio's only maximum security prison in Lucasville, OH, and I can tell the Members that the job of a corrections officer is a difficult and a dangerous one. In 1991, there were 10,192 inmate assaults against staff in correctional institutions.

I would point out to my colleagues that if they vote for the Schiff amendment, they will be eliminating the Strickland amendment which passed last week as part of the en bloc amendment. My amendment requires States to provide appropriate training in dealing with repeat violent offenders. Such training will save lives. It ought not to be eliminated.

If we are going to provide grants to States to incarcerate society's most difficult individuals, the very least we can do is to make sure that they provide the appropriate training so that those who guard them can do so safely. With this crime bill, we are putting more violent people behind bars. In doing so, let us not endanger the courageous men and women who we charge with guarding them.

Mr. SCHIFF. Mr. Chairman, may I inquire as to who has the right to close in this debate?

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] has the right to close.

Mr. SCHIFF. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, I want to emphasize first and once again, so there is no confusion, I do not oppose the idea of alternative sentencing where it is deserved in the particular case, where a criminal can most likely be rehabilitated in society. The problem is that this provision that requires the management of resources, as it is pointed out, is in the same section that creates space for violent criminals.

There is a clear message there that the States should look to see whom they can release, not because the criminals to be released deserve to be released, not because they will not still vandalize society through entering our homes, stealing our goods, stealing our cars, shoplifting from our stores, and doing whatever, but simply because we want to create room.

I acknowledge that an armed robber is a more serious criminal in most cases than certain other crimes, but we do not want to have our cars stolen or our homes broken into any more than we want to be robbed at gunpoint.

I would conclude by pointing out, Mr. Chairman, that the reason the National District Attorneys Association supports my amendment is, they have taken the position that such mandates should not be placed upon the States. They have argued, in the letter which was read before, that the Federal Government should not dictate to the States, "You have to have this, this, this, and this," in order to be qualified for the funds.

For those colleagues who think we should be neutral in policy, that we should say to the States, "You have the first line against crime, you decide how to use these funds to incarcerate violent criminals, we will not look over your shoulder in terms of looking at your corrections policy," this is the correct amendment. This is the only amendment that offers that position, that assists States without dictating to them how they run their lives.

Mr. Chairman, I yield back the balance of my time.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. I thank the gentleman for yielding time to me.

Mr. Chairman, despite my great respect for the gentleman from New Mexico [Mr. SCHIFF], I must strongly disagree with his amendment. No State in the country has enough prison resources to deal with all of those who commit crime. We know that.

It is simply demagogic to wish that they can, so to say that the States should not come up with a plan so that the most violent people get the most prison time and down the list is silly. Every State should plan.

This is not saying anyone has to be released. This is not saying that anyone should not get prison time. It is saying to every State system, "Think about where you are going to put your scarce resources. Do not ever come up with the situation where someone who has a small amount of marijuana serves 5 years, and someone who has hit a little old lady over the head three times serves 1 year," which happens in State after State after State.

Talk to the Governors, talk to the corrections officers, talk to the penal experts. Every one of them would support that.

Mr. Chairman, I urge my colleagues to oppose this amendment and support the committee bill.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Chairman, I rise in opposition to the amendment. Basically, this amendment would take away the obligation of the States to plan to use Federal resources. At the core of this legislation are two basic principles: accountability of Federal funds and flexibility for the States. The only way we can reasonably and realistically achieve those things is to require the States to consider a whole range of options in a comprehensive, coherent plan. That is all this legislation does.

Mr. Chairman, to strip away the planning component from this legislation would basically be telling us to give the money to the States without any accountability, and to try another approach by micromanaging would be to take away their flexibility.

The committee bill builds on two principles: accountability and flexibility. That is a sound approach. It is an approach we should support by rejecting this amendment.

Mr. HUGHES. Mr. Chairman, I would ask how much time I have remaining.

The CHAIRMAN. The gentleman has 2½ minutes remaining.

Mr. HUGHES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from New York put his finger on it, it is silly. It is the first time I have heard, in my 20 years, of somebody being opposed to a comprehensive plan to better manage resources. I do not think I have ever heard that argument before.

Throughout this country, we are cutting people loose that are not ready to go back into society, because we do not have prison resources for them, to make room for those coming in. In some parts of this country you have to make an appointment to go to jail, practically. That is what it has come to.

It suggests that we should not require the States, in taking advantage of precious Federal resources, to be accountable, to develop a comprehensive plan, to prioritize. That is silly. I would hope my colleagues reject this amendment. It does not make sense.

Mr. Chairman, I yield back the balance of my time and urge a "no" vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Mexico [Mr. SCHIFF].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SCHIFF. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 205, noes 216, not voting 16, as follows:

[Roll No. 125]

AYES—205

Allard
Andrews (TX)
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bevill
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Carr
Castle
Coble
Collins (GA)
Combest
Condit
Cooper
Cox
Cramer
Crane
Crapo
Cunningham
Darden
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Ford (TN)
Fowler
Franks (CT)
Gallegly
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Gordon
Goss
Grams
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Moran
Murphy
Myers
Nussle
Ortiz
Orton
Oxley
Packard
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickle
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thurman
Torkildsen
Valentine
Vucanovich
Walker
Walsh
Weldon
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—216

Abercrombie
Ackerman
Andrews (ME)
Applegate
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (MI)
Conyers
Coppersmith
Costello
Coyne
Danner
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gilman
Glickman
Gonzalez
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Horn
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kennedy
Kennelly
Kildee
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Levin
Lewis (GA)
Lipinski
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Morella
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Owens
Pallone
Parker
Pastor
Payne (NJ)
Pelosi
Penny
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Reed
Reynolds
Romero-Barceló (PR)
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Shepherd
Slattery
Slaughter
Smith (IA)
Spratt
Stokes
Strickland
Studds
Stupak
Swift
Synar
Thompson
Thornton
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Upton
Velázquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates

NOT VOTING—16

Andrews (NJ)
Brewster
Collins (IL)
Faleomavaega (AS)
Fish
Ford (MI)
Franks (NJ)
Gallo
Grandy
Kaptur
Linder
Peterson (FL)
Rangel
Rose
Sharp
Stark

☐ 1900

The Clerk announced the following pairs:

On this vote:

Mr. Franks of New Jersey for, with Ms. Kaptur against.

Mr. Grandy for, with Mrs. Collins of Illinois against.

Messrs. PORTER, SWETT, TEJEDA, and DEUTSCH changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 15, printed in part 1 of House Report 103–474.

AMENDMENT OFFERED BY MR. MCCOLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. McCOLLUM:

Strike title VI and insert the following:

SEC 601. SHORT TITLE.

This title may be cited as the "Violent Offender Incarceration Act".

SEC 602. GRANTS FOR CORRECTIONAL FACILITIES.

(a) GRANT AUTHORIZATION.—The Attorney General may make grants to individual eligible States and to eligible States, organized as regional compacts—

(1) to develop, construct, expand and operate correctional facilities to ensure that prison space is available for the confinement of persons convicted of a serious violent felony, and

(2) to develop, construct, expand, and operate temporary or permanent correctional facilities, including facilities on military bases, for the confinement of convicted nonviolent offenders and criminal aliens for the purpose of freeing suitable existing prison space for the confinement of persons convicted of a serious violent felony.

(b) ELIGIBILITY.—To be eligible to receive a grant under this title a State or States, organized as regional compacts, shall submit an application to the Attorney General which includes—

(1) a plan consistent with section 2(b)(2)(A) to incarcerate all criminals convicted of a serious violent felony over the next 5 years with Federal assistance;

(2) a certification that the State or States—

(A) have established a truth in sentencing policy under which offenders will serve no less than 85 percent of the term of imprisonment to which they are sentenced with respect to conviction of a serious violent felony after having been convicted of a prior serious violent felony or a serious drug offense;

(B) have established pretrial detention similar to and at least as restrictive as that provided in the Federal system under section 3142 of title 18, United States Code;

(C) have established provisions which require that a person who is convicted of a serious violent felony shall be sentenced to life imprisonment if—

(i) the person has been convicted (and those convictions have become final) on 2 or more prior occasions in a court of the United States or of a State of a serious violent felony, or of 1 or more serious violent felonies and 1 or more serious drug offenses; and

(ii) each serious violent felony or serious drug offense used as a basis for sentencing under this subsection, other than the first, was committed after the defendant's conviction of the preceding serious violent felony or serious drug offense;

(D) have established provisions which require the sentencing authority to allow defendant's victims (limited to the victims of defenders convicted of a serious violent felony) or the family of victims the opportunity to be heard regarding the issue of sentencing, and provide that the victim and victims family is notified whenever such defendant is to be released;

(E) will use funds received under this title to supplement, not supplant, other Federal, State, and local funds.

(c) EXCEPTION.—The sentencing requirements under subparagraphs (A) and (C) of subsection (b)(2) shall apply except that the State may provide that the Governor of the State may allow for the release of a prisoner over the age of 70 after a public hearing in which representatives of the public and the prisoner's victims have an opportunity to be heard regarding a proposed release.

(d) ADDITIONAL ELIGIBILITY PROVISION.—A State shall also be eligible for funding under this title when such State has enacted legislation that provides for the State to be in compliance with this section not later than 3 years after the date of the enactment of such legislation or with respect to subparagraph (A) of the subsection (b)(2) a State may receive funding upon approval of the Attorney General of a good faith plan to reach the 85 percent requirement within 5 years.

(e) CONSIDERATION.—The Attorney General, in making such grants, shall give consideration to the special burden placed on States which incarcerate a substantial number of inmates who are in the United States illegally.

SEC. 603. FEDERAL FUNDS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000,000 for each of the fiscal years 1995 through 1999 to carry out the purposes of this title.

(b) CARRY OVER OF APPROPRIATIONS.—Any funds authorized, but not expended during a fiscal year shall be carried over and will be made available until expended.

(c) MATCHING REQUIREMENT.—The Federal share of a grant received under this title may not exceed 75 percent of the costs of a proposal described in an application approved under this title.

SEC. 604. RULES AND REGULATIONS.

The Attorney General shall issue rules and regulations regarding the uses of grant funds received under this title not later than 90 days after the date of the enactment of this title.

SEC. 605. DEFINITIONS AS USED IN THIS TITLE.

As used in this section—

(1) The term "arson" means an offense that has as its elements maliciously damaged or destroying any building, inhabited structure, vehicle, vessel, or real property by means of fire or an explosive;

(2) the term "assault with intent to commit rape" means an offense that has as its elements engaging in physical conduct by which a person intentionally places another person in fear of aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242 of title 18, United States Code);

(3) the term "extortion" means an offense that has as its elements the extraction of anything of value from another person by threatening or placing that person in fear of injury to any person or kidnapping of any person;

(4) the term "firearms use' means an offense that has as its elements those described in section 924(c) or 929(a) of title 18, United States Code, if the firearm was brandished, discharged, or otherwise used as a weapon and the crime of violence or drug trafficking crime during and relation to which the firearm was used was subject to prosecution in a court of the United States or a court of a State, or both;

(5) the term "kidnapping" means an offense that has as its elements the abduction, restraining, confining, or carrying away of another person by force or threat of force;

(6) the term "serious violent felony" means—

(A) a Federal or State offense, by whatever designation and wherever committed, consisting of murder (as described in section 1111 of title 18, United States Code); manslaughter other than involuntary manslaughter (as described in section 1112 of such title); assault with intent to commit murder (as described in section 113(a) of such title); assault with intent to commit rape; aggravated sexual abuse and sexual abuse (as described in sections 2241 and 2242 of such title); abusive sexual contact (as described in section 2244(a)(1) and 2244(a)(2) of such title); kidnapping; aircraft piracy (as described in section 902(i)(2) or 902(n)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(i)(2) or (n)(2)); robbery (as described in section 2111 of title 18, United States Code); carjacking (as described in section 2119 of title 18) extortion; arson; firearms use; or attempt, conspiracy, or solicitation to commit any of the above offenses;

(B) any other offense punishable by a maximum term of imprisonment of 10 years or more that has as an element the use, attempted use, or threatened use of physical force against the person of another or that, by its nature, involves a substantial risk that physical force against the person of another may be used in the course of committing the offense;

(C) robbery; an attempt, conspiracy, or solicitation to commit robbery, or an offense described in paragraph (6)(B) shall not serve as a basis for sentencing under this title if the defendant establishes by clear and convincing evidence that—

(i) no firearm or other dangerous weapon was involved in the offense; and

(ii) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person; or

(D) arson shall not serve as the basis for sentencing under this title if the defendant establishes by clear and convincing evidence that—

(i) the offense posed no threat to human life; and

(ii) the defendant reasonably believed the offense posed no threat to human life;

(7) the term "serious drug offense" means—

(i) an offense subject to a penalty provided for in section 401(b)(1)(A) or 408 of the Controlled Substances Act or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act; or

(ii) an offense under State law that, had the offense been prosecuted in a court of the United States, would have been subject to a penalty provided for in section 401(b)(1)(A) or 408 of the Controlled Substances Act or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act.

(8) the term "State" means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

AMENDMENT OFFERED BY MR. HUGHES AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. MCCOLLUM

Mr. HUGHES. Mr. Chairman, I rise in opposition to the McCollum amendment, and I offer a substitute made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment offered as a substitute for the amendment.

The text of the amendment offered by Mr. HUGHES as a substitute for the amendment offered by Mr. MCCOLLUM is as follows:

Strike title VI and insert the following:

TITLE VI—VIOLENT OFFENDER INCARCERATION

SEC. 601. GRANTS FOR CORRECTIONAL FACILITIES.

(a) GRANT AUTHORIZATION.—The Attorney General may make grants to individual States and to States, organized as multi-State compacts, to develop, expand, modify, or improve correctional facilities and programs to ensure that prison cell space is available for the confinement of violent offenders.

(b) ELIGIBILITY.—To be eligible to receive a grant under this title a State or States, organized as multi-State compacts, shall submit an application to the Attorney General which includes—

(1) assurances that the State or States, have implemented, or will implement, correctional policies and programs, including truth in sentencing laws that ensure that violent offenders serve a substantial portion of the sentences imposed, that are designed to provide sufficiently severe punishment for violent offenders, including violent juvenile offenders, and that the prison time served is appropriately related to the determination that the inmate is a violent offender and for a period of time deemed necessary to protect the public;

(2) assurances that the State or States have implemented policies that provide for the recognition of the rights and needs of crime victims;

(3) assurances that funds received under this section will be used to develop, expand, modify, or improve correctional facilities and programs to ensure that prison cell space is available for the confinement of violent offenders;

(4) assurances that the State or States have a comprehensive correctional plan which represents an integrated approach to the management and operation of correctional facilities and programs and which includes diversional programs, particularly drug diversion programs, community corrections programs, a prisoner screening and security classification system, prisoner rehabilitation and treatment programs, prisoner work activities (including, to the extent practicable, activities relating to the development, expansion, modification, or improvement of correctional facilities), and job skills programs, a pre-release prisoner assessment to provide risk reduction management, post-release assistance, and an assessment of recidivism rates;

(5) assurances that the State or States have involved counties and other units of local government, when appropriate, in the development, expansion, modification, or improvement of correctional facilities and programs designed to ensure the incarceration of violent offenders;

(6) assurances that funds received under this section will be used to supplement, not supplant, other Federal, State, and local funds; and

(7) documentation of the multi-State compact agreement that specifies the development, expansion, modification, or improvement of correctional facilities and programs.

(c) CONSIDERATION.—The Attorney General, in making such grants shall give consideration to the special burden placed on States which incarcerate a substantial number of inmates who are in the United States illegally.

(d) MATCHING REQUIREMENT.—The Federal share of a grant received under this title may not exceed 75 percent of the costs of a proposal described in an application approved under this title.

SEC. 602. RULES AND REGULATIONS.

The Attorney General shall issue rules and regulations regarding the uses of grant funds received under this title not later than 90 days after the date of the enactment of this title.

SEC. 603. TECHNICAL ASSISTANCE AND TRAINING.

The Attorney General may request that the Director of the National Institute of Corrections and the Director of the Federal Bureau of Prisons provide technical assistance and training to a State or States that receive a grant under this title to achieve the purposes of this title.

SEC. 604. EVALUATION.

The Attorney General may request the Director of the National Institute of Corrections to assist with an evaluation of programs established with funds under this title.

SEC. 605. DEFINITION.

For purposes of this title, the term "State or States" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $600,000,000 for each of the fiscal years 1995 through 1999 to carry out the purposes of this title.

The CHAIRMAN. Pursuant to the rule, the gentleman from Florida [Mr. MCCOLLUM] is recognized for 20 minutes, consuming the time allocated for his amendment and that in opposition to the substitute amendment offered by the gentleman from New Jersey [Mr. HUGHES] and the gentleman from New Jersey [Mr. HUGHES] is recognized for 10 minutes in support of his amendment and 10 minutes in opposition to the amendment offered by the gentleman from Florida.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume, and I rise to offer an amendment today which puts some teeth into the so-called truth-in-sentencing provision. Right now we have varying amounts of money in this bill in order to provide prison grant money to the States to construct prisons to house repeat violent offenders. Everybody here supports that. I support it; Democrats and Republicans support it. I do not imagine there is a soul here who does not, in principle, support that idea.

But, quite frankly, this is not the end-all/be-all, just throwing money at the problem. The reason we want to build more prisons, the reason why we need more prisons, is because we have a revolving door. We have a revolving door that is spinning out very quickly those who go in who supposedly are going to serve fairly lengthy sentences which they are given, but they really do not, for committing violent crimes.

Today 6 percent of the criminals in this country commit about 70 percent of the violent crimes and are serving only about a third of their sentences, some say as high as maybe 38 percent. In order to get them to serve as much as possible and preferably the full amount of those sentences, we need to provide some teeth in here.

We have a crisis in violent crime in this country.

My amendment is the only amendment here today, the only opportunity we are going to have in this bill that is going to accomplish this.

Now, I know there are some Governors and some other folks here today who are going to say we should not require the States to do this, that, or the other, we should not attach any strings. Well, the last vote was about strings. In fact, there are a lot of strings attached to the bill we have here for grant money that goes out to the States.

Generally this Member has not been for a lot of strings being attached, but when you have a crisis like this, when you have the guts of the problem before you and the guts of the problem is that we do not have a real serving of sentence time by those who commit violent crimes and we do not have States that have changed their laws or who are willing to voluntarily without some incentive, that it is time we provided some strings and some incentives. If there is any place where some strings should be attached, it is here. That is what my amendment would do.

My amendment would provide $10 billion to the States to construct or operate, either one, prison space for violent repeat offenders or prison space for nonviolent prisoners that would free up prison space that exists already suitable in the States to house violent offenders.

The underlying provisions of this bill do not do that. They do not provide money for both construction and operation, just construction. And the underlying provisions of the Hughes proposal in his proposed substitute do not provide for prison construction or operational money to go for the purposes of constructing those prison spaces that would be less expensive, perhaps on military reservations or in closed military bases, which would free up existing suitable spaces for violent offenders.

Second, my amendment would require, in return for getting the money that the States that are involved in this, either in compacts or individually, change their laws so that they require—their State laws require that repeat violent offenders serve at least 85 percent of their sentences; change their State laws so that there are pretrial detention laws in the States involved in this—and hopefully all 50 States—that are at least as tough as the Federal pretrial detention laws involved in repeat violent cases, so that we do not see violent felons who have been already convicted one time, returned to the streets on bail willy-nilly, so that "danger to the community" standards can be applied as they are in the Federal processes.

Third, it would require the States pass "three strikes and you're out" laws before they can get the kind of grant money that we have here. We have just passed a "three strikes and you're out" provision for life imprisonment for three-time violent felons that applies for Federal crimes. But that is a minuscule portion of the crimes in this country. If you really want "three strikes and you're out," you have got to have the States complying and passing those laws. And it would require that States pass provisions that have a right for victims and their families to be heard in sentencing and to be notified of the release of serious violent felons.

This amendment provides a clear choice between very different approaches in dealing with violent criminals. The language in title VI gives money to the States with no strings attached. There would be no guarantee that any State taking money to build prisons would take steps to stop the revolving door.

Title VI permits the revolving door of the criminal justice system to spin just as fast in the future as it does now. On the other hand, the McCollum amendment provides more money to every State, more than three times the amount of the underlying bill, in exchange for guarantees that violent criminals will be kept off the streets.

The decision that is to be made on the prison grant program is one of the most critical decisions this Congress will make in the fight against violent crime. There are two principal reasons why the McCollum amendment must be approved.

First, the amendment would guarantee that the States will slow the revolving door as a condition of Federal assistance for building and operating State prisons. Second, it would provide the full funding required to do this. On the other hand, the Hughes amendment would kill the McCollum amendment, it is an absolute substitute. If it passes, there will be no opportunity to vote on these provisions that are in the McCollum amendment.

The Hughes amendment is proposed by the National District Attorneys Association.

As I said earlier, the Hughes amendment places no requirements on the States to ever pass the laws that require the 85 percent time to be served. I think it is a very weak amendment in that regard.

I would like to point out to my colleagues that the American Legislative Exchange Council, the Nation's largest bipartisan individual membership group of State leaders, have written to me a letter in which they state,

> We urge all Members of Congress to vote to defeat the Hughes Amendment and to vote for both the McCollum Amendment and the Chapman Amendment, each of which provides $10 billion or more to build prisons. Voting for both of these amendments will send a clear signal to the House-Senate Conference that a $22 billion Crime Bill should provide no less than $10 billion to do what the American people are demanding—get violent criminals off our streets. Nothing else in the Crime Bill comes close to promising these significant crime control effects.

Mr. Chairman, that is the American Legislative Exchange Council of our State legislatures.

Mr. Chairman, the National Troopers Coalition have written:

> We find the Hughes Provision and Amendment unacceptable to law enforcement. There needs to be more funding to keep the career criminals in prison for a longer period of time. We agree that attention must be paid to efforts to rehabilitate, but we also strongly feel that the "system" must have adequate facilities and resources to keep such violent and career criminals off the street and out of Main Stream society. Therefore, we strongly recommend the McCollum and Chapman alternative provisions.

Mr. Chairman, we have endorsements from several Governors, Governor Allen of Virginia, Governor McKernan, who says, "I support Congressman McCOLLUM's proposal for a twin grant program for prison space to individual eligible States or eligible States organized as regional compacts."

Also, John Walsh of America's Most Wanted, says,

> As I travel the country, it is very clear that the American people are fed up with the level of violence in this country. One sure way to stem the violence is to incarcerate for long periods of time those who commit violent crime. I urge your support of the McCollum Amendment.

□ 1910

Mr. Chairman, I believe that the choice is very clear. To vote for the Hughes substitute to mine is to vote for the bill as it is, just simply put it back in. It is a gimmick; it is a cover.

Mr. Chairman, I reserve the balance of my time.

Mr. HUGHES. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BROOKS], chairman of the full Committee on the Judiciary.

Mr. BROOKS. Mr. Chairman, I rise in strong opposition to the amendment offered by my friend, the gentleman from Florida [Mr. McCOLLUM], and in strong support of the substitute offered by the gentleman from New Jersey [Mr. HUGHES], the distinguished chairman of the Judiciary Committee's subcommittee that has jurisdiction over prison matters and has spent hours and hours working on these problems.

We all know that the States are having a crisis in prisoner population. Virtually every jurisdiction in the country is struggling to house an ever-growing prison population. The Hughes amendment offers them immediate assistance.

The McCollum amendment appears to offer Federal assistance to the tune of $10.5 billion. But—before a State could get one penny of this money, the State would have to have a truth-in-sentencing law of no less than 85 percent—not 80 percent, not 84 percent—exactly 85 percent or no help. The State would have to have a three-time loser law. And, it would have to have the same pretrial detention system as the Federal Government. Unless and until all of these specific mandates have been adopted by a State exactly as the McCollum amendment stipulates—which could take years, for legislatures to meet even if a State was inclined to do so—the State would not be eligible for one red cent of these grant moneys.

The States have vigorously opposed the Federal mandates contained in the McCollum amendment. They say that the cost of these mandates would be enormous for them—20, 30 or even 40 State dollars for every Federal dollar received. The States see the Federal mandates in the McCollum amendment as a "Hobsons's Choice"—they desperately need the Federal assistance, but they cannot afford the mandates attached to it and they can't afford the elapsed time even if they could. As Mr. INGLIS said during full committee debate of the McCollum amendment and I quote: "We bless them and curse them all at the same time."

Believe it or not, in our great federalist system, the States are our partners and often have better ideas. We need to listen to them. The Committee on the Judiciary rejected the McCollum amendment and I urge my colleagues to follow suit today.

I urge my colleagues to vote "no" on the McCollum amendment, and adopt the Hughes substitute instead with an affirmative vote.

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to the gentlewoman from Utah [Ms. SHEPHERD].

Ms. SHEPHERD. Mr. Chairman, Utah has a model sentencing system. Convicted criminals in the State serve just under 85 percent, 84.2 percent to be exact, of their full sentence under indeterminant sentencing guidelines. Our system works better than almost any other in the nation, and States like Utah should not be penalized doing what works.

But under the McCollum amendment, these model States would be penalized.

The McCollum amendment would give states that have determinant sentencing the opportunity to participate in the new regional prison system. But Utah has a model system that works.—It achieves all the goals of truth in sentencing.

By mandating that States adopt "truth in sentencing" provisions in order to be eligible for Federal dollars in prison construction money we are essentially telling States like Utah that the Federal Government does not care whether their systems have worked, that the Federal Government arrogantly believes it knows best and that, like it or not, the States must go along—and pay the bill.

Mr. Chairman, we need to work with States to reach everyone's ultimate goal—to ensure that dangerous convicted criminals serve their full term. If States are already achieving this goal, they should be rewarded, not punished.

I encourage my colleagues to vote against the McCollum amendment and support the Hughes substitute.

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BAKER].

Mr. BAKER of California. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Florida [Mr. McCOLLUM] and in opposition to the amendment offered by the gentleman from New Jersey [Mr. HUGHES].

Mr. Chairman, we need to send to conference two strong truth-in-sentencing amendments. The Chapman amendment would take us a long way towards real truth in sentencing, and the McCollum amendment would do even more.

The Hughes amendment is phony truth in sentencing. Hughes would not require the most violent to serve more hard time. It only requires them to serve a substantial, whatever that is, portion of their sentence. That means more violent criminals could be, once again, walking the street. The Hughes amendment requires that States have plans to release criminals to make room for the most violent. That is not the real solution to burglaries, car thefts and other serious crime.

By defeating the Hughes amendment, Mr. Chairman, we can get a vote on the McCollum amendment, strong truth in sentencing. The McCollum amendment gives States 5 years to adopt truth-in-sentencing policies, meaning criminals must serve at least 85 percent of their sentence at the end of 5 years. States would also have to allow the victim, or victims' families, to make a statement at the time of sentencing. It would require imprisonment after several violent offenses for life. Implementing "three strikes and you're out" is part of the McCollum amendment.

Mr. Chairman, the memory of Polly Klaas demands we pass truth in sentencing. Polly Klaas' father, Mark, has devoted himself to passing truth-in-sentencing laws, and I applaud Mark for his tremendous courage. Mark is trying to bring some good out of the senseless death of his daughter, Polly, and truth in sentencing is a good place to start.

It is time to get serious about locking up the 7 percent of violent criminals that commit two-thirds of all violent crime. Support the District Attorneys Association. Reject the Hughes amendment so we can get a clean vote on the McCollum truth-in-sentencing amendment.

Mr. HUGHES. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, this is about McCollum No. 4. It has undergone a major transformation over the time that we debated in committee, the time that we brought it to the floor, and I rise in opposition to the latest version of McCollum, and I think the latest version of McCollum is worse than the first version of McCollum, and I will tell my colleagues why.

Mr. Chairman, under the McCollum amendment States would not be eligible for any of the grant money unless they have complied with mandates that are contained in McCollum, and I just pick out the one, that individuals who are second-time violent offenders must serve 85 percent of their sentence. Well, the problem is not only with second-time offenders, but it is with first-time offenders. The gentleman's amendment only deals with second-time violent offenders, and any State that does not incarcerate 85 percent of the sentence they receive as second-time violent offenders get no money.

□ 1920

If your State, like Utah, sees violent offenders serving 84 percent of their sentence, they are ineligible under McCollum.

McCollum does not do anything about one of the major problems throughout this country, and that is inadequate sentences. McCollum does nothing about sentences that are too short. Eighty-five percent of an inadequate sentence is very inadequate, I would say.

That is why the substitute that I have offered basically is supported by the Governors throughout the country, because it does not impose mandates, such as 5 percent, a rigid rule that is inflexible, and it reaches violent offenders and even ensures that they stay in prison for the length of time that society needs them to stay there, and even ensures that they do not come out.

The McCollum amendment basically is an effort to tell the States how to run their criminal justice systems.

Now, you may think that is okay, but it is my own belief, and this was suggested to me by one of the Governors recently, that if you want to change the criminal justice system in the States, you ought to leave Congress and go back to your State and run for the State legislature. Then you can tell the States how to run their criminal justice system.

The gentlewoman from Utah [Ms. SHEPHERD] also put her finger on another of the problems of the McCollum amendment. Any State throughout this country that has an indeterminate system of sentencing, such as Utah and many other States, Idaho, will see that their whole system will be basically ineligible for these funds. Yet, States like Utah and Idaho and other States with indeterminate terms, are doing a far better job of incarcerating violent offenders and keeping them in prison for the length of time that is required to ensure that they are safe to be released.

They do a better job than my State, and I say to my colleague from Florida, respectfully, they do a much better job than Florida does, and the gentleman knows that.

We cannot tell the States how to run their systems. That is why the Hughes substitute is supported by Governors throughout the country. It does any number of things that they support.

First of all, it requires the comprehensive plan that we just voted on, a plan that requires classification of prisoners, a better job of classification; a better job of prioritizing; of developing the comprehensive plan to deal with prison problems in their States. It basically moves us in the direction of incorporating into that plan such things as diversion programs, where that makes sense, to deal with the problems of inmates when they are in the system.

But most importantly, and the chairman of the full committee said it well, it provides money now, right now. This grant program provides resources right now. To suggest that States cannot develop plans that involve utilization of underutilized military facilities is nonsense. The bill permits States to develop comprehensive plans that includes the utilization of those facilities. In fact, we have a law, a prioritization of military facilities, and this would encourage States to utilize those facilities.

So I say to my colleagues, reject the McCollum amendment. The Governors oppose it, because its unfunded mandates once again. Very few states will plug into it because it requires them to expend more money than they receive in McCollum. Finally, there are sufficient monies in the bill. With the Hughes $3 billion and the $10.5 billion we just put in with Chapman, we have a lot of money in the bill for prison construction throughout the country.

Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have been friends with the gentleman from New Jersey and have respected him for many years, and I know he is sincere in what he is producing out here today and his objections to my amendment and his offer, which he has been very proud of. But I think the gentleman is just plain wrong, with all due respect.

I have a query of both he and Chairman BROOKS. It is sort of a pregnant question. But if the States are so opposed to all of this, why does the largest bipartisan organization in the United States of State legislative leaders urge the Members of Congress to vote against the Hughes proposal and for McCollum?

I think most State legislators understand that there are requirements with every grant program. In fact, the gentleman from New Jersey just listed the requirements he would place on the States to get the grant money. He listed them in broad panacea terms. But they are requirements that include these diversional programs we discussed a little earlier that some of my colleagues did not want to drop from this.

Mr. Chairman, I would suggest to you that it is not a question of whether there are strings attached; it is a question of what the strings are. And why are we out here tonight talking about more money for prisons any way? Is it for the sake of giving more money to the States to build prisons for the sake of building prisons, period? The answer is no. States that do not have a problem with violent crime and repeat offenders do not need this money.

We are out here to offer a carrot. The only reason for the grant money, the only reason most of us are here proposing $10 billion or more for prisons, is to offer a carrot to the States to get them to do what we think they should do, and they are not doing it now because they do not have the resources to do it, and because they have had no requirements that they do so. And that is to provide a change in their laws that abolishes parole for repeat violent felons.

We abolished parole at the Federal level in 1984. It just does not exist. You must serve at least 85 percent of your sentence as a requirement for all Federal crimes.

We are not out here proposing that for the States. We are out here trying to address the crisis that exists out there, and there is one the American public sees, with these repeat violent offenders going through the revolving door and getting out again and again and again in the key States, which is why the State legislators and State troopers support this so much.

There is no point in this legislation if we do not see these changes. So, yes, there should be a string attached, there should be a requirement out here. That is the whole point of it, is to require that we get to the point in this country through the 50 States where the vast majority of them actually keep these prisoners in to serve most of their time, to send a message of deterrence.

I talked to a gang mother out in California recently when I was out there in one of our colleague's districts. She came up to me and said:

> Congressman, I have a son who is involved in one of these gangs out here. The biggest problem is that they do not get the message that when they get the 20 year sentence, they should serve 20 years. They should know they are going to serve 20 years. They need to get that message. That would stop a lot of this nonsense, this violent crime.

That is what the police tell us too. They say there is a message center that goes on among criminals, especially youthful ones, and doing some of this time in jail, 1 or 2 years on a 10-year sentence, or 3 or 4 years on a 20-year sentence, is a price they are willing to pay. They are willing to pay that cost.

If they get the word out there on the street they are really going to serve 20 years when they get it, or 10 years when they get it, or close to it, then they are not going to commit all these violent crimes.

We do not have deterrence in our criminal justice system today. That is the problem. We do not have a swiftness and certainty of punishment. This is the problem.

We are not going to get there unless we adopt the McCollum amendment tonight. We are not going to get there unless there is some requirement that states when Utah gets these prison grant monies, that you actually change your laws to make sure that these violent criminals are incarcerated for that length of time, or at least 85 percent of their sentences.

Now, I would submit that what the gentleman from New Jersey [Mr. HUGHES] has put in his substitute amendment, which is part of what is already in the underlying bill, is very, very weak. All he says is they are going to have to serve a substantial portion of their sentence. That is a requirement, by the way, on the States. It just doesn't go all the way to 85 percent, which doesn't give us any idea of what a substantial portion is. That certainly doesn't give us any kind of a message to the criminals that we need to send. It is nonspecific. And further that somehow the sentences have to be appropriately related to that which is the offense.

That is real vague and ambiguous. That is a requirement on the States, but it is not the kind of language or requirement that is going to send any message to these violent criminals. It is not going to deter crime, unless we get that message throughout this country.

That is the whole purpose of having prison grant programs or prison building programs and offering to assist the State and having a Federal-State partnership to do it. So we need the strings.

I would like to offer one last comment. My proposal does not require that the 85 percent rule abolishing parole apply to the first-time violent offender. I would like to see that. It doesn't require that for the States to get the money. This is an easier change in the laws than that. But they can get the money and can use the money to house first-time violent offenders, to build prison space for them, to operate.

The proposal of the gentleman from New Jersey [Mr. HUGHES] gives no money for operational costs to the States, which is one of the big reasons the legislatures and Governors who do support my amendment like it. It would have no strings attached whatsoever for that purpose.

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It is a realistic proposal just to get incarcerated and assure that we are going to really put away for long periods of time the repeat violent offenders, the second time ones.

That is why I am so opposed to the Hughes approach and so in favor of what I am offering out here tonight.

Mr. Chairman, I reserve the balance of my time.

Mr. HUGHES. Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I appreciate not only the chairman of the subcommittee's hard work but the way he has put together this bill.

I have to oppose the McCollum amendment. Let me say that it is one thing to support the concept behind the McCollum amendment. I support mandatory minimums.

I fought off, in subcommittee, efforts to eliminate them. I believe in truth in sentencing. But it is totally the other thing to tie these concepts to State eligibility for desperately needed money to build more prisons.

In doing so, the McCollum amendment ensures that hardly a State in the Nation would get prison money under the bill. And that is because the cost of complying with the law would vastly outweigh monies States would get if they did comply.

My own State, New York, estimates it would cost $1.6 billion to comply with the McCollum requirements, when doing so would bring New York about $250 million to $300 million in return. That is true of Pennsylvania. That is true of Illinois, and that is true of California and that is true of Florida. That is true of most every one of us major States. In other words, to get the monies that McCollum provides, necessary monies, I believe we have to build more prison cells. I am not one of those who say do not punish. I believe in punishment, particularly for violent repeat offenders, strong punishment, tough punishment, long punishment. But we do not get there by telling the States they have to do something that costs them 5, 10 times as much as the money they get.

We need to build more prisons, and we need to build them at the local level. But the biggest problem with the amendment of the gentleman from Florida [Mr. MCCOLLUM] is that ironically, despite the good intentions of the author, and he is a stellar individual who works hard on these issues. We agree on many things. And he is always out there sincerely trying. But his amendment is less tough on crime than the Hughes amendment, and that is because it will ultimately build fewer prison cells.

The States are not going to be able to raise the taxes and do the other things that they would have to do to comply with McCollum.

There will be years and years before my State and most of the other States will get any money out of this, because they cannot meet the requirements.

So if Members are for mandatory minimums, like I am, and if they are for truth in sentencing, they can be for these things without tying these concepts to State prison funding that will be virtually impossible for the States to meet.

Therefore, I urge that the McCollum amendment, well-intentioned as it is, be defeated, and the Hughes substitute be passed on.

Mr. MCCOLLUM. Mr. Chairman, I yield myself 1½ minutes.

I would like to respond because what the gentleman just said from New York, I think is something his State probably honestly believes is correct in estimating the cost. But that is not in conformity with the questions and answers I got from the Bureau of Prisons of the Federal Government.

The Bureau of Prisons said that in order for my provision to be complied with, it would require construction costs of about $100,000 per bed and that there are 91,000 beds that would be required to incarcerate for 85 percent of their sentences, that is, 91,000 additional beds in the States to incarcerate for 85 percent of their sentences the second-time violent felons that are covered by my amendment or a total cost of $9.1 billion.

And what we are proposing here is $10 billion more than that in this bill for these purposes, 75 percent of which would be paid by the Federal Government, 25 percent by the States.

All the grant programs, including the gentleman from New Jersey [Mr. HUGHES] are a 75/25 percent split, so we are fully funding this. There is not a single bed a State would have to fill that is not paid for by the Federal Government, at least to the tune of 75 percent. They cannot get a better deal than that. They cannot get a better deal anywhere than that.

In addition to that, we provide money for operating costs at a 75 percent/25 percent ratio. That is from the Federal Bureau of Prisons in information they have sent to me in specific answer to the request on this specific amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. CHAPMAN].

Mr. CHAPMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

I want to just point out a few things that I think perhaps make the Hughes substitute the more reasonable result in this particular instance. I want to congratulate the gentleman from Florida, because I think what he has attempted to do is good. But I am afraid he has missed the mark.

I would like to share with my colleagues some of the reasons I believe that, as we examine on a line-by-line basis the amendment.

But first, I say to my colleagues from Texas, Texas cannot qualify for funding under the provisions of this State because just like the gentleman from New York, we are told in Texas that we do not have the ability to comply where we could not do this. But that said, that is not the reason I think that we should defeat the amendment.

First, I would say as compared to the Chapman amendment, this requires a much larger State matching grant, which makes it more difficult for the States. There is nothing in this amendment that recognizes the high crime States and sends more of the funds to those States with a greater problem. And this is something I think that is very important.

This only applies to State if the crimes in the State penal statutes match element for element the crimes in the Federal Code. Because this particular amendment says that it applies only for those crimes, and it specifies them, and then it defines them by the Federal definition, the Texas Code of Criminal Procedure and the Texas Penal Code has different elements. Kidnaping under Texas law has different elements than kidnaping under the Federal law.

This amendment requires every State's penal code conform to the Federal Penal Code, and they do not. And States, accordingly, could not qualify.

It is for this reason that I think the Hughes substitute, and for other reasons, ought to be the vote of the House of Representatives. I urge the adoption of the Hughes substitute.

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. WASHINGTON].

Mr. WASHINGTON. Mr. Chairman, I thank the chairman for yielding time to me.

I was listening to the debate and had not planned on participating. I was attempting to follow the logic of my dear friend from Florida very carefully about the debate that is going on on this amendment.

If I understand him correctly, the kind of criminals that he is talking about are the people that say:

> Well, I am going to go out and commit a crime.

And they look it up in the penal code. It is a 5-to-20-year offense.

> And I am going to get the whole 20, because I have a juvenile record and 85 percent of that would be 17 years. So if I go out and do an armed robbery and I get $100,000 and if I invest it in a money market CD at 4 percent and I am locked up for the next 17 years, as long as I have one of those telephone credit cards, I can call in and do bank transactions over the phone. And if the Feds are going to raise the rate by 2 or 3 years from now, then I can flip that over and I can put half the money in this account and half of that money in that account. And I can take advantage of this information highway that is coming along. I have been reading about that in the paper.

The problem with that is, it is the kind of criminals that you and I are accustomed to who first of all never think they are going to be caught. And if they do not think they are going to be caught, they do not think they are going to be punished. And if they do not think they are going to be punished, then the McCollum amendment does not make any sense.

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Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I must say the gentleman from Texas [Mr. WASHINGTON] is a genius in his arguments, but I must say that is an argument against deterrence, period, in criminal law.

We will all admit the death penalty does not deter every murder and all criminal laws do not deter all crime and they are never going to do that. The question is, how are we going to maximize deterrence? How are we going to send a message through those to whom it will go, and it will go through a certain number.

I think our best experts are the police on the streets. Most of us who have spent time on this area, and I have for years, understand that they believe deeply that a deterrent message has to be sent, and it is not being sent right now.

That is what this debate is all about, how do we incapacitate those people who are committing the most violent crimes, to get them off the streets so they are not going to go back out and commit them again, that 6 percent or so that are doing this, going through the revolving door, and at the same time send a tough message of deterrence to at least a substantial percentage of those out there who would be violent criminals.

If you do the crime, you are going to do the time. That is the whole message. It can be real darned simple. It does not have anything to do with going to Wall Street to get there.

I would also say, as I started to a moment ago, I was disappointed in my friend, the gentleman from Texas [Mr. CHAPMAN], whose amendment I supported earlier. I know that he had some reservations about some of the matters which I was proceeding with, but I also know that his amendment stands freestanding, and even if mine passes, it does not affect his whatsoever, so we need to go to the conference committee with the best possible options for us in this process.

There is no provision in the Chapman amendment or in the Hughes amendment that is going to require the States or guarantee the States or that they will go to the rule of law that abolishes parole for those violent repeat offenders that are causing this problem, the ones that are out there, going through this revolving door. There is nothing.

The only way to get a really meaningful truth in sentencing provision into this bill is by voting down the Hughes amendment tonight, and voting for the McCollum amendment.

Let us not fool ourselves, there is no cover out there in having voted for the Chapman amendment, because it does not do that. There is no cover in voting for the Hughes amendment, because it does not do that.

There is no cover in standing out there saying, "Hey, I have a couple of Governors out there who do not agree with this," because the organization representing the State legislatures, who do pass the laws and I think are much more at the grassroots on this, have said, "We want McCollum." The DAs have said, "We want McCollum, and not Hughes."

We have seen the State Troopers' Association representing our State highway patrolmen say, "We want McCollum, and not Hughes," because they understand at the grassroots level what the problem is.

The problem is, we are not locking up these violent criminals for long periods of time. There is no assurance whatsoever out there tonight, in what we have passed so far, that that will ever come to pass.

We can throw all the money in the world we want to out there for the opportunity for States to build new prison spaces, but we have absolutely no guarantees they are going to do that, that they are going to change their laws and actually cause these criminals to stay in jail for at least 85 percent of their sentence, unless we pass McCollum, none whatsoever.

If you want to send a message, "We want to lock them up, we want to throw away the key," vote down Hughes, vote for McCollum. Anything else is a fig leaf and is meaningless in that regard.

Mr. HUGHES. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I would say to my dear friend, the gentleman from Florida [Mr. MCCOLLUM], and he is a friend, I have worked for many years on crime legislation. When I chaired the Subcommittee on Crime and Criminal Justice of the Committee on the Judiciary, he was my ranking Republican, and we did a lot of tough, smart things that have made a difference: Money laundering, forfeiture, chemical tracking, and so forth.

However, I want to say, I think my friend has lost his way on this one. I find myself suggesting to my friend, the gentleman from Florida, that he is going to do his own State in in this amendment, because his own State would not qualify.

What does the McCollum amendment provide to the States? It does not provide a thing. It is an empty promise. If we listen to the gentleman from Texas [Mr. CHAPMAN], he was right on target, because the elements of the offense track the Federal code, and very few States around this country track the Federal code.

Denton Darington is a senator from Idaho. He is a Republican Senator. He is chairman of the Crime Subcommittee, and he is adamantly opposed to this, because it would require the State of Idaho to change 40-some criminal statutes in Idaho, to be eligible for this money.

The McCollum amendment is weaker than Florida law. It only deals with violent offenders, in ensuring that they serve a substantial portion of their time, for second offenders. Florida has a requirement, as the gentleman from Florida knows, of 75 percent of their time for first-time violent offenders.

Other States have a variation of that. You cannot develop an arbitrary 85 percent and expect States are going to comply because, as the gentleman from New York [Mr. SCHUMER], the distinguished chairman of the Subcommittee on Crime and Criminal Justice of the Committee on the Judiciary, indicated, States would have to spend more money than they get. Besides that, the McCollum amendment does not deal with a very serious problem that the Hughes substitute does, and that is inadequate sentencing.

Read the language of the Hughes substitute. It requires the States to give assurances to the Department of Justice that the sentences imposed are designed to provide sufficiently severe punishment for violent offenders. Eighty-five percent or 95 percent of an inadequate sentence is inadequate, and that is part of our problem.

The Hughes amendment was developed in subcommittee, in a bipartisan fashion, to try to deal with a myriad of different statutes around the country. Very few States have identical sentencing patterns. They are not very similar to the Federal system and they are not similar to one another.

We cannot mandate 85 percent truth in sentencing. We do in the Hughes substitute what we can do. We say that the States have to give assurances, including truth in sentencing laws, that ensure violent offenders serve a substantial portion of the sentences imposed. We do that in the Hughes substitute, but we do not lock States into an inflexible 85-percent rule.

That is why the Governors throughout the country and the Conference of State Legislatures oppose the McCollum amendment. It is unworkable. It is not going to provide a penny for prison construction. We do not need to provide prison construction 6 years from now or 10 years from now, we need it now for violent offenders.

Reject the McCollum amendment. It is a bad amendment. Support the Hughes substitute.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New Jersey [Mr. HUGHES] as a substitute for the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MCCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair announces that pursuant to rule XXIII, clause 2, the Chair will reduce to a minimum of 5 minutes the time for a recorded vote if such a vote is ordered on the McCollum amendment.

The vote was taken by electronic device, and there were—ayes 215, noes 206, answered "present" 1, not voting 15, as follows:

[Roll No. 126]

AYES—215

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Baesler
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brooks
Brown (CA)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (GA)
Collins (MI)
Conyers
Cooper
Coppersmith
Costello
Coyne
Danner
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoyer
Hughes
Hutto
Inglis
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Klein
Kopetski
Kreidler
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Penny
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Reed
Reynolds
Romero-Barceló (PR)
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stokes
Strickland
Studds
Stupak
Swift
Synar
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Tucker
Underwood (GU)
Unsoeld
Valentine
Velázquez
Vento
Visclosky
Volkmer
Washington
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—206

Allard
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barca
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Combest
Condit
Cox
Cramer
Crane
Crapo
Cunningham
Darden
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
Kyl
Lambert
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
Margolies-Mezvinsky
McCandless
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Montgomery
Moorhead
Moran
Morella
Murphy
Myers
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri

Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Torricelli
Traficant
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Waters

NOT VOTING—15

Andrews (NJ)
Brown (FL)
Clement
Collins (IL)
Faleomavaega (AS)
Fish
Ford (MI)
Franks (NJ)
Gallo
Grandy
Kaptur
Peterson (FL)
Pickle
Rangel
Stark

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The Clerk announced the following pairs: On this vote:

Mrs. Collins of Illinois for, with Mr. Franks of New Jersey against. Ms. Kaptur for, with Mr. Grandy against.

Mrs. JOHNSON of Connecticut and Messrs. BURTON, GREENWOOD, McCURDY, and BEVILL changed their vote from "aye" to "no."

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment, offered by the gentleman from Florida [Mr. McCOLLUM], as amended.

The amendment, as amended, was agreed to.

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BAESLER) having assumed the chair, Mr. TORRICELLI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4092) to control and prevent crime, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. LIVINGSTON. Mr. Speaker, during the debate on the crime bill, I was unavoidably detained and unfortunately missed two votes. Had I been present, I would have voted for the Hyde amendment, rollcall No. 119, and "no" on the Derrick amendment, rollcall No. 120.

PERSONAL EXPLANATION

Mr. PETERSON of Florida. Due to an illness in my family, I was unable to attend House votes on April 19. Had I been present, I would have voted "aye" on rollcall votes 15, 116, 117, 118, 119, 122, 124, and 126; "no" on 120, 121, 123, and 125.

PERSONAL EXPLANATION

Mr. ANDREWS of New Jersey. Mr. Speaker, on April 19, 1994, personal business in my home district, including the funeral of a very dear friend, prevented me from voting on several amendments and final passage of the crime bill. I would like at this time to go on record with my voting intentions.

On the Chapman amendment, (A014), authorizing $10.5 billion for a program of grants for State prisons, I would have voted "aye". This amendment not only provides needed funds for State prisons, but sets aside 25 percent of available funds for states that have done a better job locking up violent offenders and requiring them to serve more of their sentence. To qualify for the remaining funds, a State must commit in good faith to doing a better job of incarcerating its violent offenders in the future.

I also would have voted "aye" on the Schiff amendment (A015) to strike provisions in crime bill that would require states, as a condition for receiving prison grants, to have detailed plans for managing various correctional programs, including alternatives to incarceration, a prisoner screening and security classification program, prisoner rehabilitation and treatment programs, and prisoner work activities and jobs skills programs. While I believe that these kinds of correctional programs have a role in our penal system, they should not be used to prevent states from qualifying for prison grants which, ultimately, will help get more criminals off the streets and behind bars. The American people want criminals off the streets now. These provisions would create an unnecessary barrier for states that want to make that happen.

On the Hughes amendment (A017) to authorize $3 billion in grants for state or regional correctional facilities, I would have voted "aye". These grants would be available for states or groups of states to increase prison space for incarcerating repeat violent offenders.

PERMISSION TO CONSIDER ON WEDNESDAY, APRIL 20, 1994, OR ANY DAY THEREAFTER, CONFERENCE REPORT ON H.R. 2884, SCHOOL-TO-WORK OPPORTUNITIES ACT OF 1994

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that it be in order on Wednesday, April 20, 1994, or any day thereafter, to consider the conference report on the bill (H.R. 2884) to establish a national framework for the development of School-to-Work Opportunities systems in all States, and for other purposes, and that all points of order against the conference report and against its consideration be waived, and that the conference report be considered as having been read when called up for consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 2884, SCHOOL-TO-WORK OPPORTUNITIES ACT OF 1994

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, April 19, 1994, to file the conference report on H.R. 2884, the School-to-Work Opportunities Act of 1994.

The SPEAKER pro tempore. It there objection to the request of the gentleman from California?

There was no objection.

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ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BAESLER). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall vote, if postponed, will be taken on Wednesday, April 20, 1994.

DESIGNATING 1994 AS A YEAR TO HONOR THE HONORABLE THOMAS P. "TIP" O'NEILL, JR.

Mr. ROSE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 329) designating 1994 as a year to honor the memory and leadership qualities of the Hon. Thomas P. "Tip" O'Neill, Jr., the late Speaker of the House of Representatives as amended.

The Clerk read as follows:

H. RES. 329

Whereas the death of the late Speaker of the House of Representatives, Thomas P. "Tip" O'Neill, Jr., on January 5, 1994, has created not only a personal loss to his many friends and colleagues, but also a great loss to the Nation;

Whereas Speaker O'Neill, is remembered by all for his dedication to good government and his love for the people of the United States;

Whereas Speaker O'Neill's compassion and goodness of heart and his spirit of cooperation and conciliation were evident to all who knew him;

Whereas in the House of Representatives and in his life, Speaker O'Neill's personal charm and political skill transcended differences of personality and party;

Whereas Speaker O'Neill presided over the House of Representatives from the Ninety-fifth Congress through the Ninety-ninth Congress and emerged as one of the greatest American political leader of this century; and

Whereas it is appropriate that the House of Representatives rededicate itself to the principles of leadership personified by Speaker O'Neill: Now, therefore, be it

Resolved, That 1994 is designated as a year to honor the memory and leadership qualities of the Honorable Thomas P. "Tip" O'Neill, Jr., the late Speaker of the House of Representatives.

SEC. 2. The Committee on House Administration of the House of Representatives shall have authority to prescribe regulations to carry out this resolution.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina [Mr. ROSE] will be recognized for 20 minutes, and the gentleman from California [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as this session progresses, I am ever more convinced that 1994 should be designated as a year to honor the memory and leadership qualities of the Honorable Thomas P. "Tip" O'Neill, Jr., the late Speaker of the House of Representatives.

This has been a year marked by rancor and divisiveness, a year in which we can more deeply appreciate the qualities of our colleague, "Tip", who dedicated himself to the principles of cooperation and conciliation.

I introduced House Resolution 329, which reads as follows:

H. RES. 329

Whereas the death of the late Speaker of the House of Representatives, Thomas P. "Tip" O'Neill, Jr., on January 5, 1994, has created not only a personal loss to his many friends and colleagues, but also a great loss to the Nation;

Whereas Speaker O'Neill is remembered by all for his dedication to good government and his love for the people of the United States;

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Whereas it is appropriate that the House of Representatives rededicate itself to the principles of leadership personified by Speaker O'Neill: Now, therefore, be it

Resolved, That 1994 is designated as a year to honor the memory and leadership qualities of the Honorable Thomas P. "Tip" O'Neill, Jr., the late Speaker of the House of Representatives.

Mr. Speaker, "Tip" was an extraordinary leader of this House. I am certain that many Members still serving, Democrats and Republicans alike, cherish his memory. He could disagree without being disagreeable. He could persuade colleagues because he genuinely liked them, and they liked him. He presided over a House that valued mutual respect and cooperation. "Tip" took time to listen to every freshman Member and, in keeping with his belief that "all politics are local," he constantly sought to serve as well as lead. "Tip" could broker a consensus from divergent sectors because he cared about his colleagues. He resigned as Speaker 7 years ago. But his spirit still dwells in this Chamber. That is why I have asked that 1994, the year of his passing, be devoted to honoring the leadership qualities that he personified.

When I speak of leadership qualities, I do not mean to invoke a partisan bias. The distinguished Minority Leader of the House, our cherished colleague BOB MICHEL, also demonstrates a high degree of leadership and personality attributes that I would put in the "Tip" O'Neill tradition. Just as I salute "Tip", I honor BOB MICHEL, who unfortunately will leave us after this session. I hope that the esteemed minority leader, a champion of good government, will see fit to support H. Res. 329.

Above all, "Tip" was an advocate of the Congress as an institution.

Former Speaker Sam Rayburn used to say that "any jackass can kick a barn door down, but it takes a carpenter to build one." "Tip" was such a carpenter, a builder of trust and an architect of better government.

"Tip" resented efforts to disparage this branch of Government. Our present distinguished Speaker, Mr. FOLEY, has stated "You've got a tremendous disinformation program going about Congress."

The Washington Post recently stated that voters see Congress as "as gridlocked blob, where lawmakers are cutting deals for their districts and not working in the best interests of the Nation."

The newspaper said that the prestige of this Congress had fallen so low that only 32 percent of constituents polled said they are inclined to reelect their Representative.

I was elected to the House in 1972 and have seen Members come and go. It is my conviction that today's Members are generally better informed and more responsive to constituents, with greater integrity, than the rank and file 22 years ago. We live in a new era of more media exposure but less depth of understanding of the constitutional responsibilities of the Congress and how we function. We have been told that only a fraction of our population think they can trust Government to do what is right. I fear that the American body politic has been infected with cynicism and pessimism.

If infection goes unchecked it can kill the human body. That is why we must find an antibiotic of healing and renewal—before the body politic of America suffers grievous harm. We must seek better ways of working together to legislate more effectively. And we must achieve a Congress that will build a future better than the past.

We can honor "Tip" this year by restoring the primacy of the "first branch of Government" as our Founders perceived this House. We must reclaim the vision of George Mason who saw the House as "the grand repository of the democratic principles of the Government." As we rebuild nationally a sense of family and community, the House has to reassert and reclaim its role as the first branch.

Directly representative of the people, the House has a unique function. We are no better, and no worse, than the people we represent. Perhaps we are a sort of mirror image of our country. But it is our responsibility to strive to improve ourselves, to serve to the very best of our abilities, to fulfill aims of great Americans like "Tip" O'Neill, and to lead a national journey of renewal.

Above all, we must not get defensive and angry at our critics, nor at our fellow citizens who are in trouble. That's what "Tip" would want.

We do not need antidemocratic mechanisms such as so-called term limits. David Broder, the astute journalist, has written of his concern that "term limits will hurt the effectiveness of Congress and the legislatures, impair the careful constitutional balance among the branches, and increase the power of unelected bureaucrats." I could not have said it better.

"Tip" would agree that the pillars of American society are the family, the school, the community, the Congress, and our spiritual and moral values.

Let us devote this year, 1994, to shoring up the pillar of our Nation that is the Congress. That is what "Tip" would want.

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Mr. MOAKLEY. Mr. Speaker, I rise today to honor my dear friend, former Speaker Tip O'Neill. I commend Chairman Rose, a close friend of Tip's, for his resolution designating the year 1994 as a year to remember the life and leadership of the former speaker.

Tip O'Neill was a vastly talented legislator, but his greatness stemmed from the fact that he never forgot where he came from, and more importantly, who sent him to Congress. To him, Mrs. Sullivan's family down the street was always just as important as his greatest achievements in Congress. He treated everyone he met the same way, regardless of their wealth, power or status. Tip always lived by the same credo: He believed the effectiveness of a government is measured by the way it treats those who are most vulnerable—the poor, the children, and the elderly. For Tip, the purpose of Government was to improve the quality of life of all citizens. Through every part of his life, he never forgot the people that didn't have a voice—the common man, the local shopkeeper and the family next door. Fighting for their rights is why he chose public service.

As this Congress struggles to push through such important legislation as the crime bill and health care reform, we need to look to Tip's example to lead us along. Tip's great charm, humor, and his unyielding dedication to good government, could always resolve political differences and partisanship. He was a great listener and negotiator, who possessed the critical skill of bringing two opposing sides to a resolution. This was, to Tip, what politics was all about—listening, negotiating, helping others.

Tip O'Neill was a great friend and a great Member of this House. His stories will be told for years to come and his legacy as one of the great leaders of our Nation will never die. Let us devote this year to the great speaker, his lifetime of achievement and the lessons that he taught us.

Mr. THOMAS of California. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, it is with mixed feelings, sadness and pride that I rise in support of this Resolution designed to pay tribute to one of the legislative giants of the 20th Century; indeed, to one of the greatest legislative leaders in the history of our republic.

The sudden, unexpected passing of "Tip" O'Neill early this year left a void which will not soon be filled. "Tip" was always so full of life, so determined, and so energetic, that most of us assumed he would always be with us.

I had the privilege of serving in the House with "Tip" O'Neill during the last fourteen years of his career. For the last ten of those years, he was our Speaker. Despite the fact that he and I sat on opposite sides of the aisle, he never hesitated to offer sage advice, or a friendly handshake.

Some observers have labelled "Tip" O'Neill the last of the old time politicians and, at the same time, one of the best of our political leaders. While his colorful style and strong convictions made him an effective leader and a household word, his charisma and obvious charm made him a hero for the television generation.

"Tip" was a man of the people who never forgot his roots. His father always admonished him to remember from "whence he came" and he always did. "Tip" remembered his blue collar background and his working class antecedents, and never forgot that these were the Americans to whom he owed his first allegiance.

"Tip" had politics in his blood and first sought elective office at an early age. Losing his first race for the State legislature, he was surprised to learn that a long-time family friend and neighbor neglected to vote for him. When "Tim" asked why, he was told that he never asked these friends for their votes—and everyone likes to be asked. He never forgot that lesson, and he never tired of sharing that wise lesson with all of us.

"Tip" O'Neill had a framed adage on the wall of his office stating that the main responsibilities of government were to three groups of people: those at the dawn of life: our children; those at the twilight of life: our senior citizens; and those in the shadows of life: the ill, the needy, and the handicapped.

Even those of us who may have disagreed with "Tip" O'Neill philosophically on many issues could not dispute the soundness of his basic philosophy, just as no one could dispute that "Tip" was a man of rare integrity and intelligence.

In May of 1983, I had the sad duty of informing the House of the passing of our former colleague, Mrs. Katherine St. George, who had represented my District from 1946 until 1964. Much to my surprise, Speaker O'Neill immediately left the Speaker's chair and moved to the well of the House, where he delivered an impromptu moving tribute to the late Congresswoman which was valued by her family all the more due to the obvious sincerity and spontaneity of this generous gesture.

The people of North Cambridge, Massachusetts—the people "Tip" O'Neill loved so deeply and so sincerely—first elected "Tip" to the State legislature in 1934. He remained in that body continually until 1952 becoming, in the process, the first Democratic Speaker of the House in Massachusetts history. When his home Congressional district was made vacant in 1952, due to the U.S. Senatorial candidacy of the incumbent, John F. Kennedy, "Tip" O'Neill was easily elected to the House seat, and was easily re-elected every election until his voluntary retirement in 1986.

The love and esteem in which Tip was held by his constituency and by his family was shared by his colleagues. Those of us who had the honor of serving with him will never forget him.

Mr. Speaker, designating this year as a memorial to "Tip" O'Neill is a fitting tribute to an outstanding American who was an inspiration to us. It is a reminder that the spirit of "Tip" O'Neill still haunts the halls of Congress and inspires all of us.

Mr. THOMAS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H. Res. 329 designates 1994 as a year to remember Thomas P. Tip O'Neill, Speaker of the House of Representatives. I think it also, appropriately, should honor his talents. His training, of course, came from the ward politics of Boston and were shaped by Massachusetts politics as well. I think Tip O'Neill personified the Democrats of the mid-20th century at a time in which the Democrats retained majority control in the House of Representatives throughout virtually his entire career as a Member of the House of Representatives, including the entire time that he was Speaker.

Mr. Speaker, it has been said of Tip O'Neill that his politics were basically rewarding friends and punishing enemies, not that Republicans were necessarily enemies, but Republicans were friends off the floor. I have a number of vivid memories of Tip, up close and personal.

In terms of attempting to either influence or cow me, I can only imagine how it would have been had I been a member of his party, since I was a member of the opposition party, it almost might be fitting to ask that the resolution be amended to request that every Democrat who honors the memory of Tip O'Neill walk a mile in Republicans' shoes to fully appreciate the Speaker of the House and the talents that he displayed. But let me say that I think it is entirely appropriate that this resolution honors him in a way that he would not have found acceptable in life, and that is with frugality.

Mr. Speaker, I am going to ask the gentleman from North Carolina [Mr. ROSE] to engage in a colloquy with me.

I understand that, although H.Res. 329 designates 1994 as a year to honor former Speaker Tip O'Neill that no expenditures from the contingent fund will be utilized to support any activities associated with this designated year; is that correct?

Mr. ROSE. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from North Carolina.

Mr. ROSE. The gentleman is correct.

Mr. THOMAS of California. And that if any costs are involved, there may be some printing costs for a eulogy book, which I think is appropriate, and as I think we have done it in the past, but if there are costs, the costs would be charged to the printing and binding fund?

Mr. ROSE. That is correct.

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Mr. ROSE. That is correct.

Mr. THOMAS of California. These are the only costs that are going to be involved with this?

Mr. ROSE. That is correct.

Mr. THOMAS of California. Mr. Speaker, if the printing exceeds the usual number, and that is a designated number that we utilize, which I believe is 1,682, but if it exceeds that number, will a separate printing resolution be considered and will it contain a cap on the total printing and production costs consistent with established Committee on House Administration policy?

Mr. ROSE. Absolutely, yes.

Mr. THOMAS of California. Mr. Speaker, I appreciate the responses of the chairman.

Mr. Chairman, so although we do honor the memory of "Tip" O'Neill in 1994, it will be done in a frugal way, which I think is entirely appropriate with the politics of the '90s.

Mr. ROSE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I first want to thank my colleague, the gentleman from California [Mr. THOMAS] for his gracious remarks. The gentleman and I can both remember many times in which we have worked cooperatively to the ends of this House. For example, I recall our discussion of the approval of a new telephone system for the House. I was questioned at one point by the Speaker as to why we approved that. I informed the Speaker that the gentleman from California [Mr. THOMAS] and I had determined it was not only the lowest cost, but it would give us the best long-term service. So he questioned us on a very bipartisan basis about some of the things we did.

Mr. Speaker, I thank the gentleman from California [Mr. THOMAS] for approving this.

Mr. KENNEDY. Mr. Speaker, I always felt a little in awe of Tip O'Neill because, for one thing, he seemed to always know all the member of my family better than I did. That was not always necessarily a positive development, but, in any event, he never, as I think most people that got to know Tip understand, he never made you feel badly.

I say this despite the fact that in 1946, when my Uncle Jack was running for the Congress, he refused to endorse him. In fact, he and my dad never, I think, really saw very much eye to eye, which he was very blunt about and never apologized for.

The fact that my father, my Uncle Jack, and Tip got into so many different fights on so many different issues over the years still never got in the way of Tip's support, kindness, and fundamental friendliness toward our family. If there is one individual in American politics that my family is most delighted to be associated with, it is truly Speaker O'Neill.

I had the privilege of running for Tip's seat when he decided to retire. I remember going down to his home at Harwichport when I was thinking about running to ask his advice. Millie met me at the door, and Tip put his arm around me, and at that point I knew I was going to be all right.

Tip sat and told me story after story of the various labor unions in the district that you could count on and the few that you could not count on. He went through every city and town, every precinct, every ward, telling how our district was put together and saying who would be with you and who would not be with you. He was just an encyclopedia of information.

I remember when we were going around the district in his final days, I went around to a few of his stops, and he stopped off one evening at Barry's Corners, and there were probably 300 or 400 people in the room who had been supporters of Tip's. He went around the entire room and named the individual relationships, the brothers and sisters, mothers and fathers and cousins. He knew every single person in that room in such great detail that he made everyone think he was their best friend.

What I loved about Tip was his quality where he never mistook someone's station in life as having anything to do with their importance. Someone could be a king, a president, or the head of the armed forces, and they would be no more important than a neighbor in Cambridge. They would be no more important than all the people he grew up with.

I heard him give a speech one time where he was telling the entire audience about when he first ran for public office. He said that at that time a policeman in the United States—I remember his words—used to work 106 hours a week, a fireman worked 108 hours a week, and none of their kids could possibly hope to gain a college education. There was no Social Security, there was no Medicare, there was no Medicaid, there were none of the programs that we as a generation of Americans simply take for granted.

Those all came about while Tip O'Neill was elected to this body and to the Massachusetts State Legislature. He saw America change. He saw this country create a middle class. The changes that took place in Tip's lifetime are the kinds of changes that any individual, particulary Tip O'Neill, would be so proud to have happen under his guidance and under his tenure and with his mark.

Tip made a mark. He made a mark that I think is significant to all of us, and that mark is that we are all here as equals, that no one is bigger than another, and we are all here, particularly as Members of Congress, to stand up for working people and the poor whose viewpoints so often do not get heard in Washington, DC.

That is the legacy that Tip has given us. That is why I think he evokes such strong memories from the stalwarts of this institution—individuals who have gone through so much and who have stood up for so much, such as DANNY ROSTENKOWSKI and JOE MOAKLEY. These are not people who easily come to the funeral of another politician and come with a tear in their eye. Both of them have shed tears for Tip O'Neill.

I believe designating 1994 as A Year to Honor Tip O'Neill does honor to us all, and stands as a monument to his friendship, his statesmanship, and his compassion.

Mr. ROSE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BAESLER). The question is on the motion offered by the gentleman from North Carolina [Mr. ROSE] that the House suspend the rules and agree to the resolution, H. Res. 329, as amended.

The question was taken.

Mr. ROSE. Mr. Speaker, at the request of our leadership, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed until tomorrow, Wednesday, April 20, 1994.

GENERAL LEAVE

Mr. ROSE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on House Resolution 329, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

LET US NOT PLAY POLITICS WITH THE CRIME ISSUE

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, let us not play politics with the crime issue. Let us remember that violent crime is a national issue and not a political issue. Victims of crime do not care whether they are helped by Democrats or Republicans, they just want to be helped.

Listening to some of my colleagues on the other side of the aisle, I detect a little bit of concern that the Democrats will get too much political credit if a crime bill passes. Let us also remember that action on the habeas corpus and racial justice provisions could upset the fragile coalition that is holding this bill together.

Mr. Speaker, this is the best crime bill that an administration and a Congress, working together, have set forth. It contains measures for more police, more punishment, and more prevention—just what the public wants.

Mr. Speaker, let us not allow Members of Congress to get in the way of a good piece of legislation, one that the public wants.

President Clinton has called upon Congress to vote for a crime package that is strong, smart, and tough. A package that will punish offenders, yet will also promote measures to prevent crime. This crime bill does just that—it punishes criminals and offers good prevention measures.

This crime bill is tough. The "three strikes you're out" provision will send criminals with three serious offenses to prison for life with no possibility of parole. Those who commit certain Federal offenses will be subject to the death penalty, making this crime bill tough on criminals.

This bill is also smart with smart crime prevention measures. Literally billions of dollars will be directed to youth crime prevention including measures to keep kids occupied and off the streets.

Furthermore, with 50,000 new cops on the beat, criminals will want to think twice before harming anyone, including citizens who live in rural areas!

Let us in Congress show America that we will no longer tolerate criminals! This crime bill is our chance to help Americans feel safe.

Mr. Speaker, I include correspondence and commentary regarding the crime legislation:

HOUSE OF REPRESENTATIVES,
Washington, DC, April 6, 1994.

DEAR REPUBLICAN COLLEAGUE: While you're back in your district, I thought you might be interested in reading the enclosed op-ed published today in the Washington Times before the House reconvenes next week to debate the Crime Bill.

If we work together we can defeat this bill and craft a real crime bill that will give the crime issue back to Republicans for the upcoming elections.

Should you have any questions about specifics in the Crime Bill, please do not hesitate to contact me.

Sincerely,

F. JAMES SENSENBRENNER, JR.,
Member of Congress.

PRESIDENT CLINTON'S SATURDAY RADIO ADDRESS—SATURDAY, APRIL 16, 1994

Now we must move swiftly on the crime bill before Congress. The bill provides the right balance of protection, punishment, and prevention. It will put 100,000 more police officers on the streets for community policing efforts that work. It will make "three strikes and you're out" the law of the land and provide money for new prisons. And it will pay for a wide variety of prevention programs to give our young people a future they can say "yes" to.

This is a crucial moment in the crime bill debate. It's time to tell Congress you've waited long enough for comprehensive national crime legislation, that you don't want political posturing or frivolous amendments, and instead you need help to take back your communities.

This crime bill is for all our people. But nobody needs it more than the people like the mother of three who lives right here in Washington. A week ago this 33-year-old mother came home after celebrating her 10-year-old daughter's birthday to find a gang of gunmen ransacking her apartment. The mother had one plea for the intruders, "if you believe in God, please don't shoot my children, shoot me." The reply was cold and terrifying, "I don't believe in God," said one of the gunmen. Then he shot her daughter dead. Before the gunfire ceased, another child and the mother were both shot. And her 3-year-old son witnessed the whole thing.

The sad fact is the police now believe the shootings were carried out by youths who hang out in the very apartment complex where that mother was trying to raise her children. There are many rights that our laws and our constitution guarantee to every citizen. But that mother and her children have certain rights we are letting slip away. They include the right to go out to the playground and the right to sit by an open window, the right to walk to the corner without fear of gunfire, the right to go to school safely in the morning, and the right to celebrate your 10th birthday without coming home to bloodshed and terror.

The crime bill will help us take back those rights for all of our people. So will our new policy to protect public housing residents. We must decide we will not tolerate more tragedies like that mother's. When we do that together, we can replace our children's fear with hope.

Thanks for listening.

TAILHOOK SCANDAL

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. SCHROEDER. Mr. Speaker, the Defense Department long has had an attitude of seeing no evil, hearing no evil, and speaking no evil if it is a high enough ranking official of one of the uniformed services. In other words, shut your ears, turn off your brain, and give them a bigger pension.

Mr. Speaker, today there are some very brave men and women on the other side of the Capitol who are bucking this tradition and saying about Admiral Kelso that he really does not deserve that, that there have been many investigations in the Navy that went afoul, that the whole Tailhook issue was about 87 sexual assaults for which no one was really held accountable.

Mr. Speaker, we talk about crime on this floor but we allow people to ignore it on those who were in the military service, and they are standing up and talking about that and talking about many other incidents and breaking up the old boys' club that has gone on for much too long.

Mr. Speaker, I think we can never hold other people accountable until we hold those at the top accountable and I do not think anything is so clear as it is that the Navy failed Admiral Kelso.

I include for the RECORD two editorials pertaining to this matter.

[From the New York Times, Apr. 14, 1994]

TWO STARS ARE PLENTY

Navy Secretary John H. Dalton had it right the first time. Last year he urged the removal of Adm. Frank B. Kelso 2d as Chief of Naval Operations for failing to show proper leadership during Tailhook '91—the infamous reunion of aviators featuring a gantlet of drunken gropers that female guests, among them 15 officers, were forced to run. This week, however, Mr. Dalton joined Defense Secretary William Perry and Gen. John Shalikashvili, Chairman of the Joint Chiefs of Staff, in asking that the Senate retire Admiral Kelso at his four-star rank.

Two stars, which rank the admiral will automatically revert to unless the Senate says otherwise, are enough.

Admiral Kelso agreed to step down early in exchange for a tribute that would clear his name. Mr. Perry gave him that tribute two months ago, and America got a good look at the Navy at its brassiest. Now Secretaries Dalton and Perry and General Shalikashvili are polishing that brass to an inappropriately higher shine. The general at least conceded that his support was "likely to fuel charges that we in the services are operating an old-boy network by trying to shield Admiral Kelso from blame." Likely? How about "certain"?

There is much illustrious about Admiral Kelso's career. As head of the Sixth Fleet, he commanded Navy forces that helped seize the Palestinian terrorists responsible for the killing of an American aboard the cruise ship Achille Lauro. He was also in charge of air strikes against Libya in 1986; and he has been conspicuously progressive in his attitude toward women's role in the Navy. True, his initiatives may have been designed partly to sweeten the aroma arising from Tailhook. Yet his concern with giving military women a fair chance was commendable and rate.

Even so, allowing Admiral Kelso to keep his four stars, and the pension that goes with them, would require the Senate to dismiss—as his three advocates have done—the findings of the Navy's own judge, Capt. William T. Vest Jr. Captain Vest concluded that the admiral had lied about his own activities at Tailhook '91, and then used his rank to impede the investigations.

And if the captain's 111-page report is the last word on the subject, it is because Admiral Kelso's retirement ends any review of his conduct, and because Mr. Perry's coerced tribute curtailed the formation of a special court of inquiry.

In claiming that he had always supported retiring Admiral Kelso with four stars, Secretary Dalton is willfully overlooking one of the armed services' first principles: Command responsibility belongs at the top. Senator Kay Bailey Hutchison was less myopic: "[Admiral Kelso's] character is not the issue here. The issue is his captaincy of the ship—what happened on his watch—and the signal his performance sends to the Navy and to the world."

Should Admiral Kelso keep his four stars, the signal sent to the Navy is that admirals and such can get away with what lower-ranking officers cannot. The signal sent to the world is that the American military's old-boy network is, despite the general's disclaimer, operating at full tilt.

[From the New York Times, Apr. 18, 1994]

COMMAND PRESENTS

So now the Senate Armed Services Committee has joined the old boys' network that protects the top military brass from accountability. It recommended last week that Adm. Frank B. Kelso 2d, the chief of Naval Operations, retire at the rank of four stars as his predecessors traditionally have.

The full Senate ought to reject the committee's decision as one based on sympathy rather than a fair assessment of the admiral's performance. The senators should instead let his rank revert automatically to two stars as it will unless they take affirmative action to accommodate Admiral Kelso.

Without Senate approval, the admiral will be retired with two stars and a $5,650-a-month pension, about $1,400 less than four stars warrant. That seems a fair price to pay to uphold the principle of command responsibility.

Admiral Kelso was, after all, the senior officer present at the 1991 Tailhook Association convention, the reunion of naval aviators in Las Vegas where female guests, including 15 fellow offices, were forced to run a gantlet of gropers. And as Chief of Naval Operations, he was ultimately accountable for the Navy's botched investigation.

Nevertheless the Armed Services Committee voted 20 to 2 in favor of awarding him the higher rank and increased benefits. The sole woman on the panel, Senator Kay Bailey Hutchison, a Texas Republican, did not agree. "The issue," she said, "is his captaincy of the ship—what happened on his watch—and the signal his performance sends to the Navy and the world."

Admiral Kelso served the country well for a long time, and he did more than any of his predecessors to secure an equal place for women in the Navy. But Admiral Kelso's actions in the Tailhook scandal were his undoing. His 38 years of service surely acquainted him with the tradition of drunken debauchery at Tailhook get-togethers. He should have been sensitive to what his presence would mean to servicemen and servicewomen.

A report by the Defense Department Inspector General exonerated Admiral Kelso of any wrongdoing in the Tailhook affair. But a Navy judge accused him of lying when he denied he had witnessed any misconduct there and charged that he used his rank to impede the investigation into tailhook. Admiral Kelso short-circuited any review of his conduct by agreeing to retire early in exchange for a testimonial clearing his name.

Now the Armed Services Committee wants to reward him with the rank and perks customarily voted for departing service chiefs. The committee took the unusual step of inviting Defense Secretary William Perry, Navy Secretary John Dalton and Gen. John Shalikashvili, Chairman of the Joint Chiefs of Staff, to provide political cover by testifying in Admiral Kelso's behalf.

With its vote, the committee showed that it was more concerned with keeping the officer corps happy than with sending a message about sexism. Senator Charles Robb obligingly underscored their weak-kneed performance by speaking nonsense. "No one ought to be of the impression that this committee or the Senate condones the conduct of the charges investigated or is being insensitive about sexual harassment."

The issue goes beyond the events of Tailhook and the treatment of women. The system of military justice must not be seen by enlisted personnel and junior officers as going soft when it comes time to hold the top brass accountable. The military merarchy depends on a code of loyalty up and loyalty down. That loyalty withers when lower ranks, where the rules are strict and the administrative and court martial punishments can be very harsh, see higher-ups rewarded for failure.

To senators who are adept at taking credit and avoiding blame, command responsibility can seem like an excessively harsh discipline. But the moral and good order of the armed services will suffer if commanders are allowed to escape responsibility for major scandals that occur virtually under their noses.

CONFERENCE REPORT ON H.R. 2884

Mr. FORD of Michigan submitted the following conference report and statement on the bill (H.R. 2884), to establish a national framework for the development of school-to-work opportunities systems in all States, and for other purposes:

CONFERENCE REPORT (H. Rept. 103-480)

[To accompany H.R. 2884]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2884), to establish a national framework for the development of School-to-Work Opportunities systems in all States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "School-to-Work Opportunities Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purposes and congressional intent.
Sec. 4. Definitions.
Sec. 5. Federal administration.

TITLE I—SCHOOL-TO-WORK OPPORTUNITIES BASIC PROGRAM COMPONENTS

Sec. 101. General program requirements.
Sec. 102. School-based learning component.
Sec. 103. Work-based learning component.
Sec. 104. Connecting activities component.

TITLE II—SCHOOL-TO-WORK OPPORTUNITIES SYSTEM DEVELOPMENT AND IMPLEMENTATION GRANTS TO STATES

Subtitle A—State Development Grants

Sec. 201. Purpose.
Sec. 202. Authorization.
Sec. 203. Application.
Sec. 204. Approval of application.
Sec. 205. Use of amounts.
Sec. 206. Maintenance of effort.
Sec. 207. Reports.

Subtitle B—State Implementation Grants

Sec. 211. Purpose.
Sec. 212. Authorization.
Sec. 213. Application.
Sec. 214. Review of application.
Sec. 215. Use of amounts.
Sec. 216. Allocation requirement.
Sec. 217. Limitation on administrative costs.
Sec. 218. Reports.

Subtitle C—Development and Implementation Grants for School-to-Work Programs for Indian Youths

Sec. 221. Authorization.
Sec. 222. Requirements.

TITLE III—FEDERAL IMPLEMENTATION GRANTS TO LOCAL PARTNERSHIPS

Sec. 301. Purposes.
Sec. 302. Authorization.
Sec. 303. Application.
Sec. 304. Use of amounts.
Sec. 305. Conformity with approved State plan.
Sec. 306. Reports.
Sec. 307. High poverty area defined.

TITLE IV—NATIONAL PROGRAMS

Sec. 401. Research, demonstration, and other projects.
Sec. 402. Performance outcomes and evaluation.
Sec. 403. Training and technical assistance.
Sec. 404. Capacity building and information and dissemination network.
Sec. 405. Reports to Congress.
Sec. 406. Funding.

TITLE V—WAIVER OF STATUTORY AND REGULATORY REQUIREMENTS

Sec. 501. State and local partnership requests and responsibilities for waivers.
Sec. 502. Waiver authority of Secretary of Education.
Sec. 503. Waiver authority of Secretary of Labor.
Sec. 504. Combination of Federal funds for high poverty schools.
Sec. 505. Combination of Federal funds by States for school-to-work activities.

TITLE VI—GENERAL PROVISIONS

Sec. 601. Requirements.
Sec. 602. Sanctions.
Sec. 603. State authority.
Sec. 604. Prohibition on Federal mandates, direction, and control.
Sec. 605. Authorization of appropriations.

TITLE VII—OTHER PROGRAMS

Subtitle A—Reauthorization of Job Training for the Homeless Demonstration Program Under the Stewart B. McKinney Homeless Assistance Act

Sec. 701. Reauthorization.

Subtitle B—Tech-Prep Programs

Sec. 711. Tech-prep education.

Subtitle C—Alaska Native Art and Culture

Sec. 721. Short title.
Sec. 722. Alaska Native art and culture.

Subtitle D—Job Training

Sec. 731. Amendment to Job Training Partnership Act to provide allowances for child care costs to certain individuals participating in the Job Corps.

TITLE VIII—TECHNICAL PROVISIONS

Sec. 801. Effective date.
Sec. 802. Sunset.

SEC. 2. FINDINGS.

Congress finds that—

(1) three-fourths of high school students in the United States enter the workforce without baccalaureate degrees, and many do not possess the academic and entry-level occupational skills necessary to succeed in the changing United States workplace;

(2) a substantial number of youths in the United States, especially disadvantaged students, students of diverse racial, ethnic, and cultural backgrounds, and students with disabilities, do not complete high school;

(3) unemployment among youths in the United States is intolerably high, and earnings of high school graduates have been falling relative to earnings of individuals with more education;

(4) the workplace in the United States is changing in response to heightened international competition and new technologies, and such forces, which are ultimately beneficial to the Nation, are shrinking the demand for and undermining the earning power of unskilled labor;

(5) the United States lacks a comprehensive and coherent system to help its youths acquire the knowledge, skills, abilities, and information about and access to the labor market necessary to make an effective transition from school to career-oriented work or to further education and training;

(6) students in the United States can achieve high academic and occupational standards, and many learn better and retain more when the students learn in context, rather than in the abstract;

(7) while many students in the United States have part-time jobs, there is infrequent linkage between—

(A) such jobs; and

(B) the career planning or exploration, or the school-based learning, of such students;

(8) the work-based learning approach, which is modeled after the time-honored apprenticeship concept, integrates theoretical instruction with structured on-the-job training, and this approach, combined with school-based learning, can be very effective in engaging student interest, enhancing skill acquisition, developing positive work attitudes, and preparing youths for high-skill, high-wage careers;

(9) Federal resources currently fund a series of categorical, work-related education and training programs, many of which serve disadvantaged youths, that are not administered as a coherent whole; and

(10) in 1992 approximately 3,400,000 individuals in the United States age 16 through 24 had not completed high school and were not currently enrolled in school, a number representing approximately 11 percent of all individuals in this age group, which indicates that these young persons are particularly unprepared for the demands of a 21st century workforce.

SEC. 3. PURPOSES AND CONGRESSIONAL INTENT.

(a) PURPOSES.—The purposes of this Act are—

(1) to establish a national framework within which all States can create statewide School-to-Work Opportunities systems that—

(A) are a part of comprehensive education reform;

(B) are integrated with the systems developed under the Goals 2000: Educate America Act and the National Skill Standards Act of 1994; and

(C) offer opportunities for all students to participate in a performance-based education and training program that will—

(i) enable the students to earn portable credentials;

(ii) prepare the students for first jobs in high-skill, high-wage careers; and

(iii) increase their opportunities for further education, including education in a 4-year college or university;

(2) to facilitate the creation of a universal, high-quality school-to-work transition system that enables youths in the United States to identify and navigate paths to productive and progressively more rewarding roles in the workplace;

(3) to utilize workplaces as active learning environments in the educational process by making employers joint partners with educators in providing opportunities for all students to participate in high-quality, work-based learning experiences;

(4) to use Federal funds under this Act as venture capital, to underwrite the initial costs of planning and establishing statewide School-to-Work Opportunities systems that will be maintained with other Federal, State, and local resources;

(5) to promote the formation of local partnerships that are dedicated to linking the worlds of school and work among secondary schools and postsecondary educational institutions, private and public employers, labor organizations, government, community-based organizations, parents, students, State educational agencies, local educational agencies, and training and human service agencies;

(6) to promote the formation of local partnerships between elementary schools and secondary schools (including middle schools) and local businesses as an investment in future workplace productivity and competitiveness;

(7) to help all students attain high academic and occupational standards;

(8) to build on and advance a range of promising school-to-work activities, such as tech-prep education, career academies, school-to-apprenticeship programs, cooperative education, youth apprenticeship, school-sponsored enterprises, business-education compacts, and promising strategies that assist school dropouts, that can be developed into programs funded under this Act;

(9) to improve the knowledge and skills of youths by integrating academic and occupational learning, integrating school-based and work-based learning, and building effective linkages between secondary and postsecondary education;

(10) to encourage the development and implementation of programs that will require paid high-quality, work-based learning experiences;

(11) to motivate all youths, including low-achieving youths, school dropouts, and youths with disabilities, to stay in or return to school or a classroom setting and strive to succeed, by providing enriched learning experiences and assistance in obtaining good jobs and continuing their education in postsecondary educational institutions;

(12) to expose students to a broad array of career opportunities, and facilitate the selection of career majors, based on individual interests, goals, strengths, and abilities;

(13) to increase opportunities for minorities, women, and individuals with disabilities, by enabling individuals to prepare for careers that are not traditional for their race, gender, or disability; and

(14) to further the National Education Goals set forth in title I of the Goals 2000: Educate America Act.

(b) CONGRESSIONAL INTENT.—It is the intent of Congress that the Secretary of Labor and the Secretary of Education jointly administer this Act in a flexible manner that—

(1) promotes State and local discretion in establishing and implementing statewide School-to-Work Opportunities systems and School-to-Work Opportunities programs; and

(2) contributes to reinventing government by—

(A) building on State and local capacity;

(B) eliminating duplication in education and training programs for youths by integrating such programs into 1 comprehensive system;

(C) maximizing the effective use of resources;

(D) supporting locally established initiatives;

(E) requiring measurable goals for performance; and

(F) offering flexibility in meeting such goals.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) ALL ASPECTS OF AN INDUSTRY.—The term "all aspects of an industry" means all aspects of the industry or industry sector a student is preparing to enter, including planning, management, finances, technical and production skills, underlying principles of technology, labor and community issues, health and safety issues, and environmental issues, related to such industry or industry sector.

(2) ALL STUDENTS.—The term "all students" means both male and female students from a broad range of backgrounds and circumstances, including disadvantaged students, students with diverse racial, ethnic, or cultural backgrounds, American Indians, Alaska Natives, Native Hawaiians, students with disabilities, students with limited-English proficiency, migrant children, school dropouts, and academically talented students.

(3) APPROVED STATE PLAN.—The term "approved State plan" means a statewide School-to-Work Opportunities system plan that is submitted by a State under section 213, is determined by the Secretaries to include the program components described in sections 102 through 104 and otherwise meet the requirements of this Act, and is consistent with the State improvement plan for the State, if any, under the Goals 2000: Educate America Act.

(4) CAREER GUIDANCE AND COUNSELING.—The term "career guidance and counseling" means programs—

(A) that pertain to the body of subject matter and related techniques and methods organized for the development in individuals of career awareness, career planning, career decisionmaking, placement skills, and knowledge and understanding of local, State, and national occupational, educational, and labor market needs, trends, and opportunities;

(B) that assist individuals in making and implementing informed educational and occupational choices; and

(C) that aid students to develop career options with attention to surmounting gender, race, ethnic, disability, language, or socioeconomic impediments to career options and encouraging careers in nontraditional employment.

(5) CAREER MAJOR.—The term "career major" means a coherent sequence of courses or field of study that prepares a student for a first job and that—

(A) integrates academic and occupational learning, integrates school-based and work-based learning, establishes linkages between secondary schools and postsecondary educational institutions;

(B) prepares the student for employment in a broad occupational cluster or industry sector;

(C) typically includes at least 2 years of secondary education and at least 1 or 2 years of postsecondary education;

(D) provides the students, to the extent practicable, with strong experience in and understanding of all aspects of the industry the students are planning to enter;

(E) results in the award of—

(i) a high school diploma or its equivalent, such as—

(I) a general equivalency diploma; or

(II) an alternative diploma or certificate for students with disabilities for whom such alternative diploma or certificate is appropriate;

(ii) a certificate or diploma recognizing successful completion of 1 or 2 years of postsecondary education (if appropriate); and

(iii) a skill certificate; and

(F) may lead to further education and training, such as entry into a registered apprenticeship program, or may lead to admission to a 2- or 4-year college or university.

(6) COMMUNITY-BASED ORGANIZATIONS.—The term "community-based organizations" has the meaning given such term in section 4(5) of the Job Training Partnership Act (29 U.S.C. 1503(5)).

(7) ELEMENTARY SCHOOL.—The term "elementary school" means a day or residential school that provides elementary education, as determined under State law.

(8) EMPLOYER.—The term "employer" includes both public and private employers.

(9) GOVERNOR.—The term "Governor" means the chief executive of a State.

(10) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(11) LOCAL PARTNERSHIP.—The term "local partnership" means a local entity that is responsible for local School-to-Work Opportunities programs and that—

(A) consists of employers, representatives of local educational agencies and local postsecondary educational institutions (including representatives of area vocational education schools, where applicable), local educators (such as teachers, counselors, or administrators), representatives of labor organizations or nonmanagerial employee representatives, and students; and

(B) may include other entities, such as—

(i) employer organizations;

(ii) community-based organizations;

(iii) national trade associations working at the local levels;

(iv) industrial extension centers;

(v) rehabilitation agencies and organizations;

(vi) registered apprenticeship agencies;

(vii) local vocational education entities;

(viii) proprietary institutions of higher education (as defined in section 481(b) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) that continue to meet the eligibility and certification requirements under title IV of such Act (20 U.S.C. 1070 et seq.);

(ix) local government agencies;

(x) parent organizations;

(xi) teacher organizations;

(xii) vocational student organizations;

(xiii) private industry councils established under section 102 of the Job Training Partnership Act (29 U.S.C. 1512);

(xiv) federally recognized Indian tribes, Indian organizations, and Alaska Native villages within the meaning of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

(xv) Native Hawaiian entities.

(12) POSTSECONDARY EDUCATIONAL INSTITUTION.—The term "postsecondary educational institution" means an institution of higher education (as such term is defined in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088)) which continues to meet the eligibility and certification requirements under title IV of such Act (20 U.S.C. 1070 et seq.).

(13) REGISTERED APPRENTICESHIP AGENCY.—The term "registered apprenticeship agency" means the Bureau of Apprenticeship and Training in the Department of Labor or a State apprenticeship agency recognized and approved by the Bureau of Apprenticeship and Training as the appropriate body for State registration or approval of local apprenticeship programs and agreements for Federal purposes.

(14) REGISTERED APPRENTICESHIP PROGRAM.—The term "registered apprenticeship program" means a program registered by a registered apprenticeship agency.

(15) RELATED SERVICES.—The term "related services" includes the types of services described in section 602(17) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(17)).

(16) RURAL COMMUNITY WITH LOW POPULATION DENSITY.—The term "rural community with low population density" means a county, block number area in a nonmetropolitan county, or consortium of counties or of such block number areas, that has a population density of 20 or fewer individuals per square mile.

(17) SCHOOL DROPOUT.—The term "school dropout" means a youth who is no longer attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

(18) SCHOOL SITE MENTOR.—The term "school site mentor" means a professional employed at a school who is designated as the advocate for a particular student, and who works in consultation with classroom teachers, counselors, related services personnel, and the employer of the student to design and monitor the progress of the School-to-Work Opportunities program of the student.

(19) SCHOOL-TO-WORK OPPORTUNITIES PROGRAM.—The term "School-to-Work Opportunities program" means a program that meets the requirements of this Act, other than a program described in section 401(a).

(20) SECONDARY SCHOOL.—The term "secondary school" means—

(A) a nonprofit day or residential school that provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12; and

(B) a Job Corps center under part B of title IV of the Job Training Partnership Act (29 U.S.C. 1691 et seq.).

(21) SECRETARIES.—The term "Secretaries" means the Secretary of Education and the Secretary of Labor.

(22) SKILL CERTIFICATE.—The term "skill certificate" means a portable, industry-recognized credential issued by a School-to-Work Opportunities program under an approved State plan, that certifies that a student has mastered skills at levels that are at least as challenging as skill standards endorsed by the National Skill Standards Board established under the National Skill Standards Act of 1994, except that until such skill standards are developed, the term "skill certificate" means a credential issued under a process described in the approved State plan.

(23) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

(24) STATE EDUCATIONAL AGENCY.—The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(25) WORKPLACE MENTOR.—The term "workplace mentor" means an employee or other individual, approved by the employer at a workplace, who possesses the skills and knowledge to be mastered by a student, and who instructs the student, critiques the performance of the student, challenges the student to perform well, and works in consultation with classroom teachers and the employer of the student.

SEC. 5. FEDERAL ADMINISTRATION.

(a) JOINT ADMINISTRATION.—

(1) IN GENERAL.—Notwithstanding the Department of Education Organization Act (20 U.S.C. 3401 et seq.), the General Education Provisions Act (20 U.S.C. 1221 et seq.), the Act entitled "An Act To Create a Department of Labor", approved March 4, 1913 (29 U.S.C. 551 et seq.), and section 166 of the Job Training Partnership Act (29 U.S.C. 1576), the Secretaries shall jointly provide for, and shall exercise final authority over, the administration of this Act, and shall have final authority to jointly issue whatever procedures, guidelines, and regulations, in accordance with section 553 of title 5, United States Code, the Secretaries consider necessary and appropriate to administer and enforce the provisions of this Act.

(2) SUBMISSION OF PLAN.—Not later than 120 days after the date of enactment of this Act, the Secretaries shall prepare a plan for the joint administration of this Act and submit such plan to Congress for review and comment.

(b) ACCEPTANCE OF GIFTS.—The Secretaries are authorized, in carrying out this Act, to accept, purchase, or lease in the name of the Department of Labor or the Department of Education, and employ or dispose of in furtherance of the purposes of this Act, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise.

(c) USE OF VOLUNTARY AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretaries are authorized to accept voluntary and uncompensated services in furtherance of the purposes of this Act.

TITLE I—SCHOOL-TO-WORK OPPORTUNITIES BASIC PROGRAM COMPONENTS

SEC. 101. GENERAL PROGRAM REQUIREMENTS.

A School-to-Work Opportunities program under this Act shall—

(1) integrate school-based learning and work-based learning, as provided for in sections 102 and 103, integrate academic and occupational learning, and establish effective linkages between secondary and postsecondary education;

(2) provide participating students with the opportunity to complete career majors;

(3) incorporate the program components provided in sections 102 through 104;

(4) provide participating students, to the extent practicable, with strong experience in and understanding of all aspects of the industry the students are preparing to enter; and

(5) provide all students with equal access to the full range of such program components (including both school-based and work-based learning components) and related activities, such as recruitment, enrollment, and placement activities, except that nothing in this Act shall be construed to provide any individual with an entitlement to services under this Act.

SEC. 102. SCHOOL-BASED LEARNING COMPONENT.

The school-based learning component of a School-to-Work Opportunities program shall include—

(1) career awareness and career exploration and counseling (beginning at the earliest possible age, but not later than the 7th grade) in order to help students who may be interested to identify, and select or reconsider, their interests, goals, and career majors, including those options that may not be traditional for their gender, race, or ethnicity;

(2) initial selection by interested students of a career major not later than the beginning of the 11th grade;

(3) a program of study designed to meet the same academic content standards the State has established for all students, including, where applicable, standards established under the Goals 2000: Educate America Act, and to meet the requirements necessary to prepare a student for postsecondary education and the requirements necessary for a student to earn a skill certificate;

(4) a program of instruction and curriculum that integrates academic and vocational learning (including applied methodologies and team-teaching strategies), and incorporates instruction, to the extent practicable, in all aspects of an industry, appropriately tied to the career major of a participant;

(5) regularly scheduled evaluations involving ongoing consultation and problem solving with students and school dropouts to identify their academic strengths and weaknesses, academic progress, workplace knowledge, goals, and the need for additional learning opportunities to master core academic and vocational skills; and

(6) procedures to facilitate the entry of students participating in a School-to-Work Opportunities program into additional training or postsecondary education programs, as well as to facilitate the transfer of the students between education and training programs.

SEC. 103. WORK-BASED LEARNING COMPONENT.

(a) MANDATORY ACTIVITIES.—The work-based learning component of a School-to-Work Opportunities program shall include—

(1) work experience;

(2) a planned program of job training and work experiences (including training related to preemployment and employment skills to be mastered at progressively higher levels) that are coordinated with learning in the school-based learning component described in section 102 and are relevant to the career majors of students and lead to the award of skill certificates;

(3) workplace mentoring;

(4) instruction in general workplace competencies, including instruction and activities related to developing positive work attitudes, and employability and participative skills; and

(5) broad instruction, to the extent practicable, in all aspects of the industry.

(b) PERMISSIBLE ACTIVITIES.—Such component may include such activities as paid work experience, job shadowing, school-sponsored enterprises, or on-the-job training.

SEC. 104. CONNECTING ACTIVITIES COMPONENT.

The connecting activities component of a School-to-Work Opportunities program shall include—

(1) matching students with the work-based learning opportunities of employers;

(2) providing, with respect to each student, a school site mentor to act as a liaison among the student and the employer, school, teacher, school administrator, and parent of the student, and, if appropriate, other community partners;

(3) providing technical assistance and services to employers, including small- and medium-sized businesses, and other parties in—

(A) designing school-based learning components described in section 102, work-based learning components described in section 103, and counseling and case management services; and

(B) training teachers, workplace mentors, school site mentors, and counselors;

(4) providing assistance to schools and employers to integrate school-based and work-

based learning and integrate academic and occupational learning into the program;

(5) encouraging the active participation of employers, in cooperation with local education officials, in the implementation of local activities described in section 102, section 103, or this section;

(6)(A) providing assistance to participants who have completed the program in finding an appropriate job, continuing their education, or entering into an additional training program; and

(B) linking the participants with other community services that may be necessary to assure a successful transition from school to work;

(7) collecting and analyzing information regarding post-program outcomes of participants in the School-to-Work Opportunities program, to the extent practicable, on the basis of socioeconomic status, race, gender, ethnicity, culture, and disability, and on the basis of whether the participants are students with limited-English proficiency, school dropouts, disadvantaged students, or academically talented students; and

(8) linking youth development activities under this Act with employer and industry strategies for upgrading the skills of their workers.

TITLE II—SCHOOL-TO-WORK OPPORTUNITIES SYSTEM DEVELOPMENT AND IMPLEMENTATION GRANTS TO STATES

Subtitle A—State Development Grants

SEC. 201. PURPOSE.

The purpose of this subtitle is to assist States in planning and developing comprehensive statewide School-to-Work Opportunities systems.

SEC. 202. AUTHORIZATION.

(a) GRANTS TO STATES.—

(1) IN GENERAL.—On the application of the Governor on behalf of a State in accordance with section 203, the Secretaries may provide a development grant to the State in such amounts as the Secretaries determine to be necessary to enable such State to complete planning and development of a comprehensive statewide School-to-Work Opportunities system.

(2) AMOUNT.—The amount of a development grant under this section may not exceed $1,000,000 for any fiscal year.

(3) COMPLETION.—The Secretaries may provide such grant to complete development of a statewide School-to-Work Opportunities systems initiated with funds received under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(b) GRANTS TO TERRITORIES.—In providing grants under this section to the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, the Secretaries shall use amounts reserved under section 605(b)(1).

SEC. 203. APPLICATION.

(a) IN GENERAL.—The Secretaries may not provide a development grant under section 202 to a State unless the Governor of the State, on behalf of the State, submits to the Secretaries an application, at such time, in such form, and containing such information as the Secretaries may reasonably require.

(b) CONTENTS.—Such application shall include—

(1) a timetable and an estimate of the amount of funding needed to complete the planning and development necessary to implement a comprehensive statewide School-to-Work Opportunities system for all students;

(2) a description of how—

(A) the Governor;

(B) the State educational agency;

(C) the State agency officials responsible for economic development;

(D) the State agency officials responsible for employment;

(E) the State agency officials responsible for job training;

(F) the State agency officials responsible for postsecondary education;

(G) the State agency officials responsible for vocational education;

(H) the State agency officials responsible for vocational rehabilitation;

(I) the individual assigned by the State under section 111(b)(1) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2321(b)(1));

(J) other appropriate officials, including the State human resource investment council established in accordance with title VII of the Job Training Partnership Act (29 U.S.C. 1792 et seq.), if the State has established such a council; and

(K) representatives of the private sector;

will collaborate in the planning and development of the statewide School-to-Work Opportunities system;

(3) a description of the manner in which the State has obtained and will continue to obtain the active and continued participation, in the planning and development of the statewide School-to-Work Opportunities system, of employers and other interested parties, such as locally elected officials, secondary schools and postsecondary educational institutions (or related agencies), business associations, industrial extension centers, employees, labor organizations or associations of such organizations, teachers, related services personnel, students, parents, community-based organizations, rehabilitation agencies and organizations, Indian tribes, registered apprenticeship agencies, vocational educational agencies, vocational student organizations, and human service agencies;

(4) a description of the manner in which the State will coordinate planning activities with any local school-to-work programs, including programs funded under title III, if any;

(5) a designation of a fiscal agent to receive and be accountable for funds provided from a grant under section 202; and

(6) a description of how the State will provide opportunities for students from low-income families, low-achieving students, students with limited English proficiency, students with disabilities, students living in rural communities with low population densities, school dropouts, and academically talented students to participate in School-to-Work Opportunities programs.

(c) COORDINATION WITH GOALS 2000: EDUCATE AMERICA ACT.—A State seeking assistance under both this subtitle and the Goals 2000: Educate America Act may—

(1) submit a single application containing plans that meet the requirements of such subtitle and such Act and ensure that the plans are coordinated and not duplicative; or

(2) if such State has already submitted its application for funds under the Goals 2000: Educate America Act, submit its application under this subtitle as an amendment to the Goals 2000: Educate America Act application if such amendment meets the requirements of this subtitle and is coordinated with and not duplicative of the Goals 2000: Educate America Act application.

SEC. 204. APPROVAL OF APPLICATION.

The Secretaries may approve an application submitted by a State under section 203 only if the State demonstrates in such application that the activities proposed to be undertaken by the State to develop a statewide School-to-Work Opportunities system are consistent with the State improvement plan for the State, if any, under the Goals 2000: Educate America Act.

SEC. 205. USE OF AMOUNTS.

The Secretaries may not provide a development grant under section 202 to a State unless the State agrees that the State will use all amounts received from such grant for activities to develop a statewide School-to-Work Opportunities system, which may include—

(1) identifying or establishing an appropriate State structure to administer the statewide School-to-Work Opportunities system;

(2) identifying secondary and postsecondary school-to-work programs in existence on or after the date of the enactment of this Act that might be incorporated into such system;

(3) identifying or establishing broad-based partnerships among employers, labor, education, government, and other community-based organizations and parent organizations to participate in the design, development, and administration of School-to-Work Opportunities programs;

(4) developing a marketing plan to build consensus and support for such programs;

(5) promoting the active involvement of business (including small- and medium-sized businesses) in planning, developing, and implementing local School-to-Work Opportunities programs, and in establishing partnerships between business and elementary schools and secondary schools (including middle schools);

(6) identifying ways that local school-to-work programs in existence on or after the date of the enactment of this Act could be coordinated with the statewide School-to-Work Opportunities system;

(7) supporting local planning and development activities to provide guidance, training and technical assistance for teachers, employers, mentors, counselors, administrators, and others in the development of School-to-Work Opportunities programs;

(8) identifying or establishing mechanisms for providing training and technical assistance to enhance the development of the statewide School-to-Work Opportunities system;

(9) developing a training and technical support system for teachers, employers, mentors, counselors, related services personnel, and others that includes specialized training and technical support for the counseling and training of women, minorities, and individuals with disabilities for high-skill, high-wage careers in nontraditional employment;

(10) initiating pilot programs for testing key components of the program design of programs under the statewide School-to-Work Opportunities system;

(11) developing a State process for issuing skill certificates that is, to the extent feasible, consistent with the skill standards certification systems endorsed under the National Skill Standards Act of 1994;

(12) designing challenging curricula, in cooperation with representatives of local partnerships, that take into account the diverse learning needs and abilities of the student population served by the statewide School-to-Work Opportunities system;

(13) developing a system for labor market analysis and strategic planning for local targeting of industry sectors or broad occupational clusters that can provide students with placements in high-skill workplaces;

(14) analyzing the post-high school employment experiences of recent high school graduates and school dropouts;

(15) preparing the plan described in section 213(d);

(16) working with localities to develop strategies to recruit and retain all students in programs under this Act through collaborations with community-based organizations, where appropriate, and other entities with expertise in working with such students;

(17) coordinating recruitment of out-of-school, at-risk, and disadvantaged youths with those organizations and institutions that have a successful history of working with such youths; and

(18) providing technical assistance to rural areas in planning, developing, and implementing local School-to-Work Opportunities programs that meet the needs of rural communities with low population densities.

SEC. 206. MAINTENANCE OF EFFORT.

(a) IN GENERAL.—A State may receive a development grant under section 202 for a fiscal year only if the State provides assurances, satisfactory to the Secretaries, that—

(1) the amount of State funds expended per student by the State for school-to-work activities of the type described in title I for the preceding fiscal year was not less than 90 percent of the amount so expended for the second preceding fiscal year; or

(2) the aggregate amount of State funds expended by the State for such activities for the preceding fiscal year was not less than 90 percent of the amount so expended for the second preceding fiscal year.

(b) WAIVER.—

(1) DETERMINATION.—The Secretaries may jointly waive the requirements described in subsection (a) for a State that requests such a waiver if the Secretaries determine that such a waiver would be equitable due to—

(A) exceptional or uncontrollable circumstances such as a natural disaster; or

(B) a precipitous decline in the financial resources of the State.

(2) REQUEST.—To be eligible to receive such a waiver, a State shall submit a request at such time, in such form, and containing such information as the Secretaries may require.

SEC. 207. REPORTS.

The Secretaries may not provide a development grant under section 202 to a State unless the State agrees that the State will submit to the Secretaries such reports as the Secretaries may reasonably require, relating to the use of amounts from such grant, except that the Secretaries may not require more than 1 such report during any 3-month period.

Subtitle B—State Implementation Grants

SEC. 211. PURPOSE.

The purpose of this subtitle is to assist States in the implementation of comprehensive statewide School-to-Work Opportunities systems.

SEC. 212. AUTHORIZATION.

(a) GRANTS TO STATES.—On the application of the Governor on behalf of a State in accordance with section 213, the Secretaries may provide an implementation grant to the State in such amounts as the Secretaries determine to be necessary to enable such State to implement a comprehensive statewide School-to-Work Opportunities system.

(b) GRANTS TO TERRITORIES.—In providing grants under this section to the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, the Secretaries shall use amounts reserved under section 605(b)(1).

(c) PERIOD OF GRANT.—The provision of payments under a grant under subsection (a) shall not exceed 5 fiscal years and shall be subject to the annual approval of the Secretaries and subject to the availability of appropriations for the fiscal year involved to make the payments.

(d) LIMITATION.—A State shall be eligible to receive only 1 implementation grant under subsection (a).

SEC. 213. APPLICATION.

(a) IN GENERAL.—

(1) SUBMISSION BY GOVERNOR ON BEHALF OF STATE.—Subject to paragraph (2), the Secretaries may not provide an implementation grant under section 212 to a State unless the Governor of the State, on behalf of the State, submits to the Secretaries an application, at such time, in such form, and containing such information as the Secretaries may reasonably require.

(2) REVIEW AND COMMENT BY CERTAIN INDIVIDUALS AND ENTITIES.—If, after a reasonable effort, the Governor is unable in accordance with subsection (d)(4) to obtain the support of the individuals and entities described in subparagraphs (A) through (J) of subsection (b)(4) for the State plan described in subsection (d), then the Governor shall—

(A) provide such individuals and entities with copies of such application;

(B) allow such individuals and entities to submit to the Governor, not later than the end of the 30-day period beginning on the date on which the Governor provides such individuals and entities with copies of such application under subparagraph (A), comments on those portions of the plan that address matters that, under State or other applicable law, are under the jurisdiction of such individuals or entities; and

(C) include any such comments in the application in accordance with subsection (b)(5).

(b) CONTENTS.—Such application shall include—

(1) a plan for a comprehensive, statewide School-to-Work Opportunities system that meets the requirements of subsection (d);

(2) a description of the manner in which the State will allocate funds made available through such a grant to local partnerships under section 215(b)(7);

(3) a request, if the State decides to submit such a request, for 1 or more waivers of certain statutory or regulatory requirements, as provided for under title V;

(4) a description of the manner in which—

(A) the Governor;

(B) the State educational agency;

(C) the State agency officials responsible for economic development;

(D) the State agency officials responsible for employment;

(E) the State agency officials responsible for job training;

(F) the State agency officials responsible for postsecondary education;

(G) the State agency officials responsible for vocational education;

(H) the State agency officials responsible for vocational rehabilitation;

(I) the individual assigned for the State under section 111(b)(1) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2321(b)(1));

(J) other appropriate officials, including the State human resource investment council established in accordance with title VII of the Job Training Partnership Act (29 U.S.C. 1792 et seq.), if the State has established such a council; and

(K) representatives of the private sector;

collaborated in the development of the application;

(5) the comments submitted to the Governor under subsection (a)(2), where applicable; and

(6) such other information as the Secretaries may require.

(c) COORDINATION WITH GOALS 2000: EDUCATE AMERICA ACT.—A State seeking assistance under both this subtitle and the Goals 2000: Educate America Act may—

(1) submit a single application containing plans that meet the requirements of such subtitle and such Act and ensure that the plans are coordinated and not duplicative; or

(2) if such State has already submitted its application for funds under the Goals 2000: Educate America Act, submit its application under this subtitle as an amendment to the Goals 2000: Educate America Act application if such amendment meets the requirements of this subtitle and is coordinated with and not duplicative of the Goals 2000: Educate America Act application.

(d) STATE PLAN.—A State plan referred to in subsection (b)(1) shall—

(1) designate the geographical areas, including urban and rural areas, to be served by local partnerships that receive grants under 215(b), which geographic areas shall, to the extent feasible, reflect local labor market areas;

(2) describe the manner in which the State will stimulate and support local School-to-Work Opportunities programs and the manner in which the statewide School-to-Work Opportunities system will be expanded over time to cover all geographic areas in the State, including urban and rural areas;

(3) describe the procedure by which the individuals and entities described in subsection (b)(4) will collaborate in the implementation of the School-to-Work Opportunities system;

(4) demonstrate the support of individuals and entities described in subparagraphs (A) through (J) of subsection (b)(4) for the plan, except in the case where the Governor is unable to obtain the support of such individuals and entities as provided in subsection (a)(2);

(5) describe the manner in which the State has obtained and will continue to obtain the active and continued involvement, in the statewide School-to-Work Opportunities system, of employers and other interested parties such as locally elected officials, secondary schools and postsecondary educational institutions (or related agencies), business associations, industrial extension centers, employees, labor organizations or associations of such organizations, teachers, related services personnel, students, parents, community-based organizations, rehabilitation agencies and organizations, registered apprenticeship agencies, local vocational educational agencies, vocational student organizations, State or regional cooperative education associations, and human service agencies;

(6) describe the manner in which the statewide School-to-Work Opportunities system will coordinate with or integrate local school-to-work programs in existence on or after the date of the enactment of this Act, including programs financed from State and private sources, with funds available from such related Federal programs as programs under—

(A) the Adult Education Act (20 U.S.C. 1201 et seq.);

(B) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

(C) the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.);

(D) the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.);

(E) part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.);

(F) the Goals 2000: Educate America Act;

(G) the National Skills Standards Act of 1994;

(H) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

(I) the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

(J) the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act"; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.);

(K) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.); and

(L) the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.);

(7) describe the strategy of the State for providing training for teachers, employers, mentors, counselors, related services personnel, and others, including specialized training and technical support for the counseling and training of women, minorities, and individuals with disabilities for high-skill, high-wage careers in nontraditional employment, and provide assurances of coordination with similar training and technical support under other provisions of law;

(8) describe how the State will adopt, develop, or assist local partnerships to adopt or develop

model curricula and innovative instructional methodologies, to be used in the secondary, and where possible, the elementary grades, that integrate academic and vocational learning and promote career awareness, and that are consistent with academic and skill standards established pursuant to the Goals 2000: Educate America Act and the National Skill Standards Act of 1994;

(9) describe how the State will expand and improve career and academic counseling in the elementary and secondary grades, which may include linkages to career counseling and labor market information services outside of the school system;

(10) describe the strategy of the State for integrating academic and vocational education;

(11) describe the resources, including private sector resources, the State intends to employ in maintaining the statewide School-to-Work Opportunities system when funds under this Act are no longer available;

(12) describe the extent to which the statewide School-to-Work Opportunities system will include programs that will require paid high-quality, work-based learning experiences, and the steps the State will take to generate such paid experiences;

(13) describe the manner in which the State will ensure effective and meaningful opportunities for all students in the State to participate in School-to-Work Opportunities programs;

(14) describe the goals of the State and the methods the State will use, such as awareness and outreach, to ensure opportunities for young women to participate in School-to-Work Opportunities programs in a manner that leads to employment in high-performance, high-paying jobs, including nontraditional employment, and goals to ensure an environment free from racial and sexual harassment;

(15) describe how the State will ensure opportunities for low achieving students, students with disabilities, school dropouts, and academically talented students to participate in School-to-Work Opportunities programs;

(16) describe the process of the State for assessing the skills and knowledge required in career majors, and the process for awarding skill certificates that is, to the extent feasible, consistent with the skills standards certification systems endorsed under the National Skill Standards Act of 1994;

(17) describe the manner in which the State will ensure that students participating in the programs are provided, to the greatest extent possible, with flexibility to develop new career goals over time and to change career majors;

(18) describe the manner in which the State will, to the extent feasible, continue programs funded under title III in the statewide School-to-Work Opportunities system;

(19) describe how the State will serve students from rural communities with low population densities;

(20) describe how local School-to-Work Opportunities programs, including those funded under title III, if any, will be integrated into the statewide School-to-Work Opportunities system;

(21) describe the performance standards that the State intends to meet in establishing and carrying out the statewide School-to-Work Opportunities system, including how such standards relate to those performance standards established under other related programs;

(22) designate a fiscal agent to receive and be accountable for funds provided from a grant under section 212; and

(23) describe the procedures to facilitate the entry of students participating in a School-to-Work Opportunities program into additional training or postsecondary education programs, as well as to facilitate the transfer of the students between education and training programs.

SEC. 214. REVIEW OF APPLICATION.

(a) CONSIDERATIONS.—In evaluating applications submitted under section 213, the Secretaries shall—

(1) give priority to applications that describe the highest levels of concurrence by the individuals and entities described in section 213(b)(4) with the State plan for the statewide School-to-Work Opportunities system;

(2) give priority to applications that require paid, high-quality work-based learning experiences as an integral part of such system; and

(3) take into consideration the quality of the application, including the replicability, sustainability, and innovation of School-to-Work Opportunities programs described in the application.

(b) APPROVAL CRITERIA.—The Secretaries—

(1) shall approve only those applications submitted under section 213 that demonstrate the highest levels of collaboration by the individuals and entities described in section 213(b)(4) in the development and implementation of the statewide School-to-Work system;

(2) shall approve an application submitted under section 213 only if the State provides the assurances described in section 206(a) (relating to maintenance of effort) in accordance with such section, except that this requirement may be waived in accordance with section 206(b); and

(3) may approve an application submitted under section 213 only if the State demonstrates in the application—

(A) that other Federal, State, and local resources will be used to implement the proposed State plan;

(B) the extent to which such plan would limit administrative costs and increase amounts spent on delivery of services to students enrolled in programs under this Act;

(C) that the State, where appropriate, will ensure the establishment of a partnership in at least 1 urban and 1 rural area in the State; and

(D) that the State plan contained in such application is consistent with the State improvement plan for the State, if any, under the Goals 2000: Educate America Act.

(c) ACTIONS.—

(1) IN GENERAL.—In reviewing each application submitted under section 213, the Secretaries shall determine whether the application and the plan described in such application meet the approval criteria in subsection (b).

(2) ACTIONS AFTER AFFIRMATIVE DETERMINATION.—If the determination under paragraph (1) is affirmative, the Secretaries may take 1 or more of the following actions:

(A) Provide an implementation grant under section 212 to the State submitting the application.

(B) Approve the request of the State, if any, for a waiver in accordance with the procedures set forth in title V.

(3) ACTION AFTER NONAFFIRMATIVE DETERMINATION.—If the determination under paragraph (1) is not affirmative, the Secretaries shall inform the State of the opportunity to apply for development funds under subtitle A in accordance with such subtitle.

(d) USE OF FUNDS FOR REVIEW OF APPLICATIONS.—The Secretaries may use amounts reserved under section 605(b)(4) for the review of applications submitted under section 213.

SEC. 215. USE OF AMOUNTS.

(a) IN GENERAL.—The Secretaries may not provide an implementation grant under section 212 to a State unless the State agrees that the State will use all amounts received from such grant to implement the statewide School-to-Work Opportunities system in accordance with this section.

(b) SUBGRANTS TO LOCAL PARTNERSHIPS.—

(1) AUTHORITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the State shall provide subgrants to local partnerships, according to criteria established by the State, for the purpose of carrying out School-to-Work Opportunities programs.

(B) PROHIBITION.—The State shall not provide subgrants to local partnerships that have received implementation grants under title III, except that this prohibition shall not apply with respect to local partnerships that are located in high poverty areas, as such term is defined in section 307.

(2) APPLICATION.—A local partnership that seeks a subgrant to carry out a local School-to-Work Opportunities program, including a program initiated under section 302, shall submit an application to the State that—

(A) describes how the program will include the program components described in sections 102, 103, and 104 and otherwise meet the requirements of this Act;

(B) sets forth measurable program goals and outcomes;

(C) describes the local strategies and timetables of the local partnership to provide opportunities for all students in the area served to participate in a School-to-Work Opportunities program;

(D) describes the extent to which the program will require paid high-quality, work-based learning experiences, and the steps the local partnerships will take to generate such paid experiences;

(E) describes the process that will be used to ensure employer involvement in the development and implementation of the local School-to-Work Opportunities program;

(F) provides assurances that, to the extent practicable, opportunities provided to students to participate in a School-to-Work Opportunities program will be in industries and occupations offering high-skill, high-wage employment opportunities;

(G) provides such other information as the State may require; and

(H) is submitted at such time and in such form as the State may require.

(3) DISAPPROVAL OF APPLICATION.—If the State determines that an application submitted by a local partnership does not meet the criteria under paragraph (2), or that the application is incomplete or otherwise unsatisfactory, the State shall—

(A) notify the local partnership of the reasons for the failure to approve the application; and

(B) permit the local partnership to resubmit a corrected or amended application.

(4) ALLOWABLE ACTIVITIES.—A local partnership shall expend funds provided through subgrants under this subsection only for activities undertaken to carry out local School-to-Work Opportunities programs, and such activities may include, for each such program—

(A) recruiting and providing assistance to employers, including small- and medium-size businesses, to provide the work-based learning components described in section 103;

(B) establishing consortia of employers to support the School-to-Work Opportunities program and provide access to jobs related to the career majors of students;

(C) supporting or establishing intermediaries (selected from among the members of the local partnership) to perform the activities described in section 104 and to provide assistance to students or school dropouts in obtaining jobs and further education and training;

(D) designing or adapting school curricula that can be used to integrate academic, vocational, and occupational learning, school-based and work-based learning, and secondary and postsecondary education for all students in the area served;

(E) providing training to work-based and school-based staff on new curricula, student assessments, student guidance, and feedback to the school regarding student performance;

(F) establishing, in schools participating in the School-to-Work Opportunities program, a graduation assistance program to assist at-risk students, low-achieving students, and students with disabilities, in graduating from high school, enrolling in postsecondary education or training, and finding or advancing in jobs;

(G) providing career exploration and awareness services, counseling and mentoring services, college awareness and preparation services, and other services (beginning at the earliest possible age, but not later than the 7th grade) to prepare students for the transition from school to work;

(H) providing supplementary and support services, including child care and transportation, when such services are necessary for participation in a local School-to-Work Opportunities program;

(I) conducting or obtaining an in-depth analysis of the local labor market and the generic and specific skill needs of employers to identify high-demand, high-wage careers to target;

(J) integrating school-based and work-based learning into job training programs that are for school dropouts and that are in existence on or after the date of the enactment of this Act;

(K) establishing or expanding school-to-apprenticeship programs in cooperation with registered apprenticeship agencies and apprenticeship sponsors;

(L) assisting participating employers, including small- and medium-size businesses, to identify and train workplace mentors and to develop work-based learning components;

(M) promoting the formation of partnerships between elementary schools and secondary schools (including middle schools) and local businesses as an investment in future workplace productivity and competitiveness;

(N) designing local strategies to provide adequate planning time and staff development activities for teachers, school counselors, related services personnel, and school site mentors, including opportunities outside the classroom that are at the worksite;

(O) enhancing linkages between after-school, weekend, and summer jobs, career exploration, and school-based learning; and

(P) obtaining the assistance of organizations and institutions that have a history of success in working with school dropouts and at-risk and disadvantaged youths in recruiting such school dropouts and youths to participate in the local School-to-Work Opportunities program.

(5) LOCAL PARTNERSHIP COMPACT.—The State may not provide a subgrant under paragraph (1) to a local partnership unless the partnership agrees that the local partnership will establish a process by which the responsibilities and expectations of students, parents, employers, and schools are clearly established and agreed upon at the point of entry of the student into a career major program of study.

(6) ADMINISTRATIVE COSTS.—The local partnership may not use more than 10 percent of amounts received from a subgrant under paragraph (1) for any fiscal year for administrative costs associated with activities in carrying out, but not including, activities under paragraphs (4) and (5) for such fiscal year.

(7) ALLOCATION REQUIREMENTS.—

(A) FIRST YEAR.—In the 1st fiscal year for which a State receives amounts from a grant under section 212, the State shall use not less than 70 percent of such amounts to provide subgrants to local partnerships under paragraph (1).

(B) SECOND YEAR.—In the 2d fiscal year for which a State receives amounts from a grant under section 212, the State shall use not less than 80 percent of such amounts to provide subgrants to local partnerships under paragraph (1).

(C) THIRD YEAR AND SUCCEEDING YEARS.—In the 3d fiscal year for which a State receives amounts from a grant under section 212, and in each succeeding year, the State shall use not less than 90 percent of such amounts to provide subgrants to local partnerships under paragraph (1).

(c) ADDITIONAL STATE ACTIVITIES.—In carrying out the statewide School-to-Work Opportunities system, the State may also—

(1) recruit and provide assistance to employers to provide work-based learning for all students;

(2) conduct outreach activities to promote and support collaboration, in School-to-Work Opportunities programs, by businesses, labor organizations, and other organizations;

(3) provide training for teachers, employers, workplace mentors, school site mentors, counselors, related services personnel, and other parties;

(4) provide labor market information to local partnerships that is useful in determining which high-skill, high-wage occupations are in demand;

(5) design or adapt model curricula that can be used to integrate academic, vocational, and occupational learning, school-based and work-based learning, and secondary and postsecondary education, for all students in the State;

(6) design or adapt model work-based learning programs and identify best practices for such programs;

(7) conduct outreach activities and provide technical assistance to other States that are developing or implementing School-to-Work Opportunities systems;

(8) reorganize and streamline school-to-work programs in the State to facilitate the development of a comprehensive statewide School-to-Work Opportunities system;

(9) identify ways that local school-to-work programs in existence on or after the date of the enactment of this Act could be integrated with the statewide School-to-Work Opportunities system;

(10) design career awareness and exploration activities (beginning at the earliest possible age, but not later than the 7th grade), such as job shadowing, job site visits, school visits by individuals in various occupations, and mentoring;

(11) design and implement school-sponsored work experiences, such as school-sponsored enterprises and community development projects;

(12) promote the formation of partnerships between elementary schools and secondary schools (including middle schools) and local businesses as an investment in future workplace productivity and competitiveness;

(13) obtain the assistance of organizations and institutions that have a history of success in working with school dropouts and at-risk and disadvantaged youths in recruiting such school dropouts and youths to participate in the statewide School-to-Work Opportunities system;

(14) conduct outreach to all students in a manner that most appropriately meets their needs and the needs of their communities; and

(15) provide career exploration and awareness services, counseling and mentoring services, college awareness and preparation services, and other services (beginning at the earliest possible age, but not later than the 7th grade) to prepare students for the transition from school to work.

SEC. 216. ALLOCATION REQUIREMENT.

The Secretaries shall establish the minimum and maximum amounts available for an implementation grant under section 212, and shall determine the actual amount granted to any State under such section, based on such criteria as the scope and quality of the plan described in section 213(d) and the number of projected participants in programs carried out through the system.

SEC. 217. LIMITATION ON ADMINISTRATIVE COSTS.

A State that receives an implementation grant under section 212 may not use more than 10 percent of the amounts received through the grant for any fiscal year for administrative costs associated with implementing the statewide School-to-Work Opportunities system for such fiscal year.

SEC. 218. REPORTS.

The Secretaries may not provide an implementation grant under section 212 to a State unless the State agrees that the State will submit to the Secretaries such reports as the Secretaries may reasonably require, relating to the use of amounts from such grant, except that the Secretaries may not require more than 1 such report during any 3-month period.

Subtitle C—Development and Implementation Grants for School-to-Work Programs for Indian Youths

SEC. 221. AUTHORIZATION.

(a) IN GENERAL.—From amounts reserved under section 605(b)(2), the Secretaries shall provide grants to establish and carry out School-to-Work Opportunities programs for Indian youths that involve Bureau funded schools (as defined in section 1139(3) of the Education Amendments of 1978 (25 U.S.C. 2019(3))).

(b) ADDITIONAL AUTHORITIES.—The Secretaries may carry out subsection (a) through such means as the Secretaries find appropriate, including—

(1) the transfer of funds to the Secretary of the Interior; and

(2) the provision of financial assistance to Indian tribes and Indian organizations.

SEC. 222. REQUIREMENTS.

In providing grants under section 221, the Secretaries shall require recipients of such grants to comply with requirements similar to those requirements imposed on States under subtitles A and B of this title.

TITLE III—FEDERAL IMPLEMENTATION GRANTS TO LOCAL PARTNERSHIPS

SEC. 301. PURPOSES.

The purposes of this title are—

(1) to authorize the Secretaries to provide competitive grants directly to local partnerships in order to provide funding for communities that have built a sound planning and development base for School-to-Work Opportunities programs and are ready to begin implementing a local School-to-Work Opportunities program; and

(2) to authorize the Secretaries to provide competitive grants to local partnerships to implement School-to-Work Opportunities programs in high poverty areas of urban and rural communities to provide support for a comprehensive range of education, training, and support services for youths residing in such areas.

SEC. 302. AUTHORIZATION.

(a) GRANTS TO LOCAL PARTNERSHIPS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretaries may provide implementation grants, in accordance with competitive criteria established by the Secretaries, directly to local partnerships in States in such amounts as the Secretaries determine to be necessary to enable such partnerships to implement School-to-Work Opportunities programs.

(2) RESTRICTIONS.—A local partnership—

(A) shall be eligible to receive only 1 grant under this subsection; and

(B) shall not be eligible to receive a grant under this subsection if such partnership is located in a State that—

(i) has been provided an implementation grant under section 212; and

(ii) has received amounts from such grant for any fiscal year after the 1st fiscal year under such grant.

(b) GRANTS TO LOCAL PARTNERSHIPS IN HIGH POVERTY AREAS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretaries shall, from amounts reserved under section 605(b)(3), provide grants to local partnerships that are located in high poverty areas in States in such amounts as the Secretaries determine to be necessary to enable such partnerships to implement School-to-Work Opportunities programs in such areas.

(2) RESTRICTION.—A local partnership shall be eligible to receive only 1 grant under this subsection.

(3) PRIORITY.—In providing grants under paragraph (1), the Secretaries shall give priority to local partnerships that have a demonstrated effectiveness in the delivery of comprehensive vocational preparation programs with successful rates in job placement through cooperative activities among local educational agencies, local businesses, labor organizations, and other organizations.

(c) PERIOD OF GRANT.—The provision of payments under a grant under subsection (a) or (b) shall not exceed 5 fiscal years and shall be subject to the annual approval of the Secretaries and subject to the availability of appropriations for the fiscal year involved to make the payments.

SEC. 303. APPLICATION.

(a) IN GENERAL.—A local partnership that desires to receive a Federal implementation grant under section 302 shall submit an application to the Secretaries at such time and in such form as the Secretaries may require. The local partnership shall submit the application to the State for review and comment before submitting the application to the Secretaries.

(b) TIME LIMIT FOR STATE REVIEW AND COMMENT.—

(1) IN GENERAL.—The State shall provide for review and comment on the application under subsection (a) not later than 30 days after the date on which the State receives the application from the local partnership.

(2) SUBMISSION WITHOUT STATE REVIEW AND COMMENT.—If the State does not provide review and comment within the 30-day time period specified in paragraph (1), the local partnership may submit the application to the Secretaries without first obtaining such review and comment.

(c) CONTENTS.—The application described in subsection (a) shall include a plan for local School-to-Work Opportunities programs that—

(1) describes the manner in which the local partnership will meet the requirements of this Act;

(2) includes the comments of the State on the plan, if any;

(3) contains information that is consistent with the information required to be submitted as part of a State plan in accordance with paragraphs (5) through (17) and paragraph (23) of section 213(d);

(4) designates a fiscal agent to receive and be accountable for funds under this section; and

(5) provides such other information as the Secretaries may require.

(d) USE OF FUNDS FOR REVIEW OF APPLICATIONS.—The Secretaries may use amounts reserved under section 605(b)(4) for the review of applications submitted under subsection (a).

SEC. 304. USE OF AMOUNTS.

The Secretaries may not provide an implementation grant under section 302 to a local partnership unless the partnership agrees that it will use all amounts from such grant to carry out activities to implement a School-to-Work Opportunities program, including the activities described in section 215(b)(4).

SEC. 305. CONFORMITY WITH APPROVED STATE PLAN.

The Secretaries shall not provide a grant under section 302 to a local partnership in a State that has an approved State plan unless the Secretaries determine, after consultation with the State, that the plan submitted by the partnership is in accordance with such approved State plan.

SEC. 306. REPORTS.

The Secretaries may not provide an implementation grant under section 302 to a local partnership unless the partnership agrees that the local partnership will submit to the Secretaries such reports as the Secretaries may reasonably require, relating to the use of amounts from such grant, except that the Secretaries may not require more than 1 such report during any 3-month period.

SEC. 307. HIGH POVERTY AREA DEFINED.

For purposes of this title, the term "high poverty area" means an urban census tract, a contiguous group of urban census tracts, a block number area in a nonmetropolitan county, a contiguous group of block number areas in a nonmetropolitan county, or an Indian reservation (as defined in section 403(9) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3202(9))), with a poverty rate of 20 percent or more among individuals who have not attained the age of 22, as determined by the Bureau of the Census.

TITLE IV—NATIONAL PROGRAMS

SEC. 401. RESEARCH, DEMONSTRATION, AND OTHER PROJECTS.

(a) IN GENERAL.—The Secretaries shall conduct research and development projects and establish a program of experimental and demonstration projects, to further the purposes of this Act.

(b) ADDITIONAL USE OF FUNDS.—The Secretaries may provide assistance for programs or services authorized under any other provision of this Act that are most appropriately administered at the national level and that will operate in, or benefit, more than 1 State.

SEC. 402. PERFORMANCE OUTCOMES AND EVALUATION.

(a) IN GENERAL.—The Secretaries, in collaboration with the States, shall by grant, contract, or otherwise, establish a system of performance measures for assessing State and local programs regarding—

(1) progress in the development and implementation of State plans described in section 213(d) that include the basic program components described in sections 102, 103, and 104 and otherwise meet the requirements of title I;

(2) participation in School-to-Work Opportunities programs by employers, schools, students, and school dropouts, including information on the gender, race, ethnicity, socioeconomic background, limited-English proficiency, and disability of all participants and whether the participants are academically talented students;

(3) progress in developing and implementing strategies for addressing the needs of students and school dropouts;

(4) progress in meeting the goals of the State to ensure opportunities for young women to participate in School-to-Work Opportunities programs, including participation in nontraditional employment through such programs;

(5) outcomes for participating students and school dropouts, by gender, race, ethnicity, socioeconomic background, limited-English proficiency, and disability of the participants, and whether the participants are academically talented students, including information on—

(A) academic learning gains;

(B) staying in school and attaining—

(i) a high school diploma, or a general equivalency diploma, or an alternative diploma or certificate for those students with disabilities for whom such alternative diploma or certificate is appropriate;

(ii) a skill certificate; and

(iii) a postsecondary degree;

(C) attainment of strong experience in and understanding of all aspects of the industry the students are preparing to enter;

(D) placement and retention in further education or training, particularly in the career major of the student; and

(E) job placement, retention, and earnings, particularly in the career major of the student; and

(6) the extent to which the program has met the needs of employers.

(b) EVALUATION.—Not later than September 30, 1998, the Secretaries shall complete a national evaluation of School-to-Work Opportunities programs funded under this Act by grants, contracts, or otherwise, that will track and assess the progress of implementation of State and local programs and their effectiveness based on measures such as those measures described in subsection (a).

(c) REPORTS TO THE SECRETARIES.—

(1) IN GENERAL.—Each State shall prepare and submit to the Secretaries periodic reports, at such intervals as the Secretaries may determine, containing information regarding the matters described in paragraphs (1) through (6) of subsection (a).

(2) FEDERAL PROGRAMS.—Each State shall prepare and submit reports to the Secretaries, at such intervals as the Secretaries may determine, containing information on the extent to which Federal programs that are in existence on the date of submission of the report and that are implemented at the State or local level may be duplicative, outdated, overly restrictive, or otherwise counterproductive to the development of comprehensive statewide School-to-Work Opportunities systems.

SEC. 403. TRAINING AND TECHNICAL ASSISTANCE.

(a) PURPOSE.—The Secretaries shall work in cooperation with the States, the individuals assigned under section 111(b)(1) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2321(b)(1)), employers and their associations, secondary schools and postsecondary educational institutions, student and teacher organizations, labor organizations, and community-based organizations, to increase their capacity to develop and implement effective School-to-Work Opportunities programs.

(b) AUTHORIZED ACTIVITIES.—The Secretaries shall provide, through grants, contracts, or otherwise—

(1) training, technical assistance, and other activities that will—

(A) enhance the skills, knowledge, and expertise of the personnel involved in planning and implementing State and local School-to-Work Opportunities programs, such as training of the personnel to assist students; and

(B) improve the quality of services provided to individuals served under this Act;

(2) assistance to States and local partnerships involved in carrying out School-to-Work Opportunities programs in order to integrate resources available under this Act with resources available under other Federal, State, and local authorities;

(3) assistance to States and such local partnerships, including local partnerships in rural communities with low population densities or in urban areas, to recruit employers to provide the work-based learning component, described in section 103, of School-to-Work Opportunities programs; and

(4) assistance to States and local partnerships involved in carrying out School-to-Work Opportunities programs to design and implement school-sponsored enterprises.

SEC. 404. CAPACITY BUILDING AND INFORMATION AND DISSEMINATION NETWORK.

The Secretaries, acting through such mechanisms as the Capacity Building and Information *and Dissemination Network established under section 453(b) of the Job Training Partnership Act (29 U.S.C. 1733(b)), the Educational Resources Information Center Clearinghouses referred to in the Educational Research, Development, Dissemination, and Improvement Act of 1994, and the National Network for Curriculum Coordination in Vocational and Technical Education under section 402(c) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2402(c)), shall—*

(1) collect and disseminate information—

(A) on successful School-to-Work Opportunities programs and innovative school- and work-based curricula;

(B) on research and evaluation conducted concerning school-to-work activities;

(C) that will assist States and local partnerships in undertaking labor market analysis, surveys, or other activities related to economic development;

(D) on skill certificates, skill standards, and related assessment technologies; and

(E) on methods for recruiting and building the capacity of employers to provide work-based learning opportunities; and

(2) facilitate communication and the exchange of information and ideas among States and local partnerships carrying out School-to-Work Opportunities programs.

SEC. 405. REPORTS TO CONGRESS.

(a) In General.—Not later than 24 months after the date of the enactment of this Act, and every 12 months thereafter, the Secretaries shall prepare and submit a report to the Congress on all activities carried out pursuant to this Act.

(b) Contents.—The Secretaries shall, at a minimum, include in each such report—

(1) information concerning the programs that receive assistance under this Act;

(2) a summary of the information contained in the State and local partnership reports submitted under titles II and III and section 402(c); and

(3) information regarding the findings and actions taken as a result of any evaluation conducted by the Secretaries.

SEC. 406. FUNDING.

The Secretaries shall use funds reserved under section 605(b)(4) to carry out activities under this title.

TITLE V—WAIVER OF STATUTORY AND REGULATORY REQUIREMENTS

SEC. 501. STATE AND LOCAL PARTNERSHIP REQUESTS AND RESPONSIBILITIES FOR WAIVERS.

(a) State Request for Waiver.—A State may submit to the Secretaries a request for a waiver of 1 or more requirements of the provisions of law referred to in sections 502 and 503, or of the regulations issued under such provisions, in order to carry out the statewide School-to-Work Opportunities system established by such State under subtitle B of title II. The State may submit the request as a part of the application described in section 213 (or as an amendment to the application at any time after submission of the application). Such request may include a request for different waivers with respect to different areas within the State.

(b) Local Partnership Request for Waiver.—

(1) In general.—A local partnership that seeks a waiver of such a requirement shall submit an application for such waiver to the State, and the State shall determine whether to submit a request for a waiver to the Secretaries, as provided in subsection (a).

(2) Time limit.—

(A) In general.—The State shall make a determination to submit or not submit the request for a waiver under paragraph (1) not later than 30 days after the date on which the State receives the application from the local partnership.

(B) Direct submission.—

(i) In general.—If the State does not make a determination to submit or not submit the request within the 30-day time period specified in subparagraph (A), the local partnership may submit the application to the Secretaries.

(ii) Requirements.—In submitting such an application, the local partnership shall obtain the agreement of the State involved to comply with the requirements of section 502(a)(1)(C) or 503(a)(1)(C), as appropriate, and comply with the other requirements of section 502 or 503, as appropriate, and of subsections (c) and (d), that would otherwise apply to a State submitting a request for a waiver. In reviewing such an application, the Secretaries shall comply with the requirements of such section and such subsections that would otherwise apply to the Secretaries with respect to review of such a request.

(c) Waiver Criteria.—Any such request by the State shall meet the criteria contained in section 502 or 503 and shall specify the provisions or regulations referred to in such sections with respect to which the State seeks a waiver.

(d) Support by Appropriate State Agencies.—In requesting such a waiver, the State shall provide evidence of support for the waiver request by the State agencies or officials with jurisdiction over the provisions or regulations that would be waived.

SEC. 502. WAIVER AUTHORITY OF SECRETARY OF EDUCATION.

(a) Waiver Authority.—

(1) In general.—Except as provided in subsection (c), the Secretary of Education may waive any requirement under any provision of law referred to in subsection (b), or of any regulation issued under such provision, for a State that requests such a waiver and has an approved State plan—

(A) if, and only to the extent that, the Secretary of Education determines that such requirement impedes the ability of the State or a local partnership to carry out the purposes of this Act;

(B) if the State provides the Secretary of Education with documentation of the necessity for the waiver, including information concerning—

(i) the specific requirement that will be waived;

(ii) the specific positive outcomes expected from the waiver and why those outcomes cannot be achieved while complying with the requirement;

(iii) the process that will be used to monitor the progress of the State or local partnership in implementing the waiver; and

(iv) such other information as the Secretary of Education may require;

(C) if the State waives, or agrees to waive, similar requirements of State law; and

(D) if the State—

(i) has provided all local partnerships that carry out programs under this Act, and local educational agencies participating in such a local partnership, in the State with notice and an opportunity to comment on the proposal of the State to seek a waiver;

(ii) provides, to the extent feasible, to students, parents, advocacy and civil rights groups, and labor and business organizations an opportunity to comment on the proposal of the State to seek a waiver; and

(iii) has submitted the comments of the local partnerships and local educational agencies to the Secretary of Education.

(2) Approval or disapproval.—The Secretary of Education shall promptly approve or disapprove any request submitted pursuant to paragraph (1) and shall issue a decision that shall—

(A) include the reasons for approving or disapproving the request, including a response to comments on the proposal; and

(B) in the case of a decision to approve the request, be disseminated by the State seeking the waiver to interested parties, including educators, parents, students, advocacy and civil rights organizations, labor and business organizations, and the public.

(3) Approval criteria.—In approving a request under paragraph (2), the Secretary of Education shall consider the amount of State resources that will be used to implement the approved State plan.

(4) Term.—Each waiver approved pursuant to this subsection shall be for a period not to exceed 5 years, except that the Secretary of Education may extend such period if the Secretary of Education determines that the waiver has been effective in enabling the State or local partnership to carry out the purposes of this Act.

(b) Included Programs.—The provisions subject to the waiver authority of this section are—

(1) chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.), including the Even Start programs carried out under part B of such chapter (20 U.S.C. 2741 et seq.);

(2) part A of chapter 2 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2921 et seq.);

(3) part A of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2981 et seq.);

(4) part D of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3121 et seq.);

(5) title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3171 et seq.); and

(6) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(c) Waivers Not Authorized.—The Secretary of Education may not waive any requirement of any provision referred to in subsection (b), or of any regulation issued under such provision, relating to—

(1) the basic purposes or goals of such provision;

(2) maintenance of effort;

(3) comparability of services;

(4) the equitable participation of students attending private schools;

(5) student and parental participation and involvement;

(6) the distribution of funds to State or local educational agencies;

(7) the eligibility of an individual for participation in a program under such provision;

(8) public health or safety, labor standards, civil rights, occupational safety and health, or environmental protection; or

(9) prohibitions or restrictions relating to the construction of buildings or facilities.

(d) Termination of Waivers.—The Secretary of Education shall periodically review the performance of any State, local partnership, or local educational agency, for which the Secretary of Education has granted a waiver under this section and shall terminate the waiver under this section if the Secretary of Education determines that the performance of the State, local partnership, or local educational agency that is affected by the waiver has been inadequate to justify a continuation of the waiver, or the State fails to waive similar requirements of State law as required or agreed to in accordance with subsection (a)(1)(C).

SEC. 503. WAIVER AUTHORITY OF SECRETARY OF LABOR.

(a) Waiver Authority.—

(1) In general.—Except as provided in subsection (b), the Secretary of Labor may waive any requirement under any provision of the Job Training Partnership Act (29 U.S.C. 1501 et

seq.), or of any regulation issued under such provision, for a State that requests such a waiver and has an approved State plan—

(A) if, and only to the extent that, the Secretary of Labor determines that such requirement impedes the ability of the State or a local partnership to carry out the purposes of this Act;

(B) if the State provides the Secretary of Labor with documentation of the necessity for the waiver, including information concerning—

(i) the specific requirement that will be waived;

(ii) the specific positive outcomes expected from the waiver and why those outcomes cannot be achieved while complying with the requirement;

(iii) the process that will be used to monitor the progress of the State or local partnership in implementing the waiver; and

(iv) such other information as the Secretary of Labor may require;

(C) if the State waives, or agrees to waive, similar requirements of State law; and

(D) if the State—

(i) has provided all local partnerships that carry out programs under this Act in the State with notice and an opportunity to comment on the proposal of the State to seek a waiver;

(ii) provides, to the extent feasible, to students, parents, advocacy and civil rights groups, and labor and business organizations an opportunity to comment on the proposal of the State to seek a waiver; and

(iii) has submitted the comments of the local partnerships to the Secretary of Labor.

(2) APPROVAL OR DISAPPROVAL.—The Secretary of Labor shall promptly approve or disapprove any request submitted pursuant to paragraph (1) and shall issue a decision that shall—

(A) include the reasons for approving or disapproving the request, including a response to comments on the proposal; and

(B) in the case of a decision to approve the request, be disseminated by the State seeking the waiver to interested parties, including educators, parents, students, advocacy and civil rights organizations, labor and business organizations, and the public.

(3) APPROVAL CRITERIA.—In approving a request under paragraph (2), the Secretary of Labor shall consider the amount of State resources that will be used to implement the approved State plan.

(4) TERM.—Each waiver approved pursuant to this subsection shall be for a period not to exceed 5 years, except that the Secretary of Labor may extend such period if the Secretary of Labor determines that the waiver has been effective in enabling the State or local partnership to carry out the purposes of this Act.

(b) WAIVERS NOT AUTHORIZED.—The Secretary of Labor may not waive any requirement under any provision of the Job Training Partnership Act (29 U.S.C. 1501 et seq.), or of any regulation issued under such provision, relating to—

(1) the basic purposes or goals of such provision;

(2) maintenance of effort;

(3) the distribution of funds;

(4) the eligibility of an individual for participation in a program under such provision;

(5) public health or safety, labor standards, civil rights, occupational safety and health, or environmental protection; or

(6) prohibitions or restrictions relating to the construction of buildings or facilities.

(c) TERMINATION OF WAIVERS.—The Secretary of Labor shall periodically review the performance of any State or local partnership for which the Secretary of Labor has granted a waiver under this section and shall terminate the waiver under this section if the Secretary of Labor determines that the performance of the State or local partnership affected by the waiver has been inadequate to justify a continuation of the waiver, or the State fails to waive similar requirements of State law as required or agreed to in accordance with subsection (a)(1)(C).

SEC. 504. COMBINATION OF FEDERAL FUNDS FOR HIGH POVERTY SCHOOLS.

(a) IN GENERAL.—

(1) PURPOSES.—The purposes of this section are—

(A) to integrate activities under this Act with school-to-work activities carried out under other Acts; and

(B) to maximize the effective use of resources.

(2) COMBINATION OF FUNDS.—To carry out such purposes, a local partnership that receives assistance under title II or III may carry out schoolwide school-to-work activities in schools that meet the requirements of subparagraphs (A) and (B) of section 263(g)(1) of the Job Training Partnership Act (29 U.S.C. 1643(g)(1) (A) and (B)) with funds obtained by combining—

(A) Federal funds under this Act; and

(B) other Federal funds made available from among programs under—

(i) the provisions of law listed in paragraphs (2) through (6) of section 502(b); and

(ii) the Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(b) USE OF FUNDS.—A local partnership may use the Federal funds combined under subsection (a) under the requirements of this Act, except that the provisions relating to the matters specified in paragraphs (1) through (6) and paragraphs (8) and (9) of section 502(c), and paragraphs (1) through (3) and paragraphs (5) and (6) of section 503(b), that relate to the program through which the funds described in subsection (a)(2)(B) were made available, shall remain in effect with respect to the use of such funds.

(c) ADDITIONAL INFORMATION IN APPLICATION.—A local partnership seeking to combine funds under subsection (a) shall include in the application of the local partnership under title II or III—

(1) a description of the funds the local partnership proposes to combine under the requirements of this Act;

(2) the activities to be carried out with such funds;

(3) the specific outcomes expected of participants in schoolwide school-to-work activities; and

(4) such other information as the State, or Secretaries, as the case may be, may require.

(d) PROVISION OF INFORMATION.—The local partnership shall, to the extent feasible, provide information on the proposed combination of Federal funds under subsection (a) to educators, parents, students, advocacy and civil rights organizations, labor and business organizations, and the public.

SEC. 505. COMBINATION OF FEDERAL FUNDS BY STATES FOR SCHOOL-TO-WORK ACTIVITIES.

(a) IN GENERAL.—

(1) PURPOSES.—The purposes of this section are—

(A) to integrate activities under this Act with State school-to-work activities carried out under other Acts; and

(B) to maximize the effective use of resources.

(2) COMBINATION OF FUNDS.—To carry out such purposes, a State that has an approved State plan may carry out activities necessary to develop and implement a statewide School-to-Work Opportunities system with funds obtained by combining—

(A) Federal funds under this Act; and

(B) other Federal funds that are made available under—

(i) section 102(a)(3) of the Carl D. Perkins Vocational Education and Applied Technology Education Act (20 U.S.C. 2312(a)(3));

(ii) section 202(c)(1)(C) or section 262(c)(1)(C) of the Job Training Partnership Act (29 U.S.C. 1602(c)(1)(C) or 1642(c)(1)(C));

(iii) section 202(c)(1)(B) of the Job Training Partnership Act that would otherwise be available for the purposes described in section 202(c)(3) of such Act; or

(iv) section 262(c)(1)(B) of the Job Training Partnership Act that would otherwise be available for the purposes described in section 262(c)(3) of such Act.

(b) USE OF FUNDS.—A State may use, under the requirements of this Act, Federal funds that are made available to the State and combined under subsection (a) to carry out school-to-work activities, except that the provisions relating to the matters specified in section 502(c), and section 503(b), that relate to the program through which the funds described in subsection (a)(2)(B) were made available, shall remain in effect with respect to the use of such funds.

(c) ADDITIONAL INFORMATION IN APPLICATION.—A State seeking to combine funds under subsection (a) shall include in the application described in section 213—

(1) a description of the funds the State proposes to combine under the requirements of this Act;

(2) the activities to be carried out with such funds;

(3) the specific outcomes expected of participants in school-to-work activities;

(4) formal evidence of support for the request by the State agencies or officials with jurisdiction over the funds that would be combined; and

(5) such other information as the Secretaries may require.

(d) EXTENSION.—The authority of a State to combine funds under this section shall not exceed 5 years, except that the Secretaries may extend such period if the Secretaries determine that an extension of such authority would further the purposes of this Act.

(e) LIMITATION.—Nothing in this section shall be construed to relieve a State of an obligation to conduct the activities required under section 201(b) of the Carl D. Perkins Vocational Education and Applied Technology Education Act.

TITLE VI—GENERAL PROVISIONS

SEC. 601. REQUIREMENTS.

The following requirements shall apply to programs under this Act:

(1) PROHIBITION ON DISPLACEMENT.—No student participating in such a program shall displace any currently employed worker (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits).

(2) PROHIBITION ON IMPAIRMENT OF CONTRACTS.—No such program shall impair existing contracts for services or collective bargaining agreements, and no such program that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

(3) PROHIBITION ON REPLACEMENT.—No student participating in such a program shall be employed or fill a job—

(A) when any other individual is on temporary layoff, with the clear possibility of recall, from the same or any substantially equivalent job with the participating employer; or

(B) when the employer has terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created with the student.

(4) WORKPLACES.—Students participating in such programs shall be provided with adequate and safe equipment and safe and healthful

workplaces in conformity with all health and safety requirements of Federal, State, and local law.

(5) EFFECT ON OTHER LAWS.—Nothing in this Act shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, ethnicity, national origin, gender, age, or disability, or to modify or affect any right to enforcement of this Act that may exist under other Federal laws, except as expressly provided by this Act.

(6) PROHIBITION CONCERNING WAGES.—Funds appropriated under authority of this Act shall not be expended for wages of students or workplace mentors participating in such programs.

(7) OTHER REQUIREMENTS.—The Secretaries shall establish such other requirements as the Secretaries may determine to be appropriate, in order to ensure that participants in programs under this Act are afforded adequate supervision by skilled adult workers, or to otherwise further the purposes of this Act.

SEC. 602. SANCTIONS.

(a) TERMINATION OR SUSPENSION OF ASSISTANCE.—

(1) IN GENERAL.—The Secretaries may terminate or suspend any financial assistance under this Act, in whole or in part, or not make payments under a grant awarded under this Act, if the Secretaries determine that a recipient has failed to meet any requirements of this Act, including—

(A) reporting requirements under section 402(c);

(B) regulations under this Act; or

(C) requirements of an approved State plan.

(2) NOTICE AND OPPORTUNITY FOR HEARING.—If the Secretaries terminate or suspend such financial assistance, or do not make such payments under paragraph (1), with respect to a recipient, then the Secretaries shall provide—

(A) prompt notice to such recipient; and

(B) the opportunity for a hearing to such recipient not later than 30 days after the date on which such notice is provided.

(b) NONDELEGATION.—The Secretaries shall not delegate any of the functions or authority specified in this section, other than to an officer whose appointment is required to be made by and with the advice and consent of the Senate.

SEC. 603. STATE AUTHORITY.

Nothing in this Act shall be construed to negate or supersede the legal authority, under State law or other applicable law, of any State agency, State entity, or State public official over programs that are under the jurisdiction of the agency, entity, or official. Nothing in this Act shall be construed to interfere with the authority of such agency, entity, or official to enter into a contract under any provision of law.

SEC. 604. PROHIBITION ON FEDERAL MANDATES, DIRECTION, AND CONTROL.

Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State's, local educational agency's, or school's curriculum, program of instruction, or allocation of State or local resources or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretaries to carry out this Act $300,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996 through 1999.

(b) RESERVATIONS.—From amounts appropriated under subsection (a) for any fiscal year, the Secretaries—

(1) shall reserve not more than ½ of 1 percent of such amounts for such fiscal year to provide grants under sections 202 and 212 to the jurisdictions described in section 202(b);

(2) shall reserve not more than ½ of 1 percent of such amounts for such fiscal year to provide grants under subtitle C of title II to establish and carry out School-to-Work Opportunities programs for Indian youths that involve Bureau funded schools (as defined in section 1139(3) of the Education Amendments of 1978 (25 U.S.C. 2019(3)));

(3) shall reserve 10 percent of such amounts for such fiscal year to provide grants under section 302(b) to local partnerships located in high poverty areas, which reserved funds may be used in conjunction with funds available under the Youth Fair Chance Program set forth in part H of title IV of the Job Training Partnership Act (29 U.S.C. 1782 et seq.); and

(4)(A) shall reserve 2.5 percent of such amounts for such fiscal year to carry out section 404; and

(B) shall reserve not more than an additional 5 percent of such amounts for such fiscal year to carry out other activities under title IV, and activities under sections 214(d) and 303(d).

(c) AVAILABILITY OF FUNDS.—Funds appropriated for any fiscal year for programs authorized under this Act shall remain available until expended.

TITLE VII—OTHER PROGRAMS

Subtitle A—Reauthorization of Job Training for the Homeless Demonstration Program Under the Stewart B. McKinney Homeless Assistance Act

SEC. 701. REAUTHORIZATION.

(a) IN GENERAL.—Section 739(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11449(a)) is amended by striking "the following amounts:" and all that follows and inserting "such sums as may be necessary for each of the fiscal years 1994 and 1995.".

(b) CONFORMING AMENDMENT.—Section 741 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11450) is amended by striking "1993" and inserting "1995".

Subtitle B—Tech-Prep Programs

SEC. 711. TECH-PREP EDUCATION.

(a) CONTENTS OF PROGRAM.—Section 344(b)(2) of the Tech-Prep Education Act (20 U.S.C. 2394b(b)(2)) is amended by inserting "or 4 years" before "of secondary school".

(b) SPECIAL CONSIDERATION; PRIORITY.—Section 345(d)(2) of the Tech-Prep Education Act (20 U.S.C. 2394c(d)(2)) is amended to read as follows:

"(2) are developed in consultation with business, industry, labor unions, and institutions of higher education that award baccalaureate degrees; and".

Subtitle C—Alaska Native Art and Culture

SEC. 721. SHORT TITLE.

This title may be cited as "Alaska Native Culture and Arts Development Act".

SEC. 722. ALASKA NATIVE ART AND CULTURE.

Part B of title XV of the Higher Education Amendments of 1986 (20 U.S.C. 4441 et seq.) is amended—

(1) in the part heading, to read as follows:

"PART B—NATIVE HAWAIIANS AND ALASKA NATIVES";

and

(2) in section 1521, to read as follows:

"SEC. 1521. PROGRAM FOR NATIVE HAWAIIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT.

"(a) IN GENERAL.—The Secretary of the Interior is authorized to make grants for the purpose of supporting programs for Native Hawaiian or Alaska Native culture and arts development to any private, nonprofit organization or institution which—

"(1) primarily serves and represents Native Hawaiians or Alaska Natives, and

"(2) has been recognized by the Governor of the State of Hawaii or the Governor of the State of Alaska, as appropriate, for the purpose of making such organization or institution eligible to receive such grants.

"(b) PURPOSE OF GRANTS.—Grants made under subsection (a) shall, to the extent deemed possible by the Secretary and the recipient of the grant, be used—

"(1) to provide scholarly study of, and instruction in, Native Hawaiian or Alaska Native art and culture,

"(2) to establish programs which culminate in the awarding of degrees in the various fields of Native Hawaiian or Alaska Native art and culture, or

"(3) to establish centers and programs with respect to Native Hawaiian or Alaska Native art and culture that are similar in purpose to the centers and programs described in subsections (b) and (c) of section 1510.

"(c) MANAGEMENT OF GRANTS.—

"(1) Any organization or institution which is the recipient of a grant made under subsection (a) shall establish a governing board to manage and control the program with respect to which such grant is made.

"(2) For any grants made with respect to Native Hawaiian art and culture, the members of the governing board which is required to be established under paragraph (1) shall—

"(A) be Native Hawaiians or individuals widely recognized in the field of Native Hawaiian art and culture,

"(B) include a representative of the Office of Hawaiian Affairs of the State of Hawaii,

"(C) include the president of the University of Hawaii,

"(D) include the president of the Bishop Museum, and

"(E) serve for a fixed term of office.

"(3) For any grants made with respect to Alaska Native art and culture, the members of the governing board which is required to be established under paragraph (1) shall—

"(A) include Alaska Natives and individuals widely recognized in the field of Alaska Native art and culture,

"(B) represent the Eskimo, Indian and Aleut cultures of Alaska, and

"(C) serve for a fixed term.".

Subtitle D—Job Training

SEC. 731. AMENDMENT TO JOB TRAINING PARTNERSHIP ACT TO PROVIDE ALLOWANCES FOR CHILD CARE COSTS TO CERTAIN INDIVIDUALS PARTICIPATING IN THE JOB CORPS.

Section 429 of the Job Training Partnership Act (29 U.S.C. 1699) is amended by adding at the end the following new subsection:

"(e) In addition to child care assistance provided under section 428(e), the Secretary shall provide enrollees who otherwise could not participate in the Job Corps with allowances to pay for child care costs, such as food, clothing, and health care for the child. Allowances under this subsection may only be provided during the first 2 months of an enrollee's participation in the program and shall be in an amount that does not exceed the maximum amount that may be provided by the State pursuant to section 402(g)(1)(C) of the Social Security Act (42 U.S.C. 602(g)(1)(C)).".

TITLE VIII—TECHNICAL PROVISIONS

SEC. 801. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act.

SEC. 802. SUNSET.

The authority provided by this Act shall terminate on October 1, 2001.

And the Senate agree to the same.

EDWARD M. KENNEDY,
CLAIBORNE PELL,
HOWARD M. METZENBAUM,
PAUL SIMON,

Tom Harkin,
Barbara A. Mikulski,
Jeff Bingaman,
Paul Wellstone,
Harris Wofford,
Dave Durenberger,
Managers on the Part of the Senate.

William D. Ford,
Dale E. Kildee,
Pat Williams,
Bill Goodling,
Steve Gunderson,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2884) to establish a national framework for the development of School-to-Work Opportunities systems in all States, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Both the House Bill and the Senate Amendment provide short titles, but use slightly different language.

The House recedes.

Both the House Bill and the Senate Amendment provide similar "Table of Contents" through Title V, but use slightly different language.

The Senate recedes.

The Senate Amendment, but not the House Bill, allows grants to be made to programs in congressional districts with low population densities.

The Senate recedes.

The Senate Amendment, but not the House Bill, allows States to combine federal funds.

The House recedes.

The House Bill, but not the Senate Amendment, reauthorizes the job training for the homeless demonstration program under the Stewart B. McKinney Homeless Assistance Act.

The Senate recedes.

The Senate Amendment, but not the House Bill, amends the Tech Prep Education Act.

The House recedes.

The Senate Amendment, but not the House Bill, provides both an effective date and a sunset clause.

The House recedes.

The Senate Amendment, but not the House Bill, provides for grants to promote Native Hawaiian and Alaskan Native cultures.

The House recedes.

Both the House Bill and the Senate Amendment provide similar "Findings" but use slightly different language.

The House recedes with an amendment to combine the language in the two bills.

The House Bill, but not the Senate Amendment, provides an additional "Finding".

The Senate recedes.

Both the House Bill and the Senate Amendment provide similar "Purposes and Congressional Intent" but structure it differently.

The House recedes with an amendment to conform language.

The Senate Amendment, but not the House Bill, provides an additional "Purpose" statement to create a universal transition system.

The House recedes.

Both the House Bill and the Senate Amendment state additional "Purpose" statements that are similar, but use slightly different language.

The House recedes with an amendment to conform language.

The House Bill, but not the Senate Amendment, provides an additional "Purpose" statement to promote partnerships as an investment in future workplace productivity.

The Senate recedes.

Both the House Bill and the Senate Amendment provide additional "Purpose" statements that are similar, but use slightly different language.

The Senate recedes with an amendment to include school-sponsored enterprises as a promising transition program.

The Senate Amendment, but not the House Bill, provides an additional "Purpose" statement to encourage programs that include paid work.

The House recedes with an amendment to encourage programs that require paid work experiences.

The House Bill, but not the Senate Amendment provides an additional "Purpose" statement to increase opportunities for minorities and women.

The Senate recedes with an amendment to include individuals with disabilities.

The Senate Amendment, but not the House Bill, includes consultation with the Secretary of Commerce in the administration of this Act.

The Senate recedes.

Both the House Bill and the Senate Amendment provide similar "Congressional Intent" statements. The Senate Amendment includes an additional way the program will contribute to reinventing government.

The House recedes.

Both the House Bill and the Senate Amendment define "all students" but the House Bill includes more target populations in its definition.

The Senate recedes with an amendment inserting the word "both" before "male and female students".

Both the House Bill and the Senate Amendment define "approved state plan" but use slightly different language.

The House recedes.

The House Bill, but not the Senate Amendment, defines "career guidance and counseling".

The Senate recedes with an amendment to correct a spelling error.

Both the House Bill and the Senate Amendment define the term "career major" but use different language.

The House recedes with an amendment to broaden the category for establishing linkages. The conferees intend that school-to-work programs serve to expand the postsecondary options of participating students. Students who complete a school-to-work program at the secondary school level should be prepared to enter the workforce upon leaving high school. Such students should also be prepared to enter a postsecondary education or training program including a traditional 4-year college program, without additional academic preparation. It is essential, therefore, that a "career major" sequence of courses or field of study include academic instruction of sufficient scope and quality to ensure that participating students who choose to pursue an associate or baccalaureate degree are adequately prepared to do so.

The House Bill, but not the Senate Amendment, defines the term "community-based organizations".

The Senate recedes.

The House Bill defines the term "elements of an industry" while the Senate Amendment defines the term "all aspects of an industry". The terms use slightly different language.

The House recedes.

Both the House Bill and the Senate Amendment define the term "local educational agency" but use slightly different language.

The Senate recedes.

Both the House Bill and the Senate Amendment define the term "local partnership" but use slightly different language.

The Senate recedes. Both the Senate and House refer to developing state plans and local partnerships that will create opportunities for all students to participate in school-to-work programs. To this end, the conferees intend to allow the inclusion of private nonprofit secondary institutions that are involved in vocational education and training in the state plan and local partnerships.

Both the House Bill and the Senate Amendment define the term "postsecondary educational institution" but use slightly different language.

The Senate recedes with a conforming amendment.

Both the House Bill and the Senate Amendment define the term "registered apprenticeship agency" but use slightly different language.

The House recedes.

The conferees agreed to include a definition for the term "rural community with low population density.

The House Bill, but not the Senate Amendment, defines the term "school dropout".

The Senate recedes with an amendment to provide a new definition.

Both the House Bill and the Senate Amendment define the term "school site mentor" but use different language.

The House recedes.

Both the House bill and the Senate Amendment define the term "skill certificate" but use slightly different language.

The House recedes.

Both the House Bill and the Senate Amendment define the term "state" but use different language.

The Senate recedes.

Both the House Bill and the Senate Amendment define the term "state educational agency" but use different language.

The Senate recedes.

Both the House Bill and the Senate Amendment define the term "workplace mentor" but use different language.

The House recedes.

The Senate Amendment, but not the House Bill, defines the term "School-to-Work Opportunities program".

The House recedes.

The Senate Amendment, but not the House Bill, defines the term "secondary school".

The House recedes with an amendment to provide a new definition.

Both the House Bill and the Senate Amendment provide for joint administration of the programs established by this Act, but use slightly different language.

The Senate recedes.

Both the House Bill and the Senate Amendment provide for submission of plans, but use slightly different language.

The House recedes.

Both the House Bill and the Senate Amendment provide for sanctions and the opportunity for a hearing, but use different language.

The Senate recedes.

Both the House Bill and the Senate Amendment provide a nondelegation clause, but use slightly different lanugage.

The House recedes.

Both the House Bill and the Senate Amendment provide for the acceptance of gifts, and voluntary and uncompensated services, but use slightly different language.

The Senate recedes.

The Senate Amendment, but not the House Bill, states that section 431 of GEPA will not apply to regulations issued under this Act.

The Senate recedes.

The Senate Amendment and the House Bill provide for different authorization periods and different appropriation levels. The Senate Amendment is authorized for five years with set appropriation amounts. The House bill is authorized for eight years and has no cap on appropriations.

The Senate recedes with an amendment to authorize the program for five years.

Both the House Bill and Senate Amendment provide a reservation of amounts appropriated for territories. The House Bill provides a greater amount for the reservation, and has a slightly different definition of "territory".

The Senate recedes with an amendment allowing a reservation of up to one half of one percent.

Both the House Bill and the Senate Amendment provide a reservation of amounts appropriated for Indian youths programs. The House Bill provides a greater amount for the reservation for these grants and provides a separate subtitle to establish the program.

The Senate recedes.

The Senate Amendment, but no the House Bill, provides for the implementation of the Indian youths programs under this section.

The House recedes.

Both the House Bill and the Senate Amendment provide a reservation of amounts appropriated for high poverty areas. The House Bill reserves 10 percent of total amounts appropriated while the Senate Amendment does not allow the reservation of more than 10 percent.

The Senate recedes with an amendment to allow funds reserved for high poverty areas to be used in conjunction with Youth Fair Chance Program funds.

Both the House Bill and Senate Amendment provide a reservation of amounts appropriated to carry out Title IV. The House Bill reserves 5 percent of total amounts appropriated while the Senate Amendment does not allow the reservation of more than 10 percent.

The Senate recedes with an amendment to reserve seven and one half percent with two and one half percent of the reservation to be used for capacity building and dissemination. By setting aside two and one half percent of the Secretary's discretionary funds for capacity building, the Conferees reinforced the importance of increasing the effectiveness of capacity building systems for the broad range of human service providers under section 453 of the Job Training Partnership Act. The Conferees envision the utilization of existing dissemination systems that can be accessed by all job training professionals, vocational educators, private sector entities, school-to-work grantees, community based organizations, Department of Labor and Education staff, and other concerned individuals under the umbrella of programs affected by State Human Resources Investment Councils.

The Conferees believe that individuals accessing these systems should be able to utilize the materials available through a network connection to their computer. Individuals should be able to down-load information as well as use the systems interactively for training. The Conferees do not believe that such a system can be effectively mounted utilizing only E-mail.

The conferees believe that the School-to-Work Opportunities clearinghouse should be built off of existing clearinghouses established for job training and education. This provision reinforces the need to bring education and job training together in a unified school-to-work opportunities system and to minimize duplicative information-dissemination and capacity-building arrangements.

The conferees want to emphasize that the clearinghouse products and information on successful and innovative school-to-work opportunities systems and their relationship to job training and education must be accessible to all of the key partners in school-to-work programs, including those from the business, labor, and education communities, state and local governments, and community organizations.

Both the House Bill and the Senate Amendment provide for the availability of funds, but use slightly different language.

The House recedes.

Both the House Bill and the Senate Amendment provide for similar program requirements, but use slightly different language.

The House recedes.

The Senate Amendment, but not the House Bill, provides two additional program requirements.

The House recedes with an amendment to clarify language. It is not the conferees intent that Paragraph (5) of Section 101 establish an "entitlement" to any student for services or activities under the Act, but to underline the intent of the conferees that all students, regardless of their race, color, national origin, gender, disability, or other characteristics, have the same opportunity to participate in all aspects of School-to-Work Opportunities programs and are not subject to discrimination as student participants in such programs. In fact, references are made to providing "all students" with the opportunity to participate in school-to-work programs throughout the legislation, to stress that programs should be designed to serve all students, including those who plan on continuing their education at a college or university. The legislation defines "all students" as meaning students from a broad range of backgrounds and circumstances, including both male and female students, disadvantaged students, students with diverse racial, ethnic, or cultural backgrounds, American Indians, Alaska Natives, Native Hawaiians, students with disabilities, students with limited English proficiency, migrant children, school dropouts, and academically talented students. Conferees envision that States and local partnerships design and implement programs that provide opportunities for individuals from this broad range of backgrounds to participate in school-to-work programs, as appropriate for their States and localities, respectively. The use of "all students" should not be interpreted to require that every State or local partnership must serve individuals from each of the categories described in the definition of "all students" if such individuals are not significantly represented within the State or locality. For example, it would be extremely inappropriate to expect that a rural community in the midwest be expected to serve Native Hawaiians or Alaskan Natives.

Both the House Bill and the Senate Amendment provide similar elements in the work-based learning component, but use slightly different language.

The House recedes. The conferees believe that wages earned pursuant to a paid work experience program under this Act should not be taken into account in determining the need or eligibility of any person for benefits or assistance, or the amount of such benefits or assistance, under any Federal, State or local program financed in whole or in part with Federal funds.

The House Bill, not the Senate Amendment, requires paid work experience.

The House recedes.

The House Bill, but not the Senate Amendment, provides an additional element to provide broad instruction in a variety of elements of an industry.

The Senate recedes with an amendment to conform with definition section.

The Senate Amendment, but not the House Bill, provides a permissible activities section in the work-based learning component.

The House recedes with an amendment to include an additional permissible activity.

Both the House Bill and the Senate Amendment provide similar school-based learning components, but use slightly different language.

The Senate recedes with an amendment to require career counseling to begin no later than the seventh grade. The School-to-Work Opportunities Act requires that initial selection of a career major must be made no later than the 11th grade. However, conferees envision that under state systems and local programs, certain activities, such as career awareness, exploration, and counseling begin at least by the middle school grades, in order that students are prepared to make well-informed career choices by the 10th or 11th grades. The legislation therefore specifically requires that while these activities should begin as early as possible, they must begin no later than the 7th grade. In some States and local areas where middle school begins prior to the 7th grade however, the conferees intend that these activities begin prior to the 7th grade accordingly.

The conference agreement requires that the school-based learning component of school-to-work programs prepare participating students to meet the same challenging academic standards established for all students in their State, including those that are established pursuant to the Goals 2000: Educate America Act. Thus, the conferees intend that the school-based learning component provide for academic instruction of sufficient scope and quality to ensure that students in school-to-work programs are as prepared to meet such standards as are non-participating students, including those who are pursuing a college preparatory sequence of courses. Further, participating students who complete a school-to-work program of study at the secondary school level should be adequately prepared to enter an associate or baccalaureate degree program as well as to earn a skill certificate.

The House Bill, but not the Senate Amendment, requires that the school-based learning component include a program that integrates academic and vocational learning, and incorporates the instruction in a variety of elements of an industry.

The Senate recedes to conform with the definition section.

Both the House Bill and the Senate Amendment provide for regularly scheduled evaluations, but use slightly different language.

The Senate recedes with an amendment to include problem solving in the evaluation.

The House bill, but not the Senate Amendment, provides that the school-based learning component include a mechanism to allow participants to transfer to a postsecondary program.

The Senate recedes with an amendment to clarify the intent of the requirement. The school-based learning component must also provide for procedures to enable participating students to enter a postsecondary education or training program of their choosing, including a traditional 4-year postsecondary education program. The conferees further intend that such procedures enable students to alter their postsecondary program plans by providing the flexibility necessary to permit them to transfer, without significant loss of credit, between various postsecondary education and training programs.

Both the House Bill and the Senate Amendment provide similar requirements in the connecting activities component, but use slightly different language. The Senate Amendment includes school administrators in the list of entities for which the connecting activities will serve as a liaison.

The House recedes with an amendment to combine the components from the two bills.

The Senate Amendment, but not the House Bill, provides an additional requirement in the connecting activities component to encourage employer and local education officials participation in the implementation of local programs.

The House recedes.

Both the House Bill and the Senate Amendment provide similar "Purposes" statements, but use slightly different language.

The Senate recedes.

Both the House Bill and the Senate Amendment provide for the authorization of the State Development Grants, but use slightly different language.

The House recedes.

The House Bill, but not the Senate Amendment, states that the Territories shall receive grants under this subtitle from funds reserved under section 6 of the House Bill.

The Senate recedes.

Both the House Bill and the Senate Amendment provide for the Secretaries discretion in the application, but use slightly different language.

The Senate recedes.

The House Bill, but not the Senate Amendment, states that a state applying for funds under both Goals 2000 and this Act may either submit a single application for both, or amend the Goals 2000 application to meet the requirements of this Act.

The Senate recedes.

Both the House Bill and the Senate Amendment provide similar application requirements. The House Bill lists more State Agency Officials that are to collaborate in the planning and development stage. The Senate Amendment provides that representatives of the private sector shall participate as well.

The Senate recedes with an amendment to combine the participants from the two bills.

Both the House Bill and the Senate Amendment require the application to include a description of how the State has enlisted, and will maintain the involvement of participants in the planning and development stage. The two proposals differ slightly on specified participants.

The House recedes with an amendment to combine the participants from the two bills.

The House Bill requires coordination only with local partnerships that have received a grant under title III, while the Senate Amendment requires coordination with any local school-to-work program, including programs that have received a grant under title III.

The House recedes.

The House Bill and the Senate Amendment provide for the designation of a fiscal agent, but use slightly different language.

The House recedes.

The House Bill, but not the Senate Amendment, states that a description must be included in the application that provides opportunities for certain targeted populations.

The Senate recedes with an amendment to include an additional target population.

Both the House Bill and the Senate Amendment provide for the same allowable activities for the State Development Grants, but use slightly different language.

The Senate recedes.

The House Bill, but not the Senate Amendment, specifies that the training and technical assistance will be for specified participants.

The Senate recedes.

The Senate Amendment, but not the House Bill, provides an additional allowable activity for the State Development Grants.

The House recedes.

Both the House Bill and the Senate Amendment provide for the development of training programs for certain individuals, but the House Bill states what the training will encompass.

The House recedes with an amendment to combine the participants from both bills.

Both the House Bill and the Senate Amendment provide for additional allowable activities, but use slightly different language.

The House recedes with an amendment to conform language to the definition section.

The House Bill, but not the Senate Amendment, states that the amounts may be used to work with localities to develop strategies to recruit and retain all students in programs under this Act.

The Senate recedes with an amendment to include an additional use of amounts.

The Senate Amendment, but not the House Bill allows the Secretaries to make grants to consortia of congressional districts with low population densities to develop consortia-wide school-to-work systems.

The Senate recedes.

The House Bill, but not the Senate Amendment, states that amounts may be used to coordinate recruitment of out-of-school youth with organizations that have been successful working with such youths.

The Senate recedes.

Both the House Bill and the Senate Amendment provide the same allocation for Development Grants, but use slightly different language.

The House recedes.

The House Bill, but not the Senate Amendment, requires the submission of periodic reports.

The Senate recedes with an amendment stating the reports shall not be more than one report every three months.

Both the House Bill and the Senate Amendment provide similar "Purpose" statements, but use slightly different language.

The Senate recedes.

Both the House Bill and the Senate Amendment provide for the Secretary's authority and the period of grants, but use different language.

The Senate recedes with an amendment clarifying Congressional intent.

The House Bill, but not the Senate Amendment, provides a separate provision for development grants for territories and also a limitation clause.

The Senate recedes.

The House Bill, but not the Senate Amendment, requires that the Development Grant application be coordinated with the Goals 2000 application.

The Senate recedes.

Both the House Bill and the Senate Amendment state the same contents to be included in the application, but use slightly different language.

The House recedes.

The Senate Amendment, but not the House Bill, requires that the application describe the manner in which the designated officials collaborated in the development of the application.

The House recedes to include a potential, additional official.

The House Bill and the Senate Amendment have similar state plan content requirements, but use slightly different language.

The House recedes with an amendment to include both urban and rural areas in the State's system to expand into other geographic areas.

Both the House Bill and the Senate Amendment provide that the state plan describe how the designated officials will collaborate in the implementation of the school-to-work system, but the House Bill designates more officials than the Senate Amendment.

The Senate recedes with an amendment to combine the participants in the two bills and also adds a new subsection to the plan requiring the state plan also demonstrate the support of the relevant officials and agencies, and addresses the submission of the plan.

Both the House Bill and the Senate Amendment provide similar state plan content requirements, but use different language. The Senate Amendment provides for the participation of additional participants in the school-to-work system.

The House recedes with an amendment to combine the participants in the two bills.

The House Bill, but not the Senate Amendment, requires the state plan to describe how the State will adopt, develop, or assist local partnerships in the development of model curricula.

The Senate recedes with an amendment to clarify Congressional intent.

The House Bill, but not the Senate Amendment, requires that the state plan describe how the State will improve career and academic counseling in elementary and secondary grades.

The Senate recedes.

The Senate Amendment, but not the House Bill, requires that the state plan describe the strategy of the State for incorporating project-oriented, experiential learning programs.

The House recedes with an amendment to clarify the intent to integrate vocational education and academic education.

Both the House Bill and the Senate Amendment provide similar state plan content requirements, but use different language.

The Senate recedes.

The Senate Amendment, but not the House Bill, requires that the state plan describe the extent to which the school-to-work system will include programs that provide paid work experience.

The House recedes with an amendment to describe systems that include programs that require paid work experiences.

Both the House Bill and the Senate Amendment provide similar state plan content requirements, but use different language.

The Senate recedes with an amendment to combine the requirements included in both bills.

The Senate Amendment, but not the House Bill, requires that the state plan ensure that students have flexibility to develop new career goals and to change career majors.

The House recedes with an amendment to remove the language relating to adverse consequences.

Both the House Bill and the Senate Amendment provide similar state plan content requirements, but use different language.

The Senate recedes with an amendment to clarify Congressional intent.

The House Bill, but not the Senate Amendment, requires that the State plan describe how a student may transfer to a postsecondary program.

The Senate recedes with an amendment to clarify Congressional intent.

The House Bill requires that each part of the state plan be approved by appropriate officials or entity.

The Senate recedes with an amendment replacing the House language with language allowing the Governor, after 30 days, to submit the plan to the Secretaries and requiring the Governor to attach comments received from the relevant agencies or officials from whom support is not demonstrated.

It is the conferees intent that each State plan be developed collaboratively, and that a demonstration of support from the appropriate state agencies and officials with responsibilities for the components of the plan be included in the plan.

The conferees also required that upon submission of an application, the Governor shall attach all comments received from agencies and officials whose support is not demonstrated. The conferees placed emphasis on the Governor attaching those comments that address those portions of the plan that are within the jurisdiction of relevant agencies or officials under State or applicable law.

It is the intent of the conferees that the opportunity to make comments be made to the final version of the application which the Governor will be submitting.

The House Bill requires the Secretaries to review and approve or disapprove a state's application while the Senate Amendment requires the Secretaries to submit the application to a peer review process, determine whether to approve or disapprove, and also provides what further action will be taken if the application is approved.

The House recedes with an amendment removing the peer review process.

The House Bill requires a state application to be approved only if certain things are demonstrated in the application. The Senate Amendment states the Secretaries shall take into consideration and give priority to applications that include these same criteria.

The House recedes with an amendment adding two additional review considerations.

The Senate Amendment, but not the House Bill, provides an additional requirement to describe the highest levels of concurrence with the plan by the appropriate officials.

The House recedes.

The House Bill, but not the Senate Amendment, requires a state application to be approved only if other resources will be used to implement the plan.

The Senate recedes.

The Senate Amendment, but not the House Bill, gives priority to school-to-work systems that include programs that provide paid work experiences.

The House recedes with an amendment to give priority to applications that require paid experiences as an integral part of the State's system. The conferees recognize that many experts consulted in the development of legislation have concluded that school-to-work programs that incorporate the opportunity for students to work in real jobs with pay are more effective in helping students prepare for the world of work than programs that do not include paid work. Employers have greater expectations of young people who are performing paid work and are more likely to invest time and effort in the development of their skills. Students are more likely to feel accountable for their performance in a school-to-work program if the program includes paid work experience. In addition, for many young people, particularly those from lower-income families who need to work to supplement their family incomes, participation in a school-to-work program may not be possible without some paid work component.

However, the conferees also appreciate the concerns raised that there may not be sufficient paid work available in a particular area to accommodate all of the students participating in a school-to-work program. The ability of any local partnership to establish the kind of program the Act envisions is dependent on the willingness of private employers, on a voluntary basis, to provide high quality job placements for participants and to work with schools to develop programs and curricula that integrate what the participants are learning on the job with what they are learning in school. In areas where unemployment is high, or job opportunities for young people are otherwise restricted, such placements may be limited. Therefore, the legislation does not require a minimum amount of paid work experience. The legislation also recognizes that other work-related experiences that do not involve paid work, such as participation in school-based enterprises and job shadowing can also provide students with valuable experiences.

The conferees do believe that those States that have made paid work experience a required element of their programs should receive priority in the selection process to determine the States that will receive the first implementation grants. This would not preclude those States not requiring paid work experience from receiving grants.

The House Bill requires a State application to be approved only if the plan limits administrative costs and increases amounts spent on delivery of services to students. The Senate Amendment states the Secretaries shall give priority to applications that include this same criteria.

The Senate recedes.

The House Bill, but not the Senate Amendment, requires a state application to be approved only if the plan addresses urban and rural partnerships, if the census data allows.

The Senate recedes with an amendment to strike the House language that States will ensure the establishment of a partnership in at least 1 urban and 1 rural area in the State, if appropriate.

The House Bill, but not the Senate Amendment, provides for the Secretaries to take certain action if a state plan is disapproved.

The House recedes.

The House Bill, but not the Senate Amendment, states the use of funds for review of applications.

The Senate recedes.

The House bill, but not the Senate Amendment, provides a "use of amounts" clause.

The Senate recedes.

Both the House Bill and the Senate Amendment provide for application procedures by a local partnership to the State, but use slightly different language.

The House recedes.

The Senate Amendment, but not the House Bill, requires that local partnership applications describe the extent to which the program will provide paid work experience.

The House recedes with an amendment to require the applications to describe the extent the local partnerships will require paid work experiences.

The Senate Amendment, but not the House Bill, requires that local partnership applications describe how it will ensure employer involvement.

The House recedes.

The House Bill, but not the Senate Amendment, states that the local partnership application will provide assurances that the industries and occupations provided to students will be in industries offering high-skill, high-wage employment.

The Senate recedes.

The Senate Amendment, but not the House Bill, provides a time and manner clause.

The House recedes.

The House Bill, but not the Senate Amendment, provides for the State to take certain action if a local plan is disapproved.

The Senate recedes.

Both the House Bill and the Senate Amendment provides similar use of amounts for the local partnerships, but use slightly different language.

The House recedes with an amendment to combine the two versions and to allow career awareness and counseling activities to begin no later than seventh grade.

The House Bill, but not the Senate Amendment, allows the amounts to be used to provide support services.

The Senate recedes with an amendment to allow the supplementary services to be provided when necessary for participation in the school-to-work program.

Both the House bill and the Senate Amendment provide similar use of amounts for the local partnerships, but use slightly different language.

The Senate recedes.

The House bill, but not the Senate Amendment, allows the amounts to be used to promote the formation of partnerships as an investment in future workplace productivity.

The Senate recedes.

Both the House Bill and the Senate Amendment provide similar use of amounts for the local partnerships, but use slightly different language.

The House recedes with an amendment to allow local partnerships to use monies for opportunities outside the classroom which are in the worksite.

The House Bill, but not the Senate Amendment, allows the amounts to be used to coordinate recruitment of youths with organizations which have a history of success with these targeted individuals.

The Senate recedes.

The House Bill, but not the Senate Amendment, provides a partnership compact.

The Senate recedes.

Both the House Bill and the Senate Amendment provide administrative cost ceilings, but provide different amounts.

The Senate recedes with an amendment to state that local partnerships may not use more than 10% for administrative costs.

Both the House Bill and the Senate Amendment provide minimum amounts of state grant awards to be used for subgrants to local partnerships, but provide different amounts.

The Senate recedes.

Both the House Bill and the Senate Amendment provide that the States may use grant amounts for additional activities, but use slightly different language.

The House recedes with an amendment combining the specified participants in the two bills.

The House Bill, but not the Senate Amendment, provides that the States may use grant amounts for encouraging partnerships, coordinating recruitment, and conducting outreach to all students.

The Senate recedes.

The Senate Amendment, but not the House Bill, provides that the States may use grant amounts for additional services to prepare students for the transition from school to work.

The House recedes.

Both the House Bill and the Senate Amendment provide for allocation requirements, but use slightly different language.

The House recedes.

The Senate Amendment, but not the House Bill, states the allowable number of implementation grants.

The House recedes with an amendment to correct word choice.

Both the House Bill and the Senate Amendment provide administrative cost ceilings, but provide different amounts.

The House recedes with an amendment to provide a State administrative cost ceiling of 10%.

The House Bill, but not the Senate Amendment, provides for periodic reports to be submitted to the Secretaries.

The Senate recedes.

The House Bill, but not the Senate Amendment, provides a separate subtitle for development and implementation grants for school-to-work programs for Indian youths.

The Senate recedes.

The Senate Amendment, but not the House Bill, allows the Secretaries to make grants to consortia of congressional districts with low population densities to develop consortia-wide school-to-work systems.

The Senate recedes.

Both the House Bill and the Senate Amendment provide the same purposes of the Title III grants, but use slightly different language.

The Senate recedes with a word change amendment.

Both the House Bill and the Senate Amendment provide similar authorization for the grants to local partnerships, but the House Bill states certain restrictions on these grants.

The Senate recedes with an amendment to combine the language in the two bills.

Both the House Bill and the Senate Amendment provide similar authorization for the grants to high poverty areas, but the House Bill states certain restrictions on these grants.

The Senate recedes with an amendment to clarify the restrictions for local partnerships.

The Senate Amendment, but not the House Bill, authorizes the Secretaries to award grants to partnerships in congressional districts with low population densities.

The Senate recedes.

The House Bill, but not the Senate Amendment, provides priority to certain high poverty local partnerships.

The Senate recedes.

The House Bill, but not the Senate Amendment, provides a time period of the grant.

The Senate recedes with an amendment to state that grants shall not exceed five years.

The Senate Amendment, but not the House Bill, defines congressional districts with a low population density.

The Senate recedes.

Both the House Bill and the Senate Amendment provide an application process for the local implementation grants, but the Senate Amendment requires the Secretaries to submit the application to a peer review process.

The House recedes with an amendment striking the peer review process.

The House Bill, but not the Senate Amendment, places a time limit for state review and comment.

The Senate recedes.

Both the House Bill and the Senate Amendment require similar requirements to be included in the application, but use slightly different language.

The House recedes.

The House Bill, but not the Senate Amendment, provides for use of funds for review of the applications.

The Senate recedes.

Both the House Bill and the Senate Amendment provide for use of amounts for the grant, but use slightly different language.

The Senate recedes.

Both the House Bill and the Senate Amendment require conformity with an approved state plan, but use slightly different language.

The House recedes with an amendment to state that this refers to local partnerships and approved state plans.

The House Bill, but not the Senate Amendment, requires local partnerships to agree to submit periodic reports.

The Senate recedes with an amendment requiring that the reports not exceed one report every three months.

The House Bill and the Senate Amendment define the term "high poverty area" differently.

The House recedes with an amendment to include a contiguous group of urban census tracts or block areas; and the poverty rate is changed to be among youth aged 0–21.

The Senate Amendment, but not the House Bill, provides that funds awarded under part H of title IV of JTPA may be awarded in combination with funds under this section.

The House recedes.

Both the House Bill and the Senate Amendment provide for authorization of research, demonstration, and other projects, but use slightly different language.

The House recedes.

Both the House Bill and the Senate Amendment provide an "additional use of amounts" statement, but use slightly different language.

The House recedes.

Both the House Bill and the Senate Amendment provide similar performance outcomes and evaluations, but use slightly different language.

The Senate recedes with an amendment to include the language in both bills.

The Senate Amendment, but not the House Amendment, provides an additional evaluation regarding the students' understanding of all aspects of an industry.

The House recedes.

Both the House Bill and the Senate Amendment provide similar performance outcomes and evaluations, but use slightly different language.

The House recedes.

Both the House Bill and the Senate Amendment provide for a national evaluation of programs funded under this Act, but use slightly different language.

The Senate recedes.

Both the House Bill and the Senate Amendment provide for periodic reports to the Secretaries, but use slightly different language.

The House recedes with a technical correction in numbering; requires their report to provide information on current Federal programs.

Both the House Bill and the Senate Amendment provide for similar "Purpose" statements, but use slightly different language.

The Senate recedes.

Both the House Bill and the Senate Amendment provide similar authorized activities, but use slightly different language.

The House recedes with an amendment to combine the language in both bills.

Both Senate Amendment, but not the House Bill, allows states to use funds to implement school-sponsored enterprises.

The House recedes.

The Senate Amendment, but not the House Bill, allows the Secretaries to use funds for the peer review of all applications.

The Senate recedes.

The House Bill amends JTPA to include the collection and dissemination of certain information from this Act in JTPA's current information and dissemination network. The Senate Amendment establishes a network and clearinghouse, but requires the Secretaries to coordinate these activities with similar entities to avoid duplication.

The Senate recedes with an amendment to include the ERIC and Vocational Education clearinghouses.

Both the House Bill and the Senate Amendment require the Secretaries to report to Congress, but use slightly different language.

The Senate recedes.

Both the House Bill and the Senate Amendment allow for state requests for waivers of statutory or regulatory requirements, but use different language.

The Senate recedes with an amendment to clarify language.

Both the House Bill and the Senate Amendment allow local partnerships to request waivers of statutory or regulatory requirements, but use slightly different language.

The House recedes with an amendment clarifying that it is a local partnership requesting the waiver.

The House Bill, but not the Senate Amendment, provides a time limit for the state to make a determination on the waiver request.

The Senate recedes with an amendment clarifying the direct submission language.

Both the House Bill and the Senate Amendment provide waiver criteria, but use slightly different language.

The House recedes.

The Senate Amendment, but not the House Bill, requires the State to provide evidence of support for the waiver request by the State officials and entities involved.

The House recedes.

Both the House Bill and the Senate Amendment provide waiver authority of the Secretary of Education, but use slightly different language.

The Senate recedes. The conferees intend the limitations on waivers specified under Section 502(c) and 503(b) to be construed to prohibit the waiver of provisions in the affected statutes pertaining to the assurance of equal access to services for special populations. The conferees intend the limitations on waivers specified under Sec. 502(c) and 503(b) to be construed to prohibit the waiver of provisions in the affected statutes pertaining to the assurance of equal access to services for special populations, such as the Sex

Equity and Single Parent/Displaced Homemaker/Single Pregnant Women funding reserves, and the role responsibilities of the Sex Equity Coordinator under the Carl D. Perkins Vocational and Applied Technology Education Act; and the specialized services, goal-setting, data collection and reporting requirements of the Non-Traditional Employment for Women Act as it pertains to the Job Training Partnership Act.

The House Bill, but not the Senate Amendment, requires the State to provide documentation of the necessity of the waiver(s) requested.

The Senate recedes.

Both the House Bill and the Senate Amendment state that the Secretaries may waive requested laws of provisions if certain criteria are met, but use slightly different language.

The House recedes with an amendment to clarify language.

The House Bill, but not the Senate Amendment requires the State to provide certain groups and individuals an opportunity to comment on the waiver request.

The Senate recedes with an amendment to include labor and business organizations in the list of participants that may have an opportunity to comment on waiver proposal. It is not the conferees intent to require states to disseminate this information personally to all individuals listed in this section. Conferees do envision that such dissemination may be provided to schools—as opposed to individual teachers, students, or parents—or through other forms of group dissemination.

Both the House Bill and the Senate Amendment require the Secretary of Education to act promptly, but the House Bill requires the Secretary to issue a detailed decision and to consider the amount of State resources that are to be used to implement the plan.

The Senate recedes.

Both the House Bill and the Senate Amendment provide the same time period for each approved waiver, but use slightly different language.

The House recedes with an amendment to clarify language.

Both the House Bill and the Senate Amendment state the same provisions of law that may be waived by the Secretary of Education, but use slightly different language.

The House recedes.

Both the House Bill and the Senate Amendment stated the same requirements that may NOT be waived by the Secretary of Education, but use slightly different language.

The House recedes with an amendment to combine the language in the two bills.

Both the House Bill and the Senate Amendment provide similar conditions for termination of waivers, but use slightly different language.

The House recedes with an amendment to clarify language.

Both the House Bill and the Senate Amendment state the same provisions of law that may be waived by the Secretary of Labor, but use slightly different language.

The Senate recedes.

The House Bill, but not the Senate Amendment, requires the State to provide documentation of the necessity of the waivers requested.

The Senate recedes.

The House Bill, but not the Senate Amendment, requires the State to provide certain groups and individuals an opportunity to comment on the waiver request.

The Senate recedes with an amendment to include labor and business groups in the list of participants that may have an opportunity to comment on the waiver request.

Both the House Bill and the Senate Amendment require the Secretary of Labor to act promptly, but the House Bill requires the Secretary of Labor to issue a detailed decision and to consider the amount of State resources that are to be used to implement the plan.

The Senate recedes. It is not the conferees, intent to require states to disseminate this information personally to all individuals listed in this section. Conferees do envision that such dissemination may be provided to schools—as opposed to individual teachers, students, or parents—or through other forms of dissemination.

Both the House Bill and the Senate Amendment provide the same time period for each approved waiver, but use slightly different language.

The House recedes with an amendment to clarify language.

Both the House Bill and the Senate Amendment state the same requirements that may not be waived by the Secretary of Labor, but use slightly different language.

The Senate recedes.

Both the House Bill and the Senate Amendment provide similar conditions for termination of waivers, but use slightly different language.

The House recedes with an amendment to clarify language.

Both the House Bill and the Senate Amendment, provide for the combination of funds for high poverty schools, but use slightly different language.

The House recedes.

The Senate Amendment, but not the House Bill, allows for the combination of Carl Perkins and JTPA funds at the state level.

The Senate recedes.

Both the House Bill and the Senate Amendment provide similar safeguards for nondiscrimination, prohibition of wages, and labor standards, but use different language.

The House recedes with an amendment to disallow funds to be used to pay the wages of workplace mentors.

Both the House Bill and the Senate Amendment state that this Act shall not be construed to establish a right for any individual to bring an action to obtain services under this Act.

The Senate recedes with an amendment to move this language to an earlier provision. The conferees added new language to make clear that nothing in this Act is intended to expand, diminish, modify or affect any rights to enforcement that an individual may have under other federal laws, such as 42 U.S.C. section 1983, if any, with respect to the lawful operation of school-to-work programs and state and local obligations under the Act, except as expressly provided. The conferees expect state and local entities to establish and maintain programs in a manner consistent with the requirements of this Act and to carry out the obligations of this Act, including assurances and actions described in state and local applications and plans.

Both the House Bill and the Senate Amendment state that similar authority of other officials or entities will not be superseded, but use slightly different language.

The House recedes with an amendment to combine the language of the two bills and also adds new language building on the language authority of state officials, agencies or entities.

The House Bill, but not the Senate Amendment, provides a non-supplant clause.

The Senate recedes replacing the non-supplant clause with maintenance of effort language.

Both the House Bill and the Senate Amendment allow the Secretaries to establish other safeguards, but use slightly different language.

The House recedes.

The House Bill, but not the Senate Amendment, provides for the reauthorization of job training for the homeless demonstration program under the Stewart B. McKinney Homeless Assistance Act.

The Senate recedes.

The Senate Amendment, but not the House Bill, provides both an effective date and a sunset clause.

The House recedes with an amendment changing the sunset date from "nine calendar years after the date of enactment" to "2001".

The Senate Amendment, but not the House Bill, specifies that this is not an unfunded mandate on states and does not allow this Act to be used to force compliance with other Federal laws.

The House recedes with an amendment to replace the Senate language that was included in Goals 2000 regarding unfunded federal mandates.

The Senate Amendment, but not the House Bill, includes a Sense of the Senate that funding for this Act will come predominately through offsets from Department of Education and Department of Labor programs.

The Senate recedes.

The Senate Amendment, but not the House Bill, amends Tech-Prep to encourage participation by 4-year colleges in Tech-Prep consortia and to give priority to applications that allow for placement in 4-year colleges.

The House recedes with an amendment accepting the provision allowing tech-prep programs to begin in the ninth grade; amending the provision to give special consideration to programs that are developed in consultation with institutions of higher education that award baccalaureate degrees.

The Senate Amendment, but not the House Bill, amends the Higher Education Amendments of 1986 to allow the Secretary of the Interior to award grants to promote Native Hawaiian and Alaskan Native cultures.

The House recedes. It is the intent of the conferees that no grants made under this section shall be used to duplicate any of the degree granting programs or efforts of the Institute for American Indian Arts. Furthermore, it is noted that many of the stated purposes of this section are similar to provisions included in the National Museum of the American Indian Act passed by Congress in 1989. These provisions authorized collaborative efforts with museums and institutions around the country for the purpose of cultural preservation and advancement of American Indians, Alaska Natives, and Native Hawaiians. It is anticipated that in awarding grants under this section, the Secretaries shall make every effort to coordinate the grant activities with those authorized by the National Museum of the American Indian Act.

The conferees agreed to accept a technical amendment to section 429 of the Job Training Partnership Act.

EDWARD M. KENNEDY,
CLAIRBORNE PELL,
HOWARD M. METZENBAUM,
PAUL SIMON,
TOM HARKIN,
BARBARA A. MIKULSKI,
JEFF BINGAMAN,
PAUL WELLSTONE,
HARRIS WOFFORD,
DAVE DURENBERGER,
Managers on the Part of the Senate.

WILLIAM D. FORD,

DALE E. KILDEE,
PAT WILLIAMS,
BILL GOODLING,
STEVE GUNDERSON,
Managers on the Part of the House.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BAESLER). Under the Speaker's announced policy of February 11, 1994, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

COMMUNICATION FROM THE CHAIRMAN, COMMITTEE ON THE BUDGET REGARDING ALLOCATIONS FOR THE APPROPRIATIONS COMMITTEE FOR FISCAL YEAR 1995 PURSUANT TO SECTION 603 OF THE CONGRESSIONAL BUDGET ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. SABO] is recognized for 5 minutes.

Mr. SABO. Mr. Speaker, section 603 of the Congressional Budget Act requires the Chairman of the Budget Committee to submit to the House a spending allocation for the Appropriations Committee, if Congress has not completed action on the budget resolution by April 15.

The fiscal year 1995 budget resolution is currently in conference. I am today submitting an allocation to the Committee on Appropriations pursuant to section 630 in order to comply with the requirements of the Budget Act. This allocation will be superseded by a regular allocation to all committees when a conference report on the budget resolution is adopted.

As required by section 603 of the Budget Act, the allocation I am submitting is consistent with the discretionary spending limits as calculated in the President's most recent Sequestration Preview Report and adjusted by the special allowances specified by section 251(b)(2)(E)(i)–(ii) of the Balanced Budget and Emergency Deficit Control Act. Those allowances are applicable to fiscal year 1995 as a result of section 253(g)(1)(B) of that Act. For mandatory programs, the allocation equals the Congressional Budget Office baseline estimate. The allocation is as follows:

[In millions of dollars]

	Fiscal year 1995—	
	New budget authority	Outlays
Mandatory programs	$274,156	$265,372
Discretionary programs	518,058	541,074
Total	792,214	806,446

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVELS OF SPENDING AND REVENUES FOR FISCAL YEARS 1994–1998

Mr. SABO. Mr. Speaker, on behalf of the Committee on the Budget and pursuant to sections 302 and 311 of the Congressional Budget Act, I am submitting for printing in the CONGRESSIONAL RECORD an updated report on the current levels of on-budget spending and revenues for fiscal year 1994 and for the 5-year period fiscal year 1994 through fiscal year 1998.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, April 19, 1994.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: To facilitate application of sections 302 and 311 of the Congressional Budget Act, I am transmitting an updated status report on the current levels of on-budget spending and revenues for fiscal year 1994 and for the 5-year period fiscal year 1994 through fiscal year 1998.

The term "current level" refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted as of March 24, 1994.

The first table in the report compares the current levels of total budget authority, outlays, and revenues with the overall limits set in H. Con. Res. 64, the concurrent resolution on the budget for fiscal year 1994. This comparison is needed to implement section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's overall limits. The table does not show budget authority and outlays for years after fiscal year 1994 because appropriations for those years have not yet been considered.

The second table compares the current levels of budget authority, outlays, and new entitlement authority for each direct spending committee with the "section 602(a)" allocations made under H. Con. Res. 64 for fiscal year 1994 and for fiscal years 1994 through 1998. This comparison is needed to implement section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 602(a) allocation of new discretionary budget authority or new entitlement authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a). The section 602(a) allocations were printed in the *Congressional Record* for March 31, 1993 on pages H. 1784–87.

The third table compares the current levels of discretionary appropriations for fiscal year 1994 with the revised "section 602(b)" suballocations of discretionary budget authority and outlays among Appropriations subcommittees. This comparison is also needed to implement section 302(f) of the Budget Act, since the point of order under that section also applies to measures that would breach the applicable section 602(b) suballocation. The revised section 602(b) suballocations were filed by the Appropriations Committee on September 30, 1993 (H. Rept. 103-271).

Sincerely,
MARTIN OLAV SABO,
Chairman.

Enclosures.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1994 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 64 REFLECTING ACTION COMPLETED AS OF MARCH 24, 1994

[On-budget amounts, in millions of dollars]

	Fiscal year 1994	Fiscal years 1994–1998
Appropriate level (as set by House Concurrent Resolution 64):		
Budget authority	1,223,400	6,744,900
Outlays	1,218,300	6,629,300
Revenues	905,500	5,153,400
Current level:		
Budget authority	1,218,395	([1])
Outlays	1,216,989	([1])
Revenues	905,429	5,105,866
Current level over(+)/under(−) appropriate level:		
Budget authority	−5,005	([1])
Outlays	−1,311	([1])
Revenues	−71	−45,534

[1] Not applicable because annual appropriations acts for fiscal years 1996 through 1998 will not be considered until future sessions of Congress.

BUDGET AUTHORITY

Enactment of measures providing more than $5.005 billion in new budget authority for fiscal year 1994—if not already included in the current level estimate—would cause fiscal year 1994 budget authority to exceed the appropriate level set by House Concurrent Resolution 64.

OUTLAYS

Enactment of measures providing new budget or entitlement authority with fiscal year 1994 outlay effects of more than $1.311 billion (if not already included in the current level estimate) would cause fiscal year 1994 outlays to exceed the appropriate level set by House Concurrent Resolution 64.

REVENUES

Enactment of any measure producing any revenue loss in fiscal year 1994—if not already included in the current level estimate—would cause fiscal year 1994 revenues to fall further below the appropriate level set by House Concurrent Resolution 64.

Enactment of any measure producing any net revenue loss for the period fiscal year 1994 through fiscal year 1998—if not already included in the current level estimate—would cause revenues for that period to fall further below the appropriate level set by House Concurrent Resolution 64.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(a)

[Fiscal years, in millions of dollars]

	1994—			1994–1998		
	BA	Outlays	NEA	BA	Outlays	NEA
HOUSE COMMITTEE						
Agriculture:						
Allocation	−65	−66	−60	−2,725	−2,727	888
Current level	−99	−106	−402	−2,216	−2,411	−3,559
Difference	−34	−40	−342	509	316	−4,447

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(a)—Continued

[Fiscal years, in millions of dollars]

	1994—			1994–1998		
	BA	Outlays	NEA	BA	Outlays	NEA
Armed Services:						
Allocation	−128	−128	−128	−2,365	−2,357	−2,357
Current level	−153	−163	−167	−2,271	−2,275	−2,328
Difference	−25	−35	−39	94	82	29
Banking, Finance and Urban Affairs:						
Allocation		−338			−2,792	
Current level	−417	−915		−364	−3,195	
Difference	−417	−577		−364	−403	
District of Columbia:						
Allocation						
Current level						
Difference						
Education and Labor:						
Allocation			118			−4,048
Current level	−147	−158	−792	−142	−142	−5,172
Difference	−147	−158	−910	−142	−142	−1,124
Energy and Commerce:						
Allocation		−1,700	−180	−1,169	−8,369	−7,798
Current level	2	−2,398	42	−1,159	−11,359	−7,059
Difference	2	−698	222	10	−2,990	739
Foreign Affairs:						
Allocation				−5	−5	−5
Current level	−33	−33	−3	−149	−149	−60
Difference	−33	−33	−3	−144	−144	−55
Government Operations:						
Allocation						
Current level						
Difference						
House Administration:						
Allocation						
Current level	1	1		8	8	
Difference	1	1		8	8	
Judiciary:						
Allocation					−472	
Current level					−345	
Difference					127	
Merchant Marine and Fisheries:						
Allocation				−205	−205	−4
Current level	−1	−1		−210	−210	
Difference	−1	−1		−5	−5	4
Natural Resources:						
Allocation	−117	−112		−709	−693	
Current level	−74	−78		−478	−481	
Difference	43	34		231	212	
Post Office and Civil Service:						
Allocation	−66	−66	−77	−10,199	−10,547	−9,597
Current level	−256	−256	−218	−10,258	−10606	−8,709
Difference	−190	−190	−141	−59	−59	888
Public Works and Transportation:						
Allocation	2,092	−13		37,458	−85	
Current level	−13	−13		−85	−85	
Difference	−2,105			−37,543		
Science, Space, and Technology:						
Allocation						
Current level						
Difference						
Small Business:						
Allocation						
Current level						
Difference						
Veterans' Affairs:						
Allocation	−11	−11	70	−1,356	−1,352	3,447
Current level	−11	−11	28	−1,356	−1,352	−366
Difference			−42			−3,813
Ways and Means:						
Allocation	−2,876	−2,054	−2,036	−29,669	−24,422	−12,596
Current level	−1,216	−824	261	−42,102	−39,768	−35,957
Difference	1,660	1,230	2,297	−12,433	−15,346	−23,361
Permanent Select Committee on Intelligence:						
Allocation						
Current level	7	7	7	33	33	33
Difference	7	7	7	33	33	33

NEA—New Entitlement Authority.

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 1994—COMPARISON OF CURRENT LEVEL WITH SUBALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(b)

[In millions of dollars]

	Revised filed 602(b) suballocations (Sept. 30, 1993)		Current level		Difference	
	BA	0	BA	0	BA	0
Agriculture, Rural Development	14,819	14,317	14,595	14,205	−224	−112
Commerce, State, Judiciary	23,119	23,231	22,800	23,217	−319	−14
Defense	240,446	255,465	239,897	255,151	−549	−314
District of Columbia	700	698	700	698	0	0
Energy and Water Development	22,017	21,702	21,689	21,585	−328	−117
Foreign Operations	13,444	13,918	12,690	13,878	−754	−40
Interior	13,736	13,731	13,727	13,726	−9	−5
Labor, Health and Human Services, and Education	67,283	68,140	67,189	68,012	−94	−128
Legislative	2,270	2,267	2,264	2,262	−6	−5
Military Construction	10,066	8,784	9,464	8,759	−602	−25
Transportation	13,284	34,889	12,435	34,878	−849	−11
Treasury-Postal Service	11,469	11,642	11,312	11,639	−157	−3
VA-HUD-Independent Agencies	68,311	69,973	68,053	69,978	−258	5
Grand total	500,964	538,757	496,815	537,988	−4149	−769

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 11, 1994.
Hon. MARTIN O. SABO,
Chairman, Committee on Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the on-budget current levels of new budget authority, estimated outlays, and estimated revenues for fiscal year 1994 in comparison with the appropriate levels for those items contained in the 1994 Concurrent Resolution on the Budget (H. Con. Res. 64), and is current through March 24, 1994. A summary of this tabulation follows:

[In millions of dollars]

	House current level	Budget resolution (H. Con. Res. 64)	Current level +/− resolution
Budget authority	1,218,395	1,223,400	−5,005
Outlays	1,216,989	1,218,300	−1,311
Revenues:			
1994	905,429	905,500	−71
1994–1998	5,105,866	5,153,400	−47,534

Since my last report, dated March 14, 1994, Congress approved and the President signed the Federal Workforce Restructuring Act (P.L. 103-226), Congress has also approved for the President's signature the Housing and Community Development Act (S. 1299). These actions changed the current level of budget authority and outlays.

Sincerely,

JAMES L. BLUM,
(For Robert D. Reischauer.)

PARLIAMENTARIAN STATUS REPORT, 103D CONGRESS, 2D SESSION—HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1994 AS OF CLOSE OF BUSINESS MARCH 24, 1994

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in previous sessions			
Revenues			905,429
Permanents and other spending legislation[1]	721,126	695,196	
Appropriation legislation	742,749	758,885	
Offsetting receipts	(237,226)	(237,226)	
Total previously enacted	1,226,648	1,216,855	905,429
Enacted this session			
Emergency supplemental appropriations, fiscal year 1994 (Pub. L. 103–211)	(2,286)	(248)	
Federal Workforce Restructuring Act (Pub. L. 103–226)	48	48	
Offsetting receipts	(38)	(38)	
Total enacted this session	(2,276)	(238)	
Pending signature			
Housing and Community Development Act (S. 1299)	(410)	(410)	
Entitlements and mandatories			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted[2]	(5,567)	781	
Total current level[3] [4]	1,218,395	1,216,989	905,429
Total budget resolution	1,223,400	1,218,300	905,500
Amount remaining:			
Under budget resolution	5,005	1,311	71
Over budget resolution			

[1] Includes budget committee estimate of $2.4 billion in outlay savings for FCC spectrum license fees.

[2] Includes changes to baseline estimates of appropriated mandatories due to enactment of Public Law 103–66 and Public Law 103–140.

[3] In accordance with the Budget Enforcement Act, the total does not include $13,816 million in budget authority and $8,958 million in outlays in emergency funding.

[4] At the request of Committee staff, current level does not include scoring of section 601 of Public Law 102–391.

Notes: Amounts in parentheses are negative. Detail may not add due to rounding.

COMMEMORATING THE 79TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. LEHMAN], is recognized for 5 minutes.

Mr. LEHMAN. Mr. Speaker, this Sunday, April 24, marks the 79th anniversary of the Armenian genocide. Each year, Members from both the House and the Senate pause to honor the memory of the 1½ million Armenians massacred by the Turkish Ottoman Empire.

The Armenian community in the United States is largely descended from those who escaped death but were forcibly exiled from their historic lands and found home on our shores. Here in the United States, Armenian-Americans found security and opportunity, and have contributed to every aspect of life.

On the evening of April 24, 1915, more than 200 Armenian religious, political, and intellectual leaders of the Armenian community in Istanbul were arrested, exiled from the capital city and executed. In a single nights sweep the voice of the representatives of the Armenian nation in Turkey was silenced. This tragic event was only the beginning of an unfolding, systematic policy of deportation and extermination being implemented by the young Turk Government. Consequently, the 24th of April represents for Armenia the symbolic beginning of the Armenian genocide.

In the following years from 1915–1923, 1½ million men, women and children were murdered in an attempted genocide of the Armenian people by the Government of the Ottoman Empire. This ethnic cleansing by the Ottoman Empire was indeed a tragic loss which resulted in the death of two of every three Armenians living in their homeland.

The Armenian genocide was a terrible page in our world's history but we, as a society, must never forget the atrocities of the past. For if we forget the horrors of the past—they will be repeated in the future. Perhaps if more people had known about the genocide of the Armenians, Adolf Hitler would not have rallied his troops for the invasion of Poland in 1939. Hitler was heard to have said to his followers, "Who remembers the Armenians?" Hitler was right, few people at the time remembered the Armenians.

The horror of the Armenian genocide is made worse by the refusal of the current government of Turkey to acknowledge that it ever occurred. The Turks attempt to account for the vast decrease in the number of Armenians in Turkey as a consequence of war. Do the Turks really expect Armenian-Americans to forget this horrendous massacre simply because they have succeeded in tampering with history and denying the obvious facts? The historical record is clear and irrefutable; it is our moral responsibility to acknowledge the Armenian genocide.

Turkey's refusal to admit the Armenian genocide ever happened is just another ploy by the Turkish Government. Currently, Turkey is restricting Red Cross and humanitarian aid, some of which was approved by this body, from being delivered to the starving people of Armenia.

Mr. Speaker, the time has come for the United States to tell Turkey enough is enough. Despite Turkey's abysmal human rights record and refusal to allow humanitarian assistance to be delivered, this country continues to provide hundreds of millions of dollars to the Government of Turkey.

It simply makes no sense for our government to continue to provide assistance to Turkey. Recently, I introduced the Humanitarian Aid Corridor Act, which stipulates that countries who receive U.S. foreign assistance must—as a condition of receiving U.S. assistance—not obstruct nor delay the delivery of U.S. humanitarian assistance.

I am hopeful that tonight's special order commemorating those killed during the Armenian genocide will demonstrate our country's concern for Armenians all over the world. The 24th of April is a day of remembrance for all of us who care about human values and for all of us who care about the truth. I thank my colleagues for their participation and hope you will co-sponsor the Humanitarian Aid Corridor Act (H.R. 4142).

As a person committed to the truth about the Armenian genocide and holding countries accountable for their actions, I would like to thank Ms. ESHOO, who helped organize this special order, for ensuring that Armenian genocide will not go unacknowledged and unmourned by the American people.

Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Speaker, I wish to thank my colleague, the gentleman from California [Mr. LEHMAN] for calling this special order and allowing us to speak on the issue of the 79th anniversary of the Armenian genocide.

Mr. Speaker, today Members of the House of Representatives sadly commemorate the 79th anniversary of the Armenian genocide. I want to recognize the hard work of my good friend, the gentleman from California [Mr. LEHMAN], for calling this special order.

Today, I must first ask—How can words ever express the tragic loss of over 1½ million innocent people? Yet, the very fact that genocide is so incomprehensible, strengthens the need to speak out, to commemorate, and to remember the Armenian tragedy.

Denial and silence compound the crime against humanity that was committed by the Ottoman Empire between 1915 and 1923. Only when all sides recognize the depth and scope of the Armenian genocide can we move forward in building trust and peace in this troubled region.

As a country, the United States has been blessed by the Armenian populations in our communities who are descendants of those who were forced into exile.

As immigrants fleeing persecution and death, many Armenians found safety and a new way of life in America. With determination and dignity they started over, established roots, and became contributing members of our society.

Such survival is a tribute to their strength and reaffirms that the United States' acceptance of thousands of persecuted Armenians is a part of our history and tradition that deserves recognition.

These Armenians and their children and grandchildren shall never forget less fortunate individuals—the thousands upon thousands who died, and those who survived struggling for self determination in their homeland.

Those of us who are not of Armenian descent must also never forget the Armenian genocide. It serves as a tragic reminder that unchecked and abusive government power has and can lead to the deaths of over a million innocent people.

Mr. LEHMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from California, Mr. THOMAS.

Mr. THOMAS of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I, too, am pleased to take the time to remind all Americans that the Armenian genocide was the first genocide of the twentieth century. I think it is ironic that, as we are speaking now in memory of the first genocide of the twentieth century, that perhaps we are experiencing one of the last. Or yet will there be other genocides?

□ 2040

When will the lesson be learned? Those of us who are from California, especially central California, have a number of friends who are Armenian. My chief of staff is Armenian.

I have listened to their personal stories and the tragedies that they have lived through. It seems entirely appropriate that we carry these people in our memories as those who, at the very beginning of the 20th Century, experienced the worst of all possible debacles. That is, not murder, not mass murder, but genocide, and that with the Armenians' ability to cope and relate, let us hope that we, after this year, remember only the history of genocides and not the continuing ones.

Mr. LEHMAN. Mr. Speaker, I yield to the gentleman from Wisconsin [Mr. BARCA].

Mr. BARCA of Wisconsin. Mr. Speaker, I want to begin by commending my colleague from California, DICK LEHMAN, for organizing this special order to commemorate the Armenian genocide.

Garbo Kaisserlian, Tamam Hadishian, Manam Haydarian, Gabriel Suslian, Haroutoon and Sare Yeretzyan, Krikor Kaprelian, Dikran Meghdasian, Arsham Arshamian, Travanda Malkasian and Giragos Kazarian. These are just a few of the names of relatives of the citizens of Wisconsin's First District who died at the hands of the Turkish Government during the Armenian genocide between the years of 1915 and 1923. Mr. Speaker, I ask for unanimous consent that a more complete list of these names be submitted at this point into the RECORD.

Each year Armenians and those of us who are concerned abut this issue remember the 1.5 million victims of this horrific crime against humanity. The remembrance has another purpose however, one of education and recognition.

On April 24th, 1915, hundreds of Armenian religious, political and intellectual leaders were arrested, exiled and eventually murdered in remote areas of Eastern Anatolia in eastern Turkey. Within a few months, 250,000 Armenians serving in the Ottoman army during World War One were disarmed and forced to join labor battalions where they were starved to death or executed. The final step came when Armenian citizens were deported from every city, town and village in the empire. Most women and children were sent on death marches through the Syrian desert where they were subjected to rape, torture, starvation, disease and murder along the way.

To quote the distinguished author, Elie Wiesel:

> Before planning the final solution, Hitler asked, who remembers the Armenians? He was right. No one remembered them, as no one remembered the Jews.

To this day the Republic of Turkey does not recognize the ethnic cleansing that occurred during the Armenian genocide. United States policy should encourage the Turkish Government to recognize the Armenian Genocide. This recognition will allow both the Armenian and Turkish peoples to move on to a new chapter in their histories and to assure that these crimes will never again be repeated. Like the holocaust of European Jews and the genocide of the Cambodian people later in this century that followed, the lessons of this ultimate crime against humanity must never be forgotten. Armenians and non-Armenians alike must teach our children the lessons of the genocide. We must never forget. History must never be repeated.

Mr. Speaker, brutality can be tolerated no more today than it was during the time of Hitler, Stalin or Talaat Pasha [leader of the young Turks during the genocide]. Our country must send strong messages to those who would oppress and kill today. We will remember the lessons of the Armenian Genocide that brutality and aggression will not go unchallenged.

IN MEMORY OF THOSE THAT DIED IN THE ARMENIAN GENOCIDE OF 1915–1923

Garbo Kaisserlian—relative of Araxi Kaisserlain.

Tamam Hadishian—grandmother of Gulloo Kaisserlian.

Gabriel Suslain—relative of Vartouhie Abajian.

Haroutoon and Sara Yeretzyan—relative of Rose Shamshoian and Alice Kashian.

Markritt Shamshoian—stepmother of the late Edward Shamshoian.

Krikor Kaprelian—relative of Elsie, Rose, and Julie Kaprelian.

Serop Yeghissian—grandfather of Kaloust Mahdasian.

Dikran Meghdasian—uncle of Mahdasian family.

Arsham Arshamian—brother of Arshag Kalajian.

Arkel Avakian—grandfather of Naz Kalajian.

Trvanda Malkasian—grandmother of Mary Djibilian and Sonia Buchaklian.

Giragos Kazarian—relative of the Kazarian family.

Mr. LEHMAN. Mr. Speaker, I thank my colleague, the gentlewomen from California [Ms. ESHOO] for helping arrange this.

Mr. BILIRAKIS. Mr. Speaker, I rise today to join my colleagues from California, Congressman LEHMAN and Congresswoman ESHOO, in commemoration of one of the saddest and most tragic events of human history—the genocide of the Armenian people during the latter half of the 19th century.

In joining my colleagues, I also want to heartily commend them for taking this time that we may speak about this very disturbing chapter in world history. It is a story that is widely known, however, there is little mention of it in our history books. For while it may be painful to review these events, as long as this is the case—as long as we experience this discomfort and pain—there is hope for humanity.

Unfortunately, the plight of the Armenians and the attempted genocide of 1915 by the Ottoman Turks is an event that the U.S. Government has still not recognized. In a time where human rights are in the forefront of all of our minds we must recognize the struggles that the Armenians have gone through in 1915 as well as the present with the current Azerbijan blockage.

Indeed, in few other instances has man's inhumanity to man been demonstrated so starkly than in the persecution of the Armenians by the Ottoman Empire. And while some 1,500,000 Armenian people died and another 500,000 were exiled between 1915 and 1923, this was but the brutal culmination of events stretching back to 1894.

In that year, 300,000 Armenians were massacred, and in 1909, a further 21,000 perished—all before what is generally considered to be the true genocide beginning 6 years later.

As an American of Greek descent, I always have felt a special tie to the Armenian people, because the land of my ancestors also suffered at the hands of the Ottoman Turks. My colleagues may know that every March I sponsor a special order in this chamber to commemorate Greek Independence Day on March 25th.

That date marks the beginning of Greece's struggle for independence from more than 400 years of domination by the Ottoman Empire. It was on that day that the Greek people began a series of uprisings against their Turkish oppressors, uprisings which soon turned into a revolution.

Greece was more fortunate than Armenia. It did not suffer the dark events that we commemorate today. Whole villages exterminated, thousands and thousands rounded up and literally worked to death. However, Greeks, too, know what it means to labor under oppression.

The Greek struggle for independence and the Armenian genocide are two events that erupted in the same region of the world and that fit neatly together to form a message.

It is a message that rings down through the ages and must never be ignored. The message is this: We must continue to speak out, to raise our voices in protest of the mistreatment of our fellow human beings. This is a simple matter of right versus wrong.

It is our duty to call attention to human rights abuses on any scale until the world is united in revulsion for these atrocities; until those yearning only to live free are allowed to do so.

Mr. BERMAN. Mr. Speaker, I rise today to ask my colleagues to join me in commemorating the 79th anniversary of one of the great tragedies of our century—the slaughter of over 1 million Armenians, residents of Ottoman Turkey, between 1915 and 1923.

As we remember this and the other massacres and deportations that were inflicted on Armenian civilians in the early years of this century, we must remind ourselves, once again, that only be keeping the memory of these tragedies alive can we hope to avert their recurrence in the future.

In a year when the movie "Schindler's List" reminded us all why we must "never forget" let us remind ourselves that it was the world's inattention to the massacres of Armenians that emboldened Hitler to proceed with the final solution.

At the same time, since 1991, this annual commemoration is also an occasion to mark the historic reemergence of an independent Armenia. A resilient and resourceful people, the Armenians have overcome great adversity and are building an inspiring new chapter in their national history.

We also want to note the enormous contributions made by Armenian-Americans in our own country. Mostly descended from those who escaped the slaughter, these Americans fill leading ranks of business, medicine, law, and every other conceivable undertaking. We salute their achievements and we offer our sincerest condolences as they grieve for the victims of this terrible tragedy.

Mrs. MORELLA. Mr. Speaker, I am pleased to join my colleagues today to commemorate the 79th anniversary of the Armenian Genocide.

Beginning in 1915 and until 1923, over 1.5 million Armenians died as a result of persecution by the Ottoman Empire. The massacre of the Armenian people was a systematic program to cleanse the Ottoman Empire of the Armenian people. Armenians were displaced from their homes and subject to torture, mutilation, and inhumane treatment.

This type of ethnic cleansing is still frequent today; in the former Yugoslavia, the Caucausus, Rwanda and Burundi. We still live in a world where racial bigotry and persecution rule the governments and lead the people of various nations.

The end of the cold war and the rise of the new independent states is a call for the United States to remain at the forefront of the battle for human rights, democracy and peace. We must be very clear that in our world community there is no place for behavior that oppresses the inalienable rights of human beings to exist. Just as when we commemorate the Jewish Holocaust, we recite "never forget," so should be the case with the plight of the Armenian people.

The atrocities of the Ottoman Empire should be a constant reminder to us that it is our responsibility to insure that tragedies like this will never resurface to stain the history of mankind.

It is my sincere hope that this commemoration will assuage the survivors and increase the level of knowledge in our own communities. I appreciate this opportunity to increase the awareness on this rarely heralded issue.

Mrs. MALONEY. Mr. Speaker, I rise today to join my colleagues in the sad commemoration of the killing of 1.5 million Armenians between 1915 and 1923.

I am particularly mindful of this tragedy because many of the children and grandchildren of the survivors of the Armenian Genocide live in the Congressional district which it is my privilege to represent.

As a supporter of human rights, I am apalled that the Turkish Government has refused to acknowledge what happened and instead is attempting to rewrite history.

In a sense, even more dismaying than Turkey's denial is the willingness of some officials in our own government to join in rewriting the history of the Armenian Genocide. It is imperative that we do not let political agendas get in the way of doing the right thing.

Mr. Speaker, the issues surrounding the Armenian Genocide should not go unresolved. I call upon the United States Government to demand complete accountability to the Turkish Government for the Armenian Genocide of 1915–1923. To heal the wounds of the past, the Turkish Government must first recognize the responsibility of its country's leaders at that time for this catastrophe. Such an admission would make it possible for an international forum to convene in which representatives of the Turkish and Armenian Governments might develop realistic strategies for resolving the contemporary implications of that crime of genocide.

I also believe it continues to be appropriate for the United States to maintain a ban on aid to Azebaijan until it has ended its aggression and lifted its blockades against Armenia and Nagorno-Karabagh. Lifting the ban, as is proposed in a bill pending before the House Foreign Affairs Committee, would reward Azebaijan for its continuing aggression and attempts to seek a military solution of the conflict.

The noted philosopher, George Santayana, has taught us that "those who cannot remember the past are condemned to repeat it." We should heed his wise principle and do all we can to ensure that the martyrdom of the Armenian people is not forgotten or repeated.

Mr. PALLONE. Mr. Speaker, I rise this evening to join with my colleagues to pay tribute to the one and a half million Armenians who were murdered during the genocide organized and perpetrated by the Ottoman Turkish Empire. I have taken part in this Special

Order, which we hold every April, since my first year in the House, and I am confident that this annual rite of remembrance will continue for as long as people of conscience are elected to serve in this House. In particular, we will feel compelled to raise our voices as loud and strong as possible until such time as the Government of Turkey finally ends its disgraceful policy of denying that this genocide ever took place. Indeed, it is the obstinate policy of the Turkish Government, in large part, that motivates us to keep alive the memory of one of history's darkest chapters. Let me say to all enemies of the truth, to all those who wish to rewrite the past: your efforts will not succeed, cannot succeed. Crimes against humanity may, at times, go unpunished. But as long as there is any sense of decency and a belief in the truth, these crimes will never be forgotten.

Mr. Speaker, as we come to the end of the century, we are well-advised to think about what happened at the beginning of the century, during the First World War at the time of the collapse of the Ottoman Empire. We now live in a very uncertain world, a time when a superpower has collapsed, a major international ideology has been discredited, and a great deal of uncertainty, instability, violence and the threat of wider warfare grips many parts of the world. What we are seeing in Bosnia, with the Serbs' ongoing campaign of ethnic cleansing, or the recent frightening rash of ethnic bloodletting in Rwanda, are but two examples of how a situation of instability can bring out the worst in a nation that is struggling to maintain its hold on power through the deliberate and systematic destruction of a racial, religious or cultural group. This is what is known as genocide.

Back in 1915, the term genocide had not yet been coined. But witnesses to the horror that took place in what is now the Republic of Turkey had no doubt about what was going on, even if they didn't have a word for it. Our U.S. Ambassador to the Ottoman Empire, Henry Morgenthau, spoke out against the program of "race extermination under a protect of reprisal against rebellion." He said that "I am confident that the whole history of the human race contains no such horrible episode as this." He noted that Turkish officials "made no particular effort to conceal" the goal of deportations of Armenians, namely, in Morgenthau's words, "the death warrant to a whole race."

This historical tragedy—which began on April 24, 1915, with round-ups of Armenian religious, political and intellectual leaders, and ended eight years later with the murder of 1.5 million people and the virtual elimination of the Armenian population in the Ottoman Empire—was recognized for what it was by our ambassador, international relief agencies and journalists on the scene. The U.S. Archives contain volumes of historical records on the genocide. Both Houses of Congress and the last four Presidents of the United States have paid tribute to the Armenian victims.

Does the Turkish Government really believe that we have all been duped by some massive hoax? Or is there a darker reason for their attempts to deny what happened nearly 80 years ago? These questions are best answered by the Turkish authorities themselves. True, the acknowledgement by modern Germany of the sins committed in the name of Germany by the Nazi does not change the fact of the Nazi Holocaust against 6 million Jews or ease the pain of the survivors and their families. Yet, an acknowledgement of the truth by Turkey would still mean a great deal. It would at least end the insult that Armenian Genocide survivors and their families have to face on top of the burden of their horrible memories. Such an admission would also show a high degree of honesty, maturity and commitment to democratic values on the part of modern Turkey. Maybe we will see it in our lifetime.

In the meantime, Turkey can take steps to help Armenians today by working to end the blockade imposed against Armenia by Azerbaijan. Yet, sadly, Turkey has so far done just the opposite, in the process dashing any hopes of a reconciliation with the Armenian people and a recognition of their national rights. Like my colleagues here tonight, I have nothing against the Turkish people or their culture. I am glad that Turkey has been a United States ally. But I would hasten to add that American allies, recipients of U.S. aid, should show more respect for our democratic values.

Mr. Speaker, let us use this occasion to resolve to never forget the tragedy of the Armenians and to speak out whenever genocide is used by tyrants as an instrument of state policy.

Mr. LEVY. Mr. Speaker, it seems appropriate to me that today the House of Representatives commemorate April 19, 1994, as the 79th Anniversary of the Armenian Genocide.

Throughout the United States and the world, Armenians, Americans, Jews and other people of conscience pause to remember the 1.5 million Armenian victims of genocide and the 500,000 refugees that fled the horror between 1915 and 1923.

Nearly two decades before the beginning of the Holocaust, the world was brought face to face with the sheer horror and stark terror of mass murder, starvation, torture and atrocity of the Armenian Genocide.

As would be the case during the Holocaust, very few would even attempt to come to the aid of the victims of this genocide. Today, Americans and people of conscience stand side by side with people of Jewish and Armenian descent to proclaim that we will not allow those despicable events of 1915 and the Holocaust to ever happen again.

Mr. Speaker, Ellie Wiesel, Chairman of the U.S. Holocaust Memorial Council and a survivor of the Holocaust, summed it up better than I ever could.

He said, "Before planning the final solution, Hitler asked, 'Who remembers the Armenians?' No one remembered them, as no one remembered the Jews."

Mr. Speaker, I can assure you that today, all people of conscience remember the Armenians.

Mr. TORRES. Mr. Speaker, thanks to my good friend and colleague from California, Mr. LEHMAN, each April both houses of Congress pause to honor the memory of the one and a half million Armenians who were killed between 1915 and 1923 by agents of the Turkish Ottoman Empire in what is known in infamy, and perhaps with some controversy, as the Armenian Genocide.

Some would claim that our remembrance today fans the flames of atavistic hatred and that the issue of the Ottoman Government's efforts to destroy the Armenian people is a matter best left to scholars and historians. I do not agree. For whatever ambiguities may be invoked in the historic record of these events, one fact remains undeniable: the death and suffering of Armenians on a massive scale happened, and is deserving of recognition and remembrance.

This solemn occasion permits us to join in remembrance with the many Americans of Armenian ancestry, to remind this country of the tragic price paid by the Armenian community for its long pursuit of life, liberty and freedom.

We come together each year with this act of commemoration, this year being the 79th anniversary of this genocide, to tell the stories of this atrocity so that we will not sink into ignorance of our capacity to taint human progress with acts of mass murder.

The Armenian Genocide was a deliberate act to kill, or deport, all Armenians from Asia Minor, and takes its place in history with other acts of genocide such as Stalin's destruction of the Kulaks, Hitler's calculated wrath on the Jews, and Pol Pot's attempt to purge incorrect political thought from Cambodia by killing all of his people over the age of 15.

We do not have the ability to go back and correct acts of a previous time, or to right the wrongs of the past. If we had this capacity, perhaps we could have prevented the murders of millions of men, women and children.

We can, however, do everything in our power to prevent such atrocities from occurring again. To do this, we must educate people about these horrible incidents, comfort the survivors and keep alive the memories of those who died.

I encourage everyone to use this moment to think about the tragedy which was the Armenian Genocide, to contemplate the massive loss of lives—on both sides of this conflict, and to ponder the loss of the human contributions which might have been.

Although, the massacre we depict and describe started 79 years ago, the Armenian people continue to fight for their freedom and independence. Today, in the Nagorno Karabagh, Armenian blood is being shed even while negotiations continue to attempt to find a solution to this deadly conflict.

I would like to close my remarks with an urgent plea that we use this moment as an occasion to re-commit ourselves to the spirit of human understanding, compassion, patience and love. For these alone are the tools for overcoming our tragic, and uniquely human proclivity for resolving differences and conflicts by acts of violence.

Mr. TORRICELLI. Mr. Speaker, I rise to commemorate the tragic genocide and exile of the Armenian people 79 years ago. In 1915, the Turkish Ottoman Empire began a deliberate campaign to destroy the Armenian people. This campaign included a systematic program of murder and expulsion of over 1,500,000 Armenian people from their historic homeland, and effectively erased a rich culture dating back 3,000 years. Today, fewer than 80,000 Armenians remain in Turkey.

This appalling event is known as the first genocide of the 20th century. We pause now to ensure that the Armenian genocide will never slip into the recesses of history, but will instead be remembered as one of the most tragic occurrences of our time.

This day of remembrance of the Armenian genocide not only honors the victims of this terrible event, but also functions as a constant reminder of man's ability to perform great evil. Elie Wiesel noted that "before planning the final solution, Hitler asked, 'Who remembers the Armenians?' He was right. No one remembered them, as no one remembered the Jews."

Both the Armenian Genocide and the Holocaust remind us that we cannot close our eyes to the tragedies in our past. And if the past were not enough to remind us of the horrors of which mankind is capable, then we can look to the present in Bosnia, where ethnic cleansing is going on right now.

The Armenian community in the United States is comprised of the descendants of the survivors of this heinous event. In spite of the hardships they have suffered, today Americans flourish as prominent and successful citizens of our great Nation. Numerous such citizens, who now reside in my congressional district in New Jersey, have contacted me about the anguish they feel about the events of the past and the importance of remembering these events.

Armenian-Americans in my district also tell me of their concern with the present situation in Armenia. I refer, of course, to the awful conflict in Nagorno-Karabagh. For nearly 6 years, ethnic Armenians in Nagorno-Karabagh have waged an armed struggle against the Government of Azerbaijan for the right to self-determination. I support the Armenians in their struggle today, and commemorate their past to let the Armenians know they are not forgotten.

We are forced to relearn again and again the lesson of the effects of evil unchecked. Let us remember the past in the hope that it will guide us to a better future.

Mr. DELLUMS. Mr. Speaker, April 24, 1994 marks the passage of 79 years since the planned campaign of murder by the Ottoman Turkish government against the Armenian leadership and Armenian people. The campaign, which lasted 8 years, killed 1.5 million Armenians and forced the exile of millions more from their historic homelands.

On April 24, 1915, the Ottoman Empire began the systematic elimination of the Armenia leadership with executions, the disarming or execution of other Armenian males, and the forced exile of the surviving women, the elderly and the children through deadly deserts.

Henry Morgenthau, U.S. Ambassador to Turkey then, stated that:

> The Turkish authorities gave the orders for these deportations, they were giving the death warrant to a whole race; they understood this well, and in their conversations with me, they made no particular attempts to conceal the fact.

The systematic approach to the killing of whole populations, ethnic groups, nationalities, and other subgroups has occurred throughout the written history of our species up to the present time. I believe that we will, through education, through our knowledge of the past, learn to condemn any killing as a crime against our common humanity, and that killing of a group of people should be condemned as the highest, and intolerable crime.

I join with people all over the world who in honoring the lives of Armenians and commemorating the horrible, wasteful deaths of Armenians in these 8 years, hope that we can be increasingly aware of acts of genocide today and continue to work with the United Nations in preventing such behavior.

Mr. BAKER of California. Mr. Speaker, today I join my colleagues and the Armenian community worldwide in commemorating the Armenian genocide—the deliberate and systematic annihilation of over 1.5 million Armenians, perpetrated during the years of 1915 to 1923.

There are those who question the importance of remembering a crime that happened some 79 years ago. However, it is this indifference today can lead to the repetition of these heinous crimes tomorrow.

History has already proven this fact. Prior to Hitler's invasion of Poland, when asked about his intended treatment of the Jewish population, Hitler justified the "final solution" by asking, "After all, who remembers the Armenians?" The genocide of the Kurds in Iraq, the genocide of the Cambodians by the Khmer Rhouge, the Jewish Holocaust—each remind us of the horrifying genocide of the Armenians.

As we pause to reflect upon this grievous example of man's inhumanity to man, let us strengthen our conviction that such atrocities never be repeated.

Ms. PELOSI. Mr. Speaker, I rise today in observance of the 79th anniversary of the Armenian genocide by the Ottoman Turkish Empire and I thank my colleague, Mr. LEHMAN from California, for calling this special order.

From 1915 to 1923, the Ottoman Turks carried out a genocide of the Armenian people through a calculated scheme of massacres and forced exile. One and a half million Armenian women, men, and children were killed and over 500,000 Armenians were forced from their homeland of 3,000 years.

Some of those exiled from their historic motherland made their new homes in the United States. Descendants of these Armenian exiles continue to make valuable contributions to our society. Armenian-Americans play an important role in California's diverse communities. My district of San Francisco is blessed with a strong and civic-minded Armenian-American population. This week, these San Franciscans will remember the Armenian genocide with a commemorative program and cultural performances. The Armenian school in San Francisco will take time during social studies classes to teach about the horrible 8-year genocide.

I join with my colleagues in the House and Senate as well as my constituents in San Francisco and Armenians throughout the country and world in honoring the memories of the many victims of the tragic Armenian genocide.

Mr. HOYER. Mr. Speaker, I rise today to call attention to the National Day of Remembrance of the Armenian Genocide of 1915 to 1923. I want to thank and commend my colleague, the gentleman from California, Mr. LEHMAN, for organizing this special order and for his longstanding commitment and leadership on this issue.

Mr. Speaker, each year, throughout the United States and the world, Armenians and countless others pause to remember the 1.5 million victims of this crime against humanity. On this day of remembrance, which marks the 79th anniversary of the beginning of the genocide, the lessons of a tragedy need to be proclaimed far and wide, for regrettably, conflicts around the globe remind us that genocide remains a tool of political ambitions. It is therefore vital that we rekindle and keep alive the collective memory of the Armenian genocide.

Horrible as it was, we must not be allowed to forget this era of unprecedented cruelty and inhumanity. The world must live with this terrible open wound; 1.5 million Armenians perished in 1915 and 1916 alone in forced massacres. For the Armenian community this remembrance day honors all those who were persecuted and serves as a harsh reminder that institutionalized genocide was perpetrated against an entire people. For many Armenian families here in America and abroad, this day is observed so that the horror endures to help ensure that similar horrors will never again be permitted to occur.

Our knowledge of the senseless deaths of 1.5 million Armenians must propel us to fight to ensure that the world never revists this time of senseless brutality. The world community cannot afford to slip into a depth of complacency in which it again becomes possible to ignore man's inhumanity to man. Collectively we must stand responsible for the human rights of individuals regardless of nationality, religion, or ethnicity.

Today we must continue a process to brand indelibly upon the world's memory the imprint of a tragedy which must never be forgotten. The magnitude of the Armenian genocide is too great; our responsibility to remember that tragedy, to learn its lessons, is too pressing.

Mr. BONIOR. Mr. Speaker, April 24 will mark the 79th anniversary of one of the most horrific periods in human history. We gather here today to commemorate the genocide of the Armenian people from 1915 to 1923. We must gather because Turkey, after all these years, refuses to acknowledge these terrible deeds.

The facts, however, are undeniable. First, hundreds of Armenian religious, political, and intellectual leaders were rounded up, exiled, and eventually murdered. Over the next few months, the 250,000 Armenians in the Ottoman army were disarmed and later starved or executed.

Deprived of their leadership, hundreds of thousands of Armenians were uprooted from their homes, and forced to march through the bitter cold and blistering heat of the Syrian desert. Most did not survive. The men and boys were executed soon after entering the desert. The women, children, and elderly were subjected to rape, torture, and mutilation.

The intention of the Ottoman leaders was apparent to U.S. Ambassador Henry Morgenthau who stated,

> When the Turkish authorities gave the order for these deportations, they were merely giving the death warrant to a whole race; they understood this well, and, in their conversations with me, they made no particular attempt to conceal this fact.

Ambassador Morgenthau continued,

> I am confident that the whole history of the human race contains no such horrible episode as this. The great massacres and persecutions of the past seem almost insignificant when compared to the sufferings of the Armenian race in 1915.

This century has been witness to unparalleled human suffering and unmatched human cruelty. The Armenian Genocide was the first attempt to wipe out an entire people. The failure to recognize it gave Hitler confidence. Since then, we have seen the killing fields of Pol Pot and the horrors of ethnic cleansing in Bosnia.

If we are to stop this madness from repeating itself, we must never allow those who would cover up the Armenian genocide, or any other genocide, to succeed. And they never will succeed as long as we continue to gather and remember the Armenian genocide.

Mr. LEWIS of California. Mr. Speaker, today I would like to bring to your attention the grave injustices suffered by the Armenian people at the hands of the Ottoman Turkish Empire earlier this century. On April 24, 1994 at the Armenian Genocide Monument located in Montebello's Bicknell Park, we will commemorate the 79th anniversary of the Armenian genocide in a ceremony honoring the victims of this tragedy.

Indeed, the second half of the 19th century proved to be a dark period in Armenian history when the rise of their national consciousness was met with increasingly harsh rule by the Ottoman Turkish Government. The systematic elimination of the Armenians began in 1894 evidenced by the deaths of close to 200,000 Armenians over a 2-year period. Over the next three decades, the Armenian people were methodically uprooted from their homeland, tortured, starved, and killed.

April 24, 1915, marked the beginning of the infamous 1915 genocide when hundreds of Armenian religious, political, and intellectual leaders were rounded up, exiled, and eventually murdered. To further weaken the Armenian people, the 250,000 Armenians serving in the Ottoman Army during World War I were disarmed and placed in forced labor battalions where they were either starved or executed while the rest of the adult males were taken from their homes and killed. Left without any protection, the women, children, and elderly were raped, tortured and marched out of their homeland through the Southern Anatolian deserts where they suffered from extreme temperatures and lack of food and water. Over the course of the next few years, 1.5 million Armenians were killed, and more than 500,000 exiled from the Ottoman Empire.

On this day of remembrance, let us pause to honor the memory of the countless victims of the Armenian genocide. Let us learn from these past injustices and vow to prevent such catastrophes from occurring again.

Mr. GILMAN. Mr. Speaker, I am honored that my colleague, the gentleman from California, Mr. LEHMAN, has invited me to join in today's special order commemorating the tragic events that began in 1915.

I am also honored that the Armenian National Committee of America asked me to join in this special order today, because I know how important this commemoration is to those Armenian-Americans descended from the survivors of those tragic massacres 79 years ago.

At that time, and over the course of several subsequent years, hundreds of thousands of Armenians died as a result of brutal actions taken by the Turkish Ottoman Empire.

While it is indeed my privilege to join in honoring the memory of those thousands who died as a result of that campaign of violence and deprivation begun 79 years ago, this commemoration is obviously not a happy occasion.

None of us enjoys contemplating the worst aspects of mankind's history, as illustrated by the events of 1915 and subsequent years in Ottoman Turkey.

Still, it is important that we do so, because such historical events hold meaning for us today.

Certainly, we cannot stop violence and suffering everywhere in the world, but, from studying such historical events, we do understand more clearly just what can be at stake.

Indeed, a reminder of tragic events such as those which took place almost 80 years ago can help us to realize the lives that can possibly be saved by a judicious application of American influence in promotion of human rights and the peaceful settlement of conflicts.

Mr. Speaker, I ask my colleagues to join us today in commemorating those hundreds of thousands of innocents who lost their lives some 79 years ago.

Let us keep their fate in mind as we consider means by which American influence—and that of our allies—can be judiciously brought to bear to peacefully resolve violent conflicts around the world.

Mr. BLUTE. Mr. Speaker, I am pleased to join my colleagues for this commemoration, and I thank Mr. LEHMAN for arranging it.

Recent history has seen the Armenian people subjected to a number of very difficult, troubling, and tragic circumstances. From being forced to live under the Soviet Communist regime, to the terrible 1988 earthquake—much worse than any this Nation has ever seen, to the present blockade and violence imposed by the Azeris.

The Armenian people have long suffered.

But nothing is more tragic than the genocide which took place from 1915 to 1923—1.5 million died, countless more lost mothers and fathers, sons and daughters, uncles and aunts, comrades and friends.

We stand here, more than half a century later, to ensure that others will not forget.

Not forget the massacres. Not forget the persecution. Not forget the death marches. Not forget the bloodshed. And not forget that all citizens in the world deserve to live in freedom without the threat of destruction by people that hate.

As Americans, our forefathers helped the Armenians by providing millions of dollars in economic relief as well as homes and families for thousands upon thousands of orphans.

Today, we offer our sympathy, our thoughts, and our prayers. And we offer our resolve as representatives of the American people that this country will speak out against racial and ethnic hatred, and do everything in our power to see that genocide never happens again in our world.

Mr. OLVER. Mr. Speaker, on this day of remembrance we join together with the Armenian-American community to reflect on a tragic period in history when over 1 million Armenians were killed by the Ottoman Empire. Each year we take time to pause and remember the victims so that the world will never forget.

There is no crime more atrocious than the systematic murder of an entire community of people and a culture. These are crimes against humanity and they must be condemned everywhere. The victims must not be allowed to be forgotten in silence. Through the efforts of the survivors who have shared their painful memories with the world, this crime will remain in the conscience of humanity forever.

Today we share the grief, horror, and tragedy of the Armenian people. I wish that I could say here today that genocide has ended, that it remains only in our collective memory. Has the world community learned nothing in the 79 years since the Armenian genocide? Too often the world has turned a blind eye toward the systematic destruction of communities, cultures, and people.

Even today, as we pause to remember the horrors committed against the Armenian people, we have another genocide occurring. In Gorazde, and throughout Bosnia, we are witnessing the deliberate destruction of another people—in full sight of the world. All of our protestations of "Never Again!" have been for naught if we fail to relieve the suffering in Bosnia.

Let this commemoration today serve to enhance our awareness of the suffering in this world, so we will not become immune to suffering. Let the remembrance of past evil strengthen our resolve to fight such evil wherever it reoccurs in the world today.

The United States has become home to many of the descendants of the Armenian survivors and as a nation we are dedicated to upholding the standards for international human rights. Each of us must share the responsibility for educating future generations about the horrors of genocide, and must be willing to act to prevent it from happening again.

Mr. GALLEGLY. Mr. Speaker, I rise today on behalf of the 1.5 million Armenians who lost their lives in the Ottoman Turkish Empire between 1915 and 1923 in what is widely recognized as the first case of genocide in the 20th century. Given alarming developments along similar lines in Bosnia and the African nation of Rwanda, I feel that now is a particularly appropriate time for us to honor the memory of Armenians who died only because of who they were and where they were—the same reasons we can now cite in the recent deaths of many more thousands.

While Armenians continue to thrive and to make valuable and valued contributions in Turkey, America, and the world, we need only review the sobering statistics to realize the devastating effect three decades of persecution had on an entire race of peoples.

By the beginning of World War I, there were more than 2.5 million Armenians living in the Ottoman Empire. Today, fewer than 80,000 remain in Turkey, mostly in Istanbul and Western Turkey. The Eastern provinces, formerly the Armenian heartland, are virtually without Armenians.

Thankfully, while we remember the victims of Armenian genocide today we can also salute the estimated 1 million Americans of Armenian descent and the profound contribution they have made to life in this country.

It is said that history is bound to repeat itself and, sadly, man's tendency toward genocide bears this out. I can only hope that the memory of 1.5 million Armenians who had their lives viciously taken from them can—in some way—underscore the fact that our basic responsibility as human beings includes preventing others from coming to the same end.

Mrs. ROUKEMA. Mr. Speaker, I rise today in commemoration of the millions of Armenian victims of a horrific campaign of genocide during the early years of this century. This is an important day for all of us, for it is vital that we remember those who died and to prevent similar tragedies in the future.

There should be no doubt about the extent and terrible nature of the crimes that were committed against the Armenian people during the rule of the Ottoman Empire. The historical record is full of appalling details of the cruel genocide that was waged against Armenians. The cables of our own diplomats who were there bear grim testimony to the tragedy.

As the scale of suffering became known, the American people responded with genuine sympathy and support for the Armenian people. We made every effort to stop the killing, and opened our country as a refuge from persecution. Thousands of Armenians came to the United States in search of a new life—they and their children and grandchildren are now successful, contributing members of our communities.

Mr. Speaker, the best way to prevent future genocide is by condemning past genocide. There should be no question where the United States stands on this critical human rights issue.

Just as we must never forget the Holocaust that took the lives of 6 million Jews and 7 million other Europeans;

Just as we must denounce racial and ethnic violence everywhere—from Bosnia, to Rwanda, to South Africa, to the streets of our own nation;

So must we never forget the horrible fate of millions of Armenians between 1915 and 1923.

To commemorate the genocide of the Armenians is to recognize past injustices and learn from them. Only then can we ascertain that history will not repeat itself and efforts at historical revision will be repelled.

But no commemoration is complete without recognition of Armenia's current struggle. We all agree that Armenia's battle for independence has been replaced by a fight for survival.

The international community has a strong interest in stability, the growth of democracy and economic development in the TransCaucus region. Thus, we must support concerted efforts to bring about a cease-fire, security guarantees of the parties and a fair, permanent resolution of the status of Nagorno Karabagh.

In the long-term, however, political and economic progress can only be achieved in the absence of ethnic and civil strife. We can do no less than to continue every diplomatic effort to lift any blockades, thwart aggression and resolve the future of Nogorno Karabagh.

We owe it to the memory of the 1.5 million Armenian victims killed nearly 80 years ago to work to ensure peace and prosperity for their descendants.

Mrs. LOWEY. Mr. Speaker, today marks the 79th anniversary of the Armenian genocide, an act of mass murder that took 1.5 million Armenian lives and led to the exile of the Armenian nation from its historic homeland.

It is of vital importance that we never forget what happened to the Armenian people both because the only thing we can do for the victims is to remember—and also because we forget at our own peril.

The Armenian genocide, which began 15 years after the 20th century began, was the first act of genocide of this century but it was far from the last. The Armenian genocide was followed by the Holocaust, Stalin's purges, and other acts of mass murder around the world.

Adolph Hitler himself said that the world's indifference to the slaughter in Armenia indicated that there would be no world outcry if he undertook the mass murder of Jews, and others he considered less than human. And he was right. It was only after the Holocaust that the cry "never again" arose throughout the civilized world. But it was too late for millions of victims. Too late for the 6 million Jews. Too late for the 1.5 million Armenians.

Today we recall the Armenian genocide and we mourn its victims. We also pledge that we shall do everything we can to protect the Armenian nation against further aggression, in the Republic of Armenia, in Nagorno-Karabagh or anywhere else. The Armenian nation lives. We must do everything we can to ensure that it is never imperiled again.

Ms. ESHOO. Mr. Speaker, I would like to thank Mr. LEHMAN and my colleagues who are helping to raise awareness about the Armenian genocide and memorialize the Armenians who were exterminated at the beginning of this century.

While this was the greatest tragedy to befall the Armenian people, it certainly is not the only one—it's one of many events that has shaken the Armenian people.

Despite the genocide, despite the earthquake in 1988, and despite the tragic war in Nagorno Karabagh, the Armenians have remained a strong people, united by enduring faith and character.

The Armenian people have a powerful sense of family and know how to take care of one another. I know this well, for these are my people.

As the only Member of Congress of Armenian descent, I know full well how the Ottoman empire decimated our people and wrote one of the darkest chapters in human history. I am committed to ensure that the suffering of my people does not go unnoticed.

April 24, 1915, was the day hundreds of Armenian leaders were arrested and executed in Istanbul and other areas. As we approach the 79th anniversary of this event, we remember the martyrs and honor their memory—as well as the memory of the 1.5 million Armenians who later followed them in death at the hands of the Ottoman empire.

We do this because it is our moral obligation to remind the world that a great tragedy was inflicted upon our people, that the murder of Armenians was a catastrophe for the entire family of nations, and that unchecked aggression leads to atrocity.

We do this because these lessons of the Armenian genocide are overlooked with people turning their backs on modern Armenians being hunted down in Nagorno Karabagh and Bosnian Muslims are subjected to ethnic cleansing in the former Yugoslavia.

We do this because by mourning the losses of our past, we renew our determination to forge a future in which our people can live in peace, prosperity, and freedom. This week, Armenians around the world raise their voices as one and declare that what took place 79 years ago should not and cannot be forgotten.

It has been said that, "Those who can not remember the past are condemned to repeat it." Although this quotation has been repeated often, its meaning cannot be lost or trivialized.

The Armenian genocide should have been a lesson to the world. But instead, this tragedy was forgotten or denied. Prior to his invasion of Poland in 1939, when warned if such an atrocity may outrage world opinion, Adolph Hitler told his commanders not to worry. "After all" he said, "Who remembers the Armenians?" Like the Holocaust and the Cambodian genocide, the Armenian genocide serves to remind us of the dangers inherent in hatred and intolerance. Especially today, when acts of hate seem to be proliferating all over the world, we need to remember. And for those who are falling victim to ethnic violence today, I offer them the example of my people, the Armenians. I pray that they keep the faith and the strength that my people have.

In addition, I pray that they maintain their sense of family, for it is these values which maintain the Armenians' resilience, despite the many calamities that have threatened their very existence.

Again, I thank my colleague Mr. LEHMAN, and all my colleagues who have joined us here today to remember this tragedy.

We must do all we can to prevent this tragic history from repeating itself.

Mr. ROHRABACHER. Mr. Speaker, in less than a week, we will be commemorating the anniversary of the Armenian genocide, a dark episode in the history of mankind. Seventy-nine years ago this month, we remember the 1.5 million Armenians who died in the Armenian holocaust.

This sad chapter in human history should remind us that we need to constantly be on guard against the dark side of human character. Armenia, is not alone, it shares a period of mourning with all too many other nations.

Stalin's starvation of Ukraine, the Nazis slaughter of European Jewry, Mao's China, and Pol Pot's Khmer Rouge point out man's inclination for inhumanity toward others.

Genocide could well be a remnant of our barbaric past. Unfortunately, it is still being used by some barbarians today. Serbia's campaign of "ethnic cleansing," or Iraq's feud with the Kurds, or the Burmese regime's battle with the Karens, or the situation we have watched spin out of control recently in Rawanda—genocide is part of our reality, now.

I join today with the Armenian people in remembrance of all past and present victims of genocide. They are victims of evil. One of my hopes is that by remembering this tragedy we will have the wisdom to avoid it and the courage to stand up against it.

I visited the Armenian Holocaust Memorial in Yerevan, the Capital of Armenia, placing a flower at the eternal torch. It was a solemn moment. Good and decent people must remember and commit themselves to a better world where genocide is studied only in history books. But even in those books, the slaughter of the Armenian people will remain a tragic chapter indeed.

Mr. KENNEDY. Mr. Speaker, I want to thank Mr. LEHMAN for his leadership in once again giving this House the opportunity to address the deep concerns many of us have about developments in Armenia.

Over the course of my years in Congress, we have been engaged on many fronts on the Armenia issue—whether it be emergency relief after the massive earthquake that devastated the country in 1988, trying to address the suffering and deprivation caused by the withering blockade of Armenia imposed by Azerbaijan and Turkey, or offering support for efforts to end the fighting in the region through a negotiated peace process.

I am reminded again today that the first action I saw when I came to the Congress with regard to Armenia was the attempt to get this Congress to recognize the Armenian genocide on April 24, 1915—the beginning of a terrible campaign against the Armenian people that resulted in the killing of tens of thousands of people merely on the basis of their nationality.

While the experience of trying to win recognition of the Armenian genocide was a painful one, I must say that the vast majority of my work on issues of Armenia and with the Armenian community here in the United States has been a joyful experience.

I have been inspired by the ability of the Armenian community here to make a deep and lasting contribution to our Nation—to our schools and neighborhoods, in the areas of art and culture, and in the political arena. My home State of Massachusetts has one of the most vibrant and active Armenian communities in the United States and we are a better, stronger State because of that.

At the same time, Armenians in the United States have done a tremendous job of maintaining their own culture, their language and their churches, and a remarkable commitment to maintaining ties to their homeland or the homeland of their ancestors.

The commitment, and a capacity to respond, has of course been demonstrated in moments of crisis such as the earthquake. Thirty thousand people were killed in an instant. In many parts of the country there was incalculable damage to homes, to factories, and to infrastructure. Thousands of Armenians continue to live today, 6 years later, without electricity or running water in makeshift shelters that were set up in the wake of the loss of their homes.

The response of the Armenian community in the United States was phenomenal. They provided food, clothing, medicine, and funds. Just as importantly, they challenged this Nation, and other nations around the world, to recognize the extraordinary scale of damage done by the earthquake and to provide the resources that were needed to address this humanitarian disaster. It is important to recognize that the humanitarian challenge posed by the earthquake has yet to be fully met. I was pleased to see that just this February the World Bank released a long-delayed loan designed to rebuild housing and repair other damage from the earthquake.

While the earthquake—a dramatic event—focused the attention of the international community, the blockade against Armenia, which remains in place until this day, exacts its terrible, unrelenting cost, day in and day out, over years. It has driven a proud and determined people to face the types of choices that no civilized nation should have to confront—the choice, for example, of stripping the nation of trees and burning its books in order to provide heat to prevent infants and the elderly from freezing to death.

It is absolutely crucial that the United States remain clear and focused in its efforts to secure the lifting of this blockade and the opening up of commerce, transportation, and communication throughout the Transcaucasus. This means maintaining the prohibition against United States assistance to the Government of Azerbaijan until they are willing to lift the blockade. And it means continued pressure on the government of Turkey—which receive more than $500 million in United States economic aid and military loans—to do the same.

We must maintain this pressure not out of vengeance, but as a sign of our commitment to finding a solution that opens up all the borders in the region. If this type of arrangement can be put together—whereby Turkey and Azerbaijan lift their blockade against Armenia—then I think there is no question that there would be overwhelming support in the Congress, and I think in the Armenian community in the United States, for lifting the restriction on direct assistance to the Government of Azerbaijan as well.

Finally, I think it is important to use this opportunity provided by the gentleman from California for the Congress to make a renewed commitment to support the search for peace in the Transcaucasus. Since 1988 more than 15,000 have been killed and 1 million people made refugees in Armenia, Nagorno-Karabakh, and Azerbaijan. At several points in the past year the fighting has threatened to spill into or draw in other countries.

Time and time again, ceasefires and talk of peace have been drowned out by the rumble of tanks, the slam of artillery and mortars, and the recoil of rifles.

Our Nation must make every effort, alone and with others in the international community, to bring this fighting to an end. We must make it clear to all parties to the conflict that it cannot be solved militarily, and that the only path forward is through a negotiated settlement, which includes strong security guarantees, backed by the international community.

Workable proposals, along these lines, have been advanced by the Conference on Security and Cooperation in Europe. The most recent CSCE proposal was accepted by the leaders of the Republic of Armenia and the leaders of Nagorno-Karabakh, but did not win the assent of Azerbaijan.

As the new CSCE lead diplomat on this matter attempt to fashion a way forward, the United States must be engaged vigorously, at the highest levels, bringing every measure of pressure and support that we can to bring this conflict to a close. In the end, our active and unrelenting involvement in the search for peace may be the highest tribute that we can pay to the courageous people of Armenia.

Mr. FORD of Michigan. Mr. Speaker, I rise to speak about the history of Armenia. It is a tragic history, but one we must remember.

On April 24, 1915, the Ottoman government began the genocide of the Armenian people by rounding up Armenian religious, political, and intellectual leaders. The government systematically deported every Armenian from every city, town, and village in its control. Deportees who were not immediately executed were forced on death marches. They were tortured, raped, and mutilated. Over a million Armenians died.

Some Armenians escaped death. They went on to Europe, Russia, and the United States. Stronger for the tragedy they endured, they live with the knowledge that they are the representatives of a race that was nearly eliminated. In our country, they and their children became Americans and prospered—but they did not forget their own history. In the metro Detroit area, parts of which I represent, local Armenian Americans will gather on Saturday to commemorate the 79th anniversary of the beginning of this holocaust.

While we commemorate this genocide, others deny it. It remains incomprehensible to me that the present government of Turkey denies the truth regarding its own history. It is important that Turkey acknowledge and accept responsibility for the mistakes of the past. Last year, I attended the solemn opening of the Holocaust Museum in Washington, DC. The Germans have acknowledged their role in the Holocaust. It is a tragic event in German history, but the Germans recognize its importance, have learned from it, and have regained the world's respect. It is long past time that the government of Turkey also acknowledge its history.

Whether Turkey acknowledges its role or not, it is important that we, as a Nation, voice our commitment to remembering this crime against humanity. In remembering, we seek to honor those who suffered and those who died and we seek to remain vigilant to prevent future atrocities.

Mr. WALSH. Mr. Speaker, central New York is a place of diverse cultures, very much a cross-section of America in the late 20th Century. Our Nation is stronger because of immigrants who have come searching for freedom. Among those groups are Armenian Americans, who have thrived in my hometown and have laid groundwork for their children's future. Sadly, as we salute their hard work and faith, we must mention in the same breath the very reason most Armenians came to America. Because today, as we do each April, we force ourselves to remember the Armenian Genocide, a holocaust victimizing not only the 1.5 million people massacred by the Turkish Ottoman Empire, but those who were forced to abandon their ancient homeland.

The details of the inhumanity are repulsive to us who live side by side with children and grandchildren of the survivors. We remember, easily in some cases, that prejudice has taken many forms against many groups of immigrants. But in few cases has the horror of intense hatred in the homeland reached a level of viciousness that it bears the name of genocide. This has been true of the Armenian people.

I sympathize today with the descendants of those who died, and those who came to

America. I condemn the acts, past and present, which are carried out against a people in the name of nationalism or any other cause. And I thank God with my Armenian American friends today that they have brought their culture to our great Nation. Their children will carry forward their customs, their pride, their spirit into the ages, and all our children are better for knowing this.

I urge my colleagues to join us in supporting Armenian Americans on this day, and in condemning the aggression of genocide against their ancestors.

Mr. LEVIN. Mr. Speaker, today I join voices with my colleagues in Congress and Armenians all over the world as we commemorate the 79th anniversary of the Armenian Genocide. The massacre of one and a half million Armenians, carried out from 1915 until 1923, reminds us of the consequences of silence in the face of oppression. I join the voices calling for recognition of this tragedy once again this year because the horrible truth of the Armenian Genocide is still not universally recognized, even after 79 years.

We call attention to the reality of the Ottoman Empire's systematic persecution of Armenians in part so that such inhumanity is not tolerated again, ever. Our outspoken support for the rights of all people is more important than ever as we witness the systematic warfare and extermination claiming the lives of innocent civilians caught in ethnic conflicts today. In Bosnia, the practice of ethnic cleansing threatens the survival of an entire people. In Nagorno Karabagh, ethnic Armenians face oppression and persecution as they strive for self-determination.

Those who would take advantage of our indifference must be reminded of our steadfast support for the rights of people al over the world. Our remembrance of the loss of one and a half million lives is our declaration of absolute opposition to such acts of inhumanity and our statement of hope for a world free of genocide.

Felix Corley of the Wall Street Journal called the plight of Nagorno-Karabagh "The Forgotten War;". We cannot allow the world to forget, again, the ongoing suffering of these persecuted peoples, In Michigan yesterday, thousands read the story of the Armenian Genocide as told in the Detroit News by Robert Ourlian. Many of the 500,000 survivors of the genocide made their homes in Metro Detroit, and have been an important part of the economic and cultural growth of the Detroit area. Their personal stories of escape from death vividly illustrate the atrocities inflicted upon the Armenian people.

One of the stories told in the News is that of Alex Manoogian. Mr. Manoogian is a well-known figure to the public as the founder of a major American corporation and as a leader in the Armenian American community, yet he is also a very private person. He has rarely discussed his memories of the painful events of 1915–1923 that tore apart families and left children and the elderly to fend for themselves. Mr. Manoogian shared the story of his flight from Armenia and his own long separation from his family, a story not known to the many Detroit-area residents familiar with Mr. Manoogian for his success in the business arena and generosity in the community. Alex Manoogian is already well-known as a community leader—by giving his own account of the genocide, he continues to lead the Armenian American community in showing the strength of those who survived the Armenian Genocide and their commitment to reuniting their families in peace. I join them today in remembrance of the anniversary of the Armenian Genocide in the hope that one day the terrible truths of history will be acknowledged all over the world as we acknowledge them here.

ARMENIAN DEATHS GRIP SURVIVORS

(By Robert Ourlian)

All too quietly, they are dying. By ones and twos, each day, they fade into a murky memory the world has never much cared to recall.

They are the few remaining survivors of what they know as the Armenian genocide, when, historians estimate, 1.5 million people were killed in the century's first planned holocaust.

The genocide, steadfastly denied by modern day Turkey, is acknowledged by the rest of the world. It began in 1915, after the beginning of World War I, and the killing didn't end until 1923.

"I don't care what they say, "said survivor Art Kloian, 94, of Dearborn. "What I saw, how I lived, nobody can deny."

The survivors made their mark in communities around the world, including Metro Detroit, which holds one of the nation's largest populations of uprooted Armenians and their descendants. As they age the tragedy almost seems compounded. Their stories were never fully told, their cases never heard.

And now new issues are confronting Armenians in Metro Detroit, as a railway and fuel blockade of newly independent Armenia by neighboring Azerbaijan enters its seventh year, and war continues between Azeris and Armenians living in the Azerbaijani enclave of Nagorno-Karabakh.

Here are the experiences of four who survived the 1915–1923 genocide, and even prospered.

ALEX MANOOGIAN'S ROOTS

The life and times of Detroit industrialist Alex Manoogian is usually framed in terms of business, charity and culture. He speaks of his early days in terms of jobs found and lost, and factories where he learned his skills. He ranks with America's greatest entrepreneurs.

Only rarely has the 92-year-old founder of Masco Corp. spoken of the part of his life when he almost lost his family to the last convulsions of the genocide.

Manoogian and his family lived near the port town of Smyrna, on the Aegean Sea, in an area untouched by the brutality of the massacres until the end of World War I. Ottoman rulers were careful in areas like Smyrna, now called Izmir, places filled with foreign businesses and diplomats, he said.

As a young teen, Manoogian spoke several languages and was popular among business owners in his home town of Kasaba for his skill in languages and management. His father was a prominent local businessman and treasurer of the local Armenian church.

He was attending school in Smyrna when news reached the western coast about trouble in the empire's interior.

"We were nervous about what might eventually happen to us," Manoogian said. "We were all packed up and ready to go should we be deported. People even put coins and money in their belts. We were that ready."

But the community's archbishop told the congregation one Sunday that if unspecified "revolutionaries" surrendered, "then we might have a chance not to be deported."

The next morning, Manoogian saw perhaps 60 people—"revolutionaries"—filing through town to surrender to police.

They were never seen again. Their surrender appeased the authorities for the time being.

Back in Kasaba, though, things weren't calm. The Manoogian family remained largely unbothered, but young Alex wondered about his future in Ottoman Turkey.

"After the war was over, the Greeks took over Smyrna," he said. "I thought, the Greek army is here today, so we're OK. But we're Armenians. I didn't think we would remain safe.

"People kept telling me, get out of here. Go to America."

That's what he did. He bought a ticket on a boat, reluctantly told his parents and arrived in Bridgeport, Conn., at the age of 18. Soon his earlier fears for the safety of the Armenians came true.

The Turkish Army had begun pushing the Greeks back toward the Aegean. As the army stormed through Kasaba, Manoogian's family—father, pregnant mother, brother and two sisters—were forced to flee.

"In Kasaba, we had been in good shape, but everything was in property, furniture, and there was very little in cash," he said. "They had to leave with nothing, nothing."

They were pushed to Smyrna and to the seashore. There, according to accounts of atrocities, thousands were burned out of entire sections of town and forced into the open sea, where waiting Allied ships scooped out those they could reach.

Manoogian's family escaped that fate, but his father was arrested and placed into a mountainside concentration camp along with the father of one of his young business partners. The partner's father died.

His pregnant mother hid his two sisters under blankets and skirts as they roamed the shore and the docks looking for a way to get out.

"There were 100,000 people there waiting for boats to leave, for weeks, with no food.

"In America, I hadn't heard from my family. I asked everybody I knew and nobody could say. Nobody (coming over) had seen them.

"I thought they were dead."

Weeks later, nearly crazy from worry, Manoogian heard they had survived and were in Greece, apparently in a refugee camp. The ambitious young man began making plans to bring them to America.

"Just then, they instituted the quotas" for immigrants, he said.

The result: His family would have to wait 10 years before coming to America.

By that time the Great Depression was beginning and the fledgling company Manoogian had started with two friends was struggling for survival.

Masco eventually became a Fortune 500 firm, and the Manoogian name is one of Detroit's biggest. But for Manoogian, his family's survival remains the ultimate miracle.

ORPHAN NO. 947

She remembers his name as Taifet Effendi, a Turkish man who at first quietly—and later openly—opposed the Young Turk regime which ordered the deportation and extermination of Armenian citizens in 1915.

Taifet Effendi owned land and houses, and designated some of them as residences for Armenians to spare them from the slaughter. He was, in a small way, an Oskar Schindler of an earlier holocaust.

"If there weren't good Turks, there wouldn't be any Armenians left today," recalled Nazele Sarkisian, an 85-year-old Detroiter who lived through it.

Naele Sarkisian's earliest memory is that of a death march, when soldiers came to her village near Baiburt.

"Get out! Everybody out of your house!" the soldiers yelled.

Within an hour, they were on a road, no food or water, little clothing and less mercy. The orders were to deport and "destroy completely" the Armenian population.

"They took us out of our houses, hundreds of us, the whole village," she said.

Those who survived or escaped often did so through an unlikely fluke.

'I don't know why they didn't see us, but we got away," she said. At the age of 6, she was on her own with her big sister, lost in the middle of a war zone, on her way to a region that became known as "the Slaughterhouse Province."

Soon, a passing horseman scooped the two girls up and trotted off, then put Nazele back down and left with her sister. It was the last time the two saw each other.

As the Turkish "gendarnes" left the area, sympathetic Turkish villagers came out to see if they could help. A woman fed her, then turned her over to people who would arrange for a Turkish family to adopt her.

Eventually she found her way to the household of Armenians kept safe by Taifet Effendi.

Not long after, however, Effendi became embroiled in a conflict with Ottoman governors and was executed. After six years in a safe household, Nazele found herself in an orphanage again.

The Americans who ran the orphanage issued here a number—947—that was stamped or sewn on the sleeves and legs of her clothing, a number she clearly remembers nearly 80 years and a world away from Effendi's house.

A SAD POTATO HARVEST

Adrian Gurganian had been attending school in the cultural Ottoman center of Constantinople (now Istanbul). But she was home for vacation in her family's plush garden estate in outlying Adapazar when trouble started during the annual potato harvest.

Ottoman troops surrounded the town and ordered Armenian inhabitants to round up their belongings and head for the train station. They were loaded into freight cars, so crowded they couldn't sit. The tactic was a precursor of the Nazis' later treatment of the Jews.

For four days, the train chugged southward across the empire, on the edge of Der Zor, the huge concentration camp in the desert where an estimated 200,000 of the deaths by starvation, exposure and massacres are believed to have taken place.

"Then we walked," Gurganian now 90, said.

The family started out as a father, mother and five daughters. Adrian was the middle daughter.

"My father went down a hillside into a river to get us water, but when the Turkish policemen saw him, they beat him, so hard. He never recovered."

Bodies lined the roadways and floated in ditches and rivers. Her father's last wish was for a more dignified end.

"I remember him saying to us, 'Please, please bury me.' We tried to bury him, but the Turks were beating us. 'Move! Move!' they were saying. We had to leave him."

A short distance later, the family turned around for a last look at their dead father, only to see locals stripping clothes from his lifeless body.

Weeks later her mother died along the roadway.

The five sisters, including Adrian, who was then about 12, were left alone. She lost them one by one.

"My oldest sister—some man came and took her," Adrian said. "My next oldest sister didn't want to go to the Turks. She jumped in the river and drowned herself."

One night, we were in a tent and my one little sister was crying, 'Water, water,' There was no water. After a while, she stopped crying. She stopped crying because she died.

"It was just me and my one sister, and a man came and took her."

Finally, a local Arab girl helped her flee. After several days, they arrived in Baghdad, where the rescuer's family shaved off Adrian's lice-infested hair and adopted her.

She later ran away and wound up in a local orphanage, learned nursing and eventually went to the U.S., where she married and raised a family, which earned its share of local fame: Her son-in-law was the late Leo Derderian, owner of Detroit's Anchor Bar, a legendary local saloon now operated by her grandson, Vaughn.

NO MORE HATRED

In the nearly 80 years since his village and family were wiped out, Monsignor Joseph Kalajian of Detroit has had time to wonder about the reasons for the atrocities. The answers remain elusive.

His family lived modestly in Kefardes, near Kharpert in the western Armenian portion of the Ottoman empire. His father, a metalsmith, paid his taxes; a picture of the Ottoman Sultan adorned a wall in their house.

"The scenery was so beautiful—mountains, valleys, gardens," said Kalajian, who was seven when the massacres began. "We were very respectful to the government. We had no arms, except maybe something for hunting.

"I remember thinking: These are innocent people who committed no crime. Why this terrible, terrible punishment?

"The deportation was to the deserts, from north to south," he said. "It lasted about five weeks; we walked.

"I witnessed—I saw by my eyes—the bodies, the cadavers of Armenians killed. Bodies everywhere, on the mountainside, in the valleys, in the deserts."

The horrors began in the summer of 1915; he remembers, because along the way, the grapes had ripened.

He last saw his two sisters in Ourfa before they were taken away by locals; his father was conscripted into the Turkish Army's labor battalion and, likely, was killed. Because his mother had died years earlier, Kalajian was alone on the death march at the age of eight.

All he remembers of his salvation was lying, sick, malnourished and probably near death in the vicinity of Der Zor when an Arabic woman took him in and nursed him back to health. Afterward, he lived through orphanages and, believing he had been spared for a reason, studied theology, philosophy and music and went into the priesthood.

He has published several books, among them a volume of poetry in 1972 that reveals his memories of his native Kefardes, as well as vivid recollections of the genocide.

Today, at age 86, Kalajian is not yet at peace.

"I suffer even today when I think of my sisters, my father, all that I had to witness by my own eyes," he said. "I have no more hatred. But I want justice."

Mr. HINCHEY. Mr. Speaker, I join my colleagues in honoring the memory of 1½ million Armenians who perished at the hands of the Ottoman Turkish Government between the years of 1915 and 1923. As a result of the Armenian Genocide, the Armenian population of the Ottoman Empire was effectively eliminated through a carefully executed government plan.

Although the facts of the Armenian Genocide are well documented, there are still those who seek to rewrite the history of the first genocide of the 20th century. For this reason I want to enter into the CONGRESSIONAL RECORD a statement by former U.S. Ambassador Henry Morgenthau who served during the period of the Armenian Genocide.

When the Turkish authorities gave the order for these deportations, they were merely giving the death warrant to a whole race; they understood this well, and, in their conversations with me, they made no particular attempt to conceal this fact.

At the beginning of World War I, there were more than 2,500,000 Armenians living in the Ottoman Empire. Today fewer than 80,000 Armenians remain in Turkey, predominantly in Istanbul and Western Turkey. The Armenian heartland—the Eastern provinces—are virtually without Armenians.

That part of the world has changed greatly in the past 80 years and there is nothing to be gained in blaming today's Turks for what happened then. But we should not allow ourselves to forget what happened then.

On this day in April, 79 years after the beginning of the 1915 Genocide, it is appropriate that we pause to honor the memory of these slaughtered Armenians. We can honor their memory by doing all we can to stop genocide wherever it occurs, to remind people of the evil in ethnic hatred and resentment.

Mr. MARTINEZ. Mr. Speaker, I rise today to join my colleagues in commemorating the 79th anniversary of the Armenian Genocide. We honor tonight the Armenian men, women, and children whose lives were so ruthlessly cut short 79 years ago.

Mr. Speaker, I stand here tonight to pay homage and invoke the memory of the fallen victims of the Armenian Genocide. I stand here tonight to remember the unspeakable acts of violence and horror perpetrated upon a defenseless people. I stand here tonight to shed some light on one of the darkest chapters in human history.

On April 24, 1915, the rulers of the Ottoman Empire began the systematic extermination of the Armenian people. Never before had a government been so committed toward eliminating a culture, a language and an entire race of people. From 1915 to 1923, Armenians were singled out as a minority for extermination.

As the conflagration of World War I engulfed Europe, the desert marches of forced starvation, disease and massacres consumed the lives of 1.5 million Armenians. Either through apathy or indifference, the world allowed the forces of hatred and intolerance to wreck havoc on the Armenian people—a people who refused to be relegated to the ash heap of history.

Since 79 years have elapsed since the beginning of the Armenian Genocide. And yet, on this solemn day, Turkey still refuses to acknowledge its tainted past. How much longer can Turkey ignore its sordid history? How much longer can Turkey deny its own past? The Ottoman rulers were guilty of conducting a deliberate, calculated campaign of mass extermination. Nothing can erase this from the annals of history.

Mr. Speaker, in the name of progress in Armenian-Turkish relations, it is time for Turkey to acknowledge the Armenian Genocide. The facts of the Armenian Genocide cannot and will not be denied.

Mr. ACKERMAN. Mr. Speaker, I rise today to join my colleagues in honoring the memory of the victims of the Armenian Genocide.

Between 1915 and 1923 a systematic and deliberate campaign of genocide by the Ottoman Empire resulted in the deaths of over 1.5 million Armenians and the exile of a nation from its historic homeland.

The massacres were condemned by Kemal Ataturk, founder of the Turkish Republic, but the lack of punishment for the perpetrators led Adolph Hitler to cite the Armenian Genocide as precedent for the Holocaust.

Mr. Speaker, the lesson we must learn from the Armenian Genocide, and the Holocaust, is that never again can decent people simply ignore the oppression and brutality, and ultimately genocide, that we have witnessed this century.

as we look back today on this tragic episode in world history, I hope that our collective conscience will not allow the recurrence of genocide. Such deliberate destruction of a people must be loudly and clearly condemned and those who would consider genocide must be convinced that the international community will not tolerate the extermination of a nation.

Mr. Speaker, I am both proud and saddened to commemorate the Armenian Genocide. I am proud to pay tribute to its survivors, to honor its victims, and to reinforce our own determination to ensure that such acts of inhumanity will not be repeated. I am saddened by the fact that the world remains a place where such atrocities can still happen.

Mr. BILIRAKIS. Mr. Speaker, I rise today to join my colleagues from California Congressman LEHMAN and Congresswoman ESHOO, in commemoration of one of the saddest and most tragic events of human history: The genocide of the Armenian People during the latter half of the 19th century.

In joining my colleagues, I also want to heartily commend them for taking this time that we may speak about this very disturbing chapter in world history. It is a story that is widely known, however, there is little mention of it in our history books. For while it may be painful to review these events, as long as this is the case—as long as we experience this discomfort and pain—there is hope for humanity.

Unfortunately, the plight of the Armenians and the attempted genocide of 1915 by the Ottoman Turks is an event that the U.S. Government has still not recognized. In a time where human rights are in the forefront of all of our minds we must recognize the struggles that the Armenians have gone through in 1915 as well as the present with the current Azerbijan blockade.

Indeed, in few other instances has man's inhumanity to man been demonstrated so starkly than in the persecution of the Armenians by the Ottoman Empire. And while some 1,500,000 Armenian people died and another 500,000 were exiled between 1915 and 1923, this was but the brutal culmination of events stretching back to 1894.

In that year, 300,000 Armenians were massacred, and in 1909, a further 21,000 perished—all before what is generally considered to be the true genocide beginning 6 years later.

As an American of Greek descent, I always have felt a special tie to the Armenian people, because the land of my ancestors also suffered at the hands of the Ottoman Turks. My colleagues may know that every March, I sponsor a special order in this Chamber to commemorate Greek Independence Day on March 25.

That date marks the beginning of Greece's struggle for independence from more than 400 years of domination by the Ottoman Empire. It was on that day that the Greek People began a series of uprisings against their Turkish oppressors, uprisings which soon turned into a revolution.

Greece was more fortunate than Armenia. It did not suffer the dark events that we commemorate today: Whole villages exterminated, thousands and thousands rounded up and literally worked to death. However, Greeks, too, know what it means to labor under oppression.

The Greek struggle for independence and the Armenian Genocide are two events that erupted in the same region of the world and that fit neatly together to form a message.

It is a message that rings down through the ages and must never be ignored. The message is this: We must continue to speak out, to raise our voices in protest of the mistreatment of our fellow human beings. This is a simple matter of right versus wrong.

It is our duty to call attention to human rights abuses on any scale until the world is united in revulsion for these atrocities; until those yearning only to live free are allowed to do so.

Mr. CONDIT. Mr. Speaker, I rise today to honor the 1.5 million Armenians that were exterminated by the Turkish Ottoman Empire between 1915 and 1923.

On April 24, 1915, hundreds of religious, political and intellectual leaders were rounded up, exiled and eventually murdered. The male population, already conscripted into the Ottoman Army, was disarmed, placed in work battalions, and gradually executed: The surviving women were sent on death marches through the desert.

Those who survived this massacre were permanently exiled from their historic homeland. The Turkish Ottoman Empire pursued a deliberate campaign to systematically eliminate the Armenian people and erase a culture and its history that dates back 3000 years.

The Armenian Community in this Nation exists largely as a result of the Armenian genocide, as most are direct descendants of survivors.

Mr. Speaker, we must recognize such crimes against humanity and never allow them to be forgotten; for only then can we prevent them from ever occurring again.

Mr. MEEHAN. Mr. Speaker, on May 28, 1918, Armenia declared its independence from the Ottoman Empire. In doing so, it was victorious in its struggle against that hostile government and soon began a new struggle to overcome the effects of the deplorable Genocide of 1915 and 1916.

This April, we commemorate the 79th anniversary of the Armenian Genocide so as to honor the memory of the countless victims of this tragedy. Over one and a half million innocent people were massacred and those who survived were permanently exiled from their historic homeland. for more than 80 years the Armenian people labored against oppression, working to maintain their culture, language and church.

On September 21, 1991, the Armenian people, through a national referendum, chose independence from the former Soviet Union, whose Red Army had crushed the nationalist movement in 1921. On December 25, 1991, the United States officially recognized Armenia as an independent sovereign nation.

While this is a significant step, and we welcome Armenia into the family of nations, I am fearful that the Azeri blockade of Armenia will cause history to repeat itself. I am keenly interested in trying to alleviate this desperate situation. Turkey must be persuaded to influence the Azerbaijanis to end their blockade of Armenia. It is imperative that humanitarian aid be able to reach this beleaguered nation, but it cannot be fully successful until there is peace in the area.

The United States has a strong interest in safeguarding Armenia, for the two countries are closely linked by strong democratic principles and a strong trading partnership. I have advocated on behalf of Armenia with the Department of State, requesting that the United States intervene in this crisis and lead the way toward an international aid effort. I believe that the Clinton administration's proposed repeal of the ban on U.S. aid to Azerbaijan is inappropriate until such time as the conditions set forth in Section 907 of the Freedom of Support Act are fulfilled. Any attempt to weaken or eliminate the restriction on aid to Azerbaijan will send the wrong message to the Azeri government: that the United States is not committed to democratic and human rights.

As I have said: let the past be a reference point for the present and the future. The International Community must recognize the atrocities that took place during the Armenian Genocide, for only then can we guard against a repetition of that low point in history.

Mr. BLUTE. Mr. Speaker, I am pleased to join my colleagues for this commemoration, and I thank Mr. LEHMAN for arranging it.

Recent history has seen the Armenian people subjected to a number of very difficult, troubling and tragic circumstances. From being forced to live under the Soviet Communist regime, to the terrible 1988 earthquake—much worse than any this Nation has ever seen, to the present blockade and violence impose by the Azeris.

The Armenian people have long suffered.

But nothing is more tragic than the genocide which took place from 1915 to 1923; 1.5 million died, countless more lost mothers and fathers, sons and daughters, uncles and aunts, comrades and friends.

We stand here, more than half a century later, to ensure that others will not forget.

Not forget the massacres. Not forget the persecution. Not forget the death marches. Not forget the bloodshed. And not forget that all citizens in the world deserve to live in freedom without the threat of destruction by people that hate.

As Americans, our forefathers helped the Armenians by providing millions of dollars in economic relief as well as homes and families for thousands upon thousands of orphans. Armenians-Americans have helped build our country and have done much to make this the great country that it is.

Today, we offer our sympathy, our thoughts and our prayers, and we offer our resolve as representatives of the American people that this country will speak out against racial and ethnic hatred, and do everything in our power to see that genocide never happens again in our world.

Mr. DOOLEY. Mr. Speaker, I rise today to join my colleagues once again in remembrance of the Armenian Genocide.

In commemorating this terrible human tragedy, it is important for us to remember other such tragedies that have occurred throughout history. Few however, have resulted in such devastating effects on an entire country and its people. Since the opening of the Jewish Holocaust Museum last year and most recently, the release of and acclaim for the film "Schindler's List," the Jewish Holocaust has been at the center of human consciousness regarding the history of human tragedies and genocide. Let us remember that the Armenian Genocide was the historical basis of the Nazis' plan for the Jewish Holocaust. Today we must remember the Armenian Genocide and reflect upon the suffering endured by Armenia and her people.

One and one-half million Armenian people were massacred by the Ottoman Turkish Empire between 1915 and 1923. More than 500,000 Armenians were exiled from a homeland that their ancestors had occupied for more than 3,000 years. A race of people was nearly eliminated.

However great the loss of human life and homeland that occurred during the genocide, a greater tragedy would be to forget that the Armenian Genocide ever happened. Adolf Hitler, predicted that no one would remember the atrocities and human suffering endured by the Armenians, years prior to unleashing his plans for the Jewish Holocaust. After all, it was Hitler who posed the question, "Who remembers the Armenians?" Our statements today are intended to preserve the memory of the Armenian loss, and to remind the world that the Turkish Government—to this day—refuses to acknowledge the Armenian genocide.

This 79th anniversary also brings to my mind the current suffering of the Armenian people, who are still immersed in tragedy and violence. The unrest between Armenia and Azerbaijan continues in Nagorno-Karabakh. Thousands of innocent people have already perished in this dispute, and still many more have been displaced and are homeless. Frustrating the situation is the continuing destruction of fuel and power lines, as well as the blockade of supply routes into Armenia through neighboring Georgia and Turkey.

In the face of this difficult situation comes an opportunity for reconciliation. Now is the time for Armenia and its neighbors, including Turkey, to come together, to work toward a sustaining peace and to rebuild relationships between countries. The first step in this process should be an ending of the blockages that are hampering the recovery of Armenia, and her people.

Meanwhile, in America, the Armenian-American community continues to thrive and to provide assistance and solidarity to its countrymen and women abroad. Now numbering nearly 1 million, the Armenian-American community is bound together by strong generational and family ties, an enduring work ethic and a proud sense of ethnic heritage. Today we recall the tragedy of their past, not to place blame, but to answer a fundamental question, "Who remembers the Armenians?"

Today our commemoration of the Armenian genocide speaks directly to that end, and I answer.—We do.

Mr. MOORHEAD. Mr. Speaker, I rise to commemorate the 79th anniversary of the Armenian genocide, and wish to thank and commend my colleague, Mr. LEHMAN, for arranging this special order to pay tribute to the Armenian martyrs, who were victims of one of the worst genocides of this century. On April 24, 1915, hundreds of Armenian religious, political, and intellectual leaders were rounded up, exiled, and eventually murdered in remote places. In the following years from 1915 to 1923, 1½ million men, women, and children were murdered in an attempted genocide of the Armenian people by the government of the Ottoman Empire. Each year, throughout the United States and the world, Armenians and all people of good conscience pause to remember the 1.5 million victims of this crime against all humanity. Many of the children and grandchildren of survivors of this Holocaust live in my hometown of Glendale, CA and will participate in a ceremony, on Sunday, April 24 at the Armenian Genocide Monument located in Montebello, CA. This significant event in being organized by the commemorative council which includes leaders of the Armenian Apostolic Church, the Armenian Catholic Church, and the Armenian Protestant Church. On this occasion, it is appropriate and fitting that we pay tribute to the memory of the countless victims of this tragedy.

A strong, resilient people, the Armenians survived these cruelties as they have survived persecution for centuries. Their durability comes from their love of and intense faith in God, dating back to the fourth century when Armenia became the first nation to embrace Christianity. In spite of the crimes committed against them, today, Armenians flourish as prominent and successful citizens of our great Nation. We commemorate this date so as not to forget the suffering and pain endured by the Armenian world community. By remembering the Armenian genocide, we are speaking out against the persecution of all peoples.

History teaches us that gross inhumanities have not perished from the Earth. Conditions in Yerevan, today, are like those in the besieged Leningrad of 1942. A blockade by Azerbaijan on the east, continued sabotage of fuel lines through Georgia on the northwest and complicity in these actions by Turkey on the southwest have placed Yerevan in a position as desperate as that of Sarajevo.

I am extremely concerned over the number of mercenary soldiers imported from Afghanistan, who have joined forces with the Azeri army. Russia continues to sell weapons to both sides of the conflict. Hundreds of thousands of refugees have been displaced by the fighting. This brutality against Armenians must not be allowed to continue.

We must put an end to this blockade and the suffering it has caused. The aggression being inflicted by both sides will only lead to more deaths and continued hatred and instability in the region. If the international community does not intervene immediately, the ongoing war and destruction will continue to escalate until it reaches the same levels as in the former Yugoslavia.

History must not forget that Armenians were systematically uprooted from their homeland of 3,000 years ago and eliminated through massacres or exile. As leaders of a free and democratic nation, we have a moral obligation to acknowledge and deplore the events surrounding the Armenian genocide, and we must ensure that such atrocities do not continue. We can only do this by condemning the blockage as a violation of international law and demanding the opening of the Nagorno-Karabagh corridor to facilitate the delivery of humanitarian aid to Armenia.

Mr. PORTER. Mr. Speaker, I am glad to join so many Members on the house floor to commemorate the 79th anniversary of the genocide of as many as 1.5 million Armenians and the exile of 500,000 more from the Ottoman empire. The horrors of the Armenian genocide have been outlined very ably here by several Members and collectively rank as one of the most heinous violations of human rights in history.

Although many years have passed since the Armenian genocide, reminding the world what happened in the Ottoman empire between 1915 and 1923 is essential. Human right violations cannot be allowed to be obscured by the passage of time any more than they can be hidden by offending governments behind the cloak of "internal policy."

Remembering the Armenian genocide is an integral part in healing and a step toward ending this type of horror. As Richard Cohen writes in an op-ed in the Washington Post today, barbarism akin to the Armenian genocide is happening today in Rwanda, and Bosnia, and South Africa, and elsewhere. By remembering the suffering of Armenians decades ago we highlight that human rights are indivisible—a violation of human rights anywhere is a violation of the human rights of each of us. We must work to end the "global tribalism" that Cohen describes and stand up to the demogogues who would promote ethnic hatred.

The message we must bring out of the Armenian genocide is that we must not let the transgressions of bygone days condemn our children and their children to lives of hatred and revenge. We must break the cycle of violence by remembering the horror and suffering, as we do today, an vowing to never again allow it to happen.

We must think of our relations with our fellow human beings in broader terms. Rather than looking for differences, which can be exploited, we must recognize that we are all human beings with shared interest, inherent worth, and inalienable human rights, Every person must work to ensure the rights of every other person. Only then will the type of thinking that led to the genocide against the Armenian people shrivel and die.

I thank Mr. LEHMAN for calling this special order tonight.

Mr. TOWNS. Mr. Speaker, I rise today to join with my colleagues in remembering the victims of the Armenian genocide.

Perhaps the only lesson we can draw from this tragic event is that we must be ever vigilant against man's capacity to inflict harm upon his fellow man. The first step toward preventing future instances of genocide is openly and honestly understanding the past, and rejecting those who would, in the name of political expediency, deny the Armenian genocide or any such crime against humanity. By allowing revisionism to cloud our remembrance we would only encourage future leaders who would seek to solve their nation's problems through genocide means.

With these thoughts in mind, I would like to submit for the record the description of the Armenian genocide by the U.S. Ambassador to the Ottoman Empire, Henry Morgenthau, in his book, Ambassador Morgenthau's story. (Garden City, NY Doubleday, 1918, page 327–28).

> In the early part of 1915, the Armenian soldiers in the Turkish army were reduced to a new status. Up to that time most of them had been combatants, but now they were all stripped of their arms and transformed into workmen. Instead of serving their country as artillerymen and cavalrymen, these former soldiers now discovered that they had been transformed into road labourers and pack animals. Army supplies of all kinds were loaded on their backs, and, stumbling under the burdens and driven by the whips and bayonets of the Turks, they were forced to drag their weary bodies into the mountains of the Caucasus. Sometimes they would have to plough their way, burdened in this fashion, almost waist high through snow. They had to spend practically all their time in the open, sleeping on the bare ground—whenever the ceaseless prodding of their taskmasters gave them an occasional opportunity to sleep. They were given only scraps of food; if they fell sick they were left where they had dropped, their Turkish oppressors perhaps stopping long enough to rob them of all their possessions—even of their clothes. If any stragglers succeeded in reaching their destinations, they were not infrequently massacred. In many instances Armenian soldiers were disposed of in even more summary fashion, for it now became almost the general practice to shoot them in cold blood. In almost all cases the procedure was the same. Here and there squads of 50 or 100 men would be taken, bound together in groups of four, and then marched out to a secluded spot a short distance from the village. Suddenly the sound of rifle shots would fill the air, and the Turkish soldiers who had acted as the escort would sullenly return to camp. Those sent to bury the bodies would find them almost invariably stark naked, for, as usual, the Turks had stolen all their clothes. In cases that came to my attention, the murderers had added a refinement to their victims' sufferings by compelling them to dig their graves before being shot. . . .
>
> Dreadful as were these massacres of unarmed soldiers, they were mercy and justice themselves when compared with the treatment which was now visited upon those Armenians who were suspected of concealing arms. Naturally the Christians became alarmed when placards were posted in the villages and cities ordering everybody to bring their arms to headquarters. Although this order applied to all citizens, the Armenians well understood what the result would be, should they be left defenseless while their Moslem neighbours were permitted to retain their arms. In many cases, however, the persecuted people patiently obeyed the command; and then the Turkish officials almost joyfully seized their rifles as evidence that a 'revolution' was being planned and threw their victims into prison on a charge of treason. Thousands failed to deliver arms simply because they had none to deliver, while an even greater number tenaciously refused to give them up, not because they were plotting an uprising but because they proposed to defend their own lives and their women's honour against the outrages which they knew were being planned. The punishment inflicted upon these recalcitrants forms one of the most hideous chapters of modern history. Most of us believe that torture has long ceased of be an administrative and judicial measure, yet I do not believe that the darkest ages ever presented scenes more horrible than those which now took place all over Turkey. Nothing was sacred to the Turkish gendarmes; under the plea of searching for hidden arms, they ransacked churches, treated the altars and sacred utensils with the unmost indignity, and even held mock ceremonies in initiation of the Christian sacraments. They would beat the priests into insensibility, under the pretence that they were the centres of sedition.[14]

Mr. COSTELLO. Mr. Speaker, I rise today to commemorate the 79th anniversary of the Armenian genocide. A systematic and deliberate campaign of genocide between 1915 and 1923 resulted in the deaths of over 1.5 million Armenians and the exile of a nation from its historic homeland.

On April 24, 1915, the day the 1915 genocide began, over 200 intellectual, religious and political leaders of the Armenian community in Istanbul were arrested, exiled from that city, and executed. This date now symbolizes not only the beginning of the Armenian genocide, but also a tragic history of persecution for the Armenian people.

Numerous Armenian citizens, who now reside in my Congressional District in Southwestern Illinois, have contacted me about the anguish they feel about the events of the past and of the present situation in Armenia. Because they have not forgotten the fate of their Armenian ancestors, I firmly believe the Congress should also remember their past.

The Congress holds a remembrance ceremony for the victims of the Armenian genocide every April. It is imperative that we, as a Nation, voice our commitment to Armenia by remembering the tragic crimes against the Armenian people. To deny the experiences of millions of people cannot be tolerated. The Congress must stand firm in its resolve to oppose violence and repression against humanity. These crimes must be recognized and remembered to prevent their future occurrence.

Mr. Speaker, I ask my colleagues to join me in remembering the tragedy of the Armenian genocide and in renewing our commitment to human rights.

Mr. CARDIN. Mr. Speaker, I rise today and join my distinguished colleagues in commemorating the tragedy of the Armenian genocide. Today, we pay tribute to those who lost their lives during and after the first world war due to such terrible massacres.

The basic facts of the tragic events that occurred in the Ottoman Turkish Empire between 1915 and 1923 are by now well known. It was not so at the time. In those years, the world did not have the wonder of modern telecommunications which today brings events from around the world to our attention instantaneously.

The horrors of our time—in Rwanda, in Gorazde, in Haiti—remind us of the seemingly endless human capacity for brutality. We struggle to bring an end to the violence, to stop the aggressors and to give comfort and relief to the victims. In the face of such atrocities, and the wrenching human suffering they produce, we search in vain for signs that the progress of technology over the decades is accompanied by a civilizing of human nature itself.

One way we can assert our humanity is to speak the truth. The perpetrators of ethnic cleansing, tribal slaughter, and genocide, and those who defend them, will attempt to distort the truth. They will try to cover their bloody tracks by claiming that their victims share complicity. In attempting to justify their massacre of the people of Gorazde, the Bosnian Serbs have followed this gory tradition.

As we take the House floor today to reflect on the Armenian genocide, we are confronted by the effort by some to deny the truth of those events. If, as has been said, truth is the first casualty of war, it is even more the case with respect to genocide. We all must remain eternally vigilant to keep even history's most terrifying truths alive. We must match the tenacity of those who would rewrite history. It takes the power of a "Schindler's List" to beat back the steady, low drone of those who would attempt to erase the truth of history's most terrible chapter.

The systematic campaign of "death marches" by the Ottoman Turkish Empire resulted in the deaths of over 1.5 million Armenians and the exile of a nation from its homeland of 3,000 years. Silence in the face of genocide only encourages those who would commit such atrocities. "Nothing," it has been said, "is more distressing than to see history repeat itself."

Today, unfortunately, hostilities still continue in the region and peace efforts, thus far, have been futile. The Armenian people are still at war. Thousands of people have been killed and hundreds of thousands of people have been made refugees.

Mr. Speaker, the best way we can honor those who have died in the Armenian genocide is to help create conditions so that the people of that region can finally live in peace. Today, as we remember the atrocities of the Armenian genocide, I hope we can draw attention to the present atrocities so that stability can finally occur in that region.

Mr. FRANKS of New Jersey. Mr. Speaker, I rise today to commemorate the 79th anniversary of the Armenian Genocide.

Beginning on April 24, 1915, hundreds of Armenian religious, political and intellectual leaders were rounded up, exiled and murdered. The genocide of the Armenian people by the Turkish Ottoman Empire continued for nine years and claimed over 1,500,000 lives. Another 500,000 Armenians were forced to flee their homeland, some of whom formed the origins of the Armenian community in our country. Therefore, it is imperative that we, as the elected representatives of the people of the United States, recognize and commemorate the Genocide of the Armenian people.

In addition, it is incumbent upon us to speak out about messages of hate and bigotry on the rise in this country. As we have learned in this country and witnessed abroad at least twice this century, hate must not be allowed to grow unchecked. We must continue to denounce messages of hate and bigotry and promote tolerance within our communities.

Mr. Speaker, the commemoration of this tragic episode in world history is vitally important. I urge my colleagues to join me in commemorating the Genocide of the Armenian people.

Ms. WOOLSEY. Mr. Speaker, I rise to join my colleagues today in honoring the memory of the 1.5 million Armenians who perished during the genocide of 1915. This horrible period still haunts us today, and the memory of the men, women and children who perished remains.

This was the first true genocide of the 20th century. Despite the atrocities which occurred at the hands of the Turkish Empire, despite the documentation, the eyewitnesses reports, and countless publications which describe these atrocities, some people continue to deny that this crime against humanity actually took place.

Kemal Ataturk, the father of the modern Republic of Turkey, stated that the perpetrators of these crimes:

> "* * * should have been made to account for the lives of millions of our Christian subjects who were ruthlessly driven enmass, from their homes and massacred * * *"

And, yet, the denial continues today, dishonoring those who perished and prolonging the suffering of survivors. If the international community is serious about preventing crimes against humanity, it is essential for us to recognize the atrocities that occurred against the Armenian people at the beginning of this century, by honoring the memory of 1.5 million men, women and children who perished.

Mr. BLILEY. Mr. Speaker, I rise today to mourn and acknowledge a despicable act perpetrated against the Armenian people between 1915 and 1923. Once proud members of the former Ottoman Empire, the Armenian people suffered genocide at the hands of the Ottoman Turks, effectively erasing their existence from the region.

The start of this one-sided bloodshed occurred 79 years ago, as the leaders of the Armenian community were rounded-up and executed. During the reign of terror, over 1.5 million Armenians were brutally killed and over 500,000 were forced to flee to the Syrian desert, substituting memories for their worldly possessions. Today, only about 80,000 Armenians reside in their former homeland.

It is discouragingly ironic to find that keen rememberers of the Armenian genocide were executers of future genocides, namely Nazi Adolf Hitler and Pol Pot of Cambodia. According to historians, Hitler based his final solution for the Jews on successful ignorance of the Armenian genocide by the international community.

As the United States and the United Nations contemplate action in the war-torn region of Bosnia and other areas of the world, let us not forget the previous human tragedy and the legacy caused by the Armenian genocide. The situations confronting American foreign policy are not new or unique, but they are just as horrifying. It is to our detriment that we do not remember and recognize those lost to the hands of tyranny and barbarism as we develop policies for the future.

The anniversary of the beginning of the Armenian genocide will be remembered on Sunday April 24, 1994. We all should take a moment of silent prayer in memory of the Armenian people that were unconsciously executed because of their ethnicity.

Mr. CALVERT. Mr. Speaker, the Holocaust Museum here in Washington serves as a reminder of one of the greatest tragedies in human history. While it specifically calls to our attention the horrors of the Jewish holocaust during the 1930s and 40s, it serves as well to remind us of other crimes of genocide and persecution. One of those unspeakable crimes was the persecution and elimination of millions of Armenians by the rulers of the Ottoman Empire.

This tragedy began 89 years ago with the exile and murder of more than one million Armenian religious, political and intellectual leaders. Over a period of 8 years, the Armenian people were subjected to extreme cruelties. The young men were forced into the Ottoman army, disarmed and placed in forced labor battalions where they were either starved or executed. The women, children and elderly were marched for weeks into the Syrian desert and subjected to rape, torture and mutilation along the way. As a result of this genocide, the Armenian population of the Ottoman Empire was effectively eliminated.

The Holocaust Museum serves to remind us of just how cruel man can be to his fellow man. From its grisly photographs and artifacts, we should learn the importance of tolerance among all racial and ethnic groups.

Whether intolerance is aimed at Armenians, Jews or any other group of people, it is wrong. Let us learn from the tragedies of our past so we will not be condemned to repeat them.

Mr. BILBRAY. Mr. Speaker, This week marks the 79th anniversary of the Armenian Genocide. Between the years 1915 and 1923, over 1.5 million Armenians were killed by the Ottoman Turkish Empire, marking the first genocide of the 20th century.

We call attention to this tragic event today to recognize not only its historical significance, but also its implication for current U.S. foreign policy toward Turkey. To this day, the Republic of Turkey has pursued a sophisticated campaign to deny the Armenian Genocide despite overwhelming evidence to the contrary. The evidence speaks for itself. By the beginning of World War I, there were more than 2.5 million Armenians living in the Ottoman Empire; today, fewer than 80,000 declared Armenians remain in Turkey.

Turkey's refusal to admit its pattern of persecution against the Armenian people in the first half of this century has contributed to the current instability in the region. The valuable role Turkey could play in helping to resolve the Nagorno-Karabagh conflict has been thwarted by their efforts to rewrite the history of the Armenian Genocide.

I sincerely hope that this Congress and the Administration will be mindful of Turkey's refusal to recognize the Armenian Genocide when the foreign aid bill is debated this year. The least our government should expect from an ally that receives hundreds of millions of dollars each year in U.S. aid is a formal recognition of the Armenian Genocide. In addition to serving the interest of truth, it will help to secure regional stability by the increasing the level of trust in an extremely sensitive and volatile area of the world.

Mr. HASTERT. Mr. Speaker, today I join my colleagues in solemn remembrance on the 79th anniversary of the Armenian Genocide by the Ottoman Turks. I regret that this observance is made necessary by the inhuman actions taken 79 years ago; yet it is important that we remember the Armenian people and the tragedy they suffered.

Over a million Armenians were exiled and eventually murdered by the Ottoman Turks beginning on April 24, 1915. As a result of this genocide, the Armenian population of the Ottoman Empire was effectively eliminated through a carefully executed government plan.

We take for granted the United States' founding principle of the inalienable right to life. The Armenians had long been denied that basic right, first between 1894 and 1896, when close to 200,000 Armenians were massacred under the harsh rule of the Ottoman Sultan Abdul Hamid II. When he stepped down fifteen years later, the Armenians were hopeful of an end to their terror when the ruling party promised democratic reforms and constitutional rights. But the Armenians had long suffered the disrespect of the Ottomans, and that unfortunately did not change.

Such disrespect can be so intensified that it allows one group of people to justify the dehumanization and utter annihilation of another group of people. That tragic disrespect is precisely what befell the Armenians in 1915, and that is the tragedy that we cannot forget. Hitler counted on the world's disregard of their fate when he said, "Who today speaks of the extermination of the Armenians."

Mr. Chairman, today we are speaking of it. Let us remember the Armenian people and all victims of deliberate extermination as we commemorate the 79th anniversary of the Armenian genocide.

Mr. KING. Mr. Speaker, I rise today to commemorate one of the most tragic events of the 20th century, and indeed, of all recorded history, the Armenian Genocide.

In 1915, the Ottoman Turkish Empire undertook a deliberately planned effort to exterminate the Armenian people. The Ottoman Turks were responsible for the deaths of more than one million Armenian men, women and children. This vicious campaign of genocide was only halted by Turkey's defeat by the Allies in 1918.

Unfortunately, the Armenian Genocide has been largely forgotten by the people of the world. It has been reported that on the eve of the beginning of his "Final Solution," Adolf Hitler cynically remarked that the world would stand by and allow him to murder the European Jews, because, he asked "Who today remembers the Armenians?".

Just as we remember the Holocaust, we must honor the memory of the victims of the

Armenian Genocide, so that future generations never forget these monumental crimes against humanity nor fail to realize the human potential for profound evil.

In the first 75 years of this century, the world witnessed the Armenian Genocide, Stalin's mass murder of the Kulaks and millions of political opponents, the Holocaust, the millions of dead in Mao's Cultural Revolution, and Pol Pot's liquidation of more than a million Cambodians. Today we are witnessing the "ethnic cleansing" of the Bosnian Muslims.

We must not disgrace the memories of the victims of the Holocaust, the Armenian Genocide and this century's other countless victims of institutional mass murder by standing by and allowing the Bosnian Muslims to be exterminated. We must act to make the words, "never again," a reality. We must stop history from once again repeating itself. I can think of no better way to commemorate the victims of the Armenian Genocide.

Mr. DINGELL. Mr. Speaker, I rise today to join with my colleagues in commemorating the 79th anniversary of the Armenian Genocide. This horrible event marked a period in which the Turkish Ottoman Empire conducted a deliberate campaign to systematically eliminate a people and erase a culture dating back over 3,000 years. Beginning on April 24, 1915, with the slaughter of hundreds of Armenian religious, political and intellectual leaders, and lasting until 1923, the Genocide claimed the lives of roughly 1.5 million Armenians. Many others endured immense suffering as they were uprooted and forced to flee their homeland.

Approximately 500,000 refugees escaped the horrors of starvation, disease, and massacre. They fled to the north across the Russian border, to neighboring Arab countries, and to Europe and the United States. The vast majority of the Armenians living in the United States today are the children and grandchildren of these brave survivors.

Through the years, the dynamic community of Armenian Americans living in the United States has shown great strength, making invaluable contributions to the richness and diversity of our society. Their exceptional talents and hard work have enriched our culture and enhanced the quality of life we enjoy.

Overcoming adversity and loss is clearly a hallmark of the people of Armenia. Throughout this century, that country has withstood natural disasters such as the devastating earthquake of 1988. It also struggled under the political burdens of Soviet rule until declaring its independence in 1991. Since then, impressive economic and democratic reforms have been enacted. However, the citizens of Armenia are now being forced to cope with extremely difficult living conditions brought on by the disintegration of the former Soviet Union. During the last four years, Azerbaijan has carried out a crippling economic blockage and brutal military attacks against the people of Armenia and Nagorno Karabagh.

It is critically important that we continue to recognize the Armenian Genocide as one of history's greatest examples of man's inhumanity to man. The passage of time must not cause us to forget the extreme sacrifices and suffering of those who were persecuted during this tragedy. Remembering those who perished, and paying tribute to the survivors who have persevered in the face of enormous challenges, strengthens our commitment to guaranteeing respect for the dignity and fundamental rights of all people.

Mr. Speaker, as we recognize the Armenian Genocide by honoring those who were lost and paying tribute to those who survived, we should reaffirm our commitment to the people of that country. Our Nation must continue to work closely with the international community to help craft an equitable resolution to the present conflict which has brought hardship and suffering upon many. It is also incumbent upon each of us to recognize the tremendous achievements of Armenian Americans. Their combined energies and resources have helped to make this Nation great.

Mr. WOLF. Mr. Speaker, I wish to speak today to honor the Armenians who suffered and died during the genocide of 1915 to 1923.

April 24 is a day that will be forever remembered by all Armenians. For it was on this day in 1915 that the Ottoman rulers, fearing defeat by the advancing Russian army, launched an ethnic cleansing campaign in which the entire Armenian population was deported, resulting in the deaths of tens of thousands of innocent men, women and children.

Officials of the Ottoman Government rounded up Armenians, placed them in internment camps and then marched them out of Turkey, some to Syria and Lebanon, others east to Armenia. This campaign resulted in the deaths of 1.5 million Armenians. The surviving Armenians fled to Europe, the Middle East and the United States.

Let us never forget the horrible genocide of Armenians which occurred in 1915. And, as we act on behalf of those suffering from "ethnic cleansing" campaigns in Bosnia, let us ensure that nothing like the tragedy of 1915 ever occurs again.

Mr. MOAKLEY. Mr. Speaker, I rise today to remember the one and one half million Armenians killed in the Armenian Genocide. April 24 marks the anniversary of the start of the 1915 genocide which subjected an entire nation to massacres and many other deplorable acts.

Over the course of 30 years, one third of the Armenian people were killed as a result of a carefully orchestrated plan devised by the Ottoman Government. Those Armenians fortunate enough to live through the Genocide still lost their homeland. Before World War I, there were more than 2.5 million Armenians living in the Ottoman Empire, but today fewer than 80,000 Armenians remain in Turkey. This systematic effort to eliminate the Armenian people is one of the greatest tragedies in recent history.

In remembering those who lost their lives in the Armenian Genocide, we must learn from the lessons this terrible chapter of history can teach us. The lives that were lost and those torn apart must never go unnoticed. Instead, they must be an alarm to awaken the world to the potential effects of inhumanity. The Armenian Genocide was the first genocide of the 20th century and regrettably not the last. Now, we have the lessons of history to help us ensure there is never a first genocide in the next century.

Today is an opportunity for us all to reflect on the terrible events the Armenian people have endured. By remembering this horrible event today, we can help prevent the dreadful occurrence of another genocide.

Mr. TRAFICANT. Mr. Speaker, Hitler rationalized his final solution for the Jews when he asked, "Who today speaks of the extermination of the Armenians." Well, today Mr. Speaker I want to take that opportunity. Mr. Speaker, I rise today to recognize the anniversary of the Armenian genocide. During the second half of the 19th century, the Armenian population of the Ottoman Turkish Empire became the target of increasing persecution by the Ottoman government. These persecutions culminated in a three decade period during which millions of Armenians were systematically uprooted from their homeland of 3,000 years and eliminated through massacres and exile.

Between the years of 1894 and 1896, 300,000 Armenians were massacred during the reign of the Ottoman Sultan Adbul-Hamid II. In 1909, 30,000 Armenians were massacred in the area of Adana. And beginning on April 24, 1915, the Armenian people were subjected to the worst display of death and dehumanization in its history. An estimated 1.5 million, a third of its population, were persecuted under this organized genocide.

Today we join all Armenians and people all around the world in observing the 79th anniversary of this unforgettable event in history. I commemorate not only the victims, but the resiliency and determination of the survivors, who to this day have kept the faith and traditions of the Armenian people alive.

Mr. ANDREWS of New Jersey. Mr. Speaker, I rise today to join my colleagues in remembrance of the attempt by the Ottoman Empire to systematically eliminate the Armenian people. April 24 will be the 79th anniversary of the beginning of this campaign of genocide, which resulted in the death of over 1.5 million Armenians.

In remembering this cruel and calculated effort to wipe out the Armenian people and culture, we reinvigorate our commitment to eliminate the practice of genocide forever. It is not enough to simply memoralize the victims of this atrocity. We must ensure that such actions never take place again.

As with other such atrocities, there are people who would have us believe that this event never took place. Efforts such as these must never be accepted. The systematic and deliberate murder of a nation, regardless of the political implications, must be recognized by all people who want to rid the world of genocide. We need to use the commemoration of the Armenian genocide to strengthen our conviction that such atrocities will never be repeated.

Ms. SHEPHERD. Mr. Speaker, I speak today, with both sorrow and anger, in commemoration of the massacre of over one and a half million Armenians between 1915 and 1923. The systematic persecution of the Armenian people by the Ottoman Empire clearly ranks among the worst examples of man's inhumanity to man. The culmination of a long campaign of official oppression and slaughter, the Armenian genocide virtually eliminated the Armenian people in their homeland. The slaughter took a now all-too-familiar pattern: first, the leaders and professionals were arrested and executed, then the able bodied men. The women, children, and the elderly were then at the mercy of their attackers, and were raped, tortured, and mutilated as they were driven from their homes. They then were forced into death marches, where most died from starvation, disease, or massacre. Three-quarters of the entire Armenian population perished, and the rest were driven into exile.

The cruelty of these deeds, and their massive scale, compel us to remember. To remember, and to condemn, is the first step in the long struggle against genocide. Whether it is the "race extermination" of the Armenians, the "final solution" of the Jews, or the "ethnic cleansing" of the Bosnian Moslems, we must take a stand against the inhuman and criminal slaughter of innocents. We must not allow the lessons of the Armenian genocide to be forgotten.

Mr. RUSH. Mr. Speaker, I rise today to honor the more than 1.5 million victims of Armenian genocide who perished 79 years ago. From 1915 through 1923, the Ottoman Empire systematically repressed and slaughtered its indigenous Armenian population. For too long, people have ignored or forgotten this unimaginable atrocity. The time has come for the United States, and people everywhere, to remember and honor the victims of this brutal crime against humanity.

For 3,000 years, Armenians and Armenian culture had thrived in the area covered by the Ottoman Empire. However, beginning in 1915, Turkish authorities systematically wiped out nearly two-thirds of its Armenian population. Turkish authorities first executed intellectuals and doctors, then adult males, leaving the elderly, the very young, and women defenseless, as the Turkish government force them on death marches through the Southern Anatolian deserts. In 8 short years, Turkey managed to slaughter a vibrant, thriving, indigenous population.

I am reminded of Hitler's question. "Who today speaks of the extermination of the Armenians?" We all must. It is imperative that we all remember the incredible inhumanity of which people are capable, for to remember is to be vigilant. And vigilance is the only way we can ever keep such atrocities from reoccurring.

Mr. MANTON. Mr. Speaker, I thank Mr. LEHMAN for reserving this special order to commemorate the tragic events that occurred in the Ottoman Empire from 1915–1923. In 5 days, we will mark the 79th anniversary of the Armenian genocide. I am honored to join my colleagues today to remember and pay tribute to the 1.5 million victims of the genocide and their survivors.

Mr. Speaker, on April, 24, 1915, the Ottoman Turkish Government launched a systematic and deliberate campaign of genocide. This violent campaign resulted in the deaths of over one-third of the Armenian population living in the Ottoman Empire and the exile of approximately 500,000 Armenians from the Empire. While most of us here today are familiar with the disturbing events of 1915–1923, there are those who deny the genocide ever took place. Today, we must remember.

Mr. Speaker, we must remember the Armenian leadership in Istanbul and other Armenian centers who were executed. We must remember the Armenian males in the Ottoman Turkish Army who were segregated, disarmed, and worked to death or massacred. We must remember the women, children and elderly who were forced to march for weeks through the Syrian desert and subjected to rape, torture, and mutilation along the way. We must remember the more than 200 religious, political, and intellectual Armenian leaders who were systematically exiled and murdered. Finally, we must remember the mass deportations and deaths of thousands of Armenians.

Mr. Speaker, we cannot let the passage of time face the truth of these horrific events. Today, I join Armenian-Americans and Armenians around the world as they remember and honor their loved ones who were persecuted more than 70 years ago.

Unfortunately, the persecution of Armenians did not end in 1923, but continues today. In that regard, I am proud to be a cosponsor of H. Res. 86 introduced by Congressman DAVID BONIOR. This resolution criticizes the Republic of Azerbaijan for their failure to work for a peaceful settlement to the dispute over Nagorno Karabagh by continuing the devastating blockade and economic boycott of the Republics of Armenia and Nagorno Karabagh. Furthermore, H. Res. 86 urges the United States to continue to withhold all our assistance to Azerbaijan until they cease their policy of aggression, and afford Armenians basic human rights protections. I urge my colleagues to join me in cosponsoring this important resolution to help all Armenians fight for the democratic principles and human rights they deserve.

In the name of the thousands of Armenians persecuted, executed, and exiled and their survivors, we cannot forget the horrors of the Armenian genocide. We must continue to hope and work for a world free of crimes of prejudice and ignorance. Today, we remind the world a senseless tragedy was allowed to happen, but must never be repeated.

Mr. McNULTY. Mr. Speaker, I join my colleagues today in commemorating the 79th anniversary of the Armenian genocide—the first genocide of the 20th century.

The Armenian genocide, and the international community's indifference to this crime against humanity, set the stage for a century of unparalleled suffering. The Holocaust, the genocide in Cambodia, the current tragedy in Bosnia, and countless other genocidal campaigns, are rooted to some extent in the world's failure to hold accountable the perpetrators of the Armenian genocide.

Why did the Ottoman government undertake the systematic and deliberate elimination of the Armenian people? To a significant degree, the answer is provided by our ambassador to Turkey at the time of the Armenian genocide, His Excellency Henry Morgenthau, in his book entitled, "Ambassador Morgenthau's Story," published in 1918.

In the following excerpt, he records his meeting with Enver Pasha, Turkey's Minister of War from 1908 to 1918, and a member of the Committee on Union and Progress:

"In another talk with Enver I began by suggesting that the Central Government was probably not to blame for the massacres. I thought this would not be displeasing to him.

"'Of course, I know that the Cabinet would never order such terrible things as have taken place,' I said. 'You * * * and the rest of the Committee can hardly be held responsible. Undoubtedly your subordinates have gone much further than you have ever intended. I realize that it is not always easy to control your underlings.'

"Enver straightened up at once. I saw that my remarks, far from smoothing the way to a quiet and friendly discussion, had greatly offended him. I had intimated that things could happen in Turkey for which he and his associates were not responsible.

"'You are greatly mistaken,' he said. 'We have this country absolutely under our control. I have no desire to shift the blame on to our underlings and I am entirely willing to accept the responsibility myself for everything that has taken place. The Cabinet itself has ordered the deportations. I am convinced that we are completely justified in doing this owning to the hostile attitude of the Armenians toward the Ottoman government, but we are the real rulers of Turkey, and no underling would dare proceed in a matter of this kind without our orders.'"

Let us always remember the victims of Armenian and Cambodian genocides, the victims of the Holocaust, the victims of Bosnia, and whose lives were snuffed out in other genocides. And let us pledge that we shall do all in our power to eliminate crimes against humanity wherever they may be perpetrated.

Mr. FAZIO. Mr. Speaker, I rise today to commemorate the 79th anniversary of the first genocide of the twentieth century, the Armenian genocide of 1915.

As a long-term friend of the Armenian-American community, I am proud to once again have the opportunity to join my distinguished colleague from California, Mr. Lehman, and the other Members of the House of Representatives in pausing to reflect on this atrocity.

On April 24, 1915—the date that symbolizes the beginning of the Armenian genocide—Armenian representation in Turkey was eliminated when over 200 religious, political and intellectual leaders of the Armenian community were arrested, exiled and murdered. In a single night, the voice of the Armenian nation in Turkey was silenced. Henry Morgenthau, Sr., the United States ambassador to Turkey at that time, called the Armenian genocide "the most thoroughly organized and effective massacre this country has ever seen."

From that infamous date until 1923, 1.5 million Armenians died in the Ottoman Empire's attempts to eliminate the Armenian people. As a result of this increased persecution, Armenian citizens were either massacred outright, or they were deported and subjected to various atrocities, including rape, torture and mutilation. Even the half million Armenians who were fortunate enough to have escaped were brutally evicted from the country that they had called home for more than 3,000 years. They were still victims of the Ottoman Empire's deliberate attempt to systematically exterminate the Armenian people.

I once more wish to extend my gratitude to Mr. Lehman for calling this special order. As we honor the victims and survivors of the Armenian genocide and pay our respects to their families, we must remember this horrible example of man's inhumanity to man so that we can renew both our responsibility and our pledge to prevent the repetition of similar atrocities against any other people anywhere in the world.

Mr. VISCLOSKY. Mr. Speaker, today, we pause to reflect upon and memorialize the 79th anniversary of the Armenian genocide. Between the years of 1915 and 1923, the Ottoman empire embarked upon a mission to erase from the earth the Armenian race, resulting in the deaths of 1.5 million men, women and children, and the exile of a nation from its historic homeland. The human tragedy of this endeavor is chilling. By the end of 1923, virtually the entire Armenian population of Anatolia and western Armenia had been either killed or deported. This unspeakable catastrophe, which befell the Armenian people in the dawn of this century, has left a lasting mark on those who survived—they will never forget, nor should we.

It is important to remember this horrible fact of history to comfort the survivors, as well as remain vigilant to prevent future calamities. Only a fraction of the Armenian population escaped this calculated attempt to destroy them and their culture. Approximately 500,000 Armenian refugees fled north across the Russian border, south into Arab countries, or to Europe and the United States. Currently, it is estimated that fewer than 80,000 declared Armenians remain in present-day Turkey.

The Armenian genocide is a well-documented fact. The U.S. National Archives contain numerous reports detailing the process by which the Armenian population of the Ottoman Empire was systematically decimated. Tragically, less than 20 years after the Armenian genocide, Adolph Hitler embarked upon a similar extermination of European Jews. However, there is an unsettling tendency among both individuals and governments to forget or blot out past atrocities.

It is highly appropriate for the United States to directly convey its rich tradition of respect for fundamental human rights by commemorating the Armenian Genocide. We must also encourage world-wide recognition of this devastating event in history. An acknowledgement of the Armenian genocide by Turkey would, in addition to serving the interest of truth, help to secure regional stability by increasing the level of trust in an extremely sensitive area of the world.

Current events have brought new hardships upon the Armenians. Six years of conflict with neighboring Azerbaijan and general unrest in the region has all but cut off Armenia from its fuel supply. Both Azerbaijan and Turkey have imposed embargoes upon Armenia; the only road to Iran is often closed; and, the gas and railway lines, which pass through Georgia, are frequently blown up. As a result, one in four Armenians have emigrated in the past year. Those who remain are cold and miserable—entire forests have been chopped down for firewood.

The heart of suffering for today's Armenians is in Nagorno-Karabakh, an Armenian-populated enclave in Azerbaijan, which is fighting for its independence. The memory of the Armenian genocide has heightened the emotion of this struggle. In fighting for Karabakh, Armenians say they are fighting to prevent another deportation, another genocide—this time, at the hands of the Azerbaijanis.

In closing, I would like to commend my colleague from California, Mr. Lehman, for organizing this special order to commemorate the 79th anniversary of the Armenian genocide. As we honor those who died wrongfully before us, we must look forward to say, "Never again!" It is my sincere hope that this remembrance will not only console the survivors and their families, but may also serve to avert future atrocities.

Mr. SMITH of New Jersey. Mr. Speaker, our remembrance today of the 79th anniversary of the Armenian genocide allows us not only to honor the 1.5 million Armenians who lost their lives in the Ottoman Empire's attempt to erase an entire people and the many who were forced into exile, it also allows us to honor the millions who now bravely stand against another attempt at their destruction.

This moment in the history of the Armenian people is particularly important. Between 1915 and 1923, the Armenian people were subjected to policies and programs which resulted in the death and displacement of millions. There was no attempt to cover up what was happening and the world stood by—mostly silent in the face of the political instability at the time—as a people were being destroyed.

Today, the Armenian people are once again at a significant, defining point in their history. With the collapse of the Soviet Union, Armenia is independent, working toward democratic reform and finding a place in the international community. Where other nations of the former Soviet Union find this task difficult enough, the Armenians are still in the process of rebuilding following the 1988 earthquake—one of the largest natural disasters of our century. The rebuilding process can now continue thanks to the World Bank Earthquake Reconstruction loan for Armenian which is providing $28 million dollars to Armenian for assistance to the needy population of the earthquake zone.

In addition to the earthquake, however, it is important to note that the Armenian people suffer from man-made calamities that should be addressed. For example, for five years, Armenians have been subjected to a blockade which has left the nation impoverished and, in the words of one international famine relief program, in a "pre-famine" state. This past winter has been particularly harsh.

Representatives of Christian Solidarity International (CSI) visited Armenia last winter and they found that the blockades on Armenia are creating acute shortages and great hardship. The prices of food and fuel are exorbitant and ration proportions are minimal. According to Bishop Papken Varjabedian of the Armenian Church of America, many people "live mainly on bread."

CSI also reports that the blockades have reduced energy supplies and many areas of Armenia receive only one hour of electricity each day, leaving people in the cold and dark. Without electricity, factories, schools, universities and public transportation are shut down or operate at minimal levels.

Despite these hardships and the ongoing conflict with Azerbaijan over the region of Nagorno-Karabakh, the Armenian people show little sign that they are being defeated. They have lived through hardship and the attempts to destroy their culture before and, thank God, the Armenian people have survived.

The international community remained virtually silent in 1992 when 40% of Nagorno-Karabakh was over-run and thousands of Armenians were forced to flee their homes. The international community remained virtually silent in 1991 when Armenian towns and villages in Nagorno-Karabakh were occupied by the Azeris. And there has been little outcry over the blockade of Armenia and Nagorno-Karabakh which has brought about the deplorable conditions of those areas.

Today, as we remember and commemorate the millions who suffered and died during the Armenian genocide earlier this century, we are reminded that as the century comes to a close the Armenian people are still suffering. We must not remain silent, and we must act before it is too late. If today we only remember those who have died and are not moved to help those suffering today, then those 1.5 million have died in vain. We must not only remember, we must honor them, and those who survived the genocide. We can honor them by standing in solidarity with the Armenians of today who seek peace in their region, and by providing assistance and encouraging them to continue the process which will bring about democratic reform, stability and security for the Armenian people.

Mr. Speaker, I close with a translation of a poem by an 11-year-old Armenian boy, who has been driven from his village of Mardakert when the Azeris occupied it in June 1992:

I climbed barefoot the mountains,
To pay my last visit with yearning,
The mountains looked at me and became dark,
"What are you doing, my black-eyed child," he asked.
I kneeled down at the Tharthar river bank
To pay my last visit,
Tharthar became wavy suddenly,
"What are you doing, black-eyed child?"
I went to our beautiful bushland,
For the last time to pick up some flowers,
"Shame on you" the bushes told me again,
And when I looked at the beautiful sun,
With tears in my eyes,
"How, how can I leave all this?" I wept.
"How can I leave Artsakh (Karabakh)?
You as a mother love me and embrace me."
And I lay down on the ground,
Hugged the holy land,
And I shouted loud, so the earth would hear me,
"No, no, in our life we will never leave Artsakh,
We will never search for a haven in other lands,
Let Artsakh be our grave.
Forgive me my dear motherland,
That I for a minute thought to leave and get away.
I won't be an adopted child to another mother,
No matter how good she is,
She is still only a stepmother.
My love, my dear Artsakh,
Be a holy parent to your children,
I won't be tempted by another life,
Any heavenly life is not going to enslave me,
I have been born in these mountains,
I will become soil in Matagis (Mardakert)
I will be soil, I will be rock,
Only if my village is always alive,
I will mix with the soil of my land,
And silently listen to the voice of Tharthar."

Mr. FRANK of Massachusetts. Mr. Speaker, we owe our colleague from California [Mr. LEHMAN] a profound debt of gratitude for again organizing this Special Order to make sure that the world does not forget the terrible Armenian genocide. The current troubles facing the brave people of Armenia make this all too tragically relevant, and it is fervent hope that our efforts here to recall the horrors of more than 70 years ago will help waken the world to the moral imperative of coming to the aid of the besieged people of Armenia today. I continue to regret very much the incomprehensibly obstinate attitude of the Turkish government, in seeking to block recognition of the terrible events of that period, in which so many innocent Armenians were slaughtered. And I urge the Turkish government today to take into account this historic tragedy and to revise its policy today of continuing to add to the misery that besets innocent people in Armenia. I admire the courage that the people of Armenia are showing today in their effort to construct a modern democratic government, after so many centuries of misrule and oppression which they have suffered from outside forces. As we recall the martyrs of the genocide of many decades ago, let us rededicate ourselves to a policy of cooperation, friendship and support for the valiant effort of the survivors to create a democratic prosperous Armenia. The Armenian people deserve no less.

Mr. WAXMAN. Mr. Speaker, I join my colleagues today in rising to commemorate the Armenians who perished in this century's first genocide.

Anyone who has studied or discussed the tragic events that befell the Armenian community 79 years ago—not to mention the preposterous historical revisionism that still exists to this day—can fully understand how important this tribute is to the Armenian community and to the memory of those who lost their lives in the slaughter. I would like to take this opportunity to commend my distinguished colleague from California, Mr. LEHMAN, for arranging this special order.

Each year, this day serves as an expression of our commitment to historical truth and to the universal principles of human rights. Each genocide provides a foundation for subsequent horrors. Each historical misrepresentation of efforts to exterminate a particular ethnic group increases the likelihood that such efforts will be undertaken again in another time and place.

With the widespread popularity of Steven Speilberg's moving and compelling film "Schindler's list," it is clear that the horror of genocide still resonates throughout the world. Speilberg's film illustrates the importance of calling attention to intolerance wherever it takes place, so that the atrocities that were committed by the Ottoman Empire and Nazi Germany are not repeated.

The line from Armenia to Auschwitz is direct. Undoubtedly, the Holocaust, which took the lives of six million Jews and millions of other innocent people, was inspired by the murder of a million and a half Armenians. Hitler, during an early meeting to map out the extermination of the Jewish people, was asked whether world opinion would not prevent such a plan from being carried out. Hitler laughed. "World opinion! A joke! Who ever cared about the Armenians?"

By holding this special order, we in the House vow that genocide will not go unacknowledged and unmourned. Only by acknowledging this day, year after year after year, can we ensure that genocide remains what it has not always been—an unspeakable evil.

The Armenian people, like the Jewish people, although scattered all over the globe, have remarkably kept their culture, language, and religion intact. On this day of remembrance, I salute their tenacity and spirit.

Mr. GEJDENSON. Mr. Speaker, I would like to take this opportunity to observe the 79th anniversary of the Armenian Genocide.

On April 24, 1915, a day etched in the minds of all Armenians, a deliberate and systematic campaign of genocide by the Ottoman Turkish Government resulted in the deaths of over 1.5 million Armenians and exiled a nation of people from its historic homeland.

The Armenian male population already conscipted into the Ottoman army, was disarmed, placed in work battalions, and then executed. The surviving women, children, and elderly were sent on death marches through the desert.

One might recall Hitler's infamous response as he rationalized his final solution for the Jews: "Who today speaks of the extermination of the Armenians?"

The ruthless massacre of the Armenians should not be forgotten, but there are some individuals who would deny this event in history and deny Armenians their memories. As hard as it is to imagine, this past year at the dedication of the Holocaust Memorial in Washington, DC, groups of demonstrators were protesting that the Jewish Holocaust never occurred. My parents were survivors of the Holocaust. Who has the right to tell them it did not occur? As we pause to reflect upon this tragic event, we must remember that even today ethnic intolerance continues to rear its ugly head. In Bosnia, the carnage continues. We must not hide our heads in the sand while such atrocities take placed around the world. We must continue to be vigilent. As a nation founded on the premise that all men are created equal, we must not ignore or tolerate acts of hatred. To do so, seals the fate of innocent victims.

On this day of remembrance, we must make a solemn vow to fight such evils which continue to weave themselves throughout the history of humanity.

Let us resolve to strengthen our commitment to fight the persecution of all peoples and to intensify our efforts in creating an atmosphere where freedom and tolerance prevail.

Mr. CUNNINGHAM. Mr. Speaker, I rise today in recognition of the Armenian people on the 79th anniversary of the Armenian genocide. The genocide, which began on April 24, 1915, resulted in the death of 1.5 million people, a third of the Armenian population.

On that terrible day in 1915, hundreds of Armenian religious, political, and intellectual leaders were rounded up, exiled, and eventually murdered in remote areas of Anatolia. The remaining adult males were then taken from their homes and slaughtered en masse. Stripped of any protection and deprived of their leadership, the elderly, women, and children were left to face the death marches through the southern Anatolian deserts. Through the bitter cold and the blistering heat, the Armenian people were forced to march without food, water, or shelter. Those who did not die from starvation or disease were subjected to rape, torture, and mutilation. The land which had been home to Armenians for nearly 3,000 years was quickly emptied of its population in this manner.

Mr. Speaker, the Armenian genocide should not go unnoticed or unremembered. Those who died in the genocide must be remembered by all of us. As events in Yugoslavia, Iraq, Cambodia, Iran, and most recently, Rwanda, demonstrate, we have not lost our capacity for savagery.

We should use this opportunity to remind ourselves that the threat of wholesale murder still exists even today. We must actively combat those who would consider committing such crimes, and we must declare that an atrocity like the Armenian genocide must never happen again.

Mr. Speaker, I thank my colleague from California for organizing this special order and his efforts to insure that the Armenian genocide is remembered by this body.

Mrs. BYRNE. Mr. Speaker, I would like to add my voice to the many on the floor of the House of Representatives today who commemorate the 79th anniversary of the deaths of more than 1.5 million Armenians in Turkey.

This commemorative takes us back to April 24, 1915, when several hundred Armenian intellectual, religious, and political leaders in Constantinople were imprisoned and later killed. In the next several years, Armenians were forcibly removed from their ancestral lands in eastern Turkey, ejected from their homes, and over half of the 2.3 million Turkish Armenians were lead to their death.

Under the pretense of protecting Armenians from war zones and an invading Russian army, the Turkish Government began to deport them to Syria and other areas. Whole families were uprooted, deprived of their homes and livelihood. Eyewitness accounts reported that men and teenage boys were typically separated very early in the deportation journey and usually shot or butchered. The women and children continued on foot, sometimes for months. On their way, they were robbed, raped, and massacred. Thousands were forced to eat grass or pick seeds out of the dung of animals. Thousands of others died of starvation, having been deprived of their possessions and money.

We cannot be silent, and we cannot forget this painful chapter in 20th century history. Some have asked, why should we be so concerned about a horror that occurred 79 years ago and in another part of the world. The answer lies in the events and history that has followed 1915, a pattern of annihilation of peoples and races that has repeated itself over and over again.

In 1915, the world expressed concern about the Armenians, but did not act. Directives were issued, statements were made, but no one moved to end this tragedy. The international community sat idly by as these crimes were committed. Over 20 years later, when Adolf Hitler said, "Who still talks nowadays about the extermination of the Armenians?" he pointed to an unsettling truth about our collective historical memory and questioned whether the world community would express the same level of apathy toward the extermination of the Jews.

When allied troops liberated Nazi death camps, one would have thought that this chapter had ended. However, 30 years later in Cambodia, a new generation of killings occurred. This time over 1 million Cambodians were annihilated in a systematic fashion.

What have we learned from these tragic chapters in history? If there is one overriding lesson, it is that silence brings complacency, and that we cannot sit idly by in the face of crimes against humanity. If the civilized world continues to be silent then this cycle of annihilation will continue to repeat itself, as we now see in Bosnia.

We must take the lessons of the experience of Armenians in Turkey in the first part of our century and brand these horrors in our memory. Let our actions today draw from our remembrance of the experiences of our fellow Americans of Armenian descent. Let their history and experiences lead us to a greater understanding and knowledge of the plight of Armenians and guide our policies today.

Mr. MCKEON. Mr. Speaker, I rise with my colleagues today to recognize the 79th anniversary of the Armenian genocide.

Mr. Speaker, it is important to acknowledge the past, and both the respectable and despicable events that have occurred. We recall today the terrible period in history when the Ottoman Turkish empire targeted the Armenian population for persecution.

Between 1915 and 1923 a systematic and deliberate campaign of genocide by the Ottoman Turkish Government resulted in the deaths of over 1.5 million Armenians and the exile of a nation from its historic homeland. Religious, political and intellectual leaders were gathered, and executed. Adult males were slaughtered in masse. Women and children were sent on death marches through the Southern Anatolian deserts. Nearly a third of the population was wiped out during this horrifying period of history. It is sobering to learn that later Hitler used the Armenian Genocide to rationalize the extermination of the Jews.

Mr. Speaker, by the beginning of the First World War, there were more than 2 million, 500 thousand Armenians living in the Ottoman empire; today there are fewer than 80 thousand declared Armenians remaining in Turkey, mostly in Istanbul and Western Turkey. The eastern provinces—the Armenian heartland—are virtually without Armenians.

It is important to recognize this 79th anniversary of the Armenian genocide. We must acknowledge the dark periods of history to ensure that they never, never happen again.

Mr. HORN. Mr. Speaker, I join my colleagues in commemorating the tragedy of the Armenian genocide which began its ugliest phase in April 1915. I add my voice to the chorus of vigilance that remembers the sad fate of over 1.5 million Armenians killed by the Ottoman empire and the millions more driven from their homeland.

On April 24, 1915, the Ottoman empire systematized a campaign of racial hatred which had already killed over 300,000 Armenians since 1894. On that date, authorities in Istanbul ordered the arrest of hundreds of Armenian religious, political, and intellectual leaders. These leaders were then exiled or murdered.

Within months, thousands of Armenians in Asia Minor and Turkish Armenia had been deported and the 250,000 Armenians serving in the Ottoman army had been disarmed and placed in forced labor battalions where most starved or were executed. Women, children, and the elderly were put on death marches where they were subjected to rape, torture, and mutilation.

By 1923, the destruction of the Armenian culture within the confines of present-day Turkey was all but complete; 500,000 Armenians had escaped into Russia or emigrated to Europe or the United States. At the beginning of the First World War there were more than 2.5 million Armenians living in the Ottoman empire; today fewer than 80,000 declared Armenians remain in Turkey.

Sadly, the Armenian genocide was only the first example of this savagery in the 20th century. Adolf Hitler excused his own genocidal campaign against the Jewish people by citing the world's apparent indifference to the Armenian genocide. The killing fields of Cambodia, the ruthless battles between Hutu and Tutsi, and "ethnic cleansing" in the former Yugoslavia are only the most recent examples of man's inhumanity to man. We must use today's commemoration of the Armenian genocide to once again remind ourselves and the world that the words "let us remember" announce an active cause.

Mr. MARKEY. Mr. Speaker, I rise today to call attention to a grim chapter of world history. Though many overlook the events of the Armenian genocide, we neglect this era at our peril.

April 24 is a somber anniversary. On this date in 1915 a hitherto unprecedented atrocity began in the Ottoman Empire with the roundup of hundreds of Armenian political, religious, and intellectual leaders. This act was the gateway to an unconscionable crime. Over the succeeding months and years, the Armenian people were systematically removed from their homes in Asia Minor and Turkish Armenia. Often executing men and older boys outright, the Ottoman Government forced Armenian women and children to march into Syrian desert. Most did not survive.

The historical record is repugnant. Between 1915 and 1922, 1,500,000 Armenians lost their lives, and over 500,000 were exiled from the Ottoman Empire. The effects are all too evident today. At the beginning of World War I, over 2,500,000 Armenians lived in the Ottoman Empire. Today, fewer than 100,000 declared Armenians remain in Turkey, which encompasses much of the old empire.

We all know the oft-repeated but all too true expression that those who fail to remember the past are condemned to repeat it. The world quickly forgot about the Armenian massacre. This forgotten past was repeated with amplified horror in the death camps of Nazi Germany. Although we wish that these horrible events at least would have resulted in ending tolerance of ethnic hatred, today's world is filled with atrocities from which we often turn away and rationalize inaction. From Bosnia to Rwanda, the lessons of the past are being forgotten and repeated anew. Distinctions of race, ethnicity, or nationality continue to obscure our common humanity and serve as a pretext for slaughter. Ancient crimes, both real and imagined, are repaid with the blood of the living and innocent.

Mr. Speaker, as we remember the victims of the Armenian genocide, I note that 2 weeks ago, we remembered those slain during the Holocaust. I hope I will never hear a colleague come before this body to observe a day of remembrance for the victims of some future genocide.

As we pause to remember the genocide of a million and a half Armenians, let us not be satisfied with remembrance. Let us dedicate ourselves instead to a future in which remembrance of the past elicits constant vigilance against the atrocities of hatred, a future when people do not turn away from the world's horrors but act to end them.

Mr. DIXON. Mr. Speaker, I rise today in solemn remembrance of the 79th anniversary of Armenian Genocide that occurred in Turkey from 1915–1923. The torture, violence, and degradation against the Armenian community marked a disturbing page in world history. I join my colleagues in this special tribute commemorating the fortitude of those who survived and the memory of those who died.

In 1915, the Ottoman Empire was attempting to fight off a Russian invasion and contain the increasing fervor of Armenian nationalism in eastern Turkey. Ottoman government leaders adopted an anti-Armenian agenda which included the extermination of males that were of fighting age, and the mass deportation of women and children to Syria. As a result, 1.5 million Armenians died through massacres, disease, and starvation. The wave of violence and brutality left deep scars in the hearts and minds of thousands of people who escaped death and were forcibly exiled from their homeland.

Today, I join my colleagues in commemorating the 79th anniversary of the Armenian genocide so that this inhumane tragedy will never be repeated. In recognition of the courage of the men, women, and children who lost their lives during the Armenian genocide and in honor of the Armenian community in the United States, I support efforts to make April 24 a national day of remembrance.

Mr. LIPINSKI. Mr. Speaker, the history of the Armenian people is a long and bitter story marked by repression and genocide. I'm speaking of course about the Armenian genocide of 1915 to 1923 carried out by the Ottoman empire.

It is not a story that is widely known. There is little mention of it in our history books. It is not taught to our children in school. And it is not commemorated on the kind of scale it deserves. On behalf of the Armenians who live in my community, I am proud to take a few minutes to honor the victims of the genocide.

The Armenian genocide was the culmination of a long effort by the Ottoman Turks to destroy the Armenian people. During the decades preceding the First World War, the Ottoman government tried repeatedly to achieve this goal. In 1895 three hundred thousand died. In 1909 another thirty thousand died before the Western Powers intervened to stop the bloodshed.

Unfortunately, World War I provided the cover they needed. With Europe and the United States preoccupied by war, the Ottoman Turks carried out their massacre without outside attention or interference. The genocide began on April 24, 1915, with a sweep of Armenian leaders. It did not end until 1923 when the entire Armenian population of two million had been killed or deported. Very few survived.

It is estimated that 1.5 million Armenians died at the hands of the Ottoman Turks—half of the world's Armenian population at the time. By 1923 the Turks had successfully erased nearly all remnants of the Armenian culture which had existed in their homeland for 3,000 years.

As we look back on this tragedy today, we see the memory of the victims insulted by those who say the genocide did not happen. A well-funded propaganda campaign forces the Armenian community to prove and reprove the facts of the genocide. This is itself a tragedy for a people who would rather devote their energy to commemorating the past and building the future.

I stand here today to say the genocide did happen. Nobody can erase the painful memories of the Armenian community. Nobody can deny the photos and historical references. Nobody can deny that few Armenians live where millions lived 80 years ago.

It is our responsibility and our duty to keep the memories of the genocide alive. A world that forgets these tragedies is a world that will see them repeated again and again. The story of this and other genocides must be known by all.

We must also honor the victims who perished so brutally. We cannot right the terrible injustice inflicted upon the Armenian community and we can never heal the wounds. But by properly commemorating this tragedy, Armenians will at least know the world has not forgotten the misery of those years. Only then will Armenians begin to receive the justice they deserve.

Mr. CARR of Michigan. Mr. Speaker, April 24, 1994, marks the 79th anniversary of the Armenian genocide. From 1915 to 1923, the Ottoman Turkish Government conducted a systematic and deliberate campaign of genocide which resulted in the deaths of 1.5 million Armenian men, women, and children. By 1923, nearly one third of the Armenian population had been murdered, and those who survived were exiled from the homeland which their ancestors had inhabited for over 3,000 years.

Equally horrifying are the means by which the Ottoman Turkish Government pursued this deliberate mass elimination of the Armenian people. On April 24, 1915, Armenian intellectuals, religious leaders, and physicians were rounded up, exiled, and murdered. Only months later, the 250,000 Armenians serving in the Ottoman Army were disarmed and forced into labor battalions, where they were eventually either starved to death or executed. The women, children and elderly who remained were forced on death marches into the Syrian desert, along the way suffering rape, torture and mutilation. Yet only 20 years later, Adolf Hitler spoke these infamous words, in defense of his "Final Solution" for the Jews of Europe: "Who today speaks of the extermination of the Armenians?"

We do. And the retelling of this horrific episode in history sends a chilling reminder to us that we cannot ever stop speaking of the extermination of the Armenians, nor of the 6 million Jews who died in the Nazi Holocaust, nor of the millions of Russians murdered by Stalin, nor of the Cambodians massacred by Pol Pot. So long as the people of this world continue to discriminate against one another because of differences in race, religion, and ideology, the potential for such atrocities remains. We must not forget.

Mr. MENENDEZ. Mr. Speaker, I rise today solemnly to commemorate one of the 20th century's most abhorrent tragedies, the genocide perpetrated by the Ottoman Empire upon the Armenian people between 1915 and 1923.

I rise in solidarity with Armenians throughout the world in remembering the 1.5 million men, women, and children who were victims of this sordid act of persecution. I rise also in hope—hope that the legendary, triumphant spirit of the Armenian people will serve as an example for all of us that out of adversity can come great strength—strength to endure and to overcome that adversity. The Armenian community throughout the world and in the United States is indeed living testimony to that triumphant spirit.

It is important, just, and necessary for humankind to engage in a commemoration such as this in the hope that we can learn something from man's inhumanity toward man. The people and nations of the world share a collective responsibility to learn from this sordid event and a duty to record it factually for future generations. I congratulate those governments who have joined us in solemn remembrance of the Armenian genocide and urge those which have yet to begin their commemoration, or which deny that this genocide occurred, to pay appropriate homage to its victims.

Therefore, Mr. Speaker, let history record this commemoration in the United States Congress, that scores of us who proudly represent the people of the United States of America duly pause to pay a humble tribute to the 1.5 million victims of the Armenian genocide. May it never happen again.

GENERAL LEAVE

Mr. LEHMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore (Mr. BAESLER). Is there objection to the request of the gentleman from California?

There was no objection.

CHINA MUST RENOUNCE THE USE OF FORCE AGAINST TAIWAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, in light of the recent trip of U.S. Secretary of State Warren Christopher to China and the current debate on the renewal of Most Favored Nation [MFN] status of China, I would like to direct your attention to an important issue. It concerns the safety and security of Taiwan.

China's former President Yang Shang-kun once announced that if Taiwan declares itself independent, a military solution cannot be precluded. He stated that China has atomic bombs, guided missiles, and many submarines for such a purpose. "Those who play with fire will be burned to ashes," he claimed. Deng Xiao-ping added that if Taiwan will not show any inclination to abide with China's unification policy, military force will be used to achieve unification.

Mr. Speaker, Article (b)(6) of Sec. 2 of the Taiwan Relations Act, (1979) states that it is the policy of the United States * * * to resist any resort to force or other forms of coercion that would jeopardize the security * * * of the people of Taiwan. Through this act the United States is legally committed to protect Taiwan from outside forces. Now the United States has an opportunity to enforce that commitment.

Mr. Speaker, I believe that the debate which is currently going on on Capitol Hill whether to attach first, economic, second, human rights, and third, non-proliferation conditions to the renewal of MFN status for China is extremely important. But let us not forget, that—since peace and security in the Pacific is in the best interest of the countries in the region and of the United States—China must also renounce the use of force against Taiwan. Good relations between the United States and the People's Republic of China must also depend upon the willingness of the Chinese authorities to refrain from the use and the threat of force in resolving Taiwan's future.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentlewoman from Connecticut [Mrs. JOHNSON] is recognized for 60 minutes as the designee of the minority leader.

THE HEALTH CARE REFORM DEBATE—THE EMPLOYER MANDATE

Mrs. JOHNSON of Connecticut. Mr. Speaker, the President and Mrs. Clinton deserve credit for bringing health care to the center stage in Congress. And while there is widespread agreement that reform is long overdue, achieving reform that constrains health care costs, preserves quality care and expands access for all Americans is, indeed, a complex challenge. The very real danger is that we will destroy the unique quality of our system and escalate, not control, costs.

Because health care reform is a complex challenge, I am going to discuss tonight one aspect of that challenge, the employer mandate and its consequences. In future special orders, I will focus on the global budget and price controls that are fundamental to the President's proposal and the proposal of my colleague, the gentleman from California [Mr. STARK] and to other significant aspects of the health care reform debate and of the kinds of decisions that have to be made by Members of Congress.

Finally, I will focus on the significant number of specific solutions to the specific problems we face that command bipartisan support and would have a broad and systemic and healthy impact on our health care system, correcting the problems we all know so well of people being excluded for preexisting conditions, unable to buy affordable insurance, unable to have the kind of access that a great and rich country ought to provide her citizens to health care, preventative care as well as crisis care.

We will focus on the solutions as well as on the problems. But tonight I want to focus on one fundamental component of a number of larger proposals that are being held out as solutions to our health care problems but, I believe, will cause such systemic problems for us that they should not be part of the health care debate and would be counterproductive, if passed.

I want to turn my attention to the employer mandate and its consequences. I firmly oppose an employer mandate for two reasons: Its economic impact, its effect on the very structure of our economy and the vitality of the small business sector and, secondly, its impact on the central challenge of controlling health care costs.

To focus first on the economic impact of the employer mandate, we think we understand this. We look at it superficially. Of course, it will cost jobs in the immediate future. But there is far more to the economic impact of the employer mandate than meets the eye.

First, just to turn to its short-term impact, because there are a number of studies that demonstrate very clearly that the initial impact will be very significant in terms of job loss and that part of our population will be far more heavily affected by an employer mandate and the accompanying job loss than others will be.

I want to call to Members' attention the ALEC study. ALEC is the nation's largest bipartisan organization of State legislatures. It has 2,400 members. And in its study, it estimated 1 million 21 thousand jobs will be lost as a result of increased labor costs associated with an employer mandate.

For Connecticut, accordingly to the ALEC study, 14,300 jobs will be lost by 1998. That is as if all of Pratt and Whitney closed or all of Electric Boat. That is many, many, many important, well-paying jobs.

□ 2050

To go on to other studies, the CONSAD Research Corporation comes up with the figure of 850,000 jobs that would be lost if the Clinton plan would be implemented. Twenty-three million other workers in addition, 23 million, would see lower wages, lower benefits, and a reduction of their working hours. The total loss for affected workers, and these are people who do not lose their jobs but do lose hours and benefits, their total loss is $28 billion Nationwide. Of the $23 million whose wages and benefits would be cut, $16 million of those already have health insurance; in other words, two-thirds of those who will be adversely affected, though retaining their jobs, have health benefits.

Of those who would lose their jobs, it is estimated that 69 percent had health care coverage. In other words, they had a job and they had health care coverage. However, we are going to fix the problems in the health care system by costing them their jobs and their health care coverage.

I maintain that a solution that will cost as many jobs in the short term as the employer mandate will is not a good solution, and I would point out, lastly, that two out of every three employees losing their jobs are women, because the first jobs to go will be the lower-paying jobs, the entry-level jobs, and the jobs in retail and in sectors like restaurants. Women will suffer disproportionately from this mandate, losing jobs at a remarkable rate.

The first impact of the employer mandate will be the loss of many jobs. However, that is, alas, not the most serious consequence economically of the employer mandate. A far more powerful impact of the employer mandate is the impact it will have on job growth, on economic expansion.

My State of Connecticut has been one of the Nation's leading defense equipment producers. As we suffer the consequences of defense downsizing, we turn to the small businesses, the medium-sized businesses, and urge then to grow. Our goal of every bill passed in the legislature and of much of the work of Members of Congress is to provide the resources to encourage growth.

If at the same time we mandate health benefits on small businesses and medium-sized businesses, and not only a health benefit but a Fortune 100 plan more costly than the health benefits provided by the great majority of small businesses in America, we make it very hard for the kind of companies that are critical to the future of Connecticut to grow and provide the jobs of the future.

I would like to yield at this point to my colleague, the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, I thank the gentlewoman for yielding to me, and I thank her for taking this time, because obviously the argument of our opponents in this area is that you need to have an employer mandate to achieve universal coverage.

In addition to that, I think the usual argument is that, after all, it is a continuation of our current system. I think, as the President said, "That is where most people get their health care now." However, the points the gentlewoman has just made, I think, need to be brought into crystal-clear alignment, so that everyone understands why we are opposed to an employer mandate.

Under the current system most Americans get their health care at the workplace, but it is under a voluntary arrangement between the employer and the employee. Some employers pay 50 percent, some pay 60, some pay 70, some pay 80, some pay 100 percent, but whatever it is that the employer pays, it comes out of either a collective bargaining structure or negotiation between the employer and the employee, if it is not a union arrangement.

It is not, as the gentlewoman indicated, a mandated 80 percent or a particular benefits package.

How did we get into the situation in which the employer got to deduct the costs of health care? It has been there ever since 1913, when the income tax went into effect, but most people agree that World War II was the time when health benefits from employers expanded enormously. We know that wages were not increased. We had a board to make sure that employers could not increase wages during World War II. One of the things they could do for their employees was to provide health benefits. It was the growth from World War II by government edict, rather than wage increases, that was the primary impetus for putting the employer in the position of offering health care in the first place.

When you say "the employer mandate," that the employer will pay 80 percent and the employee will pay 20 percent, that really is a fiction. Go back to World War II. The employer would have preferred to either offer a wage increase or the benefits. The government said they could not do that.

Today, if in fact the employer is paying for health benefits for the employee, it is coming from one or a combination of three areas. Business pays for nothing. Either it comes out of the profits of the owners or dividends to the shareholders, which does not allow the company to grow as rapidly or diversify as much as it would want to do, or it comes from increasing prices on the goods and services that the company offers, which puts it in a negative position, perhaps in the marketplace, as opposed to its competitors, or, it comes from employees' wages.

In most of the studies that I have seen, I think most economists will agree that 85 percent or more of the health care costs that are offered by the employer, quote unquote, actually come out of the employee's wages. The employee is paying for those health care costs, so to say it is going to come 80 percent from the employer and 20 percent from the employee is simply not fair. The entire amount will be borne by the employee.

That is why the gentlewoman's statistics about how many jobs are going to be lost becomes fairly obvious.

If the employer can agree with the employee to pay a portion of the health care costs, fine. However, when it is mandated on the employer, the employer then has to examine the employee, one, to determine whether or not that employee is worth the mandated cost that is imposed upon the employer.

Frankly, some workers in some jobs, and especially in some industries, simply are not worth that additional mandate cost, so the employer will let them go. That is where the statistics about the unemployment figures are coming from.

If in fact the Democrats and the President are going to mandate employer paying, they are in fact going to mandate unemployment, because that is how the world works.

Mrs. JOHNSON of Connecticut. Mr. Speaker, the points the gentleman makes are very good. Not only will the mandate cost jobs, because it will not be worth paying benefits for either low-wage positions, and certainly many part-time positions, but others will lose wages, because more will have to go into benefits, and that $28 billion figure that represents people who will not lose their jobs, they will just lose wages, they will lose buying power, because more of their "wages" will go into the higher cost benefits that government will mandate.

The other point that the gentleman made that was very important for people to understand is that this is not building on the current system.

Mr. THOMAS of California. No.

Mrs. JOHNSON of Connecticut. When the government says "This is the package and you will pay a percent of payroll for this package," then the employer is in a very different situation than he is today. For example, in Connecticut we have been through very hard times. Many of our employers held on by their literal fingernails. Many went out of business. Many had to downsize.

I was in a company recently that downsized from 85 employees to 15. They also downsized from a very generous health plan to a catastrophic benefit plan.

If the employer mandate is passed, and those kinds of companies in a downturn have to continue to provide Fortune 100 benefit plans, and at least 9 percent of payroll to pay for it, then when those orders start slowing up, they will lay off much more rapidly and, frankly, they will go bankrupt and go out of business much more rapidly. We will not, as a Nation, be able to weather recessions the way we are now, because our employers will not only have Social Security as a fixed cost, and remember, originally Social Security was 1 percent of payroll, and now it is 15 percent of payroll. This is proposed to be 7.9 percent of payroll, but everyone knows it is underfunded. It will have to be at least 9.5 percent of payroll, perhaps higher.

The two committees that have considered it have already expanded the benefit package, so to think that it is going to come out even at 9.5 percent of payroll is to kid ourselves, and every year Congress will expand the benefit package, so the fact is this is going to be a big fixed cost, not a little fixed cost.

It is going to be a cost that employers will be able to do nothing about. We want to talk about that more in terms of cost control.

However, in terms of jobs, in terms of who is going to get laid off and when they are going to get laid off, in terms of a company's decision to expand employment, this fixed cost is going to make a big difference.

☐ 2100

Mr. THOMAS of California. And beyond that, it is even the kind of company that one decides to form, because under current law, depending upon the way in which you organize your company, you get the benefit or not. If he is self-employed, if he has a proprietorship structure, then the individual who is self-employed gets a zero deduction.

There is a question of equity here, as well. I find it ironic that the President, and those who support an employer mandate, are talking about requiring employers to pay 80 percent of the health care cost when the self-employed now pay 100 percent. There is no ability to write off any of that amount. And it seems to me that one of the first things we need to do is look at the inequity of the Tax Code in terms of corporations being able to have that.

Mr. Speaker, I also find it ironic that the President and the majority leader of the Senate and now, I guess, the Education and Labor Committee, the subcommittee, is beginning to look at modifications to the President's original structure, which was the 80–20 employer mandate with a subsidy to both small and large business. There was a percentage subsidy to small business, but for large business the incentive was to pick up the early retirees. They have now begun to focus on the very problems that have been outlined by the gentlewoman from Connecticut.

One, that not all wages are equal within various corporations and not all employees return the same benefit for hours spent. In the manufacturing industry, the value of an employee in the productivity is relatively high. In some of the service industries, it is relatively low, and so clearly the employment loss will be in the direction of the low-wage industries.

So they have talked about structuring a subsidy to go to low-wage employers. They have also talked about restructuring their employer mandate to deal with age differentials.

Mr. Speaker, it just seems to me that instead of trying to fiddle with an employer mandate, because they are so desirous of having an employer mandate, that what they are going to do is set up some kind of a jury-rigged structure that will inevitably reward some; there will be unintended consequences and they will have a direct impact on the marketplace without ever fully appreciating what it is they are doing.

If they really want universal coverage, it seems to me that they could take a look at something like, for example, the individual mandates that the gentlewoman and I are supportive of as a concept to reach universal coverage. But this idea of demanding that it be an employer mandate, despite all of the problems of those who do not get their health care in the employment market, and there are many who do not, and all of the jury-rigged structures to try to answer the critics of the employer mandate, simply indicate that I believe they are hanging onto the employer mandate for political reasons.

Mr. Speaker, it does not make a lot of sense in my opinion once you analyze it. The employer mandate is a Government mandate on the employer that the employee is going to have to pay, even if it means losing their job.

Mrs. JOHNSON of Connecticut. And you know this issue that you bring up about the subsidy structure that both the Clinton plan and the Stark proposal provide is very important. It recognizes that small businesses for the most part cannot afford to provide health benefits to their employees and that for the most part that is why they do not provide health benefits for their employees.

So both in the President's plan and in the Stark plan, they attempt to subsidize the provision of health benefits for small companies.

But let us look at their subsidy program. First of all, it is underfunded. They allow $28 billion to fund it. Recent studies have shown that it will cost $81 billion. If, in fact, the subsidies are not available, then many small companies that by definition in the Clinton plan cannot afford health benefits are going to have to pay them whether they can afford them or not.

But let us look at the rest of the subsidy structure. Under the Clinton plan, if you are a company of 25 or under employees, you have to have an average wage of $12,000 to qualify for that 3.5 percent of payroll subsidy that the President is proposing.

Mr. Speaker, in my State of Connecticut that is a high wage but high cost of living State, I do not know of a single company, no matter how small their profit margin, no matter what fingernails they are hanging on by, I do not know one company that will be eligible for that subsidy. In fact, figuring it out, I do not see any company in Connecticut that will be eligible for anything less than a 7.1 percent of payroll.

For a company that is not profitable, and there are lots of them in Connecticut now as we have downsized defense and pulled through a very long and tough recession, I do not see those companies being able to afford 7.1 percent, and the President's recognition of their plight by offering a subsidy program that is not funded and does not meet their needs is an indication that he understands they are going to go under, but it is an inadequate response.

Mr. Speaker, an employer mandate is far more rigid, far more job-destroying than the proponents are acknowledging.

Mr. THOMAS of California. And in addition to that, as the gentlewoman well knows, an employer mandate is forever. The subsidies that make it more enticing to get in there certainly will not be there forever, and it will be an ever-increasing burden.

And in addition to that, we need to remember, as we said earlier, that this is not a continuation of the old structure. It is an entirely new mandate. And because of that, even the administration has admitted, for example, in front of our committee that if the President's bill were to go into effect, there would have to be a $15 billion to $20 billion new bureaucracy in the Department of Commerce to deal with the collection of moneys from the employer and the distribution and payment to either the health structure or some other intermediary to pay for the cost, because it is not a continuation of the current system.

Mrs. JOHNSON of Connecticut. So you have a new bureaucracy in the Department of Commerce.

Mr. THOMAS of California. A multibillion-dollar new bureaucracy.

Mrs. JOHNSON of Connecticut. And the associated health bureaucracy in the Health and Human Services Department, HHS. That tells you that this is not all that easy and that it costs a lot.

Mr. THOMAS of California. And in addition to that, because one of the things we have tried to do is to take a look at what States and companies are doing in the private sector to get some ideas about whether or not it works, if you take a look at the employer mandate out in the real world.

For example, in Hawaii, which has an employer mandate, I think it is useful to take a look at the experience in the real world of people who attempt to utilize these concepts that we are trying to foist on all of the United States without a comfort level in terms of the unintended consequences.

Mr. Speaker, in the spring issue of Health Affairs, spring 1994, in an article by Andrew W. Dick, who is a health economist in the public policy analysis program at the University of Rochester, NY, he analyzes the employer mandate structure that Hawaii has, and he comes to these conclusions:

> The consistent pattern that emerges from careful consideration of available data is that the Hawaiian mandate did relatively little in extending insurance to the uninsured. While Hawaii does have high rates of coverage compared with other States, this is due largely to the characteristics of Hawaii's population.

That is, a federally mandated program will impact differently in different States. It is not the mandated aspect that has gotten Hawaii up to the high 80's in terms of its employees covered. It is the inherent characteristics of the Hawaiian population, which obviously would not be present in many other States in terms of congeniality, homogeneity, a feeling of isolation on an island, "we all have to pull together" kind of concepts, all of these account for that high number, far more than the mandated aspect.

He then goes on to say that many persons who categorically qualify for coverage under the law remain without insurance coverage, indicating that there may be a significant problem of noncompliance with the mandate.

So not only do you have a bureaucracy, not only do you cost the American people duplication of a bureaucracy to support the program, but you also find out that you are going to have an enormous noncompliance problem that, of course, will cost additional billions to try to deliver the product that you said was going to be delivered by an employer mandate.

Mrs. JOHNSON of Connecticut. The gentleman's point is very well taken. It is worth noting that Connecticut, with no employer mandate, has almost the same percentage of its population covered between employer-provided benefits and publicly provided benefits, and we are now in the process of doing a careful analysis in our big cities where the majority of our uninsured live as to who is uncovered and why they are not covered and what we can do to get them coverage and get them into the system.

Mr. Speaker, we are within 1½ percent of Hawaii. I know that through this kind of analysis of our cities and of our own specific community-based problems that we can solve our access problem without the down side of an employer mandate, which in a State that depends entirely for its future on growth in mid-sized businesses and young, new venture capital businesses, cannot afford to discourage job growth by increasing the cost of hiring.

Mr. Speaker, I want to point out just one little aspect of the impact on economic growth of this mandate on women, because it is very significant. Just as women are going to take the brunt of the firings, most of the job loss is going to be among female employees. So women are going to be specifically and disparately impacted by the discouragement of economic growth that the employer mandate provides.

Mr. Speaker, in recent history, in recent years, women have founded far more small businesses than have men. In fact, last year they founded 8.5 percent more small businesses than men. They are well over the 50 percent mark.

□ 2110

This is because women in America are very well educated now. They are very energetic. They also feel the glass ceiling that exists in so many companies, and so as they gain experience, they look to go out and start their own business, become their own CEO, become their own management force, and in doing this, they have to take all the risks, make all the capital investments of founding a business.

To make it then harder for them to expand their business by carrying the much higher cost of a Fortune 100 benefit plan on top of a salary is to materially compromise their ability to not only found their own business but, more importantly, to expand it and to grow it and to make it the vital force that in America those kinds of ingenious small businesses have traditionally been.

Do not mistake the fact that an employer mandate will significantly disadvantage women in the workplace and will discourage the very most important economic opportunity that women in America have now, and that is to found their own business, expand their own business, and reap the benefits of their abilities and their education and their own energies.

So the employer mandate not only will cost jobs but it will hit at women disparately, and for that reason I think it is a bad idea.

Mr. THOMAS of California. If the gentlewoman will yield further, there are additional problems with the employer mandate, because at the very time we have a "problem in the health care area," we see the private sector and States beginning to respond. We see new and novel ways of not only offering insurance but delivering health care as well.

I know we have talked at some length in other forums about the medisave concept, the idea especially of young people who do not find now attractive a $175 or a $200 a month insurance premium, because, frankly, they are buying not only more insurance than they want but more insurance than they need, and we have talked about creating a package that would provide a core catastrophic premium for them, and then the dollar amount that would ordinarily go into other insurance programs would be put into an account that would accumulate tax free to spend for incidental medical costs with the idea that if they are young, if they do take care of themselves, if they practice preventive medicine, that money could be rolled over the next year and added to the medical account, so year after year they could accumulate some savings, and in essence wind up self-insured.

If you mandate insurance and if you mandate a benefit program tied to the employer paying for it, you really kill off all of the incentive and inventive ideas that are going on now, because it is basically going to be a cookie-cutter job. You are not going to see the creativity put forth by the employers, and you are going to see, "What is it, all right, I will pony up," and you do not get the benefit of the synergism of people thinking about how to solve a problem anew, and that is the real danger of a Government program plugged into a required mandated employer pay. It is the same old thing, when we need new and novel ideas.

Mrs. JOHNSON of Connecticut. We often talk about the job loss associated with the employer mandate, but this is, in my estimation, the most serious and most deadly consequence of an employer mandate.

By turning health benefit costs into a set percent of payroll dictated by the Government, you prevent employers from having any impact on health care cost control, and that is the biggest problem. That is the biggest challenge. That is what health care reform is all about.

And we see the power of employer action in today's world because so many employers have done so many creative things to control costs.

Health care costs are rising in the private sector at about 6½ percent, and in the public sector they are still rising at 13 percent.

Now, our colleague, the gentleman from Michigan [Mr. HOEKSTRA], here has done a lot of work in his district on this very issue, and I yield to him on the subject of cost control.

Mr. HOEKSTRA. I thank the gentlewoman for yielding.

Last summer you had the opportunity to come to western Michigan and take a look at many of the innovative and exciting things being done in west Michigan to control health care costs.

But before we talk about what is going on in west Michigan, I would just like to relate that the gentlewoman is on the Committee on Ways and Means and has been heavily involved in the health care debate. I am on the Education and Labor Committee, and we have been heavily involved in the health care debate, and specifically on cost containment.

Coming from the private sector and coming to Congress 15 months ago, I was excited to tackle a very difficult job, a challenging issue that is a nationwide problem. And I thought that maybe we will take some of the same types of approaches in Congress that I am familiar with in the private sector.

When you have a serious challenge and a great opportunity, what do you do? So some of the questions I asked of the witnesses that came in and testified about health care, specifically a number of the proposals put forth by the President, I had the opportunity to ask some questions.

I tried to get answers to what I thought were three very basic questions that would help me better understand the condition of health care in this country today, the proposals that were being made, and how they would help address the problem in the future. I think these are three questions that not only should I have an answer to, but I think the American people should have an answer to, and I can tell them that after going through the process for 9 months we do not have answers to three very basic questions.

In the business world, when you go into a marketplace, you start attacking and trying to solve a new customer problem, one of the things that you do is you benchmark. You benchmark off of the best corporations that are currently solving that customer problem, and you benchmark off of what the customer wants and what the customer needs.

So I asked the question: If we are proposing this new health care program, and I am assuming that we have done a lot of investigation around the country, who are perhaps the 10 best corporations, the 10 best regions, whatever way you want to break it down, but who are the 10 best at addressing the health care crisis in terms of cost containment? You know, tell me who they are. Are they Rochester, NY? Is it Minneapolis? Is it Hawaii? Who are they so that I can go and I can study those 10 to get a better understanding by what you mean the 10 best, the 10 most successful? Is it because they deliver quality? Is it because they have the best cost containment, you know, the best customer service? But in your view, the 10 best programs. So who are the 10 best?

That question has not been answered.

The second question then obviously also cannot be answer, but it is one that we also need to answer. If those are the 10 best and you have had the opportunity to define them according to your criteria, how does your program benchmark versus these 10? What does your program have in it that is based on what the common characteristics of these 10 programs are? We have not been able to get the answers to either of those two questions.

The third question then comes in: You are proposing a significant takeover of health care by government. So we again apply the same question: If government is going to take an increasingly active role in health care, explain to me which other Federal programs you are monitoring or you are structuring the health care delivery system on.

Mrs. JOHNSON of Connecticut. I think the comments the gentleman makes about benchmarking are very important. Let us talk about that company, Prince, in Michigan, if we can, and then I would like to come back to the issue of benchmarking.

Because I think, in our own way, at least I certainly have been involved in benchmarking, and I would like to share that with you.

Mr. HOEKSTRA. OK; great.

There are a couple of corporations in west Michigan, one of them Prince Corp.

They supply. They are an automotive supplier, a fiercely competitive business, and a number of years ago they recognized that they could do a couple of things with health care costs. They could treat health care costs as a fixed cost and probably have the same competitive, you know, it would not improve or detract from their competitive position.

But as they saw health care costs rise, they said, "We need to proactively go after this segment of our cost structure, and if we can be innovative," and that is what we are going to lose if we get an employer mandate and the Government takes over, we are going to lose the innovation, invention, and creativity.

They said, "If we go after the significant portion of our costs and go after it aggressively and creatively, perhaps we can take what many companies view as a fixed cost, and we can view it as a variable cost. We can gain a competitive advantage and get a larger portion of the market. We will be more successful. We will create better and more secure jobs."

□ 2120

In the long term, as that segment of our economy becomes more competitive, we will be more competitive on a global basis. So they went after it. What they said is, "What we need to do is to change the behavior of the people within our corporation. We need to change their health habits because we recognize that somebody's future long-term health care costs are heavily dependent on the behaviors that they participate in today. If they do not exercise, if they eat wrong, if they do not have the periodic health care checkups, they are going to be at risk for significant health care costs in the future."

So they said, "We are going to try to change behavior. We are going to put in place a wellness program." So they have invested significant amounts of money in a wellness center, they have put in educational programs. It is for the entire family. They are changing behavior.

Mrs. JOHNSON of Connecticut. Let us give a more vivid picture of this. This company has built a beautiful facility. They have 24 full-time people who do nothing but manage health benefits, provide exercise classes, stress management classes, wellness activities for the whole family. They do some other things, too, which I have kind of forgotten the detail of. But they do an enormous amount. They run three shifts, so there is always people in the facility, always people taking part.

Mr. HOEKSTRA. What they are doing is they are educating their employees not only to help their business, to control costs, but more importantly they are improving the lives of their employees by having their employees understand how to live healthy lives. They are controlling their costs in the last 4 to 5 years, providing—not cutting back on benefits. You talk about companies that are controlling health care costs and the critique always is, "Well, they cut their benefits."

Prince, again this word we do not use in Washington, they have benchmarked their benefits against the quality employers in west Michigan. Their benefits package is competitive. Their costs are anywhere from 20 to 40 percent lower, offering the same benefits because their experience curve has shown that their health care costs are going to be lower because of this changed behavior.

One more thing: The other thing they have done is they have gotten their employees to be consumers, understanding the long-term benefits but also being purchasers of health care. So they have changed the framework, rather than getting health care for free, they are now becoming more knowledgeable consumers, understanding what health care costs are and understanding how they can impact them and lower them in the long term.

Mrs. JOHNSON of Connecticut. And working together, it is my recollection this company is now providing the same comprehensive benefits to their employees as their competitors but at a savings of at least 20 percent in spite of the fact that they have built this building and paid 24 full-time people to run the program.

Over and above the cost of the capital investment and the investment in personnel, they are still saving 20 percent on their health care costs.

Mr. HOEKSTRA. That is absolutely true.

The irony now is, again when you are not benchmarking off the best, what are we benchmarking off of? We are benchmarking off of mediocrity. We are on the path today of benchmarking 14 percent of our gross domestic product off of mediocrity. It would be one thing if we were benchmarking off the best and say we are going to give people the opportunity to go to the best and the mark we are setting is the best; but we are benchmarking and we are locking this country into mediocrity today. It is going to be deadly.

Mrs. JOHNSON of Connecticut. I think that will be the effect of the employer mandate coupled with the global budget and premiums in the President's bill, but at this point I think what we need to focus on is that there are solutions out there that are based on the right kind of benchmarking. You mentioned Prince.

But over the years I have served on the Committee on Ways and Means, we have had many, many companies testify to the really remarkable, creative, innovative things they have done to reduce their health care costs. And their primary message to us has been, "Look, we can integrate the delivery of services, we can eliminate duplication of testing, inappropriate care, we can get our employees involved in prevention and in wellness programs, we can do all that and we can do that with other private sector businesses. But unless Government begins to cooperate and to turn around its own health care programs so its people participate in the same way our people do, we cannot turn around systemic health care costs in our society." And you see that today.

Now that kind of initiative, that kind of innovative approach the gentleman has discussed with Prince in Michigan is now far more common, reducing private sector health care costs come down. That is the rate of medical and patient cost cutting down rapidly, whereas in the public sector where we have taken none of those initiatives, where we do not even reimburse under Medicare for preventive coverage, never mind any participation in any kind of managed care system, health care costs are still escalating at the 12 percent level.

So, if you look at what is going on out there that is going right—and many of us in the Congress have tried to do that over the last few years and that is why we have come to the kinds of solutions that we support because we know we can do it right—and you contrast that with Government's experience with mandated benefits, then you can see a benchmark in the mandate area and a benchmark in the innovative competitive area, and the result is very clear. In the mandate area, remember we have long extensive experience. States have mandated health care benefits for many years.

In Connecticut, the mandated health care benefit, the Government mandated benefit program, in other words, the health care plan governed by State mandates, is so unaffordable that any business that possibly can has self-insured. In other words, they have gone around this mandate policy because they cannot live with it. They have gone around and self-insured, and then have their own innovative, creative approaches to control costs and thereby have been able to provide very good benefits at a very reasonable cost.

The one sector of the market that has no access or very little access to affordable care are the small businesses that have to buy the mandated health benefits governed by State mandates, and that also have to tolerate the high marketing costs in that sector and the high administrative costs.

But we have a whole track record of mandated benefits and the track record demonstrates that Government mandates and mandates and mandates without regard to costs and finally either forces you out of business or, in this case, people into self-insurance.

Now, if the Federal Government does that—and remember, already the President's mandate has grown from basic to Fortune 100, and each committee it has gone through has expanded the mandate, and that is only two committees out of a number. And this is only the first year. But it makes you realize that Fortune 100 is just where we are starting. Every year the mandate will be expanded. Every year the costs will expand on the business community. And finally under Government direction costs will make business noncompetitive. But by the time we get there, they will have no power to reduce their costs.

At least in today's world they have the power to say, "Hey, stop, we are not going to do this anymore. We are going to find new ways," and they have found new ways and we need to support them in health care reform in the innovation, the creativity that has produced more wellness programs than Government ever thought of, that has produced more early intervention, more prevention, more cost-effective health care programs than anything in the Government sector.

Mr. HOEKSTRA. I think the process we are going through, we are going to start marking up a chairman's mark on Thursday.

Mrs. JOHNSON of Connecticut. The gentleman is on the third committee that is going to do this. The Committee on Ways and Means wrote a bill, and we marked it up, and it has gone to full committee. Now, the Committee on Education and Labor, as a whole committee—is that correct?

Mr. HOEKSTRA. We are actually starting in subcommittee.

Mrs. JOHNSON of Connecticut. In subcommittee, okay. The gentleman is going to mark up a bill starting this week.

Mr. HOEKSTRA. Right. Today at noon we got an 800-page chairman's mark, which is not the President's bill, it is not any of the other bills that have been introduced. But it comes on our desk and says, "Here is 800 pages. Why don't you read it, and on Thursday we will start marking it up."

It would be very interesting to see—we talk about wellness programs, and that is something that has worked very well in west Michigan—but what other programs are there around the country in small and medium-size businesses that we have not heard about or are not included in any of these marks?

□ 2130

Mr. Speaker, as my colleagues know, I think about what we have to do on Thursday. I have to propose an amendment to this chairman's mark allowing for wellness programs. Right now there is no allowance for a wellness program within the corporate structure or the Government program and so on.

Mrs. JOHNSON of Connecticut. And remember it is very significant that they have no provision for wellness programs because, if wellness programs are not in, then they are not part of the mandated plan, and they will have to be paid for by additional insurance or simply by the company. So, I say to my colleagues:

If you don't put wellness in, you're not going to get that tremendous growth of wellness programs that private sector is already producing with enormous impact on both quality of health in America and costs.

Mr. HOEKSTRA. And wellness is just—a wellness program is just one element of innovation in health care that is in many ways sweeping the country. Has it gotten and solved all the problems? No. But is it on the right track, and is there more hope for getting the health care problem, crisis, whatever my colleague wants to call it, under control by setting a broader government framework in a direction by changing malpractice, by changing the tax laws and those types of things, or by Government mandating programs, mandating benefits? And remember now for wellness programs I do not think we will be successful in committee.

Mr. Speaker, it will be very interesting to see exactly what the response is in our subcommittee. Will our subcommittee recognize the success that wellness programs have had around the country, or will they say, "No, that type of innovation does not fit within our plan; I'm sorry it's not part of it. We can't deal with it."

My expectation is disappointing to say because, as my colleague knows, it is not only Prince Corporation. Steel Case Corporation in Grand Rapids just outside of my district just completed a major study with the University of Michigan. I think it was a 2-to-4-year tracking study of how to get health care costs under control. It was not by mandating benefits and mandating behavior. It was by changing behavior, getting people to focus on their own health, getting people to be conscious of health care. Steel Case has launched a significant wellness program. All these initiatives are going to be stopped. Corporations will have no incentive to control or encourage wellness programs because there will be no economic benefit back to them. They will lose their competitive position because, if they try to do these types of——

Mrs. JOHNSON of Connecticut. In other words, the companies the gentleman is describing are investing real dollars in health care cost control, in prevention, and wellness, and getting their employees involved, and early intervention and all those things to make for better health and controlling the costs of health care, and all of those investments would essentially have to be withdrawn because their payroll tax for health care would be the same as the payroll tax in the company down the street who did not make any investment at all, and over time they would be forced to redirect their dollars from investing in health care cost control to R&D, or something like that, because there are no investments they would make under the employer mandate. it would not make any difference in the cost of their health care because the cost of that company's health care would be a percent of payroll based on the adjusted average premium, not of their employees even, but in the area. So companies would finally, because they could not get any benefit from their investment in wellness, would finally cease to make it, and that is what is so sort of sad about the employer mandate. It clamps down on the innovation, on the creativity, on the millions of little people in America who in the end address the problems that face them and do it in a creative, and effective, progressive way, and we would squelch all that and replace it with a federally set benefit package with a percent of payroll funding it.

Mr. Speaker, it is really frightening to think about the consequences because the consequences are, if the private sector is cut out of the challenge of cost control, the responsibility and the power for cost control will shift entirely to the Government, and the Government's track record in cost control is, frankly, pathetic. In the V.A. System the Government's form of cost control has resulted in veterans in my district having to go to New York City from the northwest corner of Connecticut for a hearing test in order to get a hearing aid. The Government has control of costs, but at an extraordinary price of access. I do not want to substitute that kind of cost control approach for the creative, innovative cost control approaches that we see, not just in the big companies, but also in the little companies.

One of our colleagues here today told me on the House floor that the firemen were in his office. Now most firemen's health benefits are collectively bargained. Well, this group of firemen has gotten the right to have a Medisave account, and they were thrilled with it because now they had catastrophic coverage. They had $3,000 to cover whatever they needed unto the catastrophic level, and anything they did not spend of the $3,000 they got to roll over into a retirement account. They loved it. Under an employer mandate they would not have that option. They would not choose to be powerful consumers in the market, to use that $3,000 by calling up the doctor and asking, "What do you charge because now it matters to me."

Mr. HOEKSTRA. Yes. Lots of innovation going on. I think my colleagues have to take a look at what we are trying to solve a complex problem. It has a very human impact, and we have to ask the question:

When you're thinking of needing a creative solution, you want innovation to address a complex problem, you want a good management structure. When you put those things in place, or you put those words describing a process, and then you want quality control and cost control, who do you think of?

If the answer is:

"You know, I really think that that describes the Federal Government," then I think this, as my colleague knows, the President's health care plan, is exactly what they want.

And I say to my colleagues, if you think—when the gentlewoman mentioned those kinds of words—if you think, boy, you know, that's kind of like an Apple computer; that's the kind of person I want, Steven Jobs; I want him solving the health care crisis—he is not with Apple anymore—but that's the kind of energy and innovation that I want going after the health care crisis in companies around the country, you know a guy that started with a vision of going after the goliath in the computer industry, IBM, and solved it with a novel, creative approach, and 20 years later, you know, is a giant in the computer business.

That is why this country has so strongly endorsed and embraced a free market concept, because that is where the power of creativity, and innovation and problem solving comes in, and I say to my colleagues, if you believe, like I said, when you use those words the Federal Government, you know, if that's what you think about—there is a great plan out there: Federal Government will take over 14 percent of the gross domestic product. Then Tax Freedom Day, the day we stop sending our dollars to the Federal Government to pay for everything they provide us, will move from somewhere in July to somewhere in August or September, and so, you know, the American people will be working 9 months instead of 7 months for everything that the government provides us——

Mrs. JOHNSON of Connecticut. As my colleague knows, in future special orders we are going to talk about other aspects of health care reform bills that have been proposed both by the President and by Members of Congress. I am pleased to say that there are lots of specific proposals that directly address themselves to the kinds of problems we all know about, and I firmly believe that this Congress has the ability and the will to put on the President's desk a bill that will prohibit insurers from excluding people for preexisting conditions.

That is a proposal that I introduced in 1991. My Democrat colleague then in the Senate, now Secretary of the Treasury, Secretary Bentsen, introduced it in the Senate a couple of months later. It has broad bipartisan support. We could have done it in 1991. We could have done it in 1992. I certainly hope that we will at least in 1994 prohibit insurers from excluding anyone with preexisting conditions, that we will guarantee to everyone in America that, if they pay their premiums, they can have—they can be assured that they can renew their insurance for modest changes in premiums. We can return predictability, fairness, to the insurance market, and with it give all those who have insurance now the confidence that it will be there when they need it and that it will be affordable.

We can also fix the small business market for small companies and individuals who currently do not have a way of buying affordable insurance, and we can open up access through a number of proposals to ensure that everyone in America has universal access to high quality care. We can do those things, and I hope this year we will have a bill on the President's desk that will do all those things. But I hope that we will not do them at the cost of jobs in our economy, that we will not do them at the cost of reducing the ability of small businesses to grow because that is always what has always made America's economy unique, different, vital, responsive.

□ 2140

That is what has made us a land of opportunity, that you would go into business for yourself, that it was fairly easy to hire people. If you had a good idea and were smart at marketing, you could expand. We don't want to squelch that energy, that opportunity, that has made our country great.

We also do not want to run the risk that in the name of health care reform, we destroy the very inventiveness that currently is controlling health care costs. And if we do what I call payrolltizing health care costs, if we turn health care costs merely into simply a set cost of doing business, another payroll tax to be paid, something that no matter what you think, you cannot control it, then people in America will stop thinking about it, because they will not be able to control it, and the only group that will be responsible for controlling health care costs will be Government. And we have always done it with a blunt-edged instrument. We cut spending and we do not care about the consequences, or we fix prices. And every single government program, fixed prices, global budgets, has cut access and reduced quality of care.

There is no need, when we are such an inventive, able country. And you see that in all the companies, large and small, that are impacting their own health care costs because of their own actions, which can still make a difference as to what level of health care costs they have to shoulder as an employer. That is what has made both the quality of America's health care system unique and our economy uniquely vital.

Mr. HOEKSTRA. We have to recognize that what we are doing in health care in 1994, while we are concerned with what health care will look like in 1995 and in 1997, in reality what we are doing is we are going to be creating the framework and the systematic forces that will drive what health care will look like in the year 2005 and 2010.

If we take creativeness and inventiveness out of the system, what will health care look like in 20 years? What do Medicare and Medicaid look like 30 years after those programs were put in place? They are working for the customer, but they are not working for the providers. A provider gets 40 to 60 cents for every dollar of service they provide. Where are VA hospitals 20 or 30 years after perhaps being a quality solution? They are no longer delivering the results.

So what changes are we going to make in 1994, that will lay the framework for the best health care system in the year 2010, versus just taking the short-term approach to say we fixed the problem because we can now say everybody gets the same program from the government?

Mrs. JOHNSON of Connecticut. Of course, the good news is, and I thank my colleague from Michigan for joining me tonight, I appreciate it very much to talk about the implications of the employer mandate. Because the bad news is that the employer mandate is still a proposal that is alive and well, even though its impact on the economy would be very negative, and its impact on the central issue of controlling health care costs would be very negative.

But the good news is that there is truly bipartisan initiatives that could address all the kinds of problems that we know exist out there and foster the kind of individual private sector initiative that we see working, not only to control health care costs, but working to actually improve the quality of health care in America and improve the level of wellness and health in the holistic sense that Americans have access to.

So in future special orders, we will take on some of the other complexion aspects of this debate, and also some of the opportunities for solutions that, frankly, we could pass in a month or two, if we focused in on those positive initiatives for which there is real bipartisan support.

I thank the gentleman from Michigan for joining me.

GENOCIDE IN BOSNIA

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from Michigan [Mr. BONIOR] is recognized for 60 minutes as the Majority Whip.

Mr. BONIOR. Mr. Speaker, I thank you for the recognition this evening. I want to engage my friends and colleagues who have come to the floor this evening to talk about the situation in Bosnia.

We intend to have a dialog on this issue. With me this evening are three distinguished Members of the House of Representatives who have been stalwarts, who have been passionate, who care about what is happening over there, and find it utterly objectionable, the loss of lives and the lack of attention that is being paid to those who are suffering so much in that war torn country.

I am joined this evening by my good friend from Massachusetts [Mr. JOHN OLVER] who knows as much about this area as anybody in the House, I believe, and someone who has spent a good deal of time and passion and concern, and who has just recently come back from Bosnia, FRANK MCCLOSKEY, a great Congressman from the State of Indiana, and ELIOT ENGEL from New York, who has spent a good deal of time and concern about the situation in the Balkans and who has spoken up on numerous occasions and voiced his concern.

Mr. Speaker, I would like to start this discussion this evening by posing a few questions, questions that I raised earlier on the House floor today.

How many innocent people have to die in Bosnia before the world does something about it? How many innocent children have to be slaughtered in Gorazde before we respond? Are 200,000 dead Bosnians enough? Are 16,000 slaughtered children enough? How many have died in Bosnia in less than 2 years? That is how many have died.

The body count from 3 weeks of savage Serbian shelling of the Moslem enclave of Gorazde stands at 302, and is still mounting. Nearly 1,100 men, women and children in Gorazde have been injured. Half the population has been rendered homeless.

Mr. Speaker, this is not just a humanitarian disaster of epic proportions. It is one of the great mortal tragedies of our time. At times over the past 3 days bombs have been falling at the rate of 1 every 20 seconds. Gorazde Hospital, which is trying to treat the sick and the injured, has been hit so many times it has been nearly destroyed. Serbian snipers randomly shoot at people as they walk the streets in search of shelter to get out of the line of fire. And every new village that Serbian troops capture on the way to Gorazde is another village that was burned to the ground.

One U.N. plane has already been shot down, one British soldier has already been killed, and meanwhile the Moslem population in Gorazde continues to starve, to bleed and to die.

Mr. Speaker, how can this happen? How can civilized nations have sat back silently and watched this situation unfold? 200,000 dead, 16,000 children slaughtered. Tens of thousands of women raped. There is no question that the hottest places in hell are reserved tonight for the butchers of Belgrade, Slobodan Milosevic and the shameless leader of the Bosnians Serbs, Radovan Karadzic, and we cannot let them commit these atrocities any longer. This is nothing less than ethnic genocide, and we cannot be willing partners to a genocide any longer. We must take action.

□ 2150

We should have taken action long ago. We must take action now. The latest word from Bosnia is that for the third time in three days Bosnian Serbs have agreed to a cease-fire. But words are not what really matter now, Mr. Speaker. Only actions matter.

It is clear that the Serbian words cannot be trusted. Time and again at the bargaining table they have lied to the United Nations. They have lied to the international community. They have lied to their allies, the Russians. And even though negotiations will and must continue, they have given us no reason at all to trust them now.

The only thing that is going to stop Bosnian Serbs now is if their force is met by force and if they are made to realize that further force will get them nowhere.

Mr. Speaker, it is incomprehensive to me that the combined powers of the United States of America, with a defense budget of over $270 billion a year, and NATO, cannot stop the Bosnian Serbs.

Some say air strikes have failed. But let us be honest. We really have not tried air strikes. We dropped a few bombs, then backed off when it got dangerous.

It is time, Mr. Speaker, to use the full weight of United States and NATO warplanes in Bosnia. If the Bosnian Serbs continue to practice genocide and continue to dishonor the cease-fires, it is time to pound the Bosnian Serbs into submission. And if the Serbs continue to hit targets in Bosnia, then selected targets in Serbia itself ought to be hit in return.

Even if the United Nations is unwilling to step in and defend the people of Bosnia with all guns ablazing, at the very least we must let the people of Bosnia defend themselves. To deny them both is unconscionable.

For nearly 2 years now some of us have, including the gentleman from Indiana [Mr. McCLOSKEY], and the gentleman from New York [Mr. ENGEL], the gentleman from Massachusetts [Mr. OLVER], and myself, in calling for an end to the United States arms embargo in Bosnia, to let the people of Bosnia defend themselves from these brutal attacks. Picture yourself being subjected to bombs every 20 minutes, to your family being raped, to a wholesale slaughter of the children in your community and your family and not having the wherewithal to defend yourself because the international community has said no, you have an arms embargo on you. That is what the families in Bosnia are going through today. They cannot defend themselves from these brutal attacks.

For 2 years the international community has just waited and watched and waited and watched and threatened and waited and then watched. Mr. Speaker, we have already waited far too long. We cannot wait any longer. Idle threats and tough talk will no longer do. It is time to lift the U.N. arms embargo on Bosnia today. To have imposed the arms embargo in the first place was incomprehensible. To have kept it in place so long after so much suffering is utterly shameful.

We promised the Moslem people that Gorazde would be safe haven. We promised that their children and their families would be safe there. We promised that no harm would come to them if they trusted the United States.

Well, they trusted us, Mr. Speaker. And now they are dying. Unless we act right now to let the Bosnian people defend themselves, unless we act right now to lift the arms embargo and to use the full force of the United States and NATO to increase air strikes, then the blood of Bosnia is not just on the hands of the Serbs, it is on the hands of all of us.

Mr. Speaker, about an hour ago this evening I got a call from the State Department. There will be an announcement tomorrow that has already hit the wires. The United States is presenting a proposal to the North Atlantic Council that will do the following things:

It would step up air strikes. It would expand the territory of the air strikes to include all safe areas within Bosnia. It would tighten the economic sanctions on Serbia, and it would increase U.N. peacekeeping forces.

While I applaud these steps, I must tell my colleagues, I think we need to go further. These still are basically defensive steps. We need to be aggressive. We need to go on the offensive here. This is the only language that the Serbs understand. They do not understand defensive tactics. They do not understand cease-fires. They do not understand talk. The only thing that they will understand is force.

I thank my colleagues for joining me this evening to express their views on this issue. They have been passionate. They have been concerned as humanitarians, as people who care about their fellow human beings.

Mr. Speaker, I yield to them right now to express their views and to engage in a dialog on this most important issue that faces our country and certainly the international community.

I yield to the gentleman from Indiana [Mr. McCLOSKEY], my friend from Bloomington, IN.

Mr. McCLOSKEY. Home of Indiana University, Bobby Knight, some of the greatest people in the world, the great school of Eastern European and Balkan studies and so forth.

Congressman BONIOR, I would like to thank you for your leadership and your eloquent concern and the way you have a voice and a way of speaking to and about these issues in a way that, in areas of human rights and international concern, one area after another, you can hardly be exceeded anywhere in the House.

I recall looking up the other night at special orders and the sound was not up. And I thought, good, DAVID is speaking on the Balkans and Bosnia. I turned the sound up and you were speaking about the concerns as to the genocide and the ethnic cleansing going on in another but related area, the Kurds.

I just cannot say enough what a treasure you are for me. I must honestly say that this is, without exaggeration, one of the saddest days and times that I have experienced in my public life on this beautiful day and evening in Washington, DC. Because as we talk, as we look at the reason you took out this special order, the people of Gorazde are being besieged despite all the talk as to cease-fire, our representations to them as to safe havens, the simple fact is that all reports are—and I have had reports from Bosnia, both from Gorazde and Sarajevo, in recent hours—are that the slaughter is going on, particularly 2 or 3 hours ago.

About 6 p.m., I talked to Haris Silajdzic, the Bosnian Prime Minister. I hoped somehow there could be a misunderstanding or some confusion on this. But I really doubt that there is.

Mr. Silajdzic has told me that some 13 minutes before, which would put it at between 5 and 6 our time, he was on the phone with Secretary of State Warren Christopher who in essence told him that there is no, quoting Mr.

Silajdzic now, that "There is no way to act to save Gorazde or the Serbs will get more vindictive."

Assuming if that is true, that sort of reminds me of what Larry Eagleburger said in all his justifications as to an action. It is all horrible. We could and should do something. But believe me, you just do not know how mean the Serbs can be.

I think such a sentiment represents a horrible and chilling regression. As you know, one of the concerns hanging over this is that the Serbs have in essence captured—taken into custody—troops. Today or in the last 24 hours, they took back heavy weapons, equipment and artillery and so forth that were put into U.N. custody to lift the siege of Sarajevo. And we are in essence possibly, and I hope I am wrong, probably saying to the world that maybe for the first time in history that the United States, the Western Alliance, NATO cannot act because we are afraid of what very mean, vile and criminal people may do even worse.

□ 2200

What does that say to the people of Bosnia? What does that say to the people of this entire world?

Mr. BONIOR. What does this say to the people of Korea? What does it say in terms of our message all over the world, that we are not willing actually to back up what we say?

Mr. McCLOSKEY. The Milosovics, the Arkans, the Schessels, Zhirnovsky, the leadership of North Korea.

I might say, they are all taking us in. I heard President Clinton or saw President Clinton on television tonight saying that, and he did not say, "As people are dying in Gorazde," but that was in essence the context of the question, but "With this going on tonight, we cannot act until we have total support and agreement with all parties in the Western alliance."

I find that to be beyond problematic, maybe, tonight. I have been quoted much more extensively with that concern in recent days. I do not want to go on and on about it.

Mr. Speaker, I might say before I yield and bring our distinguished colleagues in, if I could just briefly, Mr. Speaker, give in their own words, perhaps, the testimony as to Gorazde and Bosnia right now, today and even tonight's testimony, as to this terrible ongoing atrocity.

Tonight my office had radio contact through the Bosnian Action Council, with my good friend, Marshall Haris, a relatively recent State Department resignee, taking notes, as to a ham radio-transmitted statement from a person who must be a hero, because after all, he is a mayor, and we all know mayors by definition are heroes. I have a preference for mayors all over the world, having been the mayor of beautiful Bloomington, IN, for some 11 years.

I will never forget my first experience in all of this with a mayor in Osijak back in December 1991, when the young mayor there who was being pounded with shells, the city hall area was being pounded with shells at that very time, told me in our conference, "Please, Congressman, move to the other side of the room, because we are less likely to be shelled there."

Tonight, as all this is going on, I wish he and the people of Gorazde could hear your statement, Mr. BONIOR, and hear our concerns and our hope. Basically, in his own words, this is what could reasonably be transmitted, a statement from Ismet Briga, the mayor of Gorazde, several hours ago. I do not quite know the full implications of the first sentence.

To read it as it came in:

> There is not any reason to explain now the situation in Gorazde. I want you who are listening tonight to be informed about the fact that genocide and a total destruction of the town is going on.
>
> In Gorazde it is not the question of the people fight and how they fight and how long they can stand it. Now a mass murdering of the civilians is taking place. From today on they destroy systematically, house by house. Whole families are extincted," are being extinguished. "Children, women and old people are dying."
>
> They do no longer fight a war.

And I guess he is referring to the Serbs.

> "They do no longer fight a war. Cold-bloodedly they kill the civil population. At the end I want tonight to appeal to the conscience of mankind. These appeals are directed to Ghali, the U.N. Security Council, and the superpowers. I appeal to you to tell your children tonight that in Gorazde, innocent people are dying only for one reason, because they are Muslims.
>
> I beg you to forward this appeal to Clinton, Yeltsin, Mitterand, Kohl, and others who could prevent that but didn't want to do that—Ismet Briga, Mayor of Gorazde.

Paraphrasing some comments about 3 hours ago from my good friend, and he is my good friend, Bosnian Prime Minister Haris Silajdzic, as to the ongoing siege and slaughter at Gorazde, he told me, "Frankly, they have lost 100 people today." I guess there is still some significant resistance going on, because Haris said, "If the line collapses, we will have terrible consequences."

As I have mentioned before, Silajdzic said he had spoken with Christopher tonight about a half hour before he talked to me. The Secretary told Silajdzic there is no way to act to save Gorazde or the Serbs will get vindictive. Again, I say, what a signal to the Serbs and the world. I hope the Secretary did not say that. Silajdzic also said he told General Rose that he understood the concern for UNPROFOR troops being harmed by the Serbs, obviously, particularly those who are in the custody of the Serbs. The Serbs have taken UNPROFOR troops as hostages.

However, as Silajdzic said, if we follow that logic, the Serbs could do anything they want in Sarajevo and in Bosnia and elsewhere, and I might say, not from Mr. Silajdzic tonight, but Kosovo awaits ethnic cleansing, which has gone on in Kosovo, ethnic cleansing is going on, perpetrated by the Serbs in the Sanjac, in Montenegro, in Serbia.

Mr. BONIOR. The gentleman is absolutely right on that point. To allow this to continue only encourages the suppression and the repression in Kosovo, Montenegro, and the other places that the gentleman is referring to. We are just encouraging more of the same. We have watched it incrementally increase over time, as the West has been impotent or unwilling to use its power to force a showdown with these butchers.

Mr. McCLOSKEY. When I was in Sarajevo on Easter Sunday, I was informed by the one remaining free but exiled Bosnian democratic leader of the Sanjac that every one of his colleagues, some 30 to 40 people in Montenegro and in Serbia, were in Serbian prisons, and according to Amnesty International, they were being subject to torture, and according to their own lawyers, Mr. Speaker, are being subject to torture.

I think most eloquently, Mr. Silajdzic pleaded to me that the people in Gorazde have nothing but us. Maybe that is not quite true, but I guess what Haris is saying is that perhaps if there is any hope anywhere as to your voice and Mr. OLVER's voice and Mr. ENGEL's voice being listened to tonight, it is to appeal once more to the conscience of the West, the forces of democratic action and forces of democratic opinion, to somehow bring it upon our leadership to act now, not after a bunch of committees and reviews and clearances and what not, Mr. President, but Silajdzic says, "Tonight 12,000 people are wandering around Gorazde with nowhere to go," and as we know, there are more or less 70,000 people in that town, and many died today, but all remaining alive are in mortal peril.

I asked Haris what he thought would happen, given previous experiences, as to the Serbs coming in on these ethnic cleansing and genocidal binges.

The Prime Minister speculates that the Serbs probably will kill all the male population and hopefully will leave an opening for ethnic cleansing, that is, a forced exit to take place, a corridor being open for women and children and whoever to leave and be gone.

Mr. Silajdzic noted that for 4 weeks the United Nations watched the Serbs coming with artillery, in tanks and in buses, like they were picnicking. The United Nations looked away. Silajdzic said that he had written a letter today to Manfred Woerner, the NATO Secretary-General, asking him to act.

He noted, among other things, that a NATO ultimatum has been violated, and that Sarajevo is not safe, that it does not beggar the imagination to realize that very soon Sarajevo could be being pounded by shells again, obviously driving a stake into the heart of President Clinton's success in bringing about the ceasefire in Sarajevo, and obviously this whole thing imperils our crowning diplomatic achievement so far, the Bosnian-Croatian alliance.

Silajdzic said that he had asked Boutros-Ghali to resign. It is probably not a bad idea, along with, hopefully, many people in our State Department and elsewhere, but Boutros-Ghali asked NATO, as we may know, to authorize the NATO Southern Command to act at the United Nation's request. Again, Mr. Silajdzic bemoans that General Rose feels that he is in a difficult position because of UNPROFOR hostages.

All our ability to act, the U.N. chain of command, and all positive actions that we could and should take somehow to a large degree seem to be hanging on the simple terrorist, brutal, criminal act of taking hostages, and more importantly, I think, for all of us colleagues, we seem to be taking in lying down.

Mr. Speaker, I thank the gentleman again, and look forward to hearing from our two distinguished colleagues.

Mr. BONIOR. I thank the gentleman for his comments and insight. My colleagues might note that the gentleman from Indiana [Mr. MCCLOSKEY] has just returned, as he indicated in his comments, from Bosnia, where he spent a week during the Easter recess and saw firsthand and talked firsthand with the victims and the would-be victims, as it so happens, in that tragic part of the world.

I feel strongly, as the gentleman does, that we have to meet force with force. It is the only thing that they understand. Everything else has been tried. We have waited 2 years. So many people have died. Too many people are suffering. I thank you for constantly raising this issue time and time again to try to elicit the support of this Chamber and our State Department.

□ 2210

Mr. MCCLOSKEY. Mr. Speaker, I might just make a brief note, an insight from eastern Sarajevo, that some of the people there most in fear of Serb aggression and genocide, and this is not stressed in the Western press, which likes to label the governmental forces as Moslems, but some of the people living in fear the most, and appalled most by the Serb criminals are 40,000 peaceful, law-abiding democratic Serbs living in Sarajevo rather than under the auspices and the likes of Karadzic and Milosevic, and hundreds of thousands of other Serbs throughout Bosnia and the Bosnian-controlled areas who want nothing to do with these fascist thugs but they do not often get heard from, they are not represented in this process, indeed I think one of the real mistakes in this process was giving negotiational authority and governmental-like respect to the likes of Karadzic and company, and a major mistake that we spit on the sovereignty of Bosnia that I will never understand.

Mr. BONIOR. These are war criminals of the highest order, these two especially, and people should remember the pictures of those concentration camps and the emaciated people that were behind bars there. Remember 1½, 2 years ago, and the rapes of the women that were perpetrated by the Serbs, 25,000, 30,000 of them. It is unconscionable what has happened. Yet we still coddle them. We still try to treat them as if they are people you can believe, who can be trusted, who can be negotiated with. They cannot be trusted. They have lied constantly. It is the constant in their behavior that we should recognize, the fact that they do not recognize truth and do not live by it.

Mr. Speaker, I now yield to my friend, the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank the distinguished majority whip for yielding, and I thank him for the work that he has done, and thank my colleague, the gentleman from Indiana [Mr. MCCLOSKEY], for the work that he has done, and I just want to agree with everything that both of them have said.

Shame on all of us in the West to allow this genocide to continue. Shame on all of us in the West for our inaction. And I think the point was made very clearly by both my colleagues that we have encouraged the Serbian aggression by our inaction.

Mr. Speaker, much was made of the so-called new world order, and I think what is so shameful about this is that we are setting policy here for decades to come with the collapse of the Soviet Union and the United States remaining as the last superpower of the world, our generation has a chance to kind of set the agenda for the next several decades the way the generation right after the Second World War did, with the Marshal Plan and things like that which put everything in motion for the next 40 years, and what we are seeing here is that we are failing miserably to say that aggression does not pay and that the world in the so-called new world order will not tolerate aggression. We are showing the Serbs that aggression does pay and that brutality does pay and genocide does pay, and here it is 50 years after the Nazi era and we are seeing the same kinds of atrocities committed on civilian populations, and the world wrings its hands. Nobody can agree and so nobody does anything.

Mr. Speaker, the gentleman from Indiana [Mr. MCCLOSKEY] mentioned a quote from Larry Eagleburger several years ago. I remember him saying that the Bush administration had no policy in Yugoslavia because, frankly, he said, "We don't know what to do."

And I am sorry to say that little has changed during that time.

Mr. Speaker, I am very glad that we are urging NATO to expand the scope of air strikes beyond the safe zone as designated by the United Nations. But for 2 years many of us have been saying the arms embargo ought to be lifted and that air strikes ought to be conducted, not to get us involved in a war, not to get us involved with our ground troops, but to show the Serb aggressors that we are just not going to sit idly by and let them slaughter innocent civilians, men, women, and children. We could have bombed bridges over the Drina River to prevent them from getting their supplies. We could have, at the very least, if the world would not defend the Moslems, let them defend themselves. That is what they have been asking for. And yet none of that was done.

Mr. Speaker, it is not simply a matter of Monday morning quarterbacking or hindsight being 20/20, but all of us have said this for years and years.

Last year when I was in Skopje in the former Yugoslav Republic of Macedonia, I interviewed refugees from Bosnia again and again who told me the most horrid stories about what had happened to them; people who were shell-shocked, they could not believe that this had happened to them. They had lived side by side in peacefulness for years, Moslems and Christians, Serbs, and everyone lived together. There was a great amount of intermarriage. There were neighborhoods where people interacted. And these people were shell-shocked. They could not believe that they were ethnically cleansed and driven from their homes and yet they felt they were the lucky ones because they at least got out with their lives when so many of their neighbors were slaughtered.

Mr. Speaker, I remember one man telling me a story where he had to sign all his papers, his house, his business, and his cows over to his Serb neighbor for so-called protection in order to get out safely with his life, and he still, at that point, had not heard from his eldest son whom he was afraid was captured and killed, and he had to sign everything over supposedly for safekeeping so that when he returned back, his Serb neighbor would give it back to him, but he knew that he was never going back because that village, it was the village of Foje, had been ethnically cleansed and no more Moslems existed in the town and whatever property there was was either taken over or burned to the ground.

Mr. Speaker, it is not going to stop here. That is the shame of it. We have 2 million ethnic Albanians in Kosovo. They are 90 percent of the population of Kosovo. Serbia occupies it, they claim it is theirs. The Albanians have no rights. The Albanians cannot even get jobs. They were purged from their jobs. They cannot teach the Albanian language. It is a horrid story.

Mr. Speaker, I was there, as well, and I know that after they are successful, God forbid, with ethnic cleansing in Bosnia, they have the capacity to make Bosnia look like a tea party if they go down to Kosovo where there are 2 million ethnic Albanians and there are people in the Serb leadership that would like nothing more than to drive those Albanians into Albania or into Macedonia or kill them or whatever.

Mr. Speaker, we cannot allow this to happen and we must not lift the economic sanctions on the Serbs. We must not dangle that in front of them in order for them to backtrack slightly. We must not lift any of the sanctions until there is a resolution not only of Bosnia but of Kosovo and other areas, as well, and I have legislation that would do that, would say that there would be no lifting of economic sanctions against Belgrade or against the Serbs.

Mr. Speaker, what has been happening is criminal, as the distinguished majority whip has said. It is genocide and it is criminal, and we ought not to allow this to continue.

Unfortunately, this debate should have been a couple of years ago when there was a chance to save these 200,000 people, when there was a chance to turn the tide, when the Serbs would have understood that the West would have not stayed idly by and it would have forced them to negotiate in good faith.

Mr. Speaker, now they see that aggression is rewarded. Who would ever have believed, Mr. Majority Whip, that in 1994 we would be talking about genocide of this magnitude on the European Continent? It would have been unthinkable in 1994. And here we are, and there is no let-up in sight, and there are diplomatic niceties and everyone wants to agree before anything can happen, and meanwhile, innocent civilians are being killed.

Again, shame on all of us.

Mr. Speaker, I addressed the Inter-Parliamentary Union just several weeks ago where we had delegates from all over the world, as many as were in the United Nations were in the IPU, and I got up and said similar things to what I am saying now, and the indifference of the world community was just shocking.

It was just absolutely shocking. We must do something.

□ 2220

Mr. BONIOR. You are absolutely right. Today it is Bosnia, tomorrow it is Kosovo, the next day Montenegro, and maybe the next day it starts to move and moves into Germany or moves into France. This has to be stopped now. And you are absolutely right, and until we and others awaken the conscience of the Western world to these atrocities, these unbelievable atrocities, this is going to continue.

These people are mad. Karadzic and Milosevic are not good people.

Mr. ENGEL. And, you know, I know you would agree with me, because I know of the great work that you have done in this Congress with regard to the Western Hemisphere, with Central America; we do not believe that the United States can or should be the policeman of the world or that we ought to involve ourselves in every conflict around the world, but I think there are times when morality becomes the issue, and as the last remaining superpower and as the champion of freedom and democracy throughout the world, I think we have a moral responsibility not to let this carnage continue.

Mr. BONIOR. I am always reminded when we sit back and we watch these events unfold of Reinhold Niebuhr's great line and comment that he made with respect to sitting by during the Nazis' persecution of different ethnic groups in and around Germany and the different sexual orientation groups and the Catholics and eventually there was nobody left to defend against the onslaught of the Nazis, because everyone did not pay attention to anyone else's groups.

I do not think I am overdrawing the picture or being melodramatic here. I think our inaction in terms of repositive response militarily to this issue over the last 2 years has emboldened them, has allowed them to continue these atrocities and these inhumanities towards our fellow human beings, and unless they are put to a stop, and as I said in my statement, it is incomprehensible to me that the Western powers, the United States and NATO, could not put an end to this.

Unless it happens, it is going to keep continuing, and we will be here another year from now, and instead of talking about 200,000, we will be talking about 400,000 people being killed; instead of talking about 16,000 children slaughtered, we will be talking about 30,000 children being slaughtered; instead of talking about 50,000 women being raped, we will be talking about 100,000 women being raped.

If we have learned anything, it seems to me in the last 2 years, it should be that the defensive posture is not the right posture. The State Department people will tell you that we need to mix power with diplomacy. I do not argue with that. But in order for diplomacy to have some relevance, to have some strength, something behind it, you have to use your power.

What in God's name are we spending $270 billion on defense for if we cannot use it to defend innocent people in a situation like this?

Mr. ENGEL. And even if we are not willing to defend them, at least lift the arms embargo and let them defend themselves.

Mr. BONIOR. Let them defend themselves. Exactly.

Mr. ENGEL. Today we had a House-Senate conference on the State Department reauthorization, and the resolution was passed to call upon the President to lift the arms embargo so we finally have hopefully the weight of the House of Representatives and the Senate finally taking a stand and saying that the arms embargo ought to be lifted.

Mr. BONIOR. I thank my colleague for his comments.

I yield now to, I think, a gentleman who probably knows this area, along with the gentleman from Indiana [Mr. MCCLOSKEY], as well as anybody in the U.S. Congress, someone who has studied it, knows it in detail, and has been passionate in his concern for human rights, my friend, the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. I thank the gentleman for yielding.

I appreciate very much the enormously powerful statement that you have made tonight and the powerful leadership that you have provided on this issue over a period of time.

I certainly want to thank the gentleman from Indiana for the passionate advocacy for action to stop the genocide in Bosnia that he has put forward over a long period of time. I am particularly humble that I have not actually visited the area of Macedonia and in Bosnia, and Croatia, a long time ago Croatia, but in this recent time, I have not visited there.

Mr. MCCLOSKEY. If the gentleman would yield, I might say, JOHN, your learning on the area is so immense, both historically and currently, as the majority whip said, I do not think you can be surpassed for basic knowledge and brilliance in this area. But I thank you for your wonderful compliment.

Mr. OLVER. That is enormously kind of you and probably totally undeserved.

But I am struck by the irony that tonight, this very night, earlier tonight, there was a special order on a commemoration of the 79th anniversary of the genocide in Armenia perpetrated by the Ottoman Empire in this instance 79 years ago, 1915, and, of course, 50 years ago was the very height of the genocide in Europe which we know now as the Holocaust, and these really were questions about and they commented that never again shall these things happen.

You know, over a 2-year period, over a 3-year period, at least, there have been hundreds of columns, syndicated by syndicated columnists in the major newspapers, the New York Times, the Washington Post in particular which I read quite steadily, and there have been thousands and thousands of column inches of reportage from the scene itself, and many, many editorials on the scene written in those papers.

One of the most eloquent ones was the editorial in the Washington Post today. I had intended to read that editorial, "The Bosnia Disaster," it is entitled, and I guess I will read just a little piece of it. It goes through an enumeration of the things that have happened, but it ends in the final paragraph:

> There's plenty Washington could do. It could summon this country and others to a sense of the immense rolling costs of international default on promises to support a victim state. It could stand up to the Serbs and insist that NATO, to counter the siege of "safe areas," pick from a list of Serb military targets extending well beyond Gorazde. It could convey that Serbia's postwar place, including escape from sanctions, hinges on its respect for international norms. Only in such ways can President Clinton's foreign policy approach and team gain the credibility they have dismally lost.

Well, that is only a part of an editorial, but it certainly gives the flavor of the editorial, and I would like to comment a little bit further.

You have given some eloquent statements about the actual happenings in Gorazde and predictions about what is likely to happen that come from the history of what has already happened.

The truth of the matter is that in 2 years, nearly 3 years, of actions by the United Nations in the former Yugoslavia, they have been a spectacular failure. In Croatia more than a quarter, almost a third, of that country is occupied by a Serbian minority which never included more than 15 percent of the population.

Finally a cease-fire was reached, and the United Nations now helps the aggressors hold what they had conquered while those same Serb nationalists have reneged on every agreement to allow refugees to return to their homes, homes they have lived in for generations and hundreds of years and have reneged on their agreement to dismantle the militia.

In Bosnia, more than two-thirds of the country is now occupied by the Serb minority that had never been more than a third of the population, not at least at the start of this war, and the genocide continues.

□ 2230

The measures of genocide in broad terms are well understood: 200,000 people dead, 2 million people who have been disrupted, driven from their homes and are now refugees in various other parts of Bosnia and the former Yugoslavia and other parts of Europe; thousands, tens of thousands, as the gentleman from Michigan has said, our majority whip, of women who have been raped as a part of the terror involved there; Roman Catholic churches and Moslem mosques which have been destroyed by the hundreds in cities that have been ethnically cleansed. Cities and towns, dozens of cities and towns of 10,000 to 50,000 people which were 80 or 90 percent Moslem, for instance, where not a single Moslem lives on, where the people have been driven out or slaughtered, one or the other. The measures of the genocide are legion.

Interestingly, in all the cases of ethnic and religious or even tribal wars in countries around the world, look at Kurdistan, Cambodia, Liberia, the United Nations has at least acted honorably when it acted. I say that in Bosnia the United Nations has directly contributed to the genocide, contributed to the genocide by the arms embargo that was voted by the United Nations. The arms embargo on Bosnia, remember that Bosnia is a member of the United Nations, recognized by the world as a sovereign state, but that arms embargo made genocide possible. The Serb nationalists, that minority, never more than a third of the population, took complete advantage of that embargo. The arms embargo on the Bosnian Government, the legitimate United Nations member, the Bosnian Government, enforced by the United Nations, left the victims of the genocide unable to defend themselves. The same arms embargo essentially had no effect upon the ability of the Serb insurgents, the Serb nationalists, that minority, to get all the arms that they needed because those arms, the heavy weaponry, artillery, tanks, every form of heavy weaponry, that was available to the former Yugoslavian Army, was provided to the Serb nationalists and continues to be provided and resupplied continuously and totally across the borders from Serbia into Bosnia, so that the Bosnians, the legitimate Bosnian Government, the Government of the people, as my colleagues have pointed out, there are hundreds of thousands of loyal Serbs and Croats a part of the Bosnian entity, part of wanting to have a multiethnic society. And even in that community, in that country, something close to 20 percent of all families were intermarried across those religious gulfs that seemed to have been so dramatic.

In any case, the right of self-defense is guaranteed by the United Nations Charter to member states. The right of self-defense is a constitutional right that is cherished by every American, in individual ways, and in family ways, by our Nation. The denial of the right of self-defense to Bosnia seems to me is absolutely immoral. I have said that on many, many occasions.

The disaster of Bosnia is overwhelming. It is not just the piece of land which is no larger than the State of Maine, that was a land where most Americans probably have their major images from the Winter Olympics from just 10 years ago, a land where Roman Catholics, Moslems, Orthodox, all Slavs, lived side by side, perhaps grudgingly, but peacefully along with many other ethnic groups as well, in smaller numbers, but those were the three major groups: Roman Catholic, Croat, perhaps the Serb Orthodox, Moslems, all of them Slavs, speaking the same language. In some communities it was the large majority of one or the other; in some communities it was two groups in equal numbers, and in some communities it was all three groups in virtually equal numbers. That was a kind of community it was, with that much intermarriage. It is not even the 200,000 who have died or the 2 million refugees; we have seen the heaps of bodies most recently in Rwanda and earlier in Cambodia, the pictures coming out of Liberia and other places, we have seen the refugees by the millions, and maybe we have seen so many that large numbers like this simply have made us so cynical and jaded that we do not even care any more about this sort of thing.

But the ethnic cleansing went on. The bread lines that were bombarded, people trying to bury their dead that were being bombarded with artillery while they were trying to honor their dead and bury them; the concentration camps, the people, from babes in arms to octogenarians lined up and shot; 2 million refugees driven from centuries-old homes. Who can forget those concentration camps, the image of torture and starvation? The United Nations and the European community, and, yes, we the United States, have contributed within the United Nations to a lot of that to happen. Who can forget the children playing soccer in their playgrounds, being mortared and slaughtered; children, little boys, 8-year-old and 10-year-old kids being slaughtered? And, yes, the United Nations and the European community and, yes, we allowed that to happen.

Who can forget the images of the hospitals being bombarded? The hospital in Gorazde being bombarded, virtually destroyed while people are being treated in the basement by those who are trying to save and make life, trying, still, to follow their Hippocratic Oath and provide health care to people who are being slaughtered at the same time?

The shame in all these things is that it has happened in deliberate and calculated and open defiance of the United Nations. The United States, the greatest Nation in the history of the world, NATO, supposedly the greatest military alliance in the history of the world, the United Nations, the most universal legislative body in the history of the world, openly, deliberately defied in all their collective impotence, all their collective impotence, that this genocide was carried out in the very eyes of the world.

Mr. BONIOR. If the gentleman will yield on that term, I think that is a very apt and proper description of what is happening here; it is collective impotence. That is the problem—one of the problems, many problems in this whole puzzle. It seems to me we need to assert our own independent leadership if the international community will not accept their responsibilities. We need to lead, we need to take this by the throat and lead. We cannot accede to the Brits and others who would not have us go further in our efforts to bring justice in this horrific situation.

We have got to lead. That is what I think we are all saying tonight. We are calling upon the Administration to lead. These steps that they announced this evening are positive steps, no question about it; additional airstrikes, more peacekeeping troops, tightening the sanctions on the Serbs. But they are defensive in nature; we need to have a more positive aspect to this. Lifting the arms embargo is certainly one way to do it.

Keeping the means and avenues of communication and diplomacy open are certainly a big part of it, but I think those avenues can only be enhanced by showing the Serbs that we are serious about our concern, about using our military might in this situation.

Mr. OLVER. The point about leadership here: The United States Senate has passed a resolution recognizing the illegal nature of the arms embargo, in not allowing that sovereign nation to defend itself, to obtain the weapons to defend itself against that enormously well-armed, well-supplied insurgency. By a vote of 87 to 9 it is in the budget which we are working under this year that the United States should unilaterally, because of the illegal nature of that embargo, lift that embargo.

□ 2240

Mr. BONIOR. I think it is time we go on record expressing our own views on this as well. I was hoping actually the other day on the conference, going to conference on the State Department authorization bill, we would have had that opportunity. It had not happen. But we ought to seek and find an opportunity to express ourselves in that issue as we move forward in these days.

Mr. ENGEL. Mr. Speaker, today, as I mentioned before, there was a conference on the State Department reauthorization, and the House and Senate did put that in the bill and go on record.

Mr. BONIOR. I am pleased to hear that.

Mr. ENGEL. I hope we will have the opportunity in the very near future to vote on it, and at least it is some small positive step. The frustration, of course, now is that we are dealing with small steps that at this stage of the carnage does not have much—does not do that much. But if these things had been done a while back, it would have been different. But at least we can attempt to change it.

And there is just one thing I want to say, that if we are not going to defend these people, then we ought to make sure that the civilian populations in Gorazde and other places are able to be safe supposedly with these safe havens. I mean the hypocrisy of designating safe zones and then not allowing them to be safe.

Mr. BONIOR. They become killer zones.

Mr. ENGEL. Exactly.

Mr. OLVER. It is like shooting fish in a barrel. That is what it is in those safe zones, particularly in Gorazde, and prior to that in Srebrenica.

In any case, yes, they are small steps, but important steps, because the tragedy of what has happened in Bosnia, the tragedy of this disaster in Bosnia, to take the title of that editorial in the Washington, Post, the tragedy for peace in this world, is overwhelming. One billion people live in the predominantly Moslem nations, and the specter of two million secular Moslems, Western Moslems, unable to get fair and humane treatment by any standard has struck a blow at the very foundations of the major secular Muslim nations, and Moslem fundamentalism will multiply because of the Bosnian experience and what has happened in that country, and many of those countries are our allies, like Egypt, and Pakistan, and Turkey.

The shame is that all of our protestations of the Holocaust of 50 years ago, or the Armenian genocide of 79 years ago, that it could not happen again, are simply—all of those protestations are hollow if we do not stop this one. It has happened before our very eyes daily on CNN.

Mr. BONIOR. On television.

Mr. OLVER. People see it on television all over the world in that technicolor, in all those newspapers that have seen this awful, dismal disaster of policy over the years. The tragedy is that the Presidents' words issued by both President Bush and then by President Clinton, repeated by President Clinton, to warn Serbia that they would not be allowed to extend their genocidal policy to Kosovo are proven silly if this is allowed to hold in Bosnia. Serbia has already reduced the 90 percent Albanian population to servitude essentially, to involuntary servitude. They are second class citizens. They cannot hold jobs. They do not have their schools. Their language has been proscribed. Their colleges and schools have been closed. The shame is that the United Nations, the U.N. power enforced in Haiti, Burma, and 100 other places we can mention—the tragedy is that the Serbs, never greater than one-third of the Bosnian population, can exterminate, or remove, eliminate, two-thirds of the population with impunity with the United States, and United Nations, and the European Community wringing their hands in shame and embarrassment. Any nation looking to scapegoat a minority could look at these results, and I say to my colleagues:

Choose your location, whether it's in Asia, or the Middle East, or Eastern Europe or Africa. You can choose your place, and we could name 50 other places where this could happen, and no one would have the moral authority to do anything about it.

It is indeed a tragedy, and I do applaud the suggestion that we would step up air strikes and make all safe areas once and for all safe, tighten the sanctions. The sanctions ought to be tightened tight as a drum—economic sanctions on Serbia. The air strikes ought to go to the destruction of the weapon supplies, the weapon depots, the fuel depots, of insurgents in Bosnia and interdict the border so that resupply cannot occur. That is what it ought to include. But it also should include lifting this immoral, immoral arms embargo on the people of Bosnia.

It is time to act. There is no longer time to talk about this. It is time to act.

Mr. ENGEL. Mr. Speaker, there is one point that he made, I think it is also very appropriate to say, that the Moslems of Bosnia are secular Moslems, and what this dose is it just proves the point, unfortunately, of madmen like Saddam Hussein and others who say, "Look at the West; they won't defend Moslems even when they're secular, when they're wronged," and the point that this ultimately leads to an increase in Moslem fundamentalism I think is a very, very important point because it sends the absolute wrong message that we ought to be sending to the Middle East and to the part of the world, and it again proves the point of all the people like Saddam Hussein, Iran and Iraq, who want to whip up hatred against the West, who say that the West by its very nature is anti-Moslem. This just to them proves their point.

So again the implications are far broader than simply the implications in Bosnia, and I think that is a very excellent point to mention.

Mr. BONIOR. Or Korea, as well, where we threaten and say that we will not allow certain——

Mr. OLVER. Who would believe it?

Mr. BONIOR. Why should they believe it? Exactly.

I would just conclude by yielding to the gentleman from Indiana [Mr. McCLOSKEY], my friend, and then let me say, "Thank you," to my two friends from New York and Massachusetts for the contribution.

Mr. McCLOSKEY. I say again to the distinguished majority whip, "Thank you again, Mr. BONIOR, for this opportunity." Just one short observation:

I know in many ways we know this from our basic knowledge and particularly garnered in travel, but I think particularly in Bosnia right now, if the American people, the Congress, the President, would realize the awesome, almost mystical respect and gratitude that the democratic peoples of Bosnia feel for American leadership and the American people, they would be impressed beyond belief. In many ways we are the only people in the world that they look to at this particularly dire point with trust, with gratitude, and with hope. That, along with our diplomatic and political achievements in the area, are on the verge of being squandered and destroyed. I hope everyone would reflect on that, and I guess in conclusion I would like to ask the majority whip a question.

I say to the gentleman, "I appreciate your eloquent assertions of need for air strikes, real air strikes worthy of the name, but if NATO means to discuss this possibility on a maybe basis, or whatever, on Friday, there may be no people left in Gorazde except Serb occupiers. Do you think that, if the President were to usurp leadership tomorrow or tonight, whatever, by conference call to tell our allies in Europe that we're going to do it, it's over for the Serbs, that with that leadership exerted it would get majority support on the House floor?"

□ 2250

Mr. BONIOR. I believe so. I think the people of this country and our colleagues have witnessed this tragedy long enough, and I think they would support the President in that action.

A NEW WAY OF DOING BUSINESS IN WASHINGTON

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from New Hampshire [Mr. SWETT] is recognized for 60 minutes as the designee of the majority leader.

Mr. SWETT. Mr. Speaker, I know is the hour is late, and I do not want to take too much more time this evening. I appreciate your staying to allow me this opportunity to speak.

I first want to commend my colleagues who spoke so eloquently about the conflicts in the region of Bosnia-Hercegovina. Certainly the tragedies that are occurring there are of grave importance, and are at a much deeper level than what I am going to talk about tonight. But somehow we have got to find a way to build solutions to these conflicts, and I appreciate their bringing to the Nation's attention the concerns and the fears that we have regarding the horrendous atrocities that are occurring in those communities over in Eastern and Central Europe.

Mr. Speaker, two months ago I gave a speech on the House floor in which I sought to begin a dialog about the need for a new way of doing business in Washington. My remarks tonight will be a continuation of that dialog.

All too often debates in Washington do not focus on real problems or real solutions. We heard about some real problems just a few minutes ago. We have not heard what might be the real solutions over there, because they are so difficult.

But here debates become battles between extremes, with each side employing hyperbole to score political points. Neither side bothers to really listen to the opposing point of view, and each side blasts at the other with sound bites, designed for partisan advantage and a spot on the evening news.

This extremism is creating false impressions, false questions, false choices, and, ultimately, I believe, faulty public policy with which we are trying to govern this country. Because real problems and real solutions are not typically part of these false debates that take place.

The time has come to devise a new way of doing business in Washington which focuses on reality. Not on all the rhetoric that we have heard here so often. That is what this series of speeches is about. It is designed to provide a forum for an emerging coalition in the House known as New Democrats, a small group of dedicated individuals who are dedicated to getting results and to building accountability into government programs. Now, this new coalition is building in strengths. New Democrats played a prominent role in the development of the Penny-Kasich amendment of last October, which sought to cut government spending by $90 billion over and above the budget cuts proposed by President Clinton.

New Democrats are also helping to propel a piece of legislation co-authored by Representative CHRIS SHAYS and myself, the Congressional Accountability Act.

The idea behind the Congressional Accountability Act is very simple: Congress should live by the same laws it sets for the rest of the country. Amazing. That Congress should live by the same laws that it sets for the rest of the country. This is amazing. But it seems that Congress does not understand the importance of this very clear and simple example that it should be setting for the rest of the country.

Congress is currently exempt from the laws of the rest of the country that they must comply with, such as health and safety laws, equal employment laws, and labor laws. The Congressional Accountability Act will change all of that and require Congress to abide by those laws that Congress passes.

New Democrats have joined together to demonstrate their support for increased accountability in government in all areas of government.

Another area I have talked about is accountability in government-funded research, an area I have become familiar with through my work in the Committee on Science, Space, and Technology. But tonight, tonight I have come to talk about an issue that the House is considering this week, the issue of crime.

It is an issue that affects all of us, and one that particularly calls for the new Democrat strategy of bringing different people together to work toward a common solution. In this, the 219th anniversary of the battle of legislation, when Americans stood up for freedom and fired the shot heard round the world, many in this Nation have lost that freedom. Not to any foreign tyrant or invader from overseas, but to fear, fear of crime. Fear of crime has many Americans hiding behind locked doors, afraid to go out into the night that is increasingly ruled by criminals.

When I was growing up in a small town in New Hampshire, we did not lock our doors at night. We did not have an alarm in our house or in our car. We had never heard of The Club. We lived in a secure, peaceful community, and community is the solution to much of our crime problems today. We must all work together as legislators, as a community, and as Americans, to come up with real solutions to our tough problems.

Now, rural communities continue to experience less crime than the inner cities, and I am not saying that because of my experience, having grown up in a rural community, that I do not understand what the problems are in the urban communities. But so much of the problem of crime has to do with the benefits that one can readily see in a rural community, but what becomes complicated and mixed up in the urban setting.

You see, so much of how we need to control the problems with crime really come from an understanding of neighborhood scale. In urban communities, where the scale is huge and complicated and tight and dense, and where jobs are scarce and hope is low, and where people do not, for some reason, have an interest in knowing who their neighbors are, and looking out for them as well as observing their behavior to make sure that it conforms to the community, those are things that we have to bring into the more complicated and hopelessness in this country, where crime is very prevalent.

Even in rural communities we are beginning to see a breakdown, where neighbors no longer police each other. And I say that very guardedly, because we do not want to be a society where Big Brother is watching us. But it is very true that in a small community the peer pressure of neighbors is very important, and it acts as one of the most important qualities that places boundaries on our conduct, that gives us a place of being and understanding, and ultimately helps that community address the needs of its Members and the giving of them of a place where they can belong.

In this, we have to bring about some kind of balance, and this balance has to be incorporated into the approach that we take to solving this problem. And in President Clinton's words, we must be tough, and smart. We must give sure and swift punishment to those who break the law, but we must also prevent other misguided young people from taking the place of those that we have already removed from the streets.

□ 2300

To do this, we have to know the members of the community. We have to understand why they are motivated to break the law, why they are acting as they do against the norms of society. And we have really got to work with them to try and change society so that they begin to find once again a place where they can become productive members and not the destructive components that drive a society into the ground.

The crime bill would provide grants to localities to put more police on the streets. Increasing the police presence in our neighborhoods is an important step toward reducing violent crime in our Nation's streets. The more visible law enforcement presence and improved community public and police relations, the result of having officers on regular neighborhood beats, will provide a valuable deterrent to crime. In this manner we can help cities and towns to help themselves. We can provide them with a tool that will help them address the ever blossoming crime in their neighborhoods.

I support the addition of police officers provided for in the President's proposal. The tens of thousands of officers added to our streets will help to deter crime. This would be a 20 percent increase in the total number of law enforcement officers across the Nation. An innovative way of obtaining some of the additional personnel needed is through the police core program. This program, modeled after the successful ROTC program would accomplish two goals: increase access to higher education for promising youth and, two, to provide highly energetic candidates for law enforcement. By linking financial aid to service in law enforcement after college, we can support education for our youth, while fostering the values of responsibility and community. That is both smart and tough.

But we are not just throwing more police officers out on the street and hope that by all those additional blue uniforms we are going to intimidate people from acting in a violent or criminal manner. As I said before, one of the most important components of these officers is to have an understanding of the neighborhoods in which they are being stationed. They are going to have to take on a responsibility of knowing the social habits and the people, the dreams, the desires and the daily habits of those folks that they are going to be working with as they are out on the beat and on the patrol in the neighborhoods around the country.

One tough measure in the bill is the three strikes and you are out provision. By targeting the violent repeat offender, we can try to remove the truly incorrigible criminals from society and stop their recurring visits through the revolving door of the criminal justice system. We must not continue to release these felons again and again until they finally get caught for committing the most heinous of crimes. This is a responsibility any responsible society should take on. You cannot just let these kinds of activities take place over and over and over again. We have got to identify the repeat offense and make sure that after three times that felony has been committed, that that felon will no longer see the light of day for an appreciable amount of time. Hopefully this begins to instill in the felon or the criminal that they ought to change their behavior and, I hope, more importantly, send a message to those contemplating repeat offense that maybe it is time to stop.

Again, this is not going to work if all we expect to do is to take the three strikes and you are out and put people behind bars. There are any number of other programs that have to be smart at the same time that we are being tough. Some may argue that this is too harsh, that the average felon's violent criminal activity drops off later in life, but we are talking about those who callously prey on our society. And as a Christian, I believe in the importance of forgiveness. But I also recognize that we must protect our families from those who will not change their ways.

Although this provision will only apply to those convicted of a violent felony, and that is a Federal crime, and thus, does not affect the vast majority of criminals, it will take many hardened criminals off the street nonetheless.

More importantly, this tough measure will serve as an example to our States who, in turn, will hopefully pass similar State laws. To help States lock up all the violent repeat offenders, as long as necessary, I support Federal grants for prison construction and maintenance. States have been on the front line of the crime war since the founding of this great republic. They do not need the Federal Government micromanaging their efforts.

The best way the Federal Government can help the states is by directing Federal resources to areas where they need it and letting the states put their experience to work. That is being tough and smart.

But in addition to putting away repeat offenders for life, we must give those who have committed lesser offenses and served their sentences the tools to be successful and to successfully integrate themselves back into society. To that end, I am pleased that the crime bill provides for drug treatment for Federal and state prisoners who need it. All too often drug addicts commit crimes while they are under the influence of that illicit drug or steal to support that habit. Drug rehabilitation in our prisons is a sound investment which can break the cycle of repeat offenses caused when drug-dependent prisoners are released untreated. If prisoners are set free with the same drug addiction that got them into jail, they will most likely return there all too soon. And this is a vicious cycle that we have got to stop.

However, if we give them the help that they need to stay clean, when faced with the temptations of the street, they can become productive members of society once again and not burden the criminal justice system any further. That is being tough and smart.

Alternative punishments are another area where Congress can help the states. For some young nonviolent first offenders, first time offenders, probation is not tough enough. But incarcerating them with career criminals so that they can become hardened, I do not think is very smart either. We can help the states provide creative alternative punishments, whether it is a boot camp, electronic monitoring or another method. We must stop giving young offenders the wrong message with probation for repeat offenses, a nonpunishment that lead them down the primrose path to a career of crime. Somehow we are going to have to give them a sense that they will be rewarded for taking more responsibility as an American citizen.

When all is said and done, however, the key to crime prevention is really not so much the responsibility of the individual. It is the responsibility of the community in which that individual finds him or herself. Whether it is a working mother participating in an orange hat patrol in southeast Washington or someone in Nashua, New Hampshire taking the time to be a big brother or big sister, communities must come together to prevent crime.

My distinguished colleague from Massachusetts, Mr. KENNEDY, sponsored an amendment that was adopted en block last week that would establish the community-based justice grant program. It would provide money to coordinate the efforts of local prosecutors, school officials, police, probation officers and youth and social service professionals to identify and prosecute young violent offenders.

□ 2310

The old African proverb, and I quote, "It takes an entire village to raise a child," holds true today in our own country as well. We as Americans must come together to find solutions to our common problems, and crime is certainly a common problem. Crime is no longer isolated in the inner city, but can strike anywhere: On the highway, in the driveways of an affluent Dallas suburb, and even in the town offices in small towns in rural New Hampshire.

Crime is a symptom, a warning of even greater problems in our society. Crime is the by-product of our youth feeling isolated and desperate. Everyone needs to feel that they belong to a group, but too many of our youth no longer feel a part of our society. Therefore, they feel no need to abide by its rules.

As in Africa, all members of our communities must work together to find those citizens who have been excluded and left out of society's circle. We must reach out to our young Americans and help them to make positive contributions to our country, and thus, find meaning in their lives.

The crime bill provides real assistance to our communities. It is time to set aside partisan politics and finally, after years of inaction, to pass this important bill. The public, our law enforcement, have waited too long. Let us not disappoint them now.

Let us pass the crime bill and begin to fix this most insidious and awful sickness.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FALEOMAVAEGA (at the request of Mr. GEPHARDT), for today, on account of official business.

Mrs. COLLINS of Illinois, for today, on account of personal business.

Mr. FISH (at the request of Mr. MICHEL), for today, on account of recuperating from recent surgery.

Mr. GALLO (at the request of Mr. MICHEL), for the week of April 18, on account of medical reasons.

Mr. PORTMAN (at the request of Mr. MICHEL), for Monday, April 18, on account of a death in the family.

Mr. FRANKS of New Jersey (at the request of Mr. MICHEL), after 6:30 p.m. today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WALKER) to revise and extend their remarks and include extraneous material:)

Mr. EWING, for 5 minutes each day, today and on April 20 and April 21.

Mr. BACHUS of Alabama, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, on April 20.

(The following Members (at the request of Mr. OLVER) to revise and extend their remarks and include extraneous material:)

Mr. SABO, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. LEHMAN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. WALKER and to include extraneous matter:)

Mr. THOMAS of California.
Mrs. MORELLA.
Mr. MOORHEAD.
Mr. MYERS of Indiana.
Mr. PACKARD.
Mr. GOODLING.
Mr. BLILEY.
Mr. PORTMAN.
Mr. KING.
Mr. CALVERT.
Mr. GEKAS.
Mr. LAZIO.
Mr. ROHRABACHER.
Mr. GILMAN in two instances.

(The following Members (at the request of Mr. OLVER and to include extraneous matter:)

Mr. HOCHBRUECKNER.
Mr. SCHUMER in two instances.
Mr. LEHMAN of California.
Mr. ANDREWS of New Jersey.
Mr. LAFALCE.
Mr. SWETT.
Mr. BERMAN in two instances.
Mr. EVANS.
Mr. MCNULTY.
Ms. SLAUGHTER.
Mr. RUSH in two instances.
Mr. DIXON.
Mr. JOHNSON of Georgia.
Mr. DOOLEY.
Mr. MANTON.
Ms. SHEPHERD.
Mr. TRAFICANT.
Mrs. THURMAN.
Mr. SERRANO.
Mr. MORAN.
Mr. MOAKLEY.
Mr. DINGELL.
Mr. FOGLIETTA.
Mr. KLEIN in five instances.
Mr. ROSTENKOWSKI.
Mr. RUSH.
Mr. COPPERSMITH.
Ms. ESHOO.
Mr. HINCHEY.
Mr. NEAL of Massachusetts.
Mr. KENNEDY.
Mr. COSTELLO.
Mr. NADLER.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 4066. An act to suspend temporarily the duty on the personal effects of participants in, and certain other individuals associated with, the 1994 World Cup Soccer Games, the 1994 World Rowing Championships, the 1995 Special Olympics World Games, the 1996 Summer Olympics, and the 1996 Paralympics.

ADJOURNMENT

Mr. SWETT. Mr. Speaker, I move the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 11 minutes p.m.) under its previous order, the House adjourned until Wednesday, April 20, 1994, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2995. A letter from the Comptroller of the Department of Defense, transmitting a report of a violation of the Anti-Deficiency Act which occurred at the U.S. Army Finance and Accounting Center, Indianapolis, IN, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

2996. A letter from the Chief Staff Counsel, U.S. Court of Appeals for the D.C. Circuit, transmitting an opinion of the U.S. Court of Appeals for the D.C. Circuit; No. 93-1326—William F. Callejo; Adelfa B. Callejo; William D. Graue v. Resolution Trust Corporation (March 18, 1994); to the Committee on Banking, Finance and Urban Affairs.

2997. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed technical assistance agreement for the export of major defense equipment and services sold commercially to Israel (Transmittal No. DTC-14-94), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2998. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed technical assistance agreement for the export of major defense equipment and services sold commercially to the United Kingdom (Transmittal No. MC-9-94), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2999. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license for the production of a military item in Israel (Transmittal No. DTC-12-94), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

3000. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license for the production of a military item in Israel (Transmittal No. DTC-11-94), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

3001. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of the removal of items from the U.S. Munitions List, pursuant to 22 U.S.C. 2778(f); to the Committee on Foreign Affairs.

3002. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 94–21: Drawdown of Commodities and Services from the Inventory and Resources of the Department of Defense to Support the Establishment of the Palestinian Police Force, pursuant to 22 U.S.C. 2411; to the Committee on Foreign Affairs.

3003. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated solution of the Cyprus problem, including any relevant reports from the Secretary General of the United Nations, pursuant to 22 U.S.C. 2373(c); to the Committee on Foreign Affairs.

3004. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of his determination that Israel is not being denied its right to participate in the activities of the International Atomic Energy Agency, pursuant to Public Law 99–88, chapter V (99 Stat. 323); Public Law 100–461, title I (102 Stat. 2268–3); to the Committee on Foreign Affairs.

3005. A letter from the Secretary of Agriculture, transmitting notification of his intention to award specific watershed restoration contracts on National Forest System lands outside the standard full and open competition procedures required by the Competition in Contracting Act of 1984, pursuant to 41 U.S.C. 253(c)(7); to the Committee on Government Operations.

3006. A letter from the Chief Staff Counsel, U.S. Court of Appeals for the D.C. Circuit, transmitting an opinion of the U.S. Court of Appeals for the D.C. Circuit; No. 92–5255—Sweet Home Chapter of Communities for A Great Oregon, et al. v. Bruce Babbitt, Secretary of the Interior, et al. (On Petition for Rehearing) (March 11, 1994); to the Committee on Merchant Marine and Fisheries.

3007. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to authorize additional major medical facility construction projects for fiscal year 1994, at the Department of Veterans Affairs Medical Center, Sepulveda, CA, and to waive the congressional waiting period requirement for an administrative reorganization at such facility, pursuant to 31 U.S.C. 1110; to the Committee on Veterans's Affairs.

3008. A letter from the Chairman, Interstate Commerce Commission, transmitting the Commission's 107th annual report which summarizes its activities during fiscal year 1993, pursuant to Public Law 96–448, Section 217(c)(1) (94 Stat. 1925); jointly, to the Committees on Energy and Commerce and Public Works and Trasportation.

3009. A letter from the Administrator, Panama Canal Commission, transmitting a draft of proposed legislation entitled, "Panama Canal Commission Authorization Act, fiscal year 1995"; jointly, to the Committees on Merchant Marine and fisheries and the Judiciary.

3010. A letter from the Director of Central Intelligence, transmitting a draft of proposed legislation entitled, "Intelligence Authorization Act for fiscal year 1995,"pursuant to 31 U.S.C. 1110; jointly, to the Committees on Intelligence (Permanent Select), Post Office and Civil Service, Armed Services, Banking, Finance and Urban Affairs, the Judiciary, Government Operations, and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MILLER of California. Committee on Natural Resources, S. 1654. An act to make certain technical corrections; with an amendment (Rept. 103–479, Pt. 1). Ordered to be printed.

Mr. FORD of Michigan. Committee of Conference. Conference report on H.R. 2884. A bill to establish a national framework for the development of school-to-work opportunities systems in all States, and for other purposes (Rept. 103–480). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSTENKOWSKI:

H.R. 4245. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1986 to provide for the long-range solvency of the old-age, survivors, and disability insurance program; to the Committee on Ways and Means.

By Mr. TAUZIN (for himself and Mr. Studds):

H.R. 4246. A bill to authorize expenditures for fiscal year 1995 for the operation and maintenance of the Panama Canal, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BARTLETT of Maryland:

H.R. 4247. A bill to establish the Department of Energy Laboratory Facilities Commission, and for other purposes; jointly, to the Committees on Science, Space, and Technology, Armed Services, and Rules.

By Mr. FIELDS of Texas:

H.R. 4248. A bill to provide for the protection of books and materials from the Library of Congress, and for other purposes; to the Committee on House Administration.

By Mr. FRANK of Massachusetts:

H.R. 4249. A bill to amend Public Law 89–732 to permit the adjustment to lawful permanent residence of Haitians in the same manner as provided for Cubans; to the Committee on the Judiciary.

By Mr. MARTINEZ (for himself, Ms. Molinari, Mr. Ford of Michigan, Mr. Goodling, Mr. Kildee, Mr. Williams, Mr. Miller of California, and Mr. Castle):

H.R. 4250. A bill to authorize appropriations for fiscal years 1995 through 1998 to carry out the Head Start Act and the Community Services Block Grant Act, and for other purposes; jointly, to the Committees on Education and Labor and Energy and Commerce.

By Mr. KLINK:

H.R. 4251. A bill to authorize the Secretary of Defense to transfer certain excess equipment to educational institutions and training schools; to the Committee on Armed Services.

By Mr. LaFALCE:

H.R. 4252. A bill to designate the Administrator of the Small Business Administration as a member of the Interagency Trade Organization; to the Committee on Ways and Means.

By Ms. LAMBERT:

H.R. 4253. A bill to require the Secretary of the Interior to convey the Corning National Fish Hatchery to the State of Arkansas; to the Committee on Merchant Marine and Fisheries.

By Mr. MACHTLEY:

H.R. 4254. A bill to amend the U.S. Housing Act of 1937 to provide for the termination of tenancy of persons residing in public housing or housing assisted under section 8 of such act who engage in firearm-related criminal activity, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MONTGOMERY:

H.R. 4255. A bill to amend title 10, United States Code, to provide a charter for the National Guard Bureau, otherwise to improve the administration of the National Guard, and for other purposes; to the Committee on Armed Services.

By Ms. SCHENK:

H.R. 4256. A bill to amend the Immigration and Nationality Act to extend the land border inspection fee program for the California southern border of the United States; to the Committee on the Judiciary.

By Mr. ZIMMER (for himself, Mr. Beilenson, Mr. Frost, Mr. Boehlert, and Mr. Clyburn):

H.R. 4257. A bill to provide for the study of Revolutionary War battlefields; to the Committee on Natural Resources.

By Mr. COPPERSMITH:

H.R. 4258. A bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home, and for other purposes; to the Committee on Ways and Means.

By Mr. TUCKER (for himself, Mr. Lehman, Mr. Thomas of California, Mr. Valentine, Mr. Wynn, Mr. Lewis of Georgia, Mr. Watt, Ms. Roybal-Allard, Mr. Waxman, Mr. Clyburn, Mr. Dixon, Mr. Hilliard, Mr. Murphy, Mr. Murtha, Ms. Norton, Mr. Owens, Mr. Hutto, Mr. Conyers, Ms. McKinney, Mr. Payne of New Jersey, Mr. Lantos, Mr. Martinez, Mr. Brown of Ohio, Mr. Coleman, Mr. Tejeda, Ms. Brown of Florida, Mrs. Byrne, Mr. Mfume, Mr. Stark, Mr. Reynolds, Mr. Ackerman, Mr. Wheat, Mr. Blackwell, Mr. Pallone, Mr. Sawyer, Mr. Gene Green of Texas, Mr. Nadler, Mr. Hamburg, Mr. Rangel, Mr. Serrano, Mr. Becerra, Mr. Herger, Mr. Sanders, Mr. Fazio, Mr. Sabo, Mr. Wolf, Mr. Coppersmith, Mr. Browder, Ms. Collins of Michigan, Mr. Schumer, Mr. Stupak, Mr. Kreidler, Mr. Ford of Michigan, Mr. Edwards of California, Mr. Rush, Mr. Towns, Mr. Rohrabacher, Mr. Richardson, Mr. Evans, Mrs. Unsoeld, Ms. Furse, Ms. Margolies-Mezvinsky, Mr. Spratt, Mr. Rose, Mr. Moran, Mr. Farr, Ms. Danner, Mr. Scott, Mr. Clement, Mr. Olver, Mr. Flake, Mr. Markey, Mr. Obey, Mr. Condit, Mr. Barca of Wisconsin, Mr. Barlow, Mr. Miller of California, Mr. Bishop, Mr. Kennedy, Mr. Filner, Mr. Mann, Mrs. Thurman, Ms. Velazquez, Ms. Waters, Mr. Clay, Mr. Deal, Mr. Hinchey, Mr. Inslee, Ms. Eddie Bernice Johnson of Texas, Mr. Roemer, Mr. Klein, Mr. Menendez, Mr. Barrett of Wisconsin, Mr. Ortiz, Ms. DeLauro, Mrs. Clayton, Mrs. Mink of Hawaii, Mr. Wise, Mr. Johnson of South Dakota, Mr. Payne of Virginia, Mr. Brooks, Mr. Studds, Mr. Hefner, Mr. Bilbray, Mr. McDermott, Mr. Berman, Mr. Frank of Massachusetts, Mr. Frost, Mr. Andrews of Maine, Mr. Synar, Mr. Jacobs, Mr. Bonior, Mrs. Maloney, Mr. DeFazio, Mr. Coyne, Ms. Lowey, Mr. Pickett, Mr. Chapman, Mrs. Fowler, Ms.

CANTWELL, Ms. ESHOO, Mr. LIPINSKI, Mr. ENGEL, Mr. MCHALE, Mr. BORSKI, Mr. FORD of Tennessee, Mr. UNDERWOOD, Mr. MAZZOLI, Mr. POMEROY, Mrs. MORELLA, Mr. ABERCROMBIE, Mr. APPLEGATE, Mr. BACCHUS of Florida, Mr. BAESLER, Mr. BAKER of California, Mr. BAKER of Louisiana, Mrs. BENTLEY, Mr. BEVILL, Mr. BILIRAKIS, Mr. BLILEY, Mr. BLUTE, Mr. BROWN of California, Mr. CALLAHAN, Mr. CARR, Mr. COBLE, Mr. CRAPO, Mr. CASTLE, Mr. DARDEN, Mr. DE LA GARZA, Mr. DELLUMS, Mr. DE LUGO, Mr. DEUTSCH, Mr. DINGELL, Mr. DOOLITTLE, Mr. DORNAN, Mr. DREIER, Mr. DURBIN, Mr. EHLERS, Mr. EMERSON, Mr. EVERETT, Mr. FALEOMAVAEGA, Mr. FIELDS of Louisiana, Mr. FINGERHUT, Mr. FRANKS of Connecticut, Mr. GALLEGLY, Mr. GEJDENSON, Mr. GILMOR, Mr. GLICKMAN, Mr. GONZALEZ, Mr. GORDON, Mr. GUTIERREZ, Mr. HALL of Ohio, Mr. HASTERT, Mr. HAYES, Mr. HORN, Mr. HYDE, Mr. JEFFERSON, Mrs. JOHNSON of Connecticut, Ms. KAPTUR, Mr. KILDEE, Mr. KING, Mr. KINGSTON, Mr. KLECZKA, Mr. KLINK, Mr. KOLBE, Mr. LAUGHLIN, Mr. LEACH, Mr. LEVIN, Mr. LEWIS of California, Mrs. LLOYD, Mr. MCCRERY, Mr. MCDADE, Mr. MCHUGH, Mrs. MEEK of Florida, Mr. MINETA, Mr. MOAKLEY, Ms. MOLINARI, Mr. MOORHEAD, Mr. NEAL of Massachusetts, Mr. NEAL of North Carolina, Mr. OBERSTAR, Mr. PARKER, Mr. PAXON, Ms. PELOSI, Mr. PETRI, Mr. PICKLE, Mr. POMBO, Mr. POSHARD, Mr. QUILLEN, Mr. QUINN, Mr. RAHALL, Mr. RAVENEL, Mr. REED, Mr. REGULA, Mr. ROBERTS, Mr. ROGERS, Mr. ROMERO-BARCELÓ, Mr. SHARP, Mr. SMITH of Iowa, Ms. SHEPHERD, Mr. SISISKY, Ms. SLAUGHTER, Mr. STOKES, Mr. STUMP, Mr. SUNDQUIST, Mr. SWETT, Mr. TANNER, Mr. TAYLOR of North Carolina, Mr. THOMAS of Wyoming, Mr. TORKILDSEN, Mr. TORRES, Mr. VENTO, Mr. VOLKMER, Mr. WELDON, Mr. WHITTEN, Mr. WILSON, Mr. WYDEN, and Mr. YOUNG of Florida):

H.J. Res. 357. Joint resolution designating the week beginning February 12, 1995, as "National Random Acts of Kindness Week"; to the Committee on Post Office and Civil Service.

By Mr. HOEKSTRA:

H. Res. 408. Resolution providing for the consideration of the bill (H.R. 3835) to establish a National Advisory Referendum on limiting the terms of Members of Congress at the general election of 1994, and for amendments adding new titles dealing with advisory referenda on the balanced budget amendment and Line Item Veto Act, the Sunshine for Committees Act, the Private Property Protection Act, and miscellaneous reform amendments; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII,

345. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of Puerto Rico, relative to Citizenship Day in Puerto Rico; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 40: Mr. DIXON, Mr. HASTINGS, Ms. NORTON, Mr. MFUME, Mr. JACOBS, Ms. VELAZQUEZ, and Mr. REYNOLDS.

H.R. 84: Mr. MAZZOLI and Mr. MONTGOMERY.

H.R. 127: Mr. LEWIS of Georgia and Mr. GILCHREST.

H.R. 140: Mr. NUSSLE, Mr. HEFLEY, Mr. RIDGE, Mr. TALENT, Mr. WILLIAMS, Mr. MCCOLLUM, Mr. STEARNS, Mr. ROYCE, Mr. GALLO, and Mr. DUNCAN.

H.R. 291: Mr. SOLOMON, Mr. SMITH of New Jersey, Mr. ROGERS, Mr. SCHUMER, Mrs. BYRNE, and Mr. JOHNSON of South Dakota.

H.R. 300: Mr. GILCHREST, Mr. MILLER of Florida, Mr. DREIER, Mr. KNOLLENBERG, Mr. HOKE, Mr. MCINNIS, and Mr. GRAMS.

H.R. 401: Mr. CALVERT.

H.R. 436: Mr. THOMPSON, Mr. ROMERO-BARCELO, and Mr. GLICKMAN.

H.R. 512: Mr. FALEOMAVAEGA and Mr. GENE GREEN of Texas.

H.R. 549: Mrs. FOWLER, Mr. RAVENEL, Mr. HUTCHINSON, Mr. QUINN, Mr. COPPERSMITH, Mr. SKELTON, Mr. SAXTON, Mr. LEWIS of Florida, and Mr. CANADY.

H.R. 739: Mr. HUTCHINSON.

H.R. 790: Mr. ROHRABACHER and Mr. HOEKSTRA.

H.R. 830: Mr. POMEROY.

H.R. 833: Mr. JOHNSON of South Dakota, Mr. LEWIS of Georgia, Mr. KLECZKA, and Mr. COX.

H.R. 840: Ms. SLAUGHTER.

H.R. 899: Mr. PETRI.

H.R. 1228: Mr. GINGRICH and Mr. DARDEN.

H.R. 1246: Mr. LEWIS of Georgia.

H.R. 1276: Mrs. VUCANOVICH and Mr. GEKAS.

H.R. 1322: Mr. KLINK.

H.R. 1332: Mr. KILDEE.

H.R. 1349: Mr. DEAL and Mr. ALLARD.

H.R. 1355: Mr. CASTLE.

H.R. 1459: Mr. CASTLE.

H.R. 1493: Mr. FRANKS of New Jersey.

H.R. 1517: Mr. ROEMER.

H.R. 1573: Mr. UPTON and Mr. BROWN of Ohio.

H.R. 1671: Mr. RICHARDSON.

H.R. 1719: Mr. MURTHA.

H.R. 1823: Ms. NORTON.

H.R. 1887: Mr. FRANKS of New Jersey and Mr. HUTCHINSON.

H.R. 2357: Mr. BISHOP.

H.R. 2471: Ms. BROWN of Florida, Mr. CANADY, and Mr. PETERSON of Florida.

H.R. 2512: Mr. CALVERT, Mr. POSHARD, Mr. LEVY, Mr. KLUG, and Mr. GENE Green of Texas.

H.R. 2525: Mr. Murphy, Mr. BLILEY, Mr. KOLBE, Mr. MONTGOMERY, Mr. MCDERMOTT, and Mr. WOLF.

H.R. 2586: Mr. HOLDEN and Mr. NEAL of Massachusetts.

H.R. 2623: Mr. TALENT, Mr. RIDGE, and Mr. UNDERWOOD.

H.R. 2767: Mrs. THURMAN, Mr. BROWN of California, Mr. UNDERWOOD, and Mr. HUTCHINSON.

H.R. 2826: Mr. BROWN of California, Mr. WOLF, and Mr. WELDON.

H.R. 3087: Mr. GENE GREEN of Texas, Ms. PRYCE of Ohio, Mr. THOMAS of California, Mr. SOLOMON, and Mr. LAZIO.

H.R. 3136: Mr. CLAY.

H.R. 3293: Mr. SAXTON and Mr. DORNAN.

H.R. 3392: Mr. BOUCHER, Mr. BAESLER, and Mr. MCMILLAN.

H.R. 3433: Mr. ENGEL, Mr. GEPHARDT, Mr. GILMAN, Mr. JEFFERSON, and Mr. KENNEDY.

H.R. 3455: Mr. SCHIFF.

H.R. 3486: Mr. MOORHEAD, Mr. EWING, Mr. HANCOCK, Mr. INGLIS of South Carolina, Mr. SANGMEISTER, Mr. SHAYS, Mr. MCCANDLESS, Mr. LIGHTFOOT, Mr. JEFFERSON, Mr. LAZIO, and Mr. KYL.

H.R. 3488: Mr. HOLDEN, Mr. BAKER of Louisiana, Mr. BLILEY, Mr. GALLEGLY, Mr. TALENT, Mr. HERGER, Mr. YOUNG of Alaska, Mr. ROBERTS, Mr. ROGERS, Mr. SAM JOHNSON, and Mr. CANADY.

H.R. 3490: Mr. KINGSTON and Mr. POMEROY.

H.R. 3538: Mr. MILLER of California, Ms. VELAZQUEZ, Ms. COLLINS of Michigan, Mr. THOMPSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CLYBURN, Mr. LEWIS of Georgia, Mr. DEFAZIO, Mrs. MEEK of Florida, Ms. BROWN of Florida, Ms. PELOSI, Mr. HAMBURG, Mr. EDWARDS of California, Mr. ANDREWS of New Jersey, Mr. OWENS, Ms. CANTWELL, Mr. FARR, Mr. UNDERWOOD, Mr. HINCHEY, Mr. WATT, Mr. GONZALEZ, Mr. MATSUI, Ms. ROYBAL-ALLARD, Mr. KILDEE, Mr. CONYERS, Mr. YATES, Mr. SAWYER, Mr. PALLONE, Mr. DIXON, Ms. MARGOLIES-MEZVINSKY, Mr. TORRES, and Mrs. SCHROEDER.

H.R. 3546: Mr. GEJDENSON.

H.R. 3666: Ms. KAPTUR, Mr. COYNE, Mr. DORNAN, Mr. DELLUMS, Mr. ROMERO-BARCELO, Mr. FROST, Mr. LANTOS, Mr. TUCKER, and Mr. BLILEY.

H.R. 3684: Mr. CRANE, Mr. CARDIN, and Mr. JEFFERSON.

H.R. 3784: Mr. HANSEN.

H.R. 3811: Mr. FAZIO and Mr. MILLER of California.

H.R. 3812: Mr. TAUZIN, Mr. ARCHER, Mr. LIPINSKI, Mr. GENE GREEN of Texas, and Mr. ANDREWS of Texas.

H.R. 3871: Mr. LIVINGSTON, Mr. EWING, Mr. GENE GREEN of Texas, and Mr. CANADY.

H.R. 3878: Mr. WYNN.

H.R. 3939: Mr. PETERSON of Minnesota.

H.R. 3951: Ms. ROS-LEHTINEN, Mr. ROEMER, and Mr. BROWN of Ohio.

H.R. 3966: Mr. HOYER.

H.R. 3987: Mrs. BENTLEY, Mr. GILCHREST, Mr. JACOBS, and Mr. GALLEGLY.

H.R. 4042: Mr. STARK.

H.R. 4047: Mr. DURBIN.

H.R. 4048: Mr. FROST, Mr. BONIOR, and Mr. EVANS.

H.R. 4051: Mr. WYNN.

H.R. 4057: Mr. KREIDLER, Ms. SCHENK, Mr. HANCOCK, Ms. ESHOO, Mr. EWING, and Mr. SHAYS.

H.R. 4062: Mr. FOGLIETTA, Mr. MILLER of California, Mr. ACKERMAN, Ms. VELAZQUEZ, Mr. BONIOR, Mr. CASTLE, Mr. WAXMAN, Ms. KAPTUR, Mr. REYNOLDS, and Mr. KENNEDY.

H.R. 4100: Mr. EVANS, Mr. HOEKSTRA, and Mrs. SCHROEDER.

H.R. 4114: Mr. KENNEDY, Mr. FOGLIETTA, Mr. ABERCROMBIE, Mr. FRANK of Massachusetts, Mr. STUDDS, Mr. PENNY, Mr. KOPETSKI, Mr. DE LUGO, Mrs. SCHROEDER, Mr. SANDERS, Mr. FILNER, Mr. UNDERWOOD, Ms. FURSE, Ms. VELAZQUEZ, Mr. MEEHAN, Ms. PELOSI, Mr. STARK, Ms. HARMAN, Mr. SABO, Mr. OLVER, Mr. TORRES, Mr. MILLER of California, Mr. EDWARDS of California, Mr. EVANS, Mr. HAMBURG, Mr. FALEOMAVAEGA, Mr. ENGEL, Mr. BROWN of California, Mr. DEFAZIO, Mr. MARKEY, Mr. BONIOR, Mr. MCDERMOTT, Mr. MINETA, Mr. WAXMAN, Mr. GONZALEZ, and Mr. HINCHEY.

H.R. 4115: Mr. MILLER of California, Mr. LEVY, Mr. KENNEDY, Mr. PORTER, and Mr. BROWN of California.

H.R. 4128: Ms. EDDIE BERNICE JOHNSON of Texas and Mr. FRANK of Massachusetts.

H.R. 4135: Mr. PARKER, Mr. CRAMER, Mr. CLAY, Mr. GLICKMAN, Mr. EMERSON, Mr. KANJORSKI, Mr. HAYES, Mr. DORNAN, Mrs. LLOYD, Mr. BILIRAKIS, Mr. REED, Mr. STUMP, Mr.

DINGELL, Mr. ORTON, Mrs. THURMAN, Mr. COBLE, Mr. SLATTERY, Mr. VOLKMER, Mr. STENHOLM, Mr. TAYLOR of Mississippi, Mr. CONDIT, Mr. PAYNE of Virginia, Mr. RAHALL, Mr. LAUGHLIN, Mr. COSTELLO, Mr. SISISKY, Mr. FINGERHUT, Mr. PENNY, Mr. GORDON, Mr. HEFNER, Mr. BREWSTER, Mr. ORTIZ, Mr. UNDERWOOD, Mr. HALL of Ohio, Mr. WASHINGTON, and Mr. HUGHES.

H.R. 4148: Mr. NADLER and Mr. KREIDLER.

H.J. Res. 173: Mr. CALVERT.

H.J. Res. 209: Mr. WASHINGTON, Mr. REYNOLDS, Mr. PICKLE, and Mrs. VUCANOVICH.

H.J. Res. 253: Mr. MOAKLEY, Mr. HASTINGS, Mr. BROWN of Ohio, Mr. PORTMAN, Mr. WATT, Mr. NADLER, Mr. MOLLOHAN, Mr. SCHIFF, Mr. WYDEN, Mr. GENE GREEN of Texas, Mr. FLAKE, Mr. DARDEN, Mr. APPLEGATE, Mr. DURBIN, Mr. COPPERSMITH, Ms. WOOLSEY, Ms. ESHOO, Ms. WATERS, Ms. ROYBAL-ALLARD, Ms. SCHENK, and Ms. SHEPHERD.

H.J. Res. 297: Mr. REYNOLDS, Mr. WELDON, Mr. COBLE, Mr. JEFFERSON, Mr. BUNNING, Mr. FINGERHUT, and Mr. MARTINEZ.

H.J. Res. 319: Mr. BALLENGER, Mr. CALVERT, Mr. PORTER, Mr. PARKER, Mr. KING, and Mrs. FOWLER.

H.J. Res. 327: Mrs. BENTLEY, Mr. EVANS, Mr. GENE GREEN of Texas, Mr. DE LUGO, Mr. KINGSTON, Mr. KREIDLER, Mr. CRAPO, Mr. VALENTINE, and Mr. CALLAHAN.

H.J. Res. 333: Ms. MOLINARI, Mrs. UNSOELD, Mr. ORTON, Mr. PAYNE of Virginia, Mr. LEWIS of Georgia, Ms. ROYBAL-ALLARD, Mr. STARK, Mr. LEHMAN, Mr. BOUCHER, Mr. ACKERMAN, Mr. OWENS, Mr. MCNULTY, and Mr. BONIOR.

H.J. Res. 342: Mr. PORTER, Mr. EDWARDS of Texas, Mrs. VUCANOVICH, Mr. ACKERMAN, Mr. PRICE of North Carolina, Mr. OWENS, Mr. PICKETT, Mr. MCNULTY, Mr. RICHARDSON, Mr. ANDREWS of Texas, Mr. RIDGE, Mr. SAM JOHNSON, Mr. DE LUGO, Mr. JEFFERSON, Mr. MOORHEAD, Mr. EWING, Mr. QUILLEN, Mr. TOWNS, Mr. STOKES, Mr. BISHOP, Mrs. MEYERS of Kansas, Mr. FAZIO, Ms. NORTON, Mr. MEEHAN, Mr. FLAKE, Mr. KASICH, Mr. MCHALE, Mr. KLECZKA, Mr. VALENTINE, Mr. MATSUI, Mr. HEFNER, Mr. WYNN and Mr. BLILEY.

H. Con. Res. 110: Mr. FORD of Tennessee, Mr. SMITH of Oregon, Mr. SABO, Mr. TALENT, Mr. HOAGLAND, and Mr. CANADY.

H. Con. Res. 168: Mr. COX and Mr. EWING.

H. Con. Res. 199: Mr. KIM and Mr. STUPAK.

H. Con. Res. 210: Mr. MONTGOMERY and Mr. DELLUMS.

H. Res. 281: Mr. DEFAZIO.

H. Res. 329: Mr. FAZIO, Mr. REYNOLDS and Mrs. CLAYTON.

H. Res. 372: Mr. COYNE and Mr. JEFFERSON.

EXTENSIONS OF REMARKS

THE SOCIAL SECURITY TRUST FUND WILL BE THERE WHEN YOU RETIRE

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. ROSTENKOWSKI. Mr. Speaker, in surveys, editorials, books and demonstrations, baby boomers and baby busters repeatedly express their fear and conviction that Social Security won't be around for them when they reach retirement age. Some of the people in this group believe Social Security will be significantly cut back by the time they are ready to collect benefits. Others think Social Security will no longer be in existence when they reach retirement age—or that it will have been reduced to a means-tested program paying subsistence benefits.

At the same time, today's retirees are concerned that their benefits are threatened. They fear a cut in their benefits as part of an effort to reduce the Federal deficit or to reduce entitlement spending which is proclaimed to be out of control. Their fears, as well as those of younger workers, are bolstered by dramatic claims based in part on fact and in part on wild and unrealistic speculation about the future.

Let's look at the facts and the unrealistic conclusions that are drawn from those facts. The Social Security trust fund is not currently in long-range [75-year] financial balance; that is, the system is expected to have insufficient funding to pay for promised benefits beginning about 35–40 years from today. This fact has been known for some time and is published in annual, public reports on the Social Security trust fund. Some opponents of Social Security use this information to scare people into believing that Social Security will simply cease to exist at some point in the future. Others suggest that the projected growth in Social Security as the baby-boom generation ages proves that Social Security is wildly out of control and that strong measures are required to rein it in, such as severely cutting back on benefits to everyone. Still others claim that an enormously high and unaffordable level of payroll taxation will be necessary to fund the system as currently structured—as much as a 50 percent payroll tax.

I am today introducing a bill which responds to these concerns in a responsible way. It is meant to bring reasonableness back into the debate, replacing exaggeration and overblown rhetoric with facts and responsible conclusions. Furthermore, it is intended to encourage debate about Social Security in the context of the long-range health of the Social Security program, not in the context of some overly-broad, ill-defined concept such as entitlement reform.

This legislation addresses the concerns of younger workers by showing just exactly what it takes to bring the Social Security program into long-range balance and to assure steady and predictable payment of benefits to all contributors. It responds to the concerns of retirees who fear significant reductions in current benefits by requiring only a modest contribution to preserving the stability of the system, with the larger contributions being required only by those who are most able to afford it.

This legislation is proof that reasonable and modest changes are all that is required to make the system solvent permanently into the future. Moreover, my bill is true to the essential principles of Social Security—that everyone contributes to the system and everyone receives a benefit based on the level of his or her contributions.

My bill is not intended as the only way to assure the long-range solvency of the Social Security program. Instead, it is a starting point to encourage responsible debate and to show that reasonable, affordable changes can be made which would sustain the program nearly indefinitely. It is intended to move the debate away from rhetoric and toward a reasonable solution. Let me emphasize that I am not recommending any one of these provisions standing by itself. Rather, I am suggesting all of them as an outline for responsible change.

This legislation would bring the Social Security system into balance through a combination of provisions—almost half through benefit changes and coverage improvements and the rest through payroll tax changes. Current workers would make the largest contribution to bringing the trust fund back into balance, but current retirees would also be asked to make a contribution. Some of the provisions would apply to beneficiaries across-the-board. Others would affect only those who have higher earnings, thus helping to preserve an essential feature of the Social Security system: its progressivity.

Two of the legislation's provisions affect the benefit levels of future beneficiaries. The most significant of these is a revision in the benefit formula itself. This revision will gradually reduce benefits for new groups of beneficiaries over a 50-year phasein period. This change leaves the benefits of low earners completely unaffected. At the end of the 50-year phasein, when the 4-year-olds of today reach retirement, the benefits of average earners would be reduced by 8.4 percent and the benefits of high earners would be reduced by just over 20 percent from their levels under current law.

It might be helpful to contrast this proposed change with another proposal being advanced to reduce benefits paid to high earners. This proposal, part of the Concord Coalition's plan to reduce the Federal deficit, would cut the benefits of anyone with non-Social Security income of more than $40,000 a year. Under this plan, benefits would be reduced by as much as 85 percent for those with high incomes. The Concord Coalition plan would also have a strong disincentive effect on savings and other private preparations for retirement, since the more an individual saved and invested for retirement, the less he or she would receive from Social Security. Changing the benefit formula as proposed in my legislation would have no such savings disincentive effect.

The second provision affecting benefits would shorten the phasein period set under current law for the increase in the so-called "normal retirement age." This is the age at which a new retiree may collect full benefits, unreduced for early retirement. For current retirees, the normal retirement age is 65, but is scheduled to rise gradually to age 67. Under my bill, the increase in the retirement age begins with those reaching age 65 in 2003, as it does under current law, but the phasein to age 67 would be accomplished in a shorter period of time. While other proposals have suggested raising the normal retirement age to age 68 or age 70, my bill does not raise it beyond age 67.

The legislation also asks current beneficiaries to make a contribution toward preserving the Social Security system for future generations. There would be a small, one-time reduction of one-half of 1 percentage point in the cost-of-living adjustment [COLA] in 1995. The 1995 COLA is projected to be about 3 percent. For the average beneficiary, this reduction would amount to only $3 per month. In addition, the bill would require beneficiaries who pay income tax on their benefits but include less than 85 percent of their benefits in taxable income—about 13 percent of beneficiaries—to include a larger percentage of their benefits in taxable income. This change would apply only to better-off beneficiaries, those with incomes above $34,000 for married couples and $25,000 for singles. It should be emphasized that these provisions are part of a broad package of changes intended to preserve the program for future generations and are not intended to stand alone.

My bill also takes the final step toward universal Social Security coverage by bringing into the system the largest remaining category of workers not covered by Social Security: State and local government employees. This would be done gradually and would affect only newly-hired workers. Once the proposal was fully phased in, employees of State and local governments would be provided the same security in retirement enjoyed by almost every other worker in our economy.

Together, the provisions described above would bring the Social Security system almost half-way to long-range balance. The remaining deficit would be closed by phasing in an increase in the payroll tax for employees and employers each of 1.15 percentage points. beginning in the year 2020, and by phasing in an additional 0.8 percentage points, beginning in the year 2055.

In my view, these changes represent a reasonable and balanced way to preserve the Social Security system for future generations. My

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

bill shows that bringing Social Security into long-range financial balance is possible and requires only reasonable, moderate changes in the program. It assures future beneficiaries that Social Security will be there for them; it assures young workers that payroll taxes do not have to rise to extreme levels in order to fund the Nation's basic retirement program; and it assures today's beneficiaries that Congress will not be forced to make draconian cuts in their Social Security benefits.

A summary of the bill follows:

1. REDUCE GENEROSITY OF BENEFIT FORMULA

Several steps are involved in determining the amount of a worker's Social Security benefit. First, his or her earnings from past years are updated to current dollars, then averaged together to determine the worker's Average Indexed Monthly Earnings [AIME]. Next, a three-bracket formula is applied to the AIME to determine the benefit amount. For a worker reaching age 62 in 1994, the benefit is equal to 90 percent of the first $422 of AIME, plus 32 percent of AIME over $422 through $2,545, plus 15 percent of any AIME over $2,545. The dollar amounts in this formula—called "bendpoints"—are updated each year by wage growth in the economy. The amount produced by this formula is called the Primary Insurance Amount [PIA].

The bill would modify the benefit formula beginning in the year 2003 and gradually reduce—over a 50-year period—the benefits paid to workers with average and above-average earnings. Specifically, the bill would add a third bendpoint above the current top bendpoint and a new bracket of 10 percent which would apply to AIME in excess of this third bendpoint. Over 50 years, the current bendpoints would move gradually downward until the new bendpoint would be equivalent to the current-law top bendpoint.

2. ELIMINATE AGE-66 PLATEAU IN INCREASE IN THE NORMAL RETIREMENT AGE

The "normal retirement age" is the age at which a worker may retire with full benefits. Workers who collect benefits before reaching this age have a permanent actuarial reduction applied to their benefits. The normal retirement age is currently age 65. Beginning with persons reaching age 62 in the year 2000, the normal retirement age will begin to rise gradually by 2 months per year for each group of persons reaching age 62 in successive years until it reaches age 66. It will remain at age 66 for 12 years, then begin to rise again by 2-month increments until it reaches age 67 for those who attain age 62 in 2022.

The bill would eliminate the 12-year plateau in the increase in the normal retirement age, and instead continue to raise the age by 2-month increments until it reaches age 67 for those attaining age 62 in the year 2011. The ultimate normal retirement age—age 67—and the early retirement age—age 62—would not be changed by the bill.

3. REDUCE COST-OF-LIVING ADJUSTMENT FOR 1995

The bill would reduce the 1995 cost-of-living adjustment [COLA] by 0.5 percentage points. Because the 1995 COLA is projected to be 3.0 percent, the proposal would result in a COLA of 2.5 percent. Supplemental Security recipients would not be affected by this change.

4. REDUCE INCOME THRESHOLDS AT WHICH 85 PERCENT OF SOCIAL SECURITY BENEFITS ARE SUBJECT TO INCOME TAXATION

Beneficiaries with income above certain thresholds are required to include a portion of their Social Security benefits in their taxable income. Beneficiaries with incomes of more than $25,000 if single and $32,000 if married must include up to 50 percent of their benefits in taxable income. Beneficiaries with incomes of more than $34,000 if single and $44,000 if married must include up to 85 percent of their benefits in their taxable income.

The bill would lower the thresholds at which up to 85 percent of benefits must be included in taxable income to $25,000 if single and $32,000 if married, effective for tax years beginning after December 31, 1994.

5. COVER ALL NEWLY HIRED EMPLOYEES OF STATE AND LOCAL GOVERNMENTS

Generally, employees of State and local governments are not mandatorily covered by the Social Security system, unlike workers in virtually all private-sector jobs, and therefore do not pay Social Security taxes on their wages. The majority of these workers are nevertheless covered by Social Security, either through agreements entered into between their State and the Federal Government, or because they are not eligible to participate in a public retirement plan and thus are mandatorily covered as a result of the Omnibus Budget Reconciliation Act of 1990. An estimated one-third of State or local government employees are not covered by Social Security through either of these means.

The bill would extend Social Security coverage, on a mandatory basis, to all State and local government employees who are hired on or after January 1, 1995. Thus, they would begin to pay Social Security taxes on their wages and would earn credit toward eventual receipt of Social Security benefits. Employees hired before 1995 would not be affected by this change.

6. INCREASE SOCIAL SECURITY PAYROLL TAX IN THE YEAR 2020 AND THE YEAR 2055

The OASDI tax rate imposed on wages up to the taxable maximum—$60,600 in 1994—is 6.20 percent for employees and employers each. Another 1.45 percent is imposed on all wages and is deposited in the hospital insurance Medicare part A trust fund.

The bill would increase this rate by a total of 1.15 percentage points over a 5-year phase-in period beginning in the year 2020. By 2024, the rate would thus reach 7.35 percent for employers and employees each. The tax rate would increase by an additional 0.8 percentage points over a 4-year phase-in period beginning in the year 2055. It would reach a rate of 8.15 percent for employees and employers each by 2058 and would remain at that level thereafter.

ESSAY ENTITLED "STATE OF THE UNION" WRITTEN BY JEFF RANU

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. KLEIN. Mr. Speaker, enclosed is a copy of an essay entitled "State of the Union" submitted to me by Ms. Jennifer Ranu on behalf of her son, Jeff. Jeff is a graduating senior at De Paul Diocesan High School in Wayne, NJ.

Jeff's well written and thoughtful essay addresses many of the domestic issues that affect all of us sitting here today. It is a great example of how an active member of our young generation can express his feelings on issues such as crime, health care, and education. Jeff is to be commended for this fine effort.

I submit Jeff's entire speech to be printed in the RECORD at this point.

STATE OF THE UNION

(By Jeff Ranu)

Citizens of this great country and friends, I come before you today to present the State of the Union address.

It is the major goal of this administration to put Americans first. Nearly 2.5 million New York City middle class residents had to sacrifice clothing, medical care, living arrangements, or even food to make ends meet in the past year. Yes, here in our own country, poverty is spreading. We have unemployment, children suffering from malnutrition, and diseases we can not cure. We have serious problems among all age groups with drugs and crime. Children are having children, and our educational system is failing. In order to solve our problems, money must be spent—but Americans have been taxed enough. I will make, and keep President George Bush's promise, "There will be no new taxes." This administration pledges to heal our wounds without creating new ones. We will redirect funds from foreign to domestic aid.

We cannot afford any longer to be the keeper of the world. We have tried in the past to feed, clothe, protect and care for the sick, no matter where on this planet they live. In order to solve the world's problems, we must first solve our own problems at home. Perhaps our friends throughout the world will not look kindly at us when we finally say, "No." But, it is time that we take full responsibility to eradicate what is wrong here. Then and only then, can we resume providing aid to those who live in other lands.

We will begin with our own housekeeping. Proof of American citizenship will assure equality among Americans. The gender, ethnic background, religion or color of a person's skin, will no longer be the criteria that will determine advantages or disadvantages in the lives of the people who live here. We will pour money into research and programs that will undo the wrongs that are causing our country to be less than great. We will begin the clean-up by providing free health insurance, and free education for every American citizen.

We will not forget that it was the immigrant who built America. My own great-grandfather came from Italy, and worked as a laborer to lay the tracks which connected the east and west of this country. We owe it to our ancestors to open our doors, make immigrants feel at home, and encourage them to become American citizens too.

Education will be our major concern. Too many American citizens can not read, write, or do mathematics past an eighth grade level. New programs will be funded which will keep the youth of this country off the streets and in the classrooms where they belong—perhaps for a six day school week. Funding will be provided to create new technical programs for students who want to learn a trade. For those who seek higher education, regardless of financial need, a college education will be free to qualifying American citizens.

During the Great Depression, President Franklin D. Roosevelt initiated The Civilian Conservation Corps. This government sponsored program helped men with no direction in life, and gave them a purpose. They cut down trees in the forests of Oregon, and maintained our national parks. This administration wishes to activate this program again, modifying it to meet the needs of urban areas.

President Bill Clinton's health care program began to take steps in a direction to provide health care protection for Americans. This administration pledges to make available ample money for research to find cures for the devastating diseases which plague us today. Our senior American citizens will no longer need to liquidate their lifelong savings to pay for medical costs and prescription drugs. They will enjoy the benefits of free medical care.

Americans must always be first: on land, in the sea, or in the air. We must develop new technologies that will help us to withstand the mighty hand of nature when earthquakes and hurricanes paralyze us. We must support our farmers. We must find ways to keep our waters pure, and continue our quest to explore the universe.

We are not the kind of people who can easily turn our backs on those who reach out to us for help, but for just a little while—we may have to turn our heads. Within a short time, Americans will be able to share with the world what we have accomplished through research. But for now, we must put Americans first.

RECOGNIZING THE ACCOMPLISHMENTS OF CRIME VICTIMS' POLITICAL PLATFORM

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. SCHUMER. Mr. Speaker, I rise today to recognize the accomplishments of an important anticrime organization called Crime Victims' Political Platform. Mr. Barry Sudikor founded this group with the guiding purpose of ensuring that all citizens have the right to live safely and without fear of crime.

Crime Victims' Political Platform has helped thousands of victims and their families alleviate the physical and mental anguish they have suffered as a result of crime. By fighting for tougher legislation against criminals, CVPP is working to make our communities safe again. The organization has received recognition from 100 New York State Assembly members who want to see change in our legal system. The Fraternal Order of Police has lent its support. CVPP has also organized demonstrations against the problems with the criminal justice system, including the backlog in our courts. Such actions amply demonstrate CVPP's credo—that the safety of every American is worth protecting.

CVPP has reminded us of the duty of every citizen to make their neighborhood a better and safer place. For its work to assist crime victims, for its support on anticrime laws, and for its uncompromising values, I salute the Crime Victims' Political Platform.

THE MAN FOR ALL SEASONS

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. GOODLING. Mr. Speaker, it was a most moving sermon, and I have included a portion of it for printing in the CONGRESSIONAL RECORD because Pastor Bridges not only eulogized Mr. Natcher but also Government officials who will carry on in Mr. Natcher's absence.

The local paper ran a headline the other day: "Who Will Replace Natcher?" The story beneath it speculated on the identity of the man or woman who would next represent this district. But when we picked up the paper and read the headline we all said, silently yet as though we spoke with one voice, "No one. No one will replace him." After all, we thought, he was one of a kind. But we were wrong to think it.

One of the reasons we have gathered from across the country in this church house today is that as long as Bill Natcher was in Congress we maintained our faith in the institutions of government. But an honest man can never serve alone. He can only serve when he is in the company of others equally brave, equally devoted, and equally without guile.

The word is abroad in the land that government is bumbling, caught in gridlock, impossibly incompetent, foolishly distracted. That word is false.

The word is abroad in the land that government is populated only by the shrill voices of rancor, only by people of zero virtue, seeking their own gain, and playing loosely with the truth. That word is false.

The word is abroad in the land that government cannot be trusted, that it serves causes other than those of the people, that it is mired in the culture of only one American city, that it is blind to the values that are right and good and noble. And that word is false.

I know it to be false because I knew Bill Natcher. Because he was part of the government. I knew that the American character was intact, that the American dream was alive, and that the American vision was undimmed.

Mr. Natcher would have us remember here at this hour that he was not alone. The truth is, there are thousands of them—strong men and strong women—who are in government service this very day. His replacements are already in office, already employed, already at work, men and women of decency, faith, virtue, and honor who serve the American people.

It is true: the robe of Lady Liberty is frayed at the cuff, perhaps a smudge or two that needs to be cleaned, and it is wrinkled from overwork and great stress, but beneath the grayed robe there may be found the heart and soul of the American government that is as pure and as deep as gold.

Mr. Natcher was not the only good and decent man to ever serve this nation. The American people need to know that there are more—many more—great hearted men and women like Mr. Natcher in the government today. And there are more of them than those who seek their own pitiful private aims. Many of them are in this room today.

We are somewhat amused that only now, at his death, has the rest of the country discovered him. The country, as a whole, did not know that for forty years, this great and good man was one of those politicians who made the country work. That fact should stand as a reminder to us whenever anyone, regardless of his or her credentials, levels sweeping condemnation of the government, let them pause to remember that good men and women deserve better, that great men and great women hard at patriotism's honest tasks outnumber the shiny laggards and that decency and love of country have not evaporated from the chambers of delegated power.

The nation stands secure today on the shoulders of the political brothers and sisters of William Natcher.

SALUTING GREEK INDEPENDENCE DAY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mrs. MORELLA. Mr. Speaker, I am pleased to offer my congratulations to Greeks and Greek-Americans on the occasion of their recent celebration of Greek Independence Day. This celebration of Greek and American democracy commemorates the special bond Greeks share with us in our commitment to democracy.

Democracy was first developed 2,500 years ago in Greece. Our Founding Fathers modeled our system of government after the democratic ideals that had originated in Greece to give all citizens equality before the law, making this a day to celebrate our shared beliefs of freedom and equality for all. I share the pride of my constituents of Greek descent, as we reflect on the impact their heritage has had in the development of our democratic society.

The foundation of this very government can be traced to the Greek system of democracy. The Federalist Papers, written by James Madison and Alexander Hamilton, asserted that the "most considerable" of confederacies was that of the Greeks and the similarity and instructive power of their work assisted us in the formation of our Nation.

In saluting Greek Independence Day, we should not only honor Greece's past, but also the role Greece plays in world relations both today and in the future. Greece maintains strong ties with the United States and is currently a member of NATO and the European Community. Throughout this century, Greece has been one of the only countries to be our ally in every major international conflict.

Greek Americans have also played an extensive role in the development of the United States in the 20th century. By 1970, Greek-Americans ranked first among ethnic nationalities in regard to their median educational attainment. Greek Americans are current members of the House and Senate; they are Governors and doctors, and Presidential candidates.

Let us always remember the fact that we are all influenced by Greece and its past in some way—by its laws, its literature, its religion, its art, and other aspects of its culture.

TRIBUTE TO BIRTHPLACE OF COCA-COLA BOTTLE

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. MYERS of Indiana. Mr. Speaker, I am pleased today to honor a symbol of Americana and recognize its birthplace in Indiana.

Today, the State of Indiana will dedicate an official historical marker to honor the "Birthplace of the Coca-Cola Bottle." The bottle's design was created in 1915 at the Root Glass Co. in Terre Haute, IN, after winning a national competition to find a distinctive shape for Coca-Cola.

During the decades that followed, the significance of that trademark has gone beyond the simply commercial; the Coca-Cola bottle has become part of American culture, a symbol that generations of Americans young and old recognize.

Indiana officials, Terre Haute civic leaders, and representatives of the Coca-Cola Co., will be in Terre Haute today to celebrate this important occasion at the Vigo County Historical Society.

Mr. Speaker, it is fitting that the House of Representatives should honor the Root Glass Co., for designing, and the citizens of Vigo County for preserving, a symbol of 20th century America.

1993-94 GATOR BASKETBALL—A SEASON TO REMEMBER

HON. KAREN L. THURMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mrs. THURMAN. Mr. Speaker, I rise today to pay tribute to the 1993–94 University of Florida men's basketball team. This magnificent group of players demonstrated a unique combination of natural talent, hard work, and dedication, which vaulted them to their first appearance in the NCAA Final Four in school history.

Despite receiving little credit for their success for most of the season, the players earned the SEC Eastern Division co-championship before fulfilling their dreams of reaching the Final Four. The team's determination and never-say-die attitude are brilliantly summarized in the team motto, "Find a Way." Finishing the season with an outstanding record of 29–8, the Gators showed the Nation that by playing as a team and believing in one another, people can realize their goals. This team "Found a Way."

All of Florida can be proud of the team Coach Lon Kruger has built. We should all bring the same care and effort to our jobs and lives as he shows every day for his team and our community. Coach Kruger should be singled out for recognition for his personal dedication not only to achieving a winning basketball program, but also to providing young athletes with a real opportunity to grow and attain their life dreams, both on and off the court.

Coach Kruger demands the same level of dedication in the classroom as on the basketball court. Over the last 2 years, the team has ranked second in the SEC in all-SEC honor roll selections. Of the players Lon Kruger has coached at Florida since his arrival in 1990, 75 percent will have earned degrees by next spring. Every one of Coach Kruger's recruits who has completed his basketball eligibility will graduate on schedule.

The 1993–94 Gator basketball team was led by seniors Craig Brown and Martti Kuisma. Rounding out the team were Jason Anderson, Clayton Bates, Dan Cross, Andrew DeClercq, Svein Dyrkolbotn, John Griffiths, Dametri Hill, Tony Mickens, Joel Reinhart, Brian Thompson, Dan Williams, and Greg Williams. Coach Kruger was assisted by Robert McCullum, Ron Stewart, and R.C. Buford.

I congratulate this fine group for their accomplishments over the past year. Go Gators.

PASSAIC SEMI-PRO BASEBALL ANNIVERSARY REUNION DINNER

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. KLEIN. Mr. Speaker, I rise today to join the Passaic Semi-Pro Baseball Reunion Dinner which will be held May 6 in Clifton, NJ, as it honors four baseball greats: Richie Amos, Andrew Murcko, Rudy Demarest, and Bill Librera.

Rudy Demarest was not only a great baseball player, but also coached in north Jersey with great achievement. When Rudy was a freshman at Central High School in Paterson, he coached the varsity team to the city championship. He continued this winning tradition throughout his entire coaching career which started in 1939 and lasted until 1984. His many awards include the Managerial Award, County Semi-Pro Hall of Fame, the Gil Hodges Length of Service Award—American Legion Post 8, the Jan-Ben Marmo Good Guy Award for faithfulness and unselfishness to the North Jersey Semi-Pro League, and the Paterson Youth Guidance Man of the Year 1985.

Andrew Murcko started playing baseball when he was in grade school, and he used to watch the local clubs. He saw many greats such as Babe Ruth, Lou Gehrig, and Joe DiMaggio. Andy and his friends used to repair bats with nails and tape to last through the game. His first team, the Passaic Demuro Comets, developed an impressive winning record. He later moved on to the American Legion Post 200 where he played 2 years and went to the playoffs. Andy is currently living in south Jersey and still loves the game.

Bill Librera earned nine varsity letters at Garfield High School and gained All-County and All-State honors in football, basketball, and baseball. Although he was offered a professional baseball contract by the Brooklyn Dodgers in 1941, he chose to accept a football-baseball scholarship to Fordham University. After several years in the service, he returned to New Jersey and played with several teams. In 1949, Bill began coaching football and baseball at Lyndhurst High School where his teams won three conference titles and two group 2 sectional State championships. Later, he coached at Passaic High School, before being named the athletic director of Indian Hills High School. Among his many honors are selections to four different halls of fame at: Garfield High School, Lyndhurst High School, Panzer College, and the Bergen County Semi-Pro Baseball Team.

Richie Amos played semi-pro baseball from 1940 to 1950 for several teams: the Passaic Drazins, the Passaic Kievets, and the Passaic Demuro Comets. He played several positions for these teams including shortstop, second base, and catcher. In fact, Richie tried out for two professional teams, the Philadelphia Phillies and the St. Louis Cardinals. He was also very active in Garfield for many years. For example, he helped organize the Garfield Babe Ruth League.

It is a great honor to ask my colleagues to join me in commemorating these four men for their accomplishments.

HONORING THE ARMED SERVICE ACADEMY APPOINTEE FROM SHEEPSHEAD BAY

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. SCHUMER. Mr. Speaker, I would like to take this opportunity to recognize an outstanding young student from my district. He was among the select few who were chosen as appointees to our armed service academies.

Each of my colleagues is very familiar with the rigorous procedure used to determine academy appointments. Candidates must display the academic skills, as well as possess the character and commitment to succeed.

It is encouraging to see strong determination in those who seek appointments. People who give so much of themselves to serve their country are truly an inspiration. Those selected to the academy become part of an enduring tradition and legacy.

In 1989, Sheepshead Bay was fortunate enough to have representation at the elite service academies. Michael Simonelli was an appointee to the Air Force Academy who was a leader in his high school and example for his peers. Michael's dedication to academic interests qualified him as an outstanding student who participated on both the math team and Academic Olympics in his high school career. Michael is a hard-working and ambitious young man who relates very well with his peers and is a leader in athletics. Michael graduated from Sheepshead Bay High School in June 1989.

Mr. Speaker, I hope all of my colleagues will join me in wishing this fine young man all the best in the future. We are extremely proud to have him representing and serving us at the service academies, and hope that all of his expectations are met and exceeded.

RECOGNITION OF ADAM M. GELLER

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today in recognition of my constituent, Mr. Adam Geller from Lake Ronkonkoma, Long Island, NY. Adam's excellence in academics and athletics, as well as his devotion to his community, has won him the great honor of being named a regional recipient for the AAU/Mars Milky Way High School All-American Award.

Adam has been awarded a $10,000 scholarship toward his college education. The selection was made by a blue-ribbon panel of nationally recognized educators, Olympians, and community service achievers. Adam was selected out of 10,000 high school seniors nationwide.

An outstanding student ranked eighth in a class of 1,231, Adam is a member of the National Honors Society and the Spanish Chapter of the National Foreign Language Honor Society. Adam also serves as student government president. He received the multiple year award for Who's Who Among American High School Students and the Daughters of the American Revolution Good Citizen Award. Adam was also the Sachem High School representative at the Senate Student Policy Forum in Albany and at the New York State leadership conference. A trumpet player in the Sachem High School concert band, Adam earned a silver medal at the New York State School Music Association [NYSSMA] competition for the past 3 years.

In the athletic arena, Adam has distinguished himself in volleyball and tennis. An All-American-League player for the past 3 years, he is cocaptain of the varsity tennis team and received the Coaches Award. Adam was named to the Suffolk County Volleyball All-Academic Team and is a member of the varsity volleyball team which won the League 1 championships in 1992 and 1993 and a county championship in 1993.

Despite a demanding schedule, Adam finds time for a variety of community service activities. He works as a peer tutor and was a volunteer for the Big Brother/Big Sister Festival and for the 1992 Special Olympic Games. Adam also coordinated and participated in his school's Thanksgiving food drive. In addition, Adam lobbied for increased State aid for Sachem High School through letter-writing campaigns to Governor Cuomo, State senators and assemblymen.

Mr. Speaker, on behalf of the First Congressional District of New York, it is my pleasure to recognize Adam Geller today. I wish him happiness and success in his future endeavors.

COMMEMORATING THE 79TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. THOMAS of California. Mr. Speaker, today I ask you to join me in commemoration of the 79th anniversary of the Armenian Genocide. On April 24, 1915, under the direction of the Turkish Ottoman Empire, a campaign of Armenian extermination began. By 1923, 1.5 million Armenians were murdered, with another 500,000 forced into Russian exile. Today we recognize the struggle of the Armenian people to live peacefully in their historic homeland.

Armenians in the United States and elsewhere should know that their history of suffering has not and will not be ignored. Like the Jewish and Cambodian Holocosts, the Armenian genocide stands out as one of the world's most morally reprehensible acts. We need to address and trace the causal factors leading to the rise of totalitarian governments, and ensure that the seeds of fascism are never again planted.

On this day, we all should take a moment to remember those Armenians who died 79 years ago. The United States and our allies should also reaffirm our resolve to ensure that no nation will ever again have the opportunity to participate in mass genocide.

Thank you Mr. Speaker.

TRIBUTE TO ANCIENT AND HONORABLE ARTILLERY COMPANY

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. MOAKLEY. Mr. Speaker, it gives me great pleasure to send warm greetings and well deserved congratulations to all of my friends celebrating the 356 anniversary of the Ancient and Honorable Artillery Company of Massachusetts. I will always remember the fond memories I have of the time I have spent at Faneuil Hall with the Company.

For over three and one half centuries members of this group have exemplified the spirit of patriotism that has made our country great. Their record has been one of activism on behalf of liberty, freedom, and of all of the values on which this Nation is based. The Company's museum is a treasure, not only because it preserves this distinguished record, but because it enables younger generations to learn about our heritage.

I know the ancients will continue the tradition of the Company in providing leadership in all areas of our community and especially in public service. Public service is, after all, what drives the Ancient and Honorable Artillery Company and I feel proud of the contributions they make to the Commonwealth.

I ask the Company to please accept my best wishes for another successful year. I know there will be many more to come.

DAN WATERS, GENERAL MANAGER OF THE LOS ANGELES DEPARTMENT OF WATER AND POWER, RETIRES

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. MOORHEAD. Mr. Speaker, I thank you for this opportunity to acknowledge the significant contributions of Daniel W. Waters to the public power industry and the city of Los Angeles.

Waters who recently retired as general manager and chief engineer for the Los Angeles Department of Water and Power [LADWP], has been a tireless, caring, and innovative manager and steward of the public's valuable energy and water resources for 32 years.

His career assignments include chief field engineer for the Castaic Powerplant, manager of government affairs, assistant chief electrical engineer, and assistant general manager in charge of external organizational services.

During his tenure as GM, Mr. Waters increased the emphasis on serving the customer, in part by creating a new customer service organization. He also made environmental concerns a top priority. Under his leadership, the DWP was the first municipal utility to announce a voluntary program to reduce carbon dioxide emissions from its powerplants to address the threat of global climate change.

He also implemented several innovative water conservation measures, including a conservation-driven water rate structure, and a variety of energy efficiency programs. In addition, Dan oversaw the first development in Los Angeles of alternative water supply projects involving water reclamation and reuse. He accomplished these achievements while organizing the department's response to drought, fire, civil unrest, work stoppage, earthquake, and economic downturns.

In addition to running the Nation's biggest public utility, Mr. Waters retires as chairman of the Large Public Power Council, cochair of the National Electric Transportation Coalition, vice chair of the California Municipal Utilities Association, and vice president of the Western Energy Supply and Transmission Associates.

Mr. Speaker, I have known Dan Waters for a number of years and have worked with him on many energy and environmental issues that have been before Congress. He has always been a valuable source of information and advice, an effective ally, and a trusted friend. We will miss his participation in the development of public policy. I wish him great happiness and continued success in his retirement.

THE FIRST OCCUPATIONAL CENTER OF NEW JERSEY HONORS OUTSTANDING CITIZENS FOR 40TH ANNIVERSARY

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. KLEIN. Mr. Speaker, I rise today to pay special tribute to four exceptional gentlemen being honored by the First Occupational Center of New Jersey for their significant contributions to the community. I am very proud to join this organization on its 40th anniversary as it praises Ace Alagna, publisher of the Italian Tribune News, Allen J. Kasden, president of Crow Construction, James Lukaszewicz, plant manager of Anheuser-Busch's Newark brewery, and William J. Marino, president and CEO of Blue Cross and Blue Shield of New Jersey, Inc.

The First Occupational Center of New Jersey is a broad-based not-for-profit training and working program serving New Jersey. The center assists individuals, and their families, who are challenged by disabilities or social economic disadvantages. Through professional counseling, vocational training, and employment opportunities, OCNJ helps people to reach their full vocational potential and because contributing members of the community. It is the oldest and largest training facility of its kind in the State.

Ace Alagna, publisher of the Italian Tribune News since 1968, has been outstanding in many different kinds of activities. Not only is he a newspaper publisher, but he has also taken award-winning photos, acted in Academy Award-winning motion pictures, and been given the key to the cities of Newark, Atlantic City, Hoboken, Rome, Naples, New Orleans, and Philadelphia.

Possibly Ace's greatest endeavor has been raising millions of dollars for those in need. He dedicated a Children's Day Care Center with funds raised by the Italian Tribune News Earthquake Relief Fund during the earthquakes in northern Italy in 1976 and in Palomonte, Italy in 1980. In 1980, when Poland was in need of medical assistance, the country received over $800,000 worth of supplies from Alagna's support.

James Lukaszewicz was named plant manager of Anheuser-Busch's, Newark brewery in 1990. Prior to his Newark assignment, Lukaszewicz served as assistant plant manager at the company's breweries in Houston, Jacksonville, FL and Williamsburg, VA. Lukaszewicz joined Anheuser-Busch in 1968 following discharge from the U.S. Marine Corps, having served as a captain of infantry troops in Vietnam. He holds a bachelor's degree from Marquette University and an M.B.A. from Jacksonville University.

Allen J. Kasden, president of Crow Construction Co., has over 20 years of construction experience with an extensive background in commercial institutional, and high-rise building. Kasden holds a civil engineering degree from Duke University and is a professional engineer in the State of Louisiana. He is vice president and director of the New York Building Congress and director of the Regional Alliance for Small Contractors.

William J. Marino is president and CEO of Blue Cross and Blue Shield of New Jersey, Inc. Before Marino joined BCBSNJ he was vice president of regional group operations for New York and Connecticut for the Prudential. Marino is presently chairman of the board of trustees and 1993–94 campaign chairman for the United Way of Essex and West Hudson. He is also on the board of trustees for the New Jersey Network Foundation, and is a member of the board of regents of St. Peter's College. He served as a member of the board of trustees of the Kessler Institute for Rehabilitation, Inc., and of the board of directors and executive committee of the New Jersey Business Group of Health. He previously sat on the board of the New York State HMO Conference and Hospital Boards.

These gentlemen have helped the First Occupational Center of New Jersey assist many individuals in need. It is with great pleasure that I ask my colleagues to join me in honoring them on this occasion.

TRIBUTE TO REGIONAL AID FOR INTERIM NEEDS, INC., ON ITS 30TH ANNIVERSARY

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. SERRANO. Mr. Speaker, I rise to call to my colleagues' attention an organization called Regional Aid for Interim Needs, Inc. [R.A.I.N.], which this Thursday will celebrate its 30th year of service to the seniors of the Bronx.

For 30 years R.A.I.N. has been enriching the lives of seniors with such services as home attendant care, recreational activities, and an in-house thrift shop staffed by seniors.

This Thursday the board of directors of R.A.I.N. will honor three preeminent leaders who bear great responsibility for the welfare of the seniors of the Bronx: First Lady Hillary Rodham Clinton, New York Mayor Rudolph Giuliani, and the president and founder of R.A.I.N., Beatrice Castiglia Catullo.

Mr. Speaker, the elderly are becoming a greater and greater segment of our communities across the United States. I hope my colleagues will join me in paying tribute to R.A.I.N. and its honorees for their continuing efforts to brighten the future for ourselves and our Nation.

THE ELECTED SCHOOL BOARD: AN AMERICAN TRADITION REAFFIRMED

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. MORAN. Mr. Speaker, I would like to call the attention of my colleagues to the following article on educational policy by Dr. Thomas Shannon, Executive Director of the National School Boards Association. Dr. Shannon's article, published in the March 29, 1994 edition of the School Board News, focuses on the advantage of democratic governance of our schools through local school boards.

As Dr. Shannon points out, the resounding support of Virginia voters for elected school boards is just one indication of the strength of the institution of school boards and their democratic governance of our local schools. I urge my colleagues and their staff to note Dr. Shannon's views.

THE ELECTED SCHOOL BOARD: AN AMERICAN TRADITION REAFFIRMED

Virginia has a lesson for critics of public school governance. Those who make claims that elected school boards are not an integral part of the future of public elementary and secondary education need look only at how voters in the Old Dominion state overwhelmingly rejected that spurious notion.

A state law enacted in July 1992 allowed Virginia citizens to petition for a referendum election on the question of whether local school board members should be elected by the voters of their districts, instead of continuing to be appointed by county boards of supervisors.

Eighty school districts (out of a total 138) have held such elections so far. In all of those elections, the voters chose to have elected school boards. And the overwhelmingly "yes" votes were impressive indeed in these times when a 43 percent plurality of the popular vote elected our president, and when our governors, members of Congress and state legislators typically receive only a bare majority approval. The resultant facts in Virginia: The average majority vote percentage for all districts was 81 percent. And this percentage was substantially the same for the largest and the smallest districts and for rural, suburban, and urban communities across the state.

The Virginia lesson has several dimensions. First, there clearly is a deep and abiding faith in the American institution of free, democratic representative governance of the public elementary and secondary schools. The people trust their own elected representatives over any other form of leadership. Even when voters are frustrated and disappointed with their elected officials, there is amply evidence that it is political suicide to assume voters would rather hand over governmental leadership to someone not directly accountable to them. Indeed, any agreement about the worth of electing public officials by popular vote is usually quashed by the simple question: What would you replace our system of elected representative governance with?

Second, it ineluctably follows that if the voters want to elect their school boards, they want them to govern. They don't want school boards just to advise professionals, lead cheers for the school system, bow down to teacher unions, look to federal and state policymakers and administrators to govern in their stead, or turn over fundamental policymaking to groups of school employees and parents at school sites. The people clearly want the line of responsibility and accountability to be direct and unfettered between them as voters and their elected representatives. They want school boards to be in charge of their schools for them, with all that portends for the quality and equity of the instructional program, the competency of the staff, and the cost of education as mirrored in the school tax rate. And an important corollary is that the people expect federal and state government officials to respect their strong support of elected school boards by trusting the judgments of school boards to govern effectively.

Third, critics of school governance should focus their talents on making representative governance of the public schools works in the local community, rather than on how federal and state government officials, school employees, self-appointed groups of parents accountable to nobody, and teacher unions can end-run or subvert local representative governance. "Make the system work!" is an injunction that all of us should heed. It should be encouraged as a personal and individual duty of every person in a democracy.

The reason is simple—and Virginia voters implicitly endorsed it by gargantuan margins—our American institution of free, democratic representative governance (that is epitomized in public education by the school board) is the best system of governance ever devised by humankind. In these times of enormous change necessitated, not by the failure of schools today, but by the need to adjust our education system to the needs of tomorrow, our system of governance is not always the most peaceful, the least argumentative, the most efficient, or even every time the fairest. But overall it is the best, as we Americans know deep down in our bellies.

IN RECOGNITION OF RESEARCH I STATUS FOR ARIZONA STATE UNIVERSITY

HON. SAM COPPERSMITH

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. COPPERSMITH. Mr. Speaker, I rise today to recognize the outstanding achievement of Arizona State University in its designation as a Research I Institution by the Carnegie Foundation for the Advancement of Teaching.

In achieving this status, Arizona State joins an elite group of colleges and universities, only 88 out of the almost 3,600 institutions of higher education nationwide. To earn consideration as a Research I institution, a school must receive at least $40 million in Federal support and award at least 50 doctoral degrees per year. As ASU does not have a medical school or college of agriculture, two areas of study which traditionally receive many Federal grants, ASU's accomplishment becomes all the more impressive. In fact, ASU is one of only eight Research I schools ever to achieve this honor without having either a medical school or college of agriculture.

This academic seal of approval not only rewards the university for its impressive quality of education, but the whole metropolitan Phoenix community benefits as well. ASU's Research I status recognizes the stature of its programs, professors, and students. In addition, it increases Arizona State's ability to attract new industries to the region and enhances our State's economy. ASU's new designation only confirms what we in Arizona have known for decades, that Arizona State provides both top-flight research and outstanding graduates in key fields.

Four years ago, University President Lattie Coor spoke of the future he envisioned for ASU, one in which Arizona State would "compete with the very best in the nation and the world." The Carnegie Foundation's selection of ASU as a Research I institution shows that the future is now. President Coor and the entire university community should take great pleasure in this latest triumph, just one of many such accolades earned by Arizona State University. I know it will not be the last.

TRIBUTE TO FRED MARTELLA

HON. CALVIN M. DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. DOOLEY. Mr. Speaker, I rise today to recognize and honor a fellow farmer and longtime personal and family friend, Fred Martella of Hanford, CA, who is being honored this month by the chamber of commerce in my hometown of Hanford as its 1993 Citizen of the Year for his lifetime of service to his community.

Fred is a dairyman, cattle breeder, and an auctioneer of widespread renown. His professional skills have gone far to benefit the economy of Kings County. But they have also gone far to benefit the community at large.

Fred has always been willing to use his auctioneering skills to help local agencies raise funds. Among those organizations that have benefitted from his contributions are St. Brigid's Catholic Church, the Knights of Columbus, the Sons of Italy, and the Elks Lodge. The youth of Kings County have greatly profitted through his fundraising efforts for 4–H, Future Farmers of America, the Willow Grove School, and the Thomas McCarthy School Parents Club.

Fred has not shrunk from his obligation to take a stand for his community. His auctioneering skills were put to use to raise over $60,000 in a successful battle by the people of Hanford to keep a coal-burning plant from their town.

This is not the first time in his very distinguished life that his community has seen fit to honor Fred Martella. He was awarded a lifetime membership from the Dairy Shrine Club; served as 1964 Dairyman of the Year; was given the Phi Delta Kappa Certificate of Recognition for his service to education, and was the Kings County Old-Time Dairyman in 1990.

Fred's family is also well known in Kings County. The Martella family history in the county goes back to 1904, when his Swiss immigrant grandfather opened the first cheese factory there.

And the Martella family goes on. Fred and his wife, Ann, have been married 20 years. Fred has raised three daughters, Loretta Montgomery, Barbara Caveziel, and Celine Henking; and two stepdaughters, Cheryl Stivers and Kathy Sequeira. The Martellas have also been blessed with 12 grandchildren and 8 great-grandchildren.

Fred recently told the Hanford Sentinel that he could not find a better place to live than Hanford. "There's always someone there to lend a hand," he said.

Mr. Speaker, I submit that finding someone to lend a hand is much easier in a community that has a Fred Martella.

Please join me, Mr. Speaker and my colleagues, in honoring Fred Martella.

TRIBUTE TO KAREN AND CHRIS COLLMAN, 1994 NEW HAMPSHIRE BUSINESS PEOPLE OF THE YEAR

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. SWETT. Mr. Speaker, I rise today to pay tribute to two of my New Hampshire constituents, Karen and Chris Collman, who have recently been recognized as New Hampshire's 1994 Small Business Persons of the Year.

Karen and Chris Collman are owners of Gale River Designs, a private-label garment manufacturer located in Franconia, NH. Since its founding in 1979, Gale River Designs has grown from an attic-based venture to a thriving international business.

Perhaps the most impressive aspect of this success story, however, is the overwhelming obstacles which the Collman's have had to surmount on their road to success. Karen and Chris have been able to steer Gale River Designs through difficult times that included the bankruptcy of a major account and a devastating fire that destroyed their new facility. With astounding resiliency and with the help of a guaranteed loan from the Small Business Administration, the Collman's worked alongside their employees to rebuild.

Mr. Speaker, the Collman's success is a wonderful example of how hard work and public investment can pay off. As Congress debates budget priorities, we need to recognize the difference between government spending and public investment. There are many fine people and organizations, including the United States SBA and the New Hampshire Small Business Development Center, working shoulder-to-shoulder to ensure our small businesses will survive and prosper. By accessing the direct support offered by these organizations, through funding and one-on-one consulting companies like Gale River Designs are prospering and providing jobs and security for families all across the country. The economy of this great Nation depends on these small businesses, and I want to salute them and the organizations that stand behind them.

Mr. Speaker, Karen and Chris Collman exemplifies the rock solid values that are typical of the people of New Hampshire. Their hard work and dedication deserve our respect and recognition. I ask my colleagues to join me in congratulating Karen and Chris Collman and all of their employees, past and present, for a job well done.

IN HONOR OF VICE PRINCIPAL LIZ CHASE

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. KLEIN. Mr. Speaker, I rise today to honor Ms. Liz Chase, vice principal of John F. Kennedy High School located in Paterson, NJ. I am very proud to join the administration, faculty, staff, and students of JFK High School in paying tribute to Ms. Chase for her 25 years of service in the Paterson public school system.

Ms. Chase is the daughter of the late Rev. Aliona and Ruthie Knight and was born in Habgood, NC. She attended Shaw University for her undergraduate studies. Later, she received two master's degrees from William Paterson College, one in reading and the other in counseling. She also received certification in administration and supervision.

Ms. Chase began her career at School No. 12 in Paterson as a classroom teacher. She has also spent much time at Schools Nos. 14, 19, 13, and 28, In addition, she was the Vice Principal of School No. 25 before her current position at JFK High School.

Throughout her career, Ms. Chase has demonstrated dedication to her schools, church, community, and the city of Paterson beyond the call of duty. For these reasons, I ask my colleagues join me in honoring her on this distinguished occasion.

TRIBUTE TO LADY BULLDOGS

HON. DON JOHNSON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. JOHNSON of Georgia. Mr. Speaker, I rise today to pay tribute to an astonishing athletic achievement by a group of remarkable young women in my district. The Lady Bulldogs of Hart County High School this year won a State-record sixth straight State basketball championship. Six straight State titles. Some of my colleagues in this Chamber may have been fortunate enough to have won a single State championship some years ago and can recall the joy that came with that accomplishment. Lady Bulldog fans have experienced that joy six times over. The Chicago Bulls take pride in their three-peat of NBA titles, yet these young ladies have doubled that accomplishment. The Dallas Cowboys have two straight Super Bowls to their credit; the Lady Bulldogs have tripled that output.

Much of the credit for this accomplishment goes to the coaches, of course. First Eddie McCurley and then Glenda Gibson have guided, prodded, encouraged, and directed six different groups of athletes to the ultimate accomplishment in high school sports. Their dedication to the young people of Hart County is heartwarming. It also serves as a reminder of how much can be accomplished when a caring adult devotes his or her time and energy to such a good cause.

The numbers speak for themselves: Six State titles and 104 consecutive victories over Georgia opponents. Mr. Speaker, too often we criticize today's youth. Too often we bemoan the perceived lack of dedication, the apparent failure to focus on a goal. And then come the Hart County Lady Bulldogs to remind us that kids can still come together for their school, their parents, and themselves. Go lady dogs—shoot for seven.

REMARKS OF DR. ALBERT R. JONSEN

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. GEKAS. Mr. Speaker, I would like to share with my colleagues some remarks made by Dr. Albert R. Jonsen, professor and chairman of the department of medical history and ethics at Washington University School of Medicine, before the Congressional Biomedical Research Caucus on Monday, March 21, 1994. The text of Dr. Jonsen's remarks follow:

The speakers at past meetings of the Congressional Biomedical Research Caucus, and Dr. Jules Hirsch today, have eloquently and convincingly stated the case for the importance of biomedical research as a benefit to society and to individuals. Our society would not be what it is today—vigorous, progressive, competitive—had it not benefited from the numerous advances in promotion of health and prevention of disease that come from biomedical research. However, in recent months, a dark side to that research has appeared and has been widely noted in the media. Several months ago, news stories about research on the effects of radiation, carried out during the 1950s and 60s, under sponsorship of the Atomic Energy Commission and later of the Department of Energy, have cast doubt on the integrity of researchers and on the ethics of the research itself. In the last two weeks, the following headlines appeared in the New York Times, "Agency Faults UCLA Study For Suffering Mental Patients," (March 10, 1994), "U.S. Ethics Questioned by Critics of Vaccine Trial in Italy and Sweden" (March 13, 1994), and "Researcher Falsified Data in Breast Cancer Study" (March 14, 1991). These stories, and many others, have revealed a dark side to the world of research.

However, this revelation is not unprecedented. In the late 1960s and early 70s, a similar series of stories that questioned the ethics of biomedical research appeared in the media. These stories agitated the public, which had until then seen biomedical research as an undiluted good. They aroused the attention of legislators and regulators, who sought to remedy the abuses by law and regulation. They deeply disturbed many scientists, who deplored ethical lapses and also recognized that a tainted reputation could hinder valuable scientific work. Thus, a quarter of a century ago, as again today, significant attention was focused on the ethics of research with human subjects.

In order to appreciate the current concerns, we must understand one particular event, the accomplishments of the National Commission for Protection of Human Subjects of Biomedical and Behavioral Research. Congress established that Commission by including in the National Research Act of 1974 (PL 93-348) the requirement that a group of citizens be formed to recommend to the Secretary DHEW (now DHHS) regulations to safeguard the rights and welfare of human subjects of research and to develop the ethical principles that should govern such research. The idea of such a Commission had been proposed in hearings held by Senator Mondale in 1968, but the idea was pushed into reality by the unusual conjunction of two events. In 1971, the Tuskeegee Syphilis Study, a Public Health Service research project which had excluded 400 rural black men from treatment for syphilis over a thirty year period, was made public. At the same time, studies on the human fetus, done in Finland by American researchers with federal funds, aroused ire. Thus, legislators concerned about civil rights and racial discrimination, and legislators concerned about abortion and right to life, found in biomedical research a common cause. Without that convergence of left and right, I doubt that the National Commission would have come into being.

The Commission (on which I was privileged to serve) worked for four years. During that time it produced detailed studies of the ethical issues in research, made recommendations to the Secretary on research involving the human fetus, children, incarcerated persons, the mentally incapacitated, and endorsed a system of public and peer review of research for the nation. That system exists today and is, demonstrably, a fair, effective and efficient method to assure that biomedical research meets the ethical principles stated by the Commission: respect for personal autonomy, promotion of benefit, avoidance of harm and fairness in recruitment of subjects. This system has been in place for twenty years. The recent reports of ethically questionable research are the first to appear during that time (the radiation research, of course, was done before the system came into being).

I propose that the current problems are the result of one important gap in the system of protection of research subjects. The Commission recommended that a standing body of citizens and scientists be established within DHEW, the Ethics Advisory Board, whose function would be deliberation about particularly difficult cases. That body was instituted in 1977; it was discontinued in 1980. Although its name appears in the Federal Regulations, and it has assigned functions in the review of research, it has not existed for fourteen years. This absence essentially blocked certain types of research, such as proposals to study the human fetus and the use of fetal tissue, and made difficult the assessment of many other proposals. The two studies that made the headlines I cited above, vaccine trials and trials of an antipsychotic medication, would have, in all likelihood, gone to that body for review, had it existed. The failure to maintain the Ethical Advisory Board was a political and bureaucratic decision: it has been detrimental to research ethics and to the progress of research itself.

The Commission's accomplishments mark a before and after point in the history of the ethics of research with human subjects. For over a century prior to its establishment, biomedical research had evolved from exciting but primitive origins to a vast, sophisticated enterprise. The modern era of biomedical research begins in the first half of the nineteenth century. As scientists began to understand health and disease in terms of cellular structure and pathology, to learn more about microbial pathogens, to invent and utilize instruments to measure physical processes, biomedical science advanced from "trying the unknown," to a formal process of investigation. The great French physiologist, Claude Bernard, produced the classic description of that process in his 1865 volume, Introduction to the Study of Experimental Medicine. In that book, Bernard not only lucidly exposed the logic of investigation; he also stated the fundamental ethic for investigators. He wrote, "the principle of medical and surgical morality consists in never performing on man an experiment that might be harmful to him to any extent, even though the result might be advantageous to science, that is, to the health of others."

This statement, however, does not take into account that experimentation, which is always to some extent a voyage into the unknown, has its risks and dangers that are almost unavoidable. Strict adherence to Bernard's strict rule, "harmful to any extent," poses a difficult problem to conscientious researchers. Forty years after Bernard wrote these words, one of the most famous medical experiments was hailed for its success and the bravery of its participants. Major Walter Reed had invited a crew of persons, mostly US Army soldiers and a few civilians, to risk serious disease and even death to determine with certainty whether yellow fever was transmitted by mosquitos. When the leading medical educator of the time, William Osler, was asked whether it was not immoral to experiment on man with possible ill result, he answered, "it is always immoral without a definite specific statement from the subject himself, with full knowledge of the circumstances." Reed had done just this, preparing a document for the signature of his volunteers that informed them of the risk of death.

It is clear, from these historical events and from much other evidence, that the idea of voluntary consent of subjects and the duty to avoid harm was hardly foreign to researchers. At the same time, it was commonly believed that the researchers themselves were the best judges of the ethical nature of their work. A conscientious investigator was the best assurance of ethical investigation. This can be a fragile safeguard against abuse. Certainly, there are unscrupulous investigators, whose sole aim is fame. However, even the conscientious researcher may take a dangerous track. This may happen when persons judge that the social benefits of scientific advance outweigh in moral importance the rights of individuals.

During World War II, the worst distortion of this view generated the most heinous crimes in the name of research, the Nazi concentration camp experiments. The physician criminals who carried out these experiments were tried and convicted at Nuremburg in 1949 and the famous Nuremburg Code, stating the ethical principles for human experimentation, was first expressed in their judgment. At the same time, a great pressure was building in American biomedical science to solve the medical problems posed by war. The Committee on Medical Research, established in 1941 by President Roosevelt, began an ambitious program of sponsoring research in American universities. Biomedicine became part of the war effort. Here, too, the principle of social benefit overriding individual rights, while hardly taken to the extremes of the Nazis, carried some weight. Wartime medical research, often carried out as classified, did not always scrupulously respect the principles clearly stated by Bernard, Reed and Osler. This attitude carried over, to some extent, to the postwar, cold war years and was manifested in some of the radiation research currently under criticism. The National Institutes of Health continued and accelerated the research sponsorship that had been begun by the Committee on Medical Research and, in its early years, had no definite policy with regard to the ethics of sponsored research.

It can be said, then, that the culture of medical research prior to the National Commission was one in which the principles of voluntary consent and avoidance of harm were acknowledged. At the same time, the conscience of the individual investigator was the measure and source of judgment on these matters and a bias in favor of social benefit over individual rights, while subtle, prevailed.

The National Commission preserved the rules of voluntary consent and avoidance of harm as the foundations of research ethics and developed these in conceptual clarity and practical detail. However, it recognized clearly that the conscience of the investigator was an inadequate safeguard, since the investigator who was a physician faced an inherent conflict of interest between care of the patient and the search for new information. The Commission endorsed and strengthened the practice of peer and public review of research that had been a slowly developing policy within the National Institutes of Health during the late 1960s. Other judges than the researchers themselves were to have a say in what might constitute informed consent and risk-benefit features of all research protocols. The establishment of Institutional Review Boards at all research institutions brought thousands of participants into the review of the ethics of research, as many scientists, scholars and public members were rotated through these Boards. The private conscience of the researchers and the secret nature of research is now exposed to open and critical discussion. In this light, the ease with which social benefit can be invoked as a justification for slighting individual rights is challenged by critical scrutiny and by a very strong presumption in favor of the protection of the individual. This system, which Dr. Gary Ellis, who is with us today, can explain in detail, had been for twenty years a fair, efficient and effective method of assuring that the rights and welfare of research subjects are protected.

Yet, we are having problems. Does this mean that the system is cracking? I do not think so. I believe that the problems occur because the system is only two thirds in place. The first third consists in the clear understanding of the basic concepts of the ethics of research and their appreciation by many persons who have participated in the system of review. This is an enormous improvement in quality and quantity over the pre-Commission culture of research. The second third consists in the review system itself, implemented in research institutions and carefully monitored by federal agencies. By for the greater part of the ethical problems, such as inadequacies in informed consent documents and in risk-benefit analysis, are caught early and corrected before any human subjects are touched. The final, missing third is the Ethical Advisory Board which has not been in existence since 1980. The purpose of this Board, as envisioned by the National Commission, was to provide a forum for the difficult questions that cannot be answered at a local level or by an agency review, but require open, impartial debate. The absence of such a forum has led to obstruction of research, clumsy management of ethical conflicts and the inadequate assessment and explanation of problematic cases. Both of the recent cases that reached the headlines of the New York Times would probably have been considered by the EAB, if the process envisioned by the National Commission has been followed (although the Commission's recommendations on research with mentally incapacitated persons, which might have governed the schizophrenia studies, were rejected by Secretary Schwicker in 1983, the only example of such a rejection). In addition, recent debates over such questions as the distinction between research and treatment that troubles the development of new drugs to treat HIV infection and the inclusion of women in research studies, could have been discussed at the EAB, had it existed.

During this legislative session, Senator Hatfield submitted a bill to reestablish the EAB (SB 1042). I have heard that this proposal has been assumed into a broader plan to establish a new Presidential or National Commission that Senator Kennedy is now preparing. I do not know the details of that proposal. However, I urge attention to one crucial point. The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (1974–78) and its successor, the President's Commission for the Study of Ethical Problems in Medicine and in Biomedical and Behavioral Research (1979–82) were both time limited bodies, constituted to study and recommend resolutions for particular problems. The EAB was intended to be a standing body prepared to take on difficult questions as they arise. The former Commissions drew up broad principles and guidelines; the EAB was to apply these with prudence and flexibility to unanticipated situations. Whether or not we need a new Commission, of the former sort I am uncertain. I am sure that we need an Ethics Advisory Board. I strongly urge that this be done and that the final third of the structure for protection of human subjects be firmly put into place.

KAREN ROSENKOETTER, OF PRINCETON, IL, IS VOICE OF DEMOCRACY CONTEST HONOREE

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. EVANS. Mr. Speaker, it is my pleasure to congratulate a constituent, Karen Rosenkoetter of Princeton. Karen won fourth place honors in the national Voice of Democracy scriptwriting contest, sponsored by the Veterans of Foreign Wars of the United States and its ladies auxiliary and was named the Illinois winner.

Karen's script, entitled "My Commitment to America," is a very moving essay about her visit to the Vietnam War Memorial in Washington, DC.

I was extremely impressed by the script and the important points she made about our country and its citizens.

Karen is the daughter of Robert and Paula Morrow and a student at Princeton High School.

I respectfully submit her script to be printed here in the RECORD.

MY COMMITMENT TO AMERICA

Each morning, I get up and go through my routine to get ready for the day and then every day, I reach for that special place on my dresser and put on that silver bracelet. It is different from a normal bangle. My bracelet has been clearly engraved with letters spelling: Maj. Robert P. Rosenbach; USAF 05 Mar 70 SVN; MO.

This means a young man named Robert, a member of the United States Air Force, was declared Missing In Action on 5 March 1970 in South Vietnam. He was from Missouri. I never met Maj. Rosenbach, yet I wear his name on my wrist.

This bracelet is a symbol of my commitment to America.

When I was in eighth grade, I visited Washington, D.C. with my church choir. The most memorable place for me was the Vietnam War Memorial—a huge black wall with both ends vanishing into the ground. Each name carved on its immense face represents a lost life—a person who made the ultimate commitment to America. So many names! It was a calm, sunny day, yet all around me people were crying. I thought I would never forget.

I went back home and the memorial's effect on me slowly faded. I ignored the fact that people in uniforms were defending my country while I debated whether to wear the peach sweater or the green sweater to school that day. I forgot about the big black wall.

Then I met a girl who always wore a metal bracelet, even if it didn't match her shirt. I asked her what was so special about it and she showed it to me. It had a name on it. One name. And I remembered.

I now wear a MIA bracelet every day so I will not forget again. The wall was too powerful, too overwhelming. It shocked me, but at the same time I just couldn't grasp it. Now, I concentrate on the people. One name is easier to understand. I think about Robert every day. Who was he? Why did he go to Vietnam? What sort of plans did he have for his future?

When I put on Robert's bracelet, I am renewing my commitment to remember. The American men and women who have died for our country must never be forgotten. And I am making another commitment—a commitment to live for my country. If I actively work toward justice and peace, maybe I will affect just one more person.

One person can make a difference in another's life. If I see a child playing with a toy gun, I can hand him a book instead. If I see an angry face, I give that person my smile. And I believe it doesn't stop there. I influence one person, who influences another and another and another. Together, we can work for a better America and a better world.

Every night before I go to sleep, I go through another short routine. I brush my teeth, take out my contacts, and wash my face, just like other people do. Then I take off my silver bracelet, place it on my dresser, and crawl into bed thinking about a poem by Eve Merriam: I dream of giving birth to a child who will ask "Mother, what was war?"

Wishful thinking? Not necessarily. If each of us cared enough to influence just one person, this vision could become a reality. The unknown Maj. Rosenbach has made a difference in my life. Now I can make a difference to others. That is my commitment. That is the way to reach out—one step at a time. One name, one person, one action, can make a difference.

CHICAGO PARTNERSHIP FOR THE EARNED INCOME CREDIT

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. RUSH. Mr. Speaker, it is with great pleasure that I come before my colleagues today to offer my sincerest thanks to a very special group of Chicago businesses and community organizations who have joined me in an important venture to let citizens in the Chicagoland area know how to apply for the Federal earned income tax credit.

The earned income tax credit rewards working families who have found it increasingly difficult to take care of their children at home while working. This credit may be worth up to $2,364 for families with one or more children. In an effort to let low-income working families know about this important credit, the Chicago partnership for the earned income credit was formed. Through a series of mass mailings to Chicago families, and in conjunction with television and radio PSAs, billboards on public buses, and a press conference with Vice-President Gore, word was sent out to thousands of eligible families about how to apply for the earned income tax credit. It is expected that over 100,000 low-income families will apply for the credit and receive, on average, a credit of $1000 in 1994.

Mr. Speaker, I ask for my colleagues to join with me in thanking Ameritech; Arthur Andersen; Commonwealth Edison; the Community Currency Exchange Association; the First Chicago Bank; Jewel-Osco; the Chicago Business Women's Association and H.A. King & Associates; the Chicago Transit Authority; the Chicago Urban League; the Chicagoland Chamber of Commerce; the Illinois CPA Society; Peoples Gas Light and Coke Company; the Illinois Restaurant Association; Dominick Finer Foods; Fleishman-Hillard; Highland Community Bank; Gleeson, Sklar & Sawyers; the City of Chicago; and the IRS for their outstanding contribution in this effort to reward working families in Chicago.

HAPPY BIRTHDAY POST 291

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. ROHRABACHER. Mr. Speaker, Newport Harbor American Legion Post No. 291 is celebrating its 70th anniversary this year, and the American Legion's 75th birthday.

American Legion Post 291 was chartered on January 28, 1924, by meritorious members who fought in World War I. Since then, veterans from every war and conflict in the 20th century, representing the full spectrum of military service, have joined Post 291.

America remains a beacon of freedom and hope because of the courage and spirit of American veterans. They have endured hardship, hazardous duty, and untold sacrifices to fight tyranny and oppression around the world. As defenders of America's liberty, their dedication and commitment brought security and stability to a troubled world. They have earned our recognition and appreciation.

But for the veterans of Post 291, service to country didn't end when their enlistments did. The 1,600 members of the Newport Harbor American Legion Post have volunteered thousands of hours to make their community a better, safer place. They have sponsored local baseball teams, the Boy Scouts and Sea Scouts, and scores of civic endeavors that benefit the community. And like any good group, they take care of their own. The main charitable activity of Post 291 is for veterans in VA Hospitals.

I am honored to represent the veterans of Newport Harbor American Legion Post 291, to commend them for their dedicated and devoted military service, their exemplary record of civic participation, and congratulate them as they celebrate 70 years of service. My best wishes to them for continued success in future endeavors.

COMPEER PROGRAMS—COMPEER FRIENDSHIP WEEK, APRIL 17 TO APRIL 23, 1994

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Ms. SLAUGHTER. Mr. Speaker, this year 117 Compeer programs across the Nation will celebrate Compeer Friendship Week from April 17, to April 24, 1994. The goal of Compeer Friendship Week is to provide an opportunity for each Compeer program to increase its name recognition, gain community support, and recruit volunteers. Compeer programs will be hosting many special events during this week.

The Compeer Program, which originated in my home district of Rochester, NY, is now in its 21st year of existence in Rochester and 11th year nationwide. Begun as an adopt-a-patient program at the Rochester Psychiatric Center in 1973, Compeer matches caring, sensitive, and trained volunteers to those who are isolated, lonely, or who, because of mental illness, experience difficulty in coping. Compeer is based on the concept that, through the sharing of friendship with clients, volunteers can offset the sometime systemized isolation and loneliness of the mentally ill, and relieve families of their continuous focus on care.

In the past, the mentally ill have been discharged into communities where, in theory, they would lead richer, more productive lives than they would in institutions. The reality proves otherwise. People who suffer from illness, who are living both in and out of hospitals, suffer from isolation and loneliness. The majority lack a support system of either friends or family.

Compeer has helped to change this. A unique partnership between volunteer, client, therapist, and Compeer staff has enabled hundreds to become fully integrated into society as mentally and emotionally healthy individuals. In an era of health care cost containment, decreased funding for mental illness, skyrocketing costs of psychiatric hospitalizations, and deteriorating traditional support systems, Compeer addressed a national problem by providing cost-effective utilization of volunteers as an adjunct to therapy. Compeer has made a tremendous difference in our country—fostering and nurturing new friendships, filling the gaps of loneliness, and building bridges of understanding and hope.

I ask my colleagues to join me in celebrating Compeer Friendship Week from April 17 to April 24, 1994, and in congratulating the volunteers, clients, therapists, and staff of Compeer for their selfless and tireless efforts.

IN HONOR OF BELLE VISTA SIMPSON

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. KLEIN. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to Belle Vista Simpson United Methodist Church, located in Clifton, NJ. I am very proud to join with the church as it celebrates its 100th and 105th anniversaries on Sunday, April 24, 1994.

Belle Vista Simpson will begin the day with a special anniversary Sunday church service, and continue the festivities with a luncheon at Fellowship Hall.

Belle Vista Simpson is a small church which has been involved with the community for over 100 years. Most of the members are from Clifton, and are very active in community and civic affairs. For example, the church's special member is Mrs. Juel Olczak who is on the Board of Health and the curator of Cliftonis Hamilton House Museum. In addition, many of the members are FOCUS volunteers who help at the senior nutrition site at the church.

The younger members of the church participate in the Stallion Soccer and Little League teams. At Clifton High School, they are involved in the Mustang band, Madrigals, concert choir, and the La Crosse team.

Also, Belle Vista was a proud participant of Clifton's 75th anniversary celebration by making a beautiful float.

Moreover, Mrs. Elsie Amann deserves a special tribute because on June 17th she will be celebrating her 100th birthday. I am told that she is a remarkable lady, and one that is an example for all to follow.

Since all the members of the church contribute to the community in some kind of service, it is with great pleasure that I ask my colleagues to join me in commemorating Belle Vista Simpson United Methodist Church.

BRING SBA INTO THE TRADE POLICYMAKING STRUCTURE

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. LAFALCE. Mr. Speaker, much has been said regarding the substantial contribution of small business in the United States. Small businesses frequently are called the backbone of the U.S. economy. They constitute nearly two-thirds of the work force. They have created the vast majority of new jobs over the last decade—nearly 9 million since 1985. Indeed, much of the recent good news on economic growth in this country is owed to the dynamism of small business, as large corporations have restructured by cutting employment.

On the international front, it has been U.S. policy to encourage small businesses to export as one means to reduce our trade deficit. We have opened one-stop export assistance centers, provided counseling, and mandated that portions of U.S. trade finance and other support be directed to small business. The administration has developed a program for improving the flow of technology to small business as a means to enhance its competitiveness. Last fall, the President announced the administration's export promotion program as developed by the interagency Trade Promotion Coordinating Committee, and the Small Business Administration was a part of that effort.

The Small Business Committee, which I chair, held a hearing in February on small business initiatives recently undertaken by two international organizations—the Asia Pacific Economic Cooperation [APEC] and the Organization for Economic Cooperation and Development [OECD]. In preparations for meetings of these organizations on the small-business issue, executive branch departments—State, USTR, Commerce—called on SBA for its expertise, and rightly so. I was surprised to learn that the Small Business Administration does not participate in the existing interagency structures that deliberate on and decide trade policy issues.

The mechanism for trade policy deliberations is the Trade Policy Review Group [TPRG] chaired by the Deputy U.S. Trade Representative. This interagency trade-coordinating mechanism is established by law and specific agencies are named as participants, that is, USTR, State, Commerce, Treasury, Agriculture, and Labor. Legislation states that the U.S. Trade Representatives "may invite representatives from other agencies * * *." Over the years, Justice, Defense, Transportation, the NSC, the White House, OMB, and CEA have become regular members. Under the Clinton administration, EPA and HHS have been invited to participate. According to USTR, the Small Business Administration has never been invited to participate in the deliberations of the TPRG. Why is it that the sector of the U.S. economy that is consistently promoted as the backbone, the essence of U.S. economic strength, the new force in exporting, has never been invited to a seat at the trade table?

Mr. Speaker, today I am introducing a bill to amend the Trade Expansion Act of 1962 by specifically naming the Administrator of the Small Business Administration as a permanent member of the Interagency Trade Organization. In this way, the voice of small business will be heard consistently in the deliberations of U.S. trade policy. It is past time to recognize the importance of small business, not only in our domestic programs but in our trade-policy decisions as well. The Trade Policy Review Group is the place to do it, and now is the time.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Section 242 of the Trade Expansion Act of 1962 (19 U.S.C. 1872) is amended by inserting before the penultimate sentence in subsection (a) the following:

"(G) the Administrator of the Small Business Administration.".

TRIBUTE TO KATHERINE LOKER

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. BERMAN. Mr. Speaker, I am honored to pay tribute to Mrs. Katherine Loker, who has demonstrated great generosity with her contributions to an impressive range of cutting-edge scientific and medical endeavors. Over the years, Mrs. Loker and her late husband Donald served as volunteers and contributors to the Donald P. Loker Cancer Treatment Center at the California Medical Hospital Medical Center of Los Angeles, the University of California Irvine College of Medicine, the California State University at Dominguez Hills, the California Museum of Science and Industry, and Harvard University.

Mrs. Loker's admirable contributions to these fine institutions are equaled only by her role in the establishment of the Loker Hydrocarbon Institute at the University of Southern California. In 1983, the Lokers created an endowed chair in organic chemistry for the institute, thus helping to ensure that it would become a world-class center for excellence in hydrocarbon research. Then in 1990, Mrs. Loker contributed additional funds to construct an entire new wing for the institute.

It is impossible to underestimate the importance of the research being conducted at the institute that bears the Loker name. Hydrocarbons, including petroleum and natural gas, constitute our primary sources of energy, and we are dependent on them for transportation, heat, and a variety of other purposes. Unfortunately, hydrocarbons are a finite resource, and alternative sources of energy must eventually be found. This is the fundamental mission of the Loker Hydrocarbon Institute and the many outstanding scientists and researchers who work under its auspices. I can think of few more worthwhile endeavors.

Mr. Speaker, I ask my colleagues to join me today in saluting Mrs. Katherine Loker, whose innumerable charitable activities, whether related to cancer of hydrocarbons, share one common and extremely important theme: A vision of a better tomorrow.

TRIBUTE TO WANDA MARIE HEARD

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. DIXON. Mr. Speaker, I rise today to pay special tribute to Ms. Wanda Marie Heard, who on May 3, 1994, will retire from the Long Beach Naval Shipyard's personnel operations division. On Friday, April 22, 1994, family and friends will gather at a retirement luncheon honoring Ms. Heard for her three decades of outstanding Government service. I am pleased to provide my colleagues with just a few highlights of her stellar career.

Ms. Heard began her career with the Navy in 1965 as a commissary store salesclerk. Her performance as a dedicated, enthusiastic, and astute employee resulted in frequent promotions. As the wife of a Navy serviceman, she often moved and was faced with the task of locating new employment opportunities. Because of her outstanding employment record, however, she found little difficulty in landing new and more challenging positions with the Navy.

Wanda's unique ability to counsel individuals in personnel matters, combined with her commitment to equal rights and fairness, led her to specialize in equal employment opportunity EEO matters. Her expertise in this area would prove instrumental to enhancing the Navy's work environment, including strengthening the morale of naval enlistees.

As an EEO specialist, Wanda Heard prepared the Navy Command's affirmative employment program plan and the Federal equal employment opportunity recruitment plan and accomplishment reports. Her work received the support of management and enabled her to play an integral role in the development of affirmative employment plans in other departments as well.

During her tenure as an EEO specialist, Wanda facilitated workshops on sexual harassment, worked to increase public awareness about the necessity for removing barriers to the physically challenged, and administered comprehensive sensitivity training for her colleagues. Wanda worked diligently and effectively to mediate discrimination complaints, and has been credited with bolstering the command's recruitment program.

In recognition of her outstanding and distinguished Government service, Ms. Heard has received numerous awards, including the Federal Executive Board [FEB] Award, and the FEB Federal Women's Program Heroine Award. She also is the recipient of the Blacks in Government Presidential Award, and in 1987 received the Equal Employment Opportunity Employee of the Year Award. In addition, she has received numerous cash awards, certificates of appreciation, and special achievement awards.

Wanda is a motivating force in her community as well. She is a member of the Greater Los Angeles Area Federal Women's Council, and served as the organization's chairperson in 1989 and 1990. She also has been an active member of the Federally Employed Women, Blacks in Government, Federal Managers Association, the Seal Beach Adopt-A-School Program, and the Employees' Association. Ms. Heard has volunteered annually for the American Cancer Society's special events committee and was a participant in the Winnie Mandela Ministries.

Mr. Speaker, Wanda Marie Heard is an exceptional woman who throughout her career has championed fairness and equality for minorities in the Federal Government workplace. I am pleased to join her family, friends, and colleagues in commending her on her three decades of distinguished service to the U.S. Government. I urge my colleagues to join me in wishing her a long, prosperous, and healthy retirement.

IN HONOR OF GEORGE M. MARCUS INDUCTED INTO THE BUSINESS HALL OF FAME BY THE SANTA CLARA COUNTY CHAPTER OF JUNIOR ACHIEVEMENT

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Ms. ESHOO. Mr. Speaker, I rise to honor one of the outstanding citizens of California's 14th Congressional District, George M. Marcus, who was recently inducted into the Business Hall of Fame by the Santa Clara County Chapter of Junior Achievement. I have known George Marcus well for many years and there is no one more deserving of this prestigious honor.

George Marcus was born in Limni, Greece and earned his B.A. in economics from San Francisco State University in 1965.

He has been a driving force in commercial real estate in the San Francisco Bay Area since he first founded G.M. Marcus & Co. in 1971, and is now the president of the Marcus & Millichap Co., one of the Nation's premier commercial real estate, investment, and development firms.

George Marcus is devoted to a variety of community and civic endeavors and always makes time in his busy schedule to lend his considerable talents to such organizations as the San Jose/Cleveland Ballet, the University of California, Berkeley, Center for Real Estate and Urban Economics, and the St. Nicholas Greek-Orthodox Church, As a business leader in our community, George Marcus is an exemplary civic activist known for his integrity, generosity, and commitment.

His outstanding success in business and dedication to the community were recognized by San Francisco State University in 1989 when he was presented with its Alumnus of the Year Award. His contributions to our Nation have received public acclaim when he was awarded The Ellis Island Medal of Honor, given to distinguished Americans who perform outstanding service to humanity in any field, profession, or occupation.

In all of his work, George Marcus has been supported by his devoted wife Judy and their four wonderful children.

Mr. Speaker, I ask my colleagues to join me today in saluting George Marcus, a preeminent business leader and a genuine American hero.

HONORING SISTER MARY A. DOOLEY

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. NEAL of Massachusetts. Mr. Speaker, I would like to take this opportunity to pay tribute to one of my constituents, Sister Mary A. Dooley, who is retiring after a long and distinguished career in the field of education.

At the end of the current school year, Sister Dooley will be retiring as president of the College of Our Lady of the Elms in Chicopee, MA. During her tenure as president, Sister Dooley has thoroughly modernized that school, significantly improving the academic prestige of the institution, while upholding the mission of the college, which is to provide young women with a quality liberal arts education.

I have had the pleasure of knowing Sister Dooley personally for over 20 years and have found her to be an inspiring personality. An extraordinary woman, Sister Dooley has dedicated her life to the Christian ideals of kindness, generosity, and compassion. Her contributions to western Massachusetts however, have extended well beyond the educational community, where she chose to make her career and have positively affected the lives of thousands in that region.

A Renaissance Woman, Sister Dooley holds several graduate degrees, in a number of different disciplines. In addition to these degrees, Sister Dooley has been awarded several honorary degrees from local colleges and has also been awarded a multitude of community service awards, too numerous to include here.

Mr. Speaker, it is my great pleasure to recognize, along with the people of western Massachusetts, the career accomplishments of Sister Mary Dooley. I wish her well in her future endeavors.

FED IS ACTING PRUDENTLY

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Mr. LAZIO. Mr. Speaker, yesterday, the Federal Reserve raised short-term interest rates, for the third time this year. The action led to a 41-point drop in the stock market. So far, the Fed has raised the Federal funds rate to 3.75 percent, and 3 percent, in increments of 25 basis points.

No one disputes the FED's motives or intentions. For reasons that escape many analysts and "wannabe" analysts, the Fed believes the economy must be cooled down in order to avoid future inflation. I believe the Fed is acting prudently.

The evidence for the inflation argument based on conventional indicators is, at best, mixed and tends to argue against an inflationary threat. The conventional indicators—namely, the price and wage indices—show no upward movement inclination whatsoever. Moreover, capacity utilization is actually lower today than in 1989 when the economy was moving along a fairly good clip. Nevertheless, the capacity utilization indices are moving into a range which historically has meant future inflation. Consistent with this, industrial production for the first quarter grew at an unsustainable annualized rate of 5.7 percent.

Why, then, is the Fed so obviously concerned about inflation. Notwithstanding the absence of strong and consistent signals for impending inflation from conventional indicators, I believe the Fed has acted as it has because of its appropriate concern with overshooting our economy's noninflationary, full employment growth rate. To put it another way, the

Fed is trying to achieve the coveted soft landing and not crash and burn.

The economy is growing rapidly and the unemployment rate is now within about 1 percent of so-called full employment. If the economy were to continue to grow at a relatively rapid rate—faster than what economists call "potential GDP", about 2½ to 2¾ percent—then, inflation is indeed a very real possibility. And the Fed is well aware of the lag time required for monetary policy to take hold. Therefore, the Fed's action makes sense.

It is much better to return to our economy's potential growth rate by a soft landing than it is to crash through the full employment barrier and set off a destructive new round of inflation. The Fed also realizes that it's a lot easier and safer to coax an economy to its full employment, low inflation, sustainable growth rate from a lower growth rate than from a higher one.

Wall Street, at least as reported by the popular press, rarely thinks raising interest rates is a good thing. Indeed, the impression one gets is that lowering interest rates is always good and raising them is always bad. That, of course, is utter nonsense.

The Fed does not have the luxury of omnipotence. Like all mortals and their institutions the Fed will have to be judged on the basis of future events and outcomes. Until then, I am satisfied the Fed has acted responsibly in the face of available evidence.

TRIBUTE TO TED AND RUTH GUTMAN

HON. HOWARD L. BERMAN
OF CALIFORNIA
HON. HENRY A. WAXMAN
OF CALIFORNIA
HON. ANTHONY C. BEILENSON
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 1994

Mr. BERMAN. Mr. Speaker, Mr. WAXMAN, Mr. BEILENSON, and I are honored to pay tribute to Ted and Ruth Gutman, close friends for years and among the most active, dedicated individuals in the San Fernando Valley. Together the Gutmans exhibited the kind of devotion to community activism and good governance that is rare in these days of voter apathy.

From the 1950's, the Gutmans have generously given of their time and resources to register voters and increase community interest in representative government. Their boundless energy and tireless work made them a Valley symbol for citizen involvement.

Perhaps the only thing that Ruth and Ted place above community activism is family. And it is family that is taking them away from the San Fernando Valley, the area they have called home for more than four decades. They are moving to northern California to be close to their daughter and grandchildren. The San Fernando Valley will be made poorer by their absence.

We ask our colleagues to join us in saluting Ted and Ruth Gutman, two wonderful people who exemplify the best in democratic and representative government.

TAX RELIEF FOR HOME WORKERS

HON. SAM COPPERSMITH
OF ARIZONA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 1994

Mr. COPPERSMITH. Mr. Speaker, today, I introduced the Home Worker Tax Relief Act of 1994, a bill to assist and encourage businesses of all sizes, as well as the self-employed, a bill that also will promote family-supportive and environmentally friendly schedules and workplaces. This bill helps meet these goals by allowing people who work out of their homes to deduct home office expenses, including telecommuting expenses, from their Federal income taxes.

Current tax law treats the rapidly increasing number of people who work out of their homes unfairly. The business environment has changed, and we need the tax system to reflect these changes.

This bill allows people who work in their homes to deduct the costs of necessary office equipment as a business expense. Last year, in Commissioner versus Soliman, the U.S. Supreme Court placed severe limitations on the home office deduction, essentially making it unavailable to most home workers. This bill restores and expands slightly the prior tax deduction for the portion of a home where the taxpayer works.

This bill also breaks new ground in encouraging the work schedules and workplaces of tomorrow by encouraging telecommuting—working through a modem instead of using a car. The Home Worker Tax Relief Act of 1994 allows individuals who work at home to deduct a proportionate amount of the equipment they use to telecommute, such as fax machines, computers, and modems.

Telecommuting offers many additional benefits, both to individuals and the country. Telecommuting lets individuals take advantage of the recent dramatic advances in telecommunications to improve their quality of life. Employees who work from home have both more flexible work schedules and more time to spend with their families. Instead of driving a car to work, one can simply turn on a computer and spend the time with one's family instead of in traffic.

Telecommuting also helps the environment. Auto emissions represent the greatest source of air pollution. Telecommuting reduces auto emissions by taking people off the road and can reduce both the costs of maintaining heavily traveled roads and the need to build new roads to handle the traffic demand at peak hours.

Employers as well as employees stand to gain from telecommuting. Studies consistently show that telecommuting increases worker productivity. Moreover, this legislation could particularly benefit small startup firms that could allow telecommuting but simply cannot afford to make the investment in additional computer equipment. This bill allows employees to purchase equipment for use in their homes. The employees benefit from having flexible schedules, while the employer benefits from the employees having additional resources the business could not afforded.

Mr. Speaker, this legislation provides needed assistance to small business and to the self-employed while reducing air pollution. It allows workers to use existing technology to have more flexibility, increased productivity, and more time with their families. The technology for the workplace and schedules of tomorrow has arrived. Today, in Congress, we can make sure our tax laws keep pace.

TRIBUTE TO UMPQUA RESEARCH CO.

HON. JERRY F. COSTELLO
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 1994

Mr. COSTELLO. Mr. Speaker, I rise today in honor of the Umpqua Research Co. which has recently won the NASA Government Invention of the Year and the NASA Commercial Invention of the Year. Umpqua operates a research lab in Myrtle Creek, OR, and a sales and marketing office in Belleville, IL, in my congressional district.

The NASA awards were given in honor of Umpqua's water purification technology called the Regenerable Biocide Delivery Unit. While the system is primarily used by NASA, it has commercial applications around the world in schools, hospitals, and entire villages. Umpqua is the first organization to receive a separate NASA award for an invention demonstrating commercial potential to complement inventions that benefit NASA's mission.

The Regenerable Biocide Delivery Unit was created for NASA under a Small Business Innovative Research contract to purify water for long-term space missions. This unit differs from Umpqua's microbial check valve [MCV] cartridge system, which has been used on every space shuttle flight since 1979, in that its cartridges can be regenerated without removing them from the unit, a function which had to be done manually on the original MCV system.

Umpqua will be recognized for its research efforts by NASA at a formal award ceremony on Friday, April 22. I thank my colleagues for joining me in recognizing Umpqua for its outstanding achievement in water purification technology.

TRIBUTE TO WORKERS MEMORIAL DAY

HON. THOMAS M. FOGLIETTA
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, April 19, 1994

Mr. FOGLIETTA. Mr. Speaker, I rise on this occasion to salute Workers Memorial Day which is this Thursday, April 21. In Philadelphia, Workers Memorial Day will be commemorated with a program to be held at the Sheetmetal Workers Hall in my district. This event, cosponsored by the Philadelphia Area Project on Occupational Safety and Health [PHILAPOSH] and the Philadelphia AFL–CIO, will be attended by hundreds of labor leaders, and will honor those workers in the Philadelphia Tri-State area who lost their lives in 1993.

Mr. Speaker, each day, toxic substances, explosions, and other hazards injure more than 20,000 workers, and each year, more than 100,000 American workers die from job related injuries and diseases. These are 100,000 deaths that should not happen, and 100,000 reasons for the Congress to pass comprehensive workplace safety reform immediately. H.R. 1280, the Comprehensive Occupational Safety and Health Reform Act, will take massive steps toward protecting the American worker from danger in the workplace by strengthening job safety and reporting requirements on employers, and encouraging the Secretary of Labor to take a more proactive role in identifying and correcting work safety problems.

We have already lost too many relatives, friends, and coworkers to senseless, avoidable deaths. The time has come to remember the purpose of Workers Memorial Day and to honor the memories of those who have left us by passing comprehensive OSHA reform now.

IN HONOR OF THOMAS J. PERKINS INDUCTED INTO THE BUSINESS HALL OF FAME BY THE SANTA CLARA COUNTY CHAPTER OF JUNIOR ACHIEVEMENT

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 19, 1994

Ms. ESHOO. Mr. Speaker, I rise to honor one of the outstanding citizens of the San Francisco Bay area, Thomas J. Perkins, who was recently inducted into the Business Hall of Fame by the Santa Clara County chapter of Junior Achievement. As we the pioneers in the field of venture capital and one of its most successful practitioners, he is eminently deserving of this prestigious honor.

Tom Perkins was educated as an electrical engineer at the Massachusetts Institute of Technology and went on to receive his M.B.A. from Harvard Business School in 1957. His career has been market by excellence, whether in corporate management at Hewlett-Packard, teaching at the Stanford Graduate School of Business, or consulting with Booz, Allen and Hamilton.

Tom Perkins is best known as one of the founders of Kleiner, Perkins, Caufield & Byers, the preeminent venture capital firm in Silicon Valley. He has been directly involved in a host of successful new companies whose growth has created jobs and prosperity for untold numbers in our community. Some of the high-technology ventures that have directly benefited from Tom Perkin's considerable talents include Applied Materials, LSI Logic, Tandam Computers, Acuson, and Genetech.

Tom Perkins is also devoted to a variety of community and civic endeavors and is known for his integrity, generosity, and commitment. In addition, he is an avid collector of vintage automobiles and has built a collection that is recognized worldwide.

Mr. Speaker, Thomas Perkins is a champion of economic growth and employee ownership of companies with a remarkable record of success. He has contributed much to our community and our country. I urge my colleagues to joint me in saluting Thomas Perkins, a great business leader and a genuine American hero.

HOUSE OF REPRESENTATIVES—*Wednesday, April 20, 1994*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Bless Your people, O God, so that words will be spoken in truth, so tasks will be undertaken with dedication, so witness will be made with dignity and honor, and all the efforts of those in great responsibility, will be for benefit of people everywhere. May Your benediction, O gracious God, that supports and enlivens and gives courage to each person, be with the leaders of our land that they will be wise stewards of our resources and good custodians of our society. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SOLOMON. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 236, nays 149, not voting 47, as follows:

[Roll No. 127]

YEAS—236

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Berman
Bevill
Bishop
Blackwell
Bonior
Borski
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clayton
Clement
Coleman
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Derrick
Deutsch
Dicks
Dingell
Durbin
Edwards (CA)
Edwards (TX)
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Frank (MA)
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Houghton
Hughes
Hutto
Hyde
Inglis
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kingston
Kleczka
Klein
Klink
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey
Maloney
Mann
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Myers
Nadler
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pombo
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schumer
Scott
Serrano
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Synar
Tanner
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Traficant
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Watt
Wheat
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—149

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Coble
Collins (GA)
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gingrich
Goodlatte
Goodling
Goss
Grams
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Hunter
Hutchinson
Inhofe
Istook
Jacobs
Johnson, Sam
Kim
King
Klug
Knollenberg
Kolbe
Kyl
Lazio
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Machtley
Manzullo
McCandless
McCollum
McHugh
McKeon
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Murphy
Nussle
Oxley
Packard
Paxon
Petri
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOT VOTING—47

Bacchus (FL)
Bilbray
Boucher
Brown (CA)
Chapman
Clay
Clinger
Clyburn
Collins (IL)
Collins (MI)
Dellums
Dixon
Dooley
Engel
Fish
Ford (TN)
Frost
Furse
Gallo
Grandy
Hefner
Hoyer
Huffington
Johnson (CT)
Kaptur
Kopetski
Leach
Manton
McCrery
McDade
McInnis
McMillan
McNulty
Meyers
Neal (NC)
Owens
Ridge
Sharp
Shuster
Swift
Towns
Tucker
Washington
Waters
Waxman
Whitten
Young (AK)

☐ 1024

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. POMEROY). The Chair will ask the gentleman from Missouri [Mr. SKELTON] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. SKELTON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1490

Ms. LONG. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1490.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

There was no objection.

BUDGETARY FIREWALLS

(Mr. SKELTON asked and was given permission to address the House for 1 minute.)

Mr. SKELTON. Mr. President, today I have introduced legislation that will protect our Armed Forces by establishing budgetary firewalls between the defense and nondefense discretionary spending through the year 1998.

As Members know, Mr. Speaker, our country faces a budgetary crisis that threatens our national security. Without a constant effort to manage this crisis with prudence, our Nation's defense accounts will suffer. In cooperation with the gentleman from South Carolina [Mr. SPENCE], the gentleman from Washington [Mr. DICKS], the gentleman from Mississippi [Mr. MONTGOMERY], the gentleman from Florida [Mr. HUTTO] and 48 other Members, I am introducing the National Security Budgeting and Deficit Control Act of 1994, to protect our defense capability.

This bill should be received by this House as a message from several of us who are concerned about the future of the United States military.

Mr. Speaker, today 53 of us join together to act on this concern. Thus, I am today introducing the defense budget firewalls bill.

A DEMOCRATIC LEADER ATTACKS SOCIAL SECURITY

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I was astonished this morning to see a Democratic leader proposing taxes on Social Security. Yesterday a Democratic leader proposed a cut in the retirement benefit for average and above average incomes, 8.4 percent less for average retirees, 20 percent less for higher income retirees, a cut in the annual cost of living for Social Security recipients for the first year after enactment, a tax increase for retired individuals of $25,000 and for retired couples of $32,000, and a 31-percent tax increase in the payroll tax for workers and employers.

Last year the Democrats passed a big tax increase. This year the Democratic leadership is proposing a big tax increase to pay for a government-controlled health care bureaucracy. Now a Democratic leader is proposing to tax workers and retirees. Where does it end?

CRIME BILL

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, so often when you pickup the Washington Post in the morning there is a story about a horrible crime committed the night before. And, unfortunately, crime has become a fairly common story in my hometown paper, the Hartford Courant, as well.

There is no easy solution to crime, no simple way to eliminate the fear that so many people live with. But the bill we have been considering offers hope. It offers the tools we need to attack crime head on. It talks about punishment and prevention and rehabilitation. And one of the most important provisions in this bill is one to place 50,000 more police officers on the streets.

Community policing is an effective weapon in the war on crime, but most police departments across the country face manpower shortages and budgets which are stretched too thin. We need to send them reinforcements, so police can be placed where they are needed most.

The families of our Nation have talked to all of us. They are concerned about crime, worried about their children's safety. We must put our differences aside and pass this crime bill. This bill is historical. For the first time Federal law has addressed violence against women. Fact, a child that observes violence is 700 times more apt to be an abusive adult.

□ 1030

CRIME BILL INCLUDES IMPORTANT CHILD PROTECTION PROVISIONS

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Speaker, with all the media hype about "three strikes and you're out," more cops on the beat and the death penalty, it is no surprise that three sections of the House crime bill dealing with crimes against children have received little attention.

Nonetheless, these provisions I have authored are important to the children of America, their families and to law enforcement and merit the support of every Member of Congress.

First, we need the Jacob Wetterling child protection bill to establish a national registration system for convicted child abductors and molesters.

Second, we need to pass the Child Sexual Abuse Prevention Act to curb international trafficking child pornography and sexual abuse.

One of the 30 child advocacy groups supporting this bill called it "the most significant Federal legislation against sexual exploitation of children since the Mann Act."

Third, the Assaults Against Children Act addresses a serious gap in current child abuse law by providing felony prosecutions for assaults to children which result in substantial bodily injuries.

Mr. Speaker, these child protection provisions are important and deserve a strong, bipartisan "yes" vote on the crime bill.

Mr. Speaker, I want to thank my cosponsors, the gentleman from Massachusetts [Mr. KENNEDY] and the gentleman from New York [Mr. SCHUMER] and the gentleman from Texas [Mr. BROOKS] for their help on this bill.

A HEALTH CARE PIZZA PIE WITH NO BALOGNA

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, health care and pizza came together last week when the chairman of Godfather's Pizza claimed the Clinton health care package would increase health care costs to him four times. Let us look at a piece of his pizza.

First of all, out of a $28 million payroll, an estimated sales of $250 million, a $10 pizza at Godfather's, the cost impact might be as high as 10½ cents, about 1 percent.

Now let us look at the extra toppings for Godfather's: a 7.9 percent premium percentage of payroll, a great deal; workers compensation costs that are handled as an offset; the stopping of shifting of premiums that we all pay on our private insurance, reducing the tax bite all of us pay because of uninsured Godfather employees; and finally, insuring all of Godfather's employees, or most of them, at least.

So look again, Godfather's, and I challenge you to help us deliver this health care pizza quickly, on time, delivered to all, and delivered with no balogna as a topping.

CONTINUATION OF THE CONSERVATION RESERVE PROGRAM

(Mr. BARRETT of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT of Nebraska. Mr. Speaker, I am greatly disturbed by the administration's USDA reorganization plan to release farm ground enrolled in the Conservation Reserve Program, or CRP. This program is vital to helping farmers maintain the stewardship of the land, by saving 690 million tons of soil from erosion each year.

The CRP holds more than 36 million acres of highly erodible land. My district itself contains nearly 1 million of those acres.

Unleashing this ground into production would be devastating to the environment, because it is susceptible to erosion. It would also devastate the market system because 10 million idle wheat acres, and 4 million idle corn acres would be unleashed onto the market place.

Mr. Speaker, I have cosponsored Mr. BEREUTER's bill H.R. 3894. The bill extends the CRP for 10 years. I urge my colleagues to lend their support to continuing the CRP.

AMERICA NEEDS A CONGRESS WITH A BACKBONE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, my bill, H.R. 3261, will change the burden of proof in a tax case. Under current law, taxpayers are guilty, guilty and have to prove they are innocent. A mass murderer is innocent until proven guilty, but not mom and dad, unbelievable. But what is more troubling are the numbers of Members that say they support it but are afraid to get involved, afraid to get involved.

If Congress lost its backbone, what do you think is happening to the American taxpayers? We ought to be ashamed of ourselves. It is a sad day when a 125-pound woman named Mary Matalin of Equal Time displays more courage than many of the Members of this body.

It is time to get back to the Constitution. Sign discharge petition number 12, and if Mary Matalin can take the heat, Members of Congress can take the heat. Find a backbone, Congress, find a backbone.

HEALTH CARE REFORM SHOULD DO NO HARM

(Mr. GOODLATTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODLATTE. Mr. Speaker, everyone knows that the first thing a doctor is taught, is to do no harm. Well, the same should be demanded of legislators and administration officials when they enter government—especially—when it comes to messing around with the highest-quality health care in the world.

Why are we talking about a drastic Cooper-Clinton health care approach of Government rationing, when more than 85 percent of Americans already have some form of health insurance?

Why are we even discussing employer mandates, when the Republican plans—like the Michel-Lott plan—require all employers to offer, but not pay for, at least one standard plan to their employees and dependents?

And last, why are we worrying about people's insurance being canceled, when Republican plans solve that problem by not allowing anyone to be denied health care insurance because of a preexisting condition or change in employment?

Mr. Speaker, it is time we do no harm, and instead, actually help. Please, check out what the Republicans are offering in the way of health care reform.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

(Ms. CANTWELL asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. CANTWELL. Mr. Speaker, I rise today to remind my colleagues that our consideration of H.R. 4092—the Violent Crime Control and Law Enforcement Act—is a matter of life and death.

A few weeks ago in Seattle, 16-year-old Melissa Fernandes was standing outside Ballard High School with a group of her friends, when two cars suddenly sped past and shots were fired. Melissa was killed, the innocent victim of a drive-by shooting by members of one gang trying to settle a score with their rivals. The gunman who allegedly shot Melissa Fernandes is 16 years old.

Mr. Speaker, H.R. 4092 will not prevent every senseless act of violence. Nothing we can do will accomplish that. But we must have the courage to take the steps we can, and this bill will help communities do two things better: prevent crime and punish criminals.

We have seen too many of our children become the victims of violence. We must act now to stop the violence.

I met recently with approximately 50 students from five different high schools in my district, and I was shocked to learn that the thing these kids were worried about most was going to school every day and being hurt, or even killed, by one of their own classmates. When I asked how many of them had seen guns in their school, most all of them raised their hands.

These kids do not know whether crime rates are going up or down. What they know is the story of Melissa Fernandes, and too many others like her. They are scared—and they have reason to be.

Mr. Speaker, I urge my colleagues to support H.R. 4092, because it promotes effective prevention and prescribes tough punishment. For young people like Melissa Fernandes, the passage of this bill is a matter of life and death.

THE CLINTON HEALTH CARE PLAN: BAD NEWS FOR AMERICAN FAMILIES

(Ms. DUNN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN. Mr. Speaker, first and foremost, Americans think about their families. And when a Washington, DC, politician dreams up something that is clearly going to affect their everyday lives, they think long and hard about it. That is why the Clinton health care plan is doomed to failure.

The big question that Americans are asking now is: "What's this plan going to do to me and my family?"

Well, first, it is going to cost you a lot. The Clinton plan is going to cost billions and billions. And somebody is going to have to pay for it. Guess who?

"Who's going to be in charge?"

Bureaucrats. Lots and lots of government health care bureaucrats. Hardly a comforting thought.

"What about choice? Will we be able to keep are own doctors—our family physician, our pediatrician our ob-gyn, our specialists?"

That is up to the health care bureaucrats.

Mr. Speaker, when the Clinton health plan is finally dead and buried, it will be because the President and his advisors have grossly underestimated the American people and the great concern they have for their families.

Let us take a look at the Republican health care plan. No taxes. No bureaucrats, and nobody telling you who your doctor is going to be.

That is what is good for American families.

CRIME: AN AMERICAN DILEMMA, NOT A POLITICAL ISSUE

(Ms. LAMBERT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LAMBERT. Mr. Speaker, I came to this body as a freshman with the high hopes that this body would begin to work together on issues for the American people. But I stand in this Chamber today disappointed to hear that members of the Republican Party have circled their wagons to defeat the crime bill for political resasons. I have in my hand a letter circulated by one Republican encouraging members of his party to kill the crime bill in order to bring the crime issue back to Republicans for at upcoming election issue.

Individuals who seek to shoot down this crime bill to give their party control of the crime issue are stealing from the American citizens. Crime is not a political issue. It is an American dilemma.

I have said before that a return to strong families, individual responsibility and a sense of community will defeat crime faster than any law. The Republicans have tried to seize ownership of family values as well. But supporting strong families, individual responsibility and a sense of community is not a political issue either.

I challenge my colleagues on both side of the aisle to quit squabling over who can control issues and to begin fighting to rescue Americans from deteriorating values and threadbare moral fiber that leads to crime.

□ 1040

CRIME IS NO. 1 ISSUE ON MINDS OF AMERICANS

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, the gentlewoman from Arkansas is exactly right, and for that reason we ought to look at the substance of this bill. That is what is really going on.

Will this legislation put more criminals in prison, lock up more criminals for life, stop treating the criminals as victims and the victims as criminals? That is what the American people should look at as we debate this crime bill this week and we should not use partisanship as we just heard to divert the attention of the American people.

Mr. Speaker, the approach to the crime bill is clearly not what it ought to be to get the effect of what we want to have happen. Where the majority worries about civil liberties, we are worried about victims' rights. Where this bill is seeking social spending for midnight basketball, we are seeking spending for prison construction. Where the majority wants understanding for the criminal, we want swift and fair justice.

Mr. Speaker, crime is the No. 1 issue and concern on the minds of the American people. Let us not turn them down.

PUT TEETH IN THE CRIME BILL

(Mr. KIM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIM. Mr. Speaker, we have all heard of the kidnaping and murder of Polly Klaas. But Polly's tragedy is not an isolated case. Recently, in my hometown of Diamond Bar, a 13-year-old girl was raped in her own home. How many more times must we listen to the painful cries of another child in the night whose life has been shattered by repeat offenders?

We can no longer stand idly by and allow this situation to worsen. Violent criminals feel no fear from our criminal justice system.

We have a real crime crises in this country that demands real solutions. We must pass a crime bill that streamlines judicial procedures to make sure the guilty are punished, that their punishment is swift and certain, and that the revolving door that spins out violent criminals is nailed shut once and for all.

Congress can no longer be a part of the problem. The crime bill we are debating today puts more funds into feel good social welfare programs than it does into punishing criminals. It's time to put politics aside and get down to the business of making America safe again.

Mr. Speaker, I urge my colleagues to vote to put real teeth into this bill and take the first steps to putting criminals where they belong—behind bars.

THE FEDERAL RESERVE

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, our economy is slowly improving and as much as we would like to take credit for our new growth, we must also recognize that all segments of our economy are not growing as quickly as they should be.

In fact, a number of companies are eliminating jobs. For instance, General Motors has plans to eliminate 69,000 jobs, Sears will eliminate 50,000, IBM—38,500, and AT&T—over 33,000. This is hardly an economic boom yet the Federal Reserve has decided to raise interest rates three times this year.

We have made a great deal of progress toward improving our economy and the low interest rates we have experienced have fueled much of this recovery. Clamping down on the money supply only makes sense to curb inflation yet the Fed points to no real evidence of inflation when it raises rates. Rather they argue that they are mitigating against future inflation by raising rates now rather than when inflation is apparent. This equates to no more than firing shots in the dark.

Let us look at who is hurt by a sharp rise in interest rates. The first time home buyer who may have been prepared to close a deal on their new home this week may have seen their payments raised and the small business who may have been looking for a loan to expand has now found the banks unresponsive and the rates rising out of reach.

Our economy is growing but it is far from overheating. The recent actions by the Federal Reserve have sent a message of restraint to an economy in need of expansion. We know that the only way to truly eliminate our national debt is to grow out of it and a lot more growth in our economy is needed.

I urge the Federal Reserve to stop chasing shadows and wait for real signs of inflation before taking any further action to raise interest rates.

SUPPORT THE PRYCE-STUPAK AMENDMENT TO THE CRIME BILL

(Ms. PRYCE of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PRYCE of Ohio. Mr. Speaker, today I rise in support for the Pryce-Stupak amendment, a simple, commonsense step toward reducing violence in America and addressing the rights of crime victims. Very simply, it prohibits weight training and fighting instruction within our Federal prisons. With the dual benefit of making prisons safer for our corrections officers and helping protect potential crime victims.

Not only is this equipment used inside prisons as weapons—but it also supplies a means for many prisoners, already prone to violence, to increase their strength and bulk. We have unwittingly been mass producing a super breed of criminals.

As a former prosecutor and judge, I understand the value of exercise as an inmate management tool. But, there are so many other forms of exercise—including basketball, jogging, aerobics, handball, and calisthenics—that cost much less and make more sense.

It defies logic that we are using taxpayers' money to provide state-of-the-art health clubs for convicted criminals. This is not a bread and water measure. Some of these prisons have larger weight programs than many high school athletic departments.

The Pryce-Stupak amendment is not a cure-all to crime. But, it is an important step for victims rights. Mr. Speaker, who is running our prisons anyway? If you want to stop building a better thug, support the Pryce-Stupak amendment. Let us replace barbells with books.

THE DEMOCRATIC PARTY WANTS A TOUGH CRIME BILL

(Mr. BARLOW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARLOW. Mr. Speaker, the majority party is delivering a message to those who commit crimes in our Nation that justice will be swift and certain. We must address the rising crime problems of the Nation and this Congress will pass a tough and decisive crime bill. The majority party is going further, and we are determined to head off crime before it occurs. After crime occurs, it is too late for the victims.

Mr. Speaker, the majority party is determined to try every avenue to head crime off before it occurs. We want to send that message to the American people, and the American people are listening and they are hearing.

THE COSTLY CLINTON HEALTH CARE PLAN

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, the President's health care plan would result in massive new bureaucracy and regulation of the economy.

Do not just take my word for it. I invite my colleagues to read a report titled, "The Regulatory Requirements of the Health Security Act," prepared by Multinational Business Services, Inc. Among the findings of this report are the following:

The Clinton plan will require 98,146 new Federal, State, and health care alliance bureaucrats.

The Clinton plan will require 59 new offices to support these bureaucrats.

The Clinton plan contains 818 new regulatory mandates on the Federal and State governments.

The Code of Federal Regulations would grow by about 2,891 pages.

Staffing expenditures alone would cost Federal, States, and health alliances more than $3.9 billion each year.

If the American people think the Government is too bloated and regulates too much now, we ought to be highly alarmed by the Clinton health care plan.

□ 1050

INTRODUCTION OF LEGISLATION TO AID PARENTS WITH BASIC CHILD DEVELOPMENT

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. UNSOELD. Mr. Speaker, we are all horrified by the terrible senseless violence that is prevalent in our streets and our cities today, but while we are acting on the crime bill, we must remember that it is not enough to simply talk tough or even vote tough. We must go back to the roots of the problem and remember that violence prevention begins with families.

This year we are reauthorizing the Head Start Act. I would like to supplement it in legislation that I am introducing today to emphasize the very early years, birth to 3, and how those formative years can help set the course and the values for an adult through their life.

My bill will, among other things, help parents in basic child development, help parents in developing communication skills and how to handle discipline requirements.

Mr. Speaker, I ask that my colleagues support me on addressing violence prevention where it really matters: in the early years.

REFORM, ITALIAN STYLE

(Mr. MANZULLO asked and was given permission to address the House for 1 minute.)

Mr. MANZULLO. Mr. Speaker, are the American people ready for a government-run health care system?

According to those who must endure the Italian government-run health care system, they are not.

Let me quote from the chief economics adviser of the new Italian Premier:

> The waste on health care is just incredible. If half the money we spend went to the poorest 20 percent of our population, we would eliminate poverty. If you Americans could see the bureaucratic mess in our health sector, you would think twice about getting the national government involved in such a big way.

Mr. Speaker, let us think twice before we get government involved in health care in such a big way.

Let us look for solutions that fix the holes in our current system without tearing up the entire system.

Let us press for reform in health care, and that does not include a government-run health care system.

CAMPAIGN FINANCE REFORM

(Mr. THOMAS of California asked and was given permission to revise and extend his remarks.)

Mr. THOMAS of California. Mr. Speaker, as we head toward the House and Senate conference on campaign finance reform, let us remember it is supposed to be for the American people. The American people do not want more of the same with PAC's, and they certainly do not want taxpayer support of campaigns.

What do the American people want? In today's Washington Post, on the Federal Page with the headline, "Americans Want A Direct Say In Political Decision-Making," "The poll, the latest in a series of surveys done by the Americans Talk Issues Foundation, attempted to fuse campaign-style polling with academic research to draw a deeper portrait of public attitudes about government reform. The intent, the foundation's pollsters say, is to find true consensus on public-policy issues.

"'You come of these surveys with a real sense of the wisdom of people,' said Democratic pollster Celinda Lake. For instance, after hearing the pros and cons, 70 percent favor requiring congressional candidates to raise at least half of their campaign funds from individual voters in their district."

This position was offered by Republicans, but rejected by Democrats, who want no change in PAC's.

Mr. Speaker, If you want to limit PAC's, dump Democrats. If you want a majority of the candidate's money to come from people in the district, if you want local control of campaign finance, vote for Republicans.

A-Z PLAN TO REDUCE SPENDING

(Mr. ALLARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLARD. Mr. Speaker, the A to Z spending cut plan is now cosponsored by a majority of the House. There are enough Members to force a discharge petition, and this process will begin next week.

This is the spending cut plan that the American people have been demanding for years. Under this plan, a special session of Congress will be convened to deal exclusively with spending cuts.

Individual spending items will be called up, debated, and voted on one by one. No longer will special pork projects be protected in huge appropriations bills. Each item of pork will be subjected to the light of day and Congress will have to go on record to fund or eliminate that item.

For once we will know which Members of Congress are serious about cutting spending, and which ones are just full of hot air.

The House majority has rejected the balanced budget amendment and the Penny-Kasich spending cut plan. Last week the majority even rejected $26 billion in additional spending cuts approved by the Senate. It is now time for the House to approve the A to Z spending cut plan.

SAVING WITHOUT DESTROYING

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, when thinking of the President's health care reform plan, I am reminded of a quote from a military man in Vietnam who said: "It became necessary to destroy the town in order to save it."

This kind of muddled thinking is what drives the President's plan.

The Clinton plan will destroy our current health care delivery system in the name of reform. It will hurt the quality, limit the choice, and increase the cost while turning over much of the responsibility to the Government.

I urge my Democrat colleagues to work with Republicans in finding a better solution.

Instead of worrying about who gets the credit, let us work in a bipartisan way to serve the needs of the Nation.

Instead of killing our system in order to save it, let us work together to fix the problems without hurting health care quality.

This health care system can be saved without destroying it.

THE CRIME IN GORAZDE

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, I had intended to get up here and talk about crime this morning, but I will wait until later to speak at length on the so-called crime bill we are debating this week.

Instead, I want to start by mentioning the crime that is going on in and around the village of Gorazde in what used to be Yugoslavia.

We must lift the arms embargo, even if that means the number of killings will increase.

This week is the 51st anniversary of the beginning of the slaughter of the Polish Jews in the Warsaw Ghetto. It would have been nice if they had been able to make the Gestapo pay a more severe price as they were slaughtered.

We cannot let people be killed wholesale without giving them the means to defend themselves.

Mr. Speaker, it took us 30 years from the anarchy of the mid-1960's to reach the deplorable rate of crime we now have today.

□ 1100

It is going to take a full generation to change the attitudes that have created this crime wave across this country. Liberal philosophy has brought us to this point.

It is going to take another 30 years to begin to undo the damage that has been done. The liberal philosophy in this Chamber, putting up these phony resistances to a good crime bill, is tragic. Crime will be identical next year, worse than what it is right now. And the Democrats crime bill will matter nothing because it is phony.

SEEKING SOCIAL SECURITY SOLVENCY?

(Mr. BOEHNER asked and was given permission to address the House for 1 minute.)

Mr. BOEHNER. Mr. Speaker and my colleagues, this morning the Washington Post contained an article about the Social Security Administration running out of money in the year 2029. Yesterday the chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI] introduced a bill that would do five things. It would, when implemented, give less benefits to those in the out years, it would speed up the scheduled change in the normal retirement age from 65 to 67, it would reduce the annual cost-of-living adjustment, it would increase the amount of Social Security income that becomes taxable, and, finally, it would increase the Social Security retirement tax on workers.

All of this, as Mr. ROSTENKOWSKI says, and I quote, "to reassure the young wage earners in America."

Now let me get this straight: We are going to reassure young wage earners in America by reducing Social Security benefits, by increasing the retirement age, by increasing social security taxes?

That does not sound very reassuring to me. It sounds, in fact, that it is the same Democratic prescription we have for health care: Pay more, get less.

THE DETERIORATING SITUATION IN HAITI

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, the situation in Haiti continues to be a disgrace to the United States and the world community. There are those in the Congress now calling for an increase in sanctions on Haiti's already battered people.

Sanctions in Haiti do not affect the thugs who have taken control, nor the wealthy. Even our U.S. embassy has proved that the sanctions are a cruel hoax. Sanctions do not stop the murders, rapes, and devastation of political opposition.

Those who advocate more sanctions advocate another dose of a failed policy. Those who advocate more sanctions condone the expansion of a policy that has brought death and malnutrition to children, the infirm, and the elderly. Those who advocate tighter sanctions will continue to strangle innocent Haitian babies. Increased sanctions will kill more than the 1,000 Haitian children dying each month because of the current failed policies.

Where is the leadership of the world's strongest nation for its weakest neighbor? Why can't the United States and the United Nations enforce international agreements and restore democracy? Anything less is a travesty for all concerned.

Sanctions have murdered Haiti's poor, destroyed its employment base, and crushed any hopes for future economic development and international investment in Haiti. Additional sanctions will only devastate the poorest of the poor in Haiti.

Further sanctions will only grind the faces of Haiti's poorest further into the soil already stained by blood from our current policy.

CONFERENCE REPORT ON H.R. 2884, SCHOOL-TO-WORK OPPORTUNITIES ACT OF 1994

Mr. FORD of Michigan. Mr. Speaker, pursuant to the previous order of the House of Tuesday, April 20, 1994, I call up the conference report on the bill (H.R. 2884) to establish a national framework for the development of school-to-work opportunities systems in all States, and for other purposes.

The SPEAKER pro tempore (Mr. POMEROY). Pursuant to the order of the House of Tuesday, April 19, 1994, the conference report is considered as read.

(For conference report and statement, see proceedings of the House of April 19, 1994, at page H2452.)

The SPEAKER pro tempore. The gentleman from Michigan [Mr. FORD] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 2884, the School-to-Work Opportunities Act.

Initially, I want to point out that we have had wonderful bipartisan cooperation on this legislation. The cooperation of the committee's ranking member [Mr. GOODLING] as well as that of his fellow conferee [Mr. GUNDERSON] was invaluable. Also, Mr. KILDEE who chairs our Subcommittee on Elementary, Secondary and Vocational Education, and Mr. WILLIAMS who chairs our Subcommittee on Labor-Management Relations, made important contributions. I also want to thank the staff on both sides, Omer Waddles, Jon Weintraub, Colleen McGinnis, Mary Gardner, and Tom Kelly who worked long hours to complete this project.

The goal of this legislation is to expand career and education options for the 75 percent of high school students who do not receive a college degree. By providing flexibility in establishing school-to-work systems, we expect that States and school districts will be able to build on the many successful, innovative programs they already have implemented.

Under the school-to-work concept, educators, employers, and labor representatives develop partnerships in which high school juniors and seniors attend school part-time and go to work part-time. Their school course work complements their particular on-the-job experience, enhancing their qualifications in the eyes of potential employers. School-to-work participants receive not only a high school diploma, but a certificate of competency in the set of skills necessary for their chosen field. Alternatively, these young people go on to appropriate postsecondary education or training. At the end, they will have a ready answer for employers whose first question is always, "Do you have any experience?"

The bill would authorize the School-to-Work Program, to be administered jointly by the Departments of Labor and Education, for 5 years, including $300 million in fiscal 1995 and such sums as may be necessary in 1996 through 1999.

The Federal role in school-to-work is to provide grants to States and localities to establish these partnerships, and to establish a flexible framework to ensure that students receive the kind of training that will launch them on successful careers.

The basic components, developed by States, include work-based and school-based learning, and coordination of the two.

Under work-based learning, students would receive job training, paid work experience, workplace mentoring and instruction in skills and in a variety of elements of an industry. At school, students would explore career opportunities with counselors. They would receive instruction in a career major, selected no later than 11th grade. The study program's academic and skill standards would be those contained in the administration's recently passed school reform bill, H.R. 1804, the Goals 2000: Educate America Act. Typically, their course work would include at least 1 year of postsecondary education and periodic evaluations to identify strengths and weaknesses.

The coordinating activities involve employers, schools, and students, who together match the students with work opportunities. Teachers, mentors, and counselors also will receive program instruction.

States' school-to-work plans, submitted for Federal implementation grants, would have to detail how the State would meet program requirements. They also would explain how the plans would extend the opportunity to participate to poor, low-achieving and disabled students and dropouts.

The conferees resolved several important differences between the House and Senate bills. The final language assigns to Governors the authority to apply for Federal school-to-work funds. But their applications are to reflect cooperation and collaboration with the State entities that actually administer the State's school-to-work program. We would allow officials who disagree with a Governor's application to include their concerns.

Another area of concern is whether school-to-work programs include paid work for school-to-work participants. Under the conference agreement, the Secretaries of Labor and Education would give preference to applications that include paid work.

An important theme of this bill is its coordination with other Federal training initiatives such as tech prep, cooperative education, vocational education, and the just-enacted Goals 2000: Educate America Act. The bill would require the Secretaries to disseminate information on the model programs throughout the country using existing structures, such as those established by the Job Training Partnership Act and the Educational Resources Information Center Clearinghouse.

Ten percent of the funds authorized by the bill—$30 million in 1995—would be set aside for school-to-work programs in high-poverty areas.

This bill is an important blueprint to help us build a high-skilled work force for the 21st century. In line with other proposals developed by the Clinton administration, it does not establish new Federal bureaucracies but makes States and localities partners with the Federal Government in achieving goals crucial to improving the lives of our citizens.

Mr. Speaker, with the leadership of the President and his Cabinet, and the hard work of the Department staffs and our committee staff, we are ready to assist millions of young people get their fair shot at the American dream—a good wage in return for skilled work that employers need.

I urge my colleagues to support the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference agreement on H.R. 2884, the School-to-Work Opportunities Act of 1994.

This legislation is designed to bring together partnerships of employers, educators, workers, and others for the purpose of building a high quality school-to-work transition system in the United States.

Such a system will prepare this Nation's youth for careers in high-skill, high-wage jobs.

It has become an all too well-known statistic in recent years, that only about 50 percent, or approximately 1.4 million of this Nation's youth enter some form of postsecondary education the fall after they graduate from high school. Of these, only about half successfully complete a baccalaureate degree. For the reminder, representing three out of four U.S. youth, a rough and often painful transition to a career begins.

Yet our U.S. educational system continues to be disproportionately geared to meeting the needs of college-bound youth. There is simply no mechanism in most of our schools to link young people to employers.

While not identical, the conference agreement we are considering today, shares many of the key components of legislation that my colleague from Wisconsin, Mr. GUNDERSON and I introduced last year, to create a system of school-to-work transition and youth apprenticeship programs in the United States.

Both measures provide considerable flexibility at the State and local levels, allowing communities to develop programs that meet their individual economic and labor market needs.

Both are built around partnerships at the local level, that bring employers, schools, teachers, workers, students, and the community together to design the system.

Both require the integration of school-based and work-based learning.

Both are designed so that the successful completion of a School-to-Work Program will lead to a high school diploma, a portable certificate of competency in an occupation, a certificate or diploma from a postsecondary institution—if appropriate—and employment in a high-skill, high-paying job.

And both are built on successful efforts in progressive States and communities—such as programs found both in the York Youth Apprenticeship Program, and in Project Connections—undertaken by involved employers and the school district of the city of York—where young students are provided with challenging academic curricula and at the same time engaged in related career development opportunities.

Under this conference agreement, we were successful in increasing the emphasis on serving youth through career awareness, exploration, and counseling programs in the middle school years, and even earlier where possible.

We also increased the strong role that employers must play in the development and implementation of this system.

While concern continues to exist that this legislation will result in just one more new program—the conference agreement addresses this concern by adding a sunset to the legislation specifying that this program will end in the year 2001.

Probably one of the greatest strengths of this legislation is that while it does not eliminate any existing job training or education programs—it will serve as a coordinating mechanism by which existing education and training programs will be integrated at the State and local levels.

States and local partnerships are allowed to receive only one 5-year implementation grant—or venture capital—to be used to leverage change in existing education and training programs. And they must show how these new moneys will be integrated with existing programs.

Further, a broad use of waivers under the legislation will result in linkages between programs, never before possible.

Mr. Speaker, I truly feel that this is an innovative and very important piece of legislation, that will result in positive change in how we educate our youth and prepare them for the world of work.

I am proud to have a part of its very bipartisan development. This adds to Chairman FORD's Tech Prep Program which has been working very well for several years in my district.

Mr. Speaker, I, therefore, urge my colleagues to join me in support of its passage.

Mr. GUNDERSON. Mr. Speaker, I rise in strong support of the conference agreement on H.R. 2884, the School-to-Work Opportunities Act of 1994.

Similar to legislation that my colleague from Pennsylvania, Mr. GOODLING and I introduced last year, this bill is designed to establish high quality, work-based learning programs throughout the United States, that train youth for skilled, high wage careers which do not require a 4-year college degree.

Establishment of such a school-to-work transition system in this country, would address a serious inadequacy in this Nation's educational system, as well as significantly improve the quality of the U.S. work force—enabling the United States to better compete in the global marketplace.

Demographic trends, technological change, increased international competition, a changing workplace, and inadequacy of our U.S. education and training systems have resulted in shortages of skilled workers, and an excess of unskilled, hard-to-employ individuals.

A significant proportion of U.S. youth graduate from high school with inadequate basic skills and totally lacking in work-readiness competencies.

Yet the United States is the only major industrial nation lacking formal system for helping youth make the transition from school to work.

Very little attention is paid in our U.S. educational system to preparing youth for the workplace.

Like our earlier legislation, the conference agreement we are considering today has the goal of expanding the range of education and career options for the 70 to 75 percent of American youth who will not complete a 4-year B.A. degree.

By providing a broad degree of flexibility in establishment of school-to-work systems in States and localities, the legislation builds on successful efforts already undertaken by innovative States and communities—such as those efforts in Wisconsin—while providing Federal guidance on the establishment of a national school-to-work policy.

This legislation would provide development grants to all States for the early planning and development of State-wide school-to-work efforts.

The bill further provides one-time, 5-year implementation grants to States who are further along in their school-to-work efforts—to aid in the actual establishment and expansion of State and local school-to-work programs.

The implementation grants, expected to go out to States in waves—have been aptly described as venture capital—a one-time infusion of Federal assistance that will leverage change in existing programs—ultimately resulting in broad-based change in the way we teach and prepare our youth for the world of work.

At the head of this system are local partnerships of employers, educators, workers, students, and the community—who will build local school-to-work programs to meet the economic and educational needs of their individual communities.

The active and vital role of employers in the development and implementation of this system is stressed throughout the legislation—and was further strengthened in the conference agreement.

Under the proposal, school-based and work-based learning must be integrated, with students participating in school-to-work programs gaining valuable work experience, under the guidance of a workplace mentor.

Under the conference agreement, career awareness, exploration, and counseling opportunities are encouraged for all students—beginning as early as possible, but no later than in the middle school years—in order that all youth have a sense of the opportunities that lay ahead combined with the right education.

Finally, and most importantly, student completing this program would receive a high school diploma, a certificate of competency in an occupation, entry into appropriate post-secondary education—where appropriate—and/or entry into a skilled, high-paying job with career potential.

Mr. Speaker, I feel that the legislation before us today moves us in the right direction in meeting the needs of noncollege bound youth—whose needs have been so inadequately met in recent years.

I feel it strikes the right balance: involving all the necessary players—at every level; providing maximum flexibility to States and particularly to local programs to craft programs that meet individual community needs; and leveraging change in existing programs through the one-time infusion of new money, and through waivers of regulatory and statutory provisions in existing Federal education and training programs.

This is not business as usual, and as a result, I support passage of the conference agreement on H.R. 2884, and urge my colleagues to do the same.

Mr. KILDEE. Mr. Speaker, I rise in strong support of the conference report on the School-to-Work Opportunities Act of 1994.

In today's highly competitive global economy, business performance is increasingly reliant upon the knowledge and skills of its workers.

Changes in business structures and increased use of technology in the workplace require that today's entrants into the workforce be better education and more highly skilled.

Mr. Speaker, I have some exciting school-to-work programs operating in my district which are successfully preparing high school students for the workplace.

A joint partnership among General Motors, the UAW and Flint schools prepares students to enter skilled trades through a program that offers challenging academic and work-based components.

Students in the manufacturing training partnership are learning skills that will lead to high-skilled, high-wage jobs.

Other students from the Flint area are able to gain skills through a cooperative effort between Hurley Hospital and the Genesee Area Skills Center.

Mr. Speaker, these programs are not only having a positive effect on the Students involved in them, they are having a positive effect on the community at large.

In fact, school-to-work programs in Flint are considered an integral part of local economic development.

I am pleased to support this legislation because I have seen the difference school-to-work programs make in students' lives.

The School-to-Work Opportunities Act will enable high school students to enter the workplace better prepared by establishing, for the first time, a national framework for a school-to-work system.

Programs created under this system through broad-based partnerships in States and communities will enable all students to participate in education and training programs that will:

Better prepare them for a first job;

Enable them to earn portable credentials; and

Increase their opportunities for meaningful secondary and postsecondary education.

Mr. Speaker, the School-to-Work Opportunities Act will help communities develop and implement school-to-work programs that will increase opportunities for all students to enter the workplace ready to perform.

I urge support of the conference agreement.

☐ 1110

Mr. FORD of Michigan. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GOODLING. Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. POMEROY). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FORD of Michigan. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 339, nays 79, not voting 14, as follows:

[Roll No. 128]

YEAS—339

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Baesler
Baker (LA)
Barca
Barcia
Barlow
Barrett (WI)
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Buyer
Byrne
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
English
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Furse
Gallegly
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Holden
Horn

Houghton
Hoyer
Huffington
Hughes
Hutto
Hyde
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kim
Kleczka
Klein
Klink
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-
Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCrery
McCurdy
McDermott
McHale
McHugh
McKeon
McKinney
McMillan
Meehan
Meek
Menendez
Meyers
Mfume
Michel
Miller (CA)
Miller (FL)

Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer

Scott
Serrano
Sharp
Shays
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Spence
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Synar
Talent
Tanner
Tauzin
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff

NAYS—79

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Ballenger
Barrett (NE)
Bartlett
Boehner
Bunning
Burton
Callahan
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
DeLay
Dickey
Doolittle
Dornan
Dreier

Duncan
Dunn
Everett
Ewing
Fields (TX)
Fowler
Franks (NJ)
Gekas
Gingrich
Goodlatte
Grams
Hancock
Hansen
Hastert
Hefley
Herger
Hoke
Hunter
Hutchinson
Inglis
Inhofe
Istook
Johnson, Sam

King
Kingston
Klug
Knollenberg
Kyl
Lewis (FL)
Lightfoot
Linder
Livingston
Manzullo
McCandless
McCollum
McInnis
Mica
Moorhead
Oxley
Packard
Paxon
Porter
Roberts
Rohrabacher
Royce
Schaefer

Sensenbrenner
Shaw
Shuster
Solomon

Stearns
Stump
Taylor (MS)
Taylor (NC)

Walker
Zimmer

NOT VOTING—14

Bacchus (FL)
Clay
Engel
Fish
Gallo

Grandy
Kaptur
McDade
McNulty
Ridge

Rowland
Swift
Washington
Whitten

☐ 1134

Mr. HERGER, Mrs. FOWLER, Mr. LIVINGSTON, and Mr. TAYLOR of Mississippi changed their vote from "yea" to "nay."

Mr. HUGHES, Mrs. VUCANOVICH, Mr. QUILLEN, and Mr. ZELIFF changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FORD of Michigan. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and insert extraneous material, on the conference report just adopted.

The SPEAKER pro tempore (Mrs. MEEK of Florida). Is there objection to the request of the gentleman from Michigan?

There was no objection.

DESIGNATING 1994 AS A YEAR TO HONOR THE HONORABLE THOMAS P. "TIP" O'NEILL, JR.

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, House Resolution 329, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. ROSE] that the House suspend the rules and agree to the resolution, House Resolution 329, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 416, nays 2, not voting 14, as follows:

[Roll No. 129]

YEAS—416

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)

Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter

Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski

Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
English
Eshoo
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons

Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton

Manzullo
Margolies-
Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush

Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—2

Hefley
Taylor (NC)

NOT VOTING—14

Bacchus (FL)
Engel
Evans
Fish
Gallo
Grandy
Houghton
Istook
Kaptur
McDade
McNulty
Ridge
Stump
Washington

☐ 1156

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

The SPEAKER pro tempore (Mrs. MEEK of Florida). Pursuant to House Resolution 401 and rule XXIII, the Chair declares the House in the Committee of the Whole on the State of the Union for the further consideration of the bill, H.R. 4092.

☐ 1158

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4092) to control and prevent crime, with Mr. SPRATT (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, April 19, 1994, amendment No. 16 printed in part 1 of House report 103-474 offered by the gentleman from New Jersey [Mr. HUGHES] had been disposed of.

AMENDMENTS EN BLOC, AS MODIFIED, OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer amendments en bloc made in order under the rule, and I ask unanimous consent that the modifications be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will designate the amendments en bloc, as modified.

The text of the amendments en bloc, as modified, is as follows:

Amendments en bloc, as modified, offered by Mr. BROOKS, consisting of amendment No. 32 offered by Mr. BEILENSON, amendment No. 36 offered by Mr. KENNEDY, amendment No. 40 offered by Mr. MORAN, amendment No. 48 offered by Ms. PRYCE of Ohio, amendment No. 49 offered by Mr. CANADY, and amendment No. 50 offered by Mr. CANADY:

AMENDMENT OFFERED BY MR. BEILENSON

At the end insert the following new title:

TITLE XXIV—CRIMINAL ALIENS

SEC. 2401. FEDERAL INCARCERATION OF UNDOCUMENTED CRIMINAL ALIENS.

(a) FEDERAL INCARCERATION.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended by adding at the end the following:

"(j) FEDERAL INCARCERATION.—

"(1) Subject to paragraph (2), the Attorney General shall take into the custody of the Federal Government, and shall incarcerate for a determinate sentence of imprisonment, an undocumented criminal alien if—

"(A) the chief official of the State (or, if appropriate, a political subdivision of the State) exercising authority with respect to the incarceration of the undocumented criminal alien submits a written request to the Attorney General; and

"(B) the undocumented criminal alien is sentenced to a determinate term of imprisonment.

"(2)(A) If the Attorney General determines that adequate Federal facilities are not available for the incarceration of an undocumented criminal alien under paragraph (1), the Attorney General shall enter into a contractual arrangement which provides for compensation to the State or a political subdivision of the State, as may be appropriate, with respect to the incarceration of such undocumented criminal alien for such determinate sentence of imprisonment.

"(B) Compensation under subparagraph (A) shall be determined by the Attorney General and may not exceed the median cost of incarceration of a prisoner in all maximum security facilities in the United States as determined by the Bureau of Justice Statistics.

"(3) For purposes of this subsection, the term 'undocumented criminal alien' means an alien who—

"(A) has been convicted of a felony and sentenced to a term of imprisonment, and

"(B)(i) entered the United States without inspection or at any time of place other than as designated by the Attorney General,

"(ii) was the subject of exclusion or deportation proceedings at the time he or she was taken into custody by the State or a political subdivision of the State, or

"(iii) was admitted as a nonimmigrant and at the time he or she was taken into custody by the State or a political subdivision of the State has failed to maintain the nonimmigrant status in which the alien was admitted or to which it was changed under section 248, or to comply with the conditions of any such status.

"(4)(A) In carrying out this subsection, the Attorney General shall give priority to the Federal incarceration of undocumented criminal aliens who have committed aggravated felonies.

"(B) The Attorney General shall ensure that undocumented criminal aliens incarcerated in Federal facilities pursuant to this subsection are held in facilities which provide a level of security appropriate to the crimes for which they were convicted.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1998.

(c) LIMITATION.—The authority created in section 242(j) of the Immigration and Nationality Act (as added by this section) shall be subject to appropriation until October 1, 1998.

AMENDMENT OFFERED BY MR. KENNEDY

At the end of the bill add the following new title:

TITLE —NATIONAL STALKER AND DOMESTIC VIOLENCE REDUCTION

SEC. . AUTHORIZING ACCESS TO FEDERAL CRIMINAL INFORMATION DATA BASES.

(a) ACCESS.—The Attorney General shall amend existing regulations (published at 28 C.F.R. 20.33(a)) to authorize the dissemination of information from existing national crime information databases, including the National Crime Information Center and III ("Triple I"), to courts and court personnel, civil or criminal, for use in domestic violence or stalking cases. Nothing in this subsection shall be construed to permit any person or court access to criminal history record information for any other purpose or for any other civil case other than for use in a stalking or domestic violence case.

(b) ENTRY.—The Attorney General shall amend existing regulations to permit Federal and State criminal justice agencies, assigned to input information into national crime information databases, to include arrests, warrants, and orders for the protection of parties from stalking or domestic violence, whether issued by a criminal, civil, or family court. Such amendment shall include a definition of criminal history information that covers warrants, arrests, and orders for the protection of parties from stalking or domestic violence. Nothing in this subsection shall be construed to permit access to such information for any purpose which is different than the purposes described in subsection (a).

(c) PROCEDURES.—The regulations required by subsection (a) shall be proposed no later than 90 days after the date of the enactment of this Act, after appropriate consultation with the Director of the Federal Bureau of Investigation, the officials charged with managing the National Crime Information Center, and the National Crime Information Center Advisory Policy Board. Final regulations shall be issued no later than 180 days after the date of the enactment of this Act.

SEC. . NONSERIOUS OFFENSE BAR.

The Attorney General shall amend existing regulations to specify that the term "nonserious offenses", as used in 28 C.F.R. 20.32, does not include stalking or domestic violence offenses. Nothing in this section is intended to change current regulations requiring that juvenile offenses shall be excluded from national crime information databases unless the juvenile has been tried as an adult.

SEC. . PERFORMANCE GRANT PROGRAM.

(a) IN GENERAL.—The Attorney General, through the Director of the Bureau of Justice Assistance, is authorized to provide performance grants to the States to improve processes for entering data about stalking and domestic violence into national crime information databases.

(b) ELIGIBILITY.—Eligible grantees under subsection (a) are States that provide, in their application, that all criminal justice agencies within their jurisdiction shall enter into the National Crime Information Center all records of (1) warrants for the arrest of persons violating civil protection orders intended to protect victims from stalking or domestic violence; (2) arrests of persons violating civil protection orders intended to protect victims from stalking or domestic violence; and (3) orders for the protection of persons from violence, including stalking and domestic violence.

(c) PERFORMANCE-BASED DISTRIBUTION.—Eligible grantees under subsection (a) shall be awarded 25 percent of their grant moneys upon application approval as "seed money" to cover start-up costs for the project funded by the grant. Upon successful completion of the performance audit provided in subsection (d), the grantees shall be awarded the remaining sums in the grant.

(d) PERFORMANCE AUDIT.—Within 6 months after the initial 25 percent of a grant is provided, the State shall report to the Federal Bureau of Investigation and the Bureau of Justice Assistance, the number of records included in national crime information databases as a result of the grant funding, including separate data for warrants, arrests, and protective orders. If the State can show a substantial increase in the number of records entered, then it shall be eligible for the entire grant amount. However, the Director shall suspend funding for an approved application if an applicant fails to submit a 6 month performance report or if funds are expended for purposes other than those set forth under this title. Federal funds may be used to supplement, not supplant, State funds.

(e) GRANT AMOUNT.—From amounts appropriated, the amount of grants under subsection (a) shall be—

(1) $75,000 to each State; and

(2) That portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

SEC. . APPLICATION REQUIREMENTS.

The application requirements provided in section 513 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) shall apply to grants made under this title. In addition, applications shall include documentation showing—

(1) the need for grant funds and that State funding does not already cover these operations;

(2) intended use of the grant funds, including a plan of action to increase record input; and

(3) an estimate of expected results from the use of the grant funds.

SEC. . DISBURSEMENT.

(a) GENERAL RULE.—No later than 30 days after the receipt of an application under this title, the Director shall either disburse the appropriate sums provided for under this title or shall inform the applicant why the application does not conform to the terms of section 513 of the Omnibus Crime Control and Safe Streets Act of 1968 or to the requirements of section of this title.

(b) REGULATIONS.—In disbursing moneys under this title, the Director of the Bureau of Justice Assistance shall issue regulations to ensure that grantees give priority to the areas with the greatest showing of need.

SEC. . FEDERAL NONMONETARY ASSISTANCE.

In addition to the assistance provided under the performance grant program, the Attorney General may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local law enforcement efforts to combat stalking and domestic violence.

SEC. . AUTHORIZATION.

There are authorized to be appropriated for each of the fiscal years 1994, 1995, and 1996, $2,000,000 to carry out the purposes of the Performance Grant Program under this title.

SEC. . TRAINING PROGRAMS FOR JUDGES.

The National Institute of Justice, in conjunction with a nationally recognized nonprofit organization expert in stalking and domestic violence cases, shall conduct training programs for judges to ensure that any judge issuing an order in stalking or domestic violence cases has all available criminal history and other information, whether from State or Federal sources.

SEC. . RECOMMENDATIONS ON INTRASTATE COMMUNICATION.

The National Institute of Justice, after consulting a nationally recognized nonprofit associations expert in data sharing among criminal justice agencies and familiar with the issues raised in stalking and domestic violence cases, shall recommend proposals about how State courts may increase intrastate communication between family courts, juvenile courts, and criminal courts.

SEC. . INCLUSION IN NATIONAL INCIDENT-BASED REPORTING SYSTEM.

Not later than 2 years after the date of enactment of this Act, the Attorney General, in coordination with the Federal Bureau of Investigation and the States, shall compile data regarding stalking civil protective orders and other forms of domestic violence as part of the National Incident-Based Reporting System (NIBRS).

SEC. . REPORT TO CONGRESS.

The Attorney General shall submit to the Congress an annual report, beginning one year after the date of the enactment of this Act, that reports information on the incidence of stalking and other forms of domestic violence, and evaluates the effectiveness of State anti-stalking efforts and legislation.

SEC. . DEFINITIONS.

As used in this title—

(1) the term "national crime information databases" refers to the National Crime Information Center and its incorporated criminal history databases, including III ("Triple I");

(2) the term "stalking" includes any conduct that would, if proven, justify the issuance of an order of protection under the stalking, or other, laws of the State in which it occurred; and

(3) the term "domestic violence" includes any conduct that would, if proven, justify the issuance of an order of protection under the domestic violence, or other, laws of the State in which it occurred.

AMENDMENT OFFERED BY MR. MORAN

At the end, add the following:

TITLE —PROTECTING THE PRIVACY OF INFORMATION IN STATE MOTOR VEHICLE RECORDS

SEC. . SHORT TITLE.

This title may be cited as the "Driver's Privacy Protection Act of 1994".

SEC. . PROHIBITION ON RELEASE AND USE OF CERTAIN PERSONAL INFORMATION FROM STATE MOTOR VEHICLE RECORDS.

Title 18, United States Code, is amended by inserting after chapter 121 the following:

"CHAPTER 123—PROHIBITION ON RELEASE AND USE OF CERTAIN PERSONAL INFORMATION FROM STATE MOTOR VEHICLE RECORDS

"§2721. Prohibition on release and use of certain personal information from State motor vehicle records

"(a) IN GENERAL.—Except as provided in subsection (b), a State department of motor vehicles, and any officer, employee, or contractor thereof, shall not knowingly disclose or otherwise make available to any person or entity personal information about any individual obtained by the department in connection with a motor vehicle record.

"(b) PERMISSIBLE USES.—Personal information referred to in subsection (a) of this section shall be disclosed for paragraphs (1) and (2) to carry out the purpose of the Automobile Information Disclosure Act, the Motor Vehicle Information and Cost Saving Act, the National Traffic and Motor Vehicle Safety Act of 1966, the Anti-Car Theft Act of 1992, and the Clean Air Act, and may be disclosed for paragraphs (3) through (14), as follows:

"(1) For use by any Federal, State, or local agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a Federal, State, or local agency in carrying out its functions.

"(2) For use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alteration, recall or advisory, and motor vehicle customer satisfaction.

"(3) For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only—

"(A) to verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and

"(B) if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

"(4) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court

"(5) For use in research activities, including survey research, and for use in producing statistical reports, provided that the personal information is not published or redisclosed and provided that the personal information is not used to direct solicitations or marketing offers at the individuals whose personal information is disclosed under this paragraph.

"(6) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating or underwriting.

"(7) For the purpose of providing notice of the owners of towed or impounded vehicles.

"(8) For use by any licensed private investigative agency or licensed security service for any purpose permitted under this subsection.

"(9) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2710 et seq.).

"(10) For use in connection with the operation of private toll transportation facilities.

"(11) For any other purpose in response to requests for individual motor vehicle records if the motor vehicle department has provided in a clear and conspicuous manner to the individual to whom the information pertains an opportunity to prohibit such disclosures.

"(12) For bulk distribution for marketing or solicitations if the motor vehicle department has implemented methods and procedures to ensure—

"(A) that individuals are provided an opportunity, in a clear and conspicuous manner, to prohibit such disclosure; and

"(B) that the information will be used, rented, or sold solely for bulk distribution for marketing and solicitations, and that such solicitations will not be directed at those individuals who have requested in a timely fashion that they not be directed at them.

'Methods and procedures' includes the motor vehicle department's use of a mail preference list to remove from its records before bulk distribution the names and personal information of those individuals who have requested that solicitations not be directed at them.

"(13) For use by any requestor, if the requestor demonstrates it has obtained the written consent of the individual to whom the information pertains.

"(14) For any other purpose specifically authorized under the law of the State that holds the record, if such purpose is related to the operation of a motor vehicle or public safety.

"(c) Resale or Redisclosure.—Any authorized recipient of personal information may resell or redisclose the information for any use permitted under subsection (b). Any authorized recipient (except a recipient under subsections (b)(11) or (12)) that resells or rediscloses personal information covered by this title must keep for a period of 5 years records identifying each person or entity that receives the information and the permitted purpose for which the information will be used.

"(d) Waiver Procedures.—A State motor vehicle department may establish and carry out procedures under which the department or its agents, upon receiving a request for personal information that does not fall within one of the exceptions in subsection (b), may mail a copy of the request to the individual about whom the information was requested, informing such individual of the request, together with a statement to the effect that the information will not be released unless the individual waives such individual's right to privacy under this section.

§ 2722. Additional unlawful acts

"(a) Procurement for Unlawful Purpose.—It shall be unlawful for any person knowingly to obtain or disclose personal information, from a motor vehicle record, for any purpose not permitted under section 2721(b) of this title.

"(b) False Representations.—It shall be unlawful for any person to make false representation to obtain any personal information from an individual's motor vehicle record.

§ 2723. Criminal penalty

"Any person that knowingly violates this chapter shall be fined under this title.

§ 2724. Civil Action

"(a) Cause of Action.—A person who knowingly obtains, discloses or uses personal information, derived from a motor vehicle record, for a purpose not permitted under this chapter shall be liable to the individual to whom the information pertains, who may bring a civil action in a United States district court.

"(b) Remedies.—The court may award—

"(1) actual damages, but not less than liquidated damages in the amount of $2,500;

"(2) punitive damages upon proof of willful or reckless disregard of the law;

"(3) reasonable attorneys' fees and other litigation costs reasonably incurred; and

"(4) such other preliminary and equitable relief as the court determines to be appropriate.

§ 2725. Definitions

"As used in this chapter—

"(1) "motor vehicle record" means any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by a department of motor vehicles;

"(2) "personal information" means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information. Such term does not include information on vehicular accidents, driving violations, and driver's status; and

"(3) "person" means an individual, organization or entity, but does not include a State or agency thereof.".

SEC. . EFFECTIVE DATE.

This title shall take effect 3 years after the date of enactment. In the interim, personal information covered by this title may be released consistent with State law or practice.

AMENDMENT OFFERED BY MR. CANADY

At the end of the bill insert the following:

TITLE —CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT

SEC. . EXHAUSTION REQUIREMENT.

Section 8 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "in any action brought" and inserting "no action shall be brought";

(ii) by striking "the court shall" and all that follows through "require exhaustion of" and insert "until"; and

(iii) by inserting "are exhausted" after "available"; and

(B) in paragraph (2), by inserting "or are otherwise fair and effective" before the period at the end.

SEC. . FRIVOLOUS ACTIONS.

Section 8(a) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e(a)) is amended by adding at the end the following:

"(3) The court shall on its own motion or on motion of a party dismiss any action brought pursuant to section 1979 of the Revised Statutes of the United States by an adult convicted of a crime and confined in any jail, prison, or other correctional facility if the court is satisfied that the action fails to state a claim upon which relief can be granted or is frivolous or malicious.

SEC. . MODIFICATION OF REQUIRED MINIMUM STANDARDS.

Section 8(b)(2) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e(b)(2)) is amended by striking subparagraph (A) and redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

SEC. . REVIEW AND CERTIFICATION PROCEDURE CHANGES.

Section 8(c) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e(c) is amended—

(1) in paragraph (1), by inserting "or are otherwise fair and effective" before the period at the end; and

(2) in paragraph (2), by inserting "or is no longer fair and effective" before the period at the end.

SEC. . PROCEEDINGS IN FORMA PAUPERIS.

(a) Dismissal.—Section 1915(d) of title 28, United States Code, is amended—

(1) by inserting "at any time" after "counsel and may"; and

(2) by striking "and may" and inserting "and shall";

(3) by inserting "fails to state a claim upon which relief may be granted or" after "that the action"; and

(4) by inserting "even if partial failing fees have been imposed by the court" before the period.

(b) Prisoner's Statement of Assets.—Section 1915 of title 28, United States Code, is amended by adding at the end the following:

"(f) If a prisoner in a correctional institution files an affidavit in accordance with subsection (a) of this section, such prisoner shall include in that affidavit a statement of all assets such prisoner possesses. The court shall make inquiry of the correctional institution in which the prisoner is incarcerated for information available to that institution relating to the extent of the prisoner's assets. The court shall require full or partial payment of filing fees according to the prisoner's ability to pay.".

AMENDMENT OFFERED BY MR. CANADY

At the end of the bill insert the following:

TITLE —PRISON OVERCROWDING

SEC. . APPROPRIATE REMEDIES FOR PRISON OVERCROWDING.

(a) Amendment of Title 18, United States Code.—Subchapter C of chapter 229 of part 2 of title 18, United States Code, is amended by adding at the end the following.

"§ 3626. Appropriate remedies with respect to prison crowding

"(a) Requirement of Showing With Respect to the Plaintiff in Particular.—

"(1) Holding.—A Federal court shall not hold prison or jail crowding unconstitutional under the eighth amendment except to the extent that an individual plaintiff inmate proves that the crowding causes the infliction of cruel and unusual punishment of that inmate.

"(2) Relief.—The relief in a case described in paragraph (1) shall extend no further than necessary to remove the conditions that are causing the cruel and unusual punishment of the plaintiff inmate.

"(b) Inmate Population Ceilings.—

"(1) Requirement of showing with respect to particular prisoners.—A Federal court shall not place a ceiling on the inmate population of any Federal, State, or local detention facility as an equitable remedial measure for conditions that violate the eighth amendment unless crowding is inflicting cruel and usual punishment on particular identified prisoners.

"(2) Rule of construction.—Paragraph (1) of this subsection shall not be construed to have any effect on Federal judicial power to issue equitable relief other than that described in paragraph (1) of this subsection, including the requirement of improved medical or health care and the imposition of civil contempt fines or damages, where such relief is appropriate.

"(c) PERIODIC REOPENING.—Each Federal court order or consent decree seeking to remedy an eighth amendment violation shall be reopened at the behest of a defendant for recommended modification at a minimum of 2-year intervals.".

(b) APPLICATION OF AMENDMENT.—Section 3626 of title 18, United States Code, as added by paragraph (1), shall apply to all outstanding court orders on the date of enactment of this Act. Any State or municipality shall be entitled to seek modification of any outstanding eighth amendment decree pursuant to that section.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter C of chapter 229 of title 18, United States Code, is amended by adding at the end the following new item:

"3626. Appropriate remedies with respect to prison crowding.".

(d) SUNSET PROVISION.—This section and the amendments made by this section are repealed effective as of the date that is 5 years after the date of enactment of this Act.

AMENDMENT OFFERED BY MS. PRYCE OF OHIO:

Add at the end the following:

TITLE —PRISON SECURITY ENHANCEMENT

SEC. . PRISON SECURITY.

(a) IN GENERAL.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following new section:

"§4047. Strength-training of prisoners prohibited

"The Bureau of Prisons shall take care that—

"(1) prisoners under its jurisdiction do not engage in any activities designed to increase their physical strength or their fighting ability; and

"(2) that all equipment designed for this purpose be removed from Federal correctional facilities."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 303 of title 18, United States Code, is amended by adding at the end the following new item:

"4047. Strength-training of prisoners prohibited.".

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 5 minutes, and the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

MODIFICATION TO AMENDMENTS EN BLOC, AS MODIFIED, OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I ask unanimous consent that the Beilenson amendment, as modified, be that which is at the desk now.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk will report the modification.

The Clerk read as follows:

Amendment No. 32, as modified, offered by Mr. BEILENSON:

At the end insert the following new title:

TITLE XXIV—CRIMINAL ALIENS

SEC. 2401. INCARCERATION OF UNDOCUMENTED CRIMINAL ALIENS.

(a) INCARCERATION.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended by adding at the end the following:

"(j) INCARCERATION.—

"(1) If the chief official of the State (or, if appropriate, a political subdivision of the State) exercising authority with respect to the incarceration of an undocumented criminal alien (sentenced to a determinate term of imprisonment) submits a written request to the Attorney General, the Attorney General shall, as determined by the Attorney General—

"(A) enter into a contractual arrangement which provides for compensation to the State of a political subdivision of the State, as may be appropriate, with respect to the incarceration of such undocumented criminal alien for such determinate sentence of imprisonment, or

"(B) take the undocumented criminal alien into the custody of the Federal Government and incarcerate such alien for such determinate sentence of imprisonment.

"(2) Compensation under paragraph (1)(A) shall be determined by the Attorney General and may not exceed the median cost of incarceration of a prisoner in all maximum security facilities in the United States as determined by the Bureau of Justice Statistics.

"(3) For purposes of this subsection, the term 'undocumented criminal alien' means an alien who—

"(A) has been convicted of a felony and sentenced to a term of imprisonment, and

"(B)(i) entered the United States without inspection or at any time or place other than as designated by the Attorney General,

"(ii) was the subject of exclusion or deportation proceedings at the time he or she was taken into custody by the State or a political subdivision of the State, or

"(iii) was admitted as a nonimmigrant and at the time he or she was taken into custody by the State or a political subdivision of the State has failed to maintain the nonimmigrant status in which the alien was admitted or to which it was changed under section 248, or to comply with the conditions of any such status.

"(4)(A) In carrying out paragraph (1), the Attorney General shall give priority to the Federal incarceration of undocumented criminal aliens who have committed aggravated felonies.

"(B) The Attorney General shall ensure that undocumented criminal aliens incarcerated in Federal facilities pursuant to this subsection are held in facilities which provide a level of security appropriate to the crimes for which they were convicted."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1994.

(c) LIMITATION.—The authority created in section 242(j) of the Immigration and Nationality Act (as added by subsection (a)) shall be subject to appropriation until October 1, 1998.

Mr. BROOKS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment, as modified, be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1200

The CHAIRMAN pro tempore (Mr. SPRATT). The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in the interest of moving this legislation toward completion, I am at this time offering a second en block amendment consisting of six provisions made in order under the rule. They are the Beilenson-Berman-Condit-Thurman amendment requiring the Federal Government to incarcerate or to reimburse States and localities for the costs of incarcerating undocumented aliens; the Kennedy amendment to provide criminal history information for use in stalking and domestic violence cases; the Moran amendment protecting the privacy of information provided to State motor vehicle departments; the Canady amendment requiring State prison inmates to exhaust the prison's administrative remedies prior to filing an action in Federal court; the Canady-Geren amendment on prison overcrowding; and finally the Pryce amendment on strength training for prisoners.

These amendments are discussed in the subject matter addressed. And, while I strongly support the Beilenson, Kennedy, and Moran amendments, I have concerns about some of the others. I offer these Democratic and Republican amendments now simply to move this important legislation forward to passage, conference, and enactment into law.

Mr. Chairman, I reserve the balance of my time.

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I wish to first of all say that I support all of these amendments that are out here today that are being offered. I think that they are a good set of amendments.

They are being done en bloc so we will not have a lot of time to discuss all of them. I certainly support the Beilenson, Berman, Condit, Thurman amendment. It deals with reimbursing the States and paying for costs of housing undocumented aliens in our State prisons. My State of Florida is affected deeply by that.

I do not think it goes far enough. I think the date for its actual enactment ought to be moved up from 1999 so we get this process going on much closer, and I hope we have some opportunity to do that in this process.

I also particularly support the two Canady amendments, the Canady No. 49, and the Canady-Geren amendment. They go a great deal of the distance we need to go toward trying to help alleviate the problems Federal courts have created for prison overcrowding by making rulings that are not always consistent with the way that most of us would think would be the norm for judging these matters. I do strongly believe they should be ultimately in the final product of whatever comes out of this bill.

Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. CANADY], the author of these two amendments.

Mr. CANADY. Mr. Chairman, I want to thank the chairman, the gentleman from Texas [Mr. BROOKS], for the inclusion of these two amendments in the en bloc amendment at this time.

In recent years we have seen an explosion of frivolous litigation by prison inmates. We have also seen the Federal courts engage in micromanaging State and local correctional facilities.

My two amendments are designed to address these two problems. They are based on the commonsense notion that the inmates should not be allowed to run the institutions in which they are incarcerated.

Although the amendments, quite frankly, do not go quite as far as I would like to solve these problems, I believe that they do represent significant improvements in the status quo, and for that reason, I would urge the House to adopt them as a part of this en bloc amendment.

Mr. MCCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. Mr. Chairman, I rise in support of the Canady/Geren amendment because I've seen close to home how court orders designed to limit prison populations can have perverse and disastrous results.

In 1989, a Federal district judge issued an order placing a ceiling on the population of inmates at the county jails in Essex County, NJ.

When the population rose above that cap, the county had to post bail for prisoners, using taxpayer dollars for their bond.

The court order created a nightmare. Of the 3,852 defendants who were released courtesy of the bail fund, 66 percent either committed a crime while on bail or jumped bail; 273 of them were arrested for violent crimes—11 for murder.

Court orders of this sort destroy the credibility of the criminal justice system. I urge my colleagues to support the Canady/Geren amendment by voting for the en bloc amendment.

Mr. MCCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. POMBO].

Mr. POMBO. Mr. Chairman, I rise today in support of the Beilenson, Condit, Thurman amendment. For too long the States that are the victims of our national immigration policy have been forced to use their scare funds to educate, feed, and incarcerate illegal aliens. This arrangement is no longer acceptable.

Today, over 50,000 of our prisoners in State and Federal facilities are not citizens of this country. In my State of California, more than 12 percent of the State prison population, some 16,000 inmates, are illegal aliens. The cost to California for incarcerating undocumented criminal aliens in fiscal year 1994-95 will be $393 million.

In this legislation there are funds for prisoners, programs for gang members, and even court time for midnight basketball players. My question is: "Where is the support for the taxpayers of California, Florida and all other States affected by illegal immigration?" Shouldn't the taxpayers of these States be reimbursed for our Nation's failed immigration policy?

Congress has a bad habit of making "feel good" policy—but then does not provide the money to pay for it. Congress should end the failed national immigration policy, or at the very least it should have the decency to pay for it. Please join me in support of the Beilenson, Condit, Thurman amendment.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Florida [Mrs. THURMAN], the author of a very critical amendment that we have just been discussing.

Mrs. THURMAN. Mr. Chairman, I support the Beilenson-Berman-Condit-Thurman amendment to H.R. 4092. I prefer an amendment that takes effect next year, but we are forced to delay implementation.

With regard to the policy behind this amendment, our government was established by a special social contract. Certain responsibilities were given to the Federal Government; others remained with the States.

Immigration is a Federal responsibility. If the Federal Government fails to control our borders, then it must assume responsibility for the consequences of its inaction. So, if you let into this country aliens who commit crimes against Americans, then you should pay for their imprisonment.

I approach this situation from the perspective of 10 years in the Florida Senate. For years, I was forced to shift State funds from one or another program to criminal justice and other programs whose costs increased because of the presence of illegal aliens. In March, Governor Chiles released a report cataloging the cost of illegal aliens to Florida: $884 million a year.

In the criminal justice system, the problem has changed dramatically in the past 14 years. In 1980, the supervision cost—probation and parole—of criminal aliens in Florida totaled about $86,000 for 245 offenders. By 1993, this cost—which comes entirely from State revenues—increased to $6.8 million to cover nearly 5,100 aliens.

In 1988, the cost of incarcerating 1,288 other aliens—non-Mariel Cubans—was nearly $13.8 million. By 1993 it was $27.7 million for 2,042 prisoners—now $15,500 a year per prisoner. During this period, Florida spent $130.7 million from its general revenues. The Federal Government provided Florida with nothing.

Since 1988, Florida has spent nearly $52.6 million to incarcerate Mariel Cubans. The Federal contribution was $11.4 million, or 18 percent.

When you include the costs to California, Texas, New York, Illinois, New Jersey, and other States, you must conclude that the Federal Government has been abrogating its responsibilities to all taxpayers.

For too many years the Federal Government has created and sustained a fiction that alien criminals do not impact State criminal justice systems. The Federal Government repeatedly turned a deaf ear to pleas from States heavily impacted by these criminals.

The grievances that this amendment seeks to address are legitimate, and our needs substantial. All we seek is justice. It will be later rather than sooner, but nevertheless justice.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from Virginia [Mr. MORAN], the distinguished author of the Moran amendment.

Mr. MORAN. Mr. Chairman, the first thing we are going to do is yield to the subcommittee chairman, the gentleman from California [Mr. EDWARDS], who helped us on this bill that may provide more protection to the individual citizen than virtually any other amendment we have in this bill.

Very few people realize that anybody can write down the license plate number of your spouse and daughter and find out where they live and their name and their Social Security number in many States; it should not be allowed to continue.

Mr. Chairman, I want to thank the Rules Committee for making this amendment in order and to particularly thank the chairman of the Judiciary Subcommittee on Civil and Constitutional Rights, Congressman DON EDWARDS, for holding very constructive hearings on the Driver's Privacy Protection Act, which helped to strengthen and improve this amendment. Congressman EDWARDS is a credit to this institution and he will be sorely missed after his retirement at the end of this session.

The amendment that I am offering today will close a loophole in State law that allows anyone, for any reason, to gain access to personal information—defined as a driver's name, address, and Social Security number—in your DMV file. Currently, in 34 States across the country anyone can walk into a DMV office with your tag number, pay a small fee, and get your name, address, phone number and other personal information—no questions asked. Think about that. A total stranger can obtain personal information about you without knowing anything more about you than your license plate number and you are helpless to stop it.

You may have gone to the trouble of getting an unlisted phone number and address, but the DMV will sell it anyway, to anyone who asks. That's what happened in California to Rebecca Schaeffer, promising young star of the television show "My Sister Sam." Although she had an unlisted home number and address, Ms. Schaeffer was shot to death by an obsessed fan who obtained her name and address through the DMV. In Iowa, a gang of thieves copied down the license plate numbers of expensive cars they saw, found out the names and addresses of the owners and robbed their homes at night. In Virginia, a woman regularly wrote to the DMV, provided the license plate numbers of drivers and asked for the names and addresses of the owners who she claimed were stealing the fillings from her teeth at night.

In each of these cases, the drivers whose personal information was released were never notified of the request or the subsequent release of their information. By selling personal information from DMV records without providing a name removal option, States are violating requirements for procedural fairness and the "due process principles," reflected in the Constitution.

The amendment I am offering simply gives drivers the ability to restrict release of personal information for reasons that are totally incompatible for the reasons it was collected. In doing so, it strikes a critical balance between an individual's fundamental right to privacy and safety and the legitimate governmental and business needs for this information.

The amendment authorizes unlimited access to personal information for courts, law enforcement, governmental agencies, and for other driver and automobile safety purposes. It authorizes access to businesses to verify information provided by the driver and to access personal information if that information is incorrect or outdated. Licensed private detectives could access the information for any purpose authorized in the amendment.

Marketers use DMV lists to do targeted mailings and other types of marketing. This amendment will allow them to continue to do so, as long as they agree not to market drivers who object to their personal information being used for marketing purposes. Eight States have already instituted opt-out systems which allow drivers to restrict the use of their name for marketing purposes. This amendment will not alter those opt-out systems.

My intent is for this provision to furnish States that proceed with op-out systems with substantial flexibility in the operation of these systems, including the flexibility to furnish multi-purpose users with a single list of license holders. Any driver that had notified the State that he/she did not want to receive direct mail solicitations would still be on that list, but the State would have to clearly identify to the purchaser the individuals to whom solicitations should not be directed and the purchaser would have to agree not to direct solicitation to that driver. In addition, if the multipurpose user resold the file to a third party that only used the information for marketing purposes, the multipurpose user would have to delete all of the names of those individuals that did not want to receive solicitations before the sale of that file. To the extent that the possibility of confusion exists on this issue, I would welcome appropriate changes to the language in conference that would clarify my intention.

The amendment would also allow any non-authorized person to access DMV information, as long as the DMV provides all drivers the opportunity to restrict the sale of their personal information for non-authorized purposes. The basic presumption is that personal information in DMV records will be open unless a licensee specifically restricts access for non-authorized purposes. If drivers choose to restrict access to their file, someone coming in off the street, without a permissible purpose could not gain access to that person's file. However, insurance companies, law enforcement professionals, attorneys, and all other authorized users would continue to have access to this information.

This particular provision was added after hearings were held on the Driver's Privacy Protection Act and the press raised concerns that they would not have access to personal information held by the DMV. Although my staff tried to come up with language to specifically authorize access by the press, they didn't want it, claiming they didn't want to be treated any differently than the general public. So, in order to accommodate them, we changed the bill to allow access to all personal information unless a licensee specifically restricts it. Press groups support this approach.

It is very important to note that the amendment in no way affects access to accident information about the car or driver. Nothing in this bill would stop anyone from finding out another person's driving record, accidents, or status.

In addition, the amendment only penalizes individuals who knowingly obtain, disclose or use personal information for a purpose not permitted under the amendment. Individual drivers aggrieved by such illegal release could sue for damages in district court.

The amendment before the House today reflects many comments and suggestions received during hearings held by the Subcommittee on Civil and Constitutional Rights. Changes were made to the Driver's Privacy Protection Act as a result of those hearings that make this amendment very different than the amendment that was offered to the crime bill by Senator BOXER. Unlike the Boxer amendment, my amendment allows greater access for private detectives and the press and more flexibility to the States in allowing additional uses of personal information.

Another aspect of this legislation which received considerable attention at the hearings was the potential impact of the Driver's Privacy Protection Act on access rules applying to other kinds of public records held by State and local governments. The key difference between DMV records and other public records comes from the license plate, through which every vehicle on the public highways can be linked to a specific individual. Anyone with access to data linking license plates with vehicle ownership has the ability to ascertain the name and address of the person who owns that vehicle. Other public records are not vulnerable to abuse in the same way.

Unlike with license plate numbers, people concerned about privacy can usually take reasonable steps to withhold their names and addresses from strangers, and thus limit their access to personally identifiable information. By contrast, no one is free to conceal his or her license plate while traveling by automobile.

Recognizing this distinction, this amendment applies only to specified categories of personal information contained in motor vehicle records. It does not apply to any other systems of public records maintained by States or local governments.

There are many organizations and businesses specifically concerned about easy access to DMV information. That's why this amendment is strongly supported by over 20 organizations, including the standard-making body for all State DMVs, the American Association of Motor Vehicle Administrators, the National Consumers League, the Fraternal Order of Police, the American Insurance Association, and other business, consumer, police, physician, and victim's groups.

I urge my colleagues to support this amendment and protect the privacy of all Americans.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, the gentleman from Virginia [Mr. MORAN] worked very closely with the subcommittee I chair. We held 2 days of hearings on his amendment to this bill. It is a good bill.

The gentleman from Virginia [Mr. MORAN] was very skillful in writing the bill and very cooperative in working with the subcommittee, and we are looking forward to having the Moran proposal becoming law.

Mr. Chairman, this amendment requires States to adopt an opt-out when information about vehicle registrants or drivers is disclosed in bulk for use in marketing and solicitation.

Our intent is to give States that proceed with opt-out systems flexibility in the operation of these systems, including the flexibility to furnish multi-purpose users with a single list as long as the State ensures that solicitations are not directed at individuals who have requested of the DMV in a timely fashion that solicitations not be directed at them based on their motor vehicle records.

One means of accomplishing this would be for the State to flag or otherwise identify to the list purchaser the individuals to whom solicitations should not be directed. This is a common practice in the States that currently have an opt-out system in place. It is our intent that this amendment permit the continuation of this method and procedure in those States and in other States wishing to implement an opt-out system. Such multipurpose users may redisseminate lists of drivers or registrants only after they have excluded the flagged names.

Indeed, one of the advantages of this flagging type of procedure is that it may be more effective than a suppression procedure in ensuring that individuals how have opted-out in fact not have solicitations directed at them. These individuals most probably already are on various solicitation lists previously compiled from information obtained from motor vehicle records and other sources. The list users update their data with information obtained from motor vehicle departments. If the updates simply skip over the names and addresses of individuals who have opted out, the desire of these individuals to opt-out will not be disclosed to the list users who in turn will leave undisturbed the names and addresses of these individuals in their historical lists. Consequently, without flagged names and addresses, the list users probably would continue soliciting these households based on the earlier record they compiled, eventually stopping years later when the data becomes obsolete. By comparison, flagging names and addresses permits the opt-out to go into effect immediately because it enables the list purchaser to match these individuals against all name and address outputs to ensure that a flagged record is not released.

To the extent that the possibility of confusion exists on this issue, we may make further changes to the language in conference that would clarify my intention.

One other aspect of this legislation which received considerable attention at the subcommittee's hearings deserves further discussion: The potential precedential impact of the Driver's Privacy Protection Act on access rules applying to other kinds of public records held by State and local governments. These governments collect and maintain large quantities of records that have traditionally been open to broad public access, including land transaction and ownership records, voter registration rolls, court records, and corporate legal filings, among others. The testimony before the subcommittee underscored the need to maintain the public record character of this data, even if it is necessary to impose restrictions on access to some personal data held by State motor vehicle administrations.

There are key differences between DMV records and other public records. There was no evidence before the subcommittee that other public records are vulnerable to abuse in the same way that DMV records have been abused. Unlike with license plate numbers, people concerned about privacy can usually take reasonable steps to withhold their names and address from strangers, and thus limit their access to personally identifiable information contained in voter registration lists, court records, or land records. By contrast, no one is free to conceal his or her license plate while traveling by automobile.

Recognizing this distinction, this legislation applies only to specified categories of personal information contained in motor vehicle records. It does not apply to any other systems of public records maintained by States or local governments. There was testimony before the subcommittee that these records should remain publicly accessible in accordance with applicable State law. Broad public access to such records remains enormously important to our society, for preservation of a free press, for government accountability, and for a number of valuable economic and business applications.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. PETE GEREN].

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Mr. PETE GEREN of Texas. I thank the chairman, the gentleman from Texas [Mr. BROOKS], and I rise in support of the Canady-Geren amendment.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. I thank the chairman for yielding.

Mr. Chairman, I support the packaging of these 6 en bloc amendments, but I must say that I do have some difficulties with No. 48, the Pryce amendment. As presently structured, I think it is overly broad, and I think it could be counterproductive. It is my hope that I can work with Ms. PRYCE and corrections officers around the country to narrow it so that we do not do more damage than good.

Mr. BROOKS. Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield 30 seconds to the gentlewoman from Ohio [Ms. PRYCE].

Ms. PRYCE of Ohio. I thank the gentleman for yielding this time to me.

I rise in support of the en bloc amendments. I thank the chairman for including my amendment in it. I would be very happy to work with the gentleman from New Jersey [Mr. HUGHES] to develop better language to accomplish what he thinks would improve this bill. I really think we are finally starting on the right road to addressing the rights of victims as opposed to the criminal. I urge support.

Mr. Chairman, today the House of Representatives is debating the issue of crime. I am offering an amendment which is a simple but a significant step toward reducing the threat of violence in America. My amendment will address a dual threat to our Nation's corrections officers and the general public. First, it will make our prisons safer by reducing the risk of assault and injury to prison personnel. Second, it will help protect potential victims of violent crime. Specifically, my amendment will prohibit the Federal Bureau of Prisons from allowing prisoners to engage in certain activities which are designed to increase their physical strength and enhance their fighting ability. The types of activities which would be prohibited include training with free weights or martial arts instruction.

This amendment makes good common sense. History has unfortunately proven that weights and weight bars can be effectively used inside prisons as weapons. In my own State of Ohio last year, inmates at the Lucasville Prison used weight lifting bars to break through concrete stairwells in order to kidnap guards seeking refuge during an 11-day riot killing nine people. In addition, on March 14, 1994, 15 corrections officers and 10 inmates were injured in the Rikers Island prison gymnasium. In that incident, inmates hit two officers over the head with a 50-pound weight, and the two officers were seriously injured and hospitalized. It simply defies logic that we are using taxpayers' money to buy state-of-the-art health clubs for convicted criminals. In effect, our taxpayer dollars are being used to build bigger and better thugs.

According to the Federal Bureau of Investigation [FBI], 81 percent of the assaults on law enforcement officers in the United States during 1992 were committed with personal weapons, such as hands, fists, and feet. Our current prison system provides convicted felons, many of whom are already prone to violence, the chance to significantly increase their strength and their bulk—thus making future acts of violence even more likely.

This proposal is not based on idle speculation, but rather on statistical fact. According to a 1991 survey, 54 percent of inmates convicted of violent crimes used no weapon other than their own body when they committed their offense. Thus, by building a better thug, we are actually providing the weapon used in many violent crimes. Finally, of the 50,000 violent criminals put on probation during 1992, over 9,000 were rearrested for a violent crime within 3 years in the same state. Mr. Chairman, I think these statistics speak for themselves.

As a former prosecutor and judge who worked directly with law enforcement, jail and prison personnel, I know full well the value of exercise and stress reduction as an inmate management tool. However, there are many other forms of exercise—including basketball, jogging, aerobics, handball, and calisthenics—that cost much less and make much more sense.

I strongly believe that prison rehabilitation programs should focus on giving inmates the proper education and job skills needed to become productive members of society. State and Federal studies show that education and job training reduce recidivism and assist many exoffenders in obtaining gainful employment. By contrast, weight training and boxing classes can hardly be described as essential programs to provide prisoners with necessary job training skills.

Mr. Chairman, this amendment has been endorsed by the Law Enforcement Alliance of America; the American Society of Law Enforcement Trainers; the National Association for Crime Victims Rights; the Ohio Association of Chiefs of Police; the Buckeye State Sheriff's Association; the California Peace Officer's Association; Citizens for Law and Order; Victims of Irreparable Crime Experience; the Southern States' Police Association; and many others.

I realize my amendment is not a cure-all to crime. However, it is an important first step toward enabling the victims of crime to regain the upper hand. My amendment will not deprive prisoners of anything essential to their health or rehabilitation.

Why should be give convicted felons the ability to defeat us in our homes, on our streets, and within the correctional systems themselves. Mr. Chairman, who's running the prisons anyway? This amendment is a practical approach to protecting the public and our prison personnel right now. If you do not want to build a better thug, support the Pryce amendment.

Mr. McCOLLUM. I thank the gentlewoman for her remarks, and I want to continue that by closing out my 30 seconds. The amendment of the gentlewoman from Ohio [Ms. PRYCE] is super. She did not explain it during that 30 seconds, and probably did not have the time. But it involves the prohibiting of the Federal Bureau of Prisons from allowing prisoners under its jurisdiction from engaging in any activity designed to unduly strengthen their physical condition. I have had a lot of complaints about that. So I am very happy that it is here. The rest of the amendments are very, very important. I am happy to support this en bloc amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. BROOKS. I yield the remaining time to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding this time to me.

I rise in support of the en bloc amendments. There are 2 provisions in here that are rather noteworthy, and I think we should give credit to the sponsors. One is the Beilenson amendment, which the gentleman from California talked to, cosponsored by Berman-Thurman-Condit. That will finally force the Federal Government to live up to its responsibilities in terms of reimbursing imprisoned illegal aliens.

The second amendment is the Kennedy amendment, the gentleman from Massachusetts' amendment in terms of ensuring that stalkers are identified before their violent threats become a reality. They are both noteworthy provisions. They are part of the en bloc and worthy of our support.

Mr. KIM. Mr. Chairman, I rise in strong support of the amendment to reimburse States and localities for the costs of incarcerating undocumented criminal immigrants.

For too long, American tax dollars have been spent on feeding, clothing, and housing illegal immigrants in American prisons. In my own State of California, the cost of imprisoning illegal immigrants was over $500 million last year alone. Because the Federal Government has failed to abide by its own laws and reimburse California for faulty immigration policies made here in Washington, this responsibility has been shouldered by California's taxpayers.

But Californians are no longer able or willing to pay these high costs. Over the past 2 years, California has been rocked by devastating earthquakes, burned by rioters in Los Angeles, and bowled over by mudslides and floods. These tragedies have cost billions of dollars. Yet, the Federal Government still forces these same Californians to pay for benefits that go to nontaxpaying lawbreakers. This is outrageous.

And it doesn't stop there. Imagine my amazement when I opened my April 14 edition of the Washington Post and read with disbelief that the Immigration and Naturalization Service was halting its policy of running routine fingerprint checks on immigrants. INS officials claimed that it was a cost-saving measure, but is it really? Over 9,000 criminals have been prevented from entering the United States because fingerprint checks revealed that they had been convicted of felonies. I am pleased that the Attorney General has apparently reversed this policy change, but angered by the Federal Government's cavalier attitude toward dumping additional costs upon the States.

Every one of the criminals who could have gotten into the United States without the fingerprint check could have committed additional felonies. Those costs would have been borne by the victims, and every criminal who was caught would simply add to the growing burden of incarcerating undocumented criminal immigrants.

As I said, the fingerprint checking has been saved, but what other Federal initiatives are waiting to be unleashed that could increase crime and would increase the burden on the American taxpayer?

Since President Clinton was installed to direct the Federal Government to reimburse the States for the costs of imprisoning illegal immigrants, it is our responsibility to force the Federal Government to reimburse the States for the faulty policies made in Washington.

So, today, I rise in strong support of Federal reimbursement of States and localities for the costs of incarcerating illegal immigrants. California needs it. The American people want it and we owe it to them to make it the law of the land.

Mr. LIGHTFOOT. Mr. Chairman, I rise in strong support of the amendment offered by the gentlewoman from Ohio [Ms. PRYCE] and the gentleman from Michigan [Mr. STUPAK]. As the House is aware, this amendment would prohibit the Federal Bureau of Prisons from allowing prisoners under its jurisdiction to engage in any activities designed to increase their physical strength. The amendment would ban free weights and all types of defensive and body-building training in prisons within the Federal Prisons System. This is a very simple amendment, but it just makes common sense, which may be why Congress hasn't done this sooner.

It is appalling to think that someone who has been convicted of a violent crime could use the taxpayer's money and resources to become even more capable of violent acts. In addition, I am aware of incidents in the gentlelady's home State of Ohio and in New York in which prisoners used weight lifting equipment as riot weapons. Why should we give those who have violated the safety of our communities additional resources to wreak havoc?

We need to make sure that individuals in prisons spend their time learning not to break the law again, not getting themselves pumped up at taxpayer's expense. Certainly, I know, and my colleagues acknowledge, that this one measure will not solve our Nation's crime problem. But I don't see any reason for us not to take all the steps we can while we have the chance. I thank Congresswoman PRYCE for her work on this measure, as well as the work done by my colleague from Michigan, Congressman STUPAK. Congresswoman PRYCE is a much valued member of the law enforcement caucus which Congressman STUPAK and I cochair. With this proposal, we can show our commitment to helping our Nation's law officers. I urge the House to adopt this measure.

Ms. HARMAN. Mr. Chairman, I rise in support in of the en bloc amendment offered by Chairman BROOKS, and, in particular, the amendment offered by Representatives BEILENSON, BERMAN, CONDIT, and THURMAN which would require the Federal Government to reimburse States and localities for the costs of incarcerating undocumented aliens who have been convicted of a felony.

The State of California will house about 18,000 undocumented felons this year at a cost to the State of more than $400 million. The number of undocumented workers in California prisons is five times the number of any other State and represents a threefold increase over the last 6 years. Increases in incarceration costs to my State have even outpaced the growth of the costs of providing mandated medical care and education for the undocumented.

Enough is enough. The taxpayers of California cannot afford to continue paying the costs of incarcerating criminals who enter the country in violation of Federal law. We need to be tougher at the border and I support dramatically increased resources for the Border Patrol. But the Federal Government also has a responsibility to relieve States of the burden of incarceration of convicted undocumented felons.

Current Federal law recognizes this responsibility, and the Beilson amendment ensures that we will live up to this obligation by requiring that, by 1998, the Federal Government will either take custody of illegal aliens convicted of a felony or reimburse States for the costs of their incarceration.

Due in part to my strong support for the inclusion of this measure in the crime bill, I strongly support the chairman's en bloc amendment.

Mr. KENNEDY. Mr. Chairman, I would like to thank Chairman BROOKS and particularly Chairman SCHUMER for their tremendous support on this amendment. I would also like to recognize the efforts of Representatives RAMSTAD, SCHROEDER, MORELLA, and Senator BIDEN.

Mr. Chairman, stalking and domestic violence have reached epidemic proportions in this country—sending constant threats of fear, pain, and suffering for its victims and their families.

It's time to put an end to this horrifying cycle of violence—before another life is lost.

Experts believe that each year more than 200,000 women are stalked by their former husbands, boyfriends, or complete strangers.

At least nine women a day die at the hands of their stalkers.

Nearly 30 percent of all female murders are attributed to domestic violence.

In my own State of Massachusetts, 42 women were killed in a 14-month period by stalkers.

Kristin Lardner's tragic case sent shockwaves of the justice system failing the victims it was designed to protect. She was brutally abused, stalked, gunned down, and murdered by her former boyfriend. Her stalker had a long criminal history and was on probation for the abuse of a former girlfriend when she sought a restraining order. But, tragically, the judge overseeing the case did not have access to these criminal history records.

The courage of Kristin's family has turned their loss into hope for others. Her sister, Helen Lardner testified before this Congress that, "My sister might be alive today if the judge at the hearing had checked her eventual killer's record."

This amendment responds to the pleas for help.

It gives law enforcement officials and civil and criminal courts the tools to enforce civil protection orders, prevent further stalking and domestic violence, and track offenders across State lines and jurisdictions;

It gives civil and criminal State courts access to criminal history information for use in these cases; and

It calls on criminal justice agencies to include information about stalking and domestic violence offenses in criminal history records.

I urge my colleagues' support for taking steps outlined in this amendment to make the everyday lives of Americans safer.

Mr. BORSKI. Mr. Speaker, I rise today to express my strong support for the Canady-Geren amendment to H.R. 4092, the crime bill. I believe this legislation is essential to the success of controlling the outbreak of crime and assuring the safety of our children, our senior citizens, and our families.

Mr. Chairman, the Federal courts across the Nation are hindering local efforts of law enforcement. By imposing arbitrary caps on the number of prison inmates, criminals are released moments after they are arrested due to lack of holding facilities and prison overcrowding. Police are forced to spend their valuable time apprehending the same criminals who commit the same crimes, hours or days later. In the city of Philadelphia, you cannot be incarcerated pretrial for car jacking, stalking, drug dealing, burglary, manslaughter, or weaponless robbery, no matter how many times you commit these crimes or fail to appear in court, due to prison caps.

Mr. Chairman, the criminals across the Nation are winning the war on crime. They have learned that if they refuse to appear for trial, the local law enforcement does not have the facilities to go after them. Criminals rarely, if ever, report for trial. In Philadelphia, of all the defendants released under the prison cap, 47 percent fail to appear in court. What this means is that over a period of 6 years, from 1988 to 1994, over 230,000 cases remained unprosecutable due to prisoners refusing to appear in court. In one city, 230,000 criminal acts went unanswered and close to 230,000 victims did not receive justice. Mr. Speaker, it is time for us to stop this ridiculous game that criminals are playing with our criminal justice system.

Mr. Chairman, these prison caps are also endangering the lives and well-being of our families. In 1991, the city of Philadelphia was forced to release tens of thousands of prison cap defendants with pending criminal charges. Of these defendants, over 8,000 were rearrested for new charges, including: 77 murders, 851 burglaries, 1,993 drug charges, and 1,102 robberies.

Mr. Chairman, I would like to enclose an excerpt from a letter that I received from a detective of the Philadelphia Police Force. Det. Patrick Boyle has experienced, firsthand, the danger incurred by prison caps when his son, who was also a police officer in Philadelphia, was shot and killed by a criminal released due to the prison cap.

> My son, Danny Boyle, was assigned to the 26th Police District and he soon became acquainted with all aspects of patrol work in a very busy area. As you well know, lawlessness and the complete disregard for human life is epidemic in our country. On February 4th 1991, 12 midnight, Dan reported for work and was assigned to a one man patrol car. At about 2:40 AM, Danny observed a vehicle which was traveling the wrong way on a one way street occupied by two males. Dan stopped the vehicle, which had been stolen earlier, the driver jumped from the auto and immediately began firing a 9mm semi-automatic handgun at Danny. One of the thirteen shots fired struck Dan in the right temple. Danny died of his wounds on February 6th 1991. Dan was 21 years old and served with pride and distinction for one year and one day.
>
> The perpetrator of this crime was arrested, tried and convicted of first degree murder however (sic) he should not have been on the streets of Philadelphia to commit this murder. He had been arrested and released without posting any type of bond. He ignored two bench warrants and was free to commit whatever crime he chose including the murder of Dan. Danny's death was a direct result of the Philadelphia Prison Cap which serves the criminals well but condemns all of the law abiding citizens of Philadelphia . . . I beg you to stop this madness . . . and stop the revolving door of injustice.

Mr. Chairman, while we all agree that prisons must provide humane treatment for prisoners, prison caps should be a remedy of last resort. The Canady-Geren amendment would provide desperately needed help in the prevention of repeat criminals, while still enabling prisoners to obtain Federal court relief for inhumane prison conditions.

I urge my colleagues to vote for the Canady-Geren amendment and alleviate the apparent danger caused by prison caps. We cannot allow the minor discomforts of prisoners to dictate the safety of our children and our families.

Mrs. MORELLA. Mr. Chairman, I rise in support of the Kennedy amendment. Like Mr. KENNEDY and our other colleagues, I, too, am greatly concerned about stalking and its effects on women's physical safety and peace of mind.

Stalking is a despicable crime—a crime from which no one is completely safe. We have heard of obsessed fans who stalk celebrities, trying to become a part of their lives. In 1989, one such deranged fan murdered the actress he was stalking, bringing instant national attention to the danger of stalking.

Despite the attention this case generated, the most usual stalking case does not involve a celebrity. Many of you have read Washington Post reporter George Lardner's articles about his daughter, Kristin. Kristin was a bright, talented young woman who was stalked and later murdered by an obsessive former boyfriend. Kristin Lardner was typical of the most usual stalking victim, a woman who is stalked by a former husband or boyfriend who is unable to let go after the relationship has ended.

For too long, women who knew they were in danger have gone to the authorities to seek protection. For too long, authorities have been unable to arrest and charge the stalker, frequently because isolated acts of stalking were not considered crimes. The police could do nothing until the woman had actually been assaulted. Imagine having to wait for someone to beat or rape you before the police are able to offer you protection from a stalker.

Many States are now aware of the need to define and criminalize stalking, so that police officers may arrest a stalker before he or she assaults or kills his or her target. In September 1993, the National Institute of Justice released its report on the Project to Develop a Model Anti-Stalking Code for States. The NIJ issued this report in response to congressional direction to prepare a constitutional and enforceable model antistalking code. The direction of Congress and the work of the NIJ allows States to criminalize stalking in clear and constitutional language, which means States can move quickly to criminalize stalking.

The amendment before us would allow Congress to continue helping States in their efforts to protect all of their citizens from stalkers. Courts would have access to existing national crime information databases for use in domestic violence and stalking cases. Grants would be available to States to improve their processes for collecting stalking and domestic violence data and entering it into national crime information databases. The National Institute of Justice would conduct training programs for judges to ensure that those judges with responsibility for issuing restraining orders will have all relevant information available to them, and will know how to access it.

As Chair of the Congressional Caucus for Women's Issues Task Force on Violence, I am deeply concerned about all violence issues facing women. We must empower our police and judges to do everything possible to protect us from all criminals, including those who are known to us.

I commend my colleagues on the Judiciary Committee for including the Violence Against Women Act, H.R. 1133, in this crime bill. As one of the sponsors of the act, I am grateful to the committee and to the House for the support shown for this bill.

The Kennedy amendment will help to protect innocent people from the terror of stalking. I urge all my colleagues to join me in supporting this amendment.

Mr. BERMAN. Mr. Chairman, I rise in strong support of Beilenson-Berman-Condit-Thurman amendment.

In 1986, the Federal Government recognized its responsibility to be financially accountable for illegal aliens convicted of felonies in State courts. Section 501 of the Immigration Reform and Control Act specifically authorizes the Attorney General shall reimburse States for the costs of incarcerating undocumented criminal aliens; but to date, States that bear the burden of housing this population in their jails have seen no money from this program.

With over 30,000 criminal aliens in State and local prisons across the United States, the financial costs to these communities can be staggering. The State of California, with the largest criminal alien population in the country, estimates that the costs of incarcerating criminal aliens will exceed $375 million this year.

In 1993, States including Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho, Illinois, Massachusetts, Nevada, New York, Oregon, Pennsylvania, Texas, and Washington reported that the number of criminal aliens exceeded 2 percent of their prison populations.

We all know and can say that immigration policy in this Nation rests in the hands of the Federal Government. The Federal Government must acknowledge its duty to secure our country's borders from illegal immigration, uphold our immigration laws, and investigate and prosecute Federal wage and hour violations which create incentives to hire persons illegally.

But the Federal Government's failure to responsibly manage our immigration policy, in this case, has resulted in a system which makes State and local governments pay the price for imprisoning people who have entered our country in violation of Federal laws. A policy of a whole nation has shifted tremendous financial costs to only certain States.

Strong action must be taken to provide assistance to States which deal with some key problems associated with individuals who enter the country illegally and commit crimes.

This amendment is an important step which will help ensure that the Federal Government will fulfill its obligations to all our communities by having the Department of Justice compensate States for the costs of incarcerating undocumented criminal felons or taking them into Federal custody.

Doing this alone will help relieve States of a heavy responsibility and allow revenues for other public purposes, including crime control.

As stewards of immigration policy, the Federal Government must live up to its responsibility of enforcing our country's immigration laws, but it must also assume financial obligations when it fails to enforce these laws.

I urge my colleagues to vote in favor of this amendment.

Mr. GOSS. Mr. Chairman, my colleague, Congressman MORAN, asks us to consider the Driver's Privacy and Protection Act of 1993 as an amendment to the omnibus crime bill. The intent of this legislation is simple—to protect the personal privacy and safety of all American licensed drivers. Specifically, this bill responds to the senseless murder of Rebecca Schaeffer, who was gunned down outside of her apartment by a crazed fan who got her unlisted telephone number and address from the DMV. Many people may not know that in 34 States, including Florida, anyone can walk into the DMV office with a license plate number, pay $5 to $10, and get the car owner's name, address, phone number, height, weight, date of birth, and other very personal information—no questions asked. As it stands in those States, a total stranger—potentially a stalker—can easily obtain personal information without knowing anything more than a license plate number. Despite the commonsense objective it seeks to meet, Congressman MORAN's version of the Driver's Privacy and Protection Act has generated some confusion and concern about who would be denied access to the DMV's personal records. I believe the legislation adequately balances the circumstances where access to the DMV information is justified relative to the very real concern for privacy protection. This amendment does not prohibit legitimate business, law enforcement and governmental access to such information. In fact, specific provisions within the bill ensure that the DMV will continue to provide information to individuals looking for lost relatives, people who are involved in court proceedings, law enforcement officials, and licensed private investigators. The amendment also provides for bona fide research and other purposes, which in effect gives access to journalists unless an individual specifically denies disclosure of personal information. The Driver's Privacy and Protection Act states that access to all information on vehicular accidents, driving violations, and a driver's record will not be limited. The flow of information would only be denied to a narrow group of people that lack legitimate business. The Amendment defines "legitimate business" broadly, including all the duties of Federal, State, and local law enforcement agencies and courts, verification and/or correction of personal information, private investigations, and anything related to the operation of a motor vehicle.

Mr. Chairman, the intent of this bill is simple and straightforward: We want to stop stalkers from obtaining the name and address of their prey before another tragedy occurs. We are not naive—we know this amendment will not stop all stalkers from commiting heinous crimes. Still, I believe the Driver's Privacy and Protection Act is a reasonable and practical crime fighting measure. The Driver's Privacy and Protection Act balances the legitimate public and business interests in keeping these records available with an individual driver's right to privacy.

Mr. BEILENSON. Mr. Chairman, the amendment Mr. BERMAN, Mr. CONDIT, Mrs. THURMAN, and I are offering addresses the serious burden placed on States and localities by the Federal Government's abdication of responsibility for the incarceration of criminal aliens. This amendment, which is similar to legislation I introduced earlier this year with Mr. BECERRA and several other Members of the California delegation, requires the Federal Government either to take custody of illegal aliens convicted of a felony, or to reimburse State and local governments for the cost of their incarceration beginning in 1998.

There are between 23,000 and 35,000 undocumented aliens incarcerated in State prisons. The States which have significant numbers of criminal aliens in their prisons—that is, over 2 percent of their prison population—include not just California, Florida, Texas, and New York, as one might expect, but also Alaska, Arizona, Colorado, Connecticut, Delaware, Hawaii, Idaho, Illinois, Massachusetts, Nevada, New Jersey, Oregon, Pennsylvania, and Washington. At an annual cost of $18,000 or more per prisoner, this translates to a yearly financial burden of between $420 and $615 million on the criminal justice systems of affected communities.

These costs, which are increasing rapidly, are the result of the Federal Government's failure to enforce our immigration laws—a failure which has resulted in the unlawful entry into the United States of millions of illegal immigrants. In Los Angeles County alone, the cost of incarcerating deportable aliens is $34 million per year. If the cost of prosecutors, public defenders, and probation officers is included, the overall cost of deportable criminal aliens to the county's criminal justice system amounts to $75 million per year.

The impact of convicted criminal aliens on Los Angeles County was documented in two studies conducted in 1990 and 1992 by the countywide Criminal Justice Coordination Committee in conjunction with the County Sheriff and the Immigration and Naturalization Service [INS]. Those reports estimated that 19 percent of the inmates in Los Angeles County jails were foreign born and 11 percent were deportable aliens. They found that over 23,000 deportable aliens go through the Los Angeles County justice system each year.

Furthermore, as the 1992 report stated, "significant numbers of deportable aliens who are removed from the country do, in fact, return to Los Angeles County and sustain new contacts with the criminal justice system." The study found that 40 percent of the 1,875 deportable aliens who were released from the county jail in May 1990 were re-arrested an average of two times in the following 12 months. Only 339 of the 1,875—less than one-fifth—of those deportable aliens had no previous or subsequent arrests. The other 1,536 had been arrested an average of seven times, for a combined total of 10,989 arrests, since they arrived in the United States.

Yet, while State and local governments have the responsibility for incarcerating criminal aliens and processing their cases, they have no jurisdiction, obviously, over the enforcement of immigration laws, no authority to deport aliens who are convicted of crimes, and no authority to ensure that those deported are not permitted to re-enter the country.

Congress recognized the unfairness of this situation in the 1986 Immigration Reform and Control Act [IRCA], and acknowledged the Federal Government's responsibility for the criminal alien population. Section 501 of the act specifically authorizes the reimbursement to States of costs incurred in the imprisonment of illegal aliens. Unfortunately, however, this commitment has yet to be fulfilled, because Congress has failed to appropriate any funding for that purpose.

Currently, the Governors of several States are seeking relief from this predicament by requesting—or even suing—the Federal Government to take custody of thousands of illegal aliens housed in their prisons. I expect that more demands of this kind are likely to be forthcoming from States and localities with large criminal alien populations as these communities attempt to cope with the strain that the Federal Government's failed immigration policy places on their budgets. And I believe that those demands are fully justified.

This amendment will ensure that the Federal Government lives up to its financial obligations under the Immigration Reform and Control Act. Our amendment allows Congress and the administration 4 more years to pay for the incarceration of criminal aliens through the appropriations process; if that does not happen, then, beginning October 1, 1998, this amendment will force the Federal Government to pay for it. Knowing that the Federal Government will soon be required to assume this burden will, we hope, also encourage the administration, and the Congress, to take strong steps to stop illegal immigration altogether, so that potential criminal aliens will not be able to enter our country in the first place.

Mr. Chairman, some Members may argue against this amendment because it technically creates a new entitlement beginning in fiscal 1999, which is a violation of the Budget Act. It's true that this proposal would increase mandated Federal spending, but this amendment is different from the classic kind of new entitlement spending, where the Government is assuming a new responsibility, and thus placing a new additional burden on the taxpayers. This is a case where, by assuming payment for what is unquestionably a Federal responsibility, the Federal Government would relieve the tax burden on many State and local taxpayers. The primary reason we try to control entitlement spending through the Budget Act is to avoid creating new tax burdens; this amendment, however, is tax-neutral—the net tax burden on Americans would remain the same—and so it does not break faith with the purpose of the Budget Act.

Furthermore, the mandatory-spending approach of this amendment is a last-resort proposition. We agree that funding for the incarceration of alien criminals should be provided for through appropriations. But we have waited patiently for 8 years for Congress to provide funding for that purpose, to no avail. We will wait patiently for 4 more years and then, if the funding is still not appropriated, it will be mandated.

Finally, I would point out that the cost of this amendment—roughly $600 million a year—is not a lot for the Federal Government; in fact, under the fiscal 1994 budget resolution, it is less than the amount we have in reserve for additional entitlement spending for the next fiscal year. On the other hand, for State and local governments, $600 million is quite a significant amount.

Mr. Chairman, this amendment provides relief to States for the cost of incarcerating people who have entered our country in violation of Federal laws. This cost should be borne by all U.S. citizens, not just those who live in regions with large numbers of illegal immigrants. Relieving States and localities of this substantial expense will free up revenues for other public purposes—including the very purpose served by this bill, crime control.

I urge my colleagues to support this amendment.

Mrs. MORELLA. Mr. Chairman, I rise in support of the Moran amendment.

This amendment will allow people an opportunity to protect their safety by denying some individuals access to information about their whereabouts. Sadly, some people have used motor vehicle departments to learn the address of a person who does not want to give out his or her address. This is particularly a problem with stalkers, people who methodically invade every aspect of a person's life, denying them peace of mind and a sense of safety even in their own home. Stalkers follow, threaten, intimidate, assault, and sometimes kill those with whom they are obsessed. Allowing a government agency to aid stalkers in locating those they are harassing is untenable. We must ensure that the agencies are not misused, and that all individuals have an opportunity to protect their privacy.

I urge my colleagues to join in support of this amendment.

Mr. RAMSTAD. Mr. Chairman, I rise in strong support of the national stalker and domestic violence amendment offered by Mr. KENNEDY of Massachusetts.

As a strong supporter of the Violence Against Women Act, I know how important it is for Congress to take strong steps to prevent domestic violence and stalking. This amendment is an excellent complement to that legislation.

Mr. Chairman, it is often very difficult for someone being stalked to get protection. This amendment will give law enforcement and the courts access to an alleged stalker's criminal history.

If Congress passes this amendment: No longer will alleged stalkers with criminal records slip through the cracks; no longer will victims be continuously stalked, and their lives threatened, simply because nobody knew the stalker's criminal background.

Mr. Chairman, I'm pleased to be part of this important bipartisan amendment. I urge my colleagues from both sides of the aisle to join us.

If we put politics aside, this body can pass a strong anticrime bill. The American public—and in this case, America's stalking and domestic violence victims—deserve nothing less.

Mr. CONDIT. Mr. Chairman, the Beilenson-Berman-Condit-Thurman amendment is not the amendment that I would like to be considering today.

It is a compromise. It is the strongest language that was allowed to come to the floor.

While I strongly believe that the amendment should take effect immediately, it would not go into effect until 1998.

Until 1998, the language would be subject to appropriations.

So the message that I would like to get across today is that if this amendment passes, we must work even harder to try to get the necessary appropriations to live up to our Federal obligations.

The Beilenson-Berman-Condit-Thurman amendment would require the Federal Government to reimburse State and local governments for the costs of incarcerating criminal aliens.

This is not a California issue, or a Florida issue, or a Texas issue.

It is an issue of fairness and responsibility.

If the Federal Government fails to keep individuals from entering the country illegally, then the Federal Government should be responsible for the consequences, even if they are financial.

To force local and State governments to use their limited resources to deal with criminal aliens is wrong.

They need these resources to fight crime in the streets and to keep violent criminals behind bars.

There is a cost to the Federal Government.

But this is not a luxury. It is not a new program. The money is already being spent by local and State governments.

The Federal Government has already acknowledged in section 501 of the Immigration Reform and Control Act that criminal aliens are a Federal responsibility.

This amendment would allow us to live up to this responsibility.

It is not a solution to the problem. But it is a crucial first step.

I urge all Members to vote in support of the amendment.

The CHAIRMAN. All time has expired.

The question is on the amendments en bloc, as modified, offered by the gentleman from Texas [Mr. BROOKS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CANADY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 402, noes 22, not voting 13, as follows:

[Roll No. 130]

AYES—402

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Faleomavaega (AS)
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Flake
Ford (MI)
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDermott
McHale
McHugh
McInnis
McKeon
McMillan
Meehan
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers

Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roberts
Roemer
Rogers
Rohrabacher
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zimmer

NOES—22

Blackwell
Clay
Clayton
Collins (IL)
Collins (MI)
Conyers
Dellums
Foglietta
Frank (MA)
Hastings
Hilliard
Kopetski
McKinney
Meek
Owens
Payne (NJ)
Sabo
Stokes
Thompson
Watt
Yates
Zeliff

NOT VOTING—13

Bacchus (FL)
de Lugo (VI)
Fish
Gallo
Grandy
Houghton
Laughlin
McDade
McNulty
Payne (VA)
Ridge
Rush
Washington

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Mrs. COLLINS of Illinois, Mrs. CLAYTON, Mr. BLACKWELL, and Mr. OWENS changed their vote from "aye" to "no."

Mr. SCOTT changed his vote from "no" to "aye."

So the en bloc amendments, as modified, were agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. RUSH. Mr. Chairman, during rollcall vote No. 130 on H.R. 4092 I was unavoidably detained. Had I been present I would have voted "no."

The CHAIRMAN. It is now in order to consider amendment No. 17 printed in part 1 of House Report 103–474.

AMENDMENT OFFERED BY MR. McCOLLUM

Mr. McCOLLUM. Mr. Chairman, I offer Amendment No. 17.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. McCOLLUM:

TITLE IX—EQUAL JUSTICE ACT

SEC. 901. SHORT TITLE.

This Act may be cited as the "Equal Justice Act".

SEC. 902. PROHIBITION OF RACIALLY DISCRIMINATORY POLICIES CONCERNING CAPITAL PUNISHMENT OR OTHER PENALTIES.

(a) GENERAL RULE.—The penalty of death and all other penalties shall be administered by the United States and by every State without regard to the race or color of the defendant or victim. Neither the United States nor any State shall prescribe any racial quota or statistical test for the imposition or execution of the death penalty or any other penalty.

(b) DEFINITIONS.—For purposes of this Act—

(1) the action of the United States or of a State includes the action of any legislative, judicial, executive, administrative, or other agency or instrumentality of the United States or a State, or of any political subdivision of the United States or a State;

(2) the term "State" has the meaning given in section 541 of title 18, United States Code; and

(3) the term "racial quota or statistical test" includes any law, rule, presumption, goal, standard for establishing a prima facie case, or mandatory or permissive inference that—

(A) requires or authorizes the imposition or execution of the death penalty or another penalty so as to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims; or

(B) requires or authorizes the invalidation of, or bars the execution of, sentences of death or other penalties based on the failure of a jurisdiction to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims in the imposition or execution of such sentences or penalties.

SEC. 903. GENERAL SAFEGUARDS AGAINST RACIAL PREJUDICE OR BIAS IN THE TRIBUNAL.

In a criminal trial in a court of the United States, or of any State—

(1) on motion of the defense attorney or prosecutor, the risk of racial prejudice or bias shall be examined on voir dire if there is a substantial likelihood in the circumstances of the case that such prejudice or bias will affect the jury either against or in favor of the defendant;

(2) on motion of the defense attorney or prosecutor, change of venue shall be granted if an impartial jury cannot be obtained in the original venue because of racial prejudice or bias; and

(3) neither the prosecutor nor the defense attorney shall make any appeal to racial prejudice or bias in statements before the jury.

SEC. 904. FEDERAL CAPITAL CASES.

(a) JURY INSTRUCTIONS AND CERTIFICATION.—In a prosecution for an offense against the United States in which a sentence of death is sought, and in which the capital sentencing determination is to be made by a jury, the judge shall instruct the jury that it is not to be influenced by prejudice or bias relating to the race or color of the defendant or victim in considering whether a sentence of death is justified, and that the jury is not to recommend the imposition of a sentence of death unless it has concluded that it would recommend the same sentence for such a crime regardless of the race or color of the defendant or victim. Upon the return of a recommendation of a sentence of death, the jury shall also return a certificate, signed by each juror, that the juror's individual decision was not affected by prejudice or bias relating to the race or color of the defendant or victim, and that the individual juror would have made the same recommendation regardless of the race or color of the defendant or victim.

(b) RACIALLY MOTIVATED KILLINGS.—In a prosecution for an offense against the United States for which a sentence of death is authorized, the fact that the killing of the victim was motivated by racial prejudice or bias shall be deemed an aggravating factor whose existence permits consideration of the death penalty, in addition to any other aggravating factors that may be specified by law as permitting consideration of the death penalty.

(c) KILLINGS IN VIOLATION OF CIVIL RIGHTS STATUTES.—Sections 241, 242, and 245(b) of title 18, United States Code, are each amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

SEC. 905. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.

(a) SECTION 241 AMENDMENTS.—Section 241 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in".

(b) SECTION 242 AMENDMENT.—Section 242 of title 18, United States Code, is amended by striking "inhabitant of" and inserting in lieu thereof "person in", and by striking "such inhabitant" and inserting "such person".

The CHAIRMAN. Pursuant to the rule, the gentleman from Florida [Mr. McCOLLUM] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

Does the gentleman from California [Mr. EDWARDS] rise in opposition to the amendment?

Mr. EDWARDS of California. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from California [Mr. EDWARDS] will be recognized for 10 minutes, and the Chair now recognizes the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment I am offering today would strike the so-called Racial Justice Act from the bill and substitute the Equal Justice Act.

I would remind my colleagues at the very beginning that in the previous Congress this House passed the same Equal Justice Act in substitute for the same underlying Racial Justice Act by a vote of 223 to 191.

The Racial Justice Act in this bill which would be stricken and which I oppose is also opposed by the National Association of Attorneys General. I happen to have a letter signed by 32 of them individually. They strongly oppose the underlying Racial Justice Act. It is opposed by the National District Attorneys Association, the National

Troopers Coalition, and the American Legislative Exchange Council, which is the largest body representing State legislators in this country.

The reason why they oppose the underlying Racial Justice Act is very simple. They perceive, as I do, that it would effectively eliminate the death penalty in many, if not all, death penalty cases. It creates an inference of racial discrimination on the basis of death penalty statistics. It applies retroactively, which means that there are many of these cases out there that are 10 or more years old where somebody is sitting on death row—I think we have a case in Arizona that is almost 20 years old—and in any one of those cases where you could show a racially discriminatory statistic; that is, where you have more blacks, for example, than whites who receive the death penalty in a particular jurisdiction than there are blacks to whites in the ratio of the general population, you would have this inference of discrimination which the prosecutor would have to overcome. And in those cases that are pending and that have already been tried many years ago, then the prosecutor would have the case reopened and would have to go in and affirmatively overcome that inference with respect to questions that could be asked about jury selection, et cetera, and you may have jurors who are dead and witnesses who are dead. It is virtually impossible, they tell me, to go back and do that. This is a very, very damaging proposal and an unnecessary one.

In addition, the Racial Justice Act that is in the bill presently that my amendment would strike encourages the quota system for death penalty cases.

Now, what would the McCollum substitute do, and why did the Members of this body in the last Congress approve it? First of all, it expressly prohibits racially discriminatory policies by stating that any penalty "shall be administered without regard to the race or color of the defendant or the victim," and prohibits "any racial quota or statistical test" for any penalties.

It also applies to all penalties, not merely capital punishment. The Racial Justice Act only refers to capital punishment cases. And it codifies protections against racial bias, and, in addition, it provides safeguards during the trial and not simply after the fact like the Racial Justice Act does.

The Racial Justice Act would overturn the U.S. Supreme Court precedent which rejected the contention that mere statistical showings of racially discriminatory patterns in the application of capital punishment prove the death penalty is being administered in violation of the eighth and fourteenth amendments. That is the McCloskey versus Kemp case.

With its emphasis on statistics, the Racial Justice Act encourages a quota system for capital punishment cases by introducing race consciousness in the capital case decisions. Instead, capital case decisions are supposed to be race neutral, and that is the purpose of the Equal Justice Act. By also prohibiting discriminatory policies not only in capital cases but in all criminal cases, it affirmatively takes those steps necessary to ensure that we do not have discrimination without taking the steps that the underlying bill would take by providing a statistical database, a quota system that raises problems for prosecutors all over this country and would reflect retroactively many death row inmate cases today in this country, and effectively nullify, I think, forever the opportunity to get the death penalty for those individuals.

Mr. Chairman, I reserve the balance of my time.

□ 1240

Mr. EDWARDS of California. Mr. Chairman, I rise in opposition to the McCollum substitute. It very largely is ineffective in that it just repeats current law.

Mr. Chairman, perhaps I am a lucky one in this Chamber, I and the gentleman from Texas [Mr. PICKLE], and the gentleman from Illinois [Mr. ROSTENKOWSKI], and a few others, because we were here in 1964 when this body in an overwhelming vote effectively eliminated apartheid from this country, apartheid that had ruined our lives and our reputation throughout the world.

I might add that in that vote and in the vote the following year that finally enfranchised African-Americans in this country, the Republicans voted 82 percent for this massive revolutionary civil rights bill that made the United States the icon of the world.

We are not known throughout the world with goodwill because of our atom bombs, our airplanes, our radio or TV sets. We are known throughout the world because effectively we have tried, through law and through good will, to have a country where all colors are welcome, all religious are treated fairly, and we are colorblind.

Mr. Chairman, we have a chance today to finish a vestige, some remains, of this apartheid. We ought to be ashamed of the situation in this country, where in certain areas black Americans and Hispanic Americans are disproportionately executed for the same kind of crime, the same circumstances, that a white person would not be executed.

I refer the chairman and my colleagues to a 1990 General Accounting report that pointed this out statistically. No one has ever said that black people are not executed for the same crimes three and a half, four and a half time more than white people, especially when the victim is white.

Mr. Chairman, I do not have much more to say other than this to my colleagues. You are going to have an opportunity, which is something I treasured, to be a part of these great reforms that made this country so much more decent and equitable. This might be the only chance in your legislative life that you can be a part of the movement. I appeal, especially to my Republican colleagues. Who are the party of Abraham Lincoln. Eighty-two percent of you voted for the 1964 and 1965 Civil Rights Act. We need you again this time.

Mr. Chairman, I reserve the balance of my time.

Mr. MCCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman for Wisconsin [Mr. SENSENBRENNER], the ranking member of the Subcommittee on Crime.

Mr. SENSENBRENNER. Mr. Chairman, I rise in support of the McCollum amendment and in opposition to the so-called Racial Justice Act.

The race of someone who has been convicted by a jury of their peers of a crime should not make any difference in the sentence that is imposed. Since 1972, when the Supreme Court of the United States has set down the rules for the imposition of the death penalty, that is not taken into account under existing law.

Mr. Chairman, since 1972, when the death penalty has been imposed, the same jury that heard the evidence and that convicted the defendant, found the defendant guilty, is then reconstituted, and, after a separated hearing, votes on whether or not the defendant deserves the death penalty or whether the defendant deserves a penalty that is less than death.

So there is not race that is put into that jury's decision. The juries are protected against racial bias, and, as of yesterday, they will be protected against bias based upon gender.

And who would be better qualified to determine whether or not someone who has been convicted of a crime deserves the death penalty but that jury? The jury heard the evidence. The jury was able to assess the demeanor of the defendant during the trial in court. The jury assessed the credibility of the witnesses and determined which witnesses were telling the truth and which were not. And what the statistical analysis of the Racial Justice Act, that the gentleman from Florida [Mr. MCCOLLUM] seeks to strike and have substituted does, is take away from the jury that essential determination, and instead put it in some kind of a quota system.

Worse yet, if the law that the gentleman from California wants to have passed does find its way into the statute books of the United States, a feature of it will reopen the trial of everybody who has been convicted and sentenced to death and has been on death row. This is Mr. EDWARDS' reverse bill of attainder, and we ought to vote it down.

Mr. EDWARDS of California. Mr. Chairman, I yield myself 1 minute, and ask the attention of the chairman of the full committee.

Mr. Chairman, there has been some concern about the fact that the Racial Justice Act now before the House is retroactive and therefore could be invoked by persons already on death row. In conference, it is my intent to drop retroactivity and seek inclusion of a provision making it clear that the Racial Justice Act is prospective only.

Would the chairman support a provision making it clear that it is only prospective?

Mr. BROOKS. Mr. Chairman, if the gentleman will yield. It has been my position from the time the proviso was at the committee—at the Rules Committee—and it will be my position in the conference, that the Racial Justice Act should be prospective only in application.

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, I thank the gentleman for yielding.

My colleagues, the McCollum amendment codifies existing law today. It has left in place the most serious racism still existing in our country, the racial application of the death penalty. It would probably be the unanimous view in this Chamber that racial discrimination is not only wrong, but evil. My colleagues, that view is worthless if you are not willing to act on it in this instance.

As chair of the Equal Employment Opportunity Commission, I saw statistics used in all forms of civil litigation. But this is not jobs. This is not public accommodations. My colleagues, this is life and death. Yet statistical evidence would almost never be used alone as proof. It almost never is in litigation.

How can you explain that three-quarters of the convictions in Federal Court are of whites, yet three-quarters of the death prosecutions are of blacks? Who can live with those statistics? The McCollum amendment would leave them in place. There is no check on the prosecutor today. He chooses blacks for death. Allowing the defendant to try to show that that is the case is the only check on him. Do not turn your backs on documented racism in the application of the death penalty.

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, about 6 years ago I introduced this amendment in its original instance. We have had good years in the House where it passed, and we have had other less successful years, like last year, when it did not. But let us face the facts: For many reasons, we are stuck with the death penalty. But this will not abolish the death penalty, and anyone that says that it will is incorrect. It will not cause relitigation of every death penalty case. That is not true.

Mr. Chairman, this is a very restricted version of the original Racial Justice Act that I and the gentleman from California [Mr. EDWARDS], when I was on his subcommittee, first brought forward.

It puts the burden on the defendant.

□ 1250

It will not cause retrials of any cases. And guess what? The judge is the final person who decides whether or not this racial justice provision should prevent the imposition of the death penalty.

Please support this limited provision in the bill and please oppose the McCollum amendment.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. CANADY].

Mr. CANADY. Mr. Chairman, I thank the gentleman for yielding time to me.

I rise to speak today in favor of the McCollum amendment, which is certainly one of the two or three most important amendments we will consider on this bill. This is such an important amendment because the provisions of the so-called Racial Justice Act would be so pernicious. Without the McCollum amendment, this bill would remain deeply flawed, because it would require prosecutors around this land to establish a racial quota system for imposition of the death penalty.

The Racial Justice Act runs directly contrary to the traditions of Anglo-American justice that an individual should be tried and sentenced on the facts of his particular case. The Racial Justice Act would turn our jury system over to social scientists. It is a travesty; quite frankly, nothing more than a subterfuge to stop the death penalty in this country.

So, far we have made substantial progress in improving this crime bill. Let us continue to improve this crime bill by adopting the McCollum amendment. We should not stop now.

Mr. EDWARDS of California. Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan [Mr. BONIOR], the distinguished elected whip.

Mr. BONIOR. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, any judge or jury will tell you that the toughest decision they ever have to make is the decision to sentence another human being to death.

To commit a person to the electric chair.

To commit a person to death by lethal injection.

It is the toughest decision there is.

But the laws of our Nation allow the death penalty.

And the law says that if a man or woman is sentenced to death, it should based on the facts and the facts alone.

This amendment simply says that similar crimes should receive similar sentences regardless of race and if the evidence suggests a pattern of bias, the courts are free to look into it.

Let us be clear—this act does not require a court to accept a particular study or theory.

It does not put the burden of proof on the court—the burden lies with the defendent.

And above all, it does not allow a defendent to challenge the underlying conviction only the death sentence.

Mr. Chairman, we have made a decision in this country to allow the death penalty.

This act simply says that we shouldn't be killing people in this country based solely on the color of their skin.

I urge my colleagues to vote yes on the Racial Justice Act, and vote no on the McCollum amendment.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Chairman, I rise in support of the McCollum amendment.

The U.S. Constitution guarantees that race shall not be a factor in the capital sentencing process and the U.S. Supreme Court has erected numerous procedural safeguards to ensure that racial bias does not affect the imposition of the death penalty.

But the Racial Justice Act makes the race of a defendant or the victims the most important factor in capital sentencing decisions by creating a system of statistically proportional justice where the penalty a defendant receives would be based on that defendant's race or the race of his or her victim.

Justice should be colorblind and apply to all criminals on the same basis regardless of race.

I strongly support existing protections against racial prejudice in individual cases, but a prosecutor should not be forced to consider race when deciding whether to go for a capital sentence.

Jim Gilmore, Virginia's attorney general, has written to me that he believes passage of the Racial Justice Act would be a disastrous blow to law enforcement in general and, more specifically, to the victims of crime. He says it would "seriously undermine Virginia's ability to uphold and carry out its lawful criminal judgments, particularly in capital cases."

The National Association of Attorney Generals has stated that the Racial Justice Act and habeas corpus reform provisions contained in this bill "would effectively stop all State capital case prosecutions and executions under valid State capital sentencing schemes."

I support the McCollum amendment to strike the Racial Justice Act and insert the "Equal Justice Act." The

Equal Justice Act provides protection against racial discrimination without quotas.

Mr. EDWARDS of California. Mr. Chairman, I yield 30 seconds to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I rise in opposition to the McCollum amendment and for the Racial Justice Act. Let me make three quick points to my colleagues.

First, Members believe in the death penalty as I do, one thing that they should stick to is that it ought to be administered fairly. It may be administered fairly in their part of the country. There are parts of the country where it is not. We ought to do something to change that.

Second, it is not retroactive. There was a colloquy before. I support that. No retroactivity.

And third, the old formulation where gross statistical measures would throw out a capital case are gone. It must be proven specifically in case after case that someone who is white and black did the same crime, the black person got the capital punishment, the white person did not. It is a rational, carefully thought-out law. I urge support for it.

Mr. MCCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. FRANKS].

Mr. FRANKS of Connecticut. Mr. Chairman, do we have a true color blind society? No. But should we work toward that objective? Yes.

The McCollum amendment, the Equal Justice Act, safeguards against racial discrimination in sentencing and forbids racial quotas for the death penalty.

Mr. Chairman, yes, there are a disproportionate number of minorities in our prison system. I believe a strong family unit, education and a sense of hope will help correct this imbalance. Establishing quotas for the death penalty is not the answer.

What do we tell that mother whose child was murdered, Mr. Chairman? "I am sorry, Mrs. Jones, if a white man had been accused of killing your daughter, he would be subject to the death penalty. But a black man was charged with the murder and because there are too many blacks on death row, it would be difficult to give him the death penalty if convicted."

How ludicrous. Such actions only create greater racial animosity. We do not correct social problems by constantly defining its remedy in terms of black and white.

I encourage my colleagues to support the Equal Justice Act.

Mr. MCCOLLUM. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, Members have heard quite a bit of discussion here today about this Racial Justice Act, my substitute.

The bottom line of all of this is that we have an opportunity here today to really put some constraints onto the law in terms of providing equal justice and end discrimination in any kind of criminal case by enacting the McCollum substitute. We have an opportunity to strike what is really bad about this bill.

This bill very clearly is. The National District Attorney's Association, in a letter to me, says that,

> If the prosecutors do not seek and jurors do not impose the death penalty in the right proportion between races, the sentences will be invalid, no matter how egregious the crime, no matter how appropriate the punishment. The proponents of this bill, knowing that we cannot and will not play such a number game, fully expect the legislation to effectively end capital punishment in this country.

That is what the D.A.'s of this country believe. That is what I believe. That is what I think Members should believe. That is what the Racial Justice Act does.

It is retroactive. The reading of it is that it is retroactive.

I would strongly encourage my colleagues to follow the leader of the D.A.'s, the attorney generals of this country, 32 of whom have signed a letter opposed to the underlying bill in support of the McCollum equal justice amendment. Vote the same way this body did in the last Congress to enact my amendment, the McCollum Equal Justice Act amendment, and strike the Racial Justice Act which does nothing more than establish racial quotas.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I rise in support of the Racial Justice Act and in opposition to the McCollum amendment. This is not to be applied retroactively. I urge my colleagues to oppose the McCollum amendment.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I rise in strong support of the Racial Justice Act and in strong opposition to the McCollum amendment.

□ 1300

Mr. EDWARDS of California. Mr. Chairman, I yield the balance of time of those in opposition to the McCollum amendment to the majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Chairman, I rise in strong support of the Racial Justice Act, and urge Members to reject the McCollum amendment and to vote for the Racial Justice Act. I make this statement as a supporter of the death penalty, but also one who wants the death penalty to be meted out fairly. I want the American people to all believe in the fairness of our legal system.

Listen to this fact. In one judicial circuit, even though blacks make up 40 percent of all murder victims, every single death penalty that was sought over a 12-year period involved victims who were white. Unfortunately, this is not an isolated example. There are other circuits, other counties, other areas where these facts are true.

That is what this debate today is all about, it is about statistics. It is not about quotas. It is not about revoking the death penalty. It is not about overturning convictions or reopening trials, because none of that would happen if this act becomes law.

The question here is much more simple than that. The question is, Should defendants be able to use statistics that sometimes show an astounding pattern of discrimination, one that is hard to find in the facts of any particular case? Should a defendant whose life is on the line be allowed to compare their sentence to other sentences, to compare the facts, and to be able to make a case for fairness?

Every precedent says they should. For every other kind of discrimination, housing discrimination, employment discrimination, voting discrimination, we, the Congress, have always held that statistics are fair game, that they can tell an important story in a court of law.

In fact, every civil rights law we have passed in modern times has allowed statistics to help prove discrimination. That does not mean that statistics are enough. Under this act the State can refute the statistics, or decide that they do not apply to the case at hand.

All we are saying is, history has shown statistics to be a crucial instrument of justice, so my question is why ban them, which is what we do with the McCollum amendment? Why ban them from consideration in the courtroom, especially when the stakes are as high as life and death?

I ask Members to vote for this act. Finally, let me say do not view this as a vote of convenience, view this as a vote of conscience. Do what is right on this vote.

The American people have supported and lived in the best criminal justice system in the history of the world, but it is based on people's faith and belief and respect for that system. If they believe there is discrimination in how that system works, they lose faith in that system.

Keep their faith. Allow there to be a proper inquiry into discriminatory practices in the death penalty. Vote against the McCollum amendment. Vote for the Racial Justice Act.

Mr. DELAY. Mr. Chairman, we need to stop this business of making special rights for a few people and get on with providing all persons with equal protection under the law. The American people don't want more exemptions for criminals.

Even the title, "The Racial Justice Act" is an oxymoron. You don't get justice on the basis of ethnic factors. Real justice sees no ethnicity.

Mr. Chairman, what many of my colleagues don't realize is that the Racial Justice Act would overturn the U.S. Supreme Court precedent that rejects mere statistical showings of racially discriminatory patterns in the application of capital punishment.

The Racial Justice Act would also open the door to endless appeals based on subjective statistics, which may have little or nothing to do with the actual trials of the individuals.

For this reason I support the amendment offered by my friend and colleague from Florida as a more reasonable way to reinforce the notion that racial discrimination in our judicial system is wholly unacceptable.

The Equal Justice Act declares that ethnicity is not an admissable consideration in decisions to seek or impose criminal penalties.

I urge my colleague to support the Equal Justice Act. A "yes" vote for equal justice will codify equal protections for all, rather than special exemptions for a few.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in strong opposition to the McCollum amendment which would strike the provisions of H.R. 4092 that bar execution of prisoners who demonstrate that their death sentence was imposed because of racial discrimination.

I am sure that the proponents of this amendment, like me, deplore racial injustice in the courts as elsewhere and would like to be certain that penalties for crimes are measured out without regard to race or ethnicity. On this point we agree, criminals should be punished for their crimes regardless of their race or ethnicity.

Unfortunately our criminal justice system is far from perfect. We are faced with a system that time and again has disproportionately sentenced African-American men and women to death—even when one accounts for the crime committed. Since 1988, 33 of the 37 federal death penalty defendants have been African-Americans. In the current administration which I look upon as being more enlightened regarding the unfairness in our judicial system, all of the defendants the Attorney General has approved for the death penalty have been African-American.

The General Accounting Office, Congress' own investigative arm, has concluded in its study that racism definitely affects the use of the death penalty in the United States. Further studies have found undeniably that in an alarming 82 percent of the time, the race of the victim influences whether or not the defendant is sentenced to death.

In addition, Justice Harry Blackmun only recently stated that:

> Twenty years have passed since this court declared that the death penalty must be imposed fairly * * * and despite the effort of the states and courts to devise legal formulas and procedural rules to meet this daunting challenge, the death penalty remains fraught with arbitrariness, discrimination, caprice and mistake.

I cannot in good conscience sanction this injustice. I am aware that in his amendment Mr. McCOLLUM would supposedly include some minor safeguards. His amendment would require the questioning of potential jurors on racial bias and require that the judge instruct the jury not to consider the race of the defendant or victim in sentencing. Well if only racial bias and discrimination could be solved by simple measures like this, by jurors saying they are not biased or judges giving little lectures. Unfortunately American history assures me that these are not enough.

Mr. Chairman, the provisions that this amendment would strike are the only way that we can bring some measures of fairness to this system. The fate of our system of justice rests on the citizenry believing that it is fair. Whenever fairness is lost so follows justice. I will not support this amendment which will allow racial bias to determine those we sentencing to death, and I urge my colleagues to vote against this amendment.

Mr. PACKARD. Mr. Chairman, the crime bill that the Democrats put before this House imposes racial quotas into our judicial system. No longer will criminals be punished for the crime they committed. Instead, the basis of their punishment will be the color of their skin.

The "Racial Justice Act" proposed by the Democrats encourages a judicial system built upon race consciousness, not justice.

When our forefathers created the U.S. Constitution, I highly doubt they wanted a judicial system built around racial quotas. I believe our judicial system must be race neutral. Criminals must be prosecuted no matter what color they are. If we do not remain race neutral, then where do we draw the line with other distinctions like gender or ethnicity. The time has come for the Democrats to wake up and realize that this provision advocates racial justice, not equal justice.

Congressman McCOLLUM's amendment protects against racial discrimination by ensuring that a defendant's race is not a deciding factor in decisions to impose criminal sentencing. It prevents a prosecutor and a defense lawyer from making statements before a jury to appeal to racial prejudice. It also allows a trial to be moved if an impartial jury can not be found, and finally it preserves the Supreme Court precedent McCleskey versus Kemp that forbids racial quotas or statistical tests for the imposition of the death penalty.

I urge my colleagues to vote for the McCollum amendment and send a clear message that to our judicial system that a person's skin color is irrelevant when sentencing a criminal for a crime that a jury of their peers found them guilty of committing.

Ms. VELAZQUEZ. Mr. Chairman, I rise in strong support of the Racial Justice Act. Despite the Emancipation Proclamation of a century ago, and the enactment of civil rights legislation over the past 3 decades, minorities in this country continue to be shackled by discrimination, violence and bigotry. It is unconscionable that in the United States, the supposed leader of the free world, people of color are still plagued by prejudice, poverty and crime.

Conclusive evidence has shown that federal cases involving the death penalty have almost exclusively involved minority defendants. The death penalty provisions under the drug kingpin clause reveal that 89 percent of the defendants selected for capital prosecution have been either African-American or Latino.

As legislators, it is our duty to put an end to this blatant pattern of racism. Do not get me wrong—I believe that criminals should be adequately punished for their crimes, but we can not continue to tolerate the unfair persecution of our minority population because of their color, ethnicity or financial status. The Racial Justice Act will bring fairness and cognizance to a flawed and abhorable system of capital punishment.

Both supporters and opponents of the death penalty agree that its imposition should be fair and unbiased. The Racial Justice Act will ensure that minority offenders receive a fair trial by making sure that similar crimes receive similar sentences. I urge my colleagues to stop the injustice and bigotry that now engrosses our federal death penalty system. Support the Racial Justice Act.

Mrs. LLOYD. Mr. Chairman, I rise in support of the equal justice amendment to the Violent Crime Control and Law Enforcement Act of 1994. The amendment would strike the language to bar the execution of prisoners who demonstrate that their death sentence was imposed because of racial discrimination, based on statistical evidence.

Let me say at the outset that I support individuals' equal protection under law. Discrimination has no place in our justice system. The Equal Justice Act guards against racially biased adjudications by codifying current law against racial bias, requiring the questioning of potential jurors on racial bias, and requiring a change of venue if an impartial jury cannot be obtained.

The Equal Justice Act is a fair compromise to the Racial Justice Act. It is inconceivable to me that under the Racial Justice Act, statistical data could be used as a mitigating factor for invalidating the death penalty. This concept warrants a standardless review in our judicial system and does not take in account for statistical manipulations. In addition, it invites further delays in imposing the death penalty.

The sixth amendment allows the accused to be tried by an impartial jury of the State and district where the crime was committed. Moreover, the 14th amendment provides individuals with equal protection under law. The recent Supreme Court decision, J.E.B. versus Alabama Ex. Rel. T.B., strengthened the Constitution's guarantee of equal protection, by barring the exclusion of prospective jurors on the basis of sex. Thus, extending the application of the Baston v. Kentucky decision, which barred the exclusion of black jurors in trials involving black defendants. These steps have been positive modifications in protecting equal treatment under the law, without undermining the courts prosecutorial ability.

The Racial Justice Act would impede on the application of the death penalty by creating a new mechanism for initiating an appeal. We do not need another loophole that will allow criminals to delay their due punishment. Moreover, the retroactively language incorporated in the Racial Justice Act would strangle our courts with endless reopened cases.

Mr. Chairman, we need to maintain and ensure protection against racial discrimination without usurping the courts power to carry out the proper punishment in criminal cases. I believe that the Equal Justice Act meets the objective.

Mr. FRANKS of Connecticut. Mr. Chairman, I rise today to express my support for the omnibus crime bill. I believe that H.R. 4092 is a positive step toward combatting the crime epidemic that is facing our Nation. However, we in Congress can and must do more.

The crime problem in this country has reached intolerable levels. The criminals that commit these crimes have no regard for human life. We must send a message to the criminal that committing a violent crime will carry a severe penalty. This legislation will make an additional 22 crimes including carjacking and drive-by shootings, subject to the death penalty. I introducedb H.R. 2290 which extends the imposition of the death penalty to carjacking crimes in which a death results. My legislation is significant because it includes carjacking murders that do not involve the use of a firearm. I am very pleased that the committee included my bill in H.R. 4092.

Criminals across this Nation continue to victimize the honest law-abiding citizens in our towns and cities, while drug dealers continue to supply drugs which are killing the youth of our Nation. We must not let this trend continue. It is time to take back our neighborhoods and our streets from the criminal.

One does not need statistics to realize that the crime epidemic continues to tear at the social and economic fabric of our Nation. I am pleased that Congress was finally able to consider a comprehensive crime package. Republicans have had a comprehensive crime package ready since last August. We have consistently led the charge for crime legislation.

It is time for our judicial system to be revamped, starting at the Federal level, so that the death penalty can be enacted for the most serious crimes. We must send a message to individuals who perpetrate these serious crimes that their actions will no longer be tolerated. in my opinion, strengthening the death penalty will send this message.

This legislation strengthens the Federal death penalty by establishing procedures which require a jury to impose the death penalty if the aggravating factors outweigh the mitigating circumstances. This will alleviate juror discretion problem which led the Supreme Court to nullify the death penalty in 1972. The death penalty provide a strong deterrent, and must be reinstated on the Federal level.

Generally, the death penalty should be reserved for capital crimes. However, drug kingpins are destroying the youth of our Nation. The time has come to crack down on these individuals. I supported the McCollum amendment which establishes death penalty procedures for drug kingpins. This amendment is important since it allows drug kingpins to receive the death penalty even if they are charged with a crime in which no death results.

In recent weeks we have heard quite a bit about the "three-strikes-and-you're-out" provision. If enforced this provision imposes mandatory life imprisonment without parole for criminals convicted of three violent crimes. However, I am concerned that the third offense must be a Federal crime. Ninety-five percent of violent crimes fall under State or local jurisdiction. We are essentially saying two strikes and an unlimited number of foul tips. This legislation is only effective if the States adopt this provision on a local level.

The real issue is need for tougher truth-in-sentencing provisions. The McCollum truth-in-sentencing amendment would have required that prisoners serve 85 percent of their sentences before States were eligible for Federal prison building grants. In my home State of Connecticut inmates only serve about 50 percent of their sentences. The McCollum amendment would have provided needed financial incentives to the States to augment time served by criminals. I do not believe that pouring more Federal dollars into State prison systems without requiring needed reforms will be effective in fighting crime.

I did support the Chapman compromise amendment which will provide an additional $10.5 billion for State prison expansion grants. Twenty-five percent of the funding in this amendment is incentive based. These incentives will encourage States to increase the percentage of violent offenders sent to prison and lengthen the average time served by violent offenders. Criminals mock the current system as a 25-year sentence may mean as little as 3 to 5 years in prison. It is time for criminals who commit violent crime to do real time.

Protecting our children has always been a strong priority of mine. We must put an end to child abuse and molestation. This legislation will set up a much needed national registration and tracking system for child abusers. Local police need to know when an individual with a history of child molestation is moving into their community. H.R. 4092 also establishes stiffer penalties for assaults on children. Crimes against children are inexcusable. We owe it to our children to protect them from these horrible individuals and punish the individuals who perpetrate them.

In addition to stiffer penalties for child abuse, this legislation expresses the sense of Congress that child pornography is a crime deserving full prosecution under the Federal child pornography statute. The Clinton administration has reinterpreted the Federal anti-child pornography laws, which makes it more difficult to convict child pornographers. I am outraged by the administration's soft position on this issue.

On a different note, I recently learned that prisoners were receiving Pell grants, while honest law abiding students from working class families were being denied a college education. Accordingly, I supported the Fields/Gordon amendment which prohibits prisoners from receiving Pell grants. Last year, prisoners received about $70 million in Pell grants. That is outrageous! This funding will now go where it belongs: towards education for hard-working students and not hardened criminals.

Too often the rights of the criminal are protected at the expense of the rights of the victims. In my opinion the rights of victims and law abiding citizens should be considered equally with those of criminals. Under this legislation, victims will now be able to state their case at a defendant's sentencing. This is an important step towards evening the playing field.

There are a disproportionate number of minorities in our prison system. I believe a strong family unit, education, jobs and a sense of hope will help correct this imbalance. Establishing racial quotas for the death penalty is not the answer.

The racial justice provision of this legislation allows for death row sentences to be reversed on statistics without evidence that race was a factor in the sentencing. This sets a dangerous precedent by reversing the fundamental tenet of our judicial system that each case should be considered on its merits, based only on the particular facts of that case. It is crucial that this language be removed in the conference committee.

Prosecutors will now have the option to try juveniles as adults for major crimes of violence. Too many communities across America live in constant fear because of the loophole that allow juvenile offenders to be placed back on the street hours after they commit serious crimes. Youths that commit adult crimes should serve adult time.

I am pleased that Congress was finally able to address the national crime problem and draft a comprehensive crime package. Republicans and Democrats were denied the opportunity to offer many good amendments. However, I do believe that overall, this legislation is a positive step in the war on crime. Accordingly, I urge my colleagues to support final passage of H.R. 4092.

The CHAIRMAN. All time has expired. The question is on the amendment offered by the gentleman from Florida [Mr. McCOLLUM].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Chairman, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 212, noes 217, not voting 9, as follows:

[Roll No. 131]

AYES—212

Allard
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Borski
Brewster
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clement
Clinger
Coble
Collins (GA)
Combest
Condit
Cox
Cramer
Crane
Crapo
Cunningham
Darden
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Horn
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, Sam
Kanjorski
Kasich
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
Kyl
Lancaster
Laughlin
Lazio
Leach
Lehman

Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Machtley
Manzullo
Margolies-Mezvinsky
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McHale
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Montgomery
Moorhead
Moran
Murphy
Myers
Nussle
Orton
Oxley
Packard
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce (OH)
Quillen
Ramstad
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOES—217

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bishop
Blackwell
Boehlert
Bonior
Boucher
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Costello
Coyne
Danner
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Durbin
Edwards (CA)
Engel
English
Eshoo
Evans
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Kopetski
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Levin
Lewis (GA)
Long
Lowey
Maloney
Mann
Manton
Markey
Martinez
Matsui
McCloskey
McDermott
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Morella
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Pelosi
Penny
Pickle
Pomeroy
Poshard
Price (NC)
Quinn
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Romero-Barcelo (PR)
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Skaggs
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—9

Bacchus (FL)
Fish
Gallo
Grandy
Houghton
McDade
McNulty
Ridge
Young (AK)

☐ 1322

The Clerk announced the following pair:

On this vote:

Mr. Grandy for, with Mr. Fish against.

Mr. PALLONE changed his vote from "aye" to "no."

Mr. KASICH changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRIES

Mr. DELAY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DELAY. Mr. Chairman, I think I know the answer to this inquiry, but for the record, Mr. Chairman, the Delegates number 5.

Is it true that the Delegates voting, if we voted again, would cause a tie, and the amendment would fail because of a tie?

The CHAIRMAN. The gentleman correctly states that the votes cast by Delegates were not decisive.

Had the Delegates not voted, it would have been a tie. On a tie vote, the amendment fails.

Mr. DELAY. So actually one could say it is a tie, so each vote to the negative on the amendment is a very crucial vote?

The CHAIRMAN. That is not a parliamentary inquiry. The Chair answered the inquiry as it was stated.

Mr. GINGRICH. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman from Georgia will state his parliamentary inquiry.

Mr. GINGRICH. Mr. Chairman, I just want to clarify, because I do not think, given the way the House currently counts votes, that a normal citizen would realize that the real vote among the elected Members was 212 to 212.

The CHAIRMAN. The gentleman must state a parliamentary inquiry.

Mr. GINGRICH. In the record, among Members, not counting Delegates, is it correct, first, that the vote was 212 to 212?

The CHAIRMAN. If the gentleman's inquiry is whether or not the Delegates were decisive in the outcome, they were not. Had they not voted, it would have been a tie vote, and the amendment would have failed. If that is the gentleman's inquiry, the Chair has answered it.

Mr. GINGRICH. And therefore, each of the 212 was the decisive vote?

The CHAIRMAN. The gentleman is not stating a parliamentary inquiry.

Mr. MCCOLLUM. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. MCCOLLUM. Do not the rules state that when a vote is decided by five or fewer votes and the Delegates have voted, the five Delegates, that a revote is in order regardless of what the outcome might or might not be, hypothetically?

The CHAIRMAN. That is not correct. The rule operates where they are decisive, which means where there would have been a different outcome, had they not voted.

Mr. MCCOLLUM. But since there were, in fact, nine Members, the inquiry is this, Mr. Chairman: Where there were Members not voting, in this case there were nine Members not voting, would not the possibility of a revote be that five or fewer votes could change the outcome in a situation like we have before us today on this previous vote?

The CHAIRMAN. A motion to reconsider is not in order in the Committee of the Whole.

Mr. FRANK of Massachusetts. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. FRANK of Massachusetts. Is there some procedure by which you can explain the rules to them elsewhere so we can get on with the business?

The CHAIRMAN. That is also not a parliamentary inquiry.

PREFERENTIAL MOTION OFFERED BY MR. MCCOLLUM

Mr. MCCOLLUM. Mr. Chairman, I offer a preferential motion.

The CHAIRMAN. The Clerk will report the preferential motion.

The Clerk read as follows:

Mr. MCCOLLUM moves that the Committee do now rise and report the bill to the House with the recommendation that the enacting clause be stricken out.

PARLIAMENTARY INQUIRY

Mr. ARMEY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ARMEY. Mr. Chairman, my parliamentary inquiry is: Is there some procedure by which the minority can participate in the writing of the rules so they might know them better?

The CHAIRMAN. The gentleman is not stating a parliamentary inquiry. The Chair urges Members to respect the rules and the procedures.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM] for 5 minutes in support of his preferential motion.

Mr. McCOLLUM. Mr. Chairman, I offer at this point a similar motion to rise that I have offered in previous days on this bill for the purposes of attempting to offer, and being allowed to offer, a couple of the amendments which we, on the minority side, were not allowed by the Committee on Rules on this bill.

We feel, as we have said before, very strongly that the opportunities to offer several of the critical amendments were not given to us which the American public would normally expect to be allowed.

Mr. Chairman, I yield to the gentleman from New York [Mr. SOLOMON] to explain an amendment that was denied by the Committee on Rules that we think should be allowed to be offered, and if this motion that I am offering today were to be approved, we would request that it be made in order.

Mr. SOLOMON. Mr. Chairman, this next vote may be the most important political vote we cast this year, so I advise the Members to listen up.

Mr. Chairman, the amendment I refer to is the Hayes-Solomon amendment, which was denied in committee, in the Rules Committee. We are taking this action to require an up-or-down vote on the mandatory minimum sentencing of criminals. The Rules Committee refused to make this amendment in order and did not want this critical debate to take place on the floor.

If the debate did take place, it would have a similar outcome to that of the Solomon amendment which passed with 303 votes yesterday. The issues are that comparable.

Mr. Chairman, title II in the bill reduces mandatory minimum sentences for felons convicted of serious drug offenses and it applies retroactively. Members had better listen to this because it offsets every district back home. The bill applies retroactively, which means that thousands of drug pushers currently serving mandatory sentences are going to appeal and be released from prison back onto the streets and neighborhoods in all our districts.

The Rules Committee denied Congressman HAYES and myself the opportunity to offer our amendment that would correct this. At the very least, the House should be given the opportunity to debate it. Mr. Chairman, unless we vote on this amendment, Members will be required to vote on a bill that will have the effect of releasing thousands of drug criminals from prison and back onto the streets of America. Members, exactly how are you going to explain this to your opponents? And believe me, they will be there. Once your opponent identifies the local drug dealer that you vote to put back on the streets of your district 3 years ahead of schedule, what will your answer be?

Mr. WASHINGTON. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I am never going to vote for—I will yield when I am finished. I respect the gentleman very much.

Mr. Chairman, the claims that this bill will save the taxpayers billions of dollars is total nonsense. According to CBO, the mandatory minimum sentence provision already in the bill will only save the Federal Government $15 million. Not billion of dollars, $15 million between the years 1997 and 1999.

Mr. Chairman, we all should take exception with those who claim that nonviolent but serious drug offenders are not violent criminals. Let us just repeat that one more time because it affects you and your children and your home towns. Most of the violent crime committed in this country today is caused by people who traffick in drugs. Forty-eight percent of all men arrested for homicide test positive for using drugs at the time of the arrest. Illegal drug use is the cause of half of family violence. Half of family violence caused by drug use. And most of this violence is directed against women and children. And what about the effect of illegal drugs on young children? The fact is that 30 percent of all child abuse cases, child abuse cases, is caused by parents using illegal drugs.

And even worse, infants in this country are now suffering under the pain and violence of the drug pushers that this bill is going to put back out onto the streets, 16,000 drug pushers. The number of drug-exposed babies, newborn infants, has soared in recent years. Eleven percent of all newborn babies in America are already drug addicted. What is going to happen when that gets up to 20 percent? What is this country coming to when 1 out of 9 babies are already addicted at the time of their birth?

This bill would reduce the prison sentences for those who are responsible for this travesty. I am not going to take up more time, Mr. Chairman. This is a floor. It deserves debate. Then vote whichever way Members want to. But give us the right to decide whether the Nation ought to maintain minimum mandatory sentences for drug traffickers, major drug trafficking pushers in this country.

We deserve to have that vote. Please vote for this motion to allow the amendment.

Mr. McCOLLUM. Unfortunately, there is not time to yield. But using up my last amount of time: In addition to the Solomon amendment, if this motion to rise were granted, the McCollum amendment offering minimum mandatory prison sentences for those who commit felonies when in possession of a handgun or any firearm would be something that we would offer as well. We were denied that in the Rules Committee as well. So both of these amendments on minimum mandatory sentences would be made in order, that is the purpose of the motion to rise. I would encourage an "aye" vote to give us that opportunity to offer those amendments.

The CHAIRMAN. The time of the gentleman from Florida [Mr. McCOLLUM] has expired.

Is the gentleman from Texas [Mr. BROOKS] opposed to the motion?

Mr. BROOKS. I certainly am, Mr. Chairman.

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] is recognized for 5 minutes.

Mr. BROOKS. Mr. Chairman, this is the fourth attempt by the other side of the aisle to offer a motion to strike after the enacting clauses—all in an attempt to delay the progress of the crime bill. It takes about 25 minutes each time, 10 minutes for debate, 15 minutes for the vote; and that is the minimum. It is a dilatory tactic, plain and simple. It is just not my patience that is beginning to wear, but I believe the American people are a little tired of these tactics as well. If you do not want a crime bill, just say you do not want it.

But I think most of us want the crime bill to succeed. It's time to move on.

Mr. Chairman, I yield 1 minute to the distinguished gentleman from Texas [Mr. WASHINGTON].

Mr. WASHINGTON. Mr. Chairman, I thank the chairman of the committee.

I want to ask a question. I disagree with my distinguished dean that we should not debate the substance, because I do not think that anybody should be allowed to come to these microphones with the American people watching and have you make statements like you made and not challenge them.

Tell us the basis of the conclusion that you have reached that 16,000 drug dealers will get 3 years off their sentence. Give us the basis of that information, please.

Mr. SOLOMON. I will say to my respected friend——

The CHAIRMAN. The gentleman will suspend. The gentleman is speaking on the time of the gentleman from Texas [Mr. BROOKS]. He cannot yield time. Time may be yielded by the gentleman from Texas.

Mr. SOLOMON. If the gentleman would yield, I would answer the question.

The CHAIRMAN. The gentleman from New York will suspend. The time belongs to the gentleman from Texas [Mr. BROOKS]. He may yield to the gentleman from New York.

PARLIAMENTARY INQUIRY

Mr. WASHINGTON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WASHINGTON. Mr. Chairman, how much of the 1 minute that was yielded to me did I use in asking the question?

The CHAIRMAN. The gentleman has 20 seconds remaining under the time yielded from Mr. BROOKS.

Mr. WASHINGTON. Then I would respectfully ask the chairman if he would yield that 20 seconds to the gentleman from New York to answer the question.

Mr. BROOKS. I would yield 20 seconds to my beloved friend.

The CHAIRMAN. The gentleman yields to the gentleman from New York.

Mr. SOLOMON. I can say to both my respected friends I refer to your committee report where you say it, and I refer to the March 17 New York Times article where they said it. Those are two pretty credible organizations.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. I thank the gentleman for yielding this time to me.

Mr. Chairman, one of the great ironies is that the gentleman from Florida—and I hope the gentleman from New York knows that the gentleman from Florida [Mr. MCCOLLUM] voted for the proposal that he is now seeking to strike, in subcommittee; so did the gentleman from Illinois [Mr. HYDE]; so did the gentleman from New York [Mr. FISH].

When the Rules Committee fashioned these proposals, they were trying to do the most controversial. The gentleman from New York's views on drugs, on drug penalties, is well known. It so happens we have the toughest drug penalty laws on the books in the Federal Government that I know of, much tougher than your State and my State, much tougher just about than any other State.

So, ladies and gentleman, if we want to sit here and delay and each person wants to get up and act and say, "I want my amendment. Let's trash the bill because I want mine," someone else gets up and says, "I want my amendment. Let's trash the bill."

Mr. Chairman, we have debated this issue on another vote—another proposal by the gentleman from New York. It so happened he won. We do not have to——

Mr. SOLOMON. By over 300 votes.

Mr. SCHUMER. We do not have to debate this over and over and over and over again. You lost the Rules vote. The Rules vote was a vote that was saying to the American people, "We want a crime bill, but we do not want to dither the way we did last year and the year before and the year before." We can do all these procedural things and never have a crime bill. I urge we vote against the motion and get on with the people's business.

□ 1340

Mr. BROOKS. Mr. Chairman, I hope that the Members will vote no on this fourth attempt to just emasculate the bill.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Florida [Mr. MCCOLLUM].

The question was taken; and the chairman announced that the noes appeard to have it.

RECORDED VOTE

Mr. MCCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 179, noes 250, not voting 8, as follows:

[Roll No. 132]

AYES—179

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Moorhead
Morella
Murphy
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Stupak
Sundquist
Talent
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Traficant
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—250

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Baesler
Barca
Barcia
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Reed
Reynolds
Richardson
Roemer
Romero-Barcelo (PR)
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Swett
Swift
Synar
Tanner
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Underwood (GU)
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—8

Bacchus (FL)
Barlow
Fish
Gallo
Grandy
McDade
McNulty
Rangel

□ 1357

Mr. VISCLOSKY changed his vote from "aye" to "no."

Mr. HALL of Texas changed his vote from "no" to "aye."

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

□ 1400

The CHAIRMAN. It is now in order to consider amendment No. 13 printed in part 2 of House Report 103–474.

AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY

Mr. SMITH of New Jersey. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SMITH of New Jersey:

At the end of the bill, insert the following:

TITLE —SENSE OF CONGRESS

SEC. . CHILD PORNOGRAPHY.

(a) FINDINGS.—Congress finds that—

(1) child pornography is the permanent record of the sexual abuse or exploitation of children;

(2) children who are victims of child pornography often suffer severe physical and emotional harm;

(3) child pornography is a serious national problem;

(4) the Congress of the United States has a compelling interest in the protection of children from sexual abuse and exploitation by pornography (see New York v. Ferber, 458 U.S. 747 (1982));

(5) the Congress of the United States, in pursuit of this compelling interest, has taken every opportunity to strengthen child pornography laws and has, in clear and unambiguous language, criminalized the production, interstate distribution, receipt and possession of child pornography;

(6) the United States Department of Justice in its brief to the United States Supreme Court in the case of Knox v. United States, 92–1183, has failed to support the conviction of a child pornographer won by the Department in the United States District Court for the Middle District of Pennsylvania and affirmed on appeal in the United States Court of Appeals for the Third Circuit;

(7) the Department of Justice has used its brief in the Knox case as a vehicle for reinterpretation of the Federal child pornography laws in contravention to legislative history and past prosecution practices of the Department of Justice;

(8) the Department of Justice by declaring in its brief in the Knox case that a pornographer who lasciviously exhibits the genitals of children is prosecutable within the Federal child pornography laws only if the depictions show a minor engaged in the conduct of lasciviously exhibiting his or her genitals or pubic area, creates a federally protected class of child pornography, e.g., child pornography involving children who are not knowingly engaged in lasciviously exhibiting their genitals or pubic areas but whose genitals or pubic areas are nonetheless lasciviously depicted by others;

(9) the Department of Justice by declaring in its brief in the Knox case in contravention to legislative history, that a pornographer who lasciviously exhibits the genital or pubic area of children is prosecutable within the Federal child pornography laws only if the genitals are nude or visible creates a federally protected class of child pornography, e.g., depictions which focus on a minor child's clothed genital or pubic area with the obvious intent of eliciting a sexual response in pedophiles;

(10) the plain meaning and congressional intent of the language in section 2256 of title 18, United States Code, is that the term "lascivious exhibition" refers to whether the depiction is intended to elicit a sexual response from the viewer, and not to the actions of the child;

(11) the Department of Justice has employed this meaning of the term "lascivious exhibition" since it was included in the laws in 1984, and Congress has not changed the meaning of the term;

(12) Congress specifically repudiated a "nudity" requirement for child pornography statutes (see United States v. Knox, 977 F.2d 815, at 820–823 (3rd Cir., 1992));

(13) the "harm Congress attempted to eradicate by enacting child pornography laws is present when a photographer unnaturally focuses on a minor child's clothed genital area with the obvious intent to produce an image sexually arousing to pedophiles." (see Knox at 822); and

(14) the Congress of the United States believes that the reinterpretation of the Federal child pornography laws by the Department of Justice, unless reversed, will bring back commercial child pornography and lead to a substantial increase of sexual exploitation of children.

(b) SENSE OF CONGRESS.—It is the sense of the House of Representatives that the Department of Justice repudiate its reinterpretation of Federal child pornography laws, defend the conviction won in lower courts in the Knox case, and vigorously prosecute sexual exploitation of children.

The CHAIRMAN. Pursuant to the rule, the gentleman from New Jersey [Mr. SMITH] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Mr. SMITH of New Jersey. Mr. Chairman, at the outset, I would like to yield 1 minute to the distinguished gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Chairman, there is an old adage that says "if it ain't broke, don't fix it." For over 10 years we have had a strong law against child pornography that has worked, until the Clinton Justice Department sought recently to weaken it.

This amendment that the gentleman from New Jersey [Mr. SMITH] and I bring today, expresses the sense of the House of Representatives that the Department of Justice repudiate its reinterpretation of Federal child pornography laws, defend the conviction won in lower courts in the Knox case, and vigorously prosecute the sexual exploitation of children. I strongly urge an aye vote on this amendment.

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself such time as I may consume so that I may inquire of the gentleman from Texas [Mr. BROOKS], does the chairman of the committee rise in opposition to the amendment?

Mr. BROOKS. Mr. Chairman, if the gentleman will yield, I am not in opposition. As a matter of fact, I am willing to accept this amendment and move on to the next one.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from New Jersey [Mr. SMITH].

No crimes are more abhorrent than crimes involving child sexual abuse.

Even the thought of such abuse of a child is repellent to every person of any decency. Betrayal of a child through any abuse is both sickening and saddening to the extreme.

With this in mind, in crafting H.R. 4092 we expanded Federal protections for children. For example, title 3 makes clear that any assault of a child will be taken very seriously. Title 12 creates a new felony for child pornographers outside the United States to mirror existing Federal law against domestic child pornographers. It creates new Federal felonies for traveling either domestically or internationally to engage in a sexual act with a child, and it contains a sense of the Congress that each State should enact strong legislation against child pornography. Title 13 will help States establish programs so that States and local governments will know the whereabouts of any person convicted of a crime against a child.

The amendment by the gentleman from New Jersey assists us in this effort to make absolutely clear that Congress is firm, indeed adamant, on this point: Children in this country will be protected from those who would prey upon them. I urge adoption of this amendment.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 30 seconds to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Chairman, the position of the Clinton administration on child pornography is an outrage. This administration has weakened the accepted interpretation of the Federal child pornography law to the extent that much, if not most, of the child pornography cases which should be prosecuted by the U.S. Justice Department cannot be prosecuted.

The Clinton administration's interpretation of the law was set forth in a Justice Department brief to the U.S. Supreme Court last year in the child pornography case of Knox versus United States which involved a twice-convicted child pornographer. The brief was written by Solicitor General Drew Days who is prominently mentioned as a potential nominee to fill the vacancy on the Supreme Court of retiring Justice Harry Blackmun.

Solicitor General Days, in that brief, set forth a "recipe" for legal child pornography—that is, child pornography which the Clinton administration will no longer prosecute. Under the Drew Days interpretation of the law, the actions of the child rather than the pornographer determine whether the pornography is legal. The Drew Days brief says the child must be "acting or posing lasciviously" or the child pornography is legal. That is not what Congress intended when it outlawed child pornography.

We intended to prohibit the lascivious exhibition of a child's genitals or pubic areas in photographs or videotapes whether or not the child is involved by "acting or posing." We did not intend to coddle child pornographers as the Clinton administration has done with this outrageous interpretation of the law. The clear intent of Congress was to outlaw the sexual exploitation of children.

Over the years the Justice Department has successfully prosecuted numerous child pornographers who have taken lascivious pictures or videotapes of children who are too young to act or pose lasciviously but are none-the-less sexually exploited. The Justice Department has successfully prosecuted numerous pornographers who have surreptitiously photographed or videotaped sleeping children or those who are otherwise unaware they were being photographed. The fact that they were not acting or posing was not relevant to the prosecution then and it should not be relevant today. This resolution, H.R. 281 encourages the Justice Department to continue vigorously prosecuting child pornographers in the same manner and under the same interpretation of the law that was in effect at the Justice Department prior to the Clinton administration.

I fear that that Clinton administration's recipe for "legal" child pornography is not lost on child pornographers who will seek out more children to sexually abuse in pornography, because of the knowledge that they will not be prosecuted by the Justice Department. That is why I strongly urge my colleagues to support H.R. 281 which condemns the actions of Mr. Days and the Clinton administration in weakening the Federal child pornography law.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Chairman, I rise to support the Smith amendment to H.R. 4092, urging the Justice Department to prosecute child pornographers to the fullest extent of the law.

The child pornography laws in the United States have worked very well in the past to keep our children safe. Unfortunately, the Clinton administration has neglected to enforce these laws, and in fact, has sided with a pedophile. I find it unconscionable that President Clinton, Attorney General Reno, and Solicitor General Days would choose to protect and defend criminals who prey on innocent children.

By siding with the defendant in the case Knox versus U.S., the Justice Department has recklessly exposed our children to dangerous pedophiles. If Miss Reno and Mr. Days succeed in this case, children—children aged 3 to 17—will be easy targets for these most vile criminals. The opinions of the courts in previous cases have been clear in their support for the intent of Congress to stop pornographers who pander to pedophiles.

We must get tough on criminals. While H.R. 4092 sounds tough, it lacks substance and I cannot support it. However, on behalf of myself and the other House Members who filed in court to stop Attorney General Reno and Solicitor General Days, I urge my colleagues to support the Smith amendment and demand that President Clinton prosecute pedophiles and pornographers who victimize children.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Minnesota [Mr. GRAMS].

Mr. GRAMS. Mr. Chairman, I rise in strong support of the Smith amendment to H.R. 4092.

The Justice Department's Knox brief is a tragedy because it creates a new loophole in our child pornography laws which will lead to a flood of sexual abuse of children.

The Justice Department's action completely misrepresents congressional intent as outlined in the Child Protection Act of 1984. Passage of this amendment sends a strong message to the Justice Department and to would-be child pornographers.

Mr. Chairman, our children want justice from Janet Reno's Justice Department. Let us follow the Senate's lead on stopping child pornography and pass the Smith amendment unanimously.

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, child pornography is a heinous crime against children.

Child pornography devalues, debases, and dehumanizes children and turns kids into sex objects for exploitation and abuse by perverts.

Child pornography robs children of their innocence and purity, it rips off their dignity, and profoundly undermines a child's self-respect. The videos and pictures of this pernicious form of child abuse constitute a permanent record of the actual episode of exploitation which is then hawked to a pathetic group of individuals for fat profits.

Thus, words cannot adequately express my disappointment, outrage, and disgust over the Clinton administration's landmark decision to ally itself with the purveyors and users of kiddie smut. I thought this was the one area of criminal justice jurisprudence where there was little or no dissent. I was wrong. Instead of pursuing an aggressive strategy designed to achieve protection for children, however, the Clinton administration has opted to make common cause with the child porn industry.

The administration's bizarre about-face occurred last September when Solicitor General Drew Days petitioned the U.S. Supreme Court in Knox versus United States to remand the case of a man convicted of a major crime under Federal child pornography law back to a lower court for review. The Clinton brief suggested that Mr. Knox's criminal behavior be adjudicated under a new, substantially weaker standard. And out of deference to the administration, the case was sent back.

Under the Clinton-Days tortured interpretation of the law, two new criteria would both have to be met for a successful prosecution. According to Pat Trueman, former chief of the Justice Department's Child Exploitation and Obscenity Section,

> If the Days interpretation had been in effect during the Reagan and Bush Administrations, much if not most of the child pornography cases prosecuted by the Justice Department could not have been brought.

Specifically, Mr. Chairman, the administration would transfer the burden from the pornographer's intent of arousing a pedophile to the actions of the exploited child.

Such a crackpot standard blames the victims and lets the criminals off the hook. A photographer using a child without a shred of clothing on his or her body might be able to make a successful defense of his abusive actions if the prosecutor was unable to prove that the child acted lasciviously. Shifting the burden to a 6-, 8-, 10-, 14-, or 16-year old is ludicrous and bizarre.

Significantly, both the Reagan and Bush Justice Departments, previous Congress', and several Federal court precedents—including the 1989 decision in United States versus Villard (Federal third circuit)—clearly acknowledged that lasciviousness depends on the intention of the pornographer, not the child's actions.

The Clinton brief also argues that nudity or discernibility of the child's genitalia or pubic area is required. A video of an infinitesimally small swath of cloth over the pubic area—and nothing else, whatsoever—on a little girl or a 14-, 15-, or 16-year-old girl wouldn't be liable for prosecution under the new Clinton interpretation.

Unlike the Clinton Justice Department, the Third Circuit Court of Appeals correctly summed up congressional intent on this point when it stated,

> The harm Congress attempted to eradicate by enacting the child pornography laws is present when a photographer unnaturally focuses on a minor child's clothed genital area with the obvious intent to produce an image sexually arousing to pedophiles . . . Our interpretation simply declines to create an absolute immunity for pornographers who pander to pedophiles by using as their subjects children whose genital areas are barely covered.

It is outrageous to me that the Clinton Justice Department seeks to have this standard, designed to protect children from exploitation, declared null and void. Pat Trueman (chief of the Child Exploitation and Obscenity Office at the Bush Justice Department), notes that the Clinton brief,

> * * * writes a recipe for "legal" child pornography, i.e., child pornography that the Reno Justice Department will no longer prosecute * * *. With its new interpretation of the Federal child pornography law, the Department gives to pedophiles what they could never get from Congress.

Just so there's no mistake as to what I am saying: Mr. Clinton would legally protect and provide immunity for the pornographic tapes which were the basis of the Knox case as described by the Third Circuit Court of Appeals:

> * * * various vignettes of teenage and preteen females, between the ages of 10 and 17, striking provocative poses for the camera. The children were obviously being directed by someone off-camera. All of the children wore bikini bathing suits, leotards, underwear or other abbreviated attire while they were being filmed. * * * The photographer would zoom in on the children's pubic and genital area and display a close-up for an extended period of time.

The lower court offered this portrayal of how a sales catalogue described a scene on the tape:

> * * * an enchanting scene showing a dark-haired beauty of 11 letting us have a long, slow look up her dress to view her snow-white panties * * * [and] * * * scenes of a 13-year old in a leopard skin bikini with a magnificent ass that she puts on display for you as she walks back and forth slowly and teasingly.

The company which produced these tapes described one of them, "Sassy Sylphs," in promotional materials as:

> Just look at what we have in this incredible tape: about 14 girls between the ages of 11 and 17 showing so much panty and ass you'll get dizzy. There are panties showing under shorts and under dresses and skirts; there are boobs galore and T-back (thong) bathing suits on girls as young as 15 that are so revealing it's almost like seeing them naked (some say even better).

Under the Clinton reinterpretation of the law, this abuse of children will be immune from prosecution.

The House has the opportunity—the duty—to demand that the administration repudiate this bizarre policy. The Senate has acted—voting 100 to nil against the Clinton position—and 234 Members of Congress have filed in court to stop Mr. Clinton.

Mr. Speaker, our message is clear: Mr. Clinton, stop giving aid, comfort, and legal sanction to these criminals—it's unethical. Every day that passes without reversal of the administration's course, means more children are put at grave risk of exploitation by this hellish industry.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. SMITH].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SMITH of New Jersey. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 425, noes 3, not voting 9, as follows:

[Roll No. 133]

AYES—425

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Faleomavaega (AS)
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—3

Edwards (CA)
Nadler
Washington

NOT VOTING—9

Bacchus (FL)
Carr
Collins (IL)
Fish
Gallo
Grandy
McDade
McNulty
Underwood (GU)

☐ 1428

Ms. HARMAN changed her vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. COLLINS of Illinois. I rise, Mr. Chairman, because I was in the Cloakroom and did not realize the vote had been completed. Had I been recorded, I would have voted "aye" on rollcall No. 133.

UPDATE ON HUMANITARIAN CRIMES AND GENOCIDE IN GORAZDE

(Mr. McCLOSKEY asked and was given permission to speak out of order for 1 minute.)

Mr. McCLOSKEY. Mr. Chairman, while we debate the crime bill today, I think it is important to note for the RECORD that a major crime, international humanitarian crime, is allowed to go on unabated today in Bosnia. I appreciate the generosity to speak for 1 minute for the RECORD, and also for our decisionmaking or thoughts over the next day or two, to consider this statement that my office has just received from the mayor, the top elected local official in Gorazde, Ismet Briga. For our information, I do appreciate the House's attention.

□ 1430

This is perhaps the only time I have made a request of this nature.

> Hospital is being hit. People are up to their shoes in blood and it is almost that bad in the streets.
>
> The Serbs are going house to house, destroying the city apartment by apartment.
>
> You cannot count the wounded, you cannot count the dead.
>
> President Clinton, it is a shame that you should not collect the courage to bomb us. President Clinton, since it is so painful to ask Manfred Woerner for airstrikes. We beg you to stop this terror. We cannot live any longer in this terror.
>
> The people of Gorazde ask you to please tell the Serbs to stop this agony.
>
> A mother was only 10 meters from her child in the rubble but could not reach him. She would have been killed herself so we held her back.
>
> Unarmed and innocent people are being killed in Gorazde. The streets are bloody. There is chaos.

Mr. Chairman, I think most important, most tragically and most poignantly this mayor's statement is in sincerity:

> We don't ask that the Serbs be bombed. We beg that the people of Gorazde be bombed so that we die rapidly and quickly—so that we will not die in such a horrible way. We cannot live in agony anymore. We forgive you for bombing us, because we beg you to end our agony.

Mr. Chairman, I would say to my colleagues in the House, this tragedy cannot go on. It cannot wait a day or an hour longer. President Clinton has to act now. This can be done by instant communications, not a much, much delayed NATO conference.

The CHAIRMAN. It is now in order to consider amendment No. 31 printed in part 2 of House Report 103–474.

AMENDMENT OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment offered by Mr. HUNTER:
>
> At the end thereof insert the following new section:
>
> **SEC. BORDER PATROL AGENTS.**
>
> In addition to such amounts as are otherwise authorized to be appropriated, there is authorized to be appropriated for each of the fiscal years 1995, 1996, 1997, 1998, and 1999 for salaries and expenses of the Border Patrol such amounts as may be necessary to provide for an increase in the number of agents of the Border Patrol by 6,000 full-time equivalent agent positions (and necessary support personnel positions) beyond the number of such positions authorized for the Border Patrol as of October 1, 1993.

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. HUNTER] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Ms. SCHENK. Mr. Chairman, I do not oppose the amendment, I support it, but I ask unanimous consent that I be permitted to control the 5 minutes allotted under the rule.

The CHAIRMAN. Is there objection to the request of the gentlewoman from California?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, this crime bill can in no way be complete unless we address the subject of criminal aliens. Today our neighborhoods, our cities, our communities are under siege by criminal aliens. Some 22 percent of the inmates in Federal penitentiaries are criminal aliens. And against this invasion, this army, we have a very small contingent of about 4,200 Border Patrol agents nationwide who defend our borders.

Mr. Chairman, a number of us have done analyses over the last several years, we have offered several amendments to incrementally increase the Border Patrol, but the most recent analysis by a group of retired Border Patrol agents, which I think is very thorough, that a number of us on this side and the immigration task force have worked on, indicates that we need at least 10,000 Border Patrol agents to be able to control our borders. That is so that we will be able to have agents in essentially the same density as in the El Paso blockade, which is working, in the other 11 smugglers' corridors across the Southwest where most criminal aliens are entering, all the way from the San Diego-Tijuana smuggling corridor across the Southwest, to the Brownsville-Matamoros corridor in Texas.

Mr. Chairman, we need 10,000 agents. We have about 4,100. We need an additional 6,000 agents. That is what this amendment does.

Mr. Chairman, I yield 1 minute to my friend, the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Chairman, I urge my colleagues to support the Hunter-Moorhead-Cunningham amendment authorizing the addition of 6,000 new Border Patrol agents over a 5-year period. In 1986, when Congress adopted my amendment to the Immigration Reform and Control Act authorizing a 50-percent increase in our border strength, our Border Patrol force included a total of 3,238 agents. Today, our current on line force has reached 4,092, only 854 more agents than we had on board 8 years ago. Congress cannot continue to refuse to give our Border Patrol the manpower and resources they need to tighten our wide open borders. This inaction by Congress is resulting in a multibillion dollar price tag for health care, education and other benefits granted to illegal immigrants. It is the responsibility of the Congress to enforce the immigration laws of our country, and the Border Patrol is the very first line of defense against controlling illegal immigration and drug smuggling.

For decades we have heard assertions from special interest groups that the border is unenforceable. The effectiveness of Operation Blockade in the El Paso sector proves, of course, that this is nonsense. In El Paso, apprehensions of illegal immigrants have gone down by 81 percent and crime has been reduced by 46 percent. This successful blockade demonstrates the beneficial effects of an adequate number of Border Patrol agents.

Last year was a turning point for our Border Patrol force, when this body overwhelmingly passed the Hunter-Moorhead-Schenk amendment appropriating $60 million for 600 additional agents this year. The authorization before us today will continue this trend. Right now, we have a relatively small force of just over 4,000 dedicated and talented law enforcement officers performing a nearly impossible task in policing and protecting our land borders. Up to 4,500 undocumented aliens enter the southern California area each day. Last year the Border Patrol apprehended 1.25 million illegal aliens, marking the fourth consecutive year that apprehensions surpassed 1 million. Agents continue to put their lives on the line last year by interdicting 1.34 billion dollars' worth of narcotics that would have otherwise found their way onto our streets and into the hands of gangs and pushers. If we can put 100,000 new policemen on our streets, as the omnibus crime bill proposes, we can certainly expand our Border Patrol force by 6,000 over the same length of time. 81 percent of all Americans support an increase in our border force, and I urge my colleagues to vote for this amendment.

Ms. SCHENK. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, I rise in strong support of this amendment and commend the leadership and the hard work of my colleague and neighbor, the gentleman from California [Mr. HUNTER].

Mr. Chairman, last year we successfully offered an amendment which increased INS appropriations by $60 million. Today the gentleman's amendment would authorize the hiring of an additional 6,000 Border Patrol agents and support staff. This type of Federal commitment is long overdue and sorely needed by the agents themselves and by those communities such as ours located on or near the border.

Mr. Chairman, historically the Border Patrol has not received funding commensurate with its tremendous responsibilities in preventing illegal injury into the United States. In 1992, the Border Patrol apprehended over 1.2 million people attempting to enter our country illegally. In addition, the Border Patrol agents also have primary responsibility for drug interdiction.

Mr. Chairman, this issue is of particular interest to those of us such as the gentlemen from California, Mr. HUNTER, Mr. CUNNINGHAM, Mr. PACKARD, Mr. FILNER, and myself who represent the San Diego-Tijuana border region, the Nation's busiest and most violent border zone. Of the 1.2 million apprehensions in 1992, more than half were apprehended in our region. Thirty percent of all controlled substances seized by the Border Patrol in that year where confiscated in the San Diego area.

Mr. Chairman, Border Patrol agents in San Diego have very special needs. They must use horses, helicopters, all terrain vehicles and even mountain bikes to defend our overrun and diverse border region.

On any given night, San Diego agents, who number usually less than 100, face thousands upon thousands of potential border violators. Many of us have ridden with the agents and we see the horrendous conditions under which they must serve.

Mr. Chairman, States such as Florida, Texas, New York, and the State of California do not set Federal immigration policy, but we suffer the consequences of it. San Diego County does not supervise or staff the Border Patrol, and yet these States and our localities must absorb the costs when Federal policies fail as they have continued to fail these many years. By investing in prevention at the border, we will save money for our States and localities and all the taxpayers of this country.

Mr. Chairman, I urge my colleagues to recognize the urgency and importance of this amendment and adopt it today.

Mr. Chairman, I reserve the balance of my time.

Mr. HUNTER. Mr. Chairman, I thank the gentlewoman from California for her hard work.

Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I thank my friend from California for yielding me the time.

Mr. Chairman, I rise in support of the Hunter-Moorhead-Cunningham amendment to add 6,000 new Border Patrol agents. The text of this amendment is at the heart of reform legislation introduced by the Illegal Immigration Task Force.

Arguing that hiring 6,000 Border Patrol agents is too costly is just a pretext for inaction. In fact, it costs too much not to. It is far more costly to allow criminal aliens to pour over porous borders and then have to spend more money to incarcerate them and then deport them.

CBO has given a preliminary cost estimate for the additional agents of $1.6 billion over 5 years. In contrast, the cost to incarcerate criminal aliens is $1 billion annually. That $1 billion does not even begin to count the cost in lost life and lost property that these criminals inflict on our Nation. What we spend on these agents is nothing less than crime insurance for the Nation. This investment is long overdue.

Not only do Border Patrol agents stop criminals at the border, they stop criminals before they ever get there because of their deterrent effect.

This amendment realizes that an ounce of Border Patrol prevention is truly worth a pound of prolonged deportation cure.

□ 1440

Ms. SCHENK. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, there is one Border Patrol agent for every 2½ miles of border, one Border Patrol agent for every 2½ miles of border.

Now, look, illegal immigrants are not coming over in stealth planes that cannot be detected by radar. People are running across the border. It is not a sophisticated narcotics network with backpacks of cocaine.

I have a bill that says let us also bring back some of our troops from overseas, put them on our border to help with this crisis.

I support the amendment offered by the gentleman from California [Mr. HUNTER], and I commend him for it.

I ask the Congress to vote for it.

Ms. SCHENK. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Chairman, I congratulate my colleagues on this bipartisan amendment.

Let me make one argument that has not been made. We have made all the rational arguments for years. There is one we should note.

California now has a delegation of 52 Members. Ten years ago it was 47. At least five of the seats in our State are probably due to the count of illegal aliens.

I say to my colleagues in the East and the South, think, the next seat lost in the year 2000 might be your own if you do not support this amendment.

Ms. SCHENK. Mr. Chairman, I yield 30 seconds, the remainder of my time, to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, one of the best investments we can make in law enforcement today is guarding our borders, whether it is the Coast Guard, whether it is the Border Patrol, whether it is the Immigration Service, whatever it is.

Please, this is possibly one of the most important investments we can make. Drugs are coming over our borders. Mexico is becoming the route of choice now that our interdiction efforts are working in the Caribbean.

Let us keep our guard up. Let us fund our military in the Caribbean. Let us fund our Coast Guard, and by this amendment, let us be sure that we have adequate Border Patrol in place.

Mr. HUNTER. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Chairman, in view of the time, I will simply rise in strong support of the amendment.

Mr. Chairman, I strongly support two amendments offered by my California colleagues, Mr. HUNTER and Mr. BEILENSON. The Hunter amendment would add 6,000 more Border Patrol agents and necessary support staff. The Beilenson amendment would require the Federal Government to reimburse States for the costs of incarcerating illegal aliens.

Illegal immigration is the single biggest issue facing my constituency. City and county governments, hospitals, and schools in my district are literally being bankrupt by the huge costs associated with illegal immigration. But this isn't just a local issue. Nationwide, illegal immigration costs American taxpayers over $5 billion a year.

The U.S. Congress has repeatedly refused to take the necessary measures and provide the funds we need to secure our borders. Over 2,000 illegal aliens cross over the 14-mile San Diego-Mexican border every single day. This is totally unacceptable. We must give the Border Patrol the manpower and resources they need to do their job. For decades, we have treated the Border Patrol as an unwanted child of the INS. Congressman HUNTER's amendment takes a crucial step to bring the Border Patrol and its resources up to the level they should be. I strongly urge my colleagues to support this amendment and secure our borders against those who would seek to circumvent our laws and enter this country illegally.

I also support the amendment offered by my colleague, ANTHONY BEILENSON, that would reimburse States for the costs of incarcerating illegal immigrants. In my State alone, over 16,000 illegal aliens are currently incarcerated, that's 15 percent of the total prison population. With an annual cost of $22,000 per prisoner, California is spending almost $500 million to jail people that shouldn't be here in the first place.

States shouldn't have to shoulder this cost. The Federal Government has the sole constitutional responsibility to secure our borders against foreign agents and to deport illegal aliens once they are discovered within our boundaries. If we were honoring that responsibility, criminal aliens wouldn't even be in this country to begin with and States wouldn't have to deal with the problems and costs criminal aliens create.

I will vote in favor of the Beilenson and Hunter amendments and I urge my colleagues to do the same.

Mr. HUNTER. Mr. Chairman, I yield 1 minute and 20 seconds to my colleague and cosponsor of this amendment, the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I would like to thank the chairman, the gentleman from Texas [Mr. BROOKS], for not forcing this en bloc and helping us with this amendment.

But, Mr. Chairman, we have unfunded mandates in every State. It is mandatory that we fund service to illegal immigrants. It costs just the State of California $2.5 billion per year, about $12 billion nationally.

The committee on the floor has got heated debates, and Members on both sides of the aisle from different caucuses figure this is the best balanced way to stop the flow of illegals.

When we are building new prisons, we have got over 16,000 aliens in our prison system, 80,000 nationally. That leaves a lot of room at the inn when we are trying to build prisons.

20/20 and 60 Minutes documented the abuse on the American health care system.

In California two-thirds of the babies born in L.A. hospitals are to illegal aliens. Then they qualify for welfare. Our taxpayers and health care recipients pay the price.

Forty percent of the budget is mandated for education. That is fine, when the Governor ends up with $2.5 billion short because of illegal problems.

The amendment that my friends, the gentleman from California [Mr. HUNTER] and the gentleman from California [Mr. PACKARD] and the gentleman from California [Mr. MOORHEAD] offer, we ask support for. It helps across the country. It will save $13 billion.

Mr. HUNTER. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MCCANDLESS].

Mr. MCCANDLESS. Mr. Chairman, I rise in strong support of this amendment.

Mr. Chairman, I rise today in strong support of this amendment, which would provide an additional 6,000 agents to the Border Patrol. The Immigration and Naturalization Service has a nearly impossible task in trying to patrol the Mexican border. Between 3,000 and 5,000 people attempt to cross illegally each day. The men and women of the U.S. Border Patrol are our "first line" of defense against illegal immigration and illegal drug trafficking.

It was a shock to me to read about the border crossing activities of Mario Alberto Martinez, the man accused of killing Mexican Presidential candidate Luis Donaldo Colosio. Martinez illegally lived and worked on both sides of the United States-Mexico border. To further this outrage, he was a registered Democrat in Los Angeles County.

I have seen first-hand how Mr. Martinez was able to "visit" the United States at his leisure. Each night there is a "shell-game" which goes on. Groups of illegals mass on the border at different points and wait. These people know all too well that the Border Patrol is undermanned, their resources are spread thin, and use it to their advantage. As a result, one group makes a run for the border. While our agents are rounding this group up, other groups cross unopposed.

The cost of illegal immigration is skyrocketing every day. Last year, illegal immigrants cost the State of California over $3 billion and the United States $5.4 billion. The cost of illegal immigration is one our State governments and our Nation cannot afford.

Additionally, our border with Mexico is an avenue for the drug trade. In 1993 alone, the Border Patrol intercepted over $1.34 billion worth of narcotics. While this is an impressive statistic, the question is: What amount was not seized, and where did it end up?

Mr. Chairman, if we are serious about crime control, a secure border must be part of any crime bill the House considers, to leave it out would be a grave injustice to the people we were sworn to represent.

I urge my colleagues to support Mr. HUNTER's amendment.

Mr. FILNER. Mr. Chairman, I rise today in support of the Border Patrol amendment to the Omnibus Crime Control Act, H.R. 4092.

Although there are many fine provisions in the crime bill, one important element has not been addressed: the critical need for border security.

My congressional district is a border district, with all the benefits and all the problems that go along with it. Many of my constituents are living with conditions that no one in this Chamber would put up with for a day, let alone for year after year.

I have seen with my own eyes the numbers of illegal immigrants that come across the border each day and each night. My colleagues from other parts of the country may not even believe what I am about to say, but many residents of the 50th Congressional District in California have hundreds of people running through their backyards each night.

While most cross the border in search of work and a better life, some are here to prey on migrants and residents of our country. This criminal element brings with it drugs and crime.

The protection of our borders is our responsibility, and that is why I have sponsored comprehensive legislation to address the border problems. This amendment complements that legislation by providing authorization for the addition of 6,000 new Border Patrol agents and support personnel over the next 5 years.

Please think of the young people whom we are working so hard to save from lives wasted by drug use. Please help them by voting "yes" on the Border Patrol amendment.

Mr. HUNTER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this is obviously a very important part of this crime package. You cannot deal with crime without dealing with criminal aliens.

The brave men and women of the Border Patrol have supported this country with courage, with integrity, with faithfulness for many years. It is time we supported them.

Please, support this amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. HUNTER].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HUNTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 417, noes 12, not voting 8, as follows:

[Roll No. 134]

AYES—417

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Faleomavaega (AS)
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski

Kaptur
Kasich
Kennedy
Kildee
Kim
King
Kingston
Kleczka
Klein
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Oberstar
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—12

Collins (MI)
Frank (MA)
Gonzalez
Hilliard
Klink
Obey
Penny
Peterson (MN)
Sabo
Swift
Synar
Watt

NOT VOTING—8

Fish
Gallo
Grandy
Kennelly
McDade
McNulty
Washington
Whitten

☐ 1505

Messrs. GORDON, FORD of Michigan, and NADLER changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 33 printed in part 2 of House Report 103-474.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TRAFICANT:

Add at the end the following new title:

TITLE —LABELS ON PRODUCTS

SEC. . PLACEMENT OF MADE IN AMERICA LABELS ON PRODUCTS.

(a) REQUIREMENTS FOR USE OF LABELS.—No product may bear a label which states or suggests that the product was made in America unless—

(1) the product has been registered with the Department of Commerce under subsection (b); and

(2) the Secretary of Commerce has determined that—

(A) 60 percent of the product was manufactured in the United States; and

(B) final assembly of the product took place in the United States.

(b) REGISTRY OF AMERICAN-MADE PRODUCTS.—Not later than 12 months after the Secretary has promulgated regulations regarding the registration of products with the Department of Commerce under this section, a person shall register with the Department of Commerce any product on which there is or will be affixed a label which states or suggests that the product was made in America.

(c) PENALTIES FOR FRAUDULENT USE OF LABELS.—

(1) CIVIL FINE.—Any person who, with an intent to defraud or mislead, places on a product a label which states or suggests that the product was "made in America" in violation of this section may be assessed a civil penalty by the Secretary of not more than $100,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. The validity of such order may not be reviewed in an action to collect such civil penalty.

(2) INJUNCTIVE RELIEF.—The Secretary may bring an action to enjoin the violation of, or to compel compliance with, this section, whenever the Secretary believes that such a violation has occurred or is about to occur.

(d) REGULATIONS.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall promulgate regulations establishing procedures under which a person shall register a product under this section.

(e) DEFINITIONS.—For purposes of this section:

(1) LABEL.—The term "label" means any written, printed, or graphic matter on, or attached to, a product or any of its containers or wrappers.

(2) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

The CHAIRMAN. Pursuant to the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 5 minutes, and a Member opposed to the amendment will be recognized for 5 minutes.

Does the gentleman from Florida [Mr. MCCOLLUM] rise in opposition to the amendment?

Mr. MCCOLLUM. I do not seek time in opposition, Mr. Chairman, but I certainly ask unanimous consent to be recognized for 5 minutes in support of the gentleman's amendment if no one is in opposition.

Mr. BROOKS. Mr. Chairman, I rise in opposition. I have not heard of any resolution of this.

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] rises in opposition and will be recognized for 5 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, this is the only amendment in the bill that provides some protection to American workers displaced in the workplace by imports coming into America, and not only coming into America, but having an American-made label put on them and deceiving the consuming public in America to believe they are buying a product that has been made in America.

Now evidently I have a couple problems here with the committee over the registration that should be effected by the Commerce Department. My colleagues, the Commerce Department would have to create a registry of American-made products so that we could ensure that we might know what is made in this country, and maybe if we knew what was made in this country and what was being illegally sent to this country, we would have a few more people at work.

So, Mr. Chairman, I am going to reserve the balance of my time to hear the defense in opposition of this amendment.

☐ 1510

Mr. BROOKS. Mr. Chairman, I must rise in opposition to the amendment offered by the gentleman from Ohio [Mr. TRAFICANT]. While this amendment is apparently well-intentioned—and I support the goal of the gentleman—his amendment's potential effect on domestic commerce could be staggering. Without the benefit of any hearings, I believe we should tread very carefully in this area.

The amendment would require the establishment of a whole new bureaucracy at the Department of Commerce. Every single business—in your district, whether "mom and pop" or "Fortune 500"—would have to register, with the Department of Commerce, every single product that businessperson wants to label as made in America. There is no such registry system now in place at the Commerce Department now.

Once a product is registered, then the Secretary of Commerce has the obligation to determine if 60 percent of the product was manufactured in the United States and if final assembly of the product did take place in the United States. As you know, I have vigorously supported domestic content laws; but, the unintended effects of the regulatory scheme involved here must be more carefully worked out.

For this reason, I oppose the amendment in its current form for inclusion in the crime bill and hope Members will oppose the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me say what this real overbearing amendment would do. The Commerce Department would have to either send a letter or make a phone call and say, "Send me a list of the products that you make and keep them in a file."

Now, if that is too big a hurdle, I thought we even discussed that with staff and said we would be amenable as long as the intent of penalizing people for putting false labels on was met, and that we would not even hold hard to that if it was a problem.

That is not the problem. If you are for domestic particular content, you are sure not for it if you oppose this legislation.

Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I have looked at his amendment. While I do not like some of the domestic particular content legislation that I have seen produced, and he and I disagree on some of those things, I frankly do not see anything wrong with this particular amendment.

What the gentleman is trying to do is keep from having some fraudulent implantation of the term or name "Made in America" on a product that really is not "Made in America." And while I do not agree with domestic content laws, this one is not that. This is simply a criminal law relative to somebody who fraudulently is trying to stick a label on something that really was not made here.

While there may be a little difficulty involved in this process for the Department of Commerce, the gentleman's amendment is well taken, and I support it.

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me say this about this domestic content business: 60 percent of the contents in America, 9 percent of the contents come over in a boat and they are put together by a bunch of people on minimum wage, and it is called "Made in America." The Traficant bill says yeah, that at least 60 percent of the contents are made by American workers.

Here is a second thing it says: American workers' hands put it together. Now, if this is overbearing with this registry, I am willing to have you work that out. But I do not want to get screwed in conference, and I am going to ask for a vote.

Let me say this to the Congress: There is not one piece of legislation that deals with illegal imports, let alone an import that comes in and has a "Made in America" label on it. We are losing jobs, and we are allowing people to rip us off. If you do not do it on the crime bill, what do you do it on? A bill that gives sanctions to the tooth fairy?

I am asking the Congress to vote for this legislation, and I want the Congress to know that I have let the Committee on the Judiciary know I am not against those parts they object to and would be willing to compromise and incorporate their concerns. I think some of those concerns are legitimate. I thought that is what we discussed.

Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Ohio [Mr. TRAFICANT], and I urge its passage.

Mr. TRAFICANT. Mr. Chairman, I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is not directed solely at imported equipment or material that comes into this country. This includes all domestically produced equipment facilities, and commodities as well, and will create a real imposition on small business throughout this country and a big pain to big business in this country.

Mr. Chairman, jurisdictionally, this amendment is really within the jurisdiction of the Committee on Energy and Commerce. But they, of course, had no opportunity to hold hearings on the bureaucratic schemes created here. I do not think we ought to have it in this bill. I would tell you if you adopt it, you will be sorry. I am not voting for it.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. TRAFICANT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 310, noes 116, not voting 11, as follows:

[Roll No. 135]

AYES—310

Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Bachus (AL)
Baker (CA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Bateman
Bentley
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Browder
Brown (OH)
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Carr
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Collins (GA)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Derrick
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Dooley
Doolittle
Dornan
Duncan
Dunn
Edwards (TX)
Ehlers
Emerson
Engel
Eshoo
Evans
Everett
Ewing
Faleomavaega (AS)
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gekas
Gephardt
Geren
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Grams
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
Klein
Klink
Klug
Kreidler
Lambert
Lancaster
Lantos
Laughlin
Lazio
Leach
Levin
Levy
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Mazzoli
McCloskey
McCollum
McHale
McHugh
McInnis
McKinney
McMillan
Meehan
Menendez
Meyers
Mfume
Mica
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Neal (MA)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Packard
Pallone
Parker
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Regula
Richardson
Ridge
Roemer
Rogers
Romero-Barceló (PR)
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torricelli
Traficant
Tucker
Underwood (GU)
Upton
Velazquez
Vento
Visclosky
Volkmer
Walsh
Waters
Weldon
Wheat
Wilson
Wise
Wolf
Woolsey
Young (AK)
Young (FL)

NOES—116

Abercrombie
Archer
Armey
Baesler
Baker (LA)
Barton
Becerra
Beilenson
Bereuter
Berman
Brooks
Brown (CA)
Brown (FL)
Cantwell
Cardin
Castle
Chapman
Coleman
Combest
Coppersmith
Cox
DeLay
Dellums
Dicks
Dreier
Durbin
Edwards (CA)
English
Frank (MA)
Gejdenson
Gibbons
Gilchrest
Glickman
Gonzalez
Goss
Gunderson
Hamburg
Harman
Hastings
Hoekstra
Hughes
Jefferson
Johnson (GA)
Johnson, Sam
Johnston
Kanjorski
King
Kingston
Kleczka
Knollenberg
Kolbe
Kopetski
Kyl
LaFalce
LaRocco
Lehman
Lewis (CA)
Lewis (FL)
Lowey
Manzullo
Matsui
McCandless
McCrery
McCurdy
McDermott
McKeon
Meek
Michel
Miller (CA)
Miller (FL)
Mineta
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Nadler
Oxley
Pastor
Paxon
Penny
Pickle
Porter
Poshard
Reed
Reynolds
Roberts
Rohrabacher
Rostenkowski
Roybal-Allard
Royce
Rush
Sabo
Schroeder
Schumer
Sensenbrenner
Skaggs
Slaughter
Smith (IA)
Smith (MI)
Stark
Stump
Swift
Synar
Thomas (CA)
Thomas (WY)
Torres
Towns
Unsoeld
Valentine
Vucanovich
Walker
Watt
Waxman
Wyden
Wynn
Yates
Zeliff
Zimmer

NOT VOTING—11

Bryant
Fish
Gallo
Grandy
Martinez
McDade
McNulty
Neal (NC)
Washington
Whitten
Williams

☐ 1536

Messrs. SENSENBRENNER, SMITH of Michigan, GUNDERSON, McCANDLESS, and McKEON, Ms. ROYBAL-ALLARD, Ms. HARMAN, Mrs. SCHROEDER, Mr. LEWIS of Florida, and Mr. ABERCROMBIE changed their vote from "aye" to "no."

Mr. BARCIA of Michigan and Mr. STEARNS changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 37 printed in part 2 of the House Report 103-474.

AMENDMENT OFFERED BY MR. GORDON

Mr. GORDON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GORDON:

At the appropriate place in the bill add the following:

SECTION . AWARDS OF PELL GRANTS TO PRISONERS PROHIBITED.

Section 401(b)(8) the Higher Education Act of 1965 (20 U.S.C. 1070a(b)(8)) is amended to read as follows:

"(8) No basic grant shall be awarded under this subpart to any individual who is incarcerated in any Federal or State penal institution.".

SEC. . EFFECTIVE DATE.

The amendment made by this Act shall apply with respect to periods of enrollment beginning on or after the date of enactment of this Act.

The CHAIRMAN. Pursuant to the rule, the gentleman from Tennessee [Mr. GORDON] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Mr. WYNN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Maryland [Mr. WYNN] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Tennessee [Mr. GORDON].

PARLIAMENTARY INQUIRY

Mr. BROOKS. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The distinguished gentleman will state his parliamentary inquiry.

Mr. BROOKS. Mr. Chairman, do I understand that the Chair is going to cluster these two votes and we will have one 15-minute vote and one 5-minute vote after the Gordon-Fields amendment?

The CHAIRMAN. The Chair has that discretion under the rule, to cluster the votes.

Mr. BROOKS. I would request the Chair to do so. It would expedite matters and save us 10 minutes.

Mr. GORDON. Mr. Chairman, I have no objection to the request if my friend, the gentleman from Maryland [Mr. WYNN] has no objection.

Mr. WYNN. Mr. Chairman, I have no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Tennessee [Mr. GORDON].

Mr. GORDON. Mr. Chairman, I yield myself 2 minutes.

Just because one blind hog may occasionally find an acorn does not mean many other blind hogs will. The same principle applies to giving Federal Pell grants to prisoners. Certainly there is an occasional success story, but when virtually every prisoner in America is eligible for Pell grants, national priorities and taxpayers lose. That is especially true since the education department has no way to track success or even know for sure if a recipient is a prisoner.

☐ 1540

Pell grants were created to help low- and middle-income students get the education they need to improve their lives. With college tuitions skyrocketing and the workplace demanding more advanced education, those students must be our first priority.

Unfortunately, that is not the case.

Prisoner advocates say inmates get as much as $200 million a year in grants. Meanwhile, budget pressures have cut Pell grants to pre-1989 levels, squeezing out thousands of traditional students.

Mr. Chairman, law-abiding students have every right to be outraged when a Pell grant for a policeman's child is cut but a criminal that the officer sends to prison can still get a big check.

Even worse, there are documented cases of sham prison schools that are only interested using prisoners as tools to get grants, not to educate students.

Mr. Chairman, criminal rehabilitation is important, but $500 million a year in State and Federal funds already go to prisoner education. If more is needed, it should come through targeted programs with strict guidelines that assure cost efficiency.

Mr. Chairman, quite simply, it makes much better sense to spend Pell grants on education and job training that will help keep young adults out of trouble. We cannot afford to throw millions of unaccountable dollars into prisoner Pell grants in search of a few acorns.

Mr. Chairman, I reserve the balance of my time.

Mr. WYNN. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, in these times it is easy to make statements designed to punish criminals. But I think it is very important that we make statements designed to reduce recidivism.

Mr. Chairman, I would like to call the House's attention to the words of former Chief Justice Warren Burger who said that to confine offenders behind walls without trying to change them is an expensive folly with short-term benefits.

Mr. Chairman, the fact of the matter is that we need to preserve this program. Let us look at the total situation. In the first instance, prisoners are not taking significant amounts of Pell grant funds. Prisoners only utilize one-half of 1 percent of Pell grant funding; one-half of 1 percent.

Second, that does not constitute $200 million as has been suggested but, rather, I submit, only $35 million out of a $6.3 billion program.

Third, I would submit the program is working. In instance after instance across this country, we are seeing that when prisoners are eligible to take advantage of educational opportunities at the college level, they do not come back to prison. And after all, Mr. Chairman, is not that what this is all about, reducing recidivism and reducing crime?

National statistics indicate that while the national recidivism rate is between 60 and 65 percent for those prisoners that partake of post-secondary education under this program, the recidivism rate is only 10 to 30 percent.

Mr. Chairman, I would submit that both from a cost-effectiveness standpoint as well as a standpoint of reducing recidivism and, in turn, reducing crime, we are better off when prisoners have the opportunity to get this education.

Mr. Chairman, I certainly respect the concerns of the gentleman from Tennessee on this issue and I will be introducing an amendment in just a few moments which will say that we will monitor this program and that we will only continue it if the Secretary of Education and the local secretaries for prisons say the program is working. But we should not cut the program out cold turkey. We should look at it and evaluate where we have seen success.

Mr. Chairman, let me suggest that a lot of people do not agree with the gentleman from Tennessee, starting with Attorney General Janet Reno, the entire Clinton administration, Secretary of Education Riley, Senator CLAIBORNE PELL, the North American Association of Wardens and Superintendents, the American Association of State Colleges and Universities, the American Council of Education, the American Correctional Association, the United Negro College Fund, the Hispanic Association of Colleges and Universities, the Association of Jesuit Colleges and Universities, and the Association of Catholic Colleges and Universities.

Mr. Chairman, what are they saying? They are saying, this program works, it reduces recidivism and we should keep it.

Mr. Chairman, I understand the concerns that people have, but please keep in mind, this program only utilizes one-half of 1 percent of all the Pell grant funds. It is not $200 million. It is only $35 million. And most importantly, it gets results.

Mr. Chairman, I reserve the balance of my time.

Mr. GORDON. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS of Texas. Mr. Chairman, today we have the opportunity, once and for all, to make incarcerated prisoners ineligible to receive Pell grants—the grant program designed to help low- and middle-income students meet the costs of attending college.

We can do that by voting for the Gordon-Holden-Fields amendment to the crime bill.

Today, incarcerated prisoners are applying for, and obtaining Pell grants. Every dollar in Pell grant funds obtained by prisoners means that fewer law-abiding students who need help in meeting their college costs are eligible for that assistance. It also means that law-abiding students who meet eligibility criteria receive smaller annual grants than they might otherwise obtain.

Mr. Chairman, the Federal Government spends up to $100 million a year on education and training programs specifically targeted at prisoners—and that's more than enough, as far as I'm concerned.

This amendment mandates that incarcerated prisoners be ineligible to receive Pell grants. Now. Period. No more studies, no more delays. It is a straightforward, simple amendment.

If you oppose Pell grants for prisoners, you should vote for the Gordon-Holden-Fields amendment.

We do not need any more studies. We need more higher education funds for our constituents' sons and daughters who are struggling to pay for their children's college expenses. Our constituents already pay to feed, house, clothe and rehabilitate prisoners. Their sons and daughters shouldn't have to do without so that incarcerated prisoners can use Pell grant funds to go to college.

I urge my colleagues to support this amendment.

Mr. WYNN. Mr. Chairman, could I inquire as to how much time the opposition has remaining?

The CHAIRMAN. The gentleman from Tennessee [Mr. GORDON] has 1½ minutes remaining, and the gentleman from Maryland [Mr. WYNN] has 2 minutes remaining.

Mr. WYNN. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina [Mr. CLYBURN].

Mr. CLYBURN. Mr. Chairman, I thank the gentleman from Maryland for yielding time to me.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Tennessee [Mr. GORDON] which—while certainly not intended that way by my colleague—seems to me to be penny-wise and pound-foolish. Instead, I would urge my colleagues to support the amendment which will be offered next by the gentleman from Maryland [Mr. WYNN].

Let us recall that, in 1992, Congress reformed the use of Pell education grants by inmates when it reauthorized the Higher Education Act. At that time, Congress stipulated that such grants could only be used by inmates for tuition and books. Inmates serving life sentences or facing the death penalty were made ineligible. Limits were placed on the percentage of a school's student body that would be composed of incarcerated persons. I think those were good and appropriate changes. However, the amendment before us completely eliminates the eligibility of any inmate for a Pell grant and I believe that would be counterproductive.

Certainly, there is a social utility in educating prisoners. Studies consistently have shown lower recidivism rates for those inmates who participate in educational activities while incarcerated. A recent study by the Federal Bureau of Prisons—which opposes the Gordon amendment—confirmed that lower recidivism results from education as well as instilling positive social values and vocational skills needed for a law-abiding and productive life after release.

The American Correctional Association, the Association of State Correctional Administrators, and the North American Association of Wardens and Superintendents have expressed a "fundamental opposition to the Gordon amendment." They report, and I quote:

> [The Pell Grant Program] provides a unique window of opportunity for our Nation to ensure that many released offenders are returned to the community with knowledge, skills,and abilities that will enable them to obtain employment. Moreover, the impact of providing educational opportunities under the authority of the Pell grants enhances the capacity of corrections officials to manage the complex needs of a changing offender population.

Particularly as nonviolent, first time offenders become an even larger proportion of our prison population, I believe complete elimination of access to Pell grants will be counterproductive. By all accounts, Pell grants are moneys well spent. The Wynn amendment—which will be offered next—will eliminate all Pell grants if Federal and State prison systems fail to provide this. I urge rejection of the Gordon amendment now and adoption of the more thoughtful, measured response contained in the Wynn amendment which will be offered next.

Mr. GORDON. Mr. Chairman, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. HOLDEN].

Mr. HOLDEN. Mr. Chairman, I thank the gentleman from Tennessee for yielding time to me.

Mr. Chairman, I rise as a proud cosponsor of this amendment and I say to all my colleagues, it is time for a reality check.

I spent 14 years in law enforcement before being elected to this great institution, and I could argue for hours against why prisoners should not be allowed to have Pell grants, but, instead, I would like to read a letter I received in my district from Tamaqua. The woman states:

> Where is an average, hard-working student who wants to make something of herself and get somewhere in life supposed to turn for help? Over the years we have told our daughter, "Keep your nose clean, stay out of trouble. If you have a police record, you will never get into college." My daughter has listened, but where has it gotten her? She reads about prisoners getting Pell grants and free college educations.
>
> What does this tell her?
>
> It tells her: If she was sitting in jail she would get a free education.
>
> Just where does a hard-working normal honor student involved in many extra curricular activities not only in school but also in the community go for help? The prisoner is rewarded with a free education.
>
> The average honor student is penalized because she tried to save money for college and she is penalized because she stayed out of trouble. Who can justify all of this?

The woman concludes:

> Do I tell her to put on a ski mask, go to the local bank, rob it, get a criminal record and then receive a free education?

Mr. WYNN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is obviously an issue that has attracted a great deal of controversy.

In my closing comments, I would like to hopefully clarify some important points. Point No. 1: It has been suggested that law-abiding students are denied Pell grants because persons incarcerated are getting Pell grants. That is not true.

The administration's statement clearly indicates that the availability of Pell grants to prisoners has no effect on the availability of Pell grants to law-abiding students. By law, all eligible students who apply for Pell grants receive them. By law, all eligible students who apply for Pell grants receive them.

Mr. Chairman, the point I want to make is not that we are insensitive to the concerns expressed on the floor regarding this matter but, rather, the Gordon amendment is not the correct approach. It is far more reasonable and far more sound for us to consider the Wynn amendment, which I will be introducing in just a minute, which provides that we would phase out the program unless there is a showing that the program works.

The Secretary of Education would have to make an affirmative certification the program works, is cost-efficient, and reduces recidivism. Likewise, State prison directors would make the same certification. That is a more sound approach.

The CHAIRMAN. All time on the amendment has expired.

The question is on the amendment offered by the gentleman from Tennessee [Mr. GORDON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FIELDS of Texas. Mr. Chairman, I demand a recorded vote.

PARLIAMENTARY INQUIRY

Mr. WYNN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. WYNN. Mr. Chairman, it was my understanding that because these two amendments were being clustered, the debate on both amendments would occur and then the votes on both amendments would follow subsequent to the debate on both amendments. Am I correct in that understanding?

The CHAIRMAN. Under the rule, the Chair has that discretion. As the Chair has indicated, it is his intention to exercise that discretion. If the gentleman will be patient with the Chair, it is about to occur.

Mr. WYNN. I thank the Chair. Forgive my eagerness. As you know, I am a freshman.

The CHAIRMAN. Pursuant to House Resolution 401, as the Chair has stated, further proceedings on the amendment offered by the gentleman from Tennessee [Mr. GORDON] will be postponed until after the debate on the next amendment.

PARLIAMENTARY INQUIRY

Mr. FIELDS of Texas. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. FIELDS. The question is, Mr. Chairman, what is the order of vote when we do have a recorded vote?

The CHAIRMAN. The vote will occur in the same order as would have occurred had the Chair not postponed the vote.

It is now in order to consider amendment No. 38 printed in part 2 of the House Report 103–474.

AMENDMENT OFFERED BY MR. WYNN

Mr. WYNN. Mr. Chairman, I offer an amendment made in order by the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WYNN: At the appropriate place in the bill add the following:

SEC. . PELL GRANTS AND PRISONERS.

(A) GENERAL RULE.—After January 1, 1996, Federal and State prison inmates shall not be eligible for grants under subpart 1 of part A of title IV of the Higher Education Act of 1965 (referred to in this section as "Pell grants") unless—

(1) in the case of inmates of Federal prisons, including prisons for the District of Columbia and territories of the United States, the Secretary of Education makes the certification prescribed by subsection (b), and

(2) in the case of inmates of State prisons, the Governor of the State in which the prison is located makes the certification prescribed by subsection (b).

(b) CERTIFICATION.—The certification required by subsection (a) to receive a Pell grant is a certification that the provision of Pell grants to prisoners—

(1) shows satisfactory evidence of reducing recidivism,

(2) is cost effective, and

(3) requires that the inmates make satisfactory academic progress toward completion of the education program for which the grant was made.

The CHAIRMAN. Pursuant to the rule, the gentleman from Maryland [Mr. WYNN] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Is the gentleman from Texas [Mr. FIELDS] opposed to the amendment?

Mr. FIELDS of Texas. Yes, I am, Mr. Chairman.

The CHAIRMAN. The gentleman from Texas [Mr. FIELDS] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think having spoken in opposition to the amendment, my position is probably abundantly clear.

We need to fight crime. We need to be hard on criminals. But we also need to keep in mind that we are now incarcerating more individuals per capita than any other country in the world, to the tune of $25,000 per inmate.

To the extent that it is cheaper to provide college education to those inmates who desire it and have them not return, I suggest that the far more sound policy option would be to adopt the Wynn amendment, which preserves the programs through 1996 and requires the affirmative certification of the Secretary of Education.

Mr. Chairman, I yield 45 seconds to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I rise in support of this amendment offered by the gentleman from Maryland [Mr. WYNN], which is a more thoughtful, measured response to the issue of Pell grants for prisoners.

Mr. WYNN's amendment eliminates Pell grants for prisoners after January 1, 1996, at the Federal level if the Secretary of Education—or at the State level if the Governor of a State—does not certify that the provision of Pell grants to prisoners reduces recidivism, is cost effective, and requires satisfactory academic progress toward completion of the education program for which the grant was made.

This, coupled with the restrictions we discussed earlier that Congress adopted in 1992, will provide firm assurance that Pell grants for inmates are serving a proper function in our correctional system.

I urge support for the Wynn amendment.

Mr. WYNN. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Chairman, I rise in support of the gentleman's amendment, and I would ask that my remarks appear in the RECORD as such, and I would urge Members to vote in the affirmative.

Mr. WYNN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. TOWNS].

Mr. TOWNS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise today to offer my support to the Wynn agreement to eliminate Pell grants for inmates by January 1, 1996.

The facts are clear that rehabilitation of inmates occurs when Pell grants are used to pursue collegiate studies. The national recidivism rate is 50 to 70 percent. However, for prisoners with at least 2 years of schooling, that figure is just 10 percent. The average Pell grant is $1,500 whereas the cost to incarcerate a prisoner is $30,000. Less than one-half of 1 percent of the 4.5 million Pell grant recipients are inmates. If it can be documented that they provide redemptive benefits for the inmate population and the society as a whole, it would not only be a shame, but imprudent and irrational to eliminate Pell grants.

The issues of incarceration, rehabilitation, and recidivism are interrelated. The likelihood that inmates will be successful after release from prison is directly tied to the policies applied while they are incarcerated. It is hard to get a job when you don't have any skills or education.

We need to offer some opportunity for prisoners to better themselves so that they don't become repeat offenders.

This amendment uses a very simple cost benefit analysis to determine whether Pell grants should be eliminated by 1996. It must be clearly demonstrated on a Federal and State level that the benefits derived from inmates' utilization of Pell grants outweigh the costs associated with the program.

I firmly believe that our prison system should utilize not only punitive, but rehabilitative measures that will enable inmates to become contributing members of society. Pell grants are a vital tool that can assist inmates in developing intellectually, and socially. Pell grants for inmates make sense and pay dividends in the short and long run.

I urge my colleagues to support this valuable amendment.

Mr. WYNN. Mr. Chairman, I yield 30 seconds to the gentleman from Alabama [Mr. BROWDER].

Mr. BROWDER. Mr. Chairman, the gentleman from Tennessee [Mr. GORDON] has a good amendment. I am going to support it.

One problem with it though is that it does not give an opportunity for those institutions that are doing a good job, that are decreasing the recidivism rate, and I think we should have that opportunity; at least, we should study to see which institutions deserve that opportunity. I think the amendment offered by the gentleman from Maryland [Mr. WYNN] makes a very good contribution to making the good amendment offered by the gentleman from Tennessee [Mr. GORDON] an even better amendment.

I urge support of the Wynn amendment.

Mr. FIELDS of Texas. Mr. Chairman, I yield 1½ minutes to the gentleman from Tennessee [Mr. GORDON], the author of the preceding amendment.

Mr. GORDON. Mr. Chairman, the widow of a small-town vice-principal called me last month and asked how in the world the man who murdered her husband can be eligible for a Pell grant while her now fatherless daughter is struggling to pay her way through school. I think she and most Americans do not think we need to study this issue anymore.

Do not be fooled by pleas for more time. Two years ago the House voted overwhelmingly to cut off Pell grants to prisoners, but the conference watered down the provision in exchange for a study. Now, a year and a half after the study was due, there is still no study.

Yet one-quarter billion to one-half billion dollars in Pell grants have gone to prisoners in just the last 2 years.

Waiting will not help. Pell grants for prisoners were a mistake 2 years ago, they are a mistake today.

Vote against the Wynn amendment.

Mr. WYNN. Mr. Chairman. I yield 1 minute to the gentleman from New Jersey [Mr. HUGHES].

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Mr. HUGHES. Mr. Chairman, I rise in opposition to this Gordon amendment and in support of the Wynn amendment.

I understand the feelings generated by the idea that there is money available for inmates for education when there are law-abiding Americans who may be unable to obtain money for college. But there is more to this debate.

I have heard argument after argument during consideration of this crime bill about doing something real to reduce crime. That something real is right in front of you. There is clear, uncontrovertible evidence that education reduces crime. Several studies, including one for the Federal Bureau of Prisons, indicate that the recidivism rate is about 10 percent lower for those inmates participating in educational programs.

On anther amendment before us, yet to be considered, the value of prisoner education in reducing recidivism is promoted and given as a reason for the amendment. Yet now we argue that the end result is of no consequence.

Pell grants are the most cost-effective and direct way to ensure that financially qualified inmates, who already have a high school degree or GED, can participate in college courses.

The truth of the matter is that we in Congress have never appropriated money for Federal prisoner postsecondary educational programs and probably won't in the future. I am sure the argument against such an appropriation would be that it is taxpayer money and shouldn't be spent educating prisoners.

The debate should be about reducing crime. That is what the Pell grants accomplish.

Pell grants are limited to tuition and fees and limited as to what type of inmate who can receive the grants. The average Pell grant is about $1,500. Out of a total of over 1 million Americans in prison—about 28,000 inmates received Pell grants this past fiscal year. That is about 1 percent of the total of all Pell grants received by Americans.

One percent ought to be worth it to provide the American public with a reduction in crime. Instead, Mr. GORDON and his supporters would leave the ability to take courses to those who have money and assets. Only the poor inmates, the correctional staff who has to worry about inmate idleness—and the American public will suffer. The Wynn amendment on the other hand will require the Secretary of Education to certify by 1996 the cost effectiveness of the program for inmates of our prisons.

I urge you to oppose the Gordon amendment and support the Wynn amendment.

Mr. FIELDS of Texas. Mr. Chairman, I yield 1½ minutes to my friend, the gentleman from Pennsylvania [Mr. HOLDEN].

Mr. HOLDEN. I thank the gentleman for yielding this time to me.

Mr. Chairman, I say to my colleagues we must look at the facts on this amendment. We are spending at least $35 million on Pell grants for incarcerated felons in this country. That is $35 million that could be used for hard-working American families who are unable to get Pell grants to send their children to college.

I will use my brother as an example. He is a school teacher, his wife is a secretary. My niece, Kelly, goes to Shippensburg University. They must borrow the money every year to send her to Shippensburg University, while we have incarcerated inmates at Graterford State Prison receiving college degrees in Pennsylvania.

As the gentleman from Texas said earlier, we are already spending $100 million, Federal taxpayer dollars, for the rehabilitation of prisoners.

When I was a county sheriff, I served on the prison board and we spent local tax dollars on GED training or vocational training. I would agree that we should continue to spend money on those types of programs. But I ask all my colleagues to defeat the Wynn amendment. We are sending a terrible message to the American public when we are spending at least $35 million sending convicted felons to higher institutions of learning.

Please defeat the Wynn amendment.

Mr. WYNN. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. I thank the gentleman for yielding this time to me.

Mr. Chairman, I support this amendment. The fact is that we owe it to the American people. If we are not going to execute violent criminals, we owe it to them to try to rehabilitate them. That is what this is all about.

If people are willing to make the effort to get a college education, to make themselves constructive members of our economy and society, we ought to give them the ability to do so.

We just had a hearing with the head of the Bureau of Prisons. She felt very strongly we do not have the resources to do all that the Congress is telling us we have to do. This is one opportunity to get the resources to enable people to get real rehabilitation, make sure when they get out into society they have something to contribute and we do not have to worry about them recommitting those crimes.

All the Wynn amendment says is we ought to study this issue and not kill the program before we know whether or not it is going to work.

Mr. FIELDS of Texas. Mr. Chairman, I yield myself such time as I may consume.

My friend from Maryland earlier in the day talked about looking at the whole situation. Then my good friend from Pennsylvania, who served 14 years in law enforcement, said that it was time for a reality check. Let us do that for just a moment.

The Pell Grant program is a $6.3 billion program, but last year it suffered a $250 million shortfall. The Department of Education estimates, and this is a very conservative estimate, that Pell Grants to prisoners constitute at least a $73 million-per-year expenditure. Or, if you multiply this over 5 years, it is over $365 million, taxpayer dollars, going to prisoners every 5 years.

So if you want to look at the whole situation, if you want to have a reality check, I think you can crystallize that into one simple question that each Member should ask him or herself: Can you justify spending a third of a billion dollars over a 5-year period, to your constituents, for Pell Grants for prisoners? Now, if you can answer that question that you should spend it, then you should vote "no" on our amendment and you should vote "yes" for Mr. WYNN.

However, if you want your law-abiding constituents to have this Pell Grant money, then you should vote "yes" on Gordon-Holden-Fields of Texas and you should vote "no" on the Wynn amendment. It is important for people to understand that not only does this postpone for 2 years, many of us think this would postpone our particular amendment indefinitely.

Mr. Chairman, I yield to the gentleman from Tennessee.

Mr. GORDON. The question here is not should prisoners have education. The State and Federal Governments are already spending half a billion dollars to educate prisoners.

The question is: Is the Pell Grant an efficient way to do that? The Department of Education cannot give you the name of one prisoner who has ever gotten a grant or whether or not they have been successful with that. There is no accountability. That is the problem, not whether prisoners should be educated, but whether Pell Grants are an appropriate vehicle to do that. Certainly they are not, because there is no accountability. I think those limited funds can better be spent by at-risk students to keep them out of jail, not to throw money at prisoners that are in jail with no accountability.

Mr. WYNN. Mr. Chairman, I would hope that no one would leave this debate thinking that, first, eligible students are being denied Pell Grants because of prisoners. That is not true. The administration has stated unequivocally that all Pell-eligible students receive their grants regardless of the participation of the prison population.

Second, the prison participation is only one-half of 1 percent of the total program cost. But the most important issue in this debate is simply this: Do we pay now, or do we pay later? If we pay now, we allow a prison inmate to spend $1,500 a semester to get a college education. The statistics show that when that inmate gets that education, he is a lot less likely to come back to prison. The studies indicate, as I said, 10 to 30 percent recidivism with college training, whereas 60 to 65 percent recidivism without college training.

It seems to me it would be cheaper to pay now and let them get college training than it would be to pay $25,000 a year to house them in prison.

We have got to be smart on this issue, and the smart vote is to allow the program to continue, allow the Secretary of Education to certify that it works and, when it works, we should keep that in place.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Maryland [Mr. WYNN].

The question was taken, and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FIELDS of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 401, further proceedings on the amendment offered by the gentleman from Maryland will be postponed until after further proceedings on the amendment offered by the gentleman from Tennessee [Mr. GORDON].

Pursuant to Resolution 401, proceedings will now resume on those amendments on which further proceedings were previously postponed and in the following order: Amendment No. 37, offered by the gentleman from Tennessee [Mr. GORDON], and then amendment No. 38, offered by the gentleman from Maryland [Mr. WYNN].

The Chair announces that in the event votes are ordered, the Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. GORDON

The CHAIRMAN. The pending business is the request for a recorded vote on the amendment offered by the gentleman from Tennessee [Mr. GORDON], on which further proceedings were postponed, on which the "noes" prevailed by voice vote. The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

PARLIAMENTARY INQUIRY

Mr. WYNN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WYNN. Mr. Chairman, I just want a clarification as to which vote is coming first. It is correct that the Gordon amendment is first, followed by the Wynn amendment?

☐ 1610

The CHAIRMAN. This vote is on the amendment offered by the gentleman from Tennessee [Mr. GORDON], No. 37, to be followed by the one offered by the gentleman from Maryland [Mr. WYNN], No. 38.

The vote was taken by electronic device, and there were—ayes 312, noes 116, not voting 9, as follows:

[Roll No. 136]

AYES—312

Ackerman
Allard
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Boucher
Brewster
Browder
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Carr
Castle
Chapman
Clement
Clinger
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Costello
Cox
Cramer
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Ehlers
Emerson
English
Eshoo
Everett
Ewing
Faleomavaega (AS)
Fawell
Fazio
Fields (TX)
Fingerhut
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Gordon
Goss
Grams
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hoagland
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Hoyer
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kennelly
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Manton
Manzullo
Margolies-Mezvinsky
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McHale
McHugh
McInnis
McKeon
McMillan
Meehan
Menendez
Meyers
Mica
Michel
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murphy
Murtha
Myers
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quinn
Rahall
Ramstad
Ravenel
Regula
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum

Sarpalius
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Sensenbrenner
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Stump
Stupak
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Torkildsen
Torricelli
Traficant
Upton
Valentine
Visclosky
Volkmer
Vucanovich
Walker
Weldon
Williams
Wise
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—116

Abercrombie
Andrews (ME)
Becerra
Beilenson
Berman
Blackwell
Bonior
Brooks
Brown (CA)
Brown (FL)
Cardin
Clay
Clayton
Clyburn
Collins (IL)
Collins (MI)
Conyers
Coyne
de Lugo (VI)
Dellums
Derrick
Dixon
Edwards (CA)
Engel
Evans
Farr
Fields (LA)
Filner
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Furse
Gejdenson
Gephardt
Gonzalez
Goodling
Green
Greenwood
Hall (OH)
Hamburg
Hastings
Hilliard
Hinchey
Hobson
Houghton
Hughes
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kennedy
Kildee
Kopetski
Levin
Lewis (GA)
Mann
Markey
Martinez
Matsui
McCloskey
McDermott
McKinney
Meek
Mfume
Miller (CA)
Mineta
Mink
Moran
Nadler
Norton (DC)
Olver
Owens
Payne (NJ)
Pelosi
Pickle
Price (NC)
Quillen
Rangel
Reed
Reynolds
Romero-Barcelo (PR)
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Scott
Serrano
Sharp
Skaggs
Slaughter
Stark
Stokes
Strickland
Studds
Swift
Synar
Thompson
Torres
Towns
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Walsh
Washington
Watt
Waxman
Wheat
Wilson
Woolsey
Wynn
Yates

NOT VOTING—9

Crane
Fish
Gallo
Grandy
Gutierrez
McDade
McNulty
Waters
Whitten

□ 1630

The Clerk announced the following pair:

On this vote:

Mr. Grandy for, with Mr. McNulty against.

Mr. WILSON changed his vote from "aye" to "no."

Mr. ALLARD, Mr. EDWARDS of Texas, Mrs. KENNELLY, and Messrs. MOLLOHAN, GLICKMAN, and VISCLOSKY changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WYNN

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Maryland [Mr. WYNN] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 162, noes 263, not voting 12, as follows:

[Roll No. 137]

AYES—162

Abercrombie
Andrews (ME)
Becerra
Beilenson
Berman
Bishop
Blackwell
Boehlert
Bonior
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Cardin
Castle
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coyne
de la Garza
de Lugo (VI)
Deal
Dellums
Derrick
Dixon
Edwards (CA)
Edwards (TX)
Engel
English
Evans
Faleomavaega (AS)
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gilman
Gonzalez
Goodling
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hastings
Hilliard
Hinchey
Hobson
Horn
Houghton
Hoyer
Hughes
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kennedy
Kennelly
Kildee
Kingston
Kopetski
Kreidler
LaFalce
Leach
Levin
Lewis (GA)
Lowey
Maloney
Mann
Markey
Martinez
Matsui
McDermott
McKinney
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Mollohan
Montgomery
Moran
Nadler
Norton (DC)
Oberstar
Olver
Owens
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Pickle
Pomeroy
Price (NC)
Quillen
Rahall
Rangel
Reed
Regula
Reynolds
Romero-Barcelo (PR)
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Skaggs
Slattery
Slaughter
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Swett
Swift
Synar
Tanner
Thompson
Towns
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Vucanovich
Walsh
Washington
Watt
Waxman
Wheat
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Yates

NOES—263

Ackerman
Allard
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Borski
Boucher
Brewster
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Carr
Chapman
Clement
Clinger
Coble
Collins (GA)
Combest
Cooper
Coppersmith
Costello
Cox
Cramer
Crapo
Cunningham
Danner
Darden
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Ehlers
Emerson
Eshoo
Everett
Ewing
Farr
Fawell
Fields (TX)
Fingerhut
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gingrich
Glickman
Goodlatte
Gordon
Goss
Grams
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hoagland
Hochbrueckner
Hoekstra
Hoke
Holden
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Johnson (CT)
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kim
King
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kyl
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Machtley
Manton
Manzullo
Margolies-Mezvinsky
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McHale
McInnis
McKeon
McMillan
Meehan
Meyers
Mica
Michel
Miller (FL)
Minge
Moakley
Molinari
Moorhead
Morella
Murphy
Murtha
Myers
Neal (MA)
Neal (NC)
Nussle
Obey
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quinn
Ramstad
Ravenel
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schenk
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Stupak
Sundquist
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Torkildsen
Torricelli
Traficant
Upton
Valentine
Visclosky
Volkmer
Walker
Weldon
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—12

Brown (CA)
Crane
Fish
Gallo
Grandy
McDade
McHugh
McNulty
Petri
Torres
Waters
Whitten

□ 1640

The Clerk announced the following pair:

On this vote:

Mr. McNulty for, with Mr. Grandy against.

Mr. GUNDERSON changed his vote from "aye" to "no."

Mr. UNDERWOOD changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 39 printed in part 2 of House Report 103-474.

AMENDMENT OFFERED BY MR. MCCURDY

Mr. MCCURDY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MCCURDY:

At the end of the bill, add the following new title:

TITLE ___ POLICE CORPS AND LAW ENFORCEMENT SCHOLARSHIP ACT

SEC. ___. PURPOSES.

The purposes of this title are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol; and

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement.

SEC. ___. DEFINITIONS.

For purposes of this title—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "Director" means the Director of the Office of the Police Corps and Law Enforcement Education appointed under section ___.

(4) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree in legal- or criminal justice-related studies; or

(B) a course of graduate study legal or criminal justice studies following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses.

(5) the term "institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(6) the term "participant" means a participant in the Police Corps program selected pursuant to section ___;

(7) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(8) the term "State Police Corps program" means a State police corps program that meets the requirements of section ___.

Subtitle A—Police Corps

SEC. ___. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established by this subtitle and shall have authority to promulgate regulations to implement this subtitle.

SEC. ___. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under this subtitle shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this subtitle;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program; and

(4) meet the requirements of section ___.

SEC. ___. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director may award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B), each scholarship payment made under this section for each academic year shall not exceed—

(i) $7,500; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of scholarship assistance received by any one participant under this section shall not exceed $30,000.

(3) Participants who receive scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(4)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director may make payments to a participant to reimburse such participant for the costs of educational expenses if the student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $7,500; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of payments made pursuant to subparagraph (A) to any 1 student shall not exceed $30,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education, except that—

(1) scholarships may be used for graduate and professional study; and

(2) if a participant has enrolled in the program upon or after transfer to a 4-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses.

(d) AGREEMENT.—(1)(A) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director.

(B) An agreement under subparagraph (A) shall contain assurances that the participant shall—

(i) after successful completion of a baccalaureate program and training as prescribed in section ___, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(ii) complete satisfactorily—

(I) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study); and

(II) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section ___; and

(iii) repay all of the scholarship or payment received plus interest at the rate of 10 percent if the conditions of clauses (i) and (ii) are not complied with.

(2)(A) A participant who receives a scholarship or payment under this section shall not be considered to be in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) If the participant who has received a scholarship is unable to comply with the repayment provision set forth in paragraph (1)(B)(ii) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from a participant who violates an agreement described in paragraph (1).

(e) DEPENDENT CHILD.—(1) A dependent child of an individual referred to in paragraph (2) shall be entitled to the scholarship assistance authorized in this section for any course of study in any accredited institution of higher education. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(2) For purposes of paragraph (1), an individual is a law enforcement officer—

(A) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer;

(B) who is not a participant in the Police Corps program, but who serves in a State for which the Director has approved a State Police Corps plan; and

(C) who is killed in the course of performing police duties.

(f) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

SEC. ____. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant shall—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section ____(c)(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this title, up to 10 percent of the applicants accepted into a State Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section ____, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in subsection (b)(1)(E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section ____, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this subtitle that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. ____. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for State Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

(2) The Director may enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces) to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director may enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of State Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section ____ shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in State Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. ____. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program established in section ____ and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section ____, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section ____(d)(1)(B)(iii) shall not apply.

(d) LAYOFFS.—If the police force of which the participant is a member lays off the participant such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section ____, the Director may permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section ____(d)(1)(B)(iii) shall not apply.

SEC. ____. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section ____;

(2) State procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since June 21, 1989; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) ensure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the State Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. ____. ASSISTANCE TO STATES AND LOCALITIES EMPLOYING POLICE CORPS OFFICERS.

Each jurisdiction directly employing State Police Corps participants during the 4-year term of service prescribed by section ____ shall receive $10,000 on account of each such participant at the completion of each such year of service, but—

(1) no such payment shall be made on account of service in any State or local police force—

(A) whose average size, in the year for which payment is to be made, not counting State Police Corps participants assigned under section ____, has declined more than 2 percent since January 1, 1993; or

(B) which has members who have been laid off but not retired; and

(2) no such payment shall be made on account of any State Police Corps participant for years of service after the completion of the term of service prescribed in section ____.

SEC. ____. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle—

(1) $100,000,000 for fiscal year 1995 and $250,000,000 for fiscal year 1996; and

(2) such sums as are necessary for each of the fiscal years 1997, 1998, and 1999.

SEC. ____. REPORTS TO CONGRESS.

(a) IN GENERAL.—Not later than April 1 of each year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate.

(b) CONTENTS.—A report under subsection (a) shall—

(1) state the number of current and past participants in the State Police Corps program, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic, racial, and gender dispersion of participants in the State Police Corps program; and

(3) describe the progress of the State Police Corps program and make recommendations for changes in the program.

Subtitle B—Law Enforcement Scholarship Program

SEC. ____. ALLOTMENT.

From amounts appropriated under section ____, the Director shall allot—

(1) 80 percent of such amounts to States on the basis of the number of law enforcement officers in each State compared to the number of law enforcement officers in all States; and

(2) 20 percent of such amounts to States on the basis of the shortage of law enforcement personnel and the need for assistance under this subtitle in the State compared to the shortage of law enforcement personnel and the need for assistance under this subtitle in all States.

SEC. 202. ESTABLISHMENT OF PROGRAM.

(a) USE OF ALLOTMENT.—

(1) IN GENERAL.—A State that receives an allotment pursuant to section ____ shall use the allotment to pay the Federal share of the costs of—

(A) awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education; and

(B) providing—

(i) full-time employment in summer; or

(ii) part-time (not to exceed 20 hours per week) employment for a period not to exceed 1 year.

(2) EMPLOYMENT.—The employment described in paragraph (1)(B)—

(A) shall be provided by State and local law enforcement agencies for students who are juniors or seniors in high school or are enrolled in an institution of higher education and who demonstrate an interest in undertaking a career in law enforcement;

(B) shall not be in a law enforcement position; and

(C) shall consist of performing meaningful tasks that inform students of the nature of the tasks performed by law enforcement agencies.

(b) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall pay to each State that receives an allotment under section ____ the Federal share of the cost of the activities described in the application submitted pursuant to section ____.

(2) FEDERAL SHARE.—The Federal share shall not exceed 60 percent.

(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of scholarships and student employment provided under this subtitle shall be supplied from sources other than the Federal Government.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the programs conducted pursuant to this subtitle and shall, in consultation with the Assistant Secretary for Postsecondary Education, issue rules to implement this subtitle.

(d) ADMINISTRATIVE EXPENSES.—A State that receives an allotment under section ____ may reserve not more than 8 percent of the allotment for administrative expenses.

(e) SPECIAL RULE.—A State that receives an allotment under section ____ shall ensure that each scholarship recipient under this subtitle be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(f) SUPPLEMENTATION OF FUNDING.—Funds received under this subtitle shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. ____. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this subtitle shall be for a period of 1 academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subtitle may use the scholarship for educational expenses at an institution of higher education.

SEC. ____. ELIGIBILITY.

(a) SCHOLARSHIPS.—A person shall be eligible to receive a scholarship under this subtitle if the person has been employed in law enforcement for the 2-year period immediately preceding the date on which assistance is sought.

(b) INELIGIBILITY FOR STUDENT EMPLOYMENT.—A person who has been employed as a law enforcement officer is ineligible to participate in a student employment program carried out under this subtitle.

SEC. ____. STATE APPLICATION.

(a) IN GENERAL.—Each State desiring an allotment under section ____ shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require.

(b) CONTENTS.—An application under subsection (a) shall—

(1) describe the scholarship program and the student employment program for which assistance under this subtitle is sought;

(2) contain assurances that the lead agency will work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out this subtitle;

(3) contain assurances that the State will advertise the scholarship assistance and student employment it will provide under this subtitle and that the State will use such programs to enhance recruitment efforts;

(4) contain assurances that the State will screen and select law enforcement personnel for participation in the scholarship program under this subtitle;

(5) contain assurances that under such student employment program the State will screen and select, for participation in such program, students who have an interest in undertaking a career in law enforcement;

(6) contain assurances that under such scholarship program the State will make scholarship payments to institutions of higher education on behalf of persons who receive scholarships under this subtitle;

(7) with respect to such student employment program, identify—

(A) the employment tasks that students will be assigned to perform;

(B) the compensation that students will be paid to perform such tasks; and

(C) the training that students will receive as part of their participation in the program;

(8) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(9) contain assurances that the State will promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in institutions of higher education.

SEC. ___. LOCAL APPLICATION.

(a) IN GENERAL.—A person who desires a scholarship or employment under this subtitle shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require.

(b) CONTENTS.—An application under subsection (a) shall describe—

(1) the academic courses for which a scholarship is sought; or

(2) the location and duration of employment that is sought.

(c) PRIORITY.—In awarding scholarships and providing student employment under this subtitle, each State shall give priority to applications from persons who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State;

(2) pursuing an undergraduate degree; and

(3) not receiving financial assistance under the Higher Education Act of 1965.

SEC. ___. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—A person who receives a scholarship under this subtitle shall enter into an agreement with the Director.

(b) CONTENTS.—An agreement described in subsection (a) shall—

(1) provide assurances that the scholarship recipient will work in a law enforcement position in the State that awarded the scholarship in accordance with the service obligation described in subsection (c) after completion of the scholarship recipient's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the scholarship recipient will repay the entire scholarship in accordance with such terms and conditions as the Director shall prescribe if the requirements of the agreement are not complied with, unless the scholarship recipient—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which the scholarship recipient may seek employment in the field of law enforcement in a State other than the State that awarded the scholarship.

(c) SERVICE OBLIGATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), a person who receives a scholarship under this subtitle shall work in a law enforcement position in the State that awarded the scholarship for a period of 1 month for each credit hour for which funds are received under the scholarship.

(2) SPECIAL RULE.—For purposes of satisfying the requirement of paragraph (1), a scholarship recipient shall work in a law enforcement position in the State that awarded the scholarship for not less than 6 months but shall not be required to work in such a position for more than 2 years.

SEC. ___. DEFINITIONS.

For purposes of this subtitle—

(1) the term "Director" means the Director of the Bureau of Justice Assistance;

(2) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, and related expenses;

(3) the term "institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(4) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. ___. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subtitle $30,000,000 for each of fiscal years 1995, 1996, 1997, 1998, and 1999.

(b) USES OF FUNDS.—Of the funds appropriated under subsection (a) for a fiscal year—

(1) 80 percent shall be available to provide scholarships described in section ___(a)(1)(A); and

(2) 20 percent shall be available to provide employment described in sections ___(a)(1)(B) and ___(a)(2).

The CHAIRMAN. Pursuant to the rule, the gentleman from Oklahoma [Mr. MCCURDY] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Is the gentleman from Florida [Mr. MCCOLLUM] opposed to the amendment?

Mr. MCCOLLUM. Mr. Chairman, I do claim time in opposition to the amendment.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 5 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. Mr. Chairman, I yield myself 2 minutes and 20 seconds.

Mr. BROOKS. Mr. Chairman, will the gentleman yield for a parliamentary inquiry?

Mr. MCCURDY. I yield to the gentleman from Texas.

PARLIAMENTARY INQUIRY

Mr. BROOKS. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BROOKS. Mr. Chairman, it is my understanding we hope to cluster these votes, as well.

The CHAIRMAN. Under the provisions of House Resolution 401, the chair has that discretion. It is the Chair's intention to exercise that discretion.

Mr. BROOKS. I would ask that the Chair invoke that discretion provided within the rule and cluster the votes on the McCurdy amendment and on the Martinez amendment, after debate on both amendments has been completed.

The CHAIRMAN. The rule provides for this discretion, and it is the Chair's intention to exercise it.

Mr. MCCURDY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment I am offering to the crime bill will establish a Police Corps program to provide college students with aid for education in return for serving 4 years with a State or local law enforcement agency.

This amendment is included in the version of the crime bill which was passed by the Senate and was reported by the Crime and Criminal Justice Subcommittee. In 1991, I offered a similar amendment which was passed by the House by a vote of 369 to 51. The Police Corps program is strongly supported by the administration—in fact, as Governor of Arkansas, President Clinton instituted the Nation's first Police Corps program.

College students would be able to obtain a scholarship for up to $10,000 per year, up to a total of $30,000, to pursue their own chosen course of study. They would receive intensive police training over the course of two summers, and upon graduating, they would serve 4 years with their State or local police department.

Participants would be selected on a competitive basis, by the State and local law enforcement agencies that would employ them. Failure to complete the full 4 years of service would obligate the student to repay the full scholarship, plus a penalty of 10 percent.

Police Corps officers would be fully empowered as sworn officers, but are intended to supplement, not replace, existing career forces. To the extent that it is possible, Police Corps officers are directed to be assigned to community and preventive patrol.

The Police Corps program provides numerous benefits to State and local police forces. Because they will not receive pension benefits, police corps officers will cost about one-third less than regular police officers. The program will establish a core of well-trained citizen officers who will have a special commitment to service as beneficiaries of this particular educational opportunity. Finally, it will give future community leaders firsthand knowledge of and experience with police work, and these individuals will continue to support it throughout their lives.

My amendment also includes a separate provision creating a law enforcement scholarship program of education assistance for individuals currently employed as law enforcement officers.

The amendment authorizes $100 million in fiscal year 1995, and $250 million in fiscal year 1996 for the Police Corps program. The law enforcement scholarship program is authorized for $30 million for fiscal years 1995-99.

Last year, Congress enacted historic legislation to establish a national service program. Police Corps, like national service, emphasizes mutual obligation and community service. I urge you to join me in supporting this amendment to the crime bill.

Mr. Chairman, I also want to thank my colleagues for their strong support.

Mr. Chairman, I would ask if there is a person designated in opposition.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM], rose in opposition and has claimed the 5 minutes

Mr. MCCURDY. Mr. Chairman, I would ask if the gentleman from Florida [Mr. MCCOLLUM] would be kind enough on his side to offer a minute or two to the gentleman from California [Mr. DORNAN].

Mr. MCCOLLUM. If the gentleman does not have the time, I would be glad to do that, Mr. Chairman.

Mr. MCCURDY. Mr. Chairman, I reserve the balance of my time.

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have friends on both sides of this issue, and I have for a number of years been involved with the question of whether we should have a Police Corps or not. Reluctantly, in some ways, because I do have friends who strongly feel and passionately feel we should have it, I stand here in opposition to it tonight.

The reason for my opposition is simply because I do not believe that it is the necessary or proper role of the Federal Government to be attempting to add to the cause in terms of the police in this country. We have not had an overwhelming request from the police to do this. Some certainly strongly favor this program. Others do not feel that it would be an appropriate or necessary thing to add to their cause or their purpose, and it is a very expensive proposition for us to do.

Mr. Chairman, I am, just as much as anyone else, in favor of having well-trained police officers and encouraging their training and so forth, but it does far more than that. This goes into a scholarship assistance program much like we have had in the military for our military officers. It gives us an opportunity to, as the arguers say on behalf of it, provide scholarship money. I just do not believe that that inducement or that particular course of action is required in order to provide the kind of police structure and police force we need in this country.

We are already adding in this bill a very large number of police officers around the country to assist in police forces. Again, this is a very expensive, long-term new program of the Federal Government that, in good conscience, I cannot believe is necessary or bring myself to support.

Mr. Chairman, for the purposes of debate only, I yield 2 minutes to my friend, the gentleman from California [Mr. DORNAN], who I know does support the measure.

Mr. DORNAN. Mr. Chairman, I thank my distinguished colleague. I do follow the gentleman's lead on most crime issues, but in this case we have in a gentlemanly way agreed to disagree.

When Adam Walinski, a distinguished American from New York, first brought this to me back in 1988, I was immediately taken with it because I spent 4 years in high school ROTC and almost 3 years in college Reserve Officer Training Corps, and I immediately grasped the similarities, because some American cities are on a war footing.

This legislation is virtually identical to that introduced with bipartisan support, with the help of the gentleman from Oklahoma [Mr. MCCURDY], the gentleman from Missouri [Mr. GEPHARDT], and the gentleman from Illinois [Mr. MICHEL] back in 1989.

Mr. Chairman, let me emphasize one of the most important points is that the Police Corps will successfully attack crime and increase public security by substantially, Mr. Chairman, augmenting the number of college-educated police officers on patrol across the country.

I rode all night in my largest city of Santa Ana, about 10 days ago, with a police sergeant. The next night I rode in South Central Los Angeles. There was a little more action in South Central Los Angeles, but still a pretty quiet night, and I discussed this in depth with these officers. They feel that anything that helps them get more trained people on the streets is something that we should do, although it is not generally a Federal role.

I think what it will do is that it will make those police officers who decide to go on in life, as I and most people who had ROTC moved on to other professions, it will make those people more responsive to the years they spent on the police service and to the communities they serve.

Today's police departments do face strained budgets, and mayors, chiefs, leaders of police labor groups all complain that many law enforcement agencies are not attracting and detaining enough of the brightest young men and women to get the job done.

Mr. Chairman, I have five excellent reasons for supporting this measure. I include for the RECORD this information:

Mr. Chairman, I rise in strong support of the Police Corps amendment to the Omnibus Crime Control Act. This amendment is virtually identical to legislation I first introduced with bipartisan support back in 1989.

A major contributing factor in the rise of crime and disorder is the declining strength of police departments. Indeed, there are now 3.2 serious crimes for every one police officer in America.

The Police Corps will successfully attack crime and increase public security by substantially augmenting the number of college-educated police officers on patrol across the country. It will also make police forces more representative of, and responsive to, the communities they serve. Moreover, as crimes and the criminals who commit them become more sophisticated, Police Corps will ensure that our police keep pace.

Today's police departments not only face strained budgets, but also have trouble finding qualified candidates. Mayors, chiefs and leaders of police labor complain that "many law enforcement agencies are not attracting and retaining enough of the brightest young men and women to get the job done." Police Corps will properly address this problem.

Indeed, police departments will benefit greatly from fresh talent that would supplement forces, especially in inner cities where tangled bureaucracies, cynicism, and corruption have become commonplace.

Police Corps is about one thing: preventative maintenance. We can't begin to confront the problem of crime unless we have more police on patrol, before the crime takes place. And what is the point of enacting tougher laws on crime if we do not have the police to enforce them? Although we do have a lot of top-notch great cops out there, they are simply spread too thin.

Please join Mr. HYDE and me in support of this key amendment.

Mr. MCCURDY. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. SCHUMER], chairman of the Subcommittee on Crime and Criminal Justice of the Committee on the Judiciary.

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Mr. SCHUMER. Mr. Chairman, I rise in support of the amendment by the gentleman from Oklahoma [Mr. MCCURDY], creating a police corps program. It is designed, as we all know, to increase the number of law enforcement officers with advanced education and training and so it would constitute a national investment in the police force.

Mr. Chairman, I would remind my colleagues that there is another provision in the bill which we placed in our subcommittee which would deal with the noncollege-educated, particularly in the minority and inner city communities, a program where community groups, churches and other nonprofit groups could help train young people to go directly to the police academy. These two programs complement one another. This is not an either/or situation. That one is in the bill and will not be voted on and I would hope we get support for both. Credit for that one goes to the Rev. Johnny Ray Youngblood of East Churches in Brooklyn who put this together. But I would say this bill would help not only put more officers on the streets but give college graduates a chance to demonstrate responsibility and public altruism.

Mr. Chairman, I certainly do not think it is a panacea but it is an important element of an overall crime program that I think makes a lot of sense. I urge support for the amendment.

Mr. MCCURDY. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I congratulate the gentleman from Oklahoma for pressing this issue. This does two good things: First it provides a good college education for some highly motivated young people; and, second, it provides the police forces of our country with some highly motivated educated young people. It is a win-win situation.

Mr. Chairman, I think it is a great idea, and I am pleased to support it.

Mr. MCCOLLUM. Mr. Chairman, I yield my final 1 minute to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I wish to say to the gentleman from Oklahoma, I appreciate his efforts, but I must stand here and oppose this particular amendment for a number of reasons, which I think most people would find very important.

First, while certainly in concept the police corps may be an admirable idea, I regret that the practical problems connected with it just do not make it a feasible legislative initiative today. Police organizations I believe have not indicated that they want this program. They say it is very serious that we consider the morale that may be affected by passing a program that allows scholarships to be given to some people while others have gone through the program of actually becoming officers without having been given a cent to go through the process of becoming an officer.

Mr. Chairman, we have to consider those who go through the effort of working hard and going through a 4-year institution to do so. It is important to remember that we are talking about a substantial amount of money, $350 million or more. I think it is unwise at this stage to divert some of the money that we have in the trust fund that we have for some of these other programs, whether it is crime prevention, cops on the beat or incarceration. Three hundred fifty million will have to come out of something. Where it comes from we do not know from this particular amendment, and for those Members who would look at the language and see it requires 4 years of college, they will see that not everyone goes through 4 years of college and it may affect those who do not, particularly minorities, adversely.

Mr. Chairman, I would urge my colleagues to consider that very closely in the process of voting for this amendment.

Mr. MCCURDY. Mr. Chairman, I yield 30 seconds to the gentleman from Ohio [Mr. STRICKLAND].

Mr. STRICKLAND. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I, along with the gentleman from California [Mr. HORN] filed an amendment with the Committee on Rules to establish a correction scholarship program designed to offer corrections officers on the job the opportunity to work toward a college education. The Committee on Rules did not make our amendment in order because they believed that the McCurdy law enforcement scholarship program would include corrections officers.

Mr. Chairman, for the record, I ask my colleague, does his amendment provide scholarship assistance to correctional officers, those who work in our prisons and jails, as well as to police officers?

Mr. MCCURDY. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, first I want to commend the gentleman from Ohio for his effort and support for correctional officers, and he is correct that in subtitle (b) of the amendment, the definition of law enforcement position means employment as an officer in a State or local police force or correctional institution and, therefore, should be covered.

Mr. STRICKLAND. Mr. Chairman, I thank the gentleman, and I gladly support his amendment.

Mr. MCCURDY. Mr. Chairman, I urge the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. MCCURDY].

The question was taken; and the chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MCCOLLUM. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 401, further proceedings on the amendment offered by the gentleman from Oklahoma [Mr. MCCURDY] will be postponed until after debate on amendment No. 41 offered by the gentleman from California [Mr. MARTINEZ].

It is now in order to consider amendment No. 41 printed in part 2 of House report 103-474.

AMENDMENT OFFERED BY MR. MARTINEZ

Mr. MARTINEZ. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MARTINEZ:

At the end of title X, add the following:

Subtitle ___—Private Security Officers

SEC. ___1. SHORT TITLE.

This subtitle may be cited as the "Private Security Officers Quality Assurance Act of 1994".

SEC. ___2. FINDINGS.

Congress finds the following:

(1) Employment of private security officers in the United States is growing rapidly.

(2) The private security industry provides numerous opportunities for entry-level job applicants, including individuals suffering from unemployment due to economic conditions or dislocations.

(3) The American public is more likely to have contact with private security officers in the course of a day than with law enforcement officers.

(4) Juveniles in the United States, including those at risk of delinquency, are most likely to have their earliest contact with private security officers because of the significant presence of such officers in schools, shopping malls, and retail establishments.

(5) The American public demands the employment of qualified, well-trained private security officers.

(6) The States and employers should be required to determine the qualifications of applicants for employment as private security officers.

(7) Employers should be required to ensure at least minimum training for newly hired private security officers and refresher training for experienced private security officers, based on State-imposed standards.

(8) State requirements, if any, for screening and training private security officers vary widely.

(9) Public safety would be improved if all States required appropriate screening and training of private security officers.

(10) States should enact laws imposing minimum standards that are uniform nationwide for the screening and training of private security officers.

(11) State law applicable to private security officers should apply to all private security personnel.

SEC. ___3. DEFINITIONS.

As used in this subtitle:

(1) The term "employee" includes an applicant for employment.

(2) The term "employer" means any person that—

(A) employs one or more private security officers, or

(B) provides, as an independent contractor for consideration, the services of one or more private security officers (including oneself).

(3) The term "felony" means an offense for which a term of imprisonment exceeding 1 year may be imposed.

(4) The term "misdemeanor" means an offense for which a maximum term of imprisonment of 1 year or less may be imposed.

(5) The term "person" shall have the meaning given it in section 1 of title 1 of the United States Code.

(6) The term "private security officer" means—

(A) an individual (other than an individual while on active duty as a member of the military service or while performing official duties as a law enforcement officer) who performs security services, full time or part time, for consideration as an independent contractor or an employee, whether armed or unarmed and in uniform or plain clothes,

(B) an individual who is the immediate supervisor of an individual described in subparagraph (A), or

(C) an individual who—

(i) is employed by an electronic alarm company and whose duties include servicing or installing alarm systems, or

(ii) monitors electronic alarm systems from a location in the State in which such systems are situated.

(7) The term "registration permit" means a license, permit, certificate, registration card, or other formal written permission, to provide security services.

(8) The term "security services" means the performance of one or more of the following:

(A) The observation and reporting of intrusion, larceny, vandalism, fire, or trespass.

(B) The prevention of theft or misappropriation of any goods, money, or other item of value.

(C) The observation or reporting of any unlawful activity.

(D) The protection of individuals or property, including proprietary information, from harm or misappropriation.

(E) The control of access to premises being protected.

(F) The secure movement of prisoners.

(G) The maintenance of order and safety at athletic, entertainment, or other public activities.

(H) Providing canine services for guarding premises or for the detection of any unlawful device or substance.

(I) The transportation of money or other valuables by armored vehicle.

(9) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands.

(10) The term "State regulatory agency" means an appropriate State regulatory entity.

SEC. ___4. STUDY, REPORT, AND RECOMMENDATIONS REQUIRED.

The Attorney General of each State shall report the provisions of the State's program to the Attorney General of the United States on or before December 31, 1996. If a State fails to report that it has established a program in accordance with the provisions of this Act, the Attorney General shall: (1) notify the Judiciary Committee of the Senate and the Judiciary Committee of the House of Representatives of such failure, and (2) notify the Chief Executive Officer of the State of such failure and propose appropriate action to encourage or compel the State to comply with this Act. If no further action is taken by the State within 1 year of the issuance of such notice by the Attorney General may reduce the State's share of funding appropriated for the fiscal year in which such determination of failure to comply is made under the provisions of title I of the Omnibus Crime Control and Safe Streets Act of 1968. In no event shall such reduction exceed 10 percent of such appropriated funding.

SEC. ___5. ISSUANCE OF STATE LICENSES TO EMPLOYERS; REGULATION OF PRIVATE SECURITY SERVICES.

(a) REQUIREMENTS.—A State shall have in effect requirements and procedures for issuing licenses to, and reviewing security services of, employers. A State may require that an employer name an individual to serve as the designated holder of the license issued under this subsection.

(b) LIMITATION ON FEES FOR ISSUANCE OF LICENSES.—A State may not impose on an employer a license issuance fee in excess of the prorated direct costs of administering the requirements and procedures described in subsection (a).

(c) ASSIGNMENT OF PRIVATE SECURITY OFFICERS.—(1) Except as provided in paragraphs (2) and (3), and subject to section ___9, the requirements and procedures described in subsection (a) shall provide, at a minimum, that an employer may not permanently assign an employee to duty as a private security officer until such employee obtains a security officer's registration permit as provided in section ___8(a).

(2) An employer may assign an employee to duty as an unarmed private security officer pending the results of the preassignment check of records described in section ___6 and the issuance of such permit if, before the assignment—

(A) such employer—

(i) submitted an application as required by section ___6(a)(1), and

(ii) verified the employee's personal references and the 5-year employment history as required by section ___6(a)(2), and

(B) such employee completed the classroom training required by section ___7(a)(1).

(3) An employer may assign an employee to duty as an armed private security officer pending the results of the preassignment check of records described in section ___6 and the issuance of a security officer's registration permit if, before the assignment—

(A) such employer—

(i) submits an application as required by section ___6(a)(1), and

(ii) verifies the employee's personal references and the 5-year employment history as required by section ___7(a), and

(B) such employee—

(i) completes the training required by section ___7(a), and

(ii) has been issued a valid firearm permit or license to a criminal justice agency in the State in which such individual is assigned, following a national criminal history record check.

(3) If an individual is employed by an employer in a State with respect to which such individual holds a valid private security officer's registration permit, then such employer may assign such individual to duty as a private security officer (including an armed private security officer) for a period not to exceed 90 days in a State with respect to which such individual does not hold a valid private security officer's registration permit if such individual satisfies the training requirements, and complies with the restrictions on the type of weapon such individual uses, in effect in the State to which such individual is so assigned.

SEC. ___6. PREASSIGNMENT SCREENING.

Each State shall have in effect a program for issuing registration permits to private security officers that requires at a minimum, and except as provided in section ___5(c) and subject to section ___9, that an employer not permanently assign an employee to duty as a private security officer until—

(1) such employer submits to the State regulatory agency—

(A) the employee's application for employment, including a history of employment and military service, personal references, and a description of such employee's criminal history,

(B) a certification that such employer verified—

(i) such employee's employment history for the 5-year period ending on the date of application for employment, and

(ii) such personal references, and

(2) the State regulatory agency obtains the results of a fingerprint check of criminal history records conducted through the Federal Bureau of Investigation pursuant to a State law conforming to Public Law 92-544. An association of employers of security officers, designated for the purpose of this section by the Attorney General of the United States, may submit fingerprints to the Attorney General on behalf of any applicant for a state private security officer registration permit. In response to such a submission, the Attorney General may, to the extent provided by law, exchange for permit and employment purposes, identification and criminal history records with the state regulatory agency to which such applicant has applied. Such review shall be conducted, and the results of the search shall be handled in accordance with the procedures in Public Law 103-209.

SEC. ___7. PRIVATE SECURITY OFFICER TRAINING.

(a) TRAINING.—Each State shall have in effect training requirements for private security officers that consist of the following, at a minimum:

(1) For unarmed private security officers, the following:

(A) Eight hours of basic classroom instruction, successful completion of a written examination, and 4 hours of on-the-job training.

(B) Such classroom instruction shall include the following:

(i) The legal powers and limitations of a private security officer, including instruction in the law of arrest, search, and seizure, and the use of force as related to security services.

(ii) Safety and fire detection and reporting.

(iii) When and how to notify public authorities.

(iv) The techniques of observation and reporting of incidents and how to prepare an incident report.

(v) The fundamentals of patrolling.

(vi) Deportment and ethics.

(2) For armored car personnel and electronic alarm company personnel, the State shall have in effect classroom training and testing that appropriately reflects the nature of their duties rather than the classroom instruction required by paragraph (1).

(2) For armed private security officers, in addition to the training required by paragraph (1) or (2), the following:

(A) Fifteen hours of weapons instruction (including marksmanship described in subparagraph (B)) and successful completion of a written examination on—

(i) the legal limitations on the use of weapons.

(ii) weapons handling, and

(iii) safety and maintenance.

(B) A minimum marksmanship qualification of 70 percent attained on any silhouette target course approved by the State regulatory agency.

(b) ANNUAL TRAINING.—Each State shall have in effect requirements, at a minimum, that—

(1) unarmed private security officers complete annually a 4-hour refresher course in the subjects listed in clauses (i) through (vi) of subsection (a)(1)(B), and

(2) armed private security officers annually, in addition to satisfying the requirement described in paragraph (1)—

(A) complete a refresher course in the subjects listed in clauses (i) through (iii) of subsection (a)(2)(A), and

(B) be requalified in the use of weapons as described in subsection (a)(2)(B).

(c) CERTIFICATION.—Each State shall have in effect requirements that a private security officer, or such officer's employer (if any), certify to the State regulatory agency completion of the training required by subsections (a) and (b).

(d) INSTRUCTIONAL AND RANGE-TRAINING PROGRAM.—Each State shall have in effect a program that requires that all instruction and range training required by this section be administered by an instructor whose qualifications meet standards established by the State regulatory agency.

SEC. ___8. STATE ISSUANCE OF REGISTRATION PERMITS TO PRIVATE SECURITY OFFICERS.

(a) REQUIREMENTS FOR ISSUANCE OF REGISTRATION PERMITS.—A State shall have in effect requirements for issuing and renewing, upon application, a private security officer's registration permit for a 2-year period. Such requirements shall include—

(1) methods for a private security officer, or such officer's employer (if any) to comply with sections ___6 and ___7,

(2) a requirement that the certification required by section ___7(c) be included in the application for the issuance or renewal of such permit, and

(3) a requirement that an individual not be issued a private security officer's registration permit, or assigned by an employer to duty, as a private security officer if, within the 10-year period ending on the date of application for such permit or the date of such assignment, as the case may be, such individual was—

(A) convicted of a felony,

(B) incarcerated, placed on probation, or paroled as a result of conviction of a felony, or

(C) convicted of a misdemeanor that, in the discretion of the State regulatory agency, bears such a relationship to the performance of security services as to constitute a disqualification for a private security officer's registration permit.

(b) LIMITATION ON FEES FOR ISSUANCE OF REGISTRATION PERMITS.—A State may not impose on private security officers a registration permit issuance fee in excess of the prorated direct costs of administering the requirements described in subsection (a).

(c) DENIAL OF REGISTRATION PERMIT.—If a State denies, for any reason, an application for the issuance or renewal of a private security officer's registration permit, then, not later than 10 days after denial of such application, the State regulatory agency shall give written notice to the applicant and the applicant's employer (if any) specifying the reasons for denial.

SEC. ___9. WAIVER.

On the request of an employer, a State shall waive the preassignment screening requirements described in section ___6(a), and the training requirements described in section ___7(a), with respect to a private security officer if—

(1)(A) such officer holds a valid security officer's registration permit issued or renewed by the State in which such officer will perform security services for such employer, and

(B) the immediately preceding employer of such officer satisfied all such requirements with respect to the most recent application for the issuance or renewal of such permit, or

(2) such officer is a law enforcement officer employed by a governmental entity that allows such law enforcement officer to serve off-duty as a private security officer.

SEC. ___0. GRACE PERIOD FOR ISSUANCE OF NEW REGISTRATION PERMITS TO PRIVATE SECURITY OFFICERS WHO HOLD CURRENT PERMITS.

Until—

(1) January 1, 1997, or

(2) the expiration of the 2-year period beginning on the date a State initially puts into effect a program that satisfies the requirements of sections ___6, ___7, and ___8,

whichever is later, such sections shall not apply with respect to the issuance of a registration permit to a private security officer who holds a private security officer's registration permit that is valid without regard to the operation of this subtitle.

SEC. ___1. EMPLOYEE PROTECTION.

A State shall have in effect a law that makes invalid and unenforceable any limitation imposed by an employer on the right of an employee to seek or obtain subsequent employment as a private security officer after voluntary or involuntary termination of employment by such employer.

SEC. ___2. NOTICE OF CRIMINAL CHARGE.

A State shall have in effect requirements regarding criminal charges made against a private security officer, including the following, at a minimum:

(1) If a private security officer is charged with a felony or misdemeanor, such officer shall notify such officer's employer (if any) not later than 48 hours after the charge is made.

(2) An employer who has knowledge that its employee has been so charged shall report the fact of such charge to the State regulatory agency not later than 2 business days after acquiring such knowledge.

(3) The registration permit of such officer may be suspended by such agency pending disposition of the charge.

(4) Upon conviction of a felony, the State shall revoke the registration permit of such officer.

(5) Upon conviction of such misdemeanor, such State may revoke such permit.

SEC. ___3. PENALTIES.

A State shall have in effect a law that authorizes the imposition of a penalty for each violation of the requirement imposed by the State to satisfy a condition of eligibility specified in section ___4(a), including the following, at a minimum:

(1) After notice, and a public hearing if requested by an employer charged with such violation, a daily monetary penalty for each day on which violation continues.

(2) If such violation continues after imposition of a monetary penalty described in paragraph (1), and after notice and a hearing described in such paragraph, suspension or revocation of a registration permit issued as described in section ___5(a).

(3) Prosecution of an individual of a misdemeanor for submitting an application for employment as a private security officer, for the issuance of a private security officer's registration permit, or for renewal of such permit, if such individual knowingly included false information in such application.

(4) After notice, and a public hearing if requested by a private security officer, suspension or revocation of such officer's registration permit issued or renewed as a result of application if such officer knowingly included false information in such application.

(5) Administrative or judicial review of each penalty imposed under paragraphs (1) through (4).

SEC. ___4. MORE STRINGENT REQUIREMENTS.

This subtitle shall not preclude or limit the authority of a State to establish or maintain requirements that are more stringent than the requirements described in this subtitle.

The CHAIRMAN. Pursuant to the rule the gentleman from California [Mr. MARTINEZ] will be recognized for 5 minutes and a Member opposed will be recognized for 5 minutes.

Is the distinguished chairman of the committee, the gentleman from Texas [Mr. BROOKS], in opposition to the amendment?

Mr. BROOKS. Mr. Chairman, that is correct.

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am offering this amendment today because, based on my extensive investigations and hearings held by the Education and Labor Subcommittee on Human Resources, which I chair, as well as numerous media reports over the past 2 years, I find that there is a critical need to recognize that private security officers have attained a significant place in our Nation's crime control community. Private security officers are found in our Nation's schools, office buildings, shopping malls, and retail establishments, and on the streets of our neighborhoods. Many of these private security officers are armed.

The vast majority of these private security officers are dedicated, hardworking, law-abiding citizens of this country, and are properly screened before hiring and trained before deployment.

Yet, as media reports have shown over and over again, because of a lack of minimum rules in the States dealing with this industry, all too often people are hired and put to work in this industry with insufficient or nonexistent training and without even a cursory review of the applicant's background. Because of the lack of clear regulatory measures, we have seen convicted drug dealers hired, with tragic results. We have also heard about convicted child molesters being hired to protect children in schools and day care. This amendment will, I believe, enable this industry, which has been working with States for over a decade, to secure the kind of rules and regulations that will enable them to assure the people they are paid to protect that they are not "putting foxes into the hen house."

I would like to discuss the particulars of this amendment.

BACKGROUND AND NEED FOR LEGISLATION

BACKGROUND

There are currently no Federal rules dealing with the requirements for background investigations or training of private security officers, other than those enacted with respect to the carrying or registration of weapons and those applying to one segment of the industry—armored car drivers and guards. Under current law, employers of private security officers do not have direct or indirect access to criminal information with respect to prospective employees for these positions, except to the extent provided in State law. Fourteen States have absolutely no provisions in their laws or regulations that deal with the training or pre-assignment clearance of prospective security officers. Information provided during the hearings on this bill reflecting the potential public dangers presented by inadequately screened or trained private security personnel justify the need for minimum and generally uniform State rules regarding these private employees. A number of States have enacted stringent laws dealing with these issues and this law is intended to assure the public that all States will have at least minimum requirements. Nothing in the statute would require a State to lessen its current controls or restrictions, and States with more stringent rules are authorized to ensure that those rules are met by all private security personnel, including those who are assigned for short periods from another jurisdiction.

NEED FOR LEGISLATION

The private security industry has existed in the United States since the Civil War. Private operatives from the Pinkerton Detective Agency were directly involved in many activities at plants, mines and other locations where labor strife existed late in the 19th century and throughout this century. Private employers have relied on armed and unarmed personnel to protect company assets and persons from harm since the earliest days of railroad and mechanized transportation.

The Committee on National Security Companies [CONSCO] was formed a number of years ago to establish industry wide standards and work for State legislation and rules that would make the provision of security services more effective. Efforts were begun in the 1970s to establish State standards concerning background investigation and training requirements to ensure that persons working in the industry were reliable and effective in providing these needed services.

While the numbers of private security officers working at certain types of installations—such as hotels, defense factories, and other places where activities warranted such a presence—was always significant, it is only in the past two decades that the industry has seen phenomenal growth. Much of this is due to the increase in the numbers of crimes committed on private property and the profusion of shopping malls and large centers where significant numbers of people gather to shop, be entertained, or work. When the retail economy was located on Main Street, public police were responsible for providing security. As these activities moved more and more onto private property, property owners and managers and retail lessees began to rely on private individuals to ensure public safety and protection from theft or other criminal activity.

In 1992, it was estimated that the number of private security officers, both armed and unarmed, exceeded the numbers of sworn police officers by 2 to 1 in some areas. Many of the private security officers, whether hired by contractors such as Burns, Wells Fargo or other large or small companies, or hired directly by the owner or operator of the facility, wear uniforms that, very frequently, make the wearer look like a policeman.

EXPLANATION OF THE BILL

SUMMARY

The amendment requires the States to establish, by law, regulation or rule, requirements that the employers of private security officers engage in screening of potential employees for these positions, train newly hired personnel and provide continuing training to experienced personnel. The amendment requires certain minimum standards, and authorizes the States to license employers and register individual security officers. The Attorney General of the United States is required to establish means whereby employers can receive, through State licensing agencies, clearance that prospective or newly hired employees are not wanted for a criminal act or have not had a criminal history that would cause them to be unsuitable for the position.

DEFINITIONS

The act defines the term "private security officer" as a person who performs security services as part of the regular job. The term "security services" is defined to include the following:

Observing and reporting of intrusion, larceny, vandalism, fire, or trespass.

Prevention of theft or misappropriation of any goods, money or other item of value.

Observation or reporting of any unlawful activity.

Protection of individuals or property, including proprietary information, from harm or misappropriation.

Control of access to premises being protected.

The secure movement of prisoners

Maintaining order and safety at athletic, entertainment, or other public activities.

Providing canine services for guarding premises or for the detection of any unlawful device or substance.

Transporting money or other valuables by armored vehicle.

The definition of "private security officer" specifically excludes an individual while on active duty as a member of the military service or while performing official duties as a law enforcement officer.

The committee intends that the definition of "private security officer" and the definition of "security services" be somewhat broad. In saying that, however, there are a number of scenarios that might fit within the definition that are not contemplated to be covered by this act. In consultation with representatives of various industries, the committee concluded that a lengthy explanation of the types of employees that are not covered by this definition would be valuable.

RETAIL ESTABLISHMENTS

The definition of security services includes the reporting of theft. As virtually any employee of a retail establishment, including grocery stores, drug stores, banks, and so forth, are required, as part of their duties, to report theft by customers or coworkers, it is not the committee's intention that the duty to report theft be the sole arbiter as to whether the employee should be classified as a private security officer. In general, these establishments will have security personnel who are in uniform, and may or may not be armed. These personnel would, as a matter of course, be covered by the act. Ununiformed personnel whose duties parallel those of uniformed personnel, or whose duties include the supervision of security personnel, would be covered.

Another aspect of security in a retail establishment is warehouse operations. Personnel whose sole security duty is to monitor the flow of goods into and out of the warehouse, such as stock clerks, inventory technicians, and others whose primary responsibility is prevention of loss through rigorous inventory management, would not generally be included in the definition of private security officer, absent a showing that they also perform other security services, or they carry a firearm in the course of their duties.

Finally, the fact that on occasion, a retail merchandise or service employee may be required to detain an individual suspected of theft that is, shoplifting, does not, by itself, bring that employee within the definition of a security officer.

CENTRAL STATION ALARM ESTABLISHMENTS

Another unique niche in the private security industry is the central alarm establishment. These enterprises provide, for a fee, a central point for the reporting of intrusion or other activity at a location protected by electronic or other devices that either self report, through an automatic alarm signal, or report through a personally placed telephone call, the event to a central office that, in turn, contacts appropriate public safety or other authorities who actually respond to the call. The central station employee who handles the contact and makes the report is not physically present, in fact, may be many hundreds of miles removed from the scene, at the point where the event occurs. These employees deal with the public very rarely, and are not generally contemplated to be private security officers as defined by the act.

ENFORCEMENT OF STATE REQUIREMENTS

In drafting this legislation originally, I determined that some incentive was needed to ensure that the States that do not now have any rules in place with respect to private security officers would take the action required by this amendment. Thus, after a rather significant phase-in period, States will have 2 years to promulgate rules, and a 1-year grace period after that, the Attorney General is authorized, but not required, to take action to reduce the State's funding under title I of the Omnibus Crime Control and Safe Streets Act of 1990 by up to 10 percent of such funding.

As I mentioned earlier, some States already have rules in place or in development that meet or exceed the requirements of this amendment, most notably the States of New York, Virginia, Florida, and North Carolina. Others, such as New Jersey, are currently developing statutory language that would meet or exceed these requirements. Yet, even though many States have taken appropriate action, there remain more than 11 States that do not have any guidelines for training or background investigations of even armed private security officers.

I realize that there are those who will decry, another State mandate. Well, to you I say, first, if we can, and we have in this Congress, mandate that those people who work with our children, even as a volunteer in a local boys and girls club must have background checks performed to ensure that those volunteers are not child molesters, we must mandate similar rules for those who carry weapons in shopping malls or at sporting events where those children spend time as well. I would also hasten to point out that this certainly is not an unfunded mandate. Employers of security guards will be subject to State fees for licenses and registration, fees that will enable the States to pay for the programs, and the FBI check costs, as well as the enforcement of these rules. It is our hope, of course, that those fees will be dedicated by the States, as is now done in Florida, solely to the enforcement of the rules and the control of the industry as it operates in that State.

MINIMUM STATE REQUIREMENTS

As I stated earlier, the Education and Labor Subcommittee on Human Resources held 2 days of hearings last year, during which we heard testimony from the State of Florida. We also have had discussions with the States of North Carolina, New York, and Virginia. Because of the concerns raised by those State administrators, I have ensured that the amendment is clear that a State may pass more stringent rules than are provided for in this amendment, and may apply those rules fully to all security guards operating in that State, including guards from other jurisdictions who are sent into the State for a short period of time. This will enable States such as Florida to utilize the services of out-of-State licensed guards in an emergency, as they did after Hurricane Andrew, with the security that those guards will be properly vetted, because the background check system provided for in the bill is nationwide, and also trained under Florida's rather exacting standards.

LICENSE OF EMPLOYERS

The key to ensuring that the results desired by this amendment are obtained lies in the ability of the State to control security service providers within the State. Thus, the amendment would authorize and require the States to license those who employ private security guards. The State would then be able to ensure that the employer does perform the background investigations required and provides the training required by State law. This is the method used in the State of New York under its current statute. The States of Virginia, Florida, and North Carolina, among others, currently license so-called security guard companies but not other businesses that employ security guards. I believe, and this is a belief that is shared by State administrators, the security guard industry, and others; that any employer who engages security guards should be covered by these State requirements, to ensure to the public that a security guard is properly screened and trained to perform the job.

PREASSIGNMENT SCREENING

Again, one of the keys to this legislation is the preassignment screening of applicants. In the same manner as we have enacted requirements for background investigations of child care workers, including unpaid volunteers, this amendment requires that an employer secure a clearance from the State agency registering private security guards that the applicant has a clean criminal record. To ensure that persons who were convicted of a felony in another State, or who are wanted in another State on a criminal charge, do not become private security officers, the amendment authorizes a search of FBI records. Our hearings disclosed that, just as in the banking industry, there is a need to streamline the investigation process—while continuing to protect the raw data from unauthorized potential users, the amendment allows for a State to grant to an association the authority to secure the fingerprints and other data necessary to begin the FBI records-check process and to submit the application directly to the FBI; but, most importantly, provides that the report of findings of the FBI will not be sent to any nonauthorized person, but will only be forwarded to the State licensing authority or other State agency designated by the State's laws. We are advised that this will reduce the turnaround time for these investigations by a substantial amount and enable private employers to secure clearances for employees in fairly short order.

TRAINING

Witnesses at our hearings indicated that much of the cause for problems arising in areas protected by private security personnel result from a lack of appropriate training of the private security officer in such areas as patrolling, effecting appropriate requests for public police assistance, and so forth. The amendment requires the State to mandate minimum training requirements. For those States that currently have in place training requirements, their current policies far exceed those mandated in the amendment. Similarly, most security guard companies, and many nonsecurity guard companies who employ private security guards, already provide or require training that is more rigorous than the amendment requires. Thus, enactment of this amendment will not cause a disruption in the vast majority of the employing entities in the country, although it will require those employers who provide no training now to effect that training. Again, States are free to require additional or more stringent training rules. The amendment only states a bare minimum.

REGISTRATION OF PRIVATE SECURITY OFFICERS

The amendment authorizes the States to put in place registration requirements for private security guards. Public police, who are already subject to more stringent training and clearance rules, are exempted from these requirements if, with the approval of their employing authority, they are employed as private security guards while off duty. Similarly, these requirements do not apply to any police officer employed by a public entity, local, State, or Federal.

WAIVERS OF REQUIREMENTS

States are allowed to provide waivers of certain requirements with respect to a currently registered private security officer who changes employers, so that the receiving employer is not put to the expense of securing a full background check or providing basic training to a seasoned private security guard.

EMPLOYEE PROTECTION

This provision protects employees in the industry from employer's attempts to prevent the employee from freely offering his or her services to another employer as a security guard.

NOTICE OF CRIMINAL CHARGE

Similar to the concerns about hiring private security guards, both industry representatives and members of the public have expressed concerns that current private security guards not continue on duty if they are the subject of a charge of a felony. Thus, the amendment requires the State to include notice requirements both by the employee to the employer and by the employer to the State licensing agency. In addition, States would be required to take appropriate action with respect to the registration of a security guard who has been convicted of a crime.

PENALTIES

States are required to have in effect laws that authorize the imposition of penalties, including fines, on employers who fail to provide the training, or to conduct background investigations; and for security guards who falsify applications.

MORE STRINGENT REQUIREMENTS

Again, as noted above, nothing in this amendment would prevent a State from enacting or maintaining a current law or rule that is more stringent than the requirements of this amendment.

CONCLUSION

I urge my colleagues on both sides of the aisle to vote for the protection of the people of this country who work in, shop in, live in, or otherwise visit locations where private security personnel are employed. This is a noble industry and one that has assumed a significant role in local law enforcement, not in competition with the police, but in concert with and supplemental to the regular police. I believe, as a former city council member and former mayor of a small city, that it is ludicrous to suggest that passage of this bill will be a rationale for local officials to replace highly trained and highly effective law enforcement personnel with private security officers.

This amendment is supported by the industry, by academics who study private security, by State administrators who are concerned with the ability of private security officers to do the job for which they were hired, and by the public at large. The Association of Chiefs of Police has endorsed the need for legislation that would strengthen background check procedures and training requirements. That is what this amendment seeks to accomplish.

□ 1700

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I oppose this amendment. I think it is well intended, but the fact is it is an intrusion into the States, which normally do all the regulating of security guards. It is overly broad in its definition of what a security officer is. As I read the definition, it might include a lawyer or a legal secretary; it certainly includes an electronic alarm company employee whose duties involve servicing or installing an alarm system. I know that industry is something we do not want to get into Federal mandates and regulating.

It ties the requirements that States have these regulations to block grant moneys available under a 1968 crime bill by saying the Attorney General can cut up to 10 percent of the block grants if the States do not comply.

It is an unfunded mandate on the States. We are providing no money to the States to do this.

And, quite frankly, there have been no hearings held on this, as I understand it. We have had no opportunity to have the committees of jurisdiction look at this, the Labor Committee or our committee.

Mr. MARTINEZ. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from California.

Mr. MARTINEZ. Mr. Chairman, the gentleman just misspoke. There have been quite a few hearings that we held in our subcommittee.

Furthermore, it is not an unfunded mandate. The moneys to pay for this will come from the registering fees and licensing fees that are paid for the State.

The third point is that this bill is no more requiring the States any more than the States have already imposed for themselves, and the State of New York is much more stringent than the rules of this bill.

Mr. McCOLLUM. Well, I will stand corrected to that extent. But I do not believe our committee has had a hearing on it, and I do not think that in this crime bill we should have this particular provision.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, while I appreciate the gentleman's effort to provide a comprehensive solution to the problems of private security guards whose qualifications may be suspect, I have a number of concerns which lead me to oppose the amendment. At the outset, the Federal interest in private security guard regulation is not completely clear. This is a particular concern since the amendment details an overly intrusive regulatory scheme on the States. For example, it specifies the number and type of hours of training needed, and stipulates the topics that must be covered in the classroom—for every private security guard in the country.

The potential consequences of such a detailed Federal scheme have not been studied by the Judiciary Committee, which has jurisdiction in this area. These include the potential costs that the amendment will require the States to pay, the potentially harmful impact on smaller firms providing private security services and, finally, the effect that increased reliance on private security may have on our public law enforcement responsibilities—and on the citizens who might not be able to afford private security. I am not satisfied that we have sufficient answers that would allow us to go ahead with this amendment at this time.

Ms. MOLINARI. Mr. Chairman, I would like to take this opportunity to state my opposition to Congressman MARTINEZ' amendment, the Private Security Officers Quality Assurance Act of 1993, to the crime bill.

The National Association of Police Organizations, the International Brotherhood of Police Officers and the Fraternal Order of Police all oppose this amendment because it unwisely steers Congress to concentrate on private security officers to the detriment of public safety officers.

Congress' emphasis in this crime debate has been on increasing legitimate police presence in communities, this amendment diverges from that path.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. MARTINEZ].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MARTINEZ. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 401, further proceedings in the amendment offered by the gentleman from California [Mr. MARTINEZ] will be postponed until after proceedings on amendment No. 39 offered by the gentleman from Oklahoma [Mr. McCURDY].

Pursuant additionally to House Resolution 401, proceedings will now resume on those amendments on which further proceedings were previously postponed in the following order: amendment No. 39, offered by the gentleman from California [Mr. MARTINEZ].

The Chair further announces that he will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. MCCURDY

The CHAIRMAN. The pending business is the request for a recorded vote on the amendment offered by the gentleman from Oklahoma [Mr. McCURDY] on which further proceedings were postponed and on which the "ayes" prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 250, noes 174, not voting 13, as follows:

[Roll No. 138]

AYES—250

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Barca
Barcia
Barlow
Barrett (WI)
Bateman
Beilenson
Bentley
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Calvert
Camp
Cantwell
Cardin
Carr
Chapman
Clayton
Clement
Clinger
Clyburn
Coleman
Condit
Cooper
Coppersmith
Costello
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Derrick
Deutsch
Diaz-Balart
Dixon
Dornan
Durbin
Edwards (TX)
Emerson
Engel
Eshoo
Evans
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Frank (MA)
Frost
Furse
Gallegly
Gejdenson
Gephardt
Geren
Gillmor
Gilman
Gingrich
Gonzalez
Gordon
Gutierrez
Hall (OH)
Hamilton
Hastert
Hastings
Hayes
Hefner
Hinchey
Hobson
Hochbrueckner
Holden
Houghton
Hoyer
Huffington
Hunter
Hutto
Hyde
Inhofe
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Manton
Margolies-Mezvinsky
Markey
Martinez
Mazzoli
McCloskey
McCurdy
McHale
McKinney
McMillan
Meehan
Meek
Menendez
Meyers
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Murphy
Myers
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Obey
Olver
Ortiz
Orton
Owens
Oxley
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Regula
Reynolds
Richardson
Roemer
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Roukema
Rowland
Roybal-Allard
Rush
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Schenk
Schiff
Schroeder
Schumer
Scott
Sharp
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Spratt
Stenholm
Strickland
Studds
Stupak
Swett
Swift
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Volkmer
Vucanovich
Watt
Waxman
Weldon
Wheat
Wise
Woolsey
Wyden
Wynn

NOES—174

Allard
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Becerra
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brooks
Bunning
Burton
Buyer
Callahan
Canady
Castle
Clay
Coble
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Conyers
Cox
Coyne
Crapo
Cunningham
DeLay
Dellums
Dickey
Dicks
Dingell
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards (CA)
Ehlers
English
Everett
Ewing
Fawell
Fields (TX)
Ford (MI)
Fowler
Franks (CT)
Franks (NJ)
Gekas
Gilchrest
Glickman
Goodlatte
Goodling
Goss
Grams
Green
Greenwood
Gunderson
Hall (TX)
Hamburg
Hancock
Hansen
Harman
Hefley
Herger
Hilliard
Hoagland
Hoekstra
Hoke
Horn
Hughes
Hutchinson
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kopetski
Kyl
Levy
Lewis (CA)
Lewis (FL)
Linder
Livingston
Mann
Manzullo
McCandless
McCollum
McCrery
McDermott
McHugh
McInnis
McKeon
Mica
Miller (FL)
Minge
Moorhead
Murtha
Nussle
Oberstar
Packard
Paxon
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Reed
Ridge
Roberts
Rogers
Rohrabacher
Roth
Royce
Sabo
Saxton
Schaefer
Sensenbrenner
Serrano
Shaw
Shays
Skaggs
Slattery
Smith (IA)
Smith (MI)
Smith (TX)
Snowe
Solomon
Spence
Stark
Stearns
Stokes
Stump
Sundquist
Synar
Talent
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Traficant
Underwood (GU)
Visclosky
Walker
Walsh
Williams
Wilson
Wolf
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—13

Crane
Fish
Ford (TN)
Gallo
Gibbons
Grandy
Matsui
McDade
McNulty
Rostenkowski
Washington
Waters
Whitten

□ 1730

The Clerk announced the following pair:

On this vote:

Mr. McNulty for, with Mr. Grandy against.

Messrs. HAMBURG, QUILLEN, OBERSTAR, KIM, Ms. HARMAN, Mr. JACOBS, Mr. KASICH, Ms. PRYCE of Ohio, and Messrs. YATES, GREENWOOD, SUNDQUIST, and HOEKSTRA changed their vote from "aye" to "no."

Mr. BLACKWELL, Mrs. UNSOELD, and Messrs. TORRES, HASTINGS, MOAKLEY, THOMPSON of Mississippi, CLYBURN, PAYNE of New Jersey, OLVER, and WAXMAN, and Mrs. BENTLEY changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1738

AMENDMENT OFFERED BY MR. MARTINEZ

The CHAIRMAN. The pending business is the request for a recorded vote on the amendment offered by the gentleman from California [Mr. MARTINEZ], on which further proceedings were postponed and on which the noes prevailed by voice vote.

The CHAIRMAN. The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The CHAIRMAN. A record vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 80, noes 340, not voting 17, as follows:

[Roll No. 139]

AYES—80

Abercrombie
Andrews (NJ)
Applegate
Bacchus (FL)
Berman
Bilbray
Blackwell
Borski
Collins (IL)
Collins (MI)
de la Garza
de Lugo (VI)
DeFazio
DeLauro
Dixon
Durbin
Engel
Faleomavaega (AS)
Farr
Fazio
Foglietta
Ford (MI)
Ford (TN)
Furse
Gejdenson
Gephardt
Gonzalez
Gutierrez
Hall (OH)
Hinchey
Hochbrueckner
Holden
Johnson (CT)
Johnston
Kanjorski
Kennedy
Kennelly
Klink
Kopetski
Kreidler
Lancaster
Lantos
Lewis (GA)
Martinez
McCloskey
McHale
McKinney
Menendez
Mfume
Mink
Mollohan
Moran
Murphy
Nadler
Norton (DC)
Ortiz
Owens
Pastor
Payne (NJ)
Pickle
Rangel
Reynolds
Roukema
Roybal-Allard
Sarpalius
Scott
Serrano
Sundquist
Swift
Tanner
Tejeda
Torricelli
Towns
Traficant
Underwood (GU)
Velazquez
Vento
Waxman
Woolsey
Young (AK)

NOES—340

Allard
Andrews (ME)
Andrews (TX)
Archer
Armey
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Bevill
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crapo
Cunningham
Danner
Darden
Deal
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
English
Eshoo
Evans
Everett
Ewing

Fawell
Fields (LA)
Fields (TX)
Filner
Fingerhut
Flake
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Green
Greenwood
Gunderson
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hoagland
Hobson
Hoekstra
Hoke
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Kaptur
Kasich
Kildee
Kim
King
Kingston
Kleczka
Klein
Klug
Knollenberg
Kolbe
Kyl
LaFalce
Lambert
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDermott
McHugh
McInnis
McKeon
McMillan
Meehan
Meek
Meyers
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Moakley
Molinari
Montgomery
Moorhead
Morella
Murtha
Myers
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Roth
Rowland
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Swett
Synar
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Tucker
Unsoeld
Upton
Valentine
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Watt
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wyden
Wynn
Yates
Young (FL)
Zeliff
Zimmer

NOT VOTING—17

Ackerman
Bachus (AL)
Crane
Fish
Gallo
Geren
Gibbons
Grandy
Hyde
Matsui
McDade
McNulty
Rostenkowski
Slattery
Washington
Waters
Whitten

☐ 1739

Mr. PALLONE, Mr. STRICKLAND, and Mrs. UNSOELD changed their vote from "aye" to "no."

Ms. McKINNEY and Mr. FOGLIETTA changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1740

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. DARDEN) having assumed the chair, Mr. TORRICELLI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4092) to control and prevent crime, had come to no resolution thereon.

PERSONAL EXPLANATION

Ms. WATERS. Mr. Speaker, I was unavoidably absent during the late afternoon of Wednesday, April 20, due to a death in the family.

Had I been present during that time, I would have voted as follows:

Rollcall 136—"no."
Rollcall 137—"yes."
Rollcall 138—"yes."
Rollcall 139—"yes."

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, with regard to rollcall vote 136, I was recorded as voting in support of the amendment. However, I intended to vote in opposition to the amendment. I ask that the RECORD reflect my opposition to rollcall vote 136, the Gordon amendment prohibiting the award of Pell grants to incarcerated prisoners.

SAUDI ARABIA AND HARBERT

(Mr. HILLIARD asked and was given permission to address the House for 1 minute.)

Mr. HILLIARD. Mr. Speaker, I rise today to discuss the ill-treatment of some American firms doing business in Saudi Arabia. This matter has not been resolved despite repeated efforts by this body. I am speaking today of a claim by the Harbert-Howard companies, which has been the subject of a great deal of protest by Members of Congress based upon clear evidence we have which demonstrates the deliberate obstruction of justice by the Saudi Arabian courts.

Many Congressmen and over 50 Senators have signed letters to the Saudi Government urging them to comply with section 9140 of the Defense Appropriations Act of fiscal year 1993. This piece of American law requires the Saudi Government to resolve satisfactorily the commercial claims filed by the United States companies against them. Since this law passed, numerous individual Members and Senators have communicated with them, and over 12 joint congressional letters have been delivered to the Saudi Arabian Government. All of this has been done to no avail.

The Saudi's have treated the Congress of the United States like some out-cast poor relation, and I feel it is time to show them we mean business. To this end, I request your support of H.R. 4096, which I introduced before this body on March 21, 1994. My bill reaffirms the original intent of this Congress by securing satisfactory resolution of these American claims as mandated by section 9140 of the Department of Defense Appropriations Act.

The language of this bill is straightforward. It will have no impact on the Saudi participation in the peace process, nor will it adversely affect the diplomatic relations between our two Nations. It will simply right a wrong against American companies which receive unfair treatment in Saudi Arabia.

My fellow members, many of us have attempted to resolve this matter outside of this hall of the people, yet Ambassador Bandar, and the government he represents continue to mock our requests for justice and fair-play. This can not be tolerated.

Let me give you a brief synopsis of the events which have transpired regarding our request for fair-play. In the case of Harbert, a clear case of obstruction of justice is present throughout all of their dealing with the Saudis. This evidence may be found within our own CONGRESSIONAL RECORD, as well as the three joint letters signed by 70 members of this body during the proceedings of this claim in January of 1992. Ambassador Bandar stated that he has conducted a thorough review process of the claim. However, his review process was not fair. The congress has since asked him twice to implement a fair review process, yet, the prince has twice refused our request. Also, I would like to remind this body that the Saudi Government has manipulated our own state department officials to provide erroneous testimony to the congress regarding payments to Harbert-Howard companies. This is evident in a state department letter of October 6, 1992, and in testimony before the House Foreign Affairs Committee on September 23, 1992 when the Saudi's were requesting our F-15 aircraft.

In conclusion, justice must prevail. By voting for this bill, you can send the Saudi Arabians a message that the principles of justice and fair play are still observed by the American people.

LIFT THE ARMS EMBARGO IN BOSNIA

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, I call on the Congress and the administration to immediately lift the arms embargo in Bosnia.

You cannot watch the television and see the slaughter of innocent men and women and children there. I know that we will not be sending American troops to Bosnia nor do I think that we should.

But how can we allow the Serbian forces to continue to do what they are doing? I would not want my mom or dad or husband or wife or son or children's future to be dependent on the United Nations there.

In the name of God and decency, how can we not lift the arms embargo in Bosnia?

Mr. Speaker, I am including at this point in the RECORD three articles that appear in today's Washington Post by George Will, Jim Hoagland, and Peter Maass which deal with this issue.

[From the Washington Post, Apr. 20, 1994]

WRECKAGE OF FEEBLE INTENTIONS

(By George F. Will)

The slovenly, lethal improvisation of U.S. policy regarding the Balkan civil war has made the United States morally complicit in the carnage while remaining politically impotent and militarily inconsequential. This wreckage of feeble intentions may at least demolish the notion that the United Nations can be a surrogate for U.S. self-determination, or a repository for U.S. sovereignty, or a substitute for a U.S. president.

The United Nations' fatuous proclamation of "safe havens" is mere diplomatic noise. Many cruelties have been inflicted on Bosnians, whose misfortune it is to be in the path of the creation of "Greater Serbia." Among those cruelties is the United Nations' pretense that it can play a role for which it is incurably unsuited, that of peacemaker. There will be no peace until Serbia's appetite for conquest has been slaked, or until Serbia's victims have arms sufficient to produce stalemate.

When President Bush was asked why the arms embargo should not be lifted so that Serbia's victims could defend themselves or die resisting, Bush flippantly replied that the trouble in the Balkans was not an insufficiency of weapons. Nor, in the same way, was that the trouble when Germany crushed the Jewish uprising in the Warsaw ghetto. Bush's secretary of state, James Baker, said of the Balkan civil war that "we don't have a dog in that fight." But we now are a bewildered dog in that fight, although we deny we are in it and we continue to defer to those who are holding our leash and pulling us deeper in.

A Japanese diplomat named Akashi, representing an Egyptian civil servant named Boutros-Ghali who is hired by the governments represented in the United Nations, decided with a British general named Rose, that U.S. aircraft assigned to NATO would drop a few bombs on inconsequential targets. The investment of U.S. prestige was inversely proportional to the force involved, and the exercise was of a fecklessness not seen since the Bay of Pigs. Where, one wonders, is Congress?

During the Cold War, the presidency acquired a constitutionally anomalous independence regarding foreign policy, but Congress constantly skirmished with presidents about involvement in decisions about uses of force. Now that the hair-trigger U.S.-Soviet standoff has passed, Congress could prudently, and in accord with constitutional assumptions, become more assertive.

This president does not disguise the fact that he would rather be, and usually is, thinking of things other than foreign policy. His lack of interest has translated into a casual willingness for U.S. force, military and moral, to be tangled up in lines of authority (Akashi, Boutros-Ghali, Rose) resembling linguine.

His desire to keep America distant from a civil war—a war America might not be able to influence without an investment of force and prestige disproportionate to America's interest—is defensible. But his indefensible pretense that America must be a mere partner of that moral cipher, the United Nations, which pretends to represent that political fiction called "the world community," is producing the entanglement the president wants to avoid.

Ejup Ganic, Bosnia's vice president, says to Americans. "You have to reverse the results of ethnic cleansing if you want a stable peace. . . [Otherwise you might send your troops one day to keep results of ethnic cleansing." If the United States is called upon to keep its promise to send thousands of soldiers for "peace-keeping," the United States will indeed wind up ratifying the results of Serbia's war crimes.

Enforcing a peace produced by Serbian brutality is unappetizing; doing what Bosnia's government wants is unthinkable. Ganic says that until land seized by Serbia is returned to Serbia's victims, his government cannot sign a peace pact. Asked if he was asking NATO to "reverse Serbian conquests" because his government lacks sufficient military force to do so, he says: "You took that force from us because you introduced an arm embargo on Bosnia; you put our hands tied and you create this outcome. Either reverse the outcome or give us weapons we can do by ourself."

If U.S. forces someday participate in patrolling a partitioned Bosnia, the line of partition should reflect some results of armed Bosnian self-defense rather than merely the satiation of Serbia's appetite for conquest over people whose crippled capacity for self-defense is a casualty of a lunatic notion of "evenhandedness" that only the United Nations could consider just and only a president in full flight from responsibility could cling to.

[From the Washington Post, Apr. 20, 1994]

NOT-SO-GREAT POWERS

(By Jim Hoagland)

Depicted in diplomatic cables and news dispatches as psychopaths commanding a ragtag militia, the "generals" who lead Bosnia's Serbs have inflicted a severe embarrassment on the politicians who presume to lead the world. Mafia dons would not have stood for the dishonor and disrespect that the international community's presidents and diplomats swallowed this week.

"General" Mladic called the bluffs of Bill Clinton, Boris Yeltsin, Boutros Boutros-Ghali and their aides on the battlefield of Gorazde. The Serbs have proved once again they are despicable, blood-thirsty thugs. They are also the only players in the Bosnia tragedy who know what they want and how to get it.

Paradoxically the creeping Serb victory in Bosnia could inflict greater immediate political damage on Yeltsin, Serbia's nominal ally, and on Boutros-Ghali than it does on the Western leaders who dragged the Russian president and the U.N. secretary general into this conflict.

The American president stays in tune with public opinion and with the non-interventionist mood of the Pentagon by resisting significant American involvement in the Bosnian war. He clings to the rhetorical high ground by talking about lifting the arms embargo that penalizes Bosnia's Muslim government in its war with the Serbs, while refusing to adopt or outline a strategy that would give validity to that alliance-straining step.

Such a strategy could be devised. But it requires making some tough choices, rather than letting wishful thinking and rhetoric dominate the American approach to Bosnia.

After the Serbs predictably responded to last week's limited use of American air power around Gorazde by escalation, Clinton countered by calling White House meetings to search for "new options"—thereby acknowledging that he had not though through the probable battlefield consequences of the air raids before they occurred.

Clinton spent most of Tuesday closeted in the White House with his principal foreign affairs advisers searching for a way to rescue American credibility. Their conversations reportedly centered on using air power to prevent the other U.N.-protected areas from meeting the same fate as Gorazde.

The president is not managing this crisis in the same time frame in which it is occurring. He lets events determine where he will go. He deliberately builds time lags into his responses, as if hoping that events will narrow the admittedly unpleasant options he faces, or at least deflect criticism onto others.

For days before the climactic assault began, the Serbs were known to be shifting artillery and other weapons out of the Sarajevo theater into the hills around the U.N.-declared "safe haven" of Gorazde. The American, U.N. and NATO response was to stand by and count on Russian diplomacy to save Gorazde.

But that was miscalculation. The Russians now acknowledge they cannot deliver the Serbs to the negotiating table. Yeltsin thus appears ineffectual on the international scene and at home, where he is strongly criticized by extreme nationalists for letting the Serbs be bombed in the first place.

Yeltsin's independent-minded Balkans negotiator, Vitaly I. Churkin, on Monday blistered the Serbs for systematically "lying" to him about their actions in Gorazde: "The time for talking is over. The Bosnian Serbs must understand that by dealing with Russia they are dealing with a great power and not a banana republic."

But it is easy to understand why the Bosnian Serbs do not understand that. Why should they? They have just shown they are dealing with great powers that do not have the resolve or unity of purpose to prevent Ratko Mladic from overrunning Gorazde, a town of 30,000 refugees the United Nations has solemnly declared to be under its protection.

In the Bosnian war, the "great powers" are not so great. The citizens of a large country should worry when their diplomats feel compelled to insist that they do not live in a banana republic. Churkin's defensive declaration contains a kernel of admission that Russians will not miss.

Russian-American cooperation, already under strain, is likely to suffer significant new damage if the Bosnian endgame continues in this manner. Moscow and Washington are already blaming each other for the failure in Gorazde and will escalate that criticism if the Bosnian debacle deepens.

Avoiding such damage should be a priority of the Clinton administration. That argues for Clinton's joining the Europeans in a Realpolitik solution of accepting the Serb victory in Bosnia and shutting this war down now. That in turn means dropping the smoke-screen talk of lifting the arms embargo, while negotiating the best surrender terms possible for the vanquished Bosnian Muslims.

Arming the Muslims now is a lost cause. But there is an alternative strategy to surrender. Once the fighting in Bosnia dies down it is certain to resume in the Serb-held portions of Croatia. Lifting the embargo, or simply ignoring it, makes sense only if the United States is ready to start arming Croatia to fight the Serbs in a war to the finish.

The Croatia option is a bloody route that will certainly drive the Russians into bitter opposition to American policy. The only thing I can think of that would be worse would be continuing the present confused policies that seem to be based on spreading false hopes and meaningless promises to get the administration through the next news cycle.

[From the Washington Post, Apr. 20, 1994]

LESSON FOR A YOUNGER GENERATION

(By Peter Maass)

BUDAPEST.—When politicians and generals discuss Bosnia, they often have Vietnam on their minds. Their warnings about quagmires, mission creep and the shortcomings of air strikes relate to Vietnam and the lessons that we should have learned from it. But they are ignoring the most relevant lesson of all: A government that is deceptive and acts immorally will undermine its credibility with the governed, particularly the younger generation.

Every generation has its watersheds. For George Bush's generation, it was World War II and the Cold War. For Bill Clinton's, it was Vietnam and Watergate. I am 33 years old, which nestles me amid the Xers and Yuppies, and for us Bosnia is turning into a watershed of disillusion. By opening himself up to justified criticism about hypocrisy and appeasement, President Clinton is deepening the apathy of younger Americans who want a government they can respect and believe in.

It might be true that most members of my generation couldn't find Bosnia on a map, let alone Gorazde. But you don't need to understand Balkan politics to realize that our government has failed to accomplish the bare minimum, which is to do what it says it will do—not what it should do, but what it says it will do—on an issue that it has defined as one of good vs. evil. The goal of rolling back the Serbs was long ago abandoned, but at least, we were assured last year, America and its allies at the United Nations would protect six "safe areas"—Gorazde, Zepa, Srebrenica, Sarajevo, Tuzla, Bihac.

Now it's one down, five to go.

The sad story of Bosnia's demise, presided over by America and its allies, is not new. The imminent fall of Gorazde, a U.N. safe haven that is now one of the most deadly places on earth, is just another nail in its coffin, hammered into place by the Serbs and observed by the rest of the world. But because Gorazde's fall is so spectacular in the amount of media coverage it is receiving, and in the obvious disarray of President Clinton's laughable policy for containing the Serbs, Americans of all ages are getting a subversive, though perhaps accurate, message on the evening news: Their government is incompetent and immoral.

Disillusion is not new to my generation. We've had Watergate, Ollie North and Iran-contra, some bad times in the job market and, more recently, Whitewater. But even during my hypercritical days a decade ago as editorial page editor of the student newspaper at the University of California at Berkeley, I thought the government could do good things.

But now Bosnia. The allied response to two years of aggression and murder is to drop a half-dozen bombs on the Serbs, three of which don't explode. We knocked out one tank, a couple of armored personnel carriers and a tent. The foreign policy experts talk about America's loss of credibility on the global stage. I tend to worry about something more intimate, about the loss of credibility between America's government and governed. An important bond is being frayed, and this increases my worries about the future of my country.

My hometown, Los Angeles, has endured sufferings in the past year that are almost biblical—fire, floods, earthquake. Its nonbiblical tribulations include high unemployment, gruesome crime, race riots and urban decay. Is America in a tailspin? I don't know. Nobody does. But we all know that it needs to get moving again. That can't happen unless people have hope, and unless they have a government that they trust.

I am living overseas, so it might seem unwarranted for me to talk about "my" generation. But I visit America often enough to stay in touch. And thanks to the wonders of satellite television, I watch American network news before going to sleep—I probably see it more often than my peers in the United States. I'm also part of the cyber crowd, so every day I log to Compuserve and browse through the "Global Crises" bulletin board, a computer talking shop for important world issues, such as Bosnia.

When people post messages on the "Global Crisis" bulletin board, they have undramatic headlines such as "Serb Attack on Gorazde." The messages are often interesting and provocative. Over the past few days, I noticed that new people, not the "regulars," are posting messages. Gorazde has touched them. Today there was an unusual headline on a long message posted by a newcomer who couldn't believe America was standing on the sidelines. The headline was simple: "Pain so Deep in the Soul."

The failure to protect Gorazde crystallizes and deepens the American government's failure over the past two years (a failure that was nursed into life by a Republican administration). President Clinton could have stood up to the Serb attack on Gorazde and, in a small way, re-fired our trust in government to do the right thing, or at least try to. He managed to regain a bit of credibility by staring down the Serbs over Sarajevo earlier this year. But with Gorazde, he has fallen flat on his face. Our disillusion grows with each Serb shell that hits Gorazde's hospital.

ILLEGAL ALIENS ARE VOTING IN CALIFORNIA—THAT PROBLEM NEEDS TO BE SOLVED ON A BIPARTISAN BASIS

(Mr. HORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HORN. Mr. Speaker, Mario Aburto Martinez, who murdered the Mexican Presidential candidate, Luis Donald Colosio, was an illegal alien. He was also a member of a political party in California, in this case he had registered as a Democrat.

A few days ago, channel 9, KCAL-TV in Los Angeles, interviewed a number of illegal aliens. One they interviewed was a registered Republican. So this is not a party problem. This is an American citizen problem as to who should have the franchise in our country.

The board of supervisors of Los Angeles County is now having this situation investigated, but as a lot of us said when we passed that so-called motor-voter registration bill, we will have more voter fraud in this country, more misuse of the franchise, and more illegals registering.

To my colleagues who are not from California, the fact that we have 52 seats in the House is due—at least in the case of 4 or 5 of those 52 seats—to our illegal alien population. We also need to work in a bipartisan manner to solve that problem.

Back to Mr. Martinez. He was a border inhabitant who ranged freely from the slums of Tijuana to the streets of Los Angeles, where he registered to vote in 1990 and 1993. You decide which is worse: that he was able to freely cross the border, or that a public agency conferred upon him the hard-won benefit of democracy.

While we may see the right to vote as a precious right, apparently Mr. Martinez did not. While he registered twice in Los Angeles County, he never bothered to vote, perhaps more interested in expressing his political preferences by the bullet rather than the ballot. One might ask why he would risk detection to register?

Vote registration cards are often used for identification when one applies for public benefits. We need to tighten requirements for public assistance to ensure that illegal aliens do not receive public benefits. We also need a counterfeit-proof Social Security card. The President has said he is for it. Until welfare agency workers and private employers can determine whether someone is truly a U.S. citizen, we will continue to have illegal aliens seeking both work and Government health and welfare benefits. I have cosponsored legislation to achieve these goals, but they seem to be stuck in committee. How much longer must we wait for action? It is about time many in this House awaken. After all the seat we gain in the census of the year 2000, might just be your own.

Yesterday, the Los Angeles County Board of Supervisors asked the district attorney of that county to investigate the extent of illegal alien voting.

Attached are a letter from county supervisor, Michael D. Antonovich, and an article of March 30, 1994, from the Los Angeles Times.

BOARD OF SUPERVISORS,
COUNTY OF LOS ANGELES,
March 31, 1994.

Hon. STEVE HORN,
House Office Building,
Washington, DC.

DEAR STEVE: It was reported this week that Mario Alberto Martinez, the accused assassin of Mexican Presidential candidate Luis Donaldo Colosio, illegally lived and worked on both sides of the United States-Mexico border. More alarming, however, was the revelation that Martinez was a registered Democrat who could have voted in the United States elections here in Los Angeles County.

Illegal immigration and its impact on Los Angeles County has reached crisis proportions: The successful registration efforts geared toward illegal aliens evidenced by Mr. Martinez flies in the face of democracy and the privileges and responsibilities of legal citizenship.

I urge you to draft legislation which will address this critical problem immediately.

Sincerely,

MICHAEL D. ANTONOVICH,
Supervisor, Fifth District.

COUNTY ORDERED TO TIGHTEN RULES FOR VOTER REGISTRATION

(By Shawn Hubler)

Stunned at reports that accused Mexican assassin Mario Aburto had registered twice to vote in Los Angeles County, the Board of Supervisors on Tuesday ordered county staffers to find ways to prevent such a thing from happening again.

In a sharp reaction to news accounts that Aburto had lived on both sides of the border and had registered to vote here, the board demanded an accounting from county Registrar-Recorder Beatriz Valdez.

Valdez confirmed that in 1990, Aburto, 23, had picked up a voter registration card at a San Pedro post office, filled it out, affiliated himself as a Democrat, and mailed it in. A glitch in the way he had signed his name forced the county to mail him a new card so he could re-register, she said.

An affidavit on the form asks the signer to swear under penalty of perjury that they are, among other things, a U.S. citizen. Aburto signed the affidavit using his Mexican appellation, Mario Aburto Martinez, Valdez said.

When 1992 arrived and he had not voted, the county mailed a routine card to his address in an attempt to update voter rolls, she said. The card was returned, indicating he had moved, and a blank voter registration form was sent to the address to remind the new resident to re-register.

Valdez said it is unclear whether Aburto used that blank card or another that may have landed in the mailbox of his new address, but in any case, he registered again in 1993. This time, she said, he used the Americanized version of his name, Mario Aburto, and conscientiously noted on the form that he had registered before as Mario Aburto Martinez.

That registration was processed, Valdez said, but when a new voter registration card was mailed to Aburto's address, it was returned to the county. Following the county's policy, Aburto's registration was canceled.

Aburto's friends and relatives said this week that his decision to register in 1990 and again in 1993 was based more on a desire to become a legal U.S. resident than any fervent interest in politics.

He believed that being on the voter rolls would assist him in obtaining papers to remain in the United States and work legally, his relatives said. "He thought that would help him become a citizen," said Ruben Aburto, the accused assassin's father, who lives in San Pedro. "He wasn't interested in politics."

Valdez confirmed that according to county records, the man accused of killing Mexican presidential candidate Luis Donaldo Colosio last week had never voted in the United States.

Moreover, she added, such fraudulent registrations are rare. "I've been here for 37 years," she said, "and (in that time), we have had less than a dozen incidents in which a non-citizen has registered."

Valdez said that accusations are constantly being made, but evidence of non-citizens registering to vote is rarely produced. "There's a perception that a lot of non-citizens are out there voting, and we get a lot of calls alleging that," she said. "But when we ask for names, no one can ever provide them."

Nonetheless, in a written motion, Supervisor Deane Dana expressed concern about "the possibility of such illegally registered voters casting ballots and influencing the outcome of American elections."

Dana also noted that "status as a registered voter can be used by those in the country illegally as a form of identification, indicating citizenship which would allow the use of public services * * * to which they are not entitled."

Dana instructed Valdez and her staff to find ways to prevent such fraud. But Valdez said the assignment could be difficult.

Voter registration forms, she noted, are based on an honors system, and, beyond the address of the applicant, very little of the information on them is double-checked.

New voter registration forms, due out next month, should help, she said. The forms ask the applicant whether they are citizens, and then instruct them not to finish the questionnaire if they are not.

But beyond that, Valdez said, state laws would have to be changed, and more extensive verification would interfere with the ability of voters to register by mail, an option they have had since 1976.

Times staff writers Patrick J. McDonnell and Frederick M. Muir contributed to this story.

BOSNIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. MCCLOSKEY] is recognized for 5 minutes.

Mr. MCCLOSKEY. Mr. Speaker, I probably will take less than my 5 minutes and have really no prepared remarks. As some may know, I did not take the House earlier today to talk about the terrible ongoing situation in Gorazde. My office is now patched for verbal discussion with the major of Gorazde and truly that has to be one of the most slaughter-prone tragic areas on the planet right now.

Indeed, as some may know from my previous remarks, the mayor of Gorazde is essentially saying that it would be better if the west just bombed them, in essence the Moslems, period, to get over the agony. Because quite frankly, they cannot go on with it anymore.

I do know that most of us know that in recent days, very, very recently, the President had reiterated his concern for safe havens and the fact that NATO air power would be brought in to save such areas as Gorazde and other places right now, perhaps such as Zepa and Srebrenica that await the Serb slaughter.

As we all know, the hospital was hit today. The Bosnian Serbs deliberately hit the hospital. There were 25 casualties reported at that time some hours ago, 10 people dead, 15 other very unfortunate people, so to speak, rewounded.

The mayor is saying there is blood on the streets. Why is the world abandoning us. Surely something must be done.

We have not allowed the Bosnians to be armed. We have made, in essence, guarantees and assertions about their security and the slaughter goes on.

My hopes were up in the last several hours, realizing that the President was deliberating on this. As we all know, he had the press conference about 5 o'clock, essentially saying that he will continue to confer with our NATO allies, Mr. Yeltsin and so forth, about the situation, about air strikes, that he personally favors lifting the arms embargo, but indeed did not see much sense that that would happen.

With all due respect to the President, his public statements conveyed no cognizance of the terrible agonies and realities of what is going on, not 3 or 4 days from now, not 2 weeks from now, but tonight, as I speak, on the ground in Gorazde. Surely the leader of the free world has enough leverage, enough resources, enough good staff at hand to immediately communicate and tonight, Mr. Speaker, do something about that.

Mr. Speaker, I yield to the gentleman from Virginia [Mr. WOLF], who is a hero on this issue.

Mr. WOLF. Mr. Speaker, I wanted to publicly identify myself and appreciate the gentleman's courage and his willingness to be the conscience of this Congress on this issue. There are people being slaughtered and, at a minimum, we ought to lift the arms embargo.

I was in Mostar earlier this year. They have been slaughtered there, and they had no arms.

I just want to commend the gentleman. I would hope that this administration will listen.

We are not going to send troops. We know that. At a minimum, we should lift the arms embargo. When we were going through the same problem back in 1976, the French came to our assistance and helped us. At a minimum, we should help the Croats and the Muslins who are fighting valiantly but without arms against the onslaught of the Serbs.

I just want to commend the gentleman and thank him for his comments and his leadership.

Mr. MCCLOSKEY. Mr. Speaker, I might say that one of the great ironies of this is that in recent weeks, the President has had very good successes in the area, the cease-fire and the safer zone around Sarajevo, the really brilliant achievement of the Bosnian-Croatian alliance. But now we see, quite frankly, all that on the verge of falling apart.

Serbs, in essence, captured and murdered almost at will U.N. peacekeepers, in essence there is almost no serious response from us. In essence, before too long the Bosnian-Croatian alliance could be falling apart as the Bosnians get pressed one way or another to defend the people in their areas.

I think it is very important to remember, and this is obvious in all this, that the Serbs have a particular plan. Their plan is for a greater Serbia to consolidate these areas.

The more we give in against the interests of a united Bosnia and a democratic coterie of nations, so to speak, in the Balkans, the more trouble we are really setting up for the people of the Balkans and everyone involved.

They can get it resolved in Bosnia, so to speak, at some point dilatorily, Milosevic et al will go on in Kosovo with ethnic cleansing. He will go on in the Sanjak.

Tonight, as I speak, the entire democratic Muslim leadership, some of it Bosnia, in both Kosovo and Sanjak are in prison and subject to torture.

□ 1750

Mr. President, we need to act now, tonight. Let us get this done with air power worthy of the name, and not wait another 4 or 5 days, or there will be nobody to get the benefit of your aid come next Sunday or Monday. The time is now. This has been going on too long.

TRIBUTE TO COL. JERALD L. THOMPSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island [Mr. REED] is recognized for 5 minutes.

Mr. REED. Mr. Speaker, I rise this evening to pay tribute to the brave American men and women who were lost over the skies of Iraq several days ago by friendly fire, and in particular to my West Point classmate, Col. Jerry Thompson, who was killed in that friendly fire incident.

Back in July 1967, when the class of 1971 at West Point arrived, we were mostly high school kids, many who had not been away from home for any length of time, but among our midst there was one individual who had already distinguished himself as a splendid soldier; indeed, a hero.

Jerry Thompson joined the U.S. Army in 1964. He went through OCS. He went to Vietnam. He commanded an infantry platoon in the First Division, the Big Red One, and won the Silver Star for bravery. He gave that up to start as a plebe at West Point in the summer of 1967.

Other people with that type of demonstrated record of courage and skill and achievement might have lorded it over us high school kids, but he did not. He was a classmate in the truest sense of the word. He shared with us all the trails and tribulations of cadet life, with a magnanimous heart, with a cheerful personality, always trying to use his special expertise and skill to help his classmates.

I did not know Jerry very well, but you did not have to know Jerry Thompson well to admire him, his courage, his competence, his compassion, his patriotism, his love of his country, and his love of the Army.

Jerry graduated. He went on to a distinguished career as an foreign country officer in the U.S. Army. He commanded platoons and companies. He was a Special Forces officer. He was decorated many times. He served in Desert Storm. He was the epitome of a professional military officer: Highly skilled, completely dedicated, a man of unquestioned integrity, a man dedicated to his country, to his Army, and to his family.

Sadly, Mr. Speaker, and tragically, along with his comrades, he lost his life doing his duty, outside the glare of publicity, doing the job that soldiers do every day to protect their country across the world, risking their lives so we can live freely here.

To his family, his wife and his two children, of course, we extend our sincerest and humblest condolences. I hope his life and his sacrifice reminds us of our great duty to our country, reminds us to bear our responsibilities wisely and well, to maintain our country strong, proud, and free.

We at West Point take great pride in our motto; duty, honor, country, because these are not to us just words, because these are the lives of men like Jerry Thompson, whose sacrifice gave meaning to duty, to honor, and to country.

The final verse of our alma mater goes like this: "And when our work is done, our course on earth is run, may it be said, well done, be at peace."

To Jerry Thompson, colonel, U.S. Army, foreign country, West Point class of 1971, well done, be at peace.

THE BENEFITS OF A SINGLE-PAYER PLAN FOR HEALTH CARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. McDERMOTT] is recognized for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, in the coming weeks, Members of Congress will face key votes on major issues in health care reform. I sit on the Ways and Means Committee, which, through its health subcommittee, was the first committee to act on health care reform.

I want to share with you my thoughts on what has occurred in the Ways and Means Committee with respect to health care reform and how, as the coauthor of the single-payer proposal for health care reform in the House of Representatives, I intend to proceed in the coming weeks.

I voted for the chairman's proposal in the Health Subcommittee after a great deal of debate. I did so for several reasons. The subcommittee vote was the first legislative action taken on health care reform and was widely regarded as the barometer for whether or not the reform process would continue. It was essential to keep health care reform moving for the single-payer plan that I advocate to go anywhere.

However, a number of problems presented by the subcommittee mark must be overcome or I will vote "no" on reporting the bill out of the full committee.

First, universal coverage was delayed to 1998. Universal coverage must be fully implemented no later than 1997. If pushed beyond that date, it will be undermined and further delayed in subsequent sessions of Congress. We simply will lose it.

Second, the benefit package does not provide broad enough coverage to meet health insurance needs. Specifically, copayments and deductibles are high and there are no limits on out-of-pocket expenditures for health care. In other words, the patient can keep on paying 20 percent of medical bills forever no matter how big the bills get and out-of-pocket losses never stop.

This does not provide health security and does not solve the problem that plagues our economy; namely, people cannot leave their jobs because they are afraid of losing their insurance benefits. Without out-of-pocket limits on patient spending, this benefit package will not provide job mobility. In addition, long-term care is not addressed in any fashion.

I view out-of-pocket limits and the provision of some long-term care as essential elements of the benefit package.

The Ways and Means proposal does enable the uninsured and people who work for small businesses to get their health insurance through a new part of Medicare called Medicare Part C. Although Medicare C does provide better protection of free choice of provider than is provided in managed competition proposals, its high copayments create substantial barriers to non-HMO choices.

Vigorous and affordable free choice of provider must be protected in the final bill. We cannot have a system where people are losing their doctors with every change in their health insurance arrangement.

Single-payer clearly offers the best protection against losing your own doctor and the best protection against insurance company interference in patient/doctor treatment decisions, and it is the standard for which I intend to fight.

Fourth, the scope of Medicare C is inadequate. I am unequivocally opposed to limiting Medicare C to employees of small businesses and the uninsured. This limitation will cause families to shuttle in and out of Medicare C as their job situations change, and they may lose their choice of provider in the process.

Finally, financing health care reform through Medicare cuts is unacceptable. The attempt to realize savings in this way will severely threaten academic medical centers and urban hospitals, impair senior citizens' access to health care, and undermine the financial stability of our entire health care system.

The goals of the single-payer advocates in health care reform are the goals of the American people: guaranteed health insurance for every American, lower costs, comprehensive benefits, and freedom to get and keep the provider that you think is best for your family. I do not intend to vote for anything that won't meet these goals.

URGING RESPONSIBLE STEWARDSHIP OF THE SOCIAL SECURITY DISABILITY TRUST FUND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama [Mr. BACHUS] is recognized for 5 minutes.

Mr. BACHUS of Alabama. Mr. Speaker, on February 8, I said that there was a cancer eating away at our Nation's Social Secrity trust funds. I warned that unless this Congress acted soon, the future financial security of not only our senior citizens but each and every one of us would be at risk. On February 8, I predict that the Social Security disability trust fund could become insolvent by the end of this year. At that time, some scoffed at my suggestions.

In fact, my call for action was no exaggeration. My assumptions were confirmed by a recent report by the Social Security board of trustees.

The 1994 Annual Report of the Social Security board of trustees states that this fund will have a $4 billion deficit by the end of 1995. By the end of the century, the disability trust fund will have a negative balance of $78 billion. That deficit will almost double by the year 2003 to $144-billion, if Congress and the Clinton administration do not take steps to correct this impending financial nightmare.

An editorial in Monday's Washington Post only confirms my fears. The Post has charged, as I have, that "the federal disability programs are out of control."

The Social Security board of trustees is again recommending that contributions intended to support our senior citizens be shifted out of Social Security's old-age and survivors' trust fund and into the disability trust fund.

Mr. Speaker, stealing from Social Security's old-age and survivors fund and from every working American and senior citizen to prop-up the disability trust fund is irresponsible and unwise. This so-called temporary fix is no fix at all.

There is a more rational and reasonable solution. On February 8, I introduced House Joint Resolution 319. This legislation directs the Secretary of Health and Human Services to examine the underlying causes of the shortfall in the disability fund and report back to the Congress on possible solutions.

Transferring money from the old-age and survivors trust fund to prop up the disability trust fund without fixing the underlying problems in the disability programs, as President Clinton has proposed in the budget, is not the answer.

Sooner or later, attention must be focused on a responsible solution to this growing problem—the urgent need for top-to-bottom reform of the Federal disability programs. Nothing short of a complete overhaul of the process and the policy behind the determination of who is disabled and how and to what extent they should be compensated will do.

I urge my colleagues to join me in promoting responsible stewardship of the Social Security disability trust fund. Did we not learn from the $110 billion savings and loan debacle? We must address the problem now or face up to a $144 billion problem 9 years from now. Join me in cosponsoring House Joint Resolution 319.

Mr. Speaker, I include for the RECORD a copy of the article in the Washington Post of Monday, April 18, 1994, referred to earlier:

SNEAKING UP ON POLICY

The Federal disability programs are out of control. In the mid-1980s the two main programs together had an enrollment of 4.9 million. By 1993 the number had risen to 7.3 million, an increase of 50 percent in just eight years. Costs had meanwhile doubled, to more than $50 billion. The disability programs together—the insurance benefits paid to disabled workers through Social Security and the welfare benefits paid to the disabled poor through the Supplemental Security Income or SSI program—now rank fourth in size on the federal entitlement list, behind only the old-age part of Social Security and Medicare and Medicaid.

The benefits may well be all or mostly legitimate. That's less the issue than the fact that the programs achieved their present expanse through a process that was almost unwittingly. You will look in vain for clear and explicit discussions over the years, after which majorities of Congress voted deliberately to achieve the present result. Instead, the programs grew piecemeal and were largely ratcheted up in size through the courts. Advocates dropped fragments of language into the statutes that then became the bases of lawsuits expanding eligibility far beyond the points that most members likely ever dreamed they were voting for. Thanks to a 1990 Supreme Court decision based on one such insertion, many of the new recipients of SSI benefits on grounds of disability are children. A new report by the Congressional Research Service also observes that more than a fourth of Social Security disability awards are now given for mental as distinct from physical disorders; for the looser SSI, the figure is more than half.

No one disputes that many children of needy parents have serious disabilities, or that psychological factors can be disabling—and it may be necessary for the government to act in both such cases. But to have legitimacy, a major policy change needs to be explicitly made. You can't minimize such a transformation while slipping it into law and then, as its costs become apparent, just saying it will endure. In 1978 Congress passed and Jimmy Carter signed something called the Middle-Income Student Assistance Act, which basically removed most family income limitations from college student aid. The nature of the legislation was not well understood at the time; most of the income limits have since been restored. Likewise, under the rubric of welfare reform, the administration and advocacy groups are now discussing making child care more or more or less an entitlement for all near-poor and poor single parents whether they are on welfare or not. But it's enormously expensive and should not be turned into law as a kind of footnote. Legislators have a responsibility to publicly face what they are authorizing and to face as well the fiscal questions that follow.

As to disability, the administration and Congress both are looking for ways to rationalize the policies into which the government has stumbled and to cut the programs back. Sooner or later they'll do it, but in the meantime people are left again with the damaging impression that the giving and getting of government benefits is mostly a game of grab. The right way to make major policy of this sort is through the front door, not the back.

□ 1800

INCLUDING AGRICULTURAL TRADE UNDER WORLD TRADE RULES

The SPEAKER pro tempore (Mr. DARDEN). Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, last week U.S. Trade Representative Mickey Kantor signed the Uruguay round trade agreement with representatives from 125 nations. This agreement is the most far reaching and significant elimination of trade barriers in the history of the General Agreement on Tariffs and Trade or GATT.

Mr. Speaker, the Uruguay round trade agreement, if implemented, will substantially improve the world trade environment for many industrial sectors and especially agriculture. This Member has been a longtime proponent of efforts to include agricultural trade under world trade rules. As one of the world's most competitive producers of agricultural commodities, the United

States stands to gain the most from disciplined trade rules in this very important industry.

Since 1947 and the inception of the General Agreement on Tariffs and Trade, member nations have cooperated to write international trade rules for nearly all industries. However, for many reasons, these nations have been unable to cooperate and form global trade rules for agriculture. The Uruguay round's most ambitious task was to forge basic rules for this important sector. Although it took longer than planned, this is clearly the single most important accomplishment of the Uruguay round.

By including agricultural trade under world trade rules for the first time ever, the Uruguay round is projected to:

Increase U.S. agricultural exports from $1.6 to $4.7 billion by year 2000 and from $4.7 to $8.7 billion by 2005, with grain and animal products accounting for 75 percent of the increase.

Increase net farm sector income by as much as $1.3 billion in 2000 and by as much as $2.5 billion in 2005. This could help to reduce Government spending on agricultural subsidies by roughly the same amount.

Mr. Speaker, the Uruguay round trade agreement is projected to have this positive effect on U.S. agriculture because it accomplishes the following four essential tasks:

First, it reduces and prohibits many trade-distorting internal subsidies and other agricultural policies. Because U.S. agricultural producers have already been forced to take serious budget cuts, they will not be affected by internal subsidy reduction agreements reached under the accord.

Second, it reduces trade-distorting and price-depressing export subsidies. Unfortunately, the Clinton administration was forced to accept a European Union proposal to more gradually reduce their trade-distorting agricultural export subsidies. This compromise represented a retreat from the dramatic Blair House agricultural accord previously negotiated by the Bush administration which would have prohibited the European Union from subsidizing an additional 8.1 million tons of wheat and flour over the 6-year phaseout period.

Third, it converts nontariff barriers to tariff equivalents, binding all tariffs and reducing both existing and new tariffs over time. This binding of tariffs incidentally will have its most significant impact on developing and newly developed countries entering the World Trade Organization. For instance, the new binding tariff rates are already having a beneficial impact on Taiwan's WTO accession negotiations with United States trade officials.

Fourth, it establishes a science-based system discipline agricultural trade rules, and therefore, makes it more difficult for importing nations to discriminate against U.S. agricultural commodities on illegitimate health and safety claims.

Clearly, Mr. Speaker, the Uruguay round trade agreement is greatly beneficial to the U.S. agricultural industry which currently enjoys an annual $18 billion trade surplus. To Nebraska's grain and livestock producers, this agreement is perhaps most beneficial. Our grain producers export nearly 1 out of every 3 acres, so export subsidy reductions—which fall more drastically on European Union producers—will better enable them to compete for foreign markets by leveling the playing field. Additionally, these grain producers should benefit indirectly from greater market access to countries like Korea, where Nebraska's livestock producers expect to export a lot more grain-fed meat products.

Nevertheless, Mr. Speaker, despite the Uruguay round agreement's overwhelmingly beneficial effect on U.S. agriculture, it has been reported in several newspapers that the Clinton administration may attempt to make up lost tariff revenues from implementation of the Uruguay round by forcing unnecessary and imprudent budget cuts on the U.S. agricultural industry. While this Member believes there is a strong justification for waiving the budget act's application to the Uruguay round implementation legislation because the increased economic activity generated under the enhanced trade from the Uruguay round would generate more corporate and individual income tax revenue that the lost tariff fees even in the first year, this Member urges the administration, at a minimum, to fund all U.S. agricultural export subsidy programs to the full extent permitted by the value and volume export subsidy reduction commitments undertaken in the Uruguay round. Finally, this Member supports efforts by the coalition of food and agricultural interests to request that the administration shift current funding from Uruguay round reduced or disallowed programs to certain green box subsidy programs which are permitted to be increased under the Uruguay round agreement.

Mr. Speaker, American agricultural producers have been forced to make significant agricultural subsidy reductions in recent farm bills and agriculture appropriations acts. The Uruguay round negotiations take into account these past cuts in agricultural subsidies and U.S. farmers were assured during the Uruguay round negotiations that recent internal agriculture subsidy reductions were sufficient to meet the commitments made in that agreement. It would be especially harmful if the Clinton administration decided to unilaterally disarm the U.S. agricultural industry by reducing agricultural subsidies permitted under the Uruguay round agreement. If the United States chooses such an unrealistic strategy, foreign agricultural producers and nations will gladly take over traditional U.S. markets and beat us to lucrative markets emerging in the world's developing countries.

□ 1810

WELFARE REFORM

The SPEAKER pro tempore (Mr. DARDEN). Under the Speaker's announced policy of February 11, 1994, the gentleman from South Carolina [Mr. CLYBURN] is recognized for 60 minutes as the designee of the majority leader.

Mr. CLYBURN. Mr. Speaker, I would like to thank you for giving us the time to address the issue of welfare reform tonight.

Since the beginning of this session of Congress, the issue of health care reform has been on the front burner. News reports, constituent mail, and Members' own debates in this body have addressed the issue. There have been debates concerning the details of the health care crisis, possible solutions to this crisis, and even debates concerning the very existence of a crisis at all. Tonight, the members of this freshman task force are going to discuss efforts to reform something which no one will argue needs to be fixed.

Making work pay is far from the only concern in reforming the welfare system. Currently the rules and regulations governing AFDC, Medicaid, and Food Stamp Program are so complex that the vast majority of recipients—the very people these programs were designed to help—do not understand them and in many cases there is inadequate understanding on the parts of agency staff, advocates and employers as well.

Making work pay and closing the information gap are only two of the issues which must be addressed in any attempt to reform the welfare system. I will now yield to Mrs. CLAYTON, my colleague from North Carolina, who cochaired the Freshman Welfare Reform Task Force with Mr. RUSH, my colleague from Illinois.

This Nation's welfare system has been the subject of criticism by the press, by Members of both sides of the aisle and most importantly by the welfare recipients themselves. There are a wide range of opinions concerning what exactly is wrong with the system and whose fault it is, but we are not here to point fingers. Rather we are here tonight to offer constructive suggestions to solve the problems faced by those Americans who depend on the programs which make up our welfare system. We are here tonight to aid in the transformation of "ending welfare as we know it" from a popular political slogan to a more welcome reality.

Recently a bipartisan survey was shared with members of the freshman

Democratic caucus. This survey, conducted by Geoffrey Garin and Linda DiVall, not only confirmed the widespread opinion that the welfare system is in need of improvement but also that the American public believes strongly in the need for improvement. Seventy-nine percent of the participants in this survey feel that the welfare system does not work, compared with 61 percent who believe this country's health care system is in need of help. The great majority of those questioned named helping people to get off the welfare rolls and into the work force as the primary goal of welfare reform.

Some of the most inciteful comments have been expressed by welfare recipients themselves. The overwhelming majority want to work but the cost of leaving AFDC to enter the work force is too great. In many instances, the transitional Medicaid and child care assistance available to AFDC recipients for only 1 year after taking a full time job, is all that stands between former AFDC recipients and their return to the AFDC program. Over 80 percent of the AFDC recipients in a recent study responded it was not likely that they would accept a minimum wage job which did not provide health benefits for them and their children. Fifty-five percent responded that they would not accept a minimum wage job which would provide health benefits for themselves but not for their children.

In addition to the importance of health benefits is the necessity of child care. Fifty percent of the AFDC recipients ranked child care as the benefit most needed to enable them to work full time. In many States transitional child care assistance is available for only 1 year after entering the work force. For many of AFDC recipients who took part in answering these questions, the fear that their minimum wage income would not cover the cost of child care and health benefits in addition to other living expenses kept them from accepting full-time employment.

According to one AFDC recipient,

> When I am on AFDC, I can afford to feed my children and pay the rent. When I went to work, I lost the house and struggled to feed my children. I would send them to my mother's house to eat. All I could afford was child care and rent.

Mr. Speaker, I now yield to the gentlewoman from North Carolina [Mrs. CLAYTON], who cochaired the Freshman Welfare Reform Task Force along with the gentleman from Illinois [Mr. RUSH].

Mrs. CLAYTON. Mr. Speaker, I want to thank our president, the gentleman from South Carolina [Mr. CLYBURN], for coordinating this special order, and my freshman colleagues who are here to participate.

Welfare reform is of extreme importance to a great many people—14.2 million, and families—5.2 million, especially women and children—9.6 million, across this Nation. The reform of our current welfare system, the manner in which this Nation reaches out to assist families in need, is critical to fulfill a promising future for so many.

The current welfare system has failed to assist people with dignity and respect and does not enable them to become more self-sufficient or more responsible. Many have criticized the current system for holding back recipients from pursuing employment opportunities. In fact, there are some elements of the system that discourage work training and marriage. Through welfare reform we need to tear down these barriers that may exist that keep individuals from securing employment, self-development, or promote responsible parenting.

Many Americans agree that the current system of welfare exacerbates the problems of poverty. A recent poll found that "many believe the current welfare system encourages dependence and fails to provide sufficient help for people to make the transition to self-reliance." Also, many of those families who receive welfare are also frustrated with the failed system that provides benefits without taking the extra step to insure that they have the ability to end their cycle of poverty.

At the very heart of welfare debate needs to be a remembrance of our fellow brothers and sisters who are in need of our help. We must remind ourselves that the policies we develop should treat them with the dignity and respect they deserve.

Those of us speaking tonight represent the Welfare Reform Task Force of the Democratic freshman class. The purpose of the task force was to clearly understand the depth of the problem—not to do another study identifying the problems—and to seek consensus from the freshman class members on general principles that could be used in evaluating the various proposed legislation on welfare reform. Because our class is so philosophically diverse, we did not attempt to draft legislation that would answer the question of how to reform our welfare system, rather we developed basic principles that should be addressed in any welfare reform proposal that would seek our support.

The 16 task force members were appointed by our president, JIM CLYBURN, and BOBBY RUSH and I were assigned as chairs. We had several meetings wherein we discussed background information, proposed legislation, and various policy initiatives. A set of general principles were developed and recommended to the full Democratic freshman class for their discussion, modification, and approval. These principles have been shared publicly and tonight members of the task force will discuss some in detail.

The general principles we decided need to be addressed for true welfare reform are: First, jobs—for true welfare reform to take place we need to provide real job training followed by real jobs. Second, family—we must ensure that our families are supported. We must assist teen mothers with their special needs, help our young people learn self-esteem and family planning, and provide that noncustodial parents are financially responsible for their children. Third, support systems—we must provide services to welfare recipients that are sensitive to their ability to participate in programs due to a need for child care, bilingual proficiency, transportation, and related expenses.

One major point that we have agreed upon is that the burden of financing welfare reform should not be balanced on the backs of the poor. Rather—if we agree to take on welfare reform we must do it right. That is, we need to insure that the programs that will promote self-sufficiency and independence are well financed. If we are serious about reforming our welfare system, then we must be serious about providing resources to carry out that reformation.

One point that is essential that we all keep in mind as we prepare welfare reform legislation is who is on welfare. In a recent CRS document we found that of the 14.2 million persons benefiting from the Aid to Families with Dependent Children payments in 1993, 9.6 million were children. Understanding this, I find it essential that we compel ourselves to do this right. For the sake of the children.

In promoting jobs for welfare recipients, we need to be very sensitive to the fact that many recipients are young mothers, who need to provide for their young children and be good mothers at the same time. We need to ensure that families are a priority and recognize that parenting is a full-time job. Along with this comes the importance of ensuring that the noncustodial parents are employed and able to provide financially for their children so that the sole burden does not fall upon the mother and allows the mother to spend time with her children.

I look forward to the discussion that will follow from other members of the Democratic freshman class. Our task force will continue to evaluate legislation as it is introduced on the basis of our principles. We will continue to work to see that the reform of our welfare system is done right.

DEMOCRATIC FRESHMAN CLASS PRINCIPLES FOR WELFARE REFORM

(Co-Chairpersons of Welfare Reform Task Force: Rep. Eva Clayton, Rep. Bobby Rush)

OVERARCHING THEMES

1. Framework: Human dignity, responsibility, and respect are the cornerstones of the American tradition. The congressional welfare reform debate must recognize that all people have basic human and civil rights.

2. Purpose is self-sufficiency, and financing should not be regressive: True welfare reform will require investments in education, work-

er training, and child care programs in order to allow parents to become more self-sufficient. Therefore, adequate financing should be considered but at the very least the programs' financing should not be regressive.

3. Comprehensive welfare strategy: Welfare reform should include simultaneous consideration of a broader anti-poverty strategy to ensure that a permanent underclass of poverty is not created. Welfare reform must include, among other things, provisions for universal health care coverage, increased child care programs, job training and job creation programs, an expanded Earned Income Tax Credit, and other anti-poverty programs.

JOBS

1. Training: Job training is critical to enabling welfare recipients make the transition to permanent employment. Job training programs should afford flexibility in hours of instruction and vocational fields. There are currently over 120 federal job training programs. Consideration should be given to consolidating these programs and providing effective outreach strategies for recipients. Job training information should be accessible and available in other languages.

2. Placement: There must be an effort to ensure that people are not just trained in basic interviewing skills and placed in "make work" public sector jobs. Welfare reform must involve placing welfare recipients in jobs that pay a living wage.

3. Imposition of inflexible time limits: A fixed, arbitrary time limit will not work. Congress must carefully define the parameters of such a time limit, and provide flexibility to account for situations in which job training and placements may not work for certain individuals. We must recognize that our nation will never reach full employment—there will always be a certain percentage of the population that cannot be placed.

FAMILY

1. Encouraging strong families: The disincentives for mothers to work part time and care for their children must be removed, as well as disincentives for couples to marry that are inherent in the present system. The new system must be flexible enough to allow for the reestablishment of stronger family units without a blanket requirement that all mothers must work full time at minimum wage jobs: the respect for the balance between work and family that the rest of society enjoys should be extended to those within the lower-income echelons of society. The system should seek to keep families together by eliminating penalties for two-parent households and by allowing them to accumulate the resources necessary to maintain stability before they leave AFDC.

2. Teen pregnancy: A. Prevention program and support services: There must be a comprehensive, national teen pregnancy prevention program, including school-based services such as self-esteem and family planning counseling. For teens who do become pregnant, every reasonable effort must be made to help both parents finish high school, including linkages with support services such as child care, parenting classes, nutrition programs, and school-to-work transition programs.

B. Teen mothers required to live with a responsible adult: Teen mothers, and, if needed, their families, should be given special case management services. Rules regarding parents and grandparents as guardians must be reviewed and reformed to make it possible, where appropriate, for teen mothers to remain in their homes and receive AFDC and support services. To address the problem of teens getting pregnant to be independent, teen mothers should be required to be living in the home of a responsible adult (parent, teacher, counselor, relative, etc.) who, if not a parent, shall act in loco parentis, as determined appropriate by the mother and her case manager.

C. Abstinence and family planning: Both teenage males and females should be instructed on the merits of sexual abstinence and should be availed with family planning services in order to instill in them a sense of responsibility about parenthood and an understanding of alternatives to pregnancy.

3. Child support: We must develop a strong, national child support enforcement system which will have the effect of preventing many mothers from having to go on welfare because they cannot collect the child support to which their children are entitled. Any welfare reform proposal should include federalized child support collection of support which has been court-ordered, easier paternity establishment methods, and a minimum assured benefit level.

SUPPORT SYSTEMS

1. Streamlining bureaucracy, including one-stop shopping and examining the potential for recreating the present delivery system: Reforms should replace the current eligibility-checker system, a system based on issuing checks, with a case management system, a system based on giving recipients the tools to become permanently self-sufficient. The bureaucracy of the welfare system must be simplified and streamlined by adding "one-stop shopping" sites where recipients receive information on and apply for all necessary services, including child care, transportation, counseling, housing, child support, education and training opportunities, and current job market openings. There should also be an emphasis on creating an entirely new delivery system focused on giving localities enough flexibility to deliver services so as to remove barriers to employment.

2. Augmentation of information on underserved populations: Both at the national and state level, availability of data on underserved populations and welfare are very limited; it is therefore difficult to explore issues such as intergenerational dependency and child care concerns as they relate to women from these populations and their families. Greatly improved data collection will be necessary to gain an accurate picture of these underserved populations and their use of welfare, their attitudes about welfare, and the dynamics of poverty among single-mother families in these populations.

3. Fraud: Some jurisdictions have implemented programs to reduce the incidence of welfare fraud. A comprehensive review of these programs should be undertaken so as to ascertain and utilize their most effective aspects on a nationwide basis, including examination of the technology to electronically transfer benefits.

4. Case manager: As a client moves through different phases of the reform program, they may become discouraged and exit the program because of particular circumstances (examples: intimidation, poor self image, etc.). In addition, friends and family are not supportive when the client begins to change her life style. Therefore, a case manager should serve as a support system throughout a client's participation in the welfare reform program.

5. Transportation: In both rural and urban areas, transportation is a necessary component to allow individuals to have access to educational and training programs, job interviews, and child care services. Moreover, because rural counties have low population density, systems will also have to be created to address this unmet need.

6. Bilingual services: Welfare reform in many urban areas will involve diverse populations. Often people who would be eligible for a certain program or service miss the opportunity to participate because of a language deficiency. We must provide bilingual, culturally-sensitive services in any welfare reform effort.

7. Job-related expenses: In order to pay fees and other expenses related to self sufficiency, individuals must have funds to assist with meals outside of the home, uniforms or supplies that are essential to education or job training, expenses that must be paid in order to meet program expectations, and personal items that allow individuals to interact with others without the stigma of being viewed as a welfare recipient.

8. Child care services: Parents are unable to enter programs or work if there is a lack of child care services. The availability and access to services, as well as such issues as flexibility of hours, and the quality of child care services are important considerations. Child and dependent care that is affordable and of high quality must be available not only to participants in education and job training activities, but also to those entering the paid labor force for enough time to enable them to become self-sufficient.

GEOGRAPHIC DISCRIMINATION

1. Territories: the unique situation of the Territories and the commonwealth of Puerto Rico pertaining to federal programs of social assistance must be re-examined with the purpose of having these insular areas fully participate in the programs and principles which will result from welfare reform. The needs and contributions of the over four million American citizens living in the Territories should not be overlooked; thus, the federal government must take assertive steps to implement measures which may be necessary in order to include these citizens within the goals of welfare reform.

FINANCING

1. Potential tax increase: The proposal should not be financed on the backs of poor Americans by cutting AFDC and other aspects of our social safety net in order to pay for the reforms. There must be an adequate investment made, not just lip service. The budget rules are tough, but this effort cannot have the net result of making the poorest members of society worse off than they were. The potential for a tax increase to pay for the new system must be considered.

2. Other possible funding sources: A. Progressive premium scheme for Medicare Part B: Under Medicare, Part B is optional and partially paid for by premiums (25%), with the rest (75%) being subsidized by the general treasury: even millionaires on Medicare Part B get a 75% subsidy from the government. The CBS has estimated that $18.5 billion could be saved over five years by phasing in a higher premium starting with individuals who make over $50,000 and couples making over $65,000. The phase-in would end at 50% (so the beneficiary is paying half rather than one-quarter of the cost of the program), which would apply to individuals over $60,000 in annual income over $80,000. Obviously, there are other options using this idea that can raise more revenue.

B. Tax on foreign investment: This option comes from the Citizens for Tax Justice: a 5% tax on interest earned by foreigners lending in the United States (on loans to American companies and the U.S. Government.) This was exempted from taxation in 1984. Typically, this interest income is not reported to foreigners' home governments. As a result, the U.S. has become a major international tax haven. The tax could be waived if a foreign lender supplies the information necessary to report the interest to the foreign home government. The five year gain is estimated to be at least $15 billion, possibly more.

3. Legal immigrants should not be targeted: Legal immigrants pay taxes into our system. When there are hard times, they face the same challenges citizens face. Legal immigrants should not be targeted as the only poor people who will be made to pay for these reforms. Any redesign of the public benefits system must ensure that legal immigrants are able to fully participate.

□ 1820

Mr. CLYBURN. I thank the gentlewoman for her remarks.

Mr. Speaker, at this time I yield to the distinguished gentleman from Illinois, a member of the Committee on Banking, Finance and Urban Affairs and the Committee on Government Operations, who along with the gentlewoman from North Carolina [Mrs. CLAYTON] cochaired this task force, the gentleman from Illinois [Mr. RUSH].

Mr. RUSH. I thank the gentleman for yielding to me.

Mr. Speaker, As cochair of the freshman class welfare reform task force, I would like to thank the gentlelady from North Carolina, my cochair, for her hard work and her leadership on this and so many other issues.

And I would also like to thank all of my fellow members of the task force who are joining me today in this special order on welfare reform.

President Clinton has promised to end welfare as we know it. As this debate has developed, over the last few months, this has proven to be an extremely complicated commitment to fulfill.

As a Member of Congress who has more than 18,000 constituent families who receive welfare, and as someone who has lived in public housing, I can say that I know and understand the welfare system.

I know it as a broken system that desperately needs a nearly complete overhaul.

I can also say I agree with the President that we must change the fundamental principles behind the welfare system.

In my direct, I have heard from people who say there is no way they can support their children on $367 a month plus food stamps.

I have heard from people on welfare who felt there was a strong disincentive for them to work. For many, work makes no sense when a job barely pays more than monthly welfare payments, provides no health insurance, and forces them to leave their children alone at home with no one to care for them.

But mostly, throughout my years outside of and in politics, I have heard from people who would gladly work, if only the jobs were available.

Welfare was meant to be a helping hand. Instead, it has become a restraining hand which works to keep individuals down. The time has come to do something decisive. I am pleased that the administration has recognized that the present situation cannot continue. To that end, I have joined my freshman colleagues in preparing a set of principles which we feel must be central to any welfare reform package. My cochair has detailed many of these specific principles, but a few in particular bear some emphasis.

A society's most important responsibility is to care and provide for all of its members. And I can think of no allocation of our resources which is more worthwhile than to work to help the over 9.6 million American children on welfare today. We cannot and must not hesitate when it comes to investments in our children.

Further, if we are going to help Americans get off of welfare, and not merely kick them off at the end of 2 years with no recourse and no support, we must make absolutely certain that health care, child care, and flexible job training and placement in real jobs are made integral parts of the new system.

But just as important, we need to reinvest in our most disadvantaged communities so that the jobs that former welfare recipients achieve are real and permanent. Once the differences between the House and Senate bills are rectified, the President will soon sign a community development banking bill which makes a small but precise step in the right direction, but much more of that kind of targeted investment is needed.

There must be a strong emphasis in this effort toward putting more people back to work. As we all know, ultimately, the only way we can make people self-sufficient is if we offer them viable alternatives to welfare.

For many on welfare, all we need to do is make working a financially feasible option. In a similar vein to the expanded EITC, we can do this by providing better child-care programs, guaranteeing health insurance for everyone, and putting an end to measures which penalize single perents who work or save for the future.

However, for others, we must supply a greater level of assistance. Efforts must be made to improve job training, counseling, and placement programs for people who have never worked or who have limited skills.

Most important, we must work to locate and create jobs in those communities which face severe job shortages. A combination of opportunities and assistance can and will offer those on welfare the help they need to break out of the cycle of poverty.

Ultimately, the key in welfare reform is to remember that in ending welfare as we know it, our aim is not to hurt people, but to help them achieve self-sufficiency.

We must work together to create a welfare system not merely with fewer people in it, but a society with fewer people who need the kind of support which our welfare system provides.

□ 1830

Mr. CLYBURN. Mr. Speaker, I thank the gentleman from Illinois [Mr. RUSH] very much.

Mr. Speaker, I yield now to the gentlewoman from California [Ms. ROYBAL-ALLARD], a member of the Committee on Small Business and the Committee on Banking, Finance and Urban Affairs, and an award winning legislator from the California State Assembly.

Ms. ROYBAL-ALLARD. Mr. Speaker, I am pleased to join my freshman colleagues in this important discussion of welfare reform and to outline the framework we feel is crucial to creating positive and lasting reform.

Our discussion is based on the premise that human dignity, responsibility, and respect are the cornerstones of the American tradition. We believe that any reform debate must recognize that all people have basic human and civil rights.

All measures for reform must flow directly from these principles.

In order to reach the ultimate goal of promoting self-sufficiency, our legislative package focuses primarily on the elimination of poverty, not simply the reduction of AFDC rolls. This long-term approach demonstrates the discipline and vision necessary to help recipients escape the trap of hopelessness the welfare system has become for millions of Americans.

It was not long ago that welfare was described as a "hand up, not a handout." However, the result has been a massive, convoluted system that is a handout with no way out. The freshman class task force refocuses on the original intent and concentrates on providing recipients the skills and services they need to be self-sufficient.

To accomplish this goal, the task force pursues a comprehensive strategy which includes health coverage and child care programs.

We support effective and relevant job training programs to assure that welfare recipients make the transition to permanent employment with security and advancement opportunities if we are to end the perpetual cycle of poverty.

Reform must not be punitive to those in genuine need. Instead, reform must be flexible enough to accommodate the specific needs of those entering the system with problems such as illiteracy and family violence.

Recognizing the critical role of family in a strong society, the task force's proposal supports the self-help efforts of families, without impeding a family's positive steps toward self-reliance, penalizing two-parent families who strive to remain intact or hindering recipients struggling to save for a better future.

Our approach ensures that the financing of reform programs does not penalize the poor by cutting AFDC and other social safety net components. To do so is shortsighted and threatens to create a permanent underclass of individuals, denied public assistance and unable to care for themselves.

In closing, dignity and respect must be kept at the forefront of our thinking as we work toward the long-term goal of self-sufficiency. We must use the reform process as an opportunity to strengthen our best hope for America: its precious human resources.

Mr. CLYBURN. Mr. Speaker, I thank the gentlewoman from California [Ms. ROYBAL-ALLARD].

Mr. Speaker, I now yield to the gentlewoman from California [Ms. WOOLSEY] who is a member of the Committee on the Budget, the Committee on Education and Labor, and the Committee on Government Operations who has managed, was the founder of, a human resources agency. She will be discussing child support and what we ought to do within the welfare system to reform that aspect.

Ms. WOOLSEY. Mr. Speaker, I am pleased to join my freshman class colleagues here today, and I compliment the gentleman from South Carolina [Mr. CLYBURN] and the gentleman from Illinois [Mr. RUSH] for their work on welfare reform. We were elected because this Nation demanded change. And, with the principles established by the freshman Democrats, we have made a bold commitment to fundamentally change the welfare system as we know it.

Tonight, I want to focus on a broad principle that has already been introduced as legislation: A complete overhaul of our Nation's child support system. I recently introduced comprehensive and revolutionary child support reform legislation called the Secure Assurance for Families Everywhere Act, or SAFE. SAFE has been included in the freshman Democrats' welfare principles and has the endorsement of many freshman class Members. SAFE serves as the first step of the welfare reform plan that I will introduce next week. Reform that incorporates the principles of the freshman class task force.

Mr. Speaker, child support reform should be the first step in any welfare reform proposal considered by Congress.

Each year in America, of the $47 billion owed in court-ordered child support, only $13 billion is collected, leaving a $34 billion gap between what is owed and what is paid to support our children.

Mr. Speaker, that $34 billion gap is a national disgrace which is punishing our children and bankrupting our welfare system. The SAFE bill will recoup that $34 billion in unpaid child support, and put it in the hands of those who deserve it: children.

The first step toward getting children the support they are owed is federalizing child support collection. By having the IRS maintain a national registry of child support orders, and using wage withholding to collect support, that $34 billion gap will close. Today, States use over $500 million a year in Federal dollars to collect child support—resulting in confusion, duplication, and failing collection rates which range as low as 11.9 percent.

Further, 33 percent of child support cases are interstate. Since it is difficult for States to enforce child support across State lines, less than $1 for every $10 owed in interstate child support is collected.

SAFE would do away with the current hit-or-miss State child support collection system by enabling the IRS, which has an 84-percent tax collection rate, to withhold child support payments from an absent parent's paycheck and pay support to families with child support orders.

SAFE also guarantees every family that is owed child support a minimum monthly payment.

Just like the Social Security System, which ensures that children of deceased parents receive financial support, SAFE guarantees that children abandoned by their living parents are also supported. SAFE will provide every parent who is owned child support a minimum monthly payment of $250.

Finally, SAFE will greatly increase paternity establishment. SAFE will make it easier to establish paternity and to meet parental responsibilities.

After all, Mr. Speaker, child support reform is about taking care of our children.

With children accounting for 70 percent of welfare recipients, this bill will play a major role in reducing dependence on welfare. If we are truly serious about reforming the welfare system, it should be the first step Congress takes.

Researchers estimate that a system like SAFE could move about one-third of welfare recipients off the rolls.

Mr. Speaker, I am pleased to endorse the freshman class principles for fundamental change, and I look forward to working with my colleagues in Congress to enact a fair and just welfare reform. Because, after all, Mr. Speaker, welfare reform is about children.

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Mr. CLYBURN. Mr. Speaker, I would like to thank Ms. WOOLSEY for that insightful statement on child support.

As you know, Mr. Speaker, at the core of welfare reform must be education and training. To discuss that for us, I would like to yield to the gentleman from Pennsylvania, a member of the Banking, Education and Labor, and Small Business Committees, Mr. KLINK.

Mr. KLINK. Mr. Speaker, it's a pleasure to participate in today's special order by the freshman class welfare reform task force.

I want to compliment my fellow members of the task force who have worked hard to develop a list of welfare reform principles to serve as an underpinning for President Clinton's welfare reform package. This legislation will be introduced later this year.

My intent here is to discuss the welfare reform components of education and training. But before I do that let me underscore why welfare reform is needed.

My home State of Pennsylvania and other States have had problems with the overpayment of welfare benefits. A State audit earlier this year revealed that the welfare recipients in Beaver County, PA which is in my congressional district, had been overpaid by nearly $500,000 over a 3-year period.

Spread across the Commonwealth of Pennsylvania these overpayments—blamed on the State welfare personnel and not on the welfare recipients themselves—have cost the taxpayers millions. These overpayments simply are not acceptable. Any comprehensive welfare reform package has to inject efficiency and fiscal responsibility into the delivery system so these overpayments do not happen in the future.

Mr. Speaker, our welfare system does not work. It has institutionalized government handouts and it has discouraged working. Welfare—once a temporary safety net—now is a lifestyle passed from one generation to another. The current welfare system should embody personal responsibility—instead it fosters personal irresponsibility. Finally, the existing welfare system is not connecting clients to training and employment.

Welfare reform will not be true reform unless it emphasizes less government dependency, greater human dignity of the participants and it ultimately educates and trains people to be productive in the modern work force.

Job training is critical to enabling welfare recipients to make the transition to permanent employment. Job training programs should afford flexibility in hours of instruction and vocational fields. Currently, there are more than 120 Federal job training programs.

To be effective, these job training programs need to be streamlined and consolidated not only to transform welfare recipients into workers but to assist displaced workers, students, and others who desperately want to find work.

The Reemployment Act of 1994—that was introduced earlier this year—will provide the streamlining and the consolidation of job training programs necessary to ensure welfare reform.

The Reemployment Act will help establish one-stop career centers that will serve as a common point of access to employment, education, and training information and services. Participants in the new system will use these career centers to plug into training and education opportunities. Intensive reemployment services are made to workers not able to find a job through the center's basic services. These participants will work with job placement counselors who will assist them in drafting a job plan.

In addition, the Reemployment Act will develop a national labor market information system so that training and education efforts can target workers for specific jobs.

The Reemployment Act will help to install the education and training machinery necessary to enable welfare recipients and other dislocated workers to become productive workers. Finally, the new system will be founded on the personal responsibility of the participants and a streamlined, more efficient array of government services.

Mr. Speaker, the majority of the American people—through survey research—have indicated that the top goal of welfare reform is to get welfare clients off the government dole and into productive jobs.

The Reemployment Act will help install the necessary foundation so the welfare system as we know it will become to the late 20th century what the horse cavalry became to the early 20th century, another outdated institution.

Mr. CLYBURN. I want to thank the gentleman from Pennsylvania.

Mr. Speaker, for a discussion of developmental assistance, I would like to yield to the gentlewoman from Florida, who was recently selected as one of this Nation's most popular elected officials, a Member of the Committee on Appropriations, the Honorable CARRIE MEEK.

Mrs. MEEK of Florida. Mr. Speaker and Members of the freshman class, we hear a lot of rhetoric about welfare reform, about how it has to stop being a way of life, and about 2 years and you are out. But the easy part of welfare reform is figuring out where you want to go. The hardest part is figuring out how to get there. That is what we are here for this evening.

We all know, including welfare mothers, that every proposal that is serious costs money. I have been through the alphabet machine in all of these welfare programs and acronyms over the years. I have yet to see one that works to get the women off welfare. Unless we prepare ourselves to do things differently and better, then we are not making sense providing rhetoric for the welfare program.

Mr. Speaker, I come at this issue from perhaps a different standpoint than many other people. I have seen this system and how it is broken and how it is disoriented in my community. I have seen what it does and what it does not do. I want to make it clear that when it comes to welfare, race and ethnicity are both immaterial. Thirty-eight percent of families receiving welfare payments are African-Americans, but 38 percent of families receiving welfare payments are also non-Hispanic Caucasians, and 17 percent of these families are Hispanic-Americans.

Mr. Speaker, poverty is an equal opportunity problem in America. No single group has a majority or a monopoly. To me the worst thing about our welfare system is that it is wasteful. It has been wasteful, and it still is.

Some people only think about the money being wasted. I think about the waste of the money, and I also think about the people. We have a welfare system that does not mind wasting people. The worst waste is the little children. They are doomed to grow up in poverty, in households struggling to survive. During the eighties, the number of poor infants and toddlers increased by 26 percent. The poorest Americans by far are infants and toddlers.

But the squeeze on welfare recipients, if you put the squeeze on them, you put the squeeze on children. But help welfare children recipients and you help children. Keep in mind that welfare is a lousy way of life. People do not want to be on welfare. The average benefit for a family of three is $275 a month. Would anybody want to leave their job and raise their family on $375 a month? Not likely. It is going to cost us money in the short run, but for once, I think we have to put less attention on how much money it is going to cost and put more attention on how this money will be spent.

□ 1850

Because I think that no matter how much money you pump into the system, sometimes you pump bad money after bad money. Nothing will change until those on welfare get the basic skills they need to get and hold a decent job.

I have seen the people escalate from one welfare program or from one training program to the other. The people that benefit most are the administrators and the people who manage these programs. The money never gets down to the poor people. I am for changing this cycle. It is a very bad cycle. Nothing will ever end poverty as fast as a decent job.

We can train people. They are trainable. They are educable. But unless we get a strategic plan with a systematic, sequential way of training people in meaningful jobs, being sure that those who mean business stay in the program, those who do not mean business are kicked out. I have seen this cycle too long. It is cyclical. And every 10 or 20 years we get back on this again.

I am serious about the welfare reform program, and I am sure the freshman class in all of their deliberations are looking forward to a serious program, one where money is not thrown about just to please those who love the word "welfare reform."

There are two keys to welfare reform in my opinion: health care and what I call "developmental education".

For health care, it is pretty obvious to everyone.

For many Americans getting on welfare at least gets you health care, Medicaid. One of the best things we can do in this Congress to break this cycle is to pass a health care reform plan that will provide every American with health care that can never be taken away.

But developmental education and teaching people basic skills in a serious manner is less obvious, but it is no less important. Everyone knows the advertizing slogan from T.V., "Real food is for real people." I would like to see a new slogan catch on: "Real skills for real jobs," one that will train people, come up with a public-private partnership. And it will work. Get them off the welfare role and onto the payroll, any payroll, even if it begins at the bottom.

People must be taught that they cannot always end up in a high-paying job but that they start wherever there skills find them and work up. For me, success is measured by getting people off the welfare and into a job. That is where this developmental education is needed.

As an educator, I have seen it over and over again. Training programs set up as long as there is Federal money coming in. As soon as the Federal money is over, then the capacity ends. And there is no capacity left, because there is no Federal money.

I think we should get this behind us, be sure that money is invested in proven programs that work and that schools and colleges, particularly community colleges, I have seen them work very well in training programs with adults.

There is a way that you train adults. It is called the science of androgyny and not the science of pedagogy, where people are taught like children. Both are necessary, but neither is sufficient right now.

Let us develop those strong partnerships, Mr. Speaker, with private industry to train people and teach them skills and create strong incentives for anyone to participate in this program.

We are facing a new day, Mr. Speaker, where we must not continue to do things the old way, because the old way is not working anymore. We must have true reform where people are given some meaningful way to enhance their quality of life.

Mr. CLYBURN. Mr. Speaker, I want to thank the gentlewoman from Florida [Mrs. MEEK] for that statement.

I now yield to the gentleman from Ohio [Mr. FINGERHUT], who will talk to us a little bit about the delivery of services and training.

Mr. FINGERHUT. Mr. Speaker, I thank our distinguished class president for yielding to me.

I also want to thank the chairpeople of this task force, the gentlewoman from North Carolina [Mrs. CLAYTON], the gentleman from Illinois [Mr. RUSH], for their work on this project. And particularly say how pleased I am to follow the distinguished gentlewoman from Florida [Mrs. MEEK] in this discussion.

She may have taken a little bit of my time, but it was well worth it. I subscribe and associate myself with all of her remarks, particularly her very eloquent statement on behalf of real reform and understanding that if we do not fundamentally change the delivery systems that deal with people who find themselves in the situation of needing to be on the welfare system, that we will never make any real changes that the question is not, as Mrs. MEEK said, just how much money will be spent but how that money will be spent and what kinds of programs we will enact.

My own personal experience on this issue, frankly, is in this area of education and training.

I served, at the beginning of my career, as a legal aid lawyer representing people who found themselves on welfare. Then I was the associate director of a program called Cleveland Works, which is a job training and placement program for welfare recipients in the Cleveland area. And then both in service with the mayor of the city of Cleveland and in the Ohio State Senate, I was part of trying to deal with our welfare programs in the State of Ohio. I feel that I have some firsthand experience with this program.

If there is anything that would summarize my feelings about it, it is two points:

The first is that no one likes this system. No one likes it. The notion that people who are on welfare like being on welfare is, as Mrs. MEEK just concluded by pointing out the amount of money involved, is ridiculous. It is degrading. It lacks dignity. It is a trap. It is a full-time job to go from program to program to beg for the crumbs that come out of the various agencies. It is not a way to raise children. It is not a way of life, and no one who is on this system, in my experience that I have dealt with, likes being on the system.

As we all well know, by simply talking and campaigning and meeting with our constituents, we know the taxpayers do not like the system. They do not feel that their money is being well spent.

Interestingly, it is not the amount of money that is spent that is the complaint, but it is that the way we spend the money does not reflect the values that the taxpayers want their money to be spent for.

They want this money to be spent so that people can become self-sufficient, help themselves, not become dependent and unable to help themselves.

The second point, which everybody has made here today, is that the focus of welfare reform is jobs. The only way to really have that dignity as an individual supporting yourself and your family is to have a job. That is what I simply want to focus on for my remaining moments. That is, that in the delivery system we must place a high value on placement programs that help people get into that private sector job.

It is the fact that there are jobs out there that people on welfare can qualify for today. When I was the associate director of Cleveland Works, our job was to place people who had been on welfare sometimes for 6, 8, 10 years into jobs in the private sector. We did not go out to the companies in Cleveland and say, "Do a good favor for somebody, help a person who has been on welfare, give them a job, make this part of your religious or moral or social commitment."

We said, "Here is a person who has been overlooked by society, who has the qualities to become the best employee that there is, if you will only give them an opportunity."

We helped people with interview skills, with resumes, with perhaps brushing up on skills that they thought they once had had and needed some quick training and some quick brush-up

We helped them with transportation and managing some problems that they had at home. Oftentimes people have a hard time getting away from home because of child care or because of legal problems. Unfortunately, often it is because of domestic violence of some other issue that is keeping somebody down at home.

We would help them be able to qualify for that private sector job.

We must focus on placing people. There are people who are ready, able, and willing to work today. That is the first thing that I think about our delivery systems that I want to stress tonight on behalf of this task force package and product.

The second is something that I will just simply underscore what Mrs. MEEK said. That is, that training programs have got to be real. They have got to be measurable, and they have to be held accountable. And they have got to compete with people for their ability to succeed.

We cannot simply say to the people who have been running the welfare bureaucracies around the country that now you can become trainers and because now you are training the Federal money will flow for training as long as you can show that you have people sitting at a desk or sitting in a classroom or, even worse, yet on a piece of paper are registered.

We have to insist that these are real programs, really helping people.

In my own district, we have three community colleges that educate low-income people all the time. We have two 2-year programs associated with major 4-year universities. We have joint vocational schools. We have the ability to provide education to everyone who needs that education and training.

I frankly am desperately worried that we are going to send more money into existing training programs that are failing or showing only marginal rates of increase. We will put a lot of money into this program.

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It will not show the success it needs to show, and the public will come back in a few years and say, "See, we told you so when you promised us welfare reform, and we did not get it." We have to be tough about how this money is spent and put it into real programs that really work.

In conclusion, the example that I know best, as I said, is a program called Cleveland Works in Cleveland, Ohio. We were a private, nonprofit organization. We had to apply for funds every year to the State of Ohio. We had a contract.

We said, "Here is how many people we are going to put in jobs. Here is how long they are going to stay in jobs. Here is the kind of job they are going to be in, a full-time job with health benefits." We said, "Hold us to our standards, and if we do not meet the standards, then pull our contract and give it to somebody else." Those are the kinds of tough-minded programs we need to fund as we go through this welfare reform program.

Let me compliment the leaders of this task force, who have done such a good job, and associate myself with all the remarks that have been made today. They have been eloquent, and they have been right on point.

Mr. Speaker, I thank the gentleman very much for yielding to me.

The SPEAKER. The Chair would advise the gentleman from South Carolina that he has approximately 12 minutes remaining.

Mr. CLYBURN. Mr. Chairman, I yield to the gentleman from Puerto Rico (Mr. ROMERO-BARCELÓ), who will speak to us about welfare in relation to the territories.

Mr. ROMERO-BARCELÓ. Mr. Speaker, I commend the President for his leadership in attempting to bring about meaningful change to our Nation's welfare system, like he said: "to end welfare as we know it".

The freshman class has also taken the initiative of addressing the need for welfare reform, and we did engage in a thorough process that culminated in a document that lays out the consensus of this group.

Among the key aspects of our recommendations is the firm belief that the reform's goals must aim at promoting self-sufficiency and that the short-term expenditures necessary to implement the reform must not be financed by the poor. Whatever amount we invest in welfare reform this year will render much greater benefits to our society as a whole in just a few years.

The national consensus seems to indicate that the welfare system is broken and that it needs a major overhaul. Therefore, we must be willing to come up with the necessary resources needed to fix the problems and implement the solutions that will ultimately reward work, self-sufficiency, family unity, and responsibility.

Nevertheless, let us not forget that we will always have a small proportion of our population that for valid reasons will not be able to attain full self-sufficiency. Such individuals will need some type of assistance from the Government: for example, people with chronic disabilities, indigent senior citizens, and children at risk.

The reform effort must envision a comprehensive welfare strategy which will result in carefully designed programs that will bring people out of poverty. Thus, the President's plan must consider the possibility of extending welfare resources and responsibilities to groups that have been traditionally excluded or underserved by welfare mechanisms.

A case in point is what is happening in my own district, Puerto Rico. Home to over 3.6 million American citizens where a large segment of the population has been condemned to a permanent underclass of poverty by inconsistent and totally contradictory Federal policies toward the American citizens in Puerto Rico.

This freshman class condemns the geographical discrimination toward the American citizens living in the territories. In the particular case of Puerto Rico, I am appalled by the preliminary recommendations being considered by the administration's task force. These do not address at all the causes and roots of poverty in the territories, nor in Puerto Rico, the poorest per-capita jurisdiction in the entire Nation.

Unfortunately, the income gap between the mainland and Puerto Rico continues to widen with the passing of the years and the island's per capita income is three times below the national average. The widening of this gap is the direct result of the caps, which severely limit welfare programs as they apply to the territories. To address these injustices, the Nation has to sustain a policy of maintaining the poor in the territories, poorer than their counterparts in the 50 States. How can anyone rationalize this policy?

The goals and benefits that welfare reform will render are not in the horizon for the territories and for Puerto Rico and the other territories. Can this situation be tolerated?

To give you an idea on how inconsistent the Federal policies toward Puerto Rico are, consider the following: Elderly poor and/or disabled citizens are not eligible for Supplemental Security Income assistance. A family of three eligible for AFDC payments [Aid to Families with Dependent Children] receive only a monthly average payment of $48. This same family living in the mainland would receive approximately $450 per month.

To complicate matters further, this same family not only lacks adequate resources to stay afloat, but in fact faces a catch-22 situation since the breadwinner in such family in Puerto Rico cannot take advantage of the earned income tax credit—a program specifically designed to provide incentives for the working poor—this program is inapplicable in Puerto Rico.

The earned income tax credit is a critical component of the welfare reform efforts and we thank the President and many Members of this House for having expanded this program in a significant way last year.

However, instead of addressing the critical needs of thousands of citizens in my district, Congress and the Federal Government have opted for giving to wealthy corporations in Puerto Rico extremely generous tax breaks, amounting to billions of dollars each year, yes billions—and crumbs to the poor U.S. citizens in Puerto Rico.

As a colonial delegate without the power to vote in this House, I can only bring to your attention the need for meaningful changes long overdue for your fellow citizens in Puerto Rico. I cannot vote, you can and the power to change things rests with you and with our President.

The poor do not pay taxes and they should not be condemned to be a permanent underclass. We must aggressively promote policies that break the poverty cycle. There are over 140,000 children living in poverty in Puerto Rico.

The poor in Puerto Rico do not have adequate health care, a basic necessity, the Medicaid Program is inapplicable in Puerto Rico. Further, those in need of nutritional assistance obtain limited help since the Food Stamp Program is also capped. Even poor children are shortchanged in their educational opportunities since Federal assistance under the Chapter 1 Program, which is designed to assist poor school children, is also capped at about 60 percent of what Puerto Rico would receive if treated as a State.

Object poverty demoralizes not only the ones who suffer from it, but also demoralizes the society that tolerates it.

I call on this Congress and on this administration to seriously consider the repercussions of tolerating discrimination against the most needy U.S. citizens. Geographic location should not be a barrier to better opportunities. Let us provide the appropriate tools and people will help themselves.

I thank the leadership of this freshman class, our president, JIM CLYBURN, and also EVA CLAYTON and BOBBY RUSH, for coordinating a careful analysis of the welfare issue and for seeking a consensus on solutions that will benefit all of our people.

Mr. CLYBURN. Mr. Speaker, I yield to the gentleman from Mississippi [Mr. THOMPSON], a member of the Committee on Agriculture, the Committee on Merchant Marine and Fisheries, and the Committee on Small Business.

Mr. THOMPSON. Mr. Speaker, as a member of the Freshman Class Welfare Reform Task Force, and as the Representative of a district in which 40 percent of the constituents receive Aid to Families With Dependent Children [AFDC] and 34 percent receive food stamps, I feel compelled to discuss the importance of developing a welfare reform concept that removes individuals out of poverty. In March 1993, the Mississippi State Legislature passed a significant piece of legislation designed to improve the current welfare system in Mississippi.

This legislation entitled "Mississippi's New Direction Demonstration Project" is designed to guide recipients toward self-sufficiency. This package of programs is devised to reduce the dependency of welfare support through the following components: the statewide features, the work encouragement demonstration, and the work first demonstration.

The statewide features component focuses on strengthening family responsibilities and on improving the preparation of all welfare recipients for long-term employment. This component is an additional feature that will be included in all welfare type programs implemented in the State of Mississippi. Some specific areas that will be affected will include extending help to minor parents; extending eligibility to two-parent families; developing efficiencies in paternity establishments; establishing family resource centers; requiring mandatory immunization for children; promoting the use of the earned income tax credit, as well as targeted jobs tax credit for employers; and expanding the use of the State's literacy training programs.

The Work Encouragement Demonstration Program is a two-county, 3-year program—Washington and Jones. The program will evaluate the impact of the removal of the income disregard requirement on welfare dependency. Moreover, it will allow welfare recipients to receive their normal benefits regardless of income. Other characteristics include requiring participation by noncustodial, nonworking parents; and the provision of a 25-hour volunteer work component with a paid stipend of $50.

The Work First Demonstration Program is a six-county—Leflore, Hinds, Madison, Lee, Harrison, and Oktibbeha—demonstration project designed to transition public assistance recipients to regular employment. Three of these counties are in the Second Congressional District. Work First will provide to AFDC and Food Stamp recipients jobs with private and public sector employers in exchange for their food stamp and AFDC allocations.

The Work First Demonstration Program is being marketed as a business expansion concept. The employment positions made available to participants will be newly created ones and all employment transactions will be conducted through the local employment office. Most of the initial job creation will be in the public sector; that is, school districts, hospitals, municipal and county government. However, the State is receiving numerous requests from private sector employers regarding their expansion needs. The only way that this concept is going to be effective is through business expansion. This concept is being marketed to the private sector as a training component for future expansion.

In order to accomplish this form of welfare enhancement, over 15 different waivers are required from the U.S. Departments of Health and Human Services and Agriculture. Without the removal of these barriers, this concept cannot be realized. Waivers will allow the creation of accounts on behalf of participants; eliminate the requirement that the principal wage earner have a recent connection in the labor force; enhance paternity establishments, enhance fraud control efforts; and provide flexibility on mandatory immunization.

The demonstration projects described represent a basis for instituting reforms. However, they in no way can be perceived as a cure-all for the many poverty related ills besetting the State. I still have concerns about what will happen after the 3-year demonstration projects are over. I worry that families will remain in poverty after all the experiments have been initiated and evaluated. But more importantly, I worry that children will never develop the self-esteem and skill levels needed to stop the cycle of poverty.

These concerns are warranted, I feel, when one considers the fact that Mississippi enjoyed its best budget year in history. As a result of the establishment of casino gaming, the State realized an additional $300 million plus in its budget coffer. Yet, not $1 was delegated this legislative session to address the AFDC standard of need.

Given the cost of living in Mississippi, it is doubtful whether $4.25 an hour will provide the type of economic assistance necessary to remove many families out of poverty.

I recognize that in order to remove people out of poverty, we must be flexible based on the unique characteristics of each State. However, welfare reform should not become a dog and pony show with graphs and charts showing the number of people that have been removed from AFDC rolls, but one that shows the number of individuals that have been removed from poverty. Removing individuals out of poverty must become the only goal of welfare reform. This goal can be realized only if the Congress, the administration, and the American public join forces and demand it. Self-serving political interests and hidden agendas have no room in this ongoing debate.

Mr. CLYBURN. Mr. Speaker, I thank the distinguished gentleman from Mississippi.

Mr. Speaker, I yield to the gentlewoman from Georgia [Ms. McKINNEY], a member of the Committee on Agriculture and the Committee on Foreign Affairs.

Ms. McKINNEY. Mr. Speaker, I rise today to address the issue of welfare reform and why any reform attempted by this august body must be a comprehensive plan to systematically dismantle the system of ambiguous and conflicting Federal regulations that are "disincentives" to work.

Welfare reform, health care reform and the affordable housing crisis are inextricably linked. We cannot "reform welfare" without addressing the key issues of health care reform, child support reform, affordable daycare services, housing regulation reform as well as revamping the AFDC and Food Stamp Programs. Welfare reform must be an incentive to work. Comprehensive welfare reform must be a road map out of poverty. We must help to "make work pay" by removing the "disincentives" to work. Welfare reform should include as key components the following items:

First, job training and placement: Job training must be provided for up to 2 years for all "able bodied individuals." Followup services need to be provided to help obtain appropriate job placement after the education and training period is completed. We cannot say "two years and you are out." We must provide welfare recipients appropriate job training for today's work place.

Second, affordable day care: Working parents must be provided affordable child care and dependent care services while working or receiving education and training. Please not, Mr. Speaker, that I included "dependent care" services. We are fastly becoming a nation of middle-aged persons with elderly parents. Parents who are dependent upon their grown children for their well-being. We must not forget our senior citizens when we discuss welfare reform.

Third, expanded EITC: Through the expanded earned income tax credit [EITC], as passed in the first session of the 103d Congress, many hard working Americans will receive a tax refund each year. Now working parents can receive the EITC through "advanced payments." Instead of waiting for a tax refund, the EITC is received in their weekly paychecks—working parents will have more take-home pay.

Fourth, improved child support enforcement: "Absent parents" could be subject to having their wages "garnisheed" through a national system of child support recovery. Why not have the Internal Revenue Service assist States in collecting past due child support across States lines? The 103d Congress must give single parents the tools to help legally collect child support. Many children living at or below the poverty level would benefit immediately from a "national collection system".

Fifth, health care reform: Guaranteed health care for every American will help to make the transition into the workplace affordable. Many people on welfare have to make a choice of adequate health care for their children or a job. By providing universal health care for all Americans, many parents will not have to choose between a job or health care coverage. Who is to say that a mother with a very sick child has not made a responsible choice by choosing Medicaid, for medical coverage, over employment? It seems like a responsible choice to me.

Sixth, regulations reform: Congress must mandate universal qualifications to receive benefits. With universal regulations welfare recipients and local agencies will no longer have to deal with regulations that are "disincentives" to work. Streamlined regulations will allow a 16-year-old child to obtain part-time work without this income adversely affecting the parent's rent subsidies, AFDC benefits, food stamps or health care benefits. In the present scheme of things, a 16-year-old working part-time to meet the expenses of going to school actually hurts a family living in public housing by having their income included in calculating the rent of this family. This disincentive acts to keep the family in poverty—this disincentive must be removed.

Seventh, prevention: Any component of welfare reform must look at ways to help alleviate "teen pregnancy." We must help prevent the welfare mothers of tomorrow, today. This Congress must revisit the issue of Federal funding for abortions for poor women. We must consider funding pregnancy prevention and education programs for our teens at risk.

Eighth, State and local control: Congress must advocate and legislate "local management control" for individual States. What may work in inner city New York, may not be the answer for rural Georgia. The individual States must be given, by way of legislative authority, the right to have more local control and flexibility to manage their welfare programs. This concept of "State-based control" will allow each State to address problems unique to its welfare program.

We must closely examine all Federal rules and regulations that are barriers for an individual to become self-sufficient. We must lend the poor of our Nation a helping hand by providing job training, affordable daycare services, and healthcare. President Clinton has said that the goal of welfare reform is to make welfare a "transitional program," not a program of dependency. Mr. Speaker, this is a very noble goal. However, the 103d Congress must guarantee the poor a comprehensive program for "self-help" by enacting legislation that rewards work rather than punishing an individual for wanting to work.

□ 1910

Mr. CLYBURN. Mr. Speaker, I thank the gentlewoman from Georgia.

Mr. Speaker, I yield to the gentlewoman from Utah, Ms. KAREN SHEPHERD, who will talk about welfare's impact on children.

Ms. SHEPHERD. Mr. Speaker, I thank the gentleman from South Carolina for allowing me to be part of this event where we examine all the different parts of the welfare system and the reform that is going on, because literally almost nothing could be more important to the future of this country.

Mr. Speaker, as the Congress begins to consider reforming our admittedly broken welfare system, I want to call attention to the deteriorating situation facing many of our Nation's infants and toddlers. As we develop a new public assistance system replete with incentives and penalties aimed at moving people off public assistance and into the private sector workforce, let us remember that 9.6 million AFDC recipients, a full two-thirds of the entire caseload, are children. Let us also bear in mind every child's need for a loving, nurturing and stable family environment and resulting lifetime of benefits.

Recently, the Carnegie Corporation issued a comprehensive report chronicling the bleak circumstances faced by many children under 3 years of age. The statistics, and there is the face of a young girl or boy behind every one, are appalling for a country possessing such abundance. A staggering 1 in every 4 children now lives in poverty, 28 percent of births are to unmarried mothers and as many as 60 percent of all two-year-olds do not receive all necessary immunizations to prevent childhood disease.

Much of this neglect occurs during the crucial formative years of development, at which time a child's lifelong perceptions and intellectual abilities are formed. Without a foundation of stable emotional and financial support many cannot progress along the already difficult road to responsible adulthood. Consequently, our education system will fail, our crime rates will rise and our welfare rolls will continue to swell. In the end, our society will be forced to pay the immeasurable economic and social costs.

Although we are rich in data, to date, we have been poor in solutions. This welfare reform effort presents us with a precious opportunity to reverse this course. Our society starting with our Government must aggressively promote individual and social responsibility for having children and discourage teenage births. Having a child should not be perceived as a status symbol nor as an unintended consequence requiring minimal care. We need a national commitment to community prenatal care programs which lead to the birth of healthy babies. We need to ensure that every child is properly immunized against the growing problem of childhood diseases. We need a national, affordable child care system which ensures quality and choice while at the same time supporting women who must work.

Perhaps most importantly, we must begin to focus on paternal responsibility. Parenthood is a two-way street. If two people bring a child into this world then two people should be required to take care of that child. State lines or procedural red tape should not enable mothers and fathers to escape their rightful responsibilities while their children suffer.

A government or a private sector program cannot take the place of a family in a child's life. Nevertheless, while government policies should hold individuals accountable, they should also help in making today's children tomorrow's emotionally and physically healthy adults and citizens. In our rush to move welfare recipients from public assistance to work we must not make the mistake of rushing by the neediest and the largest group of all welfare recipients; our children.

The SPEAKER pro tempore (Mr. DARDEN). The time of the gentleman from South Carolina [Mr. CLYBURN] has expired.

PARLIAMENTARY INQUIRY

Mr. CLYBURN. Mr. Speaker, we have got one additional speaker who needs 3 minutes. May I prevail upon the other side to let us have about 5 minutes so we can get one speaker and a wrap-up?

The SPEAKER pro tempore. It is the Chair's understanding after consultation with the minority that there will be no objection.

Mr. CLYBURN. Mr. Speaker, I thank the gentleman from the minority side for allowing us this additional time to proceed.

Mr. Speaker, I yield to the gentleman from California [Mr. BECERRA], who serves on the Education and Labor Committee who will speak to us on welfare reform in relation to immigrants.

The SPEAKER pro tempore. The Chair must announce that under a previous ruling of the Speaker that the Chair can no longer allow the gentleman from South Carolina to proceed. His time has expired.

The gentleman from California [Mr. BECERRA], however, can seek his own time by unanimous consent, but the time of the gentleman from South Carolina [Mr. CLYBURN] has expired and the Chair has no discretion in permitting him to go further.

WELFARE REFORM IN RELATION TO IMMIGRANTS

(Mr. BECERRA asked and was given permission to address the House for 3 minutes.)

Mr. BECERRA. Mr. Speaker, I wish to add my congratulations and applause to the gentleman from South Carolina [Mr. CLYBURN] and the gentlewoman from North Carolina [Mrs. CLAYTON], for their efforts to have this special order on the issue of welfare reform.

Mr. Speaker, I think it is tremendously important that we have a chance to discuss the issue since we will hopefully within the year be able to discuss meaningful reform. And I want to emphasize meaningful reform, because it is time for us to talk about meaningful reform and not political reform when it comes to welfare.

Mr. Speaker, clearly it is time to change our welfare system, clearly the things that have been discussed this evening are important to all of us, making sure people are actually getting jobs and not staying on welfare, making sure children have a chance to be educated, all those things are very important to us, but I also believe we have to make mention of a number of issues that are becoming very controversial and very concerning to a number of us.

Let me address, then, the issue of using immigrants to pay for the cost of welfare reform. There are several proposals right now that would use immigrants, legal immigrants, people who have every right to be in this country and soon will have a chance to become U.S. citizens, using them to pay for reform of the welfare system. We are talking about cutting back on benefits that immigrants receive, that they have paid for, because they have paid every single tax that an American citizen pays, they have provided every single type of duty and responsibility that a citizen has, including serving in the military, if necessary, so these are individuals who in every respect are the same as citizens, except, of course, they cannot vote and in some cases cannot serve in certain government positions. But otherwise they pay the same tax, they do the same type of work, they have the same type of responsibility that a citizen would have. Cutting benefits to immigrants and at this stage, there is talk of cutting benefits to legal immigrants who are aged, blind or disabled, which makes no sense. It seems to me it is time to consider a different means of trying to finance welfare reform if we truly wish to have meaningful welfare reform.

Mr. Speaker, there are studies that show that immigrants of all sorts and all kinds and of all nationalities provide a great deal of money to our treasury. We have a report from the Business Week magazine from 1992 which said that immigrants collectively earn $240 billion a year, and they also pay about $90 billion a year in taxes. Yet we are talking now of depriving them of welfare or perhaps other types of public assistance which they have paid for through their taxes. It seems unfair.

More than that, if on the Federal level we deny them these benefits, what we would end up doing is cost shifting all of this particular cost to the States, which is something the Federal Government has done too often in the past and should not be done again. We should not cause State and local governments to pay the cost of something the Federal Government is receiving tax benefits for. We should not do that, we should not let anyone do that.

Mr. Speaker, we must have meaningful welfare reform that is not done on the backs of people, including immigrants.

I would hope that what we find is for people who can serve in the army, who pay every single tax and who have every single responsibility, we will make an opportunity to have meaningful welfare reform.

□ 1920

INTRODUCATION OF DIABETES HEALTH CARE REFORM

The SPEAKER pro tempore (Mr. DARDEN). Under a previous order of the House and without objection, the gentlewoman from Oregon [Ms. FURSE] is recognized for 5 minutes.

Ms. FURSE. Mr. Speaker, I rise today to bring attention to a resolution I have introduced, House Concurrent Resolution 223. It addresses a serious health care problem which affects millions of Americans, and that problem is diabetes.

It is a debilitating disease. It affects more than 14 million citizens in our Nation. I would recommend that every Member of this House get a copy of a new publication called "Reducing the Burden of Diabetes" which the American Diabetes Association has produced. It outlines the scope of the disease in every State in our Nation, and the numbers are truly staggering.

Diabetes is the fourth leading cause of death by disease in the United States, taking the lives of more than 160,000 people annually, and it should be noted it affects in greater numbers the elderly, native American, Hispanic, and African-American communities. In sum, it costs nearly $92 billion annually to fight this disease. One way the impact of diabetes-related complications can be diminished is through the stabilization of blood glucose levels, and in order to accomplish this stabilization and prevent complications, people with insulin-treated diabetes require four or more injections of insulin every day as well as frequent testing of blood-sugar levels.

In order to assure that the 10 percent of people with insulin-treated diabetes—approximately 1.5 million Americans—have access to syringes to avoid the disease's debilitating complications, and to save our health care system billions of dollars, I have introduced House Concurrent Resolution 223. This resolution expresses the sense of Congress that any health care reform legislation that is enacted should provide for the coverage of syringes for individuals who have been diagnosed with diabetes and who require the administration of insulin. It is critical that syringes are covered in any health care reform legislation to ensure that people with diabetes have access to the medical equipment that not only ensures their survival but prevents future complications.

Health care reform must not in any way take away this critical tool for self-management of diabetes. Let us make sure that when we pass health care reform it meets the unique needs of those millions of Americans who suffer from diabetes.

I urge you to join me and cosponsor the diabetes health care reform resolution, House Concurrent Resolution 223.

THE DEATH PENALTY QUOTA SYSTEM

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes as the designee of the minority leader.

The Chair would also thank the gentleman for accommodating some special problems some of the other Members had earlier today.

Mr. GINGRICH. I thank my friend, the gentleman from my neighboring district in Georgia. I appreciate the opportunity. I was glad to exhibit a spirit of comity.

Mr. Speaker, I was going to talk tonight about the death penalty quota system which we had a vote on today, and which I hope a number of my Democratic colleagues are going to vote with us tomorrow in a bipartisan basis to take out of the crime bill.

I really want to be able to vote for the crime bill on final passage. I think it is a very important bill. I think it is a bill that we should try to pass.

But I am very concerned, because today in a very unusual situation, we had a McCollum of Florida amendment to take out the chapter, and I believe it is 177, which is essentially a quota system for the death penalty, which lost by 212 to 212. Among the Members, it was a tie, and since when you offer an amendment, it fails on a tie, and it is very interesting. Because it looked like it was a bigger defeat. It looked like it was 217 to 212. That is because the delegates were allowed to vote, even though they are not Representatives. And so on a actual vote of the Representatives it was 212 to 212.

Now, we have analyzed. There were seven absentees. Those 7 absentees would have voted 5 to 2 in favor of the McCollum amendment, so we will tomorrow offer a motion to recommit which will include only the identical language that was in the McCollum amendment today.

So the Members, our hope is that the 212 Members who were there today, who voted yes, will continue to do tomorrow what they did today, and that we will have the additional 5 votes who were absent today but will be here tomorrow.

In addition, we hope to convince a few more of our friends to join us, because this is a very, very important amendment. We have to recognize that setting up quotas for the death penalty basically kills the death penalty as an effective tool in most parts of the country.

Let me read some of the language from chapter 177, which the McCollum amendment uses. Now, on the surface it sounds very reasonable. It says, "Prohibition against the execution of a sentence of death imposed on the basis of race." Of course, I agree with that. We do not want anyone sentenced to death because of their race.

But then you come down here and found out what they meant by race: "An inference that race was the basis of a death sentence is established if valid evidence is presented demonstrating that at the time the death sentence was imposed race was a statistically significant factor in decisions to seek or to impose the sentence of death in the jurisdiction in question."

In other words, if you do a statistical analysis and you find in a particular constituency or a particular area any kind of imbalance in who has been sentenced to death, you can at that point raise the issue automatically and appeal the death penalty, and the burden of proof under this chapter, the burden of proof is on the Government. So what happens is after all of the effort in the Senate and the House to expand the death penalty, this particular chapter actually narrows and makes virtually impossible the death penalty.

I am not a attorney. So I went to several attorneys today and asked them. "Explain to me what this means," and they said that this means that if somebody commits a really vicious crime and we know that person committed the vicious crime and the judge and jury have found them guilty and they are sentenced to death, that the very first thing their defense lawyer can do is look at the statistical evidence of the area and automatically have a presumption that they should not get the death penalty if the statistics are out of whack.

But notice this has nothing to do with whether or not that particular person was guilty. This has nothing to do with whether or not that particular crime was horrible and vicious and brutal. This has nothing to do with whether or not that sentence was just. What this has to do with is a brand-new concept of statistical guilt and statistical innocence.

We are a multiracial country. We have many marriages in America between blacks and whites, between Hispanics and Asians, between Asians and whites, between Asians and blacks, between native Americans and all those groups.

Let's assume you have two jurisdictions. In one jurisdiction every time a person shows up who is half-black and half native American, they count them as native American; and in every other district, every time somebody shows up and they are half-black and half-native American, it counts them as blacks. They are going to statistically have radically different results even though the individuals are exactly the same ethnic background.

And so what do we have? In America, the land of opportunity, America, the country where you are supposed to count as an individual, we are now going to take murderers and lump them together statistically and then decide whether murderers are being in fact statistically treated fairly.

Let me give you an example. The term "statistical" starts with the notion, and I am quoting now from page 108, so that any of my colleagues who want to check can look at this later on, "If statistical evidence is presented to establish an inference that race was the basis of a sentence of death, the court shall determine the validity of the evidence, and if it provides a basis for the inference, such evidence must take into account to the extent it is compiled and publicly made available evidence of the statutory aggravating factors of the crimes involved and shall include comparisons of similar cases involving persons of different races."

□ 1930

So if it turns out that Polynesians have one set of sentences because of circumstances involving, remember, a judge and jury, and let us say you happen to have a group that got a jury that had a psychological tendency to be lenient so you got off okay. There was only one case that year involving Polynesians. But Hispanics, on exactly the same charge, had a harsher sentence because that year they got a jury and a judge who were tougher. That would not be a statistical inference that on the next case to show up, that that particular convicted murderer sentenced to a death penalty by the judge and jury should be lumped in statistically with the prior cases. I am told that these have several effects by lawyers who know far more than I do. First of all, you can count on a $2 million or $3 million appeal automatically. By the way, that number is not a random number.

That number actually comes out of a case, I believe, in California, which actually cost that amount of money to the Government of California in order to try to deal with that particular issue.

So we are not talking here about something which just came up as an arbitrary number, but rather as something which has a real historic example of what happened.

Now, the National Association of Attorneys General looked at all of this, and the National Association of Attorneys General said that they are opposed. They said, "A measure that would allow a capital defendant to make a statistical showing from unrelated cases as the basis for appellate or collateral leave." In other words, notice that the cases have no relation to each other. They could occur over many different years, they could be in different size towns, in different parts of the community; they could involve different kinds of detailed crimes, but if they are statistically related even though they are unrelated, then they set the base for an appeal.

The National Association of Attorneys General said that it strongly supports all efforts to strike the provision for any statistical showing and it opposes any legislation which undermines finality and promotes unnecessary delay, and it opposes any measure that would allow a capital defendant to make a statistical showing from unrelated cases.

Now, these are the Attorneys General of the United States from all 50 States. What they are saying is that if you allow statistics to blur the individual responsibility, to blur the individual accountability, to stop us from executing a person who, remember now, we are not talking about sombody at random, a person who has been indicted, they have had a jury trial, they have been convicted by a jury and they have been sentenced by a judge and now the very first thing the defense attorney does is he or she does not go in and say, "Let me find out about my client." They say, "Let me find out about the statistics because I may have an automatic appeal."

Now, people are very frankly tired of appeals. Georgians may be particularly aware of that because we just recently had a murderer executed 16 years after the murder.

Now, think about that: 16 years of appeals, 16 years of lawyers fees, 16 years of costs, 16 years of imprisonment and maybe even more tragically, no one except the immediate family remembers why we are executing this murderer because it has been 16 years.

And what does establishing a quota system for the death penalty do? It creates a whole new layer of appeal to make it, as several attorneys said to me today, for all practical purposes, impossible in most of our States to have a death penalty. Now, it could be on the books, you just never execute anyone. It becomes automatic on the face of it an opportunity to appeal.

Let me give you as a history teacher a background of that that I found fascinating.

If you go back and look at 1933, President-elect Franklin Delano Roosevelt was with Mayor Anthony Cermak of Chicago. A man tried to kill President Roosevelt, missed, and killed Anthony Cermak. This was February 15, 1933.

On March 20, 1933, the State executed the man who killed the mayor of Chicago, less than 5 weeks, because they had eyewitnesses, they had all the proof they needed, they indicated, they tried, they sentenced, and they executed.

Now, you do not have to ask for 5 weeks; we have said on our side 18 months is a reasonable length of time to have an appeal thoroughly processed after you have had a trial. But compare 5 weeks in 1933, when America was substantially safer because people understood that the penalty would relate to the crime and would occur soon enough that it would make some sense; then compare things like the racial quota chapter, which absolutely creates what I think is frankly an un-American standard. "We are not going to judge you as an individual, we are not going to judge you on your own case, we are not going to judge you based on a judge and jury; we are going to lump you in with a whole bunch of statistics, including people who may in fact not be related to you or have anything in common with you."

Now, what is the result? Not only is the National Association of Attorneys General opposed, the National District Attorneys Association is opposed to this provision, because they believe it will weaken the death penalty and make it virtually impossible.

The National State Troopers Coalition is opposed to this provision because they are convinced that it will weaken the death penalty and make effective execution of the death penalty almost impossible.

The American Legislative Exchange Council, legislators from all over the country, are opposed to this provision because they are convinced that it will in fact add a whole new layer of appeals and add a new standard which would be very hard for the State to prove. And in that context, it would set a standard which would make it virtually impossible to have an effective death penalty.

Now, I think it is very important to recognize that this is a basic test about two things: It is a basic test, first of all, about the death penalty. And I would say to my colleagues, if you do not want an effective death penalty, then you should vote "no" tomorrow when Mr. MCCOLLUM makes his motion to recommit. If you in fact are looking for a good excuse to avoid a death penalty, then you should vote "no" tomorrow. If you think the death penalty is inappropriate or wrong, you should vote "no" tomorrow.

But if you believe that in situations of murder so brutal or vicious that there are legitimate reasons to have a death penalty, if you believe that a death penalty is an appropriate action by the Government after a fair trial, after a jury decision, after a judge, after a legitimate appeals process, then you should vote "yes" on the McCollum motion to recommit because that is the only way to take out of this bill this brand-new racial quota system.

There is a second part of this, and let me say, by the way, the number of people earlier this week who voted for various death penalties was massive, overwhelming.

If they would simply vote to make effective tomorrow what they voted to establish earlier this week, the McCollum motion to recommit would win by a big margin.

But it goes a step deeper; I think it is profoundly wrong to establish a presumption of statistics based upon race. I think it is wrong for a couple of reasons.

I think it is absolutely morally wrong to go from individual judgment in an individual case by an individual jury and an individual judge dealing with this example and suddenly have some mathematical model that depersonalizes the whole process so that in one State you could have a convicted killer who had done something and they would get executed because of the statistics. And in another State you could have the very same crime committed in the very same way and they would not be executed because of the statistics. Now, I think that takes away from us the entire concept of individual accountability and individual responsibility, and I believe, frankly, it strikes at the heart of the American system.

I think there is a second problem with this: We are a Nation that believes in integration. We are a Nation that has an increasing number of people who marry across traditional racial bounds. You can be an American and be a Polynesian who is married to a European. You can be an American and be a Native Indian who is married to a Hispanic. You can be an American and be of African origin and be married to somebody who is of Chinese origin. Then, coming from these backgrounds, their children could marry each other.

□ 1940

And I ask my colleagues, If you have, someday, a murderer who is one-fourth Chinese, one-fourth European, one-fourth African, and one-fourth Native American by background, and that person is a murderer, under this particular provision how are we going to count them, and will the prosecutor look around, decide which statistic he needs the least of and not count them as that one, and look at the one where he needs a new statistic, and count them as that one, so this will be a good year to count you as Chinese because we haven't had many of those recently, or this will be a good year to count you as native American?

I say to my colleagues, I mean there is something grotesquely un-American about the idea that we are now going to start recording for the purposes of the death penalty in some way to be decided by the Government without you having anything to do with it, your racial status so we can then make you a statistic so we can then determine whether or not we should execute you.

I cannot imagine a more dehumanizing and depersonalizing process than that kind of approach.

Let me point out also that there are some problems in terms of victimization. Forty-seven percent of the 230,000 victims of murder and manslaughter between 1980 and 1990 were black. Let me repeat this. I think this number is so astonishing that I want to repeat it for my colleagues. In the decade of the eighties there were 230,000 victims of murder and manslaughter. That is an astonishing number. Forty-seven percent of those victims were black, although blacks account for only 12 percent of the resident population.

I say to my colleagues, let's say that you're in a jurisdiction where you are part of that 47 percent, but you don't quite fit statistically. You have a loved one who has been murdered. You have a person who may well be of the same race who did the murder, and yet the statistics are flawed. It didn't quite work out right, and so even though you have a loved one who has been killed, you are now not going to get justice.

Ninety-four percent of black murder victims were victims of black offenders; that is, it was a black on black crime. Now that is an extraordinary percentage, and it is a tragedy, and yet all of us are trying to protect the innocent. We want to stop the next 100,000 murders. We want to stop the murderer. We want to protect the innocent. We think the place to watch out in terms of the racial impact of crime is on the innocent victims, not on the murderer. We think that the great tragedy of America is:

If you're black, you're the most likely to be victimized. If you're Hispanic, you're the second most likely.

Mr. Speaker, we think the best thing that can happen to minority groups in America is to end the crime, end the rape, end the drug dealing, end the murder, and create safe neighborhoods in which poor people can grow up in safety, go to work and have a chance to have a better future, and yet this chapter does not focus on protecting people who are black and Hispanic, who are American Indian. This does not focus on protecting people who are innocent. This is a chapter dedicated to protecting the murderers.

Now I just want to suggest—and they are not suggesting here that the person is innocent. They are not suggesting here that there ought to be a process of overturning the conviction. They are simply saying:

"If you're a murderer who gets lucky, and you're in the right jurisdiction, you're not going to get the death penalty because of the impact of statistics."

The people who will be, as a consequence, the most affected are, in fact, black and Hispanic because this will have the effect of minimizing deterrence in the communities where we have, in fact, the greatest number of crimes, and so of these victims—remember we are talking here about 110,000 black Americans who were killed in the 1980's, and it is an astonishing number, twice the total deaths in Vietnam. That is how many black Americans were killed in the 1980's.

Those of us who believe in the death penalty and believe in an effective and believable death penalty are, in fact, committed to trying to protect innocent African Americans, innocent Hispanic Americans, innocent Asian Americans, innocent native Americans, innocent European Americans, we think:

If you're innocent, you ought to be protected.

Yet this particular amendment, or this particular chapter, actually focuses on protecting the convicted murderer.

Now let me say also for my colleagues that we have to recognize the scale of the effort that this is going to involve. This is going to mean that the local district attorney, possibly the State attorney general, are now going to engage in a whole series of collecting statistics, and they are going to know every time they ask for a death penalty that they can count on the criminal defense lawyer automatically appealing the case, or almost automatically appealing the case, on a statistical ground, and they are going to know that they have an obligation to then gather all of the information to prove that it is not true.

In testimony on May 7, 1991, before the Senate Judiciary Committee, Attorney General Dan Lundgren of California provided a striking illustration of the prohibitive costs of the type of statistical gain that this racial quota bill for murderers would require. In one case in California State attorneys spent 3 years and over a million dollars preparing for a hearing on a statistical discrimination claim in a capital case ultimately moot by the Supreme Court's decision in McCloskey versus Kemp. Let us think about that: Three years, over a million dollars of our tax money, for a statistical hearing for a person already convicted of murder and already sentenced to death. Now we are not protecting the innocent here. We are protecting the murderers.

Let me finally talk briefly about the situation we are going to have on the floor tomorrow, and I think for the American people it is important to understand what is about to happen. Today in the Committee the gentleman from Florida [Mr. McCOLLUM] had an opportunity to offer his amendment. As I said earlier, If you were watching the vote on C-SPAN it was misleading because it looked like he lost by five votes when in fact it was tied. But the five votes that were against it that didn't count were the Delegates whose votes don't count in a close vote, but its looks psychologically like his motion was going down, and it is hard to know when something which is tied looks like it's losing, whether or not the last three or four people might not have changed their vote if they thought they were the decisive margin. In fact, today the 212 Members who voted against any one of them, if they had switched their vote, would have been in the decisive margin in carrying the amendment offered by the gentleman from Florida [Mr. McCOLLUM] and striking this quota for murderers provision from the crime bill.

Now tomorrow, 24 hours later, we are going to offer the exact same language, and there will be a chance to take out this quota for murderers provision.

But there will be a difference procedurally. Today we were in the Committee of the Whole. That is the process where the House writes legislation, and we were in a position to offer the amendment without regard to parties. Tomorrow at the end of the bill there is a procedure called a motion to recommit. It is, by tradition, always given by the minority party, and yet it is slightly rigged because historically Democrats do not like to vote for it on procedural grounds. Historically, they say, "Well, yeah, I'm for that, but I can't vote for a motion to recommit," and yet tomorrow it is going to be exactly the same wording, exactly the same amendment.

So, Mr. Speaker, I wanted to come to the floor tonight to explain to everyone that in a spirit of bipartisanship in almost every vote that has passed, almost every amendment that has improved this bill has been a joint moderate Democrat-Republican vote against liberals. The partisanship has been liberal Democrats. The bipartisanship has been, generally speaking, moderate Democrats and Republicans voting together on key issues.

I want to say to all of my colleagues, Democrat and Republican, that I hope tomorrow we can put aside partisanship. I hope tomorrow we can put aside procedural arguments. We are going to have one chance on one vote in the House to put the McCollum amendment in, to knock out the racial quota provision for murders, and to ensure a more effective and a more expeditious and a more appropriate death penalty.

So I just want to appeal to all of my colleagues: If you favor the death penalty and you want it to be effective, vote yes tomorrow on Mr. McCOLLUM's motion to recommit. Help us clean-out this particular I think terrible provision of the bill, and help us get a bill that is actually a good bill.

If we get that bill, if we can win this, I am going to vote yes on the bill. I think it is that important. But if this stays in, if we are in a position where this bill with this provision would in effect kill all the death penalties in America, because it would make it so difficult to win an appeal and so expensive to win an appeal, then I will vote no, and I will hope that the conferees take this out.

I think this is a very important vote. This may be the most important vote on the death penalty in the House this year, and I hope everyone understands going into tomorrow's vote that this is the key vote on whether or not there is an effective death penalty, and that only by voting for McCOLLUM's motion to recommit can you vote for an effective death penalty in this bill.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FISH (at the request of Mr. MICHEL), for today and the balance of the week, on account of recuperating from recent surgery.

Mr. McDADE (at the request of Mr. MICHEL), for today, on account of illness.

Mr. McNULTY (at the request of Mr. GEPHARDT), for today, on account of personal business.

Ms. WATERS (at the request of Mr. GEPHARDT), for today after 3:30 p.m., on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DICKEY) to revise and extend their remarks and include extraneous material:)

Mr. KASICH, for 5 minutes, on April 21.

Mr. BEREUTER, for 5 minutes, today.

Mr. BACHUS of Alabama, for 5 minutes, today.

(The following Members (at the request of Mr. REED) to revise and extend their remarks and include extraneous material:)

Mr. McCLOSKEY, for 5 minutes, today.

Mr. McDERMOTT, for 5 minutes, today.

Ms. FURSE, for 5 minutes, today.

Mr. HILLIARD, for 5 minutes, today.

Mr. REED, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DICKEY) and to include extraneous matter:)

Mr. FIELDS of Texas.

Mr. WELDON.

Mr. COBLE.

Mr. HANSEN.

Mr. EMERSON.

Mr. DUNCAN.

Mr. LIGHTFOOT.

(The following Members (at the request of Mr. REED) and to include extraneous matter:)

Mr. CARDIN.

Mr. UNDERWOOD in three instances.

Mr. FILNER in two instances.

Mr. LANTOS.

Mr. APPLEGATE.

Mr. KANJORSKI.

Mr. KLINK.

Mr. DURBIN.

Mr. MANTON.

Mrs. MALONEY in three instances.

Mr. HAMILTON.

Mr. HOYER in two instances.

Mr. COYNE.

Mr. HAMBURG.

Mr. YATES.

Mrs. COLLINS of Illinois in two instances.

Mr. BORSKI.

Mr. VISCLOSKY in two instances.

Mr. ENGEL.

Mr. TUCKER in two instances.

Mr. TRAFICANT.

Mr. ACKERMAN in three instances.

Mr. GLICKMAN.
Mr. BARCIA of Michigan.
Mr. BERMAN.
Mr. KILDEE.

(The following Members (at the request of Mr. GINGRICH) and to include extraneous matter:)

Mr. COSTELLO.
Mr. GEJDENSON.
Mr. STARK.
Mrs. UNSOELD.
Mr. HOYER.
Ms. FURSE.
Mr. SMITH of New Jersey.

ADJOURNMENT

Mr. GINGRICH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 52 minutes p.m.) the House adjourned until tomorrow, Thursday, April 21, 1994, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3011. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the act of March 4, 1913 (16 U.S.C. 502), and the act of June 20, 1058 (16 U.S.C. 556c), to increase maximum amounts for which Forest Service employees may be reimbursed for the loss of, or damage to, personal property; to the Committee on Agriculture.

3012. A letter from the President, Export-Import Bank of the United States, transmitting notification of their approval of a sale by the Boeing Co.; to the Committee on Banking, Finance and Urban Affairs.

3013. A letter from the Secretary of Housing and Urban Development, transmitting a status report on the Department's 1994 legislative agenda and its recent initiatives and a report entitled "Presidential Performance Agreement with HUD"; to the Committee on Banking, Finance and Urban Affairs.

3014. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting the Emergency Information Administration's annual report for calendar year 1993, pursuant to 15 U.S.C. 790f(a)(2); to the Committee on Energy and Commerce.

3015. A letter from the Secretary of Agriculture, transmitting the Department's annual report on its hazardous waste management activities for calendar year 1992, pursuant to 41 U.S.C. 9620(e)(5); to the Committee on Energy and Commerce.

3016. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 01-94, concerning a proposed agreement with the Government of Australia, pursuant to 22 U.S.C. 2767(f); to the Committee on Foreign Affairs.

3017. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the semi-annual reports on voluntary contributions by the U.S. to international organizations for the period April 1, 1993 to September 30, 1993, pursuant to 22 U.S.C. 2226(b)(1); to the Committee on Foreign Affairs.

3018. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by Carol Jones Carmody, of Louisiana, to be the American Representative on the Council of the International Civil Aviation Organization, and members of her family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3019. A communication from the President of the United States, transmitting a further report on the status of the United States contribution to the ongoing United Nations embargo enforcement effort of Haiti. (H. Doc. No. 103–241); to the Committee on Foreign Affairs and ordered to be printed.

3020. A communication from the President of the United States, transmitting his further report concerning his decision to deploy a U.S. Army peacekeeping contingent as part of the United Nations protection force in the Republic of Macedonia. (H. Doc. No. 103–240); to the Committee on Foreign Affairs and ordered to be printed.

3021. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1999 resulting from passage of S. 476 and S. 1299, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388–582); to the Committee on Government Operations.

3022. A letter from the Deputy Director for Administration, Central Intelligence Agency, transmitting a report of activities under the Freedom of Information Act for calendar year 1993, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3023. A letter from the Chairman, Federal Communications Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1993, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3024. A letter from the Executive Director, Pension Benefit Guaranty Corporation, transmitting a report of activities under the Freedom of Information Act for calendar year 1993, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3025. A letter from the Commandant, U.S. Coast Guard and the Under Secretary for the National Oceanic and Atmospheric Administration, transmitting notification that the report on whether measures for regulating vessel traffic in the Monterey Bay National Marine Sanctuary will be submitted by the end of calendar year 1994, pursuant to 16 U.S.C. 1433 note; to the Committee on Merchant Marine and Fisheries.

3026. A letter from the Deputy General Counsel, Department of Commerce, transmitting a draft of proposed legislation to amend the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act to authorize appropriations for fiscal years 1994 and through 1996; to the Committee on Merchant Marine and Fisheries.

3027. A letter from the Secretary of Transportation, transmitting notification concerning the report on highway and transit conditions and performance to be submitted in summer 1994, pursuant to 49 U.S.C. 308(e) transmitting; to the Committee on Public Works and Transportation.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SKELTON (for himself, Mr. SPENCE, Mr. DICKS, Mr. MONTGOMERY, Mr. HUTTO, Mr. BARTLETT of Maryland, Mr. BATEMAN, Mr. BILBRAY, Mr. BROWDER, Mr. BUYER, Mr. COMBEST, Mr. CUNNINGHAM, Mr. DARDEN, Mr. DORNAN, Mr. EDWARDS of Texas, Mr. EVERETT, Mrs. FOWLER, Mr. PETE GEREN of Texas, Mr. GLICKMAN, Mr. HANSEN, Mr. HEFLEY, Mr. HUNTER, Mr. INHOFE, Mr. JOHNSON of Georgia, Mr. KYL, Mr. LANCASTER, Mr. LAUGHLIN, Mr. LEWIS of California, Mr. LEWIS of Florida, Mr. LIVINGSTON, Mrs. LLOYD, Ms. LONG, Mr. MACHTLEY, Mr. MCCURDY, Mr. MCHUGH, Mr. ORTIZ, Mr. PENNY, Mr. PETERSON of Florida, Mr. PICKETT, Mr. RAVENEL, Mr. ROWLAND, Mr. SAXTON, Mr. SISISKY, Mr. SLATTERY, Mr. SOLOMON, Mr. STENHOLM, Mr. STUMP, Mr. TALENT, Mr. TANNER, Mr. TAYLOR of Mississippi, Mr. TEJEDA, Mr. TORKILDSEN, and Mr. WELDON):

H.R. 4259. A bill to extend caps on defense and nondefense discretionary spending through fiscal year 1998; to the Committee on Government Operations.

By Mr. COYNE (for himself, Mr. RICHARDSON, Mr. UPTON, Mr. COOPER, Mr. FRANK of Massachusetts, Mr. MCDERMOTT, Mr. DURBIN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LEACH, Mr. MORAN, Mr. UNDERWOOD, Mr. FORD of Tennessee, Mrs. LOWEY, Mr. HOBSON, and Mrs. MORELLA):

H.R. 4260. A bill to improve and protect the health of all Americans through an increase in the funding available for health research that holds the promise of the prevention, cure, and treatment for disease and disability; jointly, to the Committees on Energy and Commerce, Ways and Means, Government Operations, and Rules.

By Mr. GONZALEZ:

H.R. 4261. A bill to establish the Commission on International Coordination of Financial Regulation, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DARDEN (for himself, Mr. DEAL, and Mr. JOHNSON of Georgia):

H.R. 4262. A bill to amend the Higher Education Act of 1965 to require that recipients of Pell grants be citizens or nationals of the United States; to the Committee on Education and Labor.

By Mr. LAFALCE:

H.R. 4263. A bill to promote the participation of small business enterprises, including minority small businesses, in Federal procurement and Government contracts, and for other purposes; to the Committee on Small Business.

By Mr. CONYERS:

H.R. 4264. A bill to express United States policy regarding the restoration of democratic constitutional government in Haiti, to grant temporary protected status to Haitians until such a government is restored, and to terminate the migrant interdiction agreement between the United States and Haiti; jointly, to the Committees on Foreign Affairs and the Judiciary.

By Mr. FROST:

H.R. 4265. A bill to enhance fairness in compensating owners of patents used by the United States; to the Committee on the Judiciary.

By Mr. GORDON:

H.R. 4266. A bill to expand the boundaries of the Stones River National Battlefield in Tennessee, and for other purposes; to the Committee on Natural Resources.

By Mr. KANJORSKI (for himself, Mr. Ridge, Mr. Dooley, Mrs. Roukema, Mr. Klink, Mr. Hinchey, Mr. Fingerhut, Mr. LaFalce, Mr. Holden, Mr. McHale, Mr. Borski, and Mr. Klein):

H.R. 4267. A bill to reauthorize economic development programs under the Public Works and Economic Development Act of 1965 for fiscal years 1994 and 1995, to reenact the Public Works and Economic Development Act of 1965 as the Economic Development and Financing Act of 1994, and for other purposes; to the committees on Public Works and Transportation, Banking, Finance, and Urban Affairs, the Judiciary, and Science, Space, and Technology.

By Mr. SHAYS (for himself, Mr. Ballenger, Mr. Boehner, and Mr. Penny):

H.R. 4268. A bill to amend certain provisions of title 5, United States Code, relating to the age and service requirements for entitlement to an immediate annuity under the Civil Service Retirement System or the Federal Employees' Retirement System, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. SMITH of Texas:

H.R. 4269. A bill to amend the Internal Revenue Code of 1986 to reduce the tax on capital gains of individuals, and for other purposes; to the Committee on Ways and Means.

By Mrs. UNSOELD:

H.R. 4270. A bill to amend the Head Start Act to extend authorization of appropriations for programs under that act, to strengthen provisions designed to provide quality assurance and improvement, to provide for orderly and appropriate expansion of such programs, and for other purposes; to the Committee on Education and Labor.

By Mr. VISCLOSKY (for himself, Mr. Brown of California, Mr. Abercrombie, Mr. Andrews of Maine, Mr. Applegate, Mrs. Bentley, Mr. Berman, Mr. Bonior, Mr. Borski, Ms. Brown of Florida, Mr. Brown of Ohio, Miss Collins of Michigan, Mr. Conyers, Mr. DeFazio, Mr. Engel, Mr. Evans, Mr. Farr, Mr. Fingerhut, Mr. Frost, Mr. Hochbrueckner, Mr. Holden, Mr. Jacobs, Ms. Eddie Bernice Johnson of Texas, Ms. Kaptur, Mr. Kleczka, Mr. Klink, Mr. LaFalce, Mr. LaRocco, Mr. Lipinski, Mrs. Lowey, Mr. Martinez, Mr. McCloskey, Mr. McHugh, Mr. Miller of California, Mrs. Mink of Hawaii, Mr. Mollohan, Mr. Murtha, Mr. Nadler, Mr. Olver, Mr. Owens, Mr. Pallone, Mr. Rahall, Mr. Regula, Mr. Reynolds, Mr. Sabo, Mr. Sanders, Mr. Sawyer, Ms. Shepherd, Mr. Stokes, Mr. Torres, Ms. Velazquez, Mr. Vento, Mr. Williams, and Mr. Yates):

H.R. 4271. A bill to provide for the establishment in the General Agreement on Tariffs and Trade of a working party on trade and worker rights and labor standards, and for other purposes; to the Committee on Ways and Means.

By Mr. FARR (for himself, Mr. Hall of Ohio, and Mr. Hobson):

H.R. 4272. A bill to amend title 10, United States Code, to expand the authority of the U.S. Naval Postgraduate School to admit civilians as students and to authorize the U.S. Air Force Institute of Technology to admit civilians as students; to the Committee on Armed Services.

By Mr. FARR (for himself, Mr. Hall of Ohio, and Mr. Hobson):

H.R. 4273. A bill to amend title 10, United States Code, to establish a temporary program to permit professional schools of the Army Training and Doctrine Command to admit civilians as students on a cost-reimbursable, space-available basis; to the Committee on Armed Services.

By Mr. JACOBS:

H.J. Res. 358. A joint resolution designating September 18, 1994, through September 24, 1994, as "Iron Overload Diseases Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. HOBSON:

H.J. Res. 359. Joint resolution to designate the week beginning June 13, 1994, as "National Parkinson's Disease Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. PETE GEREN of Texas:

H. Con. Res. 241. Concurrent resolution expressing the sense of the Congress with respect to the railroad retirement system; to the Committee on Energy and Commerce.

By Mr. HOEKSTRA:

H. Res. 409. Resolution providing for the consideration of the bill (H.R. 3835) to establish a national advisory referendum on limiting the terms of Members of Congress at the general election of 1994, and for the consideration of provisions for advisory referenda on a balanced budget amendment and a Presidential line-item veto; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

346. By the SPEAKER: Memorial of the Senate of the State of Arizona, relative to an amendment to the Constitution to prohibit physical desecration of the American flag; to the Committee on the Judiciary.

347. Also, memorial of the Senate of the State of Arizona, relative to an amendment to the Constitution to provide the President with an item veto in appropriations bills; to the Committee on the Judiciary.

348. Also, memorial of the General Assembly of the Commonwealth of Virginia, relative to highway signs; to the Committee on Public Works and Transportation.

349. Also, Memorial of the Senate of the State of Arizona, relative to tax-advantaged individual medical care savings accounts; to the Committee on Ways and Means.

350. Also, memorial of the Legislature of the State of Arizona, relative to individual medical care savings accounts; to the Committee on Ways and Means.

351. Also, memorial of the Senate of the State of Arizona, relative to the construction of the Dilkon Health Center; jointly, to the Committees on Natural Resources and Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. Calvert and Mr. Bunning.

H.R. 140: Mr. Gekas, Mr. Ballenger, Mr. Barrett of Nebraska, Mrs. Bentley, Mr. Bereuter, Mr. Bliley, Mr. Combest, Mr. Crane, Mr. Dickey, Mrs. Fowler, Mr. Gingrich, Mr. Goss, Mr. Hancock, Mr. Hobson, Mr. Horn, Mr. Houghton, Mr. Hyde, Mrs. Johnson of Connecticut, Mr. Kolbe, Mr. Kyl, Mr. Lazio, Mr. Leach, Mr. Linder, Mr. McMillan, Mrs. Meyers of Kansas, Mr. Miller of Florida, Mr. Moorhead, Mr. Myers of Indiana, Mr. Paxon, Mr. Regula, Mr. Saxton, Mr. Schaefer, Mr. Skeen, Mr. Smith of Texas, Mr. Smith of Michigan, Mr. Spence, Mr. Upton, Mr. Walker, Mr. Young of Florida, Mr. Zimmer, Mr. Ehlers, Mr. Hutto, Mr. Traficant, and Mr. Allard.

H.R. 145: Mr. Gilchrest.

H.R. 546: Mr. Holden and Mr. Barlow.

H.R. 662: Mr. Hutchinson.

H.R. 710; Mr. Fingerhut.

H.R. 790: Mr. Kopetski.

H.R. 911: Mr. Clyburn, Mr. Williams, and Mr. Ackerman.

H.R. 963: Mr. Barcia of Michigan.

H.R. 1110: Mr. McCrery and Mr. Packard.

H.R. 1314: Mr. Baker of Louisiana.

H.R. 1532: Mr. Dickey, Mr. Beilenson, Mr. Skeen, Mr. Fields of Texas, and Mr. Baker of California.

H.R. 1533: Ms. Slaughter, Mr. Hamburg, and Mr. Frank of Massachusetts.

H.R. 1538: Mr. Owens, Mr. DeFazio, and Mr. Abercrombie.

H.R. 1595: Mrs. Clayton.

H.R. 1627: Mr. Williams.

H.R. 1671: Mr. Clinger and Mr. Pickle.

H.R. 1718: Mr. Owens.

H.R. 1767: Mr. Valentine, Mr. Smith of New Jersey, and Mr. Andrews of New Jersey.

H.R. 1795: Mr. Calvert.

H.R. 1900: Mr. Tucker and Mr. Hayes.

H.R. 1999: Mr. Royce and Mr. Packard.

H.R. 2254: Mr. Reynolds and Mr. Inslee.

H.R. 2346: Ms. English of Arizona.

H.R. 2420: Ms. Brown of Florida, Mr. Wynn, and Mrs. Mink of Hawaii.

H.R. 2442: Mr. Rogers.

H.R. 2720: Mr. Dornan, Mr. Schiff, Mr. Saxton, and Mr. Price of North Carolina.

H.R. 2767: Mr. Dellums.

H.R. 3017: Mr. Brewster, Mr. Gilchrest, and Mr. Oxley.

H.R. 3105: Mr. Blute and Mr. Ewing.

H.R. 3182: Mr. Serrano.

H.R. 3213: Mr. McCrery.

H.R. 3288: Mr. DeFazio.

H.R. 3293: Mr. Andrews of Texas.

H.R. 3324: Mr. Evans and Mr. Frost.

H.R. 3342: Mr. Slattery and Mr. Stearns.

H.R. 3363: Ms. Molinari.

H.R. 3404: Mr. Payne of Virginia, Mr. Upton, and Mr. Evans.

H.R. 3434: Mr. Andrews of Texas, Mr. Kennedy, and Mr. Lantos.

H.R. 3527: Ms. English of Arizona.

H.R. 3574: Mr. Lewis of Georgia.

H.R. 3593: Mr. Kasich, Mr. Boehner, Mr. Strickland, and Mr. Mann.

H.R. 3614: Mr. Fingerhut, Mr. Hoke, and Mr. Smith of New Jersey.

H.R. 3624: Mr. Cooper and Mr. Ewing.

H.R. 3720: Mr. Serrano.

H.R. 3811: Mr. Dellums.

H.R. 3821: Ms. Furse, Ms. Schenk, Mr. Dellums, Mr. Hochbrueckner, Mr. Kopetski, and Mr. Gene Green of Texas.

H.R. 3822: Ms. Furse, Ms. Schenk, Mr. Dellums, Mr. Hochbrueckner, Mr. Kopetski, and Mr. Gene Green of Texas.

H.R. 3830: Mr. Evans.

H.R. 3880: Mr. Burton of Indiana, Mr. Herger, Mr. Camp, and Mr. Tauzin.

H.R. 3900: Mr. Lewis of Georgia and Mrs. Meek of Florida.

H.R. 3948: Mr. Applegate.

H.R. 3951: Mr. McHugh, Mr. Istook, and Mrs. Meyers of Kansas.

H.R. 3955: Mr. Cramer, Mr. Thomas of Wyoming, Mr. Johnson of Georgia, Mr. Sundquist, Mr. Peterson of Minnesota, Mr. Stearns, Mr. Deal, and Mr. Herger.

H.R. 3990: Mr. Canady, Mr. Washington, and Mr. Parker.

H.R. 4036: Mr. Fingerhut.

H.R. 4042: Ms. VELÁZQUEZ.

H.R. 4050: Mr. MINETA, Mr. BERMAN, Ms. ROYBAL-ALLARD, Mr. FARR, Mr. EDWARDS of California, Mr. HAMBURG, Ms. ESHOO, and Mr. DELLUMS.

H.R. 4078: Mr. FROST.

H.R. 4091: Mr. MILLER of California, Mr. YATES, Mrs. SCHROEDER, and Mr. FILNER.

H.R. 4095: Mr. KNOLLENBERG.

H.R. 4127: Mr. SOLOMON.

H.R. 4129: Mr. TAYLOR of North Carolina, Mr. SPRATT, Mr. COBLE, Ms. WOOLSEY, Mr. MCHUGH, Mr. CLYBURN, Mr. STUMP, Mrs. VUCANOVICH, and Mr. WATT.

H.R. 4142: Mr. DOOLEY.

H.R. 4213: Mr. UNDERWOOD.

H.J. Res. 90: Mr. DE LA GARZA, Mr. FLAKE, Mr. EMERSON, and Mr. MEEHAN.

H.J. Res. 209: Mr. FILNER, Mr. SCHAEFER, Mrs. ROUKEMA, Mr. FIELDS of Texas, Mr. DELLUMS, Mr. CALLAHAN, and Mr. KLECZKA.

H.J. Res. 253: Mr. RAHALL, Mr. PRICE of North Carolina, Mr. DE LA GARZA, Mr. SABO, Mr. PETE GEREN of Texas, Mr. HAMILTON, Ms. SLAUGHTER, Mr. TORRES, and Mr. TORKILDSEN.

H.J. Res. 302: Ms. BROWN of Florida, Mr. HEFNER, Mr. MCHUGH, Mr. CLEMENT, Mr. RUSH, Mr. DICKS, Mr. HOLDEN, Mr. RAHALL, Mr. UNDERWOOD, Mr. KLEIN, Mr. COBLE, Mr. BERMAN, Mr. SCHAEFER, Ms. ENGLISH of Arizona, Mr. HILLIARD, Mr. MCCLOSKEY, Mr. PETRI, Mr. BACCHUS of Florida, Mr. UPTON, Mr. NEAL of North Carolina, Mr. ROHRABACHER, Miss COLLINS of Michigan, Mr. SAWYER, Mr. SAXTON, Mr. WHEAT, and Mr. GORDON.

H.J. Res. 305: Mr. GLICKMAN, Ms. NORTON, Mr. INSLEE, Mr. REYNOLDS, Mr. NADLER, Mr. ANDREWS of New Jersey, Mr. ROHRABACHER, Mrs. MORELLA, Mr. WYNN, Mr. GEJDENSON, Mr. MCDADE, Mr. TORRICELLI, Mrs. KENNELLY, Mr. FOGLIETTA, Mr. FISH, Mr. MORAN, and Mr. MAZZOLI.

H.J. Res. 328: Mr. MARTINEZ and Mr. CLYBURN.

H.J. Res. 333: Mr. KING, Mr. RAHALL, Mr. MCDERMOTT, Mr. LANCASTER, Mr. MINETA, Mr. KLECZKA, Mr. TORRICELLI, Mr. BARTLETT of Maryland, Mr. WATT, Mr. TORRES, and Mr. SARPALIUS.

H.J. Res. 342: Mr. BROWN of Ohio, Mr. MCHUGH, Mr. COBLE, Mr. BILBRAY, Mr. BILIRAKIS, Mr. WILSON, Mr. SCHAEFER, Mr. RAVENEL, Mr. SANDERS, Mr. GREENWOOD, Mr. TORKILDSEN, Mr. WELDON, Mr. LANTOS, Ms. FURSE, Mr. HUTTO, Mr. LAROCCO, Mr. PAXON, Mr. COYNE, Mr. ANDREWS of Maine, Mr. MONTGOMERY, MR. LIVINGSTON, Mr. JOHNSON of South Dakota, and Mr. SPENCE.

H.J. Res. 344: Mr. FROST, Mr. WALSH, Mr. FALEOMAVAEGA, Mr. STUPAK, Mr. CLYBURN, Mr. LIPINSKI, Mr. SCHAEFER, Mr. CONYERS, Mr. CALLAHAN, Mr. COYNE, Mr. EDWARDS of Texas, and Mr. BROWN of Ohio.

H. Con. Res. 7: Mr. CAMP.

H. Con. Res. 17: Mr. BURTON of Indiana, Mr. DORNAN, Mr. MANZULLO, Mr. SAXTON, Mr. PACKARD, Mr. BARTLETT of Maryland, Mr. HUNTER, Mr. DOOLITTLE, Mr. BAKER of California, Mr. SMITH of New Jersey, Mr. MONTGOMERY, Mrs. VUCANOVICH, Mr. GOSS, Mr. COX, Mr. COSTELLO, Mr. DUNCAN, Mr. CUNNINGHAM, Mr. MCCOLLUM, Mr. HAYES, Mr. POSHARD, Mr. SMITH of Michigan, Mr. COBLE, Mr. SHAW, Mr. MICA, Mr. DREIER, Mr. ARMEY, Mr. LIPINSKI, Mr. ROBERTS, Mr. BUNNING, Mr. HYDE, Mr. DELAY, Mrs. BENTLEY, Mr. SUNDQUIST, Mr. TRAFICANT, Mr. POMBO, Mr. GEKAS, Mr. WALKER, Ms. MOLINARI, Mr. STENHOLM, Mr. ARCHER, Mr. MCMILLAN, Mr. HASTERT, Mr. SENSENBRENNER, Mr. CHAPMAN, Mr. BLILEY, Mr. MYERS of Indiana, Mr. SMITH of Oregon, Mr. SANTORUM, Mr. PAXON, and Mr. KASICH.

H. Con. Res. 35: Ms. FURSE and Mr. VENTO.

H. Con. Res. 84: Mr. GALLO.

H. Con. Res. 147: Ms. ENGLISH of Arizona.

H. Con. Res. 166: Mr. STARK, Mr. CLAY, and Mr. BARRETT of Wisconsin.

H. Con. Res. 176: Mr. ACKERMAN, Mr. TORKILDSEN, Mr. ROHRABACHER, Ms. MCKINNEY, Mrs. THURMAN, Mr. FINGERHUT, Mr. ROBERTS, Mr. INHOFE, Mr. POMEROY, Mr. SARPALIUS, Mr. BARRETT of Nebraska, Mr. WAXMAN, Mr. GUTIERREZ, Mr. PETE GEREN of Texas, and Mr. KINGSTON.

H. Con. Res. 179: Mr. HOLDEN.

H. Con. Res. 202: Mr. STRICKLAND.

H. Res. 36: Mrs. MEYERS of Kansas.

H. Res. 56: Mr. SWETT.

H. Res. 234: Mr. ANDREWS of New Jersey, Mr. YOUNG of Alaska, Mr. DEFAZIO, Ms. DANNER, Mr. DIAZ-BALART, Mr. PICKETT, Mr. BEREUTER, Mr. MARTINEZ, Mrs. SCHROEDER, Ms. HARMAN, Ms. ENGLISH of Arizona, and Mr. HOLDEN.

H. Res. 270: Mr. GRANDY.

H. Res. 277; Mr. DOOLITTLE and Mr. ROGERS.

H. Res. 383: Mr. BARTLETT of Maryland.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1490: Ms. LONG.

PETITIONS. ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

89. The Speaker presented a petition of the Legislature of Rockland County, NY, relative to labeling of dairy products by cows injected with BST; which was referred to the Committee on Energy and Commerce.

SENATE—*Wednesday, April 20, 1994*

(Legislative day of Monday, April 11, 1994)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable RUSSELL D. FEINGOLD, a Senator from the State of Wisconsin.

The PRESIDING OFFICER. Today's prayer will be offered by guest Chaplain, Rabbi Dena A. Feingold of Beth Hillel Temple, Kenosha, WI, who is also the sister of the junior Senator from Wisconsin.

PRAYER

Rabbi Dena A. Feingold of Beth Hillel Temple, Kenosha, WI, offered the following prayer.

Let us pray:

Source of Wisdom, Well of Justice, Fountain of Goodness and of Peace, we praise You for pouring Your spirit upon humanity as we struggle feebly to fashion our society into the kind of world You have envisioned. We cherish Your guidance as we strive to bring peace, harmony, and equity to this world in which we are Your partners.

As these elected officials begin another day of deliberation in the U.S. Senate, we pray that Your presence may dwell among them. Enable them to discern and to acquire but a minute portion of Your wisdom and compassion, Your knowledge of what is just and right, as they carry out the awesome task of governing our great Nation. Grant them insight and endurance as they consider the weighty issues facing our country. Endow them with deep concern for one another, for their constituents, for the people of this Nation and indeed of the entire world. Give them courage to take difficult stands and to ask the hard questions which must be asked in order to bring wholeness to our broken world.

With grateful hearts do we stand before You, Framer and Fashioner of all that is right and just, for the privilege of living in this land of freedom where the Spirit of Goodness is felt keenly by so many. Eternal Power of the Universe, Author of Freedom, to You we offer thanks and praise. And let us say: Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 20, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RUSSELL D. FEINGOLD, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. FEINGOLD thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The Senator from Illinois [Ms. MOSELEY-BRAUN] is to be recognized for up to 15 minutes.

The Chair, in his capacity as a Senator from Wisconsin, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PRESENTATION OF HADDAWAY MEDAL FOR ACHIEVEMENT IN AVIATION TO LT. GEN. BENJAMIN O. DAVIS, JR.

Mrs. HUTCHISON. Mr. President, this morning I would like to pay tribute to Lt. Gen. Benjamin O. Davis, Jr.

Mr. President, as chairman of the board of the Frontiers of Flight Museum in Dallas, and as a member of the Armed Services Committee, I was proud to present today the George Edward Haddaway Medal for Achievement in Aviation to Lt. Gen. Benjamin O. Davis, Jr.

Mr. President, General Davis had an exemplary military career, rising from plebe at West Point to lieutenant general in the Air Force. He won his commission in 1936, but was initially denied entry into the Air Corps because of his race. He served in the infantry until 1940, when President Roosevelt created a black flying unit in Tuskegee, AL. General Davis won his wings and took command of the first black fighter unit in the Army Air Force, the 99th Pursuit Squadron. Although many predicted failure, the 99th fought valiantly in the skies over Sicily and southern Italy in the P–40.

General Davis later commanded the 332d Fighter Group in North Africa with three more all-black fighter squadrons flying P–47s and later P–51s. His units flew more than 15,000 sorties, destroying 111 enemy aircraft, 57 locomotives, and a German naval vessel. Their aerial victories over the enemy—as well as their aggressiveness, teamwork, and courage—silenced their critics. Ninety-five of his pilots won the Distinguished Flying Cross, and more than 800 Air Medals were earned in combat. General Davis himself earned the Distinguished Flying Cross and the Silver Star for heroism.

More than these honors, Mr. President, the record of which General Davis and his men are most proud is that no bomber under their group's escort protection was ever lost to enemy fighters.

After the war, General Davis commanded the all-black 477th composite group in Ohio, combining bombers and fighters. His leadership and the achievements of his men in combat were a powerful factor in President Truman's integration of the Armed Services in 1948. The Air Force made General Davis its first black general officer in 1954, and he served in command positions with the 13th Air Force in the Philippines, the United Nations command in Korea, and strike command in the United States. He retired from active duty in 1970 to become director of public safety for the city of Cleveland.

But a year later, as the world experienced a rash of airline hijackings, General Davis was recalled to Washington to become Director of Civil Aviation Security and then Assistant Secretary of Transportation for Safety and Consumer Affairs.

Mr. President, I was Acting Chairman of the National Transportation Safety Board a few years later, and I know the complexity of the transportation bureaucracy and the airline community. I am especially impressed, therefore, that during his 5-year tenure hijackings in the 50 States dropped to zero.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

For his four decades of selfless Federal service and for visionary leadership of extraordinary high quality, Mr. President, I was proud to award this valiant airman the Haddaway Medal for Achievement in Aviation.

I just want to say that yesterday at the ceremony there were several members of the Tuskegee Airmen, a group of Americans that are as patriotic as I have ever met. General Davis was one of the most impressive people I have ever met, and I was so proud to be able to give the award for the Frontiers of Flight Museum to Gen. Benjamin O. Davis, Jr., a great American.

IN HONOR OF ESTHER RICE, CIVIC LEADER OF LA MARQUE, TX

Mrs. HUTCHISON. Mr. President, I would like to say a few words about a dear friend and neighbor, whose contributions to my hometown of La Marque, TX, as both a good samaritan and civic leader, have been invaluable.

Esther Rice, or "Aunt Esther" as many called her, was loved by many people for her compassionate service to the needy in La Marque and for her inexhaustible generosity. Esther was born January 12, 1913, in Jasper, TX, the daughter of Mitchell and Leila Gandy. She was a resident of La Marque for 35 years. She and her husband, C.V. Rice, founded the Youth Aid Project more than 25 years ago when they discovered that one of Mr. Rice's students would not be able to have a Christmas. In subsequent years, the Rices sustained the program with money they raised at the "Christmas in August" fundraiser, a much-celebrated community event they initiated.

I had the honor last year, with Congressman JACK BROOKS, of appearing with Esther at "Christmas in August." It was a great event, once again, to help needy children and needy elderly people have a Christmas.

Four years ago, Esther added La Marque's senior citizens shut-in's to her Christmas program.

Committed to improving the lives of those around her, Esther was active in a number of neighborhood projects and served on the State health advisory committee. In addition, she wrote a weekly column for the La Marque Times and the Galveston County Daily News.

Her neighbors honored her with many awards over the years, including a Distinguished Service Award from the Galveston Sheriff's Department, an Honorary Attorney General recognition from the State of Texas, and La Marque's Outstanding Woman Award, not once but three times. She was made an admiral in the Texas Navy and was honored by the Texas House of Representatives on her 80th birthday last year. In addition, she was the only "lifetime" member of the La Marque Chamber of Commerce, which named her Citizen of the Year. She was also named Citizen of the Year by the local Lions Club.

None of these awards, however, could thank Esther sufficiently for all of her good work. Her many achievements continue to benefit the community of La Marque, as the memory of her warmth and sense of mission will always touch the hearts of those who knew her. Esther Rice will be missed and remembered with love.

Thank you, Mr. President. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

BOSNIAN CIVIL WAR

Mr. McCAIN. Mr. President, today's news accounts reveal that the President now intends to seek wider NATO involvement in the Bosnian civil war. President Clinton has endorsed U.N. Secretary General Boutros Ghali's request for a NATO ultimatum to the Bosnian Serbs threatening wider air strikes to protect all of the Moslem enclaves or so-called safe areas.

I have made no secret of my very grave concerns about such a move. My opposition to last week's limited and unsuccessful use of American air power in Bosnia was, in part, premised on the presumption that it would lead inevitably to our deeper military engagement in that terrible conflict. And if the President succeeds in securing NATO agreement for this more extensive use of air power, I fear that we will become further enmeshed in incremental escalation until such point where we face a choice between deploying American ground troops or withdrawing in abject defeat.

Mr. President, I do not now intend to discuss all my reservations about the administration's ever evolving Bosnia policy. But I do want to express my doubts about public support for this proposed course of action. And I feel very certain that the American people rightfully expect their elected representatives to consider very carefully any decision by the President that places the lives of their sons and daughters at grave risk.

Accordingly, Mr. President, I urge the leaders of the Senate to quickly schedule a debate and vote on a resolution of approval or disapproval for the future use of American force in Bosnia. I make this call not as a supporter of the legal validity of the War Powers Resolution, but as an elected representative who feels strongly that the public is owed Congress' consideration of its views.

There are many strong, compelling arguments on both sides of this issue which, as is apparent to all, is not divided along partisan lines. At a minimum, Congress should be responsible for providing the public with all the dimensions of this difficult argument—something which the administration has utterly failed to do. Should Congress approve the use of force—which I am fairly certain it would—then at least we will have attempted to enlist the support of the public. As any of us who lived through the Vietnam war know, no military action is sustainable without the support of a majority of the American people.

So, I respectfully request that the majority and minority leaders at their earliest convenience discuss scheduling a debate and vote before the United States takes another action toward war.

The PRESIDING OFFICER. The minority leader, the Senator from Kansas.

Mr. DOLE. Mr. President, was leader time reserved this morning?

The PRESIDING OFFICER. That is correct.

Mr. DOLE. I ask that I may use my leader time.

The PRESIDING OFFICER. Without objection, it is so ordered.

BOSNIA

Mr. DOLE. Mr. President, the brutal assault on the 65,000 citizens of the Bosnian city of Gorazde continues today. The hospital was hit once again, as well as an apartment and buildings which house humanitarian workers and refugees. In fact, it is my understanding that 10 patients in the hospital were killed. In addition, thousands of Bosnians remain without shelter vulnerable to Serb snipers and artillery shells. Meanwhile the Bosnian Serbs, in blatant violation of the February NATO ultimatum, stormed an arms depot in Sarajevo and seized antiaircraft guns from U.N. peacekeepers who were guarding the site. The weapons were reportedly returned this morning.

Among the casualties of continued Serbian defiance and aggression in Bosnia, are the credibility of the United Nations, NATO, and finally, the United States. The Bosnian Serbs are challenging the resolve of the international community, as well as that of the United States. And so far, they have been successful.

The Bosnian Serbs' defiant confrontation should come as no surprise. The pinprick strikes executed by NATO in response to a U.N. request for close air support in Gorazde on the 10th and 11th, did not demonstrate toughness, rather timidity—timidity in the face of a third-rate military led by thugs. The extremely limited nature of the air operation in Gorazde—which reflects the United Nations militarily minimalist approach—was, in effect, an invitation to the Bosnian Serbs to test the United Nations and NATO further.

And so, last weekend, while pledging peace in the pale, Bosnian Serbs began their thrust into Gorazde. But, the United Nations bluffed and waited to respond until it was too late. When, in the course of carrying out a request from the U.N. commander for close air support, a NATO plane was shot down—NATO failed to retaliate or respond in any way. Meanwhile, amidst the confusion and hesitation of last weekend, U.S. leadership could not be found. It was absent.

It is not too late to take measures to halt the slaughter of Gorazde's citizens; it is not too late to take measures to protect the other U.N. declared safe havens; it is not too late to allow the Bosnians to defend themselves by lifting the unjust, illegal arms embargo—unilaterally, if our allies are unwilling to go along.

Although I am discouraged by reports of the desperate situation in Gorazde, I am encouraged by the news that the President has forwarded various options to NATO for a decision. I hope that the President will resume the leadership role he assumed in February and then subsequently abandoned. Yesterday's Washington Post editorial was right on the mark when it stated that the President had positioned himself as, "The pawn of a self-driven international machine." Sending proposals to NATO is not enough. Since the war in Bosnia began there have been plenty of options, but little will to pursue those that involved the use of force. The President's leadership is essential to persuading our allies that tough action must be taken to protect U.N. declared safe havens—in which hundreds of thousands of Bosnians are essentially trapped—and to restore NATO's credibility, which has been seriously damaged.

Mr. President, U.S. leadership is needed to lift the arms embargo against the Bosnians, as well. For 2 years, the Bosnians have suffered widespread death and destruction because they have been unable to adequately defend themselves—all because of an arms embargo that was placed on Yugoslavia—a country that no longer exists. There is no more Yugoslavia.

It is still imposed on Bosnia, an independent nation. It is a member of the United Nations. We do not even give them the right to defend themselves. We, in effect, are siding with the Serbs by insisting that we continue the arms embargo on Bosnia.

The brave forces defending Gorazde had manpower and morale, but could not stop the tanks and mortars with small arms.

I would remind the administration that the Congress is on record in favor of the lifting the arms embargo. The Senate overwhelmingly adopted an amendment I sponsored which called for an immediate and unilateral lifting of the arms embargo. Yesterday the House-Senate conference on the State Department bill adopted the Dole amendment. It is high time that the Clinton administration begin listening to the views of the Congress on this issue—which are strong and clear—rather than just listening to U.N. bureaucrats, like Yasushi Akashi or the British and French—who always have the option of withdrawing their troops if the embargo is lifted.

This embargo, unlike the embargoes against Iraq and Libya, is illegal and unjust. I would like to bring attention to an op-ed in today's New York Times, by Jeane Kirkpatrick—who was our Ambassador to the United Nations during the Reagan administration—and by Morton Abramowitz—who held a number of senior positions in the State Department and is President of the Carnegie endowment. This article makes the legal and moral case for immediately and unilaterally lifting the arms embargo. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 20, 1994]

LIFT THE EMBARGO

(By Jeane J. Kirkpatrick and Morton I. Abramowitz)

WASHINGTON.—Just last month, the United States presided at the creation of a new Bosnian Federation. Today, we are presiding at its destruction. Our lack of resolve and loss of credibility make us accomplices to a Serbian conquest, not architects of a better settlement. The peace process begun with hope in Washington is about to go to hell in Gorazde.

In the face of fresh Serbian outrages against civilians and United Nations peacekeepers, President Clinton has steered a neutral course among the "warring parties." The results are morally, politically and militarily indefensible, with disastrous consequences not just for Bosnia but for a stable, democratic Europe and the viability of NATO and the U.N. (Yesterday there were indications that he was reconsidering this course.)

When confronted with the complexities of the war in Bosnia and brazen Serbian violence, the U.S. has simply retreated. It pursues negotiations at any price rather than creating the conditions for a workable peace agreement. Incredibly, we maintain the crippling arms embargo against Bosnia even as we talk of easing the trade embargo against Yugoslavia. Everybody but the Serbs has fallen hostage to the U.S. peace process, because we didn't back it with enough force to convince the Serbs that more war gives them more pain than gain.

For two years, Bosnia has appealed for means to defend itself. But instead, we gave it unenforced U.N. resolutions, unchecked genocide, impotent mediators, lectures on realpolitik, unsafe "safe havens," peacekeepers who can barely protect themselves, and now an unconsummated marriage of force and diplomacy.

Let us drop the pretense that we can do better, or at least that we will. If we are unwilling to give the Bosnian Serbs (and Belgrade) an ultimatum to withdraw from their sieges or endure punishing air bombardment, then NATO and the U.N. should get out of the way and give the Bosnians the arms to fight for their own country and their own lives.

Mr. Clinton, who has halfheartedly supported lifting the arms embargo, recently said it was not clear under international law whether it could be ended unilaterally. It can be. The embargo is inherently illegal and invalid with respect to Bosnia.

The embargo was originally imposed on all of the former Yugoslavia in 1991. But Bosnia is now a U.N. member in its own right, fully entitled to defend itself against aggression under Article 51 of the U.N. Charter.

Neither Bosnia nor anyone else is bound by an embargo that contravenes this fundamental precept of international law. Belgrade certainly has no compunctions about arming the Bosnian Serbs in violation of the embargo. The right to self-defense cannot be superseded by any U.N. resolution unless the Security Council itself undertakes to insure international peace and order, a task it has utterly failed to fulfill in Bosnia.

The embargo is not just illegal. It has protected the Serbs' advantage in heavy weapons. It has enabled the Serbs to conquer 70 percent of sovereign Bosnian territory and drive two million people from their homes. And it flies in the face of U.N. resolutions authorizing "all necessary means" to insure delivery of humanitarian relief and protect safe havens.

If the embargo cannot be removed by the Security Council because of Russia's veto, it must be removed by individual nations, beginning with the United States. Our European allies may balk, but in the end they need to worry more about our deserting them than we need to worry about their deserting us. Also misplaced are fears that unilaterally lifting the arms embargo for Bosnia would lead nations to abrogate the embargoes against Serbia or Iraq. The cases are not analogous. Belgrade and Baghdad are proven aggressors. Their self-defense is not an issue.

A U.S. move to lift the embargo and encourage other countries to do the same would be welcomed by an overwhelming majority in the U.N. Indeed, a majority has gone on record against its validity. And now that Russia's diplomacy has failed with the Serbs, it would save Moscow the added embarrassment of a veto.

Granted, a phased withdrawal of U.N. forces under U.S. air cover and a steady arming of the Bosnians could make matters worse before they get better. But that is a price the Bosnians are willing to pay, and we should be no less willing. It would initially lead to more killing, but the killing has been going on for two years and almost all the dead are innocent Muslims. It would put U.N. forces and humanitarian workers in jeopardy. But they are already in the Serbian cross hairs. Their alternative is to keep standing by, tabulating the carnage and treating the casualties, while CNN records it all in living color.

Humanitarian aid from the West would still be necessary, but the new Bosnian-Croatian Federation would bear the brunt of insuring the delivery of relief. The armed Bosnian forces might suffer some early reversals, but the federation will make it easier for us to deliver needed weapons.

Bosnia should be given the chance to work out a better solution than acquiescing to its own destruction. The Bosnian Army has will, discipline and manpower. If we lift the arms embargo now, we give the Bosnians a chance to do more than go down fighting. We given them a lease on life and a basis on which to build a viable peace—a peace that they, not we, will have the means and the duty to keep.

Mr. DOLE. The criticisms of the manner in which the United Nations has operated in Bosnia are justified. The U.N. protection forces seem to have done anything but protection. Time and time again, General Rose has stated that the United Nations is not in Bosnia "to win a war." That is true, but neither are U.N. forces in Bosnia to ensure that the Bosnian Serbs win the war.

That seems to be the strategy. It seems to be the pattern. Whether it is intentional or unintentional, that is precisely what is happening.

The United Nations has failed to enforce U.N. Security Council resolutions, the United Nations has cowered and hesitated in the face of Serbian defiance and threats, and finally the United Nations presence has created an obstacle to the lifting of the arms embargo against the Bosnians.

The flaws of the United Nations and UNPROFOR, the United Nations Protection Forces—I do not know why they have the "pro" in there because that has been no protection—however, do not exonerate the weakness of the United States and the absence of a consistent United States policy toward Bosnia. The administration cannot escape blame for its pretense of helplessness, for overreliance on the diplomatic initiatives of the Europeans and the Russians, and for asserting neutrality in the face of blatant Serbian aggression. All of these failings contributed to the success of Karadzic and Mladic's strategy of conquest and ethnic cleansing.

There is still time for the administration to define a policy toward Bosnia which places the tremendous influence of United States diplomacy and substantial military strength of NATO on the side of the Bosnians—who are the victims of the bloodiest aggression in Europe since the Second World War. If the President acts decisively and with urgency in the coming hours, there is still hope of stopping the carnage in Gorazde. NATO is not in need of the means to act, it is in need of a leader. And it is time for leadership.

COMMEMORATING THE 79TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. WOFFORD. Mr. President, today marks the 79th anniversary of the Armenian genocide. We commemorate here today the 1½ million Armenian men, women, and children whose lives were taken between 1915 and 1923 by forces of the Ottoman empire, and indeed, the hundreds of thousands slaughtered or forced into exile in the years preceding. Untold thousands suffered exhaustion unto death in work camps, walked into oblivion on death marches, suffered rape and degradation, starvation, torture, mutilation and murder. It was, to recall the words of the American Ambassador, Henry Morganthau, a campaign of race extermination conducted under the pretext of reprisal against rebellion.

This heinous act brought to a virtual end, the 3,000-year-old heritage of the Armenian people of the region. Today, the survivors can be found across the globe, from the cities and towns of Pennsylvania to Europe, and to the cities of the Middle East, and beyond. More than 130,000 Armenian orphans were taken in by the United States, filled with fear and the memories of horror they never forgot.

Mr. President, we have said many times that the world should never forget. However, we have forgotten, and time and time again, the world has witnessed history repeat itself in different places with different peoples, all with the same terrible purpose. The destruction of the Kulaks, Jewish Holocaust, Pol Pot's extermination of millions of Cambodians are but a few that come to mind. Even today, Saddam Hussein attempts to erase the marsh Arabs and Kurds, and the Serbs continue to practice their own form of ethnic cleansing.

It is fitting that today we commemorate the Armenian genocide. However, how even more fitting it would be if we could mark this sad occasion knowing that we had done all that was in our power to put such outrages behind us. How fitting it would be to remember such anniversaries as a thing out of our dark past, rather than as a scourge of our own time, or a foreboding preamble to our children's future.

CSIS HEALTH CARE FORUM

Mr. SIMPSON. Mr. President, today I would like to share some thoughts on my experience of cohosting an educational forum on health care last month with the Center for Strategic and International Studies [CSIS]. CSIS is a very well-known think tank in town that in the past has primarily focused on international and foreign affairs-type issues. I have worked with this marvelous organization on various projects since I entered the Senate in 1978. They worked with me as I became engrossed in immigration reform, and I continue to work with them as a board member for their Strengthening of America Program.

The Strengthening of America Program, cochaired by my friends and colleagues Senators NUNN and DOMENICI is the Center's domestic economic policy research and analysis program. Its mission is to analyze the economic impact of policies, which affect U.S. economic growth. The program launched its health care reform series to educate the public and private sectors about the economic consequences of health care reform.

The health care forum, which I cohosted in Cheyenne, WY, marked the first in a four State health care reform series made possible with grants from the Houston Endowment and Carnegie Corporation of New York. These types of health care forums are so important as we begin the debate over health care reform in Congress. To build a strong stable consensus for any solution to the country's health care dilemma requires—as the first step—clear and open communications between policy leaders and the public. We are just beginning this type of communication and much more needs to be done. That is why I can't speak highly enough about CSIS and its various programs.

The forum I cohosted with Dr. Anthony Smith, Vice President for Strategic Planning, CSIS is an excellent example of reaching out to the public to educate them on various aspects of health care reform. During our forum, we focused on issues relevant to Wyoming and other rural and frontier States. Other forums will focus on issues such as biomedical innovation, risk adjustment, and employer mandates.

During the 4-hour session, a panel of experts from around the United States and an audience from around Wyoming assessed the issues policymakers confront concerning rural and frontier States. Speakers gave presentations on alternative delivery systems for frontier States, physician and hospital perspectives on frontier health care reform, and the role telemedicine might play in solving issues of access and quality.

I was excited to learn that telemedicine, which links physicians and medical equipment via telephone lines to remote areas lacking medical services, could affect health care by drastically increasing access to all types of physicians including a variety of specialists while reducing costs and increasing the quality of medical care. Telemedicine has the potential of bringing a whole new era of medical delivery to Wyoming—especially to our most remote communities.

In addition, we discussed that most existing health care plans fall short for effective reform of frontier areas, and that the President's plan is especially geared toward urban areas rather than for rural areas. This is something that Members from rural and frontier States have been struggling with since we began examining health care reform and the President's bill.

As the health care debate heats up, the CSIS strengthening of America program will continue to educate the public on health care reform. I am so proud and pleased to be a part of this fine organization, and I wish them well as they continue with their health reform activities. We could never say we accomplished anything during these many months if we left the American public out of this debate. Including the public in the debate is essential if the country is to build a health care system that is affordable and meets the reasonable expectations of most Americans. CSIS is playing a critical role in this education process and I commend them on their endeavors.

NARCOTICS TRAFFICKING, THE KGB—AND CASTRO

Mr. HELMS. Mr. President, most Americans are understandably outraged by reports that Aldrich Ames—a former high-ranking CIA official—sold vital national security information to Russia and the former Soviet Union. Such treasonous activities may very well have cost the lives of many courageous people who helped the United States in the struggle to win the cold war.

We may never know the full extent of the damage to U.S. national security interests Aldrich Ames may have caused. But we can safely assume that one of the vital interests harmed by the Ames espionage is the U.S. ability to stop the flow of illegal drugs into the United States.

Bear in mind: Not only did Ames have access to the most sensitive CIA information concerning Russia and the former Soviet Union—he also had access to some of the most sensitive information concerning the war on drugs. At the time of his arrest, Ames was a top official in the CIA's office of narcotics intelligence.

The possibility that Ames passed sensitive information to the KGB concerning the war on drugs prompted the Wall Street Journal to publish on March 10 an interesting article headed, "The KGB and America's War on Drugs." The article stated what many of us have contended for years—that the KGB used moles like Aldrich Ames to sabotage the U.S. battle against the international narcotics trade.

It will surprise no one that the KGB sought to undermine the U.S. war on drugs. The KGB was institutionally dedicated to the destruction of the United States of America; therefore, the KGB's involvement in narcotics trafficking makes perfectly good sense. Drugs have been an increasingly destructive force in our society for decades, poisoning our youth and fanning the flames of violence in our cities.

Yet, for some reason, Mr. President, the State Department has been less than aggressive in addressing the role that the KGB—and Soviet allies such as Cuba—have played in the tidal wave of illegal narcotics pouring into the United States.

This, I submit, has been a bipartisan folly. As long ago as January 1987, I pleaded with the administration to investigate this matter. Two years later—on July 26, 1989—the Foreign Relations Committee held hearings on Cuba's involvement in narcotics trafficking. To my knowledge, however, a serious investigation was never undertaken despite the pleadings by me and others.

The pattern of ignoring clear evidence that the KGB and Cuba were linked to illegal drugs is reminiscent of the way the bureaucrats stonewalled congressional investigations into Manuel Noriega's activities. Only after pressure from Congress and an indictment by a Miami prosecutor did the State Department address the serious allegations against Manuel Antonio Noriega. Sadly, the bureaucrats have been not one bit more interested in probing the KGB and the Cuban connection with narcotics trafficking. The Wall Street Journal sensibly put it this way: "Rumors in the 1980s about KGB or Cuban involvement in the drug trade were routinely pooh-poohed by State Department and CIA types."

Well, Mr. President, the bureaucrats were forced to face the facts about Manuel Noriega, but I see no evidence that they learned anything regarding KGB and Cuban involvement in drug trafficking.

I confess that I do not know the extent of the KGB's involvement in narcotics trafficking under Boris Yeltsin. I like President Yeltsin; I've met with him every time he has visited Washington. But, the fact remains, as the Aldrich Ames case shows, that Boris Yeltsin has not stopped the KGB from spending untold millions to spy on the United States. This may or may not be entirely his fault. I'm not sure anyone knows how much control President Yeltsin has over the KGB.

But the question begs to be asked, Mr. President: Where is Russia now getting the money to finance its KGB operations—which are as vigorous as ever? The Soviet Union financed some KGB operations with hard currency earned from narcotics trafficking in years past. Russia—with its devastated economy—seems more likely than the Soviets to rely upon narcotics trafficking to pay some intelligence bills. It is certainly to be hoped that the Russians are not siphoning off U.S. foreign aid to pay its KGB bills.

It is well known that the KGB and Cuba did work hand in glove with Colombian drug traffickers, and Fidel Castro and the Soviets got quite a return on their "investments." They helped poison America's youth while raking in millions in profits—some of which, without doubt—went to finance intelligence operations aimed at the United States and our allies.

The established fact that Aldrich Ames was on the KGB's payroll while a top official in the CIA's narcotics intelligence unit—combined with the fact that the KGB has a history of involvement with international narcotics trafficking—underscores the conclusion that there is a serious need to look into the KGB's connection with narcotics trafficking.

But incredibly, Mr. President, the United States Government actually shares narcotics intelligence with Russian allies involved in the drug trade—and, yes, that includes Cuba. The U.S. State Department's "International Narcotics Control Strategy Report" for fiscal year 1993 confirms that the United States Government exchanged law enforcement information with the Cubans. That report does grudgingly admit that Cuba plays a role in the illicit drug trade. And the fiscal year 1994 report—just delivered to Congress—gives a glowing account of Cuba's efforts to combat the drug trade, but admitting that there is little evidence to support or refute Cuba's claim that it neither produces nor consumes illicit drugs.

Mr. President, let us not forget that Cuba is the country that Presidential candidate Clinton called an "island of tyranny." He described Fidel Castro as one of the world's "most ruthless dictators." The State Department routinely certifies Cuba as a state sponsor of terrorism; and it is no secret that Castro has been profiting from the drug trade for decades.

Notwithstanding the tough campaign rhetoric, the Clinton administration has turned a blind eye to Cuba's continued links with narcotics trafficking. At a November 4, 1993 Foreign Relations Committee hearing, I asked Secretary Christopher whether the United States shares intelligence or law enforcement information with Cuba, and the Secretary said "we do share [drug] enforcement information with the Cubans * * *. Cuba occupies a strategic location astride drug routes into the United States." He went on to say that "such exchanges are clearly in the national interests of the United States."

That may be, Mr. President, but the Secretary of State needs to ponder the serious allegations that Fidel Castro has been involved in narcotics trafficking for more than 20 years, charges which must be taken just as seriously as those against Manuel Noriega. It is inexcusable for the administration to ignore allegations against Castro just as past administrations ignored allegations against Noriega.

President Clinton did Fidel Castro a favor by not including Cuba in the list of major illicit narcotics producing and transit countries submitted to Congress on April 1 of this year. The President identified 26 countries as being major narcotics-producing and transit countries. Western Hemisphere nations on that list include: Brazil, the Bahamas, Belize, Colombia, Ecuador, Guatemala, Jamaica, Mexico, Paraguay, Venezuela, Bolivia, Panama, and Peru.

Mr. President, this is deja vu all over again. The Secretary of State told Congress with a straight face that sharing intelligence with Manual Noriega is in the U.S. national interests. Exchanging narcotics trafficking intelligence with Fidel Castro makes no more sense than sharing intelligence with Noriega. The administration might as well share drug enforcement information with the Colombian drug cartels.

The simple truth is that all of this is not in the best interest of the United States. More likely, Castro uses U.S. intelligence to tip off his business partners and to knock off his competitors. If Castro were serious about the international drug problem—and of course he is not—he is serious about raking in the countless millions in blood money.

If Fidel Castro really wants to be helpful, the first thing he could do would be to hand over to U.S. authorities all of those Cubans who have been indicted for narcotics trafficking. He could shut down the air corridors over Cuba that continue to be used extensively by drug smugglers. He could order the Cuban Navy to seize boats trafficking drugs through Cuban waters. He could crack down on his closest advisors—including his brother—who are profiting from drug trafficking.

But, Mr. President, don't hold your breath until Castro does any of the above. He and his cronies are into the drug trade up to their ears, and the administration knows it. Even the Washington Post reported in February that files and a videotape belonging to slain drug lord Pablo Escobar implicated Raul Castro in narcotics trafficking—Raul Castro, Fidel's brother, and his Minister of Defense. There was plenty of evidence prior to this discovery to indict Raul Castro, but he has yet to be indicted.

Castro's Chief of Staff of the Cuban Navy, Admiral Aldo Santa-Maria has been indicted in the United States. The Cuban Ambassador to Nicaragua has also been indicted. By the way, this criminal also stole a house in Nicaragua from an American citizen with the Sandinista's blessings. Many other top Cuban officials have been indicted in the United States for drug trafficking in the past 10 or 15 years.

And yet, Mr. President, some at the Organization of American States want to welcome Cuba into the club. I cannot imagine that the President will agree to allow this. Cuba was kicked out for good reason, and no thought should be given to allowing Cuba back into the OAS before Cuba is rid of Fidel Castro. Castro and his gang should know that the United States Ambassador to the OAS, Harriet Babbitt, told the Foreign Relations Committee that the United States "strongly opposes Cuba's reinstatement into the OAS."

Despite billions of dollars in foreign aid that the United States is giving Russia, Russia is still spying on us, and still aiding Fidel Castro. On April 1, Secretary Christopher certified that Russia was not giving assistance to Cuba, as required by the Cuban Democracy Act. The Secretary's justification for the certification said that Russia did not make available to Cuba concessional credit. But then the Secretary contradicted himself in the same report by saying that Russia made available to Cuba $380 million in low interest rate loans in 1993.

Russia refuses to rein in her Cuban ally, Mr. President. Russia stands by Fidel Castro, and the reason is simple: Cuba is an important intelligence asset to Russia. The KGB continues to operate an important intelligence listening post in Cuba which allows it to eavesdrop on much of the eastern seaboard of the United States. It wouldn't be surprising if this listening post is funded, at least in part, by drug money. Perhaps Aldrich Ames can shed some light on all of this.

Sharing any kind of intelligence with Fidel Castro is absurd on its face. Castro must be laughing at the State Department all the way to the bank.

Mr. President, I ask unanimous consent that an article from the March 10, 1994, Wall Street Journal be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 10, 1994]

THE KGB AND AMERICA'S WAR ON DRUGS

(By Mark Almond)

In all the fuss following the arrest of top CIA agent and alleged Moscow mole Aldrich Ames, some key questions have gone unasked. Media attention has focused on Mr. Ames's activities as CIA head of Soviet counterintelligence, where he allegedly betrayed to their deaths some 10 Soviets working for America. But what Mr. Ames was doing after he left this post has been largely ignored.

Aldrich Ames was a key figure in the new American effort to thwart the inflow of narcotics into the U.S. and impede the corrupting influence of the drug barons. If his work in the CIA's operations against drug trafficking was as controlled by KGB agents as his earlier service, then the explosive power of the Ames case doubles its force.

During the late 1980s, the U.S. intelligence community increasingly shifted its emphasis from classic espionage against the Cold War rival to a new role in the war againt drugs and organized crime. (Western European intelligence agencies redeployed their resource, too.) In the happy dawn of the New World Order, George Bush thought the CIA should cooperate with its ex-rivals against common foes: organized crime, terrorism and drug trafficking. Mr. Ames became head of the CIA's narcotics intelligence department for the Black Sea countries in 1990 after his service as counterintelligence chief for Eastern Europe and the Soviet Union.

Yet all the while Mr. Ames was allegedly working for is old KGB handlers.

Could one explanation for America's sorry record in the war on drugs be that its key intelligence was going to the other side? Rumors in the 1980s about KGB or Cuban Involvement in the drug trade were routinely pooh-poohed by State Department and CIA types who could not imagine that their rivals were anything other than sincere champions of another cause. Now that the routine cynicism and corruption of the former Soviet Union is widely acknowledged, it is time to ask whether some of the cash to fund expensive KGB operations might come from the world's most lucrative milk cow—the narcobusiness.

Espionage experts have expressed surprise at the amount of cash the KGB is alleged to have paid Mr. Ames, far more than in most treason-for-money cases, in which the amounts are often amazingly trivial. Fewer questions seem to have been asked about whether the KGB was the only source of Mr. Ames's affluence. It seems reasonable to ask whether his visits to his second wife Maria's native Columbia might have given him access to another source of income in return for information about the CIA's antinarcotics drive.

Another question suggests itself: Did Mr. Ames betray anyone to the KGB in his new posting, as he allegedly did while counterintelligence chief?

Last August, in the former Soviet republic of Georgia, the CIA's Fred Woodruff was shot dead while riding in the car of the chief of the Georgian security service. A terrible accident was the improbable verdict. But a week earlier, Mr. Ames had been in Georgia. In addition to his mission to provide U.S. training to Georgian security forces, Mr. Woodruff was allegedly investigating Georgia's role as a conduit of heroin from other ex-Soviet republics to the West.

Some informed Georgians think that Mr. Woodruff had come to believe that the men Washington had sent him to cooperate with were in fact involved in the heroin shipments. Had Mr. Woodruff reported this, Mr. Ames would have been the first man in the CIA to receive his report.

It is public knowledge in Georgia that the security forces of Edward Shevardnadze's regime are involved in the republic's rampant drug business. So severe has the problem become that even Mr. Shevardnadze recently felt obliged to undergo a heroin test to prove his credibility.

As an ex-KGB general-turned-reformer who returned to his native Georgia, Mr. Shevardnadze ought to be able to help the Clinton administration clear up any connection between Mr. Ames's visit to Georgia last year and the murder of CIA station chief Woodruff. If Mr. Ames was betraying America's war on drugs to the KGB, then the Clinton administration and the West are starting into a deep and dark abyss.

The venality of Aldrich Ames contrasts sharply with the intense, if twisted, ideological treason of a Kim Philby. How many other unhappily salaried Western intelligence officials cooperating with the ex-KGB in the war on drugs have also been tempted by the rich pickings of betrayal in the postideological age?

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt stood at $4,565,951,484,411.43 as of the close of business on Tuesday, April 19. Averaged out, every man, woman, and child in America owes a part of this massive debt, and that per capita share is $17,513.46.

THE 79TH ANNIVERSARY OF ARMENIAN GENOCIDE

Mr. DECONCINI. Mr. President, April 24 will mark the 79th anniversary of the beginning of the tragic Armenian genocide. Beginning in 1915 and continuing until 1923, the Ottoman Empire carried out a planned extermination of the Armenian people. During this period 1.5 million Armenians were killed and 500,000 exiled from the Ottoman Empire.

In 1915, newspaper headlines told of mass starvation and drownings of Armenians. Henry Morganthau, our Ambassador to Armenia at the time, telegraphed the Secretary of State on July 15, 1915, and had this to report:

> Deportation of and excesses against peaceful Armenians is increasing and from harrowing reports of eyewitnesses it appears that a campaign of race extermination is in progress under pretext of reprisal against rebellion.

Tragically, no one came to the rescue of the Armenians. Equally tragic is the fact that the Republic of Turkey denies the genocide. I am a strong supporter of Turkey, an important ally and friend of the United States. Just as the United States faces up to our mistreatment of black Americans, native Americans and others, the Turks must face up to the genocide of the Armenians. This genocide was not carried out by the existing government which is a democracy, but by the Ottoman Empire.

We must be able to discuss history openly with our allies. We strengthen our democracy by acknowledging these tragedies. The danger of not facing up to history is demonstrated by the statement Adolf Hitler made during his planning of the Holocaust against the Jews. Hitler said, "Who today speaks of the extermination of the Armenians?"

The Armenian genocide was a terrible tragedy. To look away would be a greater tragedy. That is why on this 79th anniversary of the Armenian genocide we remember not only the Armenians who died in this senseless killing but also the efforts of Armenians and Armenian-Americans who have struggled to pressure the Turks to acknowledge the Armenian genocide.

BUDGET SCOREKEEPING REPORT

Mr. SASSER. Mr. President. I hereby submit to the Senate the Budget Scorekeeping Report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through April 15, 1994. The estimates of budget authority, outlays and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 287), show that current level spending is below the budget resolution by $4.8 billion in budget authority and $1.1 billion in outlays. Current level is $0.1 billion above the revenue floor in 1994 and below by $30.3 billion over the 5 years, 1994–98. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $311.7 billion, $1.1 billion below the maximum deficit amount for 1994 of $312.8 billion.

Since the last report, dated April 12, 1994, Congress approved and sent to the President S. 2004, extending loan ineligibility exemption for certain colleges. This action changed the current level of budget authority and outlays.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 19, 1994.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the 1994 budget and is current through April 15, 1994. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 64). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S.Con.Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated April 11, 1994, Congress approved and sent to the President S. 2004, extending loan ineligibility exemption for certain colleges. This action changed the current level of budget authority and outlays.

Sincerely,
ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1994, 103D CONGRESS, 2D SESSION, AS OF CLOSE OF BUSINESS APRIL 15, 1994

[In billions of dollars]

	Budget resolution (H. Con. Res. 64) [1]	Current level [2]	Current level over/under resolution
ON-BUDGET			
Budget authority	1,223.2	1,218.5	−4.8
Outlays	1,218.1	1,217.1	−1.1
Revenues:			
1994	905.3	905.4	0.1
1994–98	5,153.1	5,122.8	−30.3
Maximum deficit amount	312.8	311.7	−1.1
Debt subject to limit	4,731.9	4,482.2	−249.7
OFF-BUDGET			
Social Security outlays:			
1994	274.8	274.8	(3)
1994–98	1,486.5	1,486.5	(3)
Social Security revenues:			
1994	336.3	335.2	−1.1
1994–98	1,872.0	1,871.4	−0.6

[1] Reflects revised allocation under section 9(g) of H. Con. Res. 64 for the Deficit-Neutral reserve fund.

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[3] Less than $50 million.

Note: Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1994 AS OF CLOSE OF BUSINESS APRIL 15, 1994

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			905,429
Permanents and other spending legislation [1]	721,182	694,713	
Appropriation legislation	742,749	758,885	
Offsetting receipts	(237,226)	(237,226)	
Total previously enacted	1,226,705	1,216,372	905,429
ENACTED THIS SESSION			
Emergency supplementary appropriations, fiscal year 1994 (P.L. 103–211)	(2,286)	(248)	
Federal Workforce Restructuring Act (P.L. 103–226)	48	48	
Offsetting receipts	(38)	(38)	
Housing and Community Development Act (P.L. 103–233)	(410)	(410)	
Total enacted this session	(2,686)	(648)	
PENDING SIGNATURE			
Extending loan ineligibility expemption for certain colleges (S. 2004)	5	3	
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted [2]	(5,562)	1,326	
Total current level [3] [4]	1,218,462	1,217,054	905,429
Total budget resolution	1,223,249	1,218,149	905,349
Amount remaining:			
Under budget resolution	4,787	1,095	
Over budget resolution			80

[1] Includes budget committee estimate of $2.4 billion in outlay savings for FCC spectrum license fees.

[2] Includes changes to baseline estimates of appropriated mandatories due to enactment of Public Law 103–66.

[3] In accordance with the Budget Enforcement Act, the total does not includes $14,145 million in budget authority and $9,057 million in outlays in emergency funding.

[4] At the request of Committee staff, current level does not include scoring of section 601 of Public Law 102–391.

Notes: Numbers in parentheses are negative. Detail may not add due to rounding.

JUDGE WILLIAM W. WILKINS, JR., ADDRESSES THE NEED FOR SENTENCING REFORM AT THE STATE LEVEL

Mr. HOLLINGS. Mr. President, Judge William W. Wilkins, Jr., is a member of the Fourth Circuit U.S. Court of Appeals and also serves as chairman of the U.S. Sentencing Commission. In a lengthy and insightful article in the April 17 edition of the Greenville News, he discusses the anticrime legislation now working its way through Congress, and he makes a strong case for better coordination and partnership between the Federal and State Governments.

Specifically, while praising the Federal sentencing framework for its toughness and predictability, Judge Wilkins notes that sentencing guidelines at the State level are in urgent need to reform. He urges that current State parole systems be abolished and replaced with a truth-in-sentencing system similar to the Federal model. He also advocates uniform and restrictive policies regarding plea bargaining in order to assure more equal treatment.

Mr. President, Judge Wilkins addresses this issue with common sense and genuine wisdom. He is one of our Nation's foremost authorities in the field of sentencing reform. For the benefit of our colleagues, I request unanimous consent that Judge Wilkin's article, "State, Federal criminal justice systems must work in tandem," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STATE, FEDERAL CRIMINAL JUSTICE SYSTEMS MUST WORK IN TANDEM

(By Judge William W. Wilkins, Jr.)

According to recent opinion polls, crime tops the list of public concerns. Although the Bureau of Justice Statistics reports that crime rates remained stable or declined in the most recent year of measurement (1992), the public perception is that crimes are occurring more frequently and closer to home. Understandably, as public concern about crime grows, there also is increased skepticism about the effectiveness of our criminal justice system.

Responding to these concerns, Congress is soon expected to pass major anti-crime legislation. My hope is that the this bill, as it addresses sentencing policy within our federal court system, will build on the important, demonstrably effective reforms already in place. At the same time, because 95 percent of all crimes committed necessarily are state violations, a truly effective, nationwide crime control strategy requires a coordinated effort between federal and state governments working as partners.

My firm conviction is that the ultimate goal of any criminal justice system should be crime control. For a criminal justice system to maximize crime control, sentences meted out by judges need to be both appropriately tough and fair.

Sentences need to be tough because society, through its criminal justice system, must be allowed to express its moral outrage at criminal conduct.

In addition, sentences must be fair in order for the justice system to earn the respect and support of those it serves, including those who are punished by it. Fairness, in this context, is more than perception. It embodies the specific characteristics of proportionality, evenhandedness and certainty.

Unwarranted disparity in sentencing—the opposite of evenhandedness—breeds disrespect for the law and undermines public confidence. Until a few years ago, unwarranted disparity in sentencing was one of the principal problems that plagued our federal system, and it remains a problem today in most state systems.

Finally, certainty of punishment is essential for a fair and effective crime control system. In fact, crime control research demonstrates that certainty of punishment produces more effective results than severe sentences imposed on a hit-and-miss basis.

A tough but fair criminal justice system is now in place in our federal courts. This new system was created a few years ago after Congress enacted sentencing reform legislation and created the United States Sentencing Commission which issued sentencing guidelines for use in our federal courts. Under this system, offenders convicted of federal crimes are sentenced pursuant to guidelines that structure the federal judge's discretion by requiring that offenders convicted of the same crime, under similar circumstances, with comparable criminal records, are sentenced alike.

Importantly, federal prison sentences are now imposed without the availability of parole. A sentence of five years means five years, ten means ten, and life means life, without parole. Consequently, many of the perceived problems of the criminal justice system—"revolving door" prisons; early release through parole or release of some offenders to make room for more; overly generous "good time" credit; and unduly lenient or unequal sentencing by individual judges—are not present in the federal system.

Will this make a difference to all of us and our families in our homes, places of business and communities? Will we as citizens begin to see the positive results of a federal criminal justice system based on crime control? The answer, I believe, is a qualified "yes."

My answer is qualified because the federal criminal justice system has a limited reach. Under our constitutional system the individual states retain the bulk of "police powers." For example, generally in order for an offense to fall within federal jurisdiction, it must have some connection to interstate or foreign commerce or be committed on federal lands.

Except for a few offenses that simultaneously violate both federal and state law, such as drug trafficking, most offenses fall into one category or the other. Thus, burglary of a residence in Greenville County, robbery of a neighborhood store, a mugging on a city street or the abduction and rape of a customer at a local mall, violate only state law and must be prosecuted in state court.

In fact, violent crimes in general are almost entirely within the exclusive jurisdiction of the states with only one percent involving violations of federal law. Thus, while offenders who commit violent acts that implicate federal law are sentenced to lengthy prison terms without parole under federal sentencing guidelines, our state courts by law must deal with the remaining 99 percent.

This may seem to suggest that the answer to our continuing crime problem is for the federal government to assume a greater share of the law enforcement, prosecution, sentencing and imprisonment efforts. Indeed, Congress appears to be moving in that direction.

Provisions in the proposed crime legislation now being considered by Congress would expand federal criminal jurisdiction to include the use of a firearm in connection with any state drug or violent crime, street gang offenses, drive-by shootings and possession of a firearm by a juvenile.

Whether state offenses should be brought within the jurisdiction of federal courts is ultimately a policy judgment for Congress, taking into account a number of concerns. Even if all of these proposals are adopted, however, most crimes, especially violent crimes, still will—indeed must—be handled in our state courts.

Last year, working at a capacity level that prevented many federal district courts from handling any significant number of civil cases, approximately 42,000 criminal offenders were sentenced in federal courts under the sentencing guidelines. At the same time, state courts in our 50 states processed over one million felony criminal cases. Clearly, even with some resource increases provided in the crime bill, there simply will not be enough federal law enforcement agencies, assistant U.S. attorneys, federal public defenders, federal judges, U.S. probation officers, and federal prison officials to handle any massive shift of criminal prosecutions from state to federal courts.

Nor is such a shift necessarily good policy, for other reasons. Traditionally, the federal law enforcement effort has focused on large-scale and/or sophisticated crimes such as interstate drug conspiracies, money laundering, organized crime, major frauds, terrorism, treason and immigration offenses.

Diverting federal law enforcement resources to directly fight local street crime may prove short-sighted if it results in curtailing crime fighting efforts in those important areas of traditional federal responsibility. Consequently, Congress should move cautiously in expanding federal criminal jurisdiction.

Another current effort by Congress to address the crime problem is to require the imposition of severe penalties on violent recidivists who commit federal offenses. Commonly referred to as a "three-time loser" or "three strikes and you're out" provision, these proposals in the legislation now being considered in Washington would mandate life imprisonment without parole for offenders convicted of a serious violent or under some versions, drug trafficking felony who have two prior violent (or drug trafficking) felony convictions. The concept of this proposed legislation is generally sound.

Realistically, however, enactment of this legislation at the federal level will add little to the total crime control effort. Why? First, a "three-strikes" career offender provision under the federal sentencing guidelines already ensures that offenders convicted of a third violent or drug trafficking crime will be sentenced at or near the statutory maximum. Thus, career offenders are already sentenced to an average of 17.4 years without parole. And, the most dangerous of these offenders now receive actual life sentences or sentences equaling or exceeding life expectancy.

The second reason that federal enactment of the "three-strikes" proposal will not significantly advance crime control is its limited impact on the total population of violent criminals. Using its extensive database, the Sentencing Commission estimates that the "three-strikes" proposal will apply to less than 200 federal offenders each year.

Finally, the proposed "three-strikes" federal statue will apply infrequently to those convicted of crimes of actual personal violence. In fact, according to the Sentencing Commission's analysis of the proposal, it appears likely that 60 percent of the affected offenders will be those convicted of robbing a federally insured bank where no personal injury occurred.

Consequently, as a device to incapacitate for life those who are violent predators, the proposal, unfortunately but realistically, makes a negligible contribution to crime control efforts.

If federalizing traditional state crimes and a federal "three-strikes" proposal are not effective answers to our continuing crime problems, what are? In my view, until the state systems uniformly work in tandem with the federal system, crime control in America will never be fully achieved.

Before my appointment to the federal bench, I worked for many years in our state justice system. Just as the federal system needed comprehensive sentencing reform, so too do many of our states.

So where do we go from here? I suggest that each state should comprehensively reexamine its justice system and ask whether it is designed to achieve crime control. If not, change the system and adopt one that is built around the following essential characteristics:

The system of parole as we know it should be abolished. In its place, a truth-in-sentencing system should be instituted. The sentence imposed in the public courtroom will be the sentence served, less a modest reduction for good behavior while in prison.

Sentences must be based on specific guidelines that are uniformly applied so that similar offenders who commit similar crimes are all fed from the same spoon.

Uniform and restrictive policies regarding plea bargaining should be adopted to minimize unequal treatment.

Sentences should be very tough for violent and repeat offenders.

Meaningful prison alternatives or short prison sentences should be available for first-time nonviolent offenders.

Even these steps by no means will eradicate crime problems whose root causes are complex. While working toward longer range solutions, however, we can and should achieve more effective crime control by implementing sentencing reforms wherever they are needed.

LIERMAN TRIBUTE TO MARY WOODARD LASKER

Mr. HOLLINGS. Mr. President, at last week's gala celebration of the National Eye Institute's 25th anniversary, a high point of the evening was an eloquent tribute by Terry Lierman to the late Mary Woodard Lasker. Terry Lierman, president of Capitol Associates, is a tremendous champion of medical research—a fact that made all the more impressive his salute to Mary Lasker as his mentor and role model.

Of course, Mary Lasker was well known to Members of the Senate going back decades. We remember her lifetime of dedication to medical research; her critical role in the founding of the National Cancer Institute; her passionate advocacy of funding for a whole range of programs at the National Institutes of Health. She was a remarkable woman whose 94 years were lived with an abundance of energy and commitment.

Mr. President, Terry Lierman's remarks are not only a moving tribute, they capture the spirit of Mary Lasker in a special way. I would like to share them with our colleagues, and, indeed, with the American people. Accordingly, I ask unanimous consent that they be reprinted in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

TRIBUTE TO MARY WOODARD LASKER

(By Terry Lierman)

It was Senator Warren Magnuson (my first mentor) that introduced me to Mary Lasker and it was love at first sight. Here was Mary who was born in Watertown, Wisconsin in 1900—I was born 30 miles from there—but a little later. She went to the University of Wisconsin, my alma mater. She basically started the modern NIH, where my first job was, she worked the halls of Congress, that's where I worked. I have followed Mary unconsciously and will consciously follow her in the future too—Chairman Magnuson's favorite phrase was "just tell me what time it is, not how the clock works!" This is one person, Mr. Chairman, who deserves more than just the time!

So allow me to share a few stories with you as a legend is born * * *.

It was Mary that got Senator Magnuson to sponsor, as his first bill in Congress, along with Senator Pepper, something starting the National Cancer Institute.

The few minutes I have here, is like asking an NIH researcher for a 1 page grant application.

Chairman Magnuson, this clock ran beautifully for 93 years, and its long overdue for someone to tell how the clock worked!

Simply, if God created mothers for children—God created Mary Lasker for medical research!

Mary, literally, up to the day of her death 4 weeks ago, kept urging for more effort and faster progress—she had a wonderful sense of urgency—she understood that people were dying and suffering.

Her last passion was the Harkin-Hatfield Research Fund for Medical Research. It was her last call to me and she spoke in a whisper, but her urgency, like always, came through—how was it going; what were the chances; what could she do to help; on and on, always questioning, always pushing for more.

Mary had a wonderful way to put perfect thoughts into words, "words of wisdom according to Mary" should be a primer for all of us—one she used often was "if you want something done, give the other person the credit."

But lets give Mary the credit tonight:

Credit for the 10,000 azaleas she had planted in D.C.;

900 cherry trees around the tidal basin;

1 million daffodils planted in Rock Creek;

Gardens in 20 Blocks of Park Avenue New York;

Lasker Gardens in Central Park;

The landscaped grounds and trees at the United Nations;

Even a flower garden at Oxford in honor of the discovery of penicillin; and

Hundreds of highway planting projects with Lady Bird Johnson along our Nation's highways.

Mary felt very strongly that beauty and color translated to PMA—a positive mental attitude = good health.

That is the easy part to identify what Mary has done, now comes the life sciences—life sciences, Mary was always interested in life.

At NIH sits a gorgeous building and grounds named the "Mary Woodward Lasker Center for Health Research and Education." When I first told her that Senators Kennedy and Hatfield and Speaker O'Neill, Chairman Pepper, were doing it in her honor it was one of the few times I saw her angry. Angry because she said she did not deserve the credit, it was the Congress that deserved the credit. It happened over her protest and she was very, very proud of it—even purchased pictures for the inside and worried that the outside wouldn't have enough flowers.

Go there and walk the interior gardens and you, I will assure you, that you will feel the inspiration of Mary—it was a convent before.

It was Mary Lasker who got her husband Albert, who controlled massive amounts of advertising on radio in the early 40's to get CBS to say the then very taboo word "Cancer" on a program called Fibber, Maggie and Molly. This led to a flood of mail to a fledgling group called the American Cancer Society and Mary hired people to open the mail and count the checks propelling ACS nationwide. She would later use a similar technique but with Eppie Lederer-Ann Landers to get the National Cancer Act passed over the initial objections of President Nixon. Full page ads in major newspapers with 4 inch bold type saying, simply: Mr. Nixon You Can Cure Cancer—it worked!

Mary's greatest dream, was a cancer vaccine. Early on, while she talked, slept and pushed for a cancer vaccine, the scientific community scoffed. Now, with 1 person in the United States dying from cancer every 62 seconds, medical research progress has brought that dream within reach, Mary will be proven right yet again.

Then the list of medical research accomplishments grew rapidly—creation of the Heart, mental health and most of its institutes in the 40's and 50's, 60's—there is a rare NIH program without Mary's stamp on it.

The Lasker Awards in 1948 which have been the American leader in recognizing basic, clinical research and public service.

52 Lasker winners since 1948 have gone on to win Nobel Prizes.

Mary would do anything to get attention not for her awards, but she saw this as a way to promote medical research—awards, press, politics which she viewed very positively as a means of serving the needs of people.

She was very frustrated with scientists who did not want to subject themselves to politics and thought that medical research funding would happen automatically because it was the right thing to do. Mary would say, "it's my money, I have a right to help determine how it is spent."

She was a model citizen. She understood, like Alexandre de Tocqueville stated, that democracy does not work unless those who live in it work for it. A keen lesson for all Americans who do not participate and blindly go down the trail of taking democracy for granted.

We should all know that rights are only ours if we exercise and protect them.

Mary viewed advocacy for medical research as a right of the public and sought it with a passion.

In the 60's she forced, with the intervention of President Johnson, the NIH to get involved in clinical research saying—

"What good does it do to fund medical research if we can't get it used by those who need it."

In the 70's and 80's her passion was education, cancer vaccine development and gene therapy years before it was popular. In fact, it was not all roses. People, scientists, often scoffed at Mary but time and again she was right.

She would say "go to the government for funding. You can raise more there in a day than in a lifetime of trying to raise money privately."

Mary was proud of her championing of the National Eye Institute—she adored and spoke reverently about Lew Wasserman and her seat on the board of Research to Prevent Blindness.

Mary had a vision that few are blessed with and would probably be frustrated with those that mouth prevention today but ignore the importance of research for tomorrow—she said "research is the first link in the chain of prevention."

Like those few people with vision, Mary's eyes were always able to look farther than they could see. Mary was often heard to say that "I am opposed to heart attacks, and cancer, and strokes the way I am opposed to sin." Her vision gave her the resolve to persuade others to find the cause of disease, not just treat the symptoms.

Mary Lasker had the resources to go to the South of France but elected to stay and fight the good fight.

She stayed focused in the determination to cure and prevent disease and disability.

It was her vision, her life, her energy which will benefit every person in this room before we join Mary.

The last few years in talks with her, she was becoming increasingly frustrated by the country's inability as she said to "dream", she said there are always people who find reasons not to do things and that Washington is made up of "work horses and show horses." Tonights honorees, down to every person, (Former Rep. Frederick B. Rooney, A Edward Maumenee, MD, Lew R. Wasserman and Research to Prevent Blindness, National Eye Institute, Rep. William H. Natcher, Rep. Louis Stokes, Rep. John E. Porter, Sen. Mark O. Hatfield, Sen. Ernest F. Hollings, Sen. Tom Harkin) Mary worked with, supported and was very fond of. Like tonight, she was not partisan, she would help those who would help others—those who would dare to dream about making this place a better one and do something about it.

Mary's one speech that I heard in 18 years, because she shunned the light stated simply—

"The fruits of our labors throughout the years will:

Alleviate pain where there is suffering;

Provide the freedom to live in health so that we can fulfill our promise and quest in the pursuit of happiness and provide hope where none existed before."

If you want to know what Mary's monument looks like—look at the people around you. Deeds for people, not stones, are the true monument of the great.

Her legacy is a living vibrant message of hope to millions afflicted with disease and disability.

Her life will be judged not by her wealth or her love for beauty, but by the beauty and wealth that she instilled in every life she touched through medical research.

Those of us who have met her, seen her beauty and been touched by life, will revel in her memory and be driven by her passion.

The fruits of Mary Lasker's efforts and commitment to improve humankind are all around us; they live in each of us—they will be truly timeless. Our efforts to cure disease and conquer disability will be judged by Mary in our minds and hearts.

A grateful nation owes much to Mary Woodard Lasker—a woman whose mind rebelled against needless suffering and whose heart responded to a worthy cause. Mary showed us that medical research is a living message that we will pass on to our children—for a time that we will not see.

"METRICS: MISMEASURING CONSUMER DEMAND" A VERY BALANCED REVIEW

Mr. PELL. Mr. President, as many of my colleagues know, Mr. President, I have been a long-time proponent of metric conversion by the United States. As I have said before, I strongly believe that the American economy would greatly benefit if the United States were to join the rest of the world.

Presently, the United States is the only industrialized nation in the world that does not use the metric system of measurement. Imagine, Mr. President, what impact this has on our trade with other countries. In fact, the U.S. Department of Commerce has estimated that U.S. exports could increase by as much as 20 percent if the United States were to convert to the metric system.

Unfortunately, Americans have, for some time, seemed apprehensive about making the change from our inch/pound system to the metric system. This tension between the obvious economic benefits and consumer apprehension is one of the biggest hurdles metric proponents face.

An article in the February 1994 issue of Consumer's Research magazine does a fine job of exploring this tension. The article is very interesting and well-balanced. I recommend it to all of my colleagues, regardless of your views on metric conversion.

Mr. President, I ask unanimous consent that the article "Metrics: Mismeasuring Consumer Demand" be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Consumers' Research, Feb. 1994]

METRICS: MISMEASURING CONSUMER DEMAND

(By Michael Chapman)

Is the Department of Justice, the top governmental agency responsible for law enforcement, violating the law? Apparently, yes. The law in question concerns the use of the metric system of weight and measure as enacted by the Metric Conversion Act of 1975 and amended in the Omnibus Trade and Competitiveness Act of 1988. This amendment on metric usage (Public Law 100–418, Section 5164) "declares that the policy of the nation is to designate the metric system as the preferred system of measurement for trade and commerce, and requires such federal agency to use metric units in all or as many of its procurements, grants, and other business-related transactions as is economically feasible by the end of fiscal year 1992." According to a report by the Congressional Research Service at the end of fiscal year 1992, the Justice Department "does not appear to be complying with the [metric usage] law."

The Justice Department is not alone.

The latest information available indicates that no less than 22 of 37 federal agencies have either completely or partially failed to comply with the metric conversion law. These "outlaw" agencies include: Department of Education, Department of Transportation, Federal Trade Commission, U.S. Postal Service, General Services Administration, and the Government Printing Office. Despite these apparent violators of federal law, don't expect the U.S. government to indict itself. Attempts at metric conversion in the private sector never really got off the ground. It is still uncertain whether this attempt at conversion in the public sector will survive, let alone succeed.

METRIC HISTORY LESSON

The attempt to replace the English (or customary) system of weight and measure, which is based on inch/pound/quart measurements, with the metric system, which is decimal-based and uses meters, grams, and liters for measurement, has a long history.

The metric system was born during the French Revolution. In the United States, both Thomas Jefferson and John Quincy Adams advocated, unsuccessfully, metric conversion. By an Act of Congress in 1866, metric usage was legalized in the United States on a voluntary basis. In 1875, along with 17 other nations, the United States signed the Treaty of the Meter. This agreement established the International Bureau of Weights and Measures in Sèvres, France, to provide metric standards of measurement for worldwide use. These standards for length and mass were adopted in the United States in 1893. In 1960 the metric standards were revised. This modernized version of the metric system is known as Le Systeme International d'Unites (International System of Units) or SI. Metrics have been legal on a voluntary basis for more than 100 years; but except in those fields that are metric-dependent—science and trade—widespread metric conversion in the United States has not occurred.

To promote metric conversion in the United States, Congress passed the Metric Conversion Act of 1975. This Act called for a voluntary conversion by individual groups and industries. However, this attempt failed. Americans, by and large, rejected the system. "The switch to metric was perceived as hostile to consumers," said Government Executive in 1990. "The public objected loudly to road signs showing distances in kilometers, to temperatures in Celsius, and to gasoline sold in liters."

In assessing this unsuccessful attempt at metric conversion, G.T. Underwood, former director of the Office of Metric Programs at the Department of Commerce, says: "Arguments about lost export markets got mixed up with the need for metric road signs. The general public resented what seemed an unnecessary social nuisance. Most U.S. firms, seeking not to aggravate U.S. customers, didn't change their products, the ostriches prevailed, and the movement essentially stalled." On a related note, a General Accounting Office (GAO) report in 1978 found: the total cost of metric conversion was indeterminable but substantial, somewhere in the billions-of-dollars range; conversion would result in higher consumer prices and reduced U.S. productivity; U.S. and world trade would not be hampered by a dual system of English and metric measurement; and there was no evidence that a solely metric system would benefit the U.S. economy.

As a result of the reaction in the 1970s, overt enthusiasm for metric conversion in the public and private sector waned—until 1988.

As mentioned, in the Omnibus Trade and Competitiveness Act of 1988, the metric system is designated the "preferred system of measurement" in the United States and requires all federal agencies to "go" metric. In 1991, President George Bush issued Executive Order 12770, which clarified the role of the Commerce Department to direct and coordinate all federal agencies in converting to the metric system. With these directives, proponents of metrication plan to stimulate conversion in the United States from the top down—from government, to industries, to small businesses, and eventually to consumers.

"The amended Metric Conversion Act of 1975 and the 1991 Executive Order provide both the rationale and the mandate for a transition to the use of metric units," says Dr. Gary P. Carver, chief of the Metric Program at the National Institute of Standards and Technology (NIST). Metric conversion in the federal government could finally tip "the scale toward general acceptance of the metric system," notes Government Executive.

But how exactly will this latest attempt at metric conversion work? And how will it affect consumers?

THE CASE FOR METRICATION

Stimulate conversion.—The new attempt at metric conversion strongly encourages American industries that sell products to the government to produce these products in metric units. Conversion is voluntary for private industry. But if an industry sells to a government that is required by law to purchase metric-sized products, then what will that industry do? Answer: Either stop selling to that government or convert its products to metric measurement. Carver says the main objective of metric conversion in the federal agencies is to "stimulate" people, not force them to convert to metrics. The budgetary power of the 37 federal agencies involved is a powerful stimulus.

The General Services Administration (GSA), for instance, spends more than $2 billion a year on procurement. The entire federal bureaucracy spends more than $300 billion a year on goods and supplies. Under the law, all federal agencies must use the metric system in their procurements, grants, and other business-related activities. More than $300 billion in procurements will unquestionably affect the nation. Hence, industries have converted or are in the process of converting to the metric system.

Automobiles built by General Motors, Ford, and Chrysler are constructed using metric measurements, as are computer designs made by Xerox and IBM. Lockheed and Boeing aircraft have converted to remain eligible for Pentagon contracts. Soft drinks, liquor, tires, film, cameras, skis, and many weapons systems are either produced, sold, or labeled in metric measurement. The now-stalled Strategic Defense Initiative was built according to metric standards. And, by February 14, 1994, all consumer product labeling and packaging must be in both English and metric measurements. By "stimulating" businesses to convert either fully or partially to metric usage, metric proponents hope that Americans will eventually accept metrication as more and more consumer products and services are "metricised."

"We made a mistake after 1975 by trying to force metrics down people's throats," says Underwood. "This time, business is leading the way, and social and cultural change will follow." The metric system is apparently making its long march through the governmental institutions.

Trade and jobs.—Metric proponents say that conversion to the metric system is necessary and inevitable. Most of the world uses metric measurement and international trade involves metric-sized products. If American industry wants to stay competitive in the global marketplace, the reasoning goes, then U.S. industry better get on the metric bandwagon. By going metric the U.S. government "would open the door for new markets and thereby help to create the new jobs this nation so drastically needs," says Senator Claiborne Pell (D-R.I.). "[I]t is time for our government to assume a leadership position on the metric issue, instead of passively waiting for market forces to reverse our archaic system of measurement." The Commerce Department estimates that U.S. exports could be increased by up to 20% by offering metric-size goods to international markets.

In a speech before the National Metric Conference in 1992, President Bush endorsed metrication of U.S. products. President Clinton also supports metrication: "All developed nations except the United States use the metric system, and it is clear that our country will benefit by encouraging voluntary metric use by industry. These efforts can enhance America's competitive edge and help create new jobs and opportunities for our people." The European Community, which has a buying public of 320 million people, threatened to bar the importation of non-metric products after December 1992, but this deadline has been extended to December 1999.

Metrication of U.S. industry, say its proponents, will lead to better trade with Canada, Mexico, Europe, and the nations of the Pacific Rim. "Adopting metric is only one key to seizing these opportunities, but an important one that, when combined with other 'attitude adjustment,' will greatly affect the economic health of this country and our future standard of living," said Underwood.

Other benefits.—In addition to its effect on U.S. exports, metric conversion will benefit the average consumer, says NIST. Metrication should promote standardized and simpler product packaging, which will reduce the number of package sizes, simplify price comparisons, and lower packaging and shipping costs. These savings will reach the consumer, says NIST. In switching to metric, the U.S. liquor industry reduced the number of its container sizes from 53 to seven, which resulted in a substantial savings in production costs. In its metric conversion, IBM reduced 38,000 part numbers in fasteners to 4,000.

THE CASE AGAINST METRICATION

Regardless of the benefits of metric conversion to U.S. trade, opponents of metrication say there is no need for the United States to switch systems to accommodate the rest of the world.

"The people of this country should not be coerced to convert to the 200-year-old, artificially contrived metric system. Metrics are a language of technocracy and multinational trade. Let science and industry use the metric system as they need it," says Seaver Leslie, head of the Americans for Customary Weight and Measure, a not-for-profit group dedicated to retaining the English system of weight and measure.

Costs.—A survey by the National Federation of Independent Business (NFIB) in 1979 found that 69 percent of 55,401 of its members surveyed opposed metric conversion because of costs. "Metric conversion benefits large, manufacturing industries and most of these are already undergoing conversion, but the metric system should not be forced down the throats of all businesses in America. The cost to small firms, in time lost and wasted materials, could never be recouped," the NFIB said at the time. Fourteen years later, the NFIB, with 610,000 members, has not changed its position. "Most small businesses are opposed to metric conversion because of costs," says Terry Hill, a spokesman for the group. On a related note, the Nuclear Regulatory Commission estimates that it will cost the agency $2 to $3 million to convert to metrics. As mentioned, the GAO reported that the total cost of metric conversion of the United States was indeterminable—but would be in the many billions of dollars.

Confusion.—There is a single, world standard for the inch. But unknown to most people there are various metric systems in use today. The SI system proposed for the United States "is materially different from the metric system of other nations, [and] there is much evidence that these nations intend to protect their interests and thus are reluctant to adopt SI in its entirety. Even if the United States converts to SI * * * still no single worldwide system of measurement would exist," according to the GAO.

Metric conversion from the top down, if successful, would eventually affect nearly all aspects of daily life. Workers would have to be retrained, tools replaced, machinery modified, map distances changed, etc. Food and clothing sizes would change. Everything. Our centuries-old way of doing things (and thinking about them) would change.

Highway signs.—The 1978 Federal Aid Highway Act prohibited the use of federal funds for metric-only signs. This part of the law was overturned when the Intermodal Surface Transportation Efficiency Act passed in 1991. As a result of the 1988 metric usage law, all highway and highway-related construction funded by the federal government will be done in metric measurement. The deadline for this conversion is September 30, 1996. Although Americans objected to metric road signs when they were proposed in the 1970s, the Department of Transportation (DOT) is currently reviewing comments about metric conversion of highway signs. (As of this printing, it had not made a decision about sign conversion). In previous responses to this issue, 47% of states told the Federal Highway Administration they opposed metric conversion and only 18% supported it. Recent reports on the response to metric conversion of highway signs suggest that only a few states oppose the conversion. However, Amy Steiner of the American Association of State Highway and Transportation Officials says that states don't want to spend money on highway-sign conversion. "They [states] fear citizen backlash. Citizens don't want metric thrown up at them," she says.

At least one congressman isn't prepared to wait for the Transportation Department to make a decision. After introducing a bill (H.R. 3343) to prohibit the expenditure of federal funds on metric system highway signing, Representative Pat Williams (D-Mont.) said: "Changing over some areas in our daily lives to metric may make sense in some areas. However, modifying our highway signs does nothing to promote international trade. It does nothing to keep businesses in America. It will cause confusion. Some estimates peg the national cost to converting the nation's highway signs at more than $200 million." To date, no action on this bill has occurred.

Consumer fraud.—Metrication would confuse consumers and probably encourage consumer fraud. "Consumers would not know whether they are getting their money's worth for things sold by length, volume, or weight. They may not be able to recognize price increases," said the GAO. For instance, a gallon of gasoline that costs $1.21 would cost 32 cents per liter (one gallon equals 3.8 liters). "Gas guzzler taxes and registration fees based on vehicle weight are other areas for abuse," says the National Motorists Association of Dane, Wisconsin. The tables based on the metric system are different and costlier than existing tables, which are based on the English system. "When the wine and liquor industry changed the half-gallon to a 1.75-liter bottle, a 7½% decrease in volume occurred with no proportionate decrease in price," says Leslie.

WHO REALLY WANTS METRICS?

As mentioned, voluntary usage of the metric system was legalized in 1866. But Americans don't seem to want the system. A 1991 Gallup Poll showed that 64% of the U.S. population opposed metric conversion. Apparently some government suppliers are having trouble converting to metric precisely because Americans still don't want metric products. "Companies tell us that they're not going to change until their customers demand it," says Carver. "It's tough to get the Department of Commerce to switch to A4 [metric-sized] paper," he says. Other agencies cite similar problems.

To "metrify" to a large extent, the Postal Service, according to the GAO, said that "it would have to convince its vendors and customers to do so." However, many of these clients do not conduct business on an international scale. As a consequence, "when the Postal Service buys equipment that was designed in metric dimensions, it still has to convert some parts back to inches to ensure a ready and economical parts supply," said the GAO. The GSA said "[I]t can encourage its suppliers to convert to the metric system but cannot dictate to them."

If the Commerce Department, the agency responsible for directing metric conversion among the 37 Federal agencies, is finding it difficult to switch to metric-sized paper, then the future of total metric conversion in the government seems dubious. (Nonetheless, Carver remains optimistic and cites the success of the highway transition plan for 1996.)

As we go to press, the GAO had not released its update on metric conversion. However, indications suggest that metrication of federal agencies has not proceeded at the pace and to the extent its planners had envisioned back in 1988. As William Freeborne, the metric coordinator for the Department of Housing and Urban Development, says: "We're not in great shape." Even Carver says he is not comfortable with the latest report.

An interesting point is that taxpayers, who have repeatedly expressed their rejection of metrics, have been paying for forced government conversion, even though use of the metric system on a voluntary basis was legalized in 1866–128 years ago.

COMMEMORATING THE 79TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. PELL. Mr. President, every April people of Armenian descent in America and around the world commemorate the anniversary of the genocide perpetrated against the Armenian people between 1915 and 1923. This tragedy is one of the most horrible in the history of humankind, yet it is often forgotten or overlooked.

Here are the facts. On April 24, 1915, the Ottoman Empire launched a systematic campaign to eradicate the Armenian people from Ottoman territory. In that year, hundreds of Armenian religious, political and intellectual leaders were rounded up, exiled and murdered. During the next 8 years, an estimated 1.5 million Armenians were killed through executions, during death marches, or in forced labor camps. Many women, children, and elderly people were raped, tortured, or enslaved. In addition to those killed, an estimated 500,000 Armenians were exiled from the Ottoman Empire, many of whom found their way to freedom in the United States.

Recently, the opening of the Holocaust Memorial Museum in Washington, the success of the movie "Schindler's List," and the campaigns of ethnic slaughter in the former Yugoslavia and in Rwanda have focused much attention on the tragedy of genocide. We are reminded that systematic execution of people based on their national or religious identity is not a phenomenon which can be ignored as a relic of history. As the horror in Bosnia and Rwanda demonstrate, ethnically based campaigns of murder are still possible, even as the world approaches the 21st century.

It is in this context that we remember the Armenian genocide, the first, but unfortunately not the last, genocide of the 20th century. It is also appropriate that we commemorate this tragedy at a time when there is renewed conflict and suffering as a result of the conflict between Armenia and Azerbaijan. I hope that the memory of the Armenian genocide, as well as the sight of the suffering of the Armenian and Azeri peoples, will spur a peaceful resolution to the dispute.

Mr. President, despite a long history of persecution and tragedy, the Armenian people have demonstrated remarkable moral strength, resilience, and pride, as demonstrated by the successes of Armenian-Americans and the great contributions they have made to our society. These qualities are also evident in the effort of the newly-independent state of Armenia to build a prosperous and democratic country after decades of Soviet oppression, an effort which I personally witnessed when I visited Armenia in January 1992.

The legacy of the Armenian genocide has not succeeded in deterring subsequent acts of genocide. However, it is only by continuing to remember and discuss the horrors which befell the Armenian and other peoples that we can hope to achieve a world where genocide is finally relegated to the realm of history books, rather than newspaper headlines.

TRIBUTE TO HENRY J. KOZIACKI

Mr. BOND. Mr. President, I am honored today to pay tribute to Mr. Henry J. Koziacki of the city of St. Louis. He is being honored as the Legionnaire of the Year by the 11th and 12th districts department of Missouri American Legion.

Considering his outstanding achievements and dedication to the American Legion, it is not surprising that Mr. Koziacki has been chosen for this honor. He has been an active member of the American Legion for 47 years, and has given untiringly of his time, effort and dedication to working the programs of the American Legion. He has held every elected office in American Legion Post No. 381 including Post Commander, a position he held in 1968. Mr. Koziacki is a life member of The Stanley Rozanski Memorial Post 381 American Legion.

In addition to his dedication to the Legion, Henry Koziacki served his country honorably in the Reconnaissance Company of the 37th Ohio Buckeye Division of the U.S. Army during World War II. He is presently serving the city of St. Louis as a deputy sheriff, a position he has held for over 20 years. Mr. Koziacki is a life member of the Gruhala-Gmeiner Memorial VFW Post 8112, and is a past president of the St. Louis Past Commanders Club. He is an active member of Voiture 38, La Societe des 40 Hommes et 8 Chevaux, the War Veterans Club, the Loco's Club, and Knights of Columbus Counsel No. 453.

As you can see, the list of Mr. Koziacki's accomplishments and dedication to the community goes on and on. It is therefore my honor to help recognize this fine citizen as Legionnaire of the Year. I extend to Mr. Henry Koziacki my most sincere congratulations.

A PAUSE TO COMMEMORATE THE ARMENIAN GENOCIDE

Mr. MOYNIHAN. Mr. President, I solemnly rise to commemorate a terrible chapter in European history. In 1915, the Armenians of the Ottoman Empire were subjected to what would now be called ethnic cleansing. An appalling campaign in which over 1 million Armenians were uprooted and deported from the Ottoman Empire. Many fell prey to forced marches which led to starvation and disease, while others were victims of executions and massacres. Armenians refer to this period as their national genocide and an event of such magnitude deserves pause: To honor those tragic victims of this dreadful period and to salute those brave souls who survived and were able to rebuild their lives. Some of them were able to make their way to our shores. They have demonstrated the true character of the Armenian people and worked to make a place for themselves and our Nation is strengthened by their presence.

It is appropriate for those who strive to see the rule of law achieved that we pause to remember the ghastly events of world history to inspire our efforts to prevent future tragedy.

S. 1852—THE HEAD START AMENDMENTS OF 1994

Mr. BRYAN. Mr. President, today I join many of my colleagues in cosponsoring one of the most successful and important programs of the Federal Government—Head Start—which has received ringing endorsements by politicians at both ends of the spectrum. The Head Start Amendments of 1994, S. 1852, children throughout this Nation will continue to be assured of quality preschool education.

For more than a quarter of a century, Head Start has prepared hundreds of thousands of our Nation's low-income children to begin school ready to learn. Sadly, there are thousands more who have not benefitted from this program due to inadequate funding. Currently only one out of every three children who are eligible for Head Start are being served by it.

As many of you know, my daughter, Blair, is a second grade teacher at Nancy Gomes Elementary School in Reno, NV, with a class of 19 students. It has been very enlightening for me to have Blair share her experiences with helping these young people learn. The obstacles many of these students must overcome in even getting themselves to their school can be heartbreaking. We can all be empathic to the struggle these children face when they arrive in the classroom and try to learn. Head Start can help these students and their families before that first day of school arrives to be prepared to come to class to learn.

Head Start is about getting kids off on the right foot when they begin their first day of school. It takes more to learn than just opening a book or looking at the chalkboard or listening to the teacher. It takes being well nourished, having the necessary immunizations, and receiving adequate health care. It takes parents who are willing to read to their children, review their homework and be actively involved in their child's education. It takes a community that's willing to make an investment in its children by coordinating available programs with Head Start programs. The Head Start Program in its manifold approach to early childhood development assists in all these areas.

Because the Head Start Program takes a multifaceted approach to helping disadvantaged children, the benefits are also numerous and diverse. Children move on to enter school healthy and well fed, ready to work and learn and less at risk of dropping out or being held back. Parents receive assistance in becoming self-sufficient through self-esteem building activities such as volunteering for the program. The community profits by enabling its disadvantaged residents to become productive members of the community.

Research has proven the success of this program. A U.S. Department of Education study found that Head Start programs are more likely to meet national accreditation standards for early childhood development programs than other programs that target this age group. Research shows that children who are enrolled in Head Start are less likely to be in special education classes or held back in school. Although some Head Start programs are clearly in need of improvement, we should not abandon the program altogether. With the proper resources and commitment, Head Start programs can be strengthened to achieve the goals they set out to meet.

In Nevada, the positive benefits are numerous. Expanding programs for children who are at risk of later school failure will help prevent more children from needing specialized compensatory or special education when they reach elementary school The expansion of current parent-child centers for pregnant women and mothers with infants and toddlers, as well as allowing for a percentage of Head Start participants under age three focuses on earlier cost-effective prevention of later problems.

The increase in poverty guidelines to match child care food program and WIC program income requirements will make it possible for a few more children and families to be eligible for these services. There are currently many at-risk children in Nevada who cannot participate in Head Start because their families do not quite meet the income requirements.

The bill's provisions will also allow funds to be set aside in program budgets for training of staff and parents. The quality standards to be required of Head Start programs will also ensure immediate corrective action is taken to address deficiencies and follow-up reviews are conducted.

The requirement of transition coordination with schools is a particularly important feature, especially for those children who may be eligible for special education of compensatory education services in the public schools.

Every child who needs it deserves a head start. The Head Start Program is the blue-chip stock in education that promises a big return on a very small investment. It is one of the best investments we can make in the future of our country.

GOAL NO. 4, S. 1150

Mr. JEFFORDS. Mr. President, I would like to clarify a point for my colleagues regarding goal No. 4, Teacher Education and Staff Development. The intent of this goal is to ensure a competent, well-trained education work force. Though focused most directly on classroom teachers, it is also noted in the legislation that other educators are critical to supporting teachers and students and therefore ensuring academic success for everyone.

I know my colleague, chairman of the Education, Arts and Humanities Subcommittee shares my concern that the term "other educators" be properly interpreted to include pupil services personnel, whom we all recognize as providing critical support and interventions in all K–12 classrooms.

Mr. PELL. I do concur with my colleague from Vermont that school based personnel such as psychologists, and school social workers are essential to providing comprehensive services in support of classroom teachers.

Student learning is a complex process. Classroom teachers often need the support of an interdisciplinary team of skilled school personnel to help students succeed academically. Allowing States to include professional staff in professional development where it will actually support teachers and their work is certainly an intent of this legislation, and will bring achievement of goal No. 4 much closer to reality.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

BANKRUPTCY AMENDMENTS ACT

The ACTING PRESIDENT pro tempore. Under the previous ordered, the Senate will now resume consideration of S. 540, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 540) to improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes.

The Senate resumed consideration of the bill.

(Ms. MOSELEY-BRAUN assumed the chair.)

Mr. HEFLIN. Madam President, over the decades since enactment of the last major reform of the Bankruptcy Code, the monetary and financial landscape faced by both businesses and consumers has changed. As financial institutions have expanded to become more interstate in scope, and with increasingly complex transactions among companies, there has emerged a need for a Bankruptcy Code which can adapt to these changes. This code should reinforce the balance between the interest of the creditor and the debtor while ensuring strong commercial markets for both the consumers and businesses of America. The proposed amendments, as designated in the omnibus bankruptcy reform bill, make the necessary changes to carry the Bankruptcy Code into the next century.

For the reporting period in 1993, there were a total of 918,734 bankruptcy filings. This represents a slight decrease in 1993 over the number of bankruptcy filings reported in 1992, but even with a decrease the filings in 1993 are still more than double the number of case filings of any year prior to 1985. In fact, the annual reported filings during 1990–93 have been about twice the annual average for the entire 1980's.

Over the past 8 years filings nationwide have increased by 152 percent. Filings have doubled during this period in 37 of the 50 States and in Puerto Rico and the District of Columbia. In fact, in 13 States the bankruptcy filings have increased by a staggering 200 percent since 1985.

To give you an idea of the volume of cases, we can look to the average number of new cases a bankruptcy judge handles at any given time. In 1993 the average number of cases filed per judge was 2,818. In 1985 the average number of cases filed per judge was only 1,571. This increase is nearly a double increase with only an approximate 41 percent growth of new bankruptcy judgeships since 1983 to handle this caseload.

It is this sheer volume of cases running through a system which was designed many decades ago, that has partially necessitated the Senate Judiciary Committee to review and make proposed adjustments to the Bankruptcy Code.

The omnibus bankruptcy reform legislation is an attempt to update the code, as well as an effort to provide a rational framework from which future changes can evolve. The Judiciary Committee has held hearings to help determine the areas where changes were needed with the result being the bill which is now before the Senate.

The omnibus bankruptcy reform bill before the Senate would make numerous changes to the present Bankruptcy Code, including those designed: First, to help streamline and update bankruptcy administration; second, to bring a better balance between the rights of debtors and creditors; third, to bring a better balance to the relationship between secured and unsecured creditors; fourth, to bring about a more efficient and expedited small business reorganization procedure; fifth, to encourage the enhanced use of procedures where individual debtors can have an opportunity to pay their debts over a period of time rather than just outright bankrupt their debts; and sixth, to create the National Bankruptcy Review Commission to study the effectiveness of the current bankruptcy law and report on substantive changes that the Commission deems needed.

Among the many provisions of the proposed legislation are the following:

To enhance the increased use of the wage earner procedures by which debtors pay their debts over a period of time as outlined in chapter 13 of the Bankruptcy Code as opposed to outright bankrupting their debts under chapter 7.

Makes reorganization of small business quicker, more efficient and with less red tape than under present regular business reorganization procedures contained in chapter 11.

Simplify single asset real estate bankruptcy procedures.

Improve bankruptcy administration by establishing time limits, hearing requirements, use of status conferences, expedited procedures for debt reaffirmation, and appellate procedures.

Clarifies relationship between bankruptcy proceedings and antitrust review of reorganization plans.

Requires an evaluation of how bankruptcy proceedings can be improved through automation and computerization.

Requires expedited payment to creditors under chapter 13 procedures.

Gives authority to bankruptcy court officials to prevent abusive and exorbitant attorney fees.

Insures that the debtor may not use bankruptcy proceedings to avoid legitimate marital and child support obligations.

Prohibits the discharge of criminal fines exceeding $500 under bankruptcy procedures.

Establishes a uniform definition of "household goods."

What I have said thus far will give you a flavor concerning the contents of this proposed legislation.

I will have more to say about the details of the proposed legislation shortly.

Now I wish to discuss with my colleagues legislation which I introduced last November to significantly reform the bankruptcy system. This legislation, S. 540, is the result of a bipartisan effort with the ranking member of the Subcommittee on Courts and Administrative Practice, Senator GRASSLEY. We have worked diligently on this legislation since its introduction in 1992 to craft a package of amendments to the bankruptcy code which we believe are important and necessary.

This Nation is facing a record number of bankruptcy court filings from both individuals and corporations. There were approximately 940,000 filings—almost a million filing—during the 1991 calender year, and the Administrative Office of the United States Courts only expects this number to rise. In only the northern judicial district of Alabama the number of filings has risen from 10,223 in 1986, to a projected 20,000 plus filings for the current calender year.

This growth in filings is a result of a number of social and economic factors which are unrelated to the code. The purpose of our Nation's bankruptcy laws is to "try to put Humpty Dumpty back together again." This legislation is a measured response which seeks to address issues which have become highlighted in the bankruptcy system over the last several years. The Judiciary Committee has worked in a consensus-building fashion in an effort to enact legislation to respond to the calls for reform which have arisen and are highlighted by this significant increase in filings.

This bill developed out of a series of hearings and a floor debate during the last two Congresses. During those hearings and debate, the subcommittee heard from nearly 40 witnesses during public meetings of the subcommittee, and received numerous additional statements and communications from those participating in making suggestions to the subcommittee. This legislation was introduced and designed to address a number of important bankruptcy issues which were identified during the course of those hearings. Subsequently, the Judiciary Committee improved and modified this bill to address additional substantive issues and ensure that the bill's provisions are technically correct and workable. As a result of the time, attention, and hard work of the committee, I am pleased to note that this bill was favorably reported out of the committee on a 18 to 0 voice vote.

The first title of this bill contains miscellaneous provisions to update the Bankruptcy Code. Included in this title are changes in monetary figures to adjust for inflation, provisions to address compensation questions, provisions to address service of process questions, and reforms to clarify tax issues in the Bankruptcy Code. This chapter also mandates the judicial conference to report to Congress regarding its efforts to modernize and computerize the entire bankruptcy system.

Section 101—this section provides an amendment to the automatic stay provisions currently found in the Bankruptcy Code. This section provides that except upon a finding of good cause, final hearings on a motion for relief from the automatic stay must take place within 60 days of the filing of the motion. I understand and appreciate the crucial timing issues involved with the orderly administration of a bankruptcy case, however, the prompt action by a bankruptcy court is necessary in order to protect the rights of all parties in bankruptcy, and thereby enhances the entire bankruptcy process. Therefore, I believe this section is important and meritorious.

Section 104—this section is designed to accomplish two tasks by clarifying issues of reaffirmation of a debt by a debtor. First, this section provides that if a debtor is represented by counsel, it is not necessary for that debtor to appear before the court to reaffirm a debt. Second, in cases where a debtor is not represented by counsel, this section assures that the hearing before the bankruptcy court takes place prior to the discharge being granted to the debtor. I believe that both of these clarifications are needed and are long overdue.

Section 107 makes clarifications regarding the parties who may sit on creditor committees during a chapter 11 bankruptcy. This section would allow the Pension Benefit Guarantee Corporation and State pension funds to be eligible for membership on these creditor committees. This modification reflects the policy that some governmental entities, but not all, should be allowed to participate on these committees when the interest being protected by such entities is not strictly the government's interest, but the interests of pensioner's assets.

Section 109—this section raises the threshold dollar limitations for those persons eligible to file for chapter 13 bankruptcies from $350,000 to $1,000,000. I understand that in many cases persons who would otherwise deserve and desire the ability to file under chapter 13 have been prohibited due to this dollar limitation. In adopting this section, I believe Congress will recognize the desirability of chapter 13 and provide for its greater use by those in the bankruptcy system.

Section 110 and 105—these sections are important clarifications to the Bankruptcy Code in order to signal how the bankruptcy should operate in a chapter 11 case. Section 110 clarifies the relationship between bankruptcy proceedings and the procedures established under section 7A of the Clayton Act for reviewing proposed transactions by Federal antitrust authorities. Section 105, provides the explicit authority for the bankruptcy courts to manage their cases and dockets. While courts may not go beyond the bounds of the Bankruptcy Code, I believe that this section is desirable for giving an explicit expression of authorization which is already being exercised by some courts.

Section 114—this section, I believe, is a crucial element to this bankruptcy bill. This section seeks to ensure that debtors are fully knowledgeable of the bankruptcy process and some of its most important features. As I previously noted, many debtors desire to pay off their debts, however, some attorneys have simply never fully explained the benefits of this chapter to their clients and as a result an uninformed debtor is only left with the option of filing a chapter 7 bankruptcy. By requiring the U.S. trustee or their designee to discern an understanding by the debtors of their options and obligations in bankruptcy, the entire bankruptcy system is better served.

Title II of the bill addressing commercial and credit issues in bankruptcy. This title contains a number of important proposals.

Section 202—this section was added on to the committee reported bill. This section would create a statutory definition of "single-asset real estate," that is limited to the investment property of a debtor who has filed for bankruptcy. In such situations, this section would expedite the relief from automatically stay in cases involving single asset real estate where realistic plans of reorganization are not forthcoming.

To illustrate that a little bit, the only thing the debtor owns is, for example, a shopping center. And that is a single asset real estate. Therefore, it is only one issue involved. It ought not to have to go through all the details and requirements of chapter 11 reorganization and it ought to be handled in a much more expeditious manner.

This section would further allow foreclosure proceedings, which were commenced prior to the filing for bankruptcy, to continue up to, but not including, the point of sale, in order to ensure the prompt sale of property if relief from the automatic stay provisions of the code are granted by the bankruptcy court.

Section 207 contains amendments designed to enhance the protections given pension plans in bankruptcy and resolve what is known as the "antialienation problem." This problem arises when a bankruptcy judge orders an ERISA qualified plan or State plans not subject to ERISA to make a disbursement to an individual who has filed for bankruptcy in order to pay that individual debtor's creditors. Such an involuntary disbursement is in violation of ERISA law and may lead to the disqualification of a plan. However, if the disbursement is not made, a company risks facing the contempt authority of the bankruptcy court. This section seeks to address this issue by providing stability and protection of pension plans.

Section 208—this section would prohibit small business investment companies from being able to file for bankruptcy. These companies often operate similar to small banks who make loans to small businesses, and the current Bankruptcy Code prohibits both banks and insurance companies from filing for bankruptcy because alternative administrative schemes, such as conservatorships and receiverships, already exist to handle these types of financially troubled institutions. Small business investment companies have full rights under procedures set out by the Small Business Administration to reorganize and liquidate, and therefore, allowing them the ability to file for bankruptcy is duplicative. By taking this very simple step, the Congressional Budget Office believes that there would be a decrease of outlays of $51 million for fiscal year 1994.

Section 214—This section seeks to overturn the Deprizio line of opinions begun in *Levit* v. *Ingersoll* (*In re V.N. Deprizio Construction Co.*), 874 F.2d 1186 (7th Cir. 1989). This case turned upon issues involving guarantees and who may be considered an "insider" for purposes of the Bankruptcy Code. The specific language of this section has received a great deal of attention in order to narrowly but clearly overrule this series of opinions. We believe that we have accomplished this task. The specific language contained in the substitute bill which is before the Senate is different from that which was reported by the committee. We believe that we have improved upon that language which is reflected in this bill, and that it accomplishes its task of returning the understanding of the status of the law to that which predated the Deprizio opinion.

Section 215—this section is another clarification and modernization of the Bankruptcy Code. This section alters the current 10-day time provision to 20 days for a creditor to perfect a security interest after a debtor has filed for bankruptcy. By extending this time provision, this section simply protects the rights of creditors who may be abiding by State law which provides for a lengthier time to perfect, and thereby prejudicing the rights that the creditor may have in bankruptcy. This section further acknowledges the problem outlined in *In re Tressler*, 771 F.2D 791 (3rd. cir 1985), in which the operations of a governmental unit may prejudice a creditor by failing to take timely action in the perfection of a security interest. I believe this section is a good example of why this bankruptcy legislation is needed in order to improve and modernize our current bankruptcy laws.

Section 216—this section is designed to expedite the decisions by air carriers who file for bankruptcy to determine whether to accept or reject their airport gate leases. This section strikes a balance between protecting the debtor airline's ability to make a business decision in a timely fashion with protecting individual airports and the flying public by giving them some assurance that airport gates will be utilized to their fullest extent. In the past, some courts have been lax in requiring airlines to make these decisions, and as a result, substantial harm has occurred. By creating a lengthy period in which the airline may make these decisions, and then through shifting the burden of proving that substantial harm is not arising from the continued indecision to accept or reject these leases, I believe the committee has acted properly and thoughtfully in addressing this issue.

Section 219—this section clarifies the status of cash collateral in bankruptcy. In some States, where an interest in rents has been perfected by recording, some court's find this fact satisfactory for perfecting under the Bankruptcy Code. As a result, some creditors who believed they had fully secured interests have been caught short, even where proper notice has been given through the recording of the interest. It should be noted that this amendment is restricted to the Bankruptcy Code, that no right to or priority in rents or leases is conferred by this section, and that this section in no way preempts State law on these questions regarding perfection of security interests.

Section 220—this section was suggested and authored by Senator METZENBAUM and makes clear that retiree health benefits generally are to be paid in a manner similar to other administrative expenses during the pendency of a chapter 11 reorganization. It is important to note that this plan does not modify what can be agreed upon pursuant to a plan of reorganization but simply enhances the protection and payment of retiree health benefits.

The third title of this bankruptcy bill addresses the application of the code when individual debtors are involved in the bankruptcy system. This title seeks to substantially aid the bankruptcy process and its relationship to individual debtors. In my opinion, it is the most important part of this legislation. Rather than following the current trend of going into straight bankruptcies under chapter 7, this title seeks to increase and encourage the use of chapter 13 bankruptcies in which wage earners reorganize their debts and are given the opportunity over time to pay creditors the money owed. The bill provides for important procedures by which debtors who file for straight bankruptcy can learn that they have other alternatives, including filing under chapter 13 of the Bankruptcy Code and their ability of transfer their filing under chapter 7 to a chapter 13 case. In my opinion, this title is drafted with the clear view of encouraging the use of chapter 13 bankruptcies, by which a debtor pays his or her debts over a period of time.

Sections 218, 307, and 301—these sections provide further refinement regarding the operations of chapter 13. Section 218 simply directs courts and trustees to begin making payments to creditor "as soon as practicable." Such distributions should be made in a timely fashion. However, each case will be dependent upon the circumstances of an individual case. Section 307 is simply another means provided for under the code to ensure that creditors are able to received moneys legitimately owed to them by parties who can pay. This section provides another avenue of relief from the automatic stay in order for a creditor to be able to go against a comaker or guarantor of a debt. Section 301 clarifies that Federal bankruptcy rights provided in sections 1322 and 1325 preempt conflicting State laws. Its intention is to overturn cases such as *In re Roach*, 824 F.2d 1370 (3rd Cir. 1987) and *In re Perry*, 945 F.2D 61 (3rd Cir. 1991), in order to allow debtors to use their preemptive Federal bankruptcy rights to save their homes from foreclosure.

Section 304—this section makes an important contribution to this bill. It seeks to address the growing problem of bankruptcy preparers who abuse the system in the course of preparing documents for debtors to file in bankruptcy court. This section establishes important procedures to police the wrongdoing by such preparers. This section is substantially patterned after the current law involving tax preparers and their obligations to those whom they aid in filing tax forms. This section provides criminal and injunctive penalties for those violating its provisions. Further, it explicitly recognizes that this section should not be construed to provide authority for conduct which is not otherwise prohibited by law, such as the practice of law.

Section 305—this section is a minor improvement and codification of current practices in many courts by simply mandating that bankruptcy clerks give notice to all creditors when an order for conversion or dismissal occurs in a chapter 13 bankruptcy.

Section 306—I believe that this section is one of the most important provisions of this bill. This section would protect the mortgage-backed securities market, and address the issue of cramdowns in chapter 13 bankruptcies. In a cramdown, an individual debtor bifurcates a secured claim against real estate into two components or claims: A secured component—measured by the fair market value of the real estate—and an unsecured component—measured by the excess of secured debt over the fair market value of the real estate. This section would completely protect the entire claim in cases of first mortgages on residential real estate that is the debtor's primary residence. The section would generally protect junior security interests except in circumstances where the security interest was undersecured at the time of contracting, and only could be subject to a cramdown to the extent that it remains undersecured at the time of the bankruptcy. By inference, this section does acknowledge a court's ability to bifurcate residential real estate under section 1322 by the operations of section 506 of the Bankruptcy Code. By protecting these important interests, the mortgage marketplace is protected, stability of this marketplace enhanced, and therefore the consuming public who are currently faced with uncertainty regarding residential real estate is served.

Section 308—I believe that this section is a modest amendment to the Bankruptcy Code to create a Federal definition, for purposes of the exemptions section of the Bankruptcy Code, that is in line with other Federal law. The definitions of antiques and household goods contained in this section follow a 1985 Federal Trade Commission rule on credit practices and, therefore, aid in streamlining credit practices through parallel provisions of Federal law. Finally, it should be noted that this section does not have the force of law in the overwhelming majoring of States who have determined to establish their own exemption provisions.

Section 309 seeks to add to the body of law regarding attorney fees in bankruptcy. This section has been adopted at the suggestion of Senator METZENBAUM who has been at the forefront of this question. This section has been subject to improvements and modifications from the initial sections adopted by the committee in order to meet a number of constructive criticisms by both the public and the Department of Justice.

During the course of our hearings, it became very apparent that chapter 13 is often the best overall process for debtors, creditors, and the national economy. Numerous bankruptcy judges have indicated that most individuals want to pay their debts in a manner similar to the program offered under chapter 13 of the code. Unfortunately, the use of this chapter is not widespread throughout the country, and many people are simply not informed that this option is available when they seek the Bankruptcy Code's protection. This title contains many provisions that take into account these concerns.

The fifth title of the bill establishes a new National Bankruptcy Review Commission. This Commission would be similar to the Burdick Commission of the early 1970's that resulted in the current Bankruptcy Code. It should be noted that this Commission is designed to review and not to rewrite the entire Bankruptcy Code. Its purpose is to allow further thoughtful study of the functions and balances which are currently built into the Bankruptcy Code, and to provide Congress with recommendations to address areas in which the Bankruptcy Code may be improved and modernized.

The final title of this legislation is a technical title which seeks to correct a number of minor problems which have arisen since the Bankruptcy Code was enacted in 1978.

During the course of this speech, I have restricted my comments to many of the provisions contained in the bill that was reported out of the Judiciary Committee on a unanimous vote.

This bill is basically the same bill that also passed in the last Congress in the Senate unanimously by a 97 to zero vote. It went to the House, and the House passed a bankruptcy bill. The Senate passed the conference report unanimously and without dissent. The House, however, failed to pass in the last days of the last Congress this legislation.

So it was not enacted into law, and it is now back before us this time. I expect that I will have further comments on these and other sections of the bill as the debate on this measure continues.

I want to conclude these remarks by stating the obvious; that is, that I believe it is a very good bill. I know that this bill will not be all things for all people. We have done our best to legislate in some important areas of the code and still be able to craft a piece of legislation that is thoughtful and coherent.

Some of the issues which are not addressed in the current bill will be subject to further attention hopefully by the review commission. These efforts are designed to ensure equity and fairness in our Nation's bankruptcy law. I believe the bill passed by the committee is a good and a thoughtful piece of craftsmanship.

I know that it is not a perfect bill, and that if I alone were able to pass legislation, this bill would look different than it does today. However, this is not the world in which we live. Therefore, compromises have been struck, agreements have been reached, and suggestions have been accepted in order to pull together a wide range of interest and put them behind this bill.

I urge my colleagues to join with Senator GRASSLEY and me in supporting this legislation and seeing that this important bankruptcy reform legislation is enacted into law.

I want to thank Senator GRASSLEY for his work. He has been very thoughtful. He has spent numerous hours and hours, days and days, and weeks in this as well as his very competent staff in trying to come forward with an omnibus bankruptcy reform bill which meets the demands of a changing world and a changing economy today.

I thank him again for his work in this as well as the members of the Judiciary Committee for their very thoughtful attention to a very complex issue of our law.

At this time, I yield the floor.

Mr. HATCH. Mr. President, let me begin by expressing my appreciation to Senators HEFLIN and GRASSLEY, chairman and ranking Republican of the Subcommittee on Courts and Administrative Practice, for their exceptional efforts with regard to S. 540, the Bankruptcy Amendments Act of 1993. As the principle sponsors of this legislation they have provided the leadership necessary to craft a bill that is acceptable for the most part and, more importantly, fair to the diverse interests in our creditor and debtor communities. I applaud their efforts.

I would especially like to thank and acknowledge Senators HEFLIN and GRASSLEY for their leadership in developing meaningful provisions to assist the small business community of this country. Small businesses are the foundation of this country's economy, creating three-quarters of the new employment opportunities for our citizens. They deserve the type of protection these Senators have agreed to provide in chapter 11. These new provisions will expedite the bankruptcy process for small businesses, helping them navigate through bankruptcy successfully. America's small business community has been well served by their efforts.

Let me state that I support the vast majority of the provisions in this important legislation. However, I am also compelled to voice my very strong objection to section 220 of the bill. Section 220 would have a devastating impact on companies with substantial retiree benefits obligations and on their employees. It offers an ill-conceived approach to bankruptcy wherein a troubled company without sufficient unencumbered assets is obligated to make first use of any cash collateral, as well as any new credit, to fund prepetition retiree health and insurance benefits. Under section 220, payments to retiree health and insurance funds would come ahead of current employee salaries and payments for operating expenses and needed supplies.

In my opinion, section 220, as currently in the bill, is far too inflexible and will ultimately lead to the liquidation of many viable business interests, rather than to their successful reorganization. The many troubled businesses that are successfully reorganizing under present law will be forced to close shop and liquidate, leaving the current work force without jobs and retirees without any health or insurance benefits. In my view, section 220 is both antiretiree and antiemployee.

Mr. President, during the course of the Senate's consideration of this bill, we hope to restore protection to retirees and current employees. To accomplish this we must strike section 220 and add new language which will clarify that a company's cash collateral or new credit agreement will not relieve a bankruptcy trustee from its obligation to pay retiree benefits. Furthermore, the language must reaffirm that the obligation to pay retirees may only be modified in accordance with the procedural safeguards established for retirees outlined in section 1114. Unlike section 220, this approach not only theoretically protects retiree rights, but also sets forth a balanced approach which will lead to the actual recovery of health and insurance benefits. It will provide the type of real protection our retirees deserve and expect.

I will have more to say on this later. For now, I compliment my colleagues on the Judiciary Committee for their work on this legislation.

In closing, let me reiterate my support for the vast majority of provisions in this bill. This bill is simply designed to enhance the effectiveness of the Bankruptcy Code, not to overturn it. It contains several provisions designed to streamline and update bankruptcy administration and provides for the creation of a National Bankruptcy Review Commission. Additionally, several consumer bankruptcy provisions will assist wage earners to successfully create a plan of reorganization, pay their debts, and begin anew.

Finally, Senator GRASSLEY will be floor managing this bill for the Republicans.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, I believe that the Senator from Alabama has done a very, very good job of explaining precisely what this legislation does, and what we intend it to accomplish, and also some of the problems we had in working our way through to this position of having a bill reported out of committee by an 18-to-0 vote.

For sure, I cannot do better than Senator HEFLIN has done in his explanation of the legislation. I do not need to go into the sort of detail that he did. But I think that he has demonstrated why we were able to get this bill reported out of committee on an 18-to-0 vote. It is because of his outstanding leadership as chairman of the Subcommittee on Courts.

So not only does the product before us demonstrate a lot of very time consuming hard work, but it also demonstrates a massive amount of leadership as you try to get people to compromise, to be reasonable, and still get a bill reported out of the Judiciary Committee.

I hope that we are able to get it through this body without a lot of controversy because controversy in bankruptcy legislation might mean no legislation at all.

The end result of that approach to this type of legislation would be no legislation at all I feel. That is why we put considerable emphasis upon the establishment of a bankruptcy commission that would study the more controversial issues, that are not as necessary immediately to pass, and move forward.

But the product before us is a result of the hard work and leadership of Senator HEFLIN. I recognize that, and I thank him for it.

The need for this legislation is, of course, very great and urgent. Our approach—to enact provisions on which there is consensus—does not mean it is not needed. I hope the fact that there is consensus does not cause anyone involved in this to think this bill is not important.

This year, as part of the reason for urgency, about 900,000 bankruptcy petitions will be filed. In most years since the Bankruptcy Code was enacted in 1978, the number of filings has increased very significantly. Last year, there was a small decline in filings, and we are thankful for that. That is directly related to the economy strengthening and consumers reducing their debt.

Future numbers are difficult to predict. But the recent Midwest floods, as an example, or on the west coast the California earthquake, could result in a downturn in the economy so that we will unfortunately not reduce bankruptcy filings maybe in the short term.

To put bankruptcy filings in perspective, about 250,000 civil cases and about 50,000 criminal cases are filed in our Federal courts. Thus, of the 1.2 million cases brought each year in our Federal courts, about 75 percent are bankruptcy cases.

Indeed, 1 in 10 Americans can now expect to file for bankruptcy at some point in their life. There is nobody involved in this legislation who wants that to happen. If we can do some things to keep it from happening, I would think we would all want to. But the fact is that the bankruptcy is a fact of economic life. Maybe it is a little easier than it should be. I think I would take the position that it is—but still an economic fact.

So a Bankruptcy Code up to date with the realities of our economy is very essential for the functioning of a free market economy.

Additionally, seemingly every day, the popular press reports on some corporation that has filed for bankruptcy. And in today's economy, bankruptcy has assumed a level of importance and prominence that it has never had before. We can regret the fact that various economic conditions have brought this result. And the legislation before us today—I want to make this very clear—is not designed to encourage bankruptcy filings, or make bankruptcy any more desirable.

We see ourselves as authors of this legislation responding to reality. I might even look back at the 1978 legislation and say, "Well, that made it easier to file for bankruptcy and that is bad." And I think I tend to believe that personally. I am not saying that anybody else has to agree with me on it. Also, I think that when we talk about bankruptcy legislation, people at the grassroots viewing what we are saying have that in the back of their mind, that, well, it is just too easy to file bankruptcy. They might have the view that we are somehow making it easier to file bankruptcy, since every time we pass legislation the number of filings go up. That was not the intent of Congress in 1978, but that was the result.

I want to make very clear that that is not our intent, and we are not making any value judgment in this legislation on whether or not bankruptcy is good or bad.

We are saying simply that we have had bankruptcy law for the entire history of our country. It is a constitutional prerogative of Congress to legislate in that area. Our intent here is to just bring the code up to date and not to have any impact upon the moral and ethical issue of the right or wrong of bankruptcy.

With that reality behind us, the fact is that no other area of Federal law has so many unresolved fundamental questions as bankruptcy.

What is the relationship, for instance, between bankruptcy laws and environmental laws? What about the interaction of ERISA with bankruptcy laws? Remember, ERISA was passed in 1974. The Bankruptcy Code was enacted in 1978. So you could not foresee all that ERISA might impact upon the economy and affect bankruptcy laws.

Let me say, Madam President, that there are even constitutional questions about the operation of our bankruptcy system. We know that the world is growing smaller because of trade, and so the globalization of our world economy raises uncertainties about the code. Besides these reasons for revising the Bankruptcy Code—and they are very good reasons—we also must keep in mind that the code has not changed much since its implementation in 1978. Numerous proposals have been offered to make the code operate more effectively and fairly. Circumstances require that these be considered, and that is the "why for" of S. 540. It responds to the need to reform bankruptcy laws in two ways:

First, it establishes a National Bankruptcy Review Commission. This Commission, to be composed of bankruptcy experts, will review the operation of the code, and it will report to Congress ways to make our Nation's bankruptcy laws and our code more effective. I want to stress that this Commission is designed to review the code, and we are not setting it up to overhaul it. The term "fine-tuning" might better fit the purpose we see behind the Commission's establishment, because we on the Judiciary Committee are generally satisfied with the code, and we are not interested in the proposals that start from scratch.

What we are interested in is a careful examination of the code and suggestions for how Congress can best exercise its constitutional powers under article I, section 8, which gives Congress the power to establish uniform laws on the subject of bankruptcy throughout the several States.

Second, this bill contains several provisions that the committee felt should be enacted right now. These represent changes in the code which command consensus. And a consensus, I am sure, has been very hard for our chairman, the distinguished Senator from Alabama, to find. I think for the most part we have consensus, or we would not get a bill reported out 18 to 0. That vote in itself represents consensus. I also said that probably it would not be worth bringing a bill up on the floor if we did not have that sort of consensus, because it is just so complex that we would not be able to handle it here, and we would not get anything done.

So the bill does command consensus, and there is no need to wait 2 years for this review commission to report these changes that we already feel should be made.

Additionally, there is no need for the commission to spend its time examining these issues when there are others on which expert opinion will be more valuable.

These changes derive from a series of hearings that the Courts Subcommittee held in the 102d and 103d Congress.

At these hearings, the subcommittee heard from dozens of witnesses on various proposals. These hearings led to last Congress, S. 1985, and that passed this body by a vote of 97 to 0, again showing consensus.

This bill before us, S. 540, contains many of the same provisions that passed this body unanimously in 1992. One of the bill's features is to increase the permissible limits in chapter 13 filings, and eliminate the distinction between secured and unsecured debtors and the debt that goes with them as a condition for satisfying the limits. The maximum figure for filing a chapter 13 petition has not been changed since our last massive reform of bankruptcy in 1978, despite very significant inflation over that period of time.

So, again, bringing the code up to the economic facts of life of USA 1994, the outdated debt limit has eroded the ability of potential users of chapter 13 to file wage earner plans. As a result of the increased debt limit, more people will be able to file in chapter 13 compared to chapter 7 liquidation.

I think that the extent to which we can avoid chapter 7, our economy is better off, because a greater ability to file chapter 13 benefits both debtor and creditors. This provision is one of a number in a bill designed to foster chapter 13 usage among those who must file for bankruptcy. Hopefully, it is always a last resort.

This bill also addresses the concerns raised in the hearings regarding the seventh circuit's 1989 decision in Deprizio. Again, our distinguished chairman discussed this at great length. I have one or two points I want to emphasize. We believe that Deprizio should be overturned by amending section 550 of the code in a very narrowly crafted way. Under the current Bankruptcy Code, a trustee can recover preferential payments made by the debtor within 90 days of the bankruptcy filing.

The trustee may recover preferential payments made up to 1 year before the filing, if the trustee determines the payment was made to an "insider." That is an individual or entity that owns or controls the debtor, or which is an officer or director or relative of such a person.

In Deprizio, the seventh circuit extended to the trustee recapture power to such persons as insiders merely because they may have executed a personal guaranty of a loan to a debtor.

Section 214 of the bill does not change the trustee's preference avoidance powers. Rather, it clarifies the trustee's remedies in the event that the transfer is preferential. If a debtor acts in such a way as to affect the Bankruptcy Code's pro rata distribution rule, the trustee will have available a remedy against the party actually preferred, and not against the innocent party.

Although this change is to a fairly technical and complex section of the code, the change provided in section 214 has important practical effects.

For instance, a lender may lend money to an interrelated corporate group and be paid back by one of these corporate entities. Under Deprizio, the lender could face a 1-year preference period, even though it lent to a corporate group because of the existence of a guaranty against the other corporate group. We believe that a lender should not face a conclusive presumption that an outsider is tainted as an insider by virtue of a guaranty; and notwithstanding the existence of the guarantee, the lender should not have to worry about the possibility of a preference period longer than 90 days.

Another provision of the bill, section 202, addresses the abuse of chapter 11, and this is in regard to single asset real estate cases. This abuse has been noted by some of the Nation's most eminent judges. Owners of single asset real estate entities file presently to reorganize, but because they have only a single asset, there is nothing, then, of course, to reorganize. The filings are often made without even a pretense of belief in the ability to reorganize.

Section 202 would terminate the automatic stay in single asset filings 90 days after the commencement of the chapter 11 proceedings if the debtor has not filed a feasible plan of reorganization. Alternatively, the debtor may commence payment of interest at the fair market value rate on the value of the real estate held as collateral. The provision, which does not apply to small residential properties, will ensure that the automatic stay is not abused while giving the debtor an opportunity to create a workable plan of reorganization.

Madam President, S. 540 will set forth the framework for bankruptcy reform, and this is a legislative initiative that is vitally needed. It will do that, as I said, through the creation of a Commission to review the code, and it will make necessary changes in the bill right now that should not wait for that Commission to study and to make recommendations.

This bill will not encourage the filings of bankruptcy petitions. I want to say that again, and I hope that the chairman will comment on this, because I think this is a message that we should send loud and clear, that this bill will not encourage the filing of bankruptcy petitions. But it will make positive changes in the operation of our bankruptcy laws so that they will deal, then, with the very enormous volume of petitions that are filed each year.

Equally, and perhaps more important, Madam President, this bill will set the stage for a comprehensive review of the code, from which will hopefully develop important and valuable ideas for future changes in the operation of the Bankruptcy Code.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. KOHL. Mr. President, I rise today to congratulate my colleague and friend—Senator HEFLIN, chairman of the Courts Subcommittee—for his leadership on the bankruptcy bill. Once again Senator HEFLIN's dedication and perseverance have brought this important measure before this body. And once again, I am certain that an overwhelming number of my colleagues will support this measure. I also note that Senators GRASSLEY and METZENBAUM have made important contributions to this process and they also deserve commendation for their efforts.

Mr. President, there are many important provisions in this legislation and we will consider additional amendments as we proceed. However, I believe that we will finish the process as we began: with a good piece of legislation that improves the overall bankruptcy process by addressing the legitimate needs of both debtors and creditors.

In that regard, I thank the distinguished manager for including my Equipment Leasing Fairness Act as part of the bill. The act includes several clarifications to sections 1110 and 1168 of the Bankruptcy Code that will resolve ambiguities in the law without upsetting the delicate balance of fairness and equity between the air and rail industries, the equipment manufacturers, and the parties financing the equipment.

I was pleased to work with Senators HEFLIN and GRASSLEY on these provisions, and I ask unanimous consent that additional comments regarding these provisions be printed in the RECORD following my remarks.

I would also like to mention section 107 of the bill, which would allow State pension funds and the Pension Benefit Guarantee Corporation to sit on creditor committees in chapter 11 reorganizations. Currently, State pension funds and the PBGC are precluded from participating as voting members of these committees. The unique interests of retirement funds, as long-term investors, are not represented by other creditor and equity holder committee members, who may have different goals or shorter term investments. These interests are thus put at an unintended fiscal disadvantage. Section 107 would allow State pension funds and the PBGC to serve on these committees, as long as they meet all other appropriate criteria. It would not give them any special treatment; rather, it would simply lift an unintended burden from their shoulders.

Finally, let me say that to many Americans—including sophisticated businessmen and other professionals—the Bankruptcy Code appears to be an archaic and somewhat cryptic statute. But the truth of the matter is that the Bankruptcy Code provides critical guidance to businesses and individuals who face the daunting task of resolving difficult economic problems. And this legislation gives us the chance to clarify ambiguities, make needed improvements, and to legislate fairness and uniformity at the same time. So, I again commend the manager of the bill and I yield the floor to my distinguished chairman.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DESCRIPTION OF THE LEGISLATION

(1) Deletes the phrase "purchase-money equipment" throughout section 1110. Section 1110 currently provides protection to purchase-money equipment security interests in, as well as leases and conditional sales of, aircraft equipment and vessels. Under the current language of section 1110, the only protected security interests are those obtained at the time the equipment is acquired. This application, however, is confusing in view of the fact that both acquisition and post acquisition leases are protected. The amendment deletes the phrase "purchase-money equipment" throughout section 1110. This deletion would guarantee that all modes of debt financings and lease financings that involve a security interest, not only security interests obtained at the time the equipment is acquired, would receive section 1110 protection. This change would be phased-in so that only new equipment first placed in service after the date of enactment of the Act would be affected by the proposed amendment.

(2) Deletes the "purchase-money" requirement in section 1168 and restores historic equipment trust protection. Section 1168 provides parallel treatment to purchase-money equipment security interests in, and leases and conditional sales of, railroad equipment. The proposed amendment changes the phrase "purchase-money equipment security interest," which appears in three places in the existing section 1168, by deleting "purchase-money equipment" in the first two appearances of the section, but deleting only "purchase-money" the third time the phrase appears. The deletion of the phrase "purchase-money equipment" in the first two instances will enable the railroad industry to utilize a variety of financing vehicles and will continue to protect financing arrangements currently employed by the railroads. For example, a finance lease, which historically has been an integral part of a railroad equipment trust protected by section 1168 and section 77(j) of the Bankruptcy Act (section 1168's statutory predecessor), would continue to be covered by section 1168. In addition, the deletion of only the phrase "purchase-money" the third time the phrase appears is intended to emphasize that section 1168 is meant to cover financing of equipment and is not intended to extend to a general mortgage on all of the carrier's assets. Further, the deletion of the phrase "purchase-money equipment" in section 1168(a) continues the application of section 1168 to Philadelphia plan equipment trusts.

These changes to section 1168 would be phased-in to apply only to new equipment first placed in service, and equipment that is substantially rebuilt, after the date of enactment of the Act. Railroad equipment would be considered substantially rebuilt (i) when costs of rebuilding could be capitalized pursuant to the regulations and practices imposed by the Interstate Commerce Commission ("ICC") on all carriers by rail, (ii) such rebuilding would substantially extend the service life of the equipment under such regulations and practices, (iii) after such rebuilding the equipment would be recognized as rebuilt pursuant to applicable rules and regulations of the Association of American Railroads ("AAR") and, (iv) after such rebuilding, the equipment would conform to applicable rules and regulations of the Federal Railroad Association. Rebuilding would be distinguished from repairs, routine maintenance and major overhaul. The AAR has extensive rules and regulations regarding the scope and quality of work required for rebuilt equipment to be used in interchange service on any railroad within the United States. To the extent that equipment is covered by AAR rules and regulations, such rules and regulations, in conjunction with ICC requirements, would govern the standard of work and materials required to constitute rebuilding. Such rebuilding would have to be substantially in excess of the original manufacturer's recommended maintenance procedures to ensure normal service life.

(3) Clarifies that costs and expenses attributable to a trustees's failure to fulfill its maintenance and return obligations are priority expenses of the estate. Most financing agreements contain covenants requiring the borrower or the lessee, as the case may be, to maintain and return equipment in appropriate condition. If these covenants are breached, the financing party's residual interest in the equipment can be significantly impaired. The proposed amendment adds a new subsection to the end of sections 1110 and 1168 to clarify that if an airline or railroad makes an agreement of the type specified in sections 1110(a)(1) or 1168(a)(1), administrative priority would be given to all expenses attributable to a trustee's failure to fulfill his maintenance and return obligations.

(4) Provides a safe harbor definition of the term "lease". A substantial amount of litigation has focused on the nature and type of lease agreements that may be within the scope of sections 1110 and 1168. The result of this litigation has been to cloud the rights to such aircraft and railroad equipment for months while a court resolves the issue, thereby effectively nullifying the purpose of these sections. The proposed amendment adds a new subsection to the end of sections 1110 and 1168 to provide a safe harbor definition of the term "lease" for equipment first placed in service prior to the date of enactment. Under the amendment, a lease would receive section 1110 or section 1168 protection if the lessor and the debtor, as lessee, have expressed in the lease agreement, or a substantially contemporaneous writing, that such agreement is to be treated as a lease for Federal income tax purposes.

This definition would be nonexclusive in nature, and other agreements that would qualify as true leases for Federal income tax purposes (and subleases, under such true leases, to debtors) would also be covered under sections 1110 and 1168. The safe harbor definition is designed to provide certainty for those parties seeking assurance that their transaction falls within the scope of these sections, and thus minimize needless litigation. The definition of "lease" and the distinction between section 1110's and section 1168's coverage of leases and secured loans would be inapplicable under the amendment with respect to equipment first placed in service after the effective date. In addition, to further minimize such litigation, an agreement which would otherwise be treated as a lease under this subsection would not fail to qualify for the benefits of this section because the agreement contains provisions: (1) permitting the debtor to subject the equipment to interchange agreements and pooling or other similar arrangements customary in the industry; or (2) permitting or requiring the debtor to return the equipment with substitute components, or substitute equivalent equipment in the event of a casualty or loss.

(5) Updates and modifies certain citations and references in section 1110. Section 1110's citation to the Ship Mortgage Act and reference to the Civil Aeronautics Board are outdated. The Ship Mortgage Act has been amended and recodified, and the Department of Transportation has assumed the Board's role as certifying authority for air carriers. The amendment updates the language of section 1110 to reflect these changes.

(6) Clarifies that the rights of a section 1110 or section 1168 creditor would not be affected by section 1129 "cram-down." In a recent airline bankruptcy proceeding, it was asserted that equipment loans, otherwise protected by sections 1110 and 1168, could nonetheless be unilaterally modified by the debtor such that the terms of the loans could be lengthened, the interest rates could be reduced and other materials terms could be altered. This contention arose under section 1129, dealing with procedures for approving plans of reorganization, and would apply only to loans and not to leases.

Although such an interpretation of section 1129 would violate the fundamental premise to sections 1110 and 1168, that the parties are entitled to the benefit of their bargain notwithstanding a bankruptcy proceeding, there is an enormous concern in the marketplace that this issue is likely to be the next subject of major and protracted bankruptcy litigation.

The proposed amendment, then, simply makes clear that section 1129 would not affect the rights which sections 1110 and 1168 are intended to preserve to financiers in financing transactions.

(7) Application of the Amendment. The amendment of sections 1110 and 1168 shall not apply to bankruptcy proceedings commenced prior to the date of enactment of the Act.

Mr. THURMOND. Mr. President, I rise in support of S. 540, the Bankruptcy Amendments Act, sponsored by Senator HEFLIN and Senator GRASSLEY. This legislation reflects significant bipartisan efforts to provide much needed reform of our bankruptcy laws by addressing new issues which have arisen and attempting to streamline the bankruptcy system. The bill is the result of numerous hearings before the Subcommittee on Courts and Administrative Practice over a long period to consider various bankruptcy issues and their effect on the bankruptcy community.

S. 540 represents a comprehensive reform of the Bankruptcy Code. The first title of this legislation addresses issues involving individual debtors and bankruptcy court administration. This title seeks to encourage individual debtors to file chapter 13 bankruptcies, if possible, as opposed to liquidating under chapter 7. Other provisions of this title will increase the maximum eligibility limits for filing a bankruptcy under chapter 13, and require that the debtor be examined under oath to determine if he or she fully understands the consequences of filing a bankruptcy.

Title II addresses a number of commercial and credit issues in bankruptcy. It seeks to clarify bankruptcy law with respect to Employee Retirement Income Security Act pension fund assets and encourages bankruptcy courts to begin payments under a chapter 13 plan as soon as possible. Title III relates to a variety of consumer bankruptcy issues, including greater protection for children and former spouses who are beneficiaries of child support or alimony payments.

Title IV establishes a National Bankruptcy Review Commission to study problems relating to the Bankruptcy Code and develop proposals to make the bankruptcy process more effective and efficient. The Commission will report its findings to Congress for appropriate action. The final two titles of the legislation contain technical corrections.

Mr. President, in my home State of South Carolina, as in the rest of the Nation, bankruptcy filings have increased dramatically in recent years. The Congress must take steps to ensure that the bankruptcy system is not overwhelmed by this increase and the problems which have accompanied it. The bill we are considering today contains many necessary reforms that will assist in making the system more efficient. I believe that overall this legislation is fair to all parties, and I urge my colleagues to vote in favor of S. 540, the Bankruptcy Amendments Act.

AMENDMENT NO. 1632

(Purpose: To express the sense of the Senate that all parking areas reserved at Washington National Airport and Dulles International Airport for Members of Congress and other Governmental officials should be open for use by the public, and for other purposes)

Mr. McCAIN. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 1632.

Mr. McCAIN. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place in the bill add the following new section:

SEC. . It is the sense of the Senate that—

(1) the policy of providing reserved parking areas free of charge to Members of Congress, other Government officials, and diplomats at Washington National Airport and Dulles International Airport should be ended; and

(2) the Metropolitan Washington Airports Authority should establish a parking policy for such areas that provides equal access to the public, and does not provide preferential parking privileges to Members of Congress, other Government officials, and diplomats.

Mr. McCAIN. Madam President, the reason for bringing this amendment before the Senate is that this body should express its views on this issue, and I would like to explain to my colleagues why this is necessary.

Beginning in March 1992, I corresponded with the Metropolitan Washington Airports Authority, without commensurate press releases, in my desire to see that free, reserved parking privileges for Members of Congress at Washington National and Dulles Airports be abolished.

I wrote a second letter in August 1992, urging that that take place. I received the following response on August 25, 1992.

> Dear Senator McCain:

And I quote in part:

> In my letter to you of April 24, I advised you that I believe the Authority should receive a request from the leadership of the Congress before we on our own end this 51-year custom. I have not changed my mind.
>
> When the Metropolitan Washington Airports Act of 1986 was being considered by the Congress, I personally promised hundreds of Members of Congress that the practice would not be changed.
>
> Under the circumstances, I do not consider it appropriate for the Authority to withdraw a privilege offered to the 540 Members of Congress at the request of one or two of them. Though I agree that the law does not require the Authority to provide Congressional parking, we should nevertheless look to legislative action by the entire Congress, or at least a request of the leadership of both bodies, before eliminating the parking privilege.

That was signed by Linwood Holton, who was chairman of the board of directors.

I then submitted additional correspondence later to the Airport Authority's board of directors in April 1993, urging again—without press releases—that the Metropolitan Washington Airports Authority do away with the free and reserved parking spaces reserved for Members of Congress, the Supreme Court, and the diplomatic corps at Washington National and Dulles Airports.

I received the following response on April 13, 1993.

> DEAR SENATOR MCCAIN: I thank you for your letter of March 3 presenting a plan for parking at Washington National and Dulles Airports. I refer to the previous correspondence between yourself and predecessor Governor Holton and reviewed the history of arrangement with the courts and diplomatic corps. I do not believe it would be appropriate for the board of directors of the authority to unilaterally terminate this agreement.

So, Madam President, for nearly 3 years the Metropolitan Washington Airports Authority has made it clear under two different chairpersons that they will not, or do not believe that they have the authority to do away with the parking places.

I think from a legal standpoint it could be argued in court as to whether they do or do not, but clearly they do not choose to act.

So, Madam President, I come to the floor on this issue because I have tried and exhausted every other avenue. I might also note that I was advised that the chairman of the Airports Authority Board of Review, Representative NORM MINETA, sent a letter to the Speaker of the other body approximately 2 years ago urging this policy be changed, and, of course, there was no action taken then.

I regret that the Airports Authority's board of directors continues to abide by this unfair parking policy in this manner, but the fact is that the continued existence of these privileges for Members of Congress is due to questionable pledges that were made by the Airports Authority board in the past.

As I mentioned, the former chairman of the Airports Authority board of directors informed me that he had personally promised hundreds of Members of Congress that the parking practice would not be changed.

It is an interesting admission, Madam President, but one that should not surprise anyone. Apparently officials of the Airports Authority quietly promised that special parking spaces, unavailable to the general public, would be preserved for Members at the same time that Members of this body were considering legislation that gave power to the board to operate National and Dulles Airport.

In addition to the fact that excluding the public from these parking areas is wrong, providing exclusive parking places to Members of Congress completely free of charge carries with it a considerable cost to the Airports Authority itself.

At National and Dulles Airports, the parking spaces that are reserved for Members of Congress are located very close to the terminals. These spaces are equivalent to the short-term spaces that costs our constituents up to $26 a day to use. There are approximately 124 parking spaces reserved at National Airport and 51 at Dulles Airport. Of the 124 spaces at National Airport, if they were open to the public and fully utilized at current rates charged to our constituents, they would garner over $1.175 million a year in revenues. If the lot at Dulles were open to the public and utilized at capacity, it would generate $484,000 a year in new revenues. This means that over $1.6 million in potential parking revenues to the Airports Authority is being lost each year because choice lots are being unjustly cordoned off to the public.

In addition to calling for the opening of congressional lots, this sense-of-the-Senate amendment states that no preferential parking privileges should be provided to Members of Congress and other officials in the future.

In deliberating the amendment, I would ask my colleagues to consider how the public provides for their own travel to and from Washington's airports without any special privilege to rely upon. Business people and recreational travelers consider taking one of the District's 8,000 taxicabs, use our multibillion dollar Metro system, or arrange for a ride from friends and colleagues. If they do decide to use a parking lot at National or Dulles Airports, they budget and economize in order to pay for that convenience.

The loss of revenues caused by the congressional parking has occurred at a time when the Airports Authority is receiving millions of dollars in taxpayers' funds each year. Instead of raising the substantial amounts of revenue that could alleviate the need for taxpayers' dollars, the Airports Authority is apparently content to abide by the status quo.

Madam President, I think it is appropriate at some point—perhaps right now—to mention that I appreciate how emotional this issue is. I have even received many verbal comments from my colleagues. I have even received written letters from even a Member from the other body who admonished me to get real.

I understand that there will be questions raised about my own personal practices and habits as to whether I use the congressional parking myself. I have not for over a year. That is an admission for the many years I did. There is a tendency in this town to somehow discredit the messenger if the message is not pleasing.

I will also admit and plead guilty to any charge that is leveled against me for using any other perk that the Congress has, in order to alleviate the Senate from having to undertake that part of the debate.

But the fact is that the American people feel, in a very strong fashion, that we have separated ourselves from them.

I do not pretend that this action alone, if agreed to by the Senate and the House, will significantly impact the increasing cynicism of the American people about Members of Congress. But I do think it is important for us to recognize that the American people are extremely cynical, disillusioned, and many times angry about what they view is a disconnect between Members of Congress and the American people.

Madam President, just this morning there was a poll that was written about, which I would like to quote from. It is an extensive poll. It is a two-part national telephone poll of 1,500 persons conducted in November and January, and it focused not only on attitudes towards Government, but on how voters felt about 50 proposed reforms.

The survey, in very dramatic ways, underscores how deeply cynical the American people remain about the political process and political leaders, said Stanley B. Greenberg, pollster for

President Clinton. While Mr. Greenberg hastened to add the President's approval ratings are on the rise, he acknowledged we are seeing Watergate levels of cynicism, and even higher levels. Frederic Steeper, pollster to former President Bush, stressed that the results of the poll were not just a knee-jerk, anti-Government reaction, but rather the latest evidence of the Nation's rising distrust of its own Government over the past 36 years.

The article goes on to say, Madam President, that Congress was singled out for particular criticism in the survey results. The most popular of all 50 proposals favored by 81 percent of respondents was a punitive measure to cut congressional salaries and benefits to let Members know that voters are serious about spending cuts. By contrast, a proposal to raise congressional benefits to encourage the best people to serve was favored by only 13 percent of respondents. And it goes on to add that term limits were especially popular, favored by 71 percent, et cetera, et cetera.

Madam President, again, I do not pretend that the passage of this amendment will somehow reverse a trend that, according to the people who make a great deal of money analyzing these perceptions, that has been going on for 36 years. But I do contend and I do allege that measures that we take in order to make Members of Congress just like the rest of our fellow citizens are desired by the people that I represent. And that is all this amendment is really about.

Usually, because pressure is brought to bear, in addition to publicity and a lot of rhetoric on the part of talk show hosts in America, the Congress has taken appropriate action concerning free haircuts, subsidized meals, the gymnasium, health care, et cetera.

If there is one phrase that gets applause in any town hall meeting I have been to all through America, it is the following: "We want the same health care plan that Congress has." Even for a dull speaker like me, that is the one sure-fire line that will get a lot of applause.

What does that mean, Madam President? It means that people believe that we should live like they do.

Again, I want to emphasize an important point one more time, because there may be people both on and off the Senate floor who will say that this amendment is some kind of cursory response to populist attitudes. I tried for 2 years in correspondence with the Metropolitan Washington Airports Authority to get them to take this action, without benefit of issuing any press releases, and without aggrandizement of any kind. But the fact is, they would not act. And the Airports Authority says they will not act unless Congress sends them a message.

This sense-of-the-Senate resolution will send that message on behalf of the U.S. Senate.

I do not hesitate to admit that there will be inconveniences if this reserved parking is done away with. There may even be a time when a Member of this body misses a vote or misses a plane. I deeply regret such possibilities, as a person who for 10 years has commuted back and forth literally every single weekend to my home State of Arizona, where my family resides.

I do not want to go on too much longer, but I hope we can get a voice vote on this issue to get it over with, and have it accepted by both sides.

If not, I must request the yeas and nays, which I will be prepared to vitiate at any time if both sides are willing to accept the amendment.

Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. McCAIN. Madam President, I do not intend to engage in debate on the issue. I believe the case is clear. This is an issue of fairness and equity for the public. I do not wish to inflame emotions any more than has already taken place. If I had advocated a declaration of World War III, I believe it would have probably evoked less emotion in my colleagues than this amendment has. So I am keenly aware of the sensitivity and their strongly held views on this issue.

At the same time, all I am asking for is a decision on the part of this body. Once it is rendered, I do not intend to bring this issue up again.

I yield the floor.

Mrs. FEINSTEIN. Madam President, I rise today in support of the amendment offered today by my colleague from Arizona that puts the Senate clearly on record in support of eliminating parking at National and Dulles Airports. My only regret is that this amendment is only a sense of the Senate and is not, in fact, binding.

It is impossible to explain to residents of this country why elected officials deserve or warrant the special perk of being able to pull into a busy parking lot at Dulles or National Airport—and get free parking at any hour of the day. It is time to ban this needless special perk.

In addition, at both National and Dulles, significant amounts of construction are currently underway. Traffic in and out is tremendous, and access to parking lots is tough, particularly on a busy Friday evening. Imagine the frustration that tourists—all of them a constituent of one Senator or another—must feel as they struggle with their luggage, get out of a parking lot bus and look over their shoulder to see an empty or half-empty parking lot marked with a sign that says: "Reserved Parking: Supreme Court Justices, Members of Congress, Diplomatic Corps."

I know that some of my colleagues in the House and here in the Senate will say that by having parking reserved at the airports, more business gets done here because less time is needed in traveling to and from planes. But for men and women anywhere else, if work or some other task keeps them late they do not have the option of zipping into their free parking spot at the movie theater or at the grocery store or at the ball park. Instead, most people face the option of catching that later movie, or missing the first couple innings of the game. Without free parking, we are faced with the option of catching that later flight. I am certain that that is an option all of us can live with.

I commend my colleague from Arizona for continuing to bring this issue before us, and I am pleased to support this amendment.

Mr. SPECTER. Madam President, I am voting against the resolution to eliminate the parking for Senators and others at National Airport because, despite my concern about the appearance of special treatment, the reserved parking saves taxpayers' money.

I have introduced and supported legislation to eliminate all Senate perks so that Senators pay the fair market value for everything we receive including, but not limited to, medical care, gym facilities, haircuts, and so forth.

Parking, however, is a legitimate business expense. Currently, this parking is provided at no cost to taxpayers. If the parking is eliminated and Senators use the commercial lot, it has been estimated that the cost to taxpayers would be more than $3 million.

Since I travel to and from Pennsylvania by train, I cast this vote to retain the Senators' airport parking even though I almost never use the lot. But I believe that as we take up these kinds of issues in our effort to reform Congress, we must not be afraid to make choices that are in the best interest of the taxpayer and the Congress, even though the appearance of such a decision might seem otherwise.

In voting against this resolution, I understand that it will be unpopular, probably misunderstood and possibly the subject of a negative TV commercial against me in a future campaign.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Madam President, the Senator from Arizona has indicated that he would be prepared to vitiate the yeas and nays in order to spare Senators from voting on the amendment that he has offered, with the proviso that his amendment be accepted. This Senator would strongly oppose accepting the McCain amendment. Therefore, it appears that we will have a rollcall vote on the McCain amendment. If the vote is 99 to 1, and I would understand why Senators would feel constrained to vote in favor of the McCain amendment, this Senator will be the one who will vote against it.

Madam President, on its face the question of parking places at airports is perhaps the smallest issue that could come before the U.S. Senate.

It seems so small on its face, but, in fact, it is a very big issue that has been raised, and a very big issue that I believe should be debated, because I think that the whole thrust of the McCain amendment is something that is wrong. It is bad for the country. Therefore, I believe that we should just face up to it squarely, directly, and think about it and talk about it, and then, if the Senator wants to press to a vote, vote on it.

Part of our tradition as a country is to be skeptical about Government, and for good reason: We do not believe that Government is the be all and end all of the United States of America. We do not believe that life within the beltway is the heart of this country. We believe that the true America is out there somewhere in our States, in our communities, in our homes—not here in Washington.

So for that reason, the skepticism about Washington, and the skepticism about Government and Government programs is something that is very healthy. But cynicism about Government is not healthy. Cynicism is not the same as skepticism. Cynicism can be corrosive, and cynics tend to take the position that people in Washington really are some sort of malevolent force, some kind of different people who are engaged in some sort of hanky-panky. Cynics contend people in Washington are doing ruinous things to the country, and everything would be better if those people up there were not there or if they were different.

That kind of cynicism is constantly fanned by people who make it their business to fan the flames of that sort of cynicism. That is the nature of talk radio today. The nature of talk radio is to fan the flames of public passion, make people mad; make people mad about Government; make people mad about Washington; make people mad about those people up there, those politicians. So it is no wonder that the polls that the Senator from Arizona cites are as represented.

Ask the American people about Congress. "They are worse than used car salesmen."

Ask the American people about politicians. "Scumbags," they would say.

Ask them about various perks they perceive exist in Congress. "Oh, this is a terrible thing. Those people are milking us for all they are worth."

That is cynicism.

I submit that it is corrosive and that it is mistaken and that it is time to face up to it and start talking about it and not playing to it, not constantly playing to it, not constantly looking for opportunities to whip up those passions, to whip up the cynicism that is already there throughout the country.

So I believe that the issue that is raised is a big issue. It is beyond parking places. It is a big question about Government and the American people and how the two relate to each other. That is a very big question, and it is much more than the question of parking places.

Maybe it is a safe thing for me to be the one who raises it. I am, in a sense, a neutral observer. After 18 years in the U.S. Senate, I will be retiring at the end of this term. It does not matter much to me what the parking situation is from this point on at the airports. It does not matter to me what people are going to be saying in negative campaign commercials relating to parking, because I am not running again. So I am really a neutral observer.

But it is really important to me to talk about Congress and to talk about politics and to talk about the corrosive cynicism that I believe this amendment represents and plays to and helps create.

Let me begin by talking about the practical consequences of this amendment. People could say, "Well, we're concerned about balancing the budget." Right? "Therefore, this is money and somehow this is related to the budget and maybe we'll be better off for budgetary reasons."

The answer to that question, of course, is "no". The answer to that question is no. It is my understanding that the Congress does not, in fact, pay the airport authority for use of the space, so that the money that is spent for cab fare or parking places, or whatever else, to get to the airports would come out of the Treasury. So, if anything, this amendment would lose money, not make money.

If you really believe that the problem of a $4.5 trillion national debt can be reduced to parking fees—if anybody is silly enough to equate the two—then the nickels and dimes that we are talking about, relatively speaking, in this amendment would go the other way because people would be reimbursed for their transportation, including their parking.

Or, if we were rushing to get to the airport, we might ask some staff person: "Drive me over there. I don't have time to park the car." And that, in a way, would be a cost to the taxpayers. So if we are talking simply about cost—which, of course, is not what we are talking about, but I simply make that point—if we are talking about cost, then, if anything, this amendment will cost money; it will not create savings for the taxpayers.

But, of course, this amendment fundamentally is not about cost. It is about the idea that the public resents privilege. It is the thought that somehow Members of the U.S. Senate or Members of the Congress are a privileged group of people and that the surest way to stir up resentment against Members of Congress is to portray ourselves as privileged.

In a sense, it is a privilege to serve in the Congress of the United States. I have always believed that it is a privilege to serve in the U.S. Senate. It is the greatest privilege I have ever had in my life, and I am immensely proud of it and grateful for the opportunity of being able to spend a very substantial part of my life serving in public office and, in particular, serving in the U.S. Senate. In that sense, it is a privilege.

But let us not confuse privilege with the idea that somehow it is a cushy job, because I think that is what the cynics would like to believe: This is a cushy job; this is a lush job of some kind; this is the lap of luxury; this is ease to be in the U.S. Senate; it is ease to serve in the Congress; it is a luxury and we are privileged people and we should be treated like everybody else.

Well, are we like everybody else? What is the typical work week in the United States? It used to be 40 hours a week. I believe that now it is somewhat less than 40 hours a week. Forty hours a week was the standard work week. Is there anybody in the U.S. Senate who works 40 hours a week?

Most people work an 8-hour day, or at least they did. I think that is declining somewhat: 9 to 5. The whistle blows at 5 o'clock. Does the whistle blow here at 5 o'clock? Where are people here at 5 o'clock in the afternoon? Where are people at 6 o'clock in the afternoon? Where are the people at 7, 8, 9 at night?

Your wife calls you up at 6:30 in the evening and says, "Are you going to be home?"

"I don't know."

"When will you be home for dinner?"

"I don't know."

"Will you be home?"

"I don't know."

"Will we be able to do something next week?

"I don't know."

This is not a 40-hour workweek. Does anybody want an 80-hour workweek in this country? Or a 100-hour workweek? That is more like it. How about the airport spaces? Is that some kind of luxury, to be able to park at the airport? Think about it. To be able to park at the airport. Does that seem to be a great luxury item to park at National Airport?

Well, here is the usual situation. You are working in the Senate. Generally, two nights a week perhaps, maybe three, you are working late. Sometimes you start work at 8 or 8:30 a.m., you may have a breakfast meeting at 8 o'clock in the morning. You are going right through the day. You have something to do during the lunch hour. You are going from meeting to meeting.

You are working into the evening. And then the Senate is to recess sometime on Friday.

Probably noontime or in the early afternoon there will be an announcement, "No more votes." You want to go to the airport. You have to go to the airport because you have commitments back in your State. So how many people have stood here on Fridays, looking at the clock, asking when the debate is going to close. "When are we going to have the votes?" Lining up here at the front desk to vote early, to leave immediately after casting your vote, to rush to the airport—not to proceed in a leisurely pace but to rush to the airport—in order to catch a plane, because the plane is leaving in a half an hour and you have to get to the airport.

It happens every week. It happens every week we are in session. There are Senators pacing the floor of the Senate saying, "When can we get out? We have to catch a plane."

Is it a luxury to have a place to park? What are you supposed to do, shoot in a pneumatic tube over to National Airport? You have to get on the plane.

Why, Madam President, do you have to get on the plane?

So many times when I am in the airport in Missouri, constituents will see me in the airport and they will say to me, "Oh, good, you are getting some time off." It is a nice thing to say. It is a nice, pleasant greeting. It is wonderful; you are getting some time off.

Time off? What time off? Who would like to spend weekends the way Senators spend weekends? Here is how we spend weekends. We rush to the airport, get on the plane, and we go out to our States. We have speeches. We have town meetings. We live out of suitcases. We stay in hotels.

A State such as Illinois, represented by the Presiding Officer, is a very large State. My State of Missouri is 250 miles across. It is a large State. You go back and you spend one night in St. Louis, one night in Springfield, one night in Kansas City. That is not a vacation. It is work. So many times I felt at the end of a working weekend, I am glad to get back. This schedule seems like rest compared to what we are doing on our weekends. It seems like rest.

What we consider to be weekends off are not the weekends that we have to rush to National Airport or to Dulles. The weekends that we consider weekends off, when we talk to each other—Do you have the weekend off?—we mean when we do not have to go to the airport. When we do not have to go to the airport.

It is said by the Senator from Arizona we should live like everybody else. Who else lives this kind of life? The one thing that you have to say about Members of the Senate is they work hard. The one thing you have to say about Members of the Senate is that it is a high-energy job. One question to ask ourselves is, well, say you have a plane to catch, say you have a plane to catch on a Friday because you have a commitment in your State on Friday. You have a plane to catch, and you are here hoping to catch that vote.

Why are you hoping to catch that vote? You are hoping to catch that vote because you take your voting record seriously. Most people in the Senate want to vote 95 percent of the time, or more. Some Members of the Senate do not like to miss any votes at all. That is not a lack of conscientiousness. That is real conscientiousness about doing what you are paid to do, about voting.

So the idea that it is somehow a privilege to have a parking place, when you are rushing from the floor of the Senate to catch a plane to get back to work for a weekend, just is not true. It just is not true. It plays to a popular myth, and it just is not true.

It is hard work. It is not an 8-hour day.

Private life? Well, does the ordinary person put out a financial disclosure? No. I was speaking last night to a very revered former Senator about the difference between being in private life and being in the Senate.

This person served with great distinction in the Senate. Really, I think every Senator who served with this individual would say that this was one of the great Senators. And he was telling me about the difference between public life and private life.

I do not say all of this to complain, because I am not complaining. I promised myself when I announced my own retirement that the last thing I wanted to do was to complain, because I have considered it to be a wonderful privilege to have had the opportunity to serve in the Senate. I have enjoyed it, and I still do. It is interesting. It is the most stimulating thing I can think of. It is very, very exciting and very enjoyable. It is a privilege to be able to stand here right now and debate in the Senate. I am going to miss it when I leave. I am going to miss it, no doubt about it.

But the idea that it is somehow cushy or that they are a bunch of poohbahs sitting around doing nothing is just false. It is just plain false.

It is said that, well, Members of Congress are out of touch. Members of the U.S. Senate are out of touch. Let us get them a different parking place and put them in touch.

Madam President, the last thing that Members of the Senate are is out of touch. The idea that Members of Congress are out of touch is totally fallacious. We have never been so in touch. Why? Part of the reason is the ease of transportation. Part of the reason why we are in touch is that, unlike the old days when Members of the Congress would show up in January and leave in June and never go back to their States, now you can go back all the time. That is one of the reasons we are in touch, is that our constituents can come here—and they do so every day—and we can go out to our States, as many of us do each week.

We all use the public opinion polls, the focus groups, and all of these ways of staying in touch. Some may argue that we are in touch to a fault, that we have lost the sense of statesmanship because we are so afraid of offending everybody, that we are so much in touch that we do not necessarily do the job of good government.

Think about how we are going to vote on this particular amendment. I suppose that one of the reasons for voting in favor of the McCain amendment is concern about being pilloried when you are back home. Everybody is going to know about it. "You voted for a special parking place." We are not out of touch. We have never been more in touch than we are now.

I would also like to add that, in the opinion of this Senator, the idea that Members of Congress are the object of scorn and ridicule, that we are somehow ripping off the country by various perks and by pay, is not only something that is erroneous and ferocious cynicism, but it is a distraction from the real work that has to be done for our country.

Let me give the Senate an example. The Presiding Officer and I are members of a commission of 32 members. The point of the commission is to try to address the problem of the entitlements and whether anything can be done to control the entitlements. All of us who serve in Congress know that the explosion of the entitlements makes the budget something that we just cannot deal with. We know that there is no alternative to dealing with the entitlements in a responsible fashion other than a budget that just continues to spin out of control.

We have not been able to address the problem of the entitlements because it is unpopular to do so. People want to believe that somebody else is to blame. People want to believe that there is some solution to the problem of the Federal budget that does not involve them. "Do not cut my program. Why, it is ridiculous to cut my program. How dare you cut my program. Cut something else." And the something else is always, always the same—waste. It is as though there is a line item in the budget that is called "waste." Other examples of "something else" to cut are foreign aid, which is less than 1 percent of Federal spending, and always, always congressional pay.

Last winter, Senator Bob KERREY and I, who have been asked by the President to cochair this commission on entitlements, were invited to a conference in Pennsylvania that was convened by Congresswoman MARJORIE MARGOLIES-MEZVINSKY. The subject of the conference was the entitlements. The President came and spoke to that conference. Senator KERREY spoke to the conference, and I spoke to the conference. I tried to talk about the importance of dealing with the entitlements.

I said to the audience—in order to show how people want, a quick answer, and the cheap answer and the answer that does not involve them—"What most people would like to hear us say is the way to fix the budget is to cut congressional pay." Madam President, do you know what the audience did when I said that? They burst into applause. I was using it as a ridiculous throwaway to try to indicate the quickie solution, the easy solution, that we have to be realistic, that it is not going to work. When I mentioned it as an example of something that cannot work and that is ridiculous, the audience burst into applause with the very words "cut congressional pay." Of course, it is an applause line. Of course, that is what people want us to do; cut pay, cut perks.

It is a national mindset now. We want to be victims. We want to be victims of somebody up there. We want to be victims. We, the little people, want to be the victims who are being abused and taken advantage of by people who were up there somewhere. "Oh, please, let us be victims. Please let us find somebody else to blame, somebody to resent. Give us somebody to resent. Why, Members of Congress, let us balance the budget by taking their parking places from them." It is a whole industry of building resentment.

A number of years ago I was participating in some debate in the Senate. I cannot remember the subject. But I was participating in some debate and assaulting the Senate for something or other, some kind of criticism of us. After I finished the speech, the greatest guardian of the honor and the tradition of the Senate that we have, our President pro tempore, Senator BYRD, took me aside very gently. He did not even refer to my speech. But he talked about Senators who "soil their own nests." I have always remembered that because it is true. It is true.

(Mr. CAMPBELL assumed the chair.)

Mr. DANFORTH. Mr. President, I think we should be proud of serving in the U.S. Senate. I believe that we should view this body as something that is representative of the American people. We talk about gridlock. Yes, I guess there is gridlock. But is that not representative of the people? Are the people giving us a clear message to get on with the business of balancing the budget, of cutting popular programs? No. Is there a consensus on what to do about health care or the other big issues? There really is not.

So, yes, there is disagreement here. That is the reason for having a Republican form of government, to build in that disagreement. I think we do represent the American people, certainly not perfectly, but well. I think we should say so and not pander to resentment. I believe that is what this amendment does. So I am going to vote against it. I do not have much to lose because my political days are over, but I am going to vote against it, and I am going to insist on a vote if the managers have any idea of accepting this dreadful amendment, so that I, at least, will have the chance to vote against it.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The junior Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Mr. President, I would like to first thank and congratulate Senator DANFORTH for probably one of the better speeches I have heard in my short time here as a Member of the Senate.

I am speaking extemporaneously, Mr. President. As you know, I was just in the chair, and I had occasion to hear the speech. He really has touched on some chords that struck near and dear to me as a junior Member of the Senate. He has been here 18 years, and I daresay I have been here barely 18 months. He is ending his career, and I am just starting mine. Frankly, I have a tendency to attract thunderbolts of controversy anyway, and this may be one.

Senator DANFORTH, if you are the one vote, I will be No. 2 against this amendment. I want to talk a little bit, and pick up and associate myself with everything that Senator DANFORTH said, because I think he has properly characterized the issue.

I would like to add some personal perspectives, as a new Member of the Senate, with regard to the larger issue and how it relates to this amendment.

When I ran for the Senate, it was with a sense of real regard and respect for this institution; with a sense of joining the greatest deliberative body in the world; it was with a sense of extreme honor and privilege to be a part of this—privilege, in the classical sense of the word, that somehow or another by coming here, I was doing my duty by contributing and giving back something of what the Lord had given me, the privilege that I had been given in my life, that I could somehow serve the community and I can help my fellow person, I could somehow contribute something to the debate and to the resolution of issues, and try to make things better for my children and for all of the children in this country, and indeed in the world.

In fact, in spite of the popular myth around why I decided to run for the Senate, the real reason, the real critical moment in my decisionmaking to do this was a conversation with my son, who was at the time 15. When I had been approached to run, Matthew and I had talked about it over dinner. I said, "I am being asked to run for the U.S. Senate; what do you think of that?"

He asked me, "Well, Mom, what are your qualifications?" He has had the benefit of a good education. He said, "You know, Mom, your generation left this world worse off than you found it."

I was appalled by that. So for the rest of dinner, we debated whether my generation had done its job and whether we had done what we were supposed to do, to pass on to the next generation the great heritage and legacy that this country stands for. After the conversation, I said, "Matthew, that is it, whether I win or lose is not as important. I am going to go out here and try."

As it turned out—obviously, I am here—I won the election and became a Member of the Senate.

Senator DANFORTH is exactly right in talking about the kind of workload which, again, I was not really expecting. Nobody told me. In fact, they had talked about the Senate workload as though you work full-time and then get time off. I have worked as hard here as I have on any job in the private or public sector. We work on weekends, and we work in the evenings.

We work evenings because that is when people come together and have the benefits, parties, and meetings. As Matthew said earlier in his young life when asked, "What does your mother do?" His answer was, "She goes to meetings and parties." I do more than that. I go to meetings and parties, and both of those things are work. When friends call me and ask, "What would you like to do for recreation," I can think of nothing finer than sitting at home in front of a fireplace with somebody I really like and not having to engage in the work of this, because all of that is work.

In addition to the meetings and parties, though, Mr. President, also, in the words of the former Mayor Daly of Chicago, "We plant trees." That is to say that we are held accountable for results and for what we do in office. We cannot just get on a talk show and we cannot just get on the radio and talk about what is wrong with the world. We have a responsibility to try to make it right. We have a responsibility to do something, and what we do, we are held to account for every part of that. And that is as it should be, Mr. President.

Accountability is what this institution has to be about. But when you talk about accountability, I think it is important that you are honest about what you are accountable for. The issue, the current issue that has given rise to this debate is about parking spaces. Senator DANFORTH is exactly right. It is more than just parking spaces. It is about feeding into a malevolent attitude that says somehow the people in the U.S. Senate, in the U.S. Congress, are all out looking to cut corners and get special perks and privileges—somehow or another to be different than the American people, the average folks who are out there working on a job and having a life.

Well, Senator DANFORTH has already pointed to whether or not we are exactly in the same situation, in talking about the difference in the time schedules and time commitment, having to be here for votes and the like. He talked about that. I would like to add another aspect of the difference. I have friends who work on jobs, they work from 9 until 5, they have their lives, and they have some privacy in their lives. What they do is their business. I have friends, even at my age, still riding motorcycles—and I notice the presiding officer, who rides a motorcycle. That makes him probably unique in this body. But they can go and hang out and have a good time, and they can say and do what they want.

Mr. President, we not only file financial disclosures, as Senator DANFORTH talked about, we publish our income taxes in many instances. Income taxes are considered to be private by most Americans. People go to great lengths to make sure nobody knows the bottom line on their 1040 or what the details are. We publish ours. Every aspect of our lives is open to scrutiny, comment, conversation and criticism—sometimes warranted, sometimes not, but you are out there. You put yourself out for the public to have absolute ownership of what you do in your life, whether it is going on vacation, or whatever.

I took a vacation after being elected, before I took office and was sworn in. It wound up being news in my hometown. The day I came back home, my face was the whole front page of the newspaper. "Vacation over." I do not know how many of my friends wind up having commentary about what they do on their vacation between jobs, but that is part and parcel of this—and I accept that—as to what this job is about.

I recognize that in taking this responsibility, I have to be accountable not only in my public life, in the sense of what votes I take and what I do, but also in my private life as well. So when I make a decision in my private life, just as something to wind up as fodder for the talk shows and for the television, as to whether or not I am supporting airstrikes in Bosnia, I recognize that that is part of the playing field, and I am not complaining, either. Senator DANFORTH says it is not about complaining because that is just where we are in our modern time. That is OK, because I guess it is OK for us to be accountable.

I suggest to you, Mr. President, and to my colleagues who are listening to this, it is not OK to be accountable in the context that is fraught with falsehood. And the falsehoods here are the perceptions that somehow or another, we are taking advantage of the American people; that they are victims of our malevolent dealmaking; that somehow or another, this institution—this institution—is something to be reviled and criticized instead of honored, respected, and regarded with the kind of—not support; that is almost the wrong word—but regarded with the kind of respect for what it is that we do and what it is that we; in fact, what we represent and what our job description, if you will, calls for.

You know, to talk about the one without talking about the other, talking about parking spaces and not talking about responsibilities, it seems to me is to set a perception and to set a frame of mind that is destructive of our democracy, in the final analysis. Democracy means the will of the governed; that the governed decide and elect Representatives; they send people here to make decisions in behalf of the public good and the common interests.

Most of us, if not all of us, and I presume all of us, try our level best to live up to the high ideals of our democratic system. In so doing, we sacrifice privacy; we sacrifice our dinner at home with the family; we sacrifice things that normal people, ordinary folks who work 9 to 5, take for granted.

I daresay it does not get much play on the talk shows that the Senate is in session at 12 o'clock at night. It does not get much play on the talk shows that Senators are required to be accountable for what they do on their vacations. It does not get much play on the talk shows that we really are trying and working hard even if things are not all right. It does not get much play on the talk show that we are held accountable for what we do, and we cannot just get away with the glib sound bites and the conversation, and make millions of dollars for doing so.

I would add, Mr. President, that does not titillate, that does not stimulate the kind of cynical debate that unfortunately has permeated the air and permeated our public conversation over the last decade and more.

So, Mr. President, I submit to you that, as Senator DANFORTH has pointed out, the debate here is really larger than parking spaces. It really is more than parking. It is about this institution. It is about restoring regard and respect for Government in our democracy.

To get us back to the point where people understand that we are only here because the American people sent us here, and we are here to do a job and we are doing our best in most instances to do that job, and in any event, whether we do a good job or not, we are going to be held accountable, weighed if you will, in an election for what it is that we do here, and there are mechanisms in place.

And so having a parking space, or whatever other—I mean, I have not been here long enough to know what all the perquisites are. I suppose I am just figuring it out. But the fact is that a parking space at the airport is not something that somehow or another represents some rip-off of the American people. This is not something that is something. As Senator DANFORTH again rightfully pointed out, if anything, taking away the parking spaces is going to cost more money than not.

And so what you have is something that is counterproductive in terms of cost; something that feeds into the most cynical elements and cynical aspects and views about this institution; something that really propagates a fraud, in my opinion. And I do not mean the idea propagates fraud. I have worked many nights, being by myself, a woman traveling back and forth, and I go back to my home State just about each weekend. My boy is still back there, so I go back home, I suspect, about every week. I work on those weekends. I know of nights when I left here dashing out to catch the last plane back home by myself.

So I get to the airport by myself at night, running luggage behind me, trying to get to that airplane. We have all done it. We all know what that is like.

The fact that I can park the car and go in and leave it there for the weekend until it is time to come back to work was something that was helpful. Would my life end without it? Absolutely not. Most of the time, I do not use that parking space. But I daresay the fact that it is there allows me to do my job and does not penalize me further for being in it.

I came home—you see, you get confused after awhile. I came back to Washington on Monday, having gone from Chicago, IL. Senator DANFORTH talked about how large my State is. It is a huge State. Illinois is kind of in the middle of the country, and it is a long State. It is 600 miles long. I had gone from the northern end of the State down to southern Illinois to do an announcement that morning. I caught a 7:15 a.m. flight and tried to get down there in time for the announcement. I made the announcement in southern Illinois and went to the St. Louis Airport to come here to Washington. I got off the plane at Washington.

As I walked out of the gate, out of the parking area, going to catch a cab—I did not have a car and I was going to try to come to work on my own, going to catch a cab—I found myself being photographed. So I turned around to a young lady, and I said, "Why are you taking my picture?" She said, "Well, we are doing another story on congressional parking perks." I said, "Why are you taking my picture?" She said, "You are a Senator, so we thought we would take a nice picture of you."

She was a pleasant enough person, so I did not really get into it.

But the point I ask is how many ordinary people walk out of an airport and have someone snapping photographs of them? Does that go with the job description? I do not think so. Does that mean there is going to be a story? I do not know. It could well be a story: CAROL MOSELEY-BRAUN, you know, going to the congressional parking lot. In fact, I was going to catch a cab.

So I just think, Mr. President, and again I had not intended—and I daresay I suspect Senator DANFORTH had not either expected—to hold forth on this amendment. But I was sitting there in the chair, and it just struck such a nerve. It was just like: When is this Congress-bashing going to stop? When are we going to stop allowing people to propagate this fraud? It is selling false impressions to the American people which, in the final analysis, degrades and demeans the institution and becomes the functional equivalent of shooting yourself in the foot.

The American people want better Government. The whole idea, it seems to me, is to get the best people you can in it, not to make it unattractive, to make it so that honor and duty, and concepts of doing good for the common interests, those kinds of concepts, get buried in the hoopla, in the hype, in the talk-show conversation that I believe the pending amendment feeds into.

So, Mr. President, I took a few minutes to make some personal observations. I say again they are not in the way of complaint. I went into this with my eyes open, and frankly I have been absolutely thrilled and honored to serve in this institution, for all the personal costs it is taking.

Where else could I talk about these issues? I have a bill I was going to introduce this morning, but I will do it later on today, providing money to rebuild schools, education. Then someone comes out and talks about what is going on in Bosnia. Yesterday, we talked about Haiti. I mean where else could I do that?

I realize with the honor of this job and the excitement of this job, there are going to be downsides. But I do not mind downsides in terms of those things that are legitimate. But I do resent the propagation of a falsehood, of a false impression, and I particularly resent what the continuation of that trend, of that propagation, is doing to this great institution. This is the greatest symbol of democracy in the world. It will only be respected by the rest of the world to the extent that we respect it.

I daresay, Mr. President, I do not believe that this pending amendment is consistent with respect and support for this institution, the individuals notwithstanding. And I, therefore, join Senator DANFORTH and will be the No. 2 two vote against it.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada [Mr. REID] is recognized.

Mr. REID. Mr. President, I am the chairman of the Legislative Branch Appropriations Subcommittee and I have a responsibility, as chairman of the Legislative Branch Appropriations Subcommittee, to make sure that every year there is enough money to run the affairs of the legislative branch, which includes far more than the Congress. Therefore, I am here to tell everyone listening, whether it be a Member of the U.S. Senate, a member of the staff or a member of the public, that if this sense-of-the-Senate resolution passes, it will cost more money to run the legislative branch of Government.

So everyone should understand, this is a cosmetic change. It is not one that will save the American taxpayers money. It will cost the American taxpayers money.

I would, first of all, say that I have always had great respect and admiration for the senior Senator from the State of Missouri. As we know, he is an ordained minister. He has been a person that has spoken out on issues that he believes are important, many times notwithstanding the party pushing a particular issue.

But I would say to the senior Senator from the State of Missouri, this certainly speaks about the legend of JACK DANFORTH. This man is not running for reelection, but yet he is here on the Senate floor speaking out on an issue that perhaps a lot of people wish they had the intestinal fortitude of a JACK DANFORTH to speak out on an issue of this measure.

So I personally commend and applaud, as I have done on many occasions on the floor, not only the Senator, but the people of the State of Missouri who sent this Senator to represent them in these last many years to the greatest debating body in the history of the world.

Mr. President, I do not live in Washington, DC. I live in the State of Nevada. The State of Nevada is my home and always has been. I was born in Nevada.

I am here on a temporary assignment from the people of the State of Nevada. Yes, I have a home here in the Washington, DC, area, because I have five children and I need a place to live. But it is temporary. I have always known it is temporary. There is not a day that goes by that I do not think of my home in Nevada.

That is the way it has always been back here. The people that serve in the Senate represent the various States of our country. I represent the State of Nevada. I go home as often as I can. My family spends most of its time here because that is where the kids go to school most of the time.

I am not going home this weekend because I graduated from George Washington University School of Law and I am going to get some kind of an award on Saturday. I am going to be here next weekend. The next weekend, I am going home; the next weekend, I am going home.

I have things to do at home that are important for the people of the State of Nevada. I am not going home to see a show on the Las Vegas Strip. I am going home to do the people's business of the State of Nevada.

But while I am here, I work for the people of the State of Nevada. I get 4,000 pieces of mail a week and I respond, with my staff, to all that mail. I work extremely long hours, as do all Members of the U.S. Senate.

I came here early this morning. I will go home late tonight. During the time that I am here, I am not going to be watching movies. I am going to be working every minute. I do not take a nap. I will work every minute that I am here. I will be on the telephone. I just left a hearing that took all morning, very important to the people of the State of Nevada. The Nevada delegation is waiting for me now at a meeting that started at 12 o'clock.

The point of the matter is, every minute of my day is scheduled and it will be on the weekends that I go home. I need to get home as quickly as I can, not for my personal convenience, but because I have work to do for the people of the State of Nevada.

Now it is all—I am trying to find the right word—foolishness to think that we are going to close the airport to the ambassadorial corps of the world that serves in the United States. I think that would be rude. I think it would be very unfair to the diplomats that serve from all over the world in Washington as Ambassadors to the United States. To have an assignment to be an Ambassador to the United States is the height of an ambassadorial career—to serve as an Ambassador to the United States. I mean, should we not provide them parking where we have major parking spots, not all over the country, but where they serve in Washington, DC? I do not think that is asking too much, that we provide parking to the ambassadorial corps.

The parking at Dulles and National serves the Supreme Court of the United States, the ambassadorial corps. The spots are very limited. There are many times that they are full. But my point is, the airport facility is not for Members of Congress, the little spots they have blocked off. They are for the ambassadorial corps, the Supreme Court, and Members of the Congress.

Mr. President, if these things are closed—and if that is the will of the Senate, we will all go along with it, we have to—I repeat for the third time, it will cost the taxpayers of the State of Nevada, the State of Colorado, the

State of Missouri, the State of Alabama, the State of Iowa, every State in the Union more money. Why? Because, the rest of you have to get to the airport some way. I usually take my car and drive myself to the airport and carry my bags to the luggage counter. I have no problem with that.

Under the rules, I could charge any mileage for my car while going back and forth. I do not do that. But I park there when I go to either Dulles or National.

Mr. President, the point is, when I go to the airport, I am going on the business of the people of State of Nevada. I am not going on a vacation. And this business is no different than a lawyer going to represent a client or somebody selling products for a company. We are in the business of the country. That is why we are parked there. We are trying to be more efficient for the people of this country.

Now if it is the will of this Senate that they do not want that to make my office more efficient, to make me more efficient for the people of the State of Nevada, then fine. But it will cost more money.

Roughly, it will cost probably about $3 million more each year if you add up all the cabfares to National and Dulles Airports from around this area. And this does not include, Mr. President—and I am sorry I was not able to come up with that figure—but there will on occasions, I am sure, that you will be at your office and you need staff to take you to the airport. I am sure that would happen on occasion. Nothing wrong with that. You are going on business.

The point of the matter is, the cost of eliminating this parking at the airport is significant.

As chairman of the Legislative Branch Subcommittee, we will try to find the money someplace, if that is what you want. But we are going to have to cut someplace else to do that. We may have to cut in the Library of Congress. We may have to cut staffs that write letters to constituents and consider waiting 2 or 3 weeks or a month or 6 weeks for a letter; you may have to wait a couple of months.

There will have to be some cuts made if, in fact, the Senate decides to make this cosmetic change, because it is only cosmetic. It is only cosmetic in nature.

My friend from Illinois has left the floor. I would say to her, she said she is new here and she does not know all the perquisites that are here. She will not have to look very far, because there are not many that I am aware of, and I have been here going on 8 years.

I was here several years, Mr. President, and finally I asked the barber who I pay $10 to get my haircut here in the Senate, I said, "Mario, every place I go, at almost every townhall meeting, they talk about free haircuts. Where are they?"

I do not know the exact date. I think he said they stopped in 1963, or some date like that—1967; 25, 30 years ago. No more free haircuts. I guess there was a time here when Members of the Senate and House got free haircuts. Well, that has long since gone.

This is a cosmetic change. I repeat, as chairman of the Legislative Branch Subcommittee that appropriates money for this body and other entities within the legislative branch, if the Senate feels this is important of course we will go along with it. But everyone should know it is going to cost taxpayers of the United States more money to do this.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Alabama [Mr. HEFLIN] is recognized.

Mr. HEFLIN. Mr. President, let me first congratulate the distinguished Senator from Missouri [Mr. DANFORTH] for approaching this sense-of-the-Senate resolution from an overall situation of asking when are we going to stop beating ourselves to death pertaining to certain items which might be termed a fringe benefit. I think the distinguished senior Senator from Missouri said something that needed to be said, and I congratulate him, and I congratulate Senator REID and Senator MOSELEY-BRAUN for their statements.

I did not intend to speak on this, but I have heard their speeches and I think I at least ought to make some comment. Basically, what we are talking about is time. Since the Senate has grown over the years, and the world that we live in presents more and more complex issues, the question has arisen: How do you save time in order that you might devote priority time to the most serious issues?

I just look here and I see three staff people for the majority leader. Why are they here? They are here to save the time of the majority leader while he conducts other business. Why do I have staff members on my Subcommittee on Courts and Administrative Practice in the Judiciary Committee? Why do I have a counsel who has spent, I would say, 80 percent of his time this year on this one bankruptcy bill? The object is to save me time in order that I might look after my duties in agriculture, in national defense, and in all of the various issues that confront a Senator in representing his State. Each staff member that has been added to a Senator's staff has been added with the idea that it saves him time and allows him to be more efficient in his overall function.

The idea of having a parking place at the airport is to allow a saving of the Senator's time so he or she does not have to prematurely leave the Senate while he or she is working on issues of great importance to his or her constituents. A Member of Congress can spend an additional 20 minutes working on whatever the issue he may be involved with and drive straight to the airport and not have to waste time in searching for a parking place.

It also means his car is close by when he arrives back in Washington from his home State, it saves him some time, in many instances where he must rush to the Chamber for a floor vote. I think overall it will save about 40 minutes time of a Senator, that he can devote to his business, to his State, and to other important duties.

Some say that can be done on weekends or something else. But most Senators never get away from their work. I do not think I have spent a weekend away from my work this year or in the last past 12 months. I am working all the time, and there is always something that is going on.

If I go home, even at a recess, and even if I do not have a town meeting or a speech, my home phone is ringing and my office in the State has things that they want me to do. There is very little free time for any Senator. I think when you look at this, this is an issue of time savings. The whole concept of all supportive staff, the concept of having a parking place or anything else, is to save time in order to devote more attention to serious duties than the distraction of having to get to the airport. A Senator can spend more time in the office and in working for your State and for your Nation.

I think Senator REID, awhile ago, mentioned the matter pertaining to the cost issue. If you add up the time, it would be a substantial amount more than the $3 million he mentioned.

I also think Senator DANFORTH talked about the duties and the matters here, and I might say it is true of the legislative staff. I do not think there is a staff person who deals with legislation in any Senator's office who works less than a 40-hour week. They stay here much more than 40 hours and assist their Senators in legislative matters. In my office my staff members are usually here until 7, 8, or 9 at night, and they work hard. This idea that Senators and the staff do not work long hours is the most erroneous impression that is given to people throughout the country by the press.

I thank Senator DANFORTH for bringing this up and making his speech in the manner he has done. It is remarkable. I look around and there are one or two Senators whose health is not too good. But they come. I notice, for many of them, their steps are not as spry as they used to be. But they feel an obligation to duty and they come and they work. I can remember a Senator who is no longer here who came in because he wanted to vote. He was on the other side of the aisle. Perhaps some of us said, "Well, they brought him in from the deathbed in order to vote." But he felt a duty that he had to his country and to the issue involved that they got him out of his hospital bed and brought him here.

In how many private businesses would you have seen that? I can cite many other instances which have similarly occurred. I can remember a Senator who has passed away, who would come here and discharge his duty, as painful as it might have been—in a wheelchair on several occasions.

So I agree with Senator DANFORTH. This is not a cushy job. It is a job we all appreciate. A job we honor. And it is a honor to serve in the U.S. Senate. But the false idea that this is a cushy job, as Senator DANFORTH brought out, needs to be told to the American people through many, many different ways.

Again, I think that the issue is a question of timesavings. Timesavings has brought about computers. Are you going to do away with computers calling them a perk? The typewriter was a timesaver. Are you going to say, all right, it was a mistake to have a typewriter? Senators used to have pens with feathers and quills they would write with, but modern technologies have allowed us to become more efficient with our time.

In closing, I feel that Senator DANFORTH has done a great service by speaking out on this particular issue, and I congratulate him on his courageous stand on this resolution now pending before this body.

UNANIMOUS-CONSENT AGREEMENT

Mr. HEFLIN. Mr. President, I ask unanimous consent that the McCain amendment, which is No. 1632, be laid aside until 1:15 p.m. today; and that at 1:15 p.m. today, without intervening action, the Senate proceed to vote on the amendment, with no second-degree amendments in order to the McCain amendment No. 1632.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The McCain amendment will be laid aside until 1:15.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CRIME BILL

Mr. SPECTER. Mr. President, in the absence of any other Senator in the Chamber seeking recognition on the pending amendment, I have sought recognition to speak relatively briefly on the pending crime legislation which is now in the House, the crime bill having been passed by the Senate, a bill which will soon be in a House-Senate conference committee.

I have sought recognition to express my distress, noting yesterday's action in the House to remove provisions to reform the procedures on Federal habeas corpus, the Latin term meaning to produce the body, which is the way that defendants convicted in State courts challenge their death sentences in Federal courts after they have been upheld in the State courts.

I am concerned that neither the Senate nor the House crime bill will be addressing this very important issue because currently, the way the Federal appeals process works, under habeas corpus there are lengthy delays, up to 17 years, in carrying out death sentences, which has eliminated the effectiveness of the death penalty as a deterrent.

Based on my experience as district attorney of the city of Philadelphia for two terms, 8 years, I am convinced that the death penalty is a deterrent. I say that because of so many cases which I have seen where professional burglars would not carry weapons for fear they will kill someone in the course of a burglary and face a first degree felony murder charge, or young hoodlums who would not carry guns in the course of robberies because they were fearful that they would kill somebody and face the potential first-degree murder charge for felony murder.

The death penalty has really been the flagship. It has been, as the extreme penalty, the guidepost of the seriousness of the criminal justice system.

Now, in making this presentation, Mr. President, I am aware that there are many people in the United States who are opposed to the death penalty, although the current polls show that more than 70 percent of Americans do favor it. I believe that the death penalty has to be imposed very, very carefully and that we have to be sure that there is no overtone of racial injustice; and we have to be sure that the tough, tight guidelines of the Supreme Court of the United States, under which the aggravating circumstances of the crime are measured against the mitigating circumstances, are complied with, where the Supreme Court in the course of the past quarter of a century has laid down very stringent rules for the imposition of the death penalty that are sound.

When I was district attorney of Philadelphia and had more than 500 homicides a year, I would not allow an assistant to ask for the death penalty without my personal approval. Currently, however, we have some 2,800 people on death row, and the death penalty is carried out on such a small number of people, 38 last year, it is not a realistic deterrent to violent crime. We know that to be an effective deterrent, punishment must be swift and must be certain. And not only is the death penalty not currently an effective deterrent, but as the most visible mark of our criminal justice system it really makes the criminal courts a laughingstock, telling defendants that society is really not at all serious about law enforcement and punishment for crime.

I offered an amendment to reform habeas corpus procedures, which was taken up separately as the Senate considered its crime bill, but that measure was tabled. It is my hope, Mr. President, that we will revisit this subject soon, because I think there are ways to be fair to defendants, to guarantee them adequate counsel, but not to have these cases languish for up to 17 years, where it is unfair to everyone involved. It is unfair to the victims' families, who wait and wait and wait, when the incident of a murder of a loved one is not brought to a close.

It is also unfair to the defendants. An international court of justice, the European Court on Human Rights, has decreed that the long delays in carrying out death sentences in this country are unfair to defendants themselves, that the a lapse of some 8 or 9 years or more constitutes cruel and inhumane punishment of criminal defendants. That arose in a case where the State of Virginia sought extradition from the United Kingdom, and the European Court on Human Rights said it would not allow the extradition to Virginia unless Virginia authorities made the commitment not to impose the death penalty.

So there are strong indications of unfairness to all those involved in the current process, and certainly unfairness to society when the death penalty is not imposed as the laws of 37 States say that it should be imposed.

I want to make a brief comment, Mr. President, on the pendency of the crime bill with respect to mandatory minimum sentences. I believe that mandatory sentences are appropriate in some circumstances. But I believe that our current legislative proposals are overdoing it. There is a great reliance on the glib phrase "three strikes and you are out," which I suggest is overly simplistic.

When I was district attorney of Philadelphia, I sought to have the Pennsylvania habitual offender statute imposed to give life sentences for criminals who had three or more serious offenses. I found as a practical fact of life in criminal courts that when these cases came up, the judges were unwilling to impose the life sentence because they felt that the defendant as an individual had not been dealt with fairly. The hallmark of American justice—and I think it is sound—is that the administration of the criminal laws are individualistic. That is why I proposed in the budget resolution—I will be brief, because I see my colleague, Senator LEAHY, on the floor, the very distinguished former prosecuting attorney from Burlington. I think Senator LEAHY and I could rewrite the crime code. We might have something that many people could agree with.

But I want to make this point, and I shall it make it briefly with respect to the issue of "three strikes and you are out".

I succeeded in offering an amendment on the budget resolution to transfer $100 billion from government consultants to programs for literacy training and job training for convicts in prison because I think it is no surprise that when a functional illiterate leaves jail without a trade or skill, that that person goes back to a life of crime.

I think we have to teach inmates how to read and write and offer them a basic trade skill. If the person then goes back and commits a second offense, and has another chance at his particular rehabilitation, and goes back and commits a third offense, then I think it is fair for society to ask for a life sentence.

The public does not want to hear about rehabilitation for individuals, although I think there is a point to that. But I think the public is willing to have realistic rehabilitation to take individuals out of the crime cycle so that person will not commit repeated offenses, recognizing that some 70 percent of violent crimes are committed by career criminals who commit two or three robberies or burglaries a day.

I think the public would be willing to support literacy and job training for inmates so that the stage is set if a person comes back as a career criminal, having committed three or more major offenses, that that individual then would be subject to and would receive a life sentence to take that person out of society.

In concluding, Mr. President, I do not know how many people are watching on C-SPAN 2, but I would like to say that we Members of the Senate read our mail. So do Members of the House of Representatives. I think there is not sufficient public awareness of the point that I made about the carrying out of the death penalty. When the public hears so much about the crime bill, there is a lack of understanding that in the Senate, the provision to curb Federal appeals in capital cases and to cut down on the delays associated with them was excluded. And just yesterday, in the House of Representatives, that provision was again excluded.

So I would ask people who are watching on C-SPAN today, who agree with the proposition that the death penalty ought to be carried out because it is a deterrent, and people who disagree with the long delays of carrying out the death penalty of up to some 17 years, and the attendant unfairness to the victims' families—and also, as the European Court on Human Rights found, to the defendants—that they will take the time to write to their Representatives and Senators, and try to put some public pressure, public expression of sentiment, behind this very, very important issue.

I thank the Chair. I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER (Mr. DORGAN). The Senator from Vermont [Mr. LEAHY].

CHILD NUTRITION VERSUS COCA-COLA

Mr. LEAHY. Mr. President, I thank my friend from Pennsylvania for yielding. I have a couple of points I would like to make.

As chairman of the Agriculture, Nutrition, and Forestry Committee, I have stood on the Senate floor and defended child nutrition programs hundreds of times.

I have seen child nutrition programs go through all kinds of attacks. I have fended off attacks from drug companies, petty crooks, and price fixers, budget cuts, criticism of all kinds. I never thought I would see the day that I would have to defend our child nutrition programs, under heavy attack from none other than the Coca-Cola Co., an American corporate giant. Coca-Cola is out to nail our kids and child nutrition programs right along with them. The crooks, the cheats, the price fixers, all the others, I can understand. But Coca-Cola? And what have they done? They have launched a stealth campaign to kill the "Better Nutrition and Health for Children Act of 1994." This corporate giant is taking on our children.

They know—and unfortunately so do too many in Congress—that children do not vote; children do not hand out large sums of PAC money; children cannot hire expensive lobbyists. Corporate giants have the PAC's, the lobbyists, the money, all the things the children do not have. But I think this is a fight that children should win over Coca-Cola. I am always going to put the welfare of children ahead of corporate giants.

The Better Nutrition and Health for Children Act of 1994 is a good bill. The legislation is supported by: the American Academy of Pediatrics; the American Heart Association; the American Cancer Society; the Children's Defense Fund; the American School Food Service Association, and a lot of other groups that care more for people than profits. But Coca-Cola is lobbying hard against the bill. The groups that do want this bill know that good eating habits developed in childhood have a major affect on lifelong health. But what Coke is doing is running to schools, and they are asking them to lobby Congress to not pursue my bill.

While this is not illegal, you have to ask what motivates them. Coca-Cola is not acting as if they are motivated by the health and welfare of children.

My office has become aware of three documents circulated by Coca-Cola. There is an internal strategy memo detailing methods to defeat provisions of my legislation. There is a letter to State education officials requesting their support in opposing my bill. And they have even—to show how helpful they can be—sent out a form letter for opponents to send to their Senators. Basically, what they are saying is: You may interfere with Coke's profits so do not do anything to help child nutrition.

Mr. President, to add insult to injury in this case, the Coca-Cola Co. is relying on misinformation about my legislation. They are resorting to scare tactics instead of honest debate. The Coca-Cola memorandum of February 24, 1994, contains four inaccuracies.

First, the Coca-Cola memo notes:

> In compliance with the law, soft drinks are never sold in the dining area of the school during the designated meal periods. Hence, they do not directly compete with items in the "a la carte" lunch line or on the school menu.

That is not true. Soft drink sales can compete with lunches since they can be sold right outside the cafeteria in vending machines or sold before lunch in the cafeteria.

Second, the memo notes that:

> Soft drinks can only be sold in schools provided that the revenue derived from the sales be used to fund school activities, which otherwise would not be funded.

That is not true. Under current Federal law soft drinks can be sold whether or not the revenue is used to fund school activities.

Third, the memo notes that:

> Allowing the sale of competitive foods on campus during non-lunch hours reduces the likelihood that students will leave campus to purchase such products. This is a serious safety issue which greatly concerns school administrators and parents.

The argument that selling sodas in vending machines will solve a "serious safety issue" represents a major overstatement.

Fourth, the memo notes that soft drinks are "USDA-approved competitive foods."

That is not true. USDA regulations list soda drinks as competitive foods of minimal nutritional value and thus can not be approved for sale in the cafeteria during lunch service.

At one time, Mr. President, somebody wanted to list ketchup as a vegetable in our school lunch program. Now it appears that Coke wants to list Coca-Cola as a nutritious beverage. Both ideas are total baloney, and we all know that.

My bill leaves the decision of whether to sell soft drinks up to school service authorities and education departments. They ought to decide, not a corporate giant in Atlanta. As a Vermonter, I want my Vermont schools to be making this decision, not some high-priced lobbyist working out of a multi-billion-dollar corporation.

Coke claims that they have the "understanding" of eight Senators on the Agriculture Committee. I find that hard to believe—not only that they do not support this legislation, but nobody has come up and said they want to put Coke ahead of children.

I do not know why Coca-Cola is so afraid. If they would check their facts and get their information correct, they would understand that my bill makes it clear that in the interest of child nutrition, schools—not the Federal Government—are entrusted with the authority to choose or to ban the sale of soft drinks and junk foods from vending machines during school hours.

They should not try to bully these individual school boards, individual educational institutions.

Coca-Cola is a corporate giant. It is their job to sell soda and make money, not to improve the health of children. Their fancy commercials and big-time advertising raked in profits of $2.1 billion last year alone. Our job as U.S. Senators, when we are developing a nutrition bill, is to protect children. We should be protecting children, not an individual corporation.

My bill clarifies schools' authority to promote healthy eating choices for children. No company should be dictating to schools that they have to sell soda and junk food as though it is a nutritional food. It is not.

I think child health is the issue. Coca-Cola apparently thinks money is the issue. The Coca Cola Co. made $2.1 billion last year; I guess that was not enough. I hope in this case it is not the corporate giant that wins out, but that the children of America win out. Their health is of much greater value to us than selling a few more cans of Coca-Cola.

I ask unanimous consent that the letters and memos sent out by the Coca Cola Co., which I consider out and out misstatements of fact, be printed in the RECORD at the end of my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE COCA-COLA CO.,
Atlanta, GA, February 28, 1994.

DEAR MS. ——— ———: We are writing to ask for your help regarding the possibility of further government restriction on the sale of soft drinks in schools. There is currently a new piece of legislature called "The Better Nutrition & Health for Children Act" that has been introduced by the Agriculture, Nutrition, and Forestry Committee to the Senate. This act is intended to help states ban "competitive foods" at a stricter level than federal law currently requires.

We believe that current law already provides states and local boards with the authority to either allow or prohibit competitive foods and that this act (if it is passed) will serve to further restrict the sale of soft drinks in school. This will obviously, reduce the much needed revenues to schools that are generated from the sale of soft drinks. We believe that the Senate needs to better understand the impact that this act could have on these revenues.

If you agree with us, we are asking you to send a letter to Senator Leahy (Chairman of the ANF committee), as well as to your senators, requesting that they not pursue this Act. We have attached a sample letter to help you as well as a list of senators (and addresses) who serve on the Agriculture, Nutrition and Forestry Committee. We've also attached a summary of this Act and our concerns about it to give you further background.

Your letters are needed immediately (as well as letters from other administrators, teachers or coaches who are willing to write), since this legislation is under consideration now. If you are willing to write, please send a copy to me so that we can keep track of the response from the education community.

Best regards,

BONNIE J. PRUETT.

Attachment.

FEBRUARY 1, 1994.

Hon. ______,
U.S. Senate, Washington, DC.

DEAR SENATOR _____: As the Senate Agriculture Committee prepares to consider legislation reauthorizing child nutrition programs, which are paramount to the proper learning and development of the nation's school children, I wanted to let you know about a particular provision of a bill pending before the Senate which causes us great concern.

As I understand it, Section 208 of The Better Nutrition and Health for Children Act (S. 1614) would urge states to ban the sale of "competitive" foods in schools. These vended products are sold on campus, but not at the same time or place as school lunches and breakfasts. They provide a tremendous source of revenue used for extra-curricular activities. Were it not for the fact that this revenue augments our budgets, many of the programs outside the normal classroom atmosphere would not be possible. These programs allow students to explore their creativities, provide much needed fitness, teach good sportsmanship, and instill the values of teamwork and dedication.

School systems are well aware they have the authority to decide whether or not to allow the sale of competitive foods on campus. It is, and should remain, a local decision made by those most familiar with the school's needs. It seems both unnecessary and potentially confusing for the Federal government to go beyond current law and possibly misdirect schools in this regard.

In these days of financially strapped states and communities, please don't send another edict from Washington that has the potential to further challenge our resources. I urge you to support efforts to drop Section 208 from S. 1614.

Sincerely,

____

COCA-COLA MEMORANDUM,
February 24, 1994.

To: Mr. Earl T. Leonard, Jr.
From: Bryan D. Anderson.
Subject: School lunch.

As you know, we are closely monitoring the Better Nutrition and Health for Children Act (S. 1614) introduced by Senator Leahy. The following is a review of this issue.

BACKGROUND

Current Federal regulation prohibits the sale of "competitive" foods at the same time and place of a Federally-funded school lunch or school breakfast program. In addition, states and local schools have the authority to exceed the Federal rule and further restrict or prohibit the sale of competitive foods on school property.

CURRENT PROPOSAL

Senator Leahy (D-VT) has introduced legislation, S. 1614, that would reauthorize the Child Nutrition Act. S. 1614 contains a provision (Section 208) titled, "Clarification of Authority to Ban Junk Foods." This section would direct the USDA to encourage states to exceed Federal authority by banning competitive foods from the schools and even provides model language for states' use in taking such action. (Section 208 language does not appear in House legislation.)

ARGUMENTS

There is no need for this new provision. Current law already provides states and local school boards the authority to allow or prohibit the sale of competitive foods, in fact, eight states already have. (See attached.)

Local school authorities know best what is appropriate for their students. There is no evidence they are ignorant of their authority over competitive foods, nor any evidence that there decisions, have in any way, negatively impacted the school lunch program.

In compliance with the law, soft drinks are never sold in the dining area of the school during the designated meal periods. Hence, they do not directly compete with items in the "a la carte" lunch line or on the school menu.

USDA-approved "competitive foods," such as soft drinks, can only be sold in schools provided that the revenue derived from the sales be used to fund school activities, which otherwise would not be funded. These include band uniforms, sports team uniforms, school yearbooks, etc. In this age of financially strapped school districts, that face revenue shortages and then eliminate extra curricular activities as a result, the Federal government should not issue ultimatums from Washington which only worsen the situation.

Allowing the sale of competitive foods on campus during non-lunch hours reduces the likelihood that students will leave campus to purchase such products. This is a serious safety issue which greatly concerns school administrators and parents.

OBJECTIVE

Section 208, titled "Clarification of Authority to Ban Junk Foods" should be dropped in its entirety from S. 1615.

Action—We have met with eight Senate offices names deleted on this issue, and they have been understanding of our concerns with Section 208. We are working on getting letters supporting our position from Secondary School principals from as many committee member states as we can. The Association of Secondary School Principals is helping us with the letters as well as providing data to validate our argument that the revenue derived from the sale of soft drinks is crucial to the funding of extra curricular activities.

There is a hearing on this issue on Tuesday, March 1, and mark up is not expected until spring.

BANKRUPTCY AMENDMENTS ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

AMENDMENT NO. 1633

(Purpose: To amend section 524 of title 11, United States Code, to authorize the issuance of supplemental injunctions)

Mr. HEFLIN. Mr. President, I send an amendment to the desk on behalf of

Senator BROWN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN], for Mr. BROWN, for himself and Mr. GRAHAM, proposes an amendment numbered 1633.

Mr. HEFLIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 211, after line 21 insert the following:

SEC. 222. SUPPLEMENTAL INJUNCTIONS.

Section 524 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(g)(1)(A) After notice and hearing, a court that enters an order confirming a plan of reorganization under chapter 11 may issue an injunction to supplement the injunctive effect of a discharge under this section.

"(B) An injunction may be issued under subparagraph (A) to enjoin persons and governmental units from taking legal action for the purpose of directly or indirectly collecting, recovering, or receiving payment or recovery of, on, or with respect to any claim or demand that, under a plan of reorganization, is to be paid in whole or in part by a trust described in paragraph (2)(B)(i), except such legal actions as are expressly allowed by the injunction, the confirmation order, or the plan of reorganization.

"(2)(A) If the requirements of subparagraph (B) are met at any time, then, after entry of an injunction under paragraph (1), any proceeding that involves the validity, application, construction, or modification of the injunction or of this subsection with respect to the injunction may be commenced only in the district court in which the injunction was entered, and such court shall have exclusive jurisdiction over any such proceeding without regard to the amount in controversy.

"(B) The requirements of this subparagraph are that—

"(i) the injunction is to be implemented in connection with a trust that, pursuant to the plan of reorganization

"(I) is to assume the liabilities of a debtor which at the time of entry of the order for relief has been named as a defendant in personal injury, wrongful death, or property-damage actions seeking recovery for damages allegedly caused by the presence of, or exposure to, asbestos or asbestos-containing products;

"(II) is to be funded in whole or in part by the securities of 1 or more debtors involved in the plan of reorganization and by the obligation of such debtor or debtors to make future payments;

"(III) is to own, or by the exercise of rights granted under the plan could own, a majority of the voting shares of—

"(aa) each such debtor;

"(bb) the parent corporation of each such debtor; or

"(cc) a subsidy of each such debtor that is also a debtor; and

"(IV) is to use its assets or income to pay claims and demands; and

"(ii) the court, at any time pursuant to its authority under the plan, over the trust, or otherwise, determines that—

"(I) the debtor may be subject to substantial future demands for payment arising out of the same or similar conduct or events that gave rise to the claims that are addressed by the injunction;

"(II) the actual amounts, numbers, and timing of such future demands cannot be determined;

"(III) pursuit of such demands outside the procedures prescribed by the plan may threaten the plan's purpose to deal equitably with claims and future demands;

"(IV) as part of the process of seeking approval of the plan of reorganization—

"(aa) the terms of the injunction proposed to be issued under paragraph (1)(A), including any provisions barring actions against third parties pursuant to paragraph (4)(A), shall be set out in the plan of reorganization and in any disclosure statement supporting the plan; and

"(bb) a separate class or classes of the claimants whose claims are to be addressed by a trust described in clause (i) is established and votes, by at least 75 percent of those voting, in favor of the plan; and

"(V) pursuant to court orders or otherwise, the trust will operate through mechanisms such as structured, periodic or supplemental payments, pro rata distributions, matrices, or periodic review of estimates of the numbers and values of present claims and future demands or other comparable alternates, that provide reasonable assurance that the trust will value, and be in a financial position to pay, present claims and future demands that involve similar claims in substantially the same manner.

"(3)(A) If the requirements of paragraph (2)(B) are met and the order approving the plan or reorganization was issued or affirmed by the district court that has jurisdiction over the reorganization proceedings, then after the time for appeal of the order that issues or affirms the plan of reorganization—

"(i) the injunction shall be valid and enforceable and may not be revoked or modified by any court except through appeal in accordance with paragraph (6);

"(ii) no entity that pursuant to the plan of reorganization or thereafter becomes a direct or indirect transferee of, or successor to any assets of, a debtor or trust that is the subject of the injunction shall be liable with respect to any claim or demand made against it by reason of its becoming such a transferee or successor; and

"(iii) no entity that pursuant to the plan of reorganization or thereafter makes a loan to such a debtor or trust or to such a successor or transferee shall, by reason of making the loan, be liable with respect to any claim or demand made against it, nor shall any pledge of assets made in connection with such a loan be upset or impaired for that reason;

"(B) Subparagraph (A) shall not be construed to—

"(i) imply that an entity described in subparagraph (A) (ii) or (iii) would, if this paragraph were not applicable, have liability by reason of any of the acts described in subparagraph (A);

"(ii) relieve any such entity of the duty to comply with, or of liability under, any Federal or State law regarding the making of a fraudulent conveyance in a transaction described in subparagraph (A) (ii) or (iii); or

"(iii) relieve a debtor of the debtor's obligation to comply with the terms of the plan of reorganization or affect the power of the court to exercise its authority under sections 1141 and 1142 to compel the debtor to do so.

"(4)(A)(i) Subject to subparagraph (B), an injunction under paragraph (1) shall be valid and enforceable against all persons and governmental units that it addresses.

"(ii) Notwithstanding section 524(e), such an injunction may bar any action directed against a third party who—

"(I) is identifiable from the terms of the injunction (by name or as part of an identifiable group); and

"(II) is alleged to be directly or indirectly liable for the conduct of, claim against, or demands on the debtor.

"(B) With respect to a demand (including a demand directed against a third party who is identifiable from the terms of the injunction (either by name or as part of an identifiable group) and who is alleged to be directly or indirectly liable for the conduct of, claims against, or demands on the debtor) that is made subsequent to the confirmation of a plan against any person or entity that is the subject of an injunction issued under paragraph (1), the injunction shall be valid and enforceable if, as part of the proceedings leading to its issuance, the court appointed a legal representative for the purpose of protecting the rights of persons that might subsequently assert such a demand.

"(5) In this subsection, the term 'demand' means a demand for payment, present or future, that—

"(A) was not a claim during the proceedings leading to the confirmation of a plan of reorganization;

"(B) arises out of the same or similar conduct or events that give rise to the claims addressed by the injunction issued under paragraph (1); and

"(C) pursuant to the plan, is to be paid by a trust described in paragraph (2)(B)(i).

"(6) Paragraph (3)(A)(i) does not bar an action taken by or at the direction of an appellate court on appeal of an injunction issued under paragraph (1) or of the order of confirmation that relates to the injunction.

"(7) This subsection applies to an injunction of the nature described in paragraph (1)(B) in effect, and any trust of the nature described in paragraph (2)(B) in existence, on or after the date of enactment of this subsection.

"(8) This subsection does not affect the operation of section 1144 or the power of the district court to refer a proceeding under section 157 of title 28 or any reference of a proceeding made prior to the date of enactment of this subsection.

"(9) Nothing in subsection (g) shall affect the court's authority to issue an injunction (including an injunction that requires claims and demands to be presented for payment solely to a trust or any other type of court approved settlement vehicle) which is entered pursuant to an order approving a plan of reorganization.

"(10)(A) If, upon a motion by a representative appointed by the court identified in paragraph (1)(A) to protect the interests of persons with demands of the kind described in paragraph (2)(B)(ii)(I) or on its own motion, the court finds, as a result of enhanced credible estimating procedures with respect of such demands, inequities in the distribution process of a trust of the nature described in paragraph (2)(B), the court shall have, in addition to the powers over the trust that the court may lawfully exercise under applicable nonbankruptcy law, plenary equitable power to reform, restructure, or modify the trust, the procedures under which it operates, or the timing, manner, and amount of distributions to its beneficiaries and other rights of the beneficiaries, giving special attention to cases presenting exigent circumstances, as it shall determine to be fair, just, and reasonable in light of the circumstances prevailing at the time of reformation, restructure or modification.

"(B) Nothing in this paragraph shall be construed to grant the court authority to modify or in any way alter the debtor's obligation to comply with the terms of the plan of reorganization.".

Mr. BROWN. Mr. President, the proposed amendment would codify a court's existing authority to issue a permanent injunction to channel claims to an independent trust funded by the securities and future earnings of the debtor. In plain English, this means that when an asbestos-producing company goes into bankruptcy and is faced with present and future asbestos-related claims, the bankruptcy court can set up a trust to pay the victims. The underlying company funds the trust with securities and the company remains viable. Thus, the company continues to generate assets to pay claims today and into the future. In essence, the reorganized company becomes the goose that lays the golden egg by remaining a viable operation and maximizing the trust's assets to pay claims.

Without a clear statement in the code of a court's authority to issue such injunctions, the financial markets tend to discount the securities of the reorganized debtor. This in turn diminishes the trust's assets and its resources to pay victims. The amendment is intended to eliminate that speculation so that the marketplace values the trust's assets fairly.

This amendment is about growing the pie available to victims. The result could be significant. In the case of one such trust, for instance, every dollar increase in the value of the reorganized company's stock translates to $96 million more for compensating asbestos victims.

Some suggest that claimants should be able to sue the reorganized debtor again. Such suits would fly in the face of the fundamental rationale of chapter 11, that a reorganized debtor emerges from bankruptcy free and clear other than the liability set by the plan. Unfortunately, the very speculation that a claimant may be allowed to sue the company hurts its ability to maximize the trust's assets to pay victim's claims.

Essentially, this amendment means more money for the victims of asbestos exposure. It also means added stability and job security for the thousands of workers employed by reorganized companies. This amendment is a good public policy in that it not only serves the interest of reorganizing the debtor but in that it maximizes amount existing and future asbestos claimants can recover.

Mr. GRAHAM. Mr. President, this legislation provides companies who are seeking to fairly address the burden of thousands of current asbestos injury claims and unknown future claims, and who are willing to submit to the jurisdiction of the U.S. Bankruptcy Courts, a method to pay their current asbestos claims and provide for equitable treatment of future asbestos claims. It will preserve the going concern value of those companies, thus providing a source of payment for those future claims. The legislation recognizes the inherent equitable power of the bankruptcy courts to provide for equitable treatment of all of a debtor's creditors, including those having claims arising out of asbestos products. This legislation also recognizes the bankruptcy courts' injunctive powers to implement fair distribution of payments to claimants. The amendment recognizes the need to provide an on-going source of payment for future asbestos-products claims against a debtor within the fabric of a centralized claims mechanism.

It is the uncertainty of the number and amount of these future claims, and the need to implement a procedure that recognizes these future claimants as creditors under the U.S. Bankruptcy Code, that necessitates this amendment, as well as the need to provide some assurance that funds will be available to pay future claims. To those companies willing to submit to the stringent requirements in this section designed to ensure that the interests of asbestos claimants are protected, the bankruptcy courts' injunctive power will protect those debtors and certain third parties, such as their insurers, from future asbestos product litigation of the type which forced them into bankruptcy in the first place.

Mr. President, upon the establishment of a trust to pay asbestos claims, the bankruptcy court may enjoin claims against the debtor and certain third parties alleged to be liable for the asbestos claims against the debtor, channeling such claims to the trust for payment. The section provides such trust and injunction be implemented only in a case where the numerous safeguards are met. There must have been a representative appointed to protect the interests of future claimants. An affirmative vote of approval by a 75-percent supermajority of the affected asbestos claimants must occur. There are still additional procedural safeguards to ensure that a reorganized debtor, and the trust created, in fact provide a meaningful and viable method of payment of asbestos claims, including future claims. The trust's assets and income are to be used to pay present and future claims. It is to be funded in whole or in part by the securities of one or more debtors involved in the plan of reorganization and by the obligation of such debtor or debtors to make future payments. It is to own, or by the exercise of rights granted under the plan could own, a majority of the voting shares of the debtor or its parent or a subsidiary debtor.

A bankruptcy court that implements such a trust and the injunction directing asbestos claims to the trust for payment must determine that in fact the debtor will be subject to substantial future claims which cannot then be determined as to amount, numbers and timing; that the terms of the injunction are fully disclosed to those voting for the plan and trust, and that the claimants affected by the trust vote by a 75-percent affirmative supermajority.

The bankruptcy court must also determine that the trust will operate through mechanisms that provide reasonable assurance that it will value and be in a financial position to pay present and future claims of a similar nature in substantially the same way.

If all of the foregoing criteria more specifically set forth in the amendment are met, the bankruptcy court may approve the plan and the trust and may enjoin claims against the debtor and against certain third parties identifiable from the injunction's terms, such as the debtor's insurers. By providing a trust to pay claims and an injunction channeling the present and future asbestos claims to that trust, the debtor and third parties who are alleged to be liable for the asbestos claims against the debtor will be encouraged to participate in a system that will maximize the assets available to pay asbestos claims, present and future, and provide for an equitable distribution and method of payment.

Mr. HEFLIN. Mr. President companies faced with extensive asbestos or other mass tort liability have a limited range of alternatives. Some defendant companies choose to litigate claims individually. Other parties have sought resolution of their present and future liability through claim aggregation and mass settlements. Faced with liabilities in excess of assets, others are forced to file for bankruptcy.

For companies forced to file bankruptcy any plan of reorganization must contain a mechanism to address equitably the debtor's liability to all creditors, including mass tort claims—both those whose injuries are manifest and those who, although already exposed, will not manifest any inquiry until sometime in the future. Without that mechanism, liquidation may be inevitable and little or nothing would be left to compensate future claimants.

To ensure that all latent disease claimants are compensated equitably, bankruptcy courts have approved reorganization plans providing for the establishment of a trust charged with the resolution of both present and future claims and funded by the securities and future earnings of the reorganized debtor. To that end, courts have closed the door on any additional liability (over and above that prescribed by the plan) for the reorganized debtor for the claims covered by the trust.

The injunction legislation would codify a court's existing authority to close that door by issuing a permanent injunction that channels claims to an independent trust funded by the securities and future earnings of the debtor. The reorganized company becomes the goose that lays the golden egg by remaining a viable operation and maximizing the trust's assets to pay claims.

The injunction provision is simply about growing the pie available to pay victims. Without a clear statement in the code of a court's authority to issue such injunctions, the financial markets tend to discount the securities of the reorganized debtor. This in turn diminishes the trust's resources to pay victims. The provision is intended to eliminate that speculation so that the marketplace values the trust's assets fairly.

The higher the value of the stock, the more value for the victim's trust. In the case of one such trust, every dollar increase in the value of the reorganized company's stock translates to $96 million more for compensating asbestos victims.

Some parties have suggested that claimants should be able to sue the reorganized debtor again. Such suits would fly in the face of the fundamental rationale of chapter 11, that a reorganized debtor emerges from bankruptcy free and clear other than the liability set by the plan. Unfortunately, the very speculation that a claimant may be allowed to sue the company hurts its ability to maximize the trust's assets to pay claims.

Essentially, the provision means more money for the victims of asbestos exposure or other mass torts. It also means added stability and job security for the thousands of workers employed by the reorganized companies.

Last Congress, the Senate approved this provision as part of a larger bankruptcy bill passed 97 to 0. The injunction is supported by several former asbestos manufacturers, the independent victims' trusts created to pay claims, and the key members of the asbestos trial bar. Enactment of this provision is critical to ensuring that a trust's assets and its ability to pay victims are maximized.

Mr. President, this amendment has been agreed to on both sides, and there is no objection to it, and I urge its adoption.

Mr. CAMPBELL. Mr. President, at the outset, I emphasize my support for the Brown-Graham injunction amendment. A lot of work over many months—years—has gone into the effort to fashion this compromise between the bankrupt producers, plaintiffs, unions, and third party nondebtors.

Upon reflection though, I ask if the procedure crafted here might serve as a model for other producers confronted with the same claims and issues and who have not sought protection under bankruptcy. As you know, over 15 companies previously engaged in the production and manufacture of asbestos and asbestos containing materials have filed for bankruptcy. Few have emerged from that process, and a number have completely gone out-of-business.

In those instances where other producers of such materials meet all of the criteria contained in the amendment but have not filed under chapter 11, perhaps a mechanism to reach a just, responsible, and expeditious disposition of their pending liability while preserving the viability of the former manufacturers could be established. Obviously such a concept would also cover third tier companies which specified in engineering designs, supervised the installation or actually conducted the installation of such materials.

Would my colleague from Colorado be willing to support the exploration of such a concept as this legislation moves through the process and support the result in conference?

Mr. BROWN. I want to thank the Senator for his support of this effort and for the amendment. Yes, I think the thought and effort that has gone into fashioning this provision may well hold the essence of a procedure that has relevance to other parties faced with the same situations. If this procedure can serve as a model for other parties without exigencies, pain, and dislocations of bankruptcy, I would join with my colleague in encouraging and supporting such an effort and look forward to the results.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1633) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1632

The PRESIDING OFFICER. Under the previous order, the Senate is taking a recorded vote at 1:15 on the McCain amendment No. 1632.

The Clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio [Mr. GLENN] is necessarily absent.

I further announce that the Senator from Alabama [Mr. SHELBY] is absent due to illness.

I also announce that the Senator from Michigan [Mr. RIEGLE] is absent because of a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 44, nays 53, as follows:

[Rollcall Vote No. 94 Leg.]

YEAS—44

Bingaman
Boren
Boxer
Bradley
Brown
Bryan
Burns
Byrd
Chafee
Cohen
Conrad
Coverdell
Craig
D'Amato
Feingold
Feinstein
Gorton
Graham
Gramm
Grassley
Hatch
Hutchison
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Lieberman
Mack
McCain
McConnell
Moynihan
Nickles
Pressler
Robb
Roth
Sarbanes
Sasser
Smith
Stevens
Warner
Wellstone
Wofford

NAYS—53

Akaka
Baucus
Bennett
Biden
Bond
Breaux
Bumpers
Campbell
Coats
Cochran
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Ford
Gregg
Harkin
Hatfield
Heflin
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Leahy
Levin
Lott
Lugar
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Murkowski
Murray
Nunn
Packwood
Pell
Pryor
Reid
Rockefeller
Simon
Simpson
Specter
Thurmond
Wallop

NOT VOTING—3

Glenn
Riegle
Shelby

So the amendment (No. 1632) was rejected.

Mr. REID. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona [Mr. DECONCINI].

Mr. DECONCINI. May I make an inquiry of what the pending amendment is?

The PRESIDING OFFICER. The committee reported substitute for the bill is currently pending before the Senate.

Mr. DECONCINI. Is it open for amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. DECONCINI. Mr. President, I want to offer an amendment, but if there is some agreement here, I would be glad to get in line.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. DECONCINI. Mr. President, I first want to compliment the Senator from Alabama and the Senator from Iowa for getting this bill put together. This is not an easy task by any means. I had a little bit to do with this, having chaired that Judiciary Subcommittee prior to Senator HEFLIN taking it over. I did a bankruptcy reform bill. It is a hard, hard bill to get together and I appreciate the job he has done.

AMENDMENT NO. 1634

(Purpose: To provide additional trustee compensation)

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], proposes an amendment numbered 1634.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 160, insert between lines 6 and 7 the following new section:

SEC. 116. ADDITIONAL TRUSTEE COMPENSATION.

Section 330(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Judicial Conference of the United States shall prescribe additional fees of the same kind as prescribed under section 1914(b) of title 28, to pay $15 to the trustee serving in such case after such trustee's services are rendered. Such $15 shall be paid in addition to the amount paid under paragraph (1).".

Mr. DECONCINI. Mr. President, this amendment would increase the compensation for chapter 7 private trustees by $15, but only in those chapter 7 cases where there are no assets. The 1978 amendment to the Bankruptcy Code placed the administrative role in bankruptcy cases in the hands of private panel trustees. The U.S. Trustees Program is responsible for supervising the private trustees.

There are over 1,700 chapter 7 panel trustees in this country. The duties and responsibilities of panel trustees have grown considerably. But the trustees' compensation has not kept pace. Trustee compensation is fixed by statute. In cases where assets are recovered approximately 5 percent of the chapter 7 cases trustees receive a small percentage of the assets distributed to the creditors.

S. 540 actually improves chapter 7 trustees' compensation in asset cases by providing a sliding scale for payment based upon the amount dispensed to creditors. S. 540, however, does not provide for an increase in no-asset cases, which now accounts for 95 percent of the chapter 7 cases.

What my amendment would do is increase the level of compensation for the panel trustees $15, from $45 bringing it up to $60. I believe this is a modest increase.

I understand the concern of the managers of the bill as to the cost and where do we get the money to pay for the increase. Panel trustees have not had an increase in 10 years, believe it or not, since 1984. The panel trustees perform a wide variety of tasks in connection with the bankrupt estate. They are responsible for establishing a case file, attending statutory meetings of creditors, examining the debtors under oath, answering creditors' inquiries, and filing reports with the courts or U.S. trustee.

Trustees are responsible for filing tax returns for the estate, and for paying taxes incurred by the estate. Private trustees also uncover hidden or concealed assets.

Mr. President, $45 is not fair or adequate compensation to administer a bankruptcy case. The National Association of Bankruptcy Trustees has conducted a detailed survey of bankruptcy trustees covering various issues, including trustee compensation, and of the approximate 110 responses, 79 percent stated they could not administer a no-asset case for $45.

This amendment is needed to ensure that private trustees are adequately and fairly compensated. It will also provide some incentives for qualified individuals to serve as trustees. This in turn will help improve the function of the bankruptcy process, which is the intent, after all, of the underlying bill.

Concern has been raised about how to fund the $15 increase in compensation. It will cost somewhere between $9.5 million and $10 million, and I have suggested a number of ways to the judicial conference.

I first recommended increasing chapter 7 filing fees $15 to pay for this raise. Currently the filing fee is $130; this would increase it to $145. However the filing fee was raised $10 last year, so there is some objection about raising it again so soon.

There are other ways to raise the necessary funds. An attorney admission fee, or practice fee for attorneys practicing in the bankruptcy court, could be imposed. I do not see any problem with user fees for those who use the courts, in this case bankruptcy lawyers.

Chapter 11 maintenance fees could be slightly increased. Xeroxing charges could be increased, or modest increases in other existing fees may raise the necessary amount. The judicial conference is authorized by statute to raise fees to pay for the operation of the bankruptcy court. So this amendment would direct the judicial conference to use its discretion in determining how the $15 increase is paid for.

The fact of the matter is, no one has expressed, really, an objection to increasing the compensation for the panel trustees in no-asset cases. They just do not know where to get the money. It is my opinion this increase is so modest, it is necessary, and so long overdue, the judicial conference should be able to find a way.

I have expressed to the managers of the bill that I will continue to press, if this amendment is included in the bill, to get the judicial conference to give us some figures on how we could raise this prior to the bill coming out of conference. I am advised the chairman, at least, has agreed they can accept this. I am hopeful my friend from Iowa can also accept it. Then I will continue to work to try to find the funds by the time we come out of conference.

I thank the Chair and thank the distinguished Senator from Alabama.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama.

Mr. HEFLIN. Mr. President, I originally felt that this was an amendment that would add to the cost and could possibly be an increase in filing fees. Congress increased filing fees considerably within recent time, and I believe we should proceed cautiously in this situation.

The distinguished Senator from Arizona [Mr. DECONCINI] suggested he will find ways, and has suggested, for example, that this cost could be paid for by increasing the charges on Xerox copy pages.

There are increased duties that are imposed on trustees under the provisions in this bill. These increased duties and responsibilities include attempting to assist the debtor to understand his alternatives to chapter 7 bankruptcy whereby he would outright bankrupt his debt and to help the debtor understand that he could seek chapter 13 and pay his lawful debts.

Senator DECONCINI's amendment deals with the nonasset cases, and it takes a good deal of time for trustees to review and handle these cases. Trustees handle them on a volume basis, and I think there is some merit to the amendment, and I have no objection to it.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

Mr. GRASSLEY. Mr. President, we are going to accept this on this side of the aisle as well. We probably ought to take some time to compliment the Senator from Arizona for raising a very valid point, but to say at the same time that this issue should not come out of conference without our finding a way to pay for it. Particularly, it seems to me, that responsibility will be upon the Senator from Arizona, to take that leadership, to find out how it could be paid for.

That is the only reservation I have about it. Since there has been a good-faith effort, so stated here on the floor of the Senate, to work toward that end between now and the product coming out of conference committee, we will let it go at this point.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1634) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote.

Mr. HEFLIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition? The Chair recognizes the Senator from South Carolina [Mr. THURMOND].

AMENDMENT NO. 1635

(Purpose: To amend title 11, United States Code, to clarify that post-bankrupcy fees payable to a membership association with respect to the debtor's interest in a dwelling unit that has condominium or cooperative ownership are nondischargeable debts for the period during which the debtor occupied the unit or received rental payments for it)

Mr. THURMOND. Mr. President, I send an amendment to the desk for myself and Senator HELMS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for himself and Mr. HELMS, proposes an amendment numbered 1635.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 235, between lines 13 and 14 insert the following:

SEC. 311. FAIRNESS TO CONDOMINIUM AND CO-OPERATIVE OWNERS.

Section 523(a) of title 11, United States Code, as amended by section 210, is amended

(1) by striking "or" at the end of paragraph (13);

(2) by adding "or" at the end of paragraph (14); and

(3) by adding at the end the following new paragraph:

"(15) for a fee that becomes due and payable after the order for relief to a membership association with respect to the debtor's interest in a dwelling unit that has condominium ownership or in a share of a cooperative housing corporation, if such fee is payable for a period during a substantial portion of which

"(A) the debtor physically occupied a dwelling unit in the condominium or cooperative project; or

"(B) the debtor rented the dwelling unit to a tenant and received payments from the tenant for such period,

but nothing in this paragraph shall except from discharge the debt of a debtor for a membership association fee for a period arising before entry of the order for relief in a pending or subsequent bankruptcy proceeding.".

Mr. THURMOND. Mr. President, I rise today to offer an amendment to S. 540 to clarify an ambiguity in the Bankruptcy Code which has led to confusion, conflicting judicial decisions, and unfair outcomes in many cases. This amendment relates to bankrupt debtors who own condominium or cooperative units in a community association. It is necessary to correct a line of cases in which courts have held that future payments by the debtor to a community association are discharged in bankruptcy. This amendment simply makes clear that assessments by community associations which become due after the bankruptcy order for relief are not discharged, as long as the debtor receives the benefits.

Mr. President, today there are some 5 million condominium units in our Nation, in addition to cooperative units and other forms of community associations. Together, these community associations represent a significant percentage of this country's housing. These associations are found throughout the country, with the highest concentration in Hawaii, where condominiums alone make up over 20 percent of the available housing. In addition, Florida, Connecticut, California, and Colorado have significant percentages of community associations, along with many other States.

The owners of units in community associations typically pay monthly fees to cover a broad range of services provided by the association. These fees generally pay for maintenance and repair of the condominium building and common areas. This ensures that the structure itself and all common areas, including elevators, heating and cooling systems, and similar elements, remain in satisfactory condition. In addition, the fees often pay for insurance, for maintenance of driveways and parking areas, for landscaping and for snow and trash removal. Significantly, in many cases the associations' assessment also covers the utilities used by individual units so that separate metering and billing is not necessary.

With the current ambiguity in the Bankruptcy Code, owners of units in community associations may be unfairly burdened by increases in their association fees if their neighbors declare bankruptcy and receive a discharge of the association fees which are due in the future. Some courts hold that these future fees are discharged in bankruptcy, so that the debtors need not pay their share of the expenses of the association even in the future after their bankruptcy is over and even though they continue to receive benefits from the association.

Courts which reach this conclusion have sometimes recognized that the result makes no sense, but feel that it is compelled by the Bankruptcy Code, which can only be changed by the Congress. The Seventh Circuit Court of Appeals held in the matter of Rostek that future association fees were discharged so that the debtor was free from payments to the condominium association. The seventh circuit stated that the result was "troubling," but believed it was compelled by the language the Congress used in the Bankruptcy Code. That appellate court went on to explain correctly that it did not have the "power to change" that language to reach a more "palatable" result. However, in the Congress we do have that power and should exercise it to remedy this problem.

Some judicial decisions suggest that this problem is limited, for in many cases the condominium unit will be sold and the debtor will receive a free ride only for the time that it takes to dispose of the unit. However, in many cases there is no equity in the unit, so the trustee and the mortgage holder will allow the debtor to retain the unit indefinitely. While the association may have the right in theory to foreclose, in practice the mortgage holder will receive all of the recovery, so that the association will not even cover the attorneys' fees for its trouble. It is in these cases that the present system is most unfair and the need for my amendment is greatest.

This amendment would further the goal of the bankruptcy laws, which is to give debtors a fresh start by discharging their past debts while holding them responsible for any new obligations or benefits they obtain. My amendment allows all past debts owed to the community association to be discharged and simply requires payment of the assessments which become due after the bankruptcy order for relief, and only if the debtor actually receives the benefits by occupying the unit or receiving rental income from it. To further ensure that the purposes of the bankruptcy law are achieved, express language has been added to the amendment to clarify that debts to the association are not discharged if the debtor later files a subsequent bankruptcy proceeding.

Mr. President, my amendment would make the Bankruptcy Code fairer and more equitable. The debtor's neighbors who belong to the community association will be treated much more fairly by avoiding the higher assessments which result from giving the debtor a free ride. The debtor will be treated fairly because the amendment does not affect the dischargeability of fees due prior to the final order of relief in the bankruptcy. Also, as I stated earlier, the amendment applies only to situations where the debtor benefits from the dwelling unit by occupying it or receiving rents from it, and in those instances the debtor should be required to pay the postbankruptcy assessments to the association.

For all of these reasons, I urge my colleagues to support this amendment.

Mr. President, both managers of the bill have agreed to the amendment. I urge adoption of the amendment, if it meets their approval.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama.

Mr. HEFLIN. Mr. President, before we urge adoption, let me make a statement on this. I think this is an excellent amendment.

This amendment is designed to make clear that it is not the intention of

Congress that a debtor be absolved of his obligations to continued payment of his share of common expenses due to his condominium or cooperative association which come due after he has filed bankruptcy.

It seems that some courts have interpreted section 523 of the code not only to discharge the debtor from liability for common area maintenance assessments which have come due prior to his filing bankruptcy, but for those debts coming due after the date of filing. This has severely impacted thousands of association members across the country by increasing their fees to carry the burden of those members whose obligations have been discharged in bankruptcy proceedings.

The current state of the law on this issue is quite confused. Some courts treat the obligation to pay future assessments based on a prepetition obligation as discharged in its entirety upon filing of a petition. Other courts hold that the postpetition assessments are not discharged because they have not become due at the time of filing. Still other courts reason that the post petition obligations cannot be discharged because they constitute a covenant which runs with the land, which can be terminated only by terminating ownership interest.

This amendment will clarify the ambiguity that now occurs within the courts regarding association fees for condominium and cooperatives. It will make nondischargeable the membership association fees that become payable after the order for relief if such fee is payable for the period in which the debtor occupies the dwelling after the order for relief.

I am aware that presently seven States, and the District of Columbia have passed lien statutes which are directed at this problem.

For these reasons, I support this amendment.

I congratulate the distinguished Senator from South Carolina for bringing this to our attention because this is an example of why bankruptcy reform is an ongoing situation, why we need a National Bankruptcy Review Commission, and why we ought to be able to address these issues as they arise, rather than having a great number of condominium association and cooperative memberships suffer as a result of it.

So I thank the Senator for bringing it to our attention.

Mr. THURMOND. I wish to thank the majority manager and the minority manager, too, on this bill.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, we accept the amendment on this side of the aisle. This falls into the category of which I spoke in my opening remarks on this particular bill and on the work of the National Bankruptcy Commission, that this is an example of fine tuning that from time to time a code must go under to recognize the economic realities of how we do business in this country and the changes from day to day.

The PRESIDING OFFICER (Mr. LIEBERMAN). Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1635) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. I thank the Senator.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nevada [Mr. REID].

Mr. REID. Mr. President, I received a fax yesterday in the form of a letter from an attorney in Reno, NV, by the name of Jeffrey Giles. I think, Mr. President, this sums up why we are here today.

DEAR SENATOR REID. I received a fax from the National Association of Bankruptcy Attorneys asking that I along with others communicate with you regarding the reform bill. I am not opposed to a prohibition on repeat filings. It would probably be a good thing.

I think here is the paragraph of importance.

However, the legislation in some form should be passed immediately. This reform measure has been in the works for nearly 2 years and the essence of it needs immediate enactment.

Good luck. I remain, sincerely yours, Jeffrey Giles.

The reason I mention this to the President and through you to the manager of the bill, the senior Senator from Alabama, is to congratulate him on his great work on this legislation.

I have spent time with the Senator's staff. They are well versed in the law. They are very easy to work with, and as a result of the work that I have been able to do with Senator HEFLIN and his staff, I think the bill is better than it would have been. Perhaps some of the matters that I suggested be placed in the bill would have eventually gotten in there anyway.

This bill that is now before the Senate is a good bill. I have a couple of amendments that I am going to offer, Mr. President, one of which is entirely relevant; one is not entirely relevant. But the mere fact that I am offering these amendments does not take away from the work of the manager of this bill. I think the majority and minority on this matter have done very good work for the American people.

AMENDMENT NO. 1636

(Purpose: Limitation on State taxation of certain pension income)

Mr. REID. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself and Mr. BRYAN, proposes an amendment numbered 1636.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

SEC. . LIMITATION ON STATE TAXATION OF CERTAIN PENSION INCOME.

(a) IN GENERAL.—Chapter 4 of title 4 of the United States Code is amended by adding at the end thereof the following new section:

"§114. LIMITATION ON STATE INCOME TAXATION OF PENSION INCOME

"(a) No State may impose an income tax (as defined in section 110(c)) on the qualified pension income of any individual who is not a resident or domiciliary of such State.

"(b)(1) For purposes of subsection (a), the term 'qualified pension income' means any payment from a qualified plan—

"(A) which is part of a series of substantially equal periodic payments (not less frequently than annually) made for—

"(i) the life or life expectancy of the recipient or for the joint lives or joint life expectancies of the recipient and the recipient's designated beneficiary, or

"(ii) a period of not less than 10 years, or

"(B) which is not described in subparagraph (A) and which—

"(i) is received in a taxable year for which an election under this subsection is in effect, and

"(ii) is received on or after the date on which the recipient has attained the age of 59½, except that the aggregate amount of payments to which this subparagraph may apply for any taxable year shall not exceed $25,000.

"(2) For purposes of paragraph (1), the term 'qualified plan' means—

"(A) an employees' trust described in section 401(a) of the Internal Revenue Code of 1986 which is exempt from tax under section 501(a) of such Code,

"(B) a simplified employee pension described in section 408(k) of such Code,

"(C) an annuity plan described in section 403(a) of such Code,

"(D) an annuity contract described in section 403(b) of such Code,

"(E) an individual retirement plan described in section 7701(a)(37) of such Code,

"(F) an eligible deferred compensation plan under section 457 of such Code, or

"(G) a governmental plan described in section 414(d) of such Code, other than a plan established and maintained by a State or political subdivision of a State, or an agency or instrumentality of either.

"(3) For purposes of paragraph (1), any retired or retainer pay of a member or former member of a uniform service computed under chapter 71 of title 10, United States Code, shall be treated as a payment from a qualified plan.

"(4)(A) An election under paragraph (1)(B), once made for a taxable year, may not be made for any other taxable year.

"(B) In calendar years beginning after 1994, the $25,000 amount referred to in paragraph (1)(B) shall be increased by an amount equal to such dollar amount, multiplied by the cost-of-living adjustment determined under section 1(f)(3) of such Code for such calendar year by substituting 'calendar year 1993' for 'calendar year 1992' in subparagraph (B) thereof.

"(c) For purposes of subsection (a), the term 'State' includes any political subdivision of a State, the District of Columbia, and the possessions of the United States."

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 4 is amended by adding at the end thereof the following new item:

"114. Limitation on State income taxation of pension income."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Mr. REID. Mr. President, the amendment that I offer has a direct relationship to bankruptcy. My amendment will save thousands of this country's senior citizens who live on fixed incomes from filing for bankruptcy as a result of the very unfair practice of taxation of pension income of nonresidents by some States.

It works, Mr. President, like this. If someone chooses to retire to a different State than the one they worked in, some States follow you with their taxing authorities to tax the pension income you earned previously. Even though you no longer reside in the State, you no longer use their highways, their health services, their park services, any of their recreation facilities, you use nothing in the State from which you came, they still are collecting taxes.

You cannot even vote in the State, but they are demanding that taxes be paid. This is clearly, Mr. President, a form of taxation without representation.

This same amendment on two previous occasions has passed this body only to die in the House of Representatives. I have been in touch with the chairman of the Judiciary Committee in the other body. We have received assurances from him that he would hold a hearing, and he in fact did hold a hearing. I also received assurances that they will move this legislation in one form or another. I would certainly hope so.

As I indicated, because of this matter having passed the Senate on two previous occasions, my colleagues are familiar with this legislation. An amendment to H.R. 4210 passed by a margin of almost 2 to 1. In addition, this legislation was included in the committee reported version of H.R. 11 later that same year, which was ultimately passed by this body.

For a variety of reasons, many people in the country plan to retire in places other than where they have worked. They want to go to a colder climate or they may choose, as they do most of the time, to go to a warmer climate. They would leave one of the Northeastern States or go to Florida or move to California. There are many reasons people seek to retire in places other than where they worked originally.

They might want to move back to where they were raised. They might have a family there, and they want to be near their family. Whatever the reason for relocating, people spend their working years planning and saving so that they can retire to a place of their dreams, their retirement dream homes in their golden years. Imagine the retirees' shock and then dismay when after moving they receive a notification they owe back taxes along with interest and penalties not to the State in which they reside, where they use the highways, the recreation facilities, where they vote, but, rather, they are asked to pay taxes from where they came, their old State of residence. The shock is from owing a tax from which they receive absolutely no benefit or services or voting rights. The dismay from the inability to pay this sometimes enormous tax when one lives on a fixed income is very difficult to comprehend.

I would like to relate one example of the outrageous consequences that can result from the aggressive collection of the source tax. I have given this example on another occasion but it is realistic, true, and a good example of the injustice that can occur.

A retired woman living alone in Fallon, NV, lives on a fixed income of about $12,000 a year. Now, it goes without saying she is not a rich woman. But she is surviving. One day this woman from Fallon, NV, receives a notice in the mail that she owes taxes on her pension income from another State—not only the initial assessment but also penalties and interest on those taxes.

Mr. President, this amendment is offered on behalf of Senator REID and Senator BRYAN. I am offering another amendment to which the Senator from Colorado, who is now in the Chamber, will be a joint sponsor.

The PRESIDING OFFICER. The record will so note.

Mr. REID. I thank the Chair.

Mr. President, this woman, being honest, wants to find out why she owes this money. She has claimed she had not had to pay these taxes in the past. Why now? To make a long story very short, the other State went back several years and calculated her tax debt to be about $6,000. Mr. President, this is half of her income for 1 year.

This issue has been addressed in both bodies of Congress as I have talked about. The Senate bill I have introduced in this session of Congress has 28 cosponsors. In the House, they have almost 200 cosponsors. The issue is supported by a broad range of interests from the National Association of Retired Federal Employees [NARFE]; to the Fund for Assuring an Independent Retirement, which is called FAIR; Retired Officers Association; the National Association of Police Organizations; the Retirees to Eliminate State Income Source Tax, which is called RESIST, chaired by a Nevadan by the name of Bill Hoffman, from Carson City.

During the House hearing last summer, a member of the board of directors of the American Association of Retired Persons had this to say about the issue:

> While States no doubt have the authority to exercise taxing power, a number of legitimate questions arise as to the wisdom of such action. Should Congress determine that Federal intervention is necessary action before an even greater number of States engage in this practice, it would be both timely and appropriate.

The time has arrived for this Federal intervention. We have received this from the joint task committee. This has no bearing on revenues. It is revenue neutral. More and more States are exercising the authority to tax nonresident pension incomes. This is unfair. This is taxation without representation. States obviously perceive the source tax as an easy way to raise revenues; tax someone who cannot vote you out of office.

I urge my colleagues to save seniors from the embarrassing frustration of having to file bankruptcy as a result of paying taxes to the States in which they no longer reside by supporting this amendment.

It is my understanding that the managers of this bill may accept this amendment without a vote.

Mr. HEFLIN. Mr. President, I agree with the Senator. This amendment has passed the Senate twice. It is really unrelated to bankruptcy. But the fact is that it has passed the Senate twice, and has not passed the House. I say to the distinguished Senator from Nevada that House Members from Nevada would have a responsibility of getting the House to agree to this, otherwise we would be in the same situation. But the fact that the Senator has diligently and doggedly pursued this matter on behalf of the citizens of Nevada especially is commendable, that while it is not germane to the bill, we can accept it. We have a different rule in the Senate than we do in the House in that we can put nongermane amendments on Senate bills.

But I do say that I hope the Members of the House of Representatives from Nevada, and other States that are similarly situated, will take on the responsibility of getting the House to agree to this in conference.

Mr. REID. Mr. President, I say to my friend from Alabama that I appreciate very much his hope that the other side will accept this amendment, and indicate that this is not only a Nevada problem. We have almost 200 cosponsors in the House. I hope they will get more help than just my two colleagues from Nevada.

Mr. BRYAN. Mr. President, this has been a concern of Senator REID's and mine for some years, since coming to the Senate. We are constantly reminded, as we return each week to Nevada, about the enormous injustice visited upon our citizens, and that is taxation imposed primarily from our neighboring State of California to the West, in which just this past month, I might share with my colleague and Members of the Senate, 6,300 driver's licenses from out of State were surrendered in the Las Vegas area alone, indicating the enormous influx of citizens into our own State.

Many of those citizens come from California, which has been particularly aggressive in seeking to impose State income tax from California upon Nevadans. In some instances, it occurs shortly after they move to Nevada. In other instances, it occurs some years later. This situation is not confined to Nevada alone, because California State income tax collectors have been particularly aggressive in moving other places as well.

It is—as our constituents constantly remind us in Nevada, and in the refrain heard so frequently during our own revolution—taxation without representation. Our citizens in Nevada receive none of the benefits, have no ability to impact policy decisions by reason of their residence in the State of Nevada, and they are no longer eligible to vote in California. This is egregious and unfair.

I commend my senior colleague, who has been on point on this for the last several conferences. I commend the managers of this bill for accepting the amendment, as has been the case in the past. With him I pledge a renewed effort to enlighten our colleagues in the other body as to this manifest injustice. This would be a marvelous year for us to have this piece of legislation enacted and relief accorded to literally tens of thousands of my own citizens in Nevada, as well as many across the country who labor under this manifest unfairness.

I thank my friend from Nevada for allowing me to speak on this. I commend him for his pursuit and successful efforts in getting this amendment added.

Mr. REID. Mr. President, I ask unanimous consent that on the source tax amendment, Senators AKAKA and MURKOWSKI be added as original cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. Mr. President, I rise in strong support of the amendment offered by my colleague, Senator REID.

As Senator REID has already described, this amendment would eliminate an unfair and discriminatory tax faced by many retirees in Nevada, and throughout the Nation—the State source income tax.

This pernicious tax places a completely unfair burden on retirees who move away from the State where they spent their working years. In Nevada, many of these retirees come from California; in Florida, many of the retirees come from other States on the Atlantic seaboard; in every case, however, retirees are finding that their former State of residence is demanding tax payments from them based solely on their former residence in the State.

In many instances, the retiree has not lived in the taxing State for years, if not decades, and in every instance, the retiree is being forced to pay for government services they derive no benefit from, and over which they have no control, due to their inability to vote in the taxing State.

Once a retiree appears on the radar screen of a State's tax collectors, efforts to collect the tax can be relentless. I think it is safe to say that very few townhall meetings I hold in my State occur without some mention of the difficulty caused by the source tax.

The State of Nevada has attempted to resolve this problem on its own. Under Nevada State law, other States and their collection agencies are prohibited from seizing property within the State of Nevada for the nonpayment of source taxes on pension or retirement income. Other States have passed, or are considering, similar legislation.

The State of Nevada's unilateral solution will not solve the problem, however. First of all, the Nevada statute is difficult to enforce—I have heard many accounts of retirees being harassed and threatened by collection agents working on behalf of out-of-State tax boards.

Sometimes, these intimidation tactics work—even retirees with knowledge of the statute may be reluctant to take the chance of placing their property, or their future pension income, at risk when confronted by an aggressive tax collector.

This attitude is demonstrated in a letter I received from my constituents, Mr. and Mrs. David Sperl of Las Vegas. The Sperls write:

> Thank you for your support of the Source Tax Bill . . . Source taxes are an unfair tax which is very similar to the British tea tax that caused the Boston Tea Party.
>
> We are personally impacted by the California Source Tax. I worked for Aero Jet General Corporation in California for many years. I received a small annuity check from their east coast office. This annuity and my Social Security check are our principal source of retirement income. We have lived in Nevada for several years. We vote in Nevada and not in California. We have no assets in California. We receive no service or benefit from California. The California Source Tax is clearly taxation without representation.
>
> We recently learned that Nevada has a law that protects our income and assets from attachment by another state. We have been paying the California tax every year. We do not have any disposable income and clearly cannot afford this cost.
>
> We have established a lifelong habit of paying our taxes and obligations. We have a good credit rating and we certainly do not want it tarnished by the State of California over this unjust tax.
>
> I hope the Source Tax bill will pass this year. This is an urgent matter with us.

As you can tell from both the tone and content of this letter, the Sperls are not tax evaders, or deadbeats trying to beat the tax system. Most of the thousands of retirees burdened by the source tax on their pensions have put in a lifetime of hard work; their only interest is to enjoy their well earned retirement years with a certain minimum level of comfort. The victims of the source tax are not asking for any special treatment—in fact, what they are asking for is not to be singled out for unfair taxation by revenue hungry tax boards simply because of their former affiliation with a State.

I worked for many years in State government. As Governor of Nevada, I agonized over the State budget, and I understand the need for State governments to raise revenue. In some peoples' minds, I suppose that out-of-State retirees are an easy target for revenue raising. After all, they do not vote. Without a political voice, who will defend them? This, of course, is the most fundamental unfairness of the source tax. This, of course, is the reason those of us who are aware of the injustice of the source tax compare it to the type of taxes that led to the Boston Tea Party, and, ultimately, the Declaration of Independence.

The many retirees who are the unfortunate victims of this source tax are not the only ones impacted.

For example, the reach of the source tax into other States infringes upon each State's legitimate right to tax its residents. Often, source taxes paid to other States can reduce the taxes retirees pay to their actual States of residence. The State that provides all of the essential government services to retirees, the State where the retiree votes to control the way tax revenues are to be spent, must sit back and watch as their much needed tax revenues are diverted to another State.

The proliferation and expanding scope of source taxes on retirees will also place significant burdens on employers. As we all know, a lifetime of employment with a single firm is becoming an increasingly rare occurrence. Multiple employers over an individual's career is becoming the norm, not the exception. The bookkeeping and reporting required to provide the information needed to collect source taxes on pensions will result in a huge paperwork burden on employers.

The potential cost to businesses of source taxation is the reason why the American Payroll Association has endorsed this legislation. In addition, this legislation is supported by scores of employee, retirement, and tax fairness groups including such organizations as the National Association of

Retired Federal Employees [NARFE], the National Association of Letter Carriers, the Retired Officers Association, the Retired Enlisted Association, the American Association of Foreign Service Women, the Air Force Sergeants Association, the Marine Corps League, the National Association of Postal Supervisors, the Naval Reserve Association, Common Cause, the National Taxpayers Union, the Federal Managers Association, the Airline Pilots Association, and the Air Force Association.

This outrageous tax grab by former States of residence is an unexpected surprise for most retirees. Even those retirees who are aware of the potential for source taxation of their pensions are shocked by the manner in which States assess the tax. In many instances, the mechanism of the source tax allows States to collect taxes from nonresidents on income earned outside of the State's borders. A letter from one of my constituents, Mr. Joseph Stauffer of Boulder City, NV, describes in some detail how this works. Quoting from Mr. Stauffer's letter:

If I calculate the California tax based on the portion of my pension that was earned while a resident of California, the tax comes to $119—minus the joint exemption of $128 leaves zero California tax. When I follow California tax instructions, and use my total Federal tax Form 1040 based income, I end up paying $459.

Mr. President, there are many reasons why the source tax on pensions is unfair, and many examples of the type of hardship such aggressive tax collections are causing among thousands of retirees.

On March 12, 1992, the Senate went on record with a strong showing of support for this legislation. By a vote of 36–62, the Senate declined to table an amendment very similar to the amendment before us today. I urge my colleagues to once again indicate its opposition to the unfair source tax, and vote in favor of the amendment offered by the senior Senator from Nevada.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Nevada.

The amendment (No. 1636) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEFLIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1637

(Purpose: To amend section 109 of title II, United States Code, to preclude a person from being a debtor under chapter 13 of that title if the person has previously been such a debtor within 3 years)

Mr. REID. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself and Mr. BROWN, proposes an amendment numbered 1637.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 160, between lines 6 and 7 insert the following:

SEC. 116. LIMITATION ON FILING OF CHAPTER 13 BANKRUPTCY PETITIONS.

Section 109, of title 11, United States Code, is amended by adding at the end the following new subsection:

"(h) Notwithstanding any other provision of the section, no individual may be a debtor under chapter 13 who has been a debtor in a case that was filed under that chapter at any time in the preceding 3 years.".

Mr. REID. Mr. President, Congress is currently considering one of the most comprehensive cases of anticrime legislation, and that is consistent with what all of us are hearing from our constituents on a daily basis: Enact tough but fair legislation so that those who commit acts without regard to their consequences will realize there is a price to pay for injuring society.

That is why we in this body included tough bankruptcy antifraud legislation as part of the crime bill. While the other body has chosen not to include this bankruptcy fraud prevention provision in its crime bill, it is my hope that we will somehow see to it that these measures ultimately are passed.

The comprehensive bankruptcy legislation we are today considering is a solid bill that will result in beneficial reform of a system that all agree is in need of repair. That is why I am a cosponsor of this bill. That is why I will vote for its passage, and, as I indicated in my initial statement, Mr. President, why I congratulate and applaud the managers of this bill and the Judiciary Committee for moving this legislation.

The amendment that I am offering today compliments the bankruptcy bill, and comports with the tough antifraud sentiments expressed by so many of our constituents. My amendment eliminates the fraud and abuse caused by serial filings in chapter 13 proceedings by limiting the number of petitions a debtor may file to once every 3 years.

For those people that are watching this debate, it may seem somewhat unusual that the present law allows people to file a bankruptcy petition under chapter 13 every 6 months. And in fact, as my argument will show the Chair and Members of the Senate, even the 6 months has no bearing in some areas of jurisdiction. So even though it is difficult to believe that someone can be in perpetual bankruptcy, that in fact is the case.

I am attempting by this amendment to limit the number of filings under chapter 13 to once every 3 years. That does not seem too burdensome to me, that a person can file only once every 3 years. My amendment is what we refer to in the law as a "bright line rule." It provides the courts with crystal clear certainty and is consistent with this administration's attempt to combat fraud in the bankruptcy process. Indeed, Mr. President, that is why the administration supports the passage of my amendment. I state again, the administration supports this amendment.

Why should an individual be able to file for bankruptcy every 6 months? Why do the courts allow this to take place? Why are the courts incapable of ensuring that this 6-month prohibition between filing and refiling is followed?

Since we enacted the code, we have bent over backward to protect the interests of the debtor, and we should do that. I have no problem with that, Mr. President. Bankruptcy protection is in the Constitution of the United States. We passed the law to make sure that the proceedings are fair and just.

So I say, fine. We have done what we can to protect the interests of the debtor. Everybody deserves a break when they err. But we now have reached the point where our laws almost invite people to act in a fiscally irresponsible manner. You run your credit card up. Do not worry about it. No problem. Just declare bankruptcy. And tell your debtors that you are only going to pay them 60 cents on the dollar, or 50 cents on the dollar, or nothing on the dollar.

If that is asking too much, or if you simply decide not to follow through in your repayment plan, no problem. Just have your case dismissed and file a new proceeding. This is not sound policy. This is not sound policy fiscally, Mr. President; and certainly it is not morally.

The argument that this current system works is that it gives the debtor a fresh start. The argument that it does not work is that it gives the debtor a perpetual fresh start. One of the greatest attributes about this great Nation is that we tend to give the people the benefit of a second and sometimes even a third chance. However, the negatives arising out of laws that uniformly give someone another chance is that they create a disincentive to act in a responsible manner, whether it be a fiscally responsible manner or a civilly responsible manner.

One only has to look at the inclusion of the three strikes and you are out provision in the crime bill to get a better appreciation of how adamantly people feel about the inequities of our criminal justice system. The American people are demanding that we enact straightforward laws so people know the consequences following their actions. It is no longer acceptable to enact laws benefiting the alleged bad guy at the expense of the innocent victim.

Let us remember, it is due process, not process ad infinitum. I believe my amendment recognizes this by doing the exact thing as the three-strikes provision. It provides a bright-line rule and gives all parties adequate notice that irresponsible abusive behavior simply will not be tolerated.

In part, because the Bankruptcy Code provides an enormous amount of protection to a debtor, it frequently invites abuse by the unscrupulous. When a debtor files a petition under the act, he immediately invokes the automatic stay. The stay stops virtually all action of creditors to protect their interest and their collateral.

And the stay remains in effect until the case is closed, dismissed, or discharged. If a creditor wishes to proceed against the debtor, he must seek relief from the stay. If the debtor dismisses his case, the stay is lifted and creditors are free to commence efforts outside of bankruptcy to collect from the debtor.

At this point, however, the debtor can file another bankruptcy petition. This action by the debtor reinvokes the automatic stay, once again prohibiting the creditors from taking action to ensure payment of the money they loaned to the debtor. Herein lies the potential for abuse. A debtor, through a pattern of filings and dismissals can delay the disposition of his case and prevent creditors from collecting any money.

My amendment will eliminate the pernicious problem of serial filings in chapter 13. Under this amendment offered by the Senator from Nevada and the Senator from Colorado, a debtor who goes into chapter 13 will know from the outset that he will not be given unlimited swings at the plate.

Mr. President, if there was ever a time when this body is given an example of how to help business, especially small business, this is it. If we want to talk about doing things on the Senate floor and in the Congress to help businesses, this is it. Who gets jerked around by these unscrupulous people who know the ways and the vagaries of the bankruptcy law? The businessmen and businesswomen trying to make an honest living. These bankruptcies cause delay, delay, delay. There are examples where they delayed these bankruptcy proceedings ad infinitum. They file one, they ask for a discharge, and they can file again.

This amendment will eliminate this from happening. Bad faith debtors should not have unlimited swings at the plate. How many swings do you get before you are out? This rule will not prevent the honest, good faith debtor from obtaining a fresh start or a number of fresh starts. What it will do, however, is to say to all debtors: You are now in the court of last resort, and because we are granting you the absolute, unquestioned protection of the automatic stay, you will be given one opportunity to reorganize your finances for at least every 3 years.

Why is such a rule necessary? There are a number of reasons, Mr. President.

At this time, in recognizing my friend from Colorado, I will have some more I would like to say, but I would be happy to yield to the cosponsor if he wishes to speak now.

Mr. BROWN. I thank the Senator from Nevada. I would like to praise the Senator's hard work in this area. This is a very basic amendment. Right now, the Bankruptcy Code allows a debtor to make a chapter 13 filing every 6 months. This amendment would change that 6-month limitation to limit debtors to one filing every 3 years. We must keep in mind that there is a safety provision. The Bankruptcy Code, in conjunction with the rules of civil procedure, allows additional filings in the interest of justice. In other words, some discretion is left with the judges.

This modest step of moving from a 6-month limitation of filing to 3 years will be helpful. It will help deter the people who abuse the code; it will help deter the debtors who use chapter 13 not as a mechanism to get back on their feet, but as a way to defraud their creditors. It is a responsible and modest step, it is a thoughtful amendment aimed at deterring serial filings.

I am delighted to join the distinguished Senator from Nevada in offering this for the consideration of the body.

I yield to the distinguished Senator from Nevada [Mr. REID].

Mr. REID. Why is this rule necessary? Many reasons. For example, the debtor subsequently filing a chapter 13 plan will not attempt to make a single payment to his creditors. Without the bankruptcy court's confirmation of a plan, the creditor is unable to exercise any of his rights against the collateral.

A case in the eighth circuit accurately highlights this problem. In that case, the debtors were frustrating the bank's efforts to foreclose on real property. As each foreclosure sale became imminent, the debtors would file a chapter 13 petition, which they would later have dismissed. They did this on three separate occasions. Each of the prior petitions was filed within 2 or 3 days of a scheduled foreclosure sale.

In each case the creditors filed a motion for relief from automatic stay and each filing was within 6 months of the previous dismissal.

Finally, after the court dismissed the third petition, the bank rescheduled the foreclosure proceedings as necessary for repayment. Incredibly, within 2 hours of the foreclosure sale the debtors filed a fourth petition under chapter 13.

What happens, Mr. President, in situations like this: Let us assume that that property is badly needed to keep a business afloat or to keep someone's life afloat. Normally what they will do is cave in to the unscrupulous bankruptcy filer and take a ridiculously small offer to settle the case. That is unfair and simply should not happen.

Most creditors file motions with the bankruptcy court seeking lifting of automatic stay. The debtor, realizing time is running out and the bankruptcy court will not likely confirm the plan, can always move to dismiss the case. Consent to dismissing the first petition for bankruptcy, the debtor can turn around and file a new petition for chapter 13, everything else the same except the date of filing, thus again triggering the immediate imposition of the automatic stay.

It is an endless and vicious cycle circumventing the congressional intent of preventing serial filings. The court recognized this abuse and asked Congress to clarify the rules. We should clarify the rules. That is what this amendment is about.

I am sure that a number of people in offices, or watching this on C-SPAN, are wondering what all this bankruptcy terminology means.

I would be willing to bet that there are many interested in knowing what the so-called automatic stay is all about. In theory, the automatic stay is supposed to act as a shield that provides the debtor with temporary protection from the creditors until he can work out a reorganization plan. In practice, however, the automatic stay has become a weapon used as a very blunt instrument to thwart the legitimate interests of a creditor.

It automatically stops almost any legal proceedings against the debtor to collect the debt. The automatic stay is triggered automatically. No questions asked, no proof necessary, simply pay the court the $90 application fee, and abracadabra, walk out of the court with the ability to ignore legitimate requests for payment.

The real tragedy, however, is that the debtor does not have to offer a shred of evidence that proves he needs protection. Credit card bills, car payments, mortgage payments, phone bills, cable bill statements, any other financial obligations are all stayed merely by filing this petition in bankruptcy—not a bad deal.

And remember, the point of this amendment is to prevent them from doing it within the 3-year time period over and over again, as they are now doing it.

I believe that the bankruptcy court in the northern district of Illinois best described the application of automatic stay when it held:

> The automatic stay is one of the most powerful weapons known in law. It arises not from an order of the court after a hearing on the merits, but upon the mere filing of a case.

Mr. President, the arguments necessitating my amendment I believe are compelling. One only has to look at the number of chapter 13 plans that are dismissed. Listen to this, Mr. President:

Status of chapter 13 cases. In 1982, 12,628 were filed; half of them were dismissed.

In 1983, almost 100,000 were filed; over half of them dismissed.

In 1984, 92,000; over half of them dismissed.

In 1985, almost 108,000 cases filed; half of them dismissed.

In 1986, 130,000; 47 percent of them dismissed.

Now, starting with 1987 some of the cases are still pending, so it is difficult to get a totally accurate account. But in 1987 we had 142,000 cases filed, and there are still 6.2 percent of them pending. And even with that, there is almost 50 percent of them that have been dismissed.

In 1988, 156,000 cases filed; while 15 percent of them remain open, 48 percent of them have been dismissed.

I am making the point, Mr. President, if you look at the number of chapter 13 plans dismissed, you get the idea that serial filing is part of the game.

According to the Administrative Office of the United States Courts, of hundreds of thousands of chapter 13 cases filed, about half of them ended in dismissal. Keep in mind, Mr. President, that the most the law can do with respect to preventing dismissals is to require the debtor to wait 180 days before filing a new petition, and even the application of the 180-day wait rule is subject to legal dispute. No wonder the courts are inviting us to legislatively intervene.

We in Congress have taken steps in the past to address the problems of serial filings. Unfortunately, Mr. President, these measures have proven to be largely ineffective. In fact, the one section, Bankruptcy Code section 109, added in 1984—the intent was real good—was to deal with the problem of serial filings. It simply is not strong enough. It caused confusion.

Opponents of my amendment will probably argue section 109 of the Bankruptcy Code is a sufficient deterrent to abusive bad faith serial filings. All I can say, Mr. President, if you look at the status of chapter 13 cases you will find they are filing for and dismissing more after the 1984 amendment.

It simply is not strong enough. The section attempts to restrict serial filings by providing as follows:

> * * * that notwithstanding any other provision of this section, no person may be a debtor if within 180 days before filing petition for bankruptcy the case was dismissed for willful failure of debtor to abide by court order, or the debtor has dismissed the petition after creditor filed the motion to lift the automatic stay.

This is the only section of the Bankruptcy Code I am aware of that restricts serial filings. I suggest it does not protect against abusive repetitive filings, and the history agrees with me. Look at the numbers and you will find that section 109 may help, but it does not work.

Some courts have held that the application of this provision may be discretionary. Many courts have struggled with what constitutes willful failure on the part of the debtor. We get into a lawyer's dream with section 109.

My amendment is straightforward. There is no confusion. It deals with from the date of filing so you could do it within a 3-year period. It is very simple. It is to the point and leaves the court very little discretion. That is the way it should be.

The bankruptcy court for the middle district of Florida ruled in one case that the debtor's dismissal of a third chapter 13 does not constitute willful failure of the debtor to abide by the court order. Thus, the debtor's fourth bankruptcy petition filed again within 6 months of debtor's dismissal of third case is not barred by section 109(g)(1).

The second part of the section, section 109, also does little in way of preventing abusive serial filings. It simply prohibits a bankruptcy refiling in those cases, where following the creditors request for the relief from the automatic stay, the debtor dismisses his case. And keep in mind, Mr. President, the debtor may always dismiss his case at any time for whatever reason. He may wake up in the morning and say, "I do not feel well today," and dismiss the case. He or she may stand and say, "I just think I want to do something different today; I am going to dismiss my case." The point is there does not have to be any reason.

My amendment eliminates the need for courts to waste all their time deciding what does or does not constitute willful failure.

Mr. President, if you read this section, section 109(g)(2), you will wonder why laws like that are even on the books. The kind of bad faith filing it attempts to prohibit ought to be considered so presumptively wrong and prohibitive, the courts should not waste time allowing it to be litigated.

My amendment eliminates the need for the court to waste all their time deciding what constitutes willful failure where the debtor dismisses the case following filing of the motion for relief for automatic stay.

The rule embodied in this amendment is in the best interest of judicial economy and will unquestionably eliminate the inconsistencies caused by judicial interpretation of section 109. In so doing, it will prohibit the deleterious action of serial filings and thus allow the bankruptcy courts to devote their already limited resources to disposition of genuinely legitimate cases.

There may be some who oppose this amendment, Mr. President, who would argue that its application in some rare circumstance could be harsh and may result in injuring some honest good faith debtor. I do not believe that to be the case because there is a safety valve.

Mr. President, I practiced law for many years in the Federal system and in the State court system in Nevada and other State courts. There is a safety valve provision incorporated in all Federal rulings of procedure and that is rule 60(b) of the Federal Rules of Civil Procedure.

Rule 60(b) of the Federal Rules of Civil Procedure, I have used on many occasions as most attorneys who have a trial practice do. In effect, what it does is allow for an attorney to file on behalf of his or her client a motion for relief from a judgment or an order. In fact, rule 60(b) allows courts to exercise discretion in relieving a party from his legal obligation, or from a final order in cases of mistakes, inadvertence, excusable neglect, newly discovered evidence, fraud, et cetera.

Rule 60(b)6 states, amongst other things, on a motion upon such terms that are just, a court may relieve a party or its legal representative from a final judgment order of proceedings for the following reasons, and number six is, any other reason justifying relief from the operation of the judgment.

Mr. President, this is certainly fair. It would cover those rare instances when somebody may need to file within a 6-month period. I insist that should be rare. This safety valve provision incorporated in the Federal Rules of Procedure grants courts discretionary relief of parties of the legal obligation in the interest of justice. It will clearly mitigate any harsh effects caused by this amendment.

I ask those who oppose this amendment to consider the parties who stand to gain the most by the defeat of my amendment—attorneys involved in bankruptcy practices; people who, in many instances, do not want to pay their legal obligations; unscrupulous debtors generally intent on ripping off a rip-offable system—I am sorry to call it that—and those who stand to lose the most from its defeat.

Well, aside from the courts and the taxpayers, the real losers are business people. I have mentioned that earlier. Everyone within the sound of my voice should understand that this is a real opportunity not to talk about helping small business, but to do something to help small business.

Mr. President, I vividly recall the days when I first used to go to bankruptcy court and we had the first meeting of the creditors. The creditors would come and there was a proceeding where you would follow the statute and you would go in a room and sometimes the room was full of creditors. Not anymore. Rarely do you find anyone who shows up at the first meeting of creditors because they have given up on the system because they do not collect money in bankruptcy.

Bankruptcy has become a way to avoid debt. I am sorry, but that is true. People used to come to me and apologize for having to file bankruptcy. It is not that way anymore.

They have the little quickie. In Nevada, we were the divorce capital of America, and there were people who used to advertise for a quickie divorce. Now they advertise for quickie bankruptcy proceedings.

Well, the people that would benefit from the adoption of this amendment more than anyone else would be business people of America, particularly small businesses. I believe a vote against this amendment is a vote against small business and a vote against those who play by the rules.

I think we should send a message to the American people that we are willing to enact tough, meaningful legislation that will put an end to fraud and abuse in the bankruptcy process, at least in this instance.

I ask my colleagues to join me and the Senator from Colorado [Mr. BROWN] and this administration in supporting the adoption of my amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa [Mr. GRASSLEY].

Mr. GRASSLEY. Mr. President, I rise in opposition to this amendment by the distinguished Senator from Nevada. Perhaps there is some problem here and perhaps that needs to be dealt with, but we feel it can be dealt with in a little different manner.

I think that his approach could be characterized as using a cannon to go after a fly. I think there are some ways, if there is a problem here, to deal with it, but not this way. And I will suggest some alternatives.

But let me say, if you remember what I said in my opening comments, that part of the purpose of this legislation was to encourage the use of chapter 13 and promote reorganization as opposed to the alternative that is often used now, the liquidation that comes out of chapter 7 for individual consumer debtors.

Let me say, as a matter of fact, that most chapter 13 plans now only last 3 years. A 3-year bar would very harshly single out chapter 13 for treatment not found anywhere else in the code, I think, contrary to the intent of our legislation, which is to encourage chapter 13.

And it would be discouraged, even though this chapter is widely regarded to be favored by creditors, who receive, as a result thereof, a greater percentage of repayment, and by the debtors who sincerely wish to repay their obligations.

So considering the motivation of this portion of the bill before us, it seems to me that this amendment by the Senator from Nevada just detracts to too great of an extent from what we are trying to accomplish.

The proposed amendment is not proportional to the perceived need.

The bankruptcy courts already have broad authority to act to dismiss repetitive, bad-faith filings by consumer debtors. Courts are using this authority already.

There are already remedies in the current section 109, because one subsection bars refiling within 180 days where the case was dismissed by the court for the debtor's willful failure to abide by orders of the court, or to appear before the court in proper prosecution of the case. And then another subsection bars refiling for 180 days where the debtor requested a dismissal following a creditor's filing of a motion to lift the automatic stay. It seems to us that these provisions are adequate to deal with abuses.

To the extent that section 109(g) is believed to be too narrow, or otherwise inadequate, there are alternatives barring refiling any time a case was dismissed "for cause" rather than for "willful failure of the debtor." That would better focus on abusive cases, we feel.

And yet another alternative, focusing on situations where the debtor is abusing the system, would be to add a new subsection (3) to section 109. I will not go into exactly how I would phrase that, but we think that these are better alternatives.

The proposed amendment would impose a hardship on honest debtors.

The amendment, in my view, is inflexible. In my view, it fails to take into account the personal situation of consumer debtors.

As an example, a debtor who lost a job after filing and confirming a chapter 13 plan typically has the case dismissed for failing to make payments. Under this proposed amendment, that debtor would not be able to refile and make renewed payments under a plan if he later gained new employment.

Similarly, a debtor who, post confirmation, suffered an unanticipated family expense—let us say, for instance, a child or a family member became seriously ill without adequate insurance—may not be able to service the plan payments and have the case dismissed. Now, the case can be retried and payment resumed when the financial picture improves. Under the proposed amendment, this is not an option.

The proposed amendment would not help creditors obtain repayment.

In these very situations that I just described, creditors would not be able to receive repayment pursuant to the plan, even when the debtor is willing and able to repay.

But, the bottom line, Mr. President, it seems to me, is that for a lot of reasons chapter 13 is used less now than it was originally intended when it was established. A lot of those cases are finding their way into chapter 7. We ought to encourage them, both for the benefit of the debtor as well as the benefit of the creditor to use chapter 13, and that is one of the underlying, basic principles of this legislation before us.

I feel the amendment proposed before us now will detract from that original goal.

The PRESIDING OFFICER. Is there further debate?

The Senator from Nevada [Mr. REID].

Mr. REID. Mr. President, I know the manager of the bill, the Senator from Alabama, wishes to speak. But so there will be some degree of ability to follow the debate, I would like to respond to my friend from Iowa.

If, in fact, one of the reasons for this bill is to encourage more chapter 13 filings, I think that is really not a reason to do it. We are getting plenty of that.

As I indicated, the chapter 13 filings are going sky high. I mentioned that the number of filing—the first year I gave was 1983, there were 92,000 filings.

In 1992, we had 266,000 chapter 13 filings.

Mr. GRASSLEY. Mr. President, will the Senator yield?

Mr. REID. Yes.

Mr. GRASSLEY. I probably did not make the point as forcefully as I should have. So consequently I think the Senator, maybe, misunderstood.

I am not saying there should be more, we should encourage any sort of bankruptcy filings. But we are finding so many of these cases that should be in chapter 13 are in chapter 7.

The point of the legislation is to encourage the use of chapter 13, if it is necessary to file for bankruptcy, instead of chapter 7.

Mr. REID. I appreciate the clarification.

Mr. President, when my friend from Iowa stated he was not aware—I am paraphrasing—of other areas in the Bankruptcy Code where they have such a harsh time limit, that is really not factual either, I respectfully submit, because chapter 7 filings have a time limit double that suggested by my amendment.

So my point is that I think the section 109, for the reasons I have mentioned and I will repeat them very briefly, does not adequately prevent serial filings.

We have had courts that have told us, "Please, Congress, do something." I gave an example in my opening statement where one judge said they could even file within the 6-month period, if they want, more than one petition for bankruptcy under chapter 13. I think that is wrong.

My friend from Iowa also said under section 109 there is broad authority to act. The remedies in section 109 simply do not work. My friend from Iowa gave the example of willful failure. I respectfully submit again, Mr. President, if you go before a court and/or a jury and you have a burden of proof to show "willful," under the term "willful failure," that is an extremely high burden that very few factual cases can establish.

So the fact that the section 109 says "willful failure," that does not mean that many people will be able to meet that extremely high burden. The examples mentioned by my friend from Iowa, if someone has inadequate insurance because they lose their job—I know the bankruptcy judges in Nevada. They are very kind people. If there was a tearjerker, somebody's heartstrings were pulled, something happened such as indicated by the Senator from Iowa, rule 60(b) is incorporated into bankruptcy rule 9024. Thus, it is clear it applies, and Congress deemed it to be used to prevent undue hardship.

In section 109, the issue is whether it is sufficient to deter serial filings. The answer is no. The section was enacted in order to prevent serial filings. The case law evidences it does not effectively achieve, in any manner, the stoppage of the consistent filings of bankruptcy petitions under this chapter. And it has led, as indicated by a few of the court cases I have mentioned, to some very, very serious inequities to small business people in particular.

This issue is—this is my wording; I think my friend from Iowa said it was too harsh—too draconian is my word. I say that is not true. Debtors will still be allowed to file bankruptcy. There will still be available the enormous protection of the automatic stay. My amendment provides they can only receive the benefits of chapter 13 once every 3 years. That seems fair. And that is what we are trying to do, is present something to the courts that will work fairly, be fair to the persons seeking protection of the bankruptcy laws and also fair to the business people of America.

Chapter 13 works. We ought to be encouraging debtors to use it, is what my friend from Iowa said.

If it works so well, how come over 50 percent of the chapter 13 cases filed between 1982 and 1986 ended in dismissal? I do not know what they will be in 1993. In 1992 they are up to 266,000 cases, and I am sure we will have well over half of them dismissed.

If Congress passed section 109 to prevent abusive serial filings and these filings are still occurring, how can we argue that the chapter works? We ought not to be encouraging anyone to declare bankruptcy. This is fundamentally bad policy.

The PRESIDING OFFICER. Is there further debate?

The Senator from Alabama [Mr. HEFLIN] is recognized.

Mr. HEFLIN. Mr. President, I think this is a well-intended amendment, but as the distinguished Senator from Iowa said, it is a cannon to kill a gnat. As I recall, in physics—I believe it was Newton—that for every action there is an equal and opposite reaction. I really believe in the overall situation, that this amendment is really self-defeating for the intent toward which it is directed. The intent is that a debtor ought to rarely use bankruptcy, and that if there is a way for him to pay debts, that he ought to pay his debts.

I believe that people ought to pay their debts, and the concept of creating chapter 13 was to provide a way to pay your debts.

In order to understand this situation, you have to understand the difference between chapter 7 and chapter 13.

Chapter 7 is just outright bankrupting your debts. You say, "Here are my assets." In most instances there are none. And "Here are my liabilities," and the blackboard is erased completely. A debtor comes out, and his creditors cannot go to court. They cannot execute on you. They cannot garnish.

So chapter 7 is a procedure by which a debtor gets rid of his debts.

The intent of this bill is to say that a debtor ought to pay his debts and, therefore, there are procedures in the Bankruptcy Code under chapter 13 that will allow time to pay one's debts.

What we are talking about here with the pending amendment is, really, to put an impediment into the process by which debts can be paid in bankruptcy proceedings. The amendment is an impediment, because normally a person who goes into bankruptcy goes to an attorney, not knowing the difference between chapter 13 and chapter 7.

A debtor has never heard of chapter 13, and he has never heard of chapter 7. He goes to a lawyer and, in most instances, the lawyer says, "All right, there is chapter 7. We will put you in straight bankruptcy, and you will not have to worry paying for your debts."

We had testimony in the hearings from judges who said they had inquired of people going into bankruptcy, and they had said that at least 90 percent of those who went into bankruptcy, if they had known they had an opportunity and a procedure by which they would have paid their debts, they would have exercised that right, gone under that procedure, and paid their debts. It is a matter of course sometimes in order to arrange for them to pay it. That is the purpose, of giving some protection to them during that time, but the ultimate goal is that they pay their debts.

How does what I have said thus far apply to this amendment? What this means is that those individuals who have gone under chapter 13 and circumstances arise where they have to dismiss, if there is a 3-year statutory bar where they cannot go back into chapter 13, what are they going to do? Instead of dismissing, they are going to transfer to chapter 7 by which they do not pay their debts.

This bill provides for a national bankruptcy review commission. The problems that are present in this issue pertaining to the 6 months under sections 109 (g)(1) and (g)(2) ought to be looked at by the bankruptcy commission.

We dealt with trying to find some substitutes for some of the problems, but we could not come up with what we thought was a studied, carefully reviewed approach as to how to handle this without causing the reactions that could occur.

To give some examples, and I think Senator GRASSLEY gave some examples in regard to this: A person goes in to a lawyer. He says they are after me on my debts. They are fixing to take my automobile; they are garnishing my salary; therefore, what do I do? The lawyer tells a debtor there is bankruptcy. He tells him about chapter 7 and he tells him about chapter 13. The debtor, if he goes with 13, in 90 percent of the cases will select a procedure by which he pays his debts. He is given some period of time to work out an arrangement by which he can live.

For example, what he would normally do is take his salary and the court will approve a plan by which 40 percent of his salary each payday goes into a fund to pay his debts, and they allow him 60 percent to live on; that is if he is a fairly low wager. If it is higher, it would be on a different percentage basis.

If he goes into it and then he loses his job, he has no way of making those payments. So what does he do? He may have to dismiss his case, or the court may dismiss his case for the failure to pay according to the plan. If he gets his job back, he is then hounded by his creditors. Garnishment attempts start again; he has no protection, which he had under chapter 13, since he was either voluntarily or involuntarily dismissed from chapter 13. He, therefore, has the attachment that is fixed and takes place.

What happens then? Under this, he cannot go back into chapter 13 and pay his debts. So what does he do? He files chapter 7 and he outright bankrupts his debts.

So the end result of what we are trying to achieve is a situation where debts are paid and not avoided. What this amendment would achieve is a situation in which chapter 7 filings will be increased.

Senator GRASSLEY used, also, I believe, the illustration about a situation where a catastrophic event occurs to a family where, for example, a child or a family member becomes seriously ill without adequate insurance and, therefore, the family has to give priority to the treatment of their child. There are many instances such as this. But the end result on all of this is that the opposite reaction that takes place from this action, which is well-intended, is that it is going to increase outright bankruptcies and not the procedures by which a debtor pays his debts.

There is a statute prohibiting refilings under chapter 7 for a 6-year period which addresses the question of abusive filings. But there may be legitimate circumstances in a chapter 13 case such as loss of a job, loss of salary, or a catastrophic event that occurs, which may warrant a refiling to allow a debtor to pay his debts.

With that in mind, I feel like we must object to this amendment. But I realize that what the Senator from Nevada is doing is a legitimate concern. But how this is addressed where it does not create increased filings of outright bankruptcy under chapter 7 has to be carefully considered and carefully crafted in language. To me, this is something that the national bankruptcy review commission ought to consider.

This has just come to our attention in the last 2 or 3 days, and we have not held any hearings nor investigated it.

Therefore, under those circumstances, I say we must oppose this amendment. I think the intent of the Senator from Nevada is good, but the complexities of this matter are such that it may have an adverse reaction rather than a positive action of what we want to obtain.

Mr. REID addressed the Chair.

The PRESIDING OFFICER (Mrs. FEINSTEIN). The Senator from Nevada.

Mr. REID. Madam President, I appreciate the kind words of the Senator from Alabama, but I respectfully submit that we should look at a judge and his statement from the northern district of Illinois in a 1989 case.

Section 109 was in effect at that time. The judge said, among other things, when pointing out the vastness of the problems with section 109: "This is just the tip of the 'abuseberg.'" A-b-u-s-e-b-e-r-g, abuseberg. That is the word of a judge, not mine.

The fact is, Madam President, that we do not have the luxury of waiting, with all due respect, for a review commission. Whenever something is difficult here, we tend to turn it over to a committee and have them study or hold hearings on it. There are times when that is necessary. But here we have over a quarter of a million filings in chapter 13, half of which have been dismissed—a quarter of a million in 1 year, millions over a period of years.

I say the time is now to stop the serial filings, to stop the abuses. We need to get rid of this "abuseberg," as referred to by the judge from the State of Illinois.

Madam President, everyone should understand, everyone from the State of California, the State of Illinois, Alabama, Iowa, Nevada, and all the other States, that when we go home and talk to our small business people in townhall meetings, Chamber of Commerce, the Rotary clubs, wherever we will run into them, we will have had the opportunity to help business people in America because we are stopping abuses that take place on a daily basis if we pass this amendment.

Remember what we are doing. We, with this amendment, are saying you can only file bankruptcy petitions under chapter 13 within a 3-year period. That is not very draconian. And I say to my friend from Alabama, we will probably stop some chapter 13 filings, but that is good because half of them are dismissed anyway.

Remember, when somebody files a chapter 13, there is an automatic stay. They pay nothing. And they do not have to pay anything. There can be an order entered that they pay 50 cents on a dollar. That person who files a bankruptcy can thumb his or her nose at the judge and everybody else and not pay a penny. There are no recriminations. Nothing can be done. They can ignore the plan that is submitted, the plan that is agreed to, and voluntarily dismiss the petition, turn right around again and file and get another automatic stay. That is not fair.

Not only will we perhaps stop some chapter 13 filings, people will find they cannot abuse the system as much, but we will stop bankruptcy filings in general because people will find they cannot game the system. We will stop, if this amendment passes, many more filings.

Now, let us talk about chapter 7. Chapter 7 proceedings are not all that bad if you are somebody that is owed money and you have collateral. It is better than a 13 because under chapter 13, if this amendment does not pass, it can just keep going and going, and they, as I indicated in my statement earlier, Madam President, keep filing these petitions and you cannot get your collateral back. Whether it is a piece of real estate, a washing machine, a house, whatever it is, you cannot get it back. They can just continually file these petitions. At least with a chapter 7 there is a discharge, and if you have collateral you get to keep that. You are going to get your collateral back.

So there is nothing really bad about chapter 7 if you are collateralized. So let us not make this amendment a battle of lawyers' terminology. What does this amendment do? Under the present bankruptcy law, a person can file a chapter 13 proceeding any time they want. We have had one court here that said the 6-month provision which is written in law, that is not even any good. So you can file a proceeding tomorrow, 2 months from now, 2 months from then.

What I am saying and what this amendment is saying is that you should only be able to file every 3 years. That is not draconian. As I have indicated, there is provision within the law, if there is some personal tragedy in the life of the person who is under chapter 13—death of a spouse, house burning down—there is provision in the law now under 60(b) as incorporated under the Federal Bankruptcy Act that you can ask for special relief. That is fair. That is reasonable.

If there were ever a probusiness amendment in the 200-plus years this Senate has been part of this great Government, if there were ever an opportunity to protect business, this is it. I repeat, anyone going home and meeting with small business people, I respectfully suggest, who does not vote for this amendment is voting against small business people's ability to have their bills collected.

Now, I also believe that we have lost sight of one thing, and that is when you incur a debt you should pay it. I wish to give all the relief I can to people who find themselves—and I mentioned that in my opening statement—with a problem, and that is why we have bankruptcy laws. But how much do we have to bend over backwards to protect those people who are willing to abuse the system?

Can we not look out for people who are willing to put their sweat and their blood into a business and they extend credit to someone, they sell them something, and that is collateralized and they cannot get it back. Should we not be concerned about them a little bit? I am saying my amendment will help. It will stop serial filings. It will stop people who want to abuse the system, and those who find themselves in a real emergency—and it will be extremely rare; last year, 1992, the last year for which we have records, 265,601 people filed under chapter 13. There will be a few people under that who might need to comply with rule 9024 of the bankruptcy code and they can have relief if in fact something goes wrong—as I indicated, a home burns down or something happens.

This is a probusiness amendment. This amendment is bipartisan. Republicans support it, and Democrats. The administration supports the amendment. So I think we should just buy down on this and protect the business community of America for a change.

I ask for the yeas and nays on this amendment.

It is my understanding, I say to my friend from Alabama, that leadership does not want to vote right away, and so I ask for the yeas and nays and it can be set at whatever time the managers or the leadership would decide. But I would ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Madam President, I want to spend a moment to comment on Senator REID's amendment to section 109 to bar refiling of any chapter 13 within 3 years.

Most chapter 13 plans now only last 3 years. A 3-year bar would harshly single out chapter 13 for treatment not found anywhere else in the code. The result of this amendment is that chapter 13's will be discouraged, even though this is widely regarded to be favored by creditors, who receive a greater percentage of repayment, and by debtors who sincerely wish to repay obligations. This proposal is inconsistent with Congress' stated policy to promote chapter 13 as an alternative to chapter 7 for individual consumer debtors.

The proposed amendment is not proportional to the perceived need, in that the bankruptcy courts already have broad authority to act to dismiss repetitive, bad faith filings by consumer debtors; courts are using this authority already. In addition, there are already remedies in current section 109—109(g)(1) bars refiling within 180 days where the case was dismissed by the court for the debtor's willful failure to abide by orders of the court, or to appear before the court in proper prosecution of the case. Section 109(g)(2) bars refiling for 180 days where the debtor requested a dismissal following a creditor's filing of motion to lift the automatic stay. These provisions appear to be adequate to deal with abuses.

This amendment would also propose a hardship on honest debtors because it is inflexible, and fails to take into account the personal situations of consumer debtors. For example, a debtor who lost a job after filing and confirming a chapter 13 plan typically has the case dismissed for failure to make payments. Under this proposed amendment, the debtor would not be able to refile and make renewed payments under a plan if he later gained new employment.

Similarly, a debtor who, post confirmation, suffered unanticipated family expenses, for example, a child or family member becomes seriously ill without adequate insurance, may not be able to service the plan payments and have the case dismissed. Now, the case can be refiled and payments resumed when the financial picture improves. Under the proposed amendment, this is not an option.

Finally, the proposed amendment would not help creditors obtain repayment because in the situations described above, creditors would not be able to receive payment pursuant to the plan, even when the debtor is willing and able to repay.

For these reasons, I am opposed to this amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAPTER 13 REFILING

We are advised that Senator Harry Reid of Nevada may offer an amendment to the Omnibus Bankruptcy Bill which would amend section 109 of the Bankruptcy Code to add the following new subsection:

(h) Notwithstanding any other provision of the section, no individual may be a debtor under chapter 13 who has been a debtor in a case pending under that chapter at any time in the preceding three years.

The following points should be considered in weighing the amendment:

Although creditors receive an estimated $1.5 billion a year in payments through chapter 13 plans, the proposed amendment would discourage chapter 13 filings. Former chapter 13 debtors could still file chapter 7 liquidation cases within the three-year period. Unsecured creditors generally receive little or nothing in consumer chapter 7 cases.

The proposed amendment does not distinguish between former chapter 13 debtors who completed their plan payments, those who made some payments, and those who did not make any payments.

The period during which former chapter 13 debtors would be barred from refiling under that chapter is six times longer than the 180-day prohibition on refiling set out in existing subsection 109(g). Furthermore, the proposed amendment covers all former chapter 13 debtors, not just the potentially abusive former debtors targeted by the existing statute. Section 109(g) is limited to dismissals by the court for willful failure to abide by court orders or to appear for hearings, and to voluntary dismissals after a creditor has filed a motion for relief from the automatic stay.

Let me just briefly say, and I will bring this to a close since Senator MOSELEY-BRAUN has been a good while waiting here to do some other things, the matter of repetitive filings is an issue, and I think in order to handle it a national Bankruptcy Review Commission is the proper forum to give that consideration.

This amendment has come up recently, and we have not had time to consider all of the ramifications that might take place, and it is a complex issue.

I quoted awhile ago about the law of physics, and now I have had given to me by very able staff people the exact quote, that Isaac's third law of motion is that "force always comes in pairs. For every force there corresponds an equal force in the opposite direction. This is sometimes called the law of action and reaction." And the source for that is the Encyclopedia Americana, so I wanted to be able to correct what I said before. It is really Newton's third law of motion.

Madam President, I ask unanimous consent that the Reid amendment 1637 be laid aside until 5:30 p.m. today, and that at 5:30 p.m., without intervening action, the Senate proceed to vote on or in relation to the amendment, with no second degree amendments in order to the Reid amendment 1637.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I have just a minute or two, and then and I will go back to my office until 5:30.

I would say again, in reply to my friend from Alabama, for whom we all have the greatest respect—there is no one in this Chamber to whom we look more for leadership on matters relating to judicial affairs than we do Judge HEFLIN.

So I have the greatest respect for him. However, I would say let us switch the burden. If in fact there is something wrong with this amendment—which I do not think there is; I think it has been clearly illustrated why it would help the business community of America and not help any one person that wants to file bankruptcy—let the Bankruptcy Review Commission look at this amendment after it passes rather than reversing it, and saying let us see if there is a better way can we do it. This is the best way to stop serial filings. Right now there is no way to stop serial filings. This would stop it.

Mr. GRAHAM. Section 214 of this bill addresses cases that turn upon issues involving guarantees and who may be considered an "insider" under the Bankruptcy Code. It is my understanding that the Deprizio decision, which changed the understanding of bankruptcy law by expanding the definition of "insider", has been applied to lenders retroactively, even though the challenged transactions were made before Deprizio was decided. In fact, it is my understanding that the interpretation of the Bankruptcy Code by those courts which follow Deprizio permits a Trustee in Bankruptcy to recover from a lender who is innocent of wrongdoing and deserving of protection, merely because he sought a guarantee for the debt.

Mr. HEFLIN. The Senator is correct in his understanding. Section 214 of the bill is intended to legislatively overturn Deprizio. We do not believe that the Deprizio decision correctly interprets what the congressional intent was when the Bankruptcy Code was enacted in 1978. Section 214 of this bill is intended to return the status and understanding of law to that which predated the Deprizio decision.

Mr. GRAHAM. Section 602 of this bill states that the change in the Bankruptcy Code shall only apply to cases which are filed after the date of enactment, thereby eliminating the Deprizio issue from future cases. Could this bill also eliminate the Deprizio issue from pending cases, if courts considering Deprizio questions chose to follow the lead of Congress when interpreting the application of Section 550 of the Bankruptcy Code?

Mr. HEFLIN. Merely because this bill is otherwise to be applied prospectively does not reflect continued viability of the Deprizio decision. Again, it must be emphasized that the Deprizio decision was and is not an accurate reflection of congressional intent.

Mr. MURKOWSKI: Madam President, I intended to offer an amendment that would have addressed a problem that many financial institutions currently face in dealing with bankrupt customers.

Under last year's budget reconciliation bill, Congress required all financial institutions to report to IRS discharges of indebtness in excess of $600. This information reporting requirement applies even if the debtor is not subject to tax on the discharged debt. This information reporting requirement places a very high cost on financial institutions and will most likely result in a flood of useless information being reported to the IRS.

IRS has interpreted the law to require financial institutions to file such information returns when debts are discharged in bankruptcy even though it is the bankruptcy court, not the financial institution, that actually discharges the debt. Unlike other forgiven debts that must be included in the debtor's income, debts discharged in bankruptcy in almost all cases are not deemed income to the debtor under the tax code.

Madam President, I believe that the appropriate filer on the information should be the bankruptcy court system. The courts have all the required information concerning the discharge of such debts and they have the capacity to consolidate such information into a single filing.

My amendment would have shifted the reporting requirement in bankruptcy cases from the financial institutions to the bankruptcy courts. However, I have been informed that the House of Representatives deems my amendment to be a revenue measure and, as such, cannot constitutionally be included in this Senate bill. I will therefore not offer my amendment on this time. But I hope that when the House adopts a bankruptcy reform bill it will include a provision addressing this problem.

Mr. HEFLIN. Madam President, I am sympathetic to the issue that the distinguished Senator from Alaska has raised. Many financial institutions in my State have expressed concern about these reporting requirements. And the Senator is correct that in nearly all consumer bankruptcies the discharged debt will not be deemed income for tax purposes.

I believe the Senator's proposal to require the bankruptcy trustee to report this information would be an appropriate solution to this problem. And I appreciate the Senator's decision to withdraw his amendment. If the House includes such a measure in its bankruptcy bill, I would certainly support the measure.

Mr. MURKOWSKI. I thank the distinguished chairman of the Judiciary Committee for his assistance on this important issue.

Mr. SASSER. Madam President, I would like to engage my distinguished colleague, the chairman of the Subcommittee on Courts and Administrative Practice in a brief colloquy concerning State laws on the timing and perfection of purchase money security interests and how they relate to the enabling loan preferential transfer exception found in section 547 of the Federal Bankruptcy Code.

Mr. HEFLIN. Yes, Madam President, I would be happy to do so. First, let me point out that under current Federal law a trustee may not avoid a transfer that creates a purchase money security interest in property acquired by a debtor that is perfected on or before 10 days of the debtor receiving possession of the property. The Judiciary Committee approved language to extend the Federal time period from 10 to 20 days.

Mr. SASSER. Yes, Madam President. The changes made by the committee will be a significant improvement to Federal bankruptcy law, and will provide creditors with sufficient time to perfect their security interest. Since the Senate is addressing the purchase money security issue, I thought it would be advisable to clarify a related issue that has caused unnecessary litigation throughout the country and in my home State of Tennessee.

The issue is whether State laws that allow a longer period of time to perfect a lien by allowing the creation of the lien to "relate back" to an earlier date contravene the Federal Bankruptcy Act. While Federal bankruptcy courts have long recognized that State law defines and governs the manner and timing of motor vehicle lien perfection, there has still been some dispute in the lower courts regarding State "relation back" statutes.

Under most state motor vehicle title perfection laws, if the requisite steps necessary for perfection are completed on a timely basis, the date of perfection "relates back" to the date the security interest was created or attached. These are commonly known as "relation back" laws. For example, Tennessee has a "relation back" State titling law that allows creditors of motor vehicles 20 days to perfect the lien to protect their security interest.

Although the new change in Federal law to 20 days would protect States like Tennessee, there are States that allow longer than 20 days to perfect the lien and have "relation back" laws that take into account each State's consideration of what is commercially reasonable and necessary to perfect a motor vehicle lien. For example, the documents necessary to perfect used car titles subject to payoff held by out-of-state institutions are not readily available. This causes a delay in the perfection process.

These "relation back" statutes protect the lien holder since the lien holder usually is not responsible for the delay. In addition, a 30 day "relation back" law is the model set out by the Uniform Vehicle Code and Model Traffic Ordinance.

Mr. HEFLIN. The Committee's decision to increase the time period to 20 days was proposed to conform bankruptcy law practices to most State's practices.

I would like to clarify just one point with the Senator from Tennessee, however. That is that while the date of perfection is determined by State law, including these "relation back" statutes, they do not affect the time of transfer pursuant to section 547. Would the Senator from Tennessee agree on that point.

Mr. SASSER. Yes indeed, Madam President. That would be my view also. The "relation back" provision merely relates to determining when a security interest in a motor vehicle is perfected in accordance with State law. Clarifying that "relation back" statutes are consistent with the Federal law does not change the uniformity of the Federal law. As the Chairman knows, Federal uniformity is keyed to the date on which the debtor receives possession of such property which then activates the running of the 20 day-period under section 547.

Mr. HEFLIN. On this point, I wonder whether the Senator from Tennessee could cite any Federal court decisions as persuasive authority on this matter.

Mr. SASSER. It is my understanding, that every appellate circuit that has examined this issue has held that State laws that allow the timing of perfection to "relate back" to an earlier date are consistent with and not in conflict with Federal bankruptcy law in general, and section 547 in particular. I would note for the chairman *In Re Basenlehner*, 918 F.2nd 923 (11th Cir. 1990); *In Re Hesser*, 984 F.2nd 345 (10th Cir. 1993). The eleventh circuit came to a similar conclusion in the case of *In Re Howard*, 920 F.2nd 887 (11th Cir. 1991).

I would say to the chairman that my purpose in this discussion is to establish that, although there is no statutory language to codify these court cases, they are consistent with Federal bankruptcy law.

Mr. HEFLIN. I would say to my colleague that it is appropriate at this time for the Senate to state its intent to confirm the interpretations of these circuits.

Mr. SASSER. I thank the chairman for his courtesy in engaging in this discussion and for clarifying this point.

Mr. GORTON. Madam President, I am pleased to be a cosponsor of the bankruptcy reform bill which is before the Senate today. I wanted to acknowledge and compliment the chairman of the committee in particular for including one provision which is especially important to the largest employer in my State, the Boeing Co. This provision is a clarification of section 1110 of the Bankruptcy Code.

Section 1110 of the Bankruptcy Code provides special protections to those who finance or lease aircraft. Under these provisions, in the event of a bankruptcy, a debtor must within 60 days either agree to perform its obligations under the terms of the lease or must allow the lendor or lessor to retrieve the aircraft. In other words, if an airline goes into bankruptcy, the company that has financed the sale of the airlines' leased planes will be able to get the plane back after 60 days. This is extremely important to both the manufacturers of aircraft and the airlines.

As a member of the National Commission to Ensure a Strong Competitive Airline Industry, I strongly supported the clarification of section 1110. The language included in this bill today will encourage traditional aircraft lenders to get back into the marketplace. It will result in lower charges to the airlines for financing aircraft as the additional risk of the present uncertain situation will be removed. Aircraft are great collateral; their value is high and their depreciation low. But, in the present situation, airlines are being charged a premium only because the financier must cover the unlikely situation of a bankruptcy situation where assets, including aircraft, are frozen. This provision removes that risk. The result will be lower costs to the airlines. Instead of using their cash to pay extra premium costs, their funds will be freed up to get on with the purchase of new aircraft. This provision is good for the airlines, good for Boeing, and most especially good for many thousands of workers and their families in Puget Sound.

SBIC BANKRUPTCY REFORM PROVISION

Mr. BUMPERS. Madam President, I rise in support of S. 540, the Bankruptcy Reform bill, and ask that the following remarks pertaining to section 208 of the bill be included in the RECORD.

A few years ago, some failing SBIC's discovered they could thwart the Small Business Administration's [SBA] efforts at recovery by using the bankruptcy code and filing under chapter 11 as a debtor in possession. This allowed the failed or failing SBIC management to continue to run the company and receive salaries, often at levels well above the amount the SBA would have approved, and to pay significant amounts for attorneys, accountants and other services.

In an infamous case in 1989 called River Capital Corp., the Bankruptcy Court for the Eastern District of Virginia discharged the SBIC debtor from paying $35 million in principal and interest to the Government. Several other large bankruptcy filings soon followed. Under an SBA receivership, which was the traditional method of liquidating failed SBIC's, millions of dollars lost in bankruptcy could have been used instead to repay SBA and taxpayers. River Capital and other outrageous cases were among the issues examined in a series of hearings held by the Senate Small Business Committee beginning May 9, 1990.

Fifteen SBIC's have obtained protection under chapter 11 of the Bankruptcy Code over the last 4 years. SBA had provided over $125 million in leverage to these SBIC's. If SBA had been appointed receiver or obtained an alternative liquidation in such cases, it would have had an infinitely better chance to recover at least part of these funds.

An SBIC's ability to avail itself of the use of the Bankruptcy Code has proven extremely detrimental to the liquidation and collection efforts of the Small Business Administration.

As a subordinated and unsecured creditor, SBA's ability to recover on a failed SBIC's indebtedness is compromised when an SBIC avails itself of the bankruptcy provisions of the Bankruptcy Code; the indebtedness to SBA is paid only if funds are left over after other, secured creditors are paid and fees are paid to management.

Prohibiting SBIC's from seeking bankruptcy protection, as this bill does, would result in greater savings for the SBA and the taxpayer because administrative costs associated with bankruptcy proceedings are higher than the costs associated with SBA receivership proceedings.

As receiver, the SBA is able to investigate thoroughly the SBIC operation and remove management if they are incompetent, self-interested or dishonest. Bankruptcy proceedings allow failed SBIC's to continue to pay their managers handsomely and to speculate with Government money.

There is precedent for this proposal: Congress has seen fit to deny the use of the bankruptcy code to other entities which have Government backing or for which there exists a sufficient public policy reason, including railroads, banks, savings and loan associations, credit unions, and insurance companies. SBIC's are closely regulated entities which would not exist without the support provided by SBA.

Companies like SBIC's and those listed above—railroads, savings and loan associations, credit unions, and insurance companies—which receive Federal financial assistance, should forgo the ability to seek bankruptcy in return for receiving Federal financial assistance.

This provision is strongly supported by SBA Administrator Erskine Bowles and by the Clinton administration, just as it was by the Bush administration when this bill was last considered by the Senate. I strongly commend Senator HEFLIN and the Judiciary Committee for including this provision in this Bankruptcy Reform bill and I urge my colleagues to support it.

I ask unanimous consent that the attached articles from the Wall Street Journal February 22, 1994, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Feb. 22, 1994]

AGENCY DEMANDS RESTRICTIONS ON SBIC BANKRUPTICES—QUICK CHAPTER 11 FILINGS NOW FORCE GOVERNMENT TO SWALLOW BIG DEBTS

(By Jeanne Saddler)

Washington—The Small Business Administration is moving to curb abuses in its venture-capital program. But it wants more help from Congress.

SBA officials say they will press lawmakers to pass legislation to bar failing small business investment companies, or SBICs, from escaping debts owed to the government by declaring bankruptcy. "We want Congress to act because we've found ourselves waiting at the gate too many times when licensees rushed to bankruptcy court," Robert Stillman, the SBA's new associate administrator for investment, said in an interview.

The Senate plans to consider legislation this year to close the bankruptcy loophole, but so far there isn't any matching bill in the House. Meanwhile, SBA officials say, the agency plans to begin a revamped SBIC program, including closer scrutiny of applicants, under reforms passed by Congress in 1992. The reforms had been delayed because of the impasse over the bankruptcy legislation.

Under the SBIC program, privately owned firms use a combination of federally guaranteed debt and private capital to help finance small businesses. Problems arose in the program in the late 1980s when scores of SBICs failed because of the recession and poor management. Although the SBA sold companies' remaining assets, taxpayers were left holding the bag for hundreds of millions of dollars of failed SBIC investment, leading Congress to pass a program reform law in 1992.

But in 14 of the cases, fast-moving entrepreneurs filed for bankruptcy before the SBA could claim any assets. Because the government is a subordinate debtor according to the law that established the program, more than $70 million of federal debt owed by the investment firms is likely to be wiped out. In one of the most serious cases, River Capital Corp. of Springfield, Va., spent $28 million in government funds on bad investments and filed for reorganization under Chapter 11 of the Bankruptcy Code. The court eliminated its debt.

The Senate passed legislation last year to bar SBICs from seeking bankruptcy protection from government debts, but a companion measure died in the House. Sen. Dale Bumpers, the Arkansas Democrat who heads the Small Business Committee, says he plans to try again to pass the bill. But the outlook is uncertain in the House, where legislation last year failed to win the backing of Rep. Jack Brooks, the House Judiciary Committee chairman.

Congressional aides won't speculate on why the provision didn't pass muster with Mr. Brooks or whether he will back a measure this year. But other industry and government officials believe the Texas Democrat may propose and back the bankruptcy ban this year because the ban would technically add a bit of revenue to the federal budget.

Regardless of how the legislative differences are worked out, the SBA is now preparing to upgrade standards for licensing SBIC applicants. "We're going to license very hard," SBA Administrator Erskine Bowles said in an interview. "We'll only license highly experienced venture capitalists, and we'll make sure those people bring enough private capital into the companies."

A new licensing unit in the SBA's investment division will be responsible for the more intense scrutiny of applicants. The agency already has received preliminary applications for the reformed SBIC program, but Mr. Stillman said he is returning them until the final regulations are published so applicants can carefully scrutinize the new rules.

In a speech to a group of SBIC executives earlier this month, Mr. Stillman, who spent more than 30 years as a principal with Wall Street investment firms, said that quality of management will be a key to an SBIC's future success. "I like to say I've only made one mistake in my entire career, and that was the serious one of sometimes investing in the wrong people," he added in the interview.

Under the reforms passed by Congress in 1992, the SBIC program is now attracting increased interest because of a change in how the federal support is structured. In the original program, created in 1958 to encourage financial backing for high-risk ventures, investment companies got government funds through debentures which, like loans, require regular interest payments. Thus, the licensees often borrowed additional money to make interest payments while waiting for their basic investments to mature. Venture-capital investments typically take years to produce dividends or profits for their financial backers.

The new program will allow investors to use a new debt instrument called a participating security that some believe is better suited to long-term investments. The government, through the SBA, will hold a participating-security interest in the SBICs. That means the government won't be repaid until the investment company has retained earnings from its investments and is paying dividends to all its investors. Uncle Sam will also get a small share of profits from the SBIC's investments.

Fixing the SBIC program's remaining problems has taken on new importance. As reported, the Clinton administration's proposed budget for fiscal year 1995, which begins next Oct. 1, would more than double the loan funds available to the investment firms.

The SBA expects to license about 200 new SBICs, raising the total to 480 from 280 currently, with a combined total of private investment capital of $2.3 billion. Because those companies can gain double their private capital in government investment funds, Mr. Stillman said the companies will have access to about $4.5 billion in government investment dollars.

That nearly $7 billion in new venture-capital money available in fiscal 1995 would be in addition to the $3 billion now in the program, meaning the total capital available through the program would jump to $10 billion from $3 billion.

[From the Wall Street Journal, Feb. 15, 1994]

HOW TO LOSE FEDERAL MILLIONS AND OWE NOTHING

(By John R. Emshwiller)

A loophole in a federal small-business lending program helped an entrepreneur named Peter Van Oosterhout to charge American taxpayers $28 million for his own bad investments, regulators say.

Mr. Van Oosterhout, 62 years old, was also able to use some of this money to invest in a tiny Salt Lake City company whose stock price has soared, even as it has been losing money.

Mr. Van Oosterhout got the major part of his investment funds from the Small Business Investment Company program, in which privately owned firms, known as SBICs, use a combination of federally guaranteed debt and private capital to help finance small businesses. Currently, some 280 SBICs have about $850 million in government-backed debt—as well as $2.3 billion in private funds.

The SBIC program was created by Congress in 1958 as a way to help promote the growth of small businesses. To get SBIC status, investment firms have to apply to the Small Business Administration, which oversees the program. SBICs have helped hundreds of small businesses grow and prosper, including Apple Computer Inc. and Federal Express Corp.

The problem is that during the 1980s, when making risky investments was commonplace, hundreds of investments went sour, dozens of SBICs sank and taxpayers were left footing a bill that has been estimated at several hundred million dollars. The SBA has had to go to court in recent years to seize control of some six dozen failing SBICs in order to sell assets and try to recover at least some of the taxpayers' money.

Probably no single case better exemplifies the abuses in the program, say SBA officials, than that of Mr. Van Oosterhout and his SBIC, River Capital Corp., of which he is president and has been a major owner, regulators say.

Mr. Van Oosterhout had been a leading figure in the SBIC industry even before he became president and part owner of River Capital. In 1983, he was chairman of the National Association of Small Business Investment Companies. He helped establish River Capital, based in Springfield, Va., a few years later, and with about $7 million in private funds and $28 million from the government, he developed it into one of the country's biggest SBICs, financing dozens of companies.

The SBA wasn't able to recover any taxpayer dollars in the case of River Capital. Before it could seize control of the foundering firm, River Capital filed for protection under Chapter 11 of the federal Bankruptcy Code in 1989.

And there, regulators say, is the loophole. Congress designed the SBIC program to make the government a subordinate debtor. So in bankruptcy reorganization proceedings, the debts owed to the government can be canceled if the court finds there isn't enough money to pay off all the creditors.

The availability of bankruptcy offers a "sweet situation for the SBIC owner" in which the "government becomes the convenient fall guy," says Martin Teckler, deputy general counsel for the SBA. "It is a big problem."

Bankruptcy court eliminated River Capital's $28 million federal debt. Fourteen other SBICs have also filed for bankruptcy in the past several years, SBA officials say. Including River Capital, more than $70 million of federal obligations have been or are expected to be wiped out, says Mr. Teckler.

Federal officials say they believe fraud kept them from seeing the SBIC's problems sooner. Mr. Van Oosterhout is facing criminal charges in a Cleveland federal court on fraud, conspiracy and extortion charges stemming from his operation of River Capital. His trial is expected to begin sometime this year.

Mr. Van Oosterhout has pleaded not guilty to the charges. Neither he nor his attorney returned phone calls seeking comment.

The indictment charges him with being part of a "scheme to misrepresent" the financial health of River Capital and its investment portfolio in order to keep federal money flowing. For instance, two of the portfolio companies allegedly claimed equipment that they didn't actually own.

Along with three others, Mr. Van Oosterhout also allegedly tried to extort money from a businessman who supposedly was in debt to one of them. The four are charged with setting fire to the businessman's car and threatening his wife, according to the indictment.

River Capital is still in business, though it is no longer in the SBIC program. The company emerged from bankruptcy in 1991, still in possession of some of its federally backed investments.

One of those investments has turned into a winner. For a $1 million investment, starting in the early 1980s, River Capital's predecessor, which Mr. Van Oosterhout helped operate, picked up about 1.7 million shares of Alanco Environmental Resources Corp., a Salt Lake City company that owns some dormant mines and manufactures pollution-control equipment. Mr. Van Oosterhout has been an Alanco director since 1983.

Over the past 20 months, River Capital has sold more than one million Alanco shares, according to Alanco filings with the Securities and Exchange Commission. The filings didn't reveal what prices River Capital received for its stock, but it paid about 63 cents a share. In that period, Alanco traded in a range of about 63 cents a share to about $6. Recently, the stock has hovered around $5.

A woman who answered the phone at River Capital's office said all questions would have to be directed to Mr. Van Oosterhout.

Alanco's stock-market performance contracts sharply with its financial performance. With 19.4 million shares outstanding, its market value has surged to about $90 million, more than a threefold increase in the past year. Yet, in the past four years, the company has reported accumulated losses of $8 million, including a $4.1 million loss for fiscal 1993, ended June 30. Revenues for that year were just $10,987.

Alanco, however, has produced a steady stream of upbeat press releases—particularly concerning various pollution-control deals in China, including one "potential multibillion dollar" contract.

Alanco has also announced a series of financing arrangements over recent years, many of which never came to pass. And one that did— a $72 million credit line—was arranged by one Mario Renda through a New York City firm called Financial Security Corp.

In the early 1980s, Mr. Renda was a deposit broker who placed billions of dollars of deposits in thrifts and banks around the U.S. He was convicted or pleaded guilty in 1987 in three different courts to crimes ranging from bank fraud to racketeering to tax evasion. Prosecutors and investigators contended that Mr. Renda's crimes contributed to the demise of several dozen thrifts and banks, partly by arranging for fraudulent loans.

Brent Dyer, Financial Security's president, didn't return repeated phone calls. A woman answering the phone at Financial Security identified Mr. Renda as a vice president of the company. Mr. Renda denies the title but admits he was, for a time in 1992, Alanco's marketing director. An Alanco spokesman says the SEC has been investigating the company's announcements but that the company has done nothing wrong. SEC officials decline to comment.

The SBA has been urging Congress to bar SBICs from seeking bankruptcy protection. A bankruptcy reform bill containing such a measure, passed the Senate last year but died in the House of Representatives.

Though the SBA has charged its SBIC regulations to give it more protection against bankruptcy losses, the agency still believes congressional action is necessary, says Mr. Teckler, the SBA's deputy general counsel. Otherwise, SBICs could continue to "stick it to the government," Mr. Teckler says.

Bankruptcy filings—selected small business investment company filings—SBA leverage at filing

	Millions
River Capital	$28.50
First Connecting SBIC	27.95
Capital Marketing	24.35
Questech Capital	12.00
Unicorn Ventures II	6.70
Unicorn Ventures	6.00
Continental Investors	5,00
Diamond Capital	4.00
Washington Ventures	3.25
Avdon Capital	3.00

Source: Small Business Administration.

Mr. GORTON. Madam President, I am pleased to rise today to express my support for the Bankruptcy Amendments Act of 1993. I am a cosponsor of this legislation, which serves as a long awaited reform of the Nation's outdated bankruptcy law. It is an attempt to streamline the prevailing system and to enhance the effectiveness of the Bankruptcy Code adopted in 1978.

The compelling need for bankruptcy reform was highlighted last year in hearings held by the Judiciary Committee. These hearings brought to light the fact that in 1992 alone, over 1 million bankruptcy cases were filed, a new record. Even as the economy improves, there are likely to be increasing numbers of bankruptcies for the foreseeable future, because individual debt loads continue to remain at high levels.

With this significant rise in the number of bankruptcies being filed, cases are backing up in our Nations courts, increasing the time necessary for individuals and firms to get back on their feet and again contribute to the Nation's economy. It is precisely this slowing effect on our economy that S. 540 is designed to correct.

I commend the chairman of the committee and the Senators who worked on this legislation for drafting this bill and its encompassing provisions which, I believe, will improve the current laws governing bankruptcy and help get the economy moving again. A streamlining of the Nation's bankruptcy system is long overdue and, if enacted, will be of benefit to every American.

The major provisions of this bill, together serve to improve the bankruptcy system which has been in place for 16 years. One of the most important sections of S. 540 would establish a new National Bankruptcy Review Commission to study the effectiveness of the current bankruptcy procedure and report on policy improvements. The bill also contains a number of specific measures directed at problems in the existing code and new ideas which will serve to expedite the bankruptcy process.

I urge my colleagues to join me today in support of the Bankruptcy Amendments Act of 1993. All Americans have an important stake in ensuring that our Nation's bankruptcy procedures operate efficiently and fairly so that individuals and corporations seeking bankruptcy protection may complete the process sooner and continue to contribute to our Nation's economic vitality. I believe that S. 540 is an important step in that direction.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

ORDER OF PROCEDURE

Ms. MOSELEY-BRAUN. Madam President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MOSELEY-BRAUN. Thank you, Madam President.

(The remarks of Ms. MOSELEY-BRAUN pertaining to the introduction of S. 2034 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Ms. MOSELEY-BRAUN. I yield the floor and I thank Senator HEFLIN and Senator GRASSLEY for their indulgence in allowing me this time on the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HEFLIN. I am under the impression Senator COCHRAN has an amendment.

Mr. COCHRAN. Madam President, I do have an amendment, and I hope to be able to offer it soon.

I was told the managers would like me to offer the amendment as soon as the distinguished Senator from Illinois completed her remarks. I was here on the floor for that purpose.

I understand now, though, the Senator from Ohio has some questions that he wants answered about the amendment. He is trying to get the answers, and I will be back about 5 o'clock to offer the amendment.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Madam President, as I indicated to my friend from Mississippi, I do not know enough about his amendment. I do not think I have any objections to it. I am not trying to stall him in going forward with it.

There are numbers of amendments that are kicking around right at the moment. And by 5 o'clock we will be able to see if we can work it out. If we can do it earlier, I will call him at his office and urge him to come back to the floor if he would.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Madam President, I would like to proceed with this bill and get this bill moving.

There are a number of amendments that we have that have been cleared by both sides, the Democratic amendments, Republican amendments, and all of this.

I am afraid we are getting caught up in playing games. I think each amendment ought to be like a barrel and stand on its bottom and on its own merits.

I would hope that as to both sides that indicated some matter pertaining to this we could proceed with the amendments that have been cleared by both sides. For example, there is an amendment by the Senator from California, who is presiding right now. There is no objection to it.

But we are getting into a situation of where because of an amendment that is controversial and may have to be voted on everything else is being held up. It is sort of a leverage situation.

I would hope that we could start proceeding on this and the amendments that are agreed to and go ahead with them.

Mr. COCHRAN. Madam President, will the Senator yield for a question?

Mr. HEFLIN. Yes.

Mr. COCHRAN. Is it my understanding from the remarks of the manager of the bill that the managers would like Senators to proceed to offer their amendments? Is that the understanding?

Mr. HEFLIN. Yes, we would like to do it. The Senator's amendment, I understood, was cleared by both sides.

If there are objections to it, do it, but I would like to proceed here and move forward and try to get as many of these amendments either adopted or withdrawn or voted on or in one way or the other if we could.

Mr. COCHRAN. If the Senator would yield further, I sympathize with the situation, and I am perfectly happy and prepared to send an amendment to the desk and lay it before the Senate. If there are discussions or questions, I will be happy to try to respond to them.

So, if that is the view of the managers of the bill, I am certainly happy to oblige and hope that we can answer whatever questions the Senator from Ohio or any other Senator may have about the amendment.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Madam President, I want to say to my colleague—and all three of us have been around here a long time—all three of us know the procedures of the Senate are such that it is not too difficult, if you stay on the floor, to delay consideration of a matter. I do not intend to do that and I have no desire to do that.

But it is my understanding that certain amendments of the Senator from Ohio had been cleared. I now understand one of them may be in some controversy or some difficulty.

I came over to the floor in order to try to work out that amendment. Once that amendment is given a green light—and I do not believe it to be controversial—then it seems to me we might be able to pass about 15 or 20 amendments, including the amendment of the Senator from Mississippi, a number of the amendments of the Senator from Ohio, and a number of amendments of other Members of this body.

So if I have to stay here on the floor with reference to the amendment of the Senator from Mississippi, protecting the floor in order to get this—I am not at liberty and I am not in a position to try to work out the one more controversial amendment that seems to be creating the problem at the moment.

I am frank to say to both the Senator from Mississippi and the Senator from Alabama that I do not know why the amendment of the Senator from Ohio, which has to do with retiree benefits, is at issue or is a problem. I thought the matter had been worked out. As a matter of fact, the Senator from Ohio has retreated from an earlier position that he had taken with respect to the same matter, and an earlier position that this body adopted.

But I think that, if given a little time in order to try to work it out, I think that, hopefully, I will be able to do so. I am not sure where the stumbling block is. I do not mean to suggest either the Senator from Mississippi or the Senator from Alabama is the stumbling block, but I do not know that answer. I am waiting to discuss the subject with my staff, whom, I might say, I do not see on the floor at this very moment. They may be in the cloakroom.

I just urge both of my colleagues to just give me a little time, and I will be glad to get back in here. I do not have any really basic opposition to the amendment of the Senator from Mississippi.

Mr. COCHRAN. Will the Senator yield for a question?

Mr. METZENBAUM. Of course.

Mr. COCHRAN. If I understand what the Senator has said, he is going to obstruct or would be prepared to obstruct the passage of my amendment, which may be meritorious and to which there is no objection on either side for any reason, in an effort to try to get leverage to pass his amendment, which is controversial and with which many Senators may disagree on the merits? I do not know what the Senator's amendment is.

But is my understanding of what the Senator is stating to the Senate correct?

Mr. HEFLIN. Might I intervene here as a referee?

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. No. 1, Madam President, there are two amendments that I know of which Senator METZENBAUM has offered that are agreeable, but they are being held hostage. There are, on the other hand, because of that, or maybe for other reasons, Senator COCHRAN's amendment and several other amendments on that side of the aisle which are being held hostage.

Now, what I am saying is, let us quit this leverage and hostage holding. Let us go ahead and pass all amendments, and the amendment that is causing all the fire and creating all the controversy, either work it out or vote it up or down.

I do not think we ought to hold hostage these other amendments on either side. And, in effect, maybe Senator METZENBAUM is wrong; but, on the other hand, it started out that they were refusing to allow Senator METZENBAUM's amendment, on which there had been no controversy, to be passed.

So it is a matter of, again, Newton's third law of motion, that there is a corresponding force that is affected. It comes in one side, then the force comes back from the other side.

So let us try to get it done. I am trying to get the bill passed and to do it as harmoniously as I can. But there are a lot of leverages and there is a lot of hostage holding and that sort of thing. Let us not play games. Let us proceed with the bill.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Madam President, there is sometimes a time to fight; sometimes a time to agree; and sometimes a time to suggest the absence of a quorum, which I do.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Madam President, I do not know how many hours, days, months, and years, my friend from Alabama has been on this legislation, or its antecedent legislation. It seems as though every time he gets close, very few people have any disagreement with the underlying substance of what he is attempting to do, and what needs to be done is obvious. And yet he always seems to get himself caught in a crossfire on matters that do not directly relate to the legislation he brings out of the Judiciary Committee, out of his subcommittee, and to the floor.

I hope that whatever ancillary issues there are, unrelated issues there are, could be resolved in another context, because we really should be moving ahead with this legislation.

As I said, he has worked tirelessly on it. No one knows more about the issue than the distinguished senior Senator from Alabama.

And, besides, I do not want it back in the Judiciary Committee again. I would like very much for him to succeed in seeing this moved.

But I never underestimate the tenacity and the ability of my friend from Ohio and those on the Republican side who tend to be his nemesis, or he theirs.

I hope that sooner, rather than later, order will prevail and our friend from Alabama, the manager of this legislation, will be able to move it off his plate, off the Senate floor, to the House, to a conference, and to the President. I suspect that is his desire.

I hope that is what we can do, because I ask the Senator from Alabama a question. How long has this been going on, trying to resolve the underlying issues here?

Mr. HEFLIN. Well, it has been going on about two Congresses, I would say. The Senate passed it before, unanimously, 97 to zero. We passed the conference report. The House failed to pass the conference report in the last session of the last Congress.

We are moving ahead this time, and hopefully the House can move on it.

Of course, tactics are part of the game in the parliamentary proceedings, and somebody holds something hostage. But I think we ought to try to determine these things on the merits of each and every individual amendment.

I appreciate the kind remarks of the distinguished chairman of the Judiciary Committee. He has been very tolerant of all of our activities on various and sundry bills. He has to face, many times, filibusters in his own committee—the only committee that I belong to where usually you will have a filibuster in a committee—but he always comes through. Somehow or another, we will come through. We will persevere in the long run. But it takes time, and it is a little frustrating.

Mr. BIDEN. My mother used an expression that she heard used somewhere else. I think it comes out of some work of literature. When I say, "Mom, in the long run—" she says, "Honey, in the long run, we'll all be dead."

In the long run, we will be here 2 years later still working on this legislation. I hope we can move it.

As I said, no one has worked any more tirelessly producing a solid piece of legislation, badly needed, than the

Senator from Alabama. I think we should reward his hours and, in this case, years in the vineyard by moving on it quickly.

Again, the vast majority of the Congress is for this. The courts are looking for it, and I believe the President is, as well.

So I thank him and again implore my colleagues to let us move on to the merits of the legislation, if we can.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WELLSTONE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the vote ordered for 5:30 p.m. be moved to 5:45 p.m., with all other provisions of the previous agreement remaining in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. The reason for that is I understand there have been several Senators called to the White House and therefore they will be back by that time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1638

(Purpose: Committee amendments)

Mr. HEFLIN. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN] proposes an amendment numbered 1638.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is located in today's RECORD under "Amendments Submitted.")

Mr. HEFLIN. Mr. President, this is a managers' amendment by which we try to make a lot of technical changes. There are some issue changes that have come to the attention of the Subcommittee on Courts after the markup of the bill by the Judiciary Committee. The issues which are included in this amendment are related directly to concerns in bankruptcy that should be addressed in this bill.

We have included a number of changes which are in response to the letter which the Department of Justice sent to the committee. This letter was a review of S. 540, as well as their suggestions as to form and substance of some of the provisions in the bill.

First, in response to the Department of Justice concern, the effect of S. 540 regarding curing mortgage arrearage under section 1322 of the code, we offered the suggested changes by adding specific language to the amendment in section 301 of S. 540 to ensure that there is finality to the time period in which a debtor may cure residential mortgage arrearage under chapter 13 plans. Without this language, the present provision could have a detrimental effect on residential mortgage markets in over 17 States.

To ensure maximum price at sale for the debtor and to give the purchaser of foreclosed property, as well as the mortgage holder, some sense of finality, we have amended section 301 to include the words "prior to the consummation of a foreclosure sale" after the word "judgment" in paragraph C.

Second, we have added additional language to the provision which encourages the circuits to set up bankruptcy appellate panels to hear appeals from bankruptcy courts. The Department of Justice voiced concern in its letter over whether the amendments in S. 540 were too restrictive on the circuits.

To address this concern, we have added an additional standard for the circuit council to consider when determining whether or not to adopt a bankruptcy appellate panel service.

Third, we offer in this amendment some other changes suggested by the Department of Justice:

To amend section 105 by replacing the word "subsection" with "section" in the two places it appears in subsection (D);

To amend subsection 204 of S. 540 to list the correct subsection, 365(D)(3), which is being amended;

To correct the reference to the subparagraph in section 216 of S. 540;

To amend section 302 of S. 540, to avoid confusion with an existing statute, 18 U.S.C. section 3613(F), which provides no fine imposed under the Sentencing Reform Act is dischargeable in bankruptcy. Thus, we offer the additional language "unless otherwise provided by 18 U.S.C. section 3613(F)," be inserted after the words "extent such fine exceeds $500."

A significant part of this amendment is the deletion of the entire chapter 10 provisions in S. 540. We still firmly believe there is a need in the code to allow small business to reorganize cheaply and expeditiously. After much time and discussion with interested parties, we have crafted amendments to chapter 11 which will accomplish much of what we set out to accomplish in chapter 10.

The next addition that we have included in the managers' amendment standardizes the treatment of residential home mortgages throughout the code. A debtor is not allowed to cram down such a mortgage in proceedings under chapter 13 and 7. This same protection of the home mortgage industry is not provided under chapter 11 of the code.

We propose to extend to chapter 11 the same language that is included in section 306 of S. 540. By extending this same language to apply to home mortgages under chapter 11, we make sure the congressional intent that a debtor not be allowed to modify the contract on their home mortgage is sustained throughout the code.

Next, we have introduced substitute language to amend section 207 of S. 540 which deals with antialienation of retirement plans. This language makes clear Congress's intent to protect and provide fair treatment for pension plans and their members. In this substitute amendment, we have included the teachers and public employees retirement systems which provide retirement disability and other benefits to nearly 9 million active retired teachers and other public employees.

The amendment to section 110 of this bill, premerger notification, is an accepted compromise of all parties concerned. The changes in this section are designed to put bankrupt mergers on the same fast track that cash tender offers have outside of bankruptcy. As you know, time is an important factor in the sale or reorganization of a bankrupt company, and this amendment will make sure that sales of these companies move swiftly.

There is also a provision in this amendment which will assure the court that it has the power to issue an injunction and create a trust which is used for the payment of claims and demands pursuant to a reorganization plan.

The amendment contains a modification of section 113, service of process, in the bill. The new language addresses the need to serve by certified mail federally insured deposit institutions. This will ensure that the cost of administering the estate will be kept at a minimum.

We have also extended for bankruptcy and other nonlife-tenured judges similar life insurance benefits now available to all article III judges. This provision was included in S. 1673 and passed as a part of S. 1569 but was deleted by the House for jurisdictional reasons. It allows these judges the option of continuing to pay premiums throughout their retirement and thus maintain the value of their life insurance and provide security for their families.

The amendment will address needed changes in section 365 of the code. This provision will protect the leasehold mortgagee as well as the tenants in the development of a ground lease property. The language is to simply make clear the intent of the section to protect the rights of lessees and mortgage lenders.

The amendment contains noncontroversial provisions that have been crafted with input from bankruptcy experts. I am confident that the inclusion of these provisions in the bill will help to create a bill that will address many important bankruptcy issues.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. If I could, and I cannot do better than the chairman has done on the explanation of this amendment, I would take just a little bit of time to stress a couple of points within it that I think need to be explained because these are things, at least one of them on the original amendment coming out of committee, where some concerns were expressed and probably the way they have been addressed here in the rewrite makes the final product even better than when it came out of committee because, as passed by the committee, the bill would have created a separate chapter 10 pilot program relating to the bankruptcy procedures for small business.

The managers' amendment deletes those provisions. Instead, the managers' amendment will modify chapter 11 and streamline the process of small business bankruptcies. At the same time, these changes will take effect on a nationwide basis immediately upon enactment.

There were concerns raised during the time that this bill came out of committee and the present about the constitutional requirement for uniformity of bankruptcy laws around the United States. Obviously, the pilot programs would not be uniform, and so we felt we had to satisfy the constitutional requirements that they be uniform, and we should particularly express our appreciation to Senator HATCH for his cooperation in working on this issue as well as Senator HEFLIN's efforts.

The managers' amendment will also prohibit cramdowns of residential mortgages in chapter 11. The bill was always designed to prevent these cramdowns and was originally drafted to prohibit individual residential cramdowns in all chapters open to individual debtors. However, the Supreme Court unexpectedly ruled that chapter 11 filings could be brought by individuals as well as by business debtors. To ensure that a loophole that would otherwise exist be closed, this managers' amendment includes provisions extending the same cramdown language to Chapter 11 as well.

So I fully support this amendment and feel it is a good addition to the original legislation.

I yield the floor.

Mr. HEFLIN. Mr. President, the manager's amendment also includes a provision passed by the Senate last Congress to rectify a serious inequity in the current retirement system for Federal judges. This provision was included in S. 1673, and passed as part of S. 1569, last Congress, but delete by the other body for jurisdictional reasons. I believe it is crucial to correct this injustice.

In 1984, Congress sought to compensate Federal judges in some way for the fact that they, unlike all other Federal employees, may not retire at age 55, but must wait until 65. At age 65, life insurance options are fairly limited and expensive. Thus we granted Federal judges the option of maintaining their optional life insurance, at cost to them. Unfortunately, article I judges were not included. This amendment provides these valuable members of the Federal judiciary the same opportunity as article III judges currently enjoy.

Under the current system all Federal employees receive basic life insurance in an amount equal to their annual salary. All employees may opt to pay for additional life insurance at a value equivalent to one to five times their annual salary. The monthly insurance premiums vary depending on the level of coverage they choose and their age. Upon retirement article I judges no longer pay life insurance premiums, but they witness a decrease in their policy value by 2 percent per month. The security they have built up for their family and the substantial premiums they have paid for years of dedicated service essentially dwindles to nothing within 4 years. This amendment would give bankruptcy and other non-life-tenured judges the option of continuing to pay premiums throughout their retirement, and thus maintaining the value of their life insurance and providing security for their family. Upon the death of a judge, the full value of the life insurance policy would be available for his or her survivor.

This amendment would eliminate the discrepancy between retiring article III judges and retiring article I judges, at little, if any, cost to the Government. The Congressional Budget Office has done an initial analysis on the cost of this program and concluded that if there is low participation by article I retirees, there could be a net savings to the Government of $1 to $5 million. At worst, there would be a cost of $1 to $5 million. Despite our extending this option to article III judges in 1984, rates have gone down over the past decade and the Office of Personnel Management reports a current significant surplus in the fund.

The men and women who choose to serve as U.S. bankruptcy, magistrate and claims court judges are dedicated, intelligent, and talented individuals. They represent 45 percent of the Federal judiciary. Most have given up lucrative careers in the private sector to devote their lives to public service—improving the administration of justice throughout the United States. We need to maintain this level of excellence by providing programs that continue to attract strong candidates to the Federal bench. I hope that you join Senator SASSER and myself in support of this mission and its goal of providing retiring article I judges with a fair and cost-effective life insurance program.

Mr. SASSER. Mr. President, I would like to thank my distinguished colleague from Alabama for including in his substitute amendment a provision passed by the Senate during the last Congress to rectify a serious inequity in the current retirement system for Federal judges. As a member of the Subcommittee on Civil Service, I am acutely aware of the need to maintain an equitable benefits package for all Federal employees.

Currently, Federal judges are alone among Federal employees unable to retire at age 55, under the so-called rule of 80. We sought to offset this inequity by enacting, in 1984, the Bankruptcy Amendments and Federal Judgeship Act. This legislation allowed federal judges to maintain their optional additional life insurance after retirement, recognizing the limited availability of insurance options—and the costliness of them—to 65-year-old retirees.

Unfortunately, article I judges—non-life-tenured judges were not included. Today we will redress this oversight.

The current system provides article III judges with a valuable option—to continue their optional additional life insurance upon retirement. Article I judges—and those article III's who do not take advantage of this option—cease to pay premiums upon retirement, but see the value of their policy drop two percent per month. Thus, by age 69, despite their years of service and payments in the FEGLI fund, these retired judges are left without this valuable financial protection for their spouse.

The provision that the chairman has included in S. 540 would eliminate the discrepancy between retiring article III judges and retiring article I judges, at little, if any, cost to the government. As Chairman Heflin has indicated, there could even be a net savings to the Government. As a member of Civil Service Subcommittee, I believe there is a need for this legislation and that it is essential to maintaining a fair life insurance and retirement package for Federal employees.

I want to tell you all about a distinguished constituent of mine, Judge Ralph Kelley, of Chattanooga. He began his career at age 14 as a page to one of the greatest men to ever serve in Congress, Sam Rayburn. He went on to serve as assistant Attorney General for Hamilton County, TN, as a member of the Tennessee House of Representatives, and was elected mayor of Chattanooga in 1962. He was a mayor of Chattanooga during the time that the civil rights movement reached its peak, and guided that city wisely through some very rough times.

In 1969, Ralph Kelley went on to serve eastern Tennessee as a bankruptcy judge, a position he had held now for 25 years. He has dedicated his career to public service. He has enjoyed a successful career, the respect of his colleagues, and the appreciation of his fellow Tennesseans.

I tell my colleagues this because Judge Kelley is an example of the kind of dedicated and compassionate public servants who are disadvantaged by the current system. He has opted to protect his wife and family by investing—for 25 years—in a life insurance policy with the Federal Government.

However, as soon as he retires, the value of his life insurance will decrease by 2 percent per month, and in 4 years, he will have nothing to leave his wife in the way of financial security. This provision will not affect a lot of people, but it will dramatically affect a few, such as Ralph Kelley, who have devoted their lives to public service.

I thank the chairman for including this valuable provision and I urge my colleagues to support it.

Mr. HEFLIN. Mr. President, I urge adoption of this amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1638) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I ask unanimous consent that Senator CAMPBELL of Colorado be added as a cosponsor to the amendment offered previously today by Senator BROWN of Colorado dealing with the supplemental injunction.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I will ask unanimous consent that a letter from the Congressional Budget Office, dated February 2, 1994, be printed in the RECORD, along with the attachments therein. This basically shows that the savings over the year for 1994 will amount to about $52 million savings by the adoption of this bill.

I ask unanimous consent that this material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 2, 1994.

Hon. HOWELL HEFLIN,
Chairman, Subcommittee on Courts and Administrative Practices, Committee on the Judiciary, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed revised cost estimate for S. 540, the Bankruptcy Amendments Act of 1993. This estimate supersedes our transmittal of October 12, 1993, and incorporates information that we have recently received from the Joint Committee on Taxation regarding the revenue impact of section 115 of the bill.

Enactment of S. 540 would affect direct spending and receipts. Therefore, pay-as-you-go procedures, as required by section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 540.

2. Bill title: Bankruptcy Amendments Act of 1993.

3. Bill status: As reported by the Senate Committee on the Judiciary on October 28, 1993.

4. Bill purpose: S. 540 would:

Authorize the appropriation of $1.5 million to establish a National Bankruptcy Review Commission to investigate and study issues relating to the Bankruptcy Code;

Establish a new bankruptcy chapter (chapter 10) for small businesses with debts less than $2.5 million, to be tested in eight districts for a three-year period;

Prohibit small business investment companies (SBICs) from filing for bankruptcy under chapter 7;

Increase the debt limit for filing a chapter 13 case from $350,000 to $1,000,000 and remove the limit altogether in certain cases;

Require that bankruptcy trustees, at meetings of creditors, ask debtors a series of questions regarding the consequences of filing for bankruptcy;

Expand the list of cases for which the filing of a bankruptcy petition does not operate as a stay;

Establish civil and criminal penalties for persons who negligently or fraudulently prepare bankruptcy petitions;

Amend current law with respect to a debtor's pension fund obligations; and

Make many other changes and additions to the federal laws relating to bankruptcy.

5. ESTIMATED COST TO THE FEDERAL GOVERNMENT:

[By fiscal year, in millions of dollars]

	1994	1995	1996	1997	1998	1999
Revenues: Estimated revenues	6	27	17	−1	(1)	(1)
Direct spending:						
Estimated budget authority	−52	0	(1)	(1)	(1)	(1)
Estimated outlays	−52	0	(1)	(1)	(1)	(1)
Authorizations:						
Estimated authorization of appropriations	−1	2	0	0	−1	−1
Estimated outlays	−1	1	(1)	(1)	−1	−1

[1] Less than $500,000.

Note: Negative revenue numbers indicate a loss of revenues and an increase in the deficit.

The spending effects of this bill fall within budget functions 370 and 750.

Basis of Estimate: Revenues. CBO expects that the federal government would lose revenues because of bankruptcy cases filed under chapter 10. Under current law, such cases would be filed under chapter 11 and quarterly fees would be paid, with 60 percent of the fees recorded as governmental receipts and the remainder as offsetting collections. Under S. 540, no quarterly fees would be required for cases filed under chapter 10. CBO estimates that, net of income and payroll tax offsets, the resulting revenue loss would likely be about $1 million annually over the three-year test period, beginning in fiscal year 1995. This estimate assumes that quarterly fees would average about $2,000 per case per year, and that about 1,000 such cases would be filed annually under current law. This estimate also assumes that the eight districts selected will be average in terms of the number and size of bankruptcy filings. If the districts chosen are above average in terms of the number and size of bankruptcy filings, the revenue loss would be larger.

Section 115 of the bill would expand the list of cases for which the filing of a bankruptcy petition does not operate as a stay. This change would result in the earlier collection of taxes in certain situations. The Joint Committee on Taxation estimates that this provision would generate additional revenue of $52 million over the fiscal years 1994–1996 and small amounts in subsequent years.

A number of other provisions could affect revenues, but we expect that the budgetary impact would be insignificant. The government would lose revenues to the extent that small business investment companies would no longer file for bankruptcy under chapter 7, and thus would no longer pay the bankruptcy filing fee. Because there would be few such cases, CBO does not expect this loss to be significant.

S. 540 also would increase the debt limit for filing a chapter 13 case from $350,000 to $1,000,000 and would eliminate the limit altogether in certain cases. These changes could result in a shifting of cases from chapter 7 to chapter 13. To the extent that additional cases are filed under chapter 13, revenues would increase by $45 per case. CBO does not expect this additional revenue to be significant, because the number of additional chapter 13 cases would be small.

Finally, section 304 would impose civil and criminal penalties for persons who negligently or fraudulently prepare bankruptcy petitions. Both criminal and civil fines increase receipts to the federal government. Criminal fines would be deposited in the Crime Victims Fund and would be spent in the follwing year. CBO does not expect this additional revenue or direct spending to be significant, however, because the proposed penalties are expected to deter such activity, which is not widespread.

Direct Spending. Under current law, SBICs may self-liquidate, file for bankruptcy under chapter 7 or reorganization under chapter 11, or liquidate pursuant to receivership laws under the aegis of the Small Business Administration (SBA). Under S. 540, SBICs would be prohibited from filing for bankruptcy under chapter 7. As a result, more SBICs would be liquidated using the receivership laws under the supervision of the SBA. This change would result in additional collections by the SBA from SBIC loans that have already been made and guaranteed. Since 1990, roughly 50 percent of liquidating SBICs have chosen to use chapter 7. When a SBIC seeks protection under chapter 7, the SBA recovers little or nothing, as the SBA's claim is unsecured and subordinated to the SBIC's other debts. When the SBA has acted as receiver, it has recovered up to 100 percent of its guarantee. In addition, a SBIC's liquidation by a court-appointed receiver can be substantially more costly than a similar liquidation with the SBA acting as receiver.

CBO estimates that these changes would result in increased collections to the federal government totaling $39 million over the 1994–1998 period and additional amounts thereafter, resulting from guarantee authority that has already been provided. Under credit reform, such changes in receipts are recorded in the budget on a present value basis. We estimate the resulting budgetary impact over the life of the guarantees to be a decrease in outlays of $52 million in fiscal year 1994.

Section 207 would clarify current law to protect pension plans and would restrict a bankruptcy court's ability to require a pension plan to disburse pension funds to a creditor. This amendment could result in savings to the federal government by reducing the Pension Benefit Guaranty Corporation's (PBGC's) liability in the event that a pension plan is terminated and underfunded. Because of the uncertainty of future claims to the PBGC, a precise estimate of the potential savings is not possible at this time.

Spending Dependent on Appropriation Action. CBO assumes that the $1.5 million authorized to be appropriated for the National Bankruptcy Review Commission would be appropriated for fiscal year 1995 and spent in fiscal years 1995–1997.

CBO expects that recoveries from liquidating SBICs would increase for guarantee authority provided after 1992 as well as for that already provided. The latter has a direct spending impact, as discussed above, and the former would affect future appropriation actions. As a result of credit reform, the Congress must annually appropriate subsidy budget authority for credit programs. This subsidy budget authority is essentially the amount a credit program is expected to lose, on a net present value basis, on loans or guarantees made during that fiscal year. Increased recoveries would decrease the amount the program would be expected to lose, and thus decrease the subsidy budget authority the Congress would have to appropriate for a given level of loan guarantees. CBO estimates that prohibiting SBICs from seeking protection under chapter 7 would decrease the necessary subsidy appropriation for the SBIC program from 15.4 percent of the face value of loan guarantees to 14.9 percent. The subsidy rate for minority enterprise SBIC direct loans would decline from 38.1 percent to 37.6 percent, and the subsidy rate for minority investment company loan guarantees would decline from 28.9 percent to 28.4 percent. Because of these declines in subsidy rates, CBO estimates that the SBA would need $1 million less in annual subsidy appropriations to maintain these programs at the baseline levels of activity.

CBO estimates that the government would lose offsetting collections—about $1 million annually in fiscal years 1995 through 1997—associated with cases that would be filed under chapter 10. Under current law, such cases would be filed under chapter 11 and quarterly fees would be paid. Forty percent of the fees are recorded as offsetting collections to the U.S. trustee system fund and are available for spending from that account. The loss of fees would reduce the amount available for spending by the trustee system from offsetting collections and thus would necessitate an increase in appropriations if the same level of activity is to be maintained. This estimate therefore includes $1 million a year in additional appropriated spending for the three years of the test program.

The requirement that bankruptcy trustees ask debtors a series of questions at meetings of creditors would probably not impose a significant burden on the U.S. trustees. Currently, private trustees attend meetings of creditors, but U.S. trustee program personnel generally do not. To the extent that private trustees would be able to fulfill this requirement, any additional costs to the federal government would probably not be significant. However, if this provision were interpreted to require that U.S. trustee program personnel attend all meetings of creditors and ask debtors the series of questions, the additional staffing costs associated with this requirement would be $10 million to $20 million annually.

Other provisions of the bill would not result in significant costs to the federal government.

6. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that enactment of S. 540 would affect direct spending and receipts; therefore, pay-as-you-go procedures would apply to this bill. The following table summarizes the estimated pay-as-you-go impact of S. 540.

[By fiscal year, in millions of dollars]

	1994	1995	1996	1997	1998
Change in outlays	−52	0	0	0	0
Change in receipts	6	27	17	−1	0

7. Estimated cost to State and local governments: None.

8. Estimated comparison: None.

9. Previous CBO estimate: CBO prepared a cost estimate for S. 540 on October 12, 1993, which did not include any revenue effects of section 115. This estimate supersedes the previous one and incorporates an estimate of the budgetary impact of section 115 recently provided by the Joint Committee on Taxation. It also projects the budgetary impact of the bill through fiscal year 1999.

10. Estimate prepared by: Mark Grabowicz, Susanne Mehlman, and John Webb (226-2860); Wayne Boyington (226-2820); Melissa Sampson (226-2720).

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

AMENDMENT NO. 1639

(Purpose: To amend section 507(a)3 of title 11, United States Code, to give priority to certain claims of independent sales representatives)

Mr. COCHRAN. Mr. President, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], proposes an amendment numbered 1639.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of title II add the following:

SEC. 222. PRIORITY FOR INDEPENDENT SALES REPRESENTATIVES.

Section 507(a)(3) of title 11, United States Code, is amended to read as follows:

"(3) Third, allowed unsecured claims, but only to the extent of $2,000 for each individual or corporation, as the case may be, earned within 90 days before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first, for—

"(A) wages, salaries, or commissions, including vacation, severance, and sick leave pay earned by an individual; or

"(B) sales commissions earned by an individual or by a corporation with only 1 employee, acting as an independent contractor in the sale of goods or services for the debtor in the ordinary course of the debtor's business if, and only if, during the 12 months preceding that date, at least 75 percent of the amount that the individual or corporation earned by acting as an independent contractor in the sale of goods or services was earned from the debtor;".

Mr. COCHRAN. Mr. President, this amendment establishes the priority for expenses and claims of bankruptcy as it relates to independent sales representatives.

Section 507 of title 11 of the Bankruptcy Code provides for the priority order for expenses and claims in bankruptcy. The third priority set out in this section, specifically section 507(a)3, is for unsecured claims up to $2,000 for wages, salaries or commissions, including vacation, severance and sick leave pay earned by individuals within 90 days before the bankruptcy petition was filed or the date of cessation of the debtor's business, whichever comes first.

The purpose of this priority is to ensure that employees, including those who work on commission, are provided a minimum degree of protection when their employer files for bankruptcy.

Under current law, other individuals who derive their income as independent sales representatives by selling products or goods for the debtor firm are not provided any protection for their loss of income when the firm files for bankruptcy.

My amendment would amend this section to include the independent sales representatives and permit them to enjoy the same status as a commissioned sales employee of a debtor firm which goes into bankruptcy. In some instances, corporations exist in the name of one employee truly acting as an independent contractor for the debtor firm in the sale of goods and services, and in those instances the corporation would be included under the terms of my amendment.

The intent and the effect of the amendment is to provide equitable treatment—we consider it equitable—tantamount to that which is provided for employees of a firm, even though they may be called independent sales representatives and they may not technically be considered a direct employee.

To ensure that that is the only class that would be described by the amendment, the amendment provides that the employee or the sales representative would have to earn at least 75 percent of his income during the previous year from the debtor firm.

Only upon meeting that threshold of 75 percent for the previous 12 months would an independent sales representative share in the bankruptcy estate in this priority order and, of course, then only up to the amount of $2,000, as provided for others in this same class, which would have been earned in the 90-day period prior to the bankruptcy filing.

We have submitted this amendment for comment and consideration to the National Bankruptcy Conference, and we have received a favorable report. I am reading from a memorandum now, addressed to Members of the U.S. Senate, and included here is the amendment offered by this Senator, priority for independent sales representatives. The comment of the National Bankruptcy Conference is; "Senator COCHRAN's language is an excellent clarification of existing law."

The independent sales representatives amendment will allow certain independent sales agents or independent contractors to enjoy the same priority in the bankrupt estate as the employees of the bankrupt debtor.

Until recently, section 507(a)(3), which gives employees of a bankrupt firm priority for a limited amount of wages and benefits they have earned was narrowly interpreted to only be available to employees of the bankrupt debtor and not to independent sales representatives.

This interpretation is unfair in many circumstances and has led to inequitable results where independent contractors who make their living as independent contractors—particularly as sales agents have been unable to recover lost income from the bankruptcy estate.

Typically, the work performed by an independent sales representative is similar to, and in many cases identical to, the work performed by an employee of a firm, but such an individual may be excluded under the Bankruptcy Code for no other reason than the characterization of his or her work status.

While some independent sales representatives may derive their income from a number of firms which limits the effect of a single firm's bankruptcy, those who derive most of their earnings from a single firm are not so fortunate, as they cannot recover even the limited amount that is currently available to firm employees.

The Cochran amendment is intended to address the latter circumstance where an independent sales representative stands to lose a significant amount of income due to the bankruptcy of a single firm.

The amendment requires that the independent sales representative must have derived at least 75 percent of his or her income during the previous 12-month period from the single firm filing a bankruptcy petition.

Even after meeting that significant income threshold, an independent sales representative would not receive any windfall from the provision, and in fact, could receive no more than an employee currently receives—priority for a claim of up to $2,000 that may have been earned during the 90-day period prior to the bankruptcy filing.

Every year, thousands of sales agents lose money owed to them because they do not fit into the priority classification's definition of employee.

The unfairness of this situation is amplified because independent contractors work without the security of many employee benefits such as health insurance, profit sharing plans, life insurance, and other benefits available to employees, but not to independent sales representatives.

The amendment would codify the inclusion of independent contractors in the priority section 507(a)(3) that has historically been limited to employees.

The amendment would also eliminate another inequitable result of the current exclusion of independent contractors under the priority section of the Bankruptcy Code.

Under current interpretations of section 507(a)(3), an individual or mom-and-pop business incorporated to limit potential liability, but run as an unincorporated sole-proprietorship is excluded from coverage.

The judicial interpretation that this section is an exclusive remedy for natural persons, excluding all corporations, has the effect of putting form over substance.

Individuals who are incorporated or incorporated mom-and-pop businesses are being shut out from the priority due to the form in which they run their business not as a result of the way the business is actually run.

The amendment is narrowly drawn to provide an exception for only those corporations which are in fact individuals conducting business and would exclude from the priority all businesses with more than one employee.

The amendment will establish a fair priority in the Bankruptcy Code for those independent sales representatives who, like employees, derive all or most of their income from a single firm in bankruptcy.

This amendment will be especially helpful to the most vulnerable manufacturers agent who is on his own and can least afford to have his manufacturer declare bankruptcy.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I believe that the services that are provided by independent sales representatives of this country are equally as important to the survival of a company as is the work performed by the employees at the factories of those companies. It is in that same vein that I support the idea behind this amendment to give priority to certain claims of the independent sales representative. Senator COCHRAN'S amendment would make the claim of the independent sales representative equal to the claim presently allowed, under the Bankruptcy Code, for an employee.

The Bankruptcy Code specifies the kinds of claims that are entitled to priority in distribution, as well as the order of priority. This system was designed to address special circumstances or special needs which warrant certain exceptions. In particular, wages, salaries, or commissions of employees, which without the priority exception would be unsecured claims, are accorded a third priority in distribution of the estate.

The purpose behind this third place in priority is, in part, to insure that employees will not abandon a failing business for fear of not being paid; thus, they will contribute to the rehabilitation of the company. This same rationale also holds true for the independent sales representatives. He or she plays a major part in the rehabilitation of a company by making sure that company's goods are marketed throughout the country and that the orders for those goods continue.

I support this amendment and the provisions which limit its applicability to independent sales representatives who derive at least 75 percent of their previous year's income from the debtor corporation. By limiting the applicability of the amendment, we assure that those people who can really affect the rehabilitation of the debtor company are rewarded for their perseverance.

The independent sales representatives who will be greatly affected by the bankruptcy of a company are the type of employees which the drafters of the code intended to benefit from the special priority employees are granted in section 507 of the code.

For these reasons I support this amendment with the provision with the limitation language.

The impasse we have been in with regard to the submission of other amendments is present. But Senator METZENBAUM has agreed that Senator COCHRAN lay down his amendment, and that we not vote on it at this time, or not pass it.

I do not think there are any objections to his amendment. The amendment was submitted. There have been a lot of negotiations going on. Senator COCHRAN has been amenable to working out an amendment that meets the agreement of both Senator GRASSLEY and myself and our staffs, as well as interested parties like the National Bankruptcy Conference, and I think maybe the American Bankruptcy Institute. They have helped in regard to looking at some of these matters.

We appreciate very much Senator COCHRAN's working with us and working out an agreement. I think it is a good amendment. Basically, it applies where a sales representative derives at least—I believe—75 percent of his income from one employer, and therefore he really is almost in the position of being an employee. It does not allow for those sales representatives who maybe have 6 or 7, and maybe get 10 percent here and that sort of thing. That would certainly be an abuse if that were to be allowed. But I think this limits it and limits it properly.

It is a good amendment, and I think we ought to adopt it. But at this time, I ask unanimous consent that further proceedings on this amendment be set aside, subject to it being called back before the floor with the agreement of Senator COCHRAN, Senator GRASSLEY, and myself.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. I further ask unanimous consent that no second-degree amendment be in order to the Cochran amendment, No. 1639.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the vote ordered for 5:45 be moved to 6 p.m., with all other provisions of the previous agreement remaining in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1639

Mr. HEFLIN. Mr. President, in regard to the Cochran amendment which we laid aside and delayed, Senator COCHRAN is now agreeable to passing it. My understanding is Senator GRASSLEY is agreeable, and I am agreeable. Senator METZENBAUM has no objection to it.

So I ask unanimous consent that the Cochran amendment dealing with independent sales representatives now be in order to be considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I urge adoption of the Cochran amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Mississippi.

The amendment (No. 1639) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I ask unanimous consent for permission to speak as if in morning business for not to exceed 5 minutes, and that my statement not interfere with any of the debate on any pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

ARMS EMBARGO AGAINST THE BOSNIANS

Mr. DOLE. Mr. President, while I welcome the President's proposal for the expanded use of NATO air power to protect U.N.-declared safe havens, I believe that the key missing ingredient in the President's initiative is the lifting of the arms embargo against the Bosnians.

This afternoon I met with Bosnian Vice President Ganic, who pleaded for arms so his people can defend themselves. Had the Bosnian Government had anti-tank and other defensive weapons, the tragic situation in Gorazde may never have occurred. This arms embargo is illegal—it cannot be compared to the embargo against Iraq because it was imposed against a country that no longer exists—Yugoslavia. Bosnia is not Iraq—it is an independent country under attack.

In view of the strong support in the Congress for a unilateral lifting of the arms embargo, I intend to introduce legislation tomorrow which will do precisely that. In January, the Senate overwhelmingly supported—by a vote of 87-9—my amendment to unilaterally lift the arms embargo against the Bosnians. It is time to reaffirm our support and strengthen the President's hand in his dealings with our allies.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

LIFTING THE ARMS EMBARGO

Mr. DORGAN. Mr. President, the Senate minority leader just spoke about an initiative he plans to introduce to lift the arms embargo that now prevents the Bosnians from acquiring the weapons they need to defend themselves. I think that is the right course of action. I have felt that way for some while, and I believe that the minority leader and most of my colleagues believe this is the right course.

However, I've heard a lot of comments on the talk shows and from a number of our colleagues about the terrible suffering and tragedy that is occurring in what used to be Yugoslavia. There always seems to be an undertone of criticism of the Clinton administration. I simply observe this: The Clinton administration, under difficult circumstances, is trying to provide leadership with very, difficult allies, in which there is no uniformity about how to proceed. Those who say we need to do something different or something more, need to clearly articulate what they specifically think. Do they think we ought to introduce U.S. ground troops in that region of the world to deal with this issue? I heard one of my colleagues questioned three times on a talk show on Saturday, and the reporter clearly asked, "What is it you suggest? What should we do differently or more?"

Clearly, we should do more. I agree with the minority leader. Let us lift the arms embargo. Beyond that, do you believe we should introduce American troops in that region that used to be Yugoslavia? Are the American people prepared to support that? This is the question none of us are preparing to answer, and the step that I do not see many people standing on the floor of the Senate preparing to support at this point in time.

IDENTIFYING THE FEDERAL RESERVE BOARD

Mr. DORGAN. Mr. President, I said yesterday that I was going to bring to the floor of the Senate today a chart with the pictures of all of the folks who cast votes down at the Federal Reserve Board, but whose identity almost no one in America knows. The Federal Reserve Board basically operates in secret. They close their doors—I guess they keep the lights on—and they make judgments about interest rates and monetary policy that affects the life of every single American. They are the last sort of dinosaur left in this country that can do that in secret. We have unappointed, unelected, and unconfirmed president of the regional Fed banks that make decisions about monetary policy, and nobody knows who they are.

I thought I would bring their pictures, show their salaries, and give a little bit about their backgrounds. This would show the American people who are making decisions to increase interest rates to put the brakes on the American economy, despite the absence of any credible evidence of inflation. We have a bunch of folks sitting behind a closed door voting and saying our problem is, "We are headed toward inflation, and we want to protect the big money center banks."

Let us tell the people who they are. I hope it will not alarm them that I intend to show pictures of them so they get proper credit for their monetary policies. I think this is wrongheaded to increase interest rates at a time when the country has just come out of a recession and is not nearly reaching cruising speed. To have the Fed now say, "Let us put the brakes on, let us decide that we have an inflation problem," that is like a doctor prescribing penicillin for an illness he cannot diagnose. He says to the patient: You have nothing wrong with you, but someday you will catch something, so let me start giving you medicine.

Putting the brakes on this economy with three successive interest rate increases in as many months is wrongheaded policy. I cannot do much about it. The Fed is an independent agency, unaccountable to virtually anybody except the constituency it serves. I regret that we now see that policy. I wanted to bring that poster today, but it is hard to get the pictures and get them pasted up. I will do that tomorrow.

GRAIN FROM CANADA

Mr. DORGAN. Mr. President, I want to make one additional comment. The United States Trade Ambassador Kantor and United States Secretary of Agriculture Espy are now prepared to take action against our neighbors in Canada for shipping an avalanche, a veritable flood of subsidized grain into our country.

Some colleagues have sent letters of concern and protest, worrying about what it might do to other sectors of the economy. I fully understand some of those concerns. I do not agree with them. Some say the pasta industry might be hurt by this, that, or the other thing.

The central issue is: Is there unfair trade coming into this country with which our producers cannot compete? The answer is clearly "yes." We have been the victim of a flood of unfair grain coming in from Canada. It has cost our producers, our American family farmers, hundreds of millions of dollars in lost income. We ought to expect our Agriculture Secretary, our Trade Ambassador, and this President to stand up and take action. And for the first time in 5 years, we have an administration that has promised us that they will.

On the 22d of April, this Friday, if negotiations are not successful—and they apparently are not the administration has—promised and pledged to take action. I say that is a major step forward. It has taken a couple of years to get somebody in an office downtown who will admit there is a problem. It has taken us a long time after the admission of the problem to get to a solution. We are finally there.

To my colleagues concerned about other sectors, I say that the price of durum wheat goes up and down and back and forth. You do not see the price of macaroni in the grocery stores rising up or down with the price of durum wheat, because there is very little wheat in macaroni. We face a flood of subsidized wheat and barley and other grain from Canada, and this administration is finally prepared to take action. Again, I understand that some express concern but it is not adequate to suggest that anybody should back off this course of action.

If this country is not willing to stand up and insist on fair trade rules from our allies and neighbors, then our producers cannot place any credibility in the Federal Government.

I wanted to say that we are near a point where we will expect and see action at the end of this week on behalf of our producers. It is not action that is unwarranted or precipitous; it is action that is derived from a series of unfair trade positions that the Canadians have taken in which they have flooded our country with unfairly subsidized grain. I am pleased we are at that point, and I ask my colleagues to consider that this stems from injury suffered by too many American family farmers for far too long.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BANKRUPTCY AMENDMENTS ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. HEFLIN. Mr. President, the time of 6 o'clock has arrived.

I move now to table the Reid-Brown amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama to lay on the table the amendment of the Senator from Nevada. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BAUCUS], the Senator from New Jersey [Mr. BRADLEY], and the Senator from New York [Mr. MOYNIHAN] are necessarily absent.

I further announce that the Senator from Michigan [Mr. RIEGLE] is absent due to a death in the family.

I also announce that the Senator from Alabama [Mr. SHELBY] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. DANFORTH] is necessarily absent.

The PRESIDING OFFICER (Mr. AKAKA). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 34, as follows:

[Rollcall Vote No. 95 Leg.]

YEAS—60

Akaka
Bennett
Biden
Bond
Boren
Boxer
Breaux
Byrd
Cochran
Cohen
Coverdell
Craig
D'Amato
Dole
Domenici
Faircloth
Feingold
Ford

Glenn
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Helms
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kohl
Lautenberg
Leahy
Levin
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Murray
Nunn
Packwood
Pell
Robb
Rockefeller
Sarbanes
Sasser
Simpson
Smith
Specter
Thurmond
Wellstone
Wofford

NAYS—34

Bingaman
Brown
Bryan
Bumpers
Burns
Campbell
Chafee
Coats
Conrad
Daschle
DeConcini
Dodd
Dorgan
Durenberger
Exon
Feinstein
Gregg
Hollings
Kerrey
Kerry
Lieberman
Mikulski
Mitchell
Moseley-Braun
Murkowski
Nickles
Pressler
Pryor
Reid
Roth
Simon
Stevens
Wallop
Warner

NOT VOTING—6

Baucus
Bradley
Danforth
Moynihan
Riegle
Shelby

So the motion to lay on the table the amendment (No. 1637) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCAIN. addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I offered an amendment earlier today to curtail congressional parking privileges at Washington airports. The amendment occasioned brief but intense debate in opposition to it. At the time, I chose not to respond to the arguments in opposition to my amendment, although I did not find them persuasive. The Senate has now resolved the matter by rejecting my amendment. I accept that, and I do not desire to continue debate on this subject.

However, Mr. President, I would like to address one of the implications in the arguments of the opponents of my amendment. My friend, the Senator from Missouri, argued that my amendment contributed to the public's "corrosive cynicism" for the institutions of our democracy and evidenced a lack of respect for the institution in which I am privileged to serve. I assume that implicit in that indictment is the charge that the author of the amendment lacks respect for the Senate. It is to that charge which I would like to briefly respond.

Mr. President, I am 57 years old. For nearly 40 of those 57 years I have been privileged to work in service to our Republic and to the institutions dedicated to its preservation. I consider myself blessed by Providence to have had this opportunity to serve, and I defer to no one in my reverence for all the institutions of the world's greatest democracy including and especially the U.S. Senate. My disagreement with the Senator from Missouri is not over whether the Senate merits my respect, but over the reasons for which I owe my respect to this institution.

My respect for the Senate is not the same as my affection for this place, the physical presence of this beautiful Capitol, although I do hold such an affection.

It is not given in gratitude for the distinction of being addressed as Senator, although I am grateful for that honor.

It is not a product of my recognition of the serious and difficult work before this body, although I am humbled by our responsibilities.

It is not a function of my reverence for the many distinguished patriots who preceded me here, although my esteem for them is great.

It is not a consequence of my appreciation for the many able, distinguished and honorable men and women with whom I am privileged to serve, although that appreciation is genuine.

My respect is not, in the end, only a respect for the Senate itself and all its attendant privileges and obligations.

My respect, Mr. President, is for the idea of the Senate, for the idea of public service in America which it represents. My respect is for this one noble idea: that in this country neither circumstances of birth nor ranks of privilege nor the acclaim of elites qualify you for public service. It is only the trust of your equals, by which I mean every other American, which entitles you to serve in the U.S. Senate.

Ours is not a Government of uncommon men and women, and I make no claim to being distinguished in my physical or intellectual attributes. Ours is a Government of the people, and the privilege, the only enduring privilege of service in this Government, is that the people have entrusted you with their interests and should you represent those interests faithfully you will have the singular satisfaction of justifying that trust.

When the people perceive any other distinction between themselves and their representatives—whether that distinction is apparent or real—then, like it or not, we will lose that most precious commodity—the hopefully given, but closely guarded trust of the people who sent us here, and our work—our honorable work here—will lose its value.

My amendment was not intended to exacerbate the public's cynicism for Congress, but to try, in an admittedly small way, to help remedy that cynicism, to help repair a little of the frayed bonds that hold us to our constituents.

I did not represent my amendment as a historical constitutional advance for the Nation. I simply saw that one of the perquisites of our office was perceived by our employers as an inappropriate distinction between us and them. And if the removal of that distinction could affect some restoration of our common identification that it would be worth the loss of a small—a very small—convenience. My effort was born of respect, it was not an affront to it.

In the words of one of my colleagues that effort was a fraud. I do not think so. I neither require nor expect to ever be identified as anything greater than an Arizonan and an American. I have found more than enough honor in that distinction to last a lifetime. Any effort to demonstrate how honored we are to be of the people—no matter how small or symbolic—has real value, and is a useful contribution to the preservation of this institution and the noble idea upon which it rests.

AMENDMENT NO. 1632

Mr. DORGAN. Mr. President, the author of this amendment portrays it as an attempt to prevent Members of Congress, Supreme Court Justices, and diplomats from getting free parking at the airport here in Washington, DC.

But what this amendment will really do if it passes is require the Federal Government to pay parking fees to the District of Columbia and the State of Virginia for parking spaces that have been provided without charge to the Federal Government for over 50 years. Members of Congress, Supreme Court Justices, and diplomats who travel on official business on many, many trips will continue to park at the airport and, if this amendment passes, the airport authority will discontinue providing parking spaces without charge for those Federal officials. Instead, the U.S. Congress will be billed for the parking spaces and will have to send payments to the District of Columbia and the State of Virginia for the right to park in their airports.

The Federal Government provides enormous services to both the District of Columbia and Virginia, and to the two airport authorities. And in exchange for that, the airport authorities for 50 years have provided a parking lot for certain Federal officials so that the Federal Government would not have to reimburse for that parking.

The author of this amendment wants the Federal Government to spend more money. I don't think that makes much sense, and for that reason, I'm voting against this amendment.

But I want to be clear. This is not about whether Members of Congress should be parking without charge. It's about whether the Federal Government is going to be required to reimburse the local governments for that which is not provided without cost.

It's taxpayers who benefit, because the Federal Government would reimburse travel expenses including parking fees that Members of Congress paid if the local airport authorities did not now provide those allocated parking spaces to the Federal Government without charge.

With all the resources we now provide the two local airport authorities, we don't need to be sending them another couple of million dollars a year in parking fees from the Federal treasury, inasmuch as for the past 50 years, the tradition has been for those parking spaces to be provided to the Federal Government without cost.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama yields the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized by the Chair.

EXPLANATION OF ABSENCE

Mr. MOYNIHAN. Mr. President, I thank the Chair, and I rise to simply explain my absence, my failure to respond to the rollcall which ended just moments ago. Senators BRADLEY, BAUCUS, DANFORTH, and I were meeting with the President, with leaders of the House, on a matter of great importance to him, in a meeting in the Oval Office, which meeting was delayed, as the President had a press conference on Bosnia of great importance. He came directly from that press conference.

The Senate knew where we were and what we were doing. It was the last vote of the day. There was no pressure to continue, and I would have thought the courtesy of allowing four Senators to get back from the White House—we were here within minutes of the vote having been closed out. I find it difficult to understand and, in the circumstances, Mr. President, unwelcomed. I understand the responsibility of the Chair was to do what was done. But I find, as I say, the decision to do that difficult to understand.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

MR. BRADLEY. Mr. President, I would simply like to add my voice to Senator MOYNIHAN's. I was a member of that group. There were at least two to three phone calls made, and I regret that the vote was missed. But when meeting with the President of the United States, you do not get up in the middle of the meeting and say, "Sorry, I'm leaving."

Mr. BAUCUS. Mr. President, I regret that I was absent during the previous recorded vote on the Reid amendment to the bankruptcy reform bill. However, as the Senators from New York and New Jersey indicated, we were in a meeting with the President of the United States. Senator DANFORTH was also in that meeting. This was a serious and bipartisan meeting on a matter of national significance.

It is simply not possible, or courteous, to abruptly walk out of a meeting with the President. Given the importance of this meeting and the number of Senators in attendance, I regret that we were not given an additional few minutes to return from the White House.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, on the rollcall vote just concluded, four Senators were absent from the vote because they were attending an important meeting at the White House. I regret very much that they missed the vote, but everyone should understand that they were engaged in important business. I also want to explain the circumstances which led to the setting of the vote.

Mr. President, just shortly after 3 p.m. today, a vote was set to occur at 5:30 p.m. on a then pending amendment to the bill.

At about 4 p.m., we received, through the staff of our Republican colleagues, in behalf of one of the Republican Senators involved, a request that we move that vote until 5:45 p.m. so that the four Senators, two Republicans and two Democrats, could complete their attendance at the meeting with the President and return to the Senate in time for the vote. I acceded to that request, and at about 4 p.m. we changed the time of the then scheduled vote until 5:45 p.m.

About an hour later, or at about 5 p.m., a member of my staff received a call from the White House asking if we could again change the time of the vote to 6 p.m., also to accommodate the four Senators involved. I acceded to that request, and we changed the time of the vote until 6 p.m.

So all of those involved have known since approximately 3 o'clock this afternoon that a vote was going to occur, and on two different occasions I changed the time of the vote at the request of the Senators and at the request of the White House. Had I been asked to change it to a still later time, I would have acceded to that request.

Mr. President, let me state with respect to the time limitation on votes that in the Congress which sat during the calendar years 1987 and 1988. It is my recollection that Senator BYRD, then the majority leader, imposed a limitation on the time for the votes. That limitation was followed by the Senate faithfully.

When I became majority leader, I did not impose such a rule. And as a result, for the succeeding 4 years, back in 1989, 1990, 1991, and 1992, I received what must have been in total thousands of requests by Senators to delay votes for a wide variety of reasons. And I usually did so with the result that votes regularly lasted for 30 minutes, 40 minutes, and my recollection is in some cases beyond an hour. That led in turn to a large number of Senators requesting that a time limitation be reimposed on the votes.

In response to that request, I reimposed such a time limit, and I announced it a year and a half ago. We have operated under that rule for a year and a half. It has been described many occasions. I have discussed it publicly on many occasions. So every Senator knows well in advance that once a vote starts, there is a specific time limitation.

Among the many reasons which led to extensions of votes, one of the most common was a meeting at the White House. It is a daily event. Indeed, several times a day, groups of Senators go to the White House to meet with the President. I am one. The Republican leader is another who perhaps goes to the White House more often than other Senators. And it happens, as I said, on a daily basis. We have tried very hard to accommodate the White House and all Senators in that regard, and I believe we have done so today when we changed the time of the vote on two occasions at the request, first, of some of the Senators who are were attending a meeting, and, second, at the request of the White House.

The circumstances were important. But I want to say, having listened to reasons for missed or extended votes, that there are literally thousands of extenuating circumstances, and there are requests which are made which are reasonable, legitimate, and appropriate which, if observed, would result in votes extending for hours and hours.

It is my belief that, despite some inconvenience to Senators and the fact that some votes are missed, the current rule is an appropriate one, one which should be enforced, and that the only way that it can be enforced is to have no exception because once there is an exception, then there is no rule. And neither I nor any other majority leader in the past has been able to discern a standard by which we could say yes to some requests for extensions and no to other requests.

So I deeply regret that the Senators involved missed the vote. I note that their absence did not affect the decision because the result was by a very wide margin, and their presence could not have changed the result.

I also want their constituents to know that they were working very hard on an important subject. To be present for a rollcall vote is not the only thing the Senator does. The work involves committee meetings, committee hearings, meetings with constituents, meetings with foreign officials, meetings with the President, and meetings with administration officials.

So there should be no criticism of the Senators involved in the circumstances. But I also believe there should be no criticism of the fact that we have a rule, and we must observe the rule. Of course, I will be pleased to consider requests by Senators if they want to change the rule and go back to a procedure under which votes can be extended beyond the specific time limitation.

We have gone back and forth in the Senate. As I have noted at various times, there has been a rule at the various times, and whichever process is followed, there is bound to be some dissatisfaction and some inconvenience.

My principal reason for speaking was to make clear that everyone understands that the Senators involved were absent because they were doing important work and doing their duty at a very important meeting and that we had taken every step to do what we believe was accommodating to those Senators, to the President, and to the White House.

I thank my colleagues for their diligence, and I regret that, at least in this instance, the operation of the rule meant that a vote was missed by the Senators involved.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. HEFLIN. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

BOSNIA—A CLEAR COURSE OF ACTION

Mrs. FEINSTEIN. Mr. President, I rise today to speak about the ongoing slaughter in Bosnia and Herzegovina.

A year ago, I spoke in this Chamber about the outrage of ethnic cleansing, but the killing goes on. There seemed a brief respite after that mortar shell slammed into the open market in Sarajevo, killing scores of innocent shoppers. Now that terrible slaughter has moved to Gorazde in defiance of its designation by the United Nations as a safe zone.

Despite my hope that this conflict will be settled peacefully through negotiations, I am not optimistic following recent actions by the Serbs.

Therefore, I concur with the President that NATO should step up air strikes against Serb artillery and end its targeting of yet another U.N. safe haven crowded with refugees.

Clearly, without denying the very humanity that is the soul of our democratic heritage, we cannot stand back and let the carnage continue.

Through the United Nations, with our NATO allies, the United States must lay out a clear course of action that, in addition to increased air strikes, should carry the possibility of stricter economic sanctions on the unyielding Serbs and lift the arms embargo that cripples the struggle of Bosnian Moslems to defend themselves.

In the past, NATO has yielded considerable moral credibility by its slow reaction in the face of the bloodshed in Bosnia.

And clearly the United States' own national conscience suffers in any prolonged twilight of inaction. Our self-confidence as a Nation is sapped when we watch children die and hospitals shelled and survivors cower by the gravesides fearful of yet another mortar burst. In our minds, we can almost hear the whine of the next incoming round, and we shudder, knowing that when we do take a strong stand, as happened in the wake of the shelling of the Sarajevo market, the Serbs cease their killing and talk of negotiations. When confronted with the possibility of strong air strikes at Sarajevo, the Serbs agreed to a cease-fire and even turned in some of their artillery.

But at Gorazde, first the United States sent mixed signals. Then, limited strikes, confined to a few aircraft and trifling targets, were seen by the Serbs for what they were, a bluff, and they calculatingly called it and intensified their assault on the city.

The darker forces that revel in race hatred and paranoid nationalism see weakness on the part of NATO as an open invitation to ready their weapons for new campaigns of ethnic cleansing.

The terrible tragedy of Bosnia is not only the mangled victims of almost 2 years of uninterrupted bloodshed within its borders, but the prospect that the violence may spread to other provinces of the former Yugoslavia and then beyond—to other nations where racial tensions are high and self-governance is weak.

The Balkans have always been a powderkeg, and so is the crescent of former Soviet republics from the Caspian to the borders of China.

As a nation, we must not embolden strutting demagogs in other lands to believe they are immune from international condemnation and forceful constraint.

The weak alibis of Munich in 1938 about faraway lands about which we know nothing did not spare the world from greater bloodshed, but merely encouraged a madman to further conquest.

Consequently, I believe our Nation and its NATO allies must make clear to the Serbs that air strikes will be intensified unless the siege at Gorazde is lifted. It is time to make Gorazde the symbol of the seriousness with which NATO views the sanctity of U.N. designated safe havens.

Token strikes against small targets have been brushed aside, whereas direct missions against artillery emplacements, command posts, ammunition dumps and principal troop assembly areas could not be ignored.

The bombing of their hillside encampments would be a clear and forceful warning to the Serbs that additional pressures, including the increased economic sanctions against their country and the potential lifting of the arms embargo to the embattled Bosnian Moslems, will be brought against them until they end their murderous rampage and agree to go to the peace table.

These steps will bring profound pressures on the Serbian militants to cease their killing and, if rationality prevails, to seek peace.

These steps, of course, must be carefully coordinated with our allies, which have some 28,000 troops on the ground in Bosnia and Herzegovina and whom we do not wish to place in harm's way.

A precise, step-by-step intensification of pressures—first the ultimatum to end the siege, which if ignored would trigger air strikes against military targets, initially the artillery positions, ammunition depots, and command and control centers—constitutes a measured formula for containing the violence and letting cooler heads prevail in the peace process.

As President Clinton has vowed, we do not want to see American or allied troops dragged into a ground war in the Balkans. But as history has taught us, it is better to take preventive action rather than doing little or nothing until we find ourselves engulfed in a large conflagration.

I stand ready to support our President in his effort to bring peace to the Balkans.

The world, in 1938, turned its back on Hitler, and he took license to plunge the world into war and genocide.

The United States, in 1994, cannot turn its back on genocide. Nor can we and our NATO allies risk the whirlwind that inaction and indecisiveness can bring about.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3813. An act to amend the Export Enhancement Act of 1988 to promote further United States exports of environmental technologies, goods and services.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1654. An act to make certain technical corrections.

The message further announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 31. Concurrent resolution concerning the emancipation of the Iranian Baha'i community.

The message also announced that pursuant to clause 6 of rule X, the Speaker makes the following modification in the appointment of conferees on the bill (H.R. 2333) to authorize appropriations for the Department of State, the U.S. Information Agency, and related agencies, and for other purposes. In the second panel from the Committee on Foreign Affairs, Mr. DIAZ-BALART is appointed in lieu of Mr. ROTH only for consideration of section 755 of the Senate amendment.

At 12:26 p.m., a message from the House of Representatives delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4066. An act to suspend temporarily the duty on the personal effects of participants in, and certain other individuals associated with, the 1994 World Cup Soccer Games, the 1994 World Rowing Championships, the 1995 Special Olympics World Games, the 1996 Summer Olympics, and the 1996 Paralympics.

At 6:50 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2884) to establish a national framework for the development of School-to-Work Opportunities systems in all states, and for other purposes.

ENROLLED BILLS SIGNED

The President pro tempore (Mr. BYRD) announced that on today, April 20, 1994, he had signed the following enrolled bill previously signed by the Speaker:

H.R. 4066. An act to temporarily suspend the duty on the personal effects of participants in, and certain other individuals associated with, the 1994 World Cup Soccer Games, the 1994 World Rowing Championships, the 1995 Special Olympics World Games, the 1996 Summer Olympics, and the 1996 Paralympics.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 3813. An act to amend the Export Enhancement Act of 1988 to promote further United States exports of environmental technologies, goods, and services, to the Committee on Banking, Housing, and Urban Affairs.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on April 19, 1994, he had presented to the President of the United States the following enrolled bills:

S. 2004. An act to extend until July 1, 1998, the exemption from ineligibility based on a high default rate for certain institutions of higher education.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2498. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a report relative to the construction of a Federal Building and U.S. Courthouse in Phoenix, Arizona; to the Committee on Environment and Public Works.

EC–2499. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a report relative to a Social Security Administration Service Center in Chicago, IL; to the Committee on Environment and Public Works.

EC–2500. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the establishment of a National Scenic Byways Program; to the Committee on Environment and Public Works.

EC–2501. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report relative to the restoration of the Great Lakes ecosystem; to the Committee on Environment and Public Works.

EC–2502. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to the national dam inventory; to the Committee on Environment and Public Works.

EC–2503. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, a report relative to abnormal occurrences at licensed facilities for the third quarter of calendar year 1993; to the Committee on Environment and Public Works.

EC–2504. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on the assessment of adequacy of reimbursement rates to pharmacies and its impact on the access to medication and pharmacy services by Medicaid recipients; to the Committee on Finance.

EC–2505. A communication from the Fiscal Assistant Secretary of the Treasury, transmitting, pursuant to law, the report of the Treasury Bulletin for March 1994; to the Committee on Finance.

EC–2506. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the report on improving internal regulatory review; to the Committee on Finance.

EC–2507. A communication from the Chairman of the Physician Payment Review Commission, transmitting, pursuant to law, the report of recommendations in response to congressional mandates; to the Committee on Finance.

EC–2508. A communication from the Board of Trustees of the Federal Hospital Insurance Trust Fund, transmitting, pursuant to law, the annual report for calendar year 1994; to the Committee on Finance.

EC–2509. A communication from the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds, transmitting, pursuant to law, the annual report for calendar year 1994; to the Committee on Finance.

EC–2510. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to the furnishing of defense articles and services to the Governments of Albania, Bulgaria, Estonia, Latvia, Lithuania, and Romania; to the Committee on Foreign Relations.

EC–2511. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to chemical and biological warfare developments worldwide; to the Committee on Foreign Relations.

EC–2512. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to a Presidential determination regarding a drawdown in commodities and services from the inventory and resources of the Department of Treasury to support sanctions enforcement efforts against Serbia and Montenegro; to the Committee on Foreign Relations.

EC–2513. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to a Presidential Determination with regard to the authorized use of fiscal year 1994 Peacekeeping Operation funds to furnish assistance for sanctions enforcement against Serbia and Montenegro; to the Committee on Foreign Relations.

EC–2514. A communication from the President of the United States, transmitting, pursuant to law, the Arms Control and Disarmament Agency's annual report for fiscal year 1993; to the Committee on Foreign Relations.

EC–2515. A communication from the Senior Deputy Assistant Administrator, Bureau for Legislative and Public Affairs, Agency for International Development, transmitting, pursuant to law, a report relative to the economic conditions in Turkey; to the Committee on Foreign Relations.

EC–2516. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to March 24, 1994; to the Committee on Foreign Relations.

EC-2517. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to Israel's participation in the International Atomic Energy Agency; to the Committee on Foreign Relations.

EC-2518. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to April 7, 1994; to the Committee on Foreign Relations.

EC-2519. A communication from the General Counsel of the Department of the Treasury, transmitting, a draft of proposed legislation to amend the Bretton Woods Agreements Act to authorize consent to and authorize appropriations for the United States contribution to the Global Environment Facility, and for other purposes; to the Committee on Foreign Relations.

EC-2520. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-214; to the Committee on Governmental Affairs.

EC-2521. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-215; to the Committee on Governmental Affairs.

EC-2522. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-216; to the Committee on Governmental Affairs.

EC-2523. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-217; to the Committee on Governmental Affairs.

EC-2524. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-219; to the Committee on Governmental Affairs.

EC-2525. A communication from the President of the United States (received on April 19, 1994), transmitting, pursuant to law, a report on the United Nations Protection Force in the former Yugoslav Republic of Macedonia; to the Committee on Foreign Relations.

EC-2526. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to contributions made by the United States Government to International Organizations for the period April 1, 1993 to September 30, 1993; to the Committee on Foreign Relations.

EC-2527. A communication from the President of the United States, transmitting, consistent with the War Powers Resolution, a report relative to the status of the U.S. contribution to the U.N. embargo of Haiti; to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-443. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on Environment and Public Works.

"HOUSE JOINT MEMORIAL NO. 9

"Whereas, on December 28, 1993, the National Marine Fisheries Service (NMFS) in 50 CFR 226 adopted a final rule which designated critical habitat for the Snake River Sockeye Salmon, Snake River Spring/Summer Chinook Salmon and Snake River Fall Chinook Salmon pursuant to the Endangered Species Act; and

"Whereas, this designation impacts the entire Salmon and Clearwater River drainages and the Snake River upstream to Hells Canyon Dam or roughly one-third of the land mass of Idaho; and

"Whereas, the following counties contain or border rivers, steams and hydrologic units designated as critical habitat under the NMFS designation: Adams, Benewah, Blaine, Clearwater, Custer, Idaho, Latah, Lemhi, Lewis, Nez Perce, Shoshone and Valley; and

"Whereas, in its designation, the NMFS states: ". . . Because adverse modification of riparian zones may impede the recovery of threatened and endangered salmon, the adjacent riparian zone is included in the critical habitat for listed Snake River Salmon . . ." and defines "adjacent riparian zones" as those areas within a horizontal distance of three hundred feet from the normal high water of a stream channel or from the shoreline of a standing body of water; and

"Whereas, this designation will probably have deleterious impacts on livestock grazing, agricultural activities, timber harvest, mining and related activities currently conducted in the designated areas; and

"Whereas, in the NMFS designation there is little reference to a restriction of hydroelectric dams on the Snake and Columbia River systems that is causing difficulties with both upstream and downstream passage of anadromous fish, a major reason why salmon have been decreasing in numbers, and the NMFS designation is also largely silent insofar as harvest regulation and control of salmon predators, these being additional major reasons for the decline in salmon numbers; and

"Whereas, under Section 4(b)(2) of the Endangered Species Act, critical habitat is required to be designated on the basis of the best scientific data available and after taking into account the economic impact and other relevant impacts of specifying any particular area as critical habitat and an area may be excluded from a critical habitat designation if the overall benefits of exclusion outweigh the benefits of designation and the exclusion will not result in the extinction of the species; and

"Whereas, the University of Idaho has currently prepared such a study for two of the twelve Idaho counties designated under the NMFS order; and

"Whereas, the NMFS designation has great potential to do severe economic harm to the other Idaho counties, to many Idaho citizens and industries with ramifications to the economic health of the whole State of Idaho, while at the same time being questionably effective toward its main goal and objective: recovery of more salmon; and

"Whereas, the "incremental" approach used by NMFS in analyzing the socio-economic impacts of designating critical habitat, which resulted in a judging of "no significant impact" appear to circumvent the intent of Congress regarding Section 4(b)(2) of the Endangered Species Act.

"*Now, therefore, be it resolved*, By the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that we respectfully request the President of the United States and the Administrator of the National Marine Fisheries Service to declare a moratorium in enforcing the critical habitat designation contained in 50 CFR Part 226 as it pertains to the twelve Idaho counties so that the State of Idaho and the affected counties can prepare reliable socio-economic impact analyses to determine if justification exists for an exemption pursuant to section 4(B)(2) of the Endangered Species Act.

"*Be it further resolved*, That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the Administrator of the National Marine Fisheries Service, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States."

POM-444. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Environment and Public Works.

"JOINT RESOLUTION

"Whereas, a modern, well-maintained, efficient and interconnected transportation system that is vital to the economic growth, health, and global competitiveness of our State and the entire nation; and

"Whereas, the highway network is the backbone of a transportation system that provides for intermodal connectivity and the movement of people and goods; and

"Whereas, it is critical to effectively address highway transportation needs through appropriate transportation plans and programs; and

"Whereas, the Federal Intermodal Surface Transportation Efficiency Act of 1991 established the concept of a 155,000-mile National Highway System, which includes the Interstate System; and

"Whereas, on December 9, 1993, the United States Department of transportation transmitted to Congress a proposal for a National Highway System, which identified 104 port facilities, 143 airports, 191 railroad-truck terminals, 321 Amtrak stations and transit terminals; and

"Whereas, the Intermodal Surface Transportation Efficiency Act of 1991 requires that National Highway System maintenance funds may not be released to the states if the National Highway System is not approved by September 30, 1995; and

"Whereas, the uncertainty associated with the future of the National Highway System precludes the possibility of the State to actively undertake and properly develop the necessary planning and programming activities; now, therefore, be it

"*Resolved*, That We, your Memorialists, respectfully urge and request that the Congress of the United States enact legislation to designate and approve the National Highway System no later than September 30, 1994; and be it further

"*Resolved*, That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, and to each member of the Maine Congressional Delegation."

POM-445. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on Finance.

"HOUSE JOINT MEMORIAL NO. 13

"Whereas, the 1967 United States Supreme Court decision in the case of 'National Bellas Hess, Inc. v. Dept. of Revenue' (386 U.S. 753 (1967)) denies states the authority to require the collection of sales and use taxes by out-of-state mail order firms that have no physical presence in the taxing state, even though they solicit and obtain significant sales there through the mail and common carriers; and

"Whereas, in its 1992 decision in 'Quill Corp. v. North Dakota' (U.S.S.C. Doc. No. 91-194), the United States Supreme Court clearly indicated that the Congress of the United States can, consistent with the U.S. Constitution, enact legislation authorizing direct marketers to collect state and local use taxes; and

"Whereas, the inability of states like Idaho to require certain direct marketers and other businesses not physically present, but selling to their residents, to collect sales and use tax places many community businesses that support state and local governments at a substantial competitive disadvantage; and

"Whereas, restrictions on collecting such taxes result in a loss of billions of dollars nationally and millions of dollars in Idaho of legally due sales and use tax revenue; and

"Whereas, according to a recent report released by the Advisory Commission on Intergovernmental Relations, the revenue potential to all states from untaxed interstate mail order sales is projected to be $3.27 billion in 1992 and that the loss of tax revenue to the State of Idaho in the same report is estimated to be 12.7 million dollars; and

"Whereas, organizations representing local retailers, state and local officials and public service recipient groups are working to achieve enactment of federal legislation that would authorize states to require direct marketers to collect state sales and use taxes; and

"Whereas, in the two decades since the 'National Bellas Hess' decision, improvements in communications technology and transportation distribution systems have changed the nature and extent of interstate sales and the recent and projected rapid growth in interstate sales, through television, mail order, '800' telephone numbers and by other means of electronic communications indicates that, without corrective legislation, collection of sales and use taxes will become increasingly inequitable and unenforceable; and

"Whereas, there has been introduced into the Senate of the United States a bill, S. 1825, 'The Fairness for Main Street Act of 1994,' that would allow state and local jurisdictions to require out-of-state companies to collect sales or use taxes on tangible personal property sold to residents of the state or local jurisdictions if the company's national sales are not less than $3 million and sales into the state are not less than $100,000 and which includes other fair and reasonable safeguards for out-of-state companies.

"*Now, Therefore, Be It Resolved*, By the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that we respectfully request Congress to enact S. 1825, "The Fairness for Main Street Business Act of 1994," or substantially similar legislation that would prevent this state's revenue loss and remove the competitive advantage now enjoyed by some out-of-state businesses.

"*Be It Further Resolved*, That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States."

POM-446. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on Foreign Relations.

"Whereas, President Clinton announced that he is lifting the trade embargo on Vietnam and is establishing a trade liaison office in Hanoi; and

"Whereas, last summer, President Clinton outlined four criteria for judging the seriousness of Vietnam's commitment in accounting for missing Americans: these included repatriation of remains; provisions of archival materials related to missing Americans; resolution of last-known-alive discrepancy cases; and cooperation on resolving Laotian POW/MIA cases; and

"Whereas, Clinton Administration officials gave the Vietnamese Government a list of eighty-four cases that they expected help on before they could recommend lifting the embargo and in each, U.S. officials believe that persuasive evidence exists that the Vietnam Government knows what happened to the men; and

"Whereas, accounting for these Americans would provide a concrete demonstration of Vietnam's willingness to address some of the President's stated concerns and it would serve as a gesture of good faith by the Vietnamese to proceed with the hundreds of cases beyond the eighty-four that they could easily resolve; and

"Whereas, despite Clinton Administration assertions that Vietnam has made measurable progress in each of the specific areas, the Vietnam Government's record of stonewalling and cynical manipulation for more than twenty years cannot be ignored; and

"Whereas, during the Vietnam War, the Vietnamese went to great lengths to keep track of enemy personnel who came under their control, alive or dead, as all units had been instructed on procedures to follow in the event they killed or captured an American, including immediate notification to higher headquarters; and

"Whereas, dead Americans were carefully photographed and cataloged and remains were often buried immediately at aircraft crash sites and locations of the graves recorded and a year or more later, teams recovered the remains, preserved them as they did for their own and reburied or stored them above ground in designated locations; and

"Whereas, throughout this process, detailed records were kept and over the years the Vietnam Government has returned some of these remains and U.S. intelligence estimates that the Vietnamese could readily provide hundreds more; and

"Whereas, today, Vietnamese officials continue to hold back key documents they know are crucial to the accounting process of POWs and MIAs while providing a large volume of inconsequential materials to create the impression of cooperation and progress; and

"Whereas, same officials of the Vietnam Government, using words strikingly similar to those they have used for two decades, are again claiming they hold no more American remains despite the fact that Vietnamese records and photographs provided since 1992 back up previous intelligence and diplomatic admissions that they continue to hold hundreds of remains or can provide persuasive explanations why some remains may not be available; and

"Whereas, the Government of Vietnam has not provided a single set of remains from the list of eighty-four MIAs given to them months ago and until they do, it is not credible to assert that the President's criteria on the repatriation of remains has been met; and

"Whereas, lifting the trade embargo now without achieving real results is a tragic mistake as it will dash the hopes of the families who have been waiting so long for answers, place the Clinton Administration in the position of relying solely on the Vietnam Government's 'goodwill' and risk eroding further the American people's trust in government.

"*Now, Therefore, Be It Resolved*, By the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that the current administration not take further steps to restore economic or diplomatic relations with the Government of Vietnam until it can be certified that the Vietnam Government is being fully forthcoming in telling us what they know about Prisoners of War and Americans Missing in Action during the War in Vietnam and that it rescind any action lifting the trade embargo on Vietnam and establishing a political liaison office in Hanoi until such facts can be certified.

"*Be It Further Resolved*, That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to President Bill Clinton, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States."

POM-447. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on Labor and Human Resources.

HOUSE JOINT MEMORIAL NO. 10

"Whereas, the railroad industry is acknowledged as the originator of private company pensions in the United States; and

"Whereas, in the 1930's the United States Congress assumed the responsibility for developing a federally administered retirement program to place the various railroad pension plans on a solid financial basis; and

"Whereas, the railroad retirement system today covers over one million individuals who have contributed over the years in good faith and who have legitimate expectations of receiving their benefits; and

"Whereas, the National Performance Review in its report 'From Red Tape to Results: Creating a Government That Works Better and Costs Less' proposes to transfer the functions of the Railroad Retirement Board to the Social Security Administration, to other federal agencies, and to 'private section service providers'; and

"Whereas this proposal would privatize and terminate a program that has worked well and provided retirement security to millions of people for nearly 60 years; and

"Whereas, it now costs less money per benefit dollar to administer Railroad Retirement than it costs to administer Social Security and consequently, the proposal is likely to increase costs to the taxpayer; and

"Whereas, the transfer would violate the Federal Government's stated commitment to 'serving the customer' as current and future Railroad Retirement beneficiaries vehemently oppose the transfer; and

"Whereas, this action threatens to disrupt earned and needed benefits for 1.3 million active, retired, and disabled rail workers and their families; and

"Whereas, this proposal would adversely affect all active and retired railroad employees and their families in the great state of Idaho.

Now, Therefore, Be It Resolved, By the members of the Second Regular Session of the Fifty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that a continued Federal Commitment to the railroad retirement system is essential to assure the integrity of the railroad retirees' benefits and the preservation of the present structure of the railroad retirement system, including the administrative framework of the Railroad Retirement Board, is necessary to fulfill the time-honored responsibility of the Federal Government.

Be It Further Resolved, That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States."

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. NUNN, from the Committee on Armed Services:

CHIEF OF NAVAL OPERATIONS

To be admiral

Adm. Jeremy M. Boorda, U.S. Navy, 332-32-6007.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 14, October 4, and October 19, 1993, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 2032. A bill to amend the Energy Policy and Conservation Act with respect to purchases from the Strategic Petroleum Reserve by entities in the insular areas of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS (for himself and Mr. BURNS):

S. 2033. A bill to provide for the exchange of certain lands within the State of Montana; to the Committee on Energy and Natural Resources.

By Ms. MOSELEY-BRAUN:

S. 2034. A bill to improve the quality of public elementary and secondary school libraries, media centers, and facilities in order to help meet the National Education Goals; to the Committee on Labor and Human Resources.

By Mr. BUMPERS:

S. 2035. A bill to withdraw certain lands located in the Mark Twain National Forest from the mining and mineral leasing laws of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. McCAIN (for himself and Mr. INOUYE):

S. 2036. A bill to specify the terms of contracts entered into by the United States and Indian tribal organizations under the Indian Self-Determination and Education Assistance Act, and for other purposes; to the Committee on Indian Affairs.

By Mr. JOHNSTON (for himself and Mr. BREAUX):

S.J. Res. 182. A joint resolution to designate the year 1995 as "Jazz Centennial Year"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 2032. A bill to amend the Energy Policy and Conservation Act with respect to purchases from the Strategic Petroleum Reserve by entities in the insular areas of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

EMERGENCY PETROLEUM SUPPLY ACT

Mr. AKAKA. Mr. President, today I am introducing the Emergency Petroleum Supply Act, a bill to ensure that insular areas of the United States have guaranteed access to the strategic petroleum reserve during an oil supply disruption. Senator INOUYE has joined me in cosponsoring this legislation.

Hawaii relies on oil for 90 percent of its energy needs, all of which arrives by ocean tanker. We are the most oil-dependent State in the Nation. That is why access to oil reserves during an energy emergency is so important to the people of Hawaii. An oil supply disruption could stifle our economy and cripple our largest employer the visitor industry.

The legislation I am introducing today will safeguard Hawaii from the harsh economic consequences of an oil emergency. The Emergency Petroleum Supply Act is good energy policy and good economic policy for the State of Hawaii.

The cold war may be over, but the world continues to be a dangerous place because of regional tension and conflict. The Middle East, which controls 65 percent of the world's oil supply, has seen its share of turmoil and will face instability in the years to come. Last week's tragic friendly fire incident, in which 26 American soldiers, U.N. peacekeepers, and Kurdish civilians were killed, serves as a grim reminder that Iraq, the country with the world's second largest proven oil reserves, is still a war zone.

Three years ago, Iraq was the site of the largest United States military engagement since the Vietnam war. While we are all pleased the attempted occupation of Kuwait was unsuccessful, Iraq's aggression is a stark reminder of just how vulnerable we are to a cutoff of oil supplies.

The thought of what Iraq could have achieved had its occupation of Kuwait been successful remains a frightening prospect. The combined oil reserves of Iraq and Kuwait total 260 billion barrels. Had these oil fields come under unified control, they would constitute one-fifth of the world's oil reserves. It is a sobering thought to imagine so vast an energy resource under the control of a despot like Saddam Hussein.

The gulf war was not the first time in recent memory that we faced a major oil supply disruption, however. The invasion of Kuwait triggered the third disruption of world oil supplies in the past 20 years.

Fortunately, we have a resource in place to insulate U.S. consumers from energy price shocks. When an oil crisis hits, we turn to the strategic petroleum reserve. This emergency reserve, located in Louisiana and Texas, currently holds 580 million barrels of crude.

During the gulf crisis, our emergency reserves were called into action for the first time. On January 16, 1991, the day Operation Desert Storm was launched, the President authorized the first emergency drawdown of the petroleum reserve. Fortunately, the war with Iraq was short-lived and the SPR drawdown was limited.

Had we been hit by a more severe oil supply disruption, these emergency reserves would certainly have protected the continental United States from serious economic harm. Hawaii and the territories would not have been so fortunate, however. Hawaii's only means of access to the strategic petroleum reserve is by tanker delivery from the Gulf of Mexico through the Panama Canal. Unlike the mainland, which has access to oil transported by pipeline, rail, and highway, all of Hawaii's crude oil and refined products arrive by ocean tanker. A total reliance on ocean deliveries makes Hawaii exceptionally vulnerable to a cutoff of oil supplies.

As any grade school geography student can tell you, Hawaii is a long way from the Gulf of Mexico, especially when you have to transit the Panama Canal. The distance between the strategic petroleum reserve loading docks and Honolulu, by way of the canal, is 7,000 miles—more than one-quarter of the distance around the globe. The problems of the other Pacific territories are even more acute. American Samoa is 8,000 miles by ship from the SPR facilities, and Guam is over 10,000 miles distant from these reserves. Puerto Rico and the Virgin Islands face a similar predicament.

But distance alone is not the issue. When you add together the time between the decision to drawdown the reserves and the time for oil from the reserves to actually reach our shores, the seriousness of the problem emerges. it takes time to solicit and accept bids for SPR oil, time to locate and position tankers, time for tankers to wait in line to gain access to SPR loading docks, and more time to transit the canal to Hawaii. Obviously, Hawaii is at the end of a very, very long supply line. People overlook the fact that insular areas have a limited supply of petroleum products on hand at any one time. While Hawaii waits for emergency supplies to arrive, oil inventories could run dry and our economy would grind to a halt.

An oil supply disruption is Hawaii's greatest nightmare. Studies commissioned by the State of Hawaii have determined that the delivery time for strategic petroleum reserve oil to Hawaii from the Gulf of Mexico would be as much as 53 days. This exceeds the State's average commercial working inventory by 23 days.

As I have said before, when the Middle East sneezes, the mainland may catch a cold, but Hawaii comes down with double pneumonia. We have good reason to be concerned about the ability of the strategic petroleum reserve to serve Hawaii in a crisis. That is why I am introducing this legislation today.

A study recently completed for the Department of Energy by the East-West Center provides strong justification for granting Hawaii and the territories special access to SPR oil during an energy emergency. The East-West Center study concluded that a major oil supply disruption would have a much more severe impact on the Pacific islands than the rest of the United States. Although all of Asia would experience inflation and recession, the small economies of the insular areas would be virtually unprotected from volatile economic forces. While the rest of the United States does not have to rely on ocean transport from other nations for goods and services that are an essential part of daily living, the economies of Hawaii and the Pacific islands are heavily dependent on ocean-borne trade and international tourism.

The East-West Center study thoroughly analyzed the effect of a major oil supply disruption on the economies of these islands. It found that although an oil price shock would be traumatic, the aftereffects would be even more severe. An oil shortage would lead to recession, which would trigger a decline in tourism and produce a continuing downward spiral for the island economies. Finally, the date indicate that such a downward spiral would last longer in island economies than in the much larger, broadly integrated mainland economy.

According to the East-West Center, a secondary impact of a severe oil supply disruption would be significant price hikes, with a doubling or even tripling of prices as a likely outcome, and a corresponding increase in inflation. Tourism could fall by as much as 50 percent, causing a 5-percent job loss in the U.S. Pacific islands, or roughly 28,000 jobs in Hawaii. A recession would likely follow, producing a much more severe downturn that could easily double the effects of the crisis. In other words, a severe oil supply disruption would create adverse downstream effects that would not be felt for several months, yet would continue for several years. The study paints a bleak portrait of the economic consequences of an oil emergency in Hawaii.

The East-West Center study also provided an analysis of my proposed legislation. After examining the overall oil supply and demand situation within the Pacific basin, the inability of refineries to accept crude from nontraditional suppliers, and the full range of consequences that would result from a major oil supply disruption, the report concluded that the bill I am introducing today is "an excellent proposal which would greatly reassure the islands that their basic needs would be maintained."

The objective of my bill can be summed up in one word: access. Hawaii and the territories, because of their tremendous distance from the Gulf Coast, need guaranteed access to the strategic petroleum reserve as well as priority access to the SPR loading docks.

My bill addresses both these concerns. First, it provides a mechanism to guarantee an award of SPR oil. Companies serving insular areas would be able to submit binding offers for a fixed quantity of oil at a price equal to the average of all successful bids. This concept is modeled after the way the Federal Government sells Treasury bills. It would ensure that Hawaii and the territories have ready access to emergency supplies of oil at a price that is fair to the Government. Without this change, Hawaii's energy companies, and the population they serve, face the risk that their bid for SPR oil would be rejected and that oil inventories would run dry.

The second component of my bill addresses the problems of delay. It grants ships delivering petroleum to Hawaii and the territories expedited access to strategic petroleum reserve loading docks. It would be a terrible misfortune if deliveries to Hawaii or some other oil-starved territory were further delayed because the ship scheduled to carry emergency supplies was moored in the Gulf of Mexico, waiting in line for access to the SPR loading docks.

As the East-West Center study demonstrates, energy security is an important economic issue for the Pacific islands. Hawaii may be the 50th State, but we deserve the same degree of energy security that the rest of the Nation enjoys. It's simply a matter of equity. Hawaii's tax dollars help fill and maintain the strategic petroleum reserve, but Hawaii doesn't benefit from the energy security the reserve provides. That's not fair. And it's not right.

I ask unanimous consent that the text of the bill and relevant portions of the East-West Center study be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2032

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Petroleum Supply Act".

SEC. 2. PURCHASES FROM THE STRATEGIC PETROLEUM RESERVE BY ENTITIES IN THE INSULAR AREAS OF THE UNITED STATES.

(a) GENERAL PROVISIONS.—Section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) is amended by adding at the end the following new subsection:

"(j)(1) With respect to each offering of a quantity of petroleum product during a drawdown of the Strategic Petroleum Reserve:

"(A) A purchaser located in an eligible insular area of the United States, in addition to having the opportunity to submit a competitive bid, may submit (at the time bids are due) a binding offer, and shall on submission of the bid be entitled to purchase a category of a petroleum product specified in a notice of sale at a price equal to the average of the successful bids made for the remaining quantity of petroleum product within the category that is the subject of the offering.

"(B) A vessel that arrives at a delivery line of the Strategic Petroleum Reserve to take on a petroleum product for delivery to a purchaser located in an eligible insular area of the United States shall be loaded ahead of other vessels waiting for delivery if the Governor or other chief executive officer of the eligible insular area of the United States certifies that delivery must be expedited to avert a critical supply shortage in the eligible insular area of the United States.

"(2)(A) In administering this subsection, and with regard to each offering, the Secretary may impose the limitation described in subparagraph (B) or (C) that results in the purchase of the lesser quantity of petroleum product.

"(B) The Secretary may limit the quantity that any one purchaser may purchase through a binding offer at any one offering of 1/12 of the total quantity of petroleum products that the purchaser imported during the previous year.

"(C)(i) Subject to clause (ii), the Secretary may limit the quantity that may be purchased through binding offers at any one offering to 3 percent of the offering.

"(ii) If the Secretary imposes the limitation stated in clause (i), the Secretary shall prorate the quantity among the purchasers who submitted binding offers.

"(3) In administering this subsection, and with regard to each offering, the Secretary shall, at the request of a purchaser—

"(A) if the quantity is less than 50 percent of 1 full tanker load less than a whole-number increment of a full tanker load of a petroleum product, adjust upward, to the next whole-number increment of a full tanker load, the quantity to be sold to the purchaser; or

"(B) if the quantity is 50 percent of 1 full tanker load more than a whole-number increment of a full tanker load of a petroleum product, adjust downward, to the next whole-number increment of a full tanker load, the quantity to be sold to the purchaser.

"(4)(A) Except as provided in subparagraph (B), petroleum products purchased through binding offers pursuant to this subsection shall be delivered to the eligible insular area of the United States.

"(B) Purchasers may enter into exchange or processing agreements that require delivery to other locations.

"(5) As used in this subsection:

"(A) The term 'eligible insular area of the United States' means the State of Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(B) The term 'offering' means a solicitation for bids to be submitted not later than any specified day for a quantity or quantities of crude oil or petroleum product from a delivery line of the Strategic Petroleum Reserve.".

(b) EFFECTIVE DATES.—The amendments made by subsection (a) shall remain in effect until such time as the Secretary promulgates and implements regulations pursuant to section 3.

SEC. 3. REGULATIONS.

(a) DEFINITIONS.—For the purposes of this section—

(1) the term "insular area" means the State of Hawaii, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands; and

(2) the term "eligible purchaser" means—

(A) an insular area government; or

(B) a person who owns a refinery that—

(i) is located in an insular area; or

(ii) has supplied refined petroleum product to an insular area within the year immediately preceding the sale, or within another period the Secretary determines to be representative of recent imports to the insular area.

(b) IN GENERAL.—The Secretary shall issue regulations that provide benefits for insular areas during the sale of petroleum product withdrawn from the Strategic Petroleum Reserve.

(c) CONTENT.—The regulations issued under subsection (a)—

(1) shall permit an eligible purchaser to purchase petroleum product—

(A) at a price equal to the average price of comparable quality petroleum product sold at the contemporaneous competitive sale of petroleum product withdrawn from the Strategic Petroleum Reserve; or

(B) if no comparable quality petroleum product sold at the contemporaneous competitive sale, at a price estimated by the Secretary to be equivalent to the price described in subparagraph (A);

(2) shall provide for priority cargo lifting of petroleum product purchased by an eligible purchaser at a competitive sale or under paragraph (1);

(3) may limit the amount of petroleum product that may be purchased under paragraph (1) during a sales period—

(A) by an eligible purchaser, to no less than 1/12 of the total amount of petroleum product that the purchaser brought into an insular area during the year immediately preceding the sale or during another period the Secretary determines to be representative of recent imports to the insular area; or

(B) by all eligible purchasers, to no less than 3 percent of the amount of petroleum product offered for sale during the sales period prorated among the eligible purchasers;

(4) may provide that, at the request of a purchaser, the quantity of petroleum product to be sold to the purchaser may be adjusted upward or downward, to the next whole-number increment of a full tanker load, if the quantity that otherwise would be sold is less than a whole-number increment;

(5) may establish procedures for qualifying an entity as an eligible person before a sale of petroleum product withdrawn from the Strategic Petroleum Reserve;

(6) may require an eligible purchaser to comply with financial and performance responsibility requirements applied to offerors in competitive sale;

(7) except as otherwise provided by this subsection, may require an eligible purchaser who purchases petroleum product under paragraph (1) to comply with standard contract provisions applied to purchasers at competitive sales;

(8) may ensure, to the extent practicable, that an eligible purchaser who receives benefits under paragraph (1) or (2) passes on the benefits to an insular area;

(9) may require an eligible purchaser who receives benefits under paragraph (1) or (2) to furnish the Secretary with documents and other appropriate information to determine compliance with this subsection; and

(10) may establish procedures for imposing sanctions on an eligible purchaser who receives benefits under paragraph (1) or (2) and who does not comply with the requirements of this subsection.

(d) PLAN AMENDMENTS.—No amendment of the Strategic Petroleum Reserve Plan or the Distribution Plan contained in the Strategic Petroleum Reserve Plan is required for any action taken under this subsection if the Secretary determines that an amendment to the plan is necessary to carry out this section.

(e) ADMINISTRATIVE PROCEDURE.—Regulations issued to carry out this subsection shall not be subject to the requirements of section 523 of the Energy Policy and Conservation Act (42 U.S.C. 6393) or of section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).

ENERGY VULNERABILITY ASSESSMENT FOR THE U.S. PACIFIC ISLANDS

OIL SUPPLY DISRUPTION SCENARIOS FOR THE PACIFIC ISLANDS

The following sections describe the potential oil supply disruptions scenarios provided by the USDOE for this report, the likely impacts of these supply disruptions on the island economies, and selected response issues. The discussions parallel those in chapters 4 to 7, which also discuss vulnerability response options for the individual island entities. The response issues which are discussed below reflect the larger economies of scale which can be gained by linking Guam, the CNMI, Palau, and American Samoa. Hawaii and the Federated States of Micronesia and the Repubic of the Marshall Islands should be included in any regional groupings because they are also part of the same oil supply system. Unfortunately, the terms of reference for this report did not allow for assessment of these island entities.

Three oil supply disruption scenarios for the Pacific islands are discussed below and evaluated with respect to their potential impacts. Figures 2.16, 2.17, and 2.18 provide the basis for the assessment. The three scenarios are all estimated to last six months and include:

Scenario I: Major disruption caused by major political turmoil affecting Middle Eastern and Asian producers with a net loss of 4.5 MMBD (9.0 MMBD production loss minus 4.5 MMBD drawdown of global strategic petroleum reserve).

Scenario II: Medium-scale disruption caused by simultaneous upheaval in West African and Latin American producers with a net loss 4.5 MMBD (production loss of 6.0 MMBD minus SPR drawdown of 1.5 MMBD).

Scenario III: Minor disruption based on limited upheaval in the Middle East with a loss of 2.0 MMBD (production loss of 4.3 MMBD minus production increase by other countries of 2.3 MMBD).

Before discussing the specific scenarios, several historical reference points should be noted. First, the Asian market is a net importer of oil sourced largely from the Middle East. Second, during previous oil crises, Asian producers such as Indonesia and Malaysia have not diverted supplies. Instead, Asian producers have generally given preference to traditional markets, including Singapore, for their products. Third, most Asian refineries such as those in Singapore are configured to process Middle Eastern crudes and are not as well adapted to refining the lighter, sweeter West African crudes and the heavier, more sour Latin American crudes. In other words, Asia's refining capacity is geared towards supplies from the Middle East, and substitutes are not readily available or easily incorporated. The scenarios are discussed below beginning in reverse order.

Scenario III: Minor disruption

Under Scenario III, there would be no redirection of Asian oil supplies. Impact on U.S. West Coast supplies would be negligible. However, there would be a drop of 10 percent in supplies for Singapore (approximately 100 to 150 MBD), and a similar reduction in Australian and New Zealand crude imports. The result is an anticipated shortfall of approximately 10 percent for the Pacific islands region.

The effects of this 10 percent shortfall are considered minimal. Oil price rises would be very modest and there should be no appreciable negative secondary effects for the islands region such as a major decline in tourism.

No official response measures would need to be instituted. However, it is recommended that monitoring of supplies and prices should be carried out. It is also recommended that utilities, the oil industry, and governments promote energy conservation programs, including voluntary measures by the population to reduce consumption of electricity and gasoline.

Scenario II: Medium disruption

Although the volume of oil lost to the market is considerable (4.5 MMBD), because the West African and Latin American producers are linked to other markets, the Asia-Pacific region would be only slightly affected. There would be some redirection of Middle Eastern supplies, but it is anticipated that the net effect would lead to only a 10 percent decrease in supplies for Singapore, Australia and New Zealand. Similarly, the effect on the U.S. West Coast would be minimal.

The results and response measures for Scenario II are identical to those described above for Scenario III.

Scenario I: Major disruption

A global net loss of 4.5 MMBD based on major political upheaval in the Middle East and Asia and includes a total loss of 2.5 MMBD from Asia oil producers would affect various Pacific Rim markets very differently. The direct impact on U.S. West Coast supplies would be fairly limited (e.g., 5 percent or less) because imports have only a small role in that market. The direct and indirect effects on supplies to Australia and

New Zealand should be relatively modest, approximating a 10 percent decline. The Singapore refiners, however, would be severely affected.

In this scenario, Singapore would experience a 30 percent loss in Asian supplies. The cutback in Middle Eastern production would result in an additional 20 percent decrease. The combined loss of 50 percent would greatly affect the islands region both directly and indirectly.

Directly, the islands region would lose atleast 50 percent of its supplies from Singapore. Australia would be able to provide some additional supplies, but it would also have to compensate for its own loss of supplies. The net loss to the islands region could well be in the range of 25 to 50 percent.

A secondary impact would be significant price hikes. Under Scenario I, spot prices on the Singapore market would soar. Price doubling and even tripling would be likely outcomes. In the 1979/80 period, the crisis centered on Iran led to an additional 20 percent increase in prices. The short-term consequences of the 1979 oil price rise lead to inflation rates of 7.5 percent in Japan, 11 percent in Australia, 15 percent in Fiji and nearly 30 percent in Tonga and Vanuatu. In other words, inflation rates in some of the islands nearly doubled. If the 1979 experience is applied, it would be reasonable to anticipate a near doubling of inflation rates for Guam, the CNMI and Palau.

Compounding the direct supply and price effects of Scenario I, the political complications of the oil supply disruption have to be considered. Following the onset of the recent Persian Gulf War, the Iraqi President threatened to attack U.S. territory and economic interests throughout the world, and there had been several reports of terrorist activity by Iraqis in Asia which heightened concern. As a result, Guam, the CNMI, and Hawaii experienced a downturn in tourism immediately following the outbreak of the 1991 Gulf War because tourists were frightened to fly to U.S. territory. Whether fact or only perception, people reduce their international travel even to relatively "safe" destinations during crisis periods: if there is political upheaval in a major Middle Eastern or Asian nation, international business and tourist travel will be restricted in order to reduce the vulnerability to terrorist attacks.

Interestingly, the number of tourists to Guam and the CNMI began to revive soon after the Gulf War and by early 1992 tourist arrivals were at record levels. However, in September 1992, Typhoon Omar struck Guam and the CNMI and was followed by several other typhoons. The result was a drop of nearly 45 percent in the level of Guam's tourist arrivals, a loss of 1,500 jobs, and a substantial decline in tax revenues, all of which have been greatly compounded by the continuing slump in the Japanese economy.

These effects would probably be similar to the effects of an oil supply disruption under Scenario I. Although difficult to predict with any level of certainty, tourist arrivals could fall sharply (by as much as 50 percent) if a political upheaval in Asia elevated fears of international terrorist activity and/or resulted in higher travel costs. The near-term effects would be a loss of jobs by roughly 5 percent and a fall in tax revenues by a similar level. However, if a recession were to follow, and this would be a likely outcome, then the downturn would be much more severe and could easily double the effects of the crisis.

With Scenario I, it is very likely that in addition to oil supply shortfalls, oil price increases, inflation, and reduced levels of international tourism resulting from the political upheaval causing the oil supply disruption, a recessionary period in the major economies would ensue. The effects of a major recession would again greatly affect the island economies through reduced levels of tourism and reduced demand for their exports, mainly fresh and canned seafoods. As an example, the 1973/74 oil price rise led to global recession, including a severe downturn in Australia which greatly reduced the levels of Australian tourists to Fiji. In other words, a severe oil supply disruption creates downstream effects which are not felt for several months yet may continue for several years.

Two key questions emerge under Scenario I. The first is whether the islands would experience more severe impacts than the rest of the United States. Although all of Asia would experience inflation and recession, the islands' small open economies would be virtually unprotected from the global market: nearly all food and all medicine are imported. The economies are nearly totally dependent on off-island trade and international tourism; with the exception of Hawaii, the rest of the United States does not have to rely on ocean transport and other nations for essential goods and services. In sum, there would be no territory of the United States more severely affected by a major Asian oil supply disruption than the Pacific islands.

The second question is how to respond with short-term measures to meet basic demands for petroleum. Oil price and supply monitoring and voluntary conservation programs would be insufficient responses to a disruption of this magnitude. With respect to the oil supply, the U.S. West Coast could divert some of its supplies to the islands. The Australian arrangement for the South Pacific islands may provide a useful guide. In the event of an oil supply disruption which results in a net market loss of crude oil or petroleum products of 7 percent of the total International Energy Agency (IEA) market, the IEA member may elect to activate the Emergency Oil Sharing System, the objective of which is to ensure fair sharing of available supplies among the IEA group of countries (the OECD minus France). As a member of the IEA, Australia is committed to take certain demand restraint measures should the IEA Emergency Oil Sharing Scheme go into effect. The demand restraint is measured as a percentage decrease in total consumption, including traditional exports. This means that if a 10 percent demand restraint measure is instituted, then Australia has to cut its combined own consumption and traditional exports by 10 percent.

The Australian arrangement covers the independent island nations sourced from Australia. It does not cover American Samoa or any of the North Pacific nations and territories sourced via Guam, including the Federated States of Micronesia and the Republic of the Marshall Islands. These nations and territories either have to secure emergency supplies via Singapore or from a nontraditional supplier, the United States.

The United States via its military infrastructure has considerable levels of stocks in the Asia-Pacific region as well as the shipping capacity to deliver supplies. However, as Figure 3.2 shows, the military is cutting back on its commercially leased storage capacity and is also shutting down some of its own storage facilities in certain locations.

Another potential source of crude petroleum is Papua New Guinea whose oil production is now at 135,000 b/d. Currently refined throughout the Asia Pacific region, this crude resource could provide a substantial margin of safety for the Pacific islands. A 30,000 b/d refinery has been approved by the government and could be operating in 1996.

Through the supply capacities of the oil companies operating in the region, other regional suppliers, and the U.S. government (Strategic Petroleum Reserve and the military), the Pacific islands should be able to receive emergency supplies. It is possible that some type of formal assurance to the island governments is required. Currently being considered for legislation in the U.S. Congress is a proposal which would guarantee the U.S. Pacific islands including Hawaii a percentage drawdown of the national SPR if emergency measures were placed in effect. This guarantee would ensure access to oil supplies for the islands. Market prices would have to be paid, but basic services could be maintained. Not guaranteed is transport for the oil supplies. However, preliminary indications are that tankers could be acquired, albeit at market rates which would be high during crisis periods. This is an excellent proposal which would greatly reassure the islands that their basic needs would be maintained.

By Mr. BAUCUS (for himself and Mr. BURNS):

S. 2033. A bill to provide for the exchange of certain lands within the State of Montana; to the Committee on Energy and Natural Resources.

LOST CREEK LAND EXCHANGE ACT OF 1994

• Mr. BAUCUS. Mr. President, I am introducing the Lost Creek Land Exchange Act of 1994. This legislation exchanges 10,800 acres in the Deerlodge and Gallatin National Forests and the opportunity to harvest approximately 3.5 million boardfeet of timber in the Deerlodge National Forest for 18,300 acres of land that is currently owned by Brand S. Lumber Co., of Livingston, MT.

This legislation is of real benefit to Montanans and the millions of Americans who visit our national forest system each year. Specifically, this legislation accomplishes three very important objects.

First, it brings into public ownership the 14,500 acre Lost Creek Reserve. Located north of Anaconda in the Deerlodge National Forest, the Lost Creek Reserve is an outstanding place. The Lost Creek Reserve is home to Rocky Mountain Bighorn sheep, mountain goats, elk, moose, and deer, and it is literally right out the backdoor for the community of Anaconda. Acquiring this property means convenient public access to some of the best wildlife habitat and hunting in the Rocky Mountains.

Second, this legislation completes consolidation of lands in the Gallatin Range Wilderness study area, Gallatin National Forest. The Gallatin National Forest surrounds Yellowstone National Park, and serves as critical habitat for Yellowstone's elk, deer, moose, and grizzly bear. Our best trout streams like the Yellowstone and Gallatin Rivers are fed by streams that originate high in the Gallatin Range. The outstanding scenery and wildlife opportunities in the Gallatin are not lost on the public—the Gallatin has the highest visitor use of any forest in Montana.

Congress has already taken two very important steps to consolidate public ownership in the Gallatin Range. In 1989–90, Congress appropriated a total of $7 million to purchase lands in the Gallatin National Forest that are critical winter range for Yellowstone's elk herds. This last Congress, President Clinton signed into law the Gallatin Range Consolidation and Protection Act. Under this act, the Forest Service will acquire over 70,000 acres of land in the Gallatin Range.

The Lost Creek Land Exchange Act completes what has been a concerted effort by many groups over many decades. The Forest Service will acquire 4,485 acres of land in the Gallatin Range, of which, 3,205 is within the boundaries of the Gallatin Wilderness study area.

Third, this legislation creates jobs by making timber available for Brand S Lumber Co. to harvest in an environmentally responsible manner. Brand S has gained a good deal of respect in Montana for their dedication to responsible timber management. In this legislation, the land and timber rights that Brand S will receive are specifically governed by Best Management Practices developed by the Forest Service. Additionally, Brand S has agreed to work with the Nature Conservancy and place conservation easements on the lands that they acquire in the Gallatin National Forest to protect against future commercial development.

This legislation is the product of considerable work by Brand S Lumber Co., local sportsmen, conservationists, the Montana Department of Fish, Wildlife and Parks, and the U.S. Forest Service. In the end, these groups pulled together and came up with a land exchange that makes everyone a winner. Time is short, however, and the Congress must act as quickly as possible to ensure that these important lands are brought into public ownership. I urge my colleagues to recognize the positive nature of this legislation and work with me to pass it into law in short order.

Mr. President, I ask unanimous consent that land exchange specifications and the full text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2033

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lost Creek Land Exchange Act of 1994."

SEC. 2. LAND EXCHANGE.

(a) GENERAL.—Notwithstanding any other provisions of law, the Secretary of Agriculture (referred to in this Act as the "Secretary") is authorized and directed to acquire by exchange certain lands and interests in lands owned by the Brand S Corporation, its successors and assigns, (referred to in this Act as the "Corporation"), located in the Lost Creek area of in Deerlodge National Forest and within the Gallatin National Forest.

(b) OFFER AND ACCEPTANCE OF LAND.—

(1) NON-FEDERAL LAND.—If the Corporation offers fee title that is acceptable to the United States to approximately 18,300 acres of land owned by the Corporation and available for exchange, as depicted on the map entitled "Brand S/Forest Service Land Exchange Proposal," dated March 1994, and described in the "Land Exchange Specifications" document pursuant to paragraph (b)(3), the Secretary shall accept a warranty deed to the land.

(2) FEDERAL LAND—Upon acceptance by the Secretary of title to the Corporation's lands pursuant to paragraph (b)(1), and subject to reservations and valid existing rights, the Secretary of the Interior shall convey, by patent, the fee title to approximately 10,800 acres on the Deerlodge and Gallatin National Forests, and by timber deed, the right to harvest approximately 3.5 million board feet of timber on certain Deerlodge National Forest lands, as depicted on the map referenced in paragraph (b)(1) and further defined by the document referenced in paragraph (b)(3).

(3) AGREEMENT.—The document entitled "Brand S/Forest Service Land Exchange Specifications" which was jointly developed and agreed to by both parties and defines the non-Federal and Federal lands involved in this exchange, and includes legal descriptions of exchange lands and interests, an Access Resolution Agreement and other agreements is hereby incorporated by reference.

(c) TITLE.

(1) REVIEW OF TITLE.—Within 60 days of receipt of title documents from the Corporation, the Secretary shall review the title for the non-Federal lands described in paragraph (b) and determine whether.—

(A) the applicable title standards for Federal land acquisition have been satisfied or the quality of title is otherwise acceptable to the Secretary;

(B) all draft conveyances and closing documents have been received and approved; and

(C) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary.

(2) CONVEYANCE OF TITLE.—In the event the quality of title does not meet Federal standards or is otherwise unacceptable to the Secretary, the Secretary shall advise the Corporation regarding corrective actions necessary to make an affirmative determination. The Secretary, acting through the Secretary of the Interior, shall affect the conveyance of lands described in paragraph (b)(2) not later than 90 days after the Secretary has made an affirmative determination.

(d) RESOLUTION OF PUBLIC ACCESS.—In accordance with the terms of the Access Resolution Agreement referenced in paragraph (b)(3), the Secretary shall secure legal pubic road access to Gallatin National Forest System lands in: (1) the Eightmile Creek area and (2) the Miller Gulch-Fridley Creek-Dry Creek area.

SEC. 3. GENERAL PROVISIONS.

(a) MAPS AND DOCUMENTS.—The maps referred to in section 2 are subject to such minor corrections as may be agreed upon by the Secretary and the Corporation. The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives of any corrections made pursuant to this paragraph. The maps and documents described in section 2(b)(1) and (3) shall be on file and available for public inspection in the office of Chief, Forest Service, USDA.

(b) NATIONAL FOREST SYSTEM LANDS.—

(1) IN GENERAL.—All lands conveyed to the United States under this Act shall be added to and administered as part of the Deerlodge or Gallatin National Forests, as appropriate, of the National Forest System by the Secretary in accordance with the laws and regulations pertaining to the National Forest System.

(2) WILDERNESS STUDY AREA ACQUISITIONS.—Lands acquired within the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area shall be managed to maintain their wilderness character and potential for inclusion in the National Wilderness Preservation System in accordance with the Montana Wilderness Study Act of 1977 (16 U.S.C. 1132 note). Subject to valid existing rights, lands acquired within the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area shall not be available for entry, appropriation, or disposal under the public land laws; for location, entry, and patent under the mining laws; or for disposition under the mineral and geothermal leasing laws, including all amendments thereto, until such time as the Congress decides on the wilderness status.

(c) VALUATION.—The values of the lands and interests in lands to be exchanged under this Act and described in section 2(b) are deemed to be of approximately equal value.

(d) HAZARDOUS MATERIAL LIABILITY.—The United States of America, including its departments, agencies, and employees, shall not be liable under the Comprehensive Environmental Response, Compensation and Liability Act, as amended (herein referred to as CERCLA), 42 USC 9601 et seq., or the Clean Water Act, 33 USC 1251, et seq., or any other Federal, State or local law, solely as a result of acquiring an interest in the Lost Creek Tract or due to circumstances or events occurring before acquisition, including any release or threat of release of hazardous substances.

DRAFT—BRAND-S/FOREST SERVICE LAND EXCHANGE SPECIFICATIONS—BRAND-S LAND EXCHANGE ACT OF 1994

PART I

Property that Brand S Corporation will offer conveyance to the United States: Principal Meridian—Montana.

Deerlodge NF

Lost Creek Tract:

T. 5 N., R. 11 W:

Sec. 6, all fractional	638.69
Sec. 7, Lots 1–10 inclusive, E½NE¼, NW¼NE¼, NE¼NW¼, SE¼SW¼ NE¼SE¼	573.82
Sec. 8, SW¼NE¼, W½, SE¼	520.00
Sec. 9, lots 6, 7, NW¼SW¼, S½SW¼ (includes MS 4170)	239.56
Sec. 16, all fractional (excludes HES 80, includes portions of MS 6542 & MS 6577	630.28
Sec. 17, all fractional (includes portions of MS 6542 & MS 6577)	634.86
Sec. 18, Lots 1–8 inclusive, NE¼NE¼, S½NE¼, E½NW¼NE¼SW¼N½SE¼	630.49
Sec. 20, lot 1, NW¼NE¼, S½NE¼, SE¼ (includes portion of MS 6577)	320.00

Sec. 21, lot 1, NE¼, NE¼NW¼, SW¼NW¼, N½SE¼NW¼, SW¼SE¼NW¼, NW¼NE¼SW¼, W½SW¼, SE¼ (includes portion of MS 6577)	560.00
Sec. 22, lots 1–8 inclusive, NW¼NE¼, S½NE¼, W½W½	563.48
T. 5 N., R. 12 W:	
Sec. 1, all fractional	640.08
Sec. 2, Lots 1–4 inclusive, S½N½, S½ less MS 5023	633.04
Sec. 3, lots 1, 2, S½NE¼, SE¼	320.07
Sec. 11, all	640.00
Sec. 12, all	640.00
Sec. 13, E½	320.00
Sec. 14, lots 10, 11, W½NW¼, SW¼, MS 9040	330.06
T. 6 N., R. 11 W:	
Sec. 30, lots 3, 4, E½SW¼, SE¼	314.32
Sec. 31, all fractional	628.56
T. 6 N., R. 12 W:	
Sec. 22, SE¼NE¼, E½SE¼	120.00
Sec. 23, SW¼NW¼, SW¼, SW¼ SE¼	240.00
Sec. 25, SW¼NE¼, NW¼NW¼, S½NW¼, S½	480.00
Sec. 26, all	640.00
Sec. 27, all	640.00
Sec. 34, all	640.00
Sec. 35, all less MS 5023	630.44
Sec. 36, all	640.00
Subtotal to Deerlodge NF	13,807.75

Gallatin NF

West Pine Tract:	
T. 4 S., R. 7 E:	
Sec. 1, all fractional	629.53
Sec. 11, all	640.00
Sec. 13, all fractional	642.64
T. 4 S., R. 8 E:	
Sec. 7, all	640.00
Mud Lake Tract:	
T. 5 S., R. 7 E:	
Sec. 5, all fractional	654.44
Sec. 7, all fractional	630.20
Sec. 9, all	640.00
Subtotal to Gallatin NF	4,476.81

Comprising 18,284.56 acres, more or less

Land reservations of Brand S Corporation and exceptions to title:

RESERVATIONS

Reserving to Brand S Corporation, its successors and assigns, until five (5) years from the date legislation is enacted, the right to harvest and remove up to 60% of the existing merchantable timber from sections 1 and 7 of the West Pine Tract. This is more specifically defined as a right to harvest up to a total of 1383 thousand board feet (MBF) from section 1, T.4 S., R.7 E. and section 7, T.4 S., R.8 E. Exercise of these rights is subject to the Secretary's Rules and Regulations in 36 CFR 251.14 and the Timber Harvest Guidelines (Exhibit A).

OUTSTANDING RIGHTS

1. The rights of the United States and third parties recited in the patents from the United States.

2. An undivided one-fourth of all minerals, including oil and gas as contained in deed to Edward Mott and June Mott dated March 28, 1961, recorded February 17, 1965 in Volume 107, pages 481–482, records of Park County, MT. Affects all lands in T. 4 S., Rs. 7 and 8 E.

3. All mineral rights and mineral interest whatsoever which were owned of record by George E. Lefgren and Fern Lefgren on September 20, 1968 as contained in Contract for Deed dated September 20, 1968, recorded February 1, 1984 in Roll 46, pages 134-137, records of Park County, MT. Affects all lands in T. 5 S., R. 7 E.

4. Provisions as contained in deed to Mt. Haggin Livestock, Inc. recorded in Book 41, page 390, Granite County, MT. Affects all lands in T. 6 N., R. 12 W.

5. An easement for road purposes as contained in deed to Story Ranch Corporation, recorded January 3, 1975 on Roll 10, pages 1331–1333, Park County, MT. Affects section 9, T. 5 S., R. 7 E.

6. Right of adjacent landowners to water portions of the premises as an incident to their irrigation processes as contained in deed to YVR Partnership recorded June 7, 1978 on Roll 22, pages 1054–1058, Park County, MT. Affects all lands in T. 4 S., Rs.7 E. and 8, E; T. 5 S., R. 7 E.

7. Easement for a public road granted to the State of Montana recorded in Book 42, page 187, Deer Lodge County, MT. Affects section 9, T. 5 N. R. 11 W.

8. Easement for a public road granted to the State of Montana recorded in Book 42, page 169, Deer Lodge County, MT. Affects section 9, T. 5 N., R. 11 W.

9. Lack of legal access.

OTHER ENCUMBRANCES

1. Unrecorded Consent for Access to EPA, including its contractors, for purposes of obtaining a hazardous materials inventory.

Consent for access will be terminated and an authorization for access will be issued by the Forest Service to EPA, including its contractors, at closing.

2. Grazing authorization (unwritten). Disposition?

3. Improvements.

Brand S Corporation will remove from the involved non-Federal lands, all structures and improvements located on two sites in the SW¼NE¼ of Sec. 36, T. 6 N., R. 12 W. and in the SW¼SW¼ of sec. 2, T. 5 N., R. 12 W. Such removal shall occur prior to acceptance of title by the Secretary.

4. Water right.

(1) Source: Unnamed Trib., Crystal Creek, Water Rights No. 43B-W-194420-00, T. 5 S., R. 7 E, Sec. 9.

(2) Source: W. Pine Creek, Water Rights No. 43B-E-085045-00, T. 4 S., R. 7 E., Sec. 13.

Need disposition from Mike Atwood.

6. Delinquent general county taxes for second half of 1992, 1993, 1994 and 1996, if applicable.

Appropriate arrangements will be made to insure payment of these taxes.

6. Mortgage to secure an indebtedness recorded June 8, 1992 in Book 85, page 253, Mortgagor. Brand S. Corporation; Mortgagee: United States National Bank of Oregon. Affects all lands in Deer Lodge County, MT.

This item will be satisfied and the mortgage released.

7. Mortgage to secure an indebtedness recorded April 20, 1993 on Roll 92, pages 874–875. Mortgagor: Brand S Corporation; Mortgagee: Bridge Mountain Trails, Inc. Affects all lands in Park County, MT.

This item will be satisfied and the mortgage released.

8. Mortgage to secure an indebtedness recorded June 8, 1992 on Roll 33, page 987. Mortgagor: Brand S Corporation; Mortgagee: United States National Bank of Oregon. Affects all lands in Granite County, MT.

This item will be satisfied and the mortgage released.

9. Financing Statement converting all timber filed June 8, 1992 as NO. 7601. Affects all lands in Deer Lodge County, MT.

This item will be released and removed from title.

10. Financing Statement filed June 8, 1992 as No. 23793. Affects all lands in Granite County, MT.

This item will be released and removed from title.

11. Contract for deed recorded May 30, 1975 on Roll 12, pages 48–52. Seller: Springhill Ranch; Buyer John S. Brandis, Jr. and Evelyn Fosse Brandis. Buyer's interest conveyed as contained in Bargain and Sale Deeds recorded January 2, 1992 on Roll 85, pages 28–31 and on Roll 85, pages 32–35. Affects all lands in Park County, MT.

These items will be removed from the title.

PART II

Property that the United States will offer for conveyance to Brand S Corporation: Principal Meridian—Montana.

Deerlodge NF

Elk Park Tract:	
T. 4 N., R. 7 W:	
Sec. 2, lots 1–7 inclusive, SW¼NE¼, SE¼NW¼, E½SW¼, NW¼SE¼	501.99
Sec. 11, lots 7, 8, W½NW¼, SE¼NW¼, SW¼SW¼	220.29
Sec. 14, lots 2 and 3	74.41
Rumsey Tract:	
T. 6 N., R. 13 W:	
Sec. 5, part of lot 1 (2 acres approx), lots 2–7 inclusive, SW¼NW¼ (estimated)[1]	221.44
Sec. 6, lots 1–12 inclusive, E½SW¼, W½SE¼	556.29
Sec. 8, lot 1	50.16
Sec. 18, all fractional	636.72
Marshall Creek Tract:	
T. 7 N., R. 15 W:	
Sec. 1, lots 1–4 inclusive, S½N½, S½	641.20
T. 7 N., R. 14 W:	
Sec. 6, lots 1–5 inclusive, SE¼NE¼, NE¼SE¼	273.50
Maywood Ridge Tract:	
T. 8 N., R. 13 W:	
Sec. 2, S½SE¼NE¼, S½NW¼, S½	420.00
Subtotal Deerlodge NF (estimated)	3606.00

[1] Survey (supplemental plat) will be required.

Together with the right to harvest timber subject to the Timber Harvest Guidelines, as set forth in Exhibit A of this document, on the following lands:

	MBF
Highlands Tract:	
T. 1 S. R. 7 W: Sec. 6, all fractional	1200
Prison Tract:	
T. 8 N., R. 10 W:	
Sec. 30, all fractional	1685
T. 7 N., R. 10 W:	
Sec. 6, all fractional	564
Total estimated volume	3449

RESERVATIONS

1. Excepting and reserving to the United States a right-of-way thereon for ditches or canals constructed by the authority of the United States (Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945).

2. Excepting and reserving to the United States and its assigns from the lands so granted, an exclusive perpetual easement, including all right, title and interest for existing roads as shown approximately on attached Exhibits * and more particularly identified and described herein, and all appurtenances thereto, over, upon, or under the land so granted, together with such reasonable rights of temporary use of lands im-

mediately adjacent to said right-of-way as may be necessary for the maintenance and/or repair of said roads.

Said easements shall be sixty (60) feet in width, thirty (30) feet on each side of the centerline with such additional width as required for adequate protection of cuts and fills.

The centerline of the roads lying approximately as follows:

(a) Forest Road No. 1537 (existing): Beginning approximately 400 ft. south of the northwest corner of Sec. 2, T.4 N., R.7 W., over and across Sec. 2 in a northerly direction, and ending approximately 200 ft. south of the northwest corner. Approximate length of segment is 200 ft. Affects NW¼ of Sec. 2, T.4 N., R.7 W., P.M.MT. (Elk Part Tract).

(b) Forest Road No. 442—Segment 1 (existing): Beginning in the southeast corner of Lot 8 of Sec. 11, T.4 N., R.7 W., which is approximately 1,850 ft. northeast of the southwest corner of Sec. 11. Over and across Sec. 11 in a north, northeasterly direction for approximately ½ mile to a point on the north line of the SE¼NW¼ of Sec. 11, which is approximately 2,400 ft. southeast of the northwest corner of Sec. 11. Affects SE¼NW¼ and NE¼SW¼ of Sec. 11, T.4 N., R.7 W., P.M.MT. (Elk Part Tract).

(c) Forest Road No. 442—Segment 2 (existing): Beginning on the east line of the NW¼NW¼ of Sec. 11, which is approximately 1,400 ft. southeast of the northwest corner of Sec. 11 and traversing over and across Sec. 11 in a northwesterly direction for approximately .20 miles to the north section line of Sec. 11, which is approximately 425 ft. east of the northeast corner of Sec. 11. Affects NW¼NW¼ of Sec. 11, T.4N., R.7W., P.M.MT. (Elk Park Tract).

(d) Forest Road No. 9427 (existing): Beginning on Road No. 442, approximately 900 ft. southeast of the northwest corner of Sec. 11, T.4N., R.7W., thence traversing over and across the W½NW¼ of Sec. 11 in a southwesterly direction for approximately .30 mile, ending on the west line of Sec. 11, approximately 1,450 ft. south of the northwest corner of Sec. 11. Affects NW¼NW¼ of Sec. 11, T. 4N., R. 7W., P.M.MT. (Elk Park Tract).

(e) Forest Road No. 1567 (existing): Beginning on the west line of Lot 1 of Sec. 8, T. 6N., R. 13W., approximately 1,500 ft. south of the northwest corner of Sec. 8, thence traversing over and across Lot 1 of Sec. 8 in an easterly direction for approximately .10 mile to the east line of Lot 1. Affects Lot 1 of Sec. 8, T.6N., R.13W., P.M.MT. (Rumsey Tract).

(f) Forest Road No. 1578 (existing): Beginning on the west line of Sec. 18, T. 6N., R. 13W., approximately 350 ft. south of the northwest corner of Sec. 18, thence traversing over and across the W½ of Sec. 18 in a southeasterly to west direction for approximately 1.25 miles and ending on the south line of Sec. 18 approximately 150 ft. east of the southwest corner. Affects W½ of Sec. 18, T.6N., R.13W., P.M.MT. (Rumsey Tract).

(g) Forest Road No. 78350 (existing): Beginning on Forest Road No. 1578 in the SW¼SW¼of Sec. 18, T. 6N., R.13W., approximately 700 ft. northeast of the southwest corner of Sec. 18, thence traversing over and across the S½SW¼SW¼ in a southeasterly direction for approximately .19 mile, and ending on the south line of Sec. 18 approximately 1,000 ft. east of the southwest corner of Sec. 18. Affects S½SW¼SW¼ of Sec. 18, T.6N, R.13W., P.M.MT. (Rumsey Tract).

(h) Forest Road No. 1528 (existing): Beginning in the NW¼NW¼ of Sec. 6, T.7N., R.14W., approximately 750 ft. east of the northwest corner of Sec. 6, thence traversing over and across the NW¼NW¼NW¼ in a southwesterly direction for approximately .15 mile, and ending on the west line of Sec. 6 approximately 200 ft. south of the northwest corner of Sec. 6. Affects NW¼NW¼NW¼ of Sec. 6, T.7N., R.14W., P.M.MT. (Marshall Creek Tract);

Also, beginning in the NW¼NE¼ of Sec. 1, T.7N., R.15W., approximately 200 ft. south of the northeast corner of Sec. 1, thence traversing over and across the NE¼NE¼ in a northwesterly direction for approximately .33 mile, and ending on the north line of Sec. 1 approximately 1,200 ft. west of the northeast corner of Sec. 1. Affects NE¼NE¼ of Sec. 1, T.7N., R. 15W., P.M.MT. (Marshall Creek Tract).

(i) Forest Road No. 8402 (existing): Beginning on the north line of the SE¼NW¼ of Sec. 2, T.8N., R. 13W., approximately 2,600 ft. southeast of the northwest corner of Sec. 2, thence traversing over and across the SE¼NW¼ in a southeast direction for approximately .21 mile and ending on the east line of the SE¼NW¼ approximately 2,650 ft. south of the north ¼ corner of Sec. 2. Affects the SE¼NW¼ of Sec. 2, T.8N., R. 13W., P.M.MT. (Maywood Ridge Tract)

Also, beginning on the north line of the NW¼SE¼ of Sec. 2, T. 8N., R.13W., approximately 2,500 ft. west of the east ¼ corner of Sec. 2, thence traversing over and across the W½SE¼ in a southerly direction for approximately .50 mile and ending on the south line of the SW¼SW¼SE¼ approximately 2,100 ft. west of the southeast corner of Sec. 2. Affects the W½SE¼ of Sec. 2, T. 8 N., R. 13 W., P.M.MT. (Maywood Ridge Tract)

Also, beginning on the south line of the SE¼SW¼ of Sec. 2, T. 8 N., R. 13 W., approximately 400 ft west of the south ¼ corner of Sec. 2, thence traversing northwest and thence back southeast through the SE¼SW¼ for approximately .55 mile and ending on the south line of the SE¼SW¼ approximately 700 ft. west of the south ¼ corner of Sec. 2. Affects the SE¼SW¼ of Sec. 2, T. 8 N., R. 13 W., P.M.MT. (Maywood Ridge Tract)

(j) Forest Road No. 5123 (existing): Beginning at its junction with Forest Road No. 8402 on the north line of the SE¼SW¼, Sec. 2, T. 8 N., R. 13 W., approximately 1,600 ft. northwest of the south ¼ corner of Sec. 2, thence traversing over and across the S½SW¼ in a southwesterly direction for approximately .47 mile and ending on the south line of the SW¼SW¼ approximately 50 ft. east of the SW¼ corner of Sec. 2. Affects the S½SW¼ of Sec. 2, T. 8 N., R. 13 W., P.M.MT. (Maywood Ridge Tract)

(k) Forest Road No. 78488 (existing): Beginning at its junction with Forest Road No. 8402, which is approximately 30 ft. north of the south line of Sec. 2, T. 8 N., R. 13 W., thence traversing over and across the SE¼SE¼SW¼ in a southeasterly direction for approximately .06 mile and ending on the south line of the SE¼SW¼ approximately 550 ft. east of the south ¼ corner of Sec. 2. Affects the SE¼SW¼ of Sec. 2, T. 8 N., R. 13 W., P.M.MT. (Maywood Ridge Tract)

Provided, that if the Regional Forester determines that the road, or any segment thereof, is no longer needed for the purposes reserved, the easement shall terminate. The termination shall be evidenced by a statement in recordable form furnished by the Forest Supervisor to the Landowner, or its successors or assigns in interest.

OUTSTANDING RIGHTS AND AUTHORIZED USES

1. Existing Contract/Agreements/Memoranda of Understanding: None, except as identified herein.

2. Existing public roads: None.

3. Special use authorizations: Telephone and telegraph permit (underground phone line) T. 4 N., R. 7 W., Sec. 11 (Elk Park Tract), James Harrington, Permit expiration date: December 31, 2001. Authorized by the Federal Land Policy and Management Act of 1976.

Transmission line: T. & N., R.13 W., Sec. 2 (Maywood Ridge Tract), Montana Power Company (33 ft. wide R/W; Brooklyn-Princeton Line).

These special use permits will terminate upon conveyance of the involved federal lands. The Forest Service will notify the permit holders in advance. The Forest Service will assist this permit holders in making new arrangements with the non-Federal party.

Land use area permit: T.7 N., R.15 W., Sec. 6 (Marshall Creek Tract), Mary Kelley.

This permit will be terminated. Permit holder will acquire this area from Brand S Corporation.

4. Road Easements: None.

5. Grazing permits:

Lowland Allotment: T.4 N., R.7 W., Secs. 2, 11 and 14 (Elk Park Tract), Miles and Dale Carpenter, Henry Cerise, Ester and William Francone.

Parini Allotment: T.4 N., R.7 W., Sec. 2 (Elk Park Tract), Rudolph Parini.

Spring Park Ranch Allotment: T.6 N., R.13 W., Sec. 18 (Rumsey Tract), Steve Grange.

Marshall Creek Allotment: T.7 N., R.14 W., Sec. 6 (Marshall Creek Tract), Black Pine Ranch and Linda Yardley.

Gird Creek Allotment: T.8 N., R.13 W., Sec. 2 (Maywood Ridge Tract), Alan Boomer and Allen Morson.

As provided by section 402(g) of the Federal Land Policy Management Act of 1976, no permit or lease shall be canceled without two years' prior notification. The permittees may elect to waive this right. The Forest Service will notify each permittee of the proposed exchange. If applicable, the grazing use will be reserved in the patent for the duration of the two-year notification period.

6. Mining claims: None.

7. Oil & Gas Leases: None.

8. Withdrawals: None.

9. Water Rights: None.

10. Phosphate Lease: Legal Description—T.8 N., R.13 W., Sec. 2. Lease No. MTM 055657. Lease Holder: Cominco.

The Forest Service will request the lease holder to relinquish or modify its lease to exclude the lands involved in this exchange. If the lease holder opts not to relinquish or modify its lease, the phosphate estate will be reserved by the United States in the patent until termination or relinquishment of the lease. Upon termination or relinquishment of the said lease all the rights and interest to the phosphate deposit shall automatically vest in the patentee, its successors in interest or assigns.

11. Other Encumbrances: Subject to the interest, if any, created by an existing powerline (affects lots 1-4 and the NE¼NW¼ of sec. 18. T. 6 N., R. 13 W.) (Rumsey Tract).

Gallatin NF

Wineglass tract:	
T. 3 S, R. 8 E.:	
Sec. 2, lots 1-4 inclusive, S½N½	336.48
Sec. 10, E½	320.00
Sec. 12, lots 1-4 inclusive, W½E½, N½NW¼, SE¼NW¼, SE¼SW¼	481.08
T. 3 S, R. 9 E.:	
Sec. 6, all fractional	614.75
Sec. 8, all	640.00
Pole Gulch tract:	
T. 5 S., R. 7 E.:	
Sec. 2, all fractional	641.81

Sec. 10, all fractional	620.16
Sec. 12, all	640.00
Sec. 14, all	640.00
Sec. 24, N½NE¼, SW¼NE¼, N½SE¼NE¼, NW¼, N½SW¼, SW¼SW¼, S½SE¼SW¼, NW¼SE¼	480.00
T. 5 S., R. 8 E.:	
Sec. 6, all fractional	643.62
Sec. 18, all fractional	637.76
Little Donahue tract:	
T. 6 S., R. 7 E.:	
Sec. 30, lots 1–4 inclusive, E½E½, NW¼NE¼, E½W½, SW¼SE¼	533.92
Subtotal Gallatin NF	7,229.57

Comprising in total 10,835.57 acres, more or less.

RESERVATIONS

1. Excepting and reserving to the United States a right-of-way thereon for ditches or canals constructed by the authority of the United States (Act of August 30, 1980, 26 Stat. 391; 43 U.S.C. 945).

2. Road and trail reservations: As provided within the Access Resolution Agreement (Exhibit B), the Forest Service will reserve in the patents/deeds those trail and road segments that may be needed after exchange for access to adjoining National Forest System (NFS) lands.

a. Road reservations: Excepting and reserving to the United States and its assigns from the lands so granted, an exclusive perpetual easement, including all right, title and interest for existing roads as shown approximately on attached Exhibits and more particularly identified and described herein, and all appurtenances thereto, over, upon, or under the land so granted, together with such reasonable rights of temporary use of lands immediately adjacent to said rights-of-way as may be necessary for the maintenance and/or repair of said roads.

Said easements shall be sixty (60) feet in width, thirty (30) feet on each side of the centerline, with such additional width as required for adequate protection of cuts and fills.

The centerline of each road lying approximately as follows:

(i) Eightmile Creek Road No. 2553 (existing): Beginning at a point on the east property line of NE¼NE¼ of Section 6, T5S, R8E, P.M., MT.; Thence over and across said NE¼NE¼ of Section 6 in a west-northwesterly direction approximately 0.2 mile; and ending at a point on the north line of the NE¼NE¼ of said Section 6; and including additional area for vehicle parking along the south side of the road in said NE¼NE¼ of Section 6. The parking area measures approximately fifty (50) feet in width (north-south) by one hundred twenty (120) feet in length (east-west), which is in addition to and located outside the road right-of-way limits.

(ii) Miller Creek Road No. 1769 (existing): Beginning at a point on the east property line of SE¼SE¼SE¼ of Section 10, T5S, R7E, P.M., MT; Thence over and across said SE¼SE¼SE¼ of Section 10 in a southwesterly direction approximately 0.1 mile; and ending at a point on the south line of said SE¼SE¼SE¼ of Section 10.

It is agreed that the Landowner, its successors and assigns, shall have the right to use the existing roads described above for all purposes deemed necessary or desirable in connection with the protection, administration, management, and utilization of Landowner lands or resources, subject, however, to traffic-control regulations under 36 CFR 261.12, and the bearing of road maintenance costs proportionate to use as provided in 36 CFR 212.7(d).

Provided, that if the Regional Forester determines that the roads, or any segment thereof, is no longer needed for the purposes reserved, the easement shall terminate. The termination shall be evidenced by a statement in recordable form furnished by the Forest Supervisor to the Landowner, or its successors or assigns in interest.

b. Trail reservation: Also, excepting and reserving to the United States and its assigns from the lands so granted, an exclusive perpetual easement, including all right, title and interest for an existing trail as shown approximately on attached Exhibit and more particularly identified and described herein, and all appurtenances thereto, over, upon, or under the land so granted, together with such reasonable rights of temporary use of lands immediately adjacent to said right-of way as may be necessary for the maintenance and/or repair of said trail.

Said trail easement shall be twenty (20) feet in width, ten (10) feet on each side of the centerline, with such additional width as required for adequate protection of cuts and fills.

The centerline of the trail lying approximately as follows:

(i) South Fork Eightmile Trail No. 146 (existing): Beginning at a point on the west property line of Section 10, T5S, R7E, P.M., MT. near the west 1/4 corner of said Section 10; THENCE over and across the S1/2 of said Section 10 in a southeasterly direction approximately 1.2 miles; and Ending at a point on the east line of the SE1/4SE1/4 of said Section 10.

Provided, that if the Forest Supervisor determines that the trails, or any segment thereof, is no longer needed for the purposes reserved, the easement shall terminate. The termination shall be evidenced by a statement in recordable form furnished by the Forest Supervisor to the Landowner, or its successors or assigns in interest.

OUTSTANDING RIGHTS AND AUTHORIZED USES

1. Existing Contracts/Agreements/Memoranda of Understanding: None, except as identified herein.

2. Existing public roads: None.

3. Special use authorizations:

James L. and Gayle E. Murphy—FLPMA permit in T.6S., R.7E. Section 30. Permit is for access to private lands within the Gallatin National Forest boundary for the purpose of harvesting timber, and expires and terminates December 31, 1995.

Wineglass Joint Venture—FLPMA permit for access to private lands. Lands covered by the permit are located in T.3.S., R.9E., Section 8, NE1/4. This permit expires and terminates on December 31, 2003.

Montana Land and Cattle Company—Special Use Permit for a water transmission pipeline across T.5S., R.7E., Section 12, NE1/4. This permit expires and terminates on December 31, 2001.

These special use permits will terminate upon conveyance of the involved federal lands. The Forest Service will notify the permit holders in advance and assist these permit holders in making new arrangements with the non-Federal party.

4. Road Easements: None.

5. Grazing Allotments: Wineglass Allotment includes lands in the following sections: T.3S., R.8E., Sec. 2, portion; T.3S., R.9E., Sec. 6, portion, and Sec. 8, portion;

Wineglass allotment has been vacant since 1986.

Coke Allotment includes lands in the following sections:

T.3S., R.8E., Sec. 2, portions of section not in Wineglass Allotment, and Sec. 10 and 12, portions (160 acres is owned by Peterson).

T.3S., R.9E., Sec. 6 and Sec. 8, portions of sections that are not in Wineglass Allotment are in the Coke allotment.

The following hold permits in Coke Allotment: Brawner Ranch Co., Quenton Brawner, Depuy Enterprises, O'Hair Ranch Company, Hilda Peterson.

Pole Gulch Allotment includes lands in the following sections: T.5S., R.7E., Sec. 2 all, Sec. 10 portion, Sec. 12 all, Sec. 14 portion and Sec. 24 portion; T.5S., R.8E., Sec. 6 and Sec. 18, all:

The following hold permits in Pole Gulch Allotment: John S., Jr. and Evelyn F. Brandis.

Fridley Creek Allotment includes lands in the following sections: T.5S., R.7E., Sec. 10, 14 and 24, portions that are not included in the Pole Gulch Allotment.

The following hold permits on Fridley Creek Allotment: Dan Brutger, Story Ranch Company.

Big Creek Allotment includes lands in the following sections: T.6S., R.7E., Sec. 30.

The following individuals hold permits on the Big Creek Allotment: James L. and Gayle E. Murphy.

As provided by section 402(g) of the Federal Land Policy Management Act, no permit or lease shall be canceled without two years' prior notification. The permittees may elect to waive this right in writing. The Forest Service will notify each permittee of the proposed exchange. If applicable, the grazing use will be reserved in the patent for the duration of the two year notification period.

6. Mining claims: None.

7. Oil and Gas Leases:

Legal Description, Lease No., and Lease Holder:

T.3S., R.8E., Sec. 2; M32847; Equitable Resources Energy Co.

T.3S., R.8E., Sec. 10; M34549; Wolverine Exploration Co., Texaco Exploration & Production.

T.3S., R.9E., Sec. 6; M32848; Equitable Resources Energy Co.

T.5S., R.7E., Sec. 2; M36455; Conoco, Inc.

T.5 S., R.7 E., Sec. 10, 12 & 14; M36454; Conoco, Inc.

T.5 S., R.7 E., Sec. 24; M36453; Conoco, Inc.

T.5 S., R.7 E., Sec. 6 & 18; M36451; Conoco, Inc.

T.6 S., R.7 E., Sec. 30; M36456; Conoco, Inc.

The above leases have been suspended by the BLM under the Ninth Circuit Court of Appeals Ruling in Connor vs. Burford.

The Forest Service will request each of the lease holders to relinquish or modify their leases to exclude the lands involved in this exchange. If the lease holders opt not to relinquish or modify their leases, the oil/gas estates will be reserved by the United States in the patent until termination or relinquishment of the leases. Upon termination or relinquishment of the said lease all the rights and interests to the oil and gas deposits shall automatically vest in the patentee, its successors in interest or assigns.

8. Withdrawals: None.

9. Water Rights:

(1) Source: Unnamed Trib., Strickland Creek, Water Right No. 43B-W-059905-00, T. 3 S., R. 8 E., Sec. 12.

(2) Source: Strickland Creek, Water Right No. 43B-W-059963-00, T. 3 S., R. 8 E., Sec. 12.

The Forest Service will transfer these water rights to Brand-S, provided that Brand-S shall allow existing (stock water) uses to continue until the involved grazing permits terminate (within two years from the date of notification).

10. Other Encumbrances: None.

PART III—GENERAL AGREEMENTS

1. Upon conveyance of the timber on the Highlands and Prison Tracts, Brand-S Corporation agrees to implement and abide by the Timber Harvest Guidelines (Exhibit A) as developed and mutually agreed upon between the parties.

2. Both parties agree to the provisions in the Access Resolution Agreement (Exhibit B) which pertain to access on the Gallatin NF and it is hereby made a part of this document.

3. Upon completion of the land exchange, Jack Brandis, owner of Brand S Corporation, has pledged to donate, and The Nature Conservancy has agreed to accept, conservation easements (in the form of permanent deed restrictions) on the lands that Brandis will receive in the Pole Gulch, Little Donahue and Wineglass Tracts (excepting the E½ of sec. 10, T. 3 S., R. 8 E.). Brandis has also pledged to include in the grant of conservation easement the additional contiguous acreage that he owns in the Pole Gulch area. The voluntary decision by Brandis to convey these permanent conservation easements to the Conservancy will ensure that future subdivision and development are limited, and that forestry and range management activities are conducted in a manner consistent with the conservation of wildlife habitat, watershed and open-space characteristics.

4. Brand S Corporation, its transferees and assigns, or other successors in interest, agree that these provisions shall be a covenant running with the subject property, and that they shall indemnify, defend and hold the United States of America, its various agencies and/or employees, harmless from any damage, loss, claims, liability and costs resulting in any way from the United States' ownership, and/or any and all activities, operations (including but not limited to the storing, handling, and dumping of hazardous materials or substances), or other acts conducted by Brand S Corporation or its licensees, employees, agents, successors or assigns on the Lost Creek Tract, whether such activities, operations or other acts occurred prior to, on, or after the enactment of the Brand S Land Exchange Act of 1994. This covenant shall be enforceable by the United States in a Court of competent jurisdiction.

5. Both parties agree that these Land Exchange Specifications may be amended at any time by mutual agreement. Any such amendment(s) must be in writing and signed by the parties hereto. Any such amendment(s) shall be provided by the Forest Service to the Energy Committee of the United States Senate and by the Interior Committee of the United States House of Representatives. Minor technical changes mutually agreeable to both parties, but not subject to Committee notice, shall be documented, signed, and made part of these Specifications.

In witness whereof, the Landowner and the Regional Forester, acting for and on behalf of the Forest Service have executed these Specifications. The Specifications shall be effective on the last date signed.

Landowner: Brand S Corporation, An Oregon Corporation.

Name, Title, and Date.

(Corporate Seal.)

Attest:

Title.

United States of America, USDA, Forest Service.

David F. Jolly, Regional Forester and Date.

EXHIBIT DRAFT TIMBER HARVEST GUIDELINES

The objective of Brand S will be to sustain and enhance the forest resources through effective use of conservation forestry practices. Timber harvest will be directed to maintain sustainability of all forest resources, and diversity of forest types, ages and stand structure, and to emulate the historical range of variability and vegetative patterns.

Brand S and the U.S. Forest Service agree that general Timber Harvest Guidelines contained in Part I of this text will apply to timber reserved by Brand S in the West Pine Tract on the Gallatin National Forest of this exchange. The parties further agree that the Timber Harvest Guidelines contained in Part II of this text will apply to the Prison and Highlands Tracts on the Deerlodge NF lands where timber only is to be conveyed to Brand S.

PART

The parties agree that these guidelines will apply to Gallatin NF lands where timber is reserved by Brand S on the West Pine Tract.

The following guidelines will not preclude Brand S from harvesting timber volumes to meet timber valuation contained in the exchange.

Brand S will consult and coordinate with the appropriate public agencies (U.S. Forest Service-Gallatin National Forest, State Department of Lands, and Montana Department of Fish, Wildlife, and Parks (MDFWP)) in design, implementation and monitoring of resource management decisions.

Brand S will meet with a review team comprised of U.S. Forest Service, Montana Department of State Lands, and MDFWP annually to assess harvesting plans and discuss future practices as they relate to general guidelines contained in this text.

Brand S will adhere to all laws pertaining to timber harvest activities including but not limited to the Streamside Management Act, Forestry Best Management Practices (BMP) recognized by the Montana State Department of Lands, Federal Agencies, and the State Legislature as the foundation for timber harvest practices and for fire prevention.

In accordance with the provisions of the Customs and Trade Act of 1990, Title IV—Forest Resource Conservation and Shortage Relief Act of 1990, unprocessed logs originating from reserved timber on the West Pine Tract will not be exported or substituted for other logs that are or will be exported.

The following criteria will be used for project planning and implementation:

A. SPECIFIC RESOURCE CONSIDERATIONS

VISUAL QUALITY

1. The "Modification" Visual Quality Objective (VQO), as defined in the Forest Service Visual Management System will be used as a guide to mitigate visual impacts of timber harvesting. Brand S and Gallatin National Forest will design harvests to emulate natural openings present on the landscape avoiding straight lines and abrupt edges.

WILDLIFE AND FISH HABITAT

1. Adequate forest cover will be retained as much as possible to protect big game and other species.

Elk habitat potential will be maintained where possible by retention of 30% of the total land area in suitable elk cover (cover that hides 90% of an elk at 200 feet). Elk habitat effectiveness will be maintained by managing roads so there is generally less than one mile of open road per section following harvest. It is understood that lands conveyed to Brand S in the Wineglass Tract are exempt due to surrounding existing vegetative conditions and human development which would preclude harvest.

The existing main access road in the Pole Gulch Management Unit (Sections 1, 3, 10, 11, 12, 13, 14 and 24 in T. 5 S., R. 7 E. and Section 18 in T. 5 S., R. 8 E.) will be exempt and remain open at the landowner's discretion.

2. Key habitat components including riparian areas, licks, caves, cliffs, wallows, meadows and parks will be identified and protected in timber harvest and road planning.

3. In harvested areas, an average of at least 3 to 6 snags and an equal number of replacement residual green trees per acre will be retained. The residual trees and snags can be left in a random manner (example, groups, patches and corridors) or uniformly distributed. In proposed harvest areas, the review process will develop prescribed slash plans to meet landowner objectives and to maintain site productivity and wildlife habitat (erosion control, nutrient and organic recycling and animal habitat.

4. Brand S will manage these lands to meet State water quality standards and to maintain fish habitat were applicable.

5. Lands will be managed to retain and enhance aspen and other deciduous trees and shrubs, especially in riparian and wet areas.

WATER AND SOILS

1. Best Management Practices (BMP) will be used in the planning and implementation of harvest and road construction activities. Reference "Montana Forestry Best Management Practices"; 1992 and the 1991 Streamside Management Act.

NOXIOUS WEEDS

1. All harvesting equipment likely to be operated off of road systems will be power washed of weed seeds before entering these lands.

2. Brand S will treat noxious weeds on lands disturbed by their operations during the period of project activities. The total time period will not exceed the five years which Brand S will be permitted to operate on these lands.

B. TIMBER HARVEST

1. The appropriate even-aged or uneven-aged silvicultural system will be used for each stand. Brand S and Gallatin National Forest will agree on the appropriate silvicultural systems and standards for different forest types, to achieve desired vegetative conditions. To the extent possible; silvicultural systems will be designed for natural regeneration.

In general, partial cutting harvest systems that emulate historical vegetative patterns will be utilized. In the Douglas-fir types, partial cutting systems, including shelterwood, group or individual tree selection, and commercial thinning may be used as appropriate to meet management objectives including old growth characteristics. In the lodgepole pine types, age, insect and disease conditions and individual stand conditions will determine silvicultural systems. Clearcutting will be used only where it is the optimum system. Where clearcut harvest is used, reserve patches of advance reproduction and other small diameter trees (lodgepole pine, subalpine fir, Douglas-fir and spruce) and snags will be protected.

2. Harvest openings, location, size and shape will utilize the principles of landscape design as described in the Forest Service Visual Management System, and the principles of wildlife habitat for protection of cover, edge effect, travel linkages and concentrated use areas. Harvest openings created by even-

aged silviculture will normally be 40 acres or less. Any larger openings will be as a result of prescribed harvest to meet historic vegetation variation or as a result of catastrophic fire or insect and disease.

3. Brand S will formulate and implement harvest activity fuel treatment according to Montana State Hazard Reduction Laws.

C. TRANSPORTATION SYSTEM

1. Roads will generally be designed to achieve a minimum distance of 1,000 feet apart except as they approach junctions with other roads. Design features will be utilized as outlined in the Montana Forestry BMP. Secondary roads constructed or used by Brand S will be closed and stabilized, including revegetation and erosion control in an effort to promote wildlife habitat effectiveness and watershed stability.

2. To avoid excessive soil compaction, skid trails will be designed to minimize compaction and generally be located 75 feet apart. Line harvest systems are generally applied for slopes greater than 40%. Soil conditions and topographic features will direct system application.

3. The Forest Service agrees to grant to Brand S appropriate road access and use rights as needed to access, harvest and transport the reserved timber by Brand S in this exchange. Specific road locations and haul routes will be identified by mutual agreement between the Forest Service and Brand S. In a timely manner, the Forest Service will grant road access and use rights appropriate for each access facility, through FLPMA (special use permits) and/or FRTA (commercial road use permits) authorities. The parties agree to cooperate to ensure timely completion of any needed road location, survey, design, exhibit preparation and permit authorization work. This agreement will not obligate Brand S to convey public access in any form in the Pole Gulch management unit.

D. FIELD LAYOUT

TIMBER HARVEST UNITS

1. All units will be flagged in blue ribbon for field review purposes. Following approval, all boundaries will be marked with intervisible, vertical stripes of blue paint on trees at eye level.

TREE DESIGNATION

1. Cut trees will be marked just above ground level on the downhill side with a stump spot and at eye level with a horizontal band of orange paint.

2. Leave trees will be marked with blue paint in the same manner as for cut trees.

3. Designation of cut or leave trees may also be by a combination of species and/or diameter.

VOLUME DETERMINATION

Brand S and Gallatin National Forest will agree on the unit layout, harvest prescriptions and cruise for the tract of land, described below, where 1.383 MMBF of timber is reserved to Brand S for the harvest.

WEST PINE TRACT (SECTION 1 T4S R7E AND SECTION 7 T4S R8E)

1. Volume determination shall be done in accordance with 2409.12 Timber Cruising Handbook and applicable Region 1 supplements. Cruise standards for Tree Measurement Sales shall apply. Minimum standards shall be a tree 7 inches or greater at diameter breast height which contains a 16 foot log to a 5.6+ top that is at least 33⅓ sound. Brand S and Gallatin National Forest will work together on volume determination. Volume determination shall include all phases of the cruise process including cruise design, traversing when necessary, field measurements and check cruising. Check cruising will be accomplished by a Forest Service Certified Check Cruiser. If the results of the check cruise fail to meet regional standards, an additional check shall be run and combined with the first. If results are still unsatisfactory, 25% of the original samples shall be checked and the cruise adjusted by the difference between the check and the original work.

2. Brand S and Gallatin National Forest will collect cruise information using Forest Service data forms. The information will be run on the Forest Service computer system. Brand S shall be furnished a copy of all input and output data and be able to review the results and check for any errors that would affect the volume. Any input or calculation errors detected shall be corrected.

3. If small cutting units are employed on portions of the area they shall be combined using the subdivision/unit concept for minimum unit sampling error. These units shall be agreed to by the Forest Service and Brand S at the time the cruise is designed.

E. PROJECT IMPLEMENTATION

1. Timber harvest and postsale activities will be completed within five (5) years after the date that legislation is enacted. Extensions of time shall only be granted for causes beyond the control of either party such as extensive periods of moist soils or restrictions due to fire seasons. Brand S will annually develop a schedule of planned activities so that work can be coordinated and completed in a workman-like manner. Brand S will notify the Gallatin National Forest when all timber reservation activities are completed. Agreement on that finding will be reached by both parties.

2. Brand S will formally designate a field representative who will administer the project according to the preapproved conceptual plan.

The Gallatin National Forest will formally designate a project coordinator who will monitor progress and compliance with the preapproved plan.

PART II

The parties agree that these guidelines will apply to the Prison and Highlands Tracts on the Deerlodge National Forest lands where timber only is conveyed to Brand S:

Brand S will adhere to all laws pertaining to forest management activities recognized by the Federal Agencies and the State Legislature as the foundation for sound timber harvest practices and for fire prevention.

In accordance with the provisions of the Customs and Trade Act of 1990, Title IV—Forest Resource Conservation and Shortage Relief Act of 1990, unprocessed logs originating from Deerlodge National Forest lands will not be exported or substituted for other logs that are or will be exported.

The project will be based on the Deerlodge Forest Plan Standards and Management Area direction. However, the standards and direction will not preclude Brand S from harvesting timber volumes to meet timber valuation as defined in the exchange.

The following criteria will be used for project planning and implementation:

A. SPECIFIC RESOURCE CONSIDERATIONS

VISUAL QUALITY

1. The "modification" visual quality objective (VQO), as defined in the Forest Service Visual Management System, will guide design of timber harvesting.

WILDLIFE

1. Adequate forest cover will be retained as much as possible to protect big game and other species.

Elk habitat potential will be maintained where possible by retention of 30% of the total land area in suitable elk cover (cover that hides 90% of an elk at 200 feet). Elk habitat effectiveness will be maintained by managing roads so there is generally less than one mile of open road per section following harvest.

WATER, SOILS AND RIPARIAN

1. Montana State Streamside Zone Rules and Montana Forestry Best Management Practices will be used in the planning and implementation of road construction, harvest and postsale activities.

NOXIOUS WEEDS

1. All harvesting equipment likely to be operated off road systems will be power washed of weed seeds prior to entering these lands.

2. Brand S will treat noxious weeds on lands disturbed by their activities during the period of project activities. The Forest Service will be responsible for treatment at the conclusion of project activities and for other lands not disturbed by Brand S.

RECREATION

1. To minimize impact to recreational activities, the following timing restrictions will apply: In section 30, T8N, R10W, and Section 6, T7N, R10W road construction, logging and post sale activities will be limited to the periods of June 16th through October 14th.

UNIQUE AND CRITICAL HABITATS

1. Key habitat components including riparian areas, licks, caves, cliffs, wallows, meadows and parks will be identified and protected during project activities.

B. TIMBER HARVEST

1. Brand S and Deerlodge National Forest will agree on the appropriate even-aged or uneven-aged silvicultural system to achieve desired vegetative conditions. The desired conditions will be based on target stands and silvicultural prescriptions supplied by the Deerlodge National Forest. To the maximum extent possible, silvicultural systems will be designed for natural regeneration.

In general, partial cutting harvest systems that emulate historical vegetation patterns will be utilized. In the Douglas-fir type, this will include shelterwood, group selection, individual tree selection, and commercial thinning may be used as appropriate to meet management objectives including old growth characteristics. In the lodgepole and spruce-alpine fir types, age, insect and disease conditions and individual stand conditions will determine the appropriate system to use. Clearcutting will be used only where it is the optimum system. Where clearcutting is used, some snags and reserve patches of advance reproduction and other small diameter trees will be protected.

2. Harvest openings location, size and shape will utilize the principles of landscape design as described in the Forest Service Visual Management System, and the principles of wildlife habitat for protection of cover, edge effect, travel linkages and concentrated use areas. Harvest openings created by even-aged silviculture will normally be 40 acres or less. Any larger openings will be as a result of harvest prescriptions to meet historic vegetation variation or as a result of catastrophic fire or insect and disease damage.

3. Stand diagnosis will include a narrative and map display of all proposed logging. The description of stands proposed for logging will include vegetative objectives and field inventory information on species, tree sizes, habitat types, harvest methods, logging methods and post-treatment needs.

4. Brand S will implement fuel treatments (including burning of landings and dozer piles) according to target stand objectives. Broadcast burning will not be considered for this project.

C. TRANSPORTATION PLAN

1. Roads will generally be designed to achieve a minimum distance of 1000 feet apart except as they approach junctions with other roads. Designs will incorporate Montana Forestry BMP. Upon completion of use, roads will be closed and stabilized, including revegetation and erosion control, in an effort to promote wildlife habitat effectiveness and watershed stability.

2. Soil conditions and topographic features will direct systems applications. Operations will only be conducted on slopes over 40% when they can safely be accomplished with dozers or rubber-tired skidders. Operations will be suspended during moist, soil conditions when rutting (tracks greater than 3" deep for more than 10 continuous feet) or excessive soil disturbance is occurring. In soil types that are subject to soil compaction, skidding equipment may be required to operate from skid trails that are generally located at least 75 feet apart.

3. The Forest Service agrees to grant to Brand-S appropriate road access and use rights as needed to access, harvest and transport the national forest timber to be conveyed to Brand-S in this exchange. Specific road locations and haul routes will be identified by mutual agreement between Forest Service and Brand-S. In a timely manner. Forest Service will grant road access and use rights appropriate for each access facility, through FLPMA (special use permits) and/or FRTA (commercial road use permits) authorities. The parties agree to cooperate to ensure timely completion of any needed road location, survey, design, exhibit preparation and permit authorization work.

D. PROJECT DEVELOPMENT

Brand S will take the lead and Deerlodge National Forest will assist and provide guidance to develop the conceptual plan through field layout of harvest activities. The primary method of achieving project approval and monitoring will be through reviews conducted jointly by Brand S and the Deerlodge National Forest. The minimum schedule of office/field reviews will be:

Office review of conceptual paper design and agreement on unit costs of post harvest treatments.

Cruise plan to be reviewed by Forest Service certified cruiser.

Field review when field layout is approximately 50% complete.

Office/field review when field layout is complete and before any ground disturbing activities occur.

On-going road construction, log removal and post sale work will be monitored currently by Forest Service coordinator. A staff field review will be conducted at completion of field activities and as requested by Forest Service coordinator. The intent is to have at least one review during field operations and one at the conclusion of field operations.

E. FIELD LAYOUT

TIMBER HARVEST UNITS

1. All units will be flagged in blue ribbon for field review purposes. Following approval, all boundaries will be marked with the intervisible, vertical stripes of blue paint on trees at eye level.

TREE DESIGNATION

1. Cut trees will be marked just above ground level on the downhill side with a stump spot and at eye level with a horizontal band of orange paint.

2. Leave trees will be marked with blue paint in the same manner as for cut trees.

3. Designation of cut or leave trees may also be by a combination of species and/or diameter.

TIMBER VOLUME DETERMINATION

The project will consist of the removal of about 3.5 million board feet of timber and associated temporary road construction and postsale activities. The volume identified for harvest is located on the lands described as follows:

Highlands Tract—sec. 6, T. 1 S., R. 7 W.

Prison Tract—sec. 30, T. 8 N., R. 10 W. and sec. 6, T. 7 N., r. 10 W.

1. Volume determination shall be done in accordance with 2409.12 Timber Cruising Handbook and applicable Region 1 supplements. Cruise standards for Tree Measurement Sales shall apply. Minimum tree standards shall be at tree 7 inches or greater at diameter breast height which contains a 16 foot log to a 5.6" to that is at least 33⅓ sound. Volume determination shall include all phases of the cruise process including cruise design, traversing when necessary, field measurements and check cruising. Check cruising will be accomplished by Forest Service Certified Check Cruiser and Brand S representative may accompany the Forest Service Check Cruiser. If the results of the check cruise fail to meet regional standards, an additional check shall be run and combined with the first. If results are still unsatisfactory, 25% of the original samples shall be checked and the cruise adjusted by the difference between the check and the original work.

2. Brand S will collect cruise information using Forest Service data forms. The information will be run on the Forest Service computer system. Brand S shall be furnished a copy of all input and output data and be able to review the results and check for any errors that would affect the volume. Any errors detected shall be corrected.

3. Cruising shall be by an acceptable method to the Forest Service and Brand S which will accomplish results in the most economical fashion. If small cutting units are employed on portions of the area they shall be combined using the payment unit concept for minimum unit sampling error. These units shall be agreed to by the Forest Service and Brand S at the time the cruise is designed.

ROADS

1. Road locations will be flagged with orange ribbon prior to field review.

F. PROJECT IMPLEMENTATION

Timber harvest and postsale activities will be completed within five (5) years after conveyance of the timber (by timber deed) to Brand S. Extensions of time shall only be granted for conditions beyond the control of either party such as extensive periods of moist soils or restrictions due to fire seasons. Brand S will annually develop a schedule of planned activities so that work can be coordinated and completed in a workmanlike manner.

Brand S will post a performance bond equal to 75% of the cost of post sale treatment needs. The Forest Service and Brand S agree that harvest prescriptions will be designed to achieve natural tree regeneration to the maximum extent possible. However, planting might be necessary to meet requirements for tree regeneration under the National Forest Management Act in some situations. The post harvest work will include an estimate of the direct cost of planting that might be necessary. The prescriptions agreed to at the conceptual stage will dictate the type of reforestation and necessary steps to achieve adequate regeneration to stock the harvest areas. Brand S will not be liable for any additional reforestation costs if the terms of the prescription are met. The bond can be reduced in proportion to, but not less than the amount of post sale work remaining to be completed. The amount based on reforestation needs shall be finalized with the results of the reforestation surveys conducted at the end of the 3rd growing season following site preparation.

Brand S will formally designate a field representative who will administer the project according to the preapproved conceptual plan.

The Deerlodge National Forest will formally designate a project coordinator who will monitor progress and compliance with the preapproved plan.

Project activities will progress in a workman-like manner as generally defined in the Annual Schedule of Planned Activities. Examples are:

1. A unit or group of units will be completed prior to beginning logging operations in unlogged units.

2. Erosion control measures will be accomplished immediately after the facility is no longer needed.

3. Required post harvest treatment (dozer pilling, trampling, site preparation and burning of landings and dozer piles) will be done on a unit within one season after logging has been completed.

The cost of fire suppression will be borne by Brand S when caused by their operations.

The Deerlodge National Forest shall be responsible for conducting reforestation surveys and implementing any artificial reforestation activities that might be necessary. However, Brand S shall have the option of doing any required artificial reforestation in lie of making deposits. They will use and pay for stock provided by the Deerlodge National Forest.

In the event that Brand S elects to offer for sale any of the timber conveyed in Part II, Brand S agrees to fully comply with existing Forest Service small business program procedures. Brand S will set minimum bid rates in accordance with Forest Service transaction evidence procedures. In the event that no qualified small business entity shall meet the minimum bid, Brand S shall have the right to offer said timber to large business.

Brand S and the Forest Service agree that conceptual designs and unit layout will avoid or mitigate impact to any known cultural resource or Threatened, Endangered or Sensitive species. In the event that new sites are discovered during operations and impacts cannot be mitigated by standard measures, then an equal volume of timber within the same market area will be provided to replace the affected timber. All rights, title and interest in and to any conveyed timber shall remain with the Forest Service until the timber designated for removal has been cut and removed form National Forest System lands. The Forest Service will not be liable for replacing any timber lost or destroyed due to Brand S's operations.

EXHIBIT C—DRAFT ACCESS RESOLUTION AGREEMENT—FOREST SERVICE AND BRAND-S/DIAMOND-B RANCH LAND EXCHANGE, GALLATIN NATIONAL FOREST

INTRODUCTION

In 1993, Brand-S/Diamond B Ranch (BS/DB) initiated a proposal to exchange National

Forest System (NFS) and private lands on the Gallatin and Deerlodge National Forest (FS). Brand-S developed ITS initial proposal to achieve two stated goals:

(1) Place ITS Lost Creek lands in public ownership.

(2) Secure a supply of timber by acquiring equal-valued NF timberlands within operating distance of the Brand-S mill in Livingston.

In the ensuing months, BS/DB staff met with staff of the two Forests, and with Bozeman/Livingston and Butte/Anaconda conservation and sportsman groups, the Governor's office, Montana Department of Fish Wildlife and Parks (MT FWP) and others to discuss the proposal. Through this process BS/DB gained some support, and also identified concerns about certain aspects of ITS proposal. In a series of meetings, FS and BS/DB staff made substantive modifications to develop a more workable exchange package that addresses the agency and public concerns.

THE ACCESS ISSUE

Within the proposal, BS/DB would acquire approx. 4,300 acres (seven parcels) of Gallatin NF lands in the Pole Gulch/Eightmile area on the west side of Yellowstone Valley. These public lands are intermixed with BS/DB Ranch lands.

This particular area of the Forest has no legal access from public roads to the NF boundary. Access is controlled by several private landowners, including BS/DB Ranch. In fact, no legal Forest access exists between West Pine Road on the north and Big Creek Road on the south, a distance of about 30 miles. The Gallatin Forest Plan contains direction to secure five public access facilities in this area (linking public roads to the Forest boundary in the north Dry Creek, Eightmile, Pole Gulch, Fridley, and south Dry Creek drainages). Once inside the Forest boundary, a network of system trails exists, facilitating travel to alternating sections of public lands.

Early on, and consistently throughout the exchange discussions, the FS informed BS/DB staff that to consider exchanging the identified NFS lands in the Pole Gulch/Eightmile area, the issue of public access to surrounding NFS lands must be addressed. The FS, MT FWP, Public Lands Access Association, Inc. (PLAAI) and local sportsman/wildlife groups recognize and agree that this proposal must not cause a loss or deterioration of public access in the Pole Gulch/Eightmile/Fridley area, particularly because existing access is so limited. An exchange that fails to protect access would be inconsistent with Forest Plan direction, and would also conflict with ongoing efforts to protect trail access across intermingled private lands in the Yellowstone Valley (e.g. Donahue Trail).

ACCESS RESOLUTION

In the exchange proposal, BS/DB would exchange four sections of land IT recently purchased in West Pine to the FS. This public acquisition would improve access in the West Pine area. However, until late July 1993, BS/DB and the FS were unable to reach agreement on resolution of access in the Eightmile/Pole Gulch/Fridley area. Several options were identified by the FS to help resolve this issue. BS/DB has been unwilling to accept any of these options. Without resolving this matter, the FS could not support the exchange proposal. Through discussions between BS/DB and the FS, agreement was reached on provisions to resolve access in the Eightmile/Pole Gulch/Fridley area, within the exchange package and ensuring legislation.

These provisions are as follows:

(1) Existing Trails and Roads: The FS has evaluated the existing NF trail system and road system on the NFS lands identified for exchange, and on the existing BS/DB lands in the Pole Gulch, and has identified:

(a) Those existing NF trails and roads that are needed for public access to adjoining NFS lands after the exchange.

(b) Those existing NF trails and roads that are no longer needed after the exchange.

The identified trails and roads to be reserved and those that are no longer needed are shown on the attached map. The identified trails and roads to be reserved are more specifically described in Part II of Land Exchange Specifications.

The FS will reserve in the patent the identified needed trail and road segments on the NFS lands to be exchanged to BS/DB. Minor relocation of trail and road segments will be considered where more logical locations exist, provided relocation is mutually acceptable to the FS and BS/DB.

The FS agrees:

(a) Not to reserve any rights in trails and roads identified as no longer needed on the NFS lands to be exchanged to BS/DB.

(b) To relinquish trails and roads identified as no longer needed BS/DB lands in Pole Gulch.

(2) Legislative Provision to Secure Access: Any exchange legislation must contain specific Congressional direction as follows:

The Forest Service shall secure legal public road accesses to Gallatin National Forest System lands in: 1) the Eightmile Creek area, and 2) the Miller Gulch-Fridley Creek-Dry Creek area.

The Forest Service and Brand-S/Diamond B agree that this provision shall be included in the legislation. It is anticipated that the Montana delegation, MT FWP, recreation and conservation groups will endorse this provision.•

• Mr. BURNS. Mr. President, I join my colleague from Montana in introducing the Lost Creek land exchange.

Early last year negotiations began on this delicate land exchange called the Lost Creek Exchange. The exchange involve lands in the Deer Lodge and Gallatin National Forests and privately owned lands. One particular piece of private land that will become publicly owned is the pristine Lost Creek area in the Anaconda Pintlers. This property was purchased for timber harvest, but immediately local citizens and conservation groups began looking for some avenue by which the public could acquire the land.

The result of this local grassroots effort, we have before us today. Our children and grandchildren will be the beneficiaries of this landmark exchange. We have just completed a series of public meetings to determine the level of support this exchange has across the affected areas and I was pleased to see universal support from conservation groups, sportsmen associations, private landowners and local communities. The acquisition of the prime big horn sheep and mountain goat habitat, plus the acquisition of key wilderness areas on the Gallatin National Forest are accomplishments that will benefit the State of Montana for future generations.

In addition, this exchange will mean the harvesting of timber by the Brand S lumber company in Livingston. And that's good news to the community where good family paying jobs are needed.

Legislative time is short, but I look forward to this bill moving forward and being sent to the President for his signature.•

By Ms. MOSELEY-BRAUN:

S. 2034. A bill to improve the quality of public elementary and secondary school libraries, media centers, and facilities in order to help meet the National Education Goals; to the Committee on Labor and Human Resources.

EDUCATIONAL INFRASTRUCTURE ACT OF 1994

Ms. MOSELEY-BRAUN. Mr. President, I rise today to introduce the Education Infrastructure Act of 1994, legislation designed to help local school districts finance the repair, renovation, alteration, and construction of public elementary and secondary school facilities.

The American system of public education has historically given local school boards primary responsibility for maintaining our Nation's education infrastructure.

For a long time, local school boards were able to meet that responsibility. They built the school buildings in America. However, the ability of local school boards to continue to meet that responsibility has steadily declined. As a result, our schools are aging. Thirty one percent of our nation's schools were constructed before world war II, and 43 percent during the fifties and sixties to augment the existing education infrastructure in order to meet baby boom needs.

Less than 25 percent of existing schools were built during the 1970's, the 1980's, and the 1990's.

To build schools, local school boards rely on local property taxes. And, as we all know, school boards in every State in the country are finding it increasingly difficult to support their academic programs, much less their school facilities, with local property taxes.

Mr. President, local property taxes are an inadequate source of funding for public education because they make the quality of public education dependent upon the local property wealth.

Two districts in Illinois illustrate the gross disparities created by our current school financing system.

In 1990, the owner of a $100,000 home in a prosperous community paid $2,103 in local property taxes. This community spent an average of $10,085 on its public school students. On the other hand, the owner of a $100,000 home in a low- and moderate-income community paid $4,139, almost twice as much, even though that community was able to spend only $3,483 on each of their public schools students—less than one-third of the money the more prosperous community was spending.

In 1992, 57 percent of voters in Illinois voted to address the problems created by our system's reliance on local property taxes by directing the State to increase its share of public education funding.

The voters of Michigan also voted recently to shift funding for public education away from the local property taxes to more equitable sources of funding.

The Education Infrastructure Act would not infringe upon local control over public education in any way. Rather, this legislation is designed to help local school boards support the repair, renovation, alteration, and construction of our Nation's public elementary and secondary school facilities.

By providing assistance for the schoolhouses, we will assist local school boards in their efforts to fund badly needed instructional services inside the schoolhouse.

By providing an environment conducive to learning, we will help our children learn.

By providing this needed and long overdue support, we will begin to address our failure to adequately engage Federal resources in behalf of preparing our children for competition in this global economy and securing the future of our democratic institutions. This is in our children's interest; this is in our the national interest.

Mr. President, several recent studies have found that the problems facing our Nation's education infrastructure have reached crisis proportions.

In a recent survey of State educational agencies, the Education Writers Association found that our Nation's education infrastructure needs are about $125 billion: $84 billion for new construction and $41 billion for maintenance and repairs.

In fact, the EWA survey also reported that, while 42 percent of our Nation's school facilities are in good condition, 33 percent are only adequate, and 25 percent are shoddy places for learning.

More specifically, this survey found that 61 percent of our Nation's inadequate school facilities needed major repairs; 43 percent were obsolete; 42 percent were environmentally hazardous; 25 percent were overcrowded; and 13 percent were structurally unsound.

Other studies have shown that our Nation's education infrastructure is falling apart in both rural and urban school districts alike.

The Council of Great City Schools, for example, recently reported that New York City, Los Angeles, Detroit, and Chicago need more than $1 billion each to repair old school buildings and build new ones.

Several education researchers have also concluded that one-half of all rural school buildings in the United States are unsafe, inadequate, and inaccessible to disabled students.

In 1992, the Illinois State Board of Education found that its local school districts needed more than $542 million for repairs and over $468 million to meet State and Federal disability and energy conservation laws.

The Illinois State Board of Education also found that one-third of Illinois' public schools were over 50 years old.

Nonetheless, the Federal Government, as well as most States continue to force local school districts to rely increasingly on local property taxes for public education in general, and for school repair and construction projects in particular.

In Illinois, for example, the local share of public education funding increased from 48 percent during the 1980–81 school year to 58 percent during the 1992–93 school year, while the State's share, the larger pie, fell from 43 percent to 34 percent in the same period. At the same time, State support for repair, renovation, alteration, and construction of public school facilities has fallen even more dramatically in Illinois, one of at least 23 States, Mr. President, which provides little or no funding for school facilities projects.

Although the Illinois General Assembly created the Capital Assistance Program in the early 1970's to help local school districts finance school repair and construction projects, support for this program has diminished rapidly. During fiscal years 1985 through 1990, the State of Illinois only appropriated $18 million for local school repair and construction projects, and then only on an individual direct-grant basis.

In most cases, individual schools are finding it increasingly difficult to support routine maintenance and repairs within their tightening school budgets. In fact, the Council of Great City Schools reported in 1987 that the percentage of local school budgets devoted to building maintenance has steadily declined from 12.7 percent in 1939 to 3.3 percent in 1986. Again, that is in the context of an aging school facility sample.

Mr. President, in his book "Savage Inequalities," Jonathan Kozol used a series of interviews and personal observations to highlight the negative effects that inadequate school facilities have on our Nation's children. Mr. Kozol quoted in that book a 1989 St. Louis Post Dispatch story relating the following:

> The Martin Luther King Junior School in East St. Louis, Illinois was evacuated Friday afternoon after sewage flowed into the kitchen, the gym, and the parking lot.

Mr. Kozol then encourages his readers to see the school crisis through the eyes of a young girl who said:

> We have a school in East St. Louis named for Dr. King. The school is full of sewer water, and the doors are locked with chains. Every student in the school is black. It is like a terrible joke on history.

Mr. Kozol also quoted another student who was so frustrated with her school environment she stated:

> I don't go to physics class, because my lab has no equipment. I don't even use the toilets. If I do, I come back into class feeling dirty.

The Federal Government must accept a share of the blame in failing to provide students in East St. Louis and throughout this country with school environments which are conducive to learning.

In the last decade alone, the Federal Government's share of public education funding has dropped from 9.8 percent to 6.1 percent.

Yet, what most Americans do not know is that out of the $12.9 billion that we spent or invested in elementary and secondary education during the 1989–90 school year, only $12 million of that, or about one-one-thousandth of that amount, was devoted to our Nation's education infrastructure, and then only in school districts negatively impacted by Federal activities.

Nationwide, Federal support for elementary and secondary education was only 6.2 percent during the 1990–91 school year. What is compelling is that of that minuscule amount, only, again, one-one-thousandth of that amount goes to the facility, the environment in which learning is expected to take place. This hardly comports with our stated support for education.

In her research at Georgetown University, Maureen Edwards found that students in poor school facilities can be expected to fall 5.5 percentage points below those at schools in fair condition and 11 percentage points below those in schools in excellent condition. And so the learning environment is directly related to educational performance in school.

Mr. President, up to this point, the Federal Government has addressed the problems facing our Nation's public schools by passing currently unfunded Federal mandates, like section 504 of the Rehabilitation Act of 1973, the Asbestos Hazard Emergency Response Act of 1986, and the Americans With Disabilities Act of 1990. While these mandates have laudable goals, and I support them, they have the effect, as a practical matter, of passing on even greater unfunded costs to already overburdened school districts.

The Education Infrastructure Act of 1994 challenges Congress to take the first important step toward making elementary and secondary education the kind of financial priority that it should be.

This legislation would authorize the Secretary of Education to allocate $600 million directly to local school districts throughout this country for the repair, renovation, alteration, and construction of public elementary and secondary schools, school libraries, media centers, and facilities used for academic or vocational instruction.

The Secretary of Education would be authorized to distribute those funds to local school districts, including, by the way, those with large numbers of or percentages of disadvantaged students, which can demonstrate urgent repair, renovation, alteration, or construction needs. I underscore "urgent" because $600 million just begins to address this problem. More specifically, the Education Infrastructure Act would help local school districts: First, inspect their facility; second, repair the facilities that pose a health or safety risk to students; third, upgrade their facilities to accommodate new instructional technologies; fourth, install school security and communications systems; fifth, conserve energy; and sixth, build new schools to replace old ones that are most cost effectively torn down.

The bill would help local school districts meet important yet currently unfunded Federal mandates, including section 504 of the Rehabilitation Act of 1973, the Asbestos Hazard Emergency Response Act of 1986, and the Americans With Disabilities Act of 1990.

Mr. President, like most of my colleagues, I voted for the crime bill last year because it makes an important investment in the safety and security of our communities.

I firmly believe that if the Senate can make the tough choices necessary to invest $600 million in each of the next 5 years for the construction of regional prisons, we can—no, we must—work together in a bipartisan effort to begin making the necessary investments in our Nation's public schools.

The Corrections Yearbook estimated that the average cost of constructing a new maximum security prison was over $74,000 per prisoner in 1993, while, at the same time, the American School and University Magazine found that the average cost of constructing a new elementary, middle, or high school was less than $14,000 per student in 1993. We can clearly invest a little in schools to save a lot in jails. We can build classrooms instead of prison cells and enhance our society's return on its investment a thousand-fold.

Mr. President, these savings do not even take into account the savings in welfare, drug addiction, and crime programs created by investing in public schools as opposed to Federal prisons.

Nevertheless, I recognize the fact that some of my colleagues may not yet know that the problems facing our education infrastructure have reached crisis proportions. Therefore, I want to take this opportunity to show my colleagues some of the very disturbing pictures I have received of the current condition of our Nation's public schools.

The first picture is of a science lab, and I will not describe where the schools are. This is by way of demonstration, because we have demonstrative evidence from all over this country, and it is currently being collected. I hope, at some point, to be able to provide every Member of this Senate with specific information regarding the schools in their State. But this first picture is of a science lab in a high school. You will notice that there is no equipment, no electrical outlets, missing floor tiles, and it is in a general deteriorated condition.

Small wonder that you cannot do much scientific research or learning in an atmosphere like that.

The second picture is another science lab. This one again has no equipment, no electrical outlets, missing floor tiles, a generally deteriorated condition overall.

The third picture is the ceiling in a classroom. This is actually a classroom, Mr. President. Leaking water has knocked the plaster down, and it clearly poses a safety hazard for any youngster who thought he or she was going to learn anything in that environment.

The fourth picture, Mr. President, is a ceiling in a classroom in a high school. Here you see the lathing falling apart, the plaster gone, the wood lath half gone. This is a function of termites eating at plaster, and the school district did not have the money to provide for the reconstruction of this facility.

The fifth picture I have here is a portable classroom. You can remember particularly during the post-war years a number of school districts put up portable classrooms. This one is over 40 years old now. It is no longer obviously considered temporary. It was put up as a temporary classroom 40 years ago. It is no longer temporary. You see the lighting is such that it is almost impossible to learn or to read even in that environment.

The sixth picture is again another school classroom. Again the physical condition is falling apart. There is no money in this school district for new paint or, for that matter, even for new chairs.

This next picture, Mr. President, is again another safety hazard. This is exposed deteriorated electrical wiring in a high school. This is clearly a safety hazard and would require extensive and costly renovation that the school district is just not able to put together.

Picture 8 is a deteriorating school roof. This school was 115 years old, and the school roof is too expensive to replace with modern-day costs. So again this is another urgent renovation and repair or reconstruction need.

In this next picture, and everybody who has been at school lately will recognize the disgusting school bathroom, nonfunctioning drain pipes, no money to correct the drainage, problem graffiti on the walls. This is part and parcel of the school facility problem we are facing now.

The next picture is rusting lockers. This is a class of school that is decades old. These lockers are decades old, and there is no money to replace them. They do not lock. But again that is the condition of our schools today.

The eleventh picture is an outside stairwell, and this is a little hard to see. This is a stairwell in a high school. There are actually holes in the floor. The rust has eaten through to the risers, and this again is a safety hazard that has not yet been cured.

The next picture is an attic stairwell in an elementary school. Now the reason this looks like a junky stairwell is the fact this is a special education classroom, Mr. President. This is what the school board did to respond to our mandate that we provide educational opportunity to handicapped youngsters. This, it seems to me, is disgraceful, but this was what they were forced to do because of the lack of facilities.

The next picture here is one as we talk about our competition in the global economy. This is a school library, deteriorating book shelf in the school library, lack of adequate books. Most school library books, and this is reported by the American Libraries Association, are 25 years old. I daresay that in 25 years an awful lot has happened in the world that we want our youngsters to get in the course of an education.

The next picture is one of windows in a high school entrance. As you can see the lighting is terrible. There is no other lighting in the hallway, and these replacement windows have been there for years and they have not been replaced.

So I show these pictures, Mr. President, to make the point if it has not been made already how desperately and urgently needed investment in our school facilities has become.

Mr. President, I am one of the original cosponsors of the Goals 2000 legislation which we recently passed, which was a signal event and very important legislative initiative by this Congress. The Educate America Act was signed by President Clinton into law on March 31 of this year.

I support Goals 2000 because it promises to create a coherent national framework for education reform founded on the national education goals.

One essential building block of reform is better school facilities. I am pleased, therefore, that Goals 2000 included an amendment that directs the National Education Standards and Improvement Council to develop voluntary national opportunity-to-learn standards which address the condition of school facilities.

However, Mr. President, more needs to be done, and that is why the Education Infrastructure Act is so very necessary.

Local school boards need more than model standards in order to be able to provide their students with environments which are conducive to learning. Local school boards need Federal financial assistance to address the problems now facing our Nation's public school facilities.

This act, the Education Infrastructure Act, is endorsed by the national PTA, the National Education Association, the National Association of School Boards, the American Association of School Administrators, the Council of Great City Schools, the National Committee for Adequate School Housing, the City University of New York, the AFL–CIO Building and Trades Commission, the Military Impacted Schools Association, the American Library Association, the American Federation of Teachers, the National Association of Federal Education Program Administrators, ASPIRA, the Council of Education Facilities Planners International, and the American Federation of School Administrators.

As much to the point, Mr. President, a 1991 poll taken among America's high school students found that their No. 1 priority, one of their priorities—it was the No. 1 priority among high school students for investment—would be additional educational dollars invested in improved maintenance and construction of the schools. The young people know that school construction renovation and repair is vitally necessary and a long-neglected responsibility.

Mr. President, I would like to conclude my remarks by urging my colleagues to support the Education Infrastructure Act and ask for their support and assistance.

Again, I look forward to visiting with Members on the relative committees and with Members of this body to provide whatever information may be helpful with regard to the specifics in their State. But I submit to you, Mr. President, this is a national problem, this is a national crisis, and our national interest is involved in providing an atmosphere and environment in which our young people can learn.

Mr. President, I ask unanimous consent that a copy of the bill and a summary of its provisions be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2034

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Education Infrastructure Act of 1994".

SEC. 2. FINDINGS.

The Congress finds that—

(1) improving the quality of public elementary and secondary school libraries, media centers, and facilities will help our Nation meet the National Education Goals;

(2) Federal, State, and local funding for the repair, renovation, alteration and construction of public elementary and secondary school libraries, media centers, and facilities has not adequately reflected need; and

(3) the challenges facing our Nation's public elementary and secondary schools require the concerted and collaborative efforts of all levels of government and all sectors of the community.

SEC. 3. PURPOSE.

It is the purpose of this Act to help our Nation meet the National Education Goals through the repair, renovation, alteration and construction of public elementary and secondary school libraries, media centers, and facilities, used for academic or vocational instruction.

SEC. 4. DEFINITIONS.

For purposes of this Act—

(1) the term "alteration" refers to any change to an existing property for use for a different purpose or function;

(2) the term "construction" refers to the erection of a building, structure, or facility, including the concurrent installation of equipment, site preparation, associated roads, parking, and utilities, which provides area or cubage not previously available, including—

(A) freestanding structures, additional wings, or floors, enclosed courtyards or entryways, and any other means to provide usable program space that did not previously exist; and

(B) the complete replacement of an existing facility;

(3) the term "eligible local educational agency" means a local educational agency, as such term is defined in section 1471 of the Elementary and Secondary Education Act of 1965, which demonstrates in the application submitted under section 7 that such agency—

(A) has urgent repair, renovation, alteration and construction needs for its public elementary or secondary school libraries, media centers, and facilities, used for academic or vocational instruction; and

(B) serves large numbers or percentages of disadvantaged students;

(4) the term "renovation" refers to any change to an existing property to allow its more efficient use within such property's designated purpose;

(5) the term "repair" refers to the restoration of a failed or failing real property facility, component, or a building system to such a condition that such facility, component, or system may be used effectively for its designated purpose, if, due to the nature or extent of the deterioration or damage to such facility, component, or system, such deterioration or damage cannot be corrected through normal maintenance; and

(6) the term "Secretary", unless otherwise specified, means the Secretary of Education.

SEC. 5. IMPROVEMENT OF PUBLIC ELEMENTARY AND SECONDARY EDUCATION FACILITIES PROGRAM AUTHORIZED.

(a) PROGRAM AUTHORITY.—From amounts appropriated pursuant to the authority of subsection (b) in any fiscal year, the Secretary shall award grants to eligible local educational agencies having applications approved under section 6 to carry out the authorized activities described in section 7.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are to be appropriated $600,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 2004, to carry out this Act.

SEC. 6. APPLICATIONS.

Each eligible local educational agency desiring to receive a grant under this Act shall submit an application to the Secretary. Each such application shall—

(1) contain an assurance that such application was developed in consultation with parents and classroom teachers; and

(2) include—

(A) a description of each architectural, civil, structural, mechanical, electrical, or telephone line, deficiency to be corrected with funds provided under this Act, including the priority for the repair of the deficiency;

(B) a description of the corrective action to be supported with funds provided under this Act;

(C) a cost estimate of the proposed corrective action;

(D) an identification of the total amount and percentage of such agency's budget used in the preceding fiscal year for the maintenance, repair, renovation, alteration, and construction of public elementary and secondary school libraries, media centers, and facilities;

(E) a description of how such agency plans to maintain the repair, renovation, alteration, or construction supported with funds provided under this Act;

(F) a description of the extent to which the repair, renovation, alteration, or construction will help the Secretary meet the goals described in section 9(1)(A); and

(G) such other information as the Secretary may reasonably require.

SEC. 7. AUTHORIZED ACTIVITIES.

Each eligible local educational agency receiving a grant under this Act shall use such grant funds to help our Nation meet the National Education Goals through the repair, renovation, alteration, and construction of a public elementary or secondary school library, media center, or facility, used for academic or vocational instruction, including—

(1) inspection of such library, center, or facility;

(2) repairing such library, center, or facility that poses a health or safety risk to students;

(3) upgrading of and alteration to such library, center, or facility in order to accommodate new instructional technology;

(4) meeting the requirements of section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990;

(5) removal or containment of severely hazardous material such as asbestos, lead, and radon using a cost-effective method;

(6) installation or upgrading of school security and communications systems;

(7) energy conservation;

(8) meeting Federal, State, or local codes related to fire, air, light, noise, waste disposal, building height, or other codes passed since the initial construction of such library, center, or facility; and

(9) replacing an old such library, center, or facility that is most cost-effectively torn down rather than renovated.

SEC. 8. REQUIREMENTS.

(a) SPECIAL RULES.—

(1) MAINTENANCE OF EFFORT.—An eligible local educational agency may receive a grant under this Act for any fiscal year only if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such local educational agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the fiscal year for which the determination is made.

(2) SUPPLEMENT NOT SUPPLANT.—An eligible local educational agency shall use funds re-

ceived under this Act only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the repair and construction of school facilities used for educational purposes, and not to supplant such funds.

(b) General Limitations.—

(1) Real property.—No part of any grant funds under this Act shall be used for the acquisition of any interest in real property.

(2) Maintenance.—Nothing in this Act shall be construed to authorize the payment of maintenance costs in connection with any projects constructed in whole or in part with Federal funds provided under this Act.

(3) Environmental safeguards.—All projects carried out with Federal funds provided under this Act shall comply with all relevant Federal, State, and local environmental laws and regulations.

(4) Applicability of laws regarding individuals with disabilities.—Sections 504 and 505 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 shall apply to projects carried out with Federal funds provided under this Act.

SEC. 9. CONTRACTS.

If a project assisted under this Act will be carried out pursuant to a contract, the following limitations shall apply:

(1) Minority participation.—The Secretary shall establish—

(A) goals for the participation of small business concerns as contractors or subcontractors that meet or exceed the governmentwide goals established pursuant to section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)) for the participation of such concerns in contracts supported with funds under this Act (and subcontracts under such contracts); and

(B) an evaluation process for such participation that gives significant weight to the goals described in subparagraph (A).

(2) Davis-Bacon.—All laborers and mechanics employed by contractors or subcontractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction, including painting and decorating, of any building or work that is financed in whole or in part by a grant under this Act, shall be paid wages not less than those determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act); as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have the authority and functions set forth in reorganization plan of No. 14 of 1950 (15 FR 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934 (commonly known as the Copeland Anti-Kickback Act) as amended (40 U.S.C. 276c, 48 Stat. 948).

SEC. 10. TECHNICAL ASSISTANCE.

The comprehensive regional centers established under section 2203 of the Elementary and Secondary Education Act of 1965 may provide assistance in the repair, renovation, alteration, and construction of public elementary or secondary school libraries, media centers, or facilities to eligible local educational agencies receiving assistance under this Act.

SEC. 11. FEDERAL ASSESSMENT.

The Secretary shall reserve not more than 1 percent of funds appropriated pursuant to the authority of section 5(b)—

(1) to collect such data as the Secretary determines necessary at the school, local, and State levels; and

(2) to conduct studies and evaluations, including national studies and evaluations, in order to—

(A) monitor the progress of projects supported with funds provided under this Act; and

(B) evaluate the state of American public elementary and secondary school libraries, media centers, and facilities; and

(3) to report to the Congress by July 1, 1997, regarding the findings of the studies and evaluations described in paragraph (2).

Section-by-Section Analysis

SECTION 1

Short title: "The Education Infrastructure Act of 1994."

SECTION 2

Congressional findings.

SECTION 3

Purpose: "To help our nation meet the national education goals through the repair, renovation, alteration, and construction of public elementary and secondary school libraries, media centers, and facilities used for academic or vocational instruction".

SECTION 4

Definitions:

Alteration: Any change to an existing property for use for a different purpose or functions.

Construction: the erection of a building structure, or facility, including the concurrent installation of equipment, site preparation, associated roads, parking and utilities, which provides area or cubage not previously available, including—

(A) freestanding structures, additional wings, or floors, enclosed courtyards, or entryways, and any other means to provide usable program space that did not previously exist; and

(B) the complete replacement if an existing facility;

Eligible Local Educational Agency: a local educational agency, as such term is defined in section 1471 of the Elementary and Secondary Education Act of 1965, which demonstrates in the application submitted under section 7 that such agency—

(A) has urgent repair, renovation, alteration and construction needs for its public elementary or secondary school libraries, media centers, and facilities, used for academic or vocational instruction; and

(B) serves large numbers or percentages of disadvantaged students;

Renovation: any change to an existing property to allow its more efficient use within such property's designated purposes;

Repair: the restoration of a failed or failing real property facility, component, or a building system to such a condition that such facility, component, or system may be used effectively for its designated purpose, if, due to the nature or extent of the deterioration or damage cannot be corrected through normal maintenance; and

Secretary: the Secretary of Education.

SECTION 5

Authorization: $600,000,000 in fiscal year 1995 and such sums as may be necessary in fiscal years 1996 through 2004 to carry out the purpose of this act.

SECTION 6

Applciations: Each eligible local educational agency desiring to receive a grant under this Act shall submit an application to the Secretary. Each such application shall—

(1) contain an assurance that such application was developed in consultation with parents and classroom teachers; and

(2) include:

(A) a description of each architectural, civil, structural, mechanical, electrical, or telephone line deficiency to be corrected with funds under this Act, including the priority for the repair of the deficiency;

(B) a description of the corrective action to be supported with funds under this Act;

(C) a cost estimate of the proposed corrective action;

(D) an identification of the total amount and percentage of such agency's budget used in the preceding fiscal year for the maintenance, repair, renovation, alteration, and construction of public elementary and secondary school libraries, media centers, and facilities;

(E) a description of how such agency plans to maintain the repair, renovation, alteration, or construction supported with funds under this Act;

(F) a description of the extent to which the repair, renovation, alteration, or construction will help the Secretary meet the goals described in section 9(1)(A); and

(G) such other information as the Secretary may reasonably require.

SECTION 7

Authorized Activities: Each eligible local educational agency receiving a grant under this Act shall use such grant funds to help our Nation meet the National Education Goals through the repair, renovation, alteration, and construction of a public elementary or secondary school library, media center, or facility, used for academic or vocational instruction, including—

(1) inspection of such library, center, or facility:

(2) repairing such library, center, or facility that poses a health or safety risk to student;

(3) upgrading of and alterations to such library, center, or facility, to accommodate new instructional technology;

(4) meeting the requirements of Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act;

(5) removal or containment of severely hazardous material such as asbestos, lead, and radon using a cost effective method;

(6) installation or upgrading of school security and communications systems;

(7) energy conservation;

(8) meeting local, state of federal codes related to fire, air, light, noise waste disposal, building height, or other codes passed since the initial construction of the library, center, or facility; and

(9) replacing an old such library, center, or facility that is most cost-effectively torn down rather than renovated".

SECTION 8

Requirements.

SECTION 9

Contracts.

SECTION 10

Technical Assistance: "The comprehensive regional centers established under section 2203 of the Elementary and Secondary Education Act of 1965 may provide assistance in the repair, renovation, alteration, and construction of public elementary or secondary school libraries, media centers, or facilities to eligible local educational agencies receiving assistance under this Act.

SECTION 11

Federal Assessment: The Secretary shall reserve not more than 1 percent of funds appropriated pursuant to the authority of section 5(b)—

(1) to collect such data as the Secretary determines necessary at the school, local, and State levels; and

(2) to conduct studies and evaluations, including national studies and evaluations, in order to—

(A) monitor the progress of projects supported with funds under this Act;

(B) evaluate the state of American public elementary and secondary school libraries, media centers, and facilities; and

(3) to report to Congress by July 1, 1997, regarding the findings of the studies and evaluations described in paragraph (2).

By Mr. BUMPERS:

S. 2035. A bill to withdraw certain lands located in the Mark Twain National Forest from the mining and mineral leasing laws of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

OZARK RIVERS PROTECTION ACT OF 1994

• Mr. BUMPERS. Mr. President, I rise today to introduce the Ozark Rivers Protection Act of 1994. This legislation will withdraw certain lands within the Mark Twain National Forest from the mining and mineral leasing laws of the United States in order to protect several environmentally sensitive waterways located near the forest and the area's drinking water supply.

The Eleven Point River, located within the 3-million-acre Mark Twain National Forest in Missouri, is one of the eight original Wild and Scenic Rivers designated by Congress in 1968. The Eleven Point River is part of the habitat of the federally endangered bald eagle and State endangered Swainson's Warbler, while nearby caves harbor two federally endangered bat species—Gray and Indiana. The natural and recreational opportunities attract 4 million visitors annually to this wild area. American Rivers recently designated the Eleven Point River as one of the 20 most threatened rivers in the country due to the potential of lead mining in the Eleven Point District of the Mark Twain National Forest.

In addition, the Current and Jacks Fork Rivers in the area make up the Ozark National Scenic Riverways, which were the first National Rivers designated by Congress in 1964. The National Park Service, which oversees the Ozark National Scenic Riverways, has called for the prohibition of mining in the Eleven Point District because of the high likelihood mining activity in the area would have of contaminating the Ozark Scenic Riverways.

In 1992, the Bureau of Land Management authorized the Doe Run Co. to perform exploratory drilling in the Eleven Point District of the Mark Twain Forest to determine the extent of lead deposits located in the forest. If sufficient deposits are found, Doe Run will undoubtedly seek permission to mine in the area, which is located 1.5 miles from the Eleven Point River and within the subsurface watershed of the Ozark National Scenic Riverways. There is great potential damage for these nationally recognized watersheds if mining is permitted to occur. The karst terrain of the underlying rock is characterized by easily dissolved bedrock, numerous springs, caves, losing streams, and sink holes. The nature of the area makes it impossible to contain mining or milling effluents on the surface or subsurface. In addition, the aquifer located beneath the forest is the primary source of water for 20,000 residents in southeast Missouri and northeast Arkansas. In order to mine any lead located in the area, Doe Run would have to bore through two area aquifers.

Mr. President, I am sure there is no need to extensively address the long litany of health problems associated with lead. According to the American Academy of Pediatrics, between 2 and 4 million American children have sufficient lead in their blood to diminish their IQ, reduce physical stature, damage hearing, decrease hand-eye coordination and impair their ability to pay attention in school. The Department of Health and Human Services has called lead poisoning "the most important environmental health problem facing young children." We must act to prevent the water supply in northeast Arkansas and southeast Missouri from being contaminated with lead, thereby threatening our children.

The Ozark Rivers Protection Act would prohibit mining in the Eleven Point District of the Mark Twain National Forest from the application of the mining and mineral leasing laws. This legislation does nothing more than protect an especially environmentally sensitive area. Given the fact that the Bureau of Mines estimates that we currently have a 60-year supply of lead, it would not impact our national security interests. I urge my colleagues to support the bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2035

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ozark Rivers Protection Act of 1994."

SEC. 2. WITHDRAWAL OF LANDS WITHIN MARK TWAIN NATIONAL FOREST.

Subject to valid existing rights, after the date of enactment of this Act, all federal lands within the Eleven Point District of the Mark Twain National Forest are withdrawn from entry, location, or patent under the general mining laws, the operation of the mineral and geothermal leasing laws and the mineral material disposal laws.•

By Mr. McCAIN (for himself and Mr. INOUYE):

S. 2036. A bill to specify the terms of contracts entered into by the United States and Indian tribal organizations under the Indian Self-Determination and Education Assistance Act, and for other purposes; to the Committee on Indian Affairs.

INDIAN SELF-DETERMINATION CONTRACT REFORM ACT OF 1994

Mr. McCAIN. Mr. President, today I am introducing the Indian Self-Determination Contract Reform Act of 1994. I am pleased that Senator INOUYE, the chairman of the Committee on Indian Affairs, has joined with me as a cosponsor of this legislation.

I am introducing this bill to stimulate discussion and debate about the implementation of the Indian Self-Determination and Education Assistance Act. This legislation would prohibit the Secretary of the Interior and the Secretary of Health and Human Services from promulgating regulations under the Self-Determination Act. It prescribes the terms and conditions which must be used in any contract between an Indian tribe and the Bureau of Indian Affairs [BIA] or the Indian Health Service [IHS]. No modifications could be made to any contract which is entered into under the authority of the Self-Determination Act without the written consent of the Secretary and the tribe.

The policy of self-determination has proven to be very successful in terms of promoting tribal operation of Federal programs and services administered by the BIA and IHS. The policy has its origins in President Nixon's 1970 "Special Message to the Congress on Indian Affairs" which stated:

> For years we have talked about encouraging Indians to exercise greater self-determination, but our progress has never been commensurate with our promises. Part of the reason for this situation has been the threat of termination. But another reason is the fact that when a decision is made as to whether a Federal program will be turned over to Indian administration, it is the federal authorities and not the Indian people who finally make the decision.
>
> This situation should be reversed. In my judgment, it should be up to the Indian tribe to determine whether it is willing to assume administrative responsibility for a service program which is presently administered by a federal agency.

In response to President Nixon, the Congress passed the Indian Self-Determination and Education Assistance Act in 1974 and it was signed into law by President Ford on January 4, 1975. Major amendments were enacted in 1988 in an effort to improve the implementation of the Act. Today, approximately $531 million of the funds appropriated to the BIA are administered by tribal governments under self-determination contracts. There are over 400 contracts between Indian tribes and the IHS involving about $497 million annually. Indian tribes contract with the IHS for the operation of 8 fully accredited hospitals, 347 health centers, and 70 service units.

Despite these successes, the implementation of the act has consistently been plagued by an oppressive Federal bureaucracy. During the consideration of the 1988 amendments, the Senate Committee on Indian Affairs noted that the act had failed to meet its goal of reducing the Federal bureaucracy and ending the Federal domination of Indian programs. In fact, there had been no reduction in the Federal bureaucracy. Instead the act had spawned an increase in Federal officials who were employed to monitor self-determination contracts. The Committee found that Federal bureaucrats had imposed administrative and reporting requirements on Indian tribes which were more stringent than the standards which would apply to direct Federal operation of the programs, activities, and services that the tribes were contracting to provide under the act. So many layers of bureaucracy and rules had been imposed that the contract approval process required an average of 6 months rather than the 60 days mandated by the act.

The committee found that the original goal of ensuring maximum tribal participation in the planning and administration of Federal services, programs and activities intended for the benefit of Indians had been undermined by excessive bureaucracy and unnecessary contract requirements. The 1988 amendments were intended to "* * * remove many of the administrative and practical barriers that seem to persist * * * under the act. The amendments required new regulations to be developed by BIA and IHS with the participation of Indian tribes. Senate Report 100–274, which accompanied the amendments, stated:

> The regulations regarding contracts under the Indian Self-Determination Act should be relatively simple, straightforward, and free of unnecessary requirements or procedures. The Committee intends * * * [the] regulations to become effective prior to the beginning of the first Fiscal Year following enactment of this amendment.

Mr. President, it has now been nearly 6 years since the 1988 amendments were enacted. During those years there have been at least three oversight hearings to determine why the required regulations had not been developed and implemented. On January 20, 1994, the BIA and IHS finally published proposed regulations in the Federal Register. Despite the fact that the regulations were supposed to be relatively simple, straightforward, and free of unnecessary requirements or procedures, the new regulations are 83 pages long and contain hundreds of new requirements. As one commentator noted: "* * * in numerous instances the proposed regulations are more restrictive than existing regulations and raise new obstacles and burdens for Indian tribes seeking the opportunities for effective tribal self-government promised by the act."

I find the conduct of the BIA and the IHS to be outrageous. The Congress passed and the President signed a law calling for exactly the opposite result. In addition, this administration like its predecessor, is committed to reducing Federal regulatory burdens. I can think of no better place to start to reduce the crippling effect of regulations than in the area of Indian self-determination. It is time that the BIA and IHS get the message. Self-determination is not simply another Federal program and it is not an excuse for Federal officials to continue seeking domination over the affairs of tribal governments. In this instance, the BIA and the IHS suffer from the delusion that tribal programs can only be operated in the way that the BIA or IHS have operated them. To the contrary, self-determination requires a diminishment of the Federal presence in tribal affairs. This includes reducing the Federal work force and minimizing regulatory interference. Since the BIA and IHS seem unable or unwilling to accomplish these goals, I believe it has become necessary to repeal their authority to promulgate regulations under the Self-Determination Act.

It is entirely possible that regulations will be required in certain areas to effectuate the purposes of the act. However, the burden of proof should be on the Federal agencies or any other interested party to justify to the Congress and to the tribes the need for such regulations. In any case, I believe self-determination regulations should be kept to a minimum.

When the Committee on Indian Affairs conducted hearings on this legislation, I invite the Federal agencies and other interested parties to identify any provisions in the recently proposed regulations which are necessary to effectuate the purposes of the act. In addition, I invite the BIA and IHS to document the personnel reductions which have occurred since 1975 as the act has been implemented. I am hopeful that this legislation will finally lead to full compliance with the letter and spirit of the Indian Self-Determination and Education Assistance Act.

I ask unanimous consent that the bill and a section-by-section summary be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Self-Determination Contract Reform Act of 1994".

SEC. 2 CONTRACT SPECIFICATIONS.

Section 105 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j) is amended to read as follows:

"SEC. 105. CONTRACT OR GRANT SPECIFICATIONS.

"Each contract or grant entered into under this Act, except an agreement entered into pursuant to title III (25 U.S.C. 450f note), shall contain, or incorporate by reference, the following provisions, with modifications where indicated and the blanks appropriately filled:

"(a) AUTHORITY AND PURPOSE.—

"(1) AUTHORITY.—This agreement, denoted a Contract of Self-Determination (hereinafter referred to as the 'Contract'), is entered into by the Secretary of the Interior (or the Secretary of Health and Human Services) (hereinafter referred to as the 'Secretary'), for and on behalf of the United States pursuant to the Indian Self-Determination and Education Assistance Act and by the authority of the   tribal government. Unless otherwise provided in this agreement, all of the provisions of the Indian Self-Determination and Education Assistance Act are incorporated herein.

(2) PURPOSE.—This Contract shall be liberally construed to transfer the funding, functions, and activities for the following programs from the Federal Government to the   tribal government: [List functions, activities, and programs.]

"(3) TRIBAL LAW AND FORUMS.—The laws of the   tribal government shall be applied in the execution of this Contract and the powers and decisions of the Tribal Court shall be respected to the extent that Federal law, construed in accordance with the applicable canons of construction and the Indian Self-Determination and Education Assistance Act, is not inconsistent.

"(b) TERMS, PROVISIONS AND CONDITIONS.—

"(1) TERM.—The term of this Contract shall not exceed 3 years, unless the Secretary and the tribe agree on a longer period pursuant to section 106 of the Indian Self-Determination and Education Assistance Act. The calendar year is the basis for contracts under this Act, unless the Secretary and the tribe agree on a different period.

"(2) EFFECTIVE DATE.—This Contract shall become effective upon approval and execution by the tribe and the Secretary, unless otherwise provided by law.

"(3) FUNDING AMOUNT.—Subject to the appropriation of funds by Congress, the Secretary shall make available to the tribe the total amount specified in the annual agreement incorporated by reference in subsection (f)(2).

"(4) PAYMENT.—

"(A) IN GENERAL.—Payments shall be made as expeditiously as possible in compliance with applicable Treasury Department regulations and shall include financial arrangements to cover funding during periods under continuing resolutions to the extent permitted by such resolutions.

"(B) QUARTERLY PAYMENTS.—To the extent authorized by law, for each fiscal year covered by this Contract, the Secretary shall make available the funds specified for the fiscal year under the annual agreement by paying to the tribe on a quarterly basis one-quarter of the total amount provided for in the annual agreement for that fiscal year, or by using an instrument such as a letter of credit, or other method authorized by law, as may be specified in the annual agreement. To the extent applicable, each quarterly payment shall be made on the first day of each quarter of the fiscal year except for the first quarter, for which the quarterly payment shall be made not later than the date that is 10 calendar days after the date on which the Office of Management and Budget apportions the appropriations for the fiscal year for the programs, services, function, and activities subject to the Contract.

"(5) RECORDS.—(A) Except for previously provided copies of tribal records that the Secretary demonstrates are clearly required to be maintained as part of the recordkeeping system of the Department of the Interior, tribal records shall not be considered

Federal records for purposes of chapter 5 of title 5, United States Code.

"(B) The tribe shall maintain a recordkeeping system, and provide reasonable access to records to the Secretary that permits the Department of the Interior to meet its minimum legal recordkeeping program requirements under chapter 31 of title 44, United States Code.

"(6) PROPERTY.—(A) At the request of the tribe, the Secretary shall make available to the tribe reasonably divisible real property, facilities, equipment, and personal property that the Department had previously utilized to provide the programs, services, functions, and activities now consolidated by the tribe pursuant to subsection (c)(1) of this Contract. A mutually agreed upon list specifying the property, facilities, and equipment so made available shall also be prepared and periodically revised.

"(B) Subject to the agreement of the General Services Administration, the Secretary shall delegate to the tribe the authority to acquire such 'excess' property as may be appropriate in the judgment of the tribe to support the programs, services, functions, and activities consolidated under subsection (c)(1) of this Contract. The Secretary agrees to make best efforts to assist the tribe in obtaining such confiscated or excess property as may become available to tribes or local governments. Subject to the agreement of the General Services Administration, a screener identification card (General Services Administration form 2946) shall be issued to the tribe not later than the effective date of this Contract. The designated official shall, upon request, assist the tribe in securing the use of the card.

"(C) The tribe shall, upon acquisition of excess United States Government property, provide adequate documentation to the Secretary to facilitate recordation of the property in the Bureau of Indian Affairs Property Inventory.

"(D) The tribe shall determine what capital equipment, leases, rentals, property, or services it shall require to perform its obligations under this subsection, and shall acquire and maintain records of such capital equipment, property rentals, leases, property, or services through tribal procurement procedures.

"(7) SAVINGS.—Notwithstanding any other provision of law, any funds appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208, chapter 115; 25 U.S.C. 13) shall remain available until expended.

"(8) TRANSPORTATION.—

"(A) USE OF MOTOR VEHICLES.—Subject to the agreement of the General Services Administration, the Secretary hereby authorizes the tribe to obtain interagency motor pool vehicles and related services, if available, for performance of any activities under this Contract.

"(B) USE OF OTHER TRANSPORTATION SERVICES.—The Secretary shall make best efforts to obtain the concurrence of the General Services Administration to provide the tribe and its employees with eligibility for services and supplies pursuant to General Services Administration programs and contracts with private entities, including airlines and other transportation carriers.

"(9) REGULATORY AUTHORITY.—The tribe is not required to abide by Federal program guidelines, manuals, or policy directives unless otherwise agreed to by the tribe and the Secretary.

"(10) DISPUTES.—(A) Obligations of the United States under this Contract shall be considered to be 'duties' under section 110 of the Indian Self-Determination and Education Assistance Act.

"(B) Section 110 of the Indian Self-Determination and Education Assistance Act shall apply to disputes under this Contract.

"(C) In addition or as an alternative to remedies and procedures prescribed by section 110 of the Indian Self-Determination and Education Assistance Act the parties may jointly—

"(i) submit disputes under this Contract to third-party mediation, which for purposes of this section means that the Secretary and the tribe nominate a third party who together choose a third party mediator ('third-party' means a person not employed by a significantly involved with either the tribe, the Secretary, or the Department of the Interior);

"(ii) submit the dispute to the Court of the tribe; or

"(iii) submit the dispute to mediation processes provided for under the law of the tribe.

"(D) The Secretary shall accept decisions reached by mediation processes or the tribal court, but shall not be bound by an decision that might be in conflict with the interests of the Indians or the United States.

"(11) TRIBAL ADMINISTRATIVE PROCEDURES.—Tribal law and tribal forums shall provide for administrative due process with respect to programs, services, functions, and activities that are provided by the tribe pursuant to this Contract and pursuant to the Indian Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.).

"(12) SUCCESSOR ANNUAL AGREEMENT.—Negotiations for a successor annual agreement, as provided for in subsection (f)(2), shall begin not later than 120 days prior to the conclusion of the preceding annual agreement. The tribe is hereby assured that future funding of successor annual agreements shall only be reduced pursuant to section 106(b) of the Indian Self-Determination and Education Assistance Act. The Secretary agrees to prepare and supply relevant information, and to promptly comply with any request by the tribe for information reasonably needed to determine the funds that may be available for a successor annual agreement as provided for in subsection (f)(2) of this Contract.

"(13) SECRETARIAL APPROVAL.—(A) Except as provided in subparagraph (B), for the term of the Contract, section 2103 of the Revised Statutes (25 U.S.C. 81) and section 16 of the Act of June 18, 1934 (25 U.S.C. 476), shall not apply to any contract entered into by the tribe in connection with this Contract.

"(B) Each contract entered into by the tribe shall—

"(i) be in writing;

"(ii) identify the interested parties, their authorities, and purposes;

"(iii) state the work to be performed; and

"(iv) state the basis for any claim, the payments to be made, and the terms of the contract, which shall be fixed.

"(c) OBLIGATION OF THE TRIBE.—

"(1) CONSOLIDATION.—Except as provided in subsection (d)(2), the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.), and title XI of the Education Amendments of 1978 (25 U.S.C. 2001 et seq.), the tribe shall perform the programs, services, functions, and activities as provided in the annual agreement under subsection (f)(2) of this Contract.

"(2) AMOUNT OF FUNDS.—The total amount of funds covered by the Contract provided for in paragraph (1) that the Secretary shall make available to the Indian tribe shall be determined in an annual agreement between the Secretary and the tribe, which shall be incorporated in its entirety into this Contract and attached as provided in subsection (f)(2).

"(3) TRIBAL PROGRAMS.—The tribe agrees to provide the programs, services, functions, and activities identified in the annual agreement. The tribe pledges to practice good faith in upholding its responsibility to provide such programs, services, functions, and activities.

"(4) TRUST SERVICES FOR INDIVIDUAL INDIANS.—To the extent that the annual agreement endeavors to provide trust services to individual Indians that were formerly provided by the Secretary, the tribe shall maintain at least the same level of service as was previously provided by the Secretary, subject to the availability of appropriated funds for such services. The tribe pledges to practice good faith in upholding its responsibility to provide such service. Trust services for individual Indians means only services that pertain to land or financial management connected to individually held allotments.

"(d) OBLIGATION OF THE UNITED STATES.—

"(1) TRUST RESPONSIBILITY.—The United States reaffirms its trust responsibility to the Indian tribe of the Indian Reservation to protect and conserve the trust resources of the Indian tribe and of individual Indians of the Indian Reservation. Nothing in this Contract is intended to, nor shall be construed, to terminate, waive, modify, or reduce the trust responsibility of the United States to the tribe or individual Indians. The Secretary pledges to practice good faith in upholding said trust responsibility.

"(2) PROGRAMS RETAINED.—As specified in the annual agreement, the United States hereby retains the programs, services, functions, and activities with respect to the tribe that are not specially assumed by the tribe in the annual agreement.

"(e) OTHER PROVISIONS.—

"(1) DESIGNATED OFFICIALS.—On or before the effective date of this Contract, both the United States and the tribe shall provide each other with a written designation of a senior official as its representative for notices, proposed amendments to the Contract and other purposes for this Contract.

"(2) INDIAN PREFERENCE IN EMPLOYMENT, CONTRACTING, AND SUBCONTRACTING.—Tribal law shall govern the provision of Indian preference in employment, contracting, and subcontracting pursuant to this Contract. Section 5 of the Indian Self-Determination and Education Assistance Act shall apply to individuals who leave Federal employment for tribal employment pursuant to this contract.

"(3) CONTRACT MODIFICATIONS OR AMENDMENTS.—To be effective any modifications of this Contract shall be in the form of a written amendment to the Contract, and shall require the written consent of the tribe and the Secretary.

"(4) OFFICIALS NOT TO BENEFIT.—No Member of Congress, or resident commissioner, shall be admitted to any share or part of any contract executed pursuant to this Contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to any contract under this contract if made with a corporation for its general benefit.

"(5) COVENANT AGAINST CONTINGENT FEES.—The parties warrant that no person or selling agency has been employed or retained to solicit or secure any contract executed pursuant to this Contract upon an agreement or understand for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul any contract without liability or, in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

"(f) ATTACHMENTS.—

"(1) APPROVAL OF CONTRACT.—The resolution of the   Indian tribe approving this Contract is attached hereto as attachment 1.

"(2) ANNUAL AGREEMENT.—The negotiated and duly approved annual agreement with respect to the   Indian tribe which shall only contain terms that identify the programs, services, functions, and activities to be performed, the general budget category assigned, the funds to be provided, the time and method of payment, and a requirement that all modifications or amendments shall be written and signed by both parties, is hereby incorporated in its entirety in this Contract and attached hereto as attachment 2.".

SEC. 3. REGULATIONS.

(a) IN GENERAL.—The Secretary of the Interior and the Secretary of Health and Human Services shall not promulgate any regulation relating to grants, contracts, or cooperative agreements entered into pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(b) EXISTING REGULATIONS.—The provisions of this Act shall supersede any conflicting provisions of law or regulation in existence on the date of enactment of this Act.

SEC. 4. REPEAL.

(A) IN GENERAL.—Section 107 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450k) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 104(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450h(b)) is amended by striking ", in accordance with regulations adopted pursuant to section 107,".

(2) Section 106(h) of such Act (25 U.S.C. 450j(h)) is amended by striking "and the rules and regulations adopted by the Secretaries of the Interior and Health and Human Services pursuant to section 107".

SECTION-BY-SECTION SUMMARY

Section 1. Short Title. This section provides that the Act may be cited as the "Indian Self-Determination Contract Reform Act of 1994".

Section 2. Contract Specifications. This Section amends section 105 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j) to require every grant or contract, except self-governance compacts, entered into under the Act to contain the following provisions:

(a)(1) Authority. This subsection provides that the contract is entered into pursuant to the Indian Self-Determination and Education Assistance Act and incorporates all of the provisions of that Act.

(a)(2) Purpose. This subsection provides that the contract shall be liberally construed to transfer funding, functions and activities for specific federal programs from the Federal government to a tribal government.

(a)(3) Tribal Law and Forums. This subsection provides that tribal law shall be applied to the execution of the contract to the extent that such law is not inconsistent with Federal law.

(b)(1) Term. This subsection limits the term of the contract to three years unless the provisions of section 106 of the Act are applicable and the Secretary and the Indian tribe agree to a longer term. This subsection also provides that the basis for the contract is the calendar year unless the Secretary and the tribe agree to a different period.

(b)(2) Effective Date. This subsection provides that the contract shall become effective upon its execution by the parties or on such date as the parties may specify.

(b)(3) Funding Amount. This subsection requires the Secretary to make available to the tribe the amount specified in the annual agreement pursuant to subsection (f)(2) and subject to the availability of appropriations.

(b)(4)(A) Payment.-In General. This subsection requires payment under the contract to be made as expeditiously as possible in compliance with applicable Treasury Department regulations.

(b)(4)(B) Quarterly Payments. This subsection requires the Secretary to make quarterly payments if authorized by law and to do so on the first day of each quarter of the fiscal year except for the first quarter when such payment shall be made within ten days after the office of Management and Budget apportions the applicable appropriations.

(b)(5) (A), (B) Records. These subsections provide that unless the Secretary determines that tribal records are required as part of the record keeping system of the Department of the Interior, tribal records shall not be considered to be Federal records under Title 5 of the United States Code. The tribe is required to maintain and ensure access to a record keeping system which will enable the Secretary to comply with the record keeping requirements of chapter 31 of Title 44 of the Untied States Code.

(b)(6) (A), (B), (C) & (D) Property. These subsections authorize the Secretary to make available to the tribe the real and personal property, facilities and equipment which have previously been used to provide the programs, services, functions and activities transferred to the tribe under the contract. Subject to the agreement of the General Services Administration, the tribe is also authorized to acquire excess or confiscated property which may be appropriate to support the tribe's activities under the contract. All such excess property shall be recorded in the Bureau of Indian Affairs' property inventory. The tribe is required to keep records of all capital equipment, property rentals, leases or services which it determines are necessary to perform its obligations under this subsection.

(b)(7) Savings. This subsection provides that any funds appropriated pursuant to the Snyder Act, 25 U.S.C. 13, shall remain available until expended.

(b)(8) (A) & (B) Transportation. Subject to the agreement of the General Services Administration, these subsections authorize Indian tribes to obtain interagency motor pool vehicles and other transportation services and supplies.

(b)(9) Regulatory Authority. This subsection exempts the tribe from Federal program guidelines, manuals or policy directives except as may be otherwise provided by agreement of the parties under this subsection.

(b)(10) (A), (B), (C) & (D) Disputes. These subsections provide that obligations of the United States under the contract shall be construed as duties under section 110 of the Act and that section 110 will govern dispute resolution unless the parties agree to submit disputes to mediation or to the tribal court. The Secretary is required to accept decisions made through mediation or by a tribal court unless such decisions are in conflict with the interests of the Indian tribe or the United States.

(b)(11) Tribal Administrative Procedures. This subsection requires the tribe to provide due process of law pursuant to the Indian Civil Rights Act with respect to all programs, services, functions and activities carried out under the contract.

(b)(12) Successor Annual Agreement. This subsection provides that negotiations for a new annual agreement shall begin not later than 120 days prior to the conclusion of the current annual agreement and that funding levels will only be reduced in the event that appropriations are reduced.

(b)(13) (A) & (B) Secretarial Approval. These subsections provide that 25 U.S.C. 81 and 476 shall not apply to the tribe with respect to any contract entered into in connection with this contract, but all such contracts must be in writing and clearly specify the parties, their duties and the payments to be made.

(c)(1) Obligation of the Tribe-Consolidation. This subsection provides that the tribe will perform all of the programs, services, functions and activities, except for certain education programs, as provided in the annual funding agreement.

(c)(2) Amount of Funds. This subsection provides that the total funding available to the tribe shall be determined by the annual funding agreement which is expressly incorporated into this contract.

(c)(3) Tribal Programs. This subsection obligates the tribe to make a good faith effort to provide the programs, services, functions and activities identified in the annual funding agreement.

(c)(4) Trust Services for Individual Indians. This subsection requires the tribe to provide the same trust services to individuals as were formerly provided by the Secretary, subject to the availability of appropriated funds.

(d)(1) Obligation of the United States-Trust Responsibility. This subsection provides that the United States reaffirms its trust responsibility and that nothing in this contract shall be construed to terminate, waive, modify or reduce the Federal trust responsibility.

(d)(2) Programs Retained. This subsection provides that the United States retains all programs, services, functions and activities that are not specifically assumed by the tribe under the annual funding agreement.

(e)(1) Other Provisions-Designated Officials. This subsection requires the parties to designate officials to receive notices and proposed amendments to the contract.

(e)(2) Indian Preference In Employment, Contracting and Subcontracting. This subsection provides that tribal law governs Indian preference in employment, contracting and subcontracting under the contract and that section 5 of the Act applies to individuals who leave federal employment for tribal employment under the contract.

(e)(3) Contract Modifications or Amendments. This subsection requires all modifications to the contract to be in the form of a written amendment to the contract and to have the consent of the Secretary and the tribe.

(e)(4) Officials Not to Benefit. This subsection prohibits federal officials from sharing in or benefiting from the contract.

(e)(5) Covenant Against Contingent Fees. This subsection requires the parties to warrant that no one has been employed or retained to secure this contract in return for a percentage or contingent fee.

(f)(1) Attachments-Approval of Contract. This subsection references the resolution of the tribe which approves the contract.

(f)(2) Annual Agreement. This subsection incorporates the annual funding agreement into the contract and limits its terms to identification of the programs, services, functions and activities to be performed, the budget category, the funds provided, the time and method of payment and a requirement that all modifications or amendments must be written and signed by both parties.

Section 3. Regulations. This section prohibits the Secretary of the Interior and the Secretary of Health and Human Services from promulgating any regulations relating to the Indian Self-Determination and Education Assistance Act and provides that the provisions of the Indian Self-Determination Contract Reform Act supersede any conflicting regulations or provisions of law.

Section 4. Repeal. This section repeals the provisions of the Indian Self-Determination and Education Assistance Act which authorized the Secretary of the Interior and the Secretary of Health and Human Services to promulgate regulations to implement the Act.

By Mr. JOHNSTON (for himself and Mr. BREAUX):

S.J. Res. 182. A joint resolution to designate the year 1995 as "Jazz Centennial Year"; to the Committee on the Judiciary.

JAZZ CENTENNIAL YEAR

• Mr. JOHNSTON. Mr. President, I am pleased to introduce legislation to request the President to designate 1995 as the "Jazz Centennial Year."

Jazz is the United States most widely recognized indigenous art form and was designated as a "rare and valuable national treasure" in 1987 by Concurrent Resolution 57.

The Louisiana Music Commission, an organization funded by the State of Louisiana to promote the awareness and development of the State's abundant music resources, has convened a prominent group of music historians, players, and supporters to create the New Orleans' Jazz Centennial Celebration [NOJCC] and has chosen 1995 to mark the centennial of jazz. They based this on a general benchmark relating to the formation of the Buddy Bolden band, and the New Orelans' celebration of the 50th anniversary of jazz in 1945.

Mr. President, NOJCC planners are hoping to make this a global celebration. Many believe a Mexican brass band that played at the New Orleans Cotton Exposition of 1885 was an early influence on jazz and Mexico will play a role in the celebration. No doubt, many other cities in America and throughout the world also lay claims to contributing to the evolution of jazz. All are welcome to join in the commemoration, which will only be limited by the imagination of people around the world.

Since Jazz owes its formation to a variety of styles and cultures, and epitomizes the American experiment, the passage of this bill would mark an important step in recognizing the importance of Jazz and impact it has had all around the world. I hope many of my colleagues will join me in this effort. I ask unanimous consent that the text of this resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 182

Whereas jazz is the most widely recognized indigenous art form in the United States and was designated as a rare and valuable national treasure by the Congress in 1987;

Whereas New Orleans, Louisiana is widely recognized as the birthplace of jazz and continues as a center for the employment, performance, preservation, development, and progression of jazz;

Whereas the Louisiana Music Commission, an organization funded by the State of Louisiana to promote the awareness and development of the State's abundant music resources, has convened a prominent group of music historians, players, and supporters to create the New Orleans Jazz Centennial Celebration;

Whereas the Louisiana Music Commission has chosen 1995 as the centennial of jazz, based on a general benchmark relating to the formation of the Buddy Bolden band; and

Whereas the chairman of the Louisiana Music Commission announced to the International Association of Jazz Educators that a year-long commemoration of the centennial of jazz will take place throughout 1995: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the year 1995 is hereby designated as "Jazz Centennial Year". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this year with appropriate ceremonies and activities that promote a better understanding and awareness of—

(1) jazz as a rare and valuable national treasure;

(2) the appropriate means by which all Americans may learn about our Nation's most widely recognized indigenous art form; and

(3) how this national treasure can be preserved and promoted for the enjoyment of future generations.•

• Mr. BREAUX. Mr. President, it is indeed an honor to join my colleague and friend, Senator J. BENNETT JOHNSTON, the senior Senator of my State, the great State of Louisiana, in introducing a resolution that would designate the year 1995 as "Jazz Centennial Year."

There is uncertainty, Mr. President, about the exact year of the birth of jazz. I expect, though, that most music historians will agree with the New Harvard Dictionary of Music's finding that as this unique American music creation began to "emerge in the 1890's through 1910, the great majority of its most original players resided in New Orleans, Louisiana." Mr. President, in the early decades of the 20th century these great black American musicians include among others, Buddy Bolden, Papa Jack Laine, Freddie Keppard, King Oliver, and Louis Armstrong.

Accordingly, Mr. President, the Louisiana Music Commission, under the chairmanship of Ellis Marsalis, states, and I quote:

> In 1995, Louisiana will be staging a year-long celebration of 100 years of jazz called the New Orleans Centennial Celebration (NOJCC). In choosing 1995, the NOJCC is relying on a general benchmark relating to the formation of the Buddy Bolden band, and the city's celebration of the 50th anniversary of jazz in 1945.
>
> Owing its formation to a variety of styles and cultures, Jazz epitomizes the American experiment, and like America, continues to influence the world. However, it was the special blend of cultures in the Deep South—particularly in Louisiana—that gave rise to this music as a clearly defined style. Thus Louisiana lays claim to being the most musical place on Earth—Jazz, Blues, Gospel, Rhythm & Blues, Country, Rock & Roll, Cajun, Zydeco, and many other styles of music all continue to grow in the fertile souls of Louisiana.

Mr. President, clearly it is fitting and proper that Louisiana lead this Nation and the world in this celebration of Jazz, America's rich and extraordinary musical gift to the world. It is equally fitting that the celebration of Jazz begin with a joint resolution of the Congress of the American people, which will proclaim and honor the founding of this national and world treasure by designating the year 1995 as "Jazz Centennial Year." I urge my colleagues to join Senator JOHNSTON and myself in passing this obviously worthy resolution.•

ADDITIONAL COSPONSORS

S. 1208

At the request of Mr. WOFFORD, the names of the Senator from Indiana [Mr. COATS] and the Senator from Florida [Mr. MACK] were added as cosponsors of S. 1208, a bill to authorize the minting of coins to commemorate the historic buildings in which the Constitution of the United States was written.

S. 1288

At the request of Mr. AKAKA, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 1288, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture commercialization research program, and for other purposes.

S. 1576

At the request of Mr. COATS, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 1576, a bill to provide a tax credit for families, to provide certain tax incentives to encourage investment and increase savings, and to place limitations on the growth of spending.

S. 1592

At the request of Mr. DORGAN, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 1592, a bill to improve Federal decision making by requiring a thorough evaluation of the economic impact of Federal legislative and regulatory requirements on State and local governments and the economic resources located in such State and local governments.

S. 1676

At the request of Mr. MACK, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 1676, a bill to provide a fair, nonpolitical process that will achieve $65,000,000,000 in budget outlay reductions each fiscal year until a balanced budget is reached.

S. 1787

At the request of Mr. MCCONNELL, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1787, a bill to amend the Internal Revenue Code of 1986 to provide for the tax-free treatment of education savings accounts established through certain State programs, and for other purposes.

S. 1836

At the request of Mr. DOLE, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 1836, a bill for the relief of John Mitchell.

S. 1852

At the request of Mr. KENNEDY, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1852, a bill to amend the Head Start Act to extend authorizations of appropriations for programs under that Act, to strengthen provisions designed to provide quality assurance and improvement, to provide for orderly and appropriate expansion of such programs, and for other purposes.

S. 1863

At the request of Mr. COHEN, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Oklahoma [Mr. NICKLES], the Senator from California [Mrs. FEINSTEIN], the Senator from Idaho [Mr. CRAIG], the Senator from Mississippi [Mr. COCHRAN], the Senator from Colorado [Mr. CAMPBELL], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 1863, a bill to amend title II of the Social Security Act to institute certain reforms relating to the provision of disability insurance benefits based on substance abuse and relating to representative payees, and for other purposes.

S. 2000

At the request of Mr. KENNEDY, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 2000, a bill to authorize appropriations for fiscal years 1995 through 1998 to carry out the Head Start Act and the Community Services Block Grant Act, and for other purposes.

S. 2006

At the request of Mr. DOLE, the names of the Senator from Oklahoma [Mr. NICKLES] and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 2006, a bill to require Federal agencies to prepare private property taking impact analyses, and for other purposes.

S. 2029

At the request of Mr. BREAUX, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2029, a bill to amend the Internal Revenue Code of 1986 to allow the taxable sale or use, without penalty, of dyed diesel fuel with respect to recreational boaters.

SENATE JOINT RESOLUTION 146

At the request of Mr. WOFFORD, the names of the Senator from Missouri [Mr. DANFORTH] and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of Senate Joint Resolution 146, a joint resolution designating May 1, 1994, through May 7, 1994, as "National Walking Week."

SENATE JOINT RESOLUTION 165

At the request of Mr. COCHRAN, the names of the Senator from Illinois [Mr. SIMON] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Joint Resolution 165, a joint resolution to designate the month of September 1994 as "National Sewing Month."

SENATE JOINT RESOLUTION 172

At the request of Mr. DOLE, the names of the Senator from North Dakota [Mr. DORGAN], the Senator from California [Mrs. BOXER], the Senator from Michigan [Mr. RIEGLE], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of Senate Joint Resolution 172, a joint resolution designating May 30, 1994, through June 6, 1994, as a "Time for the National Observance of the 50th Anniversary of World War II."

SENATE RESOLUTION 190

At the request of Mr. D'AMATO, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of Senate Resolution 190, a resolution expressing the sense of the Senate that the President should work to achieve a clearly defined and enforceable agreement with allies of the United States which establishes a multilateral export control regime to stem the proliferation of products and technologies to rogue regimes that would jeopardize the national security of the United States.

AMENDMENTS SUBMITTED

BANKRUPTCY AMENDMENTS ACT OF 1994

MCCAIN (AND BURNS) AMENDMENT NO. 1632

Mr. MCCAIN (for himself and Mr. BURNS) proposed an amendment to the bill (S. 540) to improve the administration of the bankruptcy system, address certain commercial issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes; as follows:

At an appropriate place in the bill, add the following new section:

SEC. . It is the sense of the Senate that—

(1) the policy of providing reserved parking areas free of charge to Members of Congress, other Government officials, and diplomats at Washington National Airport and Dulles International Airport should be ended; and

(2) the Metropolitan Washington Airports Authority should establish a parking policy for such areas that provides equal access to the public, and does not provide preferential parking privileges to Members of Congress, other Government officials, and diplomats.

BROWN (AND OTHERS) AMENDMENT NO. 1633

Mr. HEFLIN (for Mr. BROWN for himself, Mr. GRAHAM, and Mr. CAMPBELL) proposed an amendment to the bill S. 540, supra; as follows:

On page 211, after line 21 insert the following:

SEC. 222. SUPPLEMENTAL INJUNCTIONS.

Section 524 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(g)(1)(A) After notice and hearing, a court that enters an order confirming a plan of reorganization under chapter 11 may issue an injunction to supplement the injunctive effect of a discharge under this section.

"(B) An injunction may be issued under subparagraph (A) to enjoin persons and governmental units from taking legal action for the purpose of directly or indirectly collecting, recovering, or receiving payment or recovery of, on, or with respect to any claim or demand that, under a plan of reorganization, is to be paid in whole or in part by a trust described in paragraph (2)(B)(i), except such legal actions as are expressly allowed by the injunction, the confirmation order, or the plan of reorganization.

"(2)(A) If the requirements of subparagraph (B) are met at any time, then, after entry of an injunction under paragraph (1), any proceeding that involves the validity, application, construction, or modification of the injunction or of this subsection with respect to the injunction may be commenced only in the district court in which the injunction was entered, and such court shall have exclusive jurisdiction over any such proceeding without regard to the amount in controversy.

"(B) The requirements of this subparagraph are that—

"(i) the injunction is to be implemented in connection with a trust that, pursuant to the plan of reorganization—

"(I) is to assume the liabilities of a debtor which at the time of entry of the order for relief has been named as a defendant in personal injury, wrongful death, or property-damage actions seeking recovery for damages allegedly caused by the presence of, or exposure to, asbestos or asbestos-containing products;

"(II) is to be funded in whole or in part by the securities of 1 or more debtors involved in the plan of reorganization and by the obligation of such debtor or debtors to make future payments;

"(III) is to own, or by the exercise of rights granted under the plan could own, a majority of the voting shares of—

"(aa) each such debtor;

"(bb) the parent corporation of each such debtor; or

"(cc) a subsidy of each such debtor that is also a debtor; and

"(IV) is to use its assets or income to pay claims and demands; and

"(ii) the court, at any time pursuant to its authority under the plan, over the trust, or otherwise, determines that—

"(I) the debtor may be subject to substantial future demands for payment arising out of the same or similar conduct or events that gave rise to the claims that are addressed by the injunction;

"(II) the actual amounts, numbers, and timing of such future demands cannot be determined;

"(III) pursuit of such demands outside the procedures prescribed by the plan may threaten the plan's purpose to deal equitably with claims and future demands;

"(IV) as part of the process of seeking approval of the plan of reorganization—

"(aa) the terms of the injunction proposed to be issued under paragraph (1)(A), including any provisions barring actions against third parties pursuant to paragraph (4)(A), shall be set out in the plan of reorganization and in any disclosure statement supporting the plan; and

"(bb) a separate class or classes of the claimants whose claims are to be addressed by a trust described in clause (i) is established and votes, by at least 75 percent of those voting, in favor of the plan; and

"(V) pursuant to court orders or otherwise, the trust will operate through mechanisms such as structured, periodic or supplemental payments, pro rata distributions, matrices, or periodic review of estimates of the numbers and values of present claims and future demands or other comparable alternates, that provide reasonable assurance that the trust will value, and be in a financial position to pay, present claims and future demands that involve similar claims in substantially the same manner.

"(3)(A) If the requirements of paragraph (2)(B) are met and the order approving the plan or reorganization was issued or affirmed by the district court that has jurisdiction over the reorganization proceedings, then after the time for appeal of the order that issues or affirms the plan of reorganization—

"(i) the injunction shall be valid and enforceable and may not be revoked or modified by any court except through appeal in accordance with paragraph (6);

"(ii) no entity that pursuant to the plan of reorganization or thereafter becomes a direct or indirect transferee of, or successor to any assets of, a debtor or trust that is the subject of the injunction shall be liable with respect to any claim or demand made against it by reason of its becoming such a transferee or successor; and

"(iii) no entity that pursuant to the plan of reorganization or thereafter makes a loan to such a debtor or trust or to such a successor or transferee shall, by reason of making the loan, be liable with respect to any claim or demand made against it, nor shall any pledge of assets made in connection with such a loan be upset or impaired for that reason;

"(B) Subparagraph (A) shall not be construed to—

"(i) imply that an entity described in subparagraph (A) (ii) or (iii) would, if this paragraph were not applicable, have liability by reason of any of the acts described in subparagraph (A);

"(ii) relieve any such entity of the duty to comply with, or of liability under, any Federal or State law regarding the making of a fraudulent conveyance in a transaction described in subparagraph (A) (ii) or (iii); or

"(iii) relieve a debtor of the debtor's obligation to comply with the terms of the plan of reorganization or affect the power of the court to exercise its authority under sections 1141 and 1142 to compel the debtor to do so.

"(4)(A)(i) Subject to subparagraph (B), an injunction under paragraph (1) shall be valid and enforceable against all persons and governmental units that it addresses.

"(ii) Notwithstanding section 524(e), such an injunction may bar any action directed against a third party who—

"(I) is identifiable from the terms of the injunction (by name or as part of an identifiable group); and

"(II) is alleged to be directly or indirectly liable for the conduct of, claim against, or demands on the debtor.

"(B) With respect to a demand (including a demand directed against a third party who is identifiable from the terms of the injunction (either by name or as part of an identifiable group) and who is alleged to be directly or indirectly liable for the conduct of, claims against, or demands on the debtor) that is made subsequent to the confirmation of a plan against any person or entity that is the subject of an injunction issued under paragraph (1), the injunction shall be valid and enforceable if, as part of the proceedings leading to its issuance, the court appointed a legal representative for the purpose of protecting the rights of persons that might subsequently assert such a demand.

"(5) In this subsection, the term 'demand' means a demand for payment, present or future, that—

"(A) was not a claim during the proceedings leading to the confirmation of a plan of reorganization;

"(B) arises out of the same or similar conduct or events that give rise to the claims addressed by the injunction issued under paragraph (1); and

"(C) pursuant to the plan, is to be paid by a trust described in paragraph (2)(B)(i).

"(6) Paragraph (3)(A)(i) does not bar an action taken by or at the direction of an appellate court on appeal of an injunction issued under paragraph (1) or of the order of confirmation that relates to the injunction.

"(7) This subsection applies to an injunction of the nature described in paragraph (1)(B) in effect, and any trust of the nature described in paragraph (2)(B) in existence, on or after the date of enactment of this subsection.

"(8) This subsection does not affect the operation of section 1144 or the power of the district court to refer a proceeding under section 157 of title 28 or any reference of a proceeding made prior to the date of enactment of this subsection.

"(9) Nothing in subsection (g) shall affect the court's authority to issue an injunction (including an injunction that requires claims and demands to be presented for payment solely to a trust or any other type of court approved settlement vehicle) which is entered pursuant to an order approving a plan of reorganization.

"(10)(A) If, upon a motion by a representative appointed by the court identified in paragraph (1)(A) to protect the interests of persons with demands of the kind described in paragraph (2)(B)(ii)(I) or on its own motion, the court finds, as a result of enhanced credible estimating procedures with respect of such demands, inequities in the distribution process of a trust of the nature described in paragraph (2)(B), the court shall have, in addition to the powers over the trust that the court may lawfully exercise under applicable nonbankruptcy law, plenary equitable power to reform, restructure, or modify the trust, the procedures under which it operates, or the timing, manner, and amount of distributions to its beneficiaries and other rights of the beneficiaries, giving special attention to cases presenting exigent circumstances, as it shall determine to be fair, just, and reasonable in light of the circumstances prevailing at the time of reformation, restructure or modification.

"(B) Nothing in this paragraph shall be construed to grant the court authority to modify or in any way alter the debtor's obligation to comply with the terms of the plan of reorganization.".

DECONCINI AMENDMENT NO. 1634

Mr. DECONCINI proposed an amendment to the bill S. 540, supra; as follows:

On page 160, insert between lines 6 and 7 the following new section:

SEC. 116. ADDITIONAL TRUSTEE COMPENSATION.

Section 330(b) of the title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Judicial Conference of the United States shall prescribe additional fees of the same kind as prescribed under section 1914(b) of title 28, to pay $15 to the trustee serving in such case after such trustee's services are rendered. Such $15 shall be paid in addition to the amount paid under paragraph (1).".

THURMOND (AND HELMS) AMENDMENT NO. 1635

Mr. THURMOND (for himself and Mr. HELMS) proposed an amendment to the bill S. 540, supra; as follows:

On page 235, between lines 13 and 14 insert the following:

SEC. 311. FAIRNESS TO CONDOMINIUM AND CO-OPERATIVE OWNERS.

Section 523(a) of title 11, United States Code, as amended by section 210, is amended—

(1) by striking "or" at the end of paragraph (13);

(2) by adding "or" at the end of paragraph (14); and

(3) by adding at the end the following new paragraph:

"(15) for a fee that becomes due and payable after the order for relief to a membership association with respect to the debtor's interest in a dwelling unit that has condominium ownership or in a share of a cooperative housing corporation, if such fee is payable for a period during a substantial portion of which—

"(A) the debtor physically occupied a dwelling unit in the condominium or cooperative project; or

"(B) the debtor rented the dwelling unit to a tenant and received payments from the tenant for such period,

but nothing in this paragraph shall except from discharge the debt of a debtor for a membership association fee for a period arising before entry of the order for relief in a pending or subsequent bankruptcy proceeding.".

REID (AND OTHERS) AMENDMENT NO. 1636

Mr. REID (for himself, Mr. AKAKA, MR. BRYAN, and Mr. MURKOWSKI) proposed an amendment to the bill, S. 540, supra; as follows:

At the appropriate place, insert:

SEC. . LIMITATION ON STATE TAXATION OF CERTAIN PENSION INCOME.

(a) IN GENERAL.—Chapter 4 of title 4 of the United States Code is amended by adding at the end thereof the following new section:

§ 114. Limitation on State income taxation of pension income

"(a) No State may impose an income tax (as defined in section 110(c)) on the qualified pension income of any individual who is not a resident or domiciliary of such State.

"(b)(1) For purposes of subsection (a), the term 'qualified pension income' means any payment from a qualified made for—

"(A) which is part of a series of substantially equal periodic payments (not less frequently than annually) made for—

"(i) the life or life expectancy of the recipient or for the joint lives or joint life expectancies of the recipient and the recipient's designated beneficiary, or

"(ii) a period of not less than 10 years, or

"(B) which is not described in subparagraph (A) and which—

"(i) is received in a taxable year for which an election under this subsection is in effect, and

"(ii) is received on or after the date on which the recipient has attained the age of 59½,

except that the aggregate amount of payments to which this subparagraph may apply for any taxable year shall not exceed $25,000.

"(2) For purposes of paragraph (1), the term 'qualified plan' means—

"(A) an employees' trust described in section 401(a) of the Internal Revenue Code of 1986 which is exempt from tax under section 501(a) of such Code,

"(B) a simplified employee pension described in section 408(k) of such Code,

"(C) an annuity plan described in section 403(a) of such Code,

"(D) an annuity contract described in section 403(b) of such Code,

"(E) an individual retirement plan described in section 7701(a)(37) of such Code,

"(F) an eligible deferred compensation plan under section 457 of such Code, or

"(G) a governmental plan described in section 414(d) of such Code, other than a plan established and maintained by a State or political subdivision of a State, or an agency or instrumentality of either.

"(3) For purposes of paragraph (1), any retired or retainer pay of a member or former member of a uniform service computer under chapter 71 of title 10, United States Code, shall be treated as a payment from a qualified plan.

"(4)(A) An election under paragraph (1)(B), once made from a taxable year, may not be made for any other taxable year.

"(B) In calendar years beginning after 1994, the $25,000 amount referred to in paragraph (1)(B) shall be increased by an amount equal to such dollar amount, multiplied by the cost-of-living adjustment determined under section 1(f)(3) of such Code for such calendar year by substituting 'calendar year 1993' for 'calendar year 1992' in subparagraph (b) thereof.

"(c) For purposes of subsection (a), the term 'State' includes any political subdivision of a State, the District of Columbia, and the possessions of the United States."

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 4 is amended by adding at the end thereof the following new item:

"114. Limitation on State income taxation of pension income."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

REID (AND BROWN) AMENDMENT NO. 1637

Mr. REID (for himself and Mr. BROWN) proposed an amendment to the bill S. 540, supra; as follows:

On page 160, between lines 6 and 7 insert the following:

SEC. 116. LIMITATION ON FILING OF CHAPTER 13 BANKRUPTCY PETITIONS.

Section 109, of title 11, United States Code, is amended by adding at the end the following new subsection:

"(h) Notwithstanding any other provision of the section, no individual may be a debtor under chapter 13 who has been a debtor in a case that was filed under that chapter at any time in the preceding 3 years.".

HEFLIN AMENDMENT NO. 1638

Mr. HEFLIN proposed an amendment to the bill S. 540, supra; as follows:

On page 144, strike lines 1 through 7.

On page 144, line 8, strike "**1041**" and insert "**103**".

On page 146, line 1, strike "**105**" and insert "**104**".

On page 148, strike line 3 and all that follows through page 149, line 9, and insert the following:

"(B) The judicial council of a circuit need not establish a bankruptcy appellate panel service if the judicial council finds that—

"(i) there are insufficient judicial resources available in the circuit;

"(ii) establishment of such a service would result in undue delay or increased cost to parties in cases under title 11; or

"(iii)(I) other factors of sound judicial administration make the creation of such a service inappropriate; and

"(II) bankruptcy appeals are being heard and decided by the district courts in a timely manner.

"(2)(A)(i) A judicial council may at any time reconsider its decision to create or not to create a bankruptcy appellate panel service.

"(ii) A decision on reconsideration under clause (i) shall be submitted to the Judicial Conference of the United States within 90 days after it is made.

"(B) If the judicial council of a circuit finds that a circumstance described in paragraph (1)(B) (i), (ii), or (iii) exists, the judicial council may provide for the completion of the appeals then pending before a bankruptcy appellate panel service and the orderly termination of the service.

On page 151, line 7, strike "**106**" and insert "**105**".

On page 152, line 1, strike "**107**" and insert "**106**".

On page 153, line 3, strike "**108**" and insert "**107**".

On page 154, line 3, strike "**109**" and insert "**108**".

On page 156, line 15, strike "**110**" and insert "**109**".

On page 156, line 23, strike "10th" and insert "15th".

On page 157, line 1, after "(e)(2)" insert "(as it applies to a cash tender offer)".

On page 157, line 5, strike "**111**" and insert "**110**".

On page 157, line 23, strike "**112**" and insert "**111**".

On page 158, strike lines 16 through 22 and insert the following:

SEC. 112. SERVICE OF PROCESS IN BANKRUPTCY PROCEEDINGS ON AN INSURED DEPOSITORY INSTITUTION.

Rule 7004 of Bankruptcy Rules is amended—

(1) in subsection (b) by striking "In addition" and inserting "Except as provided in subdivision (h), in addition"; and

(2) by adding at the end the following new subdivision:

"(h) SERVICE OF PROCESS ON AN INSURED DEPOSITORY INSTITUTION.—Notwithstanding any other provision of this rule or any other rule or law, service on an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) shall be made by certified mail addressed to an officer of the institution unless—

"(1) the institution has appeared by its attorney, in which case the attorney shall be served by first class mail;

"(2) the court orders otherwise after service upon the institution by certified mail of notice of an application to permit service on the institution by first class mail sent to an officer of the institution designated by the institution; or

"(3) the institution has waived in writing its entitlement to service by certified mail by designating an officer to receive service.".

On page 159, line 1, strike "**114**" and insert "**113**".

On page 160, between lines 6 and 7 insert the following:

SEC. 116. EXTENSION TO CERTAIN JUDICIAL OFFICIALS OF LIFE INSURANCE RULES CURRENTLY APPLICABLE TO FEDERAL JUDGES.

(a) ELIGIBILITY.—Section 8701(a) of title 5, United States Code, is amended—

(1) in paragraph (9) by striking "and" after the semicolon;

(2) in paragraph (10) by adding "and" after the semicolon; and

(3) by inserting after paragraph (10) and preceding the matter before subparagraph (A) the following new paragraph:

"(11) a judicial official (as defined in section 376(a)(1) of title 28), including—

"(i) a judge of the United States Court of Federal Claims—

"(I) who is in regular active service, or

"(II) who is retired from regular active service under section 178 of title 28;

"(ii) a judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands—

"(I) who is in regular active service, or

"(II) who is retired from regular active service under section 373 of title 28; and

"(iii) a bankruptcy judge or a magistrate judge—

"(I) who is in regular active service, or

"(II) who retired after attaining age 65 from regular active service under chapter 83 or 84 of this title, section 377 of title 28, or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988 (28 U.S.C. 377 note; Public Law 100-659);".

(b) CONTINUATION OF COVERAGE.—

(1) TERMINATION; OPTIONAL INSURANCE.—(A) Sections 8706(a) and 8714b(c)(1) of title 5, United States Code, are each amended in the second sentence by inserting "and judicial officials specifically included under section 8701(a)(11)" after "section 8701(a)(5) (ii) and (iii)".

(B) Sections 8714a(c)(1) and 8714c(c)(1) of title 5, United States Code, are each amended by adding after the first sentence "Justices and judges described under section 8701(a)(5) (ii) and (iii) and judicial officials specifically included under section 8701(a)(11) of this chapter are deemed to continue in active employment for purposes of this chapter.".

(2) APPLICATION OF AMENDMENTS.—The amendments made by paragraph (1) shall apply to a judicial officer described in section 8701(a)(11) of title 5, United States Code (as amended by this section) who—

(A) is retired under chapter 83 or 84 of title 5, United States Code, section 178, 373, or 377 of title 28, United States Code, or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988 (28 U.S.C. 377 note); and

(B) retires on or after August 1, 1987.

(c) TECHNICAL AMENDMENTS.—

(1) SECTION 8714A.—Section 8714a(c) of title 5, United States Code, is amended by striking paragraph (3).

(2) SECTION 8714B.—Section 8714b(c)(1) is amended by striking the third sentence.

SEC. 117. SETTLEMENT OF CLAIMS AND DEMANDS FOR PAYMENT.

Section 105 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) A court may issue an injunction that requires claims and demands to be presented for payment solely to a trust or other vehicle that is established for the purpose of settling such claims and demands and is approved by the court and entered into pursuant to an order approving a plan of reorganization.".

On page 160, strike line 9 and all that follows through page 188, line 25, and insert the following:

SEC. 201. SMALL BUSINESSES.

(a) DEFINITION.—Section 101 of title 11, United States Code, as amended by section 501, is amended by inserting in its proper alphabetical position the following new definition:

"'small business' means a person engaged in commercial or business activities (but does not include a person whose primary activity is the business of owning or operating real property and activities incidental thereto) whose aggregate liquidated secured and unsecured debts as of the date of the petition do not exceed $2,500,000.".

(b) CREDITORS' COMMITTEES.—Section 1102(a) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "As" and inserting "Except as provided in paragraph (3), as"; and

(2) by adding at the end the following new paragraph:

"(3) On request of a party in interest in a case in which the debtor is a small business, the court may order that a committee of creditors not be appointed.".

(c) CONVERSION OR DISMISSAL.—Section 1112(b) of title 11, United States Code, is amended by inserting "or bankruptcy administrator" after "United States trustee".

(d) WHO MAY FILE A PLAN.—Section 1121 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) In a case in which the debtor is a small business—

"(A) only the debtor may file a plan until after 90 days after the date of the order for relief under this chapter;

"(B) all plans for relief shall be filed within 150 days after the date of the order for relief; and

"(C) on request of a party in interest made within the respective periods specified in subparagraphs (A) and (B) and after notice and a hearing, the court may—

"(i) reduce the 90-day period or the 150-day period specified in subparagraph (A) or (B) for cause; and

"(ii) increase the 90-day period specified in subparagraph (A) if the debtor shows that the need for an increase is caused by circumstances for which the debtor should not be held accountable.".

(e) POSTPETITION DISCLOSURE.—Section 1125 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(f) Notwithstanding subsection (b), in a case in which the debtor is a small business—

"(1) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

"(2) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement so long as the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed at least 10 days prior to the date of the hearing on confirmation of the plan; and

"(3) a hearing on the disclosure statement may be combined with a hearing on confirmation of a plan.".

On page 200, strike line 11 and all that follows through page 201, line 3, and insert the following:

"(18) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, pursuant to statute or the debtor's agreement authorizing such withholding and collection for the benefit of a qualified employer plan (within the meaning of section 72(p)(4) of the Internal Revenue Code of 1986), to the extent that the amounts withheld and collected are used solely for payments relating to a loan from the plan secured by the debtor's nonforfeitable accrued benefit under the plan.".

On page 201, line 4, strike "Subsection" and insert "Section".

On page 201, strike lines 12 through 23 and insert the following:

"(13) owed to a qualified employer plan (within the meaning of section 72(p)(4) of the Internal Revenue Code of 1986) pursuant to a loan from the plan secured by the debtor's nonforfeitable accrued benefit under the plan.".

On page 202, strike lines 1 through 16 and insert the following:

(c) PROPERTY OF THE ESTATE.—Section 541(b) of title 11, United States Code, as amended by section 501(d)(12), is amended in paragraph (1)—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(E) any nontransferable interest of the debtor in a qualified employer plan (within the meaning of section 72(p)(4) of the Internal Revenue Code of 1986) to the extent not otherwise excluded from the debtor's estate pursuant to subsection (c)(2).".

On page 204, line 10, after "Code," insert "as amended by section 207(b),".

On page 204, line 13, strike "(11)" and insert "(12)".

On page 204, line 14, strike "(12)" and insert "(13)".

On page 204, line 18, strike "(13)" and insert "(14)".

On page 205, strike line 12 and all that follows through page 206, line 12, and insert the following:

SEC. 212. EXCEPTION TO DISCHARGE.

Section 523(a)(2)(C) of title 11, United States Code, is amended—

(1) by striking "forty" and inserting "60".

SEC. 213. PROCEEDS OF MONEY ORDER AGREEMENTS.

Section 541(b) of title 11, United States Code, as amended by section 207(c), is amended in paragraph (1)—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(F) any interest in cash or cash equivalents that constitute proceeds of a sale by the debtor of a money order that is made—

"(i) on or after the date that is 14 days prior to the date on which the petition is filed; and

"(ii) under an agreement with a money order issuer that prohibits the commingling of such proceeds with property of the debtor (notwithstanding that, contrary to the agreement, the proceeds may have been commingled with property of the debtor),

unless the money order issuer had not taken action, prior to the filing of the petition, to require compliance with the prohibition.".

On page 207, line 14, strike "subparagraphs (B) and (C)" and insert "subparagraph (B)".

On page 211, after line 21, add the following:

SEC. 222. REJECTION OF UNEXPIRED LEASES OF REAL PROPERTY OR TIMESHARE INTERESTS.

(a) AMENDMENT OF SECTION 365.—Section 365(h) of title 11, United States Code, is amended to read as follows:

"(h)(1)(A) If the trustee rejects an unexpired lease of real property under which the debtor is the lessor—

"(i) if the rejection by the trustee amounts to such a breach as would entitle the lessee to treat the lease as terminated by virtue of its own terms, applicable nonbankruptcy law, or any other lease or agreement that the lessee has made with another party, the lessee under the lease may treat the lease as terminated by the rejection; or

"(ii) if the term of the lease has commenced, the lessee may retain its rights under the lease that are in or appurtenant to the leasehold estate (including lease provisions such as those relating to the amount and timing of payment of rent and other amounts payable by the lessee or to any right of use, possession, quiet enjoyment, subletting, assignment, or hypothecation) for the balance of the term of the lease and for any renewal or extension of such term as is enforceable under applicable nonbankruptcy law.

"(B) If the lessee retains its rights under subparagraph (A)(ii), the lessee may set off against the rent reserved under the lease for the balance of the term after the date of the rejection of the lease, and any renewal or extension of the lease, any damages occurring after the date of rejection caused by the nonperformance of any obligation of the debtor under the lease after that date, but the lessee does not have any rights against the estate on account of any damages arising after that date from the rejection, other than the setoff.

"(C) The rejection of a lease of real property in a shopping center with respect to which the lessee elects to retain its rights under subparagraph (A)(ii) does not affect the enforceability under applicable nonbankruptcy law of any provision in the lease pertaining to radius, location, use, exclusivity, or tenant mix or balance.

"(D) In this paragraph, 'lessee' includes any successor, assign, or mortgagee permitted by the lease.

"(2)(A) If the trustee rejects a timeshare interest under a timeshare plan under which the debtor is the timeshare interest seller—

"(i) the timeshare interest purchaser under the timeshare plan may treat the timeshare plan as terminated by the rejection if the rejection amounts to such a breach as would entitle the timeshare interest purchaser to treat the timeshare plan as terminated by virtue of its own terms, applicable nonbankruptcy law, or any other agreement that the timeshare interest purchaser has made with another party; or

"(ii) the timeshare interest purchaser may retain its rights in the timeshare interest under any timeshare plan the term of which has commenced for the balance of such term and for any renewal or extension of such term as is enforceable under applicable nonbankruptcy law.

"(B) If the timeshare interest purchaser retains its rights under subparagraph (A), the timeshare interest purchaser may set off against the moneys due for the timeshare interest for the balance of the term after the date of the rejection of the timeshare interest, and any renewal or extension thereof, any damages occurring after the date of rejection caused by the nonperformance of any obligation of the debtor under the timeshare plan after that date, but the timeshare interest purchaser does not have any rights against the estate on account of any damages arising after that date from the rejection, other than the setoff.".

(b) TECHNICAL AMENDMENT.—Section 553(b)(1) of title 11, United States Code, is amended by striking "365(h)(2)" and inserting "365(h)".

SEC. 223. CONTENTS OF PLAN.

Section 1123(b) of title 11, United States Code, is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) in a case in which the debtor is a small business, modify the rights of holders of secured claims, other than a claim secured only by a security interest in real property that is the debtor's principal residence, or of holders of unsecured claims, or leave unaffected the rights of holders of any class of claims, but the plan may not modify a claim pursuant to section 506 of a person holding a primary or a junior security interest in real property or a manufactured home (as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402(6)) that is the debtor's principal residence, except that the plan may modify the claim of a person holding such a junior security interest that was undersecured at the time the interest attached to the extent that the interest remains undersecured;".

On page 212, lines 12 and 13, strike "judgment," and insert "judgment prior to consummation of a foreclosure sale,".

On page 213, strike line 23 and all that follows through page 214, line 3, and insert the following:

(A) in paragraph (7) by striking "(7) Seventh" and inserting "(8) Eighth";

(B) in paragraph (8) by striking "(8) Eighth" and inserting "(9) Ninth"; and

(C) by inserting after paragraph (6) the following new paragraph:

"(7) Seventh, allowed claims for debts to a spouse,

On page 215, line 7, strike "and".

On page 213, line 3, before "Section" insert "(a) IN GENERAL.—".

On page 213, between lines 5 and 6, insert the following:

(b) TECHNICAL AMENDMENT.—Section 3613(f) of title 18, United States Code, is amended by striking "No" and inserting "Except as provided in section 1328(a)(3) of title 11, no".

On page 216, line 6, strike "support)." and insert "support); or".

On page 234, lines 12 and 13, strike "the amount necessary to cure a default under a plan, if any" and insert "if it is proposed in a plan to cure a default, the amount necessary to cure the default".

On page 234, lines 20 and 21, strike "the amount necessary to cure a default under a plan, if any" and insert "if it is proposed in a plan to cure a default, the amount necessary to cure the default".

On page 235, lines 5 and 6, strike "the amount necessary to cure a default under a plan, if any" and insert "if it is proposed in a plan to cure a default, the amount necessary to cure the default".

On page 272, line 24, strike "(a)(8)" and insert "(a)(9), as redesignated by section 303(b)(1)(B),".

On page 274, strike lines 8 and 9 and insert the following:

(12) in section 541(b)—

(A) by inserting "(1)" after "(b)" and redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(B) in subparagraph (D) of paragraph (1), as redesignated by subparagraph (A), by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(C) in subparagraph (C) of paragraph (1), as redesignated by subparagraph (A), by striking "institution or" and inserting "institution; or"; and

(D) in the matter following subparagraph (D) of paragraph (1), as redesignated by subparagraph (A), by striking "Paragraph (4) shall not" and inserting the following:

"(2) Paragraph (1)(D) shall not".

On page 275, line 18, after "(12)" insert "by".

COCHRAN AMENDMENT NO. 1639

Mr. COCHRAN proposed an amendment to the bill S. 540, supra; as follows:

At the end of title II add the following:

SEC. 222. PRIORITY FOR INDEPENDENT SALES REPRESENTATIVES.

Section 507(a)(3) of title 11, United States Code, is amended to read as follows:

"(3) Third, allowed unsecured claims, but only to the extent of $2,000 for each individual or corporation, as the case may be, earned within 90 days before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first, for—

"(A) wages, salaries, or commissions, including vacation, severance, and sick leave pay earned by an individual; or

"(B) sales commissions earned by an individual or by a corporation with only 1 employee, acting as an independent contractor in the sale of goods or services for the debtor in the ordinary course of the debtor's business if, and only if, during the 12 months preceding that date, at least 75 percent of the amount that the individual or corporation earned by acting as an independent contractor in the sale of goods or services was earned from the debtor;".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HEFLIN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, April 20, 1994, at 10 a.m., in SD–562, on the GATT agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. HEFLIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 9:30 a.m. on Wednesday, April 20, 1994, in open/closed session, to receive testimony from the unified commanders on their military strategy and operational requirements in review of the Defense authorization request for fiscal year 1995 and the future years Defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HEFLIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., April 20, 1994, to receive testimony on the Department of the Interior's proposed rule to amend the Department's regulations concerning livestock grazing; S. 1326, a bill to establish a forage fee formula on lands under the jurisdiction of the Department of the Interior; and S. 896, a bill to amend the Federal Land Policy and Management Act of 1976 to promote ecologically healthy and biologically diverse ecosystems on rangelands used for domestic livestock grazing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. HEFLIN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, April 20, 1994, beginning at 9:30 a.m., in 216 Hart Senate Office Building on the regulation of gaming.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. HEFLIN. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice, of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Wednesday, April 20, 1994, at 10 a.m., to hold a hearing on dangerous agreements and S. 1404, the Sunshine in Litigation Act: How court secrecy harms public safety.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. HEFLIN. Mr. President, I would like to ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be granted authority to meet during the session of the Senate on Wednesday, April 20, 1994, at 2 p.m., to hold a hearing on reauthorization of the Office of Government Ethics.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM, NARCOTICS AND INTERNATIONAL OPERATIONS

Mr. HEFLIN. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Wednesday, April 20, 1994, at 10 a.m. to hold a hearing on: Recent developments in transnational crime affecting United States law enforcement and foreign policy; mutual legal assistance treaty in criminal matters with Panama; Treaty Doc. 102-15; and 1994 International Narcotics Control Strategy Report.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM, NARCOTICS AND INTERNATIONAL OPERATIONS

Mr. HEFLIN. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Wednesday, April 20, 1994, at 2 p.m. to hold a hearing on: Recent developments in transnational crime affecting United States law enforcement and foreign policy; mutual legal assistance treaty in criminal matters with Panama; Treaty Doc. 102-15; and 1994 International Narcotics Control Strategy Report.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE FIRST LADIES LUNCHEON PRAYER

• Mr. HATFIELD. Mr. President, my wife Antoinette, recently shared with me the prayer offered at the First Ladies Luncheon last week by Mrs. Barbara Pryor, the gracious and eloquent wife of my colleague from Arkansas, DAVID PRYOR. The passage moved me deeply, and I felt compelled to share it with my colleagues. I trust they will be equally inspired by her words.

The prayer follows:

THE FIRST LADIES LUNCHEON PRAYER

(By Barbara Pryor)

Lord, give us peace in our land. Slow us down. Ease the pounding of our hearts by the quietening of our minds. Steady our hurried pace with a vision of eternal time. Give us calmness in the confusion of our days, and help us to know the restoring power of rest. Teach us the art of slowing down to look at a flower, to plant a tree, to chat with a friend, to hold a loved one, to read a few lines from a good book. Remind us each day that the race is not to the swift, that there is more to life than increasing its speed. Let us look upward into the branches of the tall oak and know that it grew strong because it grew slowly and well. Inspire us to send our roots deep—so that we may grow toward the stars of our greater destiny. Bless our First Lady and her husband. Keep them strong and well and able to endure the challenging path before them. Amen.•

CREATING A NUCLEAR STRAW MAN

• Mr. SIMON. Mr. President, I have been puzzled by the fact that South Korea and Japan seem to be less concerned about the North Korean nuclear threat than the United States.

Obviously, they are concerned, but there is not the same frenzy about it.

I came away with a little more perspective after catching up on my newspaper reading the other day and came across retired Navy Rear Adm. Eugene J. Carroll, Jr.'s op-ed piece in the Los Angeles Times titled, "Creating a Nuclear Straw Man."

For those interested in the North Korean threat, and I do not suggest that is does not exist, Adm. Carroll's comments give some perspective and lend a little more balance and rationality to the whole scene.

I ask to insert his article into the RECORD at this point.

The article follows:

PERSPECTIVE ON NORTH KOREA—CREATING A NUCLEAR STRAW MAN

(By Eugene J. Carroll, Jr.)

North Korea, lost for years in the back pages of newspapers and absent entirely from TV news, has re-emerged as headline material.

Always a hard case, certainly no friend of America. North Korea has quietly been disintegrating economically for decades while South Korea has become a powerful economic, political and military force in Northeast Asia. Now, with twice the population and 10 times the productive output of its neighbor, South Korea seems well situated to deal with any military threat it might perceive from North Korea.

In 1989, Pentagon representatives testified in Congress that "South Korean forces are capable of defending themselves against any threat from the North that does not involve either the Soviet Union or the Peoples' Republic of China." Since then, North Korea has made no significant change in its military forces or weapons and has cut its military spending in half ($4.1 billion to $2.2 billion). During the same period, South Korea has upgraded its forces qualitatively and increased defense spending almost 50% ($8.5 billion to $12.1 billion).

It is difficult to explain how South Korea is more vulnerable now when it is outspending North Korea by a 6-1 margin and enjoys marked superiority in the quality of its military equipment, technology, mobility and support.

For this reason, Pentagon officials have been forced to highlight the North Korean nuclear program as a "new danger" in order to justify the official expressions of alarm now dominating the news. Secretary of Defense William J. Perry has issued a series of dramatic assessments of the growing nuclear threat from North Korea. On Easter Sunday, speaking on NBC's "Meet the Press," he raised the stakes by establishing a six-month time limit for North Korea to satisfy U.S. demands that it freeze its nuclear program. This is diplomacy by ultimatum, and notoriously unsuccessful negotiating technique when dealing with authoritarian leaders.

And what motivates the ultimatum? Just what great danger lurks north of the DMZ? According to Perry, North Korea may now have enough plutonium to build one or two nuclear explosive devices. That estimate is far from certain because it rests on the assumption that the North Koreans refueled their 5-megawatt reactor in 1989. If not, they do not have enough plutonium to make a firecracker.

Even if North Korea did refuel, further assumptions must be validated to postulate a nuclear threat: that North Korea has a reprocessing capability efficient enough to produce up to 15 kilograms of weapons-grade plutonium from the spent reactor fuel; that is has been able to fashion a reliable "trigger" to produce a significant explosion, and that it has been able to package their design in a configuration small enough for use as a deliverable weapon.

Unless all three assumptions are true, North Korea's nuclear program has little military significance, because possessing one or two explosive devices is a far cry from the ability to employ nuclear weapons for military purposes.

The tenuous proposition that we face a growing North Korean nuclear threat was weakened last December by then-Secretary of Defense Les Aspin. "Whatever happened in 1989, the situation is not deteriorating now." Aspin said. "They are not developing more plutonium to make more nuclear bombs."

Because it is really impossible to describe a credible current threat, Perry has now resorted to pointing with alarm at a hypothetical threat that will exist "two or three years from now [when] they're producing bombs at the rate of a dozen a year," a conclusion supported by arguable assumptions.

Perhaps this would ring truer if North Korea's neighbors were seeing the same threat. Unfortunately for our diplomacy, Russia, China, South Korea and Japan are not alarmed and are utterly unwilling to support U.S. ultimatums and demands for sanctions. These are the very nations at risk (as America is not), if North Korea can produce deliverable nuclear weapons. In truth, China and South Korea are far more concerned about Japan building up a huge stock of plutonium than they are about Kim Il Sung's meager nuclear effort.

All of the evidence suggests that American citizens are being subjected to a well-orchestrated Pentagon campaign to restore North Korea to enemy status. In order to justify a budget based on their current two-war strategy, our military needs two enemies. Because North Korea spends less than 1% of what we spend for military forces, it makes a satisfactory enemy only if the specter of nuclear weapons is raised as a scare tactic. The great danger in promoting his ominous image of nuclear danger is that our words and actions may create a military crisis where none exists, an outcome which could have tragic consequences.•

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Robert R. Franklin:									
United States	Dollar				2,677.45				2,677.45
Switzerland	Franc	1,764.75	1,205.02					1,764.75	1,205.02
Patrick C. Westhoff:									
United States	Dollar				2,299.45				2,299.45
Switzerland	Franc	1,707.90	1,134.82					1,707.90	1,134.82
Charles H. Riemenschneider:									
United States	Dollar				3,861.45				3,861.45
Japan	Yen	124,326	1,179.00					124,326	1,179.00
United States	Dollar				2,299.45				2,299.45
Switzerland	Franc	1,898	1,296.00					1,898	1,296.00
Charles D. Penry:									
United States	Dollar				3,058.45				3,058.45
Switzerland	Franc	1,764.75	1,205.02					1,764.75	1,205.02
Kent S. Hall:									
United States	Dollar				781.45				781.45
Switzerland	Franc	2,470.60	1,687.00					2,470.60	1,687.00
Total			7,706.86		14,977.70				22,684.56

PATRICK J. LEAHY,
Chairman, Committee on Agriculture, Nutrition and Forestry, Feb. 9, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Scott B. Gudes:									
Bolivia	Boliviana	476	107.45					476	107.45
Chile	Dollar		558.00		35.63		295.85		889.48
Uruguay	Dollar		370.00		375.00		381.14		1,126.14
Argentina	Dollar		1,415.00		279.25		261.25		1,955.50
Senator Patrick J. Leahy:									
El Salvador	Dollar		75.00						75.00
Timothy S. Rieser:									
El Salvador	Dollar		75.00						75.00
Eric D. Newsom:									
El Salvador	Dollar		75.00						75.00
Total			2,675.45		689.88		938.24		4,303.57

ROBERT C. BYRD,
Chairman, Committee on Appropriations, Mar. 17, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM JULY 1, TO SEPT. 30, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator William S. Cohen:									
Malaysia	Ringgits	1,441.58	564.00					1,441.58	564.00
United States	Dollar				301.33		370.81		672.14
Singapore	Dollar	641.18	398.00					641.18	398.00
United States	Dollar				978.50		71.56		1,050.06
Hong Kong	Dollar	3,942.43	508.70					3,942.43	508.70
United States	Dollar				366.30		322.12		688.42
Michael Townsend:									
Malaysia	Ringgits	1,249.88	489.00					1,249.88	489.00
United States	Dollar				301.34		370.81		672.15
Singapore	Dollar	496.19	308.00					496.19	308.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM JULY 1, TO SEPT. 30, 1993—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United States	Dollar				978.50		71.57		1,050.07
Hong Kong	Dollar	4,142.50	534.50					4,142.38	534.50
United States	Dollar				366.31		322.11		688.42
Total			2,802.20		3,292.28		1,528.98		7,623.46

SAM NUNN,
Chairman, Committee on Armed Services, Feb. 16, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jeffrey Record:									
Belgium	Franc	539	15.00					539	15.00
Germany	Mark	239	142.00			76	45.00	315	187.00
United Kingdom	Pound	289	429.00			77	52.00	366	481.00
United States	Dollar				4,028.00				4,028.00
John W. Douglass:									
United States	Dollar				3,361.85				3,361.85
Belgium	Franc	8,435	251.89					8,435	251.89
Germany	Mark	381.40	224.78					381.40	224.78
France	Franc	885	151.02					885	151.02
Senator Richard C. Shelby:									
United Kingdom	Pound	1,009.47	1,496.37					1,009.47	1,496.37
Czech Republic	Koruna	16,595.60	560.66					16,595.60	560.66
United Kingdom	Pound	354.25	524.00					354.25	524.00
France	Franc	3,171.95	534.00					3,171.96	534.00
United States	Dollar				3,259.25				3,259.25
Terence N. Lynch:									
Czech Republic	Koruna	16,595.60	560.66					16,595.60	560.66
United Kingdom	Pound	354.25	524.00					354.25	524.00
France	Franc	3,171.95	534.00					3,171.95	534.00
United States	Dollar				3,259.25				3,259.25
Thomas J. Young:									
Czech Republic	Koruna	16,595.60	560.66					16,595.60	560.66
United Kingdom	Pound	354.25	524.00					354.25	524.00
France	Franc	1,585.98	267.00					1,585.98	267.00
Patrick T. Henry:									
Czech Republic	Koruna	16,595.60	560.66					16,595.60	560.66
United States	Dollar				3,259.25				3,259.25
United Kingdom	Pound	354	524.00					354	524.00
France	Franc	3,171.96	534.00					3,171.96	534.00
Lucia M. Chavez:									
United States	Dollar				3,259.25				3,259.25
Czech Republic	Koruna	16,595.60	560.66					16,595.60	560.66
United Kingdom	Pound	354.25	524.00					354.25	524.00
France	Franc	3,171.96	534.00					3,171.96	534.00
Frank Norton:									
Czech Republic	Koruna	16,595.60	560.66					16,595.60	560.66
United Kingdom	Pound	354.25	524.00					354.25	524.00
France	Franc	3,171.96	534.00					3,171.96	534.00
Charles S. Abell:									
Czech Republic	Koruna	16,595.60	560.66					16,595.60	560.66
United Kingdom	Pound	354.25	524.00					354.25	524.00
France	Franc	3,171.96	534.00					3,171.96	534.00
Senator John W. Warner:									
United Kingdom	Pound	430.02	636.00					430.02	636.00
Italy	Dollar		80.00						80.00
Ethiopia	Dollar		180.42						180.42
Germany	Mark	238.54	140.82					238.54	140.82
Judith A. Ansley:									
United Kingdom	Pound	430.02	636.00					430.02	636.00
France	Franc	1,646.66	281.00					1,646.66	281.00
Germany	Mark	485.87	285.00					485.87	285.00
Belgium	Franc	14,171	397.50					14,171	397.50
Senator Carl Levin:									
United Kingdom	Pound	82.50	122.02					82.50	122.02
Italy	Lire	130,000	80.00					130,000	80.00
Ethiopia	Dollar		132.00						132.00
Germany	Mark	212	123.00					212	123.00
David A. Lewis:									
United Kingdom	Pound	82.50	122.02	30	44.37			112.50	166.39
France	Franc	865	148.79					865	148.79
Germany	Mark	180	106.20					180	106.20
Italy	Lire	130,000	80.00					130,000	80.00
Ethiopia	Dollar		130.00		50.00				180.00
Germany	Mark	257.90	149.63					257.90	149.63
Romie L. Brownlee:									
Italy	Dollar		83.00						83.00
Ethiopia	Dollar		131.00						131.00
Germany	Mark	280.67	165.68			40.56	24.00	321.23	189.68
Richard D. DeBobes:									
Belgium	Dollar		10.00				2.00		12.00
Italy	Dollar		86.00				2.00		89.00
Ethiopia	Dollar		140.00				3.00		143.00
Germany	Mark	273.60	165.82			46.25	25.00	319.85	190.82
Senator Sam Nunn:									
Belgium	Dollar		15.00						15.00
Germany	Dollar		35.00						35.00
England	Pound	195.3	287.05					195.30	287.05

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Total			18,722.63		20,521.22		154.00		39,397.85

SAM NUNN,
Chairman, Committee on Armed Services, Jan. 6, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Pamela Ray-Strunk:									
Switzerland	Franc	1,411.80	964.02					1,411.80	964.02
United States	Dollar				789.45				789.45
Howard Menell:									
Switzerland	Franc	1,411.80	964.02					1,411.80	964.02
United States	Dollar				789.45				789.45
Patrick Mulloy:									
Switzerland	Franc	2,652.50	1,816.03					2,652.50	1,816.03
United States	Dollar				833.00				833.00
Total			3,744.07		2,411.90				6,155.97

DONALD W. RIEGLE, Jr.
Chairman, Committee on Banking, Housing, and Urban Affairs, Jan. 13, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Samuel E. Whitehorn:									
Great Britain	Pound	716.70	1,060.00					716.70	1,060.00
United States	Dollar				818.45				818.45
Martha A. Moloney:									
Great Britain	Pound	716.70	1.060.00					716.70	1.060.00
United States	Dollar				818.45				818.45
Alan Maness:									
Great Britain	Pound	716.70	1,060.00					716.70	1,060.00
United States	Dollar				857.00				857.00
Mark Ashby:									
Switzerland	Franc	3,397.75	2,258.99					3,397.75	2,258.99
United States	Dollar				797.45				797.45
Harold J. Creel, Jr.:									
Switzerland	Franc	1,793.90	1,211.34					1,793.90	1,211.34
United States	Dollar				797.34				797.34
Kevin M. Dempsey:									
Switzerland	Franc	3,397.75	2,258.99					3,397.75	2,258.99
United States	Dollar				797.45				797.45
Senator Ernest F. Hollings:									
Bolivia	Boliviana	797.50	180.02					797.50	180.02
Chile	Dollar		708.00		35.63		295.85		1,039.48
Uruguay	Dollar		370.00		375.00		381.14		1,126.14
Argentina	Dollar		1,415.00		279.25		261.25		1,955.50
Ivan A. Schlager:									
Bolivia	Boliviana	797.50	180.02					797.50	180.02
Chile	Dollar		708.00		35.63		295.85		1,039.48
Uruguay	Dollar		370.00		375.00		381.14		1,126.14
Argentina	Dollar		1,415.00		279.25		261.25		1,955.50
Total			14,255.36		6,265.90		1,876.48		22,397.74

ERNEST F. HOLLINGS,
Chairman, Committee on Commerce, Science and Transportation, Mar. 7, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Edward Gresser:									
Hong Kong	Dollar				77.56		27.89		105.45
Total					77.56		27.89		105.45

MAX BAUCUS,
Chairman, Committee on Environment and Public Works, Nov. 15, 1993.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Peter L. Scher:									
France	Franc	7,916.55	1,335.00					7,916.55	1,335.00
United States	Dollar				763.35				763.35
Total			1,335.00		763.35				2,098.35

MAX BAUCUS,
Chairman, Committee on Environment and Public Works, Jan. 12, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Max Baucus:									
Hong Kong	Dollar				34.21		27.89		62.10
Sharon L. Peterson:									
Hong Kong	Dollar				34.21		27.89		62.10
Total					68.42		55.78		124.20

DANIEL PATRICK MOYNIHAN,
Chairman, Committee on Finance, Feb. 22, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Erik O. Autor:									
Switzerland	Dollar		1,051.00						1,051.00
United States	Dollar				789.45				789.45
Erik R. Biel:									
Switzerland	Dollar		1,507.50						1,507.50
United States	Dollar				800.45				800.45
Brad G. Figel:									
Switzerland	Dollar		1,528.00						1,528.00
United States	Dollar				851.45				851.45
Deborah Lamb:									
Switzerland	Dollar		1,524.01						1,524.01
United States	Dollar				800.45				800.45
Marcia E. Miller:									
Switzerland	Dollar		3,507.49		487.53				3,995.02
United States	Dollar				398.73				398.73
Senator Daniel Patrick Moynihan:									
France	Dollar		1,124.00		75.09				1,199.09
Switzerland	Dollar		1,206.00						1,206.00
United States	Dollar				4,353.45				4,353.45
Lawrence O'Donnell:									
Switzerland	Dollar		1,356.77		24.40				1,381.17
Germany	Dollar		965.00		578.81		196.00		1,739.81
The Netherlands	Dollar		392.00		93.50				485.50
United Kingdom	Dollar		212.00		129.23				341.23
United States	Dollar				1,440.00				1,440.00
William Reinsch:									
Switzerland	Dollar		502.50						502.50
United States	Dollar				800.45				800.45
Senator John D. Rockefeller:									
Switzerland	Dollar		502.50						502.50
United States	Dollar				2,970.45				2,970.45
Total			15,378.77		14,593.44		196.00		30,168.21

DANIEL PATRICK MOYNIHAN,
Chairman, Committee on Finance, Feb. 23, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Hank Brown:									
Malaysia	Ringgits	1,359.79	532.00					1,359.79	532.00
	Dollar				301.33		370.80		672.13

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1993—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Singapore	Dollar	786.17	488.00					786.17	488.00
	Dollar				978.50		71.56		1,050.06
Hong Kong	Dollar	4,727.5	610.00					4,727.5	610.00
	Dollar				366.31		322.12		688.43
Senator Larry Pressler:									
Malaysia	Ringgits	1,441.58	564.00					1,441.58	564.00
	Dollar				301.33		370.80		672.13
Singapore	Dollar	786.17	488.00					786.17	488.00
	Dollar				978.49		71.57		1,050.06
Hong Kong	Dollar	5,099.50	658.00	2,000	258.07			7,099.50	916.07
	Dollar				366.30		322.12		688.42
Shannon Garry:									
Malaysia	Ringgits	1,441.58	564.00					1,441.58	564.00
	Dollar				301.34		370.81		672.15
Singapore	Dollar	786.17	488.00					786.17	488.00
	Dollar				978.49		71.57		1,050.06
Hong Kong	Dollar	5,099.50	658.00	2,000	258.07			7,099.50	916.07
	Dollar				366.30		322.12		688.42
William C. Triplett II:									
Malaysia	Ringgits	1,441.58	564.00					1,441.58	564.00
	Dollar				301.34		370.81		672.15
Singapore	Dollar	786.17	488.00					786.17	488.00
	Dollar				978.50		71.57		1,050.07
Hong Kong	Dollar	5,099.50	658.00	2,000	258.07			7,099.50	916.07
	Dollar				366.30		322.11		688.41
Total			6,760.00		7,358.74		3,057.96		17,176.70

CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, Mar. 2, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Christopher J. Dodd:									
Mexico	Peso	12,585	404.50					12,585	404.50
Senator Frank H. Murkowski:									
Japan	Yen	126,098	1,260.00			2,000	20.00	128,098	1,280.00
Hong Kong	Dollar	2,541.90	329.00					2,541.90	329.00
Vietnam	Dollar		426.00		300.00				726.00
Thailand	Dollar		213.00				89.93		302.93
South Korea	Won	410,460	508.00					410,460	508.00
Geryld B. Christianson:									
Denmark	Krone	6,744.50	1,023.00	400	60.00			7,144.50	1,083.00
United States	Dollar				959.00				959.00
Germany	Mark	1,300.33	759.00	100	60.00			1400.33	819.00
Czech Republic	Crown	26,603	899.00	1,835	62.00			28,438	961.00
United States	Dollar				1,011.00				1,011.00
Robert Dockery:									
Mexico	Peso	12,585	404.50					12,585	404.50
G. Garrett Grigsby:									
Haiti	Gourde	1,719	136.00					1,719	136.00
United States	Dollar				632.45				632.45
Edwin K. Hall:									
Netherlands	Guilder	1,768.20	926.00					1,768.20	926.00
United States	Dollar				3,030.85				3,030.85
Janice O'Connell:									
Mexico	Peso	12,585	404.50					12,585	404.50
Deanna Okun:									
Japan	Yen	126,098	1,260.00			2,000	20.00	128,098	1,280.00
Hong Kong	Dollar	2,541.90	329.00					2,541.90	329.00
Vietnam	Dollar		426.00		200.00				626.00
Thailand	Dollar		213.00				88.92		301.92
South Korea	Won	410,460	508.00					410.460	508.00
Steven Phillips:									
Switzerland	Franc	2,237.75	1,528.00					2,237.75	1,528.00
United States	Dollar				836.45				836.45
John Ritch:									
Denmark	Dollar		860.00						860.00
United States	Dollar				1,871.00				1,871.00
Christopher J. Walker:									
Haiti	Gourde	1,719	136.00					1,719	136.00
United States	Dollar				632.45				632.45
AMENDMENTS TO REPORT FOR FIRST QUARTER, 1993									
Senator Hank Brown:									
Croatia	Dollar						623.67		623.67
Egypt	Dollar						5.47		5.47
Senator James M. Jeffords:									
Croatia	Dollar						623.67		623.67
Egypt	Dollar						5.47		5.47
Laurie S. Heim:									
Croatia	Dollar						623.67		623.67
Egypt	Dollar						5.47		5.47
Carter Pilcher:									
Croatia	Dollar						623.67		623.67
Egypt	Dollar						5.47		5.47
AMENDMENTS TO REPORT FOR SECOND QUARTER, 1993									
Senator Larry Pressler:									
Senegal	Franc	67,431	247.00				38.30	67,431	285.30

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Cameroon	Franc	89,683	330.00					89.683	330.00
Kenya	Dollar		340.00				272.78		612.78
Uganda	Dollar		244.00						244.00
Central African Republic	Franc	60,525	225.00					60,525	225.00
Nigeria	Dollar		150.00						150.00
Thomas J. Callahan:									
Senegal	Franc	67,431	247.00				38.30	67,431	285.30
Cameroon	Franc	123,575	456.00					123,575	456.00
Kenya	Dollar		340.00				272.78		612.78
Uganda	Dollar		244.00						244.00
Central African Republic	Franc	171,045	630.00					171,045	630.00
Nigeria	Dollar		150.00						150.00
Robert Hoffman:									
Senegal	Franc	67,431	247.00				38.30	67,431	285.30
Cameroon	Franc	123,575	456.00					123,575	456.00
Kenya	Dollar		340.00				272.78		612.78
Uganda	Dollar		244.00						244.00
Central African Republic	Franc	171,045	630.00					171,045	630.00
Nigeria	Dollar		150.00						150.00
Total			18,622.50		9,655.20		3,668.65		31,946.35

CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, Mar. 2, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b). COMMITTEE ON THE JUDICIARY, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Dennis K. Burke:									
Germany	Mark		225.00						225.00
United States	Dollar				801.15				801.15
Christopher T. Brown:									
Germany	Mark		225.00						225.00
United States	Dollar				801.15				801.15
Total			450.00		1,602.30				2,052.30

JOSEPH R. BIDEN Jr.,
Chairman, Committee on the Judiciary, Mar. 11, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Darrell Panethiere:									
Switzerland	Franc	2,241.90	1,521.00					2,241.90	1,521.00
United States	Dollar				1,891.55				1,891.55
Total			1,521.00		1,891.55				3,412.55

JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, Oct. 29, 1993.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Gare Smith:									
Thailand	Baht	26,052.25	1,042.09				301.95		1,344.04
Cambodia	Dollar		864.00		86.00				950.00
United States	Dollar				4,448.45				4,448.45
Total			1,906.09		4,534.45		301.95		6,742.49

JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, Nov., 2, 1993.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Charles Battaglia			1,544.00		3,577.00				5,121.00
William Griffies			1,544.00		3,577.00				5,121.00
Nancy Czarcki			1,683.00						1,683.00
L. Britt Snider			1,683.00						1,683.00
Timothy Carlsgaard			1,683.00						1,683.00
Christopher Straub			1,683.00						1,683.00
Charles Battaglia			1,683.00						1,683.00
Al Cumming			1,683.00						1,683.00
Senator Dennis DeConcini			1,683.00						1,683.00
Senator Bob Graham			1,683.00						1,683.00
Mary Hawkins			1,683.00						1,683.00
Richard Arenberg			1,683.00						1,683.00
Senator Bob Graham			115.96		632.45				748.41
Al Cumming			132.96		632.45				765.41
Codel DeConcini							5,693.99		5,693.99
Total			20,166.92		8,418.90		5,693.99		34,279.81

Note.—Delegation expenses include direct payments and reimbursements to the Department of State and to the Department of Defense under authority of Sec. 502(b) of the Mutual Security Act of 1954 as amended by Sec. 22 of P.L. 95–384 and S. Res. 179, agreed to May 25, 1977.

DENNIS DeCONCINI,
Chairman, Select Committee on Intelligence, Jan. 14, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), JOINT ECONOMIC COMMITTEE, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Daniel Bob:									
United States	Dollar				1,383.45				1,383.45
Philippines	Peso	15,178.48	528.00					15,178.48	528.00
Total			528.00		1,383.45				1,911.45

DAVID R. OBEY,
Chairman, Joint Economic Committee, Jan. 11, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Orest Deychakiwsky:									
United States	Dollar				1,779.45				1,779.45
Russia	Dollar		1,950.00						1,950.00
David Evans:									
United States	Dollar				3,140.95				3,140.95
Poland	Dollar		2,684.00						2,684.00
United States	Dollar				3,357.45				3,357.45
Russia	Dollar		1,950.00				35.00		1,985.00
John Finerty:									
United States	Dollar				3,361.25				3,361.25
Lithuania	Dollar		330.00						330.00
Russia	Dollar		1,950.00						1,950.00
Jane Fisher:									
Egypt	Pound	756	224.00					756	224.00
Jordan	Dinar	99	144.00					99	144.00
Syria	Dollar		412.00				63.50		475.50
Israel	Shekel	300	903.00					300	903.00
Heather Hurlburt:									
United States	Dollar				1,780.85				1,780.85
Austria	Schilling	51,841.60	4,470.00			135	11.54	51,976.60	4,481.54
Czech Republic	Dollar		690.00				311.41		1,001.41
Poland	Dollar		4,636.00						4,636.00
United States	Dollar				3,364.65				3,364.65
Austria	Schilling	48,153.60	4,224.00					48,153.60	4,224.00
Italy	Lire	2,698,224	1,608.00					2,698,224	1,608.00
Russia	Dollar		2,560.00						2,560.00
Austria	Schilling	18,057.60	1,584.00					18,057.60	1,584.00
Michael Ochs:									
United States	Dollar				3,244.35				3,244.35
Russia	Dollar		1,950.00						1,950.00
James Ridge, Jr.:									
United States	Dollar				1,139.65				1,139.65
Poland	Dollar		1,175.00						1,175.00
Victoria Showalter:									
United States	Dollar				2,882.95				2,882.95
Poland	Dollar		4,880.00				62.55		4,942.55
Samuel Wise:									
United States	Dollar				1,420.95				1.420.95
Cech Republic	Dollar		690.00						690.00
Austria	Schilling	6,595.20	576.00					6,595.20	576.00
Poland	Dollar		1,464.00						1,464.00
United States	Dollar				1,553.65				1,553.65
Poland	Dollar		1,175.00				94.33		1,269.33
United States	Dollar				3,053.15				3,053.15

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1993—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Italy	Lire	2,698,224	1,608.00					2,698,224	1,608.00
Total			43,837.00		30,079.30		578.33		74,494.63

DENNIS DeCONCINI,
Chairman, Commission on Security and Cooperation in Europe, Jan. 31, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY AND THE MINORITY LEADER, JULY 2–12, 1993.

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Patrick J. Leahy:									
Russia	Dollar		2,089.00						2,089.00
Poland	Zloty	3,766,400	214.00					3,766,400	214.00
Ireland	Pound	382.54	544.00					382.54	544.00
Senator Thad Cochran:									
Russia	Dollar		2,089.00						2,089.00
Poland	Zloty	3,766,400	214.00					3,766,400	214.00
Ireland	Pound	382.54	544.00					382.54	544.00
Senator Mitch McConnell:									
Russia	Dollar		1,459.00						1,459.00
Senator Thomas A. Daschle:									
Russia	Dollar		2,089.00						2,089.00
Poland	Zloty	3,766,400	214.00					3,766,400	214.00
Ireland	Pound	382.54	544.00					382.54	544.00
Walter J. Stewart:									
Russia	Dollar		2,089.00						2,089.00
Poland	Zloty	3,766,400	214.00					3,766,400	214.00
Walter J. Stewart:									
Ireland	Pound	382.54	544.00					382.54	544.00
Mark Keenum:									
Russia	Dollar		2,089.00						2,089.00
Poland	Zloty	3,766,400	214.00					3,766,400	214.00
Ireland	Pound	382.54	544.00					382.54	544.00
Eric Newsom:									
Russia	Dollar		1,941.00						1,941.00
Poland	Zloty	3,766,400	214.00					3,766,400	214.00
Ireland	Pound	299.16	424.00					299.16	424.00
Jan Paulk:									
Russia	Dollar		2,089.00						2,089.00
Poland	Zloty	3,766,400	214.00					3,766,400	214.00
Ireland	Pound	382.54	544.00					382.54	544.00
Charles Riemenschneider:									
Russia	Dollar		1,989.00						1,989.00
Poland	Zloty	3,766,400	214.00					3,766,400	214.00
Ireland	Pound	382.54	544.00					382.54	544.00
Delegation Expenses:[1]									
Russia							12,970.95		12,970.95
Poland							6,125.02		6,125.02
Ireland							10,029.38		10,029.38
Total			23,867.00				29,125.35		52,992.35

[1] Delegation expenses include direct payments and reimbursements to the Department of State and to the Department of Defense under authority of Sec. 502(b) of the Mutual Security Act of 1954 as amended by Sec. 22 of P.L. 95–384, and S. Res. 179, agreed to May 25, 1977.

GEORGE J. MITCHELL, ROBERT J. DOLE,
Majority and Minority Leaders, Nov. 9, 1993.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER, FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Arlen Specter:									
Russia	Dollar		296.00						296.00
Israel	Dollar		514.57						514.57
Jordan	Diner	87	100.00					87	100.00
Syria	Dollar		246.62						246.62
Egypt	Pound	645	191.17					645	191.17
Senator Robert F. Bennett:									
Russia	Dollar		320.00						320.00
Senator Charles E. Grassley:									
Egypt	Pound	735.75	218.00					735.75	218.00
Jordan	Dinar	99	144.00					99	144.00
Syria	Dollar		317.00						317.00
Israel	Shekal	300	103.00					300	103.00
	Dollar		496.11						496.11
Total			2,946.47						2,946.47

ROBERT J. DOLE,
Republican Leader, Mar. 10, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER, FROM JULY 1 TO SEPT. 30, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Christopher S. Bond:									
Japan	Yen	16,708	160.50					16,708	160.50
Singapore	Dollar		366.00						366.00
Malaysia	Dollar		376.00						376.00
United States	Dollar				6,554.45				6,554.45
Brent Franzel:									
Japan	Yen	14,938	143,50					14,938	143.50
Singapore	Dollar		366.00						366.00
Malaysia	Dollar		376.00						376.00
United States	Dollar				6,341.45				6,341.45
Margo Carlisle:									
Malaysia	Ringgits	1,441.58	564.00					1,441.58	564.00
United States	Dollar				301.34		370.81		672.15
Singapore	Dollar	625.07	388.00					625.07	388.00
United States	Dollar			978.50		71.57			1,050.07
Margo Carlisle:									
Hong Kong	Dollar	3,464.25	447.00					3,464.25	447.00
United States	Dollar				366.31		322.12		688.42
Jan Paulk:									
Malaysia	Ringgits	1,441.58	564.00					1,441.58	564.00
United States	Dollar				301.34		370.81		672.15
Singapore	Dollar	729.78	453.00					729.78	453.00
United States	Dollar				978.50		71.57		1,050.07
Hong Kong	Dollar	4,169.5	538.00					4,169.5	538.00
United States	dollar				366.31		322.11		688.42
Total			4,742.00		16,188.20		1,528.99		22,459.19

ROBERT J. DOLE,
Republican Leader, Mar. 10, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL BY THE REPUBLICAN LEADER, FROM APRIL 1 TO JUNE 30, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Arlen Specter:									
Kenya	Dollar						272.78		272.78
Senegal	Franc					10,399	38.80	10,399	38.80
Barry Caldwell:									
Kenya	Dollar						272.78		272.78
Senegal	Franc					10,399	38.80	10,399	38.80
Total							623.16		623.16

ROBERT J. DOLE,
Republican Leader, Mar. 10, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), TRAVEL AUTHORIZED BY REPUBLICAN LEADER FROM JAN. 1 TO MARCH 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Arlen Specter:									
Croatia	Dollar						623.67		623.67
Egypt	Pound					18.32	5.47	18.32	5.47
Charles Battaglia:									
Croatia	Dollar						623.67		623.67
Egypt	Pound					18.32	5.47	18.32	5.47
Total							1,258.28		1,258.28

ROBERT J. DOLE,
Republican Leader, Mar. 10, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER, FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Christopher C. Straub:									
Jordan	Dollar		65.00						65.00
Walter J. Stewart:									
Bolivia	Boliviana	797.50	180.02					797.50	180.02

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER, FROM OCT. 1 TO DEC. 31, 1993—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Chile	Dollar		708.00		35.63		295.85		1,039.48
Uruguay	Dollar		370.00		375.00		381.14		1,126.14
Argentina			1,415.00		279.25		261.25		1,955.50
Total			2,738.02		689.88		938.24		4,366.14

GEORGE J. MITCHELL,
Majority Leader, Mar. 9, 1994.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE PRESIDENT PRO TEMPORE, FROM OCT. 1 TO DEC. 31, 1993

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Melvin G. Dubee:									
United States	Dollar		32.00		1,065.15				1,097.15
Germany	Dollar		99.00						99.00
Latvia	Dollar		399.20						399.20
Poland	Dollar		560.00						560.00
Total			1,090.20		1,065.15				2,155.35

ROBERT C. BYRD,
President Pro Tempore, Mar. 17, 1994.

TRIBUTE TO FORT CAMPBELL

• Mr. McCONNELL. Mr. President, I rise today to congratulate Kentucky's Fort Campbell on winning the title of "Best Environmental Quality Program in the Department of Defense."

The prestigious environmental quality award is the culmination of 2 years of work to develop an aggressive, viable environmental program. Defense Department judges found that Fort Campbell exceeded requirements in all categories, from asbestos to noise pollution, and from hazardous waste to environmental research and education.

The Department of Defense took specific notice of Fort Campbell's strong command involvement in the post's environmental program. Among their most impressive accomplishments is the Environmental Quality Officer Program, designed by Mr. Dewayne Smith, the Chief of Fort Campbell's Environmental Division. Together with Lt. Col. Hal Cranor, Director of Public Works, Mr. Smith has successfully implemented this program which expands the Environmental Division's manpower base by working with environmental liaisons, which have been assigned in each unit or activity on post.

In being nominated by the Army to receive this award, the Army recognized the tremendous improvement and turn around Fort Campbell has made in the past 2 years. Having been determined to be best in the world, the Department will use Fort Campbell as an example of environmental excellence to other installations.

As Earth Day ceremonies are getting underway nationwide, I am pleased that the Department of Defense has recognized a Kentucky installation as its environmental best. Fort Campbell's success in its program is linked to a strong commitment to a comprehensive environmental agenda. Again, congratulations to Lt. Col. Cranor, Mr. Smith, the fine staff of the environmental division, and Fort Campbell on this fine accomplishment.•

WEST VIRGINIA HUMANITIES COUNCIL

• Mr. ROCKEFELLER. Mr. President, a greater understanding and appreciation of the humanities is essential to the enrichment of each of our lives. In West Virginia, for the past 20 years the West Virginia Humanities Council has done a great deal to advance the humanities in our State. I am proud to commend them on this important anniversary.

The West Virginia Humanities Council is a nonprofit, private organization that was established in 1974 as an affiliate of the National Endowment for the Humanities. It originally awarded grants for specific public policy programs. However, in the last 20 years, the council has greatly expanded its services and now takes direct action in planning and conducting programs to enrich humanities in the State. In addition to the Federal grants, the council now receive over one-third of its funding from the State government and businesses and individuals in the State. Its purpose has expanded to bring the humanities to every sector of the State's population and to reach every West Virginia citizen. The council also plays a large role in enriching the quality of education in the West Virginia public schools.

In celebration of its anniversary, the council is beginning a new program, the West Virginia Circuit Writers, in which West Virginia writers will give presentations of their work in high schools and communities throughout the State. Outstanding teachers will then be chosen to attend a seminar where curriculum will be developed in order to help teachers use the local writings in the classrooms and to make the local works more accessible to students.

This program is built on the council effort to promote the humanities among teachers and public schools in West Virginia. In past years, the West Virginia Humanities Council has raised over $173,000 for books for public school classrooms, trained teachers for great books discussions, developed curriculum to supplement West Virginia history teachings, and had numerous summer seminars to continue the education of teachers.

The efforts of the West Virginia Humanities Council are not confined to the classroom alone. Other efforts include working to provide the opportunity for rural areas to host traveling museum exhibits, working as partners in the West Virginia history film project, and developing books that are appropriate and interesting for illiterate adults who are beginning to learn to read. It is even more inspiring to realize that the council has achieved all of these successes with a very limited staff and budget.

It is with pride that I call attention to the West Virginia Humanities Council and the work that they have done to improve the lives of West Virginians. In the year of their 20th anniversary, I am proud to pay tribute to its many accomplishments and wish it continued success for the future.•

IN HONOR OF JIM POSEWITZ

• Mr. BAUCUS. Mr. President, today I rise to commend Jim Posewitz, one of Montana's leading conservationists, on his outstanding work and dedication to the environment.

Jim retired July 30, of last year, after working for 32 years as a biologist for the State Department of Fish, Wildlife, and Parks, including 15 years as head of its ecological program.

His efforts have helped Montana maintain its incredible natural beauty and have allowed Americans to enjoy the recreational opportunities it offers. It is through efforts from people like this that Montana is truly "The Last Best Place."

Although Jim has retired from State government, he still contributes his skill and knowledge working on conservation and wildlife projects. Such tireless dedication to a worthy cause underlines his commitment to the environment and to making this world a better place to live.

Recently, the Montana Wildlife Federation's board of directors rewarded Jim's efforts by establishing an endowment in his name. The earnings from this endowment will go to advocate policies that lead to the preservation of wildlife and habitat for future generations.

Such an honor could not go to a more dedicated, deserving and accomplished person. I congratulate Jim on his retirement and I wish him success in his future endeavors.•

RETIREMENT OF ADM. FRANK KELSO

• Mr. BROWN. Mr. President, Frank Kelso has served the United States as an officer in the U.S. Navy. While he has held the permanent rank of two-star admiral since 1980, since 1986 he has continuously been in positions which carry the rank of four-star admiral. Under statute, persons who retire while holding positions with four-star rank may retire at that rank upon the recommendation of the President and the consent of the Senate. Prior to the Tailhook scandal, Admiral Kelso could have voluntarily retired and would almost certainly have done so at the four-star admiral level given his performance and accomplishments in three and a half decades of military service.

In regard to Tailhook, there are established proceedings for officers to be removed because of substandard performance of duty or to be court-martialled for violation of laws and military standards of conduct. No removal proceedings or charges triggering a court-martial were ever instituted against Admiral Kelso in regard to Tailhook or the subsequent investigation or legal proceedings arising from it.

Statute provides that no officer can be retired for misconduct for which court martial proceedings would be appropriate. Officers considered for removal may choose to voluntarily retire at the rank and with the pay for which they are otherwise eligible. If removal proceedings has been instituted, Admiral Kelso could have chosen the same course he has pursued—to voluntarily retire at the rank and eligible for retirement benefits of his last position, four-star admiral.

Denying Admiral Kelso the rank and benefits in retirement to which he was otherwise entitled, without a trial or due process is not appropriate.•

TRIBUTE TO ROOSEVELT CHIN—LOUISVILLIAN GIVES HIS ALL TO HELP OTHERS

• Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a fellow Louisvillian for his outstanding service to the youth of his community. Mr. Roosevelt Chin has spent his entire life as an employee of Cabbage Patch Settlement House, an organization dedicated to helping children and adults deal with the problems that result from poverty and broken homes.

At a time when Americans list crime as one of their greatest worries, Roosevelt Chin is doing something about it. In conjunction with Cabbage Patch, which was founded 84 years ago, he helps young people work through the difficult times in their lives. By teaching self-respect and dignity, Mr. Chin has turned countless people from troubled to valuable, contributing members of society.

Mr. Chin is much more than counselor or adviser Mr. President, he is a friend to everyone he works with. He has turned down opportunities to try other jobs and instead has worked with the Cabbage Patch House for 42 years. What is the reward for this lifetime of service? Mr. Chin says it best when he points out that he has satisfaction in contributing significantly to his community and that he feels like the most blessed person around.

The families Mr. Chin has helped are far too many to mention, but all who have come into contact with this compassionate and thoughtful gentleman know how much he has touched the lives of those he has worked with. I urge my colleagues to join me in honoring Roosevelt Chin as someone who has truly made, and continues to make, a difference. In addition, I ask that an article from the April 11, Courier Journal be inserted into the RECORD at this point.

The article follows:

[From the Courier Journal, April 11, 1994]

'MIGHTY MOTIVATOR'

(By Todd Murphy)

Upward mobility.

Roosevelt Chin smiles at the thought.

Most of his family—spread across the United States now—would be considered upwardly mobile, Chin says. Most of his former college and graduate school classmates have moved on and up, too, he says. All have asked him the questions that come from a world that gauges success by jobs and titles and prestige and money.

What is he still doing at the Cabbage Patch? What has he done with his life?

Chin—who just turned 60, but looks 10 years younger—sits at a table in the "teen room" at the Cabbage Patch Settlement House in Old Louisville. American Indian masks made by children adorn the walls. Screams and shouts of playing children echo from the gym next door.

Chin smiles again. He can talk not only about certain children, but about their parents when they were children running around the same gym. He has a master's degree in social work and has studied at a respected art institute in New York. But this place is his life—has been for 42 years. And he has no regrets.

"The decision was made back then," he says, referring to the point years ago when he decided to stay. "And I never look back."

The Cabbage Patch, now on South Sixth Street, was founded 84 years ago by Louise Marshall, the daughter of a prominent Louisville lawyer and the great-great-granddaughter of former U.S. Supreme Court Justice John Marshall. It serves all ages, but focuses on neighborhood children—many of whom come from poverty and broken homes.

And for 42 years, those children have become friends with "Mr. Chin," or just "Chin." They've played on his basketball and football teams. They've gone on his camping trips. They've built plastic model cars in his model-car classes, painted pictures in his art classes, pieced together puzzles as members of his "Fun Club."

But Chin's relationship with the place, and with its children, goes far beyond that, say the people who have worked with him and the children who've been touched by him.

A man whose parents couldn't speak English when they came from China to this country 70 years ago, Chin has taught children—most of them white or black—about life. About telling the truth, about doing their best and about savoring their worth—no matter what the world seems to assume about them.

"He's had an amazing ability to take the (children) we're just about ready to give up on, and save them," says Rod Napier, another longtime Cabbage Patch employee. "He works on their self-esteem. They feel important when they're around him."

"You might have had the worst attitude in the world. But if Chin came into a room, it changed," says Jamie Huff, whose father left the family when he was 5 and who became friends with Chin at the Cabbage Patch 15 years ago. Huff is now a senior at Western Kentucky University.

And Chin's sacrifices can change the most hardened child, those who've worked with him say.

Children whose families did not have cars trained to get their driver's licenses in Chin's aging cars.

He's taken Cabbage Patch children on vacations, paying for everything. "He took us to Florida one year," Huff says. "I never thought in my lifetime I'd see an ocean. I never thought I'd see outside Louisville. But he took us to see an ocean."

He's bought cars for some of his Cabbage Patch friends as they were leaving for college, Napier says. And he's helped pay college costs for a few, including Huff for a semester.

Chin says his generosity is simple. "Following an unspoken commitment to the example Marshall set, Chin has never married. "I'm married to the Cabbage Patch," he says.

And with no immediate family, he spends little money. He adds: "I guess when I die, all my money is going to the Cabbage Patch anyway. . . . I'm just doing it a little earlier."

Chin also notes that other longtime, Cabbage Patch staffers like Napier and Charles Dietsch do many of the same things.

The work of Chin's life could not have been farther from the work of his grandfather. He was a don in the Chinese mafia in Chicago in the 1920s, fighting with Al Capone for power over the city's underworld.

After his grandfather had won a restaurant in Louisville "in some type of gambling deal"—and gave it to Chin's parents as a wedding gift—The Chins moved to Louisville to run it.

Growing up, Chin remembers enduring racial taunts and Japanese-directed racial accusations that "you people" had started World War II.

He remembers he and his siblings wearing badges that told people they were not Japanese, but Chinese—and therefore not subject to internment camps.

But he has good childhood memories too, including when he was 13, moving to a house near Hill Street and finding a place to play basketball—the Cabbage Patch Settlement House.

By his late teens, he was working there for Louise Marshall—"probably the most unusual person on the face of the Earth. . . . Everybody was ready to die for her." After going off to art school, then getting an interview to be a designer at General Electric, Chin canceled it. "That was the turning point," he says. "I couldn't leave the Cabbage Patch."

He hasn't left since, and has no plans to retire soon.

He still feels a bit sheepish when he drives up to a Chin family reunion in his rusty 1984 van. "I putt-putt up there, and they've got these nice houses and fancy cars," he says.

"But they don't know what I have that makes up for the things I go without.

"I have satisfaction. I have excitment. . . . When I wake up and go to work, I don't feel like I'm going to work.

"I'm the most blessed person around."

So what has Roosevelt Chin done with his life?

To those who know him, the answer is; about as much as any human being could.

"I don't have enough adjectives to say for this man," Huff says. "If I can give back to the community half of what he has done, then I will have lived a successful life."

ROOSEVELT CHIN—COORDINATOR OF SPECIAL PROGRAMS

Mission: Works with Cabbage Patch Settlement House, a Christian service ministry that tries to help children and adults deal with the problems that result from poverty and broken homes.

Years performing service: Chin has worked there 42 years. (Cabbage Patch has been in existence for 84 years)

Source of funds: Contributions from individuals, churches, businesses, foundations, and service organizations. By choice, it does not accept support from government or from the Metro United Way.

To lend a hand: The Cabbage Patch Settlement House 1413 South Sixth Street Louisville, Ky. 40208 634–0811, 634–0966.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. HEFLIN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar No. 782, Calendar No. 811, Calendar No. 825, Calendar No. 827.

I further ask unanimous consent that the nominees be confirmed, en bloc, and any statements appear in the RECORD as if read, and that upon confirmation, the motion to reconsider be laid on the table, en bloc, and that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, considered and confirmed, en bloc, are as follows:

EXECUTIVE OFFICE OF THE PRESIDENT

William Booth Gardner, of Washington, to be Deputy U.S. Trade Representative, with the rank of Ambassador.

DEPARTMENT OF COMMERCE

Raymond E. Vickery, Jr., of Virginia, to be an Assistant Secretary of Commerce.

DEPARTMENT OF DEFENSE

Sara E. Lister, District of Columbia, to be an Assistant Secretary of the Army.

Gilbert F. Decker, of California, to be an Assistant Secretary of the Army.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

EXTENDING ELIGIBILITY FOR BURIAL IN NATIONAL CEMETERIES

Mr. HEFLIN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (H.R. 821) to amend title 38, United States Code, to extend eligibility for burial in national cemeteries to persons who have 20 years of service creditable for retired pay as members of a Reserve component of the Armed Forces.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 821) entitled "An Act to amend title 38, United States Code, to extend eligibility for burial in national cemeteries to persons who have 20 years of service creditable for retired pay as members of a reserve component of the Armed Forces", with the following amendments:

In lieu of the matter inserted by said amendment, insert:

SECTION 1. ELIGIBILITY OF CERTAIN RESERVISTS AND DEPENDENTS FOR BURIAL IN NATIONAL CEMETERIES.

(a) RESERVISTS.—Section 2402 of title 38, United States Code, is amended by inserting after paragraph (6) the following new paragraph (7):

"(7) Any person who at the time of death was entitled to retired pay under chapter 67 of title 10 or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age.".

(b) DEPENDENTS.—Paragraph (5) of such section is amended by inserting "and paragraph (7)" after "paragraphs (1) through (4)".

Amend the title so as to read: "An Act to amend title 38, United States Code, to extend eligibility for burial in national cemeteries to persons who have 20 years of service creditable for retired pay as members of a reserve component of the Armed Forces and to their dependents.".

Mr. HEFLIN. I ask unanimous consent that the Senate concur, en bloc, in the amendments of the House and the motion to reconsider, en bloc, be laid upon the table; that any statements relative to this item appear in the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I am delighted to support the final passage of H.R. 821, a bill to extend eligibility for burial in national cemeteries to those who served 20 years in the National Guard or Reserve components of the Armed Forces, and to their families.

Mr. President, this bill is derived from S. 1128, introduced by my good friend and colleague on the committee, Senator AKAKA, who has been a longstanding advocate for reservists. The language of Senator AKAKA's bill, with some minor changes, was incorporated into an original bill, S. 1620, which was reported by the committee on November 4, 1993. The Senate passed the text of S. 1620 on November 11, 1993, as a substitute amendment to H.R. 821. The compromise agreement that is before the Senate today is essentially the same bill that we passed last year, with only minor drafting and conforming changes.

Mr. President, I ask unanimous consent that a joint explanatory statement on H.R. 821, developed by the two Committees on Veterans' Affairs, be printed in the RECORD following my remarks. This joint statement, which describes the compromise agreement on H.R. 821, was previously inserted in the RECORD by the chairman of the House Committee on Veterans' Affairs, Representative G.V. (SONNY) MONTGOMERY, during House debate on Monday, April 18.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT EXPLANATORY STATEMENT OF H.R. 821, A BILL TO EXTEND ELIGIBILITY FOR BURIAL IN NATIONAL CEMETERIES TO RESERVISTS AND THEIR DEPENDENTS

This document explains the provisions and legislative history of measures relating to eligibility for burial in national cemeteries for individuals who have served 20 years in a reserve component and for their dependents. These provisions have been passed by the Senate and House of Representatives, agreed upon by the Senate and House Committees on Veterans' Affairs, and are offered as a proposed House amendment to the Senate amendment to H.R. 821.

The measures referred to above are H.R. 821 as passed by the House on August 2, 1993 (hereinafter referred to as the "House bill"), and the text of S. 1620 as reported (without written report) as an original bill on November 4, 1993, and as passed by the Senate on November 11, 1993, as a substitute amendment to H.R. 821 (hereinafter referred to as the "Senate amendment"). The Senate amendment was derived from S. 1128, which was introduced on July 17, 1993.

The differences between the House bill and the Senate amendment are noted below, except for clerical corrections, conforming changes made necessary for the compromise agreement, and minor drafting, technical, and clarifying changes.

Current law: Under current law, the only members of Reserve components of the Armed Forces who are eligible for burial in a national cemetery are those who:

1. Die under honorable conditions while hospitalized or undergoing treatment at the expense of the United States for injury or disease contracted or incurred under honorable conditions while such member is performing active duty for training, inactive duty training, or traveling to and from such duty;

2. Are disabled or die from disease or injury incurred or aggravated in line of duty during or enroute to or from active duty for training; and

3. Are disabled or die from injury (but not disease) incurred or aggravated in line of duty during or enroute to or from inactive duty training.

House bill: The House bill would grant eligibility for burial in a national cemetery to any person who at the time of death was entitled to retirement pay for service in a reserve component of the Armed Forces or would have been entitled to retirement pay but for the fact that the person was under 60 years old.

Senate amendment: The Senate amendment is substantively similar to the House bill, but adds a provision granting eligibility for burial in national cemeteries to the spouses and dependents of eligible reservists.

Compromise agreement: The compromise agreement follows the Senate amendment with some minor technical and conforming changes.

Mr. AKAKA. Mr. President, I rise in support of the House amendment to the Senate amendment to H.R 821, legislation that would extend eligibility for burial in the national cemetery system, which includes the 59 open national cemeteries operated by the Department of Veterans Affairs [VA] and the 40 State veterans cemeteries that conform to VA eligibility standards, to members of the National Guard and Reserve who have served a minimum of 20 years and are eligible for retirement pay and their dependents.

Mr. President, the Senate approved H.R. 821 in substantially the same form late last year, but because certain technical conforming amendments were inadvertently left out of the Senate-passed bill, the House delayed final action on the measure. The measure we are considering today contains these minor technical corrections.

H.R. 821 is derived from legislation I introduced last year, S. 1128, that was cosponsored by Senators CRAIG, DASCHLE, DECONCINI, DORGAN, FORD, HATCH, HEFLIN, INOUYE, JEFFORDS, KERREY, PRESSLER, ROBB, and SHELBY. S. 1128, in turn, was based on original legislation I introduced in the 102d Congress, S. 2961, that called for providing headstones, burial flags, as well as the interment benefit to career reservists. Congress managed to approve the headstone and burial flag provisions of S. 2961 in 1992, but deferred consideration of the interment benefit until the current Congress.

Mr. President, an estimated 235,000 reservists gallantly served in the Persian Gulf war. Their outstanding performance alongside active duty soldiers amply fulfilled the aim of our Total Force policy. The desert conflict foreshadowed the military's post-cold-war trend toward greater reliance on the Reserve component. Indeed, today's Guard and Reserve train to the same standards as their active duty counterparts and are increasingly undertaking missions for the active duty military. In effect, today's reservists are continuous members of the total force, indistinguishable in performance from the so-called regular military.

H.R. 821 recognizes the growing importance of the Guard and Reserve by extending to the most dedicated among them, the career reservists who have devoted at least 20 years of their lives to our defense, the final and most basic right of burial in a national cemetery. H.R. 821 also extends burial eligibility to their spouses and dependents.

This legislation will not substantially affect VA's ability to provide burials benefits to other veterans. According to my best estimates, the bill will result in between 365 to 828 additional burials annually—approximately 1 percent or less of VA's current annual interment rate of nearly 70,000 for burials in national cemeteries operated by the Department. Even this figure is probably overstated, because a significant number of eligible reservists is likely to choose burial in State veterans cemeteries, which is also authorized under this measure.

In addition, given that there are some 608,000 developed gravesites available at the 59 open national cemeteries and the 40 State veterans cemeteries which conform to VA eligibility criteria—with a potential of 2.7 million more spaces if undeveloped land is developed at these facilities—it is clear that this legislation will have a negligible effect on nonreservist veterans.

This bill has the support of all the major veterans organizations as well as the Military Coalition, which represents 24 military advocacy organizations. According to the Congressional Budget Office, H.R. 821 is expected to cost less than $500,000 a year, and thus has no pay-as-you-go implications.

I urge my colleagues to support this legislation. The least we can do to recognize the contributions of career reservists, the backbone of the reserves, is to provide them with an honored resting place in our national cemetery system, alongside others who have worn the uniform.

In closing, Mr. President, I would like to extend my appreciation to Chairman ROCKEFELLER and the staff of the Veterans' Affairs Committee for their assistance in facilitating enactment of this measure. I would especially like to recognize the help of Pete Dougherty, a former committee staffer, in developing and promoting this legislation.

BYRON WHITE UNITED STATES COURTHOUSE ACT OF 1994

Mr. HEFLIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 410, H.R. 3693, a bill to designate the U.S. Courthouse under construction in Denver, CO, as the "Byron White U.S. Courthouse," that the bill be deemed read a third time, passed and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 3693) was deemed read a third time and passed.

SCHOOL-TO-WORK OPPORTUNITIES ACT—CONFERENCE REPORT

Mr. HEFLIN. Mr. President, I ask unanimous consent that upon disposition of S. 540, the Bankruptcy Amendments Act, that the Senate then proceed to the conference report accompanying H.R. 2884, the School-to-Work Opportunities Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I now ask unanimous consent that it be in order to request the yeas and nays on adoption of the conference report accompanying H.R. 2884.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

ORDERS FOR TOMORROW

Mr. HEFLIN. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Thursday, April 21; that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each, with the first 30 minutes of morning business under the control of Senator SIMPSON or his designee, and the next 30 minutes under the control of Senator KENNEDY or his designee; that thereafter Senators DORGAN, HATCH, and THURMOND be recognized for up to 10 minutes each; and that at 10:30 a.m., the Senate resume consideration of Calendar No. 251, S. 540, the Bankruptcy Amendments Act of 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMORROW

Mr. HEFLIN. Mr. President, if there is no further business to come before the Senate today, and if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 7:12 p.m., recessed until Thursday, April 21, 1994, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate April 20, 1994:

DEPARTMENT OF STATE

JOSEPH R. PAOLINO, JR., OF RHODE ISLAND, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALTA.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 20, 1994:

EXECUTIVE OFFICE OF THE PRESIDENT

WILLIAM BOOTH GARDNER, OF WASHINGTON, TO BE DEPUTY UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR.

DEPARTMENT OF DEFENSE

SARA E. LISTER, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

GILBERT F. DECKER, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF COMMERCE

RAYMOND E. VICKERY, JR., OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

EXTENSIONS OF REMARKS

DAYS OF REMEMBRANCE CEREMONY

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. YATES. Mr. Speaker, I was privileged on April 6 to attend a most eloquent and moving Days of Remembrance Ceremony in the rotunda. As you know, this is an annual ceremony and I was delighted that Vice President GORE was one of the main speakers this year. His message on the meaning of the Holocaust and the importance of the Days of Remembrance was masterful and compelling. I thank him for his thoughtful eloquence and I would ask that the Vice President's remarks be printed at this point in the RECORD. I would also hope Members will take a moment to read and reflect on what the Vice President told us.

REMARKS AS DELIVERED BY VICE PRESIDENT AL GORE AT DAYS OF REMEMBRANCE CEREMONY, U.S. CAPITOL, APRIL 6, 1994

Eva Heyman kept a diary during those last weeks before the Nazis rounded up the Jews of Nagyvarad, then inside Hungary, near its Romanian border. It was during the days when Jews could still live in their homes but things were awful. In May, 1944, Eva wrote: "Everytime I think, this is the end: things couldn't possibly get worse, and then I find out that it's always possible for everything to get worse."

Sometimes she couldn't sleep. Lying awake in her bed, she would hear the adults talking. "They said that the people aren't only beaten but also get electric shocks," she wrote. "People are brought to the hospital bleeding at the mouth and ears . . . some of them also with teeth missing and the soles of their feet swollen so they can't stand . . . in the ghetto pharmacy there is enough poison and Grandpa gives poison to the older people who ask for it. Grandpa also said it would be better if he took cyanide and also gave some to Grandma."

On this Spring day here in Washington, we think of Eva Heyman, listening in her bed, and wish we could somehow go back in time and rescue her.

But she wrote during the last Spring she would ever know. The gendarmes came for her family three weeks later—and marched her into the gas chamber at Auschwitz on October 17. She was thirteen years old.

To read what happened to the Jews of Hungary is to read of the most unspeakably barbaric acts: of Arrow Cross members, in black boots and green shirts, herding Jewish women, children and old men through the streets of Budapest, prodding them with rifle butts, shooting those who could not keep up the pace.

Or the ritual executions. Arrow Cross guards would line up three Jewish victims, and wire their wrists together. The rifleman would fire into the back of one. The dead person would slump forward and pull others into the Danube where the freezing river and weight of the corpse finished the others. That saved two bullets.

What is the lesson of these acts for us, fifty years later?

Certainly on this week after Passover, a commemoration of freedom from slavery three thousand years old, there is this lesson: tell the story. The purpose of this memorial—of this day—is to tell the story to each generation.

We tell the story, in part, to remember those who died. We also tell it to remember the need for vigilance. And for the Jewish people there is a need for vigilance. Is there any people who have been persecuted for so long and in so many places, driven from nation to nation, whether from Babylon or Rome, England or Spain, or by the programs throughout Eastern Europe?

There are those who argue that Jews were victims, going passively to their death. This is a lie. Jews fought back. They fought back in Warsaw. They fought back throughout eastern Europe.

They even recorded accounts of their fighting back; a merchant and aspiring writer, Zalman Gradowski, who fell in a revolt at Auschwitz he spearheaded, buried four manuscript accounts of life in death, on which he had inscribed these words, "take heed of this document, for it contains valuable material for the historian." Because of what he and others did, we can refute the liars with a wealth of detail that is unassailable.

To a Christian, reading about the Resistance, it is natural to ask: what did others do? The past twelve months have brought America stories of heroism by Gentiles in some powerful new ways. One was the portrayal by Steven Spielberg of a hero of the Nazi occupation, Oscar Schindler.

And of course, those walking through the Holocaust Museum are reminded of another hero, Raul Wallenberg, who saved hundreds of thousands of Hungarian Jews.

Their heroism is beyond dispute.

The images in Spielberg's film of Schindler and Yitzchak Stern, together pecking out on the typewriter the names of those who could be saved * * * the images of Wallenberg in Hungary, mounting trains bound for Auschwitz and ordering guards to release people with "Swedish" passports—give the lie to the myth that everyone was indifferent.

But we must be careful not to exaggerate either their numbers or their impact. The fact is, that in most cases, nothing was done. And we must confront that, as well.

Why was so little done? For a Christian, this is an agonizing question as I confront it. For if we believe, as I do, that religion is a powerful force for good, why did so many believers and church-goers remain silent in the face of such an alloyed evil?

One lesson learned from such massive failure is expressed by the famous words attributed to Pastor Niemoller: "When Hitler attacked the Jews * * * I was not a Jew therefore I was not concerned. And when Hitler attacked the Catholics, I was not a Catholic, and therefore I was not concerned * * * then Hitler attacked me and the Protestant church—and there was nobody left to be concerned."

Powerful words.

But for some there is an implication in that paragraph that makes it seem insufficient. For one way to read it is as a morality play with self interest at its core: we must defend others, so others will defend us.

But we all know self-interest isn't enough. It is essential that those who feel in no danger at all rise in defense of the persecuted. The passion for justice and tolerance must be so ingrained in society that even those feeling most secure will take action to preserve it.

And we must put in place safeguards—of law, of values—that make it impossible for the human race to give vent to its most barbaric impulses during those times when the individual conscience—or even the sum of those consciences—is too weak, or cowed, or terrorized to resist.

Elie Weisel, talking about how Christians should react to the Holocaust, quotes the Hasidic story about a great person who said, "Look, I know how to bring about a change that would benefit the whole world. But the whole world is a huge place, so I'll begin with my country. I don't know my whole country, though; so I'll begin with my town. My town has so many streets; I'll begin on my own street. There are so many houses on my street; I'll begin in mine. There are so many people in my house; I'll begin with myself."

"You begin with yourself," Weisel says.

He is certainly right.

But of course, while we begin with ourselves, we cannot end there. Not in a world where there are those who argue the Holocaust never happened; that cyanide was used for fumigation and that the pictures of gas chambers are fabrications.

There are people who organize themselves as the enemy of truth. We must confront their lies.

We must also confront the temptation to acknowledge intellectually—but only intellectually—that the Holocaust happened, and accept it numbly, without the outrage that can prevent another one.

It is too easy for Americans, shielded for over 130 years from warfare inside our own borders, to say it can't happen here; that the Holocaust happened fifty years ago and in countries without the safeguards that make it impossible to happen in America.

But remember: the Holocaust originated in the country of Goethe and Beethoven, a country that prided itself on its refinement. We can never give in to complacency. No country is exempt from hatred or from demagogues.

And yet, when we look at America, we are certain in our hearts that if a Holocaust happened here it would not be in the America we know. It would not be in the America that has carefully separated and balanced the powers of the state and protected the freedom of it citizens. It would not be in the America whose Declaration of Independence calling for the "inalienable rights of life, liberty and the pursuit of happiness" is venerated not simply within our National Archives, but lives and breathes in our national character.

It would not be the America whose courts have time and again affirmed the separation of Church and state that has been one of our most sacred traditions. It would not be the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

America whose liberating forces entered the death camps in 1945, to free the survivors, and provide witness that the worst stories we had heard were true.

And it would not be the America that has placed a Holocaust Museum in its National Capitol.

It was a controversial step. There were those who argued this was not an American experience. Who will want to see it? they asked. Who, surrounded by places like the Air & Space Museum, would subject themselves to images of death?

Those questions have been answered. They have been answered by those who crowd in to the Holocaust Museum every weekend. Who stand patiently in line, people of every national origin, every color and every religion to expose their children to exhibits of the most savage things done to children in history.

The Holocaust is not an event to be remembered just by those who survived—or just by Jews or by gypsies. Its memorial should continue to be part of the American experience for everyone.

And there is no better place for it than Washington, to remind those who make the agonizing decisions of foreign policy of the consequences of their decisions.

One remembers, of course, not just to ward off dire consequences. We remember also so we can be inspired. And that is the meaning of Raul Wallenberg.

As opposed to Schindler, who seems to have gradually become aware of this responsibility, Wallenberg knew right from the beginning.

In Kati Marton's book about Wallenberg, she tells of the night he got a terrified call from Tibor Vandor, one of his office workers. Agnes Vandor was having a baby. They were afraid to go to the hospital.

Wallenberg brought the pregnant woman into his own bedroom, found a Jewish doctor, then paced the corridor outside all night, standing guard, while she gave birth.

The greatful parents insisted Wallenberg help name the baby, and he did: Yvonne.

Years later, this story appeared in the newspapers, and Yvonne recognized the details, came forward, and identified herself.

But, she said, there was one detail that was wrong. She wasn't Jewish.

She had nothing against Jews—in fact, she had married one herself. But she was sure her parents were Catholic.

It was only then, that she learned how terrified her parents had been—in postwar Hungary—to admit that they were Jewish. They didn't even dare tell her.

The effects of the Holocaust did not end when the killing ended. It scarred those who survived. It caused a generation of Jews to feel they could never again trust the countries in which they lived. Some didn't even dare admit their own heritage to their children.

The value of a Raul Wallenberg is to inspire us so we never again fail those who need our trust. Looking back with the perspective of half a century we remember him and others in order to strengthen us when we need strength.

Because the need for heroes is not dead. You see it in Sarajevo. You see it in Somalia. You see it in the Middle East where the courageous leaders of Israel and its Arab neighbors are taking bold risks for peace.

For much of the world the ideals of America—though not always its practices—have stood as its polar opposite. In the long, upward journey of the human experiment, our ideals—freedom, equality, tolerance, justice for all—represent a destiny.

To reach that destiny we must never forget where human beings have failed. So, on this day, we allow—even force—ourselves to again remember the Holocaust in all its barbaric detail. We should not shrink from it. We remember Eva Heyman and mourn the barbarism inflicted on her because only then will we know the terrible capabilities that can lie coiled in the human soul.

But we also remember the acts of heroism like those of Raul Wallenberg. Because that teaches us what we are capable of doing. And that means when the need occurs we won't flinch from our moral responsibility. We will meet our obligations, in our daily lives or in the business that takes place under the marble dome of this building, and make ourselves in the words of Isaiah, "as hiding places from the winds and shelters from the tempests; as rivers of water in dry places; as shadows of a great rock in a weary land."

THE MICRONESIAN GAMES, 1994—"BROTHERHOOD/SISTERHOOD AND EXCELLENCE"

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. UNDERWOOD. Mr. Speaker, I went home to Guam for Holy Week and as an added pleasure, I was lucky enough to watch some of the 1994 Micronesian Games which were held on Guam. This was a festival of excellence in competition, but even more, it was a celebration of goodwill, friendliness, and warmth.

My island played host to some 1,800 athletes from throughout the Micronesian region, and everyone pitched in from Government officials to business people to our local military. The sporting venues were in superb shape, second only to the athletes and their sportsmanship.

It truly was a special time on Guahan.

Now the Micronesian Games are over. Eight days of pain, sweat, victory, and defeat. The legacy of the 1994 games is now in the hearts and collective spirit of the people of the Pacific.

People like the three Sison Sisters of Dededo, Guam. Each of the sisters participated in different sports and earned gold medals. They dedicated their success to their parents, and at every game, every event, Delores and Thomas were there for their children.

People like the team from Chuuk who won silver medals in the women's relay race. The Kosrae team gave its canoes to the Chuuk team, which didn't have any of their own. Out of gratitude, the Chuuk team gave Kosrae two of their silver medals.

The emotion I felt when I placed three medals around my own nephew's neck—David Silva—can't be compared to any feeling I've ever experienced. It was a combination of pride, joy, and satisfaction in my family, my people, and my island.

I'd like to mention each and every one of the 1,800 athletes, because I can say with confidence they are all winners. However, out of respect for economy and efficiency, I will not submit each name for the record. So, to the athletes of Chuuk, Kosrae, Nauru, Pohnpei, the Marshall Islands, Palau, the Commonwealth of the Northern Marianas, and my island of Guam, I say with all the passion I can muster, You are outstanding and, by the way, Guam came out ahead in the total medal count as well as in gold medals received.

AN AMERICAN SUCCESS STORY

HON. WALTER R. TUCKER III

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. TUCKER. Mr. Speaker, there will come a time in every individual's life when they must decide if they are prepared to rise to an occasion that may present itself. I have always said, "There is no time to get prepared, when opportunity knocks, one must be prepared."

There are those who would contend that the success stories of this life are little more than lucky men and women who happened to be at the right place at the right time. If in fact that is true, then I would submit to you, Mr. Speaker, that luck is what happens when opportunity meets preparation and those who are prepared are more than lucky, they are indeed blessed.

Mr. Speaker, I rise today to commend young woman who rose to the occasion—a young woman who was prepared when she met an opportunity. Mr. Speaker, that young woman's name is Ms. Latonia Smith.

The Bible says, "Consider that ant in all her ways * * *." Mr. Speaker, I have studied the ant. The ant is persistent, diligent, loyal, and brave.

When I was elected to office in the fall of 1992, my phone began to ring soon after. It was Latonia Smith; she was inquiring about a staff position. When she was told that all of the positions were filled, she asked, "May I have that in writing please?" When she did not receive that information in writing, she continued to call. She was persistent. That persistence earned Latonia a position in my office as a staff assistant.

Throughout her tenure, Latonia has proved to be a diligent, sincere, and loyal member of my Washington staff. That diligence has earned Ms. Smith two promotions in 14 months. She has gone from staff assistant to special assistant to press secretary. Roll Call magazine wrote about Latonia in their St. Valentine's Day issue for the aforementioned reasons.

Latonia B. Smith, I commend you for your dedication and loyalty and congratulate you on earning the position of press secretary. You are indeed a shining example and role model for the youth of this Nation.

TAIWAN RELATIONS ACT

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. ACKERMAN. Mr. Speaker, I want to acknowledge that this month marks the 15th anniversary of the Taiwan Relations Act.

In 1979, the United States concluded it could no longer diplomatically ignore the 1 billion Chinese living on the mainland. However, our Government also knew that it could not forget the democratic government residing on Taiwan. Therefore, on August 20, 1979, President Carter signed into law the Taiwan Relations Act, which the Congress overwhelmingly approved. In doing so, our Government put in place a legal mechanism to ensure that Taiwan would continue to prosper and grow; and that the United States will play a key role in that development.

Mr. Speaker, looking back over the past 15 years, it is clear that the Taiwan Relations Act has been a remarkable success. Taiwan, an island of 21 million people has blossomed into our sixth largest trading partner. It is the world's largest holder of foreign reserves, and it has moved beyond a low-wage labor-intensive economy to a technologically advanced economic engine which is on the cutting edge of economic development.

Mr. Speaker, an important aspect of the Taiwan Relations Act was the creation of the Coordination Council for North American Affairs, which is headquartered here in Washington, DC, and has offices throughout the United States. The CCNAA has been the source of information, dialog, and exchange. In particular, I want to take the opportunity to commend Ambassador Mou Shih Ding and his able staff on the excellent work they have done here in Washington. Through the fine efforts of the CCNAA, we are assured that this important relationship, which is anchored in the Taiwan Relations Act, will continue to strengthen.

TRIBUTE TO ROBERT HOGGS

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. VISCLOSKY. Mr. Speaker, I rise today to call your attention to Mr. Robert Hoggs, a resident of the First Congressional District in Indiana.

A pioneer in the public service sector, Mr. Hoggs has dedicated 40 years of is life to the citizens of East Chicago, IN. Robert retired last fall from his position as director of the General Services Department for the city of East Chicago, where he had served since 1972. His administrative duties followed a 21 year career at East Chicago's Inland Steel Tin Mill, a position which fostered his extensive participation in union activities.

A member of Steelworkers Local 1010, he acted as a delegate at the United Steelworkers of America's International Convention, was a member of the basic steel negotiating team,and served as chairman of the union's civil rights committee.

Robert has also been an active participant in the East Chicago branch of the NAACP, the East Chicago Human Rights Commission, the East Chicago Economic Development Commission, the East Chicago Democratic Precinct Organization, the Lake Area United Way, and Pirates, which is a fundraising group supporting TradeWinds Rehabilitation Center in Gary, IN.

Mr. Speaker, I ask you and my colleagues to join me in saluting this man who has proved to be an outstanding citizen and exceptional role model for the many young men and women in East Chicago who aspire to similar greatness.

TRIBUTE TO RON RIEGEL

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. COSTELLO. Mr. Speaker, I rise today to recognize Ron Riegel, superintendent of the Belleville Public School District No. 118.

Mr. Riegel will retire from the Belleville Public School system at the end of this school year after 19 years of dedicated service to his students and fellow educators.

Education is one of the top priorities of America's future. It is the most important investment we can make in our Nation for individual opportunity and national competitiveness.

Mr. Speaker, Ron Riegel has been an outstanding educator and administrator. I ask my colleagues to join me in wishing Mr. Riegel a future as bright and productive as his past.

ASTORIA CIVIC ASSOCIATION SPONSORS JUDGE CHARLES J. VALLONE SCHOLARSHIP

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues the important work of the Astoria Civic Association.

The association began the way most civic organizations get started: with a group of residents concerned about the future of their neighborhood and the environment in which their children grow up. Under the leadership of the late Judge Charles J. Vallone, the association became the model for numerous other groups interested in preserving the bonds of togetherness in their community.

Perhaps the most recognized achievement of the association is the Judge Charles J. Vallone Scholarship Fund, which presents financial awards to students who might not have the financial ability to attend college. Since the scholarship funds's inception in 1967, over $205,000 has been distributed to deserving and needy children.

The group's annual Christmas/Chanukah Festival engenders harmony and seeks to foster a sense of kinship among people with diverse religious and ethnic backgrounds. Last year alone, almost 500 students participated in entertaining the families who attended.

I would ask my colleagues to join me in saluting this distinguished organization for the outstanding civic and educational work it provides the community of Astoria, Queens.

TRIBUTE TO KUAM AM-FM RADIO AND TV

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. UNDERWOOD. Mr. Speaker, I rise today to commend and congratulate KUAM on their 40th anniversary of AM-FM radio and television broadcasting on Guam.

KUAM began a new era for the people of Guam after the Armed Forces radio station permanently signed off the air in 1954, and on the same day, at 6 a.m., KUAM radio 610 AM began.

On August 8, 1956, KUAM expanded its services by establishing the first commercially owned television station in Guam. KUAM has benefited the people of Guam by being the first to produce several popular local programs such as Women's World, The Allen Sekt and Joe Taimanglo Talent Show, and the Rosary Hour, and many other locally produced programs. KUAM has in the duration of their 40 years on the air always provided fair, balanced, and comprehensive news programs about events and developments with local relevance as well as with special bulletins, emergency information, weather updates, all as a public service to the people of Guam.

KUAM has also contributed enormously to the maintenance of the Chamorro language by being the only real user of the language in the media on Guam. The playing of Chamorro music and the use of Chamorro in KUAM-AM—estasion minagof and isla—is a source of pride and strength for the Chamorro people. This serves as a model for other stations on Guam.

I personally congratulate KUAM and I wish the station much continued success. My fondest wishes are with KUAM on its 40th anniversary of its broadcasting on Guam.

AN AMERICAN SUCCESS STORY

HON. WALTER R. TUCKER III

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. TUCKER. Mr. Speaker, in this world there are those persons who rise to meet the occasions of life. They are shining examples of what happens when preparation meets opportunity. They are the individuals—the women, the men—who have the intestinal fortitude to accept the challenges that may confront them and possess the courage to stay the course. These are the people who give their all and nothing less. They are the difference between ordinary and extraordinary.

Mr. Speaker, I am privileged to know one of those persons; her name is Audrey L. Gibson.

Audrey Gibson is a graduate of Florida State so she knows what it takes to be a champion—and what it takes to be a success. She is a mother of three so she understands the word "commitment." Ms. Gibson represents the best in all of us, while maintaining the mind and heart of a true servant.

When I needed someone to serve as my Deputy District Administrator, Audrey Gibson was there. Not for her own selfish reasons, but because a friend called out and said, "Come and help me; I need you."

Mr. Speaker, we don't always have time to get prepared—we must be prepared, for that is one component in the formula of success—preparation. When I needed a new District Administrator, I turned to Audrey Gibson and she was prepared.

Mr. Speaker, Audrey L. Gibson is not only a very valuable member of my staff, as she exercises leadership on a daily basis as my District Administrator, but moreover she is a true friend and tireless supporter.

America, I rise today to pay tribute to a young woman who rose to the occasion that presented itself—who met the challenge head on—a young woman who was prepared when she met her opportunity, a young woman who works countless hours without a word of complaint. I rise to pay tribute to Audrey L. Gibson, my District Administrator, one of the true Americans success stories that I have been privileged to know in my lifetime.

TRIBUTE TO VICTIMS IN HUNGARY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. ACKERMAN. Mr. Speaker, I would like to take this opportunity to pay tribute to the hundreds of innocent victims who died during the German invasion on March 19, 1944. This day marked the tragedy of months of darkness in Hungary's history. It began as the Nazi Germans deprived the Hungarian people of their sovereign state. The tragedy continued as the nation was victimized to horrors of an organized mass extermination of Hungarian Jews.

We must never forget the sufferance that occurred 50 years ago to the Hungarian people. The Hungarian Government is in accordance with this notion in that it maintains its commitment to parliamentary democracy. It will instill the principles of its Constitution and reject any acts contradictory to it. Moreover, the government believes that the remembrance of the Holocaust and the continuation of its present democracy will lead to a nation of dignity and peace.

I believe that these acts are essential. It is important to learn from these past tragedies in order to prevent another defeat to mankind from ever occurring.

THE WORKER RIGHTS AND LABOR STANDARDS TRADE ACT OF 1994

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. VISCLOSKY. Mr. Speaker, today, I am introducing legislation—with 53 of my House colleagues as original cosponsors—directing the President to seek the establishment of a working party on worker rights and international labor standards within the General Agreement on Tariffs and Trade [GATT], as well as a standing committee on this issue within the World Trade Organization [WTO] when it comes into being next year.

This bill, the Worker Rights and Labor Standards Trade Act of 1994, follows-up on House and Senate letters—signed by 68 U.S. Representatives and 20 U.S. Senators, respectively—sent to President Clinton in March urging him to marshall international support to establish a standing committee on worker rights and labor standards within the WTO, and, on an interim basis, a GATT working party on this issue.

I commend the President and U.S. Trade Representative Mickey Kantor for expressing their support for addressing worker rights through the GATT/WTO. In January of this year, President Clinton and the leaders of the European Union discussed the next generation of trade issues to be dealt with as the successor agenda of the Uruguay Round of the GATT. The President specifically identified labor standards as something that must be addressed. With the support of the President, Ambassador Kantor worked tirelessly to convince our trading partners to establish a working party on worker rights and labor standards.

Unfortunately, the Marrakesh Ministerial Declaration signed in Morocco on April 15 did not provide for the establishment of a GATT working party or WTO standing committee on this issue because of strong foreign opposition to talking about the relationship between the trading system and internationally recognized labor standards. Instead, an 11th-hour agreement was reached whereby countries will be able to raise new issues, including labor standards, in the preparatory committee, which is charged with establishing the agenda for WTO.

While this small step forward is better than nothing, it does not guarantee that a working party or standing committee on worker rights will be established within the GATT/WTO.

Many of our trading partners objected to the creation of a GATT working party on worker rights, claiming that it was a "new" issue. However, linking respect for worker rights and labor standards is not a new or radical concept in U.S. or international policy discussions. Indeed, for nearly 50 years, the GATT has turned a deaf ear to addressing worker rights and labor standards despite repeated entreaties from U.S. trade negotiators in both Democratic and Republican administrations.

In 1988, the United States formally proposed for the first time during the Uruguay round a GATT Working Party on Worker Rights and Trade. The purpose of this working party would have been to clearly establish that it is unjustifiable for any country or any of its industries to seek to gain competitive advantage in international trade through the systematic denial of fundamental internationally recognized worker rights. It would not have been within the purview of this working party to consider the comparative advantage that many developing countries, with sizeable numbers of unemployed workers, derive from lower unit labor costs in different modes of production.

The objectives of the proposed working party were to explore ways in which to link the conduct of international trade to respect for those fundamental worker rights—including the freedom of association, the right to organize and bargain collectively, and the prohibition of forced or compulsory labor—which empower workers everywhere to help themselves and to share more fully in the benefits of trade within countries, as well as among them. The imposition of uniform labor standards, such as wages and hours, was not an objective.

Last week in Marrakesh, the international community once again balked at a golden opportunity to examine the relationship between the global trading system and internationally recognized labor standards through a working party in the GATT and a standing committee in the WTO. Now, more than ever, it is up to the United States to take a decisive leadership role and insist that this long-neglected issue be addressed.

My bill is a way to demonstrate political support for the Clinton administration's efforts to convince our trading partners that this issue will not go away, since it will be up to the Congress to approve the implementing legislation for the Uruguay round.

THE 105TH ANNIVERSARY OF UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA LOCAL UNION NO. 433

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. COSTELLO. Mr. Speaker, I rise today to recognize the United Brotherhood of Carpenters and Joiners of America Local Union No. 433. This year, Local No. 433 will celebrate their 105th anniversary.

In 1889, 8 years after the founding of the United Brotherhood of Carpenters and Joiners of America, a group of carpenters in Belleville, IL, met and formed Local Union No. 433 with 12 members and $.95 cash on hand. From that humble beginning Local Union No. 433 now boasts 465 members.

Mr. Speaker, the United Brotherhood of Carpenters and Joiners of America, Local Union No. 433 is affiliated with the Illinois State Council of Carpenters, the Southern Illinois District Council of Carpenters, the Southern Illinois Builders Association and the Illinois State AFL–CIO. Their officials and members serve as delegates to the Southwestern Illinois Central Labor Council, The Building Trades, the Committee on Political Education, the Union Label League and the Labor Day Committee.

I ask my colleagues to join me as I salute the United Brotherhood of Carpenters and Joiners' goal to better the conditions of the worker and thereby make the community and our Nation a better place to live.

SCHOOL SETTLEMENT ASSOCIATION HONORED FOR COMMUNITY SERVICE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mrs. MALONEY. Mr. Speaker, on April 29, the School Settlement Association, Inc., will hold its annual dinner dance. I would like to take this opportunity to bring to the attention of my colleagues the tremendous contributions which this exemplary social service agency has made, and continues to make, to the Greenpoint/Williamsburg community of Brooklyn.

Founded in 1901, the School Settlement Association, Inc., has developed a well-deserved reputation for providing innovative programming along with an excellent method of service delivery. During its nine decades of service, SSAI has grown into an agency which serves over 6,000 individuals daily.

It would take too long for me to list all of the many services which SSAI offers to the community. They range from truancy/dropout/drug education prevention programs, teen pregnancy services, career and young parent counseling services, to athletic activities, team sports tournaments, and evening recreational programs. SSAI also runs highly successful latchkey programs for children of working parents, home attendant programs for low income elderly and disabled clients, and afterschool and summer camp food programs.

Mr. Speaker, great neighborhoods don't happen overnight. It takes hard work and the dedication of many committed individuals. The Greenpoint and Williamsburg communities of northern Brooklyn are great neighborhoods precisely because of the efforts of groups like the School Settlement Association, Inc. That's why I would like my colleagues to join with me now in recognizing SSAI's contributions to Brooklyn, and wishing them another 100 years of service to the community.

CONGRESSMAN ROBERT A. UNDERWOOD CONGRATULATING HIT RADIO–100: KOKU, AGANA FOR ITS STOP THE VIOLENCE CAMPAIGN

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. UNDERWOOD. Mr. Speaker, in my home district of Guam, we have been concerned with the increase in crime for many years now. The scourge of escalating violence and lawlessness has been on the rise nationally, with younger offenders and higher rates of recividism. However, I am very proud to tell you that we are fighting back, and one of our local radio stations has been leading the battle.

On my island home, once not long ago, we had little lawlessness. Once our many ancestral lands, historic landmarks, and stately buildings were free of graffiti. Now unfortunately, we also have gangs and gang activity. These recent events so troubled radio station manager Ray Gibson at Hit Radio–100 that he took to the airways against the violence.

In September 1993, prompted by students at the John F. Kennedy High School in Tumon, Guam, Gibson began the stop the violence campaign. The students elected him honorary chairman of SAVE—Students Against Violence for Education.

The radio station made air time available for the students, but the kids were encouraged to come up with their own ad campaign. SAVE was formed by the kids, and it has become quite popular.

Hit Radio–100 is a family radio station, and it promotes positive activities in the community. The stop the violence campaign featured peaceful get-togethers, park cleanups and an islandwide chain for peace. This was not a station promotion, but Gibson appeared at every function, provided musical entertainment, and gave funds for refreshments out of his own pocket.

Since the strategy was gaining in popularity, Gibson next contacted some mainland radio stations and learned that no one else was doing anything like this. He shared our success with those DJ's in the hope that they will follow suit.

Yes, Guam still has gangs, but Ray has started the process of diffusing the violent activities. Now, some of our island gangs are playing football in an organized league. Gibson paid for the uniforms.

Yes, the gangs are still intact. Now they compete for air time and are judged on their creativity. Instead of marking the territory with graffiti, they perform what Gibson calls shoutouts.

The group will get together at a location they choose, and the station will tape them shouting out a slogan. The one Gibson likes best is: "Cease the violence, increase the peace."

Mr. Speaker, I want to congratulate Hit Radio's station manager Ray Gibson, and all the kids involved in SAVE. In these times of increasing violence, it is important to know that there are young people who are trying to make changes for the better. It is important to recognize Guam's home for the future and best natural resource—its young people.

TRIBUTE TO PROJECT VISION, INC.

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. ACKERMAN. Mr. Speaker, I rise today to pay special tribute to Project Vision, Inc., a nonprofit ophthalmic program with volunteer physicians from the United States. This organization has provided services for underprivileged people in Israel which should clearly be acknowledged and commended.

Project Vision's Operation Outreach, along with Kupat Holim Clalit, offers ophthalmic diagnosis and treatment to at least 1,000 patients every month. The program is particularly special for its conviction to provide services to people regardless of their ability to pay, as well as its equal treatment to people of all ethnicity, religious conviction, and political background.

Mr. Speaker, I would also like to commend Project Vision on creating a mobile eye clinic on March 14, 1994. In its initial week of operation, the mobile van visited four villages, two Arab Druze, one Jewish and one kibbutz, treating approximately 280 patients. In addition, Project Vision sponsors fellowship exchange, a retinal program at Nahariyah Hospital, and a model ambulatory center at the Lin Clinic in Haifa.

I congratulate all the volunteers who have made this organization a success. These fine men and women have made a significant contribution to the people of Israel, and I encourage them to continue their worthwhile deeds.

CITY COLLEGE SCHOOL OF NURSING HONORED ON OCCASION OF 25TH ANNIVERSARY

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues an important event which will take place in New York City this Saturday, April 23, 1994. On that day, The City College School of Nursing, City University of New York, will be celebrating its 25th anniversary as one of the most culturally and linguistically diverse baccalaureate nursing programs in the United States.

During its 25 years of existence, approximately 1800 students have graduated from the School of Nursing program. The majority of these students decide to remain in the New York City area. Graduates of the School of Nursing program are employed in a variety of health care settings ranging from medical centers in every borough to school departments and visiting nursing agencies.

During the past few years, City College has experienced a dramatic increase in enrollments. Approximately 740 students in City College are currently following a nursing curriculum and 226 students are enrolled in upper division nursing courses. Yet throughout this period of expansion, the School has retained its incredible commitment to diversity: more than 90 percent of the nursing students at City College are of ethnic minority groups. Of the many ethnic groups represented, almost half are non-primary speakers of English and about 60 percent were born outside of the country. The students range in age from early twenties to over fifty, with a median age of 27. In addition, City College has an enrollment of men in its nursing program which is much higher than the national average.

City College also works hard to keep the nursing program open to students of different financial backgrounds. Almost 40 percent of the students are parents and the sole financial support for their families. But in an effort to keep up with rising tuition costs, over half the student body receives some type of financial aid.

Despite its success, the School continues to take on new challenges, constantly striving to be the best nursing program it can be. In fact, its faculty just recently completed a curriculum revision with a major focus placed on pluralism and cultural diversity. I am pleased to say that due recognition of the school's contribution to pluralism and the education of minority students has been demonstrated by a 150,000 dollar grant from the Aaron Diamond Foundation.

With its revised curriculum and a growing multicultural body, the City College School of Nursing is celebrating its silver anniversary with the commitment, leadership, and resources to enter the 21st century. I know tht the School will continue to live up to the challenge of providing quality education which meets the health care needs of New York's diverse population.

Mr. Speaker, because of its many contributions to our community and our country, I would like my colleagues to join with me in applauding the City College School of Nursing on the occasion of its 25th anniversary. I know we all wish it another 125 years of success.

SAN DIEGAN NAMED "TEACHER OF THE YEAR"

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. FILNER. Mr. Speaker, I rise today in recognition of the contributions of Ms. Sandra McBrayer, the 1994 National Teacher of the Year.

As former president of the board of education of the San Diego Unified School District and a member, myself, of the teaching profession, I am very, very pleased that she has been selected to represent us. Ms. McBrayer is the best that this profession has to offer.

Ms. McBrayer has recognized and filled a great unmet need: In 1988, she founded and developed the first successful classroom in California for homeless youth. She is a special educator, one who spends 24 hours a day at her job, one who encourages students to call her at home in emergencies, one who tracks them down when they fail to show up for class.

Her compassion and her dedication to her students is wonderful to behold. They consider her a friend who will listen and whom they can trust.

She is helping us all to realize that we must change the way we educate our children in the modern world. She has said we must educate the whole child, fully engaging the mind, heart, and soul.

She instills in many young people the belief that they not only can function in this society that has treated them so harshly, but that they can achieve at their highest potential. Already, about 25 of her graduates are enrolled in college, and one has graduated.

As the third teacher from San Diego County to receive this prestigious honor, she carries on a proud tradition. As National Teacher of the Year, Ms. McBrayer can speak to a national audience about her experiences as an urban teacher and about the needs of our youth. She has much to say, and we should all listen.

TRIBUTE TO SALEM, IL: BIRTHPLACE OF THE GI BILL OF RIGHTS

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. DURBIN. Mr. Speaker, 50 years ago on June 18 the United States recognized the contribution of the men and women who served in our Armed Forces by establishing the GI Bill of Rights. I am proud to represent the birthplace of that concept: Salem, IL.

On November 4, 1943, an American Legion banquet brought Legion members from across Illinois to Salem, the county seat of Marion County. After the banquet, a group of veterans discussed the problems facing servicemen returning from the military.

Servicemen across the country recognized the challenges facing returning veterans. This group of Legionnaires in Salem, however, transformed their discussion into a comprehensive idea: a bill of rights. This plan would include education; job training; home, farm, and business loans; special training for the disabled; and much more. It would eventually become the most comprehensive piece of legislation ever written for America's veterans.

The GI Bill and subsequent veteran's compensation legislation has helped to educate 7.8 million veterans, helped 14 million buy homes, and enabled countless Americans to get back on their feet after returning from military service.

Mr. Speaker, I urge my colleagues to join me in congratulating Salem for its role in this remarkable achievement. The GI Bill is yet another example of the outstanding contribution Salem, IL has made to the history of our Nation.

KING'S COLLEGE EDUCATIONAL CONFERENCE CENTER AN ASSET TO THE COMMUNITY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. KANJORSKI. Mr. Speaker, I rise today to say a few words about a new educational resource center established at King's College in Wilkes-Barre, PA.

The Educational Conference Center, under the direction of brother Herman E. Zaccarelli, offers much to business and nonprofit organizations that are looking for a convenient and modern facility in which to hold conferences.

Northeastern Pennsylvania has many advantages that make it a great place to live and do business, and the City of Wilkes-Barre is proud to have an asset such as the King's College Educational Conference Center as part of its community.

REFORMING GOVERNMENT PROCUREMENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, April 20, 1994 into the CONGRESSIONAL RECORD:

REFORMING GOVERNMENT PROCUREMENT

Although the process has not garnered many headlines, the "reinventing government" initiative is moving forward in Washington and in federal offices across the country to make government work better and cost less.

Most dramatically, the President and Congress are proceeding with massive reductions in government personnel. The goal is to cut over 252,000 federal workers by 1999. This will save billions of dollars and result in the smallest federal workforce since Lyndon Johnson became President. But reductions in personnel are not the only way to save money and improve performance. Various federal agencies are designing and implementing plans for more efficient operations. One important area where changes are coming is in procurement—the government's purchase of goods and services.

BACKGROUND

In performing its various tasks, the federal government purchases about $200 billion of goods and services each year, everything from paper clips to aircraft carriers. The Department of Defense accounts for about two-thirds of that total. About 142,000 federal employees work on procurement. Any system this large will have some shortcomings—rigid rules, too much paperwork, detailed specifications, multiple inspections and audits. I have heard endless stories from federal workers about not getting supplies and equipment they need, getting them late, or watching the government spend too much for them. One employee said it took a year to buy a computer and another said the government paid $600 for an item that cost $300. The problems with government procurement demand reform.

In recent years, the media features revelations of waste, fraud, and abuse in military procurement. Many will remember stories about $435 hammers and $700 toilet seats being bought by the Pentagon. Unfortunately such stories have not disappear. Just last month a congressional investigation discovered that a defense contractor was charging $544 for a spark-plug connector that could be, and in fact was, purchased from an auto parts store for under $11. Pentagon procurement is not the only source of problems, just the most prominent.

It would be a mistake to concentrate only on fraud and abuse, important as they are. More common is inefficiency caused by the very rules and procedures that govern federal procurement. Federal procurement regulations run 1600 pages, with 2900 more pages of agency-specific supplements. These rules and regulations were created for rational and even laudable purposes—to prevent fraud and profiteering, ensure quality and safety, and promote desired social goals. Any example of the latter are the requirements that the government reserve some procurement for small businesses. Safeguards against fraud and favoritism sometimes necessitate extra checks and balances in the system.

One consequence is that government rules and regulations add time and expense to most purchases. Some of this "red tape" may serve a purpose, but much does not. One example of excessive specifications for safety and quality was made famous last year by Vice President, Gore, who publicized the government's nine pages of requirements for ashtrays purchased for use in federal agencies. Elaborate travel voucher procedures and cost the federal government about $2 billion a year.

All this results in costs far in excess of those in the private sector. Estimates vary, but procurement regulations add 20–40 percent to the costs of goods and services. Another measure of the problem is that overhead expenses account for as much as 40 percent of government procurement expenditures compared to 5-15 percent in the private sector. Some of this is probably unavoidable in areas like national defense where only a few companies exist that can build the hightech weapons requested by the Pentagon. Clearly, however, the costs of many rules and regulations can outweigh the intended benefits.

HOW TO EFFECT CHANGE

The President and Congress are working together to reform the procurement process. Some of this can be done by the agencies themselves without congressional action, and several, including the Department of Defense, have begun the process. But most of procurement procedure is written into law and therefore requires congressional action to change it. Comprehensive procurement reform legislation is proceeding through the House and Senate and should be completed this year.

Four principles guide current efforts to revamp federal procurement: simplification, decentralization, competition, and commercialization. First, simplification means the elimination of unnecessary regulations and specifications for the products to be bought and the procedures used to purchase them. Second, decentralization would cut the layers of decision-making by reducing the number of officials who must approve a decision to make a purchase and allowing lower-level managers to make more final decisions about procurement. For example, agencies should be allowed to make purchases under $100,000 through simplified procedures. Third, competition would increase the use of the market to produce lower costs and higher quality for government purchases. One approach is to end government monopolies, such as printing services provided by the Government Printing Office. Another is to provide government purchasers with continually updated information on suppliers and prices so that they can get the best deal possible. Finally, commercialization means buying more products "off-the-shelf" instead of having specially produced items that meet often unnecessary government specifications, as with the ashtrays. When the government buys a pillow or an integrated circuit it should not have to buy products designed to government specifications when equally good commercial products are available. This applies to military as well, where experts believe many items specially built to "military specifications" could be replaced with cheaper but no less reliable commercial equivalents.

CONCLUSION

I applaud the efforts to streamline procurement. Taxpayers have a right to expect prudent spending. Hundreds of government employees have told me about the problems in the system and possible ways to solve them. They often feel ways to solve them. They often feel trapped by rules and regulations they did not create and do not like. They hate the waste and inefficency and want to do better by the American people. While we cannot expect miracles from any attempt to reform such a complicated process, my view is that the current effort will bring substantial improvements and help ensure that our tax dollars are better spent. There is no reason why we should pay more, and get less, from our government.

DR. PAUL KENNEDY—WORLD WAR II VETERAN AND RESPECTED SURGEON

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. LANTOS. Mr. Speaker, few Americans escape the necessity of placing their lives, at one time or another, in the hands of a member of the medical profession. Fortunate, indeed, are the thousands of people who were patients of this doctor and consummate surgeon. I rise today to honor Paul Andrew Kennedy, M.D. People of all walks of life, from the obscure to the prominent, from the soldier on the battlefield to the prisoner of war, from the desperate urgency of the midnight accident injury to the meticulous planning of the installation of one of the earliest cardiac pacemakers, all have benefited from the magnificent surgical skills, the finely honed technique, and the legendary dedication and compassion of Dr. Kennedy.

The son of Martin Paul Kennedy and Mary Conner of Scranton, PA, young Paul, born November 19, 1912, showed his early toughness and dexterity as a starring member of Central High's football team. At a mere 5′8″ tall, he was Georgetown University's star quarterback for 3 years. Dubbed "Little Thunder" for his loud and plainly articulated football signals, he also was the winner of the Dixon Medal for Oratory, and the most efficient commander in ROTC with a bright future ahead in law. Subsequent to his graduation, however, he underwent an emergency appendectomy which changed the course of his life. On recovering successfully from the surgery, with characteristic decisiveness, he changed his career from law to medicine. Funding his way through extra course-work using football coaching skills, he finally graduated from Jefferson Medical College in Philadelphia in 1939 as president of his senior class.

After completing his internship and 1 year of residency at Geisinger Memorial Hospital in Danville, PA, Dr. Kennedy sought to fulfill his 1-year military obligation entering as a captain in the Medical Corps of the U.S. Army in 1941. But in 1942, after Pearl Harbor, and with the entrance of the United States into World War II, that 1 year stretched to 5. As part of the Second Auxiliary Surgical Group, Dr. Kennedy sailed to North Africa, leaving behind his young wife, Marian Haggarty, and his two small children. He then spent the next 3 years following the Allied Forces through Tunisia, Italy, France, and Germany—wherever action was the heaviest. Often out of touch with his family and news from the States, he learned about the birth of his third child on reading a 2-week-old announcement he found in a tattered "Stars and Stripes."

As a surgeon in a small mobile medical team under the command of Dr. Gordon F. Madding, and later, in command of his own team, Dr. Kennedy performed 475 operations on wounded soldiers, both Allied personnel, and prisoners of war. All of these cases were meticulously illustrated and documented, and helped to account for the broad knowledge Dr. Kennedy came to possess about individual deviations in the human anatomy. The experience of caring and dealing with the victims of violence and trauma, particularly those who had suffered the horrors of prison camp life, remained with Dr. Kennedy throughout his life and deepened the compassion he felt for his parents. He was honorably discharged from the Army in September 1954 as a veteran of nine campaigns and recipient of a Bronze Star.

After finishing his formal training at the University of Buffalo, under the tutelage of Dr. John D. Stewart, Dr. Kennedy qualified as a diplomate with the American College of Surgeons and the American Board of Thoracic Surgery and began his own private practice. He also accepted the post of assistant clinical professor of surgery at the University of Buffalo and qualified as a Fellow of the American Association for the Surgery of Trauma, and as a member of the Society for Surgery of the Alimentary Tract. It was during this time that Dr. Kennedy began working with Dr. William Shardack, the leading inventor and developer of the heart pacemaker, to advance the surgical techniques necessary to successfully implant pacemakers.

In 1961, Dr. Kennedy moved to California with his wife and five of their six children—the oldest serving with the U.S Army at the time—and collaborated with Dr. Gordon F. Madding on the international publication of the definitive book "Trauma of the Liver." He also worked with Dr. Madding and others in editing a number of surgical books, and wrote numerous medical journal articles on various surgical problems. In addition to private surgical practice in the bay area, Dr. Kennedy served as assistant clinical professor of surgery at Stanford School of Medicine. It was at Peninsula Hospital in 1965 that he performed the first successful pacemaker implant on a patient in the San Francisco Bay area.

As a member of the San Francisco, Pacific Coast, and Western Thoracic surgical societies, Dr. Kennedy enjoyed a prominent career on the west coast, but he never relinquished the personal attention he gave to each of his patients. Until he retired due to the onset of Parkinson's disease, he frequently performed emergency surgery on the victims of late-night automobile accidents or other traumatic events.

When Parkinson's disease struck him, Dr. Kennedy was forced to retire from active surgical practice in June 1980. From then until his death on December 1, 1993, he remained a valuable consultant and member of our community. He is sorely missed, but his legacy lives on in the many life-saving surgical techniques he advanced and in the example of courage and love he set for his colleagues, community, family, and friends.

TRIBUTE TO WILLIAM HEASLEY, PENNSYLVANIA'S DISTINGUISHED PRINCIPAL OF THE YEAR

HON. RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. KLINK. Mr. Speaker, I rise today to pay tribute to Pennsylvania's Distinguished Principal of the Year, Mr. William Heasley, who was selected in October 1993 by the Pennsylvania Association of Elementary School Principals. He serves as the principal of Grandview Elementary School in Natrona Heights, PA.

Mr. Heasley was chosen for this prestigious award out of over 1,500 elementary school principals, assistant principals, and supervisors throughout the Commonwealth of Pennsylvania as a result of the outstanding and unique programs he has implemented at Grandview that benefit both the students and the community.

Some of Mr. Heasley's educational accomplishments include initiating a Grandview pride program which acknowledges students' efforts both academically and behaviorally; implementing STAR, an acronym for Success Through Accepting Responsibility; and developing an early childhood component which reaches 100 preschool children to give them an early, successful start to their schooling. Our great State is especially proud of the district's instructional support team, developed as a pilot program in the State, in which a group of teachers meet and find solution for individual students who are having trouble coping with school. Mr. Heasley deserves this award for his diligence, innovation, and pursuit of excellence in educational programs.

Mr. Heasley resides in Natrona Heights, PA, and has been principal of Grandview Elementary School in the Highlands School District for the past 7 years. He earned his B.A. at Indiana University of Pennsylvania, and he received his masters degree and his elementary principal's certification from the University of Pittsburgh.

Mr. Speaker, I ask you and my colleagues to join me in saluting Pennsylvania's Distinguished Principal of the Year, Mr. William Heasley.

THE 15TH ANNIVERSARY OF THE TAIWAN RELATIONS ACT

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. MANTON. Mr. Speaker, I want to take this opportunity to recognize the 15th anniversary of the Taiwan Relations Act of 1979.

As many of my colleagues are aware, America has had a dual relationship in the South China seas. We are all familiar with the population giant, the Peoples Republic of China, and the small, democratic nation that has become a world participant on a scale normally reserved for behemoths, the Republic of China on Taiwan. After the defeat of the democratic KMT Government and its escape to the island of Taiwan, America faced a difficult series of choices. We could not ignore our friends in Taiwan, yet we had to recognize the unrepresented masses on the mainland.

This dual relationship of mainland and island took its final form with the passage of the Taiwan Relations Act of 1979. This Act established a means for America to interact with the 21 million people of Taiwan, and thereby maintain a relationship that had stretched for more than four decades. The TRA has some rather unique aspects: it gives the Congress a well-defined statutory role in conducting United States foreign policy toward Taiwan. It calls for the President as well as the Congress to determine the nature of self-defense articles and services to be made available to Taiwan.

Mr. Speaker, this puts the Congress in the driver's seat with regards to peace, security, and stability in the Western Pacific region.

We are aided in our quest for peace in the region by the able staff of the Coordination Council for North American Affairs, the representative body established under the Taiwan Relations Act to conduct business with the Government of the United States. Representative Mou Shih Ding has done an excellent job in working to ensure the bonds between the United States and Taiwan continue to prosper.

Mr. Speaker, I look forward to working with the CCNAA, and am pleased that we have such a wonderful tool in the Taiwan Relations Act.

TRIBUTE TO THE LATE MICHAEL HALL

HON. DAN HAMBURG

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. HAMBURG. Mr. Speaker, I rise to offer my sincere condolences to the family of WO Michael Hall of Windsor, pilot of one of the U.S. helicopters shot down by Air Force fighter jets over Northern Iraq.

Michael Hall graduated from Healdsburg High School in 1984. His father was a recreational pilot and Michael's love of flying developed at an early age, with his father showing him the ropes. Completing his training at Sonoma County Airport, he took his first solo flight a week before he got his regular driver's license at age 16.

According to his father, Michael "wasn't interested in flying combat missions. He wasn't interested in combat. He liked the idea he was helping people. He liked what he was doing now even better—evacuation missions, bringing supplies and things to the villages. He loved flying." As so many of our young people do, Michael Hall, joined the military looking for a better life, looking for a way to help people, and looking for a way to fulfill his dream of flying.

His life is gone forever, but nagging questions remain. Mr. Speaker, it is vitally important that we get to the bottom of what happened on April 14. We owe it to Michael, his wife, his parents, and to the other families who lost loved ones in that tragic incident.

CONGRESS MUST PASS A TOUGH CRIME BILL

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. ROTH. Mr. Speaker, the senseless killing of two Japanese tourists in California tragically underscores what I've heard from people in northeast Wisconsin and the thousands of questionnaire responses they have sent to me in Washington: It's time to get tough on criminals.

People are concerned about rising crime rates and they are demanding action. And with good reason: Statistics show that every year, nearly 5 million Americans are victims of violent crime. Another 19 million are victims of property crime.

A murder is committed every 21 minutes in the United States. A rape, every 5 minutes. A robbery, every 46 seconds. Why such staggering figures? Because we aren't keeping criminals in prison.

According to the Bureau of Justice Statistics, 69 percent of young adults released from prison are arrested again within 6 years, after committing an average of 13 new crimes. Overall, 7 percent of criminals commit 70 percent of all violent crimes. The numbers are frightening, and they should make us all very angry.

Americans are fed up. It's time for a new approach to fighting crime, one based on the premise that if a thug is behind bars, he can't commit another murder, rape, or robbery.

That's why Congress must pass a tough crime bill.

The best solution to crime is to keep violent felons locked up. Here's how: We will allocate $10 billion to States to put more violent criminals behind bars, but only if States enact truth-in-sentencing laws. Truth-in-sentencing laws means a 30-year sentence is just that: 30 years, no parole.

Criminals aren't stupid. They know that in the unlikely event they are caught, tried, and convicted, they'll only serve a fraction of their sentences. Today's overburdened criminal justice system makes crime worth the risk.

Our plan would change that. When punishment is inevitable, it is a true deterrent. This crime bill is the first step to changing the system. Criminals will think long and hard before committing an offense if they know they won't be back out on the street in a few months.

Reform of the criminal justice system has been a long time coming. It's wrong that law-abiding Americans—who work hard, pay their taxes, and raise their kids—have to live in fear.

Congress must work together to pass a bill that punishes criminals and protects victims—for a change.

Mr. Speaker, we cannot rest until every man, woman, and child in American can walk down any street in American and feel safe. Congress must pass a tough, effective crime bill.

TRIBUTE TO DRS. KENNETH AND GENEVA TEMPLE

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. COBLE. Mr. Speaker, two educators are retiring after more than 50 years of service—each—to a school in our district. On behalf of the citizens of the Sixth District of North Carolina, we wish to offer our congratulations to Drs. Kenneth and Geneva Temple for their more than a combined century of service to John Wesley College in High Point, NC.

On Sunday, May 1, 1994, family and friends will gather at First Wesleyan Church in High Point to honor Drs. Kenneth and Geneva Temple for all they have done for their school, church, and community. The Temples will retire after the longest tenure of employment in the college's 62-year history. Dr. Kenneth Temple will retire with 58 consecutive years of service, while Dr. Geneva Temple retires after 57 years of continuous service. After all of these years, the Temples have become synonymous with John Wesley College.

Dr. Kenneth Temple came to John Wesley College in 1936. He received his education at Eastern Nazarene College in Quincy, MA, and the University of North Carolina at Greensboro. Dr. Geneva Temple came to John Wesley College a year after her husband. She received her educational training at Appalachian State Teachers college and the University of North Carolina at Greensboro. For more than 50 years, they have shared their knowledge, compassion, and concern with the many students who attended John Wesley College.

In good times, as well as bad, Drs. Kenneth and Geneva Temple have guided John Wesley College with strong, yet loving hands. Alumni, now scattered throughout the world, still hold them in the highest regard. Those who follow after them will have big shoes to fill, and Drs. Kenneth and Geneva Temple leave a legacy which will be hard to match. For more than 50 years each, they have educated, counseled, and befriended untold numbers of John Wesley College students, faculty, and staff. Because of the many lives they have touched, their spirit and love will live on forever.

On behalf of the citizens of the Sixth District of North Carolina, we congratulate Drs. Kenneth and Geneva Temple on more than 50 years of service—each—to John Wesley College in High Point, NC. We also extend to them our best wishes for much health and happiness in the coming years.

HONORING CONRAD GRAUER

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. ENGEL. Mr. Speaker, this week in my district, hundreds of youngsters will participate in the opening of the Kingsbridge Little League season. As in years past, the baseball fields will be finely groomed and families will gather together to watch the games.

One integral part of this scene, however, will be missing. Conrad "Cooney" Grauer, who founded the Kingsbridge Little League in 1955, passed away last August. For nearly 40 years, Cooney Grauer devoted his time and energy to the youth of the community. He rounded up uniforms, pushed a wheel barrow around the fields, and pitched batting practice. In short, he brought the joy of baseball to hundreds of youth.

Cooney Grauer's roots in semi-pro baseball began a love affair with the sport that continued throughout his life. A baseball field named in his honor now stands at Bailey Avenue and West 234th Street, and it is probably the most appropriate tribute to Cooney Grauer we could imagine. Each youngster that sets foot on that field will ask about the man for whom it is named, and they can then be told about the dedication of Cooney Grauer.

To the family and friends of Cooney Grauer, I express my condolences on your loss and the appreciation of the entire community. You can be comforted by the fact that Cooney Grauer brought the baseball into the lives of hundreds of youngsters and enriched the entire community through his good works.

REFUSENIK ALEXANDER MAGIDOVICH

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. HOYER. Mr. Speaker, I rise today to voice my concern over the continued plight of Russian state secrecy refuseniks. As I have stated on several occasions in the past, it has become in the last 5 years much easier to emigrate from Russia. However, there are still some individuals who have been refused permission to leave Russia. Today, I wish to speak about the case of Alexander and Elena Magidovich of Tula, Russia, who have been denied the right to leave for over 21 years and who are still being refused today.

Since 1973 Alexander and Elena, along with their two children Benzion and Hana, have been denied the right to leave, first under the Soviet Union and now under Russian authority. The family has reapplied in 1977, 1983, and again in March 1993.

Alexander has made his profession in mechanical engineering. In addition, he has an interest in publishing a Russian-Hebrew dictionary. Alexander is a talented individual that has routinely been unable to provide for his family because of incarcerations and persecution.

After Alexander Magidovich reapplied in 1977, he was interrogated by the KGB concerning Natan Sharanksy. In 1980, he was arrested and charged with anti-Soviet agitation. He was held for 5 months in the Serbsky Psychiatric Institute before being transferred to prison, tried and sentenced to 2½ years imprisonment. He served his sentence at a labor camp in the far north, near Archangel.

Russia, as a CSCE member, has pledged to allow freedom of movement of its people. While Russia has made important progress in this respect, and freedom of movement has largely ceased to be a problem area, individuals such as Mr. Magidovich and his family continue to be denied the right to leave.

Mr. President, I urge Russia to comply with their CSCE commitments and to honor the human rights of their citizens. According to the CSCE Vienna follow-up meeting of January 1989, all CSCE members pledged that applications for travel abroad should be handled with expediency and in a non-arbitrary manner. It is time for Mr. Magidovich's family to be permitted to emigrate.

KEY DOCUMENTS PROVE INNOCENCE OF JOSEPH OCCHIPINTI

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. TRAFICANT. Mr. Speaker, as part of my continuing efforts to bring to light all the facts in the case of former Immigration and Naturalization Service agent Joseph Occhipinti, I submit into the RECORD a sworn affidavit made out by one Angel Nunez:

THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

United States, Plaintiff, versus Joseph Occhipinti, Defendant.

DECLARATION OF ANGEL NUNEZ ESQ

I, Angel Nunez, declare as follows:

1. I am attorney Duly admitted to the State of Pennsylvania Bar Association and am a member of the Philadelphia Bar Association, I reside in the state of New York at 240 Nagle Avenue, Apartment 14G, New York, New York 10034.

2. In the Fall of 1992, I met with several FBI agents including Steve Jarret and Lionel Barron who told me they were investigating the Joseph Occhipinti case and Dominican Organized crime.

3. I fully cooperated with the investigation giving the agents information about potential witnesses I had learned about and with my clients consent I provided them with full access to all written documents in my possession.

4. It was expected that a full investigation of the allegations pro and against Mr. Occhipinti would have taken place, however, the manner in which the investigation was conducted led me to not only complain to the FBI but also to question the sincerity and impartiality of the investigation.

5. I provided agent Jarret with the names of Mr. Peter Navarro, a respected Dominican Airlines executive, who complained to me that after cooperating fully with the investigation and being told that his testimony would be kept confidential, his name was given to persons implicated in the frame-up as being their accuser.

6. I complained to Jarret's partner bitterly about the implications of placing Mr. Navarro's life in jeopardy by having given out his name in this manner and that I felt it was an appalling investigative technique to have given Mr. Navarro's name to Pel Custillo, a convicted felon and member of the Federation of Dominican Businessmen and Industrialist.

7. A second source of information was a Dominican woman named Victoria Lopez, who provided an affidavit which told of her listening to a conversation where Mr. Liberato was overheard saying that he was going to "set up" this Federal Agent who had raided his establishment. Ms. Lopez asked for her affidavit to remain confidential and she became very afraid because the FBI went to her residence showing their ID's and asking for her. Her fear is understandable since people in her building were known to her to be drug dealers and she was afraid that they might think she was complaining about their activities. I do not know Ms. Lopez personally but from all appearances she was willing to cooperate with law enforcement the one time we met. I remember a phone conversation in which she even volunteered to go to the FBI office in Queens to

prevent her from being seen with strange persons in her neighborhood. The above mentioned episode must have had such a frightening impact on her, that the last time she called me was in a panic, wishing to tell me that she did not want to have anything to do with this matter since it was placing her at personal risk and she had children to think about.

8. My name was also used in questioning witnesses and the situation became so tense in February of 1993, that I prepared an affidavit explaining this problem, after being told to "watch my back" by a New York police detective who was being dissuaded from continuing his investigation into matters pertaining to the Occhipinti case.

9. On January 14, 1992, I executed an affidavit which was provided to the FBI, setting forth the names of more than fifty witnesses who had information pertinent to the Mr. Occhipinti's allegations of a conspiracy against him. In addition I also set out facts tending to show prosecutorial misconduct which prevented a fair trial. These allegations of first hand personal experiences should have been investigated. As far as I know, none of these charges or witnesses were ever interviewed by the FBI. The reason for this belief lies in the fact that all the letters citing the results of the FBI investigation, do not mention the allegations made in my affidavit.

10. All of the described acts showed bias and irregularity in the manner of conducting the investigation. I realized that all the information that was provided to the FBI was being used to undermine Mr. Occhipinti's case. In fact it soon became clear that the ones being investigated were the proponents of Mr. Occhipinti's innocence.

11. It is hoped that the FBI will look into these facts and take corrective actions which will insure an unbiased and properly conducted investigation. I declare under penalty of perjury that the foregoing is true and correct.

CHEMICAL AGENT TESTING DURING WORLD WAR II

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. HANSEN. Mr. Speaker, in recent months, it has come to light that the U.S. Government, during the 1940's, was involved in conducting tests of chemical agents against U.S. military personnel. Often, this testing was done in relative secrecy, without the full knowledge or consent of those servicemen exposed, and without a clear understanding of the long-term health effects involved.

One of those servicemen is a constituent of mine, Charles McGraw, who lives in Ogden, UT. Mr. McGraw wrote me a letter to describe what his experience was and the tremendous ill-health effects which he is suffering from today as a result.

I believe that the U.S. Government, and the Congress, should learn the lessons that must be learned from the past. We simply cannot treat our military personnel—or any human being, in this manner ever again. I hope that we can all learn from Mr. McGraw's words:

The letter follows:

To Whom it May Concern:

I am a Retired Army Master Sergeant. I was born September 20, 1915. I enlisted in the U.S. Army in 1934 and retired in 1955.

During my service, I was assigned to the Chemical Warfare Branch of the Army.

In 1942, I attended the first Chemical Warfare School at Edgewood Arsenal, Maryland.

While there, I was involved in the testing of Mustard Gas and other Blister Gasses. I participated in many experimental mustard gas tests. These tests were Chamber Tests, Field Tests, and skin sensitivity tests.

During Field Tests, the ground was sprayed with Mustard Gas, equipment was sprayed, and we were required to clean-up the area and equipment. We wore protective clothing. The clothing was part of the test to determine whether or not it was reliable!

The skin sensitivity test left scars on my arm that I have to this day.

During this test, drops of Mustard Gas were placed on the arm. The blisters formed, and the size was measured daily.

During the last eight years, I have had lung problems. The last year, it has become severe. I have had blisters on my right cornea, and now I have no sight in that eye.

I am being treated at Hill Air Force Base Hospital and the University of Utah hospital. Medical Reports from both hospitals offer no conclusion to the cause.

Sincerely,

M/SGT. CHARLES R. MCGRAW, *USA (ret.)*.

AMERICAN PATRIOT AND PUBLIC SERVANT: HAROLD PRATTE

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. EMERSON. Mr. Speaker, I rise to recognize a pillar in St. Francois County, MO, a community which is in my congressional district. After nearly a decade in county government, Harold Pratte will turn off his county collector's calculator for the final time and transition into the glory years of retirement.

Harold Pratte is a true American patriot and public servant. He served 20 years in the U.S. Army, where he received a distinguished graduate honor from the Army's Non-Commissioned Officers Academy and other honorable decorations. They include the Army's most coveted Combat Infantryman Badge during the Korean war, a Bronze Star, two meritorious service medals, and an Army commendation model. Upon retirement from the Army, Harold continued to serve his fellow countrymen as an active member and leader in a number of Veterans organizations and civic groups.

For instance, Harold was president of the Desloge Chamber of Commerce and Desloge Kiwanis from 1986–87. He chaired the Desloge centennial in 1987. He earned Citizen of the Year honors from the Desloge Chamber and Daily Journal newspaper in 1988. He has been treasurer of the St. Francois County Veterans War Memorial and he has chaired the Korean War Memorial Committee located at Mineral Area College and Desloge Benevolent Fund Committee. Mind you, all of these accomplishments and activities have been in addition to his work as second district county commissioner from 1985–86 and his role as collector of revenue from 1987 through the present.

During his 7 years as collector, Harold helped usher the county into the 21st century. For instance, he upgraded all office equipment from 80 percent manual processing to 100 percent computer mechanization. Through Harold's foresight of making technology work for us, rather than against us, St. Francois County was awarded a grant from the Missouri Secretary of State to microfilm all permanent record tax books.

Quite simply, we need more Americans like Harold Pratte. He has used his faith in God and love of country as a moral guide in proudly serving the United States and the St. Francois County community with honor and dignity. Speaking for the entire community, I want to thank him for all of his selfless and tireless efforts, wish him good luck on the golf course, and most especially pass along to Harold and his wife, Patsy, all the best on their journey into retirement.

EDUCATION BEGINS WITH FAMILIES ACT

HON. JOLENE UNSOELD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mrs. UNSOELD. Mr. Speaker, the Head Start reauthorization proposal, H.R. 3842, includes a new initiative focusing on the provision of services to "families with very young children" (0–3 years). The Unsoeld bill make specific a broader range of services to be included:

Requires the secretary of HHS to establish program performance standards for Head Start agencies that provide services to these families. Currently, the Head Start-funded demonstration projects that serve families with very young children operate with no specific guidelines, unlike the traditional Head Start program. Program performance standards deal with all aspects of program operation, including health records, lesson plans, basic safety concerns, and plans for parental involvement.

Requires that resources allocated for Head Start training and technical assistance activities include assisting agencies in better serving the needs of these families. The bill requires that those programs serving these families receive necessary training and technical assistance in order to operate a high-quality program for these families. There are currently no training and technical assistance activities for Head Start staff that focuses specifically on families with very young children.

Ensures that quality improvement funds given out under this bill are used to ensure that the physical environments of programs are conducive to providing services to these families. Given the unique physical environment needs of infants and toddlers, the bill requires programs serving these families to use their quality improvement funds to make necessary changes to the physical settings.

Requires that research, demonstration, and evaluation programs include research on the provision of services families with young children. This will most likely be in the form of a discretionary research grants program administered by the Administration on Children, Youth and Families.

Requires that programs receiving funds to provide services to infant and toddlers:

(a) Coordinate services and transitions between the 0–3 program and preschool programs, as well as other agencies such as local education agencies.

(b) Where feasible, provide continuity of caregivers with the ongoing development of the child. Children who have the same primary caretaker over time have a much greater chance of positive developmental outcomes.

In the designation of new Head Start agencies, plans will include information on how programs will offer the following as part of their parental activities:

(a) Training for parents in positive discipline techniques. This includes teaching discipline techniques that are nonpunitive, positive, consistent, and appropriate to the age of the child.

(b) Training for parents in basic child development. This is key to determining what can be expected of a child as well as what discipline techniques are age appropriate.

(c) Assistance to parents in developing communication skills. Parents need to learn effective parent-child communication techniques—this is related to reducing the risk of child abuse and neglect.

(d) Opportunities for parents to share experiences with other parents. This could help provide social support for families as well as an opportunity to exchange childrearing tips and problems.

Allows existing Head Start programs to include the four parent involvement activities listed above.

TRIBUTE TO THE TEXTILE ASSOCIATION OF LOS ANGELES

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. BERMAN. Mr. Speaker, I am honored today to pay tribute to the Textile Association of Los Angeles on the occasion of its 50th anniversary. During its impressive history, the association has become an integral part of both the economic and charitable life of southern California.

Since its founding, the association has worked tirelessly to promote the national distribution of textiles and apparel. Today its 1,000 members are directly responsible for pumping millions of dollars annually into the economy of California.

The association has made invaluable contributions to area charities. It has been a training ground for leaders of a number of noteworthy groups, including the City of Hope, Cedars Sinai Medical Center, the National Conference of Christians and Jews and the Apparel Industries Sav-A-Life.

The association's student aid program gives approximately $25,000 in scholarships each year to students attending the various trade schools in the Los Angeles area. Finally, TALA hosts an annual holiday party for 500 underprivileged children.

On a personal note, my father was involved for many years with the Textile Association of Los Angeles. He always viewed the organization with affection and respect—feelings that I share.

I ask my colleagues to join me in saluting the Textile Association of Los Angeles, which for 50 years has contributed greatly to the city and its people.

IN RECOGNITION OF DETECTIVE JAMES McCLELLAN—OFFICER OF THE YEAR IN FREMONT, CA

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. STARK. Mr. Speaker, today I would like to pay tribute to Detective James McClellan, a man who has devoted 30 years of his life to protecting the lives of others. He has been named 1993 officer of the year by the Fremont Police Association.

Detective McClellan, who also received this award in 1970, is currently assigned to the Investigative Unit, Crimes Against Property Section, where he has served since 1973. Due to his superior training skills, and work on some of his city's most notable cases, he continues to be a mentor to both new and experienced officers.

Detective McClellan is a member of the Property Control Task Force, serves as an advisor to the Peace Officer Standards and Training Commission on Criminal Investigation Curriculum, and is a former president of the Fremont Police Association. He also holds certifications as a hostage negotiator, survival shooting instructor, and hazardous waste investigator. When he is not on duty protecting the city, he spends his spare time raising money for charities, schools, and community organizations. Remarkably, he's also found time to coach youth baseball and football in Fremont for 25 years.

After earning 58 commendations in his 30 years of dedicated service, Detective McClellan will be honored again on May 27, 1994, when his colleagues will host an awards dinner for him. Mr. Speaker, as I am doing today, they will merely be recognizing publicly what is already known in Fremont: the streets are safer because Detective James McClellan is on the job.

THE 50TH ANNIVERSARY OF THE LAUNCHING OF THE COAST GUARD CUTTERS "MENDOTA" AND "PONTCHARTRAIN"

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. CARDIN. Mr. Speaker, today I rise in recognition of the U.S. Coast Guard Yard at Curtis Bay, MD. This coming Monday, April 25, marks the 95th birthday of the Coast Guard Yard and the 50th anniversary of the launching of the Coast Guard Cutters *Mendota* and *Pontchartrain*. These two vessels were the largest ships built at the shipyard during World War II.

In honor of this day, the Coast Guard is holding a national World War II commemoration at the Curtis Bay Coast Guard Yard. This celebration will focus on the contributions of the civilian men and women home front workers. Special honors are planned for local World War II Coast Guard veterans and the original crew members of the *Mendota* and *Pontchartrain*. As part of this celebration, the World War II Patrol Frigate Association will unveil a monument dedicated to the memory of the World War II patrol frigates' Coast Guard crews.

Mr. Speaker, it is my pleasure to recognize the critical contributions of the Coast Guard Yard's home front civilian producers and to honor all our World War II Coast Guard veterans.

THANK YOU, JOE GONZALES

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. BARCIA of Michigan. Mr. Speaker, I rise today in appreciation of the exceptional dedication exhibited by Dr. Joe E. Gonzales during his 27 years of tireless service to our community. A civic leader in the truest sense of the word, his singular allegiance is celebrated today among his many friends as Dr. Gonzales receives the Helping Hand Award from the Boys & Girls Clubs of Bay County.

During his years as a language teacher, assistant principal, deputy superintendent, and finally, superintendent of Bay City Public Schools, Dr. Gonzales has had a continually profound impact on our youth. Whether initiating district facilities improvement programs, 24-hour child care centers, or working with local business to develop education partnerships, Dr. Gonzales has consistently focused his energy on educational opportunities for tomorrow's leaders.

Dr. Gonzales has further distinguished himself within his profession and community as the 1992 State Board of Education Hispanic Educator of the Year, 1990 Outstanding Hispanic Educator for Bay County, and the 1986 Outstanding Hispanic Alumnus of Delta College. Further, Dr. Gonzales is a recipient of a Federal Fellowship for Study in Bilingual Education, a graduate of the National Superintendent Academy, and is not being recognized by the Boys & Girls Club's of Bay County with their highest award, the Helping Hand.

Moreover, Dr. Gonzales has established himself as one of the preeminent members of the Michigan Hispanic community as the keynote speaker at the 1991 annual State Conference for the Governor's Commission for Spanish Affairs, the 1992 State Convention of American G.I. Forum, and the 1993 State Conference for Bilingual and Migrant Education.

I know I speak for my friends in Bay City and the fifth district when I thank Dr. Gonzales for his continual efforts to create opportunity for our young people. I urge all my colleagues to wish him, his lovely wife, Edna, and son Steve our very best.

IN HONOR OF THE 125TH ANNIVERSARY OF THE VILLAGE OF MAYWOOD, IL

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mrs. COLLINS. Mr. Speaker, I am pleased to rise today in tribute to the village of Maywood, IL as its residents celebrate Maywood's 125th anniversary of April 28, 1994. As the Representative of the 7th Congressional District which includes Maywood, IL, it is my pleasure to represent the residents of Maywood in the U.S. House of Representatives and to now honor my constituents for 125 years of outstanding citizenship and community service.

Since Maywood was first formed on a low, wet prairie west of the Des Plains river, its citizens have worked hard to help their community grown and prosper. Despite periodic setbacks and times of unemployment and other problems, Maywood continues to be a prominent community in Illinois today. Maywood residents have contributed significantly to the United States as well through their military service in many wars and armed conflicts. During World War II, 89 members of the 33d Tank Company National Guard fought in the Philippine Islands and more than half lost their lives in the infamous Bataan Death March in 1942. Their memory is honored each year in September.

Today, Maywood is a thriving community of 30,000 and a beacon for community renewal. I wish the village of eternal light 125 more years of success.

MY COMMITMENT TO AMERICA

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. DUNCAN. Mr. Speaker, I would like to share with my colleagues and other readers of the RECORD a speech written by a very fine young man in my district, Brett Benson Allmon of Englewood, TN. Brett gave his address at VFW Post 5146 in Athens, TN on November 11, 1993, and I had the privilege of hearing him speak to this group. Brett also received the Voice of Democracy Award for this speech.

I thought that the points this outstanding young man made about the unraveling of our families in this Country were very valid. I hope more young people will make the commitment that Brett has to his education, his family and to God.

MY COMMITMENT TO AMERICA

When I saw the topic that was to be discussed in this speech. I was anxious to speak about it because citizens should better understand their commitment to America and not just America's commitment to them. You see, I believe that America is not a place of people supported by the Government. I believe that America is a union supported by the people. Therefore each American's commitment to their country involves what they do each day, whether it be a white collar job, blue collar job, volunteer work, military service, homemaker, or any other endeavor.

I am a student, so my commitment to America involves my commitment to my education. In a recent speech, Rep. NEWT GINGRICH said that 30 years ago the most important problems with students in school were talking in class, chewing gum, and running in the halls. He also pointed out the most important problems now:

Rape and assault; teenage pregnancy; students receiving diplomas that they cannot even read; and increasing suicide rates.

The Government has not ignored such problems in the schools. Government spending on education since 1960 has gone from $64 billion a year to $207 billion a year. However, the average SAT score has gone from 975 down to 899 in this same period of time.

Therefore, you must agree that money is not the answer. But if money is not the answer then what is? Mencius, a Chinese philosopher, once said, "The root of the kingdom is in the state. The root of the state is in the family."

In 1960, nine percent of all American homes were single parent families. In 1990, twenty-nine percent of all American homes were single parent families. During this same period of time, the percentage of American students living with both parents has gone from 78% down to a meager 22%.

I realize many people have no faith in statistics and are often bored by them, but I believe that these numbers cannot be ignored. The solution appears obvious to me. Students' recommitment to education will depend on the reconstruction of the American family. If such measurable facts do not convince you of the problem and its solution, then use the facts that your own minds observe and the facts that your own hearts feel.

Observe the widespread violence. Observe the sagging morals that were once special to almost everyone. Feel the grip of sexual and sensual propaganda. Feel the growing attitude of a selfish and rebellious spirit. These things need no statistics and percentages to back them up.

You can see and feel these things and ideas every day. You can be sure that they bring in big money for businesses, but you can be sure that they have one destructive byproduct. They undermine the commitment to the family.

There is hope. In the latest presidential election, more than in any other of the last 30 years, the issue of family values was heavily discussed and debated. As more Americans come to see this as a determining issue, then more officials who recognize this as important will be elected to serve.

It is going to become the responsibility of my generation to reinstitute the American family as the root of this Nation. A building is only as strong as its foundation. Our Nation has long been strong because of the firm foundation forged by the morals of our forefathers. But that moral fiber has rotted and the foundation has crumbled. We must tear down our present foundation and lay a new one. Our new foundation will be the family, the firmest structure I know.

Many battles may be lost in this effort, but the war will be won. My generation will fulfill its obligation and reaffirm the value of the family. We will carry this rekindled torch into the 21st century.

So what do I commit to America? I commit myself as a student. I commit myself as a member of my family. I commit myself under God. I commit myself.

THE IMPORTANCE OF THE U.S. MERCHANT MARINE ACADEMY

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. FIELDS. Mr. Speaker, last week it was a pleasure for me to meet with two fellow Texans who were in Washington, DC, to express their concern about the Clinton administration's proposal to charge tuition at the U.S. Merchant Marine Academy at Kings Point, NY—a proposal that could effectively spell the death of the Academy.

I was pleased that two of my friends, William P. Bowes, Sr. of Houston and John P. Zemanek, Jr. of LaPorte, could come to Washington to attend the spring meeting of the U.S. Merchant Marine Academy Alumni Association. Bill, a 1962 graduate of the U.S. Merchant Marine Academy, serves as national vice president of the alumni association, while John, a 1984 graduate, serves as president of the alumni association's Houston chapter.

During their visit to the Nation's capital, Bill and John, and all those attending the alumni association's spring meeting, took time to meet with Members of Congress and various U.S. Senators urging them to continue their support for the U.S. Merchant Marine Academy and the important role the Academy and its graduates play in defending our country.

Fortunately, Bill and John were equipped with the facts and figures they needed to make a compelling case on behalf of Kings Point.

The U.S. Merchant Marine Academy is a 4-year, fully accredited college with an enrollment of 950 men and women. The Academy and its graduates serve the economic and security interests of the United States by providing our merchant marine and our Nation's Armed Forces with highly qualified officers. While midshipmen at the Academy concentrate on two major fields of study—transportation and engineering—they also obtain logistical training applicable to all modes of transportation, including barges and ships.

Each midshipman at Kings Point receives an outstanding education—at a surprisingly small cost to the Federal Government. The U.S. Merchant Marine Academy's annual operating budget is just $29 million, and the cost to educate each Kings Point midshipman is 40 percent less than the average per-student cost at the Nation's top 25 universities.

In exchange for his or her college education, each Kings Point graduate provides the United States with considerable benefits over the course of his or her 12-year commitment to the Nation. Make no mistake about it, Mr. Speaker, Kings Point is anything but a "free ride."

Upon entering the Academy, each midshipman makes a commitment to complete a 4-year course of study that includes 1 year of training at sea on a commercial merchant ship. In addition, each midshipman commits to serve the foreign and domestic commerce and national defense of the United States by working as an officer on a U.S.-flag vessel or in a maritime-related industry or profession for at least 5 years. (Graduates also may serve as active duty, commissioned officers in the U.S. armed services.)

Additionally, each graduate commits to maintain his or her ship officer's license for at least 6 years, which, in practice, allows them to serve as a merchant ship's officer for at least 10 years following graduation. Finally, each graduate makes an 8-year commitment to the U.S. Naval Reserve. As part of this commitment, he or she enters a reserve program specifically designed to ensure improved coordination between merchant vessels and the armed services during periods of national emergency.

Colin Powell, the former chairman of the Joint Chiefs of Staff, recognized the contributions made by Kings Point graduates and midshipmen recently when he said:

In August 1990, Saddam Hussein invaded Kuwait and friends and allies in the Middle East turned to the United States for help. We turned to you, and you answered our call. King's Pointers, when called to service by their country, indeed lived up to the motto "Deeds, Not Words."

Sealift was the workhorse of our deployment and sustainment operations. Ninety-five percent of all equipment and supplies reached the Persian Gulf by ship. In a little more than 7 months, almost 3½ million tons of dry cargo and 6 million barrels of oil were moved by sea. This was far greater than the amount of cargo moved in preparation for the invasion of Normandy * * * nearly 50 years ago.

All told, 152 cadet-midshipmen took part, including 58 members of [the currently] graduating class.

The war in the Persian Gulf is over, but the merchant marine's contribution to our Nation continues. In war, merchant seamen have long served with valor and distinction by carrying critical supplies and equipment to our troops in faraway lands. In peacetime, the merchant marine has another vital role—contributing to our economic security by linking us firmly to our trading partners around the world and for providing the foundation for our ocean commerce.

General Powell was right, of course. The men and women of the U.S. Merchant Marine Academy, as well as those engaged in our maritime industry, contribute to our Nation's prosperity as well as our national security.

That is why I cannot support the National Performance Review/Clinton administration's proposal to charge tuition at Kings Point, and why I hope that that proposal will be rejected by Congress. That proposal threatens not only the future of the U.S. Merchant Marine Academy, but our Nation's fragile merchant marine industry and our Nation's ability to move troops and equipment around the world, whenever and wherever they may be needed, in times of grave emergencies.

I know that Bill Bowes, John Zemanek and the other participants in the U.S. Merchant Marine Academy Alumni Association's annual spring meeting made a compelling case about why this Nation needs a strong Merchant Marine Academy, and a strong merchant marine.

I hope that they know that I will continue working as hard as I can to support their efforts, and will continue to encourage my colleagues to do the same. I encourage my colleagues to join with me in supporting and cosponsoring H.R. 3293, which would prohibit the charging of tuition at any of the Nation's five service academies. This bipartisan legislation would, in any view, strengthen the U.S. Merchant Marine Academy as well as ensure that the United States will always have a merchant marine on which we can rely when needed.

HONORING REV. WILLIAM KIRTDOLL

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. APPLEGATE. Mr. Speaker, I would like to take this opportunity to invite the Members of the House of Representatives to join with me and the people of the Upper Ohio Valley in honoring a very special person and an important leader in the ministry, the Reverend William Kirtdoll, pastor of the First Baptist Church in Mingo Junction, OH.

Reverend Kirtdoll has done so many truly wonderful things for so many people all throughout our region. His commitment to God and to religion have been equalled by his devotion to his fellow citizens and to the important civic obligations and duties of our communities.

A friend to all, Reverend Kirtdoll gives unselfishly of himself as he ministers to all who ever encounter him, regardless of race and regardless of religion. And his devotion to community and to his fellow man extends well beyond our region, as was seen in his vigorous efforts to organize and motivate a food and clothing drive for the impoverished people of the Mississippi Delta.

But Reverend Kirtdoll has never forgotten his obligations and commitments to his local community, and he was an important volunteer when the people of Steubenville joined together to initiate the Clean-up Campaign of the north-end of their town.

Mr. Speaker, Reverend Kirtdoll has given so much of himself to his church and to his congregation, but he has also given so much to everyone who has ever had the pleasure and the experience of meeting him and knowing him. I would like to take this opportunity to share with you and my colleagues the illustrative background of the Reverend William Kirtdoll as I join with those who extend a special day of appreciation to him on Sunday, April 24, 1994.

PROFILE OF REV. WILLIAM F. KIRTDOLL

William Franklin Kirtdoll graduated from Highland Park High School and attended Washburn University both in Topeka Kansas. He attended Western Baptist Bible College in Kansas City Missouri and Missouri Valley College in Marshall Missouri.

During his high school years, he was a member of the track, baseball and football teams. He also played football at Washburn University. His academic concentration in college was History and Political Science.

He has worked diligently as a pre-school teacher, a high school football and track coach. He served the city of Marshall Missouri, as a police officer and hosted a radio program at Missouri Valley College.

Rev. Kirtdoll was licensed to preach in 1960 at the St. Luke Baptist Church in Topeka, Kansas. He has pastored the St. Matthew Baptist Church, the New Arlington United Methodist Church both of Kansas City; Missouri and the North Street United Methodist Church of Marshall, Missouri. He is currently the pastor at the First Baptist Church in Mingo Junction, Ohio, and is the Vice Moderator of the Ohio Valley Union District Association. This is his 34th year in ministry.

William Kirtdoll is a life member of the NAACP and he serves as the Youth Advisor of the NAACP Youth Council. Speaking throughout the United States about civil rights and other social issues, Rev. Kirtdoll relentlessly strives for the advancement of all people.

Moreover, Rev. Kirtdoll instituted many social outreach programs while serving as President of the Drug Taskforce of Jefferson County Ohio Project Detour. As Founding President of the Church and Community for Alternatives To Drug and Alcohol Abuse Committee, Rev. Kirtdoll heightened the awareness of drug and and alcohol abuse in the extended Ohio Valley.

Rev. Kirtdoll has received several church and community awards and acknowledgements. He is a dedicated christian man.

He is a son of a baptist minister and a christian woman. He is a brother to two sisters and nine brothers. He is a husband to the former Sharon Mae Lewis. He is a father to three daughters Carmen, Ivy Jo and Angela, and a grandfather to one grand-daughter, Whitney. Moreover he is a friend to all who show themselves friendly.

CONGRESSMAN KILDEE REMEMBERS THE 79TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. KILDEE. Mr. Speaker, I rise today to commemorate the 79th anniversary of the Armenian genocide. The Ottoman Empire, between 1915 and 1923, tried to advance its political interests by committing genocide against the Armenian people. The genocide of the Armenian people is widely recognized as the first genocide of the 20th century. Each year, throughout the United States and the world, Armenians and all people of good conscience pause to remember the 1.5 million victims of this crime against humanity.

While these crimes are in the past, their significance has not faded from the consciousness of Armenia. The victims of these massacres not only represent the attempts of an oppressive regime to extinguish the dignity and spirit of a people, but also of the consequences of permitting such a regime to go unchecked.

By recognizing the victims of this act of genocide, we commemorate both their sacrifices and those who have perished in the name of freedom since. In addition, recognition of this atrocity will help erase the vestiges of an era in which propaganda and deceit held precedence over truth and human dignity. The United States must take a stand and encourage other countries to do the same. We must always voice our firm opposition to the use of violence and repression as tools of government.

Mr. Speaker, with the dawn of the post cold war era, and the emergence and development of newly independent nations, it is more important than ever for the United States to directly convey its rich tradition of respect for fundamental human rights. It is for this reason that I rise today to remember the anniversary of the Armenian genocide.

S. 1654, TECHNICAL CORRECTIONS TO NATIVE AMERICANS' LAWS

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Ms. FURSE. Mr. Speaker, today this Chamber will consider S. 1654, a bill making technical amendments to several laws relating to Native Americans. This bill contains provisions to add three parcels of land to the reservation of the Confederated Tribes of the Grand Ronde Community of Oregon, to make those lands a permanent part of the Grand Ronde Tribe's homeland. It was a pleasure working on this bill with my Oregon colleague, Congressman Kopetski. I would also like to express my gratitude to Chairman Richardson for his invaluable efforts with this bill.

The passage of this legislation is, I believe, a fitting memorial to Mr. Ray McKnight, a member of the Grand Ronde Tribal Council, who died last Saturday, at age 70. Ray McKnight helped select and oversee the Tribe's acquisition of those three parcels of land, which today are occupied by the Tribal headquarters, community center, elders facility, and forestry office. Those facilities themselves reflect Mr. McKnight. He was a life-long logger who in his later years gave up his rough and tumble ways to join the Grand Ronde Tribal Council, where he served steadfastly and honorably until the end. Appropriately, he was on the Council's forestry Committee, and took part in the Grand Ronde Reservation Act, the legislation that re-established his Tribe's homeland.

Ray McKnight was a down-to-earth man with a warm, gruff humor. He always had a kind word for everyone. As a member of the Tribal Council, he brought solid common sense to the deliberations, and was a strong supporter of Native American rights for both individuals and Tribal governments. He will be sorely missed by his family, his many friends, and the people of the Confederated Tribes of Grand Ronde. I extend my condolences to the members of that community, and hope that S. 1654 may serve as a fitting memorial to Ray McKnight.

THE HEALTH RESEARCH ACT

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. COYNE. Mr. Speaker, I rise today to introduce the Health Research Act of 1994. I am pleased that Representatives RICHARDSON, UPTON, MCDERMOTT, COOPER, FRANK, DURBIN, EDDIE BERNICE JOHNSON, LEACH, HAROLD FORD, UNDERWOOD, and MORAN are original cosponsors of this measure. This legislation creates a national fund for health research. Senators HARKIN and HATFIELD introduced the companion package to this in that body.

Medical research is one of the great success stories of our health care system today. This research has produced remarkable results which have improved the quality of millions of lives and have saved billions of dollars. When First Lady Hillary Clinton testified before the Ways and Means Committee last September I asked her about additional funds for NIH research. Mrs. Clinton commented "* * * if we can get a steady stream of funding into our research institutions, we are likely to save money again in the long run by finding cures and by making other decisions that will enhance health."

The National Institutes of Health [NIH], the leading research group in the world, has played a critical role in promoting new technologies that reduce health care costs. In a recent report, NIH estimated that at least $9 billion could be saved in medical costs for just $4.3 billion invested in research. Some projects that help realize these savings include: Discovery of a bacteria that causes ulcers which can be treated with an antibiotic which could save as much as $816 million a year in treatment costs; the National Institute of Allergy and Infections Diseases developed a treatment for neonatal herpes which will reduce premature mortality and severe neurological handicaps, potentially saving as much as $183 million a year in therapy costs; the National Institute on Aging and the National Heart, Lung and Blood Institute has found that screening and medication could reduce strokes and heart attacks for elderly patients with hypertension which will save as much as $48.5 million in treatment costs each year. Also, since a University of Pittsburgh study found that tonsillectomies are not needed in the majority of cases, utilization of this procedure decreased 50 percent, saving as much as $401 million a year in treatment costs.

The legislation I am introducing today with colleagues establishes a medical research fund to provide an additional $5 billion a year for NIH. It would be financed by a phased-in 1-percent set-aside from each health insurance premium as well as proceeds from a check off on Federal income tax forms. Ultimately, these two measures would increase NIH funds by 50 percent.

This additional money comes at a time when it is badly needed. Over the last 10 years, funding for approved NIH grants has fallen below 25 percent. In fact, the NIH is only funding 1 in every 5 meritorious grants. Unfortunately, medical research is on the brink of life-saving and life-improving cures. For example, researchers recently found that colon cancer is linked to a genetic flaw in as many as 1 in 7 cases and this month NIH researchers found the enzyme that causes human cancer. These researchers believe that within 2 years they may be able to start testing a drug that will block this enzyme in susceptible patients. This sort of breakthrough, if confirmed, could save millions in medical treatments—as well as eliminate the human suffering associated with cancer therapy.

Increasing funds for the NIH with regard to health care reform has broad based public support. Recently, Research! America and a Louis Harris poll demonstrated that people are willing to pay more for research. The poll shows that 9 out of 10 Americans believe that this Nation should spend more on medical research and 77 percent are willing to spend $1 more per week in insurance premiums to pay for it. Further, the Medial Research Fund proposal is supported by over 200 national organizations representing patients, providers, researchers, the elderly and veterans. It is also supported by former Surgeon General C. Everett Koop and numerous Nobel Prize winners.

President Clinton has developed legislation that will reform the present health care system. One of his goals is to contain costs. Funding medical research is an excellent means to meet this objective. Research aids in the prevention and cure of disease. It has brought us from the iron lung to the polio vaccine; from inpatient invasive surgery to outpatient laser surgery; and from long-term hospitalization and death from many forms of cancer to screening tests for cancer of the colon, breast and prostate.

I urge my colleagues to join me in this bipartisan effort to improve the quality of American lives. I submit a copy of a letter from former Surgeon General C. Everett Koop for the RECORD.

Mr. Speaker, the House has an opportunity to ensure that health care reform addresses the needs of both Americans living today and future generations. This proposal secures adequate funding for the NIH and will bolster medical research efforts to eliminate diseases which continue to confront our society.

NATIONAL MUSEUM OF HEALTH AND
MEDICINE FOUNDATION,
Washington, DC, April 19, 1994.

Hon. WILLIAM J. COYNE,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN COYNE: I was pleased to learn that you and your House Colleagues, Congressmen Richardson and Upton, are joining together to introduce legislation which would guarantee continued support for the medical research which is critical to our nation's health.

In the challenging debate over how to arrive at a healthcare system which works, it is vitally important that policymakers be reminded of the central role of medical research in our nation's health history and future. The great advances made in treatment and prevention of countless diseases and disorders have not come by accident. They have resulted from medical research, and this research has been accomplished only through a commitment of necessary resources. The commitment of those resources, I am certain, must be a part of any serious healthcare reform initiative.

The fund created through the Coyne-Richardson-Upton initiative is the first effort to provide the funding, through healthcare reform, for the research upon which future disease prevention and primary health services will be based. It is an intelligent, progressive proposal for which I am pleased to lend my strong support.

Sincerely,

C. EVERETT KOOP, M.D.

ROMA AND SINTI GYPSIES REMEMBERED

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. HOYER. Mr. Speaker, 3 years ago, the participating States of the Conference on Security and Cooperation in Europe met in Cracow, Poland and agreed to preserve and protect those monuments and sites of remembrance, including most notably exterminating camps and the related archives, which are themselves testimonials to tragic experiences in their common house. Such steps need to be taken in order that those experiences may be remembered, may help to teach present and future generations of these events, and thus ensure that they are never repeated. Last week, the words of the Cracow Document once again took on life and meaning when the U.S. Holocaust Memorial Museum hosted a special ceremony on behalf of Roma and Sinti—gypsies—who perished during World War II as part of a methodical and deliberate plan to eradicate them.

Among those participating in this commemoration were Roma representatives from several countries, including our own: Bill Duna of Minnesota, Nicolae Gheorghe of Romania, Ian Hancock of Texas, Andrzej Mirga of Poland, and Klara Orgovanova of Slovakia. Others present included representatives of the Romanian and Slovak Embassies. I commend the Holocaust Museum Memorial and the Project on Ethnic Relations for convening this moving service and those who came forward to share their experiences with others. In so doing, each of these speakers hoped to ensure that, as declared in Cracow, the events of the past are never repeated. I have also been gratified to learn that at Auschwitz—a site that, perhaps more than any other, symbolized the Holocaust—a special commemoration of the Roma camp will open this August.

Tragically, in recent years Roma have been faced with a new wave of hatred and violence. Indeed, the fall of communism has unleashed a host of social and economic problems in Eastern Europe and the former Soviet Union, for which Roma make easy scapegoats. In the Czech Republic, where the government has instituted a racist citizenship law that threatens to strip many Roma of their most basic right, Roma have been the subject of extrajudicial killings and specifically targeted for arrest by local police. In Romania, they have been torched out of their own homes. And in places of open conflict, such as Bosnia-Herzegovina, Roma are left without territory, advocates, or hope.

At the heart of these actions are the most vile and bigoted of perceptions. Roma have been denied education and then deemed ineducable; they have been shunned from the workplace and then called lazy; they have been barred from public restaurants and grocery stores and then vilified when they steal food; they have been refused housing and then denigrated for living in shacks; they have been banned from cities and villages and then defamed as shiftless wanderers; they have been forcibly settled as slaves and then berated for not assimilating; they have faced forced sterilization and then been scored for lacking family values.

Worse still, these prejudices are not a thing of the past. At each turn, throughout Europe, Roma continue to face the self-fulfilling prophesies of the societies in which they reside. Opinion polls throughout the region have shown that Roma are the most disliked minority on the continent and, it may follow, the most at risk.

Minorities have sometimes been described as a barometer of human freedom: when they are at risk, we are all at risk. And I believe this to be so. Although there has been visible and in some case impressive progress toward democracy in the former Warsaw Pact States, many European countries have discrete communities, such as the Roma, for whom democracy's fruits may wither on the vine.

Fostering mutual respect in a multiethnic society is everyone's responsibility. But it is especially gratifying and inspiring to learn of the many different kinds of pilot programs and advocacy projects being undertaken to this end—against tremendous odds—by Roma leaders in their own countries. Nicolae Gheorghe, Andrzej Mirga, and Klara Orgavanova are to be applauded for the kinds of grassroots initiatives they have undertaken in their own communities; the project on Ethnic Relations in Princeton who deserves support for its role in fostering such activities.

Mr. Speaker, later this year the Conference on Security and Cooperation in Europe is expected to hold a seminar devoted to the extraordinary burdens born by Roma in all the participating States. The Helsinki Commission, which I cochair, looks forward to working with Roma representatives and human rights advocates throughout the CSCE to ensure that this seminar is a success.

TRIBUTE TO JOE CONSTANCE: EXTRAORDINARY PUBLIC SERVANT AND CHIEF OF DETECTIVES

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. SMITH of New Jersey. Mr. Speaker, as the House continues its debate this week on the Nation's crime bill and as we search for the best ways to mitigate violent crime, it is fitting that we take time to honor those who have distinguished themselves on the front lines of the war against crime.

I rise today to pay special tribute to an extraordinary leader in New Jersey's law enforcement community, my friend, Trenton's deputy Chief of Police, Joe Constance. As Deputy Chief of Police in Trenton and as Chief of Detectives in the Criminal Investigation Bureau, Joe has risked all and put his life on the line so that others could be safe and protected. Over a 25-year tenure of service, Chief Constance has become a legend in our community and has earned the respect and admiration of fellow law enforcement officials throughout the State of New Jersey.

A life-long resident of Trenton, Joe Constance attended local schools and served in the U.S. Army from 1965 to 1971, when he received an honorable discharge. Joe entered the Trenton Policy Training Academy in 1968 and graduated with academic honors. After graduation, Joe was assigned to the first precinct as a patrolman. later, Joe served in a unique capacity as a police liaison enforcement officer assigned to Trenton Central High School. He was the first police officer to be assigned to a high school in New Jersey.

Joe Constance went on to serve the police department and the Trenton community in many other roles, as supervisor of the burglary squad at the Criminal Investigation Bureau, as commanding officer of the homicide squad, and as commanding officer of the entire crimes section of the Criminal Investigation Bureau before assuming his present position.

During his busy years in the police force, Joe still found time to pursue other activities, and obtained a bachelor's degree in criminal justice from Trenton State College and a master's degree in public administration from Rider College. Joe was also selected president of the Superior Officer's Association and serves as a certified police instructor.

Joe's interest in helping his community extends beyond law enforcement. He was appointed to the Mercer County Board of Chosen Freeholders in February 1991, to fill an unexpired term, and in November 1992, was elected in his own right to serve the remaining 1-year term on the Board. Joe ran again in November 1993, for the Freeholder Board and proved that he has the confidence and support of the voters, as super-cop and politician, when he easily won re-election.

I must add, Mr. Speaker, that I have had the good fortune of running on the same ticket as Freeholder Joe Constance. All across our country of Mercer, people are appreciative and approve of Joe's no-nonsense approach to politics; his candor; his intellect; his compassion for those who are less fortunate or in danger; and above all, his ability to get the job done.

Mr. Speaker, Joe Constance personifies everything that is great about public service and, in particular, the law enforcement profession. Joe has a genuine love and concern for his community and has put his passion for justice into action. He is a tremendous asset to Trenton and Mercer County, and an example to the Nation.

This weekend, Trenton's renowned Kent Athletic Association will pay tribute to Joe Constance for his many contributions to our community. It is my honor, my pleasure and indeed a privilege to have worked closely with Joe over the years and to offer him my most heartfelt appreciation for all that he has done for our greater Trenton community.

TRIBUTE TO LIONEL KUNST

HON. DAN GLICKMAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1994

Mr. GLICKMAN. Mr. Speaker, I rise today to pay tribute to Lionel J. Kunst, of Overland Park, KS. Mr. Kunst died on April 7 at the age of 71.

Lionel was truly a man with a zest for politics and a zest for life. He worked on the Presidential campaigns of Adlai Stevenson, George McGovern, and Hubert Humphrey. He was a former Democratic candidate for both the Senate and the House, running against Senator BOB DOLE in 1986 and Representative JAN MEYERS in 1988. He also was the cofounder of the Coalition to End the Permanent Congress, a national group battling congressional incumbency.

Lionel Kunst sang to his own tune, and was strongly committed to reforming our Nation's campaign finance laws. His work with the Coalition to End the Permanent Congress spurred the formation of the Independence Party, an alternative to the Democratic and Republican parties.

He was greatly devoted to improving government and worked relentlessly for political reform. He will be greatly missed.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, April 21, 1994, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 22

9:00 a.m.

Environment and Public Works

To hold hearings to examine the Administration's compromise with Venezuela regarding changing the final reformulated gasoline rule.

SD–406

9:30 a.m.

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold hearings to examine waste, fraud, and abuse in the health care industry.

SD–192

Armed Services

Defense Technology, Acquisition, and Industrial Base Subcommittee

To resume hearings on proposed legislation authorizing funds for fiscal year 1995 for the Department of Defense, and the future years defense program, focusing on research, development, test and evaluation infrastructure.

SR–222

11:00 a.m.

Judiciary

To hold hearings on the nomination of Michael R. Bromwich, of the District of Columbia, to be Inspector General, Department of Justice.

SD–226

APRIL 25

10:00 a.m.

Commerce, Science, and Transportation

To hold hearings on S. 1945, to authorize funds for fiscal year 1995 for certain maritime programs of the Department of Transportation.

SR–253

2:00 p.m.

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for International Affairs and Commodity Programs, Natural Resources and Environment, Agricultural Stabilization and Conservation Service, Foreign Agriculture Service, Soil Conservation Service, and Federal Crop Insurance Corporation, all of the Department of Agriculture.

SD–138

APRIL 26

9:30 a.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for energy and water development programs.

SD–192

Armed Services

Nuclear Deterrence, Arms Control, and Defense Intelligence Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1995 for the Department of Defense, and the future years defense program, focusing on the chemical demilitarization program.

SR–222

10:00 a.m.

Appropriations

Defense Subcommittee

To hold closed hearings on proposed budget estimates for fiscal year 1995 for the Department of Defense, focusing on National Foreign Intelligence Programs (NFIP) and Tactical Intelligence and Related Activities (TIARA).

S–407, Capitol

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Office of Justice Programs, and the Immigration and Naturalization Service, both of the Department of Justice.

S–146, Capitol

Environment and Public Works

Water Resources, Transportation, Public Buildings, and Economic Development Subcommittee

To hold hearings on S. 1760, to improve the process of constructing, altering, purchasing, and acquiring public buildings, and to review the General Services Administration's fiscal year 1995 public buildings program.

SD–406

Finance

To resume hearings to examine health care issues, focusing on the tax treatment of employer-provided health care.

SD–215

Governmental Affairs

Business meeting, to consider pending calendar business.

SD–342

Labor and Human Resources

Education, Arts and Humanities Subcommittee

To resume hearings on S. 1513, authorizing funds for programs of the Elementary and Secondary Education Act of 1965, focusing on foreign education.

SD–430

2:30 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for foreign assistance programs, focusing on U.S. assistance to the former Soviet Union.

SD–138

Armed Services

Business meeting, to mark up S. 1587, to revise and streamline the acquisition laws of the Federal Government.

SR–222

Indian Affairs

Business meeting, to mark up S. 1526, to improve the management of Indian fish and wildlife and gathering resources; to be followed by an oversight hearing on the regulation of Indian gaming.

SH–216

APRIL 27

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD–366

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Federal Transit Administration, Department of Transportation, and the Washington Metro Transit Authority.

SD–138

Commerce, Science, and Transportation

To hold hearings on the nominations of Rear Adm. Robert E. Kramek, USCG, to be Commandant, and Rear Adm. Arthur E. Henn, USCG, to be Vice Commandant, both of the United States Coast Guard.

SR–253

Veterans' Affairs

To hold oversight hearings on dangerous exposures in the Persian Gulf War.

SD–G50

10:30 a.m.

Commerce, Science, and Transportation

To hold hearings on proposed legislation authorizing funds for the United States Coast Guard.

SR–253

1:30 p.m.

Labor and Human Resources

Children, Family, Drugs and Alcoholism Subcommittee

To hold hearings on emerging issues regarding child abuse.

SD–430

2:00 p.m.

Commerce, Science, and Transportation

To resume hearings on S. 1350, to provide for an expanded Federal program of hazards mitigation and insurance against the risk of catastrophicnatural disasters, such as hurricanes, earthquakes, and volcanic eruptions.

SR–253

APRIL 28

9:30 a.m.

Governmental Affairs

To resume hearings to examine the impact of unfunded Federal mandates on how State and local governments provide programs, services, and activities, and on related measures including S. 563, S. 648, S. 993, and S. 1604.

SD–342

Rules and Administration

To resume hearings on S. 1824, to improve the operations of the legislative branch of the Federal Branch, focusing on Subtitle A, Parts I and II of Title III, relating to Congressional biennial budgeting and additional budget process changes.

SR–301

10:00 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Environmental Protection Agency, and the Council on Environmental Quality.

SD–106

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the United States Information Agency, and the Federal Communications Commission.

S–146, Capitol

2:00 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 1549, to revise the act establishing Golden Gate National Recreation Area to provide for the management of the Presidio by the Secretary of the Interior, and S. 1639, to provide for the management of the portions of the Presidio under the jurisdiction of the Secretary of the Interior.

SD–366

Indian Affairs

To hold oversight hearings on water and sanitation issues in rural Alaska.

SR–485

2:30 p.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Bureau of Indian Affairs, Department of the Interior.

SD–116

MAY 3

9:30 a.m.

Armed Services

Force Requirements and Personnel Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1995 for the Department of Defense, and the future years defense program, focusing on Reserve component manpower, personnel, and compensation issues.

SD–106

Energy and Natural Resources

To hold hearings on Boron-Neutron Cancer Therapy.

SD–366

10:00 a.m.

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for Food and Consumer Services, Food and Nutrition Service, and Human Nutrition Information Service, all of the Department of Agriculture.

SD–138

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of Defense, focusing on defense conversion programs.

SD–192

2:30 p.m.

Armed Services

Nuclear Deterrence, Arms Control, and Defense Intelligence Subcommittee

To resume hearings on proposed legislation authorizing funds for fiscal year 1995 for the Department of Defense, and the future years defense plan, focusing on the Department of Energy's weapons and materials support and other defense programs.

SR–222

MAY 4

9:30 a.m.

Indian Affairs

To hold hearings on provisions of H.R. 6 and S. 1513, bills authorizing funds for programs of the Elementary and Secondary Education Act of 1965.

SR–485

MAY 5

9:30 a.m.

Rules and Administration

To resume hearings on S. 1824, to improve the operations of the legislative branch of the Federal Government, focusing on Title III, Subtitle B (Staffing, Administration, and Support Agencies), and Subtitle C (Abolishing the Joint Committees).

SR–301

10:00 a.m.

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Legal Services Corporation.

S–146, Capitol

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the National Transportation Safety Board, and the National Highway Traffic Safety Administration, Department of Transportation.

SD–138

2:00 p.m.

Veterans' Affairs

To hold hearings on proposed legislation to finance veterans health care programs.

SR–418

MAY 10

10:00 a.m.

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Commodity Futures Trading Commission, the Farm Credit Administration, and the Food and Drug Administration, Department of Health and Human Services.

SD–138

MAY 11

10:00 a.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the National Park Service, Department of the Interior.

S–128, Capitol

MAY 12

9:30 a.m.

Rules and Administration

To hold hearings on proposed legislation authorizing funds for fiscal year 1995 for the Federal Election Commission.

SR–301

10:00 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Corporation for National and Community Service.

SD–106

MAY 15

9:00 a.m.

Office of Technology Assesment Board meeting, to consider pending business.

EF–100, Capitol

MAY 17

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of Defense, focusing on the Pacific Rim, NATO, and peacekeeping programs.

SD–192

MAY 19

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of Defense.

SD–192

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of Veteran's Affairs, and the Selective Service System.

SD–106

MAY 20

9:00 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Departments of Veteran's Affairs and Housing and Urban Development, and independent agencies.

SD–138

MAY 25

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of the Interior.
S–128, Capitol

MAY 26

10:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the National Aeronautics and Space Administration.
SD–106

JUNE 8

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings proposed budget estimates for fiscal year 1995 for the Department of Energy.
S–128, Capitol

JULY 19

10:00 a.m.
Appropriations
Defense Subcommittee
Business meeting, to mark up proposed legislation authorizing funds for fiscal year 1995 for the Department of Defense.
SD–192

CANCELLATIONS

APRIL 21

2:30 p.m.
Agriculture, Nutrition, and Forestry
Agricultural Research, Conservation, Forestry and General Legislation Subcommittee
To hold hearings to review new management directives for the U.S. Forest Service.
SD–628

Select on Intelligence
To hold closed hearings on intelligence matters.
SH–219

APRIL 25

10:00 a.m.
Finance
Health for Families and the Uninsured Subcommittee
To hold hearings on health care reform issues, focusing on consumer protection and quality assurance.
SD–215

MAY 3

2:30 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings to review the implementation of the Central Valley Project Improvement Act (Title 34 of P.L. 102-575) and the coordination of the program with other Federal protection and restoration efforts in the San Francisco Bay/Sacramento-San Joaquin Delta.
SD–366

POSTPONEMENTS

APRIL 21

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1995 for the United States Fish and Wildlife Service, Department of the Interior.
S–128, Capitol

HOUSE OF REPRESENTATIVES—*Thursday, April 21, 1994*

The House met at 11 a.m.

Rev. Edward E. Hearn, Grace Conservative Baptist Church, Chicago, IL, offered the following prayer:

Most Eternal and All Wise God: We come before Your presence today deeply humbled by the many complex decisions that beset us, and challenged by the great issues that surround us. Therefore, Heavenly Father, we seek Your guidance and ask Your wisdom in all that we hope to accomplish.

We pray, O God, that You would endow us with understanding that we might earnestly discern that which, above all, is most pleasing in Your sight.

Guide us, we pray, in the spirit of truth, and lead us in the pathway of righteousness, such that we might make justice and eternal peace a reality in our Nation and throughout our world.

Keep us, we pray, in Jesus' name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. TRAFICANT. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. TRAFICANT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 256, nays 161, not voting 15, as follows:

[Roll No. 140]

YEAS—256

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Houghton
Hoyer
Hughes
Hutchinson
Hutto
Hyde
Inglis
Inslee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kingston
Kleczka
Klein
Klink
Kopetski
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Myers
Nadler
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pombo
Pomeroy
Porter
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Watt
Waxman
Wheat
Williams
Wilson
Woolsey
Wyden
Wynn
Yates

NAYS—161

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Clay
Coble
Collins (GA)
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gingrich
Goodlatte
Goodling
Goss
Grams
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Huffington
Hunter
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kim
King
Klug
Knollenberg
Kolbe
Kreidler
Kyl
Lazio
Leach
Levy
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Murphy
Nussle
Oxley
Packard
Paxon
Petri
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—15

Andrews (NJ)
Boucher
Brown (CA)
Engel
Fish
Gallo
Grandy
Johnson (GA)
Lewis (CA)
Neal (NC)
Parker
Washington
Waters
Whitten
Wise

☐ 1128

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. WATERS. Mr. Speaker, I was unavoidably absent during the morning of Thursday, April 21, due to a death in the family.

Had I been present during that time, I would have voted as follows:

Rollcall 140—"yes."

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. MCNULTY). The Chair will ask the gentleman from Wisconsin [Mr. ROTH] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. ROTH led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed the following resolutions:

S. RES. 200

Resolved, That the House of Representatives be notified of the election of the Honorable Martha S. Pope as Secretary of the Senate.

S. RES. 202

Resolved, That the House of Representatives be notified of the election of the Honorable Robert Laurent Benoit as Sergeant at Arms and Doorkeeper of the Senate.

The message also announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 3693. An act to designate the United States courthouse under construction in Denver, Colorado, as the "Byron White United States Courthouse".

The message also announced that the Senate had passed a bill and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 2024. An act to provide temporary obligational authority for the airport improvement program and to provide for certain airport fees to be maintained at existing levels for up to 60 days, and for other purposes.

S.J. Res. 161. Joint resolution to designate April 1994, as "Civil War History Month".

S.J. Res. 174. Joint resolution to designate the week beginning April 24, 1994 as "National Crime Victims' Rights Week".

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 375) entitled "An act to amend the Wild and Scenic Rivers Act by designating a segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1574) entitled "An act to authorize appropriations for the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendment of the Senate to the bill (H.R. 821) "An act to amend title 38, United States Code, to extend eligibility for burial in national cemeteries to persons who have 20 years of service creditable for retired pay as members of a reserve component of the Armed Forces."

The message also announced that pursuant to sections 276d–276g, of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints Mr. MURKOWSKI, as vice chairman of the Senate delegation to the Canada-United States Interparliamentary Group during the second session of the 103d Congress, vice Mr. STEVENS.

The message also announced that pursuant to sections 276h–276k, of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints Mr. GRASSLEY, Mr. SPECTER, and Mr. MURKOWSKI, as members of the Senate delegation to the Mexico-United States Interparliamentary Group during the second session of the 103d Congress, to be held in Huatulco, Mexico, April 22–25, 1994.

□ 1130

INTRODUCTION OF THE REVEREND EDWARD HEARN

(Mr. RUSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUSH. Mr. Speaker, I rise today, to welcome the Rev. Edward E. Hearn. Reverend Hearn is the pastor at the Grace Conservative Baptist Church of Chicago, IL, where he has served for the past 4 years.

Before coming to Grace Conservative Baptist Church, Reverend Hearn studied law at Saint Louis University School of Law in St. Louis, MO. He then worked as a lawyer in the areas of probate, real estate and criminal law.

Today, while serving a thriving congregation, he also continues to work as a lawyer, addressing issues of special importance to his clients in inner city Chicago.

Reverend Hearn's unique background has given him a wide range of experience in tending to the needs of both his congregation and the greater community. He has served as a source of comfort, advice, and inspiration to all who come into contact with him.

It is with great pleasure that I welcome him here to deliver the opening prayer today.

REMOVAL OF NAME OF MEMBER AND ADDITION OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 173

Mr. BARCIA of Michigan. Mr. Speaker, I ask unanimous consent that the name of Mr. PRICE of North Carolina be withdrawn as a cosponsor of House Concurrent Resolution 173, and that the name of Ms. PRYCE of Ohio be added as a cosponsor of said resolution.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Michigan?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 40

Mr. WHEAT. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 40. At no time did I agree to add my name as a cosponsor of this legislation, and I am pleased to have this opportunity to clear up any confusion that may have resulted from my name having appeared as a cosponsor of H.R. 40 in the past.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3266

Mr. PETERSON of Florida. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of H.R. 3266.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

MISUSE OF AMERICAN POWER

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I listened in disbelief last night as the President of the United States explained the tactical air strike command and control system for Bosnia. The local U.N. Forces ask the U.N. Commander, who ask the U.N. political advisor, who, if they get approval from New York, ask NATO, which ask an American pilot, and this is madness, to have individual air strikes with control in Bosnia, New York, and Washington. That is worse than anything that was done in micromanaging the Vietnam War.

If we cannot find a clear mission with a clear theater campaign plan, with a clear and clean command and control system, we should withdraw any involvement. However, to have American pilots risking their lives, loitering like taxis while the U.N. Commander negotiates, to be used individually if a convoluted chain of command agrees to it, is crazy.

Mr. Speaker, I would just ask every Member to read precisely what the President said last night is his approved chain of command for ordering individual air strikes. It is the worst misuse of American power, I think, since World War II.

URGING NO FURTHER DELAY FOR THE CRIME BILL

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, it seems Republicans loathe the idea of enacting effective Democratic legislation. So rather than act on the crime bill, they have stalled time and again, hoping to cripple what they cannot claim for their own.

That is too bad. Americans do not want to waste time on political boondoggles. Americans want tough anticrime measures now. The crime bill we have crafted is what they want.

We have crafted this bill to heal our crime-fractured communities. It strives to punish and prevent crime. It will rid the streets of criminals, keep them off the streets, and clean up the wreckage they leave behind.

This crime bill is about strengthening families. It is about clearly defining the consequences of criminal behavior. It is about responsibility in our communities. It would be irresponsible to delay it any further.

THE NEW "FIX" IS IN

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, the Democrat leadership has decided to fix the Social Security system.

The new fix is to raise your Social Security taxes and lower the benefits you receive.

Your Government in Washington is on the job. The same one that brought you the problem now has the solution. Again.

Just last year the Clinton administration increased taxes on the elderly's Social Security benefits. Now they want to raise taxes at both ends by increasing both payroll taxes and benefits taxed.

The Democrat plan would increase the tax employers pay. It would increase the tax employees pay. And it would cut the benefitS of the average contributor by 8 percent and cut the above-average contributor's by one-fifth. The operative words being—tax and tax and cut and cut the benefits.

This is precisely the sort of solution Washington proposes for its programs that cannot pay their way—more from you and less from the Government.

Are you not glad that Washington could take time from designing your new health care plan to tinker with your retirement plan?

URGING PASSAGE OF A BALANCED CRIME BILL

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, as we finish debate on the crime bill we must stay focsued on the very serious problems it is intended to correct.

The Clinton administration and the Democrats in Congress have produced a balanced crime bill that includes police protection, punishment, and prevention.

In spite of the wisdom of this bill and the urgency of our crime problem, there are some Republican Members who would rather play politics than pass sound policy.

A Republican Member of this body circulated a letter to his Republican colleagues stating:

> If we work together we can defeat this bill and craft a real crime bill that will give the crime issue back to Republicans for the upcoming elections.

It is clear that for some Republicans the real issue is politics—not stopping crime and making our neighborhoods safe.

Mr. Speaker, this crime bill will put more police on the streets, throw away the key for repeat violent criminals, and prevent crime before it happens. This is a balanced bill that the Nation wants and needs. It should pass as soon as possible.

PAY MORE FOR LESS

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, pay more for less. This should be the Democrat's campaign slogan for the upcoming election.

First there was the Clinton plan for health care reform.

In the name of reform, the President's plan would mandate less benefits, less quality, and reduce choice all at the cost of billions of additional tax dollars.

And now, there is the plan for Social Security of the chairman of the Ways and Means Committee.

According to newspaper reports, the Chairman's plan would reduce COLA's, accelerate the retirement age, and increase the payroll tax.

In other words, the middle-class wage earner would pay more for less.

That does not sound like much of a deal to me.

Mr. Speaker, I urge the American people to take a second look at the pay more for less party. They do not look like a good deal for the Nation's future.

URGING MEMBERS TO THINK MORE ABOUT LOCKING UP CRIMINALS AND LESS ABOUT LOCKING UP ELECTIONS

(Mr. MENENDEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MENENDEZ. Mr. Speaker, each of us here in the House knows that it is time to get serious about crime. That is why it is so astonishing when you uncover little tidbits like this one, from a letter circulated among House Republicans. In it, the writer says that if Republicans can defeat the crime bill, they can, "give the crime issue back to Republicans for the upcoming elections." While the American people know that crime control is a matter of life and death, there is apparently a sympathetic audience among Republicans who think that it is just politics.

We are free to disagree on what we think are the best ways to control crime in this country, but I think the American people would appreciate it if we would think a little more about locking up criminals, and a little less about locking up elections.

We have an opportunity to deal with the crime issue head-on, by passing the crime bill—today. We are all ready to be tough on crime. The key, however, lies in being both though and smart. This crime bill is both.

□ 1140

HEALTH CARE BIPARTISANSHIP

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, when it comes to health care reform, bipartisanship is the best solution.

Let us face it—neither Republicans nor Democrats have the complete answer to health care.

It is time that both sides come together, in a nonpartisan way, to develop a real solution that meets the health care needs of the American family. Let us craft a commonsense bill that provides access to private and affordable health insurance to Americans—even if they have a pre-existing condition or change jobs. Let's address the cost drivers in our system and reform our malpractice laws and reduce paperwork.

I doubt if the average middle-class family cares who passes the health care bill, as long as it fixes what's broken in our current system without destroying the quality of care and choice they have come to expect.

So let us put partisanship behind us and begin working together to pass a bill that both Republicans and Democrats can support.

A BALANCED CRIME BILL

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, the House this week responded to the public's demand for strong, tough, and smart action on the crime problem. And we should be proud of the steps we have taken.

We have fashioned a strong and smart anticrime initiative that balances punishment and prevention.

We have voted to stiffen sentences and keep repeat violent offenders behind bars through the "three strikes and you're out" provision.

We have joined hands with local and State officials by providing them with funds to build enough prison space so that violent offenders serve out their terms.

And we have supported effective prevention programs such as the midnight sports program, which in my district has successfully kept dozens of juveniles off the streets and away from crime.

Mr. Speaker, I applaud the efforts of Mr. BROOKS and Mr. SCHUMER and the other Members who were so effective in fashioning this tough and intelligent response to the crime problem in our country.

FOREIGN POLICY

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, earlier this week responding to a questioner on MYV, the President answered, "Briefs." Ask him a very different question about how much the President spends on foreign policy, the world gets a sadly similar answer: "Brief." It shows.

Mr. Speaker, is the President paying enough attention to what is happening overseas? He had better, or our involvement in Bosnia will become both more dangerous and more embarrassing. The lesson of Vietnam proven by its observance in Operation Desert Storm and once more proven in its breach in Somalia is that our military objectives must be clearly defined and our use of force must be sufficient to achieve those objectives. By turning control over to the United Nations, we place our soldiers' lives in danger and our national sovereignty at risk.

Mr. Speaker, I urge the President to spend more than a brief moment on foreign policy in the days to come.

THE CRIME BILL

(Mr. CLYBURN asked and was given permission to address the House for 1 minute.)

Mr. CLYBURN. Mr. Speaker, I rise today as a voice for the millions of Americans who are equally frightened and frustrated by the senseless wave of violence that has griped our Nation.

They are frightened by the seeming randomness of violent acts that have occurred in our schools and in our neighborhoods, from our cities to the suburbs.

And they are frustrated by the appearance of a judicial and law enforcement system that seem to be losing control as the growing number of violent offenders continue to overwhelm our courts and prisons.

This fear and frustration crosses all economic, social, and political boundaries.

The Violent Crime Control and Law Enforcement Act may be an answer to this fear and frustration. This bill calls for, among other things, more police officers, a "get tough" stance on repeat offenders, as well as changes in the sentencing and a variety of prevention programs.

This bill may not provide all the answers, but it is my hope that its passage will return a sense of control to our law enforcement officials and restore a much needed sense of safety to our communities.

A CALL FOR REPEAL OF UNFUNDED FEDERAL MANDATES

(Mr. INGLIS of South Carolina asked and was given permission to address the House for 1 minute.)

Mr. INGLIS of South Carolina. Mr. Speaker, the crime bill that we are debating here today is at best in my estimation a little case of schizophrenia and at worst the act of a bunch of professional politicians who want to dupe the American people. Let me explain what I mean.

What we are doing in this House by unfunded Federal mandates is knocking localities over the back of the head where they cannot see us and then we come along as a false Good Samaritan and hand them a few grant programs. A little bit like handing them an aspirin for the headache they have gotten by us bashing them on the back of the head with the unfunded Federal mandates.

A specific example: Greenville County, one of my counties, over the next 6 years will spend $130 million on unfunded Federal mandates. That is enough to hire, according to the good mayor of Greenville, Bill Workman, 600 police officers, or 600 teachers. Part of that $130 million is $75 million for a water filtration plant everyone agrees is not needed.

So, Mr. Speaker, we in this House on the one hand knock them over the back of the head, giving them the unfunded Federal mandates and then give them the little grants as an aspirin. We have got to be more creative about how we deal with the crime problem. Repeal unfunded Federal mandates and leave money there to fight crime.

LABOR LAW ENFORCEMENT ACT OF 1994

(Mr. TORRES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRES. Mr. Speaker, we are talking about crime today, and I want to raise the issue of a crime that is taking place here in this country today. We have American employers not only exploiting Americans but also undocumented immigrants and this undercuts legitimate businesses. This encourages undocumented immigration and depresses wages. Of the estimated 50,000 sewing machine contractors nationwide, over one-third operate without licenses, offer no health insurance, do not pay overtime, and pay their workers in cash. They also do not pay taxes.

Mr. Speaker, in my county alone, Los Angeles County, employers last year did not pay $120 million in taxes using the tactics of using these kinds of workers. Over half of all the garments made in America are produced in whole or in part by factories that pay below the minimum wage, disregard Federal safety laws, and require workers to spend 60 yours or more on their sewing machines. This is true in the garment industry, in the construction industry, and in farm labor. We must stop this crime. We must put teeth back into our labor enforcement laws that say "Made in America means made under law."

WHO'S DRIVING?

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, the world is not waiting for the White House to face the challenge of global leadership. In Bosnia, North Korea, Iraq, Haiti, and several Africa nations tensions mount tragedies multiply. The Washington Post, not known for tough critique of Democrat administrations, has launched a scathing review of this President's failed leadership on foreign policy. The Post said of President Clinton, "Positioning himself as the pawn of a self-driven international machine, he has abdicated what ought to be a great power's serious effort to win, first, the American people and then others to policies of American design—as Gorazde shudders under point blank Serb shelling—he flees Washington for a rally of Mustang owners," The appearance that President Clinton is more comfortable behind the wheel of an antique car explains why our allies grow increasingly uncomfortable with him as the lead driver of the globe's only superpower.

RECOGNITION OF THE 15TH ANNIVERSARY OF THE TAIWAN RELATIONS ACT

(Mr. HILLIARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIARD. Mr. Speaker, I rise today to recognize the 15th anniversary of the Taiwan Relations Act of 1979.

In 1978, the United States reached a crossroads in United States-Asia relations with its decision to recognize the

Communist Government of China. The Democratic Government of Taiwan deserved to have access to America, yet the Congress could not ignore the more than 1 billion Chinese living on the mainland. So on April 10, 1979, President Carter signed the Taiwan Relations Act, and laid the foundation for a relationship that was destined to grow.

Mr. Speaker, one of the most important facets of the Taiwan Relations Act was the establishment and creation of the Coordination Council for North American Affairs or CCNAA. The CCNAA is the vehicle of interaction between the United States of America and the Republic of China on Taiwan. Representative Ding and his staff have done an excellent job in promoting better understanding and a closer relationship between our two peoples.

□ 1150

INTRODUCTION OF RESOLUTION EXPRESSING SENSE OF CONGRESS THAT BOSNIAN MASSACRE IS GENOCIDE

(Mr. GILCHREST asked and was given permission to address the House for 1 minute and to revive and extend his remarks.)

Mr. GILCHREST. Mr. Speaker, at the dedication of the Holocaust Museum, the purpose of that dark monument was summed up in two words: never again. That museum was supposed to be the concrete symbol of our resolve to never repeat the mistakes of the 1930's and the 1940's when humanity stood by and watched a genocidal slaughter.

"Regional conflict" is no longer an adequate term to describe the situation in Bosnia. The concept of war implies a clash of armed factions, where civilian casualties are collateral. In Bosnia, civilians are the target of military action, and only one side is adequately armed. The sterilized terms which we have used to describe the Bosnian bloodbath have made it far too easy for us to respond to Bosnia as if it were an academic problem.

But there is nothing academic about a shattered little girl in Gorazde whose house was targeted by Serbian artillery. And that little girl will never know or care whether her death was the result of U.N. inaction, NATO inaction, or U.S. inaction—the end result is the same, and all bystanders are complicit.

I will soon be introducing a resolution expressing the sense of Congress that the Bosnian massacre is genocide as defined by international treaty, and should be treated as such. The result of this is symbolic, but it is a powerful symbol. There is no longer any justification for inaction—deliberation is costing lives. We no longer have any reason to believe that Serbian forces will stop while Moslem live in eastern Bosnia. In charting a course of action for the Balkans, the moral guide for U.S. Foreign Policy can best be described by Ronald Reagan's words: "if not now, when? if not us, who?"

DO NOT DELAY THE ANTICRIME BILL

(Mr. TUCKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TUCKER. Mr. Speaker, I rise today in strong support of H.R. 4092.

Mr. Speaker, this is not a crime bill. It is an anticrime bill.

Our Republican counterparts would have us believe that this needs to be stalled, and it needs to be looked at again and reviewed, but, Mr. Speaker, the only crime would be if we delay 1 more minute.

Every survey from the east coast to the west coast is unanimous in its indictment of the fact that crime is the No. 1 problem in this country. The people of this country want this Congress right now to do something about it.

If not now, then when? And if not this body, then who?

We must do this today. We must pass this crime bill that is not only tough in its penalties and in its expansion of increased penalties, but is smart. It uses prevention money and education and substance abuse money so we can get to the root causes of crime.

Mr. Speaker, this crime bill, anticrime bill, is not only punishment tough but prevention smart, and the only prevention that we need to avoid today is preventing this bill to pass.

BOSNIAN MISTAKES

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, President Clinton has announced that he supports U.N. Secretary General Boutrous Boutrous-Ghali's call for expanding the scope of NATO airstrikes in Bosnia.

Throughout this tragic crisis in Bosnia, American policy has been made by leaders in the United Nations and NATO. There is no clear voice of American leadership, and this vacuum is putting American servicemen and women at risk.

Mr. Speaker, the American people deserve to know why. What vital American interests are at risk in Bosnia and how will airstrikes or other military actions help us to protect them.

How do expanded airstrikes fit in to a coordinated plan? What is that plan? We don't need more of President Clinton's patchwork Bosnia policy dictated by international organizations and emotional news stories.

American military personnel are at risk in Bosnia. The American people deserve to know what our goals are. Gradual escalation is not a strategy, it is a recipe for chaos and disaster.

Mr. Speaker, we must stop the drift in American foreign policy before it is too late.

H.R. 4092: A GOOD ANTICRIME, PROCOMMUNITY BILL

(Mr. FARR of California asked and was given permission to address the House for 1 minute.)

Mr. FARR of California. Mr. Speaker, I rise today to talk about the crime bill we are going to vote on this afternoon.

This crime bill is not just a tough bill on crime. It is not just a bill that creates more prisons. It is not just a bill that creates more death penalties. It is not just additional criminal punishment. This bill is a good anticrime, procommunity bill.

It needs to be pointed out that there is a youth initiative in this legislation to allow for elementary children and high school children to have afterschool programs. There are new funds in this bill for cities and counties and States to develop an anticrime program on the street level.

There is more interaction in this bill for police on the streets to work cooperatively with their communities so that we have a smart cop on the beat.

Hopefully this bill would incorporate a ban on assault rifles. This is not in the legislation today, but when the House brings it up, I hope they will follow the lead of the California legislature and other States that have taken a tough stand to ban assault rifles.

I ask this body to support the crime bill today and to support the ban on assault rifles when it appears in a few weeks.

SUPPORT THE A TO Z DISCHARGE PETITION NEXT THURSDAY

(Mr. ZELIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZELIFF. Mr. Speaker, this morning's Congress Daily quotes sources close to the House leadership as saying:

> If people who support the A to Z spending cut plan have interest in a budget line item, they must realize that the programs they support are vulnerable if A to Z passes.

These unnamed sources have hit the nail on the head, Mr. Speaker. The key question is, Will spending policy decisions be made by the entrenched House leadership, or will spending policy decisions be made by a majority of the elected membership? That question is what A to Z is all about.

Will spending decisions continue to be made in retaliation for voting your conscience, or will Members have a chance to make policy decisions based on the merits of the issue?

Will we continue to be faced with take-it-or-leave-it spending packages that are loaded with pork, or will spending decisions be based on the merits of each lien item?

Will this continue to be an oligarchy, or will we return to the representative democracy, that our Founding Fathers intended?

Support the A to Z discharge petition next Thursday, on April 28, and end business as usual. Let the people's voice be heard.

TAXPAYERS IN TAX COURT MUST PROVE THEIR INNOCENCE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Chris and Pat Rowenhorst: They own a pawn shop, they owe the IRS $70,000. They had monthly payments, never missed a payment.

The IRS showed up one day, and two agents said, "I want it all right now." The Rowenhorsts cited their rights, and out of frustration said, "What do you want me to do, kill myself so you can collect the insurance to pay these taxes?" The next thing he knew he was jailed because they said he threatened Federal agents.

Thank God, he had a surveillance camera that proved he did not threaten those agents.

What is going on, Congress? This is out of control. American taxpayers are at times treated like dogs. Because Jeffrey Dahmer is innocent when he goes to court, a mass murderer, but a taxpayer in a tax court is guilty and has to prove their innocence.

Shame, Congress. It is time to change that. Discharge petition No. 12, let us bring it to the floor and have a people's vote.

ELIMINATION OF CHILD DISABILITY FRAUD

(Mr. DICKEY asked and was given permission to address the House for 1 minute.)

Mr. DICKEY. Mr. Speaker, today legislation has been introduced to eliminate fraud in the child disability portion of the supplemental security income program. A 1990 Supreme Court decision so broadened the definition of disability as it relates to SSI that it is easy for children who merely act disabled to receive SSI payments.

In my home State of Arkansas, many allegations have arisen that some parents encourage their otherwise healthy children to act mentally disabled in classroom settings to qualify for these SSI cash payments.

□ 1200

Straight cash payments are a strong incentive to coach a child to act disabled. Benefits average $400 per month per child, and parents are not required to use the money to cover the medical costs of the child. Think what this is doing for the child and the children, and you can readily see part of what lasting harm this is inflicting.

This bill, if adopted, would replace cash benefits with medical vouchers for children under 18 who qualify for SSI which parents can use to cover the costs of medical and therapeutic aid for their child, allow children to continue receiving the care they need, but discourage parents from taking advantage of the system.

H.R. 4211, H.R. 4212 STIMULATING THE BIOTECHNOLOGY INDUSTRY

(Ms. ESHOO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ESHOO. Mr. Speaker, I rise with my colleague, Mr. BLUTE, as a proud sponsor of H.R. 4211 and H.R. 4212, legislation which will stimulate the biotechnology industry.

In an era of dramatic technological innovations, nowhere have advances been greater than in the medical sciences which are increasingly technologically driven.

Biotech is now at the forefront of the high tech industry—developing preventions, treatments and cures for diseases which have eluded us.

Just last week a company in my district, the Geron Corp., announced the discovery of an enzyme that will fight cancer.

Biotech requires an entrepreneurial driven economic climate and while we are currently the world leader in biotechnology, Federal policies may curtail future biotech advances.

Already, investment has fallen off as investors have grown increasingly skittish about the effect of Federal policies on the industry.

Without access to capital the industry will not remain competitive and may not even survive.

Our two bills will correct this by providing for better coordination of research funds between Federal agencies and providing tax incentives for research.

Mr. Speaker, I urge my colleagues to support this legislation. In so doing, we will help advance a critical industry for our Nation. We will help expand jobs, save health care dollars, and save lives.

Mr. Speaker, I urge support of the two pieces of legislation that we proudly sponsor today.

STIMULATING THE BIOTECHNICAL INDUSTRY

(Mr. BLUTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUTE. Mr. Speaker, in 1980 the biotechnology industry was basically nonexistent. In the year 2000 revenues could potentially reach $60 billion. Unfortunately, this growth is in jeopardy, certain health care reform proposals and other Government regulations looming on the horizon could doom expected growth in the industry.

It is with that in mind that I, along with our distinguished colleague from California [Ms. ESHOO] introduced two bills aimed at stimulating biotechnology research and development. H.R. 4211, the Biotechnology Competitiveness Act of 1994, would instruct the Office of Science and Technology Policy to strongly coordinate Federal assistance to biotech research. And H.R. 4212, the Biotechnology Stimulus Act of 1994, would provide important tax incentives to biotech companies and the people who invest in them.

By passing our legislation Congress would take a crucial step towards encouraging the growth of one of our most promising industries.

Many biotechnology companies are based in my district in the city of Worcester, MA, and the surrounding area.

The amazing technology these companies are developing promises to reduce health care costs with innovative therapies that could replace costly surgeries.

We urge your support for these two bills and stimulate American biotechnology.

HAPPY 89TH BIRTHDAY TO EDMUND G. "PAT" BROWN

(Ms. SCHENK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SCHENK. Mr. Speaker, today I wish to recognize the 89th birthday of Edmund G. "Pat" Brown, one of the greatest Governors in California's history.

Pat Brown is a national treasure. He devoted himself to public service with gusto and vision. He built California's great water system, freeway network, and most importantly, its unmatched system of public higher education.

Beginning in 1943 he served as district attorney, as California Attorney General, and eventually, in 1958, was elected Governor and served for 8 years.

But Pat Brown's appetite for public service did not end then. Since that time, he has been named to four national commissions by two Presidents and founded the Edmund G. "Pat" Brown Institute of Public Affairs to attack the societal challenge of today and tomorrow.

At 89, he still looks to the future. He is married to the wonderful Bernice Lane. They have 4 children and 10 grandchildren.

My husband Hugh and I feel blessed to know Pat and Bernice and wish Pat a very happy birthday. Congratulations on 89 wonderful years.

AGAINST RACIAL QUOTAS FOR THE DEATH PENALTY

(Mr. CANADY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CANADY. Mr. Speaker, earlier this week the House made substantial progress in fashioning a crime bill that will help strengthen law enforcement in America. Unfortunately, yesterday the House took a big step in the wrong direction by defeating the McCollum amendment, an amendment that would have removed the provisions of the bill which would effectively establish a racial quota system for imposition of the death penalty. These pernicious provisions could make considerations of race central to every death penalty case and would turn powers exercised by juries over to social scientists and statisticians. This is contrary to the fundamental principle of the American system of justice that an individual should be tried and sentenced on the basis of the facts of the particular case and without regard to race.

The House will have an opportunity to correct yesterday's mistake by adopting the motion to recommit with instructions, which will be made later today. Anyone, any Member of this House who support a meaningful and effective death penalty must support the motion to recommit.

H.R. 3875, PRIVATE PROPERTY OWNERS BILL OF RIGHTS

(Mr. TAUZIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUZIN. Mr. Speaker, once again, this time on March 24, 1994, in a case entitled Bowles versus the United States of America, the Federal courts have decided that denial of a wetlands permit to an American landowner is a taking under the fifth amendment clause of the U.S. Constitution.

In the case, Mr. Bowles was not a big landowner. He simply owned a lot in a subdivision in Texas. The Corps of Engineers said he could not get a permit to build his house in that subdivision. He went to court. The court decided that he was entitled to the value of his property, attorneys fees, court costs, and even compounded interest, they were so angry at the fact that the Government had taken this man's property and refused for so long to compensate him.

The court also said it was time for Congress to do something about this problem. It called upon the political body in this country, not the judicial body, to make the decision.

I urge you to join us as cosponsors of House bill 3875, the Private Property Owners Bill of Rights for Americans, to settle this issue, to make it clear that a taking is, under the Constitution, compensable when the Government denies you the right to use your own property.

WE MAY NOT BE ABLE TO VOTE FOR THE CRIME BILL TODAY

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, Members of the House, the 11th hour has come for consideration of the crime bill, and I, who am the author of some of the provisions in the crime bill, and one who has always been tough on criminals, as I view it, and on repeat offenders and violent offenders especially, am constrained to vote against the very crime bill which I helped to craft in some of its important provisions.

Why? Because there are important flaws that are built into the crime bill that may make it absolutely useless. No. 1, it has as one of its major provisions gigantic additional spending programs for programs that, under the Great Society Program, failed and failed miserably and now are being reintroduced as part of a crime bill.

We want tough measures, not money measures just for the purpose of prevention, rather for being tough on criminals.

Second, it is possible that the Federal Government, through this crime bill, will be mandating local authorities to spend some of their money when we do not provide it for them, unfunded mandates.

We may not be able to support this crime bill.

CRIME BILL

(Mr. BISHOP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BISHOP. Mr. Speaker, I want to extend a word of bereavement to the family of Army Capt. Patrick McKenna of Columbus, GA. Captain McKenna was killed last Thursday in the friendly fire accident in the Iraqi no-fly zone. He will be buried this weekend at Fort Benning with full honors. His friends and family are in our prayers and thoughts as he goes to rest.

In order to restore sanity and security to the streets of America, I strongly support a tough and fair anticrime package that offers a balance between punishment and prevention.

Congress must provide the people with the necessary weapons to combat drug dealers, gang leaders, robbers, rapists and murderers.

Community-based policing, reinforced with more law officers and more resources for drug treatment, buttresses our effort to win this war.

Also, deeply rooted in any crime prevention initiative are measures that promote family values, education and job training.

I strongly support a crime package that throws three-time convicted violent felons in jail for life and adds more Federal crimes to the death penalty list.

We must protect ourselves, our families, and our neighborhoods by locking up—and when appropriate, executing—those who repeatedly demonstrate a disregard for the sanctity of human life.

Furthermore, we need to craft laws that assure fair and impartial sentencing.

A successful crime package is one designed to displace fear with security, sanity, and confidence, through a balanced approach that provides the strength and fairness needed to win the war on crime.

Pass this crime bill. Pass this crime bill. Pass this crime bill.

☐ 1210

NAME GAME

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, yesterday, the majority whip took several Members' names in vain to characterize the Republican Party. "We have an ARMEY of TALENT here on our side of the aisle, though I wouldn't want to blow our own HORN. You can run but you can't HYDE from the truth, Mr. BONIOR."

And I am not DUNN yet.

Let us be FRANK, Mr. Speaker. The Democrats can rule, but they CANTWELL. They may be GREEN with envy, but they won't KAPTUR the votes of the American people.

The fact is, the PAYNE the Democrats inflict on small businesses is too big a PRICE for the middle class. The American people remain UNSOELD on the Democrats' big government agenda.

And the way the majority SLAUGHTERS the best alternatives of Republicans in the Rules Committee is enough to BYRNE many bridges.

Don't SWETT, Mr. BONIOR, it's almost OLVER. It is not WISE to fool the American taxpayer, Mr. Speaker. The gap between what the taxpayer wants and what the Democrats will give them continues to WYDEN. And that is why we will WYNN in November.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). The Chair wishes to remind Members that they are to direct their remarks to the Chair.

WITHDRAWAL OF U.N. TROOPS URGED

(Ms. SLAUGHTER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, this morning an inaptly named "safe haven" of Gorazde teeters on annihilation. Throughout this whole disaster we have watched as U. N. troops have been totally unable to keep the peace. A very drastic example of this was one incident where the United Nations was taking the Vice President of Bosnia to the airport. Serbian troops came up; opened the back door of the car, being driven by the United Nations, and shot him dead.

U.N. troops have been unable to stop the rapes of thousands of Bosnian women. They have been unable to enforce any cease-fire. They have been unable to deliver on protecting any badly needed convoy that is carrying medicine and food to people in drastic need.

Perhaps, Mr. Speaker, it is time that the United Nations at least consider the possibility of withdrawing the U.N. troops. They have been a considerable bone of contention between our European allies and ourselves because we do not have troops on the ground. Possible retaliation against those troops has kept us from really doing anything effective.

Mr. Speaker, I would suggest that we do remove those troops, so that the United States and NATO-Forces are able to exercise the pinpoint bombing ability for which we have praised ourselves and paid a fortune. Once and for all, stop those guns lest we are watching the beginning of world war III.

WE NEED PROCUREMENT REFORM, NOT BUSINESS AS USUAL

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, the White House and the Government Operations Committee have been poised for several months to enact real and meaningful reform in the way the Federal Government buys goods and services. American taxpayers and industry were poised to enjoy the benefits that this reform would provide.

Unfortunately, earlier this morning the House Armed Services Committee chose politics over reform. The HASC chose to fight an inside-the-beltway battle instead of enacting significant procurement reform. They decided to risk reform in order to try to grab additional jurisdiction for themselves.

To my colleagues who believe that the current procurement system costs too much, has too much redtape, and ill-serves the American taxpayer, I would urge you to communicate to the members of the HASC that we need reform—not business as usual politics.

Chairman CONYERS and I were prepared to let the Parliamentarian rule on the jurisdictional issues involved in the reform bill. For whatever reason, the HASC is holding procurement reform hostage until Government Operations cedes to others its longstanding jurisdiction for Governmentwide procurement.

I am disappointed over today's events and disheartened that the HASC has put procurement reform in danger. I urge my colleagues at the HASC to reconsider their position, and to join with us in bringing a strong, substantive reform package to the floor as soon as possible.

ARMED SERVICES COMMITTEE ACTIONS ON PROCUREMENT REFORM

(Mr. CONYERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONYERS. Mr. Speaker, over a year ago, the President and Vice President asked Congress to undertake comprehensive reform of how the Government buys goods and services. They know what we know: that in government procurement there is too much paperwork, too little openness, and inadequate fairness for small businesses. Soon after, the President announced his support for provisions that the Government Operations Committee has been attempting to enact into law for years to improve and simplify the process.

Last July 28, our committee reported out H.R. 2238 to accomplish this task. Because, unlike previous bills, that legislation on a limited basis mentioned statutes affecting DOD on two pages out of over 60, the Committee on Armed Services had a referral limited for that purpose. The bill has been sitting there since.

It is with great disappointment that I learned today, after this long wait, and in the eleventh hour, that the Armed Services Committee will not report out this legislation unless our committee will make a concession to equal number of conferees for the purposes of a conference. This is the case even though, I am sure, that the parliamentarian would not acknowledge their rights to such a demand under the House rules or relevant precedents such as the Competition in Contracting Act of 1984.

The American people did not send us here to engage in these petty disputes or to hold hostage major reform legislation to jurisdictional raids. I learn this today with great disappointment, but with the hopes that cooler and rational heads will prevail so that we can expeditiously get on with the business that the American people sent us here to do and in accordance with the rules of this body.

THE CHALLENGE OF THE MOUNTING SOCIAL SECURITY INDEBTEDNESS

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, last week the Social Security trustees issued a report showing that our long-term deficit in the Social Security Program will increase from the 1.46 percent previously estimated to over 2.13 percent of taxable payroll over the 75-year period. This is a steep increase in the long-term deficit, and we have got to meet that challenge.

Last year I introduced a bill that would attempt to correct the deficit based on the 1.46 amount. The bill I have introduced today is H.R. 4275. It would attempt to gradually correct the new, larger deficit starting in 2000. It would do it with three or four major reforms which I am going to discuss with the House later on this afternoon.

Mr. Speaker, I hope that Members will start familiarizing themselves with the bill, H.R. 4275, which is a reform of our Social Security Program intended primarily to help our young people.

IN MEMORY OF PATRICK M. MCKENNA

(Mr. COLLINS of Georgia asked and was given permission to address the House for 1 minute.)

Mr. COLLINS of Georgia. Mr. Speaker, I rise today to pay tribute to an American hero, Capt. Patrick M. McKenna, U.S. Army.

Mr. Speaker, the most important duty of our Nation's Government is protecting its citizens from aggressors in order to secure the liberties we all enjoy. However, we call on a select few to carry out this most important task. We ask the men and women who guard our Nation to stand up in liberty's hour of peril and risk their lives so that we may continue to live in "one nation under God, indivisible, with liberty with justice for all."

Mr. Speaker, when the call went out, Patrick McKenna stepped to the front of the line. He left his home in Columbus, GA, and went to faraway lands to stand guard for you and me. He went knowing that he may never return home to those he loved. And last week, Mr. Speaker, Patrick McKenna paid the price that liberty sometimes demands—he gave his life, for you, for me, for his family and for every other American who loves this great land in which we live.

Mr. Speaker, on April 14, Patrick McKenna was killed when the Blackhawk helicopter he was piloting was shot down in northern Iraq. Although we still do not know exactly why this tragedy occurred, let me be very clear in saying that Patrick McKenna's death was not in vain. He is as much a hero as the brave men and women who died on the beaches of Normandy, in the jungles of Vietnam, in Korea, in the Middle East, and the thousands of other brave soldiers who died protecting you and me.

So, Mr. Speaker, the next time you see the American flag waving atop this Capitol building, thank soldiers like Patrick McKenna. Mr. Speaker, the next time you drive down Constitution Avenue, past our National Archives building, knowing that our Constitution remains proudly displayed inside, thank soldiers like Patrick McKenna. And Mr. Speaker, as you watch your grandchildren grow up in a world that remains unstable, you can rest assured they will live in an America which will continue to be "the land of the free, and the home of the brave"—because of heroes like Patrick McKenna.

The SPEAKER pro tempore (Mr. MCNULTY). The Chair would ask the Members and guests who are present to rise in a moment of silence in the memory of Patrick McKenna. Let us recognize him and all those who lost their lives in that tragic incident.

(A moment of silence was observed.)

ANNOUNCEMENT OF PROCEDURES AND DEADLINE FOR PRINTING OF AMENDMENT ON H.R. 3221, IRAQ CLAIMS ACT OF 1993

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, I rise today to notify Members regarding the Rules Committee's plans with respect to H.R. 3221, the Iraq Claims Act of 1993. The Rules Committee is meeting today, Thursday, April 21, to take testimony on the bill. The bill could come to the floor the week of April 25.

The Foreign Affairs Committee has requested a rule which would require that amendments be preprinted in the CONGRESSIONAL RECORD. Amendments to H.R. 3221 should be titled "Submitted for Printing Under Clause 6 of Rule XXIII (23)" and submitted at the Speaker's table. Amendments do not need to be submitted to the Rules Committee.

PASS TOUGH SMART CRIME BILL TODAY

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, Americans want Congress to pass the crime bill now; in fact, today. They do not want excuses, and they do not want partisan politics to get in the way. Ninety-three percent of all Americans believe that addressing crime and violence should be an absolute priority for this Congress, more support than on any other issue. This crime bill combines the best of what works between better protection, stronger punishment, and early prevention.

But House Republicans are sending around letters trying to block the crime bill. Let me quote: "If we Republicans work together, we can defeat this bill and craft a real crime bill that will give the crime issue back to Republicans for the upcoming elections."

Mr. Speaker, crime is not about Democrats or Republicans, and it is not about elections. This crime bill is about putting real criminals behind bars and keeping them there, and about preventing crime in every corner of our Nation—rural, urban, and suburban. It is about giving our children a future. And it is about getting drugs and guns off our streets and out of the hands of criminals.

Mr. Speaker, this bill is an important step. Let us join together, all of us, Democrats and Republicans, to pass this tough and smart crime bill today. The American people expect it of this Congress.

GENOCIDE IN BOSNIA—A DARK CHAPTER IN AMERICAN HISTORY

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, one day, when generations of American school children learn about the brutality of man against man, they will recite the concentration camps of Nazi Germany, they will learn about the killing fields of Cambodia, and they will come to memorize the towns and the cities of Bosnia.

To them, they will want to know where a generation of American leadership was when Serbian soldiers entered the towns of Bosnia and killed family after family; when the streets ran with blood; when hospitals and schools became killing grounds. They will want to know why the U.S. Navy was blockading the shores of Bosnia so that arms could not enter, so innocent people could defend themselves.

To them, the excuses that there were legal difficulties and difficult precedents in violating the embargo to get help to these desperate people will ring hollow. All of us will want to be able to explain where we were.

It is that which should be on the minds of President Clinton and the leadership of this Congress as the suffering endures.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

The SPEAKER pro tempore. Pursuant to House Resolution 401 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4092.

□ 1226

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4092) to control and prevent crime, with Mr. TORRICELLI in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Wednesday, April 20, 1994, amendment No. 41 printed in part 2 of House Report 103–474, offered by the gentleman from California [Mr. MARTINEZ], had been disposed of.

It is now in order to consider amendment No. 45 printed in part 2 of House Report 103–474.

AMENDMENT OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Chairman, I offer an amendment that has been made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HUGHES: At the end, add the following:

TITLE .—CRACK PENALTY AMENDMENTS

SEC. . CRACK PENALTY AMENDMENTS.

(a) 50 GRAM TRAFFICKING PENALTY.—Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking clause (iii).

(b) 5 GRAM TRAFFICKING PENALTY.—Section 401(b)(1)(B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)) is amended by striking clause (iii).

(c) 50 GRAM PENALTY IMPORT PENALTY.—Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended by striking out subparagraph (C).

(d) 5 GRAM PENALTY IMPORT PENALTY.—Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended by striking out subparagraph (C).

(e) POSSESSION PENALTY.—Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended by striking the sentence that begins "Notwithstanding the preceding sentence".

(f) SENTENCING GUIDELINES.—The United States Sentencing Commission shall promulgate such amendments to the Sentencing Guidelines as are necessary to conform those Guidelines to the amendments made by this section. Such amendments may be promulgated in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that section had not expired.

MODIFICATION TO AMENDMENT OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Chairman, I ask unanimous consent that my amendment made in order under the rule be modified in the form that is at the desk.

The text of the amendment, as modified, is as follows:

Amendment as modified, offered by Mr. HUGHES: At the end, add the following:

TITLE .—COCAINE PENALTY STUDY

SEC. . COCAINE PENALTY STUDY.

Not later than December 31, 1994, the United States Sentencing Commission shall submit a report to the Congress on issues relating to sentences applicable to offenses involving the possession or distribution of all forms of cocaine. The report shall address the different penalty levels which apply to different forms of cocaine, and include any recommendations the Commission may have for retention or modification of these differences in penalties.

Mr. HUGHES (during the reading). Mr. Chairman, I ask unanimous consent that the amendment, as modified, be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. Is there objection to the original request of the gentleman from New Jersey?

Mr. MCCOLLUM. Mr. Chairman, reserving the right to object, I would like to inquire of the gentleman from New Jersey the nature of his amendment, what he wishes to substitute?

Mr. HUGHES. Mr. Chairman, if the gentleman will yield, it is exactly as I provided to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, continuing my reservation, I would like to inquire of the gentleman from New Jersey, this substitute amendment, as I understand it, will ask the Sentencing Commission to come back and give us their views on crack cocaine and the levels of regular powder cocaine and what the penalties maybe should be or should not be. It is a request for their views. Is that a correct understanding?

Mr. HUGHES. The gentleman is absolutely correct.

Mr. MCCOLLUM. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is their objection to the original request of the gentleman from New Jersey that the amendment be modified?

There was no objection.

The CHAIRMAN. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Does the gentleman from Florida have any reservations?

Mr. MCCOLLUM. I have no reservations, Mr. Chairman, and no desire to be recognized.

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] is recognized for 5 minutes.

Mr. HUGHES. Mr. Chairman, I yield myself 2½ minutes.

Mr. Chairman, the substitute amendment I am offering will not change the crack cocaine penalties. The substitute will require the U.S. Sentencing Commission to provide a comprehensive report by the end of this year on all cocaine penalties. Congress officially will have before it by the end of this year complete information on cocaine drug penalties.

I believe the information is critical, because I am persuaded that there is sufficient evidence and information to change the penalty structure. This information was the basis for the original amendment, I might say.

□ 1230

I wanted to take a few minutes to explain why I think this study is critical and why the original amendment to equalize mandatory minimum penalties for crack cocaine and power cocaine is justified.

In 1986, during the fervor of the war on drugs and with a lack of substantive information about a new type of cocaine substance, crack, Congress enacted penalties for crack cocaine that have proven to be unwarranted, unjust and do not achieve the goal of removing big-time dealers. Powder and crack cocaine were treated as two entirely different substances.

The threshold for the powder cocaine 5-year mandatory minimum was set at 500 grams. The threshold for the crack cocaine mandatory minimum was set at 5 grams, a weight equivalent to 2 pennies. In addition, simple possession of 5 grams of crack cocaine, but not powder cocaine, can trigger the mandatory minimum.

The information is before us now that there is no difference pharmacologically between crack cocaine and powder cocaine. In addition to that, crack cocaine is no more addictive than powder cocaine.

The bottom line is that poor people are the ones that use crack cocaine and mostly minorities. It is interesting that about 95 percent of those that are charged with crack cocaine violations are black and other minorities.

Compared to coke, powder cocaine is used by the more affluent in our society. I think most people understand that it is a gross inequity and we need to rectify it.

I think even my colleagues on the Republican side understand that there is a gross disparity, and we need to do something about it. The author of the amendment, crack cocaine amendment on the floor of the House, the gentleman from Florida [Mr. SHAW] acknowledges that in fact we do need to do something about it, because it is a gross disparity in the law. And it is doing great injustice throughout the country.

So I would urge my colleagues to support this particular amendment.

Mr. Chairman, I yield 30 seconds to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding time to me.

While he and I may have a difference of opinion about what exactly should be done, I agree there is a disparity. I think the amendment in its present form, to give the Sentencing Commission the opportunity to give us advice, is good.

My own judgment would be that we ought to be raising the penalties for the powder cocaine rather than lowering them for crack. But we are not deciding that today. We are letting the Sentencing Commission do it.

I support the gentleman's amendment in this form.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Texas [Mr. BROOKS], chairman of the full Committee on the Judiciary.

Mr. BROOKS. Mr. Chairman, I rise in full support of the revised amendment by the gentleman from New Jersey [Mr. HUGHES], a distinguished former prosecutor and a very thoughtful subcommittee Chair on the Judiciary Committee.

First, let me make clear that this amendment is not about condoning the possession or use of any illegal drug. Neither Mr. HUGHES nor I would support such an amendment. This amendment simply asks for a study of the existing sentencing structure for cocaine violations.

Of all the existing mandatory minimums in Federal law today, there is none that has drawn more attention by judges than that which is applied to cocaine. For example, the simple possession of 5 grams of crack cocaine carries a mandatory sentence of 5 years in prison. At the same time, there is no mandatory minimum sentence for simple possession of powder cocaine—the identical chemical substance constituting crack cocaine.

The amendment offered by Mr. HUGHES would provide us with the necessary information to understand whether there is a disproportionality in these sentences or a disparity in their application that was not intended by Congress when it developed the sentencing scheme for cocaine. I urge my colleagues to vote in support of the Hughes amendment.

Mr. HUGHES. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. TUCKER].

Mr. TUCKER. Mr. Chairman, I thank the gentleman from New Jersey for yielding time to me.

I would agree with the gentleman's assessment and applaud him for his efforts in asking the U.S. Commission on Sentencing to look at this. I believe that the information will come back to corroborate what most of us already know, and that is that there is a gross disparity between the sentencing between powder cocaine and crack cocaine.

Once again, I applaud the efforts of the gentleman from New Jersey [Mr. HUGHES] and agree and associate myself with the remarks of the gentleman from Texas [Mr. BROOKS].

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS], a valued member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Chairman, I rise in support of the Hughes amendment to require the U.S. Sentencing Commission to conduct a study on the disparity in sentencing for crack and powder cocaine.

People convicted of crack cocaine offenses are punished 100 times more severely than those convicted of powder cocaine offenses. And, to no one's surprise—91 percent of those sentenced for crack are African-American. Yet the majority of people who use crack every day are white—64.4 percent.

Simple possession of over 5 grams of crack is a felony and mandates an automatic sentence of 5 years for a first-time offender. Possession of 5 grams of powder is a misdemeanor, and requires only 10 months probation. This is absolutely outrageous.

The impact of this on the black community is enormous.

We already know that 23 percent of young black men are caught up in the criminal justice system: on probation, on parole, or in prison. There are more young black men in prison today than there are in college.

DEATH PENALTY: NONHOMICIDAL DRUG KINGPINS

One of the many new death penalties that we have created in this crime bill is for nonhomicidal drug kingpins. As a result, it will take 300 kilograms of powder cocaine to trigger the death penalty; but only 3 kilograms of crack. Therefore, we have mandated a racially discriminatory death penalty. The Hughes amendment will permit us to get a thorough evaluation of this disparity—and then to take action accordingly.

Support the Hughes amendment.

Mr. HUGHES. Mr. Chairman, I ask unanimous consent to claim the additional 5 minutes that was not claimed in opposition to the amendment, although I am not in opposition to it.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. Mr. Chairman, I thank the gentleman for yielding time to me.

I will be very brief. We have danced around it, but we have not said it. I just want to say it.

The way the law is written now, the mandatory sentence attaches to the users of crack cocaine; the possibilities of probation attached to the users of powder cocaine. The result of that is that our prisons are full of black males who have used crack cocaine, and the more affluent white boys in the community who have used the powder cocaine are on probation.

Let us just say it. My dear friends have been a little hesitant to put it out like that, but that is the truth.

I wish that we could pass the 2 and 2 of the gentleman from New Jersey [Mr. HUGHES] or even make it 10 and 10, as I think some might like to make it. But to have this unequal and to have it unequal during this study still bothers me.

But I thank the gentleman from New Jersey [Mr. HUGHES] for his amendment. I support it.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, I thank my colleagues on both sides of the aisle for making time available.

Let me refer Members to the discussion of the Attorney General and comments that the law on racial disparity in terms of these two different offenses is racist and has asked the Supreme Court who now is in the midst of a comprehensive review of the evidence around that claim.

Let me point out that Dr. Lee Brown, the Director of the National Office on Drug Policy, has said that he believes the crack cocaine law has a racially discriminatory impact because crack, used predominantly by African-Americans, has a 5-year mandatory minimum for only 5 grams, while the same amount of cocaine nets only probation; 92 percent of the Federal crack defendants are African-American and only 3 percent are white.

Is it clear? Could there be any doubt? I think on both sides of the aisle we have conceded there is racial disparity that begs and pleads, in a system that depends on the support of the criminal justice law to be fair, that we make this correction. It really cannot be done anywhere else. I think that the study that the gentleman from New Jersey seeks is going to make it abundantly persuasive to all of us that we have got to take action on this very important disparity.

□ 1240

Mr. HUGHES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is clear, we need some additional scientific evidence. There is a gross disparity. The sentencing commission can provide us with the data to make sound policy. That is what this is all about. I urge my colleagues to support the amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. No Member having arisen in opposition to claim the time provided under the rule in opposition, all time has expired.

The question is on the amendment, as modified, offered by the gentleman from New Jersey [Mr. HUGHES].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HUGHES. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 424, noes 0, not voting 13, as follows:

[Roll No. 141]

AYES—424

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Faleomavaega (AS)
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade

McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Oberstar
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roberts
Roemer
Rogers
Rohrabacher
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—13

Andrews (NJ)
Camp
Dickey
Fish
Gallo
Grandy
Johnston
Lewis (CA)
Obey
Pelosi
Ridge
Washington
Whitten

□ 1302

So the amendment, as modified, was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. CAMP. Mr. Speaker, I was unavoidably detained during the recorded vote on the Hughes Amendment to H.R. 4092.

I would like it stated in the RECORD that if I were able I would have voted in support of the Hughes amendment.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. COYNE) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

□ 1304

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

The Committee resumed its sitting.

The CHAIRMAN. It is now in order to consider amendment No. 46 printed in part 2 of House Report No. 103-474.

AMENDMENT OFFERED BY MR. FRANKS OF NEW JERSEY

Mr. FRANKS of New Jersey. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FRANKS of New Jersey: Add at the end the following new title:

TITLE .—INMATE REHABILITATION

SEC. . EDUCATION REQUIREMENT FOR EARLY RELEASE.

Section 3624(b) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "behavior.—";

(2) by striking "Such credit toward service of sentence vests at the time that it is received. Credit that has vested may not later be withdrawn, and credit that has not been earned may not later be granted." and inserting "Credit that has not been earned may not later be granted."; and

(3) by adding at the end the following:

"(2) Credit toward a prisoner's service of sentence shall not be vested unless the prisoner has earned a high school diploma or an equivalent degree.

"(3) The Attorney General shall ensure that the Bureau of Prisons has in effect an optional General Educational Development program for inmates who have not earned a high school diploma or its equivalent.".

MODIFICATION OF AMENDMENT OFFERED BY MR. FRANKS OF NEW JERSEY

Mr. FRANKS of New Jersey. Mr. Chairman, I ask unanimous consent to modify my amendment.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Add at the end the following:

"(4) Exemptions to the General Educational Development requirement may be made as deemed necessary by the Director of the Federal Bureau of Prisons.".

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. HUGHES. Mr. Chairman, reserving the right to object, I wonder if the gentleman from New Jersey [Mr. FRANKS] will respond to me.

As I understand it, the gentleman from New Jersey would modify the amendment that he has noticed by the following language, adding at the end, "Exemptions to the general educational development requirement may be made as deemed necessary by the Director of the Federal Bureau of Prisons." Is that what the gentleman added?

Mr. FRANKS of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. Further reserving the right to object, I yield to the gentleman from New Jersey.

Mr. FRANKS of New Jersey. Mr. Chairman, that is correct. Yes, sir.

Mr. HUGHES. Mr. Chairman, further reserving the right to object, I wonder if the gentleman can respond to me: If the Director of the Federal Bureau of Prisons believes that the present policy and present exemptions are the ones that serve the interests of justice, can the Federal Director of the Bureau of Prisons keep it as it is, the regulations as they are?

Mr. FRANKS of New Jersey. If the gentleman will yield further, I have not spoken with the Director of the Federal Bureau of Prisons, I say to the gentleman from New Jersey [Mr. HUGHES]. It is our intention to try to create a new policy here, and I do not know.

Mr. HUGHES. Further reserving the right to object, what I am asking is: Is it the gentleman's intent that the Director of the Federal Bureau of Prisons use her exclusive judgment on the requirement of educational opportunities and requirements within the prison system, total discretion?

Mr. FRANKS of New Jersey. If the gentleman will yield further, it is my intent to give maximum discretion to the Director of the Bureau of Prisons. That is correct.

Mr. HUGHES. Mr. Chairman, I thank the gentleman. I withdraw my reservation of objection, and I rise in opposition to the gentleman's amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. The amendment is modified.

The text of the amendment, as modified is as follows:

Amendment, as modified, offered by Mr. FRANKS of New Jersey: Add at the end the following new title:

TITLE —INMATE REHABILITATION

SEC. . EDUCATION REQUIREMENT FOR EARLY RELEASE.

Section 3624(b) of title 18, United States Code, is amended—

(1) by inserting "(1)' after "behavior.—";

(2) by striking "Such credit toward service of sentence vests at the time that it is received. Credit that has vested may not later be withdrawn, and credit that has not been earned may not later be granted," and inserting "Credit that has not been earned may not later be granted,"; and

(3) by adding at the end the following:

"(2) Credit toward a prisoner's service of sentence shall not be vested unless the prisoner has earned a high school diploma or an equivalent degree.

(3) The Attorney General shall ensure that the Bureau of Prisons has in effect an optional General Educational Development program for inmates who have not earned a high school diploma or its equivalent.".

"(4) Exemptions to the General Educational Development requirement may be made as deemed necessary by the Director of the Federal Bureau of Prisons.".

The CHAIRMAN. Pursuant to the rule, the gentleman from New Jersey [Mr. FRANKS] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Is the gentleman from New Jersey [Mr. HUGHES] opposed to the amendment?

Mr. HUGHES. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] will be recognized for 5 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. FRANKS].

Mr. FRANKS of New Jersey. Mr. Chairman, I yield myself such time as I may consume.

I would like to thank Chairman BROOKS and subcommittee Chairman HUGHES for agreeing to adopt the unanimous-consent agreement.

Under current law, Federal inmates are eligible to receive 54 days of credit toward early release for good behavior. This practice is called good time.

Under the present system, all inmates who do not have a high school diploma are required to enroll in a GED Program, which is available at every Federal prison in the Nation. The problem is that after 120 days, these individuals may withdraw from the program.

My amendment would require Federal inmates to earn a General Educational Development [GED] certificate as a condition of receiving early release from prison.

Under my amendment, inmates could continue to receive credit for good behavior during each year of incarceration. The credit, however, would not vest until completion of a GED Program.

About 60 percent of Federal prisoners have a high school diploma. But that means over 32,000 inmates lack these basic educational skills. The Education Division at the Federal Bureau of Prisons has assured me that this amendment could be met with existing financial resources by rotating class schedules and more extensive use of inmate tutors.

Let us face it.

Given the highly competitive nature of our economy, individuals who do not possess basic educational skills find it increasingly difficult to earn an honest living.

Yet, under the current provisions of the Federal early release program, we continue to release these prisoners back into our communities before their full sentence is served.

It is wrong, and shortsighted to release prisoners without providing them the opportunity to change the lifestyle which brought them into Federal custody to begin with.

This amendment would provide the incentive for Federal inmates to rise above the criminal elements in society by empowering them with a high school education.

The unanimous-consent request just adopted came as a result of certain objections raised by members of the committee. Under the terms of the amendment now before us, the Director of the Bureau of Prisons can create exemptions for the learning disabled, illegal aliens who are incarcerated in the Federal system, as well as those who have a specific job offer upon release but who have not attained a GED.

Mr. Chairman, this amendment, as currently drafted, takes an important step in the right direction. Today, we can provide a strong incentive for our prison population to continue their education. That translates into fewer repeat offenders and safer communities for everyone.

Mr. Chairman, I reserve the balance of my time.

□ 1310

Mr. HUGHES. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. I thank the gentleman for yielding this time to me.

Mr. Chairman, I want to say that I have reconsidered my views on this amendment since the gentleman has amended his original language by unanimous consent. In its amended form, I believe I can now support it.

I applaud the apparent goal of the gentleman from New Jersey to insure that Federal prisoners do attain a high school education. We all agree on that. But I want to review the facts.

Since 1981, all Federal prisoners who do not have a high school diploma or its equivalent have been and continue to be required by the Bureau of Prisons to enroll in a literacy program for 120 days already. And if a prisoner has a documented disability precluding educational participation or progress, then a warden can waive the mandatory education requirement for that individual with no penalties. That is as it should be.

I think there is now room to consider all this in the amendment, we certainly will review it carefully during conference. The bureau's existing mandatory education system is an undisputed, proven success. In fiscal year 1993, 12,447 inmates were newly enrolled in the GED classes; 33,419 were enrolled in adult continuing education classes. I think this is useful. Now, we really do not want to create a system where white-collar criminals can accrue good time, and poor, uneducated white or minorities cannot. Is there any justification for forbidding any good-time credit for those who are model prisoners but who, because of a learning disability or a physical handicap, cannot earn a high school degree?

By the new language in the amendment, the gentleman appears to recognize the complexity of the problem.

Mr. HUGHES. Mr. Chairman, what time remains?

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] has 2 minutes remaining, and the gentleman from New Jersey [Mr. FRANKS] has 2 minutes remaining.

The gentleman from New Jersey [Mr. HUGHES] has the right to close.

Mr. FRANKS of New Jersey. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. MCCOLLUM], a distinguished member of the committee.

Mr. MCCOLLUM. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of this amendment, very strongly, and I urge my colleagues to vote for it. This is a very straightforward amendment that the gentleman from New Jersey [Mr. FRANKS] has offered, which says, in essence,that when you are a prisoner serving time in a prison, then you are going to have to get your high school diploma or the equivalent of it, the GED, before you are going to get your good time.

It is just as simple as that, before you can get out, even a day early, even if we go to every State in this country with truth-in-sentencing, you are still going to have to get a high school diploma or GED to get your good time. It is something that prisoners want to achieve. We need them to have an educational level that will allow them to do something constructive when they get out. I cannot think of a more important amendment, in the sense of trying to do something to make sure that we do not have so high a rate of recidivism, as Mr. FRANK'S amendment.

So I strongly urge its adoption. It is an excellent amendment. It will provide the incentive that is missing now for prisoners to get their GED. And any of the other problems that are raised, and I think there are a few with it, I am sure that I think he has gone a long way toward correcting them with his amendment. I am sure we could clean it up at conference. We need to keep it. We need to have it.

I urge a "yes" vote.

Mr. HUGHES. Mr. Chairman, I reserve the balance of my time, and I intend to close.

Mr. FRANKS of New Jersey. Mr. Chairman, in line with the observations of the gentleman from Texas, Chairman BROOKS, I look forward to working with him to make certain that the application of this amendment is such that it allows the "good-time" system to maintain itself. I know it plays a vitally important role in our system. But I think this amendment also sends an equally important signal, and that is that we are going to tie a relationship between the ability to access good time or early release to the efforts that can be undertaken by those who have the capacity to do so to improve their educational standing, which will make them better citizens once they are released. Good-time behavior in prison does not necessarily equate to good behavior once you get out. Hopefully, this creates a nexus between those two concepts.

Mr. Chairman, I yield back the balance of my time.

Mr. HUGHES. Mr. Chairman, I yield myself the balance of my time.

Let me just say that my colleague from New Jersey, who is indeed a friend, I think has the best of intentions, and I support what the gentleman wants to do. But let me just point out a few problems with it.

I have worked with the gentleman now for a couple of days to try to get us to where we are. And I think what the gentleman has offered by way of modified amendment is a vast improvement over the original amendment.

But here is the problem: The prison system uses good time for discipline. You may remember that in 1986 we eliminated good time for other things. They use it for discipline.

The Bureau of Prisons has a very sophisticated reward system to ensure that individuals in the system, inmates, get a high school education. They have to. It is required that they take 120 days to try to get that high school equivalency. And if they do not continue on and get a high school degree or equivalency degree from high school, they are penalized. They do not get promoted in jobs, they do not get prison industry jobs, they are otherwise penalized by the Bureau of Prisons for not getting a high school education. It is ironic that what it would do basically is we have in our prison population 25 percent of the illegal aliens in our system, in many instances are illiterate. That is, many of them.

What the gentleman is saying is if his amendment were carried forward, we would say taxpayers are going to continue those illegal aliens in the system if they do not have a high school education. So we would be paying because they did not get a high school education. We could not deport them.

Now, granted, under the gentleman's amendment, the director of the Bureau of Prisons could exempt that category. But there is another problem with that. And that is that if they grant an exemption for them and you do not grant an exemption for, let us say, a plumber who because he is a slow learner her or she did not get a high school equivalency, we are not going to permit them to leave the prison system. So we are going to discriminate in favor of aliens and against Americans.

So while the gentleman has a vast improvement and we need to study it some more and see what the impact would be, we still have some problems with the gentleman's amendment. We will work with the gentleman.

The CHAIRMAN. All time has expired.

The question is on the amendment, as modified, offered by the gentleman from New Jersey [Mr. FRANKS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HUGHES. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 347, noes 82, not voting 8, as follows:

[Roll No. 142]

AYES—347

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Beilenson
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Carr
Chapman
Clayton
Clement
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeLauro
DeLay
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Ehlers
Emerson
English
Eshoo
Evans
Everett
Ewing
Faleomavaega (AS)
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Fingerhut
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kyl
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Menendez
Meyers
Mica
Michel
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Neal (MA)
Neal (NC)
Nussle
Obey
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schenk
Schiff
Sensenbrenner
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vento
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—82

Becerra
Berman
Blackwell
Bonior
Brown (CA)
Cardin
Castle
Clay
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Coyne
de Lugo (VI)
DeFazio
Dellums
Dixon
Edwards (CA)
Engel
Filner
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gejdenson
Gillmor
Gonzalez
Hamburg
Hastings
Hilliard
Hughes
Jacobs
Kennelly
Kopetski
Kreidler
LaFalce
Lewis (GA)
Matsui
McDermott
Meek
Mfume
Miller (CA)
Mollohan
Nadler
Norton (DC)
Oberstar
Olver
Ortiz
Owens
Pastor
Payne (NJ)
Pelosi
Rangel
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Stark
Stokes
Studds
Swift
Synar
Torres
Towns
Tucker
Underwood (GU)
Velazquez
Visclosky
Waters
Watt
Waxman
Woolsey
Yates

NOT VOTING—8

Andrews (NJ)
Fish
Gallo
Grandy
Lewis (CA)
Sharp
Washington
Whitten

□ 1338

Messrs. TOWNS, BROWN of California, and BERMAN changed their vote from "aye" to "no."

Messrs. McCLOSKEY, HYDE, SHUSTER, and CARR of Michigan changed their vote from "no" to "aye."

So the amendment, as modified, was agreed to.

The result of the vote was announced as above recorded.

Mr. DIXON. Mr. Chairman, today I rise in support of the Violent Crime Control and Law Enforcement Act of 1994 (H.R. 4092).

H.R. 4092 achieves a necessary and critical balance between crime prevention and punishment. While I do not agree with every provision contained in the crime bill—namely the expansion of the number of Federal crimes punishable by the death penalty, and the "three strikes, and you're out" provision—I believe it takes significant steps to prevent crime, and provides for some appropriate punishments for those who violate our laws. This bill is imperfect. However, it presents this country with an excellent opportunity to address the issue of violence in our communities. It also moves this country in a new direction that empowers Americans to live out their dreams without the fear of violence.

At the core of this bill are some very innovative prevention programs which are devoted to providing youth with employment, education, and recreation alternatives to crime and violence. For example, H.R. 4092 authorizes $1.3 billion over 5 years to the "Ounce of Prevention" program which would provide grants to organizations that have a coordinated team approach to reduce gang membership and provide alternatives to at-risk youth. The "Hope in Youth" program, which has several sites in my district in Los Angeles, would be eligible to receive grants to continue the organization's valiant and meritorious efforts to reduce gang membership and prevent new recruitment. The city of Los Angeles alone has over 49,000 gang members, and so far this year, there have been approximately 50 gang-related deaths.

In addition, the "Youth Employment and Skills" program would fund programs which create employment opportunities for young adults in areas with high crime and unemployment rates. The "Diversionary Drug Courts" are also an admirable component of this crime bill, and propose funding to State and local governments, as well as private organizations that develop programs of intensive judicial supervision over people with substance abuse problems. In total, this bill authorizes $7 billion for community programs intended to prevent crime. I urge my colleagues in conference to protect these provisions in this crime bill which recognizes the factors which lead to crime and which mitigate some of the discriminatory effects of previous misguided policies.

I also urge my colleagues to protect the amendment offered by Representatives ANTHONY C. BEILENSON, and HOWARD L. BERMAN to the anticrime bill once it goes to conference. This amendment would require the Federal Government to reimburse States and localities for the costs of incarcerating undocumented criminal immigrants who have been convicted of a felony in State or local courts beginning in fiscal year 1999. It is estimated that there are over 30,000 undocumented persons incarcerated in State prisons across the country, which translates to a financial burden to affected communities of approximately $600 million annually. Los Angeles County has estimated that 11 percent of its prison population is made up of undocumented persons, costing the county approximately $35 million annually. This amendment would provide much needed relief to States and local communities for the cost of incarcerating people who have entered our country in violation of Federal immigration laws.

This measure also contains provisions to punish those who violate our laws. To assist law enforcement agencies and increase criminal penalties, H.R. 4092 also provides funding to build additional correctional facilities. Under the measure, grants would be available to a State or group of States to develop, expand, or improve correctional facilities to ensure that prison space is available for violent offenders. In an effort to reduce the rate of recidivism, a State must establish programs for prison education and job training.

In addition, $3.5 billion would authorize grants to be provided to State and local governments to rehire police officers who have been laid-off, and to hire and train new law enforcement officers for community-oriented policing. This amount is expected to fund up to 50,000 police officers. These funds could be used to increase the number of police officers involved in crime prevention programs in the community, to reduce the time police officers spend in court, and to develop police policies and community programs focusing on crime prevention.

Clearly, there are punishment provisions in the crime bill which are controversial. However, if the Congress is going to pass legislation which permits capital punishment as a sentencing option for over 60 Federal offenses, we must also take steps that will diminish the possibility that innocent people will be executed. The Racial Justice Act would provide an effective remedy for race discrimination in individual capital cases. This act is the minimum protection necessary to guard against death sentences that are the result of racial discrimination. It would help eliminate racial considerations from improperly influencing the decision to impose the death penalty. Numerous studies, including a report released by the General Accounting Office in February of 1990, have documented the unacceptable role that racial considerations play at every stage of the death penalty process at the State level. At a time when the Congress is contemplating expanding the number of crimes punishable by the death penalty, the Racial Justice Act must be strongly supported and retained in conference.

Undoubtedly, there is an urgent need in this country for a multifaceted strategy to combat crime. H.R. 4092 seeks to achieve this balance. This measure represents an unprecedented effort to craft a comprehensive anticrime strategy that includes funding for more police officers, stiff punishments for truly violent offenders, and funding for necessary correctional facilities to ensure certainty of punishment. There are significant resources devoted to crime prevention through giving youth employment, education, and recreation alternatives to crime and violence. I urge the support of my colleagues for passage of the Violent Crime Control and Law Enforcement Act.

Please join me, Mr. Chairman, in voting for final passage of the Violent Crime Control and Law Enforcement Act of 1994.

Miss COLLINS of Michigan. Mr. Chairman, there is no question that crime is a horrendous problem for Americans of every color and economic station. Many people, from the central cities to the suburbs, are afraid to go out of their house at night.

There is no question that law breakers, fairly tried, should be punished. There is no question that government at every level should take stronger steps to prevent and reduce crime. We need to rid our neighborhoods of drugs. We need to stop gangs. We need to get assault weapons off the streets. I am prepared to take strong steps. Even though the bill includes many constructive provisions, the House crime bill before us is not the answer.

DEATH PENALTY AND "THREE STRIKES"

The most troubling aspect of the bill—and it is deeply troubling—is that it permits the death penalty for 66 new Federal offenses. Justice Harry A. Blackmun, a long-time death penalty supporter, made the following statement on February 22, 1994:

> Twenty years have passed since this Court declared that the death penalty must be imposed fairly, and with reasonable consistency or not at all, and, despite the effort of the states and courts to devise legal formulas and procedural rules to meet this daunting challenge, the death penalty remains fraught with arbitrariness, discrimination, caprice and mistake.

Also disturbing are the "three-strikes-and-you're-out" provisions. The bill mandates life imprisonment for a conviction of a federal violent felony if the defendant previously was convicted of two serious federal or state drug offenses or violent offenses with a potential sentence of 10 years. Again, this approach condemns people to prison in a racially biased system, giving them little chance for rehabilitation.

No responsible Member of Congress can vote for this bill without examining it in the context of the current criminal justice system. It is a system in which:

Eighty-nine percent of defendants selected for capital punishment under the Federal drug kingpin death penalty provisions have either been African-American or Mexican-American, despite the fact that 75 percent of those individuals convicted under the general drug kingpin statute were white.

Seventy-five percent of those convicted of participation in a drug enterprise under the Federal antidrug law have been white; 25 percent have been black. However, 78 percent of those receiving death penalty prosecutions have been black and only 11 percent have been white.

Twenty-five percent of young African-American men are caught up in the criminal justice system.

There are widespread racial disparities in the application of criminal penalties. A study of mandatory minimum sentences in Florida concluded that race was a major factor in imposing mandatory minimum sentences.

Members of the Congressional Black Caucus and I tried to craft House procedures to make the bill more acceptable. Last week, CBC members offered amendments to eliminate some of the new death penalty provisions. Our efforts failed.

I cannot in good conscience vote for a bill that continues to sentence African-Americans and other minorities to a system that is so permeated with prejudice. I cannot in good conscience vote to send to the electric chair millions of people who many respected studies show do not get fair treatment in what is called our criminal justice system.

THE ROOT OF THE CRIME PROBLEM

The crime bill takes some good first steps toward preventing crime, but it fails to address the underlying causes of crime.

I represent a low-income, inner-city district where the per capita income is $9,443, where unemployment is double the national rate and among some young men, as high as 47 percent. I represent a district with a 37-percent poverty rate in a city where factories have closed and jobs have vanished, a city that has lost almost half its population.

I came to Congress to address these problems. I have introduced a bill to create jobs, to provide job training, to help communities solve their own problems, to create mentoring programs, for young people. These are the real crime prevention programs.

Of course, there are always misguided people in our society. But the answer to the crime problem is education, health care, substance abuse treatment, jobs, job training, role models, strong families.

The United States locks up more people per capita than any other country. A whopping 25 percent of young black men are tangled up in the criminal justice system. Homicide is the leading cause of death among young black men. These numbers are an indictment of a government at all levels, a government that is failing to reach large segments of society.

Last year, experts told us that we needed a $60 billion economic stimulus program. President Clinton proposed half that. Then the Senate, in their deficit-cutting mania, cutting it to $16 billion. I supported a full economic stimulus program because in my district, with unemployment among African-Americans hovering at 19 percent, it is the least we can do.

The crime bill, as reported, does include some constructive initiatives: intensive community services in high-crime areas; funds for after-school and summer youth programs; apprenticeship programs for young people; programs to reduce gangs and illegal drug use by juveniles; and grants to recruit police officers from under represented neighborhoods. These are good provisions; however, we will not be able to vote separately on these provisions.

I cannot support a bill that adds the death penalty for 66 crimes to a system that is so heavily biased against minorities, a system that is far from color blind.

President Clinton himself on the January 20 "Larry King Live" show said it well when he said,

> You've got to give these kids something to say yes to. That is we have got to go into these really distressed areas and rebuilding the bonds of family, community and work. There's got to be education opportunities, there's got to be job opportunities, got to be alternatives to imprisonment, like boot camps, there needs to be drug treatment and drug education programs. We can't have it all on the punishment * * *.

THE CRIME RECORD

Last year, I voted for the Brady handgun waiting period. I voted for $3.4 billion to put more police on the streets, I voted to use Federal grants to prosecute drunk drivers. I voted for grants to develop programs to reduce juvenile gangs, juvenile drug trafficking and juvenile delinquency. I voted for grants to improve cooperative efforts between law enforcement agencies and community groups to reduce crime. I voted for the National Child Protection Act. I voted for the arson prevention bill and for more substance abuse treatment for prisoners. I voted for the Violence Against Women Act which, among other things, makes interstate domestic violence a Federal crime.

I have introduced five bills to provide hope and opportunity to my people. These are a few examples of steps I am taking. I cannot vote for hysterical "get tough" crime bills that fail many Americans and perpetuate a highly discriminatory system.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise in support of the Omnibus Crime Control Act of 1994. This is a tough, comprehensive initiative to stem the rising tide of crime in this country. Most importantly, however, this bill strikes a balance between punishment and prevention.

This bill is tough on criminals. It puts 100,000 more cops in our neighborhoods while also creating much-needed prison space. The bill helps States keep violent repeat offenders in jail and provides funding to combat violence against women. The "three strikes you're out" provision mandates life imprisonment for three time violent offenders. The death penalty is expanded to include 60 violent crimes, including the killing of law enforcement officers.

This crime bill also includes a balanced crime-prevention agenda including my amendment to increase the number of Boys and Girls Clubs in public housing. Programs are emphasized that keep youth away from crime such as midnight sports leagues, law enforcement scholarships and a police corps, which provides money for education in return for a 4-year commitment to police work. Today, those committing crimes are getting younger and younger. Over the past decade the number of juveniles arrested for murder increased 142 percent. Congress is taking a historic step in preventing crime by getting tough with criminals and, at the same time, taking measures to prevent at-risk-youth from becoming tomorrow's criminals.

Mr. Chairman, by passing this legislation, Congress is responding to the critical concern over rising crime statistics in this country. I urge my colleagues to support this bill and take an important step in the fight against crime.

Mr. SAWYER. Mr. Chairman, I rise today in strong support of H.R. 4092, a vigorous new Federal anticrime initiative that will help our States and cities get violent criminals off the streets and put more police officers on the streets. By adopting the strong anticrime measures in this bill, we will help reassure law-abiding Americans that we are determined to restrain the violent crime that now menaces our neighborhoods and threatens our families.

This bill will provide money to put 50,000 police officers on the streets of our cities and towns. This extra manpower will allow officers to get out of their patrol cars and onto a regular beat, where they can be more effective in both preventing and responding to crime.

I am especially pleased that this bill contains a substantial increase in Federal funds to assist State and local law-enforcement agencies, especially for prison construction. I was pleased to vote for the amendment, sponsored by Mr. CHAPMAN of Texas, that added an extra $10.5 billion to the $3 billion already in the bill for building new State and regional prisons.

Mr. Chairman, my State of Ohio now suffers from the Nation's worst rate of prison overcrowding: Ohio's prisons are at 182 percent of capacity. Such overcrowding poses a clear risk to prison officials. It greatly increases the likelihood of a riot, like the deadly explosion that occurred just 1 year ago at the maximum-security prison in Lucasville, OH, which left one prison guard dead and many others injured.

But much worse, chronic and severe overcrowding increases the risk that violent offenders may be released from prison too soon in order to make room for each newly convicted prisoner. Putting a dangerous offender back onto the streets puts our community at risk, and it undermines our legal system's obligation to mete out swift and sure punishment to criminals. The House version of the anticrime initiative backs up our "get tough" rhetoric with real dollars, aiding the urgent task of prison construction.

I am proud to support this realistic measure, which offers a tough, intelligent approach to providing the security all Americans deserve. Of course, reducing crime will require more than simply training more police officers and building more jail cells. This bill will allow us to take assertive, pro-active steps to prevent crime before it occurs. It will help to ease the tensions that give rise to crime by offering all our people opportunities for work. It will provide our young people with alternatives to gangs and crime. And it will provide training and treatment for those who want to escape the cycle of violence in our cities.

We need to restore the promise of opportunity and a realistic hope for prosperity to our communities. Investments in the potential of our people are the surest way to achieve this in the long run. Yet we must also take bold steps to make our streets and schools safe, so that our citizens can learn and work without fear. This crime bill will help us to achieve both of these goals. It deserves our strong support.

Mr. PORTMAN. Mr. Chairman, Americans across the country have identified crime as a critical issue for Congress to address. They expect comprehensive legislation to strengthen our criminal justice system.

I must reluctantly oppose the so-called anticrime package before us today because it falls short of the American people's legitimate expectations. Not only does it not help us combat the serious problem of crime in this country, I believe it may set back these efforts. And when they see what's in the bill, I don't think that our constituents back home will be fooled by its title. People are looking for serious legislation that really addresses the level of violence in this country, not half measures that only add to the difficulty of enforcing existing laws.

The crime problem Congress tried to address is in large measure the lack of deterrent or adequate punishment in the current system. Most offenders who have been convicted of a violent crime whip through the revolving door of justice and are back out on the streets in no time at all. On average, violent criminals in State prisons now serve only 37 percent of their actual sentences, and 40 percent of all violent offenders are given probationary sentences that do not require any prison time at all. This isn't deterrence. Criminals need to know that when they are sentenced they will serve time.

Perhaps more disturbing are the statistics on repeat offenders. Studies conclude that 6 percent of the criminals commit approximately 70 percent of the crimes. Setting violent offenders free without requiring them to serve hard time is almost a guarantee that someone, somewhere will become their next victim.

As a father and as a husband, I want to do all I can to protect my family and my neighborhood from violent crime. As representatives of families living across this Nation, our job is to make sure that we give law enforcement officers every advantage to protect families from violent criminals, especially those who have made crime their career.

The measure before us is seriously lacking in addressing the problem we face. Although I support certain aspects of the package such as increasing the number of offenses subject to the death penalty and initiating a version of three strikes and you're out, this bill is noteworthy for what it lacks. The House defeated efforts to include real truth in sentencing reforms so that convicted criminals serve out their full sentences. In fact, this measure weakens mandatory sentencing guidelines now in place. Also, there's nothing in the bill to make badly needed exclusionary rule reforms that will help give police and prosecutors additional crime fighting tools.

I am also deeply concerned about the ability to enforce the death penalty. Instead of strengthening the deterrent value of capital punishment, the House has further weakened it by agreeing to allow thousands of death row inmates to challenge their sentences on the basis of racial bias. All a death row inmate has to do is show that there was a statistical disparity based on his own race or the race of his victim. The bill would invalidate the capital sentence of any defendant who decided to raise a claim without regard to whether there was any evidence of racial discrimination in his or her case. This will seriously infringe upon our ability to use the death penalty. It certainly could take away the deterrent effect of imposing such a sentence.

Congress should send the message that criminals, not victims, should pay for crime. Furthermore, it should respond to the clear mandate for reform by enacting a tough, comprehensive package that will strengthen our criminal justice system. The measure under consideration today is not such a measure. Not even close. Enough tough talk. Now we need tough action.

Mrs. COLLINS of Illinois. Mr. Chairman, crime and all of the problems that come with it have caused considerable pain in parts of my district. There are neighborhoods and communities in both the inner-city and suburban areas of America where the crime rate is high and growing. Our citizens have expressed concern. They feel frightened for the safety of their children and themselves. In fact in a recent poll that I had taken in my district, crime was either the No. 1 or the No. 2 concern cited. So to say that my constituents and I and the rest of the citizen of this country are interested in finding a way to reduce the crime rate is quite an understatement.

I am torn about this bill because it includes some important crime fighting measures as well as others which I think will actually cause harm. One of the helpful provisions provides for 50,000 more law enforcement officers to walk the beats of our cities and towns. Undoubtedly this is welcome news to the local governments throughout the country, most of whose resources are stretched to the breaking point.

Similarly I believe that the $600 million funding stream for alternative punishments—i.e. boot camps, weekend incarceration, community service, et cetera—is a step in the right direction because we must look at alternative, cost-effective ways of dealing with youth offenders, especially if those ways hold some real promise of ending in rehabilitation.

The bill we are debating today also contains the modest step of making it illegal to sell or transfer a handgun, or ammunition for a handgun, to a person under 18 years of age. To tell you the truth, such commonsense measures should have already been on the law books, but their absence just goes to show you how far we have to go before we bring some sanity to our gun regulatory framework.

Today, women across America face an alarmingly high chance of becoming victims of violent crime. Perhaps one of the most frightening aspects of some of these crimes is that most women are raped, battered, or murdered in their own home by their husbands, boyfriends, or someone that they know. Unfortunately, the criminal court system fails to recognize the seriousness of these gender-based violations of personal safety and, as a result, women are often victims again when they seek the assistance of the police and/or redress of their grievances in the courts. Therefore, I am pleased that the Violence Against Women Act is an important part of this crime bill.

For these reasons, I compliment the chairman and members of the Judiciary Committee who have worked so hard in an effort to present us with some real crime prevention provisions. To that extent they have been successful in crafting a bill that will help our local communities; and I fully support the bill's preventive language.

On the other hand there are other portions of this bill that are extremely disappointing and downright frightening. At some points it appears that the framers have caved in to the popular, but misguided, pressure for retribution as a form of crime control.

For example the drafters of this bill seem to be of the mistaken belief that adding 60 new Federal offenses subject to death penalties will somehow lead to less crime. While the deterrent effect of the death penalty has never been clearly shown, we have all witnessed the discriminatory way that it has been used. Time and again we have seen how African-American men and women are disproportionately sentenced to death—even when one accounts for the crime committed. Since 1988, 33 of the 37 Federal death penalty defendants have been African-Americans. In the current administration which I look upon as being more enlightened regarding the unfairness in our judicial system, all of the defendants the Attorney General has approved for the death penalty have been African-American.

The General Accounting Office, Congress' own investigative arm, has concluded in its study that racism definitely affects the use of the death penalty in the United States. Further studies have found undeniably that in an alarming 82 percent of the time, the race of the victim influences whether or not the defendant is sentenced to death.

In addition, Justice Harry Blackmun only recently stated that,

> Twenty years have passed since this court declared that the death penalty must be imposed fairly, * * * and despite the effort of the states and courts to devise legal formulas and procedural rules to meet this daunting challenge, the death penalty remains fraught with arbitrariness, discrimination, caprice and mistake.

I cannot in good conscience sanction this injustice. I am aware that this bill supposedly includes some minor safeguards to help lessen the misuse of the death penalty but American history assures me that these are not enough. All of us understand that the very existence of these 60 new categories for death penalties will dramatically increase Government sanctioned killing. We all know that communities and public opinion can, does, and will pressure judges to invoke the death penalty whenever it is an option even though to do so is neither required nor warranted. I simply cannot and will not be a party to hysterical sentencing.

Be clear that my concern about the death penalty does not indicate a lack of concern about crime. We are all affected by the crime rate. Many among us are disproportionately affected. According to many studies the people of lowest economic means, who make up a portion of my constituents, are the most likely to be victims of crime; so if ever there were a group that is concerned about making the streets safe they are the ones.

Just this past weekend Secretary Cisneros of the Department of Housing and Urban Development met with the residents of the Robert Taylor Homes in my district to hear their very real concerns about guns and violence. Unfortunately they are not receiving the same level of protection enjoyed by every other neighborhood in Chicago. While I support President Clinton's efforts to devise a strategy for weapons searches by authorities in public housing which will pass constitutional tests, I also would support an infusion of funds and efforts to provide a better education, greater employment opportunities, adequate job training, et cetera for the residents.

Now the tremendous increase in the number of offenses that will call for the death penalty in this bill are not my only concern. I am also disturbed by the way African-Americans are often treated by law enforcement and judicial systems when the death sentence isn't imposed. It is a known fact that they are more likely to receive harsh punishments for the same crimes committed by others. Studies continue to prove that African-Americans are 21 percent more likely to receive mandatory sentences than white people.

Now I don't want anyone to get the impression that I am soft on crime. I believe that those who commit crimes of any kind should be punished. However I am greatly disappointed that when it comes to young offenders the committee has seemingly decided to throw up its hands and admit defeat, by placing a provision in this bill stipulating that children as young as 13 will be allowed to be tried as adults. Obviously the adult men and women in this House who drafted this bill have decided that rather than to find out what has gone wrong with these kids, it is easier to write them off as lifetime felons and lock them away. What a cruel way to deal with kids who we have neglected, who we have refused to adequately educate, refused to adequately house, clothe and feed, who we have refused to offer even a modicum of understanding.

Mr. Chairman, it is for all of these reasons I find it somewhat difficult, but necessary to oppose this crime bill. Any crime measure that budgets more for prisons than job training is not sufficient to the task of fighting crime. Any bill which advocates new ways to put children in prison, but does not offer sufficient resources to educate these same children is deficient. Any bill which allows us to sentence more people to death but denies them our best guarantees for a fair trial is clearly unjust. I cannot support this bill and I urge my colleague to think very carefully before they cast a supporting vote for it.

Mr. WHEAT. Mr. Chairman, I rise today in strong support of H.R. 4092, the Violent Crime Control and Law Enforcement Act. More importantly, I rise in support of the right of each American to be free from fear.

A few days ago, I joined residents, community activists, and police officers in walking tours of two Missouri neighborhoods—St Louis' Soulard neighborhood, and the Prospect Avenue area of Kansas City. The residents of these neighborhoods are hard-working people who come from their day jobs and immediately start their second jobs—protecting their homes and children from fear, drugs, and crime.

The working people of St. Louis, Kansas City, and other cities, towns, and rural communities throughout Missouri, know that the deadly mixture of poverty, drugs, guns, and gangs has become a poison to their neighborhoods. They live with crime every day of their live. These law-abiding citizens—beset by lawlessness—have asked for our help. What can this House do?

In the short term, we must expand policing and tighten punishment to get the criminals off the streets. In the long term, we must make real efforts to prevent crime and combat the underlying forces that lead to criminal behavior. These efforts include the Ounce of Prevention and Youth Employment Services [YES] programs that are part of this bill. Also, we need to make fundamental improvements in education, emphasize economic development in our cities, and restructure assistance to the unemployed and underemployed.

In short, we must attack crime today with police, punishment, and prisons. We must also attack crime well into the future with schools, jobs, and hope. H.R. 4092 begins this important, two-pronged effort to bring order back to our society.

Mr. Chairman, the working people of this country have asked for—pleaded for—our help in making their neighborhoods safe once again. We can respond by approving the hiring of tens of thousands of new police officers trained for community policing.

They have asked for our help in stopping violent criminals who attack society again and again with impunity. Our firm response: We will provide money to help States build prisons to incarcerate repeat offenders, and we will pass a Federal "Three Strikes, You're Out" statute, targeted at the 7 percent of criminals who commit two-thirds of the violent crimes.

Too often today, kids who should be found with books, baseballs, and bicycles are found instead with UZIs, Street Sweepers, and Tec 9s. What can this House do to get these young people to trade their guns for books and their despair for hope?

We can join the struggle against the rising tide of violent juvenile offenders by approving millions of dollars in funding to help States implement alternative sentencing options for young people, including boot camps for nonviolent youth offenders who need strong discipline and firm guidance. Also, we must allow some juveniles to be tried as adults for violent crimes against society.

We can approve the Youth Handgun Safety Act, to get deadly weapons out of the hands of the children in which those guns are found with increasingly tragic consequences.

We can strike back at the purveyors of violent hate and intolerance by approving stiffer sentences for hate crimes, which are assaults against the foundation of our democracy.

Mr. Chairman, women and children are frequently victimized by the worst crimes in our society. Women are rightly afraid to walk the streets at any hour, and my home of Kansas City was recently reminded of the horrors of child abuse by the tragic deaths of 4-year-old Briiana Buersmeyer and 5-year-old Angel Melton at the hands of their mothers' boyfriends. The Crimes Against Children Registration Act and the Child Abuse Prevention Act might well save other children from the sad fate of Angel and Briiana.

By passing these provisions of H.R. 4092, along with the Violence Against Women Act, this House will be taking a stand on behalf of those who have so long been abused by the kind of violent, destructive crimes that have no place in any civilized society.

We can make these real, tangible efforts to strike back at the epidemic of crime that has infested too many American neighborhoods, and touched too many American families. H.R. 4092 lets the gun thugs and urban terrorists know that the tide is turning against their bloody reign of terror.

More police, fewer guns, stricter punishment—these initiatives will help bring law back to the streets now. H.R. 4092 isn't built on abstractions: this bill represents tough, pragmatic solutions to problems that the people of this country and my State struggle against every day. This bill isn't perfect and it doesn't represent a final solution, but it is a good start to a difficult task.

While the increased policing and the stricter punishment will allow us to make our streets safer in the short-term, we will also attack the root causes of crime with $7 billion in innovative prevention programs. I am an original cosponsor of the Family And Community Endeavor Schools [FACES] Act introduced by Representative GEPHARDT and included with other prevention programs in this bill. These prevention measures will help make our schools safe havens for the entire community, provide unique projects to attack the plague of drug addiction, and offer the employment skills and opportunities so desperately needed in crime-ravaged neighborhoods and towns.

Mr. Chairman, we are faced with a stark choice. We can politicize a national problem that crosses every boundary of party, philosophy, income, and race, or we can act together to take back our neighborhoods. We won't ever be in total agreement with all the provisions of an anticrime bill, but we must agree that our final goal is a safer, saner society. I urge the prompt passage of H.R. 4092.

Mr. FAZIO. Mr. Chairman, I rise in support of H.R. 4092, the Violent Crime Control and Law Enforcement Act, an important step toward confronting and addressing crime.

If this bill is enacted, a criminal who has already been convicted of two serious drug offenses, or violent offenses with a potential sentence of 10 years, will face life imprisonment if convicted of a third Federal violent felony. This provision—known as three-strikes-and-you're-out—will keep repeat violent offenders off the streets.

In recognition of the critical role that our communities, themselves, play in fighting crime, this bill provides grants for community policing. This support will enable State and local governments to rehire police officers who have been laid off, as well as hire and train new officers.

There are also measures to reduce the incidence of violence against women, and to punish those who commit crimes of violence against women. The Violent Crime Control and Law Enforcement Act also increases Federal penalties for assaults against children and it requires anyone who has committed a crime against a child—including sexual offense—to register with State law enforcement.

This crime bill supports programs that reduce gang membership and provide alternatives for youth who are at-risk. It also gives local governments fast access to flexible Federal funds for a variety of anticrime strategies. The counter the effect that poverty and despair have on our youth, the bill supports programs that provide employment opportunities for young adults in areas with high crime and unemployment rates. It also enables communities to develop midnight sports leagues for their youngsters. Other provisions in the bill provide for substance abuse treatment for Federal prisoners and increased sentences for Federal hate crimes.

The bill includes a number of provisions that attack crime in rural areas, including one which I introduced along with my colleague from Michigan [Mr. STUPAK], a former police officer. This measure will help ensure that rural communities do not lose ground as the rest of the country moves forward on new anticrime strategies. The Fazio-Stupak amendment expresses the sense-of-Congress that rural areas should continue to receive the level of support that they had prior to enactment of this crime bill—that rural America should not receive less funding that it did in fiscal year 1994.

Last month, a delegation of law enforcement representatives from my congressional district was here in Washington attending the White House briefing on the crime bill. Immediately following the briefing, these representatives joined me in a private meeting with Attorney General Janet Reno and advised her of their concerns about the pending legislation. At the top of their list was their apprehension about losing the Federal funding that supports their narcotics task forces. Without this support, these communities are left wide open to drugs and the violence that accompanies this persistent problem.

Although, in response to input from rural law enforcement, a portion of these funds has been restored, it is important for us to maintain our previous level of support for this important component of the rural anticrime effort. The amendment puts Congress firmly on record that, as we attempt to attack crime in the cities and suburbs throughout America, rural communities do not get left behind.

Crime invades our communities and has a tremendous impact on the quality of life. It affects everything—from our health care costs, to our safety and security, to the quality and cost of educating our children. In response, we have a crime bill that balances the prevention and punishment necessary to tackle this problem. It focuses attention and resources on the State and local levels—the front-lines, where the bulk of the responsibility for responding to crime lies. And it moves us closer to meeting our overall goal of ensuring that justice is dispensed equally and fairly, and that punishment is also fair, fast and consistent.

The Violent Crime Control and Law Enforcement Act is a good beginning. But, this crime bill cannot do the job alone. We must be prepared to sustain the initial investments that this administration has begun to make in the roots of our society—in education, employment, health care, and other human services—if we are really going to turn this situation around. We must realize that, because crime is not an isolated problem, it cannot be dealt with in isolation.

The crime bill is not the cure-all, but it is definitely an important part of the overall solution. It is a good place to start, and the time is now. We should all be able to put aside our partisan differences and come together on behalf of what is good for this country—our communities, our families, and our children. I urge my colleagues, on both sides of the aisle, to join me in support of this crime bill, this crucial step in the healing process, and to support its final passage.

Mr. DOOLITTLE. Mr. Chairman, I rise today to express my opposition to H.R. 4092, the House crime bill. I have no reservations about my "nay" vote, although I realize that many Americans want crime legislation passed.

Mr. Chairman, the crime bill before the House is anemic. It reflects the enormous differences that exist between conservatives and liberals with regard to man, the State, and yes, criminal justice.

The Clinton administration, most notably Attorney General Janet Reno, believes that everybody is equally good. If a 22-year-old delinquent brutally rapes and murders an innocent victim, he is not a bad person who needs to be jailed for life or sentenced to death. Rather, we are told to look at the root causes of the criminal's behavior.

We are told that society is failing these poor criminals. To deter crime, the liberals say, the Federal Government needs to provide every American with a high-paying job, self-esteem, and adequate recreational opportunities.

If you don't believe me, look at the House crime bill. It includes a Great Society-style provision that calls for spending mainly on social welfare programs. It provides $6.9 billion in grants to crime-prone areas for recreation, job training, and other activities. The bill provides grants for after-school programs for inner-city youth and for midnight basketball games.

My opposition to this bill was not sealed, however, until yesterday, when the House failed to strike the Racial Justice Act from the legislation. I believe that this provision will result in the effective abolition of capital punishment. The Racial Justice Act permits a defendant to make a statistical showing that death sentences are being imposed or administered in a disproportionate manner based upon the defendant's race. The act also requires a prosecutor to rebut this statistical showing "by a preponderance of the evidence."

The Racial Justice Act requires prosecutors to prove a negative: That race was not the basis for any of the prosecutor's, jury's, or judge's decisions. The evidentiary difficulties and vast resources that will be required to make such a showing in every post-conviction capital case will undoubtedly preclude use of the death penalty.

This act disregards one of the fundamental precepts of our criminal justice system: that an individual is tried on the facts of his or her case, not on statistics from a sampling of unrelated crimes.

Furthermore, Mr. Speaker, the act overturns a number of U.S. Supreme Court cases, including McCleskey versus Kemp, in which the Court rejected a discrimination claim founded solely on statistics.

Lastly, this provision is inconsistent with meaningful habeas corpus reform.

Mr. Chairman, I oppose House crime bill primarily because it includes this pernicious Racial Justice Act. I would note that I am in good company. The Racial Justice Act is opposed by the attorney general of California and the California District Attorneys Association. In fact, the U.S. Senate rejected a measure similar to the Racial Justice Act for 3 consecutive years.

Again, Mr. Chairman, I oppose H.R. 4092, the House crime bill, and urge my colleagues to do the same.

Mr. BUNNING. Mr. Chairman, I rise today with a great deal of disappointment to oppose the crime bill which has been under consideration here in the people's House. We had the opportunity to give the American people a tough crime bill and even with the adoption of several good amendments to strengthen it the bill before us is still far too soft and full of pork.

In fact, it is so full of pork that I am surprised that it did not squeal and run out of the Chamber when it was brought to the floor. Once again, Members with pet projects that could not pass on their own have larded on the pork in a bill that they are certain will pass because it carries the "crime bill" label.

But, Mr. Chairman, even the pork would not be so bad if the rest of the bill truly returned deterrent power to the justice system. Criminals and victims alike should be fully certain that the justice system would provide a sure, swift, and severe punishment for criminal behavior. The American people are fed up with a system of justice that is kinder to criminals than it is to the victims of crime; and, quite frankly, so am I.

When I went home to Kentucky for the district work period at Easter the people who came to my open door meetings told me that they did not think that they should have to wait for a violent criminal to get a third conviction before we locked him away for good. They are right. The average law-abiding citizens of Kentucky and of this Nation deserve to be protected from the human predators that our criminal justice has consistently returned to the streets to commit more and more criminal acts.

Likewise, women in our society should not have to wait for some future crime bill for their legitimate concerns to be addressed. My colleague, the gentlelady from New York [Ms. MOLINARI] attempted to offer an amendment that would have established just penalties for assaults on women and children but the majority decided to ignore the issue rather than allow us to vote on it. The crime bill should address these concerns but it does not.

In its infinite wisdom the majority of the Rules Committee also decided to exclude the legitimate concerns of my good friend, the gentleman from Texas [Mr. SMITH] who wanted to offer an amendment dealing with the criminal acts of illegal aliens. This House should have addressed this issue in this bill.

I can only assume that we did not address these needs because we are more interested in passing anything rather than passing a bill that would protect victims of crime and really deter criminal acts. The crime bill is just another piece of feel-good legislation so that we can go home and crow about how we got tough on crime when it is mostly cosmetic change.

In fact, the changes are much more apparent than real in this bill. While we said much about the death penalty, we fit in a racial quota provision that virtually assures that the death penalty will never be imposed when the convicted criminal's race is brought into the sentencing by the defense counsel. This is outrageous. Race should never be a consideration in application of the law and especially in the penalty phase of a trial. Our society can never be colorblind as long as the courts are forced to consider race rather than content of the character. This type of provision has no place in the criminal justice system.

Mr. Chairman, we need a real crime control bill, not just window dressing. The American people are depending on us and we should not let them down on something this serious. let us defeat this bill and bring back one that will let the people know that we are on their side, not the criminals.

Mr. DORNAN. Mr. Chairman, I rise in strong opposition to H.R. 4092, the Omnibus Crime Control Act of 1994. This legislation will do absolutely nothing to deter violent crime in America. In all likelihood, passage of this legislation will put American citizens in greater harm of being victimized by dangerous street thugs. In fact, the crime bill is aptly named, because what the Democrats have done to it is a crime. And Bill Clinton's fingerprints are all over it.

It is no wonder the American people are angry and frustrated with the violent crime that is gripping our Nation. While the population of the United States increased 44 percent since 1960, violent crime has increased by more than 500 percent. And since the early 1950's, the expected punishment for committing a serious crime in the United States has been reduced by two-thirds. Yet over that same period, the total number of serious crimes has increased sevenfold. In addition, more than half of all violent criminals are put back on the streets while awaiting trial. Of those, 20 percent escape and 16 percent commit another crime. And for every 100 serious crimes committed, only 5 criminals go to jail.

Why has the crime rate exploded over the last three decades? Because we have allowed sociologists, psychologists, and psychiatrists to explain and excuse criminal behavior, so the punishment rarely fits the crime. Moreover, many of my colleagues continue to focus their attention on gun control as well as dubious and costly social programs as a way to reduce crime. Being good liberals, they believe that man is perfectible. Therefore, those who commit crimes are not criminals, but victims—of society, poverty, bigotry, et cetera, et cetera, et cetera. This has led to our current crime epidemic.

We need to stop focusing on criminals as victims of society and start focusing on the real victims—law-abiding citizens who are afraid to walk down their own street at night; children who routinely fall asleep to the sound of gunfire; students who are too frightened to go to school; and those whose neighborhoods are victimized by violent gangs and drug dealers. I should know. Many of my own constituents face these fears each and every day.

Unfortunately, our criminal justice system has become so lenient that criminals routinely serve pathetically short sentences and are allowed to walk free to abuse us again. For example, according to the FBI, in 1988 the median murder sentence for prisoners released that year was 15 years. The average time served, however, was only 3.5 years.

It is plainly obvious that criminals no longer fear the law. They know that it is unlikely that they will be caught. If and when they do get caught, they rarely get prison sentences. If they do go to prison, they know that they will be out in no time. Criminals laugh at the system. And embarrassingly enough, so do other nations.

Take the Fay caning case, where an 18-year old American living in Singapore has been charged with a 10-day spree of vandalism and sentenced to six strikes with a bamboo cane. President Clinton and the media have expressed their outrage, claiming it is a barbaric and tortuous method of punishment.

Yet last year, only 58 murders, 80 rapes, 1,008 robberies, and 3,162 car thefts occurred in Singapore. During the same period, the city of Los Angeles, with about the same population as Singapore, had 1,100 homicides, 1,855 rapes, 39,227 robberies and 65,541 stolen cars. And Singapore employs half the number of police officers as the city of Los Angeles. Singapore is also a city without litter, graffiti, and gangs. "Women confidently stroll the streets late at night," writes the Los Angeles Times reporter in Singapore. "The subway is clean, and muggings are rare. Gang warfare, significant scourge in the 1950's, has been stamped out."

Commenting on the Fay case, a Singapore official said the reason his country is tough on crime and criminals is because it does not want to become like New York City. Can you blame them? The deplorable condition of New York City is a direct result of liberal social policies that place the rights of criminals above victims and law-abiding citizens.

In the early days of America, criminals were subjected to public ridicule, public floggings, even public hangings. Syndicated columnist Cal Thomas recently stated, "Crime was dealt with harshly because it was seen as a threat to an orderly society. Now, we explain and excuse violent criminals because they were abused, or they are poor or otherwise disadvantaged." Indeed, since the 1960's liberals have been literally obsessed with root causes, such as poverty, deprivation, abuse, hopelessness, and alienation—30 years later, our Nation's crime rate has tripled. Is there no end to such misguided policies?

Having said this, I am deeply troubled by the weak, do-nothing crime bill we are considering today. It relies heavily on costly social welfare programs that will have absolutely no effect on criminal behavior whatsoever. We have tried these kinds of programs over the last three decades. They do not work and are a waste of precious resources.

Also, with the passage of the racial justice amendment, this legislation will virtually eliminate the death penalty by establishing racial quotas in death penalty cases. For instance, if you or a member of your family is murdered, the murderer can avoid the death penalty if, based on statistical evidence, in too many other cases, other killers received the death penalty for killing people of your own race. Try explaining this to one of your constituents whose family member just had their life snuffed out by an unremorseful street thug.

What disturbs me most about this provision, which is adamantly supported by the Congressional Black and Hispanic Caucuses, is that minorities—especially African-Americans—are overwhelmingly more likely to be victims of violent crime. Let us not forget the words of the Rev. Jesse Jackson who said, "there is nothing more painful to me * * * than to walk down the street and hear footsteps and start thinking about robbery—then look around and see somebody white and feel relieved." This statement reveals a great deal about crime in America—especially in our inner cities. And it is just outrageous that anyone would prioritize discrimination over victimization. How do these people sleep at night?

Equally disturbing are the provisions of this bill that allow convicted criminals to file appeal after appeal after appeal to avoid the death penalty. Indeed, this bill further liberalizes the interminable habeas corpus appeals process by relaxing the rules on when a defendant can file an appeal, among other things. What is so ironic is that the Democrats have added 66 new crimes that will soon be subject to the death penalty in this bill. Yet the language of this legislation makes the death penalty virtually unenforceable. Talk about a public relations scam.

This crime bill also makes changes in mandatory minimum sentencing guidelines that will ultimately result in the release of 16,000 criminals onto our streets who will be free to abuse us again. This provision will not control criminals. It will emancipate them.

If we are to reduce violent crime in America, we must operate under the assumption that people will change their behavior only if they believe the costs of criminal behavior are too high. What we need, therefore, is swift and sure justice with tough, mandatory sentences for criminals, including the death penalty for particularly heinous criminals. We also need an effective juvenile justice reform system that sends a powerful message to young people that criminal behavior is intolerable and will be punished severely. Furthermore, adequate prison facilities are necessary to ensure that all violent criminals are locked behind bars for a long time—and in many cases, forever.

That means we have to spend money on building adequate prison facilities. Indeed, the FBI Uniform Crime Reports show that, from 1980–91, the 10 States with the greatest increases in criminal incarceration rates experienced the greatest decreases in crime. If we can control violent criminals, we can control violent crime.

We must also put a stop to the endless appeals that have made a mockery of the death penalty, as well as reform the rules that allow criminals to go free on technicalities. And I want to see more cops on the beat, which is why I have been the lead supporter of the police corps bill. The police corps would establish an ROTC-type program for young people who want to build a career in law enforcement. Its inclusion in the crime bill will eventually result in 100,000 more cops on the streets of America.

Mr. Chairman, America's criminal justice system is failing as a result of bad public policy enacted by liberals who care more about criminals than they do about victims. This bill is a disgrace and an insult to the intelligence of the American people who are begging for protection from the threat of violence. I urge my colleagues to vote "no" on H.R. 4092.

Mr. VENTO. Mr. Chairman, I rise in support of H.R. 4092, the Violent Crime Control and Law Enforcement Act.

The problem of crime is one the greatest concerns of the American people. Some 22 million households are affected by crime each year. Violent crime has increased 25 percent in the past 5 years. Despite the fact that more criminals are in jail than ever before, millions of Americans do not feel safe in their neighborhoods and communities. Guns are even becoming common at schools and gang violence is spreading beyond the core city areas into suburbs and smaller towns. Citizens are upset about the erosion of public safety and they are demanding that something be done about it.

H.R. 4092, the Violent Crime Control and Law Enforcement Act, is a tough and comprehensive anticrime bill. It will provide us with many new tools and programs to help us fight crime in our communities. While I have concerns about some of the sentencing and certainly the death penalty provisions of the bill, on the whole I believe it is a strong bill which will help us address the problem of crime in our Nation. On the crime control and law enforcement side, the bill provides for 100,000 new police officers on the beat, funds for prison construction, a tempered "three strikes and you're out", provision grants to stop violence against women, Drug treatment for State and Federal prisoners and prohibitions on the sale of handguns to youth. I am pleased that the House version of the crime bill places a stronger emphasis on crime prevention than the Senate bill. The House bill contains $7 billion for prevention programs including model intensive grants, youth employment and skills training, local partnerships, antigang grants and some important provisions such as the police corps which were added on the House floor.

Mr. Chairman, while there are many features I would like to discuss about the crime bill, I would like to focus on the urban recreation and at-risk youth provisions which I authored along with Representative GEORGE MILLER, chairman of the Natural Resources Committee. This section is identical to the bill H.R. 4092, which passed the House of Representatives as a freestanding measure on March 22, 1994, by a vote of 361 to 59. The amendment has the support of over 50 national organizations including the U.S. Conference of Mayors, the Boys and Girls Clubs of America, the National Association of Police Athletic Leagues, major league baseball and the National Recreation and Park Association. It was added to H.R. 4092 as part of the Brooks en bloc amendment. I would like to thank Chairman BROOKS for including this provision in the en bloc amendment and for his leadership on this comprehensive anticrime bill.

The urban recreation and at-risk youth provisions of the crime bill recognize the important role that urban recreation programs play in developing positive values in our young people and in keeping them away from crime. Grants would be authorized to urban areas with a high prevalence of crime in order to expand park and recreation opportunities for at-risk urban youth. These grants would be available for rehabilitation of facilities, improvements to increase the security of urban parks and operating support for innovative and successful recreation programs. Such a program can be a highly effective tool in preventing crime and improving the quality of life of urban neighborhoods.

Many young people in urban areas have little or no access to sports and recreation because of badly deteriorated facilities or because of program cutbacks. Urban recreation has been grossly neglected as a national priority over the last decade. Ironically, recreation opportunities for low and middle income urban residents declined over the same period of time that health clubs proliferated for the higher income residents. Urban dwellers, especially those in economically distressed communities, are the most dependent on having public parks and recreation programs. Low-income residents do not have the time or financial resources to travel to distant parks for recreation purposes.

At a recent hearing of the Natural Resources Committee, testimony was provided by city park directors, policemen, boys and girls clubs and midnight basketball leagues about the effectiveness of urban recreation programs as a crime prevention measure. The reason why these programs are so vital to anticrime efforts is because they target the age group most prone to crime—youth; 50 to 60 percent of all crime in the United States is committed by people 10 to 20 years of age. The incidence of crime peaks between the ages of 16 and 18 and quickly drops after age 21. If we can reach young people through sport and recreation programs before they turn to a life of crime, we will save dollars and lives.

Urban park and recreation programs have been around since the creation of New York's Central Park in the 1850's. Even then, it was recognized that young people need safe places to recreate and constructive activities to occupy their time, in fact positive alternatives to antisocial behaviors. The wisdom of this approach is more true now than ever.

In 1978 Congress enacted a program to help distressed urban areas develop recreation opportunities. The Urban Park and Recreation Recovery [UPARR] Program provides matching grants to economically distressed cities for repair of park and recreation facilities and for innovative recreation-based programs for youth. While the UPARR Program has proven to be effective, it has suffered from a lack of stable funding. UPARR received no funding from 1985 to 1990, and the past 2 years it has received only $5 million annually. The number of requests from cities which have matching funds ready to go is two to three times what the UPARR Program is able to fund.

The Miller-Vento amendment was drafted to maximize cost efficiency and program effectiveness. First, it uses the administrative resources and procedures of the existing UPARR Program in order to minimize costs and bureaucracy. Second, it leverages additional resources by requiring a 30 percent local match. Third, it requires park and recreation officials to coordinate their efforts with law enforcement, social service agencies and nonprofit community organizations involved in youth crime prevention. Fourth, it is flexible enough to allow nonprofit organizations such as boys and girls clubs, police athletic leagues, and midnight basketball programs to receive funding assistance. Fifth, it requires eligible cities to submit a plan which states how they intend to improve recreation opportunities in crime ridden neighborhoods over the long-term. Finally, it requires facilities which have been improved as a result of this grant program to remain open for public recreation uses in perpetuity.

Congress has previously recognized the importance of recreation in preventing crime and delinquency. Amendments to the Juvenile Justice and Delinquency Prevention Act in 1992 and the National Affordable Housing Act have specifically included authorization for recreation program. There are other prevention programs in H.R. 4092 which mention recreation, and I am supportive of these provisions. The Miller-Vento approach is cost-effective because it builds on a successful existing program instead of creating new programs and bureaucracies to like other provisions of the House crime bill.

Mr. Chairman, I would also like to explain the Vento amendment which adds the Secretary of the Interior to the ounce of prevention council established by section 1010 of H.R. 4092. The ounce of prevention council as currently proposed would consist of the Attorney General, the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of Labor, the Secretary of Agriculture and the Director of the Office of National Drug Control Policy. The Ounce of Prevention Council advises the Secretary of Health and Human Services on making grants for various programs to communities which have high incidence of crime and juvenile delinquency. Program grants may be for education, recreation, job placement, or substance abuse programs.

The Vento amendment would add the Secretary of the Interior to the Ounce of Prevention Council because of the longstanding involvement of the Secretary of the Interior in recreation and youth programs. The principal statutory responsibility for outdoor recreation lies with the Secretary of the Interior as do the largest Federal programs promoting State and local recreation. These programs are the Land and Water Conservation Fund [LWCF] Act of 1965 and the Urban Park and Recreation Recovery Act [UPARR] of 1978. Together these two programs have provided over $3.5 billion in funds to State and local governments for the acquisition and development of park and recreation facilities and the provision of recreation programs and services. The Secretary of Interior has additional responsibilities and authorities for recreation and youth development through the Outdoor Recreation Act of 1963 and the Youth Conservation Corps Act of 1970.

The ounce of prevention grant program contained in subtitle B of the title X of H.R. 4092 proposes park and recreation programs and facilities in several sections. Recreation is an eligible use of program funds; programs can be carried out on State or local parks and recreation centers; and funds may be used to renovate recreation facilities. The Department of the Interior has operated recreation grant programs for a total of 45 years. This experience and the longstanding statutory responsibility of the Secretary of the Interior for recreation and youth programs makes the addition of the Secretary to the Ounce of Prevention Council an appropriate and meritorious idea.

Mr. Chairman, some provisions in the measure and the votes of the House concern me, they demonstrate that significant misunderstanding exist regarding the antisocial behavior and the criminal justice system. Federalizing a crime is not an automatic solution. The death penalty in my view is an admission of frustration not a solution. So often our society in modern America is insulated and isolated, there does not appear to be much empathy or understanding of the social conditions and plight of significant populations and sectors of our society. The dehumanizing, antisocial behavior of the criminals and inexplicable actions should be met by the reason of law deliberation not retribution.

Mr. Chairman, despite my reservations about several provisions of the crime bill, I believe it is a strong and comprehensive bill which strikes a good balance between tougher law enforcement and crime prevention programs. I urge Members to vote in favor of H.R. 4092 and hope that a conference of the House and Senate can correct some of the outstanding problems with the House and Senate passed measures.

Ms. FURSE. Mr. Speaker, I want to take this opportunity to voice my support for the crime bill. It is a bill which is both tough and smart. It combines strong prevention initiatives, such as funding for antigang programs, and protection against domestic violence, as well as tough on crime measures like "three-strikes-and-you're-out" and truth in sentencing.

The truth in sentencing amendment is especially important. I worked with the author of this amendment, Representative CHAPMAN of Texas, to bring this important issue to the House floor. This amendment is so important to my home State of Oregon because of a tragic case involving the rape of a 4-year-old girl which was allegedly committed by a released convict, Russell Obremski. In 1969, Mr. Obremski embarked on a drug and alcohol binge which ended with the murder of two women. He was sentenced to two consecutive life terms. He was recently released having served only 25 years of his sentence. The truth in sentencing amendment I helped pass here in the House, had it been enacted in Oregon 25 years ago, would have kept Russell Obremski in jail, and this tragedy could have possibly been avoided. Had Oregon's truth in sentencing law been passed prior to 1968 rather than in 1989 it could have been avoided. The Oregon Department of Corrections fully supports this legislation.

While this crime bill is not perfect, I feel that it's a balance between working to stop crime before it occurs, and severely punishing those who have broken the law. It is fair and should be commended. Earlier this year I sent a survey on crime to the residents of my district and received nearly 10,000 responses. The message from Oregon was clear: people want something done about crime. This bill is a first step and I look forward to voting on final passage of the crime bill when it comes out of conference with the Senate so President Clinton can finally sign this much needed legislation into law.

Mr. BILIRAKIS. Mr. Chairman, in the past, I have noted here on the House floor that we really debate fear in this Chamber when we consider legislation to address crime. We talk a lot about the fear our constituents have when walking the streets of their neighborhoods; the fear they have for their safety and that of their children.

However, what we rarely seem to talk about is the fear the criminals should have regarding our Criminal Justice System. That's because they don't have any fear of a revolving-door system that too often sees them returned to the street to prey upon their victims again and again. They don't fear punishment that is uncertain and appeals that are endless. On the contrary, they are laughing at us and our system.

We have the opportunity now to give our Nation and our constituents a crime bill with teeth. We need to do that, Mr. Speaker, because violent crime is a booming business across our Nation today—up 500 percent since 1960. That's 500 percent. Not 5, not 50, but 500 percent, and that is a disgrace.

Every year, some 5 million people are victims of violent crime, a murder every 24 minutes, a rape every 6 minutes, a robbery every 55 seconds, an assault every 33 seconds. Yet, on average, violent offenders serve only 5½ years for murder, 3 years for rape, 2¼ years for robbery and 1.28 years for assault. That's a disgrace as well.

It is essential that Congress provide the tools to fight this scourage at all levels of society—from our borders to our school yards—and to provide severe and mandatory penalties for criminals.

We must instill fear and respect in those who would break our laws. Whether prisons should serve to rehabilitate or punish isn't really the issue. The issue is crime prevention, and I believe we can only achieve that by increasing both the likelihood and the certainty of legal sanctions.

Mr. Chairman, let's craft a tough anti-crime bill, and get it enacted into law. Let's do something for the thousands of Americans living in fear. Let's put fear back into the heart of the criminals who prey upon us all.

Mr. ENGEL. Mr. Speaker, I rise today in support of H.R. 4092, the Violent Crime Control and Law Enforcement Act. The bill contains provisions which show our strong commitment to combat the escalating crime problem in the United States.

With this in mind, though, I must voice my concern regarding specific provisions of the bill which were adopted. As an opponent of capital punishment, racial bias, and limited death row appeals, I strongly oppose the amendments which were offered by Representatives HYDE, GEKAS, and MCCOLLUM and ultimately passed by the House of Representatives. Mr. Speaker, these amendments restrict prisoners rights to judicial access which they are entitled under the U.S. Justice system.

On the other hand, I am pleased to see that the provision which bars execution of prisoners who demonstrate that their death sentence was imposed because of racial discrimination was retained in the bill. This provision permits the use of statistical evidence to demonstrate racial discrimination in imposing the death penalty, thus, it preserves an important element of balance and fairness.

In response to President Clinton's call for a "strong, smart, tough" crime package, I support H.R. 4092, because it represents the largest commitment of Federal dollars to the crime package in U.S. history. At the same time, though, I must make it clear that I have been, and will remain, opposed to provisions which limit citizens rights to judicial access, and I especially oppose the capital punishment provisions in the legislation.

Mr. SHAW. Mr. Speaker, although I voted for final passage of H.R. 4092, the Omnibus Crime Control Act, I recognize that this legislation remains flawed. Nonetheless, given the enormity of the problem of crime in communities around the country, I believe it is important that the bill be worked on in conference, so that we can craft a crime bill that will truly target criminals and make our streets safer.

There are many provisions contained in the text of the bill that should be dropped or substantially changed in conference committee. The most egregious is title IX, the Racial Justice Act, which would allow death sentences to be reversed retroactively based solely on racial statistics. The last thing this country needs is quota in our Criminal Justice System.

There are many other problems with the bill as it now stands, including inadequate truth-in-sentencing, weakened mandatory minimum sentences, a lack of exclusionary reforms ensuring criminals do not get off on technicalities when police gather evidence in good faith without a warrant, and a lack of constitutional procedures to streamline habeas procedures. Furthermore, it includes over $8 billion in "Great Society" grants for recreation job training, and social services, with no requirement that the funds be used for anticrime programs.

I am hopeful that the conferees will address my concerns in conference, as I and many of my colleagues are eager to see enacted a comprehensive crime bill that will effectively respond to America's serious crime problem.

Mr. DORNAN. Mr. Chairman, the following articles are most enlightening on violent crime in America:

CRIME SOLUTION—LOCK 'EM UP

(By Ben Wattenberg)

Thanks to angry American voters, the "crime issue" is prominent again, as it ought to be. It is our biggest problem. And there is something we can do about it—if the House and Senate can agree on a history LBJ-style crime strategy now being debated on Capitol Hill.

Putative solutions to the crime problem are rolling forth like a mighty stream. There is gun control. And drug rehabilitation for criminals. And greater use of the death penalty. And habeas corpus reform. And more cops active in "community policing." And "boot camps." The list goes on and on.

As it happens, I approve of most of the above catalog. I would like to see much of it enacted into law. But there is this sad fact: We don't know that these proposals will seriously cut the current scary rate of violent crime. The existing studies are thin and often contradictory.

Two things do seem fairly clear. First criminologists and crime policy wonks don't know much about what works. (No surprise.) Second, the thing that almost everyone intuitively knows is so simple that it barely needs repeating, except that it is often purposely ignored, particularly, alas, by the Clinton administration.

It is this: A Thug in Prison Cannot Shoot Your Sister.

PUTTING THUGS AWAY

Of course, this is not a new theory. But it was restated with clarity in 1992 in a short publication titled "The Case for More Incarceration" published by the Justice Department. It showed:

That incarceration is cheaper than letting a criminal out on the streets.

That although the crime rate is horrifically high, the actual rate of increase of violent crime has been going down since we started putting more people in prison.

That much violent crime is committed by people who have already been in the criminal justice system (that is, people who have been arrested, convicted, or imprisoned, or who are on probation or parole).

That prison time served, despite some mandatory minimum sentencing laws, has gotten somewhat shorter.

That prisons do not create criminals.

The blacks and whites are treated equally and that the vast majority of law-abiding African-Americans would gain most from more incarceration of criminals because African-Americans are more likely to be the victims of violent crime.

Happily, the concept of getting thugs into prison and keeping them there longer is in the new crime bill that recently passed the Senate—by a vote of 95–4.

More remarkable is the manner in which the concept is embedded in the Senate bill. Until now the rap on almost all federal crime bills has been: "The feds can't do much: after all, violent crime is principally a state issue." Quite so: 97% of violent criminals are in state prisons.

Moreover, some of what the feds have done to state prisons has been harmful. Federal court rulings have determined that many state prisons are "overcrowded." That has made it difficult for state judges to get criminals behind bars and has boosted the "revolving door" justice that encourages parole boards to let criminals out of prison early.

That is a social tragedy. The typical violent offender in state prison serves only 40% of his sentence. The typical offender out on the street commits 12 serious crimes a year, exclusive of drug crimes, according to a Brookings Institute study, which estimate is lower than much other scholarship on the matter. If a thug with a 10-year sentence serves only four years, he will commit about 70 violent crimes during his unserved time! (Including, in theory, the murder of Michael Jordan's father and of 12-year-old Polly Klaas.)

The Senate crime bill deals with this state—federal dilemma by going back to the LBJ-style carrot-and-stick approach. Interestingly, it has been pushed most vigorously by conservative Republicans.

The feds pledge to build a series of "regional prisons," which may be new ones or perhaps remodeled military bases. The bill would provide between 50,000 and 100,000 new prison spaces over five years. The states, in turn, are invited to place their prisoners in these new facilities.

That's the carrot. The stick is that the Feds won't help unless the states reform their criminal codes in certain critical ways. The most important item is to stipulate that violent criminals serve 85% of their terms.

Now, a case can be made that the Senate bill is the first step toward "federalizing" the state prison system, and that the federal role will expend over time. Carrot & Sticking is what the feds did with certain aspects of the educational system, transportation, the environment and much more—often offering no particular expertise while intruding on state operations that sometimes didn't need help.

But prisons are different. The federal prison system, and the federal criminal code, are exemplary. The state systems are often derelict. The Senate bill can make the states do what they should be doing anyway, and what the public overwhelmingly favors: imprisoning violent offenders longer to lower the crime rate.

That's the Senate bill. The House, on the other hand, has passed only small pieces of legislation and may pass more. In theory there should be a conference committee report to reconcile the versions. But Jack Brooks (D., Texas), chairman of the House Judiciary Committee, has indicated that such a conference might be a long way off. Earlier crime bills have been gutted, diluted and turned into mush during conference negotiations.

The role of the Clinton administration in the prison aspect of this process has been strange. First, there is no Clinton crime bill. There was supposed to be one, with a provision for regional prisons. Then the White House said it was backing both Sen. Joseph Biden's Senate bill and Rep. Brook's House bill; Mr. Biden's had some rather mild provision for regional prisons, Mr. Brook's didn't. Then the word was that the White House was backing Mr. Brooks, because Attorney General Janet Reno labors under the quaint belief that by depopulating our prisons of "nonviolent offenders" we can then refill them with truly bad guys. (But 93% of prisoners are either violent or repeat offenders.)

The fact of the matter is that the president is (admirably) hawking just about every part of the legislation, much of it on the "prevention" side. But he remains studiously silent on the most critical aspect of all: incapacitating more criminals longer. What's going on?

It's said that liberals oppose more money for prisons. Why? Can they still possibly believe that there are no bad boys, only bad societies?

BLACK VICTIMS

It's said that the Black Caucus is in opposition because it will be blacks who will disproportionately serve the extra time. But who's killing blacks? Jesse Jackson said the other day that "there is nothing more painful to me * * * than to walk down the street and hear footsteps and start thinking about robbery—then look around and see somebody white and feel relieved." A key White House aide, Gene Sperling, is quoted as saying he'd rather spend money on poor kids than on prisons. But poor kids are getting shot at by people who should be in prison! The parents of those kids can't get jobs in the inner city because businesses flee from crime.

The idea of regional prisons, linking the states and the feds in a time of domestic crisis, can become law if Mr. Clinton pushes the House Democrats to get with the program. He can claim huge credit if he puts his shoulder to the wheel and it happens. If it fails, the fault will be his.

BEGGING FOR TYRANNY

(By Charles Colson)

A few months ago in this space, I wrote that the rapid secularizing of America would lead inevitably to tyranny. An ominous warning—though I was thinking of a process taking five to ten years. Little did I dream that events would so quickly overtake my prophecy.

America already had the highest rate of violent crime in the world, rising 560 percent in the past 30 years. But in recent months it has exploded. Every day's headlines report new outbreaks.

Three Dartmouth, Massachusetts, schoolboys surround a classmate and stab him to death—then laugh and trade high fives.

An Oakland teenager chases a woman down the street brandishing a knife, while onlookers chant, "Kill her! Kill her!"

A Long Island man starts shooting randomly on a commuter train, turning it into a death trap.

It is not just the extent of crime that terrorizes America but its random, gratuitous nature. In the past, lawbreakers were motivated by some recognizable human emotion: hatred, greed, envy. But today's headlines tell of youngsters who murder without motive, without remorse. What we are witnessing is the most terrifying threat to any society: Crime without conscience.

Polls show crime soaring to the top of public concern. Pundits are clamoring for action. And politicians are doing what politicians do best: spending more money. At this writing, Congress is wrestling with a bill to finance more cops and more prisons—to the tune of 22 billion dollars.

Having worked in hundreds of prisons around the world, I am convinced that this crisis will not be resolved by more cops and cells. The only real solution is the cultivation of conscience.

In The Moral Sense, criminologist James Q. Wilson contends that conscience is innate. This is, of course, what Paul teaches in Romans 2, that all people have a "law written on their hearts."

But conscience must be trained just as children must be trained to speak a language. It begins in the family, where parents teach their children by precept, by example, and by the behavior they require. As Aristotle wrote, "We become just by the practice of just actions."

But with divorce and dual careers, parents spend 40 percent less time with their children than parents did a generation ago. And their job is made harder by a loss of public standards of virtue. Modern thinkers have rejected the very idea of objective morality: Darwin, who reduced morals to an extension of animal instincts; Freud, who regarded repression of impulses as the source of neurosis; Marx, who disdained morality as an expression of self-interest.

Under this onslaught, commitment to a common morality has crumbled. Public-school teachers are trained to withhold moral judgment in classroom discussions. When children are raised in this climate, their moral sense remains unshaped, untutored. Like feral children who cannot speak, many children today cannot draw moral distinctions.

This is the hidden root of violent crime in America: Our culture has bred a generation without conscience. And it means that the front line in the war against crime is not in Congress or the courts. It runs through every living room in America, where parents teach their children right from wrong. It runs through every classroom, where teachers pass on a culture's common moral heritage. It runs through every film and movie, where virtue is either mocked or praised.

WHEN TRUTH RETREATS

Christians are uniquely equipped to bring this message to our secular neighbors. And we had better do so before it is too late. As Francis Schaeffer used to say, when truth retreats, tyranny advances. The loss of moral truth weakens social restraints, unleashing criminal impulses. And as crime soars, so does public fear. In the end, people welcome the strong arm of government to quell the chaos—at any price.

Shadows of impending tyranny darken the horizon. In Puerto Rico, the National Guard is conducting military-style raids on housing projects. At night, with helicopters whirring and searchlights beaming, camouflaged troops with M-16s are breaking down doors to confiscate arms and narcotics. Most Puerto Ricans support the action.

Here on the mainland, when D.C. Mayor Sharon Pratt Kelly asked for the National Guard to patrol the nation's capital, she was applauded. Several cities have imposed curfews for young people—a form of martial law of dubious constitutionality. A Miami Herald poll found 71 percent support for police roadblocks to track down drugs—even though they violate the Fourth Amendment's protection against unreasonable search and seizure. People shell-shocked by incessant crime welcome higher levels of police intrusion.

Christians must move to the forefront of the debate over crime, which will surely intensify in the coming months. We must expose the illusion that security can be purchased through more police, more prisons, more draconian punishment. While these things play a role in containing crime, they are palliatives. We must aim our attack at the root. We must carry the crime debate onto moral grounds, where our secular culture fears to tread.

The task is urgent. If we do not learn to cultivate conscience—if truth continues to retreat—then tyranny will surely advance. To end the war of all against all, the state will unsheathe the power of the sword against every citizen.

And the saddest thing is that it will come as a welcome relief.

[From the Wall Street Journal]

CRIME: THE PEOPLE WANT REVENGE

(By Paul Johnson)

Britain and the U.S. between them created the modern concept of democracy. But there are times when I wonder whether democracy actually works in either country. My doubts become most pronounced when the topics of crime and its punishment come up, and I compare how they are actually dealt with by the authorities with what the public wants done.

"Wants" is the key word. For the essence of democracy is not one-person-one-vote. Most Africans have got that and what good does it do them? Nor is the essential question whether you have a presidency or a constitutional monarchy, and a congress or a parliament. These are details. What makes democracy real is a working system that translates the reasonable wishes of the mass of the people into the actual performance of government.

Cynics will say that no such system does or can exist—but that is nonsense. During the 19th century and for most of the 20th, the U.S. Congress and the British Parliament were remarkably effective in reforming and improving institutions in accordance with the wishes of the people. That is why both societies proved so stable and virtually impervious to the revolutionary shocks that made the modern history of so many other advanced countries unhappy.

LIFE AND LIBERTY

Now doubts have arisen and they are particularly nagging in the area of law and order. Governments have a fundamental obligation to do three things: manage a country's external defenses, uphold internal order and maintain an honest currency. Of course they can do many other things, but these are the three essentials because only government can do them. The more governments attempt to do, the more likely it is that one or another of these basic roles will be badly carried out. Usually it is the third that is forgotten, for activist governments tend to produce inflation, and hyperactive governments, as we see in Latin America, produce hyperinflation.

However, even in steady democracies like the U.S. and Britain, where inflation has never gotten out of hand and is, in fact, well under control at present, the feeling is growing that government now performs its second function very badly indeed. Throughout this century, governments in both countries have systematically taken on responsibilities for welfare, health, education, housing and even culture that were hitherto discharged by citizens themselves. At the same time, a reverse process has been taking place in the protection of life and property.

Government has become so ineffectual in this field that individuals have to act on their own behalf. Inner-city apartments have become miniature fortresses. Private security is one of the fastest-growing industries in both countries. In the U.S., the number of women carrying defensive weapons, chiefly handguns, has risen dramatically. A ubiquitous new institution in Britain (already common in the U.S.) is "neighborhood watch," a scheme whereby neighbors band together to protect each other's property. Vigilantism indeed is now making its appearance in Britain for the first time in centuries, to strong public approval, and in the U.S. citizens who gun down habitual criminals are acquitted by juries and become popular heroes.

Behind this grim reliance on self-protection and contemptuous cynicism for the efforts of government lie two convictions burned into the public consciousness. The first is a universal perception that crime, not least violent crime, has increased to the point where it is effectively out of the control of authority. Academic criminologists, wielding batteries of statistics, sometimes argue that this public perception is false and based on what they sneeringly term "anecdotal evidence." But what other kind of evidence do we have to go for our knowledge of most things? People form conclusions by what happens to them, their families, friends and neighbors; and if all, virtually without exception, are victims of crime, then they understandably conclude that the balance of advantage has decisively shifted to the criminal.

The statistics, as it happens, bear out this conclusion. Commenting on them, the chief constable of one of Britain's largest police authorities recently stated flatly that crime now pays in Britain. Surely this is one reason why the number of criminals, professional and amateur, is rising. It is probably true to say that, in both Britain and the U.S., crime is an industry growing even faster than private security.

Recently I have been rereading the remarkable studies that Henry Mayhew carried out in London in the 1840s, and published as "London Labour and the London Poor" (1851). His fourth volume deals comprehensively with the criminals of London, then a city of about 3 million people. He was able not only to identify every category and sub-type of criminal activity in the city but in almost every case to pinpoint their geographical location. What he was describing, in fact, was a specific criminal class, distinct from society as a whole and almost by definition firmly under its control. Crime could not finally be ended. But it could be contained, and eroded.

Today it would be impossible for a modern Mayhew to publish such a survey of New York or London or Los Angeles. It is not just that these cities are bigger (14.6 million, 9.1 million and 10.1 million people, respectively) but that crime is no longer localized: It is everywhere and permeates society, It starts earlier. Last February in Liverpool, two 10-year-olds abducted and cruelly murdered a two-year-old. In Los Angeles, 100,000 children under the age of 14 belong to gangs armed with lethal weapons. Crime also now affects the lives of the aged to a degree hitherto unknown. It is not uncommon, in London, for women over 80 to be raped and murdered by young thieves who break into their apartments to steal. Indeed, in cities on both sides of the Atlantic, the aged and defenseless in the inner cities have now lost their freedom of movement, just as young children can no longer be allowed to play in the streets.

Crime now transcends sex, as more and more women become both victims and perpetrators of it. Thanks principally to drug abuse, it transcends class and occupation and educational barriers. Everyday crime is no longer confined to inner-city ghettos. Figures released last week show that in Britain it is rising fastest in rural areas; old-fashioned, conservative shires like Wiltshire and Hampshire now produce devastating statistics of robbery with violence, rape and malicious wounding. In the U.S., crime has become routine in smaller cities and townships. Everyone, rich and poor, old and young, black and white, educated and illiterate, is now at the receiving end of crime—or perpetrating it.

Yet at a time when crime is having a more direct impact on the lives of us all than ever before, the treatment of it by authority is becoming less and less democratic. In both Britain and the U.S., opinion polls, conducted over many years, show that public opinion, in its attitude toward crime, is overwhelming repressive. As crime increases, ordinary people not surprisingly become more and more hostile toward criminals. They do not want to "understand" criminals; they are not ever much interested in reforming them. They want them punished, as severely and as cheaply as possible. Habitual and violent criminals they want taken out of society altogether, preferably for good. They favor punishment that is deterrent and retributive.

HANGING FOR MURDER

The attitude of ordinary people indeed is essentially vindictive: They desire revenge. That is why, for instance, large majorities in both Britain and the U.S. support capital punishment for murder. In Britain, where hanging for murder was abolished in the 1960s, the popular majority for its restoration has never fallen below about 75%.

But what authority actually does about dealing with crime bears no relation at all to popular wishes. In both countries, the liberals captured power over the administration of crime and punishment in the 1950s and have never relinquished it. On the contrary, their grip has tightened. As crime rises and affects the lives of more and more people, so liberal remedies are applied, with ever-increasing obstinacy and at mounting expense. The reasons lie in the nature of modern government, where lobbies, pressure groups and organized minorities exert more influence over specific areas of policy than the mass of the people.

This principle applies particularly in the field of crime. In both Britain and the U.S. a permanent working alliance exists between, on the one hand, liberals in academia and the media, and, on the other, their counterparts in government and its agencies, in private and trade union lobbies, in the courts and in law firms. In practice, these people draft the legislation that governments then sponsor and Congress and Parliament enact.

This legislation is overwhelmingly liberal in character and is designed essentially to protect the rights and interests of the wrongdoer rather than those of the victim, who has no lobby. This explains, for instance, why the British Conservative government theoretically committed to a repressive line on crime, has in fact put through such ulitaliberal measures as the Children's Act of 1989 and the Criminal Justice Act of 1991.

Liberalism as the answer to rising crime has been applied in both the great demoracies now for the best part of half a century. It has been tested to destruction. It has failed everywhere, overwhelmingly and manifestly—except in one region; the minds of its advocates. For them liberalism is a religion, an article of faith, born of conviction and not susceptible to proof or disproof. And as they continue to control, in practice, the way in which society officially responds to crime in both countries, so they nourish the monster strolling in our midst by increasing its liberal diet.

Ordinary people, in the meantime, perceive that, in this central field, democracy does not work at all. They shrug their shoulders and set about protecting themselves, as their primitive ancestors did before the state had been invented. It is not a healthy state of affairs. In fact the failure of authority to carry out the public's wishes on crime is even more corrosive of society than rising crime itself.

[From the Wall Street Journal, Dec. 31, 1993]

HOW OUR TOWNS FIGHT CRIME

(By Amitai Etzioni)

While Washington sweats out the crime bill, communities from coast to coast are experimenting successfully with various antiviolence measures. Unfortunately, the American Civil Liberties Union is successfully slowing them down.

Examples of effective grass-roots efforts to combat crime abound. In New Jersey, the cities of Newark and Orange have introduced curfews prohibiting minors from being on the streets between 10 p.m. and 6 a.m. Exceptions are made for those passing through town, or on the way to or from a political or religious event. The law fosters parental responsibility by fining parents rather than arresting the children found roaming the streets after hours. Curfews keep minors out of harm's way and deprive drug dealers of their runners and lookouts during peak "business" hours.

Many neighborhoods have recently erected a variety of roadblocks. Oakland, Calif., set up 17 on roads leading to nearby Lake Merritt when residents complained of incessant cruising, public drunkenness and rude behavior. In a public housing project in Chicago, drive-by shootings and about half of the drug traffic were stopped when a fence was erected around the project. In Inkster, Mich., an open-air drug market was closed overnight when a local sheriff set up a roadblock and demanded to see a driver's license and proof of car ownership (documents drivers are required to carry by law).

Mere shaming also works. A neighborhood in Long Island was flooded with cruising men, who—looking for prostitutes—solicited passersby, even women working in their gardens. A community association wrote down their license plate numbers and sent letters to their homes. It proved a surprisingly effective deterrent.

ANTIDRUG PATROLS

Numerous communities across the country have formed crime watches—groups of citizens who agree to guard one another's property. When residents see suspicious movements in a neighbor's yard, they notify the authorities. A large number of neighborhoods have set up antidrug patrols. In Washington, D.C., multiracial Orange Hat patrols chase drug dealers out of their communities, by noting their license plate numbers and filming them with hand-held video recorders. In Washington's North Michigan Park, such a patrol helped snare corrupt cops who were protecting drug dealers. Another group in Washington recaptured the Meridian Hill Park from drug traffickers.

While these efforts basically reflect the work of volunteers or the initiative of local sheriffs, states also have been taking new steps. For instance, Washington state has passed a law requiring the continued detention of sex offenders, until medical authorities rule that they are "safe to be at large." And from New York City to Los Angeles, Community Policing programs are getting cops out of their cars, to walk the beats, to know closely the areas they are patrolling, and to develop closer relations with the locals.

None of these measures eliminates violent crime. There is no single measure or even group of measures that can ensure public safety 100%. But these measures do save lives, and if used more widely they could reduce both violence and the sense of being constantly menaced. Restoring basic civility, more and more social scientists agree, requires a return to basics: a reconstruction of the family; values education in schools; stronger neighborhood bonds; and possibly some kind of spiritual or religious revival.

Enter the civil libertarians.

A major reason anticrime measures such as these are not applied in more communities is that the ACLU and its army of lawyers hobbles them in courts and sours the public's reception to them. To prevail in the courts of law and of public opinion, one must understand the arguments the ACLU advances.

Typicially, the ACLU's opening volley is that the suggested anticrime steps are not cost-effective. Building jails is too expensive; drug rehabilitation is said to be cheaper. Keeping sex offenders in jail until they are safe to be released is a "waste of money." The ACLU does not buttress its points with specific statistics based on valid samples, data comparing a program to a control group, or other such social science evidence. It relies on anecdotes, newspaper clippings and select quotations from favored experts. Indeed, the fact that this line of argument is merely a smoke screen becomes evident once one presents data that the grass-roots anticrime approaches at issue are effective. The ACLU then immediately retreats to its main line of attack: It does not matter if the suggested measures are efficient—they are unconstitutional.

A common claim is that these new anticrime techniques are racist. When the police set up roadblocks in the Lake Meritt area, the San Francisco chapter of the ACLU argued that roadblocks are discriminatory, because more young people are stopped than old ones and more blacks than whites. The police countered that officers asked for IDs from everyone, and only barred nonresidents. The police did "admit" that once they became acquainted with some of the residents, officers simply waved them through.

The same argument is raised against crime databanks, which police across the country are finding a rich resource. The Colorado ACLU attacked Denver's police roster of gang members because more than half of those listed are black, while blacks constituted only 5% of the population, and Hispanics constituted about a third of the list, while they are only 12% of the city's population. The fact that most gang members in Denver are not white did not impress the ACLU, nor did the fact that a person who has no "contact" with the police is dropped from the roster after a specified period.

The ACLU views all roadblocks, screening gates (which are familiar to airline passengers but also increasingly serve schools, courthouses and legislatures), drug testing, examination of lockers in public schools, sobriety checkpoints and the like as violations of the Fourth Amendment's search and seizure protection. What the ACLU specifically objects to in all these situations is that people are being "searched" without there being a specific suspicion that they committed a crime; these are said to constitute searches of the innocent.

Note that the ACLU misstates the Fourth Amendment. It reads, "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, "What is reasonable is open to debate, but the courts have ruled again and again that at issue is a balance between individual rights to privacy and the public's interest in elementary safety.

Surely, no one wishes to intrude wantonly on people's privacy. But when planes full of Americans were being hijacked in the 1970s, the nation embraced screening gates and stopped the terrorists cold. The ACLU's warning that these gates would "condition Americans to a police state" has not proved any more true than its many other predictions about the dire results of improvements in public safety.

SUBJECTING LIBERTIES TO ORDER

The ACLU's gravest mistake is its assumption that the best way to protect liberties is by blocking moves that seek to enhance the role of public authorities. But the greatest threat to a free society is that if liberties cannot be subject to some order, there will be none. When people's most elementary needs—for protection of their lives and those of their loved ones—are not met, they are susceptible to appeals by demagogues. In desperation, they listen to suggestions, such as those of Chicago's former police superintendent Leroy Martin, to shoot drug dealers on sight without trial, and those of fellow citizens who wrote in desperation seeking "to suspend the Constitution until the war against drugs is won."

There is a faint hope that people will come to understand protecting public order is not antithetical to civil liberties but, on the contrary, a major precondition of a free society. People must learn to oppose the rigid and narrow interpretation of the Constitution advanced by the ACLU. Communities should be about to advance anticrime measures without the incessant threat of lawsuits.

Mr. LEVIN. Mr. Chairman, I rise in strong support of the Violent Crime Control and Law Enforcement Act of 1994 because we need desperately to turn back the clock on crime and violence in our society.

When residents in the 12th Congressional District—suburban Oakland and Macomb County communities—are afraid to jog at night, to go to the mall alone, or to allow their kids to play in the nearby park, we must say, enough is enough. It is intolerable that we no longer feel safe.

Why should we accept anything less for our own kids and grandkids than we ourselves enjoyed? I remember vividly, how as teenagers, my brother and I felt safe—day or night—on the streets of our neighborhoods, playing ball in the park, or taking the bus to see the Detroit Red Wings.

We must turn back the clock on crime and violence.

We must act swiftly and smartly. We must marshall our resources to provide for both punishment and prevention.

We must do so in a way that is effective for communities both large and small. For example, when we add more community police, and we must do so, we must leave the decision of how to use them up to local law enforcement. One community may need to add law enforcement officers to their streets, while another would benefit by adding them to multijurisdictional task forces. In either case, the end result is the same—combating criminal activity in a manner that will prove most effective in our individual communities.

We also need to focus on our future, our children. We must stop dead in its tracks the spread of youth violence and drug abuse. We need the programs in this bill which provide constructive alternatives so that our young people don't get started in criminal activity. But, if they do, we need the boot camps this bill provides to prevent youthful, first-time, nonviolent offenders from taking even further steps toward violent action.

Most important, those who commit criminal acts should face swift and certain punishment. We need the provision in this bill which tells criminals that if you commit three violent offenses, your clock has run out. And we need the Federal funds this bill provides to build and run State prisons. Prison overcrowding is an outrageous excuse for granting parole.

If we are truly going to turn back the clock on crime and violence in our communities—and I believe we should accept nothing less—we must start today by passing this bill. I urge my colleagues to join me in support.

Mr. McCOLLUM. Mr. Chairman, during the House floor debate of the Violent Crime Control and Law Enforcement Act, H.R. 4092, I referred to several letters that were submitted regarding title VI and title IX of the crime bill. I want to thank the individuals and organizations that worked so diligently to provide guidance to Members of the House of Representatives during consideration of these important titles. Also, I would like to submit one letter in particular, that from the American Legislative Exchange Council [ALEC] to the RECORD.

I would also like to add that not only did I receive correspondence from ALEC on behalf of my truth in sentencing prison amendment which I offered in substitute for title VI of the crime bill, I also drew letters of support from: the National Troopers Coalition, Governor Allen, and John Walsh of America's most wanted.

Further, Mr. Chairman, I received letters from the following organizations in opposition to title IX, the Racial Justice Act, and in support of my amendment to substitute the Equal Justice Act for the Racial Justice Act: the National District Attorney's Association, 32 bipartisan State attorneys general; the National Troopers Coalition, the American Legislative Exchange Council; Hon. Michael Bowers, the attorney general of the State of Georgia, State attorney Lawson Lamar, the ninth judicial circuit of Florida, State attorney Norman Wolfinger, and the eighteenth judicial circuit of Florida.

AMERICAN LEGISLATIVE
EXCHANGE COUNCIL,
Washington, DC, April 19, 1994.

DEAR MEMBER OF CONGRESS: The United States House of Representatives is about to vote on H.R. 4092, the 1994 Crime Bill. There are several provisions of this legislation which cause significant concern for members of the American Legislative Exchange Council (ALEC).

As you may know, ALEC is the nation's largest, private, bipartisan association of state legislators. We count as members more than 2,500 Democratic and Republican lawmakers, who, together, represent more than 63 million Americans across all fifty states. Since 95 percent of all crime occurs within the jurisdiction of the states, ALEC members represent the front line in our collective work to control crime.

Yesterday, ALECs officers, and more than 100 of our members, wrote urging you to support significantly higher authorization levels for prison construction as embodied in amendments offered by Congressmen McCollum and Chapman (letter attached). This remains the highest possible priority for our members.

However, there are additional provisions in the Crime Bill which, if included in the final legislation, would so undermine state crime control efforts that ALEC members would be forced to urge you to vote against the entire Crime Bill regardless of the authorization level for prison construction and operations. These are the habeas corpus changes proposed by Congressmen Don Edwards and Craig Washington and the so-called "Racial Justice Act."

As currently written, these provisions of the Crime Bill would:

Relax rule governing habeas corpus petitions;

Establish onerous new mandates on the states, including a requirement that at least two lawyers be appointed to represent defendants;

Reverse several U.S. Supreme Court rulings which prohibit most appeals based on developments in law subsequent to a defendant's conviction;

Expand the appeals process for defendant's facing the death penalty; and

Allow a convict facing capital punishment to use, in court, statistics to demonstrate racial discrimination and thereby prompt a judge to impose a lighter sentence, even if no evidence is presented demonstrating that race was a factor in his particular case.

These changes would substantially weaken current law, lead to virtually endless appeals, and effectively end the death penalty in the 36 states that now have capital punishment.

Several amendments will be offered concerning these provisions of the Crime Bill, including those proposed by Congressmen Butler Derrick, Henry Hyde and Bill McCollum.

Although undoubtedly well-intentioned, the amendment proposed by Congressman Derrick does not remedy the problems raised by habeas language in the bill and would significantly weaken current law. After careful study, our members join the National District Attorney's Association in their conclusion that a vote for the Derrick amendment is not habeas reform but is a "vote to end the death penalty." As a result, we urge you to oppose the Derrick amendment.

Our members are convinced that the only amendment which ensures that habeas corpus defects in the Crime Bill are remedied is that offered by Congressman Henry Hyde to strike Title VIII. Similarly, we are convinced that the only amendment offered to remove the "racial justice" provisions is that offered by Congressman Bill McCollum to strike Title IX and substitute the equal justice provision to the exclusion of all other amendments. As a result, we urge you to support the Hyde and McCollum amendments.

Sincerely,

HAROLD BRUBAKER,
Representative, NC,
ALEC National
Chairman.
SAMUEL A. BRUNELLI,
ALEC Executive Director.

Attachment: "Dear Colleague" letter dated April 16, 1994.

AMERICAN LEGISLATIVE
EXCHANGE COUNCIL,
Washington, DC, April 16, 1994.

DEAR COLLEAGUE: The U.S. House of Representatives is about to vote on H.R. 4092, the 1994 Crime Bill. One of the most important provisions of that bill will give states the resources to incarcerate more violent criminals.

Unfortunately, the Bill as reported by the House Judiciary Committee contains a provision sponsored by Congressman William Hughes (D-NJ), which would apply inappropriate and counterproductive conditions on the $3 billion proposed for the states to construct and operate correctional facilities and programs. Congressman Hughes has been given permission by the House Rules Committee to offer an almost identical amendment to the Judiciary Committee bill on the floor of the House.

Both the Hughes provision of the Crime Bill and the Hughes Amendment are unacceptable to state legislators who are leading our nation's war on crime.

As structured, these provisions would require states to submit a corrections plan to the U.S. Department of Justice which must contain, among other things, diversion programs, particularly drug diversion programs, community corrections programs, and prisoner treatment programs. These provisions unacceptably empower the U.S. Justice Department to intrude on the operation of state correctional systems.

Of even greater concern is the possibility that this $3 billion could be used entirely for such programs without states building even one new prison bed for violent offenders. As America's state legislators and the nations front-line working for crime control, we know that more diversion from prison will mean more crime.

Alternative amendments to the Hughes corrections provisions will be offered by Congressmen Bill McCollum (R-FL) and Jim Chapman (D-TX). These amendments to the Crime Bill would provide over three times as much funding or state corrections facilities and programs which would enable the states to add over 100,000 new prison beds for violent offenders. It has been estimated that this additional capacity would allow for the imprisonment of every serious violent offender over the next ten years, preventing millions of violent crimes. Nothing else in the Crime Bill comes close to promising these kinds of significant crime control effects.

As the nation's largest bipartisan, individual membership group of state legislative leaders, we urge all Members of Congress to vote to defeat the Hughes Amendment of

H.R. 4092 and to vote for both the McCollum Amendment and the Chapman Amendment, each of which provides $10 billion or more to build prisons. Voting for both of these amendments will send a clear signal to the House-Senate Conference that a $22 billion Crime Bill should provide no less than $10 billion to do what the American people are demanding—get violent criminals off our streets.

Very truly yours,

HAROLD J. BRUBAKER,
National Chairman, NC.
RAY POWERS,
1st Vice Chairman, CO.
JIM NEAL,
2d Vice Chairman, DE.
DALE VAN VYVEN,
Treasurer, OH.
JOSEPH MANCHIN, III,
Secretary, WV.
WILLIAM J. RAGGIO,
Immediate Past National Chairman, NV.

Attachments: Additional signatories to the letter

ADDITIONAL SIGNATORIES

(Original signatures on file at ALEC)

Arkansas: Representative Bobby Hogue, Speaker Elect; Representative James Dietz; Representative E. Ray Stalnaker.

California: Senator Newton Russell.

Colorado: Senator Ray Powers, Representative Bud Moellenberg, Representative Ron May.

Delaware: Senator Jim Neal, Representative V. George Carey.

Georgia: Representative Kathy Ashe; Representative Earl Ehrhart; Representative Tom Lawrence.

Hawaii: Representative David Stegmaier.

Idaho: Representative Bruce Newcomb, House Majority Leader; Representative Donna Jones; Representative Celia Gould; Senator Mary Hartung, Assistant Senate Majority Leader; Representative Steve Antone.

Indiana: Representative Samuel Turpin; Representative Robert Behning; Senator Kent Adams.

Kansas: Representative Kenney King; Representative Bob Meade; Representative Jack Wempe; Senator Patricia Ranson; Representative Susan Wagle; Representative Jo Ann Pottorff.

Louisiana: Representative Donald Ray Kennard.

Maryland: Delegate Ellen Sauerbrey, House Minority Leader; Delegate Martha Klima.

Maine: Senator Jane Amero.

Michigan: Representative Carl Gnodtke; Senator Phil Hoffman.

Mississippi: Representative David Halbrook; Representative Ted Foster; Representative Joe McElwaine; Senator Walter Graham, President Pro Tem of the Senate; Senator Mike Gunn.

Missouri: Representative Sandra Kauffman.

Montana: Representative Steve Benedict; Senator Daryl Toews; Representative Shiell Anderson.

North Carolina: Representative Harold Brubaker, ALEC National Chairman; Representative Michael Wilkens; Representative Arlie Culp; Representative Nelson Cole; Representative Frank Mitchell; Senator Robert Shaw.

North Dakota: Representative Tom Freier, Assistant House Majority Leader; Representative Mike Timm; Representative John M. Dorso; Senator Meyer Kinnoin; Senator David Nething; Representative Alan Carlson.

New Hampshire: Representative Carl Johnson; Representative Francis Riley; Representative Gary Daniels; Representative George Wright; Representative Arthur Smith.

New Jersey: Assemblywoman Clare Farragher.

New Mexico: Representative Jerry Lee Alwin, Representative George Buffett, Senator Leonard Rawson, Senator Joe Carraro, Representative Earlene Roberts.

Nevada: Senator William Raggio, Senate Majority Leader; Assemblyman Pomroy Neighbors; Assemblywoman Kathy Augustine; Assemblyman John Regan; Assemblyman Lynn Hetrick.

New York: Senator Owen Johnson, Assemblyman Robert Straniere.

Ohio: Representative Dale Van Vyven.

Oklahoma: Senator Ben Robinson.

Oregon: Representative Carolyn Oakley, House Majority Whip.

Pennsylvania: Representative James Merry, Representative Don Snyder, Representative Jess Stairs, Representative George Saurman, Senator Charles Lemmond, Representative Paul Semmel.

South Dakota: Representative Della Wishard, Representative Cheryl Madden.

Texas: Representative Mary Denny, Representative Nancy Moffat, Representative David Swinford, Representative Warren Chisum, Representative Ray Allen, Representative Jerry Madden.

Virginia: Senator Joseph Benedetti, Senate Minority Leader.

Vermont: Senator Sarah Gear, Assistant Senate Majority Leader; Representative Howard Crawford; Representative William Cimonetti.

Washington: Representative Mike Padden.

Wisconsin: Representative Scott Jensen, Representative Mark Green, Representative Susan Vergeront, Representative Daniel Vrakas, Representative Judy Klusman.

West Virginia: Senator Joe Manchin III, Senator Leonard Anderson.

Wyoming: Representative Rick Tempest, Representative Glenda Stark, Representative Patricia Neagle.

☐ 1340

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs. KENNELLY) having assumed the Chair, Mr. TORRICELLI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4092) to control and prevent crime, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MCCOLLUM

Mr. MCCOLLUM. Madam Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. MCCOLLUM. Madam Speaker, I am, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MCCOLLUM of Florida moves to recommit the bill (H.R. 4092) to the Committee on the Judiciary, with instructions to report the bill back to the House forthwith, with the following amendment:

Strike title IX and insert the following:

TITLE IX—EQUAL JUSTICE ACT

SEC. 901. SHORT TITLE.

This Act may be cited as the "Equal Justice Act".

Sec. 902. PROHIBITION OF RACIALLY DISCRIMINATORY POLICIES CONCERNING CAPITAL PUNISHMENT OR OTHER PENALTIES.

(a) GENERAL RULES.—The penalty of death and all other penalties shall be administered by the United States and by every State without regard to the race or color of the defendant or victim. Neither the United States nor any State shall prescribe any racial quota or statistical test for the imposition or execution of the death penalty or any other penalty.

(b) DEFINITIONS.—For purposes of this Act—

(1) the action of the United States or of a State includes the action of any legislative, judicial, executive, administrative, or other agency or instrumentality of the United States or a State, or of any political subdivision of the United States or a State;

(2) the term "State" has the meaning given in section 541 of title 18, United States Code; and

(3) the term "racial quota or statistical test" includes any law, rule, presumption, goal, standard for establishing a prima facie case, or mandatory or permissive inference that—

(A) requires or authorizes the imposition or execution of the death penalty or another penalty so as to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims; or

(B) requires or authorizes the invalidation of, or bars the execution of, sentences of death or other penalties based on the failure of a jurisdiction to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims in the imposition or execution of such sentences or penalties.

SEC. 903. GENERAL SAFEGUARDS AGAINST RACIAL PREJUDICE OR BIAS IN THE TRIBUNAL.

In a criminal trial in a court of the United States, or of any State—

(1) on motion of the defense attorney or prosecutor, the risk of racial prejudice or bias shall be examined on voir dire if there is a substantial likelihood in the circumstances of the case that such prejudice or bias will affect the jury either against or in favor of the defendant;

(2) on motion of the defense attorney or prosecutor, a change of venue shall be granted if an impartial jury cannot be obtained in the original venue because of racial prejudice or bias; and

(3) neither the prosecutor nor the defense attorney shall make any appeal to racial

prejudice or bias in statements before the jury.

SEC. 904. FEDERAL CAPITAL CASES.

(a) JURY INSTRUCTIONS AND CERTIFICATION.—In a prosecution for an offense against the United States in which a sentence of death is sought, and in which the capital sentencing determination is to be made by a jury, the judge shall instruct the jury that it is not to be influenced by prejudice or bias relating to the race or color of the defendant or victim in considering whether a sentence of death is justified, and that the jury is not to recommend the imposition of a sentence of death unless it has concluded that it would recommend the same sentence for such a crime regardless of the race or color of the defendant or victim. Upon the return of a recommendation of a sentence of death, the jury shall also return a certificate, signed by each juror, that the juror's individual decision was not affected by prejudice or bias relating to the race or color of the defendant or victim, and that the individual juror would have made the same recommendation regardless of the race or color of the defendant or victim.

(b) RACIALLY MOTIVATED KILLINGS.—In a prosecution for an offense against the United States for which a sentence of death is authorized, the fact that the killing of the victim was motivated by racial prejudice or bias shall be deemed an aggravating factor whose existence permits consideration of the death penalty, in addition to any other aggravating factors that may be specified by law as permitting consideration of the death penalty.

(c) KILLINGS IN VIOLATION OF CIVIL RIGHTS STATUTES.—Sections 241, 242, and 245(b) of title 18, United States Code, are each amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

SEC. 905. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.

(a) SECTION 241 AMENDMENT.—Section 241 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in".

(b) SECTION 242 AMENDMENT.—Section 242 of title 18, United States Code, is amended by striking "inhabitant of" and inserting in lieu thereof "person in", and by striking "such inhabitant" and inserting "such person".

Mr. McCOLLUM (during the reading). Madam Speaker, I ask unanimous consent the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. McCOLLUM] is recognized for 5 minutes in support of his motion to recommit.

Mr. McCOLLUM. Madam Speaker, what we are here today right now for is on a motion to recommit with instructions. Those of us on our side of the aisle could have offered a lot of things in this motion to recommit that we have not done today.

We are very concerned, as you know, about the 40 years of consecutive control of this House by one political party, the Democrat party, and the fact you did not in your Committee on Rules allow us the opportunity to offer an amendment that would have changed the rules of evidence so we could have avoided in criminal cases a lot of technical impediments to getting convictions. We have been very upset we did not get out of your Committee on Rules the opportunity to offer an amendment that would help us deport criminal aliens, that comprise 25 percent of the prison population of this country. And a lot of us are concerned that we do not have in this bill sufficient guarantees that the States will actually go to truth in sentencing, to end the revolving door that is spinning out those that are repeat convicted violent felons in return for the grant money that is in this bill.

But we are not offering any of those things in this motion to recommit today. We are offering only one thing, because we think this is not a partisan issue. It is too important.

We are offering only one thing in this motion to recommit today, because we do not think that it is something that can be put on the table as a partisan matter. It is too darn important. It is a motion to recommit with instructions to revote the McCollum amendment on the Equal Justice Act that we had a vote on yesterday that was a virtual tie.

The reason why this is so important was expressed this morning in a headline in the Philadelphia Enquirer, and I call all of my colleagues' attention to it. The headline reads, "House approves racial bias test for death penalty." The subheadline reads, "Nearly 4,000 death row convicts could try to use the provision. Hundreds could escape execution."

The bottom line is that if this proposal I am offering right now fails to pass today, we will effectively end the death penalty in the 36 states of the Union where it is under law today applicable to give capital punishment.

Now, that is not just my view. That is a nonpartisan view. This is the view of some 7,000 State and local prosecutors who have expressed that to us from the National District Attorneys Association.

I have before me today a letter dated April 20 signed by William C. O'Malley from the National District Attorneys Association that says:

> We strongly urge the House of Representatives to recommit with instructions to repeal title IX, the Racial Justice Act of the crime bill, H.R. 4092.

This particular letter said:

> While this legislation is entitled to invoke racial connotations, it is in fact patently designed to end the use of the death penalty in this country.

That is what 7,000 district attorneys in this country say about the bill as it is unamended today. It says further that this legislation places an impossible burden on the prosecutors to prove a negative. It raises an inference of discrimination on the basis of statistics that are impossible for the prosecutor to overcome.

I would like to point out to my colleagues that this is not a black and white issue. This is a fact that even white capital punishment people on death row today could claim this and get out from under their particular burden of being on death row. It is a matter of jurisdiction, not case-by-case. Not the individual case question on discrimination, but if the jurisdiction has. It is a very wrong, wrong thing, that the States attorneys of this country understand is virtually impossible.

This is not a partisan issue, because there are 33 States attorneys general who want this same thing done today. They want this motion to recommit with instructions to pass, because they understand the death penalty will be effectively repealed. And 18 of the 33 signers of this attorneys general letter are Democrats. Eighteen of the 33.

This is not a partisan issue to the law enforcement community of this country. It is an issue to restore the death penalty as we know it.

I also have a letter from the Law Enforcement Alliance of America representing 40,000 law enforcement professionals, who say:

> The Nation's law enforcement professionals urge you to support Congressman McCOLLUM's proposal to recommit this bill.

There is very little more that will anyone could say about this, except to say to Members that you are not going to vote on a procedural matter here today in the next couple of minutes. You are going to vote on a motion to recommit with instructions, the effect of which is to immediately amend this bill, to put the Equal Justice Act in place of what is in the bill today. That would end the death penalty. It is a vote on whether or not we are going to restore the death penalty, that would otherwise be removed by this bill.

Make no mistake about it: Not a single Member of this body can hide behind the fact that this vote might be technical or procedural in nature. As soon as this motion is carried, we will have final passage on this bill, as amended with these dastardly provisions of this bill that would strike the death penalty removed.

I urge my colleagues in no uncertain terms to send a message that the American public wants, that we do demand that we have back in the laws of this country and put in full force and effect the deterrent effect of the death penalty, and that we not allow in the name of so-called racial justice that we strike out the entire provisions of the death penalty.

I would remind you of one other thing: Despite what my good friend the Majority Leader said out here on the floor yesterday, this is retroactive. It does apply to every death row inmate today in our prison system, and every single one of them, white or black, would be off the hook, unless you vote for the motion to recommit that I have offered today. Please vote yes. Please protect the death penalty. Let us not have a bad bill out here today.

□ 1350

Mr. BROOKS. Madam Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mrs. KENNELLY). The gentleman from Texas [Mr. BROOKS] is recognized for 5 minutes.

Mr. BROOKS. Madam Speaker, I yield myself such time as I may consume.

This motion makes the sixth time that the other side of the aisle has seen fit to try and derail through procedural tactics the toughest, most carefully structured crime bill to come out of the House in 20 years. The effort to stall movement of the crime bill first began as an effort to try and defeat the rule at the very beginning of the debate, even though that rule permitted 68 amendments going to every major plank of the bill.

The same negative effort was next seen in a series of unprecedented motions to rise and to "strike after the enacting clause." All went down to inglorious and appropriate defeat.

At the end of the process, we now witness the latest reincarnation of their efforts to stop the crime bill with a motion to recommit with instructions.

As we all know, the motion to recommit contains language that has already been voted down by this body. Yet the other side persisted in denying the truth recognized by all objective observers. The bill now poised to pass the House represents a breakthrough effort to achieve a balance between hard-nosed punishment and forward-looking prevention.

I want to address the misleading headline about racial justice from the article the gentleman referred to from the Philadelphia Inquirer, an article where orientation seems to the right of Attila the Hun. The sub-headline blares out: 4,000 death row convicts could escape execution if racial justice is enacted.

Well, I want to tell my colleagues, just as I said it in committee, and as I said it on the floor; I will tell you again: I am going to support no retroactivity in that racial justice provision. It will not be in the conference report if I bring it back. Members can just bank on it. We are not going to have it in that conference report, if I sign it.

Now, another thing I want to tell Members, the wide array of Members from both sides of the aisle who have contributed substantially to this package need to stand firm and resist this last gasp attempt to split open and stall the crime legislation.

The product is one about which we can all be proud. It shows the value of expertise and experience in crafting legislation that will do the job at the community and neighborhood level and not just on the television screen with the 10-second sound bite.

Now, for the sixth time, I would ask my colleagues to opt for forward movement. Vote no on this procedural ploy. Let us get on with passing the crime bill.

Madam Speaker, I yield 30 seconds to the gentleman from New York [Mr. SCHUMER], the distinguished chairman of the Subcommittee on Crime and Criminal Justice.

Mr. SCHUMER. Madam Speaker, this is an historic moment. For the first time this body is recognizing the anguish out on the streets that hollers to us, do something about crime.

We are tough on punishment. We are smart on prevention. This bill should not be deterred by the ideologies of the far left or the far right.

The racial justice provision is fair and balanced without any retroactivity. We cannot turn this bill back to committee. This is an historic moment.

Reject the motion to recommit. Pass this bill and for once make America proud of this Congress.

Mr. BROOKS. Madam Speaker, I yield the balance of my time to the gentleman from Missouri [Mr. GEPHARDT], the distinguished majority leader of the Democratic Party in the U.S. Congress.

Mr. GEPHARDT. Madam Speaker, the final votes, the final judgment on this bill approaches. I urge Members to vote against the motion to recommit and to vote for the bill.

This is not a perfect bill from anyone's viewpoint in this Chamber, but I argue to my colleagues that it is a good bill for everyone here and for our country.

It encompasses punishment in terms of prisons and sentences and police, and it encompasses prevention in terms of drug treatment and education and training, to keep people from committing crimes before they move to do that.

Everyone knows we must do both, and everyone here has worked to put together a piece of legislation that is good for this country.

Yesterday we added racial justice, and it was the right thing to do. It will not be retroactive, but it will keep the respect and the faith of all of our people in our great criminal justice system.

When members vote, I hope they will not be looking at each provision and each process and each thing that they may like or not like but keep in their mind the young 11-year-old girl here in the District who said she dreams not of her prom dress but of the dress she will wear in her coffin, to think in their minds of the families of the children who have been killed, the victims of violence.

Vote against the motion to recommit. Vote for the bill and vote for the American people.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 192, noes 235, not voting 5, as follows:

[Roll No. 143]

AYES—192

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Condit
Cox
Crane
Crapo
Cunningham
Darden
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
Kyl
Lancaster
Lazio
Leach
Lehman
Levy
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Machtley
Manzullo
Margolies-Mezvinsky
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Orton
Oxley
Packard
Paxon
Petri
Pickett
Pombo
Porter
Portman
Pryce (OH)
Quillen
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)

Torkildsen
Upton
Vucanovich
Walker
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—235

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Kopetski
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Laughlin
Levin
Lewis (GA)
Long
Lowey
Maloney
Mann
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Poshard
Price (NC)
Quinn
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—5

Andrews (NJ)
Fish
Gallo
Grandy
Lewis (CA)

□ 1415

Mr. SISISKY changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mrs. KENNELLY). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 285, noes 141, not voting 7, as follows:

[Roll No. 144]

AYES—285

Abercrombie
Ackerman
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bentley
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Buyer
Byrne
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Chapman
Clayton
Clement
Clyburn
Coleman
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Cunningham
Danner
Darden
de la Garza
DeFazio
DeLauro
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Ewing
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Foley
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastert
Hayes
Hefner
Hinchey
Hoagland
Hobson
Hochbrueckner
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutto
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCurdy
McDade
McDermott
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Miller (CA)
Mineta
Minge
Mink
Moakley
Molinari
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Obey
Olver
Ortiz
Orton
Pallone
Parker
Pastor
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Sanders
Sangmeister
Santorum
Sawyer
Schenk
Schroeder
Schumer
Sharp
Shaw
Shays
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spence
Spratt
Stark
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walsh
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Young (FL)

NOES—141

Allard
Andrews (ME)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bliley
Boehner
Bunning
Burton
Callahan
Castle
Clay
Clinger
Coble
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Cox
Crane
Crapo
Deal
DeLay
Dellums
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Fawell
Fields (TX)
Ford (MI)
Gekas
Geren
Gingrich
Gonzalez
Goodlatte
Goodling
Goss
Grams
Gunderson
Hall (TX)
Hancock
Hansen
Hastings
Hefley
Herger
Hilliard
Hoekstra
Hoke
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kim
King
Kingston
Knollenberg
Kolbe
Kopetski
Kyl
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Livingston
Manzullo
McCollum
McCrery
McInnis
McKeon
McMillan
Michel
Miller (FL)
Mollohan
Moorhead
Myers
Nussle
Oberstar
Owens
Oxley
Packard
Paxon
Payne (NJ)
Penny
Petri
Pombo
Porter
Portman
Rangel
Roberts
Rohrabacher
Rush
Sabo
Sarpalius
Saxton
Schaefer
Schiff
Scott
Sensenbrenner
Serrano
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Stearns
Stenholm
Stokes
Stump
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Velazquez
Vucanovich
Walker
Washington
Waters
Watt
Waxman
Wolf
Yates
Young (AK)
Zeliff
Zimmer

NOT VOTING—7

Andrews (NJ)
Fish
Furse
Gallo
Grandy
Lewis (CA)
Slattery

□ 1432

Ms. VELAZQUEZ changed her vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. FURSE. Madam Speaker, I was inadvertently delayed during the passage of the bill, on the recorded vote on final passage. Had I been here, I would have voted "aye," and I ask that the record show that I would have voted "aye" on final passage of H.R. 4092.

PERSONAL EXPLANATION

Mr. SLATTERY. Mr. Speaker, I was inadvertently detained and missed the vote on final passage on H.R. 4092.

Had I been present I would have voted "yea."

Mr. BROOKS. Madam Speaker, pursuant to the provisions of House Resolution 401, I call up from the Speaker's desk the bill, H.R. 3355, with a Senate amendment thereto, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Madam Speaker, pursuant to House Resolution 401, I offer a motion.

The Clerk read as follows:

Mr. BROOKS moves to concur in the Senate amendments to the bill H.R. 3355 with amendments consisting of the text of the bill H.R. 4092 as passed by the House and to amend the title to read as follows: "The Violent Crime Control and Law Enforcement Act of 1994."

The text of House amendments to Senate amendment to H.R. 3355, as passed by the House is as follows:

House amendments to Senate amendment:

In lieu of the matter inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violent Crime Control and Law Enforcement Act of 1994".

SEC. 2. TABLE OF TITLES.

The following is the table of titles for this Act:

TITLE I—VICTIMS OF CRIME

TITLE II—APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES

TITLE III—ASSAULTS AGAINST CHILDREN

TITLE IV—CONSUMER PROTECTION

TITLE V—MANDATORY LIFE IMPRISONMENT FOR PERSONS CONVICTED OF CERTAIN FELONIES

TITLE VI—VIOLENT OFFENDER INCARCERATION

TITLE VII—DEATH PENALTY

TITLE VIII—TRUTH IN SENTENCING

TITLE IX—RACIALLY DISCRIMINATORY CAPITAL SENTENCING

TITLE X—CRIME PREVENTION AND COMMUNITY JUSTICE

TITLE XI—YOUTH VIOLENCE

TITLE XII—CHILD SEXUAL ABUSE PREVENTION ACT OF 1994

TITLE XIII—JACOB WETTERLING CRIMES AGAINST CHILDREN REGISTRATION ACT

TITLE XIV—COMMUNITY POLICING

TITLE XV—DNA IDENTIFICATION

TITLE XVI—VIOLENCE AGAINST WOMEN

TITLE XVII—HATE CRIMES SENTENCING ENHANCEMENT

TITLE XVIII—USE OF FORMULA GRANTS TO PROSECUTE PERSONS DRIVING WHILE INTOXICATED

TITLE XIX—YOUTH HANDGUN SAFETY

TITLE XX—SUBSTANCE ABUSE TREATMENT IN FEDERAL PRISONS

TITLE XXI—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

TITLE XXII—JUVENILE DRUG TRAFFICKING AND GANG PREVENTION GRANTS

TITLE XXIII—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS

TITLE XXIV—IMMIGRATION RELATED PROVISIONS AND CRIMINAL ALIENS

TITLE XXV—RURAL CRIME

TITLE XXVI—COMMISSION ON CRIME AND VIOLENCE

TITLE XXVII—POLICE CORPS AND LAW ENFORCEMENT SCHOLARSHIP ACT

TITLE XXVIII—NATIONAL STALKER AND DOMESTIC VIOLENCE REDUCTION

TITLE XXIX—PROTECTING THE PRIVACY OF INFORMATION IN STATE MOTOR VEHICLE RECORDS

TITLE XXX—MISCELLANEOUS

TITLE I—VICTIMS OF CRIME

Subtitle A—Victims of Crime

SEC. 101. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended by—

(1) striking "and" following the semicolon in subdivision (a)(1)(B);

(2) striking the period at the end of subdivision (a)(1)(C) and inserting in lieu thereof "; and";

(3) inserting after subdivision (a)(1)(C) the following:

"(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.";

(4) in the second to last sentence of subdivision (a)(1), striking "equivalent opportunity" and inserting in lieu thereof "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) inserting "the victim," before "or the attorney for the Government."; and

(6) adding at the end the following:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) 'victim' means any individual against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—

"(A) a parent or legal guardian in case the victim is below the age of eighteen years or incompetent; or

"(B) one or more family members or relatives designated by the court in case the victim is deceased or incapacitated;

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present; and

"(2) 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code.".

Subtitle B—Crime Victims' Fund

SEC. 111. ALLOCATION OF FUNDS FOR COSTS AND GRANTS.

(a) GENERALLY.—Section 1402(d) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)) is amended by—

(1) striking paragraph (2) and inserting the following:

"(2) the next $10,000,000 deposited in the Fund shall be available for grants under section 1404A.";

(2) striking paragraph (3) and inserting the following:

"(3) Of the remaining amount deposited in the Fund in a particular fiscal year—

"(A) 48 percent shall be available for grants under section 1403;

"(B) 48 percent shall be available for grants under section 1404(a); and

"(C) 4 percent shall be available for grants under section 1404(c).";

(3) striking paragraph (4) and inserting the following:

"(4) The Director may retain any portion of the Fund that was deposited during a fiscal year that is in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as a reserve for use in a year in which the Fund falls below the amount available in the previous year. Such reserve may not exceed $20,000,000."; and

(4) striking paragraph (5).

(b) CONFORMING CROSS REFERENCE.—Section 1402(g)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(g)(1)) is amended by striking "(d)(2)(D)" and inserting "(d)(2)".

(c) AMOUNTS AWARDED AND UNSPENT.—Section 1402(e) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(e)) is amended to read as follows:

"(e) AMOUNTS AWARDED AND UNSPENT.—Any sums awarded as part of a grant under this chapter that remain unspent at the end of a fiscal year in which such grant is made may be expended for the purposes for which such grant is made at any time during the next succeeding 2 fiscal years, at the end of which year any remaining unobligated funds shall be returned to the Fund.".

SEC. 112. RELATIONSHIP OF CRIME VICTIM COMPENSATION TO CERTAIN FEDERAL PROGRAMS.

Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by adding at the end the following:

"(e) Notwithstanding any other provision of law, if the compensation paid by an eligible crime victim compensation program would cover costs that a Federal program, or a federally financed State or local program, would otherwise pay, then—

"(1) such crime victim compensation program shall not pay that compensation; and

"(2) the other program shall make its payments without regard to the existence of the crime victim compensation program.".

SEC. 113. ADMINISTRATIVE COSTS FOR CRIME VICTIM COMPENSATION.

(a) CREATION OF EXCEPTION.—The final sentence of section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(1)) is amended by striking "A grant" and inserting "Except as provided in paragraph (3), a grant".

(b) REQUIREMENTS OF EXCEPTION.—Section 1403(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)) is amended by adding at the end the following new paragraph:

"(3) Not more than 5 percent of a grant made under this section may be used for the administration of the State crime victim compensation program receiving the grant.".

SEC. 114. GRANTS FOR DEMONSTRATION PROJECTS.

Section 1404(c)(1)(A) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(1)(A)) is amended by inserting "demonstration projects and" before "training".

SEC. 115. ADMINISTRATIVE COSTS FOR CRIME VICTIM ASSISTANCE.

(a) CREATION OF EXCEPTION.—Section 1404(b)(2) of the Victims of Crime Act of 1984 (42

U.S.C. 10603(b)(2)) is amended by striking "An eligible" and inserting "Except as provided in paragraph (3), an eligible".

(b) REQUIREMENTS OF EXCEPTION.—Section 1404(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)) is amended by adding at the end the following new subsection:

"(3) Not more than 5 percent of sums received under subsection (a) may be used for the administration of the State crime victim assistance program receiving such sums.".

SEC. 116. MAINTENANCE OF EFFORT.

Section 1407 of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by adding at the end the following new subsection:

"(h) Each entity receiving sums made available under this Act for administrative purposes shall certify that such sums will not be used to supplant State or local funds, but will be used to increase the amount of such funds that would, in the absence of Federal funds, be made available for these purposes.".

SEC. 117. CHANGE OF DUE DATE FOR REQUIRED REPORT.

Section 1407(g) of the Victims of Crime Act of 1984 (42 U.S.C. 10604(g)) is amended by striking "and on December 31 every two years thereafter", and inserting "and on June 30 every two years thereafter".

Subtitle C—Report on Battered Women's Syndrome

SEC. 121. REPORT ON BATTERED WOMEN'S SYNDROME.

(a) REPORT.—Not less than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall transmit to the House Committee on Energy and Commerce, the Senate Committee on Labor and Human Resources, and the Committees on the Judiciary of the Senate and the House of Representatives a report on the medical and psychological basis of "battered women's syndrome" and on the extent to which evidence of the syndrome has been considered in a criminal trial.

(b) COMPONENTS OF THE REPORT.—The report described in subsection (a) shall include—

(1) medical and psychological testimony on the validity of battered women's syndrome as a psychological condition;

(2) a compilation of State and Federal court cases in which evidence of battered women's syndrome was offered in criminal trials; and

(3) an assessment by State and Federal judges, prosecutors, and defense attorneys of the effects that evidence of battered women's syndrome may have in criminal trials.

TITLE II—APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES

SEC. 201. LIMITATION ON APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES.

(a) IN GENERAL.—Section 3553 of title 18, United States Code, is amended by adding at the end the following:

"(f) LIMITATION ON APPLICABILITY OF STATUTORY MINIMUMS IN CERTAIN CASES.—Notwithstanding any other provision of law, in the case of an offense under section 401, 404, or 406 of the Controlled Substances Act or section 1010 or 1013 of the Controlled Substances Import and Export Act, the court shall impose a sentence pursuant to guidelines established by the United States Sentencing Commission, without regard to any statutory minimum sentence, if the court finds at sentencing that—

"(1) the defendant does not have more than 1 criminal history point under the United States Sentencing Commission Guidelines Manual;

"(2) the defendant did not use violence or credible threats of violence or possess a firearm or other dangerous weapon (or induce another participant to do so) in connection with the offense;

"(3) the offense did not result in death or serious bodily injury to any person;

"(4) the defendant was not an organizer, leader, manager, or supervisor of others (as determined under the United States Sentencing Commission Guidelines Manual) in the offense; and

"(5) no later than the time of the sentencing hearing, the defendant has provided to the Government all information the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan. The fact that the defendant has no relevant or useful other information to provide shall not preclude or require a determination by the court that the defendant has complied with this requirement.".

(b) SENTENCING COMMISSION AUTHORITY.—

(1) IN GENERAL.—The United States Sentencing Commission (hereinafter in this section referred to as the "Commission") may—

(A) make such amendments as the Commission deems necessary to harmonize the sentencing guidelines and policy statements with this section and the amendment made by this section; and

(B) promulgate policy statements to assist in the application of this section and that amendment.

(2) PROCEDURES.—If the Commission determines it is necessary to do so in order that the amendments made under paragraph (1) may take effect on the effective date of the amendment made by subsection (a), the Commission may promulgate the amendments made under paragraph (1) in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that section had not expired.

(c) EFFECTIVE DATE AND APPLICATION.—The amendment made by subsection (a) shall apply to all sentences imposed on or after the 10th day beginning after the date of the enactment of this Act.

SEC. 202. DIRECTION TO SENTENCING COMMISSION.

The United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines with respect to cases where statutory minimum sentences would apply but for section 3553(f) of title 18, United States Code, to carry out the purposes of such section, so that the lowest sentence in the guideline range is not less than 2 years in those cases where a 5-year minimum would otherwise apply.

SEC. 203. SPECIAL RULE.

For the purpose of section 3582(c)(2) of title 18, United States Code, with respect to a prisoner the court determines has demonstrated good behavior while in prison, the changes in sentencing made as a result of this Act shall be deemed to be changes in the sentencing ranges by the Sentencing Commission pursuant to section 994(o) of title 28, United States Code.

TITLE III—ASSAULTS AGAINST CHILDREN

SEC. 301. ASSAULTS AGAINST CHILDREN.

(a) SIMPLE ASSAULT.—Section 113(e) of title 18, United States Code, is amended by striking "by fine" and all that follows through the period and inserting "—

"(A) if the victim of the assault is an individual who has not attained the age of 16 years, by a fine under this title or imprisonment for not more than one year, or both; and

"(B) by a fine under this title or imprisonment for not more than three months, or both, in any other case.".

(b) ASSAULTS RESULTING IN SUBSTANTIAL BODILY INJURY.—Section 113 of title 18, United States Code, is amended by adding at the end the following:

"(7) Assault resulting in substantial bodily injury to an individual who has not attained the age of 16 years, by a fine under this title or imprisonment for not more than 5 years, or both.".

(c) TECHNICAL AND STYLISTIC CHANGES TO SECTION 113.—Section 113 of title 18, United States Code, is amended—

(1) in paragraph (b), by striking "of not more than $3,000" and inserting "under this title";

(2) in paragraph (c), by striking "of not more than $1,000" and inserting "under this title";

(3) in paragraph (d), by striking "of not more than $500" and inserting "under this title";

(4) by modifying the left margin of each of paragraphs (a) through (f) so that they are indented 2 ems;

(5) by redesignating paragraphs (a) through (f) as paragraphs (1) through (6); and

(6) by inserting "(a)" before "Whoever".

(d) DEFINITIONS.—Section 113 of title 18, United States Code, is amended by adding at the end the following:

"(b) As used in this subsection—

"(1) the term 'substantial bodily injury' means bodily injury which involves—

"(A) a temporary but substantial disfigurement; or

"(B) a temporary but substantial loss or impairment of the function of any bodily member, organ, or mental faculty; and

"(2) the term 'serious bodily injury' has the meaning given that term in section 1365 of this title.".

(e) ASSAULTS IN INDIAN COUNTRY.—Section 1153(a) of title 18, United States Code, is amended by inserting "(as defined in section 1365 of this title), an assault against an individual who has not attained the age of 16 years" after "serious bodily injury".

TITLE IV—CONSUMER PROTECTION

SEC. 401. CRIMES BY OR AFFECTING PERSONS ENGAGED IN THE BUSINESS OF INSURANCE WHOSE ACTIVITIES AFFECT INTERSTATE COMMERCE.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce

"(a)(1) Whoever is engaged in the business of insurance whose activities affect interstate commerce and knowingly, with the intent to deceive, makes any false material statement or report or willfully and materially overvalues any land, property or security—

"(A) in connection with any financial reports or documents presented to any insurance regulatory official or agency or an agent or examiner appointed by such official or agency to examine the affairs of such person, and

"(B) for the purpose of influencing the actions of such official or agency or such an appointed agent or examiner,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as established under this title or imprisonment for not more than 10 years, or both, except that the term of imprisonment shall be not more than 15 years if the statement or report or overvaluing of land, property, or security jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court.

"(b)(1) Whoever—

"(A) acting as, or being an officer, director, agent, or employee of, any person engaged in the business of insurance whose activities affect interstate commerce, or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, *willfully embezzles, abstracts, purloins, or misappropriates any of the moneys, funds, premiums, credits, or other property of such person so engaged shall be punished as provided in paragraph (2).*

"(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if such embezzlement, abstraction, purloining, or misappropriation described in paragraph (1) jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court, such imprisonment shall be not more than 15 years. If the amount or value so embezzled, abstracted, purloined, or misappropriated does not exceed $5,000, whoever violates paragraph (1) shall be fined as provided in this title or imprisoned not more than one year, or both.

"(c)(1) Whoever is engaged in the business of insurance and whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, knowingly makes any false entry of material fact in any book, report, or statement of such person engaged in the business of insurance with intent to deceive any person, including any officer, employee, or agent of such person engaged in the business of insurance, any insurance regulatory official or agency, or any agent or examiner appointed by such official or agency to examine the affairs of such person, about the financial condition or solvency of such business shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if the false entry in any book, report, or statement of such person jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court, such imprisonment shall be not more than 15 years.

"(d) Whoever, by threats or force or by any threatening letter or communication, corruptly influences, obstructs, or impedes or endeavors corruptly to influence, obstruct, or impede the due and proper administration of the law under which any proceeding involving the business of insurance whose activities affect interstate commerce is pending before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of a person engaged in the business of insurance whose activities affect interstate commerce, shall be fined as provided in this title or imprisoned not more than 10 years, or both.

"(e)(1)(A) Any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined as provided in this title or imprisoned not more than 5 years, or both.

"(B) Any individual who is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A) shall be fined as provided in this title or imprisoned not more than 5 years, or both.

"(2) A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if such person has the written consent of any insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection.

"(f) As used in this section—

"(1) the term 'business of insurance' means—

"(A) the writing of insurance, or

"(B) the reinsuring of risks,

by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons;

"(2) the term 'insurer' means any entity the business activity of which is the writing of insurance or the reinsuring of risks, and includes any person who acts as, or is, an officer, director, agent, or employee of that business;

"(3) the term 'interstate commerce' means—

"(A) commerce within the District of Columbia, or any territory or possession of the United States;

"(B) all commerce between any point in the State, territory, possession, or the District of Columbia and any point outside thereof;

"(C) all commerce between points within the same State through any place outside such State; or

"(D) all other commerce over which the United States has jurisdiction; and

"(4) the term 'State' includes any State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"§1034. Civil penalties and injunctions for violations of section 1033

"(a) The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 1033 and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. If the offense has contributed to the decision of a court of appropriate jurisdiction to issue an order directing the conservation, rehabilitation, or liquidation of an insurer, such penalty shall be remitted to the appropriate regulatory official for the benefit of the policyholders, claimants, and creditors of such insurer. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

"(b) If the Attorney General has reason to believe that a person is engaged in conduct constituting an offense under section 1033, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 47 of such title is amended by adding at the end the following new items:

"1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.

"1034. Civil penalties and injunctions for violations of section 1033.".

SEC. 402. MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) TAMPERING WITH INSURANCE REGULATORY PROCEEDINGS.—Section 1515(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by inserting "or" at the end of subparagraph (C); and

(3) by adding at the end thereof the following new subparagraph:

"(D) a proceeding involving the business of insurance whose activities affect interstate commerce before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of any person engaged in the business of insurance whose activities affect interstate commerce; or".

(b) LIMITATIONS.—Section 3293 of such title is amended by inserting "1033," after "1014,".

(c) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Whoever—

"(A) acting as, or being, an officer, director, agent or employee of a person engaged in the business of insurance whose activities affect interstate commerce, or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

with intent to obstruct a judicial proceeding, directly or indirectly notifies any other person about the existence or contents of a subpoena for records of that person engaged in such business or information that has been furnished to a Federal grand jury in response to that subpoena, shall be fined as provided by this title or imprisoned not more than 5 years, or both.

"(2) As used in paragraph (1), the term 'subpoena for records' means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 1033 of this title.".

TITLE V—MANDATORY LIFE IMPRISONMENT FOR PERSONS CONVICTED OF CERTAIN FELONIES

SEC. 501. MANDATORY LIFE IMPRISONMENT FOR PERSONS CONVICTED OF CERTAIN FELONIES.

Section 3559 of title 18, United States Code, is amended—

(1) in subsection (b), by striking "An" and inserting "Except as provided in subsection (c), an" in lieu thereof; and

(2) by adding the following new subsection at the end:

"(c) IMPRISONMENT OF CERTAIN CRIMINALS.—

"(1) MANDATORY LIFE IMPRISONMENT.—Notwithstanding any other provision of law, a person who is convicted in a court of the United States of a serious violent felony or a serious drug offense shall be sentenced to life imprisonment if—

"(A) the person has been convicted (and those convictions have become final) on 2 or more prior occasions, in a court of the United States or of a State, of serious violent felonies or serious drug offenses, or any combination of such felonies and offenses; and

"(B) each serious violent felony or serious drug offense used as a basis for sentencing under this subsection, other than the first, was committed after the defendant's conviction of the preceding serious violent felony or serious drug offense.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'assault with intent to commit rape' means an offense that has as its elements engaging in physical conduct by which a person intentionally places another person in fear of aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242 of this title);

"(B) the term 'arson' means an offense that has as its elements maliciously damaging or destroying any building, inhabited structure, vehicle, vessel, or real property by means of fire or an explosive;

"(C) the term 'extortion' means an offense that has as its elements the extraction of anything of value from another person by threatening or placing that person in fear of injury to any person or kidnapping of any person;

"(D) the term 'firearms use' means an offense that has as its elements those described in section 924(c) or 929(a) of this title, if the firearm was brandished, discharged, or otherwise used as a weapon and the crime of violence or drug trafficking crime during and relation to which the firearm was used was subject to prosecution in a court of the United States or a court of a State, or both;

"(E) the term 'kidnapping' means an offense that has as its elements the abduction, restraining, confining, or carrying away of another person by force or threat of force;

"(F) the term 'serious violent felony' means—

"(i) a Federal or State offense, by whatever designation and wherever committed, consisting of murder (as described in section 1111 of this title); manslaughter other than involuntary manslaughter (as described in section 1112 of this title); assault with intent to commit murder (as described in section 113(a) of this title); assault with intent to commit rape; aggravated sexual abuse and sexual abuse (as described in sections 2241 and 2242 of this title); abusive sexual contact (as described in sections 2244 (a)(1) and (a)(2) of this title); kidnapping; aircraft piracy (as described in section 902(i)(2) or 902(n)(2) of the Federal Aviation Act of 1958); robbery (as described in section 2111, 2113, or 2118 of this title); carjacking (as described in section 2119 of this title); extortion; arson; firearms use; or attempt, conspiracy, or solicitation to commit any of the above offenses; or

"(ii) any other offense punishable by a maximum term of imprisonment of 10 years or more that has as an element the use, attempted use, or threatened use of physical force against the person of another or that, by its nature, involves a substantial risk that physical force against the person of another may be used in the course of committing the offense;

"(G) the term 'State' means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States; and

"(H) the term 'serious drug offense' means—

"(i) an offense subject to a penalty provided for in section 401(b)(1)(A) or 408 of the Controlled Substances Act or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act; or

"(ii) an offense under State law that, had the offense been prosecuted in a court of the United States, would have been subject to a penalty provided for in section 401(b)(1)(A) or 408 of the Controlled Substances Act or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act.

"(3) Nonqualifying Felonies.—

"(A) Robbery in Certain Cases.—Robbery, an attempt, conspiracy, or solicitation to commit robbery; or an offense described in paragraph (2)(F)(ii) shall not serve as a basis for sentencing under this subsection if the defendant establishes by clear and convincing evidence that—

"(i) no firearm or other dangerous weapon was used in the offense and no threat of use of a firearm or other dangerous weapon was involved in the offense; and

"(ii) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person.

"(B) Arson in Certain Cases.—Arson shall not serve as a basis for sentencing under this subsection if the defendant establishes by clear and convincing evidence that—

"(i) the offense posed no threat to human life; and

"(ii) the defendant reasonably believed the offense posed no threat to human life.

"(4) Information Filed by United States Attorney.—The provisions of section 411(a) of the Controlled Substances Act (21 U.S.C. 851(a)) shall apply to the imposition of sentence under this subsection.

"(5) Rule of Construction.—This subsection shall not be construed to preclude imposition of the death penalty.

"(6) Special Provision for Indian Country.—No person subject to the criminal jurisdiction of an Indian tribal government shall be subject to this subsection for any offense for which Federal jurisdiction is solely predicated on Indian country as defined in section 1151 of this title and which occurs within the boundaries of such Indian country unless the governing body of the tribe has elected that this subsection have effect over land and persons subject to the criminal jurisdiction of the tribe.

"(7) Resentencing Upon Overturning of Prior Conviction.—If the conviction for a serious violent felony which was a basis for sentencing under this subsection is found, pursuant to any appropriate State or Federal procedure, to be unconstitutional or is vitiated on the explicit basis of innocence, or if the convicted person is pardoned on the explicit basis of innocence, the person serving a sentence imposed under this subsection shall be resentenced to any sentence that was available at the time of the original sentencing.".

SEC. 502. LIMITED GRANT OF AUTHORITY TO BUREAU OF PRISONS.

Section 3582(c)(1)(A) of title 18, United States Code, is amended—

(1) so that the margin of the matter starting with "extraordinary" and ending with "reduction" the first place it appears is indented an additional two ems;

(2) by inserting a one-em dash after "that" the second place it appears;

(3) by inserting a semicolon after "reduction" the first place it appears;

(4) by indenting the first line of the matter referred to in paragraph (1) and designating that matter as clause (i); and

(5) by inserting after such matter the following:

"(ii) the defendant is at least 70 years of age, has served at least 30 years in prison, pursuant to a sentence imposed under section 3559(c) of this title, for the offense or offenses for which the defendant is currently imprisoned, and a determination has been made by the Director of the Bureau of Prisons that the defendant is not a danger to the safety of any other person or the community, as provided under section 3142(g) of this title;".

TITLE VI—VIOLENT OFFENDER INCARCERATION

SEC. 601. GRANTS FOR CORRECTIONAL FACILITIES.

(a) Grant Authorization.—The Attorney General may make grants to individual States and to States organized as multi-State compacts, to develop, expand, modify, or improve correctional facilities and programs to ensure that prison cell space is available for the confinement of violent offenders.

(b) Eligibility.—To be eligible to receive a grant under this title, a State or States organized as multi-State compacts, shall submit an application to the Attorney General which includes—

(1) assurances that the State or States, have implemented, or will implement, correctional policies and programs, including truth in sentencing laws that ensure that violent offenders serve a substantial portion of the sentences imposed, that are designed to provide sufficiently severe punishment for violent ofenders, including violent juvenile offenders, and that the prison time served is appropriately related to the determination that the inmate is a violent offender and for a period of time deemed necessary to protect the public;

(2) assurances that the State or States have implemented policies that provide for the recognition of the rights and needs of crime victims;

(3) assurances that funds received under this section will be used to develop, expand, modify, or improve correctional facilities and programs to ensure that prison cell space is available for the confinement of violent offenders;

(4) assurances that the State or States have a comprehensive correctional plan which represents an integrated approach to the management and operation of correctional facilities and programs and which includes diversional programs, particularly drug diversion programs, community corrections programs, a prisoner screening and security classification system, prisoner rehabilitation and treatment programs, prisoner work activities (including, to the extent practicable, activities relating to the development, expansion, modification, or improvement of correctional facilities), and job skills programs, a pre-release prisoner assessment to provide risk reduction management, post-release assistance, and an assessment of recidivism rates;

(5) assurances that the State or States have involved counties and other units of local government, when appropriate, in the development, expansion, modification, or improvement of correctional facilities and programs designed to ensure the incarceration of violent offenders;

(6) assurances that funds received under this section will be used to supplement, not supplant, other Federal, State, and local funds; and

(7) documentation of the multi-State compact agreement that specifies the development, expansion, modification, or improvement of correctional facilities and programs.

(c) Consideration.—The Attorney General, in making such grants, shall give consideration to the special burden placed on States which incarcerate a substantial number of inmates who are in the United States illegally.

(d) Matching Requirement.—The Federal share of a grant received under this title may not exceed 75 percent of the costs of a proposal described in an application approved under this title.

SEC. 602. RULES AND REGULATIONS.

The Attorney General shall issue rules and regulations regarding the uses of grant funds received under this title not later than 90 days after the date of the enactment of this title.

SEC. 603. TECHNICAL ASSISTANCE AND TRAINING.

The Attorney General may request that the Director of the National Institute of Corrections and the Director of the Federal Bureau of Prisons provide technical assistance and training to a State or States that receive a grant under this title to achieve the purposes of this title.

SEC. 604. EVALUATION.

The Attorney General may request the Director of the National Institute of Corrections to assist with an evaluation of programs established with funds under this title.

SEC. 605. DEFINITION.

For purposes of this title, the term "State or States" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $600,000,000 for each of the fiscal years 1995 through 1999 to carry out the purposes of this title.

TITLE VII—DEATH PENALTY

SEC. 701. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Special provisions for Indian country.

"§3591. Sentence of death

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381 of this title;

"(2) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(C) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(D) intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act;

"(3) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) of that section or twice the gross receipts described in subsection (b)(2)(B) of that section; or

"(4) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer, or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or members of the family or household of such a person;

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"§3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider any mitigating factor, including the following:

"(1) IMPAIRED CAPACITY.—The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) MINOR PARTICIPATION.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) EQUALLY CULPABLE DEFENDANTS.—Another defendant or defendants, equally culpable in the crime, will not be punished by death.

"(5) NO PRIOR CRIMINAL RECORD.—The defendant did not have a significant prior history of other criminal conduct.

"(6) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(7) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

"(8) OTHER FACTORS.—Other factors in the defendant's background, record, or character or any other circumstance of the offense that mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) PRIOR ESPIONAGE OR TREASON OFFENSE.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of either life imprisonment or death was authorized by law.

"(2) GRAVE RISK TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security.

"(3) GRAVE RISK OF DEATH.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE.—In determining whether a sentence of death is justified for an offense described in section 3591(2), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) DEATH DURING COMMISSION OF ANOTHER CRIME.—The death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 1118 (prisoners serving life term), section 1201 (kidnapping), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1203 (hostage taking), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. 1472 (i) or (n)) (aircraft piracy).

"(2) PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—For any offense, other than an offense for which a sentence of death is sought on the basis of section 924(c) of this title, as amended by this Act, the defendant has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than one year, involving the use or attempted or threatened use of a firearm, as defined in section 921 of this title, against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL, OR DEPRAVED MANNER OF COMMITTING OFFENSE.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism.

"(10) CONVICTION FOR TWO FELONY DRUG OFFENSES.—The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) CONVICTION FOR SERIOUS FEDERAL DRUG OFFENSES.—The defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise.

"(13) CONTINUING CRIMINAL ENTERPRISE INVOLVING DRUG SALES TO MINORS.—The defendant committed the offense in the course of engaging in a continuing criminal enterprise in violation of section 408(c) of the Controlled Substances Act and that violation involved the distribution of drugs to persons under the age of 21 in violation of section 418 of such Act.

"(14) HIGH PUBLIC OFFICIALS.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a Chief of State, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if the official is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he or she is engaged in the performance of his or her official duties;

"(ii) because of the performance of his or her official duties; or

"(iii) because of his or her status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution or adjudication of an offense, and includes those engaged in corrections, parole, or probation functions.

"(15) PRIOR CONVICTION OF SEXUAL ASSAULT OR CHILD MOLESTATION.—In the case of an offense under chapter 109A (sexual abuse) or chapter 110 (sexual abuse of children), the defendant has previously been convicted of a crime of sexual assault or crime of child molestation.

"(d) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether to recommend a sentence of death for an offense described in paragraph (3), (4), or (5) of section 3591, the jury, or if there is no jury, the court, shall consider any aggravating factor for which notice has been provided under section 3593 of this title, including the following factors:

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm, as defined in section 921 of this title, to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER TWENTY-ONE.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(7) USING MINORS IN TRAFFICKING.—The offense or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"§3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, the attorney shall, a reasonable time before the trial or before acceptance by the court of a plea of guilty, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family, and may include oral testimony, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim and the victim's family, and any other relevant information. The court may also permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant.

A jury impaneled pursuant to paragraph (2) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. The defendant may present any information relevant to a mitigating factor. The government may present any information relevant to an aggravating factor for which notice has been provided under subsection (a). The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by 1 or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, an aggravating factor required to be considered under section 3592 is found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist outweigh any mitigating factors. The jury, or if there is no jury, the court shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants. The jury shall be instructed that its recommendation concerning a sentence of death is to be based on the aggravating factor or factors and any mitigating factors which have been found, but that

the final decision concerning the balance of aggravating and mitigating factors is a matter for the jury's judgment.

"(f) SPECIAL PRECAUTION TO ENSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§3594. Imposition of a sentence of death

"Upon a recommendation under section 3593(e) that the defendant should be sentenced to death, the court shall sentence the defendant accordingly. Otherwise, the court shall impose any lesser sentence that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without possibility of release.

"§3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) The court of appeals shall address all substantive and procedural issues raised on the appeal of a sentence of death, and shall consider whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor and whether the evidence supports the special finding of the existence of an aggravating factor required to be considered under section 3592.

"(2) Whenever the court of appeals finds that—

"(A) the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the admissible evidence and information adduced does not support the special finding of the existence of the required aggravating factor; or

"(C) the proceedings involved any other legal error requiring reversal of the sentence that was properly preserved for appeal under the rules of criminal procedure,

the court shall remand the case for reconsideration under section 3593 or imposition of a sentence other than death.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(4) The sentence shall be affirmed if the court finds that a remaining aggravating factor found to exist is one allowed under section 3592 of this title and that the remaining aggravating factor or factors found to exist sufficiently outweigh any mitigating factors found to exist.

"§3596. Implementation of a sentence of death

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does provide for the implementation of a sentence of death, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) PREGNANT WOMAN.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) MENTAL CAPACITY.—A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability, lacks the mental capacity to understand the death penalty and why it was imposed on that person.

"§3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections, the United States Department of Justice, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any prosecution or execution under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.

"§3598. Special provisions for Indian country

"Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 of this title, and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has elected that this chapter have effect over land and persons subject to its criminal jurisdiction.".

(b) AMENDMENT OF CHAPTER ANALYSIS.—The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence .... 3591".

SEC. 702. CONFORMING CHANGES TO SPECIFIC OFFENSES FOR WHICH DEATH PENALTY IS AUTHORIZED.

(a) CONFORMING CHANGES IN TITLE 18.—Title 18, United States Code, is amended as follows:

(1) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the subsection and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense resulted in the identification by a foreign power (as defined in section 101(a) of the Foreign Intelligence Surveillance Act of 1978) of an individual acting as an agent of the United States and consequently in the death of that individual, or directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(2) MURDER.—The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(3) KILLING OF FOREIGN OFFICIALS OR INTERNATIONALLY PROTECTED PERSONS.—Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(4) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(5) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(6) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(7) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(8) EXPLOSIVE MATERIALS.—(A) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(B) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(C) Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(9) DEATH PENALTY FOR THE MURDER OF FEDERAL LAW ENFORCEMENT OFFICIALS.—Section 1114 of title 18, United States Code, is amended by striking "punished as provided under sections 1111 and 1112 of this title," and inserting "punished, in the case of murder, by a sentence of death or life imprisonment as provided under section 1111 of this title, or, in the case of manslaughter, a sentence as provided under section 1112 of this title,".

(b) CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.—Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473) is amended by striking subsection (c) and by striking the item relating to subsection (c) in the table of contents at the beginning of such Act.

(c) AIRCRAFT AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by

striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

SEC. 703. AUTHORIZATION OF DEATH PENALTY FOR EXISTING OFFENSES.

(a) Hostage Taking.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(b) Murder for Hire.—Section 1958(a) of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined under this title, or both".

(c) Racketeering.—Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine under this title, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine under this title, or both;".

(d) Genocide.—Section 1091(b)(1) of title 18, United States Code, is amended by striking ", a fine of not more than $1,000,000 and imprisonment for life;" and inserting ", where death results, by death or imprisonment for life and a fine under this title, or both;".

(e) Carjacking.—Section 2119(3) of title 18, United States Code, is amended to read as follows:

"(3) if death results, be punished by death or imprisoned for any term of years or for life, fined under this title, or both."

(f) Death Penalty for Rape and Child Molestation Murders.—

(1) Offense.—Chapter 109A of title 18, United States Code, is amended by redesignating section 2245 as section 2246, and by inserting after section 2244 the following:

"§2245. Sexual abuse resulting in death

"Whoever, in the course of an offense under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

(2) Clerical amendment.—The table of sections at the beginning of chapter 109A of title 18, United States Code, is amended by striking the item for section 2245 and adding the following:

"2245. Sexual abuse resulting in death.
"2246. Definitions for chapter.".

(g) Death Penalty for Sexual Exploitation of Children.—Section 2251(d) of title 18, United States Code, is amended by adding at the end the following: "Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

(h) Homicides and Attempted Homicides Involving Firearms in Federal Facilities.—Section 930 of title 18, United States Code, is amended—

(1) by redesignating subsections (c), (d), (e), (f), and (g) as subsections (d), (e), (f), (g), and (h), respectively;

(2) in subsection (a), by striking "(c)" and inserting "(d)";

(3) inserting after subsection (b) the following:

"(c) Whoever kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113 of this title.";

(4) in subsection (e)(2) (as so redesignated), by striking "(c)" and inserting "(d)"; and

(5) in subsection (h) (as so redesignated)—

(A) by striking "and (b)" and inserting ", (b), and (c)"; and

(B) by striking "(d)" each place it appears and inserting "(e)".

(i) Death Penalty for Murder of Federal Witnesses.—Section 1512(a)(2)(A) of title 18, United States Code, is amended to read as follows:

"(A) in the case of murder as defined in section 1111 of this title, the death penalty or imprisonment for life, and in the case of any other killing, the punishment provided in section 1112 of this title; and".

(j) Protection of Court Officers and Jurors.—Section 1503 of title 18, United States Code, is amended—

(1) by designating the current text as subsection (a);

(2) by striking "fined not more than $5,000 or imprisoned not more than five years, or both." and inserting "punished as provided in subsection (b).";

(3) by adding at the end the following:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title;

"(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than twenty years, a fine under this title, or both; and

"(3) in any other case, imprisonment for not more than ten years, a fine under this title, or both."; and

(4) in subsection (a), as so designated by this section, by striking "commissioner" each place it appears and inserting "magistrate judge".

(k) Foreign Murder of United States Nationals.—

(1) In general.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§1118. Foreign murder of United States nationals

"(a) Whoever, being a national of the United States, kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113 of this title.

"(b) No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same conduct.

"(c) No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the conduct took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this subsection is not subject to judicial review.

"(d) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(2) Conforming amendment.—Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1118".

(3) Clerical amendment.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Foreign murder of United States nationals.".

(l) Death Penalty for Civil Rights Murders.—

(1) Conspiracy against rights.—Section 241 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(2) Deprivation of rights under color of law.—Section 242 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(3) Federally protected activities.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by inserting ", or may be sentenced to death" after "or for life".

(4) Damage to religious property; obstruction of the free exercise of religious rights.—Section 247(c)(1) of title 18, United States Code, is amended by inserting ", or may be sentenced to death" after "or both".

SEC. 704. DEATH PENALTY FOR MURDER BY A FEDERAL PRISONER.

(a) In General.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"§1119. Murder by a Federal prisoner

"(a) Offense.—Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, commits the murder of another shall be punished by death or by life imprisonment.

"(b) Definitions.—For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murder' means a first degree or second degree murder as defined by section 1111 of this title.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1119. Murder by a Federal prisoner.".

SEC. 705. MURDER BY ESCAPED PRISONERS.

(a) In General.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"§1120. Murder by escaped prisoners

"(a) In General.—Whoever, having escaped from a Federal prison where such person was confined under a sentence for a term of life imprisonment, kills another shall be punished as provided in sections 1111 and 1112 of this title.

"(b) Definition.—As used in this section, the terms 'Federal prison' and 'term of life imprisonment' have the meanings given those terms in section 1119 of this title.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1120. Murder by escaped prisoners.".

SEC. 706. DRIVE-BY SHOOTINGS.

(a) In General.—Section 922 of title 18, United States, Code, is amended by adding at the end the following:

"(v) It shall be unlawful for any person knowingly to—

"(1) discharge a firearm from within a motor vehicle; and

"(2) thereby create a grave risk to human life.".

(b) PENALTY.—Section 924(a) of such title is amended by adding at the end the following:

"(6) Whoever knowingly violates section 922(v) shall be fined under this title or imprisoned not more than 25 years, or both, and if death results, shall be punished by death or imprisonment for life or any term of years.".

SEC. 707. DEATH PENALTY FOR GUN MURDERS DURING FEDERAL CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES.

Section 924 of title 18, United States Code, is amended by adding at the end the following:

"(j) Whoever, in the course of a violation of subsection (c) of this section, causes the death of a person through the use of a firearm, shall—

"(1) if the killing is a murder as defined in section 1111 of this title, be punished by death or by imprisonment for any term of years or for life; and

"(2) if the killing is manslaughter as defined in section 1112 of this title, be punished as provided in that section.".

SEC. 708. DEATH PENALTY FOR THE MURDER OF STATE OR LOCAL OFFICIALS ASSISTING FEDERAL LAW ENFORCEMENT OFFICIALS AND STATE CORRECTIONAL OFFICERS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code is amended by adding at the end the following:

"§ 1121. Killing persons aiding Federal investigations or State correctional officers

"(a) Whoever intentionally kills—

"(1) a State or local official, law enforcement officer, or other officer or employee while working with Federal law enforcement officials in furtherance of a Federal criminal investigation—

"(A) while the victim is engaged in the performance of official duties;

"(B) because of the performance of the victim's official duties; or

"(C) because of the victim's status as a public servant; or

"(2) any person assisting a Federal criminal investigation, while that assistance is being rendered and because of it,

shall be sentenced according to the terms of section 1111 of this title, including by sentence of death or by imprisonment for life.

"(b)(1) Whoever, in a circumstance described in paragraph (3) of this subsection, while incarcerated, intentionally kills any State correctional officer engaged in, or on account of the performance of such officer's official duties, shall be sentenced to a term of imprisonment which shall not be less than 20 years, and may be sentenced to life imprisonment or death.

"(2) As used in this section, the term, 'State correctional officer' includes any officer or employee of any prison, jail, or other detention facility, operated by, or under contract to, either a State or local governmental agency, whose job responsibilities include providing for the custody of incarcerated individuals.

"(3) The circumstance referred to in paragraph (1) of this subsection is that—

"(A) the correctional officer is engaged in transporting the incarcerated person interstate; or

"(B) the incarcerated person is incarcerated pursuant to a conviction for an offense against the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1121. Killing persons aiding Federal investigations or State correctional officers.".

SEC. 709. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting after the section heading a new subsection (a) as follows:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole or release pending judicial proceedings given by a person to a law enforcement officer;

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title; and

"(B) in the case of an attempt, imprisonment for not more than twenty years, a fine under this title, or both.".

SEC. 710. WEAPONS OF MASS DESTRUCTION.

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by inserting after section 2332 the following new section:

"§2332a. Use of weapons of mass destruction

"(a) Whoever uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States;

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) For purposes of this section—

"(1) the term 'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) the term 'weapon of mass destruction' means—

"(A) any destructive device as defined in section 921 of this title;

"(B) poison gas;

"(C) any weapon involving a disease organism; or

"(D) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113A of title 18, United States Code, is amended by inserting after the item relating to section 2332 the following:

"2332a. Use of weapons of mass destruction.".

SEC. 711. VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"§36. Violence at international airports

"(a) Whoever unlawfully and intentionally, using any device, substance or weapon—

"(1) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious bodily injury (as defined in section 1365 of this title) or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport;

if such an act endangers or is likely to endanger safety at that airport, or attempts to do such an act, shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if—

"(1) the prohibited activity takes place in the United States; or

"(2) the prohibited activity takes place outside of the United States and the offender is later found in the United States.

"(c) It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved—

"(1) a domestic dispute solely affecting and between members of the same family or household or between social acquaintances; or

"(2) was during or in relation to a labor dispute, and such conduct was prohibited as a felony under the law of the State in which it was committed.

For purposes of this section, the term 'labor dispute' has the meaning set forth in section 2(c) of the Norris-LaGuardia Act (29 U.S.C. 113(c)).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"36. Violence at international airports.".

(c) EFFECTIVE DATE.—This section shall take effect on the later of—

(1) the date of the enactment of this Act; or

(2) the date the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

SEC. 712. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

(a) OFFENSES.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following:

"§2280. Violence against maritime navigation

"(a) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

"(3) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(4) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

"(5) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(7) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) through (6); or

"(8) attempts to do any act prohibited under paragraphs (1) through (7);

shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results, from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to do any act prohibited under paragraph (2), (3) or (5) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b)—

"(1) in the case of a covered ship, if—

"(A) such activity is committed—

"(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(ii) in the United States and the activity is not prohibited as a crime by the State in which the activity takes place; or

"(iii) the activity takes place on a ship flying the flag of a foreign country or outside the United States, by a national of the United States or by a stateless person whose habitual residence is in the United States;

"(B) during the commission of such activity, a national of the United States is seized, threatened, injured or killed; or

"(C) the offender is later found in the United States after such activity is committed;

"(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

"(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

"(d) It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved—

"(1) a domestic dispute solely affecting and between members of the same family or household or between social acquaintances; or

"(2) was during or in relation to a labor dispute, and such conduct was prohibited as a felony under the law of the State in which it was committed.

For purposes of this section, the term 'labor dispute' has the meaning set forth in section 2(c) of the Norris-LaGuardia Act (29 U.S.C. 113(c)).

"(e) The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that there is on board that ship any person who has committed an offense under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation may deliver such person to the authorities of a State Party to that Convention. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action to take. When delivering the person to a country which is a State Party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of the master's intention to deliver such person and the reasons therefor. If the master delivers such person, the master shall furnish to the authorities of such country the evidence in the master's possession that pertains to the alleged offense.

"(f) As used in this section—

"(1) the term 'ship' means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles or any other floating craft; but such term does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up;

"(2) the term 'covered ship' means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country;

"(3) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) the term 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) the term 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands and all territories and possessions of the United States.

"§2281. Violence against maritime fixed platforms

"(a) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(3) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(4) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;

"(5) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) through (4); or

"(6) attempts to do anything prohibited under paragraphs (1) through (5);

shall be fined under this title or imprisoned not more than twenty years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to do anything prohibited under paragraph (2) or (3) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(d) It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved—

"(1) a domestic dispute solely affecting and between members of the same family or household or between social acquaintances; or

"(2) was during or in relation to a labor dispute, and such conduct was prohibited as a felony under the law of the State in which it was committed.

For purposes of this section, the term 'labor dispute' has the meaning set forth in section 2(c) of the Norris-LaGuardia Act (29 U.S.C. 113(c)).

"(e) As used in this section, the term—

"(1) 'continental shelf' means the sea-bed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea;

"(2) 'fixed platform' means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes;

"(3) 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands and all territories and possessions of the United States.".

(b) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 111 of title 18, United States Code, is amended by adding at the end thereof the following:

"2280. Violence against maritime navigation
"2281. Violence against maritime fixed platforms".

(c) EFFECTIVE DATES.—This section and the amendments made by this section shall take effect on the later of—

(1) the date of the enactment of this Act; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

SEC. 713. TORTURE.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

"CHAPTER 113B—TORTURE

"Sec.
2340. Definitions.
2340A. Torture.
2340B. Exclusive remedies.

"§2340. Definitions

"As used in this chapter—

"(1) the term 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control;

"(2) the term 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from (A) the intentional infliction or threatened infliction of severe physical pain or suffering; (B) the administration or application, or threatened administration or application, of mind altering substances or other procedures

calculated to disrupt profoundly the senses or the personality; (C) the threat of imminent death; or (D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality;

"(3) the term 'United States' includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301(38)).

"§2340A. Torture

"(a) Whoever, outside the United States and in a circumstance described in subsection (b) of this section, commits or attempts to commit torture—

"(1) shall be fined under this title or imprisoned not more than twenty years, or both; and

"(2) if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) The circumstance referred to in subsection (a) of this section is if—

"(1) the alleged offender is a national of the United States; or

"(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

"§2340B. Exclusive remedies

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 113A the following new item:

"113B. Torture .... 2340".

(c) EFFECTIVE DATE.—This section shall take effect on the later of—

(1) the date of enactment of this section; or

(2) the date the United States has become a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

SEC. 714. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this title, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 715. PROTECTION OF JURORS AND WITNESSES IN CAPITAL CASES.

Section 3432 of title 18, United States Code, is amended by inserting before the period the following: ", except that such list of the veniremen and witnesses need not be furnished if the court finds by a preponderance of the evidence that providing the list may jeopardize the life or safety of any person".

SEC. 716. KIDNAPPING.

Section 1201(g)(1) of title 18, United States Code, is amended by inserting "to the penalty of death if the death of the victim results and, in any other case," after "shall be subject".

TITLE VIII—TRUTH IN SENTENCING

SEC. 801. GRANTS.

The Attorney General is authorized to provide grants to States to build, expand, or operate space in correctional facilities in order to increase the prison bed capacity in such facilities in order to reach the goals set forth in section.

SEC. 802. FEDERAL FUNDS.

(a) DISTRIBUTION OF FUNDS IN FISCAL YEAR 1995.—Of the total amount of funds appropriated under this title in fiscal year 1995, there shall be allocated to each State an amount which bears the same ratio to the amount of funds appropriated pursuant to this title as the number of part I violent crimes reported by the States to the Federal Bureau of Investigation for 1993 bears to the number of part I violent crimes reported by all States to the Federal Bureau of Investigation for 1993.

(b) DISTRIBUTION OF FUNDS IN FISCAL YEARS 1996 THROUGH 1999.—Seventy-five percent of the total amount of funds appropriated under this title in fiscal years 1996, 1997, 1998, and 1999 shall be allocated to each State according to the formula established in subsection (a) adjusted to reflect in each year the most recent data from the Federal Bureau of Investigation reporting part I violent crimes.

(c) GOOD FAITH EFFORT.—In order to be eligible for funding under subsections (a) and (b), a State shall submit an application and give the Attorney General assurances that it will make a good faith and cost effective effort to become eligible for a grant under subsection (d).

(d) TRUTH IN SENTENCING INCENTIVE FUND.—25 percent of the total amount of funds appropriated under this title in each of the fiscal years 1996, 1997, 1998, and 1999 shall be allocated to each eligible State according to the same ratios established in subsection (b) multiplied by the percentage change in the States' percentage of time to be served by the persons convicted of violent crimes divided by the average of all States' percentage change in percentage of time to be served by the persons convicted of violent crimes. States which have achieved a Truth in Sentencing standard of violent criminals serving 85 percent of prison time assessed shall receive the incentive funds based on the average of such percentage change ratios of all States multiplied by the States percentage of total Part I violent crime reported.

(e) ELIGIBILITY FOR TRUTH IN SENTENCING INCENTIVE FUND.—In order to be eligible for grants under subsection (d), a State must demonstrate that it has, since 1993—

(1) increased the percentage of convicted violent offenders sentenced to prison;

(2) increased the average prison time actually to be served in prison by convicted violent offenders sentenced to prison; and

(3) increased the percentage of sentence to be actually served in prison by violent offenders sentenced to prison.

(f) LAW CHANGES.—As evidence of such good faith effort to meet the goals contained in subsection (e), a State may make changes to its laws and regulations which may include—

(1) truth in sentencing laws which will require persons convicted of violent crimes to serve not less than 85 percent of the sentence imposed;

(2) mandatory prison sentences for persons convicted of the most serious violent crimes;

(3) pretrial detention for persons whose release it can be shown would pose a danger to any other person or the community;

(4) sentencing authority to allow the defendant's victims or the family of victims the opportunity to be heard regarding the issue of sentencing and provide that the victim or the victim's family will be notified whenever such defendant is to be released; or

(5) that a person who is convicted of a serious violent crime shall be sentenced to life imprisonment if—

(A) The person has been convicted on 2 or more prior occasions in a court of the United States or of a State of a serious violent crime, or of 1 or more serious violent crimes and 1 or more serious drug offenses; and

(B) each serious violent crime or serious drug offense used as a basis for sentencing under this subsection, other than the fist, was committed after the defendant's conviction of the preceding serious violent crime or serious drug offense.

SEC. 803. DEFINITIONS.

For purposes of this title—

(1) the term "violent crime" means—

(A) a felony offense that has as an element the use, attempted use, or threatened use of physical force against the person of another, or

(B) any other offense that is a felony and that, by its nature, involves substantial risk that physical force against the person of another may be used in the course of committing the offense;

(2) the term "serious drug offender" has the same meaning as that is used in section 924(e)(2)(A) of title 18, United States Code;

(3) the term "State" means any of the United States and the District of Columbia;

(4) the term "convicted" means convicted and sentenced to a term in a State corrections institution or a period of formal probation; and

(5) the term "Part I violent crimes" means murder, rape, robbery, and aggravated assault as those offenses are reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

SEC. 804. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—For purposes of this title, there are authorized to be appropriated—

(1) $2,500,000,000 for fiscal year 1995;
(2) $2,000,000,000 for fiscal year 1996;
(3) $2,000,000,000 for fiscal year 1997;
(4) $2,000,000,000 for fiscal year 1998; and
(5) $2,000,000,000 for fiscal year 1999.

(b) LIMITATIONS ON FUNDS.—

(1) NONSUPPLANTING REQUIREMENT.—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

(2) ADMINISTRATIVE COSTS.—Not more than 3 percent of the funds available under this section may be used for administrative costs.

(3) MATCHING FUNDS.—The portion of the costs of a program provided by a grant under this section may not exceed 90 percent of the total costs of the program as described in the application.

(4) CARRY OVER OF APPROPRIATIONS.—Any funds appropriated but not expended as provided by this section during any fiscal year shall be carried over and will be made available until expended.

TITLE IX—RACIALLY DISCRIMINATORY CAPITAL SENTENCING

SEC. 901. AMENDMENT TO TITLE 28.

(a) PROCEDURE.—Part VI of title 28, United States Code, is amended by inserting after chapter 176 the following new chapter:

"CHAPTER 177—RACIALLY DISCRIMINATORY CAPITAL SENTENCING

"Sec.
"3501. Prohibition against the execution of a sentence of death imposed on the basis of race.
"3502. Access to data on death eligible cases.
"3503. Enforcement of the chapter.
"3504. Construction of chapter.

"§3501. Prohibition against the execution of a sentence of death imposed on the basis of race

"(a) IN GENERAL.—No person shall be put to death under color of State or Federal law in the execution of a sentence that was imposed based on race.

"(b) INFERENCE OF RACE AS THE BASIS OF DEATH SENTENCE.—An inference that race was the basis of a death sentence is established if valid evidence is presented demonstrating that, at the time the death sentence was imposed, race was a statistically significant factor in decisions to seek or to impose the sentence of death in the jurisdiction in question.

"(c) RELEVANT EVIDENCE.—Evidence relevant to establish an inference that race was the basis *of a death sentence may include evidence that death sentences were, at the time pertinent under subsection (b), being imposed significantly more frequently in the jurisdiction in question—*

"(1) upon persons of one race than upon persons of another race; or

"(2) as punishment for capital offenses against persons of one race than as punishment for capital offenses against persons of another race.

"(d) Validity of Evidence Presented To Establish an Inference.—If statistical evidence is presented to establish an inference that race was the basis of a sentence of death, the court shall determine the validity of the evidence and if it provides a basis for the inference. Such evidence must take into account, to the extent it is compiled and publicly made available, evidence of the statutory aggravating factors of the crimes involved, and shall include comparisons of similar cases involving persons of different races.

"(e) Rebuttal.—If an inference that race was the basis of a death sentence is established under subsection (b), the death sentence may not be carried out unless the government rebuts the inference by a preponderance of the evidence. Unless it can show that the death penalty was sought in all cases fitting the statutory criteria for imposition of the death penalty, the government cannot rely on mere assertions that it did not intend to discriminate or that the cases in which death was imposed fit the statutory criteria for imposition of the death penalty.

"§3502. Access to data on death eligible cases

"Data collected by public officials concerning factors relevant to the imposition of the death sentence shall be made publicly available.

"§3503. Enforcement of the chapter

"In any proceeding brought under section 2254, the evidence supporting a claim under this chapter may be presented in an evidentiary hearing and need not be set forth in the petition. Notwithstanding section 2254, no determination on the merits of a factual issue made by a State court pertinent to any claim under section 3501 shall be presumed to be correct unless—

"(1) the State is in compliance with section 3502;

"(2) the determination was made in a proceeding in a State court in which the person asserting the claim was afforded rights to the appointment of counsel and to the furnishing of investigative, expert and other services necessary for the adequate development of the claim; and

"(3) the determination is one which is otherwise entitled to be presumed to be correct under the criteria specified in section 2254.

"§3504. Construction of chapter

"Nothing contained in this chapter shall be construed to affect in one way or the other the lawfulness of any sentence of death that does not violate section 3501.".

(b) Amendment to Table of Chapters.—The table of chapters of part VI of title 28, United States Code, is amended by adding at the end thereof the following new item:

"177. Racially Discriminatory Capital Sentencing .... 3501.".

SEC. 902. ACTIONS BEFORE ENACTMENT.

No person shall be barred from raising any claim under section 3501 of title 28, United States Code, as added by this Act, on the ground of having failed to raise or to prosecute the same or a similar claim before the enactment of the Act, nor by reason of any adjudication rendered before that enactment.

TITLE X—CRIME PREVENTION AND COMMUNITY JUSTICE

Subtitle A—Model Intensive Grant Programs

SEC. 1001. GRANT AUTHORIZATION.

(a) Establishment.—The Attorney General, who may consult with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, is authorized to award grants to not more than 15 chronic high intensive crime areas to develop comprehensive model crime prevention programs that—

(1) involve and utilize a broad spectrum of community resources, including nonprofit community organizations, law enforcement organizations, and appropriate State and Federal agencies, including the State educational agencies;

(2) attempt to relieve conditions that encourage crime; and

(3) provide meaningful and lasting alternatives to involvement in crime.

(b) Priority.—In awarding grants described in subsection (a), the Attorney General shall give priority to proposals that—

(1) are innovative in approach to the prevention of crime in a specific area;

(2) vary in approach to ensure that comparisons of different models may be made; and

(3) coordinate crime prevention programs funded under this program with other existing Federal programs to address the overall needs of communities that benefit from grants received under this title.

SEC. 1002. USES OF FUNDS.

(a) In General.—Funds awarded under this subtitle may be used only for purposes described in an approved application. The intent of grants under this subtitle is to fund intensively comprehensive crime prevention programs in chronic high intensive crime areas.

(b) Guidelines.—The Attorney General shall issue and publish in the Federal Register guidelines that describe suggested purposes for which funds under approved programs may be used.

SEC. 1003. PROGRAM REQUIREMENTS.

(a) Description.—An applicant shall include a description of the distinctive factors that contribute to chronic violent crime within the area proposed to be served by the grant. Such factors may include lack of alternative activities and programs for youth, deterioration or lack of public facilities, inadequate public services such as public transportation, street lighting, community-based substance abuse treatment facilities, or employment services offices, and inadequate police or public safety services, equipment, or facilities.

(b) Comprehensive Plan.—An applicant shall include a comprehensive, community-based plan to attack intensively the principal factors identified in subsection (a). Such plans shall describe the specific purposes for which funds are proposed to be used and how each purpose will address specific factors. The plan also shall specify how local nonprofit organizations, government agencies, private businesses, citizens groups, volunteer organizations, and interested citizens will cooperate in carrying out the purposes of the grant.

(c) Evaluation.—An applicant shall include an evaluation plan by which the success of the plan will be measured, including the articulation of specific, objective indicia of performance, how the indicia will be evaluated, and a projected timetable for carrying out the evaluation.

SEC. 1004. APPLICATIONS.

To request a grant under this subtitle the chief local elected official of an area shall—

(1) prepare and submit to the Attorney General an application in such form, at such time, and in accordance with such procedures, as the Attorney General shall establish; and

(2) provide an assurance that funds received under this subtitle shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for programs funded under this subtitle.

SEC. 1005. REPORTS.

Not later than December 31, 1998, the Attorney General shall prepare and submit to the Committees on the Judiciary of the House and Senate an evaluation of the model programs developed under this subtitle and make recommendations regarding the implementation of a national crime prevention program.

SEC. 1006. DEFINITIONS.

For purposes of this subtitle:

(1) Chronic High Intensity Crime Area.—The term "chronic high intensity crime area" is an area that meets criteria defined under regulations issued by the Attorney General. The criteria adopted by the Attorney General shall, at a minimum, define areas with—

(A) consistently high rates of violent crime as reported in the Federal Bureau of Investigation's "Uniform Crime Reports", and

(B) chronically high rates of poverty as determined by the Bureau of the Census.

(2) Chief Local Elected Official.—The term "chief local elected official" means an official designated under regulations issued by the Attorney General. The criteria used by the Attorney General in promulgating such regulations shall ensure administrative efficiency and accountability in the expenditure of funds and execution of funded projects under this subtitle.

SEC. 1007. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $300,000,000 for each of the fiscal years 1995, 1996, 1997, 1998, and 1999.

Subtitle B—Ounce of Prevention Grant Programs

PART I—OUNCE OF PREVENTION GRANT PROGRAMS

SEC. 1010. OUNCE OF PREVENTION COUNCIL.

(a) In General.—(1) The Secretary of Health and Human Services shall convene an interagency Task Force to be known as the Ounce of Prevention Council, which shall be chaired by the Attorney General, the Secretary of Education, and the Secretary of Health and Human Services, and which also shall include the Secretary of Housing and Urban Development, the Secretary of Labor, the Secretary of Agriculture, the Secretary of the Interior, and the Director of the Office of National Drug Control Policy.

(2) The Council may obtain the necessary staff to carry out its functions through the detail or assignment of employees from the departments or offices which are represented by the Council.

(3) The Council may delegate any of its functions or powers to a member or members of the Council.

(b) Administrative Responsibilities and Powers.—The Council shall advise and counsel the Secretary regarding administration of the programs established by this title. In consultation with the Council, the Secretary may issue regulations and guidelines to carry out this title, including specifications concerning application requirements, selection criteria, duration and renewal of grants, evaluation requirements, limitation of administrative expenses, submission of reports by grantees, recordkeeping by grantees, and access to books, records, and documents maintained by grantees or other persons for purposes of audit or examination.

(c) Targeting of Assistance for Distressed Communities and Individuals With Particular Needs.—In consultation with the Council, the Secretary shall adopt regulations or guidelines to ensure that funding provided under this title shall be used primarily for—

(1) assistance in communities that are distressed as indicated by such factors as high incidences of crime, juvenile delinquency, gang

involvement, substance abuse, unemployment, school dropouts, or pregnancy among adolescents; and

(2) assistance for individuals in any area who are particularly in need of the assistance for such reasons as involvement in juvenile delinquency, gangs, or substance abuse, unemployability, dropping out of school, or pregnancy during adolescence, or being at risk of such conditions.

SEC. 1011. OUNCE OF PREVENTION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary, after consultation with the Council, may make grants to States, local governments, educational institutions, coalitions, local educational agencies, State educational agencies, and other public and private entities, for—

(1) summer and after-school (including weekend and holiday education and recreation) programs;

(2) mentoring, tutoring, and other programs involving participation by adult role models;

(3) programs assisting and promoting employability and job placement; and

(4) substance abuse treatment and prevention, including outreach programs for at-risk families.

(b) PRIORITY.—In making such grants, the Secretary shall give preference to coalitions consisting of a broad spectrum of community-based and social service organizations that have a coordinated team approach to reducing gang membership and the effects of substance abuse, and providing alternatives to at-risk youth.

(c) DEFINITIONS.—For purposes of this section the term "Secretary" means the Secretary of Health and Human Services.

PART II—FAMILY AND COMMUNITY ENDEAVOR SCHOOLS GRANT PROGRAM

SEC. 1015. PROGRAM AUTHORITY.

(a) IN GENERAL.—

(1) ALLOCATIONS FOR STATES.—For a fiscal year in which the sums reserved by the Secretary from the amounts appropriated for this subtitle to carry out this section equal or exceed $20,000,000, the Secretary shall allocate to community-based organizations in each State, an amount bearing the same ratio to such sums as the number of children in the State who are from families with incomes below the poverty line bears to the number of children in all States who are from families with incomes below the poverty line.

(2) GRANTS TO COMMUNITY-BASED ORGANIZATIONS FROM ALLOCATIONS.—For such a fiscal year, the Secretary may award grants from the appropriate State allocation determined under paragraph (1) on a competitive basis to eligible community-based organizations to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this section.

(3) REALLOCATION.—If, at the end of such a fiscal year, the Secretary determines that funds allocated for community-based organizations in a State remain unobligated, the Council may use such funds to award grants to eligible community-based organizations in another State to pay for such Federal share. Amounts made available through such grants shall remain available until expended.

(b) OTHER FISCAL YEARS.—For any fiscal year in which the sums reserved by the Secretary from amounts appropriated for this subtitle to carry out this section are less than $20,000,000, the Secretary may award grants on a competitive basis to eligible community-based organizations to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this section.

SEC. 1016. PROGRAM REQUIREMENTS.

(a) LOCATION.—A community-based organization that receives a grant under this section to assist in carrying out such a program shall ensure that the program is carried out—

(1) where appropriate, in the facilities of a public school; or

(2) in another appropriate local facility in a State, such as a college or university, a local or State park or recreation center, church, or military base, that is—

(A) in a location that is easily accessible to children in the community; and

(B) in compliance with all applicable local ordinances.

(b) USE OF FUNDS.—Such community-based organization—

(1) shall use funds made available through the grant to provide, to children in the eligible community, services and activities that shall include supervised sports programs, and extracurricular and academic programs, that are offered—

(A) after school and on weekends and holidays, during the school year; and

(B) as daily full-day programs (to the extent available resources permit) or as part-day programs, during the summer months;

(2) in providing such extracurricular and academic programs, shall provide programs such as curriculum-based supervised educational programs, work force preparation, entrepreneurship, cultural programs, arts and crafts, and health education and service programs, dance programs, tutorial and mentoring programs, and other related activities;

(3) may use such funds—

(A) for the renovation of facilities that are in existence prior to the operation of the program for which the organization receives the grant; and

(B) to develop or expand school programs (including programs that provide a variety of additional services to help meet the comprehensive needs of students, such as homework assistance and after-school programs (including educational, social, and athletic activities), nutrition services, family counseling, and parental training programs) that are designed to improve academic and social development of at-risk children by instituting a collaborative structure that trains and coordinates the efforts of teachers, administrators, social workers, guidance counselors, parents, and school volunteers to provide concurrent social services for at-risk students in the daily academic curriculum at public schools in the eligible community; and

(4) may not use such funds to provide sectarian worship or instruction.

SEC. 1017. ELIGIBLE COMMUNITY IDENTIFICATION.

(a) IDENTIFICATION.—To be eligible to receive a grant under this section, a community-based organization shall identify an eligible community to be assisted under this section.

(b) CRITERIA.—Such eligible community shall be an area that meets such criteria with respect to significant poverty and significant juvenile delinquency, and such additional criteria, as the Secretary may by regulation require.

SEC. 1018. APPLICATIONS.

(a) APPLICATION REQUIRED.—To be eligible to receive a grant under this section, a community-based organization shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require, and obtain approval of such application.

(b) CONTENTS OF APPLICATION.—Each application submitted pursuant to paragraph (1) shall—

(1) describe the activities and services to be provided through the program for which the grant is sought;

(2) contain an assurance that the community-based organization will spend grant funds received under this section in a manner that the community-based organization determines will best accomplish the objectives of this section;

(3) contain a comprehensive plan for the program that is designed to achieve identifiable goals for children in the eligible community;

(4) set forth measurable goals and outcomes for the program that—

(A) will—

(i) where appropriate, make a public school the focal point of the eligible community; or

(ii) make a local facility described in section 1016(a)(2) such a focal point; and

(B) may include reducing the percentage of children in the eligible community that enter the juvenile justice system, increasing the graduation rates, school attendance, and academic success of children in the eligible community, and improving the skills of program participants;

(5) provide evidence of support for accomplishing such goals and outcomes from—

(A) community leaders;

(B) businesses;

(C) local educational agencies;

(D) local officials;

(E) State officials; and

(F) other organizations that the community-based organization determines to be appropriate;

(6) contain an assurance that the community-based organization will use grant funds received under this section to provide children in the eligible community with activities and services that shall include supervised sports programs, and extracurricular and academic programs, in accordance with section 1016(b);

(7) contain a list of the activities and services that will be offered through the program for which the grant is sought and sponsored by private nonprofit organizations, individuals, and groups serving the eligible community, including—

(A) extracurricular and academic programs, such as programs described in section 1016(b)(2); and

(B) activities that address specific needs in the community;

(8) demonstrate the manner in which the community-based organization will make use of the resources, expertise, and commitment of private entities in carrying out the program for which the grant is sought;

(9) include an estimate of the number of children in the eligible community expected to be served pursuant to the program;

(10) include a description of charitable private resources, and all other resources, that will be made available to achieve the goals of the program;

(11) contain an assurance that the community-based organization will use competitive procedures when purchasing, contracting, or otherwise providing for goods, activities, or services to carry out programs under this section;

(12) contain an assurance that the program will maintain a staff-to-participant ratio that is appropriate to the activity or service provided by the program;

(13) contain an assurance that the community-based organization will comply with any evaluation under section 1023, any research effort authorized under Federal law, and any investigation by the Secretary;

(14) contain an assurance that the community-based organization shall prepare and submit to the Secretary an annual report regarding any program conducted under this section;

(15) contain an assurance that the program for which the grant is sought will, to the maximum extent possible, incorporate services that are—

(A) provided by program volunteers, parents, adult mentors, social workers, drug and alcohol abuse counselors, teachers, or other persons providing tutoring and college or vocational preparation; and

(B) provided solely through non-Federal private and nonprofit sources; and

(16) contain an assurance that the community-based organization will maintain separate accounting records for the program.

(c) PRIORITY.—In awarding grants to carry out programs under this section, the Secretary shall give priority to community-based organizations who submit applications that demonstrate the greatest effort in generating local support for the programs.

SEC. 1019. ELIGIBILITY OF PARTICIPANTS.

(a) IN GENERAL.—To the extent possible, each child who resides in an eligible community shall be eligible to participate in a program carried out in such community that receives assistance under this section.

(b) EXCLUSION.—

(1) NONDISCRIMINATION.—In selecting children to participate in a program that receives assistance under this section, a community-based organization shall not discriminate on the basis of race, color, religion, sex, national origin, or disability.

(2) PARENTAL APPROVAL.—To be eligible to participate in a program that receives assistance under this section, a child shall provide the express written approval of a parent or guardian, and shall submit an official application that agrees to the terms and conditions of participation in the program. All information and application forms shall be in a format and language accessible to and understandable to the parent or guardian of the child.

SEC. 1020. PEER REVIEW PANEL.

(a) ESTABLISHMENT.—The Secretary shall establish a peer review panel that shall be comprised of individuals with demonstrated experience in designing and implementing community-based programs.

(b) COMPOSITION.—Such panel shall include at least 1 representative from each of the following:

(1) A community-based organization.

(2) A local government.

(3) A local educational agency.

(4) The private sector.

(5) A charitable organization.

(c) FUNCTIONS.—Such panel shall conduct the initial review of all grant applications received by the Secretary under section 1018, make recommendations to the Secretary regarding—

(1) grant funding under this section; and

(2) a design for the evaluation of programs assisted under this section.

SEC. 1021. INVESTIGATIONS AND INSPECTIONS.

The Secretary may conduct such investigations and inspections as may be necessary to ensure compliance with the provisions of this subtitle.

SEC. 1022. FEDERAL SHARE.

(a) PAYMENTS, FEDERAL SHARE, NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall, subject to the availability of appropriations, pay to each community-based organization having an application approved under section 1018 the Federal share of the costs of developing and carrying out programs referred to in section 1015.

(2) FEDERAL SHARE.—The Federal share of such costs shall be 70 percent for each of the fiscal years 1995, 1996, 1997, and 1998.

(b) NON-FEDERAL SHARE.—

(1) IN GENERAL.—The non-Federal share of such costs may be in cash or in kind, fairly evaluated, including plant, equipment, and services (including the services described in section 1018(b)(16)).

(2) SPECIAL RULE.—At least 15 percent of the non-Federal share of such costs shall be provided from private or nonprofit sources.

SEC. 1023. EVALUATION.

The Secretary shall conduct a thorough evaluation of the programs assisted under this subtitle, which shall include an assessment of—

(1) the number of children participating in each program assisted under this section;

(2) the academic achievement of such children;

(3) school attendance and graduation rates of such children; and

(4) the number of such children being processed by the juvenile justice system.

SEC. 1024. DEFINITIONS.

In this part the following definitions apply:

(1) CHILD.—The term "child" means an individual who is not younger than 5 and not older than 18.

(2) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" means a private, locally initiated community-based organization that—

(A) is a nonprofit organization, as defined in section 103(23) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(23)); and

(B) is operated by a consortium of service providers, consisting of representatives of 5 or more of the following categories of persons:

(i) Residents of the community.

(ii) Business and civic leaders actively involved in providing employment and business development opportunities in the community.

(iii) Educators and organizations of learning (such as local education agencies).

(iv) Student organizations.

(v) Law enforcement agencies.

(vi) Public housing agencies.

(vii) State government.

(viii) Other public agencies.

(ix) Other interested parties.

(3) ELIGIBLE COMMUNITY.—The term "eligible community" means an area identified pursuant to section 1024.

(4) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the same meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965.

(5) POVERTY LINE.—The term "poverty line" means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(6) PUBLIC SCHOOL.—The term "public school" means a public elementary school, as defined in section 1201(i) of the Higher Education Act of 1965 (20 U.S.C. 1141(i)), and a public secondary school, as defined in section 1201(d) of such Act.

(7) SECRETARY.—The term "Secretary" means the Secretary of Education.

(8) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.

PART III—ADMINISTRATION

SEC. 1025. TECHNICAL ASSISTANCE; TRAINING AND EVALUATION.

(a) TECHNICAL ASSISTANCE AND TRAINING.—The Secretary may provide technical assistance, training, and evaluations to further the purposes of this subtitle through grants, contracts, or other cooperative agreements with other entities.

(b) EVALUATIONS.—In addition to any evaluation requirements that may be required for grantees, the Secretary may conduct or support evaluations of programs that receive support under this subtitle, including assessments of the effectiveness of the programs in reducing delinquency, gang involvement, substance abuse, school dropout rates, and adolescent pregnancy, and in increasing employability and employment.

SEC. 1026. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS FOR PART I.—There are authorized to be appropriated to carry out the purposes of part I, $25,000,000 for each of the fiscal years 1995 through 1999.

(b) AUTHORIZATIONS FOR PART II.—There are authorized to be appropriated to carry out the purposes of part II, $230,000,000 for each of the fiscal years 1995 through 1999.

Subtitle C—Police Partnerships for Children

SEC. 1030. DEFINITION.

As used in this subtitle, "partnership" means a cooperative arrangement or association involving one or more law enforcement agencies, and one or more public or private agencies that provide child or family services.

SEC. 1031. GRANT AUTHORITY.

(a) PARTNERSHIP GRANTS.—The Attorney General, in consultation with the Secretary of Health and Human Services, may make grants to partnerships for—

(1) teams or units involving participants from both the law enforcement and child or family services components of the partnership that respond to or deal with violent incidents in which a child is involved as a perpetrator, witness, or victim, such as teams or units that provide a 24-hour crisis response or consultation service in relation to such incidents;

(2) training for law enforcement officers regarding behavior, psychology, family systems, and community culture and attitudes that is relevant to dealing with children who are involved in violent incidents or at risk of involvement in such incidents, or with families of such children; and

(3) programs for children and families that are designed jointly by the law enforcement and child or family services components of the partnership, including programs providing 24-hour response to crisis situations affecting children and such other programs as programs that provide training in nonviolent conflict resolution, after-school activity and neighborhood recreation programs, parent support groups that are led jointly by child or family services and law enforcement personnel, and mentoring programs.

(b) GRANTS FOR POLICE RESIDENCE IN HIGH CRIME AREAS.—The Secretary of Housing and Urban Development, in consultation with the Attorney General, may make grants to units of State or local government, public housing authorities, owners of federally assisted housing, and owners of housing in high crime areas in order to provide dwelling units to law enforcement officers without charge or at a substantially reduced rent for the purpose of providing greater security for residents of high crime areas.

SEC. 1032. ADMINISTRATION.

(a) USE OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this subtitle.

(b) REGULATORY AUTHORITY.—The Attorney General, for the purposes of section 1031(a), and the Secretary of Housing and Urban Development, for purposes of section 1031(b), may issue regulations and guidelines to carry out this subtitle, including specifications concerning application requirements, selection criteria, duration and renewal of grants, evaluation requirements, matching funds, limitation of administrative expenses, submission of reports by grantees, recordkeeping by grantees, and access to books, records, and documents maintained by grantees or other persons for purposes of audit or examination.

(c) APPLICATIONS.—In addition to any other requirements that may be specified by the Attorney General—

(1) an application for a grant under section 1030(a) of this subtitle shall—

(A) certify that the applicant is a partnership as defined in section 1030, or a law enforcement *agency or public or private child or family services agency that is participating in a partnership and seeking support on behalf of the partnership;*

(B) include a long-term strategy and detailed implementation plan;

(C) certify that the Federal support provided under this subtitle will be used to supplement, and not supplant, State and local sources of funding that would otherwise be available;

(D) identify any related governmental or community initiatives which complement or will be coordinated with the proposal; and

(E) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support;

(2) in addition to any other requirements that may be specified by the Secretary of Housing and Urban Development, an application for a grant under section 1031(b) shall—

(A) certify that there has been appropriate consultation with the employing agency of any law enforcement officer who is to be provided with a dwelling unit;

(B) identify any related governmental or community initiatives which complement or will be coordinated with the proposal;

(C) certify that the Federal support provided will be used to supplement, and not supplant, State and local sources of funding that would otherwise be available; and

(D) provide assurances that local police officers will not be required to reside in residences funded under this subtitle.

(d) Matching Funds.—The portion of the costs of a program provided by a grant under this subtitle may not exceed 75 percent, unless the Attorney General, for purposes of section 1031(a), or the Secretary of Housing and Urban Devlopment, for purposes of section 1031(b), waives, wholly or in part, the requirement under this subsection of a non-Federal contribution to the costs of a program.

(e) Funding Priority.—In making grants under section 1031(a), the Attorney General shall give priority to applications by partnerships involving law enforcement agencies that engage in community-oriented policing for programs assisting distressed communities or populations with a high incidence of violence affecting children.

SEC. 1033. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

(a) Technical Assistance and Training.—The Attorney General may provide technical assistance and training to further the purposes of this subtitle.

(b) Evaluations.—In addition to any evaluation requirements that may be prescribed for grantees, the Attorney General, may carry out or make arrangements for evaluations of programs that receive support under this subtitle.

(c) Administration.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, or through grants, contracts, or other cooperative arrangements with other entities.

SEC. 1034. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated $20,000,000 in fiscal year 1995, and such sums as may be necessary in each of fiscal years 1996 through 1999 to carry out this subtitle.

(b) Limitation.—Not more than 50 percent of the funds made available in a fiscal year for this subtitle may be expended for grants under section 1031(b).

Subtitle D—Midnight Sports

SEC. 1038. GRANTS FOR MIDNIGHT SPORTS LEAGUE ANTICRIME PROGRAMS.

(a) Authority.—The Secretary of Housing and Urban Development, in consultation with the Attorney General of the United States, the Secretary of Labor, and the Secretary of Education, shall make grants, to the extent that amounts are approved in appropriations Acts under subsection (k), to eligible entities to assist such entities in carrying out midnight sports league programs meeting the requirements of subsection (d).

(b) Eligible Entities.—

(1) In general.—Grants under subsection (a) may be made only to the following eligible entities:

(A) Entities eligible under section 520(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a(b)) for a grant under section 520(a) of such Act.

(B) Nonprofit organizations providing crime prevention, employment counseling, job training, or other educational services.

(C) Nonprofit organizations providing federally-assisted low-income housing.

(2) Prohibition on second grants.—A grant under subsection (a) may not be made to an eligible entity if the entity previously received a grant under such subsection.

(c) Use of Grant Amounts.—Any eligible entity that receives a grant under subsection (a) may use the grant only—

(1) to establish or carry out a midnight sports league program under subsection (d);

(2) for salaries for administrators and staff of the program;

(3) for other administrative costs of the program, except that not more than 5 percent of the grant may be used for such administrative costs; and

(4) for costs of training and assistance provided under subsection (d).

(d) Program Requirements.—Each eligible entity receiving a grant under subsection (a) shall establish a midnight sports league program as follows:

(1) The program shall establish a sports league of not less than 8 teams having 10 players each.

(2) Not less than 50 percent of the players in the sports league shall be residents of federally assisted low-income housing.

(3) The program shall be designed to serve primarily youths and young adults from a neighborhood or community whose population has not less than 2 of the following characteristics (in comparison with national averages):

(A) A substantial problem regarding use or sale of illegal drugs.

(B) A high incidence of crimes committed by youths or young adults.

(C) A high incidence of persons infected with the human immunodeficiency virus or sexually transmitted diseases.

(D) A high incidence of pregnancy, or a high birth rate, among adolescents.

(E) A high unemployment rate for youths and young adults.

(F) A high rate of high school dropouts.

(4) The program shall require each player in the league to attend employment counseling, job training, and other educational classes provided under the program, which shall be held in conjunction with league sports games at or near the site of the games.

(5) The program shall serve only youths and young adults who demonstrate a need for such counseling, training, and education provided by the program, in accordance with criteria for demonstrating need, which shall be established by the Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, the Secretary of Education, and with the Advisory Committee.

(6) The program shall obtain sponsors for each team in the sports league. Sponsors shall be private individuals or businesses in the neighborhood or community served by the program who make financial contributions to the program and participate in or supplement the employment, job training, and educational services provided to the players under the program with additional training or educational opportunities.

(7) The program shall comply with any criteria established by the Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, the Secretary of Education, and with the Advisory Committee.

(e) Grant Amount Limitations.—

(1) Private contributions.—The Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education, may not make a grant under subsection (a) to an eligible entity that applies for a grant under subsection (f) unless the applicant entity certifies to the Secretary of Housing and Urban Development, or the Attorney General, that the entity will supplement the grant amounts with amounts of funds from non-Federal sources, as follows:

(A) In each of the first 2 years that amounts from the grant are disbursed (under paragraph (5)), an amount sufficient to provide not less than 35 percent of the cost of carrying out the midnight sports league program.

(B) In each of the last 3 years that amounts from the grant are disbursed, an amount sufficient to provide not less than 50 percent of the cost of carrying out the midnight sports league program.

(2) Non-federal funds.—For purposes of this subsection, the term "funds from non-Federal sources" includes amounts from nonprofit organizations, public housing agencies, States, units of general local government, and Indian housing authorities, private contributions, any salary paid to staff (other than from grant amounts under subsection (a)) to carry out the program of the eligible entity, in-kind contributions to carry out the program (as determined by the Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, the Secretary of Education, and with the Advisory Committee), the value of any donated material, equipment, or building, the value of any lease on a building, the value of any utilities provided, and the value of any time and services contributed by volunteers to carry out the program of the eligible entity.

(3) Prohibition on substitution of funds.—Grants made under subsection (a), and amounts provided by States and units of general local government to supplement the grants, may not be used to replace other public funds previously used, or designated for use, under this section.

(4) Maximum and minimum grant amounts.—The Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education, may not make a grant under subsection (a) to any single eligible entity in an amount less than $50,000 or exceeding $125,000.

(5) Disbursement.—Each grant made under subsection (a)(1) shall be disbursed to the eligible entity receiving the grant over the 5-year period beginning on the date that the entity is selected to receive the grant, as follows:

(A) In each of the first 2 years of such 5-year period, 23 percent of the total grant amount shall be disbursed to the entity.

(B) In each of the last 3 years of such 5-year period, 18 percent of the total grant amount shall be disbursed to the entity.

(f) Applications.—To be eligible to receive a grant under subsection (a), an eligible entity shall submit to the Secretary of Housing and Urban Development an application in the form and manner required by the Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of

Labor, the Secretary of Education, and with the Advisory Committee, which shall include—

(1) a description of the midnight sports league program to be carried out by the entity, including a description of the employment counseling, job training, and other educational services to be provided;

(2) letters of agreement from service providers to provide training and counseling services required under subsection (d) and a description of such service providers;

(3) letters of agreement providing for facilities for sports games and counseling, training, and educational services required under subsection (d) and a description of the facilities;

(4) a list of persons and businesses from the community served by the program who have expressed interest in sponsoring, or have made commitments to sponsor, a team in the midnight sports league; and

(5) evidence that the neighborhood or community served by the program meets the requirements of subsection (d)(3).

(g) SELECTION.—The Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, the Secretary of Education, and with the Advisory Committee, shall select eligible entities that submit applications under subsection (f) to receive grants under subsection (a). The Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, the Secretary of Education, and with the Advisory Committee, shall establish criteria for selection of applicants to receive such grants. The criteria shall include a preference for selection of eligible entities carrying out midnight sports league programs in suburban and rural areas.

(h) REPORTS.—The Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education, shall require each eligible entity receiving a grant under subsection (a) to submit for each year in which grant amounts are received by the entity, a report describing the activities carried out with such amounts.

(i) STUDY.—To the extent amounts are provided under appropriation Acts pursuant to subsection (k)(2), the Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education, shall make a grant to one entity qualified to carry out a study under this subsection. The entity shall use such grant to carry out a scientific study of the effectiveness of midnight sports league programs under subsection (d) of eligible entities receiving grants under subsection (a). The Secretary of Housing and Urban Development, in consultation with the Attorney General, the Secretary of Labor, and the Secretary of Education, shall require such entity to submit a report describing the study and any conclusions and recommendations resulting from the study to the Congress and the Secretary of Housing and Urban Development and the Attorney General not later than the expiration of the 2-year period beginning on the date that the grant under this subsection is made.

(j) DEFINITIONS.—For purposes of this section—

(1) the term "eligible entity" means an entity described under subsection (b)(1); and

(2) the term "federally assisted low-income housing" has the meaning given the term in section 5126 of the Public and Assisted Housing Drug Elimination Act of 1990.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) for grants under subsection (a), $10,000,000 in each of fiscal years 1995, 1996, 1997, 1998, and 1999; and

(2) for a study grant under subsection (i), $250,000 in fiscal year 1995.

Subtitle E—Drug Courts

SEC. 1041. GRANT AUTHORITY.

The Attorney General may make grants to units of State and local government, and to other public and private entities, for programs that involve continuing judicial supervision over specified categories of persons with substance abuse problems, and that involve the integrated administration of other sanctions and services including—

(1) testing for the use of controlled substances or other addictive substances;

(2) substance abuse treatment;

(3) diversion, probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress; and

(4) programmatic or health related aftercare services such as relapse prevention, education, vocational training, job placement, housing placement, and child care or other family support services.

SEC. 1042. ADMINISTRATION.

(a) CONSULTATION.—The Attorney General shall consult with the Secretary of Health and Human Services and any other appropriate officials in carrying out this subtitle.

(b) USE OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this subtitle.

(c) REGULATORY AUTHORITY.—The Attorney General may issue regulations and guidelines to carry out this subtitle, including specifications concerning application requirements, selection criteria, duration and renewal of grants, evaluation requirements, matching funds, limitation of administrative expenses, submission of reports by grantees, recordkeeping by grantees, and access to books, records, and documents maintained by grantees or other persons for purposes of audit or examination.

(d) APPLICATIONS.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subtitle shall—

(1) include a long-term strategy and detailed implementation plan;

(2) explain the applicant's inability to fund the program adequately without Federal assistance;

(3) certify that the Federal support provided will be used to supplement, and not supplant, State and local sources of funding that would otherwise be available;

(4) identify related governmental or community initiatives which complement or will be coordinated with the proposal;

(5) certify that there has been appropriate consultation with all affected agencies, and that there will be appropriate coordination with all affected agencies in the implementation of the program;

(6) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and

(7) describe the methodology that will be utilized in evaluating the program.

SEC. 1043. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

(a) TECHNICAL ASSISTANCE AND TRAINING.—The Attorney General may provide technical assistance and training in furtherance of the purposes of this subtitle.

(b) EVALUATIONS.—In addition to any evaluation requirements that may be prescribed for grantees, the Attorney General may carry out or make arrangements for evaluations of programs that receive support under this subtitle.

(c) ADMINISTRATION.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, in collaboration with the Secretary of Health and Human Services, or through grants, contracts, or other cooperative arrangements with other entities.

SEC. 1044. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $280,000,000 in each of fiscal years 1995, 1996, 1997, 1998, and 1999 to carry out this subtitle.

Subtitle F—Assistance for Delinquent and At-Risk Youth

SEC. 1051. GRANT AUTHORITY.

(a) IN GENERAL.—(1) In order to prevent the commission of crimes or delinquent acts by juveniles, the Attorney General may make grants to public or private nonprofit organizations to support the development and operation of projects to provide residential services to youth, aged 11 to 19, who—

(A) have dropped out of school;

(B) have come into contact with the juvenile justice system; or

(C) are at risk of dropping out of school or coming into contact with the juvenile justice system.

(2) Such services shall include activities designed to—

(A) increase the self-esteem of such youth;

(B) assist such youth in making healthy and responsible choices;

(C) improve the academic performance of such youth pursuant to a plan jointly developed by the applicant and the school which each such youth attends or should attend; and

(D) provide such youth with vocational and life skills.

(b) APPLICATIONS.—(1) A public agency or private nonprofit organization which desires a grant under this section shall submit an application at such time and in such manner as the Attorney General may prescribe.

(2) Such application shall include—

(A) a description of the program developed by the applicant, including the activities to be offered;

(B) a detailed discussion of how such program will prevent youth from committing crimes or delinquent acts;

(C) evidence that such program—

(i) will be carried out in facilities which meet applicable State and local laws with regard to safety;

(ii) will include academic instruction, approved by the State or local educational agency, which meets or exceeds State and local standards and curricular requirements; and

(iii) will include instructors and other personnel who possess such qualifications as may be required by applicable State or local laws; and

(D) specific, measurable outcomes for youth served by the program.

(c) CONSIDERATION OF APPLICATIONS.—Not later than 60 days following the submission of applications, the Attorney General shall—

(1) approve each application and disburse the funding for each such application; or

(2) disapprove the application and inform the applicant of such disapproval and the reasons therefor.

(d) REPORTS.—A grantee under this section shall annually submit a report to the Attorney General that describes the activities and accomplishments of such program, including the degree to which the specific youth outcomes are met.

SEC. 1052. AUTHORIZATION OF APPROPRIATIONS.

For grants under section 1051, there are authorized to be appropriated $10,000,000 for each of the fiscal years 1995 through 1999.

Subtitle G—Police Recruitment

SEC. 1061. GRANT AUTHORITY.

(a) IN GENERAL.—The Attorney General may make grants to qualified community organiza-

tions to assist in meeting the costs of qualified programs which are designed to recruit and retain applicants to police departments.

(b) QUALIFIED COMMUNITY ORGANIZATIONS.—An organization is a qualified community organization which is eligible to receive a grant under subsection (a) if the organization—

(1) is a non-profit organization; and

(2) has training and experience in—

(A) working with a police department and with teachers, counselors, and similar personnel,

(B) providing services to the community in which the organization is located,

(C) developing and managing services and techniques to recruit individuals to become members of a police department and to assist such individuals in meeting the membership requirements of police departments,

(D) developing and managing services and techniques to assist in the retention of applicants to police departments, and

(E) developing other programs that contribute to the community.

(c) QUALIFIED PROGRAMS.—A program is a qualified program for which a grant may be made under subsection (a) if the program is designed to recruit and train individuals from underepresented neighborhoods and localities and if—

(1) the overall design of the program is to recruit and retain applicants to a police department;

(2) the program provides recruiting services which include tutorial programs to enable individuals to meet police force academic requirements and to pass entrance examinations;

(3) the program provides counseling to applicants to police departments who may encounter problems throughout the application process; and

(4) the program provides retention services to assist in retaining individuals to stay in the application process of a police department.

(d) APPLICATIONS.—To qualify for a grant under subsection (a), a qualified organization shall submit an application to the Attorney General in such form as the Attorney General may prescribe. Such application shall—

(1) include documentation from the applicant showing—

(A) the need for the grant;

(B) the intended use of grant funds;

(C) expected results from the use of grant funds; and

(D) demographic characteristics of the population to be served, including age, disability, race, ethnicity, and languages used; and

(2) contain assurances satisfactory to the Attorney General that the program for which a grant is made will meet the applicable requirements of the program guidelines prescribed by the Attorney General under subsection (i).

(e) ACTION BY THE ATTORNEY GENERAL.—Not later than 60 days after the date that an application for a grant under subsection (a) is received, the Attorney General shall consult with the police department which will be involved with the applicant and shall—

(1) approve the application and disburse the grant funds applied for; or

(2) disapprove the application and inform the applicant that the application is not approved and provide the applicant with the reasons for the disapproval.

(f) GRANT DISBURSEMENT.—The Attorney General shall disburse funds under a grant under subsection (a) in accordance with regulations of the Attorney General which shall ensure—

(1) priority is given to applications for areas and organizations with the greatest showing of need;

(2) that grant funds are equitably distributed on a geographic basis; and

(3) the needs of underserved populations are recognized and addressed.

(g) GRANT PERIOD.—A grant under subsection (a) shall be made for a period not longer than 3 years.

(h) GRANTEE REPORTING.—(1) For each year of a grant period for a grant under subsection (a), the recipient of the grant shall file a performance report with the Attorney General explaining the activities carried out with the funds received and assessing the effectiveness of such activities in meeting the purpose of the recipient's qualified program.

(2) If there was more than one recipient of a grant, each recipient shall file such report.

(3) The Attorney General shall suspend the funding of a grant if the recipient of the grant does not file the report required by this subsection or uses the grant for a purpose not authorized by this section.

(i) GUIDELINES.—The Attorney General shall, by regulation, prescribe guidelines on content and results for programs receiving a grant under subsection (a). Such guidelines shall be designed to establish programs which will be effective in training individuals to enter instructional programs for police departments and shall include requirements for—

(1) individuals providing recruiting services;

(2) individuals providing tutorials and other academic assistance programs;

(3) individuals providing retention services; and

(4) the content and duration of recruitment, retention, and counseling programs and the means and devices used to publicize such programs.

SEC. 1062. AUTHORIZATION OF APPROPRIATIONS.

For grants under section 1061 there are authorized to be appropriated $6,000,000 for each of the fiscal years 1995 through 1999.

Subtitle H—National Triad Program

SEC. 1065. FINDINGS.

The Congress finds that—

(1) older Americans are among the most rapidly growing segments of our society;

(2) currently, older Americans comprise 15 percent of our society, and predictions are that by the turn of the century they will constitute 18 percent of the Nation's population;

(3) older Americans find themselves uniquely situated in the society, environmentally and physically;

(4) many older Americans are experiencing increased social isolation due to fragmented and distant familial relations, scattered associations, limited access to transportation, and other insulating factors;

(5) physical conditions such as hearing loss, poor eyesight, lessened agility, and chronic and debilitating illnesses often contribute to a senior citizen's susceptibility to criminal victimization;

(6) older Americans are too frequently the victims of abuse and neglect, violent crime, property crime, consumer fraud, medical quackery, and confidence games;

(7) studies have found that older Americans that are victims of violent crime are more likely to be injured and require medical attention than are younger victims;

(8) victimization data on crimes against older Americans are incomplete and out of date, and data sources are partial, scattered, and not easily obtained;

(9) although a few studies have attempted to define and estimate the extent of abuse and neglect of older Americans, both in their homes and in institutional settings, many experts believe that abuse and neglect crimes are substantially underreported and undetected;

(10) similarly, while some evidence suggests that older Americans may be targeted in a range of fraudulent schemes, neither the Uniform Crime Report nor the National Crime Survey collects data on individual- or household-level fraud;

(11) many law enforcement agencies do not have model practices for responding to the criminal abuse of older Americans;

(12) law enforcement officers and social service providers come from different disciplines and frequently bring different perspectives to the problem of crimes against older Americans;

(13) the differences in approaches can inhibit a genuinely effective response;

(14) there are a few efforts currently under way that seek to forge partnerships to coordinate criminal justice and social service approaches to victimization of older Americans;

(15) the Triad program, sponsored by the National Sheriffs' Association (NSA), the International Association of Chiefs of Police (IACP), and the American Association of Retired Persons (AARP), is one such effort;

(16) the Assistant Secretary for Aging, as the senior executive branch officer formulating older Americans policy, is an appropriate leader in efforts to reduce violent crime against older Americans; and

(17) recognizing that older Americans have the same fundamental desire as other members of our society to live freely, without fear or restriction due to the criminal element, the Federal Government should seek to expand efforts to reduce crime against this growing and uniquely vulnerable segment of our population.

SEC. 1066. PURPOSES.

The purposes of this subtitle are—

(1) to support a coordinated effort among law enforcement, older Americans organizations, and social service agencies to stem the tide of violence against older Americans and support media and nonmedia strategies aimed at increasing both public understanding of the problem and the older Americans' skills in preventing crime against themselves and their property; and

(2) to address the problem of crime against older Americans in a systematic and effective manner by promoting and expanding collaborative crime prevention programs, such as the Triad model, that assist law enforcement agencies and older Americans in implementing specific strategies for crime prevention, victim assistance, citizen involvement, and public education.

SEC. 1067. NATIONAL ASSESSMENT AND DISSEMINATION.

(a) IN GENERAL.—The Director of the National Institute of Justice in consultation with the Assistant Secretary for Aging shall conduct a qualitative and quantitative national assessment of—

(1) the nature and extent of crimes committed against older Americans and the effect of such crimes on the victims;

(2) the numbers, extent, and impact of violent crimes and nonviolent crimes (such as frauds and "scams") against older Americans and the extent of unreported crimes;

(3) the collaborative needs of law enforcement, health, and social service organizations, focusing on prevention of crimes against older Americans, to identify, investigate, and provide assistance to victims of those crimes; and

(4) the development and growth of strategies to respond effectively to the matters described in paragraphs (1), (2), and (3).

(b) MATTERS TO BE ADDRESSED.—The national assessment made pursuant to subsection (a) shall address—

(1) the analysis and synthesis of data from a broad range of sources in order to develop accurate information on the nature and extent of crimes against older Americans, including identifying and conducting such surveys and other data collection efforts as are needed and designing a strategy to keep such information current over time;

(2) institutional and community responses to elderly victims of crime, focusing on the problems associated with fear of victimization, abuse of older Americans, and hard-to-reach older Americans who are in poor health, are living alone or without family nearby, or living in high crime areas;

(3) special services and responses required by elderly victims;

(4) whether the experience of older Americans with some service organizations differs markedly from that of younger populations;

(5) the kinds of programs that have proven useful in reducing victimization of older Americans through crime prevention activities and programs;

(6) the kinds of programs that contribute to successful coordination among public sector agencies and community organizations in reducing victimization of older Americans; and

(7) the research agenda needed to develop a comprehensive understanding of the problems of crimes against older Americans, including the changes that can be anticipated in the crimes themselves and appropriate responses as the society increasingly ages.

(c) AVOIDANCE OF DUPLICATION.—In conducting the assessment under subsection (a), the Director of the National Institute of Justice, in consultation with the Assistant Secretary of Aging, shall draw upon the findings of existing studies and avoid duplication of efforts that have previously been made.

(d) DISSEMINATION.—Based on the results of the national assessment and analysis of successful or promising strategies in dealing with the problems described in subsection (b) and other problems, including coalition efforts such as the Triad programs described in section 1066, the Director of the National Institute of Justice, in consultation with the Assistant Secretary of Aging, shall disseminate the results through reports, publications, clearinghouse services, public service announcements, and programs of evaluation, demonstration, training, and technical assistance.

SEC. 1068. PILOT PROGRAMS.

(a) AWARDS.—The Director of the Bureau of Justice Assistance, in consultation with the Assistant Secretary of Aging, shall make grants to coalitions of local law enforcement agencies and older Americans to assist in the development of programs and execute field tests of particularly promising strategies for crime prevention services and related services based on the concepts of the Triad model, which can then be evaluated and serve as the basis for further demonstration and education programs.

(b) TRIAD COOPERATIVE MODEL.—(1) Subject to paragraph (2), a pilot program funded under this section shall consist of a cooperative model, which calls for the participation of the sheriff, at least 1 police chief, and a representative of at least 1 older Americans' organization within a county and may include participation by general service coalitions of law enforcement, victim service, and senior citizen advocate second service organizations. If there exists with the applicant county an area agency on aging as defined in section 102(17) of the Older Americans Act of 1965, the applicant county must include the agency as an organizational component in its program.

(2) If there is not both a sheriff and a police chief in a county or if the sheriff or a police chief do not participate, a pilot program funded under this section shall include in the place of the sheriff or police chief another key law enforcement official in the county such as a local prosecutor.

(c) APPLICATION.—A coalition that desires to establish a pilot program under this section shall submit to the Director of the Bureau of Justice Assistance an application that includes—

(1) a description of the community and its senior citizen population;

(2) assurances that Federal funds received under this title shall be used to provide additional and appropriate education and services to the community's older Americans;

(3) a description of the extent of involvement of each organizational component (chief, sheriff (or other law enforcement official), and senior organization representative) and focus of the program;

(4) a comprehensive plan including—

(A) a description of the crime problems facing older Americans and need for expanded law enforcement and victim assistance services;

(B) a description of the types of projects to be developed or expanded;

(C) a plan for an evaluation of the results of the program;

(D) a description of the resources (including matching funds, in-kind services, and other resources) available in the community to implement the program's development or expansion;

(E) a description of the gaps that cannot be filled with existing resources;

(F) an explanation of how the requested grant will be used to fill those gaps; and

(G) a description of the means and methods the applicant will use to reduce criminal victimization of older persons; and

(5) funding requirements for implementing a comprehensive plan.

(d) DISTRIBUTION OF GRANT AWARDS.—The Director of the Bureau of Justice Assistance, in consultation with the Assistant Secretary for Aging, shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards for pilot programs authorized under this subtitle.

(e) POST-GRANT PERIOD REPORT.—A grant recipient under this section shall, not later than 6 months after the conclusion of the grant period, submit to the Director of the Bureau of Justice Assistance a report that—

(1) describes the composition of organizations that participated in the pilot program;

(2) identifies problem areas encountered during the course of the pilot program;

(3) provides data comparing the types and frequency of criminal activity before and after the grant period and the effect of such criminal activity on older Americans in the community; and

(4) describes the grant recipient's plans and goals for continuance of the program after the grant period.

SEC. 1069. TRAINING ASSISTANCE, EVALUATION, AND DISSEMINATION AWARDS.

In conjunction with the national assessment under section 1067—

(1) the Director of the Bureau of Justice Assistance, in consultation with the Assistant Secretary for Aging, shall make awards to organizations with demonstrated ability to provide training and technical assistance in establishing crime prevention programs based on the Triad model, for purposes of aiding in the establishment and expansion of pilot programs under this section;

(2) the Director of the National Institute of Justice, in consultation with the Assistant Secretary of Aging, shall make awards to research organizations, for the purposes of—

(A) evaluating the effectiveness of selected pilot programs; and

(B) conducting the research and development identified through the national assessment as being critical; and

(3) the Director of the Bureau of Justice Assistance, in consultation with the Assistant Secretary for Aging, shall make awards to public service advertising coalitions, for the purposes of mounting a program of public service advertisements to increase public awareness and understanding of the issues surrounding crimes against older Americans and promoting ideas or programs to prevent them.

SEC. 1070. REPORT.

The Director of the Bureau of Justice Assistance, in consultation with the Assistant Secretary for Aging, and the Director of the National Institute of Justice shall submit to Congress an annual report (which may be included with the report submitted under section 102(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712(b))) describing the results of the pilot programs conducted under section 1068.

SEC. 1071. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $2,000,000 to the Bureau of Justice Assistance for the purpose of making pilot program awards in that amount under section 1068;

(2) $1,000,000 to the Bureau of Justice Assistance for the purpose of funding the national training and technical assistance effort under sections 1967 and 1068;

(3) $1,000,000 to the Bureau of Justice Assistance and $1,000,000 to the Administration on Aging, for the purpose of developing public service announcements under sections 1067 and 1069;

(4) $2,000,000 to the National Institute of Justice for the purposes of conducting the national assessment, evaluating pilot programs, and carrying out the research agenda under sections 1067 and 1069; and

(5) to the extent that funds are not otherwise available for the purpose, such sums as are necessary to pay the administrative costs of carrying out this subtitle.

Subtitle I—Local Partnership Act

SEC. 1075. ESTABLISHMENT OF PAYMENT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title 31, United States Code, is amended by inserting after chapter 65 the following:

"CHAPTER 67—FEDERAL PAYMENTS

"Sec.
"6701. Payments to local governments.
"6702. Local Government Fiscal Assistance Fund.
"6703. Qualification for payment.
"6704. State area allocations; allocations and payments to territorial governments.
"6705. Local government allocations.
"6706. Income gap multiplier.
"6707. State variation of local government allocations.
"6708. Adjustments of local government allocations.
"6709. Information used in allocation formulas.
"6710. Public participation.
"6711. Prohibited discrimination.
"6712. Discrimination proceedings.
"6713. Suspension and termination of payments in discrimination proceedings.
"6714. Compliance agreements.
"6715. Enforcement by the Attorney General of prohibitions on discrimination.
"6716. Civil action by a person adversely affected.
"6717. Judicial review.
"6718. Audits, investigations, and reviews.
"6719. Reports.
"6720. Definitions and application.

"§6701. Payments to local governments

"(a) PAYMENT AND USE.—

"(1) PAYMENT.—The Secretary of the Treasury shall pay to each unit of general local government which qualifies for a payment under this chapter an amount equal to the sum of any amounts allocated to the government under this chapter for each payment period. The Secretary shall pay such amount out of the Local Government Fiscal Assistance Fund under section 6702.

"(2) USE.—Amounts paid to a unit of general local government under this section shall be

used by that unit for carrying out one or more programs of the unit related to—

"(A) education to prevent crime;

"(B) substance abuse treatment to prevent crime;

"(C) coordination of crime prevention programs funded under this title with other existing Federal programs to meet the overall needs of communities that benefit from funds received under this section; or

"(D) job program to prevent crime.

"(b) Timing of Payments.—They shall pay each amount allocated under this chapter to a unit of general local government for a payment period by the later of 60 days after the date the amount is available or the first day of the payment period.

"(c) Adjustments.—(1) Subject to paragraph (2), the Secretary shall adjust a payment under this chapter to a unit of general local government to the extent that a prior payment to the government was more or less than the amount required to be paid.

"(2) The Secretary may increase or decrease under this subsection a payment to a unit of local government only if the Secretary determines the need for the increase or decrease, or the unit requests the increase or decrease, within one year after the end of the payment period for which the payment was made.

"(d) Reservation for Adjustments.—The Secretary may reserve a percentage of not more than 0.5 percent of the amount under this section for a payment period for all units of general local government in a State if the Secretary considers the reserve is necessary to ensure the availability of sufficient amounts to pay adjustments after the final allocation of amounts among the units of general local government in the State.

"(e) Repayment of Unexpended Amounts.—

"(1) Repayment required.—A unit of general local government shall repay to the Secretary, by not later than November 15, 1995, any amount that is—

"(A) paid to the unit from amounts appropriated for fiscal year 1995 under the authority of this section; and

"(B) not expended by the unit by October 31, 1995.

"(2) Deposit of amounts repaid.—Amounts received by the Secretary as repayments under this subsection shall be deposited in the general fund of the Treasury as miscellaneous receipts.

"(f) Expenditure With Disadvantaged Business Enterprises.—

"(1) General rule.—Of amounts paid to a unit of general local government under this chapter for a payment period, not less than 10 percent of the total combined amounts obligated by the unit for contracts and subcontracts shall be expended with—

"(A) small business concerns controlled by socially and economically disadvantaged individuals and women; and

"(B) historically Black colleges and universities and colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans.

"(2) Exception.—Paragraph (1) shall not apply to amounts paid to a unit of general local government to the extent the unit determines that the paragraph does not apply through a process that provides for public participation.

"(3) Definitions.—For purposes of this subsection—

"(A) the term 'small business concern' has the meaning such term has under section 3 of the Small Business Act; and

"(B) the term 'socially and economically disadvantaged individuals' has the meaning such term has under section 8(d) of the Small Business Act and relevant subcontracting regulations promulgated pursuant to that section.

"(g) Nonsupplanting Requirement.—(1) Funds made available under this chapter to units of local government shall not be used to supplant State or local funds, but will be used to increase the amount of funds that would, in the absence of funds under this chapter, be made available from State or local sources.

"(2) The total level of funding available to a unit of local government for accounts serving eligible purposes under this chapter in the fiscal year immediately preceding receipt of a grant under this chapter shall be designated the 'base level account' for the fiscal year in which grant is received. Grants under this chapter in a given fiscal year shall be reduced on a dollar for dollar basis to the extent that a unit of local government reduces its base level account in that fiscal year.

"(3) The Secretary shall issue regulations to implement this subsection.

"§6702. Local Government Fiscal Assistance Fund

"(a) Administration of Fund.—The Department of the Treasury has a Local Government Fiscal Assistance Fund, which consists of amounts appropriated to the Fund.

"(b) Authorization of Appropriations.—There are authorized to be appropriated to the Fund $2,000,000,000 for fiscal years 1995 and 1996.

"§6703. Qualification for payment

"(a) In General.—Under regulations issued by the Secretary, a unit of general local government qualifies for a payment under this chapter for a payment period only after establishing to the satisfaction of the Secretary that—

"(1) the government will establish a trust fund in which the government will deposit all payments received under this chapter;

"(2) the government will use amounts in the trust fund (including interest) during a reasonable period specified in the regulations issued by the Secretary;

"(3) the government will expend the payments so received, in accordance with the laws and procedures that are applicable to the expenditure of revenues of the government;

"(4) if at least 25 percent of the pay of individuals employed by the government in a public employee occupation is paid out of the trust fund, individuals in the occupation any part of whose pay is paid out of the trust fund will receive pay at least equal to the prevailing rate of pay for individuals employed in similar public employee occupations by the government;

"(5) if at least 25 percent of the costs of a construction project are paid out of the trust fund, laborers and mechanics employed by contractors or subcontractors on the project will receive pay at least equal to the prevailing rate of pay for similar construction in the locality as determined by the Secretary of Labor under the Act of March 3, 1931 (46 Stat. 1494 et seq.; popularly known as the Davis-Bacon Act), and the Secretary of Labor shall act on labor standards under this paragraph in a manner that is in accordance with Reorganization Plan No. 14 of 1950 (64 Stat. 1267) and section 2 of the Act of June 13, 1934 (48 Stat. 948);

"(6) the government will use accounting, audit, and fiscal procedures that conform to guidelines which shall be prescribed by the Secretary after consultation with the Comptroller General of the United States;

"(7) after reasonable notice to the government, the government will make available to the Secretary and the Comptroller General of the United States, with the right to inspect, records the Secretary reasonably requires to review compliance with this chapter or the Comptroller General of the United States reasonably requires to review compliance and operations under section 6718(b); and

"(8) the government will make reports the Secretary reasonably requires, in addition to the annual reports required under section 6719(b).

"(b) Review by Governors.—A unit of general local government shall give the chief executive officer of the State in which the government is located an opportunity for review and comment before establishing compliance with subsection (a).

"(c) Sanctions for Noncompliance.—(1) If the Secretary decides that a unit of general local government has not complied substantially with subsection (a) or regulations prescribed under subsection (a), the Secretary shall notify the government. The notice shall state that if the government does not take corrective action by the 60th day after the date the government receives the notice, the Secretary will withhold additional payments to the government for the current payment period and later payment periods until the Secretary is satisfied that the government—

"(A) has taken the appropriate corrective action; and

"(B) will comply with subsection (a) and regulations prescribed under subsection (a).

"(2) Before giving notice under paragraph (1), the Secretary shall give the chief executive officer of the unit of general local government reasonable notice and an opportunity for a proceeding.

"(3) The Secretary may make a payment to a unit of general local government notified under paragraph (1) only if the Secretary is satisfied that the government—

"(A) has taken the appropriate corrective action; and

"(B) will comply with subsection (a) and regulations prescribed under subsection (a).

"§6704. State area allocations; allocations and payments to territorial governments

"(a) Formula Allocation by State.—For each payment period, the Secretary shall allocate to each State out of the amount appropriated for the period under the authority of section 6702(b) (minus the amounts allocated to territorial governments under subsection (e) for the payment period) an amount bearing the same ratio to the amount appropriated (minus such amounts allocated under subsection (e)) as the amount allocated to the State under this section bears to the total amount allocated to all States under this section. The Secretary shall—

"(1) determine the amount allocated to the State under subsection (b) or (c) of this section and allocate the larger amount to the State; and

"(2) allocate the amount allocated to the State to units of general local government in the State under sections 6705 and 6706.

"(b) General Formula.—(1) The amount allocated to a State under this subsection for a payment period is the amount bearing the same ratio to $5,300,000,000 as—

"(A) the population of the State, multiplied by the general tax effort factor of the State (determined under paragraph (2)), multiplied by the relative income factor of the State (determined under paragraph (3)), multiplied by the relative rate of the labor force unemployed in the State (determined under paragraph (4)); bears to

"(B) the sum of the products determined under subparagraph (A) of this paragraph for all States.

"(2) The general tax effort factor of a State for a payment period is—

"(A) the net amount of State and local taxes of the State collected during the years used by the Secretary of Commerce in the most recent Bureau of the Census general determination of State and local taxes made before the beginning of the payment period; divided by

"(B) the total income of individuals, as determined by the Secretary of Commerce for national income accounts purposes, attributed to the State for the same years.

"(3) The relative income factor of a State is a fraction in which—

"(A) the numerator is the per capita income of the United States; and

"(B) the denominator is the per capita income of the State.

"(4) The relative rate of the labor force unemployed in a State is a fraction in which—

"(A) the numerator is the percentage of the labor force of the State that is unemployed (as determined by the Secretary of Labor for general statistical purposes); and

"(B) the denominator is the percentage of the labor force of the United States that is unemployed (as determined by the Secretary of Labor for general statistical purposes).

"(c) ALTERNATIVE FORMULA.—The amount allocated to a State under this subsection for a payment period is the total amount the State would receive if--

"(1) $1,166,666,667 were allocated among the States on the basis of population by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the population of the State bears to the population of all States;

"(2) $1,166,666,667 were allocated among the States on the basis of population inversely weighted for per capita income, by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as—

"(A) the population of the State, multiplied by a fraction in which—

"(i) the numerator is the per capita income of all States; and

"(ii) the denominator is the per capita income of the State; bears to

"(B) the sum of the products determined under subparagraph (A) for all States;

"(3) $600,000,000 were allocated among the States on the basis of income tax collections by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the income tax amount of the State (determined under subsection (d)(1)) bears to the sum of the income tax amounts of all States;

"(4) $600,000,000 were allocated among the States on the basis of general tax effort by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the general tax effort amount of the State (determined under subsection (d)(2)) bears to the sum of the general tax effort amounts of all States;

"(5) $600,000,000 were allocated among the States on the basis of unemployment by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as—

"(A) the labor force of the State, multiplied by a fraction in which—

"(i) the numerator is the percentage of the labor force of the State that is unemployed (as determined by the Secretary of Labor for general statistical purposes); and

"(ii) the denominator is the percentage of the labor force of the United States that is unemployed (as determined by the Secretary of Labor for general statistical purposes);

bears to

"(B) the sum of the products determined under subparagraph (A) for all States; and

"(6) $1,166,666,667 were allocated among the States on the basis of urbanized population by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the urbanized population of the State bears to the urbanized population of all States. In this paragraph, the term 'urbanized population' means the population of an area consisting of a central city or cities of at least 50,000 inhabitants and the surrounding closely settled area for the city or cities considered as an urbanized area by the Secretary of Commerce for general statistical purposes.

"(d) INCOME TAX AMOUNT AND TAX EFFORT AMOUNT.—(1) The income tax amount of a State for a payment period is 15 percent of the net amount collected during the calendar year ending before the beginning of the payment period from the tax imposed on the income of individuals by the State and described as a State income tax under section 164(a)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 164(a)(3)). The income tax amount for a payment period shall be at least 1 percent but not more than 6 percent of the United States Government individual income tax liability attributed to the State for the taxable year ending during the last calendar year ending before the beginning of the payment period. The Secretary shall determine the Government income tax liability attributed to the State on the same basis as the Secretary of the Treasury determines that liability for general statistical purposes.

"(2) The general tax effort amount of a State for a payment period is the amount determined by multiplying—

"(A) the net amount of State and local taxes of the State collected during the years used by the Secretary of Commerce in the most recent Bureau of the Census general determination of State and local taxes made before the beginning of the payment period; by

"(B) the general tax effort factor of the State determined under subsection (b)(2).

"(e) ALLOCATION FOR PUERTO RICO, GUAM, AMERICAN SAMOA, AND THE VIRGIN ISLANDS.—(1)(A) For each payment period for which funds are available for allocation under this chapter, the Secretary shall allocate to each territorial government an amount equal to the product of 1 percent of the amount of funds available for allocation multiplied by the applicable territorial percentage.

"(B) For the purposes of this paragraph, the applicable territorial percentage of a territory is equal to the quotient resulting from the division of the territorial population of such territory by the sum of the territorial population for all territories.

"(2) The governments of the territories shall make payments to local governments within their jurisdiction from sums received under this subsection as they consider appropriate.

"(3) For purposes of this subsection—

"(A) the term 'territorial government' means the government of a territory;

"(B) the term 'territory' means Puerto Rico, Guam, American Samoa, and the Virgin Islands; and

"(C) the term 'territorial population' means the most recent population for each territory as determined by the Bureau of Census.

"§6705. Local government allocations

"(a) INDIAN TRIBES AND ALASKAN NATIVES VILLAGES.—If there is in a State an Indian tribe or Alaskan native village having a recognized governing body carrying out substantial governmental duties and powers, the Secretary shall allocate to the tribe or village, out of the amount allocated to the State under section 6704, an amount bearing the same ratio to the amount allocated to the State as the population of the tribe or village bears to the population of the State. The Secretary shall allocate amounts under this subsection to Indian tribes and Alaskan native villages in a State before allocating amounts to units of general local government in the State under subsection (b).

"(b) OTHER LOCAL GOVERNMENT ALLOCATIONS.—(1) The Secretary shall allocate among the units of general local government in a State (other than units receiving allocations under subsection (a)) the amount allocated to the State under section 6704 (as that amount is reduced by allocations under subsection (a)). Of the amount to be allocated, the Secretary shall allocate a portion equal to ½ of such amount in accordance with section 6706(1), and shall allocate a portion equal to ½ of such amount in accordance with section 6706(2). A unit of general local government shall receive an amount equal to the sum of amounts allocated to the unit from each portion.

"(2) From each portion to be allocated to units of local government in a State under paragraph (1), the Secretary shall allocate to a unit an amount bearing the same ratio to the funds to be allocated as—

"(A) the population of the unit, multiplied by the general tax effort factor of the unit (determined under paragraph (3)), multiplied by the income gap of the unit (determined under paragraph (4)), bears to

"(B) the sum of the products determined under subparagraph (A) for all units in the State for which the income gap for that portion under paragraph (4) is greater than zero.

"(3)(A) Except as provided in subparagraph (C), the general tax effort factor of a unit of general local government for a payment period is—

"(i) the adjusted taxes of the unit; divided by

"(ii) the total income attributed to the unit.

"(B) If the amount determined under subparagraphs (A) (i) and (ii) for a unit of general local government is less than zero, the general tax effort factor of the unit is deemed to be zero.

"(C)(i) Except as otherwise provided in this subparagraph, the adjusted taxes of a unit of general local government are the taxes imposed by the unit for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay), as determined by the Secretary of Commerce for general statistical purposes and adjusted (under regulations of the Secretary) to exclude amounts properly allocated to education expenses.

"(ii) The Secretary shall, for purposes of clause (i), include that part of sales taxes transferred to a unit of general local government that are imposed by a county government in the geographic area of which is located the unit of general local government as taxes imposed by the unit for public purposes if—

"(I) the county government transfers any part of the revenue from the taxes to the unit of general local government without specifying the purpose for which the unit of general local government may expend the revenue; and

"(II) the chief executive officer of the State notifies the Secretary that the taxes satisfy the requirements of this clause.

"(iii) The adjusted taxes of a unit of general local government shall not exceed the maximum allowable adjusted taxes for that unit.

"(iv) The maximum allowable adjusted taxes for a unit of general local government is the allowable adjusted taxes of the unit minus the excess adjusted taxes of the unit.

"(v) The allowable adjusted taxes of a unit of general government is the greater of—

"(I) the amount equal to 2.5, multiplied by the per capita adjusted taxes of all units of general local government of the same type in the State, multiplied by the population of the unit; or

"(II) the amount equal to the population of the unit, multiplied by the sum of the adjusted taxes of all units of municipal local government in the State, divided by the sum of the populations of all the units of municipal local government in the State.

"(vi) The excess adjusted taxes of a unit of general local government is the amount equal to—

"(I) the adjusted taxes of the unit, minus

"(II) 1.5 multiplied by the allowable adjusted taxes of the unit;

except that if this amount is less than zero then the excess adjusted taxes of the unit is deemed to be zero.

"(vii) For purposes of this subparagraph—

"(I) the term 'per capita adjusted taxes of all units of general local government of the same type' means the sum of the adjusted taxes of all units of general local government of the same type divided by the sum of the populations of all units of general local government of the same type; and

"(II) the term 'units of general local government of the same type' means all townships if the unit of general local government is a township, all municipalities if the unit of general local government is a municipality, all counties if the unit of general local government is a county, or all unified city/county governments if the unit of general local government is a unified city/county government.

"(4)(A) Except as provided in subparagraph (B), the income gap of a unit of general local government is—

"(i) the number which applies under section 6706, multiplied by the per capita income of the State in which the unit is located; minus

"(ii) the per capita income of the geographic area of the unit.

"(B) If the amount determined under subparagraph (A) for a unit of general local government is less than zero, then the relative income factor of the unit is deemed to be zero.

"(c) SMALL GOVERNMENT ALLOCATIONS.—If the Secretary decides that information available for a unit of general local government with a population below a number (of not more than 500) prescribed by the Secretary is inadequate, the Secretary may allocate to the unit, in lieu of any allocation under subsection (b) for a payment period, an amount bearing the same ratio to the total amount to be allocated under subsection (b) for the period for all units of general local government in the State as the population of the unit bears to the population of all units in the State.

"§6706. Income gap multiplier

"For purposes of determining the income gap of a unit of general local government under section 6705(b)(4)(A), the number which applies is—

"(1) 1.6, with respect to ½ of any amount allocated under section 6704 to the State in which the unit is located; and

"(2) 1.2, with respect to the remainder of such amount.

"§6707. State variation of local government allocations

"(a) STATE FORMULA.—A State government may provide by law for the allocation of amounts among units of general local government in the State on the basis of population multiplied by the general tax effort factors or income gaps of the units of general local government determined under sections 6705 (a) and (b) or a combination of those factors. A State government providing for a variation of an allocation formula provided under sections 6705 (a) and (b) shall notify the Secretary of the variation by the 30th day before the beginning of the first payment period in which the variation applies. A variation shall—

"(1) provide for allocating the total amount allocated under sections 6705 (a) and (b);

"(2) apply uniformly in the State; and

"(3) apply only to payment periods beginning before October 1, 1995.

"(b) CERTIFICATION.—A variation by a State government under this section may apply only if the Secretary certifies that the variation complies with this section. The Secretary may certify a variation only if the Secretary is notified of the variation at least 30 days before the first payment period in which the variation applies.

"§6708. Adjustments of local government allocations

"(a) MAXIMUM AMOUNT.—The amount allocated to a unit of general local government for a payment period may not exceed the adjusted taxes imposed by the unit of general local government as determined under section 6705(b)(3). Amounts in excess of adjusted taxes shall be paid to the Governor of the State in which the unit of local government is located.

"(b) DE MINIMIS ALLOCATIONS.—If the amount allocated to a unit of general local government (except an Indian tribe or an Alaskan native village) for a payment period would be less than $5,000 but for this subsection or is waived by the governing authority of the unit of general local government, the Secretary shall pay the amount to the Governor of the State in which the unit is located.

"(c) USE OF PAYMENTS TO STATES.—The Governor of a State shall use all amounts paid to the Governor under subsections (a) and (b) for programs described in section 6701(a)(2) in areas of the State where are located the units of general local government with respect to which amounts are paid under subsection (b).

"§6709. Information used in allocation formulas

"(a) USE OF MOST RECENT INFORMATION.—Except as provided in this section, the Secretary shall use the most recent available information provided by the Secretary of Commerce and the Secretary of Labor before the beginning of the payment period to determine an allocation under this chapter. If the Secretary decides that the information is not current or complete enough to provide for a fair allocation, the Secretary may use additional information (including information based on estimates) as provided under regulations of the Secretary.

"(b) POPULATION DATA.—(1) The Secretary shall determine population on the same basis that the Secretary of Commerce determines resident population for general statistical purposes.

"(2) The Secretary shall request the Secretary of Commerce to adjust the population information provided to the Secretary as soon as practicable to include a reasonable estimate of the number of resident individuals not counted in the 1990 census or revisions of the census. The Secretary shall use the estimates in determining allocations for the payment period beginning after the Secretary receives the estimates. The Secretary shall adjust population information to reflect adjustments made under section 118 of the Act of October 1, 1980 (Public Law 96–369, 94 Stat. 1357).

"(c) ADDITIONAL DATA LIMITATIONS.—The Secretary may not—

"(1) in determining an allocation for a payment period, use information on tax collections for years more recent than the years used by the Secretary of Commerce in the most recent Bureau of the Census general determination of State and local taxes made before the beginning of that period; or

"(2) consider a change in information used to determine an allocation for a period of 60 months if the change—

"(A) results from a major disaster declared by the President under section 401 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act; and

"(B) reduces the amount of an allocation.

"§6710. Public participation

"(a) HEARINGS.—(1) A unit of general local government expending payments under this chapter shall hold at least one public hearing on the proposed use of the payment in relation to its entire budget. At the hearing, persons shall be given an opportunity to provide written and oral views to the governmental authority responsible for enacting the budget and to ask questions about the entire budget and the relation of the payment to the entire budget. The government shall hold the hearing at a time and a place that allows and encourages public attendance and participation.

"(2) A unit of general local government holding a hearing required under this subsection or by the budget process of the government shall try to provide senior citizens and senior citizen organizations with an opportunity to present views at the hearing before the government makes a final decision on the use of the payment.

"(b) DISCLOSURE OF INFORMATION.—(1) By the 10th day before a hearing required under subsection (a)(1) is held, a unit of general local government shall—

"(A) make available for inspection by the public at the principal office of the government a statement of the proposed use of the payment and a summary of the proposed budget of the government; and

"(B) publish in at least one newspaper of general circulation the proposed use of the payment with the summary of the proposed budget and a notice of the time and place of the hearing.

"(2) By the 30th day after adoption of the budget under State or local law, the government shall—

"(A) make available for inspection by the public at the principal office of the government a summary of the adopted budget, including the proposed use of the payment; and

"(B) publish in at least one newspaper of general circulation a notice that the information referred to in subparagraph (A) is available for inspection.

"(c) WAIVERS OF REQUIREMENTS.—Under regulations of the Secretary, a requirement—

"(1) under subsection (a)(1) may be waived if the budget process required under the applicable State or local law or charter provisions—

"(A) ensures the opportunity for public attendance and participation contemplated by subsection (a); and

"(B) includes a hearing on the proposed use of a payment received under this chapter in relation to the entire budget of the government; and

"(2) under subsection (b)(1)(B) and paragraph (2)(B) may be waived if the cost of publishing the information would be unreasonably burdensome in relation to the amount allocated to the government from amounts available for payment under this chapter, or if publication is otherwise impracticable.

"(d) EXCEPTION TO 10-DAY LIMITATION.—If the Secretary is satisfied that a unit of general local government will provide adequate notice of the proposed use of a payment received under this chapter, the 10-day period under subsection (b)(1) may be changed to the extent necessary to comply with applicable State or local law.

"(e) APPLICATION TO GOVERNMENTS WITHOUT BUDGETS.—The Secretary shall prescribe regulations for applying this section to units of general local government that do not adopt budgets.

"§6711. Prohibited discrimination

"(a) GENERAL PROHIBITION.—No person in the United States shall be excluded from participating in, be denied the benefits of, or be subject to discrimination under, a program or activity of a unit of general local government because of race, color, national origin, or sex if the government receives a payment under this chapter.

"(b) ADDITIONAL PROHIBITIONS.—The following prohibitions and exemptions also apply to a program or activity of a unit of general local government if the government receives a payment under this chapter:

"(1) A prohibition against discrimination because of age under the Age Discrimination Act of 1975.

"(2) A prohibition against discrimination against an otherwise qualified handicapped in-

dividual under section 504 of the Rehabilitation Act of 1973.

"(3) A prohibition against discrimination because of religion, or an exemption from that prohibition, under the Civil Rights Act of 1964 or title VIII of the Act of April 11, 1968 (popularly known as the Civil Rights Act of 1968).

"(c) LIMITATIONS ON APPLICABILITY OF PROHIBITIONS.—Subsections (a) and (b) do not apply if the government shows, by clear and convincing evidence, that a payment received under this chapter is not used to pay for any part of the program or activity with respect to which the allegation of discrimination is made.

"(d) INVESTIGATION AGREEMENTS.—The Secretary shall try to make agreements with heads of agencies of the United States Government and State agencies to investigate noncompliance with this section. An agreement shall—

"(1) describe the cooperative efforts to be taken (including sharing civil rights enforcement personnel and resources) to obtain compliance with this section; and

"(2) provide for notifying immediately the Secretary of actions brought by the United States Government or State agencies against a unit of general local government alleging a violation of a civil rights law or a regulation prescribed under a civil rights law.

"§6712. Discrimination proceedings

"(a) NOTICE OF NONCOMPLIANCE.—By the 10th day after the Secretary makes a finding of discrimination or receives a holding of discrimination about a unit of general local government, the Secretary shall submit a notice of noncompliance to the government. The notice shall state the basis of the finding or holding.

"(b) INFORMAL PRESENTATION OF EVIDENCE.—A unit of general local government may present evidence informally to the Secretary within 30 days after the government receives a notice of noncompliance from the Secretary. Except as provided in subsection (e), the government may present evidence on whether—

"(1) a person in the United States has been excluded or denied benefits of, or discriminated against under, the program or activity of the government, in violation of section 6711(a);

"(2) the program or activity of the government violated a prohibition described in section 6711(b); and

"(3) any part of that program or activity has been paid for with a payment received under this chapter.

"(c) TEMPORARY SUSPENSION OF PAYMENTS.—By the end of the 30-day period under subsection (b), the Secretary shall decide whether the unit of general local government has not complied with section 6711 (a) or (b), unless the government has entered into a compliance agreement under section 6714. If the Secretary decides that the government has not complied, the Secretary shall notify the government of the decision and shall suspend payments to the government under this chapter unless, within 10 days after the government receives notice of the decision, the government—

"(1) enters into a compliance agreement under section 6714; or

"(2) requests a proceeding under subsection (d)(1).

"(d) ADMINISTRATIVE REVIEW OF SUSPENSIONS.—(1) A proceeding requested under subsection (c)(2) shall begin by the 30th day after the Secretary receives a request for the proceeding. The proceeding shall be before an administrative law judge appointed under section 3105 of title 5, United States Code. By the 30th day after the beginning of the proceeding, the judge shall issue a preliminary decision based on the record at the time on whether the unit of general local government is likely to prevail in showing compliance with section 6711 (a) or (b).

"(2) If the administrative law judge decides at the end of a proceeding under paragraph (1) that the unit of general local government has—

"(A) not complied with section 6711 (a) or (b), the judge may order payments to the government under this chapter terminated; or

"(B) complied with section 6711 (a) or (b), a suspension under section 6713(a)(1)(A) shall be discontinued promptly.

"(3) An administrative law judge may not issue a preliminary decision that the government is not likely to prevail if the judge has issued a decision described in paragraph (2)(A).

"(e) BASIS FOR REVIEW.—In a proceeding under subsections (b) through (d) on a program or activity of a unit of general local government about which a holding of discrimination has been made, the Secretary or administrative law judge may consider only whether a payment under this chapter was used to pay for any part of the program or activity. The holding of discrimination is conclusive. If the holding is reversed by an appellate court, the Secretary or judge shall end the proceeding.

"§6713. Suspension and termination of payments in discrimination proceedings

"(a) IMPOSITION AND CONTINUATION OF SUSPENSIONS.—(1) The Secretary shall suspend payment under this chapter to a unit of general local government—

"(A) if an administrative law judge appointed under section 3105 of title 5, United States Code, issues a preliminary decision in a proceeding under section 6712(d)(1) that the government is not likely to prevail in showing compliance with section 6711 (a) and (b);

"(B) if the administrative law judge decides at the end of the proceeding that the government has not complied with section 6711 (a) or (b), unless the government makes a compliance agreement under section 6714 by the 30th day after the decision; or

"(C) if required under section 6712(c).

"(2) A suspension already ordered under paragraph (1)(A) continues in effect if the administrative law judge makes a decision under paragraph (1)(B).

"(b) LIFTING OF SUSPENSIONS AND TERMINATIONS.—If a holding of discrimination is reversed by an appellate court, a suspension or termination of payments in a proceeding based on the holding shall be discontinued.

"(c) RESUMPTION OF PAYMENTS UPON ATTAINING COMPLIANCE.—The Secretary may resume payment to a unit of general local government of payments suspended by the Secretary only—

"(1) as of the time of, and under the conditions stated in—

"(A) the approval by the Secretary of a compliance agreement under section 6714(a)(1); or

"(B) a compliance agreement entered into by the Secretary under section 6714(a)(2);

"(2) if the government complies completely with an order of a United States court, a State court, or administrative law judge that covers all matters raised in a notice of noncompliance submitted by the Secretary under section 6712(a);

"(3) if a United States court, a State court, or an administrative law judge decides (including a judge in a proceeding under section 6712(d)(1)), that the government has complied with sections 6711 (a) and (b); or

"(4) if a suspension is discontinued under subsection (b).

"(d) PAYMENT OF DAMAGES AS COMPLIANCE.—For purposes of subsection (c)(2), compliance by a government may consist of the payment of restitution to a person injured because the government did not comply with section 6711 (a) or (b).

"(e) RESUMPTION OF PAYMENTS UPON REVERSAL BY COURT.—The Secretary may resume payment to a unit of general local government of payments terminated under section 6712(d)(2)(A) only if the decision resulting in the termination is reversed by an appellate court.

"§6714. Compliance agreements

"(a) TYPES OF COMPLIANCE AGREEMENTS.—A compliance agreement is an agreement—

"(1) approved by the Secretary, between the governmental authority responsible for prosecuting a claim or complaint that is the basis of a holding of discrimination and the chief executive officer of the unit of general local government that has not complied with section 6711 (a) or (b); or

"(2) between the Secretary and the chief executive officer.

"(b) CONTENTS OF AGREEMENTS.—A compliance agreement—

"(1) shall state the conditions the unit of general local government has agreed to comply with that would satisfy the obligations of the government under sections 6711 (a) and (b);

"(2) shall cover each matter that has been found not to comply, or would not comply, with section 6711 (a) or (b); and

"(3) may be a series of agreements that dispose of those matters.

"(c) AVAILABILITY OF AGREEMENTS TO PARTIES.—The Secretary shall submit a copy of a compliance agreement to each person who filed a complaint referred to in section 6716(b), or, if an agreement under subsection (a)(1), each person who filed a complaint with a governmental authority, about a failure to comply with section 6711 (a) or (b). The Secretary shall submit the copy by the 15th day after an agreement is made. However, if the Secretary approves an agreement under subsection (a)(1) after the agreement is made, the Secretary may submit the copy by the 15th day after approval of the agreement.

"§6715. Enforcement by the Attorney General of prohibitions on discrimination

"The Attorney General may bring a civil action in an appropriate district court of the United States against a unit of general local government that the Attorney General has reason to believe has engaged or is engaging in a pattern or practice in violation of section 6711 (a) or (b). The court may grant—

"(1) a temporary restraining order;

"(2) an injunction; or

"(3) an appropriate order to ensure enjoyment of rights under section 6711 (a) or (b), including an order suspending, terminating, or requiring repayment of, payments under this chapter or placing additional payments under this chapter in escrow pending the outcome of the action.

"§6716. Civil action by a person adversely affected

"(a) AUTHORITY FOR PRIVATE SUITS IN FEDERAL OR STATE COURT.—If a unit of general local government, or an officer or employee of a unit of general local government acting in an official capacity, engages in a practice prohibited by this chapter, a person adversely affected by the practice may bring a civil action in an appropriate district court of the United States or a State court of general jurisdiction. Before bringing an action under this section, the person must exhaust administrative remedies under subsection (b).

"(b) ADMINISTRATIVE REMEDIES REQUIRED TO BE EXHAUSTED.—A person adversely affected shall file an administrative complaint with the Secretary or the head of another agency of the United States Government or the State agency with which the Secretary has an agreement under section 6711(d). Administrative remedies are deemed to be exhausted by the person after the 90th day after the complaint was filed if the Secretary, the head of the Government agency, or the State agency—

"(1) issues a decision that the government has not failed to comply with this chapter; or

"(2) does not issue a decision on the complaint.

"(c) AUTHORITY OF COURT.—In an action under this section, the court—

"(1) may grant—

"(A) a temporary restraining order;

"(B) an injunction; or

"(C) another order, including suspension, termination, or repayment of, payments under this chapter or placement of additional payments under this chapter in escrow pending the outcome of the action; and

"(2) to enforce compliance with section 6711 (a) or (b), may allow a prevailing party (except the United States Government) a reasonable attorney's fee.

"(d) INTERVENTION BY ATTORNEY GENERAL.—In an action under this section to enforce compliance with section 6711 (a) or (b), the Attorney General may intervene in the action if the Attorney General certifies that the action is of general public importance. The United States Government is entitled to the same relief as if the Government had brought the action and is liable for the same fees and costs as a private person.

"§6717. Judicial review

"(a) APPEALS IN FEDERAL COURT OF APPEALS.—A unit of general local government which receives notice from the Secretary about withholding payments under section 6703(c), suspending payments under section 6713(a)(1)(B), or terminating payments under section 6712(d)(2)(A), may apply for review of the action of the Secretary by filing a petition for review with the court of appeals of the United States for the circuit in which the government is located. The petition shall be filed by the 60th day after the date the notice is received. The clerk of the court shall immediately send a copy of the petition to the Secretary.

"(b) FILING OF RECORD OF ADMINISTRATIVE PROCEEDING.—The Secretary shall file with the court a record of the proceeding on which the Secretary based the action. The court may consider only objections to the action of the Secretary that were presented before the Secretary.

"(c) COURT ACTION.—The court may affirm, change, or set aside any part of the action of the Secretary. The findings of fact by the Secretary are conclusive if supported by substantial evidence in the record. If a finding is not supported by substantial evidence in the record, the court may remand the case to the Secretary to take additional evidence. Upon such a remand, the Secretary may make new or modified findings and shall certify additional proceedings to the court.

"(d) REVIEW ONLY BY SUPREME COURT.—A judgment of a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28, United States Code.

"§6718. Audits, investigations, and reviews

"(a) INDEPENDENT AUDIT.—(1) Except as provided in this section, a unit of general local government that receives a payment under this chapter shall have an independent audit made of the financial statements of the government at least as often as is required by paragraph (2) to determine compliance with this chapter. The audit shall be carried out under generally accepted government auditing standards issued by the Comptroller General of the United States.

"(2) Paragraph (1) does not apply to a unit of general local government for a fiscal year in which the government receives less than $25,000 under this chapter. A unit of general local government which receives at least $25,000 but not more than $100,000 under this chapter for a fiscal year shall have an audit made in accordance with paragraph (1) at least once every 3 years. A government which receives more than $100,000 under this chapter for a fiscal year shall have an audit made in accordance with paragraph (1) for such fiscal year, except that, if the government operates on a biennial fiscal period, such audit may be made biennially but shall cover the financial statement or statements for, and compliance with the requirements of the chapter during, both years within such period.

"(3) An audit of financial statements of a unit of general local government carried out under another law of the United States for a fiscal year is deemed to be in compliance with paragraph (1) for that year if the audit substantially complies with the requirements of paragraph (1).

"(b) WAIVER BY LOCAL GOVERNMENT.—A unit of general local government may waive application of subsection (a)(1) if—

"(1) the financial statements of the government are audited by independent auditors under State or local law at least as often as would be required by subsection (a)(2);

"(2) the government certifies that the audit is carried out under generally accepted auditing standards issued by the Comptroller General of the United States;

"(3) the auditing provisions of the State or local law are applicable to the payment period to which the waiver applies; and

"(4) the government submits to the Secretary a brief description of the auditing standards used under the relevant State or local law and specification of the payment period to which the waiver applies.

"(c) WAIVER BY SECRETARY.—Under regulations of the Secretary, the Secretary may waive any requirement under subsection (a)(1) or (b) for a unit of general local government for a fiscal year if the Secretary decides that the financial statements of the government for the year—

"(1) cannot be audited, and the government shows substantial progress in making the statements auditable; or

"(2) have been audited by a State agency that does not follow generally accepted auditing standards issued by the Comptroller General of the United States or that is not independent, and the State agency shows progress in meeting those auditing standards or in becoming independent.

"(d) SERIES OF AUDITS.—A series of audits carried out over a period of not more than 3 years covering the total amount in the financial accounts of a unit of general local government is deemed to be a single audit under subsections (a)(1) and (b) of this section.

"(e) AUDIT OPINION.—An opinion of an audit carried out under this section shall be provided to the Secretary in the form and at times required by the Secretary. No later than 30 days following the completion of the audit, the unit of general local government shall make the audit report available for public inspection.

"(f) INVESTIGATIONS BY SECRETARY.—(1) The Secretary shall maintain regulations providing reasonable and specific time limits for the Secretary to—

"(A) carry out an investigation and make a finding after receiving a complaint referred to in section 6716(b), a determination by a State or local administrative agency, or other information about a possible violation of this chapter;

"(B) carry out audits and reviews (including investigations of allegations) about possible violations of this chapter; and

"(C) advise a complainant of the status of an audit, investigation, or review of an allegation by the complainant of a violation of section 6711 (a) or (b) or other provision of this chapter.

"(2) The maximum time limit under paragraph (1)(A) is 90 days.

"(g) REVIEWS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall carry out reviews of the activities of the Secretary, State governments, and units of general local government necessary for the Congress to evaluate compliance and operations under this chapter.

"§6719. Reports

"(a) REPORTS BY SECRETARY OF TREASURY TO CONGRESS.—Before June 2 of each year, the Secretary personally shall report to the Congress on—

"(1) the status and operation of the Local Government Fiscal Assistance Fund during the prior fiscal year; and

"(2) the administration of this chapter, including a complete and detailed analysis of—

"(A) actions taken to comply with sections 6711 through 6715, including a description of the kind and extent of noncompliance and the status of pending complaints;

"(B) the extent to which units of general local government receiving payments under this chapter have complied with sections 6702 and 6718 (a), (b), and (d), including a description of the kind and extent of noncompliance and actions taken to ensure the independence of audits conducted under subsections (a), (b), and (d) of section 6718;

"(C) the way in which payments under this chapter have been distributed in the jurisdictions receiving payments; and

"(D) significant problems in carrying out this chapter and recommendations for legislation to remedy the problems.

"(b) REPORTS BY UNITS OF GENERAL LOCAL GOVERNMENT TO SECRETARY OF TREASURY.—(1) At the end of each fiscal year, each unit of general local government which received a payment under this chapter for the fiscal year shall submit a report to the Secretary. The report shall be submitted in the form and at a time prescribed by the Secretary and shall be available to the public for inspection. The report shall state—

"(A) the amounts and purposes for which the payment has been appropriated, expended, or obligated in the fiscal year;

"(B) the relationship of the payment to the relevant functional items in the budget of the government; and

"(C) the differences between the actual and proposed use of the payment.

"(2) The Secretary shall provide a copy of a report submitted under paragraph (1) by a unit of general local government to the chief executive officer of the State in which the government is located. The Secretary shall provide the report in the manner and form prescribed by the Secretary.

"(c) REGULATIONS.—The Secretary shall prescribe regulations for applying this section to units of general local government that do not adopt budgets.

"§6720. Definitions and application

"(a) DEFINITIONS.—In this chapter—

"(1) 'unit of general local government' means—

"(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

"(B) the District of Columbia and the recognized governing body of an Indian tribe or Alaskan Native village that carries out substantial governmental duties and powers;

"(2) 'payment period' means each 1-year period beginning on October 1 of 1994 and 1995;

"(3) 'State and local taxes' means taxes imposed by a State government or unit of general local government or other political subdivision of a State government for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay) as determined by the Secretary of Commerce for general statistical purposes;

"(4) 'State' means any of the several States and the District of Columbia;

"(5) 'income' means the total money income received from all sources as determined by the Secretary of Commerce for general statistical purposes;

"(6) 'per capita income' means—

"(A) in the case of the United States, the income of the United States divided by the population of the United States;

"(B) in the case of a State, the income of that State, divided by the population of that State; and

"(C) in the case of a unit of general local government, the income of that unit of general local government divided by the population of the unit of general local government;

"(7) 'finding of discrimination' means a decision by the Secretary about a complaint described in section 6716(b), a decision by a State or local administrative agency, or other information (under regulations prescribed by the Secretary) that it is more likely than not that a unit of general local government has not complied with section 6711 (a) or (b);

"(8) 'holding of discrimination' means a holding by a United States court, a State court, or an administrative law judge appointed under section 3105 of title 5, United States Code, that a unit of general local government expending amounts received under this chapter has—

"(A) excluded a person in the United States from participating in, denied the person the benefits of, or subjected the person to discrimination under, a program or activity because of race, color, national origin, or sex; or

"(B) violated a prohibition against discrimination described in section 6711(b); and

"(9) 'Secretary' means the Secretary of the Treasury.

"(b) TREATMENT OF SUBSUMED AREAS.—If the entire geographic area of a unit of general local government is located in a larger entity, the unit of general local government is deemed to be located in the larger entity. If only part of the geographic area of a unit is located in a larger entity, each part is deemed to be located in the larger entity and to be a separate unit of general local government in determining allocations under this chapter. Except as provided in regulations prescribed by the Secretary, the Secretary shall make all data computations based on the ratio of the estimated population of the part to the population of the entire unit of general local government.

"(c) BOUNDARY AND OTHER CHANGES.—If a boundary line change, a State statutory or constitutional change, annexation, a governmental reorganization, or other circumstance results in the application of sections 6704 through 6708 in a way that does not carry out the purposes of sections 6701 through 6708, the Secretary shall apply sections 6701 through 6708 under regulations of the Secretary in a way that is consistent with those purposes.".

(b) DEFICIT NEUTRALITY.—Any appropriation to carry out the amendment made by this subtitle to title 31, United States Code, for fiscal year 1995 or 1996 shall be offset by cuts elsewhere in appropriations for that fiscal year.

SEC. 1076. CLERICAL AMENDMENT.

The table of chapters at the beginning of subtitle V of title 31, United States Code, is amended by adding after the item relating to chapter 65 the following:

"67. FEDERAL PAYMENTS .... 6701".

Subtitle J—Youth Employment and Skills Crime Prevention

SEC. 1081. STATEMENT OF PURPOSE.

(a) PURPOSE.—The purpose of this subtitle is to reduce crime in neighborhoods with high incidences of crime and poverty through intensive programs that provide employment opportunities for young adults in those neighborhoods.

(b) DEFINITION.—As used in this subtitle, "high crime area" means an area with severe crime problems, including a high incidence of violent crime or drug trafficking.

SEC. 1082. PROGRAM AUTHORIZED.

The Secretary of Labor in conjunction with the Attorney General and the Secretary of Housing and Urban Development, and in consultation with appropriate other Federal officials, may make grants to local governments to fund targeted youth employment and skills development projects to help reduce crime in target areas as defined in section 1083.

SEC. 1083. PROGRAM TARGET AREA.

The target area or areas of each grant shall be neighborhoods which are high crime areas with high unemployment among young adults and other serious economic and social problems.

SEC. 1084. PARTICIPANTS.

(a) ELIGIBLE POPULATION.—Young adults residing or attending school in the target area shall be eligible to participate in programs funded under this subtitle if they are between 16 and 25 years of age. In certain circumstances, as determined by the Attorney General and the Secretaries of Labor and Housing and Urban Development (referred to in this subtitle as the "Secretaries"), young adults up to age 30 and youths of age 14 or 15 may also be eligible to participate.

(b) RESPONSIBLE BEHAVIOR BY PARTICIPANTS.—Continued participation in a program under this subtitle shall be conditioned, during participation in the program, on the following:

(1) Avoiding crime, including illegal drug use.

(2) Regular attendance and satisfactory performance at work.

(3) Paying child support when paternity has been established and the participant has an income.

(4) In-school young adults in high school remaining in school until graduation.

(5) Requiring young adults ages 16–17 who have dropped out of high school and who have not obtained a General Equivalency Diploma (GED) to return to school or an alternative education program.

SEC. 1085. ALLOWABLE ACTIVITIES.

(a) EXPENDITURE OF FUNDS.—Funds awarded under this subtitle shall be expended only for crime prevention related activities undertaken to carry out an approved application, such as—

(1) apprenticeship programs linking work and learning;

(2) on-the-job training in the private sector;

(3) youth conservation and service corps;

(4) programs emphasizing neighborhood infrastructure, such as YouthBuild and employment of public housing residents;

(5) work experience in private nonprofit organizations and public agencies;

(6) entrepreneurial and microenterprise development;

(7) crime prevention and security measures for profit and not-for-profit businesses employing substantial numbers of youth from high crime areas;

(8) transportation links to jobs in the labor market area;

(9) initiatives to increase the educational attainment, occupational skills, and career aspirations of target area young adults, including work-based learning; and

(10) job placement and related case management, followup, and other supportive services.

(b) WORK EXPERIENCE PROGRAMS.—Work experience programs funded under this subtitle shall—

(1) pay wages in accordance with the Fair Labor Standards Act and relevant State law;

(2) include adequate supervision, equipment, and materials and supplies to accomplish useful work projects;

(3) include a private sector job development component to facilitate the transition of participants to private sector jobs, which shall include developing portfolios of skill attainment, mentorship opportunities, and other efforts to increase job networks for participants; and

(4) include an extensive job placement component.

(c) 2-YEAR LIMITATION.—The combination of all subsidized employment for a participant shall not exceed 2 years.

SEC. 1086. APPLICATION FOR GRANTS.

(a) APPLICATION PLAN.—To be eligible to receive a grant under this subtitle, a chief local elected official, with the timely review and comment of the Governor, shall apply to the Secretary of Labor for a Youth Employment and Skills Crime Prevention grant by submitting an application that contains a plan for reducing crime by substantially increasing the employment levels of young adults in the target area. Such a plan shall—

(1) describe the measurable outcomes that will be used to evaluate the local success of the program, including reduced crime and substance abuse, increased private sector employment, reduced school dropout rates, and increased educational attainment;

(2) specify the organization that will administer the program;

(3) describe the specific employment programs that will be offered by the program;

(4) describe the public/private partnership that will promote collaboration between the State and local governments, private sector, public housing authorities, local residents, community-based organizations, and nonprofit organizations, including linkage with community policing, gang prevention activities, and juvenile justice or delinquency prevention initiatives;

(5) specify how the public and private sectors will work together to assist youths and young adults to make the transition from subsidized to unsubsidized jobs;

(6) describe how links to jobs throughout the labor market area will be provided;

(7) specify the manner in which the job network for youths and young adults will be expanded by mentors and other programs; and

(8) such other information as the Secretary of Labor in conjunction with the Attorney General and Secretary of Housing and Urban Development may require.

(b) COORDINATION WITH OTHER FEDERAL PROGRAMS.—The application must demonstrate that the proposed Youth Employment and Skills Crime Prevention program will build upon and be coordinated with other Federal initiatives relating to such matters as crime control and prevention, youth employment, education, economic development, community service, or social services.

(c) LEVERAGING AND LINKAGES.—As a condition of a grant award, local areas shall establish linkages with the local private sector, local employment and job training programs, and other appropriate entities to enhance the provision of services under this subtitle. Such activities may include leveraging by and linkages with—

(1) the local private sector to—

(A) develop a mentoring program to improve the job network for young adults in the target area;

(B) develop a specified number of career-track jobs for young adults graduating from high school and college in the target area;

(C) develop part-time jobs to support young adults while they are receiving job training, or secondary or post-secondary education; and

(D) develop apprenticeship programs with unions that provide matching funds to create training and employment opportunities;

(2) the local service delivery area under the Job Training Partnership Act to identify funds—

(A) for on-the-job training and work-based training programs, based on successful program models, for residents of the target area;

(B) to develop a summer jobs program for in-school young adults residing in the target area;

(C) for new youth initiatives in the target area; and

(D) for child care and supportive services;

(3) local programs to provide employment services and supportive services, such as transportation service to link target area residents to jobs in the labor market area; and

(4) the local educational agency to provide activities that will support the program and assist in achieving the goals specified in the application.

SEC. 1087. AWARD PRIORITIES.

In evaluating the applications submitted under this subtitle, the Secretaries and the Attorney General shall give priority to applications that—

(1) demonstrate extensive community support and linkages to crime prevention programs and employment related programs;

(2) target areas that include public and assisted housing projects;

(3) demonstrate evidence of severe social and economic problems;

(4) demonstrate the highest quality program design, implementation plan, and goals to be achieved; and

(5) include other Federal and non-Federal funding, including State, local, or private resources.

SEC. 1088. GRANT DURATION AND NUMBER.

(a) DURATION OF GRANTS.—Grants shall be for 1 year, and renewable for each of the 4 succeeding years.

(b) NUMBER OF GRANTS.—There shall be no more than 10 grants awarded under this subtitle.

SEC. 1089. FEDERAL RESPONSIBILITIES.

(a) IN GENERAL.—The Secretary of Labor in conjunction with the Attorney General and the Secretary of Housing and Urban Development shall establish a system of performance measures for assessing programs established pursuant to this subtitle.

(b) EVALUATION.—The Secretary of Labor in conjunction with the Attorney General and the Secretary of Housing and Urban Development shall conduct a rigorous national evaluation of Youth Employment and Skills Crime Prevention programs funded under this subtitle that will track and assess the effectiveness of those programs, and include an evaluation of the extent to which such programs reduce crime and substance abuse, enhance the employment and earnings of participants, promote entrepreneurship, reduce dropout rates, and increase educational attainment. The evaluation may include cost-benefit analyses and shall utilize sound statistical methods and techniques.

(c) TECHNICAL ASSISTANCE.—The Secretary of Labor in conjunction with the Attorney General and the Secretary of Housing and Urban Development may provide appropriate technical assistance to carry out Youth Employment and Skills Crime Prevention programs under this subtitle.

(d) ADMINISTRATION.—The technical assistance and evaluations authorized by this section may be carried out directly by the Secretary of Labor or through grants, contracts, or other cooperative arrangements with the Attorney General, the Secretary of Housing and Urban Development, or other entities or agencies.

SEC. 1090. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Labor $75,000,000 for fiscal year 1995, $100,000,000 for fiscal year 1996, $110,000,000 for fiscal year 1997, $115,000,000 for fiscal year 1998, and $125,000,000 for fiscal year 1999 to carry out this subtitle.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to this section are authorized to remain available for obligation until expended.

(c) EVALUATIONS AND TECHNICAL ASSISTANCE.—Of the amounts appropriated under subsection (a) for a fiscal year, the Secretary of Labor in conjunction with the Attorney General and the Secretary of Housing and Urban Development may reserve not more than 5 percent of such amounts for each fiscal year to carry out evaluations and technical assistance.

SEC. 1091. SANCTIONS.

The Secretary of Labor may terminate or suspend financial assistance, in whole or in part, to a recipient or refuse to extend a grant for a recipient, if the Secretary of Labor in conjunction with the Attorney General and the Secretary of Housing and Urban Development determines that the recipient has failed to meet the requirements of this subtitle, or any regulations or guidelines under this subtitle, or any approved application submitted pursuant to this subtitle.

SEC. 1092. LABOR STANDARDS.

Labor standards under the Job Training Partnership Act (29 U.S.C. 1553) shall apply to programs under this subtitle.

SEC. 1093. REGULATIONS OR GUIDELINES.

The Secretary of Labor in conjunction with the Attorney General and the Secretary of Housing and Urban Development shall issue such regulations or guidelines as may be necessary to carry out the purposes of this subtitle.

SEC. 1094. WAIVERS.

The Secretary of Labor in conjunction with the Attorney General and the Secretary of Housing and Urban Development may prescribe regulations or guidelines that establish criteria for waiver of application requirements of programs to the extent that they duplicate or conflict with the requirements specified in similar laws.

SEC. 1095. PROHIBITION ON PRIVATE RIGHTS OF ACTION.

Nothing in this subtitle shall be construed to establish a right for any person to bring an action to obtain services under this subtitle.

SEC. 1096. ACCEPTANCE OF GIFTS, AND OTHER MATTERS.

The Secretaries and Attorney General are authorized, in carrying out this subtitle, to accept, purchase, or lease in the name of the Department of Justice or the Department of Labor or the Department of Housing and Urban Development, and employ or dispose of in furtherance of the purposes of this subtitle, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of section 1342 of title 31, United States Code.

Subtitle K—Miscellaneous

SEC. 1098. MULTIJURISDICTIONAL GANG TASK FORCES.

Section 504(f) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting "victims assistance programs, or multijurisdictional gang task forces" after "drug task forces".

SEC. 1098A. EXTENSION OF BYRNE GRANT FUNDING.

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1995, 1996, 1997, 1998, and 1999, to carry out the programs under parts D and E of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

SEC. 1098B. BENEFITS FOR CHAPLAINS.

(a) IN GENERAL.—Section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by redesignating paragraphs (2) through (7) as (3) through (8), respectively;

(2) by inserting after paragraph (1) the following:

"(2) chaplain means any individual serving as an officially recognized or designated member of a legally organized volunteer fire department or legally organized police department, or an officially recognized public employee of a legally organized fire or police department who was responding to a fire, rescue, or police emergency."; and

(3) in paragraph (8), as redesignated by paragraph (1) of this Act, by striking "or rescue squad or ambulance crew" and inserting "rescue squad or ambulance crew, or chaplain".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act and shall apply to injuries or deaths that occur in the line of duty on or after such date.

Subtitle L—Hope in Youth Program

SEC. 1099A. FINDINGS.

The Congress finds the following:

(1) Larger cities around the country, particularly those involved in empowerment zones, are attempting to empower low-income and ethnic minority communities.

(2) Programs that involve local government and local community leaders and which include significant participation by service providers, service participants, and service funders, as equal partners in the design and direction of a myriad of social service support programs have been among the most effective demonstration models.

(3) Programs that attempt to link disenfranchised and disconnected citizens through an umbrella organization that provides guidance to public and private service providers have proven to be an effective strategy for empowering local low-income communities.

(4) Families in low-income communities have not attained their full potential as productive citizens, and Federal efforts thus far, have been insufficient to assist them in fully realizing that potential.

SEC. 1099B. PROGRAM AUTHORITY.

The Secretary of Health and Human Services (in this subtitle referred to as the "Secretary") may make grants to eligible may make grants to eligible service providers in one or more political subdivisions of a State containing an area designated as an empowerment zone, as authorized under the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66), that have submitted an approved plan to establish advisory organizations in low-income communities within the political subdivision containing an empowerment zone which will serve as umbrella agencies for strategic planning and evaluation of service programs serving the low-income communities in which the advisory organization operates.

SEC. 1099C. PROGRAM REQUIREMENTS.

Each advisory organization established as described in section 1099B shall—

(1) provide a permanent multi-issue forum for public policy discussion which will serve as part of a stable infrastructure of community outreach and support,

(2) develop a mechanism by which local support service providers may be evaluated and assessed in the level of service they provide to the community, and which establishes a method for advisory organization participants to review and participate in efforts to maintain or increase the quality of services provided by such providers,

(3) create a Family Outreach Team approach which provides a youth worker, a parent worker, and a school-parent organizer to provide training in outreach, mentoring, community or-

ganizing and peer counseling and mentoring to locally recruited volunteers in a particular area. The Family Outreach Team assists such volunteers in outreach, development and coordination of service delivery from among the service providers in the area, including the schools,

(4) establish processes by which local public agencies can effectively involve the private sector in the provision of services that meet the needs of local communities,

(5) establish processes of coalition building in which diverse groups within low-income communities attempt to work cooperatively to meet the collective needs of low-income communities, and

(6) create a training program to foster community-based leadership in low-income communities.

SEC. 1099D. ELIGIBLE PROVIDERS.

Consortia of public and private nonprofit local social service organizations that have a proven ability to involve disparate populations of low-income citizens and competing service providers are eligible to receive grants under section 1099B.

SEC. 1099E. APPLICATIONS.

Applications may be submitted, for approval by the Secretary, by eligible service providers at such time and in such manner as the Secretary may reasonably require. Such applications shall contain—

(1) assurances that selection of participants, organizations, and citizens will not be on the basis of religious preference or affiliation,

(2) assurances that participating organizations and citizens will not offer services based on any religious preference or affiliation, and

(3) assurances that such service provides will, to the extent practicable, involve participation by citizens not traditionally involved in such activities, including homeless individuals, alcohol- and drug-addicted individuals, and gang involved or violent youth.

SEC. 1099F. EVALUATION.

The Secretary shall commence a program to evaluate the success and effectiveness of this program 2 years after the program has received an appropriation, and such evaluation shall be completed no later than 1 year after the second program year has been completed. A report thereon shall be submitted to the Congress within 60 days of the completion of the evaluation.

SEC. 1099G. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as are necessary for each of fiscal years 1996, 1997, and 1998 to carry out this subtitle.

Subtitle M—Gang Prevention Services for Boys and Girls

SEC. 1099H. FINDINGS.

The Congress finds that—

(1) services provided through existing federally supported gang prevention programs do not adequately address the needs of boys and girls in communities with high levels of gang activity and other barriers to service (such as large concentrations of minority populations that have limited English speaking proficiency, geographically isolated populations, and communities in which social service providers are limited or nonexistent);

(2) children that are exposed to gang activity at an early age are more likely to become gang-involved than children who are exposed to such activity later in life, or children that are never exposed to such activity;

(3) gangs are increasingly targeting younger children for recruitment, especially children at middle schools and elementary schools;

(4) Federal studies indicate that violent crime has increased more significantly in the gang population compared to the adult population; and

(5) small community-based service agencies with strong ties to the educational and law enforcement systems offer the best chance to prevent young children from becoming involved in gangs.

SEC. 1099I. PROGRAM AUTHORITY.

The Administrator of the Office of Juvenile Justice and Delinquency Prevention (hereafter referred to as the "Administrator"), in consultation with the Department of Education and the Department of Health and Human Resources, may make grants to eligible service providers to carry out programs that prevent young children from becoming gang involved. In making such grants, the Administrator shall give a priority to eligible service providers that have a proven track record of serving young children and have an overall budget of not more than $750,000 a fiscal year, prior to receiving a grant under this section.

SEC. 1099J. PROGRAM REQUIREMENTS.

The eligible service providers receiving a grant under section 1099I shall—

(1) provide a comprehensive array of support services to assist the participants to reach their full potential as a contributing law-abiding citizen (such support services may include, but not be limited to: education and health services; career development training; music/art/drama activities; physical fitness training; life skills training; mental health counseling; and job placement counseling);

(2) to the extent practical, involve the parents and other family members of participating children, and the members of local organizations that support the educational and law enforcement institutions of the community, as is appropriate, in the administration and operation of the gang prevention program;

(3) utilize community resources and related support services as needed in the operation of the program;

(4) accept referrals from public institutions, as is appropriate, such as law enforcement, mental health, local school systems, and other entities of local government; and

(5) utilize volunteer staff, including participants in programs funded under the National and Community Service Program, Public Law 103-62, to the maximum extent practicable in the operation of the program.

SEC. 1099K. ELIGIBLE PROVIDERS.

Community-based service providers, as defined in the Juvenile Justice and Delinquency Prevention Act of 1974, that have a proven track record of providing services to children ages 5 to 18 shall be eligible to apply for funds under this subtitle. A priority shall be given to those service providers that have a history of providing services uniquely designed to meet the needs of young children such as the Boys and Girls Clubs of America or service providers that display the potential for providing such targeted services.

SEC. 1099L. ELIGIBLE PARTICIPANTS.

Children that have the potential, because of community composition and other factors, to come into contact with gangs, or who have a family member that has come into contact with a gang, and are not more than 18 years old at the time of entry into the program, shall be eligible to receive services provided by programs receiving assistance under this subtitle.

SEC. 1099M. APPLICATIONS PROCESS.

Eligible service providers may submit to the Administrator, for approval, an application in such form at such time as the Administrator deems appropriate.

SEC. 1099N. EVALUATION.

The Administrator shall conduct an evaluation of the effectiveness of the program model grants authorized under this subtitle, and the extent to which it can be replicated by other local communities. The Administrator shall report to the Congress no later than January 1, 1999, on the details of such evaluations.

SEC. 1099O. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as may be necessary for fiscal years 1996, 1997, and 1998 to carry out this subtitle.

Subtitle N—Anticrime Youth Councils

SEC. 1099P. PURPOSE.

The purpose of this subtitle is to provide for the establishment of youth anticrime councils to give intermediate and secondary school students a structured forum through which to work with community organizations, law enforcement officials, government and media representatives, and school administrators and faculty to address issues regarding youth and violence. The purpose of such councils is to empower local youth and ensure that their recommendations for preventing youth involvement in crime and violence will be heard and possibly incorporated into community anticrime strategies.

SEC. 1099Q. AUTHORITY TO MAKE GRANTS.

The Administrator of the Office of Juvenile Justice and Delinquency Prevention (in this subtitle referred to as the "Administrator") may make grants to public and nonprofit community-based organizations to establish regional anticrime youth councils each of which is composed of intermediate and secondary school students who represent all the schools in a separate congressional district.

SEC. 1099R. APPLICATIONS FOR GRANTS.

To request a grant under section 1099Q, a public and nonprofit community-based organization shall submit to the Administrator an application in such form and containing such information as the Administrator may require by rule, including assurances that—

(1) the anticrime youth council with respect to which such grant is requested will be—

(A) selected by a teacher or administrator of an intermediate or secondary school in the congressional district involved, in consultation with teachers and administrators of other intermediate and secondary schools in such district,

(B) composed of not more than 5 students from each of the intermediate and secondary schools in such district, selected as described in paragraph (1) from among individuals who have first-hand knowledge of issues and problems relating to students who attend schools in such district,

(C) supervised by an individual who—

(i) is familiar with issues regarding youth violence,

(ii) has strong ties to the communities in such district and to the organizations with which such council will interact, and

(iii) will be responsible for coordinating the dissemination of information to such council, supervising council meetings, and acting as a liaison between such council and communities in such district, and

(D) meet not less frequently than monthly—

(i) to discuss issues of concern, including youth crime, school violence, job creation, and recreation, and

(ii) to develop creative solutions for assisting community organizations, law enforcement officials, school officials, government officials, and others to address such issues, and

(2) the applicant will submit to the Administrator a report, not later than 180 days after the first year for which such applicant receives a grant under section 1099Q, that—

(A) specifies the number of students and schools involved and represented on such council,

(B) specifies the number of organizations and individuals that council and its subcommittees met with,

(C) specifies the number of grants, policies, and programs submitted to the youth council for review and recommendation,

(D) contains evidence that—

(i) the community has consulted such council and adopted its recommendations, and

(ii) a grant review process has been established within a school system or police department that includes an evaluation by the youth council,

(E) describes the effect that participation on such council has had on the student representatives, (such as improved school attendance and academic performance, and decreased criminal involvement),

(F) describes the effect that participation on such council has had on the participating schools (such as decrease in incidence of school violence),

(G) describes the extent to which other students attended council and subcommittee meetings, and participated as members of the audience in such council's activities,

(H) describes the extent to which family service, youth service, and the education, police, health, and judicial departments within such district coordinate anticrime efforts as a result of the recommendations and programs of such council, and

(I) describes the extent to which such council raises public awareness and knowledge, via the media, about youth violence and such council's efforts to help prevent it.

SEC. 1099S. SELECTION OF GRANT RECIPIENTS.

For the purpose of selecting eligible applicants to receive grants under section 1099Q, the Administrator shall take into consideration—

(1) the extent to which all schools in a congressional district are represented on the proposed youth anticrime council,

(2) the extent to which youth crime and violence are an issue of concern in such district,

(3) the extent to which the community is committed to coordinating and meeting with the youth councils, and

(4) the extent to which the students selected to serve on such council are representative of the geographical area and knowledgeable about the issues that such council will consider.

SEC. 1099T. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $5,000,000 for fiscal year 1995, and such sums as may be necessary for fiscal years 1996, 1997, and 1998, to carry out this subtitle.

Subtitle O—Urban Recreation and At-Risk Youth

SEC. 1099U. FINDINGS.

Section 1002 of the Urban Park and Recreation Recovery Act of 1978 is amended by striking "and" at the end of subsection (d), by striking the period at the end of subsection (e) and inserting "; and" and by adding the following at the end thereof:

"(f) the quality of life in urban areas has suffered because of decline in the availability of park and recreation systems, including land, facilities, and services;

"(g) the deterioration of urban park and recreation facilities is due in part to the underfunding of Federal grant programs intended to assist in the revitalization of urban recreation facilities and allow us to take back our parks from crime, vandalism, and dilapidation;

"(h) the urban neighborhoods eligible for assistance under this title have deteriorated, in part, due to the rapid increase in violent crime among youth;

"(i) accessible, well-maintained recreational facilities and services have been shown to significantly decrease the incidence of violent crime among youth and can be an effective tool in efforts to prevent crime, increase public safety and improve the quality of life of urban residents; and

"(j) urban sport and recreation programs teach important values and life skills including teamwork, individual responsibility, respect, leadership, and self-esteem which help prevent young people from engaging in criminal behavior.".

SEC. 1099V. PURPOSE OF ASSISTANCE.

Section 1003 of the Urban Park and Recreation Recovery Act of 1978 is amended by adding the following at the end thereof: "It is further the purpose of this title to improve recreation facilities and expand recreation services in urban areas with a high incidence of crime and to help deter crime through the expansion of recreation opportunities for at-risk youth. It is the further purpose of this section to increase the security of urban parks and to promote collaboration between local agencies involved in parks and recreation, law enforcement, youth social services, and juvenile justice system.".

SEC. 1099W. DEFINITIONS.

Section 1004 of the Urban Park and Recreation Recovery Act of 1978 is amended by inserting the following new subsection after subsection (c) and by redesignating subsections (d) through (j) as (e) through (k) respectively:

"(d) 'at-risk youth recreation grants' means—

"(1) rehabilitation grants,

"(2) innovation grants, or

"(3) matching grants for continuing program support for programs of demonstrated value or success in providing constructive alternatives to youth at risk for engaging in criminal behavior, including grants for operating, or coordinating recreation programs and services; in neighborhoods and communities with a high prevalence of crime, particularly violent crime or crime committed by youthful offenders; in addition to the purposes specified in subsection (b), rehabilitation grants referred to in paragraph (1) of this subsection may be used for the provision of lighting, emergency phones or other capital improvements which will improve the security of urban parks;".

SEC. 1099X. CRITERIA FOR SELECTION.

Section 1005 of the Urban Park and Recreation Recovery Act of 1978 is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting "; and" and by adding the following at the end thereof:

"(8) in the case of at-risk youth recreation grants, the Secretary shall give a priority to each of the following criteria:

"(A) Programs which are targeted to youth who are at the greatest risk of becoming involved in violence and crime.

"(B) Programs which teach important values and life skills, including teamwork, respect, leadership, and self-esteem.

"(C) Programs which offer tutoring, remedial education, mentoring, and counseling in addition to recreation opportunities.

"(D) Programs which offer services during late night or other nonschool hours.

"(E) Programs which demonstrate collaboration between local park and recreation, juvenile justice, law enforcement, and youth social service agencies and nongovernmental entities, including the private sector and community and nonprofit organizations.

"(F) Programs which leverage public or private recreation investments in the form of services, materials, or cash.

"(G) Programs which show the greatest potential of being continued with non-Federal funds or which can serve as models for other communities.".

SEC. 1099Y. PARK AND RECREATION ACTION RECOVERY PROGRAMS.

Section 1007(b) of the Urban Park and Recreation Recovery Act of 1978 is amended by adding the following at the end thereof: "In order to be eligible to receive 'at-risk youth recreation grants' a local government shall amend its 5-year action program to incorporate the goal of reducing crime and juvenile delinquency and to provide a description of the implementation strategies to achieve this goal. The plan shall also address how the local government is coordinating its recreation programs with crime prevention efforts of law enforcement, juvenile corrections, and youth social service agencies.".

SEC. 1099Z. MISCELLANEOUS AND TECHNICAL AMENDMENTS.

(a) PROGRAM SUPPORT.—Section 1013 of the Urban Park and Recreation Recovery Act of 1978 is amended by inserting "(a) IN GENERAL.—" after "1013" and by adding the following new subsection at the end thereof:

"(b) PROGRAM SUPPORT.—Not more than 25 percent of the amounts made available under this title to any local government may be used for program support.".

(b) EXTENSION.—Section 1003 of the Urban Park and Recreation Recovery Act of 1978 is amended by striking "for a period of five years" and by striking "short-term".

Subtitle P—Boys and Girls Clubs in Public Housing

SEC. 1099AA. ESTABLISHMENT.

The Secretary for Housing and Urban Development, in consultation with the Attorney General, shall enter into contracts with the Boys and Girls Clubs of America, a national nonprofit youth organization to establish Boys and Girls Clubs in public housing.

SEC. 1099BB. REPORT.

By May 1 of each fiscal year for which funds for this section are provided, the Secretary of Housing and Urban Development shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives that details the progress of establishing boys and girls clubs in public housing and the effectiveness of the programs in reducing drug abuse and gang violence.

SEC. 1099CC. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated the following sums to carry out this subtitle—

(1) $12,000,000 for fiscal year 1995;

(2) $12,000,000 for fiscal year 1996; and

(3) $12,000,000 for fiscal year 1997.

Subtitle Q—Community-Based Justice Grants for Local Prosecutors

SEC. 1099DD. GRANT AUTHORIZATION.

The Attorney General may make grants to local prosecutors for the purpose of supporting the creation or expansion of community-based justice programs.

SEC. 1099EE. USE OF FUNDS.

Grants made by the Attorney General under this section shall be used—

(1) to fund programs that require the cooperation and coordination of prosecutors, school officials, police, probation officers, youth and social service professionals, and community members in the effort to reduce the incidence of, and increase the successful identification and speed of prosecution of, young violent offenders;

(2) to fund programs in which prosecutors focus on the offender, not simply the specific offense, and impose individualized sanctions, designed to deter that offender from further antisocial conduct, and impose increasingly serious sanctions on a young offender who continues to commit offenses; and

(3) to fund programs that coordinate criminal justice resources with educational, social service, and community resources to develop and deliver violence prevention programs, including

mediation and other conflict resolution methods, treatment, counselling, educational, and recreational programs that create alternatives to criminal activity.

SEC. 1099FF. APPLICATIONS.

(a) ELIGIBILITY.—In order to be eligible to receive a grant under this part for any fiscal year, a local prosecutor, in conjunction with the mayor from the jurisdiction in which the program will be placed, shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(b) REQUIREMENTS.—Each applicant shall include—

(1) a request for funds for the purposes described in section 1099EE;

(2) a description of the communities to be served by the grant, including the nature of the youth crime and violence problems within such communities;

(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this section; and

(4) statistical information in such form and containing such information that the Attorney General may require.

(c) COMPREHENSIVE PLAN.—Each applicant shall include a comprehensive plan that shall contain—

(1) a description of the youth violent crime problem;

(2) an action plan outlining how the applicant will achieve the purposes as described in section 1;

(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources; and

(4) a description of how the requested grant will be used to fill gaps.

SEC. 1099GG. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

(a) ADMINISTRATIVE COST LIMITATION.—The Attorney General shall use not more than 5 percent of the funds available under this program for the purposes of administration and technical assistance.

(b) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant under this part, subject to the availability of funds, if—

(1) the Attorney General determines that the funds made available to the recipient during the previous years were used in a manner required under the approved application; and

(2) the Attorney General determines that an additional grant is necessary to implement the community prosecution program described in the comprehensive plan required by section 2.

SEC. 1099HH. AWARD OF GRANTS.

The Attorney General shall consider the following facts in awarding grants:

(1) Demonstrated need and evidence of the ability to provide the services described in the plan required under section 1099FF.

(2) The Attorney General shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

SEC. 1099II. REPORTS.

(a) REPORT TO ATTORNEY GENERAL.—Local prosecutors that receive funds under this subtitle shall submit to the Attorney General a report not later than March 1 of each year that describes progress achieved in carrying out the plan described under section 2(c).

(b) REPORT TO CONGRESS.—The Attorney General shall submit to the Congress a report by October 1 of each year in which grants are made available under this subtitle which shall contain a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by applicants, and an evaluation of programs established under this subtitle.

SEC. 1099JJ. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $20,000,000 for each of the fiscal years 1995 through 1999 to carry out the purposes of this subtitle.

SEC. 1099KK. DEFINITIONS.

The term "young violent offender" means individuals, ages 7–22, who have committed crimes of violence, weapons offenses, drug distribution, hate crimes and civil rights violations, and offenses against personal property of another.

TITLE XI—YOUTH VIOLENCE

SEC. 1101. PROSECUTION AS ADULTS OF CERTAIN JUVENILES FOR CRIMES OF VIOLENCE.

(a) PROSECUTION AS ADULTS.—The 4th undesignated paragraph of section 5032 of title 18, United States Code, is amended by striking "; however" and inserting ". In the application of the preceding sentence, if the crime of violence is an offense under section 113(a), 113(b), 113(c), 1111, 1113, or, if the juvenile possessed a firearm during the offense, section 2111, 2113, 2241(a), or 2241(c) of this title, 'thirteen' shall be substituted for 'fifteen' and 'thirteenth' shall be substituted for 'fifteenth'. Notwithstanding sections 1152 and 1153 of this title, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to the preceding sentence for any offense the Federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 of this title, and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has elected that the preceding sentence have effect over land and persons subject to its criminal jurisdiction. However".

(b) FEDERAL PRIORITY IN DEALING WITH CERTAIN CRIMES.—The first undesignated paragraph of section 5032 of title 18, United States Code, is amended by inserting " or an offense that is a crime of violence under section 113(a), 113(b), 113(c), 1111, 1113, or if the juvenile possessed a firearm during the offense, section 2111, 2113, 2241(a), or 2241(c) of this title" after "not exceed six months".

SEC. 1102. COMMENCEMENT OF JUVENILE PROCEEDING.

Section 5032 of title 18, United States Code, is amended by striking "Any proceedings against a juvenile under this chapter or as an adult shall not be commenced until" and inserting "A juvenile shall not be transferred to adult prosecution nor shall a hearing be held under section 5037 (disposition after a finding of juvenile delinquency) until".

SEC. 1103. SEPARATION OF JUVENILE FROM ADULT OFFENDERS.

Section 5039 of title 18, United States Code, is amended by inserting ", whether pursuant to an adjudication of delinquency or conviction for an offense," after "committed" the first place it appears.

TITLE XII—CHILD SEXUAL ABUSE PREVENTION ACT OF 1994

SEC. 1201. PENALTIES FOR INTERNATIONAL TRAFFICKING IN CHILD PORNOGRAPHY.

(a) IMPORT RELATED OFFENSE.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following new section:

"§2259. Production of sexually explicit depictions of a minor for importation into the United States

"(a) USE OF MINOR.—A person who, outside the United States, employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor with the intent that the minor engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, intending that the visual depiction will be imported into the United States or into waters within 12 miles of the coast of the United States, shall be punished as provided in subsection (c).

"(b) USE OF VISUAL DEPICTION.—A person who, outside the United States, knowingly receives, transports, ships, distributes, sells, or possesses with intent to transport, ship, sell, or distribute any visual depiction of a minor engaging in sexually explicit conduct (if the production of the visual depiction involved the use of a minor engaging in sexually explicit conduct), intending that the visual depiction will be imported into the United States or into waters within a distance of 12 miles of the coast of the United States, shall be punished as provided in subsection (c).

"(c) PENALTIES.—A person who violates subsection (a) or (b), or conspires or attempts to do so—

"(1) shall be fined under this title, imprisoned not more than 10 years, or both; and

"(2) if the person has a prior conviction under this chapter or chapter 109A, shall be fined under this title, imprisoned not more than 20 years, or both.".

(b) TECHNICAL AMENDMENT.—

(1) CHAPTER ANALYSIS.—The table of sections at the beginning of chapter 110 of title 18, United States Code, is amended by adding at the end the following new item:

"2259. Production of sexually explicit depictions of a minor for importation into the United States.".

(2) FINE PROVISIONS.—Section 2251(d) of title 18, United States Code, is amended—

(A) by striking "not more than $100,000, or" and inserting "under this title,";

(B) by striking "not more than $200,000, or" and inserting "under this title,"; and

(C) by striking "not more than $250,000" and inserting "under this title".

(c) SECTION 2251 PENALTY ENHANCEMENT.—Section 2251(d) of title 18, United States Code, is amended by striking "this section" the second place it appears and inserting "this chapter or chapter 109A".

(d) SECTION 2252 PENALTY ENHANCEMENT.—Section 2252(b)(1) of title 18, United States Code, is amended by striking "this section" and inserting "this chapter or chapter 109A".

(e) CONSPIRACY AND ATTEMPT.—Sections 2251(d) and 2252(b) of title 18, United States Code, are each amended by inserting ", or attempts or conspires to violate," after "violates" each place it appears.

(f) RICO AMENDMENT.—Section 1961(1) of title 18, United States Code, is amended by striking "2251–2252" and inserting "2251, 2252, and 2259".

(g) TRANSPORTATION OF MINORS.—Chapter 117 of title 18, United States Code, is amended—

(1) by adding at the end the following new section:

"§2425. Travel with intent to engage in a sexual act with a juvenile

"A person who travels in interstate commerce, or conspires to do so, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, or conspires to do so, for the purpose of engaging in any sexual act (as defined in section 2245) with a person under 18 years of age that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States shall be fined under this title, imprisoned not more than 10 years, or both."; and

(2) in the table of sections at the beginning, by adding at the end the following new item:

"2425. Travel with intent to engage in a sexual act with a juvenile.".

SEC. 1202. SENSE OF CONGRESS CONCERNING STATE LEGISLATION REGARDING CHILD PORNOGRAPHY.

It is the sense of the Congress that each State that has not yet done so should enact legislation prohibiting the production, distribution, receipt, or simple possession of materials depicting a person under 18 years of age engaging in sexually explicit conduct (as defined in section 2256 of title 18, United States Code) and providing for a maximum imprisonment of at least 1 year and for the forfeiture of assets used in the commission or support of, or gained from, such offenses.

TITLE XIII—JACOB WETTERLING CRIMES AGAINST CHILDREN REGISTRATION ACT

SEC. 1301. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—

(1) STATE GUIDELINES.—The Attorney General shall establish guidelines for State programs requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, or being placed on parole, supervised release, or probation.

(2) DEFINITION.—For purposes of this subsection, the term "criminal offense against a victim who is a minor" means any criminal offense that consists of—

(A) kidnapping of a minor, except by a parent;

(B) false imprisonment of a minor, except by a parent;

(C) criminal sexual conduct toward a minor;

(D) solicitation of a minor to engage in sexual conduct;

(E) use of a minor in a sexual performance;

(F) solicitation of a minor to practice prostitution;

(G) any conduct that by its nature is a sexual offense against a minor; or

(H) an attempt to commit an offense described in any of subparagraphs (A) through (G) of this paragraph, if the State—

(i) makes such an attempt a criminal offense; and

(ii) chooses to include such an offense in those which are criminal offenses against a victim who is a minor for the purposes of this section.

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, SUPERVISED RELEASE, OR PROBATION.—An approved State registration program established under this section shall contain the following requirements:

(1) DUTY OF STATE PRISON OFFICIAL OR COURT.—If a person who is required to register under this section is released from prison, or placed on parole, supervised release, or probation, a State prison officer, or in the case of probation, the court, shall—

(A) inform the person of the duty to register and obtain the information required for such registration;

(B) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(C) inform the person that if the person changes residence to another State, the person shall register the new address with the law enforcement agency with whom the person last registered, and the person is also required to register with a designated law enforcement agency in the new State not later than 10 days after establishing residence in the new State, if the new State has a registration requirement;

(D) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(E) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(2) TRANSFER OF INFORMATION TO STATE AND THE F.B.I.—The officer, or in the case of a person placed on probation, the court, shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit the conviction data and fingerprints to the Federal Bureau of Investigation.

(3) ANNUAL VERIFICATION.—On each anniversary of a person's initial registration date during the period in which the person is required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the designated State law enforcement agency. If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the person shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(4) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—Any change of address by a person required to register under this section reported to the designated State law enforcement agency shall immediately be reported to the appropriate law enforcement agency having jurisdiction where the person is residing. The designated law enforcement agency shall, if the person changes residence to another State, notify the person of the law enforcement agency with which the person must register in the new State, if the new State has a registration requirement.

(5) PRIVACY OF DATA.—The information collected under a State registration program shall be treated as private data on individuals and may be disclosed only to law enforcement agencies for investigative purposes or to government agencies conducting confidential background checks with fingerprints on applicants for child care positions or other positions involving contact with children.

(c) REGISTRATION FOR CHANGE OF ADDRESS TO ANOTHER STATE.—A person who has been convicted of an offense which triggered registration in a State shall register the new address with a designated law enforcement agency in another State to which the person moves not later than 10 days after such person establishes residence in the new State, if the new State has a registration requirement.

(d) REGISTRATION FOR 10 YEARS.—A person required to register under this section shall continue to comply with this section until 10 years have elapsed since the person was released from prison, or placed on parole, supervised release, or probation.

(e) PENALTY.—A person required to register under a State program established pursuant to this section who knowingly fails to so register and keep such registration current shall be subject to criminal penalties in any State in which the person has so failed.

(f) COMPLIANCE.—

(1) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this Act in which to implement this section.

(2) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with the guidelines issued under this section 3 years after the date of enactment of this Act may be reduced by 10 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

TITLE XIV—COMMUNITY POLICING

SEC. 1401. COMMUNITY POLICING; "COPS ON THE BEAT".

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after part W (as added by section 2301(a)) the following new part:

"PART X—PUBLIC SAFETY AND COMMUNITY POLICING; 'COPS ON THE BEAT'

"SEC. 2401. AUTHORITY TO MAKE PUBLIC SAFETY AND COMMUNITY POLICING GRANTS.

"(a) GRANT AUTHORIZATION.—The Attorney General is authorized to make grants to States and units of local government, and to other public and private entities, to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety.

"(b) REHIRING AND HIRING GRANT PROJECTS.—Grants made under the authority of subsection (a) of this section may be used for programs, projects, and other activities to—

"(1) rehire law enforcement officers who have been laid off as a result of State and local budget reductions for deployment in community-oriented policing; and

"(2) hire and train new, additional career law enforcement officers (including cadets and trainees) for deployment in community-oriented policing across the Nation.

"(c) ADDITIONAL GRANT PROJECTS.—Grants made under the authority of subsection (a) of this section also may include programs, projects, and other activities to—

"(1) increase the number of law enforcement officers involved in activities that are focused on interaction with members of the community on proactive crime control and prevention by redeploying officers to such activities;

"(2) provide specialized training to law enforcement officers to enhance their conflict resolution, mediation, problem solving, service, and other skills needed to work in partnership with members of the community;

"(3) increase police participation in multidisciplinary early intervention teams;

"(4) develop new technologies to assist State and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime;

"(5) develop and implement innovative programs to permit members of the community to assist State and local law enforcement agencies in the prevention of crime in the community;

"(6) establish innovative programs to reduce, and keep to a minimum, the amount of time that law enforcement officers must be away from the community while awaiting court appearances;

"(7) establish and implement innovative programs to increase and enhance proactive crime control and prevention programs involving law enforcement officers and young persons in the community;

"(8) develop and establish new administrative and managerial systems to facilitate the adoption of community-oriented policing as an organization-wide philosophy; and

"(9) establish, implement, and coordinate crime prevention and control programs (involving law enforcement officers working with community members) with other existing Federal programs that serve the community and community members to better address the comprehensive needs of such community and its members.

“*(d) Preferential Consideration of Applications for Certain Grants.—In awarding grants under this part, the Attorney General may give preferential consideration to grants for hiring and rehiring additional career law enforcement officers that involve a non-Federal contribution exceeding the 25 percent minimum under subsection (h) of this section.*

“*(e) Technical Assistance.—(1) The Attorney General may provide technical assistance to States and units of local government, and to other public and private entities, in furtherance of the purposes of this part.*

“*(2) The technical assistance provided by the Attorney General may include the development of a flexible model that will define for States and units of local government, and other public and private entities, definitions and strategies associated with community or problem-oriented policing and methodologies for its implementation.*

“*(3) The technical assistance provided by the Attorney General may include the establishment and operation of training centers or facilities, either directly or by contracting or cooperative arrangements. The functions of the centers or facilities established under this paragraph may include instruction and seminars for police executives, managers, trainers, and supervisors concerning community or problem-oriented policing and improvements in police-community interaction and cooperation that further the purposes of this part.*

“*(f) Utilization of Department of Justice Offices and Services.—The Attorney General may utilize any office or service of the Department of Justice in carrying out this part.*

“*(g) Minimum Amount.—Each qualifying State, together with grantees within the State, shall receive in each fiscal year pursuant to subsection (a) of this section not less than 0.25 percent of the total amount appropriated in the fiscal year for grants pursuant to such subsection. As used in this subsection, ‘qualifying State’ means any State which has submitted an application for a grant, or in which an eligible entity has submitted an application for a grant, which meets the requirements prescribed by the Attorney General and the conditions set out in this part.*

“*(h) Matching Funds.—The portion of the costs of a program, project, or activity provided by a grant under subsection (a) of this section may not exceed 75 percent, unless the Attorney General waives, wholly or in part, the requirement under this subsection of a non-Federal contribution to the costs of a program, project, or activity. In relation to a grant for a period exceeding one year for hiring or re-hiring career law enforcement officers, the Federal share shall decrease from year to year, looking towards the continuation of the increased hiring level using State or local sources of funding following the conclusion of Federal support, as provided in an approved plan pursuant to section 2402(c)(8) of this part.*

“*(i) Allocation of Funds.—The funds available under this part shall be allocated as provided in section 1001(a)(19)(B) of this title.*

“*(j) Termination of Grants for Hiring Officers.—The authority under subsection (a) of this section to make grants for the hiring and rehiring of additional career law enforcement officers shall lapse at the conclusion of six years from the date of enactment of this part. Prior to the expiration of this grant authority, the Attorney General shall submit a report to Congress concerning the experience with and effects of such grants. The report may include any recommendations the Attorney General may have for amendments to this part and related provisions of law in light of the termination of the authority to make grants for the hiring and rehiring of additional career law enforcement officers.*

“SEC. 2402. APPLICATIONS.

“*(a) In General.—No grant may be made under this part unless an application has been submitted to, and approved by, the Attorney General.*

“*(b) Form and Content of Application.—An application for a grant under this part shall be submitted in such form, and contain such information, as the Attorney General may prescribe by regulation or guidelines.*

“*(c) Compliance With Regulations or Guidelines.—In accordance with the regulations or guidelines established by the Attorney General, each application for a grant under this part shall—*

“*(1) include a long-term strategy and detailed implementation plan that reflects consultation with community groups and appropriate private and public agencies and reflects consideration of the statewide strategy under section 503(a)(1) of this part;*

“*(2) demonstrate a specific public safety need;*

“*(3) explain the locality's inability to address the need without Federal assistance;*

“*(4) identify related governmental and community initiatives which complement or will be coordinated with the proposal;*

“*(5) certify that there has been appropriate coordination with all affected agencies;*

“*(6) outline the initial and ongoing level of community support for implementing the proposal including financial and in-kind contributions or other tangible commitments;*

“*(7) specify plans for obtaining necessary support and continuing the proposed program, project, or activity following the conclusion of Federal support; and*

“*(8) if the application is for a grant for hiring or rehiring additional career law enforcement officers—*

“*(A) specify plans for the assumption by the grantee of a progressively larger share of the cost in the course of time, looking towards the continuation of the increased hiring level using State or local sources of funding following the conclusion of Federal support;*

“*(B) assess the impact, if any, of the increase in police resources on other components of the criminal justice system;*

“*(C) explain how the grant will be utilized to re-orient the affected law enforcement agency's mission towards community-oriented policing or enhance its involvement in or commitment to community-oriented policing; and*

“*(D) ensure that, to the extent practicable, grantees seek and recruit members of racial, ethnic, and gender minority groups whose representation in the law enforcement agency for which funds are sought is less than in the general population qualified for such employment in such jurisdiction.*

“SEC. 2403. REVIEW OF APPLICATIONS BY STATE OFFICE.

“*(a) In General.—Except as provided in subsection (c) or (d), an applicant for a grant under this part shall submit an application to the State office designated under section 507 of this title in the State in which the applicant is located for initial review.*

“*(b) Initial Review of Application.—The State office referred to in subsection (a) of this section shall review applications for grants under this part submitted to it, based upon criteria specified by the Attorney General by regulation or guidelines, and rank such applications based upon the criteria specified by the Attorney General. The State office referred to in subsection (a) of this section shall submit the list along with all grant applications and supporting materials received to the Attorney General.*

“*(c) Direct Application to the Attorney General by Certain Municipalities.—Notwithstanding subsection (a) of this section, municipalities whose population exceeds 100,000 may submit an application for a grant under this part directly to the Attorney General. For purposes of this subsection, ‘municipalities whose population exceeds 100,000’ means units of local government or law enforcement agencies having jurisdiction over areas with populations exceeding 100,000, and consortia or associations that include one or more such units of local government or law enforcement agencies.*

“*(d) Direct Application to the Attorney General by Other Applicants.—Notwithstanding subsection (a) of this section, if a State chooses not to carry out the functions described in subsection (b) of this section, an applicant in the State may submit an application for a grant under this part directly to the Attorney General.*

“SEC. 2404. RENEWAL OF GRANTS.

“*(a) In General.—Except for grants made for hiring or rehiring additional career law enforcement officers, a grant under this part may be renewed for up to two additional years after the first fiscal year during which a recipient receives its initial grant if the Attorney General determines that the funds made available to the recipient were used in a manner required under an approved application and if the recipient can demonstrate significant progress in achieving the objectives of the initial application.*

“*(b) Grants for Hiring.—Grants made for hiring or rehiring additional career law enforcement officers may be renewed for up to five years, subject to the requirements of subsection (a) of this section, but notwithstanding the limitation in that subsection concerning the number of years for which grants may be renewed.*

“*(c) Multi-Year Grants.—A grant for a period exceeding one year may be renewed as provided in this section, except that the total duration of such a grant including any renewals may not exceed three years, or six years if it is a grant made for hiring or rehiring additional career law enforcement officers.*

“SEC. 2405. LIMITATION ON USE OF FUNDS.

“*(a) Non-Supplanting Requirement.—Funds made available under this part to States or units of local government shall not be used to supplant State or local funds, but will be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State or local sources.*

“*(b) Administrative Costs.—No more than 5 percent of the funds available under this part may be used for the costs of States in carrying out the functions described in section 2403(b) or other administrative costs.*

“*(c) Non-Federal Costs.—States and units of local government may use assets received through the assets forfeiture equitable sharing program to cover the non-Federal portion of programs, projects, and activities funded under this part.*

“*(d) Hiring Costs.—Funding provided under this part for hiring or rehiring a career law enforcement officer may not exceed $75,000, unless the Attorney General grants a waiver from this limitation.*

“SEC. 2406. PERFORMANCE EVALUATION.

“*(a) Evaluation Components.—*

“*(1) Each program, project, or activity funded under this part shall contain an evaluation component, developed pursuant to guidelines established by the Attorney General.*

“*(2) The evaluations required by paragraph (1) shall include outcome measures that can be used to determine the effectiveness of the funded programs, projects, activities and a description of the geographic dispersion, and racial, ethnic, and gender diversity of rehired and new employees. Outcome measures may include crime and victimization indicators, quality of life measures, community perceptions, and police perceptions of their own work.*

"(b) Periodic Review and Reports.—The Attorney General shall review the performance of each grant recipient under this part. The Attorney General may require a grant recipient to submit to the Attorney General the results of the evaluations required under subsection (a) and such other data and information as the Attorney General deems reasonably necessary to carry out the responsibilities under this subsection.

"SEC. 2407. REVOCATION OR SUSPENSION OF FUNDING.

"If the Attorney General determines, as a result of the reviews required by section 2406 of this part, or otherwise, that a grant recipient under this part is not in substantial compliance with the terms and requirements of an approved grant application submitted under section 2402 of this part, the Attorney General may revoke or suspend funding of that grant, in whole or in part.

"SEC. 2408. ACCESS TO DOCUMENTS.

"(a) By the Attorney General.—The Attorney General shall have access for the purpose of audit and examination to any pertinent books, documents, papers, or records of a grant recipient under this part, as well as the pertinent books, documents, papers, or records of States and units of local government, persons, businesses, and other entities that are involved in programs, projects, or activities for which assistance is provided under this part.

"(b) By the Comptroller General.—The provisions of subsection (a) of this section shall also apply with respect to audits and examinations conducted by the Comptroller General of the United States or by an authorized representative of the Comptroller General.

"SEC. 2409. GENERAL REGULATORY AUTHORITY.

"The Attorney General is authorized to promulgate regulations and guidelines to carry out this part.

"SEC. 2410. DEFINITION.

"For the purposes of this part, the term 'career law enforcement officer' means a person hired on a permanent basis who is authorized by law or by a State or local public agency to engage in or supervise the prevention, detection, or investigation of violations of criminal laws.".

(b) Technical Amendment.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711, et seq.) is amended by inserting after the matter relating to part W (as added by section 2301(b)) the following:

"Part X—Public Safety and Community Policing; 'Cops on the Beat'

"Sec. 2401. Authority to make public safety and community policing grants.
"Sec. 2402. Applications.
"Sec. 2403. Review of applications by State office.
"Sec. 2404. Renewal of grants.
"Sec. 2405. Limitation on use of funds.
"Sec. 2406. Performance evaluation.
"Sec. 2407. Revocation or suspension of funding.
"Sec. 2408. Access to documents.
"Sec. 2409. General regulatory authority.
"Sec. 2410. Definition.".

SEC. 1402. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) in paragraph (3) by striking "and O." and inserting "O, P, Q, R, S, T, U, V, W, and X."; and

(2) by adding after paragraph (18) (as added by section 2302) the following:

"(19)(A) There are authorized to be appropriated to carry out part X, to remain available until expended, $200,000,000 for fiscal year 1994 and $650,000,000 for each of the fiscal years 1995, 1996, 1997, 1998, and 1999.

"(B) Of funds available under part X in any fiscal year, up to 5 percent may be used for technical assistance under section 2401(e) or for evaluations or studies carried out or commissioned by the Attorney General in furtherance of the purposes of part X, and up to 5 percent may be used for the costs of States in carrying out the functions described in section 2403(b) or other administrative costs. Of the remaining funds, 50 percent shall be allocated for grants pursuant to applications submitted as provided in section 2403(a) or (d), and 50 percent shall be allocated for grants pursuant to applications submitted as provided in section 2403(c). Of the funds available in relation to grants pursuant to applications submitted as provided in section 2403(a) or (d), at least 85 percent shall be applied to grants for the purposes specified in section 2401(b), and no more than 15 percent may be applied to other grants in furtherance of the purposes of part X. Of the funds available in relation to grants pursuant to applications submitted as provided in section 2403(c), at least 85 percent shall be applied to grants for the purposes specified in section 2401(b), and no more than 15 percent may be applied to other grants in furtherance of the purposes of part X.

"(C) Notwithstanding the provisions of section 2403, no funds allocated for grants pursuant to applications submitted as provided under subsections (a) or (d) of section 2403 shall be allocated for grants to a municipality (as defined in section 2403(c)).".

TITLE XV—DNA IDENTIFICATION

SEC. 1501. SHORT TITLE.

This title may be cited as the "DNA Identification Act of 1994".

SEC. 1502. FUNDING TO IMPROVE THE QUALITY AND AVAILABILITY OF DNA ANALYSES FOR LAW ENFORCEMENT IDENTIFICATION PURPOSES.

(a) Drug Control and System Improvement Grant Program.—Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) is amended—

(1) in paragraph (20) by striking "and" at the end,

(2) in paragraph (21) by striking the period at the end and inserting a semicolon, and

(3) by adding at the end the following:

"(22) developing or improving in a forensic laboratory a capability to analyze deoxyribonucleic acid (hereinafter in this title referred to as 'DNA') for identification purposes; and".

(b) State Applications.—Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end thereof the following new paragraph:

"(12) If any part of a grant made under this part is to be used to develop or improve a DNA analysis capability in a forensic laboratory, a certification that—

"(A) DNA analyses performed at such laboratory will satisfy or exceed then current standards for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 3 of the DNA Identification Act of 1994;

"(B) DNA samples obtained by, and DNA analyses performed at, such laboratory will be accessible only—

"(i) to criminal justice agencies for law enforcement identification purposes;

"(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged; or

"(iii) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes; and

"(C) such laboratory, and each analyst performing DNA analyses at such laboratory, will undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 3 of the DNA Identification Act of 1994.".

(c) Authorization of Appropriations.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by adding at the end the following:

"(11) There are authorized to be appropriated for each of the fiscal years 1994 through 1998 $10,000,000 for grants to the States for DNA analysis.".

SEC. 1503. QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.

(a) Publication of Quality Assurance and Proficiency Testing Standards.—(1) Not later than 180 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation shall appoint an advisory board on DNA quality assurance methods. The Director shall appoint members of the board from among nominations proposed by the head of the National Academy of Sciences and professional societies of crime laboratory officials. The advisory board shall include as members scientists from State and local forensic laboratories, molecular geneticists and population geneticists not affiliated with a forensic laboratory, and a representative from the National Institute of Standards and Technology. The advisory board shall develop, and if appropriate, periodically revise, recommended standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(2) The Director of the Federal Bureau of Investigation, after taking into consideration such recommended standards, shall issue (and revise from time to time) standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(3) The standards described in paragraphs (1) and (2) shall specify criteria for quality assurance and proficiency tests to be applied to the various types of DNA analyses used by forensic laboratories. The standards shall also include a system for grading proficiency testing performance to determine whether a laboratory is performing acceptably.

(4) Until such time as the advisory board has made recommendations to the Director of the Federal Bureau of Investigation and the Director has acted upon those recommendations, the quality assurance guidelines adopted by the technical working group on DNA analysis methods shall be deemed the Director's standards for purposes of this section.

(b) Administration of the Advisory Board.—For administrative purposes, the advisory board appointed under subsection (a) shall be considered an advisory board to the Director of the Federal Bureau of Investigation. Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the advisory board appointed under subsection (a). The board shall cease to exist on the date 5 years after the initial appointments are made to the board, unless the existence of the board is extended by the Director of the Federal Bureau of Investigation.

SEC. 1504. INDEX TO FACILITATE LAW ENFORCEMENT EXCHANGE OF DNA IDENTIFICATION INFORMATION.

(a) In General.—The Director of the Federal Bureau of Investigation may establish an index of—

(1) DNA identification records of persons convicted of crimes;

(2) analyses of DNA samples recovered from crime scenes; and

(3) analyses of DNA samples recovered from unidentified human remains.

(b) CONTENT OF INDEX.—Such index may include only information on DNA identification records and DNA analyses that are—

(1) based on analyses performed in accordance with publicly available standards that satisfy or exceed the guidelines for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 3 of the DNA Identification Act of 1994;

(2) prepared by laboratories, and DNA analysts, that undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 3 of the DNA Identification Act of 1994; and

(3) maintained by Federal, State, and local criminal justice agencies pursuant to rules that allow disclosure of stored DNA samples and DNA analyses only—

(A) to criminal justice agencies for law enforcement identification purposes;

(B) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged; or

(C) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(c) EXCHANGE SUBJECT TO CANCELLATION.—The exchange of records authorized by this section is subject to cancellation if the quality control and privacy requirements described in subsection (b) of this section are not met.

SEC. 1505. FEDERAL BUREAU OF INVESTIGATION.

(a) PROFICIENCY TESTING REQUIREMENTS.—

(1) GENERALLY.—Personnel at the Federal Bureau of Investigation who perform DNA analyses shall undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 3(a). Within one year of the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall arrange for periodic blind external tests to determine the proficiency of DNA analysis performed at the Federal Bureau of Investigation laboratory. As used in this paragraph, the term "blind external test" means a test that is presented to the laboratory through a second agency and appears to the analysts to involve routine evidence.

(2) REPORT.—For five years after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committees on the Judiciary of the House and Senate an annual report on the results of each of the tests referred to in paragraph (1).

(b) PRIVACY PROTECTION STANDARDS.—

(1) GENERALLY.—Except as provided in paragraph (2), the results of DNA tests performed for a Federal law enforcement agency for law enforcement purposes may be disclosed only—

(A) to criminal justice agencies for law enforcement identification purposes; or

(B) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged.

(2) EXCEPTION.—If personally identifiable information is removed, test results may be disclosed for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(c) CRIMINAL PENALTY.—(1) Whoever—

(A) by virtue of employment or official position, has possession of, or access to, individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency; and

(B) willfully discloses such information in any manner to any person or agency not entitled to receive it;

shall be fined not more than $100,000.

(2) Whoever, without authorization, willfully obtains DNA samples or individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency shall be fined not more than $100,000.

SEC. 1506. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Federal Bureau of Investigation $4,500,000 for each of fiscal years 1994 through 1998 to carry out sections 1503, 1504, and 1505 of this Act.

TITLE XVI—VIOLENCE AGAINST WOMEN

SEC. 1600. SHORT TITLE.

This title may be cited as the "Violence Against Women Act of 1994".

Subtitle A—Safe Streets for Women

SEC. 1601. SHORT TITLE.

This subtitle may be cited as the "Safe Streets for Women Act of 1994".

SEC. 1602. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part Q as part R;

(2) redesignating section 1701 as section 1801; and

(3) adding after part P the following new part:

"PART Q—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1701. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, and other eligible entities to develop effective law enforcement and prosecution strategies to combat violent crimes against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide funds for personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women to reduce the rate of violent crime against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to identify and respond more effectively to violent crimes against women, including crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors that specifically target violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing more effective police and prosecution policies, protocols, orders, or services specifically devoted to the prevention of, identification of, and response to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or identifying and tracking arrests, protection orders, prosecutions, and convictions for the crimes of sexual assault and domestic violence;

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, developing or improving delivery of victim services to racial, cultural, ethnic, and language minorities, providing specialized domestic violence court advocates in courts where a significant number of protective orders are granted, and increasing reporting and reducing attrition rates for cases involving violent crimes against women, including crimes of sexual assault and domestic violence; and

"(6) aiding Indian tribe grantees, exclusively, in financing the Violence Against Women Act of 1994.

"SEC. 1702. STATE GRANTS.

"(a) GENERAL GRANTS.—The Director of the Bureau of Justice Assistance (hereinafter in this part referred to as the 'Director') is authorized to make grants to States, Indian tribes, units of local government, tribal organizations, and nonprofit nongovernmental victim services programs in the States or Indian country.

"(b) APPLICATION REQUIREMENTS.—Applications shall include—

"(1) documentation from prosecution, law enforcement, and victim services programs to be assisted that demonstrates—

"(A) the need for grant funds;

"(B) the intended use of grant funds; and

"(C) the expected results;

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided pursuant to section 1603 of the Violence Against Women Act of 1994, except that Indian tribes are exempt from such requirement; and

"(3) proof of compliance with the requirements for paying filing and service fees for domestic violence cases pursuant to section 1604 of the Violence Against Women Act of 1994.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (b), an eligible entity shall be eligible for funds provided under this part by—

"(1) certifying that funds received under this part shall be used for the purposes outlined in section 1701(b);

"(2) certifying that grantees shall develop a plan, implement such plan, and otherwise consult and coordinate with nonprofit nongovernmental domestic violence and sexual assault victim services programs, law enforcement officials, victim advocates, prosecutors, and defense attorneys;

"(3) providing documentation from the individuals and groups listed under paragraph (2) regarding their participation in development of a plan and involvement in the application process, as well as how such individuals and groups will be involved in implementation of the plan;

"(4) providing assurances that the plan developed under paragraph (2) shall meet the needs of racial, cultural, ethnic, and language minority populations;

"(5) providing assurances that prosecution, law enforcement, and nonprofit nongovernmental victim services programs in the community to be served by such plan each receive an equitable percentage of any funds allocated under this part; and

"(6) providing assurances that any Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(d) DISBURSEMENT OF FUNDS.—

"(1) IN GENERAL.—Not later than 60 days after the receipt of an application under this part, the Director shall either disburse the appropriate sums provided for under this part or shall inform the applicant regarding why the application does not conform to the requirements of this section.

"(2) RESPONSIBILITY OF DIRECTOR.—In disbursing funds under this part, the Director shall issue regulations—

"(A) to distribute funds equitably on a geographic basis, including nonurban and rural areas of varying geographic size; and

"(B) give priority to areas of varying geographic size with the greatest showing of need based on the availability of existing domestic violence and sexual assault programs in the population and geographic area to be served in relation to the availability of such programs in other such populations and geographic areas.

"(e) GRANTEE REPORTING.—(1) Not later than March 31 of each year during which funds are received under this part, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of such activities in achieving the purposes of this part.

"(2) The grantee shall arrange for assessments of the grantee's program from all organizations and government entities that were involved in the design of the grant plan.

"(3) Such assessments must be sent directly to the Director by the assessing entity.

"(f) SUSPENSION OF FUNDING.—The Director shall suspend funding for an approved application if—

"(1) an applicant fails to submit an annual performance report;

"(2) funds provided under this part are expended for purposes other than those set forth under this part; or

"(3) grant reports or accompanying assessments demonstrate to the Director that the program is ineffective or financially unsound.

"SEC. 1703. GENERAL DEFINITIONS.

"For purposes of this part—

"(1) the term 'domestic violence' means crimes of violence committed against a victim by a current or former spouse of the victim, an individual with whom the victim shares a child in common, an individual who is cohabiting with or has cohabited with the victim as a spouse, an individual similarly situated to a spouse, or any other individual who is protected under domestic or family violence laws of the jurisdiction that receives a grant under this part;

"(2) the term 'eligible entity' means a State, unit of local government, Indian tribe, and a nonprofit, nongovernmental victims services program;

"(3) the term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians;

"(4) the term 'Indian country' has the meaning given to such term by section 1151 of title 18, United States Code;

"(5) the term 'sexual assault' means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison and includes both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known or related by blood or marriage to the victim; and

"(6) the term 'victim services program' means a nongovernmental nonprofit program that assists domestic violence or sexual assault victims, including nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, and other sexual assault and domestic violence programs, including nonprofit nongovernmental organizations assisting domestic violence and sexual assault victims through the legal process.

"SEC. 1704. GENERAL TERMS AND CONDITIONS.

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under section 1702, the Attorney General may request any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) to support State, tribal, and local assistance efforts under this part.

"(b) BUREAU REPORTING.—Not later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Congress a report that includes, for each State and Indian tribe—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which grants were provided and an evaluation of progress; and

"(3) an evaluation of the effectiveness of programs established with funds under this part.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), is amended by adding at the end the following:

"(12) There are authorized to be appropriated for each of the fiscal years 1994 and 1995, $200,000,000 to carry out the purposes of part Q, with not less than 8 percent of such appropriation allotted specifically for Indian tribes.".

(c) ADMINISTRATIVE PROVISIONS.—(1) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "and O" and inserting "O, Q,".

(2) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "or O" and inserting "O, Q,".

(d) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part Q and inserting the following:

"PART Q—GRANT TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"Sec. 1701. Purpose of the program and grants.
"Sec. 1702. State grants.
"Sec. 1703. General definitions.
"Sec. 1704. General terms and conditions.

"PART R—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings.".

SEC. 1603. RAPE EXAM PAYMENTS.

(a) RESTRICTION OF FUNDS.—No State is entitled to funds under this title unless the State incurs the full out of pocket cost of forensic medical exams described in subsection (b) for victims of sexual assault.

(b) MEDICAL COSTS.—A State shall be deemed to incur the full out of pocket cost of forensic medical exams for victims of sexual assault if such State—

(1) provides such exams to victims free of charge to the victim;

(2) arranges for victims to obtain such exams free of charge to the victims; or

(3) reimburses victims for the cost of such exams, if—

(A) the reimbursement covers the full cost of such exams, without any deductible requirement or limit on the amount of a reimbursement;

(B) the State permits victims to apply to the State for reimbursement for not less than one year from the date of the exam;

(C) the State provides reimbursement not later than 90 days after written notification of the victim's expense; and

(D) the State provides information at the time of the exam to all victims, including victims with limited or no English proficiency, regarding how to obtain reimbursement.

SEC. 1604. FILING COSTS FOR CRIMINAL CHARGES.

No State is entitled to funds under this title unless the State certifies that their laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the abused bear the costs associated with the filing of criminal charges against the domestic violence offender, or that the abused bear the costs associated with the issuance or service of a warrant, protection order, or witness subpoena.

SEC. 1605. EQUITABLE TREATMENT OF RAPE CASES.

No State is entitled to funds under this title unless the State can certify that its laws and policies treat sex offenses committed by offenders who are known to, cohabitants of, social companions of, or related by blood or marriage to, the victim no less severely than sex offenses committed by offenders who are strangers to the victim.

SEC. 1606. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1602, is further amended by—

(1) redesignating part R as part S;

(2) redesignating section 1801 as section 1901; and

(3) adding after part Q the following new part:

"PART R—RAPE PREVENTION PROGRAMS

"SEC. 1801. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') is authorized to make grants—

"(1) to provide educational seminars, particularly developed with emphasis on seminars for elementary and secondary school age children, designed to develop an awareness of what acts meet the legal definition of rape;

"(2) to provide programs for elementary and secondary school age children that teach nonviolent conflict resolution, self defense, or other relevant skills;

"(3) to operate telephone hotlines for callers with questions regarding sexual assault and rape;

"(4) to design and disseminate training programs for professionals, including the development and dissemination of protocols for the routine identification, treatment, and appropriate referral of victims of sexual assault by hospital emergency personnel and other professionals;

"(5) to develop treatment programs for convicted sex offenders and make such programs available to the local community and to Federal and State prisons;

"(6) to prepare and disseminate informational materials designed to educate the community regarding sexual assault and prevention; and

"(7) to develop other projects to increase awareness and prevention of sexual assault, including efforts to increase awareness of sexual assault prevention among racial, ethnic, cultural and language minorities.

"SEC. 1802. APPLICATIONS.

"(a) IN GENERAL.—To be eligible to receive a grant under this part, a duly authorized representative of an eligible entity shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) ASSURANCES.—Each application must contain an assurance that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(c) REQUIRED PLAN.—Each application shall include a plan that contains—

"(1) a description of the projects to be developed;

"(2) a description of how funds would be spent;

"(3) a statement of staff qualifications and demonstrated expertise in the field of rape prevention and education; and

"(4) a statement regarding the ability to serve community needs and language minority populations in providing ethnically and culturally and linguistically appropriate programs where necessary.

"SEC. 1803. REPORTS.

"(a) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, each grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of such activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(b) BUREAU REPORTING.—Not later than 180 days after the end of each fiscal year for which grants are made under this subpart, the Director shall submit to the Congress a report that includes, for each grantee—

"(1) the amount of grants made under this subpart;

"(2) a summary of the purposes for which grants were provided and an evaluation of progress; and

"(3) an evaluation of the effectiveness of programs established with funds under this part.

"SEC. 1804. DEFINITIONS.

"For purposes of this part—

"(1) the term 'eligible entity' means a nonprofit, nongovernmental organization that directly serves or provides advocacy on behalf of victims of rape or sexual assault; and

"(2) the term 'sexual assault prevention and education' means education and prevention efforts directed at reducing the number of sexual assaults.".

(b) AUTHORIZATION OF APPROPRIATION.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), is amended by adding at the end the following:

"(13) There are authorized to be appropriated to carry out the purposes of part R, $60,000,000 for fiscal year 1994, $75,000,000 for fiscal year 1995, and $100,000,000 for fiscal year 1996.".

(c) ADMINISTRATIVE PROVISIONS.—(1) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 1602 of this Act, is amended by striking "O, and Q" and inserting "O, Q, and R".

(2) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 1602 of this Act, is amended by striking "O, or Q" and inserting "O, Q, or R".

(d) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1602, is amended by striking the matter relating to part R and inserting the following:

"PART R—RAPE PREVENTION PROGRAMS

"Sec. 1801. Grant authorization.
"Sec. 1802. Applications.
"Sec. 1803. Reports.
"Sec. 1804. Definitions.

"PART S—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1901. Continuation of rules, authorities, and proceedings.".

SEC. 1607. NATIONAL INSTITUTE OF JUSTICE TRAINING PROGRAMS.

(a) IN GENERAL.—The National Institute of Justice, after consultation with victim advocates and individuals who have expertise in treating sex offenders, shall establish criteria and develop training programs to assist probation and parole officers and other personnel who work with released sex offenders in the areas of—

(1) case management;

(2) supervision; and

(3) relapse prevention.

(b) TRAINING PROGRAMS.—The Director of the National Institute of Justice shall attempt, to the extent practicable, to make training programs developed under subsection (a) available in geographically diverse locations throughout the country.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 for each of the fiscal years 1994 and 1995 to carry out the provisions of this section.

SEC. 1608. INFORMATION PROGRAMS.

The Attorney General shall compile information regarding sex offender treatment programs and ensure that information regarding community treatment programs in the community into which a convicted sex offender is released is made available to each person serving a sentence of imprisonment in a Federal penal or correctional institution for a commission of an offense under chapter 109A of title 18 of the United States Code or for the commission of a similar offense, including halfway houses and psychiatric institutions.

SEC. 1609. VICTIM COMPENSATION.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following new section:

"§2247. Mandatory restitution for sex offenses

"(a) IN GENERAL.—Notwithstanding section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) IN GENERAL.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (3) of this subsection; and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) DEFINITIONS.—As used in this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order;

"(E) temporary housing;

"(F) transportation;

"(G) necessary child care;

"(H) language translation services; and

"(I) any other losses suffered by the victim as a proximate result of the offense.

"(3) MANDATORY NATURE OF ORDER.—(A) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(B) Subparagraph (A) of this paragraph does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(4) CONSIDERATION OF ECONOMIC CIRCUMSTANCES.—

"(A) IN GENERAL.—Notwithstanding paragraph (3) of this subsection, the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(B) LUMP-SUM OR PARTIAL PAYMENT.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(5) SETOFF.—Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—

"(1) IN GENERAL.—Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or delegate), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or delegate) shall advise the victim that the victim may file a separate affidavit.

"(2) OBJECTIONS.—If, after notifying the defendant of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) of this subsection shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or such Attorney's delegate) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) ADDITIONAL DOCUMENTATION AND TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section, shall be maintained to the greatest extent possible.

"(4) FINAL DETERMINATION OF LOSSES.—In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1) of this section, the United States Attorney (or delegate) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 109A of title 18, United States Code, is amended by adding at the end the following:

"2247. Mandatory restitution for sex offenses.".

SEC. 1610. CAMPUS SEXUAL ASSAULT STUDY.

(a) STUDY.—The Attorney General shall provide for a national baseline study to examine the scope of the problem of campus sexual assaults and the effectiveness of institutional and legal policies in addressing such crimes and protecting victims. The Attorney General may utilize the Bureau of Justice Statistics, the Na-

tional Institute of Justice, and the Office for Victims of Crime in carrying out this section.

(b) REPORT.—Based on the study required by subsection (a), the Attorney General shall prepare a report including an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of campus sexual assaults, and to whom the allegations are reported (including authorities of the educational institution, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to authorities of educational institutions which are reported to criminal authorities;

(3) the number of campus sexual assault allegations that result in criminal prosecution in comparison with the number of noncampus sexual assault allegations that result in criminal prosecution;

(4) Federal and State laws or regulations pertaining specifically to campus sexual assaults;

(5) the adequacy of policies and practices of educational institutions in addressing campus sexual assaults and protecting victims, including consideration of—

(A) the security measures in effect at educational institutions, such as utilization of campus police and security guards, control over access to grounds and buildings, supervision of student activities and student living arrangements, control over the consumption of alcohol by students, lighting, and the availability of escort services;

(B) the articulation and communication to students of the institution's policies concerning sexual assaults;

(C) policies and practices that may prevent or discourage the reporting of campus sexual assaults to local criminal authorities, or that may otherwise obstruct justice or interfere with the prosecution of perpetrators of campus sexual assaults;

(D) the nature and availability of victim services for victims of campus sexual assaults;

(E) the ability of educational institutions' disciplinary processes to address allegations of sexual assault adequately and fairly;

(F) measures that are taken to ensure that victims are free of unwanted contact with alleged assailants, and disciplinary sanctions that are imposed when a sexual assault is determined to have occurred; and

(G) the grounds on which educational institutions are subject to lawsuits based on campus sexual assaults, the resolution of these cases, and measures that can be taken to avoid the likelihood of lawsuits;

(6) an assessment of the policies and practices of educational institutions that are most effective in addressing campus sexual assaults and protecting victims, including policies and practices relating to the particular issues described in paragraph (5); and

(7) any recommendations the Attorney General may have for reforms to address campus sexual assaults and protect victims more effectively, and any other matters that the Attorney General deems relevant to the subject of the study and report required by this section.

(c) SUBMISSION OF REPORT.—The report required by subsection (b) shall be submitted to the Committees on Education and Labor and the Judiciary of the House of Representatives and the Committees on Labor and Human Resources and the Judiciary of the Senate not later than September 1, 1995.

(d) DEFINITION.—For purposes of this subtitle, "campus sexual assaults" means sexual assaults committed against or by students or employees of institutions of postsecondary education and occurring at such institutions or during activities connected with such institutions.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $200,000 to carry out the study required by this section.

Subtitle B—Safe Homes for Women

SEC. 1621. SHORT TITLE.

This subtitle may be cited as the "Safe Homes for Women Act".

SEC. 1622. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 110 the following new chapter:

"CHAPTER 110A—DOMESTIC VIOLENCE

"Sec. 2261. Interstate domestic violence.
"Sec. 2262. Violation of protection order.
"Sec. 2263. Pretrial release of defendant.
"Sec. 2264. Restitution.
"Sec. 2265. Full faith and credit given to protection orders.
"Sec. 2266. Definitions for chapter.

"§2261. Interstate domestic violence

"(a) Whoever travels across a State line or enters or leaves Indian country with the intent to contact that person's spouse or intimate partner, and in the course of that contact intentionally commits a crime of violence and thereby causes bodily injury to such spouse or intimate partner, shall be punished as provided in subsection (b) of this section.

"(b) The punishment for a violation of subsection (a) of this section is a fine under this title, or imprisonment—

"(1) for life or any term of years, if the offender murders the victim;

"(2) for not more than 20 years, if the offender causes serious bodily injury to the victim;

"(3) for not more than 10 years, if the offender uses a dangerous weapon during the offense;

"(4) as provided for the applicable conduct under chapter 109A, if the offense constitutes sexual abuse, as described under chapter 109A (without regard to whether the offense was committed in the special maritime and territorial jurisdiction of the United States or in a Federal prison); and

"(5) for not more than 5 years, in any other case;

or both such fine and imprisonment.

"§2262. Violation of protection order

"(a) Whoever travels across a State line or enters or leaves Indian country with the intent to engage in conduct that—

"(1)(A) violates a protection order, any portion of which involves protection against credible threats of violence, repeated harassment, or bodily injury, to the person or persons for whom the protection order was issued, and—

"(B) violates that portion of such protection order; or

"(2) would violate paragraph (1) of this subsection if the conduct occurred in the jurisdiction in which such order was issued;

and does engage in such conduct shall be punished as provided in subsection (b) of this section.

"(b) The punishment for a violation of subsection (a) of this section is a fine under this title, or imprisonment—

"(1) for life or any term of years, if the offender murders the victim;

"(2) for not more than 20 years, if the offender causes serious bodily injury to the victim;

"(3) for not more than 10 years, if the offender uses a dangerous weapon during the offense;

"(4) as provided for the applicable conduct under chapter 109A, if the offense constitutes sexual abuse, as described under chapter 109A (without regard to whether the offense was committed in the special maritime and territorial jurisdiction of the United States or in a Federal prison); and

"(5) for not more than 5 years, in any other case;

or both such fine and imprisonment.

"§2263. Pretrial release of defendant

"In any proceeding pursuant to section 3142 of this title for the purpose of determining whether a defendant charged under this chapter shall be released pending trial, or for the purpose of determining conditions of such release, the alleged victim shall be given an opportunity to be heard regarding the danger posed by the defendant.

"§2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) IN GENERAL.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (3) of this subsection; and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) DEFINITION.—As used in this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order;

"(E) temporary housing;

"(F) transportation;

"(G) necessary child care;

"(H) language translation services; and

"(I) any other losses suffered by the victim as a proximate result of the offense.

"(3) MANDATORY NATURE OF ORDER.—(A) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(B) Subparagraph (A) of this paragraph does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(4) CONSIDERATION OF ECONOMIC CIRCUMSTANCES.—

"(A) IN GENERAL.—Notwithstanding paragraph (3) of this subsection, the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) LUMP-SUM OR PARTIAL PAYMENT.—An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary

obligation takes priority over any criminal fine ordered.

"(5) SETOFF.—Any amount paid to a victim under this section shall be setoff against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—

"(1) IN GENERAL.—Within 60 days after conviction and, in any event, no later than 10 days before sentencing, the United States Attorney (or such Attorney's delegate), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the delegate) shall advise the victim that the victim may file a separate affidavit and assist the victim in the preparation of that affidavit.

"(2) OBJECTIONS.—If, after notifying the defendant of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) of this subsection shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or such Attorney's delegate) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) ADDITIONAL DOCUMENTATION OR TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section, shall be maintained to the greatest extent possible.

"(4) FINAL DETERMINATION OF LOSSES.—In the event that the victim's losses are not ascertainable 10 days before sentencing as provided in paragraph (1) of this subsection, the United States Attorney (or such Attorney's delegate) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 90 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) RESTITUTION AND CRIMINAL PENALTIES.—An award of restitution to the victim of an offense under this chapter is not a substitute for imposition of punishment under this chapter.

"§2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued that is consistent with subsection (b) of this section by the court of one State or Indian tribe (the issuing State or Indian tribe) shall be accorded full faith and credit by the court of another State or Indian tribe (the enforcing State or Indian tribe) and enforced as if it were the order of the enforcing State or tribe.

"(b) PROTECTION ORDER.—A protection order issued by a State or tribal court is consistent with this subsection if—

"(1) such court has jurisdiction over the parties and matter under the law of such State or Indian tribe; and

"(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State or tribal law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) CROSS OR COUNTER PETITION.—A protection order issued by a State or tribal court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) a cross or counter petition has been filed and the court did not make specific findings that each party was entitled to such an order.

"§2266. Definitions for chapter

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a spouse, a former spouse, a person who shares a child in common with the abuser, a person who cohabits or has cohabited with the abuser as a spouse, and any other person similarly situated to a spouse; and

"(B) any other person, other than a minor child, who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse, former spouse, or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion filed by or on behalf of an abused spouse or intimate partner;

"(3) the term 'State' includes a State of the United States, the District of Columbia, a commonwealth, territory, or possession of the United States;

"(4) the term 'travel across State lines' does not include travel across State lines by an individual who is a member of an Indian tribe when such individual remains at all times in the territory of the Indian tribe of which the individual is a member;

"(5) the term 'bodily harm' means any act, except one done in self-defense, that results in physical injury or sexual abuse; and

"(6) the term 'Indian country' has the meaning given to such term by section 1151 of this title.".

(b) TABLE OF CHAPTERS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item for chapter 110 the following new item:

*"**110A. Domestic violence .... 2261.**".*

SEC. 1623. ENCOURAGING ARREST POLICIES.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1606, is further amended by—

(1) redesignating part S as part T;

(2) redesignating section 1901 as section 2001; and

(3) adding after part R the following new part:

"PART S—GRANTS TO ENCOURAGE ARREST POLICIES

"SEC. 1901. ARREST POLICIES.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to encourage States, Indian tribes, and units of local government to treat domestic violence as a serious violation of criminal law. The Director of the Bureau of Justice Assistance may make grants to eligible States, Indian tribes, or units of local government for the following:

"(1) To implement mandatory arrest or proarrest programs, including mandatory arrest programs for protective order violations.

"(2) To develop policies, and training in police departments to improve tracking of cases involving domestic violence.

"(3) To centralize and coordinate police enforcement, prosecution, or judicial responsibility for domestic violence cases in groups or units of police officers, prosecutors, or judges.

"(4) To strengthen legal advocacy service programs for victims of domestic violence.

"(5) To educate judges in criminal and other courts about domestic violence and to improve judicial handling of such cases.

"(b) ELIGIBILITY.—Eligible grantees are States, Indian tribes, or units of local government that—

"(1) certify that their laws or official policies—

"(A)(i) encourage or mandate arrest of domestic violence offenders based on probable cause that violence has been committed; or

"(ii) certify that all their law enforcement personnel have received domestic violence training conducted by a State Domestic Violence Coalition as defined in section 10410(b) of title 42, United States Code; and

"(B) mandate arrest of domestic violence offenders who violate the terms of a valid and outstanding protection order;

"(2) demonstrate that their laws, policies, or practices, and training programs discourage dual arrests of offender and victim;

"(3) certify that their laws, policies, and practices prohibit issuance of mutual restraining orders of protection except in cases where both spouses file a claim and the court makes detailed finding of fact indicating that both spouses acted primarily as aggressors and that neither spouse acted primarily in self-defense;

"(4) certify that their laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the abused bear the costs associated with the filing of criminal charges or the service of such charges on an abuser, or that the abused bear the costs associated with the issuance or service of a warrant, protection order, or witness subpoena; and

"(5) certify that their laws and policies treat sex offenses committed by offenders who are known to, cohabitants of, or social companions of or related by blood or marriage to, the victim no less severely than sex offenses committed by offenders who are strangers to the victim.

"SEC. 1902. APPLICATIONS.

"(a) APPLICATION.—An eligible grantee shall submit an application to the Director that shall—

"(1) describe plans to implement policies described in subsection (b);

"(2) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(3) include documentation from nonprofit, private sexual assault and domestic violence programs demonstrating their participation in developing the application, and identifying such programs in which such groups will be consulted for development and implementation.

"(b) PRIORITY.—In awarding grants under this part, the Director shall give priority to an applicant that—

"(1) does not currently provide for centralized handling of cases involving domestic violence by policy, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving domestic violence.

"SEC. 1903. REPORTS.

"Each grantee receiving funds under this part shall submit a report to the Director evaluating the effectiveness of projects developed with funds provided under this part and containing such additional information as the Director may prescribe.

"SEC. 1904. DEFINITIONS.

"For purposes of this part—

"(1) the term 'domestic violence' means a crime of violence against a victim committed by a current or former spouse of the victim, an individual with whom the victim shares a child in common, an individual who cohabits with or has cohabited with the victim as a spouse, or any other individual similarly situated to a spouse, or any other person who is protected under the domestic or family violence laws of the eligible State, Indian tribe, municipality, or local government entity; and

"(2) the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of domestic violence including temporary and final orders issued by civil and criminal courts (other than support or child custody provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), is amended by adding at the end the following:

"(14) There are authorized to be appropriated $25,000,000 for each of the fiscal years 1994, 1995, and 1996 to carry out the purposes of part S.".

(c) ADMINISTRATIVE PROVISIONS.—(1) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 1606 of this Act, is amended by striking "O, Q, and R" and inserting "O, Q, R, and S".

(2) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 1606 of this Act, is amended by striking "O, Q, or R" and inserting "O, Q, R, or S".

(d) EFFECTIVE DATE.—The eligibility requirements provided in this section shall take effect 1 year after the date of enactment of this subtitle.

(e) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1606, is further amended by striking the matter relating to part S and inserting the following:

"PART S—GRANTS TO ENCOURAGE ARREST POLICIES

"Sec. 1901. Arrest policies.
"Sec. 1902. Applications.
"Sec. 1903. Reports.
"Sec. 1904. Definitions.

"PART T—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 2001. Continuation of rules, authorities, and proceedings.".

Subtitle C—Domestic Violence

SEC. 1624. FINDINGS.

The Congress finds that—

(1) domestic violence is the leading cause of injury to women in the United States between the ages of 15 and 44;

(2) firearms are used by the abuser in 7 percent of domestic violence incidents and produces an adverse effect on interstate commerce; and

(3) individuals with a history of domestic abuse should not have easy access to firearms.

SEC. 1625. PROHIBITION AGAINST DISPOSAL OF FIREARMS TO, OR RECEIPT OF FIREARMS BY, PERSONS WHO HAVE COMMITTED DOMESTIC ABUSE.

(a) INTIMATE PARTNER DEFINED.—Section 921(a) of title 18, United States Code, is amended by inserting at the end the following:

"(30) The term 'intimate partner' means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabited with the person.".

(b) PROHIBITION AGAINST DISPOSAL OF FIREARMS.—Section 922(d) of such title is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; or"; and

(3) by inserting after paragraph (7) the following:

"(8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury, except that this paragraph shall only apply to a court order that (A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate, and (B) includes a finding that such person represents a credible threat to the physical safety of such intimate partner.".

(c) PROHIBITION AGAINST RECEIPT OF FIREARMS.—Section 922(g) of such title is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by inserting "or" at the end of paragraph (7); and

(3) by inserting after paragraph (7) the following:

"(8) who is subject to a court order that—

"(A) was issued after a hearing of which such person received actual or constructive notice, and at which such person had an opportunity to participate;

"(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury; and

"(C) includes a finding that such person represents a credible threat to the physical safety of such intimate partner;".

(d) STORAGE OF FIREARMS.—Section 926(a) of such title is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by inserting after paragraph (2) the following:

"(3) regulations providing for effective receipt and secure storage of firearms relinquished by or seized from persons described in subsection (d)(8) or (g)(8) of section 922.".

(e) RETURN OF FIREARMS.—Section 924(d)(1) of such title is amended by striking "the seized" and inserting "or lapse of or court termination of the restraining order to which he is subject, the seized or relinquished".

SEC. 1626. ALIEN SPOUSE PETITIONING RIGHTS FOR IMMEDIATE RELATIVE OR SECOND PREFERENCE STATUS.

(a) IN GENERAL.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended—

(1) in subparagraph (A)—

(A) by inserting "(i)" after "(A)",

(B) by redesignating the second sentence as clause (ii), and

(C) by adding at the end the following new clause:

"(iii) An alien who is the spouse of a citizen of the United States, who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i), and who has resided in the United States with the alien's spouse may file a petition with the Attorney General under this subparagraph for classification of the alien (and children of the alien) under such section if the alien demonstrates to the Attorney General that—

"(I) the alien is residing in the United States, the marriage between the alien and the spouse was entered into in good faith by the alien, and during the marriage the alien or a child of the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's spouse, or

"(II) the alien is residing in the United States with the alien's spouse, the alien has been married to and residing with the spouse for a period of not less than 3 years, and the alien's spouse has failed to file a petition under clause (i) on behalf of the alien."; and

(2) in subparagraph (B)—

(A) by inserting "(i)" after "(B)", and

(B) by adding at the end the following new clause:

"(ii) An alien who is the spouse of an alien lawfully admitted for permanent residence, who is eligible for classification under section 203(a)(2)(A), and who has resided in the United States with the alien's legal permanent resident spouse may file a petition with the Attorney General under this subparagraph for classification of the alien (and children of the alien) under such section if the alien demonstrates to the Attorney General that the conditions described in subclause (I) or (II) of subparagraph (A)(iii) are met with respect to the alien.".

(b) CONFORMING AMENDMENTS.—(1) Section 204(a)(2) of such Act (8 U.S.C. 1154(a)(2)) is amended—

(A) in subparagraph (A), by striking "filed by an alien who," and inserting "for the classification of the spouse of an alien if the alien,", and

(B) in subparagraph (B), by striking "by an alien whose prior marriage" and inserting "for the classification of the spouse of an alien if the prior marriage of the alien".

(2) Section 201(b)(2)(A)(i) of such Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended by striking "204(a)(1)(A)" and inserting "204(a)(1)(A)(ii)".

(c) SURVIVAL RIGHTS TO PETITION.—Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following new subsection:

"(h) The legal termination of a marriage may not be the basis for revocation under section 205 of a petition filed under subsection (a)(1)(A)(iii)(I) or a petition filed under subsection (a)(1)(B)(ii) pursuant to conditions described in subsection (a)(1)(A)(iii)(I).".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1994.

SEC. 1627. USE OF CREDIBLE EVIDENCE IN SPOUSAL WAIVER APPLICATIONS.

(a) IN GENERAL.—Section 216(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1186a(c)(4)) is amended by inserting after the second sentence the following: "In acting on applications under this paragraph, the Attorney General shall consider any credible evidence submitted in support of the application (whether or not the evidence is supported by an evaluation of a licensed mental health professional). The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to applications made before, on, or after such date.

SEC. 1628. SUSPENSION OF DEPORTATION.

Section 244(a) of the Immigration and Nationality Act (8 U.S.C. 1254(a)) is amended—

(1) at the end of paragraph (1) by striking "or";

(2) at the end of paragraph (2) by striking the period and inserting "; or"; and

(3) by inserting after paragraph (2) the following:

"(3) is deportable under any law of the United States except section 241(a)(1)(G) and the provisions specified in paragraph (2); is physically present in the United States; has been battered or subjected to extreme cruelty in the United States by a spouse or parent who is a United States citizen or lawful permanent resident; and proves that during all of such time in the United States the alien was and is a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in extreme hardship to the alien or the alien's parent or child.".

Subtitle D—Miscellaneous Provisions

SEC. 1641. REPORT ON CONFIDENTIALITY OF ADDRESSES FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) REPORT.—The Attorney General shall conduct a study of the means by which abusive spouses may obtain information concerning the addresses or locations of estranged or former spouses, notwithstanding the desire of the victims to have such information withheld to avoid further exposure to abuse. Based on the study, the Attorney General shall transmit a report to Congress including—

(1) the findings of the study concerning the means by which information concerning the addresses or locations of abused spouses may be obtained by abusers; and

(2) analysis of the feasibility of creating effective means of protecting the confidentiality of information concerning the addresses and locations of abused spouses to protect such persons from exposure to further abuse while preserving access to such information for legitimate purposes.

(b) USE OF COMPONENTS.—The Attorney General may use the National Institute of Justice and the Office for Victims of Crime in carrying out this section.

SEC. 1642. REPORT ON RECORDKEEPING RELATING TO DOMESTIC VIOLENCE.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine—

(1) the efforts that have been made by the Department of Justice, including the Federal Bureau of Investigation, to collect statistics on domestic violence; and

(2) the feasibility of requiring that the relationship between an offender and victim be reported in Federal records of crimes of aggravated assault, rape, and other violent crimes.

SEC. 1643. ESTABLISHMENT OF TASK FORCE.

Not later than 30 days after the date of enactment of this Act, the Attorney General shall establish a task force to be known as the Attorney General's Task Force on Violence Against Women (referred to in this subtitle as the "Task Force").

SEC. 1644. GENERAL PURPOSES OF TASK FORCE.

(a) GENERAL PURPOSE OF THE TASK FORCE.—The Task Force shall review Federal, State, and local strategies for preventing and punishing violent crimes against women, including the enhancement and protection of the rights of the victims of such crimes, and make recommendations to improve the response to such crimes.

(b) FUNCTIONS.—The Task Force shall perform such functions as the Attorney General deems appropriate to carry out the purposes of the Task Force, including—

(1) evaluating the adequacy of, and making recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluating the adequacy of, and making recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluating the adequacy of State and Federal rules of evidence, practice, and procedure to ensure the effective prosecution and conviction of violent offenders against women and to protect victims from abuse in legal proceedings, making recommendations, where necessary, to improve those rules;

(4) evaluating the adequacy of pretrial release, sentencing, incarceration, and post-conviction release for crimes that predominantly affect women, such as rape and domestic violence;

(5) evaluating the adequacy of, and making recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(6) evaluating the adequacy of, and making recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence;

(7) evaluating the adequacy of, and making recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crimes;

(8) assessing the issuance, formulation, and enforcement of protective orders, whether or not related to a criminal proceeding, and making recommendations for their more effective use in domestic violence and stalking cases;

(9) assessing the problem of stalking and persistent menacing and recommending an effective Federal response to the problem;

(10) evaluating the adequacy of, and making recommendations regarding, the national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(11) evaluating the treatment of women as victims of violent crime in the State and Federal criminal justice system, and making recommendations to improve such treatment; and

(12) assessing the problem of sexual exploitation of women and youths through prostitution and in the production of pornography, and recommending effective means of response to the problem.

SEC. 1645. MEMBERSHIP.

(a) CHAIR; NUMBER AND APPOINTMENT.—The Task Force shall be chaired by the Attorney General (or designee). Not later than 60 days after the date of the enactment of this Act, after consultation with the Secretary of Health and Human Services, the Secretary of Education, and the Secretary of Housing and Urban Development, the Attorney General shall select up to 14 other members to serve on the Task Force.

(b) PARTICIPATION.—The Attorney General (or designee) shall select, without regard to political affiliation, members who are specially qualified to serve on the Task Force based on their involvement in efforts to combat violence against women, assistance or service to victims of such violence, or other pertinent experience or expertise. The Attorney General shall ensure that the Task Force includes a broad base of participation by including members with backgrounds in such areas as law enforcement, victim services and advocacy, legal defense and prosecution, judicial administration, medical services, and counseling.

(c) VACANCIES.—The Attorney General may fill any vacancy that occurs on the Task Force.

SEC. 1646. TASK FORCE OPERATIONS.

(a) MEETINGS.—The Task Force shall hold its first meeting on a date specified by the Attorney General (or designee), but shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Task Force shall meet at the call of the Attorney General (or designee), but shall meet at least 6 times.

(b) PAY.—Members of the Task Force who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Task Force.

(c) PER DIEM.—Except as provided in subsection (b), members of the Task Force shall be allowed travel and other expenses including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

SEC. 1647. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Task Force is fully constituted under section 1645, the Task Force shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Task Force and of the findings and conclusions of the Task Force, including such recommendations for legislation and administrative action as the Task Force considers appropriate.

SEC. 1648. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Task Force shall have an Executive Director who shall be appointed by the Attorney General (or designee), with the approval of the Task Force.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable for a position above GS–15 of the General Schedule contained in title 5, United States Code.

(b) STAFF.—With the approval of the Task Force, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Task Force.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Task Force appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Task Force, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 1649. POWERS OF TASK FORCE.

(a) HEARINGS.—For the purposes of carrying out this subtitle, the Task Force may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Task Force considers appropriate. The Task Force may administer oaths for testimony before the Task Force.

(b) DELEGATION.—Any member or employee of the Task Force may, if authorized by the Task Force, take any action that the Task Force is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Task Force may request directly from any executive department or agency such information as may be necessary to enable the Task Force to carry out this subtitle, on the request of the Attorney General (or designee).

(d) MAILS.—The Task Force may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 1650. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $500,000 for fiscal year 1994.

SEC. 1651. TERMINATION.

The Task Force shall cease to exist 30 days after the date on which its final report is submitted under section 1647.

SEC. 1652. PAYMENT OF COST OF STD TESTING FOR VICTIMS IN SEX OFFENSE CASES.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)(7)) is amended by adding at the end the following: "The Attorney General shall authorize the Director of the Office of Victims of Crime to provide for the payment of the cost of up to two tests of the victim for sexually transmitted diseases, including, but not limited to gonorrhea, herpes, chlamydia, syphilis, and HIV, during the 12 months following sexual assaults that pose a risk of transmission, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of sexually transmitted diseases to the victim as the result of the assault.".

SEC. 1653. NATIONAL DOMESTIC VIOLENCE HOTLINE GRANT.

(a) FINDINGS.—Congress finds that—

(1) 4,000,000 women are battered by their partners each year, of which 4,000 die as a result of such abuse;

(2) victims of domestic violence need access to resources which will refer such victims and their children to safe homes and shelters; and

(3) there is a need for a national domestic violence hotline to provide information and assistance to victims of domestic violence because a privately funded national domestic violence hotline which handled more than 65,000 crisis calls annually no longer exists.

(b) IN GENERAL.—The Attorney General, through the Bureau of Justice Assistance, shall provide a grant to a nonprofit private organization to establish and operate a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence. A grant provided under this subsection may extend over a period of not more than 3 fiscal years and the provision of payments under such grant shall be subject to annual approval by the Attorney General and subject to the availability of appropriations for the fiscal year involved to make the payments.

(c) APPLICATION.—

(1) IN GENERAL.—The Attorney General may not provide a grant under subsection (b) unless an application that meets the requirements of paragraph (2) has been approved by the Attorney General.

(2) REQUIREMENTS.—An application meets the requirements of this paragraph if the application—

(A) contains such agreements, assurances, and information, and is in such form and submitted in such manner as the Attorney General shall prescribe through notice in the Federal Register;

(B) demonstrates that the applicant has nationally recognized expertise in the area of domestic violence and a record of high quality service to victims of domestic violence, including support from advocacy groups, particularly State coalitions and recognized national domestic violence groups;

(C) demonstrates that the applicant has a commitment to diversity, including the hiring of and provision of services to ethnic, racial, cultural, and non-English speaking minorities, in addition to older individuals and individuals with disabilities;

(D) demonstrates that the applicant has the ability to integrate the hotline into existing services provided by the applicant to victims of domestic violence;

(E) includes a complete description of the applicant's plan for the establishment and operation of the hotline, including a description of—

(i) the hiring criteria and training program for hotline personnel;

(ii) the methods for the creation, maintenance, and updating of a resource database for the hotline;

(iii) a plan for providing service on a 24-hour-a-day basis to non-English speaking callers, including hotline personnel who speak Spanish;

(iv) a plan for access to the hotline by individuals with hearing impairments; and

(v) a plan for publicizing the availability of the hotline; and

(F) contains such other information as the Attorney General may require.

(d) SELECTION.—The Attorney General shall select a nonprofit private organization to receive a grant under subsection (b) which has been in existence for at least 5 years from the date of submission of the application by the organization.

(e) USES.—A grant made under subsection (b) shall be used to establish and operate a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence. In establishing and operating the hotline, a nonprofit private organization shall—

(1) contract with a carrier for the use of a toll-free telephone line;

(2) employ, train, and supervise personnel to answer incoming calls and provide counseling and referral services to callers on a 24-hour-a-day basis;

(3) establish, maintain, and update a database of information relating to services for victims of domestic violence, including information on the availability of shelters that serve battered women; and

(4) publicize the hotline to potential users throughout the United States.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $1,000,000 for each of the fiscal years 1994 through 1996.

(2) AVAILABILITY.—Funds authorized to be appropriated under paragraph (1) shall remain available until expended.

SEC. 1654. GRANTS FOR COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1623 of this Act, is amended by—

(1) redesignating part T as part U;

(2) redesignating section 2001 as section 2101; and

(3) adding after part S the following new part:

"PART T—GRANTS FOR COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE.

"SEC. 2001. GRANT AUTHORITY.

"The Director shall provide grants to establish projects in local communities involving many sectors of each community to coordinate intervention and prevention of domestic violence.

"SEC. 2002. APPLICATIONS.

"(a) IN GENERAL.—An organization that desires to receive a grant under this section shall submit to the Director an application, in such form and in such manner as the Director may reasonably require that—

"(1) demonstrates that the applicant will serve a community leadership function, bringing together opinion leaders from each sector of the community to develop a coordinated community consensus opposing domestic violence;

"(2) demonstrates a community action component to improve and expand current intervention and prevention strategies through increased communication and coordination among all affected sectors;

"(3) includes a complete description of the applicant's plan for the establishment and operation of the community project, including a description of—

"(A) the method for identification and selection of an administrative committee made up of persons knowledgeable in domestic violence to oversee the project, hire staff, assure compliance with the project outline, and secure annual evaluation of the project;

"(B) the method for identification and selection of project staff and a project evaluator;

"(C) the method for identification and selection of a project council consisting of representatives of the community sectors listed in subsection (b)(2);

"(D) the method for identification and selection of a steering committee consisting of representatives of the various community sectors who will chair subcommittees of the project council focusing on each of the sectors; and

"(E) a plan for developing outreach and public education campaigns regarding domestic violence; and

"(4) contains such other information, agreements, and assurances as the Director may require.

"(b) ELIGIBILITY.—To be eligible for a grant under this section, such application shall include—

"(1) an assurance that the applicant is a nonprofit private organization organized for the purpose of coordinating community projects for the intervention in and prevention of domestic violence; and

"(2) an assurance that such nonprofit organization includes representation from pertinent sectors of the local community, including—

"(A) health care providers;

"(B) the education community;

"(C) the religious community;

"(D) the justice system;

"(E) domestic violence program advocates;

"(F) human service entities such as State child services divisions; and

"(G) business and civic leaders.

"SEC. 2003. AWARD OF GRANTS.

"(a) TERM.—A grant provided under this section may extend over a period of not more than 3 fiscal years.

"(b) CONDITIONS ON PAYMENT.—Payments under a grant under this section shall be subject to—

"(1) annual approval by the Director; and

"(2) availability of appropriations.

"(c) GEOGRAPHICAL DISPERSION.—The Director shall award grants under this section to organizations in communities geographically dispersed throughout the country.

"SEC. 2004. USES OF FUNDS.

"(a) IN GENERAL.—A grant made under subsection (a) shall be used to establish and operate a community project to coordinate intervention and prevention of domestic violence.

"(b) REQUIREMENTS.—In establishing and operating a project, a nonprofit private organization shall—

"(1) establish protocols to improve and expand domestic violence intervention and prevention strategies among all affected sectors;

"(2) develop action plans to direct responses within each community sector that are in conjunction with development in all other sectors; and

"(3) provide for periodic evaluation of the project with a written report and analysis to assist application of this concept in other communities.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1001 of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end the following:

"(15) There are authorized to be appropriated to carry out part T $20,000,000 for fiscal year 1994 and such sums as are necessary for each of the fiscal years 1995, 1996, and 1997, to remain available until expended.".

(c) ADMINISTRATIVE PROVISIONS.—(1) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 1623 of this Act, is amended by striking "O, Q, R, and S" and inserting "O, Q, R, S, and T".

(2) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 1623 of this Act, is amended by striking "O, Q, R, or S" and inserting "O, Q, R, S, or T".

(d) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1623 of this Act, is amended by striking the matter relating to part T and inserting the following:

"PART T—GRANTS FOR COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE

"Sec. 2001. Grant authority.
"Sec. 2002. Applications.
"Sec. 2003. Award of grants.
"Sec. 2004. Uses of funds.".

Subtitle E—Equal Justice for Women in the Courts

SEC. 1661. GRANTS AUTHORIZED.

The State Justice Institute is authorized to award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by gender.

SEC. 1662. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, domestic violence, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the negative implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant and should not be held in contempt;

(18) the need for orders of protection, and the negative implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases; and

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims.

SEC. 1663. COOPERATION IN DEVELOPING PROGRAMS.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 1664. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1994, $600,000 to carry out the purposes of sections 1661 through 1664. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

SEC. 1665. AUTHORIZATIONS OF CIRCUIT STUDIES; EDUCATION AND TRAINING GRANTS.

(a) STUDY.—In order to gain a better understanding of the nature and the extent of gender bias in the Federal courts, the circuit judicial councils are encouraged to conduct studies of the instances of gender bias in their respective circuits. The studies may include an examination of the effects of gender on—

(1) the treatment of litigants, witnesses, attorneys, jurors, and judges in the courts, including before magistrate and bankruptcy judges;

(2) the interpretation and application of the law, both civil and criminal;

(3) treatment of defendants in criminal cases;

(4) treatment of victims of violent crimes;

(5) sentencing;

(6) sentencing alternatives, facilities for incarceration, and the nature of supervision of probation, parole, and supervised release;

(7) appointments to committees of the Judicial Conference and the courts;

(8) case management and court sponsored alternative dispute resolution programs;

(9) the selection, retention, promotion, and treatment of employees;

(10) appointment of arbitrators, experts, and special masters;

(11) the admissibility of past sexual history in civil and criminal cases; and

(12) the aspects of the topics listed in section 1662 that pertain to issues within the jurisdiction of the Federal courts.

(b) CLEARINGHOUSE.—The Judicial Conference of the United States shall designate an entity within the Judicial Branch to act as a clearinghouse to disseminate any reports and materials issued by the gender bias task forces under subsection (a) and to respond to requests for such reports and materials. The gender bias task forces shall provide this entity with their reports and related material.

(c) MODEL PROGRAMS.—The Federal Judicial Center, in carrying out section 620(b)(3) of title 28, United States Code, shall—

(1) include in the educational programs it presents and prepares, including the training programs for newly appointed judges, information on issues related to gender bias in the courts including such areas as are listed in subsection (a) along with such other topics as the Federal Judicial Center deems appropriate;

(2) prepare materials necessary to implement this subsection; and

(3) take into consideration the findings and recommendations of the studies conducted pursuant to subsection (a), and to consult with individuals and groups with relevant expertise in gender bias issues as it prepares or revises such materials.

SEC. 1666. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated—

(1) $600,000 to the Salaries and Expenses Account of the Courts of Appeals, District Courts, and other Judicial Services, to carry out section 1665(a), to be available until expended through fiscal year 1996;

(2) $100,000 to the Federal Judicial Center to carry out section 1665(c) and any activities designated by the Judicial Conference under section 1665(b); and

(3) such sums as are necessary to the Administrative Office of the United States Courts to carry out any activities designated by the Judicial Conference under section 1665(b).

(b) THE JUDICIAL CONFERENCE OF THE UNITED STATES.—(1) The Judicial Conference of the United States Courts shall allocate funds to Federal circuit courts under this subtitle that—

(A) undertake studies in their own circuits; or

(B) implement reforms recommended as a result of such studies in their own or other circuits, including education and training.

(2) Funds shall be allocated to Federal circuits under this subtitle on a first come first serve basis in an amount not to exceed $100,000 on the first application. If within 6 months after the date on which funds authorized under this Act become available, funds are still available, circuits that have received funds may reapply for additional funds, with not more than $200,000 going to any one circuit.

SEC. 1667. EXPERT TESTIMONY OF DOMESTIC VIOLENCE.

(a) FINDINGS.—The Congress finds that—

(1) State criminal courts often fail to admit expert testimony offered by a defendant concerning the nature and effect of physical, sexual, and mental abuse to assist the trier of fact in assessing the behavior, beliefs, or perceptions of such defendant in a domestic relationship in which abuse has occurred;

(2) the average juror often has little understanding of the nature and effect of domestic violence on such a defendant's behavior, beliefs, or perceptions, and the lack of understanding can result in the juror blaming the woman for her victimization;

(3) the average juror is often unaware that victims of domestic violence are frequently in greater danger of violence after they terminate or attempt to terminate domestic relationships with their abuser;

(4) myths, misconceptions, and victim-blaming attitudes are often held not only by the average lay person but also by many in the criminal justice system, insofar as the criminal justice system traditionally has failed to protect women from violence at the hands of men;

(5) specialized knowledge of the nature and effect of domestic violence is sufficiently established to have gained the general acceptance which is required for the admissibility of expert testimony;

(6) although both men and women can be victims of physical, sexual, and mental abuse by their partners in domestic relationships, the most frequent victims are women; and

(7) a woman is more likely to be assaulted and injured, raped, or killed by her current or former male partner than by any other type of assailant, and over one-half of all women murdered are killed by their current or former male partners.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the executive branch, working through the State Justice Institute, should examine programs which would allow the States to consider—

(1) that expert testimony concerning the nature and effect of domestic violence, including descriptions of the experiences of battered women, be admissible when offered in a State court by a defendant in a criminal case to assist the trier of fact in understanding the behavior, beliefs, or perceptions of such defendant in a domestic relationship in which abuse has occurred;

(2) that a witness be qualified to testify as an expert witness based upon her or his knowledge, skill, experience, training, or education, and be permitted to testify in the form of an opinion or otherwise; and

(3) that expert testimony about a domestic relationship be admissible to include testimony of relationships between spouses, former spouses, cohabitants, former cohabitants, partners or former partners, and between persons who are in, or have been in, a dating, courtship, or intimate relationship.

TITLE XVII—HATE CRIMES SENTENCING ENHANCEMENT

SEC. 1701. DIRECTION TO COMMISSION.

(a) IN GENERAL.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide sentencing enhancements of not less than 3 offense levels for offenses that the finder of fact at trial determines beyond a reasonable doubt are hate crimes. In carrying out this section, the United States Sentencing Commission shall assure reasonable consistency with other guidelines, avoid duplicative punishments for substantially the same offense, and take into account any mitigating circumstances which might justify exceptions.

(b) DEFINITION.—As used in this section, the term "hate crime" is a crime in which the defendant intentionally selects a victim, or in the case of a property crime, the property which is the object of the crime, because of the actual or perceived race, color, religion, national origin, ethnicity, gender, or sexual orientation of any person.

TITLE XVIII—USE OF FORMULA GRANTS TO PROSECUTE PERSONS DRIVING WHILE INTOXICATED

SEC. 1801. GRANT PROGRAM DESCRIPTION.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end the following:

"(23) programs for the prosecution of driving while intoxicated and the enforcement of other laws relating to alcohol use and the operation of motor vehicles.".

TITLE XIX—YOUTH HANDGUN SAFETY

SEC. 1901. FINDINGS AND DECLARATIONS.

The Congress finds and declares that—

(1) Crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem.

(2) Problems with crime at the local level are exacerbated by the interstate movement of drugs, funds, and criminal gangs.

(3) Firearms and ammunition, and handguns in particular, move easily in interstate commerce, as documented in numerous hearings in both the Judiciary Committee of the House of Representatives and Judiciary Committee of the Senate.

(4) In fact, even before the sale of a handgun, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce.

(5) While criminals freely move from State to State, ordinary citizens may fear to travel to or through certain parts of the country due to the concern that violent crime is not under control, and foreigners may decline to travel in the United States for the same reason.

(6) Just as the hardened drug kingpins begin their life in the illicit drug culture by exposure to drugs at a young age, violent criminals often start their criminal careers on streets where the ready availability of guns to young people results in the acceptability of their random use.

(7) Violent crime and the use of illicit drugs go hand-in-hand, and attempts to control one without controlling the other may be fruitless.

(8) Individual States and localities find it impossible to handle the problem by themselves; even States and localities that have made a strong effort to prevent, detect, and punish crime find their effort unavailing due in part to the failure or inability of other States and localities to take strong measures.

(9) Inasmuch as illicit drug activity and related violent crime overflow State lines and national boundaries, the Congress has power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to combat these problems.

(10) The Congress finds that it is necessary and appropriate to assist the States in controlling crime by stopping the commerce in handguns with juveniles nationwide, and allowing the possession of handguns by juveniles only when handguns are possessed and used for legitimate purposes under appropriate conditions.

SEC. 1902. PROHIBITION OF THE POSSESSION OF A HANDGUN OR AMMUNITION BY, OR THE PRIVATE TRANSFER OF A HANDGUN OR AMMUNITION TO, A JUVENILE.

(a) OFFENSE.—Section 922 of title 18, United States Code, as amended by section 706(a) of this Act, is amended by adding at the end the following:

"(w)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a juvenile, or to a person who the transferor knows or has reasonable cause to believe is a juvenile—

"(A) a handgun; or

"(B) ammunition that is suitable for use only in a handgun.

"(2) It shall be unlawful for any person who is a juvenile to knowingly possess—

"(A) a handgun; or

"(B) ammunition that is suitable for use only in a handgun.

"(3) This subsection does not apply—

"(A) to a temporary transfer of a handgun or ammunition to a juvenile, or to the possession or use of a handgun or ammunition by a juvenile, if the handgun and ammunition are possessed and used by the juvenile—

"(i) in the course of employment, in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch), target practice, hunting, or a course of instruction in the safe and lawful use of a handgun;

"(ii) with the prior written consent of the juvenile's parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm;

"(iii) with the prior written consent in the juvenile's possession at all times when a handgun is in the possession of the juvenile; and

"(iv) in accordance with State and local law;

"(B) during transportation by the juvenile of an unloaded handgun in a locked container directly from the place of transfer to a place at which an activity described in subparagraph (A)(i) is to take place, and transportation by the juvenile of that handgun, unloaded and in a locked container, directly from the place at which such an activity took place to the transferor;

"(C) to a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun in the line of duty;

"(D) to a transfer by inheritance of title (but not possession) of a handgun or ammunition to a juvenile; or

"(E) to the possession of a handgun or ammunition by a juvenile taken in defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest.

"(4) A handgun or ammunition, the possession of which is transferred to a juvenile in circumstances in which the transferor is not in violation of this subsection shall not be subject to permanent confiscation by the Government if its possession by the juvenile subsequently becomes unlawful because of the conduct of the juvenile, but shall be returned to the lawful owner when such handgun or ammunition is no longer required by the Government for the purposes of investigation or prosecution.

"(5) For purposes of this subsection, the term 'juvenile' means a person who is less than 18 years of age.

"(6)(A) In a prosecution of a violation of this subsection, the court shall require the presence of a juvenile defendant's parent or legal guardian at all proceedings.

"(B) The court may use the contempt power to enforce subparagraph (A).

"(C) The court may excuse attendance of a parent or legal guardian of a juvenile defendant at a proceeding in a prosecution of a violation of this subsection for good cause shown.".

(b) PENALTIES.—Section 924(a) of title 18, United States Code, as amended by section 706(b) of this Act, is amended by adding at the end the following:

"(7)(A)(i) A juvenile who violates section 922(w) shall be fined under this title, imprisoned not more than 1 year, or both, except that a juvenile described in clause (ii) shall be sentenced to probation on appropriate conditions and shall not be incarcerated unless the juvenile fails to comply with a condition of probation.

"(ii) A juvenile is described in this clause if—

"(I) the offense of which the juvenile is charged is possession of a handgun or ammunition in violation of section 922(w)(2); and

"(II) the juvenile has not been convicted in any court of an offense (including an offense under section 922(w) or a similar State law, but not including any other offense consisting of conduct that if engaged in by an adult would not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if engaged in by an adult would constitute an offense.

"(B) A person other than a juvenile who knowingly violates section 922(w)—

"(i) shall be fined under this title, imprisoned not more than 1 year, or both; and

"(ii) if the person sold, delivered, or otherwise transferred a handgun or ammunition to a juvenile knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a

crime of violence, shall be fined under this title, imprisoned not more than 10 years, or both.".

(d) TECHNICAL AMENDMENT OF JUVENILE DELINQUENCY PROVISIONS IN TITLE 18, UNITED STATES CODE.—

(1) SECTION 5031.—Section 5031 of title 18, United States Code, is amended by inserting "or a violation by such person of section 922(w)" before the period at the end.

(2) SECTION 5032.—Section 5032 of title 18, United States Code, is amended—

(A) in the first undesignated paragraph by inserting "or (w)" after "922(p)"; and

(B) in the fourth undesignated paragraph by inserting "or section 922(w) of this title," before "criminal prosecution on the basis".

(e) TECHNICAL AMENDMENT OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974.—Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(12)(A)) is amended by striking "which do not constitute violations of valid court orders" and inserting "(other than an offense that constitutes a violation of a valid court order or a violation of section 922(w) of title 18, United States Code, or a similar State law)".

(f) MODEL LAW.—The Attorney General, acting through the Director of the National Institute for Juvenile Justice and Delinquency Prevention, shall—

(1) evaluate existing and proposed juvenile handgun legislation in each State;

(2) develop model juvenile handgun legislation that is constitutional and enforceable;

(3) prepare and disseminate to State authorities the findings made as the result of the evaluation; and

(4) report to Congress by December 31, 1994, findings and recommendations concerning the need or appropriateness of further action by the Federal Government.

TITLE XX—SUBSTANCE ABUSE TREATMENT IN FEDERAL PRISONS

SEC. 2001. SUBSTANCE ABUSE TREATMENT IN FEDERAL PRISONS.

Section 3621 of title 18, United States Code, is amended—

(1) in the last sentence of subsection (b), by striking ", to the extent practicable,"; and

(2) by adding at the end the following new subsection:

"(e) SUBSTANCE ABUSE TREATMENT.—

"(1) PHASE-IN.—In order to carry out the requirement of the last sentence of subsection (b) of this section, that every prisoner with a substance abuse problem have the opportunity to participate in appropriate substance abuse treatment, the Bureau of Prisons shall provide substance abuse treatment—

"(A) for not less than 50 percent of eligible prisoners by the end of fiscal year 1995, with priority for such treatment accorded based on an eligible prisoner's proximity to release date;

"(B) for not less than 75 percent of eligible prisoners by the end of fiscal year 1996, with priority for such treatment accorded based on an eligible prisoner's proximity to release date; and

"(C) for all eligible prisoners by the end of fiscal year 1997 and thereafter, with priority for such treatment accorded based on an eligible prisoner's proximity to release date.

"(2) INCENTIVE FOR PRISONERS' SUCCESSFUL COMPLETION OF TREATMENT PROGRAM.—

"(A) GENERALLY.—Any prisoner who, in the judgment of the Director of the Bureau of Prisons, has successfully completed a program of residential substance abuse treatment provided under paragraph (1) of this subsection, shall remain in the custody of the Bureau for such time (as limited by subparagraph (B) of this paragraph) and under such conditions, as the Bureau deems appropriate. If the conditions of confinement are different from those the prisoner would have experienced absent the successful completion of the treatment, the Bureau shall periodically test the prisoner for substance abuse and discontinue such conditions on determining that substance abuse has recurred.

"(B) PERIOD OF CUSTODY.—The period the prisoner remains in custody after successfully completing a treatment program shall not exceed the prison term the law would otherwise require such prisoner to serve, but may not be less than such term minus one year.

"(3) REPORT.—The Bureau of Prisons shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives on January 1, 1995, and on January 1 of each year thereafter, a report. Such report shall contain—

"(A) a detailed quantitative and qualitative description of each substance abuse treatment program, residential or not, operated by the Bureau;

"(B) a full explanation of how eligibility for such programs is determined, with complete information on what proportion of prisoners with substance abuse problems are eligible; and

"(C) a complete statement of to what extent the Bureau has achieved compliance with the requirements of this title.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated in each fiscal year such sums as may be necessary to carry out this subsection.

"(5) DEFINITIONS.—As used in this subsection—

"(A) the term 'residential substance abuse treatment' means a course of individual and group activities, lasting between 6 and 12 months, in residential treatment facilities set forth from the general prison population—

"(i) directed at the substance abuse problems of the prisoner; and

"(ii) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems; and

"(B) the term 'eligible prisoner' means a prisoner who is—

"(i) determined by the Bureau of Prisons to have a substance abuse problem; and

"(ii) willing to participate in a residential substance abuse treatment program.".

TITLE XXI—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

SEC. 2101. CERTAINTY OF PUNISHMENT FOR YOUNG OFFENDERS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1654 of this Act is amended—

(1) by redesignating part U as part Y;

(2) by redesignating section 2101 as section 2501; and

(3) by inserting after part T the following:

"PART U—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"SEC. 2101. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

"(b) ALTERNATIVE METHODS.—The alternative methods of punishment referred to in subsection (a) should ensure certainty of punishment for young offenders and promote reduced recidivism, crime prevention, and assistance to victims, particularly for young offenders who can be punished more effectively in an environment other than a traditional correctional facility, including—

"(1) alternative sanctions that create accountability and certainty of punishment for young offenders;

"(2) boot camp prison programs that include education and job training activities such as programs modeled, to the extent practicable, after activities carried out under part B of title IV of the Job Training Partnership Act (relating to Job Corps) (29 U.S.C. 1691 et seq.);

"(3) technical training and support for the implementation and maintenance of State and local restitution programs for young offenders;

"(4) innovative projects, such as projects consisting of education and job training activities for incarcerated young offenders, modeled, to the extent practicable, after activities carried out under part B of title IV of the Job Training Partnership Act (relating to Job Corps) (29 U.S.C. 1691 et seq.);

"(5) correctional options, such as community-based incarceration, weekend incarceration, and electronic monitoring of offenders;

"(6) community service programs that provide work service placement for young offenders at non-profit, private organizations and community organizations;

"(7) demonstration restitution projects that are evaluated for effectiveness;

"(8) innovative methods that address the problems of young offenders convicted of serious substance abuse (including alcohol abuse, and gang-related offenses), including technical assistance and training to counsel and treat such offenders; and

"(9) the provision for adequate and appropriate after care programs for the young offenders, such as substance abuse treatment, education programs, vocational training, job placement counseling, and other support programs upon release.

"SEC. 2102. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part, the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(b) STATE OFFICE.—The office designated under section 507 of this title—

"(1) shall prepare the application as required under subsection (a); and

"(2) shall administer grant funds received under this part, including review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 2103. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Director, in consultation with the Director of the National Institute of Corrections, shall make a grant under section 2101(a) to carry out the projects described in the application submitted by such applicant under section 2102 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application, the Director has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 2102 shall be considered approved, in whole or in part, by the Director not later than 45 days after first received unless the Director informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects, other than alternative facilities described in section 2101(b).

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Director shall not disapprove any *application without first affording the applicant reasonable notice and an opportunity for reconsideration.*

"SEC. 2104. LOCAL APPLICATIONS.

"(a) In General.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 2102(b).

"(2) Such application shall be considered approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If such application is approved, the unit of local government is eligible to receive such funds.

"(b) Distribution to Units of Local Government.—A State that receives funds under section 2101 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 45 days after the Director has approved the application submitted by the State and has made funds available to the State. The Director shall have the authority to waive the 45-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

"SEC. 2105. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) State Distribution.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the number of young offenders of such State bears to the number of young offenders in all the participating States.

"(b) Local Distribution.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in such State for the purposes specified under section 2101 that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for correctional programs in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for correctional programs in such preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by such State for purposes specified under section 2101.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for such fiscal year will not be used by such State or that a State is not eligible to receive funds under section 2101, the Director shall award such funds to units of local government in such State giving priority to the units of local government that the Director considers to have the greatest need.

"(c) General Requirement.—Notwithstanding the provisions of subsections (a) and (b), not less than two-thirds of funds received by a State under this part shall be distributed to units of local government unless the State applies for and receives a waiver from the Director of the Bureau of Justice Assistance.

"(d) Federal Share.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 2102(a) for the fiscal year for which the projects receive assistance under this part.

"(e) Consideration.—Notwithstanding subsections (a) and (b), in awarding grants under this part, the Director shall consider as an important factor whether a State has in effect throughout such State a law or policy which—

"(1) requires that a juvenile who is in possession of a firearm or other weapon on school property or convicted of a crime involving the use of a firearm or weapon on school property—

"(A) be suspended from school for a reasonable period of time; and

"(B) lose driving license privileges for a reasonable period of time; and

"(2) bans firearms and other weapons in a 100-yard radius of school property, but the State may allow exceptions for school-sponsored activities, as well as other reasonable exceptions.

"(f) Definition.—For purposes of this part, 'juvenile' means 18 years of age or younger.

"SEC. 2106. EVALUATION.

"(a) In General.—(1) Each State and local unit of government that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in accordance with guidelines issued by the Director and in consultation with the National Institute of Justice.

"(2) The Director may waive the requirement specified in paragraph (1) if the Director determines that such evaluation is not warranted in the case of the State or unit of local government involved.

"(b) Distribution.—The Director shall make available to the public on a timely basis evaluations received under subsection (a).

"(c) Administrative Costs.—A State and local unit of government may use not more than 5 percent of funds it receives under this part to develop an evaluation program under this section.".

(b) Conforming Amendment.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), is amended by inserting after the matter relating to part T (as added by section 1654) the following:

"Part U—Alternative Punishments for Young Offenders

"Sec. 2101. Grant authorization.
"Sec. 2102. State applications.
"Sec. 2103. Review of State applications.
"Sec. 2104. Local applications.
"Sec. 2105. Allocation and distribution of funds.
"Sec. 2106. Evaluation.

"Part Y—Transition—Effective Date—Repealer

"Sec. 2501. Continuation of rules, authorities, and proceedings.".

(c) Definition.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)), is amended by adding after paragraph (23) the following:

"(24) the term 'young offender' means an individual, convicted of a crime, 22 years of age or younger—

"(A) who has not been convicted of—

"(i) a crime of sexual assault; or

"(ii) a crime involving the use of a firearm in the commission of the crime; and

"(B) who has no prior convictions for a crime of violence (as defined by section 16 of title 18, United States Code) punishable by a period of 1 or more years of imprisonment; and".

(d) Technical Amendments.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)) is amended—

(1) in paragraph (21), by adding a semicolon at the end;

(2) in paragraph (22), by striking "and" at the end; and

(3) in paragraph (23) by striking the period at the end and inserting a semicolon.

SEC. 2102. AUTHORIZATION OF APPROPRIATION.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended by adding at the end the following:

"(16) There are authorized to be appropriated $200,000,000 for each of the fiscal years 1994, 1995, and 1996 to carry out the projects under part U.".

SEC. 2103. SENSE OF THE CONGRESS.

It is the sense of the Congress that States should impose mandatory sentences for crimes involving the use of a firearm or other weapon on school property or within a 100-yard radius of school property.

TITLE XXII—JUVENILE DRUG TRAFFICKING AND GANG PREVENTION GRANTS

SEC. 2201. JUVENILE DRUG TRAFFICKING AND GANG PREVENTION GRANTS.

(a) The Omnibus Crime Control and Safe Streets Act of 1968, is amended by inserting after part U (as added by section 2101(a)) the following new part:

"PART V—JUVENILE DRUG TRAFFICKING AND GANG PREVENTION GRANTS

"SEC. 2201. GRANT AUTHORIZATION.

"(a) In General.—The Director is authorized to make grants to States and units of local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective programs, including education, prevention, treatment and enforcement programs to reduce—

"(1) the formation or continuation of juvenile gangs; and

"(2) the use and sale of illegal drugs by juveniles.

"(b) Uses of Funds.—The grants made under this section may be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools.

"(2) To reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles.

"(3) To develop new and innovative means to address the problems of juveniles convicted of serious, drug-related and gang-related offenses;

"(4) To reduce juvenile drug- and gang-related activity in public housing projects.

"(5) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to identify drug-dependent or gang-involved juvenile offenders and to provide appropriate counseling and treatment to such offenders.

"(6) To promote the involvement of all juveniles in lawful activities, including—

"(A) school programs that teach that drug and gang involvement are wrong; and

"(B) programs such as youth sports and other activities, including girls and boys clubs, scout troops, and little leagues.

"(7) To facilitate Federal and State cooperation with local school officials to develop education, prevention and treatment programs for juveniles who are likely to participate in drug trafficking, drug use or gang-related activities.

"(8) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system; with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers.

"(9) To provide education and treatment programs for youth exposed to severe violence in their homes, schools, or neighborhoods.

"(10) To establish sports mentoring and coaching programs in which athletes serve as role models for youth to teach that athletics provide a positive alternative to drug and gang involvement.

"(11) To develop new programs that specifically address the unique crime, drug, and alcohol-related challenges faced by juveniles living at or near International Ports of Entry and in other international border communities, including rural localities.

"(12) To identify promising new juvenile drug demand reduction and enforcement programs, to replicate and demonstrate these programs to serve as national, regional or local models that could be used, in whole or in part, by other public and private juvenile justice programs, and to provide technical assistance and training to public or private organizations to implement similar programs.

"(13) To coordinate violence, gang, and juvenile drug prevention programs with other existing Federal programs that serve community youth to better address the comprehensive needs of such youth.

"(14) To reduce the incidence of graffiti and to promote graffiti removal, prevention, and education programs.

"(c) FEDERAL SHARE.—(1) The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in applications submitted under this section for the fiscal year for which the projects receive assistance under this part.

"(2) The Director may waive the 25 percent matching requirement under paragraph (1), upon making a determination that such waiver is equitable due to the financial circumstances affecting the ability of the applicant to meet such requirements.

"SEC. 2202. APPLICATIONS.

"A State or unit of local government applying for grants under this part shall submit an application to the Director in such form and containing such information as the Director shall reasonably require.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), is amended by inserting after the matter relating to part U (as added by section 2101(b)) the following:

"PART V—JUVENILE DRUG TRAFFICKING AND GANG PREVENTION GRANTS

"Sec. 2201. Grant authorization.
"Sec. 2202. Applications.".

SEC. 2202. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), is amended by adding at the end the following:

"(17) There are authorized to be appropriated $100,000,000 for each of the fiscal years 1994 and 1995 to carry out the projects under part V.".

TITLE XXIII—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS

SEC. 2301. RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS.

(a) RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), is amended by inserting after part V (as added by section 2201(a)) the following:

"PART W—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS

"SEC. 2301. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States and units of local government for the purpose of developing and implementing residential substance abuse treatment programs within State correctional facilities, as well as within local correctional facilities in which inmates are incarcerated for a period of time sufficient to permit substance abuse treatment.

"SEC. 2302. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(3) Such application shall coordinate the design and implementation of treatment programs between State correctional representatives and the State Alcohol and Drug Abuse agency (and, if appropriate, between representatives of local correctional agencies and representatives of either the State alcohol and drug abuse agency or any appropriate local alcohol and drug abuse agency).

"(b) SUBSTANCE ABUSE TESTING REQUIREMENT.—To be eligible to receive funds under this part, a State must agree to implement or continue to require urinalysis or similar testing of individuals in correctional residential substance abuse treatment programs. Such testing shall include individuals released from residential substance abuse treatment programs who remain in the custody of the State.

"(c) ELIGIBILITY FOR PREFERENCE WITH AFTER CARE COMPONENT.—

"(1) To be eligible for a preference under this part, a State must ensure that individuals who participate in the substance abuse treatment program established or implemented with assistance provided under this part will be provided with aftercare services.

"(2) State aftercare services must involve the coordination of the correctional facility treatment program with other human service and rehabilitation programs, such as educational and job training programs, parole supervision programs, half-way house programs, and participation in self-help and peer group programs, that may aid in the rehabilitation of individuals in the substance abuse treatment program.

"(3) To qualify as an aftercare program, the head of the substance abuse treatment program, in conjunction with State and local authorities and organizations involved in substance abuse treatment, shall assist in placement of substance abuse treatment program participants with appropriate community substance abuse treatment facilities when such individuals leave the correctional facility at the end of a sentence or on parole.

"(d) STATE OFFICE.—The Office designated under section 507 of this title—

"(1) shall prepare the application as required under this section; and

"(2) shall administer grant funds received under this part, including review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 2303. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Director shall make a grant under section 2301 to carry out the projects described in the application submitted under section 2302 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application the Director has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 2302 shall be considered approved, in whole or in part, by the Director not later than 45 days after first received unless the Director informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Director shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 2304. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) ALLOCATION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the State prison population of such State bears to the total prison population of all the participating States.

"(b) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 2302 for the fiscal year for which the projects receive assistance under this part.

"SEC. 2305. EVALUATION.

"Each State that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in such form and containing such information as the Director may reasonably require.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), is amended by inserting after the matter relating to part V (as added by section 2201(b)) the following:

"PART W—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS

"Sec. 2301. Grant authorization.
"Sec. 2302. State applications.
"Sec. 2303. Review of State applications.
"Sec. 2304. Allocation and distribution of funds.
"Sec. 2305. Evaluation.".

(c) DEFINITIONS.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)) is amended by adding after paragraph (24) (as added by section 2101(c)) the following:

"(25) the term 'residential substance abuse treatment program' means a course of individual and group activities, lasting between 9 and 12 months, in residential treatment facilities set apart from the general prison population—

"(A) directed at the substance abuse problems of the prisoner; and

"(B) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems.".

SEC. 2302. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), is amended by adding at the end the following:

"(18) There are authorized to be appropriated $100,000,000 for each of the fiscal years 1994, 1995, and 1996 to carry out the projects under part W.".

TITLE XXIV—IMMIGRATION RELATED PROVISIONS AND CRIMINAL ALIENS

Subtitle A—Criminal Aliens

SEC. 2401. CONGRESSIONAL FINDINGS.

The Congress makes the following findings:

(1) The Federal Government is responsible for controlling illegal immigration into the United States.

(2) Many States and localities are burdened with the financial costs of housing and processing aliens who are unlawfully within the United States and who are charged with violating criminal statutes.

(3) The Immigration and Naturalization Service is not permitted under current law to accept local and State assistance in its deportation responsibilities.

(4) Many communities with criminal alien populations would like to expedite the deportation of aliens who are charged with violating criminal statutes and who are either unlawfully within the United States or willing to submit to voluntary deportation under safeguard.

SEC. 2402. AUTHORITY TO ACCEPT CERTAIN ASSISTANCE.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, the Attorney General, in the discretion of the Attorney General, is authorized to accept, hold, administer, and utilize gifts of property and services (which may not include cash assistance) for the purpose of assisting the Immigration and Naturalization Service in carrying out the deportation of aliens who are subject to charges for misdemeanor or felony crimes under State or Federal law and who are either unlawfully within the United States or willing to submit to voluntary deportation under safeguard. Any property acquired pursuant to this section shall be acquired in the name of the United States.

(b) LIMITATION.—The Attorney General shall terminate or rescind the exercise of the authority under subsection (a) if the Attorney General determines that the exercise of such authority has resulted in discrimination in law enforcement on the basis of race, color, or national origin.

SEC. 2403. INCARCERATION OF UNDOCUMENTED CRIMINAL ALIENS.

(a) INCARCERATION.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended by adding at the end the following:

"(j) INCARCERATION.—

"(1) If the chief official of the State (or, if appropriate, a political subdivision of the State) exercising authority with respect to the incarceration of an undocumented criminal alien (sentenced to a determinate term of imprisonment) submits a written request to the Attorney General, the Attorney General shall, as determined by the Attorney General—

"(A) enter into a contractual arrangement which provides for compensation to the State or a political subdivision of the State, as may be appropriate, with respect to the incarceration of such undocumented criminal alien for such determinate sentence of imprisonment, or

"(B) take the undocumented criminal alien into the custody of the Federal Government and incarcerate such alien for such determinate sentence of imprisonment.

"(2) Compensation under paragraph (1)(A) shall be determined by the Attorney General and may not exceed the median cost of incarceration of a prisoner in all maximum security facilities in the United States as determined by the Bureau of Justice Statistics.

"(3) For purposes of this subsection, the term 'undocumented criminal alien' means an alien who—

"(A) has been convicted of a felony and sentenced to a term of imprisonment, and

"(B)(i) entered the United States without inspection or at any time or place other than as designated by the Attorney General,

"(ii) was the subject of exclusion or deportation proceedings at the time he or she was taken into custody by the State or a political subdivision of the State, or

"(iii) was admitted as a nonimmigrant and at the time he or she was taken into custody by the State or a political subdivision of the State has failed to maintain the nonimmigrant status in which the alien was admitted or to which it was changed under section 248, or to comply with the conditions of any such status.

"(4)(A) In carrying out paragraph (1), the Attorney General shall give priority to the Federal incarceration of undocumented criminal aliens who have committed aggravated felonies.

"(B) The Attorney General shall ensure that undocumented criminal aliens incarcerated in Federal facilities pursuant to this subsection are held in facilities which provide a level of security appropriate to the crimes for which they were convicted.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1994.

(c) LIMITATION.—The authority created in section 242(j) of the Immigration and Nationality Act (as added by subsection (a)) shall be subject to appropriation until October 1, 1998.

Subtitle B—Immigration Provisions

SEC. 2411. EXPEDITED DEPORTATION FOR DENIED ASYLUM APPLICANTS.

(a) The Attorney General may provide for the expeditious adjudication of asylum claims and the expeditious deportation of asylum applicants whose applications have been finally denied, unless the applicant remains in an otherwise valid nonimmigrant status.

(b) There are authorized to be appropriated to carry out this section, such sums as are necessary for each of fiscal years 1994, 1995, 1996, 1997, and 1998.

SEC. 2412. IMPROVING BORDER CONTROLS.

(a) There are authorized to be appropriated such sums as are necessary to increase the Immigration and Naturalization Service's resources for the Border Patrol, the Inspections Program, and the Deportation Branch to apprehend illegal aliens who attempt clandestine entry into the United States or entry into the United States with fraudulent documents or who remain in the country after their nonimmigrant visas expire.

(b) The Attorney General shall report to the Congress every two years on the programs referred to in subsection (a).

SEC. 2413. EXPANDED SPECIAL DEPORTATION PROCEEDINGS.

(a) Subject to the availability of appropriations, the Attorney General may expand the program authorized by section 242A(d) of the Immigration and Nationality Act to ensure that such aliens are immediately deportable upon their release from incarceration.

(b) There are authorized to be appropriated such sums as necessary to carry out this section for each of fiscal years 1995 through 1998.

(c) The Attorney General shall report to the Congress every two years on the program referred to in subsection (a).

SEC. 2414. CONSTRUCTION OF INS SERVICE PROCESSING CENTERS TO DETAIN CRIMINAL ALIENS.

There are authorized to be appropriated such sums as are necessary in fiscal year 1996 to construct or contract for the construction of 2 Immigration and Naturalization Service Processing Centers to detain criminal aliens.

Subtitle C—Border Patrol Agents

SEC. 2421. BORDER PATROL AGENTS.

In addition to such amounts as are otherwise authorized to be appropriated, there is authorized to be appropriated for each of the fiscal years 1995, 1996, 1997, 1998, and 1999 for salaries and expenses of the Border Patrol such amounts as may be necessary to provide for an increase in the number of agents of the Border Patrol by 6,000 full-time equivalent agent positions (and necessary support personnel positions) beyond the number of such positions authorized for the Border Patrol as of October 1, 1993.

Subtitle D—Passport and Visa Offenses Penalties Improvements

SEC. 2431. PASSPORT AND VISA OFFENSES PENALTIES IMPROVEMENT.

(a) IN GENERAL.—Chapter 75 of title 18, United States Code, is amended—

(1) in section 1541, by striking "not more than $500 or imprisoned not more than one year" and inserting "under this title or imprisoned not more than 10 years";

(2) in each of sections 1542, 1543, and 1544, by striking "not more than $2,000 or imprisoned not more than five years" and inserting "under this title or imprisoned not more than 10 years";

(3) in section 1545, by striking "not more than $2,000 or imprisoned not more than three years" and inserting "under this title or imprisoned not more than 10 years";

(4) in section 1546(a), by striking "five years" and inserting "10 years";

(5) in section 1546(b), by striking "in accordance with this title, or imprisoned not more than two years" and inserting "under this title or imprisoned not more than 10 years"; and

(6) by adding at the end the following:

"§1547. Alternative imprisonment maximum for certain offenses

"Notwithstanding any other provision of this title, the maximum term of imprisonment that may be imposed for an offense under this chapter (other than an offense under section 1545)—

"(1) if committed to facilitate a drug trafficking crime (as defined in 929(a) of this title) is 15 years; and

"(2) if committed to facilitate an act of international terrorism (as defined in section 2331 of this title) is 20 years.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 75 of title 18, United States Code, is amended by adding at the end the following new item:

"1547. Alternative imprisonment maximum for certain offenses.".

TITLE XXV—RURAL CRIME

Subtitle A—Drug Trafficking in Rural Areas

SEC. 2501. AUTHORIZATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(9) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(9) There are authorized to be appropriated to carry out part O $50,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.".

(b) AMENDMENT TO BASE ALLOCATION.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "$100,000" and inserting "$250,000".

SEC. 2502. RURAL CRIME AND DRUG ENFORCEMENT TASK FORCES.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, shall establish a Rural Crime and Drug Enforcement Task Force in each of the Federal judicial districts which encompass significant rural lands. Assets seized as a result of investigations initiated by a Rural Drug Enforcement Task Force shall be used primarily to enhance the operations of the task force and its participating State and local law enforcement agencies.

(b) TASK FORCE MEMBERSHIP.—The task forces established under subsection (a) shall be chaired by the United States Attorney for the respective Federal judicial district. The task forces shall include representatives from—

(1) State and local law enforcement agencies;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Immigration and Naturalization Service;

(5) the Customs Service;

(6) the United States Marshals Service; and

(7) law enforcement officers from the United States Park Police, United States Forest Service and Bureau of Land Management, and such other Federal law enforcement agencies as the Attorney General may direct.

SEC. 2503. CROSS-DESIGNATION OF FEDERAL OFFICERS.

(a) IN GENERAL.—The Attorney General may cross-designate up to 100 law enforcement officers from each of the agencies specified under section 1502(b)(6) of the Omnibus Crime Control and Safe Streets Act of 1968 with jurisdiction to enforce the provisions of the Controlled Substances Act on non-Federal lands and title 18 of the United States Code to the extent necessary to effect the purposes of this Act.

(b) ADEQUATE STAFFING.—The Attorney General shall, subject to the availability of appropriations, ensure that each of the task forces established in accordance with this title are adequately staffed with investigators and that additional investigators are provided when requested by the task force.

SEC. 2504. RURAL DRUG ENFORCEMENT TRAINING.

(a) SPECIALIZED TRAINING FOR RURAL OFFICERS.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (a) $1,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.

SEC. 2505. MORE AGENTS FOR THE DRUG ENFORCEMENT ADMINISTRATION.

There are authorized to be appropriated for the hiring of additional Drug Enforcement Administration agents $20,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.

Subtitle B—Drug Free Truck Stops and Safety Rest Areas

SEC. 2511. DRUG FREE TRUCK STOPS AND SAFETY REST AREAS.

(a) SHORT TITLE.—This section may be cited as the "Drug Free Truck Stop Act".

(b) AMENDMENT TO CONTROLLED SUBSTANCES ACT.—

(1) IN GENERAL.—Part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"SEC. 409. (a) DEFINITIONS.—In this section—

"(1) the term 'safety rest area' means a roadside facility with parking facilities for the rest or other needs of motorists; and

"(2) the term 'truck stop' means a facility (including any parking lot appurtenant thereto) that—

"(A) has the capacity to provide fuel or service, or both, to any commercial motor vehicle (as defined under section 12019 of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. 2716)) operating in commerce (as defined in that section); and

"(B) is located within 2,500 feet of the National System of Interstate and Defense Highways or the Federal-Aid Primary System.

"(b) FIRST OFFENSE.—A person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or safety rest area is (except as provided in subsection (b)) subject to—

"(1) twice the maximum punishment authorized by section 401(b); and

"(2) twice any term of supervised release authorized by section 401(b) for a first offense.

"(c) SUBSEQUENT OFFENSE.—A person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is subject to—

"(1) 3 times the maximum punishment authorized by section 401(b); and

"(2) 3 times any term of supervised release authorized by section 401(b) for a first offense.".

(2) TECHNICAL AMENDMENTS.—

(A) CROSS REFERENCE.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by inserting "409," before "418," each place it appears.

(B) TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking the item relating to section 409 and inserting the following new item:

"Sec. 409. Transportation safety offenses.".

(c) SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide an appropriate enhancement of punishment for a defendant convicted of violating section 409 of the Controlled Substances Act, as added by subsection (b).

Subtitle C—Rural Domestic Violence and Child Abuse Enforcement

SEC. 2521. RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT ASSISTANCE.

(a) GRANTS.—The Attorney General may make grants to units of State and local governments of rural States, and to other public or private entities of rural States—

(1) to implement, expand, and establish cooperative efforts and projects between law enforcement officers, prosecutors, victim advocacy groups, and other related parties to investigate and prosecute incidents of domestic violence and child abuse;

(2) to provide treatment and counseling to victims of domestic violence and child abuse; and

(3) to work in cooperation with the community to develop education and prevention strategies directed toward such issues.

(b) DEFINITION.—In this section, the term "rural State" has the meaning stated in section 1501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb(B)).

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1995, 1996, and 1997.

(2) ADDITIONAL FUNDING.—In addition to funds received under a grant under subsection (a), a law enforcement agency may use funds received under a grant under section 1402 to accomplish the objectives of this section.

Subtitle D—Sense of Congress Regarding Funding for Rural Areas

SEC. 2531. FUNDING FOR RURAL AREAS.

It is the sense of Congress that—

(1) the Attorney General should ensure that funding for programs in this Act is distributed such that rural areas continue to receive comparable support for their broad-based crime fighting initiatives;

(2) rural communities should not receive less funding than they received in fiscal year 1994 for anti-crime initiatives as a result of any legislative or administrative actions; and

(3) to the maximum extent possible, funding for the Edward Byrne Memorial State and Local Law Enforcement Assistance Program should be maintained at its fiscal year 1994 level.

TITLE XXVI—COMMISSION ON CRIME AND VIOLENCE

SEC. 2601. FINDINGS.

The Congress finds that—

(1) there is no more important responsibility of government than the protection of the lives and property of its citizens;

(2) a violent crime occurs every 22 seconds in America;

(3) the Nation's law enforcement personnel and criminal justice system lack the resources they need to fully maintain law and order;

(4) the proliferation of drugs and guns in the last 3 decades has dramatically changed the nature of crime;

(5) it has been 27 years since the Brown Commission redefined the Federal Government's response to crime in America; and

(6) the Nation must commit itself to an energetic, innovative assault on the epidemic of crime in our society, including—

(A) alternative forms of sentencing to guarantee swift and sure punishment of criminals, including the Nation's growing number of youth offenders;

(B) initiatives by the public and private sectors designed to identify and alleviate the causes of criminal behavior; and

(C) an examination of current laws and law enforcement practices to determine where and how resources may be best utilized to fight crime, reduce burdens on courts and jails, and stop recidivism.

SEC. 2602. ESTABLISHMENT OF COMMISSION ON CRIME AND VIOLENCE.

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Commission on Crime and Violence in America" (referred to as the "Commission").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 22 members, of whom—

(A) 6 shall be appointed by the President;

(B) 8 shall be appointed by the Speaker of the House of Representatives, of whom 2 shall be appointed on the recommendation of the minority leader; and

(C) 8 shall be appointed by the President pro tempore of the Senate, of whom 6 shall be appointed on the recommendation of the majority leader and 2 shall be appointed on the recommendation of the minority leader.

(2) GOALS IN MAKING APPOINTMENTS.—In appointing members of the Commission, the President, Speaker, President pro tempore, and the majority and minority leaders shall seek to ensure that—

(A) the membership of the Commission reflect the racial, ethnic, and gender diversity of the United States; and

(B) members are specially qualified to serve on the Commission by reason of their education, training, expertise, or experience in—

(i) sociology;

(ii) psychology;

(iii) law;

(iv) law enforcement;

(v) social work; and

(vi) ethnography and urban poverty, including health care, housing, education, and employment.

(3) DEADLINE.—Members of the Commission shall be appointed within 60 days after the date of enactment of this Act.

(4) TERM.—Members shall serve on the Commission through the date of its termination under section 8.

(5) MEETINGS.—The Commission—

(A) shall have its headquarters in the District of Columbia; and

(B) shall meet at least once each month for a business session.

(6) QUORUM.—Twelve members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(7) CHAIRPERSON AND VICE CHAIRPERSON.—Not later than 15 days after the members of the Commission are appointed, the members shall designate a Chairperson and Vice Chairperson of the Commission.

(8) VACANCIES.—A vacancy in the Commission shall be filled not later than 30 days after the Commission is informed of the vacancy in the manner in which the original appointment was made.

(9) COMPENSATION.—

(A) NO PAY, ALLOWANCE, OR BENEFIT.—Members of the Commission shall receive no pay, allowances, or benefits by reason of their service on the Commission.

(B) TRAVEL EXPENSES.—A member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with section 5702 and 5703 of title 5, United States Code.

SEC. 2603. DUTIES.

The Commission shall—

(1) review the effectiveness of traditional criminal justice approaches in preventing and controlling crime and violence;

(2) examine the impact that changes to Federal and State law have had in controlling crime and violence;

(3) examine the impact of changes in Federal immigration laws and policies and increased development and growth along United States international borders on crime and violence in the United States, particularly among our Nation's youth;

(4) examine the problem of youth gangs and provide recommendations on how to reduce youth involvement in violent crime;

(5) examine the extent to which assault weapons and high power firearms have contributed to violence and murder in the United States;

(6) convene hearings in various parts of the country to receive testimony from a cross section of criminal justice professionals, business leaders, elected officials, medical doctors, and other citizens that wish to participate;

(7) review all segments of the criminal justice system, including the law enforcement, prosecution, defense, judicial, corrections components, in developing the crime control and antiviolence plan;

(8) develop a comprehensive and effective crime control and antiviolence plan that will serve as a blueprint for action in the 1990's;

(9) bring attention to successful models and programs in crime prevention, crime control, and antiviolence;

(10) reach out beyond the traditional criminal justice community for ideas when developing the comprehensive crime control and antiviolence plan;

(11) recommend improvements in the coordination of Federal, State, local, and international border crime control efforts;

(12) make a comprehensive study of the economic and social factors leading to or contributing to crime and violence and specific proposals for legislative and administrative actions to reduce crime and violence and the elements that contribute to crime and violence; and

(13) recommend means of allocating finite correctional facility space and resources to the most serious and violent offenders, with the goal of achieving the most cost-effective crime control and protection of the community and public safety, after—

(A) examining the issue of disproportionate incarceration rates among black males and any other minority group disproportionately represented in Federal and State correctional populations; and

(B) considering increased use of alternatives to incarceration that offer a reasonable prospect of equal or better crime control at equal or less cost than incarceration.

SEC. 2604. STAFF AND SUPPORT SERVICES.

(a) DIRECTOR.—

(a) APPOINTMENT.—After consultation with the members of the Commission, the Chairperson shall appoint a director of the Commission (referred to in this title as the "Director").

(2) COMPENSATION.—The Director shall be paid at a rate not to exceed the rate of basic pay for level V of the Executive Schedule.

(b) STAFF.—With the approval of the Commission, the Director may appoint such personnel as the Director considers to be appropriate.

(c) CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(d) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(e) STAFF OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, personnel of that agency to the Commission to assist in carrying out its duties.

(f) PHYSICAL FACILITIES.—The Administrator of the General Services Administration shall provide suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for proper functioning.

SEC. 2605. POWERS.

(a) HEARINGS.—The Commission may conduct public hearings or forums at its discretion, at any time and place it is able to secure facilities and witnesses, for the purpose of carrying out its duties.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure from any Federal agency or entity in the executive or legislative branch such materials, resources, statistical data, and other information as is necessary to enable it to carry out this Act. Upon request of the Chairperson or Vice Chairperson of the Commission, the head of a Federal agency or entity shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 2606. REPORTS.

(a) MONTHLY REPORTS.—The Commission shall submit monthly activity reports to the President and the Congress.

(b) INTERIM REPORT.—Not later than 1 year before the date of its termination, the Commission shall submit an interim report to the President and the Congress containing—

(1) a detailed statement of the findings and conclusions of the Commission;

(2) recommendations for legislative and administrative action based on the Commission's activities to date;

(3) an estimation of the costs of implementing the recommendations made by the Commission; and

(4) a strategy for disseminating the report to Federal, State, and local authorities.

(c) FINAL REPORT.—Not later than the date of its termination, the Commission shall submit to the Congress and the President a final report with a detailed statement of final findings, conclusions, recommendations, and estimation of costs and an assessment of the extent to which recommendations included in the interim report under subsectin (b) have been implemented.

(d) PRINTING AND PUBLIC DISTRIBUTION.—Upon receipt of each report of the Commission under this section, the President shall—

(1) order the report to be printed; and

(2) make the report available to the public.

SEC. 2607. TERMINATION.

The Commission shall terminate on the date that is 2 years after the date on which members of the Commission have met and designated a Chairperson and Vice Chairperson.

TITLE XXVII—POLICE CORPS AND LAW ENFORCEMENT SCHOLARSHIP ACT

SEC. 2701. PURPOSES.

The purposes of this title are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol; and

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement.

SEC. 2702. DEFINITIONS.

For purposes of this title—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "Director" means the Director of the Office of the Police Corps and Law Enforcement Education appointed under section 2711;

(4) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree in legal- or criminal justice-related studies; or

(B) a course of graduate study legal or criminal justice studies following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(5) the term "institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(6) the term "participant" means a participant in the Police Corps program selected pursuant to section 2714;

(7) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(8) the term "State Police Corps program" means a State police corps program that meets the requirements of section 2717.

Subtitle A—Police Corps

SEC. 2711. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general

authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established by this subtitle and shall have authority to promulgate regulations to implement this subtitle.

SEC. 2712. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under this subtitle shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagercy agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this subtitle;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program; and

(4) meet the requirements of section 2717.

SEC. 2713. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director may award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B), each scholarship payment made under this section for each academic year shall not exceed—

(i) $7,500; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of scholarship assistance received by any one participant under this section shall not exceed $30,000.

(3) Participants who receive scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(4)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director may make payments to a participant to reimburse such participant for the costs of educational expenses if the student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $7,500; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of payments made pursuant to subparagraph (A) to any 1 student shall not exceed $30,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this under subsection shall only be used to attend a 4-year institution of higher education, except that—

(1) scholarships may be used for graduate and professional study; and

(2) if a participant has enrolled in the program upon or after transfer to a 4-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses.

(d) AGREEMENT.—(1)(A) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director.

(B) An agreement under subparagraph (A) shall contain assurances that the participant shall—

(i) after successful completion of a baccalaureate program and training as prescribed in section 2715, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(ii) complete satisfactorily—

(I) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study); and

(II) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 2715; and

(iii) repay all of the scholarship or payment received plus interest at the rate of 10 percent if the conditions of clauses (i) and (ii) are not complied with.

(2)(A) A participant who receives a scholarship or payment under this section shall not be considered to be in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) If the participant who has received a scholarship is unable to comply with the repayment provision set forth in paragraph (1)(B)(ii) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from a participant who violates an agreement described in paragraph (1).

(e) DEPENDENT CHILD.—(1) A dependent child of an individual referred to in paragraph (2) shall be entitled to the scholarship assistance authorized in this section for any course of study in any accredited institution of higher education. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(2) For purposes of paragraph (1), an individual is a law enforcement officer—

(A) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer;

(B) who is not a participant in the Police Corps program, but who serves in a State for which the Director has approved a State Police Corps plan; and

(C) who is killed in the course of performing police duties.

(f) APPLICATION.—Each participation desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

SEC. 2714. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant shall—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 2717 (c)(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be a good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this title, up to 10 percent of the applicants accepted into a State Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 2716, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in subsection (b)(1)(E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of

section 2716, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this subtitle that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 2715. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for State Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

(2) The Director may enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces) to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director may enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of State Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 2717 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in State Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 2716. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program established in section 2715 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 2713, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 2713(d)(1)(B)(iii) shall not apply.

(d) LAYOFFS.—If the police force of which the participant is a member lays off the participant such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 2713, the Director may permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 2713(d)(1)(B)(iii) shall not apply.

SEC. 2717. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 2714;

(2) State procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since June 21, 1989; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) ensure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the State Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 2718. ASSISTANCE TO STATES AND LOCALITIES EMPLOYING POLICE CORPS OFFICERS.

Each jurisdiction directly employing State Police Corps participants during the 4-year term of service prescribed by section 2716 shall receive $10,000 on account of each such participant at the completion of each such year of service, but—

(1) no such payment shall be made on account of service in any State or local police force—

(A) whose average size, in the year for which payment is to be made, not counting State Police Corps participants assigned under section 2715, has declined more than 2 percent since January 1, 1993; or

(B) which has members who have been laid off but not retired; and

(2) no such payment shall be made on account of any State Police Corps participant for years

of service after the completion of the term of service prescribed in section 2716.

SEC. 2719. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle—

(1) $100,000,000 for fiscal year 1995 and $250,000,000 for fiscal year 1996; and

(2) such sums as are necessary for each of the fiscal years 1997, 1998, and 1999.

SEC. 2720. REPORTS TO CONGRESS.

(a) IN GENERAL.—Not later than April 1 of each year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate.

(b) CONTENTS.—A report under subsection (a) shall—

(1) state the number of current and past participants in the State Police Corps program, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic, racial, and gender dispersion of participants in the State Police Corps program; and

(3) describe the progress of the State Police Corps program and make recommendations for changes in the program.

Subtitle B—Law Enforcement Scholarship Program

SEC. 2731. ALLOTMENT.

From amounts appropriated under section 2739, the Director shall allot—

(1) 80 percent of such amounts to States on the basis of the number of law enforcement officers in each State compared to the number of law enforcement officers in all States; and

(2) 20 percent of such amounts to States on the basis of the shortage of law enforcement personnel and the need for assistance under this subtitle in the State compared to the shortage of law enforcement personnel and the need for assistance under this subtitle in all States.

SEC. 2732. ESTABLISHMENT OF PROGRAM.

(a) USE OF ALLOTMENT.—

(1) IN GENERAL.—A State that receives an allotment pursuant to section 2731 shall use the allotment to pay the Federal share of the costs of—

(A) awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education; and

(B) providing—

(i) full-time employment in summer; or

(ii) part-time (not to exceed 20 hours per week) employment for a period not to exceed 1 year.

(2) EMPLOYMENT.—The employment described in paragraph (1)(B)—

(A) shall be provided by State and local law enforcement agencies for students who are juniors or seniors in high school or are enrolled in an institution of higher education and who demonstrate an interest in undertaking a career in law enforcement;

(B) shall not be in a law enforcement position; and

(C) shall consist of performing meaningful tasks that inform students of the nature of the tasks performed by law enforcement agencies.

(b) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall pay to each State that receives an allotment under section 2731 the Federal share of the cost of the activities described in the application submitted pursuant to section 2735.

(2) FEDERAL SHARE.—The Federal share shall not exceed 60 percent.

(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of scholarships and student employment provided under this subtitle shall be supplied from sources other than the Federal Government.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the programs conducted pursuant to this subtitle and shall, in consultation with the Assistant Secretary for Postsecondary Education, issue rules to implement this subtitle.

(d) ADMINISTRATIVE EXPENSES.—A State that receives an allotment under section 2731 may reserve not more than 8 percent of the allotment for administrative expenses.

(e) SPECIAL RULE.—A State that receives an allotment under section 2731 shall ensure that each scholarship recipient under this subtitle be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(f) SUPPLEMENTATION OF FUNDING.—Funds received under this subtitle shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 2733. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this subtitle shall be for a period of 1 academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subtitle may use the scholarship for educational expenses at an institution of higher education.

SEC. 2734. ELIGIBILITY.

(a) SCHOLARSHIPS.—A person shall be eligible to receive a scholarship under this subtitle if the person has been employed in law enforcement for the 2-year period immediately preceding the date on which assistance is sought.

(b) INELIGIBILITY FOR STUDENT EMPLOYMENT.—A person who has been employed as a law enforcement officer is ineligible to participate in a student employment program carried out under this subtitle.

SEC. 2735. STATE APPLICATION.

(a) IN GENERAL.—Each State desiring an allotment under section 2731 shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require.

(b) CONTENTS.—An application under subsection (a) shall—

(1) describe the scholarship program and the student employment program for which assistance under this subtitle is sought;

(2) contain assurances that the lead agency will work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out this subtitle;

(3) contain assurances that the State will advertise the scholarship assistance and student employment it will provide under this subtitle and that the State will use such programs to enhance recruitment efforts;

(4) contain assurances that the State will screen and select law enforcement personnel for participation in the scholarship program under this subtitle;

(5) contain assurances that under such student employment program the State will screen and select, for participation in such program, students who have an interest in undertaking a career in law enforcement;

(6) contain assurances that under such scholarship program the State will make scholarship payments to institutions of higher education on behalf of persons who receive scholarships under this subtitle;

(7) with respect to such student employment program, identify—

(A) the employment tasks that students will be assigned to perform;

(B) the compensation that students will be paid to perform such tasks; and

(C) the training that students will receive as part of their participation in the program;

(8) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(9) contain assurances that the State will promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in institutions of higher education.

SEC. 2736. LOCAL APPLICATION.

(a) IN GENERAL.—A person who desires a scholarship or employment under this subtitle shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require.

(b) CONTENTS.—An application under subsection (a) shall describe—

(1) the academic courses for which a scholarship is sought; or

(2) the location and duration of employment that is sought.

(c) PRIORITY.—In awarding scholarships and providing student employment under this subtitle, each State shall give priority to applications from persons who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State;

(2) pursuing an undergraduate degree; and

(3) not receiving financial assistance under the Higher Education Act of 1965.

SEC. 2737. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—A person who receives a scholarship under this subtitle shall enter into an agreement with the Director.

(b) CONTENTS.—An agreement described in subsection (a) shall—

(1) provide assurances that the scholarship recipient will work in a law enforcement position in the State that awarded the scholarship in accordance with the service obligation described in subsection (c) after completion of the scholarship recipient's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the scholarship recipient will repay the entire scholarship in accordance with such terms and conditions as the Director shall prescribe if the requirements of the agreement are not complied with, unless the scholarship recipient—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which the scholarship recipient may seek employment in the field of law enforcement in a State other than the State that awarded the scholarship.

(c) SERVICE OBLIGATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), a person who receives a scholarship under this subtitle shall work in a law enforcement position in the State that awarded the scholarship for a period of 1 month for each credit hour for which funds are received under the scholarship.

(2) SPECIAL RULE.—For purposes of satisfying the requirement of paragraph (1), a scholarship recipient shall work in a law enforcement position in the State that awarded the scholarship for not less than 6 months but shall not be re-

quired to work in such a position for more than 2 years.

SEC. 2738. DEFINITIONS.

For purposes of this subtitle—

(1) the term "Director" means the Director of the Bureau of Justice Assistance;

(2) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, and related expenses;

(3) the term "institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(4) the term "law enforcement position" means employment as an officer in a State or local police force or correctional institution; and

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 2739. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subtitle $30,000,000 for each of fiscal years 1995, 1996, 1997, 1998, and 1999.

(b) USES OF FUNDS.—Of the funds appropriated under subsection (a) for a fiscal year—

(1) 80 percent shall be available to provide scholarships described in section 2732(a)(1)(A); and

(2) 20 percent shall be available to provide employment described in sections 2732(a)(1)(B) and 2732(a)(2).

TITLE XXVIII—NATIONAL STALKER AND DOMESTIC VIOLENCE REDUCTION

SEC. 2801. AUTHORIZING ACCESS TO FEDERAL CRIMINAL INFORMATION DATABASES.

(a) ACCESS.—The Attorney General shall amend existing regulations (published at 28 C.F.R. 20.33(a)) to authorize the dissemination of information from existing national crime information databases, including the National Crime Information Center and III ("Triple I"), to courts and court personnel, civil or criminal, for use in domestic violence or stalking cases. Nothing in this subsection shall be construed to permit any person or court access to criminal history record information for any other purpose or for any other civil case other than for use in a stalking or domestic violence case.

(b) ENTRY.—The Attorney General shall amend existing regulations to permit Federal and State criminal justice agencies, assigned to input information into national crime information databases, to include arrests, warrants, and orders for the protection of parties from stalking or domestic violence, whether issued by a criminal, civil, or family court. Such amendment shall include a definition of criminal history information that covers warrants, arrests, and orders for the protection of parties from stalking or domestic violence. Nothing in this subsection shall be construed to permit access to such information for any purpose which is different than the purposes described in subsection (a).

(c) PROCEDURES.—The regulations required by subsection (a) shall be proposed no later than 90 days after the date of enactment of this Act, after appropriate consultation with the Director of the Federal Bureau of Investigation, the officials charged with managing the National Crime Information Center, and the National Crime Information Center Advisory Policy Board. Final regulations shall be issued no later than 180 days after the date of the enactment of this Act.

SEC. 2802. NONSERIOUS OFFENSE BAR.

The Attorney General shall amend existing regulations to specify that the term "nonserious offenses", as used in 28 C.F.R. 20.32, does not include stalking or domestic violence offenses. Nothing in this section is intended to change current regulations requiring that juvenile offenses shall be excluded from national crime information databases unless the juvenile has been tried as an adult.

SEC. 2803. PERFORMANCE GRANT PROGRAM.

(a) IN GENERAL.—The Attorney General, through the Director of the Bureau of Justice Assistance, is authorized to provide performance grants to the States to improve processes for entering data about stalking and domestic violence into national crime information databases.

(b) ELIGIBILITY.—Eligible grantees under subsection (a) are States that provide, in their application, that all criminal justice agencies within their jurisdiction shall enter into the National Crime Information Center all records of (1) warrants for the arrest of persons violating civil protection orders intended to protect victims from stalking or domestic violence; (2) arrests of persons violating civil protection orders intended to protect victims from stalking or domestic violence; and (3) orders for the protection of persons from violence, including stalking and domestic violence.

(c) PERFORMANCE-BASED DISTRIBUTION.—Eligible grantees under subsection (a) shall be awarded 25 percent of their grant moneys upon application approval as "seed money" to cover start-up costs for the project funded by the grant. Upon successful completion of the performance audit provided in subsection (d), the grantees shall be awarded the remaining sums in the grant.

(d) PERFORMANCE AUDIT.—Within 6 months after the initial 25 percent of a grant is provided, the State shall report to the Federal Bureau of Investigation and the Bureau of Justice Assistance, the number of records included in national crime information databases as a result of the grant funding, including separate data for warrants, arrests, and protective orders. If the State can show a substantial increase in the number of records entered, then it shall be eligible for the entire amount. However, the Director shall suspend funding for an approved application if an applicant fails to submit a 6 month performance report or if funds are expended for purposes other than those set forth under this title. Federal funds may be used to supplement, not supplant, State funds.

(e) GRANT AMOUNT.—From amounts appropriated, the amount of grants under subsection (a) shall be—

(1) $75,000 to each State; and

(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

SEC. 2804. APPLICATION REQUIREMENTS.

The application requirements provided in section 513 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) shall apply to grants made under this title. In addition, applications shall include documentation showing—

(1) the need for grant funds and that State funding does not already cover these operations;

(2) intended use of the grant funds, including a plan of action to increase record input; and

(3) an estimate of expected results from the use of the grant funds.

SEC. 2805. DISBURSEMENT.

(a) GENERAL RULE.—No later than 30 days after the receipt of an application under this title, the Director shall either disburse the appropriate sums provided for under this title or shall inform the applicant why the application does not conform to the terms of section 513 of the Omnibus Crime Control and Safe Streets Act of 1968 or to the requirements of section 2804 of this title.

(b) REGULATIONS.—In disbursing moneys under this title, the Director of the Bureau of Justice Assistance shall issue regulations to ensure that grantees give priority to the areas with the greatest showing of need.

SEC. 2806. FEDERAL NONMONETARY ASSISTANCE.

In addition to the assistance provided under the performance grant program, the Attorney General may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local law enforcement efforts to combat stalking and domestic violence.

SEC. 2807. AUTHORIZATION.

There are authorized to be appropriated for each of the fiscal years 1994, 1995, and 1996, $2,000,000 to carry out the purposes of the Performance Grant Program under this title.

SEC. 2808. TRAINING PROGRAMS FOR JUDGES.

The National Institute of Justice, in conjunction with a nationally recognized nonprofit organization expert in stalking and domestic violence cases, shall conduct training programs for judges to ensure that any judge issuing an order in stalking or domestic violence cases has all available criminal history and other information, whether from State or Federal sources.

SEC. 2809. RECOMMENDATIONS ON INTRASTATE COMMUNICATION.

The National Institute of Justice, after consulting a nationally recognized nonprofit associations expert in data sharing among criminal justice agencies and familiar with the issues raised in stalking and domestic violence cases, shall recommend proposals about how State courts may increase intrastate communication between family courts, juvenile courts, and criminal courts.

SEC. 2810. INCLUSION IN NATIONAL INCIDENT-BASED REPORTING SYSTEM.

Not later than 2 years after the date of enactment of this Act, the Attorney General, in coordination with the Federal Bureau of Investigation and the States, shall compile data regarding stalking civil protective orders and other forms of domestic violence as part of the National Incident-Based Reporting System (NIBRS).

SEC. 2811. REPORT TO CONGRESS.

The Attorney General shall submit to the Congress an annual report, beginning one year after the date of the enactment of this Act, that reports information on the incidence of stalking and other forms of domestic violence, and evaluates the effectiveness of State anti-stalking efforts and legislation.

SEC. 2812. DEFINITIONS.

As used in this title—

(1) the term "national crime information databases" refers to the National Crime Information Center and its incorporated criminal history databases, including III ("Triple I");

(2) the term "stalking" includes any conduct that would, if proven, justify the issuance of an order of protection under the stalking, or other, laws of the State in which it occurred; and

(3) the term "domestic violence" includes any conduct that would, if proven, justify the issuance of an order of protection under the domestic violence, or other, laws of the State in which it occurred.

TITLE XXIX—PROTECTING THE PRIVACY OF INFORMATION IN STATE MOTOR VEHICLE RECORDS

SEC. 2901. SHORT TITLE.

This title may be cited as the "Driver's Privacy Protection Act of 1994".

SEC. 2902. PROHIBITION ON RELEASE AND USE OF CERTAIN PERSONAL INFORMATION FROM STATE MOTOR VEHICLE RECORDS.

(a) In General.—Title 18, United States Code, is amended by inserting after chapter 121 the following:

"CHAPTER 123—PROHIBITION ON RELEASE AND USE OF CERTAIN PERSONAL INFORMATION FROM STATE MOTOR VEHICLE RECORDS

"§2721. Prohibition on release and use of certain personal information from State motor vehicle records

"(a) In General.—Except as provided in subsection (b), a State department of motor vehicles, and any officer, employee, or contractor, thereof, shall not knowingly disclose or otherwise make available to any person or entity personal information about any individual obtained by the department in connection with a motor vehicle record.

"(b) Permissible Uses.—Personal information referred to in subsection (a) of this section shall be disclosed for paragraphs (1) and (2) to carry out the purpose of the Automobile Information Disclosure Act, the Motor Vehicle Information and Cost Saving Act, the National Traffic and Motor Vehicle Safety Act of 1966, the Anti-Car Theft Act of 1992, and the Clean Air Act, and may be disclosed for paragraphs (3) through (14), as follows:

"(1) For use by any Federal, State, or local agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a Federal, State, or local agency in carrying out its functions.

"(2) For use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alteration, recall or advisory, and motor vehicle customer satisfaction.

"(3) For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only—

"(A) to verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and

"(B) if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

"(4) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court.

"(5) For use in research activities, including survey research, and for use in producing statistical reports, provided that the personal information is not published or redisclosed and provided that the personal information is not used to direct solicitations or marketing offers at the individuals whose personal information is disclosed under this paragraph.

"(6) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating or underwriting.

"(7) For the purpose of providing notice to the owners of towed or impounded vehicles.

"(8) For use by any licensed private investigative agency or licensed security service for any purpose permitted under this subsection.

"(9) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2710 et seq.).

"(10) For use in connection with the operation of private toll transportation facilities.

"(11) For any other purpose in response to requests for individual motor vehicle records if the motor vehicle department has provided in a clear and conspicuous manner to the individual to whom the information pertains an opportunity to prohibit such disclosures.

"(12) For bulk distribution for marketing or solicitations if the motor vehicle department has implemented methods and procedures to ensure—

"(A) that individuals are provided an opportunity, in a clear and conspicuous manner, to prohibit such disclosure; and

"(B) that the information will be used, rented, or sold solely for bulk distribution for marketing and solicitations, and that such solicitations will not be directed at those individuals who have requested in a timely fashion that they not be directed at them.

'Methods and procedures' includes the motor vehicle department's use of a mail preference list to remove from its records before bulk distribution the names and personal information of those individuals who have requested that solicitations not be directed at them.

"(13) For use by any requestor, if the requestor demonstrates it has obtained the written consent of the individual to whom the information pertains.

"(14) For any other purpose specifically authorized under the law of the State that holds the record, if such purpose is related to the operation of a motor vehicle or public safety.

"(c) Resale or Redisclosure.—Any authorized recipient of personal information may resell or redisclose the information for any use permitted under subsection (b). Any authorized recipient (except a recipient under subsections (b) (11) or (12)) that resells or rediscloses personal information covered by this title must keep for a period of 5 years records identifying each person or entity that receives information and the permitted purpose for which the information will be used.

"(d) Waiver Procedures.—A State motor vehicle department may establish and carry out procedures under which the department or its agents, upon receiving a request for personal information that does not fall within one of the exceptions in subsection (b), may mail a copy of the request to the individual about whom the information was requested, informing such individual of the request, together with a statement to the effect that the information will not be released unless the individual waives such individual's right to privacy under this section.

"§2722. Additional unlawful acts

"(a) Procurement for Unlawful Purpose.—It shall be unlawful for any person knowingly to obtain or disclose personal information, from a motor vehicle record, for any purpose not permitted under section 2721(b) of this title.

"(b) False Representation.—It shall be unlawful for any person to make false representation to obtain any personal information from an individual's motor vehicle record.

"§2723. Criminal penalty

"Any person that knowingly violates this chapter shall be fined under this title.

"§2724. Civil action

"(a) Cause of Action.—A person who knowingly obtains, discloses or uses personal information, derived from a motor vehicle record, for a purpose not permitted under this chapter shall be liable to the individual to whom the information pertains, who may bring a civil action in a United States district court.

"(b) Remedies.—The court may award—

"(1) actual damages, but not less than liquidated damages in the amount of $2,500;

"(2) punitive damages upon proof of willful or reckless disregard of the law;

"(3) reasonable attorneys' fees and other litigation costs reasonably incurred; and

"(4) such other preliminary and equitable relief as the court determines to be appropriate.

"§2725. Definitions

"As used in this chapter—

"(1) the term 'motor vehicle record' means any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by a department of motor vehicles;

"(2) the term 'personal information' means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information, but such term does not include information on vehicular accidents, driving violations, and driver's status; and

"(3) the term 'person' means an individual, organization or entity, but does not include a State or agency thereof.".

(b) Clerical Amendment.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by adding at the end the following new item:

"123. Prohibition on release and use of certain personal information from State motor vehicle records .... 2271"

SEC. 2903. EFFECTIVE DATE.

This title shall take effect 3 years after the date of enactment. In the interim, personal information covered by this title may be released consistent with State law or practice.

TITLE XXX—MISCELLANEOUS

Subtitle A—Display of Flags at Half Staff

SEC. 3001. DISPLAY OF FLAGS AT HALF STAFF.

(a) Public Law 87-726.—The first section of Public Law 87-726 (36 U.S.C. 167) is amended—

(1) by striking "(2)" and inserting "(3)";

(2) by inserting after clause (1) the following new clause: "(2) directing the officials of the Government to display at half-staff the flag of the United States on all Government buildings on such day, as provided by section 3(m) of the Act of June 22, 1942 (Chapter 435; 56 Stat. 377; 36 U.S.C. 175),";

(3) by striking "(3)" and inserting "(4)"; and

(4) by inserting in paragraph (4) ", including the display at half-staff of the flag of the United States" after "activities".

(b) Act of June 22, 1942.—Section 3(m) of the Act of June 22, 1942 (Chapter 435; 56 Stat. 377; 36 U.S.C. 175) is amended by inserting "The flag shall be flown at half-staff on Peace Officers Memorial Day, unless that day is also Armed Forces Day." after "a Member of Congress.".

Subtitle B—Sense of Congress With Respect to Violence Against Truckers

SEC. 3005. SENSE OF CONGRESS WITH RESPECT TO VIOLENCE AGAINST TRUCKERS.

(a) Findings.—Congress finds that—

(1) there are 8,000,000 workers in the trucking industry in the United States, some working for large carriers and some for small carriers, some for private carriers and some owner operators, all assisting the free flow commerce by transporting all types of commodities that enter, leave, or move within this country;

(2) unemployment, crime, and drug use have contributed to an increase of violence against commercial truckers, an increase that has gone unrecognized by the public at large;

(3) few State or local authorities report violent crimes against truckers as such to the Federal Bureau of Investigation, statistics do not reflect this fast-growing and increasingly violent segment of crime;

(4) the Federal Bureau of Investigation investigated 282 truck hijackings involving crimes of violence in 1993, not including attempted crimes and crimes addressed by State, county, and local authorities;

(5) the Federal Government in large measure finances the highway system the trucking industry uses, collecting large sums in taxes from the industry, and licenses and regulates the industry and its drivers, entailing a concomitant responsibility to protect them against crime; and

(6) Federal law provides protections to truckers in among others, sections 33 and 1951 of title 18, United States Code, but currently Federal prosecutions are not undertaken unless certain monetary thresholds of loss are met.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) when there is Federal jurisdiction, Federal authorities should prosecute to the fullest extent of the law murders, rapes, burglaries, kidnappings and assaults committed against commercial truckers; and

(2) appropriate Federal agencies should acknowledge this problem and place a priority on evaluating how best to prevent these crimes and apprehend those involved, and continue to coordinate their activities with multi-jurisdictional authorities to combat violent crimes committed against truckers.

Subtitle C—Financial Institution Fraud

SEC. 3011. FINANCIAL INSTITUTION FRAUD.

Section 528 of Public Law 101-509, approved November 5, 1990, is amended by striking "with the authority of the Resolution Trust Corporation or its successor" at the end of subsection (b)(2) and inserting "on December 31, 2004".

Subtitle D—Authorization of Appropriations

SEC. 3016. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the activities of the Bureau of Alcohol, Tobacco and Firearms, the United States Customs Service, the Financial Crimes Enforcement Network, the Federal Law Enforcement Training Center, the Criminal -Investigation Division of the Internal Revenue Service, and the United States Secret Service, in addition to sums authorized elsewhere in this Act, not to exceed $210,000,000 for each of the fiscal years 1995, 1996, 1997, 1998, and 1999 to help meet the Department of the Treasury's increased law enforcement activities.

Subtitle E—Conversion of Closed Military Installations

SEC. 3021. CONVERSION OF THREE CLOSED MILITARY INSTALLATIONS INTO FEDERAL PRISON FACILITIES.

(a) STUDY OF SUITABLE BASES.—The Secretary of Defense and the Attorney General shall jointly conduct a study of all military installations selected before the date of the enactment of this Act to be closed pursuant to a base closure law for the purpose of evaluating the suitability of any of these installations, or portions of these installations, for conversion into Federal prison facilities. As part of the study, the Secretary and the Attorney General shall identify the three military installations so evaluated that are most suitable for conversion into Federal prison facilities.

(b) SUITABILITY FOR CONVERSION.—In evaluating the suitability of a military installation for conversion into a Federal prison facility, the Secretary of Defense and the Attorney General shall consider the estimated cost to convert the installation into a prison facility, the proximity of the installation to overcrowded Federal and State prison facilities, and such other factors as the Secretary and the Attorney General consider to be appropriate.

(c) TRANSFER TO ATTORNEY GENERAL.—Notwithstanding any other provision of law regarding disposal of military installations selected to be closed pursuant to a base closure law, the Secretary of Defense shall transfer, without reimbursement, jurisdiction over the three installations identified under subsection (a) to the Attorney General for conversion into Federal prison facilities. The Federal prison facilities established using these installations shall be designed to incarcerate persons convicted of a Federal violent felony. Upon a space available basis, the Attorney General may accept transfers from overcrowded State prisons if the persons to be transferred had previously been convicted of a Federal violent felony or are serving a sentence of more than 20 years.

(d) TIME FOR STUDY.—The study required by subsection (a) shall be completed not later than 180 days after the date of the enactment of this Act.

(e) DEFINITIONS.—For purpose of this section:

(1) The term "base closure law" means—

(A) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note); or

(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(2) The term "violent felony" has the meaning given that term in section 3581(c)(2) of title 18, United States Code.

SUBTITLE F—COMMISSION MEMBERSHIP AND APPOINTMENT

SEC. 3026. COMMISSION MEMBERSHIP AND APPOINTMENT.

(a) MEMBERSHIP.—Section 211(B)(f) of Public Law 101-515 (104 Stat. 2123) is amended to read as follows:

"(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 25 members as follows:

"(1) Seven individuals appointed from national law enforcement organizations representing law enforcement officers, of whom—

"(A) two shall be appointed by the Speaker of the House of Representatives;

"(B) two shall be appointed by the majority leader of the Senate;

"(C) one shall be appointed by the minority leader of the House of Representatives;

"(D) one shall be appointed by the minority leader of the Senate; and

"(E) one shall be appointed by the President.

"(2) Seven individuals appointed from national law enforcement organizations representing law enforcement management, of whom—

"(A) two shall be appointed by the Speaker of the House of Representatives;

"(B) two shall be appointed by the majority leader of the Senate;

"(C) one shall be appointed by the minority leader of the House of Representatives;

"(D) one shall be appointed by the minority leader of the Senate; and

"(E) one shall be appointed by the President.

"(3) Two individuals appointed with academic expertise regarding law enforcement issues, of whom—

"(A) one shall be appointed by the Speaker of the House of Representatives and the majority leader of the Senate; and

"(B) one shall be appointed by the minority leader of the Senate and the minority leader of the House of Representatives.

"(4) Two Members of the House of Representatives, appointed by the Speaker and the minority leader of the House of Representatives.

"(5) Two Members of the Senate, appointed by the majority leader and the minority leader of the Senate.

"(6) One individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

"(7) One individual from the Department of Justice, appointed by the President.

"(8) One individual representing a State or local governmental entity, such as a Governor, mayor, or State attorney general, to be appointed by the majority leader of the Senate.

"(9) One individual representing a State or local governmental entity, such as a Governor, mayor, or State attorney general, to be appointed by the Speaker of the House of Representatives.

"(10) One individual representing a State or local governmental entity, such as a Governor, mayor, or State attorney general, to be appointed by the President.".

(b) REPORT.—Section 211(B)(p) of Public Law 101-515 (104 Stat. 2124) is amended by striking "the expiration" and all that follows through "this Act," and inserting "March 31, 1996,".

SEC. 3027. CONFORMING AMENDMENT.

Section 3404(a) of Public Law 101-647 (42 U.S.C. 3721 note) is repealed.

Subtitle G—Explosives Crime Penalties

SEC. 3031. ENHANCED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FELONY.

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate amendments to the sentencing guidelines to appropriately enhance penalties in a case in which a defendant convicted under section 844(h) of title 18, United States Code, has previously been convicted under that section.

SEC. 3032. THEFT OF EXPLOSIVES.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(k) A person who steals any explosives materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 3033. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18, United States Code, is amended by inserting "or possess" after "to receive".

SEC. 3034. THEFT OF EXPLOSIVES FROM LICENSEE.

Section 844 of title 18, United States Code, as amended by section 3032 of this Act, is amended by adding at the end the following:

"(l) A person who steals any explosive material from a licensed importer, licensed manufacturer, licensed dealer, or permittee shall be fined under this title, imprisoned not more than 10 years, or both.".

SEC. 3035. DISPOSING OF EXPLOSIVES TO PROHIBITED PERSONS.

Section 842(d) of title 18, United States Code, is amended by striking "licensee" and inserting "person".

Subtitle H—Traveler Protection

SEC. 3041. AUTHORITY TO INVESTIGATE VIOLENT CRIMES AGAINST TRAVELERS .

(a) Chapter 33 of title 28, United States Code, is amended by adding at the end the following:

"§540A. Investigation of violent crimes against travelers

"(a) Upon the request of an appropriate law enforcement official of a State or political subdivision, the Attorney General and the Federal Bureau of Investigation may assist in the investigation of a felony crime of violence in violation of the law of any State in which the victim appears to have been selected because he or she is a traveler. In a case in which the traveler is from a foreign nation, the Department of Justice and, where appropriate, the Department of

State shall assist the prosecuting and law enforcement officials of a State or political subdivision to the fullest extent possible in securing from abroad such evidence or other information as may be needed for the effective investigation and prosecution of the crime.

"(b) For purpose of this section—

"(1) the term 'felony crime of violence' means an offense punishable by more than one year in prison that has as an element the use, attempted use, or threatened use of physical force against the person of another;

"(2) and for purposes of section 540, the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

"(3) the term 'traveler' means a person who is not a resident of the State in which the crime of violence occurred.".

(b) The chapter analysis for chapter 33 of title 28, United States Code, is amended by adding at the end the following:

"540A. Investigation of violence crimes against travelers.".

Subtitle I—Study and Report by Attorney General

SEC. 3046. STUDY AND REPORT BY ATTORNEY GENERAL.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Attorney General shall make a study and submit a report of the results of that study to the Congress. Such study shall—

(1) address how to ease the overcrowding at traditional style prisons by allowing for the processing of new convicts and the housing of non-violent, elderly, and short-term Federal, State, and local inmates in prefabricated, temporary, or portable structures within a secure area; and

(2) determine what legal requirements may exist on the use of such structures for these purposes and suggest legislative measures or other appropriate actions to modify or eliminate those requirements.

(b) ACTION BY THE ATTORNEY GENERAL.—Not later than 2 years after the report referred to in subsection (a) is submitted to the Congress, the Attorney General shall implement the actions recommended in the report.

Subtitle J—Edward Byrne Memorial Formula Grant Program

SEC. 3048. EDWARD BYRNE MEMORIAL FORMULA GRANT PROGRAM.

Nothing in this Act shall be construed to prohibit or exclude the expenditure of appropriations to grant recipients who would have been or are eligible to receive grants under subpart 1 of part E of the Omnibus Crime Control and Safe Streets Act of 1968.

Subtitle K—Penalties for Trafficking in Counterfeit Goods and Services

SEC. 3051. PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.

Section 2320(a) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by striking "$250,000 or imprisoned not more than five years" and inserting "$2,000,000 or imprisoned not more than 10 years"; and

(B) by striking "$1,000,000" and inserting "$5,000,000";

(2) in the second sentence—

(A) by striking "$1,000,000 or imprisoned not more than fifteen years' and inserting "$5,000,000 or imprisoned not more than 20 years"; and

(B) by striking "$5,000,000" and inserting "$15,000,000".

Subtitle L—Military Medals and Decorations

SEC. 3056. MILITARY MEDALS AND DECORATIONS.

Section 704 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever";

(2) by striking "not more than $250" and inserting "under this title"; and

(3) by adding at the end the following:

"(b)(1) If the decoration or medal involved in an offense under subsection (a) of this section is a Congressional Medal of Honor, in lieu of the punishment provided in such subsection the offender shall be fined under this title or imprisoned not more than one year, or both.

"(2) As used in subsection (a) of this section with respect to a Congressional Medal of Honor, the term 'sells' includes trades, barters, or exchanges for anything of value.

"(3) As used in this subsection, the 'Congressional Medal of Honor' is a medal awarded under section 3741 of title 10.".

Subtitle M—Age Discrimination in Employment

SEC. 3061. REENACTMENT OF SUBSECTION WITH AN AMENDMENT.

(a) REENACTMENT.—Section 4(j) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(j)) as in effect immediately before December 31, 1993, is hereby reenacted.

(b) AMENDMENT.—Section 4(j) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(j)), as reenacted by subsection (a) of this section, is amended by striking "attained the age" and all that follows through "1983, and", and inserting the following:

"attained—

"(A) the age of hiring or retirement in effect under applicable State or local law on March 3, 1983; or

"(B) if the age of retirement was not in effect under applicable State or local law on March 3, 1983, 55 years of age; and".

(c) RETROACTIVITY.—Subsections (a) and (b) shall take effect immediately after the operation of section 3(b) of the Age Discrimination in Employment Amendments of 1986 (Public Law 99–592; 29 U.S.C. 523 note).

SEC. 3062. STUDY AND GUIDELINES FOR PERFORMANCE TESTS.

(a) STUDY.—Not later than 3 years after the date of enactment of this Act, the Chairman of the Equal Employment Opportunity Commission (in this section referred to as "the Chairman") shall conduct, directly or by contract, a study that will include—

(1) a list and description of all tests available for the assessment of abilities important for completion of public safety tasks performed by law enforcement officers and firefighters,

(2) a list of such public safety tasks for which adequate tests do not exist,

(3) a description of the technical characteristics that performance tests must meet to be compatible with applicable Federal civil rights Acts and policies,

(4) a description of the alternative methods available for determining minimally acceptable performance standards on the tests described in paragraph (1),

(5) a description of the administrative standards that should be met in the administration, scoring, and score interpretation of the tests described in paragraph (1), and

(6) an examination of the extent to which the tests described in paragraph (1) are cost effective, safe, and comply with Federal civil rights Acts and regulations.

(b) ADVISORY GUIDELINES.—Not later than 4 years after the date of enactment of this Act, the Chairman shall develop and issue, based on the results of the study required by subsection (a), advisory guidelines for the administration and use of physical and mental fitness tests to measure the ability and competency of law enforcement officers and firefighters to perform the requirements of their jobs.

(c) CONSULTATION REQUIREMENT; OPPORTUNITY FOR PUBLIC COMMENT.—(1) The Chairman shall, during the conduct of the study required by subsection (a), consult with—

(A) the United States Fire Administration,

(B) the Federal Emergency Management Agency,

(C) organizations that represent law enforcement officers, firefighters, and their employers, and

(D) organizations that represent older individuals.

(2) Before issuing the advisory guidelines required in subsection (b), the Chairman shall allow for public comment on the proposed guidelines.

(d) DEVELOPMENT OF STANDARDS FOR WELLNESS PROGRAMS.—Not later than 2 years after the date of the enactment of this Act, the Chairman shall propose advisory standards for wellness programs for law enforcement officers and firefighters.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000.

Subtitle N—Prison Security Enhancement

SEC. 3066. PRISON SECURITY.

(a) IN GENERAL.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following new section:

"§4047. Strength-training of prisoners prohibited

"The Bureau of Prisons shall take care that—

"(1) prisoners under its jurisdiction do not engage in any activities designed to increase their physical strength or their fighting ability; and

"(2) that all equipment designed for this purpose be removed from Federal correctional facilities.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 303 of title 18, United States Code, is amended by adding at the end the following new item:

"4047. Strength-training of prisoners prohibited.".

Subtitle O—Civil Rights of Institutionalized Persons Act

SEC. 3070. EXHAUSTION REQUIREMENT.

Section 8 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "in any action brought" and inserting "no action shall be brought";

(ii) by striking "the court shall" and all that follows through "require exhaustion of" and insert "until"; and

(iii) by inserting "are exhausted" after "available"; and

(B) in paragraph (2), by inserting "or are otherwise fair and effective" before the period at the end.

SEC. 3071. FRIVOLOUS ACTIONS.

Section 8(a) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e(a)) is amended by adding at the end the following:

"(3) The court shall on its own motion or on motion of a party dismiss any action brought pursuant to section 1979 of the Revised Statutes of the United States by an adult convicted of a crime and confined in any jail, prison, or other correctional facility if the court is satisfied that the action fails to state a claim upon which relief can be granted or is frivolous or malicious.

SEC. 3072. MODIFICATION OF REQUIRED MINIMUM STANDARDS.

Section 8(b)(2) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e(b)(2)) is amended by striking subparagraph (A) and redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

SEC. 3073. REVIEW AND CERTIFICATION PROCEDURE CHANGES.

Section 8(c) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e(c)) is amended—

(1) in paragraph (1), by inserting "or are otherwise fair and effective" before the period at the end; and

(2) in paragraph (2), by inserting "or is no longer fair and effective" before the period at the end.

SEC. 3074. PROCEEDINGS IN FORMA PAUPERIS.

(a) DISMISSAL.—Section 1915(d) of title 28, United States Code, is amended—

(1) by inserting "at any time" after "counsel and may"; and

(2) by striking "and may" and inserting "and shall";

(3) by inserting "fails to state a claim upon which relief may be granted or" after "that the action"; and

(4) by inserting "even if partial failing fees have been imposed by the court" before the period.

(b) PRISONER'S STATEMENT OF ASSETS.—Section 1915 of title 28, United States Code, is amended by adding at the end the following:

"(f) If a prisoner in a correctional institution files an affidavit in accordance with subsection (a) of this section, such prisoner shall include in that affidavit a statement of all assets such prisoner possesses. The court shall make inquiry of the correctional institution in which the prisoner is incarcerated for information available to that institution relating to the extent of the prisoner's assets. The court shall require full or partial payment of filing fees according to the prisoner's ability to pay.".

Subtitle P—Prison Overcrowding

SEC. 3080. APPROPRIATE REMEDIES FOR PRISON OVERCROWDING.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Subchapter C of chapter 229 of title 18, United States Code, is amended by adding at the end the following:

"§3626. Appropriate remedies with respect to prison crowding

"(a) REQUIREMENT OF SHOWING WITH RESPECT TO THE PLAINTIFF IN PARTICULAR.—

"(1) HOLDING.—A Federal court shall not hold prison or jail crowding unconstitutional under the eighth amendment except to the extent that an individual plaintiff inmate proves that the crowding causes the infliction of cruel and unusual punishment of that inmate.

"(2) RELIEF.—The relief in a case described in paragraph (1) shall extend no further than necessary to remove the conditions that are causing the cruel and unusual punishment of the plaintiff inmate.

"(b) INMATE POPULATION CEILINGS.—

"(1) REQUIREMENT OF SHOWING WITH RESPECT TO PARTICULAR PRISONERS.—A Federal court shall not place a ceiling on the inmate population of any Federal, State, or local detention facility as an equitable remedial measure for conditions that violate the eighth amendment unless crowding is inflicting cruel and unusual punishment on particular identified prisoners.

"(2) RULE OF CONSTRUCTION.—Paragraph (1) of this subsection shall not be construed to have any effect on Federal judicial power to issue equitable relief other than that described in paragraph (1) of this subsection, including the requirement of improved medical or health care and the imposition of civil contempt fines or damages, where such relief is appropriate.

"(c) PERIODIC REOPENING.—Each Federal court order or consent decree seeking to remedy an eighth amendment violation shall be reopened at the behest of a defendant for recommended modification at a minimum of 2-year intervals.".

(b) APPLICATION OF AMENDMENT.—Section 3626 of title 18, United States Code, as added by subsection a, shall apply to all outstanding court orders on the date of enactment of this Act. Any State or municipality shall be entitled to seek modification of any outstanding eighth amendment decree pursuant to that section.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter C of chapter 229 of title 18, United States Code, is amended by adding at the end the following new item:

"3626. Appropriate remedies with respect to prison crowding.".

(d) SUNSET PROVISION.—This section and the amendments made by this section are repealed effective as of the date that is 5 years after the date of enactment of this Act.

Subtitle Q—Sense of Congress With Respect to Child Pornography

SEC. 3083. CHILD PORNOGRAPHY.

(a) FINDINGS.—Congress finds that—

(1) child pornography is the permanent record of the sexual abuse or exploitation of children;

(2) children who are victims of child pornography often suffer severe physical and emotional harm;

(3) child pornography is a serious national problem;

(4) the Congress of the United States has a compelling interest in the protection of children from sexual abuse and exploitation by pornography (see New York v. Ferber, 458 U.S. 747 (1982));

(5) the Congress of the United States, in pursuit of this compelling interest, has taken every opportunity to strengthen child pornography laws and has, in clear and unambiguous language, criminalized the production, interstate distribution, receipt and possession of child pornography;

(6) the United States Department of Justice in its brief to the United States Supreme Court in the case of Knox v. United States, 92-1183, has failed to support the conviction of a child pornographer won by the Department in the United States District Court for the Middle District of Pennsylvania and affirmed on appeal in the United States Court of Appeals for the Third Circuit;

(7) the Department of Justice has used its brief in the Knox case as a vehicle for reinterpretation of the Federal child pornography laws in contravention to legislative history and past prosecution practices of the Department of Justice;

(8) the Department of Justice by declaring in its brief in the Knox case that a pornographer who lasciviously exhibits the genitals of children is prosecutable within the Federal child pornography laws only if the depictions show a minor engaged in the conduct of lasciviously exhibiting his or her genitals or pubic area, creates a federally protected class of child pornography; for example, child pornography involving children who are not knowingly engaged in lasciviously exhibiting their genitals or pubic areas but whose genitals or pubic areas are nonetheless lasciviously depicted by others;

(9) the Department of Justice by declaring in its brief in the Knox case in contravention to legislative history, that a pornographer who lasciviously exhibits the genital or pubic area of children is prosecutable within the Federal child pornography laws only if the genitals are nude or visible creates a federally protected class of child pornography, e.g. depictions which focus on a minor child's clothed genital or pubic area with the obvious intent of eliciting a sexual response in pedophiles;

(10) the plan meaning and congressional intent of the language in section 2256 of title 18, United States Code, is that the term "lascivious exhibition" refers to whether the depiction is intended to elicit a sexual response from the viewer, and not to the actions of the child;

(11) the Department of Justice has employed this meaning of the term "lascivious exhibition" since it was included in the laws in 1984, and Congress has not changed the meaning of the term;

(12) Congress specifically repudiated a "nudity" requirement for child pornography statutes (see United States v. Knox, 977 F. 2d 815, at 820-823, (3rd Cir., 1992));

(13) the "harm Congress attempted to eradicate by enacting child pornography laws is present when a photographer unnaturally focuses on a minor child's clothed genital area with the obvious intent to produce an image sexually arousing to pedophiles." (see Knox at 822); and

(14) the Congress of the United States believes that the reinterpretation of the Federal child pornography laws by Department of Justice, unless reversed, will bring back commercial child pornography and lead to a substantial increase of sexual exploitation of children.

(b) SENSE OF CONGRESS.—It is the sense of the House of Representatives that the Department of Justice repudiate its reinterpretation of Federal child pornography laws, defend the conviction won in lower courts in the Knox case, and vigorously prosecute sexual exploitation of children.

Subtitle R—Labels on Products

SEC. 3086. PLACEMENT OF MADE IN AMERICA LABELS ON PRODUCTS.

(a) REQUIREMENTS FOR USE OF LABELS.—No product may bear a label which states or suggests that the product was made in America unless—

(1) the product has been registered with the Department of Commerce under subsection (b); and

(2) the Secretary of Commerce has determined that—

(A) 60 percent of the product was manufactured in the United States; and

(B) final assembly of the product took place in the United States.

(b) REGISTRY OF AMERICAN-MADE PRODUCTS.—Not later than 12 months after the Secretary has promulgated regulations regarding the registration of products with the Department of Commerce under this section, a person shall register with the Department of Commerce any product on which there is or will be affixed a label which states or suggests that the product was made in America.

(c) PENALTIES FOR FRAUDULENT USE OF LABELS.—

(1) CIVIL FINE.—Any person who, with an intent to defraud or mislead, places on a product a label which states or suggests that the product was "made in America" in violation of this section may be assessed a civil penalty by the Secretary of not more than $100,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. The validity of such order may not be reviewed in an action to collect such civil penalty.

(2) INJUNCTIVE RELIEF.—The Secretary may bring an action to enjoin the violation of, or to compel compliance with, this section, whenever the Secretary believes that such a violation has occurred or is about to occur.

(d) REGULATIONS.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall promulgate regulations establishing procedures under which a person shall register a product under this section.

(e) DEFINITIONS.—For purposes of this section:

(1) LABEL.—The term "label" means any written, printed, or graphic matter on, or attached to, a product or any of its containers or wrappers.

(2) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

Subtitle S—Awards of Pell Grants to Prisoners Prohibited

SEC. 3089. AWARDS OF PELL GRANTS TO PRISONERS PROHIBITED.

Section 401(b)(8) of the Higher Education Act of 1965 (20 U.S.C. 1070a(b)(8)) is amended to read as follows:

"(8) No basic grant shall be awarded under this subpart to any individual who is incarcerated in any Federal or State penal institution.".

SEC. 3090. EFFECTIVE DATE.

The amendment made by this Act shall apply with respect to periods of enrollment beginning on or after the date of enactment of this Act.

Subtitle T—Cocaine Penalty Study

SEC. 3092. COCAINE PENALTY STUDY.

Not later than December 31, 1994, the United States Sentencing Commission shall submit a report to the Congress on issues relating to sentences applicable to offenses involving the possession or distribution of all forms of cocaine. The report shall address the different penalty levels which apply to different forms of cocaine, and include any recommendations the Commission may have for retention or modification of these differences in penalties.

Subtitle U—Inmate Rehabilitation

SEC. 3095. EDUCATION REQUIREMENT FOR EARLY RELEASE.

Section 3624(b) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "behavior.—";

(2) by striking "Such credit toward service of sentence vests at the time that it is received. Credit that has vested may not later be withdrawn, and credit that has not been earned may not later be granted." and inserting "Credit that has not been earned may not later be granted."; and

(3) by adding at the end the following:

"(2) Credit toward a prisoner's service of sentence shall not be vested unless the prisoner has earned a high school diploma or an equivalent degree.

"(3) The Attorney General shall ensure that the Bureau of Prisons has in effect an optional General Educational Development program for inmates who have not earned a high school diploma or its equivalent.

"(4) Exemptions to the General Educational Development requirement may be made as deemed necessary by the Director of the Federal Bureau of Prisons.".

Amend the title so as to read: "An Act entitled 'The Violent Crime Control and Law Enforcement Act of 1994'.".

The SPEAKER pro tempore (Mrs. KENNELLY). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS].

The motion was agreed to.

APPOINTMENT OF CONFEREES TO HOUSE AMENDMENTS TO SENATE AMENDMENT TO H.R. 3355

Mr. BROOKS. Madam Speaker, pursuant to House Resolution 401, I offer a motion.

The Clerk read as follows:

Mr. BROOKS moves that the House insist on its amendments to the Senate amendment to the bill H.R. 3355 and request a conference with the Senate thereon.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS].

The motion was agreed to.

MOTION TO INSTRUCT CONFEREES

Mr. MCCOLLUM. Madam Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. MCCOLLUM moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to the bill H.R. 3355 be instructed to insist on the provision of the House amendment that authorizes $10.5 billion for grants for State prison construction and operation and agree to the provisions of the Senate that requires States to change their laws to require that defendants serve at least 85 percent of the sentence ordered.

The SPEAKER pro tempore. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 30 minutes, and the gentleman from Texas [Mr. BROOKS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, of those things that are in this bill we just passed, the one that drives the most important train, the one that is the one the public is most interested in, I would suggest, of all these things out there today is the provision the gentleman from Texas [Mr. CHAPMAN] offered, which would require us to produce $10.5 billion in grant money for the construction of sufficient prison space in conjunction with the States to be able to house repeat violent offenders of this country who have come forward and caused all of the problems that we are reading about in our newspapers and seeing on television every night.

Six percent of the criminals of this country commit about 70 percent of the violent crimes and are getting out after serving, as many of us have said on the floor in the past few days, only about one-third of their sentences. If we are really going to get at the problem of violent crime in this country, we must have the laws of this country changed so that we lock up those people who are that 6 percent who are getting out through the revolving door and committing violent crime after violent crime after violent crime.

We need to lock them up and throw away the keys, it is as simple as that.

The money is in the House bill; the language in the Senate bill is compatible with that. We need to put the two of those together, whatever else comes out of this crime bill when the two bodies go to conference, and make sure that the final product that comes to the floor of the House and the Senate for ultimate confirmation by our bodies as a crime bill in this session is one which does what the public wants and takes that 6 percent who are going through the revolving door committing all these violent repeat offenses off the streets. There is no other way that I know how to emphasize this other than to move to instruct the conferees as I have today.

It is a very simple motion. It goes to that portion of the Chapman proposal in the House bill that authorizes $10.5 billion for grants for State prison construction and operation and urges us to insist on that provision and agree to the provisions in the Senate bill that require the States to change their laws in order to get assistance, to serve at least 85 percent of their sentences.

We have talked about this for days. I think the issue at hand is engaged and is very simple. I think the vote should be very simple. We ought to vote positively on this, affirmatively to do what is necessary to make sure that the final product does precisely this.

Madam Speaker, I reserve the balance of my time.

Mr. BROOKS. Madam Speaker, I yield myself such time as I may consume and rise in opposition.

Madam Speaker, I am opposed to the amendment offered by the gentleman from Florida [Mr. MCCOLLUM]. I think it is generally a waste of time to instruct conferees, to be honest about it; generally I have found both Republicans and Democrats are sort of independent of mind once they get appointed to the conference committee.

I would say that this effort is a continuation of the gentleman from Florida's effort to soak up all of the money that he can in a given area which would come out of the preventive programs, because you have just a fixed amount of money in the trust fund from which they would be drawn.

When you limit the States and require them to serve at least 85 percent of the sentences ordered, and when you work on these limitations for a State, you make it impossible for them to get any immediate help.

So, what we are doing is putting more money in, and as my friend, the gentleman from South Carolina [Mr. INGLIS] said during the full committee, "We are going to bless 'em and curse 'em at the same time."

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Madam Speaker, I say, "You put in more money, make it impossible for them to get it."

I think that this is a foolish instruction. The States have vigorously opposed the Federal mandates contained in the McCollum amendment and reflected in this effort, and I would say that the cost of these mandates would be enormous for them, $20, $30, even $40 for every dollar they get in Federal grants.

It is a Hobson's choice, as I said before. I think we should not instruct the conferees. Rely on the Republican and Democrat conferees to do that which is best in conjunction with the Senate in an effort to work out this bill, and bring it back to the floor in an even better shape and, maybe, more economically structured.

Madam Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS of Texas. Madam Speaker, I had the opportunity to serve 4 years in the district attorney's office in the Harris County area, Houston, the fourth largest city in the country. We did a better job in those days of making sure that a criminal served more of the sentence they were given; not good enough, but a better job than we have been able to do in recent times, and people in Houston know all too well that early parole has seen crime ravage across our city, and the State has tried to respond. But under this motion, Madam Speaker, my State of Texas could not in the timeframe meet the requirements. We would be left out. To mandate this kind of 85 percent requirement on Texas without the funds to build more prison space would hurt our State badly and hurt the efforts that those citizens in Texas are trying to do, and that is to make sure that as a goal that criminals serve the full time of their sentence.

This is not a good way to do this. This is going to hurt States that are earnestly trying to build more prisons and do it within their budget.

Mr. BROOKS. Madam Speaker, I yield 2 minutes to the gentleman from Texas [Mr. CHAPMAN].

Mr. CHAPMAN. Madam Speaker, I thank the gentleman from Texas [Mr. BROOKS] for yielding this time to me, and I want to say that while I appreciate the intentions and the motives I think which I understand and agree with of the gentleman from Florida, I am afraid that the motion that we are currently considering is not the way to accomplish what it is I think we both want to accomplish.

As my colleague from Texas has pointed out, my State of Texas could not comply with the provisions if this motion were to be acted on or become the rule of the House conferees.

Besides that, I think what this does is it take some of the good provisions of the crime bill that we have passed and basically instructs the House to require a mandate of State conduct and a State legislative result that would fit what we here in Washington think it ought to be. This is not the way to do this.

We all, I think, agree overwhelmingly, having voted, that we want States to incarcerate violent criminals for longer periods of time, and I have no quarrel with 85 percent of their sentence being the goal. But if we are going to construct prison space to hold the most violent criminals in our society, we ought to get about that, and, if States are meeting the truth in sentencing goals, then we ought not to punish those States that cannot automatically move to an 85-percent threshold requirement.

So, Madam Speaker, while I want to work with the gentleman from Florida [Mr. McCOLLUM], and I appreciate his motives here, I am afraid the motion in this particular instance is one that would tie the hands of our conferees, would be much too restrictive and would, quite honestly, make it impossible for many of our larger States to comply.

Mr. McCOLLUM. Madam Speaker, will the gentleman yield?

I yield another minute to the gentleman from Texas [Mr. CHAPMAN] so that he will have the time.

Mr. CHAPMAN. I yield to the gentleman from Florida.

Mr. McCOLLUM. Madam Speaker, the gentleman and I talked in the past about doing everything we can to get to a good-faith result by the States, even if we do not tie the hands, and, as the gentleman knows, we are going into conference where a lot of different things can happen because the Senate and House versions are very differing in this whole area of the prison construction and so on.

Does the gentleman generally concur in the basic principle that we should encourage the States to do this and to make a good-faith effort to, in fact, go to truth in sentencing and get the 85-percent requirement?

Mr. CHAPMAN. Madam Speaker, I think the gentleman knows that I am a strong proponent of the States moving toward truth in sentencing, and, as we had discussed earlier today, I will strongly support the level of funding that is currently in the House bill, at least as provided by the Chapman amendment for this effort.

So, I want to work with the gentleman from Florida to strengthen the truth in sentencing provisions and hope that we can do so.

My fear is that drawing a line at 85-percent and mandating our conferees to hold out for that line ties the hands, in effect, of the chairman of the committee and might tie the hands of the gentleman from Florida to work a result that we would agree would be good.

The SPEAKER pro tempore (Mrs. KENNELLY). The time of the gentleman from Texas [Mr. CHAPMAN] has expired.

Mr. McCOLLUM. Madam Speaker, I yield myself such time as I may consume in order to continue this.

I just simply want to state that the reason why this motion to instruct conferees is drafted the way it is is under technical rules that I have been informed we have to do we can only instruct and insist or agree on things that are already there either in our House version or in the Senate version, and ideally we will blend together some of the better of both versions, and so consequently the only way we can send a message today that we want to get towards that 85 percent and do what the gentleman and I both want to do is the way I have drafted this particular motion to instruct. That is the reason. It is not to say any more than some of the amendments that have been adopted out here today under some concurrence that we will be absolutely going to go to a rigidity in whatever the final version is. But technically this is the only way that we could do it.

I wanted the gentleman to know that. I trust that any opposition he has is purely technical as well.

Mr. CHAPMAN. Madam Speaker, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Texas.

Mr. CHAPMAN. Madam Speaker, I appreciate the comments of the gentleman from Florida [Mr. McCOLLUM] and I say my objections are to the fact that I think the motion is too restrictive. I think that the gentleman from Florida, along with the chairman and this gentleman, are going to work to do the very best we can. I think we agree on the goal. I just think we ought not to pass a motion which ties the hands of our conferees. We ought to maintain the flexibility to accomplish what it is I think we agree about.

Mr. McCOLLUM. Reclaiming my time, I might say this much to the gentleman, that he and I continue to differ, as we did when his motion, his amendment, was out, and mine was out on the floor earlier. There is, to me, the bottom line need, that we do as much as possible to get the States to actually enact laws that are going to ensure, when they build these new prisons, that they put away the prisoner to serve 85 percent of their sentences. That is a target goal, that is what the Federal law is today, and abolishing parole, and only leaving a little amount for good time instead of allowing these repeat violent offenders off after they serve only about a third of their sentences. We must get assurances, not just that the States are going to do, you know, have the money, and go out and do what they are going to do to build more beds to house prisoners for serving 40, or 25, or whatever percent of their term, but they are really going to, in conjunction with building these prisons, make sure these 6 percent of the criminals who commit 70 percent of the violent crimes serve the 85 percent of their sentence.

So, that is the purpose of this motion to instruct, and there is no other way that is left for this body to speak on it other than that.

Madam Speaker, I yield such time as he may consume to the gentleman from California [Mr. BAKER].

Mr. BAKER of California. My colleagues, this is not a debate on whether we are tying the hands of the conferees, and it is not a debate over whether the States want to do it or do not want to do it. It is not a debate over how much it costs to build a prison cell. It is a debate over howl how long felons will stay in prison.

Violent felons are serving 6 years for murder, less for rape; the public is angry about it, and what are we debating? Whether the conferees are going to have their hands tied.

My colleagues, it is lucky they do not have a guillotine out in Hometown U.S.A. because it would not be the hands they would be tying.

We have to decide whether we want violent repeat offenders to stay in prison. We have tried determinant sentences, we have tried indeterminate sentences, we have tried prison work to rehabilitate the lesser prisoners, we have tried incarcerating them in warehouses, just holding them for years, and, as my colleagues know, the average felon gets off in 24 months, the average violent felon gets off in around 5 years.

I say to my colleagues, It's time. Let's pass McCollum. Let's give them 85 percent.

Mr. BROOKS. Madam Speaker, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Madam Speaker, I thank the gentleman from Texas [Mr. BROOKS] for yielding this time to me, and I urge that this motion to instruct be rejected for a very simple and practical reason.

Now I certainly agree that we should have mandatory minimum sentences and have fought in the bill to keep them in, and I also believe that truth in sentencing makes sense, but it has to be thought out.

What this bill would mean, this instruction if it were adopted, would be that just about every major State would be unable to get the money because it requires States, particularly those like mine with indeterminate sentences, 5 to 20, or whatever else, to put people, incarcerate people, for a longer time than they have the space for.

☐ 1450

Now, if that is done after 10 years with the money that we provide that would be a goal to get to, fine, but they do not. It is sort of like the cart before the horse. It says, "If you can't meet your goal, you don't get the money." So major States, New York, Texas, and California, and my guess is, the State of the sponsor, the gentleman from Florida [Mr. MCCOLLUM], would under this instruction not be able to get any of the money to build any prisons. So for that reason, it is counterproductive.

Frankly, Madam Speaker, this is the kind of thing we have tried to avoid in this crime bill. What we have tried to do in this crime bill is to do things that work, not do things that ideologically ring our bells or press our buttons—everyone does that, whether they are left, right, or center—but things that would actually make the streets safer.

Building prisons, I believe, will make the streets safer, but saying, You don't get money unless you can do A, B, and C, and knowing the States would not be able to raise taxes to get that money does not make the streets safer; it makes the people feel good.

In the interest of fairness, in the interest of responsibility, in the interest of continuing to provide that this bill moves along in the practical sense of doing punishment things that work and prevention things that work, I urge that this motion to instruct be rejected.

Mr. MCCOLLUM. Madam Speaker, I yield myself such time as I may consume in order to respond to the gentleman from New York [Mr. SCHUMER], and then I am going to yield time to the gentleman from Wisconsin [Mr. SENSENBRENNER].

First of all, Madam Speaker, I understand where the gentleman from New York is coming from, and I have great respect for him, but I disagree with him in the debate we had during the consideration of amendments on this bill, and I strenuously disagree out here today with his characterization of the situation we would be in with the States if the 85-percent rule were to be adopted, that is, if we required States to move to laws that require their prisoners to serve at least 85 percent of their sentence if they are repeat violent felons in order to get the grant money in this program.

The fact of the matter is that the grant money in this program pays for whatever they have to do to be able to comply, and it is very simple logic, it seems to me, that seems to be escaping the gentleman from New York that we have $10.5 billion here which the Federal Bureau of Prisons says is plenty of money to build that which is necessary in the States if they wish to do so to incarcerate repeat violent felons for 85 percent of their terms.

So I do not see why there would be any delay at all in the process. Every State in the Union that wanted to get this money and be able to build their prisons and incarcerate their folks for the 85 percent duration would be able to do it, and there would not be any problem. We are providing the money. That is the whole idea here. It is the carrot, it is the incentive, the money that is in here to build these prisons to get the States to make these changes in their laws. And if they do not make the changes in their laws, why are we doing it? Why are we providing the money for the prisons? I ask that because the objective again is to get these people to serve their time. So the gentleman's logic escapes me.

Madam Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Madam Speaker, what I think is really puzzling is that many who have made very strong arguments in behalf of the $10.5 billion more in Federal money to help build prisons that can be used to house State and local prisoners as well as Federal prisoners are now arguing and saying that we cannot require that 85 percent of the sentence be served.

One of the reasons why the taxpayers are being asked to spend a huge additional amount to build prisons is to try to cut down on the revolving door, where those who have been convicted and sentenced for crimes of violence against their fellow human beings get out after serving only a small fraction of their sentences because there is not enough prison space and we have to free up that space for somebody else to go in there. It seems to me that we ought to have some kind of quid pro quo, because if we spend $10.5 billion to build more prisons and the violent offenders get out as they have been getting out, then the taxpayers are taken for a ride again and the streets are not going to be safer.

The gentleman from Florida [Mr. MCCOLLUM] is correct in tying these two things, that unlike many of the unfunded mandates that have come out of this place, this is a funded mandate, $10.5 billion worth of funding providing that the States change their laws to make sure these violent offenders stay in jail a longer period of time. That is a good deal for the taxpayers. It is a good deal to make the streets safer and it is something that deserves an aye vote by every Member in this debate today.

PARLIAMENTARY INQUIRY

Mr. MCCOLLUM. Madam Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mrs. KENNELLY). The gentleman will state it.

Mr. MCCOLLUM. Madam Speaker, do I as the proponent of this motion have the right to close debate?

The SPEAKER pro tempore. The gentleman is correct.

Mr. MCCOLLUM. Then, Madam Speaker, I reserve my time. I only have the time left for myself to close.

Mr. BROOKS. Madam Speaker, I yield such time as he may require to the gentleman from New Jersey [Mr. HUGHES], the chairman of a subcommittee of the great Committee on the Judiciary.

Mr. HUGHES. Madam Speaker, the McCollum amendment asks us to buy a pig in a poke. That is what we are going to buy, because McCollum basically says we are going to ensure that States change their laws to require that the defendants serve at least 85-percent of the sentence prescribed in accordance with Senate amendments to the bill.

Well, the Senate, in addition to having the 85-percent rule, as the gentleman knows, also requires sentencing guidelines, which we have had in effect for just a few years. Some States have picked it up, and some have not. So here we are, we are going to tell the

States they have to implement the 85-percent rule and they also have to implement sentencing guidelines.

Mr. McCOLLUM. Madam Speaker, will the gentleman yield on that? I could get the gentleman more time if he desired.

Mr. HUGHES. I will yield in just a minute.

Mr. McCOLLUM. My point is only simply that I would not require the sentencing guidelines.

Mr. HUGHES. Madam Speaker, that is the way the gentleman's language reads, I would suggest to the gentleman. But let us just deal with the 85-percent rule.

This is far broader than the original McCollum amendment. The McCollum amendment that the gentleman offered on the floor just a few days ago only dealt with second-time violent offenders. This deals with all types of violent offenders, first offenders, second offenders, and so forth, and it has a number of flaws. No. 1, what McCollum is saying is that if you are in a State—and you probably are—that does not have 85 percent truth in sentencing, you get no prison money, none, not one penny. You can have an 85.2-percent truth in sentencing in practice and in procedure in your State, and you get zilch, nothing. The gentleman's own State of Florida under the amendment he has offered would get nothing. They have about a 75-percent rate.

Many States throughout this country have indeterminate sentences. Idaho is a good example. In Idaho, State Senator Darrington, who is chairman of the Criminal Justice Committee in Idaho, testified the State of Idaho would have to change 40 of its laws to get this money under the 85-percent rule. That is ridiculous.

If we want to build prisons for violent offenders, we need to reject McCollum. We are not going to build any prisons with McCollum. McCollum's arbitrary formula of 85 percent is inflexible. You either meet it or you do not, and I am not sure there are any districts in this country or any States that would comply with the 85-percent rule today. I believe there are not. So if we believe that we need to build more prisons around this country to house violent offenders, we need to reject McCollum.

Besides, McCollum has another series flaw, and that is that 85 percent of an inadequate sentence is very inadequate, so it is not truth in sentencing that is one of our biggest problems. One of the biggest problems around this country is that we are not imposing sufficient sentences on violent offenders, and what we are saying is that basically that does not matter in McCollum. That is why in the committee bill, which is the product of numerous hearings held in a bipartisan fashion, we reviewed testimony and fashioned a bill that moves us in the direction where we do have truth in sentencing and provisions in the bill that require truth in sentencing. It requires any State to submit to the Attorney General a comprehensive plan that deals not just with truth in sentencing but with the appropriate sentence for violent offenders. It also has provisions in the bill that require a better classification of violent offenders to track them when they are in the system.

□ 1500

That is why the committee bill, which was the result of a lot of thought, a lot of testimony, is a far better approach, and it will build more prisons for violent offenders.

Finally, the reason the Governors around this country are so vehemently opposed to McCollum, and you know it from your correspondence, is because his provision does not make sense. Here we are telling the prisons, which are not all the same throughout the country, that you have got to comply with this arbitrary 85-percent rule. That makes no sense. Reject McCollum. You have done it once, and we want you to reject McCollum again. This is worse than McCollum I. McCollum II makes no sense.

Mr. BROOKS. Madam Speaker, I yield back the balance of my time.

Mr. McCOLLUM. Madam Speaker, I yield myself such time as I may consume to conclude.

Madam Speaker, I wanted to respond briefly to the gentleman from New Jersey, whom I have great respect for. We have debated a lot of issues over the years.

Madam Speaker, this motion to instruct is not at all comprehensive in nature. It is not a repeat of any amendments on the floor. It does not affect 99 percent of what is in the bill relative to prisons, grant programs, or conditions. It leaves the Hughes language alone. It leaves the Chapman language alone.

It only suggests two simple principles. It suggests when we go to conference with the Senate, that the House insist on the full funding, the $10.5 billion, and not cut it down to three or six or eight. Give the States enough money in these grant programs to really do the job that the Bureau of Prisons say is needed to lock up and keep incarcerated these violent repeat offenders that the States have out there. That is enough to build the beds they say are needed.

It does say let us accept the Senate language only to the extent that the Senate language involves a requirement on the States to get this money, that they change their laws to make sure these prisoners do indeed serve the 85 percent.

What could be simpler? Nothing more complicated. No huge mandate or requirement; just plain common sense. That is what the American people would like to see out of this crime bill. They wanted to see the States change their laws. And they wanted to see the States have enough resources to be able to build the prison space so they can change the laws to make sure that we take the 6 percent who are serving 70 percent of the violent crimes off the streets, and instead of serving only a measly 30 or 40 percent of their sentences, stay in jail and serve essentially their full sentences, at least 85 percent.

That is all this motion to instruct does. Somebody has tried to make it out like it is a very complicated thing, and it is not.

Madam Speaker, I urge my colleagues to adopt the motion to instruct the conferees to do this. There are a lot of other things we debated on this bill, but this is simple. We can go ahead and have these debates some other day. I did not vote for the final passage of the bill because I think it still contains provisions that would essentially abolish the death penalty. But I do favor the provisions that will get us to truth in sentencing.

I urge my colleagues make sure that we get the best of the House and Senate in the final version. Vote for McCollum to instruct conferees.

The SPEAKER pro tempore (Mrs. KENNELLY). The question is on the motion to instruct conferees offered by the gentleman from Florida [Mr. McCOLLUM].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 191, noes 222, not voting 19, as follows:

[Roll No. 145]

AYES—191

Allard
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barrett (NE)
Bartlett
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Bunning
Burton
Buyer
Byrne
Callahan
Camp
Canady
Castle
Clement
Clinger
Coble
Combest
Condit
Cooper
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug

Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
Margolies-Mezvinsky
McCandless
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers

Nussle
Orton
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Richardson
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Santorum
Saxton
Schaefer
Schenk
Schiff
Sensenbrenner

Shaw
Shays
Shuster
Sisisky
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Stupak
Sundquist
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (WY)
Torkildsen
Torricelli
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—222

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Baesler
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
DeFazio
DeLauro
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)

Filner
Fingerhut
Flake
Foglietta
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Inglis
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Markey

Martinez
Matsui
Mazzoli
McCloskey
McDermott
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Skaggs
Skelton

Slattery
Slaughter
Smith (IA)
Smith (MI)
Spratt
Stark
Stokes
Strickland
Studds
Swett
Swift
Synar
Tanner

Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky

Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—19

Andrews (NJ)
Applegate
Barton
Calvert
Dellums
Fish
Ford (MI)

Gallo
Grandy
Houghton
LaFalce
Lehman
Lewis (CA)
McNulty

Murphy
Ridge
Talent
Thomas (CA)
Washington

□ 1524

The Clerk announced the following pair:

On this vote:

Mr. Thomas of California for, with Mr. Dellums against.

Mr. VENTO, Ms. DANNER, and Messrs. LANCASTER, EHLERS, and BERMAN changed their vote from "aye" to "no."

Ms. SCHENK changed her vote from "no" to "aye."

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The Chair appoints the following conferees:

Messrs. BROOKS, EDWARDS of California, HUGHES, SCHUMER, CONYERS, SYNAR, MOORHEAD, HYDE, SENSENBRENNER, and MCCOLLUM.

PERSONAL EXPLANATION

Mr. ANDREWS of New Jersey. Mr. Speaker, on April 21, 1994, personal business in my home district, including the funeral of a very dear friend, prevented me from voting on several amendments and final passage of the crime bill. I would like at this time to go on record with my voting intentions.

I would have voted "aye" on the revised Hughes amendment (A027) that calls for the Sentencing Commission to conduct a study of the disparities between the criminal penalties for possession, trafficking, and dealing in crack cocaine and those associated with powder cocaine.

On the revised Franks amendment (A028), which would require all Federal prisoners to earn a General Education Development [GED] certificate before becoming eligible for early release—with exceptions established by the Bureau of Prisons for the learning disabled and illegal aliens—I would have voted "no". While I believe we should encourage prisoners to pursue education and training opportunities. I do not believe that early release should be predicated on earning a GED.

Finally, I would have voted against the motion to recommit with instructions and strongly in favor of final passage of the crime bill as amended by the committee of the whole. I believe the bill strikes a reasonable balance between prevention and punishment, both of which are needed to rid our streets of the rising tide of crime and violence. I also support moving the bill to conference with the Senate and look forward to enacting a strong, comprehensive conference bill later this session.

AUTHORIZING CORRECTIONS IN ENGROSSMENT OF H.R. 4092, VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT, AS AMENDED

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 4092, as amended, the Clerk be authorized to correct section numbers, cross-references, and punctuation, and to make such stylistic, clerical, technical, conforming, and other changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 4092.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. MCCOLLUM. Mr. Speaker, reserving the right to object, and I do not intend to object, but I would like to inquire of the chairman of the committee, am I correct that we have 5 days for Members to submit statements for the RECORD, is that not correct?

Mr. BROOKS. Will the gentleman yield, Mr. Speaker?

Mr. MCCOLLUM. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, if the gentleman will just let me get this one done, I will do the next one. I will ask unanimous consent on these one at a time.

Mr. MCCOLLUM. Mr. Speaker, I would ask the gentleman, that will be one of his unanimous consent requests?

Mr. BROOKS. Yes.

Mr. MCCOLLUM. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4092, as amended, the bill just considered and passed, to include the gentleman from Florida [Mr. MCCOLLUM.]

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I rise for the purpose of ascertaining the schedule for the upcoming week.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Missouri [Mr. GEPHARDT], the distinguished majority leader, for the purposes of explaining next week's schedule.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, obviously votes are finished for today. There will not be votes tomorrow.

Mr. Speaker, on Monday the House will meet at noon, but there will not be votes.

On Tuesday, April 26, and the balance of the week, the House will meet at 10:30 a.m. for the Morning Hour, and then will meet at noon for nine bills on suspension which are listed on the schedule. The votes could occur by 1:30 p.m. on that day, Tuesday, and I would assume there would be some votes, and that they would be over around 3 or 4 o'clock.

On Wednesday, April 27, and Thursday, April 28, the House will meet at 2 on Wednesday and 11 on Thursday to take up the Iraqi Claims, H.R. 3221, the State Department and Related Agencies Authorization Conference Report, H.R. 2333, and H.R. 3245, which is the National Science Foundation authorization, subject to a rule.

Friday, April 29, the House will meet at 11 a.m. There will not be business on legislation and there will not be votes.

Mr. WALKER. Mr. Speaker, I thank the distinguished majority leader.

I would inquire, Mr. Speaker, since the second of the Oxford debates will take place on Wednesday, is there an intention to quit by a time certain that evening to take care of that particular project?

Mr. GEPHARDT. If the gentleman will continue to yield, the gentleman is correct. I think our hope is to have that debate start on or around 7 p.m.

Mr. WALKER. I thank the gentleman.

The National Science Foundation authorization was pulled off the Committee on Rules schedule today, Mr. Speaker. I would ask the distinguished gentleman, are we expecting the Committee on Rules to meet on that early next week so we can take it up later on in the week?

Mr. GEPHARDT. If the gentleman will continue to yield, there may be a meeting early next week on that bill.

Mr. WALKER. I thank the gentleman.

ADJOURNMENT TO MONDAY, APRIL 25, 1994

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday, April 25, 1994.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

REFERRAL OF EXECUTIVE COMMUNICATION NUMBER 1195 TO THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

Mr. GONZALEZ. Madam Speaker, I ask unanimous consent that Executive Communication No. 11195, a communication from the Department of the Treasury transmitting a draft of proposed legislation to amend the Bretton Woods Agreement Act to authorize consent to and authorize appropriations for the U.S. contribution to the Global Environment Facility, and for other purposes, be referred to the Committee on Banking, Finance and Urban Affairs.

The SPEAKER pro tempore (Mrs. UNSOELD). Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 3474, REGULATORY REFORM ACT OF 1993

Mr. GONZALEZ. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3474) to reduce administrative requirements for insured depository institutions to the extent consistent with safe and sound banking practices, to facilitate the establishment of community development financial institutions, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

□ 1530

The SPEAKER pro tempore (Mrs. UNSOELD). Is there objection to the request of the gentleman from Texas? The Chair hears none, and without objection, appoints the following conferees:

From the Committee on Banking, Finance and Urban Affairs, consideration of the House bill, and the Senate amendment (except titles II and V), and modifications committed to conference:

Messrs. GONZALEZ, NEAL of North Carolina, LAFALCE, VENTO, SCHUMER, FRANK of Massachusetts, KANJORSKI, KENNEDY, FLAKE, and MFUME, Ms. WATERS, Messrs. LAROCCO, ORTON, BACCHUS of Florida, LEACH and MCCOLLUM, Mrs. ROUKEMA, and Messrs. BEREUTER, RIDGE, ROTH, MCCANDLESS, BAKER of Louisiana, and NUSSLE.

Provided, that for consideration of section 348(b) of the Senate amendment, Mr. KLEIN is appointed in lieu of Mr. LAFALCE.

From the Committee on Banking, Finance and Urban Affairs, for consideration of title II of the Senate amendment, and modifications committed to conference:

Messrs. GONZALEZ, NEAL of North Carolina, LAFALCE, VENTO, SCHUMER, FRANK of Massachusetts, KANJORSKI, KENNEDY, FLAKE, and MFUME, Ms. WATERS, Mr. ORTON, Mr. KLEIN, Ms. VELÁZQUEZ, Mr. LEACH, Mr. MCCOLLUM, Mrs. ROUKEMA, and Messrs. BEREUTER, RIDGE, ROTH, MCCANDLESS, BAKER of Louisiana, and NUSSLE.

From the Committee on Banking, Finance and Urban Affairs, for consideration of title V of the Senate amendment, and modifications committed to conference:

Messrs. GONZALEZ, NEAL of North Carolina, LAFALCE, SCHUMER, FRANK of Massachusetts, LEACH, BEREUTER, and MCCOLLUM.

As additional conferees from the Committee on Education and Labor, for consideration of section 209 of the Senate amendment, and modifications committed to conference:

Messrs. FORD of Michigan, WILLIAMS, CLAY, KILDEE, MILLER of California, GOODLING, Mrs. ROUKEMA, and Mr. FAWELL.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 201–05, 207, 320 and 347 of the Senate amendment, and modifications committed to conference:

Messrs. DINGELL, MARKEY, SHARP, and SWIFT, Mrs. COLLINS of Illinois, Messrs. BOUCHER, MANTON, and LEHMAN, Ms. SCHENK, Ms. MARGOLIES-MEZVINSKY, and Messrs. SYNAR, WYDEN, RICHARDSON, BRYANT, MOORHEAD, FIELDS of Texas, BLILEY, OXLEY, SCHAEFER, BARTON of Texas, MCMILLAN, HASTERT, and GILLMOR.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 503–05, 507 and 706 of the Senate amendment, and modifications committed to conference:

Mr. DINGELL, Mr. MARKEY, Mrs. COLLINS of Illinois, and Messrs. TOWNS, LEHMAN, MOORHEAD, STEARNS, and MCMILLAN.

As additional conferees from the Committee on Foreign Affairs, for consideration of section 703 of the Senate amendment, and modifications committed to conference:

Messrs. HAMILTON, GEJDENSON, and GILMAN.

As additional conferees from the Committee on the Judiciary, for consideration of section 139 of the House bill, and sections 325, 408 and 409 of the Senate amendment, and modifications committed to conference:

Messrs. BROOKS, SCHUMER, EDWARDS of California, CONYERS, HUGHES, SENSENBRENNER, SMITH of Texas, and SCHIFF.

As additional conferees from the Committee on Small Business, for consideration of section 348(b) of the Senate amendment, and modifications committed to conference:

Mr. LAFALCE, Mr. SMITH of Iowa, and Mrs. MEYERS of Kansas.

As additional conferees from the Committee on Ways and Means, for consideration of sections 210 and 502–04 of the Senate amendment, and modifications committed to conference:

Messrs. ROSTENKOWSKI, GIBBONS, PICKLE, RANGEL, STARK, ARCHER, CRANE, and THOMAS of California.

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4259

Mr. PETERSON of Florida. Madam Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of H.R. 4259.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT MONDAY, APRIL 25, 1994, TO FILE CONFERENCE REPORT ON H.R. 2333, STATE DEPARTMENT, USIA, AND RELATED AGENCIES AUTHORIZATION ACT, FISCAL YEARS 1994 AND 1995

Mr. BERMAN. Madam Speaker, I ask unanimous consent that the managers may have until midnight Monday, April 25, 1994, to file a conference report on the bill (H.R. 2333), to authorize appropriations for the Department of State, the United States Information Agency, and related agencies, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3221, IRAQI CLAIMS ACT

Mr. WHEAT, from the Committee on Rules, submitted a privileged report (Rept. No. 103–481), on the resolution (H. Res. 410) providing for consideration of the bill (H.R. 3221) to provide for the adjudication of certain claims against the government of Iraq, which was referred to the House Calendar and ordered to be printed.

FARMERS HOME ADMINISTRATION IMPROVEMENT ACT OF 1994

Mr. DE LA GARZA. Madam Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the Senate bill (S. 1930) to amend the Consolidated Farm and Rural Development Act to improve the administration of claims and obligations of the Farmers Home Administration, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROBERTS. Madam Speaker, reserving the right to object, I shall not object. I yield to the distinguished gentleman from Texas [Mr. DE LA GARZA], chairman of the Committee on Agriculture, to explain the bill and to welcome the distinguished chairman to our side of the House.

Mr. DE LA GARZA. Madam Speaker, I thank the gentleman for yielding. I am only here temporarily.

Madam Speaker, S. 1930 will give the Department of Agriculture additional authority to more quickly and cost-effectively clean up the backlog of delinquent farm loan cases.

S. 1930 will allow USDA to hire private attorneys to work on cases involving delinquent farm loans held by FmHA. The Department already has this authority for FmHA rural housing loans and the results have been encouraging for the taxpayer.

According to the Department of Agriculture, the average time for a private attorney to complete a foreclosure in a rural housing loan case is 8.8 months. The savings from using private attorneys for rural housing loans is over $7,500 per case—or a total savings of over $11 million in 1992.

S. 1930 will allow the Department to achieve similar time and cost efficiencies on the farm lending side. This legislation will help the Department more quickly resolve thousands of foreclosures cases, particularly those involving a million dollars or more which have been the focus of considerable criticism. Under this legislation, the loan recoveries that would be made through the use of private attorneys would far exceed the cost of employing the attorneys.

This legislation is identical to H.R. 4139 that was introduced by the gentleman from South Dakota [Mr. JOHNSON] and other members of the Committee on Agriculture. The bill also has the support of Agriculture Secretary Espy. I strongly urge the House to support the passage of S. 1930.

Madam Speaker, I ask unanimous consent that there be printed in the RECORD at this point the text of a letter I received from the USDA's Office of General Counsel. In this letter, the general counsel states that the Department, in exercising the new authority S. 1930, would employ the same procedures, including providing reports to Congress, that is used under similar authority in collecting delinquent rural housing loans.

U.S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE GENERAL COUNSEL,
Washington, DC, April 20, 1994.

Hon. E (KIKA) DE LA GARZA,
Chairman, Committee on Agriculture, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: We appreciate your Committee's willingness to act with dispatch on S. 1930. The bill would authorize the use of the General Counsel of the Department and private attorneys in collecting claims and obligations under the farm loan programs carried out by the Farmers Home Administration. The bill is identical to the measure introduced by Subcommittee Chairman Tim Johnson (and 11 other members of the House Committee on Agriculture).

The authority would be of immeasurable help to the Department in recovering amounts due on loans made by the Farmers Home Administration.

We wanted you and the other members of the House to know that the Department's criteria, procedures, reports, and regulations in carrying out the new authority in S. 1930 would be identical, to the maximum extent practicable, to the criteria, procedures, reports, and regulations that the Department uses in carrying out similar authority in collecting delinquent rural housing loans. (See 42 U.S.C.A. 1480(d)(1) and (2).)

Sincerely,
JAMES S. GILLILAND,
General Counsel.

Mr. ROBERTS. Madam Speaker, the minority fully concurs in this effort.

Mr. JOHNSON of South Dakota. Madam Speaker, I join Chairman DE LA GARZA in urging support for passage of S. 1930. I introduced similar legislation, H.R. 4139, with a number of my colleagues on the Agriculture Committee in response to the lingering problems surrounding collection of outstanding debt by the Farmers Home Administration.

I am pleased that the Senate acted expeditiously in sending this bill over to the House in order to allow the Department of Agriculture to begin taking immediate action in areas where the U.S. Attorney's office has not pursued legal action. The subcommittee will also be considering further legislative proposals which will give FmHA additional tools to recover assets from individuals with outstanding loans. Especially aggravating to me are those individuals sitting on millions of dollars' worth of assets who seem to feel that they have no obligation to fulfill their promise to the taxpayers of this country.

Again, I urge passage of S. 1930 and pledge to my colleagues that the Agriculture Committee will be diligent in pursuing the individuals who were subjects of media scrutiny earlier this year. I would also let my colleagues know that we have made changes in Farmers Home Administration lending practices which would avoid similar situations from occurring.

Mr. ROBERTS. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1930

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Farmers Home Administration Improvement Act of 1994".

SEC. 2. DELINQUENT FARMERS HOME ADMINISTRATION OBLIGATIONS.

Section 331 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981) is amended by adding at the end the following new subsection:

"(c) The Secretary may use for the prosecution or defense of any claim or obligation described in subsection (b)(5) the Attorney General, the General Counsel of the Department of Agriculture, or a private attorney who has entered into a contract with the Secretary.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MAKING TECHNICAL CORRECTIONS TO 1990 FARM BILL AND OMNIBUS BUDGET RECONCILIATION ACT OF 1993

Mr. DE LA GARZA. Madam Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2005) to make certain technical corrections, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROBERTS. Madam Speaker, reserving the right to object, under my reservation, I yield to the distinguished gentleman from Texas [Mr. DE LA GARZA], chairman of the Committee on Agriculture, to explain the bill.

Mr. DE LA GARZA. Madam Speaker, I thank the gentleman for yielding.

Madam Speaker, S. 2005 corrects language that was omitted or mistakenly changed in the drafting of the 1990 farm bill and the Omnibus Budget Reconciliation Act of 1993.

Three changes are provided for in S. 2005. First, it restores language allowing cotton and rice farmers to count prevented plantings toward the 50 percent planting requirement under the 50/85 programs. Second, it clarifies the payment rate calculation for barley. And third, it clarifies how the reduction in price received by dairy farmers would be calculated in the event of a 7 billion pound surplus.

I urge the House to support the passage of S. 2005.

Mr. ROBERTS. Madam Speaker, what the chairman has stated is absolutely correct. This is a technical bill; the CBO says it has no cost; it has been passed by the Senate, and the minority urges passage of this bill.

Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2005

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL AMENDMENTS.

(a) Section 101B(c)(1)(D)(v)(II) and 103B(c)(1)(D)(v)(II) of the Agricultural Act of 1949 (7 U.S.C. 1441–2(c)(1)(D)(v)(II) and 1444–2(c)(1)(D)(v)(II) are each amended by inserting "without regard to clause (ii)" after "clause (iii)".

(b) Section 105B(c)(1)(B)(iii)(IV)(bb) of such Act (7 U.S.C. 1444f(c)(1)(B)(iii)(IV)(bb)) is amended by striking "clause (i)(I)" and inserting "clause (i) and (ii)".

(c) Section 204(g) of such Act (7 U.S.C. 1446e(g)) is amended—

(1) in paragraph (1), by inserting for "purchase" the following: "(less sales under section 407 of unrestricted use)"; and

(2) in paragraph (2), by inserting after "purchases" each place it appears the following: "(less sales under section 407 for unrestricted use)".

The Senate bill was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1930 and S. 2005, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PUBLIC SERVICE RECOGNITION WEEK

Mrs. BYRNE. Madam Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 150) to designate the week of May 2 through May 8, 1994, as "Public Service Recognition Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

Mrs. MORELLA. Madam Speaker, reserving the right to object, I yield to the gentlewoman from Virginia [Mrs. BYRNE], who is the chief sponsor of House Joint Resolution 253, which is the House counterpart of Senate Joint Resolution 150 to designate the week of May 2 through May 8 as "Public Service Recognition Week," for the explanation of this legislation.

Mrs. BYRNE. Madam Speaker, I thank the gentlewoman from Maryland, my friend who has worked with me on this issue, for yielding.

Madam Speaker, I would like to take this opportunity to thank my distinguished colleagues who have joined me as cosponsors of the resolution I introduced to designate the week of May 2, 1994, as Public Service Recognition Week.

Public Service Recognition Week pays tribute to the almost 20 million Americans who serve their communities, their States, and their country by working for government.

This year will mark the ninth Public Service Recognition Week, and over 1,000 municipalities across this Nation are gearing up to honor their public employees.

Public Service Recognition Week reminds us that all Americans benefit from the achievements of public employees. They protect our streets, maintain our natural parks, explore our skies, teach our children and defend our nation.

This week teaches us that government employees are not nameless bureaucrats, but doctors and engineers, teachers and scientists, police officers and soldiers, friends and family members.

Their efforts prove that serving one's country in the public sector is the highest form of patriotism. Their commitment and hard work on behalf of this Nation deserve to be recognized.

Public Service Recognition Week offers us a chance to proclaim our solidarity with government workers and to show America that public employees are an integral part of reinventing government.

Most importantly, Public Service Recognition Week is a way to inform all Americans—especially young people—of the opportunities for choosing public service as a life-long profession.

This year, as they have done in the past, the Public Employees Roundtable and the President's Council on Management Improvement, who sponsor the week, are organizing a salute to public service on the Mall here in Washington.

The various Federal agencies will set up tents on the Mall with exhibits celebrating the achievements of public employees. I look forward to seeing many young people out there gaining new insights into career choices.

Public Service Recognition Week is a proven way to enhance employee morale, heighten America's awareness of the services provided by its public employees and encourage a new generation of Americans to consider public service.

☐ 1540

Mrs. MORELLA. Madam Speaker, continuing to reserve the right to object, I want to commend the gentlewoman from Virginia [Mrs. BYRNE] who serves on the Committee on Post Office and Civil Service with me and who has been a leader for Federal employees in her district and throughout the country and for her leadership on this resolution.

Madam Speaker, I rise in support of House Joint Resolution 253, of which I am an original cosponsor, and the corresponding Senate resolution, Senate Joint Resolution 150, designating May 2 through May 8, 1994 as "Public Service Recognition Week."

This measure recognizes public service at all levels: local, municipal, county, State and Federal. The 17 million Americans who are in public service affect each facet of life in our country—from the food we eat, the quality of the water we drink, the air we breath, the roads we drive on, and the safety of our communities. We depend on them for quality education, for the effective and honest weights and measurements, for research in health and nutrition.

The importance of public service is often overlooked by most of our citizens. This is an opportunity to bring to our Nation's attention the many avenues of career development in the public service. I would like to recognize the positive work done by a dedicated organization, the Public Employees Roundtable [PER]. PER is a nonprofit educational organization which represents 38 professional employee groups. I would like to specially mention the outstanding work that my constituent, Dr. Joan Keston, president of PER, has been doing over the decade in organizing Public Service Recognition Week.

This is actually the ninth year that PER has sponsored Public Service Recognition Week. They expect that more than 1,000 cities across the Nation will participate in observing public service recognition this year. Additionally, Madam Speaker, President Clinton's public service announcement in support of public employees will air on over 2,300 radio stations.

Madam Speaker, I urge my colleagues to support this important measure which will recognize the dedication of public service employees.

Madam Speaker, further reserving the right to object, I yield to the gentleman from New York [Mr. GILMAN], who has been so prominent on the Committee on Post Office and Civil Service, and who previously was the ranking member until he became the ranking member of the Committee on Foreign Affairs.

Mr. GILMAN. Madam Speaker, I rise in strong support of House Joint Resolution 253, which designates the week of May 2, 1994 through May 8, 1994, as "Public Service Recognition Week," and I commend the gentlewoman from Virginia [Mrs. BYRNE] for introducing this legislation.

Madam Speaker, as a senior Republican member on the House Post Office and Civil Service Committee it gives me great pleasure to join in congratulating the dedicated men and women who have chosen a career in public service. Public employees in all levels of our Government continue to be an integral part of the American work force. Our public servants hold an important part of our public trust and provide vital services for Americans each day.

Madam Speaker, in recent years public employees have taken the brunt of criticism aimed at our Government. There have been numerous attempts to cut their pay and benefits while their salaries continue to lag behind workers in the private sector. Yet, our Nation's public employees continue to serve our country with dedication and distinction.

Madam Speaker, "Public Service Recognition Week" provides the American people and this body with the opportunity to thank the many men and women in public service, as well as to acknowledge their outstanding contributions to our Nation. Let us remember that good government is a reflection of the men and women who strive to make it that way. Let us be grateful that so many qualified men and women have chosen and continue to choose careers in public service. Accordingly, I urge my colleagues to join me in supporting this legislation.

I thank the gentlewoman from Maryland [Mrs. MORELLA] and the gentlewoman from Virginia [Mrs. BYRNE] for bringing this measure to this floor at this time.

Mrs. MORELLA. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mrs. UNSOELD). Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 150

Whereas public employees at every level of government faithfully serve their fellow Americans;

Whereas there are 9,000,000 employees in local government, 4,000,000 employees in State government, and over 3,000,000 civilian workers and 2,000,000 military employees in the Federal Government;

Whereas Americans are aware of the many contributions public employees have made to the quality of their lives, in occupations that run and gamut from astronauts to zoologists, including scientists, police officers, teachers, doctors, forest rangers, engineers, food inspectors, researchers, and foreign service agents, among others;

Whereas the Nation should value a professional civil service whose highest principle is one of patriotism, whose foremost commitment is to excellence, and whose experience and expertise are a national resource to be used and respected;

Whereas the millions of workers who serve our country are men and women of knowledge, ability, and integrity who deserve to be recognized for their dedicated service; and

Whereas designating a week to honor these employees will provide a dual opportunity to pay tribute to our public employees and to inform the American people about the scope and importance of public service, including the range of employment opportunities available to our young people: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That the week of May 2 through May 8, 1994, is designated as "Public Service Recognition Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. BYRNE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Joint Resolution 150, the Senate resolution just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

FURTHER MESSAGE FROM THE PRESIDENT

A further message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

EXTENDING GSP BENEFITS TO SOUTH AFRICA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103-243)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

I am writing to inform you of my intent to add South Africa to the list of beneficiary developing countries under the Generalized System of Preferences (GSP). The GSP program offers duty-free access to the U.S. market and is authorized by the Trade Act of 1974.

I have carefully considered the criteria identified in sections 501 and 502 of the Trade Act of 1974. In light of these criteria, I have determined that it is appropriate to extend GSP benefits to South Africa.

This notice is submitted in accordance with section 502(a)(1) of the Trade Act of 1974.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 21, 1994.*

□ 1550

IMPORTS OF HONEY FROM CHINA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103-242)

The SPEAKER pro tempore (Mrs. UNSOELD) laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

Pursuant to section 406 of the Trade Act of 1974 (19 U.S.C. 2436) and sections 202 and 203 of the Trade Act of 1974 (as those sections were in effect on the day before the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988), I have determined the action I will take with respect to the affirmative determination of the United States International Trade Commission (USITC), on the basis of its investigation (No. TA-406-13), that market disruption exists with respect to imports from China of honey provided for in heading 0409 and subheadings 1702.90 and 2106.90 of the Harmonized Tariff Schedule of the United States.

After considering all relevant aspects of the investigation, including those set forth in section 202(c) of the Trade Act of 1974, I have determined that import relief for honey is not in the national economic interest of the United States. However, I am directing the United States Trade Representative (USTR), in consultation with the appropriate agencies to develop a plan to monitor imports of honey from China. The monitoring program is to be developed within thirty days of this determination.

Since I have determined that the provision of import relief is not in the national economic interest of the United States, I am required by that section 203(b) of the Trade Act of 1974 to report to Congress on the reasons underlying this determination.

In determining not to provide import relief, I considered its overall costs to the U.S. economy. The USITC majority recommendation for a quarterly tariff rate quota (a 25 percent ad valorem charge on the first 12.5 million pounds each quarter, increasing to 50 percent on amounts above that level), to be applied for three years, would cost consumers about $7 million while increasing producers' income by just $1.9 million. The other forms of relief recommended by other Commissioners would also result in substantial costs to consumers while offering little benefit to producers.

In addition, the gap between production and consumption in the United States is approximately 100 million pounds, with imports of honey from China helping to fill that gap at the low end for industrial use. Any restrictions on imports of honey from China would likely lead to increased imports from other countries rather than significantly increased market share for U.S. producers.

Although rising somewhat since 1991, U.S. honey inventories are not large by historical experience, either in absolute amounts or relative to consumption. Honey stocks reported by the U.S. Department of Agriculture were much higher in the mid-1980's (about 75 percent of consumption in 1985 and 1986), before falling to their lowest level in a decade in 1991 (26.6 percent of consumption). The 1993 stocks were 37.8 percent of consumption, well below the 1980–1993 average level of 46.4 percent.

The U.S. government has supported honey producers since 1950, in part, to ensure enough honeybees would be available for crop pollination. This is an important national interest. I believe that current trends in the provision of pollination and honey production will not be significantly affected by not providing relief. Crop producers indicate that they believe pollination will still be cost effective even if service prices rise.

I have also concluded that, in this case, imposing trade restrictions on imports of honey would run counter to our policy of promoting an open and fair international trading system.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 21, 1994.*

AGGRESSION, FROM ARMENIA TO BOSNIA

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous matter.)

Mr. DORNAN. Mr. Speaker, 51 years ago and lasting for over 2 weeks, women and children were being slaughtered in the Warsaw Ghetto by Gestapo and SS troops. After a while, the Nazis brought in Waffen SS troops to take over and continue the slaughter.

Today the slaughter is in Gorazde. I was going to speak about 79 years ago this coming Sunday, the date on which we remember the Armenian genocide, which was at that time the unparalleled slaughter of all time, setting the standard for Hitler and Stalin to kill tens of millions.

But today we have Gorazde. The leftist columnist Mary McGrory—have you ever heard me quote Mary McGrory?—says this:

> They wished the president had not picked that particular Sunday to ride his Mustang around the track while the Serbian tanks ground into the streets of Gorazde. The symbolism was abysmal: Leader of the western world or playboy?

I will submit this article for the RECORD.

Mr. Speaker, this President had better focus on this. As McGrory says, it is history that will be merciless to this President, not the Republicans.

Now let me say a few words about the Armenian genocide.

Between the years 1915 to 1923, over 1½ million Armenians perished as a result of the brutal policies of the Ottoman Empire.

April 24, 1915 symbolically marks the beginning of the systematic policy of deportation and murder which characterizes the Armenian genocide. This Sunday marks the 79th year since the, then, unequalled slaughter began. It was on the night of April 24, 1915 that over 200 Armenian intellectual leaders were arrested in Constantinople and in other cities throughout the Ottoman Empire. In the months to follow, Armenian political, intellectual, and religious leaders were rounded up, arrested, exiled or murdered; thus, suppressing the most vocal voices of the Armenian people. Armenian men of military age were conscripted into the service of the Ottoman army. These men were separated into labor battalions, disarmed, and then worked to death or massacred.

The remaining Armenian civilians, senior citizens, women, and children that were left behind were deported from their cities and towns. The men and older boys were separated from the groups, never to be seen again. Any others that remained were forced on death marches across Asia Minor into the Syrian desert. Approximately 500,000 Armenians were able to escape to Russia, Europe, or the United States.

As a result of the killings and deportations, the Armenian population in the Ottoman Empire was reduced from 2½ million to fewer than 100,000. It is in the spirit of remembrance that we recognize the 79th anniversary of the Armenian genocide and keep alive the memories of those who were murdered and honor those who survived. Likewise, we commend the enduring strength and fortitude of the Armenian people who heroically continue to preserve their heritage and culture despite suffering overwhelming losses as a result of an infamous period in world history that even mass murderers like Adolph Hitler and Joseph Stalin took note of as they began their own genocidal rampages.

[From the Washington Post, Apr. 21, 1994]

VILE AGGRESSION

(By Mary McGrory)

Bill Clinton always wanted to be president, but not necessarily the leader of the Western World. Now he can't escape. He must prove that the United States is not "the pitiful, helpless giant" of Richard M. Nixon's spurious Vietnam-era coinage.

Clinton comes from a generation and a mindset that would like to impose moral standards on the world, but without getting involved in casualties, "tears and such things," as Ben Jonson put it. He does not want the United States to revert to the "don't tread on me" touchiness of the last 12 years, when an attitude on the part of a small country could bring it bombs or invasions.

On the other hand, a feeling that he is too patient, and forbearing is beginning to set in. In Bosnia and in Haiti, the thugs are laughing at us. Even those who agree with former secretary of state James A. Baker III's world-weary formulation about Bosnia—"we don't have a dog in that fight"—felt shame at the Serbian assault on Gorazde, chosen by the United Nations, with our support, as "a protected area." They wished the president had not picked that particular Sunday to ride his Mustang around the track while the Serbian tanks ground into the streets of Gorazde. The symbolism was abysmal: leader of the Western World or playboy?

It seems that in both Bosnia and Haiti, the one moral imperative is to avoid U.S. bloodshed. People are being massacred in the streets of Port-au-Prince for no reason except loyalty to their elected and deposed president. During the campaign, Clinton expressed a compassionate man's scorn for George Bush's policy of returning Haitian boat people to Haiti. Now he does the same.

The commitment to Haiti, to the restoration of Aristide and democratic government is in writing, in the Governors Island Accord solemnly signed by us a year ago July. The policy is "unconscionable," said his fellow Democrat Sen. Tom Harkin (Iowa), who, with another liberal Democrat, Christopher J. Dodd (Conn.), is calling for tougher trade sanctions and more consideration for refugees.

Said Harkin, who considers himself a friend of the president's, "If we can't stand up for democracy and human rights in our own hemisphere, what do the Serbs have to fear?"

Randall Robinson, the activist who organized picket lines against apartheid in South Africa, is in the ninth day of a fast to protest the Clinton policy in Haiti. Soft-living presidents hate hunger strikes.

Clinton obviously did not anticipate high public feeling on Bosnia. The well-worn arguments about Europe's refusal to take a stronger role, the ancient roots of the vicious Serb-Muslim hostility, have sufficed up to now to quiet consciences. But now it is a matter of broken promises, the honor of the country. The war has had a special brutality from the beginning, the relentless ethnic cleansing, mass rapes, targeting of the weak and the innocent.

Recent days have brought the sight of corpses on the side of the road, the news of close-range shelling of a Gorazde hospital. Winston Churchill called Hitler "a bloodthirsty guttersnipe." The Serb aggressors collectively deserve the label.

Clinton began to feel the heat in withering editorials and caustic congressional comment. It's not that anybody knows what to do. They expect him to come up with something, at least rhetoric worthy of the antrocities seen on television.

The president began rounds of meetings. On Wednesday afternoon, while the Marine band played "Til There Was You" in the garden, where hundreds of volunteers waited to be greeted by the Clintons, the president kept putting off his expected announcement. Was he calling balky allies, remembering to ask questions that should have been asked before the weekend's puny bombing raids? The announcement was not worth waiting for. His delivery was flat and dispirited. There will be unspecified military and diplomatic initiatives. The only reaction that can be safely anticipated is more Serbian snickering.

Clinton was worried sick not so long ago about Whitewater. That haunt is faded. All over the country forums are convening—about the bad behavior of the press rather than the questionable behavior of the Clintons.

But with Bosnia, no hype is needed. Vile aggression is occurring. The old, the sick, the young are being slaughtered in a place we promised to protect. It isn't the Republicans or the press that Clinton is facing in his conduct of Bosnia and Haiti. It is history which can be much more merciless.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and under a previous order of the House, the following Members are recognized for 5 minutes each.

EARTH DAY, APRIL 22, 1994

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Madam Speaker, tomorrow is Earth Day. We've spent the last 2 weeks here in a furious, sometimes acrimonious, effort to ram through a crime bill. Debate has centered on such issues as the death penalty, racial justice, how to stem the rise of juvenile crime, and other weighty topics.

As we focus on crime and what ails our society, we tend to lose sight of elements of our everyday life that are vital to our health and wellbeing—things we too often take for granted the environment.

Luckily, outside of this House people haven't forgotten about the environment—their year-round efforts to improve and preserve our planet—or their own little corner of it—benefit us all.

In Florida, the health of the sensitive environment is especially important to our wonderful quality of life. The State's record of environmentally sound governance has received national recognition, including the appointment of Floridian Carol Browner to head up the Nation's lead environmental agency, the EPA.

But, as the State of Florida knows, good environmental policy would be virtually meaningless without the efforts and involvement of the private sector and countless hardworking individuals. In my own district of southwest Florida there are numerous examples of extraordinary endeavors to improve the environment, as well as countless cases of sound stewardship of our fragile ecosystem—all undertaken by the private sector and involved people.

For example—the students at the Peace River Elementary School in Charlotte Harbor, FL, know all about taking good care of their environment. Tomorrow they will receive a national award from America the Beautiful for their environmentally sound gardening and landscaping of the school grounds.

Awards for excellent environmental stewardship are nothing new for the students and teachers at Peace River. In the past 2 years they have won awards from the south Florida water management district, the State of Florida, and the Audubon Society for achievements in xeriscaping—using local plant species in landscaping—efforts to help end world hunger; and overall environmental quality.

All these awards stem from Peace River Elementary School's Project SCAPE or students caring about planet Earth. Students are teachers began this program by surveying the grounds, then identifying the most suitable plants, fertilizers, et cetera to develop and maintain their gardens. The local community was invited to participate through donations of plants, tools, and other necessary items.

Through the SCAPE Program, Peace River students have learned about the value to the local ecosystem of encouraging native species. They have studied insect and animal species, sustainable crop growth, and the wise use of limited water resources. Offshoots of the SCAPE project include student clubs and extra-curricular activities.

Besides enhancing the campus and curriculum, the project has conserved water, and promoted school-wide student participation. SCAPE was launched, and continues, without any additional school funds, and it has brought parents and the local community together in support of the students and faculty.

Madam Speaker, on Earth Day we will undoubtedly hear from various Government agencies about programs and regulations meant to preserve or heal the environment.

But it is important to remember who has the primary responsibility for our environment: private citizens. So on Earth Day, let's celebrate the lesson that the Peace River students have learned—sewing the seeds of good environmental stewardship is everyone's responsibility, and it can bring a great harvest.

IMPACT OF THE CRIME BILL ON GRAFFITI PREVENTION AND REMOVAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. FILNER] is recognized for 5 minutes.

Mr. FILNER. Madam Speaker, I salute this House on today's passage of the crime bill. Its balanced approach to fighting crime through additional resources for enforcement and prevention should make a significant difference in the communities of America.

And while it is only a very small part of the crime bill, my amendment to allow funding of graffiti prevention and removal programs as part of the juvenile trafficking and gang prevention grant program will give thousands of neighborhoods a new resource to attack the blight of hopelessness that has invaded them.

In response to the gentleman from Wisconsin who, last week in this Chamber, chose to belittle the need for graffiti prevention and removal, I would like to set the record straight.

I am sure the fine gentleman from Wisconsin just needs a little education, so I invite him to visit my district to see the conditions with which our citizens must live.

You have probably heard of the broken window theory—when an area begins to have broken windows, or litter, or rundown housing, or graffiti, the downward spiral of decay and urban blight results in an area that is filthy, crime-ridden, and unsafe. Broken-down neighborhoods invite crime.

Likewise, when residents are empowered to take responsibility for keeping their neighborhood clean, the direction of the spiral changes and moves upward.

As a former member of the San Diego City Council who established and maintained a graffiti patrol and a graffiti hotline, I can tell you from personal experience that any attempt to regain control of our neighborhoods begins with an attack on graffiti.

The residents of San Diego and Chula Vista and National City, CA, will appreciate the opportunity we have given them to restore some beauty and hope to their communities. I hope the gentleman from Wisconsin will come to see both the seriousness of the problem—and the seriousness of the effort to restore hope and dignity to our neighborhoods.

COMMISSION ON INTERNATIONAL COORDINATION OF FINANCIAL REGULATION

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Texas [Mr. GONZALEZ] is recognized for 5 minutes.

Mr. GONZALEZ. Madam Speaker, today I have introduced legislation entitled the "Commission on International Coordination of Financial Regulation Act, H.R. 4261." This legislation is the third component of my five-part strategy I have developed for addressing important domestic and international financial issues confronting our Nation.

As chairman of the Committee on Banking, Finance and Urban Affairs, I have grown increasingly concerned about the growing instability in the international financial system and the lack of a coordinated international approach to dealing with issues that affect the world's financial system.

New communications technology, the growth of exotic financial instruments, the increasing number of global corporations, expanding trade, and a worldwide recognition of the benefits of free markets have resulted in a rapidly expanding and increasingly integrated world financial system. But on the flip side of unprecedented opportunity is unprecedented risk; and the responsibility of governments is to keep risk within acceptable limits.

While the volume of transactions occurring in the international financial system is growing exponentially, regulatory bodies in developed and developing nations alike, strapped by spending limitations, have struggled to keep pace with all this innovation.

In addition, while ongoing efforts to coordinate international financial policies exist, these initiatives are tentative, fragmented, exclusive and they are insufficient to deal with the potential systemic risks facing the world financial system.

A recent Congressional Research Service report supports my position:

> Capital markets around the globe have become so interdependent that there is a possible series of disruptive events which has the formidable potential of rapid transmittal, placing and entire financial structure at risk of severe distribution or even failure. Authorities recognize this interdependence, but in spite of the perceived danger of systemic risk, central banks and other regulators have been slow to move preventative measures beyond the talking stage.

The primary reason I am introducing this legislation is to ensure that the United States takes a leadership role in promoting sound international financial regulation and supervision of financial services. It is long past time that this topic was elevated to the highest levels of government. It is imperative that all the nations that reap the benefits of participation in the international financial system band together to address the problems facing the system. The United States must take a leadership role in making that goal a reality—after all, as the world's biggest economy and financial market place, we have the most to lose if the system spins out if control and crashes.

COMMISSION BILL

Last week I introduced derivatives legislation, which in part, deals with the issue of greater international regulatory cooperation. H.R. 4170 requires the Secretary of the Treasury to convene a G–10 study of international regulation and supervision of derivative activities.

The legislation I am introducing today, the "Commission on International Coordination of Financial Regulation Act," recognizes that derivatives are just one part, albeit a particularly sensitive and fast-changing one, of the many risks facing the international financial system.

While our top priority should be greater international coordination of derivatives regulation and supervision, we cannot ignore other pressing international regulatory issues. I have introduced the Commission bill in order to address other pertinent international regulatory matters. Nor can we ignore the fact that today's integrated, speed-of-light financial markets must have some kind of international standards and uniform regulations.

GOALS OF COMMISSION

The Commission has several major goals. First, the United States must take a leadership role in fostering a greater understanding of the current international financial regulatory and supervisory regimes that govern financial services and evaluate the effectiveness of those regimes.

It is imperative that the United States take this course because as the world's leading economy and capital market, we have the most to lose from problems adversely affecting the workings of the world financial system.

Second, the United States should lead the way in developing new, more inclusive mechanisms to promote coordination of financial service regulation and supervision. Whether the issue is banking, securities, or accounting standards, regulators around the globe have begun to establish mechanisms to coordinate their approaches to regulation and supervision. Unfortunately, participation in these efforts is not all inclusive, nor do the different industries attempt to coordinate their approaches to similar problems.

The Commission will be charged with making recommendation to develop more inclusive mechanisms for improving cooperation among the world's financial regulators, because this must be done and it must be done sooner than later.

Another goal of the Commission is to evaluate the feasibility of establishing a single mechanism to coordinate international financial regulation. Establishing a single body to coordinate financial regulation does not mean that the United States would have to lower its standards to those of other countries.

The United States should strive to have its approach to regulation adopted based solely on merit—if U.S. regulatory ideas are superior we must see that they prevail. We need to preserve the best aspects of our regulatory regime, and where necessary, we should not be afraid to adopt useful regulatory and supervisory initiatives of other nations.

I feel a vast majority of world's nations would support establishing a common ground for approaches to regulating and supervising financial services. A recent CRS report supports my idea of establishing a single international regulatory body. The CRS concluded:

> Even a methodical and unambiguous international system for coordinating regulatory efforts would be a mark of progress.

The world's financial system is growing by leaps and bounds and there is a clearly urgent need for a coordinated approach to regulation and supervision. We have already developed this type of organization to handle issues of international importance. For example, in 1945 we established the International Monetary Fund as the world's monetary authority. We established the General Agreement on Trade and Tariffs which coordinates international trade issues. And don't forget the United Nations.

While some question the effectiveness of such forums, they serve a valuable function in the world political and financial scene. They enhance cooperation and foster a far greater understanding of the issue before them. We need a similar international body to promote more efficient world financial regulation and supervision. In a rapidly changing world we must have a clear vision about how to manage its risks—otherwise its opportunities will escape us.

EUROPEAN PARLIAMENT CONCERNED

I note with interest that these same concerns are echoing from across the Atlantic. On December 15, 1993, the European Parliament passed a "Resolution of International Monetary Capital." This resolution expressed grave concerns about the lack on international coordination as it applies to financial regulation including tax regimes and derivative products regulation.

DERIVATIVES PRIME EXAMPLE OF LACK OF COOPERATION

The current commotion over derivatives is a prime example for the need for greater international regulatory cooperation and it serves as a prime example of the problems with our current system.

This issue is addressed in my derivatives bill which directs the Secretary of the Treasury to convene a meeting of the Group of Ten [G-10] Ministers and Governors to develop a plan for a study to examine the adequacy of the international regulation and supervision of derivative products.

In 1993, the G-10 undertook a similar initiative to the one I am proposing in the derivatives bill when it conducted a study and issued a report to the G-10 Finance Ministers and Central Bank Governors on the turbulence in the foreign exchange markets. The illuminating study was called, "International Capital Movements and Foreign Exchange Markets," and it helped the world's major financial regulators better understand the turbulence in the foreign exchange markets.

The lack of coordination among regulators is striking. The U.S. bank regulators attempt to address the issue of international coordination through the Basle Supervisory Committee. The problems with the Basle Accord is that membership in the committee is severely limited to the top industrialized nations, it has no enforcement authority, and it covers only banking.

Meanwhile, the U.S. Securities Exchange Commission adopts an entirely different approach to international regulation. The SEC addresses the issue by negotiating bilateral accords with our major capital markets partners. The recent United States-United Kingdom accord on derivatives is a prime example of this strategy. Unfortunately, such agreements are limited to securities issues, there is little coordination with bank regulators and most nations do not have an international accord with the United States governing securities regulation and supervision.

Efforts to develop international accounting standards, the keystone of all financial transactions, are also lacking. Membership in the international accounting standards setting body is very limited, and the process of setting standards proceeds at a snails pace.

Because of these shortfalls and more, there is a pressing need to develop mechanisms to improve international regulation and supervision of financial services. In order to achieve that goal the Commission will study and make recommendation on the following issues.

ISSUES TO STUDY

First, the Commission should identify the various regulatory entities and mechanisms that are currently used to regulate and supervise international capital markets. At present there is no inventory of entities involved in financial regulation.

A fundamental first step to understanding international financial regulation is to identify the entities that play a role in regulating financial markets. The Commission should identify the players and their approach to regulating banking, securities, insurance, accounting standards, payments mechanisms, et cetera.

Once the players and their approach to regulation and supervision are identified, the Commission can begin to evaluate the effectiveness of their approaches. The Commission will then make recommendation on improving regulation and supervision.

A second important issue for the Commission to study is the current mechanisms used to coordinate financial regulation and the effectiveness of those approaches.

A third topic to study is the mechanisms that governments currently employ to manage meltdowns or panics in international capital markets. There is currently a lack of information on this issue because there is little in the way of a formal mechanism for coordinating a response to a financial emergency. In effort, the safety of the world financial system is left to ad hoc, Band-Aid, patchwork efforts.

Another Commission topic will be to identify the various means countries use to enforce capital market laws and regulations, the adequacy of cooperation among regulators in taking enforcement actions, and the means to improve global enforcement.

Large differences in the operations of the world's major clearing and settlement systems, in terms of both efficiency and risk, pose a clear and present threat to the stability of the international financial system. The Commission will analyze the world's major clearing and settlement systems, the difference among those systems in terms of volume, risk and efficiency, and evaluate the impact each system has on the stability of the world's payments/settlements system. The Commission will also identify ways to improve coordination among the systems, including programs to raise the quality of the weaker systems.

Finally the Commission will study the growth in financial assets directed through off-shore tax havens. In order to understand impact of these flows on the world financial systems, the Commission will identify off-shore tax havens, their function in the world financial system, the reasons for their growth, and the necessity of restricting their growth.

We must learn more about how off-shore tax havens impact the operation of the financial system from a standpoint of their potential effect on stability, and to evaluate their cooperation with world regulatory, supervisory and enforcement mechanisms. The Commission should also study off-shore banking centers from the standpoint of fairness to other members of the international financial system.

CONCLUSION

Madam Speaker, I hope that you and other Members of this body will recognize the problems that I have raised here today, and I urge Members to cosponsor this legislation so that our Government can provide the leadership necessary to develop thoughtful solutions to these problems.

Instead of waiting for catastrophe to strike, we should show American leadership by taking an aggressive stance in ensuring better regulation and supervision of international financial services. My Commission will play an integral role in achieving that goal and is worthy of your consideration.

SUMMARY OF THE COMMISSION ON INTERNATIONAL COORDINATION OF FINANCIAL REGULATION ACT, H.R. 4261

PURPOSE OF THE ACT

To establish a Commission to ensure that the U.S. takes a leadership role in improving the effectiveness of international regulation and supervision of financial services and enhancing coordination among the world's financial regulators.

DUTIES OF THE COMMISSION

The Commission will achieve its purpose through conducting its business as an advisory committee under the Federal Advisory Committee Act. Issues to study are:

1. Identify the various regulatory entities and mechanisms that are currently used to regulate and supervise international capital markets.
2. Identify mechanisms that governments currently employ to manage international capital market instability.

3. Appraise the adequacy of the cooperation between the various regulatory entities and mechanisms and propose solutions for improving cooperation including the feasibility of establishing a single mechanism with responsibility for coordinating international regulation.

4. Identify the various means countries use to enforce capital market laws and regulations, the adequacy of cooperation among regulators in taking enforcement actions, and the means to improve global enforcement.

5. Analyze the world's major clearing and settlement systems, the difference among those systems in terms of volume, risk, and efficiency, and evaluate the impact each system has on the stability of the world's payment and settlements systems. Identify ways to improve coordination among the systems, including programs to raise the quality of the weaker systems.

6. Identify all so-called "offshore tax havens," their function in international capital markets, the reasons for their growth, and identify, if warranted, steps to curb their growth.

COMMISSION MEMBERSHIP

The Commission will consist of fifteen (15) members who shall serve for the duration of the Commission with the Chairperson being designated by the President from those members who were appointed.

The Commission shall be made up of:

Chairman of the Board of Governors of the Federal Reserve System or the Chairman's designee;

Secretary of the Treasury or the Secretary's designee;

Chairman of the Securities and Exchange Commission (SEC) or the Chairman's designee.

Six members appointed by the President;

Three members appointed by the Speaker and the minority leader of the House of Representatives, with not more than two being of the same political party; and

Three members appointed by the majority leader and the minority leader of the Senate, with not more than two being of the same political party.

The Commission shall appoint a director, who will serve on a full-time basis, to conduct the administrative responsibilities of the Commission.

POWERS OF THE COMMISSION

The Commission shall have the authority to hold hearings, secure information from any department or agency and request the head of any department or agency of the United States to furnish information to the Commission.

REPORT OF THE COMMISSION

The Commission shall submit a final report containing a detailed statement of its findings and conclusions, along with recommendations for legislative and administrative actions, to the President and the Congress before the end of a 18-month period. The Commission shall terminate 30 days after submitting the report.

AUTHORIZATION OF APPROPRIATIONS

An amount not to exceed $2,000,000 shall be appropriated for the Commission to carry out its duties.

INTRODUCTION OF H.R. 4275, A BILL TO RESTORE THE LONG-TERM SOLVENCY OF THE OLD AGE, SURVIVOR AND DISABILITY TRUST FUNDS

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Texas [Mr. PICKLE] is recognized for 5 minutes.

Mr. PICKLE. Madam Speaker, on April 11, 1994, the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds released their 1994 Annual Report. This report should be required reading for all Members because it details the financial condition of the largest single part of our country's domestic spending program. Most importantly, it documents that Social Security, our largest entitlement program, faces a large and growing long-term deficit. We should not be alarmed but we must be concerned, and should act promptly.

According to the trustees report, the program's deficit has now risen to 2.13 percent of our Nation's total taxable payroll over the next 75 years. This means that projected expenditures now exceed expected revenues by an amount equal to 2.13 percent of the total payroll which is subject to the OASDI payroll tax. The program has not been in close actuarial balance for several years, and it is now obvious to all that significant changes must be made to address the program's growing deficit.

It is for this reason that I introduced legislation today, H.R. 4275, which would make several fundamental, long-term changes to the program. The major provisions of the legislation would:

First, gradually raise the age of normal retirement from 67 to 70, while continuing to allow for early retirement at age 62;

Second, award cost-of-living-adjustments on a biennial basis except in years of high inflation, with COLA's to be made in July, rather than in January;

Third, extend Social Security coverage to newly hired State and local employees; and,

Fourth, reduce the spousal benefit from 50 percent to 33 percent of the covered worker's benefit.

These provisions would be gradually phased in beginning in the year 2000 and would not be fully effective until after 2021. None of these changes would significantly affect current retirees or those workers who are now near retirement. The bill would reduce total Social Security expenditures by 2.12 percent of taxable payroll, an amount almost exactly equal to the currently projected deficit in the OASDI trust funds.

In proposing these changes, I deliberately chose not to include any tax increase, or any change which would have an immediate impact. I did this to avoid any impression that these proposals were being made for budget reasons. I took this approach so that the bill would focus exclusively on the long-term problems we face in our entitlement programs, most notably with Social Security. We must make decisions now on how to responsibly finance a benefit structure which meets the retirement income security needs of workers in our society. I think this is important, because there is currently a great deal of public discussion about potential changes to all these programs.

For example, there are those who believe that older, wealthier Americans ought to be called on to bear a greater part of the burden in reducing the Federal deficit. To accomplish this end they would means-test and cut Social Security and Medicare benefits in order to help balance the Federal budget. While it may well be that additional sacrifices by today's older Americans may be necessary as part of a well-balanced plan to solve our Federal budget problems, in my judgment making immediate reductions in their benefits is not the best way to accomplish this goal. It is important to note that with regard to Social Security, the trust funds are currently running large surpluses and are not contributing to the Federal deficit. Therefore, there is no reason to frighten the elderly with the prospect of reducing their COLA's or means-testing their benefits. Likewise, there is no reason to impose the enormous administrative burden of means-testing on the already strained Social Security Administration that would inevitably result if means testing were imposed. Nor should we allow inflation to erode the benefits of the oldest and poorest Social Security beneficiaries in our efforts to balance the budget. If we wish to tax older, wealthier Americans there are far more efficient and direct ways to accomplish this purpose.

In addition, others believe that our entitlement programs are growing too rapidly and that we must cut them back. Personally, I agree that we must control the growth of entitlement programs or we will leave our children and grandchildren with an impossible financial burden. That is why H.R. 4275 contains no tax increases. This bill would reduce the size of the Social Security entitlement program. I think this is important, because we will never be able to cut back on all the other entitlement programs if we do not take some action with respect to Social Security.

Finally, if we take action now to gradually raise the age of normal retirement, young workers will have the opportunity to make their own retirement plans based on their own work and savings. They will not be as dependent on Social Security and the Federal Government when they retire. In the meantime, their savings will be invested primarily in publicly traded securities, which will help to provide the capital our economy needs in order to grow.

While each one of these changes will certainly generate considerable discussion and perhaps even opposition, they are based on sound Social Security policy. In each case they are a response to the changing nature of our society and economy. If adopted in the near future, and phased in gradually, our economy and society will absorb them with little or no disruption. If the reforms contained in H.R. 4275 are adopted soon, they will: First, put an end to the fears of the elderly that their benefits will be cut at a time when they can no longer increase their retirement savings; second, put an end to the growing cynicism younger workers have with respect to the long-term viability of the Social Security system; and third, avoid the need to make more sudden and drastic changes in the future. For all these reasons I would urge Members to begin to give this legislation and this issue serious consideration.

REHABILITATION WORKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama [Mr. BACHUS] is recognized for 5 minutes.

Mr. BACHUS of Alabama. Madam Speaker, on February 8, I introduced House Joint Resolution 319, which now has over 16 cosponsors and which requires the Secretary of Health and Human Services to report to Congress on the impending insolvency of the Social Security Disability Insurance Trust Fund.

The Social Security Disability Insurance Trust Fund was created to provide financial support for those who are physically unable to work, but over the years, the purpose of the disability fund has been distorted and its good intentions have been abused. This abuse has not only caused the money in the disability fund to run out, but it now threatens the solvency of this Nation's Social Security Old Age and Survivors Trust Fund which provides financial security to all senior citizens.

The Clinton administration has proposed shifting billions of dollars out of Social Security's old age fund and into the disability fund. I say that's no solution. We need a complete re-evaluation of the criteria used to determine whether a person is truly disabled, and we need a clearly defined method of reexamination that will allow us to remove people who are no longer disabled from the Social Security rolls and get them back to work.

We also ought to be able to take advantage of medical advances and rehabilitation in order to increase the opportunities for disabled citizens to reenter the work force and at the same time reduce the number of disability insurance payments.

Recently, I toured a facility in Birmingham, AL which proves that rehabilitation works.

Sixteen year old Jay Marcum was terribly burned and brain injured in a car wreck. Four months later, his physical therapist, Ms. Beth Dozier, made these observations: "He was crumbled up, burned, and nonresponsive. He couldn't talk. He would just yell out."

Some physical therapists might have given up, but Beth didn't. And other therapists working with her didn't either.

Thanks to the good work of therapists at ReLife Rehabilitation Hospital in Birmingham, AL, Jay is now driving, speaking, and working again.

Jay's rehab bill was nearly $200,000, but considering the alternative, millions of dollars in nursing home care and disability payments, this was quite reasonable. Furthermore, if you multiply that $200,000 by the 90,000 traumatic brain injury survivors who suffer extreme debilitation each year, the cost and expense of nursing home care and disability payments would far exceed the cost and expense of rehabilitation. With rehab, at least 50 percent can be functional again.

As Jay's mom says, "Without hospitalized rehab, I believe Jay would be curled up in a ball in a nursing home bed somewhere."

In conclusion, Madam Speaker, as we debate health care reform proposals and consider ways to reform the disability insurance system, we need to look at rehabilitation as a cost-effective and sound way to invest our money—and, as demonstrated in Jay Marcum's case, a far more humane and compassionate approach.

□ 1610

IN SUPPORT OF YOUTH PREVENTION BLOCK GRANTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. HOAGLAND] is recognized for 5 minutes.

Mr. HOAGLAND. Madam Speaker, and colleagues, our esteemed colleague from the other body, our junior U.S. Senator, Mr. BOB KERREY, has proposed an innovative approach to providing Federal grants for crime prevention for youths that could be very helpful to primarily rural States like my home State of Nebraska.

Mr. KERREY's proposal, the Youth Violence Prevention Block Grant, was adopted in the crime bill the other body passed last fall. I would like to encourage this body to ensure that Youth Violence Block Grant is included in the final crime package that comes out of conference.

It is clear that economically disadvantaged children who start falling behind early in their schooling have a higher likelihood of skating close to trouble for a good deal of their lives. They are less likely to find good-paying jobs.

And we know that cognitive skills children learn at an early age help them reason their way through stressful and dangerous situations. Young people who succeed at learning have a higher self-esteem and are more likely to think before resorting to violence.

This crime bill focuses on youth violence that is related to gangs and drugs, and I think that is necessary. Nebraska has a serious and growing gang problem.

But Nebraska also has a serious problem with youth violence that is unrelated to gang activity. This bill also focuses on prevention programs like the Ounce of Prevention Council and that could be very helpful to our youths. It provides funding to support local initiatives designed by individual communities by providing competitive grants at the Federal level.

The only problem is, communities in a State like Nebraska would have a very difficult time competing against other communities nationwide for the grants under this formula.

Mr. KERREY's proposal would instead guarantee each State an allotment, and would allow the State to distribute the money to community groups. The Youth Violence Prevention Block Grant provides a nice balance to the other prevention programs in the crime bill and helps those States, like Nebraska, that are smaller but well-organized and have good working relationships between communities and the State government.

This amendment would ensure that every State had a source of Federal funds for State and local communities to finance youth prevention programs, whether those programs are for child abuse prevention, alternatives to school suspension, or after school activities programs.

I am submitting a copy of the amendment as it was adopted in the other body for the RECORD. I urge that the Youth Violence Prevention Block Grant be adopted in conference so that States like Nebraska can get Federal help for our youths.

Amendment intended to be proposed by Mr. KERREY:

On page 118, strike lines 7 through 11 and insert the following:

Subtitle B—Grants Under the Juvenile Justice and Delinquency Prevention Act of 1974

SEC. 611. JUVENILE DRUG TRAFFICKING AND GANG PREVENTION GRANTS.

Part B of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631 et seq.) is amended—

On page 126, between lines 13 and 14, insert the following:

SEC. 612. GRANTS FOR YOUTH DEVELOPMENT CENTERS.

Part B of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631 et seq.), as amended by section 611, is amended by adding at the end the following new subpart:

"Subpart III—Youth Violence Prevention Block Grants

"SEC. 238. (a) IN GENERAL.—The Administrator of the Office of Juvenile Justice and

Delinquency Prevention shall make grants to States to assist the States in planning, establishing, operating, coordinating, and evaluating programs directly or through grants and contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile violence.

"(b) ISSUES TO BE ADDRESSED.—A program funded under subsection (a) shall address issues identified as contributing to youth violence, which may include—

"(1) conflict resolution programs in schools;

"(2) alternatives to school suspension;

"(3) juvenile court diversion programs; and

"(4) other innovative projects.

"(c) ALLOCATION OF FUNDS.—The amount appropriated under this section for a fiscal year shall be allocated among the States by allocating to each State an amount that bears the same proportion to the amount appropriated as the number of residents of the State under the age of 18 years bears to the number of residents of all of the States under the age of 18 years.

"(d) ADMINISTRATION.—Grants made under this section shall be administered by the State office designated under section 507 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3757).

"(e) APPLICATIONS BY PUBLIC AND PRIVATE AGENCIES.—

"(1) IN GENERAL.—A public or private agency desiring to receive a grant or enter into a contract under this subpart shall submit an application at such time, in such manner, and containing such information as the office described in subsection (d) may prescribe.

"(2) CONTENTS.—In accordance with guidelines established by the office described in subsection (d), an application under paragraph (1) shall—

"(A) set forth a program or activity for carrying out 1 or more of the purposes described in subsections (a) and (b) and specifically identify each such purpose that the program or activity is designed to carry out;

"(B) provide that the program or activity will be administered by or under the supervision of the applicant;

"(C) provide for the proper and efficient administration of the program or activity;

"(D) provide for regular evaluation of the program or activity;

"(E) provide an assurance that the proposed program or activity will supplement, not supplant, similar programs and activities already available in the community;

"(F) describe how the program or activity will be coordinated with programs, activities, and services available locally;

"(G) provide that regular reports on such program or activity shall be sent to the administering office named in subsection (d); and

"(H) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this subpart.

"(f) MATCHING FUNDS REQUIREMENTS.—

"(1) FUNDS RECEIVED UNDER THIS SUBPART.—Funds received through a grant under this section may not be expended for more than 75 percent of the cost of any program that is so funded.

"(2) FUNDS FROM OTHER SOURCES.—In providing for the 25 percent share of the cost of a program from other sources, a State—

"(A) shall provide for such share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services; and

"(B) may provide for such share through State sources, local sources, private sources, nonprofit sources, other Federal sources, or any combination of these sources.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 1995 and 1996.".

RENEW MFN FOR CHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

Mr. DREIER. Madam Speaker, this month of April and next month of May mark the fifth anniversary of the events which led up to one of the most horrendous tragedies in recent world history, that being the Tiananmen Square massacre, which took place on June 4, 1989.

Following that terrible incident, I joined a number of my colleagues, including NANCY PELOSI, DAVID SKAGGS, my former colleague from California, Mel Levine, and others, and we marched from here to the Chinese Embassy up on Massachusetts Avenue to protest the horrendous massacre that took place in Tiananmen Square.

After spending a great deal of time closely analyzing that situation, I came to a conclusion which I had strongly reaffirmed just 2 weeks ago when I had the opportunity to spend several days traveling under the auspices of the Center for Strategic and International Studies throughout China. I traveled with the former Defense Secretary, Harold Brown, who is a counselor at CSIC, Garrett Gong, the Director of Asian Studies at CSIC and the former President of CSIC, who now holds the Pacific Forum, and Dr. Amos Jordan.

We had a number of meetings with leaders in China and business people there. We met with Fang Lizhi and others. And I came to the very strong conclusion, Madam Speaker, that it is critically important that we once again renew most-favored-nation trading status and expand exposure that China has with the West.

Now, there are many people who have come to the conclusion that elimination of MFN will somehow improve the human rights conditions in China. Well, frankly, we have found over the past several years that the threat of revocation of MFN has in fact done virtually nothing when it comes to the human rights situation.

What we have found, Madam Speaker, is that over the past 10 years, the horrible situation that we have seen, with some individuals notwithstanding, there has been an improvement in the human rights situation in China.

Now, it is not anything like the way those of us in this House and Americans and those of us who stand by Western standards would like to see. But quite frankly, it has improved over the past decade.

□ 1620

I will never forget when in July 1990, I had the opportunity to meet with Fang Lizhi, who for one year had been holed up in the U.S. Embassy. He had been one of the dissidents in China. And when he was released and I met with him in London, he said to me at that time, make sure that when we see the older leaders from China fade from the scene that the Chinese people do not inherit a horrible economic situation.

That really is the important key. The standard of living for the people of China has been greatly improved. And if you look at the two southern provinces of Guang Dong and Fujian, which adjoin Hong Kong, that is where the standard of living of the Chinese people had most greatly been enhanced. So one of the things that we need to do is we need to ensure that ties with United States and other western businesses expand even further into China. Why? So that the kind of economic freedom which the people on these two southern provinces are enjoying is expanded throughout China.

Not everyone is aware of the fact that China is the most populous country in the world. Madam Speaker, China is about nearly five times the size of the United States of America. And as we look at that situation, we need to recognize that if we eliminate Most Favored Nation trading status, we are not alienating China from the rest of the world. What we would be doing, in fact, is alienating the United States of America from the largest country on the face of the Earth.

I think that we need to also look at many other issues that go hand in hand with the issue of human rights. Denuclearization of the Korean Peninsula is something which is of grave concern to every one of us and, frankly, to the Asian nations and especially to China. They do not want to see the buildup of nuclear capability in North Korea.

Our Defense Secretary, Mr. Perry, has been over in Asia and has just left Tokyo today. He has been focusing on this issue of nuclearization in North Korea.

We also need to look at a wide range of other factors. Cooperation with the Chinese in the U. N. Security Council is obviously very important. We had the support of the Chinese as we were looking at the 28 nations coalition that was assembled to stand up to Saddam Hussein as the Persian Gulf war expanded.

There are many factors that need to be brought into this mix, but it would be wrong for us to in fact end the very important relationship which has been developed with China over the past several years. I am convinced, as we all pray for President Nixon's speedy recovery, that two decades ago, when he began to open relations with China, that that started the very important movement that we will see toward greater economic and political freedom for the Chinese people.

INTRODUCTION OF H.R. 4276

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. HARMAN] is recognized for 5 minutes.

Ms. HARMAN. Madam Speaker, my highest priority as a Member of Congress is retaining and building high-skill, high-wage jobs in California's South Bay. This area is the heart of California's aerospace industry, and if we are going to rebuild its employment base, we must promote commercial industries that draw on California's defense facilities and skills. Today I have joined with my California colleague, Congressman HOWARD BERMAN, to introduce H.R. 4276. This bill will streamline the process for exporting commercial communications satellites many of which are built in southern California.

H.R. 4276 will help build jobs in southern California by simplifying export licensing procedures for commercial communications satellites. It completes a process that was initiated by the Bush administration by shifting jurisdiction over these licenses from the State Department to the Commerce Department. This transfer applies to exports to all customers, and does not favor or promote sales to any particular country.

I want to emphasize that this bill does not undercut our missile nonproliferation policy. The State Department retains jurisdiction over the export of individual components that are exported as individual end-use items. And, under our proposed legislation, the Commerce Department must consult with the State and Defense Departments about license applications for complete communications satellites. Any systems designed or modified for military use will remain under State Department control.

Madam Speaker, communications and information services are vital export industries. United States manufacturers currently have an advantage in the highly competitive international satellite market, but government and industry must work together if we are to maintain our technological and market leadership. This bill will help our satellite manufacturers compete abroad, and will create new commercial opportunities for those manufacturers that are seeking to diversify away from defense sales. It will promote our economic and our national security, and I urge my colleagues to support it.

WHITEWATER AND THE INDEPENDENT COUNSEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Madam Speaker, one of the disturbing things about the Whitewater investigation is that we feel like there is a thorough investigation taking place, and then we hear things that lead us to believe that investigation is not thorough.

Let me give you a couple of examples. We heard that Mr. Fiske, a Republican, was picked after President Clinton and his wife said they did not want a special counsel. Mr. Fiske was picked by the Justice Department, Janet Reno, because he was an independent thinker and he was Republican. Then we find out over the period of the next several months that Mr. Fiske is not really that independent, or it appears he is not that independent, because he has had very close ties with one of the chief aids of President Clinton, Mr. Bernie Nussbaum. When they both served as lawyers in New York City, they worked together on a number of cases.

I wrote a letter to Mr. Fiske asking about this information. He responded. He sent the letter back to me. He answered Federal Express. He said, yes, I did have some association with Mr. Nussbaum but it was strictly professional.

Second, Mr. Fiske, the counsel investigating Whitewater, recommended Bernie Nussbaum, the right-hand man of President Clinton, to be the assistant counsel during the Iran-Contra investigation. That shows that he and Mr. Nussbaum were fairly good friends. Otherwise he would not have recommended him to be assistant counsel on one of the most celebrated cases involving the Government of the United States in the last 15 to 20 years.

Third, Mr. Fiske recommended Louis Freeh, the district attorney for New York, to be the head of the FBI. Mr. Freeh, I understand, is a man with impeccable credentials and one who is doing a fine job. Nevertheless, Mr. Fiske, the man who is investigating Whitewater, called Mr. Nussbaum and the people at the White House and recommended Mr. Freeh for that job.

Finally, one of the most disconcerting things is that Mr. Fiske's law firm represented a company called International Paper, and International Paper sold several hundred acres to the Whitewater Development Corp. for $500,000.

Now, we asked for an independent counsel to investigate this case. And grudgingly, it was approved by the Justice Department and the White House. Now we find out that the gentleman who is conducting the investigation knows Mr. Nussbaum, the right-hand man of Mr. Clinton. He recommended him to be the assistant counsel in the Iran-Contra investigation. He recommended Louis Freeh to be the head of the FBI. His company, his law firm represented the International Paper Co. that sold hundreds of acres of land to Whitewater.

This might all be coincidence, but my question is, should we not have somebody in this position right now who is above any suspicion whatsoever? I mean, there are thousands of prosecutors across this country who could have done this job that have no connection to Mr. Nussbaum or the White House. Yet Janet Reno, the Attorney General of the United States, picked this gentleman.

We recommended, when we were investigating Ron Brown, seven different people, Democrats and Republicans, former Attorneys General and chief prosecutors, to investigate the Ron Brown affair. We were stonewalled then. We are being stonewalled again.

Madam Speaker, I am very concerned that the American people want to have all of this answered. They want to have this investigation concluded. They do not want it to drag on for months and months and months like the Watergate investigation or the Iran-Contra investigation.

All the President has to do is give the Congress of the United States the right to have a hearing on this. We had 23 hearings during the Reagan and Bush administrations. This is more onerous. This is more disconcerting to the Congress and the American people than any of those investigations were. We need to get to the bottom of it.

I just say to my colleagues and to the Speaker that the President, if he has nothing to hide, let us have the investigation. Let us get this behind us so the American people can once again have complete confidence in the President and in the Presidency. I think it is extremely important.

Mr. DORNAN. Will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from California.

Mr. DORNAN. Madam Speaker, one of the things that mystifies me, and I am sure it does my colleague from California, is why we are stonewalling here on the majority side to end up probably with hearings in the early fall or late summer, right as we are going into an election period.

Here is the front page story, and I do not know if the gentleman saw it today, in the Washington Post, the east coast liberal paper of record, along with the New York Times." Listen to this headline: "Whitewater Repossessions." The subheading is "Sales Practice Benefitting Clintons and Partners," by two reporters, Howard Schneider and Susan Schmidt.

> For 3 years Clyde Soapes, Jr., a Texas grain elevator operator, regularly mailed

> monthly payments to the Whitewater Development Corp. for a lot along Arkansas' White River, where he planned to build a fishing cottage.

He paid $244.69 and made 35 installment payments over 3 years, and by the way, he had put $3,000 down. Then he got diabetes. He did die eventually, and it was repossessed by the McDougals and the Clintons. They wiped the man out, and his family.

They would resell it, repossess it again, resell it, and none of this seems to be recorded. Imagine this front page story today, coming out in hearings in a few months.

Mr. BURTON of Indiana. Madam Speaker, the gentleman has a special order coming up. Could I impose upon him for a few minutes to conclude my special order.

Mr. DORNAN. Yes, Madam Speaker, right at the top, I would be happy to.

The SPEAKER pro tempore [Mrs. UNSOELD]. The time of the gentleman from Indiana has expired.

THE VALIDITY OF THE WHITEWATER INVESTIGATION

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes as the minority leader's designee.

Mr. DORNAN. Madam Speaker, I would like to begin by setting the tone, and then turn it over to the gentleman from Indiana [Mr. BURTON].

Madam Speaker, we have a press problem today. The dominant media culture, the liberal press, are beating their breasts saying, "Have we gone too far with Whitewater?" I, myself, think they have only scratched the surface, but they are saying, "Are we crippling our Government? What are we doing?"

I do not know if the Speaker saw the hour and a half show the other night, the expanded Nightline with Ted Koppel. Among the guests were Rush Limbaugh and James Carville. Listen to this, I have waited a couple of weeks since our break to put this in the RECORD. It comes courtesy of my good friend, Brent Bozell III, over at the Media Research Center.

This quote is from a reporter in the Washington Post. Talk about a schizophrenic operation. I never heard of this gentleman. I look forward to having lunch with him some day. His name is Phil McCombs. He filed this story out of Coronado, CA, March 30, and thank God it went in the Style section and not on the front page.

I would say to the gentleman from Indiana [Mr. BURTON], he is going to think I am making this up as I read these words:

To watch this President connect with people emotionally is an awesome thing. It is a raw, needy, palpable, electrifying thing that happens. There is no smile on Clinton. It is as if he is soaking up the people like he is soaking up the Sun, with the warmth pouring deep and direct into his political soul and recharging him, refilling him somehow once again with his own humanity and some sense of his role in the destiny of his country.

"Then, the hunger slaked, the great beast of Need fed," and "Need" is capitalized here, and I do not know why, "the great beast of his Need fed once again, it seemed you could almost see the gratitude pouring off his brow like sweat as he made his way through the beach crowds."

The title, by the way, put on this by Mr. Brent Bozell, was "Licking Up Clinton's Sweat."

Mr. BURTON of Indiana. If the gentleman will yield, first of all, I will concede that President Clinton probably is one of the finest politicians on the stump I have ever seen. I say this with all due respect to President Reagan, and I think he is even more effective than President Reagan was, and Reagan was the best I had seen up to that time.

Let me just tell my colleague, the gentleman from California, I am very concerned about the Whitewater investigation. A few months ago we were investigating Ron Brown, the head of the Department of Commerce, because allegations had been made by a man named Binh Ly that he took a $700,000 up-front payoff to normalize relations with Vietnam, and to lower the trade barriers with them, even though we were not going to get a full accounting of our POW-MIA's.

The gentleman who made the accusation also said that the money was being transferred to Bank Indosuez in Singapore by the Vietnamese Government. The FBI gave Mr. Ly a 6-hour lie detector test. He passed it, the FBI verified a large sum of money was transferred to a bank in Singapore by the Vietnamese Government, and yet when the grand jury investigated this case down in Miami, the Justice Department, Janet Reno, I believe, and I do not know this for sure, but I believe at the request of the White House, sent one of her top aides down to conduct a grand jury investigation.

Anybody that knows the prosecutorial process at a grand jury hearing knows the prosecutor can either get an indictment or not get an indictment.

After they had a long grand jury investigation, they had not even called Mr. Binh Ly to testify. I called down and said:

> I don't want to interfere with the grand jury process, but this is a man that I think ought to at least testify, because he is the chief accuser.

Two days before the end of the grand jury investigation, as I recall, they call Mr. Ly. Then they said they did not have enough evidence to indict. When the Congress of the United States was charged with the responsibility under the Constitution to investigate criminal wrongdoing or the allegations of criminal wrongdoing, asked for a hearing, they said, "Hey, this has been resolved by the grand jury," and the whole thing was whitewashed. it just stopped.

Now comes Whitewater. They would not allow us to have hearings on the Whitewater case. They said that we did not need to have them. They said this was just a wild goose chase, even though there had been 23 investigations under Reagan and Bush. They did not think it was necessary under Brown, and they do not think it is necessary right now.

What do they do? The media and the leadership in this House, the Republican leadership in both the House and the Senate, kept finding more and more information about this. Finally the President and Mrs. Clinton said, "OK, we will go along with a special counsel." They picked Mr. Fiske, who is a Republican, they say, who is supposed to be nonpartisan, clean as a hound's tooth. Then we find out Mr. Fiske worked with Mr. Nussbaum on several cases when they were in New York. Mr. Fiske recommended Bernie Nussbaum, the right-hand man of President Clinton, to be the assistant counsel during the Iran-Contra affair.

Mr. Fiske—upon the recommendation of Mr. Fiske, Mr. Nussbaum and the White House looked with favor upon Louis Frie, who I think will do a good job as head of the FBI. Mr. Fiske's law firm represented the International Paper Co. that sold several hundred acres to Whitewater for $50,000.

We would think that they would have picked somebody totally disassociated with the White House and with Whitewater and Mr. Nussbaum and everything but no, they picked Mr. Fiske. It appears as though, to the American people and to many Members of Congress, that there is a pattern that is evolving here. We saw a whitewash, I believe, of the Ron Brown affairs. Now we see what I believe may be a whitewash of Whitewater.

The Congress of the United States has the responsibility under the Constitution to investigate these matters. Yet, Mr. Fiske says, "We do not want you to interfere until we have conducted our investigation." They did that with Ron Brown, and because of that, we never had hearings in the House regarding the allegation that he took $700,000 in front money and millions more to follow, in order to normalize relations with Vietnam.

What happened? They lowered the trade barriers with Vietnam. The embargo was ended. We are normalizing relations, and 2,300 POW-MIA's are still unaccounted for, and their families do not know about them, yet Mr. Brown was exonerated. We never had hearings.

Now Mr. Fiske is going down that same road with Whitewater, and I fear that what is going to happen is, they are going to say there is nothing, no indication of wrongdoing, even though there is all kinds of questions that have been raised against Foster's death, other deaths that have been involved, the taxpayers' dollars, misuse of funds, misuse of political power. All those things should be investigated by Congress.

If the President, like Mr. Brown, and if this administration has nothing to be concerned about, then let us have the hearings. Let us get it over with, and let us get the President back to the job of doing what he has to do to keep the country on the right track.

I do not think anybody wants to impair the President or impugn the integrity of the Presidency itself, but we do have a responsibility to get these questions answered. It seems like to me we have been stonewalled under Brown, we have been stonewalled now under Mr. Fiske and Whitewater, and we do not want a whitewash of Whitewater.

I thank the gentleman from California [Mr. DORNAN] for yielding to me.

Mr. DORNAN. Madam Speaker, if the gentleman will wait, I am sorting some of my papers here and I want to recruit him to do a service for me.

Here is the staff work on the crime bill, which I hope will comprise 50 minutes of my special order. It was put together, I think, by either the staff of the gentleman from Florida [Mr. MCCOLLUM] or the gentleman from New York, "Fighting GERRY SOLOMON," from beautiful upstate New York, the Lake George area.

I would ask the gentleman if he would read these eight little-known facts about the crime bill. Some of them he may not know. As he reads the, give us the page please, where it appears in the crime bill. We know this audience is growing on C-SPAN past almost up to a million and a half people. They are going to think they are watching "Saturday Night Live", and the gentleman and I are doing a skit here, as they hear him reading these eight little-known facts about this bill.

□ 1640

Mr. BURTON of Indiana. I will be happy to do that for my colleague. I must say I did not come down here for this, but I do think it has merit, and I will go into it with the gentleman.

It is entitled, "Eight Little Known Facts About the Crime Bill," the bill that passed the house today:

No. 1. Encourages children to be out of their homes and on the streets after midnight. Many Americans probably believe children should be at home and in bed after midnight. This bill would pay people to set up midnight sports programs that keep kids out all night.—Page 138.

No. 2. Contains ludicrous mandates in its prevention programs. To establish a midnight sports league, the league must have eight teams and each team must have ten players. Presumably, a league with six teams and 12 players per team, would be worthless in preventing crime.—Page 140.

No. 3. Outlaws the use of religion in crime prevention programs. Although $8 billion will go to fighting teenage pregnancy, AIDS, drug use, and crime, the bill prohibits any of this money from going to religious worship or instruction.—Page 121.

No. 4. Fights crime in odd ways, Part I. This bill will "fight crime" by funding "cultural programs, arts and crafts, and health education and service programs, and dance programs."—Page 120.

No. 5. Turns police departments into social service agencies. The House crime bill will fund police departments if they run "afterschool activity and neighborhood recreation programs, and parent support groups that are led jointly by child or family services."—Page 134.

No. 6. Fights crime in odd ways, Part II. The House crime bill will spend millions of dollars to "increase the self-esteem" of young criminals and "provide such youth with Life skills," whatever that means.—Page 152.

No. 7. Punishes successful values and rewards failed values. Money to fund the social welfare programs in this bill would come from working people with working-class values. However, the money would go to neighborhoods or communities with high levels of "use or sale of illegal drugs; high incidence of crimes committed by youths or young adults; high rates of HIV or sexually transmitted disease; and high rates of pregnancy or births among adolescents."—Pages 140-141. It takes money from one segment and puts into the other.

No. 8. Fights crime in odd ways, Part III. Most Americans think enforcing the law and locking up criminals is how you fight crime. But, this crime bill calls for "instituting a collaborative structure that trains and coordinates the efforts of teachers, administrators, social workers, guidance counselors and school volunteers to provide concurrent social services."—Page 121.

I know my colleague from California will elaborate further on these eight little vignettes. The thing that disturbs me a great deal about the bill was an editorial that we read, many of us, just before the vote today, and that was that many people were going to be released because there was a disproportionate number of people in one race or another that might be on death row.

Madam Speaker, I believe, and I think my colleague, the gentleman from California believes that if a person commits murder, regardless of their race or their natural origin or their religion or whatever else, they should pay the same price for that crime as any other person who commits a crime, regardless of race.

Mr. DORNAN. Exactly.

Mr. BURTON. We should not be letting people out on the streets because they are black, white, Italian, whatever they happen to be, and the bill does set some quotas and allow some people to get out simply because they are of a minority race. I think that is a mistake. If they commit murder, they should pay the price.

Madam Speaker, I thank the gentleman for yielding.

Mr. DORNAN. I thank the gentleman from Indiana. Enjoy those eight facts at your town hall meetings over the weekend.

Madam Speaker, I just voted against the crime bill as did the gentleman because it left so much on the cutting room floor up in the Committee on Rules on the third floor on the east side of this building. The very best of our Republican amendments were not allowed to be debated. This cheapens our democratic system.

Madam Speaker, I don't want to leave the impression there was nothing good in the bill. There were some good things. One of them I myself had brought to this House floor almost 6 years ago now, the police corps, which is exactly patterned after the Reserve Office Training Corps that we have had in our high schools and colleges for over half a century and from which we sent so many young males off into combat as ROTC graduates, second lieutenants, ensigns and Marine platoon leaders. Today we are sending young men and women off into our military services augmenting our great service academies like West Point, Annapolis, and the Air Force Academy in Colorado Springs. The police corps, will do the same for police departments. I am glad the police corps did get in.

Here are some other good things that got in, and do not get excited over these across America and, Madam Speaker, because we do not know if they are going to survive the conference. The conference will start in a few weeks between the House and the Senate. The Senate bill was slightly better than ours, although a lot of liberal cant went into crippling parts of that bill. It had about $8 billion worth of hug-a-thug, feel-good social programs that should all be over in the Health and Human services budget, not hidden in a crime bill. The liberals have made a habit of putting social spending programs in the defense bill and I am sick that they have now done it with crime.

Madam Speaker, here are some good things we did fight to get in. These were all from yesterday, and a few good things today.

Prevent prisoners from receiving Pell grants for college education. Some of them have not even passed their GED/high school equivalency test.

Two. Require the Justice Department to pay for the imprisonment of illegal immigrants who commit felonies. How we can dump this on Arizona, California, New Mexico, Texas, and Florida; it is criminal what the Federal Government does to the border States when it mandates everything from school benefits, health benefits, and now the Federal Government's failure in keeping our borders secure. We should pick up that tab and feel the heat here at the Federal level.

Madam Speaker, another good provision. Authorize the hiring of 6,000 more Border Patrol agents. Of course getting the money for that is not going to be easy. Will it survive the Senate-House conference? I hope so.

Here is one I think a lot of prison guards are really going to appreciate. Remove the weight training and similar expensive workout machines—some prisons have Nautilus equipment, state of the art—and prevent prisoners from engaging in activities to increase their fighting abilities. Guys actually get their black belt at our expense in prison so that when the rebellion comes in the prison, they are taking out guards using the martial arts that they learned at our expense with state-of-the-art equipment. If they want to exercise, let them jog out in the prison yard.

Madam Speaker, here is another good provision. Give law enforcement officials and the courts access to the criminal histories in stalking cases and domestic violence cases. If you have got some drunk beating up his wife all the time and he has got a record as long as your arm for violence in the streets, fights in bars, assault with deadly weapons, the courts should know that so that the wife and children can be protected. And the same with some sick stalker. Many of these stalkers are deadly enough that they kill the victims that they are stalking.

Madam Speaker, here is another good provision. Some killings have taken place across this country—I know one that happened 25 years ago—by people who would get personal information from the State by asking about a license number. It used to be in California, that for a quarter you could get the home address of anybody if you know their license numbers. This bill prohibits all the State motor vehicle departments from disclosing personal information about individuals. There were certain exceptions in there that were reasonable.

We also limited Federal judges' ability to stick their nose into State prison systems and declare certain jails unconstitutionally overcrowded. This has wrecked havoc in Texas particularly, where the average sentence for murder, something like 8.1 years, and people have been getting out in three point something years because of this overcrowding problem.

The biggest mistake made yesterday was passing the race bias test for death penalty. Nearly 4,000 death row convicts could use this provision passed yesterday to beat the death penalty. Again if it survives the Senate conference, hundreds could escape execution.

□ 1650

The States started reinstituting capital punishment in 1976. Less than 205 criminals, and I think it is about 204 or 205, have been executed in only 22 States. The Federal Government has yet to execute anybody, although we do have six people on death row.

I am not a fan of capital punishment. All of the Catholic bishops and all of the Episcopalian bishops, the majority of Rabbis, and a lot of other religious leaders in this country do not want capital punishment. Amnesty International speaks out regularly against capital punishment. Most European nations no longer have it. Most democracies and civilized nations no longer have it.

Let me tell you something, when you are approaching an absolute state of anarchy, a State has a right to impose martial law as Abraham Lincoln did during the Civil War rebellion. In some areas of our country have reached a point that if the State does not say, "You will pay for these heinous crimes with your life," we depress the whole range of punishments so severely down to the very bottom that grand theft auto is a literal slap on the wrist. No caning, just try not to steal so many cars. It does affect the whole criminal system.

The Tory wit, John Sparrow, used to tell the story of the two castaways who wash up on the beach of an unknown country. The first thing they see is a corpse dangling at the end of a rope.

One sailor says to the other, "Well, at least it's a civilized country."

The point is, only a civilized country restrains crime by the formal process of legal execution. In an uncivilized country citizens rely upon private force to defend themselves against lawlessness and casual murders fostered by the absence of effective lawful punishment.

I myself, if I could be convinced that we were building a series of prisons that truly were places where you would incarcerate only the most cruel, the most violent, the most vicious, and they would know when that door slammed that they were going to die there as an old man, and that they would not have conjugal visits, color pornography, color TV, MTV, every major sporting event coming into their cells, Nautilus weight equipment, three simple meals a day, no utensils, plastic spoon, and that is it, I would be willing to say, OK, if we will film what this is like, play it over our televisions regularly, public-service spots, let the youth of America that opt so easily for crime because now they know that crime does pay, I would be willing to say life is so sacred and ordained only by God that nobody should take a human life. Unfortunately, we aren't near that point.

We have lost just in the last 10 years the societal attitude that a murder was the most horrendous abrogation of God's authority, whether of a tiny innocent little fetus baby in the womb, or, which the chief of police described to me here in the District of Columbia, of an 84-year-old man walking down the street who was killed by three teenagers who were not on drugs and who then went home and took a nap. The late Isaac Fulwood told me they had no conscience. We have raised a generation of kids devoid of conscience. I watched five kids, none of them African-Americans by the way, at a California prison. They were discussing killing, and two or three of them said they did it to see what it was like to watch the life force slowly go out of a human being. We do not have an awe for murder any longer.

I know that some people who are against capital punishment, like Amnesty International, think that it also cheapens life. I always make the case we are not dealing with Ireland, Norway, or Switzerland here small and sparsely populated. We are dealing with an anarchistic situation in many cities around this country. And I cannot tell the voters in my district, I cannot look a mother in the eyes whose child was kidnaped, tortured, and murdered in the most awful of circumstances, I cannot tell that mother that she is no longer going to be given the right to sleep well at night.

One of the most stunning crime facts I ever came across was in People magazine, of all places. It was after Ted Bundy was executed. An official with the State of Florida called up a mother whose only daughter had been viciously murdered by Bundy. By the way, in his last interview with my friend, Dr. Jim Dobson, Bundy said that pornography, just simple ordinary run-of-the-mill woman-demeaning pornography of the 1960's, is what started him on his path toward the ultimate brutality of torture, murder, torture, rape. Anyway, this mother, she picked up the phone and the Florida official said two words, "It's over." She knew that Bundy had been killed. She said to the People magazine reporter that it was the first night in 14 years that she had slept for 8 hours.

How do we deny that? That is not vengeance. That is giving peace of mind to a victim, in this case a surviving parent who lost their only child. That is giving justice to the victims of crime. It is an answer I have never had anybody from Amnesty International or a well meaning liberal answer effectively to me about capital punishment.

We succeeded in gutting it here today and yesterday.

Now, just to go back to a couple of these eight little known facts about crime that Mr. BURTON read, this one here about outlawing the use of religion in crime prevention.

You know, we could have left this one out of the bill. And if somebody was abusing the separation of church and state in this country with Federal money and not keeping the church services separate from the other activities, then that could have been handled in that area by some court challenge. But to tell a nation of young people that they will hear nothing about Moses, his full face looking down on this Chamber, the great lawgiver of the Hebrews, that they can learn nothing about Mosaic law, thou shalt not kill, thou shalt not lie, thou shalt not commit adultery, thou shalt not steal, that they cannot hear anything about Christianity, the combined Old Testament, the Judaism that created this civilization we call Western civilization, that we cannot teach people anything about right, wrong, absolute guilt, conscience, honoring your mother or your father, to try and strip all of that out of every program that goes out to young people, just to tell them to go play basketball at midnight; how demeaning, how absolutely ludicrous, and, again, a sign of cultural meltdown in our society.

What I said in a 1-minute speech earlier on the day we began debating the crime bill this week, most historians consider a generation 30 years. A generation ago was in the spring in 1964. As the Barry Goldwater campaign was ginning up, Nelson Rockefeller was making the rounds in my party. It was then that the Filthy Speech Movement, even got it down to an acronym, the FSM, the Filthy Speech Movement, at the mother of universities in the western United States, Cal Berkeley, that Filthy Speech Movement started. Participants screamed every vile Anglo-Saxon word at the top of their voice and over bullhorns on the campus. That was the beginning of the roaring 1960's. Actually the 1960's were half over. I think if you look at an 11-year period from the spring of 1964 to April 30, 1975, when Vietnam collapsed, Saigon fell to the Communist invaders, the 11-year period was one of drug glorification. The glorifying homosexuality as equal to normal family life. It was the beginning of saying if it feels good, do it. We were told to make love, Free love, Easy love, Love with strangers, Love in orgies, Switch-hitting, Wife-swapping. What they got was an AIDS epidemic that has killed 140,000. Within 2 years, death from AIDS will be five times the death toll in combat in Vietnam.

Yes, a lot of it was energized by the liberals, no-win, no-victory-allowed war in Vietnam. When that 11 years was up, we had a generation, the baby-boomer generation, that was spoiled with too many of this world's goods and too much misdirected love because their families came through the hell of the Depression and then World War II. That baby-boomer generation that is now in its prime, pulling all the levers of power in some places including parts of this Congress and soon the Supreme Court, certainly over at the White House with its overabundance of flower children.

□ 1700

Do you want to hear a statistic that is absolutely incredible? Now listen to this: A boy born in 1974, at the end of what we call the sixties—that is, 1964 through 1975—a baby born in 1974, a boy—and this has nothing to do with ethnic heritage—stands a greater chance of being murdered than a soldier in World War II stood of being killed in combat.

I mean, in my mind, I cannot accept that statistic. I was a young boy during World War II. It is incredible to think that any boy born more than 20 years ago now has a greater chance of being killed in this beautiful country of ours than he would have been if he were 1 of the 14 million men and women in uniform in World War II stood of dying in combat.

I do not want to bore you, Madam Speaker, and the 1.5 million folks watching, with the minutiae of the statistics, although that cruel word "minutiae" should not be applied to the statistics such as these: 2,000 women raped every week, 1 murder every 5 minutes, 1 rape every 10 to 15 minutes, 1 burglary every 45 seconds, 1 robbery every 45 minutes.

These are incredible. We hear them so much we are just numbed to all of these statistics.

At recent homicide rates, about 1 of every 133 Americans will become a murder victim. For males of African-American descent, the proportion is estimated to be at, current rates, 1 in every 30.

If you put these murders on a health chart, as they do at the Centers for Disease Control down in Atlanta or up the road here at Bethesda, MD, at the National Institutes of Health, this is one of America's greatest killers. In some areas it is the No. 1 killer of young African-American males.

Now, on the south side of Chicago—I think that used to be a song title—on the south side of Chicago, 23 percent of students reported seeing a murder in their neighborhood—1 out of 4 kids, that is—34 percent witnessed a stabbing. That is almost 3 out of 9; 39 percent had seen a shooting, or 4 out of every 10 watching this gang warfare gunfire taking place on our streets.

Madam Speaker, I want to ask at this point to put in a few articles that I find are just outstanding. A lot of them, I must say, from the Wall Street Journal.

Here is Amitai Etzion, "How Our Towns Fight Crime." It shows that many times folks have to battle the criminals and the ACLU as well.

I would like to put in an article by what I always refer to as my favorite Democrat in the whole world, Ben Wattenberg. Again, this is from the Wall Street Journal from back in December. He says the crime bill passed by the Senate, which was passed in November, would make the States do what they should be doing anyway and what the public overwhelmingly favors: Imprisoning violent offenders longer, much longer. Ben Wattenberg's column here, the "Crime Solution—Lock'em Up," is full with more of these gee whiz, it can't be this bad, frightening statistics. I will put that in.

Now here is a letter from my pal Grover Norquist, president of the Americans for Tax Reform. I will read the opening two paragraphs and the close. He wrote this to our good friend, JACK BROOKS, chairman of the Committee on the Judiciary, who quarterbacked the crime bill over the last 2 weeks:

> DEAR MR. BROOKS: We want to alert you to our opposition to the House crime bill, H.R. 4092, as written. The group represents taxpayers, and we cannot support a bill that asks so much from taxpayers but gives back so little.

Now, Madam Speaker and my fellow Americans, listen to this simple piece of logic. Grover Norquist says, "We object," Americans for Tax Action, "Taking money from working people," working Americans, "people who play by the rules and pull the wagon of business, industry, work at the State, and give that money to criminals. Specifically, your crime bill would spend almost $16 billion," it is up to $17 billion now, "of Federal money, more than half of social welfare programs that lack any record of proven success. That wrongheaded approach is particularly evident in the billions you propose to spend on substance abuse programs. Many substance abuse programs—narco programs, drug programs—are nothing more than a place for addicts to remain comfortable for a few weeks until they decide when to go back on drugs. Since 1988 Congress has poured billions into those programs, and hard-core drug use has actually increased. These increases occurred after a decade-long decrease, 1978 to 1988—half of Carter's years and all of Reagan's years—which happened without the benefit of congressional programs." We should be analyzing what we did there.

The rest of the so-called prevention programs are equally objectionable. Midnight basketball is the most obvious example. What is disturbing is an attitude that pervades the entire crime debate. That attitude, unless we bribe people to behave properly, particularly young people, they will become criminals. It reminds me of the early debates over welfare when supporters said welfare would prevent crime, when we all know that that idea actually backfired. I am afraid this one will too.

Also, the bill continues a dangerous trend of giving Congress more responsibility for public safety issues instead of leaving those issues at the State and local level where they belong.

The $8 billion that will go for police, prisons, and various law enforcement programs, once the Federal Government takes responsibility for funding these traditional State and local activities, Congress will inevitably raise taxes to handle these new, Federal mandates.

If the limited impact of the past dozen or so crime bills is any indication, the crime problem will remain serious even with more Congressional intervention.

Madam Speaker, I have been telling press people that I have talked to "Let's make a deal. Today is April 21, 1994." I will make a mark on my kitchen calendar under a little magnet on my refrigerator and tell my staff to put it in our computer for next year's calendar, "Let's have a little coffee talk, a chat, on April 21, 1995." Let us look at what this bill has done for or maybe to America on April 21—that has a nice blackjack sound, 21—on April 21, 1996. Let's see if my prediction is correct that violent crime will still be on the increase because we have to live through a generation reaping the wild winds of what we sowed from 1964 in the spring to the fall of Saigon and even a few years thereafter, when we told a whole generation of young people that Bulldog Drummond and Gangbusters—the radio shows their parents listened to—were wrong. That crime does pay. I see my colleague from California from one of the most beautiful areas of the country, San Diego, has arrived. I will tell you what we can do to show people how good friends, I mean amigos, are tormented by this bill. I voted against it. You voted for it. I do not criticize your vote. I just read a lot of the good stuff that is in it that would be worthy of a yes vote. So I will ask DUNCAN HUNTER of San Diego, what is his take and why did he vote for the bill?

I yield to the gentleman.

Mr. HUNTER. I thank my friend for recognizing me. And we are best friends. I certainly appreciate everything that he does on the House floor, especially what he did with respect to Somalia, when he took about 48 hours out of his own list just in plane travel, flew to Somalia, came back after the tragedy last fall when our Rangers were ambushed, and he made a report not only to the Committee on Armed Services but to the full Congress. And he touched bases with, I believe, every family of the young people who were killed in that tragedy. His performance and his service to the House of Representatives is something that is really appreciated.

Let us go to the crime bill for a second.

Mr. DORNAN. Just one second. I got a letter last night from the Gutting family which lost a son in Somalia. The gentleman and I had a long cup of coffee downstairs with a sister of one of the young M.P.'s killed in that radio-detonated mine on August 8. Not even 1 year ago, just last August.

□ 1710

And with that M.P. Keith, was another M.P., Gutting. He was also killed, and the family wrote me. They thanked me for the flag that me and my little grandkids, Kevin and Colin, flew over the Capitol on Thanksgiving. A little aside here. I mentioned Kevin and Colin's help on the floor and their little sister, Erin, asked, "When are you going to talk about me, Poppy?" Well, when she comes here and flies flags with me on the roof of the Capitol here for all these good GI's. This family, the Gutting family, told me that they are going to fly the flag we sent them on every one of their son's birthdays, Christmas, Easter, Memorial Day, and every August 8, the day he died, giving his life to try and feed starving women and children.

I ask my colleague, "DUNCAN, do you know what's happening today as we speak?"

Seven U.N. people have been killed in Mogdishu. The anti-Aided forces have just captured the Sundanese Ambassador. That's Ali Madi, the grandson of the Madi in the great Charleton Heston film, "Khartoum."

Mr. HUNTER. That's the guy that killed Charleton Heston.

Mr. DORNAN. That is right, Chinese Gordon.

Mr. HUNTER. Yeah.

Mr. DORNAN. The Madis' grandson is now in a pitched battle with our new pal, the killer Aidid, whose forces, as my colleague knows, blew away 18 of the best young soldiers, Rangers, Delta guys this country ever produced, and killed another one, Matt Rearson, three nights later with a mortar. Aidid is now closing in on the U.S. Embassy grounds, and on the university, and on the base I told the gentleman we named after him, Hunter base. It is surrounded. They are tearing up the spaghetti factory, the cigarette factory, all of the places where our guys guarded, took wounds, took bullets, gave their lives.

I meet with two Marines. One still has the bullet in his wrist; the other one, it went through his arm, lodged in his clavicle. They are all healthy now. One of them is married. I met him at El Toro last week.

How can I ease their pain, the way we were forced to pull out of there because of the terrible foreign policy? Clinton put those Rangers and Delta guys in there on a public phone at a golf course at Martha's Vineyard back in August and did not give them the wherewithal, the armor, to prevail, and I say to my colleagues:

DUNCAN, as we speak, as Aidid is closing in on the airport, mortar fire is hitting the airport today, what do these families think? What does the family think if they happen to hear that BOB DORNAN is speaking about them on the House floor, and a neighbor calls them?

One of the people from Somalia came by to see me today. He is known by his face to a lot of Americans. He gave me his blue beret. He gave me his patch that he wore on a lot of TV shows. And I looked at this and thought of the Belgian soldiers in Rwanda with their big combat knives cutting their blue berets in half because they were disgusted that they were pulled out of Rwanda, allowing women and children, seven Jesuit priests to be slaughtered there. There were three white Belgian priests who were holed up in a kitchen, and, when they came out, here is all their friends and 20 women that were on a retreat to hear about Jesus were found slaughtered all over their compound in Kengali.

I say to my colleague, the snipers are at it again in Sarajevo. They are in the hills are targeting U.N. people. This blue beret makes you ground zero for a sniper's rifle. If you're wearing your little U.N. patch, the snipers will try to put the bullet right through the North Pole, so it goes into your brain and you die quickly.

This has turned into an absolute horror in the very week of the 51st anniversary of the Warsaw Ghetto and of the Armenian genocide which started 79 years ago on Sunday. This is a very rough world, but I digress. I am here to speak about war in the United States with thugs who have no conscience.

Mr. HUNTER. Let me answer my friend's question about the crime bill.

I voted for the crime bill, and I think it was a close decision. I think it was for a lot of conservatives and a lot of Republicans, a number of Democrats.

Mr. DORNAN. I have no quarrel with voting for it.

Mr. HUNTER. But I voted for it—I think there was one measure that we did pass that had some value, and I know the gentleman helped on this, he voted for it, and that was the amendment that we sponsored to add 6,000 Border Patrol agents, and let me just take a minute to explain that.

Mr. DORNAN. Just mention that; please do.

Mr. HUNTER. We right now have 4,100 Border Patrol agents nationwide. The Border Patrol is the only agency that is charged with protecting our border, and presently, as the gentleman knows, we have a flood of smuggling of both illegal aliens and narcotics across the southwest border of the United States. Over half the smuggling nationwide takes place in what I call the 15-mile smugglers corridor between San Diego, CA, and Tijuana, Mexico. Through that corridor goes now almost half of the cocaine and the illegal aliens who are smuggled into the United States.

Now against this army of invaders, of illegal aliens, narcotics, criminal aliens, we have a very thin line of Border Patrol men at any given time on the entire California-Mexican border. We have less than 50 Border Patrol men, and that is a 150-mile border.

What the House did was more than double the size of the U.S. Border Patrol, take it from 4,100 agents to well over 10,000 agents, if the President and if the Democrat-dominated Senate and House Appropriations Committees hold fast to that number that was overwhelmingly passed by the House of Representatives.

Now let me tell my colleague why we need 10,000, Bob. Right now we have roughly 12 smugglers' corridors in the Southwest.

Mr. DORNAN. Does the gentleman say we need 10,000 men and women in the Border Patrol—not administration though, working the border, minimum?

Mr. HUNTER. Yes.

Mr. DORNAN. And what do we have now?

Mr. HUNTER. We have got 4,100, and let me tell my colleague why we need them.

Every place where we have a large urban area on both sides of the border; for example, Tijuana, Mexico to San Diego, CA, where we have two big urban populations together, that is where a smuggling corridor exists, and that is where the smugglers can work most effectively because of the logistical base, because near a city they have freeways and other traffic arteries that come down on the American side, so, if they get across the border, they can get in a van, they can get on Highway 5 and they are out of there. They can go to Portland, OR, they can go to L.A., wherever they want to whether they have got cocaine or illegal aliens. They have that traffic capability.

They also have what I call a Grand Central Station effect. That is they have this huge congestion of people in these big urban areas, and a smuggled person or a smuggler can get lost in the crowd once he is across the border. At that point it is very difficult to sort these people out of the large populace.

So, the smugglers have a difficult time smuggling across barren desert. They need cities to smuggle in so, when the people early on whom we said we could control the border, and the critics said, "Well, you can't link arms on the 2,000-mile border between the United States and Mexico," the answer is: "You don't have to link arms, and you don't have to control. You don't have to have people back to back in the desert. In the desert it's very difficult for smugglers to operate. They stand out like a sore thumb. They have no logistical base to operate out of. They have no freeway artery serving the area where they can get people across, get them into vans, get them out of there. And also the Border Patrol has a great sensor operation where they can tell where people are coming across, and so it's difficult to operate in the desert."

Plus, as the gentleman knows, in my desert north of Mexico it is 120 degrees in the summertime, and we find a number of people who are absolutely dehydrated.

Mr. DORNAN. This is the Hunter Valley just north of the border, used to be called the Cochilla Valley.

Mr. HUNTER. It is a little south of the Cochilla Valley.

So, the point is all we have to do is control these corridors where we have urban populations. We have got 12 of those in the Southwest, all the way from San Diego, Tijuana, Calexico, Mexicali, and all the way to Brownsville, TX, and Matamoros, TX, at the Gulf of Mexico. Those smugglers' corridors range from 5 to 25 miles wide. Together they total about 165 miles. So, if we have Border Patrol men at a density of about two Border Patrol men every 200 yards, two of them together every 200 yards in these smugglers corridors, three shifts a day for 24 hours a day coverage, that amounts to about 8,000 Border patrol men needed to plug up these smugglers' corridors.

□ 1720

I might add that that density is just about what we are using at El Paso, where we have successfully kept that blockade up. Incidentally, when we closed down the border at El Paso to illegal entry, auto thefts dropped by 50 percent in one night. So we need 8,000 people for that.

You also need to have a reaction force, because the smugglers understood early on that if they could overwhelm the border at a given place with 200 or 300 people trying to gain illegal entry, and you only had four or five Border Patrol men on the other side, you could get in that way with so-called banzai attacks from the border.

Mr. DORNAN. I watched banzai attacks from the air one night in an A-6 helicopter. Every bush becomes alive after midnight.

Mr. HUNTER. So that is why you need to have a reaction force. You need at least 1,000 people for reaction forces, for reserve forces, that can move quickly to one pressure point or another. So you take the thousand people in the smugglers' corridors, 8,000 Border Patrol men, take 1,000 Border Patrol men for reaction forces in these various sectors. That leaves you 1,000 people for headquarters personnel and to serve the rest of the entire border, which includes Canada. We still need some Border Patrol men on Canada, though not nearly as many. That is 10,000 Border Patrol men.

Bill Clinton said last July after we passed an amendment that forced 6,000 Border Patrol men down his throat, after he cut the budget, that he was going to control the border. That was either a political statement that was meant to meet the rising number of Americans that are now concerned about illegal immigration, or whether it was a statement of a real intention to actually do something about controlling the border we will soon discover, because President Clinton controls with his party the House of Representatives and the U.S. Senate.

And if he will support these 6,000 additional Border Patrol agents, bringing our total force to 10,000, we will be able for the first time to actually control our borders.

Let me tell you what that does.

Mr. DORNAN. One fiscal note here. Those patrol men and women will be paid for by the crime dollars saved starting within 1 year.

Mr. HUNTER. Absolutely, because we are paying more than $1 billion a year in incarceration costs just for criminal aliens.

Mr. DORNAN. And forget the other losses from crime, the lost hours, the hospital bills, the arrest problems, the police problems up the line in the cities and counties north like my county. It saves money immediately.

Mr. HUNTER. It sure does. In fact, in San Diego County we have discovered that 10 percent of our violent felonies are perpetrated by criminal aliens. In the Federal system, Bob, 25 percent of the inmates of our penitentiaries are illegal aliens.

We have done studies in which we took people after they had served their time in the United States, violent felons, sent them back, deported them all the way to Mexico City, deep in Mexico, and kept tabs on them. Within a few weeks, many of them were coming right back into the border areas of the United States.

So no matter how you view the border in terms of whether we should have a border that allows people to come across to work or whatever, there is no substitute for a border that is enforceable with respect to crime.

You have got to be able to keep criminal aliens from coming into this country at will. The only force that can do that is a border patrol. For the first time we are starting to put some real numbers on the border patrol.

Mr. DORNAN. When people argue a kind of knee-jerk liberal argument that this is unfair to Mexicans who want to come over to work, they haven't thought it through. It is just the opposite. Every person that we want to be a guest in our country, that we need their help, we want to be friends. We want them to work here. Their life is made miserable because when they are here, they are the victims of crime by the illegals who come from their own country of birth.

I rode all night in a police car within the last 2 weeks in Santa Ana. I learned about gangs I had not heard of, illegal immigrant gangs called lopos, which were formed to defend themselves against other gangs in beautiful Santa Ana, CA. I saw crack houses with 10 or 15 people outside running around. They all run inside, like the opposite of what you see when you attack a place and people flee. They were all going inside. The police did not hassle them. They could not. Although the reporter from the L.A. Times riding with me tried to do a good story, she made out like we were not seeing any crime at all, like we were seeing a quiet night.

There has been a post-earthquake kind of depression of crime, like people are thinking about God, the big one coming, greater, transcendent, metaphysical things in life.

The next night I rolled in a car where a man appeared to be dying in a van where a bullet went through one side and out the other. He probably lost a third of his blood. I called later, they said he would live. That was a quiet night. That, and three helicopters whizzing around with lights.

We have enough of a nightmare problem with crime that we do not need crime imported from other countries, we don't need people coming here illegally to rip off what they think is the good life in America.

Look at the article that Jay Pierson, one of our good, hard-working staffers, just gave me. It is a Charles Colson article from Christianity Today. Pardon the reference to a great magazine.

Charles Colson spent his time in prison paying his debt to society for being one of the transgressors in the whole Watergate scandal and mess. He found the Lord again in prison.

Look at what he says here. "Begging for Tyranny," that our approach with the weak crime bill is leading us to another step beyond the anarchy we are approaching now, to an absolute tyranny, in trying to recapture our American life and retake our streets.

He says in the opening paragraph here, America already has the highest rate of violent crime in the world, rising 560 percent in what I have been teaching people is a generation, in 30 years. But in recent months, it has actually exploded. Everyday's headlines report new outbreaks. I am curious to see what he includes.

Three Dartmouth, MA schoolboys surround a classmate, stab him to death, and then laugh and trade high fives as he is dying.

An Oakland teenager chases a woman down the street brandishing a knife while onlookers chant "kill her, kill her." A Long Island man starts shooting randomly on a commuter train.

By the way, one of these Farrakhan extremists said this guy, I know his name, unfortunately, because it is one of my grandkids' names, Colin, Colin Ferguson, is a hero. A hero for shooting people to death.

How can anybody watch "20-20" or "Prime Time" or one of those shows I saw this week, and actually two of the networks did it, where they stayed with the victims on the Long Island commuter. It is unbelievable what is happening.

Mr. HUNTER. If the gentleman will yield, that is one reason I came down here. I am glad you are talking about this article, "Begging for Tyranny," by Charles Colson.

This article talks about character, about standards, and about morals. It says,

> Modern thinkers have rejected the very idea of moral objectivity. Darwin, who reduced morals to an extension of animal instincts; Freud, who regarded repression of impulses as the source of neurosis; Marx, who disdained morality as an expression of self-interest.

I think there is a lot of truth to that description of where societies have tended to go with respect to morals. And in this House of Representatives, we represent, I think to some degree, the best and the worst of trends in our Nation, of conflicting pressures and directions.

One thing we do in the House of Representatives is chase trends. When it becomes trendy to do something, immediately you have got 150, 250 votes for something that maybe 15 or 20 years ago would have been totally prohibited and would have been prohibited not just by law, but by the conscience of the people who are in the House of Representatives.

We have other people in the House that have another current, and that is a current that works to preserve character.

I just want to say about the gentleman who is standing and addressing the House right now, ROBERT K. DORNAN, you have been a force for preserving character, the American character, the moral character; doing what is virtuous, doing what you think is right and what has been regarded as right in this Judeo-Christian value system that we have developed over the last 200 years.

I applaud you for what you have done. I think you are one of the most valuable Members of the House of Representatives. I hope you stay around here to continue to try to preserve what is right with this country. While these winds of change that are coming out of the mass media are an onslaught for the rest of us, and move others around like straws in the wind, you have been a rock and you have been an anchor, and we appreciate you.

□ 1730

Mr. DORNAN. Let me say, I am sure, I am convinced, I am not always right, in my approach or my style or even my priorities or when I choose to emphasize what issue. I do know right from wrong. My parents have done that for me. My schoolteachers reinforced that. The Air Force reinforced my teachers and my parents.

Mr. HUNTER. I know your children and your grandchildren, and you are one of the best grandfathers and best fathers I have ever seen. Everything you do on the floor of the House of Representatives, I know you do every day hoping that you will have some small effect on preserving a way of life for those children and those grandchildren.

Mr. DORNAN. I am going for the Olympic gold as grandfather.

Mr. HUNTER. How many do you have?

Mr. DORNAN. Nine. I just spent some time with that Liam out there in California. That Erin that I mentioned, she is going to be the first lady President, because she was born on the 200th anniversary of this House, the U.S. Senate, the Supreme Court, and the Presidency. I am never going to let little Erin forget that.

Madam Speaker, I have an article by one of my favorites, Paul Johnson, a great English writer and philosopher. Paul Johnson wrote that great book "Modern Times." When people say, how can I catch up on the history of the last half century, I say read "Modern Times."

I say read his book "Intellectuals", in which he mentions the Marx and the Freud and all the fraudulent anti-Judeo-Christian garbage that has been fed our self-indulgent society.

His title is "Crime: The People Want Revenge."

Revenge is not very Judeo-Christian, but he grabs your eye with that.

MORE ON BOSNIA

The SPEAKER pro tempore (Mrs. UNSOELD). Under the Speaker's announced policy of February 11, 1994, the gentleman from Massachusetts [Mr. OLVER] is recognized for 60 minutes as the designee of the majority leader.

Mr. OLVER. Madam Speaker, I am here tonight to speak again about the ongoing tragedy, the ongoing disaster in Bosnia. It was only a couple of days ago that I spoke on this issue. At that time I pointed out and read from an editorial from the Washington Post which was entitled, "The Bosnia Disaster."

In the intervening additional 72 hours since that time, I have to say that in 20 years of public life I have never seen the kind of universal condemnation by reporters and editorialists and columnists and humanists and ex-diplomats and historians of a foreign policy as has been heaped on the disaster in Bosnia.

The consensus is absolutely overwhelming. By all odds, as one sees what in fact has happened in Bosnia, the condemnation is well justified.

I think it is worthwhile going back and looking at how we got to that point, because it is really 3 years of Western policy on the part of the European community and the United Nations and the United States involvement with the United Nations through the United Nations which has been an absolutely spectacular failure leading to this overwhelming human and political disaster that is going to have repercussions for the world for decades.

For 20 months prior to the 20th of January, 1993, when this administration took office, this developing disaster was managed by the former President George Bush. Nothing was done in 1991 to stop the destruction of Vukovar, that beautiful old city of nearly 100,000 people on the Danube River in eastern Croatia, which is from its brutality, though it is actually a good deal shorter in its denouement, from its brutality the equivalent of what has been happening in the last few days in Gorazde, another city along the Drina River in Bosnia. The city of Gorazde, a city considerably smaller with a population of nearly equal numbers before this whole disastrous war started, had roughly equal numbers of Serb Orthodox and of Moslem Slovs as the two major components.

Vukovar, on the other hand, had very nearly equal numbers of Croatian Roman Catholic and Serb Orthodox living in that city. But for that period of time in 1991, the destruction of Vukovar, the European Community and the United Nations and the United States could not take sides because this was a civil war, a civil war in quotes, where in fact the weapons and the direct units of the Yugoslav army were what destroyed Vukovar, not the Serbian rebels, not the insurgent Serbs within Croatia.

And then during that 20 months prior to the 20th of January of 1993, the U.N. resolutions were passed by the basketfull, ignored by Serbia, ignored by Yugoslavia and the cease-fire agreements again by the basketfull, again and again were not enforced and were ignored and broken by the Serb insurgents, first in Croatia and then in Bosnia, as quickly as those cease-fire agreements were made.

Not one of the agreements was enforced. Not one of the basketfull of resolutions was enforced on the part of the United Nations.

Every time a United Nations resolution, either for safe havens or for no-fly zones or calling for cease-fires and whatever and for sanctions, every time those were not enforced, every time they emboldened the Serb insurgents, the nationalist rebels in Bosnia to intensity the genocide.

So with that we see concentration camps, concentration camps of the same sort of significance that one saw in the Second World War, mass rape of women used as a measure of terror, as an instrument of terror, as an instrument of genocide, slaughter of whole villages and destruction of those villages, destruction of religious centers, both of the Roman Catholic faith and of the Moslem faith, and point-blank bombardment of schools and hospitals and people standing in lines to get water and people standing in lines to bury their dead, the bombardment as we saw in Sarajevo.

The purpose of all this was purely and simply territorial expansion on the part of the Milosevic government in Belgrade, territorial expansion by removal of population or by extermination of population. And they did not care which. And in this instance it was not even a minority. It was a territorial expansion, an extermination and a removal of the majority of the population.

We have not seen this kind of thing in Europe at least for 50 years. Things like this may have been seen in other places, but not in Europe. So it was perhaps far too surprising for Americans and others in Europe and the European community and the U.N. to contemplate what was going on during that 20-month period when every one of the problems that we are now seeing come home to roost was laid out.

□ 1740

It was in that period, as well, that the arms embargo was passed by the United Nations, voted on by the United Nations with the vote, the positive vote, of the United States, the U.N. delegation under then-President George Bush.

That motion, that arms embargo passed by the United Nations, contributed to the genocide, directly contributed to the genocide. That I believe was an utterly immoral act by the United Nations. That vote, which we supported and voted for, allowed the genocide to occur; the lack of enforcement of resolutions, the lack of enforcement of cease-fires, encouraged after the arms embargo was in place.

The reason for that is that the minority of Serb insurgents, both in Croatia and in Bosnia—that minority, which was never more than a third of the population of Bosnia and never more than 15 percent of the population of Croatia—the insurgent minority was able to get heavy weaponry, tanks, modern artillery, antiaircraft weapons, from Yugoslavia, from the former Yugoslavia, the rump Yugoslavia, the remaining Serbia and Montenegro, and resupply, and the flow of military commanders and the flow of men and units across the borders from Yugoslavia into first Croatia and then Bosnia occurred for all that period of time.

Bosnia, on the other hand, a United Nations member, recognized by the United Nations, admitted to the United Nations, and a member with all the rights of United Nations membership, a multi-ethnic state, a multi-religious state—a state where, at the beginning of this horrible tragedy, roughly 44 percent or 45 percent of the population was Moslem, 30 or 31 percent was Serb Orthodox, 16 or 17 percent was Croatian, Roman Catholic, and there were populations of Albanians and Jews and Hungarians and Slovaks, and a few others, quite a multi-ethnic state, where people had lived in peace for many, many years, perhaps grudging peace, but in peace, held together and sustaining life, and with a great deal of intermarriage—however, Bosnia, Bosnia could not get weapons.

The legitimate government, the elected government, the United Nations member, was not allowed to get weapons equivalent to what the minority—the minority, and really a minority within the minority, because a very substantial number of orthodox Serbs within Bosnia remained loyal and have remained loyal to this day to the Bosnian ideal of a multi-ethnic, multi-religious state which has been so destroyed through the actions of the Serb nationalists and through what has been allowed by the United Nations and the European Community.

That lack of availability of weapons has made it impossible for the Bosnian people to maintain their independence, and the fact that those weapons were fully available to the insurgents, the small minority, always less than one-third of the population of Bosnia, which were Serb Orthodox, that group always had the advantage on the weaponry.

What we have seen is the greatest nation in the history of the world, the greatest power in the history of the world, and the most powerful military allies in the history of the world, NATO, and the most universal legislative body in world history, namely the United Nations, in their collective impotence, has watched while 200,000 people have been killed, while religious institutions have been destroyed, while 2 million refugees have been created, while resolutions for safe havens have simply been ignored, while that embargo left the Bosnian people unable to protect themselves. Neither, then, has the United Nations been willing to protect those safe havens, the very places where hundreds of thousands of people had moved into six designated safe havens in order to seek protection because they were led to believe that there would be no attack upon those safe havens.

The European Community and the United Nations and the United States could not take sides, because this, after all, was a civil war going on, when in fact the continuous resupply of arms and weaponry and units and men and arms and more weapons and more units of destruction passed freely over the border from Yugoslavia into Bosnia, while the Bosnians could not, could not obtain the arms to protect themselves.

Every single person in the world knows who the aggressor is. Everyone knows exactly who has been grabbing territory of another U.N. member. Everyone knows who has committed the most vicious acts of genocide seen in Europe since 1945.

In that period of time, the Yugoslav Government, under the leadership of

Milosevic, has always been able to see that they were able to get more land toward their goal of greater Serbia, and to have fewer problem people in that land that they took by moving out two-thirds of the population, by eliminating that population, either exterminating, or requiring them to move, removing them by ethnic cleansing away from areas where often, as many as two-thirds of the population of a city was of one religious group. In cases, there have been as many as 90 percent of one of the religious groups that has been driven out, and large numbers have been killed.

Throughout that period, the instruments of this horrendous disaster have been people like General Vladov, who was in charge of committing these atrocities at Sarajevo and at Prijedor and at Magli and most recently at Gorazde; and behind him was the political arm, the so-called leader of the Serb nationalists, Karadzic, whose job it was, every time an atrocity was committed, to deny that those acts had been committed, and as it happened, time and time again, every time one of the atrocities occurred, whether it was a concentration camp that was found, "We did not do it," whether it has been bombing of civilian centers, bombardment of hospitals, "We did not do it," and so on.

His other job always, after denial of what they had been doing, was to then threaten the West with dire consequences if the European Community or the United Nations or the United States or NATO or anyone else were to try to stop them from this absolutely single-minded effort on the part of Yugoslavia to grab land from a neighboring country, from two neighboring countries, Croatia and Bosnia, both members of the United Nations, to grab land and drive people, the substantial majority of people, out of territories that they had been in for many years.

However, in all of this I have managed to pass over what started, and much of which happened in the 20 months prior to January 20 of 1993, but now in fact for at least the last 15 months the evolution of this disaster has been managed by the present administration. President Clinton came to the scene criticizing the disastrous policy of the previous President, quite justifiably, because it was already a disastrous policy, and laid down every one of the errors that went on.

But the continuing genocide is now on President Clinton's watch. The destruction of Gorazde, a safe haven, we have been watching with horror the technicolor views of what has happened in Gorazde, and my good friend, the gentleman from Indiana [Mr. McCLOSKEY] is here, and he can report to us a good deal more on what it is that has been happening in Gorazde. I would be happy to yield to him on that point.

Mr. McCLOSKEY. I thank the gentleman from Massachusetts [Mr. OLVER] for his very generous invitation to participate in this special order, and though we had not talked about this, I am pleased that you make that specific request as to report on the Gorazde conditions, because I am fairly up to date on that.

Within the last half-hour, about 30 or 40 minutes ago, I was directly talking to Ismet Briga, through translators, of course, the mayor of Gorazde, which is still under siege, and as the gentleman very well knows, when we talked yesterday and you and I addressed the House yesterday, the siege of Gorazde was of tremendous proportions.

☐ 1750

I could hear shells and all sorts of fire immediately surrounding the mayor and his ravaged persona, if you will, I think quite sincerely on one hand crying out for Western help and in the next voice or gasp, he would say, "If only President Clinton and the West would come bomb us, we will forgive you. But we cannot take another hour of this. Please put us out of our misery."

At that time last night, yesterday afternoon, the mayor was saying his community, his people only had hours left. Since then I have had the opportunity to talk briefly last night in person with President Clinton who obviously is continuing to work on this issue in consultation with allies as to air strikes and so forth, but my greatest fear is that come Saturday, Sunday, Monday, whenever this possibly could get resolved through the North Atlantic Council and the United Nations. That no living non-Serb would be left in Gorazde and I think time is of the essence, particularly what I hear from the mayor an hour ago, to act immediately. Mayor Briga says tonight that the fighting is house to house still, apartment to apartment. The hospital has been repeatedly hit and there are many dead. Particularly he said that many medical personnel today, many doctors have been killed.

In essence, I guess from all implications and previous reports, it is a case that there is no functional hospital there, and as we know and we have talked about this already today, when we came to work this morning, the word was that it was not a NATO ultimatum, it was not a U.N. ultimatum, but, of all things, and I am pleased to see we have been joined by the gentleman from Maryland [Mr. HOYER], the Serbs put out their own ultimatum today telling the people of Bosniad and the people of Gorazde that they had to be out of this city by 4 p.m. This afternoon their time, 10 o'clock this morning our time, or they would be leveled, as Haris Silajdzic, the Prime Minister of Bosnia told me today, or they would be rolled over.

So with that context, Mayor Briga told me tonight that, yes, at 10 o'clock this morning our time, 4 o'clock this afternoon their time, the shells started to rain down twice as much as yesterday for 5 hours continuously. And today as far as what they can count, and this is a minimum, it is somewhere here in my notes, but I recall that it is 97 dead today that they can count so far and scores wounded, and still the cries go out for help, the messages to the United Nations. And to the United States.

President Clinton has promised me he would talk to me today about this, and I know he has been in meetings all day, but I would hope he would do so. But, more importantly, I believe the United Nations Authorizing resolutions as to the safe havens and what is a safe haven says that all necessary force can be used to protect the people of a safe haven. Otherwise, what are we talking about?

As I say, this needs no more reviews or clearances or high-level discussional meetings. The threat is that one "no" can veto the entire operation.

The mayor goes on to say that many of the wounded cannot get to the hospital, I guess the hospital is essentially nonexistent, and Serb shells today could not miss in Gorazde. "They are using weapons we have never seen before," whatever that means, I do not know, but "rockets of a kind we do not recognize."

He said, in some ways the defenses are still holding, although as he told me in a conversation yesterday, that hand to hand, house to house, street by street, yard by yard, the fighting goes on tonight in Gorazde.

The mayor said tonight that they have tried to break through the entrances to the city center but so far the Serbs have not broken through the city center but heavy fighting goes on. Again he says that some of the people in Gorazde can be saved.

He said, "At the moment the Serb ultimatum passed at 9 o'clock," I guess that is after 5 hours of shelling, "the earth started to shake with so many shells coming in."

As I alluded to earlier, it is the heaviest shelling yet. It lasted until 9 p.m. their time, 3 p.m. our time, 97 people killed. The numbers of wounded the mayor gave me tonight were 260, but he very much says that that is a minimum, that it is going to be worse than that.

The gentleman from Maryland [Mr. HOYER], asked me to comment on the report from Gorazde. I might have a few other things to observe or say in a while, but I thank him for his generosity and concern and that is about as up-to-date a report from Gorazde as we can get right now with no journalists in the area.

Mr. OLVER. I appreciate very much the gentleman from Indiana taking part in this and giving that update.

The most remarkable thing to me is that the Serb insurgents have issued an ultimatum within Gorazde that without a surrender and people leaving by 10 o'clock our time this morning, then in their view everyone is subject to be slaughtered.

Mr. McCLOSKEY. Yes. And I do not want to go on about this, but in many ways, as we know, we have put them there defenseless.

Mr. OLVER. This was a safe haven. This was a United Nations safe haven.

Mr. McCLOSKEY. We designated it as a safe haven. And, in essence, the West, all of us together, have set them up like ducks.

As we all know, not to be too corn ball, but this is not in our vision of United States leadership in any sense. In all the western movies that we grew up on and are still kind of a first run favorite throughout the Balkans, John Wayne tried to help the besieged settlers when he could. This borders on being a strange perversion of values. I just hope we wake up tonight before they are all gone.

Mr. OLVER. The tragedy to me is that the President's initiative at Sarajevo, which so many of us saw as being so very hopeful, that finally the United Nations and the European Community and we understood and understand that only force, or at least a credible threat of force, a credible threat of force at the very least, would stop the expansion, stop this effort at creating a greater Serbia on the basis of driving out and exterminating whole populations in the neighboring United Nations community states of Croatia and Bosnia. But the Serb insurgents have really shown how little respect they have for even the initiative in Sarajevo. They have held United Nations troops and United Nations peacekeepers hostages there, they have taken back weapons willy-nilly, in essence, as if they were the ones who had control and maybe indeed that is the fact, that they do have control of this situation.

Mr. McCLOSKEY. On the point of the gentleman from Massachusetts, they do have control. The United Nations is talking about getting out. In many ways I wish they would, if we would follow up with bombing, but they have killed British peacekeepers, they have taken British and French peacekeepers hostage and we have made much of the fact as to these two or three dozen pieces of heavy equipment that they took back the other day, that it has been returned.

But at least as of last report that I saw about 24 hours ago, at least six of those pieces have not been returned and as I know from my Easter Sunday and Monday in Sarajevo, the people of Sarajevo at the time were thankful for the stopping of the shelling but the men are still in the hills, they cannot live normal lives at all still, even in Sarajevo, and they are justly afraid, and look at what is happening now in Gorazde, that before too long the shells will be coming down on Sarajevo again. So your points are most correct.

□ 1800

Mr. OLVER. I believe that all of us believe that this was a very hopeful effort going on at Sarajevo, and yet we all knew that on the weapons counts that not all the weapons were being turned over to the United Nations, not all of them were being by any means turned over. Now we do know the reports come after the fact that our military people and the United Nations military people knew those weapons were being moved to the Gorazde area for the assault, the attack on Gorazde.

So the tragedy in part is what is happening to the President's initiative on Sarajevo on trying to build the system for stopping this war. The tragedy is, it seems to me, also that there is a great potential for losing that other initiative that the President has started of getting the Croats and the Moslem populations to a reconciliation point which also was so hopeful. So each side now can see that the United Nations has no intention of enforcing or protecting the safe havens and that hundreds of thousands of refugees in those areas which had been driven into refugee situations, into safe havens where they thought they might be safe, are subject to the same kind of situation.

I am very pleased to have the gentleman from Maryland [Mr. HOYER] join us here also.

You have, in your position as chairman of the Commission on European Security, taken so many leadership positions over such a long time on this one, and to add your thoughts to this would be very much appreciated.

I yield to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I want to thank my friend from Massachusetts [Mr. OLVER] who himself has been a voice strongly raised to stop the killing, strongly raised to enforce international law, and to say how pleased I am to join him and the gentleman from Indiana [Mr. McCLOSKEY].

There is no person in the United States or perhaps in any place outside of Bosnia and Herzegovina who has raised more consistently a strong voice for humanitarian concerns in that beleaguered nation than the gentleman from Indiana [Mr. McCLOSKEY].

I have been in international meetings with the gentleman from Indiana [Mr. McCLOSKEY], and he has sponsored resolutions which I have supported strongly calling out to the international community to come to its senses and confront international disorder, international lawlessness.

We passed today on this floor a crime bill, essentially saying "enough" to those domestically who would attack others, who would steal from others, who would rape others, who would break the law in an ordered civil society. The statute that we passed today is tough, because we think it is appropriate to be tough. It imposed the death penalty for the taking of lives. It imposes for 3-time offenders of serious crimes life forever segregated from the rest of us to ensure the safety of our communities and our spouses and our children.

I have mentioned many times in conjunction with this discussion and this tragedy President Bush's comment in 1989 about the establishment of a new world order. I raise it in this context because to me if the new world order is to mean anything, it is to mean that the international community has the will and the courage and the conviction to join together to confront international criminals.

We have said in document after document adopted by international organizations that we hold as a premise of international relations that borders and peoples cannot be assaulted by armed force, that the future must be a future of negotiated resolution of disputes.

We are confronted today with a regime that clearly rejects out of hand any of the moral, ethical and legal principles that the international community has enunciated in the United Nations Charter, in the Helsinki Final Act, and in countless other international agreements.

I say to the gentleman from Massachusetts [Mr. OLVER] that I want to rise today and state my clear support with the gentleman for taking decisive action to end the aggression and the genocide committed by Serb militants in Bosnia and Herzegovina, and to commend and urge President Clinton forward in engaging this issue directly in the hours that lie before us.

We acted in Sarajevo. We referred to the market massacre, 68 people lost their lives in that incident. I have just heard, as you have, that the report of the mayor of Gorazde is that 97 people this day have lost their lives, 50 percent more. The United States, in my opinion, does not have to stand alone in facing the Bosnian conflict. But it does have to stand in front, quite obviously, to take the lead and to rally the international community to ensure that the resolutions to which the gentleman from Massachusetts has referred, and its peace initiatives, which are being this day and have continuously been, mocked by the Bosnian Serbs and the Serbs in Belgrade, are actually implemented.

And the international principles for civilized behavior, which have been ignored, are, once and for all, respected in Bosnia and Herzegovina.

There is debate as to whether or not the United States has any critical interest at risk in this country. President Bush talked about a new world order in which the international community would be more secure. Uniquely, the United States stands as the Nation in the free world to which each of the constituents in the free world looks at time of international law breaking. We are the world's strongest power. We have been, and hopefully will continue to be, also the Nation in the international community that raises the moral questions. That is not to say we ought to ignore the strategic questions, but we have been the leader on those issues.

Let us be clear as to what has happened. The Bosnian Serb militants, aided by the Serbian regime of Slobodan Milosevic, decided to create a Greater Serbia, while Serbs may have had legitimate complaints regarding their situation in the former Yugoslavia, they used those complaints—as some criminals domestically use complaints to excuse their actions—and they made up new ones as well to justify what they were prepared to do, and then they did it.

As I have said, like our domestic criminals, they raped, they tortured, they slaughtered tens and tens of thousands of human beings, human beings who just so happened not to be ethnic Serbs. They took control of territory by force.

Every international principle says that that ought not to be done. They have now taken, notwithstanding that, about 70 percent of Bosnia and Herzegovina, and pound with shell after shell what was still not theirs.

The gentleman from Indiana [Mr. MCCLOSKEY] has spoken dramatically of what is occurring right now. We have called it ethnic cleansing. Perhaps that is a prettier word for what it really is: genocide, plain and simple.

□ 1810

Let us be clear as to what we have done so far in response to this. Yes, frankly, we have done a lot in some respects, including the massive airlift of food and humanitarian aid to Sarajevo, larger than the Berlin airlift. We have placed sanctions on the party principally responsible for the conflict, namely Serbia. The international community is not confused by the fact that this is a civil war between Bosnians.

If it were solely a civil war, why place sanctions on an adjoining country? We do not have sanctions on Slovenia, we do not have sanctions on Hungary, we have not placed sanctions on Greece or Macedonia. We placed them on Serbia. Why? Because we and the international community perceive Serbia as a party directly at fault. In fact, the former Secretary of State, Larry Eagleburger, branded the leader of Serbia as a war criminal

Mr. MCCLOSKEY. I was going to say, and I am glad the gentleman brought it up, Mr. Eagleburger was before TOM LANTOS' subcommittee. We know Larry's concern and previous policy, if you will, as to the total irrelevancy or nonutility, whatever, of military action.

Well, today he is saying, in essence, "Bomb the Serbs, but if you do it, don't mess around with pinprick, so-called, airstrikes or whatever. Take out the resources, military resources, logistics and so forth, everywhere." Not that I am saying he says that is the total and great solution, but he is now talking about air power, a person who has been most reluctant to face up to that. He is a man of great intellect and learning, as the gentleman knows.

Mr. HOYER. I thank the gentleman for that observation. All of us have been reluctant. No one in this body, no one in this country wants to undertake the bombing of people in Bosnia or any place else. But if we continue to say that these are "safe havens," if we continue to say that you cannot break international law, if we continue to adhere to treaties that say that you cannot take territory by force, if we continue to pretend that a nation recognized by the United States and by the United Nations as an independent, free nation, cannot defend itself even though as I said, we impose sanctions on Serbia for its complicity in the ravaging of that nation, then we have no longer either moral credibility or, I suggest, credibility as a state that means what it says.

I support the efforts that have gone on that I was speaking of, humanitarian relief, and all of us want that to happen. But it has been clear to many of us ever since August of 1992, when the war was only a few months old, that the Bosnian Serbs would understand only a credible threat of force, which is exactly what the gentleman from Massachusetts [Mr. OLVER] referred to.

It was at that time that we learned of the existence of the detention camps and the systemic raping of women and young girls. We learned about them in hearings that we have had in the Helsinki Commission, which the gentleman from Massachusetts has attended. It was then that the words "Never again, never again, never again," echoed grimly in our minds. I am sure that there were debates in the late 1930's that we ought to be reserved about what was going on in Europe, that we did not want to expose ourselves to risks. Certainly, none of us wants to see any American placed at risk.

On the other hand, history has taught us, over and over and over again, that not to confront tyranny at the beginning always costs more at the end.

Instead, we have mediated, we gave a good effort to get people to negotiate in good faith, and this includes President Clinton's recent peace initiatives regarding the creation of a Bosnian federation, which did effectively end the fighting between Bosnians and Croats.

This is not an impossible task, if you have a partner who will act in good faith. We were patient with the Serbs, much more patient than we should have ever been, in my opinion. All the time, the Bosnian Serb leaders sat at the table being cajoled, and responded with demands and threats just as they have done today, "Get out by 4:00 or we are going to level the city." What barbarianism that reflects.

When they did promise something in the past, in London or Geneva, we never saw the promise kept in Bosnia-Herzegovina. Mediation turned out to be a mere smokescreen which the Serb militants have used to preclude a real effort to stop their criminal activity.

Let us be clear, now, on what we need to do. That is what we are here to talk about, and that is what we will talk about in the next few days. We need to engage, in my opinion, in NATO airstrikes. It is incredible that a NATO plane was shot down without a response.

What credibility can the greatest alliance on the face of the Earth, composed of the greatest military powers on Earth, what credibility can it have if it has all the weapons systems but no will to defend those whom we put at risk? We need to hit not only the heavy weapons being used, but all those that we can get. We need to hit the Serb militant supply lines and their political headquarters as well. We need to let the Serbs know that their senseless pounding of Gorazde and other designated safe havens will not be tolerated a day longer.

We need to let them know that their only choice now is to come to the negotiating table, stop in their tracks any military action, stop efforts, any efforts that would destroy property and take lives.

We need to let them know that if they choose to continue their aggression, they have decided their own fate; not us, them.

We must make them know that there is a consequence to actions deemed criminal by the international community.

Beyond airstrikes, I also strongly support lifting the arms embargo on Bosnia-Herzegovina and the forces under the control of the legitimate Bosnia authorities.

Jeane Kirkpatrick, in an op-ed piece in the New York Times, pointed out either today or yesterday that Bosnia is a recognized nation, recognized by the United Nations. There is an arms embargo on Yugoslavia, but——

Mr. MCCLOSKEY. But not from Serbia into the Serb militants in Bosnia, as the gentleman knows.

Mr. HOYER. The gentleman is correct. Arms are clearly going there. In fact, we all know the reason for that, Serbia became the successor state, in effect, and it has the Yugoslav arms, the Yugoslav armed forces under its control.

So we have an arms embargo on Yugoslavia, but subsequently we have recognized Bosnia as an independent nation. And under the United Nations charter, Bosnians have an inherent right, recognized by the United Nations charter, to defend themselves.

Mr. OLVER. If I may, that is a right which we as Americans cherish, the right of self-defense, defending yourself against attack, as individuals, as families. That is written into the United Nations charter, the right of nations to their own self defense.

This is what I have said again and again is the most—the starting act which allowed this genocide to go forward, in fact, the arms embargo, in such a way that the insurgent Serb nationalists, that minority of the population, always had the possibility of supply and resupply from Yugoslavia; whereas the Croatians first and much more critically over the longer period of time the Bosnians, simply did not have the opportunity to get arms. That is the most immoral kind of act on an international level that you could apply to people and then to also propose that you have safe havens. And the United Nations resolutions for safe havens, and then we, acting with the United Nations and the U.N. as a whole, does not have the guts to enforce its own safe haven resolutions, which then leave a city like Gorzade being destroyed, destroyed before the very eyes of the world.

And a city like Srebrenica being simply strangled and starved. And so it goes.

That represents really the most abject moral abdication of moral responsibility, it seems to me.

□ 1820

I was very interested. The statement is so eloquent that I had to break in there. In its total I wanted to stop on several occasions. The gentleman mentioned that just today we in the House of Representatives have passed a very strong, a tough, but smart, crime bill, and under that bill and under all of our understandings, I say to my colleagues, "If you kill somebody, you are committing murder, and if you kill 10 people, you're a serial killer. But at least over there, in international terms, if you kill 200,000 people, which is what has happened by the Serb nationalists in that attack on 2 United Nations members, Croatia first, and then Bosnia, and I mentioned earlier that the attack on Vukovar was at least as vicious, as brutal, as the kind of result that is happening in Gorazde, the whole world watching day after day after day did absolutely nothing. But that attack, 200,000 killed, and what we're suggesting is 'Please be nice, please stop,' you know, something along those lines where every agreement previously has been broken, every cease-fire has been violated, every imaginable atrocity has been committed and then instantly denied along the way."

One wonders whether, if they kill 100,000 more people, we will dismantle NATO, and whether if they kill another 200,000, there will be a ticker tape parade in London or whatever. As my colleagues know, it really boggles the mind to try to imagine what it is that the world——

And the other irony here: This is the very anniversary of the 79th year of the genocide committed by the Ottoman Empire against the Armenian minority in eastern Turkey, and, when we talk about "never again" as it relates to a statement that we will not allow that kind of thing to happen, here we are within the Western context, and there are other contexts around the world, where this sort of genocide has occurred, and maybe we have just become inured to it.

But appeasement, as the gentleman has so clearly pointed out, simply never pays. Appeasement leads to small, worse things later, and the ultimate tragedy here in the former Yugoslavia comes in several points, one of which is that now, at least as things stand, Milosevic in Belgrade knows perfectly well that he can do anything he wants in Kosovo because no one is going to do anything. He thinks:

"If you can't do anything in Bosnia, clearly you can't do anything in Kosovo."

There is an area where 90 percent of the population is Albanian, and that group of people has been reduced essentially to servitude. Their schools have been closed. They are not allowed to learn through schools the Albanian language. Albanians have been driven out of their jobs. Every imaginable kind of atrocity is occurring in the nighttime in an effort to drive those people out, and the only time that there seems to have been a credible force, a threat of credible force, was when the President issued the ultimatum: "Withdraw from Sarajevo or you're going to get hit." They apparently thought that was the case. I think that probably the Serb nationalists are fairly convinced now that that is not the case. The credible threat of force has now been lost, and so we are going into a situation where the tragedy leads on by the other things that that lack of doing anything will lead to.

Mr. McCLOSKEY. If my colleagues would just yield for a moment on that point, I have a bulletin here that Secretary Christopher testified in a Senate committee today that the Serbs are looking forward to expanded aggression in Kosovo. Quoting the Secretary:

"The aggression of the Serbs is transparent. They have in mind a Greater Serbia. They are looking to the south in Kosovo, possibly to Macedonia where we have troops. They are moving to Bosnia and perhaps, again, into Croatia. Meanwhile tonight the people of Gorazde are the most abandoned people on the planet. Imagine how they feel. Imagine how the Bosnian, and Sanjac, and Serbian Moslem, and Sanjac politicians feel in the Serb prisons tonight with Amnesty International," as the gentleman from Maryland [Mr. HOYER] knows, a fighter in this area more than anybody, "are under torture."

What an abandonment, and we have this illusion that it is somehow going to go away by treating war criminals, Karadzic, and Mladic, and now we hear people saying, "By God there is a divergence between Mladic and Karadzic, and poor Mr. Karadzic, he really wants peace. It's that wacko guy, Mladic, running around——

Mr. OLVER. It is all a game.

Mr. McCLOSKEY. In a criminal dock——

Mr. OLVER. Facing life imprisonment——

Mr. McCLOSKEY. He is the one that is supposed to commit the acts, the terrorist acts, commit the atrocities and commit the genocide, and Karadzic is the one, his political arm, who is supposed to deny it, deny it, and then threaten the West.

Mr. McCLOSKEY. That is right.

Mr. OLVER. The political arm denies the atrocities that have been committed time after time and then threatens the West with the consequences, threatens NATO, threatens the United Nation, threatens the United States, with the consequences.

But the gentleman has just indicated that Secretary Christopher today testified before the Senator Foreign Relations Committee to that.

Mr. McCLOSKEY. Right, absolutely.

Mr. HOYER. Let me, if I can, intervene. We are of one mind essentially.

History has shown us that nationalist tyrants do not stop, that if they are fed one geographic area, that want another.

Mr. OLVER. It is an addiction.

Mr. HOYER. It is an insatiable hunger for expansionism and aggrandizement, and it is a political compulsion to say to one's electorate that we are going to expand even further until all of Yugoslavia will be called Serbia, and then, perhaps, a further aggression will occur. But whether it is Kosovo, whether it is Croatia, whether it is other areas of the former Yugoslavia—Macedonia, Slovenia—they will not stop, in my opinion.

But let met say in concluding my remarks and in supporting the remarks of the gentleman from Massachusetts and the gentleman from Indiana, that we mentioned the military leader and we mentioned two political leaders. There are others who have been branded by Secretary Eagleburger, and our Government and the international community as war criminals. Beyond our action to stop this conflict, which we must do, we need to take efforts to prevent similar conflicts—ones based on hate—from happening again. To do that, we need to eliminate the sense of populations aggrieved by aggression that they have not had redress, so that generations in the future, as we know happens in the Balkans and in other places, resort to violence to address old grievances sometimes centuries old. To do that, we need to prosecute those who have committed war crimes. While principally committed by Serb militants, this applies equally across the board.

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If the innocent are to be vindicated, the guilty must be punished. New generations in Bosnia and elsewhere need to see the satisfaction and the deterring example of international justice. If we go back on this, just as we have gone back on our other threats about taking action to save Bosnia and Herzegovina, we will be living in a significantly more dangerous world.

I want to thank my friend from Massachusetts for allowing me to participate with him in this special order. As he and Mr. McCLOSKEY know, and as the American people know, in the next few days we will be considering what actions we can take. I am hopeful, Mr. OLVER, that our President and Boris Yeltsin, the leader of one of the great, powerful nations in this world, and that has a significant relationship with Serbia, can join together with the other members of the international community in bringing a halt to the killing, and in holding accountable the killers.

Mr. OLVER. I think what you have said, Mr. HOYER, is very important. And indeed, if we do not apply what you have said in this situation, from this day forward, in this situation, to save what can be saved of an otherwise absolutely tragic and disastrous situation, then we are going to see what I described in Kosovo of the impression on the part of Milosevic in Belgrade, that he can act totally with impunity in Kosovo.

And that message, if that were to get out, that undermines as a further part of the growing ripples of this overall tragedy that I had mentioned earlier, could go on for decades, that undermines secular Moslem states, many of them our allies like Egypt and Turkey and Pakistan, who are already seeing the rise of fundamentalism, in part because of what has been happening to secular Moslem populations in Bosnia and Kosovo. And then you have no credible way of saying to people, you are beyond the pale of international law, when any other small dictator somewhere, in Eastern Europe, Asia, or Africa, decides, gee, look at what they did in Bosnia. Look at what they did. I have a minority I can scapegoat. We will have this, I would predict, time and time again. I think you can argue easily there has been some of that already happening, just watching what has happened in the last 3 years in the former Yugoslavia, and the unwillingness of the United Nations to enforce its own resolutions in that state, what has been happening in other places. And there could be many, many others of those.

So I thank you very much for taking part, both Mr. McCLOSKEY from Indiana and Mr. HOYER, for taking part in this tonight.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ANDREWS of New Jersey (at the request of Mr. GEPHARDT), on Thursday, April 21, on account of a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DREIER) to revise and extend their remarks and include extraneous material:)

Mr. BACHUS of Alabama, for 5 minutes, today.

Mr. KNOLLENBERG, for 5 minutes, on April 25.

Mr. DREIER, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today.

Mrs. BENTLEY, for 5 minutes each day, on today and April 26.

Mr. HOKE, for 5 minutes, today.

(The following Members (at the request of Mr. FILNER) to revise and extend their remarks and include extraneous material:)

Mr. FILNER, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. PICKLE, for 5 minutes, today.

Mr. HOAGLAND, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Ms. ENGLISH of Arizona, for 5 minutes, today.

Ms. HARMAN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DREIER) and to include extraneous matter:)

Mr. BOEHLERT.
Mr. BILIRAKIS.
Mrs. VUCANOVICH.
Ms. MOLINARI.
Mr. SOLOMON.
Mrs. MORELLA.
Mr. GEKAS in two instances.
Mr. BUNNING.
Mr. HORN.
Mr. GILMAN in two instances.
Mr. RAVENEL.
Mr. CAMP.

(The following Members (at the request of Mr. FILNER) and to include extraneous matter:)

Mr. MAZZOLI.
Mr. BEILENSON.
Mr. MARKEY in two instances.
Mr. HOYER.
Mr. MOAKLEY.
Mr. BOUCHER.
Ms. KAPTUR.
Mr. HINCHEY.
Mr. LANTOS.
Mr. DINGELL.
Ms. DELAURO.
Mr. THOMPSON of Mississippi in four instances.
Mr. PETERSON of Florida.
Mr. MENENDEZ.
Ms. ENGLISH of Arizona.
Mr. POMEROY.

(The following Members (at the request of Mr. OLVER) and to include extraneous matter:)

Mr. GINGRICH.
Mr. ROHRABACHER.
Mrs. FOWLER.
Mr. TOWNS in three instances.
Mr. HUNTER.
Miss COLLINS of Michigan.
Ms. WATERS.
Mr. STARK.
Mr. EVANS.
Mr. WYDEN.
Mrs. BYRNE.
Mr. HUTTO.
Mr. BROWN of California.
Mrs. SCHROEDER.
Mr. VISCLOSKY.

SENATE JOINT RESOLUTIONS REFERRED

Joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 161. Joint resolution to designate April 1994, as "Civil War History Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 174. Joint resolution to designate the week beginning April 24, 1994, as "National Crime Victims' Rights Week"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 821. An act to amend title 38, United States Code, to extend eligibility for burial in national cemeteries to persons who have 20 years of service creditable for retired pay as members of a reserve component of the Armed Forces and to their dependents.

H.R. 3693. An act to designate the United States courthouse under construction in Denver, Colorado, as the "Byron White United States Courthouse."

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 375. An act to amend the Wild and Scenic Rivers Act by designating a segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System, and for other purposes.

S. 1574. An act to authorize appropriations for the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes.

ADJOURNMENT.

Mr. HOYER. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 35 minutes p.m.), under its prior order, the House adjourned until Monday, April 25, 1994, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3028. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to amend the Bretton Woods Agreements Act to authorize consent to and authorize appropriations for the U.S. contribution to the Global Environment Facility, and for other purposes, pursuant to 31 U.S.C. 1110; to the Committee on Banking, Finance and Urban Affairs.

3029. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to extend the authorization of appropriations for the Family Resource and Support Program under the Claude Pepper Young Americans Act of 1990, and for other purposes, pursuant to 31 U.S.C. 1110; to the Committee on Education and Labor.

3030. A letter from the Secretary of Energy, transmitting the Department's report on the status of Exxon and stripper well oil overcharge funds as of December 30, 1993; to the Committee on Energy and Commerce.

3031. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to the Netherlands for defense articles and services (Transmittal No. 94–21), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3032. A letter from the Comptroller General of the United States, General Accounting Office, transmitting the list of all reports issued or released in March 1994, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

3033. A letter from the Chairman of the Board, Pension Benefit Guaranty Corporation, transmitting the Pension Benefit Guaranty Corporation's [PBGC] management report for fiscal year 1993, pursuant to Public Law 101–576, section 306(a) (104 Stat. 2854); to the Committee on Government Operations.

3034. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Natural Resources.

3035. A letter from the Secretary of the Interior, transmitting the biennial report on the quality of water in the Colorado River Basin (Progress Report No. 16, January 1993), pursuant to 43 U.S.C. 1596; to the Committee on Natural Resources.

3036. A letter from the President, the Foundation of the Federal Bar Association, transmitting a copy of the association's audit report for the fiscal year ending September 30, 1993, pursuant to 36 U.S.C. 1101(22), 1103; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BONIOR: Committee on Rules. House Resolution 410. Resolution providing for the consideration of the bill (H.R. 3221) to provide for the adjudication of certain claims against the Government of Iraq (Rept. 103–481). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WYDEN (for himself and Mr. Klug):

H.R. 4274. A bill to modify certain provisions of the Health Care Quality Improvement Act of 1986; to the Committee on Energy and Commerce.

By Mr. PICKLE:

H.R. 4275. A bill to amend title II of the Social Security Act to assure that the Social Security system remains viable for the baby boom generation and that the level of Social Security taxation remains affordable for their children; to the Committee on Ways and Means.

By Ms. HARMAN (for herself and Mr. Berman):

H.R. 4276. A bill to amend the Arms Export Control Act and the Export Administration Act of 1979 to provide that the export of certain commercial communications satellites and associated equipment be regulated solely under the Export Administration Act of 1979; to the Committee on Foreign Affairs.

By Mr. JACOBS (for himself and Mr. Ford of Tennessee):

H.R. 4277. A bill to establish the Social Security Administration as an independent agency and to make other improvements in the old-age, survivors, and disability insurance program; to the Committee on Ways and Means.

By Mr. JACOBS (for himself, Mrs. Kennelly, Mr. Bunning, Mr. Houghton, and Mrs. Meek of Florida):

H.R. 4278. A bill to make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act; to the Committee on Ways and Means.

By Ms. ROYBAL-ALLARD (for herself, Mrs. Collins of Illinois, Mrs. Unsoeld, Ms. Harman, Ms. Schenk, Ms. Waters, Mr. Durbin, Mr. Foglietta, Ms. Furse, Mr. Torres, Mr. Serrano, Mrs. Mink of Hawaii, Mr. Underwood, Ms. Eshoo, Mr. Dellums, Mr. Romero-Barcelo, Mr. Synar, and Ms. Shepherd):

H.R. 4279. A bill to require studies by the Federal Trade Commission of whether tobacco advertisements target women and minorities to promote smoking and for other purposes; to the Committee on Energy and Commerce.

By Mr. BEILENSON:

H.R. 4280. A bill to amend the Motor Vehicle Information and Cost Savings Act to inquire that the motor vehicle bumper standard established by the Secretary of Transportation shall be restored to that in effect January 1, 1982; to the Committee on Energy and Commerce.

By Mr. DICKEY:

H.R. 4281. A bill to eliminate fraud in the payment of supplemental security income benefits to children by reason of disability; to the Committee on Ways and Means.

By Ms. ENGLISH of Arizona:

H.R. 4282. A bill to amend the Public Health Service Act to provide for the establishment of toll-free telephone communications through which residents of rural areas can obtain information on the availability in such areas of health services; to the Committee on Energy and Commerce.

By Mrs. MALONEY:

H.R. 4283. A bill to terminate the Milstar II Communications Satellite Program; to the Committee on Armed Services.

By Mr. MARKEY (for himself, Mr. Bonior, Mr. Kennedy, Mr. Parker, Mr. Richardson, Mrs. Lloyd, Mr. Frank of Massachusetts, Mr. Moakley, Mr. Reynolds, Ms. Eddie Bernice Johnson of Texas, Mr. Towns, Mr. McDermott, Mr. Lehman, Mr. Kreidler, Mr. Slattery, Mr. Wyden, Mrs. Unsoeld, Ms. Brown of Florida, Mr. King, Mr. Gene Green of Texas, Mr. Wynn, Mr. Dellums, Ms. Slaughter, Mr. Walsh, and Mr. Foglietta):

H.R. 4284. A bill to require the Secretary of Health and Human Services to review the relationship between calcium intake, bone mass, and osteoporosis, determine how many Americans consume too little calcium, develop optimal calcium intake levels, and amend, as appropriate and based on such review, the standard of identity for enriched flour used in the manufacture of bread, cereal, and other grain products under the Federal Food, Drug, and Cosmetic Act to require the addition of calcium; to the Committee on Energy and Commerce.

By Mr. MEEHAN:

H.R. 4285. A bill to prohibit States from discriminating in the admission to the practice of law of graduates of accredited and certified law schools; to the Committee on the Judiciary.

By Mr. MONTGOMERY:

H.R. 4286. A bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to provide a case suitable for displaying the flag furnished with respect to deceased veterans; to the Committee on Veterans' Affairs.

By Mr. SCHIFF (for himself and Mrs. Lloyd):

H.R. 4287. A bill to amend title 5, United States Code, to provide for assignment of employees of federally funded research and development centers and Federal employees between Federal agencies and federally funded research and development centers; to the Committee on Post Office and Civil Service.

By Mr. TORRES (for himself, Mr. Becerra, Mr. Brown of California, Mr. Dellums, Mr. Berman, Mr. Pastor, Ms. Roybal-Allard, Mr. Stark, Mr. Farr, Ms. Eshoo, Mr. Jacobs, Ms. Schenk, Mr. Traficant, and Mr. Richardson):

H.R. 4288. A bill to provide for additional employees in the Wage and Hour Division of the Department of Labor and to provide for increased damages for recordkeeping violations under the Fair Labor Standards Act of 1938; to the Committee on Education and Labor.

By Ms. FURSE (for herself, Mr. Dellums, Mr. Evans, Mr. Hochbrueckner, Mr. Richardson, Mr. Shays, Ms. Norton, Ms. Woolsey, Mr. Miller of California, Ms. Eshoo, Mr. DeFazio, Mr. McDermott, Mr. Wyden, Mr. Studds, Mr. Hamburg, Mr. Barrett of Wisconsin, Mrs. Unsoeld, Ms. McKinney, Mr. Sanders, Mr. Dicks, Mr. Rangel, and Ms. Velázquez):

H.R. 4289. A bill to amend the Watershed Protection and Flood Prevention Act to establish a Waterways Restoration Program, and for other purposes; jointly, to the Committees on Agriculture, Merchant Marine and Fisheries, and Public Works and Transportation.

By Mr. GILMAN (for himself, Mr. Hyde, Mr. Dornan, and Mr. Gingrich):

H.R. 4290. A bill providing for the self-defense of Bosnia and Herzegovina; to the Committee on Foreign Affairs.

By Mr. KREIDLER:

H.R. 4291. A bill to direct the Secretary of Health and Human Services to revise existing regulations concerning the conditions of payment under part B of the Medicare Program relating to anesthesia services furnished by certified registered nurse anesthetists, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. MARKEY:

H.R. 4292. A bill to require the Secretary of Energy to report on certain radiation experiments, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MORAN:

H.R. 4293. A bill to require the transfer of the control of the Lorton correctional complex to the Bureau of Prisons; jointly, to the Committees on the Judiciary and the District of Columbia.

By Mr. TOWNS:

H.R. 4294. A bill to improve health status in medically disadvantaged communities through comprehensive community-based managed care programs; to the Committee on Energy and Commerce.

By Mr. VENTO (for himself, Mr. Solomon, Mr. Abercrombie, Mr. Ackerman, Mr. Andrews of Texas, Mr. Andrews of New Jersey, Mr. Andrews of Maine, Mr. Bacchus of Florida, Mr. Ballenger, Mr. Barca of Wisconsin, Mr. Barcia of Michigan, Mr. Barlow, Mr. Barrett of Wisconsin, Mr. Becerra, Mr. Beilenson, Mr. Berman, Mr. Bevill, Mr. Bilbray, Mr. Bishop, Mr. Blackwell, Mr. Bonior, Mr. Borski, Mr. Boucher, Mr. Brooks, Ms. Brown of Florida, Mr. Brown of California, Mr. Brown of Ohio, Mrs. Byrne, Mr. Callahan, Mr. Camp, Ms. Cantwell, Mr. Cardin, Mr. Carr, Mr. Clay, Mrs. Clayton, Mr. Clinger, Mr. Coble, Mr. Coleman, Ms. Collins of Michigan, Mr. Condit, Mr. Conyers, Mr. Costello, Mr. Coyne, Mr. Cramer, Mr. Darden, Mr. Deal, Mr. DeFazio, Mr. de la Garza, Ms. DeLauro, Mr. Dellums, Mr. de Lugo, Mr. Deutsch, Mr. Dickey, Mr. Dicks, Mr. Dixon, Mr. Dooley, Mr. Doolittle, Mr. Duncan, Mr. Durbin, Mr. Edwards of California, Mr. Emerson, Mr. Engel, Ms. English of Arizona, Ms. Eshoo, Mr. Evans, Mr. Everett, Mr. Faleomavaega, Mr. Farr, Mr. Fazio, Mr. Fields of Louisiana, Mr. Flake, Mr. Foglietta, Mr. Ford of Tennessee, Mr. Ford of Michigan, Mr. Frank of Massachusetts, Mr. Frost, Ms. Furse, Mr. Gejdenson, Mr. Gekas, Mr. Gilman, Mr. Glickman, Mr. Gonzalez, Mr. Gordon, Mr. Gene Green of Texas, Mr. Greenwood, Mr. Gunderson, Mr. Gutierrez, Mr. Hall of Texas, Mr. Hamburg, Mr. Hamilton, Mr. Hansen, Mr. Hastings, Mr. Hefner, Mr. Hilliard, Mr. Hinchey, Mr. Hoagland, Mr. Hobson, Mr. Hochbrueckner, Mr. Holden, Mr. Hoyer, Mr. Hughes, Mr. Hutto, Mr. Jacobs, Ms. Eddie Bernice Johnson of Texas, Mrs. Johnson of Connecticut, Mr. Johnson of South Dakota, Mr. Johnston of Florida, Mr. Kanjorski, Ms. Kaptur, Mr. Kennedy, Mrs. Kennelly, Mr. Kleczka, Mr. Klein, Mr. Klink, Mr. LaFalce, Mr. Lantos, Mr. LaRocco, Mr. Lehman, Mr. Levin, Mr. Lewis of Georgia, Mr. Lightfoot, Mr. Lipinski, Mr. Livingston, Mrs. Lloyd, Ms. Lowey, Mr. McCloskey, Mr. McCollum, Mr. McDermott, Ms. McKinney, Mr. McNulty, Mr. Markey, Mr. Mazzoli, Mr. Meehan, Mrs. Meek of Florida, Mr. Menendez, Mr. Mfume, Mr. Miller of California, Mr. Mineta, Mr. Minge, Mr. Moakley, Mr. Montgomery, Mr. Moorhead, Mr. Moran, Mr. Murphy, Mr. Murtha, Mr. Myers of Indiana, Mr. Neal of Massachusetts, Mr. Neal of North Carolina, Ms. Norton, Mr. Oberstar, Mr. Obey, Mr. Olver, Mr. Owens, Mr. Packard, Mr. Parker, Mr. Pastor, Ms. Pelosi, Mr. Peterson of Florida, Mr. Petri, Mr. Pickett, Mr. Porter, Mr. Price of North Carolina, Mr. Quillen, Mr. Quinn, Mr. Rahall, Mr. Ramstad, Mr. Rangel, Mr. Ravenel, Mr. Reed, Mr. Richardson, Mr. Rogers, Mr. Romero-Barcelo, Mr. Rose, Ms. Roybal-Allard, Mr. Rush, Mr. Sabo, Mr. Sangmeister, Mr. Sarpalius, Mr. Sawyer, Mr. Schaefer, Ms. Schenk, Mr. Schumer, Mr. Scott, Mr. Serrano, Mr. Sharp, Mr. Shays, Ms. Shepherd, Mr. Shuster, Mr. Sisisky, Mr. Skeen, Mr. Skelton, Ms. Slaughter, Mr. Smith of Texas, Mr. Smith of Iowa, Mr. Smith of Oregon, Mr. Spence, Mr. Spratt, Mr. Stark, Mr. Stokes, Mr. Stump, Mr. Sundquist, Mr. Swett, Mr. Swift, Mr. Synar, Mr. Tauzin, Mr. Taylor of North Carolina, Mr. Thomas of Wyoming, Mrs. Thurman, Mr. Torres, Mr. Torricelli, Mr. Towns, Mr. Traficant, Mr. Tucker, Mr. Underwood, Mrs. Unsoeld, Mr. Valentine, Ms. Velazquez, Mr. Visclosky, Mr. Volkmer, Mrs. Vucanovich, Mr. Washington, Ms. Waters, Mr. Watt, Mr. Waxman, Mr. Wheat, Mr. Wilson, Mr. Wise, Ms. Woolsey, Mr. Wyden, Mr. Wynn, Mr. Yates, Mr. Young of Florida, Mr. Young of Alaska, Mr. Zeliff, and Mr. Zimmer):

H.J. Res. 360. Joint resolution to designate the week of April 25, 1994, to May 1, 1994, as "Let's Stop Kids Killing Kids Week"; to the Committee on Post Office and Civil Service.

By Mr. KING (for himself, Mr. Levy, Mr. Ackerman, Mr. Lazio, and Mr. Hochbrueckner):

H. Con. Res. 242. Concurrent resolution to express the sense of the Congress that if nominated by the Governor of New York as an estuary of national significance, the Administrator of the Environmental Protection Agency should select and convene a management conference under the Federal Water Pollution Control Act for the lands and waters comprising the South Shore Estuary Reserve on Long Island, NY; jointly, to the Committees on Public Works and Transportation and Merchant Marine and Fisheries.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

352. By the SPEAKER: Memorial of the House of Representatives of the State of New Hampshire, relative to providing that long-term-care services in New Hampshire be based on a philosophy that is family-centered, supports and empowers the individual, is community-based, and prioritizes the least restrictive alternatives; to the Committee on Energy and Commerce.

353. Also, memorial of the Senate of the Commonwealth of Virginia, relative to requesting the Congress of the United States to quickly develop and approve the National Highway System; to the Committee on Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mrs. BENTLEY introduced a bill (H.R. 4295) to authorize the Secretary of Transportation to issue certificates of documentation for six dredging vessels; which was referred to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 64: Mr. Lewis of Georgia.

H.R. 65: Mr. Barcia of Michigan.

H.R. 104: Mr. Packard.

H.R. 212: Mr. Leach.

H.R. 234: Mr. Beilenson.

H.R. 300: Mr. Pastor.

H.R. 303: Mr. Barcia of Michigan.

H.R. 393: Ms. DeLauro.

H.R. 512: Mr. Myers of Indiana and Mr. Foglietta.

H.R. 647: Mr. Manton, Mr. Clinger, and Mr. Richardson.

H.R. 702: Mrs. Fowler and Mr. Clinger.

H.R. 737: Mr. Owens.

H.R. 763: Mr. DeLay.

H.R. 830: Mr. McHale.

H.R. 840: Mrs. Collins of Illinois.

H.R. 885: Mr. Mann and Mr. Solomon.

H.R. 911: Mr. Peterson of Florida and Ms. DeLauro.

H.R. 1012: Mr. Barca of Wisconsin.

H.R. 1056: Mrs. Fowler, Mr. Nussle, and Mr. Calvert.

H.R. 1151: Mr. Jefferson and Mr. Stenholm.

H.R. 1671: Mr. Klug.

H.R. 2037: Mrs. Maloney.

H.R. 2292: Mrs. Unsoeld.

H.R. 2418: Mr. Hoekstra and Mr. Mann.

H.R. 2442: Mr. Barlow.

H.R. 2444: Mr. Doolittle, Mr. Weldon, Mr. Collins of Georgia, Mr. Hansen, Mr. Levy, Mr. Saxton, and Mr. Tucker.

H.R. 2544: Mr. HINCHEY, Mr. CALVERT, Mr. SHAW, and Mrs. MEEK of Florida.

H.R. 2617: Mr. DORNAN.

H.R. 2646: Mr. RAVENEL.

H.R. 2803: Mr. KINGSTON, Mrs. LLOYD, Mrs. MEYERS of Kansas, Mr. QUINN, Mr. DICKEY, Mr. CANADY, Mr. KOPETSKI, Mr. PETERSON of Florida, Mr. KNOLLENBERG, Mr. HANCOCK, Mr. GINGRICH, Mr. FIELDS of Louisiana, Mr. MCCOLLUM, Mr. HEFNER, Mr. PORTMAN, and Mr. ANDREWS of New Jersey.

H.R. 2918: Mr. CLYBURN, Mr. OWENS, Ms. BROWN of Florida, and Mr. SCOTT.

H.R. 3017: Mr. PICKETT, Mr. BUYER, Mr. MAZZOLI, and Mr. TALENT.

H.R. 3179: Mr. WELDON, Mr. PACKARD, and Mr. SOLOMON.

H.R. 3246: Mr. CLYBURN, Ms. ENGLISH of Arizona, Mr. FOGLIETTA, Ms. MARGOLIES-MEZVINSKY, Mr. PARKER, and Mr. EVANS.

H.R. 3303: Mr. PARKER and Mr. STOKES.

H.R. 3347: Mr. CLAY and Mr. WYNN.

H.R. 3475: Ms. FURSE and Mr. SAXTON.

H.R. 3527: Mrs. MALONEY and Mr. NADLER.

H.R. 3546: Mr. STENHOLM.

H.R. 3560: Mr. KLUG.

H.R. 3611: Mr. TORRES.

H.R. 3645: Mr. DUNCAN and Mr. KLUG.

H.R. 3663: Mr. BERMAN and Mr. YATES.

H.R. 3692: Mr. KLUG.

H.R. 3720: Ms. DELAURO.

H.R. 3797: Mr. CANADY, Mr. DORNAN, Mr. HERGER, and Mr. MCKEON.

H.R. 3866: Mr. BROWN of Ohio, Mr. STUDDS, Mr. RANGEL, Mr. ACKERMAN, Mr. CLAY, Mr. HASTINGS, Mr. LEWIS of Georgia, and Mr. POMEROY.

H.R. 3870: Mr. NADLER.

H.R. 3906: Mr. GOODLING, Mr. KNOLLENBERG, Mr. GREENWOOD, and Mr. MACHTLEY.

H.R. 3943: Mr. SOLOMON.

H.R. 3982: Mr. MANTON, Mr. BATEMAN, Mr. PALLONE, and Mr. YOUNG of Alaska.

H.R. 4019: Mr. GENE GREEN of Texas, Mr. CLYBURN, and Mr. MCHUGH.

H.R. 4024: Mr. WASHINGTON, Mrs. COLLINS of Illinois, Mr. TOWNS, and Mr. KOPETSKI.

H.R. 4051: Mr. FOGLIETTA.

H.R. 4057: Mr. UPTON, Mr. TORKILDSEN, Mr. WILSON, Mr. GINGRICH, and Mr. GLICKMAN.

H.R. 4100: Mr. INSLEE and Mr. ANDREWS of Maine.

H.R. 4105: Mr. RICHARDSON.

H.R. 4126: Mr. ROMERO-BARCELO, Mr. REYNOLDS, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. SCOTT.

H.R. 4135: Mr. BEILENSON, Mr. BEREUTER, Mr. FAZIO, Mr. MARTINEZ, Mr. FROST, Mr. HOCHBRUECKNER, Mr. DURBIN, Mr. BONIOR, Mr. LEHMAN, Mr. TANNER, Mr. BILBRAY, Ms. PRYCE of Ohio, Ms. PELOSI, Mr. LIVINGSTON, Mr. DERRICK, Mr. LEWIS of Georgia, and Mrs. KENNELLY.

H.R. 4138: Mr. TORKILDSEN.

H.R. 4148: Mr. WASHINGTON and Mr. KENNEDY.

H.R. 4219: Mr. GIBBONS.

H.J. Res. 209: Mr. DE LA GARZA.

H.J. Res. 253: Mrs. KENNELLY and Mr. RAVENEL.

H.J. Res. 276: Mrs. VUCANOVICH, Mr. DE LA GARZA, Mr. LEWIS of Florida, Mr. PORTMAN, Mr. ABERCROMBIE, Mr. WELDON, Mr. CARDIN, Mr. SHAW, Mr. ACKERMAN, Mr. BALLENGER, Mr. ANDREWS of Maine, Mr. JEFFERSON, Mr. STUDDS, Mr. HUTTO, Mr. HOUGHTON, Mr. EMERSON, Mr. YOUNG of Alaska, and Ms. WATERS.

H.J. Res. 302: Mr. DEUTSCH, Mr. LAZIO, Mr. OWENS, Mr. VISCLOSKY, Mr. SPENCE, Ms. SLAUGHTER, Mr. HASTERT, Mr. SCHUMER, Mr. BROWN of California, Mr. HAMILTON, Mr. STUDDS, Mr. MINETA, Mrs. KENNELLY, and Mr. MANN.

H.J. Res. 308: Mr. VENTO and Mr. FRANK of Massachusetts.

H.J. Res. 315: Mr. BROOKS, Mrs. CLAYTON, Mr. CONYERS, Mr. COX, Ms. DANNER, Mr. DE LA GARZA, Mr. FIELDS of Louisiana, Mr. FLAKE, Mr. HOYER, Mr. MCCLOSKEY, Mr. MCDADE, Mr. MICHEL, Mr. MINETA, Mr. MOORHEAD, Ms. NORTON, Mr. OWENS, Mr. SAWYER, Mr. SPENCE, Mr. UPTON, Mrs. VUCANOVICH, and Mr. WYNN.

H.J. Res. 327: Mr. BONIOR, Ms. BROWN of Florida, Mr. DEFAZIO, Mr. MANTON, Mr. BARRETT of Wisconsin, Mr. GEKAS, Mr. SKEEN, Mr. LANTOS, and Mr. LAROCCO.

H.J. Res. 328: Mrs. THURMAN, Mr. GEKAS, and Mr. PETERSON of Florida.

H.J. Res. 333: Mr. GONZALEZ, Mr. COX, Mr. WYNN, Mr. GILMAN, Mr. HUGHES, Mr. DEUTSCH, Mr. MOAKLEY, Mr. STUDDS, Mrs. CLAYTON, Mr. SOLOMON, Mr. INSLEE, and Mr. DEFAZIO.

H.J. Res. 342: Mrs. CLAYTON, Mr. SARPALIUS, Mr. BROWDER, Mr. TALENT, Mr. CRAMER, Mr. STUDDS, Ms. MOLINARI, Mr. MARTINEZ, Mr. LAFALCE, Mr. GUTIERREZ, Mr. MCCRERY, Mr. LEACH, Mr. YOUNG of Alaska, Mr. HUGHES, Mr. EVANS, and Mr. SLATTERY.

H.J. Res. 350: Mr. EVANS, Mr. GORDON, Mr. FALEOMAVAEGA, Mrs. MINK of Hawaii, and Mr. MARTINEZ.

H.J. Res. 356: Mr. LEWIS of Georgia and Mr. DE LA GARZA.

H. Con. Res. 148: Mr. BILIRAKIS.

H. Con. Res. 159: Mr. SAM JOHNSON.

H. Con. Res. 168: Mr. FRANK of Massachusetts and Mr. BILIRAKIS.

H. Con. Res. 173: Ms. PRYCE of Ohio, Mr. LIPINSKI, Mr. MACHTLEY, and Mr. MORAN.

H. Con. Res. 177: Mr. WYNN, Mr. VENTO, Mr. ZELIFF, Mr. HINCHEY, Mr. CANADY, and Mr. GILCHREST.

H. Con. Res. 210: Mr. MANTON.

H. Con. Res. 214: Mr. MCCLOSKEY, Mr. ROHRABACHER, Mr. SCHUMER, and Mr. LEVY.

H. Res. 190: Mrs. MEYERS of Kansas.

H. Res. 225: Ms. SCHENK, and Mr. CASTLE.

H. Res. 363: Mr. PORTMAN.

H. Res. 403: Mr. VENTO, Mr. MILLER of California, Mr. OBEY, Mr. BARRETT of Wisconsin, Mr. BORSKI, Mr. CALVERT, Mr. COPPERSMITH, Mr. CRAPO, Mr. DEFAZIO, Mr. DEUTSCH, Mr. DICKS, Mr. FAZIO, Mrs. FOWLER, Mr. FROST, Mr. HEFNER, Mr. INSLEE, Mr. JOHNSON of Georgia, Mr. JOHNSON of South Dakota, Mr. KASICH, Mr. KLEIN, Mr. KOPETSKI, Mr. LAFALCE, Mr. LIPINSKI, Mr. MINGE, Mr. MCDERMOTT, Mr. NEAL of Massachusetts, Mr. RAMSTAD, Mr. RICHARDSON, Mr. SAWYER, Ms. SHEPHERD, Mr. WILSON, Ms. NORTON, Mr. FILNER, Mr. HILLIARD, Mr. OWENS, Mr. BREWSTER, Mr. CLYBURN, Mr. DE LUGO, Mr. DOOLITTLE, Mr. MURPHY, Mr. LANTOS, Mr. SPENCE, Mr. SLATTERY, Mr. HOBSON, Mr. HYDE, Mr. JEFFERSON, Mr. LIVINGSTON, Mr. MCCRERY, Mr. KLECZKA, Ms. FURSE, and Mrs. MEEK of Florida.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 40: Mr. WHEAT.

H.R. 3266: Mr. PETERSON of Florida.

H. Con. Res. 173: Mr. PRICE of North Carolina.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 1 by Mr. SOLOMON on the bill H.R. 493: Y. Tim Hutchinson, Jim Lightfoot, James A. Leach, Lamar S. Smith, and Bob Inglis:

Petition 10 by Mr. McCOLLUM on House Resolution 295:

Petition 11 by Mr. RAMSTAD on House Resolution 247:

Petition 12 by Mr. TRAFICANT on H.R. 3261: Solomon P. Ortiz, John L. Mica, Dana Rohrabacher, Sam Johnson, Newt Gingrich, Duncan Hunter, Cliff Stearns, Jim Saxton, Martin R. Hoke, Harold Rogers, Howard P. "Buck" McKeon, William F. Goodling, James H. (Jimmy) Quillen, Curt Weldon, Deborah Pryce, James A. Barcia, John A. Boehner, William F. Clinger, Jr., Michael Bilirakis, Howard Coble, Tom DeLay, Randy "Duke" Cunningham, Ron Packard, Jennifer Dunn, Robert S. Walker, Wally Herger, William H. Zeliff, Jr., Henry J. Hyde, Don Lundquist, Michael A. "Mac" Collins, Jim Lightfoot, Sherwood L. Boehlert, Eric Fingerhut, Robert K. Dornan, Susan Molinari, Walter R. Tucker, Ralph M. Hall, Pat Roberts, James A. Hayes, Jack Quinn, Michael Huffington, Thomas L. Bliley, Jr., Terry Everett, Jack Fields, C.W. Bill Young, Bob Livingston, Peter A. DeFazio, Dick Swett, Gerald B.H. Solomon, Jack Kingston, David A. Levy, Richard H. Baker, Ken Calvert, and Cass Ballenger:

Petition 13 by Mr. SMITH of New Jersey on House Resolution 281:

Petition 15 by Mr. BILIRAKIS on House Resolution 382: John L. Mica, Jim Bunning, Barbara F. Vucanovich, Stephen Horn, and Nick J. Rahall, II.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3221

By Mr. SOLOMON:

—Page 12, after line 2, insert the following:

SEC. 11. PROSECUTION OF SADDAM HUSSEIN AND OTHER MEMBERS OF THE IRAQI GOVERNMENT FOR WAR CRIMES.

(a) FINDINGS.—The Congress finds that—

(1) as ordered by Saddam Hussein, Iraq engaged in unprovoked aggression in its conquest and occupation of Kuwait;

(2) the Iraqi occupation force treated Kuwaiti citizens barbarously;

(3) Saddam Hussein used American and European civilians as "human shields" in an attempt to protect strategic facilities throughout Iraq and directed that captured American and allied prisoners of war be used for the same purposes;

(4) Saddam Hussein ordered his military to launch missile attacks against innocent civilians in Israel and Saudi Arabia; and

(5) former President Bush and President Clinton rightly warned Saddam Hussein and Iraqi Government officials that they would be held responsible for any abuses they have caused.

(b) ESTABLISHMENT OF TRIBUNAL.—The Congress urges the President to request the United Nations to establish a tribunal to charge Saddam Hussein and other responsible Iraqi Government officials for war crimes, acts of aggression, and crimes against humanity they have committed.

SENATE—*Thursday, April 21, 1994*

(Legislative day of Monday, April 11, 1994)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable DIANNE FEINSTEIN, a Senator from the State of California.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *rulers are not a terror to good works, but to evil * * * For he is the minister of God to thee for good.*—Romans 13:3, 4.

Eternal God who ordains the powers that be, we pray for a special measure of grace and wisdom for the servants You have ordained to lead the people. As election speculation approaches, it is very easy for Senators to capitulate to the voices of the people, and it is not uncommon for the "squeaky wheel to get the grease."

Grant to Your servants sensitivity to the fact they are not only accountable to the people, but to God. The demands of the people are often based on self-interest. Encourage the Senators to be leaders as well as representatives when what is right transcends what the people demand. Enable Your servants to hear and obey the voice of conscience over the voices of the people, however high their decibels.

Mighty God, grant Your servants the wisdom and the courage to do what is right for the people, the Nation, and the world as they deliberate and decide.

In Jesus' name who is the Way, the Truth, and the Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 21, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DIANNE FEINSTEIN, a Senator from the State of California, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. FEINSTEIN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each. The first 30 minutes shall be under the control of the Senator from Wyoming [Mr. SIMPSON] or his designee. The next 30 minutes shall be under the control of the Senator from Massachusetts [Mr. KENNEDY] or his designee. The Senator from North Dakota [Mr. DORGAN] is recognized to speak for up to 10 minutes. The Senator from Utah [Mr. HATCH] is recognized to speak for up to 10 minutes. The Senator from South Carolina [Mr. THURMOND] is recognized to speak for up to 10 minutes.

The Chair, in my capacity as a Senator from the State of California, suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BROWN. Madam President, as Senator SIMPSON's designee, I yield myself such time as I may consume.

The ACTING PRESIDENT pro tempore. There being no objection, the Senator from Colorado is recognized for as much time as he may consume.

PRESIDENT CLINTON'S FOREIGN POLICY

Mr. BROWN. Madam President, I rise out of concern for the current drift of our foreign policy. Certainly no one would claim that managing the country's foreign affairs is easy. No one would claim it is without difficult challenges, perhaps even challenges with "no-win" solutions.

By rising to express concern, I do not rise in the sense that anyone would find it easy going, or the challenges we face as a country are easily overcome. But I do believe in the last several years the policies we followed have often shifted with the sands rather than having set a clear course and clear objectives. At times we have seemed to drift in the wind. I want to be very specific because I think this is a serious charge.

In Haiti, originally we decided to return to Haiti Haitians who would, in effect, be illegal immigrants to this country. President Bush had announced that policy and his opponent, later to be President-elect Clinton, had criticized it. His words were these: "I think sending them back to Haiti was an error, and so I will modify the process." President Clinton in the campaign had clearly indicated that he would not send them back.

Once he came into office the policy changed 180 degrees. One week before his inauguration, President-elect Clinton stated:

> The practice of returning those who fled Haiti by boat will continue for the time being after I become President. Those who do leave Haiti by boat will be stopped and directly returned by the U.S. Coast Guard.

Madam President, there are good arguments on both sides of the issue. Our hearts go out to people who flee from the terror of Haiti. At the same time we have a responsibility to admit people only under our laws. So I understand the difficult crisis and the difficult thought pattern the President went through in this regard. But the problem is President Clinton's foreign policy flip-flop. The problem is the failure to set a clear course and to follow it, rather than to announce one policy with regard to Haiti and then do the opposite. This is not the first or the last time it has happened.

There was the decision to send United States troops to Haiti. They were loaded on ships like the U.S.S. *Harlan County* and sent to Haiti. The Secretary of State commented on October 16, 1993, "We had every reason to believe they would be well received. We thought there was going to be a greeting party."

Of course, in fact what happened is there were angry mobs demonstrating against our troops. Faced with that difficulty, we again flip-flopped our policy and withdrew the troops.

I must say I was one who thought sending troops to Haiti was a mistake. But the problem, again, is a President and an administration that do not set a clear course of action and follow it: Deciding to send troops, deciding not to send troops; deciding to take the refugees, deciding not to take the refugees. The message we have sent to the world is that our foreign policy is a function

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

of which way the wind blows. That is a disaster. It is a disaster not just because of the quality of the decisions. It is a disaster because it gives the impression to the world that the very country they look to for leadership is vacillating.

Somalia represented a similar experience, but perhaps even more tragic. President Bush had originally sent troops in to help restore order and feed the hungry. I was one who was concerned about that and spoke out against President Bush's actions. I thought he had not clearly defined when the troops would leave and had not defined a clear mission for them. But indeed, in January that year when he left office, he announced the withdrawal of the troops, they having accomplished their mission.

But that policy was changed. I do not criticize the President for it. While I did not agree with leaving the troops in Somalia for an extended mission, the President is entitled to change the policies of his predecessor administration.

Not only did the new administration decide not to continue withdrawing American forces, they changed the mission as well. The new mission won approval in the United Nations on March 26 for a nation-building role in Somalia, dramatically different from President Bush's plan. Instead of simply feeding the hungry, opening up supply routes and restoring order, the new nation-building role was an effort, almost unprecedented in scope, to rebuild an entire nation. Our distinguished Ambassador to the United Nations, Madeleine Albright, described it as, quote:

> An unprecedented enterprise aimed at nothing less than the restoration of an entire country as a proud, functioning and viable member of the community of nations.

One could agree or disagree. I thought it was a mistake. U.S. troops are not necessarily designed for, trained for, or equipped to rebuild nations. That does not mean they cannot try. That does not mean we should not make our best effort. But putting U.S. troops into a situation where they are subject to hostile action without an ability to defend themselves I felt was a mistake.

Indeed, we set a new course there. The United States committed itself to nation-building. At first, when the new mission ran into problems from Somali warlord Aideed, we went after him. After a skirmish on June 5, 1993, we increased our efforts to retaliate against this Somali general. The United States spelled out a clear mission and clear objectives in this case, nothing less than the arrest of President Aideed. President Clinton noted that, a warrant was issued for his arrest, and our soldiers were tasked with the responsibility to get him.

To fulfill that task, our military leaders asked for heavier equipment. That request has been clearly documented. Included in the request were armored personnel carriers to make it possible to move safely through the confines of Mogadishu. That request was denied. It was denied at the highest levels of our Government.

The Secretary of Defense, aware of the request, seeing the request of his military commanders, knowing their feeling that equipment was essential to carry forth their duty, turned down the request for fear, according to press accounts that it would send the wrong signal. So the safety of American troops was jeopardized because giving them the proper equipment might send the wrong signal.

We have talked about that at length in this Chamber. I will not dwell on it. But what happened next I think all Americans know about. During a raid on Aideed's headquarters in fulfillment of the presidential arrest warrant, a U.S. helicopter was shot down. Troops were sent in to help rescue the victims. They were prevented by snipers from reaching the victims because they did not have the equipment that their commander had requested from Washington.

Incredibly—incredibly, after that tragedy, the United States flip-flopped its policies again. Instead of arresting Aideed, we agreed not to arrest him. But the changes in policy did not even stop there. Ironically, later in the year the United States escorted President Aideed to the airport in Mogadishu to visit Ethiopia for a peace conference. One of course could make a fine distinction in a statement or justification of the need for Aideed to visit Ethiopia. But the incredible irony is that Aideed was escorted to the airport in an armored personnel carrier, the very equipment our administration had denied our own troops. The very equipment that would have saved American lives when they were under attack by Aideed's forces.

Madam President, I am concerned about these flip-flops because they indicate an inability to set a clear course with clear objectives and to follow through on them.

We are now involved in conflicts in Bosnia. We have American pilots flying U.S. aircraft, subject to ground fire in Bosnia. At the same time, this country has joined an embargo against sending arms to Bosnia. Literally, we are saying it is improper for Bosnians to have arms to defend themselves. Not only will this country not sell them arms, but we are actively using our Army and our Navy and our Air Force to physically stop those who are willing to give arms to Bosnia to defend itself. This, at the same time that we have been willing to commit the lives of American service personnel to defend the Bosnians. It is a paternalistic policy of the first order, and I believe another tragedy in the making.

The President now says he has always been—always been opposed to the arms embargo. But that simply is not accurate. The fact is, this President, far from being opposed to the arms embargo, has long embraced it. The fact is, the President, the Commander in Chief, has ordered our troops to enforce it. The fact is, the President has prevented people from this country from supplying arms. To suggest he is opposed to the arms embargo and always has been is simply not accurate.

It goes at cross-purposes to what we are doing right now in Bosnia. Incredibly, we are denying them the ability to defend themselves but are willing to risk American lives in a half-hearted defense. One could question, as I have, the advisability of supposing that air power can do the job alone. I know of no military leader that believes you can win a conflict only with air power. It simply is not possible. To suggest we are going to follow a course in Bosnia that will lead to defeat and tragedy is a sad commentary on United States foreign policy.

We have adopted a policy with regard to air power that cannot lead us to victory. We have adopted a policy with regard to an arms embargo that simply condemns the Bosnians to be innocent victims, slaughtered at the will of Bosnian Serbs inside Bosnia and infiltrators from Serbia itself.

One side has arms left over from the former Yugoslavian army and, to some extent, supplied by supporters from within the former Soviet Union. The Bosnians have few arms and the allies have cut off any additional supplies.

Our policy is at cross-purposes. Our policies are working in opposite directions. Madam President, I think it would be a tragic mistake for the United States to make another halfhearted commitment in Bosnia. Either we ought to make a full commitment with a complete declaration of our intention, with clear objectives and go out and get it done, or we ought to get out. To make halfhearted commitments that are doomed to failure will be a tragedy for Americans who lose their lives in that conflict and a tragedy for this country.

What we need is leadership—leadership that sets a clear course and then works to achieve it. One can debate whether or not we ought to turn back Haitian refugees. One can debate whether or not we ought to have United States Forces in Haiti. One can debate whether or not we ought to rebuild the nation of Somalia. One can debate whether or not we ought to arrest Aideed. One can debate whether we should supply arms or allow arms to be supplied to Bosnia. But for Heaven's sake, why should this country's foreign policy be its own debating partner? The fact is, our Nation stood on both sides of each issue in turn. It is indecision; it is vacillating; and it is a flip-flopping foreign policy that has had tragic results.

Before a large number of Americans lose their lives in Bosnia, let us hope we set a clear course with clear objectives. The men and women who serve this country in the armed services are willing to go anywhere at any time and do what their commanders ask. They are willing to risk their very lives. They are willing even to give up their lives for the flag of this country and for the spirit of freedom and democracy that it represents.

Before we ask them to surrender their lives again, we ought to make sure it is in a cause that is not going to change when the wind blows in a different direction. We ought to make sure they have clear direction, clear objectives and strong, clear leadership.

The men and women who represent this country in our Armed Forces have a right to expect that. They have a right to expect that we follow up on our goals and honor our commitments. And they have a right to expect that, once we chart a course, we see it through. They have a right to expect that, when their lives are put on the line, we will stand behind them, that we will not flip-flop, that we will not turn around when the going gets tough. They have a right to expect that, before we commit them to combat, we will make a decision as to whether or not the conflict is worth winning. They have a right to expect that, if the conflict is not worth winning, we will not throw away their lives in a senseless sacrifice.

Madam President, I rise because I fear the leadership of this Nation has begun to think of those who serve our country in the Armed Forces as simply pawns in the chess game, ones to be sacrificed without great remorse, ones to be offered up in case there is a strategic move or a political signal to be sent. Their lives, their commitment and their devotion to this country are much more important than that. They have obligations to us that extend even to the point of giving their lives for this Nation, but we have obligations to them to make sure that their sacrifices are not made in vain, are not wasted and are not carelessly thrown away.

This Nation, in the last year and a half, has had a foreign policy that has vacillated, flip-flopped and blown in the wind. What we need more than anything is not better aircraft or devoted public servants or the commitment of the people who wear the uniform, but leadership that sets a clear course and clear objectives and accomplishes them.

Madam President, I yield the floor.

Mr. COATS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Indiana is recognized.

CONFLICT IN BOSNIA

Mr. COATS. Madam President, once again, the President has issued a "we're going to get tough in Bosnia" statement. By my count, this is now the ninth time that the President has said we are going to get tough in Bosnia, and it is the ninth time that that statement and those efforts have been virtually ignored by the Serbs, ignored by the world community, and not been backed up by an effective policy that translates into action.

We are right to be morally outraged about what is happening in Yugoslavia, as we are right to be morally outraged about what is happening in many, many parts of the world. The slaughters taking place in Gorazde and in parts of former Yugoslavia are no different than slaughters taking place in many other parts of this world. But the statement that we are now going to get tough has not and, I doubt this time will, translate into a policy that can effectively resolve the conflict.

The question we need to ask is why? And the answer to that forces us to face up to some very fundamental facts and some fundamental truths that have not been stated.

The President has not clearly defined reasons why the United States should be involved in this conflict in the Balkans and, as such, the American people legitimately question our purpose and our resolve in that conflict.

The truth is that air power, economic sanctions, arms embargoes, U.N. resolutions, diplomatic efforts, or Presidential press conferences have not and will not deter the Serbs. U.N. peacekeepers are merely observers of aggression and conflict and war that goes on between the fighting parties and has now gone on for more than 2 years. They serve little effective purpose.

U.S. air strikes can only achieve extremely limited objectives. If we were not able to accomplish a successful resolution to the conflict of Desert Storm when we owned the air, when we had defined fixed targets, when we flew 30,000 sorties day and night for 40 days, without ground intervention, we certainly will not resolve the conflict in Bosnia with air strikes alone. The terrain in Bosnia is extraordinarily difficult, targets are completely mobile, and we do not have clear control or air superiority because of the antiaircraft and defensive weapons possessed by the Serbians. The weather is marginal at best and cloud cover obscures targets three-fourths of the time. We have already learned in just a few brief attempts to utilize air power to deter Serb aggression the precarious nature of that operation.

The truth is that we cannot resolve this conflict without a massive infusion of ground troops into the area and give our troops a clear-cut, defined objective to defeat the aggressor and to restore some semblance of order from the chaos that exists in Bosnia. But the truth is that the United States will not commit those troops, and neither will any other country.

We have to stop pretending that we can take some halfway steps and promise, or at least threaten, that they will resolve the conflict. We flatout know that they will not and we flatout understand that we will not commit American men and women in uniform in massive numbers, or perhaps in any numbers, to that conflict.

The Serbs know this. They have mobile weapons that can easily be moved and do not lend themselves to be the kind of targets that are necessary for air power to be effective.

My colleagues should remember the conflict in the Persian Gulf. Even when our forces had complete superiority in the air, we could not track down Iraqi mobile Scuds. These are far less mobile than the artillery or tanks we see in Bosnia, and were located in flat desert terrain with clear air.

The targets we must locate and destroy in Bosnia are located in mountainous regions in caves and under cover. Furthermore, cloud cover obscures those targets. They can easily be moved on just a moment's notice.

We should stop threatening what we cannot deliver because we still have not defined a clear-cut case for U.S. intervention. The President has not defined our mission and the American people do not understand it.

We have not identified our political objectives, and therefore our military cannot determine if and how we can achieve these through use of force. Without a defined objective, we have an open-ended situation reminiscent of past crises, such as Lebanon and Somalia. The American public will not support this type of operation.

The ACTING PRESIDENT pro tempore. The Chair would like to restate the previous order. The previous order was that morning business would go on until 10:30. Senators would be permitted to speak for 5 minutes each. The first 30 minutes would be under the control of the Senator from Wyoming or his designee. That period has expired. And the second 30 minutes would be under the control of the Senator from Massachusetts [Mr. KENNEDY] or his designee. There was no one in the Chamber, so the Senator from Colorado spoke beyond the 5 minutes allotted.

Mr. COATS. Madam President, I thank you for that instruction, of which I was not aware. I wonder if I could ask my friend, the Senator from Massachusetts, for 5 minutes at this time.

The ACTING PRESIDENT pro tempore. The Senator is recognized for an additional 5 minutes.

Mr. COATS. Madam President, I thank you and I thank the Senator from Massachusetts.

We need to understand the reality of the conflict in what was formerly

Yugoslavia. Conflict in this region dates back several centuries. It is ethnic, cultural, and religious and will not easily be resolved. It will certainly not be resolved by outside intervention.

There are at least three factions present in that territory. They all hate each other. They all have enmities which go back for centuries. They all want to kill each other. It is simply a matter of who has the weapons and who has the military advantage. They have staying power that we need to understand is going to outlast any short-term intervention. It makes U.S. involvement potentially open-ended. No date certain, no timetable, no clear-cut objective. That again reminds us of past conflicts, and again tells us that we will not commit American troops to that type of situation.

It is almost cruel to the Moslems, as difficult as that situation is, to hold out the hope to them of U.S. intervention. While we do not know for certain, it is a distinct possibility that the war and the conflict in Bosnia is being prolonged because the Moslems hold onto the false hope that the United States, the United Nations, or NATO will intervene in a way to effectively support their effort. We are not going to do that, and we need to state that and state that clearly. The President knows that. He must state that.

It is difficult to do. I understand that. It is difficult to watch the carnage and to view the situation as it is taking place in Bosnia. Yet we have to be honest and truthful and say that we are not going to intervene in a way that will effectively deter that. In fact, by promising something which we cannot deliver and will not deliver, we hold out a false hope to those who perhaps would be more willing to go to the table if they realized for certain that the United States was not going to come to their aid.

We need leadership out of the White House. Sometimes leadership means defining for the American people some hard realities and some hard truths. Leadership does not always mean intervention. Sometimes leadership means saying "no, we are not able to accomplish that specific purpose."

As I said, there are slaughters going on around the world. Because CNN is not carrying them live, we perhaps are not as engaged or involved or as aware of those conflicts. But we have said in many of those situations no, for various reasons, we will not commit American troops; we will not commit American prestige; we will not involve ourselves in that situation.

What I fear is that we are squandering the ability of the American leadership, American foreign policy, and American military to intervene when we need to intervene, when our vital interests are involved, when we can define a political objective and a military objective and achieve that objective, and when we can effectively bring about that end.

I am afraid that by this action we are signaling we have no stomach for this at all, even when those vital interests are concerned, and that something will come along down the line like North Korea. The American people will say we just do not want another Bosnia; we do not want another Lebanon; we do not want another Somalia; we do not want another Vietnam. So we will not get involved when we should get involved and when we must get involved.

We have squandered a great deal of leadership and prestige. We must not risk more. It is important that the administration define its foreign policy objectives and designate a spokesperson to provide global leadership for those foreign policy objectives.

Mr. Christopher has fallen off the face of the map. I have not heard from him in weeks. I do not know in what he is involved. If he is speaking for the administration, he certainly is not speaking very loudly nor very concisely. It is hard to tell who speaks for this administration, if anyone.

We have a confused policy. The President must become engaged. I know he wants to spend his time on domestic matters. They are important. He should. But he wears two hats. He is Commander in Chief, and he is the leader of the free world. Whether he wants to or not, he must engage and engage directly, define a clear, concise foreign policy, and a prudent military policy for this country. He must designate a spokesman, and provide the solid leadership that he needs and go forward. That is our obligation to the world. Sometimes that means saying no. Sometimes that means saying yes. But, for goodness sakes, let us stop saying both yes and no.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Senator from Massachusetts controls 25 minutes.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, I yield myself 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator is recognized for 5 minutes.

SCHOOL-TO-WORK OPPORTUNITIES ACT

Mr. KENNEDY. Madam President, later today, after we have completed action on the bankruptcy bill, the Senate will take up the conference report on the school-to-work opportunities legislation. This important legislation is intended to help ensure that all students, particularly the 75 percent of young people in this country who do not complete a 4-year college program, enter the work force equipped with the academic and occupational skills required in our increasingly competitive economy.

At this time, I do want to acknowledge the leadership of my friend and colleague, Senator SIMON, who has been a force in terms of both our committee and in the Chamber in developing the legislation and also in terms of the debate in the conference committee.

I want to also acknowledge the strong bipartisan support that we have had on this legislation, and Senator DURENBERGER also has been indispensable in terms of bringing us to where we will be later on in the day.

The purpose of this legislation, the School-to-Work Act, establishes a national framework for the Development and Expansion of Programs that integrate academic and practical education by allowing students to combine classroom learning with actual work experience.

In my own State, we are experimenting with a number of different programs that provide those kinds of opportunities for young people. And we have seen concrete evidence of the positive impact a well-designed School-to-Work Program can have on the lives and communities of the people we serve.

I want to share with my colleagues this morning the experiences of three young men and women enrolled in innovative programs in different communities in Massachusetts that demonstrate the basic principles of this bill in practice.

Toni Dunn is an 18-year-old African-American from the Uphams Corner area of Dorchester. She is enrolled in Project Pro-Tech in Boston, which currently serves 200 students at four different high schools in the city. The program provides paid work-based learning opportunities with 14 participating employers at leading hospitals and financial service companies. These employers contribute over $1 million a year in student wages, scholarships and staff. Pro-Tech is widely considered to be one of the Nation's most successful examples of active business involvement in School-to-Work Programs.

Toni is a senior at Brighton High School, and will graduate this June. She has participated in Pro-Tech Health Care for the past 2 years, working in the operating room of New England Medical Center. Pro-Tech has provided her first real job, and she has performed well. She works regularly with nurses, scrub technicians, anesthesiologists, and surgeons. Toni was visited by Secretary of Labor Robert Reich last year, and their visit was part of the NBC Brokaw report—"The Lost Generation"—that aired last July.

Toni came into the program knowing she was interested in the medical field, but unaware of the different occupations and what steps to take to become certified to do the work. Thanks to Pro-Tech, she has decided to attend the University of Massachusetts in Amherst, where she will pursue a degree in nursing. She credits Pro-Tech with her ability to manage her time and balance the demands of school and work.

Felix Vazques is a 19-year-old from Worcester who participated in the Career Beginnings Program, a nationally recognized School-to-Work Model Program brought to Worcester 4 years ago by the Thom Mcan Shoe Co., which is headquartered there. Career Beginnings provides at-risk high school students with an 18-month program in their junior and senior years. The program includes monthly meetings with mentors, private sector summer jobs, individual counseling and career advice, and job skills workshops. Nearly 200 students have participated in this program, 54 percent are minorities, and 87 percent of their parents did not attend college.

Before participating in Career Beginnings, Felix was taking classes in electrical trades at the vocational high school and had no thought of going to college. Career Beginnings gave him his first work experience. The program built his skills, taught him how to present himself during an interview, gave him a mentor and built his self-confidence. With the help of his mentor, he decided to pursue a technical career—and give something back to his community. Felix is now a freshman at Worcester State College studying physical therapy. He is a first generation college student, and his family is extremely proud of his achievements.

Jose Guadalupe is a 16-year-old participant in the Pa'Lante Neighborhood Employment Training Program in north central Massachusetts. Pa'Lante is designed to train bilingual youth to be employable as medical translators and to provide the academic preparation necessary for participants to enroll in postsecondary education and training programs in the health professions. 30 young people from economically disadvantaged backgrounds are currently participating in a wide variety of work experiences at hospitals and other facilities affiliated with the health alliance in Fitchburg and Leominster.

Jose's family moves from Puerto Rico to Fitchburg 3 years ago. He was unable to speak English and was enrolled in the English-as-a-Second Language [ESL] Program at Fitchburg High School. Today Jose works with the Pa'Lante Program in the physical rehabilitation department of Leominster Hospital where he serves as a bilingual medical interpreter. His work in school has improved and in less than 1 year, he has been placed in the regular program of Fitchburg High School.

These three stories demonstrate the human face of the School-to-Work bill. This country has the best higher education system in the world. But we have under-invested in non-college-bound youth. In today's highly competitive international economy, we can't afford to give other nations that kind of advantage. The School-to-Work opportunities act will enable us to do a better job of preparing large numbers of young Americans for productive careers. And in doing so, we will be building a stronger economy for the future.

Madam President, I yield 5 minutes to the Senator from Minnesota.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota is recognized.

Mr. LEVIN. Madam President, will the Senator withhold for just one moment so that I may make a unanimous consent request?

Mr. DURENBERGER. Yes.

Mr. LEVIN. I wonder if the Senator from Massachusetts would be agreeable. After yielding that time to the Senator from Minnesota, I understand then the Senator from Illinois will be yielded 5 minutes, and I ask unanimous consent that I be yielded 4 minutes.

Mr. KENNEDY. I make that request, Madam President.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DURENBERGER. Madam President, I rise to offer my full support for the conference agreement on the School-to-Work Opportunities Act that will be voted on later today.

The School-to-Work Opportunities Act provides seed money and technical assistance to States and communities in order to encourage and facilitate locally developed, locally operated, and locally administered school-to-work transition programs.

It builds on existing programs and removes existing barriers that States, communities, employers, and educators now face in teaching job skills.

It will help U.S. companies attract the skilled workers they need to thrive in the increasingly competitive global marketplace.

And it brings together employers, educators, government, and labor—in a true partnership—to prepare our Nation's young people for higher-skill, higher-wage jobs.

I want to thank my colleagues Senator HATFIELD, Senator JEFFORDS, and Senator BOND who, through their cosponsorship, helped make this a bipartisan initiative. I also want to commend the distinguished chairman of the Labor Committee, Senator KENNEDY, and my colleague from Illinois, Senator SIMON, for their leadership on this issue, and for working with me and my staff through conference to make sure that the input I received from the people of Minnesota was incorporated into this final conference agreement.

MINNESOTA INPUT

Madam President, I especially want to acknowledge the many Minnesota business, labor, education, and government leaders who gave their knowledge, enthusiasm, commitment, and time to help make the School-to-Work Opportunities Act an even better reality than we had anticipated.

Based on recommendations from Minnesota we strengthened several provisions of the bill to encourage cooperation and collaboration among all key players, but ensure that State Governors bear ultimate responsibility and accountability for State school-to-work plans.

We added language to broaden the definition of "school-to-work opportunities" in order to make clear that career exploration and workplace learning programs should begin much earlier than high school, and that school-to-work opportunities can be linked to part-time employment and emerging community service and service learning initiatives which Minnesotans consider an integral part of education reform.

We added a section to the bill creating a Federal clearinghouse in order to encourage replication of successful programs and interstate collaboration in program research, evaluation, and development.

We added a section to the bill that makes it easier for States and communities to waive Federal program mandates.

Madam President, the many Minnesotans who offered their guidance on this bill should be very proud that their contributions are now an integral part of this final conference report.

One of my State's strongest backers of this legislation has been the Teamsters Service Bureau, which is the prime sponsor of a new charter public school that's focusing its curriculum on young apprenticeships. The bureau's director, Jean Dunn, calls the new high school "a real world learning center." "Instead of writing papers on Shakespeare," she says, "you'll write papers on the workplace."

Tom Triplett, president of the Minnesota Business Partnership, is another strong supporter of the School-to-Work Opportunities Act. The reason is Minnesota employers can't find enough qualified people for entry-level positions.

Tom says that this legislation will help students develop the skills they need to succeed in today's workplace, "especially the 'forgotten half' who aren't going on to college, but still will need a good paying job."

And John W. Mercer, Minnesota's Deputy Commissioner of Education and a member of the State's Education and Employment Transition Council, wrote to tell me how the School-to-Work Opportunities Act will help in allowing Minnesota to pursue its goal of developing a high-quality education and employment transition system.

During January Recess, I met with two other Minnesota groups who will be greatly helped by the School-to-Work Opportunities Act.

These groups include educators, labor officials and hospital officials in the

Twin Cities and in the Duluth-Cloquet area who are designing new youth apprenticeship opportunities in several different health care occupations.

Members of this body know of my strong interest in health care reform. And I must say that I was convinced, as I visited with these groups, that the fundamental changes this legislation helps make possible in the way we prepare Americans for work will be critical to our ability to achieve the kind of cost savings and other changes we so desperately need in America's health care system.

Madam President, the School-to-Work Opportunities Act presents an important step forward in public policy in supporting State and local initiatives that change the way we teach and the way we learn. I hope my colleagues will join me in supporting this important legislation. I thank my colleagues, Senator SIMON, Senator KENNEDY, and my Republican colleagues who supported this as well.

I yield the floor.

THE SCHOOL-TO-WORK OPPORTUNITIES ACT

Mr. SIMON. Madam President, I thank my colleagues, particularly Senator KENNEDY, the chairman of the committee, and Senator DURENBERGER, who has been very helpful on this, as well as other things. We would not have the Direct Lending Program today but for Senator DURENBERGER's help. And also I thank Senator WOFFORD, who has been very helpful in this.

We are talking about "hire" education here—spelled h-i-r-e. Seventy-five percent of those who go to high school will not end up with a bachelor's degree. Yet, we have focused a great deal of attention on the other 25 percent, and not very much on the 75 percent. This is an attempt to do so with the School-to-Work Program. It does not involve a new Federal agency. We will give seed money to California, New Hampshire, and to other States that need it, to get these School-to-Work Programs going.

Senator KENNEDY and I visited a school in Chicago, where young people—many of whom would have dropped out of school, frankly—were working with metal working firms there, and all of a sudden, as they work and go to school, they see that their math is important. They have to fill out a form, and they see that English is important. School takes on a new meaning: It is extremely important.

I visited a plant in the Milwaukee suburbs where I saw the same thing: schools and business people working together. Sears and the Chicago Tribune in Chicago have a program. This is a program, I am pleased to say—one of the unusual programs, Madam President—that is supported by both business and labor. Everybody says it makes sense. It pulls people back to school, also, who have already dropped out.

We are in the process of discussing a crime bill, and one interesting statistic we should not forget in this whole business of discussing crime is that 82 percent of those in our prisons today are high school dropouts. If we want a really strong anticrime bill, let us build our schools. This is a chance to do it.

Let me tell you just about a few people here in the remainder of the time I have left. This picture here is of Willie Carson, who is 19 years old. Two years ago, as a student at Dunbar Vocational High School in Chicago, Willie was uncertain about his future. Today, he is an apprentice machinist with a steady paycheck, interesting work, and a future that could equip him with a $30,000-a-year job as a journeyman machinist.

Gwen Mingo had been out of school for 20 years before she found her way back to the School-to-Work Program based at Kennedy-King College in Chicago. Partners in the program, such as Eastman Kodak, 3M, and Dupont, have donated state-of-the-art equipment that the students use in their classroom training. Gwen says that the program was a turning point for her, and now she is well on the way to a much better future.

Nevie Edwards looks proud in this picture, and I will tell you why she is proud. She earned the GED certificate through Chicago's Jobs-for-Youth Program, another successful School-to-Work Program.

Three years ago, Nevie dropped out of high school in her senior year. Now she is on the way. She is a travel information specialist job with Advanced Telemarketing, a private firm that handles the information hotlines for the Regional Transit Authority in the Chicago area.

Steve McDonald is a high school senior, and now he has a career plan for his life. He wants to be a master tool and die maker. Two years ago, the odds were heavily against Steve reaching a goal like that. Today, the odds are excellent.

Steve's success proved that School-to-Work Programs change lives. Students are given the opportunity to prove themselves, and they are given the chance to see, feel, and experience the world of work, what it means for their future. And most of these young people respond, and they respond eagerly.

School people tell me that if you get a student interested in one subject, you can grab them.

I see that I am getting the signal for time.

Madam President, I am pleased that we will be working on this later today, and we will have the conference report and pass a step forward for this country.

HONORING THE DARE PROGRAM

Mr. LEVIN. Madam President, today we honor the National Drug Abuse Resistance Education Program, designated as DARE Day. DARE is an innovative and successful approach to drug abuse prevention. It recognizes that drug abuse prevention must be a cooperative effort between parents, educators, and law enforcement, and that education must begin early.

The core curriculum of DARE focuses on fifth and sixth grade students in order to prepare them for entry into junior high and high school. Uniform police officers visit classrooms and tell the kids the cold, hard facts about drugs. Together, the students and officers develop ways of resisting peer pressure to try drugs and, instead, find alternatives to drug use. In other words, DARE does not just teach kids to say "no" to drugs, it provides them with the tools and the skills that are necessary to say "no" to drugs.

During the 1993–94 school year, over 100,000 fifth and sixth graders in Michigan have received DARE classes. The number of students participating has grown every year since 1988, the year when pilot programs were developed and implemented in selected school districts around my State of Michigan. Similar success stories can be found in every State where DARE is active.

A word of thanks and congratulations is due to the dedicated teachers and specially trained law enforcement personnel who have made DARE as effective as it is. DARE changes kids' attitudes about drugs; it improves interpersonal relationships at schools; it decreases vandalism; it creates a special bond between that law enforcement officers and young people, and it has even been found to improve grades.

I have visited DARE classes and attended DARE graduation ceremonies around the State of Michigan—in Warren, Port Huron, Algonac, Flint, Grand Rapids, and other communities. I have spoken with teachers and police officers involved, and the teachers tell me that when the students hear about drugs from a uniformed police officer, the kids really listen.

More important, the kids tell me that DARE has really changed the way they think and feel about drugs. They tell me when somebody offers them drugs, they know how to say no, and they know why they must say no.

DARE is an essential component of a comprehensive effort to keep drugs off of our streets and away from our children. If we can teach our children to resist drugs, then we all have a fighting chance. That is why it is so important that Federal funding continues to be available for DARE Programs. I hope all of our colleagues will join me in supporting these very necessary Drug Abuse Resistance Education Programs.

I thank the Chair and yield the floor.

Mr. SMITH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts has approximately 4 minutes remaining.

Who yields time to the Senator from New Hampshire?

Mr. SMITH. Madam President, I ask unanimous consent to speak for 5 minutes under the 10 to 10:30 slot, and that it not be taken from Senator KENNEDY's time?

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. HATFIELD. Reserving the right to object, I would like to inquire as to who is handling the allocation on behalf of Senator KENNEDY?

The ACTING PRESIDENT pro tempore. The Chair would inquire who is yielding time for the Senator from Massachusetts?

Mr. HATFIELD. I understand. I withdraw that question. I understand that I do. I will do so at some point. I think there are 4 minutes left.

The ACTING PRESIDENT pro tempore. There are 3 minutes left, and when that time expires——

Mr. HATFIELD. Outside of my question.

The ACTING PRESIDENT pro tempore. Four minutes remain.

Mr. SMITH. Madam President, if the Senator from Oregon wishes to speak under Senator KENNEDY's time, I will withdraw my request and allow the Senator to proceed, and I will speak after him.

Mr. HATFIELD. I thank the Senator from New Hampshire, but I am not in that big a hurry. I will be happy to listen for 5 minutes to the Senator from New Hampshire.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire is recognized for 5 minutes.

THE ADMINISTRATION'S POLICY ON BOSNIA

Mr. SMITH. Madam President, I rise today to express my firm opposition to the administration's current policy on Bosnia. I have refrained from openly criticizing the President on his handling of the issue previously. But with yesterday's escalation of U.S. military involvement, as stated in the President's press conference, I can no longer remain silent.

It is time for the American people and this body to be heard on this issue. I was reminded of the McNamara charts and pointers as I watched the press conference yesterday thinking back to the days of the Vietnam war.

The administration is pursuing a policy of gradualism in Bosnia that is a certain recipe for disaster. We have no strategic interests, no military interests, no economic interests in this centuries-old civil war. Yet, for unknown and frankly undefined reasons, the administration is continuing to escalate our political and military involvement. This must stop.

Madam President, I understand the President's frustration with this difficult issue. We are all frustrated by the atrocities being committed day after day against civilians, especially as we watch them in the media accounts. But that does not mean that the United States should cede its sovereignty to the United Nations and allow Boutros Ghali to act as commander in chief of our armed forces anywhere, let alone in Bosnia. Our military personnel are becoming pawns in a diplomatic quagmire, and this is simply unacceptable.

The reality is not every conflict or humanitarian crisis has a military solution. In fact, as Colin Powell has stated so eloquently, if force is used imprecisely or out of frustration rather than clear analysis, a situation can be made worse. In Bosnia, we are seeing just that. There are absolutely no American security interests at stake, none, zero. Yet out of frustration, President Clinton is putting more and more U.S. troops in harm's way.

A fundamental problem here is that President Clinton does not have a foreign policy agenda. He has no guiding principles to govern our use of military force. If we are to commit American troops to conflict, it must be our decision, not the United Nations decision. Our national interests must be at stake, not those of Boutros Ghali. There must be a clearly defined military mission. And there must be a definition of and a timetable to achieve success. The American Armed Forces are a national treasure. They are not a law enforcement agency to be subcontracted out wherever and whenever the United Nations sees fit.

(Mr. CAMPBELL assumed the chair.)

Mr. SMITH. Mr. President, whenever the United States has deferred to the United Nations and chosen sides in a civil war we have paid a terrible price. In Lebanon, we lost 242 American soldiers to a terrorist attack. In Somalia, we lost 29 of our Nation's finest in pursuit of a worthless thug warlord. Yet President Clinton is ignoring these painful lessons and once again immersing the United States in a civil war where we have nothing to gain and everything to lose. United States forces in Bosnia are no longer seen as impartial purveyors of humanitarian aid, but rather now they are considered meddling foreigners out to advance their own agenda. This can only produce further reprisals against U.S. forces, our U.N. allies, and innocent civilians.

The administration's policy in Bosnia, just as in Korea, Somalia, Haiti, and Vietnam, has been destined to fail from the start. Fifteen months of coddling Communist empires and talking tough without delivering on idle threats has left U.S. credibility diminished and our influence waning. The President must have the courage now to step back and extricate the United States from this quagmire before it is too late, before our stature and credibility are so in question that there is no viable exit strategy.

The only reasonable strategy is for the United States to terminate further escalation of military involvement and to immediately lift the arms embargo against the Bosnian Muslims. Let those who are being heinously persecuted meet destiny on their terms from behind their own weapons, not cowering in the ruins of some pathetic unsafe haven. We have neither the legal nor moral authority to play policeman in this centuries-old civil war. Let us step back, step back now, Mr. President, and allow the Bosnian Muslims the dignity and capability to defend themselves.

Mr. President, let me say once again, I have refrained from this criticism until yesterday. But the United States is about to cross a Rubicon from which there is no return. We saw it in Vietnam years ago. It is going to happen again. President Clinton has set a course for catastrophe. We have no strategic interests at stake, no military objective, no established rules of engagement, no effective command structure, no definition of or timetable to achieve success, and no consensus for support in Congress or within the American people. That is a recipe for disaster.

As the father of two young sons, and an elected Representative of the American people sworn to uphold the Constitution, I simply cannot allow our brave military personnel to be treated as pawns in some diplomatic chess game. Where the safety and security of our troops is concerned, there can be no compromise. American national interests must take precedence over multilateralism and the grand vision of the United Nations.

I thank the Chair. I thank Senator THURMOND.

The PRESIDING OFFICER. The Senator from Oregon has 4 minutes.

THE SCHOOL-TO-WORK PROGRAM

Mr. HATFIELD. Mr. President, I claim for myself the remaining period allocated to Senator KENNEDY.

Mr. President, the United States is the only industrialized nation that lacks a comprehensive system to help its youth acquire the ability, knowledge, skills, and the information about labor market necessary to make an effective transition from school to work.

That being the case, let me cite just a few statistics that are increasingly alarming.

Only 15 percent of all the young people in our country will graduate with a 4-year degree within 6 of years, entering college; 15 percent is all.

The second statistic is that today in America 50 percent of the adult population in their late twenties have not yet found a steady job. This demonstrates how uncertain our whole education-job training-related activity is today in our country.

I want to commend the Secretary of Education, Mr. Reilly, and the Secretary of Labor, Mr. Reich, for coming together as two major leaders in this administration to draft up and to work out the School-to-Work Opportunities Act which we will be taking up later today as a conference report from the House.

Mr. President, I am proud to be the chief Republican original cosponsor of this legislation and assist in its development. I want to indicate that coming from the State of Oregon, I am proud to say that our State has had a long history of activity with this problem or malady within our society in trying to prepare our young people with the skills necessary to maintain a job.

One particular school in Portland, OR, Roosevelt High School, has a program called the Roosevelt Renaissance 2000 Project. This is made up of three particular components.

To focus in upon our students in that high school, there is an academic high school approach to teaching and training for school-to-work opportunities.

The second component beyond the academics is a hands-on involvement with local businesses in those areas of that community that corroborate with this school to help young students make the connection between education and the labor market.

And the third component is an evaluation of those experiences and those particular skills for which these students have learned. Proficiency in academics and the hands-on experience helps them understand their abilities to move into particular types of employment.

This is not the panacea, but this is one of those experimental demonstration projects that I think contribute to our State as a whole in trying to fill the void in our American educational and job training system.

So I am proud to be a cosponsor of this, and I urge my colleagues to join in an overwhelming vote on the conference report later today.

I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. Under a previous order, the Senator from South Carolina [Mr. THURMOND] is recognized for 10 minutes.

Mr. THURMOND. I thank the Chair.

(The remarks of Mr. THURMOND pertaining to the introduction of S. 2037 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont [Mr. JEFFORDS] is recognized.

H.R. 2884, SCHOOL-TO-WORK OPPORTUNITIES ACT OF 1994 CONFERENCE REPORT

Mr. JEFFORDS. Mr. President, the figures are well known. They come as no surprise. Half of American high school students never go to college. A mere one-quarter of our youngsters obtain postsecondary degrees.

However, unlike most other industrialized nations, we don't have a comprehensive system to prepare this majority of our young Americans to move from high school into the high-skilled, well-paid jobs that hold the best hope for our collective future. The sporadic and individualized efforts that are made at this simply are not enough. The result is that high school dropouts and even high school graduates tend to drift from one entry-level and minimum-wage job to the next, until, several years after graduation, they begin to acquire the training needed to qualify them for a trade or vocation.

In Germany, Japan, and most other industrialized countries, students begin to learn in high school those skills they will need to be successful in the job market. They compete to qualify for prestigious apprenticeship programs. They study, both on the job and in school settings, the theories, skills and other knowledge necessary to advance in their fields.

Mr. President, the simple truth is that the countries which are our major competitors for export markets and jobs are well ahead of us in this area. Their systems for moving the non-university-bound students from school to productive work are far better organized, and function without the years of unproductive drift that so many American youngsters experience.

The School-to-Work Opportunities Act is a bold stroke designed to spur development of such systems throughout the United States. This act would establish a national framework for local partnerships to develop school-to-work programs and make them available to all students. Such programs would combine classroom learning with real-world work experience. They would train students in general job-readiness skills as well as industry-specific occupational skills.

The benefit to young people is clear. In our ever shrinking world, the need to prepare our future generations to compete and win in the global marketplace is imperative for our continued prominence in world markets. To do so, we must develop and utilize the talents of all our young people far more effectively than we have. For the same reasons, the benefits to American business are no less obvious. Only if they continue to have best skilled and most capable workers in the world will their corporate futures be secure.

The School-To-Work Opportunities Act would help high schools and community colleges create programs in cooperation with business, to develop the academic skills and attitudes toward work that many of our youngsters lack today. Through a set of grants and waivers of certain Federal program requirements, the act would establish a national framework for the development of school-to-work systems to help youth in all States make the transition from school to the workplace. States and community partnerships will use Federal funds as venture capital to spark the formation of school-to-work programs, dedicated to linking the worlds of school and work. Secondary and post-secondary education institutions, private and public employers, labor organizations, government, community groups, parents and students will work together on designing, developing and implementing the programs.

The act would afford States and localities substantial discretion in establishing and implementing comprehensive, statewide school-to-work systems. Business partners would have a significant input in crafting and directing these efforts to better reflect their work force needs and future trends.

My State of Vermont has been in the forefront of the the existing American efforts in this regard. In our efforts to shape this bill and promote its ideals, the Secretaries of Labor and Education travelled to Vermont and met with out leaders in the field. They examined some of our innovative programs and the students currently benefiting from this approach to school-to-work transition. There are any number of excellent programs in Vermont. For the sake of brevity, I will mention just two.

The Stafford Technical Center in Rutland, VT is named for former Senator Robert T. Stafford who worked tirelessly on education issues during his years in Congress. The center's school-to-work vehicle is the Herlihy Student Apprentice Program. The Herlihy Program helps students overcome the hurdle of no experience by opening the door to the world of work. Students profit by the: Combination of academics at Stafford Tech with the apprentice experience in the work world; direction of academic courses toward apprentice work so that learning is applied and has meaning; and maturation and development of a competent self-image and positive work ethic.

Supervised learning is provided in a number of area businesses in several clusters, including manufacturing, retailing, banking, medical support services and small business. Academics are focused on application. Students experience the connection between learning at school and applying their knowledge in the workplace. Academic components include technical communications, mathematics, applied science and employment skills. The Herlihy Program offers students an in-depth knowledge of how the business world functions and the opportunity to gain the necessary skills. Most important, the students find out what kind of work they like to do and how they can succeed.

The Essex Technical Center in Essex Junction, VT, is another fine school-to-work program. The Cooperative Education Program there is based on the premise that carefully coordinated, actual work experience in a chosen occupational field offers the student a valuable experience that cannot be duplicated in the classroom. Co-op placement allows the student to experience first hand the on-the-job realities of employee responsibilities, employer expectations, financial considerations, job satisfaction and the social role he or she plays in the work setting. I ask unanimous consent that a further detailed statement of this program's goals, objectives and other particulars be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See Exhibit 1.)

Mr. JEFFORDS. The School-to-Work Opportunities Act has strong bipartisan support. It will encourage States and communities to build meaningful connections between the worlds of school and work. Just as schools need to change to meet the demands of businesses that are competing in a global economy, our business culture also needs to change to create incentives for students to stay in school and make smooth and productive transitions from school to work. The future of our youth and of our businesses, and ultimately our standard of living, depends on developing and utilizing the talents of our noncollege-bound young people far more effectively than we have.

Twenty-three national groups have endorsed this legislation, including major business groups—the Business Roundtable, the U.S. Chamber of Commerce, the National Association of Manufacturers and the National Alliance of Business—the AFL–CIO, the U.S. Conference of Mayors, the National Education Association, the American Federation of Teachers, and the National Governors' Association.

In addition, the business community not only actively supports the legislation, many national firms are committing to participate in its programs, including BellSouth, Ford, Kodak and McDonald's. Countless smaller business also are prepared to join in on this effort.

Mr. President, like many of the legislative items that pass through this body, this one is not perfect. But with the benefit of extensive bipartsan input, as well as the cooperation of labor, business, education, and community leaders, its merits certainly far outweigh any shortcomings that remain. I am a cosponsor of this legislation, and I support it heartily. The House of Representatives passed it yesterday with over 300 votes. We should do so well, so that it can be sent on its way to the President for swift enactment.

EXHIBIT 1

ESSEX TECHNICAL CENTER—COOPERATIVE EDUCATION PROGRAM

1. DESCRIPTION OF PROGRAM

Cooperative Education is based on the premise that carefully coordinated, actual work experience in a chosen occupational field offers the student a valuable experience that cannot be duplicated in the classroom. Co-op placement allows the student to experience first hand the on-the-job realities of employee responsibilities, employer expectations, financial considerations, job satisfaction, and the social role he or she plays in the work setting.

Co-op involves combining actual work experience in a specific occupation with related instruction and training in school. This integration effectively facilitates the transition from school to the working world by enhancing a student's employability and increasing the practical value of his/her educational experience.

Increasingly, co-op takes on a whole new meaning due to the highly technical and rapidly changing labor market demands. By working together with community resources, a relationship that is beneficial to employer, school, student, and community results.

2. GOALS AND OBJECTIVES

Goals

To give theoretical knowledge meaning through practical application.

To develop positive work-related habits and attitudes;

To provide a laboratory for developing marketable skills in a chosen occupational area;

To convey an understanding of employment opportunities and responsibilities;

To bring schools and employers together in training efforts;

To provide social and technical information which can be used to evaluate and revise instructional programs;

To enable schools to be aware of changes in the labor market; and

To provide an effective means for helping young people become productive community members.

Objectives

Through a Career Work Experience the students will have the opportunity to explore occupational options in a career field. Each exploration will be two weeks in duration.

Through a program of alternating planned instruction and work experience in an occupational field, lasting anywhere from a couple of weeks to a full school year, students will have the opportunity to apply theoretical knowledge in an employment setting, to develop positive work-related habits and attitudes, to develop abilities to work cooperatively as a team member, to build self-esteem and confidence through careful preparation and close supervision, and to have an opportunity to work in a location which may lead to employment.

3. HOW HAS THE PROGRAM ACHIEVED THE STATED GOALS AND OBJECTIVES?

Through a series of seminars in each of the technical programs students are exposed to workplace readiness skills. Students are instructed in and assessed on the skills necessary for employment and retention. These include skills identified for acquiring employment and workplace traits necessary for performing successfully in the workplace. Students have the opportunity to use these skills in an actual work site through a career work exploration or a career work experience.

Work sites are selected on the basis of the student's career goals and related educational needs. The sites are developed through the cooperation of employers, technical instructors and the cooperative education coordinator. The student is the center of activity with all participants working cooperatively to provide the best and most effective experience for the student.

The following is a summary of the numbers of students who have participated in the program during the 1992–93 school year:

132 students have participated in the short term Career Work Experience.

53 students have participated in the Cooperative Vocational Education.

Two students have received their entire program through an external field experience. These were in the fields of Veterinary Medicine and Pharmacology.

4. IMPACT ON STUDENT LEARNING AND ACHIEVEMENT

Through the co-op programs students are given the opportunity to try on the skills they have learned in their technical program. Sometimes students do not always see the importance of learning particular skills or attitudes. Through this program students have discovered the reality of going to work and interacting with skilled individuals.

Following these career experiences many students realize the need to further their education through post secondary education or on-the-job training. Some students remain in school longer than they otherwise might have a result of these opportunities.

Programs such as the cooperative education program recognizes that all students do not learn in traditional ways. This program provides an alternative avenue of learning for some students while supplementing traditional education for others.

Mr. JEFFORDS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair will note that morning business, under a previous order, concludes at 10:30.

Mr. HATCH. Mr. President, I ask unanimous consent that my remarks be considered as in morning business, even if that time expires.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOUSE OF REPRESENTATIVE'S PASSAGE OF THE RACIAL JUSTICE ACT

Mr. HATCH. Mr. President, yesterday, the other body voted, in effect, to repeal the death penalty in Utah and every other State which has a constitutional death penalty. It has voted to gut the existing Federal death penalty and every new Federal death penalty in the crime bill. While the House was doing this, there was not a word of protest from President Clinton—not one. Even though he has indicated in the past that he is against that provision.

The other body's crime bill contains a misleadingly labeled "Racial Discriminatory Capital Sentencing" provision, commonly referred to as the so-called Racial Justice Act. It is really a provision intended to end the use of the death penalty unless it is imposed on a racial quota basis.

The effort to delete this provision from the House crime bill was defeated 217 to 212, with 5 delegates voting in support of the Racial Justice Act. Members from the other side of the aisle accounted for 211 of the 217 members who voted for the Racial Justice Act.

The Senate has overwhelmingly shared my opposition to these kinds of provisions every time it has considered the proposal. The so-called Racial Justice Act was stricken from the last Congress' crime bill, in 1991, by a vote of 55 to 41. It was rejected in 1990 by a vote of 58 to 38. A similar amendment was soundly defeated by the full Senate in 1988 by a vote of 52 to 35.

Stated simply, the Racial Justice Act and its progeny have a history of failure because the Senate has seen it for what it is: for all intents and purposes, it is an effort to repeal every death penalty in the country. The National District Attorneys Association, the National Association of Attorneys General, law enforcement groups, and victims groups are all opposed to the measure, and yet the House enacts it.

Congressional opponents of the death penalty know they are unable to defeat capital punishment head on. Instead, they offer catchy sounding provisions that have the effect of repealing the death penalty.

I believe it is time to put an end to this sort of political gamesmanship. President Clinton claims to support the death penalty. He has been calling on Congress to pass a crime bill that contains the Federal death penalty. He has said that he is tough on crime. Where was his leadership against this provision which as a practical matter will end all capital punishment in this country? President Clinton and the Department of Justice sat silent while the House considered this proposal. Had they not been silent, it would have been defeated.

If President Clinton truly supports the death penalty, if he truly wants a Federal death penalty provision in the crime bill, then he should speak out against the so-called Racial Justice Act. If he remains silent on this issue, I can only conclude that he supports the measure, that he is prepared to sign a bill that contains it, and that he is prepared to repeal the death penalty in every State in this country and in the Federal Government.

The question Americans should be asking is, "Does President Clinton support or oppose the Racial Justice Act?" The future of the death penalty as punishment for the most heinous of crimes depends on his answer.

To make the imposition of the death penalty on a quota basis rather than on the basis of the heinousness of the crime, the severity of the crime, the rottenness of the crime, the brutal cold-blooded murder of certain people is really a step in the wrong direction from trying to do things that are adequate against crime.

TRAGEDY IN GORAZDE

Mr. HATCH. Mr. President, I wish to address the situation in Bosnia and Herzegovina—a situation that currently threatens to result in a humiliation for the United States at the hands of a third-rate power. If we fail to change course, it will be an indictment of our judgment as a world power and of our moral character as the leader of the democratic world.

Gorazde is a glimpse of the future under the administration's policy. Today, 65,000 defenseless Bosnian civilians in Gorazde are at the mercy of Serbian forces who have proven to be world-class genocidal executioners. A more abject failure of policy could not be scripted.

It will get worse. The number of defenseless civilians in Gorazde is higher than the population Ogden or Orem, UT. I predict that we will see hundreds or thousands of Bosnians who fought to defend their land and their families summarily executed or shipped off to camps in Serbia. This happened at Vukovar in Croatia, and there is no reason to believe the Serbs at Gorazde will be any less brutal.

What the President proposed the other day is totally inadequate. He himself admitted in his press conference that additional airstrikes alone cannot stop further Serbian aggression or silence Serbian guns.

The Serbs know what they want—that is, to conquer Bosnia. The Clinton administration has no idea of what it wants to do or how to do it. It has hesitated, vacillated, and equivocated. As a result, the United States and the world community have been outfoxed and outwitted at every turn.

You cannot stop deadly projectiles from Serbian guns with words. The Serbs have exposed their aggressive intent, have responded to negotiations in a duplicitous manner, and even infuriated its biggest supporter—Russia—with its total disregard for diplomacy and economic pressure. We have been bogged down in conferences for 2 years. It is time to take care of business.

What needs to be done is simple: remove the U.N. peacekeepers, lift the arms embargo against the Croatian-Bosnian confederation, arm and train the confederation forces to counter the Serbs, and conduct air strikes against strategic Serbian targets, such as their supply lines, fuel and arms depots, and command and control centers.

The moment is right. The world is outraged. Europe's policy of appeasing Serbia has been discredited. Russian leaders have denounced the Serbs. If the United States leads, if we insist in the U.N. Security Council that the arms embargo must be lifted, the Europeans and the Russians will follow our lead.

Mr. President, Europe cannot solve Bosnia without United States military support. I call on the administration to put on the table today a Security Council resolution to repeal the arms embargo against Croatia and Bosnia. I do not want Americans involved in the matter other than to help the Bosnians and Croatians to arm themselves and to protect themselves.

Moreover, if the Security Council balks, the United States must act unilaterally. No Security Council resolution—including the one imposing the arms embargo—can override the inherent right of the Croatian-Bosnian conferation to individual and collective self-defense that is embodied in article 51 of the U.N. Charter. Just as the Congress may not pass a law that overrides the Constitution, the Security Council may not pass a resolution that negates a fundamental principle of international law.

When speaking about lifting the embargo, President Clinton has reiterated that "this is what I've wanted all along." In the past, he has said that the objections of the international community prevented such action. But in light of the utter failure of U.N. policy, we can overcome those objections if we play hard ball.

Even the Russians are fed up with the Serbian aggression. Vitaly Churkin, the Russian trouble shooter in Bosnia, said that he heard more broken promises from the Serbs in the past 2 days than in his entire life. In the New York Times, he was quoted as saying, "It's about time for Russia to stop all negotiations with the Bosnian Serbs. The time for talking is over."

If President Clinton means what he says about lifting the arms embargo, he must step up to the mark. The moment is right, but it might be fleeting.

We must lift the embargo for moral reasons. Speaking on Gorazde yesterday, Bosnian Prime Minister Silajdzic asked, "Why have these people had to die in such a humiliating way? What have the people of Bosnia and Herzegovina done to the world to deserve this treatment from the world?"

The world disarmed the Bosnians. It did not permit them to defend themselves, despite the vast amounts of arms inherited by the Serbian side.

Bosnian moslems were not given the right to defend themselves. Those who denounce any United States involvement in the Bosnian conflict overlook one fact: We have been intervening—through the arms embargo—but we have been intervening on behalf of the wrong side.

I am exasperated with those who have argued that we should not take sides in this conflict. A policy of neutrality makes no sense when one side—Serbia—is overwhelmingly responsible for the war, for the atrocities, for frustrating every effort to negotiate peace. There is no doubt about their culpability—no gray area.

Why are we afraid of taking sides? Why are we afraid to stand up for justice? Why are we unwilling to stand up for human rights and international law? Why are we tacitly helping the Serbians by keeping the Croatians and Bosnians unarmed?

Nothing short of removing the arms embargo will work. U.N. General Rose stated yesterday, "Further air strikes alone will not deter the Serbs." Economic sanctions have crippled Serbia's economy. International condemnation has isolated Serbia. The no-fly zone has shut down the Serbian air force. U.N. forces have taken into custody some Serbian weapons around Sarajevo. Limited air strikes have destroyed a Serbian command post outside Gorazde.

Yet, none of the administration's or the United Nations actions to date have worked. They are nothing more than tokenism, as long as the balance of power on the ground overwhelmingly favors the Serbs.

Our new policy should have three points of reference. First, we must become the partner of the new Croatian-Bosnian confederation in this regional conflict. President Clinton deserves great praise for facilitating the diplomacy that resulted in this confederation, which is the sine qua non of containment against Serbia. I attended the Bosnian-Croatian confederation signing ceremony, and I give the President credit.

However, we must take the next step. We should make the confederation our partner. The Croatians and Bosnians are willing to supply the manpower; we should be willing to supply the arms. They have approximately three times the military manpower of the Serbs. They can win this war on the ground if we give them the tools to finish the job.

We do not have to carry the burden of ground combat or to deploy forces indefinitely as peacekeepers in a dangerous environment. Yet we can achieve our goals if we work as partners with the Croatians and Bosnians.

I call on the administration to send air defense weapons, antiarmor missiles such as the TOW, observation and medium-lift helicopters, radar-guided heavy artillery, and other weapons to the confederation. In coming days, I will come forward with specific recommendations on what we need to send to enable the Croatians and Bosnians to fight and win. They can and are eager to handle their own ground war.

Second, lifting the embargo should be coupled with a NATO air campaign against Serbian strategic targets, such as bridges, fuel and ammunition dumps, and other facilities. So far, the Serbs have had a free ride. It's time they pay a price for their aggression, as long as that's coupled with the enhancement of the military capabilities of the Croatian-Bosnian confederation.

Our air strikes last week were nothing more than pinpricks. There is no reason to believe that the President's new air strike policy will involve a decisive change. It is pointless to target the Pfcs and corporals who man Serbia's guns if we do not also target the generals who give them their orders and the infrastructure that keeps Serbia's forces in the field.

Third, do not even consider sending more peacekeepers. Even if a temporary cease-fire is reached in coming days, we should not bet the life of any American soldier on the trustworthiness of Serbian leaders.

The Serbs have broken dozens of such agreements. Which one of us here believes that if they come forward with another peace proposal, they will comply? Why should we believe that the next promise will be more meaningful than all the rest? Why should we gamble with American lives when the Serbs have proven again and again that they are interested not in peace but in conquest? Why should we risk American troops when Croatians and Bosnians are more than willing to fight for their homeland?

There is no need to send Americans as peacekeepers or combatants. The model for our policy should be United States support to the Afghan freedom fighters. By arming the Afghans, we not only forced the Soviets to withdraw but also helped bring down the Soviet Empire. And the Soviets were a far more formidable foe than the Serbs.

Those who argue that we have no interests at stake in Bosnia are wrong. The war involves open—and so far unchallenged—aggression in Europe. It involves ethnic cleansing and other war crimes on an enormous scale. It has the potential for spreading into other parts of the Balkans.

Successful Serbian aggression in Bosnia will create a blueprint for similar aggression in the former Soviet Union. If we do not think that Zhirinovsky—who has visited and praised the Serbs—is taking notes on how to roll the West, we are simply fooling ourselves. If we don't think that Saddam Hussein, Kim Il-sung, and other international thugs are watching and learning from the Serbs, our capacity for self-deception would appear to have no limits.

Mr. President, I wish to read an excerpt from the text of a telegram to the President on April 16, 1994, from members of the executive committee of the Action Council for Peace in the Balkans. It is signed by Mort Arbamowitz, Zbigniew Brzezinski, Frank Carlucci, Hodding Carter, Max Kampelman, and Jeane Kirkpatrick. This bipartisan group of former senior policy makers understands exactly what is at stake. They wrote:

> As Gorazde is about to fall, we strongly protest this posture of moral and political abdication. It dishonors America and it damages our national interests globally. It undermines international order and repudiates the rule of law. This policy can only weaken the vital security links between American and Europe. The attack on Gorazde—a part of Serbia's 2 year aggression against Bosnia—is also an attack on collective security."

Mr. President, I ask unanimous consent that the complete text of this telegram be printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

[Telegram]

ACTION COUNCIL FOR PEACE
IN THE BALKANS,
Washington, DC, April 16, 1994.

DEAR MR. PRESIDENT: Fifty years ago, the world watched while innocents were being slaughtered. Only a week ago, Vice President Gore condemned in the strongest terms the moral culpability of those who were then indifferent in the face of evil. Yesterday, in a fundamental shift in U.S. policy, you declared this country's neutrality in the face of a new slaughter in the very heart of Europe. In so doing, you have given a green light for Serbian aggression and war crimes to prevail and for genocide to continue.

As Gorazde is about to fall, we strongly protest this posture of moral and political abdication. It dishonors America and it damages our national interests globally. It undermines international order and repudiates the rule of law. This policy can only weaken the vital security links between America and Europe. The attack on Gorazde—a part of Serbia's two-year aggression against Bosnia—is also an attack on collective security.

It is not too late to retrieve the moral standing and to reassert the political leadership of the U.S. That is your historical responsibility and you must not evade it. Accordingly, we urge you:

To issue a categorical warning to the Bosnian Serbs that they will be subject to NATO air action unless the attacks on Gorazde and other besieged Bosnian areas are halted and Serbian forces withdraw forthwith; as we have already seen, extremely limited strikes have extremely limited effects; and

To announce that the existing embargo on arms supplies for Bosnia is null and void due to the UN's failure to protect the Bosnian state and its citizens against aggression. Victims have the inalienable right to self-defense, and Bosnia must be allowed to exercise this right as guaranteed under the UN Charter.

Mr. President, you have the means and the authority to act decisively. Fundamental human values and core American interests are at stake. The time has come to lift the death sentence on Bosnia.

Sincerely,

MORT ABRAMOWITZ
ZBIGNIEW BRZEZINSKI
FRANK CARLUCCI
HODDING CARTER
MAX KAMPELMAN
JEANE KIRKPATRICK
Executive Committee.

Mr. HATCH. If my arguments on Bosnia sound familiar, it is because we have been in this position before. And, we should have learned, Mr. President, that unless we act, thousands of people are going to die needlessly in Bosnia. We have the power to do something about it. With that power comes the moral responsibility to act. We can vindicate justice without risking the lives of American ground troops if we lift the arms embargo to allow the victims of aggression to defend themselves.

I yield back whatever time I have.

CELEBRATING ARIZONA STATE UNIVERSITY WEST'S 10TH ANNIVERSARY

Mr. DECONCINI. Mr. President, today marks the 10th anniversary of Arizona State University West, an institution brought to life by an extraordinary group of Arizonans determined to bring higher education to their community. Although their story has been well chronicled by others, I think it's appropriate to repeat it here today. It is an important example of what a group of individuals can accomplish on behalf of an entire community if they focus their talent and determination on a vision for the future.

Over 20 ago Barbara Ridge, a young mother of four, was attending classes at Glendale Community College, Arizona and nearing the end of her educational options. Having completed nearly every lower division course required on route to a bachelor's degree, she had collided with several almost insurmountable obstacles: a long commute from Glendale to Arizona State University in Tempe where she would have to complete her studies; and a shortage of night courses at the Tempe campus. But instead of simply accepting the fact that upper-division and graduate level courses were practically inaccessible to many nontraditional students like herself on the Westside of Maricopa County, Barbara decided to do something about it.

Together with her husband Sterling and former Arizona State Senator Anne Lindeman, she formed the Westside Citizens Committee for Higher Education. Comprised of local political and business leaders, community activists, educators, and others committed to the effort, members of the committee embarked on a crusade to create an upper-division campus on the Westside.

Census figures available at the time showed the campus was desperately needed. In 1972, the year the committee was formed, approximately 700,000 citizens were living in northern and western metropolitan Maricopa County, making it the most populous region in the United States not served by an upper-division university campus. Along with the significant geographic barriers they faced, many of the potential students in the region held full-time jobs and were raising young families.

Despite the clear need for a Westside campus, the committee's earliest efforts fell on deaf ears at the Arizona Legislature. Yet the group was not deterred. Over the next decade Ridge and other members of the committee organized petition drives, letter writing campaigns and met frequently with officials in the State government and university system. Sterling Ridge, who had previously served as a city councilman and mayor of Glendale, even won a seat in the Arizona House of Representatives to give the idea an extra push.

Finally in 1984, after 12 years of intense lobbying and arm-twisting, the committee prevailed. On April 18, 1984, former Arizona Governor Bruce Babbitt signed into law a bill authored by then-Representative Ridge which directed the Arizona board of regents to "maintain an Arizona State University Campus in western Maricopa County designated as Arizona State University West."

Today, 22 years after the grassroots movement for a Westside campus began, ASU West is providing junior, senior, and graduate level classes in 30 degree programs to nearly 5,000 individuals in western Maricopa County seeking career advancement, career transition, or personal and professional growth. Graduates from ASU West have ranged in age from the traditional community college transfers in their early 20's to 78-year-old Sun City resident Patrick Morrison, who graduated in May 1993 with an accounting degree.

And important, along with its outstanding academic programs and faculty, ASU West offers the surrounding community an abundance of cultural opportunities, assistance in economic development, and social enrichment.

Reflecting on the long and difficult struggle to bring the campus to fruition, Barbara Ridge recently summed up ASU West's important role in the surrounding community. "ASU West, because of its grassroots origin, its location, and the times in which we live, is as much of the community as it is for the community."

Mr. President, I believe the 10th anniversary of this remarkable institution should be utilized both to celebrate its tremendously positive impact on the Westside, and the vision of those individuals who made certain through hard work and determination that their dream would become a reality.

TRIBUTE TO PROF. GOBERDHAN BHAGAT

Mr. COCHRAN. Mr. President, I rise today to congratulate Dr. Goberdhan Bhagat on the occasion of his retirement as professor of political science at the University of Mississippi.

A native of India, Professor Bhagat received the bachelor of arts degree from Tej Narian Jubilee College, and the master of arts degree from Patna University. He distinguished himself as an adviser to the Indian delegation to the United Nations in the early 1960's during which time he earned another master of arts degree and the doctor of philosophy degree from Yale University. He joined the faculty of the University of Mississippi in 1964.

During his 30 years of dedicated service, Dr. Bhagat taught thousands of students and brought a special international perspective to his academic department and to the university. His enduring influence might be described in the words of Rabindranath Tagore, that great poet of India, who wrote on visiting Yale University that—

> Years mature into fruit
> So that some small seeds of moments
> May outlive them.

His colleagues and students will long remember their moments with Goberdhan Bhagat, and the seeds of those moments will endure.

THE 10TH ANNUAL TUFTONIA WEEK CELEBRATION IN HONOR OF TUFTS UNIVERSITY

Mr. KENNEDY. Mr. President, it is a privilege to take this occasion to commend Tufts University, in Massachusetts, which is celebrating its 10th annual Tuftonia's Day holiday today. It is a time when the 75,000 Tufts alumni join together to remember and celebrate their distinguished university. My daughter is a graduate of Tufts, and I am proud to count myself as part of the Tufts family.

Founded in 1852, Tufts now has over 8,000 students from 49 States and 95 foreign countries. The main campus in Medford/Somerville houses the College of Liberal Arts, the Graduate School, the College of Engineering, Jackson College, the Boston School of Occupational Therapy, the College of Special Studies, the School of Nutrition, and the Fletcher School of Law and Diplomacy. The Boston campus is home to the School of Medicine and Dentistry. Grafton, MA, is the site of the only School of Veterinary Medicine in New England.

Earlier this month, as part of the Tuftonia's Week celebration, a men's singing group from Tufts, the Beelzebubs, traveled from Boston to Washington on Amtrak, entertaining crowds at trackside performances in nine different cities. They sang here at Union Station on April 10, and their trip was a sign of the loyalty and creativity of the people of Tufts.

Tufts University is renowned for excellence in many fields, and I welcome this opportunity to commend its president, Dr. John DiBiaggio, and all the others in the Tufts family, who have done so much to gain this well-deserved reputation.

NATIONAL CHILD ABUSE PREVENTION MONTH

Mr. HATCH. Mr. President, in recognition of April as National Child Abuse Prevention Month, I rise to voice my support for the efforts being made by millions of Americans to defend children against the destructive effects of abuse.

Whether the abuse is physical or emotional, the consequences of it on the lives of young people are well documented. Since 1976, the number of reported child victims of abuse has increased from 670,000 to close to 2.7 million in 1991. Estimates indicate that in 1991, four children per day, or a total of nearly 1,400 children, died as a result of abuse or neglect. One reason for this increase may be that more cases are being reported than before, but we also know that there are thousands of other children, especially in situations of sexual abuse, whose problems go unreported and in some cases unnoticed.

Other consequences of early childhood abuse and neglect include: poor educational performance, health problems, and generally low levels of achievement.

We are all aware of the "cycle of violence" in which an abused child often gets trapped. A child caught in this vicious cycle has a much greater chance of committing violent crimes and abusing his or her own children as an adult. A study sponsored by the National Institute of Justice found that being abused or neglected as a child increased the likelihood of arrest as a juvenile by 53 percent, as an adult by 38 percent, and for a violent crime by 38 percent.

In this time when the American people are more aware and more fearful than ever of becoming a victim of violent crime, one way of ensuring that many would-be criminals don't commit their first crime would be by continuing to support the efforts being made to help these innocent victims before they are damaged to the point where they can no longer be recovered. With our assistance, many of the potentially great children of America can be rescued from a future of crime, violence, and despair and given the chance to reach their full potential.

Many Americans have already jumped to the defense of children. Next month, Childhelp USA, a children's advocacy organization, will be honoring over 100 businesses, both small and large, which have donated time, facilities, and financial resources for programs within their communities that inure to the benefit of children. I wish to join in commending these exemplary private sector initiatives.

I urge other businesses and local organizations to consider ways of addressing the unmet needs of children in their communities. While I firmly support Federal efforts such as Head Start, child abuse prevention, school lunch, and other programs focused on children, it is important to realize that the Federal Government cannot successfully identify or resolve every local problem. We must have the active participation of citizens everywhere in order to guarantee that America's future—its children—is protected and nurtured.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, as of the close of business on Wednesday, April 20, the Federal debt stood at $4,569,088,240,246.36. On a per capita basis, Mr. President, this means that every man, woman, and child in America owes $17,525.49 as his or her share of that debt.

TRIBUTE TO ROBERT F. HALE

Mr. SASSER. Mr. President, I rise today to recognize Robert F. Hale, who, after 17 years of commendable service at the Congressional Budget Office, has recently been nominated and confirmed by the Senate for the position of Assistant Secretary of the Air Force for Financial Management and Comptroller.

Mr. Hale began his time at the Congressional Budget Office as the principal analyst for military manpower issues. Mr. Hale received two promotions while at CBO—first to Deputy Assistant Director for National Security Affairs and then to the position he is vacating, Assistant Director for National Security Affairs.

It is at this last position that I have had the greatest opportunity to familiarize myself with Mr. Hale's work. As chairman of the Senate Budget Committee, I must continually balance competing domestic and military priorities in an environment of increasingly constrained resources. The studies and analyses produced by Bob Hale and his talented staff at CBO's National Security Division have been invaluable in the committee's deliberations the last several years.

The members of the Budget Committee have come to expect timely, independent, and well thought out reports on crucial issues of the day from Mr. Hale's Division. And, in my 5½ years as chairman, they have been rarely disappointed. In fact, if I have a single complaint about the National Security Division's work product over this time period, it is that it has been too independent.

The loss of Bob Hale at the Congressional Budget Office is tempered somewhat by the knowledge that his dedication and knowledge will serve the American public and the Air Force in his new position. Mr. Hale is a true public servant in the best senses of that term and the public will be well served wherever Mr. Hale is employed. I wish him well in his new position and look forward to working with him in the days and months ahead.

S. 2029—DIESEL FUEL TAX REQUIREMENTS

Mr. GORTON. Mr. President, I am pleased to join my distinguished colleague from Louisiana, Senator BREAUX, by cosponsoring S. 2029, a bill to correct a terrible problem caused by the implementation of the diesel fuel tax requirements of last year's tax bill.

Let me make clear from the outset, Mr. President, that I did not support this diesel fuel tax increase. I felt that it would cause economic harm to the boating community in the State of Washington, and, coupled with the other huge tax increases contained in the bill, would hurt our economy. That is why I voted against the budget bill.

However, the diesel fuel tax increase has been signed into law, and I must now turn my attention to the manner in which it is being implemented. Unfortunately, I have heard from the boating community in Washington State that this implementation will wreak havoc.

The problem stems from the dyeing requirements for diesel fuel contained in the Omnibus Budget Reconciliation Act of 1993. Under this new law, diesel fuel used in recreational boats is subject to a 24.4-cents-per-gallon tax, while diesel fuel used for commercial purposes is not taxed and must be dyed before it is sold.

Marinas now must stock two separate fuel systems—one for dyed fuel and one for clear fuel. Many marinas throughout the State of Washington are not equipped to stock two separate fuel systems to handle dyed and clear fuels, and cannot afford the exorbitant expense of installing a new system. In the end, the marinas will have to choose which type of fuel they will sell.

As an example of the kind of hardship this regulation has caused, the owner and operator of Port Angeles Marine has told me that his marina is not set up to dispense two types of diesel fuel, yet it is the only marine fuel facility in Port Angeles. Because he sells most of his diesel fuel to commercial users, such as ferry boats, tug boats, and fishing vessels, he has chosen to sell dyed fuel. In this instance, recreational boaters are left out in the cold, without adequate fueling facilities. Both marinas and recreational boaters lose in this situation. Marinas lose part of their customer base and recreational boaters lose their ability to purchase diesel fuel.

The executive director of the Port of Grays Harbor tells me of another example. To improve the depressed economic condition of this area, the Port of Grays Harbor is embarking on a strategy to attract greater use of their various marinas and docks by recreational boaters who are vacationing from Oregon and California. This economic initiative, however, is being undermined by the fact that recreational boaters are not able to purchase clear, taxable diesel fuel from most marinas in this area. Therefore, this community is being denied the opportunity to expand its tourism industry to recreational boaters.

The two situations which I just described are only a sampling of the problems that marinas, ports, and boaters throughout the State of Washington have been experiencing. The boating community has been telling me about the nightmare posed by these regulations and the major headaches caused by their implementation. I have heard their call and agree that this situation must be rectified.

That is why I wrote to Treasury Secretary Lloyd Bentsen earlier this month, bringing this situation to his attention, and asking how the Treasury Department will address this issue and solve the problem. And that is why I am joining with my colleague, Senator BREAUX, by cosponsoring this legislation.

This bill is simple. It would allow the sale of dyed diesel fuel to recreational boaters who pay the diesel fuel tax. It will solve the problem of inadequate fuel facilities for recreational boaters and restore some common sense to this situation.

Mr. President, this issue is extremely important to the boating community, the ports and the marinas of my home State of Washington. They've presented their case very convincingly, and this issue is important to me. I encourage my colleagues to review this legislation and join as a cosponsor. Together, we can solve this problem.

THE ANNIVERSARY OF MAX AND DONA DAVIS

Mr. REID. Mr. President, I would like to take this opportunity to recognize the wedding anniversary of my friends Max and Dona Davis of Las Vegas, NV. On May 10 Max and Dona will celebrate their golden anniversary commemorating 50 years of marriage. Their marriage, their family represents what is good about our country. Not only has their union produced four wonderful children, it has also brought about many close friends and associates.

The Davises, who were high school sweethearts in Tremonton, UT, married in 1944 shortly before Max departed to serve his country during World War II. Upon Max's return, Dona found work at Utah State University and supported the family while Max attended medical school.

Max and Dona moved to Nevada in 1967. Dr. Davis established a successful medical practice specializing in allergies. The Davises also have been heavily involved in community activities. The whole family have been exemplary members of the L.D.S. church.

The joy of Max and Dona has always been their family. Their children, Sherie, Craig, Max, and Toni have been the center of their lives. To add to their pride is the fact they also are grandparents to 15. The Davises also have a great grandchild and soon the number will be two.

Max has now retired and is enjoying his extensive gardening activities. Max has also become an expert rock-hound. His lapidary, some say, is the best they have ever seen.

Max and Dona exemplify lives of commitment and strong belief in the family, and I congratulate them during this time of celebration.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

BANKRUPTCY AMENDMENTS ACT

The PRESIDING OFFICER. Under the previous order, the hour of 10:30 having passed, the Senate will resume consideration of S. 540, which the clerk will report.

The legislative clerk read as follows:

> A bill (S. 540) to improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. HEFLIN. Parliamentary inquiry. What is the pending amendment?

The PRESIDING OFFICER. The pending business is the committee substitute for S. 540.

Mr. HEFLIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, we have been in quorum call, endeavoring to work out some agreements on some of the amendments dealing with bankruptcy. I would like to report that a good deal of progress has been made. I think we are moving forward, and in a fairly short period of time I think we will be able to reach an agreement on the major issues and hopefully on some of the minor issues that are involved in it. But progress is being made.

I just felt Senators watching on television in their offices, or their staffs in their offices, ought to receive this interim report that progress is being made. We hope we can reach an agreement and dispose of this fairly shortly.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DORGAN). Without objection, it is so ordered.

The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, the Senator from Nebraska would like to request from the managers of the bill—I believe the minority leader is on the Senate floor right now.

I would like to have about 5 minutes in order to proceed as in morning business. Would that interfere with the pending plan of the Senators managing the bill?

The PRESIDING OFFICER. Is there objection?

Mr. HEFLIN. No; we have no objection.

Mr. EXON. I ask unanimous consent that the Senator from Nebraska be allowed to proceed as in morning business for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Nebraska is recognized for 5 minutes.

CONFERENCE ACTION ON BUDGET RESOLUTION

Mr. EXON. Mr. President, I wish to address the Senate on the matter of the conference action between the House and Senate conferees on the budget resolution.

There have been some rather surprising developments in the last few hours that have been speculated on to a great extent in the press and not a lot of discussion on the floor of the U.S. Senate. I compliment the chairman of the Budget Committee, Senator SASSER, for indicating, while he did not approve of the $26 billion in additional cuts that were taken essentially by the Senator from Iowa [Mr. GRASSLEY], and this Senator from Nebraska, that he felt that was the Senate position and he thought he should try and live up to that. That is the true spirit of what conference reports are all about. I commend my friend and colleague, Senator SASSER, for that stand.

I am somewhat puzzled by some high-ranking members on the Budget Committee selling out the Senate position at the beginning of the conference yesterday. I am advised by House Members that they, too, were surprised because the House of Representatives failed by only 14 votes not to accept the additional budget cuts by the Senate Budget Committee, which held in debate on the Budget Committee and on the Senate floor. They said, at least, that the House and some of the leadership positions in the House, as I understand it, while not enthusiastic about the additional $26 billion in cuts in the budget to try and take a step of getting it under control, they were ready, willing, and able to come to some kind of a compromise.

That was pretty much shattered when the ranking minority member of the Budget Committee in conference threw in the towel and agreed to sell out the position of the U.S. Senate in the early minutes of the conference between the House and the Senate.

I will also say and hope that the conferees will take another look at this. I also hope that the White House, the agencies of the Federal Government, in particular the military, specifically the Joint Chiefs of Staff and the Chairman of the Joint Chiefs of Staff, would come off the position that they have been frightened into: That the Exon-Grassley cuts would come out of defense.

As one of the originators of that amendment to cut defense, I want to say again it was not the intention of the Senator from Nebraska, nor do I think that those cuts should come out of defense. We have made cuts in that area, and I think the record shows the Senator from Nebraska has been a strong and viable supporter of national defense.

I will simply say, Mr. President, in the rush by the White House, by the Pentagon, by some of the leaders of the Senate and some of the leaders in the House, they have been using what I think are scare tactics that are not well-founded, that if Exon and Grassley cuts are held, it would all come out of defense.

I would like to put in the RECORD, Mr. President, the basis for the cuts, as this Senator sees it. I will simply say that if you take a look at the budget that came over to us from the President, you will see that in the discretionary program area, there were some freezes and there were some reductions. There were several programs that I am prepared to put in the RECORD that basically have nothing whatsoever to do with defense that could be used without touching the defense budget.

I simply will point out that after you take the President's recommendation and take each and every program as against a freeze last year, you will see that the President froze several programs, but then, again, in addition to that, he increased the budget above the freeze by some $112 billion over a 5-year program.

All of these programs are listed on the sheet that I will subsequently request be entered into the RECORD. What I am simply saying is that there are $112 billion in increases that the President has recommended over and above, and notwithstanding touching national defense, that could be and, in my opinion, should be the source of the cuts to reduce the deficit under the Exon-Grassley amendment.

Out of these $112 billion, even if we accept all of the $26 billion, you would see the Exon-Grassley amendment still allows 75 percent of what the President wished to have for new initiatives would still be in place.

Mr. President, I ask unanimous consent that the cuts and the increases that I have just indicated that I think should be cut to try and get away from the fear tactics that are being used by the congressional leadership, in many cases by the White House and by the Pentagon, are not well-founded and do not contribute very much, in my opinion, to rational and reasonable discussion on the point in question.

I ask unanimous consent that the discretionary add-ons and outlays compared to freeze sources—the source of this is the Senate Budget Committee markup material—be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Discretionary adds (in outlays) compared to a freeze—1995–99

	Millions
FUNCTION 150—INTERNATIONAL AFFAIRS	
Foreign Aid	$1,327
Conduct of Foreign Affairs	1,143
FUNCTION 250—GENERAL SCIENCE, SPACE AND TECHNOLOGY	
NASA	482
National Science Foundation	1,124
FUNCTION 270—ENERGY	
Energy Conservation	1,469
Energy Information and Policy	69
FUNCTION 300—NATURAL RESOURCES AND ENVIRONMENT	
EPA Operations	1,557
U.S. Fish and Wildlife Service	247
NRCS Conservation Programs	284
EPA Water Infrastructure	396
FUNCTION 350—AGRICULTURE	
Farm Service Agency	4,702
Departmental Administration	956
FUNCTION 370—COMMERCE AND HOUSING CREDIT	
NIST	2,692
Bureau of Census	1,632
SEC Salaries and Expenses	1,326
SBA Business Loan Program Account	620
International Trade Administration	65
FUNCTION 400—TRANSPORTATION	
Transit Capital Grants	1,679
Federal-aid Highways	11,095
High Speed Rail	117
Amtrak	936
Coast Guard Construction	283
FUNCTION 450—COMMUNITY AND REGIONAL DEVELOPMENT	
Project-based Community Development Grants	612
Colonias Assistance Program	330
Community Development Financial Institutions Fund	379
Economic Development Loans	143
Indian Land and Water Claim Settlements	426
FUNCTION 500—EDUCATION, TRAINING, AND SOCIAL SERVICES	
Education Reform	3,881
Education for the Disadvantaged	3,970
School Improvement Program	1,148
Special Education	727
Training and Employment Services	4,800
Children and Family Services	8,044
National Service	3,032
FUNCTION 550—HEALTH SERVICES AND RESEARCH	
National Institutes of Health	6,150
Substance Abuse and Mental Health Services	1,310
Health Resources and Services Administration	896
FUNCTION 570—MEDICARE	
Medicare Administration	344
FUNCTION 600—INCOME SECURITY	
Women, Infants and Children (WIC) Program	1,722
Supplemental Security Income	1,254
State Nutrition Programs	27
Farmers Home Administration Rental Assistance	307
Homeless Housing Assistance	1,494
HOPE	166
Youthbuild	152
FUNCTION 700—VETERANS BENEFITS AND SERVICES	
Medical Care	5,684
General Operating Expenses	62
FUNCTION 750—ADMINISTRATION OF JUSTICE	
Crime Control Fund	17,516
FBI	196
Immigration and Naturalization Service	514
U.S. Attorneys	162
Legal Services Corporation	488
Judicial Branch	1,948
Federal Prison Operations	5,142
FUNCTION 800—GENERAL GOVERNMENT	
General Services Administration	2,272
IRS Administration	304
IRS Information Systems	3,016
Federal Drug Control Programs	294

Discretionary adds (in outlays) compared to a freeze—1995–99—Continued

	Millions
Total adds in budget markup materials (billions)	113.113

Source: Senate Budget Committee markup materials.

Mr. EXON. I thank the Chair, and I yield the floor.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut.

BANKRUPTCY AMENDMENTS ACT OF 1993

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1640

Mr. LIEBERMAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN] proposes an amendment numbered 1640.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

SEC. . UNITED STATES ARMS EMBARGO OF THE GOVERNMENT OF BOSNIA AND HERZEGOVINA.

(a) TERMINATION.—The President shall terminate the United States arms embargo of the Government of Bosnia and Herzegovina upon receipt from that government of a request for assistance in exercising its right of self-defense under Article 51 of the United Nations Charter.

(b) DEFINITION.—As used in this section, the term "United States arms embargo of the Government of Bosnia and Herzegovina" means the application to the Government of Bosnia and Herzegovina of—

(1) the policy adopted July 10, 1991, and published in the Federal Register of July 19, 1991 (58 Fed. Reg. 33322) under the heading "Suspension of Munitions Export Licenses to Yugoslavia"; and

(2) any similar policy being applied by the United States Government as of the date of receipt of the request described in subsection (a) pursuant to which approval is routinely denied for transfers of defense articles and defense services to the former Yugoslavia.

AMENDMENT NO. 1641 TO AMENDMENT NO. 1640

Mr. DOLE. Mr. President, I send an amendment in the second degree to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. LIEBERMAN, Mr. MACK, Mr. LUGAR, Mr. MCCAIN, Mr. LEVIN, Mr. FEINGOLD, Mr. HATCH, Mr. DORGAN, and Mr. MCCONNELL, proposes an amendment numbered 1641 to amendment number 1640.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the word "**SEC.**" and insert the following:

"UNITED STATES ARMS EMBARGO OF THE GOVERNMENT OF BOSNIA AND HERZEGOVINA.

(a) PROHIBITION.—Neither the President nor any other member of the Executive Branch of the United States Government shall interfere with the transfer of arms to the Government of Bosnia and Herzegovina.

(b) TERMINATION.—The President shall terminate the United States arms embargo of the Government of Bosnia and Herzegovina upon receipt from that government of a request for assistance in exercising its right of self-defense under Article 51 of the United Nations Charter.

(c) DEFINITION.—As used in this section, the term 'United States arms embargo of the Government of Bosnia and Herzegovina' means the application to the Government of Bosnia and Herzegovina of—

(1) the policy adopted July 10, 1991, and published in the Federal Register of July 19, 1991 (58 Fed. Reg. 33322) under the heading 'Suspension of Munitions Export Licenses to Yugoslavia'; and

(2) any similar policy being applied by the United States Government as of the date of receipt of the request described in subsection (a) pursuant to which approval is routinely denied for transfers of defense articles and defense services to the former Yugoslavia.

(d) Nothing in this section shall be interpreted as authorization for deployment of U.S. forces in the territory of Bosnia and Herzegovina for any purpose, including training, support or delivery of military equipment.

Mr. DOLE. Mr. President, there will be additional cosponsors. I want to thank my colleague from Connecticut for his continuing support. We have been working together in this and other foreign policy areas. I certainly appreciate his willingness to make this bipartisan. There are not any politics in this. The last vote we had on this, I think, was 87 to 9. The problem with the nine, I think, is that they had some fears about what might happen. So we have added one paragraph where we make it very clear:

Nothing in this section shall be interpreted as authorization of deployment of U.S. forces in the territory of Bosnia and Herzegovina for any purpose, including training, support or delivery of military equipment.

We think we have taken care of that concern.

I also ask that Senator MCCONNELL be added as an original cosponsor.

Mr. President, yesterday the President announced a new initiative to broaden the use of NATO air power to protect United States declared safe havens in Bosnia. In my view, such a move is welcome and long overdue. However, the President's initiative did not include an effort to lift the arms embargo against the Bosnians.

President Clinton said he favored lifting the arms embargo, but did not believe our allies would support such a move. Nothing will change unless America takes the lead, and that is why I am offering, with my colleagues on both sides of the aisle, legislation to lift the embargo today.

I might add, the President said he was "encouraged" by the support in Congress for lifting the embargo. I believe this will further encourage the President and strengthen his hand when he talks with the French, the British, the Russians—whoever—because Congress does have a role to play. Hopefully, this will be helpful to the President.

We have already gone on record, as I said earlier, by an almost unanimous vote, 87 to 9, in support of lifting the arms embargo—not just the U.N. embargo—but unilaterally lifting the U.S. embargo. If allies want to go along, it should be on a unilateral basis. We adopted a sense-of-the-Senate amendment after considerable debate. It seems to me that now is the time to strengthen the President's hand by letting the British, the French, and the Russians, who have objected to lifting the embargo in Bosnia, know that the U.S. Congress fully supports going it alone, if necessary, because this embargo has no legal basis and is unjust.

Administration officials have said that the United States should not act unilaterally because such action could unravel support for other U.N. embargoes, such as that against Iraq.

Mr. President, the arms embargo against Bosnia is not analogous to the embargo against Iraq.

First, this arms embargo was established against Yugoslavia, a country that no longer exists. Second, extending the arms embargo to Bosnia violates Bosnia's fundamental right to self-defense, a right that is incorporated in article 51 of the U.N. Charter.

And finally, aggression was waged against Bosnia, while Iraq was the aggressor against Kuwait. The arms embargo against Bosnia, unlike the legal embargoes against Iraq, Serbia or Libya, is illegal, in addition to being unjust.

So I introduce the amendment which goes further than my earlier amendment. It mandates termination—it is only a sense of the Senate though—of the United States arms embargo against Bosnia. The amendment simply states the President shall terminate the United States arms embargo of the Bosnia Government upon receipt from that Government of a request for assistance in exercising its right of self-defense under article 51 of the U.N. Charter. This language is taken from S. 1044, a bill I introduced—again, with the distinguished Senator from Connecticut [Mr. LIEBERMAN]—last year. And, of course, I am pleased we are working together today along with others of my colleagues.

In addition to that, the amendment prohibits the enforcement of the U.N. embargo against Bosnia. The amendment also includes a provision which I previously read so nobody has any misunderstanding. We are not talking about troops. We are not talking about somebody going there for training purposes or to get equipment into any area in Bosnia.

So I think there are certainly many of us who have grave concerns about deployment of U.S. ground forces even after, if a peace agreement is reached. I think many of us are going to have concerns because it appears to this Senator—maybe I can be convinced otherwise—what we are doing is enforcing a peace, lining up with the Serbs to enforce a peace where they get to retain the territory they have taken, 70 percent of the independent nation of Bosnia, and we are going to be in a position, in my view, of lining up with the Serbs to make certain that none of that territory slips away.

I think the best way to ensure that we are not going to commit U.S. ground forces is to lift the embargo and give them an opportunity to defend themselves.

For 2 years now, the Bosnians have been unable to defend their citizens against the destruction and slaughter that has come to be known as ethnic cleansing. So officials of the Bosnian Government have been forced to plead with the international community for the protection of their people.

Yesterday, I received a letter from the Bosnian Prime Minister Haris Silajdzic, in which he said:

> And while we would prefer to defend our own people against this brutal aggression, rather than ask for help from the United States and NATO, we do not have the means to defend ourselves due to the U.N. arms embargo on Bosnia and Herzegovina.

The Bosnian Vice President, Mr. Ejup Ganic, was in my office yesterday, and he emphasized the point when I met with him. He said the tragic situation in Gorazde may not have occurred had the Bosnians had antitank and other defensive weapons. He said, "We have the men but not the arms." And in my view it is not our place to deny the freedom-seeking Bosnians the right to self-defense.

I also asked Mr. Ganic, Is it too late? Would it make any difference at this point whether or not we lifted the arms embargo? The answer, he said, was yes. It is pretty hard to fight off a tank with a rifle, but if you had antitank weapons, you could have a pretty solid defense.

So, Mr. President, the President suggested if he could not convince the Serbs to halt their aggression and come to the negotiating table, that the allies might be persuaded to change their mind, and I hope that is the case. Why wait any longer? The war on Bosnia has gone on for 2 years now, and how much longer must the Bosnians wait to exercise their right to self-defense and how many more do we kill each day?

Yesterday, one incident happened—the Bosnian Serbs shelled an emergency room in a hospital killing 10 patients. How many more chances are we going to give Bosnian Serbs, who already occupy—I said 70 percent earlier—I think it is closer to 75 percent of Bosnia? And when is the international community going to abandon its neocolonial approach in which the world decides what is right for Bosnia and the Bosnians have no say at all?

I think it is time to try to lead our allies and persuade our allies to the right position, a position that President Clinton supports, and that is lifting the arms embargo on Bosnia. I believe a vote in favor of this amendment will strengthen the President's hand and certainly get the Senate on record. I am not certain about the House. I hope they will follow through. But in my view it is a step in the right direction.

I would be perfectly willing—I know this is not really germane to the bankruptcy bill, and I do not want to interfere with the managers, so, unless there is some objection, we hope at the appropriate time we can get a time agreement, maybe 1 hour equally divided, if anybody wants to speak in opposition, and then we would be back on the bankruptcy bill.

I also want to clarify that, unlike my previous amendment, this is not a sense-of-the-Senate resolution, and I would also like to add the distinguished Senator from New York, [Mr D'AMATO], as a cosponsor, and the Senator from Alaska, [Mr. STEVENS].

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut, [Mr. LIEBERMAN].

Mr. LIEBERMAN. Mr. President, I am proud to join with the distinguished Republican leader, the Senator from Kansas, [Mr. DOLE], in cosponsoring this amendment and thank him for his leadership.

This is truly a bipartisan expression of the opinion of Members of the Senate, I believe Members of the House, and I would guess members of the public of the United States of America about one course of action that we should and can take to try to bring an end to the slaughter and aggression in Bosnia and Herzegovina.

Mr. President, in moving to direct the administration to suspend the existing embargo of distribution or sale of weapons to Bosnia, I believe we are also acting, as the Senator from Kansas has said, to support a position that President Clinton has taken now for almost 2 years, which is to be opposed to the embargo, to strengthen his hand in negotiating with our European allies, and in our own voices to send as clear a message as we possibly can to the Bosnian Serb Army and to the Serbian leadership that we have had enough and we are going to match rhetoric with action and, more important, with weapons, effective weapons in the hands of the Bosnian Moslems.

Mr. President, in the course of the past few years, unfortunately, many of us have come to this floor to speak about the tragedy which has occurred and continues to occur in Bosnia today. Recent events in Gorazde are only the latest indicator of the inability of the world community to muster the moral courage and military might to end the slaughter of innocents which is taking place at the hands of Serbian aggressors.

Mr. President, we find today that Gorazde is, in the words of the U.N. Commander on the ground, Lt. General Rose, "on the verge of a major humanitarian catastrophe."

Artillery and mortar shells, regardless of the promises or signatures of the Serbian authorities, continue to fall on the innocent civilians of Gorazde, protecting themselves, as Senator DOLE has said, with rifles in the face of Serbian tanks. Every 20 seconds, at different points in this week, death has hurtled its way into masses of civilians whose crime is that they happen to live or have sought refuge in a city the United Nations has declared a safe haven, in which the United Nations, the world community has said, "OK, Bosnian Moslems, there are not a lot of places where you can feel safe in Bosnia but this is one." They have sought refuge in a place where the Serbian aggressors simply have not wanted them to go.

How much more of this outrage are we going to tolerate? How much more of Bosnia needs to be ethnically cleansed? How many more people need to be injured or killed because of their religion before the world stops wringing its hands and takes strong and effective action to put handcuffs on the perpetrators of this evil?

Mr. President, I know that all of us in this Chamber worry about the possibilities that action which we may take in Bosnia may not be carefully thought out and focused on ends that we seek to achieve reasonably that could lead to increased levels, if we are not careful, of violence but not progress toward resolution of the dispute. But inaction in the case of Serbian aggression has proven time and time again to be a prescription only for more suffering, death, and continued slaughter of innocents in Bosnia.

When the world community finally stood together in the ultimatum issued in Sarajevo, we have seen the Serbs back down and the killing subside. When we make threats which we do not carry out, we have seen only more death and destruction.

When we use the power that we have in an inspective and limited way, as we have around Gorazde, we see that the Serbs pay no heed to us. What will it take before we realize the value of these lessons the Serbian aggressors continue to teach us?

Mr. President, we must act now at a minimum to give the people of Bosnia the chance they have been pleading for to defend themselves, by lifting this pernicious arms embargo and delivering, in an expeditious fashion, the weapons and equipment that will allow the Bosnian Moslems to defend their homes and their families. No one wants to see this war expanded. But by refusing to give these people the means of defending themselves, the world community condemns them to either death or life—what is left of it—in a Serbian-controlled ghetto.

Mr. President, I know that there is a dispute in this Chamber on the related question of whether allied air power should be used more extensively in Bosnia and Serbia to punish the aggressors and bring them, hopefully, to the peace table. I support the wider use of allied air power. I think we should not only—as the latest United Nations actions propose—use that air power to try to protect the safe havens, but we should go beyond that and hit command posts, supply lines, and military depots of the Bosnian-Serbian Army and of Serbia, which is supplying them.

Mr. President, some of my colleagues have raised the question: "Can we say with any confidence that this kind of use of allied air power would bring the war to an end? Air power never does." I agree with them.

It takes action on the ground, not action by American soldiers sent to fight on the ground in Bosnia. No one is asking for that, not here in the United States Congress and not for the Bosnian Government. The action on the ground that can be taken, if we help them take it, is by the valiant Bosnian-Moslem soldiers who want to fight, who have fought successfully, but cannot fight with rifles against oncoming tanks.

Mr. President, these are not easy issues which face the world community. But it is clearly in all of our interests to bring this nightmare to an end. The world was set back twice in this century while aggression went unchecked in Europe, and ultimately paid a much larger price for that early inaction.

Mr. President, when the United States of America, the strongest Nation in the world, when the North Atlantic Treaty Organization, the most effective alliance in the history of the world, military alliance, when the United Nations, look impotent—and are impotent in the face of criminal actions, lawless action, bullying actions by the Serbian military which is a third- or fourth-rate army—then the security of every person in Europe, and indeed every person in the United States of America, is on the line.

Here is an action, the lifting of this embargo, that we can take together that will make this a fair fight, and will allow us to again achieve some level of the high moral ground on which the United States has functioned best over our history, and while achieving that ground also serving the strategic interests of the United States and our allies in Europe.

Mr. President, let me just briefly talk about the legal issues at work here. The embargo, as it exists now, violates the Bosnians' inherent right of self defense as codified in articles 2, 4, and 51 of the U.N. Charter. The right of self defense is a preeminent right of international law, and simply cannot be abridged by actions of the Security Council, such as the one that led to the U.S. executive branch action to impose this embargo, which we would lift by the amendment that Senator DOLE and others and I have submitted here today.

Denial of Bosnia's right to acquire weapons, to defend itself against aggression, to prevent the destruction of the state of Bosnia, to prevent genocide against Bosnian nationals, clearly violates Bosnia's international right of self defense. In abridging that right to self defense, the U.N. Security Council undertook to provide for the country's peace and international security. For 2 years, however, the Security Council has not taken measures necessary to maintain that peace and security in Bosnia. Accordingly, the U.N. Charter's provision of Bosnia's right to self defense through the acquisition of these defensive arms becomes preeminent.

In other words, the arms embargo was imposed as part of a promise by the United Nations that the United Nations would act to maintain the security of Bosnia. The world community has clearly failed to do that. The least we can do is let them defend themselves. Continued application of this arms embargo conflicts with the obligations of the U.N. member states under the United Nations Convention on Genocide. It conflicts with numerous U.N. Security Council resolutions, and U.N. General Assembly Resolution 4842.

Mr. President, in the particular case of this amendment, it seems clear to me that in accordance with international law, our country, the United States of America, may unilaterally seek to end the embargo by declaring the embargo invalid, refusing to participate in the enforcement of the embargo, and supplying arms to the Republic of Bosnia and Herzegovina.

The declaration of the arms embargo against Bosnia and Herzegovina as unlawful would not result in the invalidity of the economic and arms embargoes against such other States as Serbia and Iraq. It is not even a precedent in doing that, in my opinion. The circumstances are dramatically different. Unlike those States, Bosnia and Herzegovina is under direct military attack sponsored by a neighboring state. As much as 75 percent of Bosnia's territory is occupied by hostile forces seeking its destruction, and partition. Its population is subject to mass killings, rapes, forcible relocation, and other crimes of genocide, and Bosnia simply does not possess a sufficient supply of defensive arms to meet minimal requirements for self defense.

In other words, while the embargoes against Iraq and Serbia are intended to punish aggressor nations, this embargo against weapons for the Bosnians is punishing a victim nation, and making it impossible for the people of that nation to exercise their fundamental right to protect themselves, their families, and their homes.

Again, I thank the Senate Republican leader for his extraordinary leadership in this matter. I am confident that if the Senate stands together on a bipartisan basis to adopt this amendment, we will strengthen the desire and ability of President Clinton to lift the embargo, which has been the policy of this administration for more than a year. We will make it easier for him to convince our allies in Europe to join in lifting the embargo, and hopefully we will send a loud and clear message to the Serbian aggressors that the days of their unfettered, unlimited, unresponded-to aggression are over.

I thank the Chair. I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. Senator from Kansas.

Mr. DOLE. Mr. President, I want to thank again the Senator from Connecticut for his leadership.

I want to just put in the RECORD a letter received yesterday from the mayor of Gorazde.

Let me read the second paragraph. I think we all see these pictures and we sometimes understand. He says:

> The situation is horrifying. In one incident, a mother was separated from her child on the streets.
>
> She had to be restrained from going to the child, who was only a few feet away, in order to prevent the mother from being killed along with her child.

In any case, the child was killed.

> In the hospital, people tread through pools of blood. The situation is the same in the streets.
>
> We appeal to civilization to help us. The grenades are killing innocent, unarmed people. In the name of our citizens, we ask Boutros-Ghali, the world, and the media, to relay this request: Please use half of the planes used in Iraq [in the Gulf War] not to bomb Serbian positions but to bomb us. The citizens of Gorazde and the world will forgive you for this act, for making our deaths easier.

I suggest that is a very powerful statement, with the mayor saying, in effect: Kill us, bomb us, to make it easier.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From HAM Radio Reports, Apr. 20, 1994]

GORAZDE

(Statements by Gorazde Mayor Ismet Briga)

1. An appeal from the citizens of the safe area of Gorazde sent by the Major:

We appeal to the United Nations and Boutros-Ghali to stop the Serbian shelling and the agony of our city. The situation is dire. We cannot comprehend how the West does not understand what is happening, although, at first, we, too, did not understand. We thought we were on the eve of the 21st century, but we are back to medieval times. We, individually, will forgive the Serbs, but the world should not.

The situation is horrifying. In one incident, a mother was separated from her child on the streets. She had to be restrained from going to the child, who was only a few feet away, in order to prevent the mother from being killed along with her child. In any case, the child was killed. In the hospital, people tread through pools of blood. The situation is the same in the streets.

We appeal to civilization to help us. The grenades are killing innocent, unarmed people. In the name of our citizens, we ask Boutros-Ghali, the world, and the media, to relay this request: Please use half of the planes used in Iraq [in the Gulf War] not to bomb Serbian positions but to bomb us. The citizens of Gorazde and the world will forgive you for this act, for making our deaths easier.

2. For two years, Gorazde has been attacked with ammunition used by Serbian forces, not the Bosnian Army. The Major would like to inform President Clinton that his suggestion that the people of Gorazde have been shelling themselves is shameful. He calls on Manfred Woerner to launch NATO Air strikes on the "safe area" itself so that its citizens can die with dignity.

3. The Major calls for a minute of silence in honor of the mothers who have lost children in these attacks.

4. Attacks are worse than yesterday. Serb forces are destroying the city house-by-house, apartment-by-apartment. City residents cannot bury their dead because so many have been killed. Many people not otherwise wounded are shell-shocked.

5. Technical materials, not ammunition, were produced in the factory that the Serbs claim to be after as a military target. The factory is behind the front lines and is not producing anything at the moment.

6. The hospital has been shelled non-stop all day. It now looks like a derelict building that should be pulled down.

7. The Serb forces are in the suburbs and have made their way to the edge of the city center. Bosnian Army forces, remarkably, still hold the city center.

Mr. DOLE. Sometimes we forget, and some people think Serbia must be like the former Soviet Union, a third- or fourth-rate power. Compared to Bosnia, they have about 300 tanks; Bosnia has about 10. It is 10 to 1 everywhere else. That is why they have a big advantage.

To those who say they are worried about maybe escalating the violence, I suggest that all of the violence is on one side now. There is no opportunity for the poor Bosnian Moslems to defend themselves. Again, I visited with their Vice President yesterday, Mr. Ganic. He understands that we are not going to involve American troops. He would even understand some who say "no airstrikes."

But what he cannot understand is why we are not willing to give them a chance to defend themselves. I do not know how you explain that to somebody. The U.N. Charter was pointed out by the Senator from Connecticut and will be pointed out by my colleague from Arizona.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona [Mr. MCCAIN] is recognized.

Mr. MCCAIN. Mr. President, I thank my colleague and friend from Kansas, the distinguished Republican leader, for this very important, although perhaps a little late, measure to lift the United States embargo of Bosnia. We need to pass it and Congress needs to pass it and the President needs to act on it.

I also find myself in complete agreement with the remarks of my friend from Connecticut, who has been involved in this issue for a very long period of time.

Mr. President, I apologize ahead of time to this body if I am a little emotional in my remarks. I just finished meeting with Vice President Ganic, the Vice President of Bosnia. I wish every American could have the opportunity to meet with him and hear of the tragedy—the preventable tragedy—that is befalling the citizens of that very tiny nation.

Mr. President, we need to lift the embargo, either with the approval of the United Nations or without it. I do not say that lightly, because we are signatories to a U.N. resolution, which is binding. But the fact is—and I believe every American should know this—that the resolution was imposed on the then Yugoslavia, which no longer exists. I repeat, the resolution passed by the U.N. Security Council was applicable to the nation of Yugoslavia, which no longer exists.

The U.N. Charter states in article 51:

> Nothing in the present charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a member of the United Nations until the Security Council has taken measures necessary to maintain international peace and security.

Repeating:

> Nothing in the present charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a member of the United Nations * * *

An armed attack is taking place against Bosnia, Mr. President. That nation, because of a Security Council resolution, is being prevented from defending itself. So we are now in violation of the charter of the United Nations, not to mention the Judeo-Christian principles upon which this Nation was founded.

Mr. President, the Bosnian Vice President just told me that an ultimatum has been delivered to the Bosnians within Gorazde and that they have about an hour to get their troops within the confines of the city of Gorazde, or else there will be a full-scale attack against Gorazde. I do not know if it is true, but I know that if it is we have a group of people trying to defend themselves with weapons that are only effective at 20 meters. They do not have an antitank weapon. The Vice President of Bosnia said they do not want F-16's or B-1 bombers; they do not even want tanks. They want the ability to defend themselves. It boggles the mind for us to be concerned about a U.N. Security Council resolution which was enacted—an embargo was enacted—on a nation that no longer exists.

Mr. President, I am a student of history, and the fact is that this Nation may not have achieved its independence without the help from the sympathetic nation of France, who did not send many troops, but did send people to help, and supplies and equipment and other assistance, in order that we might gain independence in our struggle.

As I say, we are clearly in violation of the fundamental principles in the United Nations, in that we have prevented a nation, through this embargo, from defending itself. That needs to be rectified and, frankly, the members of the United Nations should be the ones to do so, so that we, this Nation, will not have to do it by ourselves.

But in all candor, for the President of the United States to say there is a comparison between this and the arms embargo on Iraq is not valid. It is not valid to compare what we are trying to do, to make sure Iraq does not engage in further aggression, with an embargo placed on a nation which no longer exists.

Finally, Mr. President, we as a nation were founded upon certain principles. Those principles, we believed, did not apply just to residents of this continent. We believed in those principles, and steadfastly today hold to those principles as expressed in the following words:

> We hold these truths to be self-evident, that all men—

I repeat, "all men"—

> —are created equal and endowed by their Creator with certain inalienable rights. Among these are life, liberty, and the pursuit of happiness.

This embargo is preventing those people from obtaining life, liberty, and the pursuit of happiness. We ought to act now, quickly, and in the name of the principles of this Nation. Let us do it, and do it quickly.

I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia [Mr. WARNER] is recognized.

Mr. WARNER. Mr. President, I am hopeful of trying to clarify precisely what is intended by the pending amendment. I have spoken several times in favor of lifting the embargo. I continue to be of that mind.

The action of lifting the arms embargo should be taken because the West will be held accountable from this moment on in history for the fact that we have literally tied one arm behind the backs of the Bosnian Moslems and asked them to fight this bitter civil war without adequate weaponry. It is time we released that arm and gave them the option of receiving such weapons as can flow, so that they can do the best they can to defend themselves and hopefully regain the territory that is rightfully theirs.

Mr. President, I am doggedly opposed to the United States taking unilateral action in this conflict. If it is the intent of this amendment to urge the President to show stronger leadership, I agree. But if in any way this amendment implies that if our allies do not act, then the United States should act alone and unilaterally, I am opposed. I do not want to see the stamp put on this conflict from this moment forward "Made in the U.S.A." and the U.S.A. becomes responsible from this moment on and our allies step back and say, "You took an action. We did not agree to it. It is your conflict. You supply the arms. You manage it. You take sides." That we should not do.

Mr. President, I am hopeful that if one or more of the sponsors of this amendment reappear on the floor, we can enter into a colloquy. I see my good friend from Connecticut. I have expressed my concerns, I say to my good friend.

I will yield for the purpose of a question if the Senator wishes to ask it, but I have further remarks.

Mr. LIEBERMAN. I thank my friend and colleague from Virginia. I want to respond to a question. Therefore, I will wait until he is finished. Then I will rise personally to explain what I believe the intention of the amendment is.

Mr. WARNER. If the Senator wishes to put that in the form of question at this time, I would like to hear it.

Mr. LIEBERMAN. I thank the Senator from Virginia for yielding while he retains the floor.

I would ask him whether he would accept this personal understanding of what this amendment intends to do. I speak for myself, and I believe this is the intention of the distinguished Senate Republican leader, although obviously he will return to the floor and speak for himself.

The intention here is for the United States to terminate the embargo currently existing on the transfer of weapons and other defense systems to the people and Government of Bosnia and Herzegovina. I think implicit in this is our hope that by passing this amendment we will encourage the President to go forward in his effort to negotiate with our allies a joint lifting of the embargo and we will send a message to the Serbian aggressors.

But I do want to make clear to the Senator from Virginia what my understanding is here, which is that if the President is not able to convince our allies to join with us in lifting the embargo this, nonetheless, would have the President terminate the United States embargo unilaterally and that conclusion is based on the premise that we are leaders, that we will set the standard, that, in fact, the way to get the allies to move it may be for us to exercise that leadership, moral and strategic, to avoid exactly the concern that the Senator from Virginia has expressed.

As the Bosnian Moslems suffer, perhaps history will ask where we were. We are saying at least by lifting the arms embargo, the United States of America did what it could at this fateful hour for Bosnia and, in fact, for Europe to help the Bosnian people defend themselves.

So at bottom line the hope is for allied action. But the clear intention of this amendment is also to allow for the United States to lift the embargo unilaterally.

Mr. WARNER. I thank my colleague from Connecticut.

Mr. President, I am a lawyer; he is a lawyer. We should not be dealing here, especially with this background of strong emotion when all of us are watching this tragedy unfold daily. There is not a Member of this Chamber whose heart does not throb with compassion for the pitiful tragedy we see unfolding of human against human for reasons which are cultural and ethnic. That is not the question.

Let us not as lawyers use the words that the Senator just used: You think it is the intention; you think it is implicit. Let us put it down very, very clearly. This is not an amendable amendment under our rules, a second-degree amendment, or I would seek to amend it. So my hands are tied to try to clarify this.

I would urge the sponsor, if that is the intent, let us put it down with such clarity that the man on the street in hometown U.S.A. can understand it, because this is an important step. If it does not authorize it under this amendment, this is a step toward at least consideration of unilateral involvement of this country in that conflict.

This Senator is opposed to unilateral action in that conflict. I think it is incumbent upon the drafters to come over here and make it very clear as to exactly what is meant.

I can understand the legalities, and I have just been briefed on how it is questionable as to whether or not the existing U.N. resolutions are legal, how they should not tie the hands of the United States. But let us not get lost in legalities here today. Let us put it down in plain English.

I need only remind my colleague of the tragedy that unfolded in Somalia as the Congress sort of laid back and allowed the Presidents in succession, Presidents Bush and Clinton, to involve our forces in that conflict. And then came the tragic events of October 3 and 4, 1993, in which some 17 were killed and some 70-plus sustained wounds—a terrible loss.

Congress then began to react to the people of the United States who rose up and said "What is our security interest in that country? What is it we are trying to do?"

Both the President and the Congress share equal responsibility for having failed to explain to the American public precisely what those operations were for, precisely what our national security interest was, if any, in Somalia. It was more or less a humanitarian mission. And what happened? This Congress, indeed this very Chamber, led the fight to bring those troops home from Somalia by Christmas.

Finally, in due course, basically behind the doors while the debate was taking place on this floor, cooler heads prevailed, and we allowed the President the right to decide, as Commander in Chief, when our troops should be brought home. And they were brought home, as we know, in March 1994, not Christmas.

It was not a partisan debate. It was a debate between Senators on both sides of the aisle with understandable disagreements. The fact that the President and the Congress had failed to tell the people of the United States why our troops were there, what the risks were in terms of our most precious assets—and that is the men and women of the Armed Forces who go beyond these shores in the cause of freedom. The result was the Congress came close to overriding the President's authority as Commander in Chief.

I do not want to see that happen here. We have not, in my judgment, sufficiently established for the American people whether or not the United States has a national security interest in the Balkans. I personally do not think there is one there to the degree to justify further U.S. military involvement.

I am opposed to the expansion of the air strike option. It has proven futile. It was tried in good faith. Brave pilots of the United States and our allies flew the strikes. We know the facts. It did not deliver the message. It did not provide the leverage that the diplomats thought it would achieve, and I have grave doubts it will ever do so, even though the President says air strikes should be increased in intensity. That is a side issue to this, but nevertheless it is linked.

I come back to the fundamental issue that the President and Congress have not assessed adequately the extent to which this country does or does not have a national security interest. Humanitarian, yes. National security, a big question mark. I happen to think we do not have a national security interest, certainly not to the level to require the further risk of our troops.

And here we are today about to send a message that we wish to lift the embargo. As I said, I am in favor of it, but I would like to have in this debate—and I am going to oppose any time agreement until to my satisfaction we have had an adequate debate—within this debate we have to discuss the tough ramifications of lifting this embargo.

What is the time element within which the Bosnian Moslems can train and learn to use heavy weaponry effectively? What is it we expect the Serbian aggressors to do while this interim time period is taking place?

The Serbs may well start an aggression to take everything they possibly can before the first tank and the first artillery piece arrives. These are questions that I find most troubling.

Yesterday, in a speech when I said we should lift the arms embargo and tried to explain it, I was accused by people who said, you are going to perpetrate genocide. The loss of life will be far greater than we are witnessing today.

What is the timetable that we would hope to achieve for the flow of weapons? How can we guarantee that these weapons will get to the various locations where they can be utilized by the Moslem forces? Many of the land routes are through territory under the control of Croatia. Do we have any indication that they are agreeable to allowing their territory, such territory as they claim, to be utilized for the transfer of these weapons?

So I say to my friends: Leadership, yes. I urge our President to show greater leadership, greater strength, in talking with our allies, and maybe there is a plan that all can agree on.

What is the likelihood that the lifting of the embargo will succeed as hoped for? What will we do as a nation in concert with our allies if the lifting of the embargo fails? Are we to take another step?

Each time we take a step over here—and regrettably we have taken a lot of false starts and steps forward and quickly steps back—there has not been an expression of opinion by the President, the Secretaries of State and Defense and the Chairman of the Joint Chiefs of Staff. Their has not been a consistent message from our leadership on these tough issues in Bosnia. And, as a result, how do we know that lives have not been lost of late because of the failure of a clear, concise and unified U.S. policy?

I do not want to see this body fall into the same trap to send a message which will be heard around the world—the Senate pronounces that the embargo should be lifted—until we know exactly what the consequences of lifting it are, how it would be implemented and what is the opinion of the American people about what should or should not be done to rectify this tragic situation in Bosnia.

Finally, I ask of my good friend from Connecticut, how do we avoid a repetition of the tragic circumstances that took place in Somalia, where we went with the best of intentions and sacrificed the lives of our men and women in the Armed Forces, and saw our President's policy nearly reversed by this Congress in response to the outcry of the American people from coast to coast in this country?

I ask that question to my friend.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

I note the presence of the distinguished chairman of the Committee on Foreign Relations and my colleague from Massachusetts. I would indicate to them I intend to respond briefly and yield the floor to them. The Senator from Virginia has raised some serious questions.

May I say that it is the intention of the sponsors of this amendment to speak with just the clarity and conviction that the Senator has found absent in other statements and other leadership.

Mr. WARNER. Mr. President, I say that you have not done that when you say to me it the intention of the amendment and you think it is implicit in the amendment. What do you have expressly in the language that we and every American can understand?

Mr. LIEBERMAN. Mr. President, we have a disagreement, the Senator from Virginia and I.

The language of this amendment is extremely clear. Let me state it to him exactly. I believe my colleague from Virginia may not support the language of the amendment.

The amendment seeks to make clear that the United States shall unilaterally lift the embargo on the distribution or sale of weapons to the Government of Bosnia. If I indicated any tentativeness earlier, it was only on the question, which I believe is shared by the cosponsors, that it would be our understanding that the President would seek to convince our allies to join with us in that.

But I say to the Senator from Virginia, there is a clear intention here—and by his statement, I understand he does not support it—which is that this is a moment, as he has said, of moral imperative. And one response to that moral imperative that I hope we can agree on is to at least have the United States, acting unilaterally if necessary, not to deny the people of Bosnia the arms with which they could defend themselves.

We may disagree on the question of air strikes. I do not think we disagree on the question of whether American troops should be sent to serve on the ground in Bosnia. I have not heard anybody say that, and I certainly would not support that.

In fact, the last paragraph of this amendment, offered by the Senate Republican leader, makes clear: "Nothing in this section shall be interpreted as authorization for deployment of U.S. forces in the territory of Bosnia and Herzegovina for any purpose."

Second, the Senator from Virginia raises the question about Somalia. This is a very different circumstance, certainly in terms of what the United States would do if this amendment passes. We are not talking here about sending American soldiers to Bosnia, as we did in Somalia. We are talking about sending American weapons to the Bosnian fighters so they could use them to defend themselves.

I agree with the concerns—and I admired the Senator from Virginia when he stated them at the time of the crisis in Somalia—that public opinion, that Members of Congress not tie the hands of the Commander in Chief in terms of the deployment of American personnel, forcing the Commander in Chief to bring back American troops at a premature date. That was worked out.

In my opinion, we are not dealing here, in the lifting of this embargo, with the President's powers under the Constitution as Commander in Chief—no personnel involved; no troops. We are dealing here with what I would view as the foreign policy powers of the U. S. Congress.

What we are doing here, in asking that the embargo be lifted, is comparable, for instance, to what we do when we say in our foreign aid appropriations bills, in our Foreign Military Assistance Act, and earmarking as we often do: Congress directs that x dollars or x systems be sent to y foreign nation for the purpose of protecting themselves. It is quite comparable—we may agree or disagree with the recommendation made earlier this week by my colleague from Connecticut and several others, directing the United States to increase sanctions against the Government of Haiti.

Mr. WARNER. Mr. President, will the Senator respond to this, then?

Mr. LIEBERMAN. I will.

Mr. WARNER. You have answered, No. 1, you interpret this as saying the United States shall unilaterally lift whatever embargo we have.

I ask my good friend, does that not send a signal to the people tragically suffering, the Muslims: We have lifted it, and it implies we, then, will send some weapons? Is that not a logical—

Mr. LIEBERMAN. Through the Chair to my friend from Virginia, I say the Senator's statement is absolutely right. That is a logical conclusion. And not only is it a logical conclusion, it is the intention of the sponsors of the amendment. And it is the desire of the duly elected leadership of Bosnia.

The Senator said earlier he was concerned that the sending of weapons might either raise the hopes of the people there unfairly or contribute to more deaths. Earlier the Senate Republican leader read a letter from the mayor of Gorazde saying, astoundingly, movingly, that he felt the people of Gorazde would rather U.S. planes bombed Gorazde in an effort to force out the Serbian aggressors than have the people of Gorazde die defenseless at the hands of those Serbian aggressors. So their desire is clear.

Mr. WARNER. Mr. President, let me then qualify. My colleague interprets the amendment as saying legally we, the United States, will lift our embargo. And you agree with my observation this sends a message—again using your word—it implies that the United States is saying we will be sending arms.

I ask my friend, if our allies, mainly Great Britain and France, who have at risk their own people in the UNPROFOR forces in Bosnia today, those forces, commingled geographically with combatants on all sides, be they Serbs, Moslems or Croatians, those UNPROFOR troops right in the crossfire of this combat—supposing Great Britain and France say, "You shall not, United States, send arms in. We object to those arms going in."

Could that not happen?

Mr. KERRY. Will my colleague yield?

Mr. WARNER. Let me just finish the question and I will be glad to yield the floor.

Mr. KERRY. I just wanted to add to the question, if I may?

Mr. WARNER. Let us get this one answered. My colleague can answer it. Then I will be happy to receive his question.

Mr. LIEBERMAN. It is quite possible, in response to the Senator from Virginia, that our allies in Europe might give the response that he has given. But I would say this. The suffering of the defenseless victims in Bosnia sounds louder to me, and I think to the sponsors of this amendment, than the possible expression of opposition by our allies in Europe. My hope is that they will decide to join us.

Again, I say to my colleague, I have spoken to the Prime Minister of Bosnia, as many us have here, and the Vice President. They say, "If you gave us a choice of whether to have the ability to receive arms to defend ourselves or to keep the British and French peacekeepers in Bosnia and Herzegovina, the choice for us is an easy one. We would say, "Thank you," to the British and French peacekeepers, and wish them farewell, in order to receive the weapons with which to defend our families and our homes.

Mr. WARNER. Mr. President, I think I received a third answer, and that is that we go ahead, irrespective of whether Britain or France agree. I say that is unilateral intervention by the United States. That stamps this conflict, then, "Made in the U.S.A." And we become responsible, not only for the further loss of life by the Serbian and Moslems and Croatians that may die, but also the UNPROFOR forces of many nations, who are there bravely trying to provide assistance to those who are suffering.

This is a very serious risk, Senator. I think before this body acts on this resolution, we must have a clear understanding of what reaction would come from our allies. I once again say I am unalterably opposed to unilateral action or even sending a signal we intend to act unilaterally. I urge the President to use the most forceful of leadership. I will support the lifting of the embargo, providing it is done in unity with our allies.

One further comment. Yes, I oppose the introduction of United States ground forces in Bosnia. But let us not overlook the fact that we have United States pilots today fighting in the skies over Bosnia. As far as I am concerned, an airman is just as valuable as one of our ground troops, and we should not dismiss the risk that they are taking, the risk that they could be shot down, the risk that they could become prisoners along with the UNPROFOR forces. They will be taken prisoner the moment the signal is sent. They will be taken as hostages if this embargo is lifted.

I say to my friend, yesterday in the Armed Services Committee we had an Air Force officer, now a CINC, General Horner, who is now in charge of our Strategic Command. He was our air commander in the Persian Gulf war, recognized for brilliantly executing, under General Schwarzkopf, the air part of that conflict. I asked the General, "How many missions did the allied forces fly in the gulf operation?"

"Senator, you would be astonished. In a period of 6 weeks, January to February 1991, 100,000 missions were flown."

It is clear that the air war was a critical part of the vicory in that conflict for the coalition forces. Even though there were 100,000 sorties, this was not decisive and it took several hundred thousand ground troops to secure victory.

This use of air power in the past weeks in Bosnia, a mission here, a mission there, weather problems that we did not have in the gulf operation, such missions will never succeed.

I am concerned we are raising false hopes, both the President by saying he is going to augment the use of air power and this Chamber by saying we are going to lift the embargo. We have not, in my judgment, sufficiently thought through all of the ramifications.

I lastly ask my question to my friend. Then I will yield the floor to others because I am anxious to hear from them, as we all are.

If we send forth this message that we are going to lift the embargo unilaterally, what is the likelihood of the Serbian forces then beginning to take more and more hostages from the UNPROFOR, which are right there as we speak today, trying to fulfill humanitarian missions?

Mr. LIEBERMAN. Mr. President, the question of the Senator from Virginia is a fair one. He asked earlier about what reaction the Bosnian Serbian army might take in response to the lifting of the arms embargo against the Bosnians. I would say there is not much worse. Certainly from the point of view of the Bosnian Moslems, 200,000 people killed in the last 2 years, 2 million refugees forced out of their homes, there is not much worse that could happen to these people than has happened to them while the rest of the world effectively stood by and let them suffer defenseless.

So there are no guarantees of how anyone will act in a circumstance of this kind. But one thing we know is that our inaction up until this time has been a failure. It has failed to impede the progress of aggression. It has failed to stop the genocidal acts that are occurring.

I must say, though some of the questions the Senator from Virginia is asking are obviously quite important and fair, I am disappointed that he would oppose the unilateral lifting of the arms embargo by the United States, because I had hoped that on that ground—I understand the dispute about the use of air power. Although I must say the reference to the gulf war is a good one, we have not really used allied air power here.

We have tweaked their noses and not really brought the force that we have to bear in a way that would hurt the aggressors, the Bosnian Serbs and those who support them and supply them in Serbia.

The Senator from Virginia has said he is concerned that lifting the embargo unilaterally would put a "Made in the U.S.A." stamp on this conflict.

What it would do, responding to something the Senator from Virginia said at the outset of his remarks, would be to put a stamp that said at least in this way the people of the United States of America did not stand by, did not equivocate. We at least sent weapons to the victims of aggression and genocidal acts with which they could defend themselves.

That is a stamp that is consistent with the best moral traditions of our people and our foreign policy, and a stamp which history, I think, will applaud and not criticize.

So I hope we can find a way to have unanimous, or at least substantial, support in this Chamber for the unilateral lifting of the arms embargo. It is an act of leadership in a conflict in a world that is sorely lacking.

I say, finally, the Senator from Virginia has had a proud and long and distinguished record in strengthening the rule of order and law in the world in supporting the development of strength of the U. S. military to protect our national security and world order.

I know that he shares my feeling that when we are in a situation where, as Senator DOLE, the Senate Republican leader, said earlier, a third- or fourth-rate military power can intimidate and make the United States, the world's superpower, and NATO, the greatest military alliance in the history of the world, look timid and weak, then the message to Europe, to other aggressors there and throughout the world, to the leadership of North Korea, for instance, Iraq, Libya—wherever we may have enemies—that message is the wrong message we want to send.

We need to find a resolve to a complicated situation in Bosnia, obviously. But to me there is a clear aggressor, and that is the Bosnian Serb army. There is a clear party that is guilty of genocidal acts. That is the Bosnian Serbs. We have a strategic interest and a moral obligation, at least, to stand together and say we will give these people the arms with which to defend themselves.

Mr. WARNER. Mr. President, in closing, would the drafters of this amendment consider amending it in some manner to reflect that while the United States may have a legal right under international law to lift such embargo as this country is responsible for, we will do that, but we will not act unilaterally in this conflict in opposition to our allies; that we will only take such further actions in concert with our allies? Could that be made a part of this amendment with such clarity as we can all then have the feeling that we will not see this conflict suddenly transform into one for which the United States of America is primarily responsible?

Mr. LIEBERMAN. Mr. President, there would never be an occasion on which this Senator would hesitate to sit down and discuss and try to work out an arrangement that could be supported mutually with the Senator from Virginia. I have enormous respect for him. But I must say I feel very strongly—and I speak only for myself and not the Senate Republican leader or the other sponsors of this amendment—that this is a moment in which this body should speak with clarity and eliminate and avoid conditions and qualifications, and to say very clearly that we intend to unilaterally lift the arms embargo so we can supply weapons to the Moslems in Bosnia to allow them to defend themselves.

I say that with the understanding that the President will continue to negotiate with our allies, and I hope that our allies will join us. But, most of all, what I want this amendment to do is to provide help for the Bosnian Moslems and put a little bit of fear into the Bosnian Serb aggressors, which they have not had until this time.

The Senator from Virginia asked what the impact on the Bosnian Serbs and others in Bosnia will be as a result of passage of this amendment. Right now the Bosnian Serbs are acting like thugs in a lawless territory, firing at civilians, ignoring a declaration of safe havens where the Moslems can run—leaving the homes they were forced out of only because of their religion—going into Sarajevo where we had an agreement and taking antiaircraft weapons out of a depot that the United Nations was storing them in, acting with such pernicious disregard for promises they made that even their historic allies in Russia have left the field of negotiations feeling they could not trust them.

Mr. President, I say to my friend from Virginia, there is nothing more that we could do here that would embolden the Serbs to do anything worse than they have done now. They are animals running without regard to the law through what used to be a civilized and peaceful land.

Mr. WARNER. Mr. President, I will remind my good friend from Connecticut that I ran a calculation. There are 36 conflicts going on in the world today. Most of them civil wars, cultural wars, religious wars. Yes, we are appalled about the tragedy unfolding before our eyes in Bosnia. Yes, we have compassion. But this Senator draws the line. I am speaking today for the future involvement, the future credibility of this country and the future risk of lives of the men and women in the Armed Forces that wear our uniform. We cannot become militarily involved in every humanitarian tragedy in the world.

Madam President, does the Senator from Massachusetts wish to address a question to the Senator from Virginia?

Mr. KERRY. Mr. President, I had a question that I wanted to follow up with the Senator. Is the Senator willing to yield the floor?

Mr. WARNER. Mr. President, I would like to retain the floor and entertain his question, as I can.

(Ms. MOSELEY-BRAUN assumed the chair.)

Mr. KERRY. Madam President, I also have some statements I want to make with respect to this.

I join with the Senator from Virginia in some respects, and I join with the Senator from Connecticut in others. But I want to make it clear, along with the Senator from Virginia, that this amendment, in its current form, I believe, has flaws.

I would like to lift the embargo under the appropriate procedures and with an appropriate process. But the Senator from Virginia is absolutely correct in raising certain questions and in asking the Senate to make a judgment about whether or not this is the best method of accomplishing the goal that the Senator from Connecticut seeks.

For instance, the language of the second-degree amendment—I regret that this is second degreed in the way it is. This is far too important an issue to come to the floor and plunk down in front of us a second-degree, prearranged amendment that may even have flaws with respect to the intentions of the proponents, but which does not allow us in the U.S. Senate to flesh out a vital foreign policy issue.

Let me be very specific, Madam President. There is a unilateralness to this which the Senator seeks, I understand, in terms of the message we want to send. But the messages that are also sent with respect to our allies and current negotiating efforts the administration is in the middle of, could conceivably be extraordinarily damaging.

It seems to me that the amendment would be a much stronger amendment if there at least was a 2- or 3-day or an immediate effort embraced in the amendment to respect the multilateral manner by which we engaged in this, and to respect the multilateral manner in which we will most likely finally reach some kind of resolution.

If we just run off in a unilateral fashion, to be specific, what happens to the current fragile cooperation of Russia? Do we then create a new threat to Boris Yeltsin and the capacity of the Russians to cooperate, which invites their need politically to respond to the Serbs in a way that deprives us of some of the very response of air attacks that the President is now contemplating?

We would, in fact, make matters worse for the people of Gorazde if all of a sudden the Russians were to say, "Well, in view of this unilateral action, we are no longer prepared to support the air attacks because you have clearly entered on the side of one of the protagonists in a manner that is not called for by the current dynamics of the negotiating process."

So I would respectfully say I do not know the answer for certain to that, but I do know that the Senate should not vote on this until we have some understanding of what those implications are. I suspect the answer is that the

Russians would view this with grave implications, that the Russians would see this as a threat to their relationship in the region, and that it would alter the balance of power in the immediate circumstances that would make matters worse, not better.

Now, I do not think the Senator from Connecticut wants that to happen. Now, I wish to preface my statement by saying I wish to lift—I wanted to lift the embargo a year ago, and the timing was correct a year ago. The timing was correct for a lot of things that we chose not to do a year ago including, I might add, what the Senator from Virginia has said, which is to bring the American people into some consensus about what is really at stake in the region and what is not at stake in the region.

I might add, however, I happen to disagree with the Senator from Virginia that there has not been at least some effort to do that. Secretary of State Christopher, in February a year ago, said that "the continuing destruction of the new U.N. member state challenges the principle that internationally recognized borders should not be altered by force." He said, "The conflict may not have natural borders, but it threatens to spill over into new regions." He said, "It could become a greater Balkan war." He said, "The river of fleeing refugees, which has reached the hundreds of thousands, would swell and the political and economic fiber of Europe, as demonstrated by the former Communist States, would be further strained."

So it is not as if there has been no further effort to try to describe this. The fact is though we find ourselves in a situation where there is not a clear understanding by the American people, where there is not a clear definition of the progression we might be willing to go down in an effort to assert our interests.

Now, I think yesterday the President of the United States made it very, very clear. It is the policy of this country to not only try to protect Gorazde but to try to extend the concept of the safe zones in the areas of dispute.

It seems to me that that is a clear definition of a policy, and that is very much in play right now. I think we should put it on a very short fuse, Madam President. I think that we ought to look at this resolution and any effort to lift the embargo unilaterally in the light of a very short fuse. And I would respectfully submit to my colleagues that if we take the time to fashion a resolution that creates a sufficient process for the President to be able to carry out the Presidential prerogatives that he exercised yesterday and we link the lifting of an embargo to the failure of the Bosnian Serbs to come to the table or to the failure of the air power to resolve some of these questions, then we will do far more to induce their behavior while simultaneously maintaining the integrity of the message the Senator wants to send and of the common sense, if you will, of the United States Senate.

So I think this needs to be fleshed out more. I ask my colleague from Connecticut, is he prepared to end the humanitarian effort in Bosnia? Because that may be one of the implications of this amendment.

Mr. LIEBERMAN. Madam President, I say in response to the question of the Senator from Massachusetts, this Senator does not feel that would be one of the implications, one of the results of the passage of this amendment.

Mr. KERRY. My colleague from Connecticut says he does not think it would be. Let me say to my friend that the Bosnian Serbs have made it clear that if the United States is perceived as somehow entering the conflict of this particular moment in a way that in the current dynamics is unilateral, they may decide they are going to take 150 or 200 UNPROFOR people hostage as a consequence.

Mr. LIEBERMAN. They have already done that.

Mr. KERRY. But they have been releasing them in the last few days, Madam President. We seem to have made the point and we seem to be breaking through in the last few days.

Now, I cannot deny there is a perfidy that is unacceptable in their actions in Gorazde. It is unacceptable, beyond anybody's standards, to lob mortars and direct artillery shells straight into a hospital. And that is why I think the President should put the bombing on a much shorter fuse. But we should think very carefully about at the very moment that the President is saying I am prepared to bomb, we want to simultaneously take the step unilaterally, unilaterally, to have a greater impact on this.

Now, I would say to my colleague, if the United States is truly prepared—and I hope it is and I believe it is—to follow through on this threat of air strikes, and if we are prepared to stay the course, I respectfully submit and I believe that we will change Bosnian Serb behavior. We may not. But if we make it clear that we are responding specifically to their perfidy, specifically to their inhumanity, specifically to their willingness to attack innocent women and children, and to defy the United Nations and NATO and the will of the civilized world, I believe we have the high moral ground and the world will understand our bombings.

But I believe that if we moved unilaterally, without even the consent of our allies, who have the troops on the ground—it is their risk on the ground today, not ours—we would be inviting an irresponsible international reaction.

What is wrong with having an amendment, which I would vote for, that suggests the condition precedent to our lifting the embargo, on very short order, I might add. I respectfully submit to my colleague that if we set up a continuum of conditions precedent to our actions and vote that we will lift the embargo in the event that the Bosnian Serbs do not respond, we will do far more to elicit a response than if we ask ourselves to unilaterally lift this embargo.

So I just think this needs to be fleshed out. And I regret that this is in a second-degree form, because I think we could come up with an amendment that is strong, that is sensible, that reflects an important message which the Senate ought to send.

I wish to make it clear, the Senator from Connecticut is absolutely correct to come to the floor with a sense of outrage. He is 100 percent, together with the minority leader, appropriately suggesting that the United States owes the world leadership on this. We do. We do owe the world leadership on this. And we have been, frankly, going on a slippery rock, from rock to rock, into deeper and deeper water, without a clarification of what we are going to do once we are swimming, if we know how to swim.

So I say respectfully that we have an obligation here to approach this as the greatest deliberative body ought to, which is sensibly and slowly and carefully. I am not suggesting we should not vote. I would like to have an amendment I could vote for, and I hope my colleague and the minority leader will help us, together with the Senator from Virginia, to come together on this in a way to fashion a sensible foreign policy message. And I join my colleague—I have to go to a hearing. I would stay here and debate this at great length. But I am not going to agree to a time agreement until such time as we have really tried to flesh out these issues further. There is a great deal more to be said. I am not going to say it now, but I certainly want to be able to reserve the right to do that.

Mr. WARNER. Madam President, I thank my colleague from Massachusetts. While we may have differences on the use of air power, I initiated this debate along the framework of the question as to what happens under this amendment on the unilateral question. I think the Senator and I have a meeting of the minds. I hope others will join and that we can work with the distinguished Republican leader and his distinguished group of cosponsors here to fashion an amendment which we can all agree to and get behind.

Mr. KERRY. Madam President, I appreciate that. I want to work with my colleague to do that, and I hope we can work with the Senator from Connecticut.

On the air issue, the Senator is as versed, if not more so, as the former ranking member of the Armed Services

Committee, and more importantly as the former Secretary of the Navy. I understand the limits of air power. But I also understand the limits of the Serbs. And I cannot disagree with the comments of the Senator from Kansas when he talks about this power.

For heaven's sake, the United States of America spent 40 years building up a military that was supposed to be able to fight not just the former Yugoslavia but every single one of the Warsaw Pact nations and the Soviet Union. Here we are faced with one small partition of one country of the Warsaw Pact, and we are kind of putzing around as to how much message we are willing to send to make the price for the Serbs high. Yesterday, the President made that clear. I have no illusions.

Might you tighten resolve? Yes. You might. Could it conceivably turn then to say we are going to prolong this? Yes. It might. But the alternative is to do nothing, the alternative is to admit failure, and the alternative is to accept that the United Nations and the NATO are impotent in the face of any kind of threat. The alternative is to invite demagogs and despots in the rest of the world to believe they can challenge that power with impunity and not with a price.

My own belief is that if the United States of America were more clear and more determined to accept the risks and the limits of what is involved in pressing the air strikes, the Serbs might have a different message in that chess game that they were so prominently displaying in the New York Times the other day.

Mr. WARNER. Madam President, let me say to my friend before he departs the floor, let us examine the use of air power in the Persian Gulf. I mentioned before the Senator arrived that there were 100,000 sorties flown in a period of 6 weeks during that conflict. There was a clear demarcation—the boundary of Iraq. Once we went behind that boundary, we knew the enemy, but even there was collateral damage to civilians.

We had the best of weather conditions; the best of air bases. We had carefully marshaled all the assets for a major conflict before we initiated that conflict.

The situation in Bosnia is starkly different. You have difficult terrain in which to spot targets and operate. You have very difficult weather conditions. You have the Serbian forces, which are designated as the enemy, colocated but a mile or less from civilian populations, and a mile or less from UNPROFOR forces. We cannot release the air power, or even a fraction of it, that we used in the gulf in this conflict. And we should not mislead the American people that air power can turn this battle.

I say to my good friend from Massachusetts that sometimes leadership is more difficult to exercise by way of restraint than by using military force.

Mr. KERRY. Madam President, let me just say to my friend that everything he said is correct. Everything he said is correct. I do not argue with it. His description of the limitations in the gulf is accurate, and he is as knowledgeable as anybody in the U.S. Senate.

But here is I think respectfully the distinction. While we may be able to specifically turn the battle at Gorazde by pointing the air strikes at Gorazde, the Serbs have an enormous number of assets in other locations that we are aware of that are not near civilians and that are not part of that battle. I believe that because they are defying their own word, because they are going against their own agreement, because they are violating their own understanding—and the world understands that—and because they are engaging in behavior that is contrary to the rules of warfare, the world will understand if the NATO and U.N. attack targets that are not in the area of Gorazde or of civilians, but which make the price higher.

I admit to the Senator that may or may not work. I rather suspect that if the Serbs saw a united determination of the world to make it clear that the United Nations word is not going to be flaunted and that the will of civilized people is not going to be trampled on, I would suspect that they would understand this is a serious measure, that it will cost them dearly, and that it will do what it did at Sarajevo. It worked at Sarajevo. Those who are clamoring for leadership should respect the fact that this President of the United States and his team brought about the events of Sarajevo, and they also brought about the peace between the Croats and the Moslems.

So I would respectfully suggest things are happening. I think that the use of that air power is worth the effort recognizing all of the limitations.

I would also say that with respect to this particular resolution that I would be much more comfortable if this resolution made it far clearer that we are doing this in response to the specific Bosnian Serb perfidy and to their behavior, that we are respecting the neutrality, if you will, and that this is really not entering into the effort. It is in response to their actions and would only occur if those actions continued.

That is a far more sensible way to approach the choices that are presented to us, far more responsible way to approach it than otherwise.

(Mr. KERREY assumed the chair.)

Mr. WARNER. Mr. President, I would ask one more question. I observe the presence of the distinguished chairman of the Foreign Relations Committee, and I will momentarily yield.

I ask my friend from Massachusetts, if that is the strategy to be used, this air power and these significant attacks on targets, supply depots, avenues of approach, which are clearly in Serbian territory, I presume that territory is Bosnian Serbian territory and not Serbia proper.

Would the Senator clarify that?

Mr. KERRY. That would be clearly the first order of priority. But may I say to the Senator, if the behavior continued—and here you have obviously an extraordinarily difficult issue to work out with the Russians—but you would have to make it clear that that was an option on the list. Obviously, the Russians play significantly in this. But a first order of priority is Bosnia.

Mr. WARNER. Mr. President, I ask of my distinguished colleague, with that use of force it would clearly be perceived that we, the United States, together with our allies who presumably would participate, and I assume we are talking about NATO air strikes, not just U.S. air strikes——

Mr. KERRY. I am.

Mr. WARNER. Then we have chosen sides in this conflict. Let there be no doubt we have chosen sides.

I wish to ask this question: Clearly defined, are we doing this in response to compassion and emotion, or are we doing it as a part of the NATO force consistent with a clear national security interest in Bosnia? I suggest it is a result of emotion and compassion, and there is an absence of a clear national security interest.

Mr. KERRY. I think that the Senator from Virginia has asked one of the best questions, and it has been long lacking from the debate and the framework within which we are trying to approach this issue.

It is the question what should have been debated in this country, and what should have been set out for this country a long time ago is a clearer discussion of what the progression is here. What is the slippery slide? We have been dancing around. We have been sort of sending the message that we want to be militarily strong, that we are prepared to use force. But is the United States prepared to use force? Are we prepared to see body bags coming back and arriving at Dover, DE? That is what the Senator is asking. What is at stake here?

I respectfully submit to the Senator from Virginia that the answer is there is a vital national security interest. How vital? Is it as vital as others that we have faced more recently in other parts of the world where we have chosen to send troops and fight wars? The answer is "no."

But does it rise to the level of legitimate national security interest? The answer to that is absolutely yes. We have a vital national security interest in the stability of Europe. We have a vital national security interest in the ability of the United Nations to not have its word flaunted, to not have its intent simply trampled on by thugs and war criminals.

We have a vital national interest in not having this spill over in Macedonia and Kosovo. We have a vital national interest, I believe, in having our own leadership mean something in the world, so that we do not wind up inviting other people in other parts of the world to put us to the test like Francois and Cedras in Haiti, who scoffed their noses at us only days after we moved out of Somalia. That is what is at stake here, and I think that is important.

I know the Senator, who is a passionate advocate of an adequate defense for this country, and who understands the stakes of foreign policy, would share with me a view that the word of the United States and the word of the United Nations and the word of NATO and their ability to effect their power is important in future conflicts and in future negotiations. That is an interest.

Is it a vital interest that predicates that we should put American troops on the ground? No, I do not believe that; not unless there is a peace of some kind and we are in peacekeeping, not peacemaking, component. I do believe fervently that air power here is one of the tools that we have available to us, commensurate with a level of national interest that I have just described. If the national interests were greater, then we would talk about putting marines in. If the national interests were even greater, we might talk about the kind of confrontation we had in Cuba. It clearly is not that.

The problem is that we have never spent enough time defining the interests and measuring the levels of response. The Serbs understand that, so they are operating with a perception that when push comes to shove, the United States will back down. They were given succor the other day and an ability to believe that—I mean, in the total of all of this war with ethnic cleansing, with rape as a calculated tool of war, with the most extraordinary bombardment and movement of civilians, we have dropped, through NATO and the United Nations, a total of six bombs, and three did not go off.

Mr. WARNER. Mr. President, I must say that, to me, that did not establish a national security interest. I do not believe we have a national security interest. But your definition that it is there to the extent we use air power but is not there to the extent we use ground forces, that is a fallacious, I say to my good friend, formula. I think a U.S. airman's life, a downed pilot, captured on the ground, is just as valuable as any marine that marches in. So I cannot distinguished between air and ground in terms of the level of our national security interest.

I disagree with my good friend that this conflict could destroy U.S. credibility in Europe. We have stood side by side with the Europeans in two major world wars. The Europeans have looked to us for leadership every year since World War II. We have given it time and time again in the form of our support for NATO. Our record is clear.

And I do not think this conflict, certainly in the last 2 years, has come to the point where Europe is about to fall, convulse, implode, or otherwise destruct, as a consequence of this tragic conflict. You say "casualties." There were tens of thousands of casualties over the past several weeks in Rwanda alone. That is life. There are 36 conflicts in the world today of civil war proportions, with life being lost.

We cannot say that because the United States is not involved in those many conflicts, that our credibility is weakened. I think it is wrong in this debate to go back and examine from this day backward, what went wrong and what went right. We will have to do that another day. Let us, on this day, not only thank the Republican leader and his cosponsors for initiating this debate, which is long overdue, but let us address from this day forward what the U.S. interest is and what we should do.

I say that I am yet unconvinced that we have a national security interest which justifies the use of our military—be it air, or otherwise—as recommended by the Senator from Massachusetts and the President. I think that would be a mistake, and it would end up that this conflict is stamped "made in the U.S.A."

I yield the floor.

Mr. KERRY. Mr. President, if I could answer my friend. No one has suggested putting a different level of values on the lives. No one has suggested that. Obviously, the airman's life is at risk. For Heaven's sake, there are troops of France, and troops of a host of other countries, that are there now, and we ought to care as much about them, frankly, because they are part of our effort. They are doing our bidding, in essence, almost our mercenaries, because we are willing to pay for it, but we are not willing to put the troops on the ground.

These troops need this air support in order to be protected. That is what Lieutenant General Rose decided, and we have given him the command. I know my friend respects the notion of letting command make a decision. I say also that those who put on the uniform are prepared to accept certain kinds of risks, and there are different gradations of what a nation is willing to do in certain kinds of situations.

Our friend in the chair, who was a Navy Seal, knows full well that there are different kinds of missions that you can get sent on. And sometimes they will say to you when you go out on a mission: You are on your own; you are not going to have cover on this one, or we are not going to be able to come in and pick you up. You guys have to go get off there yourselves.

This is the risk you take. Usually, American soldiers have had the courage and gumption to raise their hands and say, "We will take that risk." It does not mean we do not value them. We make judgments every single day in foreign policy, and in the conduct of our military affairs, about what we are willing to put in or not put into this. This is the whole problem with this issue. Let me finish here. The problem with the whole issue is that the Nation has not yet gone down the slippery side. We want to not have the United Nations humiliated, or NATO humiliated, and we want to not walk away from our humanitarian responsibilities; but, at the same time, we have not really said what we are willing to do to maintain all of those desires, or to achieve those desires.

I am simply saying to you that it is my belief that in this effort you would not abandon anybody, but you would bring the power to bear in the effort to try to seek the resolution. I believe if the Serbs thought we were serious, as they did at Sarajevo, we could achieve these safe havens and might get back to the negotiating table.

Mr. WARNER. Mr. President, I share the concerns—and I have said it in this debate in the last hour—of the French and the British about their forces on the ground in Bosnia. They were put in there to carry out a humanitarian mission. They were equipped with such military equipment as was necessary to protect themselves, not to become an aggressive force and work in conjunction with NATO air power to repulse the Serbs. If you leave the impression that if we add air power to what they now have on the grounds, this could turn the tide in that conflict, you have made a very fallacious military argument.

Mr. KERRY. Mr. President, in answer to my colleague, I think there are limits to it. I accept the limits. I accept the possibilities of failure that might go with the limits to it. But as the Senator from Kansas said, we have a responsibility here to try and show some leadership and to take a certain level of risk, if you will. There is a level of risk in not doing that. The level of risk in not doing that is that you invite all of the repercussions I articulated, by making paper tigers out of these institutions that they have struggled to give power to.

As I expressed earlier, I hope the distinguished minority leader will open up the opportunity, notwithstanding the second degree, for us—I would like to be able to vote to lift this embargo, because I think there is a moment where that indeed is something you have to do. But I hope that in this delicate moment, where the Russians are so important to our ability, and where our allies rely on us not to do something unilaterally, if we can just create this capacity to approach the multilateral portion of it, then you would be comfortable, I would be comfortable, and I hope the Senator from Kansas, the minority leader, would also feel we are accomplishing what we were setting out to do.

Mr. WARNER addressed the Chair.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. KERRY. I yield.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. DOLE. Mr. President, I just wanted to put in the RECORD a fax we have just gotten from the Prime Minister of Bosnia. Let me read it to my colleagues.

Certainly we are willing, if we need to modify the amendment in some appropriate way, not to take any teeth out of it, to make a strong statement. But I have to check with my cosponsors on both sides of the aisle.

This is a letter we just received from Dr. Silajdzic, the Prime Minister:

> EXCELLENCY: We have just been informed that Serbian extremist forces besieging the "safe area" of Gorazde have issued an ultimatum to Government defense forces located within the center of the city. The Serbian extremist's ultimatum demands that Government forces withdraw completely from areas in the city lying on the Eastern bank of the river Drina, in addition Government forces are required to withdraw from areas lying within a three kilometer radius from the western side of the Drina. Under this ultimatum, UNPROFOR troops will not be permitted to enter the city and any evacuation of wounded civilians or UNPROFOR personnel will be prevented, until Government defense forces comply. The ultimatum further states that if Government forces refuse to comply with its provision by 16:00 CET, the Serbian aggressor will level the city to the ground.
>
> May I ask, Excellency, for your kind assistance in circulating this letter as a document of the Security Council.
>
> Please accept, Excellency, the renewed assurances of my highest considerations.

This is directed to Mr. Colin Keating, President of the Security Council, United Nations, Sarajevo.

I think it underscores this. All I am suggesting in our amendment—and I will not get into all this other debate—if we are not going to do anything, and maybe there is good reason we should not do anything, we ought to at least let them defend themselves. It seems to me they ought to have that basic right. It is in the U.N. Charter. We are not choosing up sides. We are choosing up sides with the Serbs if we do not do anything. They do not need the weapons. They have 300 tanks; the Bosnians have 8, and it is the same ratio in other weapons systems.

I hope that in the very near time we could vote on the amendment because I know the distinguished Senator from Alabama wants to get back to the bankruptcy bill at some appropriate time and finish that up.

But I have been listening to the debate of colleagues. I think it is a good, healthy debate. But I think in this case we would be strengthening the President's hand, and NATO is meeting today and tomorrow. I am not certain they care what the U.S. Senate says or not. I hope at least they understand we had some serious reservations about slaughtering innocent people, killing 10 people in the emergency room in the hospital yesterday, killing a child while the mother stood 10 yards away, where the mayor of Gorazde asked us, in effect, to drop bombs on his city. He said it makes dying easier.

We can walk away from that, but at least as we walk away let us lift the arms embargo and make it clear that we want people to have a right to defend themselves.

Mr. WARNER. Mr. President, will the Senator yield?

Mr. KERRY. I would like to answer the minority leader, if I may, because it is an important question. I want to make sure I answer it directly.

Mr. President, I say to the distinguished minority leader I agree with what he said. I think President Clinton agrees with what he said.

The President announced a policy yesterday that may do more, conceivably, to respond immediately to the need he has described than lifting the embargo, because, if we lift the embargo today on this bill or send a message today, we absolutely will invite them to rapidly do everything they can, and they will not get any arms. They are not going to get arms to save Gorazde.

What is going to save them there, if anything will save them, will be the response that the Senator from Kansas has rightfully just called for. Under no circumstances should we do nothing. That is why I supported the strikes, and that is why I believe we ought to hold that on a very short fuse.

All I suggest respectfully to my friend is let us try to send this message in a way that combines the best of both worlds, that sends the message but allows the President to move in the next days, hopefully, to prevent precisely what the Senator has just described.

I would say to my friend from Kansas, if you read article 51, it is not an unlimited right of self-defense. It is a conditional right of self-defense. You can take the first part of article 51 and cite the right of self-defense, but if you go to the second part, it says very specifically measures taken by Members in exercising this right shall not in any way affect the authority and responsibility of the Security Council under the present charter to take, at any time, such action as it deems necessary in order to maintain or restore international peace and security.

That is precisely, with UNPROFOR troops on the ground with the multilateral approach of the President, that is precisely what the President is trying to do right now. If we were to unilaterally do that, we raise a legal issue whether we are in keeping with the article, but we also, I think, more dramatically undermine the message we could send here.

So I say to my colleague—and I think the Senator just said he does not want to do this in a way that somehow does not send the strong message, nor do I—I want to vote to lift this arms embargo if these other efforts fail, but if we are in keeping with article 51, we are in keeping with our responsibility if we put this on an extraordinarily short fuse. Our friends in Gorazde or the people of Gorazde will not get these weapons any sooner or any later if we do that. I think we will have a far more constructive approach. I hope we can work together.

Mr. WARNER. Mr. President, if the Senator will yield for an observation, I again express my appreciation to the distinguished Republican leader and his cosponsors.

Let us hope that we can reshape this amendment to send the needed message that the Republican leader so correctly states but do it in a manner that meets two criteria: First, that it is clear that this amendment does not imply that this Nation is going to act unilaterally but that this Nation will join with our allies in future actions and; second, that there is a cause of action which militarily, strategically, and diplomatically will not put at risk the UNPROFOR forces, raise false hopes, and further inflame this conflict.

Mr. KERRY. Mr. President, I apologize to the Senator from Rhode Island, my distinguished chairman, who has been waiting at great length. He has been very indulgent to this colloquy. I thank him very much.

Mr. PELL. I thank the Senator very much, indeed.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, I am hopeful that compromise language that takes into account some of the concerns expressed by Senators WARNER, KERREY, and others can be worked out.

As a strong proponent of the United Nations, I must oppose this amendment at this time because of its potential to undermine the strength of U.N. Security Council decisions. While I would support the lifting of the embargo on a multilateral basis, I do not support a unilateral lifting of that embargo.

The arms embargo is in place as a result of a binding U.N. Security Council action. Accordingly, I do not believe it wise to direct the President to lift the embargo unilaterally. A unilateral lifting of the arms embargo would set a very dangerous precedent. Other nations could choose to ignore Security Council resolutions that we might consider important, for example, such as the embargo against Iraq or sanctions against Libya.

At yesterday's press conference, President Clinton indicated that he supports the lifting of the arms embargo but that he is not willing to do so unilaterally, for the reasons that I outlined here. I believe that this amendment could seriously damage President Clinton's leverage with our allies at this delicate point in the negotiations over the three-pronged United States strategy on Bosnia that the President outlined yesterday. How can the President hope to gain NATO support for the U.S. plan if he is forced simultaneously, at the behest of Congress, to undermine the notion of multilateral consensus?

I hope very much, as I say, that some sort of compromise language can be worked out because we are not far apart and it should be within the ability of man.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I want to express my full agreement with and admiration for the distinguished leader of the Republicans and the Senator from Connecticut [Mr. LIEBERMAN].

It is long past time, it seems to me, that we should be dealing with these wonderful abstractions of how an arms embargo will lead to some kind of peace, of how another bombing raid or two will change the minds of the aggressors in connection with this case.

If my understanding is correct, some 100,000 sortie missions were flown by the United States and its allies in the war in the gulf, and yet after those 100,000 missions, in order to conclude that conflict, it was required that ground troops go in and actually win a war.

To think that a handful of additional raids, to think another in a series of threats, which have gone on in hollow fashion for 2 entire years now, will suddenly change the minds of those who engaged in systematic slaughter and ethnic cleansing is, I think, to believe in the tooth fairy.

It simply is not going to happen. There is no one in our Military Establishment who believes that the course of action being proposed by the President to NATO is going to work. And, of course, there is no historic precedent for it working at all.

We, this country and the United Nations, recognized the independence of Bosnia some 2 years or more ago. The Bosnians, like the residents of any other nation, have the right to defend themselves. The Bosnians have been the subjects of unprovoked aggression on the part of the Serbs. They have been subjected to tens of thousands—perhaps more than that—of deaths of their people, the great majority of whom are civilians, women and children, older people, and the like. More hundreds of thousands have been displaced from their homes. And the nature of the demands on the part of the Bosnian Serbs remains absolutely unchecked.

It is not only a wrong and perversive policy to continue to enforce this arms embargo, it is, in my view, an absolutely immoral policy to do so.

This body, as I remember, has already, on at least one and perhaps more occasions, passed sense-of-the-Senate resolutions that the arms embargo should be lifted. Remarkably enough, a debate 4 months ago, 6 months ago, a year ago, fell on almost exactly the same lines it has fallen today: Let us wait. Let us let the United Nations see what it can do. It is premature to end the embargo. The Serbs will be angered. The Russians will be angered.

Well, these arguments for patience, for delay, have had a single result: more deaths, more aggression, more loss of territory.

Is it not time to listen to the people who are the victims of the aggression, the Bosnians themselves? They do not want the so-called peacekeeping or relief forces which are there at the present time from various European countries. They want them gone. They want the opportunity to defend their own liberties, to establish their own State. Only when they have arms sufficient to impose a punishment which is remotely proportional to what they have suffered are they likely to get and to achieve any kind of just peace and any kind of settlement on a reasonable and appropriate basis.

It certainly is clear that we in the United States cannot, by any action that we have remotely thought of taking, end the ethnic and religious tensions which have plagued the Balkans for such an extended period of time. But to risk the lives of even a handful of American men and women, Air Force and Naval officers and enlisted personnel, on fruitless bombing missions, on bombing missions in which our military does not believe, on missions which will not be a success but will risk our people, and at the same time to say that the victims cannot defend themselves, Mr. President, that is a perverse, erroneous, and immoral set of policies.

The United States of America has survived and prospered as the leader of the free world because our successive administrations have, in fact, been leaders. And when we express our unequivocal intention to end this arms embargo, I suspect that at least a significant portion of the NATO nations will be willing to go along with us.

When we express that kind of leadership and do something that follows up the rhetoric which has occupied two previous administrations and its predecessor administration, the chances that the aggressors will be willing to talk peace on some kind of a rational and reasonable basis will dramatically increase.

So far, however, our threats have been empty, our actions have been utterly and totally inadequate. We have seen, and it has been the case, that we lack any kind of leadership or any kind of rational policy. Our leadership, our ability to be respected throughout the world has suffered greatly.

Let us say, first, that this is not directly the fight of the United States but, second, as it is the fight of a beleaguered people for its own independence, we are not going to inhibit that struggle, and that in fact we will help them at least to attain arms equality with their opponents.

We should not amend or change this resolution. We should pass it in its present form and, in the view of this Senator, at least, we should follow up by seeing to it that we are not speaking mere words but that we are giving these people the ability to fight for their own liberties.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, as a principal cosponsor of the amendment of the able minority leader, Mr. DOLE, I must acknowledge that United States involvement in Bosnia has already gone too far.

Two weeks ago, President Clinton made the military decision to initiate limited air strikes against Serbian targets in Bosnia. This decision came just hours after a statement by the Secretary of Defense that the United States would not participate in air-strikes.

Today, we note news reports that the administration has now proposed expanded airstrikes—a reversal of Mr. Clinton's position of 8 weeks ago. All of this is just the latest misstep by this administration, which could lead this country toward greater United States military involvement in the former Yugoslavia.

As the ranking member of the Senate Foreign Relations Committee and as a Senator from North Carolina, I absolutely oppose expanded air strikes.

So, as I said at the outset, I am extremely concerned that the United States may already have gone too far in its involvement in Bosnia. I am not certain that we can believe the statement of the administration that it will not commit troops to Bosnia without congressional approval. We may not now be able to reverse course. The administration has already committed to sending 25,000 U.S. ground troops to enforce the peace agreement, and from 2 years of experience surely we know that any peace agreement could vanish in a heartbeat.

The administration has already dispatched troops to the precipice of the conflict in Macedonia in the hopes of "deterring aggression." Where have we heard that before? These troops will soon number about 500. Now the United States has used American pilots, under NATO Command, I might add, to strike Serbian positions.

Mr. President, U.S. lives have been put in jeopardy under the auspices of a U.N. resolution that is subject to the decisions of foreign bureaucrats. That rubs against the grain of this Senator and most of the people back home whom I represent. I cannot and will not countenance this multilateral "enlargement" of U.S. involvement.

Of course, I do not support the belligerent actions of the Serbs. Quite the contrary. Their actions are reprehensible and I believe the United States should give what compassionate aid it can to the victims of aggression.

However, the President has had other options available to him that would not lead the United States down a dangerous, ill-advised, ill-considered, misguided and costly path of military intervention. Lift the arms embargo and allow and enable the Bosnians to defend themselves.

I received a lot of calls from North Carolina regarding the President's foreign policy actions. Rarely have I received so many calls opposing the President's most recent actions. The American public, as I judge it to be, is not convinced that the United States should become engrossed in imposing a peace in the former Yugoslavia. Nor do I believe that we have such strong national security interests in Bosnia so as to justify risking United States lives in the heart of Europe once again this century. We have already done that. The Europeans may have a national security interest in ending the conflict on their borders but we do not.

From the very beginning of his Presidency, President Clinton has taken half steps in Bosnia. His policy is one of advancement and then retreat. During his campaign for the Presidency, by the way, Governor Clinton called for a lifting of the arms embargo. Months later, the President announced the intention to lift the arms embargo and then alerted our allies. Our allies gave a resounded no and the President accepted their decision.

While condemning the dismemberment of Bosnia, administration officials have been muttering that any peace agreement would have to "be fair, enforceable and fully embraced by the Bosnian government." Talk about Alice in Wonderland. Now, it seems they are ready to accept almost any agreement as long as it is on paper. The Bosnians have few choices. It is difficult, if not impossible, for the Bosnian Government to agree "freely" to the dismemberment of their country while guns are pointed at their heads. And that is the position that we have put them in.

The administration first announced that it was willing to initiate air strikes in February 1993. We all know how many times hollow threats have been made since then, but I understand that we are serious now. Do not believe it.

Mr. President, no one knows the goals, objectives, duration, exit strategy or U.S. national security interest in this conflict. No one knows how much the U.S. tax payer will be forced to spend on this operation. No one knows how we will pay for the operation.

The one thing I do know is that I am not willing to spend one American life on an ill-conceived, ill-defined, and ill-advised military mission. It is pure folly to believe that the United States can impose order in a region that defines hostility and chaos.

The administration is not prepared to insist on lifting the arms embargo on the Bosnian people so they can defend themselves. Yet we seem prepared to risk U.S. lives. I reiterate, I am totally opposed to that. I believe the American people are totally opposed to that. And we do not need to. When I met with President Izetbegovic, he pleaded that the United States allow Bosnia to defend itself. He was right.

Mr. President, air strikes alone will not work. If the President is serious about stopping the carnage, he would order cruise missiles to strike the military command, control, and communication headquarters of the Bosnian Serbs. He would issue notice to Serb and Bosnian Serb leaders that they are personally responsible. He would insist that unless there is an immediate ceasefire, military sites in Serbia and Bosnian Serb-controlled territory will be the primary target until they cease and desist from their brutal and senseless attacks on defenseless civilians.

But, Mr. President, this administration appears to be half-serious about ending the tragedy and carnage that has engulfed the former Yugoslavia for almost 2 years. This Senator is dead serious that U.S. service men and women will not be pawns in a diplomatic game played by U.N. bureaucrats dancing to the tune of the Secretary General.

I urge my colleagues to allow freedom-loving people to maintain their dignity and defend their country and their families.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Senate is considering S. 540, and the pending amendment is the Dole amendment 1640, the Bosnia amendment.

Mr. LEVIN. I thank the Chair. Before I proceed, Mr. President, I ask unanimous consent that Senator GORTON be added as a cosponsor of the pending Dole-Lieberman amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, the tragedy in Bosnia continues and, to me, it is incredible, it is unthinkable, it is immoral that the world has not taken reasonable risks sooner to defend an entire people who are the subject of this massive aggression and this ethnic cleansing.

I never thought I would hear the words "ethnic cleansing" again in my lifetime. But we have—not just heard the words but seen the cleansing—in Bosnia. The shame of the world.

But it is even more incredible to me that we do not even let the Bosnians defend themselves. We have been unwilling to take even the minimal risk of air strikes against military targets. I think that has been a mistake. I have always felt we should engage in those air strikes to reduce the military capability of the aggressor. That has been a tragic mistake, but what is totally indefensible is that we will not even allow the Bosnians to defend themselves on the ground. This is not a question of whether American troops are sent in. This is a question of whether we will finally let the Bosnians defend themselves against Serbian aggression.

Whatever the argument is about the use of air strikes, whether they can succeed alone or whether you have to have a ground component, or whether it jeopardizes U.N. people on the ground or not, or whether we should conduct air strikes unilaterally or do them through NATO, there are a whole host of questions on air strikes. While I favor those air strikes, at least there are questions to be argued and to be resolved relative to the use of air strikes.

But when it comes to letting a people defend themselves in their own homes, how in the name of Heaven can we justify the maintenance of an arms embargo which will not even let people do that?

The violence in former Yugoslavia has mocked democratic societies. We who celebrate the end of a half century of cold war should be ashamed by what is going on in Yugoslavia. A few weeks ago, the civilized world was apparently pushed over the brink by the slaughter from a shell exploding in Sarajevo at a marketplace. Finally—finally—with that marketplace tragedy, after the world had swallowed ethnic cleansing and genocide for 22 months, the world finally gagged and began to take credible action. And it worked in Sarajevo. The threat of credible force worked in Sarajevo, finally, 22 months late. The world could not take it anymore.

Well, we should not take it anymore in Gorazde, and we should not take it anymore in the other so-called safe zones, which are about as unsafe as any place can be in the world.

The war in Bosnia cannot be ended without American leadership. There is no other way to end this war except to let the Bosnians defend themselves and to combine that with the threat of credible air strikes. Not us on the ground, but the Bosnians on the ground defending themselves. But the only way that can happen is if the arms embargo is lifted.

Would air strikes work alone? No one is suggesting that air strikes do work alone in this resolution. This resolution is saying let the Bosnians defend themselves on the ground. This resolution does not address the question of air strikes. I wish it would, but it does not. But at least it finally does the moral thing, saying we have had it with tying people's arms behind their backs so they cannot defend themselves.

And so today I hope that the Senate will finally, in a strong way, express itself; that whatever additional steps are taken relative to air strikes by NATO, at a minimum we will let the people of Bosnia defend themselves. We should lift this arms embargo that has effectively punished the weakest faction in Yugoslavia.

Mr. President, I know there is an effort being made to work on the language. That is the way it should be. I for one as a cosponsor of this amendment would have no difficulty whatsoever if there is an amendment to this which says that the arms embargo will be lifted in X number of days unless something happens between now and then, as the Senator from Massachusetts has suggested, providing that period of days is a short period.

But the heart of this is that we are telling the Serbs, finally you are going to face for the first time not unarmed victims that you are slaughtering city by city, but you are fighting a people who are allowed to defend themselves. And whether or not the Serbs will respond to that, I do not know. I am not sure what it will take. But I know that without it, without them facing an enemy which is armed, which they are slaughtering in this century's newest genocide, the Serbs will not stop their aggression.

I hope we adopt this amendment or something close to it. I congratulate Senators DOLE, LIEBERMAN, and the others who have decided that we want to act on this amendment. I know that the Presiding Officer is one of those cosponsors, and he has felt strongly about this issue for a long time.

I do hope the Senate will adopt this resolution promptly and send a very strong message to the Serbs that they are likely in the next few weeks to face a two-pronged problem. One is, hopefully, credible air strikes and, two, a credible armed force of Bosnians that finally will be allowed to defend themselves.

I am hopeful that there can be, even at this very late stage, some minimal, decent, equitable, negotiated settlement among the factions. The only way to achieve it is if there is a credible threat of force, at least against the artillery which is pummeling those safe areas and shelling hospitals, against the Serbian forces who have taken as hostages both international peacekeeping forces and humanitarian relief workers.

The best chance we have for any kind of a just settlement is if that kind of exclusion zone is established in other areas and backed up the way it was in Sarajevo, in order to make peace, not to make war. In Bosnia, we must have a credible threat of force and a willingness to use force to make peace.

Mr. President, I am proud to cosponsor this resolution, and I urge its adoption by the Senate.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, unfortunately I have not been able to participate in this debate until this moment.

As the Presiding Officer knows, I introduced the first amendment on this issue when President Bush was in the White House. We passed the so-called Biden amendment that authorized the President, then President Bush to seek that the arms embargo be lifted.

I ask that that amendment be entered into the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AUTHORITY TO ASSIST BOSNIA-HERCEGOVINA

SEC. 559D. (a) Congress finds as follows:

(1) the United Nations has imposed an embargo on the transfer of arms to any country on the territory of the former Yugoslavia;

(2) the federated states of Serbia and Montenegro have a large supply of military equipment and ammunition and the Serbian forces fighting the government of Bosnia-Hercegovina have more than one thousand battle tanks, armored vehicles, and artillery pieces; and

(3) because the United Nations arms embargo is serving to sustain the military advantage of the aggressor, the United Nations should exempt the government of Bosnia-Hercegovina from its embargo.

(b) Pursuant to a lifting of the United Nations arms embargo against Bosnia-Hercegovina, the President is authorized to transfer to the government of that nation, without reimbursement, defense articles from the stocks of the Department of Defense of an aggregate value not to exceed $50,000,000 in fiscal year 1993: *Provided*, That the President certifies in a timely fashion to the Congress that—

(1) the transfer of such articles would assist that nation in self-defense and thereby promote the security and stability of the region; and

(2) United States allies are prepared to join in such a military assistance effort.

(c) Within 60 days of any transfer under the authority provided in subsection (b), and every 60 days thereafter, the President shall report in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate concerning the articles transferred and the disposition thereof.

(d) There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles provided under this section.

Mr. BIDEN. Mr. President, it authorized the President of the United States—and it is the law of the land—to make available to the Bosnian Government up to $50 million in arms that are sitting "on the shelf" here in the United States.

I have been an open critic of at least some of the ways this administration has handled a very complicated, admittedly complicated, situation in Bosnia. But I would like to set a few things straight before we vote, if we vote, on this amendment.

It was not President Clinton who locked the United States into a multilateral approach. It was President Bush. It was Secretary Eagleburger, with whom I spoke, who said we should do nothing in Bosnia. And finally the last administration decided that we should impose through the U.N. Security Council an arms embargo on all the constituent parts of the former Yugoslavia. That was a mistake from the outset, in my opinion.

It was well intended. It was done in the name of bringing people to the peace table, except for one small thing. The JNA, the Yugoslav National Army, which had been very well equipped, over the previous 30 years under the leadership of President Tito, was under the control of Mr. Milosevic, the President of Serbia.

And so, as in the former Soviet Union, when its constituent republics began to break up and go back to being countries under the watchful and disdainful eye of Mr. Gorbachev, the world rushed to recognize, as it should have, the independence of those States, which were not constituent republics but the independent entities of the Ukraine, Belarus—it went down the line.

The same thing was happening in Yugoslavia. Slovenia first came along and said, "We want independence." They did not want to be a part of Yugoslavia anymore, because at the turn of the century Slovenia was an independent country.

Things began to break apart. Milosevic and Serbia decided: We are Yugoslavia. And the fact is that Bosnia was a multiethnic culture made up of Serbs, who are orthodox Catholics; Croats, who are Roman Catholics; and Bosnian Moslems, who 400 years earlier, in order that they could own their own businesses, decided to become titular Moslems. It is interesting when you visit. You sit with Moslems in front of a mosque and you watch them drink liquor. You do not see any veils. It is what you might call secular. But they are all Slavs. They are all Slavic people—Yugoslavia, southern Slavs. That is how we got the name.

And all of a sudden these countries in the former Yugoslavia said, "We want to be independent countries." And Germany said, "We ought to recognize Croatia." And France said, "We ought to recognize Slovenia," and so on.

Well, the Bosnian people had a vote, this multiethnic culture. Almost all the Croats, almost all the Moslems, and some of the Serbs said, we want to be an independent country. We do not want any part of Yugoslavia anymore.

But Milosevic, sitting there seeing this empire crumble in Belgrade, said no. But the world came along and, after this vote, boycotted by Bosnian Serbs, took place, said we recognize this country as one of the family of nations, and here are its borders, with the Drina River on one side. We said this is an independent country, a member of the United Nations.

And then Milosevic thought, There goes my dream of a greater Serbia. Yugoslavia is crumbling around me. I am going to have a smaller empire, but I know if I cross the Drina River with troops from the Yugoslav Army, that is, now the Serbian Army, it will be a war of aggression. Europe will have to respond.

So what will I do? What I will do is on the State-controlled television I will put on these phony messages. Now, the Serbian people are good people. They have been our allies. They were our allies during World War II. But Milosevic went on television and played upon the 400 years' of history, saying on television, remember when the Croats massacred some 100,000 Serbians just like they did the Jews in concentration camps in the Crimea.

Yes, it happened.

Well, that got the attention of good, thinking, normal Serbians, who said: Wait a minute; could this be happening again? They said, look at what the Moslems must be doing to our people in Bosnia and Herzegovina. And in the meantime, across the bridges on the Drina River, Milosevic was sending tanks, artillery, troops, oil, money, and ammunition to aid the Bosnian Serbs in a fight against the Moslems and, originally, the Croats as well.

And while all this is going on under the watch of the Bush administration, the United Nations says, we are going to move toward peace. This could break out in a war. We are going to put an arms embargo on everybody. The problem is, as I said, the Serbs had all the arms. They had the munitions factory. They had the tanks. It was a modern army that Yugoslavia had. The Bosnian Government had a Remington rifle, figuratively speaking.

So, some of us said, as you recall—the Presiding Officer strongly supported the proposal—wait a minute. This "ain't" right. Let us lift this embargo. Let these poor devils fight. We urged the President to lift the embargo. Senator DOLE strongly supported that, as others did. I am not in any way questioning the credibility of people who are now pushing this resolution. But it did not happen at the time.

So along comes a new President. He gets sworn in in January, raises his right hand, and he has said, we are going to do things multilaterally. We want to make the United Nations work. We want to make NATO work. But NATO had said, now, hey, United States you signed on with us. You said you will not lift the embargo unless we all agree. So now this President is in a real conundrum. If he chose to unilaterally lift the embargo, and I think, arguably, he can do that under resolution 51 of the U.N. Charter, he splits NATO. Where are we without a NATO when this happens in Ukraine, in Belarus, in Russia, when the Zhirinovsky's of the world, the ultranationalists, say, we must go into the Ukraine where there are 6 million ethnic Russians being ill-treated by our Ukrainian brothers? Where are we without NATO? Where are we without a United Nations, which we need to bring the hammer down on North Korea for building atomic weapons? We ask the United Nations to sign on.

They say, why the devil should we sign on with you? You, the United States, made a deal. You joined up. You said we could do this in unison. You are the only one that wants to lift the embargo. You are the only one, and because you do not get your way, you are going to take your ball and go home.

So the President is in a tight spot. Let me tell you my criticism of the President, though. I think the President has let NATO and everyone else off the hook. I went to Bosnia just over a year ago, and wrote a report upon my return, debriefed the President, debriefed the Secretary of State, came to the Senate floor, and proposed that we should adopt a new policy in Bosnia. We should push to lift the arms embargo and we should use air strikes. And the President publicly signed onto that. He said, that is my policy; lift and strike.

Then he sent the Secretary of State to Europe to a NATO meeting. My hope was that the Secretary of State was going to say, "We demand you join us to lift the embargo. And we are going to call you to task. We cannot make you, but we want you to sign up for world history. You sign, you vote yes or no."

The President did not do that. I think the President should go to the United Nations and have Ambassador Albright, our Ambassador, say, here is the deal. We make a formal motion. Lift the embargo. Now stand up and be counted.

I predict the French will not veto it. I predict the British will not veto it. I predict none of them will have the guts to veto it. But if they do, at least we are on the right side of history. Then we can make the decision whether or not we should fracture the alliance and go it alone. But let us do it by the book first.

Look, I do not think, although I may be mistaken, there is a senior Member on this side of the aisle who has been as openly critical of this administration on foreign policy as I have. I cannot think of one off the top of my head. I would be surprised if you could. But I believe that this move is ill-timed.

NATO is meeting on Friday to decide what their policy is. We are going to pass a law while the President, as we speak, is negotiating with Major, Mitterand, and Kohl trying to get them to move to this position? And we are going to say, "Mr. President, you must?"

I would respectfully suggest that if the Democrats had done that with the last two Republican Presidents on the eve of negotiations involving NATO, we would have been blown into next Wednesday for interfering in the prerogatives of the President while he is negotiating.

You know that when a President goes on national television, that means he goes on world television. Everybody listens. It is like that E.F. Hutton commercial. When the President speaks, the world listens. They may not agree, but they listen.

Helmut Schmidt used to say to me and to others, "When America sneezes, Europe catches a cold." We are the 800-pound gorilla in the world.

What has the President of the United States said? He has said, I, Bill Clinton, favor lifting the arms embargo. I, Bill Clinton, want to widen NATO air strikes.

The only reason there are threats of air strikes—although I argue it came late in Sarajevo—is that the President of the United States forced the issue with the NATO alliance. And what did NATO do? Even though resolution 836 had been passed allowing a wide use of air power, NATO commanders concluded that in Gorazde they would not apply the Sarajevo standard. In Gorazde, they said, we will only let NATO aircraft fire at offending pieces of artillery or offending tanks if, and only if, that tank or piece of artillery is firing at U.N. personnel. That was not the deal.

People say to me during interviews, "Well, Senator, how can air power work? It did not work in Gorazde." We dropped six bombs, two or three of which did not go off. That is all we did.

My friend from Maine, as we say in this body, "and he is my friend,"—quoted Chesterson; paraphrased him—I do not remember the exact quote—on the crime debate. The Senator from Maine is truly the most literary man in this institution, besides maybe being the most honorable. People say air power has been tried and it has not worked. That is not true. As Chesterson said about Christianity, "It is not that Christianity has been tried and found wanting; it has been found difficult and left untried." It is not that air power has been tried in Gorazde and found wanting or lacking. It was not tried.

So what is the President of the United States doing right now? He has picked up the phone and called Yeltsin. He called Mitterand. He has called Kohl. He has called Major. On Friday, our military leadership and civilian leadership were meeting in Brussels to say, let us use air power as we intended. It will not "win the war," but it will save some lives in the meantime. By using air power, that means, if you fire at me with this tank, I can go find any tanks you have anywhere and blow them up.

You shoot at me with this gun, I can go find where you store your ammunition and blow it up. You shoot at me with this piece of artillery, I can find your command post and blow it up. That is not going to stop the war, nor does the President think it will. But, at a minimum, it will stop what you see on television, or it has a chance of it, which is seeing Serbs—by the way, I keep saying "Serbs." It should be pointed out that there are still Serbians in the Bosnian Government. There are still Serbians in Serbia, who want no part of what is happening to Bosnia, to the Moslem and Croat population. This is not all Serbs. But look at the pictures you see on television. You see women and children huddled, literally crouched, running down streets, huddled against walls, hiding in mosques and churches, and in basements, and you see, sitting up on a hill lobbing a piece of artillery, a shell, and pulling a string and indiscriminately blowing innocent civilians up, without any fear of anybody doing anything about it. Why? Bosnians have no weapons, for God's sakes.

So it seems to me that since this President was dealt this hand through the incompetence of a previous administration, having compounded the bad hand he was dealt by some incompetence on the part of his administration, he is now trying to find the way through it. He says the first step is to let us use air power to the extent we have the capability to do so, without limitation. And even that he cannot get NATO to agree to yet. They are going to meet on Friday to vote on it. Let them do that and then let the President make a serious effort to lift the arms embargo with our allies.

I have not had a chance to talk to the majority leader, because I was in another meeting, nor to Senator DOLE, but I hope we can reach a compromise on this, not on principle, but a compromise on tactics. I hope we can work out language—and do it with a directive, which we have the power to do, if we have the votes—and say the following: Mr. President, you must insist with our allies that the arms embargo be lifted. Mr. President, you must table at the United Nations a resolution lifting the arms embargo. You must show you have done everything in your power to persuade the allies in the U.N. to reach a rational and humane position on this issue. In the meantime, let him negotiate. My friend from Maine knows. Private negotiations with our NATO allies. Let us see if we can move this in the next 4 or 5 days.

And then if, A, it does not move, or, B, the President does not attempt in earnest to lift the arms embargo multilaterally, then we have the option a week from now, or 10 days from now. The answer to this problem is a truly negotiated settlement in Bosnia. A truly negotiated settlement can only be arrived at after all of the warring parties are convinced that they have totally used up all their wherewithal to do better on the ground.

Can anyone in here name for me a circumstance where there has been a negotiated agreement with warring parties that has held before the warring parties have expired on the battlefield? Name me a single such circumstance. Right now, the people of the Bosnian Government—mostly Moslems—had they the wherewithal, could take back part of the 70 percent of their country taken by the Serbs.

The worst of all worlds is—and I have said this to the President, so I am not being disloyal to him or this country, and I will say it publicly now—the worst of all worlds is for a falsely negotiated settlement.

The worst of all worlds is that there would be a negotiated settlement, because the Bosnians cannot take it anymore, so they negotiate. Does anybody suggest that means that once there is a settlement, we are going to keep an arms embargo forever on Bosnia? The answer is "no."

The economic embargo will be lifted on Serbia and, mark my words, within 6 months to a year, the Bosnians will be back, Moslems and Croats, fighting—and now better armed—the people they signed an agreement with because they feel it is an unjust agreement foisted upon them.

The best way to get to the negotiating table is for the Serbs to know they got all they could get through force. Look, we have been negotiating now, and what are the Serbs doing? The Serbs are going after Tuzla, Bihac, Gorazde, and Srebrenica. Why? Well, the world is standing by. They do not have any need to settle. Why do we have to negotiate? Who are they negotiating with? Themselves. That is the negotiation that is going on. So ultimately, if we were put in the awful position of having to send in American forces to enforce a negotiated agreement that was literally a coerced agreement, American soldiers become apartheid cops, actually codifying Serbian gains.

So that is why I believe ultimately the answer lies in lifting the arms embargo, again a position I have relentlessly pushed from the beginning. But at this point, on the eve of a Friday meeting in NATO for us to pass this would be wrong.

If we pass this today and dictate to the President of the United States to say, you must thumb your nose at the rest of NATO and say, "I do not care what you all think; we are going to do it anyway," while the President is trying to negotiate a multilateral response that is more robust, I think it would be premature. It is not premature in the sense it should not have been done 18 months ago. But it is ill-advised on the eve of this meeting to pass something that will not have any effect other than to embarrass the President of the United States while he is trying to negotiate.

And I know that is not the intention of Senator DOLE or Senator LIEBERMAN, both of whom I will be allies with on this subject.

So I hope that in the next minutes or hour, people of good faith can say OK, let us work out something here whereby, even if we resurrect the old amendment that passed, we say, Mr. President, we want you to lift the arms embargo, we want you to push for it, and we authorize you ahead of time if it is lifted to send $50 million worth of equipment. Let us do that, send that message to our European allies now but do not send the message that says, "Mr. President, do not negotiate with the people you are negotiating with. Tell them it does not matter what you think of their opinion. Unilaterally lift the embargo, break up the coalition"—and that is not going to in and of itself break up NATO—but break up the coalition and go it alone. Give the man some time.

I think he has clearly understood the intention. His instincts have been right on this point all long. He inherited a position that is difficult to get out from under, and I think with the prodding of this body and hopefully the American people, we will act in a more forceful, not just forceful in terms of physical force, forceful in terms of negotiating posture, a more forceful way than we have of late.

So I stand ready, if anybody wishes to try to craft such an approach. I stand ready to try to help work one out. I think it is the more reasonable approach. I think it is the more rational approach, and I think it at least does due deference to the President of the United States, who tomorrow will have his representatives sitting down with NATO allies to try to get a decision to use additional air power.

I think it is ill timed. I hope we wait on it. I hope we come up with a compromise.

I thank my colleagues for listening, and I thank my good friend from Maine for allowing me to take his name in vain.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, it is no secret that no one, I repeat, no one on either side of the aisle has had the magic solution to the problem in Bosnia. This is quite probably the most difficult, perplexing foreign policy issue on the horizon, certainly at the moment.

We are all pretty sure what is not going to happen. We all know, Mr. President, there are not going to be American troops on the ground in Bosnia. The President is not asking for that at this point. We all know that we would insist that any decision to put American troops on the ground be preceded by a resolution of authorization by the Congress.

Having pretty well concluded that we are not going to put troops on the ground in Bosnia, we are left with very limited options. I think it is also safe to say very few people, either in or out of this body, believe that airstrikes standing alone are going to have any substantial impact on a conclusion to this conflict and political solution.

In short, Mr. President, in all candor, we all know whether we say so publicly or just utter the words privately on the floor, that our ability to effect the outcome of this conflict from outside is extraordinarily limited either because of lack of political will, a feeling that it is simply not in our national interests, or whatever.

So what are we left with, Mr. President, as we see this carnage on television every night?

I think what we are left with is what is embodied by the amendment of the distinguished Republican leader and Senator LIEBERMAN of Connecticut, which is to lift the arms embargo on the Bosnian Moslems now and to do it unilaterally.

Some Members of the Senate have said this afternoon and the administration has said that it is a mistake to lift the arms embargo unilaterally because if we do that, the strength of our U.N. embargoes will be reduced and, therefore, the credibility of other multinational embargoes of arms will be undermined by a U.S. unilateral action.

First, Mr. President, let me say that I think the notion that American foreign policy should be to that degree guided by any multinational body is a somewhat suspect place in which to find ourselves, that, in fact, American policy should not be in most instances determined by the United Nations in any event. But even if one is convinced that somehow U.N. permission for an arms embargo lifting is critical, the argument is fatally flawed as applied to Bosnia.

I think it could be persuasively argued, Mr. President, that the U.N. arms embargo on Bosnia is illegal in the first instance. The U.N. arms embargo violates Bosnia territory integrity and its inherent right to self-defense. The right to self-defense in article 2, subsections 4 and 51 of the U.N. Charter is the preeminent right under international law.

The arms embargo, it seems to this Senator, is unjustly and illegally applied for Bosnia in the first place. The arms embargo was imposed by Resolution 727 on the former Yugoslavia before Bosnia had achieved statehood or even declared independence. I repeat, the embargo of the United Nations was applied to Yugoslavia which does not exist anymore. Bosnia is not a successor state to Yugoslavia under international law.

Bosnia had to apply for U.N. membership as a new state, as a brandnew state, Mr. President, and has not been able to use U.N.-related property of Yugoslavia. No U.N. action ever applied the arms embargo to the independent State of Bosnia and Herzegovina.

Upon admission to the United Nations, Bosnia is unquestionably entitled to the right of self-defense.

So I think it could be argued, Mr. President, that the U.N. arms embargo does not apply to Bosnia anyway. So even for those who feel that our policy must somehow be bound by the policy of the multinational body, it does not apply in this situation and it is pretty clear that our allies at this point do not have the stomach for lifting the embargo. And the question at this point is whether we are willing to do it on our own, to try to give the Moslems a fair chance, to give them some chance to succeed.

Some Senators have said here this afternoon they are for it but just not now. Just do not do it right now because it may create some problems for the administration or some other problem because of some meeting that may occur tomorrow or next week or sometime. We have been talking about this for a long time. In the meantime, the shells are being lobbed in, hitting hospitals, killing civilians. Others have said, "Well, if we lift the arms embargo, it is going to take a while for the arms to get there, and that will just encourage the Serbs to commit additional atrocities." I do not know how much worse it can be than it already is.

So, regardless of what actions the Serbs may or may not take in response to a decision by the U.S. Senate to recommend that the President or to actually dictate to the President that the arms embargo be lifted now, we do not know what the Serbs are going to do for sure on a day-to-day basis. We do know what the pattern is. It is pretty clear to anybody who can turn on a television set that the pattern is of continuous aggression, continuous carnage.

Oh, they may step back for a day or two at a time or respond to some line drawn in the sand temporarily. But the movement is inexorably in the same direction and that is to subdue the Bosnian Moslems.

So we are left with only one option, Mr. President. We are not going to put troops on the ground. Air strikes are not going to work. The United Nations is not going to lift the arms embargo. We are either going to do it unilaterally or nothing is going to happen.

So I think the amendment of the Republican leader and the Senator from Connecticut is appropriate. I think all of us feel that it may be somewhat overdue. But, Mr. President, better now than never.

Let us give the Moslems a fair shot at this thing. Let us give them a chance to level the military playing field. We have the armaments to send. They have the will to fight.

Mr. President, I support the amendment offered by my colleagues, Senator DOLE and Senator LIEBERMAN requiring the President to lift the arms embargo on Bosnia. I come to this decision reluctantly, but largely out of frustration with the missteps and miscalculations in the administration's policy. When the Senate first debated American policy in the former Yugoslavia in August 1992, many members of this body wanted to demonstrate the Bush administration's shortcomings in resolving the crisis. Senators were cheered on by candidate Clinton, who accused the Bush administration of "sitting on the sidelines" for too long allowing Yugoslavia "to slip into chaos and civil war."

In August 1992, I believed such calls to action were dangerous. In close consultation with Prime Minister Major, the United States was actively engaged in a full scale diplomatic initiative as we simultaneously moved forward in providing humanitarian relief and food.

In August 1992, the President was balancing our frustration with bloodshied with the facts on the ground. He balanced our commitment to continuing humanitarian relief operations with our allies intention to pull out their peacekeeping forces if we took unilateral military action. President Bush did not squander American or NATO credibility by threatening actions which he could not or would not take. There was no grandstanding, no empty threats. The administration pushed hard to isolate the Serbs through sanctions. The President also affirmed his commitment to deploy and use air and naval assets to protect relief convoys. He defined a specific use of American power and effectively carried out that commitment. All the while he was actively engaged in moving the peace process forward.

I supported that effort completely. It was my view that adding arms to the equation or taking sides against the Serbs would only escalate the conflict. I believed that hard headed diplomacy with the credible threat of force to protect American lives or American interests, was the appropriate course. Force remained a last, but viable, resort.

I remained hopeful through April 1993 that the new administration would clearly define our goals and international role. The administration indicated three options were under consideration—air strikes against Bosnian Serb targets, lifting the arms embargo, and establishing safe havens. I was impressed when Secretary Christopher spelled out four strict tests for the use of air strikes or any other force: The goals must be clear, there must be a strong likelihood of success, there must be an exit strategy, and Americans must support the plan. The final test presumed a clear cut explanation of the administration's intent to the Congress and the public.

Unfortunately, since last April, we have seen our credibility collapse and our policy implode. No less than nine times, the administration has called for the use of air power and then retreated. There was little predictability to our policy, no consistency in carrying through on our pronouncements.

Polling told the public and the President that there was a deep ambivalence about American involvement in Bosnia. That ambivalence translated into indifference at the White House. The shock of the savage attack on a heart of Sarajevo renewed interest in attempting a solution. Now with Gorazde under siege, we are once again seeing an interest on the part of the administration.

But, I am concerned about how seriously and how long we will sustain that interest. If we ask ourselves whether the administration has met the four tests spelled out by Secretary Christopher the answer is a resounding no. We do not know what the goals are—we are unclear whether we can achieve success, there is no end in sight, and finally, I doubt a single American could tell us what exactly we are doing and why.

Good intentions are no substitute for good policy. What happens when the air strikes don't work? What happens when the first American is shot from the sky? Will the American people understand?

When I posed the "what happens next" question to Deputy Secretary Talbott last night, he told me he did not have a "persuasive answer." He left me with the uncomfortable impression that we are hoping this will work, and have not thought through the consequences if it does not.

The use of air power to protect six enclaves squarely puts the credibility of NATO and therefore the United States on the line. The administration will no longer be able to hide behind the notion that this is a European problem or a U.N. war. There is no doubt in my mind that we are backing this nation into a serious responsibility.

I hope the threat of air power has not come too late—months after we have forfeited U.S. leadership and compromised our credibility.

Whether it works or not, I am supporting this amendment because I view it as a way to make clear that there is a next step if air power alone does not push the Serbs back to the negotiating table. The amendment supplements the current initiatives, giving teeth to the efforts. The Serbs have successfully exploited weaknesses and inconsistencies in the international community's position, while continuing their slaughter of the Bosnians.

The time has come to give the Bosnians the means to defend themselves until international action and effort succeeds in negotiating a durable agreement. If we can't help them, we at least should give them a chance to help themselves.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Maine.

Mr. COHEN. Mr. President, I will only take a few moments to express some thoughts on the amendment that has been introduced by Senator DOLE and others.

I think it reflects a sense of desperation. I think what Senator DOLE and the cosponsors of the amendment are indicating is that they have looked at all the options, there does not seem to be any other options and, therefore, let us take this one last act of desperation on behalf of people who are being slaughtered.

This act of desperation has been precipitated by the absence of a policy. We do not have a policy, not one that has been clearly conceived and articulated and certainly not one that has been articulated with any degree of coherence. We do not have a policy, and we do not have a voice to express that policy.

Who, for example, is speaking for the administration? Is it the Secretary of Defense? Is it the Secretary of State? Is it the National Security Adviser, Mr. Lake? Is it the Chairman of the Joint Chiefs of Staff? Who speaks for the administration?

Well, ultimately, only the President can speak for the administration. And yet we have had conflicting statements and policy suggestions expressed to the public by each of the individuals I have mentioned.

Not long ago the Secretary of Defense made a public statement saying that the United States simply would not bomb the city of Gorazde. The Secretary of State made a different statement. Mr. Lake, from NSC, also rushed to the podium to say no, that is not our policy. We will act with air power to save this city. The Chairman of the Joint Chiefs said it is not in our interest and would not be effective to pursue a bombing policy in Gorazde.

We have this cacophony of voices—all of those individuals have very high positions of prominence. And, as Senator BIDEN from Delaware said, it is not only when the President speaks that the world listens. Everybody watches on CNN when you have high-level individuals speaking on behalf of the administration.

So the picture painted to the world at large, not only to the Serbs, the picture painted is one of complete chaos, of inconsistency, of fragmentation, of confusion. And so they are bewildered. They are befuddled, if I can use that word. They do not know exactly what we are doing, or what NATO is doing, or what the United Nations is doing.

We have gone through a series of threats. We threaten to bomb, and then we back away from the threat. We threaten to bomb again, and then again, the threat appears to be empty. We finally take action, but it is ineffective.

And, if I might just contradict my friend from Delaware when he says we are the 800-pound gorilla, we may be the 800-pound gorilla, but over the last 2 years we have acted like a weak and whimpering tiger.

And we have to ask the question: Why? Why have we failed to take the action worth any of an 800-pound gorilla? We certainly have the military power, but we obviously do not have the will. And we do not have the will because we do not have a consensus in this country, and we do not have a consensus in this Chamber, not to mention the other body.

We do know there is a consensus that there shall be no ground troops. I have not heard anyone here suggest that we ought to introduce American ground troops to help stabilize that country and to prepare for peace or make peace. No one is suggesting that. There have been hints that if we had some kind of a settlement, a real and stable settlement in which all the parties agree to the boundaries, that we might consider putting up to 25,000 troops into that region in order to secure the peace.

And let me suggest to you even that would be very controversial in this Chamber. There would be no immediate consensus, and perhaps ultimately, no consensus, at all.

So we start with the proposition: No ground troops. They say, "Well, how about air power? We have fantastic air capability." And we do. But virtually every military adviser coming over from the Pentagon to testify before the relevant committees have said air power alone will not be sufficient. Yes, we can target bridges, and we can target ammunition dumps, and we can go and take out fuel supplies, and we can take out cities of Serbia, itself, and leave them in ruins. We can take out electric powerplants. We can do all of that.

I have talked and learned about some of the targeting plans that are there as contingencies. We have that capability.

But there is no one coming forward to this Congress, to the Senate, suggesting that will, in and of itself, do it.

They say, "Well, it might get their attention. It might make them understand that we might go further."

Well, maybe we would and maybe we would not. And, by the way, what happens if we start to deliver that air power and we start to lose U.S. air personnel? A British aircraft was shot down earlier this week. The pilot was rescued. But what happens when we start to lose American pilots who do not get rescued, who either get killed or held as POW's? Does that change the formula at all? Obviously, we have to take that into account.

If we are prepared to use air power, we have to be prepared to lose personnel. That is one risk you assume when you go to war or when you take action short of all-out war. But seeking to send messages, or seeking to interrupt supply lines, or seeking to rescue individuals, you run the risk of losing American lives.

So are we prepared to put American lives on the line? Well, that is something we still have to debate here in this Chamber.

What Secretary Perry said last week or 10 days ago, he said initially—in Munich back in the first week of February at a conference in Munich—he said we really should not take action A unless we are prepared and we have a plan for actions B, C, D, and E. And at that time, while being new to the job, I think only a few days as Secretary, he expressed the opinion that we did not have such a comprehensive plan in mind. So he urged caution on the part of United States.

Well, again we have gone from threatening the use of force to almost overnight suing for peace.

I recall the Senator from New York [Mr. MOYNIHAN] at one point more than a year ago was suggesting let us charge certain individuals with war crimes. Bring them to the United Nations, charge them with being war criminals.

We have gone from a point of charging them with being war criminals, to threatening the use of bombs, to eventually suing for peace, saying if only you stop slaughtering the Moslems, if only you stop this, we might even lift the economic embargo that we placed on Serbia.

So on the one hand, we threaten to bomb, which is ineffectual, and then we offer to sue for peace, and that too is ignored, and the slaughter continues. And so the sponsors are offering this amendment as the last thing we can turn to. Let them fight for themselves.

But I think, as others have pointed out—and I have yet to conclude what the ultimate rationale should be for this action we take today or how it should be formulated—we also have to understand there are consequences for us if we seek to lift the arms embargo.

Who delivers the arms? How are they delivered? Will we use our air power in order to ensure that they reach their destination? What happens if the Russians decide they are not going to go along? They might decide to supply the Serbs with surface-to-air missiles, and we might start to lose more and more planes. Do we then escalate it and go further? Do we then take out Belgrade? How far are we prepared to go?

None of us is in a position to make that judgment today, which is one of the reasons why, for the past several weeks, I have suggested that we not initiate bombing until we know what the complete plan is going to be. We cannot continue to act on an ad hoc basis. We need clarity of purpose and consistency in the pursuit of that particular purpose. As of this date we have neither.

So, is it worthwhile for us, this afternoon or this evening, to agree to an amendment which will not go into effect immediately, on a bill which will have to go to conference, which will take days if not weeks of negotiation with the other Chamber to come up with a proposal to present to the President long after the decisions have been made as to whether we go to a bombing strategy or not in Bosnia? It seems to me not unless we are prepared to answer these questions about whether we go it alone.

If NATO decides, "It is your ball game; if you decide you want to lift it unilaterally, go ahead," and we pursue that unilateral policy, it will have repercussions not only in Bosnia but in other areas as well where we depend upon a united, concerted effort. Is it worth taking that particular risk today to send the signal we are prepared to go alone? Does it strengthen the President's hand? Or is it better, as Senator BIDEN of Delaware has suggested, that perhaps we ought to give the President at least one more day? People are going to die during that one more day. We have to understand that.

But is it worth giving the President of the United States an opportunity? To say, "We are giving you this direction. We have reached the end of our rope in terms of patience. We are not formulators of foreign policy. We cannot have coherency in a body of 100—or 435, in the other Chamber. We need you to lead. You have not been leading. You have been stepping forward and backwards, then forward and backward again. You have not been leading on a true and straight course. Maybe it is not possible to do that, but you have not done it. But we think it is worth another 24 hours to say to you, Mr. President, go to NATO. Tell the NATO allies that we cannot tolerate the current situation a day longer, that we need united action to lift the embargo so the Moslems can defend themselves and stop tying their hands behind their backs.

If they turn us down at that point, then I think you can say we have tried everything. We gave the President a chance.

I recall on each and every occasion when we had President Reagan and President Bush in the White House, Members of the other side in particular were always eager to pass resolutions. And we on this side said, look, let us not take this action on the eve of a negotiation. Do not undercut the President. We find ourselves in a similar position, I think, today. Those who support the amendment, I know, feel they are going to strengthen the hand of the President, that he can go to the NATO allies and say, Look, unless you agree we are going to go alone.

They may call that particular bluff of ours, if it is a bluff, and say, Go alone. Then we have no alternative. No more empty threats, no more empty promises. Then we will go it alone. The question is, where will we go and how far? Using what?

None of us have thought that through yet. None of us, perhaps, can without the full information of our intelligence community, our defense establishment, the best advice we can get out of this Government.

So I think we ought at least to have enough caution in this particular debate to say: Mr. President, we are not happy with a nonpolicy that you have articulated on one day and disavowed the next, or had spokesmen articulate one day and disavow the next. We are not pleased with that. Frankly, we should not be pleased with our own performance because we have not really been very much integrated with this process. We have not become too activated on this process. We have not had a very aggressive debate on this question. We have followed the President's lead as well; that is, just ignore it for the time being, let us look the other way and hope it somehow works out.

What we realize, nothing in the world works out unless we are engaged, unless we are actively engaged, be it in dealing with China or Japan or any place in the world. We cannot simply pursue a domestic policy. This is a domestic President. But we cannot be a domestic nation. It is not as if we can simply tell the world, "We are not concerned with you. Let the world fend for itself. Let the Asians take care of Asian problems. Let the Europeans take care of European problems. Let us come home to America."

We cannot shut the world out, because the world is not going to shut us out. There is nothing that takes place in isolation. Everything that happens in this ever-diminishing world of ours—diminished by technology, being miniaturized by technology—everything that happens has a consequence. Maybe it will reach our shores and maybe it will not. But the solution is not for us to come back to a cocoon called continental United States, zip ourselves inside, and let the world unfold and everybody watch it on CNN. That is a sure prescription for disaster, for future wars, for future entanglements which will cost us thousands of lives. So, we cannot claim any high position here, any moral virtue, that somehow only the President is at fault. We are at fault as well.

This debate has been enormously helpful, I think. I think Senator DOLE and Senator LIEBERMAN and others, who have introduced this amendment, have forced us to start dealing with this, not on a 1-day basis but looking at what the ultimate consequences to Bosnia are, to the Serbs, to the Moslems, to the Croats, and to us. We should not follow the President's declaration it is only going to be domestic issues we are concerned about. We ought to be as concerned about foreign policy as the President should be concerned about foreign policy.

Mr. President, I hope the initiative you and others have taken will, in fact, stir us to sit down this afternoon to see if we cannot come up with some kind of workable approach to give the President some time—not a lot of time. As I mentioned before, people are dying. People are dying by the minute, by the second, through the brutality that is being waged, the savagery that is being conducted in Bosnia. If the President is going to communicate with NATO officials tomorrow, let us tell the President: We want you to take action. We want you to persuade the NATO allies to take this action. In the event you are unsuccessful in doing so, you can rest assured Congress is going to urge we go forward unilaterally.

I think it is worth waiting a very brief period of time. I hope it does get the President's attention. I hope the President will, in fact, put together a foreign policy apparatus within the administration that is capable of, number one, focusing upon the complexities, the nuances, the dangers, the opportunities involved in formulating foreign policy, then speaks with a consistent, coherent voice, and then has the leadership to come to the Congress, who represent the American people, saying: This is what I want in the way of your support.

There is one thing we have learned in this country. If the President takes action which puts our young men and women in harm's way so they lose their lives or are in jeopardy of losing their lives, unless the President has the Congress on record in advance in support of that action, then when the bullets start flying and the bombs start falling and the bodies start coming home, public opinion will be flowing in exactly the opposite direction. And we as Members of Congress will be right behind them.

So the President must have the support of Congress in advance. In the absence of that support, he is likely to be out there on a limb, and the limb will get thinner with each tragedy, and he will reverse his policy. And, once again, the United States will look as if it is that weak and whimpering tiger that roars a great deal but takes no action, and when it takes action, it is ineffectual.

So I think, Mr. President, that this debate has been helpful and healthy. I hope that the leadership will be able to meet during the course of the afternoon, as we are debating this issue, to come up with a proposal that does not undercut the President, that does, in fact, strengthen his hand, that does give him one last opportunity to go to our allies and say what we have done has been a disgrace. In the absence of action, we have forfeited the lives of tens of thousands of others; we have subjected them to absolute horror and terror and death, and we cannot be proud of that.

So we go to NATO, insist that NATO take the action that we are recommending here; namely, allow, at the very minimum, the Moslems to be armed, allow them to fight with both hands.

But in the absence of that, Mr. President, we would tell our NATO allies that, under those circumstances, if there is going to be a total default, complete abdication of any moral responsibility for action to defend innocent people, then we are prepared at that time to go forward.

Mr. President, I yield the floor.

Mr. FEINGOLD. Mr. President, I rise today as an original cosponsor of the Lieberman-Dole amendment which will, in effect, unilaterally lift the pernicious arms embargo against the Republic of Bosnia and Herzegovina. I do not have a great deal to add to the comments by my colleagues, but only to reiterate what I and others have said for over a year: The missing link in an integrated and effective international policy on Bosnia is allowing the Bosnians to exercise their right to self defense by lifting the U.N. arms embargo against the Republic of Bosnia and Herzegovina. It is an action I have advocated ever since I introduced Senate Resolution 79, a resolution expressing the sense of the Senate to do just that.

We are discussing the embargo again today because of the imminent fall of yet another Bosnian city to Serbian aggressors. But while the debate today may be more impassioned, it is no different than before: this is an action we should have taken a long time ago.

This is much more than just a feel-good measure taken by a group of Senators who want to ease their consciences regarding Bosnia. Feeding starving people who are unarmed targets of aggression is a feel-good measure. Piecemeal air strikes, launched in the absence of a long-term, integrated strategy in Bosnia, is a feel-good measure. Rather, lifting the embargo is the most practical approach we can take in this conflict. Peace will have to be negotiated no doubt, but as long as the Bosnians pose no threat whatsoever—and carry no international protection—the Serbians have no reason to settle.

Further, if the United States is, indeed, going to invest in Bosnia with our own troops—a step I have grave reservations about for several reasons—then we have an interest in the Bosnians being able to defend themselves.

The only way the Bosnians can save themselves and preserve what remains of their country is by fighting for themselves, by being allowed to arm themselves. This will help make a fair fight on the ground where up to now it has been egregiously imbalanced in favor of the Serbs. It is also the surest way U.S. troops can stay out of the conflict.

This amendment, as other cosponsors have already said, does exactly what the administration has supported for a year. But the President and others are cautious about sending arms to Bosnia unilaterally because of the precedent it sets for further U.N. action. That is a point well-taken.

However, in this case, Mr. President, I am among those who believe that the U.N. resolution barring arms to Bosnia is superseded by the U.N. Charter itself. As article 51 says,

> Nothing in the * * * Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a member of the United Nations until the Security Council has taken measures necessary to maintain international peace and security.

Clearly, the international community, led by the United Nations, has not yet "taken measures necessary to maintain international peace and security." Therefore, the right of Bosnia to self-defense, pursuant to article 51, is being violated. This is also a precedent for U.N. action which I think we must also take very seriously.

As long as we participate in the embargo, we are assisting the Serbs—the Serbs who are guilty of some of the most heinous war crimes in the post-cold-war era. I believe that lifting the arms embargo is a defense of human rights and a strengthening of international law. It is also—ironically enough—a step toward a peace agreement. Without lifting the embargo, the increased air strikes, the tightened sanctions, the protection of so-called safe havens will prove to be just feel-good measures.

Mr. MACK. Mr. President, I rise to support the initiative that is before us this afternoon, and I want to commend both the Chair and Senator DOLE for bringing this to the floor of the U.S. Senate.

I suspect that there are a lot of people who have been wondering why it has taken us so long. I guess my initial reaction to that thought is that we, frankly, wanted the President to lead. The American people want to support President Clinton. The American people want to support his foreign policy. But, frankly, they have become dismayed, and the international community looks at us with disbelief.

From a personal perspective, it is hard for me to believe that in a very short period of time, we have destroyed the vision of what America is all about to people around the world who have looked to us so long in support of freedom, who have looked to America as the leaders who are prepared, a society, a nation that is prepared to defend freedom anywhere on the globe. But in a relatively short period of time now, there is serious question about America's resolve: Who are we? What do we believe? What are we committed to?

There have been many articles written over the last several weeks with respect to Bosnia and questioning the President's leadership. Let me just read from one. Anthony Lewis, New York Times, Monday, April 18:

> For 50 years, American power, purpose and resolve have kept the peace in Europe. They faced down the severest challenges, and prevented a third great war.
>
> That age is over now. So we have to conclude from the humiliation in Bosnia. There the United States and NATO, the most powerful military alliance in the world, have allowed themselves to be intimidated by a minor force of ultra-national Serbs under demagogic leadership.
>
> The reason for this seismic change in the balance of effective power in the world is plain. The United States has in office an administration that does not believe in the commitment of American power, purpose and resolve to keep the peace.

I think we are again here today to discuss and debate this issue because the time has come when the country will no longer accept a position that in essence says just wait till tomorrow; we will have another policy for you.

I think a second frustration people are feeling is no longer do they believe it is proper for the United States to abdicate or to turn over its role in the world to the United Nations. That is not said from the perspective that I am trying to beat up on the United Nations. But when one observes just what has occurred in the world as a result of the United States saying we are in essence going to turn over foreign policy to the United Nations, we have seen I think terrible consequences—in Somalia, in Haiti, and clearly in Bosnia as well.

This month is the 52d anniversary of the Warsaw Ghetto Uprising. The world's response was "Never again." Never again would we turn our backs on people who are being slaughtered. We said we in essence would take a stand.

I think we have failed ourselves, and we have failed our Nation in not providing the world with the leadership necessary to bring the forces together to defend those innocent people in Bosnia.

Mr. President, again, I come to the floor with a very strong conviction that the Senate of the United States must speak out; that we must unilaterally lift the economic embargo imposed on the Bosnian people. It is morally wrong for our Nation to support a policy of denying people the right to defend themselves and at the same time saying to them "And we won't defend you either."

The time has come for us to act. The information coming out of Bosnia—there is an article that I have in "The Bosnia Relief Watch." The headline, if you will, is, "This is Not War; This is Slaughter."

Mr. President, it is time for us as a nation and as a people to stand up once again and say to the world we are prepared to do what is necessary, not just to maintain the peace but to protect and extend freedom around the world.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the distinguished President pro tempore of the Senate, Mr. BYRD, of West Virginia.

Mr. BYRD. Mr. President, I thank the Chair.

READING ABILITY AS A NATIONAL IMPERATIVE

Mr. BYRD. Mr. President, for centuries, an ability to read has been regarded as a sine qua non of civilized life, and, more recently, as the entry-level ticket to a higher living standard and the minimal prerequisite to advancement in the workplace.

In recognition of these realities, and in recognition of a nearly scandalous lack of competence by so many American teenagers, both in high school and among school dropouts, the Senate and House of Delegates of the West Virginia State Legislature last month passed a joint resolution calling on, and inviting, the Federal Government to give its,

> * * * full support to the development of a national center for literacy in Southern West Virginia that will direct, consolidate, research and develop national programs to identify the national crisis of illiteracy, its impact on the future of social and national security, and formulate national policies and programs to redirect a campaign to reverse that impact; * * *.

Mr. President, I commend the West Virginia State Legislature for its foresight and concern in adopting such a resolution.

Moreover, I further commend Mr. Tom Colley, executive editor of the Bluefield Daily Telegraph, Bluefield, WV—a daily newspaper in the Thomson chain—for advancing such an idea. I am certain that I share Mr. Colley's frustration that, in this era of space exploration, computer advancement, and other multiple features of an emerging sophisticated global culture, America should continue to suffer the debility wrought by thousands upon thousands of adult men and women who do not possess sufficient literacy to qualify for more than menial occupations, if that.

During the Dark Ages of Western culture, a man who could read was revered as nearly a magician, and was honored for his almost supernatural powers. Needless to say, most of our ancestors in the ancient past dared not even dream of attaining such an ability, and, by and large, most women in past cultures dared not even entertain fantasies of such an achievement.

How paradoxical, then, that in our own era of almost universally available instruction in reading—this era of libraries stuffed with the classics of world literature, of newspapers priced for mass markets, of newsstands overflowing with paperbacks and magazines on subjects without census—how paradoxical, Mr. President, that, in such a culture as ours, thousands upon thousands of people, by apparent choice or deliberate neglect, opt to stunt their own intellectual growth by failing to take advantage of their opportunities to master reading and thus to condemn themselves to living in their own personal Dark Age.

Literacy, as well as basic skills in arithmetic and mathematics, is the key to genuine freedom and the mastery of one's own destiny. Certainly, literacy alone cannot guarantee the good life, but few men or women in any culture in 1994 ever achieve more than minimal levels of material success without literacy.

Mr. President, I again commend the West Virginia State Legislature for the adoption of its joint resolution on literacy, and I thank my friend, Mr. Tom Colley, for taking the initiative in heralding the need to take action in behalf of literacy in our country. Further, I ask unanimous consent that the full text of the official resolution on literacy be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

HOUSE CONCURRENT RESOLUTION NO. 27

Whereas, An alarmingly high percentage of high school seniors read at inadequate levels to carry out moderately complex tasks and have inadequate writing skills; and

Whereas, The United States Department of Education has reported that a high percentage of Americans over age sixteen are, as far as most workplaces are concerned, not properly prepared for employment because of the lack of basic reading, math, and comprehension skills; and

Whereas, Southern West Virginia is recognized both statewide and nationally as having an image of a higher level of proportionate illiteracy; and

Whereas, The public, seeking benefits from adult education opportunities, is faced with a complication of literacy programs that are not networked or interactive because of insufficient state and federal direction; and

Whereas, There is no clearinghouse of accurate data on illiteracy nor a realistic evaluation of the social and economic crises posed by growing illiteracy; therefore, be it

Resolved by the Legislature of West Virginia: That the federal government is requested to give full support to the development of a national center for literacy in Southern West Virginia that will direct, consolidate, research and develop national programs to identify the national crisis of illiteracy, its impact on the future of social and national security, and formulate national policies and programs to redirect a campaign to reverse that impact; and, be it

Further Resolved, That the Clerk of the House of Delegates be hereby directed to forward a copy of this resolution to the West Virginia Department of Education Secretary Barbara Harmon-Schamberger, West Virginia Superintendent of Schools Henry Marockie, the Governor, the West Virginia delegation to Congress, President Bill Clinton, and U.S. Secretary of Education Richard Riley.

Mr. President, I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina, Mr. HOLLINGS.

BANKRUPTCY AMENDMENTS ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. HOLLINGS. Mr. President, I was following the debate via television from my office. If I understood correctly, my distinguished colleague from Florida, Senator MACK, was talking in support of the arms embargo amendment of the Senator from Kansas, the distinguished Presiding Officer, and others. I wish to also support that amendment. But I would like to set the record straight on several points.

The Senator from Florida was citing President Clinton as the author of our current policy regarding the embargo of arms shipments to Bosnia. This is not correct. Let me refer to the amendment itself under subsection (c).

The amendment itself—of which I see now the distinguished Senator from Florida is a cosponsor, because the copy I have at the desk says DOLE, LIEBERMAN, MACK, and others—cites the policy as originating on July 10, 1991. What we are trying to do is change the policy of July 10, 1991—the policy of President Bush.

When I hear this talk asserting that President Clinton is not leading, I disagree. He is leading on so many issues around this country that the people cannot keep up with him. He is leading on health care; he is leading on the anticrime bill; he is leading on the matter of deficit reduction; and much, much more. If there is one thing the President has been doing, he has been leading. Many do not like that leadership, in many instances. But the key point with respect to our Bosnia policy is that President Clinton has been leading with the Bush policy.

I recall after the November 1992 election and prior to the inauguration, the theme of the Clinton leadership was clear. The theme in domestic policy was change: change in housing, change in health care, change in education. Let us get going with change, change, change, on domestic policy.

But on foreign policy, Mr. President, the theme was continuity, continuity, continuity. I do not say it was right or wrong. It is fact.

The distinguished President Clinton came to town, and in the spirit of continuity he adopted the Bush policy on Haiti. He adopted the Bush policy on Somalia. He adopted the Bush policy in the Mideast. He adopted the Bush policy on China and Indochina. He adopted the Bush policy with respect to Russia. And of course he adopted the Bush policy with respect to Bosnia.

So let us not have this moaning and groaning about, oh, the vision now is gone, and people wonder about America. I happen to think that the Bush policy was well founded. And I think that perhaps we ought to be very, very cautious in trying to reverse it. Specifically, the best of experienced minds on the subject of Yugoslavia is the former Secretary of State and former Ambassador to Yugoslavia, Lawrence Eagleburger.

I happened to be impressed with his view stated several years back that we had no security interest in jeopardy in Yugoslavia or Bosnia.

Likewise, it was former Secretary of State James Baker, author of the Bush policy in Bosnia, was said, "We don't have a dog in that fight." At that time, there was no weeping, moaning, groaning, and howling about the lost vision of America, about America's failure to stand for freedom. I never heard any of that kind of talk.

I thought it was a well-conceived policy to stay out of local conflicts that are hundreds of years old. Specifically, we know that on June 28, 1914, 80 years ago, when the Archduke of Austria was assassinated with his wife, Sophia, in Sarajevo, that very same evening there were riots by the Croats and Moslems against the Serbs.

It so happens by coincidence that this morning we had the appropriations hearing for the Department of State, and the distinguished Secretary of State appeared. He was saying, well, that is where we made our mistake, back in 1914. We should learn.

He was thinking of the consequences of intervention. Intervention in 1914 was a mistake. Russia took one side and Germany took the other side, and the chain reaction of alliance interventions precipitated World War I.

Now we are trying, as I understand it, to show that we have learned something. It is a lesson perhaps learned best by the countries of Europe, because they have resisted intervening, despite the daily slaughter which no one takes lightly.

Here is my point. The responsibility for our current failed policy goes to a decision adopted, according to this amendment cosponsored by the Senator from Maryland, on July 10, 1991, almost 3 years ago, by the Bush administration.

That policy could have been flawed. I guess there are those who would argue that that is when we took sides, because we left one side armed and the other side unarmed. That has disturbed this particular Senator. If that is the mistake we are trying to correct, then the Senator from South Carolina is pleased to join in the Dole-Lieberman-Mack amendment and lift that embargo and correct that mistake.

But I think it would be an even greater mistake if we turn to a policy whereby we are requesting the United Nations, we are requesting NATO, the North Atlantic Treaty Organization, to carry out further raids, further use of air power. As we all know, so-called peacekeepers went in when there was not any peace. There have been dozens of peacekeepers killed, and there were 16 Canadians taken hostage just recently. The so-called peace force has been constantly harassed, and, of course, there is no peace. So they say, well, we have to have air raids in order to protect the peacekeepers. That was one part of the policy.

And then, Mr. President, the policy has evolved now into raids to protect safe havens. This reminds me of the Vietnam war and how we got deeper and deeper. When I got up here in 1966, there were only two of us presiding in the President's chair, the distinguished Senator from Virginia, Senator Spong, and myself. We logged 200 hours and got two Golden Gavel Awards. We used to have to listen to debate on the Gulf of Tonkin and the debate back and forth. I remember how one Senator would, every evening, call President Johnson a murderer. Let us not again get into those kinds of things. Let us look at the policy.

I happen to have asked the Secretary of State just a year ago, at that fiscal year 1994 appropriations hearing, I inquired, "What is the policy, Secretary Christopher?"

He said, "Well, before we adopt the use of military force, there has got to be a four-way check." He said,

> We will not use military force except when, one, we are able to state to the American people the goal for which the force would be used; two, there must be a strong likelihood that we will be successful in the use of force; three, there must be an exit strategy, as we must know how we are going to get out; four, it must be a program that will be sustained by support from the American people.

Mr. President, we have not met that four-way test with regard to Bosnia.

One, we are not able to state to the American people the goal to which the force would be used.

It is a moving target. We do not have a goal there. We are trying, and I am just as grieved as anybody else and shocked by the slaughter, but we also see slaughter in Rwanda. We have a U.N. force there, and they just watched the slaughter of civilians. There have been some 20,000 killed in recent weeks in Rwanda. But we hear nothing about the slaughter there and how we ought to intervene.

There are other places around the globe, such as Northern Ireland. Of course, it is not quite the scale of slaughter as in other places, but it is just as horrifying—with explosions and blowing people to bits, and murders. Northern Ireland is part of the United Kingdom. If we are wondering about the effectiveness of NATO, why not NATO intervention in Northern Ireland?

My point is that we are very judicious in our affirmative policy of trying to stay out of wars. We are not that one superpower left. There is no such thing as a superpower. You can use your nuclear to defend, but you cannot use your nuclear weapons offensively. We could have, should have, but did not in Korea. We could have and should have and did not in Vietnam. So the so-called superpower of nuclear force is absolutely useless when it comes to intervention.

So I am concerned about Senators on the floor asking the President to lead. He is leading with the Bush position. Now we are trying to correct that position. But President Clinton has not lost his vision, I can tell you that.

The second Christopher test is that there must be a strong likelihood that we will be successful in the use of force.

Well, we went into Gorazde twice, we bombed it twice, and they have shot down one NATO plane. That bombing was totally ineffective. It has exacerbated the situation rather than bringing about peace.

The third Christopher test is that there must be an exit strategy; we must know how we are going to get out. We have 500 troops in Macedonia. We do not want to have them dragged into combat in next-door Bosnia.

The fourth Christopher test asks, is this a policy that will be sustained by support from the American people.

Mr. President, the American people have not been asked. We are Congress, and here we are and we have no request from the administration. If there is a fault, therein is the fault. As Senator Dick Russell of Georgia said when he put in that resolution—war commitments resolutions—looking ahead to the next intervention. He said, next time when we go, we all go together. But, thus far, the administration has not asked the Congress. They have asked NATO and the United Nations.

Concerning the United Nations, let me note that we have gone from spending $20 million for peacekeeping four years ago, to now spending up to $1.5 billion annually for peacekeeping. Everybody is talking about cutting spending. We are increasing it by billions in an unknown policy. This peacekeeping has gone into 16 countries, and you and I have to pay 30.4 percent of the bill. Down in Rwanda, there is no particular solace to the point that we do not have American troops there and in some of these other countries. However, we are paying 30.4 percent, almost a third of the bill, wherever peacekeepers are deployed. All things totaled, it is almost a $5 billion bill. So we are looking at this in very close terms.

We want to make sure that our commitment in Bosnia satisfies the "mother" test. When a mother is informed that her pilot son has been shot down or killed, and she calls Senator HOLLINGS, or Senator EXON, or Senator LAUTENBERG, on the phone and wants to know why, we want to be able to respond intelligently and not say: Well, we think we were trying to do the right thing. Yes, his commitment was not in vain, but incidentally, we never discussed the policy, we never discussed a vote on the particular commitment. We understand that we are in support of NATO, we are in support of the United Nations, and I think that is how he got killed.

That does not satisfy the mother test.

I yield the floor.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I want to first thank my colleagues, Senator EXON from Nebraska, and Senator GRASSLEY who I know have been waiting to say something on the floor, but I did want to be permitted to participate in the discussion that is currently underway before the subject changed.

Mr. President, I look at the Chair and I see someone who served in World War II. I look behind me and I see someone who served in World War II. Mr. President, I also served in World War II, and Senator HOLLINGS served in World War II. I am not talking about our ages. I am talking about our commitment. I am talking about what it was we intended to do when we fought that war.

We intended to try to save lives and free people, and we never did what we have an opportunity to do right now. At that time we were asked by some to bomb railroad tracks and extermination camps. We could have saved lots and lots of lives. We did not do it. But we put our boys in battle and what a moment we are coming to—50 years since D-day, 50 years. It seems hard, does not it?

I ask my colleagues who served in World War II like I to believe that it was 50 years ago that we had a chance to serve our country. We were young kids at the time. I know I speak for all of them when we say we treasured every moment of that service that we had to do. It was not always pleasant, not always happy, but nevertheless we were feeling good about our country and our responsibility.

It was then that the United States established its position as a moral leader of the world. It was then that we said we will not stand by and let innocent people be killed without some response to it.

Now I find it shocking. I talked to two fathers of two sons who were lost in Somalia. They were New Jersey kids, wonderful young people, each of whom's father served in Vietnam. One father lost a leg and in Somali he lost a son. He still loves his country. He still believes, as critical as he was of the ineptitude that surrounded our action in Somalia, our inability, our lack of understanding of what was required by way of reinforcement to protect those lives. And no one here, I do not care what side of the aisle or what side of the debate you are on, wants to sacrifice American lives.

We have a military, Mr. President, to protect what we believe is our interest and our interest cannot always be defined in the borders or the boundaries that we are discussing. Sometimes our interest is fundamental to what is right and what is wrong.

If one watches the pictures, sees the television of what is taking place in Bosnia, it is unacceptable in a civilized world. We finally have arrived at a place where we are forced to take a stand or retreat from the moral high ground that we occupy, that we can say without excessive risk that we want to supply arms to the Bosnians so they can fight back and make those Serbs pay a price for their wanton destruction of life and property, for firing on innocent civilians, for dropping bombs in the market square, for attacking hospitals or orphanages, or convents, with no restrictions. I say convents. I am using the term loosely. I am talking about houses or places of worship. There is no restriction.

Mr. President, I think that the Dole-Lieberman amendment ought to move along quickly. We can figure out the process. We can figure out how to make deliveries. But if one takes a trip to the area or nearby, as I did sometime ago with some colleagues, and as others have done, and sees what is happening and sees what the price is for our inaction, and remember what the price has been in the past for inaction, Mr. President, if this is permitted to continue and warring or adversarial nations see that there is no price, none at all for taking territory or lives, it will embolden the worst in leadership around the world.

Mr. President, I think if we cannot bring this to a halt we can at least bring it to a slower pace. I hope that we will do that, that we will stand up and say that we cannot bear witness to this killing, to this destruction and not do something about it.

This is certainly, in my view, at the edge of relatively minimal risk. I hope that we will take it and give those people a chance to fight back.

They have proven that they have courage. They have proven that they are willing to do what they have to to defend themselves, but right now their position is one of being in the middle of a shooting gallery with any kind of weapons that the other guys want to bring.

We had a terrible mistake within the last couple weeks when two helicopters were shot down. All of us felt the pain of that. It happens, unfortunately, sometimes in the military situation.

But I believe that the situation that we are looking at now is one that is with minimal risk and with great opportunity to say we stand up for something that is decent, moral and appropriate. I hope we will take that action.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

SUPPORT EXON-GRASSLEY

Mr. GRASSLEY. Mr. President, this morning in the newspaper there were reports of a leading Republican Senator saying that we ought to ditch the Exon-Grassley amendment which cut $26 billion from the budget resolution as it passed the House of Representatives and that he was prepared to support that in conference, and that is in a sense what 60-some Senators on three different occasions said on the floor of this Senate in backing that cut, that that ought to be disregarded by the conferees.

I am one of the conferees. I do not think so. I think we are on the right track, and I hope that we can persuade a majority of our colleagues on the Senate side on the conference to stick with the Senate's position, and I hope that we can sell to the House conferees what they were just about told to do on the floor of the Senate as a motion to instruct those conferees came up with 14 votes which instruction was that the House conferees ought to adopt the Senate's position on the budget.

I think that we are hearing the Chicken Littles squawking, trying to convince us all that the sky is falling, when they say all the bad things that are going to happen if Exon-Grassley is adopted. They say that it will be the end of civilization, or it seems like that is what they are really trying to tell us.

I want my colleagues to remember that Exon-Grassley is not even a real cut in the sense of we are going to be spending less money next year than this year, and Senator EXON has very clearly and correctly stated that earlier today. Domestic discretionary spending will increase by about $112 billion over the next 5 years. The Exon-Grassley amendment will just slightly limit this major increase in spending, but it is the only ball game in town, if you want to do something about the deficit, because otherwise it is a rubber stamping of the big spending practices that are too usual on this hill.

I want to advise my colleagues not to get caught up in the shrill cries of the Chicken Littles who are saying we need to cut mandatory spending, not discretionary spending, to reduce the deficit. We need to cut all spending, and this Senator voted to cut all spending when I voted for the Lott amendment that was up during the budget resolution debate.

Now others are saying that Exon-Grassley will hurt the economy. It always seems to be the case that we hear the biggest whoppers the closer we get to cutting spending.

So let us be honest about the "Chicken Littles." I see them as the usual big spenders, the people who are happy to overlook all the waste and mismanagement in the budget. What they really want to do is protect the usual sacred cows.

These big spenders are only caring about their next Government-funded boondoggle. They are spenders who do not care that, because of our rising national debt, our children and grandchildren born today or those unborn will see lifetime tax rates of over 80 percent.

It is unconscionable to think that, with a national debt approaching $6 trillion in a few years, we are looking at taking "$26 billion worth of points off the board," as my good friend, the Senator from Texas, PHIL GRAMM, has said.

There are some on my side of the aisle who, I believe, have lost sight of their deficit reduction compass, who, I believe, have fallen into the trap that we so often do here inside the beltway, that spending more for sacred cows is our primary purpose, that reducing the deficit has somehow become now secondary.

Guess why we rarely lower the deficit on the Hill here? Because we have reversed our priorities. Sacred cows have become more important than deficit reduction. And the path of least resistance becomes everyone getting their sacred cows fed at that trough. And that is what feeds the deficit. What we sometimes forget is that with more people feeding at the public trough, soon there will be no one to carry the swill to that trough.

Is this so difficult to figure out? I have been around here since 1981 in this body and I think it was easy to figure out by 1982. Everyone argues why their sacred cows must be fed, and, in the end, all sacred cows are fed. That is how you get enough votes.

So another way to explain the rising tide of red ink in this country, which Congress and its big spenders have created, is to understand it—to paraphrase John F. Kennedy—as a rising tide that lifts all sacred cows.

I know that many of my colleagues have heard horror stories about the possible impact Exon-Grassley might have on defense spending. Remember, the President has stated that he will not tolerate defense spending being cut any further.

We should take the President at his word, and have him show the leadership that is required of a Commander-in-chief. The President should be a leader in his own party and work to ensure that the appropriators provide sufficient funds for defense. And we should let him know we will back up his veto of any further defense cuts.

I am confident that we can work to address the concerns of many of my colleagues about defense during the appropriations process. But I caution you not to throw out the baby with the bathwater by rejecting Exon-Grassley.

My colleagues have heard the authors of the amendment say that Exon-Grassley does not and cannot specify defense cuts. There are plenty of billions to be saved in nondefense spending. Senator EXON referred to limiting the growth in the $112 billion that are set aside for the President's domestic initiatives. CBO again has issued its annual options book for deficit reduction, with tens of billions of dollars in potential savings.

This is not a defense issue, Mr. President. It is a deficit reduction issue. I cannot for the life of me understand why some on my side of the aisle would want to split our ranks.

Coming out of the committee, Republicans were unified. It was the other side that was split, because some of the more courageous among their ranks, like Senators EXON, CONRAD, SIMON, and LAUTENBERG, felt the President should have gone farther on deficit reduction.

And then, all of a sudden, the Chicken Littles came out of the woodwork, squawking about all of the cuts coming out of defense.

Well, Mr. President, I do not think it is a very complicated matter. My little grandson even knows how to respond to Chicken Little when he shouts that the sky is falling.

My colleagues should know that many grassroots organizations support the Exon-Grassley amendment, and the number is growing and support is growing for cutting the deficit. Too bad; at the grassroots of America they understand the problem better than we do here.

Three important additions to this list have recently been made in support of Exon-Grassley: The U.S. Chamber of Commerce, the National Association of Manufacturers, and United We Stand America have all come out in the last few days in support of this last-ditch effort, the only ball game in town, to say "no" to business as usual and to say, "Yes, we recognize there is a problem. We ought to do something about it. This may not be enough, but it is better than nothing, and so let us do it."

All of these groups and the millions and millions of taxpaying Americans that they represent will be watching this conference on the budget between the House and the Senate very, very closely. They support the deficit hawks in Congress and will not tolerate the smoke-and-mirror games that the big spenders in Congress love to play when it comes to cutting spending.

The American taxpayers will not accept conferees sharply reducing the Exon-Grassley cuts and putting off the remaining cuts in the outyears. They know all about those games and those games cannot be covered up.

Those who would reverse themselves on Exon-Grassley and abandon the Senate position in conference are undercutting all their rhetoric we heard last winter against the President's budget.

Remember? We heard how the President's budget did not address the outyear deficits. The Exon-Grassley amendment takes a small step toward that problem. So to now do a reversal, it means that my colleagues would be accepting the same higher deficits that they earlier had decried. What a supreme irony that would be.

The American people want real deficit cuts to be made—and that requires cuts in spending—and they want it now. They realize that it is the future of their children and their grandchildren that is at stake. They will be watching what we do in conference closely and then subsequently here on the floor.

I thank Senator EXON for his leadership. Without him, this would not have been possible to accomplish.

I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Nebraska.

Mr. EXON. Mr. President, I would like to associate myself with the remarks just made by my distinguished colleague and friend next door in the State of Iowa. He is a Republican and I am a Democrat, but we have worked in a bipartisan fashion on many, many things over the years; not always agreeing, of course. But I have great respect for CHUCK GRASSLEY, and I thank him for his invaluable help. Without his participation in this bipartisan approach to begin to do something to get us on a glidepath to a balanced budget, we would not be in the position that we are in today.

I thought we were in a fairly strong position, but I want to report to the Senate now as to what is going on.

Before I do that, let me simply say that the leadership and the dedication and the determination of CHUCK GRASSLEY is quite obvious by three articles that appeared in the last few days that back up the statements that the Senator from Iowa has made with regard to what is going on—or not going on, depending on your point of view—in the present conference between the House and the Senate.

I would like to have printed in the RECORD at the conclusion of my remarks on this subject the National Journal's Congress Daily/A.M. of April 20, 1994, entitled "Sasser May Have Budget Deal In Works"; an article in the April 21, 1994, Washington Post headed, "Sen. Domenici Abandons Additional Spending Cuts," subheadlined, "Defection Imperils Bid to Trim $26 Billion"; and then a third item that I would like to have printed is from the April 21 Wall Street Journal, headlined, "Domenici Backs Clinton's Budget Plan, Angering Some in GOP With Reversal."

I ask unanimous consent to have all three of those articles printed in the RECORD at the conclusion of my remarks on this subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. The most interesting part of all of these headlines is "Domenici Backs Clinton Budget Plan."

Well, that is a first, I think the record will show, for the ranking Republican on the Budget Committee. Certainly, he has a right to his views and I do not challenge that. But I do challenge the fact that, from the reports that I have received from the meeting of the Budget Committee yesterday, and I received this from a House Member who was there—about the first thing that happened was, according to my friend, the Member of the House of Representatives, was that DOMENICI threw in the towel by announcing—almost before the meeting got started, or shortly thereafter—that he would be willing, if the conference committee would restore the $20-some billion cuts in Exon-Grassley, that he, DOMENICI, would support and vote for the Clinton budget.

Of course, what he was referring to, for the record, is that the conference report, whatever it is, is going to have to come back to the Senate and back to the House of Representatives to be voted on.

Indeed, at the present time there is a whip count going on, at least on the Democratic side and I suspect on the Republican side, as to how many people would vote for the conference report if it came back absent the $26 billion in cuts passed through the Senate Budget Committee and accepted on the floor of the Senate. Senator GRASSLEY has made eloquent statements on that. I will go on with that further.

Let me take up another matter on this that I think needs straightening out. Because I must tell my colleagues in all candor that there is a grandiose plan or scheme, headed by no less than the President of the United States—maybe he is misinformed—to misconstrue the effects of the Exon-Grassley cut. In the first place, the President of the United States in a letter dated April 11, 1994—this letter, a copy of which I have, was directed to Representative KASICH, the ranking Republican on the Budget Committee on the House side who is a supporter of the Exon-Grassley cuts. I wanted to quote from that letter, signed by the President.

The President says:

> * * * the unallocated additional discretionary cuts contained in the Senate resolution pose a direct threat to two vulnerable areas of the budget which are essential to our country's future: the defense budget and our programs of investment in long-term growth.
>
> I am particularly concerned about the impact of these cuts on the military. The additional cuts would almost inevitably result in reduction in defense funds. Any significant reduction in defense spending below the levels that I have requested would make it impossible to fund adequately the multi-year investments in the force structure, in modernization, and readiness that I approved in the Bottom-Up Review.

Following up that alarming statement by the President, that I think is without basis in fact, at least the way the sponsors of the Exon-Grassley amendment intended this—and I will talk on that a little bit later—there is a letter from the Joint Chiefs of Staff. This went to several people, as I understand it. But the copy of the letter that I have was addressed to the Honorable JIM SASSER, chairman of the Budget Committee, dated 13 April 1994. This letter is signed by John M. Shalikashvili, Chairman of the Joint Chiefs; W.A. Owens, Vice Chairman of the Joint Chiefs of Staff; Gordon R. Sullivan, general, Chief of Staff U.S. Army; Frank B. Kelso, II, admiral, U.S. Navy, Chief of Naval Operations.

That is the individual we had considerable discussion about yesterday, for whom I led the support.

Merrill A. McPeak, general, Chief of Staff, U.S. Air Force; and C.E. Mundy, Jr., general, Commandant of the Marine Corps.

Incidentally, it indicates on the bottom of this letter:

> Copy to: Pete Domenici, Ranking Minority Member; Senator Sam Nunn; Senator Strom Thurmond; Senator Daniel K. Inouye; and Senator Ted Stevens.

This place is being called now, and we are talked to by officers, even those stationed overseas—calling Members of this body, sounding the alarm. I would only say, if the Commander in Chief of the United States and the Chiefs of Staff that operate under him have been misled, to sound such a false alarm as this, then I am concerned. I think there are few in this body who have stood up time and time again in support of the national defense of the United States of America. I take a back seat to no one on that. Certainly, the President, and the Joint Chiefs, and the chairman have every right to express their views about military matters.

I say to the President and I say to the Joint Chiefs and the chairman, that they are wrong on this matter as far as the intent of Senators EXON and GRASSLEY is concerned. And they have fallen into a trap that has been carefully laid and the attempt is now being made to slam it shut on the chance to eliminate an additional $26 billion in spending.

I have deep respect for the President and all the members of the Joint Chiefs. But having that respect, I still have the courage to stand up and say when I think they are wrong and why. And why is that?

Let me first say I alluded to this, this morning, when I addressed this subject. Senator GRASSLEY alluded to it a few moments ago when he talked about this matter. The Clinton budget—and the Presiding Officer and all the Members of the U.S. Senate and all of the Members of the House of Representatives and all the people of the United States should understand—included many cuts in a wide variety of programs. The budget, however, also includes many increases which we do not hear much about. These increases are labeled, as they have been labeled in the past, "investments," by the administration.

The best way to identify, I suggest, where the Clinton budget shows increases is to look, as we did—when I speak of "we," I am talking about my friend, CHUCK GRASSLEY from Iowa, and myself and our staffs—the best way to identify where the budget shows increases is to look at the figures as provided by the Senate Budget Committee before markup. Those figures compare the Clinton budget to a freeze in budget authority. The $26 billion in the Exon-Grassley amendment was computed in the same fashion.

The table that I will put in the RECORD again, after having put it in this morning—and by the way, Mr. President, I ask unanimous consent that that table be printed at the conclusion of my remarks on this subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. EXON. Mr. President, I further ask unanimous consent that the letters I have referenced in my remarks from the President and the Chairman of the Joint Chiefs be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. EXON. Mr. President, this table shows where the $113 billion—my friend from Iowa said $112 billion; it is $113 billion—shows that these show up on the discretionary add-ons in the President's functional totals, and they exclude defense.

Defense is not on the list in the table that I am showing because Senator GRASSLEY and I did not plan, nor are we suggesting, that the cuts come from defense. Defense is not on the list, I emphasize once again, Mr. President, primarily because we did not get a 5-year total comparing defense spending against the budget freeze, as we did on the add-ons or investments of $113 billion in the President's budget.

The quarrel then that the President of the United States and the Chairman of the Joint Chiefs have with regard to reduction in defense spending does not fall to the responsibility of Senator GRASSLEY, Senator EXON, or their amendment or those who supported it.

Clearly, as I said this morning, clearly as Senator GRASSLEY said a few moments ago, we are suggesting that this $26 billion come out of that $113 billion increase over 5 years in the President's program, a reduction—not totally in half—a reduction of about one-fourth. Therefore, I suggest that President Clinton and the Joint Chiefs and all the officers under their command who are responding to the call and trying to bring pressure to bear on the conferees to eliminate what the Senate voted on—the $26 billion in cuts—their argument is with the appropriators. They are the ones who make the final determination under the law and under the budget law that runs and controls the Budget Committee.

Most of the people who have joined in with the President and the Joint Chiefs on this matter are on the Appropriations Committee. Some of them are also on the Budget Committee. They can, if they want to, do what CHUCK GRASSLEY and JIM EXON want, and that is to reduce the President's initiative to make this cut in spending. Or they can fulfill their self-fulfilling prophecy and projection because they do not want the cut.

Of course, if they want to, they can do that, and it would be the Appropriations Committee that is going against the will of the President and the distinguished Chairman of the Joint Chiefs.

Let us set the record straight. It does not have to come out of defense. In my opinion, it should not come out of defense. But I say that properly comes under the authority of the Appropriations Committee, and they can do it if they want to.

Therefore, I will simply say that I hope we have begun to straighten out some of the misconceptions that have been built to try to eliminate the $26 billion reductions in expenditures as recommended by the Senator from Iowa and by the Senator from Nebraska. I hope we can get the record straight.

That is the end of my comment on this matter. I am going to speak briefly with regard to the amendment before us on Bosnia.

EXHIBIT 1

[From National Journal's Congress Daily, Apr. 20, 1994]

SASSER MAY HAVE BUDGET DEAL IN WORKS

With the House-Senate conference on the FY95 budget resolution set to begin this morning, Senate Budget Chairman Sasser Tuesday said "in all likelihood" he would make a proposal on how to deal with the $26 billion spending cut that is in the Senate's budget blueprint but not the House's. However, a top Budget Committee aide later said Sasser had no plans to make a compromise offer on the $26 billion cut when opening statements are made in a public session of the conference at 10 a.m. It was less clear what Sasser might be prepared to say in private talks that will take place sometime after today's public session. "We have not reached a point where we're talking about that," the Budget aide said. "Nothing definitive has been discussed yet." The aide said Sasser "has nothing to offer" House Budget Chairman Sabo today in the form of a compromise, adding "there's no agreement about what we're going to do" about the difference between the two houses on the five-year $26 billion discretionary spending cut.

Sources earlier said Sasser was preparing a proposal that involved "splitting of the difference" on the $26 billion cut and limiting the impact of the FY95 cut to less than the level called for in the spending cut amendment by Sens. James Exon, D-Neb., and Charles Grassley, R-Iowa, that was originally adopted in the Budget Committee. But the Budget aide denied Sasser would make such a proposal. Sasser Tuesday said even though he opposes the $26 billion cut, he will "stick steadfastly with the Senate's position" in favor of it. "I think it's very doubtful the full $26 billion [cut] can be restored," Sasser said. "I'm not sure how a majority of our conferees line up on it." Asked if the conference would likely split the difference with the House, Sasser replied, "Traditionally, that's where these things end up."

Sen. Ernest Hollings, D-S.C.—one of three Senate Democratic budget conferees along with Sasser and Sen. J. Bennett Johnston, D-La.—said he "would favor the House position" of no extra budget cuts. Johnston, Sasser and Hollings all voted against the $26 billion cut during the Budget panel markup.

Senate Budget ranking member Pete Domenici, R-N.M., and Grassley are believed to be split over the $26 billion cut, with Domenici now opposed to it even though he supported it in committee and co-author Grassley backing it.

Asked Tuesday if he would have a problem if the entire $26 billion cut was dropped from the final version of the budget resolution, Senate Minority Leader Dole said: "It's fine with me. It's all going to come out of defense" if the cut survives.

Meanwhile, Sabo Tuesday said he has no compromise to offer Sasser on the issue and hopes the Senate will drop the extra cuts. "I'm waiting for the Senate to see the error of their ways and reverse" Sabo said. "I'm a patient person."

And Rep. Dale Kildee, D-Mich., a House budget conferee, said he hoped "upon examination they [senators] would see the consequences" of such a cut and back off. "I think they made a significant error in what they did and didn't really look at the consequences," Kildee contended.

Possibly complicating matters on how the conference will deal with the $26 billion cut is Sasser's expected candidacy for Senate majority leader to replace retiring Majority Leader Mitchell.

Budget sources said Sasser may not want to anger Exon—the co-sponsor of the $26 billion cut and a possible Sasser supporter in the race for majority leader—by working to eliminate the entire cut from the final budget resolution.

In addition, if Sasser were to become majority leader, Exon would probably become Budget Committee chairman in the next Congress. Hollings and Johnston, who are ahead of Exon in Budget panel seniority, already head other committees.

[From National Journal's Congress Daily, Apr. 20, 1994]

SENATOR DOMENICI ABANDONS ADDITIONAL SPENDING CUTS—DEFECTION IMPERILS BID TO TRIM $26 BILLION

(By Eric Pianin)

The Senate's drive for $26 billion more in spending savings over the next five years suffered a devastating setback yesterday when the ranking Republican on the Senate Budget Committee declared at a bargaining session with the House that he now favors eliminating the cuts because they would adversely affect the nation's defenses.

Sen. Pete V. Domenici's (R-N.M.) declaration caught Democrats and other Republicans by surprise and greatly strengthened the hand of House Democratic leaders opposed to additional cuts in domestic or defense programs beyond what Congress and President Clinton have agreed to.

The Senate last month approved a bipartisan plan for the additional savings in discretionary spending programs as part of the 1995 budget resolution, despite warnings from Senate Budget Committee Chairman Jim Sasser (D-Tenn.) and White House officials that the reductions would jeopardize the economic recovery and undermine U.S. defenses.

Domenici said yesterday he is worried that most of the cuts would be made in defense programs. Domenici, who had supported the cuts in committee, said when the budget reached the Senate floor that he had made a mistake and sought unsuccessfully to amend it to spare defense by targeting entitlement programs for most of the cuts. The House, meanwhile, approved a budget resolution with none of the additional cuts, and House Democratic leaders indicated they would resist Senate efforts to preserve the cuts in the compromise resolution.

Sasser had said that, given the breadth of Democratic and GOP support for the savings, he had no choice but to insist that the House accept some of the proposed cuts. But he told reporters that Domenici's statement had put "a new spin" on negotiations.

Sasser's problem is that he cannot abandon the $26 billion in cuts unless he is certain there would be sufficient votes to approve the budget resolution on final passage. Senate aides estimated that Sasser would lose eight to 10 Democratic votes without the additional spending cuts. Domenici would have to come up with eight to 10 Republican votes to offset the Democratic losses.

[From the Wall Street Journal, Apr. 21, 1994]

DOMENICI BACKS CLINTON'S BUDGET PLAN, ANGERING SOME IN GOP WITH REVERSAL

(By John Harwood)

WASHINGTON—Republican Sen. Pete Domenici, angering some of his GOP colleagues, said he will oppose additional cuts in federal discretionary spending and will back the outlines of President Clinton's $1.5 trillion 1995 budget.

The surprise move by Mr. Domenici, the ranking Republican on the Senate Budget Committee, came at the start of House-Senate negotiations over differences in budget resolutions passed by the two chambers. The principal difference is an extra $26 billion in discretionary-spending cuts over five years. The Senate approved the cuts over the objections of Democratic leaders and the White House, who worry that they would squeeze both the defense budget and the president's domestic initiatives.

Mr. Domenici had joined a bipartisan coalition of senators in approving the extra cuts during Budget Committee deliberations, but said he concluded he had "made a mistake" because the cuts would squeeze Pentagon spending too much. The New Mexico Republican tried unsuccessfully on the Senate floor to shift most of the cuts from discretionary programs, for which Congress makes annual appropriations, to federal benefit programs such as Medicare, which many analysts consider the most important contributors to the budget deficit.

His new position scrambles prospects for House-Senate negotiations and leaves senators of both parties counting votes. Abandonment of the $26 billion in additional cuts would cause some deficit-minded Democrats to oppose the budget resolution, which serves as a blueprint for overall federal spending levels. It also raises the curious prospect of Mr. Domenici's rounding up GOP votes to help Democratic leaders pass the resolution. Of course, negotiators could yet end up splitting the difference between the House and Senate positions, as many lawmakers have predicted for several weeks.

Sen. Charles Grassley (R. Iowa), who cosponsored the additional cuts with Sen. James Exon (D., Neb.), blasted Mr. Domenici's position as a blow to Republican efforts to recapture the political high ground on spending issues. "Our position has been undercut," the Iowan said, calling it "the most devastating move by our party's leadership since George Bush moved his lips."

"What a crock," responded Mr. Domenici, adding that he would continue to challenge Mr. Clinton's spending priorities in the appropriations process. The spat creates a new headache for Senate GOP leader Robert Dole of Kansas. Though Mr. Dole shares Mr. Domenici's concern that further discretionary-spending cuts would hit defense, he will come under strong pressure from the Republican caucus to oppose the budget resolution whether or not the extra cuts are included.

EXHIBIT 2

Discretionary spending increases in the 1995 budget—1995–99

[Compared to a freeze: in outlays]

	Millions
FUNCTION 150—INTERNATIONAL AFFAIRS	
Foreign Aid	$1,327
Conduct of Foreign Affairs	1,143
FUNCTION 250—GENERAL SCIENCE, SPACE, AND TECHNOLOGY	
NASA	482
National Science Foundation	1,124
FUNCTION 270—ENERGY	
Energy Conservation	1,469
Energy Information and Policy	69
FUNCTION 300—NATURAL RESOURCES AND ENVIRONMENT	
EPA Operations	1,557
U.S. Fish and Wildlife Service	247
NRCS Conservation Programs	284
EPA Water Infrastructure	396
FUNCTION 350—AGRICULTURE	
Farm Service Agency	4,702
Departmental Administration	956
FUNCTION 370—COMMERCE AND HOUSING CREDIT	
NIST	2,692
Bureau of Census	1,632
SEC Salaries and Expenses	1,326
SBA Business Loan Program Account	620
International Trade Administration	65
FUNCTION 400—TRANSPORTATION	
Transit Capital Grants	1,679
Federal-aid Highways	11,095
High Speed Rail	117
Amtrak	936
Coast Guard Construction	283
FUNCTION 450—COMMUNITY AND REGIONAL DEVELOPMENT	
Project-based Community Development Grants	612
Colonias Assistance Program	330
Community Development Financial Institutions Fund	379
Economic Development Loans	143
Indian Land and Water Claim Settlements	426
FUNCTION 500—EDUCATION, TRAINING, AND SOCIAL SERVICES	
Education Reform	3,881
Education for the Disadvantaged	3,970
School Improvement Program	1,148
Special Education	727
Training and Employment Services	4,800
Children and Family Services	8.044
National Service	3,032
FUNCTION 550—HEALTH SERVICES AND RESEARCH	
National Institutes of Health	6,150
Substance Abuse and Mental Health Services	1,310
Health Resources and Services Administration	896
FUNCTION 570—MEDICARE	
Medicare Administration	344
FUNCTION 600—INCOME SECURITY	
Women, Infants and Children (WIC) Program	1,722
Supplemental Security Income	1,254
State Nutrition Programs	27
Farmers Home Administration Rental Assistance	307
Homeless Housing Assistance	1,494
HOPE	166
Youthbuild	152
FUNCTION 700—VETERANS BENEFITS AND SERVICES	
Medical Care	5,684
General Operating Expenses	62
FUNCTION 750—ADMINISTRATION OF JUSTICE	
Crime Control Fund	17,516
FBI	196
Immigration and Naturalization Service	514

Discretionary spending increases in the 1995 budget—1995–99—Continued

[Compared to a freeze; in outlays]

	Millions
U.S. Attorneys	162
Legal Services Corporation	488
Judicial Branch	1,948
Federal Prison Operations	5,142
FUNCTION 800—GENERAL GOVERNMENT	
General Services Administration	2,272
IRS Administration	304
IRS Information Systems	3,016
Federal Drug Control Programs	294
Total increases (billions)	113.1

Source: 1995 Senate Budget Committee markup materials.

EXHIBIT 3

THE WHITE HOUSE,
Washington, April 11, 1994.

Hon. JOHN R. KASICH,
Ranking Member, Committee on the Budget, U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE KASICH: As you and your colleagues consider the Fiscal Year 1995 budget resolution in conference, I urge you to support the level of discretionary spending cuts that is reflected in the House budget resolution and to oppose the additional cuts proposed in the Senate resolution.

The discretionary spending levels contained in the House resolution reflect the hard freeze on outlays that was such an important part of last year's budget, which produced nearly $108 billion in savings over five years, and which is forcing extremely difficult choices upon both the Administration and the Congress. Indeed the budget I proposed would cut some 300 existing programs and terminate 115. With this hard freeze already forcing significant spending cuts, the unallocated additional discretionary cuts contained in the Senate resolution pose a direct threat to two vulnerable areas of the budget which are essential to our country's future: the defense budget and our program of investments in long-term growth.

I am particularly concerned about the impact of these cuts on our military. The additional cuts would almost inevitably result in reductions in defense funds. Any significant reduction in defense spending below the levels I have requested would make it impossible to fund adequately the multi-year investments in the force structure, modernization, and readiness that I approved in the Bottom-Up Review. As I said in my State of the Union Address, we must draw the line against further defense cuts. Our military must be the best equipped, the best trained, and the best prepared in the world. Those on both sides of the aisle who join me in that commitment should support my budget as embodied in the House resolution.

Similarly, the cuts in the Senate resolution pose a significant threat to our investments in education, training, research, technology, and crime-fighting that are critical to long-term economic growth and the wellbeing of America's families. These investments have already been trimmed significantly to conform to the hard freeze. Significant further reductions would seriously damage our efforts to provide more and higher-paying jobs today and in the future, to train today's workers and educate our children to perform those jobs, and to fight the plague of violent crime in our cities and towns.

The 1995 budget I submitted reduces the Federal deficit by 40 percent and provides for three consecutive years of decline in the deficit for the first time in nearly a half-century. I am convinced that the careful path of deficit reduction we agreed upon last year is a critical factor in the stable, noninflationary economic growth we are now experiencing. The level of additional cuts proposed in the Senate resolution poses a threat to our national security and to needed investments in our economic future. I urge you to support the level of cuts reflected in the House discretionary spending levels.

Sincerely,

BILL CLINTON.

THE JOINT CHIEFS OF STAFF,
Washington, DC, April 13, 1994.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Your support is requested in defending the President's Budget during the upcoming Budget Resolution conference. We believe the Senate version, as presently written, could have detrimental implications for the Department of Defense and our national security. The President's Budget reflects the right balance of strategy, force structure, and resources. Major resources reductions would make the strategy unexecutable and would destroy this balance.

We have previously testified that the budget is acceptable, but it constitutes the minimum required to reach the necessary levels of force structure and readiness. Additionally, current funding is adequate only if we are successful in achieving savings through acquisition and financial reform and infrastructure reductions. Any significant reductions from the President's Budget would degrade our modernization and readiness, leading to a hollow force.

Modernization has already been limited to the point where additional reductions will prevent us from taking full advantage of promising technologies and limit our ability to recapitalize the forces outlined in the Bottom-Up Review. Further reductions in modernization funding will cause delays in system upgrades and modifications and affect our ability to maintain key warfighting assets by the end of the decade.

We are vitally concerned about the eroding quality of life for those who serve our great Nation. Not only is military readiness at risk, but we are already experiencing difficulties in recruiting and retaining high-quality personnel. Our Service men and women deserve better.

We recognize the magnitude of the current fiscal challenges but strongly believe that it is essential for the United States to maintain a capable and ready force able to execute a sound military strategy. We urge your support of the FY 1995 President's Defense Budget Request to achieve our national security objectives.

A similar letter has been sent to the House Budget Committee.

Sincerely,

JOHN M. SHALIKASHVILI,
Chairman of the Joint Chiefs of Staff.
GORDON R. SULLIVAN,
General, USA, Chief of Staff, U.S. Army.
MERRILL A. MCPEAK,
General, USAF, Chief of Staff, U.S. Air Force.
W.A. OWENS,
Vice Chairman of the Joint Chiefs of Staff.
FRANK B. KELSO II,
Admiral, USN, Chief of Naval Operations.
C.E. MUNDY, JR.,
General, USMC, Commandant of the Marine Corps.

BANKRUPTCY AMENDMENTS ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. EXON. Mr. President, I think we are all very troubled with the situation in Bosnia, and troubled we should be. But I do not believe a feel-good amendment, like the one offered by Senators DOLE, LIEBERMAN, MACK, LUGAR, MCCAIN, LEVIN, FEINGOLD, HATCH, DORGAN and MCCONNELL, is one that we should adopt. I suspect and am afraid it might be adopted because it is one of those amendments that you can vote for and say, "Boy, I really did something."

Basically, what does this amendment do? This amendment starts out by saying:

> Prohibition. Neither the President nor any other member of the executive branch of the United States Government shall interfere with the transfer of arms to the Government of Bosnia.
>
> Termination. The President shall terminate United States arms embargo of the Government of Bosnia * * *

And so forth.

Mr. President, we had previously adopted a sense-of-the-Senate resolution along these general lines, but it was not binding under law. It was expressing the sense of the Senate that that should be lifted, and I voted for that sense-of-the-Senate matter.

I think it is very wrong, as this amendment suggests, for the United States of America to take unilateral action on lifting the arms embargo. That has been an action of the United Nations. I still think that we can and should work through the United Nations on this matter.

I will simply say that I will vote against this amendment and hope that it will be defeated.

I thank the Chair, and I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

GRASSLEY-EXON AMENDMENT TO THE BUDGET RESOLUTION

Mr. NUNN. Mr. President, I want to thank the Senator from Nebraska on several points. One point is he, I think, very ably and skillfully handled a very difficult nomination where views were strongly held on both sides on the Kelso nomination, and I appreciate that very much.

I appreciate his steadfast support of national security. He has made that record over and over and over again. I do not agree with him in terms of the implications of the Grassley-Exon amendment, because I have watched the Appropriations Committee allocate funds before. I have seen it, and I am afraid a very substantial portion of this will come out of defense. But I do agree that that is not the intent of the Senator from Nebraska; that is not his intent, and he has made that clear over and over and over again.

If that amendment comes back in the budget resolution, then those of us who believe those cuts should not come from defense—defense is already being cut too much, and we are at a very slim margin in our basic commitments around the world, particularly as reflected in year 1, 2, 3, after this one—we will have to make that position over and over again on the appropriations bills.

I know what the Senator from Nebraska is saying. I know where he is coming from. We do not have a complete agreement, but I think everybody who has watched him over the years knows he is a stalwart supporter of the national security of the United States. When he says these cuts do not have to come out of defense, he is right. I fear that a substantial portion will, based on the habits of the Senate and the actions of the Senate and the Appropriations Committee. But I know that that is not his intent.

Mr. EXON. Will the Senator yield for a question?

Mr. NUNN. Yes.

Mr. EXON. I thank my good friend, the distinguished chairman of the Armed Services Committee, for his kind remarks.

Would he also agree, then, that the decision as to where the cuts come from are strictly under the authority and prerogative of the Appropriations Committee, that they can blame Exon-Grassley if they want to, but the responsibility is theirs? Is that accurate?

Mr. NUNN. I think that is accurate, in general. I also believe whatever the Appropriations Committee does is subject finally—although sometimes it is procedurally difficult for the Senate to deal with it—to the full Senate, because we have the right, basically, to cut appropriations bills and shift appropriations bills. Sometimes we get into procedural difficulties, but the Senator is basically right, as a matter of discretion.

Mr. EXON. I thank my friend.

BANKRUPTCY AMENDMENTS ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. NUNN. Mr. President, I also wanted to comment on the subject that the Senator from Nebraska just talked about, and that is the pending resolution.

Mr. President, the President of the United States made a statement yesterday that all of us have listened to and listened to very carefully. There were really three parts of his statement about Bosnia. He made it clear that he felt the economic embargo should be tightened on Serbia, and he made it clear that was going to be a position the United States would take in our meetings that are taking place now and will take place tomorrow and perhaps over the next 2 or 3 days with our allies. I completely agree with that.

The embargo on Serbia should be as tight as possible, because of the activity of the Bosnian Serbs and because of the influence of Serbian authorities on the Bosnian Serbs. I think that that is a strong viewpoint, and I believe that the President is correct in asserting it.

The second point the President made is that he is going to do everything he can to have emergency humanitarian assistance going to the safe haven called Gorazde. That I think is very important. That safe haven has become a slaughterhouse. Gorazde has become a place where international law, where every sign of respect for humanity has been thrown out the window. So I think the President is absolutely correct in that.

The third point the President made is that he was going to advocate extending the overall air campaign, if required. If assaults continued in Gorazde and the other safe havens, he was going to extend, or advocate extending the Sarajevo formula to those other safe havens.

Mr. President, I think that subject deserves some very careful attention because it has implications that I think are broad and very significant. That debate has occurred on the floor today in some respects but not, I think, in all respects.

The first thing I think we need to realize, if we do extend the air campaign, is that the primary mission to date has been to deploy U.N. forces. Our own forces are not on the ground in Bosnia proper, although we have forces in the area; we are participating in the air safe zone; we are participating in the overall embargo; we have thousands of troops on ships; we have forces in Macedonia; we have humanitarian forces going out; we have airdrops going on. So America has participated very vigorously, very vigorously in this overall effort.

I think we need to understand, though, that we have already reached, or we are about to reach a point where the United Nations and NATO and the United States, as a member of those bodies, has to make a decision. The mission of humanitarian relief, the mission of helping supplies get through by truck convoy, the mission of helping protect those supplies, the mission of having forces on the ground lightly armed to basically help escort those supplies to people starving—that mission has already been severely disrupted and almost completely halted because of the limited air strikes that have occurred. And those air strikes have been completely justified. So we are not talking about justification. We are talking about mission.

When you have two missions, one mission humanitarian, the other mission to basically take offensive action against those who are defying certain U.N. mandates, when you are perceived as a party to the conflict, and that increasingly is the way we are going to be perceived, then that is in conflict with the humanitarian mission.

This does not mean we should not take these actions. It does not mean they are not justified. It means that at some point we have to make a choice. To try to carry out both missions, which we are doing now, we being the United Nations and NATO—I am not speaking about the United States unilaterally—is to increasingly risk both missions. The first mission, humanitarian, has already been disrupted severely.

If we are going into a more extensive bombing campaign, which again I think is totally justified by Serbian actions, then we have to begin thinking seriously about pulling out those humanitarian relief workers, those U.N. personnel, and the other foreign nationals who are there on missions of mercy. We should not fool ourselves, because we are moving into a very high-risk policy.

So that is one observation. Those two missions do not go together. We should have learned that in Lebanon. We should have learned it in Somalia. We may not believe that we are justifiably perceived as a party to the conflict, and I do not think it is justifiable, but we will be perceived that way, and we have literally thousands of people who are at risk and in harm's way. I do not think any of us want to wake up tomorrow morning and find that there has been a massive disaster relating to a large number of people who are highly motivated on a mercy mission.

So that is point one. These two missions at some point will come into conflict, and I think we are reaching that point.

My second observation about the air campaign is that once we start a more extensive air campaign in Bosnia—if it works, fine. That is wonderful. In Sarajevo, it did work; at least for the time being. But once we start it, it is not enough to plan step one with our allies and say let us take these limited targets, because we have to think through steps two, three, four, and five. At least in our planning, we must anticipate there will be a reaction and, when there is a reaction, for us to then have to go through a whole other set of meetings lasting several days or weeks increasingly makes the United Nations and even NATO itself look inept and look as if these organizations basically are unable to execute any kind of comprehensive strategy. My point is there has to be a strategy, not simply a tactical move.

When the bombing occurs, if it does, around some of the other safe havens, then we have to understand we are not the ones who are controlling the escalation unless we have an overall strategy. The escalation will be in the hands of the Bosnian Serbs. They can take hostages. They can retaliate. They can kill people. They can kidnap people. They can further shell other areas. They have the bulk of the initiative and we have very little unless we have a strategy.

So we have to understand, we being NATO, that the allies—while they do not necessarily have to announce this publicly—have to think and they have to discuss and they have to have some implicit understanding about a willingness to escalate the air campaign, a willingness to go forward with it pursuant to steps two, three, and four. I do not think Serbia itself can be exempt, in terms of targeting, from this air campaign.

So that is the second observation I wish to make. The third point I wish to make is that we are increasingly reversing what I call the Nixon doctrine coming out of Vietnam. Many people in this body were not here after Vietnam, but following that experience there was an announcement by President Nixon that the United States policy was going to be, first of all, to arm those who were the victims, who had become the victims of aggression. That was the first resort, to help them help themselves. And where they were not willing to help themselves, then we had to examine very carefully whether they deserved help.

In this case, what the United Nations has done, with good intention but I think with disastrous results, is just the opposite.

We have denied arms to those who are increasingly the victims of this conflict. They are not able to help themselves. They are trapped in Gorazde with the Bosnian Serbs, outside the city, in some cases right in the city in tanks, lobbing in shells and killing innocent people, hitting hospitals, hitting U.N. headquarters, basically taking a city that has been declared a safe haven by the United Nations and turning it into a slaughterhouse. That is what they are doing. Why are they able to do that? Is it because there is nobody there to oppose them? No. The Bosnian Government, the Bosnian Moslems, and others in the Government—it is not limited to Moslems, they also have some Serbs and some Croats as part of that Government—does not have tanks. It does not have artillery. And the mortars it has are of very limited range.

So you see very relaxed Bosnian Serbs sitting there knowing they cannot be hit, lobbing artillery and tank shells in whenever they choose.

Mr. President, I think this embargo on arms to those who are the victims is a policy that is not only counterproductive politically and militarily. I think it prolongs the conflict, and I believe it is an immoral policy, preventing us from helping those who are there ready to help themselves.

Does the United States need to put ground forces into Bosnia? No. I am opposed to that. That would be the ultimate reversal of the Nixon doctrine, putting ground forces in to help protect those who we are denying the ability to protect themselves.

So is the arms embargo counterproductive? I think it is counterproductive. I think it is prolonging the war. I would acknowledge that it is not easy. Whatever steps you advocate, it is not easy. Anybody who thinks there is a clear-cut answer here and it is going to be easy with no risk I think is fooling themselves. But putting arms in is not easy. Yet it can be done.

Mr. President, I proposed this morning—and I repeat here—that if our allies are not willing to lift the embargo completely, at least let us have a selective lifting of the embargo. Let us say to the Bosnian Serbs and to the Serbian Serbs, if you continue to display aggression against the safe havens that have been so declared by the United Nations, we are going to look at each safe haven and very quickly we are going to level the playing field. We are going to get arms into those safe havens so the people there will at least be able to exercise the right to defend themselves. They may not win. But they will not be helpless. They will not be sitting there with short-range rifles while their enemy lobs in long-range artillery and comes in with tanks.

What kind of weapons do they need? I can understand the argument the people would make in Europe and other places against offensive weapons. There is a danger here. It is not a no-risk policy. There is a danger, if you put in offensive weapons, that the people we are helping, who are now the victims, could become the aggressors. We have a long way to go, however, before that will happen.

What kind of weapons can we put in that are defensive? We can put it in antitank weapons. We can put in weapons that will allow them to stop the tanks. It does not take months and months of training. People who are desperate, people who are being invaded by tanks, people who are risking their lives can learn to shoot an antitank missile pretty darned quickly. We can even airdrop those in there, if necessary, although it is my hope that the Croatians would cooperate in this kind of effort if the United Nations and the allies will begin at least to lift the embargo selectively. In effect, we would be saying to the Bosnian Serbs, you continue to shell a safe haven, whichever one it is, we are going to look at that safe haven and we are going to put the kind of arms in there immediately that will allow the people there to defend themselves.

Mr. President, air strikes alone, even if we are willing to escalate—which I think we have to be willing to do—are not enough. That is not a strategy. At some point, if there is any hope for there to be a Bosnian Government, they have to be able to defend themselves. I think that point is long past. It should happen now.

So I think we need to press very hard with our allies on this. I think the President of the United States should be urged by the Senate of the United States not to go over and say this is one of our options, but to say this is something we believe in militarily, we believe in it strategically, we believe in tactically, and we believe in morally.

Mr. President, one other thought. I believe, even though I agree with about 95 percent of what the people have said who support this resolution before us now—which is in the second degree and as I understand it not amendable—the other 5 percent is very important.

I am at a point of real dilemma because as I have indicated I think the arms embargo is counterproductive—militarily, morally—in trying to end the war. On the other hand, this resolution calls for America to do this independent of our allies, without consulting with our allies, without discussing it with our allies, without having a forceful effort with our allies to see if they will go along, without consulting with Russia, without consulting with China—they are on the United Nations Security Council—without consulting with Britain, with France or with anybody.

Understand where that is coming from, because the President has brought up the issue of lifting the arms embargo before. He has made an effort before. The Secretary of State has made an effort before to ask our allies to support lifting the embargo. But we have never made an effort with a precisely defined set of arms we are willing to put in there. It is time to be precise. It is time to be assertive. It is time to say we want these arms in for this purpose. It is defensive, not offensive. This is a limited lifting, a selective lifting. I would favor the full lifting. But I think it is time to give our allies a chance to remedy what I think is a grave error.

Mr. President, what is wrong with acting unilaterally? I tell you what is wrong with acting unilaterally, and I think all of us need to think about it before we vote on this. And I have not decided how I am going to vote. I hope we have an alternative other than what is before us.

What is wrong with a unilateral approach? We tend in this body and in this country, when there is a problem in Bosnia, to forget other places in the world. Four or five days ago we had a terrible tragedy over northern Iraq. We had U.S. aircraft shoot down our own helicopters, and 26 people were killed. That was the headline for 2 or 3 days. Now it is Bosnia. What is it going to be tomorrow? In Iraq, Mr. President, without the support of Turkey—and Turkey is a key member of NATO—we cannot protect the Kurds. We have flown more air sorties with our United States Air Force over Iraq since the Persian Gulf war in protecting the Kurds in the north and the Shiites in the south than we did during the war. That would shock most Americans. We are putting our pilots at risk every day protecting people in the north, and in the south.

How are we doing that? Because Turkey is cooperating. The Turks have a war going on with the Kurds. By one vote several months ago Turkey decided to let the United States continue to utilize their territory for purposes that they believe is not consistent with all of their interests—by one vote. If we take this action today, and say, to the United Nations, that the United States is going to act alone, we had better think what it is going to do to our policy in Iraq. We had better think about that.

We also better think about another place where a lot of American lives are involved, more than in Iraq, more than in Bosnia where we have a vital interest—not an important interest or a humanitarian interest but a vital interest, and have had it for years—and that is the Korean Peninsula.

What are we faced with in Korea? I tell you what we are faced with. We are faced with a regime that is isolated, that is heavily armed, that is dug in, that has 8,000 to 9,000 artillery tubes sitting near the DMZ, dug into caves looking down over the capital city of Seoul, where 45 percent of the South Korean population is located.

The best estimates are by our people that, if there is a war in Korea—forget the nuclear side of it, just the conventional war, even though we will prevail, and I have no doubt about that—North Korea would be decimated. It would be the end of that regime. There will be several hundred thousand people killed, several hundred thousand people, and a lot of them will be Americans. A lot of them will be South Koreans. But a number of them will be Americans. We have 38,000 Americans stationed in Korea.

Why is this relevant to this resolution? If we are going to have a peaceful end to the North Korea nuclear questions, whose support do we have to have?

We do not trade with North Korea. We cannot shake our fists at them and say we are going to cut off their trade rights, their MFN. They do not have any of that. We do not trade with them. Who does trade with them? The Chinese trade with them. The Chinese are on the Security Council. The Russians trade with them, and the Russians are on the Security Council. The Japanese are not on the Security Council, but they have extensive economic relationships with South Korea.

Mr. President, my point is this, and I will conclude with these remarks:

We have a world out there that is not limited to whatever CNN focuses on today. We have a lot of problems out there. We have a lot of danger spots out there, and we have a lot of Americans in harm's way. I am the first to say that we cannot rely on the United Nations to do all of our business. We have to protect our own security interests. But I also believe we ought to think long and hard about whether America is going to say: Forget about what we voted for ourselves in the United Nations, we are going to do everything unilaterally, and we are going to forget about every other place in the world where we need help from our allies and friends on the Security Council and United Nations; we are going to do it unilaterally. That is not the way to proceed.

So I am torn here, Mr. President. Do we continue a counterproductive and immoral arms embargo, or do we take unilateral action? I think we have to search for some other formula to express our determination that the President and our whole Government be forceful in urging the end of this embargo. There has to be a better way than jeopardizing American interests and America's position in other key parts of the world.

Mr. President, I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I know the Senator from California is waiting, and I do not intend to take very long.

I want to say this while the Senator from Georgia is here. First of all, I appreciate enormously the comments he has made, which I am in agreement with, and which are not dissimilar to some made on the floor previously.

I ask the Senator this—we are trying to work out compromise language here that, hopefully, will allow some, with reservations about the current language, to be able to join in—does the Senator from Georgia think that, if we embrace language within an amendment that contains the concept of making an effort to get a multilateral response from the U.N. but that, even if that effort fails, because Russia, for instance, vetoes it, that there would be an automatic lifting of the embargo; or if, in the event the President gets an agreement among the NATO allies but is blocked somehow, does the Senator feel that those three different constructs of multilateral effort are sufficient that even if the Russians were to block it, that we have kept faith, and that at that point we could proceed forward and lift the embargo?

Mr. NUNN. I say to the Senator from Massachusetts that I think this is why we have a President and executive branch. I believe it is very difficult to legislate here on the floor of the Senate enough contingencies on a piece of legislation to take care of that situation.

I think we have to do everything we can to urge the President to be as forceful as possible, to put forward the position that we are not going to sit by and let these people continue to have no way of defending themselves, without deciding yet what we do when our allies come back. I think we ought to put a complete strategy on the table, not simply bombing. That is part of a possible strategy, but it has to be much more complete. It has to involve the air campaign, the willingness to escalate the air campaign, the lifting of the arms embargo, perhaps selectively.

This has never been tabled with our allies yet, not even the Russians. The Russians may agree to it in one safe haven, because the Russians are fed up with what the Bosnian Serbs have done in the safe haven that is now becoming a slaughterhouse—Gorazde.

I think the Senate needs to take it a step at a time. The Senate likes to legislate completely and say: Here is what we do in foreign policy. But you cannot really do that very well. That has to be part of the tactic.

I also say that, if the allies do not agree, it is time to say, look, we want a complete strategy from you. We do not want any more of this piecemeal business. The Russians owe us that. These are smart people. They know the score, and they know what is going on. We need a complete strategy. They may have something we have not thought of. We need to listen to them. I do not think here on the floor of the Senate we should try to anticipate all of that and write it into a piece of legislation.

Mr. KERRY. I agree with the Senator, and that is what I am trying to a get at. I assume the Senator would agree that, if the Senate today were to pass a requirement that the President lift the embargo, but, as a result of other efforts that the President is making, the President succeeds in getting the safe areas adhered to, and suddenly the dynamic shifts, I assume the Senator would agree if, notwithstanding that, the embargo is going to be lifted by action of the Senate, you might in fact wind up undoing what the President had succeeded in doing. Is that not fair to say?

Mr. NUNN. The Senator is correct. I think we need to give the President some direction with some kind of resolution, but also some support and some flexibility.

I know the President of the United States wants to lift the embargo. I do fear that over time we have not been assertive enough in that, and I would include as part of the overall strategy that we also need some carrots out there. The people of Serbia are suffering badly because of the embargo. I think we need to be much more aggressive, as the Senator from Michigan has said, about giving them some information about what their own Government is doing and what is going on in their name in Bosnia.

So I think there is a whole set of strategies here that could be employed. And in dealing with the Russians, they may be willing to deal with both sticks and carrots—sticks being a selective lifting of the arms embargo against Bosnia, carrots being if the Serbian Serbs begin to put the kind of pressure on that must be put on the Bosnian Serbs—then perhaps some selective lifting of the economic embargo against Serbia—although at this point in time I do not think that ought to be on the table.

There are a lot of things that could be done here, but I believe that the Senate of the United States is simply not capable, on a piece of legislation, of getting the nuances right, because we cannot anticipate the reaction of all of our allies. We need to give the President direction, but we need to also give him some flexibility.

Mr. KERRY. I thank the Senator from Georgia, and I thank the Senator from California for her indulgence.

Mr. NUNN. I yield the floor. I am interested in hearing what the Senator from California has to say.

The PRESIDING OFFICER. The Senator from California [Mrs. FEINSTEIN] is recognized.

Mrs. FEINSTEIN. Mr. President, I want to associate myself with the comments made by the Senator from Georgia [Mr. NUNN]. I agree with his comments on mixed missions not being successful. I agree with his comment that no legislative strategy is going to be able to solve the problem. And I agree with his conclusion that we need an executive strategy.

I think the issue has been joined on the floor of the U.S. Senate. I was in the chair at 9 o'clock this morning, and I listened to the Senator from Colorado [Mr. BROWN]. He was eloquent, forceful, and compassionate, and I felt he had a real element of truth underlying his statements. I think that has been added to by the distinguished chairman of the Armed Services Committee as he indicated his concerns.

It might be helpful just to take a look at what has happened today in Gorazde. I would like to read from a wire story of earlier today:

> Scorning the United States' tough talk, Bosnian Serb forces shelled a hospital annex and Red Cross refugee center in besieged Gorazde on Thursday. Dozens of people were reported killed.
>
> Doctors and town officials contacted by ham radio said Thursday's bombardment was the worst of the three-week Serb offensive against the Muslim enclave.
>
> "Counting the dead and wounded doesn't make sense anymore," said a local official.

This local official said:

> "Four wire-guided rockets landed near a building that houses U.N. aid workers and military observers, killing or wounding 25 people. There was no word on whether U.N. staff were hurt."
>
> The Serb offensive against Gorazde, one of six U.N.-declared "safe areas" in Bosnia, has continued in defiance of world condemnation and even of their own cease-fire agreements.

(Mrs. MURRAY assumed the chair.)

Mrs. FEINSTEIN. It goes on to say:

> On Wednesday, President Clinton urged NATO to "make the Serbs pay a higher price" for the continued carnage by authorizing air strikes to protect civilians in Gorazde and the other safe areas. He also called for tighter sanctions against Serbia.

If these wire service stories are correct, Madam President, I think the issue is clearly being joined at the present time, and I think the administration must come forward with a full strategy. There may be some hints in today's debate as to what that strategy might entail.

Yesterday, according to the New York Times, the President of Russia came forward with what I would consider a definitive statement. He said:

> Despite all the efforts of Russia, the United Nations and the world community, the conflict is on the verge of a very dangerous escalation. The leadership of the Bosnian Serbs should stop attacking Gorazde and leave the town.

Then he calls for an international summit to coordinate the international response to the Bosnian situation.

The article continues:

> "Serbian leadership must fulfill the obligation it has given to Russia," Mr. Yeltsin said today in the strongest anti-Serbian remarks he has made on the siege. "Stop the attacks. Withdraw from Gorazde." He also insisted that the Serbs permit United Nations forces to enter the city.

This may very well be a key turning point. Many of us heard a Russian envoy last week denounce the Serbs by saying that he has never in his lifetime seen more Serbian promises broken. In fact, in the last 2 days alone, three cease-fire agreements have been broken by the Serbs. Clearly, there is an escalation in violence taking place, and it must be met by a new policy.

The question, it seems to me, that is before this body today, is whether the United States of America unilaterally sets that policy or whether we are willing to accept some leadership on the part of Russia and our NATO allies, which seems to me to make good sense. Russia is the historic ally of Serbia. If Russia gets a bellyful, and she may well have, we may be able to put together the kind of international coalition which can be effective. Perhaps, Madam President, perhaps the idea of an international summit on the present situation is not a bad idea.

The United States was a leader in initiating the Security Council resolution that banned arms to the region. Therefore, we do have weight in saying what should happen with respect to those arms now.

I find myself in agreement with Senator NUNN's comments that it is almost a catch-22. If one takes the action unilaterally, one can expect other unilateral actions to take place in other areas of the world on which we may not find welcome or even agreement. It would seem to me that what an executive strategy must answer is, first of all, why do we prevent people from defending themselves against aggressors, and yet are not willing to defend them ourselves?

I cannot adequately answer that question, and it troubles me deeply. We have sent mixed signals, beginning with the Chief of the Joint Chiefs of Staff, when he announced what we would or would not do.

It seems to me that these unilateral actions carry with them great trepidation. They put forward a position when perhaps a position should not be put forward.

It seems to me the best course of action is, first of all, that a long-term executive strategy be devised quickly; that that strategy be devised in consultation with Russia and our NATO allies; and that that strategy be able to answer tough questions.

The time has come where either we unilaterally lift the arms embargo or we must take some united action.

On the face of it, I do think this amendment is something that every Member of this body would like to vote for. However, it becomes more relevant the longer we handcuff people from defending themselves when they are clearly in the slaughterhouse and makes us vulnerable to international condemnation since we were the ones that were a leader in instituting the Security Council resolution instituting the arms embargo.

Let me just summarize, in just the 3 weeks since March 30, when the attack on Gorazde commenced, there have been daily promises by the Serbs to stop shooting, to allow food convoys in, and to allow convoys of wounded out. These promises have been broken on a daily basis. The world who has a conscience cannot stand by.

Maybe the time has come for an international summit to be held. Maybe the time has come for the NATO nations to sit down with Russia and evolve an executive policy which can include an East-West alliance for the first time that might very well be able to solve this very complicated and tragic problem.

Thank you, Madam President. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

ORDER OF PROCEDURE

Mr. DOMENICI. Madam President, I ask unanimous consent that I be permitted to speak for 3 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FORMER PRESIDENT RICHARD NIXON

Mr. DOMENICI. Madam President, I understand former President Richard Nixon's condition is deteriorating. I thought I might just share with the Senate something that happened in the Energy and Natural Resources Committee this afternoon.

There was a subcommittee hearing, and the subject matter was clearly something very parochial to New Mexico. There is an Indian tribe, Indian pueblo, the Taos Indians. Some know it as a ski resort in a community called Taos. Present were about five Indian leaders of Taos.

1970 was the culminating year, after maybe 25 years of arguing with the Federal Government, that the U.S. Government, under the leadership of Richard Nixon, recognized a 48,000-acre claim of the Taos Indians called the Blue Lake area, which they used for their own religious undertakings and as their own kind of wilderness.

Today we were talking about whether we left out 767 acres, or 670 acres. Sitting at the table were three Indian leaders from Taos. The oldest and most senior was a man named Paul Bernard, between 80 and 83 years of age. He was the lead proponent for all those years prior to 1970 of trying to get this historic land returned.

It is most befitting that while Richard Nixon is in the hospital, this elder statesmen of the Indian people of Taos, sitting in his chair, said to Senator BINGAMAN, who was chairing, and myself, "Before I talk about the Taos Indian claim, I think it would be fitting, if it is permitted, for me to pray."

And, of course, we looked around, wondering, of course, we will let him do it, but what is he going to pray about?

And he said, "I would like everyone, including you, if you would, Senators, to stand up with me and I want to pray for Richard Nixon."

And he proceeded in a Tewa dialect of the Taos Indians to deliver—he did not interpret it for us—maybe a 4-minute prayer for Richard Nixon preceding his testimony.

And then, typical of him, he did not seek to make a case for Richard Nixon. He merely said, "The joy of our Taos people culminated in 1970, when Richard Nixon signed a bill giving us back what we had owned for hundreds of years. That is why I prayed for him today."

I thought, because of the condition of Richard Nixon and because it was something I never would have expected, and certainly something we should remember that occurred in that subcommittee room today, I might just share it with the Senate.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SPECTER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BANKRUPTCY AMENDMENTS ACT OF 1993

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1641 TO AMENDMENT NO. 1640

Mr. SPECTER. Madam President, I have sought recognition to support the pending amendment which calls for the United States to unilaterally remove the arms embargo preventing the sale of weapons to the Government of Bosnia and Herzegovina, because I think that this amendment, this resolution, is reasonably calculated to help the situation in Bosnia and Herzegovina.

There is no doubt about the atrocities of Serbian aggression against those countries, about their inability to defend themselves, and about the failure of Serbia and the Serbs to honor the wishes and sanctions of the United Nations and declared world public opinion against the atrocities which are being conducted there.

This resolution is different in two respects from a resolution which was considered by the Senate on January 27, 1994.

First, that resolution was only a sense-of-the-Senate resolution. This provision calls for forcible legislative enactment which will have the force and effect of law, contrasted with the sense of the Senate, which was the matter pending on January 27, 1994.

Second, the pending amendment omits one key provision from the sense-of-the-Senate resolution of January 27, 1994 to this effect: The earlier provision from January 27, 1994, said,

> The President should provide appropriate military assistance to the Government of Bosnia and Herzegovina upon receipt from that Government of a request for assistance in exercising its right of self-defense under article 1 of the United Nations Charter.

Because of that provision, I voted against the sense-of-the-Senate resolution on January 27, because I was unwilling to endorse a proposition authorizing the President to provide appropriate military assistance to the Government of Bosnia and Herzegovina, because I think that that was, in effect, a blank check, or certainly could have been interpreted to be a blank check.

When the reports came forward about the vote on the January 27 resolution, I received many objections to opposing the lifting of the arms embargo and explained to those who inquired that I was not opposed to lifting the arms embargo, but that I was opposed to the supplemental provision which would authorize the President, really with a blank check, to provide whatever military assistance he might deem appropriate. That is the language which was covered.

One of the things which is frequently misunderstood is, when there are news reports about the votes, they do not reflect many paragraphs or many complications or many subtitles that may be comprehended. If the thrust of the amendment is to lift the arms embargo and that is all that is reported by the news media, the public does not understand that there are other provisions which are potentially very troublesome.

So I take some time now to specify why I was against the January 27 resolution but feel that today's resolution is appropriate. I believe that the atrocities which are being committed today in Bosnia and Herzegovina are extraordinary in the annals of warfare, even considering the atrocities with which we are familiar from World War II and from other wars. It is a matter of great anguish that the civilized world stands by and observes these atrocities in progress. It is a matter that cannot be dealt with in any definitive way without ground forces.

I believe that the U.S. policy is correct in not committing American fighting personnel on the ground, which would be debilitating and a quagmire and something which is just not what U.S. policy ought to be. Deciding we are not going to be engaged in a ground war over there—and that is the view of NATO as well and the United Nations as well—there is no way, really, to take sufficient definitive steps in a forceful way to stop the fighting there. We are then left with the option of the air strikes, which I do support, realizing that the air strikes in and of themselves are not going to be sufficient. The example of the war against Iraq certainly demonstrates the fact that no matter how forceful or how pounding and repetitive the airstrikes, the air strikes in and of themselves are not going to be sufficient. The air strikes also pose the problem of endangering the United Nations peacekeeping forces which are on the ground there.

It is anomalous that we have peacekeeping forces there when there is really no peace to keep. Questions have been directed to me: Would I favor having U.S. personnel on the ground as part of the peacekeeping force? I say categorically, no, I would not do that. I would not want to jeopardize U.S. personnel as part of peacekeeping forces because there is no peace to keep. Yet, if there are air strikes or there is other action, even the elimination of the embargo, the U.N. peacekeeping forces may be hostage there. So their safety and security has to be taken into account.

It is a very complex matter. Some have suggested with some forcefulness—and I am not sure but that it may be most appropriate—to withdraw the peacekeeping forces so they are not at risk and to intensify the air strikes as part of an action to remove the arms embargo. This resolution does not go that far. We do not have to make a decision on that at this time.

I am aware of the problem of the United States moving unilaterally. I am aware of the administration's concern in not wanting to act unilaterally when the sanctions were imposed through the United Nations and that the United States relies upon joint international action in maintaining other sanctions such as sanctions against Iraq, sanctions which may not be working very well. So we are concerned about taking unilateral action, the administration is, which may weaken our request to other nations where we ask them to support international sanctions.

Notwithstanding that consideration, it is my view that the United States ought to act unilaterally as the proposal is pending today, even though it is contrary to a very important general principle of supporting joint action with the United Nations. In supporting this amendment, which has the force of law, it is then still subject to a veto by the President and the necessity for a veto override. Judging from the fact that the last resolution was agreed to by a vote of 87 to 9, there would be sufficient votes to override a veto. I would be joining, so there would be no more than eight, and I am joining because this amendment does not contain the blank check for the President to use whatever force he may deem appropriate.

Madam President, it is my thought that when the international community, including the Serbs, see this amendment having the force of law and it moves forward in the legislative process and may come to the President's desk for signature and may be signed and may be subject to being enacted into law on an override, they will see that the United States means business. At least the Senate means business. The House will have an opportunity to pass upon all this.

Even though it is unilateral, perhaps it will have the effect of expediting the United Nations or NATO to move with the United States in eliminating the arms embargo. Certainly what is going on at the present time is totally intolerable. This at least offers some hope to improve that desperate situation.

For these reasons, I will be voting in support of this amendment.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Is the Senator from Massachusetts seeking recognition, also?

Mr. KERRY. Madam President, I had just wanted to ask a question of the Senator from Pennsylvania. I will be happy to wait.

Mr. GREGG. I yield to the Senator from Massachusetts. I noticed he was here earlier.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Madam President, I listened to the Senator from Pennsylvania. I am very sympathetic to much of what he said. I do not think any of us here are arguing about the level of atrocity or what the civilized world ought to do. But the Senator has raised the issue of unilateralness and sort of pushed it aside. He said: Notwithstanding the unilateral issue, I think we ought to vote this way.

I wonder if the Senator really feels that is good policy on its face. Or, perhaps, if there were an alternative way to approach this so, if the resolution embraced an exhortation to the President to first move multilaterally with some room for the President to be able to try to do that immediately and then, in the event of the failure of the President doing that, the embargo would be lifted notwithstanding a Russian veto or any other excuses why it failed—but first to give the opportunity to keep faith with the multilateral effort—does the Senator from Pennsylvania not think that perhaps might be a way of accommodating a lot of concerns of Senators and at the same time keeping faith with our international responsibilities?

Mr. SPECTER. If I may respond, I think the Senator from Massachusetts raises a very valid point. If we can achieve the elimination of the arms embargo in a multilateral way, that would be preferable, instead of the United States going its own way unilaterally. That matter is not now before the Senate. I think the practical effect of this amendment will be what the Senator from Massachusetts seeks to accomplish.

Right now, as I understand it, the administration is trying to persuade our NATO allies and others in the United Nations that there ought to be a multilateral elimination of the arms embargo. I think if there is a strong vote out of the Senate, that will arm President Clinton and the administration in their negotiating efforts.

One might ask why that was not accomplished with the 87-to-9 vote before. I do not know the answer to that. Maybe they said it is only a sense-of-the-Senate resolution, those are passed all the time and they do not mean anything. I do not know that was the result. I have seen some reactions to a sense-of-the-Senate resolution taken very seriously. But whatever happened in the past we do not know. Now it will have the force of law and it will move forward as part of this bill as an attachment to the bankruptcy bill. It may be passed by the House.

Then, if the President is unsuccessful in getting other nations to join in a multilateral way, he may be forced to veto the bill. But we are ratcheting it up. We are raising the stakes and, I think, strengthening the President's hand in a very real sense, saying to our allies: Go along because I am facing a legislative body which can make law over my veto if you do not.

Mr. KERRY. I thank the Senator. I take it then if we were able to come together, the Senator obviously would support it. I appreciate that and appreciate his sensitivity to try to make that happen. I thank the Senator from New Hampshire.

Mr. SPECTER. Madam President, if I might be recognized for another second or two, and I do not want to impede on the Senator from New Hampshire. There have been negotiations to try to modify the language of this amendment. If it cannot be modified to take the multilateral step initially—I think that will be a step in the right direction—but absent that, I am prepared to vote in favor of this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I rise to address this amendment. I believe it is reflective of some very significant problems which we have in our foreign policy issues as a government, as a country. We appear to be stumbling in our approach to foreign policy, something like a bear coming out of hibernation, hitting this tree and that tree and not having a distinct direction on the issue of how we handle ourselves in the post-cold war period.

Unfortunately, this amendment which has been brought forth is just an expression of that stumbling activity. It is more appropriate that we should have a very specific framework that we should be acting on rather than taking this piecemeal drip-drip-drip approach to foreign policy. It is equally appropriate that the leadership for a coherent and pervasive policy should be coming not from the Senate but from the administration.

The fact that this type of amendment is being brought forward by this body and that this body feels the compulsion to address this issue in this way, I think, reflects the very serious problem which this administration is having in the area of foreign policy in general, Bosnia specifically, but more important, in defining for the American people what the role of our country is in the post-cold war era.

This amendment represents a road to intervention, and I do not think we should see it as anything other than that. It represents a step—and a fairly significant one—down the path that will lead to or could lead to involvement of American military personnel in Bosnia and in the former Yugoslavia.

Before we step onto that path, we should know why we are on that path, and we have not heard an explanation of that from this administration. I think it is absolutely essential that we get such an explanation before we pass this type of a resolution.

I would like to suggest that there are three basic standards that we should be looking at in the post-cold war period as to when we use American force and when we will put at risk American prestige in issues that involve conflict.

Those three tests should involve: First, a question of defining the conflict and whether it is a resolvable conflict; second, defining our national interest; and third, defining a strategy for not only entering the conflict but for getting out of the conflict. That should be done in each instance where this administration or this body decides to go forward and put at risk American lives.

In defining the conflict, we must first establish what is the nature of the conflict. Is it an ethnic conflict? Is it a religious conflict? Is it a conflict that has strong historical roots, or is it a conflict that involves individuals desiring aggrandizement, either through expansion of political base or expansion of land or expansion of control over other individuals?

We have examples in very recent history of these different types of conflicts. We have the situation that occurred in Iraq where you had an individual who was attempting to expand his own personal role in the world by using military force. A dictatorial action, a totalitarian state taking action that was of a military nature, and we addressed that.

We also have examples—and I think Bosnia is one of them—of conflicts which go much deeper which are ethnic and religious and which do not have a clear, defined good guy or bad guy, do not have a clearly defined winner-loser scenario, that involve generations of hatred and intense feelings within a community.

In the issue of Bosnia, it transcends towns and streets. It goes throughout the former nation of Yugoslavia.

Another instance of that type of conflict is what happened in Lebanon only a few years ago, where you had the various ethnic and religious factions fighting each other in a conflict that was not easily resolvable.

The second test is the issue of national interest. What is the national interest? Is there a national interest? On that test, we, once again, could look at the Iraqi situation where there was clearly a national interest: Oil supply for the world was threatened. Or we can look at North Korea where there is a national interest, because we are talking about a renegade nation that contains or possesses, or soon will possess, it appears, a capacity to deliver nuclear weapons, with the vehicles to deliver those weapons and which will threaten, therefore, a broad spectrum of the world.

The use of nuclear weapons is something we should be concerned about and have a national interest in and contain it. But in Bosnia, we do not have a national interest. In Bosnia, we have a conflict which is regional in a part of the world where the United States has no immediate national interest. If we are going to go into Bosnia, does that mean we are also going to go into Rwanda? Are we going to go into Azerbaijan? Are we going to go into the Kashmir? Are we going to go into any number of hot spots around the world where there is conflict going on and where the horror of that conflict equals or exceeds, as in the case of Rwanda, what is happening in Bosnia?

So on the first two tests: Is the conflict resolvable? No, it probably is not. This is an ethnic and religious conflict in which today's events are a page in a long history, and it is just going to continue. So that test is not met.

The second test is: Is there a national interest for the United States if we get involved? No, I do not believe you can insert a clear national interest for our Nation. If the national interest is defined as stopping a horrific event—which this clearly is—then we cannot limit ourselves to Bosnia.

Clearly, we must be in Rwanda, also. I do not think America wishes to assert its strength across the globe in that manner. Rather, we must pick those areas where we do have a national interest and where the conflict is resolvable.

The third test is: If you get into the conflict, how do you get out? Do we have an exit strategy? This proposal which is on the table today, this amendment, is the first entry step into the conflict. Is there a discussion of how we get out? What happens next? There has been a great deal of that on this floor. But is there a clear definition of it coming from the administration? No, there is not. Without that definition, we make a very serious error to step into this arena.

So why are we at this point? Well, we are at this point because we have not heard from the administration a clear defining of the national role in conflicts like Bosnia, and because the administration and our people and the Western World generally are being inexorably pulled into the Bosnian morass by the fact that it is on television as a nightly occurrence.

I would suspect that if we were getting the same type of video we are getting from Bosnia, from Rwanda, or from Azerbaijan, we would be equally outraged as a people and equally concerned. But we are not. Why are we not? I think we have to be honest about it. We are not getting it because Rwanda and Azerbaijan are not Western countries, they are not part of the European Continent and, therefore, they are not readily accessible to the international media, and also, they do not have a certain similarity to the Western media that is demanded in order to have the coverage.

But were the coverage there, it would be equal to or worse in showing and displaying human suffering.

So we find ourselves being drawn by television into a conflict on which there has been no clear, defined national policy set out for why we should be in there other than the fact that it does appear on television every night and that people are concerned about it.

That is not a legitimate reason to go into Bosnia. It is not a legitimate reason to go into any part of the world where conflict is going on and put at risk American lives. The last count I had, there are today 42 conflicts going on in 39 different countries around this world, and we cannot police them all. We should not choose the ones we decide to police by the pressure which comes to us from the electronic media. We should choose the ones that we decide to police by the tests that I have laid out. First, is the conflict resolvable? Second, is there a national interest? And third, is there a strategy for not only entering the conflict but also exiting the conflict?

There is also a whole subset of issues which are raised by the Bosnia situation which I think need to be fully aired before we go down this road any further, and a major element in that subset, independent of the question of having a national policy as to why we are choosing this arena, a major element of that has to be the question of our relationship to the United Nations and the U.N. command and control over American troops.

It is a serious error for us to put American lives at risk because of a decision made by a political leader serving at the behest not of the President but of the United Nations. When American lives are put at risk, it should be because an American commander has received a directive from an American President or an authoritarian figure below the Presidency in the American chain of command. We should never abrogate that authority to another institution, another political institution, as has already occurred in the Bosnian situation. We have already heard reports of American military action being initiated as a result of directives coming from political figures who are outside the American chain of command and who are responsible to the United Nations. And that is wrong.

Why is it wrong? People will say, well, the United Nations is a world body, it is a police organization, and there are a lot of different military forces attached to it from different countries. That is true. But the United States is unique as a military force in the world today. We are not like many of our allies or many of the other nations in this world that maintain military force. We are the only superpower. We are the only nation that has the capacity to project power around the globe with devastating authority.

When American troops are put at risk, it draws that power into any action that occurs. And to use that power arbitrarily or without a thoughtful national policy, as was the first point I was making, or to put that power at the disposal of a nonelected American official is a serious error of public policy, because it draws much more weight to it and much higher ramifications to it than when an agency of the United Nations directs into action another nation's military forces.

And, also, as we learned regrettably, in Somalia Americans become targets, not because they are with the United Nations but because they are Americans. When you put American forces into a conflict situation and you put them under the command of the United Nations, they become the targets of activists in the nation where they are, regrettably, because they are Americans.

So when you are putting them at that risk, you must be very careful that they are under American command because the bottom line is you have to explain this. You have to explain it to the mothers and the fathers and the wives and the husbands and the children of the people who lose their lives because they put themselves in harm's way as American soldiers. That is a very difficult explanation to give unless you, first, have a national policy, and, second, make it absolutely clear that what they risk their lives for and, in some instances, regrettably, gave their lives for, is American policy under American command.

Right now we have neither in this instance. I have heard innumerable talks on this floor from a variety of different, very eloquent speakers, but one consistent theme appears to be for those who support the resolution and those who oppose it, for those who support this administration and those who feel the administration may vary on this issue, that we as a nation have no national policy yet on how to handle the situation. And until that national policy is elicited and defined by this Presidency, it will not have such a policy because it is the focus of the President from which that comes, not from the focus—as important as we are in the process—of the Senate.

That brings up a broader issue, which is the whole question of how this administration has approached the post-cold-war period, and I think it has been obviously an administration finding its way. That has been fairly clear to anyone who has watched and counseled or attempted to view these activities.

But in the post-cold-war period we need more than that. We need a very defined purpose of what America's role is in the world. That defined purpose, in my opinion, must acknowledge that the new threat to the world comes from renegade nations which have nuclear arms and may use those arms. And when you want to rate what American national interest is relative to other nations, you must put at the top of the list to assure that renegade nations do not get nuclear arms and, if they do get nuclear arms, they are put in a position where they will not use them.

That, of course, moves to the top of the list the North Korean issue, on which, again, we seem to have no policy as a country. But, clearly, if we are to function in this post-cold-war period, we are not going to be confronting ideological components. We may confront people who view us in religious terms as opponents, but we are not going to be confronting the Soviet concept of communism versus capitalism and a world struggle over that issue.

What we are most likely going to confront is the renegade leader of a nation who has had the capacity to develop a nuclear weapon and is threatening to use that weapon or who is in the process of developing a nuclear weapon. We must—unfortunately, the time has come—in North Korea, make a very clear and definitive policy as to how we are going to handle that situation the first instance it occurs. And the first instance it is occurring is in North Korea.

So as we look at this proposal, I think we need to watch the whole ball game. We need to look at the entire forest and not just look at this tree, which it is. We cannot allow ourselves to sort of dribble into this issue. We need, first, to have a clear definition of what the American role is in Bosnia, what our national interest is, how we see the conflict being resolved, and how American troops—if they are going to be put in—get out. We need to understand that we cannot be drawn into every conflict which becomes a national or international media occurrence or dominant event.

We need to choose very intelligently and thoughtfully when and where we are going to put American lives at risk. We need to understand that putting American soldiers under the command of political figures within the United Nations is something that should never occur. We need to have an intelligent and thoughtful approach to what is the real threat in the post-cold-war period, which is those nations which are obtaining nuclear weapons or may be obtaining nuclear weapons and do not have responsible leadership for the management of those weapons.

Those are the concerns that should be addressed, and that is the priority that we should put in moving forward on the Bosnia issue.

For that reason, I do not support this resolution. I recognize I am in a minority probably on that. But I see it as a step to the road to American intervention, which has not been thought out; and as part of a process in which we, if we proceed on, will end up losing American lives without any way of explaining to American parents, wives, husbands, and children the reason for the loss of that life.

I yield the remainder of my time.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Madam President, I support and cosponsor this amendment to terminate the United States' arms embargo of the Government of Bosnia. I believe this measure is necessary to provide much needed assistance to the men, women and children of that nation—people who are fighting for their property, their lives and future.

I believe this amendment follows the successful Reagan doctrine—that the United States can, under proper circumstances, help people help themselves. We all saw how well this doctrine worked in Afghanistan where, with the assistance of United States arms, the Afghan people turned back the world's single largest military, that of the former Soviet Union. In that conflict, because of America's willingness to help the freedom fighters, we did not—over the course of the conflict—have to commit U.S. forces.

Rather, then, as now, our purpose was to help a valiant people defend themselves. With the right policies, we were able to do just that.

Madam President, I do not believe there are any among us, who would say that the people of Bosnia do not have the right to protect their lives, their families and their property. Even today we hear the heart-wrenching report of the Serb attack on the hospital in Gorazde. How long do we suffer these atrocities to continue before we give the people of Bosnia the wherewithal to defend themselves. Frankly, it makes no sense for U.S. airmen to risk their lives to defend people who we simultaneously deny the ability to defend themselves.

None of us wants to see this war escalated. Frankly, I hope that by lifting this embargo we send a clear message that America wants to see a speedy and equitable negotiated settlement. But I am afraid that unless this embargo is lifted what we will see, instead, is continued wholesale slaughter—as President Clinton said yesterday, the slaughter of innocents.

Let me be clear, Madam President, this measure in no way authorizes or indicates a commitment of American men and women into this conflict. I believe our troops must stay out of Bosnia. But it does allow our Nation to assist men, women and children who are suffering needlessly and with little opportunity for recourse.

Mr. MOYNIHAN. Madam President, I have chosen to cosponsor the amendment of the distinguished minority leader concerning lifting the arms embargo on Bosnia because I have become convinced that the embargo violates article 51 of the U.N. Charter. Like the U.S. Constitution, the Charter is not a suicide pact. The inviolability of article 51 is fundamental to the bargain entered into by nations when they ratify the Charter. They agree to be bound by the decisions of the Security Council, but on the basis that "Nothing in the present charter shall impair the inherent right of individual and collective self-defense * * *." Such is the importance of the principle that the phrase is redundant in its protections: "Nothing" in the charter shall impair the right and the right is "inherent".

Hence I have cosponsored this amendment mandating that the United States cease its support for the embargo.

That is not to say that I do not have concerns about whether this is precisely the right approach or whether the wording of the amendment could not be further refined in conference. If this were an easy issue the blood would not now be flowing in the streets of Gorazde. The President has just announced a new initiative; negotiations are about to begin. I hope—and believe—that the Senate's vote on this resolution will strengthen his hand, not weaken it. He has said that he supports lifting the embargo. This amendment will demonstrate that the Senate strongly supports this view.

There is another important issue—a constitutional issue—about which I have some concerns regarding the precise language of the amendment. Namely, I think that it might be desirable to clarify the meaning of subsection (a) which states that the President shall not interfere with the transfer of arms to the Government of Bosnia. I interpret this prohibition narrowly to reach those areas in which the Congress has the constitutional power to restrict the President. I do not believe, for instance, the amendment should be read to imply that the President could not say that he opposes lifting the embargo or even argue that other states should continue to enforce the embargo. The constitutional power of the President to articulate his own views or to communicate with other nations cannot be controlled by Congress. I know that this is not the intention of the minority leader and the amendment should not be read to attempt to control the President's speech.

Nor does the amendment affirmatively mandate that the United States provide arms to Bosnia. It prohibits interference with Bosnia receiving arms. There is a difference.

Madam President, there is a long history of congressional involvement on questions of arms embargoes and neutrality acts. It is appropriate—indeed, essential—that the Senate speak on this issue and I commend the minority leader and also the distinguished Senator from Connecticut on their leadership on this issue.

Mr. KEMPTHORNE. Madam President, like every American, I am appalled and shocked by the killings, rape, ethnic cleansing, and other atrocities currently taking place in Bosnia.

Last year, in response to these outrages, I cosponsored a resolution, Senate Resolution 79, offered by Senator FEINGOLD to lift the arms embargo on Bosnia. Today, I will join the distinguished Republican Leader, Senator DOLE, and Senator LIEBERMAN, in cosponsoring the amendment currently before the Senate. I will cosponsor this amendment to once again signal my support for lifting the U.N. arms embargo on Bosnia.

Americans and people everywhere understand the right of self-defense. After the breakup of the former nation of Yugoslavia, the Serbs took possession of the bulk of weapons from the Yugoslavian military. As the three-way civil war erupted, the United Nations enacted an arms embargo on Bosnia, Serbia, and Croatia. In effect, however, this arms embargo denied the Bosnian Moslems the right to acquire arms to defend themselves against Serbian aggression. As a result of the arms embargo, Serbia and Bosnian Serbs had a monopoly on the heavy weapons they needed to conquer and carve up Bosnia. The ebb and flow of violence and atrocities we have seen are the tragic result of this policy.

For some time, the U.S. Senate has called on the President to lift the arms embargo on Bosnia so that the Bosnian Moslems can defend themselves. Unfortunately, because of opposition from our allies with troops on the ground, the President failed to convince our NATO partners to lift the arms embargo. Given the current siege of Gorazde and my opposition to increased United States military involvement in Bosnia, I believe it is time for America to show its leadership and lift the arms embargo against Bosnia.

While I want to allow the Bosnian Moslems to acquire the weapons they need to defend themselves, I strongly oppose any effort to increase the U.S. military involvement in this quagmire. Likewise, I continue to strongly oppose the Clinton administration policy of giving the U.N. commanders on the ground the authority to call for NATO and U.S. airstrikes. I fear we are seeing mission creep like we saw in Somalia, where U.S. military involvement escalates in support of United Nations' policies.

I strongly oppose any increased United States military involvement in Bosnia because, to begin with, the President has not given the American people a clearly defined objective for our military involvement. As far as I can tell, no one in this Government can tell us how our air attacks are supposed to bring about peace in Bosnia. Indeed, as recently as 2 weeks ago, the Chairman of the Joint Chiefs of Staff, General Shalikashvili, warned that air attacks won't stop the Serbian attacks on Gorazde because, unlike Sarajevo, where the Serbes used tanks and heavy artillery, the Serbs are now using small arms to take Gorazde.

I oppose increased United States military involvement in Bosnia because it's a bad idea that will not end the suffering—but may prolong it. I oppose United States military involvement in Bosnia because it will not lead to negotiations between the parties—but may even delay them. I oppose military involvement because it leads us to the slippery slope of intervention—and none of us can see an end to it.

Madam President, I rise in strong support of the Dole-Lieberman amendment to lift the arms embargo against Bosnia. I do so with the hope and belief that by giving the Bosnian Moslems the ability to defend themselves, this terrible ethnic civil war can be brought to an end. I support this amendment with the recognition that my support for this action in no way authorizes or encourages a greater United States military involvement in Bosnia. I support this amendment to forestall the looming danger of allowing the United Nations to drag the Armed Forces of the United States and NATO more deeply into this centuries old conflict.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HARKIN). Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, we have been working all day long to reach accommodating language for various Senators that have had differences on amendments that were before us. We have reached accommodation on a number of amendments, and so we will go forward at this time.

AMENDMENT NO. 1642

(Purpose: To amend section 522 of title 11, United States Code, with respect to avoiding certain liens that impair exempt property)

Mr. HEFLIN. On behalf of Senator JOHNSTON and Senator BREAUX, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the other amendments will be set aside and the clerk will report this amendment.

The legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN], for Mr. JOHNSTON, for himself and Mr. BREAUX, proposes an amendment numbered 1642.

Mr. HEFLIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 235, between lines 13 and 14, insert the following:

SEC. 311. NONAVOIDABILITY OF FIXING OF LIEN ON TOOLS AND IMPLEMENTS OF TRADE, ANIMALS, AND CROPS.

(a) ADMENDMENT.—Section 522(f) of title 11, United States Code, as amended by section 303(c), is amended—

(1) by striking "Notwithstanding any waiver of exemptions," and inserting "(1) Notwithstanding any waiver of exemptions but subject to paragraph (2)";

(2) by striking "(1) a judicial" and inserting "(A) a judicial";

(3) by striking "(A) is not assigned" and inserting "(i) is not assigned";

(4) by striking "(B) includes a liability" and inserting "(ii) includes a liability";

(5) by striking "(2) a nonpossessory" and inserting "(B) a nonpossessory";

(6) by striking "(A) household" and inserting "(i) household";

(7) by striking "(B) implements, professional books, or tools," and inserting "(ii) implements, professional books, or tools"

(8) by striking "(C) professionally" and inserting "(iii) professionally"; and

(9) by adding at the end the following new paragraph:

"(2) In a case in which State law that is applicable to the debtor—

"(A) permits a person to voluntarily waive a right to claim exemptions under subsection (d) or prohibits a debtor from claiming exemptions under subsection (d); and

"(B) permits the debtor to claim exemptions under State law without limitation in amount, except to the extent that the debtor has permitted the fixing of a consensual lien on any property,

the debtor may not avoid the fixing of a lien on an interest of the debtor or a dependent of the debtor in property if the lien is a nonpossessory, nonpurchase-money security interest in implements, professional books, or tools of the trade of the debtor or a dependent of the debtor or farm animals or crops of the debtor or a dependent of the debtor.".

(b) APPLICATION OF AMENDMENT.—The amendments made by subsection (a) shall not apply with respect to a case commenced under title 11, United States Code, before the date of enactment of this Act.

Mr. JOHNSTON. Mr. President, today we are considering legislation which streamlines one of the most litigated sections of the United States Code. The amendment that I am offering will expand this legislation to clarify a section of the Bankruptcy Code which has had a chilling effect on the extension of credit to agriculture producers and caused great concern among agriculture lenders who have been impacted by section 522(d) of title 11 of the United States Code.

As a result of various exemptions set forth in the Federal Bankruptcy Code, some States, including Louisiana, have chosen to opt out of the Federal exemption format under section 522(d) and create their own list of exemptions from seizure in bankruptcy cases. Thus, when a debtor files for bankruptcy he or she can avoid certain liens if they affect property that is exempt under State statutes. The purpose of these exemptions is to protect the debtor and his family from being reduced by financial misfortune to absolute want and becoming a public charge.

The exemptions provided by States like Louisiana have not been a problem until recent rulings on a new line of bankruptcy cases which have allowed debtors in bankruptcy to avoid liens and security interest affecting property which is exempt from seizure, generally including collateral consisting of the tools of the trade by which the debtor earns his or her living. For example, in *Owen* v. *Owen*, 111 S.Ct. 1833 (1991), the court held that since Federal law determines the availability of lien avoidance, the State may not "opt out" of the lien avoidance provision of section 522(f) regardless of a State exemption, giving the debtor the opportunity to avoid the security interest irrespective of a possible waiver within the security document itself of the exemption. More recently, a Texas bankruptcy court held that a farmer's statutorily exempt tools of the trade included two John Deere tractors valued at over $47,350 and that the farmer could therefore avoid security interests in them.

Because of this situation, many bankers in rural areas and especially agricultural lenders are restricting credit to farmers who voluntarily want to secure such a loan with farm equipment or other assets construed as tools of the trade. Consequently, this has impacted the availability of needed credit to farmers and raised concerns from the agricultural community in affected States about the overriding weight of possible protection provided under the tools of the trade statutes in the event of a chapter 7 or 12 bankruptcy proceeding.

My amendment would make it clear that in States similar to Louisiana that have opted out of the Federal exemption format under section 522(d) debtors could not avoid the fixing of a lien if the lien is a nonpossessory, nonpurchase-money security interest in tools of the trade and the State law prohibits the debtor from avoiding the fixing of the lien.

Mr. President, the Owen decision, in particular, is having a serious impact on the extension of credit to agricultural producers, particularly in those cases where tractors, combines, and other big ticket items form a substantial, if not a majority, portion of a farmer's assets available for collateral purposes. On the other hand, banks are being denied a good loan opportunity based on the financial risks associated with current interpretation of the Federal exemption format under section 522(d). I hope my colleagues will join me in support of this amendment. I ask unanimous consent that the texts of letters from the Louisiana Farm Bureau and Louisiana Bankers Association be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LOUISIANA FARM BUREAU
FEDERATION, INC.,
Baton Rouge, LA, March 28, 1994.

Hon. J. BENNETT JOHNSTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR JOHNSTON: I am writing on behalf of the Board of Directors of Louisiana Farm Bureau Federation to advise you that we considered some proposed amendments to the Bankruptcy Code concerning the "tools of the trade" exemption during our meeting here last week. I have copies of correspondence sent to you earlier by various banking interests in the state, and it appears from that correspondence that a full explanation of the problem would be cumulative. We believe that the availability of credit to persons actually engaged in farming overrides any consideration of the possible protection of "tools-of-the-trade" assets in the event of a Chapter 7 or 12 bankruptcy proceeding. Since the Supreme Court decision in *Owen* v. *Owen* has led some bankruptcy courts to set aside security interests in "tools of the trade" that heretofore could accompany assets otherwise exempt from seizure under state law, we believe the best solution is an amendment to the code that allows state law to follow and encumber otherwise exempt assets for those states that have opted out of the federal list of exemptions in Section 522(d) of Title 11. The *Owen* decision is having a chilling effect on the extension of credit to agricultural producers, particularly in those cases where tractors, combines and other big ticket items form a substantial, if not a major, portion of a farmer's assets available for collateral purposes.

At the time of our board meeting, we did not have a copy of Congressman Sarpalius' bill and have not yet had the opportunity to read it. If the bill is confected the way we understand it to be however, we are urging that the provisions of H.R. 339 be incorporated in S. 540 by Senator Heflin, or at the very least, that you lend your support to the House bill as it makes it way through Congress. While some argument can be made on the opposite side of this question, we believe that the best interests of farmers are served by the ability to collateralize assets used in the actual farming operation where that is necessary. I will be pleased to discuss this matter with you should the need become apparent at a later date.

With best wishes, I am

Sincerely yours,

RONALD ANDERSON,
President.

LOUISIANA BANKERS ASSOCIATION,
Baton Rouge, LA, April 19, 1994.

Hon. J. BENNETT JOHNSTON,
U.S. Senate, Washington, DC.

DEAR SENATOR JOHNSTON: On behalf of Louisiana's banking community, I request your help in correcting a tremendous problem that has arisen in the application of the "tools of the trade" in personal bankruptcy. If left unresolved it will have an increasingly negative impact as lenders will be unable to lend to otherwise credit-worthy borrowers. Already bankers have had to decline loans because of this problem. Below is a brief background on the problem.

A new line of cases allows debtors in bankruptcy to avoid liens and security interest affecting property which is exempt from seizure generally, including collateral consisting of the "tools of the trade" by which the debtor earns his living. First, in Owen v. Owen, the U.S. Supreme Court overturned established 5th Circuit precedent (In re McManus, 681 F.2d 353 (5th Circuit 1982), and held that a debtor could avoid a lien on property which would, but for the lien, be exempt from seizure under state law (or, if the state did not provide a list of exemptions, those given in the Bankruptcy Code). More recently, a Texas Bankruptcy court held a farmers statutorily exempt "tools of the trade" included two John Deere tractors and that the farmer could therefore avoid security interests in them, In re Nash 142 B.R. 148 (Bkrtcy., N.D. Tex. 1992).

The Bankruptcy Code itself provides that certain listed types of property are exempt from seizure to satisfy the debtors' creditors; it was also possible for the states, after enactment of the Bankruptcy Code, to "opt out" of the federal exemption list and create their own list of exemptions from seizure. Many states, including Louisiana, have done so. Thus when a debtor files for bankruptcy he can avoid certain liens if they affect property that is exempt. This has not been a problem in Louisiana until Owen case was decided, since Louisiana had defined exempt property to exclude items which the debtor had voluntarily encumbered, In re McManus. However, in Owen v. Owen the U.S. Supreme Court said that the test for determining whether a debtor can avoid a security interest in exempt property—whether exempt on the federal or state list—is to "ask not whether the lien impairs an exemption to which the debtor is in fact entitled, but whether it impairs an exemption to which he would have been entitled but for the lien itself." Owen v. Owen by Justice Scalia.

In the agricultural context exemplified by In re Nash this principle can permit a debtor to avoid a nonpurchase-money security interest in expansive farm equipment if it is characterized by a court as the debtor's tools of the trade.

Do not be misled because purchase money security interests are not jeopardized by this avoidance power. While a debtor may not use the Bankruptcy Code to avoid a purchase money security interest in farm equipment, if he refinances that purchase money debt it loses the purchase money status and he can then avoid the security interest. A recent Louisiana bankruptcy court decision permitted exactly that result with respect to office equipment: refinancing of a purchase money loan caused the collateral to lose its purchase money security interest status and the debtor avoided the security interest under the Bankruptcy Code, In re Nader, No. 92 BK-112880507, Jan. 26, 1992, Shreveport Div., W.D. La.

Clearly the borrower would now be unable to use his assets as collateral. Borrowers are denied credit otherwise available and bankers denied a good loan opportunity.

I greatly appreciate the efforts of Mike Gougisha and Jeff Martin of your office in assisting us in resolving this problem. They are to be commended for their genuine concern and persistence.

Thanks for your attention to this matter.

Sincerely,

ROBERT T. TAYLOR,
Director of Government Relations.

Mr. GRASSLEY. Mr. President, in regard to this amendment, I am agreeing to take this amendment. I had concerns about how the original amendment would affect farmers in my State of Iowa. I have discussed with the Senator from Louisiana my concerns without fully knowing the impact of this amendment on that. And he knows I am reserving my right to work on this language further in conference to clarify its intent.

I appreciate Senator JOHNSTON's efforts that he has already taken to narrow his original amendment. So I do accept the amendment at this point in time.

Mr. HEFLIN. I urge the amendment be agreed to.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1642) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1643

(Purpose: To amend section 1328 of title 11, United States Code, to exclude from discharge debt for money, property, services, or credit obtained by false pretense, false representation, or fraud)

Mr. HEFLIN. Mr. President, I send an amendment to the desk by Senator BRYAN, dealing with matters pertaining to money, property, services obtained by false pretenses, false representation or fraud, and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection the pending amendments are set aside and the clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN], for Mr. BRYAN, proposes an amendment numbered 1643.

Mr. HEFLIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 235, between lines 13 and 14, insert the following:

SEC. 311. NONDISCHARGEABILITY OF DEBT FOR MONEY, PROPERTY, SERVICES, OR CREDIT OBTAINED BY FALSE PRETENSE, FALSE REPRESENTATION, OR FRAUD.

Section 1328(a)(2) of title 11, United States Code, is amended by inserting "(2)(A)," after "paragraph"

Mr. HEFLIN. I urge adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1643) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1644

(Purpose: To amend section 152 of title 28, United States Code, concerning recommendations by the Judicial Conference for the appointment of additional bankruptcy judges)

Mr. HEFLIN. Mr. President, I send to the desk an amendment by Senator FEINSTEIN dealing with the matter of recommendations by the judicial conference for the appointment of bankruptcy judges and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection the pending amendments will be set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN], for Mrs. FEINSTEIN, proposes an amendment numbered 1644.

Mr. HEFLIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 160, between lines 6 and 7 insert the following:

SEC. 116. RECOMMENDATIONS OF THE JUDICIAL CONFERENCE FOR THE APPOINTMENT OF BANKRUPTCY JUDGES.

Section 152(b) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) If, as a result of a review of judicial districts under paragraph (3), the Judicial Conference determines that there is a need for a number (including a fractional number) of additional bankruptcy judges for any judicial district, but the Judicial Conference determines to submit to Congress a recommendation that the appointment of a lesser number of bankruptcy judges be authorized for that district, the Judicial Conference shall submit with the recommendation a statement detailing—

"(i) the difference between the number of additional bankruptcy judges that has been determined to be needed and the number recommended to be authorized; and

"(ii) the methods by which those numbers were determined.

"(B) If the Judicial Conference has submitted to Congress a recommendation that a lesser number of additional bankruptcy judges be authorized to be appointed than a review of judicial districts shows is needed for a judicial district, the Judicial Conference shall submit a subsequent recommendation that satisfies the continuing need for additional bankruptcy judges for that judicial district unless—

"(i) the Congress, without having received such a recommendation, authorizes the requisite number of additional bankruptcy judges to be appointed for that district; or

"(ii) a subsequent review of judicial districts shows that that number of additional bankruptcy judges is no longer needed for that district.".

Mrs. FEINSTEIN. Mr. President, I want to first thank the managers of this complex and comprehensive legislation for their courtesy and cooperation in accepting my amendment, which will assist Congress in accurately determining how and where to meet the judgeship needs of the Nation's bankruptcy courts.

Under current law, Mr. President, the Judicial Conference of the United States is required to conduct what is called a biennial survey every 2 years to determine the continuing need for bankruptcy judges in every judicial district in America. The data collected forms the basis of recommendations that the statute requires the Conference to make to Congress as to how many judges are needed, and where they should preside.

Congress is not bound to follow the Conference's advice. The Conference's suggestions are intended, however, to keep judicial caseloads—and, therefore, bankruptcy processing times—at or near an acceptable level set by the Conference.

This is no easy task, Mr. President, and I commend the Conference for the efforts that it has made in the past to expedite bankruptcy cases for both debtors and creditors. Such speed serves all who come into contact with the court system and is a stabilizing force in our economy at large.

In recent years, however, the Judicial Conference's recommendations have left several judicial districts across the country—including California's four districts—short of the number of judges needed to achieve the caseload targets established by the Conference itself.

My amendment is intended, Mr. President, to strike a balance between the deference owed by Congress to the Judiciary in operating the Nation's courts and the pressing need in California and many other States to obtain adequate judicial resources. To that end, it would modify title 28 of the United States Code at section 152(b)(3) to: First, require that, if the Judicial Conference recommends that Congress create fewer judgeships in a given district than its biennial survey finds to be actually needed to establish normal caseloads, the Conference must disclose that fact and its calculation methods to Congress and quantify the degree to which the district is being understaffed; and second, require the Conference to recommend to Congress an adequate number of judges to meet the needs of any district whose needs were not satisfied by the Conference's previous recommendations.

My amendment does not—I hasten to add—create new judgeships, modify any existing judgeships, affect the Conference's discretion to conduct its biennial survey in the manner it thinks best, or change the target caseload used by the Conference to make its recommendations. Accordingly, Mr. President, I believe that it is both budget- and deficit-neutral.

In conclusion, Mr. President, I want to again thank the managers of the bill and the Judicial Conference for its hard work in the past. As a member of the Appropriations Committee, I look forward to working with all three in the future to provide America's bankruptcy courts with the resources that they—and the public—so seriously need.

Mr. HEFLIN. I urge passage of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1644) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1645

(Purpose: Substitute section on professional fees)

Mr. HEFLIN. Mr. President, I send an amendment to the desk by Senator METZENBAUM, dealing with professional fees in regard to bankruptcies, and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection the pending amendments will be set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN], for Mr. METZENBAUM, proposes an amendment numbered 1645.

Mr. HEFLIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 231, strike line 11 and all that follows through page 234, line 6, and insert the following:

SEC. 309. PROFESSIONAL FEES.

Section 330(a) of title 11, United States Code, is amended to read as follows:

"(a)(1) After notice to the parties in interest and the United States Trustee and a hearing, and subject to sections 326, 328, and 329, the court may award to a trustee, an examiner, a professional person employed under section 327 or 1103—

"(A) reasonable compensation for actual, necessary services rendered by the trustee, examiner, professional person, or attorney and by any paraprofessional person employed by any such person; and

"(B) reimbursement for actual, necessary expenses.

"(2) The court may, on its own motion or on the motion of the United States Trustee for the District or Region, the trustee for the estate or any other party in interest, award compensation that is less than the amount of compensation that is requested.

"(3)(A) In determining the amount of reasonable compensation to be awarded, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including—

"(A) the time spent on such services;

"(B) the rates charged for such services;

"(C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;

"(D) the total value of the estate and the amount of funds or other property available for distribution to all creditors, both secured and unsecured;

"(E) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed; and

"(F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

"(4)(A) Except as provided in subparagraph (B), the court shall not allow compensation for—

"(i) unnecessary duplication of services; or

"(ii) services that were not—

"(I) reasonably likely to benefit the debtor's estate; or

"(II) necessary to the administration of the case.

"(B) In a chapter 12 or chapter 13 case in which the debtor is an individual, the court may allow reasonable compensation to the debtor's attorney for representing the interests of the debtor in connection with the bankruptcy case based on a consideration of the benefit and necessity of such services to the debtor and the other factors set forth in this section.

"(5) The court shall reduce the amount of compensation awarded under this section by the amount of any interim compensation awarded under section 331, and, if the amount of such interim compensation exceeds the amount of compensation awarded under this section, may order the return of the excess to the estate.

"(6) Any compensation awarded for the preparation of a fee application shall be based on the level and skill reasonably required to prepare the application.".

Mr. HEFLIN. I urge adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1645) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1646

(Purpose: To clarify the effect of conversion of a case under chapter 13 to another chapter)

Mr. HEFLIN. Mr. President, I send an amendment to the desk by Senator METZENBAUM dealing with clarifying the effect of conversion of a case under chapter 13 to another chapter and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection the pending amendments will be set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN], for Mr. METZENBAUM, proposes an amendment numbered 1646.

Mr. HEFLIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 235, between lines 13 and 14 insert the following:

SEC. 311. CONVERSION OF CASE UNDER CHAPTER 13.

Section 348 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(f) When a case under chapter 13 is converted to another chapter—

"(1) property of the estate in the converted case shall consist of property of the estate, as of the date of filing of the petition, that remains in the possession of or is under the control of the debtor on the date of conversion; and

"(2) valuations of property and of allowed secured claims in the chapter 13 case shall apply in the converted case, with allowed secured claims reduced to the extent that they have been paid in accordance with the chapter 13 plan.".

Mr. HEFLIN. I urge adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1646) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1647

(Purpose: To amend section 525 of title 11, United Sates Code, to prohibit denial of a student grant or loan on the ground that a loan applicant has been a debtor in a bankruptcy proceeding)

Mr. HEFLIN. Mr. President, I send an amendment by Senator METZENBAUM to the desk which amends section 525 of title 11 to prohibit denial of a student grant or loan on the grounds that the loan applicant has been a debtor in a bankruptcy proceeding and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection the pending amendments will be set aside and the clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN], for Mr. METZENBAUM, proposes an amendment numbered 1647.

Mr. HEFLIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 242, between lines 7 and 8 insert the following:

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. PROTECTION AGAINST DISCRIMINATORY TREATMENT OF APPLICATIONS FOR STUDENT LOANS.

Section 525 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) A governmental unit that operates a student grant or loan program and a person engaged in a business that includes making of loans guaranteed or insured under a student loan program may not deny a grant, loan, loan guarantee, or loan insurance to a person that is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, or another person with whom the debtor or bankrupt has been associated, because the debtor or bankrupt is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, has been insolvent before the commencement of a case under this title or during the pendency of the case but before the debtor is granted or denied a discharge, or has not paid a debt that is dischargeable in the case under this title or that was discharged under the Bankruptcy Act.

"(2) In this section, 'student loan program' means the program operated under part B, D, or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) or a similar program operated under State or local law."

Mr. METZENBAUM. Mr. President, the Bankruptcy Code, section 525, prohibits governmental units from discriminating against a person because of a prior bankruptcy or discharge of a debt. Specifically, the code provides that a governmental unit may not discriminate in cases of a "license, permit, charter, franchise, or other similar grant" because of a prior bankruptcy. Some courts have construed this provision very narrowly. For example, if a person has filed for bankruptcy and later applies for a Government-sponsored student loan, some courts have upheld the denial of the loan because the Bankruptcy Code does not specifically mention student loans as a category in which the Government may not discriminate. This interpretation seriously undermines the fresh start that section 525 was meant to ensure. It also may prevent a person from going back to school.

The Metzenbaum amendment would specifically list student grants and/or loans as an area in which the Government may not discriminate. Under current law, most student loans cannot be discharged in bankruptcy. This amendment will not change that law.

Mr. HEFLIN. I urge adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1647) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1648

(Purpose: To amend the Bankruptcy code, 11 U.S.C. section 541(b)(4) to exempt the debtor's estate in bankruptcy certain interests in the production of liquid or gaseous hydrocarbons)

Mr. HEFLIN. Mr. President, I send an amendment to the desk by Senator SIMPSON, for himself, Mr. WALLOP, Mr. BROWN, Mr. BREAUX, Mrs. HUTCHISON, and Mr. JOHNSTON, and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN], for Mr. SIMPSON, for himself, Mr. WALLOP, Mr. BROWN, Mr. BREAUX, Mrs. HUTCHISON, and Mr. JOHNSTON proposes an amendment numbered 1648.

Mr. HEFLIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend 11 U.S.C. 541(b)(4) to read as follows:

(4) any interest of the debtor in liquid or gaseous hydrocarbons to the extent

(A)(i) the debtor has transferred or has agreed to transfer such interest pursuant to a farmout agreement or any written agreement directly related to a farmout agreement; and

(ii) but for the operation of this paragraph, the estate could include such interest only by virtue of section 365 or 544(a) of this title; or

(B) the debtor has transferred such interest pursuant to a conveyance of a production payment or an oil and gas lease.

Paragraph (4) shall not be construed to exclude from the estate any consideration the debtor retains, receives, or is entitled to receive for transferring an interest in liquid or gaseous hydrocarbons pursuant to a farmout agreement, production payment, or oil and gas lease.

Amend 11 U.S.C. 101 by adding the following:

(42.A) "production payment" is not a gross royalty. A production payment is a term overriding royalty which is an interest in liquid or gaseous hydrocarbons in place or to be produced from a property or properties, that entitles the owner thereof to a share of production, or the value thereof, for a term limited by time, quantity, or value realized, or any formula based on one or more of such factors.

Mr. SIMPSON. Mr. President, this is an amendment to the Bankruptcy Code which is similar to another amendment that I offered last year to the energy bill and which was enacted into law during the 102d Congress.

This amendment will exclude interests owned in oil and gas production from bankruptcy proceedings. It is important to note, however, that the interest in production that is excluded from bankruptcy is not owned by the debtor. Any debtor-owned production is still available to the court to satisfy claims of creditors. The interest being protected by my amendment is referred to in the industry as a "production payment."

I would take just a moment to describe what a production payment is and how it comes into existence, so my colleagues will understand how necessary and fair this amendment is.

There are instances when owners of a right to drill for and to produce oil or gas cannot afford to drill the well themselves. Drilling an oil or gas well often costs millions of dollars. It is a high-risk venture, and there is no guarantee that production will be established after undertaking that phenomenal expense.

Companies that purchase the product, of course, have an interest in seeing oil and gas wells being drilled. The production is the "life blood" of their business and they often are willing to share in the expense of drilling in return for a share in production. When the companies involved enter into an agreement to share in the risk of exploration in the hope of obtaining a share in production, a contract is signed where, in return for providing capital—money—for drilling a well, the funds are repaid not in cash, but in the form of oil or gas produced from the well. That share of production is a "production payment." Simply stated, it is a payment of oil or gas in lieu of cash.

The production payment extends for a limited term—and likely for a term shorter than the life of production from the specific well. The term of payment in production is a part of the contract the parties enter into at the beginning of the venture.

In some cases, Mr. President, one of the parties subsequently must declare bankruptcy. In these days of declining oil prices and increased imports, that is becoming more of a concern. If the entity that drilled the well and established production is later forced into bankruptcy, the payments owed to the partner in the venture—the production payments—could be taken over to satisfy the claims of other creditors.

Such a result would be grossly unfair. The owner of a production payment is a blameless party in the bankruptcy. The production payment owner shared in the risk of drilling the well and is entitled to have that debt repaid. Therefore, my amendment would allow for this by excluding these interests from bankruptcy proceedings.

Other creditors also stand to benefit from the passage of this amendment. If production is maintained to satisfy the obligation due the owner of the production payment, excess production will continue to be sold as well. The proceeds from those sales will be available to satisfy other creditors' claims. Even though the other creditors likely had no part in drilling a particular well, there will be an additional cash stream maintained into the debtor's estate to satisfy their claims, too.

I have been working closely with my distinguished colleagues on the Judiciary Committee, Senators HEFLIN and GRASSLEY, on this amendment since they first reintroduced their legislation in the 103d Congress. Through their able assistance, we have refined and simplified this amendment to accomplish its narrow purpose: to protect innocent non-debtor owners of oil and gas production and to do so at no loss to other creditors. We have accomplished that goal and I am most appreciative of their hard work and that of their fine staff.

I would mention one modification that is particularly relevant. Senator GRASSLEY had suggested that without clarification, some would believe that this exclusion of production payments, also known as an "overriding royalty," would cause some to believe all royalties are being excluded. So we made that distinction in the definitional section: A production payment is not a gross royalty. The term "gross royalty" is not commonly used in the oil and gas industry, but is rather a general term in property law. We made that change to be absolutely clear that we are addressing a specific and unique class of "royalties."

Mr. President, I am informed that the managers of the legislation now pending are prepared to accept this amendment and I would yield the floor.

Mr. HEFLIN. I urge adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1648) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1649

(Purpose: To enable the Internal Revenue Service, during the pendency of an automatic stay, to assess (but not seek to collect) a tax for which there is no procedure for issuance of a notice of deficiency)

Mr. HEFLIN. Mr. President, I send an amendment to the desk by Senator METZENBAUM dealing with tax assessments, and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection the previous amendments will be set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN], for Mr. METZENBAUM, proposes an amendment numbered 1649.

Mr. HEFLIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 160, strike lines 1 through 6 and insert the following:

"(9) under subsection (a), of—

"(A) an audit by a governmental unit to determine tax liability;

"(B) the issuance to the debtor by a governmental unit of a notice of tax deficiency;

"(C) a demand for tax returns; an assessment of an uncontested or agreed upon tax liability; or

"(D) the making of an assessment for any tax issuance of a notice and demand for payment of such an assessment (but any tax lien that would otherwise attach to property of the estate by reason of such an assessment shall not take effect until the property is no longer property of the estate).".

Mr. METZENBAUM. Mr. President, in current S. 540, there is a provision—tax administration, section 115, tax assessment—that would allow the assessment of uncontested or agreed upon prepetition tax liabilities. While of some assistance to the Internal Revenue Service, the provision does not cover taxes that may not require a return or those that do not involve the deficiency procedures of the Internal Revenue Code such as excise taxes and employment taxes. The amendment proposed would extend the ability of the Service to make assessments with regard to all taxes that it administers.

Under the proposal, the Service would still be prohibited from taking steps to collect the tax. It would simply be allowed to make an assessment and send the first bill notifying the taxpayers of the liability.

In addition, the restrictions on assessment contained in the Internal Revenue Code will continue in full force and effect. The proposal would not allow the Service to assess a deficiency in income taxes while the stay is in effect until either the automatic stay is lifted, the Bankruptcy Court determines the liability, or the Bankruptcy Court allows the Tax Court to continue the proceeding. The proposal is consistent with a recommendation made by the General Accounting Office. (See GGD 83-47, June 20, 1983.)

Because there has been concern expressed that somehow the Service might get an advantage because of its lien under Internal Revenue Code if it is allowed to assess during bankruptcy, the provision provides that any lien arising by operation of the Internal Revenue Code does not take effect until after property is no longer part of the bankruptcy estate. This is consistent with the Internal Revenue Service's position that it seeks no advantage over other creditors by being allowed to assess taxes during the pendency of a bankruptcy.

Mr. HEFLIN. I urge adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1649) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1650

(Purpose: To provide that consumer rent-to-own contracts shall be treated as secured purchase contracts)

Mr. HEFLIN. Mr. President, I send to the desk an amendment on behalf of Senator METZENBAUM dealing with the consumer rent-to-own contracts as being treated as secured purchase contracts.

The PRESIDING OFFICER. Without objection, the pending amendments will be set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN], for Mr. METZENBAUM, proposes an amendment numbered 1650.

The amendment is as follows:

On page 235 between lines 13 and 14 insert the following:

SEC. 311. RENT-TO-OWN CONTRACTS.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting in their proper alphabetical positions the following new definitions:

"'consumer good' means an item of personal property (not including a motor vehicle) acquired by an individual primarily for a personal, family, or household purpose.".

"'rent-to-own contract' means an agreement, in the form of a terminable lease or bailment of a consumer good, between a person regularly engaged in the business of making consumer goods available to individuals and an individual, under which—

"(A) the lessee or bailee—

"(i) has the right of possession and use of the consumer good; and

"(ii) has the option to renew the agreement periodically by making payments specified in the agreement; and

"(B) the lessor or bailor agrees, orally or in writing, to transfer ownership of the consumer good to the lessee or bailee upon the fulfillment of all obligations of the lessee or bailee for the transfer under the agreement.".

(b) TREATMENT OF RENT-TO-OWN CONTRACTS AS SECURED PURCHASE CONTRACTS.—

(1) CHAPTER 7.—Subchapter II of chapter 7 of title 11, United States Code, is amended by adding at the end the following new section:

"§ 729. Rent-to-own contracts

"In a proceeding under this chapter in which the debtor is in possession of a consumer good under a rent-to-own contract, the debtor and the lessor or bailor shall be accorded the same rights and obligations with respect to the consumer good, respectively, as they would be accorded if the rent-to-own contract had been a purchase contract."

(2) CHAPTER 13.—Subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end the following new section:

"§ 1308. Rent-to-own contracts

"In a proceeding under this chapter in which the debtor is in possession of a consumer good under a rent-to-own contract, the debtor and the lessor or bailor shall be accorded the same rights and obligations with respect to the consumer good, respectively, as they would be accorded if the rent-to-own contract had been a purchase contract.".

(c) TECHNICAL AMENDMENTS.—

(1) CHAPTER 7.—The chapter analysis for chapter 7 of title 11, United States Code, is amended by inserting after the item for section 728 the following new item:

"729. Rent-To-Own Contracts.".

(2) CHAPTER 13.—The chapter analysis for chapter 13 of title 11, United States Code, is amended by inserting after the item for section 1307 the following new item:

"1308. Rent-To-Own Contracts.".

Mr. METZENBAUM. Mr. President, this amendment resolves the debate over how rent-to-own contracts should be treated in bankruptcy cases.

Rent-to-own agreements are consumer transactions in which consumers agree to make weekly payments for appliances or furniture with the promise of owning them after a period of time. The rent-to-own companies attempt to avoid credit sales and usury laws by writing the agreements as leases, terminable by the consumer at any time. Typically the consumers pay many times the true value of the property under these agreements, amounts which the Pennsylvania attorney general has found to be the equivalent of 100-200 percent in interest.

Consumers have argued that these agreements should be treated as credit sales in bankruptcy and many courts have agreed that this is correct. If the transaction is treated as a sale for purposes of bankruptcy, the consumer is treated like any other purchaser of goods on credit, and may keep possession of the goods by paying to the creditor the lesser of the balance of the contract or the property's current value, the same amount the creditor would realize if the goods were repossessed. In a chapter 7 case, this payment is normally in a lump sum. In a chapter 13 case it is made under the chapter 13 plan, with interest—at a fair rate—added.

However, other courts have ruled that to keep their appliances, consumers must pay the entire remaining balance of the rent-to-own contract, which is usually many times what the property is worth, and a burden that makes it more difficult for the debtor to pay basic living expenses and pay other creditors.

A clear treatment of these transactions in the bankruptcy code would promote uniformity and end litigation on these issues. It would also serve the goals of consumer protection by limiting the effects of these unfair and overreaching contracts.

This amendment would clarify the law in a way that treats debtors with rent-to-own contracts in the same way the bankruptcy code treats those with installment sale contracts. It preserves for the rent-to-own dealer the right to receive either a return of the property in question or its fair market value and at the same time ensures that the debtor gets the fresh start bankruptcy is intended to provide.

Mr. GRASSLEY. Mr. President, even though we are going to move forward with this amendment, I want to make the point that I believe that this amendment is not the right amendment. I am opposed to it at this point. I am going to take the amendment now in the interest of moving this bill forward. I will work with Senator METZENBAUM on this issue, but I reserve my right to oppose this amendment in conference.

I also note that the Banking Committee will hold hearings on the rent-to-own subject next month which may lead to a more acceptable resolution of this issue.

Mr. HEFLIN. I send to the desk at this time a statement on behalf of Senator METZENBAUM and ask that it appear in the RECORD as if read in full.

The PRESIDING OFFICER. Without objection.

Mr. HEFLIN. Mr. President, I have some reservation on this rent-to-own matter, too. We will work in conference to try to improve this with the House relative to this matter.

I urge the adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1650) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1651

(Purpose: To amend section 522(f) of title 11, United States Code, to clarify the method of determining whether a lien is impaired)

Mr. HEFLIN. Mr. President, I send to the desk an amendment on behalf of Senator METZENBAUM dealing with lein avoidance, which we have considered and several changes have been made pertaining to it. But I think it is now agreeable to the Senators who are interested in it.

The PRESIDING OFFICER. Without objection, the pending amendments will be set aside, and the clerk will report this amendment.

The legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN], for Mr. METZENBAUM, proposes an amendment numbered 1651.

The amendment is as follows:

On page 213, between lines 5 and 6 insert the following:

SEC. 303. IMPAIRMENT OF EXEMPTIONS.

(a) IN GENERAL.—Section 522(f) of title 11, United States Code, is amended—

(1) by inserting "(1)" before "Notwithstanding";

(2) by redesignating paragraph (1) as subparagraph (A);

(3) by redesignating (2) as subparagraph (B) and subparagraphs (A), (B), and (C) of that paragraph as clauses (i), (ii), and (iii); and

(4) by adding at the end the following new paragraph:

"(2)(A) For the purposes of this subsection, a lien shall be considered to impair an exemption to the extent that the sum of—

"(i) the lien;

"(ii) all other liens on the property that are equal or greater in seniority to the lien; and "(iii) the amount of the exemption that the debtor could claim if there were no liens on the property,

exceeds the value that the debtor's interest in the property would have in the absence of any liens.

"(B) In the case of a property subject to more than one lien, a lien that has been avoided shall not be considered in making the calculation under subparagraph (A) with respect to other liens.".

(b) RULE OF CONSTRUCTION; APPLICATION OF AMENDMENT.—Section 522(f)(2) of title 11, United States Code, as added by subsection (a)—

(1) shall not be construed to apply with respect to a judgment arising out of a mortgage foreclosure; and

(2) shall not apply with respect to a nonpossessory, nonpurchase-money security interest given before the date of enactment of this Act (including a security interest with respect to which the value of the collateral increases after a case under that title is commenced).

On page 215, strike lines 14 through 16 and insert the following:

(c) PROTECTION OF LIENS.—Section 522(f) of title 11, United States Code, as amended by section 303, is amended by amending paragraph (1)(A) to read as follows:

"(A) a judicial lien (other than a judicial lien

On page 216, line 1, strike "(A)" and insert "(i)".

On page 216, line 3, strike "(B)" and insert "(ii)".

Mr. HEFLIN. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1651) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1652

(Purpose: To add provisions to combat bankruptcy fraud)

Mr. HEFLIN. Mr. President, I send to the desk an amendment on behalf of Senator METZENBAUM dealing with fraud in bankruptcy proceedings and to add provisions to combat bankruptcy fraud.

The PRESIDING OFFICER. Without objection, the pending amendments will be set aside, and the clerk will report this amendment.

The legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN], for Mr. METZENBAUM, proposes an amendment numbered 1652.

The amendment is as follows:

On page 242, between lines 7 and 8 insert the following:

TITLE V—BANKRUPTCY FRAUD

SEC. 5146. BANKRUPTCY FRAUD.

(a) IN GENERAL.—

(1) OFFENSES.—Chapter 9 of title 18, United States Code, is amended—

(A) by amending sections 152, 153, and 154 to read as follows:

"§ 152. Concealment of assets; false oaths and claims; bribery

"A person who—

"(1) knowingly and fraudulently conceals from a custodian, trustee, marshal, or other officer of the court charged with the control or custody of property, or, in connection with a case under title 11, from creditors or the United States Trustee, any property belonging to the estate of a debtor;

"(2) knowingly and fraudulently makes a false oath or account in or in relation to any case under title 11;

"(3) knowingly and fraudulently makes a false declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, in or in relation to any case under title 11;

"(4) knowingly and fraudulently presents any false claim for proof against the estate of a debtor, or uses any such claim in any case under title 11, in a personal capacity or as or through an agent, proxy, or attorney;

"(5) knowingly and fraudulently receives any material amount of property from a debtor after the filing of a case under title 11, with intent to defeat the provisions of title 11;

"(6) knowingly and fraudulently gives, offers, receives, or attempts to obtain any money or property, remuneration, compensation, reward, advantage, or promise thereof for acting or forbearing to act in any case under title 11;

"(7) in a personal capacity or as an agent or officer of any person or corporation, in contemplation of a case under title 11 by or against the person or any other person or corporation, or with intent to defeat the provisions of title 11, knowingly and fraudulently transfers or conceals any of his property or the property of such other person or corporation;

"(8) after the filing of a case under title 11 or in contemplation thereof, knowingly and fraudulently conceals, destroys, mutilates, falsifies, or makes a false entry in any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor; or

"(9) after the filing of a case under title 11, knowingly and fraudulently withholds from a custodian, trustee, marshal, or other officer of the court or a United States Trustee entitled to its possession, any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor,

shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"§ 153. Embezzlement against estate

"(a) OFFENSE.—A person described in subsection (b) who knowingly and fraudulently appropriates to the person's own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"(b) PERSON TO WHOM SECTION APPLIES.—A person described in this subsection is one who has access to property or documents belonging to an estate by virtue of the person's participation in the administration of the estate as a trustee, custodian, marshal, attorney, or other officer of the court or as an agent, employee, or other person engaged by such an officer to perform a service with respect to the estate.

"§ 154. Adverse interest and conduct of officers

"A person who, being a custodian, trustee, marshal, or other officer of the court—

"(1) knowingly purchases, directly or indirectly, any property of the estate of which the person is such an officer in a case under title 11;

"(2) knowingly refuses to permit a reasonable opportunity for the inspection by parties in interest of the documents and accounts relating to the affairs of estates in the person's charge by parties when directed by the court to do so; or

"(3) knowingly refuses to permit a reasonable opportunity for the inspection by the United States Trustee of the documents and accounts relating to the affairs of an estate in the person's charge,

shall be fined not more than $5000 and shall forfeit the person's office, which shall thereupon become vacant."; and

(B) by adding at the end the following new sections:

"§ 156. Knowing disregard of bankruptcy law or rule

"(a) DEFINITIONS.—In this section—

"'bankruptcy petition preparer' means a person, other than the debtor's attorney or an employee of such an attorney, who prepares for compensation a document for filing.

"'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b) OFFENSE.—If a bankruptcy case or related proceeding is dismissed because of a knowing attempt by a bankruptcy petition preparer in any manner to disregard the requirements of title 11, United States Code, or the Bankruptcy Rules, the bankruptcy petition preparer shall be fined under this title, imprisoned not more than 1 year, or both.

"§ 157. Bankruptcy fraud

"(a) OFFENSE.—A person who, having devised or intending to devise a scheme or artifice to defraud, or for obtaining money or property by means of a false or fraudulent pretense, representation, or promise, for the purpose of executing or concealing such a scheme or artifice or attempting to do so—

"(1) files a petition under title 11;

"(2) files a document in a proceeding under title 11; or

"(3) makes a false or fraudulent representation, claim, or promise concerning or in relation to a proceeding under title 11, at any time before or after the filing of the petition, or in relation to a proceeding falsely asserted to be pending under that title,

shall be fined under this title, imprisoned not more than 5 years, or both.

"(b) REQUIREMENT OF INTENT.—

"(1) IN GENERAL.—The degree of intent required to be shown in the case of an offense described in subsection (a) is that which is generally required to be shown in cases of fraud.

"(2) VIOLATION NOT ESTABLISHED.—A violation of subsection (a) is not established if the defendant committed the act that is alleged to constitute fraud for a lawful purpose.

"(3) VIOLATION ESTABLISHED.—A violation of subsection (a) may be established if the defendant committed the act that is alleged to constitute fraud with a purpose of—

"(A) preventing the proper application of title 11 in a particular case; or

"(B) using a proceeding under title 11 in a manner that, while on its face may appear to be legitimate, is in fact part of a scheme to defraud.".

(2) TECHNICAL AMENDMENTS.—The chapter analysis for chapter 9 of title 18, United States Code, is amended—

(A) by amending the item relating to section 153 to read as follows:

"Sec. 153. Embezzlement against estate.";

and

(B) by adding at the end the following new item:

"Sec. 156. Knowing disregard of bankruptcy law or rule.

"Sec. 157. Bankruptcy fraud.".

(b) RICO.—Section 1961(1)(D) of title 18, United States Code, is amended by inserting "(except a case under section 157 of that title)" after "title 11".

Mr. GRASSLEY. Mr. President, this amendment is also in the crime bill. I just want to point that out to Members of the body. This will be passing the Senate twice in a recent period of time.

Mr. HEFLIN. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1652) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

AMENDMENT NO. 1653

(Purpose: To provide that the amendment made by section 205 will not apply to an unexpired lease of real property in a shopping center)

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments will be set aside, and the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 1653.

Mr. HATCH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 197, line 22, strike "The" and insert "(1) Except as provided in paragraph (2), the"

On page 198, between lines 3 and 4, insert the following:

"(2) This subsection does not apply to an executory contract that is related to, or to an unexpired lease of real property in, a shopping center.".

Mr. HATCH. Mr. President, I understand my colleagues will accept this amendment. I want to thank them for accepting this technical amendment, and I also appreciate Senator KOHL's efforts to work this out. So as far as I know, it will be accepted.

Mr. HEFLIN. Mr. President, this is the amendment dealing with shopping centers. I do not think there was ever any disagreement on this. I think this is one everybody agrees with.

The PRESIDING OFFICER. If there is no further debate, the question is on the amendment of the Senator from Utah.

The amendment (No. 1653) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1654

(Purpose: To strike the provision relating to payment of insurance benefits to retired employees)

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments will be set aside, and the clerk will report this amendment.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 1654.

Mr. HATCH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 211, strike lines 1 through 12.

Mr. HATCH. Mr. President, I understand the managers have agreed to accept my amendment to strike section 220. I really wish to extend my thanks to the managers, Senator HEFLIN and Senator GRASSLEY, for their cooperation and assistance.

I would also like to thank Senator METZENBAUM for his efforts and cooperation to resolve this matter, because I believe that this amendment—the motion to strike—is in the best interest of retirees and employees.

I also would like to thank Senator HELMS for his assistance and also, in particular, I would like to take just a second and thank the distinguished Senator from Alabama [Mr. HEFLIN], and the distinguished Senator from Iowa [Mr. GRASSLEY], for the marvelous way in which they have handled this bill from beginning to end. They have done a tremendous job in committee and on the floor. I have tremendous respect for both of them. So I just want them both to know that.

This whole S. 540, the bankruptcy bill, is long overdue and these two Senators have really worked hard to do it.

Having thanked all of those people, I urge the adoption of the amendment.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise not in opposition to the amendment of the Senator from Utah, but rather to address myself to this particular subject and the conduct of some lobbyists who have been working the halls of the Senate.

It has nothing at all to do with my colleague from Utah. It does have to do with the Bankers Association.

This is an amendment that has to do with the question of whether or not retirees will be protected when a company is in bankruptcy and when a bank is making a loan to that particular company that is in bankruptcy. It is a subject that has been one of some travail, some concern. And this Senator, in cooperation with the Senator from South Carolina [Mr. THURMOND], some years ago was able to protect the interests of the retirees in connection with the LTV Steel Co.

This amendment does not have to do with any particular company. It has to do with the general subject of whether or not retirees are going to be given consideration and how much consideration, as far as their health benefits are concerned, when a company is in bankruptcy.

There have been questions about the language that is in the law at the moment. The Senator from Ohio had an amendment that he thought clarified the matter. Yesterday we learned—I guess we actually learned prior to that—that the Bankers Association was not in agreement with the language of the Senator from Ohio. And so my staff entered into considerable negotiations with the Bankers Association.

After they had been handling those negotiations for some time, I came out into the hallway near the Senate and said, "Well, what is it that you want?" The woman spokesperson—I gather she is a lawyer—for the Bankers Association said they wanted certain language in it. I found some difficulty with that. My staff had great reservations about it, but in an effort to get the matter resolved, I said, "All right, let's go with it."

The lady then came back with some additional language and said, "Well, we also would like this language in." I looked at it, and I had some difficulty with it, and a representative of the White House was present, and she suggested we pick up some language from I think it is section 1114, if I remember correctly, of the Code and use that specific language and it be included in the amendment. I said fine. The lady representing the Bankers Association said fine.

There was then considerable additional discussion, and finally, they got what they wanted. I wanted to move the matter forward. I did not want to hold up the bankruptcy bill. Both the manager of the bill and the comanager of the bill have been extremely cooperative and I said, "All right let's go with it."

I am frank to say to my colleagues in the Senate that my own staff was not happy with my agreeing to take that amendment. As a matter of fact, my staff felt very strongly about the subject. I had to just go ahead and say we are going to go ahead anyhow, and I actually had to apologize because I was so curt with her.

So I had made a statement. My staff was not happy. But I said, "I made a deal; let's go."

The next thing I knew, I went out there, and I said, "Where is the amendment?" They said, "It is being typed in the Vice President's office." I said, "Fine. As soon as you have it, let me know."

Several minutes later, they came back to me and said that their lawyers in New York, with whom they had already been in contact, talking back and forth, because a representative of the bankers had a telephone with her, a hand-held telephone, the Bankers Association lawyers have changed their minds; they now want to change it.

Now, I have to say, I have been here 18 years, more than 18 years. I have negotiated with all sorts of groups. I have disagreed with some and agreed with others. But I have never seen conduct of any lobbying group as reprehensible as that of the Bankers Association yesterday.

You make a deal. You live by your deal. Your word is good. You do not change your word. And to me, the last people in this country who ought to be changing their word are those who are in the banking business.

They had agreed to it. Then they went back. No, they had to fine tune it. They had to change some language in it.

I have agreed now to take the amendment, the whole matter, out of this bankruptcy bill and let the law stand as it is. But I say publicly that I condemn the conduct of the American Bankers Association in their dealing with Members of the Senate. If they cannot keep their word, they should not be traveling the Halls of this body; they should not be representing their group. This is an organization that owes it to the American people to have a sense of integrity. It is the last association that ought to have a lack of integrity.

Having said that, Mr. President, I have no objection to the amendment of the Senator from Utah. And I wish to make it very clear my language is in no way any reflection upon the Senator from Utah. He was not a party to the negotiations.

Mr. HATCH. Mr. President, I thank my dear friend and colleague from Ohio. I am very happy to get this amendment done, because I think it is in the best interests of everybody.

My dealing with the bankers has been totally favorable. I could find nothing but praise on my part for their activities and efforts, without which we probably would not have arrived at this conclusion, which I think is a very good one.

So I urge adoption of the amendment at this time.

Mr. HELMS. Mr. President, those familiar with the details of this legislation are aware that section 220 of the bill requires a corporation reorganizing under chapter 11 first to fund retiree health and insurance benefits. If this section should become law—and I cannot believe it will—it would eliminate jobs, discourage viable companies from reorganizing, harm lending institutions, and hurt retirees—the very group it purports to assist.

That is why, Mr. President, I filed amendment number 1581 to strike completely this section. Senators can find this amendment in the CONGRESSIONAL RECORD of March 24 on page S 3777. The able Senator from Utah [Mr. HATCH] and the Senator from Ohio [Mr. METZENBAUM] have agreed that section 220 of the bill be removed, and I appreciate that.

Mr. President, I was first made aware of the onerous impact of this section by John Medlin, Jr., chairman of the board of Wachovia Bank in Winston-Salem, NC. In addition to being a leader of our Nation's banking industry, John Medlin has demonstrated a prescient understanding of how our economy works—and of the impact the Federal Government has on the economy.

John detailed his concerns about section 220 in his letter of March 8 to me, and I ask unanimous consent that the text of Mr. Medlin's letter—as well as the text of a letter from John McLaughlin of United Carolina Bank—be printed in the RECORD, and I extend my appreciation to Senator HATCH for his fine work.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WACHOVIA,
Winston-Salem, NC, March 8, 1994.

Re S. 540—The Bankruptcy Amendments Act of 1993.

Hon. JESSE R. HELMS,
U.S. Senate,
Washington, DC.

DEAR JESSE: Wachovia Corporation and its member banks join with those who strongly oppose Section 220 of S. 540, the Bankruptcy Amendments Act of 1993. This bill was reported from the Senate Judiciary Committee on September 15, 1993 and is expected to be taken up by the full Senate prior to the Easter recess. S. 540 contains many salutary provisions which would effect important and necessary reforms in the Bankruptcy Code.

However, Section 220, requiring first use of any cash on hand to fund retiree health and insurance benefits, would have a severely detrimental impact on companies with substantial retiree benefit obligations and their employees. This section and the controversy it created was one of the primary reasons for the failure of this reform legislation last year.

Due to the extreme negative effect which Section 220 would have upon jobs and the economy, we strongly urge your support to strike or modify this provision of S. 540 when it is considered by the full Senate. It is my understanding that Senator Hatch may introduce an amendment to either strike this provision or substantively amend it.

Although Section 220 is aimed at companies in Chapter 11 bankruptcy proceedings (and would have tremendous negative effect on their ability to reorganize), it would also substantially raise financing costs for companies with large retiree benefit obligations that have never contemplated or elected Chapter 11 protection. It will also have a deleterious effect upon the credit quality of those companies. Private credit will become less available and more expensive due to the increased risk to lenders of their collateral being used to finance retiree benefits rather than company operations. Capital market financing will also become more difficult, as bond rating agencies can be expected to downgrade a company's commercial paper as they take into account the "leapfrogging" of retiree over bondholders' claims that would be effected by Section 220.

The employees of companies with substantial retiree obligations could also be negatively affected. Experience has shown that added burdens on retiree health benefits, such as the accounting changes of FASB 106, have had the unintended consequence of companies cutting back or eliminating these benefits. Thus, if Section 220 were enacted, additional cutbacks in retiree benefits could result.

For companies seeking to reorganize under Chapter 11, the damaging consequences of the changes made by Section 220 result from the creation of an unworkable rule that would modify the working of existing Section 1114 of the Bankruptcy Code, which sets forth standards and procedures for the modification of retiree health and insurance benefits in Chapter 11 cases. In many Chapter 11 situations, the debtor company lacks sufficient assets to make required plan payments during reorganization and must postpone such contributions until confirmation of a plan of reorganization. Under current Section 1114, any payments required to be made during the pendency of the case are awarded administrative expense status, the highest payment priority in the Bankruptcy Code. A company is prohibited from emerging from Chapter 11 without complying with its retiree obligations, or modifying them in accordance with the Section 1114 procedures. Thus, the existing Section 1114 protects retiree benefit rights while maintaining necessary flexibility and encouraging labor-management negotiations.

In contrast, Section 220 of S. 540 would create an inflexible and unworkable rule under which a company entering Chapter 11 would be required to make first use of any cash on hand, including cash collateral pledged as security to lenders, as well as any new credit, to fund retiree health and insurance benefits. This inflexible mandate will force troubled companies in reorganization to divert substantial funds needed for current obligations, including the payment of wages and benefits of current employees, as well as for critically needed supplies, to the payment of insurance benefits to former employees. While creditors are willing to release cash collateral or provide new credit for activities which increase the value and enhance the survival of a company in Chapter 11, they will undoubtedly be unwilling to extend post-petition financing to fund expenses such as retiree health benefits because such expenses do not create new collateral for the lenders or capital for the borrower. Consequently, if a company cannot obtain adequate post-bankruptcy financing to fund Chapter 11 reorganization, the reorganization attempt will quickly collapse and it will be forced to liquidate under Chapter 7 of the Bankruptcy Code. This will harm the nation's economy and permanently eliminate thousands of jobs, and destroy any additional funding for retiree health benefits.

In addition to the damaging effect this provision will have on the ability to reorganize, it also results in an unconstitutional taking of property. Section 220 conflicts with the Bankruptcy Code requirement that a court order releasing cash collateral over lenders' objections must provide those lenders with "adequate protection" of their interest in this property; this Bankruptcy Code requirement is based upon the Constitutional prohibition against takings without compensation. Section 220 destroys the balance between the ability of the debtor to use assets to reorganize and the requirement that a creditor's rights in its collateral be adequately protected.

Section 220 would also increase delay and legal expenses in Chapter 11 cases, and increase the likelihood that unsecured creditors would file motions for involuntary conversion of the case to Chapter 7 liquidation.

While some minor modifications of the protections reflected in current Section 1114 of the Bankruptcy Code may be advisable to reflect experience in administering that provision, Section 220 of S. 540 goes far beyond procedural revision by putting in place substantive imbalances detrimental to the interests of all parties in bankruptcy. Ironically, retirees would suffer under this provision, as emergency court orders terminating retiree benefits to ensure a company's survival in Chapter 11 would become more likely—or, in the alternative, more companies would liquidate, leaving their retirees with no benefits.

Jesse, governmental agencies and Congress continue to spew forth regulations and legislation which strangle private enterprise. I respectfully urge you to oppose Section 220 of Senate Bill 540.

My deep respect and gratitude remain with you for the excellent work you perform in the Senate.

With highest personal regards, I am

Sincerely,

JOHN G. MEDLIN, JR.

UNITED CAROLINA BANK,
April 19, 1994.

Hon. JESSE HELMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR HELMS: My associates and I wish to express our support for your and Senator Faircloth's efforts to eliminate Section 220 from S. 540, the bankruptcy reform bill.

It is easy to see the intended benefits proposed in Section 220 and to identify with those desired ends, but the actual results will accomplish the opposite and are already better addressed in Section 1114 of the Bankruptcy Code.

The real impact of Section 220 will make Chapter 11 reoganization unavailable in many cases. No lender is going to be enthused about advancing money that is not going to be used to run the company until the company is out of the danger of being forced into Chapter 7 liquidation. If the company can be brought back to health, everybody benefits, including current retirees, and there is future income available to fund future retiree health benefits instead of a loss of jobs.

The second major impact would be on companies with substantial unfunded retiree benefits that are not yet in, nor necessarily going into Chapter 11. They will become much more restricted in their ability to obtain credit and stay in business. If Section 220 is enacted, creditors would be reluctant to lend to companies with high retiree health benefit obligations, for fear that Chapter 11 would be unavailable to them if they get in trouble. This will result in higher borrowing costs and less credit available for such companies.

We all want retiree health benefits to be protected, but we believe the current procedural protections already contained in the Bankruptcy Code provide for them while the proposed Section 220 would reduce the chances for the recovery of ailing employer companies.

Sincerely yours,

JOHN F. MCLAUGHLIN,
Senior Vice President.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Utah.

So the amendment (No. 1654) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. I thank the Chair. I thank my colleagues.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is amendment No. 1640, by Senator DOLE and others.

Mrs. HUTCHISON. I thank the Chair.

Mr. President, I rise to support the Dole amendment. It has become clear to people in the United States and around the world that the U.N. policies with regard to Bosnia and Herzegovina are not comprehensible; they are not coherent. In fact, Mr. President, the problem is there is no policy.

Once again, those whom we hope will abide by international norms have demonstrated with impunity that their lust for blood will not be satiated until they have laid waste to Bosnia.

The lessons of Munich have been clear ever since Neville Chamberlain handed over to Hitler all of his demands. Now we stand idly while Serb forces slaughter innocent men and women. While it is not in our interest to deploy United States forces into Bosnia, it is most certainly in our interest to allow those who would fight for their lives to do so.

If Lafayette had been sent to our shores with only humanitarian aid during the American Revolution, we would still be a crown colony today.

I am not advocating sending United States ground troops to Bosnia. In fact, I do not think, although we have an interest in Bosnia as a country, sending our troops in under any circumstances is correct. But I am most certainly advocating giving the people who have the will to fight the ability to do so.

The fledgling United States was given that opportunity in our struggle for freedom. It is only just that we give the opportunity to those who only wish to fight for their lives. We have a moral responsibility to support those who would do for themselves what the West collectively cannot do, will not do, and should not do.

It is fitting that this amendment would be offered to the bankruptcy bill because bankrupt is a fitting description of our policy toward Bosnia.

We must act now, Mr. President, to allow the Bosnian people to defend themselves, and I hope this body will speak clearly and firmly and swiftly that that should at least be the United States policy and we should press it forward.

Mr. President, I thank the Chair. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mrs. HUTCHISON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I rise to speak about a lady who has been extremely helpful to me on this bill, as well as a great deal of other legislation. She is about to leave my staff and go over to Fannie Mae.

Pam Banks has done yeoman's work in connection with this bankruptcy bill. I think the managers of this bill have been good enough to accept 8, 9 or 10 of my amendments. She has been involved in all of the negotiations. She has worked many additional hours, over and beyond the normal time that all of us work in the Senate.

She has been dedicated to the concerns of the bankrupt, the concerns of the would-be bankrupt, and she has been one of the finest legislative aides that any Member of the Senate could possibly have. I say this evening this may be one of the last bills she will be working on, but no Senator could have had a better aide, supporter and helper in connection with the legislative process than the kind of assistance that I have received over the years from Pam Banks. I am sorry to see her leave, but I congratulate her new employer. She gives more than a full day's work for a full day's pay.

I would hope that every Member of the Senate would have staff assistants as able, as conscientious, and as concerned as Pam Banks has been. I thank her for her many years of service.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROBB). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to add as cosponsors of S. 540 Senator HATCH and Senator COCHRAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I believe very strongly that we should avoid the loss of American life in the former Yugoslavia. I believe very strongly that Europe should take the lead in any actions taken in the former Yugoslavia. For too long the American taxpayer has been burdened with the United States always taking the lead. This is a European problem. We should help out and be supportive. But there has been an attitude developed by some that the United States is responsible for sending troops to resolve any matter, whether it is leading the bombing in Bosnia or feeding the hungry in Somalia.

I support the concept of lifting the arms embargo unilaterally, if necessary, but I am also pleased that this resolution contains a provision that there shall be no use of U.S. troops.

I have pointed out before, on this floor, the need for reform in the way the U.N. military command does things. The U.S. taxpayer pays for about 31.7 percent of the cost of U.N. peacekeeping operations. I think this is very unfortunate. In 1947, there was a 25 percent cap placed on the U.S. assessed contribution.

I introduced legislation during the State Department authorization that passed and was adopted by the House-Senate conference. My amendment would withhold a portion of U.S. assessed contributions to the United Nations unless an inspector general is established by the United Nations. The United Nations requires a real inspector general, because there has been so much corruption and waste. But there is also a need for great reform in the way U.N. peacekeeping operations and their command and control are run.

We are told, for example, that many countries have troops in Bosnia and the United States should have more, but some of the countries participating in the Bosnian operation are making a profit on their troops; that is the untold story. Many of these countries pay their soldiers $50 a month, which they continue to pay them when they are serving in a U.N. peacekeeping operation. The government of that country is subsequently reimbursed close to $1,000 per troop per month.

So it is not necessarily out of nobility that some countries participate in U.N. peacekeeping operations, nor is it out of a sense of duty. In addition to monetary compensation, these countries are getting valuable training for their troops wherever they serve. I find it disturbing that some governments are actually making a profit on the troops they send to Yugoslavia and other U.N. peacekeeping operations.

So, Mr. President, it is my strongest position that we should pass this resolution, but I am more comfortable knowing that no United States troops will be committed in Bosnia. We should not shed a single drop of American blood in this conflict. We should ask our Europeans allies to take the lead. If they wish to, we will be supportive.

How long will American taxpayers continue to pay for peacekeeping costs at the high rate of over 31 percent while other countries pay little or nothing? Indeed, as I have noted, many countries profit from their participation in peacekeeping operations.

Let us get the facts straight. Let us remember that our taxpayers are asking how long they will continue to finance the United Nations. Let us make a rule that not a single drop of American blood should be shed in this conflict. Those should be the ground rules by which President Clinton and this body proceed. I hear from my constituents and from Americans all over this great country that they do not want the United States to commit ground troops. They do not want us to lead the bombing. They do not want us to become enmeshed in a dispute that has been going on since the 14th century and a dispute that will probably be going on long after we are all gone.

So let us establish some ground rules, primarily that not a single drop of American blood should be shed in the former Yugoslavia, and let us ask ourselves how long the American taxpayer must continue to bear the major burden of U.N. peacekeeping expenses. We contribute 31.7 percent of the total, far more than any other country. I believe strongly that those countries in Europe that are in the region should bear more of the burden.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oklahoma [Mr. NICKLES].

Mr. NICKLES. Mr. President, I wish to compliment Senator DOLE for his leadership in—I am saying Bosnia but really I mean in Yugoslavia.

I had the pleasure of traveling with Senator DOLE and several colleagues a couple years or three ago to the former Yugoslavia. I think all of us came away from that trip with a real concern for the people of Yugoslavia, for each of the republics and certainly those republics that were oppressed, in many cases really being strongly oppressed, by the Serbian Government headed by Mr. Milosevic. I think we felt that we wanted to do something.

As a matter of fact, we did do a couple things. We did pass an amendment on a foreign operations appropriations bill that said we should allocate our foreign aid only to those republics in the former Yugoslavia that made moves and progress toward democracy.

I might mention at that time that amendment was opposed by the State Department in the Bush administration. They did not want to have any strings tied by Congress on foreign aid in Yugoslavia, but we still passed the amendment despite some objections by the administration.

I remember being involved in that in a very long conference, but I felt like it was important.

Mr. President, no question there is some significant tragedy in Yugoslavia today, certainly in Bosnia, and our hearts go out to all the innocent victims, and there are thousands of innocent victims. And certainly when you see the atrocities, when you see the murders, when you see the rapes, when you see the former very beautiful, lovely, peaceful villages pounded by artillery, it makes your heart go out to those people. What should we be doing?

I am critical of the administration for their—I am going to say vacillating policy on Bosnia, really for the last year and half but especially in the last 2 or 3 months.

I am critical of their tendency to delegate so much authority to the United Nations, and I remind my colleagues that last summer this Senator offered an amendment that said we should not be delegating our responsibility certainly in combat roles to the United Nations.

Yet we see that is exactly what has happened in Bosnia, when we looked at some of the reports of NATO or the commander in the field saying, well, we want to call in air strikes, and they would run that through the chain of command of the commander in the field through NATO, and then they had to get the permission of the United Nations. In some cases it took over 4 hours to get the permission to respond to an attack that was ongoing. By that time, it was too late. I think it shows some of the confusion, some bureaucracy in the chain of command that is present and really makes it a very inept military operation.

Mr. President, part of my complaint or part of my objection to the Clinton administration is that we do not have a clear or a defined military objective. This is a significant deviation from what we have had from previous administrations, both in President Reagan's administration and President Bush's administration. We said that our military should not be engaged in a military operation unless they had clearly defined objectives, stated goals, accomplished the objective, end of mission.

That is what we had in the Persian Gulf, and it worked very effectively. I remember one time we did not have that objective, and that was in Lebanon and we saw a real disaster happen in Lebanon. Many were critical of that. We hated to see that happen. We had unnecessary loss of life. The administration took remedial action and we pulled our troops out of Lebanon.

My heart goes out to the innocent people in Lebanon, another beautiful country, with lovely people, and you had this uncontrolled chaos and fighting. But this was not a problem in my opinion that was appropriate for American soldiers to solve.

I look at Bosnia, and I will confess to being more willing a couple years ago to be interventionist militarily but not with this administration and certainly not with the chaos that is there. I say I do not think we could solve the military situation in Bosnia with 500,000 troops on the ground. Certainly we cannot solve the situation in Bosnia with air strikes, as President Clinton mentioned that last night.

Yet he is escalating the tensions and he is escalating the investment of the United States. By investment I am talking about risking lives of men and women of the United States armed services, risking the prestige of the United States by saying, yes, we are going to have air strikes, we are going to try to protect these five various corridors as safe havens. They have been safe havens declared by the United Nations, but we have not enforced that. Certainly it has not happened in Gorazde.

And then when you see vacillation, you see the Secretary of Defense, Mr. Perry, on TV I think about 3 weeks ago saying we would not intervene militarily and a week later we were, that kind of a mixed signal is almost an invitation for the Serbs in Bosnia to attack, and they did. They escalated their bombardment and shells and artillery fire in Gorazde, and we have seen a real atrocity as a result.

Again, this vacillation in foreign policy I think has cost the United States in leadership and prestige, and I think has contributed to a real decline in our influence not only in the United Nations but in NATO and in the world today.

Then, Mr. President, I will just say, looking at the President's press conference last night and some statements, well, we are going to extend air power, yet air power is not going to be enough and will not be effective, that concerns me. We are going to use air power to maybe increase the punishment and the pressure on the Serbs so they come to the bargaining table. That sounds so reminiscent of Vietnam. It was not successful in Vietnam. I doubt it will be successful in Bosnia. I hope it would be. I would like to say maybe this would work. When I look at the President who says this is what he is going to try to sell the allies, and we talk about Britain and the French, neither of whom have endorsed this proposal. The Russians have not endorsed it. So we do not even have support from some of our closest allies within NATO. We lost a great deal of influence in NATO and lost a great deal of influence within the United Nations.

President Clinton even mentioned last night, yes, he would like to lift the arms embargo, but we have not been successful in convincing the United Nations.

Two years ago President Bush was quite successful in convincing the United Nations if there was a resolution that we needed to pass we could get our allies on board and pass it. We had influence in the United Nations. Obviously we have lost that clout.

Now a lot of people have spent a lot of time debating whether we should have this resolution, whether we should do it unilaterally or do it through the United Nations. Presently, the United Nations says we are going to have an arms embargo on all of Yugoslavia, and some people say that is still in effect even though there no longer is a Yugoslavia. We have not been successful in convincing our allies this is not in the best interest in Bosnian to be able to defend themselves.

Let us pass a resolution repealing it or modifying it or changing it. The administration and President Clinton said he has been in favor of this for a year. We still have not done anything.

So, it makes me think that we have lost a great deal of influence and prestige in the United Nations.

And if you look at the United Nations and their resulting efforts not only in Bosnia but in Somalia, in Rwanda—I mean, read the paper today. You have U.N. troops in Rwanda who are destroying their uniforms and fleeing. In Somalia, we had a change in mission in the United Nations from humanitarian to nation-building, and that was a disaster. Six months ago, people were talking about the United Nations putting up to 50,000 troops into Bosnia. And one time people were talking about whether the United States might put in 25,000 or maybe a third of whatever contingency would be put in.

Yet, again, you see all this confusion of who is going to be in charge in the chain of command. Will NATO be in charge? Will the United Nations be in charge? We find today a great deal of confusion and ultimately the United Nations having the final say. And, again, that is no way to run a military operation.

We have gotten so far away from what we have had in the past, where we stated we would only use our military to carry out clearly definable, winnable military objectives. And that is not the case in Bosnia.

One thing we could do—and I agree with Senator DOLE—one thing we could do is lift the arms embargo.

And Senator DOLE and others of us offered a sense-of-the-Senate resolution last year, and it passed overwhelmingly, saying we should do this. But the administration has not followed up.

So now Senator DOLE is taking the next step and saying, let us make it legislative language. I just hope that our colleagues will agree with this.

Maybe this language is not perfect. Well, it can be changed. Maybe the language could be changed in conference if we were successful in passing it or it would be changed on the floor of the Senate. But we need to send a signal if we want to do something.

Should we not allow the people in Bosnia to be able to defend themselves? I would hope so. They may not be able to win the war. I doubt they can. They may not be able to overturn the gains the Serbs have made by acquiring something like 70 percent of Bosnia. They may not be totally successful, but at least they should have the right to be able to defend themselves.

I might mention that I, along with many of our colleagues, have met with many people in Bosnia. They have not asked for U.S. troops. Maybe one or two individuals have, but, for the most part, they have not asked for U.S. troops. They have asked for the right to be able to defend themselves.

So I concur with the Republican leader, Senator DOLE, and others who say, let us do something. I think the amendment that Senator DOLE has on the floor is a big step in the right direction, and I hope that our colleagues will concur.

Mr. President, I yield the floor.

Mr. HATFIELD. Mr. President, the drive by the Bosnian Serbs into Gorazde shattered the hopes that protected areas could not be established without significant numbers of United Nations peacekeepers and possibly, without military support for those peacekeepers.

Any United States action in former Yugoslavia must be taken in the context of our own national interest as well as out of concern for the fate of the Bosnians. Determining our national interest is difficult. I disagreed with those who thought that the war with Iraq was in our national interest. Some Americans may believe that it is in our national interest to intervene in Rwanda, where already 100,000 people have died in only a few short weeks of fighting. And some congressional leaders are calling for military intervention in Haiti.

The supporters of these pending amendments argue that the United States should break with the international community and unilaterally lift the arms embargo on the Government of Bosnia and Herzegovina. And the amendment's backers would also argue that the United States should be the first to arm the Bosnian Moslem government.

I cannot support this amendment. While I clearly understand the concern of the authors, I do not agree with their reasoning. If this amendment passes, the United States will go on record as rejecting the multinational, comprehensive approach to ending the war in former Yugoslavia. The response to the lifting of the embargo could endanger allied troops assigned to the peacekeeping effort.

I believe it is disingenuous—if not naive—to argue that our lifting of the embargo and weapons support to the Bosnian government does not constitute military intervention by the United States. I do not know how such an action would be interpreted by the Serbian leadership, but the very fact that such a question exists means that this proposal does not provide certainty. Rather than risk extension of the war, I believe we should put in place an economic and diplomatic choke hold which will take away the Serb's means to conduct the war.

Lifting the arms embargo does not guarantee that there will be peace. It guarantees that there will be more war, more deaths and we will have played a part.

Mr. D'AMATO. Mr. President, as a cosponsor of the Lieberman-Dole amendment, I rise today in support of lifting the arms embargo on Bosnia.

With the coming fall of Gorazde, it is obvious that the Serbs will not relent. Time after time, we have seen that the Serbs have violated their own ceasefires, four this week alone. They have no plans to stop because they know that the world will do nothing to prevent their constant attacks on the Bosnian people. For this reason, I believe that the United Nations arms embargo against Bosnia must be lifted.

We have all seen the horrors of this war of aggression by the Serbs. Inhumane attacks by the Serbs against innocent Bosnian men, women, and children have not stopped for over 3 years now. The Serbs have given a new name to their mass slaughter: ethnic cleansing. They have conducted mass murder and mass rapes of Bosnian women, and have caused over 2 million people to flee the country as refugees. After all this, we have done nothing.

Similarly, over 50 years ago, the United States refused to act on very persuasive information from a variety of credible sources, that said that the Nazis were killing Jews and other groups of people by the thousands and eventually millions. Not until our forces actually liberated the death camps, did we gain the full understanding of what went on inside of Germany and occupied Europe.

Mr. President, the Serbs understand only one thing: force. When confronted with opposition, they backed down and abided by the ceasefire. Our waffling in Gorazde, though, has encouraged the Serbs to continue their war of aggression and killing rampage.

The Bosnian people are poorly armed, fed, and clothed, but they are willing to fight fiercely to defend themselves to avoid certain death at the hands of the Serbians. While self-defense is Bosnia's right as an independent nation, we have denied her the right to obtain any weapons. Thus far, we have stood by and allowed a nation we recognize diplomatically to be extinguished. This policy must not continue.

Muhammad Sacirbey, Bosnia's representative to the United Nations, told me in my office, that they do not want United States troops. They want our weapons. "Give me weapons and we will fight," he told me. Let's do what is right. Let's give them the few small weapons they need to defend themselves.

Mr. President, the victimized people of Bosnia deserve our help. We have ignored the death and destruction by the Serbs for far too long. Now is the time for action, not the sellout of an entire people. At the end of World War II, we said "Never Again." It is apparent, that we have broken our word. What is at stake is the survival of an entire nation. We must not allow the people of Bosnia to be snuffed out. Let's lift the arms embargo now.

Mrs. HUTCHISON. Mr. President, it has become clear to people in the United States and around the world that the United Nations policies with regard to Bosnia and Herzegovina are not comprehensible, are not coherent, in fact the problem is there is no policy. Once again, those who we hope will abide by international norms have demonstrated with impunity that their lust for blood will not be satiated until they have laid waste to Bosnia.

The lessons of Munich have been clear ever since Neville Chamberlain handed over to Hitler all his demands. Now, we stand idly by while Serb forces slaughter innocent men and women. While it is not in our interest to deploy United States forces into Bosnia, it is most certainly in our interest to allow those who would fight for their lives to do so.

If Lafayette had been sent to our shores with only humanitarian aid during the American Revolution we would still be a crown colony today.

I am not advocating sending United States ground troops to Bosnia, but I am advocating giving those with the will to fight—the means to fight.

The fledgling United States was given that opportunity in our struggle for freedom. It is only just that we give that opportunity to those who only wish to fight for their lives.

We have a moral responsibility to support those who will do for themselves what the West collectively will not and should not.

It is fitting that this amendment would be offered to the bankruptcy bill, because bankrupt is a fitting description of our policy toward Bosnia.

We must act now to allow the Bosnian people to defend themselves.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama, Senator HEFLIN.

Mr. HEFLIN. Mr. President, I ask unanimous consent that, other than the pending amendments numbered 1640 and 1641, the only remaining floor amendments in order to S. 540, that is the bankruptcy bill, be those relevant to the subject of Bosnia and those sense-of-the-Senate amendments relevant to the Housing Authority's policies.

The PRESIDING OFFICER. Is there objection to the unanimous consent request as propounded by the Senator from Alabama?

Without objection, it is so ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Republican leader, Senator DOLE.

Mr. DOLE. Mr. President, I want to take a few moments to express my support for the Bankruptcy Amendments Act.

As my colleagues know, this bill is designed not to overhaul the current bankruptcy system, but rather to streamline a system that has worked relatively well since 1978, when the current Bankruptcy Code was adopted. Modernizing the bankruptcy system is vitally important today, as the number of bankruptcy filings continues to increase. The Administrative Office of the U.S. Courts, for example, estimates that nearly 1 million bankruptcy filings were made in 1992, triple the number just 8 years earlier.

Some of the worthwhile provisions in the bill include:

Small Business Investment Corporations: This provision would prohibit Small Business Investment Companies, or SBIC's, from filing for bankruptcy under chapter 7 of the Bankruptcy Code. As a result of this change, financially troubled SBIC's would opt instead for liquidation under the receivership laws regulated by the Small Business Administration. Under Chapter 7, the Small Business Administration recovers little of nothing, since the SBA claim is unsecured. On the other hand, when the SBA acts as a receiver, it normally recovers up to 100 percent of its claim.

The Congressional Budget Office estimates that prohibiting SBIC's from filing for bankruptcy under chapter 7 would save the Federal Government $52 million in fiscal year 1994.

Temporary Small Business Bankruptcy Program: Many observers claim that the current chapter 11 reorganization procedure has proven too costly and cumbersome for many small businesses seeking bankruptcy relief. As a result, a second provision would establish a temporary small business bankruptcy program—chapter 10 of the Bankruptcy Code—for small businesses with debts of less than $2.5 million. This program, which will be tested in eight pilot districts throughout the country, is designed to improve efficiency by accelerating the reorganization time for bankrupt small businesses. It's my hope that the pilot program will work as expected, but if it fails to achieve its intended goals, it can be easily discontinued.

National Bankruptcy Review Commission: A third provision would establish a National Bankruptcy Commission to identify those areas in the Bankruptcy Code that need further improvement. The Commission is required to report its findings to Congress.

Finally, Mr. President, I want to congratulate my distinguished colleague from Iowa [Mr. GRASSLEY] for his hard work in crafting this bill and ensuring its passage by the Senate. Because of Senator GRASSLEY's leadership, our bankruptcy laws will be made more efficient and more equitable, and will reflect the commonsense approach that is Senator GRASSLEY's trademark.

Mr. President, in a moment I am going to send an amendment to the desk with reference to the Housing Authority's policies. But first I want to thank my colleague from Oklahoma, because I do believe that we should vote, we should send a statement, whatever.

At 3:45 or 4 o'clock today, we had a call from Prime Minister Silajdzic from Sarajevo telling us how bad it was in Gorazde today and how they have been told, if they did not vacate, get all the troops out of the city by 4 o'clock, they were going to come in with the tanks and level the city.

The Serbs know no end to violence. They shelled the Red Cross, shelled the hospital, innocent children. It is almost unbelievable the atrocities that are occurring there.

Now, maybe lifting the arms embargo is not going to happen overnight, but I think the Bosnians are prepared for the long haul. They have a pretty good army. But we were told again by the Vice President, Mr. Ganic, today that they have one rifle for every four men. They have eight tanks. The Serbs have 300. They are outnumbered, they are outgunned, they are out-everything, except they have the will and they want freedom and they want a right to defend themselves. It seems to me if we cannot do anything else, we ought to give them that right.

I hope that we will vote on the amendment tonight. It seems to me that it is fairly clear.

This is what the Vice President, Mr. Ganic, said:

> All we ask for is a limited quantity of defensive weapons, not for victory, but for survival.

They are not looking for offensive weapons. They want antitank weapons to protect themselves.

Prime Minister Silajdzic said:

> The news I received from Gorazde makes me shudder, and the best description for what is going on there is silence. The best description of death is silence * * *
>
> We are all sick and tired of a fascist junta being called a side in the conflict, and the legal government being called another side in the conflict * * *
>
> The United States of America should not go on record as holding an embargo on a country, a member of the United Nations, a victim of fascist aggression of the Belgrade regime.

That was some of the information we received on the telephone. Obviously, they are desperate. They do not know where to turn, because everywhere they turn, they are turned down.

And so I hope the amendment that I have offered with the distinguished Senator from Connecticut, Senator LIEBERMAN, and others, will prevail. We are prepared to make at least one change with reference to prohibition, which we thought might satisfy some colleagues on the other side. But failing that, it seems to me we ought to vote to table it. If they cannot table it, we ought to pass it.

AMENDMENT NO. 1655

Mr. President, I send an amendment to the desk with reference to public housing, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments are laid aside.

The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 1655.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

> At the appropriate place, add the following:
>
> FINDINGS.—The Senate finds that—
>
> (1) It is the fundamental obligation of government to protect its citizens;
>
> (2) In many federally-financed public housing projects, the level of violence has reached epidemic proportions, threatening on a daily basis the lives of the majority of the tenants, who are law-abiding;
>
> (3) In an effort to combat gang and drug-related violence, the Chicago Housing Authority ("CHA") instituted a policy of conducting warrantless, apartment-to-apartment searches of CHA projects, including the Robert Taylor Homes;
>
> (4) On April 7, 1994, federal district court judge Warren Andersen ruled that CHA's search policy violated the Fourth Amendment to the Constitution of the United States and enjoined CHA officials from undertaking these searches;
>
> (5) After the court decision, President Clinton directed Attorney General Janet Reno and Secretary of Housing and Urban Development Henry Cisneros to develop law enforcement measures that would be both constitutionally valid and effective in reducing violent crime in public housing projects; and
>
> (6) President Clinton subsequently announced new federal guidelines designed to assist public housing officials in maintaining order and protecting the security of their law-abiding tenants.
>
> Therefore, it is the sense of the Senate that the Senate fully endorses the new Administration guidelines, outlined in a letter to President Clinton from Attorney General Reno and Secretary of Housing and Urban Development Cisneros, dated April 14, 1994, including the guidelines allowing public housing officials to 1) erect fences around public housing buildings, issue identification cards to tenants, and install metal detectors or magnetometers at the building entrances; 2) search the packages and clothing of anyone seeking to enter public housing buildings and refuse entry to anyone who does not submit to inspection; 3) conduct weapons searches without consent or a warrant in common areas of the buildings, such as stairwells, and in vacant apartments; 4) frisk "suspicious-looking" individuals for weapons, if police or security personnel have a reason to believe that the individuals are involved in criminal activity and are armed; 5) include non-coercive consent clauses in lease agreements permitting routine, warrantless apartment-by-apartment police searches for illegal weapons and illegal drugs; and 6) conduct warrantless searches of individual units where there is justification for a search but insufficient time to obtain a judicial warrant.

Mr. DOLE. Mr. President, it is my understanding Senator WELLSTONE will offer a second-degree amendment. He may be willing to enter into a time agreement of 40 minutes. I am not going to take a lot of time. In fact, I probably will take 20 minutes of the 40 minutes. So I hope we could have a vote here by shortly after 8 o'clock.

I know this Senator is supposed to be receiving an award somewhere tonight, but I may not make it. I am certain they can mail it to me or something.

Mr. President, in an article last year, columnist George Will asked an important question—one directed specifically at Republicans. He asked, "What does conservatism have to say to my friend Karen McCune?"

Now, who is Karen McCune, you may ask? Mr. Will explains that:

> She's 9 years old, 47 pounds, and full of life and bravery. She needs bravery because she lives in the Cabrini-Green housing project in Chicago. She goes to the Jenner School, named after the man who invented the small pox-vaccine. Three grade-schoolers, in the span of 1 year, were killed accidentally, getting from Cabrini-Green across the free-fire zone that is Chicago in those areas, into the Jenner School. Karen sleeps, in a bed near a window except when the gunfire gets too fierce, and then she and her siblings go into the hall and hide.

Mr. President, Karen McCune is not a citizen of Bosnia, or Rwanda, or the Gaza Strip. She is a child of America, and her life of terror is one lived by thousands like her in the public housing projects throughout the United States.

The criminals who terrorize public housing are not the victims of society, as the root-cause liberals would have us believe. The real victims are the law-abiding tenants—children like Karen McCune—whose lives are spent dodging bullets, avoiding the drug dealers, just hoping to get through another day without incident—alive.

In an effort to combat gang and drug-related violence, the Chicago Housing Authority recently established a policy of conducting warrantless apartment-to-apartment searches of C.H.A. projects. Not surprisingly, a majority of the law-abiding tenants in C.H.A. buildings supported this policy.

Earlier this month, the Federal district court in Chicago got involved, ruling that the C.H.A. search policy violated the fourth amendment's ban on unreasonable searches and seizures. The court then enjoined C.H.A. officials from undertaking any additional searches.

To his credit, President Clinton quickly responded to the court decision, directing Attorney General Reno and Secretary of Housing and Urban Development Henry Cisneros to develop measures that would be both constitutionally valid and effective in reducing violent crime in public housing. These measures were unveiled last Saturday, during the President's weekly radio address.

Under the President's new policy, public housing officials are encouraged to implement the following anticrime measures:

First, erecting fences around public housing buildings, issuing identification cards to tenants, and installing metal detectors at building entrances;

Second, searching the packages and clothing of anyone seeking to enter public housing buildings and refusing entry to anyone who does not submit to inspection;

Third, conducting weapons searches without consent or a warrant in common areas, such as stairwells, and in vacant apartments;

Fourth, frisking suspicious-looking individuals for weapons, if police or security personnel have a reason to believe that the individuals are involved in criminal activity and are armed;

Fifth, including consent clauses in lease agreements permitting routine, warrantless apartment-by-apartment police searches for illegal weapons or illegal drugs; and

Sixth, conducting warrantless searches of individual units where there is a justification for a search but insufficient time to obtain a judicial warrant.

Mr. President, this amendment is nothing more than an endorsement of the administration's new policy, as outlined in a recent letter to President Clinton from Attorney General Reno and Secretary Cisneros. This amendment does not break new ground, nor does it proposes anything that President Clinton has not already endorsed. It simply recites some of the key elements of the new administration policy, and puts the Senate four-square behind them.

Of course, the new administration policy is a small step, and we should not expect it to put an end to the violence at Cabrini-Green, or at the Robert Taylor Homes, or at the other bullet-ridden public housing projects that line the urban landscape. But I am prepared to hope that the policy, if acted upon, can—and will—make a difference.

Of course, there are those who argue that the administration policy goes too far, that it may even violate the fourth amendment to the Constitution.

I happen to disagree, and Attorney General Reno, the Justice Department, and the President of the United States happen to disagree, as well. I understand my distinguished colleague from Minnesota [Mr. WELLSTONE] intends to offer a second-degree amendment that would not only water down my amendment but also represent a retreat from the administration's own policy.

Again, I have not seen the amendment so maybe I should reserve. But it is my understanding it would explicitly provide that residency or continued residency in public housing could not be made contingent on the inclusion of a consent clause in a lease agreement.

I think at that point I hope the Senator from Minnesota might—the Senator from Minnesota is on the floor. I hope we might, first of all, get a time agreement. Then I understand he will second-degree the amendment I have sent to the desk. I will at the appropriate time move to table the second degree amendment. If it fails, I assume we will adopt my amendment as an amendment; if the motion to lay on the table is agreed to, I hope then we would vote on the original amendment.

So, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Chair recognizes the Senator from Minnesota, [Mr. WELLSTONE].

AMENDMENT NO. 1656 TO AMENDMENT NO. 1655

Mr. WELLSTONE. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Minnesota [Mr. WELLSTONE], for himself and Mr. FEINGOLD, proposes an amendment numbered 1656 to amendment No. 1655.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the end of the amendment, add the following—
>
> *Provided, however*, with respect to "consent clauses in lease agreements" referred to above—
>
> (a) Residency or continued residency in public housing is not contingent upon the inclusion of such a consent clause as a provision of a lease agreement, and
>
> (b) Residents or prospective residents are informed that residency or continued residency in public housing is not contingent upon the inclusion of such a consent clause as a provision of a lease agreement.

Mr. WELLSTONE. Mr. President, first of all let me say this.

Mr. FORD. Mr. President, will the Senator yield?

Mr. WELLSTONE. I will be pleased to.

Mr. FORD. Is there a possibility of getting a time limit on this amendment?

Mr. WELLSTONE. Yes.

Mr. FORD. How much time?

Mr. WELLSTONE. I would say 15 minutes on each side? If that is OK with the minority.

Mr. FORD. Mr. President, I ask unanimous consent that there be a time limit until 8:30, equally divided. At 8:30 a vote will occur on or in relation to the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. FORD. I thank the Senator.

The PRESIDING OFFICER. The Senator from Minnesota retains the floor.

Mr. WELLSTONE. Mr. President, let me just read a portion of the administration's policy. Really what I am trying to do is improve upon that policy. I believe, actually, this amendment is quite consistent with what the minority leader has presented to us in his resolution.

The policy reads

> A search is lawful if it is conducted pursuant to an uncoerced consent. Leases in housing projects, as elsewhere, typically include a standard consent clause permitting the housing authority to conduct routine maintenance inspections and to enter the tenants' apartment in case of emergency. Where crime conditions in housing developments make unit-by-unit inspections essential, similar lease consent clauses could be employed to authorize periodic administrative inspections of tenants' units for unlicensed or unauthorized firearms.

Mr. President, I think all of us on the floor of the Senate, Republicans and Democrats alike, are concerned about the violence and the guns. But I would just like to explain my amendment and talk a little bit about why I think it is so important.

My amendment essentially says, and this would be at the end of the Dole resolution amendment—"provided, however, with respect to consent clauses in lease agreements referred to above"—and what I am really talking about is that—

> * * * continued residency in public housing is not contingent upon the inclusion of such a consent clause as a provision of a lease agreement, and residents or prospective residents are informed that residency or continued residency in public housing is not contingent upon the inclusion of such a consent clause as a provision of a lease agreement.

To put that into plain English, let me first of all identify the problem and let me tell you why I think this is actually a helpful solution which I believe my colleagues would want to vote for.

The New York Times had an editorial yesterday in which they talked about this policy. I think the most important part of their editorial reads as follows:

> Yet among his proposals was the highly suspect idea of requiring public housing leases to include a tenant's waiver of the very privacy rights Judge Andersen ably vindicated—a standing consent to a warrantless search. What could be more coercive than an implicit demand for a waiver of rights as a condition of shelter? It is hard to imagine a waiver provision in a lease form that an applicant could feel free to reject. Nor is it easy to imagine such a waiver surviving a constitutional challenge in Judge Andersen's courtroom.

My point is this. If we are talking about public housing and we are talking about poor people, people who are desperate for housing, with huge, long backlog, long, long waiting lists, people who are absolutely desperate, the only alternative is to be homeless, then it would seem to me that what you want to make crystal clear to people is: Look, we ask you to sign a waiver so as a matter of fact we can come in and search your apartment. But, what we want to make clear to you is that if you do not sign that waiver, you are being accepted into this housing project and being able to live here is not contingent on it.

In other words, it is extremely coercive. We are talking about the fourth amendment to the Constitution. We are talk about the most important principle in our country that has to do with search and seizure.

I introduced this amendment as a safeguard, which I believe the administration and I believe colleagues here would be very supportive of. We are not saying that we do not want to take all steps necessary—and there is much in the administration's policy that goes in that direction of trying to go after these guns. We are not saying that we would not ask a prospective tenant to sign a waiver. The only thing we are saying is it ought to be crystal clear to that tenant that if he or she does not sign the waiver then they are not going to be without housing. That is what makes it not coercive.

My colleagues I know are going to say that this is not coercive. I know they are going to say that that they are concerned about making sure that poor people do not have to live under a different standard. And all this amendment does is make sure that is the case.

One more time, let me just state what is at issue here. Let me make two points.

The A part of what is at issue here in my view is that I really am glad that now we have a focus on how it is we are going to reduce this violence in these housing projects. I certainly wish that part of that focus was making sure that we pass strict laws that dealt with assault weapons. Get them out of the housing projects. I certainly hope and wish that part of what we do is make sure there are real educational opportunities, that we support child care, that we have good community police.

I am for all of that, and I hope that we do that. But it does seem to me that at the very minimum, if we are going to be talking about knocking someone's door down—that is what we are talking about—that what we say to people who live in this public housing is, "Look"—and if you were to take a referendum, by the way, among the tenants, they will tell you they are absolutely desperate to do something about the violence, the shooting, the threats to their children.

But I am quite sure, having done a fair amount of community work in organizing, they will say, "Look, it is reasonable. Please, Senators, if you are going to have us sign this waiver and you are going to have it say it is not coercive, then make it crystal clear that if somebody should decide or should wish not to sign the waiver and not to grant permission for the housing authority people, police—whatnot—to come to our door anytime and come right into our apartment, that we will not be in jeopardy of having a place to live."

That is all this does, really, is give people that constitutional assurance. I think it is due process, and it is fairness.

I see my colleague, the Senator from Illinois, is here, and I want to ask him whether he may want to speak at this moment. I also want to make it clear that Senator FEINGOLD is an original cosponsor of this amendment.

Again, let me say to my colleagues one more time that I am absolutely not opposed to these initiatives. I just want to make sure that people understand that if they should choose not to sign the waiver, they will not be homeless.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. Who yields time? The Republican leader, Senator DOLE.

Mr. DOLE. Mr. President, I am going to try a second time today to help the administration. I have not had much luck yet. I started on Bosnia and somehow that got derailed. Now I am trying to help the President on public housing. That is all I am trying to do here today.

I understand the amendment of the Senator from Minnesota. It just takes the teeth out of it. It says if you do not want to sign a waiver, you can still live in the building; so you can put all the weapons in that tenant's building, whatever you have in mind.

It explicitly provides residency, or continued residency, in public housing could not be made contingent on the inclusion of a consent clause in a lease agreement.

The Reno-Cisneros letter to President Clinton, on the other hand, does not make exceptions. It does not prohibit public housing officials, nor the tenants themselves, from making residency contingent on the inclusion of a consent clause in a lease agreement. It simply says:

> A search is lawful if it is conducted pursuant to uncoerced consent. Leases in housing projects, as elsewhere, typically include a standard consent clause permitting the housing authority to conduct routine maintenance inspections and to enter the tenant's apartment in case of emergency. Where crime conditions in the housing development make unit-by-unit inspections essential, similar lease consent clauses could be employed to authorize periodic administration inspections of tenants' units for unlicensed or unauthorized firearms.

That is not my quote. That is how it is interpreted by the administration.

The Reno-Cisneros letter goes on to say:

> * * * tenant associations should be encouraged to endorse the use of building entrance security devices and the inclusion of consent clauses in lease agreements. A resolution by a tenant association would demonstrate widespread tenant support for such measures, which is an important factor in determining whether to include such a clause in the lease. In addition, a showing of widespread tenant support would be helpful in responding to challenges by particular tenants to the constitutionality of restrictions on entry and consent clauses in leases.

So, Mr. President, the administration's policy is clear, and a vote for the Wellstone second-degree amendment is a vote against this policy.

Finally, I want to go back to George Will's original question and direct it not to conservatives, but to those at the ACLU and the New York Times who oppose some of the administration policy's key elements, including the proposal to allow public housing tenants to consent to police searches through their lease agreements.

To these dyed-in-the-wool liberals, I simply ask this: What does liberalism have to say to Karen McCune? Does it say, We will give you more rights or more laws or more due process? I suspect, when all is said and done, the Karen McCunes of our country would choose something quite different, but much needed, in their young lives, which would be more safety, more security, and more hope.

Mr. President, I ask unanimous consent that the letter to President Clinton from Attorney General Reno and Secretary Cisneros be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, April 14, 1994.

THE PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: On April 8, 1994, you asked us to work together to devise law enforcement measures that would be effective and constitutionally valid in dealing with the severe problems of violent crime in urban public housing developments such as Robert Taylor Homes and Stateway in Chicago. During the past week, we have worked productively toward that end. This letter outlines the conclusions we have reached regarding a variety of law enforcement techniques that might be used in combatting this grave problem.

You are familiar with the background: In response to the escalation of violence and the prevalence of firearms in public housing projects in Chicago, the Chicago Housing Authority [CHA] instituted a policy of conducting warrantless, apartment-to-apartment searches of CHA public housing projects. On April 7, 1994, a federal court in Chicago held that CHA's search policy violated the Fourth Amendment. On that basis, the court enjoined CHA from undertaking further warrantless apartment-to-apartment searches of CHA housing units. The court made clear, however, that its ruling did not preclude CHA from taking other steps to conduct searches in and around the housing projects.

In the Chicago case, although some tenants opposed the CHA's "sweep search" policy, many others supported the policy and supported CHA's efforts to maintain order and combat gang violence in the housing projects. The case also made vividly clear once again how pervasive violence has become in many of our inner-city housing projects. While striking down the particular "sweep search" policy employed by CHA, the judge recognized that the level of violence in the housing projects represents a grave threat to the lives and safety of innocent persons in and around the CHA buildings.

Following the court's ruling and your request for us to focus intensively on this issue, the Department of Justice consulted with the Department of Housing and Urban Development regarding the options available to a public housing agency such as CHA in conducting searches on the premises of public housing projects that suffer from very high rates of violent crime. We outline here the options that we considered, and which we concluded are constitutionally valid, at least in the extraordinary circumstances presented by the crime problem in the Robert Taylor Homes and Stateway developments.

1. *Securing the Building Entrances and Lobbies.* Any effort to stem violence in crime-ridden public housing projects must begin in the lobbies of the buildings. In some high-rise public housing projects, gang members effectively control access to the buildings. They move freely in and out of the buildings. While some buildings are protected by security guards, those guards are often intimidated by gang members, and they therefore let unauthorized persons enter the buildings unchallenged.

It is essential that the housing authority gain control of building lobbies and common areas. To accomplish that end, the authority can erect fences around buildings, issue identification cards to tenants, and install magnetometers or metal detectors a the building entrances. Security personnel should be accorded the authority to conduct follow-up searches with hand-held metal detectors when necessary. They should also be authorized to search packages and clothing, and to refuse entry to anyone who does not submit to inspection. Most importantly, the authority and the local police must cooperate to ensure that the security guards have sufficient protection to do their screening work effectively. If the ground floor of the building is secure, other techniques may not be necessary; if it is not, other techniques are likely to prove futile.

2. *Consent Searches.* A search is lawful if it is conducted pursuant to an uncoerced consent. Leases in housing projects, as elsewhere, typically include a standard consent clause permitting the housing authority to conduct routine maintenance inspections and to enter the tenant's apartment in case of emergency. Where crime conditions in the housing development make unit-by-unit inspections essential, similar lease consent clauses could be employed to authorize periodic administrative inspections of tenants' units for unlicensed or unauthorized firearms.

As in the case of maintenance inspections, such firearms inspections should be conducted on a routine basis, during daylight hours, and should be no more intrusive than absolutely necessary to determine whether weapons are present in the tenant's unit.

If the agency gives advance notice of the fact that an inspection will be conducted and the general period within which it will take place the intrusiveness of the inspection will be lessened and any constitutional objection to the inspection thereby reduced.

In appropriate circumstances, tenant associations should be encouraged to endorse the use of building entrance security devices and the inclusion of consent clauses in lease agreements. A resolution by a tenant association would demonstrate widespread tenant support for such measures, which is an important factor in determining whether to include such a clause in the lease. In addition, a showing of widespread tenant support would be helpful in responding to challenges by particular tenants to the constitutionality of restrictions on entry and consent clauses in leases.

3. Searches of Common Areas and Vacant Apartments. Experience in Chicago teaches that gangs commonly use vacant apartments as bases of operation. The housing authority can search the common areas of public housing projects and vacant apartments without consent or a warrant, and at any time of the day or night.

4. Weapons Frisks of Suspicious Persons. If police or security personnel have reason to believe that an individual is involved in criminal activity and that he is armed, they may frisk him for weapons. Where police establish a presence in an area and use their lawful power to stop and frisk persons engaged in suspicious behavior, the use of that power can be effective in disrupting and deterring violent crime.

5. Warrant Searches on Probable Cause. Whenever law enforcement officials have probable cause to believe that a specific dwelling contains evidence of a crime, a search may be conducted with a judicial warrant. Police should make use of expedited techniques for obtaining warrants, such as by telephone or by having magistrates readily available to issue warrants.

6. Searches Based on Exigent Circumstances. Housing authority officials may conduct warrantless searches of individual units where there is justification for a search but insufficient time to obtain a judicial warrant.

7. Arrest Warrants. Housing or local police may enter a dwelling unit to execute an outstanding arrest warrant if the fugitive resides in the unit and the police have reason to believe he is present.

During staff consultations between the two Departments, we have discussed these alternatives and others in more detail, and we will continue working together in devising and refining law enforcement strategies that can be applied to deal with this crisis.

Sincerely,

JANET RENO,
Attorney General.
HENRY CISNEROS,
Secretary of Housing and Urban Development.

Mr. DOLE. Mr. President, let me also quote from a news story from the Washington Post where Mr. Cisneros, the Secretary of Housing and Urban Development, says:

"We believe" that the new initiative "will pass constitutional muster." He appeared, however, to place substantial measure of legal confidence in the power of public opinion—well-documented for years—in support of drastic measures.

"Everything we have proposed here is in consultation with [public housing] residents," Cisneros said. "The residents have requested that the policy of sweeps continue, and they support them."

And, like Clinton, he was quick to assert the rights of the oppressed over the concerns of the ACLU, whose "abstract analysis of people's rights" is "swamped in real life by people's rights being denied."

Those are not my quotes; those are not any Republican quotes. That is the Democratic Secretary of Housing and Urban Development, Mr. Cisneros.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. Will my colleagues give me 2 minutes?

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I want to say to my good friend, the minority leader, in his resolution he talks about including noncoercive consent clauses. That is all this is. That is exactly what I have done.

If you are in favor of that, then you certainly would not be opposed to this.

Second of all, I simply say I am quite sure the Attorney General and the Secretary of HUD make no bones about it, and would not at all object to a specific reference to making clear this is noncoercive. That is all this amendment does, for gosh sakes.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. Mr. President, I yield, first of all, to the senior Senator from Illinois, and then I will yield to the junior Senator.

The PRESIDING OFFICER. The Senator from Illinois, [Mr. SIMON], is recognized for up to 14 minutes 51 seconds.

Mr. SIMON. Mr. President, I shall not use 14 minutes 51 seconds.

I regret the minority leader has left the floor because I visited the Robert Taylor homes, the area in controversy, on Monday morning. I took no reporters with me, no television cameras, so I could just talk to the people who are in that area.

Overwhelmingly, they want the police to do the job. They want people to come in and inspect and take the guns and the drugs, and so forth. I visited one room where they must have had 200 or 300 weapons. I am not talking about just small weapons. These were AK-47's, and all kinds of things, including rifles with sights so you could see 300 yards at what you are aiming.

I am for the Wellstone amendment. If the Wellstone amendment is defeated, I am going to vote for the Dole amendment. But Senator WELLSTONE is absolutely correct that his amendment is not contrary to the administration position.

I met late Monday afternoon with Vince Lane, the chairman of the Chicago Housing Authority, and talked to the people at HUD. They said they want this to be a voluntary thing, and they are going to make clear that people have to voluntarily sign up.

I think you will see in the Robert Taylor homes, the area in question, that 75 to 95 percent of the people will voluntarily sign up. There is some fear of abuse by police. No question about it. But there is much greater fear of the gangs and the weapons and everything else.

I would be personally surprised if at least 95 percent of the people did not sign up voluntarily. I think we are making a big issue out of something that is not a big issue.

Second, what the Wellstone amendment does is to make this constitutional. You can criticize the ACLU and Judge Anderson, who, incidentally, is a Republican appointee as a Federal judge, but we cannot do something that violates the Constitution.

In terms of strict constitutionality, I think the Federal judge rendered the proper decision. What we have to do is to fashion something that can go after the weapons, can go after the drugs, and provide security for the people there. I think the Wellstone amendment moves in that direction.

I do not know if my friend, Senator DOLE, is hearing my words right now or not, because he went into the Republican cloakroom. I hope he will recognize that his amendment and the Wellstone amendment are not in conflict.

The letter that was sent by Secretary Cisneros and Attorney General Reno is not completely clear in the waiver, but what they have made clear and what Vince Lane, the Chairman of the Chicago Housing Authority, made clear to me is that it has to be voluntary; otherwise, it is not constitutional. They recognize that.

So I think we have created a huge controversy over nothing. My hope is that the Wellstone amendment would be adopted by voice vote, and then the Dole amendment would be adopted.

Frankly, I am going to vote for the Dole amendment even if the Wellstone amendment is defeated. But I think by implication certainly the administration policy includes precisely what the Wellstone amendment has.

Ms. MOSELEY-BRAUN addressed the Chair.

Mr. WELLSTONE. How much time do I have?

The PRESIDING OFFICER. The Senator controls 10 minutes.

Mr. WELLSTONE. I yield 5 minutes.

Ms. MOSELEY-BRAUN. That will be fine.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Mr. President, I have done more than visit Robert Taylor homes. I know people who live there. I know people who used to live there, and I am intimately familiar as a product of the inner city with conditions facing public housing today and particularly public housing in the City of Chicago. We have seen this epidemic of violence.

Mr. President, public housing is one of the cornerstones of our urban dilemma. Residents have become inhabitants of cordoned-off islands with very little relief, opportunity or tools with which to do a job or have some hope and an opportunity. To solve the problem of crime and joblessness and hopelessness, I believe we have to address the issue of providing a decent living environment. We have to focus on what are the issues pertaining to security, not just the sweeps.

Now, there is an old expression in legal circles that "hard cases make bad law." It seems to me that the crisis of violence that we are seeing in public housing now makes precisely the kind of hard case that can, if we are not careful, give us not only bad law but bad policy as well.

A fever pitch of debate over the mass searches known as sweeps and as represented in this amendment has commanded the attention of the country, as has the horror of the frightened residents and gunshot wound victims.

I hope, however, that the energy we direct toward the debate about sweeps gives rise to an equally energetic debate about what we do to cure the dangerous place to live.

I hope that our only response to poverty and the hopelessness of these communities is not to build fences, cordon off the developments and take away people's fourth amendment rights. I hope that we have the capacity to address this issue in a more serious manner.

Last year, Mr. President, there were 50 homicides in the CHA complexes in Chicago. At the same time, those communities were living with the following statistics: An 89 percent poverty rate; a median family income of $5,400; only 32 percent of the adults had more than a high school education; unemployment averages of 60 percent; only 8.5 percent of the residents were employed in private sector employment, so the private sector has abandoned these areas altogether; and 45 percent of the residents being children under the age of 14.

Now, when you aggravate that mix with drugs and guns—and they have confiscated almost 1,200 in the last year—and overcrowding—Robert Taylor has about 13,000 people, which is more than the population of most Illinois towns. So when you aggravate the situation, what you wind up with is the crisis of violence that we have.

Now, the sweeps have been used before in response to the peaks of violence, but there is no question, Mr. President, that Band-Aids will not provide the domestic security that the law-abiding residents of public housing deserve. The hard case of what to do to provide a safe and secure living environment for poor people who live in public housing does demand a commitment, a commitment by this body, by this Congress and by this administration to change the conditions that make that environment presently uninhabitable.

Now, I am not going to argue that the residents of CHA who support the sweeps are entirely wrong. Those are people who are confronted by the realities of life there and who are frightened by the gangs, by the intimidation, and who really want, at this point are prepared to forgo what might be considered to be esoteric constitutional protection in favor of the physical protection against the raging violence.

I think our community as a whole has a right to say this level of violence is unacceptable and we will resort, if necessary, to something approaching martial law. But I daresay, Mr. President, that the court was right in saying that we cannot, that a landlord cannot unilaterally take away the fourth amendment proscription against unreasonable search and seizure from somebody just because that person happens to be poor, and that is the issue with the Wellstone amendment.

What Senator WELLSTONE is trying to do is say that we are not going to set up a new category. Everybody but poor people who live in public housing enjoys the right under the fourth amendment to be secure against unreasonable searches and seizures. So if we start at CHA today, then where do we go tomorrow? Do the big apartment complexes that do not have poor people living in them become subject to mass warrantless searches, be subject to, as this amendment says, a search of the packages and clothing of anyone seeking to enter public housing and refuse entry to anyone who does not submit to an inspection, just because the neighborhood is violent?

Now, in another higher-rent district, do we forgo the fourth amendment there also? I daresay I for one believe that we have an obligation to look beyond sweeps. But if the issue specifically is sweeps, if the issues specifically are the plans to try to secure the buildings, then what is wrong with doing what Senator WELLSTONE wants us to do? All he wants us to do is to say for a tenant to give up his fourth amendment right, for a tenant to say I am going to be less than a citizen because I am too poor to live anyplace other than public housing, then that person ought to at least have the right to consent, that person ought to at least have the right to say I am going to sign away my right voluntarily because I do not mind giving up my citizenship in order to live in this subsidized housing.

Mr. President, I think this is a dangerous road to go down, and I daresay—I may be running out of time.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WELLSTONE. One more minute.

Ms. MOSELEY-BRAUN. One more minute. It is a dangerous precedent to set, it seems to me. It is bad policy. It is bad law. But what is even more frightening, Mr. President, is that this amendment is floating around without a whole lot of public discussion in terms of legislative initiative. I understand the minority leader says he just wants to help us.

Well, my attitude is do not love us quite so much, or at least if you are going to love us, let us talk about it first. The fact is that this amendment without the protections of the Wellstone amendment is constitutionally infirm, sets a dangerous precedent and, frankly, tries to put a Band-Aid on a bad situation, on a cancer that is not going to be cured by taking away the dignity of people who are poor and live in public housing.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. Mr. President, I will just take 2 minutes right now.

Let me take the really strong words of Senator MOSELEY-BRAUN from Illinois and translate them into human terms, personal terms. I cannot even understand any opposition to this amendment. I wish to say that to my colleagues. I think the Senator from Illinois, Senator SIMON, is right. It is consistent with the resolution. All I am saying to the Senator from Illinois [Ms. MOSELEY-BRAUN] is you have a mother and several children, and she is applying to public housing, and the only alternative to that public housing given those long, long waiting lines is to be homeless. At the very minimum, she should know that there is (A) a clause she is being asked to sign, and (B) she should know that if she does not want to sign that clause, which means that police could come into her apartment at any time, she has the right to do so and not have her family out on the streets.

An older woman. She is 80 years old, and she does not know what this is about. Do we not have the obligation to inform her, to let her know (A) there is this clause that you are supposed to sign, and this clauses essentially says that police can come in, if they think there is a gun or weapon in your home—

Ms. MOSELEY-BRAUN. Even if they do not.

Mr. WELLSTONE. And even if they do not—and (B) we want you to know that you do not have to sign that. That does not mean you will be put out in the cold.

That is all this says. If we are going to say it is not going to be coercive and we are going to say it is going to be voluntary, which is what the administration is saying, then I think this makes all the sense in the world—not makes all the sense in the world. This is exactly what we should go on record supporting. To not do so makes me very worried about why any Senator would be opposed to this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON. If my colleague will yield.

Mr. WELLSTONE. Yes.

Mr. SIMON. I would point out simply that is the policy of this administration as spelled out in the Wellstone amendment.

That is why I am hoping that maybe we can still work out some kind of a compromise with the Senator from Kansas because I do not think we are really that far apart.

Mr. DOLE. Mr. President, I yield 5 minutes to the Senator from Arizona on another matter.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DeCONCINI. Mr. President, I am very interested in this debate. I have to say it seems to me something that ought to be able to be worked out. But I do not have a dog in this fight, I guess, and I will stay out of it.

I really feel that we all have a lot in the fight that is going on this afternoon regarding the resolution offered by the Senator from Connecticut and amended by the Senator from Kansas, the distinguished minority leader.

Mr. President, it saddens me to listen to the debate today, really saddens my heart and brings tears to my eyes, that in my travel to Bosnia and Herzegovina on four different occasions in that part of the world, to see the tragedy that is going on. And to see the "excuses," as I have termed them, in all due respect that have been offered here today, not to vote to lift the embargo and to legislatively lift the embargo.

I realize the President is on the spot. I realize he has labored and has been in turmoil regarding this. But the time is long overdue. We cannot afford to not take this action.

It is a moral obligation. Believe me, it is a moral obligation. I have interviewed people who have been in the concentration camps run by the Serbs who saw their brother beaten to death over a 7-hour period, who left their mother on the mountain to die so they would not be taken prisoner and beaten up by the Serb military.

I have listened to them and looked in their eyes and saw the pain and suffering. Now we see it on our TV screens. We see it in the most tragic way, the most descriptive way of what is occurring there, and it is genocide. It is murder.

As I said last night on a program I was being interviewed on, yes, there have been atrocities by the Moslems towards the Croats and toward the Serbian Bosnians. Yes, there have been aggressive offensives by the Croats and by the Moslems toward the Croats, the Croats towards the Moslems, and all parties have been guilty of some very heinous crimes or offenses. But today, that has stopped between the Croats and the Moslems; it has stopped between the Moslems towards the Serbs.

Here we have now the worst egregious offenses that we have seen since the ethnic cleansing of some months ago, and it is time that we stand up and vote what is morally correct; and, that is to lift this embargo.

So I frankly think we are doing the President a great favor by passing the Dole amendment and the amendment of the Senator from Connecticut [Mr. LIEBERMAN] tonight. We should do it. It is the right thing to do.

Mr. President, lives of tens of thousands of innocent civilians are threatened as the Serbs advance against the U.N.-designated safe haven of Gorazde in eastern Bosnia and Herzegovina. If they continued and get away with it, it is only a matter of days before they will start to proceed towards the other "safe havens"—and there are six of them. We have only seen two of them attempted to be wiped out by the Serbs, and one they backed away. That was Sarajevo. They did not back away because we—when I say "we," I mean collectively the Western World—could not proceed with the courage to deliver the air strikes that would have forced them to back away.

The tragedy that is unfolding in this beleaguered enclave demonstrates yet a failure of diplomatic efforts to check Serbian aggression and genocide which has claimed hundreds of thousands of victims over the past 2 years.

I applaud President Clinton's latest initiative on Bosnia. There is a broad recognition that air strikes alone will not work. We are not talking about winning a war with air strikes. We are talking about punishing the worst aggression toward humanity since the Second World War.

We cannot continue to sit here and debate this and not take some offensive action. Those who say, "Oh, we are just being led down the path to another Vietnam, or another Somalia," that is nonsense.

The Dole amendment and the Lieberman amendment make very clear that there is no involvement of American troops here in lifting the embargo. That is why I have for more than a year supported the strike-and-lift approach, and we should do it. We know it can be done successfully. It was done successfully before—just the threat of it.

General McPeak, the Chief of Staff of the Air Force, testified last April and 3 weeks ago that the air strikes would bring little or no risk to United States pilots or Western pilots. That does not mean there will not be some—but "little or no risk" are the words he used. And in addition to that, he said "Give us the time and we can take out all the artillery targets that the Serbians have."

That is not a ground war that involves us for a long period of time. It is a demonstrative military action that will punish genocide and the perpetrators of it.

I hope this body will look itself individually in the face in the mirror when they come to vote on that, whether it is tonight, or Tuesday, or whenever it is.

The time has come, Mr. President, for the United States to be the leader, as we are, but as we have failed to be in this instance. It is not too late, though some have said after today that it may be too late. It may be too late for a number of dozens or hundreds of people who die. But it is not too late for our country to regain that moral ground and demonstrate that we can lead, and we are not afraid. We have a great opportunity here. Yes. It is too bad that it has to be dealt with on a bankruptcy bill before us that is important. But that is the time. This body is constructed to just do that any time that we feel it is necessary. I feel it is necessary.

I truly hope that this amendment will pass.

I thank the distinguished minority leader, the Republican leader, for yielding me time on this subject matter.

Mr. DOMENICI. Mr. President, when the Senate began consideration of the Dole-Lieberman amendment this morning, I was participating in a hearing before the Appropriations Committee. The witness was Secretary of State Christopher. The major subject was U.N. peacekeeping, and many of the questions pertained to the situation in Bosnia.

As the ranking Republican on the Commerce-Justice-State subcommittee, I had to do some preparation and consultation. I listened carefully to the comments of Secretary Christopher and the questions of Chairman HOLLINGS. I reached the following conclusions.

If there is a crisis in Bosnia that involves American national interests, and I believe that such a case could be made, it requires additional explanation by the President and rapid deliberation by the Congress. This is too serious an issue to be handled through private consultations. The American people need to know what we are doing, and our justifications for our actions or inactions.

If a Bosnia peace settlement is negotiated, it will be contingent on the subsequent deployment of tens of thousands of U.S. ground combat forces. Long before then, the President needs to know whether Congress concurs in his offer of ground combat forces to the United Nations.

Congress needs to determine now the human and fiscal costs of an extended deployment of 25,000 American troops in Bosnia. At this morning's hearing, I suggested that it would have a major impact on force structure and cost many billions of dollars. That can not be accommodated within the President's proposed force structure and its accompanying budget.

This morning, Secretary Christopher could provide no useful information about the impact on our own national defense posture of a large, extended commitment of U.S. forces to U.N. peacekeepers in Bosnia. He couldn't cite any specific DOD studies of the impact.

A few hours ago, Senator COHEN suggested that no one in this body publicly favors the introduction of American ground troops in Bosnia. That may be so, but the President and the Secretary of State are telling us that a peace settlement in Bosnia will, inevitably, lead to the introduction of American ground combat troops under U.N. auspices. I repeat, our ground forces will go into Bosnia if the President's plan for peace in Bosnia succeeds.

I have concentrated on the risks ahead if the President's efforts in Bosnia succeed, as we all hope they will, whatever our doubts. The risks of failure on our Nation's self-confidence and credibility have been discussed by others. Whatever the outcome, there is a human and policy consequence of our decisions to engage in Bosnia.

If the proposed policy of expanded air support and air protection of the declared U.N. safe zones in Bosnia is implemented, it is likely there will be casualties in the U.S. Air Force, Navy, or Marines. We must be prepared for those casualties.

Let us begin defining United States national interests in Bosnia. The President and the Secretary of State offered us some suggestions to consider. Then, we need to consider a resolution authorizing use of U.S. Armed Forces in the region. Those are the issues, not just American participation in an arms embargo.

Mr. DOLE. Mr. President, we have had a discussion with the Senator from Minnesota, Senator WELLSTONE, and with both Senators from Illinois, and I think we have worked out an arrangement where the Senator from Minnesota would withdraw his second-degree amendment, I would modify my amendment, and I think it would then be acceptable.

In my view, it would be not the President's policy. But if that is what the Senator from Minnesota understands and interprets in maybe discussion with the administration officials, I am just trying to support the President's view. If it should turn out that it is not the President's view, I guess they can deal with that on the House side. That would be my guess.

Mr. WELLSTONE. Mr. President, I thank the minority leader. I think the operative language, if I can just clarify this, would simply be that "residency, or continued residency, in public housing is not contingent upon the inclusion of such a consent clause as a provision of a lease agreement."

I will say to the minority leader that I actually think that is quite the administrations policy. I think we really want to avoid people being put into a situation which is coercive. I think this takes care of that.

So with full knowledge that the Senator is going to modify his amendment, I will withdraw my amendment.

The PRESIDING OFFICER. Without objection, the Senator withdraws his amendment.

So the amendment (No. 1656) was withdrawn.

AMENDMENT NO. 1655, AS MODIFIED

Mr. DOLE. Mr. President, I send a modified amendment to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 1655, as modified.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2 of amendment 1655, strike clause No. 5 and insert:

"(5) include noncoercive consent clauses in lease agreements permitting routine warrantless apartment-by-apartment police searches for illegal weapons and illegal drugs, so long as residency or continued residency in public housing is not contingent upon the inclusion of such consent clause as a provision of a lease agreement."

Mr. DOLE. Mr. President, this amendment has been described by the Senator from Minnesota. In fact, it is the language taken from the first paragraph of his amendment.

Ms. MOSELEY-BRAUN. Mr. President, I want to thank the minority leader for working through this issue with Senator WELLSTONE. I think it is acceptable and in the right direction. I appreciate the willingness to work toward consensus on this issue.

The PRESIDING OFFICER. Is there further debate on the amendment, as modified?

Mr. DOLE. Mr. President, I am prepared to yield back any time I have.

I thank the Senator from Illinois for her contribution, and also my colleagues, Senator SIMON and Senator WELLSTONE.

Mr. WELLSTONE. I yield back the remainder of the time.

The PRESIDING OFFICER. The proponents of the second-degree amendment yield back the remainder of their time.

All time has been yielded. The question is on agreeing to the amendment, No. 1655, as modified.

Mr. DOLE. Mr. President, I want to suggest the absence of a quorum until we determine if it is all right to do it by a voice vote. I think it is.

I understand that some people have been told there would be a rollcall at 8:30. My view is that we can vote on the Bosnia amendment at 8:30. We will check that out.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, as is often the case, we are attempting to accommodate the largest number of Senators possible with respect to the schedule of this evening. We unfortunately have some Senators moving away from the Capitol and some moving toward the Capitol, and we are trying to find the proper balance to accommodate them.

I believe, after consulting with the distinguished Republican leader and the other participants in this debate, that the course of action that produces the least amount of inconvenience would be to have this vote at 8:45.

Therefore, Mr. President, I ask unanimous consent that the Senate vote on the DOLE Amendment No. 1655, as modified, at 8:45 p.m. this evening, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, I further ask unanimous consent that no other second-degree amendments be in order to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I rise in support of the Dole amendment to lift the embargo on the Bosnian Moslems. But I do so with reservations about taking this step unilaterally, against the wishes of our NATO allies, who presently have troops deployed on peacekeeping duty in Bosnia. I must point out that any step we take in the Balkan quagmire carries risks. There simply are no good solutions.

Because the situation is so complex and seemingly defies a solution, the crisis has left us befuddled and floundering, and has virtually paralyzed our will. While I cannot say with any assurance that this step or any other will bring about a peace settlement or even lower the level of violence, one thing I can assert with absolute confidence. Without firm, consistent leadership from the United States and the Commander in Chief, the crisis will only grow worse. We will continue to stumble from one humiliating episode to another unless the President and the national security apparatus of the world's one remaining superpower break the paralysis and confusion, and begin to act resolutely and clearly.

I would much prefer to see the arms embargo lifted in concert with our allies. Acting unilaterally and contrary to the views of our NATO allies could undermine that important relationship.

However, I feel the situation has deteriorated to the point where some decisive action is needed to change the equation. The embargo has left the Bosnian Moslems defenseless against the rapacious cruelty and aggression of the Serbs, armed with tanks and heavy artillery. With good reason the West has refused to enter the war on the side of the Moslems, or on any side. We have tried honestly, if ineffectually, to broker a just and lasting peace. But it is no longer morally defensible or strategically sound to deprive the Bosnian Moslems of the means to defend themselves.

Many Senators have already spoken eloquently in support of the Dole-Lieberman amendment. I will not consume the Senate's time to repeat the case that has been made in favor of letting the Moslems at least have the means to defend themselves, so that the Serbs cannot continue to shell hospitals and kill women and children with impunity. Taking this step, preferably with our allies, but unilaterally if we must, could prove to be a decisive act of U.S. leadership. If the Serbs see their advantage in heavy weaponry slipping away, if they see a Moslem community armed and capable of retaliating for the indiscriminate slaughter, perhaps they will seek a settlement at the peace table and not on the battlefield.

But, Mr. President, even if lifting the embargo does not achieve that result, I for one can no longer support a policy that guarantees the slaughter of the innocent, and keeps the conflict going. Muddled half-measures, abdicating our leadership to the U.N., and deluded wishful thinking have not worked. The current policy has proven to be neither practical nor moral. The time has come to try something else. I believe the action called for by the Dole amendment is necessary, and in fact long overdue.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I rise to speak to the amendment we are about to vote on.

Parliamentary inquiry: Is there a time certain ordered for a vote?

The PRESIDING OFFICER. Under the unanimous-consent agreement, at 8:45, we will vote on amendment numbered 1655, proposed by Senator DOLE, relating to standards in the Chicago Housing Authority.

Mr. BIDEN. Mr. President, I will then make my remarks necessarily short.

I rise to speak to the issue of the constitutionality of the proposal proposed by the President of the United States and endorsed here by Senator DOLE and others in this amendment that relate to whether or not there is able to be a genuine consent given in a lease or a contract by a public housing resident in essentially giving up their fourth amendment rights.

I will speak to this in much more detail, but let me say I think it is a close call, whether it can be done. There is no question that there is a need for greater law enforcement, greater police presence, greater security for public housing residents. There is no doubt about that.

THE ARGUMENTS IN FAVOR OF CONSTITUTIONALITY

The supporters of this consent measure—and I recognize that the supporters include the Attorney General, whose views are entitled to the greatest respect—argue that this measure is constitutional because it builds on established Supreme Court precedent relating to consent searches.

This precedent holds that citizens may waive their constitutional right to be free from police searches, and that consent searches are constitutionally valid, so long as the consent is freely given.

A tenant who signs a lease agreement incorporating a "consent-to-search" clause—so the argument goes—does so voluntarily and of his own free will. That being the case, the consent to search is freely given and is valid and enforceable.

Supporters of this provision point out that leases commonly include a clause that permits the landlord to enter without advance permission in the event of emergencies or for repairs. Supporters argue that the "consent-to-search" clause is really no different. Like the standard "right of access" clause, it is a voluntary reduction in a tenant's privacy in the tenant's greater good.

> Just as a tenant willingly permits access, for example, to permit a fire from spreading or to prevent water damage from a burst pipe, so a tenant might permit access to police to prevent guns and crime from endangering his well-being in other ways.

Supporters of this provision also point out that courts have upheld similar "consent-to-search" clauses in the context of probationers and parolees. These individuals must commonly agree, when they are released from prison, to submit to warrantless searches by law enforcement officials at any time, as part of their rehabilitation.

On the basis of these arguments, the supporters say, the Government should be permitted to require limited "consent-to-search" clauses from tenants who voluntarily move into public housing. The President's proposal is carefully drawn to limit the intrusive nature of the proposed searches, with constitutional objections in mind.

As the Attorney General wrote in her letter to the President outlining these proposals:

> As in the case of maintenance inspections, such firearms inspections should be conducted on a routine basis, during daylight hours, and should be no more intrusive than absolutely necessary to determine whether weapons are present in the tenant's unit.

The Attorney General also suggests that in some cases advance notice of the search might be given, thus reducing any constitutional objections. These careful limitations lend support to the supporters' claims that the provision is constitutional.

In summary, the supporters of the measure argue that given the narrow scope of the proposed consent clause, and by analogy to existing "right of access" clauses in leases and to "consent to search" provisions required of probationers and parolees, it is constitutional.

These arguments have great force, both constitutionally and logically. They have even greater force when you consider the atmosphere of real crisis that now pervades our public housing projects. When tenants and tenants organizations together clamor to take drastic measures—even forced reductions in their basic right to be free from random police searches—we must pay careful attention.

THE ARGUMENTS AGAINST CONSTITUTIONALITY

As strong as the arguments are in favor of the constitutionality of the "consent to search" provision, the arguments against constitutionality are also strong.

The constitutional arguments against the measure go as follows:

Leases for public housing are not contracts freely entered into by equal parties. They are contracts, say the critics, imposed by the State on persons who have no real alternative.

We all have to agree that people don't live in public housing because they want to—they live there because they have to. The opponents of constitutionality argue that to require our poorest and most defenseless citizens to give up their right to be secure in the privacy of their own homes, and to agree in advance to warrantless police intrusions without probable cause of any wrongdoing, flies in the face of the fourth amendment.

How, the critics ask, can we require these citizens to give up one of their most fundamental rights just because they are too poor to live anywhere but public housing?

For these reasons, the critics argue that any consent on the part of tenants must be viewed as involuntary and as coerced, in the constitutional sense.

Furthermore, the critics say, this is not a contract between private parties. The Government—unlike a private landlord—may not impose unconstitutional conditions on the use of public housing. Requiring tenants to give up their constitutional right to be free from warrantless searches is no different, the critics say, than requiring them to give up their right to vote in exchange for the right to live in public housing.

Next, the critics argue, it is completely improper to compare these "consent-to-search" clauses to "right-of-access" clauses in standard leases. Giving a landlord the right to enter in an emergency for the limited purpose of fixing a maintenance problem is a far cry from permitting the police to enter at will, and to search throughout the apartment for something as small as a gun.

Nor, the critics argue, is it proper to analogize these lease clauses to "consent-to-search" conditions imposed on probationers and parolees. Probationers and parolees are convicted felons; they are granted conditional liberty as an alternative to full incarceration. A tenant in a public housing project has not been convicted by a court beyond a reasonable doubt. There is no justification, say the critics, for imposing a fundamental restriction on his or her liberty, such as exists with a probationer or parolee.

For all of these powerful and well-grounded reasons, the opponents of constitutionality argue, the President's proposal to require tenants to sign consent clauses cannot be supported under the Constitution.

Mr. President, let me just briefly remind everyone what the essence of the constitutional argument is here.

It is reasonable, and the courts have concluded, that one can, in fact, if they knowingly do it with their informed consent, give up an otherwise available constitutional protection.

So if I say, "Look, you can come in and search my house. You do not need a search warrant," and I knowingly am freely consenting to that, then, no problem.

So the real, central issue here is: What constitutes consent?

Although I think it is constitutional, I want to raise at least a red flag. It is not beyond possibility that the Supreme Court or the Federal courts of this Nation will, in fact, conclude that a lease for public housing is not a contract freely entered into by equal partners. They are contracts, say the critics, imposed by the State on a person who has no real alternative. The Court, if it concludes that, will conclude that this is an unconstitutional provision.

We all have to agree that people do not live in public housing because they want to. They live in public housing because they have to.

Opponents of the constitutionality argue that to require our poorest and most defenseless citizens to give up the right to be secure in the privacy of their own home and to agree in advance to warrantless police intrusion without probable cause of any wrongdoing flies in the face of the fourth amendment.

Now, how, the critics ask, can we require these citizens to give up one of the most fundamental rights just because they are too poor to live anywhere else?

Now, there are countervailing arguments. The countervailing arguments are strong. I think they are stronger. But they are close.

I want my colleagues to know there are court cases that have been decided at the circuit court level that suggest that the Government should be permitted to require limited consent to search clauses from tenants who voluntarily move into public housing, and the President's proposal, they argue, is carefully drawn to limit the intrusive nature of the proposed searches.

The Attorney General has made a very cogent case for this.

The Presiding Officer is about to tell me the time has arrived.

The PRESIDING OFFICER. The time of 8:45 having arrived, under the previous unanimous consent, the time for debate has expired.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. BOXER). Without objection, it is so ordered.

The majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Madam President, I ask unanimous consent that amendments numbered 1640 and 1641 be withdrawn; that the Senate proceed to the consideration of the bill to be offered by Senators DOLE and LIEBERMAN, which is the identical text of amendment No. 1641, no later than the close of business on Thursday, April 28, and at that point Senator DOLE be recognized to offer a substitute amendment which is the text of Dole-Lieberman amendment No. 1640 and first- and second-degree amendments which will be the text of amendments numbered 1640 and 1641.

I further ask unanimous consent that amendment No. 1655 be agreed to; that the committee substitute be agreed to, and the Senate now proceed to vote on passage of S. 540; that upon the disposition of S. 540, the Senate proceed to the conference report on H.R. 2884, the school-to-work legislation; that upon the disposition of that conference report, the Senate turn to the consideration of S. 2000, the Head Start reauthorization bill; that there be a 1-hour time limitation on that bill and the committee substitute; that no amendments or motions be in order relative to that bill; that at the conclusion or yielding back of the time, the committee substitute be agreed to, the bill be read a third time and passed and the motion to reconsider be laid upon the table; that at 3 p.m. on Monday, April 25, the Senate proceed to the consideration of S. 1963, the interstate banking legislation.

The PRESIDING OFFICER. Is there objection?

Mr. GRASSLEY. Reserving the right to object, at an appropriate time—if it has to be part of the consent resolution —Senator HEFLIN and I would like to ask for the yeas and nays on the bankruptcy bill.

Mr. MITCHELL. This contemplates a vote on the banking bill. That is S. 540, the bill to which I referred. We intend to have a recorded vote on that. That would be the only recorded vote this evening. And if the agreement is accepted, we will vote on the bankruptcy bill. The other two matters will be taken up, and pursuant to the agreement will be adopted. And then we will not be in session tomorrow. We will be in session Monday on the interstate banking bill at 3 p.m. with no votes on Monday.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. I just indicate to my cosponsors on the lifting of the arms embargo that I have the bill to introduce and I will introduce it right after we get consent.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Madam President, I now ask for the yeas and nays on the passage of S. 540.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

MEASURE PLACED ON CALENDAR—S. 2042

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. I send the bill to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2042) to remove the United States arms embargo of the Government of Bosnia and Herzegovina.

Mr. DOLE. This is the bill referred to by the distinguished majority leader in the unanimous-consent request which will be called up before the close of business on next Thursday.

It is to be placed on the calendar.

The PRESIDING OFFICER. Without objection, the bill will be placed on the calendar.

BANKRUPTCY AMENDMENTS ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. MITCHELL. Madam President, just to repeat, so that there is no misunderstanding, the Senate will now proceed to vote on the bankruptcy reform bill by rollcall vote.

Thereafter, pursuant to the agreement, the school-to-work conference report will be taken up and agreed to. Thereafter, the Head Start reauthorization bill will be taken up and agreed to this evening. The latter two will not require a recorded vote.

The Senate will then go out of session, and will not be in session tomorrow; will return to session Monday; and will take up the interstate banking legislation at 3 p.m. on Monday. There will be no recorded votes on Monday. The Senate will then resume consideration of that bill with rollcall votes on Tuesday.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Under the previous order, the yeas and nays are ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Oklahoma [Mr. BOREN] and the Senator from Hawaii [Mr. INOUYE] are necessarily absent.

I further announce that the Senator from Maine [Mr. RIEGLE] is absent due to death in the family.

I also announce that the Senator from Alabama [Mr. SHELBY] is absent because of illness.

Mr. DOLE. I announce that the Senator from Vermont [Mr. JEFFORDS] and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote yea.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 96 Leg.]

YEAS—94

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Sasser
Simon
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wofford

NOT VOTING—6

Boren
Inouye
Jeffords
Riegle
Shelby
Simpson

So, the bill (S. 540), as amended, was passed.

S. 540

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE IMPROVEMENT.—This Act may be cited as the "Bankruptcy Amendments Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVED BANKRUPTCY ADMINISTRATION

Sec. 101. Expedited hearing on automatic stay.
Sec. 102. Expedited filing of plans under chapter 11.
Sec. 103. Expedited procedure for reaffirmation of debts.
Sec. 104. Powers of bankruptcy courts.
Sec. 105. Participation by bankruptcy administrator at meetings of creditors and equity security holders.
Sec. 106. Definition relating to eligibility to serve on chapter 11 committees.
Sec. 107. Increased incentive compensation for trustees.
Sec. 108. Dollar adjustments.
Sec. 109. Premerger notification.
Sec. 110. Allowance of creditor committee expenses.
Sec. 111. Judicial conference report.
Sec. 112. Service of process in bankruptcy proceedings on an insured depository institution.
Sec. 113. Meetings of creditors and equity security holders.
Sec. 114. Tax assessment.
Sec. 115. Additional trustee compensation.
Sec. 116. Extension to certain judicial officials of life insurance rules currently applicable to Federal judges.
Sec. 117. Settlement of claims and demands for payment.
Sec. 118. Recommendations of the judicial conference for the appointment of bankruptcy judges.

TITLE II—COMMERCIAL ISSUES IN BANKRUPTCY

Sec. 201. Small businesses.
Sec. 202. Single asset real estate.
Sec. 203. Aircraft equipment, vessels, and rolling stock equipment.
Sec. 204. Unexpired leases of personal property in chapter 11 cases.
Sec. 205. Protection of assignees of executory contracts and unexpired leases approved by court order in cases reversed on appeal.
Sec. 206. Protection of security interest in post-petition rents.
Sec. 207. Anti-alienation.
Sec. 208. Exemption.
Sec. 209. Indenture trustee compensation.
Sec. 210. Payment of taxes with borrowed funds.
Sec. 211. Return of goods.
Sec. 212. Exception to discharge.
Sec. 213. Proceeds of money order agreements.
Sec. 214. Limitation on liability of non-insider transferee for avoided transfer.
Sec. 215. Perfection of purchase-money security interest.
Sec. 216. Airport gate leases.
Sec. 217. Trustee duties.
Sec. 218. Payments.
Sec. 219. Continued perfection.
Sec. 220. Notices to creditors.
Sec. 221. Supplemental injunctions.
Sec. 222. Rejection of unexpired leases of real property or timeshare interests.
Sec. 223. Contents of plan.
Sec. 224. Priority for independent sales representatives.
Sec. 225. Amend Bankruptcy Code.

TITLE III—CONSUMER BANKRUPTCY ISSUES

Sec. 301. Period for curing default relating to principal residence.
Sec. 302. Nondischargeability of fine under chapter 13.
Sec. 303. Impairment of exemptions.
Sec. 304. Protection of child support and alimony.
Sec. 305. Bankruptcy petition preparers.
Sec. 306. Conversion or dismissal.
Sec. 307. Contents of plan.
Sec. 308. Stay of action against codebtor.
Sec. 309. Exemption for household goods.
Sec. 310. Professional fees.
Sec. 311. Interest on interest.
Sec. 312. Fairness to condominium and cooperative owners.
Sec. 313. Nonavoidability of fixing of lien on tools and implements of trade, animals, and crops.
Sec. 314. Nondischargeability of debt for money, property, services, or credit obtained by false pretense, false representation, or fraud.
Sec. 315. Conversion of case under chapter 13.
Sec. 316. Rent-to-own contracts.

TITLE IV—BANKRUPTCY REVIEW COMMISSION

Sec. 401. Short title.
Sec. 402. Establishment.
Sec. 403. Duties of the commission.
Sec. 404. Membership.
Sec. 405. Compensation of the commission.
Sec. 406. Staff of commission; experts and consultants.
Sec. 407. Powers of the commission.
Sec. 408. Report.
Sec. 409. Termination.
Sec. 410. Authorization of appropriations.

TITLE V—BANKRUPTCY FRAUD

Sec. 501. Bankruptcy fraud.

TITLE VI—TECHNICAL CORRECTIONS

Sec. 601. Title 11, United States Code.
Sec. 602. Title 28, United States Code.

TITLE VII—SEVERABILITY; EFFECTIVE DATE; APPLICATION OF AMENDMENTS

Sec. 701. Severability.
Sec. 702. Effective date; application of amendments.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. Limitation on State taxation of certain pension income.
Sec. 802. Protection against discriminatory treatment of applications for student loans.
Sec. 803. Chicago Housing Authority.

TITLE I—IMPROVED BANKRUPTCY ADMINISTRATION

SEC. 101. EXPEDITED HEARING ON AUTOMATIC STAY.

The last sentence of section 362(e) of title 11, United States Code, is amended—

(1) by striking "commenced" and inserting "concluded"; and

(2) by inserting ", unless the 30-day period is extended with the consent of the parties in interest or for a specific time which the court finds is required by compelling circumstances" before the period at the end.

SEC. 102. EXPEDITED FILING OF PLANS UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking "On" and inserting "(1) Subject to paragraph (2), on"; and

(2) by adding at the end the following new paragraph:

"(2) Under paragraph (1)—

"(A) the 120-day period referred to in this section may not be increased beyond the 1-year period beginning on the date of the order for relief under this chapter; and

"(B) the 180-day period referred to in this section may not be increased beyond the 425-day period beginning on the date of the order for relief under this chapter,

unless the need for such an increase is attributable to circumstances for which the debtor should not justly be held accountable.".

SEC. 103. EXPEDITED PROCEDURE FOR REAFFIRMATION OF DEBTS.

(a) REAFFIRMATION.—Section 524(c) of title 11, United States Code, is amended—

(1) in paragraph (2)—

(A) by inserting "(A)" after "(2)";

(B) by adding "and" at the end; and

(C) by inserting after subparagraph (A), as designated by subparagraph (A), the following new subparagraph:

"(B) such agreement contains a clear and conspicuous statement that advises the debtor that the agreement is not required under this title, under nonbankruptcy law, or under any agreement that is not in accordance with the provisions of this subsection;"; and

(2) in paragraph (3)—

(A) in the matter preceding subparagraph (A) by striking "such agreement" the last place it appears;

(B) in subparagraph (A)—

(i) by inserting "such agreement" after "(A)"; and

(ii) by striking "and" at the end; and

(C) in subparagraph (B)—

(i) by inserting "such agreement" after "(B)"; and

(ii) by adding "and" at the end; and

(3) by adding at the end the following new subparagraph:

"(C) the attorney fully advised the debtor of the legal effect and consequences of—

"(i) an agreement of the kind described in this subsection; and

"(ii) any default under such an agreement;".

(b) EFFECT OF DISCHARGE.—The third sentence of section 524(d) of title 11, United States Code, is amended in the matter preceding paragraph (1) by inserting "and was not represented by an attorney during the course of negotiating the agreement" after "this section".

SEC. 104. POWERS OF BANKRUPTCY COURTS.

(a) STATUS CONFERENCES.—Section 105 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) The court, on its own motion or on the motion of any party in interest, may—

"(1) hold a status conference regarding any case or proceeding under this title after notice to the parties in interest; and

"(2) unless it would be inconsistent with another provision of this title or with applicable Bankruptcy Rules, issue an order at any such conference prescribing such limitations and conditions as the court deems to be appropriate to ensure that the case is handled expeditiously and economically, including an order that—

"(A) sets the date by which the debtor must accept or reject an executory contract or unexpired lease; or

"(B) in a case under chapter 11—

"(i) sets a date by which the debtor, or the trustee if one has been appointed, shall file a disclosure statement and plan;

"(ii) sets a date by which the debtor, or the trustee if one has been appointed, shall solicit acceptances of a plan;

"(iii) sets the date by which a party in interest other than a debtor may file a plan;

"(iv) fixes the notice to be provided regarding the hearing on approval of the disclosure statement;

"(v) provides that the hearing on approval of the disclosure statement may be combined with the hearing on confirmation of the plan; and

"(vi) directs the use of standard-form disclosure statements, plans, or other forms that have been adopted by the court.".

(b) Establishment, Operation, and Termination of Bankruptcy Appellate Panel Service.—Section 158(b) of title 28, United States Code, is amended—

(1) by striking paragraphs (3) and (4);

(2) by redesignating paragraph (2) as paragraph (4);

(3) by striking paragraph (1) and inserting the following new paragraphs:

"(1)(A) Except as provided in subparagraph (B), the judicial council of a circuit shall establish a bankruptcy appellate panel service composed of bankruptcy judges of the districts in the circuit who are appointed by the judicial council in accordance with paragraph (3), to hear and determine, with the consent of all parties to an appeal, appeals under subsection (a).

"(B) The judicial council of a circuit need not establish a bankruptcy appellate panel service if the judicial council finds that—

"(i) there are insufficient judicial resources available in the circuit;

"(ii) establishment of such a service would result in undue delay or increased cost to parties in cases under title 11; or

"(iii)(I) other factors of sound judicial administration make the creation of such a service inappropriate; and

"(II) bankruptcy appeals are being heard and decided by the district courts in a timely manner.

"(2)(A)(i) A judicial council may at any time reconsider its decision to create or not to create a bankruptcy appellate panel service.

"(ii) A decision on reconsideration under clause (i) shall be submitted to the Judicial Conference of the United States within 90 days after it is made.

"(B) If the judicial council of a circuit finds that a circumstance described in paragraph (1)(B) (i), (ii), or (iii) exists, the judicial council may provide for the completion of the appeals then pending before a bankruptcy appellate panel service and the orderly termination of the service.

"(3) Bankruptcy judges appointed under paragraph (1) shall be appointed for a term of 2 years and may be reappointed under that paragraph."; and

(4) by inserting after paragraph (4), as redesignated by paragraph (2), the following new paragraphs:

"(5) An appeal to be heard under this subsection shall be heard by a panel of 3 members of the bankruptcy appellate panel service, except that a member of the service may not hear an appeal originating in the district for which the member is appointed or designated under section 152.

"(6) Appeals may not be heard under this subsection by a panel of the bankruptcy appellate panel service unless the district judges for the district in which the appeals occur, by majority vote, have authorized the service to hear and determine appeals originating in that district.".

(c) Appeals To Be Heard by Bankruptcy Appellate Panel Service.—Section 158 of title 28, United States Code, is amended—

(1) in subsection (c) by striking "(c) An appeal" and inserting the following:

"(c)(1) Subject to subsection (b), an appeal under subsection (a) shall be heard by a 3-judge panel of the bankruptcy appellate panel service established under subsection (b)(1) unless—

"(A) the appellant elects, at the time of filing the appeal; or

"(B) any other party elects, not later than 30 days after service of notice of the appeal, to have the appeal heard by the district court.

"(2) An appeal".

(d) Rules of Procedure and Evidence; Method of Prescribing.—Section 2073 of title 28, United States Code, is amended—

(1) in subsection (a)(2) by striking "section 2072" and inserting "sections 2072 and 2075"; and

(2) in subsections (d) and (e) by inserting "or 2075" after "2072" each place it appears.

(f) Effective Date of Bankruptcy Rules.—The third undesignated paragraph of section 2075 of title 28, United States Code, is amended to read as follows:

"The Supreme Court shall transmit to Congress not later than May 1 of the year in which a rule prescribed under this section is to become effective a copy of the proposed rule. The rule shall take effect no earlier than December 1 of the year in which it is transmitted to Congress unless otherwise provided by law.".

SEC. 105. PARTICIPATION BY BANKRUPTCY ADMINISTRATOR AT MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

(a) Presiding Officer.—A bankruptcy administrator appointed under section 302(d)(3)(I) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note; 100 Stat. 3123), or the bankruptcy administrator's designee, may preside at—

(1) a meeting of creditors convened under section 341(a) of title 11, United States Code; and

(2) a meeting of equity security holders convened under section 341(b) of title 11, United States Code.

(b) Examination of the Debtor.—The bankruptcy administrator or the bankruptcy administrator's designee may examine the debtor at the meeting of creditors and may administer the oath required under section 343 of title 11, United States Code.

SEC. 106. DEFINITION RELATING TO ELIGIBILITY TO SERVE ON CHAPTER 11 COMMITTEES.

The definition of "person" in section 101 of title 11, United States Code, as amended by section 501(a), is amended to read as follows:

"'person' includes an individual, partnership, and corporation, but does not include a governmental unit, except that a governmental unit that—

"(A) acquires an asset from a person—

"(i) as a result of the operation of a loan guarantee agreement; or

"(ii) as receiver or liquidating agent of a person;

"(B) is a guarantor of a pension benefit payable by or on behalf of the debtor or an affiliate of the debtor; or

"(C) is the legal or beneficial owner of an asset of—

"(i) an employee pension benefit plan that is a governmental plan, as defined in section 414(d) of the Internal Revenue Code of 1986; or

"(ii) an eligible deferred compensation plan, as defined in section 457(b) of the Internal Revenue Code of 1986,

shall be considered, for purposes of section 1102, to be a person with respect to such asset or such benefit.".

SEC. 107. INCREASED INCENTIVE COMPENSATION FOR TRUSTEES.

Section 326(a) of title 11, United States Code, is amended to read as follows:

"(a)(1) In a case under chapter 7 or 11, the court may allow reasonable compensation of the trustee under section 330 for the trustee's services, payable after the trustee renders such services, in an amount that does not exceed—

"(A) the value of the funds and other property disbursed or turned over by the trustee to parties in interest in the case (excluding the debtor but including holders of secured claims), multiplied by

"(B) the applicable percentage stated in paragraph (2).

"(2) The applicable percentage stated in this paragraph is the following percentage of the value of the funds and other property disbursed or turned over by the trustee:

"(A) 25 percent of any amount up to $4,999.

"(B) 10 percent of any amount between $5,000 and $49,999 inclusive.

"(C) 5 percent of any amount between $50,000 and $999,999 inclusive.

"(D) A reasonable percentage, not to exceed 3 percent, of any amount greater than $999,999.".

SEC. 108. DOLLAR ADJUSTMENTS.

(a) Who May Be a Debtor Under Chapter 13.—Section 109(e) of title 11, United States Code, is amended—

(1) by striking "unsecured debts of less than $100,000 and noncontingent, liquidated, secured debts of less than $350,000" and inserting "debts of less than $1,000,000"; and

(2) by striking "unsecured debts that aggregate less than $100,000 and noncontingent, liquidated, secured debts of less than $350,000" and inserting "debts in the aggregate of less than $1,000,000".

(b) Involuntary Cases.—Section 303(b) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "$5,000" and inserting "$10,000"; and

(2) in paragraph (2) by striking "$5,000" and inserting "$10,000".

(c) Priorities.—Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (3)(B) by striking "$2,000" and inserting "$4,000";

(2) in paragraph (4)(B)(i) by striking "$2,000" and inserting "$4,000";

(3) in paragraph (5) by striking "$2,000" and inserting "$4,000"; and

(4) in paragraph (6)—

(A) by striking ", to the extent of $900 for each such individual,"; and

(B) by inserting ", to the extent of $1,800 for each such individual or, in the case of a deposit made jointly by 2 or more individuals with respect to the same purchase, lease, or rental, for each such group of individuals" before the period.

(d) Exemptions.—Section 522(d) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "$7,500" and inserting "$15,000";

(2) in paragraph (2) by striking "$1,200" and inserting "$2,400";

(3) in paragraph (3)—

(A) by striking "$200" and inserting "$400"; and

(B) by striking "$4,000" and inserting "$8,000";

(4) in paragraph (4) by striking "$500" and inserting "$1,000";

(5) in paragraph (5)—

(A) by striking "$400" and inserting "$800"; and

(B) by striking "$3,750" and inserting "$7,500";

(6) in paragraph (6) by striking "$750" and inserting "$1,500";

(7) in paragraph (8) by striking "$4,000" and inserting "$8,000"; and

(8) in paragraph (11)(D) by striking "$7,500" and inserting "$15,000".

(e) Appointment of Examiner in Certain Circumstances.—Section 1104(b)(2) of title 11, United States Code, is amended by striking "$5,000,000" and inserting "$10,000,000".

SEC. 109. PREMERGER NOTIFICATION.

Sections 363(b)(2) (A) and (B) of title 11, United States Code, are amended to read as follows:

"(A) notwithstanding subsection (a) of that section, the notification required to be given by the debtor shall be given by the trustee; and

"(B) notwithstanding subsection (b) of that section, the required waiting period shall end on the 15th day after the date of receipt of the notification, unless the waiting period is extended—

"(i) pursuant to subsection (e)(2) (as it applies to a cash tender offer) or (g)(2) of that section; or

"(ii) by the court, after notice and a hearing.".

SEC. 110. ALLOWANCE OF CREDITOR COMMITTEE EXPENSES.

Section 503(b) of title 11, United States Code, is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(7) the actual, necessary expenses incurred by a member of a committee appointed under section 1102 in the performance of the duties of the committee (including fees of an attorney or accountant for professional services rendered for the member to the extent allowable under paragraph (4)), other than claims for compensation for services rendered as a member of the committee.".

SEC. 111. JUDICIAL CONFERENCE REPORT.

Not later than 1 year after the date of enactment of this Act, the Judicial Conference of the United States shall produce and submit to the appropriate committees of Congress a report containing a description of—

(1) the efforts of the Federal judiciary to automate and computerize the Federal bankruptcy courts;

(2) the types of information that are currently available to Congress and the public regarding the number, size, and types of bankruptcy cases filed in the Federal courts;

(3) the types of additional information that the Federal judiciary believes are necessary and desirable to enhance its ability to manage the affairs of the bankruptcy system; and

(4) the projected timetable for being able to supply those additional types of information to Congress and the public in the future.

SEC. 112. SERVICE OF PROCESS IN BANKRUPTCY PROCEEDINGS ON AN INSURED DEPOSITORY INSTITUTION.

Rule 7004 of Bankruptcy Rules is amended—

(1) in subsection (b) by striking "In addition" and inserting "Except as provided in subdivision (h), in addition"; and

(2) by adding at the end the following new subdivision:

"(h) Service of Process on an Insured Depository Institution.—Notwithstanding any other provision of this rule or any other rule or law, service on an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) shall be made by certified mail addressed to an officer of the institution unless—

"(1) the institution has appeared by its attorney, in which case the attorney shall be served by first class mail;

"(2) the court orders otherwise after service upon the institution by certified mail of notice of an application to permit service on the institution by first class mail sent to an officer of the institution designated by the institution; or

"(3) the institution has waived in writing its entitlement to service by certified mail by designating an officer to receive service.".

SEC. 113. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) Prior to the conclusion of the meeting of creditors or equity security holders, the United States trustee shall orally examine the debtor under oath and make recommendations on a preserved record regarding the debtor's knowledge of—

"(1) the potential consequences of seeking a discharge in bankruptcy, including the effects on credit history;

"(2) the debtor's ability to file a petition under a different chapter of this title;

"(3) the effect of receiving a discharge of debts under this title;

"(4) the effect of reaffirming a debt, including the debtor's knowledge of the provisions of section 524(d);

"(5) the debtor's duties under section 521; and

"(6) the potential penalties and fines for committing fraud or other abuses of this title.".

SEC. 114. TAX ASSESSMENT.

Section 362(b)(9) of title 11, United States Code, is amended to read as follows:

"(9) under subsection (a), of—

"(A) an audit by a governmental unit to determine tax liability;

"(B) the issuance to the debtor by a governmental unit of a notice of tax deficiency;

"(C) a demand for tax returns; an assessment of an uncontested or agreed upon tax liability; or

"(D) the making of an assessment for any tax and issuance of a notice and demand for payment of such an assessment (but any tax lien that would otherwise attach to property of the estate by reason of such an assessment shall not take effect until the property is no longer property of the estate).".

SEC. 115. ADDITIONAL TRUSTEE COMPENSATION.

Section 330(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Judicial Conference of the United States shall prescribe additional fees of the same kind as prescribed under section 1914(b) of title 28, to pay $15 to the trustee serving in such case after such trustee's services are rendered. Such $15 shall be paid in addition to the amount paid under paragraph (1).".

SEC. 116. EXTENSION TO CERTAIN JUDICIAL OFFICIALS OF LIFE INSURANCE RULES CURRENTLY APPLICABLE TO FEDERAL JUDGES.

(a) Eligibility.—Section 8701(a) of title 5, United States Code, is amended—

(1) in paragraph (9) by striking "and" after the semicolon;

(2) in paragraph (10) by adding "and" after the semicolon; and

(3) by inserting after paragraph (10) and preceding the matter before subparagraph (A) the following new paragraph:

"(11) a judicial official (as defined in section 376(a)(1) of title 28), including—

"(i) a judge of the United States Court of Federal Claims—

"(I) who is in regular active service, or

"(II) who is retired from regular active service under section 178 of title 28;

"(ii) a judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands—

"(I) who is in regular active service, or

"(II) who is retired from regular active service under section 373 of title 28; and

"(iii) a bankruptcy judge or a magistrate judge—

"(I) who is in regular active service, or

"(II) who retired after attaining age 65 from regular active service under chapter 83 or 84 of this title, section 377 of title 28, or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988 (28 U.S.C. 377 note; Public Law 100–659);".

(b) Continuation of Coverage.—

(1) Termination; optional insurance.—(A) Sections 8706(a) and 8714b(c)(1) of title 5, United States Code, are each amended in the second sentence by inserting "and judicial officials specifically included under section 8701(a)(11)" after "section 8701(a)(5) (ii) and (iii)".

(B) Sections 8714a(c)(1) and 8714c(c)(1) of title 5, United States Code, are each amended by adding after the first sentence "Justices and judges described under section 8701(a)(5) (ii) and (iii) and judicial officials specifically included under section 8701(a)(11) of this chapter are deemed to continue in active employment for purposes of this chapter.".

(2) Application of amendments.—The amendments made by paragraph (1) shall apply to a judicial officer described in section 8701(a)(11) of title 5, United States Code (as amended by this section) who—

(A) is retired under chapter 83 or 84 of title 5, United States Code, section 178, 373, or 377 of title 28, United States Code, or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988 (28 U.S.C. 377 note); and

(B) retires on or after August 1, 1987.

(c) Technical Amendments.—

(1) Section 8714A.—Section 8714a(c) of title 5, United States Code, is amended by striking paragraph (3).

(2) Section 8714B.—Section 8714b(c)(1) is amended by striking the third sentence.

SEC. 117. SETTLEMENT OF CLAIMS AND DEMANDS FOR PAYMENT.

Section 105 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) A court may issue an injunction that requires claims and demands to be presented for payment solely to a trust or other vehicle that is established for the purpose of settling such claims and demands and is approved by the court and entered into pursuant to an order approving a plan of reorganization.".

SEC. 118. RECOMMENDATIONS OF THE JUDICIAL CONFERENCE FOR THE APPOINTMENT OF BANKRUPTCY JUDGES.

Section 152(b) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) If, as a result of a review of judicial districts under paragraph (3), the Judicial

Conference determines that there is a need for a number (including a fractional number) of additional bankruptcy judges for any judicial district, but the Judicial Conference determines to submit to Congress a recommendation that the appointment of a lesser number of bankruptcy judges be authorized for that district, the Judicial Conference shall submit with the recommendation a statement detailing—

"(i) the difference between the number of additional bankruptcy judges that has been determined to be needed and the number recommended to be authorized; and

"(ii) the methods by which those numbers were determined.

"(B) If the Judicial Conference has submitted to Congress a recommendation that a lesser number of additional bankruptcy judges be authorized to be appointed than a review of judicial districts shows is needed for a judicial district, the Judicial Conference shall submit a subsequent recommendation that satisfies the continuing need for additional bankruptcy judges for that judicial district unless—

"(i) the Congress, without having received such a recommendation, authorizes the requisite number of additional bankruptcy judges to be appointed for that district; or

"(ii) a subsequent review of judicial districts shows that that number of additional bankruptcy judges is no longer needed for that district.".

TITLE II—COMMERCIAL ISSUES IN BANKRUPTCY

SEC. 201. SMALL BUSINESSES.

(a) DEFINITION.—Section 101 of title 11, United States Code, as amended by section 501, is amended by inserting in its proper alphabetical position the following new definition:

" 'small business' means a person engaged in commercial or business activities (but does not include a person whose primary activity is the business of owning or operating real property and activities incidental thereto) whose aggregate liquidated secured and unsecured debts as of the date of the petition do not exceed $2,500,000.".

(b) CREDITORS' COMMITTEES.—Section 1102(a) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "As" and inserting "Except as provided in paragraph (3), as"; and

(2) by adding at the end the following new paragraph:

"(3) On request of a party in interest in a case in which the debtor is a small business, the court may order that a committee of creditors not be appointed.".

(c) CONVERSION OR DISMISSAL.—Section 1112(b) of title 11, United States Code, is amended by inserting "or bankruptcy administrator" after "United States trustee".

(d) WHO MAY FILE A PLAN.—Section 1121 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) In a case in which the debtor is a small business—

"(A) only the debtor may file a plan until after 90 days after the date of the order for relief under this chapter;

"(B) all plans for relief shall be filed within 150 days after the date of the order for relief; and

"(C) on request of a party in interest made within the respective periods specified in subparagraphs (A) and (B) and after notice and a hearing, the court may—

"(i) reduce the 90-day period or the 150-day period specified in subparagraph (A) or (B) for cause; and

"(ii) increase the 90-day period specified in subparagraph (A) if the debtor shows that the need for an increase is caused by circumstances for which the debtor should not be held accountable.".

(e) POSTPETITION DISCLOSURE.—Section 1125 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(f) Notwithstanding subsection (b), in a case in which the debtor is a small business—

"(1) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

"(2) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement so long as the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed at least 10 days prior to the date of the hearing on confirmation of the plan; and

"(3) a hearing on the disclosure statement may be combined with a hearing on confirmation of a plan.".

SEC. 202. SINGLE ASSET REAL ESTATE.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting in its proper alphabetical position the following new definition:

" 'single asset real estate' means real property constituting a single property or project, other than residential real property with fewer than 4 residential units, which generates substantially all of the gross income of a debtor and on which no substantial business is being conducted by a debtor other than the business of operating the real property and activities incidental thereto.".

(b) AUTOMATIC STAY.—Section 362 of title 11, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (1) by striking "or" at the end;

(B) in paragraph (2) by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(3) with respect to a stay of an act against single asset real estate under subsection (a), by a creditor whose claim is secured by an interest in such real estate, unless, not later than the date that is 90 days after the entry of the order for relief (or such later date as the court may determine for cause by order entered within that 90-day period)—

"(A) the debtor has filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; or

"(B) the debtor has commenced monthly payments to each creditor whose claim is secured by such real estate, which payments are in an amount equal to interest at a current fair market rate on the value of the creditor's interest in the real estate."; and

(2) by adding at the end the following new subsection:

"(i)(1) Upon request of a creditor whose claim is secured by an interest in single asset real estate, if the interest has more than de minimis value, the court shall issue an order granting limited relief from the stay provided under subsection (a) to permit the creditor to continue a foreclosure proceeding commenced before the commencement of the case up to, but not including, the point of sale.

"(2) An order under paragraph (1) shall not issue before the date that is 30 days after the date of entry of the order for relief, but thereafter shall issue promptly after such a request.

"(3) A hearing shall not be required for the granting of relief under paragraph (1) unless the debtor files an objection to the request and shows the court extraordinary circumstances requiring such a hearing.".

SEC. 203. AIRCRAFT EQUIPMENT, VESSELS, AND ROLLING STOCK EQUIPMENT.

(a) AMENDMENT OF SECTION 1110.—Section 1110 of title 11, United States Code, is amended to read as follows:

"§ 1110. Aircraft equipment and vessels

"(a)(1) The right of a secured party with a security interest in equipment described in paragraph (2) or of a lessor or conditional vendor of such equipment to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract is not affected by section 362, 363, or 1129 or by any power of the court to enjoin the taking of possession unless—

"(A) before the date that is 60 days after the date of the order for relief under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after the date of the order under such security agreement, lease, or conditional sale contract; and

"(B) any default, other than a default of a kind specified in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

"(i) that occurs before the date of the order is cured before the expiration of such 60-day period; and

"(ii) that occurs after the date of the order is cured before the later of—

"(I) the date that is 30 days after the date of the default; or

"(II) the expiration of such 60-day period.

"(2) Equipment is described in this paragraph if it is—

"(A) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301)) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is an air carrier (as defined in that section, except that for the purposes of this section the term also includes an air carrier in intrastate commerce); or

"(B) a documented vessel (as defined in section 30101(1) of title 46, United States Code) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that holds a certificate of public convenience and necessity or permit issued by the Interstate Commerce Commission.

"(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

"(c) If the trustee makes an agreement of the kind described in subsection (a)(1)(A) with respect to a security agreement, lease, or conditional sale contract, any costs and expenses incurred by the secured party, lessor, or conditional vendor to remedy the failure of the trustee to perform the obligations of the estate to maintain or return equipment in accordance with the security agreement, lease, or conditional sale contract constitute administrative expenses under section 503(b)(1)(A).

"(d) With respect to equipment first placed in service on or prior to the date of enactment of this subsection, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term 'security interest' means a purchase-money equipment security interest.".

(b) AMENDMENT OF SECTION 1168.—Section 1168 of title 11, United States Code, is amended to read as follows:

"§ 1168. Rolling stock equipment

"(a)(1) The right of a secured party with a security interest in or of a lessor or conditional vendor of equipment described in paragraph (2) to take possession of such equipment in compliance with an equipment security agreement, lease, or conditional sale contract is not affected by section 362, 363, or 1129 or by any power of the court to enjoin the taking of possession, unless—

"(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after the date of commencement of the case under such security agreement, lease, or conditional sale contract; and

"(B) any default, other than a default of a kind described in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

"(i) that occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period; and

"(ii) that occurs or becomes an event of default after the date of commencement of the case is cured before the later of—

"(I) the date that is 30 days after the date of the default or event of default; or

"(II) the expiration of such 60-day period.

"(2) Equipment is described in this paragraph if it is rolling stock equipment or accessories used on such equipment, including superstructures and racks, that is subject to a security interest granted by, leased to, or conditionally sold to the debtor.

"(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

"(c) If the trustee makes an agreement of the kind described in subsection (a)(1)(A) with respect to a security agreement, lease, or conditional sale contract, any costs and expenses incurred by the secured party, lessor, or conditional vendor to remedy the failure of the trustee to perform the obligations of the estate to maintain or return equipment in accordance with the security agreement, lease, or conditional sale contract constitute administrative expenses under section 503(b)(1)(A).

"(d) With respect to equipment first placed in service on or prior to the date of enactment of this subsection, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term 'security interest' means a purchase-money equipment security interest.".

(c) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—The amendment of sections 1110 and 1168 of title 11, United States Code, made by subsections (a) and (b) shall not apply to cases commenced under title 11, United States Code, prior to the date of enactment of this Act.

(2) PLACEMENT IN SERVICE.—The amendment of section 1168(a) of title 11, United States Code, made by subsection (b) shall take effect with respect to equipment that is first placed in service after the date of enactment of this Act, including rolling stock equipment that is substantially rebuilt after that date and accessories used on such equipment.

SEC. 204. UNEXPIRED LEASES OF PERSONAL PROPERTY IN CHAPTER 11 CASES.

Section 365(d)(3) of title 11, United States Code, is amended in the first sentence by inserting after "real property" the following: "and, in a case under chapter 11, under an unexpired lease of personal property".

SEC. 205. PROTECTION OF ASSIGNEES OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES APPROVED BY COURT ORDER IN CASES REVERSED ON APPEAL.

Section 365 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(p)(1) Except as provided in paragraph (2), the reversal or modification on appeal of an authorization under this section of an assignment of an executory contract or unexpired lease does not affect the validity of the assignment to an entity that obtained the assignment in good faith, whether or not the entity knew of the pendency of the appeal, unless the authorization and the assignment were stayed pending appeal.

"(2) This subsection does not apply to an executory contract that is related to, or to an unexpired lease of real property in, a shopping center.".

SEC. 206. PROTECTION OF SECURITY INTEREST IN POST-PETITION RENTS.

POSTPETITION EFFECT OF SECURITY INTEREST.—Section 552(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking "rents," each place it appears; and

(3) by adding at the end the following new paragraph:

"(2)(A) Except as provided in sections 363, 506(c), 522, 544, 545, 547, and 548, if—

"(i) the debtor and an entity entered into a security agreement that was duly recorded in the public records before the commencement of the case; and

"(ii) the security interest created by the security agreement extends to—

"(I) property of the debtor acquired before the commencement of the case; and

"(II)(aa) to amounts paid as rents of such property; or

"(bb) to amounts paid for the use or occupancy of such property (including fees, charges, accounts, or other payments for the use or occupancy of rooms and other public facilities in a property such as a hotel, motel, or other lodging),

the security interest extends to such amounts paid to the estate as rents or as fees, charges, accounts, or other payments after the commencement of the case to the extent provided in the security agreement, whether or not the security interest in such rents or such fees, charges, accounts, or other payments is perfected under applicable nonbankruptcy law, except to the extent that the court, after notice and a hearing and based on the equities of the case, orders otherwise.

"(B) If a security interest extends under subparagraph (A) to rents acquired by the estate after the commencement of the case, the security interest in such rents shall be deemed to be perfected for the purpose of section 544(a).".

(b) USE SALE, OR LEASE OF PROPERTY.—Section 363(a) of title 11, United States Code, is amended by inserting: "and the fees, charges, accounts or other payments for the use or occupancy of rooms and other public facilities in hotels, motels, or other lodging properties" after "property".

SEC. 207. ANTI-ALIENATION.

(a) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 501(a), is amended—

(1) by striking "or" at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(18) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, pursuant to statute or the debtor's agreement authorizing such withholding and collection for the benefit of a qualified employer plan (within the meaning of section 72(p)(4) of the Internal Revenue Code of 1986), to the extent that the amounts withheld and collected are used solely for payments relating to a loan from the plan secured by the debtor's nonforfeitable accrued benefit under the plan.".

(b) EXCEPTIONS TO DISCHARGE.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(13) owed to a qualified employer plan (within the meaning of section 72(p)(4) of the Internal Revenue Code of 1986) pursuant to a loan from the plan secured by the debtor's nonforfeitable accrued benefit under the plan.".

(c) PROPERTY OF THE ESTATE.—Section 541(b) of title 11, United States Code, as amended by section 501(d)(12), is amended in paragraph (1)—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(E) any nontransferable interest of the debtor in a qualified employer plan (within the meaning of section 72(p)(4) of the Internal Revenue Code of 1986) to the extent not otherwise excluded from the debtor's estate pursuant to subsection (c)(2).".

(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) The plan may not materially alter the terms of a loan described in section 362(b)(18).".

(e) PLAN CONFIRMATION.—Section 1325 of title 11, United States Code, is amended—

(1) in subsection (b)(2) by striking "debtor and" and inserting "debtor (not including income that is withheld from the debtor's wages for the purposes stated in section 362(b)(18)) and"; and

(2) in subsection (c) by striking "income to" and inserting "income (except income

that is withheld from a debtor's wages for the purposes stated in section 362(b)(18) after confirmation of a plan) to".

SEC. 208. EXEMPTION.

Section 109(b)(2) of title 11, United States Code, is amended by inserting after "homestead association," the following: "a small business investment company licensed by the Small Business Administration under section 301 (c) or (d) of the Small Business Investment Act of 1958 (15 U.S.C. 681 (c) and (d)),".

SEC. 209. INDENTURE TRUSTEE COMPENSATION.

Section 503(b) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(B) by inserting after subparagraph (C) the following new subparagraph;

"(D) an indenture trustee;"; and

(C) in subparagraph (E), as redesignated by subparagraph (A), by striking "an indenture trustee,"; and

(2) in paragraph (5) by striking "for services rendered by an indenture trustee in making a substantial contribution" and inserting "for reasonable and necessary services rendered by an indenture trustee".

SEC. 210. PAYMENT OF TAXES WITH BORROWED FUNDS.

Section 523(a) of title 11, United States Code, as amended by section 207(b), is amended—

(1) by striking "or" at the end of paragraph (12);

(2) by adding "or" at the end of paragraph (13); and

(3) by adding at the end the following new paragraph:

"(14) incurred to pay a tax or customs duty that would be nondischargeable pursuant to paragraph (1).".

SEC. 211. RETURN OF GOODS.

(a) LIMITATION ON AVOIDING POWERS.—Section 546 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(h) Notwithstanding the rights and powers of a trustee under sections 544(a), 545, 547, 549, and 553, if the court determines, after notice and a hearing, that a return is in the best interests of the estate, the debtor, with the consent of a creditor, may return goods shipped to the debtor by the creditor before the commencement of the case, and the creditor may offset the purchase price of such goods against any claim of the creditor against the debtor that arose before the commencement of the case.".

(b) SETOFF.—Section 553(b)(1) is amended by inserting "546(h)," after "365(h)(2),".

SEC. 212. EXCEPTION TO DISCHARGE.

Section 523(a)(2)(C) of title 11, United States Code, is amended by striking "forty" and inserting "60".

SEC. 213. PROCEEDS OF MONEY ORDER AGREEMENTS.

Section 541(b) of title 11, United States Code, as amended by section 207(c), is amended in paragraph (1)—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(F) any interest in cash or cash equivalents that constitute proceeds of a sale by the debtor of a money order that is made—

"(i) on or after the date that is 14 days prior to the date on which the petition is filed; and

"(ii) under an agreement with a money order issuer that prohibits the commingling of such proceeds with property of the debtor (notwithstanding that, contrary to the agreement, the proceeds may have been commingled with property of the debtor),

unless the money order issuer had not taken action, prior to the filing of the petition, to require compliance with the prohibition.".

SEC. 214. LIMITATION ON LIABILITY OF NON-INSIDER TRANSFEREE FOR AVOIDED TRANSFER.

Section 550 of title 11, United States Code, is amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) The trustee may recover under subsection (a) a transfer avoided under section 547(b) from a first transferee or an immediate or mediate transferee of a first transferee only to the extent that—

"(1) all the elements of section 547(b) are satisfied as to the first transferee; and

"(2) the exceptions in section 547(c) do not protect the first transferee.".

SEC. 215. PERFECTION OF PURCHASE-MONEY SECURITY INTEREST.

Section 547 of title 11, United States Code, is amended in subsection (c)(3)(B) and subsection (e)(2) by striking "10" and inserting "20".

SEC. 216. AIRPORT GATE LEASES.

Section 365(d) of title 11, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) Notwithstanding paragraphs (1), (2), and (4), and subject to subparagraph (B) of this paragraph, if the trustee in a case under any chapter of this title does not assume or reject an unexpired lease or executory contract with an airport operator under which the debtor has a right to the use or possession of an airport terminal, aircraft gate, or related facility within 60 days after the date of the order for relief, or within such additional time (not to exceed 120 additional days) as the court sets during such 60-day period, such lease or executory contract is deemed rejected, and the trustee shall immediately surrender the airport terminal, gate, or related facility to the airport operator.

"(B)(i) The court may enter an order extending beyond 180 days after the date of the order for relief the time for assumption or rejection of an unexpired lease or executory contract described in subparagraph (A) only after finding that such an extension of time does not cause substantial harm to the airport operator or to airline passengers.

"(ii) In making the determination of substantial harm, the court shall consider, among other relevant factors—

"(I) the level of use of airport terminals, gates, or related facilities subject to the unexpired lease or executory contract;

"(II) the existence of competing demands for the use of the airport terminals, gates, or related facilities;

"(III) the size and complexity of the case; and

"(IV) air carrier competition at the airport.

"(iii) The burden of proof for establishing cause for an extension of time under this subparagraph shall be on the trustee.

"(iv) An order entered under this subparagraph shall be without prejudice to the right of a party in interest to request, at any time, a shortening or termination of the extension of time granted under this subparagraph.".

SEC. 217. TRUSTEE DUTIES.

Section 586(a)(3)(A) of title 28, United States Code, is amended to read as follows:

"(A)(i) reviewing, in accordance with procedural and substantive guidelines adopted by the Executive Office of the United States Trustee (which guidelines shall be applied uniformly by the United States trustee except when circumstances warrant different treatment), applications filed for compensation and reimbursement under section 330 of title 11; and

"(ii) filing with the court comments with respect to each such an application and, if the United States Trustee considers it to be appropriate, objections to such application.".

SEC. 218. PAYMENTS.

Section 1326(a)(2) of title 11, United States Code, is amended in the second sentence by striking the period and inserting "as soon as practicable.".

SEC. 219. CONTINUED PERFECTION.

(a) AUTOMATIC STAY.—Section 362(b)(3) of title 11, United States Code, is amended by inserting ", or to maintain or continue the perfection of," after "to perfect".

(b) LIMITATIONS ON AVOIDING POWERS.—Section 546(b) of title 11, United States Code, is amended to read as follows:

"(b)(1) The rights and powers of a trustee under sections 544, 545, and 549 of this title are subject to any generally applicable law that—

"(A) permits perfection of an interest in property to be effective against an entity that acquires rights in the property before the date of perfection; or

"(B) provides for the maintenance or continuation of perfection of an interest in property to be effective against an entity that acquires rights in the property before the date on which action is taken to effect such maintenance or continuation.

"(2) If—

"(A) a law described in paragraph (1) requires seizure of property that is subject to a perfected interest or commencement of an action to accomplish perfection or maintenance or continuation of an interest in property; and

"(B) the property has not been seized or an action has not been commenced before the date of the filing of the petition,

the interest in such property shall be perfected, or perfection of such interest shall be maintained or continued, by notice within the time fixed by that law for the seizure of property or commencement of an action.".

SEC. 220. NOTICES TO CREDITORS.

Section 342 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(c) If notice is required to be given by the debtor to a creditor under this title, any rule, any applicable law, or any order of the court, such notice shall contain the name and address of the debtor and the account number, if any, of the debt owed to the creditor if the account number is known to or reasonably ascertainable by the debtor.".

SEC. 221. SUPPLEMENTAL INJUNCTIONS.

Section 524 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(g)(1)(A) After notice and hearing, a court that enters an order confirming a plan of reorganization under chapter 11 may issue an injunction to supplement the injunctive effect of a discharge under this section.

"(B) An injunction may be issued under subparagraph (A) to enjoin persons and governmental units from taking legal action for the purpose of directly or indirectly collecting, recovering, or receiving payment or recovery of, on, or with respect to any claim or demand that, under a plan of reorganization, is to be paid in whole or in part by a trust described in paragraph (2)(B)(i), except such legal actions as are expressly allowed by the injunction, the confirmation order, or the plan of reorganization.

"(2)(A) If the requirements of subparagraph (B) are met at any time, then, after entry of an injunction under paragraph (1), any proceeding that involves the validity, application, construction, or modification of the injunction or of this subsection with respect to the injunction may be commenced only in the district court in which the injunction was entered, and such court shall have exclusive jurisdiction over any such proceeding without regard to the amount in controversy.

"(B) The requirements of this subparagraph are that—

"(i) the injunction is to be implemented in connection with a trust that, pursuant to the plan of reorganization—

"(I) is to assume the liabilities of a debtor which at the time of entry of the order for relief has been named as a defendant in personal injury, wrongful death, or property-damage actions seeking recovery for damages allegedly caused by the presence of, or exposure to, asbestos or asbestos-containing products;

"(II) is to be funded in whole or in part by the securities of 1 or more debtors involved in the plan of reorganization and by the obligation of such debtor or debtors to make future payments;

"(III) is to own, or by the exercise of rights granted under the plan could own, a majority of the voting shares of—

"(aa) each such debtor;

"(bb) the parent corporation of each such debtor; or

"(cc) a subsidiary of each such debtor that is also a debtor; and

"(IV) is to use its assets or income to pay claims and demands; and

"(ii) the court, at any time pursuant to its authority under the plan, over the trust, or otherwise, determines that—

"(I) the debtor may be subject to substantial future demands for payment arising out of the same or similar conduct or events that gave rise to the claims that are addressed by the injunction;

"(II) the actual amounts, numbers, and timing of such future demands cannot be determined;

"(III) pursuit of such demands outside the procedures prescribed by the plan may threaten the plan's purpose to deal equitably with claims and future demands;

"(IV) as part of the process of seeking approval of the plan of reorganization—

"(aa) the terms of the injunction proposed to be issued under paragraph (1)(A), including any provisions barring actions against third parties pursuant to paragraph (4)(A), shall be set out in the plan of reorganization and in any disclosure statement supporting the plan; and

"(bb) a separate class or classes of the claimants whose claims are to be addressed by a trust described in clause (i) is established and votes, by at least 75 percent of those voting, in favor of the plan; and

"(V) pursuant to court orders or otherwise, the trust will operate through mechanisms such as structured, periodic or supplemental payments, pro rata distributions, matrices, or periodic review of estimates of the numbers and values of present claims and future demands or other comparable alternates, that provide reasonable assurance that the trust will value, and be in a financial position to pay, present claims and future demands that involve similar claims in substantially the same manner.

"(3)(A) If the requirements of paragraph (2)(B) are met and the order approving the plan of reorganization was issued or affirmed by the district court that has jurisdiction over the reorganization proceedings, then after the time for appeal of the order that issues or affirms the plan of reorganization—

"(i) the injunction shall be valid and enforceable and may not be revoked or modified by any court except through appeal in accordance with paragraph (6);

"(ii) no entity that pursuant to the plan of reorganization or thereafter becomes a direct or indirect transferee of, or successor to any assets of, a debtor or trust that is the subject of the injunction shall be liable with respect to any claim or demand made against it by reason of its becoming such a transferee or successor; and

"(iii) no entity that pursuant to the plan of reorganization or thereafter makes a loan to such a debtor or trust or to such a successor or transferee shall, by reason of making the loan, be liable with respect to any claim or demand made against it, nor shall any pledge of assets made in connection with such a loan be upset or impaired for that reason;

"(B) Subparagraph (A) shall not be construed to—

"(i) imply that an entity described in subparagraph (A) (ii) or (iii) would, if this paragraph were not applicable, have liability by reason of any of the acts described in subparagraph (A);

"(ii) relieve any such entity of the duty to comply with, or of liability under, any Federal or State law regarding the making of a fraudulent conveyance in a transaction described in subparagraph (A) (ii) or (iii); or

"(iii) relieve a debtor of the debtor's obligation to comply with the terms of the plan of reorganization or affect the power of the court to exercise its authority under sections 1141 and 1142 to compel the debtor to do so.

"(4)(A)(i) Subject to subparagraph (B), an injunction under paragraph (1) shall be valid and enforceable against all persons and governmental units that it addresses.

"(ii) Notwithstanding section 524(e), such an injunction may bar any action directed against a third party who—

"(I) is identifiable from the terms of the injunction (by name or as part of an identifiable group); and

"(II) is alleged to be directly or indirectly liable for the conduct of, claims against, or demands on the debtor.

"(B) With respect to a demand (including a demand directed against a third party who is identifiable from the terms of the injunction (either by name or as part of an identifiable group) and who is alleged to be directly or indirectly liable for the conduct of, claims against, or demands on the debtor) that is made subsequent to the confirmation of a plan against any person or entity that is the subject of an injunction issued under paragraph (1), the injunction shall be valid and enforceable if, as part of the proceedings leading to its issuance, the court appointed a legal representative for the purpose of protecting the rights of persons that might subsequently assert such a demand.

"(5) In this subsection, the term 'demand' means a demand for payment, present or future, that—

"(A) was not a claim during the proceedings leading to the confirmation of a plan of reorganization;

"(B) arises out of the same or similar conduct or events that gave rise to the claims addressed by the injunction issued under paragraph (1); and

"(C) pursuant to the plan, is to be paid by a trust described in paragraph (2)(B)(i).

"(6) Paragraph (3)(A)(i) does not bar an action taken by or at the direction of an appellate court on appeal of an injunction issued under paragraph (1) or of the order of confirmation that relates to the injunction.

"(7) This subsection applies to any injunction of the nature described in paragraph (1)(B) in effect, and any trust of the nature described in paragraph (2)(B) in existence, on or after the date of enactment of this subsection.

"(8) This subsection does not affect the operation of section 1144 or the power of the district court to refer a proceeding under section 157 of title 28 or any reference of a proceeding made prior to the date of enactment of this subsection.

"(9) Nothing in subsection (g) shall affect the court's authority to issue an injunction (including an injunction that requires claims and demands to be presented for payment solely to a trust or any other type of court approved settlement vehicle) which is entered pursuant to an order approving a plan of reorganization.

"(10)(A) If, upon a motion by a representative appointed by the court identified in paragraph (1)(A) to protect the interests of persons with demands of the kind described in paragraph (2)(B)(ii)(I) or on its own motion, the court finds, as a result of enhanced credible estimating procedures with respect to such demands, inequities in the distribution process of a trust of the nature described in paragraph (2)(B), the court shall have, in addition to the powers over the trust that the court may lawfully exercise under applicable nonbankruptcy law, plenary equitable power to reform, restructure, or modify the trust, the procedures under which it operates, or the timing, manner, and amount of distributions to its beneficiaries and other rights of the beneficiaries, giving special attention to cases presenting exigent circumstances, as it shall determine to be fair, just, and reasonable in light of the circumstances prevailing at the time of reformation, restructure or modification.

"(B) Nothing in this paragraph shall be construed to grant the court authority to modify or in any way alter the debtor's obligation to comply with the terms of the plan of reorganization.".

SEC. 222. REJECTION OF UNEXPIRED LEASES OF REAL PROPERTY OR TIMESHARE INTERESTS.

(a) AMENDMENT OF SECTION 365.—Section 365(h) of title 11, United States Code, is amended to read as follows:

"(h)(1)(A) If the trustee rejects an unexpired lease of real property under which the debtor is the lessor—

"(i) if the rejection by the trustee amounts to such a breach as would entitle the lessee to treat the lease as terminated by virtue of its own terms, applicable nonbankruptcy law, or any other lease or agreement that the lessee has made with another party, the lessee under the lease may treat the lease as terminated by the rejection; or

"(ii) if the term of the lease has commenced, the lessee may retain its rights under the lease that are in or appurtenant to the leasehold estate (including lease provisions such as those relating to the amount and timing of payment of rent and other amounts payable by the lessee or to any right of use, possession, quiet enjoyment, subletting, assignment, or hypothecation) for the balance of the term of the lease and for any renewal or extension of such term as is enforceable under applicable nonbankruptcy law.

"(B) If the lessee retains its rights under subparagraph (A)(ii), the lessee may set off against the rent reserved under the lease for the balance of the term after the date of the rejection of the lease, and any renewal or extension of the lease, any damages occurring after the date of rejection caused by the nonperformance of any obligation of the debtor under the lease after that date, but the lessee does not have any rights against the estate on account of any damages arising after that date from the rejection, other than the setoff.

"(C) The rejection of a lease of real property in a shopping center with respect to which the lessee elects to retain its rights under subparagraph (A)(ii) does not affect the enforceability under applicable nonbankruptcy law of any provision in the lease pertaining to radius, location, use, exclusivity, or tenant mix or balance.

"(D) In this paragraph, 'lessee' includes any successor, assign, or mortgagee permitted by the lease.

"(2)(A) If the trustee rejects a timeshare interest under a timeshare plan under which the debtor is the timeshare interest seller—

"(i) the timeshare interest purchaser under the timeshare plan may treat the timeshare plan as terminated by the rejection if the rejection amounts to such a breach as would entitle the timeshare interest purchaser to treat the timeshare plan as terminated by virtue of its own terms, applicable nonbankruptcy law, or any other agreement that the timeshare interest purchaser has made with another party; or

"(ii) the timeshare interest purchaser may retain its rights in the timeshare interest under any timeshare plan the term of which has commenced for the balance of such term and for any renewal or extension of such term as is enforceable under applicable nonbankruptcy law.

"(B) If the timeshare interest purchaser retains its rights under subparagraph (A), the timeshare interest purchaser may set off against the moneys due for the timeshare interest for the balance of the term after the date of the rejection of the timeshare interest, and any renewal or extension thereof, any damages occurring after the date of rejection caused by the nonperformance of any obligation of the debtor under the timeshare plan after that date, but the timeshare interest purchaser does not have any rights against the estate on account of any damages arising after that date from the rejection, other than the setoff.".

(b) TECHNICAL AMENDMENT.—Section 553(b)(1) of title 11, United States Code, is amended by striking "365(h)(2)" and inserting "365(h)".

SEC. 223. CONTENTS OF PLAN.

Section 1123(b) of title 11, United States Code, is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) in a case in which the debtor is a small business, modify the rights of holders of secured claims, other than a claim secured only by a security interest in real property that is the debtor's principal residence, or of holders of unsecured claims, or leave unaffected the rights of holders of any class of claims, but the plan may not modify a claim pursuant to section 506 of a person holding a primary or a junior security interest in real property or a manufactured home (as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402(6)) that is the debtor's principal residence, except that the plan may modify the claim of a person holding such a junior security interest that was undersecured at the time the interest attached to the extent that the interest remains undersecured;".

SEC. 224. PRIORITY FOR INDEPENDENT SALES REPRESENTATIVES.

Section 507(a)(3) of title 11, United States Code, is amended to read as follows:

"(3) Third, allowed unsecured claims, but only to the extent of $2,000 for each individual or corporation, as the case may be, earned within 90 days before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first, for—

"(A) wages, salaries, or commissions, including vacation, severance, and sick leave pay earned by an individual; or

"(B) sales commissions earned by an individual or by a corporation with only 1 employee, acting as an independent contractor in the sale of goods or services for the debtor in the ordinary course of the debtor's business if, and only if, during the 12 months preceding that date, at least 75 percent of the amount that the individual or corporation earned by acting as an independent contractor in the sale of goods or services was earned from the debtor;".

SEC. 225. AMEND BANKRUPTCY CODE.

(a) Amend section 541(b)(4), of title 11, United States Code to read as follows:

"(4) any interest of the debtor in liquid or gaseous hydrocarbons to the extent—

"(A)(i) the debtor has transferred or has agreed to transfer such interest pursuant to a farmout agreement or any written agreement directly related to a farmout agreement; and

"(ii) but for the operation of this paragraph, the estate could include such interest only by virtue of section 365 or 544(a) of this title; or

"(B) the debtor has transferred such interest pursuant to a conveyance of a production payment or an oil and gas lease.

Paragraph (4) shall not be construed to exclude from the estate any consideration the debtor retains, receives, or is entitled to receive for transferring an interest in liquid or gaseous hydrocarbons pursuant to a farmout agreement, production payment, or oil and gas lease.".

(b) Amend section 101, of title 11, United States Code by adding after paragraph (42) the following:

"(43) 'production payment' is not a gross royalty. A production payment is a term overriding royalty which is an interest in liquid or gaseous hydrocarbons in place or to be produced from a property or properties, that entitles the owner thereof to a share of production, or the value thereof, for a term limited by time, quantity, or value realized, or any formula based on one or more of such factors.".

TITLE III—CONSUMER BANKRUPTCY ISSUES

SEC. 301. PERIOD FOR CURING DEFAULT RELATING TO PRINCIPAL RESIDENCE.

Section 1322 of title 11, United States Code, as amended by section 207(d), is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e); and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding State law and subsection (b)(2), and whether or not a claim is matured or reduced to judgment prior to consummation of a foreclosure sale, a debtor who at the time of filing a petition under this title possesses any legal or equitable interest, including a right of redemption, in real property securing a claim—

"(1) may cure a default and maintain payments on the claim pursuant to subsection (b) (3) or (5); or

"(2) in a case in which the last payment on the original payment schedule for the claim is due before the date on which the final payment under the plan is due, may provide for the payment of the claim pursuant to section 1325(a)(5).".

SEC. 302. NONDISCHARGEABILITY OF FINE UNDER CHAPTER 13.

(a) IN GENERAL.—Section 1328(a)(3) of title 11, United States Code, is amended by inserting ", or a fine to the extent such fine exceeds $500, " after "restitution".

(b) TECHNICAL AMENDMENT.—Section 3613(f) of title 18, United States Code, is amended by striking "No" and inserting "Except as provided in section 1328(a)(3) of title 11, no".

SEC. 303. IMPAIRMENT OF EXEMPTIONS.

(a) IN GENERAL.—Section 522(f) of title 11, United States Code, is amended—

(1) by inserting "(1)" before "Notwithstanding";

(2) by redesignating paragraph (1) as subparagraph (A);

(3) by redesignating paragraph (2) as subparagraph (B) and subparagraphs (A), (B), and (C) of that paragraph as clauses (i), (ii), and (iii); and

(4) by adding at the end the following new paragraph:

"(2)(A) For the purposes of this subsection, a lien shall be considered to impair an exemption to the extent that the sum of—

"(i) the lien;

"(ii) all other liens on the property that are equal or greater in seniority to the lien; and

"(iii) the amount of the exemption that the debtor could claim if there were no liens on the property,

exceeds the value that the debtor's interest in the property would have in the absence of any liens.

"(B) In the case of a property subject to more than 1 lien, a lien that has been avoided shall not be considered in making the calculation under subparagraph (A) with respect to other liens.".

(b) RULE OF CONSTRUCTION; APPLICATION OF AMENDMENT.—Section 522(f)(2) of title 11, United States Code, as added by subsection (a)—

(1) shall not be construed to apply with respect to a judgment arising out of a mortgage foreclosure; and

(2) shall not apply with respect to a nonpossessory, nonpurchase-money security interest given before the date of enactment of this Act (including a security interest with respect to which the value of the collateral increases after a case under that title is commenced).

SEC. 304. PROTECTION OF CHILD SUPPORT AND ALIMONY.

(a) RELIEF FROM AUTOMATIC STAY.—Section 362(b)(2) of title 11, United States Code, is amended to read as follows:

"(2) under subsection (a) of this section—

"(A) of the commencement or continuation of an action or proceeding for—

"(i) the establishment of paternity; or

"(ii) the establishment or modification of an order for alimony, maintenance, or support; or

"(B) of the collection of alimony, maintenance, or support from property that is not property of the estate;".

(b) PRIORITY OF CLAIMS.—

(1) ALIMONY OR SUPPORT.—Section 507(a) of title 11, United States Code, is amended—

(A) in paragraph (7) by striking "(7) Seventh" and inserting "(8) Eighth";

(B) in paragraph (8) by striking "(8) Eighth" and inserting "(9) Ninth"; and

(C) by inserting after paragraph (6) the following new paragraph:

"(7) Seventh, allowed claims for debts to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

"(A) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

"(B) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support.".

(2) TECHNICAL AMENDMENTS.—Title 11, United States Code, is amended—

(A) in section 502(i) by striking "507(a)(7)" and inserting "507(a)(8)";

(B) in section 503(b)(1)(B)(i) by striking "507(a)(7)" and inserting "507(a)(8)";

(C) in section 523(a)(1)(A) by striking "507(a)(7)" and inserting "507(a)(8)";

(D) in section 724(b)(2) by striking "or 507(a)(6)" and inserting "507(a)(6), or 507(a)(7)";

(E) in section 726(b) by striking "or (7)" and inserting ", (7), or (8)";

(F) in section 1123(a)(1) by striking "507(a)(7)" and inserting "507(a)(8)";

(G) in section 1129(a)(9)—

(i) in subparagraph (B) by striking "or 507(a)(6)" and inserting ", 507(a)(6), or 507(a)(7)"; and

(ii) in subparagraph (C) by striking "507(a)(7)" and inserting "507(a)(8)".

(c) PROTECTION OF LIENS.—Section 522(f) of title 11, United States Code, as amended by section 303, is amended by amending paragraph (1)(A) to read as follows:

"(A) a judicial lien (other than a judicial lien that secures a debt to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of the spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, to the extent that the debt—

"(i) is not assigned to another entity, voluntarily, by operation of law, or otherwise; and

"(ii) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support); or".

(d) PROTECTION AGAINST TRUSTEE AVOIDANCE.—Section 547(c) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by redesignating paragraph (7) as paragraph (8); and

(3) by inserting after paragraph (6) the following new paragraph:

"(7) to the extent that the transfer was a bona fide payment of a debt to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

"(A) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

"(B) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support; or".

(e) APPEARANCE BEFORE COURT.—A child support creditor or its representative shall be permitted to appear and intervene without charge and without meeting any special local court rule requirement for attorney appearances in any bankruptcy proceeding in any bankruptcy court or district court of the United States if the creditor or representative files with the court a statement describing in detail the child support debt, its status, and other characteristics.

SEC. 305. BANKRUPTCY PETITION PREPARERS.

(a) AMENDMENT OF CHAPTER 1.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following new section:

"SEC. 110. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

"(a) DEFINITION.—In this section—

"'bankruptcy petition preparer' means a person, other than an attorney or an employee of an attorney, who prepares for compensation a document for filing.

"'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b) SIGNING OF DOCUMENTS.—(1) A bankruptcy petition preparer who prepares a document for filing shall sign the document and print on the document the preparer's name and address.

"(2) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(c) FURNISHING OF IDENTIFYING NUMBER.—(1) A bankruptcy petition preparer who prepares a document for filing shall place on the document, after the preparer's signature, an identifying number that identifies the individuals who prepared the document.

"(2) For purposes of this section, the identifying number of a bankruptcy petition preparer shall be the Social Security account number of each individual who prepared the document or assisted in its preparation.

"(3) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(d) FURNISHING OF COPY TO THE DEBTOR.—(1) A bankruptcy petition preparer shall, not later than the time at which a document for filing is presented for the debtor's signature, furnish to the debtor a copy of the document.

"(2) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(e) NO AUTHORIZATION TO EXECUTE DOCUMENTS.—(1) A bankruptcy petition preparer shall not execute any document on behalf of a debtor.

"(2) A bankruptcy petition preparer may be fined not more than $500 for each document executed in violation of paragraph (1).

"(f) ADVERTISING.—(1) A bankruptcy petition preparer shall not use the word "legal" or any similar term in any advertisements, or advertise under any category that includes the word "legal" or any similar term.

"(2) A bankruptcy petition preparer shall be fined not more than $500 for each violation of paragraph (1).

"(g) COURT FEES.—(1) A bankruptcy petition preparer shall not collect or receive any payment from the debtor or on behalf of the debtor for the court fees in connection with filing the petition.

"(2) A bankruptcy petition preparer shall be fined not more than $500 for each violation of paragraph (1).

"(h) FEES FOR SERVICES.—(1) Within 10 days after the date of the filing of a petition, a bankruptcy petition preparer shall file a declaration under penalty of perjury disclosing any fee received from or on behalf of the debtor within 12 months immediately prior to the filing of the case, and any unpaid fee charged to the debtor.

"(2) The court shall disallow and order the immediate turnover to the bankruptcy trustee of any fee referred to in paragraph (1) found to be in excess of the value of typing services for the documents prepared. The debtor may exempt any funds so recovered under section 522(b).

"(3) The debtor, the trustee, a creditor, or the United States trustee may file a motion for an order under paragraph (2).

"(4) A bankruptcy petition preparer shall be fined not more than $500 for each failure to comply with a court order to turn over funds within 30 days of service of such order.

"(i) DAMAGES.—(1) If a bankruptcy case or related proceeding is dismissed because of the failure to file bankruptcy forms, the negligence or intentional disregard of this title or the bankruptcy rules by a bankruptcy petition preparer, or if a bankruptcy petition preparer violates this section or commits any fraudulent, unfair, or deceptive act, the bankruptcy court shall certify that fact to the district court, and the district court, on motion of the debtor, the trustee, or a creditor and after a hearing, shall order the bankruptcy petition preparer to pay to the debtor—

"(A) the debtor's actual damages;

"(B) the greater of—

"(i) $2,000; or

"(ii) twice the amount paid by the debtor to the bankruptcy petition preparer for the preparer's services; and

"(C) reasonable attorneys' fees and costs in moving for damages under this subsection.

"(2) If the trustee or creditor moves for damages on behalf of the debtor under this subsection, the bankruptcy petition preparer shall be ordered to pay the movant the additional amount of $1,000 plus reasonable attorneys' fees and costs incurred.

"(j) INJUNCTIVE RELIEF.—

"(1) IN GENERAL.—A debtor for whom a bankruptcy petition preparer has prepared a document for filing, the trustee, a creditor, or the United States trustee in the district in which the bankruptcy petition preparer resides, has conducted business, or the United States trustee in any other district in which the debtor resides may bring a civil action to enjoin a bankruptcy petition preparer from engaging in any conduct in violation of this section or from further acting as a bankruptcy petition preparer.

"(2) CONDUCT.—(A) In an action under paragraph (1), if the court finds that—

"(i) a bankruptcy petition preparer has—

"(I) engaged in conduct in violation of this section or of any provision of this title a violation of which subjects a person to criminal penalty;

"(II) misrepresented the preparer's experience or education as a bankruptcy petition preparer; or

"(III) engaged in any other fraudulent, unfair, or deceptive conduct; and

"(ii) injunctive relief is appropriate to prevent the recurrence of such conduct,

the court may enjoin the bankruptcy petition preparer from engaging in such conduct.

"(B) If the court finds that a bankruptcy petition preparer has continually engaged in conduct described in clause (i) (I), (II), or (III) and that an injunction prohibiting such conduct would not be sufficient to prevent such person's interference with the proper administration of this title, or has not paid a penalty imposed under this section, the court may enjoin the person from acting as a bankruptcy petition preparer.

"(3) Attorney's fee.—The court shall award to a debtor, trustee, or creditor that brings a successful action under this subsection reasonable attorney's fees and costs of the action, to be paid by the bankruptcy petition preparer.

"(k) Unauthorized Practice of Law.—Nothing in this section shall be construed to permit activities that are otherwise prohibited by law, including rules and laws that prohibit the unauthorized practice of law.".

(2) Technical amendment.—The chapter analysis for chapter 1 of title 11, United States Code, is amended by adding at the end the following new item:

"110. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.".

(b) Amendment of Title 18, United States Code.—

(1) Offenses.—Chapter 9 of title 18, United States Code, is amended—

(A) by amending sections 152, 153, and 154 to read as follows:

"§ 152. Concealment of assets; false oaths and claims; bribery

"A person who—

"(1) knowingly and fraudulently conceals from a custodian, trustee, marshal, or other officer of the court charged with the control or custody of property, or, in connection with a case under title 11, from creditors or the United States Trustee, any property belonging to the estate of a debtor;

"(2) knowingly and fraudulently makes a false oath or account in or in relation to any case under title 11;

"(3) knowingly and fraudulently makes a false declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, in or in relation to any case under title 11;

"(4) knowingly and fraudulently presents any false claim for proof against the estate of a debtor, or uses any such claim in any case under title 11, in a personal capacity or as or through an agent, proxy, or attorney;

"(5) knowingly and fraudulently receives any material amount of property from a debtor after the filing of a case under title 11, with intent to defeat the provisions of title 11;

"(6) knowingly and fraudulently gives, offers, receives, or attempts to obtain any money or property, remuneration, compensation, reward, advantage, or promise thereof for acting or forbearing to act in any case under title 11;

"(7) in a personal capacity or as an agent or officer of any person or corporation, in contemplation of a case under title 11 by or against the person or any other person or corporation, or with intent to defeat the provisions of title 11, knowingly and fraudulently transfers or conceals any of his property or the property of such other person or corporation;

"(8) after the filing of a case under title 11 or in contemplation thereof, knowingly and fraudulently conceals, destroys, mutilates, falsifies, or makes a false entry in any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor; or

"(9) after the filing of a case under title 11, knowingly and fraudulently withholds from a custodian, trustee, marshal, or other officer of the court or a United States Trustee entitled to its possession, any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor,

shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"§ 153. Embezzlement against estate

"(a) Offense.—A person described in subsection (b) who knowingly and fraudulently appropriates to the person's own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"(b) Person to Whom Section Applies.—A person described in this subsection is one who has access to property or documents belonging to an estate by virtue of the person's participation in the administration of the estate as a trustee, custodian, marshal, attorney, or other officer of the court or as an agent, employee, or other person engaged by such an officer to perform a service with respect to the estate.

"§ 154. Adverse interest and conduct of officers

"A person who, being a custodian, trustee, marshal, or other officer of the court—

"(1) knowingly purchases, directly or indirectly, any property of the estate of which the person is such an officer in a case under title 11;

"(2) knowingly refuses to permit a reasonable opportunity for the inspection by parties in interest of the documents and accounts relating to the affairs of estates in the person's charge by parties when directed by the court to do so; or

"(3) knowingly refuses to permit a reasonable opportunity for the inspection by the United States Trustee of the documents and accounts relating to the affairs of states in the person's charge,

shall be fined not more than $5,000 and shall forfeit the person's office, which shall thereupon become vacant."; and

(B) by adding at the end the following new section:

"§ 156. Willful disregard of bankruptcy law or rule

"(a) Definitions.—In this section—

"'bankruptcy petition preparer' means a person, other than an attorney or an employee of an attorney, who prepares for compensation a document for filing.

"'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b) Offense.—If a bankruptcy case or related proceeding is dismissed because of a willful attempt by a bankruptcy petition preparer in any manner to disregard the requirements of title 11, United States Code, or the Bankruptcy Rules, the bankruptcy petition preparer shall be fined $5,000.".

(2) Technical amendments.—The chapter analysis for chapter 9 of title 18, United States Code, is amended—

(A) by amending the item relating to section 153 to read as follows:

"Sec. 153. Embezzlement against estate.";

and

(B) by adding at the end the following new item:

"Sec. 156. Willful disregard of bankruptcy law or rule.".

SEC. 306. CONVERSION OR DISMISSAL.

Section 1307 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(g) The clerk of the court shall give notice to all creditors not later than 30 days after the entry of an order of conversion or dismissal.".

SEC. 307. CONTENTS OF PLAN.

Section 1322(b)(2) of title 11, United States Code, is amended by striking "claims;" and inserting "claims, but the plan may not modify a claim pursuant to section 506 of a person holding a primary or a junior security interest in real property or a manufactured home (as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402(6)) that is the debtor's principal residence, except that the plan may modify the claim of a person holding such a junior security interest that was undersecured at the time the interest attached to the extent that the interest remains undersecured;".

SEC. 308. STAY OF ACTION AGAINST CODEBTOR.

Section 1301 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "or" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(4) the claim is for an amount valued at not greater than $25,000, and such relief is not a substantial impediment to an effective reorganization by the debtor, and unless the codebtor has demonstrated an inability to pay such claim or a substantial portion of such claim."; and

(2) by adding at the end the following new subsection:

"(e) If the relief sought by the creditor pursuant to subsection (c)(4) is granted by the court, the codebtor shall by subrogation have the same rights as the creditor, under this title, against the debtor to the extent of the amount of relief obtained from the codebtor. Pending any delay in obtaining relief from the codebtor, after the court order, payment by the debtor shall continue to be paid to the creditor, but subject to the developing subrogation rights of the codebtor.".

SEC. 309. EXEMPTION FOR HOUSEHOLD GOODS.

Section 522(a) of title 11, United States Code, is amended—

(1) by striking "and" at the end of paragraph (1) and redesignating that paragraph as paragraph (2);

(2) by inserting before paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(1) 'antique', for purposes of subsection (d), means an item that was more than 100 years old at the time it was acquired by the debtor, including such an item that has been repaired or renovated without changing its original form or character;";

(3) by redesignating paragraph (2), as designated prior to the date of enactment of this Act, as paragraph (4); and

(4) by inserting after paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(3) 'household goods', for purposes of subsection (d), means clothing, furniture, appliances, linens, china, crockery, kitchenware, and personal effects of the debtor and the debtor's dependents, but does not include—

"(A) works of art;

"(B) electronic entertainment equipment (except to the extent of 1 television and 1 radio);

"(C) antiques; and

"(D) jewelry other than wedding rings; and

SEC. 310. PROFESSIONAL FEES.

Section 330(a) of title 11, United States Code, is amended to read as follows:

"(a)(1) After notice to the parties in interest and the United States trustee and a hearing, and subject to sections 326, 328, and 329, the court may award to a trustee, an examiner, a professional person employed under section 327 or 1103—

"(A) reasonable compensation for actual, necessary services rendered by the trustee, examiner, professional person, or attorney and by any paraprofessional person employed by any such person; and

"(B) reimbursement for actual, necessary expenses.

"(2) The court may, on its own motion or on the motion of the United States Trustee, the United States Trustee for the District or Region, the trustee for the estate, or any other party in interest, award compensation that is less than the amount of compensation that is requested.

"(3)(A) In determining the amount of reasonable compensation to be awarded, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including—

"(A) the time spent on such services;

"(B) the rates charged for such services;

"(C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;

"(D) the total value of the estate and the amount of funds or other property available for distribution to all creditors, both secured and unsecured;

"(E) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed; and

"(F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

"(4)(A) Except as provided in subparagraph (B), the court shall not allow compensation for—

"(i) unnecessary duplication of services; or

"(ii) services that were not—

"(I) reasonably likely to benefit the debtor's estate; or

"(II) necessary to the administration of the case.

"(B) In a chapter 12 or chapter 13 case in which the debtor is an individual, the court may allow reasonable compensation to the debtor's attorney for representing the interests of the debtor in connection with the bankruptcy case based on a consideration of the benefit and necessity of such services to the debtor and the other factors set forth in this section.

"(5) The court shall reduce the amount of compensation awarded under this section by the amount of any interim compensation awarded under section 331, and, if the amount of such interim compensation exceeds the amount of compensation awarded under this section, may order the return of the excess to the estate.

"(6) Any compensation awarded for the preparation of a fee application shall be based on the level and skill reasonably required to prepare the application.".

SEC. 311. INTEREST ON INTEREST.

(a) Chapter 11.—Section 1123 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) Notwithstanding subsection (a) of this section and sections 506(b), 1129(a)(7), and 1129(b) of this title, if it is proposed in a plan to cure a default, the amount necessary to cure the default, shall be determined in accordance with the underlying agreement and applicable nonbankruptcy law.".

(b) Chapter 12.—Section 1222 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(d) Notwithstanding subsection (b)(2) of this section and sections 506(b) and 1225(a)(5) of this title, if it is proposed in a plan to cure a default, the amount necessary to cure the default, shall be determined in accordance with the underlying agreement and applicable nonbankruptcy law.".

(c) Chapter 13.—Section 1322 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(f) Notwithstanding subsection (b)(2) of this section and sections 506(b) and 1325(a)(5) of this title, if it is proposed in a plan to cure a default, the amount necessary to cure the default, shall be determined in accordance with the underlying agreement and applicable nonbankruptcy law.".

(d) Effective Date.—The amendments made by this section shall apply to agreements described in sections 1123(d), 1222(d), and 1322(f) of title 11, United States Code, as added by this section, that are entered into after the date of enactment of this Act.

SEC. 312. FAIRNESS TO CONDOMINIUM AND COOPERATIVE OWNERS.

Section 523(a) of title 11, United States Code, as amended by section 210, is amended—

(1) by striking "or" at the end of paragraph (13);

(2) by adding "or" at the end of paragraph (14); and

(3) by adding at the end the following new paragraph:

"(15) for a fee that becomes due and payable after the order for relief to a membership association with respect to the debtor's interest in a dwelling unit that has condominium ownership or in a share of a cooperative housing corporation, if such fee is payable for a period during a substantial portion of which—

"(A) the debtor physically occupied a dwelling unit in the condominium or cooperative project; or

"(B) the debtor rented the dwelling unit to a tenant and received payments from the tenant for such period,

but nothing in this paragraph shall except from discharge the debt of a debtor for a membership association fee for a period arising before entry of the order for relief in a pending or subsequent bankruptcy proceeding.".

SEC. 313. NONAVOIDABILITY OF FIXING OF LIEN ON TOOLS AND IMPLEMENTS OF TRADE, ANIMALS, AND CROPS.

(a) Amendment.—Section 522(f) of title 11, United States Code, as amended by section 303(c), is amended—

(1) by striking "Notwithstanding any waiver of exemptions," and inserting "(1) Notwithstanding any waiver of exemptions but subject to paragraph (2)";

(2) by striking "(1) a judicial" and inserting "(A) a judicial";

(3) by striking "(A) is not assigned" and inserting "(i) is not assigned";

(4) by striking "(B) includes a liability" and inserting "(ii) includes a liability";

(5) by striking "(2) a nonpossessory" and inserting "(B) a nonpossessory";

(6) by striking "(A) household" and inserting "(i) household";

(7) by striking "(B) implements, professional books, or tools," and inserting "(ii) implements, professional books, or tools"

(8) by striking "(C) professionally" and inserting "(iii) professionally"; and

(9) by adding at the end the following new paragraph:

"(2) In a case in which State law that is applicable to the debtor—

"(A) permits a person to voluntarily waive a right to claim exemptions under subsection (d) or prohibits a debtor from claiming exemptions under subsection (d); and

"(B) permits the debtor to claim exemptions under State law without limitation in amount, except to the extent that the debtor has permitted the fixing of a consensual lien on any property,

the debtor may not avoid the fixing of a lien on an interest of the debtor or a dependent of the debtor in property if the lien is a nonpossessory, nonpurchase-money security interest in implements, professional books, or tools of the trade of the debtor or a dependent of the debtor or farm animals or crops of the debtor or a dependent of the debtor.".

(b) Application of Amendment.—The amendments made by subsection (a) shall not apply with respect to a case commenced under title 11, United States Code, before the date of enactment of this Act.

SEC. 314. NONDISCHARGEABILITY OF DEBT FOR MONEY, PROPERTY, SERVICES, OR CREDIT OBTAINED BY FALSE PRETENSE, FALSE REPRESENTATION, OR FRAUD.

Section 1328(a)(2) of title 11, United States Code, is amended by inserting "(2)(A)," after "paragraph".

SEC. 315. CONVERSION OF CASE UNDER CHAPTER 13.

Section 348 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(f) When a case under chapter 13 is converted to another chapter—

"(1) property of the estate in the converted case shall consist of property of the estate, as of the date of filing of the petition, that remains in the possession of or is under the control of the debtor on the date of conversion; and

"(2) valuations of property and of allowed secured claims in the chapter 13 case shall apply in the converted case, with allowed secured claims reduced to the extent that they have been paid in accordance with the chapter 13 plan.".

SEC. 316. RENT-TO-OWN CONTRACTS.

(a) Definition.—Section 101 of title 11, United States Code, is amended by inserting in their proper alphabetical positions the following new definitions:

" 'consumer good' means an item of personal property (not including a motor vehicle) acquired by an individual primarily for a personal, family, or household purpose.".

" 'rent-to-own contract' means an agreement, in the form of a terminable lease or bailment of a consumer good, between a person regularly engaged in the business of making consumer goods available to individuals and an individual, under which—

"(A) the lessee or bailee—

"(i) has the right of possession and use of the consumer good; and "(ii) has the option to renew the agreement periodically by making payments specified in the agreement; and

"(B) the lessor or bailor agrees, orally or in writing, to transfer ownership of the consumer good to the lessee or bailee upon the fulfillment of all obligations of the lessee or bailee for the transfer under the agreement.".

(b) TREATMENT OF RENT-TO-OWN CONTRACTS AS SECURED PURCHASE CONTRACTS.—

(1) CHAPTER 7.—Subchapter II of chapter 7 of title 11, United States Code, is amended by adding at the end the following new section:

"§ 729. Rent-to-own contracts

"In a proceeding under this chapter in which the debtor is in possession of a consumer good under a rent-to-own contract, the debtor and the lessor or bailor shall be accorded the same rights and obligations with respect to the consumer good, respectively, as they would be accorded if the rent-to-own contract had been a purchase contract.".

(2) CHAPTER 13.—Subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end the following new section:

"§ 1308. Rent-to-own contracts

"In a proceeding under this chapter in which the debtor is in possession of a consumer good under a rent-to-own contract, the debtor and the lessor or bailor shall be accorded the same rights and obligations with respect to the consumer good, respectively, as they would be accorded if the rent-to-own contract had been a purchase contract.".

(c) TECHNICAL AMENDMENTS.—

(1) CHAPTER 7.—The chapter analysis for chapter 7 of title 11, United states Code, is amended by inserting after the item for section 728 the following new item:

"729. Rent-To-Own Contracts.".

(2) CHAPTER 13.—The chapter analysis for chapter 13 of title 11, United states Code, is amended by inserting after the item for section 1307 the following new item:

"1308. Rent-To-Own Contracts.".

TITLE IV—BANKRUPTCY REVIEW COMMISSION

SEC. 401. SHORT TITLE.

This title may be cited as the "National Bankruptcy Review Commission Act".

SEC. 402. ESTABLISHMENT.

There is established the National Bankruptcy Review Commission (referred to as the "Commission").

SEC. 403. DUTIES OF THE COMMISSION.

The duties of the Commission are—

(1) to investigate and study issues and problems relating to title 11, United States Code (commonly known as the "Bankruptcy Code");

(2) to evaluate the advisability of proposals and current arrangements with respect to such issues and problems;

(3) to prepare and submit to the Congress, the Chief Justice, and the President a report in accordance with section 408; and

(4) to solicit divergent views of all parties concerned with the operation of the bankruptcy system.

SEC. 404. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members as follows:

(1) Three members appointed by the President, 1 of whom shall be designated as chairman by the President.

(2) One member shall be appointed by the President pro tempore of the Senate.

(3) One member shall be appointed by the Minority Leader of the Senate.

(4) One member shall be appointed by the Speaker of the House of Representatives.

(5) One member shall be appointed by the Minority Leader of the House of Representatives.

(6) Two members appointed by the Chief Justice.

(b) TERM.—Members of the Commission shall be appointed for the life of the Commission.

(c) QUORUM.—Five members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.

(d) APPOINTMENT DEADLINE.—The first appointments made under subsection (a) shall be made within 60 days after the date of enactment of this Act.

(e) FIRST MEETING.—The first meeting of the Commission shall be called by the chairman and shall be held within 90 days after the date of enactment of this Act.

(f) VACANCY.—A vacancy on the Commission resulting from the death or resignation of a member shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(g) CONTINUATION OF MEMBERSHIP.—If any member of the Commission who was appointed to the Commission as a member of Congress or as an officer or employee of a government leaves that office, or if any member of the Commission who was not appointed in such a capacity becomes an officer or employee of a government, the member may continue as a member of the Commission for not longer than the 90-day period beginning on the date the member leaves that office or becomes such an officer or employee, as the case may be.

(h) CONSULTATION PRIOR TO APPOINTMENT.—Prior to the appointment of members of the Commission, the President, the President pro tempore of the Senate, the Speaker of the House of Representatives, and the Chief Justice shall consult with each other to ensure fair and equitable representation of various points of view in the Commission and its staff.

SEC. 405. COMPENSATION OF THE COMMISSION.

(a) PAY.—

(1) NONGOVERNMENT EMPLOYEES.—Each member of the Commission who is not otherwise employed by the United States Government shall be entitled to receive the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which he or she is engaged in the actual performance of duties as a member of the Commission.

(2) GOVERNMENT EMPLOYEES.—A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation.

(b) TRAVEL.—Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 406. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—

(1) APPOINTMENT.—The chairman of the Commission may, without regard to the civil service laws and regulations, appoint, and terminate an executive director and such other personnel as are necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter II of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(b) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

SEC. 407. POWERS OF THE COMMISSION.

(a) HEARINGS AND MEETINGS.—The Commission or, on authorization of the Commission, a member of the Commission, may hold such hearings, sit and act at such time and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission or a member of the Commission may administer oaths or affirmations to witnesses appearing before it.

(b) OFFICIAL DATA.—The Commission may secure directly from any Federal department, agency, or court information necessary to enable it to carry out this title. Upon request of the chairman of the Commission, the head of a Federal department or agency or chief judge of a Federal court shall furnish such information, consistent with law, to the Commission.

(c) FACILITIES AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such facilities and support services as the Commission may request. Upon request of the Commission, the head of a Federal department or agency may make any of the facilities or services of the agency available to the Commission to assist the Commission in carrying out its duties under this title.

(d) EXPENDITURES AND CONTRACTS.—The Commission or, on authorization of the Commission, a member of the Commission may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Commission or member considers appropriate for the purposes of carrying out the duties of the Commission. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in appropriation Acts.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal departments and agencies of the United States.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 408. REPORT.

The Commission shall submit to the Congress, the Chief Justice, and the President a report not later than 2 years after the date of its first meeting. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislative or administrative action as it considers appropriate.

SEC. 409. TERMINATION.

The Commission shall cease to exist on the date that is 30 days after the date on which it submits its report under section 408.

SEC. 410. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,500,000 to carry out this title.

TITLE V—BANKRUPTCY FRAUD

SEC. 501. BANKRUPTCY FRAUD.

(a) IN GENERAL.—

(1) OFFENSES.—Chapter 9 of title 18, United States Code, is amended—

(A) by amending sections 152, 153, and 154 to read as follows:

"§ 152. Concealment of assets; false oaths and claims; bribery

"A person who—

"(1) knowingly and fraudulently conceals from a custodian, trustee, marshal, or other officer of the court charged with the control or custody of property, or, in connection with a case under title 11, from creditors or the United States Trustee, any property belonging to the estate of a debtor;

"(2) knowingly and fraudulently makes a false oath or account in or in relation to any case under title 11;

"(3) knowingly and fraudulently makes a false declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, in or in relation to any case under title 11;

"(4) knowingly and fraudulently presents any false claim for proof against the estate of a debtor, or uses any such claim in any case under title 11, in a personal capacity or as or through an agent, proxy, or attorney;

"(5) knowingly and fraudulently receives any material amount of property from a debtor after the filing of a case under title 11, with intent to defeat the provisions of title 11;

"(6) knowingly and fraudulently gives, offers, receives, or attempts to obtain any money or property, remuneration, compensation, reward, advantage, or promise thereof for acting or forbearing to act in any case under title 11;

"(7) in a personal capacity or as an agent or officer of any person or corporation, in contemplation of a case under title 11 by or against the person or any other person or corporation, or with intent to defeat the provisions of title 11, knowingly and fraudulently transfers or conceals any of his property or the property of such other person or corporation;

"(8) after the filing of a case under title 11 or in contemplation thereof, knowingly and fraudulently conceals, destroys, mutilates, falsifies, or makes a false entry in any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor; or

"(9) after the filing of a case under title 11, knowingly and fraudulently withholds from a custodian, trustee, marshal, or other officer of the court or a United States Trustee entitled to its possession, any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor,

shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"§ 153. Embezzlement against estate

"(a) OFFENSE.—A person described in subsection (b) who knowingly and fraudulently appropriates to the person's own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"(b) PERSON TO WHOM SECTION APPLIES.—A person described in this subsection is one who has access to property or documents belonging to an estate by virtue of the person's participation in the administration of the estate as a trustee, custodian, marshal, attorney, or other officer of the court or as an agent, employee, or other person engaged by such an officer to perform a service with respect to the estate.

"§ 154. Adverse interest and conduct of officers

"A person who, being a custodian, trustee, marshal, or other officer of the court—

"(1) knowingly purchases, directly or indirectly, any property of the estate of which the person is such an officer in a case under title 11;

"(2) knowingly refuses to permit a reasonable opportunity for the inspection by parties in interest of the documents and accounts relating to the affairs of estates in the person's charge by parties when directed by the court to do so; or

"(3) knowingly refuses to permit a reasonable opportunity for the inspection by the United States Trustee of the documents and accounts relating to the affairs of an estate in the person's charge,

shall be fined not more than $5,000 and shall forfeit the person's office, which shall thereupon become vacant."; and

(B) by adding at the end the following new sections:

"§ 156. Knowing disregard of bankruptcy law or rule

"(a) DEFINITIONS.—In this section—

"'bankruptcy petition preparer' means a person, other than the debtor's attorney or an employee of such an attorney, who prepares for compensation a document for filing.

"'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b) OFFENSE.—If a bankruptcy case or related proceeding is dismissed because of a knowing attempt by a bankruptcy petition preparer in any manner to disregard the requirements of title 11, United States Code, or the Bankruptcy Rules, the bankruptcy petition preparer shall be fined under this title, imprisoned not more than 1 year, or both.

"§ 157. Bankruptcy fraud

"(a) OFFENSE.—A person who, having devised or intending to devise a scheme or artifice to defraud, or for obtaining money or property by means of a false or fraudulent pretense, representation, or promise, for the purpose of executing or concealing such a scheme or artifice or attempting to do so—

"(1) files a petition under title 11;

"(2) files a document in a proceeding under title 11; or

"(3) makes a false or fraudulent representation, claim, or promise concerning or in relation to a proceeding under title 11, at any time before or after the filing of the petition, or in relation to a proceeding falsely asserted to be pending under that title,

shall be fined under this title, imprisoned not more than 5 years, or both.

"(b) REQUIREMENT OF INTENT.—

"(1) IN GENERAL.—The degree of intent required to be shown in the case of an offense described in subsection (a) is that which is generally required to be shown in cases of fraud.

"(2) VIOLATION NOT ESTABLISHED.—A violation of subsection (a) is not established if the defendant committed the act that is alleged to constitute fraud for a lawful purpose.

"(3) VIOLATION ESTABLISHED.—A violation of subsection (a) may be established if the defendant committed the act that is alleged to constitute fraud with a purpose of—

"(A) preventing the proper application of title 11 in a particular case; or

"(B) using a proceeding under title 11 in a manner that, while on its face may appear to be legitimate, is in fact part of a scheme to defraud.".

(2) TECHNICAL AMENDMENTS.—The chapter analysis for chapter 9 of title 18, United States Code, is amended—

(A) by amending the item relating to section 153 to read as follows:

"Sec. 153. Embezzlement against estate.";

and

(B) by adding at the end the following new item:

"Sec. 156. Knowing disregard of bankruptcy law or rule.

"Sec. 157. Bankruptcy fraud.".

(b) RICO.—Section 1961(1)(D) of title 18, United States Code, is amended by inserting "(except a case under section 157 of that title)" after "title 11".

TITLE VI—TECHNICAL CORRECTIONS

SEC. 601. TITLE 11, UNITED STATES CODE.

(a) ALPHABETIZATION AND ELIMINATION OF PARAGRAPH DESIGNATIONS.—Section 101 of title 11, United States Code, is amended to read as follows:

"§ 101. Definitions

"In this title—

"'accountant' means an accountant authorized under applicable law to practice public accounting, and includes professional accounting association, corporation, or partnership, if so authorized.

"'affiliate' means—

"(A) an entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities—

"(i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or

"(ii) solely to secure a debt, if such entity has not in fact exercised such power to vote;

"(B) a corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor, or by an entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities—

"(i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or

"(ii) solely to secure a debt, if such entity has not in fact exercised such power to vote;

"(C) a person whose business is operated under a lease or operating agreement by a debtor, or person substantially all of whose property is operated under an operating agreement with the debtor; or

"(D) an entity that operates the business or substantially all of the property of the debtor under a lease or operating agreement.

"'attorney' means an attorney, professional law association, corporation, or partnership, authorized under applicable law to practice law.

"'claim' means—

"(A) a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or

"(B) a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.

"'commodity broker' means a futures commission merchant, foreign futures commission merchant, clearing organization, leverage transaction merchant, or commodity options dealer (as defined in section 761) with respect to which there is a customer (as defined in section 761).

"'community claim' means a claim that arose before the commencement of the case concerning the debtor for which property of the kind specified in section 541(a)(2) is liable, whether or not there is any such property at the time of the commencement of the case.

"'consumer debt' means debt incurred by an individual primarily for a personal, family, or household purpose.

"'corporation'—

"(A) includes—

"(i) an association having a power or privilege that a private corporation, but not an individual or a partnership, possesses;

"(ii) a partnership association organized under a law that makes only the capital subscribed responsible for the debts of such association;

"(iii) a joint-stock company;

"(iv) an unincorporated company or association; or

"(v) a business trust; but

"(B) does not include a limited partnership.

"'creditor' means—

"(A) an entity that has a claim against the debtor that arose at the time of or before the order for relief concerning the debtor;

"(B) an entity that has a claim against the estate of a kind specified in section 348(d), 502(f), 502(g), 502(h), or 502(i); or

"(C) an entity that has a community claim.

"'custodian' means—

"(A) a receiver or trustee of any of the property of the debtor, appointed in a case or proceeding not under this title;

"(B) an assignee under a general assignment for the benefit of the debtor's creditors; or

"(C) a trustee, receiver, or agent under applicable law, or under a contract, that is appointed or authorized to take charge of property of the debtor for the purpose of enforcing a lien against such property, or for the purpose of general administration of such property for the benefit of the debtor's creditors.

"'debt' means liability on a claim.

"'debtor' means a person or municipality concerning which a case under this title has been commenced.

"'disinterested person' means a person that—

"(A) is not a creditor, an equity security holder, or an insider;

"(B) is not and was not an investment banker for any outstanding security of the debtor;

"(C) has not been, within 3 years before the date of the filing of the petition, an investment banker for a security of the debtor, or an attorney for such an investment banker in connection with the offer, sale, or issuance of a security of the debtor;

"(D) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor or of an investment banker specified in subparagraph (B) or (C); and

"(E) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor or an investment banker specified in subparagraph (B) or (C), or for any other reason.

"'entity' includes a person, estate, trust, governmental unit, and United States trustee.

"'equity security' means—

"(A) a share in a corporation, whether or not transferable or denominated 'stock', or similar security;

"(B) an interest of a limited partner in a limited partnership; or

"(C) a warrant or right, other than a right to convert, to purchase, sell, or subscribe to a share, security, or interest of a kind specified in subparagraph (A) or (B).

"'equity security holder' means a holder of an equity security of the debtor.

"'family farmer' means—

"(A) an individual or individual and spouse engaged in a farming operation whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse unless such debt arises out of a farming operation), on the date the case is filed, arise out of a farming operation owned or operated by such individual or such individual and spouse, and such individual or such individual and spouse receive from such farming operation more than 50 percent of such individual's or such individual and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

"(B) a corporation or partnership in which more than 50 percent of the outstanding stock or equity is held by one family, or by one family and the relatives of the members of such family, and such family or such relatives conduct the farming operation—

"(i) more than 80 percent of the value of its assets consists of assets related to the farming operation;

"(ii) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for one dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a farming operation), on the date the case is filed, arise out of the farming operation owned or operated by such corporation or such partnership; and

"(iii) if such corporation issues stock, such stock is not publicly traded.

"'family farmer with regular annual income' means a family farmer whose annual income is sufficiently stable and regular to enable such family farmer to make payments under a plan under chapter 12.

"'farmer' means (except when such term appears in the term 'family farmer') a person that received more than 80 percent of such person's gross income during the taxable year of such person immediately preceding the taxable year of such person during which the case under this title concerning such person was commenced from a farming operation owned or operated by such person.

"'farming operation' includes farming, tillage of the soil, dairy farming, ranching, production or raising of crops, poultry, or livestock, and production of poultry or livestock products in an unmanufactured state.

"'Federal depository institutions regulatory agency' means—

"(A) with respect to an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)) for which no conservator or receiver has been appointed, the appropriate Federal banking agency (as defined in section 3(q) of that Act);

"(B) with respect to an insured credit union (including an insured credit union for which the National Credit Union Administration has been appointed conservator or liquidating agent), the National Credit Union Administration;

"(C) with respect to any insured depository institution for which the Resolution Trust Corporation has been appointed conservator or receiver, the Resolution Trust Corporation; and

"(D) with respect to any insured depository institution for which the Federal Deposit Insurance Corporation has been appointed conservator or receiver, the Federal Deposit Insurance Corporation.

"'financial institution' means a person that is a commercial or savings bank, industrial savings bank, savings and loan association, or trust company and, when any such person is acting as agent or custodian for a customer in connection with a securities contract (as defined in section 741(a)), the customer.

"'foreign proceeding' means a proceeding, whether judicial or administrative and whether or not under bankruptcy law, in a foreign country in which the debtor's domicile, residence, principal place of business, or principal assets were located at the commencement of such proceeding, for the purpose of liquidating an estate, adjusting debts by composition, extension, or discharge, or effecting a reorganization.

"'foreign representative' means a duly selected trustee, administrator, or other representative of an estate in a foreign proceeding.

"'forward contract' means a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity, as defined in section 761, or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, but not limited to, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any combination thereof or option thereon.

"'forward contract merchant' means a person whose business consists in whole or in part of entering into forward contracts as or with merchants in a commodity (as defined in section 761) or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade.

"'governmental unit' means—

"(A) the United States, a State, Commonwealth, or Territory, the District of Columbia, a municipality, and a foreign state;

"(B) a department, agency, or instrumentality of the United States (but not a United States trustee while serving as a trustee in a case under this title), a State, Commonwealth, or Territory, the District of Columbia, a municipality, a foreign state; or

"(C) any other foreign or domestic government.

"'indenture' means a mortgage, deed of trust, or indenture, under which there is outstanding a security, other than a voting-trust certificate, constituting a claim against the debtor, a claim secured by a lien on any of the debtor's property, or an equity security of the debtor.

"'indenture trustee' means a trustee under an indenture.

"'individual with regular income' means an individual whose income is sufficiently stable and regular to enable such individual to make payments under a plan under chapter 13, other than a stockbroker or a commodity broker.

"'insider' includes—

"(A) if the debtor is an individual—

"(i) a relative of the debtor or of a general partner of the debtor;

"(ii) a partnership in which the debtor is a general partner;

"(iii) a general partner of the debtor; or

"(iv) a corporation of which the debtor is a director, officer, or person in control;

"(B) if the debtor is a corporation—

"(i) a director of the debtor;

"(ii) an officer of the debtor;

"(iii) a person in control of the debtor;

"(iv) a partnership in which the debtor is a general partner;

"(v) a general partner of the debtor; or

"(vi) a relative of a general partner, director, officer, or person in control of the debtor;

"(C) if the debtor is a partnership—

"(i) a general partner in the debtor;

"(ii) a relative of a general partner in, general partner of, or person in control of the debtor;

"(iii) a partnership in which the debtor is a general partner;

"(iv) a general partner of the debtor; or

"(v) a person in control of the debtor;

"(D) if the debtor is a municipality, an elected official of the debtor or relative of an elected official of the debtor;

"(E) an affiliate, or insider of an affiliate as if such affiliate were the debtor; and

"(F) a managing agent of the debtor.

"'insolvent' means—

"(A) with reference to an entity other than a partnership and a municipality, being in a financial condition such that the sum of the entity's debts is greater than all of the entity's property, at a fair valuation, exclusive of—

"(i) property transferred, concealed, or removed with intent to hinder, delay, or defraud such entity's creditors; and

"(ii) property that may be exempted from property of the estate under section 522;

"(B) with reference to a partnership, being in a financial condition such that the sum of the partnership's debts is greater than the aggregate of, at a fair valuation—

"(i) all of the partnership's property, exclusive of property of the kind specified in subparagraph (A)(i); and

"(B) the sum of the excess of the value of each general partner's nonpartnership property, exclusive of property of the kind specified in subparagraph (A), over such partner's nonpartnership debts; and

"(C) with reference to a municipality, being in a financial condition such that the municipality is—

"(i) generally not paying its debts as they become due unless such debts are the subject of a bona fide dispute; and

"(ii) unable to pay its debts as they become due.

"'institution-affiliated party'—

"(A) with respect to an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act) (12 U.S.C. 1813(c)(2)), has the meaning given it in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)); and

"(2) with respect to an insured credit union, has the meaning given it in section 206(r) of the Federal Credit Union Act (12 U.S.C. 1786(r)).

"'insured credit union' has the meaning given it in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7)).

"'insured depository institution'—

"(A) has the meaning given it in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)); and

"(B) includes an insured credit union (except as provided in the definition of 'Federal depository institutions regulatory agency' and in subparagraph (B) of the definition of 'institution-affiliated party').

"'intellectual property' means—

"(A) a trade secret;

"(B) an invention, process, design, or plant protected under title 35;

"(C) a patent application;

"(D) a plant variety;

"(E) a work of authorship protected under title 17; and

"(F) a mask work protected under chapter 9 of title 17, to the extent protected by applicable nonbankruptcy law.

"'judicial lien' means a lien obtained by judgment, levy, sequestration, or other legal or equitable process or proceeding.

"'lien' means a charge against or interest in property to secure payment of a debt or performance of an obligation.

"'margin payment', as used in sections 362(b)(6), 546 (e) and (f), 548 (d)(2) (B) and (C), 556, 741(5), 761(15), 764(b), 766(a), and any other provision of this title in relation to forward contracts, means a payment or deposit of cash, a security, or other property that is commonly known in the forward contract trade as original margin, initial margin, maintenance margin, or variation margin, including market-to-market payments or variation payments.

"'mask work' has the meaning given it in section 901(a)(2) of title 17.

"'municipality' means a political subdivision or public agency or instrumentality of a State.

"'person' includes an individual, partnership, and corporation, but does not include a governmental unit, except that a governmental unit that acquires an asset from a person as a result of operation of a loan guarantee agreement, or as receiver or liquidating agent of a person, shall be considered to be a person for purposes of section 1102.

"'petition' means a petition filed under section 301, 302, 303, or 304 commencing a case under this title.

"'purchaser' means a transferee of a voluntary transfer, and includes an immediate or mediate transferee of such a transferee.

"'railroad' means a common carrier by railroad engaged in the transportation of individuals or property or owner of trackage facilities leased by such a common carrier.

"'relative' means an individual related by affinity or consanguinity within the third degree as determined by the common law and an individual in a step or adoptive relationship within such third degree.

"'repo participant' means an entity that, on any day during the period beginning 90 days before the date of the filing of a petition, has an outstanding repurchase agreement with the debtor.

"'repurchase agreement' and 'reverse repurchase agreement' mean an agreement, including related terms, which provides for the transfer of certificates of deposit, eligible bankers' acceptances, or securities that are direct obligations of, or that are fully guaranteed as to principal and interest by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, or securities with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, or securities as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds.

"'security'—

"(A) includes—

"(i) a note;

"(ii) stock;

"(iii) treasury stock;

"(iv) a bond;

"(v) a debenture;

"(vi) a collateral trust certificate;

"(vii) a preorganization certificate or subscription;

"(viii) a transferable share;

"(ix) a voting-trust certificate;

"(x) a certificate of deposit;

"(xi) a certificate of deposit for security;

"(xii) an investment contract or certificate of interest or participation in a profit-sharing agreement or in an oil, gas, or mineral royalty or lease, if such contract or interest is required to be the subject of a registration statement filed with the Securities and Exchange Commission under the provisions of the Securities Act of 1933 (15 U.S.C. 77a et seq.), or is exempt under section 3(b) of that Act (15 U.S.C. 77c(b)) from the requirement to file such a statement;

"(xiii) an interest of a limited partner in a limited partnership;

"(xiv) another claim or interest commonly known as a 'security'; and

"(xv) a certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase or sell, a security; but

"(B) does not include—

"(i) currency or a check, draft, bill of exchange, or bank letter of credit;

"(ii) a leverage transaction (as defined in section 761);

"(iii) a commodity futures contract or forward contract;

"(iv) an option, warrant, or right to subscribe to or purchase or sell a commodity futures contract;

"(v) an option to purchase or sell a commodity;

"(vi) a contract or certificate of a kind specified in subparagraph (A)(xii) that is not required to be the subject of a registration statement filed with the Securities and Exchange Commission and is not exempt under section 3(b) of the Securities Act of 1933 (15 U.S.C. 77c(b)) from the requirement to file such a statement; or

"(vii) debt or an evidence of indebtedness for goods sold and delivered or services rendered.

"'security agreement' means an agreement that creates or provides for a security interest.

"'securities clearing agency' means a person that is registered as a clearing agency under section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1) or whose business is confined to the performance of functions of a clearing agency with respect to exempted securities (as defined in section 3(a)(12) of that Act (15 U.S.C. 78c(12)) for the purposes of that section 17A.

"'security interest' means a lien created by an agreement.

"'settlement payment' means, for purposes of the forward contract provisions of this title, a preliminary settlement payment, partial settlement payment, interim settlement payment, settlement payment on account, final settlement payment, net settlement payment, or any other similar payment commonly used in the forward contract trade.

"'State' includes the District of Columbia and Puerto Rico, except for the purpose of defining who may be a debtor under chapter 9.

"'statutory lien' means a lien arising solely by force of a statute on specified circumstances or conditions, or lien of distress for rent, whether or not statutory, but does not include a security interest or judicial lien, whether or not such interest or lien is provided by or is dependent on a statute and whether or not such interest or lien is made fully effective by statute.

"'stockbroker' means a person—

"(A) with respect to which there is a customer (as defined in section 741); and

"(B) that is engaged in the business of effecting transactions in securities—

"(i) for the account of others; or

"(ii) with members of the general public, from or for such person's own account.

"'swap agreement' means—

"(A) an agreement (including terms and conditions incorporated by reference therein) which is a rate swap agreement, basis swap, forward rate agreement, commodity swap, interest rate option, forward foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency option, or any other similar agreement (including any option to enter into any of the foregoing);

"(2) any combination of the foregoing; or

"(3) a master agreement for any of the foregoing together with all supplements.

"'swap participant' means an entity that, at any time before the filing of a petition, has an outstanding swap agreement with the debtor.

"'timeshare interest' means an interest purchased in a timeshare plan which grants the purchaser the right to use and occupy accommodations, facilities, or recreational sites, whether improved or unimproved, pursuant to a timeshare plan.

"'timeshare plan' means an interest in any arrangement, plan, scheme, or similar device (but not including an exchange program), whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, right to use agreement, or by any other means, whereby a purchaser of the interest, in exchange for consideration, receives a right to use accommodations, facilities, or recreational sites, whether improved or unimproved, for a specific period of time less than a full year during any given year, but not necessarily for consecutive years, and which extends for a period of more than 3 years.

"'transfer' means a mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the debtor's equity of redemption.

"'United States', when used in a geographical sense, includes all locations where the judicial jurisdiction of the United States extends, including territories and possessions of the United States.

(b) REFERENCES TO DEFINITIONS IN TITLE XI.—

(1) SECTION 362.—Section 362(b) of title 11, United States Code, is amended—

(A) in paragraph (6)—

(i) by striking "section 761(4)" and inserting "section 761";

(ii) by striking "section 741(7)" and inserting "section 741";

(iii) by striking "section 101(34), 741(5), or 761(15)" and inserting "section 101, 741, or 761"; and

(iv) by striking "section 101(35) or 741(8)" and inserting "section 101 or 741"; and

(B) in paragraph (7)—

(i) by striking "section 741(5) or 761(15)" and inserting "section 741 or 761"; and

(ii) by striking "section 741(8)" and inserting "section 741".

(2) SECTION 507.—Section 507(a)(5) of title 11, United States Code, is amended—

(A) by striking "section 557(b)(1)" and inserting "section 557(b)"; and

(B) by striking "section 557(b)(2)" and inserting "section 557(b)".

(3) Section 546 of title 11, United States Code, is amended—

(A) in subsection (e)—

(i) by striking "section 101(34), 741(5), or 761(15)" and inserting "section 101, 741, or 761"; and

(ii) by striking "section 101(35) or 741(8)" and inserting "section 101 or 741"; and

(B) in subsection (f)—

(i) by striking "section 741(5) or 761(15)" and inserting "section 741 or 761"; and

(ii) by striking "section 741(8)" and inserting "section 741".

(4) SECTION 548.—Section 548(d)(2) of title 11, United States Code, is amended—

(A) in subparagraph (B)—

(i) by striking "section 101(34), 741(5) or 761(15)" and inserting "section 101, 741, or 761"; and

(ii) by striking "section 101(35) or 741(8)" and inserting "section 101 or 741"; and

(B) in subparagraph (C)—

(i) by striking "section 741(5) or 761(15)" and inserting "section 741 or 761"; and

(ii) by striking "section 741(8)" and inserting "section 741".

(5) SECTION 555.—Section 555 of title 11, United States Code, is amended by striking "section 741(7)" and inserting "section 741".

(6) SECTION 556.—Section 556 of title 11, United States Code, is amended by striking "section 761(4)" and inserting "section 761".

(c) REFERENCES TO DEFINITIONS IN OTHER LAWS.—

(1) FEDERAL CREDIT UNION ACT.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended—

(A) in clause (ii)(I) by striking "section 741(7)" and inserting "section 741";

(B) in clause (iii) by striking "section 101(24)" and inserting "section 101";

(C) in clause (iv)(I) by striking "section 101(41)" and inserting "section 101"; and

(D) in clause (v) by striking "section 101(50)" and inserting "section 101".

(2) FEDERAL DEPOSIT INSURANCE ACT.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(A) in clause (ii)(I) by striking "section 741(7)" and inserting "section 741";

(B) in clause (iii) by striking "section 761(4)" and inserting "section 761";

(C) in clause (iv) by striking "section 101(24)" and inserting "section 101";

(D) in clause (v)(I) by striking "section 101(41)" and inserting "section 101"; and

(E) in clause (viii) by striking "section 101(50)" and inserting "section 101".

(d) OTHER TECHNICAL AMENDMENTS.—Title 11 of the United States Code is amended—

(1) in section 322(a) by striking "1302, or 1202" and inserting "1202, or 1302".

(2) in section 346—

(A) in subsection (a) by striking "Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.)" and inserting "Internal Revenue Code of 1986"; and

(B) in subsection (g)(1)(C) by striking "Internal Revenue Code of 1954 (26 U.S.C. 371)" and inserting "Internal Revenue Code of 1986";

(3) in section 348—

(A) in subsection (b) by striking "728(a), 728(b), 1102(a), 1110(a)(1), 1121(b), 1121(c), 1141(d)(4), 1146(a), 1146(b), 1301(a), 1305(a), 1201(a), 1221, and 1228(a)" and inserting "728 (a) and (b), 1021, 1028, 1102(a), 1110(a)(1), 1121 (b) and (c), 1141(d)(4), 1146 (a) and (b), 1201(a), 1221, 1228(a), 1301(a), and 1305(a)"; and

(B) in subsections (b), (c), (d), and (e) by striking "1307, or 1208" each place it appears and inserting "1208, or 1307";

(4) in section 349(a) by striking "109(f)" and inserting "109(g)";

(5) in section 362(b)—

(A) by striking "or" at the end of paragraph (10);

(B) in paragraph (12) by striking "the Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et seq.)" and inserting "section 31325 of title 46, United States Code";

(C) in paragraph (13)—

(i) by striking "the Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et seq.)" and inserting "section 31325 of title 46, United States Code"; and

(ii) by striking "or" at the end;

(D) in paragraph (14), as added by section 102 of Public Law 101–311 (104 Stat. 267) at the end of the subsection, by removing it from the end of the subsection, inserting it after paragraph (13), and striking the period at the end and inserting a semicolon; and

(E) by redesignating paragraphs (14), (15), and (16), as added by section 3007(a) of the Student Loan Default Prevention Initiative Act of 1990 (104 Stat. 1388–28), as paragraphs (15), (16), and (17);

(6) in section 363(c)(1) by striking "1304, 1203, or 1204" and inserting "1203, 1204, or 1304";

(7) in section 364(a) by striking "1304, 1203, or 1204" and inserting "1203, 1204, or 1304";

(8) in section 365—

(A) in subsection (g)(2) (A) and (B) by striking "1307, or 1208" each place it appears and inserting "1208, or 1307";

(B) in subsection (n)(1)(B) by striking "to to" and inserting "to"; and

(C) in subsection (o) by striking "the Federal" the first place it appears and all that follows through "successors," and inserting "a Federal depository institutions regulatory agency (or predecessor to such an agency)";

(9) in section 507—

(A) in subsection (a)(9), as redesignated by section 304(b)(1)(B), by striking "the Federal" the first place it appears and all that follows through "successors," and inserting "a Federal depository institutions regulatory agency (or predecessor to such an agency)"; and

(B) in subsection (d) by striking "(a)(3), (a)(4), (a)(5), or (a)(6)" and inserting "(a) (3), (4), (6), or (7)";

(10) in section 522(d)(10)(E)(iii) by striking "401(a), 403(a), 403(b), 408, or 409 Internal Revenue Code of 1954 (26 U.S.C. 401(a), 403(a), 403(b), 408, or 409)" and inserting "section 401(a), 403 (a) or (b), 408, or 409 of the Internal Revenue Code of 1986";

(11) in section 523(a) —

(A) in subsection (a)—

(i) by striking "1141,, 1228(a), 1228(b)," and inserting "1141, 1228 (a) or (b),"; and

(ii) in paragraph (12) by striking the semicolon at the end and inserting a period; and

(B) in subsection (e) by striking "depository institution or insured credit union" and inserting "insured depository institution";

(12) in section 524—

(A) in subsection (a)(3) by striking "or 1328(c)(1)" and inserting "1228(a)(1), or 1328(a)(1)";

(B) in subsection (c)(4) by striking "recission" and inserting "rescission"; and

(C) in subsection (d)(1)(B)(ii) by adding "and" at the end;

(12) in section 541(b)—

(A) by inserting "(1)" after "(b)" and redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(B) in subparagraph (D) of paragraph (1), as redesignated by subparagraph (A), by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(C) in subparagraph (C) of paragraph (1), as redesignated by subparagraph (A), by striking "institution or" and inserting "institution; or"; and

(D) in the matter following subparagraph (D) of paragraph (1), as redesignated by subparagraph (A), by striking "Paragraph (4) shall not" and inserting the following:

"(2) Paragraph (1)(D) shall not".

(13) in section 542(e) by striking "to to" and inserting "to";

(14) in section 543(d)(1) by striking "of equity" and inserting "if equity";

(15) in section 546(a)(1) by striking "1302, or 1202" and inserting "1202, or 1302";

(16) in section 549(b) by inserting "the trustee may not avoid under subsection (a) of this section" after "involuntary case,";

(17) in section 553—

(A) in subsection (a)(1) by striking "other than under section 502(b)(3) of this title"; and

(B) in subsection (b)(1) by striking "362(b)(14)," and inserting "362(b)(14),";

(18) in section 706(a) by striking "1307, or 1208" and inserting "1208, or 1307";

(19) in section 724(d) by striking "Internal Revenue Code of 1954 (26 U.S.C. 6323)" and inserting "Internal Revenue Code of 1986";

(20) in section 726(b) by inserting a comma after "section 1112";

(21) in section 743 by striking "342(a)" and inserting "342";

(22) in section 745(c) by striking "Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.)" and inserting "Internal Revenue Code of 1986";

(23) in section 1104(c) inserting a comma after "interest";

(24) in section 1123(a)(1) inserting a comma after "title" the last place it appears;

(25) in section 1129(a)—

(A) in paragraph (4) by striking the semicolon at the end and inserting a period; and

(B) in paragraph (12) by inserting "of title 28" after "section 1930";

(26) in section 1145(a) by striking "does" and inserting "do";

(27) in section 1226(b)(2)—

(A) by striking "1202(d) of this title" and inserting "1202(c)"; and

(B) by striking "1202(e) of this title" and inserting "1202(d)";

(28) in section 1302(b)(3) by striking "and" at the end;

(29) in section 1328(a)(2) by striking "(5) or (8)" and inserting "(5), (8), or (9)"; and

(30) in the table of chapters by striking the item relating to chapter 15.

SEC. 602. TITLE 28, UNITED STATES CODE.

Section 586(a)(3) of title 28, United States Code, is amended in the matter preceding subparagraph (A) by inserting "12," after "11,".

TITLE VII—SEVERABILITY; EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 701. SEVERABILITY.

If any provision of this Act or amendment made by this Act or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remaining provisions of and amendments made by this Act and the application of such other provisions and amendments to any person or circumstance shall not be affected thereby.

SEC. 702. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as provided in section 115(c) and in paragraph (2) of this subsection, the amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the date of enactment of this Act.

(2) SECTION 1110 OF TITLE 11.—Section 1110 of title 11, United States Code, as amended by section 203, shall apply with respect to any lease (as defined in section 1110(c)), entered into in connection with a settlement of any litigation in any case pending under title 11, United States Code, on the date of enactment of this Act.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. LIMITATION ON STATE TAXATION OF CERTAIN PENSION INCOME.

(a) IN GENERAL.—Chapter 4 of title 4 of the United States Code is amended by adding at the end thereof the following new section:

"§ 114. Limitation on State income taxation of pension income

"(a) No State may impose an income tax (as defined in section 110(c)) on the qualified pension income of any individual who is not a resident or domiciliary of such State.

"(b)(1) For purposes of subsection (a), the term 'qualified pension income' means any payment from a qualified plan—

"(A) which is part of a series of substantially equal periodic payments (not less frequently than annually) made for—

"(i) the life or life expectancy of the recipient or for the joint lives or joint life expectancies of the recipient and the recipient's designated beneficiary, or

"(ii) a period of not less than 10 years, or

"(B) which is not described in subparagraph (A) and which—

"(i) is received in a taxable year for which an election under this subsection is in effect, and

"(ii) is received on or after the date on which the recipient has attained the age of 59½,

except that the aggregate amount of payments to which this subparagraph may apply for any taxable year shall not exceed $25,000.

"(2) For purposes of paragraph (1), the term 'qualified plan' means—

"(A) an employees' trust described in section 401(a) of the Internal Revenue Code of 1986 which is exempt from tax under section 501(a) of such Code,

"(B) a simplified employee pension described in section 408(k) of such Code,

"(C) an annuity plan described in section 403(a) of such Code,

"(D) an annuity contract described in section 403(b) of such Code,

"(E) an individual retirement plan described in section 7701(a)(37) of such Code,

"(F) an eligible deferred compensation plan under section 457 of such Code, or

"(G) a governmental plan described in section 414(d) of such Code, other than a plan established and maintained by a State or political subdivision of a State, or an agency or instrumentality of either.

"(3) For purposes of paragraph (1), any retired or retainer pay of a member or former member of a uniform service computed under chapter 71 of title 10, United States Code, shall be treated as a payment from a qualified plan.

"(4)(A) An election under paragraph (1)(B), once made for a taxable year, may not be made for any other taxable year.

"(B) In calendar years beginning after 1994, the $25,000 amount referred to in paragraph (1)(B) shall be increased by an amount equal to such dollar amount, multiplied by the cost-of-living adjustment determined under section 1(f)(3) of such Code for such calendar year by substituting 'calendar year 1993' for 'calendar year 1992' in subparagraph (B) thereof.

"(c) For purposes of subsection (a), the term 'State' includes any political subdivision of a State, the District of Columbia, and the possessions of the United States."

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 4 is amended by adding at the end thereof the following new item:

"114. Limitation on State income taxation of pension income."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 802. PROTECTION AGAINST DISCRIMINATORY TREATMENT OF APPLICATIONS FOR STUDENT LOANS.

Section 525 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) A governmental unit that operates a student grant or loan program and a person engaged in a business that includes the making of loans guaranteed or insured under a student loan program may not deny a grant, loan, loan guarantee, or loan insurance to a person that is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, or another person with whom the debtor or bankrupt has been associated, because the debtor or bankrupt is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, has been insolvent before the commencement of a case under this title or during the pendency of the case but before the debtor is granted or denied a discharge, or has not paid a debt that is dischargeable in the case under this title or that was discharged under the Bankruptcy Act.

"(2) In this section, 'student loan program' means the program operated under part B, D, or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) or a similar program operated under State or local law.".

SEC. 803. CHICAGO HOUSING AUTHORITY.

(a) FINDINGS.—The Senate finds that—

(1) It is the fundamental obligation of government to protect its citizens;

(2) In many federally financed public housing projects, the level of violence has reached epidemic proportions, threatening on a daily basis the lives of the majority of the tenants, who are law-abiding;

(3) In an effort to combat gang and drug-related violence, the Chicago Housing Authority ("CHA") instituted a policy of conducting warrantless, apartment-to-apartment searches of CHA projects, including the Robert Taylor Homes;

(4) On April 7, 1994, Federal district court judge Warren Andersen ruled that CHA's search policy violated the Fourth Amendment to the Constitution of the United States and enjoined CHA officials from undertaking these searches;

(5) After the court decision, President Clinton directed Attorney General Janet Reno and Secretary of Housing and Urban Development Henry Cisneros to develop law en-

forcement measures that would be both constitutionally valid and effective in reducing violent crime in public housing projects; and

(6) President Clinton subsequently announced new Federal guidelines designed to assist public housing officials in maintaining order and protecting the security of their law-abiding tenants.

(b) Therefore, it is the sense of the Senate that the Senate fully endorses the new Administration guidelines, outlined in a letter to President Clinton from Attorney General Reno and Secretary of Housing and Urban Development Cisneros, dated April 14, 1994, including the guidelines allowing public housing officials to (1) erect fences around public housing buildings, issue identification cards to tenants, and install metal detectors or magnetometers at the building entrances; (2) search the packages and clothing of anyone seeking to enter public housing buildings and refuse entry to anyone who does not submit to inspection; (3) conduct weapons searches without consent or a warrant in common areas of the buildings, such as stairwells, and in vacant apartments; (4) frisk "suspicious-looking" individuals for weapons, if police or security personnel have a reason to believe that the individuals are involved in criminal activity and are armed; (5) include noncoercive consent clauses in lease agreements permitting routine warrantless apartment-by-apartment police searches for illegal weapons and illegal drugs, so long as residency or continued residency in public housing is not contingent upon the inclusion of such consent clause as a provision of a lease agreement; and (6) conduct warrantless searches of individual units where there is justification for a search but insufficient time to obtain a judicial warrant.

Mr. HEFLIN. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEFLIN. Madam President, at this time, I would like to take a moment to thank all the Members and staff who have worked so diligently on this bankruptcy legislation.

I first recognize the ranking member of the Subcommittee on Courts, Senator GRASSLEY, for his outstanding work and his diligence, patience and perseverance in regard to working on the numerous issues that are contained within this legislation. His staff people have been superb, Melissa Patack and Fred Ansell worked hard and diligently for many hours, and I particularly want to thank them for their great work on the committee.

I thank the following people:

From Senator METZENBAUM's staff, Pam Banks and Gene Kimmelman. Pam Banks is leaving the Senate, and Senator METZENBAUM had kind words to say about her earlier, and I want to concur in those remarks.

From Senator HATCH's staff, Victor Cabral; from Senator BROWNS's staff, David Miller; from Senator DECONCINI's staff, Janis Long; from Senator THURMOND's staff, Thad Strom; from Senator SIMPSON's staff, Warren Schaeffer; from Senator FEINSTEIN's staff, Adam Eisgrau.

In addition, from a wide range of staff from members of the committee, we received enormous input and assistance. Some of these people are:

From Senator REID's staff, Jimmy Ryan; from Senator COCHRAN's staff, Jim Lofton; from Senator GRAHAM's staff, Leslie Woolley; from Senator JOHNSTON's staff, Michael Gougisha and Donna Jo Denison.

In addition, I would be remiss if I did not mention the outstanding efforts of Tim Trushel from the Legislative Counsel's Office and the efforts of my own staff, especially Winston Lett, Jim Whiddon, Becky Ward, and Cheri Cole.

I particularly pay tribute to Jim Whiddon who has worked untiringly on this bill with a tremendous ability to comprehend legal principles and to understand the bankruptcy laws, the bankruptcy courts, as well as other matters that have arisen in the Judiciary Committee.

I also thank Jeff Hartley, who is no longer with us on our staff but who worked on this bill in the last Congress and worked on it last year diligently and has brought many people together to get an agreement, at least started bringing them together, and Jim Whiddon and Winston Lett worked with them to get them to come to agreement. Winston Lett was superb throughout as my legislative staff director of the subcommittee and chief counsel, and I thank him for all of his efforts.

I know these are not all of the names of every one who has worked on this bill, and I apologize to any person whose name I may have left out. But I want to thank these persons for their efforts and recognize them for their hard work.

Senator GRASSLEY asked that he be noted as concurring in thanking each and every one of these.

Madam President, I ask unanimous consent at this time that Senator BROWN be added as a cosponsor to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

ORDER OF PROCEDURE

Mr. KENNEDY. Madam President, as I understand the request of the majority leader is that we would go now to the consideration of the conference report on the School-to-Work Opportunities Act; am I correct?

The PRESIDING OFFICER. The Senator is correct.

SCHOOL-TO-WORK OPPORTUNITIES ACT OF 1993—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the conference report accompanying H.R. 2884, the school-to-work bill, which the clerk will now state.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2884) to establish a national framework for the development of School-to-Work Opportunities systems in all States, and for other purposes; having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of April 19, 1994.)

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, the hour is late, but this is a measure of enormous importance to the millions of young Americans enrolled in the high schools of this country who may not be able to take advantage of the opportunity to attend a four-year college but are looking for a chance to develop skills and also achieve academically so as to permit them to move ahead and be constructive and productive workers in a highly competitive economy.

I will speak very briefly. I know there are other Members who want to address this issue. As I understand it, we will move after this bill to the consideration of the reauthorization of the Head Start Program.

Madam President, first of all, I express, as the chairman of the Human Resource Committee, my admiration and friendship and also acknowledge the leadership of our colleague from Illinois, Senator SIMON, who has really shepherded this legislation through the course of our committee hearings, the floor debate and the conference as well.

I had a good opportunity a number of weeks ago to visit with Senator SIMON at a site in Illinois which illustrated just the kind of program that this legislation encourages in his home community in Chicago. And I know the Senate appreciates his leadership on this issue as well as on other educational issues, and I want to acknowledge that, as well.

Second, I want to thank our colleague, HARRIS WOFFORD, who had spent a great deal of time before coming to the U.S. Senate working with industries to expand opportunity for workers, particularly young workers, in his own State of Pennsylvania.

Senator WOFFORD, as well as Senator DURENBERGER, Senator KASSEBAUM and Senator THURMOND were enormously helpful in moving this whole process forward. We know that they had a number of concerns as this legislation was initially introduced and during the entire process we worked to address those concerns.

Now we are about to act on the conference report that has broad bipartisan support, not only among the Members of the Senate but also from representatives of workers in terms of organized labor, as well as the Chamber of Commerce, and other business organizations.

So we are very, very grateful for all of the contributions that have been made to bring us to this point this evening.

Madam President, the School-to-Work Opportunities Act addresses an issue that has been identified in recent years as a serious challenge to our economy and our country.

In 1988, the William T. Grant Foundation Commission on Work, Family and Citizenship issued a report that vividly documented the plight of the 20 million youth between the ages of 16 and 24 who were unlikely to ever attend college.

Described in the report as the "Forgotten Half," these 20 million young men and women faced a job market in which the chance of finding a good job with decent wages, that provided the opportunity to master new skills and earn promotions, was rapidly shrinking.

In constant dollars the earnings of 20- to 24-year-old male high school graduates had fallen nearly 30 percent from their 1973 level, and the teenage unemployment rate was 15.8 percent. For these youth, the report stated, "their lives as adults start in the economic limbo of unemployment, part-time jobs, and poverty wages. Many of them never break free."

And, as I mentioned, these statistics are just for male youth. At that time, the fact of female youth and workers in this area were never even calculated.

"Who are the Forgotten Half?" the report asked.

> In non-statistical terms, they are the young people who build our homes, drive our buses, repair our automobiles, fix our televisions, maintain and serve our offices, schools, and hospitals, and keep the production lines of our mills and factories moving. To a great extent, they determine how well the American family, economy, and democracy function. They are also the thousands of young men and women who aspire to work productively but never quite "make it" to that kind of employment.

As necessary first steps to a fair chance for these non-college bound youth, the report recommended better opportunities for education, job training, employment and community service, in order to achieve a fairer chance for success.

A few years earlier, a similar landmark report, "A Nation at Risk," had launched a far-reaching reform movement in all aspects of education. The report on the "Forgotten Half" has now focused national attention on the serious deficiencies in the way we prepare young students for the world of work.

In 1990, the "Forgotten Half" report was followed by the influential "America's Choice" report, issued by the bipartisan National Commission on the Skills of the American Workforce, which identified the United States as the only major industrialized nation in the world that lacks a comprehensive and effective school-to-work transition system. Many more reports, conferences, and hearings followed, and we have now achieved a strong bipartisan consensus for action.

Today, the Senate is voting on legislation that for the first time will put into place a national framework for the development and expansion of programs to ensure that all students—especially those who do not complete a 4-year college program—enter the work force equipped with the basic academic and occupational skills needed in an increasingly complex labor market. The School-to-Work Opportunities Act is exactly what was recommended in the "Forgotten Half" report—a "necessary first step to a fair chance" for all of America's youth.

In a letter to President Clinton expressing his support for the bill, Samuel Halperin, director of the commission that produced the report, wrote that the School-to-Work Opportunities Act "more than fulfills the key recommendations" of the commission. The legislation, he writes,

> will help the United States to be globally competitive and to achieve higher living standards through high-wage, high-skill jobs.
>
> No less important, it offers the essential impetus to transform American secondary education. . . . [T]he proposal points the way to hands-on, active, experiential learning in which students are motivated to achieve academically through organic connections with employers and workplaces. Studies will come alive when pathways to career advancement and lifelong learning are seen as a seamless web. And the typical isolation of schooling will fade when labor, employers and community leaders come to better understand their stake in developing genuine school-employment connections.

The conference report, which is the product of bipartisan cooperation in both bodies, passed the House yesterday by a vote of 339 to 79, with strong bipartisan support. It has broad support in the business community, from organized labor, from educational groups, from State and local government officials, and from a wide range of other advocacy groups.

Senator SIMON, as the principal sponsor of the legislation in the Senate, has guided the bill effectively through the committee process to the floor, and in conference. He has accommodated the interests of our colleagues on both sides of the aisle.

The bill has also benefited greatly from the leadership of Senator WOFFORD, Senator DURENBERGER, and Senator JEFFORDS, and we are also very appreciative of the cooperation we have received from Senator KASSEBAUM and Senator THURMOND.

One of the real strengths of the School-to-Work Opportunities Act is that it does not impose a top-down, one-size-fits-all set of requirements on States and local communities.

Instead, the legislation recognizes that no single approach is appropriate for every community and that effective programs must be built locally, based on a consensus of business, education, community and labor leaders. Consistent with that principle, the act establishes a broad Federal framework for action, and then provides Federal funds to States and communities to use as seed money to build their own school-to-work systems, using existing resources which incorporate these nationally established standards.

Let me briefly summarize what the act provides:

Title I establishes the three core elements that every eligible school-to-work program must include. These elements are:

School-based learning, including a program of study that integrates academic and vocational learning;

Work-based learning that includes a planned program of job training, paid work experience wherever possible, workplace mentoring, and instruction in general workplace competencies; and

Connecting activities that match students with employers who can provide work-based learning opportunities, coordinate the involvement of employers, schools, parents and students, and help students who have completed the program to find appropriate jobs or pursue further education or training.

Title II of the act lays out the procedures for providing Federal grants to States to develop and implement their own school-to-work systems. Under this title, all States are eligible for modest development grants based on the size of the State.

Development funds may be used for activities that help to establish a statewide system, but not for local school-to-work programs.

Title II also describes the procedures that must be followed by States that have completed the development process to apply for 5-year implementation grants. These much larger grants of several million dollars over a 5-year period are available on a competitive basis to States that submit comprehensive plans for implementation of statewide school-to-work systems.

Title III authorizes the Secretaries of Labor and Education to provide competitive grants directly to local partnerships in order to provide funding for communities that have built a sound planning and development base and are ready to begin implementing their own school-to-work programs, even though their State may not yet be prepared to move forward in implementing a statewide school-to-work system. This title also authorizes the Federal Government to award grants directly to local partnerships in urban and rural areas of high priority.

Title IV authorizes the Secretaries to carry out a number of national programs and reports. These include research and demonstration projects, evaluation of State and local programs, dissemination of the best practices, and reports to Congress.

Title V establishes a process for States to apply to the Secretaries for waivers of particular statutory and regulatory provisions to enable States to combine Federal resources for school-to-work activities in creative ways.

Laws subject to waivers under this title include the Job Training Partnership Act, the Elementary and Secondary Education Act, and the Carl D. Perkins Vocational and Applied Technology Act.

The act authorizes an appropriation of $300 million for fiscal year 1995 and "such sums as may be necessary" in each of the succeeding 4 fiscal years through 1999. President Clinton has requested $300 million for fiscal year 1996 in his budget.

The School-to-Work Opportunities Act is a significant step toward a more coherent policy to meet the needs of the Nation's youth as they prepare to enter the work force. It is an important part of our economic recovery national investment policy, and I urge the Senate to approve it.

Madam President, I welcome the opportunity to recommend this legislation for action here this evening.

Madam President, over the period of recent weeks, this administration, under President Clinton's leadership, has used discretionary funds to help jump start the School-to-Work Program.

Today, there are more than 22 applications from States who want to take advantage of this program pending before the Departments of Education and Labor. The President has proposed some $300 million in his budget to establish this framework. We believe that, once the framework is established, the participation and involvement of the Federal Government then will be very limited and effectively phased out.

So this is one of the programs that are part of a continuum of the efforts of this administration, from the Head Start Program, and expanding those opportunities; the Chapter 1 reforms; the Chapter 2 training programs, in terms of advancing the opportunities for teachers in our communities; National Service, which will involve students from K to 12, as well as reaching out to those individuals who might have dropped out of school; the direct loan programs; the tuition percentage and repayment programs.

This is a continuum, Madam President. We do not have all the resources to be able to achieve all that we would like to do. But this legislation is a key part of that continuum that the administration has established. In this instance, we are putting our young people first in offering new opportunities for them to be involved in school-to-work programs. I hope the Senate will approve this conference report tonight.

Mrs. KASSEBAUM. Madam President, I opposed the School-to-Work Opportunities Act when it was considered by the Senate because it will create yet another job training program at a time when we should be reforming the 154 job training programs we already have. I will vote against the conference report on this bill for the same reason.

Having said that, I do want to acknowledge particularly the efforts of Senator KENNEDY, Senator THURMOND, Senator SIMON, and their staffs in working on the conference bill. I appreciate the courtesy and cooperation of everyone involved.

When this bill was debated in the Senate, supporters stated repeatedly that it did not create a new program. Instead, they contended the legislation would encourage coordination of existing programs under the school-to-work umbrella.

I share the goal of creating a better integrated system to improve the transition from school to work, and I wish this bill did that. But it doesn't. The bill creates yet another stand-alone job training program, with a separate authorization, a separate pool of funds, and a separate string of eligibility requirements.

Despite my objections to this legislation, I do appreciate the efforts of the conferees to retain provisions which I believe do offer more flexibility to States and localities to integrate existing programs. For example, there is not longer a mandatory requirement that all programs must provide paid work opportunities to all students.

In addition, the bill breaks new ground by allowing States to combine funds from similar programs for school-to-work activities, without having to go through an elaborate and time-consuming waiver process. It is my hope that this provision will be just the first step toward serious integration and consolidation of job training efforts.

I believe we must act boldly to reform our existing job training programs—not merely add new ones in the name of reform. Creating this new program will only serve to complicate the real task before us. When we already have a confusing patchwork of job training programs costing the Federal Government over $25 billion per year, creating job training program No. 155 simply is not the answer.

We must begin to dismantle the confusing array of job training programs which hangs like an albatross around our neck. Our goal should be a single, comprehensive system that works for everyone. I have introduced legislation with bipartisan support that provides both the mechanism and the strategy for overhauling the entire system.

It is no secret where the votes are on the conference report, but I sincerely hope that this will be the last time we create another job training program, and that we will proceed instead to consolidate and streamline the existing system.

Before closing, I want to express my deep appreciation for the staff work which went into this legislation. I particularly want to recognize the efforts of Carla Widener of my staff, who devoted countless hours at every step of the process of considering this legislation. I would like to thank as well Todd Atwater with Senator THURMOND, the ranking member of the Subcommittee on Employment and Productivity. Other staff members on our side of the aisle who made significant contributions to this effort include Reg Jones and Pam Devitt with Senator JEFFORDS, Alyssa Hamilton with Senator GREGG, and Dean Rosen with Senator DURENBERGER. Finally, I want to acknowledge the tireless efforts of Liz Aldridge of the Office of Senate Legislative Counsel in dealing with the many drafts of and amendments to this legislation.

Mr. NICKLES. Madam President, I also oppose this conference report.

Madam President, it is difficult to find something that 8 in 10 Americans agree upon. But, a poll released this week shows that 79 percent of the public believe government wastes a lot of the money they pay in taxes. This poll was not taken by a conservative Republican, but by the President's own pollster, Stanley Greenberg. Today, we have a bill before us which says to the American people, "We don't care about fiscal restraint, and we don't care about your tax dollars."

Why do I make this claim? Because a simple modicum of fiscal restraint in the School-to-Work Program, which is now before us, passed the Senate and was stripped in conference.

In February we spent some time debating and amending President Clinton's School-to-Work Program. I spoke in opposition to this legislation at that time, and as the conference report comes before the Senate today I rise to oppose it as well.

When the bill was originally reported, it gave a blank check for the program by authorizing such sums as necessary. I was pleased that the Senate accepted my amendment to remove this blank check and replace it with authorization levels in the President's—I repeat, the President's—fiscal year 1995 budget. My amendment authorized $1.65 billion over 5 years for the School-to-Work Program.

However, for reasons I cannot fathom my amendment was dropped from the conference report we are considering here today. Instead of authorizing this new Federal program at the levels requested by the President in his budget, this conference report funds this new program at $300 million for fiscal year 1995 and such sums as necessary, in other words, a blank check, for the following 4 years. I think most of my colleagues are aware if we authorize legislation in this blank check manner, there is no limit to how much it will cost.

Let me make clear what has happened here. The Congress of the United States is about to increase the authorization of a program above the amount proposed by the President. Keep in mind that the President didn't even ask for this extra money. And this is a program proposed by the President himself for which he determined in his own budget that he needed $1.65 billion over 5 years, not the blank check that is in this bill.

Can this country afford such sums as necessary? The American people are tired of the Federal Government spending beyond its means. I do not oppose the concept of job training for non-college-bound youth. But I do believe this legislation will not achieve the goals its sponsors claim and it will cost the American taxpayer untold sums.

The Federal Government currently runs 154 separate job training programs at a cost of $25 billion per year to the U.S. taxpayers. With the passage of this legislation that number will increase to 155.

I believe an overhaul of the current system should happen before creating another billion dollar program. Simply, that is responsible government. The American taxpayer is more than willing to support programs that deliver what they promise. They do not support this process whereby we layer over old, unworkable programs with new ones. I think that is what we are doing today. In fact, the same poll I referred to earlier says 70 percent of Americans say that we should institute reforms to evaluate programs by the results achieved.

The School-to-Work Opportunities Act is a prime example of the problems with our job training programs. Instead of figuring out whether the existing 154 programs work, a new program with new requirements and unlimited new funds is created.

This legislation seeks to help non-college-bound youth. Similar programs have already been enacted to assist this same group—high school students. Congress established the similar tech-prep program as part of the Carl D. Perkins Vocational Education Reauthorization in 1990.

According to testimony given by the General Accounting Office before the Senate Labor Appropriations Subcommittee in June of 1993, many of the current job training programs serve the same target populations. For example, there are 65 programs which serve the economically disadvantaged, 48 programs are aimed at serving out-of-school youth under 22 years of age, 90 programs provide career counseling and assessments, and 75 programs provide occupational training. GAO concluded its testimony by making it clear that Congress must work through existing programs instead of establishing new programs that compete with those that already exist.

We cannot afford this legislation especially with the removal of my amendment to cap the authorization at the level requested by the President in his fiscal year 1995 budget. This is a brand-new, bureaucratic, costly, Federal program.

I oppose this legislation not because I do not believe in improving the transition from school to work. But because I believe before we create another duplicative, costly job training program, we owe it to the taxpayers to take a look at what we have already done to determine if the existing programs work effectively. Unfortunately, I believe my colleagues have the votes to pass it today. I am afraid we are just making this program number 156.

Madam President, I will have printed in the RECORD the report done by GAO that lists the number of programs that we have in job training. I was surprised, I tell my friends and colleagues from Massachusetts, Illinois, and West Virginia, to find in the Department of Education we already have 60 programs. Before we had this program we already had 60 dealing with job training at a cost of $13 billion.

The Department of Labor—and this program is divided between Department of Labor and Department of Education—in the Department of Labor we currently have 36 programs, at a cost of $7.1 billion, for job training. I could go on. The Department of Veterans Affairs has 12 programs; the Department of Health and Human Services has 14 programs; the Department of Commerce has 9 programs. There are a few other miscellaneous programs. Small business has eight programs.

If we add all those together, there are 154 different job training programs, many of which are duplicative. And I will say some of them work and many of them do not work. Frankly, I hope the School-to-Work Program is one that works. But I think before we create a new one we should have eliminated some that do not work so well. I cannot help but think, spending $25 billion a year in 154 programs, we should be eliminating a lot of these existing programs before we start new ones. That is the reason why I rise in opposition today. That is the reason why I think Senator KASSEBAUM opposed this legislation as well.

I ask unanimous consent that this table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FEDERAL EMPLOYMENT AND TRAINING PROGRAMS: FUNDING LEVELS BY AGENCY—FISCAL YEAR 1994

Federal Agency	Fiscal Year 1994—		
	Number of Programs	Funding Levels (in millions)	Percent of total
ACTION	3	$100.9	0.41
Department of Agriculture	1	162.7	0.66
Appalachian Regional Commission	1	11.2	0.05
Department of Commerce	9	220.5	0.89
Department of Defense	2	72.0	0.29
Department of Education	60	13,031.4	52.47
Department of Health and Human Services	14	2,203.5	8.87
Department of Housing and Urban Development	4	303.4	1.22
Department of Interior	2	20.9	0.08
Department of Labor	36	7,141.5	28.75
Office of Personnel Management	1	[1]	N/A
Small Business Administration	8	157.4	0.63
Department of Transportation	1	1.5	0.01
Department of Veterans Affairs	12	1,410.0	5.68
Total	154	24,837.7	100.00

[1] Program coordinated by OPM, but carried out by numerous Federal agencies.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, if the Senator will check carefully, the Senator will find that the GAO study he refers to was requested by the Democratic members of the Labor Committee to try to find ways we can bring about consolidation of programs, many of which were enacted during the last 12 years of Republican administrations and signed into law by the Republican President. So the Senator is not going to find any dispute from me about the need to consolidate programs, since it was basically myself as chairman and the ranking member of our committee who requested these reports.

I find it interesting that the chamber of commerce, which is not known as an organization that generally supports frivolous spending by the Federal Government, has strongly supported this legislation. The National Association of Manufacturers, not known as a great liberal group that is out there supporting frivolous Government spending, has placed a priority addressing the needs of those young people of America who do not receive the billions of dollars in Pell grants and Stafford loans that are given out to students attending college. Those organizations think that the sons and daughters of working families, whose real income over the period of the last 15 years has dropped significantly, ought to be able to have some help and support, which in this case is the equivalent of the cost of one C–17.

So, Madam President, I respect the arguments that are made by my friend. I do think, frankly, that it is we who will be taking the lead in reviewing all of the various authorizations of our committee to determine how much is utilized for administration and how much actually gets out to benefit the people. We are in the process of doing that. I hope the committees that he is on will engage in those kinds of efforts as well.

I give my colleague the assurance that as we do those reviews and we work to consolidate those programs—which Secretary Reich, Secretary Riley, and Secretary Shalala have agreed must be done—that we will be able to count on his support.

But I must say again, Madam President, that I really am surprised at opposition to this very modest program which is intended to give some help and assistance to the millions of young men and women who are going through that year, the second-to-last year, of high school and who are facing so many difficulties in making career choices. We do not want to simply say to them: Your choice when you leave school is a job at the Pizza Hut; your choice is to work at McDonald's.

Hopefully, we are going to be able to bring the best of American business, which has endorsed this program; the best in terms of educators, who have endorsed this program; the best in terms of other community-based groups, which have endorsed this program, and say to these young people: You are valuable in our society. And in a $1.5 trillion budget we can afford $300 million for those kids.

Madam President, I am proud of this program and the work that has been done on this program and the strong bipartisan support, overwhelming support; better than 4 to 1, Republicans and Democrats alike, in the House of Representatives.

I hope that the young people of America feel that this is a small downpayment for those Americans who perhaps have not had all of the kinds of opportunities that we have had as Members of the U.S. Senate, but who are the backbone of this country and the ones who make our economy really work.

I, quite frankly, am surprised, in a $1.5 trillion budget, that there are Members out here tonight saying, "We can't afford those $300 million" for those young people when this is a program that has had strong bipartisan support.

I respect my colleague and friend, but I hope that his view will not be persuasive.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. NICKLES. Will the Senator give me 1 minute?

Mr. SIMON. I yield 1 minute to the Senator from Oklahoma.

Mr. NICKLES. Madam President, I thank my friend and colleague from Illinois, and I appreciate the comments made by the Senator from Massachusetts. I will just tell the Senator from Massachusetts, again, this Senator hopes that you will move toward consolidation of 154 programs. I cannot help but think a lot of them do not work. I do not know that we need 155 job training programs. I do not know that the Department of Education needs 60 job training programs; or the Department of Labor needs 40-some. I handed that chart in.

So I hope the authorizing committee, on which I had the pleasure of serving with the Senator for several years, will work toward that consolidation, so we would make these $25 billion-plus that we are now spending on job training more effective, more efficient, to help more people, not to help more bureaucracy. That is the intent. That is why 31 Senators opposed this bill when it passed.

I am not asking for a rollcall vote because I know the Senator has the votes and the hour is late. We will allow this to be adopted. I did want to raise the objections of several, because we do not see this as reinventing Government. We see this as an expansion of Government without consolidating or fixing some of the programs that, frankly, are not working very well.

Again, I thank my colleague from Illinois, and I yield the floor.

Mr. SIMON. Madam President, I believe the President pro tempore would like a word or two in here. I am pleased to yield to him.

Mr. BYRD. Madam President, I thank my friend from Illinois. I congratulate the chairman of the Labor and Human Resources Committee, Mr. KENNEDY, on his leadership in connection with the conference report and the bill which preceded it. I admire and congratulate him because of his political acumen, his legislative skill and, as I say, his leadership in connection with not only this measure but in many, many other measures that have passed this Senate during the time that I was leader of the Democratic Party, both as majority leader and minority leader.

However, in this particular instance, I voted against the bill when it passed the Senate. I do not believe that I stated my reasons for objecting to it on that occasion. Therefore, I am opposed to the conference report. There will be no rollcall vote, of course, in which case I would have established for the RECORD my vote against the report.

Mr. President, the Senate passed the school-to-work transition bill on February 8, 1994. Although I believe a program for school-to-work transition is one that is long overdue, I cast my vote against that measure to make a particular point. This Nation cannot afford to fund new programs while at the same time maintaining that existing programs cannot be cut.

Over the years, we have gotten into the practice of authorizing one new program after another without regard to cost. Some of these programs, like the school-to-work transition program, are designed to change the direction that we are taking in preparing our young people for the work force. That is good. Change is necessary. However, we in Congress must first change the way in which we do business. What concerns me greatly is that while we continue to create new programs, old programs just never seem to die. This cannot continue. We do not have the money to continue existing programs as well as pay for new ones. If we create new programs which better suit our needs, we should eliminate the old outdated ones. This seems never to happen. It must begin to happen or we will never be able to finance the new programs we need.

We are operating under a freeze in discretionary spending over a 5-year period. By fiscal year 1998, discretionary outlays will fall $180.3 billion short of meeting inflation and $14.9 billion below a hard freeze. The mathematics is simple. We are in a budgetary situation where we cannot add without subtracting. We need to take a broader look at new programs being created and get rid of our tunnel vision. If we want to take a new direction, then we should do so—but, we should also be looking at existing programs that are not working, that have outlived their usefulness or are duplicative, and we should begin to eliminate those programs.

I have no quarrel with the school-to-work transition program. It will benefit my own State of West Virginia. However, I cannot with good conscience vote to support this legislation, raise expectations, and lead people to believe that we can do it all—that money is no problem, that passing these new wonderful ideas is a cost-free endeavor. That just is not the case, and I cannot vote as if it were.

I, again, thank my friend, Mr. SIMON, for his kindness and generosity in yielding.

Mr. SIMON. Madam President, first I respect the sincerity of the President pro tempore and his careful work in this body. I also respect my friend from Oklahoma, Senator NICKLES.

Let me point out, to just reinforce what Senator KENNEDY had to say, that it is those of us on this side of the aisle who have asked for a review by the GAO.

When you talk about 154 job training plans, that includes the Pell grants; that includes Stafford guaranteed student loans. It includes a lot of things that really are not job training programs. They took the extreme on this.

Let me add that Secretary Bob Reich is proposing some programs to consolidate, and I think we are going to develop an improvement.

I want to particularly thank Senator KENNEDY. Senator BYRD, in referring to Senator KENNEDY, used the word "leadership." He really is a leader. We heard, in response to Senator NICKLES, these are not just pieces of paper for him; he believes in these things. I really appreciate that leadership.

I also want to thank Senator WOFFORD and Senator DURENBERGER, both of whom played important roles in developing this, as well as Congressman FORD and Congressman GOODLING.

As has been said, three-fourths of the young people who go to our high schools do not get bachelors' degrees. We have to help them. This is a higher education bill, as I said earlier today, but it is higher education spelled h-i-r-e, so that young people can learn on the job.

Senator KENNEDY and I visited a high school in Chicago, and we saw these young people there working on metal crafting, helping businesses, but also learning that the math they were being taught in school has some meaning, the English they were learning in school has meaning, and doing the kinds of things that are learned by doing. It is the most effective way of learning.

I hope, Madam President, that we will not only adopt this, but will follow through in other ways to help these young people who are not going on to college.

Twenty-six percent of the people in the State of Illinois, adult citizens of our State, are not high-school graduates. I do not know what the percentage is in California, Madam President, but it would be a similar percentage.

One of the great things about the School-to-Work Program is it encourages people to come back to school. I hope we can move ahead.

I am very pleased to join my colleague, Senator KENNEDY, in support of this legislation. I hope we can at this point adopt this by voice vote.

Ms. MOSELEY-BRAUN. Madam President, I rise today in support of the conference report for the School-to-Work Opportunities Act of 1993.

I am an original cosponsor of this legislation which is designed to prepare all Americans for high-skill, high-wage careers.

Numerous studies have found that there is an urgent need in this country for comprehensive school-to-work systems that can effectively prepare our children to compete in the emerging global economy.

The General Accounting Office, for example, concluded in its report—Transition From School-to-Work—that we are failing to provide our young people with the high skills they need to make an effective transition from school to work.

More specifically, GAO found that 30 percent of youth aged 16 to 24 lack the skills necessary for entry-level employment.

The General Accounting Office also reported that the United States is lagging behind some of its primary international economic competitors—including Japan and Germany—in providing its young people with the academic and technical skills that employers need.

In Japan, for example, high school seniors get jobs almost exclusively through school/employer linkages, with employers basing their hiring decisions on school recommendations.

In West Germany, roughly two-thirds of all youth participate in apprenticeship programs that teach them important academic and occupational-related skills.

The secondary education system in the United States, however, has evolved into a multitrack system that often fails to meet the needs of students who do not plan to attend traditional 4 year colleges.

Although American high schools direct most of their resources toward preparing students for college, only about 15 percent of high school freshmen graduate from high school and then obtain a 4-year college degree within 6 years of high school graduation. A substantial number of the remaining 85 percent of America's young people wander between different educational and employment experiences.

Madam President, the Congressional Research Service also cites several studies in its report—Educating New American Workers: Improving the Transition From School to Work—which find that too many Americans are stuck in low wage jobs due to limited career guidance, inadequate workplace experiences, and other impediments to effective school-to-work transitions.

For example, CRS cites the report—"The Forgotten Half"—which found that men aged 20–24 with a high school diploma experienced a 28 percent decline in real earnings between 1973 and 1986 while high school dropouts experienced a 42-percent decline during this same period.

CRS also highlights a recent Census Bureau study which found that 21.6 percent of all full-time workers with high school diplomas had low earnings in 1990—up from 12 percent in 1974.

In short, both the General Accounting Office and the Congressional Research Service conclude that too many Americans are stuck in low skill, low wage jobs.

Mr. President, the School-to-Work Opportunities Act addresses this problem by authorizing the Secretaries of Education and Labor to help States develop and implement comprehensive school-to-work transition systems that combine school-based learning and work-based learning.

More specifically, this legislation supports tech prep programs, career academies, apprenticeship programs, and cooperative education programs that offer:

A program of study designed to meet academic standards established by the State for all students;

Regularly scheduled evaluations designed to identify academic strengths and weaknesses;

Career exploration and counseling;

Paid work experience leading to the award of a skill certificate; and

Workplace mentoring.

In effect, the School-to-Work Opportunities Act supports successful school-to-work opportunities programs like the Career Cooperative Tech Prep Program at William Rainey Harper College in Palatine, IL.

Madam President, Tech Prep Program at Harper College was one of only four education and training programs in the United States to win the Labor Department's Investing for Tomorrow Award in 1992 for its "outstanding contribution to work force quality."

The Tech Prep Program at Harper College brings 10 public high schools and over 90 businesses together to provide students in northwest suburban Cook County with academic training, technical training, and important worksite learning experiences.

This program begins in the middle school years when students are invited to attend a 4-week summer program which allows them to explore different career opportunities.

This program then organizes career nights and helps students develop their own academic and technical training plans throughout their high school years.

After graduating from high school, tech prep students participate in an 8-week summer internship program designed to prepare them for entry level positions in their chosen fields while simultaneously earning college credit.

Once career cooperative tech prep students complete their summer internships, they are then encouraged to enroll in an associate of applied science degree program at William Rainey Harper College where they complement their academic training with important worksite experiences.

Finally, after earning their A.A.S. degree, tech prep students are given hiring preferences for fulltime positions with their program's sponsors.

Madam President, I would like to quote Amanda Clark, a member of the Schaumburg High School graduating class of 1991, on the benefits of school-to-work programs:

> As a high school senior, I knew I wanted to continue my education, but was not sure I could afford a four-year college. I also knew I wanted to pursue a career in business, but I was not sure in which area. I enrolled in the tech prep program. After an internship at household retail services in Wooddale, I decided that I definitely want to major in finance. From tech prep, I gained the career direction I was lacking and earned good money while attending Harper College. Eventually, I will have an affordable means of obtaining a bachelor's degree, thanks to tech prep. I could not ask for anything more.

Madam President, I strongly urge my colleagues to support the conference report to the School-to-Work Opportunities Act.

Mr. COATS. Madam President, school-to-work transition is a concept that I have strongly endorsed on several occasions. As most of us have heard in committee testimony and during visits to our home States, many of our youth will not go to college, and many who do go to college will not earn a degree. We need to provide meaningful opportunities for these students—and we need to provide them as early as possible.

School to work is a principle which endeavors to address this issue in a way which requires collaboration, public/private partnerships, and mentorship—all very important concepts that are crucial for an effective program.

I voted against the Senate version of the school-to-work proposal earlier this year for several reasons—one of which was the mandated paid work requirement.

I am pleased that the conference committee has deleted that requirement and in its place, retained an amendment offered by Senator THURMOND which gives a priority to States which include a paid work component in their State plans.

This was an important change in the legislation and I congratulate Senator THURMOND for its inclusion.

I supported the Thurmond amendment because I was concerned that a paid training requirement would significantly limit the opportunities for valuable work experiences—which would have been particularly true for small businesses.

However, even with this important change in the legislation, I must still oppose H.R. 2884.

What continues to be of concern to me is the fact that this new initiative represents yet another categorical job training program.

According to the Government Accounting Office, we are presently funding over 150 job training programs at an estimated cost of $20 billion. The school-to-work bill adds another job training proposal to this already costly mix. And perhaps more important is the fact that it duplicates efforts already authorized to be provided to this same group—kids not bound for college.

As a matter of fact, the State of Indiana, as well as 23 other States, has already received grants for the development of school-to-work programs. Some might ask how this was possible since this bill has not yet been signed into law.

Using existing authority under JTPA and the Carl Perkins Act—the Departments of Labor and Education have already provided funds to States for the development of school-to-work initiatives. So we see that school-to-work initiatives are not only possible, but are already being supported by Federal funds, so why is this bill needed?

That is a good question—and the principle reason why I am opposing this legislation.

Madam President, I want to reiterate that the concept of school-to-work transition is an important one, and one that deserves our close attention. However, I strongly believe that we should consider it in the context of a broader job training reform package that will be considered later this year.

Mr. WOFFORD. Madam President, we are about to vote on the School-to-Work Opportunities Act, S. 1361. The House passed it yesterday so now its our chance to act in a strong bipartisan way to give young people the training and resources they need to be good workers and good citizens. The vote count was 339 to 79 with more Republicans voting in favor of this education reform measure than against. We originally passed S. 1361 on February 8, 62 to 31.

So today, we in this body will once again have the chance to join together to show the American people that we can get past party and past the divisions of left and right to invest in our collective future.

School-to-Work and Youth Apprenticeship Programs are built on a simple truth—people learn best by doing. It is like the old Chinese proverb: "What I hear, I forget. What I see, I remember. What I do, I understand."

The point is to empower young people to be active, not passive, in learning the skills needed to qualify for good jobs and be productive workers. Real learning requires more than textbooks, you have to get your hands dirty.

The United States lags way behind our competitors in Europe and Asia in preparing young people, especially those who choose not to go to college, for the world of work. Germany and Japan have developed extensive, integrated youth education and job training programs to succeed in the high-technology, global economy of the 21st century.

As we have all learned over and over again, when we do not invest today in opportunities for young people to learn the skills, discipline, and sense of personal responsibility to be productive workers and law abiding citizens, we end up paying tomorrow in the costs of unemployment, welfare, drugs, and prison.

Coupled with Goals 2000, the School-to-Work Opportunities Act represents a significant first step in an aggressive agenda that we must undertake this year to reinvent our schools and our job training systems. This agenda includes turning our unemployment system into a reemployment system, welfare reform, and the reauthorization of the Elementary and Secondary Act. This agenda will encourage lifelong learning, improve our competitiveness, and create jobs.

The School to Work Opportunities Act will help create a diverse, national system of apprenticeship-style programs from the "grassroots up" and in so doing increase the competitiveness and productivity of our young people, our schools, our businesses and our workforce. Through a competitive grants process jointly administered by the Secretary Robert Reich and Secretary Riley the bill invests "seed capital" in partnerships and in what is working on the State and local level—igniting and replicating these small but bright pilots into a national, coordinated system.

The bill is premised on the notion that real change in our job training programs and our system of education will only come about when the people closest to the problems are empowered to change them. The bill does not create a new Federal bureaucracy. The programs aren't run by bureaucrats in Washington but rather by schools, businesses, communities, parents, teachers, and students at the local level, by our constituents.

I would especially note that the conference report includes an innovative set of waivers that will allow States and localities flexibility in implementing their programs and will encourage them to cut through red tape and the myriad of Federal regulations to develop comprehensive, integrated programs. I was particularly involved with the consolidation amendments that are a part of this act that will allow for the combination of Federal funds for high poverty schools and the combination of Federal funds by States for school to work activities, Sections 504 and 505. I am also pleased at the retention of the paid work experience component and the industrial extension center technology language since both are hallmarks of our efforts in Pennsylvania.

Madam President, I would like to take a few more moments to speak about our efforts in Pennsylvania.

In April 1991, the Pennsylvania Economic Development Partnership, a bipartisan group of educators, business leaders, union officials, and Government leaders from across the Commonwealth, released "A State Prepared: Developing Pennsylvania's Work Force." Chaired by Dr. Peter Likins the report called for the dramatic improvement of school-to-work transition programs in Pennsylvania. The partnership suggested that both employers and new workers need a better level of coordination between education and the workplace and that secondary school systems need to do a better job of relating education and training experiences in the world of work. Three years later the essence of this report is reflected in the School to Work Act.

As I have mentioned on other occasions, before coming to the Senate, I was honored to serve as the head of the Department of Labor and Industry in Pennsylvania. In that role, I had considerable hands-on experience developing initiatives that integrated school- and work-based learning. I helped Governor Casey devise and launch the Pennsylvania Youth Apprenticeship Program in 1990.

Loosely adapted from Germany's system, our Pennsylvania Youth Apprenticeship Program is a small but rapidly growing statewide effort that serves as a model for the rest of the Nation and offers the best working framework on which to build a rigorous and comprehensive national system to help young people make the transition from school to work.

There are over 450 student apprentices participating in Pennsylvania's 14 sites around the Commonwealth in the career fields of metalworking, manufacturing, electronics, and health care. The students go to school 3 days a week and to the work site 2 days a week. This rigorous, 4-year program that starts in the 11th grade allows students to earn a high school diploma, skilled worker status, up to 2 years of post-secondary credits transferable to 4-year colleges in Pennsylvania and usually a modest stipend. Avoiding tracking, this program keeps students options open. Over 150 businesses—many of them small businesses—that have stepped forward to be partners in this education reform initiative.

We also have a rich tradition of vocational education and career academies in Pennsylvania. In Philadelphia, the academy system of schools within schools is engaging over 4,300 students in active learning.

With the School-to-Work Opportunities Act, our Commonwealth can build on its successful examples and other States, schools and communities across the Nation can begin to follow our lead. We can empower citizens and schools, communities and companies to help each other, not with more government, but with direct support for education that works. For job training that gives young people—especially those millions of young people who don't go to college—the chance to turn their diplomas into productive lives.

During the course of the debate on national service, I was pleased to point often to our experience in Pennsylvania with PENNSERVE. Now with the debate on the School-to-Work Opportunities Act, we see another example of the Nation trying to replicate another demonstrated success of Pennsylvania.

We have already seen the future of a national system of apprenticeship-style programs in Pennsylvania. And if, with the passage of this act, the Nation's experience is anything like our own, then the future is indeed quite bright.

Let me close by offering my thanks:

To Governor Casey and Secretaries Carroll, Foley, and Greenberg who have given tremendous leadership to our efforts in linking school and work in Pennsylvania. The lessons and experiences of Pennsylvania have informed our bill and arguably helped lead to the bill in the first place.

To Jean Wolfe, the director of our Pennsylvania Youth Apprenticeship Program who testified on this legislation early on and helped us make this a better bill. And to her predecessor any my good friend Bob Coy who is acting to create systems of school to work in Delaware. To Jean Berdick, Ray Christman, Tom Paternostro, Theresa Lemme, Natalie Allen, and the many others who have been on the frontlines in Pennsylvania, including all of the students.

And a special note of thanks to three of my friends and advisers who represent the best in the business in the policy area of apprenticeships: Richard Kazis, Hillary Pennington, and Sam Halperin. From drafting Career Pathways to debating this measure they've been instrumental.

Thanks to Secretaries Reich and Riley and their fine staffs for their excellent work, in particular Sally Sachar and Leslie Loble.

Finally, a special note of thanks to my colleagues.

From the other side of the aisle, Senators DURENBERGER, HATFIELD, BOND, and JEFFORDS who have helped craft this bill and worked for its passage.

Thanks to Senator SIMON for his stewardship of this bill through the legislative process. From our work on Career Pathways to this point, Senator SIMON has been an effective and eloquent champion of the importance of integrating school- and work-based learning. And it goes without saying Chairman KENNEDY's leadership has been instrumental on this and so many other important domestic initiatives. Both have been a delight to work with and their staff—Sara Fox, Luis Castro, and Brian Kennedy—have repeatedly demonstrated their abilities and good judgment in the course of moving this bill so quickly.

Mrs. KASSEBAUM. Madam President, I opposed the School-to-Work Opportunities Act when it was considered by the Senate because it will create yet another job training program at a time when we should be reforming the 154 job training programs we already have. I will vote against the conference report on this bill for the same reason.

Having said that, I do want to acknowledge particularly the efforts of Senator KENNEDY, Senator THURMOND, Senator SIMON, and their staffs in working on the conference bill. I appreciate the courtesy and cooperation of everyone involved.

When this bill was debated in the Senate, supporters stated repeatedly that it did not create a new program. Instead, they contended the legislation would encourage coordination of existing programs under the school-to-work umbrella.

I share the goal of creating a better integrated system to improve the transition from school to work, and I wish this bill did that. But it doesn't. The bill creates yet another stand-alone job training program, with a separate authorization, a separate pool of funds, and a separate string of eligibility requirements.

Despite my objections to this legislation, I do appreciate the efforts of the conferees to retain provisions which I believe do offer more flexibility to States and localities to integrate existing programs. For example, there is no longer a mandatory requirement that all programs must provide paid work opportunities to all students.

In addition, the bill breaks new ground by allowing States to combine funds from similar programs for school-to-work activities, without having to go through an elaborate and time-consuming waiver process. It is my hope that this provision will be just the first step toward serious integration and consolidation of job training efforts.

I believe we must act boldly to reform our existing job training programs—not merely add new ones in the name of reform. Creating this new program will only serve to complicate the real task before us. When we already have a confusing patchwork of job training programs costing the Federal Government over $25 billion per year, creating job training program No. 155 simply is not the answer.

We must begin to dismantle the confusing array of job training programs which hangs like an albatross around our neck. Our goal should be a single, comprehensive system that works for everyone. I have introduced legislation with bipartisan support that provides both the mechanism and the strategy for overhauling the entire system.

It is no secret where the votes are on the conference report, but I sincerely hope that this will be the last time we create another job training program, and that we will proceed instead to consolidate and streamline the existing system.

Before closing, I want to express my deep appreciation for the staff work which went into this legislation. I particularly want to recognize the efforts of Carla Widener of my staff, who devoted countless hours at every step of the process of considering this legislation. I would like to thank as well Todd Atwater with Senator THURMOND, the ranking member of the Subcommittee on Employment and Productivity. Other staff members on our side of the aisle who made significant contributions to this effort include Reg Jones and Pam Devitt with Senator JEFFORDS, Alyssa Hamilton with Senator GREGG, and Dean Rosen with Senator DURENBERGER. Finally, I want to acknowledge the tireless efforts of Liz Aldridge of the Office of Senate Legislative Counsel in dealing with the many drafts of and amendments to this legislation.

Mr. PELL. Madam President, as an original cosponsor of this critical school-to-work legislation, I am very pleased that we are voting today on a final version of H.R. 2884, the School-to-Work Opportunities Act of 1994.

In developing this legislation, President Clinton is keeping his commitment to establish a comprehensive system to help ease the transition from school to a changing American workplace that, increasingly, demands high-skilled and well-educated workers.

Unlike most of our competitors in the global marketplace, we do not have a cohesive, comprehensive school-to-work system. This legislation would build on successful programs such as tech-prep and cooperative education, while allowing for flexibility so that programs can best address the needs of each individual community to better serve our noncollege-bound youth. It is a critical first step in the process of creating a system of life-long learning.

Madam President, I especially wish to congratulate the chairman of the full committee, Senator KENNEDY, and the chairman of the Subcommittee on Employment and Productivity, Senator SIMON, for their successful efforts to move this legislation another significant step closer to enactment.

Madam President, I believe that this is an excellent conference agreement and that it merits strong bipartisan support. I urge my colleagues to vote in favor of this very important legislation.

Mr. JOHNSTON. Mr. President, I would like to take this opportunity to go on record indicating my strong support for the conference report for a bill that I cosponsored, the School-to-Work Opportunities Act.

This legislation addresses a group of students that has traditionally been forgotten when we consider elementary and secondary education and yet it encompasses three-quarters of all the high school students in America. These are the young Americans who do not go on to receive a college education after graduating from high school but move directly into the work force.

I have always been a strong supporter of education issues. The education a youngster receives is a gift that will remain with him for the rest of his life. It is the foundation for all of his future endeavors. That future may lead to higher education, where a student can expand his horizons even further. However, for millions of high school graduates, that future leads immediately to the workforce and today these young Americans are entering the labor market completely unprepared. They are unaware of the skills needed to be effective workers, causing their employers to have to spend valuable hours and resources on employee training and retraining.

Other industrialized nations like Germany and Japan have a tracked educational system. They separate college bound from noncollege-bound students early in their educational careers and prepare their noncollege-bound students to enter the labor market. Our educational system in America is different—we don't place as much emphasis on tracking—but that doesn't mean we can continue to allow our high school graduates to enter the work force with no idea of what is expected of them.

The School-to-Work Opportunities Act seeks to remedy the situation that exists for non college-bound students. Through work-based learning, school-based learning, and connecting activities, non college-bound high school students will be given the skills they need to enter the work force before they graduate and they will be entering the work force prepared, saving their employers time and money.

Work-based learning gives students the practical experience they need by providing paid work experience and instruction in employment skills. Such hands-on training means that a high school graduate will know exactly what is expected of him when he enters the labor market and can prepare himself for that time. In addition, it teachers him valuable life-lessons about the responsibilities that come with earning a paycheck and managing one's money.

School-based learning provides students with career exploration and counseling no later than the 11th grade. Thus, students can start thinking about jobs that interest them and cultivate the skills needed to perform those jobs before they leave high school. Such programs may enable students to discover new interests or talents they didn't know they had.

Finally, connecting activities help match students with potential employers so that students can move immediately from school to the workplace.

Madam President, the School-to-Work Opportunities Act is urgently needed to help repair the gap that exists today between high school and college graduates. It is time to invest our efforts in the majority of students whose schooling ends when they receive their high school diploma and to see to it that those students enter the labor force prepared and ready to work. I urge my colleagues to join with me in supporting this important legislation by voting for the conference report on the School-to-Work Opportunities Act.

Mr. METZENBAUM. Madam President, I would like to ask whether my understanding of sections 101(5) and 601(5) is correct. Section 601(5) states, in part, that "nothing in this Act shall be construed * * * to modify or affect any right to enforcement of this Act that may exist under other Federal laws, except as expressly provided by this Act." It is my understanding, then, that nothing in this Act, including section 101(5), precludes enforcement of the requirements of this Act under 42 U.S.C. section 1983. Is that correct?

Mr. SIMON. Yes, it is. If any such right currently exists under 42 U.S.C. section 1983, this Act does nothing to preclude such an action.

Mr. METZENBAUM. Section 101(5) requires that programs provide all students with equal access to the full range of program components and related activities, except that, and I quote, "nothing in this Act shall be construed to provide any individual with an entitlement to services under this Act." My understanding is that the term "entitlement" is used here in a very specific manner. It refers to the type of programs where, once an individual meets the eligibility criteria set forth in the Act, that individual thereby has a right to receive services or benefits, such as Pell grants, Medicare, or the Individuals with Disabilities Education Act. Is that understanding correct?

Mr. SIMON. Yes, it is.

Mr. METZENBAUM. Then this section serves to clarify that the School-to-Work Opportunities Act does not create such an entitlement, whereby services would have to be provided to any and all eligible individuals?

Mr. SIMON. That is right.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. SIMON. Madam President, I move to reconsider the vote by which the conference report was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Madam President, what is the matter before the Senate?

HEAD START ACT AMENDMENTS OF 1994

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to S. 2000, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2000) to authorize appropriations for fiscal years 1995 through 1998 to carry out the Head Start Act and the Community Services Block Grant Act, and for other purposes.

Thereupon, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources, with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

TITLE I—HEAD START PROGRAMS

SEC. 101. SHORT TITLE; REFERENCES IN TITLE.

(a) Short Title.—This title may be cited as the "Head Start Act Amendments of 1994".

(b) References.—Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Head Start Act (42 U.S.C. 9831 et seq.).

SEC. 102. DEFINITIONS.

Section 637 (42 U.S.C. 9832) is amended—

(1) by striking paragraphs (4) and (5);

(2) by striking paragraph (9) and inserting the following new paragraph:

"(9) The term 'poverty line' means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.";

(3) by adding after paragraph (11) the following new paragraphs:

"(12) The term 'family literacy services' includes activities including interactive literacy activities between parents and their children, training for parents on techniques for being the primary teacher of their children and full partners in the education of their children, parent literacy training, and early childhood education.

"(13) The term 'Indian tribe' means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Native village described in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)) or established pursuant to such Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.";

(4) by redesignating paragraphs (6), (7), (8), (9), (10), (11), (12), and (13) as paragraphs (7), (8), (9), (11), (5), (6), (4), and (10), respectively; and

(5)(A) by transferring paragraph (4), as so redesignated, and inserting the paragraph after paragraph (3);

(B) by transferring paragraphs (5) and (6), as so redesignated, and inserting the paragraphs after paragraph (4), as so redesignated; and

(C) by transferring paragraph (10), as so redesignated, and inserting the paragraph after paragraph (9), as so redesignated.

SEC. 103. SERVICES.

Section 638(a)(1) (42 U.S.C. 9833(a)(1)) is amended by striking "health, nutritional, educational, social, and other services" and inserting "health, education, parental involvement, nutritional, social, and other services".

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

Section 639 (42 U.S.C. 9834) is amended—

(1) in subsection (a), by striking all that follows "subchapter" and inserting "such sums as may be necessary for fiscal year 1995 through 1998."; and

(2) by striking subsections (b) and (c) and inserting the following:

"(b) From the amount appropriated under subsection (a), the Secretary shall make available—

"(1) $35,000,000 for each of the fiscal years 1995 through 1998 to—

"(A) carry out the Head Start Transition Project Act; and

"(B) carry out activities authorized under section 642(d); and

"(2) not more than $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1998, to carry out longitudinal research under section 649(e).".

SEC. 105. ALLOCATION OF FUNDS.

(a) Allocation and Use of Funds for Quality Improvement.—Section 640(a)(3) (42 U.S.C. 9835(a)(3)) is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (C) and (D), respectively;

(2) by striking "(3)(C)" and all that follows through "quality improvement activities:" and inserting the following:

"(3)(A)(i) In order to provide assistance for activities specified in subparagraph (C) directed at the goals specified in subparagraph (B), the Secretary shall reserve, from the amount (if any) by which the funds appropriated under section 639(a) for a fiscal year exceed the adjusted prior year appropriation, a share equal to the sum of—

"(I) 25 percent of such excess amount; and

"(II) any additional amount the Secretary may find necessary to address a demonstrated need for such activities.

"(ii) As used in clause (i), the term 'adjusted prior year appropriation' means, with respect to a fiscal year, the amount appropriated pursuant to section 639(a) for the preceding fiscal year, adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers (issued by the Bureau of Labor Statistics) during such preceding fiscal year.

"(B) Funds reserved under this paragraph (referred to in this paragraph as 'quality improvement funds') shall be used to accomplish any or all of the following goals:

"(i) Ensuring that Head Start programs meet or exceed performance standards pursuant to section 641A(a)(1)(A).

"(ii) Ensuring that such programs have adequate qualified staff, and that such staff are furnished adequate training.

"(iii) Ensuring that salary levels and benefits are adequate to attract and retain qualified staff for such programs.

"(iv) Using salary increases to improve staff qualifications, and to assist with the implementation of career development programs, for the staff of Head Start programs.

"(v) Improving community-wide strategic planning and needs assessments for such programs.

"(vi) Ensuring that the physical environments of Head Start programs are conducive to providing effective program services to children and families.

"(vii) Making such other improvements in the quality of such programs as the Secretary may designate.

"(C) Quality improvement funds shall be used to carry out any or all of the following activities:";

(3) in subparagraph (C), as redesignated in paragraph (1), by adding at the end the following new clause:

"(vii) Such other activities as the Secretary may designate."; and

(4) in subparagraph (D), as redesignated in paragraph (1)—

(A) in clause (i)—

(i) in the matter preceding subclause (I), by striking "for the first, second, and third fiscal years for which funds are so reserved"; and

(ii) in subclause (II), by inserting "and Indian and migrant Head Start programs," after "States,";

(B) by striking clauses (ii) and (iii);

(C) in clause (iv)—

(i) by striking "To be expended" and all that follows, through "reserved, funds" and inserting "Funds";

(ii) by striking "clause (ii)" the first place it appears and inserting "clause (i)";

(iii) by inserting before the period at the end of the first sentence, ", for expenditure for activities specified in subparagraph (C)"; and

(iv) by striking the second sentence;

(D) in clause (vi), by striking "paragraphs (2), (4), and (5)" and inserting "paragraph (2) or (4)"; and

(E) by striking clause (v) and redesignating clauses (iv) and (vi) as clauses (ii) and (iii), respectively.

(b) Funds Set-Aside.—Section 640(a) (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (1), by striking "through (5)." and inserting "through (4), and subject to paragraphs (5) and (6).";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "1990" and inserting "1994"; and

(B) in subparagraph (D), by inserting "(including payments for all costs (other than compensation of Federal employees) of reviews of Head Start agencies and programs under section 641A(c), and of activities related to the development and implementation of quality improvement plans under section 641A(d)(2))" after "Secretary";

(3) in paragraph (3), by striking "paragraph (5)" each place it appears and inserting "paragraph (4)";

(4) by striking paragraph (4), and redesignating paragraphs (5) and (6) as paragraphs (4) and (7), respectively;

(5) in paragraph (4), as redesignated in paragraph (4), by striking "The" and inserting "Subject to section 639(b), the"; and

(6) by adding after paragraph (4), as redesignated in paragraph (4), the following new paragraphs:

"(5)(A) From amounts reserved and allotted pursuant to paragraph (4), the Secretary shall reserve such sums as may be necessary to award the collaboration grants described in subparagraph (B).

"(B) From the reserved sums, the Secretary may award a collaboration grant to each State to facilitate collaboration regarding activities carried out in the State under this subchapter, and other activities carried out in, and by, the State that are targeted to low-income children and families.

"(C) A State that receives a grant under subparagraph (B) shall—

"(i) appoint an individual to serve as a State liaison between—

"(I) agencies and individuals carrying out Head Start programs in the State; and

"(II) agencies and entities carrying out programs serving low-income children and families;

"(ii) involve the State Head Start Association in the selection of the individual, and involve the association in determinations relating to the ongoing direction of the collaboration;

"(iii) ensure that the individual holds a position with sufficient authority and access to ensure that the collaboration described in subparagraph (B) is effective and involves a range of State agencies; and

"(iv) ensure that the collaboration described in subparagraph (B) involves coordination of Head Start services with health care, welfare, child care, education, and national service activities, and activities relating to children with disabilities.

"(D) As used in this paragraph, the term 'low-income', used with respect to children or families, shall not be considered to refer only to children or families that meet the low-income criteria prescribed pursuant to section 645(a)(1)(A).

"(6) From amounts reserved and allotted pursuant to paragraphs (2) and (4), the Secretary shall use, for grants for programs described in section 645A(a), a portion of the combined total of such amounts equal to 3 percent for fiscal year 1995, 4 percent for each of fiscal years 1996 and 1997, and 5 percent for fiscal year 1998, of the amount appropriated pursuant to section 639(a).".

(c) Considerations for Allocation of Funds for Program Expansion.—Section 640(g) (42 U.S.C. 9835(g)) is amended—

(1) by striking "(g)" and inserting "(g)(1)"; and

(2) by adding at the end the following new paragraphs:

"(2) For the purpose of expanding Head Start programs, in allocating funds to an applicant within a State, from amounts allotted to a State pursuant to subsection (a)(4), the Secretary shall take into consideration—

"(A) the quality of the applicant's programs (including Head Start and other child care or child development programs) in existence on the date of the allocation, including, in the case of Head Start programs in existence on the date of the allocation, the extent to which such programs meet or exceed performance standards and other requirements under this subchapter;

"(B) the applicant's capacity to expand services (including, in the case of Head Start programs in existence on the date of the allocation, whether the applicant accomplished any prior expansions in an effective and timely manner);

"(C) the extent to which the applicant has undertaken community-wide strategic planning and needs assessments involving other community organizations serving children and families;

"(D) the numbers of eligible children in each community who are not participating in a Head Start program; and

"(E) the concentration of low-income families in each community.

"(3) In determining the amount of funds reserved pursuant to subparagraph (A) or (B) of subsection (a)(2) to be used for expanding Head Start programs under this subchapter, the Secretary shall take into consideration, to the extent appropriate, the factors specified in paragraph (2).".

(d) TECHNICAL AMENDMENT.—Section 640(h) (42 U.S.C. 9835(h)) is amended by striking "Each Head Start program may" and inserting "Financial assistance provided under this subchapter may be used by each Head Start program to".

(e) COMPENSATION.—Section 640 (42 U.S.C. 9835) is amended by adding at the end the following new subsection:

"(j) Any agency that receives financial assistance under this subchapter to improve the compensation of staff who provide services under this Act shall use the financial assistance to improve the compensation of such staff, regardless of whether the agency has the ability to improve the compensation of staff employed by the agency who do not provide Head Start services.".

SEC. 106. REPORT.

Section 640A (42 U.S.C. 9835a) is repealed.

SEC. 107. DESIGNATION.

(a) INDIAN RESERVATIONS.—Section 641(b) (42 U.S.C. 9836(b)) is amended by inserting after "Indian reservation" the following: "(including members of Indian tribes living near the reservation)".

(b) DESIGNATION OF AGENCIES—Section 641(c) (42 U.S.C. 9836(c)) is amended—

(1) by striking paragraphs (2) through (4);

(2) in the first sentence—

(A) by inserting "(subject to paragraph (2))" before ", the Secretary shall give priority"; and

(B) by striking "unless" and all that follows through the end of subparagraph (A) and inserting the following: "unless the Secretary makes a finding that the agency involved fails to meet program, financial management, and other requirements established by the Secretary.";

(3) by redesignating subparagraph (B) as paragraph (2);

(4) in paragraph (2), as so redesignated—

(A) by striking "except that, if" and inserting "If"; and

(B) by striking "subparagraph (A)" and inserting "paragraph (1)";

(5) by striking "Notwithstanding any other provision of this paragraph" and inserting the following:

"(3) Notwithstanding any other provision of this subsection"; and

(6) by aligning the margins of paragraph (2) with the margins of paragraph (3).

(c) CONSIDERATIONS IN DESIGNATING NEW HEAD START AGENCIES.—Section 641(d) (42 U.S.C. 9836(d)) is amended—

(1) in the first sentence, by striking all that precedes "then the Secretary" and inserting "If no entity in a community is entitled to the priority specified in subsection (c),";

(2) by striking the second sentence;

(3) in the third sentence—

(A) in the matter preceding paragraph (1), by striking "and subject to the preceding sentence"; and

(B) in paragraph (4), to read as follows:

"(4) the plan of such applicant—

"(A) to seek the involvement of parents of participating children in activities designed to help such parents become full partners in the education of their children;

"(B) to afford such parents the opportunity to participate in the development, conduct, and overall performance of the program at the local level;

"(C) to offer (directly or through referral to local entities, such as entities carrying out Even Start programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.)) to such parents—

"(i) family literacy services; and

"(ii) parenting skills training;

"(D) at the option of such applicant, to offer (directly or through referral to local entities) to such parents—

"(i) parental social self-sufficiency training;

"(ii) substance abuse counseling; or

"(iii) any other activity designed to help such parents become full partners in the education of their children; and

"(E) to provide, with respect to each participating family, a family needs assessment that includes consultation with such parents about the benefits of parent involvement and about the activities described in subparagraphs (C) and (D) in which such parents may choose to become involved (taking into consideration their specific family needs, work schedules, and other responsibilities);";

(4) in paragraph (7), by inserting "and" after the semicolon;

(5) by striking paragraph (8); and

(6) by redesignating paragraph (9) as paragraph (8).

(d) CONFORMING AMENDMENT.—Section 641 (42 U.S.C. 9836) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

SEC. 108. MONITORING AND QUALITY ASSURANCE.

The Act is amended by inserting after section 641 (42 U.S.C. 9836) the following new section:

"SEC. 641A. QUALITY STANDARDS; MONITORING OF HEAD START AGENCIES AND PROGRAMS.

"(a) QUALITY STANDARDS.—

"(1) ESTABLISHMENT OF STANDARDS.—The Secretary shall establish by regulation standards applicable to Head Start agencies, programs, and projects under this subchapter, including—

"(A) performance standards with respect to services required to be provided, including health, education, parental involvement, nutritional, social, and other services;

"(B) administrative and financial management standards;

"(C) standards relating to the condition and location of facilities for such agencies, programs, and projects; and

"(D) such other standards as the Secretary finds to be appropriate.

"(2) MINIMUM REQUIREMENTS.—The regulations promulgated under this subsection shall establish the minimum levels of overall accomplishment that a Head Start agency shall achieve in order to meet the standards specified in paragraph (1).

"(3) CONSIDERATIONS IN DEVELOPING STANDARDS.—In developing the regulations required under paragraph (1), the Secretary shall—

"(A) consult with experts in the fields of child development, early childhood education, family services, administration, and financial management, and with persons with experience in the operation of Head Start programs;

"(B) take into consideration—

"(i) past experience with use of the standards in effect under this subchapter on the date of enactment of this section;

"(ii) changes over the period since the date of enactment of this Act in the circumstances and problems typically facing children and families served by Head Start agencies;

"(iii) developments concerning best practices with respect to child development, children with disabilities, family services, program administration, and financial management; and

"(iv) projected needs of an expanding Head Start program; and

"(C)(i) not later than 1 year after the date of enactment of this section, review and revise as necessary the performance standards in effect under 651(b) on the day before the date of enactment of this section; and

"(ii) ensure that any such revisions in the performance standards will not result in the elimination of or any reduction in the scope or types of health, education, parental involvement, nutritional, social, or other services required to be provided under such standards as in effect on November 2, 1978.

"(4) STANDARDS RELATING TO OBLIGATIONS TO DELEGATE AGENCIES.—In developing standards under this subsection, the Secretary shall describe the obligations of a Head Start agency to an agency (referred to in this subchapter as the 'delegate agency') to which the Head Start agency has delegated responsibility for providing services under this subchapter and determine whether the Head Start agency complies with the standards. The Secretary shall consider such compliance during the review described in subsection (c)(1)(A) and in determining whether to renew financial assistance to the Head Start agency under this subchapter.

"(b) PERFORMANCE MEASURES.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary, in consultation with representatives of Head Start agencies and with experts in the fields of child development, family services, and program management, shall develop methods and procedures for measuring, annually and over longer periods, the quality and effectiveness of programs operated by Head Start agencies (referred to in this subchapter as 'performance measures').

"(2) DESIGN OF MEASURES.—The performance measures developed under this subsection shall be designed—

"(A) to assess the various services provided by Head Start programs and, to the extent the Secretary finds appropriate, administrative and financial management practices of such programs;

"(B) to be adaptable for use in self-assessment and peer review of individual Head Start agencies and programs; and

"(C) for other program purposes as determined by the Secretary.

"(3) USE OF MEASURES.—The Secretary shall use the performance measures developed pursuant to this subsection—

"(A) to identify strengths and weaknesses in the operation of Head Start programs nationally and by region; and

"(B) to identify problem areas that may require additional training and technical assistance resources.

"(c) MONITORING OF LOCAL AGENCIES AND PROGRAMS.—

"(1) IN GENERAL.—In order to determine whether Head Start agencies meet standards established under this subchapter with respect to program, administrative, financial management, and other requirements, the Secretary shall conduct the following reviews of designated Head Start agencies, and of the Head Start programs operated by such agencies:

"(A) A full review of each such agency at least once during each 3-year period.

"(B) A review of each newly designated agency immediately after the completion of the first year such agency carries out a Head Start program.

"(C) Followup reviews including prompt return visits to agencies and programs that fail to meet the standards.

"(D) Other reviews as appropriate.

"(2) CONDUCT OF REVIEWS.—The Secretary shall ensure that reviews described in subparagraphs (A) through (C) of paragraph (1)—

"(A) are performed, to the maximum extent practicable, by employees of the Department of Health and Human Services who are knowledgeable about Head Start programs; and

"(B) are supervised by such an employee at the site of such Head Start agency.

"(d) CORRECTIVE ACTION; TERMINATION.—

"(1) DETERMINATION.—If the Secretary determines, on the basis of a review pursuant to subsection (c), that a Head Start agency designated pursuant to section 641 fails to meet the standards described in subsection (c), the Secretary shall—

"(A) inform the agency of the deficiencies that shall be corrected;

"(B) with respect to each identified deficiency, require the agency—

"(i) to correct the deficiency immediately; or

"(ii) at the discretion of the Secretary (taking into consideration the seriousness of the deficiency and the time reasonably required to correct the deficiency), to comply with the requirements of paragraph (2) concerning a quality improvement plan; and

"(C) initiate proceedings to terminate the designation of the agency unless the agency corrects the deficiency.

"(2) QUALITY IMPROVEMENT PLAN.—

"(A) AGENCY RESPONSIBILITIES.—In order to retain a designation as a Head Start agency under this subchapter, a Head Start agency that is the subject of a determination described in paragraph (1) (other than an agency able to correct a deficiency immediately) shall—

"(i) develop in a timely manner, obtain the approval of the Secretary regarding, and implement a quality improvement plan that specifies—

"(I) the deficiencies to be corrected;

"(II) the actions to be taken to correct such deficiencies; and

"(III) the timetable for accomplishment of the corrective actions specified; and

"(ii) eliminate each deficiency identified, not later than the date for elimination of such deficiency specified in such plan (which shall not be later than 1 year after the date the agency received notice of the determination and of the specific deficiency to be corrected).

"(B) SECRETARIAL RESPONSIBILITY.—Not later than 30 days after receiving from a Head Start agency a proposed quality improvement plan pursuant to subparagraph (A), the Secretary shall either approve such proposed plan or specify the reasons why the proposed plan cannot be approved.

"(3) TRAINING AND TECHNICAL ASSISTANCE.—The Secretary shall provide training and technical assistance to Head Start agencies with respect to the development or implementation of such quality improvement plans to the extent the Secretary finds such provision to be feasible and appropriate given available funding and other statutory responsibilities.

"(e) SUMMARIES OF MONITORING OUTCOMES.—The Secretary shall publish annually, following the end of each fiscal year, a summary report on the findings of reviews conducted under subsection (c), and on the outcomes of quality improvement plans implemented under subsection (d), during such fiscal year.".

SEC. 109. TRANSITION COORDINATION WITH SCHOOLS AND PARENT INVOLVEMENT.

Section 642 (42 U.S.C. 9837) is amended—

(1) in subsection (b)—

(A) in paragraph (4), to read as follows: "(4) seek the involvement of parents of participating children in activities designed to help such parents become full partners in the education of their children, and to afford such parents the opportunity to participate in the development, conduct, and overall performance of the program at the local level;";

(B) in paragraph (5), by inserting "and" after the semicolon;

(C) by striking paragraph (6);

(D) by redesignating paragraphs (5) and (7) as paragraphs (8) and (9), respectively; and

(E) by inserting after paragraph (4) the following new paragraphs: "(5) offer (directly or through referral to local entities, such as entities carrying out Even Start programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.)), to parents of participating children, family literacy services and parenting skills training; (6) at the option of such agency, offer (directly or through referral to local entities), to such parents, parental social self-sufficiency training, substance abuse counseling, or any other activity designed to help such parents become full partners in the education of their children; (7) provide, with respect to each participating family, a family needs assessment that includes consultation with such parents about the benefits of parent involvement and about the activities described in paragraphs (4) through (6) in which such parents may choose to be involved (taking into consideration their specific family needs, work schedules, and other responsibilities);";

(2) in subsection (c), by striking "schools that will subsequently serve children in Head Start programs,"; and

(3) by adding after subsection (c) the following new subsection:

"(d)(1) Each Head Start agency shall carry out the actions specified in this subsection, to the extent feasible and appropriate in the circumstances (including the extent to which such agency is able to secure the cooperation of parents and schools) to enable children to maintain the developmental gains achieved in Head Start programs and to build upon such gains in further schooling.

"(2) The Head Start agency shall take steps to coordinate with the local educational agency (as defined in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)) serving the community involved and with schools in which children participating in a Head Start program operated by such agency will enroll following such program, including—

"(A) developing and implementing a systematic procedure for transferring Head Start program records for each participating child to the school in which such child will enroll;

"(B) establishing channels of communication between Head Start staff and their counterparts in the schools (including teachers, social workers, and health staff) to facilitate coordination of programs;

"(C) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start program teachers to discuss the developmental and other needs of individual children; and

"(D) organizing and participating in joint transition-related training of school staff and Head Start staff.

"(3) In order to promote the continued involvement of the parents of children that participate in Head Start programs in the education of their children upon transition to school, the Head Start agency shall—

"(A) provide training to the parents—

"(i) to inform the parents about their rights and responsibilities concerning the education of their children; and

"(ii) to enable the parents to understand and work with schools in order to communicate with teachers and other school personnel, to support the school work of their children, and to participate as appropriate in decisions relating to the education of their children; and

"(B) take other actions, as appropriate and feasible, to support the active involvement of the parents with schools, school personnel, and school-related organizations.

"(4) The Secretary of Health and Human Services and the Secretary of Education shall assess the results of the activities funded under the Head Start Transition Project Act (42 U.S.C. 9855 et seq.) and shall work together to provide technical assistance to enable communities to implement proposed practices emerging from the activities, to improve the Head Start programs and programs of the schools.".

SEC. 110. FACILITIES AND ADMINISTRATIVE REQUIREMENTS.

Section 644 (42 U.S.C. 9839) is amended—

(1) in subsection (d), by striking "guidelines, instructions,";

(2) in subsection (f)—

(A) in paragraph (2), by striking "640(a)(3)(A)(v)" and inserting "640(a)(3)(C)(v)"; and

(B) by adding at the end the following new paragraph:

"(3) Upon a determination by the Secretary that suitable facilities are not otherwise available to Indian tribes to carry out Head Start programs, and that the lack of suitable facilities will inhibit the operation of such programs, the Secretary, in the discretion of the Secretary, may authorize the use of financial assistance, from the amount reserved under section 640(a)(2)(A), to make payments for the purchase of facilities owned by such tribes. The amount of such a payment for such a facility shall not exceed the fair market value of the facility."; and

(3) by adding at the end the following new subsections:

"(g)(1) Upon a determination by the Secretary that suitable facilities (including public school facilities) are not otherwise available to Indian tribes, rural communities, and other low-income communities to carry out Head Start programs, that the lack of suitable facilities will inhibit the operation of such programs, and that construction of such facilities is more cost effective than purchase of available facilities or renovation, the Secretary, in the discretion of the Secretary, may authorize the use of financial assistance under this subchapter to make payments for capital expenditures related to facilities that will be used to carry out such programs. The Secretary shall establish uniform procedures for Head Start agencies to request approval for such payments, and shall promote, the extent practicable, the collocation of Head Start programs with other programs serving low-income children and families.

"(2) Such payments may be used for capital expenditures (including paying the cost of amortizing the principal, and paying interest on, loans) such as expenditures for—

"(A) construction of facilities that are not in existence on the date of the determination;

"(B) major renovation of facilities in existence on such date; and

"(C) purchase of vehicles used for programs conducted at the Head Start facilities.

"(3) All laborers and mechanics employed by contractors or subcontractors in the construction or renovation of facilities to be used to carry out Head Start programs shall be paid wages at not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931, as amended (40 U.S.C. 276a et seq., commonly known as the 'Davis-Bacon Act').

"(h) In all personnel actions of the American Indian Programs Branch of the Head Start Bureau of the Administration for Children and Families, the Secretary shall give the same preference to individuals who are members of an Indian tribe as the Secretary gives to a disabled veteran, as defined in section 2108(3)(C) of title 5, United States Code. The Secretary shall take such additional actions as may be necessary to promote recruitment of such individuals for employment in the Administration.".

SEC. 111. PARTICIPATION.

Section 645 (42 U.S.C. 9840) is amended

(1) in subsection (c)—

(A) in the first sentence, by striking "may provide" and all that follows and inserting "shall be permitted to provide more than 1 year of Head Start services to eligible children in the State."; and

(B) by striking the second sentence; and

(2) by adding at the end the following new subsection:

"(d)(1) An Indian tribe that—

"(A) operates a Head Start program;

"(B) enrolls as participants in the program all children in the community served by the tribe (including a community with a near-reservation designation, as defined by the Bureau of Indian Affairs) from families that meet the low-income criteria prescribed under subsection (a)(1)(A); and

"(C) has the resources to enroll additional children in the community who do not meet the low-income criteria;

may enroll such additional children in a Head Start program, in accordance with this subsection, if the program predominantly serves children who meet the low-income criteria.

"(2) The Indian tribe shall enroll the children in the Head Start program in accordance with such requirements as the Secretary may specify by regulation promulgated after consultation with Indian tribes.

"(3) In providing services through a Head Start program to such children, the Indian tribe may not use funds that the Secretary has determined, in accordance with section 640(g)(3), are to be used for expanding Head Start programs under this subchapter.".

SEC. 112. INITIATIVE ON FAMILIES WITH INFANTS AND TODDLERS.

(a) ESTABLISHMENT.—The Act is amended by adding after section 645 (42 U.S.C. 9840) the following new section:

"SEC. 645A. PROGRAMS FOR FAMILIES WITH INFANTS AND TODDLERS.

"(a) IN GENERAL.—The Secretary shall make grants, in accordance with the provisions of this section for—

"(1) programs providing family-centered services for low-income families with very young children designed to promote the development of the children, and to enable their parents to fulfill their roles as parents and to move toward self-sufficiency; and

"(2) provision of training and technical assistance to entities carrying out programs, and evaluation of programs, that were supported under the Comprehensive Child Development Act (42 U.S.C. 9881 et seq.), as in effect on the day before the date of enactment of this section.

"(b) SCOPE AND DESIGN OF PROGRAMS.—In carrying out a program described in subsection (a), an entity receiving assistance under this section shall—

"(1) provide, either directly or through referral, early, continuous, intensive, and comprehensive child development and family support services that will enhance the physical, social, emotional, and intellectual development of participating children;

"(2) ensure that the level of services provided to families responds to their needs and circumstances;

"(3) promote positive parent-child interactions;

"(4) provide services to parents to support their role as parents and to help the families move toward self-sufficiency (including educational and employment services as appropriate);

"(5) coordinate services with services provided by programs in the State and programs in the community to ensure a comprehensive array of services (such as health and mental health services);

"(6) ensure formal linkages with local Head Start programs in order to provide for continuity of services for children and families;

"(7) in the case of a Head Start agency that operates a program and that also provides Head Start services through the age of mandatory school attendance, ensure that children and families participating in the program receive such services through such age; and

"(8) meet such other requirements concerning design and operation of the program described in subsection (a) as the Secretary may establish.

"(c) PERSONS ELIGIBLE TO PARTICIPATE.—Persons who may participate in programs described in subsection (a)(1) include—

"(1) pregnant women; and

"(2) families with children under age 3 (or under age 5, in the case of children served by an entity specified in subsection (e)(3));

who meet the income criteria specified for families in section 645(a)(1).

"(d) ELIGIBLE SERVICE PROVIDERS.—To be eligible to receive assistance under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Entities that may apply to carry out activities under this section include—

"(1) entities operating Head Start programs under this subchapter;

"(2) entities that, on the day before the date of enactment of this section, were operating—

"(A) Parent-Child Centers receiving financial assistance under section 640(a)(4), as in effect on such date; or

"(B) programs receiving financial assistance under the Comprehensive Child Development Act, as in effect on such date; and

"(3) other public entities, and nonprofit private entities, capable of providing child and family services that meet the standards for participation in programs under this subchapter and meet such other appropriate requirements relating to the activities under this section as the Secretary may establish.

"(e) TIME-LIMITED PRIORITY FOR CERTAIN ENTITIES.—

"(1) IN GENERAL.—From amounts allotted pursuant to paragraphs (2) and (4) of section 640(a), the Secretary shall provide financial assistance in accordance with paragraphs (2) through (4).

"(2) PARENT-CHILD CENTERS.—The Secretary shall make financial assistance available under this section for each of fiscal years 1995, 1996, and 1997 to any entity that—

"(A) complies with subsection (b); and

"(B) received funding as a Parent-Child Center pursuant to section 640(a)(4), as in effect on the day before the date of enactment of this section, for fiscal year 1994.

"(3) COMPREHENSIVE CHILD DEVELOPMENT CENTERS.—

"(A) In the case of an entity that received a grant for fiscal year 1994 to operate a project under the Comprehensive Child Development Act, the Secretary—

"(i) shall make financial assistance available under this section, in a comparable amount and scope to the assistance provided for fiscal year 1994, for the duration of the project period specified in the grant award to such entity under such Act; and

"(ii) shall permit such entity, in carrying out activities assisted under this section, to serve children from birth through age 5.

"(B) In the case of an entity that received a grant for fiscal year 1989 to operate a project under the Comprehensive Child Development Act, the Secretary shall make assistance available under this section for each of fiscal years 1995, 1996, and 1997 to any entity that complies with subsection (b).

"(4) EVALUATIONS, TRAINING, AND TECHNICAL ASSISTANCE.—The Secretary shall make financial assistance available under this section as necessary to provide for the evaluation of, and furnishing of training and technical assistance to, programs specified in paragraph (3)(A).

"(f) SELECTION OF OTHER GRANT RECIPIENTS.—From the balance remaining of the portion specified in section 640(a)(6), after making grants to the eligible entities specified in subsection (e), the Secretary shall award grants under this subsection on a competitive basis to applicants meeting the criteria specified in subsection (d) (giving priority to entities with a record of providing early, continuous, and comprehensive childhood development and family services).

"(g) DISTRIBUTION.—In awarding grants to eligible applicants under this section, the Secretary shall—

"(1) ensure an equitable national geographic distribution of the grants; and

"(2) award grants to applicants proposing to serve communities in rural areas and to applicants proposing to serve communities in urban areas.

"(h) SECRETARIAL RESPONSIBILITIES.—

"(1) GUIDELINES.—Not later than September 30, 1994, the Secretary shall develop program guidelines concerning the content and operation of programs assisted under this section—

"(A) in consultation with experts in early childhood development, experts in health, and experts in family services; and

"(B) taking into consideration the knowledge and experience gained from other early childhood programs, including programs under the Comprehensive Child Development Act.

"(2) STANDARDS.—Not later than December 30, 1994, the Secretary shall develop and publish performance standards for programs assisted under this section, and a grant announcement based on the guidelines developed under paragraph (1).

"(3) MONITORING, TRAINING, TECHNICAL ASSISTANCE, AND EVALUATION.—In order to ensure the successful operation of programs assisted under this section, the Secretary shall use funds from the balance described in subsection (f) to monitor the operation of such programs, evaluate their effectiveness, and provide training and technical assistance tailored to the particular needs of such programs.".

(b) CONSOLIDATION.—In recognition that the Comprehensive Child Development Centers Act has demonstrated positive results, and that its purposes and functions have been consolidated into section 645A of the Head Start Act, the Comprehensive Child Development Centers Act of 1988 (42 U.S.C. 9801 note) and the Comprehensive Child Development Act (42 U.S.C. 9881 et seq.) are repealed.

SEC. 113. APPEALS, NOTICE, AND HEARING.

(a) MEDIATION AND HEARING FOR DISPUTES WITH DELEGATE AGENCIES.—Section 646(a) (42 U.S.C. 9841(a)) is amended—

(1) at the end of paragraph (2), by striking "and";

(2) at the end of paragraph (3), by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the Secretary shall develop and publish procedures (including mediation procedures) to be used in order to—

"(A) resolve in a timely manner conflicts potentially leading to adverse action between—

"(i) recipients of financial assistance under this subchapter; and

"(ii) delegate agencies or Head Start Parent Policy Councils; and

"(B) avoid the need for an administrative hearing.".

(b) TERMINATION OF DESIGNATION NOT STAYED PENDING APPEAL.—Section 646 (42 U.S.C. 9841) is further amended by striking subsection (b) and inserting the following new subsection:

"(b) In prescribing procedures for the mediation described in subsection (a)(4), the Secretary shall specify—

"(1) the date by which a Head Start agency engaged in a conflict described in subsection (a)(4) will notify the appropriate regional office of the Department of the conflict;

"(2) a reasonable period for the mediation;

"(3) a timeline for an administrative hearing, if necessary, to resolve the conflict; and

"(4) a timeline by which the person conducting the administrative hearing shall issue a decision based on the hearing.

"(c) In any case in which a termination, reduction, or suspension of financial assistance under this subchapter is upheld in an administrative hearing under this section, such termination, reduction, or suspension shall not be stayed pending any judicial appeal of such administrative decision.

"(d)(1) The Secretary shall by regulation specify a process by which an Indian tribe may identify and establish an alternative agency, and request that the alternative agency be designated under section 641 as the Head Start agency providing services to the tribe, if—

"(A) the Secretary terminates financial assistance under section 646 to the only agency that was receiving financial assistance to provide Head Start services to the Indian tribe; and

"(B) the tribe would otherwise be precluded from providing such services to the members of the tribe.

"(2) The regulation required by this subsection shall prohibit such designation of an alternative agency that includes an employee who—

"(A) served on the administrative staff or program staff of the agency described in paragraph (1)(A); and

"(B) was responsible for a deficiency that—

"(i) relates to the performance standards or financial management standards described in section 641A(a)(1); and

"(ii) was the basis for the termination of financial assistance described in paragraph (1)(A);

as determined by the Secretary after providing the notice and opportunity described in subsection (a)(3).".

SEC. 114. GOALS AND PRIORITIES FOR TRAINING AND TECHNICAL ASSISTANCE.

Section 648 (42 U.S.C. 9843) is amended—

(1) in the section heading to read as follows: "TECHNICAL ASSISTANCE AND TRAINING";

(2) in subsection (a)(2), by striking "Head Start programs, including" and inserting "Head Start programs, in accordance with the process, and the provisions for allocating resources, set forth in subsections (b) and (c). The Secretary shall provide, either directly or through grants or other arrangements,";

(3)(A) by redesignating the final sentence of subsection (a), as amended by paragraph (2), as subsection (e);

(B) by transferring such subsection to the end of the section; and

(C) by indenting such subsection and aligning the margins of such subsection with the margins of subsection (d);

(4) by striking subsections (b) and (c); and

(5) by inserting after subsection (a) the following new subsections:

"(b) The process for determining the technical assistance and training activities to be carried out under this section shall—

"(1) ensure that the needs of local Head Start agencies and programs relating to improving program quality and to program expansion are addressed to the maximum extent feasible; and

"(2) incorporate mechanisms to ensure responsiveness to local needs, including an ongoing procedure for obtaining input from the individuals and agencies carrying out Head Start programs.

"(c) In allocating resources for technical assistance and training under this section, the Secretary shall—

"(1) give priority consideration to activities to correct program and management deficiencies identified through reviews pursuant to section 641A(c) (including the provision of assistance to local programs in the development of quality improvement plans under section 641A(d)(2));

"(2) address the training and career development needs of classroom staff (including instruction for providing services to children with disabilities) and nonclassroom staff, including home visitors and other staff working directly with families, including training relating to increasing parent involvement and services designed to increase family literacy and improve parenting skills;

"(3) assist Head Start agencies and programs in conducting and participating in communitywide strategic planning and needs assessment;

"(4) assist Head Start agencies and programs in the development of sound management practices, including financial management procedures; and

"(5) assist in efforts to secure and maintain adequate facilities for Head Start programs.".

SEC. 115. STAFF QUALIFICATIONS AND DEVELOPMENT.

The Head Start Act is amended by inserting after section 648 (42 U.S.C. 9843) the following new section:

"SEC. 648A. STAFF QUALIFICATIONS AND DEVELOPMENT.

"(a) CLASSROOM TEACHERS.—

"(1) DEGREE REQUIREMENTS.—The Secretary shall ensure that not later than September 30, 1996, each Head Start classroom in a center-based program is assigned one teacher who has—

"(A) a child development associate (CDA) credential that is appropriate to the age of the children being served in center-based programs;

"(B) a State-awarded certificate for preschool teachers that meets or exceeds the requirements for a child development associate credential;

"(C) an associate, a baccalaureate, or an advanced degree in early childhood education; or

"(D) a degree in a field related to early childhood education with experience in teaching preschool children and a State-awarded certificate to teach in a preschool program.

"(2) WAIVER.—On request, the Secretary shall grant a 180-day waiver of the requirements of paragraph (1) with respect to an individual who—

"(A) is first employed after September 30, 1996, by a Head Start agency as a teacher for a Head Start classroom;

"(B) is enrolled in a program that grants any credential, certificate, or degree specified in subparagraph (A), (B), (C), or (D) of paragraph (1); and

"(C) will receive such credential under the terms of such program not later than 180 days after beginning employment as a teacher with such agency.

"(3) LIMITATION.—The Secretary may not grant more than one such waiver with respect to such individual.

"(b) MENTOR TEACHERS.—

"(1) DEFINITION; FUNCTION.—For purposes of this subsection, the term 'mentor teacher' means an individual responsible for observing and assessing the classroom activities of a Head Start program and providing on-the-job guidance and training to the Head Start program staff and volunteers, in order to improve the qualifications and training of classroom staff, to maintain high quality education services, and to promote career development, in Head Start programs.

"(2) REQUIREMENT.—In order to assist Head Start agencies in establishing positions for mentor teachers, the Secretary shall—

"(A) provide technical assistance and training to enable Head Start agencies to establish such positions;

"(B) give priority consideration, in providing assistance pursuant to subparagraph (A), to Head Start programs that have substantial numbers of new classroom staff or that are experiencing difficulty in meeting applicable education standards; and

"(C) encourage Head Start programs to give priority consideration for such positions to Head Start teachers at the appropriate level of career advancement in such programs.

"(c) FAMILY SERVICE WORKERS.—In order to improve the quality and effectiveness of staff providing in-home and other services (including needs assessment, development of service plans, family advocacy, and coordination of service delivery) to families of children participating in Head Start programs, the Secretary, in coordination with concerned public and private agencies and organizations examining the issues of standards and training for family service workers, shall—

"(1) review and, as necessary, revise or develop new qualification standards for Head Start staff providing such services;

"(2) promote the development of model curricula (on subjects including parenting training and family literacy) designed to ensure the attainment of appropriate competencies by individuals working or planning to work in the field of early childhood and family services; and

"(3) promote the establishment of a credential that indicates attainment of the competencies and that is accepted nationwide.

"(d) HEAD START FELLOWSHIPS.—

"(1) AUTHORITY.—The Secretary may establish a program of fellowships, to be known as 'Head Start Fellowships', in accordance with this subsection. The Secretary may award the fellowships to individuals, to be known as 'Head Start Fellows', who are staff in local Head Start programs or other individuals working in the field of child development and family services.

"(2) PURPOSE.—The fellowship program established under this subsection shall be designed to enhance the ability of Head Start Fellows to make significant contributions to programs authorized under this subchapter, by providing opportunities to expand their knowledge and experience through exposure to activities, issues, resources, and new approaches, in the field of child development and family services.

"(3) ASSIGNMENTS OF FELLOWS.—

"(A) PLACEMENT SITES.—Fellowship positions under the fellowship program may be located (subject to subparagraphs (B) and (C))—

"(i) in agencies of the Department of Health and Human Services administering programs authorized under this subchapter (in national or regional offices of such agencies);

"(ii) in local Head Start agencies and programs;

"(iii) in institutions of higher education;

"(iv) in public or private entities and organizations concerned with services to children and families; and

"(v) in other appropriate settings.

"(B) LIMITATION FOR FELLOWS OTHER THAN HEAD START EMPLOYEES.—A Head Start Fellow who is not an employee of a local Head Start agency or program may be placed only in a fellowship position located in an agency or program specified in clause (i) or (ii) of subparagraph (A).

"(C) NO PLACEMENT IN LOBBYING ORGANIZATIONS.—Head Start Fellowship positions may not be located in any agency whose primary purpose, or one of whose major purposes, is to influence Federal, State, or local legislation.

"(4) SELECTION OF FELLOWS.—Head Start Fellowships shall be awarded on a competitive basis to individuals (other than Federal employees) selected from among applicants who are working, on the date of application, in local Head Start programs or otherwise working in the field of child development and children and family services.

"(5) DURATION.—Head Start Fellowships shall be for terms of 1 year, and may be renewed for a term of 1 additional year.

"(6) AUTHORIZED EXPENDITURES.—From amounts appropriated under this subchapter and allotted under section 640(a)(2)(D), the Secretary is authorized to make expenditures of not to exceed $1,000,000 for any fiscal year, for stipends and other reasonable expenses of the fellowship program.

"(7) STATUS OF FELLOWS.—Except as otherwise provided in this paragraph, Head Start Fellows shall not be considered to be employees or otherwise in the service or employment of the Federal Government. Head Start Fellows shall be considered to be employees for purposes of compensation for injuries under chapter 81 of title 5, United States Code. Head Start Fellows assigned to positions located in agencies specified in paragraph (3)(A)(i) shall be considered employees in the executive branch of the Federal Government for the purposes of chapter 11 of title 18, United States Code, and for purposes of any administrative standards of conduct applicable to the employees of the agency to which they are assigned.

"(8) REGULATIONS.—The Secretary shall promulgate regulations to carry out this subsection.

"(e) MODEL STAFFING PLANS.—Not later than 1 year after the date of enactment of this subsection, the Secretary, in consultation with appropriate public agencies, private agencies, and organizations and with individuals with expertise in the field of children and family services, shall develop model staffing plans to provide guidance to local Head Start agencies and programs on the numbers, types, responsibilities, and qualifications of staff required to operate a Head Start program.".

SEC. 116. RESEARCH, DEMONSTRATIONS, EVALUATION.

Section 649 (42 U.S.C. 9844) is amended to read as follows:

"SEC. 649. RESEARCH, DEMONSTRATIONS, AND EVALUATION.

"(a) IN GENERAL.—

"(1) REQUIREMENT; GENERAL PURPOSES.—The Secretary shall carry out a continuing program of research, demonstration, and evaluation activities, in order to—

"(A) foster continuous improvement in the quality of the Head Start programs under this subchapter and in their effectiveness in enabling participating children and their families to succeed in school and otherwise; and

"(B) use the Head Start programs to develop, test, and disseminate new ideas and approaches for addressing the needs of low-income preschool children (including children with disabilities) and their families and communities, and otherwise to further the purposes of this subchapter.

"(2) PLAN.—The Secretary shall develop, and periodically update, a plan governing the research, demonstration, and evaluation activities under this section.

"(b) CONDUCT OF RESEARCH, DEMONSTRATION, AND EVALUATION ACTIVITIES.—The Secretary, in order to conduct research, demonstration, and evaluation activities under this section—

"(1) may carry out such activities directly, or through grants to, or contracts or cooperative agreements with, public or private entities;

"(2) shall, to the extent appropriate, undertake such activities in collaboration with other Federal agencies, and with non-Federal agencies, conducting similar activities;

"(3) shall ensure that evaluation of activities in a specific program or project is conducted by persons not directly involved in the operation of such program or project;

"(4) may require Head Start agencies to provide for independent evaluations;

"(5) may approve, in appropriate cases, community-based cooperative research and evaluation efforts to enable Head Start programs to collaborate with qualified researchers not directly involved in program administration or operation; and

"(6) may collaborate with organizations with expertise in inclusive educational strategies for preschoolers with disabilities.

"(c) CONSULTATION AND COLLABORATION.—In carrying out activities under this section, the Secretary shall—

"(1) consult with—

"(A) individuals from relevant academic disciplines;

"(B) individuals who are involved in the operation of Head Start programs and individuals who are involved in the operation of other child and family service programs; and

"(C) individuals from other Federal agencies, and individuals from organizations, involved with children and families, ensuring that the individuals described in this subparagraph reflect the multicultural nature of the children and families served by the Head Start programs and the multidisciplinary nature of the Head Start programs;

"(2) whenever feasible and appropriate, obtain the views of persons participating in and served by programs and projects assisted under this subchapter with respect to activities under this section; and

"(3) establish, to the extent appropriate, working relationships with the faculties of institutions of higher education, as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), located in the area in which any evaluation under this section is being conducted, unless there is no such institution of higher education willing and able to participate in such evaluation.

"(d) SPECIFIC OBJECTIVES.—The research, demonstration, and evaluation activities under this subchapter shall include components designed to—

"(1) permit ongoing assessment of the quality and effectiveness of the programs under this subchapter;

"(2) contribute to developing knowledge concerning factors associated with the quality and effectiveness of Head Start programs and in identifying ways in which services provided under this subchapter may be improved;

"(3) assist in developing knowledge concerning the factors that promote or inhibit healthy development and effective functioning of children and their families both during and following participation in a Head Start program;

"(4) permit comparisons of children and families participating in Head Start programs with children and families receiving other child care, early childhood education, or child development services and with other appropriate control groups;

"(5) contribute to understanding the characteristics and needs of population groups eligible for services provided under this subchapter and the impact of such services on the individuals served and the communities in which such services are provided;

"(6) provide for disseminating and promoting the use of the findings from such research, demonstration, and evaluation activities; and

"(7) promote exploration of areas in which knowledge is insufficient, and that will otherwise contribute to fulfilling the purposes of this subchapter.

"(e) LONGITUDINAL STUDIES.—In developing priorities for research, demonstration, and evaluation activities under this section, the Secretary shall give special consideration to longitudinal studies that—

"(1) examine the developmental progress of children and their families both during and following participation in a Head Start program, including the examination of factors that contribute to or detract from such progress;

"(2) examine factors related to improving the quality of the Head Start programs and the preparation the programs provide for children and their families to function effectively in schools and other settings in the years following participation in such a program; and

"(3) as appropriate, permit comparison of children and families participating in Head Start programs with children and families receiving other child care, early childhood education, or child development services, and with other appropriate control groups.

"(f) OWNERSHIP OF RESULTS.—The Secretary shall take necessary steps to ensure that all studies, reports, proposals, and data produced or developed with Federal funds under this subchapter shall become the property of the United States.".

SEC. 117. ANNOUNCEMENTS AND EVALUATIONS.

Section 650 (42 U.S.C. 9845) is repealed.

SEC. 118. REPORTS.

(a) IN GENERAL.—Section 651 (42 U.S.C. 9846) is amended—

(1) by striking the section heading and all that follows through subsection (f) and inserting:

"SEC. 651. REPORTS.";

(2) by striking "(g)";

(3) in paragraph (10), by striking "evaluations conducted under section 641(c)(2)" and inserting "monitoring conducted under section 641A(c)"; and

(4)(A) by striking "and" at the end of paragraph (11);

(B) by striking the period at the end of paragraph (12) and inserting "; and"; and

(C) by adding after paragraph (12) the following new paragraph:

"(13) a summary of information concerning the research, demonstration, and evaluation activities conducted under section 649, including—

"(A) a status report on ongoing activities; and

"(B) results, conclusions, and recommendations, not included in any previous report, based on completed activities.".

(b) REDESIGNATION.—Section 651 is redesignated as section 650.

SEC. 119. REPEALS.

Sections 651A and 652 (42 U.S.C. 9846a and 9847) are repealed.

SEC. 120. STUDY OF BENEFITS FOR HEAD START EMPLOYEES.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study regarding the benefits available to individuals employed by Head Start agencies under the Head Start Act (42 U.S.C. 9831 et seq.).

(b) REPORT.—

(1) PREPARATION.—The Secretary shall prepare a report, containing the results of the study, that—

(A) describes the benefits, including health care benefits, family and medical leave, and retirement pension benefits, available to such individuals;

(B) includes recommendations for increasing the access of the individuals to benefits, including access to a retirement pension program; and

(C) addresses the feasibility of participation by such individuals in the Federal Employees' Retirement System under chapter 84 of title 5, United States Code.

(2) SUBMISSION.—The Secretary shall submit the report to the appropriate committees of Congress.

SEC. 121. AUTOMATIC ELIGIBILITY OF HEAD START PARTICIPANTS.

The National School Lunch Act (42 U.S.C. 1751 et seq.) is amended—

(1) in section 9(b)(6) (42 U.S.C. 1758(b)(6))—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by striking "a member of";

(ii) in clause (i)—

(I) by inserting "a member of" after "(i)"; and

(II) by striking "or" at the end of the clause;

(iii) in clause (ii)—

(I) by inserting "a member of" after "(ii)"; and

(II) by striking the period at the end of the clause and inserting "; or"; and

(iv) by adding at the end the following new clause:

"(iii) enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A))."; and

(B) in subparagraph (B), by striking "food stamps or aid to families with dependent children" and inserting "food stamps, aid to families with dependent children, or enrollment or participation in the Head Start program on the basis described in subparagraph (A)(iii)"; and

(2) in section 17(c) (42 U.S.C. 1766(c)), by adding at the end the following new paragraph:

"(5) A child shall be considered automatically eligible for benefits under this section without further application or eligibility determination, if the child is enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A)).".

SEC. 122. READY TO LEARN PROGRAM REAUTHORIZATION.

(a) ELIGIBLE ENTITIES.—Section 4702(b)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3161a(b)(1)) is amended by striking ", nongovernmental entity" and inserting "entity (including public telecommunications entities)".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 4706(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3161e(a)) is amended—

(1) by striking "$25,000,000 for fiscal year 1993" and inserting "$30,000,000 for fiscal year 1995"; and

(2) by striking "for fiscal year 1994." and inserting "for each of fiscal years 1996 and 1997.".

SEC. 123. STATE DEPENDENT CARE DEVELOPMENT PROGRAMS.

Section 670A of the State Dependent Care Development Grants Act (42 U.S.C. 9871) is amended by striking "are authorized to be appropriated" and all that follows and inserting "is authorized to be appropriated $13,000,000 for fiscal year 1995.".

SEC. 124. REAUTHORIZATION OF CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE ACT OF 1985.

Section 606 of the Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10905) is amended by striking "$1,500,000" and all that follows and inserting "to carry out this title such sums as may be necessary for fiscal year 1995.".

SEC. 125. TECHNICAL AND CONFORMING AMENDMENTS.

(a) HEAD START TRANSITION PROJECT ACT.—Section 133(a) of the Head Start Transition Project Act is amended by striking "639(c)" and inserting "639(b)".

(b) SOCIAL SECURITY ACT.—Section 1924(d)(3)(A)(i) of the Social Security Act (42 U.S.C. 1396r–5(d)(3)(A)(i)) is amended by striking "sections 652 and 673(2)" and inserting "section 673(2)".

SEC. 126. EFFECTIVE DATE AND APPLICATION.

(a) EFFECTIVE DATE.—This title, and the amendments made by this title, shall take effect on the date of enactment of this title.

(b) APPLICATION.—The requirements of this title and the amendments made by this title shall not apply to Head Start agencies and other recipients of financial assistance under the Head Start Act until October 1, 1994.

TITLE II—COMMUNITY SERVICES BLOCK GRANT AMENDMENTS

SEC. 201. SHORT TITLE AND REFERENCES.

(a) SHORT TITLE.—This title may be cited as the "Community Services Block Grant Amendments of 1994".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Community Services Block Grant Act (42 U.S.C. 9901 et seq.).

SEC. 202. AUTHORIZATIONS OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATION AND REPEAL.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Subsection (b) of section 672 (42 U.S.C. 9901(b)) is amended to read as follows:

"(b) There are authorized to be appropriated $525,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1998, to carry out the provisions of this subtitle.".

(2) REPEAL.—Section 408 of the Human Services Reauthorization Act of 1986 (42 U.S.C. 9910b) is repealed.

(b) STATE ALLOCATIONS.—Section 674 (42 U.S.C. 9903) is amended—

(1) by redesignating subsections (a), (b) and (c) as subsections (b), (c) and (d), respectively; and

(2) by inserting before subsection (b) (as so redesignated), the following new subsection:

"(a) Of the amounts appropriated for a fiscal year pursuant to section 672(b), the Secretary may reserve not less than one-half of 1 percent and not more than 1 percent for training, technical assistance, planning, and evaluation activities related to programs or projects carried out under this Act. Such activities may be carried out by the Secretary directly or through grants, contracts, or cooperative agreements.".

(c) APPLICATIONS AND REQUIREMENTS.—

(1) FORM AND ASSURANCES.—Section 675(a) (42 U.S.C. 9904(a)) is amended by inserting "or significant amendments thereof" before "shall contain assurances".

(2) USE OF FUNDS.—Section 675(c)(1) (42 U.S.C. 9904(c)(1)) is amended by striking "use the funds available under this Act" and inserting "ensure that, at its discretion and consistent with agreements with the State, each recipient of funds available under this Act will use such funds".

(3) ASSURED ACTIVITIES.—Section 675(c)(1)(B) (42 U.S.C. 9904(c)(1)(B)) is amended by inserting "homeless individuals and families, migrants, and" before "the elderly poor".

(4) STATE RESPONSIBILITIES.—Section 675(c)(2)(B) (42 U.S.C. 9904(c)(2)(B)) is amended to read as follows:

"(B) if less than 100 percent of the allotment is expended under subparagraph (A), provide assurances that with respect to the remainder of the allotment a reasonable amount shall be used for—

"(i) providing training and technical assistance to those entities in need of such assistance and such activities will not be considered administrative expenses;

"(ii) coordinating State-operated programs and services targeted to low-income children and families with services provided by eligible entities funded under this Act, including outposting appropriate State or local public employees into entities funded under this Act to ensure increased access to services provided by such State or local agencies;

"(iii) supporting statewide coordination and communication among eligible entities;

"(iv) administrative expenses at the State level, including monitoring activities, but not more than $55,000 or 5 percent of its allotment under section 674; and

"(v) considering the distribution of funds under this Act within the State to determine if such funds have been targeted to the areas of highest need.".

(5) TRIPARTITE BOARD.—Section 675(c)(3) (42 U.S.C. 9904(c)(3)) is amended—

(A) by inserting "selected by the community action agency or nonprofit private organization and" after "board will be";

(B) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(C) by striking the comma after "provide assurances that" and inserting "(A)"; and

(D) by inserting before the semicolon at the end thereof ", and (B) in the case of a public organization receiving funds under this subtitle, such organization either establish—

"(i) a board of which at least one-third of the members are persons chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area served; or

"(ii) another mechanism specified by the State to assure low-income citizen participation in the planning, administration, and evaluation of projects for which such organization has been funded;".

(6) REGULATIONS.—The next to last sentence of section 675(c) (42 U.S.C. 9904(c)) is amended by striking "may not" and inserting "shall by regulation".

(d) COMMUNITY ACTION AGENCY PLAN.—Section 675(c) (42 U.S.C. 9904(c)) is amended—

(1) in paragraph (11)—

(A) by redesignating clauses (i) through (iii) of subparagraph (A) as items (aa) through (cc), respectively;

(B) by realigning the margin of the sentence beginning with "For purposes of" so as to align with subparagraph (A) of paragraph (1);

(C) by striking "For purposes of" and inserting "(A) For purposes of";

(D) by striking "(A) a statewide" and inserting "(i)(I) a statewide";

(E) by striking "(B) the failure" and inserting "(ii) the failure";

(F) by inserting immediately before paragraph (12) the following:

"(B) for purposes of making a determination with respect to a termination, the term 'cause' includes the material failure of an eligible entity to comply with the terms of its agreement and community action plan to provide services under this subtitle;".

(2) in paragraph (12) by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (12) the following new paragraphs:

"(13) secure from each eligible entity as a condition to its receipt of funding under this Act a community action plan (which shall be available to the Secretary for inspection) that includes—

"(A) a community needs assessment (including food needs);

"(B) a description of the service delivery system targeted to low-income individuals and families in the service area;

"(C) a description of how linkages will be developed to fill identified gaps in services through information, referral, case management, and followup consultations;

"(D) a description of how funding under this Act will be coordinated with other public and private resources; and

"(E) a description of outcome measures to be used to monitor success in promoting self-sufficiency, family stability, and community revitalization; and

"(14) provide assurances that cost and accounting standards of the Office of Management and Budget shall apply to a recipient of funds under this Act.".

(e) PUBLIC INSPECTIONS OF PLANS.—Section 675(d)(2) (42 U.S.C. 9904(d)(2)) is amended by inserting "or revision" after "Each plan".

(f) AUDITS.—The last sentence of section 675(f) (42 U.S.C. 9904(f)) is amended by inserting before "to the legislature" the following: "to the eligible entity at no charge,".

SEC. 203. DISCRETIONARY AUTHORITY OF SECRETARY.

(a) TRAINING AND ACTIVITIES.—Section 681(a) (42 U.S.C. 9910(a)) is amended—

(1) in the matter preceeding paragraph (1), by striking "to provide for—" and inserting "to provide for";

(2) by striking paragraphs (1) and (3);

(3) in paragraph (2)—

(A) by striking "(2) ongoing" and inserting "ongoing";

(B) by striking "including special emphasis programs for" and inserting "with special emphasis on"; and

(C) by striking subparagraphs (A) through (F); and

(4) by inserting the following new paragraphs:

"(1) a Community Initiative Program, awarded on a competitive basis, to fund private, nonprofit community development corporations for the purposes of planning and carrying out community and economic development activities in economically distressed areas and in rural areas, as described in subsection (c);

"(2) grants to eligible entities for the development and implementation of innovative approaches to deal with critical needs or problems of low-income individuals that are common to a number of communities, including grants to provide opportunities for leadership development, community involvement and education success to disadvantaged persons between the ages of 14 and 25; and

"(3) grants to support the design, development, and widespread availability of interactive information technology among the nationwide network of Community Service Block Grant eligible entities, State administrators, national associations and organizations, and program recipients to promote electronic communication and access to program information that would enhance the effective delivery of social services.".

(b) COMMUNITY INITIATIVE PROGRAM.—Subsection (b) of section 681 (42 U.S.C. 9910) is amended to read as follows:

"(b) COMMUNITY INITIATIVE PROGRAM.—

"(1) IN GENERAL.—

"(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Economic development activities under this section shall be designed to address the economic needs of low-income individuals and families by creating employment and business development opportunities.

"(B) CONSULTATION.—The Secretary shall exercise the authority provided under subparagraph (A) in consultation with other relevant Federal officials.

"(C) GOVERNING BOARDS.—Each community development corporation receiving funds under this section shall be governed by a board that shall consist of residents of the community and business and civic leaders and shall have as a principal purpose planning, developing or managing low-income housing and community development projects.

"(D) GEOGRAPHIC DISTRIBUTION.—In providing assistance or entering into other arrangements under this section, the Secretary shall take into consideration the geographic distribution of funds among States and the relative proportion of funding among rural and urban areas.

"(E) RESERVATION.—Of the amounts made available to carry out this section, the Secretary may reserve not to exceed 1 percent for each fiscal year to make grants to private nonprofit organizations or to enter into contracts with private nonprofit or for profit organizations to provide technical assistance to aid community development corporations in developing or implementing projects funded under this section and to evaluate projects funded under this section.

"(2) RURAL COMMUNITY DEVELOPMENT ACTIVITIES.—Rural community development activities under this section shall include—

"(A) grants to private, nonprofit corporations that provide assistance to rural low-income families in home repair and in planning and developing low-income rural rental housing units; and

"(B) grants to multistate, regional private, nonprofit organizations that provide training and technical assistance to small, rural communities in meeting their community facility needs.".

SEC. 204. COMMUNITY FOOD AND NUTRITION.

Subsection (d) of section 681A (42 U.S.C. 9910a(d)) is amended to read as follows:

"(d) There are authorized to be appropriated $25,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1998, to carry out this section.".

SEC. 205. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect on October 1, 1994.

TITLE III—LOW-INCOME HOME ENERGY ASSISTANCE AMENDMENTS

SECTION 301. SHORT TITLE AND REFERENCES.

(a) SHORT TITLE.—This title may be cited as the "Low-Income Home Energy Assistance Amendments of 1994".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

SEC. 302. STATEMENT OF PURPOSE.

Subsection (a) of section 2602 (42 U.S.C. 8621(a)) is amended to read as follows:

"(a) The Secretary is authorized to make grants, in accordance with the provisions of this title, to States to assist low-income households, particularly those that pay a high proportion of household income for home energy, primarily in meeting their immediate home energy needs and, where appropriate, to reduce the energy needs and costs of such households and thereby improve their capacity to meet such needs in the future.".

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNTS AUTHORIZED.—Section 2602 (42 U.S.C. 8621) is amended—

(1) in subsection (b), by striking "this title" and all that follows through the end of the first sentence and inserting "this title, $2,000,000,000 for each of fiscal years 1995 through 1999."; and

(2) in the last sentence of subsection (c)—

(A) by striking "July 1" and inserting "October 1"; and

(B) by striking "for which" and inserting "following the year in which".

(b) INCENTIVE PROGRAM FOR LEVERAGING NON-FEDERAL SOURCES.—Subsection (d) of section 2602 (42 U.S.C. 8621(d)) is amended to read as follows:

"(d) There are authorized to be appropriated to carry out section 2607A, $50,000,000 for each of the fiscal years 1995 and 1996, and such sums as may be necessary for each of the fiscal years 1997 through 1999.".

SEC. 304. EMERGENCY FUNDS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 2602 (42 U.S.C. 8621) as amended by section 3, is further amended by adding at the end thereof the following new subsection:

"(d) There are authorized to be appropriated in any fiscal year for payments under this title, in addition to amounts appropriated for distribution to all the States in accordance with section 2604 (other than subsection (g)), $600,000,000 for each of the fiscal years 1995 through 1999, to meet the additional home energy assistance needs of one or more States arising from a natural disaster or other emergency. Funds appropriated pursuant to this subsection are hereby designated to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, except that such funds shall be made available only after the submission to Congress of a formal budget request by the President (for all or a part of the appropriation pursuant to this subsection) that includes a designation of the amount requested as an emergency requirement as defined in such Act.".

(b) HOME ENERGY.—Section 2603 (42 U.S.C. 8622(3)) is amended—

(1) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as paragraphs (2), (4), (5), (6), (7), (8), and (9), respectively;

(2) by inserting before paragraph (2) (as so redesignated), the following new paragraph:

"(1) The term 'energy burden' means the expenditures of the household for home energy divided by the income of the household."; and

(3) by inserting before paragraph (4) (as so redesignated), the following new paragraph:

"(3) The term 'highest home energy needs' means the home energy requirements of households that include members of vulnerable populations, including very young children and the frail elderly."

(c) ALLOTMENT OF EMERGENCY FUNDS.—Section 2604 (42 U.S.C. 8623) is amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding subsections (a) through (f), the Secretary may allot amounts appropriated pursuant to section 2602(d) to one or more than one State. In determining to which State or States additional funds may be allotted, the Secretary shall take into account the extent to which a State was affected by the emergency or disaster, the availability to an affected State of other resources under this or any other program, and such other factors as the Secretary determines relevant.".

SEC. 305. AUTHORIZED USES OF FUNDS.

(a) IN GENERAL.—Paragraph (1) of section 2605(b) (42 U.S.C. 8624(b)(1)) is amended to read as follows:

"(1) use the funds available under this title to—

"(A) conduct outreach activities and provide assistance to low income households in meeting their home energy costs, particularly those that pay a high proportion of household income for home energy, consistent with paragraph (5);

"(B) intervene in energy crisis situations;

"(C) provide low-cost residential weatherization and other cost-effective energy-related home repair; and

"(D) plan, develop, and administer the State's program under this title including leveraging programs,

and the State agrees not to use such funds for any purposes other than those specified in this title;".

(b) ENCOURAGED REDUCED HOME ENERGY NEEDS.—Section 2605(b) (42 U.S.C. 8624(b)) is amended—

(1) in paragraph (9)(B), by inserting before the semicolon the following: "(except for the costs of the activities described in paragraph (16))";

(2) in paragraph (15), by striking the period and inserting "; and"; and

(3) by inserting after paragraph (15) the following new paragraph:

"(16) subject the use of such funds to the requirements of paragraph (9)(A) if it uses such funds to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance, including needs assessments, counseling, and assistance with energy vendors.".

SEC. 306. TARGETING OF ASSISTANCE TO HOUSEHOLDS WITH HIGH HOME ENERGY BURDENS.

(a) HOUSEHOLD INCOME.—Section 2605(b)(2)(B) (42 U.S.C. 8624(b)(2)(B)) is amended by striking the matter following clause (ii) and inserting the following:

"except that a State may not exclude a household from eligibility in a fiscal year solely on the basis of household income if such income is less than 110 percent of the poverty level for such State, but the State may give priority to those households with the highest home energy costs or needs in relation to household income;".

(b) OUTREACH ACTIVITIES.—Section 2605(b)(3) (42 U.S.C. 8624(b)(3)) is amended by striking "are made aware" and inserting "and households with high home energy burdens, are made aware".

(c) ASSISTANCE LEVELS.—Section 2605(b)(5) (42 U.S.C. 8624(b)(5)) is amended by inserting "or needs" after "highest energy costs".

(d) STATE PLAN.—Section 2605(c)(1) (42 U.S.C. 8624(c)(1)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (H), respectively; and

(2) by inserting after subparagraph (D) the following new subparagraph:

"(E) describes any steps that will be taken (in addition to those necessary to carry out the assurance contained in paragraph (5) of subsection (b)) to target assistance to households with high home energy burdens;".

SEC. 307. REMOVAL OF CONSTRAINT ON SECRETARIAL PROGRAM GUIDANCE.

Section 2605(b) (42 U.S.C. 8624(b)) is amended by striking the first flush sentence immediately following paragraph (14).

SEC. 308. CLARIFICATION OF AUDIT REQUIREMENT.

Section 2605 (42 U.S.C. 8624) is amended—

(1) in subsection (b)(10), by striking "and provide that" and all that follows and inserting "and provide that the State will comply with the provisions of chapter 75 of title 31, United States Code (commonly known as the 'Single Audit Act');"; and

(2) in subsection (e), by striking "at least every two years" and all that follows and inserting "in accordance with chapter 75 of title 31, United States Code.".

SEC. 309. USE OF DEPARTMENT OF ENERGY WEATHERIZATION RULES TO ACHIEVE PROGRAM CONSISTENCY.

Section 2605(c)(1)(D) (42 U.S.C. 8624(c)(1)(D)) is amended by inserting before the semicolon at the end thereof the following: ", including any steps the State will take to address the weatherization and energy-related home repair needs of households that have high home energy burdens, and describes any rules promulgated by the Department of Energy for administration of its Low Income Weatherization Assistance Program which the State, to the extent permitted by the Secretary to increase consistency between federally assisted programs, will follow regarding the use of funds provided under this title by the State for such weatherization and energy-related home repairs and improvements".

SEC. 310. MATTERS TO BE DESCRIBED IN ANNUAL APPLICATION.

Section 2605(c)(1) (42 U.S.C. 8624(c)(1)) is amended—

(1) in subparagraph (F) (as so redesignated by section 306(d) of this Act)—

(A) by striking "and (13)" and inserting "(13), and (15)"; and

(B) by striking "and" at the end thereof; and

(2) by inserting after subparagraph (F) (as so redesignated by section 306(d) of this Act), the following new subparagraph:

"(G) states, with respect to the 12-month period specified by the Secretary, the number and income levels of households which apply and the number which are assisted with funds provided under this title, and the number of households so assisted with—

"(i) one or more members who has attained 60 years of age;

"(ii) one or more members who were disabled; and

"(iii) one or more young children; and".

SEC. 311. REPORT OF FUNDS AVAILABLE FOR OBLIGATION.

Section 2607(a) (42 U.S.C. 8628(a)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) Each State shall notify the Secretary, not later than 2 months prior to the close of a fiscal year, of the amount (if any) of its allotment for such year that will not be obligated in such year, and, if such State elects to submit a request described in subsection (b)(2), such State shall submit such request at the same time. The Secretary shall make no payment under paragraph (1) to a State for a fiscal year unless the State has complied with this paragraph with respect to the prior fiscal year.".

SEC. 312. MISCELLANEOUS AND TECHNICAL AMENDMENTS.

(a) IN GENERAL.—

(1) TREATMENT OF HOUSEHOLDS.—Section 2605(b)(7)(D) (42 U.S.C. 8624(b)(7)(D)) is amended to read as follows:

"(D) ensure that the provision of vendored payments remains at the option of the State in consultation with local grantees and may be contingent on vendors taking appropriate measures to alleviate the energy burdens of eligible households, including providing for compacts between suppliers and individuals eligible for benefits under this Act that seek to reduce home energy costs, minimize the risks of home energy crisis, and encourage regular payments by individuals receiving financial assistance for home energy costs;".

(2) INCENTIVE PROGRAM.—Section 2607A(e) (42 U.S.C. 8626a(e)) is amended by striking "July 31, of each year" and inserting "2 months after the close of the fiscal year during which the State provided leveraged resources to eligible households, as described in subsection (b)".

(3) TRAINING AND TECHNICAL ASSISTANCE.—Section 2609A(a) is amended by striking "$500,000" and inserting "$250,000".

(b) TECHNICAL AMENDMENTS.—

(1) Section 2602(b) (42 U.S.C. 8621(b)) is amended—

(A) by inserting "(other than section 2607A)" after "to carry out the provisions of this title"; and

(B) by striking the second period at the end thereof.

(2) Section 2603(2) (42 U.S.C. 8622(2)) is amended—

(A) by striking "the" in paragraph (2) and inserting "The"; and

(B) by striking the semicolon at the end thereof and inserting a period.

(3) The sentence that immediately precedes paragraph (15) of section 2605(b) (42 U.S.C. 8624(b)) is transferred so as to appear as a flush sentence immediately after paragraph (16).

(4) Section 2605(b)(3) (42 U.S.C. 8624(b)(3)) is amended by striking "handicapped" and inserting "disabled".

(5) Section 2607A(c)(2) (42 U.S.C. 8626a(c)(2)) is amended by striking ".0008 percent" and inserting "0.08 percent".

(6) Section 2610(a) (42 U.S.C. 8629(a)) is amended—

(A) in paragraph (2), by striking the semicolon after "used" and inserting a semicolon after "title"; and

(B) in paragraph (5)—

(i) by striking "handicapped" and inserting "disabled"; and

(ii) by inserting before the semicolon at the end thereof "or include young children".

SEC. 313. EFFECTIVE DATE.

The amendments and repeals made by this title shall become effective on October 1, 1994.

TITLE IV—COMMUNITY-BASED FAMILY RESOURCE PROGRAMS

SEC. 401. COMMUNITY-BASED FAMILY RESOURCE PROGRAMS.

(a) IN GENERAL.—Section 933 of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12339) is amended to read as follows:

"SEC. 933. COMMUNITY-BASED FAMILY RESOURCE PROGRAMS.

"(a) PURPOSE.—It is the purpose of this section to promote a systemic approach to prevention through the promotion of innovative funding mechanisms for networks of comprehensive family resource services provided through collaborative approaches, including public-private partnerships.

"(b) AUTHORITY.—The Commissioner shall make grants to States on a formula basis for the purpose of—

"(1) establishing and expanding statewide networks of community-based family resource programs, including funds for the initial costs of providing specific family resource services, that

ensure family involvement in the design and operation of family resource programs which are responsive to the unique and diverse strengths of children and families;

"(2) promoting child abuse and neglect prevention activities;

"(3) promoting the establishment and operation of State trust funds or other mechanisms for integrating child and family services funding streams in order to provide flexible funding for the development of community-based family resource programs;

"(4) establishing or expanding community-based collaboration to foster the development of a continuum of preventive services for children and families, which are family-centered and culturally-relevant; and

"(5) encouraging public and private partnerships in the establishment and expansion of family resource programs.

"(c) ELIGIBILITY FOR GRANTS.—A State is eligible for a grant under this section for any fiscal year if—

"(1) such State has established or maintained in the previous fiscal year—

"(A) a trust fund, including appropriations for such fund; or

"(B) any other mechanism that pools State, Federal, and private funds for integrating child and family service resources; and

"(2) such trust fund or other funding mechanism includes (in whole or in part) provisions making funding available specifically for a broad range of child abuse and neglect prevention activities and family resource programs.

"(d) AMOUNT OF GRANT.—

"(1) IN GENERAL.—Amounts appropriated for a fiscal year to provide grants under this section shall be allotted, among eligible States in each fiscal year so that—

"(A) 50 percent of the total amount appropriated for such fiscal year is allotted among each State based on the number of children under the age of 18 residing in each State, except that each State shall receive not less than $100,000; and

"(B) the remaining 50 percent of the total amount appropriated for such fiscal year is allotted in an amount equal to 25 percent of the total amount allocated by each such State to the State's trust fund or other mechanism for integrating family resource services in the fiscal year prior to the fiscal year for which the allotment is being determined.

"(e) EXISTING GRANTS.—A State that has a grant in effect on the date of enactment of this section under the Family Resource and Support Program or the Temporary Child Care and Crisis Nurseries Program shall continue to receive funds under such Programs, subject to the original terms under which such funds were granted, through the end of the applicable grant cycle.

"(f) APPLICATION.—No grant may be made to any eligible State under this section unless an application is prepared and submitted to the Secretary at such time, in such manner, and containing or accompanied by such information as the Commissioner determines to be essential to carry out the purposes and provisions of this section, including—

"(1) a description of the agency designated by the Chief Executive Officer of the State to administer the funds provided under this section and assume responsibility for implementation and oversight of the family resource programs and other child abuse and neglect prevention activities, and an assurance that the agency so designated—

"(A) is the trust fund advisory board or an existing quasi-public organization with interdisciplinary governance that pools State, Federal, and private funds for family resource programs or integrating child and family service resources; or

"(B) with respect to a State without a trust fund mechanism or quasi-public organization that meets the requirements of subparagraph (A), is an existing State agency, or other public, quasi-public, or nonprofit private agency responsible for the development and implementation of a statewide network of community-based family resource programs;

"(2) assurances that the agency designated under paragraph (1) can demonstrate the capacity to fulfill the purposes described in subsection (a), and shall have—

"(A) a demonstrated ability to work with other State and community-based agencies, to provide training and technical assistance; and

"(B) a commitment to parental participation in the design and implementation of family resource programs;

"(3) an assurance that the State has an interagency process coordinated by the agency designated in paragraph (1) for effective program development that—

"(A) does not duplicate existing processes for developing collaborative efforts to better serve children and families;

"(B) provides a written plan for the establishment of a network of family resource programs publicly available; and

"(C) involves appropriate personnel in the process, including—

"(i) parents and prospective participants in family resource programs, including respite care programs;

"(ii) staff of existing programs providing family resource services, including staff of Head Start programs and community action agencies that provide such services;

"(iii) representatives of State and local government such as social service, health, mental health, education, employment, economic development agencies, and organizations providing community services activities;

"(iv) representatives of the business community;

"(v) representatives of general purpose local governments;

"(vi) representatives of groups with expertise in child abuse prevention, including respite and crisis care;

"(vii) representatives of local communities in which family resource programs are likely to be located; and

"(viii) other individuals with expertise in the services that the family resource and support programs of the State intend to offer;

"(4) a description of the current family resource programs operating in the State, the current unmet need for the services provided under such programs, including the need for building increased capacity to provide specific family resource services, including respite care, and the intended scope of the State family resource program, the population to be served, the manner in which the program will be operated, and the manner in which such program will relate to other community services and public agencies;

"(5) evidence that Federal assistance received under this section—

"(A) has been supplemented with nonFederal public and private assistance, including a description of the projected level of financial commitment by the State to develop a family resource program; and

"(B) will be used to supplement and not supplant other State and local public funds expended for family resource programs;

"(6) a description of the core services, as required by this section, and other support services to be provided by the program and the manner in which such services will be provided, including the extent to which either family resources, centers, home visiting, or community collaboratives will be used;

"(7) a description of any public information activities the agency designated in paragraph (1) will undertake for the purpose of promoting family stability and preventing child abuse and neglect, including child sexual abuse;

"(8) an assurance that the State will provide funds for the initial startup costs associated with specific family resource services, including respite services, and a description of the services to be funded;

"(9) assurances that the State program will maintain cultural diversity;

"(10) a description of the guidelines for requiring parental involvement in State and local program development, policy design, and governance and the process for assessing and demonstrating that parental involvement in program development, operation, and governance occurs;

"(11) a description of the State and community-based interagency planning processes to be utilized to develop and implement family resource programs;

"(12) a description of the criteria that the State will utilize for awarding grants for local programs so that they meet the requirements of subsection (g);

"(13) a plan for providing training, technical assistance, and other assistance to local communities in program development;

"(14) a description of the methods to be utilized to evaluate the implementation and effectiveness of the family resource programs within the State;

"(15) a description of proposed actions by the State that will reduce practical and regulatory barriers to the provision of comprehensive services to families, including family resource programs; and

"(16) an assurance that the State will provide the Secretary with reports, at such time and containing such information as the Secretary may require.

"(g) LOCAL PROGRAM REQUIREMENTS.—

"(1) IN GENERAL.—A State that receives a grant under this section shall use amounts received under such grant to establish local family resource programs that—

"(A) undertake a community-based needs assessment and program planning process which involves parents, and local public and nonprofit agencies (including those responsible for providing health, education, employment training, Head Start and other early childhood, child welfare, and social services);

"(B) develop a strategy to provide comprehensive services to families to meet identified needs through collaboration, including public-private partnerships;

"(C) identify appropriate community-based organizations to administer such programs locally;

"(D) provide core services, and other services directly or through contracts or agreements with other local agencies; and

"(E) involve parents in the development, operation, and governance of the program.

"(2) PRIORITY.—In awarding local grants under this section, a State shall give priority to programs serving low-income communities and programs serving young parents or parents with young children and shall ensure that such grants are equitably distributed among urban and rural areas.

"(h) DEFINITIONS.—As used in this section:

"(1) COMMUNITY REFERRAL SERVICES.—The term 'community referral services' means services to assist families in obtaining community resources, including respite services, health and mental health services, employability development and job training and other social services.

"(2) FAMILY RESOURCE PROGRAM.—The term 'family resource program' means a program that offers community-based services that provide sustained assistance to families at various stages in their development. Such services shall promote parental competencies and behaviors that

will lead to the healthy and positive personal development of parents and children through—

"(A) the provisions of assistance to build family skills and assist parents in improving their capacities to be supportive and nurturing parents;

"(B) the provision of assistance to families to enable such families to use other formal and informal resources and opportunities for assistance that are available within the communities of such families; and

"(C) the creation of supportive networks to enhance the childbearing capacity of parents and assist in compensating for the increased social isolation and vulnerability of families.

"(3) FAMILY RESOURCE SERVICES.—The term 'family resource services' means—

"(A) core services that must be provided directly by the family resource program under this section, including—

"(i) education and support services provided to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children;

"(ii) early developmental screening of children to assess the needs of such children and to identify the types of support to be provided;

"(iii) outreach services;

"(iv) community referral services; and

"(v) follow-up services; and

"(B) other services, which may be provided either directly or through referral, including—

"(i) early care and education (such as child care and Head Start);

"(ii) respite care;

"(iii) job readiness and counseling services (including skill training);

"(iv) education and literacy services;

"(v) nutritional education;

"(vi) life management skills training;

"(vii) peer counseling and crisis intervention, and family violence counseling services;

"(viii) referral for health (including prenatal care) and mental health services; and

"(ix) substance abuse treatment.

"(4) INTERDISCIPLINARY GOVERNANCE.—The term 'interdisciplinary governance' includes governance by representatives from communities and representatives from existing health, mental health, education, employment and training, child welfare, and other agencies within the State.".

"(5) RESPITE SERVICES.—The term 'respite services' means short-term care services provided in the temporary absence of the regular caregiver (parent, other relative, foster parent, adoptive parent, guardian) to children who meet one or more of the following categories:

"(A) The children are in danger of abuse or neglect.

"(B) The children have experienced abuse or neglect.

"(C) The children have disabilities, or chronic or terminal illnesses.

Services provided within or outside the child's home shall be short-term care, ranging from a few hours to a few weeks of time, per year, and be intended to enable the family to stay together and to keep the child living in the child's home and community.".

(b) DEFINITION.—Section 926(7) of such Act (42 U.S.C. 12332(7)) is amended by inserting ", and other caretakers" after "parents".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 934 of such Act (42 U.S.C. 12340) is amended—

(1) in paragraph (1) of subsection (a), to read as follows:

"(1) There are authorized to be appropriated to carry out section 931 such sums as may be necessary for each of the fiscal years 1995 through 1998."; and

(2) in subsection (d), to read as follows:

"(h) COMMUNITY-BASED FAMILY RESOURCE PROGRAMS.—There are authorized to be appropriated to carry out section 933, $75,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1998.".

(d) REPEAL OF EXISTING PROGRAMS.—

(1) COMMUNITY-BASED CHILD ABUSE AND NEGLECT PREVENTION GRANTS.—Title II of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116 et seq.) is repealed.

(2) EMERGENCY CHILD ABUSE PREVENTION SERVICES GRANTS.—Sec. 107A of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a–1) is repealed.

(3) TEMPORARY CHILD CARE AND CRISIS NURSERIES.—The Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986 (42 U.S.C. 5117 et seq.) is repealed.

SEC. 402. FEDERAL COUNCIL ON CHILDREN, YOUTH, AND FAMILIES.

Section 918 of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12314) is amended—

(1) in subsection (k)—

(A) in paragraph (3), by striking out "and" at the end thereof;

(B) in paragraph (4), by striking out the period and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new paragraphs:

"(6) identify program regulations, practices, and eligibility requirements that impede coordination and collaboration and make recommendations for their modifications or elimination; and

"(7) develop recommendations for creating jointly funded programs, unified assessments, eligibility, and application procedures, and confidentiality protections that facilitate information sharing.";

(2) in subsection (o), by striking "1991 through 1994" and inserting "1995 through 1998"; and

(3) in subsection (p), by striking "1995" and inserting "1998".

SEC. 403. FAMILY RESOURCE ACT.

(a) NATIONAL CENTER.—Section 958(b)(3) of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12353(b)(3)) is amended by strike "model".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 960 of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12355) is amended—

(1) in subsection (a), by striking "$2,300,000" and all that follows through the end thereof and inserting "$2,000,000 for each of the fiscal years 1995 through 1998."; and

(2) in subsection (b), by striking "$700,000" and all that follows through the end thereof and inserting "$1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1998.".

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, S. 2000, the Human Services Reauthorization of 1994, is an important step in developing a sensible family policy, and I urge the Senate to approve it.

Bipartisan members of the Labor and Human Resources Committee in the Senate and the Education and Labor Committee in the House have worked closely with the administration in developing this legislation, which reauthorizes several of our Nation's most important antipoverty programs.

Our goal is to provide a high-quality Head Start experience to all eligible families in need. This legislation reaffirms our belief in the core elements of the program. It takes what is good about Head Start and makes it even better. It enhances program quality and extends the program's reach, making it more responsive to current needs.

Low-income children and families today face enormous challenges. They are struggling to survive in neighborhoods plagued by violence, drugs, and lack of opportunity. Since we last reauthorized Head Start in 1990, the number of children growing up in poverty has increased dramatically—and so has the pressure on Head Start programs to help turn the tide.

This is most true of the youngest and most vulnerable children—those under the age of 3. The General Accounting Office recently reported a 26-percent increase in the number of infants and toddlers growing up in poverty.

Today one out of every five children is born into poverty—twice the rate for the elderly. In Springfield, MA, the figure is one out of every three. In Detroit, it is one out of every two. These figures are an indictment of our society and all that we stand for.

If we are serious about reducing juvenile crime and welfare dependency and promoting family values and school readiness, Head Start must continue to be a centerpiece of our community-based response. Head Start strengthens families, builds communities, and gives children a chance.

Current research and the program's long track record of success demonstrate that Head Start achieves positive results, including greater economic independence, fewer juvenile crimes, and fewer school failures. For the price of a single space in a juvenile detention facility, we can provide a full-day, full-year Head Start experience for five young people. Prevention is more productive than prison—and it is far more cost effective.

Too many children live on the edge of despair—and many have only Head Start to turn to. Drug dealers and gang leaders get to them young—and one of the greatest challenges we face is to get to them first.

It is for this reason that the Attorney General, the FBI Director, and the drug czar have all joined in support of increased Head Start funding.

But for Head Start to live up to its potential, it needs additional authority, support, and resources. And that is what this bill will deliver.

This legislation is a centerpiece of President Clinton's Invest in America plan. Children are our most valuable resources and our best investment in the Nation's future.

Funding for Head Start in the current fiscal year is $3.2 billion. Under the so-called current services budget, which reflects annual increases for inflation, we would be spending $14 billion on Head Start over the next 4 years.

This bill supports President Clinton's budget request and meets his Invest in

America goal by providing for an additional $6 billion for Head Start over that 4-year period. That represents a 43-percent increase in funding, for a total expenditure of $20 billion on Head Start over the next 4 years.

The act builds on the commitment to program quality in the 1990 reauthorization. It sets aside at least 25 percent of all new funds for quality improvements. These funds will be used to offer training and career development opportunities to dedicated Head Start staff. They will help provide a living wage and health benefits, in order to reduce staff turnover and increase continuity of care.

The funds will also be used to increase the number of family service workers in Head Start programs. We must reduce staff caseloads to facilitate more extensive family support and encourage family literacy, parental involvement, and other services.

The act also puts a stronger oversight system in place. Programs that have been squeezed into trying to do too much with too little will be given the support to improve. But those that cannot make the grade will be opened up to others that can. Children and families deserve no less than the best we can provide.

The act also expands the program to reach more eligible families and to meet their needs more effectively. With the funds in the President's budget request, the act will create more Head Start slots, and more full-day, full-year programs to meet the needs of low-income working parents. If we are serious about promoting self-sufficiency, we must be prepared to assist in removing more obstacles.

In addition, it has become clear that Head Start needs to provide an earlier start. Last week, the Carnegie report—entitled "Meeting the Needs of Our Youngest Children"—called for a national mobilization in support of low-income children at the earliest ages.

This bill is a major step toward meeting that challenge. It sets aside approximately $1 billion over 5 years to provide one-stop shopping, family-friendly services from pregnancy to preschool. These formative years are vital for the physical, social, emotional, and intellectual development of children.

During this period, new parents can benefit most from training in parenting skills and information on early childhood development. We know that programs don't raise children—parents do. Government is not taking over parenting. But a family-centered approach will help parents to do a better job of raising their own children—right from the start.

The lessons we have learned from the Comprehensive Child Development Centers and the Parent Child Centers have been incorporated into this bill—and I am pleased we are moving forward with this effort.

We must also continue to work with the public school system to ease the transition from Head Start to elementary school. The act continues and expands this commitment.

I look forward to working with my colleagues as we move forward with ESEA to ensure that we do all we can to stimulate cooperation and coordination at the local level.

But Head Start is about more than coordination and monitoring. It is about small children and poor families struggling against the rising tide of poverty, violence, drugs, and hopelessness. It is about giving hope a chance—and helping families build a future.

More than 1,000 families, from every State in the Nation, have taken the time to write to my office to let us know what Head Start means to them.

One letter sums up what Head Start can do. It was sent by William Bryant, a single father in Plymouth, MA. He wrote:

> Dear Head Start,
>
> Thank you for the gift certificate for food at Christmas. It made things easier for me and better for the children.
>
> Thank you for the help with fuel assistance. It helped to keep me from falling into debt.
>
> Thank you to the staff and teachers, who visit our home with concern for our family goals.
>
> Thank you for the medical staff, who notify me of tests and shots and checkups with the doctors. More importantly, thank you for noticing my child's hearing problem. She is one of only 5% of children with a lot of fluid in her ears. In order to not become infected, she needs to have tubes put in. Nobody noticed the problem until Head Start told me she needed to be examined. Now she is scheduled for surgery, and I am very grateful.
>
> I could go on and on. The staff in general are the most concerned of any agency, department or facility I've ever been involved with.
>
> I am just one of many grateful parents.
>
> Signed, William Bryant.

We have received comments like that from all 50 States, and they have inspired us to do more. This legislation will ensure families a better Head Start.

This legislation also includes two other priorities—the Community Services Block Grant and the Low-Income Home Energy Assistance Program.

CSBG reauthorizes the community action programs and community development corporations that serve on the frontlines of the war on poverty.

We know we are falling behind. In recent years, we have witnessed a much greater rise in the number of families living in poverty than in the resources dedicated to reducing it.

We know that complex social problems do not come in neat categorical packages—but far too often our responses do. Community action programs were created to respond to the needs of individuals, families, and communities in a holistic manner—not piecemeal. And in communities across the country, these community-based public-private partnerships are an integral part of the low-income service delivery network.

In reauthorizing the Community Services Block Grant, we seek to promote self-sufficiency, family stability, and community revitalization. The goal is to provide resources and support to develop community action plans for moving forward, and to set realistic ways for measuring progress.

In addition, we call on the States to provide more support and technical assistance. We require them to enhance their coordination with Community Action Programs, and to make State WIC, Medicaid, and child support services more accessible to parents who need them.

We all know the fine work done by community development corporations. These nonprofit organizations develop housing, build and renovate commercial and industrial facilities, create jobs, and provide financial and technical support to local business enterprises. Their funds come not from just the Federal grant, but from a variety of public and private sources. They are demonstrating that even in the most embattled communities, people, given a chance, can build productive futures. The community activities are continued and expanded as part of the total CSBG effort.

Finally, the bill authorizes the Low-Income Home Energy Assistance Program. This year's winter weather in New England and across the country demonstrated the lifesaving nature of LIHEAP. President Clinton recognized the importance of this program by approving a $300 million emergency appropriation to help low-income families pay for the fuel they need to survive. Without this heating assistance, we would have lost far more lives.

No parents should have to choose between heating their homes and feeding their children. Yet, every winter, doctors in Boston and cities across the country see the number of malnourished children triple as fuel costs rise.

Thanks to LIHEAP, many families are spared from making the "heat or eat" decision.

This bipartisan legislation puts families first. It moves forward with our desire to reinvent Government by consolidating similar programs, by establishing outcome measures, and by paying for performance. And while it will surely benefit millions of American families living in poverty, it is equally important to our society as a whole.

For American business that seeks a skilled and educated work force—for American families who seek safe streets—and for all American citizens who seek a country true to its ideals—this is essential legislation, and I urge the Senate to approve it.

I would like to take this opportunity to thank the people without whom this legislation would never have happened.

First and foremost, I would like to thank the Labor and Human Resources Committee staff—from both sides of the aisle—who worked extremely well together on this effort. I hope this bipartisan cooperation will continue as we move forward with the remainder of our agenda.

Specifically, I would like to thank Patty Cole, from Senator DODD's subcommittee staff, Kimberly Barnes-O'Conner from Senator KASSEBAUM's staff, and Stephanie Monroe from Senator COATS' staff. Together with Midrell Iskowitz, my counsel, and Catriana McDonald, a legislative fellow in my office—they formed the Senate team that made S. 2000 a reality. They are to be commended for their efforts.

In the House, I would like to thank Alan Lopatin of Chairman FORD's staff, Lee Cowen of Representative GOODLING's staff, and Les Sweeting and Terry Daschler of Representative MARTINEZ' subcommittee staff. They did a great job marking up the bill in the Ed and Labor Committee today—and they too are to be congratulated for their efforts.

And we could not forget our friends in the administration who—from the start—have been committed to an inclusive, productive, and bipartisan process. I commend Secretary Shalala for establishing the Head Start Advisory Committee that "jump started" the process, brought the staff together, and created the family that hung together throughout this legislative process.

I would also like to thank her able staff including Mary Jo Bane, Olivia Golden, Helen Taylor, John Busa, Rich Tarlin, and Mary Burdette—who reminded us how helpful it is to design programs with those who actually implement them—I must say—it has been a while.

Last and most certainly not least—I would like to thank a few special individuals who never give up and give in—but keep on keeping on in the name of America's children. I would like to recognize three longstanding friends of children and friends of the Labor and Human Resources Committee—Joan Lombardi, now with HHS, Helen Blank of the Children's Defense Fund, and Bill Harris of KIDS Project.

Their energy and their commitment knows no bounds and I am grateful for their tireless efforts and for their friendship.

And we could not conclude without thanking those in the community struggling day after day to give these words real meaning. Our work here is far easier than theirs. In the Head Start community, I would like to send a special thank you to Linda Likens of the National Head Start Association, Janice Stanos of the New England Head Start Association, and Marie Galvin of the Massachusetts Head Start Association. And to the thousands of Head Start teacher and family services workers who give it their all everyday—this one's for you.

To the community action programs, community development corporations, community food and nutrition advocates, fuel assistance providers, and all of the other frontline workers who use the resources authorized under this act—I thank you for your dedication, your commitment, and your efforts.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, let me commence by first of all thanking the distinguished chairman of the committee, Senator KENNEDY, for once again his extremely valuable leadership on this issue and its many components, the most important of which may be the extension of Head Start to infants and toddlers zero to 3.

In fact, today the Subcommittee on Children and Families held a hearing on the Elementary and Secondary Education Act focusing on a transition period for Head Start into regular school, taking some of the very valuable concepts of Head Start and trying to extend them into the normal school process of young children.

It was noted that in Head Start programs roughly 60 percent of the parents participate, and yet in kindergarten, the very next year, that percentage of parental involvement drops to about 23 percent. And we all appreciate the value of parental involvement in children's education.

What the Senator from Massachusetts is suggesting here is that even in the earlier stages Head Start can make a substantial difference in a child's life. We need to extend the lessons of Head Start both upward and downward.

And so while I chair the subcommittee, as my colleagues would certainly appreciate, without the backing, leadership and strong support of the full committee, none of this happens. Senator KENNEDY has done a remarkable job once again in this area.

Madam President, let me just mention a couple of things about this bill very briefly. It is a late hour. And again I am appreciative of the leadership for scheduling this even at this late hour so that we can move on.

As the chairman of the committee, Senator KENNEDY, pointed out, this bill comes out of the Labor and Human Resources Committee with a 17 to zero vote—another example I think of how this committee has been able on numerous occasions to develop bipartisan legislation.

I should like to entend my thanks to Senator NANCY KASSEBAUM and Senator DAN COATS of Indiana for their support and leadership on this issue, on the Republican side. Senator COATS and I have worked on a number of issues together. He, as the ranking minority member of my subcommittee, played a pivotal role on the family and medical leave bill, and once again demonstrated strong leadership in this area.

And second, I'd like to recognize the services of Secretary of Health and Human Services, Donna Shalala, who did a splendid job.

As my colleagues are aware, a few months ago serious questions were raised about the quality of Head Start programs, and many of those questions were very legitimate. While some might have chosen to fight that kind of criticism, Donna Shalala promptly reached out to those raising those concerns and worked with them.

This legislation incorporates provisions which will help to maximize the quality of Head Start programs and to guarantee us in coming years the ability to monitor and watch that quality as well.

The timing of this bill happened to occur, Madam President, coincidentally with two reports that came out last week.

Two years ago, I asked the General Accounting Office to examine the condition of infants and toddlers and their their economic status in this country.

Part of that report was released about 6 or 7 months ago. The last part of it came out exactly on the very day that the Carnegie study emerged as well, a lengthy study examining the condition of these children.

The General Accounting Office report, Madam President, showed that the number of poor children under the age of 6 grew by more than 25 percent during the 1980's. In fact, I did not ask for the study to particularly examine my home State of Connecticut, but in Hartford, CT some 47 percent of its young children are poor, the second highest child poverty rate in the United States of America next to Detroit.

Youngest Americans are the poorest Americans. We are the only industrialized nation in the world with that unique distinction. In any other industrialized nation, as most people might predict, the poorest sector of the population are older people who have finished their working years, living on some fixed income. Costs continue to rise, and unfortunately these individuals find themselves not in the strongest financial shape. We are the only nation that has as the poorest sector of our population our children, our infants. On the average, 26 percent of infants and toddlers are growing up in poverty.

Now, it is not an excuse later on for these children to end up in a juvenile justice system or as substance abusers or dropping out of school.

But the facts of life are such that there is a high degree of predictability. If you begin life far behind the 8 ball, as these infants do, you are much more likely to end up doing just that, ending up in our juvenile justice system, ending up being teen mothers and teen fathers, end up being substance abusers, end up dropping out of school and on the public assistance rolls of our Nation.

So these numbers ought to cause alarm across this Nation. They are a warning sign of what we are up against if those numbers continue to rise. And they have been rising.

This legislation, as the Senator from Massachusetts points out, does not solve every one of these issues. But it does point us in the right direction. It does try to assist in these areas by providing some assistance.

Let me just mention very briefly what it does. The Carnegie study suggested the need for a comprehensive approach to the terrible problems of child poverty. This bill contains several provisions with just such a comprehensive approach.

But before looking at that, I just want to point out to my colleagues, the poverty rates for the population of the United States. It may be difficult for some to read. But here are infants toddlers, zero to 2 years of age; that is their poverty rate, the highest in the country; 3 to 4; 5 to 17 and so forth. Here are older Americans again—with a much lower poverty rate. If you begin life in this country and you are the poorest in our society, odds are you will face tremendous difficulties later on.

The second chart deals with the various groups of families categorized as married couples and single mothers.

Again, you see here we have children, of married couples with a poverty rate of 12.8 percent. Among whites it is 9 percent; 21 percent in Afro-Americans; 30 percent for Hispanics. That is with married couples. Now go over here to single mothers. These numbers go right off the chart. Just look at Hispanic single mothers. Their children, 73 percent, three-quarters of these children are poor, and the numbers are not far behind in the Afro-American community either.

So these are children under the age 3. Those are the conditions they are being reared in.

This bill mirrors the recommendation of the Carnegie Foundation. It takes Head Start as a model program that helps the whole child; that is, with education, nutrition, and family services. It takes very concrete steps to ensure quality. The bill contains a set aside, as I mentioned, for younger children, to bring the power of Head Start to all of them.

The Senator from Massachusetts, Senator KENNEDY, deserves tremendous credit for pursuing that particular idea and incorporating it in this bill.

S. 2000 also contains provisions which I wrote to consolidate four existing programs into one community-based family resource program. We have heard about trying to consolidate in a number of areas. We do it here. It creates what I call a "seamless garment" for the whole family.

Too often we think about families in need of the WIC programs. We hear about Head Start families. We hear about families that have needs in housing, or in a variety of areas. In fact, it is all the same family. A WIC family is a Head Start family, is a family that needs housing or health care as well.

This legislation encourages the States to in a sense reinvent Government in ways that will serve these families most effectively.

The bill also contains critical social services programs, low-income energy assistance, and community services bloc grants. Low-income energy assistance is a critical part of that safety net needed to meet the continually rising residential energy costs that so many parts of the country, including ours in New England, face every year.

The Community Services Block Grant pioneered coordinated community services many years ago, and we are just trying to bring that into line with the needs of today.

This bill is important both for the programs it encompasses and the statement it makes about the significance this body places on lending a helping hand to children and other vulnerable Americans. So broad based is the appeal of this legislation that it was reported out of the Labor Committee by a unanimous vote on April 13. The bipartisanship and particularly the leadership shown by Senators KENNEDY and KASSEBAUM are a testament to the urgency of the subject we are addressing and the responses this bill contains.

This legislation is urgently needed because it could form part of the cure to a grave illness that has beset our Nation. The symptoms of this illness are becoming increasingly evident. And like many diseases, this one has first attacked the most susceptible parts of the body, those parts with fewer and weaker defenses.

I am talking of course about our Nation's children, for they are the ones bearing the brunt of the social cancer ravaging our country. Economic dislocation, the disintegration of the family, rising crime, and declining health—each of these social ills has taken a terrible toll on our youngest citizens. This diagnosis was delivered last week by two highly respected, nonpartisan organizations.

GAO REPORT

First, there was a report I commissioned from the General Accounting Office about the economic status of infants and toddlers in America. It paralleled a similar report on preschool-aged children I received from the GAO last summer. These reports contained a number of startling statistics:

The number of poor children under the age of 6 in America increased by more than 25 percent during the 1980's.

These numbers are worse in urban areas: 47 percent of young children living in the capital of my own State of Connecticut are poor, making Hartford the American city with the second highest child poverty rate.

The youngest Americans are also the poorest Americans. Those with political power in this country—adults of working age and senior citizens—have markedly lower poverty rates.

And the problem is growing worse: All but three States saw an increase in the number of poor infants and toddlers from 1980 and 1990.

The opportunities for overcoming their disadvantages are few: In 1990, only about one in three children ages 3 or 4 participated in a preschool program.

CARNEGIE REPORT

On the heels of the GAO report, the Carnegie Foundation released a major study that echoed its findings:

One in four young children is in poverty—up from 20 percent just in the time that elapsed between the 1990 census data used in the GAO study and the 1993 information used by Carnegie.

The study demonstrates the terribly high poverty rate for children under 3 being raised by single mothers. For children under 3 raised by single Hispanic mothers, the poverty rate approaches 75 percent.

Between 1960 and 1988 the percentage of births in America to unmarried mothers rose from 5 percent to 26 percent.

Between 1971 and 1991 the number of children under the age of 6 increased by less than 10 percent but the number of poor children under the age of 6 increased by 60 percent.

The Carnegie Foundation report contained more than sobering statistics like these: it contains recommendations on how we might reverse them. As the Carnegie report suggests, we need to assess families' problems in a comprehensive way and meet them in a comprehensive way, with initiatives like family and medical leave, Head Start, neighborhood family and child centers, child care, and violence prevention.

HEAD START

The centerpiece of today's legislation is one that the Carnegie Foundation singled out for praise. Head Start has long been a model program, because it pays attention to the whole child. To make sure that the child has enough to eat, it provides nutritious meals. To make sure that the child enters school ready to learn, it provides developmental enrichment. To make sure that the child has a healthy home life, it provides an array of social services for families.

All together, this package helps give children the edge they will need to cut through the thicket of social problems described by the GAO and the Carnegie Foundation. We have all heard testimonials about Head Start effectiveness. I would like to take this opportunity to share just one, from a mother in Lake Orion, MI.

She wrote me recently about the power of Head Start, and what it meant for her daughter.

> Until January of 1993 I didn't have a clue about Head Start or what it could mean to a child and or parent. I have to tell you on graduation day every child who had attended the class took something positive away with him or her * * * whether it be feeling more sure of themselves [or] the shine of hope and pride in all the little faces, and believe me I did see that look on all faces. And then and probably only then did I realize what exactly Head Start could mean to the future of these children and all children who qualify for the program.

The reauthorization of Head Start we are considering today would build on the success of the program and shore up its weaknesses. The bill continues the provision enacted in 1990 that sets aside one-fourth of all new appropriations for improving quality. This money already has helped programs raise staff salaries, provide needed training, and improve facilities and equipment.

To ensure that programs are offering quality services, the legislation strengthens performance standards and monitoring procedures so that programs that cannot correct their deficiencies within 1 year are defunded. The bill seeks to build the work force Head Start needs to guide children into the next century by developing qualifications and credentials for family service workers and creating innovative approaches such as mentor teachers and Head Start fellowships.

The reauthorization of Head Start also contains a set-aside for expanded services to families with infants and toddlers. It takes the comprehensive approach associated with Head Start and expands it to vulnerable children at the earliest possible age. Such an expansion is one of the Carnegie report's key recommendations.

FAMILY RESOURCE CENTERS

The bill also contains a provision I authored to consolidate several existing programs into an expanded community-based family resource program. This new grant to States would help build networks of comprehensive family resource centers and services and promote a systematic approach to prevention. The concept of community-based family and child centers that provide support to families was also endorsed by the Carnegie report.

The approach rests on two guiding principles: Locality and flexibility. It would provide comprehensive services at the local level where they can do the most good, and it would encourage States to approach family assistance creatively. This initiative also gives families a voice in how services are provided in their communities.

Family resource services are about prevention, preventing problems before they cause serious harm to children and families and preventing problems before they become a serious drain on other Federal assistance programs. The bill would authorize this program at $75 million for fiscal 1995. This represents an increase over the total fiscal 1994 appropriations for the four consolidated programs, but it is far from enough.

COMMUNITY SERVICES BLOCK GRANT

A third piece of the Human Services Act is also built around the concept of comprehensive, community-based services. I am referring to the reauthorization of the community services block grant, which provides base funding to our nationwide network of community action agencies. There are nearly 1,000 such agencies nationwide, and they serve 99 percent of all American counties.

Although the community services block grant [CSBG] was established through the Omnibus Reconciliation Act of 1981, its roots extend back to Lyndon Johnson's war on poverty. The idea was a simple one: Provide comprehensive services, allow local people to tailor them to fit local needs, and give the low-income people in need of services a say in how those services are provided.

Community action agencies and other organizations receiving community services block grant funding use the money to provide crisis assistance for families, to create linkages among other Federal programs, to offer nutrition programs and to provide a number of other social services.

The reauthorization that is part of S. 2000 would strengthen this program by making groups supported by it more accountable for the dollars they spend. It would also take a number of steps to consolidate and reorganize the small discretionary programs authorized through this bill.

LOW-INCOME HOME ENERGY ASSISTANCE

The final component to the Human Services Act is the Low-Income Home Energy Assistance Program [LIHEAP], a critical segment of the safety net we try to provide for our most vulnerable citizens. LIHEAP provides millions of American families, many of them with elderly or disabled members, with the bit of extra help they need to pay for one of modern life's essentials: residential energy.

The bill before us would reauthorize LIHEAP at $2 billion for fiscal 1995. This puts Congress on record opposing the budget cuts that have been proposed for the program. The bill also reinforces LIHEAP's primary mission to help disadvantaged individuals afford energy bills that would otherwise prove to be unaffordable.

In addition, the bill would create a permanent authorization for the LIHEAP emergency fund and would allow the Secretary to target the money during particularly harsh winters. Currently, Congress must act to waive the normal LIHEAP formula before the release of emergency fund, as happened earlier this year.

We were lucky that the earthquake relief bill provided a speedy vehicle to grant this waiver. In future winters, such a convenient vehicle might not be available and without the change we are proposing today, millions might go cold.

CONCLUSION

The bill before us will certainly not eradicate poverty or solve every social problem we have. But it will certainly take us further down the road toward that goal. I hope all of my colleagues will join me in supporting it.

Madam President, Senator KENNEDY mentioned, of course, that this work does not get done without terrific staff work. There are many people to congratulate and thank. I want to point out specifically the work of Patty Cole, of my staff, and Joe Palmore, who did a terrific job in working with the majority staff and the minority staff, Senator KENNEDY's staff, and others to put this together.

Senator KENNEDY said in some ways—at this late hour there are very few people here for this—but this is a very important piece of legislation, a critical element of our efforts to see to it that we will be a strong and vibrant Nation in the 21st Century.

I think it is worthwhile to note there was a program this evening on one of the networks, I think the American Broadcasting Co. [ABC], that talked about the things we really ought to be worried about in this country, the real serious threats. Poverty is one of them. If you are living in poverty in the United States, your life expectancy is 7 to 10 years shorter than other Americans. If you begin life as these children do, growing up in poverty, that is not only a threat to us in society, but it is a threat to them in their lives. So everyone suffers when these children suffer. This legislation we hope will be a significant step in reversing those trends.

Madam President, I yield the floor.

Mr. BINGAMAN. Madam President, it has come to my attention that energy education has proven to be an effective method of increasing energy efficiency, and thus the goals of LIHEAP. It is my understanding that our colleagues in the House may include language in their version of the legislation we are considering today that would promote energy education. Would the Senator from Connecticut be inclined to consider energy education measures in conference?

Mr. DODD. Madam President, I would indeed be inclined to favorably consider energy education measures that did not detract from LIHEAP's central purpose, which is to help low-income people pay their energy bills. I would also encourage States and energy vendors to support such activities with their own funds. In times of fiscal constraint, it is important that we explore every opportunity to maximize the resources available for providing low-income families with adequate energy.

Mr. WOFFORD. Madam President, I am pleased to cosponsor the legislation we are considering to improve and expand Head Start. Today, as violence pervades the lives of so many young children, the need for Head Start is greater than ever.

The Head Start program is one of the best and most cost effective educational investments we can make. It enables needy children to start school ready and able to learn. Head Start lowers the drop-out rate and the illiteracy rate, and gives our most vulnerable children the tools they need to succeed in school.

Yet today only a third of eligible children participate in Head Start. Clearly we must expand Head Start to enable all eligible children to participate. But the quality of Head Start programs across the country is uneven. We must not merely increase the number of children served without ensuring that they are served well. This legislation expands Head Start—but also improves the quality of the programs. The goal of this legislation is that every Head Start center will offer high quality and comprehensive family and educational services. The quality improvements called for in this legislation include further staff development, more effective Federal oversight, providing full day or full year services and services to younger children, improving family literacy and strengthening linkages with elementary schools.

The legislation we are voting on today is the first serious effort to improve the quality of the Head Start program. We will need the vision that created Head Start if we are to adapt it to fit the challenges facing our children in the 1990's—increasing youth violence, drug abuse, and teen pregnancy. Welfare reform and education reform are just empty rhetoric if we don't give our most vulnerable children the tools they need to succeed.

Mr. DURENBERGER. Madam President, I rise to support final passage of S. 2000, legislation reauthorizing the Community Service Block Grant Act and the Head Start Act. I have supported both of these important programs during my entire 16 years of service in the Senate and look forward to swift completion of this reauthorization, hopefully in time to be signed into law on Head Start's 30th anniversary, on May 18.

This Head Start reauthorization enjoys strong bi-partisan support at least in part because of the extensive consultation that went into its drafting. And, on the merits, this bill deserves passage because it responds to the growing interest in using Head Start expansion funds to improve quality, as well as expand the numbers of children served.

There is no question that initiatives to improve quality must include more business-like management practices in Head Start programs, increased compensation for teachers and other employees, upgraded facilities, and other program "inputs".

But, I also believe this authorization will force increased attention to improved outcomes—improved health and nutrition for children, better preparation for kindergarten, lower levels of family illiteracy, and—in general—better support low income families.

I am also hopeful that this reauthorization will contribute to a greater degree of collaboration between Head Start and child care and other child and family support services in each local community.

That hope became more urgent for me during the recent Easter recess when I had the opportunity to meet with a group of Head Start and child care advocates in Minnesota.

One of the themes of that meeting was that collaboration among child and family service programs is especially important to the growing number of Head Start parents who are working or in school as part of Federal and State welfare reform initiatives. And, as additional changes are made in AFDC and other welfare programs, we are likely to see even more Head Start parents needing—and qualifying for—child care services that extend beyond the traditional part-day, part-week Head Start program.

Fortunately, Head Start and other early childhood advocates are starting to respond to this growing need. In fact, five different examples of child care/Head Start collaboration or other locally designed Head Start delivery models were described to me in some detail during the meeting I held in Minnesota during the Easter recess.

Madam President, I ask unanimous consent that a summary of the initiatives, along with a listing of those who participated in the meeting be printed at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DURENBERGER. Madam President, all five of these initiatives are program models other than the traditional full-day, part-day, or home-based models used by most Head Start agencies. All five meet or exceed Head Start's performance standards. And, all five are designed to help meet the changing needs of today's Head Start families.

In each case, however, the directors of these initiatives expressed serious concerns that they will not be allowed to continue or replicate these highly innovative programs. Reasons for that concern range from uncertainty about future funding availability to bureaucratic resistance.

THE NEED TO ENCOURAGE FLEXIBILITY

Madam President, there is no question that Head Start is serving a different and more complex set of family needs today than were being served when the program was established 25 years ago. Beyond the increased stress placed on all families in the 1990's, the most dramatic changes is the need that many Head Start families now have full- or part-time child care outside the half-day, school year program traditionally offered by most Head Start agencies.

Many parents in these families are working, in school or in job training programs as a condition of receiving AFDC or other income support assistance. The need for these services will continue to grow as work or job preparation requirements are included in Federal and State welfare reform initiatives.

At the same time, there are a large number of public and nonprofit, services and programs available to assist these same families—including programs that offer subsidized child care. So, especially from the perspective of the families involved, there is a growing need to encourage collaboration between these programs and Head Start—to have various services provided at the same site, to be able to mix funding sources, and to simplify differing eligibility and reporting requirements.

Fortunately, Head Start has historically recognized the need for different delivery models based on differences in family preferences and the demographics of local communities. The most obvious variations are Head Start's home-based program and the combination center-based/home-based programs that are especially well-suited for less densely-populated rural or suburban areas.

These options also respond to preferences that many parents have for services that are delivered in the home rather than in a larger group setting.

This respect for community and parent differences was reinforced in the most recent round of Head Start rulemaking, by articulating three different delivery options and by retaining authority on the part of a senior HHS administrator to approved other locally designed options.

This centralized appeal and approval process is time consuming, costly, and burdensome, however, and may discourage agencies from designing and requesting approval for locally designed options. This may be especially true in smaller agencies or agencies in rural areas where collaboration may be even more difficult because there are fewer organized child care and other support services available.

According to several of the Head Start directors I met with in Minnesota, there also appears to be a presumption in the current system that more traditional delivery models are preferred—perhaps because they are easier to monitor and hold accountable.

In fact, one irony in the current laudable move to better monitor Head Start quality and agency performance is that computerized data gathering is much easier if programs are uniform in how they are organized. The same may be true in designing and testing new forms of results-oriented accountability.

Madam President, it's important to point out that Head Start has always been a grass-roots, community and family-responsive program. So having flexibility to tailor programs to meet unique community and family needs is in keeping with the original purpose and history of Head Start.

That is why I feel so strongly that this reauthorization be used to encourage Head Start administrators to use expansion funding to offer financial and other incentives to design unique and innovative local delivery options—as long as the underlying principles and strengths of Head Start are maintained and as long as local needs and results-oriented performance standards are met.

Because of the importance of maximizing the use of all available resources, any real or perceived barriers to collaboration with other agencies and programs should also be removed. That would include barriers to mixing funding sources and contracting with other agencies who may actually employ teachers and other staff.

In addition, Madam President, there should be a presumption that locally designed delivery options are acceptable unless it's determined that they do not meet results-oriented standards through the normal Head Start oversight process.

And, finally, whatever changes are needed in Head Start performance standards to promote an innovation-friendly environment should be made.

Madam President, at least some encouragement to innovate and collaborate may have to wait until we take up the child care components of welfare reform later this year. But, I strongly believe implementation of this Head Start reauthorization represents an excellent opportunity to allow maximum flexibility in local communities to use combined funding, waivers, demonstrations and administrative flexibility to help meet the changing needs of Head Start families.

To seize that opportunity, I believe Head Start administrators should do four things as they implement this reauthorization:

First, include the changing needs of Head Start families for child care and the potential for collaboration with child care and other early childhood and family services to Head Start's new quality standards.

Second, ensure that new performance measures created for Head Start agencies be adaptable for non-traditional program options including collaborations with local child care programs.

Third, reward collaboration with other community organizations serving children and families in the allocation of expansion funds within states.

And, finally, use Head Start's R&D program to encourage the development and testing of innovative locally designed program options including programs that involve collaboration with child care and other child and family service programs.

Madam President, I was an original cosponsor of this Head Start reauthorization legislation. And, I intend to vote to adopt this legislation today.

At the same time, I believe the full potential for serving today's low income families and children will depend on how this legislation is implemented and administered.

Now more than ever, Head Start must be responsive to the changing needs of the families it serves. That means Head Start must be flexible enough to meet those needs through a variety of different program models. And, it means Head Start must encourage collaboration with child care and other services available to those same families.

With that kind of locally initiated flexibility and collaboration, Head Start will enter its second 30 years an even stronger and more effective resource for the children and families of this nation.

Thank you, Madam President, I yield the floor.

EXHIBIT 1

MEETING THE CHANGING NEEDS OF LOW INCOME FAMILIES—A BRIEF SUMMARY OF HEAD START CHILD CARE COLLABORATIONS AND OTHER LOCALLY DESIGNED HEAD START PROGRAM OPTIONS IN MINNESOTA

On March 30, U.S. Senator Dave Durenberger met with a group of Head Start and other early childhood advocates in Minnesota to discuss this year's reauthorization of the Head Start program.

The meeting included discussion of five different Head Start programs in Minnesota. All five involve either collaboration with other early childhood programs or a way of delivering Head Start services other than the traditional full- or part-day or home-based models.

Following is a brief summary of these five programs including how they are authorized and funded and barriers to their continuation or replication; as well as a listing of participants in the March 30 meeting.

EXAMPLE 1—PARENTS IN COMMUNITY ACTION (PICA) SPLIT-WEEK PROGRAM

Parents in Community Action, Inc. (PICA) is Minnesota's largest Head Start agency, serving Minneapolis and most of its Hennepin County suburbs. For the past 15 years, PICA has run much of its program on a split-schedule program, with three six-hour days of service for half the school year and two six-hour days of service for the remainder of the school year. Currently, the large majority of the approximately 2300 children enrolled in PICA Head Start programs are on a split-week schedule.

PICA has found a high degree of parent satisfaction with this scheduling option since it better accommodates parents' work, education and child care schedules and arrangements. It also results in savings on transportation expense when compared to half-day programs. And, it results in each child receiving 27 percent more classroom time than they would under the traditional half-day model (3.5 hours per day for at least four days per week).

Despite its positive past record, high degree of parent satisfaction, and higher than required volume of classroom time, PICA has been notified by Head Start's Chicago regional volume that its split-week schedule is not in compliance with the agency's regulations and that it must come into compliance within a "reasonable time," starting with use of the next round of expansion funding.

With support from Senator Durenberger and other members of the Minnesota Congressional Delegation, PICA is now appealing this decision to the Commissioner of HHS's Administration on Children, Youth and Families. This appeal is being made under a provision of Head Start rules that allows the Commissioner to fund alternative program variations "to meet the unique needs of communities or to demonstrate or test alternative approaches for providing Head Start services."

EXAMPLE 2—CARVER-SCOTT-DAKOTA SCHOLARSHIP PROGRAM

The Head Start agency serving Scott, Carver and Dakota Counties delivers services to 20–25 percent of its roughly 450 children through "scholarships" it make available to eligible families. The program has been in place for nine years.

These scholarships are used to place children in six different private or non-profit day care centers, nursery schools and pre-schools located throughout the agency's three suburban and rural counties which are located south and southwest of Minneapolis. The remainder of the agency's children are served through more traditional part-day, home-based, and combination home-based/center-based programs. The agency has eight centers of its own which are used exclusively for Head Start programs.

In addition to getting the group experience, the Head Start families in the scholarship program also get home visits, and the other health, nutrition and family support services required by Head Start's performance standards.

At the present time, this program retains the traditional half-day service model and does not include combining funding with child care or other early childhood program funds. There is some collaboration with the programs where children are placed, however, including availability of training to non-Head Start staff, regular visits and consultation from Head Start teachers, and access to comprehensive Head Start services for non-Head Start children and families in these programs.

According to the program's director, this locally designed option is popular with parents because it offers a group environment in lower density areas that might not have enough eligible children to justify a conveniently located Head Start center.

This program also saves money on transportation since the centers are closer to where families live and, the Head Start agency saves money on expansion-driven start-up expenses—including renovation of licensable facilities—by using existing programs that already meet facility and other licensing requirements.

Finally, this "scholarship" option appeals to at least some parents who prefer to "main-stream" their children with children from a variety of income groups, rather than having them placed in a Head Start center that serves only low income children.

Despite nine years of experience with this program and a high degree of parent satisfaction, the local Head Start agency is now getting signals from the HHS Chicago regional office that it would rather not deal with a variety of locally designed options. In particular, it appears that the regional office is designing its reporting, oversight and quality monitoring initiatives in ways that discourage non-traditional programs models because they are harder to monitor and evaluate than are traditional full- and half-day or home-based options.

EXAMPLE 3—RAMSEY ACTION PROGRAM COLLABORATION WITH CHILDREN'S HOME SOCIETY

A third alternative delivery model now operating in Minnesota represents a more advanced version of the above "scholarship model" for offering Head Start services in collaboration with other early childhood programs.

Under this model, the grantee—Ramsey Action Programs (RAP)—has an arrangement with a non-profit day care center run by the Children's Home Society that is located in the St. Paul Technical College. The joint program began in 1991 after almost four years of discussions and planning involving the two agencies.

Currently 27 of the 34 children enrolled in this center are in the RAP Head Start program. They are all children of parents who are taking courses at the Technical College to meet the education/job training requirements of the STRIDE welfare reform program.

Under the agreement between RAP and the Children's Home Society, 48 percent of the cost of placing these children in the full-day program is paid by Head Start. The other 52 percent comes from a combination of public and private funding sources including United Way, the child care subsidy their parents are entailed to under the STRIDE program, and the child care food program.

According to the center's director, the program's advantages include the availability of full-day care for children of parents going to school; increased parent involvement because the center is located in the Technical College building, and extra training for the center's personnel through the RAP Head Start program.

According to RAP's Head Start director, this model also has the potential to ease the difficulty that many Head Start programs have in finding licensable space for expansion. In some areas, licensable space may not be available, but there may be unused capacity in existing licensed day care centers.

RAP would like to enter into similar collaborative ventures with other child care programs. And, the Chicago regional office has been supportive of this model up this point. However, the regional office did not like the fact that Children's Home Society retained responsibility for hiring the day care center's employees. The concern is that this arrangement resembles delegating operations to a "sub-grantee" without going through the approval, accountability and oversight procedures required of subgrantees under Head Start's authorizing law, its administrative rules, and its performance standards. As a result, proposals for similar collaborations between RAP and Children's Home Society have not been approved.

EXAMPLE 4—LAKES AND PINES HEAD START COLLABORATION WITH SOMEPLACE SPECIAL CHILD CARE CENTER IN CAMBRIDGE

The Lakes and Pines Head Start program has traditionally used home-based services in the largely rural and small town area it serves between the northern edge of the Twin Cities and Duluth. It currently provides Head Start services to approximately 400 children in home-based settings.

In recent years, however, there has been increasing demand from parents who are working or going to school for center-based and full-time services.

In response, the Lakes and Pines Head Start agency is now in the first year of a collaborative venture with the Someplace Special Child Care Center which is located in the Cambridge Memorial Hospital. Under this program, eight of the 20 children in the center are Head Start children. Two are enrolled part-time and the other six are full-time.

Under this arrangement, enhanced staffing is provided by a Head Start teacher who works in the center. Non-personnel expenses are split on a pro-rated basis between Head Start and the center. Additional comprehensive Head Start services are also offered outside the child care setting.

This partnership is supported through a Cornerstone grant from the Minnesota Department of Jobs and Training. Other revenue sources include child care subsidies, state Early Childhood and Family Education funds, and the child care food program. Because of parent interest, the Lakes and Pines agency is now applying for permission to run a second collaborative program with a day care center in Cloquet.

According to the agency's director, additional flexibility is needed in mixing funding sources. He also believes that child care programs should be offered financial incentives and a source of start-up or cash flow funding will be needed in order to make this type of collaboration readily available.

Finally, the Lakes and Pines director urged that Head Start administrators be open-minded about these types of innovations. He noted that, although the Cambridge program has been approved by Head Start officials, there is no assurance that the Cloquet proposal or other similar collaborations will be approved in the future.

EXAMPLE 5—MAHUBE HEAD START FAMILY CHILD CARE PROJECT

The final model explored during the March 30 meeting with Senator Durenberger is a demonstration now being run by the MAHUBE Head Start agency that serves three primarily rural counties in northwestern Minnesota (Becker, Hubbard and Mahnomen). The project is funded by the HHS Head Start Bureau under a three year grant which was awarded in 1991. It is now in its second year.

This project includes up to 40 four year old children each year who are placed in up to ten licensed family day care homes throughout the three county area. The option is available to income eligible parents who are working, in school or training, or seeking employment.

Comprehensive Head Start services including education, health nutrition, mental health, parent involvement and social services are provided to each child and his or her family in addition to full or part-day child care. The maximum number of children in each home is limited to six in order to ensure high quality, individualized care.

The licensed child care providers who participate are placed on the Head Start Agency's payroll. They received training and at a minimum, each provider has the Child Development Associate (CDA) credential and 12 college credits in early childhood education. Licensing is done by the county social service department using the same rules and procedures that apply to other licensed family day car providers in Minnesota.

The MAHUBE Head Start agency provides overall management and support to the program, as well as the full-range of support and other services provided to children and families under more traditional Head Start models. Funding comes from both Head Start and county sliding fee child care funds. Extensive evaluation is being done of the relative impact of this option on children compared to a control group in a traditional center-based program in the same agency.

According to the program's director, parents like this option because it combines needed child care with Head Start services in one convenient location. It also allows Head Start services to be disbursed in what is a lower density rural area, making Head Start services conveniently accessible to more eligible parents.

The child care providers who participate also benefit from increased income, more time to focus on fewer children, additional training, supplies and equipment, and peer support from other providers in the program.

According to MAHUBE's director, Head Start's performance standards should be changed to accommodate alternative delivery models like the one being used in this demonstration. She believes that the performance standards should place more emphasis on outcomes to be achieved by non-traditional programs so that there could be a fairer basis for deciding whether they should be approved and continued. She also believes non-traditional programs designed to meet unique community needs "should be encouraged, not just tolerated."

PARTICIPANTS IN MARCH 30 MEETING IN MINNESOTA

U.S. Senator Dave Durenberger.

Jon Schroeder, Minnesota Director for Sen. Dave Durenberger.

Carol Brennan, child care center director, Children's Home Society, St. Paul.

Polly Keppel, executive director, Child Care Works, Minneapolis.

Nancy Runnigen, president, Minnesota Head Start Directors Association; director SEMCAC Head Start program, Rushford.

Valerie Peterson, child care center director, Cambridge Memorial Hospital.

Gretchen Hengemuhle, school collaboration coordinator, Parents in Community Action, Minneapolis.

Alyce Dillon, executive director, Parents in Community Action, Minneapolis.

Robert Benes, director, Lakes and Pines Head Start program, Mora.

Dale Anderson, director, Ramsey Action Programs, St. Paul.

Jackie Olafson, Children's Home Society, St. Paul.

Karen Svendsen, child care center director, Children's Home Society, St. Paul.

Jim Nicholie, assistant executive director, Greater Minneapolis Day Care Association, Minneapolis.

Francie Mathes, director, Scott-Carver-Dakota Head Start program, Burnsville.

Leah Pigatti, director, MAHUBE Head Start program, Detroit Lakes.

Bill Fairman, director, Ramsey Action Program Head Start program, St. Paul.

Mrs. FEINSTEIN. Madam President, I rise in support of the reauthorization of the Head Start Program, which pro-

vides essential and effective services to low-income children and their families throughout this country.

The effectiveness of a comprehensive approach: The key to the Head Start Program is its comprehensiveness. Because it includes teaching of interpersonal skills, academic concepts, parent involvement, nutrition, and hygiene, Head Start is much more than a day-care program, and more than many preschool programs. In fact, Head Start addresses the needs of both the children and their parents, and as a result has been one of the most successful and popular Federal programs of the last 25 years.

During my travels throughout California, I have spoken about the Head Start Program, and everywhere I go people understand the need for early childhood programs to help poor children. This popularity is due in part to the fact that Head Start is an effective program, and in participants in high-quality Head Start programs have been shown to have a much higher likelihood of remaining healthy, succeeding in school, graduating from school, and becoming employed after graduation.

According to Children Now, studies also show that Head Start is effective in preparing children for future success, by making them less likely to be placed in special education or held back in school. Head Start parents also read to their children more and support their children's efforts in school, behaviors that are essential for children's success.

In some high-quality Head Start programs that have been studied in the past, the gains achieved and the costs saved have been significant.

According to the Children's Defense Fund, while there has been no large-scale longitudinal study of the program's effectiveness, high-quality programs like Head Start—such as the Perry Preschool Program in Ypsilanti, MI—have been shown to save as much as $7 for every $1 invested over a participant's lifetime.

The program is so cost-effective because it is balanced against the costs of special and remedial education, incarceration, and other social services—such as welfare and publicly funded medical care—that low-income often children require throughout their lives.

For example, according to the High/Scope Perry Preschool Study of participants who have now reach age 27, "adults born in poverty who attended a high-quality, active learning preschool program at ages 3 and 4 have half as many criminal arrests, higher earnings and property wealth, and greater commitment to marriage."

Over 70 percent of participants had graduated from high school compared to 54 percent of the comparison group.

Only 7 percent of participants had been arrested more than five times compared to 35 percent of the comparison group.

Almost 30 percent of participants were earning more than $2,000 per month, compared to only 7 percent of the comparison group.

While not all programs have the same high quality, and some program effects appear to fade in the years following the program, it still seems clear that the program has made a tremendous difference in many children's and families' lives, and that an expanded, quality Head Start Program will prove increasingly effective over the next five years.

The importance of family commitment: I have gone to schools and talked to youngsters, and I have seen that without a family's commitment, the education of the child cannot succeed. This is confirmed by studies that show that the commitment and involvement of the family is the most important indicator of the child's educational achievement.

With the full support and participation of the family, however, children can begin learning essential skills and habits very clearly on in life, and these accomplishments will serve them extremely well as they continue in school and move on to work.

Head Start develops this family commitment, because parent participation is an integral part of the program. Those who are involved with Head Start know that education does not just occur between the teacher and the child; parents must become their children's teachers, and Head Start helps this to happen in situations where the parents might not know how to become involved most effectively.

The Need for Head Start: Despite the significant expansion of the Head Start Program over the last four years; Head Start still only serves fewer than half of the eligible children in the Nation. In California and throughout the country, childhood poverty is growing faster than the program can expand.

As a result, even though Head Start participation has increased to nearly 714,000 children—a 50-percent increase since 1989—only half of the four-year-olds and a fifth of the eligible three-year-olds are enrolled, and, according to the GAO, only 1 percent of poor families and toddlers are able to participate.

California: In California, the rise in childhood poverty has been especially pronounced, making the need for continued expansion in the Head Start Program all the more essential. According to a recent report issued by the Children's Advocacy Institute, there are now more than 2 million children in California alone who live in poverty and are, as a result, ill fed, and in poor health:

Childhood poverty in California has increased by 40 percent over the last 5 years.

Thirty percent of the children under age 6 in the State now live in poverty.

According to Children Now, a California-based advocacy organization, because California has so many poor children, only one fourth of eligible children in my State can participate in Head Start, leaving out 165,000 eligible in the state.

Improvements to the Current Program: As a long-standing supporter of this program, I am pleased that so many improvements have been incorporated in the reauthorizing language, so that the quality and consistency of Head Start can be improved and maintained as it continues to expand to meet the growing numbers of poor children who are eligible to participate.

The bill marked out of committee includes several provisions to improve program quality through staff development and implementation of key standards, including a requirement that 25 percent of new funds go toward program improvement.

In addition, the bill targets expansion funds to States with large numbers of unserved children, such as California.

Improvements in the access of Head Start services to Native American children are another key feature of the reauthorization for California.

Conclusion: For these reasons, I urge your support for the reauthorization of Head Start. Poor children in California and other States deserve the chance to benefit from this program which has been so successful and has such tremendous potential to become even more effective in the future.

Mr. HARKIN. Madam President, I am pleased to support the Human Services Reauthorization of 1994. I would like to recognize Senator KENNEDY for his strong leadership in forging this bipartisan legislation.

This bill reauthorizes three very important human service programs—Head Start, the Community Services Block Grant and the Low-Income Home Energy Assistance Program.

The first national education goal states that by the year 2000, all children will start school ready to learn. I have spoken on many occasions about the importance of this goal. It is the cornerstone on which we build and reaching it is vital to our efforts to improve student achievement in our Nation. Head Start plays an important role in our ability to reach this very important goal.

I have been a strong and consistent supporter of the Head Start program. When questions were raised last year about the quality of the program, I shared the concerns and welcomed the questions. We must always be willing to debate the merits of federal programs to make sure that our tax money is well spent. In the case of Head Start, I believe the investments in our children yield big dividends and am very pleased that this legislation addressed the concerns about the quality of Head Start programs. The bill significantly strengthens the program and reaffirms our commitment to ensuring a strong Head Start Program through the end of this century.

This legislation also reauthorizes the Community Service Block Grant Program. The bill consolidates a number of small discretionary programs into a single Community Initiative Program. This consolidation includes the rural housing and community facilities program and the demonstration partnership program.

I would like to emphasize that this consolidation does not lessen our support for the activities of these two important programs. Both have been helpful in addressing the needs of low-income individuals, particularly in rural areas and this work should endure and they continue to be funded. It is my belief that this bill will allow this to happen, and hope that if this is not the case, this issue can be revisited in conference.

And finally, this bill reauthorizes the Low-Income Home Energy Assistance Program—a program that provides millions of low-income families with assistance in meeting their heating and cooling bills.

Madam President, I am very pleased to support the Human Services Reauthorization Act of 1994 and urge my colleagues to support this bill.

Mr. DURENBERGER. Madam President, I have several questions I would like to address to the chairman and ranking member of the Labor Committee that deal with their intent in authoring this legislation.

Head Start agencies in Minnesota and a number of other States have historically offered their services using a number of different delivery models. They have included full- and part-time and mobile, center- and home-based programs. Head Start's authorizing legislation and its performance standards recognize the need for this diversity of delivery models by granting national or regional HHS administrators the authority to approve locally designed programs as long as they meet those performance standards.

The need for variations in traditional part-day or part-week Head Start models has grown along with the dramatic increase we've seen in the number of lower-income parents who qualify for Head Start who are also working or are in education or job training programs under State and Federal welfare reform programs. Many of these families also qualify for other types of assistance, including fully or partially subsidized child care.

Is it the chairman's intent that head Start administrators continue to approve funding requests made by local grantees that design head Start services in ways that meet the varying needs of eligible parents, including the need for full-day, full-week, or year-around services?

Mr. KENNEDY. The Senator is correct in noting that Head Start administrators at the national and regional level have historically had broad authority to approve locally designed ways of delivering Head Start services. I am pleased that this authority continues under the pending reauthorization.

It is essential that all local programs meet Head Start's performance standards. I also believe that Head Start administrators should have the flexibility to implement a variety of models. They might include combinations of in-home and center-based programs, programs that extend services beyond the traditional part-day or part-week model, and jointly operated programs or other forms of collaboration with child care and other early childhood and family services.

Mr. DURENBERGER. I ask Senator KASSEBAUM, in view of the changing time demands being placed on Head Start parents who are working or learning job skills, what is her intent on the need for not only flexibility by Head Start administrators in approving different delivery models, but also the need for flexibility in combining funding from various early childhood programs and flexibility in granting waivers to make joint funding or administration of early childhood and family programs possible?

Mrs. KASSEBAUM. First, I agree with Senator KENNEDY that HHS administrators already have considerable authority to approve alternate ways of delivering Head Start services. I would hope that authority is used to meet the differing needs of families in local communities around the country—as long as Head Start's performance standards continue to be met.

I also believe it may be wise in many local communities to encourage collaboration in the planning and delivery of early childhood and family services between Head Start and subsidized child care and other local programs that serve the same children and families. One good example, is the potential or combining funding and services from Head Start and subsidized child care for eligible children who have parents working or in school at times that extend beyond a part-day of part-week Head Start program.

Furthermore, I believe that, when administrative rules and regulations are a barrier for effectively combining funds from different Federal programs, a timely mechanism for requesting and granting waivers should be put into place.

And, finally, I realize that many of these same issues need to be addressed in the design of federally subsidized child care and other programs that serve low-income children and families. I intend to continue to work closely with Senator DURENBERGER, Senator KENNEDY, and others on these issues as we take up a variety of initiatives on welfare reform later this year.

Mr. KENNEDY. I strongly agree with this move toward coordination and consolidation of the various Federal child care programs and look forward to continued bipartisan cooperation on its effort as we move forward on welfare reform. Given the great need for child care services for working poor families, we must do all we can to increase the availability and the efficiency of funding for programs targeted to these families.

I want to make sure that we are clear that when we are talking about removing barriers to integration—we do not seek to in any way undermine the integrity of Head Start performance standards. The committee has acknowledged that these performance standards are essential to ensuring program quality and continued program success.

What we are really talking about here is helping other community-based programs which receive Head Start funds to meet Head Start performance standards and eliminating administrative barriers that prevent coordination. These barriers include delays in payments which make providers with limited resources wait several months for reimbursement, the lack of contracts guaranteeing a certain number of slots and allowing for program planning, and conflicting reimbursement rates. These differing payments schemes make it exceedingly difficult to build linkages between Head Start and child care programs. I hope that we can begin to deal with these differences in a manner that is in the best interest in children.

Finally, I think it is exceedingly important to continue to allow Head Start programs to use Head Start funds to provide full day, full year services, when there is a need in the community for these services. I am pleased that this legislation affirms the importance of providing services that are responsive to family needs.

Mr. DURENBERGER. I thank Senator KENNEDY and Senator KASSEBAUM for clarifying their intent on these issues and for your continued leadership on Head Start and on other programs that serve the needs of low-income families and children.

Mr. DECONCINI. Madam President, I rise today to support S. 2000, a comprehensive bill which includes the reauthorization of Head Start as well as other important anti-poverty programs.

I have a long history of support for Head Start. In 1990, I was a cosponsor of the Head Start reauthorization bill and in 1991, legislation to make Head Start an entitlement program. It is difficult to find another Federal program which has been so universally acknowledged as being as successful in its goals to improve the prospects of underprivileged children. I have long recognized the benefits at-risk children receive from this program. Today, we have both bipartisan support in Congress and the President's backing to improve and expand the already successful Head Start Program. I believe this legislation is a big step toward achieving this goal, and I commend the effective leadership of Senators KENNEDY, DODD, and KASSEBAUM for their efforts.

To realize the importance of Head Start, we must only look at the first goal of the bipartisan Goals 2000, passed earlier this year, which states that all children must start school ready to learn. Head Start provides children from low-income families with the skills and self-confidence necessary to begin school. Unfortunately, so many of our at-risk children do not receive the advantage of a "Head Start" and, regrettably, will most likely not reach school ready to learn. Today, only an estimated 40 percent of eligible children are being served by this program. It is clear that we are not reaching enough children.

While I stand firm in my belief that Head Start is a success, I recognize that beyond its expansion, there is also a dire need to improve existing programs. This legislation does just that by setting aside 25 percent of the funds for quality improvements to existing programs. Specifically, the bill includes provisions emphasizing staff training and adequate compensation for those who work to improve the lives of these children who live on the margins of our society. For too long, our society has not recognized the important contributions of the child development professions. Low wages often lead to constant staff turnover, which studies have shown is not conducive to a secure learning environment. The bill also ensures the accountability of all Head Start programs through performance standards. Funds may also be used to improve facilities to ensure that children are in an environment which enhances their learning. At a time of scarce Federal resources, these are exactly the types of investments we must make in order to get the most from our limited funds.

This legislation will open up Head Start to more children under the age of three. In fiscal year 1993, only approximately 1 percent of the economically eligible children in this age group were served. S. 2000 addresses the needs of infants and toddlers by creating a set-aside which will provide comprehensive services for families with children younger than three.

I am also pleased that this legislation took into account the unique concerns of native American Head Start children. One way it does this is by expanding the term Indian reservation to include members of tribes living not just on, but near the reservations. Extending Head Start programs to children near a reservation is consistent with other Federal programs. It allows children, whose families must move off their reservation due to employment, housing or other circumstances, the ability to participate in a program which best relates to their culture. It is important to recognize the special circumstances that arise on the Indian reservations. This bill begins to address many of these issues.

It is my hope that one day every eligible child in this country will receive the "Head Start" he or she deserves. Passage of this bill will bring us one step closer to achieving this goal.

Head Start is not the only program in S. 2000 which deserves recognition. I have also been a long time supporter of the Family Resource Program which is expanded in this bill. This program provides at-risk families with a community network of comprehensive services which will help them avoid crises that tear families apart. It is my firm belief that funding this program now will save us so much more in the long run.

I believe S. 2000 is a measure that addresses the unmet needs of our Nation's children. It has my full support.

Mr. INOUYE. Madam President, I rise today in strong support of S. 2000, and in particular, the Labor Committee substitute to S. 1852, which provides for the reauthorization of the Head Start Act. It is my belief that this measure will profoundly affect the future of this Nation. It is a measure which must command our fullest attention.

We Senators may sometimes make grand statements—proclaming that a particular bill or issue at hand is of extreme significance—and often times this may be true. But if there is one issue about which we must all agree—one singular issue which must transcend rhetoric and political gridlock, it must be the care and protection of our Nation's children—the keepers of our future.

From the inner cities to remote Alaska Native villages, our children are languishing, often caught in a cycle of poverty, desperation, and violence.

It is the duty of this body, as it is the duty of all parents and grandparents, to provide safeguards for these children, to provide community support to better their living conditions, their health, and education.

Head Start is a vital and imperative part of this equation. Head Start seeks to provide comprehensive early childhood development, educational, health, nutritional, and social services to those most in need—low-income children and families.

I commend the efforts of my distinguished colleagues on the Labor and Human Resources Committee, Chairman KENNEDY and Senators KASSEBAUM, DODD, and COATS for spearheading the Head Start reauthorization process and for seeking to expand the provision of Head Start services while also seeking to improve the overall quality of Head Start programs.

I wish to especially acknowledge the Committee on Labor and Human Resources for recognizing that not all Head Start communities are alike—that American Indian and Alaska Native communities have unique needs and concerns.

Some of the harshest living conditions in this Nation are found in native American communities, where there are alarmingly high rates of poverty and unemployment—communities which are located in rural areas literally hundreds of miles removed from the nearest early child care program or facility.

From the very inception of the Head Start Program, Indian tribes have participated in the program. In 1965, 34 American Indian Head Start programs were established. As of August 1993, there were 116 Indian Head Start grantees providing services to 181 federally recognized Indian and Alaska Native tribes.

Yet despite this history, the needs of Indian Head Start programs have failed to receive the attention of the Congress that they deserved. For the first time in the 30 years that Indian tribes have been participating in the Head Start Program, the Senate held an oversight hearing on Indian Head Start programs.

On March 25, 1994, the Committee on Labor and Human Resources and the Committee on Indian Affairs convened a joint hearing to receive the testimonies of the Department of Health and Human Services, the National Head Start Association, the National Indian Head Start Directors Association, tribal leaders, and Indian Head Start directors and parents.

Having had the privilege of presiding over that hearing, I can attest to the many concerns expressed regarding inequities in program implementation in Indian country. Indian programs suffer from what sadly appears to be omissions and oversights of the original act.

For instance, while Indian tribes are charged with administering the provisions of the Head Start Act, they are simultaneously constrained by language in the act that inadvertently penalizes them because of their tribal status. Certainly, this was not the intent of the original drafters.

As chairman of the Committee on Indian Affairs, I am accordingly extremely pleased with the committee substitute to S. 1852, represented as title I in S. 2000.

This substitute reflects the responsiveness of the Labor Committee in addressing Indian Head Start needs. This substitute also reflects in many ways the hopes and desires of Indian tribes to enhance the quality of the program and provide greater Head Start services to their Indian communities.

I am sure that I speak on behalf of all of Indian country in conveying my special regards and deep appreciation to Chairman KENNEDY for his sensitivity, perceptiveness, and perseverance regarding the needs of native communities throughout this Head Start reauthorization process. I urge my colleagues to give full and final consideration to this important measure, and to act favorably in the interests of all the children of this Nation.

Mr. BRADLEY. Madam President, for years now, I have risen before this body and others to speak out about the desperate condition facing urban America and the crisis facing our urban communities, our families, and our children. While we can wallow in our frustration over decreased funding and our inability to solve the complex problems of violence, poverty, joblessness, and lack of opportunity that continue to hover over our cities, today is not the day to do that. Today is a day to recognize the programs that do work.

Head Start and the other community development programs authorized in the Human Services Reauthorization Act of 1994, are well-tested programs that work to strengthen children, families and communities; they should not be abandoned. These programs have survived because they represent the barest of safety nets: they protect, stimulate, and nourish our children so that they start school ready to learn; they provide support services to struggling families; and they invest in community initiatives. All of these are indeed, worthy.

In this day and age, no group is more vulnerable than children to the pressures of the city. Before they are old enough to know that life can be better, children in our inner cities awake to the presence of drugs, crime, guns, and violence. We know we are losing the game when in 1990, 20 percent of infants and toddlers lived in poverty. Three New Jersey cities had poverty rates for young children above 25 percent while in other cities and rural areas over 45 percent of all infants and toddlers live in poverty. We know that poor and near poor infants and toddlers are more likely to live in single parent families, are more likely to be immigrants or linguistically isolated, or live in families where the most educated parent has not completed high school. These characteristics place children at high risk for not having the essential support they need to learn effectively or grow to meet their full potential.

As a result, we need to build communities that set children on a sound course through life. The task is to ensure that practices of daily life give the infant and toddler the security, stimulation and encouragement that are the foundations of learning. We know from studies that if children are provided not just healthy care during the first year of life, but cognitive stimulation, behavior problems will be reduced later, they will progress more quickly in education later and the burden on the schools to remedy problems from early in life will be reduced. That cognitive stimulation, healthy care, and loving support needs to be provided in the home as well as in any child care or educational setting. Unfortunately, parents in the inner cities tend to be younger, less educated, less likely to be married. Young mothers often do not realize the demands of raising a child, especially in the midst of the pressures of the city—the economic pressures, drugs as commonplace of life, crime, guns, and AIDS.

Recognizing the importance of early development during the first years of life and beyond, last year I introduced a 15-month housing bill as part of a series of urban community-building initiatives. My 15-month housing bill would establish residential programs for low-income and young mothers during the third trimester of the mother's pregnancy and the first year of life. Among other things, the programs must provide cognitive stimulation, immunizations, and other care for the infants as well as parenting education for the mothers.

I got the idea for this program from a community organization in Los Angeles that set about to coordinate as many funding streams as possible in order to build a community to set children on a sound course through life. This 15-month housing initiative takes tools invented at the community level and uses the power of Government constructively to make those tools available to every community. It is these creative initiatives that will significantly empower communities to overcome desperate conditions through self-improvement. My hope is that community initiatives like these will become the Head Start of the next 30 years.

I hold this hope because of the success of Head Start, which by its nature, requires community input and responsiveness to community needs. Over the years, the program has adapted to the changing needs of our children, families, and communities. Head Start is not simply a pre-school education for children, it is an education for the parents, and perhaps most importantly, an experience that involves both parents and their children in a community.

Head Start is a federally funded locally administered program. It operates within each community and has the flexibility to adapt services to serve the unique needs of communities like migrant workers, homeless or children of drug-addicted parents. And, after the passage of this reauthorization bill, Head Start will be on its way toward adapting to the needs of yet another part of our community, infants and toddlers, age 0–3. I applaud the administration's recommendation and the committee's decision to target specific funds to perhaps our most vulnerable population, infants and toddlers. I am also encouraged by the resources devoted to improve coordination between Head Start and State and local programs. I encourage all involved with the administration of the Head Start Program to accept nothing less than the highest quality program possible.

Head Start has come a long way in the almost 30 years since its inception; it has proven its impact and deserves our commitment. However, to continue to rely on a scattering of well-designed basic programs is not enough. We must look to these long-standing programs as a platform from which to build a coherent strategy to further empower our communities. Only by recognizing and investing Federal resources in new and creative programs can we take that next hopeful step toward rebuilding cities, empowering communities, strengthening families, and providing an environment where children can grow up safe, healthy and ready to face the challenges of school and life. I support the reauthorization of this bill and encourage us all to continue to search for our next generation of success stories.

Mr. COATS. Madam President, I am pleased today to join Senators KENNEDY, DODD, and KASSEBAUM in recommending passage of S. 2000.

Few Federal programs engender the feelings of good will and bipartisanship as do the programs we are discussing today. Head Start, CSBG, LIHEAP, the Community Food and Nutrition Program—these programs all have one important thing in common—they represent the Federal Government at its best, forging public and private partnerships, and unleashing the vast resources of one of our most important assets—the local community.

S. 2000 represents months of effort and cooperation, aimed at not only simply reauthorizing these important programs, but consolidating and streamlining the programs as well.

This bill builds on an already successful Head Start Program by:

First, continuing to place strong emphasis on quality by authorizing a minimum of 25 percent of new funds for quality enhancement efforts.

Second, allowing Head Start agencies to more effectively respond to community needs by offering full day, full year services to their working families.

Third, launching a broad new family-centered initiative to provide valuable services and support to low-income families and their children under the age of 3. In order to insure that quality is protected, S. 2000 requires the Secretary to convene a panel of experts to make recommendations about the goals and guidelines for such a program before significant Federal dollars are committed to it.

Whether in a Head Start classroom, a food bank, or family resource centers, the programs we are about to reauthorize provide a valuable link between families and the services and opportunities they need.

I have had the privilege of visiting a number of Head Start facilities in my own State, and have found at each one a common thread—the commitment of staff and of parents to be there for their children. In Head Start centers across America, parents serve as volunteers, as teachers, as aides, in whatever capacity they are needed. Many have told me that thanks to Head Start, they have gone on to higher education. Thanks to Head Start, their children have hope for a future.

S. 2000 continues this legacy—and does so in a way that supports the family as a unit. Head Start is a program serving children in families. CSBG is a program serving families in communities. Family resource programs and family literacy programs offer opportunities for parents to become their child's best teacher.

S. 2000 offers families in need a hand up—not simply a hand out. And it does so in a way that will enable and empower those families to give back to their communities.

I am pleased to have had an opportunity to work on this legislation and I would like to thank my chairman and ranking member for their diligence in pulling this package together. This is a good bill, a reasonable bill, and one that I think has the potential to really make a difference. I look forward to its swift passage and implementation.

Mrs. BOXER. Madam President, as a cosponsor of the bill and advocate for the Head Start Program, I rise in strong support of the Head Start Amendments Act of 1994.

The Head Start Program has a long and distinguished history of preparing pre-school children from disadvantaged backgrounds to enter school ready to learn. It combines learning with social services and parental involvement—an approach that is crucial to the health and development of children in their early years.

I have argued many times that investment in our children is one of the most important, cost-effective choices that we can make and key to ensuring that they have a chance at the American dream.

The Head Start Program is one of those crucial investments. For every dollar spent on Head Start, $3 is saved in future costs. Children who get a "head start" in life have a much lower rate of educational failure, teen pregnancy, welfare dependency, and crime than those who do not.

The President has pledged to fully fund Head Start so that it can serve every eligible 3-, 4-, and 5-year-old and I support him. That is why I offered an amendment to the Senate budget resolution to transfer $1 billion from Government travel expenses to six children's programs, including the Head Start Program.

If my amendment is adopted in conference, then the Head Start Program would receive an additional $120 million, enough to provide slots for approximately 24,000 children. My amendment overwhelmingly passed the Senate by a bipartisan vote of 93–5 and I hope that my colleagues will again vote to support the Head Start Program today.

Madam President, I know that many of my colleagues are concerned about the quality of Head Start programs. This bill contains important provisions to address those concerns. The bill sets aside 25 percent of new Head Start funds for quality improvements. It creates a process to update the existing performance standards and to identify poor performing programs. The bill focuses on the need for better trained staff by providing for the development of qualification standards and model curricula. And, it creates new programs, such as the mentor teacher program, where excellent teachers are identified to provide on the job guidance to others.

Finally, the bill sets aside up to 5 percent of Head Start funds over 3 years for services for infants and toddlers up to age 3. I believe that this provision may be the most important of all. According to a recent report by the Carnegie Corp., scientific evidence shows that the first 3 years of a child's life are the most critical for development. If we are to truly give our children a head start, then we must begin to consider the need for programs which serve our youngest citizens.

I am proud to support the Head Start Amendments Act, and urge my colleagues to do the same.

Mr. JEFFORDS. Madam President, I am pleased to rise in support of the Human Services Reauthorization bill. This legislation reauthorizes many important Federal programs, including the Low-Income Home Energy Assistance Program [LIHEAP], the Community Services Block Grant [CSBG], and Head Start.

With respect to Head Start, I am pleased that the President has recommended a $700 million increase for Head Start for the coming fiscal year. Since its creation, Head Start has served 13 million children and has been an important tool in helping at-risk children and their families. However, despite this proposed increase and increases in years past, we are still far from serving all eligible children.

Today, less than 40 percent of all children eligible to participate in Head Start do so. If we are to meet the goals that we established in the Goals 2000: Educate America Act—especially Goal One which states that by the year 2000, all children will start school ready to learn—we must direct more of our efforts to the youngest, most vulnerable members of society. In my mind, this means expanding Head Start.

This bill will help to expand Head Start services to more kids, while assuring that kids who are enrolled receive the highest quality services possible. It will help grantees better respond to the changing needs of individual communities and working families. It strengthens parental involvement in local Head Start programs and works to make the transition to school easier. Furthermore—and I believe this is very important—it creates a new initiative to serve children from birth to age 3. Study after study has shown that the earlier we reach at-risk kids the better. The new zero to three program will give kids and families the kinds of early, continuous, and comprehensive services they need in order to be successful in later life.

The zero to three initiative builds on the success demonstrated by the Comprehensive Child Development Program [CCDP]. CCDP was begun in 1988 to provide comprehensive social, health, education, nutrition, and employment services to families with children up to age 5. There are 34 CCDP programs across the country, and I am fortunate to say that one is in operation in my State of Vermont. The Windham County Family Support Program has been providing services to families throughout the county, and it has shown very positive results.

I was initially disappointed to hear that CCDP was being eliminated as a separate program, for CCDP has had a significant impact on families in Vermont over the past 5 years. Since that time, I have learned that Vermont was not alone and that CCDP's in other states were making a difference as well. For that reason, I fought to strengthen the provisions giving priority to CCDP's in the bill and to include all CCDP projects as priority entities for the new zero to three grants in Head Start. In my mind, we were moving to eliminate a separate program, which most would agree was making a difference in families' lives, but which had had no comprehensive evaluations. I believe that when HHS completes and releases its final comprehensive report on CCDP, it will reaffirm the results that I have seen in Vermont.

I think that speaks to the need that while we move to "reinvent government" and consolidate, terminate, or expand programs, we must be cautious not to put quality programs on the chopping block. Before we do so, we should have some measure of their success. If we have a program that is performing well, we ought to keep it. If it is not, we should stop it. But in order to do either, we must have data on the results of the program, gathered through adequate studies and evaluations.

The bill before us has a new strengthened research section for Head Start which includes a priority that the Secretary conduct a longitudinal study of Head Start. Nearly everyone will agree that Head Start has made a significant difference in the lives of millions of at-risk children. It has helped their social development, and it has helped them do better in school. However, since Head Start was created in 1965, few long-term studies have been done to see what effects the program is having on its participants. I fully believe a longitudinal study will reaffirm what most of us already know—that Head Start has contributed to the success of those who have participated. It will help us, as policymakers, by following the progress of Head Start kids through the years to determine the long-term effects of Head Start.

And it is not just Head Start. I think all my colleagues would agree that as we put billions of dollars into different programs, we need to know which programs work, which ones don't, and act accordingly. I would urge my colleagues to work with me to develop a policy of adequately studying Federal programs—reviewing and evaluating them, and doing longitudinal studies where appropriate.

I think the committee has done a commendable job with regard to reauthorizing the Low-Income Home Energy Assistance Program [LIHEAP]. The reauthorization is relatively straightforward. We give the administration and the States both guidance and flexibility. We emphasize the need to target scarce LIHEAP resources to those households with the highest home energy needs—basing such determinations on income and energy burden. And we provide permanent authorization for a contingency fund for weather emergencies such as the unusually severe winter we experienced just a few months ago.

By the way, Madam President, while we have been enjoying the cherry blossoms and dogwoods here in Washington, Vermonters are still shoveling snow. More than a foot of snow remains on the ground in parts of the State. And a few more inches fell earlier this week.

I hope the administration will come to realize that this program is a vital safety net for millions of low-income households. I was deeply disappointed that the administration sought, in its budget request, to stretch the fiscal year 1995 advance appropriation over 2 years. In effect, the administration proposed to cut funding in half.

The administration unpersuasively argues that the need for the program has waned. Let's disavow that notion. Home energy costs continue to swallow a disproportionately large share—15 to 20 percent or more—of the meager resources low-income households have to spend.

I might add that LIHEAP already has borne its share of budget cutting. The Bureau of Labor Statistics maintains a specific index of household fuel and electricity prices. The years 1982 through 1984 serve as the index base. The average annual LIHEAP appropriation for those 3 years was $1.96 billion. If we apply annual changes in the index value to that average appropriation, we can determine the appropriations necessary since the 1982–84 period to maintain the program's purchasing power. I did just that, and discovered that the program lost a cumulative $3.63 billion in real purchasing power through fiscal year 1993.

We have an obligation to taxpayers to be as frugal as possible. We need to reduce the deficit. We have honored that obligation by freezing the authorization for LIHEAP at $2 billion annually.

But we also have an obligation to protect the most vulnerable members of our society.

I think we have reached that delicate balance already with regard to LIHEAP. The $3.63 billion loss in purchasing power I just mentioned came at the expense of the poorest households in our country—households that typically have annual incomes below $8,000. We can't take any more away from them.

I might add that some of the other programs contained in this reauthorization bill will not meet our objectives for them if we continue to hack away at LIHEAP, particularly Head Start.

During the reauthorization hearing on LIHEAP, the committee heard eloquent testimony from Dr. Deborah Frank, who has studied the relationship between cold weather, low incomes, and childhood malnutrition at Boston City Hospital. It's the "heat or eat" syndrome. Dr. Frank has discovered that emergency room visits for "low-weight-for-age cases" peak 1 month after the coldest weather occurs. And the risk of severely low weight births in the 3 months following the coldest weather increases by 37 percent. Why is this so? Well, parents know that their children will freeze before they starve. Low-income households literally go without food in order to pay their utility bills.

Dr. Frank reviewed for the committee the considerable body of evidence suggesting that children who are malnourished during this critical period of early childhood "are at lasting risk for later school failure and deficits in attention and social behavior."

I have just one other point I would like to make regarding LIHEAP. And that concerns the contingency fund. I am pleased that we have given the President permanent authority to seek up to $600 million in emergency funds each year for any sort of crisis Mother Nature may present. I think back to the events that unfolded this past winter, or to the winter of 1989–1990, when much of the South, even, was frozen and refineries shut down and heating oil simply wasn't available for delivery even if tankers could have broken through the ice blocking our Northeastern ports. We need this authority, but I want to make it perfectly clear that the contingency fund is meant to supplement, not supplant, the annual LIHEAP appropriation. Those of us who support LIHEAP will not tolerate attempts to gut the program by arguing that emergency funds are available.

Madam President, you may recall the Exxon and stripper well oil overcharge cases. Back then, we were assured that oil overcharge moneys flowing out of the settlements to the States were to "supplement, not supplant." Yet within just a few years, the existence of the oil overcharge funds was cited as a rationale for cutting LIHEAP. Not again. The annual appropriation for LIHEAP has hovered around $1.50 billion in recent years. That's not sufficient, but I realize we cannot expect much more. But it's the least we can do. It's the least we must do. The contingency fund will not be used as a device to gut LIHEAP.

Finally, I think the Committee made some useful changes in the Community Services Block Grant. We preserved some important programs, but made some positive changes in them. The block grant provides vital support to community action agencies across the country. These agencies in turn are doing tremendous work to help low-income Americans. The bill will also reconfigure the current community economic development program, as well as the rural facilities program. And I am pleased that the bill preserves the role of the community food and nutrition program.

Madam President, in closing, I would like to commend my colleagues on the Labor and Human Resources Committee, in particular Senators KENNEDY, KASSEBAUM, DODD, and COATS, for their hard work crafting a truly bipartisan bill we can all support.

Mrs. KASSEBAUM. Madam President, I rise today to join my colleagues in supporting the passage of S. 2000, the Human Services Reauthorization Act of 1994. This legislation reauthorizes several important programs including the community services block grant, the Low-Income Home Energy Assistance Act, the Ready to Learn Act, the State Dependent Care Development programs, the Child Development Associate Scholarship initiative, and the new Community-Based Family Resource Program. I am particularly pleased that two programs with which I have been very involved are included in this reauthorization legislation—Head Start and the most critical portions of the Young Americans Act.

I would first like to compliment the Clinton administration and the Department of Health and Human Services for their commitment making members of both parties in the House and Senate full partners in the development of the Head Start legislation. The Head Start Act Amendments Act of 1994 was the result of a unique process—with staff representing Democrats and Republicans from the House and Senate working daily with officials from the administration to craft the legislation. I hope that this successful experience will serve as the catalyst for more bipartisan, bicameral efforts.

In March 1993, I introduced the Head Start Quality Improvement Act because I believed that it was important to ensure the quality of Head Start as the program moved into a period of unprecedented expansion of services and funding. I have been a longstanding supporter of the Head Start Program. However, I believe program expansion and increased funding are of limited value, unless steps are taken to improve the quality of the services that are being provided—quantity with quality.

Many of the concerns which prompted the development of my Head Start legislation are addressed in S. 2000—and in fact, several provisions in the two bills are virtually identical. Specifically, the Human Services Reauthorization Act increases funding for the Head Start Transition Program, contains provisions for the expedited termination of programs which do not meet minimum program standards, includes improvements in the monitoring of Head Start programs, and increases the training and technical assistance available to help programs. In addition, the S. 2000 requires the Department of Health and Human Services to review and update the 20-year-old performance standards for Head Start programs. I am particularly proud of the Head Start section of S. 2000, which is strong, effective legislation designed to help Head Start move into the next decade of service for low-income children and their families.

Another part of this legislation which I would particularly like to mention is title IV, Community-Based Family Resource Programs. I would like to compliment Senator DODD for his work in crafting this section of the bill. In addition to reauthorizing the Federal and State coordination mechanisms of the Young Americans Act, this title combines several small discretionary programs into a systematic approach to prevention. The Community-Based Family Resource Programs title of S. 2000 promotes new ways of funding State networks of comprehensive family services provided through collaborative approaches, including public-private partnerships—putting the goals of the Young Americans Act into practice.

I would like to take a moment to thank the staff from the House Committee on Education and Labor and Senate Committee on Labor and Human Resources for their diligence and commitment to crafting a truly bipartisan bill. This legislation is stronger and better because of their efforts.

Mrs. MURRAY. Madam President, I rise today in support of this bill, S. 2000, which will, among many other things, reauthorize Head Start funding for the next several years.

Every child, no matter who he or she is, or where they come from, must have the opportunity to succeed. I know this as well as anyone. Because of education and opportunities that were given to me in this great country, I am here today as a U.S. Senator. I believe in creating opportunities and there is no group in this Nation more deserving than children, all of our children.

Because Head Start creates opportunity for our most needy children, I cosponsored the original reauthorizing bill and that is why I strongly support this bill today.

This bill creates and improves opportunities through increased quality of all Head Start programs. I know we have all heard the concerns about Head Start effectiveness. Those concerns are important and valid. In my mind, there is no question that the program works. What is troubling is the quality of each program varies so much. This bill seeks to correct this by establishing minimum quality levels, performance standards and staff training guidance among many other things. Quality is, and should be, a top priority of this program since increased quality means increased opportunity for Head Start children and their families.

I also want to mention a new section of this bill called programs for Families with Infants and Toddlers. Several months ago I held a youth violence forum in my State. We spent days discussing what to do with our legal system, with our education system, and within our communities to deal with youth violence. One of the participants had a great analogy that I'd like to share with you.

She described our Nation as having a large river with many of our troubled kids floating rapidly downstream in it. Many people spend much time and effort standing on the shore pulling out as many of them as fast as possible. The problem is we never go to the head of the river and stop them from being thrown into the river in the first place.

Head Start comes closer to the head of that river and dealing with what's putting our children there, particularly with the addition of the infants and toddlers section because it reaches our children and families early—before they get into that turbulent river. It provides services to both children and parents all in an effort to enhance the physical, social, emotional, and intellectual development of our children. It recognizes the need to reach our children early in life and, more importantly, to teach young parents how to be parents.

One service that has a proven track record of doing just this is the Comprehensive Child Development Centers. I have had the opportunity to visit one of these centers in my State and I would urge all of my colleagues to do the same if they have one of these centers in their State. I spoke at length with some of the families and I am convinced that the work they are doing is making a difference for the children, families, and communities they serve. They deserve our attention and our support and I am pleased the committee included all of them in this bill.

I am also supporting this bill because it does more than reauthorize Head Start. It reauthorizes the State Dependent Care Development Grants. This program provides the only source of Federal funds for the planning, establishment, and expansion of school-age child care programs throughout the Nation. In my home State of Washington, at least 50,000 children ages 5 to 14 have no adult supervision during the hours when schools are out, and parents are still at work, or in training programs. Families who seek a safe and supportive place for their school-age children often find care is unavailable, unaffordable, or of uncertain quality. The dependent care block grant program helps address this need.

The Low-Income Home Energy Assistance Program which is also in this bill is of great import to many families in Washington and across the Nation. Through LIHEAP the risk of utility shut-off and homelessness is decreased for families with the lowest incomes and the highest energy costs. As a member of the Budget and Appropriations Committees, I am working with many of my colleagues to maintain an adequate level of funding for LIHEAP.

Finally, I am pleased to support the reauthorization of the community services block grant program. I know the Community Action Agencies in Washington provide vital services to thousands of low income residents in all 39 counties—people in need of housing, emergency assistance, educational services, employment guidance, basic nutrition, and relief from abuse. Together, these provisions provide our most needy children and families with opportunities to succeed and I want to urge all of my colleagues to support this important piece of legislation.

Mr. DODD. Madam President, Senator KENNEDY mentioned, of course, that this work does not get done without terrific staff work. There are many people to congratulate and thank. I want to point out specifically the work of Patty Cole, of my staff, and Joe Palmore, who did a terrific job in working with the majority staff and the minority staff, Senator KENNEDY's staff, and others to put this together.

Senator KENNEDY said in some ways—at this late hour there are very few people here for this—but this is a very important piece of legislation, a critical element trying to see to it that we will be a strong and vibrant Nation in the 21st century, and hopefully these kinds of statistics we need to turn around.

I think it is worthwhile to note there was a program this evening on one of the networks, I think the American Broadcasting Co., ABC, that talked about the things we really ought to be worried about in this country, the real serious threats. Poverty is one of them. If you are living in poverty in the United States, your life expectancy is 7 to 10 years shorter than other Americans. If you begin life as these children are growing up in poverty, that is not only a threat to us in society, but it is a threat to them in their lives.

So everyone suffers when these children suffer. This legislation we hope will be a significant step in reversing those trends.

Madam President, I yield the floor.

The PRESIDING OFFICER. Is all time yielded?

Mr. KENNEDY. I yield back the remainder of time.

The PRESIDING OFFICER. All time is yielded.

Under the previous order, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

The bill (S. 2000) as amended, was passed, as follows:

S. 2000

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—HEAD START PROGRAMS

SEC. 101. SHORT TITLE; REFERENCES IN TITLE.

(a) SHORT TITLE.—This title may be cited as the "Head Start Act Amendments of 1994".

(b) REFERENCES.—Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Head Start Act (42 U.S.C. 9831 et seq.).

SEC. 102. DEFINITIONS.

Section 637 (42 U.S.C. 9832) is amended—

(1) by striking paragraphs (4) and (5);

(2) by striking paragraph (9) and inserting the following new paragraph:

"(9) The term 'poverty line' means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.";

(3) by adding after paragraph (11) the following new paragraphs:

"(12) The term 'family literacy services' includes activities including interactive literacy activities between parents and their children, training for parents on techniques for being the primary teacher of their children and full partners in the education of their children, parent literacy training, and early childhood education.

"(13) The term 'Indian tribe' means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Native village described in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)) or established pursuant to such Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.";

(4) by redesignating paragraphs (6), (7), (8), (9), (10), (11), (12), and (13) as paragraphs (7), (8), (9), (11), (5), (6), (4), and (10), respectively; and

(5)(A) by transferring paragraph (4), as so redesignated, and inserting the paragraph after paragraph (3);

(B) by transferring paragraphs (5) and (6), as so redesignated, and inserting the paragraphs after paragraph (4), as so redesignated; and

(C) by transferring paragraph (10), as so redesignated, and inserting the paragraph after paragraph (9), as so redesignated.

SEC. 103. SERVICES.

Section 638(a)(1) (42 U.S.C. 9833(a)(1)) is amended by striking "health, nutritional, educational, social, and other services" and inserting "health, education, parental involvement, nutritional, social, and other services".

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

Section 639 (42 U.S.C. 9834) is amended—

(1) in subsection (a), by striking all that follows "subchapter" and inserting "such sums as may be necessary for fiscal year 1995 through 1998."; and

(2) by striking subsections (b) and (c) and inserting the following:

"(b) From the amount appropriated under subsection (a), the Secretary shall make available—

"(1) $35,000,000 for each of the fiscal years 1995 through 1998 to—

"(A) carry out the Head Start Transition Project Act; and

"(B) carry out activities authorized under section 642(d); and

"(2) not more than $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1998, to carry out longitudinal research under section 649(e).".

SEC. 105. ALLOCATION OF FUNDS.

(a) ALLOCATION AND USE OF FUNDS FOR QUALITY IMPROVEMENT.—Section 640(a)(3) (42 U.S.C. 9835(a)(3)) is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (C) and (D), respectively;

(2) by striking "(3)(C)" and all that follows through "quality improvement activities:" and inserting the following:

"(3)(A)(i) In order to provide assistance for activities specified in subparagraph (C) directed at the goals specified in subparagraph (B), the Secretary shall reserve, from the amount (if any) by which the funds appropriated under section 639(a) for a fiscal year exceed the adjusted prior year appropriation, a share equal to the sum of—

"(I) 25 percent of such excess amount; and

"(II) any additional amount the Secretary may find necessary to address a demonstrated need for such activities.

"(ii) As used in clause (i), the term 'adjusted prior year appropriation' means, with respect to a fiscal year, the amount appropriated pursuant to section 639(a) for the preceding fiscal year, adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers (issued by the Bureau of Labor Statistics) during such preceding fiscal year.

"(B) Funds reserved under this paragraph (referred to in this paragraph as 'quality improvement funds') shall be used to accomplish any or all of the following goals:

"(i) Ensuring that Head Start programs meet or exceed performance standards pursuant to section 641A(a)(1)(A).

"(ii) Ensuring that such programs have adequate qualified staff, and that such staff are furnished adequate training.

"(iii) Ensuring that salary levels and benefits are adequate to attract and retain qualified staff for such programs.

"(iv) Using salary increases to improve staff qualifications, and to assist with the implementation of career development programs, for the staff of Head Start programs.

"(v) Improving community-wide strategic planning and needs assessments for such programs.

"(vi) Ensuring that the physical environments of Head Start programs are conducive to providing effective program services to children and families.

"(vii) Making such other improvements in the quality of such programs as the Secretary may designate.

"(C) Quality improvement funds shall be used to carry out any or all of the following activities:";

(3) in subparagraph (C), as redesignated in paragraph (1), by adding at the end the following new clause:

"(vii) Such other activities as the Secretary may designate."; and

(4) in subparagraph (D), as redesignated in paragraph (1)—

(A) in clause (i)—

(i) in the matter preceding subclause (I), by striking "for the first, second, and third fiscal years for which funds are so reserved"; and

(ii) in subclause (II), by inserting "and Indian and migrant Head Start programs," after "States,";

(B) by striking clauses (ii) and (iii);

(C) in clause (iv)—

(i) by striking "To be expended" and all that follows, through "reserved, funds" and inserting "Funds";

(ii) by striking "clause (ii)" the first place it appears and inserting "clause (i)";

(iii) by inserting before the period at the end of the first sentence, ", for expenditure for activities specified in subparagraph (C)"; and

(iv) by striking the second sentence;

(D) in clause (vi), by striking "paragraphs (2), (4), and (5)" and inserting "paragraph (2) or (4)"; and

(E) by striking clause (v) and redesignating clauses (iv) and (vi) as clauses (ii) and (iii), respectively.

(b) FUNDS SET-ASIDE.—Section 640(a) (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (1), by striking "through (5)." and inserting "through (4), and subject to paragraphs (5) and (6).";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "1990" and inserting "1994"; and

(B) in subparagraph (D), by inserting "(including payments for all costs (other than compensation of Federal employees) of reviews of Head Start agencies and programs under section 641A(c), and of activities related to the development and implementation of quality improvement plans under section 641A(d)(2))" after "Secretary";

(3) in paragraph (3), by striking "paragraph (5)" each place it appears and inserting "paragraph (4)";

(4) by striking paragraph (4), and redesignating paragraphs (5) and (6) as paragraphs (4) and (7), respectively;

(5) in paragraph (4), as redesignated in paragraph (4), by striking "The" and inserting "Subject to section 639(b), the"; and

(6) by adding after paragraph (4), as redesignated in paragraph (4), the following new paragraphs:

"(5)(A) From amounts reserved and allotted pursuant to paragraph (4), the Secretary shall reserve such sums as may be necessary to award the collaboration grants described in subparagraph (B).

"(B) From the reserved sums, the Secretary may award a collaboration grant to each State to facilitate collaboration regarding activities carried out in the State under this subchapter, and other activities carried out in, and by, the State that are targeted to low-income children and families.

"(C) A State that receives a grant under subparagraph (B) shall—

"(i) appoint an individual to serve as a State liaison between—

"(I) agencies and individuals carrying out Head Start programs in the State; and

"(II) agencies and entities carrying out programs serving low-income children and families;

"(ii) involve the State Head Start Association in the selection of the individual, and involve the association in determinations relating to the ongoing direction of the collaboration;

"(iii) ensure that the individual holds a position with sufficient authority and access to ensure that the collaboration described in subparagraph (B) is effective and involves a range of State agencies; and

"(iv) ensure that the collaboration described in subparagraph (B) involves coordination of Head Start services with health care, welfare, child care, education, and national service activities, and activities relating to children with disabilities.

"(D) As used in this paragraph, the term 'low-income', used with respect to children or families, shall not be considered to refer only to children or families that meet the low-income criteria prescribed pursuant to section 645(a)(1)(A).

"(6) From amounts reserved and allotted pursuant to paragraphs (2) and (4), the Secretary shall use, for grants for programs described in section 645A(a), a portion of the combined total of such amounts equal to 3 percent for fiscal year 1995, 4 percent for each of fiscal years 1996 and 1997, and 5 percent for fiscal year 1998, of the amount appropriated pursuant to section 639(a).".

(c) Considerations for Allocation of Funds for Program Expansion.—Section 640(g) (42 U.S.C. 9835(g)) is amended—

(1) by striking "(g)" and inserting "(g)(1)"; and

(2) by adding at the end the following new paragraphs:

"(2) For the purpose of expanding Head Start programs, in allocating funds to an applicant within a State, from amounts allotted to a State pursuant to subsection (a)(4), the Secretary shall take into consideration—

"(A) the quality of the applicant's programs (including Head Start and other child care or child development programs) in existence on the date of the allocation, including, in the case of Head Start programs in existence on the date of the allocation, the extent to which such programs meet or exceed performance standards and other requirements under this subchapter;

"(B) the applicant's capacity to expand services (including, in the case of Head Start programs in existence on the date of the allocation, whether the applicant accomplished any prior expansions in an effective and timely manner);

"(C) the extent to which the applicant has undertaken community-wide strategic planning and needs assessments involving other community organizations serving children and families;

"(D) the numbers of eligible children in each community who are not participating in a Head Start program; and

"(E) the concentration of low-income families in each community.

"(3) In determining the amount of funds reserved pursuant to subparagraph (A) or (B) of subsection (a)(2) to be used for expanding Head Start programs under this subchapter, the Secretary shall take into consideration, to the extent appropriate, the factors specified in paragraph (2).".

(d) Technical Amendment.—Section 640(h) (42 U.S.C. 9835(h)) is amended by striking "Each Head Start program may" and inserting "Financial assistance provided under this subchapter may be used by each Head Start program to".

(e) Compensation.—Section 640 (42 U.S.C. 9835) is amended by adding at the end the following new subsection:

"(j) Any agency that receives financial assistance under this subchapter to improve the compensation of staff who provide services under this Act shall use the financial assistance to improve the compensation of such staff, regardless of whether the agency has the ability to improve the compensation of staff employed by the agency who do not provide Head Start services.".

SEC. 106. REPORT.

Section 640A (42 U.S.C. 9835a) is repealed.

SEC. 107. DESIGNATION.

(a) Indian Reservations.—Section 641(b) (42 U.S.C. 9836(b)) is amended by inserting after "Indian reservation" the following: "(including members of Indian tribes living near the reservation)".

(b) Designation of Agencies—Section 641(c) (42 U.S.C. 9836(c)) is amended—

(1) by striking paragraphs (2) through (4);

(2) in the first sentence—

(A) by inserting "(subject to paragraph (2))" before ", the Secretary shall give priority"; and

(B) by striking "unless" and all that follows through the end of subparagraph (A) and inserting the following: "unless the Secretary makes a finding that the agency involved fails to meet program, financial management, and other requirements established by the Secretary.";

(3) by redesignating subparagraph (B) as paragraph (2);

(4) in paragraph (2), as so redesignated—

(A) by striking "except that, if" and inserting "If"; and

(B) by striking "subparagraph (A)" and inserting "paragraph (1)";

(5) by striking "Notwithstanding any other provision of this paragraph" and inserting the following:

"(3) Notwithstanding any other provision of this subsection"; and

(6) by aligning the margins of paragraph (2) with the margins of paragraph (3).

(c) Considerations in Designating New Head Start Agencies.—Section 641(d) (42 U.S.C. 9836(d)) is amended—

(1) in the first sentence, by striking all that precedes "then the Secretary" and inserting "If no entity in a community is entitled to the priority specified in subsection (c),";

(2) by striking the second sentence;

(3) in the third sentence—

(A) in the matter preceding paragraph (1), by striking "and subject to the preceding sentence"; and

(B) in paragraph (4), to read as follows:

"(4) the plan of such applicant—

"(A) to seek the involvement of parents of participating children in activities designed to help such parents become full partners in the education of their children;

"(B) to afford such parents the opportunity to participate in the development, conduct, and overall performance of the program at the local level;

"(C) to offer (directly or through referral to local entities, such as entities carrying out Even Start programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.)) to such parents—

"(i) family literacy services; and

"(ii) parenting skills training;

"(D) at the option of such applicant, to offer (directly or through referral to local entities) to such parents—

"(i) parental social self-sufficiency training;

"(ii) substance abuse counseling; or

"(iii) any other activity designed to help such parents become full partners in the education of their children; and

"(E) to provide, with respect to each participating family, a family needs assessment that includes consultation with such parents about the benefits of parent involvement and about the activities described in subparagraphs (C) and (D) in which such parents may choose to become involved (taking into consideration their specific family needs, work schedules, and other responsibilities);";

(4) in paragraph (7), by inserting "and" after the semicolon;

(5) by striking paragraph (8); and

(6) by redesignating paragraph (9) as paragraph (8).

(d) Conforming Amendment.—Section 641 (42 U.S.C. 9836) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

SEC. 108. MONITORING AND QUALITY ASSURANCE.

The Act is amended by inserting after section 641 (42 U.S.C. 9836) the following new section:

"SEC. 641A. QUALITY STANDARDS; MONITORING OF HEAD START AGENCIES AND PROGRAMS.

"(a) Quality Standards.—

"(1) Establishment of standards.—The Secretary shall establish by regulation standards applicable to Head Start agencies, programs, and projects under this subchapter, including—

"(A) performance standards with respect to services required to be provided, including health, education, parental involvement, nutritional, social, and other services;

"(B) administrative and financial management standards;

"(C) standards relating to the condition and location of facilities for such agencies, programs, and projects; and

"(D) such other standards as the Secretary finds to be appropriate.

"(2) MINIMUM REQUIREMENTS.—The regulations promulgated under this subsection shall establish the minimum levels of overall accomplishment that a Head Start agency shall achieve in order to meet the standards specified in paragraph (1).

"(3) CONSIDERATIONS IN DEVELOPING STANDARDS.—In developing the regulations required under paragraph (1), the Secretary shall—

"(A) consult with experts in the fields of child development, early childhood education, family services, administration, and financial management, and with persons with experience in the operation of Head Start programs;

"(B) take into consideration—

"(i) past experience with use of the standards in effect under this subchapter on the date of enactment of this section;

"(ii) changes over the period since the date of enactment of this Act in the circumstances and problems typically facing children and families served by Head Start agencies;

"(iii) developments concerning best practices with respect to child development, children with disabilities, family services, program administration, and financial management; and

"(iv) projected needs of an expanding Head Start program; and

"(C)(i) not later than 1 year after the date of enactment of this section, review and revise as necessary the performance standards in effect under 651(b) on the day before the date of enactment of this section; and

"(ii) ensure that any such revisions in the performance standards will not result in the elimination of or any reduction in the scope or types of health, education, parental involvement, nutritional, social, or other services required to be provided under such standards as in effect on November 2, 1978.

"(4) STANDARDS RELATING TO OBLIGATIONS TO DELEGATE AGENCIES.—In developing standards under this subsection, the Secretary shall describe the obligations of a Head Start agency to an agency (referred to in this subchapter as the 'delegate agency') to which the Head Start agency has delegated responsibility for providing services under this subchapter and determine whether the Head Start agency complies with the standards. The Secretary shall consider such compliance during the review described in subsection (c)(1)(A) and in determining whether to renew financial assistance to the Head Start agency under this subchapter.

"(b) PERFORMANCE MEASURES.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary, in consultation with representatives of Head Start agencies and with experts in the fields of child development, family services, and program management, shall develop methods and procedures for measuring, annually and over longer periods, the quality and effectiveness of programs operated by Head Start agencies (referred to in this subchapter as 'performance measures').

"(2) DESIGN OF MEASURES.—The performance measures developed under this subsection shall be designed—

"(A) to assess the various services provided by Head Start programs and, to the extent the Secretary finds appropriate, administrative and financial management practices of such programs;

"(B) to be adaptable for use in self-assessment and peer review of individual Head Start agencies and programs; and

"(C) for other program purposes as determined by the Secretary.

"(3) USE OF MEASURES.—The Secretary shall use the performance measures developed pursuant to this subsection—

"(A) to identify strengths and weaknesses in the operation of Head Start programs nationally and by region; and

"(B) to identify problem areas that may require additional training and technical assistance resources.

"(c) MONITORING OF LOCAL AGENCIES AND PROGRAMS.—

"(1) IN GENERAL.—In order to determine whether Head Start agencies meet standards established under this subchapter with respect to program, administrative, financial management, and other requirements, the Secretary shall conduct the following reviews of designated Head Start agencies, and of the Head Start programs operated by such agencies:

"(A) A full review of each such agency at least once during each 3-year period.

"(B) A review of each newly designated agency immediately after the completion of the first year such agency carries out a Head Start program.

"(C) Followup reviews including prompt return visits to agencies and programs that fail to meet the standards.

"(D) Other reviews as appropriate.

"(2) CONDUCT OF REVIEWS.—The Secretary shall ensure that reviews described in subparagraphs (A) through (C) of paragraph (1)—

"(A) are performed, to the maximum extent practicable, by employees of the Department of Health and Human Services who are knowledgeable about Head Start programs; and

"(B) are supervised by such an employee at the site of such Head Start agency.

"(d) CORRECTIVE ACTION; TERMINATION.—

"(1) DETERMINATION.—If the Secretary determines, on the basis of a review pursuant to subsection (c), that a Head Start agency designated pursuant to section 641 fails to meet the standards described in subsection (c), the Secretary shall—

"(A) inform the agency of the deficiencies that shall be corrected;

"(B) with respect to each identified deficiency, require the agency—

"(i) to correct the deficiency immediately; or

"(ii) at the discretion of the Secretary (taking into consideration the seriousness of the deficiency and the time reasonably required to correct the deficiency), to comply with the requirements of paragraph (2) concerning a quality improvement plan; and

"(C) initiate proceedings to terminate the designation of the agency unless the agency corrects the deficiency.

"(2) QUALITY IMPROVEMENT PLAN.—

"(A) AGENCY RESPONSIBILITIES.—In order to retain a designation as a Head Start agency under this subchapter, a Head Start agency that is the subject of a determination described in paragraph (1) (other than an agency able to correct a deficiency immediately) shall—

"(i) develop in a timely manner, obtain the approval of the Secretary regarding, and implement a quality improvement plan that specifies—

"(I) the deficiencies to be corrected;

"(II) the actions to be taken to correct such deficiencies; and

"(III) the timetable for accomplishment of the corrective actions specified; and

"(ii) eliminate each deficiency identified, not later than the date for elimination of such deficiency specified in such plan (which shall not be later than 1 year after the date the agency received notice of the determination and of the specific deficiency to be corrected).

"(B) SECRETARIAL RESPONSIBILITY.—Not later than 30 days after receiving from a Head Start agency a proposed quality improvement plan pursuant to subparagraph (A), the Secretary shall either approve such proposed plan or specify the reasons why the proposed plan cannot be approved.

"(3) TRAINING AND TECHNICAL ASSISTANCE.—The Secretary shall provide training and technical assistance to Head Start agencies with respect to the development or implementation of such quality improvement plans to the extent the Secretary finds such provision to be feasible and appropriate given available funding and other statutory responsibilities.

"(e) SUMMARIES OF MONITORING OUTCOMES.—The Secretary shall publish annually, following the end of each fiscal year, a summary report on the findings of reviews conducted under subsection (c), and on the outcomes of quality improvement plans implemented under subsection (d), during such fiscal year.".

SEC. 109. TRANSITION COORDINATION WITH SCHOOLS AND PARENT INVOLVEMENT.

Section 642 (42 U.S.C. 9837) is amended—

(1) in subsection (b)—

(A) in paragraph (4), to read as follows: "(4) seek the involvement of parents of participating children in activities designed to help such parents become full partners in the education of their children, and to afford such parents the opportunity to participate in the development, conduct, and overall performance of the program at the local level;";

(B) in paragraph (5), by inserting "and" after the semicolon;

(C) by striking paragraph (6);

(D) by redesignating paragraphs (5) and (7) as paragraphs (8) and (9), respectively; and

(E) by inserting after paragraph (4) the following new paragraphs: "(5) offer (directly or through referral to local entities, such as entities carrying out Even Start programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.)), to parents of participating children, family literacy services and parenting skills training; (6) at the option of such agency, offer (directly or through referral to local entities), to such parents, parental social self-sufficiency training, substance abuse counseling, or any other activity designed to help such parents become full partners in the education of their children; (7) provide, with respect to each participating family, a family needs assessment that includes consultation with such parents about the benefits of parent involvement and about the activities described in paragraphs (4) through (6) in which such parents may choose to be involved (taking into consideration their specific family needs, work schedules, and other responsibilities);";

(2) in subsection (c), by striking "schools that will subsequently serve children in Head Start programs,"; and

(3) by adding after subsection (c) the following new subsection:

"(d)(1) Each Head Start agency shall carry out the actions specified in this subsection, to the extent feasible and appropriate in the circumstances (including the extent to which such agency is able to secure the cooperation of parents and schools) to enable children to maintain the developmental gains achieved in Head Start programs and to build upon such gains in further schooling.

"(2) The Head Start agency shall take steps to coordinate with the local educational agency (as defined in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)) serving the community involved and with schools in which children participating in a Head Start program operated by such agency will enroll following such program, including—

"(A) developing and implementing a systematic procedure for transferring Head Start program records for each participating child to the school in which such child will enroll;

"(B) establishing channels of communication between Head Start staff and their counterparts in the schools (including teachers, social workers, and health staff) to facilitate coordination of programs;

"(C) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start program teachers to discuss the developmental and other needs of individual children; and

"(D) organizing and participating in joint transition-related training of school staff and Head Start staff.

"(3) In order to promote the continued involvement of the parents of children that participate in Head Start programs in the education of their children upon transition to school, the Head Start agency shall—

"(A) provide training to the parents—

"(i) to inform the parents about their rights and responsibilities concerning the education of their children; and

"(ii) to enable the parents to understand and work with schools in order to communicate with teachers and other school personnel, to support the school work of their children, and to participate as appropriate in decisions relating to the education of their children; and

"(B) take other actions, as appropriate and feasible, to support the active involvement of the parents with schools, school personnel, and school-related organizations.

"(4) The Secretary of Health and Human Services and the Secretary of Education shall assess the results of the activities funded under the Head Start Transition Project Act (42 U.S.C. 9855 et seq.) and shall work together to provide technical assistance to enable communities to implement proposed practices emerging from the activities, to improve the Head Start programs and programs of the schools.".

SEC. 110. FACILITIES AND ADMINISTRATIVE REQUIREMENTS.

Section 644 (42 U.S.C. 9839) is amended—

(1) in subsection (d), by striking "guidelines, instructions,";

(2) in subsection (f)—

(A) in paragraph (2), by striking "640(a)(3)(A)(v)" and inserting "640(a)(3)(C)(v)"; and

(B) by adding at the end the following new paragraph:

"(3) Upon a determination by the Secretary that suitable facilities are not otherwise available to Indian tribes to carry out Head Start programs, and that the lack of suitable facilities will inhibit the operation of such programs, the Secretary, in the discretion of the Secretary, may authorize the use of financial assistance, from the amount reserved under section 640(a)(2)(A), to make payments for the purchase of facilities owned by such tribes. The amount of such a payment for such a facility shall not exceed the fair market value of the facility."; and

(3) by adding at the end the following new subsections:

"(g)(1) Upon a determination by the Secretary that suitable facilities (including public school facilities) are not otherwise available to Indian tribes, rural communities, and other low-income communities to carry out Head Start programs, that the lack of suitable facilities will inhibit the operation of such programs, and that construction of such facilities is more cost effective than purchase of available facilities or renovation, the Secretary, in the discretion of the Secretary, may authorize the use of financial assistance under this subchapter to make payments for capital expenditures related to facilities that will be used to carry out such programs. The Secretary shall establish uniform procedures for Head Start agencies to request approval for such payments, and shall promote, the extent practicable, the collocation of Head Start programs with other programs serving low-income children and families.

"(2) Such payments may be used for capital expenditures (including paying the cost of amortizing the principal, and paying interest on, loans) such as expenditures for—

"(A) construction of facilities that are not in existence on the date of the determination;

"(B) major renovation of facilities in existence on such date; and

"(C) purchase of vehicles used for programs conducted at the Head Start facilities.

"(3) All laborers and mechanics employed by contractors or subcontractors in the construction or renovation of facilities to be used to carry out Head Start programs shall be paid wages at not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931, as amended (40 U.S.C. 276a et seq., commonly known as the 'Davis-Bacon Act').

"(h) In all personnel actions of the American Indian Programs Branch of the Head Start Bureau of the Administration for Children and Families, the Secretary shall give the same preference to individuals who are members of an Indian tribe as the Secretary gives to a disabled veteran, as defined in section 2108(3)(C) of title 5, United States Code. The Secretary shall take such additional actions as may be necessary to promote recruitment of such individuals for employment in the Administration.".

SEC. 111. PARTICIPATION.

Section 645 (42 U.S.C. 9840) is amended

(1) in subsection (c)—

(A) in the first sentence, by striking "may provide" and all that follows and inserting "shall be permitted to provide more than 1 year of Head Start services to eligible children in the State."; and

(B) by striking the second sentence; and

(2) by adding at the end the following new subsection:

"(d)(1) An Indian tribe that—

"(A) operates a Head Start program;

"(B) enrolls as participants in the program all children in the community served by the tribe (including a community with a near-reservation designation, as defined by the Bureau of Indian Affairs) from families that meet the low-income criteria prescribed under subsection (a)(1)(A); and

"(C) has the resources to enroll additional children in the community who do not meet the low-income criteria;

may enroll such additional children in a Head Start program, in accordance with this subsection, if the program predominantly serves children who meet the low-income criteria.

"(2) The Indian tribe shall enroll the children in the Head Start program in accordance with such requirements as the Secretary may specify by regulation promulgated after consultation with Indian tribes.

"(3) In providing services through a Head Start program to such children, the Indian tribe may not use funds that the Secretary has determined, in accordance with section 640(g)(3), are to be used for expanding Head Start programs under this subchapter.".

SEC. 112. INITIATIVE ON FAMILIES WITH INFANTS AND TODDLERS.

(a) ESTABLISHMENT.—The Act is amended by adding after section 645 (42 U.S.C. 9840) the following new section:

"SEC. 645A. PROGRAMS FOR FAMILIES WITH INFANTS AND TODDLERS.

"(a) IN GENERAL.—The Secretary shall make grants, in accordance with the provisions of this section for—

"(1) programs providing family-centered services for low-income families with very young children designed to promote the development of the children, and to enable their parents to fulfill their roles as parents and to move toward self-sufficiency; and

"(2) provision of training and technical assistance to entities carrying out programs, and evaluation of programs, that were supported under the Comprehensive Child Development Act (42 U.S.C. 9881 et seq.), as in effect on the day before the date of enactment of this section.

"(b) SCOPE AND DESIGN OF PROGRAMS.—In carrying out a program described in subsection (a), an entity receiving assistance under this section shall—

"(1) provide, either directly or through referral, early, continuous, intensive, and comprehensive child development and family support services that will enhance the physical, social, emotional, and intellectual development of participating children;

"(2) ensure that the level of services provided to families responds to their needs and circumstances;

"(3) promote positive parent-child interactions;

"(4) provide services to parents to support their role as parents and to help the families move toward self-sufficiency (including educational and employment services as appropriate);

"(5) coordinate services with services provided by programs in the State and programs in the community to ensure a comprehensive array of services (such as health and mental health services);

"(6) ensure formal linkages with local Head Start programs in order to provide for continuity of services for children and families;

"(7) in the case of a Head Start agency that operates a program and that also provides Head Start services through the age of mandatory school attendance, ensure that children and families participating in the program receive such services through such age; and

"(8) meet such other requirements concerning design and operation of the program described in subsection (a) as the Secretary may establish.

"(c) PERSONS ELIGIBLE TO PARTICIPATE.—Persons who may participate in programs described in subsection (a)(1) include—

"(1) pregnant women; and

"(2) families with children under age 3 (or under age 5, in the case of children served by an entity specified in subsection (e)(3));

who meet the income criteria specified for families in section 645(a)(1).

"(d) ELIGIBLE SERVICE PROVIDERS.—To be eligible to receive assistance under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Entities that may apply to carry out activities under this section include—

"(1) entities operating Head Start programs under this subchapter;

"(2) entities that, on the day before the date of enactment of this section, were operating—

"(A) Parent-Child Centers receiving financial assistance under section 640(a)(4), as in effect on such date; or

"(B) programs receiving financial assistance under the Comprehensive Child Development Act, as in effect on such date; and

"(3) other public entities, and nonprofit private entities, capable of providing child and family services that meet the standards for participation in programs under this subchapter and meet such other appropriate requirements relating to the activities under this section as the Secretary may establish.

"(e) TIME-LIMITED PRIORITY FOR CERTAIN ENTITIES.—

"(1) IN GENERAL.—From amounts allotted pursuant to paragraphs (2) and (4) of section 640(a), the Secretary shall provide financial assistance in accordance with paragraphs (2) through (4).

"(2) PARENT-CHILD CENTERS.—The Secretary shall make financial assistance available under this section for each of fiscal years 1995, 1996, and 1997 to any entity that—

"(A) complies with subsection (b); and

"(B) received funding as a Parent-Child Center pursuant to section 640(a)(4), as in effect on the day before the date of enactment of this section, for fiscal year 1994.

"(3) COMPREHENSIVE CHILD DEVELOPMENT CENTERS.—

"(A) In the case of an entity that received a grant for fiscal year 1994 to operate a project under the Comprehensive Child Development Act, the Secretary—

"(i) shall make financial assistance available under this section, in a comparable amount and scope to the assistance provided for fiscal year 1994, for the duration of the project period specified in the grant award to such entity under such Act; and

"(ii) shall permit such entity, in carrying out activities assisted under this section, to serve children from birth through age 5.

"(B) In the case of an entity that received a grant for fiscal year 1989 to operate a project under the Comprehensive Child Development Act, the Secretary shall make assistance available under this section for each of fiscal years 1995, 1996, and 1997 to any entity that complies with subsection (b).

"(4) EVALUATIONS, TRAINING, AND TECHNICAL ASSISTANCE.—The Secretary shall make financial assistance available under this section as necessary to provide for the evaluation of, and furnishing of training and technical assistance to, programs specified in paragraph (3)(A).

"(f) SELECTION OF OTHER GRANT RECIPIENTS.—From the balance remaining of the portion specified in section 640(a)(6), after making grants to the eligible entities specified in subsection (e), the Secretary shall award grants under this subsection on a competitive basis to applicants meeting the criteria specified in subsection (d) (giving priority to entities with a record of providing early, continuous, and comprehensive childhood development and family services).

"(g) DISTRIBUTION.—In awarding grants to eligible applicants under this section, the Secretary shall—

"(1) ensure an equitable national geographic distribution of the grants; and

"(2) award grants to applicants proposing to serve communities in rural areas and to applicants proposing to serve communities in urban areas.

"(h) SECRETARIAL RESPONSIBILITIES.—

"(1) GUIDELINES.—Not later than September 30, 1994, the Secretary shall develop program guidelines concerning the content and operation of programs assisted under this section—

"(A) in consultation with experts in early childhood development, experts in health, and experts in family services; and

"(B) taking into consideration the knowledge and experience gained from other early childhood programs, including programs under the Comprehensive Child Development Act.

"(2) STANDARDS.—Not later than December 30, 1994, the Secretary shall develop and publish performance standards for programs assisted under this section, and a grant announcement based on the guidelines developed under paragraph (1).

"(3) MONITORING, TRAINING, TECHNICAL ASSISTANCE, AND EVALUATION.—In order to ensure the successful operation of programs assisted under this section, the Secretary shall use funds from the balance described in subsection (f) to monitor the operation of such programs, evaluate their effectiveness, and provide training and technical assistance tailored to the particular needs of such programs.".

(b) CONSOLIDATION.—In recognition that the Comprehensive Child Development Centers Act has demonstrated positive results, and that its purposes and functions have been consolidated into section 645A of the Head Start Act, the Comprehensive Child Development Centers Act of 1988 (42 U.S.C. 9801 note) and the Comprehensive Child Development Act (42 U.S.C. 9881 et seq.) are repealed.

SEC. 113. APPEALS, NOTICE, AND HEARING.

(a) MEDIATION AND HEARING FOR DISPUTES WITH DELEGATE AGENCIES.—Section 646(a) (42 U.S.C. 9841(a)) is amended—

(1) at the end of paragraph (2), by striking "and";

(2) at the end of paragraph (3), by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the Secretary shall develop and publish procedures (including mediation procedures) to be used in order to—

"(A) resolve in a timely manner conflicts potentially leading to adverse action between—

"(i) recipients of financial assistance under this subchapter; and

"(ii) delegate agencies or Head Start Parent Policy Councils; and

"(B) avoid the need for an administrative hearing.".

(b) TERMINATION OF DESIGNATION NOT STAYED PENDING APPEAL.—Section 646 (42 U.S.C. 9841) is further amended by striking subsection (b) and inserting the following new subsection:

"(b) In prescribing procedures for the mediation described in subsection (a)(4), the Secretary shall specify—

"(1) the date by which a Head Start agency engaged in a conflict described in subsection (a)(4) will notify the appropriate regional office of the Department of the conflict;

"(2) a reasonable period for the mediation;

"(3) a timeline for an administrative hearing, if necessary, to resolve the conflict; and

"(4) a timeline by which the person conducting the administrative hearing shall issue a decision based on the hearing.

"(c) In any case in which a termination, reduction, or suspension of financial assistance under this subchapter is upheld in an administrative hearing under this section, such termination, reduction, or suspension shall not be stayed pending any judicial appeal of such administrative decision.

"(d)(1) The Secretary shall by regulation specify a process by which an Indian tribe may identify and establish an alternative agency, and request that the alternative agency be designated under section 641 as the Head Start agency providing services to the tribe, if—

"(A) the Secretary terminates financial assistance under section 646 to the only agency that was receiving financial assistance to provide Head Start services to the Indian tribe; and

"(B) the tribe would otherwise be precluded from providing such services to the members of the tribe.

"(2) The regulation required by this subsection shall prohibit such designation of an alternative agency that includes an employee who—

"(A) served on the administrative staff or program staff of the agency described in paragraph (1)(A); and

"(B) was responsible for a deficiency that—

"(i) relates to the performance standards or financial management standards described in section 641A(a)(1); and

"(ii) was the basis for the termination of financial assistance described in paragraph (1)(A);

as determined by the Secretary after providing the notice and opportunity described in subsection (a)(3).".

SEC. 114. GOALS AND PRIORITIES FOR TRAINING AND TECHNICAL ASSISTANCE.

Section 648 (42 U.S.C. 9843) is amended—

(1) in the section heading to read as follows:

"TECHNICAL ASSISTANCE AND TRAINING";

(2) in subsection (a)(2), by striking "Head Start programs, including" and inserting "Head Start programs, in accordance with the process, and the provisions for allocating resources, set forth in subsections (b) and (c). The Secretary shall provide, either directly or through grants or other arrangements,";

(3)(A) by redesignating the final sentence of subsection (a), as amended by paragraph (2), as subsection (e);

(B) by transferring such subsection to the end of the section; and

(C) by indenting such subsection and aligning the margins of such subsection with the margins of subsection (d);

(4) by striking subsections (b) and (c); and

(5) by inserting after subsection (a) the following new subsections:

"(b) The process for determining the technical assistance and training activities to be carried out under this section shall—

"(1) ensure that the needs of local Head Start agencies and programs relating to improving program quality and to program expansion are addressed to the maximum extent feasible; and

"(2) incorporate mechanisms to ensure responsiveness to local needs, including an ongoing procedure for obtaining input from the individuals and agencies carrying out Head Start programs.

"(c) In allocating resources for technical assistance and training under this section, the Secretary shall—

"(1) give priority consideration to activities to correct program and management deficiencies identified through reviews pursuant to section 641A(c) (including the provision of assistance to local programs in the development of quality improvement plans under section 641A(d)(2));

"(2) address the training and career development needs of classroom staff (including instruction for providing services to children with disabilities) and nonclassroom staff, including home visitors and other staff working directly with families, including training relating to increasing parent involvement and services designed to increase family literacy and improve parenting skills;

"(3) assist Head Start agencies and programs in conducting and participating in communitywide strategic planning and needs assessment;

"(4) assist Head Start agencies and programs in the development of sound management practices, including financial management procedures; and

"(5) assist in efforts to secure and maintain adequate facilities for Head Start programs.".

SEC. 115. STAFF QUALIFICATIONS AND DEVELOPMENT.

The Head Start Act is amended by inserting after section 648 (42 U.S.C. 9843) the following new section:

"SEC. 648A. STAFF QUALIFICATIONS AND DEVELOPMENT.

"(a) CLASSROOM TEACHERS.—

"(1) DEGREE REQUIREMENTS.—The Secretary shall ensure that not later than September 30, 1996, each Head Start classroom in a center-based program is assigned one teacher who has—

"(A) a child development associate (CDA) credential that is appropriate to the age of the children being served in center-based programs;

"(B) a State-awarded certificate for preschool teachers that meets or exceeds the requirements for a child development associate credential;

"(C) an associate, a baccalaureate, or an advanced degree in early childhood education; or

"(D) a degree in a field related to early childhood education with experience in teaching preschool children and a State-awarded certificate to teach in a preschool program.

"(2) WAIVER.—On request, the Secretary shall grant a 180-day waiver of the requirements of paragraph (1) with respect to an individual who—

"(A) is first employed after September 30, 1996, by a Head Start agency as a teacher for a Head Start classroom;

"(B) is enrolled in a program that grants any credential, certificate, or degree specified in subparagraph (A), (B), (C), or (D) of paragraph (1); and

"(C) will receive such credential under the terms of such program not later than 180 days after beginning employment as a teacher with such agency.

"(3) LIMITATION.—The Secretary may not grant more than one such waiver with respect to such individual.

"(b) MENTOR TEACHERS.—

"(1) DEFINITION; FUNCTION.—For purposes of this subsection, the term 'mentor teacher' means an individual responsible for observing and assessing the classroom activities of a Head Start program and providing on-the-job guidance and training to the Head Start program staff and volunteers, in order to improve the qualifications and training of classroom staff, to maintain high quality education services, and to promote career development, in Head Start programs.

"(2) REQUIREMENT.—In order to assist Head Start agencies in establishing positions for mentor teachers, the Secretary shall—

"(A) provide technical assistance and training to enable Head Start agencies to establish such positions;

"(B) give priority consideration, in providing assistance pursuant to subparagraph (A), to Head Start programs that have substantial numbers of new classroom staff or that are experiencing difficulty in meeting applicable education standards; and

"(C) encourage Head Start programs to give priority consideration for such positions to Head Start teachers at the appropriate level of career advancement in such programs.

"(c) FAMILY SERVICE WORKERS.—In order to improve the quality and effectiveness of staff providing in-home and other services (including needs assessment, development of service plans, family advocacy, and coordination of service delivery) to families of children participating in Head Start programs, the Secretary, in coordination with concerned public and private agencies and organizations examining the issues of standards and training for family service workers, shall—

"(1) review and, as necessary, revise or develop new qualification standards for Head Start staff providing such services;

"(2) promote the development of model curricula (on subjects including parenting training and family literacy) designed to ensure the attainment of appropriate competencies by individuals working or planning to work in the field of early childhood and family services; and

"(3) promote the establishment of a credential that indicates attainment of the competencies and that is accepted nationwide.

"(d) HEAD START FELLOWSHIPS.—

"(1) AUTHORITY.—The Secretary may establish a program of fellowships, to be known as 'Head Start Fellowships', in accordance with this subsection. The Secretary may award the fellowships to individuals, to be known as 'Head Start Fellows', who are staff in local Head Start programs or other individuals working in the field of child development and family services.

"(2) PURPOSE.—The fellowship program established under this subsection shall be designed to enhance the ability of Head Start Fellows to make significant contributions to programs authorized under this subchapter, by providing opportunities to expand their knowledge and experience through exposure to activities, issues, resources, and new approaches, in the field of child development and family services.

"(3) ASSIGNMENTS OF FELLOWS.—

"(A) PLACEMENT SITES.—Fellowship positions under the fellowship program may be located (subject to subparagraphs (B) and (C))—

"(i) in agencies of the Department of Health and Human Services administering programs authorized under this subchapter (in national or regional offices of such agencies);

"(ii) in local Head Start agencies and programs;

"(iii) in institutions of higher education;

"(iv) in public or private entities and organizations concerned with services to children and families; and

"(v) in other appropriate settings.

"(B) LIMITATION FOR FELLOWS OTHER THAN HEAD START EMPLOYEES.—A Head Start Fellow who is not an employee of a local Head Start agency or program may be placed only in a fellowship position located in an agency or program specified in clause (i) or (ii) of subparagraph (A).

"(C) NO PLACEMENT IN LOBBYING ORGANIZATIONS.—Head Start Fellowship positions may not be located in any agency whose primary purpose, or one of whose major purposes, is to influence Federal, State, or local legislation.

"(4) SELECTION OF FELLOWS.—Head Start Fellowships shall be awarded on a competitive basis to individuals (other than Federal employees) selected from among applicants who are working, on the date of application, in local Head Start programs or otherwise working in the field of child development and children and family services.

"(5) DURATION.—Head Start Fellowships shall be for terms of 1 year, and may be renewed for a term of 1 additional year.

"(6) AUTHORIZED EXPENDITURES.—From amounts appropriated under this subchapter and allotted under section 640(a)(2)(D), the Secretary is authorized to make expenditures of not to exceed $1,000,000 for any fiscal year, for stipends and other reasonable expenses of the fellowship program.

"(7) STATUS OF FELLOWS.—Except as otherwise provided in this paragraph, Head Start Fellows shall not be considered to be employees or otherwise in the service or employment of the Federal Government. Head Start Fellows shall be considered to be employees for purposes of compensation for injuries under chapter 81 of title 5, United States Code. Head Start Fellows assigned to positions located in agencies specified in paragraph (3)(A)(i) shall be considered employees in the executive branch of the Federal Government for the purposes of chapter 11 of title 18, United States Code, and for purposes of any administrative standards of conduct applicable to the employees of the agency to which they are assigned.

"(8) REGULATIONS.—The Secretary shall promulgate regulations to carry out this subsection.

"(e) MODEL STAFFING PLANS.—Not later than 1 year after the date of enactment of this subsection, the Secretary, in consultation with appropriate public agencies, private agencies, and organizations and with individuals with expertise in the field of children and family services, shall develop model staffing plans to provide guidance to local Head Start agencies and programs on the numbers, types, responsibilities, and qualifications of staff required to operate a Head Start program.".

SEC. 116. RESEARCH, DEMONSTRATIONS, EVALUATION.

Section 649 (42 U.S.C. 9844) is amended to read as follows:

"SEC. 649. RESEARCH, DEMONSTRATIONS, AND EVALUATION.

"(a) IN GENERAL.—

"(1) REQUIREMENT; GENERAL PURPOSES.—The Secretary shall carry out a continuing program of research, demonstration, and evaluation activities, in order to—

"(A) foster continuous improvement in the quality of the Head Start programs under this subchapter and in their effectiveness in enabling participating children and their families to succeed in school and otherwise; and

"(B) use the Head Start programs to develop, test, and disseminate new ideas and approaches for addressing the needs of low-income preschool children (including children with disabilities) and their families and communities, and otherwise to further the purposes of this subchapter.

"(2) PLAN.—The Secretary shall develop, and periodically update, a plan governing the research, demonstration, and evaluation activities under this section.

"(b) Conduct of Research, Demonstration, and Evaluation Activities.—The Secretary, in order to conduct research, demonstration, and evaluation activities under this section—

"(1) may carry out such activities directly, or through grants to, or contracts or cooperative agreements with, public or private entities;

"(2) shall, to the extent appropriate, undertake such activities in collaboration with other Federal agencies, and with non-Federal agencies, conducting similar activities;

"(3) shall ensure that evaluation of activities in a specific program or project is conducted by persons not directly involved in the operation of such program or project;

"(4) may require Head Start agencies to provide for independent evaluations;

"(5) may approve, in appropriate cases, community-based cooperative research and evaluation efforts to enable Head Start programs to collaborate with qualified researchers not directly involved in program administration or operation; and

"(6) may collaborate with organizations with expertise in inclusive educational strategies for preschoolers with disabilities.

"(c) Consultation and Collaboration.—In carrying out activities under this section, the Secretary shall—

"(1) consult with—

"(A) individuals from relevant academic disciplines;

"(B) individuals who are involved in the operation of Head Start programs and individuals who are involved in the operation of other child and family service programs; and

"(C) individuals from other Federal agencies, and individuals from organizations, involved with children and families, ensuring that the individuals described in this subparagraph reflect the multicultural nature of the children and families served by the Head Start programs and the multidisciplinary nature of the Head Start programs;

"(2) whenever feasible and appropriate, obtain the views of persons participating in and served by programs and projects assisted under this subchapter with respect to activities under this section; and

"(3) establish, to the extent appropriate, working relationships with the faculties of institutions of higher education, as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), located in the area in which any evaluation under this section is being conducted, unless there is no such institution of higher education willing and able to participate in such evaluation.

"(d) Specific Objectives.—The research, demonstration, and evaluation activities under this subchapter shall include components designed to—

"(1) permit ongoing assessment of the quality and effectiveness of the programs under this subchapter;

"(2) contribute to developing knowledge concerning factors associated with the quality and effectiveness of Head Start programs and in identifying ways in which services provided under this subchapter may be improved;

"(3) assist in developing knowledge concerning the factors that promote or inhibit healthy development and effective functioning of children and their families both during and following participation in a Head Start program;

"(4) permit comparisons of children and families participating in Head Start programs with children and families receiving other child care, early childhood education, or child development services and with other appropriate control groups;

"(5) contribute to understanding the characteristics and needs of population groups eligible for services provided under this subchapter and the impact of such services on the individuals served and the communities in which such services are provided;

"(6) provide for disseminating and promoting the use of the findings from such research, demonstration, and evaluation activities; and

"(7) promote exploration of areas in which knowledge is insufficient, and that will otherwise contribute to fulfilling the purposes of this subchapter.

"(e) Longitudinal Studies.—In developing priorities for research, demonstration, and evaluation activities under this section, the Secretary shall give special consideration to longitudinal studies that—

"(1) examine the developmental progress of children and their families both during and following participation in a Head Start program, including the examination of factors that contribute to or detract from such progress;

"(2) examine factors related to improving the quality of the Head Start programs and the preparation the programs provide for children and their families to function effectively in schools and other settings in the years following participation in such a program; and

"(3) as appropriate, permit comparison of children and families participating in Head Start programs with children and families receiving other child care, early childhood education, or child development services, and with other appropriate control groups.

"(f) Ownership of Results.—The Secretary shall take necessary steps to ensure that all studies, reports, proposals, and data produced or developed with Federal funds under this subchapter shall become the property of the United States.".

SEC. 117. ANNOUNCEMENTS AND EVALUATIONS.

Section 650 (42 U.S.C. 9845) is repealed.

SEC. 118. REPORTS.

(a) In General.—Section 651 (42 U.S.C. 9846) is amended—

(1) by striking the section heading and all that follows through subsection (f) and inserting:

"SEC. 651. REPORTS.";

(2) by striking "(g)";

(3) in paragraph (10), by striking "evaluations conducted under section 641(c)(2)" and inserting "monitoring conducted under section 641A(c)"; and

(4)(A) by striking "and" at the end of paragraph (11);

(B) by striking the period at the end of paragraph (12) and inserting "; and"; and

(C) by adding after paragraph (12) the following new paragraph:

"(13) a summary of information concerning the research, demonstration, and evaluation activities conducted under section 649, including—

"(A) a status report on ongoing activities; and

"(B) results, conclusions, and recommendations, not included in any previous report, based on completed activities.".

(b) Redesignation.—Section 651 is redesignated as section 650.

SEC. 119. REPEALS.

Sections 651A and 652 (42 U.S.C. 9846a and 9847) are repealed.

SEC. 120. STUDY OF BENEFITS FOR HEAD START EMPLOYEES.

(a) Study.—The Secretary of Health and Human Services shall conduct a study regarding the benefits available to individuals employed by Head Start agencies under the Head Start Act (42 U.S.C. 9831 et seq.).

(b) Report.—

(1) Preparation.—The Secretary shall prepare a report, containing the results of the study, that—

(A) describes the benefits, including health care benefits, family and medical leave, and retirement pension benefits, available to such individuals;

(B) includes recommendations for increasing the access of the individuals to benefits, including access to a retirement pension program; and

(C) addresses the feasibility of participation by such individuals in the Federal Employees' Retirement System under chapter 84 of title 5, United States Code.

(2) Submission.—The Secretary shall submit the report to the appropriate committees of Congress.

SEC. 121. AUTOMATIC ELIGIBILITY OF HEAD START PARTICIPANTS.

The National School Lunch Act (42 U.S.C. 1751 et seq.) is amended—

(1) in section 9(b)(6) (42 U.S.C. 1758(b)(6))—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by striking "a member of";

(ii) in clause (i)—

(I) by inserting "a member of" after "(i)"; and

(II) by striking "or" at the end of the clause;

(iii) in clause (ii)—

(I) by inserting "a member of" after "(ii)"; and

(II) by striking the period at the end of the clause and inserting "; or"; and

(iv) by adding at the end the following new clause:

"(iii) enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A)).''; and

(B) in subparagraph (B), by striking "food stamps or aid to families with dependent children" and inserting "food stamps, aid to families with dependent children, or enrollment or participation in the Head Start program on the basis described in subparagraph (A)(iii)"; and

(2) in section 17(c) (42 U.S.C. 1766(c)), by adding at the end the following new paragraph:

"(5) A child shall be considered automatically eligible for benefits under this section without further application or eligibility determination, if the child is enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A)).".

SEC. 122. READY TO LEARN PROGRAM REAUTHORIZATION.

(a) Eligible Entities.—Section 4702(b)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3161a(b)(1)) is amended by striking ", nongovernmental entity" and inserting "entity (including public telecommunications entities)".

(b) Authorization of Appropriations.—Section 4706(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3161e(a)) is amended—

(1) by striking "$25,000,000 for fiscal year 1993" and inserting "$30,000,000 for fiscal year 1995"; and

(2) by striking "for fiscal year 1994." and inserting "for each of fiscal years 1996 and 1997.".

SEC. 123. STATE DEPENDENT CARE DEVELOPMENT PROGRAMS.

Section 670A of the State Dependent Care Development Grants Act (42 U.S.C. 9871) is amended by striking "are authorized to be appropriated" and all that follows and inserting "is authorized to be appropriated $13,000,000 for fiscal year 1995.".

SEC. 124. REAUTHORIZATION OF CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE ACT OF 1985.

Section 606 of the Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10905) is amended by striking "$1,500,000" and all that follows and inserting "to carry out this title such sums as may be necessary for fiscal year 1995.".

SEC. 125. TECHNICAL AND CONFORMING AMENDMENTS.

(a) HEAD START TRANSITION PROJECT ACT.—Section 133(a) of the Head Start Transition Project Act is amended by striking "639(c)" and inserting "639(b)".

(b) SOCIAL SECURITY ACT.—Section 1924(d)(3)(A)(i) of the Social Security Act (42 U.S.C. 1396r–5(d)(3)(A)(i)) is amended by striking "sections 652 and 673(2)" and inserting "section 673(2)".

SEC. 126. EFFECTIVE DATE AND APPLICATION.

(a) EFFECTIVE DATE.—This title, and the amendments made by this title, shall take effect on the date of enactment of this title.

(b) APPLICATION.—The requirements of this title and the amendments made by this title shall not apply to Head Start agencies and other recipients of financial assistance under the Head Start Act until October 1, 1994.

TITLE II—COMMUNITY SERVICES BLOCK GRANT AMENDMENTS

SEC. 201. SHORT TITLE AND REFERENCES.

(a) SHORT TITLE.—This title may be cited as the "Community Services Block Grant Amendments of 1994".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Community Services Block Grant Act (42 U.S.C. 9901 et seq.).

SEC. 202. AUTHORIZATIONS OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATION AND REPEAL.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Subsection (b) of section 672 (42 U.S.C. 9901(b)) is amended to read as follows:

"(b) There are authorized to be appropriated $525,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1998, to carry out the provisions of this subtitle.".

(2) REPEAL.—Section 408 of the Human Services Reauthorization Act of 1986 (42 U.S.C. 9910b) is repealed.

(b) STATE ALLOCATIONS.—Section 674 (42 U.S.C. 9903) is amended—

(1) by redesignating subsections (a), (b) and (c) as subsections (b), (c) and (d), respectively; and

(2) by inserting before subsection (b) (as so redesignated), the following new subsection:

"(a) Of the amounts appropriated for a fiscal year pursuant to section 672(b), the Secretary may reserve not less than one-half of 1 percent and not more than 1 percent for training, technical assistance, planning, and evaluation activities related to programs or projects carried out under this Act. Such activities may be carried out by the Secretary directly or through grants, contracts, or cooperative agreements.".

(c) APPLICATIONS AND REQUIREMENTS.—

(1) FORM AND ASSURANCES.—Section 675(a) (42 U.S.C. 9904(a)) is amended by inserting "or significant amendments thereof" before "shall contain assurances".

(2) USE OF FUNDS.—Section 675(c)(1) (42 U.S.C. 9904(c)(1)) is amended by striking "use the funds available under this Act" and inserting "ensure that, at its discretion and consistent with agreements with the State, each recipient of funds available under this Act will use such funds".

(3) ASSURED ACTIVITIES.—Section 675(c)(1)(B) (42 U.S.C. 9904(c)(1)(B)) is amended by inserting "homeless individuals and families, migrants, and" before "the elderly poor".

(4) STATE RESPONSIBILITIES.—Section 675(c)(2)(B) (42 U.S.C. 9904(c)(2)(B)) is amended to read as follows:

"(B) if less than 100 percent of the allotment is expended under subparagraph (A), provide assurances that with respect to the remainder of the allotment a reasonable amount shall be used for—

"(i) providing training and technical assistance to those entities in need of such assistance and such activities will not be considered administrative expenses;

"(ii) coordinating State-operated programs and services targeted to low-income children and families with services provided by eligible entities funded under this Act, including outposting appropriate State or local public employees into entities funded under this Act to ensure increased access to services provided by such State or local agencies;

"(iii) supporting statewide coordination and communication among eligible entities;

"(iv) administrative expenses at the State level, including monitoring activities, but not more than $55,000 or 5 percent of its allotment under section 674; and

"(v) considering the distribution of funds under this Act within the State to determine if such funds have been targeted to the areas of highest need.".

(5) TRIPARTITE BOARD.—Section 675(c)(3) (42 U.S.C. 9904(c)(3)) is amended—

(A) by inserting "selected by the community action agency or nonprofit private organization and" after "board will be";

(B) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(C) by striking the comma after "provide assurances that" and inserting "(A)"; and

(D) by inserting before the semicolon at the end thereof ", and (B) in the case of a public organization receiving funds under this subtitle, such organization either establish—

"(i) a board of which at least one-third of the members are persons chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area served; or

"(ii) another mechanism specified by the State to assure low-income citizen participation in the planning, administration, and evaluation of projects for which such organization has been funded;".

(6) REGULATIONS.—The next to last sentence of section 675(c) (42 U.S.C. 9904(c)) is amended by striking "may not" and inserting "shall by regulation".

(d) COMMUNITY ACTION AGENCY PLAN.—Section 675(c) (42 U.S.C. 9904(c)) is amended—

(1) in paragraph (11)—

(A) by redesignating clauses (i) through (iii) of subparagraph (A) as items (aa) through (cc), respectively;

(B) by realigning the margin of the sentence beginning with "For purposes of" so as to align with subparagraph (A) of paragraph (1);

(C) by striking "For purposes of" and inserting "(A) For purposes of";

(D) by striking "(A) a statewide" and inserting "(i)(I) a statewide";

(E) by striking "(B) the failure" and inserting "(ii) the failure";

(F) by inserting immediately before paragraph (12) the following:

"(B) for purposes of making a determination with respect to a termination, the term 'cause' includes the material failure of an eligible entity to comply with the terms of its agreement and community action plan to provide services under this subtitle;".

(2) in paragraph (12) by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (12) the following new paragraphs:

"(13) secure from each eligible entity as a condition to its receipt of funding under this Act a community action plan (which shall be available to the Secretary for inspection) that includes—

"(A) a community needs assessment (including food needs);

"(B) a description of the service delivery system targeted to low-income individuals and families in the service area;

"(C) a description of how linkages will be developed to fill identified gaps in services through information, referral, case management, and followup consultations;

"(D) a description of how funding under this Act will be coordinated with other public and private resources; and

"(E) a description of outcome measures to be used to monitor success in promoting self-sufficiency, family stability, and community revitalization; and

"(14) provide assurances that cost and accounting standards of the Office of Management and Budget shall apply to a recipient of funds under this Act.".

(e) PUBLIC INSPECTIONS OF PLANS.—Section 675(d)(2) (42 U.S.C. 9904(d)(2)) is amended by inserting "or revision" after "Each plan".

(f) AUDITS.—The last sentence of section 675(f) (42 U.S.C. 9904(f)) is amended by inserting before "to the legislature" the following: "to the eligible entity at no charge,".

SEC. 203. DISCRETIONARY AUTHORITY OF SECRETARY.

(a) TRAINING AND ACTIVITIES.—Section 681(a) (42 U.S.C. 9910(a)) is amended—

(1) in the matter preceeding paragraph (1), by striking "to provide for—" and inserting "to provide for";

(2) by striking paragraphs (1) and (3);

(3) in paragraph (2)—

(A) by striking "(2) ongoing" and inserting "ongoing";

(B) by striking "including special emphasis programs for" and inserting "with special emphasis on"; and

(C) by striking subparagraphs (A) through (F); and

(4) by inserting the following new paragraphs:

"(1) a Community Initiative Program, awarded on a competitive basis, to fund private, nonprofit community development corporations for the purposes of planning and carrying out community and economic development activities in economically distressed areas and in rural areas, as described in subsection (c);

"(2) grants to eligible entities for the development and implementation of innovative approaches to deal with critical needs or problems of low-income individuals that are common to a number of communities, including grants to provide opportunities for leadership development, community involvement and education success to disadvantaged persons between the ages of 14 and 25; and

"(3) grants to support the design, development, and widespread availability of interactive information technology among the nationwide network of Community Service Block Grant eligible entities, State administrators, national associations and organizations, and program recipients to promote electronic communication and access to program information that would enhance the effective delivery of social services.".

(b) COMMUNITY INITIATIVE PROGRAM.—Subsection (b) of section 681 (42 U.S.C. 9910) is amended to read as follows:

"(b) COMMUNITY INITIATIVE PROGRAM.—

"(1) IN GENERAL.—

"(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Economic development activities under this section shall be designed to address the economic needs of low-income individuals and families by creating employment and business development opportunities.

"(B) CONSULTATION.—The Secretary shall exercise the authority provided under subparagraph (A) in consultation with other relevant Federal officials.

"(C) GOVERNING BOARDS.—Each community development corporation receiving funds under this section shall be governed by a board that shall consist of residents of the community and business and civic leaders and shall have as a principal purpose planning, developing or managing low-income housing and community development projects.

"(D) GEOGRAPHIC DISTRIBUTION.—In providing assistance or entering into other arrangements under this section, the Secretary shall take into consideration the geographic distribution of funds among States and the relative proportion of funding among rural and urban areas.

"(E) RESERVATION.—Of the amounts made available to carry out this section, the Secretary may reserve not to exceed 1 percent for each fiscal year to make grants to private nonprofit organizations or to enter into contracts with private nonprofit or for profit organizations to provide technical assistance to aid community development corporations in developing or implementing projects funded under this section and to evaluate projects funded under this section.

"(2) RURAL COMMUNITY DEVELOPMENT ACTIVITIES.—Rural community development activities under this section shall include—

"(A) grants to private, nonprofit corporations that provide assistance to rural low-income families in home repair and in planning and developing low-income rural rental housing units; and

"(B) grants to multistate, regional private, nonprofit organizations that provide training and technical assistance to small, rural communities in meeting their community facility needs.".

SEC. 204. COMMUNITY FOOD AND NUTRITION.

Subsection (d) of section 681A (42 U.S.C. 9910a(d)) is amended to read as follows:

"(d) There are authorized to be appropriated $25,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1998, to carry out this section.".

SEC. 205. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect on October 1, 1994.

TITLE III—LOW-INCOME HOME ENERGY ASSISTANCE AMENDMENTS

SECTION 301. SHORT TITLE AND REFERENCES.

(a) SHORT TITLE.—This title may be cited as the "Low-Income Home Energy Assistance Amendments of 1994".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

SEC. 302. STATEMENT OF PURPOSE.

Subsection (a) of section 2602 (42 U.S.C. 8621(a)) is amended to read as follows:

"(a) The Secretary is authorized to make grants, in accordance with the provisions of this title, to States to assist low-income households, particularly those that pay a high proportion of household income for home energy, primarily in meeting their immediate home energy needs and, where appropriate, to reduce the energy needs and costs of such households and thereby improve their capacity to meet such needs in the future.".

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNTS AUTHORIZED.—Section 2602 (42 U.S.C. 8621) is amended—

(1) in subsection (b), by striking "this title" and all that follows through the end of the first sentence and inserting "this title, $2,000,000,000 for each of fiscal years 1995 through 1999."; and

(2) in the last sentence of subsection (c)—

(A) by striking "July 1" and inserting "October 1"; and

(B) by striking "for which" and inserting "following the year in which".

(b) INCENTIVE PROGRAM FOR LEVERAGING NON-FEDERAL SOURCES.—Subsection (d) of section 2602 (42 U.S.C. 8621(d)) is amended to read as follows:

"(d) There are authorized to be appropriated to carry out section 2607A, $50,000,000 for each of the fiscal years 1995 and 1996, and such sums as may be necessary for each of the fiscal years 1997 through 1999.".

SEC. 304. EMERGENCY FUNDS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 2602 (42 U.S.C. 8621) as amended by section 3, is further amended by adding at the end thereof the following new subsection:

"(d) There are authorized to be appropriated in any fiscal year for payments under this title, in addition to amounts appropriated for distribution to all the States in accordance with section 2604 (other than subsection (g)), $600,000,000 for each of the fiscal years 1995 through 1999, to meet the additional home energy assistance needs of one or more States arising from a natural disaster or other emergency. Funds appropriated pursuant to this subsection are hereby designated to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, except that such funds shall be made available only after the submission to Congress of a formal budget request by the President (for all or a part of the appropriation pursuant to this subsection) that includes a designation of the amount requested as an emergency requirement as defined in such Act.".

(b) HOME ENERGY.—Section 2603 (42 U.S.C. 8622(3)) is amended—

(1) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as paragraphs (2), (4), (5), (6), (7), (8), and (9), respectively;

(2) by inserting before paragraph (2) (as so redesignated), the following new paragraph:

"(1) The term 'energy burden' means the expenditures of the household for home energy divided by the income of the household."; and

(3) by inserting before paragraph (4) (as so redesignated), the following new paragraph:

"(3) The term 'highest home energy needs' means the home energy requirements of households that include members of vulnerable populations, including very young children and the frail elderly."

(c) ALLOTMENT OF EMERGENCY FUNDS.—Section 2604 (42 U.S.C. 8623) is amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding subsections (a) through (f), the Secretary may allot amounts appropriated pursuant to section 2602(d) to one or more than one State. In determining to which State or States additional funds may be allotted, the Secretary shall take into account the extent to which a State was affected by the emergency or disaster, the availability to an affected State of other resources under this or any other program, and such other factors as the Secretary determines relevant.".

SEC. 305. AUTHORIZED USES OF FUNDS.

(a) IN GENERAL.—Paragraph (1) of section 2605(b) (42 U.S.C. 8624(b)(1)) is amended to read as follows:

"(1) use the funds available under this title to—

"(A) conduct outreach activities and provide assistance to low income households in meeting their home energy costs, particularly those that pay a high proportion of household income for home energy, consistent with paragraph (5);

"(B) intervene in energy crisis situations;

"(C) provide low-cost residential weatherization and other cost-effective energy-related home repair; and

"(D) plan, develop, and administer the State's program under this title including leveraging programs,

and the State agrees not to use such funds for any purposes other than those specified in this title;".

(b) ENCOURAGED REDUCED HOME ENERGY NEEDS.—Section 2605(b) (42 U.S.C. 8624(b)) is amended—

(1) in paragraph (9)(B), by inserting before the semicolon the following: "(except for the costs of the activities described in paragraph (16))";

(2) in paragraph (15), by striking the period and inserting "; and"; and

(3) by inserting after paragraph (15) the following new paragraph:

"(16) subject the use of such funds to the requirements of paragraph (9)(A) if it uses such funds to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance, including needs assessments, counseling, and assistance with energy vendors.".

SEC. 306. TARGETING OF ASSISTANCE TO HOUSEHOLDS WITH HIGH HOME ENERGY BURDENS.

(a) HOUSEHOLD INCOME.—Section 2605(b)(2)(B) (42 U.S.C. 8624(b)(2)(B)) is amended by striking the matter following clause (ii) and inserting the following:

"except that a State may not exclude a household from eligibility in a fiscal year solely on the basis of household income if such income is less than 110 percent of the poverty level for such State, but the State may give priority to those households with the highest home energy costs or needs in relation to household income;".

(b) OUTREACH ACTIVITIES.—Section 2605(b)(3) (42 U.S.C. 8624(b)(3)) is amended by striking "are made aware" and inserting "and households with high home energy burdens, are made aware".

(c) ASSISTANCE LEVELS.—Section 2605(b)(5) (42 U.S.C. 8624(b)(5)) is amended by inserting "or needs" after "highest energy costs".

(d) STATE PLAN.—Section 2605(c)(1) (42 U.S.C. 8624(c)(1)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (H), respectively; and

(2) by inserting after subparagraph (D) the following new subparagraph:

"(E) describes any steps that will be taken (in addition to those necessary to carry out the assurance contained in paragraph (5) of subsection (b)) to target assistance to households with high home energy burdens;".

SEC. 307. REMOVAL OF CONSTRAINT ON SECRETARIAL PROGRAM GUIDANCE.

Section 2605(b) (42 U.S.C. 8624(b)) is amended by striking the first flush sentence immediately following paragraph (14).

SEC. 308. CLARIFICATION OF AUDIT REQUIREMENT.

Section 2605 (42 U.S.C. 8624) is amended—

(1) in subsection (b)(10), by striking "and provide that" and all that follows and inserting "and provide that the State will comply with the provisions of chapter 75 of title 31, United States Code (commonly known as the 'Single Audit Act');"; and

(2) in subsection (e), by striking "at least every two years" and all that follows and inserting "in accordance with chapter 75 of title 31, United States Code.".

SEC. 309. USE OF DEPARTMENT OF ENERGY WEATHERIZATION RULES TO ACHIEVE PROGRAM CONSISTENCY.

Section 2605(c)(1)(D) (42 U.S.C. 8624(c)(1)(D)) is amended by inserting before the semicolon at the end thereof the following: ", including any steps the State will take to address the weatherization and energy-related home repair needs of households that have high home energy burdens, and describes any rules promulgated by the Department of Energy for administration of its Low Income Weatherization Assistance Program which the State, to the extent permitted by the Secretary to increase consistency between federally assisted programs, will follow regarding the use of funds provided under this title by the State for such weatherization and energy-related home repairs and improvements".

SEC. 310. MATTERS TO BE DESCRIBED IN ANNUAL APPLICATION.

Section 2605(c)(1) (42 U.S.C. 8624(c)(1)) is amended—

(1) in subparagraph (F) (as so redesignated by section 306(d) of this Act)—

(A) by striking "and (13)" and inserting "(13), and (15)"; and

(B) by striking "and" at the end thereof; and

(2) by inserting after subparagraph (F) (as so redesignated by section 306(d) of this Act), the following new subparagraph:

"(G) states, with respect to the 12-month period specified by the Secretary, the number and income levels of households which apply and the number which are assisted with funds provided under this title, and the number of households so assisted with—

"(i) one or more members who has attained 60 years of age;

"(ii) one or more members who were disabled; and

"(iii) one or more young children; and".

SEC. 311. REPORT OF FUNDS AVAILABLE FOR OBLIGATION.

Section 2607(a) (42 U.S.C. 8628(a)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) Each State shall notify the Secretary, not later than 2 months prior to the close of a fiscal year, of the amount (if any) of its allotment for such year that will not be obligated in such year, and, if such State elects to submit a request described in subsection (b)(2), such State shall submit such request at the same time. The Secretary shall make no payment under paragraph (1) to a State for a fiscal year unless the State has complied with this paragraph with respect to the prior fiscal year.".

SEC. 312. MISCELLANEOUS AND TECHNICAL AMENDMENTS.

(a) IN GENERAL.—

(1) TREATMENT OF HOUSEHOLDS.—Section 2605(b)(7)(D) (42 U.S.C. 8624(b)(7)(D)) is amended to read as follows:

"(D) ensure that the provision of vendored payments remains at the option of the State in consultation with local grantees and may be contingent on vendors taking appropriate measures to alleviate the energy burdens of eligible households, including providing for compacts between suppliers and individuals eligible for benefits under this Act that seek to reduce home energy costs, minimize the risks of home energy crisis, and encourage regular payments by individuals receiving financial assistance for home energy costs;".

(2) INCENTIVE PROGRAM.—Section 2607A(e) (42 U.S.C. 8626a(e)) is amended by striking "July 31, of each year" and inserting "2 months after the close of the fiscal year during which the State provided leveraged resources to eligible households, as described in subsection (b)".

(3) TRAINING AND TECHNICAL ASSISTANCE.—Section 2609A(a) is amended by striking "$500,000" and inserting "$250,000".

(b) TECHNICAL AMENDMENTS.—

(1) Section 2602(b) (42 U.S.C. 8621(b)) is amended—

(A) by inserting "(other than section 2607A)" after "to carry out the provisions of this title"; and

(B) by striking the second period at the end thereof.

(2) Section 2603(2) (42 U.S.C. 8622(2)) is amended—

(A) by striking "the" in paragraph (2) and inserting "The"; and

(B) by striking the semicolon at the end thereof and inserting a period.

(3) The sentence that immediately precedes paragraph (15) of section 2605(b) (42 U.S.C. 8624(b)) is transferred so as to appear as a flush sentence immediately after paragraph (16).

(4) Section 2605(b)(3) (42 U.S.C. 8624(b)(3)) is amended by striking "handicapped" and inserting "disabled".

(5) Section 2607A(c)(2) (42 U.S.C. 8626a(c)(2)) is amended by striking ".0008 percent" and inserting "0.08 percent".

(6) Section 2610(a) (42 U.S.C. 8629(a)) is amended—

(A) in paragraph (2), by striking the semicolon after "used" and inserting a semicolon after "title"; and

(B) in paragraph (5)—

(i) by striking "handicapped" and inserting "disabled"; and

(ii) by inserting before the semicolon at the end thereof "or include young children".

SEC. 313. EFFECTIVE DATE.

The amendments and repeals made by this title shall become effective on October 1, 1994.

TITLE IV—COMMUNITY-BASED FAMILY RESOURCE PROGRAMS

SEC. 401. COMMUNITY-BASED FAMILY RESOURCE PROGRAMS.

(a) IN GENERAL.—Section 933 of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12339) is amended to read as follows:

"SEC. 933. COMMUNITY-BASED FAMILY RESOURCE PROGRAMS.

"(a) PURPOSE.—It is the purpose of this section to promote a systemic approach to prevention through the promotion of innovative funding mechanisms for networks of comprehensive family resource services provided through collaborative approaches, including public-private partnerships.

"(b) AUTHORITY.—The Commissioner shall make grants to States on a formula basis for the purpose of—

"(1) establishing and expanding statewide networks of community-based family resource programs, including funds for the initial costs of providing specific family resource services, that ensure family involvement in the design and operation of family resource programs which are responsive to the unique and diverse strengths of children and families;

"(2) promoting child abuse and neglect prevention activities;

"(3) promoting the establishment and operation of State trust funds or other mechanisms for integrating child and family services funding streams in order to provide flexible funding for the development of community-based family resource programs;

"(4) establishing or expanding community-based collaboration to foster the development of a continuum of preventive services for children and families, which are family-centered and culturally-relevant; and

"(5) encouraging public and private partnerships in the establishment and expansion of family resource programs.

"(c) ELIGIBILITY FOR GRANTS.—A State is eligible for a grant under this section for any fiscal year if—

"(1) such State has established or maintained in the previous fiscal year—

"(A) a trust fund, including appropriations for such fund; or

"(B) any other mechanism that pools State, Federal, and private funds for integrating child and family service resources; and

"(2) such trust fund or other funding mechanism includes (in whole or in part) provisions making funding available specifically for a broad range of child abuse and neglect prevention activities and family resource programs.

"(d) AMOUNT OF GRANT.—

"(1) IN GENERAL.—Amounts appropriated for a fiscal year to provide grants under this section shall be allotted, among eligible States in each fiscal year so that—

"(A) 50 percent of the total amount appropriated for such fiscal year is allotted among each State based on the number of children under the age of 18 residing in each State, except that each State shall receive not less than $100,000; and

"(B) the remaining 50 percent of the total amount appropriated for such fiscal year is allotted in an amount equal to 25 percent of the total amount allocated by each such State to the State's trust fund or other mechanism for integrating family resource services in the fiscal year prior to the fiscal year for which the allotment is being determined.

"(e) EXISTING GRANTS.—A State that has a grant in effect on the date of enactment of this section under the Family Resource and

Support Program or the Temporary Child Care and Crisis Nurseries Program shall continue to receive funds under such Programs, subject to the original terms under which such funds were granted, through the end of the applicable grant cycle.

"(f) APPLICATION.—No grant may be made to any eligible State under this section unless an application is prepared and submitted to the Secretary at such time, in such manner, and containing or accompanied by such information as the Commissioner determines to be essential to carry out the purposes and provisions of this section, including—

"(1) a description of the agency designated by the Chief Executive Officer of the State to administer the funds provided under this section and assume responsibility for implementation and oversight of the family resource programs and other child abuse and neglect prevention activities, and an assurance that the agency so designated—

"(A) is the trust fund advisory board or an existing quasi-public organization with interdisciplinary governance that pools State, Federal, and private funds for family resource programs or integrating child and family service resources; or

"(B) with respect to a State without a trust fund mechanism or quasi-public organization that meets the requirements of subparagraph (A), is an existing State agency, or other public, quasi-public, or nonprofit private agency responsible for the development and implementation of a statewide network of community-based family resource programs;

"(2) assurances that the agency designated under paragraph (1) can demonstrate the capacity to fulfill the purposes described in subsection (a), and shall have—

"(A) a demonstrated ability to work with other State and community-based agencies, to provide training and technical assistance; and

"(B) a commitment to parental participation in the design and implementation of family resource programs;

"(3) an assurance that the State has an interagency process coordinated by the agency designated in paragraph (1) for effective program development that—

"(A) does not duplicate existing processes for developing collaborative efforts to better serve children and families;

"(B) provides a written plan for the establishment of a network of family resource programs publicly available; and

"(C) involves appropriate personnel in the process, including—

"(i) parents and prospective participants in family resource programs, including respite care programs;

"(ii) staff of existing programs providing family resource services, including staff of Head Start programs and community action agencies that provide such services;

"(iii) representatives of State and local government such as social service, health, mental health, education, employment, economic development agencies, and organizations providing community services activities;

"(iv) representatives of the business community;

"(v) representatives of general purpose local governments;

"(vi) representatives of groups with expertise in child abuse prevention, including respite and crisis care;

"(vii) representatives of local communities in which family resource programs are likely to be located; and

"(viii) other individuals with expertise in the services that the family resource and support programs of the State intend to offer;

"(4) a description of the current family resource programs operating in the State, the current unmet need for the services provided under such programs, including the need for building increased capacity to provide specific family resource services, including respite care, and the intended scope of the State family resource program, the population to be served, the manner in which the program will be operated, and the manner in which such program will relate to other community services and public agencies;

"(5) evidence that Federal assistance received under this section—

"(A) has been supplemented with non-Federal public and private assistance, including a description of the projected level of financial commitment by the State to develop a family resource program; and

"(B) will be used to supplement and not supplant other State and local public funds expended for family resource programs;

"(6) a description of the core services, as required by this section, and other support services to be provided by the program and the manner in which such services will be provided, including the extent to which either family resources, centers, home visiting, or community collaboratives will be used;

"(7) a description of any public information activities the agency designated in paragraph (1) will undertake for the purpose of promoting family stability and preventing child abuse and neglect, including child sexual abuse;

"(8) an assurance that the State will provide funds for the initial startup costs associated with specific family resource services, including respite services, and a description of the services to be funded;

"(9) assurances that the State program will maintain cultural diversity;

"(10) a description of the guidelines for requiring parental involvement in State and local program development, policy design, and governance and the process for assessing and demonstrating that parental involvement in program development, operation, and governance occurs;

"(11) a description of the State and community-based interagency planning processes to be utilized to develop and implement family resource programs;

"(12) a description of the criteria that the State will utilize for awarding grants for local programs so that they meet the requirements of subsection (g);

"(13) a plan for providing training, technical assistance, and other assistance to local communities in program development;

"(14) a description of the methods to be utilized to evaluate the implementation and effectiveness of the family resource programs within the State;

"(15) a description of proposed actions by the State that will reduce practical and regulatory barriers to the provision of comprehensive services to families, including family resource programs; and

"(16) an assurance that the State will provide the Secretary with reports, at such time and containing such information as the Secretary may require.

"(g) LOCAL PROGRAM REQUIREMENTS.—

"(1) IN GENERAL.—A State that receives a grant under this section shall use amounts received under such grant to establish local family resource programs that—

"(A) undertake a community-based needs assessment and program planning process which involves parents, and local public and nonprofit agencies (including those responsible for providing health, education, employment training, Head Start and other early childhood, child welfare, and social services);

"(B) develop a strategy to provide comprehensive services to families to meet identified needs through collaboration, including public-private partnerships;

"(C) identify appropriate community-based organizations to administer such programs locally;

"(D) provide core services, and other services directly or through contracts or agreements with other local agencies; and

"(E) involve parents in the development, operation, and governance of the program.

"(2) PRIORITY.—In awarding local grants under this section, a State shall give priority to programs serving low-income communities and programs serving young parents or parents with young children and shall ensure that such grants are equitably distributed among urban and rural areas.

"(h) DEFINITIONS.—As used in this section:

"(1) COMMUNITY REFERRAL SERVICES.—The term 'community referral services' means services to assist families in obtaining community resources, including respite services, health and mental health services, employability development and job training and other social services.

"(2) FAMILY RESOURCE PROGRAM.—The term 'family resource program' means a program that offers community-based services that provide sustained assistance to families at various stages in their development. Such services shall promote parental competencies and behaviors that will lead to the healthy and positive personal development of parents and children through—

"(A) the provisions of assistance to build family skills and assist parents in improving their capacities to be supportive and nurturing parents;

"(B) the provision of assistance to families to enable such families to use other formal and informal resources and opportunities for assistance that are available within the communities of such families; and

"(C) the creation of supportive networks to enhance the childbearing capacity of parents and assist in compensating for the increased social isolation and vulnerability of families.

"(3) FAMILY RESOURCE SERVICES.—The term 'family resource services' means—

"(A) core services that must be provided directly by the family resource program under this section, including—

"(i) education and support services provided to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children;

"(ii) early developmental screening of children to assess the needs of such children and to identify the types of support to be provided;

"(iii) outreach services;

"(iv) community referral services; and

"(v) follow-up services; and

"(B) other services, which may be provided either directly or through referral, including—

"(i) early care and education (such as child care and Head Start);

"(ii) respite care;

"(iii) job readiness and counseling services (including skill training);

"(iv) education and literacy services;

"(v) nutritional education;

"(vi) life management skills training;

"(vii) peer counseling and crisis intervention, and family violence counseling services;

"(viii) referral for health (including prenatal care) and mental health services; and

"(ix) substance abuse treatment.

"(4) INTERDISCIPLINARY GOVERNANCE.—The term 'interdisciplinary governance' includes governance by representatives from communities and representatives from existing health, mental health, education, employment and training, child welfare, and other agencies within the State.".

"(5) RESPITE SERVICES.—The term 'respite services' means short-term care services provided in the temporary absence of the regular caregiver (parent, other relative, foster parent, adoptive parent, guardian) to children who meet one or more of the following categories:

"(A) The children are in danger of abuse or neglect.

"(B) The children have experienced abuse or neglect.

"(C) The children have disabilities, or chronic or terminal illnesses.

Services provided within or outside the child's home shall be short-term care, ranging from a few hours to a few weeks of time, per year, and be intended to enable the family to stay together and to keep the child living in the child's home and community.".

(b) DEFINITION.—Section 926(7) of such Act (42 U.S.C. 12332(7)) is amended by inserting ", and other caretakers" after "parents".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 934 of such Act (42 U.S.C. 12340) is amended—

(1) in paragraph (1) of subsection (a), to read as follows:

"(1) There are authorized to be appropriated to carry out section 931 such sums as may be necessary for each of the fiscal years 1995 through 1998."; and

(2) in subsection (d), to read as follows:

"(h) COMMUNITY-BASED FAMILY RESOURCE PROGRAMS.—There are authorized to be appropriated to carry out section 933, $75,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1998.".

(d) REPEAL OF EXISTING PROGRAMS.—

(1) COMMUNITY-BASED CHILD ABUSE AND NEGLECT PREVENTION GRANTS.—Title II of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116 et seq.) is repealed.

(2) EMERGENCY CHILD ABUSE PREVENTION SERVICES GRANTS.—Sec. 107A of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a-1) is repealed.

(3) TEMPORARY CHILD CARE AND CRISIS NURSERIES.—The Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986 (42 U.S.C. 5117 et seq.) is repealed.

SEC. 402. FEDERAL COUNCIL ON CHILDREN, YOUTH, AND FAMILIES.

Section 918 of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12314) is amended—

(1) in subsection (k)—

(A) in paragraph (3), by striking out "and" at the end thereof;

(B) in paragraph (4), by striking out the period and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new paragraphs:

"(6) identify program regulations, practices, and eligibility requirements that impede coordination and collaboration and make recommendations for their modification or elimination; and

"(7) develop recommendations for creating jointly funded programs, unified assessments, eligibility, and application procedures, and confidentiality protections that facilitate information sharing.";

(2) in subsection (o), by striking "1991 through 1994" and inserting "1995 through 1998"; and

(3) in subsection (p), by striking "1995" and inserting "1998".

SEC. 403. FAMILY RESOURCE ACT.

(a) NATIONAL CENTER.—Section 958(b)(3) of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12353(b)(3)) is amended by strike "model".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 960 of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12355) is amended—

(1) in subsection (a), by striking "$2,300,000" and all that follows through the end thereof and inserting "$2,000,000 for each of the fiscal years 1995 through 1998."; and

(2) in subsection (b), by striking "$700,000" and all that follows through the end thereof and inserting "$1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1998.".

Mr. KENNEDY. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. KENNEDY. Madam President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO MARY WOODARD LASKER

Mr. HATFIELD. Mr. President, earlier this month I had the opportunity to attend an event at which my good fried, Mary Woodard Lasker, served as honorary chairperson. Although she was not present in body, her vision and strength were felt in every corner of the room. Mary passed away recently, leaving many lasting tributes to her work. Her legacy reflects her dedication to the conquest of disease and disability.

I ask unanimous consent to insert in the RECORD a tribute to Mary given by Terry Lierman, president of Capitol Associates. Terry, a former staff member to Senator Warren Magnuson, was a partner and treasured friend to Mary Lasker in all of her efforts in medical research. He tutored under a truly great mentor in this field and I have no doubt he will continue to advocate for this critical issue in loving memory of Mary Lasker.

There being no objection, the tribute was ordered to be printed in the RECORD, as follows:

TRIBUTE TO MARY WOODARD LASKER

(By Terry Lierman)

It was Senator Warren Magnuson (my first mentor) that introduced me to Mary Lasker and it was love at first sight. Here was Mary who was born in Watertown, Wisconsin in 1900—I was born 30 miles from there—but a little later. She went to the University of Wisconsin, my alma mater. She basically started the modern NIH, where my first job was, she worked the halls of Congress, that's where I worked, I have followed Mary unconsciously and will consciously follow her in the future too—Chairman Magnuson's favorite phrase was "just tell me what time it is, not how the clock works!" This is one person, Mr. Chairman, who deserves more than just the time!

So allow me to share a few stories with you as a legend is born.

It was Mary that got Senator Magnuson to sponsor, as his first bill in Congress, along with Senator Pepper, something starting the National Cancer Institute.

The few minutes I have here, is like asking an NIH researcher for a 1 page grant application.

Chairman Magnuson, this clock ran beautifully for 93 years, and its long overdue for someone to tell how the clock worked!

Simply, if God created mothers for children—God created Mary Lasker for medical research!

Mary, literally, up to the day of her death 4 weeks ago, kept urging for more effort and faster progress—she had a wonderful sense of urgency—she understood that people were dying and suffering.

Her last passion was the Harkin/Hatfield Research Fund for Medical Research. It was her last call to me and she spoke in a whisper, but her urgency, like always, came through—how was it going; what were the chances; what could she do to help; on and on, always questioning, always pushing for more.

Mary had a wonderful way to put perfect thoughts into words, "words of wisdom according to Mary" should be a primer for all of us—one she used often was "if you want something done, give the other person the credit."

But lets give Mary the credit tonight: Credit for the 10,000 azaleas she had planted in D.C.; 900 cherry trees around the tidal basin; 1 million daffodils planted in Rock Creek; Gardens in 20 Blocks of Park Avenue New York; Lasker Gardens in Central Park; The landscaped grounds and trees at the United Nations; Even a flower garden at Oxford in honor of the discovery of penicillin; and hundreds of highway planting projects with Lady Bird Johnson along our Nation's highways.

Mary felt very strongly that beauty and color translated to PMA—a positive mental attitude=good health.

That is the easy part to identify what Mary has done, now comes the life sciences—life sciences, Mary was always interested in life.

At NIH sits a gorgeous building and grounds named the "Mary Woodward Lasker Center for Health Research and Education." When I first told her that Senators Kennedy and Hatfield and Speaker O'Neill, Chairman Pepper, were doing it in her honor it was one of the few times I saw her angry. Angry because she said she did not deserve the credit, it was the Congress that deserved the credit. It happened over her protest and she was very, very proud of it—even purchased pictures for the inside and worried that the outside wouldn't have enough flowers.

Go there and walk the interior gardens and you, I will assure you, that you will feel the inspiration of Mary—it was a convent before.

It was Mary Lasker who got her husband Albert, who controlled massive amounts of advertising on radio in the early 40's to get

CBS to say the then very taboo word "Cancer" on a program called Fibber, Maggie and Molly. This led to a flood of mail to a fledgling group called the American Cancer Society and Mary hired people to open the mail and count the checks propelling ACS nationwide. She would later use a similar technique but with Eppie Lederer/Ann Landers to get the National Cancer Act passed over the initial objections of President Nixon. Full page ads in major newspapers with 4 inch bold type saying, simply: Mr. Nixon you can cure cancer—it worked!

Mary's greatest dream, was a cancer vaccine. Early on, while she talked, slept and pushed for a cancer vaccine, the scientific community scoffed. Now, with 1 person in the United States dying from cancer every 62 seconds, medical research progress has brought that dream within reach, Mary will be proven right yet again.

Then the list of medical research accomplishments grew rapidly—creation of the Heart, mental health and most of its institutes in the 40's and 50's, 60's—there is a rare NIH program without Mary's stamp on it.

The Lasker Awards in 1948 which have been the American leader in recognizing basic, clinical research and public service.

52 Lasker winners since 1948 have gone on to win Nobel Prizes.

Mary would do anything to get attention not for her awards, but she saw this as a way to promote medical research—awards, press, politics which she viewed very positively as a means of serving the needs of people.

She was very frustrated with scientists who did not want to subject themselves to politics and thought that medical research funding would happen automatically because it was the right thing to do. Mary would say, "it's my money, I have a right to help determine how it is spent.

She was a model citizen. She understood, like Alexandre de Tocqueville stated, that democracy does not work unless those who live in it work for it. A keen lessen for all Americans who do not participate and blindly go down the trail of taking democracy for granted.

We should all know that rights are only ours if we exercise and protect them.

Mary viewed advocacy for medical research as a right of the public and sought it with a passion.

In the 60's she forced, with the intervention of President Johnson, the NIH to get involved in clinical research saying—

"What good does it do to fund medical research if we can't get it used by those who need it."

In the 70's and 80's her passion was education, cancer vaccine development and gene therapy years before it was popular. In fact, it was not all roses, People, scientists, often scoffed at Mary but time and again she was right.

She would say "go to the government for funding. You can raise more there in a day than in a lifetime of trying to raise money privately."

Mary was proud of her championing of the National Eye Institute—she adored and spoke reverently about Lew Wasserman and her seat on the Board of Research to Prevent Blindness.

Mary had a vision that few are blessed with and would probably be frustrated with those that mouth prevention today but ignore the importance of research for tomorrow—she said "research is the first link in the chain of prevention."

Like those few people with vision, Mary's eyes were always able to look farther than they could see. Mary was often heard to say that "I am opposed to heart attacks, and cancer, and strokes the way I am opposed to sin." Her vision gave her the resolve to persuade others to find the cause of disease, not just treat the symptoms.

Mary Lasker had the resources to go to the South of France but elected to stay and fight the good fight.

She stayed focused in the determination to cure and prevent disease and disability.

It was her vision, her life, her energy which will benefit every person in this room before we join Mary.

The last few years in talks with her, she was becoming increasingly frustrated by the country's inability as she said to "dream", she said there are always people who find reasons not to do things and that Washington is made up of "work horses and show horses." Tonight's honorees, down to every person, (Former Rep. Frederick B. Rooney, A. Edward Maumenee, MD, Lew R. Wasserman, and Research to Prevent Blindness, National Eye Institute, Rep. William H. Natcher, Rep. Louis Stokes, Rep. John E. Porter, Sen. Mark O. Hatfield, Sen. Ernest F. Hollings, Sen. Tom Harkin) Mary worked with, supported and was very fond of. Like tonight, she was not partisan, she would help those who would help others—those who would dare to dream about making this place a better one and do something about it.

Mary's one speech that I heard in 18 years, because she shunned the light stated simply—

"The fruits of our labors throughout the years will: Alleviate pain where there is suffering; Provide the freedom to live in health so that we can fulfill our promise and quest in the pursuit of happiness and provide hope where none existed before."

If you want to know what Mary's monument looks like—look at the people around you. Deeds for people, not stones, are the true monument of the great.

Her legacy is a living vibrant message of hope to millions afflicted with disease and disability.

Her life will be judged not by her wealth or her love for beauty, but by the beauty and wealth that she instilled in every life she touched through medical research.

Those of use who have met her, seen her beauty and been touched by life, will revel in her memory and be driven by her passion.

The fruits of Mary Lasker's efforts and commitment to improve humankind are all around us; they live in each of us—they will be truly timeless. Our efforts to cure disease and conquer disability will be judged by Mary in our minds and hearts.

A grateful nation owes much to Mary Woodard Lasker—a woman whose mind rebelled against needless suffering and whose heart responded to a worthy cause. Mary showed us that medical research is a living message that we will pass onto our children—for a time that we will not see.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON SOUTH AFRICA RELATIVE TO THE GENERALIZED SYSTEM OF PREFERENCES—MESSAGE FROM THE PRESIDENT—PM 101

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

I am writing to inform you of my intent to add South Africa to the list of beneficiary developing countries under the Generalized System of Preferences (GSP). The GSP program offers duty-free access to the U.S. market and is authorized by the Trade Act of 1974.

I have carefully considered the criteria identified in sections 501 and 502 of the Trade Act of 1974. In light of these criteria, I have determined that it is appropriate to extend GSP benefits to South Africa.

This notice is submitted in accordance with section 502(a)(1) of the Trade Act of 1974.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 21, 1994.*

REPORT ON IMPORTS OF HONEY FROM CHINA—MESSAGE FROM THE PRESIDENT—PM 102

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

Pursuant to section 406 of the Trade Act of 1974 (19 U.S.C. 2436) and sections 202 and 203 of the Trade Act of 1974 (as those sections were in effect on the day before the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988), I have determined the action I will take with respect to the affirmative determination of the United States International Trade Commission (USITC), on the basis of its investigation (No. TA-406-13), that market disruption exists with respect to imports from China of honey provided for in heading 0409 and subheadings 1702.90 and 2106.90 of the Harmonized Tariff Schedule of the United States.

After considering all relevant aspects of the investigation, including those set forth in section 202(c) of the Trade Act of 1974, I have determined that import relief for honey is not in the national economic interest of the United States. However, I am directing the

United States Trade Representative (USTR), in consultation with the appropriate agencies to develop a plan to monitor imports of honey from China. The monitoring program is to be developed within thirty days of this determination.

Since I have determined that the provision of import relief is not in the national economic interest of the United States, I am required by that section 203(b) of the Trade Act of 1974 to report to Congress on the reasons underlying this determination.

In determining not to provide import relief, I considered its overall costs to the U.S. economy. The USITC majority recommendation for a quarterly tariff rate quota (a 25 percent ad valorem charge on the first 12.5 million pounds each quarter, increasing to 50 percent on amounts above that level), to be applied for three years, would cost consumers about $7 million while increasing producers' income by just $1.9 million. The other forms of relief recommended by other Commissioners would also result in substantial costs to consumers while offering little benefit to producers.

In addition, the gap between production and consumption in the United States is approximately 100 million pounds, with imports of honey from China helping to fill that gap at the low end for industrial use. Any restrictions on imports of honey from China would likely lead to increased imports from other countries rather than significantly increased market share for U.S. producers.

Although rising somewhat since 1991, U.S. honey inventories are not large by historical experience, either in absolute amounts or relative to consumption. Honey stocks reported by the U.S. Department of Agriculture were much higher in the mid-1980's (about 75 percent of consumption in 1985 and 1986), before falling to their lowest level in a decade in 1991 (26.6 percent of consumption). The 1993 stocks were 37.8 percent of consumption, well below the 1980–1993 average level of 46.4 percent.

The U.S. government has supported honey producers since 1950, in part, to ensure enough honeybees would be available for crop pollination. This is an important national interest. I believe that current trends in the provision of pollination and honey production will not be significantly affected by not providing relief. Crop producers indicate that they believe pollination will still be cost effective even if service prices rise.

I have also concluded that, in this case, imposing trade restrictions on imports of honey would run counter to our policy of promoting an open and fair international trading system.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 21, 1994*.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 1:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 375. An act to amend the Wild and Scenic Rivers Act by designating a segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System, and for other purposes.

S. 1574. An act to authorize appropriations for the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes.

At 4:53 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills and joint resolution, without amendment:

S. 1930. An act to amend the Consolidated Farm and Rural Development Act to improve the administration of claims and obligations of the Farmers Home Administration, and for other purposes.

S. 2005. An act to make certain technical corrections, and for other purposes.

S.J. Res. 150. Joint resolution to designate the week of May 2 through May 8, 1994, as "Public Service Recognition Week."

ENROLLED BILLS SIGNED

At 6:39 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 821. An act to amend title 38, United States Code, to extend eligibility for burial in national cemeteries to persons who have 20 years of service creditable for retired pay as members of a reserve component of the Armed Forces and to their dependents.

H.R. 3693. An act to designate the United States courthouse under construction in Denver, Colorado, as the "Byron White United States Courthouse."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2528. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, a report of a violation of the Antideficiency Act relative to the Operation and Maintenance, Army, Centrally Managed Allotment for Foreign Currency Fluctuations; to the Committee on Appropriations.

EC–2529. A communication from the Administrator of the Panama Canal Commission, transmitting, a draft of proposed legislation entitled "Panama Canal Commission Authorization Act, Fiscal Year 1995"; to the Committee on Armed Services.

EC–2530. A communication from the Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, notice of an intention to renew a lease of vessels to the Government of Brazil; to the Committee on Armed Services.

EC–2531. A communication from the General Counsel of the Navy, transmitting, a draft of proposed legislation to authorize the transfer of seventeen naval vessels to certain foreign countries; to the Committee on Armed Services.

EC–2532. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the annual report for calendar year 1993; to the Committee on Banking, Housing, and Urban Affairs.

EC–2533. A communication from the Deputy and Acting Chief Executive Officer of the Resolution Trust Corporation, transmitting, pursuant to law, the report on the Affordable Housing Disposition Program for the period from July 1, 1993 through December 31, 1993; to the Committee on Banking, Housing, and Urban Affairs.

EC–2534. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–2535. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–2536. A communication from the Commandant of the U.S. Coast Guard and the Under Secretary for Oceans and Atmosphere, Department of Transportation, transmitting, pursuant to law, notice relative to the Monterey Bay National Marine Sanctuary; to the Committee on Commerce, Science, and Transportation.

EC–2537. A communication from the Deputy General Counsel, Department of Commerce, transmitting, a draft of proposed legislation to amend the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act to authorize appropriations for fiscal years 1994 through 1996; to the Committee on Commerce, Science, and Transportation.

EC–2538. A communication from the Deputy Associate Director for Compliance, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–2539. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation to designate a segment of the Rubicon River in the State of California as a component of the Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

EC–2540. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on building energy efficiency standards activities for fiscal year 1993; to the Committee on Energy and Natural Resources.

EC–2541. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the comprehensive status of Exxon and stripper well oil overcharge funds as of December 31, 1993; to the Committee on Energy and Natural Resources.

EC–2542. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, the annual report for calendar year 1993; to the Committee on Energy and Natural Resources.

EC-2543. A communication from the Acting Assistant General Counsel (International and Legal Policy), Department of Energy, transmitting, notice of a meeting of the Industry Advisory Board of the International Energy Agency; to the Committee on Energy and Natural Resources.

EC-2544. A communication from the Deputy Associate Director for Compliance, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-2545. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report entitled "Outer Continental Shelf Lease Sales: Evaluation of Bidding Results and Competition" for fiscal years 1991 and 1992; to the Committee on Energy and Natural Resources.

EC-2546. A communication from the Secretary of the Interior, transmitting, a draft of proposed legislation entitled "National Park Service Entrepreneurial Management Reform Act"; to the Committee on Energy and Natural Resources.

EC-2547. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the report of the Federal construction prospectus for Tucson, Arizona and Cleveland, Ohio; to the Committee on Environment and Public Works.

EC-2548. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the report of the Public Buildings Service Acquisition of Facilities Program for fiscal year 1995; to the Committee on Environment and Public Works.

EC-2549. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the report of the Public Buildings Service Capital Improvement Program for fiscal year 1995; to the Committee on Environment and Public Works.

EC-2550. A communication from the Deputy Administrator of the General Services Administration, transmittig, pursuant to law, the report of the Building Project Survey for Dallas, Texas; to the Committee on Environment and Public Works.

EC-2551. A communication from the Deputy Administrator of the General Services Administration, transmittig, pursuant to law, the report of the Building Project Surveys for London, Kentucky and Covington, Kentucky; to the Committee on Environment and Public Works.

EC-2552. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report on hazardous waste management activities for calendar year 1993; to the Committee on Environment and Public Works.

EC-2553. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of the National Water Quality Inventory for calendar year 1992; to the Committee on Environment and Public Works.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. MOYNIHAN, from the Committee on Finance:

Joan Logue-Kinder, of New York, to be an Assistant Secretary of the Treasury.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND (for himself and Mr. HOLLINGS):

S. 2037. A bill to establish the South Carolina National Heritage Corridor, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MACK:

S. 2038. A bill to authorize Escambia County Florida, to convey certain lands in Florida to a political subdivision of the State of Florida, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BUMPERS:

S. 2039. A bill to require the Secretary of the Interior to convey the Corning National Fish Hatchery to the State of Arkansas; to the Committee on Environment and Public Works.

By Mr. BINGAMAN (for himself, Mr. DOMENICI, Mr. KEMPTHORNE, Mr. SASSER, Mr. CRAIG, and Mr. MATHEWS):

S. 2040. A bill to amend title 5, United States Code, to provide for assignment of employees of federally funded research and development centers and Federal employees between Federal agencies and federally funded research and development centers; to the Committee on Governmental Affairs.

By Mr. LAUTENBERG (for himself and Mr. ROTH):

S. 2041. A bill to encourage beneficiary developing countries to provide adequate protection of intellectual property rights, and for other purposes; to the Committee on Finance.

By Mr. DOLE (for himself, Mr. LIEBERMAN, Mr. MACK, Mr. LUGAR, Mr. LEVIN, Mr. MCCAIN, Mr. HATCH, Mr. FEINGOLD, Mr. DORGAN, Mr. MCCONNELL, Mr. HELMS, Mr. SIMPSON, Mr. COVERDELL, Mr. DECONCINI, Mr. GORTON, Mr. KEMPTHORNE, Mr. D'AMATO, Mr. PRESSLER, Mr. ROTH, Mr. BROWN, Mrs. HUTCHISON, and Mr. WALLOP):

S. 2042. A bill to remove the United States arms embargo of the government of Bosnia and Herzegovina; introduced, read twice and placed on the calendar.

By Mr. ROTH (for himself, Mr. BIDEN, Mr. LEVIN, Mr. BOREN, Mr. REID, Mr. COCHRAN, Mr. SARBANES, Mr. BROWN, Mr. D'AMATO, Mr. COATS, Mr. BUMPERS, Mr. CRAIG, Mr. BREAUX, Mr. DURENBERGER, Mr. SPECTER, Mr. PELL, Mr. SASSER, Mr. MCCAIN, and Mr. THURMOND):

S.J. Res. 183. A joint resolution designating the week beginning May 1, 1994 as "Arson Awareness Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. MIKULSKI (for herself and Mr. PRYOR):

S. Con. Res. 66. A concurrent resolution to recognize and encourage the convening of a National Silver Haired Congress; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself and Mr. HOLLINGS):

S. 2037. A bill to establish the South Carolina National Heritage Corridor, and for other purposes; to the Committee on Energy and Natural Resources.

SOUTH CAROLINA NATIONAL HERITAGE CORRIDOR ACT OF 1994

Mr. THURMOND. Mr. President, I rise today, along with Senator HOLLINGS, to introduce the South Carolina National Heritage Corridor Act of 1994. This legislation would establish a framework to help protect, conserve, and promote the natural, historical, cultural, and recreational resources of the region which have national significance.

Specifically, this legislation would establish a heritage corridor in South Carolina running from the western Piedmont down along the Savannah Valley toward Augusta, GA, then following the route of the old Charleston to Hamburg Railroad along the Ashley River Road to Charleston. This route contains 14 South Carolina counties: Oconee, Pickens, Anderson, Abbeville, Greenwood, McCormick, Edgefield, Aiken, Barnwell, Orangeburg, Bamberg, Dorchester, Colleton, and Charleston.

Further, this measure would establish a 23 member Commission, consisting of county representatives, South Carolina State officials, and Federal officials, including the Director of the National Park Service. It authorizes the Commission to oversee the development and implementation of a corridor management action plan. This plan will inventory the resources of the heritage corridor and discuss advisory standards for the use and promotion of those resources. Mr. President, let me emphasize that this legislation protects private property rights and will not interfere with local land use ordinances or plans.

The legislation requires the active participation of the Secretary of Interior, who shall appoint Commission members, approve the corridor management action plan, provide assistance to the Commission, and report to Congress on the actions taken to carry out the act.

Finally, this legislation requires that the Federal cost share percentage, including annual operating expenses, may not exceed 50 percent. However, non-Federal matching funds may be not only cash, but also services or inkind contributions.

Mr. President, the heritage corridor concept is a technique that has been used successfully in various parts of our Nation to promote historic preservation, natural resource protection, tourism, and economic revitalization for both urban and rural areas. Heritage corridors provide a flexible framework for governmental and private organizations to work together on a coordinated regional basis.

The growing popularity of this concept is evidenced by the efforts across the Nation to develop heritage areas. This past March, the National Coalition for Heritage Areas and other interested groups sponsored a conference on heritage partnerships. This event was attended by concerned groups and individuals from throughout the Nation as well as international representatives.

The initiative to develop the South Carolina National Heritage Corridor is an outgrowth of a grassroots effort to promote the history, culture, natural resources, and economy of the region. County visitor councils, historical societies, and other private and Government entities are now participating in this project.

Mr. President, I would like to describe some of the historic, cultural, and natural resources and sites of national significance which are contained in the South Carolina National Heritage Corridor. Let me begin by referencing correspondence between Dr. Rodger E. Stroup of the South Carolina State Museum and Ms. Joan Davis of the South Carolina Department of Parks, Recreation and Tourism. In his letter, Dr. Stroup describes the path of the corridor, noting many specific sites and areas of national significance. I ask unanimous consent that a copy of Dr. Stroup's correspondence be placed in the RECORD following these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

See exhibit 1.

Mr. THURMOND. Mr. President, in many respects, the heritage corridor forms a microcosm of the lower South and its history. In the upper region of the corridor, during the 1750's and 1760's, settlers and migrants came in search of rich lands. This area became a center of cotton and agricultural production. As westward lands opened up for settlement, it was a major jumping off point for migration during the antebellum years.

Significant events in the industrial and transportation history of the South took place in the corridor. Graniteville was the birthplace of the southern textile industry. It is the site of the first large-scale cotton mill in the South, built in 1845. This became one of the most important manufacturing centers in the pre-Civil-War South, a model for the textile industry. Located on one of the South's major cotton routes, it remains a textile center today. To accommodate the westward moving cotton crop, South Carolina merchants built the Charleston to Hamburg railroad, the longest railroad in the Nation in 1832.

The corridor also contains precious natural resources. The Francis Beidler Forest contains the largest remaining virgin stand of bald cyprus and tupelo trees in the world. Additionally, the Cathedral Bay Heritage Wildlife Preserve contains unique geological features known as the Carolina Bays. These oval depressions in the Earth, the origin of which remains a mystery, hold black water lakes. The significant riverine and estuarine systems of the ACE Basin forms an ecologically diverse area which contains rare plants and serves as a wildlife and waterfowl habitat.

Finally, Mr. President, located within the corridor are numerous historical sites and national historic landmarks. For example, Middleton Place, on the banks of the Ashley River is an 18th century plantation and the site of America's oldest landscaped gardens. It has survived revolution, Civil War, and natural disasters. It was home to Henry Middleton, President of the Continental Congress and his son, Arthur, a signer of the Declaration of Independence. Battlefields of both the Revolutionary War and of the Civil War are located in the corridor. Of great historical significance is the Burt-Stark House in Abbeville. At this site, less than a month after General Lee's surrender at Appomattox, the President of the Confederate States of America, Jefferson Davis, counseled with his generals on the conduct of the war. A decision was reached at this meeting to disband the Armies of the Confederacy.

Mr. President, these are just a few examples of the richness of this corridor. The corridor has much more to offer; much that reminds us of where we have been as a nation and where we are today. These and other attractions are representative of the merging of several cultures along the corridor—African, Caribbean, European, and native American. This legislation will assist the communities throughout the heritage corridor who are committed to the conservation and development of these assets.

Mr. President, this legislation is supported by the Governor of South Carolina, Carroll Campbell. Under his direction, various State agencies are supporting this effort, including the department of parks, recreation, and tourism, the department of archives and history, the arts commission, the State department board, and the Downtown Development Association. I ask unanimous consent that a letter from Governor Campbell be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

See exhibit 2.

Mr. THURMOND. Mr. President, I urge my colleagues to support this legislation. Further, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2037

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "South Carolina National Heritage Corridor Act of 1994".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The South Carolina National Heritage Corridor, more than 250 miles in length, possesses a wide diversity of significant rare plants, animals, and ecosystems, agricultural and timber lands, shellfish harvesting areas, historic sites and structures, and cultural and multicultural landscapes related to the past and current commerce, transportation, maritime, textile, agricultural, mining, cattle, pottery, and national defense industries of the region which provide significant ecological, natural, tourism, recreational, timber management, educational, and economic benefits.

(2) There is a national interest in protecting, conserving, restoring, promoting, and interpreting the benefits of the region for the residents of, and visitors to, the Corridor area.

(3) A primary responsibility for conserving, preserving, protecting, and promoting the benefits resides with the State of South Carolina and the various local units of government having jurisdiction over the corridor area.

(4) In view of the longstanding Federal practice of assisting the States in creating, protecting, conserving, preserving, and interpreting areas of significant natural and cultural importance, and in view of the national significance of the Corridor, the Federal Government has an interest in assisting the State of South Carolina, the units of local government of the State, and the private sector in fulfilling their responsibilities.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To protect, preserve, conserve, restore, promote, and interpret the significant land and water resource values and functions of the Corridor.

(2) To encourage and support, through financial and technical assistance, the State of South Carolina and the units of local government of the State and the private sector in the development of a management action plan for the Corridor to ensure coordinated public and private action in the Corridor area in a manner consistent with subsection (a).

(3) To provide during the development of an integrated Corridor Management Action Plan, Federal financial and technical assistance for the protection, preservation, and conservation of land and water areas in the Corridor that are in danger of being adversely affected or destroyed.

(4) To encourage and assist the State and the units of local government of the State to identify the full range of public and private technical and financial assistance programs and services available to implement the Plan.

(5) To encourage adequate coordination of all government programs affecting the land and water resources of the Corridor.

(6) To develop a management framework with the State of South Carolina and the units of local government of the State for—

(A) planning and implementing the Plan; and

(B) developing policies and programs that will preserve, conserve, protect, restore, enhance, and interpret the cultural, historical, natural, economic, recreation, and scenic resources of the Corridor.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) COMMISSION.—The term "Commission" means the South Carolina National Heritage Corridor Commission established under section 5.

(2) CORRIDOR.—The term "Corridor" means the South Carolina National Heritage Corridor established under section 4.

(3) CORRIDOR MANAGEMENT ACTION PLAN.—The term "Corridor Management Action Plan" or "Plan" means the management action plan developed pursuant to section 7.

(4) GOVERNOR.—The term "Governor" means the Governor of the State of South Carolina.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. SOUTH CAROLINA NATIONAL HERITAGE CORRIDOR.

(a) ESTABLISHMENT.—There is established in the State of South Carolina the South Carolina National Heritage Corridor.

(b) BOUNDARIES.—

(1) IN GENERAL.—The boundaries of the corridor are predominately the western counties of the State of South Carolina, extending from the western Piedmont along the Savannah Valley to Augusta, Georgia, along the route of the old Southern Railroad, along the Ashley River to Charleston.

(2) INCLUDED COUNTIES.—The Corridor shall consist of the following counties of South Carolina, in part or in whole, as the Commission may specify upon the recommendation of the units of local government within the corridor area:

(A) Oconee.

(B) Pickens.

(C) Anderson.

(D) Abbeville.

(E) Greenwood.

(F) McCormick.

(G) Edgefield.

(H) Aiken.

(I) Barnwell.

(J) Orangeburg.

(K) Bamberg.

(L) Dorchester.

(M) Colleton.

(N) Charleston.

(3) DETAIL.—The boundaries shall be specified in detail in the Corridor Management Action Plan prepared and approved pursuant to this Act.

SEC. 5. THE SOUTH CAROLINA NATIONAL HERITAGE CORRIDOR COMMISSION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the South Carolina National Heritage Corridor Commission.

(2) RESPONSIBILITIES.—The Commission shall assist Federal, State, and local authorities and the private sector in developing and implementing an integrated management action plan for the Corridor.

(b) MEMBERSHIP.—The Commission shall be composed of 23 members, appointed by the Secretary as follows:

(1) The Director of the National Park Service, ex officio, or a delegate of the Director.

(2) Six members shall be appointed from nominations submitted by the Governor, as follows:

(A) One member shall represent the interests of the South Carolina Department of Parks, Recreation, and Tourism or a successor agency of the Department.

(B) One member shall represent the South Carolina Department of Natural Resources or a successor agency of the Department.

(C) One member shall represent the South Carolina Arts Commission or a successor agency of the Commission.

(D) One member shall represent the South Carolina Museum Commission or a successor agency of the Commission.

(E) One member shall represent the South Carolina State Historic Preservation Office or a successor agency of the Office.

(F) One member shall represent the South Carolina Department of Commerce or a successor agency of the Department.

(3) Fourteen members shall be appointed from nominations submitted by the county commissioners of which one member shall be appointed from each of the counties of Oconee, Pickens, Anderson, Abbeville, Greenwood, McCormick, Edgefield, Aiken, Barnwell, Orangeburg, Bamberg, Dorchester, Colleton, and Charleston of the State of South Carolina. The nominations submitted by each county shall be based upon recommendations from community visitor councils located within the county.

(4) One member with knowledge and experience in the field of historic preservation, shall be appointed from nominations submitted by the Director of the National Park Service.

(5) One member shall be appointed from recommendations submitted by the South Carolina Downtown Development Association.

(c) PERIOD OF APPOINTMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), each member of the Commission shall be appointed to serve for a term of 3 years and, on the expiration of a term, may be reappointed to serve for one or more additional terms.

(2) LIMITED APPOINTMENTS.—The members appointed pursuant to paragraphs (2), (4), and (5) of subsection (b) shall be appointed to serve for a term of 2 years and, on the expiration of a term, may be reappointed to serve for one or more additional terms.

(d) INITIAL APPOINTMENTS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall appoint the initial members of the Commission.

(e) VACANCIES.—Any vacancy in the Commission shall be filled in the same manner in which the initial appointment was made. Any member of the Commission appointed to fill a vacancy shall serve for the remainder of the term for which the initial member was appointed. Any member of the Commission appointed for a definite term may serve after the expiration of the term until a successor is appointed.

(f) CHAIRPERSON.—The members of the Commission shall elect a Chairperson from among the members of the Commission. The Chairperson shall serve as Chairperson for the duration of the term for which the Chairperson was appointed.

(g) QUORUM.—A simple majority of Commission members shall constitute a quorum, but a lesser number may hold public meetings. The affirmative vote of not less than 11 members of the Commission shall be required to approve the budget of the Commission.

(h) MEETINGS.—The Commission shall meet at least quarterly or at the call of the Chairperson or a majority of its members. Meetings of the Commission shall be subject to section 552b of title 5, United States Code (relating to open meetings).

(i) PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall serve without compensation. Each member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to compensation received for service as officers or employees of the Federal Government.

(2) TRAVEL EXPENSES.—The members of the Commission, when engaged in Commission business, shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for persons employed intermittently in the Government service under section 5703 of title 5, United States Code.

(j) STAFF.—

(1) IN GENERAL.—The Commission may, without regard to civil service laws and regulations, appoint and fix the compensation of such staff as may be necessary to enable the Commission to carry out its duties. The Commission may appoint a Director and other officers as the Commission considers necessary or appropriate. The Commission may appoint to the staff such specialists as the Commission considers necessary or appropriate to carry out the duties of the Commission, including specialists in the areas of planning, community development, interpretive services, historic preservation, recreation, natural resources, commerce and industry, education, financing, and public relations.

(2) COMPENSATION.—The Commission may fix the compensation of the Director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate payable for grade GS-15 of the General Schedule.

(k) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates determined by the Commission to be reasonable.

(l) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, the personnel of such agency to the Commission to assist the Commission in carrying out the duties of the Commission. The Commission may accept the services of personnel detailed from the State of South Carolina, or any political subdivision of such State, and may reimburse the State or political subdivision for the services.

(m) ADMINISTRATIVE SUPPORT.—The Administrator of General Services shall provide such administrative support services as the Commission may request, on a reimbursable basis.

SEC. 6. POWERS OF THE COMMISSION.

(a) PUBLIC MEETINGS.—The Commission may, for the purpose of carrying out this Act, hold such public meetings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may not issue subpoenas or exercise subpoena authority.

(b) BYLAWS.—The Commission may make such bylaws, rules, and regulations, consistent with this Act, as it considers necessary to carry out its functions under this Act.

(c) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission, if so authorized by the Commission, may take any action which the Commission is authorized to take under this section.

(d) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) Use of Funds To Obtain Money.—The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(f) Retaining Revenues.—The Commission may retain revenue from the sale or lease of any goods or services.

(g) Gifts.—Notwithstanding any other provision of law, the Commission may seek and accept gifts, bequests, and donations of funds, property, or services from private individuals, foundations, corporations, and other private entities, and from public entities for the purpose of carrying out its duties. For purposes of section 170(c) of the Internal Revenue Code of 1986, any donation to the Commission shall be deemed to be a gift to the United States.

(h) Acquisition and Disposition of Real Property.—

(1) In general.—Except as provided in paragraphs (2) and (3), the Commission may not acquire real property, or interests in real property.

(2) Conditions for acquisition.—Subject to paragraph (3), the Commission may acquire real property, or interests in real property, in the Corridor—

(A) by gift or devise;

(B) by purchase from a willing seller using donated or appropriated land acquisition funds; or

(C) by exchange.

(3) Conveyance.—Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate public agency or private nonprofit organization, as determined by the Commission—

(A) as soon as practicable after such acquisition; and

(B) on the condition that the real property or interest in real property limits use of the property to uses that are consistent with this Act.

(4) Disposal of property.—The Commission may with approval of the Secretary, sell any real property or interest in real property acquired pursuant to subparagraphs (A) and (B) of paragraph (2) and retain the revenue from the sale.

(i) Technical Assistance.—For the purposes of implementing the Corridor Management Action Plan, the Commission may provide technical assistance to Federal agencies, the State of South Carolina, political subdivisions of the State, and persons (including corporations).

(j) Advisory Groups.—The Commission may establish public technical advisory groups to assist the Commission in carrying out the duties of the Commission with respect to the areas of economic development, historic preservation, natural resources, tourism, recreation and open space, and transportation. The Commission may establish such additional advisory groups as are necessary to carry out the duties of the Commission and ensure open communication with and assistance from interested persons (including organizations), the State of South Carolina, and political subdivisions of the State.

(k) Local Authority and Private Property Rights.—Nothing in this Act is intended to affect or to authorize the Commission to interfere with—

(1) the rights of any person with respect to private property; or

(2) any local land use ordinance or plan of the State of South Carolina or a political subdivision of the State.

SEC. 7. DUTIES OF THE COMMISSION.

(a) In General.—The Commission shall exercise powers authorized by section 6 to coordinate activities of Federal, State, and local governments and private businesses and organizations to further historic preservation, cultural conservation, natural area protection, soil conservation, timber management, and economic development in a manner consistent with this Act and in accordance with the Plan developed pursuant to subsection (b).

(b) Corridor Management Action Plan.—

(1) Period for development.—Not later than 18 months after the date on which the Commission conducts its first meeting, the Commission shall submit a Corridor Management Action Plan for the Corridor to the Secretary and to the Governor for review and approval.

(2) Plan requirements.—The Plan shall take into consideration State, county, and local plans existing on the date on which the Plan is prepared. The Plan shall—

(A) provide an inventory that includes any real property in the Corridor that should be conserved, protected, preserved, restored, managed, developed, or maintained because of the natural, cultural, historic, recreational, or scenic significance of the property;

(B) provide an analysis of then current and potential land uses within the corridor that affect the character of the Corridor;

(C) determine the boundaries of the Corridor on basis of the information collected pursuant to subparagraphs (A) and (B);

(D) recommend advisory standards and criteria applicable to the construction, preservation, restoration, alteration, and use of real property of natural, cultural, historic, recreational, or scenic significance within the corridor;

(E) include a heritage interpretation plan to interpret the resources and values of the Corridor, and to provide for appropriate educational, recreational, and tourism opportunities and development of the Corridor;

(F) identify the full range of public and private technical and financial assistance programs available to implement the Plan, and detail how appropriate Federal, State, and local programs may best be coordinated to promote the purposes of this Act; and

(G) contain a coordinated implementation plan that—

(i) specifies the activities of Federal, State, and local governments; and

(ii) includes cost estimates, schedules, and a commitment of resources for the accomplishment of the implementation plan.

(c) Approval of the Plan.—

(1) Approval by the governor.—Not later than 60 days after receiving a Plan submitted by the Commission pursuant to subsection (b), the Governor shall approve or disapprove the Plan.

(2) Approval by the secretary.—A Plan approved by the Governor under paragraph (1) shall be submitted to the Secretary for approval or disapproval. Not later than 30 days after receipt of the Plan, the Secretary shall approve or disapprove the Plan.

(3) Criteria for decision.—The Governor and the Secretary shall approve a Plan if—

(A) the Plan will adequately protect the significant natural, cultural, historic, recreational, and scenic resource values and functions of the Corridor;

(B) the Commission has afforded adequate opportunity for public involvement in the preparation of the Plan; and

(C) the Secretary and the Governor receive adequate assurances from appropriate officials of the State of South Carolina that the recommended implementation program identified in the Plan will be initiated within a reasonable time after the date of approval of the Plan.

(d) Disapproval of Plan.—

(1) In general.—If either the Secretary or the Governor disapproves a Plan, the Secretary or the Governor, as appropriate, shall—

(A) advise the Commission in writing of the reasons for the disapproval; and

(B) recommend revisions to the Plan.

(2) Revision of disapproved plan.—Not later than 90 days after the receipt of a notice of disapproval under paragraph (1), the Commission shall revise and resubmit the Plan for approval in accordance with subsection (c).

(e) Implementation of Plan.—

(1) In general.—After the Secretary and the Governor review and approve a Plan, the Commission shall implement the Plan by taking appropriate steps to—

(A) conserve, protect, restore, preserve, and interpret the natural, cultural, and historic resources of the Corridor;

(B) promote the educational and recreational resources and opportunities with respect to the Corridor that are consistent with the resources of the Corridor; and

(C) support public and private efforts to achieve economic revitalization, in a manner consistent with the goals of the Plan.

(2) Steps.—The steps referred to in paragraph (1) may include—

(A) assisting State and local governmental entities and nonprofit organizations in planning and implementing programs, projects, or activities in a manner consistent with this Act, including visitor use facilities, tour routes, and exhibits;

(B) encouraging, by appropriate means, enhanced economic development in the corridor in a manner consistent with the goals of the Plan; and

(C) promoting public awareness and appreciation for historical, cultural, natural, recreational, and scenic resources and associated values of the Corridor.

(f) Annual Reports.—

(1) Report of the commission.—As soon as practicable after the end of the first fiscal year during which the Commission is established, and annually thereafter, the Commission shall submit a report to the Secretary. The report shall describe, for the fiscal year that is the subject of the report—

(A) the expenses and income of the Commission; and

(B) a general description of the activities of the Commission.

(2) Report of the secretary.—As soon as practicable after the date on which the Commission submits a report to the Secretary under paragraph (1), the Secretary shall submit a report to Congress that includes—

(A) for the fiscal year that is the subject of the report—

(i) a description of the loans, grants, and technical assistance provided by the Secretary, and from other Federal and non-Federal sources, to carry out the purposes of this Act; and

(ii) an analysis of the adequacy of actions taken to carry out this Act; and

(B) the anticipated funds and personnel to be made available to carry out this Act by the Secretary for the fiscal year following the fiscal year that is the subject of the report.

SEC. 8. TERMINATION OF THE COMMISSION.

(a) TERMINATION.—

(1) IN GENERAL.—Except as provided in subsection (b), the Commission shall terminate on the date that is 12 years after the date of enactment of this Act.

(2) TRANSFER OF PROPERTY.—Notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), any property or funds of the Commission remaining upon the expiration of the Commission shall be transferred by the Commission to the Secretary, to a State or local government agency, to a private nonprofit organization referred to in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from income taxes under section 501(a) of such Code, or to any combination of the foregoing.

(b) EXTENSIONS.—The Commission may be extended for a period of not more than 5 years beginning on the date referred to in subsection (a) if, not later than 180 days before such date—

(1) the Commission determines such extension is necessary to carry out this Act;

(2) the Commission submits the proposed extension to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate before the termination date; and

(3) the Secretary and the Governor each approve such extension.

SEC. 9. DUTIES OF THE SECRETARY.

(a) ASSISTANCE.—Upon request of the Commission, and subject to the availability of funds directly appropriated for this purpose, or made available on a reimbursable basis, the Secretary shall provide administrative, technical, financial, development, and operations assistance. Such assistance may include—

(1) general administrative support in planning, finance, personnel, procurement, property management, environmental and historical compliance, and land acquisition;

(2) personnel;

(3) office space and equipment;

(4) planning and design services for visitor use facilities, trails, interpretive exhibits, publications, signs, and natural resource management;

(5) development and construction assistance, including visitor use facilities, trails, river use and access facilities, scenic byways, signs, waysides, and rehabilitation of historic structures; and

(6) operations functions, including interpretation and visitor services, maintenance, and natural resource management services conducted within the boundaries of the corridor.

(b) LOANS, GRANTS, AND COOPERATIVE AGREEMENTS.—For the purposes of assisting in the development and implementation of the Plan, the Secretary may, in consultation with the Commission, make loans and grants to, and enter into cooperative agreements with, the State of South Carolina (or a political subdivision thereof), private nonprofit organizations, corporations, or any person.

(c) LAND TRANSFERS.—The Secretary may accept transfers of real property from the Commission within the boundaries of the corridor as established in the Corridor Management Action Plan.

SEC. 10. DUTIES OF OTHER FEDERAL ENTITIES.

Any Federal entity conducting or supporting activities directly affecting the corridor shall—

(1) consult with the Secretary and the Commission with respect to such activities;

(2) cooperate with the Secretary and the Commission in carrying out their duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner which the Commission determines will not have an adverse effect on the corridor.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subject to subsection (b), there are authorized to be appropriated such sums as are necessary to carry out this Act.

(b) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the funding provided to the Commission to carry out this Act for any year may not exceed 50 percent of the total cost of—

(A) the expenditures of the Commission for administrative matters for that year;

(B) the expenditures of the Commission for the development and implementation of the Corridor Management Action Plan for that year; and

(C) the expenditures of the Commission for land acquisition for that year.

(2) NONFEDERAL SHARE.—The non-Federal share of the expenditures referred to subparagraphs (A), (B), and (C) of paragraph (1) may be in the form of cash, services, or in-kind contributions, fairly valued.

EXHIBIT 1

SOUTH CAROLINA STATE MUSEUM,
Columbia, SC, April 19, 1994.

JOAN DAVIS,
Community Development Division, South Carolina Department of Parks, Recreation and Tourism, Columbia, SC.

DEAR JOAN: I am intrigued with the concept of developing a Heritage Corridor in fourteen counties along South Carolina's western boundary. Stretching from Charleston to the mountains the proposed corridor would take in all of the elements that have characterized South Carolina for the past three centuries.

Beginning in Charleston, one of the most cosmopolitan of American cities before 1860, the corridor follows the route of the old South Carolina Railroad through Colleton, Bamberg, Barnwell and into Aiken County. When completed in 1831 this was the longest railroad in the world. Prior to the Civil War this area was dotted with cotton plantations, the predominant economic factor in the state's antebellum years. In Aiken's Horsecreek Valley the state's textile industry was born during the 1830's. Only a few miles away the Savannah River Site was the nation's supplier of plutonium for nuclear weapons during the Cold War years. From North August, the terminus of the old South Carolina Railroad, the proposed corridor follows the Savannah Valley to the foothills in Oconee County.

Also a major cotton producing area before 1860, Edgefield County was home to ten governors, a remarkable number for a small county. Beginning in the 1820's the production of alkaline glazed stoneware began in Edgefield and subsequently spread throughout the South. Originally produced as utilitarian storage ware, today Edgefield pottery is a highly prized collectible.

The corridor continues along the Savannah Valley through once prosperous cotton fields into Anderson County, a major center of the state's textile industry. Around Anderson one finds both traditional textile companies as well as a recent influx of major multinational corporations.

The last section of the corridor takes one to the foothills of the Appalachian Mountains. A journey through the proposed corridor encompasses all of South Carolina's past and present. From cosmopolitan Charleston in the 1700's with its wealthy merchants and rice planters to the challenges facing low income residents of the Appalachians, the corridor crosses not only the state's entire geography, but also encompasses all of the state's people.

Historic sites, natural resources, cultural diversity and modern manufacturing successes are all part of the proposed corridor. A visitor who journeys through the corridor certainly departs with an understanding of South Carolina's history and development, as well as an appreciation for the state's diverse geography and natural features.

This proposed corridor has several components of national significance. As the cotton culture spread through this area more and more planters became entrenched in defending slavery, contributing to the forces that lead to the Civil War. Leading proslavery advocates John C. Calhoun and James Henry Hammond lived in the corridor. As residences of the area their theories on states rights and slavery evolved from personal experiences.

After the war the development of the textile industry in the corridor changed the focus of South Carolina's economy from an agricultural to an industrial base, a phenomena which subsequently spread across the South. Finally, the location of the Savannah river Site in the center of the corridor reflects not only the Cold War strategy of the United States, but also the challenge of the cleanup facing all the nuclear production facilities across the country.

Sincerely,

RODGER E. STROUP,
Director of Collections and Interpretation.

EXHIBIT 2

STATE OF SOUTH CAROLINA,
OFFICE OF THE GOVERNOR,
Columbia, SC, April 1, 1994.

Hon. STROM THURMOND,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR: Developing the economies of the rural areas of our state often requires that we employ creative non-traditional economic development methods. One such method is the application of a deliberate strategy to capitalize on the economic value of the rich cultural heritage and natural resources embodied in many of the rural areas of our state. Cultural or heritage tourism is one of the fastest growing trends in tourism. The resulting potential for job creation and tourism-related investment, if properly managed, can be a significant factor in the economic growth of these rural communities.

The proposed designation of a fourteen country region of our state as a South Carolina National Heritage Corridor represents a significant step forward in our efforts to recognize and capture this valuable economic resource. This is an area rich in cultural and natural resources with an important American story to tell. What happened along this corridor set in motion a style of socio-economic development that spread throughout the lower South and Southwest and eventually led to the industrialization of the region as well as war between the states. It tells the story of the development of agriculture, industry and transportation in the South.

To direct this effort from the state level, I have designated the Department of Parks, Recreation and Tourism through its Community Development program, to be responsible for staffing this effort and providing a broad array of support for the South Carolina Heritage Corridor.

We all recognize the tremendous importance and long-range benefit of the initiative for South Carolina, and are particularly pleased that the proposed area includes your hometown of Edgefield.

Thank you for your assistance.

Sincerely,

CARROLL A. CAMPBELL, Jr.,
Governor.

Mr. HOLLINGS. Mr. President, I am privileged today to join with Senator THURMOND in introducing the South Carolina National Heritage Corridor Act of 1994. This act aims to protect, restore, and promote the South Carolina National Historic Corridor—a 200-mile-long, 13-county swath in the western part of the State, running along the Savannah River Valley from the foothills of the Piedmont to North Augusta, at which point it follows the route of the old Hamburg-to-Charleston railroad all the way to Charleston.

This act has several objectives. It would protect the significant land and water resources of the national heritage corridor. It would support, through financial and technical assistance, the State and local governments, as well as the private sector, in developing a management action plan for the corridor. And it would create a management framework to bring together the State and local governments to jointly develop policies and programs to conserve and enhance the cultural, natural, economic, recreational, and scenic resources of the corridor.

Mr. President, the historic corridor concept has been used by a variety of public and private groups across the Nation to encourage historic and natural preservation, and to promote tourism and economic revitalization. The approach has been used successfully in the Blackstone River Valley National Heritage Corridor in Rhode Island and Massachusetts, in the lower Eastern Shore of Maryland, in the Lackawanna River Valley in Pennsylvania, and elsewhere. The heritage corridor concept offers a flexible way for government and private organizations to work together to promote economic growth and job creation.

Mr. President, with industry concentrated in a limited number of urban areas, it is no secret that small, scenic towns and rural areas are looking to tourism as a means of strengthening and diversifying their declining economies. The heritage corridor concept offers an opportunity for many communities to work cooperatively and pool their resources in order to boost tourism.

The South Carolina Heritage Corridor originated with a tourism committee in the city of Abbeville, and has grown to include 14 counties and over 40 towns and rural communities. This is a grassroots movement that has captured the imagination and enthusiasm of citizens across the western part of my State. The South Carolina Heritage Corridor is well conceived and holds tremendous promise for my State. I urge my colleagues' support for this important bill.

By Mr. BUMPERS:

S. 2039. A bill to require the Secretary of the Interior to convey the Corning National Fish Hatchery to the State of Arkansas; to the Committee on Environment and Public Works.

THE CORNING NATIONAL FISH HATCHERY CONVEYANCE ACT OF 1994

• Mr. BUMPERS. Mr. President, today, I am introducing legislation that would transfer the property rights in the Corning National Fish Hatchery from the Federal Government to the State of Arkansas. In 1983, the Fish and Wildlife Service closed this hatchery because of budget constraints. Because the State of Arkansas was interested in maintaining the Corning facility as part of its State hatchery system, the U.S. Fish and Wildlife Service signed a memorandum of understanding with the Arkansas Game and Fish Commission transferring the operation of the Corning Hatchery to the Arkansas Game and Fish Commission. The hatchery has even been renamed the William H. Donham State Fish Hatchery.

Mr. President, its time to give the State of Arkansas clear title to this property. The State has been operating and maintaining it for 10 years without any Federal funding and it has become an important component of the State's fisheries program. The proposed transfer not only has the support of the Arkansas Game and Fish Commission but also the U.S. Fish and Wildlife Service.

I urge my colleagues to join me in support of this legislation and look forward to its speedy passage.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2039

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Corning National Fish Hatchery Conveyance Act of 1994."

SEC. 2. CONVEYANCE OF THE CORNING NATIONAL FISH HATCHERY TO THE STATE OF ARKANSAS.

(a) CONVEYANCE REQUIREMENT.—The Secretary of the Interior shall convey to the State of Arkansas, without reimbursement and by no later than December 31, 1994, all right, title, and interest of the United States in and to the property described in subsection (b), for use by the Arkansas Game and Fish Commission as part of the State of Arkansas fish culture program.

(b) PROPERTY DESCRIBED.—The property refereed to in subsection (a) is the property formally known as the Corning National Fish Hatchery, and now known as the William H. Donham State Fish Hatchery, located one mile west of Corning, Arkansas, on Arkansas State Highway 67 in Clay County, Arkansas, consisting of 137.34 acres, (more or less) and all improvements and related personal property under the control of the Secretary that is located on that property, including buildings, structures, and equipment.

(c) REVERSIONARY INTEREST OF UNITED STATES.—If after the conveyance required by subsection (a) any of the property described in subsection (b) is used for purposes other than as described in subsection (a), all right, title, and interest conveyed under this section shall revert to the United States.•

By Mr. BINGAMAN (for himself, Mr. DOMENICI, Mr. KEMPTHORNE, Mr. SASSER, Mr. CRAIG, and Mr. MATHEWS):

S. 2040. A bill to amend title 5, United States Code, to provide for assignment of employees of federally funded research and development centers and Federal employees between Federal agencies and federally funded research and development centers; to the Committee on Governmental Affairs.

AMENDING THE INTERGOVERNMENTAL PERSONNEL ACT

• Mr. BINGAMAN. Mr. President, today, I am introducing a bill to amend the Intergovernmental Personnel Act to allow employees of all federally funded research and development centers [FFRDC's] to utilize the Intergovernmental Personnel Act to be placed in Federal agencies and Federal employees to use the act to be placed at all FFRDC's. I am pleased that Senator DOMENICI, Senator KEMPTHORNE, Senator SASSER, Senator CRAIG, and Senator MATHEWS have joined me in cosponsoring this bill. I am also pleased that my House colleague from New Mexico, Congressman SCHIFF, is today introducing identical legislation in the House together with Congresswoman LLOYD.

The specific problem which I am trying to address in this bill arises as a result of the change in the nature of the contract at Sandia National Laboratories last year as that laboratory transitioned from a no fee contract under AT&T management to an incentive fee contract under Martin Marietta management. Sandia employees have long served with distinction in a host of Federal agencies under the Intergovernmental Personnel Act. They have served at the Department of Defense, the Department of Energy, the Department of Commerce, the intelligence community, and elsewhere. They bring special expertise in a broad range of technical areas to the executive branch.

Unfortunately, unless this bill is passed, that long history of service will be disrupted starting this fall. The reason is that the new contract with Martin Marietta is an incentive fee contract, whereas the old contract with

AT&T was a no-profit, no-fee contract. Because of the way the Intergovernmental Personnel Act currently is drafted, this has made Sandians ineligible to utilize the IPA to be placed in Federal agencies. This is clearly an unintended consequence of contract management reform at the Department of Energy. And I believe that both the Department of Energy and other agencies that have benefited from the involvement of Sandia employees in their offices support the change I am proposing. I also understand that there is support for this bill within the Office of Personnel Management.

The bill will also immediately allow employees of Oak Ridge National Laboratory to utilize the IPA mechanism to be placed in Federal agencies. Like Sandia, they lost their eligibility a decade ago when the initial Oak Ridge contractor, Union Carbide, declined to continue to operate that laboratory and Martin Marietta won the competition to operate the lab on an incentive fee basis. Depending on who wins the contract to operate Idaho National Engineering Laboratory, a competition currently underway, Federal agencies would also benefit if this bill is enacted by being able to utilize the IPA mechanism to bring in employees from that laboratory as well.

In light of the thrust of management reform at the Department of Energy, which is toward the use of incentive fee contracts with private sector contractors, as opposed to continued use of university or nonprofit contractors, I believe many of the other DOE FFRDC's will soon also require the statutory change I am proposing. It strikes me as incongruous that FFRDC's who happen to be run by universities or nonprofits, whether on a fixed fee or incentive fee basis, as well as FFRDC's who are run by private sector firms on a fixed fee basis, qualify to use the IPA. But FFRDC's run by private sector firms on a incentive fee basis do not. This needs to be corrected. And our bill would do that.

I hope that this bill can be given prompt consideration, and look forward to working with my colleagues to obtain its enactment this year.

I request unanimous consent that the full text of the bill appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2040

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ASSIGNMENTS OF EMPLOYEES BETWEEN FEDERAL AGENCIES AND FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

(a) AUTHORITY.—Section 3371(4) of title 5, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) a federally funded research and development center.".

(b) PROVISIONS GOVERNING ASSIGNMENTS.—Section 3372 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(e) Under regulations prescribed pursuant to section 3376 of this title—

"(1) an assignment of an employee of a Federal agency to an other organization, and an employee so assigned, shall be treated in the same way as an assignment of an employee of a Federal agency to a State or local government, and an employee so assigned, is treated under the provisions of this subchapter governing an assignment of an employee of a Federal agency to a State or local government; and

"(2) an assignment of an employee of an other organization to a Federal agency, and an employee so assigned shall be treated in the same way as an assigned of an employee of a State or local government to a Federal agency, and an employee so assigned, is treated under the provisions of this subchapter governing an assignment of an employee of a State or local government to a Federal agency.".•

By Mr. LAUTENBERG (for himself and Mr. ROTH):

S. 2041. A bill to encourage beneficiary developing countries to provide adequate protection of intellectual property rights, and for other purposes; to the Committee on Finance.

RIGHTS OF INTELLECTUAL PROPERTY OWNERS FAIRNESS FACILITATION ACT OF 1994

• Mr. LAUTENBERG. Mr. President, along with Senator ROTH, I am introducing legislation to address a problem that costs American industry and workers billions of dollars every year: piracy of American intellectual property rights by foreign countries. The administration has placed an annual price tag on foreign piracy of American ideas and inventions at $50 billion. Every dollar lost to foreign violations undermines our economy and puts American jobs at risk.

For many years I have been concerned that our trade policy has been at odds with our development policy because so many recipients of U.S. benefit programs—such as duty-free Generalized System of Preferences [GSP] import privileges—have habitually denied adequate protection for the fruits of American invention and creativity.

The bill we are introducing today would create a stronger link between the newly negotiated international GATT standard for intellectual property and the GSP development program. To preserve benefits under the GSP program, the bill would require countries to comply with the new international standards for intellectual property in a more timely way than the GATT requires.

Mr. President, the negotiators at the Uruguay round of the GATT achieved some real progress in the area of intellectual property rights. The Round's Agreement on Trade-Related Aspects of Intellectual Property Rights—commonly called the TRIPS Agreement—represents an important milestone in the pursuit of strong worldwide intellectual property protection. For the first time, it establishes important international intellectual property standards.

Unfortunately, the agreement gives foreign countries a very long time—up to 11 years in some cases—to comply with those standards although the United States has only 1 year to come into compliance with the TRIPS obligations under the GATT.

While the newly negotiated intellectual property standards are relatively good, Mr. President, 11 years is simply too long a transition period. Because the GATT negotiations are completed, there is nothing the United States can now do within the context of the GATT to bring about an earlier compliance date.

However, we can use our own benefit programs to urge earlier compliance. We ought to use every appropriate tool at our disposal to expedite compliance with those standards.

GSP is one such tool. GSP is not a right; it is a benefit. Nearly 150 countries benefit from the GSP program, which enables some 4,400 products to enter the United States duty-free. The program creates significant leverage for our Government because we can unilaterally confer and deny GSP status to eligible countries without being subjected to the GATT's multilateral dispute settlement mechanism. It is entirely appropriate that we use this powerful tool to encourage developing countries to come into compliance more expeditiously with the international standards set by the GATT.

Mr. President, the new GATT TRIPS Agreement enters into force in 1995. All compliance deadlines follow that 1995 date. Under the GATT, developing countries will have 5 years, or until the year 2000, to come into compliance with the new international intellectual property standards. They will have an additional 5 years, or until the year 2005, to change their laws to meet the product patent protection standard.

The bill I am introducing today would require developing countries to come into compliance with all TRIPS standards—including patents—within 2 years, or by the year 1997. The President would need to certify 1 year after TRIPS enters into force that developing countries are at least making overall, significant progress toward implementing the TRIPS standards. If they do not, they will not be able to preserve their GSP benefits.

Under the GATT, least developed countries will have 11 years, or until the year 2006, to meet the TRIPS standards. I recognize that these countries may have difficulties in meeting even the minimal TRIPS standards as quickly as developed or even other developing countries. That is why under my bill, the least developed countries will have 5 years, or until the year 2000, to change their laws to meet the international standard. If they do not, they will not retain their GSP benefits.

Why is this bill necessary? Because our current GSP law is not tough enough to bring the developing nations of the world into compliance with the TRIPS standards more quickly. Under existing law, when making decisions about a country's GSP eligibility, the President need only take into consideration the extent to which a country is providing "adequate and effective means under its laws for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property * * *." The existing law does not specify deadlines for compliance. It is not explicitly linked to the new international GATT standard on intellectual property. It will not create real pressure to bring the developing countries of the world into compliance sooner.

Mr. President, although it has been on the books for many years, the existing law has yielded extremely limited results. To it's credit, the U.S. Trade Representative has worked under the existing law to secure improvements in intellectual property protection. It did suspend a limited amount of GSP benefits from Brazil, India, and Thailand because of their failure to provide adequate intellectual property protection. The administration considered Thailand and India to be the most flagrant violators of American intellectual property rights by designating them priority countries for 3 years in a row and suspended some benefits. Brazil, which had long been of concern, received the same priority designation last year. Consequently, over the years, some GSP benefits were suspended for these countries.

However, although some benefits were removed, India continued importing into the United States almost 80 percent of all eligible products free of duty last year. Thailand continued to import over 65 percent of its products duty-free. Brazil continued to import over 72 percent of eligible products into the United States duty-free in 1933.

Unfortunately, the loss of some GSP benefits brought about only limited improvements. Intellectual property protection in these and many other countries is still woefully inadequate. Tremendous progress still needs to be made.

Even more, while the USTR has documented specific deficiencies in intellectual property rights throughout the world in it's annual report outlining major barriers to trade, not one country—other than the three I have already mentioned—has ever lost even a portion of its GSP benefits for violations of intellectual property rights. Nonetheless, their intellectual property laws remain inadequate.

Clearly, the message is not getting through to the offending countries that the United States expects GSP beneficiary countries to clean up their act on intellectual property protection. The bill I am introducing today will help the USTR get that message across.

Mr. President, I do not want or intend to tie the President's hands. I know that the President and the USTR share my goal of bringing about greater cooperation from the international community on this important issue. When I discussed this issue with USTR Kantor at a hearing last year in the Commerce, Justice, State Appropriations Subcommittee, he said the administration—

> should look at the possibility of using every tool at its disposal to convince countries that they should protect intellectual property as well as investment as well as live up to their agreements in a way that would be beneficial not only to our workers and our business but beneficial to them if they expect to receive the kind of assistance that they have been receiving.

I want to help the administration convince these countries to provide such protection.

Nonetheless, I recognize there may be situations in which the administration may need to make an exception for overriding reasons. That is why my bill includes a waiver which would enable the President to grant privileges to a country which would otherwise be disqualified if he determines it would be in the United States' national economic interest.

The bill is not intended to restrict the President's ability to ask countries to go beyond the TRIPS standards. It is not intended to restrict his ability to deny GSP benefits before the deadlines established in the bill.

I also recognize that foreign countries may need some assistance to help them improve intellectual property protection. To that end, the bill outlines additional measures—such as technical assistance programs through the Department of Commerce and Agency for International Development—that can be implemented to help countries move in the right direction.

Mr. President, the legislation I am introducing today helps address many of the problems encumbering the present system of intellectual property rights protection. It establishes common, minimal standards—the TRIPS standards—which all countries should be able to meet. It sets a common, predictable U.S. response for each country which fails to meet those standards. It reduces the extended period of time developing countries—those who receive American foreign aid and import products into the United States duty-free—would be exempt from the TRIPS standards. Finally, it gives the President the flexibility to make exceptions for least-developed countries and others he deems would be in our national economic interest.

The bill has been endorsed by the Intellectual Property Committee, the Intellectual Property Owners, the International Intellectual Property Alliance, the Pharmaceutical Manufacturers Association, and Absolute Entertainment, Inc. I ask unanimous consent that copies of their letters endorsing this bill be included in the RECORD. I ask unanimous consent that a copy of the bill be included in the RECORD.

I urge my colleagues to support this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2041

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rights of Intellectual Property Owners Fairness Facilitation Act of 1994".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) United States industry loses billions of dollars each year to countries that do not provide adequate protection of intellectual property rights.

(2) According to the Department of Commerce, United States companies lose approximately $50,000,000,000 annually as a result of violations of intellectual property rights by foreign countries.

(3) It is in the interest of the United States to leverage its foreign policy to achieve certain trade policy objectives, such as adequate, effective, and timely protection of intellectual property rights.

(4) Several countries that qualify under the generalized system of preferences provisions have been identified under section 182 of the Trade Act of 1974 (19 U.S.C. 2242) as countries that do not provide adequate and effective protection of patents, copyrights, and trademarks or deny fair and equitable market access to United States persons that rely on intellectual property rights protection.

(5) Several countries that receive United States foreign assistance also have been identified under section 182 of the Trade Act of 1974 as countries that do not provide adequate and effective protection of patents, copyrights, and trademarks or deny fair and equitable market access to United States persons that rely on intellectual property rights protection.

SEC. 3. COUNTRIES INELIGIBLE FOR GSP TREATMENT.

(a) IN GENERAL.—

(1) IMPLEMENTATION OF AGREEMENT ON TRIPS.—Section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended—

(A) by striking "and" at the end of paragraph (6),

(B) by striking the period at the end of paragraph (7) and inserting "; and",

(C) by inserting immediately after paragraph (7) the following new paragraph:

"(8) if such country is not implementing parts I, II, and III of the Agreement on TRIPS—

"(A) beginning on the date that is 1 year (2 years in the case of a country with respect to which the President has made a qualified certification) after the date the Agreement enters into force and effect, or

"(B) beginning on the date that is 5 years after the date the Agreement enters into force and effect in the case of a least-developed beneficiary developing country.",

(D) in the last sentence, by striking "(4), (6), (7), and (8)" and inserting "(4), (5), (6), (7), and (8)", and

(E) by adding at the end the following new sentence: "For purposes of paragraph (8)(A), a 'qualified certification' means a certification by the President to the Congress that is made within 1 year after the date the Agreement on TRIPS enters into force and effect and that states that a country is making overall significant progress in implementing parts I, II, and III of the Agreement.".

(2) CONFORMING AMENDMENT.—Section 502(a) of such Act (19 U.S.C. 2462(a)) is amended by adding at the end the following new paragraph:

"(5) For purposes of this title—

"(A) the term 'Agreement on TRIPS' means the Agreement on Trade-Related Aspects of Intellectual Property Rights entered into as part of the Uruguay Round Agreements, and

"(B) the term 'Uruguay Round Agreements' means the trade agreements resulting from the Uruguay Round of multilateral trade negotiations under the auspices of the General Agreement on Tariffs and Trade.".

(b) DESIGNATION AS ELIGIBLE GSP COUNTRY.—Section 502 of such Act (19 U.S.C. 2462) is amended by adding at the end the following new subsection:

"(f) DESIGNATION WHERE COUNTRY ADHERES TO THE AGREEMENT ON TRIPS; ANNUAL REPORTS.—

"(1) DESIGNATION AS BENEFICIARY DEVELOPING COUNTRY.—A country—

"(A) which has been denied designation as a beneficiary developing country on the basis of subsection (b)(8), or

"(B) with respect to which such designation has been withdrawn or suspended based on subsection (b)(8),

may be designated as a beneficiary developing country under this title, if the President determines that the country is fully implementing parts I, II, and III of the Agreement on TRIPS and reports the determination to the Congress.

"(2) ANNUAL REPORT.—Not later than the date that is 1 year after the date the Agreement on TRIPS enters into force and effect, and annually thereafter, the President shall determine whether each country designated as a beneficiary developing country under this title is fully implementing parts I, II, and III of the Agreement and shall report such findings to the Congress.".

SEC. 4. COORDINATION OF TRADE POLICY AND FOREIGN POLICY.

(a) OTHER EFFORTS TO IMPROVE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS.—The United States Trade Representative shall notify the Secretary of State, the Secretary of Commerce, and the Administrator of the Agency for International Development on a regular basis of any country which is not fully implementing parts I, II, and III of the Agreement on TRIPS.

(b) ENCOURAGING IMPLEMENTATION OF AGREEMENT ON TRIPS.—The Secretary of State, the Secretary of Commerce, and the Administrator of the Agency for International Development shall cooperate with the United States Trade Representative by encouraging any country that receives foreign assistance and is not fully implementing the Agreement on TRIPS to enact and enforce laws that will enable the country to implement the Agreement on TRIPS. To further this objective, the Secretary of State shall instruct the head of each United States diplomatic mission abroad to include intellectual property rights protection as a priority objective of the mission.

(c) OTHER ACTIONS TO ENCOURAGE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS.—Notwithstanding any other provision of law, the President is authorized to undertake the following actions, where appropriate, with respect to a developing country to encourage and help the country improve the protection of intellectual property rights:

(1) Provide Overseas Private Investment Corporation insurance for intellectual property assets.

(2) Require foreign assistance programs to provide support for the development of national intellectual property laws and regulations and for the development of the infrastructure necessary to protect intellectual property rights.

(3) Establish technical cooperation committees on intellectual property standards within regional organizations.

(4) Establish, as a joint effort between the United States Government and the private sector, a council to facilitate and provide intellectual property-related technical assistance through the Agency for International Development and the Department of Commerce.

(5) Require United States representatives to multilateral lending institutions to seek the establishment of programs within the institutions to support strong intellectual property rights protection in recipient countries that have fully implemented parts I, II, and III of the Agreement on TRIPS.

(d) DEFINITIONS.—For purposes of this section—

(1) AGREEMENT ON TRIPS.—The term "Agreement on TRIPS" means the Agreement on Trade-Related Aspects of Intellectual Property Rights entered into as part of the trade agreements resulting from the Uruguay Round of multilateral trade negotiations under the auspices of the General Agreement on Tariffs and Trade.

(2) DEVELOPING COUNTRY.—The term "developing country" means any country which is—

(A) eligible to be designated a beneficiary developing country pursuant to title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.), or

(B) designated as a least-developed beneficiary developing country pursuant to section 504(c)(6) of such Act (19 U.S.C. 2464(c)(6)).

INTELLECTUAL PROPERTY COMMITTEE,
Washington, DC, April 18, 1994.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: The Intellectual Property Committee (IPC) whose members represent the broad spectrum of private sector U.S. intellectual property interests, endorses the Intellectual Property Protection Act of 1994, which you recently introduced.

Your legislation demonstrates a clear understanding that strong worldwide protection of U.S. intellectual property is critical to the continued competitiveness of U.S. industry and to our nation's ability to create good jobs here in the United States. The intellectual property (TRIPS) agreement which was recently completed as part of the GATT Uruguay Round of trade negotiations, provides for the first time international standards of protection and enforcement across a broad range of intellectual property elements. When fully implemented, the TRIPS Agreement will require all countries—developing as well as industrialized countries—to provide strong intellectual property protection. Unfortunately, developing countries do not have to implement the TRIPS provisions in their countries' laws and regulations for five to ten years. Until then, these countries will be able to continue to pirate U.S. technology and copy our creative works without fear of any international sanctions.

The legislation that you have introduced properly seeks to accelerate TRIPS implementation in GSP-recipient countries by linking continued eligibility for the U.S. program to full and accelerated implementation of TRIPS-level protection. Through such linkage, your legislation will provide U.S. negotiators with the leverage necessary to gain improved worldwide protection of U.S. intellectual property. In the absence of this type of leverage, the United States will face real difficulty in achieving the critical goal of improved worldwide intellectual property protection in a timely manner. In addition, your legislation will underscore the importance of adequate and effective property protection in stimulating economic growth in GSP-beneficiary countries, which will lead to expanded export opportunities for U.S. goods and services.

The IPC commends your continued efforts on behalf of strong intellectual property protection and economic growth in the United States.

Sincerely,

CHARLES S. LEVY,
IPC Counsel.
JACQUES J. GORLIN,
Consulting Economist.

INTELLECTUAL PROPERTY OWNERS,
Washington, DC, April 20, 1994.

Senator FRANK R. LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: Intellectual Property Owners strongly endorses your proposal for legislation that will use GSP to encourage countries to comply at an early date with the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

U.S. industry and the U.S. economy will benefit enormously if Congress can stop the losses that are resulting from inadequate and ineffective protection of intellectual property rights abroad. According to the U.S. Department of Commerce, such losses are about $50 billion annually.

The Uruguay round GATT agreement gives development and least-developed countries 5 to 11 years to implement the TRIPS standards. If GSP can be used as an incentive for countries to implement within 2 to 5 years, U.S. industry will avoid many billions of dollars of losses. In the long run, early adoption of standards to encourage research, development, and creativity will strengthen the world economy and help all countries.

Sincerely,

ROGER S. SMITH,
President.

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE,
Washington, DC, April 21, 1994.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: On behalf of the International Intellectual Property Alliance and its eight association members, we applaud your leadership in introducing the International Intellectual Property Protection Act of 1994 which seeks to assist in ensuring that less developed country members of the GATT/WTO bring their domestic intellectual property regimes into compliance with their TRIPS obligations before the expiration of the 4- and 10-year transition periods permitted them under the TRIPS text.

The IIPA represents the U.S. copyright-based industries which are vitally interested in securing adequate and effective protection for their copyrighted works—movies, computer software, books and journals, music and audio recordings—and fair and equitable market access to those products protected by copyright laws. As the attached Fact Sheet on our industries demonstrates, the U.S. copyright industries are growing faster, employ new workers faster, and contribute more significantly to U.S. exports than all but a very few sectors of our economy. At the same time, worldwide piracy is these industries' most acute market access barrier. They lose an estimated $15-$17 billion annually to piracy worldwide—an inexcusable drain on the U.S. economy and threat to our international competitiveness.

The TRIPS Agreement has several major inadequacies, one of which is its overly long transition periods—in the case of copyrights the period is generally four years longer than in developed countries (least developed countries have a total additional ten years). Many of our trading partners that continue to allow widespread piracy within their borders are, as a result of U.S. bilateral pressure and engagement under Special 301 and under the existing GSP Program, are very close to remedying these problems. We cite as examples Thailand, Turkey, Egypt, Venezuela and many others. Your Bill would deny continued participation in the GSP Program unless TRIPS-level protection were introduced before the expiration of these transition periods. The Bill is intended to provide added leverage to the U.S. government to ensure that continued losses were not sustained as a result of necessary resort to the transition period. By linking acceleration of GSP beneficiary countries to earlier implementation of the TRIPS obligations, leverage may be increased and losses to the U.S. economy reduced.

While we share and support the objectives of your Bill which is fully consistent with IIPA's goal to accelerate TRIPS compliance, there are two important clarifications/modifications that we would urge you to make. First, we urge you to make clear in your Bill that adherence to the TRIPS obligations alone, and without more, does not necessarily meet the test of "adequate and effective" protection and enforcement which is the standard to which all GSP beneficiaries must adhere. We have urged the Administration to make this critical change in the current GSP Program (and in other trade/IP programs) in recognition that the TRIPS standards are deficient in some respects and, moreover, tend to be static while technology is rapidly changing. What is "adequate and effective" protection will, in the copyright area certainly, change rapidly with technology in the next years. We believe that any legislation in this area must make clear that adequate and effective protection must be afforded by GSP beneficiaries, notwithstanding that the country might have implemented TRIPS or the provisions of any particular multilateral or bilateral agreement. We have also proposed to the Administration making the same changes to the Caribbean Basin Economic Recovery Act (which operates similarly to the GSP Program specifically for the CBI region) as well as to the Andean Trade Preferences Act.

Second, we are concerned that by establishing fixed time frames for implementation and rigid statutory grace periods, leverage can actually be diminished with countries that are capable of earlier TRIPS compliance. We understand that the Administration shares this view and we hope that you and the Administration can reach an accord that permits flexibility at the same time as ensuring the result that your Bill and our industries seek.

We support as well the objectives of Section 4 of the bill to bring into coordination the activities of AID and other agencies in ensuring full protection for U.S. intellectual property. We strongly believe that all agencies must work together to ensure full worldwide protection for one of our country's most important resources—its creativity.

We acknowledge and commend all your many contributions to the protection of intellectual property over the years, including the legislation you have just introduced.

Sincerely,

ERIC H. SMITH,
Executive Director and General Counsel.

ABSOLUTE ENTERTAINMENT, INC.,
Upper Saddle River, NJ, April 19, 1994.

Re proposed legislation regarding generalized system of preferences [GSP].

Senator FRANK R. LAUTENBERG,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: I have been discussing with Stuart Brown and Cathy Carpino of your staff the bill which I understand you are planning to introduce which will tie receipt of Generalized System of Preferences ("GSP") benefits by beneficiary developing countries to improved protection of intellectual property rights in such countries.

I strongly support your bill, as does my company, Absolute Entertainment, Inc.

Absolute Entertainment, Inc., an Upper Saddle River company with 73 employees, is one of 170 U.S. companies which develop and sell Nintendo video games. Absolute's success is dependent on its ability to reap the rewards of the video games which it develops. Unfortunately, Absolute, like many creators of video games, can not sell its products in many less developed countries because pirates have virtually saturated these markets. Accordingly, Absolute strongly supports your bill because, over time, it should enable Absolute to sell its products in markets from which it is presently excluded.

The U.S. video game industry has been severely injured by copyright piracy in GSP countries. Your bill should provide these countries with an incentive to improve the protection of intellectual property rights. It is only fair that countries which receive the right to export products to the United States on a duty-free basis should be required to provide strong intellectual property protection for U.S. products.

I am particularly concerned that less developed countries rely on the inordinately long transition periods for implementing the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPS"). Your bill will give the United States Trade Representative leverage to obtain more expeditious implementation of the TRIPS provisions.

We hope you are able to emphasize that beneficiary developing countries should not construe your bill as indicating that the TRIPS provisions constitute the optimum level of intellectual property protection, but rather the reverse—that these are the minimum acceptable standards of protection. In fact, TRIPS falls short of what U.S. companies like Absolute need for adequate and effective protection of their intellectual property rights. It is my understanding that this bill, when passed into law, will not preclude the United States Trade Representative from seeking higher levels of intellectual property protection than those in TRIPS, and we recommend the bill or its legislative history make this point clear!

I am arranging for samples of authentic and counterfeit Absolute-produced video games and color prints to be provided to you by Arter & Hadden for your use during introduction of the bill. Please ask a member of your staff to contact Ingrid Voorhees of Arter & Hadden at (202) 775/7981 to return the samples.

The staff and management of Absolute Entertainment sincerely appreciate the interest you have shown in protecting U.S. intellectual property rights. This is an issue which is near and dear to all of our hearts. U.S. companies need this protection if we are to be able to compete in international markets.

Best regards.

Yours sincerely,

JAMES I. CHARNE,
Vice President, Legal and Business Affairs.•

• Mr. ROTH. Mr. President, I am pleased to be joining my good colleague, Senator LAUTENBERG, in cosponsoring legislation on an issue I feel very strongly about—the need for early and full adoption of the Uruguay round agreement on intellectual property rights. While these new rules generally represent a significant achievement and will be of major benefit to U.S. inventors and other holders intellectual property, there is one serious overall problem with the agreement that must be addressed—the long transition periods that are provided to developing countries. The legislation I am cosponsoring today offers one approach to addressing this problem by tying future GSP benefits to the extent to which a developing country has fully implemented key parts of this agreement.

Infringement of U.S. intellectual property is no small matter. The Commerce Department has estimated that U.S. companies lose $50 billion every year from intellectual property piracy. Much of this piracy occurs in the developing world where there are often few, if any, rules protecting intellectual property rights, and little enforcement of such rules where they exist. Under the Uruguay round agreement, developing countries can wait up to 10 years before fully implementing the new TRIPS agreement. I think most of us would agree that this is unacceptable. Consequently, we must look at what steps we can take to accelerate this process of implementation.

It is my intention to ensure that this problem is effectively addressed in the implementing legislation on the Uruguay round and I look forward to working with Senator LAUTENBERG and the rest of my colleagues on this very important matter.•

ADDITIONAL COSPONSORS

S. 266

At the request of Mr. SIMON, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 266, a bill to provide for elementary and secondary school library media resources, technology enhancement, training and improvement.

S. 540

At the request of Mr. GRASSLEY, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 540, a bill to improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes.

At the request of Mr. HEFLIN, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 540, supra.

S. 1485

At the request of Mr. DECONCINI, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1485, a bill to extend certain satellite carrier compulsory licenses, and for other purposes.

S. 1625

At the request of Mr. BROWN, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 1625, a bill to prohibit the sale of defense articles and defense services to countries that participate in the secondary and tertiary boycott of Israel.

S. 1687

At the request of Mr. BINGAMAN, the names of the Senator from Mississippi [Mr. LOTT], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 1687, a bill to promote the effective and efficient use of Federal grant assistance provided to State governments to carry out certain environmental programs and activities, and for other purposes.

S. 1773

At the request of Mr. SIMON, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of S. 1773, a bill to make improvements in the Black Lung Benefits Act, and for other purposes.

S. 1781

At the request of Mr. SIMON, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of S. 1781, a bill to make improvements in the Black Lung Benefits Act, and for other purposes.

S. 1805

At the request of Mr. SMITH, his name was added as a cosponsor of S. 1805, a bill to amend title 10, United States Code, to eliminate the disparity between the periods of delay provided for civilian and military retiree cost-of-living adjustments in the Omnibus Budget Reconciliation Act of 1993.

S. 1904

At the request of Mr. BRYAN, his name was added as a cosponsor of S. 1904, a bill to amend title 38, United States Code, to improve the organization and procedures of the Board of Veterans' Appeals.

S. 1915

At the request of Mr. NICKLES, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Colorado [Mr. BROWN] were added as cosponsors of S. 1915, a bill to require certain Federal agencies to protect the rights of private property owners.

S. 1924

At the request of Mr. HATCH, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 1924, a bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home.

S. 1933

At the request of Mr. MCCAIN, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 1933, a bill to repeal the Medicare and Medicaid Coverage Data Bank, and for other purposes.

S. 1942

At the request of Mr. EXON, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1942, a bill to authorize appropriations for the local rail freight assistance program.

S. 2000

At the request of Mr. KENNEDY, the names of the Senator from Nevada [Mr. BRYAN] and the Senator from California [Mrs. FEINSTEIN] were added as cosponsors of S. 2000, a bill to authorize appropriations for fiscal years 1995 through 1998 to carry out the Head Start Act and the Community Services Block Grant Act, and for other purposes.

S. 2027

At the request of Mr. DODD, the names of the Senator from Ohio [Mr. METZENBAUM], the Senator from Vermont [Mr. LEAHY], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 2027, a bill to provide for the reinstatement of democracy in Haiti, the restoration to office of the duly elected President of Haiti, Jean-Bertrand Aristide, the end of human rights abuses against the Haitian people, support for the implementation of the Governors Island Agreement, and for other purposes.

S. 2031

At the request of Mr. D'AMATO, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2031, a bill to amend the Merchant Marine Act, 1936, to prohibit the imposition of additional charges or fees for attendance at the United States Merchant Marine Academy, and to express the sense of the Senate that no additional charges or fees shall be imposed for attendance at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the United States Coast Guard Academy, and for other purposes.

SENATE JOINT RESOLUTION 157

At the request of Mr. SASSER, the names of the Senator from Tennessee [Mr. MATHEWS], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 157, a joint resolution to designate 1994 as "The Year of Gospel Music."

SENATE JOINT RESOLUTION 165

At the request of Mr. COCHRAN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Joint Resolution 165, a joint resolution to designate the month of September 1994 as "National Sewing Month."

SENATE JOINT RESOLUTION 172

At the request of Mr. DOLE, the names of the Senator from Oklahoma [Mr. NICKLES], the Senator from Kentucky [Mr. FORD], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of Senate Joint Resolution 172, a joint resolution designating May 30, 1994, through June 6, 1994, as a "Time for the National Observance of the 50th Anniversary of World War II."

SENATE JOINT RESOLUTION 181

At the request of Mr. SIMON, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from New York [Mr. D'AMATO], the Senator from Pennsylvania [Mr. WOFFORD], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Joint Resolution 181, a joint resolution to designate the week of May 8, 1994, through May 14, 1994, as "United Negro College Fund Week."

SENATE CONCURRENT RESOLUTION 60

At the request of Mr. GRAMM, the names of the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Texas [Mrs. HUTCHISON], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Concurrent Resolution 60, a concurrent resolution expressing the sense of the Congress that a postage stamp should be issued to honor the 100th anniversary of the Jewish War Veterans of the United States of America.

SENATE RESOLUTION 148

At the request of Mr. SIMON, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of Senate Resolution 148, a resolution expressing the sense of the Senate that the United Nations should be encouraged to permit representatives of Taiwan to participate fully in its activities, and for other purposes.

SENATE CONCURRENT RESOLUTION 66—RELATING TO THE ESTABLISHMENT OF THE NATIONAL SILVER-HAIRED CONGRESS

Ms. MIKULSKI (for herself, Mr. PRYOR, and Mr. WARNER) submitted the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. CON. RES. 66

Whereas many States have encouraged and facilitated the creation of senior citizen legislative and advocacy bodies;

Whereas in creating such bodies such States have provided to many older Americans the opportunity to express concerns, promote appropriate interests, and advance the common good by influencing the legislation and actions of State government; and

Whereas a National Silver Haired Congress, with representatives from each State, would provide a national forum for a nonpartisan evaluation of grassroots solutions to concerns shared by an increasing number of older Americans: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby recognizes and encourages the convening of an annual National Silver Haired Congress in the District of Columbia.

Ms. MIKULSKI. Mr. President, I rise today to submit a resolution that deserves special attention. I am submitting a resolution to establish a national silver-haired congress. As Chair of the Aging Subcommittee, I am joined by Senator PRYOR—the Chair of the Special Committee on Aging—in sponsoring this important piece of legislation.

What is a national silver-haired congress? Well, it is the vision of a truly inspirational group of seniors. Beginning back in 1973, a group of Missouri seniors got together and decided to get involved. They formed a silver-haired legislature. They modeled their legislature after the State's and took up pieces of legislation that affected seniors.

That was 1973. Today nearly half the States have a silver-haired legislature. Seniors all over the country have set up mock State legislatures. They take bills through the entire legislative process and present their bills that pass to their State Legislators. These recommendations are taken very seriously.

The silver-haired legislatures have helped in the passage of many programs: from consumer protection and crime prevention to health care, housing, and long-term care.

I am submitting today a resolution to create a national silver-haired congress. Based on the experience of the silver-haired legislatures in the States, a silver-haired congress will provide a national forum for aging issues—a forum patterned after the U.S. Congress. It will be completely staffed by older Americans, and serve to address a broad range of seniors issues. Like us, a silver-haired congress would be comprised of 100 Senators and 435 Representatives. But unlike us, all the members will serve without pay and convene in Washington at their own expense. Members will be elected only by seniors 60 years old and older.

Older Americans across the country are anxious to volunteer themselves in an effort to provide nationwide visibility of aging issues and to promote intergenerational issues. A national silver-haired congress provides this wonderful opportunity and I propose that we create a national silver-haired congress today.

With no cost whatsoever to the American public, a national silver-haired congress will provide a national forum for issues of concern to older Americans. The input and counsel that a forum like this will provide to the U.S. Congress is invaluable. Bills affecting seniors will go through the legislative process by seniors themselves—a process that will clearly provide a wealth of insight and guidance to lawmakers. This is a tremendous opportunity for Congress to engage in an ongoing dialog with informed seniors contributing to legislation affecting seniors.

The population of older Americans is growing at a faster rate than any other age group. As this elderly population grows, it is important that we encourage a silver-haired congress to continue their important role in serving as a supportive link between the expanding elderly population and what becomes law. The input of a silver-haired congress could be crucial in meeting the needs of today's senior citizens.

It is then with great enthusiasm and excitement that I submit this resolution, and ask my colleagues to support this wonderful proposal for a national silver-haired congress.

AMENDMENTS SUBMITTED

BANKRUPTCY AMENDMENTS ACT OF 1994

LIEBERMAN (AND OTHERS) AMENDMENT NO. 1640

Mr. LIEBERMAN (for himself, Mr. DOLE, and Mr. HELMS) proposed an amendment to the bill (S. 540) to improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes; as follows:

At the appropriate place, add the following:

SEC. . UNITED STATES ARMS EMBARGO OF THE GOVERNMENT OF BOSNIA AND HERZEGOVINA.

(a) TERMINATION.—The President shall terminate the United States arms embargo of the Government of Bosnia and Herzegovina upon receipt from that government of a request for assistance in exercising its right of self-defense under Article 51 of the United Nations Charter.

(b) DEFINITION.—As used in this section, the term "United States arms embargo of the Government of Bosnia and Herzegovina" means the application of the Government of Bosnia and Herzegovina of—

(1) the policy adopted July 10, 1991, and published in the Federal Register of July 19, 1991 (58 Fed. Reg. 33322) under the heading "Suspension of Munitions Export Licenses to Yugoslavia"; and

(2) any similar policy being applied by the United States Government as of the date of receipt of the request described in subsection (a) pursuant to which approval is routinely denied for transfers of defense articles and defense services to the former Yugoslavia.

DOLE (AND OTHERS) AMENDMENT NO. 1641

Mr. DOLE (for himself, Mr. LIEBERMAN, Mr. MACK, Mr. LUGAR, Mr. MCCAIN, Mr. LEVIN, Mr. FEINGOLD, Mr. HATCH, Mr. DORGAN, Mr. MCCONNELL, Mr. D'AMATO, Mr. STEVENS, Mr. DECONCINI, Mr. MOYNIHAN, Mr. HELMS, Mr. GORTON, Mr. BRADLEY, Mr. LAUTENBERG, Mr. KEMPTHORNE, Mr. COVERDELL, Mr. SIMPSON, Mr. ROTH, Mr. BROWN, Mrs. HUTCHISON, Mr. PRESSLER, and Mr. THURMOND proposed an amendment to amendment No. 1640 proposed by Mr. LIEBERMAN to the bill S. 540, supra; as follows:

Strike all after the word "SEC." and insert the following:

UNITED STATES ARMS EMBARGO OF THE GOVERNMENT OF BOSNIA AND HERZEGOVINA.

(a) PROHIBITION.—Neither the President nor any other member of the Executive Branch of the United States Government shall interfere with the transfer of arms to the Government of Bosnia and Herzegovina.

(b) TERMINATION.—The President shall terminate the United States arms embargo of the Government of Bosnia and Herzegovina upon receipt from that government of a request for assistance in exercising its right of self-defense under Article 51 of the United Nations Charter.

(c) DEFINITION.—As used in this section, the term "United States arms embargo of the Government of Bosnia and Herzegovina" means the application to the Government of Bosnia and Herzegovina of—

(1) the policy adopted July 10, 1991, and published in the Federal Register of July 19, 1991 (58 Fed. Reg. 33322) under the heading "Suspension of Munitions Export Licenses to Yugoslavia"; and

(2) any similar policy being applied by the United States Government as of the date of receipt of the request described in subsection (a) pursuant to which approval is routinely denied for transfers of defense articles and defense services to the former Yugoslavia.

(d) Nothing in this section shall be interpreted as authorization for deployment of U.S. forces in the territory of Bosnia and Herzegovina for any purpose, including training, support or delivery of military equipment.

JOHNSTON (AND BREAUX) AMENDMENT NO. 1642

Mr. HEFLIN (for Mr. JOHNSTON for himself and Mr. BREAUX) proposed an amendment to the bill S. 540, supra; as follows:

On page 235, between lines 13 and 14, insert the following:

SEC. 311. NONAVOIDABILITY OF FIXING OF LIEN ON TOOLS AND IMPLEMENTS OF TRADE, ANIMALS, AND CROPS.

(a) AMENDMENT.—Section 522(f) of title 11, United States Code, as amended by section 303(c), is amended—

(1) by striking "Notwithstanding any waiver of exemptions," and inserting "(1) Notwithstanding any waiver of exemptions but subject to paragraph (2)";

(2) by striking "(1) a judicial" and inserting "(A) a judicial";

(3) by striking "(A) is not assigned" and inserting "(i) is not assigned";

(4) by striking "(B) includes a liability" and inserting "(ii) includes a liability";

(5) by striking "(2) a nonpossessory" and inserting "(B) a nonpossessory";

(6) by striking "(A) household" and inserting "(i) household";

(7) by striking "(B) implements, professional books, or tools," and inserting "(ii) implements, professional books, or tools"

(8) by striking "(C) professionally" and inserting "(iii) professionally"; and

(9) by adding at the end the following new paragraph:

"(2) In a case in which State law that is applicable to the debtor—

"(A) permits a person to voluntarily waive a right to claim exemptions under subsection (d) or prohibits a debtor from claiming exemptions under subsection (d); and

"(B) permits the debtor to claim exemptions under State law without limitation in amount, except to the extent that the debtor has permitted the fixing of a consensual lien on any property,

the debtor may not avoid the fixing of a lien on an interest of the debtor or a dependent of the debtor in property if the lien is a nonpossessory, nonpurchase-money security interest in implements, professional books, or tools of the trade of the debtor or a dependent of the debtor or farm animals or crops of the debtor or a dependent of the debtor.".

(b) APPLICATION OF AMENDMENT.—The amendments made by subsection (a) shall not apply with respect to a case commenced under title 11, United States Code, before the date of enactment of this Act.

BRYAN AMENDMENT NO. 1643

Mr. HEFLIN (for Mr. BRYAN) proposed an amendment to the bill S. 540, supra; as follows:

On page 235, between lines 13 and 14, insert the following:

SEC. 311. NONDISCHARGEABILITY OF DEBT FOR MONEY, PROPERTY SERVICES, OR CREDIT OBTAINED BY FALSE PRETENSE, FALSE REPRESENTATION, OR FRAUD.

Section 1328(a)(2) of title 11, United States Code, is amended by inserting "(2)," after "paragraph".

FEINSTEIN AMENDMENT NO. 1644

Mr. HEFLIN (for Mrs. FEINSTEIN) proposed an amendment to the bill S. 540, supra; as follows:

On page 160, between lines 6 and 7 insert the following:

SEC. 116 RECOMMENDATIONS OF THE JUDICIAL CONFERENCE FOR THE APPOINTMENT OF BANKRUPTCY JUDGES.

Section 152(b) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) If, as a result of a review of judicial districts under paragraph (3), the Judicial Conference determines that there is a need for a number (including a fractional number) of additional bankruptcy judges for any judicial district, but the Judicial Conference determines to submit to Congress a recommendation that the appointment of a lesser number of bankruptcy judges be authorized for that district, the Judicial Conference shall submit with the recommendation a statement detailing—

"(i) the difference between the number of additional bankruptcy judges that has been determined to be needed and the number recommended to be authorized; and

"(ii) the methods by which those numbers were determined.

"(B) If the Judicial Conference has submitted to Congress a recommendation that a lesser number of additional bankruptcy judges be authorized to be appointed than a review of judicial districts shows is needed for a judicial district, the Judicial Conference shall submit a subsequent recommendation that satisfies the continuing need for additional bankruptcy judges for that judicial district unless—

"(i) the Congress, without having received such a recommendation, authorizes the requisite number of additional bankruptcy judges to be appointed for that district; or

"(ii) a subsequent review of judicial districts shows that that number of additional bankruptcy judges is no longer needed for that district.".

METZENBAUM AMENDMENTS NOS. 1645–1647

Mr. HEFLIN (for Mr. METZENBAUM) proposed three amendments to the bill S. 540, supra; as follows:

AMENDMENT NO. 1645

On pages 231, strike line 11 and all that follows through page 234, line 6, and insert the following:

SEC. 309. PROFESSIONAL FEES.

Section 330(a) of title 11, United States Code, is amended to read as follows:

"(a)(1) After notice to the parties in interest and the United States trustee and a hearing, and subject to sections 326, 328, and 329, the court may award to a trustee, an examiner, a professional person employed under section 327 or 1103—

"(A) reasonable compensation for actual, necessary services rendered by the trustee, examiner, professional person, or attorney and by any paraprofessional person employed by any such person; and

"(B) reimbursement for actual, necessary expenses.

"(2) The court may, on its own motion or on the motion of the United States Trustee, the United States Trustee for the District or Region, the trustee for the estate or any other party in interest, award compensation that is less than the amount of compensation that is requested.

"(3)(A) In determining the amount of reasonable compensation to be awarded, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including—

"(A) the time spent on such services;

"(B) the rates charged for such services;

"(C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;

"(D) the total value of the estate and the amount of funds or other property available for distribution to all creditors, both secured and unsecured.

"(E) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed; and

"(F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

"(4)(A) Except as provided in subparagraph (B), the court shall not allow compensation for—

"(i) unnecessary duplication of services; or

"(ii) services that were not—

"(I) reasonably likely to benefit the debtor's estate; or

"(II) necessary to the administration of the case.

"(B) In a chapter 12 or chapter 13 case in which the debtor is an individual, the court may allow reasonable compensation to the debtor's attorney for representing the interests of the debtor in connection with the bankruptcy case based on a consideration of the benefit and necessity of such services to the debtor and the other factors set forth in this section.

"(5) The court shall reduce the amount of compensation awarded under this section by the amount of any interim compensation awarded under section 331, and, if the amount of such interim compensation exceeds the amount of compensation awarded under this section, may order the return of the excess to the estate.

"(6) Any compensation awarded for the preparation of a fee application shall be based on the level and skill reasonably required to prepare the application.".

AMENDMENT NO. 1646

On page 235, between lines 13 and 14 insert the following:

SEC. 311. CONVERSION OF CASE UNDER CHAPTER 13.

Section 348 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(f) When a case under chapter 13 is converted to another chapter—

"(1) property of the estate in the converted case shall consist of property of the estate, as of the date of filing of the petition, that remains in the possession of or is under the control of the debtor on the date of conversion; and

"(2) valuations of property and of allowed secured claims in the chapter 13 case shall apply in the converted case, with allowed secured claims reduced to the extent that they have been paid in accordance with the chapter 13 plan.".

AMENDMENT NO. 1647

On page 242, between lines 7 and 8 insert the following:

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. PROTECTION AGAINST DISCRIMINATORY TREATMENT OF APPLICATIONS FOR STUDENT LOANS.

Section 525 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) A governmental unit that operates a student grant or loan program and a person engaged in a business that includes the making of loans guaranteed or insured under a student loan program may not deny a grant, loan, loan guarantee, or loan insurance to a person that is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, or another person with whom the debtor or bankrupt has been associated, because the debtor or bankrupt is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, has been insolvent before the commencement of a case under this title or during the pendency of the case but before the debtor is granted or denied a discharge, or has not paid a debt that is dischargeable in the case under this title or that was discharged under the Bankruptcy Act.

"(2) In this section, 'student loan program' means the program operated under part B, D, or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) or a similar program operated under State or local law.".

SIMPSON (AND OTHERS) AMENDMENT NO. 1648

Mr. HEFLIN (for Mr. SIMPSON, for himself, Mr. WALLOP, Mr. BROWN, MR. BREAUX, Mrs. HUTCHISON, and Mr. JOHNSTON) proposed an amendment to the bill S. 540, supra; as follows:

Amend 11 U.S.C. 541(b)(4) to read as follows:

(4) any interest of the debtor in liquid or gaseous hydrocarbons to the extent

(A)(i) the debtor has transferred or has agreed to transfer such interest pursuant to a farmout agreement or any written agreement directly related to a farmout agreement; and

(ii) but for the operation of this paragraph, the estate could include such interest only by virtue of section 365 or 544(a) of this title; or

(B) the debtor has transferred such interest pursuant to a conveyance of a production payment or an oil and gas lease.

Paragraph (4) shall not be construed to exclude from the estate any consideration the debtor retains, receives, or is entitled to receive for transferring an interest in liquid or gaseous hydrocarbons pursuant to a farmout agreement, production payment, or oil and gas lease.

Amend 11 U.S.C. 101 by adding the following:

(42.A) "production payment" is not a gross royalty. A production payment is a term overriding royalty which is an interest in liquid or gaseous hydrocarbons in place or to be produced from a property or properties, that entitles the owner thereof to a share of production, or the value thereof, for a term limited by time, quantity, or value realized, or any formula based on one or more of such factors.

METZENBAUM AMENDMENTS NOS. 1649–1652

Mr. HEFLIN (for Mr. METZENBAUM) proposed four amendments to the bill S. 540, supra, as follows:

AMENDMENT NO. 1649

On page 160, strike lines 1 through 6 and insert the following:

"(9) under subsection (a), of—

"(A) an audit by a governmental unit to determine tax liability:

"(B) the issuance to the debtor by a governmental unit of a notice of tax deficiency;

"(C) a demand for tax returns; an assessment of an uncontested or agreed upon tax liability; or

"(D) the making of an assessment for any tax and issuance of a notice and demand for payment of such an assessment (but any tax lien that would otherwise attach to property of the estate by reason of such an assessment shall not take effect until the property is no longer property of the estate).".

AMENDMENT NO. 1650

On page 235, between lines 13 and 14 insert the following:

SEC. 311. RENT-TO-OWN CONTRACTS.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting in their proper alphabetical positions the following new definitions:

"'consumer good' means an item of personal property (not including a motor vehicle) acquired by an individual primarily for a personal, family or household purpose.".

"'rent-to-own contract' means an agreement, in the form of a terminable lease or bailment of a consumer good, between a person regularly engaged in the business of making consumer goods available to individuals and an individual, under which—

"(A) the lessee or bailee—

"(i) has the right of possession and use of the consumer good; and

"(ii) has the option to renew the agreement periodically by making payments specified in the agreement; and

"(B) the lessor or bailor agrees, orally or in writing, to transfer ownership of the consumer good to the lessee or bailee upon the fulfillment of all obligations of the lessee or bailee for the transfer under the agreement.".

(b) TREATMENT OF RENT-TO-OWN CONTRACTS AS SECURED PURCHASE CONTRACTS.—

(1) CHAPTER 7.—Subchapter II of chapter 7 of title II, United States Code, is amended by adding at the end of the following new section:

"§ 729. Rent-to-own contracts

"In a proceeding under this chapter in which the debtor is in possession of a consumer good under a rent-to-own contract, the debtor and the lessor or bailor shall be accorded the same rights and obligations with respect to the consumer good, respectively, as they would be accorded if the rent-to-own contract had been a purchase contract."

(2) CHAPTER 13.—Subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end the following new section:

"§ 1308. Rent-to-own contracts

"In a proceeding under this chapter in which the debtor is in possession of a consumer good under a rent-to-own contract, the debtor and the lessor or bailor shall be accorded the same rights and obligations with respect to the consumer good, respectively, as they would be accorded if the rent-to-own contract had been a purchase contract."

(c) TECHNICAL AMENDMENTS.—

(1) CHAPTER 7.—The chapter analysis for chapter 7 of title 11, United States Code, is amended by inserting after the item for section 728 the following new item:

"729. Rent-To-Own Contracts."

(2) CHAPTER 13.—The chapter analysis for chapter 13 of title 11, United States Code, is amended by inserting after the item for section 1307 the following new item:

"1308. Rent-To-Own Contracts."

AMENDMENT NO. 1651

On page 213, between lines 5 and 6 insert the following:

SEC. 303. IMPAIRMENT OF EXEMPTIONS.

(a) IN GENERAL.—Section 522(f) of title 11, United States Code, is amended—

(1) by inserting "(1)" before "Notwithstanding";

(2) by redesignating paragraph (1) as subparagraph (A);

(3) by redesignating paragraph (2) as subparagraph (B) and subparagraphs (A), (B), and (C) of that paragraph as clauses (i), (ii), and (iii), and

(4) by adding at the end the following new paragraph:

"(2)(A) For the purposes of this subsection, a lien shall be considered to impair an exemption to the extent that the sum of—

"(i) the lien;

"(ii) all other liens on the property that are equal or greater in seniority to the lien; and

"(iii) the amount of the exemption that the debtor could claim if there were no liens on the property,

exceeds the value that the debtor's interest in the property would have in the absence of any liens.

"(B) In the case of a property subject to more than 1 lien, a lien that has been avoided shall not be considered in making the calculation under subparagraph (A) with respect to other liens.".

(b) RULE OF CONSTRUCTION; APPLICATION OF AMENDMENT.—Section 522(f)(2) of title 11, United States Code, as added by subsection (a)—

(1) shall not be construed to apply with respect to a judgment arising out of a mortgage foreclosure; and

(2) shall not apply with respect to a nonpossessory, nonpurchase-money security interest given before the date of enactment of this Act (including a security interest with respect to which the value of the collateral increases after a case under that title is commenced).

On page 215, strike lines 14 through 16 and insert the following:

(c) PROTECTION OF LIENS.—Section 522(f) of title 11, United States Code, as amended by section 303, is amended by amending paragraph (1)(A) to read as follows:

"(A) a judicial lien (other than a judicial lien

On page 216, line 1, strike "(A)" and insert "(i)".

On page 216, line 3, strike "(B)" and insert "(ii)".

AMENDMENT NO. 1652

On page 242, between lines 7 and 8 insert the following:

TITLE V—BANKRUPTCY FRAUD

SEC. 5146. BANKRUPTCY FRAUD.

(a) IN GENERAL.—

(1) OFFENSES.—Chapter 9 of title 18, United States Code, is amended—

(A) by amending sections 152, 153, and 154 to read as follows:

"§ 152. Concealment of assets; false oaths and claims; bribery

"A person who—

"(1) knowingly and fraudulently conceals from a custodian, trustee, marshal, or other officer of the court charged with the control or custody of property, or, in connection with a case under title 11, from creditors or the United States Trustee, any property belonging to the estate of a debtor;

"(2) knowingly and fraudulently makes a false oath or account in or in relation to any case under title 11;

"(3) knowingly and fraudulently makes a false declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, in or in relation to any case under title 11;

"(4) knowingly and fraudulently presents any false claim for proof against the estate of a debtor, or uses any such claim in any case under title 11, in a personal capacity or as or through an agent, proxy, or attorney;

"(5) knowingly and fraudulently receives any material amount of property from a debtor after the filing of a case under title 11, with intent to defeat the provisions of title 11;

"(6) knowingly and fraudulently gives, offers, receives, or attempts to obtain any money or property, remuneration, compensation, reward, advantage, or promise thereof for acting or forbearing to act in any case under title 11;

"(7) in a personal capacity or as an agent or officer of any person or corporation, in contemplation of a case under title 11 by or against the person or any other person or corporation, or with intent to defeat the provisions of title 11, knowingly and fraudulently transfers or conceals any of his property or the property of such other person or corporation;

"(8) after the filing of a case under title 11 or in contemplation thereof, knowingly and fraudulently conceals, destroys, mutilates, falsifies, or makes a false entry in any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor; or

"(9) after the filing of a case under title 11, knowingly and fraudulently withholds from a custodian, trustee, marshal, or other officer of the court or a United States Trustee entitled to its possession, any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor,

shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"§ 153. Embezzlement against estate

"(a) OFFENSE.—A person described in subsection (b) who knowingly and fraudulently appropriates to the person's own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"(b) PERSON TO WHOM SECTION APPLIES.—A person described in this subsection is one who has access to property or documents belonging to an estate by virtue of the person's participation in the administration of the estate as a trustee, custodian, marshal, attorney, or other officer of the court or as an agent, employee, or other person engaged by such an officer to perform a service with respect to the estate.

"§ 154. Adverse interest and conduct of officers

"A person who, being a custodian, trustee, marshal, or other officer of the court—

"(1) knowingly purchases, directly or indirectly, any property of the estate of which the person is such an officer in a case under title 11;

"(2) knowingly refuses to permit a reasonable opportunity for the inspection by parties in interest of the documents and accounts relating to the affairs of estates in the person's charge by parties when directed by the court to do so; or

"(3) knowingly refuses to permit a reasonable opportunity for the inspection by the United States Trustee of the documents and accounts relating to the affairs of an estate in the person's charge,

shall be fined not more than $5000 and shall forfeit the person's office, which shall thereupon become vacant."; and

(B) by adding at the end the following new sections:

"§ 156. Knowing disregard of bankruptcy law or rule

"(a) DEFINITIONS.—In this section—

"'bankruptcy petition preparer' means a person, other than the debtor's attorney or an employee of such an attorney, who prepares for compensation a document for filing.

"'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b) OFFENSE.—If a bankruptcy case or related proceeding is dismissed because of a knowing attempt by a bankruptcy petition preparer in any manner to disregard the requirements of title 11, United States Code, or the Bankruptcy Rules, the bankruptcy petition preparer shall be fined under this title, imprisoned not more than 1 year, or both.

"§ 157. Bankruptcy fraud

"(a) OFFENSE.—A person who, having devised or intending to devise a scheme or artifice to defraud, or for obtaining money or property by means of a false or fraudulent pretense, representation, or promise, for the purpose of executing or concealing such a scheme or artifice or attempting to do so—

"(1) files a petition under title 11;

"(2) files a document in a proceeding under title 11; or

"(3) makes a false or fraudulent representation, claim, or promise concerning or in relation to a proceeding under title 11, at any time before or after the filing of the petition, or in relation to a proceeding falsely asserted to be pending under that title,

shall be fined under this title, imprisoned not more than 5 years, or both.

"(b) REQUIREMENT OF INTENT.—

"(1) IN GENERAL.—The degree of intent required to be shown in the case of an offense described in subsection (a) is that which is generally required to be shown in cases of fraud.

"(2) VIOLATION NOT ESTABLISHED.—A violation of subsection (a) is not established if the defendant committed the act that is alleged to constitute fraud for a lawful purpose.

"(3) VIOLATION ESTABLISHED.—A violation of subsection (a) may be established if the defendant committed the act that is alleged to constitute fraud with a purpose of—

"(A) preventing the proper application of title 11 in a particular case; or

"(B) using a proceeding under title 11 in a manner that, while on its face may appear to be legitimate, is in fact part of a scheme to defraud.".

(2) TECHNICAL AMENDMENTS.—The chapter analysis for chapter 9 of title 18, United States Code, is amended—

(A) by amending the item relating to section 153 to read as follows:

"Sec. 153. Embezzlement against estate."; and

(B) by adding at the end the following new item:

"Sec. 156. Knowing disregard of bankruptcy law or rule.

"Sec. 157. Bankruptcy fraud.".

(b) RICO.—Section 1961(1)(D) of title 18, United States Code, is amended by inserting "(except a case under section 157 of that title)" after "title 11".

HATCH AMENDMENTS NOS. 1653–1654

Mr. HATCH proposed two amendments to the bill S. 540, supra; as follows:

AMENDMENT NO. 1653

On page 197, line 22, strike "The" and insert "(1) Except as provided in paragraph (2), the".

On page 198, between lines 3 and 4, insert the following:

"(2) This subsection does not apply to an executory contract that is related to, or to an unexpired lease of real property in, a shopping center.".

AMENDMENT NO. 1654

On page 211, strike lines 1 through 12.

DOLE (AND THURMOND) AMENDMENT NO. 1655

Mr. DOLE (for himself and Mr. THURMOND) proposed an amendment to the bill S. 540, supra; as follows:

At the appropriate place, and the following:

FINDINGS.—The Senate finds that—

(1) It is the fundamental obligation of government to protect its citizens;

(2) In many federally-financed public housing projects, the level of violence has reached epidemic proportions, threatening on a daily basis the lives of the majority of the tenants, who are law-abiding;

(3) In an effort to combat gang and drug-related violence, the Chicago Housing Authority ("CHA") instituted a policy of conducting warrantless, apartment-to-apartment searches of CHA projects, including the Robert Taylor Homes;

(4) On April 7, 1994, federal district court judge Warren Andersen ruled that CHA's search policy violated the Fourth Amendment to the Constitution of the United States and enjoined CHA officials from undertaking these searches;

(5) After the court decision, President Clinton directed Attorney General Janet Reno and Secretary of Housing and Urban Development Henry Cisneros to develop law enforcement measures that would be both constitutionally valid and effective in reducing violent crime in public housing projects; and

(6) President Clinton subsequently announced new federal guidelines designed to assist public housing officials in maintaining order and protecting the security of their law-abiding tenants.

Therefore, it is the sense of the Senate that the Senate fully endorses the new Administration guidelines, outlined in a letter to President Clinton from Attorney General Reno and Secretary of Housing and Urban Development Cisneros, dated April 14, 1994, including the guidelines allowing public housing officials to 1) erect fences around public housing buildings, issue identification cards to tenants, and install metal detectors, or magnetometers at the building entrances; 2) search the packages and clothing of anyone seeking to enter public housing buildings and refuse entry to anyone who does not submit to inspection; 3) conduct weapons searches without consent or a warrant in common areas of the buildings, such as stairwells, and in vacant apartments; 4) frisk "suspicious-looking" individuals for weapons, if police or security personnel have a reason to believe that the individuals are involved in criminal activity and are armed; 5) include non-coercive consent clauses in lease agreements permitting routine, warrantless apartment-by-apartment police searches for illegal weapons and illegal drugs; and 6) conduct warrantless searches of individual units where there is justification for a search but insufficient time to obtain a judicial warrant.

WELLSTONE (AND FEINGOLD) AMENDMENT NO. 1656

Mr. WELLSTONE (for himself and Mr. FEINGOLD) proposed an amendment to amendment No. 1655 proposed by Mr. DOLE to the bill S. 540, supra; as follows:

At the end of the amendment, add the following—

"*Provided, however*, with respect to 'consent clauses in lease agreements' referred to above—

(a) Residency or continued residency in public housing is not contingent upon the inclusion of such a consent clause as a provision of a lease agreement, and

(b) Residents or prospective residents are informed that residency or continued residency in public housing is not contingent upon the inclusion of such a consent clause as a provision of a lease agreement.

TRAUMATIC BRAIN INJURY ACT OF 1994

KENNEDY (AND HATCH) AMENDMENT NO. 1657

Mr. KENNEDY (for himself and Mr. HATCH) proposed an amendment to the bill (S. 725) to amend the Public Health Service Act to provide for the conduct of expanded studies and the establishment of innovative programs with respect to traumatic brain injury, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. PROGRAMS OF CENTERS FOR DISEASE CONTROL AND PREVENTION.

Part B of title III of the Public Health Service Act (42 U.S.C. 241 et seq.), as amended by section 703 of Public Law 103–183 (107 Stat. 2240), is amended by inserting after section 317F the following section:

"PREVENTION OF TRAUMATIC BRAIN INJURY

"SEC. 317G. The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may carry out projects to reduce the incidence of traumatic brain injury. Such projects may be carried out by the Secretary directly or through awards of grants or contracts to public or nonprofit private entities. The Secretary may directly or through such awards provide technical assistance with respect to the planning, development, and operation of such projects.

"(b) CERTAIN ACTIVITIES.—Activities under subsection (a) may include—

"(1) the conduct of research into identifying effective strategies for the prevention of traumatic brain injury; and

"(2) the implementation of public information and education programs for the prevention of such injury and for broadening the awareness of the public concerning the public health consequences of such injury.

"(c) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(d) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.".

SEC. 2. PROGRAMS OF NATIONAL INSTITUTES OF HEALTH.

Section 1261 of the Public Health Service Act (42 U.S.C. 300d-61) is amended—

(1) in subsection (d)—

(A) in paragraph (2), by striking "and" after the semicolon at the end;

(B) in paragraph (3), by striking the period and inserting "; and"; and

(C) by adding at the end the following paragraph:

"(4) the authority to make awards of grants or contracts to public or nonprofit private entities for the conduct of basic and applied research regarding traumatic brain injury, which research may include—

"(A) the development of new methods and modalities for the more effective diagnosis, measurement of degree of injury, post-injury monitoring and prognostic assessment of head injury for acute, subacute and later phases of care;

"(B) the development, modification and evaluation of therapies that retard, prevent or reverse brain damage after acute head injury, that arrest further deterioration following injury and that provide the restitution of function for individuals with long-term injuries;

"(C) the development of research on a continuum of care from acute care through rehabilitation, designed, to the extent practicable, to integrate rehabilitation and long-term outcome evaluation with acute care research; and

"(D) the development of programs that increase the participation of academic centers of excellence in head injury treatment and rehabilitation research and training."; and

(2) in subsection (h), by adding at the end the following paragraph:

"(4) The term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.".

SEC. 3. PROGRAMS OF HEALTH RESOURCES AND SERVICES ADMINISTRATION.

Part E of title XII of the Public Health Service Act (42 U.S.C. 300d-51 et seq.) is amended by adding at the end the following section:

"SEC. 1252. STATE GRANTS FOR DEMONSTRATION PROJECTS REGARDING TRAUMATIC BRAIN INJURY.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of carrying out demonstration projects to improve access to health and other services regarding traumatic brain injury.

"(b) STATE ADVISORY BOARD.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State involved agrees to establish an advisory board within the appropriate health department of the State or within another department as designated by the chief executive officer of the State.

"(2) FUNCTIONS.—An advisory board established under paragraph (1) shall advise and make recommendations to the State on ways to improve services coordination regarding traumatic brain injury. Such advisory boards shall encourage citizen participation through the establishment of public hearings and other types of community outreach programs.

"(3) COMPOSITION.—An advisory board established under paragraph (1) shall be composed of—

"(A) representatives of—

"(i) the corresponding State agencies involved;

"(ii) public and nonprofit private health related organizations;

"(iii) other disability advisory or planning groups within the State;

"(iv) members of an organization or foundation representing traumatic brain injury survivors in that State; and

"(v) injury control programs at the State or local level if such programs exist; and

"(B) a substantial number of individuals who are survivors of traumatic brain injury, or the family members of such individuals.

"(c) MATCHING FUNDS.—

"(1) IN GENERAL.—With respect to the costs to be incurred by a State in carrying out the purpose described in subsection (a), the Secretary may make a grant under such subsection only if the State agrees to make available, in cash, non-Federal contributions toward such costs in an amount that is not less than $1 for each $2 of Federal funds provided under the grant.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—In determining the amount of non-Federal contributions in cash that a State has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the State by the Federal Government.

"(d) APPLICATION FOR GRANT.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(e) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(f) REPORT.—Not later than 2 years after the date of the enactment of this section, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings and results of the programs established under this section, including measures of outcomes and consumer and surrogate satisfaction.

"(g) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1995 through 1997.".

SEC. 4. STUDY; CONSENSUS CONFERENCE.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary"), acting through the appropriate agencies of the Public Health Service, shall conduct a study for the purpose of carrying out the following with respect to traumatic brain injury:

(1) In collaboration with appropriate State and local health-related agencies—

(A) determine the incidence and prevalence of traumatic brain injury; and

(B) develop a uniform reporting system under which States report incidences of traumatic brain injury, if the Secretary determines that such a system is appropriate.

(2) Identify common therapeutic interventions which are used for the rehabilitation of individuals with such injuries, and shall, subject to the availability of information, include an analysis of—

(A) the effectiveness of each such intervention in improving the functioning of individuals with brain injuries;

(B) the comparative effectiveness of interventions employed in the course of rehabilitation of individuals with brain injuries to achieve the same or similar clinical outcome; and

(C) the adequacy of existing measures of outcomes and knowledge of factors influencing differential outcomes.

(3) Develop practice guidelines for the rehabilitation of traumatic brain injury at such time as appropriate scientific research becomes available.

(2) DATES CERTAIN FOR REPORTS.—

(A) Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of carrying out paragraph (1)(A).

(B) Not later than 3 years after the date of the enactment of this Act, the Secretary shall submit to the Committees specified in subparagraph (A) a report describing the findings made as a result of carrying out subparagraphs (B) and (C) of paragraph (1).

(b) CONSENSUS CONFERENCE.—The Secretary, acting through the Director of the National Center for Medical Rehabilitation Research within the National Institute for Child Health and Human Development, shall conduct a national consensus conference on managing traumatic brain injury and related rehabilitation concerns.

(c) DEFINITION.—For purposes of this section, the term "traumatic brain injury" means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1995 through 1997.

SEC. 5. MAPLE SYRUP.

(a) PREEMPTION.—Section 403A(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343-1(a)) is amended—

(1) in paragraph (1), by inserting at the end the following: "except that this paragraph does not apply to a standard of identity of a State or political subdivision of a State for maple syrup which is of the type required by sections 401 and 403(g).",

(2) in paragraph (2), by inserting at the end the following: "except that this paragraph does not apply to a requirement of a State or political subdivision of a State which is of the type required by section 403(c) and which is applicable to maple syrup,", and

(3) in paragraph (3), by inserting at the end the following: "except that this paragraph does not apply to a requirement of a State or political subdivision of a State which is of the type required by section 403(h)(1) and which is applicable to maple syrup,".

(b) PROCEDURE.—Section 701(e)(1) (21 U.S.C. 371(e)(1)) is amended by striking "or maple syrup (regulated under section 168.140 of title 21, Code of Federal Regulations).".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research Conservation Forestry and General Legislation be allowed to meet during the session of the Senate on Thursday, April 21, 1994, at 2:30 p.m., in SD-628, on new management directives for the U.S. Forest Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate committee on Commerce, Science, and Transportation be authorized to meet on April 21, 1994, at 10 a.m. in room SD-628 on the nominations of Ricardo Martinez to be Administrator of the National Highway Traffic Safety Administration, Carrye Burley Brown to be administrator of the U.S. Fire Administration, and T.R. Lakshmanan to be Director of the Bureau of Transportation Statistics.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on April 21, 1994, at 2 p.m. in room SR-253 on the nomination of William D. Hathaway, of Maine and Joe Scroggins, of Florida, to be Commissioners of the Federal Maritime Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today, April 21, 1994, at 10 a.m., to hear testimony on the subject of access to health care in rural and inner city communities under health care reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, April 21, 1993, at 2:30 p.m. to hold nomination hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, April 21, 1994 to hold a hearing on the nominations of Carl E. Stewart, of Louisiana, to be a United States circuit judge for the Fifth Circuit; James Carr, of Ohio, to be a United States district judge for the northern district of Ohio; Mary M. Lisi, of Rhode Island, to be United States district judge for the district of Rhode Island; Frank Hull, of Georgia, to be United States district judge for the northern district of Georgia; W. Louis Sands, of Georgia, to be United States district judge for the middle district of Georgia; and Clarence Cooper, of Georgia, to be United States district judge for the northern district of Georgia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, April 21, 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EDUCATION, ARTS AND HUMANITIES

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources' Subcommittee on Education, Arts and Humanities be authorized to meet for a hearing on ESEA Reauthorization, during the session of the Senate on April 21, 1994, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NUCLEAR DETERRENCE, ARMS CONTROL AND DEFENSE INTELLIGENCE

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Subcommittee on Nuclear Deterrence, Arms Control and Defense Intelligence of the Committee on Armed Services be authorized to meet at 2 p.m. on Thursday, April 21, 1994, in open session, to receive testimony on the Department of Energy's Environment and Restoration and Waste Management Programs in review of the Defense authorization request for fiscal year 1995 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2:30 p.m., April 21, 1994, to receive testimony on the following bills: S. 1509, to transfer a parcel of land to the Taos Pueblo Indians of New Mexico; S. 1897, the Santa Fe National Forest Boundary Adjustment Act of 1994; S. 1975 and H.R. 2921, to establish a grant program to restore and preserve historic buildings at historically black colleges and universities, and for other purposes; S. 1980, the Cane River Creole National Historical Park and National Heritage Area Act; and S. 1919, the Rio Puerco Watershed Act of 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM, NARCOTICS AND INTERNATIONAL OPERATIONS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 21, 1994, at 10 a.m. to hold a hearing on recent developments in transnational crime affecting U.S. law enforcement and foreign policy; Mutual Legal Assistance Treaty in criminal matters with Panama; Treaty Doc. 102–15; and 1994 International Narcotics Control Strategy Report.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM, NARCOTICS AND INTERNATIONAL OPERATIONS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 21, 1994, at 2 p.m. to hold a hearing on recent developments in translational crime affecting U.S. law enforcement and foreign policy; Mutual Legal Assistance Treaty in criminal matters with Panama; Treaty Doc. 102–15; and 1994 International Narcotics Control Strategy Report.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

A TRIBUTE TO LOTTIE B. SCOTT

• Mr. DODD. Mr. President, I rise today to pay tribute to a very special constituent of mine, Lottie B. Scott of Norwich, who has been selected by the Eastern Connecticut Chamber of Commerce as its 1994 Citizen of the year.

Lottie Scott is a true American success story. Raised in rural South Carolina, her exposure to the evils of prejudice and segregation inspired her to change the world we live in, rather than cope with societal injustice. We, in Connecticut, are extremely fortunate that Lottie and her son followed her father and brother to Norwich in 1957, bringing with her that desire to make a difference.

From the Werman Shoe Factory to the Wauregan Hotel and eventually on to the Norwich Hospital, Lottie created her own opportunities. Her promotions eventually led her to the Human Rights Commission, where she retired as regional manager in 1992. Perhaps even more impressive than Lottie's success in the workplace was her devotion to self-improvement through education. She managed to earn her associate's degree from Mohegan Community College, as well as her bachelor's degree from the University of Connecticut, all during her tenure with the Human Rights Commission. This commitment to excellence is a lesson in dedication from which we can all learn.

Ms. Scott's career has been truly exceptional, but her contributions to the community, as well as her personal accomplishments have further enhanced eastern Connecticut. Her allegiance to the cause of civil rights prompted her to help found the Norwich Chapter of the NAACP and become a director of the Connecticut Civil Liberties Union. She also established her own consulting firm, dealing with affirmative action and civil rights legislation.

Her deep concern for the city of Norwich has inspired her to create, as well as preside over, the Norwich Art Council. Such sincerity has carried over into her involvement with the Norwich Redevelopment Agency, the Connecticut Hospital Association, the Southeastern Connecticut YMCA, the Norwich Democratic Town Committee, and many other organizations.

Mr. President, Lottie B. Scott is a Connecticut treasure. She has helped shape the social, cultural, and political agenda of an entire community. I thank my colleagues for letting me share with them this success story. The Eastern Connecticut Chamber of Commerce could not have chosen a more worthy recipient for this year's award.•

NATIONAL WORTHY WAGE DAY

• Mr. HATFIELD. Mr. President, in commemoration of the third annual National Worthy Wage Day, I would like to take this opportunity to make note of some important statistics gathered from a report titled "Strategies for Enhancement of Compensation for Child Care Providers in Oregon, a Report on the Child Care Compensation Enhancement Project, State of Oregon, Employment Department, Child Care Division." The 1991 statistics show that full-time child care teachers in Oregon earned from $9,500 to $11,880. Full-time teaching assistants earned from $8,592 to $9,118. In center settings, the annual turnover in the same year was 52 percent for teachers and 81 percent for assistants.

While the above mentioned statistics are particular to Oregon, they reflect wage levels throughout our country. Clearly, if we are to have quality child care available to our very young children, the issue of adequate compensation to child care providers must be addressed.

As an example of Oregon's situation illustrates, the lack of a decent working wage for individuals in the child care profession has had a lasting effect. Information from "Who Cares? Child Care Teachers and Quality of Care in America Final Report, National Child Care Staffing Study," a report by the Child Care Employee Project, Oakland, CA, indicates that nearly half of all child care providers leave their jobs each year for a different profession because of the lack of a living wage.

Much attention has been given to the child care crisis in this country. Alliances formed by child care professionals, child welfare advocacy groups, and working parents have initiated broad-ranging discussions of the problems associated with child care. As dialog continues at local, State, and Federal levels, I am hopeful that the important issue of wage compensation for child care providers will receive the attention it deserves.•

WORTHY WAGE DAY

• Mr. DODD. Mr. President, I rise because today is the third annual Worthy Wage Day. This day is meant to call attention to the meager wages and benefits earned by those who care for our young children.

I am talking about child care teachers and providers. Today, all across the country, these people with whom we entrust our most precious resource—our young children—are gathering to demonstrate for accessible and affordable child care for American families and decent wages and benefits for American child care providers.

These are not outrageous demands. They are in fact quite modest: fair compensation, better training for teachers and providers, health care reform that will extend coverage to those who work in child care, and improved access to child care for all American families.

The situation today for the vast majority of child care workers is precarious. Their jobs rarely pay adequate wages and rarely provide basic benefits like health insurance.

Female child care workers earn less than one-third as much as comparably educated men and one-half as much as comparably educated women in other fields. Low pay leads to strikingly high staff turnover.

A handful of statistics will shed some light on this situation:

Average center-based teacher salaries have fallen by 20 percent since the mid-1970's.

From 1991 to 1992, the turnover rate in child care centers averaged 26 percent, nearly three times the annual turnover rate reported by all American companies.

Only slightly over one-third of child care centers provide health benefits to their employees, according to a 1992 study by the National Center for the Early Childhood Work Force.

Improving pay and benefits for our early childhood work force is not just a matter of fairness for child care workers: It is a matter of quality care for our children in their early formative years. When teachers are inadequately prepared and have a high turnover rate, studies show that children do not do as well. They spend a great deal of time in aimless activity, not connecting with their teachers, other children, or learning materials.

On this Worthy Wage Day, it is time for us as a nation to recognize the invaluable work early childhood workers do. They deserve more than a pat on the back, however. They deserve a living wage, and I look forward to the day when they will receive it. It is time for us to stop shortchanging both our child care workers and our children.•

CONGRATULATIONS TO MONTANA COMPETITORS IN THE "WE THE PEOPLE" COMPETITION

• Mr. BURNS. Mr. President, from April 30 to May 2, more than 1,200 students from around the country will be here in Washington, DC, to compete in the national finals of the We the People * * * The Citizen and the Constitution program. I am proud to announce that the class from Polson High School, from Polson, MT, will represent Big Sky Country.

These young people have worked hard to reach the national finals, and I applaud them: Justin Allison, Jason Bird, Jenni Davies, Eric Dickson, Brooke Doepke, Tosha Doornek, Ceth Eslick Scott Evje, Kristal Hanson, Jay Healy, Machelle Hoffman, Wes Hunt, Raina Huntley, Tina Kinshella, Heather Knutson, Hoke Lytton, Lori Masciullo, Geoff Ramsay, Maribeth San Pedro, Mindy Schliep, Jennifer Shoumaker, Tom Stiles, Jarod Tait, Melissa Targerson, Steve Vanden Bos, Jamie Veis, and Kryss Winebrenner.

The student's teacher, Bob Hislop, also deserves a pat on the back for his hard work, as do the district coordinator, Sue Suiter, and the State coordinator, Linda Vrooman Peterson.

The We the People * * * The Citizen and the Constitution program, is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The 3-day academic competition gives students the chance to demonstrate their knowledge before a panel of prominent professionals from across the country.

This program, now in its 6th year, has reached over 20,100,000 students in thousands of elementary, middle, and high schools nationwide.

Again, my congratulations to this fine group of Montanans—and I wish them the best of luck in the competition. May the best team win.•

"SPECIAL 301" TRADE LAW

• Mr. BAUCUS. Mr. President, on April 30, U.S. Trade Representative Mickey Kantor is scheduled under our "Special 301" trade law to release the USTR's annual list of priority foreign countries, whose toleration of piracy or barriers to market access are the worst.

Intellectual property products have three broad types: Copyrighted works; patented products, and trademarked goods. The industries which produce them are among our most successful exporters. American film and TV has a $3.5 billion trade surplus each year. American pharmaceuticals have a $1 billion surplus. Our computer software is the world's best, and American trademarks get instant recognition worldwide.

Few industries are this successful. Unfortunately, the piracy industry is one of them. Pirates all over the world copy, mass-produce, and sell U.S. intellectual property work like films, videos, sound recordings, books, pharmaceuticals, Reebok shoes, agrichemicals, Mickey Mouse T-shirts, CD's, and computer software—you name it. The annual cost to the United States was estimated at up to $61 billion several years ago, and is likely much higher today.

Market access barriers to American creative works are also a problem. And still a third issue is weak legal regimes. These are problems not only in developing countries, but in our industrial rivals.

The European Union's egregious broadcast quota is one glaring example.

The Japanese Education Ministry's conference last year, aimed at weakening copyright protection for software programs and thus allowing Japanese computer companies to copy superior American works, is another.

Special 301 requires the USTR, every year, to compile a list of countries which allow the most egregious piracy of U.S. intellectual property; are least open to intellectual property exports; and have the weakest legal protections for intellectual property rights. The worst of these are designated priority foreign countries.

USTR also places countries which allow lesser degrees of piracy on a "Priority Watch List" and also a plain, ordinary "Watch List". Appearing on a list warns the listed country that we are aware of its misbehavior, and consequences will follow if it does not act.

THE RECORD OF SPECIAL 301

Special 301 is a law that works. When we choose our top priorities, set deadlines and back them up with the prospect of trade retaliation, we get results.

One example is Thailand. For years, Bangkok pirates laughed at us. You could not buy a legitimate American CD or videotape anywhere in the country. In 1992, the Bush administration named Thailand a priority foreign country. And last year, when we made clear to the Thai Government that we had reached the point of retaliation, the Thais acted. Within a few weeks, pirate CD's and videos were off the street. We still need to see more in software, but we have made a good start.

Also last year, Paraguay shut down an audiocassette piracy industry that supplied virtually all South America with counterfeit goods after it was placed on the Watch List. Taiwan, under threat of retaliation, agreed to stop piracy of CD's and American television programs.

And just a month ago, Brazil, at long last, agreed to pass acceptable intellectual property laws.

THE PEOPLE'S REPUBLIC OF CHINA

In 1991, we had a similar success. The Bush administration named the People's Republic of China as a priority foreign country, and the threat of retaliation forced the Chinese to adopt modern copyright, patent and trademark laws.

Unfortunately, that particular success is turning sour. While China adopted good laws, it has done nothing to enforce them.

Today, 26 pirate CD factories are operating in China, with a production capacity of 50 million CD's a year. They are not only causing American artists to lose money—and it's a lot of money, $827 million last year, more than double the estimate of $415 million in losses for 1992—but are beginning to compete with our legitimate industries in other Asian markets and even Latin America.

China could obviously shut these pirate factories down immediately. It could also, as we have continuously suggested, adopt criminal penalties for copyright violation. And it could establish a credible investigation and enforcement task force. It has done none of those things, and shows no intention of doing so in the near future.

This situation is intolerable. The credibility of Special 301, and by extension, all our trade laws, depends on following through. We cannot allow a country to adopt laws to stop piracy and then happily ignore them. And if a country as big as China can go into full-scale piracy, our efforts in all the other countries, no matter how successful, will become meaningless.

China must be named a priority foreign country once again. If it will not shut down the pirates, China must face trade sanctions. It is that simple.

SPECIAL 301 AND THE URUGUAY ROUND

Finally, of course, the future of Special 301 is closely linked to the Uruguay round of the GATT. It is my view, and Ambassador Kantor has endorsed this view at Finance Committee hearings, that the United States reserves all its rights to use laws like Special 301 after the Uruguay round goes into effect.

In most cases, the situation will not change. However, the United States has made some concessions which may make use of Special 301 somewhat more difficult. The round grants developing countries, for example, long phase-in periods to pass modern pharmaceutical patent laws. During these phase-in periods, we will have to be creative.

The implementing bill must contain provisions that make sure Special 301 can be used to seek full enforcement of GATT commitments and speed up the phase-in of new and stronger laws. It must also contain measures to require careful monitoring of countries' application of the GATT standards, and mandate U.S. action if they are not met. We should consider use of all the tools at our disposal, such as withdrawing or suspending foreign aid to countries which allow piracy of American works.

One option which I support is strengthening the intellectual property qualified of the Generalized System of Preferences.

The GSP, which grants duty-free treatment to many developing country exports, should require beneficiaries to adopt Uruguay round standards of intellectual property law immediately. Denial of benefits under the Caribbean Basin Initiative or the Andean Trade Preference Act is also a possibility. We have other options as well, and should explore them as we develop implementing legislation.•

THE CALIFORNIA DESERT PROTECTION ACT

• Mr. MCCAIN. Mr. President, I wanted to take a moment to explain my reasoning for voting against S. 21, the California Desert Protection Act. While I support efforts to protect the desert ecosystem, I have concerns that the California Desert Protection Act is not the appropriate vehicle to accomplish this goal.

As the sponsor of legislation to designate more than 3.5 million acres of wilderness lands in Arizona, I am fully aware of the need to protect the valuable natural resources we have in the west. The fragile desert ecosystem of California is very similar to that in Arizona. They are both resources which must be preserved for future generations.

I realize that this bill has been under consideration by the Senate for several years. The actions, taken by Senator FEINSTEIN to negotiate many of the troublesome provisions are admirable, and I commend her for her work. Nevertheless, I have a number of concerns about this bill. In particular, I am concerned about Governor Wilson's continued opposition to this bill, the status of low-level military overflights of new wilderness and park areas and the cost associated with this legislation. Please allow me to further explain these concerns.

The Senate has had a long tradition of allowing Senators from a State to have a predominate say so on public land matters affecting their States. In fact, lack of agreement among the California Senator has been a major impediment to the consideration of this bill. Nevertheless, I have been greatly concerned that Governor Wilson opposes the bill.

Prior to mark-up of this bill in the committee, Governor Wilson stated these objections in a letter to Senator FEINSTEIN. While some of his concerns have been addressed in the markup, he is still opposed to the bill before us today. In contrast, Arizona, Wilderness enjoyed the support of the congressional delegation and the State.

Governor Wilson has said that S. 21 fails to address the concerns of the State of California which will affect more than 8 million acres of land in his State. A bill of such magnitude and importance should have the support of the State's top official before congressional approval.

As a member of the Armed Services Committee, I have a particular interest in the protection of military flight training routes. This section of the California desert is used extensively for low-level and other types of training that are invaluable to the proper training of our Nation's military pilots. The Senate bill contains language which should preserve the ability of the military to conduct these flights. However, I am concerned that these provisions may be weakened during conference with the House or that the flights may be challenged through the courts.

Again during consideration of the Arizona Wilderness Act, we took similar steps to protect military overflights. The flights were still challenged by interest groups on the basis of another law. Even though there is some language to protect these training flights, I have serious concerns that in conference the protection will be weakened by some other means.

Some of my colleagues may believe that these flights are no longer warranted, but one only needs to read the front page of the newspaper to know that the world is still a dangerous place and this training is still vital. Proper training is essential to the protection of the lives of the men and women of our military who place themselves in danger in order to preserve the rights of others. The creation of this much parkland and wilderness areas will only serve to complicate issues affecting airspace and the military's ability to train.

My final concern regarding this bill is the cost associated with it. The Congressional Budget Office estimates that land acquisition alone could amount to $100 to $300 million. The administrative cost could range between $6 and $9 million a year. It should be obvious to everyone that under today's fiscal constraints the already strained Park Service budget is not going to increase accordingly to meet these new costs.

The park system is already in need of increased funding to properly manage the resources it has now. The Interior Department has estimated that it will cost $53 million in the near term to manage these three new parks. The addition of this land to our park system without the proper funding to manage it is irresponsible to say the least. Since funding will not increase, all of my colleagues should be aware that passage of this bill will affect funding at other national parks, including the Grand Canyon.

Mr. President in light of these concerns I cannot support this measure as it is currently written. Again, I understand and am supportive of efforts to protect the desert ecosystems and of the wilderness program. I would support a desert bill that had the consensus, ensured the protection of military training routes, and could be paid for responsibly without harming other parks.•

STATEMENT ON THE NOMINATION OF BOOTH GARDNER

• Mr. GORTON. Mr. President, I wanted to say a few words about the Senate's confirmation of Ambassador Booth Gardner to be deputy trade representative last night. I consider this nomination to one of the most appropriate of the Clinton administration.

Almost from his birth, Governor Gardner has played a major role in the economy of Washington State, serving our State in business through the Laird Norton Co. and Weyerhaeuser, and in public office, as Pierce County executive and, of course, as Governor. In his 8 years in that post, he had a number of interests and initiatives, but I doubt that few would rank as high as expanding international trade.

In part because of his efforts, Washington State is now more dependent that any other on international trade. Governor Gardner worked hard to strengthen our State's relationship with our trading partners, and led many successful trade missions to the Pacific rim and other parts of the world. I am confident that experience—the familiarity he gained with many heads of government, trade ministers and finance ministers—will be extremely useful in his new role, and will serve us well.

Governor Gardner stepped down from public office in our State with a distinguished record. This position will serve not only as just reward, but as opportunity for him to apply his learned skills abroad in the service of our country.

I am glad that the Senate has confirmed Ambassador Gardner, and I am convinced he will serve us in a distinguished and highly successful manner.•

IN HONOR OF SANDRA McBRAYER, 1994 NATIONAL TEACHER OF THE YEAR

• Mrs. BOXER. Mr. President, I rise today to honor Sandra McBrayer of San Diego, the 1994 National Teacher of the Year. She was selected for this award by the Council of Chief State School Officers and the Encyclopedia Britannica, Inc. from among the 2.5 million elementary and secondary school teachers in the country, and I wish to share her remarkable story with my colleagues.

Sandra McBrayer has demonstrated that one dedicated teacher can make a difference in the lives of children. In 1988, she founded the Homeless Outreach School in San Diego to help homeless children escape the harsh realities of street life. Through her devotion and caring, she has given hope to hundreds of children who had nobody to care for them. She brings children in off the streets, nurtures them, and instills in them the knowledge that they are not forgotten children, but can succeed in today's society.

As the head teacher at "Sandy's Place," Sandra McBrayer does more than just open children's eyes to books and academic achievement. She also offers them a meal, clothes, and acceptance. Her philosophy is that every child can learn, succeed, and become productive members of society. No child is without hope or promise.

The Homeless Outreach School serves 70–90 children on any given day and reaches 300–400 homeless children each year. There are about 40 graduates of the school, and 25 are now enrolled in college. It is a true success story and a testament to Sandra McBrayer's dedication and hard work. As a result of this award, Sandra McBrayer will now have the opportunity to share her message and experience with teachers around the country. All of us have a lot to learn from Sandra McBrayer.

As Sandra McBrayer knows, our children, the foundation of our Nation, are too important to ignore. Every child has the right to an education. Every child has the right to a future. I am proud to honor Sandra McBrayer as the national Teacher of the Year and hope my colleagues will join me in extending our congratulations and thanks.•

CONGRATULATING THE TALENTED STUDENTS OF MAINE SOUTH HIGH SCHOOL

• Mr. SIMON. Mr. President, I rise today to recognize the outstanding achievement of the students of Maine South High School in my home State of Illinois. These students won the Illinois State Competition of the "We the People . . . The Citizen and the Constitution" program. This education program, supported and funded by Congress, provides an excellent opportunity for students to gain a better understanding of the U.S. Constitution and the role it plays in our country's history and our daily lives.

These students will join more than 1,200 students from 47 States and the District of Columbia when they compete in the national finals on April 30 to May 2, 1994. The members of the Illinois team include Katie Beaumont, Laura Bellen, Nicole Berg, Natalie Boitchouk, Alison Burnett, Anne Butera, Elizabeth Carlson, Erika Cornelisen, Meade Crampton, Devon Dillenbeck, Mark Dubrock, Christine Dudlak, Matthew Fontaine, Kerry Goggin, Kathleen Ann Sheila Hanley, Heather Kirschke, Steven Krull, Elizabeth Kurtz, Tim Mulvihill, Peter Nelson, Todd Offenloch, Stephanie Poulos, Erin Shields, Joseph Steinfels, Erica Swanson, David Szwed, Dorothy Waniak, and Paul Zurawski.

The performance of these students demonstrates their superior understanding of the U.S. Constitution and the Bill of Rights. I commend them for their ability to apply constitutional principles to both historical and contemporary issues. They have shown why the Constitution is such an extraordinary document—able to adapt over the centuries to changing people and times.

Their teacher, Patton Feichter, also deserves recognition for his efforts, as well as District Coordinator Alice Horstman, and State Coordinator Fred Drake.

I am confident that these students will make excellent representatives of their community and the State of Illinois. I congratulate them on their achievement thus far, and wish them success as they compete in the 3-day competition simulating a congressional hearing.•

SWEARING IN OF DEVAL L. PATRICK

• Mr. KERRY. Mr. President, a few days ago, I attended the ceremony in which Deval Patrick was sworn in as head of the Civil Rights Division of the Department of Justice. While I have made remarks for the RECORD about how impressive and competent I think he is, and how capable he is personally, I believe that the comments he delivered at his swearing-in ceremony should be read by all my colleagues. They are a strong and eloquent expression of his goals in this important position, and so I ask that his comments be placed in the RECORD at this point.

The comments follow:

STATEMENT OF DEVAL L. PATRICK, ASSISTANT ATTORNEY GENERAL, CIVIL RIGHTS DIVISION

Thank you all so much. I know the members have to leave because they have to vote. And I thank them very much for coming, as they depart.

General Reno, General Corelick, General Days, General Bryson, distinguished guests and friends, old and new, I am extremely touched by the kind words that my friends and colleagues have said today.

Usually, you have to die before people will say that kind of thing about you.

I am so honored to be standing here this morning and so grateful, really grateful to all of you for coming to bear witness to this event.

I am a great believer that important occasions should be marked by ceremony. And I value the presence of so many of you, especially with tax returns due tomorrow.

My special thanks to my friends and mentors, Solicitor General Days, Judge Lindsay, and Judge Reinhardt, whom I know privately as Drew, Reg, and Judge Reinhardt.

And for me, you each reflect that marvelous combination of brilliance and soul that has been such a model of humanity and citizenship for me and, I know, for so many others.

My family is also here in force and in many extensions. And I want to introduce some of them.

My bride, Diane, you have met. Our daughters, Sarah and Katherine are down in front. I won't ask you to stand up. Don't worry.

My mother, Emily Patrick, is here; my in-laws, John and Lillian Bemus.

My sister, Rhonda Sigh and her children, Bianca and Brandon; my siblings-in-law, Jay Bemus and Iola Wright, and also Lynn and Bobby Chavis and their sons, Robb and Ryan.

I am so blessed to have each of you with me today and always. And I thank you, too.

We have too many special friends here today to mention, but I have to single out just two. And they are Eddie Quaintance and Darla Weissenberg. And I would just like for them to stand for a second.

I'm going to tell you why. Mrs. Quaintance was my sixth grade teacher.

Mrs. Weissenberg was my seventh grade teacher.

Mrs. Weissenberg is the person who steered me to a foundation in Boston that you have heard about, called "A Better Chance," and onto a new level of educational challenge, because she thought I was special.

And Mrs. Quaintance is the person who taught me to believe I was special. And that made it possible for me to accomplish something with the opportunities that were handed to me.

And I am very honored that you are here with us today.

Finally, I want to thank my new boss and friend, Janet Reno. I was hoping she wouldn't tell that hug story.

I have to work with these people, you know.

The Attorney General's leadership of and commitment to this Department and to the principle for which it is named are extraordinary and palpable. And her compassion makes it possible for her to keep her own heavy responsibilities, and ours, in perspective.

I consider myself and the nation fortunate, indeed, to have her where she is.

Some say that the Civil Rights Division has lacked leadership, that it has languished in a leadership vacuum.

I have to tell you after 11 working days on the job, that I have learned otherwise, that otherwise is true, because in this interregnum, and in so many others, in some 34 years in the division, Jim Turner has served with ability and grace as Acting Assistant Attorney General.

We calculate that Jim has served longer—I think this is right—in his accumulated terms as acting AAG than seven out of the eleven former appointed AAGs.

Many, many people—mostly reporters—have asked me what our agenda will be in the Civil Rights Division.

And I have usually replied that it's not time quite yet to answer that; that only after a few days on the job, the best I can say is that our formal goals will be developed collaboratively, in consult with the advocacy groups and with ourselves.

Then I usually add that I have a personal commitment to defending the Voting Rights Act against the several recent attacks on its gains to making banks make lending decisions fairly to developing an expansive jurisprudence under the Americans With Disabilities Act and to broadening opportunities for minorities and women to equal advancement in the work place and in the schools.

But the unifying theme of our work is quite a bit broader than that. The real and ultimate agenda is to reclaim the American conscience. Our true mission is to restore the great moral imperative that civil rights is finally all about.

This nation, as I see it, has a creed. That creed is deeply rooted in the concepts of equality, opportunity and fair play.

Our faith in that creed has made us a prideful nation, and enabled us to accomplish feats of extraordinary achievement and uplift.

And yet, in the same instant, we see racism and unfairness all around us. In the same instant, we see acts of unspeakable cruelty and even violence because of race, or ethnicity, or gender, or disability, or sexual orientation.

They present a legal problem, to be sure. But they also pose a moral dilemma. How can a nation founded on such principles, dedicated to such a creed, sometimes fall so short?

And let me assure you: That is a question asked not just by intellectuals and pundits of each other. It is asked by simple, every day people of each other and of themselves, in barber shops and across kitchen tables, in the mind's silent voice on the bus ride home from work, in the still, small times when conscience calls.

To be a civil rights lawyer, you must understand what the laws mean. But to understand civil rights, you must understand how it feels; how it feels to be hounded by uncertainty and fear about whether you will be fairly treated; how it feels to be trapped in someone else's stereotype, to have people look right through you.

To understand civil rights, you must understand that the victims of discrimination feel a deep and helpless pain, and ask themselves bitterly the very question of morality I have just posed.

And what will be our answer? Will we sit back and claim that we have no answer, or that it is not our business to devise one?

Will we shrink from the moral dimension of our work? Well, let me tell you now: We will not shrink.

The answer to the question is, "No." There is a moral dimension. And we will assert it.

And the reason, the reason I make you that unequivocal pledge is simply this: I have a personal stake in the business of the Civil Rights Division.

I know what we can accomplish through vigorous enforcement, through calm determination, and through effort.

I know that the business of the Civil Rights Division has opened up jobs to black workers. I know that the Civil Rights Division has opened up apartments to Hispanic families.

I know that the Civil Rights Division has opened up whole new vistas of active lift to people with disabilities.

I know that the Civil Rights Division has vindicated the rights of Asians and Jews and so many others to be safe from organized bigotry; the right of young black men to be safe from excessive police force.

I know that the Civil Rights Division has made it possible for prisoners to retain their human dignity even when they surrender their freedom.

And I know that the Civil Rights Division has helped create the most integrated Congressional districts in the South, and the most integrated classrooms in the world.

I know because I have lived it. I know because I can look around this room and see every kind of woman and man, joined here in one brief but illustrative moment of harmony, common in our humanity and in our resolve.

And I know that when the American people see what I see here right now, they see the same possibility, the same hope, and the beginning of the answer to the question of conscience that the American creed poses.

Our divisions are of our own creation. They are not beyond our power to resolve them.

Our cynicism is but our own fear. It is not beyond our courage to conquer.

Our despair is of our own relenting. It is not beyond our faith.

We have but so many moments, I think, where the confluence of opportunity and resolve is in this wondrous balance. And so it is right now.

This Administration, with its commitment to forward movement, now greets this nation, yearning to reclaim its moral center. Let us meet this opportunity with sufficient commitment, with sufficient resolve and with wisdom. Destiny asks of us no less.

Of my new colleagues in the Civil Rights Division, I ask from you your most solemn commitment and resolve, and all of the force of intellect I know you amply possess.

Bring to your task, and to ours, your hard work and your faith in the American promise. And with it, we can create opportunity. And we can also inspire hope.

Bring to this task intellectual honesty, determination, imagination, and humanity. And we cannot and will not fail.

Of the American people, those here and elsewhere, I ask you only this: Give us your commitment to equality. Give us your sense of history and of the great unfinished agenda which derives from it.

And we will set your hearts afire, and help you know what I know about what is possible in America.

Dr. King said, "Cowardice asks the question: Is it safe? Expediency asks the question: Is it polite? Vanity asks the question: Is it popular? But conscience, conscience must ask the question: Is it right?"

Ladies and gentlemen, as American citizens, so must we.

We may not redeem the sleeping soul of this great republic and recreate the civil rights consensus that made possible the moral high points of this nation in my tenure, or even in my lifetime. But let us begin.

Thank you very much.•

THE UNICEF/WHO BABY FRIENDLY HOSPITAL INITIATIVE

• Mr. SIMON. Mr. President, I recently received a letter from the U.S. Committee for UNICEF regarding the activities of the hospitals in the State of Illinois. These 10 hospitals have been awarded certificates of intent to implement the UNICEF/WHO Baby Friendly Hospital Initiative.

The Baby Friendly Hospital Initiative is a global program to encourage and recognize hospitals and birthing centers that offer an optimal level of care for lactation. This initiative assists hospitals in giving breast-feeding mothers the information, confidence, and skills needed to successfully initiate and continue breast feeding their babies and gives special recognition to hospitals that have done so.

Breast feeding has been found to be the most effective way to provide a baby with a complete nurturing environment. This is crucial, particularly in these times of increasing health care risks and costs and societal issues that mothers and children face.

I applaud the hospitals in Illinois who have committed themselves to working toward the rigorous goals of this initiative. The hospitals are: Alexian Brothers Medical Center, Central Du Page Hospital, Hoffman Estates Medical Center, Memorial Medical Center, Northwest Community Hospital, Ravenswood Hospital Medical Center, St. John's Hospital, St. Joseph's Hospital, University of Chicago Hospitals, and Wyler Children's Hospital.

In order to reach the goals of this initiative, these hospitals have gone through a comprehensive self-examination of their own practices and policies as they relate to breast feeding promotion. This is an admirable task which will hopefully contribute to the health and well-being of our babies and mothers.•

LAKE SUPERIOR STATE UNIVERSITY WINS NCAA DIVISION I HOCKEY CHAMPIONSHIP

• Mr. LEVIN. Mr. President, it is with great pride that I note that for the third time in the past 7 years the Lake Superior State University Hockey Team has won the National Collegiate Athletic Association Division I Hockey Championship. I want to recognize this remarkable feat by the Lakers, and I congratulate the members of the team, their coaches, their families, and their loyal fans.

Lake Superior State University is a small school of about three and a half thousand students in Sault Sainte Marie, MI. It makes up in excellence and determination what it may lack in size. This is the third straight appearance in the NCAA Championship game for the Lakers, which is in itself a remarkable accomplishment.

The Lakers defeated Harvard University in the NCAA Semifinal in overtime 3 to 2, and then defeated Boston College 9 to 1 for the National title.

The Laker team is coached by Jeff Jackson, who is in his third year at Lake Superior State University. In his first year as coach of the Lakers he guided them to the national championship—the second for the school—and in this his third year to their third national title. He has the best record of any active college coach, 129-32-17, a .772 winning percentage.

This remarkable records has been made possible by the determined and talented people who make up his team and coaching staff. Assisting Coach Jackson are coaches Paul Pooley, Ron Rolston, and Bruce Hoffort. The team consists of goaltenders Paul Sass, Sean Kulick, and Blaine Lacher; defensemen Josh Bilben, Steven Barnes, Keith Aldridge, Darren Wetherill, Brad Wilner, Mike Mattencci, and Gino Pulente; forwards Mike Morin, Wayne Strachan, Gerald Tallaire, Sawn Tallaire, Clayton Beddoes, Jay Ness, Rob Valicevic, Mike Koiranen, Scott McCabe, Kurt Miller, Danny Galarneau, Dan Angelelli, Matt Alvey, and Jason Trzcinski.

I couldn't be more proud of their accomplishments. When I have had the opportunity I have attended some of their games, and I understand the justifiable pride the families, friends, school, and community feel for the team. I join the Sault Sainte Marie community and the entire State of Michigan in congratulating the Lakers Hockey Team from Lake Superior State University for being the NCAA Division I National Champions of Hockey.•

DEMOCRACY IN HAITI

• Mr. SIMON. Mr. President, yesterday Senator DODD and several other colleagues introduced a bill to restore democracy in Haiti. Today, I would like to add my name as a cosponsor of S. 2027, the Haitian Restoration of Democracy Act of 1994.

This bill sends a clear signal to the military junta in Haiti that the United States will not tolerate the deposing of a freely elected President in the Western Hemisphere. If the United States cannot stand up for democracy only 600 miles from our shore, how will we face injustice in countries in which we have no national interests?

S. 2027 tightens the embargo against Haiti so that those responsible for the instability in Haiti, the Army and their supporters, will feel the brunt of these sanctions. Heretofore, only average Haitians have been affected by the sanctions. For the sanctions to have any tangible affect on the political situation in Haiti, we must make certain that General Cedras and his supporters feel the sanctions' effects.

In addition, S. 2027 makes it United States policy to take steps against countries who violate international and United States sanctions against Haiti. The international community has spoken through the Organization of American States [OAS] and the United Nations against those rogue elements in Haiti by establishing sanctions. This bill ensures that those nations who ignore the sanctions against Haiti will also have a price to pay.

Human rights violations in Haiti have increased since the OAS withdrew its human right monitors last fall. It is imperative that the international community address this problem as soon as possible. Murder, rape, and abduction for political reasons are daily occurrences in Haiti. If these violations are not monitored and reported to international bodies for appropriate action, the instability of Haiti could turn into total chaos. This bill addresses this issue by facilitating the return of a full contingent of human rights observers under the auspices of the United Nations and/or the Organization of American States.

While I support the foreign policy provisions of S. 2027, I do however, have serious reservations about certain immigration provisions in this bill.

My main concern is that it should not be U.S. policy to encourage, for any reason, citizens of any nation to make a perilous journey, over water, in unseaworthy boats, to the United States. The provisions of S. 2027 regarding temporary protected status for virtually all Haitians—including those currently in Haiti—will likely encourage precisely such a journey.

Rather than inducing an undesirable exodus, we need to develop and enforce policies that improve conditions in Haiti and render the journey to the United States unnecessary. I am confident the Senate Foreign Relations Committee will address these issues at the committee level. If, however, they cannot be resolved, I will reconsider my support for S. 2027.

The Haiti question will not go away. The coup leaders continue to believe that the international community will forget about their heinous actions over time. I urge my colleagues to support S. 2027 because it clearly states that the United States makes democracy and the rule of law a priority in Haiti, the stability of which is in our national interest.•

CONDEMNING RACISM AND BIGOTRY FROM THE NATION OF ISLAM

• Mr. D'AMATO. Mr. President, I rise today to express my outrage at the recent statements and actions of Louis Farakhan, Khalid Muhammed, Conrad Muhammed, and his supporters. More disturbing still is the fact that so many people seem to take comfort at their mass gatherings. Too few have spoken out against this racism and all Americans, of every ethnic persuasion, should be angered.

We must not buy into the false argument that the Nation of Islam "does some good." In the long run, no good can come from any people who seek material and spiritual betterment by scapegoating others. We do not accept the argument that Adolf Hitler found redemption with the German people despite his genocide of European Jewry in the Holocaust. We do not accept the "reasonable sounding" remedies of David Duke clothed as they are in a former Ku Klux Klansman. We cannot accept the "quick fix" Vladimir Zhirinovsky wrapped in the hatred of Jews and non-Russians.

These people cannot be regarded as a positive force in our society in the long or short run absent a comprehensive revision of their racist philosophy.

On Sunday, May 1, 1994, the Jewish Community Relations Council of Greater New York will honor Congressman JOHN LEWIS of Georgia, who has spoken out against the hatred of Nation of Islam leaders. I will join with Senator MOYNIHAN and the members of the New York congressional delegation as we pay tribute to JOHN.

It is time for everyone to speak out. We should have learned history's lessons long ago. It's a shame that we have not. There is no place in our society for the hatred that these people espouse.•

RETIREMENT OF JUSTICE BLACKMUN

• Mr. DURENBERGER. Mr. President, I rise today to recognize and commemorate the retirement from public life of one of Minnesota's most outstanding citizens of the 20th century.

Supreme Court Justice Harry Blackmun's retirement after 24 years on the Court leaves a void that will not easily be filled. He exemplifies the virtues of hard work and independent thought—qualities that are absolutely essential if we are to maintain a strong, fair and independent judiciary.

While he was a graduate of Harvard University Law School, Justice Blackmun practiced and taught law in Minnesota until 1959. Among his clients was the famous Mayo Clinic of Rochester, Minnesota, which he served as resident counsel. In 1959 he was appointed by President Eisenhower to one of the Minnesota seats on the Eighth Circuit Court of Appeals, where he served until his elevation to the Supreme Court in 1970.

In 1991 the World Champion Minnesota Twins were in Washington at a reception hosted by the Minnesota Congressional Delegation. Justice Blackmun, who, along with former Chief Justice Warren Burger, is occasionally referred to as one of the Minnesota twins on the High Court, was there too. From that occasion and others I know that he takes some pride, as I do, in his Minnesota roots.

I would also like to take a moment to salute Harry Blackmun's helpmate throughout his public service, his wife Dorothy Blackmun. While raising three daughters, Dorothy Blackmun made the sacrifices of public service, just as her husband did. She deserves our gratitude.

Together they are an example to us all.

It would not be an exaggeration, Mr. President, to describe the character of Justice Blackmun as fundamentally Minnesotan. His dedication to his own principles did not make him a slave of any political party or ideology.

Justice Blackmun also brought compassion and an unerring sense of justice to the Court. "Poor Joshua!" he said in a widely quoted dissenting opinion in 1989—referring to a small boy who suffered abuse that governmental agencies ostensibly did little to alleviate. With that controversial burst of sentiment, Harry Blackmun seemed to be calling attention to the fact that while law must be an abstraction in order to be fair, it must never be only an abstraction if it is to meet the changing needs of a truly diverse nation.

Responding to change—without sacrificing true principle—is a hallmark of the public service of Harry Blackmun. While few people would agree with every single exercise of Justice Blackmun's prodigious intellect, I'm confident that most observers would agree that America is much better off for his 35 years of judicial leadership.

I ask my colleagues to join me and the people of Minnesota in expressing affection and gratitude to a great American, Associate Justice Harry Blackmun, on the occasion of his retirement.●

EXECUTIVE SESSION

Mr. KENNEDY. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination: Calendar No. 829, Adm. Jeremy M. Boorda, to be Chief of Naval Operations.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

NAVY

The legislative clerk read the nomination of Adm. Jeremy M. Boorda, U.S. Navy, to be Chief of Naval Operations (with the grade of Admiral).

Mr. KENNEDY. I further ask unanimous consent that the nominee be confirmed; that any statements appear in the RECORD as if read; that upon confirmation, the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

MEASURE INDEFINITELY POSTPONED—S. 169

Mr. KENNEDY. Madam President, I ask unanimous consent that S. 169 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRAUMATIC BRAIN INJURY ACT OF 1993

Mr. KENNEDY. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 397, S. 725, the Traumatic Brain Injury Act.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 725) to amend the Public Health Service Act to provide for the conduct of expanded studies and the establishment of innovative programs with respect to traumatic brain injury, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which was reported from the Committee on Labor and Human Resources with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Traumatic Brain Injury Act of 1993".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) each year 2,000,000 individuals suffer serious head injuries resulting from automobile accidents, sports, recreational activities, assaults, violence and other falls and incidents;

(2) a majority of all head injuries are caused by motor vehicle accidents;

(3) individuals between the ages of 15 and 24 are at greatest risk for sustaining head injuries;

(4) of the individuals who sustain head injuries each year, approximately 500,000 require hospitalization, and 75,000 to 100,000 of such individuals die within hours of the injury;

(5) of the individuals who survive head injuries each year, approximately 70,000 to 90,000 will suffer irreversible debilitating loss of function, 5,000 will develop epilepsy as a result of the injury, and 2,000 will exist in a coma;

(6) a significant number of individuals with traumatic brain injury are not easily restored to society and require years of rehabilitation, medical follow-up and integrated community services, which are costly and frequently not readily available;

(7) individuals sustaining traumatic brain injury require coordinated and specialized services, including post-injury supervised programs facilitating reentry into the community;

(8) many health and social service agencies, both public and private, overlook, exclude or inadequately serve individuals surviving traumatic brain injury;

(9) society bears an economic cost of approximately $25,000,000,000 per year for the direct and indirect costs of traumatic brain injury, which include medical treatment, rehabilitative and support services and lost income; and

(10) prevention efforts will reduce the mortality, morbidity, disability and costs associated with traumatic brain injury.

(b) PURPOSE.—It is the purpose of this Act to—

(1) facilitate the conduct of research and the collection and compiling of accurate statistical data on traumatic brain injury;

(2) raise public awareness concerning the risks and consequences of such injuries;

(3) promote the creation of innovative programs and policies to prevent traumatic brain injury and to rehabilitate those individuals who have survived such injuries;

(4) designate a Federal agency to oversee and promote projects relating to the prevention of, and rehabilitation from, traumatic brain injury;

(5) establish State advisory boards to coordinate citizen participation in community programs dealing with traumatic brain injury;

(6) determine the incidence and prevalence of traumatic brain injury; and

(7) encourage States to develop or adopt marketing standards for brain injury rehabilitation services.

SEC. 3. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.

Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.) is amended—

(1) by redesignating part C as part D;

(2) in section 1232(a) (42 U.S.C. 300d–32(a)), by inserting "other than part C," after "carrying out this title,"; and

(3) by inserting after part B, the following new part:

"PART C—TRAUMATIC BRAIN INJURY

"SEC. 1225A. AGENCY FOR HEALTH CARE POLICY AND RESEARCH STUDY OF EFFECTIVENESS OF TRAUMATIC BRAIN INJURY INTERVENTIONS.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Agency for Health Care Policy and Research and subject to the availability of appropriations, shall conduct a study concerning traumatic brain injury. The Secretary shall ensure that activities carried out under this section will be coordinated with activities of other agencies of the Public Health Service.

"(b) MAJOR FINDINGS.—The study conducted under subsection (a) shall seek to—

"(1) identify common therapeutic interventions which are used for the rehabilitation of individuals with traumatic brain injuries, and shall, subject to the availability of information, include an analysis of—

"(A) the effectiveness of each such intervention in improving the functioning of individuals with brain injuries;

"(B) the comparative effectiveness of interventions employed in the course of rehabilitation of individuals with brain injuries to achieve the same or similar clinical outcome; and

"(C) the adequacy of existing measures of outcomes and knowledge of factors influencing differential outcomes; and

"(2) develop practice guidelines for the rehabilitation of traumatic brain injury at such time as appropriate scientific research becomes available.

"(c) REPORTING REQUIREMENTS.—Not later than 4 years after the date of enactment of this part, the Secretary shall prepare and submit to the Energy and Commerce Committee of the House of Representatives and the Labor and Human Resources Committee of the Senate, and a report containing the results of the studies conducted under this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1996.

"SEC. 1225B. PREVENTION OF TRAUMATIC BRAIN INJURY.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may conduct, support and provide technical assistance to public and private nonprofit entities to reduce the incidence of traumatic brain injury through the establishment of prevention projects. The Secretary shall ensure that activities carried out under this section will be coordinated with activities of the agencies of the Public Health Service.

"(b) GRANTS.—In carrying out this section, the Secretary may award grants to State and local entities, and to public or non-profit private entities, to support—

"(1) the conduct of research into identifying effective strategies to prevent traumatic brain injury; and

"(2) the implementation of public information and education programs for the prevention of traumatic brain injury and to broaden the awareness of the public concerning the public health consequences of traumatic brain injury.

"(c) STUDY.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall collaborate with appropriate State and local health-related agencies, to conduct a study on the incidence and prevalence of traumatic brain injury. In conducting such study the Secretary may develop a uniform reporting system under which States report incidences of traumatic brain injury.

"(2) REPORT.—Not later than 3 years after the date of enactment of this part, the Secretary shall prepare and submit to State health departments a report that contains the results of the study conducted under paragraph (1).

"(d) APPLICATION.—To be eligible to receive assistance under subsections (a) and (b), an entity shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $6,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996. The Secretary shall ensure that activities carried out under this section will be coordinated with activities of other agencies of the Public Health Service.

"SEC. 1225C. BASIC AND APPLIED RESEARCH.

"(a) IN GENERAL.—The Secretary, acting through the Director of the National Institutes of Health, may provide assistance to public and private nonprofit entities to conduct basic and applied research concerning traumatic brain injury. The Secretary shall ensure that activities carried out under this section will be coordinated with activities of the agencies of the Public Health Service.

"(b) GRANTS.—In carrying out this section, the Secretary may award grants to public or nonprofit entities for—

"(1) the development of new methods and modalities for the more effective diagnosis, measurement of degree of injury, post-injury monitoring and prognostic assessment of head injury for acute, subacute and later phases of care;

"(2) the development, modification and evaluation of therapies that retard, prevent, or reverse brain damage after acute head injury, that arrest further deterioration following injury and that provide the restitution of function for individuals with long-term injuries;

"(3) the development of research on a continuum of care from acute care through rehabilitation, designed, to the extent practicable, to integrate rehabilitation and long-term outcome evaluation with acute care research; and

"(4) the development of programs that increase the participation of academic centers of excellence in head injury treatment and rehabilitation research and training.

"(c) CONSENSUS CONFERENCE.—The Secretary, acting through the Director of the National Center for Medical Rehabilitation Research within the National Institute for Child Health and Human Development, shall conduct a national consensus conference on managing head injury and related rehabilitation concerns. The findings of such conference shall be provided to the Agency for Health Care Policy and Research.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"SEC. 1225D. STATEWIDE DEMONSTRATION PROJECTS FOR TRAUMATIC BRAIN INJURY.

"(a) GRANTS.—The Secretary, acting through the Director of Health Resources and Services Administration, may award grants to States for the purpose of assisting grantees in carrying out demonstration projects for the—

"(1) establishment of policies for coordinating services within the State for individuals with traumatic brain injury;

"(2) establishment of standards, or adoption of nationally recognized standards, regarding the marketing of rehabilitation services (by hospitals and other providers) to traumatic brain injury patients or family members, dissemination of the standards to case management programs, and furnishing of information on such standards to individuals who sustain traumatic brain injuries (and the family members of such individuals) at the earliest appropriate opportunity after the individual has sustained the injury (such standards to include (at a minimum) a rule prohibiting payments under a case management program under this section for referring patients);

"(3) coordination of legal, administrative and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of individuals with traumatic brain injury within the State who are or may be eligible for treatment, services, or rehabilitation, such treatment, services or rehabilitation to be coordinated with existing protection and advocacy systems through the State;

"(4) the provision to persons with traumatic brain injury of information regarding appropriate public or private agencies that provide rehabilitative services so that injured persons or individuals responsible for such persons may obtain needed service to alleviate injuries and avoid secondary problems; and

"(5) identification of the services required to prevent the institutionalization or to minimize the need for residential rehabilitation in the case of traumatic brain injury.

"(b) GENERAL ELIGIBILITY REQUIREMENTS.—To be eligible to receive a grant under subsection (a), a State shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require.

"(c) STATE ADVISORY BOARD.—

"(1) IN GENERAL.—To be eligible to receive a grant under subsection (a), a State shall establish an advisory board within the appropriate health department of the State or within another department as designated by the chief executive officer of the State.

"(2) FUNCTIONS.—An advisory board established under paragraph (1) shall assist the State in developing and implementing State programs to carry out activities under this section. The advisory board shall be cognizant of findings and concerns of Federal, State and local agencies, citizens groups, and private industry (such as insurance, health care, automobile, and other industry entities). Such advisory boards shall encourage citizen participation through the establishment of public hearings and other types of community outreach programs.

"(3) COMPETITION.—An advisory board established under paragraph (1) shall be composed of—

"(A) representatives of—

"(i) the corresponding States agencies involved;

"(ii) public and nonprofit private health related organizations;

"(iii) other disability advisory or planning groups within the State;

"(iv) members of an organization or foundation representing traumatic brain injury survivors in that State; and

"(v) injury control programs at the State or local level if such programs exist; and

"(B) a substantial number of individuals who are survivors of traumatic brain injury, or the family members of such individuals.

"(d) REQUIREMENT OF MATCHING FUNDS.—

"(1) IN GENERAL.—With respect to the costs to be incurred by a State in carrying out the purpose described in subsection (a), the Secretary may not make a grant under such subsection unless the State agrees to provide non-Federal contributions toward such costs, in cash, in an amount that is not less than $1 for each $2 of Federal funds provided under the grant.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—In determining the amount of non-Federal contributions in cash that a State has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the State by the Federal Government.

"(e) REPORT.—Not later than 2 years after the date of enactment of this part, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the findings and results of the programs established under this section, including measures of outcomes and consumer and surrogate satisfaction.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $20,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"SEC. 1225E. DEFINITION.

"As used in this part, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. Such term is synonymous with the term 'traumatic head injury'. The Secretary, acting through the Director of the National Center for Injury Prevention and Control within the Centers for Disease Prevention and Control, may modify the definition of 'traumatic brain injury'.".

SEC. 4. NATIONAL HEAD INJURY PREVENTION AND AWARENESS MONTH.

The month of October, 1994, is hereby designated as "National Head Injury Prevention and Awareness Month" and the President is requested to issue a proclamation calling on the people of the United States to observe such month with appropriate ceremonies and activities.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on October 1, 1994, or upon the date of enactment of this Act, whichever occurs later.

AMENDMENT NO. 1657

(Purpose: To provide for a substitute amendment)

Mr. KENNEDY. Madam President, I send a substitute amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself and Mr. HATCH, proposes an amendment numbered 1657.

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. PROGRAMS OF CENTERS FOR DISEASE CONTROL AND PREVENTION.

Part B of title III of the Public Health Service Act (42 U.S.C. 241 et seq.), as amended by section 703 of Public Law 103-183 (107 Stat. 2240), is amended by inserting after section 317F the following section:

"PREVENTION OF TRAUMATIC BRAIN INJURY

"SEC. 317G. The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may carry out projects to reduce the incidence of traumatic brain injury. Such projects may be carried out by the Secretary directly or through awards of grants or contracts to public or nonprofit private entities. The Secretary may directly or through such awards provide technical assistance with respect to the planning, development, and operation of such projects.

"(b) CERTAIN ACTIVITIES.—Activities under subsection (a) may include—

"(1) the conduct of research into identifying effective strategies for the prevention of traumatic brain injury; and

"(2) the implementation of public information and education programs for the prevention of such injury and for broadening the awareness of the public concerning the public health consequences of such injury.

"(c) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(d) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.".

SEC. 2. PROGRAMS OF NATIONAL INSTITUTES OF HEALTH.

Section 1261 of the Public Health Service Act (42 U.S.C. 300d-61) is amended—

(1) in subsection (d)—

(A) in paragraph (2), by striking "and" after the semicolon at the end;

(B) in paragraph (3), by striking the period and inserting "; and"; and

(C) by adding at the end the following paragraph:

"(4) the authority to make awards of grants or contracts to public or nonprofit private entities for the conduct of basic and applied research regarding traumatic brain injury, which research may include—

"(A) the development of new methods and modalities for the more effective diagnosis, measurement of degree of injury, post-injury monitoring and prognostic assessment of head injury for acute, subacute and later phases of care;

"(B) the development, modification and evaluation of therapies that retard, prevent or reverse brain damage after acute head injury, that arrest further deterioration following injury and that provide the restitution of function for individuals with long-term injuries;

"(C) the development of research on a continuum of care from acute care through rehabilitation, designed, to the extent practicable, to integrate rehabilitation and long-term outcome evaluation with acute care research; and

"(D) the development of programs that increase the participation of academic centers of excellence in head injury treatment and rehabilitation research and training."; and

(2) in subsection (h), by adding at the end the following paragraph:

"(4) The term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.".

SEC. 3. PROGRAMS OF HEALTH RESOURCES AND SERVICES ADMINISTRATION.

Part E of title XII of the Public Health Service Act (42 U.S.C. 300d-51 et seq.) is amended by adding at the end the following section:

"SEC. 1252. STATE GRANTS FOR DEMONSTRATION PROJECTS REGARDING TRAUMATIC BRAIN INJURY.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of carrying out demonstration projects to improve access to health and other services regarding traumatic brain injury.

"(b) STATE ADVISORY BOARD.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State involved agrees to establish an advisory board within the appropriate health department of the State or within another department as designated by the chief executive officer of the State.

"(2) FUNCTIONS.—An advisory board established under paragraph (1) shall advise and make recommendations to the State on ways to improve services coordination regarding traumatic brain injury. Such advisory boards shall encourage citizen participation through the establishment of public hearings and other types of community outreach programs.

"(3) COMPOSITION.—An advisory board established under paragraph (1) shall be composed of—

"(A) representatives of—

"(i) the corresponding State agencies involved;

"(ii) public and nonprofit private health related organizations;

"(iii) other disability advisory or planning groups within the State;

"(iv) members of an organization or foundation representing traumatic brain injury survivors in that State; and

"(v) injury control programs at the State or local level if such programs exist; and

"(B) a substantial number of individuals who are survivors of traumatic brain injury, or the family members of such individuals.

"(c) MATCHING FUNDS.—

"(1) IN GENERAL.—With respect to the costs to be incurred by a State in carrying out the purpose described in subsection (a), the Secretary may make a grant under such subsection only if the State agrees to make available, in cash, non-Federal contributions toward such costs in an amount that is not less than $1 for each $2 of Federal funds provided under the grant.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—In determining the amount of non-Federal contributions in cash that a State has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the State by the Federal Government.

"(d) APPLICATION FOR GRANT.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(e) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(f) REPORT.—Not later than 2 years after the date of the enactment of this section, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings and results of the programs established under this section, including measures of outcomes and consumer and surrogate satisfaction.

"(g) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1995 through 1997.".

SEC. 4. STUDY; CONSENSUS CONFERENCE.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary"), acting through the appropriate agencies of the Public Health Service, shall conduct a study for the purpose of carrying out the following with respect to traumatic brain injury:

(1) In collaboration with appropriate State and local health-related agencies—

(A) determine the incidence and prevalence of traumatic brain injury; and

(B) develop a uniform reporting system under which States report incidences of traumatic brain injury, if the Secretary determines that such a system is appropriate.

(2) Identify common therapeutic interventions which are used for the rehabilitation of individuals with such injuries, and shall, subject to the availability of information, include an analysis of—

(A) the effectiveness of each such intervention in improving the functioning of individuals with brain injuries;

(B) the comparative effectiveness of interventions employed in the course of rehabilitation of individuals with brain injuries to achieve the same or similar clinical outcome; and

(C) the adequacy of existing measures of outcomes and knowledge of factors influencing differential outcomes.

(3) Develop practice guidelines for the rehabilitation of traumatic brain injury at such time as appropriate scientific research becomes available.

(2) DATES CERTAIN FOR REPORTS.—

(A) Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of carrying out paragraph (1)(A).

(B) Not later than 3 years after the date of the enactment of this Act, the Secretary shall submit to the Committees specified in subparagraph (A) a report describing the findings made as a result of carrying out subparagraphs (B) and (C) of paragraph (1).

(b) CONSENSUS CONFERENCE.—The Secretary, acting through the Director of the National Center for Medical Rehabilitation Research within the National Institute for Child Health and Human Development, shall conduct a national consensus conference on managing traumatic brain injury and related rehabilitation concerns.

(c) DEFINITION.—For purposes of this section, the term "traumatic brain injury" means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1995 through 1997.

SEC. 5. MAPLE SYRUP.

(a) PREEMPTION.—Section 403A(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343-1(a)) is amended—

(1) in paragraph (1), by inserting at the end the following: "except that this paragraph does not apply to a standard of identity of a State or political subdivision of a State for maple syrup which is of the type required by sections 401 and 403(g),".

(2) in paragraph (2), by inserting at the end the following: "except that this paragraph does not apply to a requirement of a State or political subdivision of a State which is of the type required by section 403(c) and which is applicable to maple syrup,", and

(3) in paragraph (3), by inserting at the end the following: "except that this paragraph does not apply to a requirement of a State or political subdivision of a State which is of the type required by section 403(h)(1) and which is applicable to maple syrup,".

(b) PROCEDURE.—Section 701(e)(1) (21 U.S.C. 371(e)(1)) is amended by striking "or maple syrup (regulated under section 168.140 of title 21, Code of Federal Regulations).".

Mr. KENNEDY. Madam President, I ask unanimous consent that the substitute amendment, as amended be agreed to, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Madam President, I urge the Senate to support the Traumatic Brain Injury Act of 1994. This legislation establishes new initiatives for preventing traumatic brain injury, enhancing basic and applied research, and improving the quality of care.

Traumatic brain injury has become the number one killer and cause of disability of young people in the United States, far outdistancing all other causes. Every year 90,000 people sustain a severe brain injury leading to irreversible and debilitating loss of function. Automobile accidents, sports accidents, falls, and increasing violence are the major causes of traumatic brain injury.

Medical treatment, rehabilitative efforts and disability payments for such injuries cost $25 billion a year, and the emotional and financial burden for families is often unbearable.

In 1988, Congress recommended that the Secretary of Health and Human Services establish an Interagency Head Injury Task Force to identify gaps in research, training, medical management and rehabilitation. This legislation responds to the needs identified by the task force.

This bill will promote the coordination of health, social, vocational and educational services at the State level and assure greater access to such services for victims suffering from these injuries. By improving the quality of care and access to a broad range of services, we can reduce the severe disabling effects and the heavy toll of these injuries.

The best treatment is still prevention. More effective strategies to avoid these injuries are critical. The community education program established under this bill will broaden public awareness of the consequences of traumatic brain injury and encourage prevention activities.

The bill will also expand efforts by the National Institutes of Health to identify effective therapeutic interventions and the development of practice guidelines for the rehabilitation of traumatic brain injury.

Finally, other provisions in this legislation will coordinate data collection and reporting of injuries through the Centers for Disease Control and Prevention.

This measure has great potential for saving lives, reducing disabilities and controlling health care costs. I urge the Senate to support its passage.

Madam President, I ask unanimous consent that a summary of the Act be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF TRAUMATIC BRAIN INJURY ACT—S. 725

SECTION 1. PROGRAMS OF CENTERS FOR DISEASE CONTROL AND PREVENTION

Adds a new section, 317G, to the Public Health Service Act. The CDC may provide grants or carry out projects to reduce the incidence of traumatic brain injury which may include identifying effective prevention strategies and implementing public information and education programs.

SECTION 2. NATIONAL INSTITUTES OF HEALTH

Amends section 1261 of the Public Health Service Act to allow NIH to award grants or contracts to support basic and applied research which may include (1) development of new methods for effective diagnosis, measurement of degree of injury, and post-injury monitoring; (2) evaluation of therapies that retard, prevent or reverse brain damage; (3) research on the continuum of care and (4) increase participation of academic centers of excellence in head injury treatment and rehabilitation research and training.

SECTION 3. PROGRAM OF HEALTH RESOURCES AND SERVICES ADMINISTRATION

Amends title XII of the Public Health Service Act by adding new section, "Section 1252. State Grants for Demonstration Projects Statewide Program for Traumatic Brain Injury". The Administrator of Health Resources and Services Administration may make grants to States for demonstration projects to improve the availability of health services to traumatic brain injury survivors. The States are required to establish a State Advisory Board. The Board will encourage citizen participation through public hearings and community outreach. Requires matching funds, $1 State dollar for every $2 in Federal support. Authorizes such sum as may be necessary for FY94, FY95 and FY96.

SECTION 4. STUDY; CONSENSUS CONFERENCE

Determine the incidence and prevalence of traumatic brain injury and develop a uniform reporting system. Identify common therapeutic interventions used for the rehabilitation and assess it's effectiveness. Develop practice guidelines for the rehabilitation of traumatic brain injury at such time as appropriate scientific research becomes available. The National Center for Medical Rehabilitation Research within the National Institute for Child Health and Human Development will conduct a national consensus conference on managing traumatic brain injury. Authorizes such sum as may be necessary for FY94, FY95 and FY96.

SECTION 5. MAPLE SYRUP (SENATORS JEFFORDS AND MITCHELL AMENDMENT)

Since the 1920's, various states have regulated the manufacture of maple syrup. It is a small market, with production centered in the northeast. States have attempted to clarify with the Food and Drug Administration their ability to maintain state standards which are more stringent than federal standards with regard to impurities, imitations and grading. These efforts have so far produced no response. The provision is designed to preserve state purity and other standards that consumers have come to associate with maple syrup. Doing so will not result in any appreciable burden on interstate commerce.

DIFFERENCES BETWEEN S. 725 AND CHAIRMAN'S SUBSTITUTE AMENDMENT

1. Chairman's Substitute Amendment only authorizes two programs; the NIH Consensus Reports and the State Demonstration Service Coordination Program for such sums as may be necessary for FY94, FY95 and FY96. S. 725 authorizes a total of $40 million in FY95 and such as may be necessary for FY95 and FY96.

2. New Section 5 of the Chairman's substitute contains Senators Jeffords and Mitchell Amendment on Maple Syrup.

Mr. JEFFORDS. Madam President: I am very pleased to be an original cosponsor of the Traumatic Brain Injury Act and I rise to confirm my support for the proposal and its goals.

Two million persons suffer major head injuries every year, and of these 100,000 die. More young Americans in the 15- to 24-year age group die or sustain disabilities from such injuries than from any other cause. The many survivors of these traumatic occurances, of all ages, often face irreversible loss of functions, including epilepsy or sustained coma. The victims, and their families, suffer emotional and financial devastation.

In February 1989, the Department of Health and Human Services issued an interagency report that underlined the need for development of a national strategy to address the issues of prevention of traumatic brain injuries [TBI] and care of TBI survivors and their reintegration into society.

The bill before us represents a necessary step towards making such a national strategy reality. Under the provisions of S. 725 we seek better coordination of existing resources for TBI survivors, expansion of our knowledge of effective treatments and, most important of all, more effective TBI prevention modalities. There will be increased services coordination at the Federal and State level which should assure greater and more effective access to care by TBI survivors and their families. Our knowledge of TBI will be improved through a data base system developed from uniform reporting.

In these various ways this legislation will act to prevent the further deterioration of the condition of present TBI survivors and improve their quality of life and that of their families. And, looking to the future, hopefully we will be able to reduce the too great incidence of TBI and the crushing consequences.

As we turn to address the broader issues of health care reform, we must not neglect targeted, necessary and reasonable initiatives such as the Traumatic Brain Injury Act. I urge the support of all my colleagues for this measure.

The bill will also make a small but important change in the area of nutrition labelling. One effect of the Nutrition Labeling and Education Act was to preempt State standards. Congress did recognize the unique problems this posed for the small maple syrup industry that exists in a few of our States and acted on a temporary basis to maintain State standards.

Since the 1920's, various States have regulated the manufacture of maple syrup. It is a small market, with production centered in the northeast. States have attempted to clarify with the Food and Drug Administration their ability to maintain State standards which are more stringent than federal standards with regard to impurities, imitations and grading. These efforts have so far produced no response.

The provision is designed to preserve State purity and other standards that consumers have come to associate with maple syrup from those same States. Doing so will not result in any appreciable burden on interstate commerce. Nor will it deprive consumers of protection against false claims or deny them nutritional information. But it will preserve the hard-earned and well-deserved reputation that our States' sugarmakers have built up for their product over the years.

The PRESIDING OFFICER. Without objection, the bill is considered read the third time, and passed.

So the bill (S. 725), as amended was passed, as follows:

S. 725

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROGRAMS OF CENTERS FOR DISEASE CONTROL AND PREVENTION.

Part B of title III of the Public Health Service Act (42 U.S.C. 241 et seq.), as amended by section 703 of Public Law 103–183 (107 Stat. 2240), is amended by inserting after section 317F the following section:

"PREVENTION OF TRAUMATIC BRAIN INJURY

"SEC. 317G. The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may carry out projects to reduce the incidence of traumatic brain injury. Such projects may be carried out by the Secretary directly or through awards of grants or contracts to public or nonprofit private entities. The Secretary may directly or through such awards provide technical assistance with respect to the planning, development, and operation of such projects.

"(b) CERTAIN ACTIVITIES.—Activities under subsection (a) may include—

"(1) the conduct of research into identifying effective strategies for the prevention of traumatic brain injury; and

"(2) the implementation of public information and education programs for the prevention of such injury and for broadening the awareness of the public concerning the public health consequences of such injury.

"(c) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(d) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.".

SEC. 2. PROGRAMS OF NATIONAL INSTITUTES OF HEALTH.

Section 1261 of the Public Health Service Act (42 U.S.C. 300d-61) is amended—

(1) in subsection (d)—

(A) in paragraph (2), by striking "and" after the semicolon at the end;

(B) in paragraph (3), by striking the period and inserting "; and"; and

(C) by adding at the end the following paragraph:

"(4) the authority to make awards of grants or contracts to public or nonprofit private entities for the conduct of basic and applied research regarding traumatic brain injury, which research may include—

"(A) the development of new methods and modalities for the more effective diagnosis, measurement of degree of injury, post-injury monitoring and prognostic assessment of head injury for acute, subacute and later phases of care;

"(B) the development, modification and evaluation of therapies that retard, prevent or reverse brain damage after acute head injury, that arrest further deterioration following injury and that provide the restitution of function for individuals with long-term injuries;

"(C) the development of research on a continuum of care from acute care through rehabilitation, designed, to the extent practicable, to integrate rehabilitation and long-term outcome evaluation with acute care research; and

"(D) the development of programs that increase the participation of academic centers of excellence in head injury treatment and rehabilitation research and training."; and

(2) in subsection (h), by adding at the end the following paragraph:

"(4) The term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.".

SEC. 3. PROGRAMS OF HEALTH RESOURCES AND SERVICES ADMINISTRATION.

Part E of title XII of the Public Health Service Act (42 U.S.C. 300d-51 et seq.) is amended by adding at the end the following section:

"SEC. 1252. STATE GRANTS FOR DEMONSTRATION PROJECTS REGARDING TRAUMATIC BRAIN INJURY.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of carrying out demonstration projects to improve access to health and other services regarding traumatic brain injury.

"(b) STATE ADVISORY BOARD.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State involved agrees to establish an advisory board within the appropriate health department of the State or within another department as designated by the chief executive officer of the State.

"(2) FUNCTIONS.—An advisory board established under paragraph (1) shall advise and make recommendations to the State on ways to improve services coordination regarding traumatic brain injury. Such advisory boards shall encourage citizen participation through the establishment of public hearings and other types of community outreach programs.

"(3) COMPOSITION.—An advisory board established under paragraph (1) shall be composed of—

"(A) representatives of—

"(i) the corresponding State agencies involved;

"(ii) public and nonprofit private health related organizations;

"(iii) other disability advisory or planning groups within the State;

"(iv) members of an organization or foundation representing traumatic brain injury survivors in that State; and

"(v) injury control programs at the State or local level if such programs exist; and

"(B) a substantial number of individuals who are survivors of traumatic brain injury, or the family members of such individuals.

"(c) MATCHING FUNDS.—

"(1) IN GENERAL.—With respect to the costs to be incurred by a State in carrying out the purpose described in subsection (a), the Secretary may make a grant under such subsection only if the State agrees to make available, in cash, non-Federal contributions toward such costs in an amount that is not less than $1 for each $2 of Federal funds provided under the grant.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—In determining the amount of non-Federal contributions in cash that a State has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the State by the Federal Government.

"(d) APPLICATION FOR GRANT.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(e) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(f) REPORT.—Not later than 2 years after the date of the enactment of this section, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings and results of the programs established under this section, including measures of outcomes and consumer and surrogate satisfaction.

"(g) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1995 through 1997.".

SEC. 4. STUDY; CONSENSUS CONFERENCE.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary"), acting through the appropriate agencies of the Public Health Service, shall conduct a study for the purpose of carrying out the following with respect to traumatic brain injury:

(1) In collaboration with appropriate State and local health-related agencies—

(A) determine the incidence and prevalence of traumatic brain injury; and

(B) develop a uniform reporting system under which States report incidences of traumatic brain injury, if the Secretary determines that such a system is appropriate.

(2) Identify common therapeutic interventions which are used for the rehabilitation of individuals with such injuries, and shall, subject to the availability of information, include an analysis of—

(A) the effectiveness of each such intervention in improving the functioning of individuals with brain injuries;

(B) the comparative effectiveness of interventions employed in the course of rehabilitation of individuals with brain injuries to achieve the same or similar clinical outcome; and

(C) the adequacy of existing measures of outcomes and knowledge of factors influencing differential outcomes.

(3) Develop practice guidelines for the rehabilitation of traumatic brain injury at such time as appropriate scientific research becomes available.

(2) DATES CERTAIN FOR REPORTS.—

(A) Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of carrying out paragraph (1)(A).

(B) Not later than 3 years after the date of the enactment of this Act, the Secretary shall submit to the Committees specified in subparagraph (A) a report describing the findings made as a result of carrying out subparagraphs (B) and (C) of paragraph (1).

(b) CONSENSUS CONFERENCE.—The Secretary, acting through the Director of the National Center for Medical Rehabilitation Research within the National Institute for Child Health and Human Development, shall conduct a national consensus conference on managing traumatic brain injury and related rehabilitation concerns.

(c) DEFINITION.—For purposes of this section, the term "traumatic brain injury" means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1995 through 1997.

SEC. 5. MAPLE SYRUP.

(a) PREEMPTION.—Section 403A(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343–1(a)) is amended—

(1) in paragraph (1), by inserting at the end the following: "except that this paragraph does not apply to a standard of identity of a State or political subdivision of a State for maple syrup which is of the type required by sections 401 and 403(g),",

(2) in paragraph (2), by inserting at the end the following: "except that this paragraph does not apply to a requirement of a State or political subdivision of a State which is of the type required by section 403(c) and which is applicable to maple syrup,", and

(3) in paragraph (3), by inserting at the end the following: "except that this paragraph does not apply to a requirement of a State or political subdivision of a State which is of the type required by section 403(h)(1) and which is applicable to maple syrup,".

(b) PROCEDURE.—Section 701(e)(1) (21 U.S.C. 371(e)(1)) is amended by striking "or maple syrup (regulated under section 168.140 of title 21, Code of Federal Regulations).".

Mr. KENNEDY. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BOARD OF VETERANS' APPEALS AMENDMENTS ACT OF 1994

Mr. KENNEDY. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 413, S. 1904, a bill relating to the Board of Veterans' Appeals.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (S. 1904) to amend title 38, United States Code, to improve the organization and procedures of the Board of Veterans' Appeals, which had been reported from the Committee on Veterans' Affairs, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the part of the bill intended to be inserted are shown in italic.)

S. 1904

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ORGANIZATION AND PROCEDURES OF BOARD OF VETERANS' APPEALS.

(a) NUMBER OF MEMBERS.—Subsection (a) of section 7101 of title 38, United States Code, is amended by striking out "(not more than 65)".

(b) ACTING AND TEMPORARY MEMBERS.—(1) Such section is further amended—

(1) in subsection (c)—

(A) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph (1):

"(1)(A) The Chairman may from time to time designate one or more employees of the Department to serve as acting members of the Board. Except as provided in subparagraph (B), any such designation shall be for a period not to exceed 90 days, as determined by the Chairman.

"(B) An individual designated as an acting member of the Board may continue to serve as an acting member of the Board in the making of any determination on a proceeding for which the individual was designated as an acting member of the Board, notwithstanding the termination of the period of designation of the individual as an acting member of the Board under subparagraph (A) or (C).

"(C) An individual may not serve as an acting member of the Board for more than 270 days during any 1-year period.";

(B) by striking out paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2); and

(D) in paragraph (2), as so redesignated, by striking out "the number of temporary Board members" and all that follows through the period at the end and inserting in lieu thereof "the number of acting members of the Board designated under such paragraph (1) during the year for which the report is made."; and

(2) in subsection (e), by striking out "a temporary or" and inserting in lieu thereof "an".

(c) REPORT ON BOARD ACTIVITIES.—Subsection (d) of such section is amended—

(1) in paragraph (2)—

(A) by striking out "and" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new subparagraph:

"(F) the number of employees of the Department designated under subsection (c)(1) of this section to serve as acting members of the Board during that year and the number of cases in which each such member participated during that year."; and

(2) in paragraph (3)(B), by striking out "as required by section 7103(d) of this title".

(d) APPEALS DECISIONS.—(1) Chapter 71 of such title is amended by striking out sections 7102 and 7103 and inserting in lieu thereof the following new sections 7102 and 7103:

"§ 7102. Decisions by the Board

"A proceeding instituted before the Board may be assigned to one or more members of the Board. A proceeding assigned to more than one member shall be assigned to a panel of not less than three members of the Board. A member or panel assigned a proceeding shall make a determination thereon, including any motion filed in connection therewith. The member or panel, as the case may be, shall make a report under section 7104(d) of this title on any such determination, which report shall constitute the final disposition of the proceeding by the member or panel.

"§ 7103. Reconsideration; correction of obvious errors

"(a) Subject to subsections (b) and (c) of this section, the decision of the Board determining a matter under section 7102 of this title is final.

"(b) The Chairman may order reconsideration of the decision in a case in accordance with subsection (c) of this section. Such an order may be made on the Chairman's initiative or upon motion of the claimant.

"(c)(1) Upon the order of the Chairman for reconsideration of a decision in a case, the case shall be referred—

"(A) in the case of a matter originally heard by a single member of the Board, to a panel of not less than three members of the Board.

"(B) in the case of a matter originally heard by a panel of members of the Board, to an enlarged panel of the Board.

"(2) A panel referred to in paragraph (1) of this subsection may not include the member or members who made the original decision subject to reconsideration.

"(3) A panel reconsidering a matter under this subsection shall render its decision after reviewing the entire record before the Board. The decision of a majority of the members of the panel shall be final.

"(d) The Board on its own motion may correct an obvious error in the record, without regard to whether there has been a motion or order for reconsideration.".

(2) The table of sections at the beginning of such chapter is amended by striking out the items relating to sections 7102 and 7103 and inserting in lieu thereof the following:

"7102. Decisions by the Board.
"7103. Reconsideration; correction of obvious errors.".

(e) PROCEDURES RELATING TO APPEALS.—(1)(A) Section 7107 of such title is amended to read as follows:

"§ 7107. Appeals: dockets; hearings

"(a)(1) All cases received pursuant to application for review on appeal shall be considered and decided in regular order according to their places upon the docket.

"(2) A case referred to in paragraph (1) of this subsection may, for cause shown, be advanced on motion for earlier consideration and determination. Any such motion shall set forth succinctly the grounds upon which it is based and may not be granted unless the case involves interpretation of law of general application affecting other claims, or for other sufficient cause shown.

"(b) The Board shall decide any appeal only after affording the appellant an opportunity for a hearing.

"(c) A hearing docket shall be maintained and formal recorded hearings shall be held by such member or members of the Board as the Chairman may designate. Such member or members designated by the Chairman to conduct the hearing shall participate in making the final determination of the claim.

"(d)(1) An appellant may request a hearing before the Board at its principal location or at a [regional office of the Department] *location within the area served by a regional office of the Department.*

"(2)(A) Except as provided in subparagraph (B) of this paragraph, hearings *requested within an area served by a regional office of the Department* shall be scheduled in the order in which requests for [such hearings] *hearings within that area* are received by the Department.

"(B) In a case in which the Secretary is aware that the appellant is seriously ill or is under severe financial hardship, a hearing may be scheduled at a time earlier than would be provided for under subparagraph (A) of this paragraph.

"(e)(1) At the request of the Chairman, the Secretary may provide suitable facilities and equipment to the Board or other components of the Department to enable an appellant located at a facility within the area served by a regional office to participate, through voice transmission or through picture and voice transmission, by electronic or other means, in a hearing with a Board member or members sitting at the Board's principal location.

"(2) When such facilities and equipment are available, the Chairman may afford the appellant an opportunity to participate in a hearing before the Board through the use of such facilities and equipment in lieu of a hearing held by personally appearing before a Board member or panel as provided in subsection (d) of this section. Any such hearing shall be conducted in the same manner as, and shall be considered the equivalent of, a personal hearing. If the appellant declines to participate in a hearing through the use of such facilities and equipment, the opportunity of the appellant to a hearing as provided in such subsection (d) shall not be affected.".

(B) The item relating to section 7107 in the table of sections at the beginning of chapter 71 of such title is amended to read as follows:

"7107. Appeals: dockets; hearings.".

(2)(A) Section 7110 of such title is repealed.

(B) The table of sections at the beginning of chapter 71 of such title is amended by striking out the item relating to section 7110.

(f) TECHNICAL CORRECTION.—Section 7104(a) of such title is amended by striking out "211(a)" and inserting in lieu thereof "511(a)".

Mr. ROCKEFELLER. Madam President, as chairman of the Committee on Veterans' Affairs, I am delighted that the Senate is considering S. 1904, a bill to improve the organization and procedures of the Board of Veterans' Appeals [BVA]. I urge my colleagues to give their unanimous support to this bill, which would amend certain provisions of title 38, United States Code, affecting the operation and procedures of the Board of Veterans' Appeals.

BACKGROUND

Madam President, as everyone familiar with VA knows, the adjudication system of the Department of Veterans Affairs is currently in a crisis situation, both at the regional office level and at the BVA. A number of factors have led to the present problems, and the entire system—which is in dire need of fundamental change—will only deteriorate further if the problems are not addressed.

Madam President, my fundamental goal as chairman of the Committee on Veterans' Affairs is to ensure that any veteran or other beneficiary who seeks any VA benefit—compensation, pension, education benefits, health care, or whatever—receives the quality services from VA that he or she deserves. VA's mission is to serve this Nation's veterans and their families. We in Congress have an obligation to see to it that the Department fulfills that mission at all levels of the claims process.

A critical part of VA's mission is to make sure veterans and their families receive fair, efficient, and timely adjudication of their benefit claims. Timeliness is simply vital. Yet VA currently is not fulfilling that aspect of its responsibilities.

Madam President, in 1988, after a long, difficult fight over the course of a decade, the 100th Congress finally gave veterans the fundamental, due process right to appeal the denial of VA benefits to a federal court. With the Veterans' Judicial Review Act of 1988 [VJRA], Public Law 100-687, Congress created the United States Court of Veterans Appeals, for the express purpose of reviewing decisions of the Board. Until that time, the Board had been the veteran's "court of last resort."

Judicial review of VA benefit decisions is a right veterans long deserved, and the VJRA is true landmark legislation. However, it was never contemplated that judicial review would provide an ultimate and final resolution of the problems that existed in the VA claims process. In fact, the enactment of judicial review actually served as more of a beginning than an ending.

The decisions of the court repeatedly have illustrated the necessity for judicial review by showing the many deficiencies of the VA adjudication system—a unique system that developed in a somewhat piecemeal fashion over the years.

The decisions of the court also have made it evident that some changes must be made in order to achieve long-term improvements in the system. Previously, I have said that judicial review was just one step in an evolution of the VA adjudication system. That is certainly true, but I believe that it would be even more accurate to say that not only was judicial review a step in this process of evolution, but a step that has served as a catalyst for many extremely positive and crucial changes in the system, all of which are advances in the system's development.

The VA system was designed to be informal and nonadversarial and was not subject to court review until 1988. Many aspects of this system were intended to be beneficial to veterans, such as procedures related to the development of claims and assistance to the claimant. However, as the court has recognized in numerous decisions, many of the elements were not being delivered as promised. For example, the court has repeatedly held that VA has not fulfilled its duty to assist the claimant in the development of the claim, has not demonstrated that it considered whether the claimant should be afforded the benefit of the doubt, and has failed to provide claimants with an adequate explanation for its denials.

Furthermore, regardless of how nonadversarial a process is designed to be, if the reality is that it takes months or years to resolve a claim, the individual claimant is not being afforded proper treatment. To force a veteran to wait for more than 2 years for a BVA decision—after he or she has already waited over 200 days for a regional office decision on the original claim—is unconscionable.

Madam President, some within VA argue that the court is the sole source of the backlog problem. I wholeheartedly reject this argument. This point of view reflects a complete failure to accept responsibility for living up to existing statutory mandates—while simultaneously arguing that VA was fulfilling the requirements of governing law.

I have often heard it said that the court's decisions obligate VA to provide more detailed explanations for decisions than before. While this certainly is true, the obligation to inform claimants of the reason underlying a decision is not a new requirement. VA has always had that obligation and routinely asserted that it met this responsibility in the years leading up to judicial review. The court has merely enforced VA's responsibilities under the law. The court's decisions have forced VA to be accountable for its decisions.

Admittedly, BVA has born a tremendous share of the burden in the wake of judicial review. Not only must BVA review regional office decisions with a new eye toward whether they meet the requirements of the case law streaming from the court, but must also deal with a flow of remands of its own decisions from the court. The enormous change in its original appellate responsibility is illustrated in its rate of remands to the regional offices—55 percent as of March 31, 1994.

Without a doubt, the Board is caught in the middle between the regional offices, where the claims process begins, and the court, which ultimately decides whether or not the administrative decisions were adequate and proper. However, this does not absolve the Board of its responsibility to provide adequate and timely decisions on appeal. As the administrative appellate body, BVA must make sure the regional offices have fulfilled their statutory duties to the claimant. However, the Board must also fulfill its own statutory obligations in its decisionmaking process—and the court serves as the ultimate check on whether it has lived up to those obligations.

BVA currently has a backlog of nearly 40,000 cases. In fiscal year 1993, the average time it took BVA to render a decision on appeal was 466 days. Earlier this year, based on first quarter statistics, BVA estimated that by the end of fiscal year 1994, that time would increase to nearly 1,843 days—5 years. While a recent reestimate, based on information in the first and second quarters of fiscal year 1994, indicates the average response time will instead be approximately 830 days, that is still completely unacceptable.

PROVISIONS OF COMMITTEE BILL

Madam President, BVA's current problems will require long-term, fundamental changes, but here are certain immediate changes Congress could institute that would allow the Board to begin to reduce its present backlog and improve its decisionmaking timeliness. That is the purpose of the pending measure which is intended to begin to address some of the present problems at the VA appellate level.

We must work on permanent solutions to the problems faced by BVA, but in the interim, the measures in this bill offer some immediate, short-term solutions to the ever-increasing average response time at the Board. Some of these provisions were specifically requested by the Secretary of Veterans Affairs and the Chairman of BVA. VA indicates that these provisions will allow BVA to become more productive and thereby immediately assist in the reduction of the time it currently takes the Board to make a decision on appeal.

Section 1 of this bill would amend section 7101 of title 38, relating to the composition of the Board. This section would: remove the 65-member limitation on the number of members that may be appointed to the Board; remove the current provision giving the Chairman of BVA authority to appoint temporary Board members; and move the authority to appoint acting members from current section 7102 to section 7101, while keeping intact the present limitation on the amount of time an individual can serve as an acting member. However, the provision would specifically allow acting members of the Board to complete work on any pending cases, notwithstanding that time limitation.

Madam President, removing the 65-member limitation on the number of Board members that may be appointed means that the size of the Board may increase as necessary, restrained only by the appropriation of funds.

Removing the authority of the Chairman to appoint temporary members simply amends the law to conform with current practice—BVA has informed the committee that the authority to appoint temporary members is not used. In light of the authority to appoint acting members, the appointment of temporary members apparently is unnecessary.

Section 2 of this legislation would amend section 7102 of title 38 to allow the Chairman of BVA to assign an appeal to a single member or to a panel of members consisting of at least three members. Under current law, appeals have to be assigned to a panel of at least three members. According to VA, the authority to issue single-member decisions would increase Board productivity by 27 percent. In turn, this increase in productivity would contribute to a reduction in the time it takes BVA to make a decision on appeal. The Board has estimated that if this authority were to be fully effective in June 1994, the average response time would be reduced to 600 days by the end of May 1995, instead of almost 850 days, which BVA estimates it would be if the requirement of three-member decisions remains in effect.

Madam President, I note that at a March 24 committee hearing on this legislation, some concerns were raised about allowing BVA to issue single-member decisions. The concerns related to fair and accountable decisionmaking by the Board and the protection of veteran's rights in the claims process. I acknowledge and understand these concerns. However, the urgency to reduce the backlog of cases and improve the timeliness of the decisionmaking process is currently so enormous that we must move ahead with the provision now. The Committee certainly will monitor the implementation of this authority very carefully.

Amended section 7102 also would provide that reconsideration of a case must be assigned to a panel of members if the original appeal was decided by a single member, and to an enlarged panel of members if the original appeal was decided by a panel. In either case, the panel carrying out the reconsideration could not include any Board member who was involved in deciding the original appeal.

Section 3 would amend the provisions governing BVA hearings to allow the Board to conduct hearings through the use of voice, or voice and picture transmission, by electronic or other means. The measure also would require that before BVA conducts the hearing through use of voice, or voice and picture transmission, the appellant must be given the opportunity to appear at a personal hearing before a Board member, either in a regional office or in Washington, DC, if the appellant so desires. Section 3 also would provide that if an appellant is seriously ill or is under severe financial hardship, the hearing may be held earlier than it otherwise would be. The provisions in this section are intended to help the process of getting a hearing move more easily and quickly.

Madam President, the bill as reported reflects one change that addresses concerns raised by VA about the bill as introduced. As introduced, the bill would have resulted in an inadvertent problem regarding the docketing of hearings. An appellant may request a Board hearing either at the VA central office in Washington, DC, or before a traveling member of the Board at a location in an area served by a regional office. Current law requires that travel Board hearings be scheduled in the order in which the requests are received. The statute is silent as to hearings in Washington, DC. In an effort to clarify the law on this issue, the bill as introduced required that all hearings be scheduled in the order in which the requests for hearings are received. This would have resulted in an unworkable situation where there was only one hearing docket for the central office and for all of the 58 regions.

Madam President, in order to avoid any confusion or an unfair result, the bill has been amended to clarify that hearings in the field will be scheduled in the order that requests for hearings in that area are received. However, this change is based on information from BVA officials indicating that there currently are no problems with the scheduling of hearings at the BVA in Washington, DC. Should that situation change and call for an amendment in the law, we certainly would consider such an amendment.

The language was also amended to clarify that an appellant may request a hearing at the central office in Washington, DC, or at a location within the area served by a regional office, rather than at the regional office specifically. The amendment does not reflect any change from current law, and allows BVA to maintain maximum flexibility in conducting hearings.

Madam President, on February 10, 1994, I received a letter from Secretary of Veterans Affairs, Jesse Brown, requesting my assistance in the enactment of legislation that would help to alleviate the backlog of appeals at the Board. All three provisions requested by Secretary Brown are addressed in this legislation. Specifically, Secretary Brown asked for my assistance in the enactment of measures that would, first, remove the limit on the number of Board members; second, allow the Chairman of BVA to assign appeals to one member of the Board for disposition; and third, remove the limitation on the time an acting member may serve.

This bill includes the first two of the statutory provisions requested by the Secretary, as well as a provision that addresses the concerns that led to his request for the third provision. With reference to the acting member issue, Secretary Brown apparently seeks that provision in an effort to avoid a problem that may arise when, after the BVA Chairman appoints acting members, the statutory time limitation expires while appeals which the acting member considered are still pending. This bill would allow acting members to complete all work on any pending cases, even if that would require them to work beyond the time limit.

The amendments in S. 1904 are vitally important. My hope is that we can enact this legislation quickly so that veterans may begin to feel the effects of an improved appeals system as soon as possible. They deserve no less. They have a right to the efficient processing of their claims for the benefits they earned through their military service. I am committed to working over the long term to ensure this right, but in the meantime, I strongly believe the provisions in this bill are a step in the right direction. I urge all of my Senate colleagues to support this bill.

I express my appreciation to the distinguished ranking Republican member of the Senate Committee, Mr. MURKOWSKI, and all other members of the committee. I look forward to working with my colleagues in the Senate, as well as members of the House Committee on Veterans' Affairs, on these measures.

Madam President, I urge the Senate to give its unanimous approval to this measure.

Mr. KENNEDY. Madam President, I ask unanimous consent that the committee amendments be deemed agreed to, en bloc, the bill be deemed read the third time, passed; that the motion to reconsider be laid upon the table, and that any statements appear at the appropriate place in the RECORD.

So the bill (S. 1904), as amended, was deemed read the third time, and passed, as follows:

S. 1904

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ORGANIZATION AND PROCEDURES OF BOARD OF VETERANS' APPEALS.

(a) NUMBER OF MEMBERS.—Subsection (a) of section 7101 of title 38, United States Code, is amended by striking out "(not more than 65)".

(b) ACTING AND TEMPORARY MEMBERS.—(1) Such section is further amended—

(1) in subsection (c)—

(A) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph (1):

"(1)(A) The Chairman may from time to time designate one or more employees of the Department to serve as acting members of the Board. Except as provided in subparagraph (B), any such designation shall be for a period not to exceed 90 days, as determined by the Chairman.

"(B) An individual designated as an acting member of the Board may continue to serve as an acting member of the Board in the making of any determination on a proceeding for which the individual was designated as an acting member of the Board, notwithstanding the termination of the period of designation of the individual as an acting member of the Board under subparagraph (A) or (C).

"(C) An individual may not serve as an acting member of the Board for more than 270 days during any 1-year period.";

(B) by striking out paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2); and

(D) in paragraph (2), as so redesignated, by striking out "the number of temporary Board members" and all that follows through the period at the end and inserting in lieu thereof "the number of acting members of the Board designated under such paragraph (1) during the year for which the report is made."; and

(2) in subsection (e), by striking out "a temporary or" and inserting in lieu thereof "an".

(c) REPORT ON BOARD ACTIVITIES.—Subsection (d) of such section is amended—

(1) in paragraph (2)—

(A) by striking out "and" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new subparagraph:

"(F) the number of employees of the Department designated under subsection (c)(1) of this section to serve as acting members of the Board during that year and the number of cases in which each such member participated during that year."; and

(2) in paragraph (3)(B), by striking out "as required by section 7103(d) of this title".

(d) APPEALS DECISIONS.—(1) Chapter 71 of such title is amended by striking out sections 7102 and 7103 and inserting in lieu thereof the following new sections 7102 and 7103:

"§ 7102. Decisions by the Board

"A proceeding instituted before the Board may be assigned to one or more members of the Board. A proceeding assigned to more than one member shall be assigned to a panel of not less than three members of the Board. A member or panel assigned a proceeding shall make a determination thereon, including any motion filed in connection therewith. The member or panel, as the case may be, shall make a report under section 7104(d) of this title on any such determination, which report shall constitute the final disposition of the proceeding by the member or panel.

"§ 7103. Reconsideration; correction of obvious errors

"(a) Subject to subsections (b) and (c) of this section, the decision of the Board determining a matter under section 7102 of this title is final.

"(b) The Chairman may order reconsideration of the decision in a case in accordance with subsection (c) of this section. Such an order may be made on the Chairman's initiative or upon motion of the claimant.

"(c)(1) Upon the order of the Chairman for reconsideration of a decision in a case, the case shall be referred—

"(A) in the case of a matter originally heard by a single member of the Board, to a panel of not less than three members of the Board.

"(B) in the case of a matter originally heard by a panel of members of the Board, to an enlarged panel of the Board.

"(2) A panel referred to in paragraph (1) of this subsection may not include the member or members who made the original decision subject to reconsideration.

"(3) A panel reconsidering a matter under this subsection shall render its decision after reviewing the entire record before the Board. The decision of a majority of the members of the panel shall be final.

"(d) The Board on its own motion may correct an obvious error in the record, without regard to whether there has been a motion or order for reconsideration.".

(2) The table of sections at the beginning of such chapter is amended by striking out the items relating to sections 7102 and 7103 and inserting in lieu thereof the following:

"7102. Decisions by the Board.

"7103. Reconsideration; correction of obvious errors.".

(e) PROCEDURES RELATING TO APPEALS.—(1)(A) Section 7107 of such title is amended to read as follows:

"§ 7107. Appeals: dockets; hearings

"(a)(1) All cases received pursuant to application for review on appeal shall be considered and decided in regular order according to their places upon the docket.

"(2) A case referred to in paragraph (1) of this subsection may, for cause shown, be advanced on motion for earlier consideration and determination. Any such motion shall set forth succinctly the grounds upon which it is based and may not be granted unless the case involves interpretation of law of general application affecting other claims, or for other sufficient cause shown.

"(b) The Board shall decide any appeal only after affording the appellant an opportunity for a hearing.

"(c) A hearing docket shall be maintained and formal recorded hearings shall be held by such member or members of the Board as the Chairman may designate. Such member or members designated by the Chairman to conduct the hearing shall participate in making the final determination of the claim.

"(d)(1) An appellant may request a hearing before the Board at its principal location or at a location within the area served by a regional office of the Department.

"(2)(A) Except as provided in subparagraph (B) of this paragraph, hearings requested within an area served by a regional office of the Department shall be scheduled in the order in which requests for hearings within that area are received by the Department.

"(B) In a case in which the Secretary is aware that the appellant is seriously ill or is under severe financial hardship, a hearing may be scheduled at a time earlier than would be provided for under subparagraph (A) of this paragraph.

"(e)(1) At the request of the Chairman, the Secretary may provide suitable facilities and equipment to the Board or other components of the Department to enable an appellant located at a facility within the area served by a regional office to participate, through voice transmission or through picture and voice transmission, by electronic or other means, in a hearing with a Board member or members sitting at the Board's principal location.

"(2) When such facilities and equipment are available, the Chairman may afford the appellant an opportunity to participate in a hearing before the Board through the use of such facilities and equipment in lieu of a hearing held by personally appearing before a Board member or panel as provided in subsection (d) of this section. Any such hearing shall be conducted in the same manner as, and shall be considered the equivalent of, a personal hearing. If the appellant declines to participate in a hearing through the use of such facilities and equipment, the opportunity of the appellant to a hearing as provided in such subsection (d) shall not be affected.".

(B) The item relating to section 7107 in the table of sections at the beginning of chapter 71 of such title is amended to read as follows:

"7107. Appeals: dockets; hearings.".

(2)(A) Section 7110 of such title is repealed.

(B) The table of sections at the beginning of chapter 71 of such title is amended by striking out the item relating to section 7110.

(f) TECHNICAL CORRECTION.—Section 7104(a) of such title is amended by striking out "211(a)" and inserting in lieu thereof "511(a)".

ORDERS FOR MONDAY, APRIL 25, 1994

Mr. KENNEDY. Madam President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 3 p.m., Monday, April 25; that following the prayer, the Journal of the proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that immediately thereafter, the Senate then, as provided for under a previous unanimous consent agreement, proceed to the consideration of calendar No. 393, S. 1963, the Interstate Banking Bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL MONDAY, APRIL 25, 1994, AT 3 P.M.

Mr. KENNEDY. If there is no further business to come before the Senate today, and if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 10:41 p.m., recessed until Monday, April 25, 1994, at 3 p.m.

NOMINATIONS

Executive nominations received by the Senate April 21, 1994:

DEPARTMENT OF JUSTICE

RONALD JOSEPH BOUDREAUX, OF LOUISIANA, TO BE U.S. MARSHAL FOR THE MIDDLE DISTRICT OF LOUISIANA FOR THE TERM OF 4 YEARS, VICE GROVER W. GARRISON.

FLORENCE M. CAUTHEN, OF ALABAMA, TO BE U.S. MARSHAL FOR THE MIDDLE DISTRICT OF ALABAMA FOR THE TERM OF 4 YEARS, VICE WALTER J. BAMBERG.

JOSEPH GEORGE DILEONARDI, OF ILLINOIS, TO BE U.S. MARSHAL FOR THE NORTHERN DISTRICT OF ILLINOIS FOR THE TERM OF 4 YEARS, VICE PETER J. WILKES.

JOHN WILLIAM MARSHALL, OF VIRGINIA, TO BE U.S. MARSHAL FOR THE EASTERN DISTRICT OF VIRGINIA FOR THE TERM OF 4 YEARS, VICE ROGER RAY.

DALLAS S. NEVILLE, OF WISCONSIN, TO BE U.S. MARSHAL FOR THE WESTERN DISTRICT OF WISCONSIN FOR THE TERM OF 4 YEARS, VICE FREDERICK N. FALK.

JOHN R. O'CONNOR, OF CONNECTICUT, TO BE U.S. MARSHAL FOR THE DISTRICT OF CONNECTICUT FOR THE TERM OF 4 YEARS, VICE WILLIAM C. ANDERSEN.

MICHAEL A. PIZZI, OF NEW YORK, TO BE U.S. MARSHAL FOR THE EASTERN DISTRICT OF NEW YORK FOR THE TERM OF 4 YEARS, VICE CHARLES E. HEALEY.

ROBERT BRUCE ROBERTSON, OF OKLAHOMA, TO BE U.S. MARSHAL FOR THE EASTERN DISTRICT OF OKLAHOMA FOR THE TERM OF 4 YEARS, VICE JAMES L. WEBB.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. CHARLES A. HORNER, [redacted] U.S. AIR FORCE

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624:

To be permanent major general

BRIG. GEN. LESLIE M. BURGER [redacted]
BRIG. GEN. JAMES B. PEAKE [redacted]

IN THE NAVY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be admiral

ADM. CHARLES R. LARSON, [redacted] U.S. NAVY

THE FOLLOWING-NAMED OFFICERS FOR REAPPOINTMENT TO THE GRADE OF ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be admiral

ADM. STANLEY R. ARTHUR, [redacted] U.S. NAVY
ADM. CHARLES R. LARSON, [redacted] U.S. NAVY

IN THE MARINE CORPS

THE FOLLOWING-NAMED LIEUTENANT COLONELS OF THE U.S. MARINE CORPS FOR PROMOTION TO THE PERMANENT GRADE OF COLONEL UNDER THE PROVISIONS OF SECTION 624 OF TITLE 10, UNITED STATES CODE:

To be colonel

MICHAEL S. FAGAN, [redacted] STEPHEN F. MUGG, [redacted]

CONFIRMATION

Executive nomination confirmed by the Senate April 21, 1994:

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTIONS 601 AND 5033:

To be chief of naval operations

To be admiral

ADM. JEREMY M. BOORDA, U.S. NAVY [redacted]

EXTENSIONS OF REMARKS

THE ALBANIAN PERSPECTIVE ON PEACE IN THE BALKANS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. GILMAN. Mr. Speaker, a former Member of this body, the Hon. Joe DioGuardi, has long been a tireless advocate of the rights of ethnic Albanians, both in Albania proper and in the other States of the Balkans region. As president of the Albanian-American Civic League, Mr. DioGuardi was invited to address an international conference on the Balkan States and the problems of that region, held in Istanbul, Turkey from April 7 to 10. I was pleased that Mr. DioGuardi presented me with a copy of his speech to that conference. I have found it an informative presentation of the Albanian point of view regarding the conflicts in the Balkans and the rights of ethnic Albanians, and I would like to commend it to the attention of my colleagues.

PEACE IN THE BALKANS—THE ALBANIAN PERSPECTIVE

Let me first thank the Solidarity Foundation for inviting me to address this Balkan Conference as President of the Albanian American Civic League. For those who do not know what Albanian American Civic League is, it is an independent non-governmental organization that represents not only the domestic concerns of the Albanian American people but even those international geopolitical and cultural interests of ethnic Albanian Americans like myself.

I was born in America, I'm proud to be American and I'm proud my father was Albanian. He was born in Italy, in a small Albanian village, where after 500 years the Albanian language and culture still survive. He was a poor young farmer who came to America for a job and managed to get that great opportunity that America offers everybody who works hard. That is the secret of America. You have to dream, but you have to work. If you do both those things you can succeed anywhere there is free enterprise and democracy. My father and I know this from personal experience.

I thank the Solidarity Foundation for this Forum and the opportunity to tell the truth about what is happening in the Balkans. It's important to give good information to the people and to the world. Thomas Jefferson, one of the great founding fathers of the United States of America, said that "information is the currency of democracy" (like money is the currency of a bank). Information promotes democracy!

I came here also in the spirit of another great American. His name was Thomas Paine. He was not as celebrated as Thomas Jefferson, but many believe it was his words in the Crisis Papers and in the Common Sense Pamphlet during the American revolution that gave winning spirit to the American soldiers at Valley Forge when they were about to collapse just before the important battle at Trenton. That battle turned the revolution around so that those 13 small American colonies could defeat the greatest power in the world at that time, Great Britain. And let us not forget that Thomas Paine wrote an important book called "The Rights of Man". He may be the quintessential human rights activist of all times. Listen to his words because I came here in his spirit as well. He said: "the world is my country, to do good is my religion". Think about that. What Paine meant was that when it comes to people and their human rights and freedom, borders and countries are meaningless, because the people transcend governments and borders. The people are more important than governments, political parties and borders. And mind you, he said that more than 200 years ago.

Why did communism collapse as a system? Because it put the party and government above the people. Why is the U.S. so strong today as a democracy? Because people come first. The people in "We The People", the first three words of our Constitution, are above the government and the parties, and we must understand this even more today in order to see the Balkans flourish again. It's people like Slobodan Milosevic, the President of Serbia who are going the other way. He is a Stalinist communist. He has never changed. He is promoting the evil values of "ethnic cleansing" to create a geo political nightmare called "greater Serbia." Slobodan Milosevic like Adolf Hitler will fail because he is going against human nature, democracy and everything that is right.

And, when it also comes to religion think about what Thomas Pane said "to do good is my religion". I am Roman Catholic but most Albanians are Muslims, many are Eastern Orthodox and some are Roman Catholic. Albanians tolerate all religions. Approximately 60% of the Albanians in the world today are Muslims (90% in Kosova), 25% are Eastern Orthodox and 15% are Roman Catholic. Look at Albania—the great democratic President of Albania Dr. Sali Berisha is a Muslim, the chairman of the parliament, Pjeter Arbnori (who spent 28 years in jail under the worst communism in Albania) is a Roman Catholic, and the Prime Minister, Aleksander Meksi, is Eastern Orthodox. So religion is not an issue with the Albanian people. They tolerate and respect all religions. They believe in the individual and they believe in democracy. Albanians know that no religion has a monopoly on doing good.

Today if you look at the Albanian nation of seven million people in the Balkans, only 3.5 million are in Albania and there is another 3.5 million on the borders of Albania—2 million in Kosova, 1 million in Macedonia, 100,000 in Montenegro and another 100,000 in Presheva, Bujanovc and Medvegje. They are all together, not separated by hundreds of miles like Krajina to Belgrade. Do you know why Albanians are located together? Because on Nov. 28, 1912 when Albania declared its independence from the Ottoman Turkish Empire, The country of Albania included all the Albanian people. They did not move to Kosova like Mr. Milosevic wants you to believe. They did not move to Macedonia like Mr. Gligoroy, the President of Macedonia wants you to believe. They did not chase Greeks out of southern Albania like Mr. Papandreou, the President of Greece wants you to believe. They were there all the time. The Slavs came to the Balkans in the 5th century. As a matter of fact, the Albanians are the descendants the Illyrians. They have been in the Balkans for 6,000 years. They have not moved.

The Albanians were gerrymandered and politically emasculated after Nov. 28, 1912 in order to create the now failed south slave states called Yugoslavia. What they did was arbitrarily draw a new border around one half of the Albanian people to put them in a Slavic state. The Albanians are not Slavs. They are Indo-Europeans. The Albanians do not use the Cyrillic alphabet. They use the Latin alphabet. The Albanians have nothing in common with the culture of Slavs. Finally, the Albanians want democracy. The Slavs in Serbia want communism, at least the ones who follow Slobodan Milosevic. So, the Albanians are looking towards Europe and America. Mr. Milosevic he is looking the other way. In fact he is looking to hell as far as the Albanian people are concerned. Any time you can do to people, to any people, what is being done in Bosnia and in Kosova today—it is nothing less than inhuman and satanic.

Look at the logo of the Albanian American Civic League. It is the symbol of the Alabanian people. It is the old Byzantine symbol-the eagle with two heads, which is the national flag of Albania today. This logo represents 15 million Albanians around the world—7 million of whom are in the Balkans and another 8 million in different countries. Melbourne, Australia, for instance, has about 20 thousand, mostly from Macedonia. The United States has 400,000 Albanians, including 200,000 in the New York area. And what about Turkey? I'm told that at least 5 million Albanians are here in the Istanbul area.

I met with the Albanian community here last night. Albanians are good citizens of Turkey, but are still proud to be Albanian. They are lobbying Ankara very hard to protect the Albanians in the Balkans, the way I and other Albanian Americans are lobbying very hard in Washington today, as a strong voice for the Albanian people. We don't represent the Albanian government in either Albania or Kosova. We don't represent any Albanian political party. The Civic League represents the interests of the Albanian American people who want to tell the truth about what is really happening in the Balkans, especially against the Albanians in Kosova, Macedonia and Montenegro. Now, this is our message and please listen carefully. There will be no peace in the Balkans until the Albanian National issue is resolved. No matter what you hear about Bosnia, and we must help the Bosnian people in every way, we must support democracy everywhere, especially in Kosova.

So, let me repeat there will be no peace in the Balkans until the national aspirations of 7 million Albanians in the Balkans is resolved! What do we mean by that? Do we mean that there is a quest for a greater Albania. NO! The Albanians are not looking to

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

redraw the borders. They understand what the Helsinki process means. They understand that, to be secure, they must agree under Helsinki that all borders must stay the way they are. But Slobodan Milosevic does not believe that. He wants to change the borders by force and by blood. The Albanians want to preserve the borders but within those borders, they want to be respected for who they are. They are not a minority. Let me repeat the Albanian people are not a minority anywhere in the Balkans. They are a divided nation of people, all together, in a geographic compact area.

I have a map which I sent to the Congress of the U.S. to my friend Senator Bob Dole and many other important Congressmen, so that they can see the map of the Balkans including Albania with 3.5 million and another 3.5 million outside Albania with no separation 7 million Albanians all in the same area. Albanians are asking for equality in Macedonia. They don't want to be treated as second class citizens. They want to be treated equal to the Macedonian Slavs. They believe they have as many people as the Macedonian Slavs, and they want to have a fair census taken to prove it. If Macedonia wants to be a sovereign State. If it wants aid from the U.S., it must count all of its citizens because Macedonia is a multi-ethnic state. Albanians believe the Macedonian Slavs represent 40 percent (1,000,000), the Albanians represent another 40 percent (1,000,000), with the other 500,000 being Turks, Gypsies, ethnic Bulgarians, Serbs etc. So we tell Mr. Gigorov to treat the Albanians fairly and they will treat you fairly. The Albanian people want to be equal with the Macedonian Slavs in making the Macedonian state strong. And it should be a strong independent state to withstand the rampant chauvinism in the region.

When it comes to Kosova what do the Albanians want? The Albanians in Kosova are not looking to join with the Albania. That is the propoganda of Milosevic from 1989 when he began to suppress the Albanian people there and forcibly took away their autonomy. The Albanians of Kosova have declared their independence under international law. And why do they want independence? Well just look at what the Serbs have done to Bosnia. They can't trust the Serbs! Look at what the Serbs for 50 years have done to the Albanians in Yugoslavia. They need their independence and they should have it.

Legally, Kosova deserves to be an independent state. When it was part of Yugoslavia, Kosova was treated equally with Serbia and the other Republics in the confederal presidency. Kosova voted equally with Serbia. So it always had been considered an independent unit of the former Yugoslavia. And now there is no Yugolsavia! There is only an outlaw, renegade state run by a war criminal called Milosevic. It is not even recognized by the U.N. and the U.S. And, Albanians do not want to be part of that outcast state! Kosova wants to be its own sovereign Republic and there is a legal basis for it.

Let me go on now to Mr. Papandreou because in southern Albania there is big propaganda today about the so called 400,000 Greek minority there. That is not the case and that's why I put these reports together for you from the CSCE (Helsinki) High Commissioner on Human Rights and the Unrepresented Nations and Peoples Organization. They count only 58,000 Greeks in Albania! And they report that the Greeks have elected members of the Albanian parliament, Greek newspapers, many businesses (go to Tirana and you'll see all the Greek stores that are opened) and even Greek schools. So, what is Papandreou doing? He is naive and is being used by Milosevic to discredit the President of Albania, Dr. Berisha, by saying that the Greek minority in Albania is being treated the way the Serbs are treating the Albanians in Kosova. That is sheer nonsense! There is no moral or other equivalency between the issues of Kosova and the Greek minority in Albania! But it is this kind of gross misrepresentation that sounds like the truth, if it goes unresponded. The Greeks in Albana are treated fairly. Is life for Greeks in Albania perfect. Probably not. But life for Albanians in Kosova is like living in Hell. Please read the reports I have distributed from independent and well recognized international groups.

Let me conclude my talk by mentioning a few people. First let me recognize Judge Bardhyl Cavushi from Kosova. He's in the audience. Just before he came here the Serbs ransacked his house. They damaged his files and books. Talk about the rule of law! Here is a judge who now has to worry about his family, his library and what will happen to him when he returns to Kosova from this Conference. They are likely to detain him and probably torture him and throw him in jail. That is the rule of law in Serbia! It is happening day in and day out to many Albanians. But, you don't hear it. And why don't you hear it? Because Milosevic has thrown out the Helsinki commission. He has thrown out all the human rights groups. Milosevic doesn't want you to see what he is doing. Just like Adolf Hitler didn't want you to see the concentration camps. Milosevic doesn't want you to see his dirty work unit it is too late.

Let me also recognize Dr. Negib Sacirbey and his son Ambassador Mohammad Sacirbey for all they are doing to help their great President, Alija Izetbegovic, to reach a just peace for the oppressed people of Bosnia. While nothing can be compared today to the atrocities we have seen against the innocent civilians of Bosnia, let us not forget that the Serbs are conducting another form of ethnic cleaning in Kosova, including raping young Albanian women in front of their families, torturing those detained, banging down doors at night, etc. . . There is constant intimidation because Milosevic wants to see the Albanians leave. He wants to fulfill the medieval dream of Stephan Dushan. He wants a greater Serbia and, even worse than that, he is following what was written by Vaso Cubrilovic in 1937 on "The Expulsion of the Albanians" (in effect "The Extermination of the Albanians"). This is what the Albanians are facing today and the world hardly knows about it.

So let me finally conclude by saying shame on you Mr. Milosevic! Shame on you for following the traditions of Adolf Hitler by fanning the flames of ultra-nationalism to create such barbaric conditions on the Albanian and Bosnian people in the Balkans today.

And, shame on you Mr. Papandreou. Shame on you because you are naive to follow the ultranationalist policies of Milosevic. You should know that this is not in the interest of the good Greek people. And, by the way, all people are good. The Serbian people are good. The Bosnian people are good. The Macedonian and Albanian people are good. It's their governments that stink and we condemn those leaders who misrepresent their people. So Mr. Papandreou, you are naive for following Milosevic because you have forgotten that the dream of greater Serbia has always included the port of Salonika. Consider yourself lucky to have poor, but democratic and peace loving Alabania on your border, and not Serbia!

And, shame on you Mr. Gligorov, because you are dishonest. You speak good words to the Albanians in Skopje. Your words are good, but your deeds are not. You are treating the Albanian people like second class citizens. Just look at the report of the unrepresented Nations and people organization. It was just issued and talks about how inferior the public roads and facilities, including the schools, are in Albanian towns and villages compared to those in Macedonian towns and villages. Yet the Albanian people are working hard to make a strong state in Macedonia. So shame on you Mr. Gligorov for not keeping your word to give the Albanians in Macedonia an equal partnership with the Macedonian slavs who now control them as second class citizens.

And, shame on you Mr. Bush. Shame on you because you said you stood for democracy and you knew that the Albanian people supported you. What you did to the Albanian people after they got Senators Nickles and D'Amato to amend the foreign aid bill and take foreign aid away from Serbia was unconscionable. Your Secretary of State, James Baker, who was badly counseled by his undersecretary Mr. Eagleburger, certified incredibly that Serbia was in compliance with International Human Rights Conventions in Kosova. If you had taken the aid away from Serbia in 1991, Bosnia and Kosova would not be in such a terrible crisis today.

And, shame on you Mr. Clinton! Shame on you because you ran for the presidency and you promised the Albanian and Bosnian people a lot when it came to bringing peace to the Balkans. But you have delivered even less than President Bush. Just look at what your Defense Secretary, Mr. Perry, said a few days ago in connection with Bosnia. Specifically he said "safe havens" like Gorazhde "shouldn't count on us to help". So shame on you Mr. Clinton and Mr. Perry!

And, shame on you Mr. Tudjman because as President of Croatia you sold out the Albanians in 1990 when you tried to buy peace with Mr. Milosevic by appeasing him in saying that Kosova was an internal problem of Serbia! Kosova is a Balkan-European problem and it is now going to be a world problem if we don't set up an international protectorate or U.N. trusteeship there right away. Mr. Tudjman, you finally woke up by joining with the good Bosnian people in a Confederation in Bosnia. Wake up again and go meet with Dr. Rugova, the President of Kosova, and stand together with him to show Mr. Milosevic that Croatians and Albanians stand together against Serbian barbarism and chauvinism. Milosevic is only winning because he is Croatian enough to take on one battle at a time. First Kosova in 1989, then Slovenia in 1990, Croatia in 1991 and now Bosnia. He is too smart to take on more than one nation at a time and you are naive for letting him do it. So shame on you Mr. Tudjman.

And, shame on you Boutros Ghali! You should know better than passing UN resolutions that you do not support. This creates false hope for the Bosnian and Albanian people and more "green lights" for Serbian atrocities. So shame on you Boutros Ghali.

Finally let me say that the two most important countries in the world for solving the Balkan crisis are Turkey and the United States. Turkey is an essential part of NATO and can resolve this problem in the spirit of that great Turkish President and leader Turgut Ozal who willingly and rightly tried to assert his and Turkish democratic values to solve the Balkan crisis before he died. So I ask Prime Minister, Tansu Ciller, and President, Suleiman Demirel, to follow in his footsteps.

Thank you for having me here.

In Turkish—tesekkur ederim!

In Albanian—falemnderit shume!

And, in plain old American—God be with you all.

THE OSTEOPOROSIS RISK REDUCTION ACT OF 1994

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. MARKEY. Mr. Speaker, I rise today to introduce legislation that will help America's women to protect themselves from the disabling effects of osteoporosis. Osteoporosis affects 25 million Americans, 80 percent of whom are women. Each year, osteoporosis causes almost 1.5 million hip, spine, and other fractures and costs our health care system up to $10 billion. While a number of risk factors have been linked to the disease, scientists agree that by consuming adequate amounts of calcium and achieving maximum bone mass, individuals can reduce their risk of getting osteoporosis.

The Osteoporosis Risk Reduction Act of 1994 would direct the U.S. Food and Drug Administration to review the relationship between calcium consumption and osteoporosis, establish optimal levels for calcium consumption, and, based on this information, develop appropriate guidelines for the fortification of bread, cereal, and other grain products with calcium to help Americans reach these optimal levels.

In recent weeks, we in Congress have talked a great deal about the importance of preventing illness, to make America a healthier nation, and to ease the burden that spiraling health care costs have placed on consumers and businesses. My bill is a very real, direct step in this direction. It will help America's women and girls reduce their risk of getting osteoporosis by increasing the number of calcium sources in their diets, boosting their calcium intake, and helping them to achieve maximum bone density.

Today, many Americans, particularly girls and women, fail to consume adequate amounts of calcium at key points in their lives. In fact, according to the U.S. Department of Agriculture, women get only about 80 percent of their calcium recommended daily allowance [RDA] on average, and teenage girls get as little as two-thirds of their calcium RDA. In addition, many people believe that the RDA's may not be high enough to protect women and girls from osteoporosis.

The Osteoporosis Risk Reduction Act would require FDA to: First, review the scientific data describing the relationship between calcium intake and osteoporosis; second, determine how many Americans are consuming too little calcium and measure how much their consumption of calcium should increase to reduce more effectively their risk of osteoporosis; and third, develop guidelines, based upon these findings, for the fortification of bread, cereal, and other grain products with calcium.

In the 1940's, the Federal Government moved to require the fortification of bread with niacin, thiamin, and riboflavin to protect people against the B-vitamin deficiency diseases beriberi and pellagra. Since that time, these diseases have been virtually eradicated from our society. The Osteoporosis Risk Reduction Act, which has the support of the Older Women's League, the National Osteoporosis Foundation, and the American Dietetic Association, would pave the way for FDA to take similar steps to help America's women and girls protect themselves against osteoporosis.

TRIBUTE TO JASPER NEELY

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. THOMPSON of Mississippi. Mr. Speaker, I am pleased to honor a native of Grenada County, MS, who has been an agent of change in the State for a quarter of a century. Mr. Neely has spent much of his life challenging the injustices that exist in the public and private sector.

Mr. Neely was a major plaintiff in a lawsuit against Liberty Supermarket of Grenada, MS, in 1970. Mr. Neely's courageous action lead to the hiring of African-Americans in nontraditional positions.

Mr. Neely was also a successful plaintiff in a class action suit against the city of Grenada and all of its departments and agencies, in 1974 for discriminatory hiring, training, and promotion policies. For the first time in the city's history, African-Americans were hired in positions other than those of laborers.

In 1975, Mr. Neely was a plaintiff in a lawsuit challenging the apportionment of city district lines. This notable lawsuit resulted in the election of two African-American councilmen.

Mr. Neely represented Ward 2 on the city council from 1976 through 1990. While serving in this position, Mr. Neely worked with local, State, and Federal agencies to address issues that affected the social and economic development of the city of Grenada. From 1977 to 1980 Mr. Neely represented Mississippi on President Carter's Minority Affairs Council.

Mr. Neely's commitment to change is further reflected in his 22 years of service as president of the Grenada NAACP; his tenure as president of the Grenada Concerned Citizens Committee; his active participation in the State and National Democratic Party and through the Masonic Lodge.

Mr. Neely has received an impressive list of prestigious awards and accolades including the Harriet Tubman Award, National Council of Negro Women Appreciation Award, and the North Mississippi Rural Legal Services Award, for his continuous fight to end discrimination.

TRIBUTE TO SANFORD "SANDY" A. RUBENSTEIN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. TOWNS. Mr. Speaker, it is my pleasure to introduce my House colleagues to Sanford "Sandy" Rubenstein, who will be honored on May 4, 1994, as the Brooklyn Democrats Man of the Year.

Sandy is the senior partner in the law firm of Rubenstein & Flatow, a well known and respected personal injury law firm. Mr. Rubenstein enjoys a reputation for winning big cases that involve personal injury tragedies. His celebrated trial accomplishments have afforded him opportunities to appear on numerous television programs.

A tireless servant, Sandy serves on the Kings County Democratic Supreme Court Screening Panel, and is also a member of the New York State Trial Lawyers Association and the Board of Governors of Trial Lawyers of the city of New York.

President Clinton has recognized Sandy for his efforts to promote democracy in Haiti and peace in the Middle East. Additionally, he was the recipient of the Israel Freedom Award for his efforts to promote economic development. Mr. Rubenstein was also given the Haiti Friendship Award on behalf of his efforts to promote democracy. Mr. Rubenstein's humanitarian efforts abroad are matched by his philanthropic efforts in Brooklyn and Rockland County to improve the plight of the needy and less fortunate.

A resident of Rockland County, Sandy has been elected to five consecutive terms to the Rockland County Legislature. He represents the town of Ramapo, and serves as the legislature's majority leader.

It is my pleasure and honor to salute Sandy Rubenstein for his vast political, professional, and humanitarian efforts.

TRAVEL AND TOURISM

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. GEKAS. Mr. Speaker, National Tourism Week will be held May 1–7 of this year, and today the American Society of Travel Agents [ASTA] is hosting its annual March on Washington. It is only appropriate, then, that I rise today to bring to the Members' attention the benefits of our country's No. 1 exporter and No. 2 employer: travel and tourism.

Few Americans realize that the travel tourism industry generates a whopping $350 billion in annual sales—7 percent of the gross domestic product [GDP]. And, in 1992, for the region encompassing my central Pennsylvania congressional district, travel and tourism brought in spending by visitors of nearly $500 million, a payroll of over $200 million, local and State tax receipts of $50 million, and an employment base of over 15,000 people. By any standard this is a major industry, and one expected to continually grow as working couples seek relaxing getaways, older couples spend more of their time traveling, and families decide to vacation as the way to spend time together.

However, the industry is not without its problems. Travel taxes are becoming the perceived solution to everyone else's revenue problems, making the taxes a nearly unmanageable burden to the traveler and the provider. And, telemarketing fraud and crimes against tourists must be addressed if the industry is to provide consumers with the most for their tourism dollar.

Travel and tourism activities are important to those who economically benefit from them—the providers—and those that use them—the tourists. We all suffer if travel and tourism suffers. That's why next year's White House Conference on Travel and Tourism is vital to the continued effort to expend and improve the industry, for the economy and for those who take advantage of the wonderful opportunities for enjoyment that the United States' travel and tourism industry provides.

HOW CAN WE KEEP PAYING EVER HIGHER INSURANCE PREMIUMS?

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. STARK. Mr. Speaker, the American people cannot continue to afford the ever increasing medical insurance premiums nor can they tolerate the threats of policy discontinuation. While we strive for universal coverage, high insurance premiums counteract this goal. I have received innumerable letters and phone calls from people telling their stories of insurance woes. They have told me about premium increases, threats of cancellation, preexisting condition clauses, and so on. We need to pass legislation to alleviate these problems and fears. The following are excerpts from one letter that demonstrates these problems. It is from Dr. Susan Schrager of South Weymouth, MA:

> I just received a bill from State Farm Health Insurance in Ballston Spa, New York for my annual premium. Are you ready? It is for a lump sum of $7,712.00 plus an additional $145.60 for a hospital indemnity. This is not a family premium. It is for one person. How can we keep paying ever higher premiums? This bill is up more than a thousand dollars from last year! Also, most of my prescriptions aren't even covered!
>
> Why don't I go to another insurance company? In 1985, my work took me to India where I picked up a bug. I finally had to resign from my work in November of 1989. My doctor said that if I didn't rest and follow his prescribed regimen, I'd be dead in five years. I did and I am well now and will return to work in the Fall. State Farm paid very little towards my medications. I paid thousands out of my own pocket. However, I now have a "pre-existing condition" (even though I am cured) and may not get other insurance. On top of this, State Farm threatened to cancel my policy last year!

Mr. Speaker, how can we hope for universal coverage if it is not affordable or accessible? H.R. 3600, would include a single deductible of $500 per individual/$750 per family and coverage of outpatient prescription drugs, with an additional $500 deductible, 20 percent cost-sharing, and $1,000 out-of-pocket cap. It would also prevent health plans from denying coverage to any eligible group or individual. Under our reform bill, Dr. Schrager's annual health insurance bill would be under $2,000 and she would not have the fear of loss of coverage.

RADIATION EXPERIMENTATION VICTIMS ACT OF 1994

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. MARKEY. Mr. Speaker, I am today introducing the Radiation Experimentation Victims Act of 1994. The recent acknowledgement by Federal officials that the Government conducted radiation experiments with human guinea pigs grabbed the attention of all U.S. citizens, and the reason is that most people assumed that our country would not engage in this kind of activity. I think the fact that the Federal Government—our Government—funded or engaged in this kind of activity is the most disturbing aspect of this whole story. Most Americans thought that our country would not take that kind of action. To close the door on this regrettable legacy, we should focus on the proper remedies to respond to past wrongs, make certain these things can never happen again, and do the right thing today by compensating those who suffered injury. Accordingly, today I am introducing legislation to address past wrongs. My focus is on the Department of Energy, because that is the agency with which I have the most experience. My legislation has three goals. It is my hope that the administration will accomplish these goals before legislation is enacted, but I desire to have the force of legislation if the executive branch should falter in meeting these goals:

Require full disclosure from the Department of Energy, while protecting the privacy of subjects and their families, on experiments with ionizing radiation that provided little or no benefit to the subjects and were funded by the Department or its predecessor agencies;

Require the Department of Energy to formulate a plan to conduct proper medical followup of subjects where it seems feasible and indicated; and to provide free medical care for injuries related to experiments;

Require the Secretary of Energy, after consultation with other appropriate Federal officials, to recommend appropriate compensation for those subjects or their families who have suffered damages, and make any other recommendation for appropriate compensation for those who have been wronged.

The legislation I am introducing does not impose a particular compensation plan, but rather directs the Secretary of Energy to report to Congress in 6 months on what should be the appropriate scheme. I recognize that there is some debate on the effectiveness of existing legislation for exposed atomic veterans and for downwinders from atomic tests. In light of that debate, I think it is appropriate for the administration to review these and other compensation systems and then develop an appropriate system for the victims identified here today. The best system would merge science with compassion in determining standards for compassion. Provision should also be made for appropriate remedies other than monetary compensation to unwitting subjects who suffered dignity injury.

I would like to briefly describe my involvement with these issues. In October 1986, I released "American Nuclear Guinea Pigs: Three Decades of Radiation Experiments on U.S. Citizens," a staff reports of the House Subcommittee on Energy Conservation and Power. This report revealed the frequent and systematic use of human subjects as guinea pigs, describing 31 experiments in which nearly 700 persons were exposed to ionizing radiation that provided little or no medical benefit to the subjects.

The 1986 report also discussed some of the more repugnant or bizarre experiments. At the top of this list were the plutonium injection experiments, in which patients designated terminal within 10 years were given plutonium to determine how the body handled this radioactive material. This experiment provided no medical benefits to the subjects, and is marred by a lack of informed consent, since even the word plutonium was classified during the 1940's. Moreover, as my staff report documents, when the Atomic Energy Commission conducted a followup study in 1973 to determine the amounts of plutonium remaining in subjects' bodies, informed consent was not obtained from patients who were still alive, nor from families who were asked for permission to exhume the bodies of deceased subjects. Sadly, 30 years later, the word plutonium was still too explosive for the Federal Government to tell the victims.

The response of the Reagan administration to my 1986 staff report can be described as, "Thanks for the information, we're not going to do anything," and the report languished on a shelf at the Department of Energy until recently. Then in November 1993, a series of articles by Eileen Welsome, a reporter at the Albuquerque *Tribune*, identified some victims of the plutonium injection experiments and their families, and put a human face on the issue. Last week, Eileen Welsome was awarded the Pulitzer Prize for these articles. When Secretary of Energy Hazel O'Leary learned of these experiments and my 1986 staff report, she decided that the appropriate course of action was full disclosure of all information on experiments with human subjects. In January 1994, President Clinton formed the Human Radiation Interagency Working Group, and announced that he would establish an Advisory Committee for the Working Group. The Advisory Committee is meeting for the first time today. I commend the President for his leadership, and I commend Secretary O'Leary for her efforts to lift the shroud of secrecy on her Department, and bring the questionable past of the Department and its predecessor agencies into the sunshine of public scrutiny.

In another set of experiments which came to light in late 1993, at the Fernald School in

Massachusetts during the 1940's and 1950's, schoolboys classified as mentally retarded were fed radioactive calcium and iron with their breakfast meals. Yet parents of these children were deceived about the nature of the experiments when they gave their consent. With at least one experiment, the letter from the school requesting consent never mentioned that radioactive material would be fed, noted that experimental subjects were selected from a "group of our brighter patients," and implied that the experiment might result in "gains in weight and other improvements."

These experiments were funded by the Atomic Energy Commission, the National Institutes of Health, and the Quaker Oats Company, and research was conducted by faculty at MIT and Harvard. These experiments clearly fit within the scope of the documents that I requested from the Department of Energy in the mid-1980's, yet they were not reported then. With the revelation of the Fernald School experiments, I began to question whether we know the full scope of human experimentation; whether the 1986 staff report provided a reasonably accurate picture or whether the extent of testing was larger.

This question has been reinforced by findings of the Massachusetts Department of Mental Retardation (DMR), which after the revelation of the Fernald School experiments launched its own investigation for full disclosure. With the assistance of Harvard University, the DMR identified additional experiments during the 1960's at the Wrentham School, where tiny children as young as two years old were administered radioactive iodine to test potential countermeasures to atomic fallout, in work funded by the U.S. Public Health Service, Division of Radiological Health.

One reason why I find these experiments so repugnant is because of the vulnerable nature of the subjects used. It was no accident that students at the Fernald and Wrentham Schools were fed radioactive material, and not university students. It is no accident that the terminally ill were experimental subjects, including some who were comatose. It is no accident that the elderly, soldiers, and prisoners were used for testing with radioactive material. Such members of society are not fully enfranchised and lack control over their lives. They deserve protection, not exploitation as human guinea pigs. Certainly, experimental drugs or treatments intended to make the patient better may be used. But that was not the case with these experiments. We must again look at our ethical guidelines to make certain they protect the vulnerable.

When I released my staff report in 1986, I had assumed that experiments of such nature were the product of the arrogance of the early atomic age, and the paranoia of the cold war. But as these experiments have gained new attention, I have been shocked and dismayed to find that individual scientists feel compelled even today to defend these experiments of years ago. Some have stepped forward to claim that such experiments should not be judged according to today's standards, and besides, the doses given were low. To these attitudes, I have two responses: First, contrary to such opinions, the 1940's and 1950's were not devoid of patient knowledge or ethical standards. Radiation and its health effects were widely discussed in the era of bomb shelters and air raid drills. Moreover, the Nuremberg Code was in effect, written by the United States and the Allies in the aftermath of World War II, and it established guidelines on obtaining informed consent for experiments. Clearly, the Fernald School experiments violate this basic human rights standard.

In this regard, I commend the recent statement of Charles Vest, president of MIT, who acknowledged that while doses at the Fernald School may have been relatively low, he was sorry for the experiments, because of the children selected and the lack of informed consent. MIT explained that President Vest issued his statement because "it seemed the decent thing to do," and I applaud his decency.

I wish to make clear that I consider such ethically questionable experiments to be aberrations, and I do not desire to cast doubt upon the overwhelming majority of biomedical research, representing laboratory experiments, legitimate nuclear medicine for treatment and diagnosis, and ethical clinical trials. I have long been a strong advocate of public funding for basic research, and I commend those investigators who work daily to understand, prevent, and treat disease.

Nor is it my desire to blame present leaders of organizations and institutions for past mistakes. My concern is that institutions work with Congress today to do the right thing to address past abuses. I therefore welcome the leadership by the Clinton administration, and I look forward to working with my colleagues in Congress, the administration and its Advisory Committee, and the scientific community in formulating proper responses today.

In March 1994, as part of the administration's commitment to full disclosure, Secretary of Energy O'Leary released two boxes of documents related to the plutonium injection experiments. I reiterate my commendation of Secretary O'Leary, and note that her efforts have already produced results not seen previously from the Department of Energy. Nonetheless, an analysis by my staff concludes that these plutonium papers raise some issues which have not yet been resolved. Matters identified, and their relevance to the ongoing work of the Interagency Working Group, or of the Advisory Committee, as it sees fit, are as follows:

The precise number of persons exposed to plutonium in experiments remains an open question. On this matter, the Working Group is already committed to full disclosure on all experiments.

The plutonium papers indicate, more clearly than material provided to my subcommittee in the 1980's, the coordinated nature of the plutonium injection experiments, and their connection to other experiments with human subjects, specifically injection of plutonium and uranium. It seems appropriate for the Working Group to determine to what extent experiments represent a coordinated Federal effort rather than a collection of isolated studies.

The plutonium papers suggest that for a brief period of time in the late 1940's, the Atomic Energy Commission required that experiments with ionizing radiation and human subjects should be conducted only if the subjects received medical benefits—a standard similar to those by which such experiments are being judged today. If this in fact was AEC policy, it must have been overturned or violated by many later experiments. It seems appropriate for the Working Group to determine what standards were in place in the late 1940's, and whether they deteriorated over time.

In February 1987, the Department of Energy notified me that they would not conduct further followup of experimental subjects. However, at the same time, the Department was desperately trying to conduct followup with the family of a deceased patient, an Australian national injected with plutonium before his fifth birthday. It seems appropriate for the Working Group to determine the full extent of any followup conducted in the 1980's, and evaluate whether the efforts then might facilitate followup of subjects now.

In addition, I want to emphasize the need to maintain the integrity of Government records during the search for documents on radiation experiments with human subjects. I have recommended that steps be taken to avoid review of files by individuals who may have direct conflicts of interest.

In summary, what has been revealed is no less than the frequent and systematic use of U.S. citizens as guinea pigs during experiments with ionizing radiation. These experiments shock the conscience and demand a response. I look forward to working with my colleagues and the administration to gain full disclosure of this shameful past, to provide the medical followup and treatment that experimental subjects deserve, and to take other measures as necessary for restitution to those citizens who have suffered injury.

TRIBUTE TO WINSON HUDSON

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. THOMPSON of Mississippi. Mr. Speaker, I stand today to pay tribute to Mrs. Winson Hudson of Leake County, MS. Mrs. Hudson's contributions to Leake County, the State of Mississippi, and the Nation are numerous.

Working with slain civil rights leader, Medgar Wiley Evers, Mrs. Hudson and her sister were the first African-Americans to file a lawsuit against the State of Mississippi to desegregate the public school system. In her effort to register to vote, Mrs. Hudson recruited a Justice Department lawyer to investigate the registration process which resulted in her becoming a registered voter after she interpreted the constitution in this manner: "It said what it meant and meant what it said."

Mrs. Hudson is a founder and current president of the Leake County NAACP where she has served for more than 25 years. She is also the cochairman of the Leake County Democratic Party. Through these positions, she has worked to organize programs that benefit the poor and underserved population. Some of those programs include establishing a local Head Start Program; a community health center for a tricounty area; Women, Infants, and Children [WIC] and other nutrition programs for school aged children and the elderly; obtaining a multipurpose building for Leake County; and challenging the county's revenue distribution to ensure that streets and roads were paved in African-American communities.

Her numerous accolades include being the recipient of the following awards: Fannie Lou Hamer Award from Jackson State University; Mississippi Council of Aging Award; Leake County NAACP Meritorious Awards; Medgar Evers Award from the Mississippi NAACP; Senior Counsel Advisor Award from President Jimmy Carter and her biography was listed in the book "'I Dream A World': Seventy-Five Portraits of Black Women Who Changed America." She has also been a delegate to several democratic national conventions and testified before Federal commissions for social and medical programs.

Recently, Mrs. Hudson was honored by the Leake County Chamber of Commerce for her outstanding contributions. Mrs. Hudson reflects on the social progress that has been achieved since the 1960's and says if she could talk to Fannie Lou Hamer she would tell her that there is an African-American in Congress from Mississippi and African-Americans throughout the Nation are serving in greater numbers in State legislatures, county boards of supervisors, and city councils.

COMPREHENSIVE HEALTH ACCESS DISTRICT ACT

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. TOWNS. Mr. Speaker, I am proud to rise today to introduce the Comprehensive Health Access District Act. This legislation would reform the health care system where reform is needed most—in our inner cities and other medically and economically disadvantaged communities. The bill recognizes that health care cannot be delivered in a vacuum. Health care delivery systems must take into account all of the factors—social, cultural, and economic—that affect well-being.

A comprehensive approach to tackling health care problems, one that both expands access to health care and creates economic opportunities, is needed in my district in Brooklyn and in communities like it throughout the country. The Comprehensive Health Access District Act provides the structure for just such a comprehensive approach.

First, the legislation designates communities whose indicators of basic health are significantly worse than those of the Nation as a whole as "Comprehensive Health Access Districts" or "CHAD's." CHAD's are the neighborhoods where residents receive primary care in hospital emergency rooms, where children do not receive age-appropriate immunizations, where the incidence of AIDS and tuberculosis is soaring, and where lack of attention to chronic conditions such as diabetes and high blood pressure force people into the hospital. These are communities, too, where unemployment is the norm and where poverty is a fact of everyday life.

The bill next encourages the development of specialized comprehensive, community-based managed care programs to serve CHAD's. Each State with a CHAD within its borders would be required to contract with such a plan to serve the health access district. Health alliances or similar structures created as a result of the enactment of comprehensive health care reform would also have to assure that a specialized health access plan is available to serve people living in comprehensive health access districts.

The legislation then spells out the service, access, quality, and other performance standards that managed care programs will have to satisfy in order to be certified as qualified to serve a comprehensive health access district.

CHAD programs will, first of all, be comprehensive. They will provide a broad range of health care services, with the emphasis on preventive and primary care. CHAD programs will be required to link each person served with a primary care physician, and guarantee round-the-clock access to that doctor. These requirements will take treatment out of the costly hospital emergency room and assure that individuals receive regular, timely, and appropriate care.

To make sure that happens, CHAD programs will institute aggressive quality assurance programs. Providers who do not meet CHAD quality standards will be penalized and, if necessary, terminated from participation.

In addition to providing medical care and services, CHAD programs will stress health education and outreach, and develop programs that come to grips with the social, cultural, and economic factors that can influence health and well-being. CHAD programs will identify the leading causes of illness and death within their community, and develop appropriate interventions to address these problems. Problems related to poor housing, lack of education, substance abuse, and family breakdown will be addressed. Linkages will be forged between CHAD programs and other community services so that health issues are not dealt with in isolation.

Just as important as the comprehensive range of services provided by CHAD programs is the fact that they will be community-based. A CHAD program's primary offices must be located in the access district being served, so that it contributes to the economic development of the health access zone. CHAD programs will hire people who live within the CHAD, and its provider network will be sensitive to the cultural and racial backgrounds of the people being served.

CHAD programs will also strengthen the communities they serve by utilizing existing health care providers, such as community health centers and public hospitals. These entities have been the backbone of health care in medically disadvantaged communities; CHADs need to draw upon their expertise and make them integral parts of CHAD-provider networks. In addition, CHAD programs will invest in the communities they serve and to develop new health resources, such as school-based clinics, clinics in public housing and mobile screening programs.

CHAD programs will be publicly accountable, their performance measured by their record in controlling costs, their members' expressed satisfaction, and their impact on the health status of the community. Each CHAD will also be subject to regular quality evaluations by independent evaluators.

On a national level, outcomes and other data from all CHAD plans will be collected and analyzed. In this way, we can determine which approaches are most successful in improving health status and replicate them in other communities across the country.

Finally, in order to facilitate States' ability to contract with health access plans, the bill exempts such plans from the so-called 75–25 composition of enrollment rule. This rule prohibits a State from contracting with a managed care plan unless the plan has at least 25 percent commercial enrollment. The 75–25 rule was intended originally to promote quality of care, by ensuring that a plan's Medicaid members would receive the same services as its private-pay members.

The 75–25 rule, however, ignores the realities of the inner-city neighborhoods where most Medicaid recipients live. In those neighborhoods, there are not likely to be enough privately insured individuals for a plan to satisfy the 25 percent commercial enrollment requirement. Imposing the 75–25 rule on health access plans would therefore be counterproductive, since it would divert their energy and resources from the medically and economically disadvantaged communities they are intended to serve. Therefore, rather than attempt to achieve quality indirectly by means of the 75–25 rule, the bill approaches the issue head on by imposing rigorous quality assurance standards on health access plans.

Health care is a significant factor in rebuilding inner-city communities. If we want to produce an employable work force, individuals living in these communities must be healthy and free of high-risk and destructive behaviors. Health care, in short, is the cornerstone of economic opportunity. This legislation is intended to erect that foundation by rebuilding the health care infrastructure in low-income communities, by coordinating the delivery of health care, and by linking health care with economic revitalization. This is an ambitious goal, and one which has been put off for far too long.

IN HONOR OF THE 50TH ANNIVERSARY OF COLONIAL PARK FIRE CO. NO. 1

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. GEKAS. Mr. Speaker, it is indeed a pleasure to recognize the 50th anniversary of a central Pennsylvania institution, the Colonial Park Fire Co. No. 1.

Since its creation by a group of community-minded citizens in February 1944, the Colonial Park Fire Co. has been there in times of need for residents of Lower Paxton Township. During a half-century of service, the company has saved many valuable lives and hundreds of thousands of dollars worth of property.

Of course, a fire department is only as strong as the people it protects, and the Colonial Park Fire Co. has been fortunate enough to serve a community of solid supporters who built the company from the ground up.

I want to congratulate the Colonial Park Fire Co. for its 50 years of public service, and extend my best wishes for its future.

IN HONOR OF JOHN CASTILLO, JR., EXECUTIVE DIRECTOR OF THE SAN LEANDRO BOYS' AND GIRLS' CLUB

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. STARK. Mr. Speaker, today I rise to honor John Castillo, Jr., the executive director of the San Leandro Boys' and Girls' Club, for his many dedicated years of service to the youth of San Leandro.

John Castillo has been affiliated with the club since 1946, when he began as a junior staff member and joined the boxing team. Over the next 10 years, under the guidance of Mike Luciano, he became the northern California boxing champion of Boys' Clubs and was once selected as Boy of the Year. Boxing brought John to California State—Chico on a scholarship and then into the Army for 2 years, where he served with the 6th Army in Washington and 7th Army in Korea as a boxing coach. After leaving the service, John Castillo became a trusted and successful local insurance agent; his best years with the Boys' Club were yet to come.

In 1970, John became an active member of the board of directors of the San Leandro Boys' Club. Since 1978, he has been executive director of the club. Over the years he has been recognized for his leadership on several occasions: I in 1974 he was selected to receive the Man and Boy Award from the club; in 1984 he received the Professional of the Year Award, and in 1990 was named Citizen of the Year by the San Leandro Lions Club.

At the end of February, John Castillo retired as executive director. His family, friends, and colleagues will host a special dinner for him on Saturday, April 30, 1994, to recognize his commitment and service to the club.

I salute John Castillo, Jr., for his hard work, patience, and dedication to the San Leandro Boys' and Girls' Club. His work in our community is probably far from over. Mr. Speaker, I hope you and my colleagues will join me in congratulating this leader who has changed the lives of many young citizens.

SERVICE TO OTHERS KNOWS NO AGE LIMITS—SALUTE TO A CONTRIBUTING CENTENARIAN

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. HORN. Mr. Speaker, today I have the privilege of honoring a remarkable American from my district, California's 38th. Mrs. Leone Jackson not only has reached her centennial birthday, but has shown us all that age does not diminish a person's ability to serve others.

Teaching has been the lifelong devotion of Mrs. Jackson of Bellflower, CA, who celebrated her 100th birthday in March. She began her career as an educator in a one-room schoolhouse in Nebraska almost 80 years ago and, today, whe is still teaching groups of English-as-a-second-language students who come to her home. In between, she left Nebraska in 1929, moving to California, where she earned her master's degree at the University of Southern California by working in a hardware store and selling toothbrushes door-to-door. In 1942, Mrs. Jackson took a teaching position in Paramount, CA. She retired from there in 1962 after serving as principal of Lincoln Elementary School.

But even in retirement, teaching was still in her blood. At the age of 68, Mrs. Jackson joined the Peace Corps and was sent to Lima, Peru, where she taught English.

When Mrs. Jackson returned to southern California after her Peace Corps service, she learned that the Paramount Unified School District was having problems with a growing number of new students who did not know English. Mrs. Jackson responded by starting what would become Paramount's first English-as-a-second-language [ESL] program.

At first, Paramount's ESL program was run out of Mrs. Jackson's house. Later, it moved to the Paramount Adult School campus. And today, 32 years after her official retirement from the classroom, Mrs. Jackson is still teaching a few ESL students at her home.

In addition to her work with non-English-speaking students, this exceptional woman is writing two books about her family history. When published, these volumes will join Mrs. Jackson's other works, which are collections of letters and poetry.

Leone Jackson is an inspiration for us all. Not only does she have extraordinary energy and longevity—which she attributes to never staying overnight in a hospital and to drinking gallons of milk—but she has maintained a century-spanning commitment to helping others.

I join with Leone Jackson's family, friends, and students, both current and former, to wish her a happy 100th birthday and to praise her continuing dedication to serving her community.

INTRODUCTION OF BOSNIA AND HERZEGOVINA SELF-DEFENSE ACT OF 1994, H.R. 4290

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. GILMAN. Mr. Speaker, I have today introduced the "Bosnia and Herzegovina Self-Defense Act of 1994," H.R. 4290, along with Mr. HYDE, Mr. GINGRICH, and Mr. DORNAN.

This legislation requires the President to terminate the United States arms embargo of the Government of Bosnia and Herzegovina. In addition, it makes available to the President up to $200 million in drawdown authority to provide United States military assistance to the Government of Bosnia and Herzegovina.

Earlier this week, the conference committee on the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, H.R. 2333, approved a provision for the conference report on that measure that amply explains the legal and policy basis for unilateral termination of the United States arms embargo of Bosnia and Herzegovina. That provision goes on to urge the President to unilaterally terminate the arms embargo and to provide appropriate military assistance to the Government of Bosnia and Herzegovina. The conference report on the Foreign Relations Authorization Act should be approved by both Houses of Congress next week, and I fully expect that it will be signed into law.

The bill I have introduced today builds on the Bosnia and Herzegovina provision of the Foreign Relations Authorization Act by putting into practice the policy urged by that provision.

There should be no question about the wisdom of ending the arms embargo. President Clinton endorsed that step many months ago, and he has never retreated from that position. The only question is whether the United States must wait for the United Nations to act before ending the embargo, or end the embargo on its own. The Foreign Relations Act makes clear that the United States can act on its own. Considering the human and moral disaster confronting us in Bosnia and Herzegovina, there can be no excuse for further delay.

The Senate is today considering a measure being offered by Senator DOLE that would implement essentially the same policy as our bill. The House should also proceed expeditiously to consider this issue.

Accordingly, Mr. Speaker, I urge my colleagues to support this timely measure. I request that the full text of the legislation be included at this point in the RECORD.

H.R. 4290

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bosnia-Hercegovina Self-Defense Act of 1994."

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) For the reasons stated in the conference report on the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (H.R. 2333), the Congress has found that continued application of an international arms embargo to the Government of Bosnia-Hercegovina contravenes that government's inherent right of individual or collective self-defense under Article 51 of the United Nations Charter and therefore is inconsistent with the international law.

(2) Before deploying United States Armed Forces to defend the territorial integrity and political independence of Bosnia-Hercegovina, or to enforce United Nations mandates in Bosnia-Hercegovina, the United States should seek to provide the government of Bosnia-Hercegovina with the means necessary to exercise its inherent right of self-defense.

SEC. 3. TERMINATION OF ARMS EMBARGO.

(a) TERMINATION.—The President shall terminate the United States arms embargo of the Government of Bosnia-Hercegovina upon receipt from that government of a request for assistance in exercising its right of self-defense under Article 51 of the United Nations Charter.

(b) DEFINITION.—As used in this section, the term "United States arms embargo of the Government of Bosnia-Hercegovina" means the application to the Government of Bosnia-Hercegovina of—

(1) the policy adopted July 10, 1991, and published in the Federal Register of July 19, 1991 (58 Fed. Reg. 33322) under the heading "Suspension of Munitions Export Licenses to Yugoslavia"; and

(2) any similar policy being applied by the United States Government as of the date of receipt of the request described in subsection (a) pursuant to which approval is denied for transfers of defense articles and defense services to the former Yugoslavia.

SEC. 4. PROVISION OF UNITED STATES MILITARY ASSISTANCE.

(a) POLICY.—The President should provide appropriate military assistance to the Government of Bosnia-Hercegovina upon receipt from that government of a request for assistance in exercising its right of self-defense under Article 51 of the United Nations Charter.

(b) AUTHORIZATION OF MILITARY ASSISTANCE—

(1) DRAWDOWN AUTHORITY.—If the Government of Bosnia-Hercegovina requests United States assistance in exercising its right of self-defense under Article 51 of the United Nations Charter, the President is authorized to direct the drawdown of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training in order to provide assistance to the Government of Bosnia-Hercegovina. Such assistance shall be provided on such terms and conditions as the President may determine.

(2) LIMITATION ON VALUE OF TRANSFERS.—The aggregate value (as defined in section 664(m) of the Foreign Assistance Act of 1961) of defense articles, defense services, and military education and training provided under this subsection may not exceed $200,000,000.

(3) EXPIRATION OF AUTHORIZATION.—The authority provided to the President in paragraph (1) expires at the end of fiscal year 1995.

(4) LIMITATION ON ACTIVITIES.—Members of the United States Armed Forces who perform defense services or provide military education and training outside the United States under this subsection may not perform any duties of a combatant nature, including any duties related to training and advising that may engage them in combat activities.

(5) REPORTS TO CONGRESS.—Within 60 days after any exercise of the authority of paragraph (1) and every 60 days thereafter, the President shall report in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate concerning the defense articles, defense services, and military education and training being provided and the use made of such articles, services, and education and training.

(6) REIMBURSEMENT.—(A) Defense articles, defense services, and military education and training provided under this subsection shall be made available without reimbursement to the Department of Defense except to the extent that funds are appropriated pursuant to subparagraph (B).

(B) There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for the value (as defined in section 664(m) of the Foreign Assistance Act of 1961) of defense articles, defense services, or military education and training provided under this subsection.

TRIBUTE TO THE 1993 MISSISSIPPI DELTA COMMUNITY COLLEGE FOOTBALL TEAM

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. THOMPSON. Mr. Speaker, I stand today to recognize the 1993 football team of Mississippi Delta Community College in Moorhead, MS, on winning the National Junior College Athletic Association Championship.

The Mississippi Delta Community College Trojan football team had a perfect 11–0 season in 1993 and was ranked as the number one team in the Nation for 6 weeks during the regular season. The team averaged 378 yards in total offense per game and limited opposing teams to 200 yards in total offense per game. In addition, the Trojans averaged 32 points per game and held opponents to an average of 10 points per game.

The Trojans also won the State Championship and the Region 13 title which is comprised of teams in Mississippi and Louisiana. Many of these young men also received numerous individual honors during the regular season and the playoff season.

The 1993 Trojan football team was led by head coach James Gray, assistant coaches Jim Southward, Jeff Tatum, Terry Moore, and John Withrow and athletic trainer Domino Bellipanni. These men were named coaches of the year among coaches in the State community colleges.

This football team has brought national attention to Mississippi Delta Community College and the town of Moorhead, MS. Many of these young men excel in the classroom and in their extracurricular and community activities. These young men are to be commended for their outstanding athletic achievement and contributions to the State and Nation.

TRIBUTE TO BISHOP WILBERT MCKINLEY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. TOWNS. Mr. Speaker, we all believe that serving the public is a noble endeavor, and that is why we serve in the House of Representatives. An equally difficult and even nobler service is being one of the Lord's servants. Bishop Wilbert McKinley of Elim Church in Brooklyn, NY serves his Lord through various religious and civic activities.

Bishop McKinley was reared in Panama, and at the age of 13 answered the call to serve his Lord. His unsatiable thirst for knowledge about man's duties to God led him to seek knowledge in a variety of settings. He studied at Zion Bible Institute in Providence, RI; the University of Pittsburgh, where he received a degree in history; the Reformed Presbyterian Seminary, and the Reformed Episcopal Seminary in Philadelphia, PA, where he received a master of divinity degree.

The bishop has incorporated unabiding faith in action with scholarship. He has sought to share his knowledge and experience with the black community and church. His ministerial efforts are international in scope. Bishop McKinley believes in ministering to individual and community needs; which is why he has been directly responsible for revitalizing the community he resides in. His efforts include the refurbishment of seven buildings, consisting of a school and three residences. Additionally, he has offered an attentive ear and compassionate heart to homeless men and women in shelters on Bedford and Lexington Avenues.

Bishop McKinley founded his church 29 years ago. Located on Madison Street in Brooklyn, it has over 1,000 members, with a personal staff of 12 to attend to the needs of his congregation.

I have personally witnessed the profound impact of Bishop McKinley's efforts within the Brooklyn community. I am pleased to acknowledge Bishop McKinley and his selfless acts of service to his Lord.

RETURN TO STRONGER 5 MPH BUMPER STANDARD

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. BEILENSON. Mr. Speaker, today I am reintroducing legislation I have proposed during each of the last five Congresses to restore automobile bumper protection standards to the 5-mile-per-hour requirement that was in force when the Reagan administration took office in 1981.

Beginning in 1978, new cars were equipped with bumpers capable of withstanding any damage in accidents occurring at 5 m.p.h. or less. That action was taken in accordance with the Motor Vehicle Information and Cost Savings Act of 1972, which requires the National Highway Traffic Safety Administration [NHTSA] to set a bumper standard that seek(s) to obtain the maximum feasible reduction of cost to the public and to the consumer.

As part of the Reagan administration's effort to ease what it called the regulatory burden on the automobile industry, NHTSA reduced the standard to 2.5 m.p.h. in 1982, claiming that weaker bumpers would be lighter, and would, therefore, cost less to install and replace, and would provide better fuel economy. This supposedly meant a consumer would save money over the life of a car, since the lower purchase and fuel costs should outweigh the occasionally higher cost of any accident. The administration promised at the time to provide bumper data to consumers, so that car buyers could make informed choices about the amount they wished to spend for extra bumper protection.

This experiment has been a total failure. None of the anticipated benefits of a weaker bumper standard has materialized. Crash tests conducted by the Insurance Institute for Highway Safety [IIHS] have shown year after year that bumper performance has little or nothing to do with bumper weight or car price. Lighter bumpers seem to perform just as well as heavier ones in accidents, and bumpers on inexpensive autos perform just as well as or better than the bumpers on expensive autos. In fact, some of the heaviest and most expensive bumpers serve no energy-absorbing purpose at all. Adding insult to injury, NHTSA has virtually ignored its promise to make adequate crash safety and damage information available to consumers.

What has happened is that consumers are spending hundreds of millions of dollars in extra repair costs and higher insurance premiums because of the extra damage incurred in low-speed accidents. In IIHS's latest series of 5-mile-per-hour crash tests, all of the nine 1993 midsize four-door models tested sustained more than $1,000 in damage; five sustained more than $3,000 in damage. That a consumer would be faced with this amount of damage after an accident occurring at 5 m.p.h. is both offensive and totally unnecessary.

There is no doubt that consumers overwhelmingly favor a stricter bumper standard—a survey conducted in 1992 by the Insurance Research Council found that almost 70 percent of respondents said cars should have bumpers that provide protection in low-speed collisions and over 80 percent said they would choose protective bumpers over stylish bumpers. Surely no one buying a new car would prefer the extra inconvenience and cost associated with damage sustained in low-speed accidents with weaker bumpers to the virtually negligible additional cost, if any, of stronger bumpers.

Both Consumers Union, which has petitioned NHTSA unsuccessfully to rescind the change, and the Center for Auto Safety strongly support Federal legislation requiring a return to the 5 m.p.h. bumper standard. The insurance industry also strongly believes rolling back the bumper standard was an irresponsible move and supports a stronger standard as a way of controlling auto insurance costs.

Mr. Speaker, the Reagan administration made a serious, costly mistake when it rolled back the bumper standard. It has cost consumers many hundreds of millions of dollars—with no offsetting benefit at all. Some manufacturers have continued voluntarily to supply the stronger bumpers. But car buyers, who cannot look at a bumper system and judge how it would perform, have no easy way of knowing whether cars have the stronger or weaker bumpers.

Reestablishing a 5 m.p.h. bumper standard would be one of the most effective and easiest measures Congress could approve this year to help reduce excessive automobile insurance costs. We can save consumers hundreds of millions of dollars by reinstating a proven regulation that worked well in actual practice. We cannot allow rhetoric about the burden of Government regulation and the advantages of free market economics to blind us to the reality of the unnecessary costs of minor automobile accidents. It is long past time to restore rationality to automobile bumper protection standards.

Mr. Speaker, I urge my colleagues to join me in supporting this proposal to restore the 5-mile-per-hour bumper standard.

TRIBUTE TO LINDA BRITSCHGI

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. HUNTER. Mr. Speaker, I rise today to recognize the retirement of an outstanding public servant in my home district. Over her long and distinguished career, Linda Britschgi served the city of Holtville, CA, as a true representative of the people.

Her service for 5 years on the Holtville Planning Commission, 12 years on the City Council and two terms as the Mayor of Holtville composed an important chapter in the history of this small desert town. Whether she was fighting for street repairs or other infrastructure projects, Linda Britschgi maintained the interests of Holtville as her first priority. Over the years, she recognized the need to attract new business to the area and helped facilitate the Imperial Valley's increasing role as a region of commerce. Linda championed the cause of providing low-income housing for city residents. and represented the interests of the family as chairperson of the Wesley Day Care Board of Directors. Throughout her tenure, she was also deeply involved in community group activities.

As the mother of three, Linda Britschgi balanced her family life with the life of a determined public servant. Such dedication is worthy of compliment and I wish her the best in all of her future endeavors.

TRAVEL AGENTS HONORED FOR THEIR ECONOMIC CONTRIBUTIONS

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. BOEHLERT. Mr. Speaker, I rise today in support of the travel and tourism industry on the occasion of the travel industry march on Washington sponsored by the American Society of Travel Agents.

The importance of the travel and tourism industry often is overlooked, but the industry is our Nation's number one exporter, number two employer and will be America's largest industry by 2000. It generates $350 billion in annual sales, which adds up to 7 percent of the gross domestic product. The march provides industry leaders with an opportunity to discuss their concerns with Members of Congress.

Travel and tourism is a growing industry for a very simple reason: Americans are traveling in record numbers. Travel agents want our help to keep the industry healthy and growing. There are several things we can do:

Reduce the tax burden on travelers. The industry is stymied by the heavy tax burden it carries. That is the principle focus of this year's march on Washington. In the last 5 years, travel taxes at the Federal, State and local levels have increased a staggering 75 percent. Travel and tourism activities will not be able to compete effectively if the cumulative burden of taxes at all levels of government forces consumers to spend their discretionary dollars elsewhere.

Pass legislation to promote travel safety. The Travelers Protection Act is part of the major crime bill now under consideration. It is designed to strengthen penalties against those who commit a crime against a domestic or foreign tourist. Further exploration of ways to make America safer for guests also is needed.

Combat telemarketing scams through legislation such as the Telemarketing Consumer Fraud and Abuse Prevention Act, which is now in conference. This measure makes it more difficult for travel scam artists to operate.

I thank the American Society of Travel Agents for bringing the importance of its industry to the attention of the U.S. Congress and wish the members much success in their annual march on Washington.

IN RECOGNITION OF DRUG-FREE DRESS UP SUMMIT DAY, 1994

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. MENENDEZ. Mr. Speaker, I would like to take this opportunity to recognize Friday, April 22, as Drug-Free Dress Up Day at several of Jersey City's public schools, and to pay tribute to all of those people who have worked so hard on this program as part of the war against drugs.

Obviously, but unfortunately, drug abuse is a serious problem which we face not only in New Jersey, but all across this Nation and around the world. Drugs destroy relationships, and eventually lives. Drugs can turn the most promising individual into a helpless victim. Substance abuse is a problem we must work together to solve. We cannot let it destroy our youth and therefore, our Nation's future. That is what a group of students from Jersey City public schools are working toward.

By hosting their first annual Drug-Free Dress Up Day Summit, students from public schools Nos. 8, 27, Christa McAuliffe School No. 28, and Fred W. Martin School No. 41 are demonstrating their commitment to saying no to alcohol, drugs, and tobacco. They are also saying no to violence and yes to safe neighborhoods and strong community schools. They are showing that they appreciate the value of a good education and the role it can play in their lives. They are striving to educate themselves and their fellow Americans about the dangers of substance abuse and the negative impact it can have on their lives.

The Drug-Free Dress Up Day Summit is designed to urge students to exercise the best moral values, build positive self-esteem, and develop self-confidence. More importantly, the program seeks to help students develop the discipline they need to reach their full academic potential. These are all ingredients which are necessary for achieving success.

Mr. Speaker, I would like to take this time to pay tribute to those who have worked so hard to make this day a reality and who are committed to doing their part in the war against drugs. Justin Brown, Nandanee Ramdin, Luis Suarez, Michael Sidhom, Shatabdi Pokal, Kareema Gadsden, Michelle Cosby, Antoine Williams, Tamika Haywood, Dana Cohen, Luzyvette Severino, Melissa Torres, and Ashia Garnes all deserve a great deal of recognition for their efforts. If these current efforts are any indication of what their futures will be like, I am confident that they will be very promising.

ELEANOR KRATZER IS A LIVING LEGEND

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. SANTORUM. Mr. Speaker, it is truly special when a community finds the opportunity to pay tribute to a worthy citizen. I am honored to join in such a tribute for Eleanor Kratzer, a woman of extraordinary energy and talent with an unswerving commitment to her community.

The list of people who have been touched in some way by Eleanor Kratzer's giving is unending. Throughout the years, Eleanor has contributed her leadership efforts to such organizations as the McKeesport Pre-School for Exceptional Children, the Women's Club of McKeesport, the Mon-Yough Unit of the American Cancer Society, the McKeesport Area Thiel College Women's Club, the YWCA board, the Semper Fidelis Club, and many others. She has also worked throughout her life with the Girl Scouts and Hadassah.

Currently, Eleanor is a trustee of the YWCA, a member of the Salvation Army Corps advisory board, the McKeesport Symphony Auxiliary, the American Legion Auxiliary, and the 20th Century Club, among others. Frankly, her generous efforts are so numerous and extensive that even this forum provides insufficient space to appraise them.

As a professional journalist and an editor with the McKeesport Daily News in McKeesport, PA, Eleanor had the opportunity to share her insight with readers throughout the Mon Valley. Her work as a journalist has earned her the considerable respect and admiration of both her colleagues and readership.

Mr. Speaker, it is clear that Eleanor Kratzer's contributions to her community deserve our highest accolades and profound admiration. I join her friends, colleagues, and family in saluting her.

TRIBUTE TO THE YAZOO CITY HIGH SCHOOL CHORUS

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. THOMPSON of Mississippi. Mr. Speaker, I stand today to recognize the Yazoo City high school chorus of Yazoo City, MS for being selected to represent the State of Mississippi in the 1994 American Musical Salute to the Veterans of World War II and the Bicentennial Anniversary of the Founding of Washington, DC., which will be held in Washington from May 8, 1994 through May 14, 1994.

The Yazoo City high school chorus, under the direction of Mrs. Jevonne McCoy, is comprised of 27 young men and 42 young women. The choir has consistently received superior performance ratings in State choral contests. While in Washington, the choir will sing at the U.S. Capitol, the Lincoln Memorial, the Pentagon and at Arlington National Cemetery in a ceremony at the Tomb of the Unknown Soldier.

The Yazoo City high school chorus is comprised of an outstanding group of young men and women. Many students are honor students, participate in numerous extracurricular activities and serve as volunteers with various nonprofit organizations in the Yazoo City community. In addition, these students graduate from high school and proceed to attend college and assume leadership positions in the State and the Nation. These young men and women are to be commended for this high honor. They will represent Yazoo City and the State of Mississippi with great distinction.

DEMOCRATS' 3-D STRATEGY TO THWART CONGRESSIONAL REFORM

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. SOLOMON. Mr. Speaker, I was very distressed to read earlier this week that the Speaker is now talking about putting off consideration of the bipartisan congressional reform bill until later this summer, if then, and that he may even agree to splitting it up into several measures. Moreover, I have learned that the Rules Committee will probably come out with a chairman's mark for amendment purposes that will water down the joint reform committee's work considerably.

Mr. Speaker, I think the writing is on the wall as to what is going on here. It seems evident to me that the Democrat leadership is adopting a 3-D strategy to thwart congressional reform. The 3-D's stand for divide, dilute, and delay.

Unlike the old 3-D movies where you wore special glasses so that things would seem to jump out at you from the screen, the Democrats' 3-D policy is one of wearing blinders when it comes to recognizing and addressing the internal problems that beset this Congress—all in the hope that they disappear from the screen.

Mr. Speaker, there is no reason for us not to pass a strong congressional reform bill this spring before we take up the appropriations and health bills on the floor.

Everyone knows that the closer we get to adjournment the more excuse the leadership will have either to avoid allowing for amendments to strengthen the bill, or for even taking up the bill at all. Let's not try to kid ourselves or the American people that this place ain't broke and don't need fixing. The voters know better and will tell us so at the polls in November if we don't set about cleaning our own House now.

100TH ANNIVERSARY OF THE COSMETIC, TOILETRY, AND FRAGRANCE ASSOCIATION

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mrs. MORELLA. Mr. Speaker, 1994 marks the 100th anniversary of the Cosmetic, Toiletry, and Fragrance Association.

This organization admirably serves its 500 members and millions of consumers through a variety of safety, regulatory, and public service programs. One such program, which I have personally observed, is "Look Good . . . Feel Better," which is a joint effort of CTFA, the American Cancer Society, and the National Cosmetology Association. This free program helps women cancer patients learn how to use makeup techniques to cope with changes in appearance caused by chemotherapy and radiation treatments. Last year, 26,000 women were helped by the program, which is available in every State and four foreign countries. The program is also available in Spanish to better serve the Latino community.

President Clinton paid special tribute to "Look Good . . . Feel Better" in his congratulatory message to the CTFA membership during its recent centennial anniversary meeting. I would like to join President Clinton in saluting CTFA for its 100 years of achievement, and I ask that his message be inserted in the RECORD:

THE WHITE HOUSE,
Washington, DC, March 1, 1994.

Greetings to everyone gathered in Boca Raton, Florida, for the centennial anniversary meeting of the Cosmetic, Toiletry, and Fragrance Association. I am delighted to congratulate all of you on one hundred years of dedicated service to the personal products industry.

In coming together on this occasion, you are renewing your time-honored commitment to quality, innovation, and excellence. Best exemplified by your "Look Good . . . Feel Better" program to help cancer patients regain a strong self-image after treatment, the members of your organization have consistently proven your dedication to serving communities across the country. I hope you will take advantage of this exciting opportunity to exchange information and to examine new ways of meting the needs of consumers. As we work to create new jobs and build the foundations of prosperity for the coming century, I commend you for your many contributions to these worthy goals.

Best wishes for an enjoyable and productive meeting.

BILL CLINTON.

INSURANCE FRAUD

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. POMEROY. Mr. Speaker, the National Association of Insurance Commissioners [NAIC], in April 1991, initiated the call for a Federal fraud statute aimed at white-collar insurance fraud. Founded in 1871, the nonprofit

NAIC is our Nation's oldest organization of State officials. The NAIC is comprised of the chief insurance regulatory officials from the 50 States, the District of Columbia, American Samoa, Guam, Puerto Rico, and the Virgin Islands. At that time, I was proud to be the Commissioner of Insurance for North Dakota and the immediate past president of the NAIC.

The NAIC's proposal included the basic elements—false reports or overvaluing of land, property, or security; embezzlement or theft; false entries; and obstruction of regulatory proceedings—incorporated in the conference report to the omnibus crime bill from the 102d Congress. On January 27, 1993, Representatives DINGELL and BROOKS introduced H.R. 665, the Insurance Fraud Prevention Act of 1993, a freestanding insurance-fraud provision, which the Committee on the Judiciary has included in H.R. 4092, the omnibus crime bill. I congratulate Representatives, DINGELL and BROOKS for sponsoring H.R. 665, and I note that they introduced a similar bill in the 102d Congress, Further, I applaud the efforts of Representative SCHUMER for moving this legislation through the Subcommittee on Crime and Criminal Justice.

While insurance should remain state regulated, there is certainly a role for the Federal Government to play in concert with the State insurance departments and the NAIC. The NAIC proposed this statute because the Federal Government has unequaled clout, reach, and investigatory and law enforcement resources. The State insurance departments are ready and willing to investigate and prosecute insurance fraud, often in cooperation with Federal law enforcement agencies. In certain circumstances, the States have not been able to prosecute wrongdoers—extradition, for example, can pose a formidable barrier—and this has motivated the State insurance departments and the NAIC to seek Federal assistance. Federal criminal statutes, with the law enforcement and judicial authority and resources of the United States behind them, offer both deterrence and punishment. While reasonable people may disagree over the need for Federal regulation of the business of insurance, I think we can all agree that a Federal criminal statute should be viewed as enhancing, not superseding, State law enforcement. Indeed, in a recent op-ed piece in the New York Times, March 11, 1994, Maryanne Trump Barry, a Federal district judge in New Jersey and the chairwoman of the Criminal Law Committee of the Judicial Conference of the United States, while criticizing too wide of an extension of Federal criminal jurisdiction, acknowledged that "U.S. courts have traditionally handled complex cases with nationwide impact: serious interstate offenses, organized crime and major drug enterprises, white-collar crime, State and local corruption and international offenses." Surely, complex, white-collar insurance fraud, often perpetrated by sophisticated, international criminals, should be a Federal crime.

Mr. Speaker, I am pleased that the NAIC's original proposal called for stiff fines and long prison terms. As it would appear that the Federal Sentencing Guidelines determine the length of prison terms, I am not prepared to argue that the higher NAIC prison terms should have been adopted, though an argument can be made that including a substantial prison term in a statute provides a concrete indication of the importance Congress places on a particular crime. For example, the bank fraud statute, on which the NAIC modeled its insurance fraud proposal, provides for 30-year prison terms. The statute passed today provides for 10-year prison terms, which can be increased to 15 years when the safety or soundness of a financial institution is jeopardized. I continue to believe, along with the NAIC, that the fines should be increased to $1 million, rather than the fines in the proposed statute of $250,000 for individuals and $500,000 for organizations.

Finally, I will note that in the 102d Congress one word was added in the conference committee, and included in H.R. 665, that remains troubling to those of us interested in the best possible regulation of the business of insurance. The adjective "financial" was added before "reports and documents" submitted to regulators or examiners, as in proposed § 1033(a)(1)(A). As a former insurance regulator, I believe this is a troubling addition. The insurance-fraud proposal does not include a definition of "financial" or of "financial reports or documents". A number of reports and documents are not explicitly "financial" in nature, but are nevertheless extremely important to effective insurance regulation. In "Failed Promises: Insurance Company Insolvencies," a report by the Subcommittee on Oversight and Investigations of the House Committee on Energy and Commerce, Committee Print 101–P, February 1990, the Subcommittee on Oversight and Investigations suggested there were abuses connected to such nonfinancial information as applications for licenses; filings on holding company transactions; filings on parent-subsidiary transactions; and filings on mergers, consolidations, and acquisitions. With the addition of one word—"financial"—it is quite possible that fraudulent activities in these areas would not be covered as Federal offenses. Based on my 7 years of experience as the commissioner of insurance for North Dakota, I happen to believe that these are rather significant activities. I believe that this legislation, without an adequate definition of "financial", should not include that adjective.

Mr. Speaker, the Senate has already passed an omnibus crime bill that includes an insurance-fraud statute. With our action today, I hope the 103d Congress will soon pass this provision. By making white-collar insurance fraud a Federal offense, we will give State insurance departments a strong weapon in their fight against insurance fraud.

RECOGNITION OF THE 11TH ANNUAL JAMES JOYCE RAMBLE

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. MOAKLEY. Mr. Speaker, I rise today to recognize the 11th annual James Joyce Ramble. This road race is one of the truly extraordinary community events in my district and is unlike any other running event in the country.

The Ramble takes place on the historic streets of Dedham, MA and is named for the great Irish author James Joyce. Each segment of the course is named after a Joyce literary work and actors perform staged readings throughout the race. This along with traditional folk music, bagpipes, and Irish stepdancing, combine to create the unique and festive environment that is enjoyed by runners and spectators alike.

At the heart of this event is charity. The race has donated well over $20,000 to the Dana-Faber Institute for Cancer Research. I am confident that with strong public support and the assistance of the many fine sponsors it will continue being an important contributor.

Beyond this fine charity work, the Ramble serves another equally important purpose. Each year the Ramble actively supports and petitions on behalf of an amnesty international writer and prisoner of conscience. This effort has raised public consciousness over the plight of a number of authors, most notably Vaclav Havel.

This year the race is dedicated to Aung San Suu Kyi, a leader in Burma's democracy movement who has been held without charge or trial since 1989. Aung San Suu Kyi is the General Secretary for the National League of Democracy and her only alleged crime is the organization of peaceful protests. In her own words her protests are, "no more violent than is necessary to bank the keys of a typewriter." To date, she remains imprisoned with no contact with the outside world and there is no indication that she will ever be released.

I join the James Joyce Ramble and Amnesty International in urging the immediate release of Aung San Suu Kyi on humanitarian grounds. We can not ignore this case. There is no justification for the indefinite imprisonment of a peaceful activist, without a charge and without a trial.

I would also take this opportunity to salute the Ramble collaborative, race founder Martin Hanley, the local Veterans of Foreign Wars, the American Legion and Disabled American Veterans, and the countless others who help organize the James Joyce Ramble and make it a success year after year. The spirit of charity and humanity that this event embodies cannot be overlooked.

IN HONOR OF DONALD L. BROWN'S WORK ON BEHALF OF CHILDREN

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. HOYER. Mr. Speaker, I rise today to recognize and commend the accomplishments of an outstanding individual who has done an exceptional job of working for the health and welfare of the children in the Washington metropolitan region and throughout the United States.

On April 30 this year, Mr. Donald L. Brown, president of Children's National Medical Center, will conclude 10 years of service at the helm of that institution.

Mr. Speaker, health care is one of the most critical issues facing America. The health of our children is paramount and we must invest in their well-being because they will determine the future of our Nation. Today, young people in our community have a strong and vibrant health care facility to serve them because of the commitment and foresight of Don Brown's leadership at Children's National Medical Center.

Today, Children's Hospital rests on a solid, enduring foundation. Our children, including those who live in Prince George's, Charles, St. Mary's, Calvert, and Anne Arundel Counties, which I represent, and children from throughout the region and, indeed, the country, continue to have access to one of the finest pediatric hospitals in the world. We owe a great deal of thanks to Don Brown for his effective leadership.

Don began his association with Children's Hospital in 1984, when he joined the hospital as executive vice president and chief operating officer. In October 1986, he was named president and chief executive officer. Since then, he has provided outstanding leadership in guiding the development and growth of Children's Hospital.

Born in Fort Sill, OK, Don graduated from Oklahoma State University in 1965 with a bachelor's degree in business administration and finance. Next, he received a master of business administration degree in 1978 from Central State University, in Edmond, OK. From 1965 to 1968, Don spent 3 years of active duty as a commissioned officer in the U.S. Army, serving in both command and staff roles. As a member of a combat air assault helicopter company, he delivered troops to combat operations and flew dust-off missions, picking up wounded soldiers and taking them to appropriate evacuation hospitals in Vietnam. As he would tell you, this was his first experience in triage and trauma medicine.

These events directed Don. He brought the Children's National Medical Center his practical life experience, his single-minded determination, his management skill, and his genuine vision for delivering the best possible pediatric health care.

Mr. Speaker, the development of dozens of model national programs from child protection to trauma, and their consolidation at a financially sound and robust institution, illustrate the story of Don's 10 years of leadership at Children's National Medical Center. The evidence of his clear vision abounds and is visible in the expansion of Children's clinical and research programs, as well as its financial management and physical plant modernization. Don Brown significantly expanded the financial base of Children's Hospital. Don has overseen a long range capital development plan, comprised of major fund-raising efforts for expansion of the hospital's facilities, research, and patient services. For example, the hospital has grown from 442,000 square feet in 1986 to 617,000 square feet in 1993. Space for research has grown from 30,000 square feet in 1986 to 75,000 square feet in 1993.

In addition, under Don's leadership, Children's expanded a number of its clinical activities. The hospital developed a pediatric trauma service—a national model—to provide care to children suffering from serious injuries. A 17-member team responds each time a seriously injured child arrives at the hospital. Last year, more than 1,600 children were admitted to Children's trauma service. The survival rate of trauma patients in the emergency room is more than 90 percent today.

Mr. Speaker, I believe we all agree, Donald Brown has been the guiding light bringing the best possible service and medical treatment to children in our area. We, the people of the community, all owe a debt of gratitude for his years of dedicated service and join together in commending him for showing great determination and commitment to Children's Hospital. We thank you for your service and wish you all the best in your future endeavors.

STOP VIOLENCE AGAINST WOMEN

HON. TILLIE K. FOWLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mrs. FOWLER. Mr. Speaker, each year some 4 million women are battered by their partners. The pain and suffering imposed on these women merits the strongest response from Congress. I am pleased to see that the Crime bill includes the Violence Against Women Act, which will provide needed funding to combat sexual and domestic violence.

In my district there are two facilities that offer alternatives for battered women. The Hubbard House provides a full range of services to victims of domestic violence, offering them safe refuge and an ability to overcome the challenges they face, rehabilitate their partners, and restore their lives to their fullest potential.

The Victims Services Center, the brainchild of Jacksonville City Councilman Eric Smith, is a highly successful model program funded by the city of Jacksonville, foundations, and local businesses. It provides needed services to victims of all types of crime including sex crimes, domestic violence, and crimes against children.

Mr. Speaker, we need more programs like these. Support for the Violence Against Women Act will give battered women across this Nation new opportunities to put their lives back on track.

TRIBUTE TO WILLIAM H. NATCHER

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. MAZZOLI. Mr. Speaker, I commend to the attention of my colleagues a tribute to the late William H. Natcher written by a very dear friend of mine from Louisville, who is also an eminently and nationally renowned pediatrician, Dr. Billy F. Andrews.

Dr. Andrews has written eloquently about a giant of the Congress and a revered political figure in Kentucky. I am sure all of my colleagues will enjoy Dr. Andrews' words about our late colleague, Bill Natcher.

TRIBUTE TO U.S. REPRESENTATIVE WILLIAM H. NATCHER

A perfect gentleman of the old school when duty, honor and country were highly respected and service in government one of the highest expressions of that responsibility, such was U.S. Representative William H. Natcher of Kentucky. Truly a giant has passed from us. Many of his peers and many people would call him "noblest member of the American Congress, a true servant of the people." When many spoke with this respect or lack of confidence in our elected representatives, we could all point with pride to our Representative William H. Natcher as a man with great integrity, ability and wisdom. He will be greatly missed.

He once gave me a profound statement about his philosophy of life which I would like to share: "I want to wear out, never to rust out. While I burn my candle on both ends, I hope to be able to enjoy every flicker of the flame of life."

That he did!

My response was the poem in "Ideals and Inspirations":

LET YOUR LIFE LIKE A BURNING CANDLE BE

Let your life like a burning candle be
To cast light upon time for all to see.
Let it have a wide base that is strong
With a wick and enough wax to make it long.
Let its base have a deep, deep cup
Upon which the melted wax may sup
To then prolong the flicker and the flame
To capture actions worthy of your name;
And, if fate is generous, to give you fame.

We must try to live up to his example of high moral standards and conduct and be grateful for the life of service he gave to us. "Rest well thou good and faithful servant." There are many who loved you.

TRIBUTE TO THOMAS J. STACK

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. EVANS. Mr. Speaker, as a former marine and co-chair of the Vietnam-era Veterans in Congress [VVIC], I would like to call our colleagues attention to a story that appeared in Wednesday's Chicago Sun-Times about Thomas J. Stack.

Mr. Stack recently died after a 17-year long fight against cancer. We should all be proud of this individual. After distinguishing himself in Vietnam by his bravery and devotion to his fellow soldiers, he returned to the States and helped other Vietnam veterans readjust to civilian life.

[From Chicago Sun-Times, April 20, 1994]

THOMAS J. STACK RESTORED PRIDE FOR VIETNAM VETERANS

(By Steve Neal)

He was among the more decorated soldiers of the Vietnam War.

But Thomas J. Stack seldom talked about this combat record.

On his return from Vietnam, Stack had a reunion in is basement with some of his pals from the Southwest Side. He wanted to know how they were doing. Stack never talked about himself much. But he helped a generation recover its lost pride.

Stack, 50, who died on Saturday after a 17-year bout with cancer, was a sergeant in the 9th Infantry Division in Vietnam who earned two Silver Stars, three Bronze Stars for valor and the Air Medal for taking part in more than 25 aerial missions over hostile territory.

"He was a hell of a man," said retired Gen. William C. Westmoreland, who commanded

U.S. forces in Vietnam from 1964 to 1968. "Tom showed great bravery and valor on the battlefield. He put his life on the line to protect his men," Westmoreland said Tuesday. He recalled that Stack was among the more selfless men that he had known.

In Stack's final hours, his spirits brightened when he received a phone call from Westmoreland at St. Francis Hospital in Blue Island. Stack smiled when he got the call from his wartime commander. "I just told him how much he meant to all of us and that we were pulling for him," said Westmoreland, 80, who frequently corresponded with Stack. "He's going to be missed."

When he was under fire in Vietnam, Stack responded with toughness and courage. In the face of enemy fire, he dove into a stream, saved an American soldier from drowning and also captured a Viet Cong officer. While serving as a platoon leader, Sgt. Stack was under fire with his men behind a rice-paddy dike. Stack led a charge that wiped out five bunkers, rescued wounded American soldiers, and took heavy Vietnamese casualties. On another occasion when his platoon was under heavy fire, Stack led an assault that knocked out enemy snipers. Stack was a soldier's soldier.

On coming home from the Vietnam War, Stack and other veterans were greeted by protesters who called them names. It bothered him that Vietnam veterans weren't treated fairly. Stack was in Washington, DC in 1982 for the dedication of the Vietnam Veterans Memorial. He was deeply moved by the Wall and visited it often.

As part of the healing process from the Vietnam era, Stack organized the 1986 Vietnam Veterans Welcome Home Parade that brought more than 250,000 Vietnam veterans to Chicago. It was an extraordinary event. Westmoreland said Tuesday that Stack played an important role in the process of national reconciliation. "That cracked the ice. Vietnam was an unpopular war, and that rubbed off on the veterans," said Westermoreland. "But the Chicago parade cracked the ice on the country's attitude toward the Vietnam veteran and the veteran's attitude about himself. Other cities began honoring their veterans. Tom Stack started it all."

Stack received thousands of letters from parents and children of soldiers who had died in Vietnam, from veterans and from families of surviving veterans that thanked him for honoring the courage and sacrifices of American soldiers.

He was among the more heroic figures in his generation.

THE AMERICAN SOCIETY OF TRAVEL AGENTS' MARCH ON WASHINGTON

HON. EARL HUTTO

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. HUTTO. Mr. Speaker, I rise today in recognition of the American Society of Travel Agents' march today on Washington. We are indeed blessed to have among us in our beautiful city, these dedicated and hard-working individuals who help turn our travel dreams into reality.

Each year, with the help of travel and tourism professionals, thousands of tourists visit the sugar-white beaches of northwest Florida. This industry has provided a boost not only to my district and State, but also to the entire Nation. The travel and tourism trade is the Nation's number one exporter, number two employer, and it is estimated that it will be America's largest industry by the year 2000.

The United States offers travellers and vacationers more diverse and exciting opportunities than any other nation in the world. And Americans have been taking advantage of these opportunities. A record number of individuals and families are leaving home in search of either adventure or relaxation. Sometimes both.

Every time you see a visitor here in this historic city, chances are that a travel and tourism professional was instrumental in arranging some aspect of this educational trip. I would like to personally thank our Nation's travel and tourism professionals for bringing such fulfillment and happiness to the lives of so many individuals.

MONROE HIGH SCHOOL VOCALISTS HONORED

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. DINGELL. Mr. Speaker, I take great pleasure in rising today to recognize the tremendous achievements of the vocal performance groups of Monroe High School in Monroe, MI.

Monroe High School's concert choir and singing groups, Generations of Sound and Expressions, have been selected to represent the State of Michigan in the upcoming Normandy Liberation and Bicentennial Music Celebration. Michigan's Governor has issued a proclamation recognizing these performers as the official Michigan representatives to this prestigious festival. As part of this highly regarded event, taking place here in our Nation's capital from April 28 through May 1, the groups will perform at the Pentagon, the Navy Memorial, and the Lincoln Memorial. They will also perform during a wreathlaying ceremony at the Tomb of the Unknowns at Arlington National Cemetery.

Selection to represent the great State of Michigan in the Normandy Liberation and Bicentennial Music Celebration is only the most recent accomplishment of this exceptional vocal music department whose hallmark is excellence in performance. Director John C. Tyner, and Assistant Director Catherine Brodie, have worked with accompanist Noreen Monhollen to build a program that stands as a shinning example for schools in Michigan and throughout the Midwest. Their hard work, coupled with the dedication and perseverance of many gifted students, made the successes of the Monroe High School choirs possible.

The Monroe High School singers have performed at many State music conferences, toured cities such a Toronto, Boston, St. Louis, New York, and Washington, and released several outstanding recordings. In 1992, the choirs received the distinct honor of being declared National Grand Champions at the National Music Heritage Festival in St. Louis.

Mr. Speaker, I am proud to pay tribute to the talented young people of the Monroe High School choirs who will be representing Michigan at the Normandy Liberation and Bicentennial Music Celebration. I am also pleased to recognize the outstanding achievements of this extraordinary program located in my congressional district. I hope my colleagues will join me in congratulating these fine musicians and their instructors who together have dedicated themselves to excellence.

HONORING THE MILFORD, CT, SENIOR CENTER

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Ms. DELAURO. Mr. Speaker, as the Nation focuses on health care reform, it is important to recognize programs, organizations, and people who are working to obtain our national goals: Lowering costs of health care and broadening coverage so that all Americans can take advantage of the highest quality health care in the world. Through the leadership and initiative of residents of the Third Congressional District of Connecticut, south central Connecticut has many models of health care delivery worthy of recognition. Today, I want to honor one such program: The Pre-Day-Care Frail Program of the Milford Senior Center in Milford, CT.

In a time of shrinking budgets and increased demands, many local governments find themselves cutting back on the critical programs that enhance daily life for their residents. But the city of Milford has refused to allow budgetary challenges to alter its role as a vital and responsible government. The Milford Senior Center stands as an example for all who are concerned with providing adequate care to our senior citizens.

The senior center offers elderly residents of Milford an opportunity to share a good meal, go dancing, get exercise, play cards, or just visit with one another 5 days a week. With no cost to the participant, elderly residents can patronize the center as little or as often as possible, without having to worry about a financial burden or social stigma.

Committed to assisting Milford's elderly in remaining active and independent, Executive Director Kathi McDonnell-Bissell, recognizes that the center has a responsibility to those residents whose fragile condition prevent them from visiting the center on their own. Equipped with coordinator, Betti Shey, several part-time nurses, and many, many committed volunteers, the program provides seniors' caregivers with auxiliary care and a much needed break. In many cases, the center gives family members an opportunity to work outside the home that they would not otherwise have. Because of the center, seniors can stay at home longer, and receive needed care and companionship. On any given weekday morning, staff arrive at the homes of over 95 seniors, to assist them in getting dressed and transport them to the center. They remain at the center until late afternoon, enjoying the company of others and participating in a variety of social activities.

Mr. Speaker, the Milford Senior Center is a community response to a nationwide need. When an elderly parent or spouse needs special care and the company of others, but their caregiver must work outside the home, American families are often faced with a very difficult decision.

Fortunately, for the residents of Milford, they have a choice, a choice that works. The Milford Senior Center answers the modern problem of spiraling health care costs with old fashioned community support. It is taking Connecticut residents one step closer to our national heath care objective by providing accessible and affordable care to its elderly. Seniors can stay in the homes that they love, remain independent longer, and receive the care and companionship that they need. I applaud the Milford Senior Center and its Pre-Day-Care Frail Program for presenting the families of Milford with an alternative to costly, institutionalized and antiseptic care for our seniors.

INTERNATIONAL SURFING MUSEUM

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. ROHRABACHER. Mr. Speaker, in the United States we take great pride in our people's athletic ability. In California in particular surfing is a sport that has captured our imagination and impacted our culture. Huntington Beach is the location of the International Surfing Museum that claims international status and exclusivity. This museum is dedicated to the sport of surfing. Huntington Beach claims the title "Surf City, USA."

This museum is the product of the vision and dedication of many generous surfing enthusiasts. This museum celebrates the rich culture and the pioneers of this exciting sport. The sport of surfing encompasses dedicated sportsmen and women of all ages and walks of life.

As a surfer it is with special pride that I announce that museum directors Ann and Earl Beasley of Huntington Beach will represent the International Surfing Museum at the International Amateur Surfing Contest to be held in Brazil from May 1 through 17, 1994.

Over 500 contestants from 40 countries including 25 surfers from the United States will participate in the world series of surfing.

On behalf of the House of Representatives I wish all the U.S. contestants the best of luck.

I also wish the International Surfing Museum in Huntington Beach, CA continued success in progress toward becoming the recognized repository of the memorabilia that will celebrate the history and culture of a sport in which I am pleased to participate.

The foundation that operates the museum encourages all those interested in surfing to join in active participation through membership and donations of memorabilia from throughout the world so that there can be assembled in one place a definitive collection explaining of the history of this international sport.

The International Surfing Museum is located at 411 Olive St. in Huntington Beach and I encourage all who want to know more about this exciting sport to visit.

U.N. MEMBERSHIP FOR TAIWAN

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. GINGRICH. Mr. Speaker, as we mark the 15th anniversary of the passage of the Taiwan Relations Act, the legislative keystone governing United States relations with the people of Taiwan, it is an ideal time to reflect on the fact that there are still a handful of countries in the world that are not represented in the United Nations, and Taiwan (Republic of China) is one of these countries. The people and Government of Taiwan have expressed a strong desire to participate in the United Nations and its affiliated organizations.

In the economic field, Taiwan is the 14th largest trading nation in the world; its gross national product is the world's 20th largest; its annual per capita income exceeds $10,000; it has the largest foreign exchange reserves worldwide at $80 billion; it is the United States' sixth largest trading partner. But Taiwan is not a member of the United Nations.

In the field of democracy, Taiwan has begun to make exceptional progress in recent years toward establishing democracy and securing political freedoms for its people. Martial law was lifted, political prisoners were released, improvements were made allowing the people of Taiwan to exercise more basic freedoms. But again, Taiwan is not a member of the United Nations.

Despite this economic and political progress and despite the people of Taiwan's wish to be recognized, Taiwan has never been represented in the United Nations as a country. This gross lack of international recognition has left 21 million voices unheard in world affairs.

Despite the possibility of China's threat of using its veto power, the past and current United Nations practices concerning the parallel representation for the two Germanys and the two Koreas have set a useful and important precedent for both sides of the Taiwan Straits to be represented in the United Nations respectively.

Mr. Speaker, the fact remains that 21 million residents of free and democratic Taiwan are not represented in the United Nations clearly goes against the United Nations principle of universal representation. With Taiwan's ever increasing economic and political importance, the argument which was used for China over 20 years ago must be applied to Taiwan's current bid to enter the United Nations; Taiwan must now join the United Nations to strengthen the authority and prestige of the United Nations.

ACCESS TO RURAL HEALTH INFORMATION ACT

HON. KARAN ENGLISH

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Ms. ENGLISH of Arizona. Mr. Speaker, I rise today to introduce the Access to Rural Health Information Act. This legislation will help provide rural Americans with information they need to make sound decisions about their health.

The Access to Rural Health Information Act would establish a toll-free rural health care telephone hotline, through which rural residents can obtain information about medical services available in their area including physician referrals, emergency services, preventive and prenatal care, immunizations, and the availability of counseling for substance abuse, domestic violence, and sexual abuse. Information about location of health providers, and travel times and directions would also be available.

Mr. Speaker, 25 percent of all Americans reside in rural areas like district 6 in Arizona. Rural residents are all too familiar with the frustration of trying to locate even basic information in areas of this country that have been traditionally underserved by the health care delivery system. Making sure that people can easily get this information is the first step toward improving access, quality, and cost containment in rural areas.

There is also a personal side to this story. Some health problems may carry a social stigma in small towns. In urban areas, all it takes is opening the telephone book to find a detailed listing of physicians, clinics, support groups, and other critical information about health problems. In rural areas, where people may have grown up with the only doctor in town, confidentiality may be a problem. A toll-free hotline will help people easily find a professional, confidential source from which to learn about various medical problems.

My bill would require the existing State offices of rural health to administer the rural health care hotline. The office of rural health has done a tremendous job serving as a clearinghouse for rural communities and health professionals who need to learn the newest medical technology or to recruit a primary care physician. My bill would build on this success and make information available directly to the consumer.

Rural America faces a tough challenge in providing health care to its residents. Primarily, these problems can be attributed to the lack of primary care providers, physical and economic barriers, and the fragile nature of rural health care delivery systems dependent on a sparse population base. When a rural area loses its doctor, it often loses its health care.

Rural areas find it difficult to attract and retain medical professionals for many reasons. These include lower incomes earned by rural physicians, higher operating costs, heavier patient case loads, and isolation from major medical facilities. In Holbrook, AZ, three primary care physicians serve 7,000 residents.

Even when a person drives 2 hours to seek care from a doctor, he or she may spend all day waiting to get treated. The Winslow Indian Health Center, built in 1930, has a standard 3- to 4-hour wait just for a basic appointment. These and many other medical facilities face doctor shortages and other serious problems.

The deteriorating physical infrastructure and fragile nature of rural health delivery systems threaten access to care. Hospitals in rural areas struggle to stay open, and community and migrant health centers continually face uphill financial battles to remain solvent. In Globe, AZ, the only hospital shut down recently leaving an entire city and its surrounding area without any needed medical facilities.

Beyond the obvious problem of lack of medical facilities, rural Americans typically find themselves left out of the employment-based health insurance system. With a large percentage of rural Americans working in seasonal jobs, in small businesses, self-employed, or unemployed, many lack any health insurance at all. In fact, over 7 million rural Americans are without basic health insurance, and are unable to pay high out-of-pocket costs for even routine, preventive treatment.

Finally, one of the most critical health problems associated with rural communities centers around the problem of transportation. Sheer travel distance is a problem. Poor road conditions and bad weather can make traveling to seek medical treatment a hazard in and of itself. The lack of emergency medical services increases the risk of fatalities from car, farming, and other accidents. It is estimated that a well organized emergency medical service can cut injuries and deaths by as much as 15 to 20 percent.

There are complex, and unique problems facing rural Americans as they seek access to medical care. These issues must be addressed in the context of the on-going health care reform debate. Many existing, innovative programs including the area health education centers, National Health Service Corps, and the development of telecommunications have already started to deal with access to care in rural areas. Building on these and other successful programs will help ensure quality, medical care to rural America.

The development of integrated delivery systems will enable rural communities to have improved access to medical services. Federal, State, and local entities can create incentives for hospitals, physicians, and other providers to participate in community-based systems of care. By identifying and working to support a town's health facility, communities can solidify their sole source of emergency, acute, primary, and long-term care. Bringing together medical professionals and facilities to collaborate with one another will help address the health problems of underserved communities.

Increased recruitment and retention of primary care physicians will reduce the shortage of medical providers. A restructuring of the incentives in training physicians to promote the education of primary care physicians will further reduce physician shortage areas. Physicians and health professionals are the cornerstone of a community's health care system. Without them, people lose their personal connection and sometimes only source of medical treatment. More equitable reimbursement for all providers as part of health care reform will enable more rural providers to better deal with the hardships of living in a rural community.

Improvements and innovations in telecommunications will enable rural doctors and patients to have improved access to medical technology and health information. The rural health hotline will be one of the important links to bring physician referrals and health information to many people who don't know where to find the closest doctor, which may be an hour or two away.

With the possibility of increasing numbers of primary care physicians, it will be critical for patients to be able to find new doctors in their surrounding communities. Another vital telecommunications link, telemedicine, has proven very successful in some of the pilot projects existing in rural States. With improved video technology, telemedicine can bring the knowledge and expertise from specialists located hundreds of miles away to the doctor's office of a rural practitioner. My bill says we should take telemedicine a step further. Let's use this technology to overcome some of the problems that limit access and impede efficient health services delivery in rural areas.

Improving access to medical care for rural Americans is not an impossible task. Focusing limited resources on improving the number of providers and bolstering the existing health facilities will go a long way in bringing medical care to more rural residents. Creative ideas for dealing with few health professionals and long travel times to reach doctors will enable rural residents better access to health services.

A rural health care telephone hotline will help ensure that rural residents will be better able to locate a doctor when they need one, it will help people find emergency medical treatment. It will help people take advantage of preventive health services, gain medical information on a confidential basis and learn where their health insurance is accepted.

Mr. Speaker, I look forward to working with my colleagues to address the problems associated with rural health care access and delivery. I urge support for the concept of easily accessible, toll-free health services information telephone hotline.

ALL LOCKED UP

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. HINCHEY. Mr. Speaker, I ask that David Broder's thoughtful column on crime that appeared in last Sunday's Washington Post be included in the CONGRESSIONAL RECORD. He raises important questions about legislative responses to crime. Most importantly, Mr. Broder points out that while prevention may be a more difficult strategy and really a tougher one than the simple slogans we hear about "getting tough on crime," it may be the more promising approach. Prevention starts with jobs, school, and job-training programs that teach our young people values and give our children hope about their futures. I hope we can all give his ideas serious attention.

[From the Washington Post, April 17, 1994]

ALL LOCKED UP

(By David S. Broder)

Well before the end of the century, the United States will achieve the distinction of having a million of its citizens in prison. We are not far from that now—more than 925,000—and the number of prison inmates is growing almost as fast as the national debt. In the year ending last June 30 alone, prison population increased by 70,000.

To visualize what that last figure means, think of putting high walls, triple-strand barbed wire and guard towers around entire cities the size of Lynchburg, Va., St. Joseph, Mo., East Orange, N.J., or Appleton, Wis.

The incarceration rate in the United States is almost three times that of Canada and six times that of Italy. Add in the half-million people being held in local jails on any given day, and you have a total that is even more impressive—or depressing.

In the 1980s, the number in prison and in jail more than doubled. During that decade, the number behind bars grew at a rate 10 times higher than the growth of the adult population. It was 17 times higher than the increase in serious crimes.

Where all this will end is anyone's guess. One thing it is surely doing is straining the budgets of all levels of government. One thing it is not doing is easing people's fear of crime. Yet voters and politicians continue to believe that locking up criminals is the key to getting safer streets and neighborhoods.

The House of Representatives is about to pass another crime bill, which will build more prisons to incarcerate still more thousands. The legislation includes a version of the popular "three strikes and you're out" requirement for lifetime sentences for those convicted of three violent crimes. It is more restricted in its language than the crime bill passed by the Senate late last year, but it still embodies the prospect of senescent former muggers spending their declining years in prison hospitals, while their grandsons' generation causes mayhem on the streets.

Crime is at the top of almost every local news show and, not coincidentally, the issue voters say is most on their mind. Congress, which is nothing if not responsive, aims to give the people what they want. The quaintly named subcommittee on intellectual property and judicial administration of the House Judiciary Committee decided last month by voice vote to authorize $3 billion over 5 years to build new cells for repeat offenders. The Republicans tried to increase the amount to $10 billion. Next year, as we approach a presidential election, someone will undoubtedly bid $20 billion.

Once you have convinced yourself that you can eliminate criminals by locking them up and throwing away the key, there is no limit to what you can spend. But there are some voices being raised to challenge the popular notion that punishment is the best way to reduce crime.

I have cited several such reports in recent columns, and this week I received another one from the office of California Assemblyman John Vasconcellos (D). It is written by Joan Petersilia of the University of California, Irvine, the director of the criminal justice program at the RAND Corp., a private research organization with close ties to the Pentagon.

The report reviewed California's get-tough strategy, which quadrupled the prison population between 1980 and 1992, and pronounced it a failure. "The analysis suggests that the much higher imprisonment rates in California had no appreciable effect on violent crime and only slight effects on property crime," she said.

To be fair, the crime bill passed by the Senate and the measure being debated in the

House do more than toughen penalties and build prisons. They also finance additional police, drug treatment and crime prevention programs. But the keynote here, as in California, is the easy-to-sell "three strikes and you're out" provision.

Petersilia argues the futility of that approach. "If 34 million serious crimes are being committed in this country (as authorities estimate) and 31 million are never detected, the only way truly to reduce crime is to find some way to stop some of the crime from being committed in the first place."

Most of the violent crimes are committed by young offenders, often when they are drunk or drugged-up and reacting to stress or giving vent to antisocial impulses. The deterrent value of threatened long sentences for them is questionable, given the odds against their arrest and conviction. The only effective way to curb such crimes is not by punishment but by deterrence.

Deterrence is difficult—and less emotionally satisfying than muttering "three strikes and you're out." It starts with effective policing and moves back to job-training, school and even preschool programs that instill decent values and equip youngsters with options outside crime. That is the only approach that will keep us from adding another million wasted lives to our prison population.

DR. BENJAMIN REED SELECTED 1994 DELTA CITIZEN OF THE YEAR

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Ms. KAPTUR. Mr. Speaker, on April 23, the citizens of Delta, OH, will honor Dr. Benjamin Reed as the 1994 Citizen of the Year. This prestigious honor is bestowed each year upon an individual of the community that embodies the solid values and giving spirit for which northwest Ohioans are known. Dr. Reed is a fitting example of why the nostalgia for small-town America is stronger than ever here in our Nation.

Dr. Reed is one of those rare individuals whose generosity toward his fellow man knows no bounds. He is as devoted to his patients as they are to him. Dr. Reed has helped some of his patients out financially when times were tough; and has given many young people in his community the financial boost they needed to further their education.

For over 40 years, Dr. Reed has practiced medicine in the village of Delta. In addition, he has also served as mayor of Delta and as a member of the village council. Although he now lives in nearby Wauseon, he continues to stay active in all aspects of the community.

Dr. Reed's professional commitments are numerous. For 30 years he has served as the Fulton County coroner, He is active on the staff of the Fulton County Health Center; and has served as past president for the Fulton County Medical Society, the Fulton County Heart Association, and the Northwest Chapter of the American Heart Association, as well as many other local and State medical organizations.

An avid sports fan, Dr. Reed devotes much of his free time each fall as team physician for the Pike-Delta-York local school system in Delta, OH.

A native of Athens, WV, Dr. Reed first came to Toledo to do his residency at Toledo Hospital. We are very fortunate that he decided to put down roots and raise his family here in Delta.

On behalf of all the citizens of Delta, I would like to congratulate Dr. Reed on his selection as Delta's 1994 Citizen of the Year, and thank him for his years of dedication to improving the lives of all the citizens of northwest Ohio.

NADO RELEASES TELECOM WHITE PAPER

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. BOUCHER. Mr. Speaker, the importance of advanced telecommunications for economic development of our small towns and rural communities is detailed in a white paper released this week by the National Association of Development Organization [NADO] entitled, "Telecommunications and Its Impact on Rural America."

The paper highlights the role that telecommunications applications can play in helping rural communities overcome the barriers that result from geographic isolation. It also serves as a timely reminder of the importance of consideration of rural America's unique needs when crafting telecommunications reform legislation.

The NADO white paper includes a set of policy goals and specific recommendations designed to ensure that the information superhighway not only traverses rural America, but also that rural communities are prepared to take advantage of its offerings.

Included with my comments is a copy of the paper's executive summary. I urge my colleagues to carefully consider the recommendations contained therein in anticipation of House action on H.R. 3626 and H.R. 3636.

EXECUTIVE SUMMARY

Telecommunications has significant potential to contribute to economic development in rural America. Applications of information technologies in rural businesses, schools, health care institutions, and government agencies can help make those organizations more efficient and effective, help them to overcome the "rural penalty" that results from geographic isolation, and help rural communities to diversify their economies. This report describes some of these applications, and the opportunities they present for rural communities.

For the full power of these opportunities to be realized, however, action is required by many different players in a number of jurisdictions and industries. We must work together to meet two requirements:

A rural public telecommunications infrastructure that is capable of supporting advanced equipment and services at reasonable prices; and

Community preparedness to make informed decisions about the planning, purchase, implementation, and evaluation of new information technologies.

This report discusses the challenges raised by these two requirements. Changes in market structure and technological advancements are threatening many of our traditional policies for achieving universal service, which leaves rural America especially vulnerable. We will need to find new means for assuring that all Americans have access to basic telephone service, and that, as new advanced services are made available in urban areas, they are introduced in rural areas, as well.

The challenge to prepare rural communities to use telecommunications technologies effectively is just as formidable. We need new partnerships that will improve communication among telecommunications providers and policy makers, economic development professionals, and rural communities. We must also look for new ways to inform potential customers about telecommunications applications, and give them the skills to deploy those applications effectively.

We suggest the following set of goals for the telecommunications industry and policy makers:

1. Comparable Service Delivery: The telecommunications infrastructure in rural communities should support services that are comparable in quality, availability, and cost to those provided by urban infrastructure.

2. Community Preparation: Rural communities should be familiar with the types of telecommunications services available in their community, and have the skills to plan for, implement, and evaluate new services and equipment effectively.

3. Access to Funding and Financing: Rural communities should have access to adequate capital financing and other forms of funding for telecommunications-related equipment and services.

4. Economic Development Strategy: In each rural community, telecommunications-related development strategies should be integrated with the larger economic development strategies of the community and region.

We have included several recommendations that will help achieve these goals. The recommendations support the two requirements of creating an adequate and affordable telecommunications infrastructure and preparing our communities to take advantage of such an infrastructure.

Our first set of recommendations target national and state policies that assure rural America has an adequate and affordable telecommunications infrastructure. These recommendations are based on the assumption that competition in the telecommunications industry is both desirable and inevitable, and that the role of policy makers should be to facilitate that competition and safeguard consumer interests. These recommendations include:

Lift current restrictions on increased competition in the telecommunications industry including long distance telephone, local telephone and cable television services as well as manufacturing and other communications related services.

Protect rural communities from potential negative effects from competition which may result in reduced capital investments in rural telecommunications through appropriate timing of local competition and universal service safeguards;

Bring down long distance rates through increased competition and extended local calling areas;

Protect universal service funds and broaden the base of contributors to universal service to include all providers of telecommunications services;

Create a new definition of basic telephone service for all consumers that evolves over time to take advantage of new technologies;

Support infrastructure sharing between larger and smaller local telephone companies in order to allow rural customers access to advanced telecommunications services; and

Provide incentives for local telephone companies to invest in rural telecommunications infrastructure through alternative state regulations.

The second set of recommendations target rural communities, telecommunications providers, and economic development professionals in order to help them prepare for the opportunities that an expanded information infrastructure provides in job creation and economic growth. These recommendations include:

Include telecommunications strategies as a component within comprehensive, locally based economic development plans which are created in partnership with regional development agencies;

Create opportunities for better communications and interaction between telecommunications companies and economic development professionals;

Better educate rural leaders in government, education, and key industries about telecommunications technologies and applications; and

Include the creation and funding of telecommunications strategies as an integral part of existing federal rural development programs.

AMERICAN SOCIETY OF TRAVEL AGENTS' MARCH ON WASHINGTON

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Ms. MOLINARI. Mr. Speaker, I am pleased to announce that the American Society of Travel Agents [ASTA] will be conducting a march on Washington on April 21, 1994. I urge my colleagues to take this opportunity to meet with members of this vastly growing industry which will be America's largest by the year 2000.

Americans are talking advantage of travel and tourism in record numbers. From working couples seeking more frequent long weekend getaways, to older Americans looking for soft adventure, to families enjoying all inclusive resort and cruise packages, the travel and tourism industry is big business in this country, generating $350 billion in annual sales. The march will provide industry leaders with an opportunity to discuss their concerns with Members of Congress.

Foremost on ASTA's agenda are the excessive industry taxes which have increased 75 percent during the last 5 years. Congress must address the negative impact of these taxes on the travel and tourism industry, our Nation's No. 1 exported and second largest employee. Such taxation will force consumers to spend their discretionary dollars elsewhere, thereby severely limiting the travel industry's ability to compete effectively.

The crime bill is another area of concern to ASTA. The troubling rise in crime directed toward tourists has compelled ASTA to advocate a crime bill which strengthens the penalties for crimes committed against domestic or foreign tourists. The group also focuses on educating the American public about battling telemarketing fraud.

Finally, I would like to take this opportunity to commend the travel and tourism industry for their extensive contribution to the success of our Nation's economy. I urge my colleagues to take this opportunity to address the concerns of one of our Nation's most important industries.

TRIBUTE TO TIMOTHY ALBIN HOPE

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mrs. VUCANOVICH. Mr. Speaker, I would like to take this opportunity to commend my constituent, Mr. Timothy Albin Hope, of Carson City, NV, for receiving the Good Conduct Medal from the U.S. Air Force.

Mr. Hope served in the U.S. Air Force from June 1979 through June 1983, and during this time, in addition to receiving the Good Conduct Medal, he also received the Air Force Training Ribbon and the Air Force Longevity Service Ribbon. During his tenure in the Air Force, he ascended to the rank of staff sergeant, serving in air base ground defense operations and also as a security specialist.

While Mr. Hope's outstanding service record speaks for itself, I would once again like to take this opportunity to commend and congratulate him for his achievements and exceptional service to his country.

TRIBUTE TO LEOPOLD "POLDEK" PAGE—A LIVING REMEMBRANCE TO OSKAR SCHINDLER

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. LANTOS. Mr. Speaker, "I am more than a survivor. I am a witness to the truth." These are the words uttered by Leopold Page upon recalling his experience in the Holocaust. I rise today to honor this man to whom each of us owes a lifetime of thanks. Leopold Page spent his life retelling the story of the man who saved his life and the lives of 1,200 others. Through Leopold Page's tireless effort and dedication to the task of remembrance, we have come to know the remarkable story of Oskar Schindler and the Schindler Jews. Leopold Page is a Schinglerjugen ("Schindler Jew") and, through his singular commitment to preserve the story and never let any forget, his effort culminated in the making of the major motion picture, "Schindler's List."

Leopold Page was born Poldek Pfefferberg on March 20, 1913, in Krakow, Poland. A 27-year-old professor at a Jewish high school in Krakow when the Nazis invaded Poland, Page joined the Polish Army to help defend his homeland. After fighting the Germans for 2 months he was wounded, captured, and shipped back to Krakow, where he met his wife to be, Ludmila, and they were married in the Krakow ghetto. They were then sent to Plaszow, a forced-labor camp outside Krakow. Like so many others, they were earmarked for certain death. It was there where they met Oskar Schindler and worked in his factory. They were designated essential workers and thus saved from certain death.

In 1947, Leopold Page left Poland and made a parting promise to Oskar Schindler that his remarkable effort would never die for he would tell the story over and over so that the world would not forget what happened and how the efforts of one man saved the lives of over 1,200.

Leopold Page immigrated to the United States of America and settled in Beverly Hills, CA, where he opened up a leather shop. There he told anyone who would listen the unbelievable story of Oskar Schindler. One day in 1980 someone listened. Acclaimed Australian writer Thomas Keneally walked in to buy a briefcase and spent the rest of the day transfixed as Leopold Page told his story. Keneally subsequently wrote the story and in 1982 published the international best seller, "Schindler's Ark." This book was the inspiration and basis for Steven Spielberg's 1993 film, "Schindler's List," which won the Academy Award for Best Picture of 1993.

Without Leopold Page's tireless commitment and a promise which he made, the story of Oskar Schindler would never have been told. As a result of Page's determination, millions of people have been educated, moved, and inspired by the story of the Schindler Jews and the lessons of the Holocaust. I commend Mr. Page in the strongest possible terms for taking on the task of remembrance and educating our younger generation about an episode in history that must never be forgotten. In the words of Rabbi Levertow: "I, as a Rabbi should believe only in one God. But, I have to admit, for me there are two Gods; the second one is Oskar Schindler." Schindler, a Nazi, risked everything to save a people from the evils of his own government. He bribed Nazi officials and spent over 4 million Reichmarks to open a factory and purchase the lives of 1,200 Jews who came to work for him in his enamelware factory. "To save one life is to save the world." This is really the story of two men joined by chance. One who gambled his life to save others; the other who pledged never to let the world forget.

Leopold Page, who now goes by his original name Poldek Pfefferberg, talks to us not merely as a survivor, but as a witness. He has fulfilled his pledge and ensured that the lessons of the Holocaust are never forgotten and for this we owe him an undying debt of gratitude. In his continuing effort to enlighten, Page helps to administer the Oskar Schindler Humanities Foundation, which honors examples of man's humanity to man. He is an inspiration to all who fight racial hatred. Leopold Poldek Page tells us "hate is the biggest mental sickness which exists in humanity. There are never heroes, there is only destruction." Schindler would have agreed with him.

RANGEL AMENDMENT SUPPORTED

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. LEVIN. Mr. Speaker, I rise in strong support of the Rangel amendment to the Violent Crime Control and Law Enforcement Act of 1994.

The Byrne Grant Program funds many effective crime-fighting activities across the country, allowing cities and States to target their own particular problems, and to find the solutions that work best for them. I am a staunch supporter of programs like this, that provide hard-pressed localities with additional resources and the flexibility to use them wisely.

In the 17 suburban communities from Oakland and Macomb Counties from Michigan that I represent, Byrne grants help fund our regional crime-fighting task forces. These multijurisdictional crime-fighting teams pool together resources across community lines to combat narcotics, violent criminals, and car thefts. With the effective and dedicated leadership of our local chiefs of police and law enforcement officers, these task forces have been a major crime-fighting force.

In fact, all of our communities are involved because they recognize that crime does not respect municipal borders. In some of our smaller communities, these regional task forces are absolutely vital to combatting crime.

Byrne grant funding provides needed sources to fight crime in the ways most effective for our communities. That is why I strongly support this amendment, and why I will continue to support full funding for the Byrne Grant Program. I urge all my colleagues to do the same.

PERSONAL EXPLANATION

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. BARCIA. Mr. Speaker, I would like to take this opportunity to acknowledge the fact that I voted in error yesterday when voting on Representative MCCOLLUM'S equal justice amendment to H.R. 4092, Violent Crime Control and Law Enforcement Act. I should have voted in favor of the amendment and I would like to explain why the amendment is correct.

I have always been a supporter of the death penalty, when available and appropriately used. Under current law a jury is prohibited from considering race in determining a sentence for a defendant and therefore, I feel that the current language in the crime bill, the so-called Fairness in Death Sentencing Act which would permit a capital case defendant to introduce statistical data regarding race at the sentencing phase, would effectively abolish the death penalty.

The Supreme Court has specifically rejected a statistical premise similar to that suggested in the language of the bill in McCleskey versus Kemp. In that case, the Supreme Court rejected claims that statistical showings of racially discriminatory patterns in the application of capital punishment proves the death penalty is being administered in violation of the eighth and fourteenth amendments to the U.S. Constitution.

The language in the crime bill permits a major change in focus in our criminal justice system. Instead of focusing on the particular facts of the case and on whether the individual defendants committed the charged offense, the sentence outcome will hinge on the collective statistics in other unrelated capital cases. Capital case decisions are supposed to be race neutral. Rather than minimizing the risk of race considerations this language in effect introduces "race consciousness" into capitol cases.

Furthermore, it is virtually assured that the compliance of the State with the bill's requirements will be relitigated in every Federal habeas proceeding. If a defendant can show the State failed to comply in any manner with the data requirements or failed to provide sufficient funds for presentation of the discrimination claim, that claim can be determined independently in Federal court, as if the State determinations never occurred. This will provide great incentive for defense counsel to litigate the compliance issue in each Federal case. The current language in the bill imposes a burden on the prosecution that is too onerous and places an expense on the taxpayers that is too great.

Because of the aforementioned reasons, I respectfully submit this statement in explanation of my error. Mr. MCCOLLUM'S amendment, which would codify the current law prohibiting a defendant in a capitol case to introduce statistical data at the sentencing phase of a trial is the correct path, and the one I intend to use.

THE 187TH ANNIVERSARY OF THE WASHINGTON LIGHT INFANTRY BATTALION OF CHARLESTON, SC

HON. ARTHUR RAVENEL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. RAVENEL. Mr. Speaker, the following speech was delivered by my constituent, Maj. Gen. Roy E. Moss, U.S. Marine Corps [retired], before the Washington Light Infantry Battalion of Charleston, SC, on the occasion of their 187th anniversary. I believe that all Americans will appreciate and benefit from its reading.

The speech follows:

SPEECH BY MAJOR GENERAL ROY E. MOSS, USMC [RET.] AT THE 187TH ANNIVERSARY OF THE WASHINGTON LIGHT INFANTRY, CHARLESTON, SOUTH CAROLINA, FEBRUARY 22, 1994

Thank you Colonel Seigling for that nice introduction.

General Westmoreland, General Cook, Congressman Ravenel and the distinguished general officers and other friends here at the head table, and to all of the many members, friends and supporters of the Washington Light Infantry here tonight, let me say how pleased I am to be here with you this evening.

Colonel Likes, let me congratulate you and your organization on this—its 187th anniversary. I have read the history of your organization and it is replete with distinguished service to country, State and community. I am certain the next 187 years for the Washington Light Infantry will be equally distinguished.

The other evening, my wife and I were talking about America and especially how blessed we were as a nation to have had men like Washington and Lincoln at their moments in history. George Washington, for whom this organization is named, was certainly a man of destiny . . . first leading the fledgling armies that won our independence and later becoming a magnificent statesman and our first president. He also had a major voice in the development of our remarkable Constitution in 1787. What a magnificent legacy he left us!

Then, my wife and I began wondering what it would be like to bring Washington and Lincoln back to life for a short time to see this land they had such force in shaping. Imagine with me for a moment, the brief reincarnation of George Washington so that he might see and learn about the America of 1994. I'm certain he would be awestruck with our modern transportation systems, communications networks, the results of the expansion westward and the great cities in this land of ours. However, since Washington was a man of the world, I am confident he might ask about our place in the world today. We can recall that he had concerns for our national security during his lifetime and I am certain he would want to know today if the freedoms he and his men fought so valiantly for were still intact. And . . . I think if we explained the history of America over the last 100 years to him and asked him about the challenges of today . . . he would agree that we are indeed at one of the great intersections of history.

For today is a time when the old world with its special problems . . . is giving way to a new world . . . a world with its own set of unique challenges. The world that is ending is the world shaped by World Wars I and II . . . and by the long cold war that followed.

After the Second World War . . . we were forced to wage a long war of ideas against a deadly, implacable foe * * * but it was a war of ideas that also required action. In Korea and Vietnam we put steel and blood behind our words as part of the grand strategy of containment. We've won this long war. Along the way there were defeats and partial victories but in the final analysis our triumph has been complete. The professional soldiers * * * sailors * * airmen and marines along with their counterpart citizen soldiers * * * who fought in the cold and snow of Korea and the heat and humidity of Vietnam * * * and in a dozen other places from Lebanon to the Dominican Republic * * * made our victory possible.

Unfortunately, the aftermath of victory isn't always neat, clean or even final. Uncertainty is the defining characteristic of the new world we're entering. The residue of the cold war doesn't present a set of problems that can be solved by a second Congress of Vienna. Even Metternich would be challenged by the global complexities of the current international security situation.

Bearing this in mind, I'd like to talk about the strategic landscape of the world that confronts us at the end of the twentieth century * * * the world we're going to have to deal with in the decades ahead. We've set aside our grand strategy of containment

* * * it worked * * * but it's over now. The bipolar world * * * that of we and the Soviet Union * * * that dominated all of our defense planning is obsolete. And it became obsolete virtually overnight. The stunning visual image of the Berlin Wall coming down in November 1989 will forever be the symbol of three key events that outline this hinge of history:

The end of the Warsaw Pact as a coherent alliance:

The disintegration of the former Soviet Union; and

The birth of democracy in Eastern Europe.

But the post-containment world is more confused * * * and at least as violent * * * as the old bipolar one. This world will continue to require the United States * * * the only military and economic superpower left standing * * * to be an active player on the international scene. We may not be Bismarck's "honest broker" in all cases, but we will have to remain engaged. Regional threats have now replaced the "evil empire". But as we saw in Kuwait, even regional threats can be very dangerous to world stability.

While we certainly dominate the global balance of power, that superiority becomes less obvious and more difficult to apply within a regional environment. And, frankly, I believe our strategy and outlook for the future is going to be regional in nature. There are some dangerous bullies out there. As Colonel Harry Summers, a noted army historian has said, "There are tigers out there" * * * and some are stalking us. This confused, violent picture is the backdrop against which our national defense must be planned.

Quite reasonably, many Americans are demanding more butter and fewer guns. As a result, we're in a period of steep decline of defense spending. This decline is probably steeper than you might realize. Let me share a couple of details with you: the 1994 Defense budget represents the ninth year in a row that DOD budgetary authority has declined when measured in constant dollars. The spending level for defense as a percentage of the GNP is the smallest since 1948. The procurement account to replace equipment and take advantage of new technology alone has declined 64% over the same nine year period. The military services are on track to have . . . by 1997. . . the fewest number of men and women in uniform in 57 years . . . or since 1940.

While some of this drawdown is reasonable to undertake, in our quest for butter, we must keep some guns. And, like college tuition, in this technological age, the price of guns continually rises. I certainly don't believe we can solve all of the ills of society with the defense budget . . . but we can certainly cripple our own defense through poor overseas military installations as part of this draw down. There is also the difficult business of closing 79 bases and installations here in the United States including our own naval base right here in Charlestown. That's a massive realignment of resources.

I'd like to make a point that we need to keep in mind as we think about how to use the military element of our national power. We can't always choose when and where we'll have to fight. All states don't behave rationally. For example . . . Japan in 1941 . . . North Korea in 1950 . . . and Iraq in 1990 weren't operating within the same rational calculus that shapes our own foreign policy. Unfortunately, Americans sometimes tend to see others through the mirror of our own motivations and likely actions. This has hurt us more than once in the past . . . as we found that our military force was unequal to our diplomatic intent. A failure to deter . . . a failure to field and maintain credible Armed Forces . . . often leads to war . . . and sometimes not at a time and place of our choosing. So, how we defend our Nation in this strange new world is both straightforward . . . yet difficult. We must be ready . . . both for the rational and the obvious . . . and also for the irrational and the unexpected.

Our ability to deter, and defend if need be, will always remain linked to the quality of our Armed Forces. We don't know were, we can't predict accurately when, but on one thing I'll give a stiff wager: the United States will again commit its young sons and daughters to conflict; and as much as we might hope that it will be the sterile, precise, video-game, hi-tech, low or no-casualty conflict some strategists would like, it will, unfortunately, involve infantry, and mud and rifles . . . and body bags.

A quick look at where this could happen:

First, there is the running sore that is Bosnia. In the Balkans, the armed ethnic factions of the former Yugoslavia ravage the economic life of the affected region, to say little of the senseless loss of innocents caught in the struggle. It tears the heart to witness . . . through the immediacy of television . . . the maimed children and the cruel obstruction of humanitarian relief.

Despite our very real concern for this tragic situation, the question of United States intervention must turn on how many dead young Americans we are willing to see come home, and, how much national treasure we are willing to expend.

While America is doing a number of things now to support the United Nation's effort, we are all concerned about an expanded role for our forces without a substantive, clear, political agreement, ratified by all of the parties. Yes . . . the situation there is a tragedy . . . but the painful fact is that we can't afford to become militarily involved in every tragedy across the globe that screams for help. Before committing our military forces, we must apply a discriminating test that balances the probable risk . . . measured in American blood and treasure . . . against the probable gain . . . measured in national, international and regional interests.

In Somalia, the 1992–1993 operation "restore hope", categorized as a "humanitarian intervention" . . . was to save as many dying Somali lives as possible. The irony of Somalia for Americans is that our troops were fighting . . . even killing . . . to feed people and to save lives. To date, our share of the bill for Somalia is estimated to be about $10 billion . . . and, it has been estimated we saved one million human lives. We should be proud of this. But in a time of significant fiscal contraction, where we choose to apply force must . . . as in the case of Bosnia . . . involve a careful risk-gain balancing act.

Last, let me turn closer to home. Many of you will remember the scenes of the USS Harlan County, an amphibious ship, being turned away from Port au Prince, Haiti. In a nutshell, this summarizes many of the problems we are going to face in this new world. Under what circumstances are we going to intervene in the internal affairs of a sovereign nation? America no longer practices gunboat diplomacy.

These three situations . . . Bosnia, Somalia and Haiti . . . like all politico-military crises . . . have a common thread: their ultimate solution must be political and economic, not military. Geography, the concerns of our own citizens, and the international diplomatic situation all militate against the unrestrained use of force . . . force that in all of these situations might well have been counterproductive. Although we possess . . . in relative terms . . . virtually unlimited force, we don't have the authority, and in many cases the will, to wield it unrestrained.

We stand on the verge of a new world . . . a world we won by our long vigil of containment, but a world full of new dangers and responsibilities. I see this new era as a time when our soldiers, sailors, airmen and marines are going to be used more and more frequently, for diverse and challenging tasks . . . from major regional contingencies . . . to peacekeeping . . . to deterrence, and everything in between.

As long as we recognize that the military element of power must be truly credible and up to the tasks we may require it to undertake, the security of our Nation should continue in good order. To maintain credible Armed Forces will require a continuing willingness by the American people to bear the burden of defense . . . and I believe they are willing to do this especially when they understand the issues and problems confronting us, and the dangers of a short-sighted downsizing of our defense capabilities. As Secretary of the Navy John Dalton has said, we must rightsize . . . not just downsize.

The price of freedom in an unfriendly world has always been steep. George Washington knew this very well. In my mind's eye, I can see quiet, green American military cemeteries on foreign shores. . . . From the Meuse-Argonne to Omaha Beach, to the Philippines. . . . All testimony to the courage of American fighting men and women who have gone forth when needed. Through their courage we now have a new world for a new generation, and that's a very fine legacy for us all.

As we look forward to this new world, we mustn't forget the underlying lesson that America's wars in this century have taught us . . . a lesson purchased in blood . . . and that is this: the forces that defend our Nation must have the capabilities to meet not only the crises we can anticipate and prepare for . . . but also the unforeseeable and uncomfortable hot spots . . . the threats to freedom that are certain to arise in this new and uncertain world. To do this will require some difficult trade-offs for American citizens. But as we continue our very good start into this post-cold war world, these are lessons that are too bloody to be forgotten and too dear to be re-learned.

I'm certain if General Washington were here tonight, he would be proud of what our Nation has accomplished . . . . And I know he would share our concern for the future. The price of freedom . . . in his time and ours . . . has never been something we can simply take for granted.

Thank you very much and may God continue to bless this very great land of ours.

HEALTH CARE QUALITY IMPROVEMENT ACT AMENDMENTS OF 1994, H.R. 4274

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. WYDEN. Mr. Speaker, 7 years ago, President Ronald Reagan signed into law the Health Care Quality Improvement Act of 1986, that established the National Practitioner Data

Bank to keep track of disciplinary and malpractice actions against physicians and other licensed health professionals.

The data bank was the first national system designed to keep incompetent medical providers from slipping through the cracks in the American system for ensuring quality medical care. By helping to weed out substandard physicians, the data bank is a tool to reduce the number of botched surgeries, missed diagnoses, adverse drug reactions, and resulting high medical bills.

The 1986 law requires hospitals and health maintenance organizations [HMO's] to check the data bank for information on doctors they might hire or grant privileges to. This obligation is backed-up by real financial incentives for hospitals and HMO's to watchdog the physicians they allow to be part of their team. Under the law, hospitals and HMO's are legally responsible for acting on the basis of the information in the data bank. If a hospital or HMO fails to check a doctor's record in the data bank, they are nonetheless accountable for knowing what is in the data bank.

Setting up the data bank has been an enormous and unprecedented undertaking. It took years to get necessary appropriations and to work out the bugs in the new system. But this year, the National Practitioner Data Bank won the prestigious Federal Leadership Award for excellence in government information technology. According to the judges, the data bank can now be accessed electronically by hospitals and HMO's, error rates have been reduced, and the time needed to respond to hospital and HMO inquiries submitted on paper have been reduced to only 5 days. All this has been accomplished while administrative costs have been cut by 75 percent.

Within the next 30 days, three major committees of the House of Representatives are likely to finish work on national health reform legislation that may completely restructure the health care system in this country. Many aspects of health reform are uncertain. But this much is clear: Tomorrow's consumers are going to be asked to be more involved in the choice of their health care and their providers.

In my judgment, if the reformed health system is to be built on the principle of consumer choice, consumers must have ready access to reliable, comparative information on quality. It's not enough to give consumers information on the quality of health insurance plans. A plan may be the key component of the health care system to economists and providers, but consumers are more interested in the quality of care provided by doctors, hospitals and clinics. In fact, when they can afford to, people choose their health plans because of which doctors the plan will let them see.

No matter how elegant the new health care system is in its conception, it will fall apart if it's built on top of a rotten foundation of skimpy and fragmented information on cost and quality. At the very least, consumers have a right to know more about which health care providers they may wish to avoid. Unfortunately, Americans today have more performance information available to them when purchasing breakfast cereal than when choosing a heart surgeon.

The last thing consumers need or expect from national health reform is for the Federal Government to withhold vital quality information from them. Yet, that is exactly what is going on today. For example, consumers are denied access to information in the Government's possession that would reveal whether the doctor treating them is one of the 13,000 doctors disciplined by a medical licensure board or hospital peer review committee in the United States in the past 2 years.

This information is contained in the National Practitioners' Data Bank, but the consumer whose taxes are deposited in the Treasury to pay for the data bank are not allowed to withdraw information from it.

The public has a tremendous and justifiable appetite for information on disciplinary actions and other indicators of poor quality care. At a minimum, this means that the National Practitioner Data Bank must be open to the public.

In a health reform debate filled with partisan maneuvering and sniping, Mr. KLUG and I are undertaking a bipartisan, common sense initiative to let the public know the names of doctors who have paid multiple malpractice payments, or who have been sanctioned through hospital disciplinary actions or State licensure boards.

The legislation was are introducing today would open up the National Practitioner Data Bank, and will help consumers avoid some of the worst providers and repeat offenders. As the principal sponsor of the legislation creating the data bank, I intend to push for enactment of this legislation in the health reform legislation being marked up this month by the Energy and Commerce Committee.

86th ANNIVERSARY OF THE CROATIAN SONS LODGE NO. 170 OF THE CROATIAN FRATERNAL UNION

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. VISCLOSKY. Mr. Speaker, it is my distinct honor to congratulate the Croatian Sons Lodge No. 170 of the Croatian Fraternal Union on the festive occasion of its 86th anniversary and "50-Year Member" banquet.

This year the Croatian Fraternal Union will hold this gala event at the beautifully renovated Croatian center in Merrillville, IN. Traditionally, the anniversary ceremony includes a recognition of those members who have achieved 50 years of membership. Honorees who have pledged their allegiance include: Barbara Augustinovich, Ann Babich, Elizabeth Baricevich, Catherine A. Bartkowski, Ludwig D. Bishop, Ann J. Bubas, Violet Burke, John Carija, Margaret Dittman, George Frankovich, Frank Gass, Karmela Gerovac, Rose M. Glibota, George Katunich, Anna J. Krpan, Elizabeth Lichari, Anna M. Lieber, Irene Lugar, Peter John Milobar, Michael Mysliwy, Frances Offineer, William J. Poje, Rudolph V. Rujevcan, Margaret Sibincic, John Svaco, Mary Torie, Helen Vale, Doris Wayton, Katherine B. Wilkening, Anne Wozniak.

These loyal and dedicated individuals, share this prestigious honor with a total of 256 additional lodge members who have attained this status.

This memorable day begins with mass at St. Joseph the Worker Catholic Church in Gary, IN, officiated by the revered Father Benedict Benakovich. The regular monthly meeting will follow, to be succeeded by the anniversary banquet. Croatian Fraternal Union national secretary-treasurer, Edward W. Pazo, will be this year's distinguished guest speaker. Festivities will be enriched by the music of the Croatian glee club, "Preradovic," directed by brother Dennis Barunica and by the Hoosier Hrvati Adult Tamburitza orchestra, directed by Ed Sindicich. The Croatian Junior Tamburitzans, under the direction of Dennis Barunica, as well as the Drina Tamburitza orchestra with Brother Jack Tomlin will perform.

I am proud to commend lodge president Elizabeth Morgavan, as well as every member of the Croatian Fraternal Union Lodge No. 170, for their loyalty and radiant display of passion for their ethnicity. It is my hope that this year will bring renewed hope and prosperity for all members of the Croatian community and their families. May this 86th anniversary celebration and 50-year membership banquet prove to be most joyous.

ANNUAL CELEBRATION OF EARTH DAY

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. LAZIO. Mr. Speaker, I am pleased to join my colleagues in the observation of the 24th annual celebration of Earth Day. We, as a people, have a shared responsibility to protect and preserve our natural resources. The way we respect and care for our environment is not only essential for maintaining life on Earth as we enjoy it today, but necessary for the survival, prosperity, and quality of life of future generations.

Earth Day festivities and programs take various forms all around the country. I am especially enthusiastic about the level of commitment to the environment demonstrated by my Long Island constituents. Residing on a thin strip of land with a population in the millions, Long Islanders are acutely sensitive to the need to protect and preserve our environment. Recent severe Nor'easter storms and the resulting Atlantic waves have pounded Long Island's protective barrier beaches and threatened the south shore, bringing the problem of beach erosion forcefully to our attention. Our single-source aquifer, responsible for almost all of Suffolk county's water supply, strengthens our determination to guard against pollutants and contaminants. The alarmingly high incidence of breast cancer in our area, and the ongoing studies which seem to indicate that environmental factors may be a causal factor, reinforce our belief that the health of our environment directly effects the health of us all.

These serious concerns, however, are not the only unique environmental characteristics affecting residents of Long Island every day. The miles of coastal shoreline and sandy beaches—packed with thousands of sunbathers and swimmers on warm sunny days—are an integral part of summer on Long Island. The nine wildlife refuges which make up the Long Island National Wildlife Refuge Complex received over 350,000 visits in 1992. From the Fire Island National Seashore, to the South Shore Estuary, to the many beautiful parks that enhance our communities, Long Island's sensitive island ecosystem provides residents with a unique appreciation for environmental concerns.

On the national level, steps to improve the environment have increased since the time of the first Earth Day on April 22, 1970. Increased public awareness is primarily responsible. In the past 24 years, we have witnessed the enactment of a number of landmark environmental laws including the Clean Air Act and the Clean Water Act; the Superfund program to clean up hazardous waste sites; and, the enactment of the Ocean Dumping Ban Act to stop the dumping of sewage sludge into our oceans.

The 103d Congress has a number of important environmental bills on its agenda. Reauthorization of the Marine Mammal Protection Act and the Endangered Species Act will hopefully be completed this session. It also is my hope that Congress will approve H.R. 1345, a bill to elevate the Environmental Protection Agency to Cabinet-level status. I am an original cosponsor of this proposal.

In addition to these important bills, on November 3, 1993, I introduced H.R. 3727, the Environmental Defense Act of 1993. The goal of this legislation ultimately is to create a national academy, based on the model of our Nation's military service academies, to train environmental engineers and other environmental professionals. H.R. 3727 calls for the Department of Education to conduct a study on the feasibility of creating this Environmental Academy. I firmly believe that this academy would greatly assist our efforts to protect America's environment, public health, and increasingly endangered natural resources.

Without public participation and support, however, all the legislation in the world is not sufficient to properly care for our environment. I applaud the extensive efforts that citizens such as those of Long Island have made. I encourage people to join or organize community service groups and become educated and active on issues affecting the environment. Earth Day is the perfect opportunity to reflect on the natural bounty of our planet and for people to get involved in projects designed to protect it.

THE 40TH ANNIVERSARY OF ANNANDALE HIGH SCHOOL

HON. LESLIE L. BYRNE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mrs. BYRNE. Mr. Speaker, I will soon have the pleasure of celebrating with my constituents the anniversary of Annandale High School. Annandale High School is home to approximately 2,000 students in Fairfax County and has produced well-educated, athletic, and gifted young adults for 40 years.

The school was opened on September 1, 1954, to 1,000 students who came from overcrowded neighboring schools. But, it was only 1 short year later than the community outgrew the original facility and constructed a 12-room addition. They have continued to grow and have offered the highest quality education to thousands of Northern Virginia students over the years. In 1993 alone, they boast four national merit scholars, three national merit finalists, and four semi-finalists.

Testimony to the good will engendered by Annandale High School faculty and staff over the years is that 10 teachers on staff are alumni of the high school, including varsity football coach, Richard Adams. As a student athlete, Coach Adams helped to lead the Annandale Atoms to one of their first State championships, and in 1993, he coached the team to their fifth. Annandale High School has also achieved State championship status in golf, boys gymnastics, girls soccer, boys cross country, and girls baseball.

The students, alumni, faculty, and staff of Annandale High School, along with the community, should be very proud of their growth and accomplishments. By steadfastly providing a solid education coupled with a top notch athletic department, Annandale has strengthened and enriched our community in many ways.

It is a privilege to be a part of this celebration and I ask that my colleagues in the House join me in extending a heartfelt congratulations to Annandale High School on their 40th anniversary.

MAMMOGRAMS: MIXED MESSAGES ON A LIFE AND DEATH ISSUE

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mrs. SCHROEDER. Mr. Speaker, I draw my colleagues' attention to a column in the April 11, 1994, New Republic magazine about the mixed messages going out to women on when to get mammograms.

The author, Michael Kinsley, makes a number of good points, among them that the National Cancer Institute's recent about-face on the age at which women should get annual screenings has placed an unfair burden on women to make choices the experts can't make.

Kinsley also points out that such Government recommendations are crucial when it comes to insurance coverage.

The Congressional Caucus for Women's Issues has said that screening mammograms should be covered every 2 years for women 40 to 49, with applicable cost-sharing on a sliding scale; and every one to two years for women 50 and older, with no cost-sharing. Additional screening mammograms should be free for any women at high risk. And annual clinical breast exams should be covered for women over 40.

It is the caucus' position that until there is a clear consensus on this issue, it is better to err on the side of caution. Key to developing that consensus will be better research, and women will be watching for that.

I remind my colleagues that breast cancer is expected to kill 46,000 American women this year and afflict another 182,000, and I submit the Kinsley article for inclusion in the CONGRESSIONAL RECORD.

[From The New Republic Apr. 11, 1994]

TRB FROM WASHINGTON

(By Michael Kinsley)

In December the National Cancer Institute revised its guidelines on mammogram screening for breast cancer. Previously, the NCI had recommended mammograms every year or two for all women over the age of 40. Now it recommends annual mammograms for women over the age of 50. As for those between 40 and 50, the institute's position is that the evidence is not clear one way or the other. Women, it says, should study the data and decide for themselves.

This is a deeply unsatisfying recommendation, for two reasons. First, if the full-time experts at the National Cancer Institute can't decide whether mammograms are worthwhile for women in their 40s, how on earth is a nonexpert with other demands on her time supposed to make a sensible decision for herself?

Second, this is not a question that society can leave completely up to individual women. In various circumstances, a decision must be made at the level of social policy. Health care reform is the most obvious example. If we are going to guarantee something called "health care" to everyone—one way or another—does that or does it not include mammograms for women in their 40s? But the question arises apart from health care reform. Even under current arrangements, insurance companies must decide whether this is a benefit they will pay for, and the government must decide whether to cover it in Medicaid, the military health system, etc.

So what's the answer?

It seems obvious, to start, that there is no magical dividing line at age 50. The experts are unanimous that regular mammograms starting at 50 cut the breast cancer death rates by one-third. But if mammograms are tremendously valuable at age 50, they can't be worthless at age 49. And if they are at least somewhat valuable at 49, they are only slightly less valuable at 48, and so on. Clearly it's a continuum: the exam gets more useful as you get older. Anywhere you draw the line is going to be arbitrary.

It seems implausible, therefore, that regular mammograms at ages under 50 can be completely without purpose. After all, mammograms of women in their 40s do catch cancer in about one out of 400 cases, and it has to be better to catch such cases earlier rather than later. One doctor quoted in The New York Times said that women should be warned of the "drawbacks" of mammograms in their 40s. To be sure. But the drawbacks seem pretty farfetched. The test itself is harmless. There is the psychological trauma of "false positives"—initial diagnoses of cancer that turn out to be wrong. And apparently scar tissue from the biopsy of lesions that prove benign can sometimes block the view of genuine cancerous lesions in later years. Still, if that was the entire downside, it would be hard to see the problem with making mammograms standard for women in their 40s.

Of course there's the cost. The NCI insists that economic considerations did not figure in its guideline change. But they inevitably figure in real life. If all 18 million American women in their 40s got an annual mammogram, at $150 a pop, that would cost $2.7 billion per year. The Cancer Institute maintains there is no good evidence that any lives would be saved as a result. But future studies may change that conclusion. As a very rough back-of-the-envelope calculation, take the one in every 400 that identify a cancer, and figure that (say) half of those might otherwise have gone undiagnosed until it was too late. It works out to more than $100,000 per life saved.

Worth it? You can argue that one either way. But the larger point doesn't go away in any event. What about women in their 30s? Their 20s? Their teens? What about prostate exams for younger and younger men? These exams will be ever more expensive per life saved, yet they are unlikely to prove completely worthless. But you've got to draw the line somewhere, and at the point where you draw that line you are putting a price tag on human life—even your own life in some cases.

Americans are notoriously bad at questions like this. We find it hard to make rational judgments about very small risks of very bad outcomes (like the risk of dying of breast cancer due to forgoing a mammogram in your 40s). Usually, political conservatives are the more hardheaded bunch. They enjoy ridiculing—often accurately—liberal hysteria on matters ranging from environmental hazards to auto safety to nuclear deterrence. On this question of mammograms, however, they have seen an opportunity to score points off of President Clinton by pandering to exactly the sort of anxieties they usually mock.

The standard benefits package under the Clinton health care reform plan offers mammograms beginning only at age 50. "As if by imperial edict," charges Bernadine Healy, the Clinton plan "has ruled out screening mammography for women in their 40s." She accuses Clinton of using the NCI revised guidelines "to justify a cost-based decision to limit women's health care choices." Healy was director of the National Institutes of Health until 1993. The National Cancer Institute is part of NIH. Thus the guidelines revisions she objects to were formulated largely on her own watch. But now she is a Republican Senate candidate from Ohio, and so she has happily taken up this theme, shared by other "conservative" critics of the Clinton plan.

In truth, the Clinton plan "rules out" nothing. It defines a minimum benefits level, which any plan purporting to assure health care for everyone must do. Women in their 40s who could afford them would be perfectly free to have mammograms, and insurance companies would be perfectly free to offer mammogram coverage. (Free market conservatives, though, should realize that there is little point in "insuring"against a certain event—like an annual mammogram. The extra cost of the insurance will have to equal the cost of the mammogram itself—plus insurance company overhead.) And don't forget that Clinton's plan would make mammograms available for the first time to millions of women in their 50s, for whom the value is unquestionable.

But the telling phrase is "cost-based." Is it now the "conservative" position that any "cost-based" health care decision is immoral? That any consideration of the ratio of cost to benefit amounts to health care rationing? If so, "hold onto your wallet," as those guys used to like to say.

WORKER RIGHTS AND LABOR STANDARDS TRADE ACT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1994

Mr. BROWN of California. Mr. Speaker, I rise in strong support of the Worker Rights and Labor Standards Trade Act (H.R. 4721) which was introduced by my colleague, Congressman PETE VISCLOSKY yesterday.

This bill calls upon President Clinton to mobilize the necessary international support for the establishment of a GATT working party to immediately begin examining the relationship between trade and basic worker rights and labor standards for the people who make the goods and provide the services in international commerce. It also calls for mobilizing the requisite international support to establish a standing committee in the newly proposed World Trade Organization to develop recommendations to link respect for internationally recognized worker rights to the conduct of international trade.

As the chronology following this statement amply demonstrates, Mr. Speaker, linking respect for fundamental worker rights and labor standards to trade is not a new or radical idea. Several U.S. Presidents, Republican and Democrat alike, have raised this policy question at the GATT in different ways repeatedly for nearly 40 years. Other national governments have also called for positive action on this longstanding and growing trade problem.

I am heartened that President Clinton has personally committed his administration to forging an international consensus to link trade liberalization to international respect for basic worker rights such as freedom of association and the right to organize and bargain collectively. During his official visit to Europe last January, the President stated, "I see this whole worker rights issue as more a function of the global economy and one that will help us to build up ordinary citizens everywhere, which I think should be our ultimate objective."

Surely, if the trading nations can agree upon legally binding agreements in the Uruguay round to protect intellectual property rights and to prevent capital subsidies, then civilized societies should also agree to protect the basic rights and labor standards of working people everywhere in the conduct of international trade.

HISTORICAL CHRONOLOGY OF GATT INACTION ON WORKER RIGHTS

1947—Preamble to the GATT provides that relations among countries "the field of trade and economic endeavor should be conducted with a view to raising standards of living and ensuring full employment".

The GATT incorporates by reference Article 7 of Chapter II of the proposed International trade Organization Charter: "The members recognize that measures relating to employment must take fully into account the rights of workers under intergovernmental declarations, covenants, and agreements. The members recognize that all countries have a common interest in the achievement and maintenance of fair labor standards related to productivity, and thus in the improvement of wages and living standards as productivity may permit. . . ."

1951—In his first State of the Union Address, President Eisenhower identified labor standards as one of the most important issues to be dealt with during renewal of the Reciprocal Trade Agreements.

1953—U.S. negotiators informally proposed adding the following labor standards provision to the GATT; "The Contracting Parties recognize (1) that all countries have a common interest in the achievement and maintenance of fair labor standards related to productivity, and thus in the improvement of wages and working conditions as productivity may permit, and (2) that unfair labor conditions (i.e. the maintenance of labor conditions below those which the productivity of the industry and the economy at large would justify), particularly in production for export, may create difficulties in international trade which nullify or impair benefits under this Agreement. In matters relating to labor standards that may be referred to the Contracting Parties under Article XXIII they shall consult with the International Labor Organization."

1954—The U.S. Commission on Foreign Economic Policy urged that no tariff concessions be extended on "products made by workers receiving wages which are substandard in the exporting country." The term "substandards" was defined as wages for a specific commodity that were substantially below accepted standards in the exporting country.

1964—Informal, exploratory discussions were held between U.S. Labor Department officials and ranking officials of the GATT and the ILO concerning international fair labor standards in conjunction with the Kennedy Round of Multilateral Trade Negotiations.

1971—The Commission on International Trade and Investment Policy, appointed by President Nixon, recommended that the U.S. support the development and adoption of a multilateral code pertaining to fair labor standards.

1974—The Congress enacted a provision in the Trade Act of 1974 calling upon the President to seek various revisions in the GATT including "the adoption of international fair labor standards and of public petition and confrontation procedures in the GATT."

In its report to accompany this provision, the Senate Finance Committee stated: "The Committee believes that international fair labor standards and procedures to enforce them should be established. The Committee is including in this bill certain measures to assist in the economic adjustment which may be necessitated by increased imports. It believes, however, that additional steps are needed which would lead to the elimination of unfair labor conditions which substantially disrupt or distort international trade. The international trading community should seek to develop principles with respect to earnings, hours and conditions of employment of workers, and to adopt public petition and bargaining procedures."

1978—The Office of the U.S. Trade Representative created an interagency group to explore issues pertaining to international fair labor standards during the Tokyo Round of Multilateral Trade Negotiations. Some discussions and consultations were held with foreign governments. Ultimately, U.S. policy-makers failed even to have fair labor standards added to the agenda of the post multilateral trade negotiations work program of the GATT Consultative Group.

1980—The Report of the Independent Commission on International Development Issues (the Brandt Commission) concluded: "Exports that result from working conditions which do not respect minimum social standards relevant to a given society are unfair to the workers directly involved, to workers of competing Third World exporting countries and to workers of importing countries whose welfare is undermined. They are also unfair to business concerns and countries which encourage social progress. Just as developing countries concern themselves with the industrial adjustments of other countries, so their own domestic industrial conditions will increasing become a matter of international concern and review."

1988—The Congress enacted into a law a provision as part of the Omnibus Trade and Competitiveness Act that makes worker rights a principal U.S. negotiating objective in the Uruguay Round of Multilateral Trade Negotiations. Specifically, it calls upon U.S. negotiators to the GATT:

"(A) to promote respect for worker rights;

"(B) to secure a review of the relationship of worker rights to GATT articles, objectives, and related instruments with a view to ensuring that the benefits of the trading system are available to all workers; and

"(C) to adopt, as a principle of the GATT, that denial of worker rights should not be a means for a country or its industries to gain competitive advantage in international trade."

1993—President Clinton notifies the Congress that agreement has been reached in the Uruguay Round of Multilateral Trade Negotiations, but no mention of worker rights.

SENATE—*Monday, April 25, 1994*

(Legislative day of Monday, April 11, 1994)

The Senate met at 3 p.m., on the expiration of the recess, and was called to order by the Honorable PATTY MURRAY, a Senator from the State of Washington.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

In a moment of silence, let us remember Senator RICHARD SHELBY, who is recuperating at home from his hospital visit.

Eternal God Who brought life and immortality to light, the Nation mourns the death of a great elder statesman, Richard Milhous Nixon. We thank Thee for his gifts to our Nation and the world, as leaders from many nations express their loss of this leader whose influence for reconciliation was so broad, so deep, so strong.

Gracious Father in Heaven, we commend to Your loving care Mr. Nixon's daughters, Tricia Cox and Julie Eisenhower, their families, and all who most deeply experience this loss.

We thank Thee for the hope given by King David, Israel's greatest king: "The Lord is my shepherd * * * Yea, though I walk through the valley of the shadow of death, I will fear no evil: for thou art with me * * * goodness and mercy shall follow me all the days of my life: and I will dwell in the house of the Lord forever."—Psalm 23.

And we thank Thee for the precious promise of Jesus: "* * * I go to prepare a place for you. And if I go to prepare a place for you, I will come again, and receive you unto myself; that where I am, there ye may be also."—John 14:2, 3. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 25, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATTY MURRAY, a Senator from the State of Washington, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. MURRAY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader.

SCHEDULE

Mr. MITCHELL. Madam President, pursuant to a prior agreement, the Senate will now proceed to the consideration of S. 1963, the Interstate Banking Act of 1994. That legislation will be considered today under an agreement in which opening statements will be made, amendments may be offered and accepted, but there will be no rollcall votes on any amendments, or other matters today. It is my hope that the managers will be able to take up and consider amendments and set the votes over until tomorrow following consultation.

The Senate will be in session tomorrow, but will not be in session on Wednesday, in order to permit Senators to participate in the funeral for former President Nixon and in observance of that event.

So the Senate will not be in session on Wednesday and, as with the appropriate decision by the President to close executive offices, the Senate will not conduct business on Wednesday.

Madam President, I reserve the remainder of my leader time, and I am pleased to yield to the distinguished Republican leader.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader.

TRIBUTE TO NIXON

Mr. DOLE. Madam President, all American Presidents affect history in their own way. But few have made more history or shaped the history of their times more than Richard Nixon.

Today, I join with the Members of this body and with millions of men and women across America and around the world in mourning the death of the 37th President of the United States.

Richard Nixon was a great student of history. If he had not personally met a world leader, he had read and studied his life. In fact, the last time I visited President Nixon in his home in New Jersey, I was struck by the number of biographies stacked on his desk.

There has been a great deal of discussion the past few days over how history will remember Richard Nixon. And I believe he will be remembered for a number of reasons.

As many have said and written, he will be remembered for his foreign policy accomplishments, and for his dedication to peace. In his first inaugural address, President Nixon said "The greatest honor that history can bestow is the title peacemaker."

No doubt about it, because of his efforts as President to improve relations with the then-Soviet Union, to bring China out of isolation, and to forge peace in the Mideast, Richard Nixon more than earned the title of peacemaker.

That is also a title he earned after leaving the White House, where he travelled the world, speaking on behalf of democracy, freedom, and peace. Many of us in this Chamber will remember how eloquent the President was in urging us to provide assistance to the eastern European countries as they took their first steps toward freedom.

I believe history will also remember President Nixon for his domestic policy achievements. Achievements far less reported than his victories on the world stage.

A landmark family assistance program, proposed with the assistance of our colleague Senator MOYNIHAN, who at that time was special counsel to President Nixon, the creation of the Environmental Protection Agency, expansion of the Food Stamp Program, an innovation called "revenue sharing" where Federal dollars went to the cities and States, the Consumer Products Safety Act, an emphasis on strengthening law enforcement, all this occurred during the Nixon administration.

President Nixon also knew that historians would write of the events that led to his resignation from the Presidency. And there are some who are still unwilling to forgive him for Watergate.

But in the past few years, I think more and more Americans have come to appreciate President Nixon and his accomplishments.

In fact, as I traveled to a number of States this weekend, I was struck by the number of people who came up to me to share their sadness about his death, and to say how much they admired President Nixon.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

They admired him not because he was perfect. But they admired him because of his courage and perseverance. They admired his intelligence and his vision. They admired the fact that he loved his family. And they admired him because he loved his country.

Plain and simple, Richard Nixon believed in America. And whether it was facing an anti-American mob in Venezuela, or going toe-to-toe with Khrushchev in the famed "kitchen debate," Richard Nixon always stood up for America.

This past January, President Nixon announced the creation of the Center for Peace and Freedom at the Nixon Library and birthplace in Yorba Linda, CA. And I believe a portion of his remarks serve as a lasting legacy for this remarkable America.

"Some are tired of leadership," said President Nixon. "They say [America] carried that burden long enough. But if we do not provide leadership, who will? The Germans? The Japanese? The Russians? The Chinese? Only the United States has the potential to lead in the era beyond peace. It is a great challenge for a great people."

Madam President, I believe history will reflect the fact that America is better prepared to meet our great challenge because of the life, the career, and the accomplishments of Richard Nixon.

I join with the Members of the Senate in extending our sympathies to the President's daughters, Tricia Cox and Julie Eisenhower and to all members of the Nixon family.

Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. RIEGLE. Madam President, am I correct in understanding that we are now prepared to move ahead on the interstate banking bill?

The ACTING PRESIDENT pro tempore. That is the regular order.

INTERSTATE BANKING AND BRANCHING ACT OF 1994

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 1963, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 1963) to permit certain financial institutions to engage in interstate banking and branching.

The Senate proceeded to consider the bill.

GRATITUDE FOR EXPRESSIONS OF SYMPATHY

Mr. RIEGLE. Madam President, before beginning the formal presentation on this legislation, I want to just make a personal comment to many of my colleagues, including my colleague and friend from Delaware, Senator ROTH.

This past week, my mother passed away. The onset of the serious health problems that took her life came quite quickly. As a result, I was not here for most of last week.

But many colleagues and others connected to the Senate were most gracious and kind in sending remarks, well wishes and sympathy in various ways. I am just very grateful for that.

On behalf of my family, I want to thank everyone who has been so kind over that period of time. I think anyone who has gone through the death of a parent understands what a unique and deeply saddening moment that is. And it certainly has been true for me.

So I again thank everyone involved for their courtesies over this period of time.

INTERSTATE BANKING AND BRANCHING ACT OF 1994

The Senate continued with the consideration of the bill.

Mr. RIEGLE. Madam President, let me now move to the discussion of the bill we are presenting today.

Madam President, I rise to introduce S. 1963, the Interstate Banking and Branching Act of 1994, and to urge its swift passage. This bill was reported out of the Senate Banking Committee February 23 by a unanimous vote and is similar to legislation passed by the House March 22 on a voice vote.

Over the last 14 years, each of the past four administrations has advocated removing barriers to interstate banking. The Carter administration told Congress in a 1980 report that restrictions on interstate banking caused inequities and inefficiencies and removing such restrictions would serve the public interest.

In April 1983, Treasury Secretary Donald Regan testified on behalf of the Reagan administration before the Banking Committee. In that testimony, in which the administration endorsed congressional efforts to eliminate restrictions on interstate banking, Secretary Regan stated, "Most such restrictions serve only anticompetitive purposes to the detriment of consumer service and convenience."

Treasury Secretary Brady, speaking for the Bush administration, also advocated removing restrictions on interstate banking and branching. On February 26, 1991, he told the Banking Committee:

> We have left antiquated laws on the books that prohibit banks from * * * branching across State lines. Banks in California, Michigan, and Utah can open branches in Birmingham, England, but not in Birmingham, Alabama. These laws—mainly enacted in the 1920's and 1930's—are wholly out of touch with reality, and impose unnecessary costs on banks and consumers.

Most recently, Treasury Secretary Bentsen has stated:

> We currently have a de facto system of interstate banking. But it's a patchwork system, and it's clumsy * * * permitting a true interstate banking system can translate into increased lending, a safer and stronger banking system, and more competitive services for all consumers in all communities.

In addition to support from the administration, this bill also enjoys the strong support of the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency. It also enjoys the support of, among others, the American Bankers Association and the Bankers Roundtable. It is similar to the interstate banking and branching bill that passed the Senate in 1991.

Virtually all Senators serving on the Banking Committee were actively involved in the drafting of this legislation. I want to particularly acknowledge the contributions of our ranking member, Senator D'AMATO, and I also want to commend Senator DODD for his leadership on this issue, and again thank Senator ROTH for being here today in the ranking position. Let me now briefly describe this legislation and why I believe it is needed.

SUMMARY OF BILL

The Interstate Banking and Branching Act of 1994 would remove current restrictions on both interstate banking and branching over a 2-year period.

The bill would eliminate remaining restrictions on interstate banking after 1 year and would permit adequately capitalized and managed bank holding companies to acquire existing banks in any State. Such acquisitions would be subject to approval by the relevant Federal bank regulatory agency. States could require that any bank acquired by an out-of-state bank holding company have been in existence for up to 5 years. Also, any bank holding company could not acquire an out-of-state bank if the acquisition would result in such company controlling over 25 percent of that State's insured deposits or over 10 percent of the nation's insured deposits. Individual states could waive the 25 percent cap.

With regard to interstate branching, the bill would permit, 2 years after enactment, bank holding companies to convert bank subsidiaries in various States into branches of the main bank of the holding company. A host State would have the right to apply its banking laws to the branches of out-of-state banks in the host state. Any State would also have the right to opt out of interstate branching. The bill does not permit banks to establish de novo branches in any State unless a State specifically passes legislation authorizing de novo branching. Under this bill, interstate branching will be permitted to take place in a manner that preserves the interests of individual states.

This bill is not a radical innovation. Interstate banking is already a fact of life in most states. Thirty-four State have already adopted legislation permitting full interstate banking and fifteen of the remaining 16 States permit interstate banking within States in their regions. This bill will streamline the interstate banking process and remove laws that burden that process.

Passage of this bill will increase the safety and soundness of our banking industry and reduce risks to our bank deposit insurance fund and the American taxpayers who back that fund. It will permit banks to operate more efficiently and to serve their customers better. Let me explain why.

INTERSTATE BANKING

Interstate banking presently takes place in this country only where the States permit it. Congress, in the Bank Holding Company Act of 1956, specifically prohibited the Federal Reserve Board from approving an application of a bank holding company located in one State from acquiring a bank located in another state, unless the acquisition was specifically authorized by the laws of the State in which the acquired bank was located. During the 1980's, many states adopted banking laws permitting bank holding companies within regions to purchase banks across state lines—but these laws are not uniform and we do not yet have nationwide interstate banking.

Eliminating the remaining restrictions on interstate banking will permit banks to better diversify both their deposits and loans and consequently provide greater protection to the deposit insurance fund. Geographic restrictions now in place make such diversification difficult. This tends to leave banks more vulnerable to downturns in local economies where they do their business. According to acting FDIC Chairman Hove:

> The insurance funds have absorbed major losses in recent years in rescuing large banking organizations with assets concentrated in a few industries or a limited geographical area. During the 1980s, for example, slightly more than 80 percent of failed-bank assets were in just four states: Texas, Illinois, New York, and Oklahoma. Perhaps if they had been more geographically diversified, banks in these states might have been better able to weather the financial storms that beset local and regional energy, agricultural, and real estate markets.

Federal Reserve Governor La Ware testified:

> . . . elimination of geographic restraints would provide an important tool in diversifying individual bank risk, providing for stability of the banking system, and improving the flow of credit to local economies under duress.

Thus, reducing these restrictions will likely bolster the safety and soundness of the banking industry and thereby lessen the vulnerability of the bank insurance fund and risks to the American taxpayer. Phasing out remaining restrictions to interstate banking is not, as I noted above, a radical step.

INTERSTATE BRANCHING

Removing current restrictions on interstate branching will also help promote efficiency in the banking system and permit banks to serve consumers better. It will reduce administrative expenses for banks that presently operate interstate through separately chartered subsidiary banks of a bank holding company. The principle difference between interstate banking and interstate branching is that interstate banking requires banks acquired across state lines to remain as subsidiary banks of the main bank holding company. A subsidiary bank must have separate capital, a separate board of directors, and meet separate regulatory requirements. Converting subisidary banks to branches will eliminate such duplication, strengthen bank capital, and better protect the deposit insurance fund.

Permitting expanded bank branching will also increase customer convenience and reduce banking charges to consumers by increasing competition. Bank customers will also be better served if they can deal with branches of their home bank in different States. Many customers have complained about interstate restrictions that prevent them from depositing funds or cashing checks outside the state in which their account is established. Literally, millions of Americans cross State lines commuting to and from work, as well as in their business and personal travel. Secretary Bentsen gave the following example:

> The Washington area is a perfect case, and it isn't unique. Down the street from my office is the branch of a banking organization that hangs out its shingle in Maryland, Washington, Virginia and a few other states. People who use this branch but have their account at a branch in Maryland or Virginia, can walk up and cash a check. They can draw hundreds of dollars out of the ATM machine, or transfer thousands of dollars between accounts. But they can't make a deposit in that branch . . . not being able to make a deposit at my own bank just because that branch is in another state is like requiring that the space shuttle stay within the school zone speed limit. We are the only country in the industrialized world with this kind of artificial restriction.

Indeed, the restrictions on interstate branching are an American anomaly. The United States is the only industrial country that restricts bank branching. The globalization of the banking industry means that U.S. banks cannot afford to continue to base their success on a limited geographical area. They cannot match their competitors while burdened with costly subisidary structures and cannot be strong global competitors without larger deposit bases in this country. Removing the restrictions on bank branching will permit American banks to become stronger global competitors with an enhanced capacity to help U.S. companies sell their goods in markets abroad.

In short, removing existing restrictions on branching will increase consumer convenience, industry efficiency and competitiveness. Greater efficiency in the banking industry will reduce strains on the deposit insurance fund and protect the taxpayers who back that fund.

Community bankers need not fear that new competition from regional or money center banks will put them out of business. The experience of States that allow statewide branching suggests that small banks do very well in meeting new competition. Former Deputy Treasury Secretary Robert Carswell recounted the State of New York's experience as follows:

> Before New York removed its geographic branching restrictions and allowed any bank to branch anywhere in the State, there were predictions that independent banks would be driven to the wall and banking would be concentrated in the hands of a few large banks that would then squeeze and drain the local economies. It simply has not happened. Independent banks have done fine—providing services to old and new customers. The general level of services to consumers has improved, and prices are more uniform across the State. Some larger banks have been successful in establishing branches upstate; others have not.

By the same token, communities need not fear that increasing geographic opportunities for banks will deprive them of needed capital. The bill amends the Community Reinvestment Act to require separate evaluations of an interstate bank's record of performance in each State or metropolitan area in which it has branches. In considering acquisitions of banks, the Federal Reserve must review a bank holding company's compliance with both Federal and State community reinvestment laws. These provisions are designed to ensure that banks will not just vacuum up deposits in some States and reinvest them in other States.

This bill also makes absolutely clear that host States can apply their banking laws, including those that govern interstate branching, consumer protection, fair lending, and community reinvestment to the out-of-state bank branches that come into the State. It also provides that Federal and State antitrust laws will continue to apply to interstate banking and branching transactions. As an additional safeguard against an overconcentrated banking system it contains both statewide and national deposit caps.

So I can come today and urge my colleagues to support this legislation, which is very similar to the interstate banking and branching bill we passed in 1991 but could not get the other body, the House, to accept in conference. This legislation is long overdue and will serve our national interests well.

I reserve the remainder of my time.

Mr. D'AMATO. Madam President, I rise today in support of S. 1963, the Interstate Banking and Branching Act of 1994.

This legislation is long overdue. Interstate banking and branching will increase the safety and soundness of our financial system. It will provide more convenience and services to consumers. It will save the banking industry millions of dollars that are wasted in unnecessary administrative expenses and overhead costs. Instead of administrative costs, these funds could be used to supply credit to our businesses and other consumers. This legislation has been supported by both Republican and Democratic administrations, by the Federal banking agencies, by academic experts, and industry representatives. It was reported out of the Banking Committee unanimously. The Senate passed a similar bill in 1991, that was not accepted by the House. Now, however, the House has acted first, and passed its version of interstate banking on March 22, 1994. Now it is time for the Senate to act.

Interstate branching promotes safety and soundness. According to Federal Reserve Board Governor LaWare:

> The elimination of geographic restraints will provide an important tool in diversifying individual bank risk, providing for stability of the banking system, and improving the flow of credit to local economics under duress.

Acting FDIC Chairman Hove testified before the Banking Committee that full interstate banking will strengthen the Federal deposit insurance funds. Citing the FDIC's experience with bank failures in the 1980's, he noted that the failure of banks to diversify geographically creates institutions that are particularly vulnerable to regional economic downturns.

Likewise, the General Accounting Office found that 90 percent of the banks that failed in 1987 were in States that allowed only unit banks or limited branching. The GAO noted that "when a bank's assets are not geographically diversified, the quality of its balance sheet can be severally affected by fluctuations in the local economy." Interstate branching will permit banks to diversify their loan portfolio, thus making our banking system less vulnerable to downturns in any particular community or region.

The Congressional Budget Office also found that nationwide interstate banking will enable banks to increase geographic and industry diversification, thereby reducing the probability of bank failure and lead to a healthier and more stable banking system.

Interstate branching will also eliminate unnecessary overhead costs, and make banking more efficient. Under the current system of holding companies, depository institutions must maintain a separate board of directors, submit separate regulatory reports, undergo separate examinations, submit separate financial reports, and maintain separate support facilities for each of it's subsidiaries. This legislation will allow banks to consolidate these separate subsidiaries into one bank with several branches, thereby eliminating the unnecessary duplication and overhead expenses of multiple banks. Some of the larger banking companies have estimated that they could each save between $30 million and $50 million per year if they were allowed to consolidate their separate bank subsidiaries into branches. These savings could be used to replenish bank capital, thus increasing the ability of the banking industry to provide the credit essential for the continued growth of our economy.

This legislation will also benefit consumers, the users of financial services. In today's world, individuals often commute between States on a daily basis. It is not unusual to live in New Jersey or Connecticut, work in New York, and own a vacation home in West Virginia or Florida. Yet, under our current banking system, an individual in these circumstances would have to have three different bank accounts, in three different banks, in order to have ready access to financial services. This does not make sense for the consumer, and it does not make sense for the banks.

This bill also takes into consideration the rights of the States with respect to interstate banking and branching. Section 2 of the legislation repeals a current provision, known as the Douglas amendment, that restricts the ability of a bank holding company to acquire a bank outside of its home State. Instead, the bill provides that the Federal Reserve Board may approve an application by an adequately capitalized and managed holding company to acquire a bank outside of its home State. However, a State may insist that the out-of-State bank holding company only acquire an existing bank in that State. Further, the State may limit the banks that may be acquired to those institutions that have been in existence for a given period of time, up to 5 years. A State may also limit the size of the institution—based on deposit share—that may be acquired, so long as this limitation does not have a discriminatory effect against out-of-State bank holding companies or banks.

The bill also respects States rights with respect to interstate branching. Under section 3 of this legislation, 2 years after the date of enactment, a bank holding company with banks located in two different States may consolidate these institutions into one bank with interstate branches. The resulting bank may establish additional branches at any location where the former separate banks could have branched under applicable Federal or State law. However, a State may opt-out of this provision by passing a law, at any time after the date of enactment, that specifically prohibits interstate combinations as described above for all out-of-State institutions. Thus, the right of a State to prohibit interstate branching, as authorized under this bill, is fully protected, so long as the prohibition applies equally to all out-of-State banking organizations.

The States' interests are also considered with respect to choice or applicable law. Section 3 provides that State laws are made applicable to interstate branches to the same extent that such laws are applicable to branches of banks, of the same charter type, that has a main office in that State. Thus, the States retain the same regulatory authority over the interstate branch of a national bank that they have over a branch of a national bank whose main office is located in that State. Likewise, a State has the same regulatory authority over the interstate branch of a State bank that it would have over the branch of a bank chartered by that State.

Further, State and Federal antitrust laws that do not have a discriminatory effect on out-of-State banks and bank holding companies are specifically safeguarded. This is in addition to new concentration limits adopted by the bill. Under these limits, the Federal Reserve Board may not approve an acquisition if the applicant controls, or after the acquisition would control, 10 percent or more of the total deposits of insured depository institutions in the United States. The Federal Reserve Board is also prohibited from approving an acquisition if the applicant controls, or after the acquisition would control, 25 percent or more of total deposits held by insured depository institutions in that State. However, the State may waive the applicability of this latter restriction.

The legislation also protects the authority of the States to tax interstate branches in the manner that they determine appropriate, provided of course that the tax does not contravene other Federal statutes or the U.S. Constitution.

Section 4 of this legislation provides that State bank supervisors from two or more States may enter into cooperative agreements to facilitate State regulatory supervision of interstate State chartered banks.

Finally, section 6 of this bill amends the Community Reinvestment Act with respect to financial institutions with interstate branches. The regulatory agencies would be required, under this amendment, to prepare a written evaluation of such institution's CRA performance in each State in which it has a branch. If an institution maintains a branch in a multistate metropolitan area, the agency must prepare a separate written evaluation for that multistate metropolitan area, and for the nonmetropolitan areas of the State, if the institution has a branch in the nonmetropolitan area of the State.

This legislation represents a balanced approach to interstate banking and branching. It takes into consideration the historic role of the States in regulating financial institutions, and the concerns of the Federal Government to protect the safety and soundness of our banking system and to avoid losses to the deposit insurance funds and the taxpayer. This legislation will increase the safety of our financial system, improve the efficiency and delivery of financial products. It will ultimately result in a healthy and more competitive banking system that will be able to serve the needs of our economy into the next century. We should act, and act now to pass this legislation. I urge my colleagues to vote for this bill.

PRIVILEGE OF THE FLOOR—S. 1963

Mr. RIEGLE. Madam President, I ask unanimous consent that during the consideration of S. 1963, Kay Bondehagen be granted the privilege of the floor.

The ACTING PRESIDING pro tempore. Without objection, it is so ordered.

The Senator from Delaware.

Mr. ROTH. Madam President, S. 1963, the Interstate Banking and Branching Act of 1994, is important legislation. The reason, however, that the legislation has such widespread support in this body owes much to the fact that it does much less than many less-informed believe. Let me explain.

Interstate banking means that an out-of-State bank may acquire an in-State bank. This is already happening today. This is already happening today. It has been the practice for some States to narrow the acquirer's eligibility to a particular region. The legislation, in contrast, ensures that the acquirer can come from any State across the Nation. This is no major change, in my opinion.

Interstate branching is more significant. However, the legislation does not establish interstate branching. Interstate branching means that an out-of-State bank that owns an in-State subsidiary may convert it into a branch. This is, unlike interstate banking, something new. But all that this legislation does is to create a choice for the policymakers in each State—the Governor and the legislature—to make for that State.

The efforts that I have expended on this legislation have been for one and only one purpose: To craft an absolutely neutral proposition for the States and the industry involved. Since that is the purpose of the legislation, as I understand it, it makes little sense to burden the legislation with extraneous provisions, whether they involve a rollback of insurance powers or whether they involve increasing the regulatory burden on banks. We have worked for far too long to avoid imposing such conditions and I hope that we can continue that effort successfully.

In striving for neutrality, we have made clear that certain current practices of the banking industry, such as extending credit across State lines, are not adversely affected by the legislation. Moreover, we have sought to assure the States that the choice that each makes under the legislation is without bias: The right of each State to opt in or opt out of interstate branching at any time is specifically preserved in this legislation. Unlike other versions, our bill sets no lobster traps for the States. They may enter or exit freely, as the policymakers in each State decide. And, I repeat, they may do so at any time.

Suppose a State's policymakers fail to act either way? Is a State in or out? S. 1963 is clear that if a State does not act within 2 years of the bill's enactment, the State is in and interstate branching may take place within the State. Because there are so many factors that each State's policymakers must take into account in formulating a decision, not the least of which is the revenue consequences, the Governors and the State legislatures have requested that they be given 3 years instead of 2 years to make their initial choices. I would think that they are the experts on how much time they need and that as Representatives of the States in the Congress we particularly should be deferential on such a matter. However, I do not believe that the chairman agrees with me. In committee, I had pressed for 3 years and was pleased that the bill which at the time provided only 1 year to decide was amended to 2 years. So from my perspective, I still see room for improvement on this question.

As I noted, there is probably no issue that makes the States more nervous than the impact of interstate branching on their collection of tax revenues. Now there is no way that we can guarantee a State that if it collected a certain amount of revenue from banks last year that it will collect the same amount with or without this legislation. For if the States do not opt-out of interstate branching, branching will occur, and the facts will have changed. So when the facts change, there may be different results. Maybe better, maybe worse. All we can do is to guarantee that the States will remain able to collect the same amount of revenues. One of my contributions to the managers' amendment makes clear that the authority of the States to tax as they are taxing remains undiminished by this legislation. We cannot do any more or any less for the States. The Congress has no proper role in this context in structuring the States on State tax policy. We cannot and do not solve their tax problems in this legislation. It is true, no question, that every State will have to assess the State tax consequences of this legislation and adjust its particular tax laws to the changing circumstances while deciding whether to allow interstate branching within its State.

Many believe that this is a fair question to put to the States in view of the purported benefits to the banking industry and to the consumer that flow from the efficiencies produced by interstate branching. However, I repeat, it is a little much to ask each State to resolve its internal policy question in 2 years, which for a dozen or so States is really only a few months as a practical matter.

In summary, Madam President, we have worked diligently on this legislation to be fair to all concerned. We have striven to produce a neutral vehicle for posing a very important question to the States. We are making excellent progress. It is my hope that when we conclude our efforts in this body, we will have reached the goal.

Thank you, Madam President. I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 1658

(Purpose: To provide for national banks that are not part of a bank holding company to merge and consolidate on an interstate basis and to make other technical amendments)

Mr. RIEGLE. Madam President, let me now present the managers' amendment to S. 1963. This amendment has been developed with Senator D'AMATO and with Senator ROTH. I appreciate the support of both. It enjoys the support of the Clinton administration.

In general, the amendment further refines the provisions contained in the reported bill with technical, conforming and clarifying amendments, including properly cross-referencing the definition of adequately capitalized throughout the bill, facilitating the consolidation of banks that are not owned by bank holding companies and clarifying that institutions that undertake interstate combinations do not need to be unwound if at any subsequent time the relevant State law prohibits any such future interstate combinations.

Also, the amendment clarifies that the bill is not intended to affect State tax authority over banking institutions.

Additionally, the amendment, at the request of the FDIC, makes a technical change to allow the FDIC to override State and Federal law restrictions on concentration and age of institution requirements in all failing bank situations, as was the committee's intention.

Finally, the amendment allows making a portion of the bank's assets available for call by a State-sponsored housing entity to remain in force after passage of this bill.

Let me now send it to the desk. After Senator ROTH has been heard, I am going to urge the adoption of the managers' amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for himself, Mr. D'AMATO and Mr. ROTH, proposes an amendment numbered 1658.

Mr. RIEGLE. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 4, strike "(2) and (3)" and insert "(2), (4), and (6)".

On page 4, between lines 17 and 18, insert the following:

"(3) EXCEPTION.—The Board may approve an application under paragraph (1)(A), notwithstanding any provision of paragraph (2), if such application involves the acquisition of one or more banks in default or in danger of default or with respect to which the Federal Deposit Insurance Corporation provides assistance under section 13(c) of the Federal Deposit Insurance Act.

On page 4, line 18, strike "(3)" and insert "(4)".

Beginning with page 4, line 23, strike all through page 5, line 2, and insert the following:

"(5) NO EFFECT ON STATE TAX AUTHORITY.—No provision of this Act shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, and administer any tax or method of taxation to any bank, bank holding company, or foreign bank or to any affiliate of any bank, bank holding company, or foreign bank to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.

"(6) AFFECT ON STATE CONTINGENCY LAWS.—Nothing in this subsection affects the applicability of a State law that makes an acquisition of a bank contingent upon a requirement to hold a portion of such bank's assets available for call by a State-sponsored housing entity established pursuant to State law, if—

"(A) the State law does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries thereof;

"(B) that State law was in effect as of the date of enactment of the Interstate Banking and Branching Act of 1994;

"(C) the Federal Deposit Insurance Corporation has not determined that compliance with such State law would result in an unacceptable risk to the appropriate deposit insurance fund; and

"(D) the appropriate Federal banking agency for such institution has not found that compliance with such State law would place the institution in an unsafe or unsound condition.".

On page 5, line 9, insert " 'in default', 'in danger of default'," before "and".

On page 5, line 18, strike "and".

On page 5, line 23, strike all of the punctuation at the end and insert "; and".

On page 5, after line 23, insert the following:

"(3) a bank holding company is 'adequately capitalized' if it meets or exceeds all applicable Federal regulatory capital standards.".

On page 8, strike lines 14 through 16 and insert "HOST STATES.—If any branch of an out-of-".

On page 8, line 23, strike "based upon" and all that follows through page 9, line 6, and insert the following: "that imposes such tax based upon a method adopted by the host State, which could include allocation and apportionment.".

On page 11, line 19, insert "or paragraph (8)" before "shall have".

On page 13, between lines 23 and 24, insert the following:

"(11) NO EFFECT ON STATE TAX AUTHORITY.—No provision of this Act shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, and administer any tax or method of taxation to any bank, bank holding company, or foreign bank or to any affiliate of any bank, bank holding company, or foreign bank to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.

On page 13, line 24, strike "(11)" and insert "(12)".

On page 15, line 14, strike "paragraph" and insert "paragraphs".

On page 15, beginning on line 17, strike "A State bank supervisor" and insert "The appropriate State official".

On page 17, line 2, insert "or to take any enforcement actions or proceedings against" after "examine".

On page 17, strike lines 7 through 10, and insert "agency determines that the States have reached an agreement under subparagraph (C) that adequately protects the deposit insurance funds, the appro-".

On page 17, line 11, strike "shall not" and insert "may".

On page 17, line 13, strike the quotation marks and the final period.

On page 17, between lines 13 and 14, insert the following:

"(4) NO EFFECT ON STATE TAX AUTHORITY.—No provision of this Act shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, and administer any tax or method of taxation to any bank, bank holding company, or foreign bank or to any affiliate of any bank, bank holding company, or foreign bank to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.".

Beginning with page 17, line 14, strike all through page 19, line 22, and insert the following:

(b) NATIONAL BANKING ASSOCIATIONS.—The Act entitled "An Act to provide for the consolidation of national banking associations", approved November 7, 1918 (12 U.S.C. 215 et seq.) is amended—

(1) in the first sentence of subsection (a) of the first section, by inserting ", or in any State in which a bank is authorized to engage in an interstate consolidation pursuant to section 3(h) of the Bank Holding Company Act of 1956," after "located in the same State";

(2) by inserting before the period at the end of subsection (d) of the first section ", except that the applicability of State law to an interstate consolidation undertaken in accordance with section 3(h) of the Bank Holding Company Act of 1956 is determined in accordance with the provisions of that section";

(3) by adding at the end of the first section the following new subsection:

"(h) An interstate consolidation—

"(1) shall be undertaken under this section pursuant to the procedures, restrictions, and requirements—

"(A) set forth in section 3(h) of the Bank Holding Company Act of 1956 as if such interstate consolidation were a combination under that section; and

"(B) set forth in this section, to the extent that such procedures, restrictions, and requirements are not inconsistent with those of section 3(h) of the Bank Holding Company Act of 1956; and

"(2) involving banks that are not affiliated (as such term is defined in section 2 of the Bank Holding Company Act of 1956) shall meet the requirements of section 3(d) of the Bank Holding Company Act of 1956, as determined by the Comptroller of the Currency, as if such consolidation were an acquisition under that section 3(d).";

(4) in the first sentence of section 2(a)—

(A) by striking "under an agreement not inconsistent with this Act,"; and

(B) by inserting "or within any State in which a bank is authorized to engage in an interstate merger pursuant to section 3(h) of the Bank Holding Company Act of 1956," after "located within the same State,";

(5) in the sixth sentence of section 2(d) by inserting before the period ", except that the applicability of State law to a merger undertaken in accordance with section 3(h) of the Bank Holding Company Act of 1956 is determined in accordance with the provisions of that section";

(6) in section 2, by adding at the end the following new subsection:

"(h)(1) An interstate merger—

"(A) shall be undertaken under this section pursuant to the procedures, restrictions, and requirements—

"(i) set forth in section 3(h) of the Bank Holding Company Act of 1956 as if such merger were a combination under that section; and

"(ii) set forth in this section, to the extent that such procedures, restrictions, and requirements are not inconsistent with those of section 3(h) of the Bank Holding Company Act of 1956; and

"(B) involving banks that are not affiliated (as such term is defined in section 2 of the Bank Holding Company Act of 1956) shall meet the requirements of section 3(d) of the Bank Holding Company Act of 1956, as determined by the Comptroller of the Currency, as if such merger were an acquisition under that section 3(d).

"(2) Paragraph (1) shall apply to a State member bank involved in an interstate merger on the same terms and conditions and subject to the same procedures, restrictions, and requirements as are applicable to the consolidation of branches by a national banking association involved in an interstate merger."; and

(7) in paragraph (4) of section 3, by inserting "or within any State in which a bank is authorized to engage in an interstate consolidation, merger, or other transaction pursuant to section 3(h) of the Bank Holding Company Act of 1956," after "within the same State,".

On page 21, line 5, strike "approval" and insert "consent".

On page 21, line 13, strike "and".

On page 21, line 20, strike all of the punctuation at the end and insert "; and".

On page 21, between lines 20 and 21, insert the following:

"(C) the term 'adequately capitalized' has the same meaning as in section 38.".

Mr. ROTH. Madam President, I am pleased to join with the chairman of the Banking Committee in offering the managers' amendment.

I am particularly pleased that the amendment contains the House provision on tax neutrality. This House provision makes clear that the current authority of the States, except as limited by the Constitution or other Federal law, to tax any bank, bank holding company or foreign bank, or any affiliate of any bank, bank holding company or foreign bank is not affected by this legislation.

The inclusion of such an assurance is very important to my State as well as to other States. It assures them that their current ability to tax, and their current tax methods, remain legally unaffected by the legislation.

The House provision, which the managers' amendment tracks, is salutary because of its precision in identifying the various banking entities whose tax treatment is not affected by the legislation.

I am also pleased that we have been able to rewrite the bankshares tax provision so that Congress is not instructing any State on what particular tax or tax method it should adopt, apply, or administer. Before the committee markup on the legislation, I submitted written questions to Comptroller of the Currency Ludwig and Treasury Under Secretary Newman on State tax issues. They said they do not believe that the Federal Government should solve the tax problems of the States, and they advised that we not "resolve on the Federal level a problem that can best be resolved at the State level." And concluding that "it would be better to be silent about State tax rules."

Thus, the Treasury Department does not oppose a declaration of tax neutrality but does oppose Federal solutions for State tax problems.

The bankshares tax provision in the reported bill grossly violates Treasury's advice, and I am encouraged that the managers' amendment makes this provision less offensive to principles of federalism which the Department and I share. The new language does not direct any State to follow any particular tax method, nor does it obviate the need for the policymakers of the State to take responsibility for adopting a tax and a tax method of their choice. While the result is not quite the silence recommended by the department, it is now a tolerable whisper.

Finally, I wish to make clear that this provision is appropriately deferential to the rights and responsibilities of the affected States. In this provision the Congress neither instructs nor commands any State. Under the provision, any covered State must adjust to the new circumstances of interstate branching by adopting a new tax method between now and the time interstate branching begins in that State. This further illustrates the need for 3 years' time for the States to make their multifaceted decision on interstate banking.

I thank the distinguished chairman for incorporating my suggestions in the tax area and am pleased to support the adoption of the managers' amendment.

The ACTING PRESIDENT pro tempore. Is there further debate?

Mr. RIEGLE. Madam President, I urge adoption of the managers' amendment.

Mr. ROTH. Madam President, I would agree with the adoption of the amendment.

The ACTING PRESIDENT pro tempore. The question now is on agreeing to the adoption of amendment No. 1658.

The amendment (No. 1658) was agreed to.

Mr. RIEGLE. Madam President, I move to reconsider the vote.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. I thank the Chair.

Madam President, we are now at a point, I would like to just say to colleagues and staff members who are following this on television and would not necessarily be present in the Chamber at this time, this would be an excellent opportunity for anyone who has remarks to deliver on the subject to see this as a time to come and do that, or if anybody has an amendment—I am not inviting amendments, but if anybody has an amendment this would be a good time to come and present it because we will have now a period in which we can handle those without any other indication of others coming forward at this time. So let me make that general suggestion to those who would have an interest in doing so.

If other speakers do not arrive, and if we do not have other Members who come over to speak or offer amendments, then at some point later in the afternoon I am going to suggest we not just remain in a quorum call if we are not getting work done. I would hope that we could be getting some work done.

In any event, having said that, I want to make just two other personal comments. One is that I think to those following this debate, whether in the Chamber here as visitors, or out across the country watching television, it all sounds very technical because it is quite technical.

Banking law, as the occupant of the Presiding Officer's Chair, the Senator from Washington, knows—she serves on the Banking Committee—the banking laws are by their very nature technical and complicated. So when we present them, it is very hard to follow necessarily what we are saying because each phrase and each explanation has a technical implication in terms of laying down the foundation of the law that we will be passing here.

And all of this debate that takes place on the Senate floor, of course, takes the form of what is called legislative history. So if there is ever a question later on down the line as to how a bill is actually supposed to work, if the written law from the legislation itself is not completely clear, oftentimes the reference will then come back to the debate here on the Senate floor to see precisely what it is the Senator from Delaware may have said or the Senator from Michigan may have said or someone else, to really clarify exactly what the legislative intent is.

So with respect to banking law changes and because of the importance that they be presented in the correct form, these discussions tend to sound more technical and harder to follow than perhaps some of the other things we take up in the Senate.

The other point I wanted to make is this. I am very pleased to share this duty today with my colleague from Delaware. Senator ROTH and I came to the Congress 28 years ago as newly-elected House Members in the election of 1966. At that time, I sat on that side of the aisle as a Republican. In 1973, I changed my party affiliation and crossed over the center aisle to become a Democrat and have been a Democrat now for 21 years since.

But we have retained our good friendship during that intervening period, and I was struck by a news item that I saw the other day, I say to the Senator from Delaware, that is, of the rather large group of nearly 50 or so freshmen Republicans that were elected, as we were, back in 1966, a group that included George Bush among others, who made his debut on the national scene in that election. To my knowledge, of our large group, only three remain now serving in the Congress—the Senator from Delaware, myself, and I saw the other day where one of our colleagues on the House side, JOHN MYERS, was in a complicated primary election out in the State of Indiana; he won the primary, and now he has a general election to face, as I know the Senator does as well.

So our class of some 49 or 50 members has now been reduced year by year and circumstance by circumstance to some

3 of us who are remaining. Of course, I will be leaving at the end of this year myself. So whatever happens to John Myers, the Senator from Delaware may be the last of the Mohicans here at the time the dust settles at the end of this year.

But it has been a particular pleasure for me to serve with the Senator from Delaware over that period of time. I must say, despite the fact we now serve in different parties, that really has no bearing whatsoever on our relationship and our friendship and our opportunity to work constructively together as we have many times over the years, and I am privileged again to do so today.

Mr. ROTH. Will the distinguished chairman yield?

Mr. RIEGLE. Yes, I would be happy to yield.

Mr. ROTH. Just let me say that it is with genuine regret that I read the Senator's decision some time ago not to run again.

I remember, Madam President, many years ago when we were both elected for the first time, I might say in a surprise upsweep for Republicans, the Senator may recall that I organized a weekly group. We met once a week to discuss the legislation that would come up in the House of Representatives for the following week.

I always felt that was the beginning of our friendship and understanding. Sometimes it is difficult for our friends back home to understand how a Republican and Democrat can work together, but it is important if we are not going to have gridlock.

The one particular situation I remember where we worked over a period of months in close collaboration was in the bailout of Chrysler Corporation.

That was a matter of great, great concern to the State of Michigan. It was a matter of great concern to my State of Delaware. As I have said many times, not many people realize that percentagewise, we had more auto workers than even the State of Michigan. But I think recent events that show Chrysler roaring back with success, beginning to compete very successfully internationally, show how important that cooperation across the aisle was.

I must say, I regret seeing the Senator leave. I also want to add, in public as I did privately, how sorry I was to read about the Senator's mother, the loss of his mother. We all know that no matter how well prepared we are for it, it still is a blow. It is still the end of a phase of life that is difficult to overcome.

I give my deepest sympathy to the Senator and to his family.

But again, may I congratulate the chairman and Senator D'AMATO, the ranking member, for bringing this really very important but somewhat controversial piece of legislation. There are many different interests at play that are concerned, and yet through the leadership of the chairman and that of Senator D'AMATO, the legislation has come here with the unanimous support of the Banking Committee. That certainly is in many ways the crowning victory of the many years of service of the distinguished chairman.

I wish him well, and every success.

Mr. RIEGLE. Madam President, I thank the distinguished Senator from Delaware very much.

Madam President, we will now await other speakers or amendments that may come to the floor for a period of time. We invite those Members to come for that purpose now, if they can.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. REID). Without objection, it is so ordered.

THE LEGACY OF PRESIDENT RICHARD MILHOUS NIXON

Mr. HEFLIN. Mr. President, as with all of our major leaders perhaps, but perhaps more so in his case, Richard Nixon's political legacy is mixed. His resignation because of the Watergate scandal will probably always be the aspect of his career that most people will remember the most. But it would be unfair to define this extraordinary politician, author, and President by Watergate alone, as disheartening as that constitutional crisis proved to be.

As President, Richard Nixon won widespread admiration and respect for his conduct of international affairs. His accomplishments in this area will long stand, as they should, as his greatest legacy. Perhaps his greatest achievement was the ending of the United States military involvement in Vietnam. He also opened relations with mainland China, which he visited in 1972, and eased the tension that had existed for years between the United States and the former Soviet Union. He won congressional approval of the United States-Soviet agreements to limit the production of nuclear weapons.

In 1970, under President Nixon's leadership, Congress lowered the minimum voting age for Federal elections to 18, giving younger people more of a voice in their Government. One year later, the 26th constitutional amendment was ratified, which set the voting age at 18 for all elections.

Even Nixon's many detractors have to admire his tenacity and determination. One has to give a man credit who climbed to the top from such humble beginnings and who dragged himself off of the mat so many times. Over the years, he won as many battles as he lost, but he never really left the battlefield. As the title of his 1992 book "In The Arena" suggests, he remained engaged and influential. I had the opportunity to visit with him on a few occasions and was always impressed by his keen intellect and knowledge.

In spite of the tragedy of Watergate, I think Richard Nixon will go down in history as one of the most intriguing and successful political leaders of the 20th century. He will be especially remembered for his many and lasting contributions in fostering international relations.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I ask unanimous consent that I be allowed to continue as if in morning business for no less than 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO RICHARD NIXON

Mr. BENNETT. Mr. President, I join with others of my colleagues in rising to pay tribute to Richard Nixon during this time of national mourning prior to his funeral.

I have a number of memories of the former President as do many Members of this body. I also represent my family where we have a number of memories of President Nixon.

Coming to the Senate as a freshman, I formed a number of close relationships with my fellow freshmen and realized how close Members of a particular freshmen class can be to each other as a result of the experience of entering this body at the same time. Richard Nixon and my father, Senator Wallace F. Bennett, were freshmen together. They were elected in 1950 and served in this body in that period until 1952 when President Nixon became Vice President of the United States. As the Presiding Officer in this body for 8 years, he and my father continued that relationship.

So it is something of a passing of an era in my family to realize that not only has my father passed on with his death last December but now the youngest Member of that freshmen class, Richard Nixon, has passed on truly ending the era represented by the election of 1950 to the U.S. Senate.

I first met Richard Nixon after his defeat at the hands of President Kennedy and prior to his running for the governorship of California. It was a period of time when people thought he still had a future in politics.

With a group of other young Republicans from Utah, I attended a Young Republicans convention in Minneapolis. We exerted some political influence at that convention, and the power brokers there came to us and said, "What do you want in return for the power you seem to have accumulated?" We said, "We only want one thing. We want the opportunity to meet Richard Nixon." He was the keynote speaker at that convention.

The arrangement was made, and we had the opportunity of visiting with Richard Nixon off the record, away from the glare of the press, and seeing how brilliant his mind was and how broad his scope was.

I remember going home and saying to people, "This man is the Winston Churchill of American politics. He will be back. Someone who has that much talent cannot possibly be kept in the wilderness forever."

I liked to repeat that because it sounds prophetic. I must confess, after he lost the governorship of California, I did not think he would be back and no longer referred to him in those terms. But he fooled me and he fooled the rest of the country by coming back and getting himself elected President in 1968.

I served in the Nixon administration. I was appointed as the head of congressional liaison at the Department of Transportation, under the patronage of Bryce Harlow, who was Mr. Nixon's head of congressional liaison operating out of the White House.

I went to the White House fairly often in that assignment and gained further appreciation for, and admiration of, Mr. Nixon's tremendous gifts and his dedication to the country.

Then came Watergate. I will not pretend that Watergate is an insignificant interruption in the brilliant career of Richard Nixon and that it will fade with the passing of history. I do not think that is true. Watergate, in my view, was Richard Nixon's tragedy. And I say to people that Richard Nixon was King Lear, surrounded by courtiers who flattered him and who did him wrong, if I can mix metaphors between Shakespeare and country music.

The people who had Richard Nixon's best interest at heart and who would have served the country best if they had been listened to were frozen out in the Nixon White House. They were kept at arm's length, and their advice went unheeded. So that, ultimately, the tragedy of Richard Nixon unfolded.

The responsibility for that must lie with Richard Nixon. We would like to say that it was someone else's fault. But the responsibility lies with the man in charge, and the President himself had to bear the burden of that responsibility. He paid dearly for it, of course, being the only President in our history who was forced to resign from office.

But the great measure of Richard Nixon's stature comes from the fact that he rose even from that disaster to the stature of a world statesman that he held at the time of his death.

My last serious visit with Richard Nixon occurred about a year ago with my fellow freshmen Senators, under the leadership of Bob Dole, who wanted to help the freshmen Republicans get their bearings. I boarded an airplane early in my term and flew to New Jersey to have lunch with Richard Nixon. My first reaction, upon seeing him standing out in front of his townhouse in New Jersey waiting for us to arrive, was: My, how old he has become. I had not seen him for years, and I was startled at his physical appearance. I thought we were going to be dealing here with an old, tired man.

We exchanged greetings, shook hands, went into his townhouse, and climbed to the top floor. He sat down and started to tell us what was going on in the world, and, immediately, any thought that he was too old to understand what was happening disappeared. For 2½ hours, without repeating himself or referring to a note, he took us around the world, country by country, leader by leader, situation by situation, and gave us a penetrating analysis of everything that was going on.

When we talked domestic politics, he had a grasp of that, as well.

I left thinking: The body may be old, but the mind is as sharp and as clear as it has ever been and now, freed of entanglement with his own ego being involved in the issues, is prepared to give us some of the clearest analyses that are available anywhere in America.

I am delighted to learn that President Clinton was willing to recognize the genius of that mind and consulted with Richard Nixon in the days of President Clinton's early formative policy sessions.

So I rise here in this Chamber, where Richard Nixon and my father first crossed paths, to say goodbye to him, to offer a tribute to his memory, and to add my personal recollections to the saga of this extraordinary man.

As I look at American politics, I think there has probably never been a political figure who has occupied center stage longer than Richard Nixon did. George Washington was not on center stage for as long, nor Franklin Roosevelt; certainly not Abraham Lincoln, who came and went in a 5-year period.

Richard Nixon was a national figure in 1948 with his first term in the House of Representatives and remained a national figure until 1994 when he died, with sufficient honors that the President of the United States has ordered full recognition of the power and contribution of this man.

So I conclude, Mr. President, with the classical allusion that I made earlier: Richard Nixon was King Lear, a man of towering ability, a man of great contribution, yet a man with flaws which served ultimately to bring him down, but, unlike any other character I know, a man who came back from having been brought down more often than any other figure in our history.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Mathews). Without objection, it is so ordered.

MORNING BUSINESS

Mr. RIEGLE. Mr. President, I ask unanimous consent there now be a period for morning business with Senators permitted to speak therein for up to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUKEM, INC., OF STAMFORD, CT

Mr. LIEBERMAN. Mr. President, on June 29, 1993, Senator McCain and I introduced the Iran-Iraq Arms Non-Proliferation Amendments of 1993, a bill to revise and add to the National Defense Authorization Act for fiscal year 1993. At our request, our Dear Colleague letter was printed in the Congressional Record along with our statements introducing the amendment. On pages S8241-2, appendix A of our letter, "List of Foreign Suppliers to Iraq's Nuclear Weapons Technology and Material," was published and included a reference to a German company, Nukem, which was alleged to have supplied U^{235} fuel pins and centrifuge materials. This information was compiled from a number of open sources; the particular reference to Nukem was obtained from a Washington Post article of August 17, 1990, which restated an erroneous report which had appeared earlier in the German magazine, Der Spiegel.

Senator McCain and I regret that the listing we had published in the Record contained erroneous information pertaining to Nukem. We were unaware that the Washington Post printed a correction to its August 17 report on August 25. We have reviewed the detailed explanation provided by Nukem to the Washington Post in a letter dated August 23, 1990, from Davis R. Robinson, Esq., to the Washington Post managing editor. This explanation led the Post to publish a correction to the August 17 article on page A-2 of the August 25, 1990, edition. In order to correct the record on this matter, I request that a copy of the August 25, 1990, correction be inserted in the Record immediately following these and Senator McCain's remarks.

Mr. McCain. Mr. President, I wish to express my regret for the erroneous inclusion of Nukem in a list of companies which had allegedly supplied equipment and technology to Iraq to assist in its efforts to develop nuclear weapons. I join Senator LIEBERMAN in apologizing to the officers and employees of Nukem for this inadvertent error on our part.

At the same time, I would note that the list of suppliers of equipment and technology to Iraq in support of their extensive efforts to acquire weapons of mass destruction is extensive and alarming. The legislation we introduced, the Iran-Iraq arms nonproliferation amendments, is designed to deter companies from cooperating in these efforts in the future and to ensure that other governments work with the United States to prevent the development of weapons of mass destruction by Iran or Iraq.

Unfortunately, the legislation has not yet been enacted. Senator LIEBERMAN and I are concerned about the continuing efforts of Iraq and Iran to build up their offensive military capabilities, which could lead to regional instability and a threat to the current fragile peace in the Middle East. Therefore, we intend to continue to push for the additional sanctions contained in the Iran-Iraq arms nonproliferation amendments during this session of Congress.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 25, 1990]

CORRECTIONS

An article on Aug. 17 incorrectly reported information about exports to Iraq by the German company NUKEM. NUKEM did not sell or deliver uranium to Iraq in 1989, and NUKEM has never delivered uranium to Iraq appropriate for the production of nuclear weapons. In addition, NUKEM is not the subject of any investigation or accusation by public prosecutors in West Germany with respect to any such sales.

THE WHITE OAK DECLARATION—THIRD UNITED STATES-EASTERN EUROPE CONFERENCE ON THE ENVIRONMENT

Mr. KENNEDY. Mr. President, an important international workshop on the environment took place at the White Oak Conference Center in Yulee, FL, from February 24 to 27. Sponsored by the American Academy of Arts and Sciences with funding from the Howard Gilman Foundation, it was cochaired by my constituent and long-time friend and adviser, Prof. Charles M. Haar of Harvard Law School, and by Simeon Bozhanov, environmental adviser to the President of Bulgaria; Oleg Kolbasov, counselor at the Ministry of Environmental Protection and Natural Resources, Russia; Yuri Kostenko, Minister for Environmental Protection in Ukraine; and Yuri Shemshouchenko, director of the Institute of State and Law, Ukrainian Academy of Sciences, Ukraine. Dr. James A. Smith, executive director of the Howard Gilman Foundation represented the foundation at the Gilman White Oak Plantation and Conference Center, which encompasses the largest private wildlife preserve in the country.

This was the third in a series of meetings involving ministers, officials, lawyers, academics, and administrators of the United States and Eastern European countries and former republics of the Soviet Union. Such international conversations foster a greater understanding of common problems and potential solutions for achieving sound environmental policies and practices.

This year the meeting concentrated upon regional water problems. Representatives from Boston Harbor, Chesapeake Bay, and Puget Sound authorities made presentations concerning their policies and implementation programs, as did their Eastern European counterparts on the Black Sea and the Gulf of Finland programs.

An important outcome of the conference in the White Oak Declaration which, I believe, will be of interest to all Members of Congress and the administration dealing with these important environmental issues.

The declaration seeks to advance the fundamental right of people to live in a safe and healthy environment. It emphasizes that we can no longer allow the degradation and pollution of our water systems. Regional water bodies poses special problems and require special institutional solutions. A watershed approach to regional water problems is recommended. By meeting and studying together, people of many nations can learn from each others' accomplishments and mistakes.

Among the special recommendations of the Conference is an interstate environmental court for resolving environmental disputes. An independent funding mechanism for regional water agencies is another major recommendation. The differing roles of the various levels of government—national, State, regional, and local—are emphasized.

The declaration also stresses the importance of public participation and the inclusion of neighborhood groups in environmental decisionmaking. In addition, the impact of privatization in Eastern Europe is taken into account as well as the need to minimize adverse environmental impacts on lower-income areas.

Finally, the declaration recognizes that sustainable development—balancing the goals of economic growth and a rising standard of living with environmental priorities—can be fostered by regional water resource management.

The focus of the conference was most appropriately on institutional development. And the recommendations for regional water resource management programs that emerged from the meeting will, I believe, be most useful for all engaged in administering and dealing with regional water agencies.

The American Academy of Arts and Sciences and the Howard Gilman Foundation will undertake future efforts aimed at implementing specific environmental projects in the Eastern European countries. Technical assistance has been volunteered by the participants in the meeting. I commend this type of private international cooperation that can move readily and flexibly to meet the worldwide goal of restoring and enhancing our great bodies of water.

I ask unanimous consent that the White Oak Declaration and a list of participants in the conference be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECLARATION OF PRINCIPLES OF THE WHITE OAK CONFERENCE ON REGIONAL WATER RESOURCES, FEBRUARY 27, 1994

In order to advance "the fundamental right of people to live in a safe and healthful environment," as stated in the Bellagio Declaration on the Environment (1991), and in order to "strengthen and develop international cooperation among states," as stated in the Kiev Protocol on Regional Problems of Environmental Protection (1992), we support the following principles:

1. We can no longer allow the degradation and depletion of clean water, the essential substance that covers our planet and sustains our bodies. Bodies of water have inestimable aesthetic, economic, health, and recreational value. In the past, rivers, lakes, estuaries, and harbors that respect no artificial boundaries have inspired works of art, provided swift transport, nourished plant and animal life, and given birth to great cities. In the present, many of these same bodies of water are polluted to such an extent that hamper navigation and commerce, threaten human and nonhuman life, and drive people from their shores. In the future, if we are to have a healthy and productive world for generations yet unborn, we must together confront—realistically, cooperatively, and creatively—the problems facing our regional water resources.

2. Regional water resources pose special problems and require special institutional solutions. We need to continue to study, and build on, ongoing experiments throughout the world that are directed toward cleaning, protecting, and preserving our estuaries, rivers, and harbors, particularly those cooperative efforts involving multiple jurisdictions. By meeting and studying together, we have seen how nations can learn from each others' accomplishments and mistakes. For example, the early stages of privatization are an ideal time for addressing environmental questions. By imposing environmental controls at the first stages of privatization, nations may be able to avoid the wetlands depletion, watershed degradation, and regulatory takings problems that have frustrated environmental and land-use regulators elsewhere.

3. Although clean water is the ultimate goal of anti-pollution efforts, attainable, intermediate targets should reflect current levels of degradation, existing and anticipated uses, and state-of-the-art technologies.

All nations should strive to strengthen existing legislation and regulations affecting regional water resources, and to further effective implementation of the environmental and social principles they represent. The fight to clean our water is a long-term struggle that requires a sustained effort and the participation of an ever-growing list of active participants. We recognize that economic, political, and legal crises can significantly hamper environmental protection efforts, but this does not defeat our aspiration for a clean environment.

4. We endorse the use of principles of international law to address environmental problems and we urge that all nations endorse this and other declarations of principles that further the cause of environmental protection. In addition, we advocate the establishment of a judicial body for resolving international environmental disputes. We caution, however, that members of that court, or their staffs, must have familiarity with and special expertise regarding the unique problems posed by regional water resources. Nations should pursue mechanisms for inter- and intra-jurisdictional judicial and alternative dispute resolution of conflicts between individuals and government regulators, government regulators and regulated industries, and individuals and regulated industries.

5. We urge all nations that include, abut, or affect regional water resources to create (or to strengthen existing) national agencies with power to cross domestic jurisdictional boundaries in order to provide technical assistance, regulate water and land uses, and resolve conflicts involving regional water resources.

6. We encourage nations to establish special, independent funding mechanisms for addressing existing and potential threats to regional water resources. Where possible, these mechanisms should be established outside the usual government financing and appropriations processes, so that the political and financial exigencies of today will not endanger our health tomorrow.

7. Many nations and regions within nations, reflecting the wide diversity of intergovernmental structures from state to state, have created true intergovernmental partnerships, allocating responsibilities and powers to the level of government that is best suited and most readily accountable for the task. For example, setting standards for measurement of pollutants is appropriate for the central government, while the operation of water treatment facilities is best undertaken by local governments (alone or in cooperation with other municipalities). We commend these creative federalist efforts and encourage other nations to follow their lead.

8. The public and private sectors must give concrete meaning to the term "sustainable development," by experimenting with regulatory tools that balance our aspirations for a clean environment with the equally important goals of economic growth, increased employment, and an enhanced standard of living for the world's population. There is no better place to start this effort than with regional water resources, for cleaning water yields increased recreational uses and tourism, additional real estate values and tax revenues, and reduced hazards to transportation.

9. We recognize that the most enduring and effective plans for cleaning and regulating our regional water resources are the result of an inclusive, democratic process that takes advantage of the ideas, reactions, and skills not only of technical and bureaucratic experts, but also of individuals, community-based organizations, representatives of affected industries, and local, national, and international organizations devoted to protecting our fragile environment. Input from these nongovernmental parties is essential at all stages—from formulation of government policy through the drafting and implementation of laws and regulations. The more inclusive the process, the greater the number and variety of persons and organizations who have a stake in the success of the regulatory effort.

10. Just as water knows no political boundaries, neither should technologies for measuring water quality, removing and disposing of impurities, and identifying harmful levels for specific discharges. We urge the uninhibited flow of ideas across national lines, the enhancement of existing efforts for sharing technical expertise, and the creation of incentives for ongoing cooperative research.

11. The alarming degradation of too many rivers, harbors, and estuaries, by users that directly and indirectly discharge pollutants into water bodies, testifies to the desirability of a watershed approach to regional water problems. Focusing solely on point sources of pollution is short-sighted and fruitless if we are ever to make significant progress in cleaning these bodies of water. In the watershed of regional water resources, an environmental analysis should be conducted before the construction or expansion of significant industrial, commercial, agricultural, and residential uses; and government-approved developments should utilize the most effective available technology for conservation of energy, recycling, and waste treatment and disposal.

12. We are concerned that the failure of central and local authorities to coordinate national environmental controls with localized land-use regulation often leads to a confusing morass of government controls that hampers compliance by the private sector, unduly complicates enforcement of mandates, and delays implementation of effective regulatory schemes. We therefore advocate an integrated, comprehensive approach to regulation of land uses in and around regional water resources, an approach that coordinates national environmental controls and incentives with other regulations such as land-use planning, zoning, agricultural controls, and treatment and disposal of municipal waste. Moreover, because of the intricate interrelationships between media, as with the harmful effects acid deposition has had on regional water resources, clean water regulatory efforts must be coordinated with national and international air pollution strategies.

13. Whenever possible, the first generation of antiquated and unwieldly command-and-control devices should be replaced with incentive-based regulations that encourage productive public-private joint ventures. We need to educate private industry that environmentally sound practices can enhance profitability.

14. We cannot exaggerate the impact privatization of land ownership has on regional water resources. In the past few decades, many nations have made a concerted effort to tear down the walls that separate people from water by reclaiming lands abutting and close to regional bodies of water through prescription, reservation of public rights, and acquisition of title or easements that enable public access to beaches and harbors for fishing, swimming, fowling, and other recreational and commercial uses. Other nations should consider adoption of these and other devices for ensuring meaningful public access, including land-banking and sale-leasebacks.

15. We are concerned that the less affluent segments of society often bear the brunt of environmental hazards. We urge government officials to be mindful of, and to address, the inequities engendered in their decisions (1) to locate potentially harmful facilities close to lower-income neighborhoods; (2) to prioritize regulation and enforcement so that problems affecting more prosperous areas receive the most prompt attention; and (3) to slow or eliminate the kinds of development in the residential, commercial, and residential sectors that hold the most promise for enhancing the quality of life of less affluent residents.

16. Because an informed citizenry is the best protection against environmental abuse, inefficiency, and corruption, we advocate a strong role for the local, national, and international media in investigating and reporting on each step of the decision-making process and in monitoring government action and inaction and private sector violations. Political parties and candidates should be pressured to articulate specific positions regarding public and private sector developments that have an impact on regional water resources. Moreover, educational institutions can play a special role in emphasizing the importance of a clean environment to children; in providing state-of-the-art professional and vocational programs for scientists and technicians; and in supporting cooperative, intraregional research efforts that address the problems facing regional water resources.

17. Environmental issues should be given due regard in negotiations over international commercial agreements. Nations should forge strong links between issues of commerce and environmental protection, particularly when the partners share a regional water resource.

18. In furtherance of the general principles stated here we endorse the specific long- and short-term recommendations contained in the White Oak Tool Box for the Protection of Regional Water Resources, a copy of which is appended to this document. [Not included in the Record.]

U.S.-Eastern Europe Environmental Protection Institutions Conference at the Howard Gilman White Oak Plantation, Yulee, Florida. February 24-27, 1944

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EARTH DAY: SENATOR GAYLORD NELSON'S VISION BECOMES A LIVELY TRADITION

Mr. HOLLINGS. Mr. President, last Friday, April 22, was America's 25th annual celebration of Earth Day. As in years past, it was observed with ceremonies, teach-ins and cleanups in communities across the United States. In just a quarter century, Earth Day has become a tradition—a tremendously popular occasion for Americans to focus on conservation and environmental protection.

Regrettably, few citizens—especially millions of younger Americans who are the most enthusiastic observers of Earth Day—are aware of the origins of this annual event. It was our beloved former colleague, Senator Gaylord Nelson of Wisconsin, who originated the concept for Earth Day and championed it into reality.

In September 1969, Senator Nelson set forth his vision for Earth Day in a speech in Seattle. His call for a national environmental teach-in to be held the following spring was met with an overwhelming grassroots response. Telegrams and phone calls poured into Senator Nelson's office, and his staff set about organizing and orchestrating the first Earth Day on April 22, 1970. That inaugural Earth Day captured the attention and imagination of the entire country, and the popularity of this annual event has been sustained for 25 years now.

Of course, Senators of a certain age know that Earth Day was but one facet of Gaylord Nelson's career-long commitment to environmentalism. As Governor of Wisconsin from 1959 to 1963, he initiated the Outdoor Recreation Acquisition Program—using revenue from a penny-a-pack on cigarettes to purchase 1 million acres of recreation and wildlife areas. As U.S. Senator from 1962 to 1980, cosponsored the 1964 Wilderness Act, authored legislation to preserve the 2,000-mile Appalachian Trail, and introduced the first bills to control strip mining, mandate fuel efficiency standards, and ban DDT.

Today, this Army veteran of the Okinawa campaign in World War II, is counselor of The Wilderness Society—the position he has held since 1981. His passion for environmental protection remains strong, and his list of victories grows longer by the year.

Mr. President, our friend Gaylord Nelson's work is hardly finished. However, he is a man who has already made his mark on our national life. The annual national observance of Earth Day stands as a living tribute to Gaylord Nelson—a great environmentalist and a great American.

CONNECTICUT'S WINNING SCHOOL, WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION PROGRAM

Mr. LIEBERMAN. Mr. President, on April 30 to May 2, 1994, more than 1,200 students from 47 States and the District of Columbia will be in our Nation's Capital to complete in the national finals of the We the People . . . The Citizen and the Constitution Program. I am proud to announce that the class from Trumbull High School, our State winner, will represent Connecticut in the national finals. These young scholars have worked diligently to reach the national finals by winning local competitions in Connecticut.

The distinguished members of the team representing Connecticut are: Jean Baiardi, Jeffrey Burns, Ashley Coyne, Jessica Devine, Lisa DiDomenico, Brian DiStassio, Jaime Felberbaum, Dana Heitlinger, Alison Kelly, Erin Kelly, Julie Klunk, Cheryl Konopka, Roudabeh Latifpour, Ricardo Luzietti, James Maricondo, Steven Merrick, Bianca Milazzo, Brian Noehren, Rena Paris, Matthew Park, Perry Rountos, Matthew Sewell, Erica Silverman, Sara Usilton, Sujal Vaidyam, David Weisman, Sondra Weiss, Bret Wiener, Stancey Wilcoxson, and John Zbell.

I would also like to recognize their teacher, Rita Altieri, who deserves much of the credit for the success of the Trumbull High School team. The district coordinator, Anthony Corrano, and the State coordinator, Joani Byer also contributed a significant amount of time and effort to help the team reach the national finals.

The We the People . . . The Citizen and the Constitution Program, supported by Congress, is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The 3-day national competition simulates a congressional hearing in which students' oral presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues.

Administered by the Center for Civic Education, the program, now in its seventh year, has reached more than 20 million students in elementary, middle, and high schools nationwide. This year, the Thomas Jefferson Commemoration Commission will join the center in making special presentations to the students in honor of Jefferson's legacy.

The We the People . . . program provides an excellent opportunity for students to gain an informed perspective of the significance of the U.S. Constitution and its place in our history and our lives. I wish them the best of luck in the national finals and look forward to their continued success in the years ahead.

NATIONAL STUDENT/PARENT MOCK ELECTION

Mr. KENNEDY. Mr. President, I ask unanimous consent that the following letter of the National Student/Parent Mock Election be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

National Student/Parent
Mock Election,
April 12, 1994.

Mr. Speaker: I would like to call the Congress' attention to one of the most successful parent involvement projects in the nation. Over 5 million American students and parents in all 50 states, Washington, D.C., and overseas (Germany, England, Scotland, Italy, Portugal, Bahrain, France, Holland, Japan, Korea, The Marshall Islands, Guam, The Virgin Islands, and Puerto Rico) participated in the 1992 National Student/Parent Mock Election. They met all across the country and around the world to cast their votes on who would win the national elections and to vote their "recommendations to the President and Congress" on six key national issues. Every state had a "State Election Headquarters." "State Election Headquarters" called their votes in to "National Election Headquarters", as over 20 million viewers watched on national television. A national television program was aired for two hours on C-SPAN, showing students, and parents all across the country participating in the project's activities Scholastic Magazines has joined the Mock Election coalition and by 1996 will provide Mock Election materials to 20+ million students, elementary through high school.

The University of Colorado's formal evaluation of the 1992 National Student/Parent Mock Election found participating students showed increases in:

Political decision-making ability;

Informed involvement on current issues;

The belief that voting is important;

The belief that Social Studies classes are relevant;

The discussion of political and election topics with parents; and

A reduction in the feeling of powerlessness.

I am pleased to announce that my own state, Massachusetts, was a winner of the Time/NASBE Award for "Outstanding Leadership in Voter Education" in conjunction with the National Student/Parent Mock Election. The awards, for the best statewide Mock Election projects will be presented here at the Capital on April 26.

The Massachusetts' Mock Election was organized by a coalition of 18 newspapers, the Massachusetts Newspaper in Education Council led by the Lawrence Eagle Tribune., the Massachusetts League of Women Voters, the Bank of Boston and Boston Celtic, Dee Brown, who all worked together to bring materials, programs and funds to schools.

The Eagle-Tribune was "State Election Headquarters." Local students answered phones all day and tallied election results. The 1992 Massachusetts Student/Parent Mock Election was an overwhelming success; more than 174,000 students cast their votes.

I would like to congratulate the Lawrence Eagle-Tribune and the other Time/NASBE Award winners as well. They are:

California Association of Student Councils, Mr. Gil Soltz and San Jose Mercury News, Ms. Kathleen Franger.

The Hartford Courant, Ms. Marcy Munoz/Ms. Colette Yeich, and Connecticut League of Women Voters, Ms. Jill Cromwell.

Maryland State Department of Education, Ms. Susan Travetto.

The Eagle-Tribune, Ms. Stephanie Johnson.

Genesee Intermediate School District, Ms. Barbara Harper/Ms. Rachel Moreno, and Detroit Newspaper Agency, Ms. Sharon Zumberg, Missouri School Boards Association, Mr. Brent Ghan.

Northeastern Educational Television of Ohio, Inc., Mr. Steve Mitchell/Ms. Cathy Burwell.

Tennessee Department of Education, Mr. Doug Vickers.

At the April 26 kick-off for the 1994 National Student/Parent Mock Election in the U.S. Capitol, two new National Student/Parent Mock Election awards will be presented as well, The NASSP/John Herklotz Award for "outstanding contributions to teaching democracy" for the best schoolwide Mock Election projects, and the NASC/Ruth Hollander award for "outstanding contributions to participation in democracy" for the best student led projects. I would like to congratulate these winners:

NASSP/JOHN HERKLOTZ AWARD

Washington Elementary School, Kathleen Meistrell.

R.R. Moton Elementary School, Don Strahan.

Lehr Public School, Yvonne Engelhart.

Lewis F. Mayer Junior High School, Jane G. Bechtel.

Forest Hills Middle School, Rosemary Raptosh.

Felten Middle School, Kay Maska.

Overbrook School, Caroline Baker.

Norview High School, Catherine J. Lassiter.

Pleasants County Middle School, John Eichorn.

Tongue River Middle School, Merry O'Hare.

Grayslake Middle School, Eric Skoog.

Metcalf Elementary School, Christine Southworth.

NASC/RUTH HOLLANDER AWARD

Palm Beach Lakes Student Council, Stuart Sabin, Advisor of Student Council/Activities Director.

Associated Student Congress of Baltimore City, Mal Dutterer, Specialist, Student Relations Office.

Huntsville High School Student Council, Shirley Jackson, Faculty Advisor.

Kentucky Youth Association/State YMCA, Michael D. Haynes, Executive Director.

On November 3, 1994, In 1994, American students and parents will once again meet in all 50 states and all around the world to cast their votes on who will win the Congressional and Gubernatorial elections. (The key questions will be which party will win control of the Senate? the House? the Governorships?, and vote their recommendations on 6 key national issues. The results of their vote will be the "Recommendation of America's Students and Parents to the Congress and the Governors").

The U.S. Congress has voted an appropriation for the 1994 National Student/Parent Mock Election and the objective of the kickoff in the Capitol is to invite all of America's students and parents to participate. The National Student/Parent Mock Election is Co-Chaired by Paul G. Kirk, Jr. and Frank J. Fahrenkopf, Jr. and has been endorsed by both the Democratic and Republican National Committees, 50 National educational, civic and religious organizations, from the Council of Chief State School Officers to The League of Women Voters and The U.S. Chamber of Commerce cooperate on the project.

I urge my colleagues to write to their states' school superintendents and encourage them to involve their students in this massive effort to pass the torch to a new generation of voters.

The purpose of the National Student/Parent Mock Election is to turn the sense of powerlessness that keeps young people, and their parents too, from going to the polls, into a sense of the power of participation. It is feelings of powerlessness, psychologists point out, that are the root cause of violence. The Center for Action Research found the National Student/Parent Mock Election REDUCED feelings of powerlessness. The project uses the motivation of the elections to teach the rule of law instead of the rule of gangs. It seeks to help young Americans learn how, in a government "of the people, by the people and for the people," they can effect change with votes instead of violence, ballots instead of bullets. It works to help today's violence-prone generation discover they do not need a gun to be heard.

In 1994 the National Student/Parent Mock Election will initiate a new pilot project to combat violence. ACTIONS invites the students of America to create their own pilot project to help combat violence in their community. Students from elementary school through college level are encouraged to organize a project, with the assistance of an adult advisor, designed to help turn around the violence in their community. The first project to be accepted in each state as an official National Student/Parent Mock Election ACTIONS project will receive $150.00 towards expenses. There is no limit to the number of pilots per state, or the kinds of projects student might undertake in their community. (Some possible examples: working to secure street lights for a dark neighborhood, organizing after school activities for unsupervised younger children subject to gang inducements, submitting the student's own ideas for legislation to the state legislature and working to have their legislation enacted.)

To become an official ACTIONS pilot, groups must fill out a brief questionnaire describing their plans, the affiliation of their adult advisor, the group's chairman or leader, et cetera. Applications must be signed by the responsible adult.

ACTIONS groups will exchange ideas and experiences with each other throughout the 1994–1995 school year. At the end of the school year, the five most successful ACTIONS project leaders will be awarded a free trip to Washington, D.C. to meet each other and share experiences in the nation's capital. The most successful project will receive a first prize award of two tickets overseas.

Groups interested in participating in ACTIONS should send a stamped self-addressed envelope labeled Actions to the National Student/Parent Mock Election, 7925–A North Oracle Road, P.O. Box 382, Tucson, AZ 85704.

There is no greater legacy any of us can leave than the legacy of democracy.

HONORING DR. IKRAM KHAN

Mr. REID. Mr. President, on Saturday, April 30, the Anti-Defamation League will be honoring Dr. Ikram Khan of Las Vegas, NV, with its prestigious Distinguished Public Service Award. As every Member of the U.S. Senate knows, the Anti-Defamation League has been a staunch advocate for justice and human rights throughout the world. To be esteemed by that organization is a great tribute because it recognizes years of selfless dedication and commitment to the rights of individuals throughout the world.

I have known Dr. Ikram Khan for many years, as both a friend and as a trusted advisor, and I am elated that his work has been noticed not only in Nevada but internationally.

Dr. Khan was born in Karachi, Pakistan, on February 21 and he graduated 2d in his class from the Dow Medical College in Karachi in 1972, and he was awarded two gold medals for academic excellence while enrolled in school.

He received additional training in England and the United States before moving to Boulder City, NV, in 1978 to begin a private practice in general surgery, practicing in all of Clark County.

In 1984, he moved to Las Vegas to continue his medical practice. Currently, he is on staff at all of the hospitals in southern Nevada. He also serves as medical director of the Fremont Medical Center, and he has been a member of the prestigious State Board of Medical Examiners.

During his outstanding career, he has also been a clinical assistant professor of surgery at the University of Nevada School of Medicine, chairman of the Department of Surgery at Desert Springs Hospital and Lake Mead Hospital, and chairman of Quality Care for Humana Hospital, Sunrise.

This career would be enough to exhaust any individual, but Dr. Khan is a person of high talent and energy. In addition to his remarkable medical schedule, he has also been extremely active in social, political, and cultural activities.

"Ike" has always been a faithful adherent of the Moslem faith. His faith has caused Dr. Khan to focus on humanity's likeness, not differences. Dr. Khan's life stands for what is good about religion.

He has not forgotten his roots. This is evident through his work as president and secretary of the Association of Pakistani Physicians of North America, as a director of the Pakistani Political Action Committee, and as president of the Islamic Society of Nevada. Through all of these efforts, Dr. Khan's motivation is to build a community that is based on tolerance, charity, and equality. As the Anti-Defamation League itself has noted, Dr. Khan is an exemplar of the vitality, wisdom, and leadership that American society values and promotes.

Dr. Khan manifests the strength of America's great tradition of immigration. Our Nation is better because of its new citizen, Ikram Khan.

I am proud to join my fellow Nevadans in recognizing Dr. Khan, along with his wife, Rifaat, and his three daughters, Najiyah, Nadia, and Sanaa, on this special occasion.

TRIBUTE TO LT. CLYDE ADAIR TUCKER, JR.

Mr. HEFLIN. Mr. President, at the tender age of 23, Lt. Clyde Adair Tucker, Jr., paid the ultimate price for the cause of freedom when he was killed during Operation Leader on October 4, 1943. On that fateful day, his plane was shot down off the coast of Bodo, Norway. He and his crewman, Stephen Bakran, remained with the aircraft in 160 feet of water until the summer of 1990, when members of a local scuba diving club found them.

It took 2 years for the Norwegians to recover parts of the aircraft and Lieutenant Tucker's and Bakran's remains. On October 4, 1993, Clyde A. Tucker III, a Birmingham, AL, area resident and businessman, and his family attended a memorial ceremony in Bodo, Norway, honoring his father and Stephen Bakran, 50 years to the day after their plane was downed. On March 28, 1994, Lieutenant Tucker's remains were buried at Arlington National Cemetery.

Clyde A. Tucker, Jr., was born in Greenwood, MS, on September 23, 1920. He attended Louisiana College in Pineville and was commissioned on his 21st birthday in 1941. His background and circumstances were representative of those of millions and millions of other young people at that time who faced the terror of fighting in a global war. But it is during perilous times like this that the most ordinary of citizens show extraordinary courage and conviction. So it was with Lieutenant Tucker; he never expected more than he received, yet always gave more than was expected.

I ask unanimous consent that a copy of the supplement to chapter 1 of "Torpedo Squadron Four: A Cockpit View of World War II," by Gerald W. Thomas be printed in the RECORD following my remarks. It is a detailed narrative of some of the events that took place during Operation Leader on October 4, 1943, the day Lt. Clyde A. Tucker, Jr., gave his life for his country.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OPERATION LEADER—THE NORTHERN ATTACK GROUP[1]

At 0618 on October 4, 1943, in the semi-darkness before dawn, the USS Ranger launched the Northern Attack Group and a small "Combat Air Patrol." The CAP was charged with flying cover over the Task Force until both attack groups could return.

The Northern Attack group consisted of twenty SBC "Dauntless" dive bombers and eight F4F "Wildcat" fighters. Lt. Cdr. G. Otto Klinsmann, Skipper of VB-4, was assigned the leadership role. [I recall vividly an earlier night launch when Otto went in the drink on take-off (see page 18) and later his tragic drowning after being shot down in the Pacific (see chapter 24)].

The Tactical Formation of the Northern Attack group was as follows:

Plane	Pilot	Gunner
4-B-1	Lt. Cdr. Klinsmann	Rogers.
4-B-10	Lt. Weeks	Meredith.
4-B-7	Lt. Stratton	Odd Dahm (Norway).
4-B-20	Lt. (jg) Ross	Devine.
4-B-17	Lieut. Bettinger	Shaw.
4-B-2	Lt. (jg) McReynolds	Parrish.
4-B-5	Lt. (jg) Longley	Edens.
4-B-22	Lt. (jg) Henricks	Keefe.
4-B-9	Lt. Keller	Shackelford.
4-B-6	Lt. (jg) Breckheimer	Branson.
4-B-13	Lt. Boykin	Reed.
4-B-15	Lt. (jg) Davis	McCarley.
4-B-11	Lt. Johnson	Eardley.
4-B-19	Lt. (jg) Tucker	Bakran.
4-B-23	Lt. Phillips	Lankowicz.
4-B-14	Lt. (jg) Dill	Blier.
4-B-3	Lt. Chase	Lorentzen.
4-B-29	Lt. (jg) Gordon	Waterson.
4-B-21	Lt. Weitzenfeld	Jobe.
4-B-27	Lt. Simmons	Colon.

Two additional SBD's were assigned to Anti-sub patrol and loaded with depth charges:

Plane	Pilot	Gunner
4-B-18	Lt. (jg) Norman	Brilhart.
4-B-4	Lt. (jg) Way	Ellis.

The 20 dive bombers, flying in 4-plane divisions headed for the port of Bodo, Norway. Fourteen of these planes were loaded with 1000 pound, general purpose bombs and 6 were loaded with 500 pounders armed with 5-second-delay fuses.

The group made landfall to Mayken Light at dawn and continued northward along the shipping lanes toward Bodo. One division of SBD peeled off to attack the 8000-ton freighter, La Plata. The remainder continued up the coast and at 0730 rolled over and bombed a small German Convoy, severely damaging a 10,000-ton tanker and a 4300-ton transport. In the Bodo harbor they sank two of four small German merchantmen.

The anticipated German fighter interception did not materialize. The attack was a complete surprise. However, the German's were able to man their anti-aircraft batteries. One of these gun emplacements had not been identified by the Norwegians who provided briefings before the strike. This AA battery was responsible for at least one of the SBD losses.

The USS RANGER logbook shows the following persons from Bombing Four "Missing-in-Action" after OPERATION LEADER. Both dive bombers were shot down by German anti-aircraft fire: Lt. (jg) S.R. Davis with his turret gunner, D.W. McCarley, Arm 2/c (SBD #5); Lt. (jg) C.A. Tucker, Jr. with his turret gunner, S.D. Bakran, ARM 2/c (SBD #19).

Returning pilots reported that they saw Davis and McCarley launch a liferaft after their splash down. Both were picked up by the enemy and taken to prison. Davis was in Stalag Luft One for 19½ months but he does not know what happened to his gunner (to date, I have been unable to locate McCarley).

The other dive bomber, SBD #19 with Tucker and Bakran failed to pull out of the dive after it was hit. There were no survivors.

Two of the attached photos, taken at the time of the strike, show Four Baker Nineteen, the SBD flown by Lt. (jg) Tucker, over the fjiords by Bodo, Norway just before the dive bombing attack on one of the German ships. One other photo shows the plane as it struck the water after being hit by AA fire. Neither occupant was able to bail out.

The Norwegian Navy has located the Tucker/Bakran plane and launched a salvage operation, (see attached news release). Families of both C.A. Tucker and Steve Bakran have been notified of the salvage operation.

TRIBUTE TO TOFE BOLUS

Mr. HEFLIN. Mr. President, I rise today to pay tribute to Tofe Bolus, a constituent whose recent death saddened those who were fortunate enough to have known him over the years. Tofe was the son of Lebanese immigrants who came here earlier this century. Like most immigrants, they were simple, honest people with the simplest, but noblest, ambitions—to make a better life for their children. In their son Tofe, the Boluses certainly succeeded.

Words like duty, country, and family were the cornerstones of his life, and they were mirrored in the poems he composed. Tofe served as an infantryman in the European theater during World War II. After the war, he returned to Birmingham and opened a small watch repair and jewelry shop, married his wife Helen, an raised a wonderful family. Their four sons and two daughters graduated from Alabama's universities and became leaders in their communities. One of his sons, Paul, worked in my office at one time.

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[1] Supplement to chapter 1 in "Torpedo Squadron Four: A Cockpit View of World War II." Gerald W. Thomas.

Tofe Bolus epitomized the essence of the American dream. Through hard work, grit, and determination, he built a successful business and was able to give something back to the society that had allowed him to flourish. He was a man of humility and good humor who never lost sight of the important things in life.

I extend my sincerest condolences to Helen and her entire family in the wake of their tremendous loss.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, as of the close of business on Friday, April 22, the Federal debt stood at $4,556,260,606,187.54, meaning that on a per capita basis, every man, woman, and child in America owes $17,476.29 as his or her share of that debt.

TRIBUTE TO JOHN A. GARRETT

Mr. HEFLIN. Mr. President, I am pleased to rise today in tribute to a long-time friend, John A. Garrett. John is retiring from his position as executive vice president of the Alabama Rural Water Association effective May 1. He has been a committed leader for many years on issues relating to rural America.

Before being elected executive vice president of the Rural Water Association in 1977, when it was officially organized, John served as Director of the Farmers Home Administration under Presidents Nixon and Ford. During his tenure with this agency, he became a nationally recognized leader on agricultural and water issues. He also sat on the National Rural Water Board of Directors.

John also demonstrated his personal commitment to serving others through his active involvement in civic and community affairs. He served as district governor of the Rotary Club; was a founder of Camp ASCA for the handicapped; and was a member of the board of directors of Goodwill Industries of Central Alabama for 25 years. He is also a past chairman of this board.

In 1991, he was inducted into the Alabama Senior Citizens Hall of Fame. This honor is a wonderful testament to the esteem in which he is held by his friends and peers. He is a warm, caring person who truly epitomizes the very best about public service.

Since John turned 85 on April 23, I hope he doesn't mind me wishing him a slightly belated "Happy Birthday" on the floor of the Senate.

NATIONAL FORMER POW RECOGNITION DAY

Mr. RIEGLE. Mr. President, I rise today in honor of the brave Americans who have been held prisoners of war by foreign powers. It is these soldiers who often endure the greatest suffering in any armed conflict, and we as a nation owe them our deepest gratitude for the sacrifices they make for their country. As a tribute to these men and women, April 9, 1994, has been designated "National Former POW Recognition Day," and I am pleased to join in honoring them for the courage and valor they have displayed under the worst of circumstances.

During World War I, World War II, and the conflicts in Korea, Vietnam, the Persian Gulf, and Somalia, more than 70,000 Americans were taken prisoner and suffered cruel and inhumane treatment at the hands of their captors. Pictures of captured Americans broadcast on TV and stories of their fate have, in recent times, galvanized the Nation. Even in times of relative peace we must continue to remember the sacrifices these soldiers have made in times of war.

I am proud to be a cosponsor of the Senate resolution commemorating this important day. I am proud of the many other initiatives the Senate has taken in support of former prisoners of war, including support for improvements in their health benefits, as well as coins, flags, and stamps commemorating their service.

Despite the reverence we hold for our former POW's, the unresolved issue of the nearly 2,000 Americans who have not returned from Vietnam continues to haunt us. We have not been entirely successful in determining the fate of these soldiers due, in part, to the uncooperative stance of the Vietnamese Government. This year I supported an amendment requiring certification that the Vietnamese Government has fully disclosed all available information regarding American POW/MIA's before trade sanctions are lifted. Although this legislation failed in the Senate and President Clinton has lifted the trade embargo, we must recommit ourselves to determining the fate of every missing American soldier in Southeast Asia.

Mr. President, all POW's, those who returned and those who haven't continue to hold a special place in our national consciousness. Their courage and bravery stand as a true monument to the American spirit. All Americans pay a price when the United States becomes involved in armed conflicts overseas, and prisoners of war symbolize the sacrifice we make as individuals and as a nation. As we commemorate the sacrifices POW's have made for their country, let's be mindful of the tragedy inherent in any armed conflict and increase our efforts to resolve future conflicts peacefully.

THE MEANING OF AMERICA

Mr. DASCHLE. Mr. President, I would like to submit for the RECORD the text of an essay written by a very talented young man from my State of South Dakota. Marcus Stubbles is the winner of this year's South Dakota Voice of Democracy Award. With his essay, he has painted an eloquent picture of what America means to him. I think it is valuable for each of us, especially as Members of this body, to reflect on this fundamental question periodically. I would encourage my colleagues to take a moment to read this brief essay, and I ask that its text be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

What is America?

This question sounds simple and silly, but it can be answered in many different ways. You could look in a dictionary, and it would tell you that the term "America", used in this context, is the common shortened name for a nation known officially as the United States of America. Technically, I suppose that this is what "America" is. But all we've done by answering the question this way is to replace one word with others.

What is America?

Look at an encyclopedia, and it will tell you that America is composed of 50 states and assorted territories, covers three million, six hundred and eighteen thousand, seven hundred and seventy square miles, has about 250 million citizens, with a per capita income of about sixteen thousand dollars. Again, I suppose that this, technically, is America. But I don't think that's all there is to America.

What is America?

Look at an atlas. It will show you that America includes almost every type of terrain and climate documented on Earth. It has millions of unique and beautiful plant and animal species. On the human side, it has farms and factories, homes and businesses, and every scale of settlement from small towns with only a few dozen residents to vast metropolitan areas covering hundreds of square miles with millions of people. Again, this is America. But I don't think we've really found the core of what America truly is.

The word America, to me, is a symbol representing an emotional intangible. America, more than anything else, is a state of mind, a feeling in the heart comprised of courage, defiance, and loyatly to principles and ideals above men and institutions. Let me give you same examples of what I mean.

The colonial leaders who signed the Declaration of Independence did so knowing full well that it meant war, a war in which their families and friends could be killed or imprisoned, and they themselves could be executed for treason. But they risked it all in the name of liberty and justice. That was the true beginning of America.

When John Paul Jones was called upon by his British opponent to surrender the badly damaged Bonhomme Richard, his response was nothing of the kind. Boldly declaring that he "had not yet begun to fight." he pressed the battle against the British frigate and won. His fighting spirit, even in the face of terrible odds, was America.

When the pioneers struck out for the midwest, they faced disease, starvation, danger, and the extremes of the elements. To meet these risks, they had only what they could haul with them and their own ingenuity to use those supplies to best advantage. And they did it all for the promise of a piece of land to call their own, to work for no landlord, no master. This fierce independence and determination was America.

When the depression changed America from a carefree, prosperous land to a dustbowl filled with the unemployed and the poor, Franklin Delano Roosevelt took to the airwaves to personally calm and reassure the country and lead it toward its former security and prosperity. This firm leadership, coupled with true concern for the people, was America.

When refugees give up what property and friends they have, and risk their lives to cross an armed border or enter the sanctuary of an embassy, they have already proved themselves to be great Americans, for they have done it all to reach a place they have never seen, only heard of. America is the gleam of hope in their eyes that this new land might be free and just.

I believe that we must commit ourselves to keeping this concept of America alive. We must commit ourselves to the ideas of liberty and justice, and be as committed as the daring colonists who started America. We must maintain a fighting spirit against the worst of odds, like John Paul Jones. We must be as determined and as independent as the daring pioneers of the great plains. We must be resolute and confident in our course, and keep the common man at heart, like Franklin Delano Roosevelt. And we must always hope for a better future, and be willing to risk our property and even our lives to grasp it like the refugees who have come to America since the pilgrims and who continue to dream of America today.

What is America? America is a nation built upon the ideals of liberty and justice, determination and confidence, spirit and defiance, courage and hope. These values have made America a great nation and have kept it strong through the years. My commitment to these values is my commitment to America.

TRIBUTE TO LARRY MITCHELL COOK

Mr. BAUCUS. Mr. President, I rise today to honor a Vietnam war hero who is no longer with us. His name was Larry Mitchell Cook of Kalispell, MT. I also rise to praise the work of his brave 11-year-old daughter, Heather Cook.

Earlier this year I received a letter from Heather. Heather explained how her father had been exposed to agent orange in Vietnam. As a result of this exposure, Larry contacted an incurable disease known as non-Hodgkin's lymphoma. Heather went on to say how proud she was of her father and that she thought her dad deserved a medal for his bravery and honorable service. I could not agree with her more.

On behalf of the Cook family, I contacted the Department of Defense, explained this unfortunate situation and asked them to award the medals Larry earned to his survivors. I am pleased to report that today Heather and her mother will receive three medals in recognition of Larry's undaunted service to this country.

In closing, I want to thank Heather for giving me the opportunity to help her. Every Member of the Senate knows how rewarding it is when our work makes a difference in the lives of the people we work for. But it is particularly gratifying when it is a young person, like Heather, who takes the initiative to right a wrong. Finally, on behalf of all Americans, I want to thank her father, Larry Mitchell Cook, for making the ultimate sacrifice so that we may all live in a better world.

TRIBUTE TO NYLA HAMMERS MORGAN

Mr. McCONNELL. Mr. President, I rise today to pay tribute to an outstanding Kentuckian. Ms. Nyla Hammers Morgan of Morgantown, KY, gives fully and wholeheartedly of herself to her community and deserves to be recognized for her many contributions to Butler County.

Ms. Morgan was born on March 16, 1918, attended Morgantown Elementary School and graduated from Morgantown High School at the age of 15. After graduation, she enrolled in the Lois Glynn Beauty College and became a licensed cosmetologist. For the next 53 years, she owned and operated NYLA's Beauty Shop in Morgantown. As anyone from a small town knows, the local beauty shop is just as important to the residents as the county courthouse. But Ms. Morgan went beyond this professional contribution to her community to give personally as well.

Nyla Hammers Morgan's dedication to her hometown is reflected by the countless hours she has given to various community events. Her patriotism, organizational skills, community involvement, and dedication have enabled her to contribute greatly to her community. Ms. Morgan has organized Memorial Day remembrance programs, Flag Day programs, and World War II anniversary programs. She became involved in the Butler County Chamber of Commerce as the executive secretary, and served a term as the president of the Butler County Parent-Teacher Association. She also became very involved in the Friends of the Library Program. As a member of the Butler County Historical and Genealogical Society, which she served as president for 4 years, she helped to place 21 historic homes on the Kentucky Register of Historic Places, and found time to serve as chairperson of the Butler County Bicentennial.

Mr. President, Ms. Morgan's community truly owes her a debt of gratitude. She has been an active member of the community for many years, and deserves much recognition for her contributions and accomplishments. It is impossible to list everything she has done to make Butler County a better place, but she is truly an outstanding person, and I congratulate her on her many accomplishments.

TRIBUTE TO KATHY JOHNSON

Mr. COCHRAN. Mr. President, on September 29, 1993, cancer claimed the life of Kathy Johnson, who served on my staff during 1992 as an Office of Personnel Management Legislative Fellow from the U.S. Forest Service.

Kathy began her service at the Forest Service in 1978 as a wildlife biologist. During her distinguished career, she was a leader in the management of threatened and endangered species, striving to achieve the appropriate management balance among competing interests.

One of her most notable accomplishments came during her tenure as leader of the Pacific Northwest Regional Threatened and Endangered Species program when the spotted owl was listed as a threatened species. She was instrumental in developing policies to protect the rare species of the Pacific Northwest. She later went on to lead the national program for other threatened and endangered species here in Washington.

Kathy's assistance to me on a number of sensitive issues was of the highest professional quality, and her pleasing manner and personality made her a friend to all who had the good fortune to work with her.

On June 11, 1994, a special place along Winberry Creek in the Willamette National Forest in Oregon will be dedicated to honor her memory—a fitting tribute to her tireless work and dedication to protect our Nation's valuable natural resources.

MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 5, 1993, the Secretary of the Senate on Saturday, April 23, 1994, received the following message from the President of the United States:

To the Congress of the United States:

It is my sad duty to inform you officially of the death of Richard Milhous Nixon, the thirty-seventh President of the United States.

Born in 1913, he was first elected to the Congress in 1946, a member of that historic freshman class of World War II veterans that also included John F. Kennedy. He was elected to the Senate in 1950, and served two terms as Vice President of the United States between 1953 and 1961. His career in the Congress coincided with the great expansion of the American middle class, when men and women from backgrounds as humble as his own secured the triumph of freedom abroad and the promise of economic growth at home.

He remained a visible presence in American public life for over half a century. Yet through all those years of service to his country, in the military, in the Congress, in the Presidency, and beyond, he cherished his life as a private man, a family man. He was lovingly devoted to his wife, Pat, to their daughters Patricia Cox and Julie Eisenhower, and to his four grandchildren.

His lifetime and public career were intertwined with America's rise as a world power. His faith in America never wavered, from his famous "kitchen debate" with Soviet Premier Nikita Khrushchev through all of the debates that followed. We Americans and our neighbors abroad will always owe him a special debt for opening diplomatic doors to Beijing and Moscow during his Presidency, and his influence in world affairs will be felt for years to come.

Richard Milhous Nixon lived the "American Dream." Now, he rests in peace.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 22, 1994.*

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of January 5, 1993, the Secretary of the Senate, on Friday, April 22, 1994, during the recess of the Senate, received a message from the House of Representatives announcing that the House disagrees to the amendment of the Senate to the bill (H.R. 3474) to reduce administrative requirements for insured depository institutions to the extent consistent with safe and sound banking practices, to facilitate the establishment of community development financial institutions, and for other purposes, agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as conferees on the part of the House:

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and the Senate amendment (except titles II and V), and modifications committed to conference: Mr. GONZALEZ, Mr. NEAL of North Carolina, Mr. LAFALCE, Mr. VENTO, Mr. SCHUMER, Mr. FRANK of Massachusetts, Mr. KANJORSKI, Mr. KENNEDY, Mr. FLAKE, Mr. MFUME, Ms. WATERS, Mr. LAROCCO, Mr. ORTON, Mr. BACCHUS of Florida, Mr. LEACH, Mr. MCCOLLUM, Mrs. ROUKEMA, Mr. BEREUTER, Mr. RIDGE, Mr. ROTH, Mr. MCCANDLESS, Mr. BAKER of Louisiana, and Mr. NUSSLE: *Provided,* That for consideration of section 348(b) of the Senate amendment, Mr. KLEIN is appointed in lieu of Mr. LAFALCE.

From the Committee on Banking, Finance and Urban Affairs, for consideration of title II of the Senate amendment, and modifications committee to conference: Mr. GONZALEZ, Mr. NEAL of North Carolina, Mr. LAFALCE, Mr. VENTO, Mr. SCHUMER, Mr. FRANK of Massachusetts, Mr. KANJORSKI, Mr. KENNEDY, Mr. FLAKE, Mr. MFUME, Ms. WATERS, Mr. ORTON, Mr. KLEIN, Ms. VELÁZQUEZ, Mr. LEACH, Mr. MCCOLLUM, Mrs. ROUKEMA, Mr. BEREUTER, Mr. RIDGE, Mr. ROTH, Mr. MCCANDLESS, Mr. BAKER of Louisiana, and Mr. NUSSLE.

From the Committee on Banking, Finance and Urban Affairs, for consideration of title V of the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Mr. NEAL of North Carolina, Mr. LAFALCE, Mr. SCHUMER, Mr. FRANK of Massachusetts, Mr. LEACH, Mr. BEREUTER, and Mr. MCCOLLUM.

As additional conferees from the Committee on Education and Labor, for consideration of section 209 of the Senate amendment, and modifications committed to conference: Mr. FORD of Michigan, Mr. WILLIAMS, Mr. CLAY, Mr. KILDEE, Mr. MILLER of California, Mr. GOODLING, Mrs. ROUKEMA, and Mr. FAWELL.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 201–205, 207, 320, and 347 of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mr. MARKEY, Mr. SHARP, Mr. SWIFT, Mrs. COLLINS of Illinois, Mr. BOUCHER, Mr. MANTON, Mr. LEHMAN, Ms. SCHENK, Ms. MARGOLIES-MEZVINSKY, Mr. SYNAR, Mr. WYDEN, Mr. RICHARDSON, Mr. BRYANT, Mr. MOORHEAD, Mr. FIELDS of Texas, Mr. BLILEY, Mr. OXLEY, Mr. SCHAEFER, Mr. BARTON of Texas, Mr. MCMILLAN, Mr. HASTERT, and Mr. GILLMOR.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 503–505, 507, and 706 of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mr. MARKEY, Mrs. COLLINS of Illinois, Mr. TOWNS, Mr. LEHMAN, Mr. MOORHEAD, Mr. STEARNS, and Mr. MCMILLAN.

As additional conferees from the Committee on Foreign Affairs, for consideration of section 703 of the Senate amendment, and modifications committed to conference: Mr. HAMILTON, Mr. GEJDENSON, and Mr. GILMAN.

As additional conferees from the Committee on the Judiciary, for consideration of section 139 of the House bill, and sections 325, 408, and 409 of the Senate amendment, and modifications committed to conference: Mr. BROOKS, Mr. SCHUMER, Mr. EDWARDS of California, Mr. CONYERS, Mr. HUGHES, Mr. SENSENBRENNER, Mr. SMITH of Texas, and Mr. SCHIFF.

As additional conferees from the Committee on Small Business, for consideration of section 348(b) of the Senate amendment, and modifications committed to conference: Mr. LAFALCE, Mr. SMITH of Iowa, and Mrs. MEYERS of Kansas.

As additional conferees from the Committee on Ways and Means, for consideration of sections 210 and 502–504 of the Senate amendment, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. PICKLE, Mr. RANGEL, Mr. STARK, Mr. ARCHER, Mr. CRANE, and Mr. THOMAS of California.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting nominations which were referred to the Committee on Banking, Housing, and Urban Affairs; and a treaty.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE PRESIDENT—RELATIVE TO THE SANCTIONS AGAINST HAITI—PM 104

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

1. In December 1990, the Haitian people elected Jean-Bertrand Aristide as their President by an overwhelming margin in a free and fair election. The United States praised Haiti's success in peacefully implementing its democratic constitutional system and provided significant political and economic support to the new government. The Haitian military abruptly interrupted the consolidation of Haiti's new democracy when in September 1991, it illegally and violently ousted President Aristide from office and drove him into exile.

2. The United States, on its own and with the Organization of American States (OAS), immediately imposed sanctions against the illegal regime. The United States has also actively supported the efforts of the OAS and the United Nations to restore democracy to Haiti and to bring about President Aristide's return by encouraging and facilitating a political process involving all the legitimate Haitian parties. The United States and the international community also offered mate-

rial assistance within the context of an eventual settlement of the Haitian crisis to support the return to democracy, build constitutional structures, and foster economic well-being.

In furtherance of these twin objectives—restoration of constitutional democracy and fostering economic recovery—as discussed in section 10 below, the United States has taken additional measures to block the U.S.-located assets of persons (civilian as well as military) whose conduct, or material or financial support, has assisted the illegal maintenance of the illegitimate regime in Haiti, including persons obstructing the U.N. Mission in Haiti or the implementation of the Governors Island Agreement, and persons perpetrating or contributing to the violence in Haiti. In addition, in an effort to stabilize employment and minimize economic hardship for the local populace in Haiti, U.S. persons currently licensed to deal with the vital Haitian assembly sector have received reauthorization through May 31, 1994.

3. This report is submitted to the Congress pursuant to 50 U.S.C. 1641(c) and 1703(c), and discusses Administration actions and expenses since my last report (November 13, 1993) that are directly related to the national emergency with respect to Haiti declared in Executive Order No. 12775, as implemented pursuant to that order and Executive Orders Nos. 12779, 12853, and 12872.

4. Economic sanctions against the *de facto* regime in Haiti were first imposed in October 1991. On October 4, 1991, in Executive Order No. 12775, President Bush declared a national emergency to deal with the threat to the national security, foreign policy, and economy of the United States caused by events that had occurred in Haiti to disrupt the legitimate exercise of power by the democratically elected government of that country (56 *Fed. Reg.* 50641). In that order, the President ordered the immediate blocking of all property and interests in property of the Government of Haiti (including the Banque de la Republique d'Haiti) then or thereafter located in the United States or within the possession or control of a U.S. person, including its overseas branches. The Executive order also prohibited any direct or indirect payments or transfers to the *de facto* regime in Haiti of funds or other financial or investment assets or credits by any U.S. person, including its overseas branches, or by any entity organized under the laws of Haiti and owned or controlled by a U.S. person.

Subsequently, on October 28, 1991, President Bush issued Executive Order No. 12779, adding trade sanctions against Haiti to the sanctions imposed on October 4 (56 *Fed. Reg.* 55975). This order prohibited exportation from the United States of goods, technology, services, and importation into the United States of Haitian-origin goods and services, after November 5, 1991, with certain limited exceptions. The order exempted trade in publications and other informational materials from the import, export, and payment prohibitions and permitted the exportation to Haiti of donations to relieve human suffering as well as commercial sales of five food commodities: rice, beans, sugar, wheat flour, and cooking oil. In order to permit the return to the United States of goods being prepared for U.S. customers by Haiti's substantial "assembly sector," the order also permitted, through December 5, 1991, the importation into the United States of goods assembled or processed in Haiti that contained parts or materials previously exported to Haiti from the United States. On February 5, 1992, it was announced that specific licenses could be applied for on a case-by-case basis by U.S. persons wishing to resume a pre-embargo import/export relationship with the assembly sector in Haiti.

5. On June 30, 1993, I issued Executive Order No. 12853 that expanded the blocking of assets of the *de facto* regime to include assets of Haitian nationals identified by the Secretary of the Treasury as providing substantial financial or material contributions to the regime, or doing substantial business with the regime. That Executive order also implemented United Nations Security Council Resolution ("UNSC Resolution") 841 of June 16, 1993, by prohibiting the sale or supply by U.S. persons or from the United States, or using U.S.-registered vessels or aircraft, of petroleum or petroleum products or arms and related materiel of all types to any person or entity in Haiti, or for the purpose of any business carried on in or operated from Haiti, or promoting or calculated to promote such sale or supply. Carriage of such goods to Haiti on U.S.-registered vessels is prohibited, as is any transaction for the evasion or avoidance of, or attempt to evade or avoid, any prohibition in the order.

6. As noted in my previous report, apparent steady progress toward achieving the firm goal of restoring democracy in Haiti permitted the United States and the world community to suspend economic sanctions against Haiti in August 1993. With strong support from the United States, the United Nations Security Council adopted Resolution 861 on August 27, 1993, suspending the petroleum, arms, and financial sanctions imposed under UNSC Resolution 841. On the same day, the Secretary General of the OAS announced that the OAS was urging member states to suspend their trade embargoes. In concert with these U.N. and OAS actions, U.S. trade and financial restrictions against Haiti were suspended, effective at 9:35 a.m. e.d.t., on August 31, 1993.

These steps demonstrated my determination and that of the international community to see that Haiti and the Haitian people resume their rightful place in our hemispheric community of democracies. Our work to reach a solution to the Haitian crisis through the Governors Island Agreement was however seriously threatened by accelerating violence in Haiti sponsored or tolerated by the *de facto* regime. The violence culminated on October 11, 1993, with the obstruction by armed "attachés," supported by the Haitian military and police, of the deployment of U.S. military trainers and engineers sent to Haiti as part of the United Nations Mission in Haiti. The Haitian military's decision to dishonor its commitments made in the Governors Island Agreement was apparent. On October 13, 1993, the United Nations Security Council issued Resolution 873, which terminated the suspension of sanctions effective at 11:59 p.m. e.d.t., October 18, 1993.

As a result, effective at 11:59 p.m. e.d.t., October 18, 1993, the Department of the Treasury revoked the suspension of those trade and financial sanctions that had been suspended, so that the full scope of prior prohibitions was reinstated (58 *Fed. Reg.* 54024, October 19, 1993). In addition to the actions I took in Executive Order No. 12853, the reinstated sanctions in the Haitian Transactions Regulations, 31 C.F.R. Part 580 (the "HTR"), prohibit most unlicensed trade with Haiti, and block the assets of the *de facto* regime in Haiti and the Government of Haiti. Restrictions on the entry into U.S. ports of vessels whose Haitian calls would violate U.S. or OAS sanctions had they been made by U.S. persons were also reinstated.

Also effective at 11:59 p.m. e.d.t., October 18, 1993, I issued Executive Order No. 12872 (58 *Fed. Reg.* 54029), authorizing the Department of the Treasury to block assets of persons who have: (1) contributed to the obstruction of UNSC resolutions 841 and 973, the Governors Island Agreement, or the activities of the U.N. Mission in Haiti; (2) perpetrated or contributed to the violence in Haiti; or (3) materially or financially supported either the obstruction or the violence referred to above. This authority is in addition to the blocking authority provided for in the original sanctions and in Executive Order No. 12853 of June 30, 1993, and ensures adequate authority to reach assets subject to U.S. jurisdiction of military and police officials, civilian "attachés" and their financial patrons meeting these criteria. A list of 41 such individuals was published on November 1, 1993, by the Office of Foreign Assets Control (FAC) of the Department of the Treasury (58 *Fed. Reg.* 58480).

On October 18, I ordered the deployment of six U.S. Navy vessels off Haiti's shores. To improve compliance with the ban on petroleum and munitions shipments to Haiti contained in UNSC resolutions 841 and 873, my Administration succeeded in securing the passage of UNSC Resolution No. 875. UNSC Resolution 875 calls upon the United Nations Member States acting either nationally or through regional agencies or arrangements to halt inward maritime shipping for Haiti in order to inspect and verify that the Haiti-bound cargo does not contain UNSC-prohibited petroleum or arms. A multinational Maritime Interdiction Force that includes elements of the U.S. Navy and the U.S. Coast Guard has been established and now patrols the waters off Haiti.

7. The declaration of the national emergency on October 4, 1991, was made pursuant to the authority vested in the President by the Constitution and laws of the United States, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3 of the United States Code. The emergency declaration was reported to the Congress on October 4, 1991, pursuant to section 204(b) of IEEPA (50 U.S.C. 1703(b)). The additional sanctions set forth in Executive Orders Nos. 12779, 12853, and 12872, were imposed pursuant to the authority vested in the President by the Constitution and laws of the United States, including the statutes cited above, as well as the United Nations Participation Act of 1945 (22 U.S.C. 287c), and represent the response by the United States to the United Nations Security Council and OAS directives and recommendations discussed above.

8. Since my report of November 13, 1993, FAC, in consultation with the Department of State and other Federal agencies, has issued General Notice No. 3, "Notification of Blocked Individuals of Haiti." The Notice, issued January 27, 1994, identifies 523 officers of the Haitian Armed Forces who have been determined by the Department of the Treasury to be Blocked Individuals of Haiti. General Notice No. 4, issued April 4, 1994, identifies an additional 27 individual officers of the Haitian Armed Forces and one civilian who have been determined by the Department of the Treasury to be Blocked Individuals of Haiti. These are persons who are members of the *de facto* regime or are blocked pursuant to Executive Orders Nos. 12853 or 12872. (A comprehensive list of Blocked Individuals of Haiti was published on April 7, 1994 (59 *Fed. Reg.* 16548)).

U.S. persons are prohibited from engaging in transactions with these individuals and with all officers of the Haitian military (as members of the *de facto* regime), whether or not named in General Notice No. 3 or No. 4, unless the transactions are licensed by FAC. Additionally, all interests in property of these individuals that are in the United States or in the possession or control of U.S. persons, including their overseas branches, are blocked. U.S. persons are not prohibited, however, from paying funds owed to these entities or individuals into the appropriate blocked account in domestic U.S. financial institutions. Copies of the comprehensive list and of General Notices No. 3 and No. 4 are attached.

A policy statement, effective January 31, 1994 (59 *Fed. Reg.* 8134, February 18, 1994), was published to extend until March 31, 1994, the expiration date for all current assembly sector licenses issued by FAC pursuant to the HTR, and a second policy notice, effective March 29, 1994, was published on April 1, 1994 (59 *Fed. Reg.* 15342), extending these licenses through May 31, 1994. These licenses have provided an exception to the comprehensive U.S. trade embargo on Haiti under which the "assembly sector" has continued to receive parts and supplies from, and supply finished products to, persons in the United States. Copies of the policy statements are attached.

Assembly sector trade with the United States accounted for a significant portion of Haiti's imports, and a substantial majority of its exports, prior to the institution of the OAS-requested embargo in November 1991. Although initially suspended due to the embargo, assembly sector imports from and exports to the United States were allowed to resume on a case-by-case basis beginning in February 1992 in order to keep poorer segments of the Haitian population employed and to reduce their incentive to attempt illegal and dangerous immigration by sea to the United States and other countries. However, the continuing uncertainties of the Haitian situation have led to a sharp decline in assembly sector activity, where employment is now estimated to be no more than 10 percent of pre-embargo levels.

9. In implementing the Haitian sanctions program, FAC has made extensive use of its authority to specifically license transactions with respect to Haiti in an effort to mitigate the effects of the sanctions on the legitimate Government of Haiti and on the livelihood of Haitian workers employed by Haiti's assembly sector, and to ensure the availability of necessary medicines and medical supplies and the undisrupted flow of humanitarian donations to Haiti's poor. For example, specific licenses were issued: (1) permitting expenditures from blocked assets for the operations of the legitimate Government of Haiti; (2) permitting U.S. firms with pre-embargo relationships with product assembly operations in Haiti to resume those relationships in order to continue employment for their workers or, if they chose to withdraw from Haiti, to return to the United States assembly equipment, machinery, and parts and materials previously exported to Haiti; (3) permitting U.S. companies operating in Haiti to establish, under specified circumstances, interest-bearing blocked reserve accounts in commercial or investment banking institutions in the United States for deposit of amounts owed the *de facto* regime; (4) permitting the continued material support of U.S. and international religious, charitable, public health, and other humanitarian organizations and projects operating in Haiti; (5) authorizing commercial sales of agricultural inputs such as fertilizer and foodcrop seeds; and (6) in order to combat deforestation, permitting the importation of agricultural products grown on trees.

10. During this reporting period, U.S.-led OAS initiatives resulted in even greater intensification and coordination of enforcement activities. Continued close coordination with the U.S. Customs Service in Miami sharply reduced the number of attempted exports of unmanifested, unauthorized merchandise. New FAC initiatives are expected to result in more effective coordination of Customs Service and Department of Justice activities in prosecution of embargo violations. During the reporting period, the multinational Maritime Interdiction Force that contains elements of the U.S. Navy and U.S. Coast Guard, continued to patrol offshore Haiti and to conduct ship boardings, inspections of cargoes bound for Haiti, identification of suspected violators, and referrals for investigation. The Maritime Interdiction Force has boarded 612 ships and diverted 38 of these ships for various reasons (inaccessibility of cargo for inspection, items prohibited by the United Nations Security Council embargo on board) from its inception to March 30, 1994. Actions have been taken to counter embargo violations as they have developed. There have been high-level discussions with the Government of the Dominican Republic to encourage its stated desire to cooperate with the United Nations in increasing the effectiveness of the enforcement of the sanctions on that country's common border with Haiti across which fuel smuggling is occurring. Other steps have been taken to control sales of bunker fuel by ships in Haitian ports and smuggling of fuel in Haitian-Dominican coastal waters.

The Department of the Treasury, in close coordination with Department of State and the intelligence community, continues to designate "Blocked Individuals of Haiti," blocking the assets of persons (civilian as well as military) whose conduct meets the criteria of Executive Orders Nos. 12755, 12853, and 12872, including persons obstructing the U.N. Mission in Haiti or the implementation of the Governors Island Agreement and persons perpetuating or contributing to the violence in Haiti. The list was last expanded on January 27, when the entire officer corps of the Haitian Armed Forces was blocked as part of the *de facto* regime in Haiti, and on April 4, when one additional civilian was added to the list. As others subverting democracy in Haiti and additional members of the officer corps are identified by name, these names will be incorporated into the list of "Blocked Individuals of Haiti."

Since the last report, 35 penalties, totaling in excess of $146,000, have been collected from U.S. businesses and individuals for violations of the Regulations. Eighteen violations involved unlicensed import- and export-related activity. As of March 4, 1994, 12 payments of penalties assessed against the masters of vessels for unauthorized trade transactions or violations of entry restrictions totalled about $53,000. A significant penalty collection during the reporting period was from American Airlines for its direct payments of taxes and fees to the *de facto* regime in Haiti.

11. The expenses incurred by the Federal Government in the 6-month period from October 4, 1993, through April 3, 1994, that are directly attributable to the authorities conferred by the declaration of a national emergency with respect to Haiti are estimated at about $3.4 million, most of which represent wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in FAC, the U.S. Customs Service, and the Office of the General Counsel), the Department of State, the U.S. Coast Guard, and the Department of Commerce.

12. I am committed to the restoration of democracy in Haiti and determined to see that Haiti and the Haitian people resume their rightful place in our hemispheric community of democracies. Active U.S. support for United Nations/OAS efforts to resolve the Haitian crisis has led to the maintenance and enforcement of sweeping economic sanctions. Our diplomatic efforts complementing these sanctions are designed to encourage and facilitate participation by all legitimate Haitian political elements in a broad-based political process that will bring about the fulfillment of the undertakings they made in the Governors Island Agreement so that Haitian democracy can be restored and President Aristide can return to Haiti. Such a political process will enable the lifting of sanctions and the start of Haiti's economic reconstruction and national reconciliation. The United States will continue to play a leadership role in the international community's program of support and assistance for the restoration of democracy and return of President Aristide to Haiti.

I will continue to report periodically to the Congress on significant developments pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 25, 1994.*

MESSAGES FROM THE HOUSE

At 4:05 p.m., a message from the House of Representatives, delivered by Mr. Hats, one of its reading clerks, announced that the House has agreed to the following resolution:

H. Res. 411. A resolution expressing profound regret and sorrow at learning of the death of Richard Milhous Nixon, former President of the United States of America.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on Friday, April 22, 1994, she had presented to the President of the United States the following enrolled bills:

S. 375. An act to amend the Wild and Scenic Rivers Act by designating a segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System, and for other purposes.

S. 1574. An act to authorize appropriations for the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 720. A bill to clean up open dumps on Indian lands, and for other purposes (Rept. No. 103–253).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. INOUYE:

S. 2043. A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel *Bagger*; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 205. A resolution relative to the death of Richard M. Nixon, a former President of the United States; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INOUYE:

S. 2043. A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel *Bagger*; to the Committee on Commerce, Science, and Transportation.

DOCUMENTATION FOR THE VESSEL "BAGGER"

Mr. INOUYE. Mr. President, this private relief bill that I am introducing would authorize a certificate of documentation and coastwise trade endorsement for the vessel *Bagger*, a small boat to be used for charter fishing. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2043

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), the Secretary of Transportation may issue a certificate of documentation and coastwise trade endorsement for the vessel BAGGER, hull identification number 3121125, and State of Hawaii registration number HA1809E.

ADDITIONAL COSPONSORS

S. 70

At the request of Mr. COCHRAN, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 70, a bill to reauthorize the National Writing Project, and for other purposes.

S. 1592

At the request of Mr. DORGAN, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1592, a bill to improve Federal decisionmaking by requiring a thorough evaluation of the economic impact of Federal legislative and regulatory requirements on State and local governments and the economic resources located in such State and local governments.

S. 1658

At the request of Mr. HATCH, the names of the Senator from Oklahoma [Mr. NICKLES], the Senator from Mississippi [Mr. COCHRAN], the Senator from Idaho [Mr. CRAIG], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of S. 1658, a bill to establish safe harbors from the application of the antitrust laws for certain activities of providers of health care services, and for other purposes.

S. 1825

At the request of Mr. BUMPERS, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 1825, a bill to authorize collection of certain State and local taxes with respect to the sale, delivery, and use of tangible personal property.

S. 1829

At the request of Mr. HATCH, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 1829, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage small investors, and for other purposes.

S. 1836

At the request of Mr. DOLE, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 1836, a bill for the relief of John Mitchell.

SENATE JOINT RESOLUTION 160

At the request of Mr. RIEGLE, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of Senate Joint Resolution 160, a joint resolution to designate the month of April 1994, as "National Sudden Infant Death Syndrome Awareness Month," and for other purposes.

SENATE JOINT RESOLUTION 165

At the request of Mr. COCHRAN, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of Senate Joint Resolution 165, a joint resolution to designate the month of September 1994 as "National Sewing Month."

SENATE JOINT RESOLUTION 183

At the request of Mr. ROTH, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of Senate Joint Resolution 183, a joint resolution designating the week beginning May 1, 1994 as "Arson Awareness Week."

SENATE RESOLUTION 205—RELATING TO THE DEATH OF FORMER PRESIDENT RICHARD M. NIXON

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following concurrent resolution; which was considered and agreed to as follows:

S. RES. 205

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Richard M. Nixon, a former President of the United States, a former Vice President of the United States, a former Representative and former Senator from the State of California.

Resolved, That in recognition of his illustrious statesmanship, his leadership in national and world affairs, his distinguished public service to his State and his Nation, and as a mark of respect to one who has held such eminent public station in life, the Presiding Officer of the Senate appoint a committee to consist of all the Members of the Senate to attend the funeral of the former President.

Resolved, That the Senate hereby tender its deep sympathy to the members of the family of the former President in their sad bereavement.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the former President.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased.

AMENDMENTS SUBMITTED

INTERSTATE BANKING AND BRANCHING ACT OF 1994

RIEGLE (AND OTHERS) AMENDMENT NO. 1658

Mr. RIEGLE (for himself, Mr. D'AMATO, and Mr. ROTH) proposed an amendment to the bill S. 1963 to permit certain financial institutions to engage in interstate banking and branching, as follows:

On page 3, line 4, strike "(2) and (3)" and insert "(2), (4), and (6)".

On page 4, between lines 17 and 18, insert the following:

"(3) EXCEPTION.—The Board may approve an application under paragraph (1)(A), notwithstanding any provision of paragraph (2), if such application involves the acquisition of one or more banks in default or in danger of default or with respect to which the Federal Deposit Insurance Corporation provides assistance under section 13(c) of the Federal Deposit Insurance Act.

On page 4, line 18, strike "(3)" and insert "(4)".

Beginning with page 4, line 23, strike all through page 5, line 2, and insert the following:

"(5) NO EFFECT ON STATE TAX AUTHORITY.—No provision of this Act shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, and administer any tax or method of taxation to any bank, bank holding company, or foreign bank or to any affiliate of any bank, bank holding company, or foreign bank to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.

"(6) AFFECT ON STATE CONTINGENCY LAWS.—Nothing in this subsection affects the applicability of a State law that makes an acquisition of a bank contingent upon a requirement to hold a portion of such bank's assets available for call by a State-sponsored housing entity established pursuant to State law, if—

"(A) the State law does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries thereof;

"(B) that State law was in effect as of the date of enactment of the Interstate Banking and Branching Act of 1994;

"(C) the Federal Deposit Insurance Corporation has not determined that compliance with such State law would result in an unacceptable risk to the appropriate deposit insurance fund; and

"(D) the appropriate Federal banking agency for such institution has not found that compliance with such State law would place the institution in an unsafe or unsound condition.".

On page 5, line 9, insert " 'in default', 'in danger of default'," before "and".

On page 5, line 18, strike "and".

On page 5, line 23, strike all of the punctuation at the end and insert "; and".

On page 5, after line 23, insert the following:

"(3) a bank holding company is 'adequately capitalized' if it meets or exceeds all applicable Federal regulatory capital standards.".

On page 8, strike lines 14 through 16 and insert "HOST STATES.—If any branch of an out-of-".

On page 8, line 23, strike "based upon" and all that follows through page 9, line 6, and insert the following: "that imposes such tax based upon a method adopted by the host State, which could include allocation and apportionment.".

On page 11, line 19, insert "or paragraph (8)" before "shall have".

On page 13, between lines 23 and 24, insert the following:

"(11) NO EFFECT ON STATE TAX AUTHORITY.—No provision of this Act shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, and administer any tax or method of taxation to any bank, bank holding company, or foreign bank or to any affiliate of any bank, bank holding company, or foreign bank to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.

On page 13, line 24, strike "(11)" and insert "(12)".

On page 15, line 14, strike "paragraph" and insert "paragraphs".

On page 15, beginning on line 17, strike "A State bank supervisor" and insert "The appropriate State official".

On page 17, line 2, insert "or to take any enforcement actions or proceedings against" after "examine".

On page 17, strike lines 7 through 10, and insert "agency determines that the States have reached an agreement under subparagraph (C) that adequately protects the deposit insurance funds, the appro-".

On page 17, line 11, strike "shall not" and insert "may".

On page 17, line 13, strike the quotation marks and the final period.

On page 17, between lines 13 and 14, insert the following:

"(4) NO EFFECT ON STATE TAX AUTHORITY.—No provision of this Act shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, and administer any tax or method of taxation to any bank, bank holding company, or foreign bank or to any affiliate of any bank, bank holding company, or foreign bank to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.".

Beginning with page 17, line 14, strike all through page 19, line 22, and insert the following:

(b) NATIONAL BANKING ASSOCIATIONS.—The Act entitled "An Act to provide for the consolidation of national banking associations", approved November 7, 1918 (12 U.S.C. 215 et seq.) is amended—

(1) in the first sentence of subsection (a) of the first section, by inserting ", or in any State in which a bank is authorized to engage in an interstate consolidation pursuant to section 3(h) of the Bank Holding Company Act of 1956," after "located in the same State";

(2) by inserting before the period at the end of subsection (d) of the first section ", except that the applicability of State law to an interstate consolidation undertaken in accordance with section 3(h) of the Bank Holding Company Act of 1956 is determined in accordance with the provisions of that section";

(3) by adding at the end of the first section the following new subsection:

"(h) An interstate consolidation—

"(1) shall be undertaken under this section pursuant to the procedures, restrictions, and requirements—

"(A) set forth in section 3(h) of the Bank Holding Company Act of 1956 as if such interstate consolidation were a combination under that section; and

"(B) set forth in this section, to the extent that such procedures, restrictions, and requirements are not inconsistent with those of section 3(h) of the Bank Holding Company Act of 1956; and

"(2) involving banks that are not affiliated (as such term is defined in section 2 of the Bank Holding Company Act of 1956) shall meet the requirements of section 3(d) of the Bank Holding Company Act of 1956, as determined by the Comptroller of the Currency, as if such consolidation were an acquisition under that section 3(d).";

(4) in the first sentence of section 2(a)—

(A) by striking "under an agreement not inconsistent with this Act,"; and

(B) by inserting "or within any State in which a bank is authorized to engage in an interstate merger pursuant to section 3(h) of the Bank Holding Company Act of 1956," after "located within the same State,";

(5) in the sixth sentence of section 2(d) by inserting before the period ", except that the applicability of State law to a merger undertaken in accordance with section 3(h) of the Bank Holding Company Act of 1956 is determined in accordance with the provisions of that section";

(6) in section 2, by adding at the end the following new subsection:

"(h)(1) An interstate merger—

"(A) shall be undertaken under this section pursuant to the procedures, restrictions, and requirements—

"(i) set forth in section 3(h) of the Bank Holding Company Act of 1956 as if such merger were a combination under that section; and

"(ii) set forth in this section, to the extent that such procedures, restrictions, and requirements are not inconsistent with those of section 3(h) of the Bank Holding Company Act of 1956; and

"(B) involving banks that are not affiliated (as such term is defined in section 2 of the Bank Holding Company Act of 1956) shall meet the requirements of section 3(d) of the Bank Holding Company Act of 1956, as determined by the Comptroller of the Currency, as if such merger were an acquisition under that section 3(d).

"(2) Paragraph (1) shall apply to a State member bank involved in an interstate merger on the same terms and conditions and subject to the same procedures, restrictions, and requirements as are applicable to the consolidation of branches by a national banking association involved in an interstate merger."; and

(7) in paragraph (4) of section 3, by inserting "or within any State in which a bank is authorized to engage in an interstate consolidation, merger, or other transaction pursuant to section 3(h) of the Bank Holding Company Act of 1956," after "within the same State,".

On page 21, line 5, strike "approval" and insert "consent".

On page 21, line 13, strike "and".

On page 21, line 20, strike all of the punctuation at the end and insert "; and".

On page 21, between lines 20 and 21, insert the following:

"(C) the term 'adequately capitalized' has the same meaning as in section 38.".

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on the Environmental Protection Agency's proposed renewable oxygenate standard.

The hearing will take place on Thursday, May 12, 1994, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building, First and C Streets NE., Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attention: Leslie Black Cordes.

For further information, please contact Leslie Black Cordes of the committee staff at 20/224-9607.

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on April 25, 1994, at 10 a.m. on the Maritime Administration Authorization Act for fiscal year 1995.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

"HEADSMART: HELMETS FIRST FOR SAFETY"

• Mr. DURENBERGER. Mr. President, I rise to bring to the Senate's attention an important Minnesota community program that is saving lives—HeadSmart: Helmets First for Safety effort. This program is part of the National Head Injury Foundation's HeadSmart injury prevention program.

In Congress, we have debated the best way to prevent head injuries. The two schools of thought have been to employ either the carrot or the stick approach: to support local safety education efforts; or to mandate usage at the Federal level. I am on record in strong support of the former strategy. My State of Minnesota has provided numerous examples of the success their local support for safety programs has had on vehicle related deaths. It is the local programs that cooperatively produce the desired results. The rule of the Federal Government should be to support and encourage such programs, rather than to dictate them.

The Minnesota Helmets First For Safety Program is a voluntary effort which focuses on bike safety and bicycle helmet use. It started in 1991 in St. Cloud, MN, as a partnership between the Minnesota Head Injury Association and the St. Cloud Hospital. After 3 successful years in the St. Cloud area, the program expanded to all Minnesota schools. At least 54 schools are now involved.

A bicycle is not a toy. It is a child's first vehicle and can be dangerous. Yet, fewer than 2 percent of America's children wear bicycle helmets. This is why the Minnesota Helmets First for Safety program is so very important. It saves lives and prevents crippling injuries to this Nation's most treasured resource—our children.

Head injury is the leading cause of death and disability for children and young adults in the United States. More young children die from bicycle injuries than from poisoning, falls, or firearm injuries.

Approximately 400 to 500 children die each year from bicycle injuries, with head injury being the most common cause. Three-fourths of bicycle injury deaths are due to head injury and two-thirds of bicycle injury-related hospitalizations are due to head injury.

Wearing a helmet when bicycling reduces head injury risk by 85 percent. In Minnesota in 1992 there were 1,343 crashes that involved a motor vehicle and a bicycle. Eleven bicyclists were killed; 1,249 were injured.

The need to prevent head injuries is obvious. These injuries cause permanent damage that affect a person's livelihood. And, there is nothing more tragic than learning of a young life being shattered by a preventable but permanent head injury.

To drive this point home, Mr. President, let me submit for the RECORD two letters on this point. One letter is written by the parents of Jeremy Marks urging other parents to make sure their children wear bicycle helmets. Last fall, Jeremy was hit by a car while riding his bicycle in the neighborhood park. Jeremy was not wearing a helmet and suffered a severe brain injury that has regrettably changed his young life.

The other letter is just as poignant, but has a happier ending. It is written by the parents of 5-year old Jason. Jason was also hit by a car when riding his bicycle. But, because Jason was wearing a helmet, his injuries, while severe, were repairable.

Two children, two bicycle accidents, two different results--all because of a helmet.

Mr. President, I've always supported personal responsibility over mandates. And this program is the perfect example of how successful voluntary helmet use programs can be. We must applaud the contributors and participants to Minnesota's HeadSmart: Helmets First for Safety programs and their efforts to boost personal responsibility and education through the organization and promotion of such lifesaving programs.

To conclude, Mr. President, let me ask that the following seven tips for parents to get their children to wear a bicycle helmet be put into the RECORD, and I urge all Senators to read them and pass them on to their family and constituents.

The material follows:

FEBRUARY 1994.

DEAR PARENTS: In October of 1993, our 13-year-old son, Jeremy, was hit by a car while riding his bicycle from a neighborhood park to a friend's house. He suffered a traumatic brain injury and was in a coma for 2½ weeks. He was in the hospital for 9 weeks, and now, after four months, he cannot do all the things he would like to do.

Jeremy is not able to participate in his favorite sports. His friendships have changed. He must now attend special education classes, because he has learning difficulties and problems with attention and concentration. However, he is still one of the lucky ones. He's alive and he's continuing to show improvement.

Jeremy was not wearing a bicycle helmet. If he had been, he would not have sustained such a serious injury and would not be facing the difficulties that challenge him today.

Like most parents, we didn't realize that each year hundreds of children are killed or disabled in bike accidents. Now we know first-hand the potential seriousness of a bike-related injury and how deeply the lives of children, their families and friends are affected—changed forever.

We strongly encourage you and your children to wear a helmet every time you go for a bike ride. An accident can happen anytime and anywhere. Helmets have been proved to save lives and prevent brain injuries.

Please become HeadSmart.

Caringly,

JILL and PHIL MARKS.

[From the St. Paul Pioneer Press Bulletin Board, Mar. 14, 1994]

A LETTER FROM PENNY OF ROSEVILLE

This letter is a plea, for the whole world: Do you know someone who rides a bike and does not wear a helmet? Sounds silly to a lot of folk—and who hasn't heard the millions of excuses? "Nobody wears them." "Everyone will laugh." "It'll never happen to us."

Well, it did; it happened to someone in our family. My son Jason was anxious to ride his bike. Whose child is not? The snow is going down at a rapid pace, and the streets were clear; only the sand remained. The day was cool and windy, but the sun was shining. It was a beautiful day to be riding a bike. "Get your jacket on with the hood." "OK." "Don't forget your helmet." "I've got it on." Within a few minutes, as parts of my family were sitting in the living room, we heard it—a parent's nightmare: the skidding of an automobile, and then we all knew what was coming next. My heart could feel it before my ears heard it: Thud. Something—or someone—had made an impact.

To our dismay, our son, 5 years old, Jason, was hit. Yes, it never happens to you what was happening to us. Our lives would be changing from that moment on, and we knew it. How, we didn't know at the time. As the paramedics were examining Jason, they could only find a left femur broken. His face was pretty beat up, with a large scrape to the front of the forehead, but no softness to the skull. The first question asked: "was he hearing a helmet?" We could at least say: "Yes." Seems like a small word—"Yes"—but that small word made a difference in our son's world today. As I am writing this, at the foot of my son's bed at Children's Hospital, he's alive, with only a broken left leg. But he is alive.

If anyone of you knows it could never happen to you or someone you love, please get up immediately and go out and get a helmet for the one you love. Jason's grandparents did, and we can never repay them for saving our son's life.

TIPS FOR GETTING YOUR CHILD TO WEAR A BIKE HELMET[1]

1. Make it a rule that everyone in your family wears a helmet on every ride. Wear a helmet yourself. Don't ride or let your child ride without a helmet even occasionally. It's easy to be fooled into thinking that you don't need a helmet because you've been riding without one and haven't been injured so far.
2. Start your children out with helmets as soon as they begin riding—even tricycles or "Big Wheels." Let your child help pick out a helmet and decorate it with stickers. If your child has already begun riding without a helmet, make a new rule—"no helmet, no bike."
3. Explain why helmets are important. Talk about why you want to protect your brain and your child's. Find a book in the library that explains how the brain works. Talk about what can happen if your brain gets hurt in terms a child can understand without getting frightened. Wearing a helmet is *HeadSmart*.
4. Use professional athletes as examples: football, baseball, and hockey players, race car drivers, etc. Children may not know that professional bike racers wear helmets; helmets are required in skateboard competitions and even some competitive ski events. Get a picture or poster for you child's room of a bicycle racer or other athlete wearing a helmet.
5. Praise your children for wearing their helmets. Tell them they look great—like a race car driver (or whatever will make them feel good about wearing a helmet). Compliment other children on being *HeadSmart* enough to wear a helmet.
6. Participate in neighborhood, scouting or school bike safety activities. Encourage other parents to support helmet use.
7. Don't let your attitudes discourage your children from being *HeadSmart*! Studies show that it is often the parents who think helmets are socially "uncool." For children, especially young children, wearing a helmet does not have the negative social significance their parents might attach to it.●

FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS

● Mr. SASSER. Mr. President, I am pleased to be an original cosponsor of legislation, S. 2040, which will allow employees at federally funded research and development centers to use the Intergovernmental Personnel Act to be placed in Federal agencies. It will also allow personnel in Federal agencies to work at these research and development centers under certain circumstances.

For about 10 years now, the Oak Ridge complex has been at a disadvantage because its employees have been ineligible to use the Intergovernmental Personnel Act. While employees at the Department of Energy, for instance, have been able under the Intergovernmental Personnel Act to be placed at other Federal agencies, Oak Ridge employees have been unable to take advantage of this mechanism. Not only is this unfair to those Oak Ridge employees to be denied rewarding career opportunities, it also deprives the other agencies of the expertise of many brilliant and talented individuals.

This can become a matter of great consequence. For example, an employee at Oak Ridge National Laboratory [ORNL] may have unique capabilities—capabilities that are perhaps important to preserving the national security—and the Department of Defense may have a great need for such capabilities. But, unfortunately, unless this legislation is enacted, the ORNL employee would not be permitted to serve at the Department of Defense.

While Oak Ridge was among the first to be affected by this constraint, employees at other research facilities may soon be subject to the same restriction. Sandia National Laboratories will be prevented from using the Intergovernmental Personnel Act beginning this fall if no action is taken.

There is no logical reason for the current situation. It is apparently the unintended result of some contract management reform at the Department of Energy. I hope that my colleagues will give this legislative remedy prompt consideration, and I look forward to working with them toward its enactment in the near future.●

REMARKS OF MIKE MANSFIELD IN ACCEPTING THE PAUL H. DOUGLAS AWARD FOR DISTINGUISHED PUBLIC SERVICE

● Mr. SIMON. Mr. President, recently, our former colleague, Senator Mike Mansfield, was given the first annual Paul Douglas Ethics in Government Award.

Paul Douglas served this Nation with great distinction, and one of the areas where he contributed the most was in the area of ethics in government.

It was appropriate that the first honoree should be Senator Mike Mansfield, who, like Paul Douglas, is a completely unpretentious man who is the ideal of what a public servant ought to be.

Those of us who were at the ceremony appreciated Mike Mansfield's brief remarks, and I ask to insert them into the RECORD at this point.

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[1] Adapted from "Tips for Getting Your Kids to Wear Bicycle Helmets," TIPP (The Injury Prevention Program), American Academy of Pediatrics, sponsored by Sandoz Pharmaceuticals Corporation, Pediatric Division.

The remarks follow:

REMARKS OF MIKE MANSFIELD

You have seen fit to bestow on my wife Maureen and me quite an honor. I can think of many others who deserve it more but, as you have chosen us, we are flattered and we are grateful to receive this Paul H. Douglas Award.

In 1945 to 1947 I had the pleasure of serving in the 79th Congress with Emily Taft Douglas where she was designated as Congresswoman "at large" from Illinois. She was, among other things, an author, actress, internationalist and a strong proponent of civil rights. She marched at Selma. In her own right, she could also best be described as a Stateswoman whose interests were broad, deep and founded on her strong faith and idealism. It was a privilege to sit next to her on the Foreign Affairs Committee and to learn from her what true liberalism meant. As a dear friend, I cherish her memory. When here husband, Paul Douglas, returned from World War II, he was elected to the U.S. Senate. It was in the Senate that I came to know him.

I have always felt deep respect, admiration and appreciation for Senator Douglas and what he achieved in his many official and private capacities. As a dear friend, I also cherish his memory. He was a man of both the extraordinary vision of what America could become and the dedication and skill to move the nation closer to that ideal. He had the rare gift to be able to see the richness and beauty of the forest while many around him were lost among the trees.

I remember him for his other qualities as well, for his courageous spirit, his patriotism, his integrity, his determination and his optimism.

And I remember him for his abilities as a statesman. Few could match his skill in mastering the essentials, in keeping the urgent from driving out the important, of harnessing the energy of a dream to the machinery of a democratic government. As a nation, we are the better for his contributions.

In many ways, Paul Douglas was the quintessential American, and an extraordinary man for his time—for all time. We were richly blessed to have him among us.

Someone once wrote: "Of those who dream, only the few turn their dreams into action. Of those who act, only the few turn their actions into successes. Of those who succeed, only the few turn their success into greatness. And of those who achieve greatness, there are only a few whose deeds and character will outlive them for generations to come."

Such a man was Paul Douglas.

I can think of no more appropriate name for an award for public service. He set a standard to which all who work for the betterment of our nation and in service of our citizens should aspire.

Therefore, we accept the Paul H. Douglas Award in the hope that it will inspire future generations of Americans to commit themselves to the service of this nation which both deserves and needs the very best we all have to offer.

As for myself, having also been a public servant in many capacities over the last 5 decades, I have had the privilege to work along side of Paul Douglas for much of that time and, along with him, to be part of that magnificent process by which the directions of our great nation are determined.

That alone has been honor enough for one person's lifetime. On top of that, this gift that you give us today leaves me with no more to say than a simple and heartfelt thank you.●

RELATIVE TO THE DEATH OF RICHARD M. NIXON, A FORMER PRESIDENT OF THE UNITED STATES

Mr. RIEGLE. Mr. President, on behalf of the majority and minority leaders, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 205, relating to the death of former President Richard Nixon, submitted earlier today by the two leaders, that the resolution be agreed to and the motion to reconsider laid upon the table.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The resolution (S. Res. 205) was read, considered, and agreed to as follows:

S. RES. 205

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Richard M. Nixon, a former President of the United States, a former Vice President of the United States, a former Representative and former Senator from the State of California.

Resolved, That in recognition of his illustrious statesmanship, his leadership in national and world affairs, his distinguished public service to his State and his Nation, and as a mark of respect to one who has held such eminent public station in life, the Presiding Officer of the Senate appoint a committee to consist of all the Members of the Senate to attend the funeral of the former President.

Resolved, That the Senate hereby tender its deep sympathy to the members of the family of the former President in their sad bereavement.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the former President.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased.

ORDERS FOR TOMORROW

Mr. RIEGLE. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Tuesday, April 26, that following the Prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each, with Senator MURKOWSKI recognized for up to 15 minutes; that at 10 a.m., the Senate resume consideration of S. 1963, the interstate banking bill; that on Tuesday, the Senate stand in recess from 12 noon to 3 p.m., in order to accommodate the respective party conferences.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. RIEGLE. Mr. President, if there is no further business to come before the Senate today, and if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess in accordance with the previous order, and pursuant to Senate Resolution 205, as a further mark of respect for the memory of deceased former President Richard Nixon.

There being no objection, the Senate, at 5:43 p.m., recessed until Tuesday, April 26, 1994, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 25, 1994:

FEDERAL RESERVE SYSTEM

ALAN S. BLINDER, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR THE UNEXPIRED TERM OF 14 YEARS FROM FEBRUARY 1, 1982, VICE DAVID W. MULLINS, JR., RESIGNED.

ALAN S. BLINDER, OF NEW JERSEY, TO BE VICE CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF 4 YEARS, VICE DAVID W. MULLINS, JR., RESIGNED.

HOUSE OF REPRESENTATIVES—*Monday, April 25, 1994*

The House met at 12 noon, and was called to order by the Speaker pro tempore [Mr. MONTGOMERY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 25, 1994.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker, House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O gracious God, whose mercies are without number and whose grace abounds with love and compassion, we ask Your blessing upon each of us and upon the world that You have created. On this day, we acknowledge the death of Richard Nixon who served this Nation in the Office of President and who also served in this assembly. We are grateful for his service in the cause of peace in many places in our world and for his leadership in bringing people together of different backgrounds in a new spirit of understanding. We offer this prayer for his family and for those near and dear to him, that Your mighty promises of life that are new every morning and sustain us all the day through, will be with them and each of us now and evermore. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Pledge of Allegiance today will be given by the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 540. An act to improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes.

S. 725. An act to amend the Public Health Service Act to provide for the conduct of expanded studies and the establishment of innovative programs with respect to traumatic brain injury, and for other purposes.

S. 1904. An act to amend title 38, United States Code, to improve the organization and procedures of the Board of Veterans' Appeals.

S. 2000. An act to authorize appropriations for fiscal years 1995 through 1998 to carry out the Head Start Act and the Community Services Block Grant Act, and for other purposes.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, April 25, 1994.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Monday, April 25, 1994 at 9:34 a.m. and said to contain a message from the President whereby he notifies the Congress of the death of President Richard M. Nixon.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

THE DEATH OF RICHARD MILHOUS NIXON, THE 37TH PRESIDENT OF THE UNITED STATES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read:

To the Congress of the United States:

It is my sad duty to inform you officially of the death of Richard Milhous Nixon, the thirty-seventh President of the United States.

Born in 1913, he was first elected to the Congress in 1946, a member of that historic freshman class of World War II veterans that also included John F. Kennedy. He was elected to the Senate in 1950, and served two terms as Vice President of the United States between 1953 and 1961. His career in the Congress coincided with the great expansion of the American middle class, when men and women from backgrounds as humble as his own secured the triumph of freedom abroad and the promise of economic growth at home.

He remained a visible presence in American public life for over half a century. Yet through all those years of service to his country, in the military, in the Congress, in the Presidency, and beyond, he cherished his life as a private man, a family man. He was lovingly devoted to his wife, Pat, to their daughters Patricia Cox and Julie Eisenhower, and to his four grandchildren.

His lifetime and public career were intertwined with America's rise as a world power. His faith in America never wavered, from his famous "kitchen debate" with Soviet Premier Nikita Khrushchev through all of the debates that followed. We Americans and our neighbors abroad will always owe him a special debt for opening diplomatic doors to Beijing and Moscow during his Presidency, and his influence in world affairs will be felt for years to come.

Richard Milhous Nixon lived the "American Dream." Now, he rests in peace.

WILLIAM J. CLINTON.
THE WHITE HOUSE, *April 22, 1994.*

DEATH OF RICHARD MILHOUS NIXON, FORMER PRESIDENT OF THE UNITED STATES OF AMERICA

Mr. MICHEL. Mr. Speaker, I offer a privileged resolution (H. Res. 411) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 411

Resolved, That the House of Representatives has learned with profound regret and sorrow of the death of Richard Milhous Nixon, former President of the United States of America.

Resolved, That in recognition of the many virtues, public and private, of one who served with distinction as Representative, Senator, Vice President, and President, the Speaker shall appoint committees of the House to join with such Members of the Senate as may be designated, to attend the funeral services of the former President.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Resolved, That the House tenders its deep sympathy to the members of the family of the former President in their sad bereavement.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out of the provisions of these resolutions, and that the necessary expenses in connection therewith be paid out the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy of the same to the family of the former President.

Resolved, That when the House adjourns today, it adjourn as a further mark of respect to the memory of the former President.

The SPEAKER pro tempore. The minority leader, the gentleman from Illinois [Mr. MICHEL] is recognized for 1 hour.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the death of President Richard Nixon is a great loss, especially to those fortunate enough to have personally known him, worked with him, and learned from him through the years. He was truly one of the last of the giants of the generation that helped to shape America's and the world's destiny after World War II.

His grasp of the nuances and complexities of foreign affairs was unique in its mastery. No President in my lifetime ever had a better understanding of the Soviet Union and its leaders, and his bold move in establishing American relations with the People's Republic of China is one of the high spots in the entire history of American diplomacy.

In 1949, the year I came to Washington as a congressional assistant, he had already established a national reputation, and it was in those days I first got to know him through my predecessor. And as the years passed, my wife Corinne and I got to know Pat and Dick Nixon well, and I knew I could always count on him for advice and counsel.

Just a few weeks ago, before we made our most recent trip to the Soviet Union with the majority leader and Members of Congress, I talked to the former President by telephone to ask again for his thoughts and advice on who we ought to be seeing and what we ought to be doing.

President Nixon's long career of public service was a unique mixture of triumph and tragedy, and the emotions he evoked among supporters and detractors alike were always intense. From the beginning of his public career he was at the center and often was the cause of political turmoil. His favorite political image was "the man in the arena," the political activist fighting for what he deeply believes in, never giving up or giving in, and he never wished to stand on the sidelines and watch others carrying on the sometimes grand, sometimes petty battles of politics. It was this fighting spirit that so many Americans will remember about him long after the details of his long and exciting public life are forgotten.

Mr. Speaker, our deepest sympathies go to his daughters and their families on the death of their father, coming so soon after that of that grand lady, Pat Nixon.

Mr. Speaker, I am happy to yield such time as he may consume to my friend and colleague, the gentleman from Missouri [Mr. EMERSON].

□ 1210

Mr. EMERSON. Mr. Speaker, Richard Nixon has departed this life.

For a person of my age and vintage, but perhaps not uniquely so, the loss of him makes so very poignant the age through which we have lived. I first personally saw Richard Nixon in that most quintessential political experience noted in this century, the Whistle Stop Campaign. As a boy, 14 years of age, I was excused from school one bright October morning to go with my grandfather to Festus, MO, where the then-Vice Presidential candidate exhorted the onlookers in the interests of peace and prosperity as a part of the campaign of 1952. Richard Nixon was then, of course, Senator Nixon—the Vice Presidential nominee on the ticket with Gen. Dwight David Eisenhower. I last saw and had a word with former President Nixon at a luncheon in January hosted by Senator BOB DOLE in commemoration of the 25th anniversary of President Nixon's first inauguration as President of the United States. That intervening period in which Richard Nixon has been such a preeminent player constitutes a most remarkable chapter in American history, and I feel very blessed to have been alive and to witness and to participate in this era.

In the days and weeks ahead, much will be said about Richard Nixon; and at an appropriate time for formal eulogies, I will wish to say more. But in the immediate aftermath of his passing, I want to share several items that, to me, speak volumes about Richard Nixon.

Theodore Roosevelt could not have had Richard Nixon in mind when speaking at the Sorbonne in Paris on April 23, 1910, he said:

> It is not the critic who counts; not the man who points out how the strong man stumbles, or where the doer of deeds could have done them better. The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood; who strives valiantly; who errs, and comes short again and again, because there is no effort without error and shortcoming; but who does actually strive to do the deeds; who know the great enthusiasms, the great devotions; who spends himself in a worthy cause; who at the best knows in the end the triumph of high achievement, and who at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who know neither victory nor defeat.

But, to my way of thinking, if ever a statement could sum up a man, Theodore Roosevelt's comments depicts the life of Richard Nixon.

Second, in yesterday's edition of the Washington Post, Curt Smith, an author and former Saturday Evening Post senior editor and a speechwriter for President Bush, summed up so very well the Nixon that I and so many Americans found so appealing. I wish to share "What Peoria Knew" at this point in my remarks.

[From the Washington Post, Apr. 24, 1994]

WHAT PEORIA KNEW—WASHINGTON NEVER GOT WHY WE MIDDLE AMERICANS LOVED NIXON

(By Curt Smith)

The town I grew up in—Caledonia, N.Y. (pop. 2,188)—had one bar, six churches and no traffic lights. Its people had a belief in work, God and family, a fondness for the familiar and a reverence for everything American. We were for Richard Nixon.

Disdaining pluralistic ignorance, where the members of a majority—mine, the Silent—felt outnumbered, we found it natural to admire Nixon's hardscrabble roots and his tenacity. "No matter what you say," gibed Jimmy Carter in 1976, "he was a leader." Better yet, he was our leader. As for the "trendies" and "beautiful people" and "academics," he told me once, they "couldn't even butter a piece of toast."

In backing Nixon in places like Caledonia, we defended our past and found what my parents and grandparents—like millions, bullied by a liberal ruling class former congressman John Anderson dubbed the "Volvo and brie cheese crowd"—had rarely known. A Voice.

Meg Greenfield has written of the "Nixon generation," and not a day of my baby boom life has passed without Nixon at, or near, the center. Aide Bryce Harlow likened him to a bobbing cork. Only FDR ran as many times for national office—five. More people voted for him for president than any man in history. In post-World War II America, his history was our history. Nixon 'R' Us.

For Nixon, for all those years, we felt nostalgia and even love—something akin to a gentle protectiveness—for Pat's cloth coats and the Nixon family, decent, much-wounded, and as straight and resolute as they came. We saw him as brave and vulnerable and thoughtful and sentimental. It was a view so divorced from Washington's as to rival a dialogue of the deaf. It stuns that he is gone.

In 1967, I mailed a hand-written letter to the senior partner at the Manhattan law firm of Nixon, Mitchell, Mudge and Rose. I was an admirer, I said, and president of my church's ecumenical fellowship. Our group would be in New York in August, and was there the slightest chance I could meet him, and if there was it would be grander than anything I had known.

In early April, I received an answer from Rosemary Woods, his secretary. Nixon would be out of the country, writing for Reader's Digest. However, schedules change, and would I call upon arrival? I did, and was invited to Nixon's office at 20 Broad St., off Wall, a world and Weltanschauung from Upstate New York. For half an hour we talked of sports and college. Nixon suggested Cornell—"Thank God, the least of the Ivies"—and the physic need to work your way through school.

I still think fondly of how Nixon need not have met me, but did, as a kindness. Later I was to find this typical not of the Old nor

New but Real Nixon—shy and solicitous. I did not know this at the time. Instead, I joined Youth for Nixon, learned politics in a mock convention and June county primary—Milhous wins vs. Rockfeller—and gloried when on Jan. 20, 1969, he took the oath of office, that fall, I entered college. It was then, as America entrenched itself in belligerence, that Nixon fused person and president like no chief executive since FDR.

It is hard for post-boomers to understand how early-1970s America seemed at once alive, passionate and coming apart at the seams. Upheaval embraced values and morality, civil rights, feminism, drugs, whether police were pigs, love should be free and grades abolished and America—as George McGovern said—should "come home." The University of Pennsylvania avoided confrontation with student war protesters by removing its American flags to storage. Jane Fonda went to North Vietnam and thundered against "those blue-eyed murders—Nixon and the rest of those ethnocentric American white male chauvinists."

On April 30, 1970, vowing that American would not be "a pitiful, helpless giant," Nixon announced the invasion of Cambodia. Campuses exploded when four students were shot dead at Kent State University and two at Jackson State College. Radicals bombed university buildings as buses ringed the White House to ward off protesters. It was a time of hawk vs. dove, Maine Street vs. counterculture, hard hat vs. hippie. Mayberry felt besieged.

Nixon upheld it consciously, defianty—less through policy than through personality. His programs were often moderate—liberal by Reagan-era standards. Welfare reform, revenue sharing, the all-volunteer army, the Environmental Protection Agency. Despite Vietnam, he engaged in diplomatic summitry, and helped end the bipolar world. In February 1972 Nixon ended decades of estrangement in the land of Shanghai and the Forbidden City. Three months later, treking to Moscow, he became the first U.S. president to visit the Soviet Union—joining Communist Party leader Leonid Brzhnev in the first agreement of the nuclear age to limit strategic nuclear arms.

Nixon loved foreign policy—global, conceptual. He was more direct fighting America's cultural war. My generation loved the amplified beat of rock. Said Nixon at a White House dinner with Fred Waring and the Pennsylvanians, "If the music's square, it's because I like it square." Nixon liked sports, hated cocktail parties, despised "front-runners, the social climbers," and thumbed his nose at the fashionable. "My family never had the wild, swinging times many trendies think of," he told me. "What we did have, of course, was a lot of fun. I, for example, and depending on the season, naturally, loved to sit down and belt out some Christmas carols."

Middle America could see Nixon as Father Christmas and not be deceived. That is why it could accept what a top aide, Raymond Price, called Nixon's "dark side"—the taped Milhous of "expletive deleted"—knowing that his good far outran the bad. He wore the flag in his lapel pin, disdained the idea that draft dodgers were "idealistic. What they wanted was to protect their ass," and grasped the Forgotten American's joys, worries and confessions of the heart. "Farmers. Shopkeepers," a PBS documentary dubbed them. "People with an inbred respect for authority and unyielding belief in the American Dream." Mocked by the maniac '60's, they felt not bigotry but injured pride. Sharing it, Nixon gave them what the Establishment withheld—a decent measure of respect.

Nixon's public lay among the ordered and traditional—"good, law-abiding, tax-paying citizens"—not Eric Goldman's "MetroAmerican," privileged by lineage to rule. Duty mattered. To them, Vietnam was a test of character—whether as America conceded the limits of its power, its adversaries respected the power of its will. Too, religion. Once, Nixon told Charles Colson, "You know, I could be a Catholic. I honestly could. It's beautiful to think about, the fact that there is something you can really grab ahold of, something real and meaningful."

Even Nixon's awkwardness played in Peoria. It was unslick, endearing. Nearly four years ago, at the dedication of the Nixon Library in Yorba Linda, Calif., George Bush told the story of how one afternoon at an airport, Nixon heard a little girl shouting "How is Smokey the Bear?"—at that time living in the Washington Zoo. Nixon smiled as the girl kept repeating her question. Baffled, he turned to an aide for translation. "Smokey the Bear, Mr. President," he whispered. "Washington National Zoo." Triumphant, Nixon walked over, took the girl's hand, and beamed, "How do you do Miss Bear?"

Nixon's flaws, we saw as virtues. His virtues, critics saw as sins. His solitude, they termed isolation; his reserve, arrogance; his propriety, aloofness; his sentimentality, corn. It was this—"This traumatic clash of cultures," Meg Greenfield called it: a schism embodied by Nixon as Grant Wood vs. the age's temporal fashion—that divided families, legislators, above all, generations. As it lodged in the White House, in a man who despised—and was despised by—America's hip, camp and pop art intelligentsia, it cemented his rapport with America's great middle masses before helping to bring about his fall.

Ironically, Nixon had an intellectual's complexity. He relished nuance, respected the writing craft, and wrote 10 books—many best-sellers. Once he told Ray Price, "I am an introvert in an extrovert's profession." Yet he became the tribune of people who never read the New York Times. His goal was a new cultural, even political, majority. He almost made it. Instead, his triumphs were etched by photos in his office that catapulted a visitor back in time: Nixon with Brezhnev; Nixon with Sadat; Nixon speaking, waving, deplaning; Nixon in Bejing; Nixon in a motorcade, with Pat, flinging high the V.

When I left college in 1973, the shadow on those walls was a president seeking to reshape the world—bold yet retiring, believing that "politics is poetry, not prose." When last I saw him, in 1990 in Washington, he was frail, slightly hunched, clad in a dark blue suit. He quizzed me about the Bush administration and suggested that I run for Congress. Respectfully, I declined. He was wary of raising taxes, supportive of Bush in the Gulf, and proud of the woman whose Secret Service code was "Starlight"—his wife of 53 years.

Pat Nixon overcame poverty and tragedy to become a mirror of America's heart, and love. Is it coincidence that by 10 months his death followed hers? In March 1991, on the eve of Mrs. Nixon's 79th birthday, I took to their New Jersey home a giant card arrayed with photos of her life and signatures of more than 200 White House staffers. Trying to unpack it, I pled for patience:

"I'm the most unmechanical person you'll meet." Playfully, she replied, "No, you're not. Dick is." I had never met Mrs. Nixon before. For two hours we spoke of family, work and travel. It was like talking to your own mother.

Later, Nixon wrote to call it "the most memorable birthday card she has ever received." Asked once what word would be engraved on his heart if it were opened after he died, he said, simply "Pat."

A favorite picture showed them on a bench, in San Clemente, watching the Pacific. In it, her head rests on the shoulder of the man who extolled freedom and security and, campaigning, upheld "peace without surrender" and "the spiritual values of America" and who each election, as autumn dawned, communed with rallies in the rain—the most remarkable American of our time.

It would be very difficult to ever put Richard Nixon in context—if, indeed, he can be put in context—without relating him to the phenomenon of modern mass communication, television. Richard Nixon used and was used by this medium through the many stages of its development to this date; indeed, the relationship of Richard Nixon to television is one of the era's more notable relationships. Tom Shales, in today's Washington Post under the heading "Nixon and TV: A Strange But Fascinating Fit," gives the subject good perspective. I include this article at this point in my remarks.

[From the Washington Post, Apr. 25, 1994]

NIXON AND TV: A STRANGE BUT FASCINATING FIT

(By Tom Shales)

Television and Richard Nixon were always irresistibly drawn to one another, not like a moth and a flame but like one flame and another flame. From the beginning of his life as a national figure, Nixon was on TV, and all over TV, and throughout his very public career, he was never off it for very long.

On TV he could be mesmerizing, exasperating, galling, campy and immensely entertaining. Curiously enough, he never quite mastered the medium, but it never rally mastered him, either.

It was kind of a draw.

"Richard Nixon defined the postwar era for America," Carl Bernstein said on CNN yesterday, "and he defined the television era for America." Bernstein also said of his old adversary, "We've lost somebody who's been a part of our life, and part of our family and there's no need to mythologize."

Nixon was never what one could reasonably call a brilliant communicator in a class with Ronald Reagan, or a media-savvy smoothie à la Bill Clinton. He would try to tailor himself for TV and to be tailored for it by the perceptologists and the vidiot savants, but in the end it was always Richard Nixon, but some synthetic composite, who came seeping through.

"Tenacious" is the world most often being used to eulogize Richard Nixon. I prefer "defiant." His defiance was one of his saving graces, part of his makeup as a tragic hero, and it was at the heart of his first major national TV appearance, the "Checkers speech" of 1952, undertaken in defiance of Republican Party bosses and even of beloved national grandfather figure Dwight D. Eisenhower.

When I was in college, kinescopes of the Checkers speech would be shown at student film festivals or at midnight screenings and people would laugh themselves goofy. Mostly we were laughing at the technical primitivism of the broadcast, and those strange slow pans over to a rigidly motionless Pat Nixon, whom makeup and lighting conspired to turn into a marble statute.

But we were also laughing at the shameless transparency of Nixon's message, the cloying appeals to sentiment, the mush not only about the little dog Checkers but also about Pat's Republican cloth coat. We could laugh and think ourselves very smart, but there were two important facts to be remembered: The speech was a genuinely gutsy gesture, and it worked.

In the decades ahead, Nixon would try to use television and television would try to use him, and the relationship remained a fascinating tug of war virtually until the end. Even Nixon's wish that he not lie in state in the Capitol to be observed by, among others, television cameras seems something of a defiant gesture, a refusal to be the subject of gawking or ogling in the hour of his final defeat.

Nixon served up a bounty of great TV. His famous "kitchen debate" with Nikita S. Khrushchev was one of his outright television triumphs. His later debate against fellow presidential candidate John F. Kennedy signaled a seminal shift from substance to style in American political life and began the era of telepolitics in earnest. Suddenly, how a candidate came across on TV was all that really mattered.

Jack Paar, who had played host to both John and Robert Kennedy on his TV program, brought on Nixon one night in the early '60s to chat and reminisce. This appearance may have marked the first remaking of Richard Nixon; it showed him in an uncharacteristically relaxed and convivial mood. Paar induced him to play an original composition for piano, and Nixon engagingly complied. It was as close to charming as he ever got on the air.

This restylization of the Nixon image reached its climax in 1968 when Nixon popped up in a cameo on NBC's top-rated Rowan & Martin's Laugh-In" to utter one of the show's recurring mantras. His rendition of "Sock it—to me?" ranks as probably the most important five-second appearance in the history of political television.

During the long unfolding of the Watergate scandal, we watched as Nixon's defiance turned to defensive desperation. Howard Baker said yesterday on "This Week With David Brinkley" that he was certain Nixon knew nothing of the Watergate burglary and that if he had just come clean instantly and fired those responsible, "maybe on television," his presidency could have been saved.

Perhaps there was something self-destructive in the Nixon character that prevented him from doing that. Or perhaps even the coverup can be seen as another act of defiance, a case of Nixon saying "I'll show them" but this time spectacularly failing to do so.

Nixon sometimes seemed like the party guest whom no one wants to talk to, who is consigned to a corner and shunned but is determined to make his presence known. That he never fit in with the Eastern power elite, that he always gave the Harvard boys fits, were among the things about him that remained endearing. He didn't go to the right school, he didn't say the right things, he didn't have the right pedigree. Richard Nixon was politically incorrect long before political correctness was codified and became the law of the land.

Collectors of Nixon videobilia prize especially a piece of tape never meant to be seen by the public. Prior to the TV address in which he resigned the presidency in 1974, Nixon clowned with members of the TV crew and his staff, and someone turned on a video recorder. On the tape, he jokingly tells the White House photographer that he doesn't want to be caught "pickin' my nose."

For me, one of the most unforgettable pieces of veritably Shakespearean political theater ever seen on television came the next day: Nixon's farewell to his troops in the East Room, a rambling and nakedly emotional autobiography in which the president called his mother "a saint" and told the crowd: "Always remember: Others may hate you, but those who hate you don't win unless you hate them. And then you destroy yourself."

His last visible act that day was that broad wave to the crowd before boarding the helicopter that took him into retirement. It was, yes, a defiant wave.

In his post-presidential TV appearances, Nixon surrendered some of whatever dignity remained. At times he came across like a baggy-pants Willy Loman out peddling yet another new revised version of himself and trying to salvage his place in history. He appeared never, however, to mellow on his dislike of the press; nor apparently did it of him.

Reporting on Nixon's death Friday night, Dan Rather of CBS News couldn't refrain from mentioning again and again that Watergate involved "criminal acts" and from saying more than once not only that Nixon resigned but that he resigned "in disgrace." Good grief. Give the man a break. He's dead.

CBS News had prepared not a comprehensive biography of Nixon but an arduously detailed recap of the Watergate affair. They didn't have the class to leave him alone even then.

On the Brinkley show Sunday, Sam Donaldson pontificated self-righteously about Nixon having done things "not permissible in American life" but allowed as how Nixon was a key figure in "the modern use of television, or misuse of television, by politicians."

Brinkley himself merely marveled in a temperate and forgiving way at "the incredible career of Richard Nixon" with all its ups and downs and said at the conclusion of the program, "It is hard to believe all of that really happened." Indeed it is. And yet much of it happened before our very eyes.

Men and women of my generation all used to say that we would love to have met John F. Kennedy. I would love to have met him too, and was bowled over when he came to my staunchly Republican Midwestern home town to campaign against Nixon in 1960. But I always wanted to meet the maddeningly engimatic Richard Nixon too, and wanted to meet him more and more as the years went on, and as he continued his struggle to remain in the public eye.

He was not the noblest Roman of them all, but he was surely the most Nixonian Nixonian. Future generations will envy us for having had Nixon to kick around, or at least they should. At times like this, it is common to talk about legacies. Nixon's is right there—right there on the videotape. And so, forever, is Nixon.

Finally, today, Mr. Speaker, I wish to offer my condolences to the wonderful family of Richard Nixon and to say thank you, Mr. President, for having been "in the arena."

Mr. MICHEL. Madam Speaker, I thank the distinguished gentleman from Missouri for his very appropriate remarks on this particular occasion.

Madam Speaker, I yield such time as he may consume to the distinguished gentleman from Mississippi [Mr. MONTGOMERY], who likewise has been a longtime friend of the former President.

Mr. MONTGOMERY. Madam Speaker, I thank the gentleman in the well [Mr. MICHEL] for yielding.

Madam Speaker, we were close friends. I served 5½ years, as the gentleman in the well did, with President Nixon. I thought he was an excellent President. He certainly understood foreign policy, and he really understood this Government. He served in the Congress, he served as Vice President, and he served as President. Yes, he made some mistakes. We all make mistakes in life.

What impressed me, after serving as President, he just did not disappear. He was out trying to help our country, and in any way he could, he did. He certainly had a great effect in later years on the actions taken over in Russia, after the Soviet Union had fallen, and we all give him credit for going to China and to the Soviet Union. He was the one that could do it and represent our Government with those nations. Finally, he brought the Vietnam war to a close, an unwinnable war that we all were concerned about.

Madam Speaker, I therefore think it is appropriate that we have this resolution, and I thank the gentleman for bringing it forward.

Mr. MICHEL. Madam Speaker, I move the previous question on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EMERSON. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on House Resolution 411.

The SPEAKER pro tempore (Mrs. MEEK of Florida). Is there objection to the request of the gentleman from Missouri?

There was no objection.

MAKING IN ORDER CONSIDERATION ON THURSDAY NEXT OR ANY DAY THEREAFTER OF CONFERENCE REPORT ON H.R. 2333, STATE DEPARTMENT, USIA, AND RELATED AGENCIES AUTHORIZATION ACT, FISCAL YEARS 1994 AND 1995

Mr. MONTGOMERY. Madam Speaker, I ask unanimous consent that it be in order on Thursday, April 28, 1994 or any day thereafter to consider the conference report on the bill (H.R. 2333) to authorize appropriations for the Department of State, the U.S. Information Agency, and related agencies, and for other purposes, that all points of order against the conference report and against its consideration be waived, and that the conference report be considered as having been read when called up for consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlemen from Mississippi?

There was no objection.

Mr. HAMILTON submitted the following conference report and statement on the bill (H.R. 2333), to authorize appropriations for the Department of State, the United States Information Agency, and related agencies, and for other purposes:

CONFERENCE REPORT (H. REPT. 103-482)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2333), to authorize appropriations for the Department of State, the United States Information Agency, and related agencies, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Foreign Relations Authorization Act, Fiscal Years 1994 and 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—DEPARTMENT OF STATE AND RELATED AGENCIES

Part A—Authorization of Appropriations

Sec. 101. Administration of foreign affairs.
Sec. 102. International organizations, programs, and conferences.
Sec. 103. International commissions.
Sec. 104. Migration and refugee assistance.
Sec. 105. Other programs.
Sec. 106. United States Arms Control and Disarmament Agency.

Part B—Authorities and Activities

Sec. 121. Authorized strength of the Foreign Service.
Sec. 122. Transfers and reprogrammings.
Sec. 123. Expenses relating to certain international claims and proceedings.
Sec. 124. Child care facilities at certain posts abroad.
Sec. 125. Emergencies in the diplomatic and consular service.
Sec. 126. Role of the National Foreign Affairs Training Center.
Sec. 127. Consular authorities.
Sec. 128. Report on consolidation of administrative operations.
Sec. 129. Facilitating access to the Department of State building.
Sec. 130. Report on safety and security of United States personnel in Sarajevo.
Sec. 131. Passport security.
Sec. 132. Record of place of birth for Taiwanese-Americans.
Sec. 133. Terrorism rewards and reports.
Sec. 134. Property agreements.
Sec. 135. Capital investment fund.
Sec. 136. Fees for commercial services.
Sec. 137. Personal services contracts abroad.
Sec. 138. Publishing international agreements.
Sec. 139. Repeal of reporting requirements.
Sec. 140. Visas.
Sec. 141. Local guard contracts abroad.
Sec. 142. Women's human rights protection.

Part C—Department of State Organization

Sec. 161. Organization of the Department of State.
Sec. 162. Technical and conforming amendments.
Sec. 163. Director General of the Foreign Service.
Sec. 164. Administrative expenses.

Part D—Personnel

SUBPART 1—GENERAL PROVISIONS

Sec. 171. Labor-management relations.
Sec. 172. Waiver of limitation for certain claims for personal property damage or loss.
Sec. 173. Senior Foreign Service performance pay.
Sec. 174. Reassignment and retirement of former presidential appointees.
Sec. 175. Report on classification of Senior Foreign Service positions.
Sec. 176. Allowances.
Sec. 177. Grievances.
Sec. 178. Mid-level women and minority placement program.
Sec. 179. Employment assistance referral system for certain members of the Foreign Service.
Sec. 180. United States citizens hired abroad.
Sec. 181. Reduction in force authority with regard to certain members of the Foreign Service.
Sec. 182. Restoration of withheld benefits.

SUBPART 2—FOREIGN LANGUAGE COMPETENCE WITHIN THE FOREIGN SERVICE

Sec. 191. Foreign language competence within the Foreign Service.
Sec. 192. Designation of Foreign Language Resources Coordinator.
Sec. 193. Foreign language services.

TITLE II—UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS

Part A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.

Part B—USIA and Related Agencies Authorities and Activities

Sec. 221. USIA office in Lhasa, Tibet.
Sec. 222. Changes in administrative authorities.
Sec. 223. Employment authority.
Sec. 224. Buying power maintenance account.
Sec. 225. Contract authority.
Sec. 226. United States transmitter in Kuwait.
Sec. 227. Fulbright-Hays Act Authorities.
Sec. 228. Separate ledger accounts for NED grantees.
Sec. 229. Coordination of United States exchange programs.
Sec. 230. Limitation concerning participation in international expositions.
Sec. 231. Private sector opportunities.
Sec. 232. Authority to respond to public inquiries.
Sec. 233. Technical amendment relating to Near and Middle East research and training.
Sec. 234. Distribution within the United States of certain materials of the United States Information Agency.
Sec. 235. American studies collections.
Sec. 236. Educational and cultural exchanges with Tibet.
Sec. 237. Scholarships for East Timorese students.
Sec. 238. Cambodian scholarship and exchange programs.
Sec. 239. Increasing African participation in USIA exchange programs.
Sec. 240. Environment and sustainable development exchange program.
Sec. 241. South Pacific exchange programs.
Sec. 242. International exchange programs involving disability related matters.

PART C—MIKE MANSFIELD FELLOWSHIPS

Sec. 251. Short title.
Sec. 252. Establishment of fellowship program.
Sec. 253. Program requirements.
Sec. 254. Separation of Government personnel during the fellowships.
Sec. 255. Mansfield Fellows on detail from Government service.
Sec. 256. Liability for repayments.
Sec. 257. Definitions.

TITLE III—UNITED STATES INTERNATIONAL BROADCASTING ACT

Sec. 301. Short title.
Sec. 302. Congressional findings and declaration of purposes.
Sec. 303. Standards and principles.
Sec. 304. Establishment of broadcasting Board of Governors.
Sec. 305. Authorities of the Board.
Sec. 306. Foreign policy guidance.
Sec. 307. International Broadcasting Bureau.
Sec. 308. Limits on grants for Radio Free Europe and Radio Liberty.
Sec. 309. Radio Free Asia.
Sec. 310. Transition.
Sec. 311. Preservation of American jobs.
Sec. 312. Privatization of Radio Free Europe and Radio Liberty.
Sec. 313. Requirement for authorization of appropriations.
Sec. 314. Definitions.
Sec. 315. Technical and conforming amendments.

TITLE IV—INTERNATIONAL ORGANIZATIONS

PART A—UNITED NATIONS REFORM AND PEACEKEEPING OPERATIONS

Sec. 401. United Nations Office of Inspector General.
Sec. 402. United States participation in management of the United Nations.
Sec. 403. Sense of the Senate on Department of Defense funding for United Nations peacekeeping operations.
Sec. 404. Assessed contributions for United Nations peacekeeping operations.
Sec. 405. United States personnel taken prisoner while serving in multinational forces.
Sec. 406. Transmittals of certain United Nations documents.
Sec. 407. Consultations and reports.
Sec. 408. Transfers of excess defense articles for international peacekeeping operations.
Sec. 409. Reform in budget decisionmaking procedures of the United Nations and its specialized agencies.
Sec. 410. Limitation on contributions to the United Nations and affiliated organizations.
Sec. 411. United Nations Security Council membership.

Sec. 412. Reforms in the World Health Organization.
Sec. 413. Reforms in the Food and Agriculture Organization.
Sec. 414. Sense of Congress regarding adherence to United Nations Charter.
Sec. 415. Designated congressional committees.

PART B—GENERAL PROVISIONS AND OTHER INTERNATIONAL ORGANIZATIONS

Sec. 421. Agreement on State and local taxation.
Sec. 422. Conference on Security and Cooperation in Europe.
Sec. 423. International Boundary and Water Commission.
Sec. 424. United States membership in the Asian-Pacific Economic Cooperation Organization.
Sec. 425. United States membership in the International Copper Study Group.
Sec. 426. Extension of the International Organizations Immunities Act to the International Union for Conservation of Nature and Natural Resources.
Sec. 427. Inter-American organizations.
Sec. 428. Prohibition on contributions to the International Coffee Organization.
Sec. 429. Prohibition on contributions to the International Jute Organization.
Sec. 430. Migration and refugee amendments.
Sec. 431. Withholding of United States contributions for certain programs of international organizations.

TITLE V—FOREIGN POLICY

PART A—GENERAL PROVISIONS

Sec. 501. United States policy concerning overseas assistance to refugees and displaced persons.
Sec. 502. Interparliamentary exchanges.
Sec. 503. Food as a human right.
Sec. 504. Transparency in armaments.
Sec. 505. Sense of the Senate concerning Inspector General Act.
Sec. 506. Torture convention implementation.
Sec. 507. United States policy concerning Iraq.
Sec. 508. High-level visits to Taiwan.
Sec. 509. Transfer of certain obsolete or surplus defense articles in the War Reserve Allies Stockpile to the Republic of Korea.
Sec. 510. Extension of the Fair Trade in Auto Parts Act of 1988.
Sec. 511. Report on the use of foreign frozen or blocked assets.
Sec. 512. Extension of certain adjudication provisions.
Sec. 513. Policy regarding the conditions which the Government of the People's Republic of China should meet to continue to receive nondiscriminatory most-favored-nation treatment.
Sec. 514. Implementation of Partnership for Peace.
Sec. 515. Policy toward Thailand, Cambodia, Laos, and Burma.
Sec. 516. Peace process in Northern Ireland.
Sec. 517. Policy with respect to the establishment of an international criminal court.
Sec. 518. International criminal court participation.
Sec. 519. Protection of first and fourth amendment rights.
Sec. 520. Policy on termination of United States arms embargo.
Sec. 521. Sense of Senate on relations with Vietnam.
Sec. 522. Report on sanctions on Vietnam.
Sec. 523. Report on People's Mujaheddin of Iran.
Sec. 524. Amendments to the PLO Commitments Compliance Act.
Sec. 525. Free trade in ideas.
Sec. 526. Embargo against Cuba.
Sec. 527. Expropriation of United States property.
Sec. 528. Report on Russian military operations in the independent states of the former Soviet Union.
Sec. 529. United States policy on North Korea.
Sec. 530. Enforcement of nonproliferation treaties.
Sec. 531. Taiwan.
Sec. 532. Waiver of sanctions with respect to the Federal Republic of Yugoslavia to promote democracy abroad.
Sec. 533. Freedom of information exemption for certain Open Skies Treaty data.
Sec. 534. Effectiveness of democracy programs.
Sec. 535. Sense of Congress concerning United States citizens victimized by Germany during World War II.
Sec. 536. Reporting requirements on occupied Tibet.

PART B—SPOILS OF WAR ACT

Sec. 551. Short title.
Sec. 552. Transfers of spoils of war.
Sec. 553. Prohibition on transfers to countries which support terrorism.
Sec. 554. Report on previous transfers.
Sec. 555. Definitions.
Sec. 556. Construction.

PART C—ANTI-ECONOMIC DISCRIMINATION ACT

Sec. 561. Short title.
Sec. 562. Israel's diplomatic status.
Sec. 563. Policy on Middle East arms sales.
Sec. 564. Prohibition on certain sales and leases.
Sec. 565. Prohibition on discriminatory contracts.

PART D—THE CAMBODIAN GENOCIDE JUSTICE ACT

Sec. 571. Short title.
Sec. 572. Policy.
Sec. 573. Establishment of State Department Office.
Sec. 574. Reporting requirement.

PART E—MIDDLE EAST PEACE FACILITATION

Sec. 581. Short title.
Sec. 582. Findings.
Sec. 583. Authority to suspend certain provisions.

TITLE VI—PEACE CORPS

Sec. 601. Authorization of appropriations.
Sec. 602. Amendments to the Peace Corps Act.

TITLE VII—ARMS CONTROL

PART A—ARMS CONTROL AND NONPROLIFERATION ACT OF 1994

Sec. 701. Short title; references in part; table of contents.
Sec. 702. Congressional declarations; purpose.
Sec. 703. Purposes.
Sec. 704. Repeals.
Sec. 705. Director.
Sec. 706. Bureaus, offices, and divisions.
Sec. 707. Scientific and Policy Advisory Committee.
Sec. 708. Presidential Special Representatives.
Sec. 709. Policy formulation.
Sec. 710. Negotiation management.
Sec. 711. Report on measures to coordinate research and development.
Sec. 712. Verification of compliance.
Sec. 713. Negotiating records.
Sec. 714. Authorities with respect to nonproliferation matters.
Sec. 715. Appointment and compensation of personnel.
Sec. 716. Security requirements.
Sec. 717. Reports.
Sec. 718. Funding.
Sec. 719. Conforming amendments.

PART B—AMENDMENTS TO THE ARMS EXPORT CONTROL ACT

Sec. 731. Limitation on authority to transfer excess defense articles.
Sec. 732. Reports under the Arms Export Control Act.
Sec. 734. Prohibition on incentive payments under the Arms Export Control Act.
Sec. 735. Missile technology exports to certain Middle Eastern and Asian countries.
Sec. 736. Notification of Congress on certain events involving the Missile Technology Control Regime (MTCR).
Sec. 737. Control of reexports to terrorist countries.

TITLE VIII—NUCLEAR PROLIFERATION PREVENTION ACT

Sec. 801. Short title.

PART A—REPORTING ON NUCLEAR EXPORTS

Sec. 811. Reports to Congress.

PART B—SANCTIONS FOR NUCLEAR PROLIFERATION

Sec. 821. Imposition of sanction procurement on persons engaging in export activities that contribute to proliferation.
Sec. 822. Eligibility for assistance.
Sec. 823. Role of international financial institutions.
Sec. 824. Prohibition on assisting nuclear proliferation through the provision of financing.
Sec. 825. Export-Import Bank.
Sec. 826. Amendment to the Arms Export Control Act.
Sec. 827. Reward.
Sec. 828. Reports.
Sec. 829. Technical correction.
Sec. 830. Definitions.
Sec. 831. Effective date.

PART C—INTERNATIONAL ATOMIC ENERGY AGENCY

Sec. 841. Bilateral and multilateral initiatives.
Sec. 842. IAEA internal reforms.
Sec. 843. Reporting requirement.
Sec. 844. Definitions.

PART D—TERMINATION

Sec. 851. Termination upon enactment of next Foreign Relations Act.

TITLE IX—COMMISSION ON PROTECTING AND REDUCING GOVERNMENT SECRECY

Sec. 901. Short title.
Sec. 902. Findings.
Sec. 903. Purpose.
Sec. 904. Composition of the Commission.
Sec. 905. Functions of the Commission.
Sec. 906. Powers of the Commission.
Sec. 907. Staff of the Commission.
Sec. 908. Compensation and travel expenses.
Sec. 909. Security clearances for Commission members and staff.
Sec. 910. Final report of Commission; termination.

TITLE I—DEPARTMENT OF STATE AND RELATED AGENCIES

PART A—AUTHORIZATION OF APPROPRIATIONS

SEC. 101. ADMINISTRATION OF FOREIGN AFFAIRS.

(a) In General.—The following amounts are authorized to be appropriated for the Department of State under "Administration of Foreign Affairs" to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law, including the diplomatic security program:

(1) Diplomatic and Consular Programs.—For "Diplomatic and Consular Programs", of the Department of State $1,704,589,000 for the fiscal year 1994 and $1,781,139,000 for the fiscal year 1995.

(2) Salaries and Expenses.—For "Salaries and Expenses", of the Department of State $396,722,000 for the fiscal year 1994 and $391,373,000 for the fiscal year 1995.

(3) Acquisition and Maintenance of Buildings Abroad.—For "Acquisition and Maintenance of Buildings Abroad", $381,481,000 for the fiscal year 1994 and $309,760,000 for the fiscal year 1995.

(4) Representation Allowances.—For "Representation Allowances", $4,780,000 for the fiscal year 1994 and $4,780,000 for the fiscal year 1995.

(5) Emergencies in the Diplomatic and Consular Service.—For "Emergencies in the Diplomatic and Consular Service, $7,805,000 for the fiscal year 1994 and $6,500,000 for the fiscal year 1995.

(6) Office of the Inspector General.—For "Office of the Inspector General", $23,469,000 for the fiscal year 1994 and $23,798,000 for the fiscal year 1995.

(7) Payment to the American Institute in Taiwan.—For "Payment to the American Institute in Taiwan", $15,165,000 for the fiscal year 1994 and $15,465,000 for the fiscal year 1995.

(8) Protection of Foreign Missions and Officials.—For "Protection of Foreign Missions and Officials", $10,551,000 for the fiscal year 1994 and $10,079,000 for the fiscal year 1995.

(9) Repatriation Loans.—For "Repatriation Loans", $776,000 for the fiscal year 1994 and $776,000 for the fiscal year 1995, for administrative expenses.

(b) Limitations.—

(1) Of the amounts authorized to be appropriated for "Salaries and Expenses" under subsection (a)(2) $500,000 is authorized to be appropriated for the fiscal year 1994 and $500,000 for the fiscal year 1995 for the Department of State for the recruitment of Hispanic American students from United States institutions of higher education with a high percentage enrollment of Hispanic Americans and for the training of Hispanic Americans for careers in the Foreign Service and in international affairs.

(2) Of the amounts authorized to be appropriated for "Diplomatic and Consular Programs" under subsection (a)(1)—

(A) $5,000,000 is authorized to be appropriated for each of the fiscal years 1994 and 1995 for grants, contracts, and other activities to conduct research and promote international cooperation on environmental and other scientific issues;

(B) $11,500,000 is authorized to be available for fiscal year 1994 and $11,900,000 is authorized to be available for fiscal year 1995, only for administrative expenses of the bureau charged with carrying out the purposes of the Migration and Refugee Assistance Act of 1962;

(D) $700,000 is authorized to be appropriated for each of the fiscal years 1994 and 1995 to carry out the activities of the Commission on Protecting and Reducing Government Secrecy established under title IX of this Act and such amounts under this subparagraph are authorized to remain available until expended; and

(E) $400,000 is authorized to be appropriated for each of the fiscal years 1994 and 1995 to carry out the activities of the Office of Cambodian Genocide Investigations established under title 5 of this Act.

(3) Of the amounts authorized to be appropriated for "Acquisition and Maintenance of Buildings Abroad" under subsection (a)(3), $95,904,000 is authorized to be appropriated for the fiscal year 1994 and $114,825,000 is authorized to be appropriated for the fiscal year 1995 for Maintenance of Buildings and Facility Rehabilitation.

(4) Of the amounts authorized to be appropriated for "Protection of Foreign Missions and Officials" in subsection (a)(8)—

(A) $940,000 is authorized to be available to reimburse the City of Seattle and the State of Washington for security costs associated with the Asian Pacific Economic Cooperation conference held in Seattle in November 1993, on a one-time-only basis, and for purposes of obligation and expediture of amounts under this subparagraph under Public Law 103-121 as reimbursement for extraordinary protective services under section 208 of title 3, United States Code, the limitations of section 202(10) of title 3, United States Code (concerning 20 or more consulates) shall not apply; and

(B) $1,000,000 is authorized to be available for fiscal year 1995 to reimburse State and local government agencies for security costs associated with the Western Hemisphere summit scheduled to be held in Miami, Florida in December 1994.

(c) Repeal.—Effective October 1, 1995, section 401(a)(3) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99–399) is repealed.

SEC. 102. INTERNATIONAL ORGANIZATIONS, PROGRAMS, AND CONFERENCES.

(a) Assessed Contributions to International Organizations.—There are authorized to be appropriated for "Contributions to International Organizations", $865,885,000 for the fiscal year 1994 and $873,222,000 for the fiscal year 1995 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international organizations and to carry out other authorities in law consistent with such purposes.

(b) Assessed Contributions for International Peacekeeping Activities.—There are authorized to be appropriated for "Contributions for International Peacekeeping Activities", $401,607,000 for the fiscal year 1994 and $510,204,000 for the fiscal year 1995 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities and to carry out other authorities in law consistent with such purposes.

(c) Peacekeeping Operations.—There are authorized to be appropriated for "Peacekeeping Operations", $75,623,000 for the fiscal year 1994 and $75,000,000 for the fiscal year 1995 for the Department of State to carry out section 551 of Public Law 87–195.

(d) Supplemental Peacekeeping.—In addition to amounts authorized to be appropriated for such purpose by subsection (b), there are authorized to be appropriated $670,000,000 for "Assessed Contributions for International Peacekeeping Activities" for the period beginning on the date of enactment of this Act and ending September 30, 1995.

(e) International Conferences and Contingencies.—There are authorized to be appropriated for "International Conferences and Contingencies", $6,000,000 for the fiscal year 1994 and $6,000,000 for the fiscal year 1995 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international conferences and contingencies and to carry out other authorities in law consistent with such purposes.

(f) Foreign Currency Exchange Rates.—In addition to amounts otherwise authorized to be appropriated by subsections (a) and (b) of this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1994 and 1995 to offset adverse fluctuations in foreign currency exchange rates. Amounts appropriated under this subsection shall be available for obligation and expenditure only to the extent that the Director of the Office of Management and Budget determines and certifies to Congress that such amounts are necessary due to such fluctuations.

(g) Withholding of Funds.—Notwithstanding any other provision of law, the funds authorized to be appropriated for "Contributions for International Organizations" shall be reduced in the amount of $118,875,000 for each of the fiscal years 1994 and 1995, and for each year thereafter, unless the President certifies to the Speaker of the House of Representatives and the President of the Senate that no United States agency or United Nations affiliated agency grants any official status, accreditation, or recognition to any organization which promotes, condones, or seeks the legalization of pedophilia, or which includes as a subsidiary or member any such organization.

SEC. 103. INTERNATIONAL COMMISSIONS.

The following amounts are authorized to be appropriated under "International Commissions" for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) International Boundary and Water Commission, United States and Mexico.—For "International Boundary and Water Commission, United States and Mexico"—

(A) for "Salaries and Expenses" $11,200,000 for the fiscal year 1994 and $15,358,000 for the fiscal year 1995; and

(B) for "Construction" $14,400,000 for the fiscal year 1994 and $10,398,000 for the fiscal year 1995.

(2) International Boundary Commission, United States and Canada.—For "International Boundary Commission, United States and Canada", $740,000 for the fiscal year 1994 and $740,000 for the fiscal year 1995.

(3) International Joint Commission.—For "International Joint Commission", $3,550,000 for the fiscal year 1994 and $3,550,000 for the fiscal year 1995.

(4) International Fisheries Commissions.—For "International Fisheries Commissions", $16,200,000 for the fiscal year 1994 and $14,669,000 for the fiscal year 1995.

SEC. 104. MIGRATION AND REFUGEE ASSISTANCE.

(a) Authorization of Appropriations.—

(1) There are authorized to be appropriated for "Migration and Refugee Assistance" for

authorized activities, $589,188,000 for the fiscal year 1994 and $592,000,000 for the fiscal year 1995.

(2) There are authorized to be appropriated $80,000,000 for the fiscal year 1994 and $80,000,000 for the fiscal year 1995 for assistance for refugees resettling in Israel.

(3) There are authorized to be appropriated $1,500,000 for the fiscal year 1994 and $1,500,000 for the fiscal year 1995 for humanitarian assistance, including but not limited to, food, medicine, clothing, and medical and vocational training to persons displaced as a result of civil conflict in Burma, including persons still within Burma.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to subsection (a) are authorized to be available until expended.

SEC. 105. OTHER PROGRAMS.

The following amounts are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS.—For "United States Bilateral Science and Technology Agreements", $4,275,000 for the fiscal year 1994.

(2) ASIA FOUNDATION.—For "Asia Foundation", $16,000,000 for the fiscal year 1994 and $16,068,000 for the fiscal year 1995.

SEC. 106. UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of the Arms Control and Disarmament Act—

(1) $53,500,000 for the fiscal year 1994 and $59,292,000 for the fiscal year 1995; and

(2) such sums as may be necessary for each of the fiscal years 1994 and 1995 for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs, and to offset adverse fluctuations in foreign currency exchange rates.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 49 of the Arms Control and Disarmament Act (22 U.S.C. 2589) is amended—

(1) by striking subsection (a); and

(2) in the first sentence of subsection (b) by striking "pursuant to this section" and inserting "to carry out this Act".

PART B—AUTHORITIES AND ACTIVITIES

SEC. 121. AUTHORIZED STRENGTH OF THE FOREIGN SERVICE.

(a) END FISCAL YEAR 1994 LEVELS.—The number of members of the Foreign Service authorized to be employed as of September 30, 1994—

(1) for the Department of State, shall not exceed 9,100, of whom not more than 820 shall be members of the Senior Foreign Service;

(2) for the United States Information Agency, shall not exceed 1,200, of whom not more than 175 shall be members of the Senior Foreign Service; and

(3) for the Agency for International Development, not to exceed 1,850, of whom not more than 250 shall be members of the Senior Foreign Service.

(b) END FISCAL YEAR 1995 LEVELS.—The number of members of the Foreign Service authorized to be employed as of September 30, 1995—

(1) for the Department of State, shall not exceed 9,100, of whom not more than 770 shall be members of the Senior Foreign Service;

(2) for the United States Information Agency, not to exceed 1,200, of whom not more than 165 shall be members of the Senior Foreign Service; and

(3) for the Agency for International Development, not to exceed 1,850, of whom not more than 240 shall be members of the Senior Foreign Service.

(c) DEFINITION.—For the purposes of this section, the term "members of the Foreign Service" is used within the meaning of such term under section 103 of the Foreign Service Act of 1980 (22 U.S.C 3903), except that such term does not include—

(1) members of the Service under paragraphs (6) and (7) of such section;

(2) members of the Service serving under temporary resident appointments abroad;

(3) members of the Service employed on less than a full-time basis;

(4) members of the Service subject to involuntary separation in cases in which such separation has been suspended pursuant to section 1106(8) of the Foreign Service Act of 1980; and

(5) members of the Service serving under non-career limited appointments.

(d) WAIVER AUTHORITY.—(1) Subject to paragraph (2), the Secretary of State and the Director of the United States Information Agency may waive any limitation under subsection (a) or (b) which applies to the Department of State or the United States Information Agency, as the case may be, to the extent that such waiver is necessary to carry on the foreign affairs functions of the United States.

(2) Not less than 15 days before any agency head implements a waiver under paragraph (1), such agency head shall notify the Chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives. Such notice shall include an explanation of the circumstances and necessity for such waiver.

SEC. 122. TRANSFERS AND REPROGRAMMINGS.

(a) AMENDMENTS TO SECTION 24 OF THE STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956.—Section 24 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696) is amended—

(1) in subsection (b)(7) by striking subparagraph (E);

(2) in subsection (d)(1)—

(A) by striking "the second" and inserting "either"; and

(B) by striking "such second" and inserting "such";

(3) in subsection (d)(2) by amending the first sentence to read as follows: "Amounts appropriated for the 'Diplomatic and Consular Programs' account may not exceed by more than 5 percent the amount specifically authorized to be appropriated for such account for a fiscal year."; and

(4) by striking subsection (d)(4).

(b) DIPLOMATIC CONSTRUCTION PROGRAM.—Section 401 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851) is amended by striking subsections (c) and (h)(3).

(c) REPROGRAMMING.—Section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) is amended in subsection (a)(7) by striking "$500,000" and inserting "$1,000,000".

SEC. 123. EXPENSES RELATING TO CERTAIN INTERNATIONAL CLAIMS AND PROCEEDINGS.

Section 38 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2710) is amended by adding at the end the following new subsections:

"(c) PROCUREMENT OF SERVICES.—The Secretary of State may use competitive procedures or procedures other than competitive procedures to procure the services of experts for use in preparing or prosecuting a proceeding before an international tribunal or a claim by or against a foreign government or other foreign entity, whether or not the expert is expected to testify, or to procure other support services for such proceedings or claims. The Secretary need not provide any written justification for the use of procedures other than competitive procedures when procuring such services under this subsection and need not furnish for publication in the Commerce Business Daily or otherwise any notice of solicitation or synopsis with respect to such procurement.

"(d) INTERNATIONAL LITIGATION FUND.—

"(1) ESTABLISHMENT.—In order to provide the Department of State with a dependable, flexible, and adequate source of funding for the expenses of the Department related to preparing or prosecuting a proceeding before an international tribunal, or a claim by or against a foreign government or other foreign entity, there is established an International Litigation Fund (hereafter in this subsection referred to as the "ILF"). The ILF may be available without fiscal year limitation. Funds otherwise available to the Department for the purposes of this paragraph may be credited to the ILF.

"(2) REPROGRAMMING PROCEDURES.—Funds credited to the ILF shall be treated as a reprogramming of funds under section 34 and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogrammings. This paragraph shall not apply to the transfer of funds under paragraph (3).

"(3) TRANSFERS OF FUNDS.—Funds received by the Department of State from another agency of the United States Government or pursuant to the Department of State Appropriations Act of 1937 (49 Stat. 1321, 22 U.S.C. 2661) to meet costs of preparing or prosecuting a proceeding before an international tribunal, or a claim by or against a foreign government or other foreign entity, shall be credited to the ILF.

"(4) USE OF FUNDS.—Funds deposited in the ILF shall be available only for the purposes of paragraph (1).".

SEC. 124. CHILD CARE FACILITIES AT CERTAIN POSTS ABROAD.

Section 31 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2703) is amended in subsection (e) by striking "For the fiscal years 1992 and 1993, the" and inserting "The".

SEC. 125. EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.

Section 4 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2671) is amended in subsection (c)—

(1) by striking "and the Foreign Service"; and

(2) by striking "an annual confidential" and inserting "a periodic".

SEC. 126. ROLE OF THE NATIONAL FOREIGN AFFAIRS TRAINING CENTER.

Chapter 7 of the Foreign Service Act of 1980 is amended—

(1) in the chapter title, by striking "Foreign Service Institute,";

(2) in section 701 (22 U.S.C. 4021)—

(A) by striking the section title and inserting "Institution for Training.";

(B) in subsection (a)—

(i) by striking the subsection heading and inserting "Institution or Center for Training";

(ii) by striking "the Foreign Service Institute (hereinafter in this chapter referred to as the 'Institute')" and inserting "an institution or center for training (hereinafter in this chapter referred to as the 'institution')"; and

(iii) by striking "Institute" and inserting "institution"; and

(C) by adding at the end the following new subsection:

"(d)(1) The Secretary of State is authorized to provide for special professional foreign affairs training and instruction of employees of foreign governments through the institution.

"(2) Training and instruction under paragraph (1) shall be on a reimbursable or advance-of-funds basis. Such reimbursements or advances to the Department of State may be provided by an agency of the United States Government or by a foreign government and shall be credited to the currently available applicable appropriation account.

"(3) In making such training available to employees of foreign governments, priority consideration should be given to officials of newly emerging democratic nations and then to such other countries as the Secretary determines to be in the national interest of the United States.

"(4) The authorities of section 704 shall apply to training and instruction provided under this section."; and

(3) in sections 701(b), 702, 704, 705, and 707, by striking "Foreign Service Institute" and "Institute" each place such terms appear and inserting "institution".

SEC. 127. CONSULAR AUTHORITIES.

(a) Persons Authorized To Issue Passports Abroad.—The Act entitled "An Act to regulate the issue and validity of passports, and for other purposes", approved July 3, 1926 (44 Stat. 887, 22 U.S.C. 211a) is amended by striking "by diplomatic representatives of the United States, and by such consul generals, consuls, or vice consuls when in charge," and inserting "by diplomatic and consular officers of the United States, and by other employees of the Department of State who are citizens of the United States,".

(b) Notarial Authority.—The Act entitled "An Act to provide for the reorganization of the consular service of the United States", approved April 5, 1906 (34 Stat. 100, 22 U.S.C. 4221) is amended in section 7 by adding at the end "Pursuant to such regulations as the Secretary of State may prescribe, the Secretary may designate any other employee of the Department of State who is a citizen of the United States to perform any notarial function authorized to be performed by a consular officer of the United States under this Act.".

SEC. 128. REPORT ON CONSOLIDATION OF ADMINISTRATIVE OPERATIONS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of State, jointly with the Director of the United States Information Agency, the Director of the Arms Control and Disarmament Agency, and the Administrator of the Agency for International Development) shall submit, to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, a report concerning the feasibility of consolidating domestic administrative operations for the Department of State, the Agency for International Development, the Arms Control and Disarmament Agency and the United States Information Agency. Such report shall include specific recommendations for implementation.

SEC. 129. FACILITATING ACCESS TO THE DEPARTMENT OF STATE BUILDING.

(a) Procedures To Facilitate Access.—The Department of State shall maintain procedures to ensure that the members and staff of the congressional committees of jurisdiction are granted easy access to the Department of State in the conduct of their duties.

(b) Parking.—The Department of State shall also make available adequate parking for members and staff of the congressional committees of jurisdiction in order to facilitate attendance of meetings at the Department of State.

SEC. 130. REPORT ON SAFETY AND SECURITY OF UNITED STATES PERSONNEL IN SARAJEVO.

Not later than 90 days after the date of enactment of this Act, the Secretary of State shall report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate on the steps taken to enhance the security and physical safety of United States diplomatic personnel in Sarajevo, Bosnia-Hercegovina.

SEC. 131. PASSPORT SECURITY.

(a) Sense of Congress.—The Congress strongly urges the Secretary of State to ensure that any new passport issuances should, to the maximum extent practicable—

(1) be secure against counterfeiting, alteration, duplication, or simulation;

(2) be easily verifiable with appropriate inspection by public officials and private and commercial personnel; and

(3) contain only United States-sourced materials and technology.

(b) Report to Congress.—Not later than 30 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives detailing actions taken by the Department of State to accomplish the goals set forth in subsection (a).

SEC. 132. RECORD OF PLACE OF BIRTH FOR TAIWANESE-AMERICANS.

For purposes of the registration of birth or certification of nationality of a United States citizen born in Taiwan, the Secretary of State shall permit the place of birth to be recorded as Taiwan.

SEC. 133. TERRORISM REWARDS AND REPORTS.

(a) Rewards for Information on Acts of International Terrorism in the United States.—

(1) State Department Basic Authorities Act of 1956.—Section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) is amended in subsection (a) by striking "and is primarily outside the territorial jurisdiction of the United States".

(2) Notwithstanding section 36(g) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708), in addition to amounts otherwise available the Department of State may expend not more than $4,000,000 in fiscal years 1994 and 1995 to pay rewards pursuant to section 36(a) of such Act.

(b) Annual Reports on Terrorism.—

(1) Section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f) is amended in subsection (b)(2)—

(A) by striking "and" at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(C) by adding at the end the following:

"(E) efforts by the United States to eliminate international financial support provided to those groups directly or provided in support of their activities.".

(2) Section 304(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138) is amended—

(A) by striking "Treasury" and inserting "Treasury, in consultation with the Attorney General and appropriate investigative agencies,"; and

(B) by inserting at the end "Each such report shall provide a detailed list and description of specific assets.".

SEC. 134. PROPERTY AGREEMENTS.

Whenever the Department of State enters into lease-purchase agreements involving property in foreign countries pursuant to section 1 of the Foreign Service Buildings Act (22 U.S.C. 292), the Department shall account for such transactions in accordance with fiscal year obligations.

SEC. 135. CAPITAL INVESTMENT FUND.

(a) Establishment.—There is established within the Department of State a Capital Investment Fund to provide for the procurement of information technology and other related capital investments for the Department of State and to ensure the efficient management, coordination, operation, and utilization of such resources.

(b) Funding.—Funds otherwise available for the purposes of subsection (a) may be deposited in such Fund.

(c) Availability.—Amounts deposited into the Fund are authorized to remain available until expended.

(d) Expenditures From the Fund.—Amounts deposited in the Fund shall be available for expenditure to procure capital equipment and information technology.

(e) Reprogramming Procedures.—Funds credited to the Capital Investment Fund shall be treated as a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2710) and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogrammings.

SEC. 136. FEES FOR COMMERCIAL SERVICES.

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669 et seq.) is amended by adding the following new section at the end:

"SEC. 52. FEES FOR COMMERCIAL SERVICES.

"(a) Authority to Charge Fee.—(1) Subject to paragraph (2), the Secretary of State is authorized to charge a fee to cover the actual or estimated cost of providing any person, firm or organization (other than agencies of the United States Government) with commercial services at posts abroad on matters within the authority of the Department of State.

"(2) The authority of this section may be exercised only in countries where the Department of Commerce does not perform commercial services for which it collects fees.

"(b) Use of Fees.—Funds collected under the authority of subsection (a) shall be deposited as an offsetting collection to any Department of State appropriation to recover the costs of providing commercial services.".

SEC. 137. PERSONAL SERVICES CONTRACTS ABROAD.

Section 2(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(c)) is amended by inserting before the period "; and such contracts are authorized to be negotiated, the terms of the contracts to be prescribed, and the work to be performed, where necessary, without regard to such statutory provisions as relate to the negotiation, making, and performance of contracts and performance of work in the United States".

SEC. 138. PUBLISHING INTERNATIONAL AGREEMENTS.

Section 112a of title 1 of the United States Code is amended—

(1) by inserting "(a)" immediately before "The Secretary of State"; and

(2) by adding at the end the following new subsections:

"(b) The Secretary of State may determine that publication of certain categories of agreements is not required, if the following criteria are met:

"(1) such agreements are not treaties which have been brought into force for the United States after having received Senate advice and consent pursuant to section 2(2) of Article II of the Constitution of the United States;

"(2) the public interest in such agreements is insufficient to justify their publication, because (A) as of the date of enactment of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, the agreements are no longer in force, (B) the agreements do not create private rights or duties, or establish standards intended to govern government action in the treatment of private individuals; (C) in view of the limited or specialized nature of the public interest in such agreements, such interest can adequately be satisfied by an alternative means; or (D) the public disclosure of the text of the agreement would, in the opinion of the President, be prejudicial to the national security of the United States; and

"(3) copies of such agreements (other than those in paragraph (2)(D)), including certified copies where necessary for litigation or similar purposes, will be made available by the Department of State upon request.

"(c) Any determination pursuant to subsection (b) shall be published in the Federal Register.".

SEC. 139. REPEAL OF REPORTING REQUIREMENTS.

The following provisions of law are repealed:

(1) Section 37(d) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709), relating to firearms regulations for special agents.

(2) Section 214(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314), relating to extraordinary protective services to foreign missions.

(3) Section 216(d) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4316(d)), relating to application of travel restrictions to personnel of certain countries and organizations.

(4) Section 108 of the Foreign Relations Authorization Act, Fiscal Year 1978 (22 U.S.C. 2151n–1), relating to Americans incarcerated abroad.

(5) Section 512(b)(2) of the Foreign Relations Authorization Act, Fiscal Year 1978 (22 U.S.C. 2428a(b)), relating to withdrawal of United States troops from Korea.

(6) Section 412(b) of the Foreign Service Act of 1980 (22 U.S.C. 3972(b)), relating to special differentials for Foreign Service officers.

(7) The second sentence of section 2207(c) of the Foreign Service Act of 1980 (22 U.S.C. 4171(c)), relating to foreign language competence requirements: exceptions.

(8) The second sentence of section 103(b) of the Department of State Authorization Act, Fiscal Years 1982 and 1983 (22 U.S.C. 2656 note), relating to status of certain consulates to be reopened.

(9) Section 9 of the Radio Broadcasting to Cuba Act (22 U.S.C. 1465g), relating to evaluation of Cuba service programming.

(10) Section 130(c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (22 U.S.C. 3982 note), relating to merger of Foreign Service Information Corps into the Foreign Service Corps.

(11) Section 207(b) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (22 U.S.C. 2460 note), relating to foreign travel financed from the United States Information Agency's private sector program.

(12) Section 120(d) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93), relating to Foreign Service associates pilot project.

(13) Section 611 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 4711), relating to United States scholarship program for developing countries.

(14) Section 812(c) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93), relating to Japan's fulfillment of its common defense commitments.

(15) Section 153(d) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 4301 note; Public Law 100–204), relating to United States-Soviet reciprocity in matters relating to embassies.

(16) Section 1(5) of the joint resolution entitled "Joint resolution relating to NASA and the International Space Year", approved July 31, 1990 (Public Law 101–339), relating to the international space year—1992.

(17) Section 232 of the Conventional Forces in Europe Treaty Implementation Act of 1991 (Public Law 102–228), relating to activities to reduce Soviet military threat.

(18) Section 401(c) of the Conventional Forces in Europe Treaty Implementation Act of 1991 (22 U.S.C. 2551 note), relating to the Arms Control and Disarmament Agency's revitalization report.

(19) Section 708(c) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 287 note) relating to the protection of Tyre by UNIFIL.

(20) Section 408(b) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 2349aa) relating to perimeter security at United States embassies and consulates abroad.

(21) Section 162(d) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 287(e)) relating to contributions to and procedures of the United Nations.

(22) Section 531(i) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (22 U.S.C. 2370 note) relating to El Salvador.

(23) Section 724 of the International Security Development Cooperation Act of 1981 (22 U.S.C. 2384) relating to assistance to Nicaragua.

(24) Section 201(f) of the Fishery Conservation and Management Act, 1976 (16 U.S.C. 1821(f)) relating to assistance allocation of United States fish stock surplus.

(25) The second sentence of section 2207(c) of the Foreign Service Act of 1980 (22 U.S.C. 4171) relating to foreign language competence.

(26) Section 209A(b)(2) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4309a) relating to United States responsibility for employees of the United Nations.

(27) Section 117 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (22 U.S.C. 287(b) note) relating to policies pursued by other countries in the United Nations.

SEC. 140. VISAS.

(a) SURCHARGE FOR PROCESSING CERTAIN VISAS.—

(1) Notwithstanding any other provision of law, the Secretary of State is authorized to charge a fee or surcharge for processing machine readable nonimmigrant visas and machine readable combined border crossing identification cards and nonimmigrant visas.

(2) Fees collected under the authority of subsection (a) shall be deposited as an offsetting collection to any Department of State appropriation. Such fees shall remain available for obligation until expended.

(3) For fiscal years 1994 and 1995, fees deposited under the authority of paragraph (2) may not exceed a total of $107,500,000. For subsequent fiscal years, fees may be collected under the authority of paragraph (1) only in such amounts as shall be prescribed in subsequent authorization Acts.

(4) The provisions of the Act of August 18, 1856 (Revised Statutes 1726–28; 22 U.S.C. 4212–14), concerning accounting for consular fees shall not apply to fees collected under this subsection.

(5) No fee or surcharge authorized under paragraph (1) may be charged to a citizen of a country that is a signatory as of the date of enactment of this Act to the North American Free Trade Agreement, except that the Secretary of State may charge such fee or surcharge to a citizen of such a country if the Secretary determines that such country charges a visa application or issuance fee to citizens of the United States.

(b) AUTOMATED VISA LOOKOUT SYSTEM.—Not later than 18 months after the date of the enactment of this Act, the Secretary of State shall implement an upgrade of all overseas visa lookout operations to computerized systems with automated multiple-name search capabilities.

(c) PROCESSING OF VISAS FOR ADMISSION TO THE UNITED STATES.—

(1)(A) Beginning 24 months after the date of the enactment of this Act, whenever a United States consular officer issues a visa for admission to the United States, that official shall certify, in writing, that a check of the Automated Visa Lookout System, or any other system or list which maintains information about the excludability of aliens under the Immigration and Nationality Act, has been made and that there is no basis under such system for the exclusion of such alien.

(B) If, at the time an alien applies for an immigrant or nonimmigrant visa, the alien's name is included in the Department of State's visa lookout system and the consular officer to whom the application is made fails to follow the procedures in processing the application required by the inclusion of the alien's name in such system, the consular officer's failure shall be made a matter of record and shall be considered as a serious negative factor in the officer's annual performance evaluation.

(2) If an alien to whom a visa was issued as a result of a failure described in paragraph (1)(B) is admitted to the United States and there is thereafter probable cause to believe that the alien was a participant in a terrorist act causing serious loss of life or property in the United States, the Secretary of State shall convene an Accountability Review Board under the authority of title III of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

(d) ACCESS TO THE INTERSTATE IDENTIFICATION INDEX.—

(1) Subject to paragraphs (2) and (3), the Department of State Consolidated Immigrant Visa Processing Center shall have online access, without payment of any fee or charge, to the Interstate Identification Index of the National Crime Information Center solely for the purpose of determining whether a visa applicant has a criminal history record indexed in such Index. Such access does not entitle the Department of State to obtain the full content of automated records

through the Interstate Identification Index. To obtain the full content of a criminal history record, the Department shall submit a separate request to the Identification Records Section of the Federal Bureau of Investigation, and shall pay the appropriate fee as provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Act, 1990 (Public Law 101-162).

(2) The Department of State shall be responsible for all one-time start-up and recurring incremental non-personnel costs of establishing and maintaining the access authorized in paragraph (1).

(3) The individual primarily responsible for the day-to-day implementation of paragraph (1) shall be an employee of the Federal Bureau of Investigation selected by the Department of State, and detailed to the Department on a fully reimbursable basis.

(4) Not later than December 31, 1996, the Secretary of State and the Director of the Federal Bureau of Investigation shall jointly submit to the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives, and the Committee on Foreign Relations and the Committee on the Judiciary of the Senate, a report on the effectiveness of the procedure authorized in this subsection.

(5) This subsection shall cease to have effect after December 31, 1997.

SEC. 141. LOCAL GUARD CONTRACTS ABROAD.

Section 136 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246) is amended—

(1) in subsection (c)—

(A) in paragraph (2), by striking "due to their distance from the post";

(B) by redesignating paragraphs (2) and (3) as paragraphs (6) and (7) respectively; and

(C) by inserting after paragraph (1) the following:

"(2) absent compelling reasons, award such contracts through the competitive process;

"(3) in evaluating and scoring proposals for such contracts, award not less than 60 percent of the total points on the basis of technical factors and subfactors;

"(4) in countries where contract denomination and/or payment in local currencies constitutes a barrier to competition by United States firms—

"(A) allow solicitations to be bid in United States dollars; and

"(B) allow contracts awarded to United States firms to be paid in United States dollars;

"(5) ensure that United States diplomatic and consular posts assist United States firms in obtaining local licenses and permits;"; and

(2) in subsection (d)—

(A) paragraph (1)(D), by striking "and" and inserting "or"; and

(B) by adding at the end the following new paragraph (4):

"(4) the term 'barrier to local competition' means—

"(A) conditions of extreme currency volatility;

"(B) restrictions on repatriation of profits;

"(C) multiple exchange rates which significantly disadvantage United States firms;

"(D) government restrictions inhibiting the free convertibility of foreign exchange; or

"(E) conditions of extreme local political instability.";

(C) by striking "and" at the end of paragraph (2); and

(D) by striking the period at the end of paragraph (3) and inserting "; and".

SEC. 142. WOMEN'S HUMAN RIGHTS PROTECTION.

(a) SENSE OF CONGRESS.—The Congress makes the following declarations:

(1) The State Department should designate a senior advisor to the appropriate Undersecretary to promote international women's human rights within the overall human rights policy of the United States Government.

(2) The purpose of assigning a special assistant on women's human rights issues is not, to segregate such issues, but rather to assure that they are considered along with other human rights issues in the development of United States foreign policy.

(3) A specifically designated special assistant is necessary because within the human rights field and the foreign policy establishment, the issues of gender-based discrimination and violence against women have long been ignored or made invisible.

(4) The Congress believes that abuses against women would have greater visibility and protection of women's human rights would improve if the advocate were responsible for integrating women's human rights issues into United States foreign policy, bilateral assistance, multilateral diplomacy, trade policy, and democracy promotion.

(b) CONGRESSIONAL NOTIFICATION.—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall notify the Congress of the steps taken to fulfill the objectives detailed in subsection (a).

PART C—DEPARTMENT OF STATE ORGANIZATION

SEC. 161. ORGANIZATION OF THE DEPARTMENT OF STATE.

(a) ORGANIZATION.—Section 1 of the State Department Basic Authorities Act of 1956 is amended to read as follows:

"ORGANIZATION OF THE DEPARTMENT OF STATE

"SECTION 1. (a) SECRETARY OF STATE.—

"(1) The Department of State shall be administered, in accordance with this Act and other provisions of law, under the supervision and direction of the Secretary of State (hereinafter referred to as the 'Secretary').

"(2) The Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

"(3)(A) Notwithstanding any other provision of law and except as provided in this section, the Secretary shall have and exercise any authority vested by law in any office or official of the Department of State. The Secretary shall administer, coordinate, and direct the Foreign Service of the United States and the personnel of the Department of State, except where authority is inherent in or vested in the President.

"(B)(i) The Secretary shall not have the authority of the Inspector General or the Chief Financial Officer.

"(ii) The Secretary shall not have any authority given expressly to diplomatic or consular officers.

"(4) The Secretary is authorized to promulgate such rules and regulations as may be necessary to carry out the functions of the Secretary of State and the Department of State. Unless otherwise specified in law, the Secretary may delegate authority to perform any of the functions of the Secretary or the Department to officers and employees under the direction and supervision of the Secretary. The Secretary may delegate the authority to redelegate any such functions.

"(b) UNDER SECRETARIES.—There shall be in the Department of State not more than 5 Under Secretaries of State, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for at level III of the Executive Schedule under section 5314 of title 5, United States Code.

"(c) ASSISTANT SECRETARIES.—

"(1) IN GENERAL.—There shall be in the Department of State not more than 20 Assistant Secretaries of State, each of whom shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for at level IV of the Executive Schedule under section 5315 of title 5.

"(2) ASSISTANT SECRETARY OF STATE FOR DEMOCRACY, HUMAN RIGHTS, AND LABOR.—(A) There shall be in the Department of State an Assistant Secretary of State for Democracy, Human Rights, and Labor who shall be responsible to the Secretary of State for matters pertaining to human rights and humanitarian affairs (including matters relating to prisoners of war and members of the United States Armed Forces missing in action) in the conduct of foreign policy and such other related duties as the Secretary may from time to time designate. The Secretary of State shall carry out the Secretary's responsibility under section 502B of the Foreign Assistance Act of 1961 through the Assistant Secretary.

"(B) The Assistant Secretary of State for Democracy, Human Rights, and Labor shall maintain continuous observation and review all matters pertaining to human rights and humanitarian affairs (including matters relating to prisoners of war and members of the United States Armed Forces missing in action) in the conduct of foreign policy including the following:

"(i) Gathering detailed information regarding humanitarian affairs and the observance of and respect for internationally recognized human rights in each country to which requirements of sections 116 and 502B of the Foreign Assistance Act of 1961 are relevant.

"(ii) Preparing the statements and reports to Congress required under section 502B of the Foreign Assistance Act of 1961.

"(iii) Making recommendations to the Secretary of State and the Administrator of the Agency for International Development regarding compliance with sections 116 and 502B of the Foreign Assistance Act of 1961, and as part of the Assistant Secretary's overall policy responsibility for the creation of United States Government human rights policy, advising the Administrator of the Agency for International Development on the policy framework under which section 116(e) projects are developed and consulting with the Administrator on the selection and implementation of such projects.

"(iv) Performing other responsibilities which serve to promote increased observance of internationally recognized human rights by all countries.

"(d) DEPUTY ASSISTANT SECRETARIES.—There shall be in the Department of State not more than 66 Deputy Assistant Secretaries of State.

"(e) OTHER SENIOR OFFICIALS.—In addition to officials of the Department of State who are otherwise authorized to be appointed by the President, by and with the advice and consent of the Senate, and to be compensated at level IV of the Executive Schedule of section 5315 of title 5, United States Code, four other such appointments are authorized.".

(b) APPLICATION.—The amendments made by this section and section 133 shall apply with respect to officials, offices, and bureaus of the Department of State when executive orders, regulations, or departmental directives implementing such amendments become effective, or 90 days after the date of enactment of this Act, whichever comes earlier.

(c) TRANSITION.—Any officer of the Department of State holding office on the date of the enactment of this Act shall not be required to be reappointed to any other office, at the Department of State at the same level performing similar functions, as determined by the President, by reason of the enactment of the amendments made by this section and section 162.

(d) REFERENCES IN OTHER ACTS.—Except as specifically provided in this Act, or the amendments made by this Act, a reference in any other provision of law to an official or office of the Department of State affected by the amendment made by subsection (a) (other than the Inspector General of the Department of State and the Chief Financial Officer of the Department of State) shall be deemed to be a reference to the Secretary of State or the Department of State, as may be appropriate.

(e) OFFICE OF THE COORDINATOR FOR COUNTERTERRORISM.—Notwithstanding any other provision of this section, for not less than one year after the date of the enactment of this Act there shall be in the Department of State an Office of the Coordinator for Counterterrorism which shall be headed by a Coordinator for Counterterrorism. The office shall have the same responsibilities and functions as the Office of the Coordinator for Counterterrorism at the Department of State had as of January 20, 1993.

(f) DEPUTY ASSISTANT SECRETARY FOR BURDENSHARING.—

(1) ESTABLISHMENT.—None of the funds authorized to be appropriated by this Act shall be available for obligation or expenditure during fiscal year 1995 unless, not later than 90 days after the date of enactment of this Act, the Secretary of State has established within the Department of State the position of Deputy Assistant Secretary for Burdensharing, the incumbent of which shall be an official of ambassadorial rank, appointed by the President by and with the advice and consent of the Senate.

(2) RESPONSIBILITIES.—The Deputy Assistant Secretary for Burdensharing shall perform such duties and exercise such authorities as the Secretary of State shall prescribe, including the principal duty of negotiations for the following:

(A) Increased in-kind and financial support (including increased payment of basing costs) by countries allied to the United States for Department of Defense military units and personnel assigned to permanent duty ashore outside the United States in support of the security of such countries.

(B) Recoupment of funds associated with financial commitments from such countries for paying the United States the residual value of United States facilities in such countries that the United States relinquishes to such countries upon the termination of the use of such facilities by the United States.

SEC. 162. TECHNICAL AND CONFORMING AMENDMENTS.

(a) ACT OF MAY 26, 1949.—The Act entitled "An Act to strengthen and improve the organization and administration of the Department of State, and for other purposes" (May 26, 1949; Public Law 81–73; 22 U.S.C. 2652 et seq.) is repealed.

(b) FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1979.—Section 115 of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 2652a) is amended by striking subsection (a).

(c) FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1992 AND 1993.—Section 122 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2652b) is amended—

(1) by striking subsection (c);

(2) in subsection (a) by striking ", which is in addition to the positions provided under the first section of the Act of May 26, 1949 (22 U.S.C. 2652); and

(3) by striking subsection (d)(1).

(d) TITLE 5, UNITED STATES CODE.—

(1) Section 5314 of title 5, United States Code, is amended by striking—

"Under Secretary of State for Political Affairs and Under Secretary of State for Economic and Agricultural Affairs and an Under Secretary of State for Coordinating Security Assistance Programs and Under Secretary of State for Management.

"Counselor of the Department of State."
and inserting—

"Under Secretaries of State (5).".

(2) Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of State (15).", "Legal Adviser of the Department of State.", "Chief of Protocol, Department of State.", "Assistant Secretary for Oceans and International Environmental and Scientific Affairs, Department of State.", "Assistant Secretary for International Narcotics Matters, Department of State.", "Assistant Secretary for South Asian Affairs, Department of State.", and inserting "20 Assistant Secretaries of State and 4 other State Department officials to be appointed by the President, by and with the advice and consent of the Senate.".

(e) FOREIGN ASSISTANCE ACT OF 1961.—The Foreign Assistance Act of 1961 is amended—

(1) in section 116(c) (22 U.S.C. 2151n), by striking "Assistant Secretary for Human Rights and Humanitarian Affairs" and inserting "Assistant Secretary of State for Democracy, Human Rights, and Labor";

(2) in sections 502B(b) (22 U.S.C. 2304(b)), 502B(c)(1) (22 U.S.C. 2304(c)), and 505(g)(4)(A) (22 U.S.C. 2314(g)(4)(A)) by striking "Human Rights and Humanitarian Affairs" each place it appears and inserting "Democracy, Human Rights, and Labor";

(3) in section 573(c) by striking "Human Rights and Humanitarian Affairs" and inserting "Democracy, Human Rights, and Labor"; and

(4) in section 624 by striking subsection (f).

(f) ARMS EXPORT CONTROL ACT.—Section 5(d)(1) of the Arms Export Control Act is amended (22 U.S.C. 2755(d)(1)) by striking "Assistant Secretary of State for Human Rights and Humanitarian Affairs" and inserting "Secretary of State".

(g) DIPLOMATIC SECURITY ACT.—The Omnibus Diplomatic Security and Antiterrorism Act of 1986 is amended—

(1) in section 102(b) (22 U.S.C. 4801(b)) by—

(A) striking paragraph (2); and

(B) redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively;

(2) in subsection 103(a)—

(A) by inserting "(1)" before "The Secretary of State";

(B) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively; and

(C) by inserting at the end the following new paragraph:

"(2) Security responsibilities shall include the following:

"(A) FORMER OFFICE OF SECURITY FUNCTIONS.—Functions and responsibilities exercised by the Office of Security, Department of State, before November 11, 1985.

"(B) SECURITY AND PROTECTIVE OPERATIONS.—

"(i) Establishment and operations of post security and protective functions abroad.

"(ii) Development and implementation of communications, computer, and information security.

"(iii) Emergency planning.

"(iv) Establishment and operation of local guard services abroad.

"(v) Supervision of the United States Marine Corps security guard program.

"(vi) Liaison with American overseas private sector security interests.

"(vii) Protection of foreign missions and international organizations, foreign officials, and diplomatic personnel in the United States, as authorized by law.

"(viii) Protection of the Secretary of State and other persons designated by the Secretary of State, as authorized by law.

"(ix) Physical protection of Department of State facilities, communications, and computer and information systems in the United States.

"(x) Conduct of investigations relating to protection of foreign officials and diplomatic personnel and foreign missions in the United States, suitability for employment, employee security, illegal passport and visa issuance or use, and other investigations, as authorized by law.

"(xi) Carrying out the rewards program for information concerning international terrorism authorized by section 36(a) of the State Department Basic Authorities Act of 1956.

"(xii) Performance of other security, investigative, and protective matters as authorized by law.

"(C) COUNTERTERRORISM PLANNING AND COORDINATION.—Development and coordination of counterterrorism planning, emergency action planning, threat analysis programs, and liaison with other Federal agencies to carry out this paragraph.

"(D) SECURITY TECHNOLOGY.—Development and implementation of technical and physical security programs, including security-related construction, radio and personnel security communications, armored vehicles, computer and communications security, and research programs necessary to develop such measures.

"(E) DIPLOMATIC COURIER SERVICE.—Management of the diplomatic courier service.

"(F) PERSONNEL TRAINING.—Development of facilities, methods, and materials to develop and upgrade necessary skills in order to carry out this section.

"(G) FOREIGN GOVERNMENT TRAINING.—Management and development of antiterrorism assistance programs to assist foreign government security training which are administered by the Department of State under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.).";

(3) by striking section 104;

(4) by striking section 105;

(5) in section 107, by striking "The Chief of Protocol of the Department of State shall consult with the Assistant Secretary of Diplomatic Security" and inserting "The Secretary of State shall take into account security considerations";

(6) in title II by amending the title heading to read as follows: "TITLE II—PERSONNEL";

(7) by amending section 201 to read as follows:

"SEC. 201. DIPLOMATIC SECURITY SERVICE.

"The Secretary of State may establish a Diplomatic Security Service, which shall perform such functions as the Secretary may determine.";

(8) in section 202—

(A) by striking "The" in the first sentence and inserting "Any such";

(B) by striking "shall" each place it appears in the first, third, and fourth sentences and inserting "should"; and

(C) by striking the last sentence;

(9) in section 203—

(A) by amending the heading to read as follows:

"SEC. 203. SPECIAL AGENTS.";

(B) in the first sentence by striking "Positions in the Diplomatic Security Service" and inserting "Special agent positions"; and

(C) in the last sentence by striking "In the case of positions designated for special agents, the" and inserting "The"; and

(10) in section 402(a)(2) by striking "Assistant Secretary for Diplomatic Security" and inserting "Secretary of State".

(h) Immigration and Nationality Act.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 101(a)(1) (8 U.S.C. 1101(a)(1)) by striking "Assistant Secretary of State for Consular Affairs" and inserting "official designated by the Secretary of State pursuant to section 104(b) of this Act";

(2) in section 104 (8 U.S.C. 1104)—

(A) in the heading by striking "; BUREAU OF CONSULAR AFFAIRS";

(B) in subsection (a), by striking "the Bureau of Consular Affairs" and inserting "the Administrator";

(C) by amending subsection (b) to read as follows:

"(b) The Secretary of State shall designate an Administrator who shall be a citizen of the United States, qualified by experience. The Administrator shall maintain close liaison with the appropriate committees of Congress in order that they may be advised regarding the administration of this Act by consular officers. The Administrator shall be charged with any and all responsibility and authority in the administration of this Act which are conferred on the Secretary of State as may be delegated to the Administrator by the Secretary of State or which may be prescribed by the Secretary of State, and shall perform such other duties as the Secretary of State may prescribe.";

(D) in subsection (c), by striking "Bureau" and inserting "Department of State"; and

(E) in subsection (d), by striking all after "respectively" before the period.

(3) in section 105 (8 U.S.C. 1105) by striking "Assistant Secretary of State for Consular Affairs" and inserting "Administrator" each place it appears.

(i) Department of State Appropriations Act, 1989.—Section 306 of the Department of State Appropriations Act, 1989 (Public Law 100–459) is repealed.

(j) Department of Defense Appropriations Act, Fiscal Year 1989.—Section 8125 of the Department of Defense Appropriations Act, Fiscal Year 1989 (Public Law 100–463) is amended by striking subsection (c).

(k) State Department Basic Authorities Act of 1956.—(1) Section 35 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2707) is amended—

(A) by striking subsection (a); and

(B) in subsection (b)—

(i) by striking the text preceding paragraph (1) and inserting the following: "The Secretary of State shall be responsible for formulation, coordination, and oversight of foreign policy related to international communications and information policy. The Secretary of State shall—";

(ii) by striking paragraph (2);

(iii) by redesignating paragraph (1) as paragraph (2);

(iv) by inserting before paragraph (2) (as so redesignated) the following:

"(1) exercise primary authority for the conduct of foreign policy with respect to such telecommunications functions, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this responsibility, the Secretary shall coordinate with other agencies as appropriate, and, in particular, shall give full consideration to the authority vested by law or Executive order in the Federal Communications Commission, the Department of Commerce and the Office of the United States Trade Representative in this area;";

(v) in paragraph (2) (as so redesignated) by striking "with the bureaus and offices of the Department of State and", and inserting before the semicolon "and with the Federal Communications Commission, as appropriate"; and

(vi) in paragraph (3), by striking "the Senior Interagency Group on International Communications and Information Policy" and inserting "any senior interagency policy-making group on international telecommunications and information policy and chair such interagency meetings as may be necessary to coordinate actions on pending issues;".

(2) Nothing in the amendments made by paragraph (1) affects the nature or scope of the authority that is on the date of enactment of this Act vested by law or Executive order in the Department of Commerce, the Office of the United States Trade Representative, the Federal Communications Commission, or any officer thereof.

(3) Section 3 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2670) is amended—

(A) by striking "and" at the end of subsection (k);

(B) by striking the period at the end of subsection (l) and inserting "; and"; and

(C) by adding at the end the following:

"(m) establish, maintain, and operate passport and dispatch agencies.".

(4) Section 2 of the State Department Basic Authorities Act of 1956 is amended by striking "(l) pay" and inserting "(m) pay".

(m) Refugee Act of 1980.—The Refugee Act of 1980 (Public Law 96–212) is amended—

(1) in the heading for title III, by striking "UNITED STATES COORDINATOR FOR REFUGEE AFFAIRS AND";

(2) by striking the heading for part A;

(3) by repealing section 301; and

(4) by striking the heading for part B.

(n) Immigration and Nationality Act.—

(1) Section 411(b) of the Immigration and Nationality Act (8 U.S.C. 1521(b)) is amended by striking "and under the general policy guidance of the United States Coordinator for Refugee Affairs (hereinafter in this chapter referred to as the 'Coordinator')" and inserting "the Secretary of State".

(2) Section 412 of the Immigration and Nationality Act (8 U.S.C. 1522) is amended—

(A) in subsection (a)(2)(A), by striking ", together with the Coordinator,";

(B) in subsections (b)(3) and (b)(4), by striking "in consultation with the Coordinator,"; and

(C) in subsection (e)(7)(C), by striking ", in consultation with the United States Coordinator for Refugee Affairs,".

(3) Section 413(a) of the Immigration and Nationality Act (8 U.S.C. 1523) is amended by striking ", in consultation with the Coordinator,".

(o) State Department Basic Authorities Act.—Title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4301 et seq.) is amended—

(1) in section 202(a) by striking paragraph (3) and redesignating paragraphs (4) through (8) as paragraphs (3) through (7);

(2) in section 203 by amending such section to read as follows:

"AUTHORITIES OF THE SECRETARY OF STATE

"Sec. 203. The Secretary shall carry out the following functions:

"(1) Assist agencies of Federal, State, and municipal government with regard to ascertaining and according benefits, privileges, and immunities to which a foreign mission may be entitled.

"(2) Provide or assist in the provision of benefits for or on behalf of a foreign mission in accordance with section 204.

"(3) As determined by the Secretary, dispose of property acquired in carrying out the purposes of this Act.

"(4) As determined by the Secretary, designate an office within the Department of State to carry out the purposes of this Act. If such an office is established, the President may appoint, by and with the advice and consent of the Senate, a Director, with the rank of ambassador. Of the Director and the next most senior person in the office, one should be an individual who has served in the Foreign Service and the other should be an individual who has served in the United States intelligence community.

"(5) Perform such other functions as the Secretary may determine necessary in furtherance of the policy of this title.";

(3) in section 204—

(A) in subsections (a), (b), and (c), by striking "Director" each place it appears and inserting "Secretary"; and

(B) in paragraph (d), by striking "the Director or any other" and inserting "any";

(4) in section 204A, by striking "Director" each place it appears and inserting "Secretary";

(5) in section 205—

(A) in subsection (a), by striking "Director" and inserting "Secretary"; and

(B) in subsection (c)(2) by striking "authorize the Director to"; and

(6) in section 208—

(A) in subsection (d) by striking "Director" and inserting in its place "Secretary";

(B) in subsections (c), (e), and (f), by striking "Office of Foreign Missions" each place it appears and inserting "Department of State"; and

(C) in subsection (h)(2) by striking "Director or the".

(p) Office of Counselor; Legal Adviser.—

(1) The Act entitled "An Act to create the Office of Counselor of the United States" (May 18, 1937; Public Law 75-91; 22 U.S.C. 2655) is repealed.

(2) The Act entitled "An Act for the reorganization and improvement of the Foreign Service of the United States and for other purposes" (May 24, 1924; Public Law 68-135; 22 U.S.C. 2654) is amended by striking section 30.

(q) Amendment to the Department of State Appropriations Authorization Act of 1973.—Section 9 of the Department of State Appropriations Authorization Act of 1973 (22 U.S.C. 2655) is amended—

(1) in subsection (a)—

(A) by striking "In addition to the positions provided under the first section of the Act of May 26, 1949, as amended (22 U.S.C. 2652), there" and inserting "There"; and

(B) by inserting before the period at the end of the subsection "and for such other related duties as the Secretary may from time to time designate"; and

(2) by striking subsection (b).

SEC. 163. DIRECTOR GENERAL OF THE FOREIGN SERVICE.

Section 208 of the Foreign Service Act of 1980 (22 U.S.C. 3928) is amended to read as follows:

"SEC. 208. DIRECTOR GENERAL OF THE FOREIGN SERVICE.

"The President shall appoint, by and with the advice and consent of the Senate, a Director General of the Foreign Service, who shall be a current or former career member of the Foreign Service. The Director General should assist the Secretary of State in the management of the Service and perform such functions as the Secretary of State may prescribe.".

SEC. 164. ADMINISTRATIVE EXPENSES.

(a) ADMINISTRATIVE EXPENSES FOR NARCOTICS, TERRORISM, AND CRIME.—Section 482 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291a) is amended by adding the following new subsection:

"(d) ADMINISTRATIVE ASSISTANCE.—(1) Except as provided in paragraph (2), personnel funded pursuant to this section are authorized to provide administrative assistance to personnel assigned to the bureau designated by the Secretary of State to replace the Bureau for International Narcotics Matters.

"(2) Paragraph (1) shall not apply to the extent that it would result in a reduction in funds available for antinarcotics assistance to foreign countries.".

(b) AMENDMENT TO THE MIGRATION AND REFUGEE ASSISTANCE ACT.—Section 5 of the Migration and Refugee Assistance Act (22 U.S.C. 2605) is amended by adding at the end the following new subsection:

"(c) Personnel funded pursuant to this section are authorized to provide administrative assistance to personnel assigned to the bureau charged with carrying out this Act.".

PART D—PERSONNEL

Subpart 1—General Provisions

SEC. 171. LABOR-MANAGEMENT RELATIONS.

Section 1017(e) of the Foreign Service Act of 1980 (22 U.S.C. 4117(e)) is amended to read as follows:

"(e)(1) Notwithstanding any other provision of this chapter—

"(A) participation in the management of a labor organization for purposes of collective bargaining or acting as a representative of a labor organization for such purposes is prohibited under this chapter—

"(i) on the part of any management official or confidential employee;

"(ii) on the part of any individual who has served as a management official or confidential employee during the preceding two years; or

"(iii) on the part of any other employee if the participation or activity would result in a conflict of interest or apparent conflict of interest or would otherwise be incompatible with law or with the official functions of such employee; and

"(B) service as a management official or confidential employee is prohibited on the part of any individual having participated in the management of a labor organization for purposes of collective bargaining or having acted as a representative of a labor organization during the preceding two years.

"(2) For the purposes of paragraph (1)(A)(ii) and paragraph (1)(B), the term 'management official' shall not include chiefs of mission, principal officers and their deputies, and administrative and personnel officers abroad.".

SEC. 172. WAIVER OF LIMITATION FOR CERTAIN CLAIMS FOR PERSONAL PROPERTY DAMAGE OR LOSS.

(a) CLAIMS RESULTING FROM EMERGENCY EVACUATION IN A FOREIGN COUNTRY.—Subsection 3721(b) of title 31 of the United States Code is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding after paragraph (1), as so designated, the following:

"(2) The Secretary of State may waive the settlement and payment limitation referred to in paragraph (1) for claims for damage or loss by United States Government personnel under the jurisdiction of a chief of mission in a foreign country if such claims arise in circumstances where there is in effect a departure from the country authorized or ordered under circumstances described in section 5522(a) of title 5, if the Secretary determines that there exists exceptional circumstances that warrant such a waiver.".

(b) RETROACTIVE APPLICATION.—The amendments made by subsection (a) shall apply with respect to claims arising on or after October 31, 1988.

SEC. 173. SENIOR FOREIGN SERVICE PERFORMANCE PAY.

(a) PROHIBITION ON AWARDS.—Notwithstanding any other provision of law, the Secretary of State may not award or pay performance payments for fiscal years 1994 and 1995 under section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965), unless the Secretary awards or pays performance awards to other Federal employees for such fiscal years.

(b) AWARDS IN SUBSEQUENT FISCAL YEARS.—The Secretary may not make a performance award or payment in any fiscal year after a fiscal year referred to in subsection (a) for the purpose of providing an individual with a performance award or payment to which the individual would otherwise have been entitled in a fiscal year referred to in such subsection but for the prohibition described in such subsection.

(c) APPLICATION TO USIA, AID, AND ACDA.—Subsections (a) and (b) shall apply to the United States Information Agency, the Agency for International Development, and the Arms Control and Disarmament Agency in the same manner as such subsections apply to the Department of State, except that the Director of the United States Information Agency, the Administrator of the Agency for International Development, and the Director of the Arms Control and Disarmament Agency shall be subject to the limitations and authority of the Secretary of State under subsections (a) and (b) for their respective agencies.

(d) AMENDMENT TO FOREIGN SERVICE ACT OF 1980.—Section 405(b)(4) of the Foreign Service Act of 1980 (22 U.S.C. 3965(b)(4)) is amended to read as follows:

"(4) Any award under this section shall be subject to the limitation on certain payments under section 5307 of title 5, United States Code.".

SEC. 174. REASSIGNMENT AND RETIREMENT OF FORMER PRESIDENTIAL APPOINTEES.

Section 813 of the Foreign Service Act of 1980 (22 U.S.C. 4053) is amended by striking all that follows the section caption and inserting the following:

"(a) A participant, who completes an assignment under section 302(b) in a position to which the participant was appointed by the President, and is not otherwise eligible for retirement—

"(1) shall be reassigned within 90 days after the termination of such assignment and any period of authorized leave, or

"(2) if the Secretary of State determines that reassignment is not in the interest of the Foreign Service, shall be retired from the Service and receive retirement benefits in accordance with section 806 or 855, as appropriate.

"(b) A participant who completes an assignment under section 302(b) in a position to which the participant was appointed by the President and is eligible for retirement and is not reassigned within 90 days after the termination of such assignment and any period of authorized leave, shall be retired from the Service and receive retirement benefits in accordance with section 806 or section 855, as appropriate.

"(c) A participant who is retired under subsection (a)(2) and is subsequently employed by the United States Government, thereafter, shall be eligible to retire only under the terms of the applicable retirement system.".

SEC. 175. REPORT ON CLASSIFICATION OF SENIOR FOREIGN SERVICE POSITIONS.

(a) AUDIT AND REVIEW.—Not later than December 31, 1994, the Comptroller General of the United States shall conduct a classification audit of all Senior Foreign Service positions in Washington, District of Columbia, assigned to the Department of State, the Agency for International Development, and the United States Information Agency and shall review the methods for classification of such positions.

(b) REPORT.—Not later than March 1, 1995, the Comptroller General shall submit a report of such audit and review to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

SEC. 176. ALLOWANCES.

(a) AWAY-FROM-POST EDUCATION ALLOWANCE.—Section 5924(4)(A) of title 5, United States Code, is amended by inserting after the first sentence the following: "When travel from school to post is infeasible, travel may be allowed between the school attended and the home of a designated relative or family friend or to join a parent at any location, with the allowable travel expense not to exceed the cost of travel between the school and the post.".

(b) EDUCATIONAL TRAVEL FOR COLLEGE STUDENTS STUDYING ABROAD.—Section 5924(4)(B) of title 5, United States Code, is amended in the first sentence after "in the United States" by inserting "(or to and from a school outside the United States if the dependent is attending that school for less than one year under a program approved by the school in the United States at which the dependent is enrolled, with the allowable travel expense not to exceed the cost of travel to and from the school in the United States)".

SEC. 177. GRIEVANCES.

(a) GRIEVANCE BOARD PROCEDURES.—Section 1106 of the Foreign Service Act of 1980 (22 U.S.C. 4136) is amended in the first sentence of paragraph (8) by striking "until the Board has ruled upon the grievance." and inserting "until the date which is one year after such determination or until the Board has ruled upon the grievance, whichever comes first. The Board shall extend the one-year limitation under the preceding sentence and the Department shall continue to suspend such action, if the Board determines that the agency or the Board is responsible for the delay in the resolution of the grievance. The Board may also extend the 1-year limit if it determines that the delay is due to the complexity of the case, the unavailability of witnesses or to circumstances beyond the control of the agency, the Board or the grievant.".

(b) TIME LIMITATION ON REQUESTS FOR JUDICIAL REVIEW.—Section 1110 of the Foreign Service Act of 1980 (22 U.S.C. 4140) is amended in the first sentence by inserting before the period ", if the request for judicial review is filed not later than 180 days after the final action of the Secretary or the Board (or in the case of an aggrieved party who is posted abroad at the time of the final action of the Secretary or the Board, if the request for judicial review is filed not later than 180 days after the aggrieved party's return to the United States)".

SEC. 178. MID-LEVEL WOMEN AND MINORITY PLACEMENT PROGRAM.

(a) PURPOSE.—It is the purpose of this section to promote the acquisition and retention of highly qualified, trained, and experienced women and minority personnel within the Foreign Service, to provide the maximum opportunity for the Foreign Service to meet staffing needs and to acquire the services of experienced and talented women and minority personnel, and to help alleviate the impact of downsizing, reduction-in-force, and budget restrictions occurring in the defense and national security-related agencies of the United States.

(b) ESTABLISHMENT.—For each of the fiscal years 1994 and 1995, the Secretary of State shall to the maximum extent practicable appoint to the Foreign Service qualified women and minority applicants who are participants in the priority placement program of the Department of Defense, the Department of Defense out-placement referral program, the Office of Personnel Management Automated Applicant Referral System, or the Office of Personnel Management Interagency Placement Program. The Secretary shall make such appointments through the mid-level entry program of the Department of State under section 306 of the Foreign Service Act of 1980.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall prepare and submit a report concerning the implementation of subsection (a) to the Chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives. Such report shall include recommendations on methods to improve implementation of the purpose of this section.

SEC. 179. EMPLOYMENT ASSISTANCE REFERRAL SYSTEM FOR CERTAIN MEMBERS OF THE FOREIGN SERVICE.

(a) REFERRAL SYSTEM.—Certain members of the Foreign Service (as described in subsection (b)), may participate in the Office of Personnel Management's Interagency Placement programs or any successor program. Such members of the Foreign Service shall be treated in the same manner as employees participating in such a program as of the effective date of this Act.

(b) CERTAIN MEMBERS OF THE FOREIGN SERVICE.—For purposes of this section, the term "members of the Foreign Service" means individual holding a career or career candidate appointment under chapter 3 of the Foreign Service Act of 1980.

SEC. 180. UNITED STATES CITIZENS HIRED ABROAD.

(a) AMENDMENTS TO THE FOREIGN SERVICE ACT OF 1980.—The Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) is amended as follows:

(1) Section 309(b) of such Act is amended—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4); and

(C) by inserting at the end "; and (5) as a foreign national employee.".

(2) Section 311 of such Act is amended to read as follows:

"(a) The Secretary, under section 303, may appoint United States citizens, who are family members of government employees assigned abroad or are hired for service at their post of residence, for employment in positions customarily filled by Foreign Service officers, Foreign Service personnel, and foreign national employees.

"(b) The fact that an applicant for employment in a position referred to in subsection (a) is a family member of a Government employee assigned abroad shall be considered an affirmative factor in employing such person.

"(c)(1) Non-family members employed under this section for service at their post of residence shall be paid in accordance with local compensation plans established under section 408.

"(2) Family members employed under this section shall be paid in accordance with the Foreign Service Schedule or the salary rates established under section 407.

"(3) In exceptional circumstances, nonfamily members may be paid in accordance with the Foreign Service Schedule or the salary rates established under section 407, if the Secretary determines that the national interest would be served by such payments.

"(d) Nonfamily member United States citizens employed under this section shall not be eligible for benefits under chapter 8 of this Act, or under chapters 83 or 84 of title 5, United States Code.".

(3) Section 404(a) of such Act is amended by striking "who are family members of Government employees paid in accordance with a local compensation plan established under".

(4) Section 408 of such Act is amended—

(A) in subsection (a)(1) by striking the first sentence and inserting "The Secretary shall establish compensation (including position classification) plans for foreign national employees of the Service and United States citizens employed under section 311(c)(1).";

(B) in the second sentence of subsection (a)(1), by striking "employed in the Service abroad who were hired while residing abroad and to those family members of Government employees who are paid in accordance with such plans";

(C) in the third sentence of subsection (a)(1), by striking "foreign national" each place it appears; and

(D) by adding at the end of subsection (a)(1) the following: "For United States citizens under a compensation plan, the Secretary shall (A) provide such citizens with a total compensation package (including wages, allowances, benefits, and other employer payments, such as for social security) that has the equivalent cost to that received by foreign national employees occupying a similar position at that post and (B) define those allowances and benefits provided under United States law which shall be included as part of this total compensation package, notwithstanding any other provision of law, except that this section shall not be used to override United States minimum wage requirements, or any provision of the Social Security Act or the Internal Revenue Code.

(5) Section 504(b) of such Act is amended by inserting "(other than those employed in accordance with section 311)" after "citizen of the United States".

(6) Section 601(b)(2) of such Act is amended—

(A) by striking "and" the last place it appears; and

(B) by inserting "and other members of the Service" after "categories of career candidates,".

(7) Section 611 of such Act is amended by striking all that follows "Foreign Service Schedule" and inserting "or who is paid in accordance with section 407 or is a United States citizen paid under a compensation plan under section 408.".

(8) Section 903(a) of such Act is amended by inserting "(other than a member employed under section 311)" after "member of the Service" each place it appears.

(9) Section 1002(8)(A) of such Act is amended by inserting "a member of the Service who is a United States citizen (other than a family member) employed under section 311," after "a consular agent,".

(10) Section 1101(a)(1) of such Act is amended by inserting "(other than a United States citizen employed under section 311 who is not a family member)" after "citizen of the United States".

(b) AMENDMENTS TO THE STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956.—Section 2(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(c)) is amended by inserting before the period: "; and such contracts are authorized to be negotiated, the terms of the contracts to be prescribed, and the work to be performed, where necessary, without regard to such statutory provisions as relate to the negotiation, making, and performance of contracts and performance of work in the United States".

SEC. 181. REDUCTION IN FORCE AUTHORITY WITH REGARD TO CERTAIN MEMBERS OF THE FOREIGN SERVICE.

(a) IN GENERAL.—The Foreign Service Act of 1980 (22 U.S.C. 4001 et seq.) is amended as follows:

(1) By redesignating sections 611, 612, and 613 as sections 612, 613, and 614, respectively.

(2) By inserting after section 610 the following new section:

"SEC. 611. REDUCTIONS IN FORCE.

"(a) The Secretary may conduct reductions in force and shall prescribe regulations for the separation of members of the Service holding a career or career candidate appointment under chapter 3 of this Act, under such reductions in force which give due effect to the following:

"(1) Organizational changes.

"(2) Documented employee knowledge, skills, or competencies.

"(3) Tenure of employment.

"(4) Documented employee performance.

"(5) Military preference, subject to section 3501(a)(3) of title 5, United States Code.

"(b) The provisions of section 609 shall be applicable to any member of the Service holding a career or career candidate appointment under chapter 3 of this Act, who is separated under the provisions of this section.

"(c) An employee against whom action is taken under this section may elect either to file a grievance under chapter 11 or to appeal to the Merit Systems Protection Board under procedures prescribed by the Board. Grievances under chapter 11 shall be limited to cases of reprisal, interference in the conduct of an employee's official duties, or similarly inappropriate use of the authority of this section.".

(3) By amending section 609 (22 U.S.C. 4009)—

(A) in subsection (a)(2), by inserting "or 611" after "608(b)"; and

(B) in subsection (b) by inserting "or 611" after "608(b)";

(4) Chapter 11 of the Foreign Service Act of 1980 is amended—

(A) in section 1101(b)(3) by striking "611" and inserting "612"; and

(B) in section 1106(8) by inserting before the period at the end of the paragraph "or with respect to any action which would delay the separation of an employee pursuant to a reduction in force conducted under section 611".

(5) The table of contents for the Foreign Service Act is amended by striking out the items related to sections 611, 612, and 613 and inserting in lieu thereof the following:

"Sec. 611. Reductions in force.
"Sec. 612. Termination of limited appointments.
"Sec. 613. Termination of appointments of consular agents and foreign national employees.
"Sec. 614. Foreign Service awards.".

(b) MANAGEMENT RIGHTS.—Section 1005 of the Foreign Service Act of 1980 (22 U.S.C. 4105(a)) is amended—

(1) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) to conduct reductions in force, and to prescribe regulations for the separation of employees pursuant to such reductions in force conducted under section 611;".

(c) CONSULTATION.—The Secretary of State (or in the case of any other agency authorized by law to utilize the Foreign Service personnel system), the head of that agency shall consult with the Director of the Office of Personnel Management before prescribing regulations for reductions in force under section 611 of the Foreign Service Act of 1980 (as added by subsection (a) of this section), and shall publish such regulations.

SEC. 182. RESTORATION OF WITHHELD BENEFITS.

(a) ELIGIBILITY.—With respect to any person for which the Secretary of State and the Secretary concerned within the Department of Defense has approved the employment or the holding of a position pursuant to the provisions of section 1058, title 10, United States Code, before the date of enactment of this Act, the consents, approvals and determinations under that section shall be deemed to be effective as of January 1, 1993.

(b) TECHNICAL CORRECTION.—Subsection (d) of section 1433 of Public Law 103–160 is repealed.

Subpart 2—Foreign Language Competence Within the Foreign Service

SEC. 191. FOREIGN LANGUAGE COMPETENCE WITHIN THE FOREIGN SERVICE.

(a) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall promulgate regulations—

(1) establishing hiring preferences for Foreign Service Officer candidates competent in languages, with priority preference given to those languages in which the Department of State has a deficit;

(2) establishing a standard that employees will not receive long-term training in more than 3 languages, and requiring that employees achieve full professional proficiency (S4/R4) in 1 language as a condition for training in a third, with exceptions for priority needs of the service at the discretion of the Director General;

(3) requiring that employees receiving long-term training in a language, or hired with a hiring preference for a language, serve at least 2 tours in jobs requiring that language, with exceptions for certain limited-use languages and priority needs of the service at the discretion of the Director General;

(4) requiring that significant consideration be given to foreign language competence and use in the evaluation, assignment, and promotion of all Foreign Service Officers of the Department of State;

(5) requiring the identification of appropriate Washington, D.C. metropolitan area positions as language-designated; and

(6) requiring remedial training and suspension of language differential payments for employees receiving such payments who have failed to maintain required levels of proficiency.

(b) REPEAL.—Section 164 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4001 note; Public Law 101–246) is repealed.

SEC. 192. DESIGNATION OF FOREIGN LANGUAGE RESOURCES COORDINATOR.

(a) POLICY.—It is the sense of the Congress that—

(1) the Department of State, by virtue of the Secretary's overall responsibility under section 701(a) of the Foreign Service Act of 1980 (22 U.S.C. 4011(a)) for training and instruction in the field of foreign relations to meet the needs of all Federal agencies, should take the lead in this interagency effort; and

(2) in order to promote efficiency and quality in the training provided by the Secretary of State and other Federal agencies, the Secretary should call upon other agencies to share in the joint management and coordination of Federal foreign language resources.

(b) FOREIGN LANGUAGE RESOURCES COORDINATOR.—

(1) The Secretary of State should appoint a Foreign Language Resources Coordinator (in this subsection referred to as the "Coordinator") who shall be responsible—

(A) for coordinating the efforts of the appropriate agencies of Government—

(i) to strengthen mechanisms for sharing of foreign language resources; and

(ii) to identify Federal foreign language resource requirements in the areas of diplomacy, military preparedness, international security, and other foreign policy objectives; and

(B) for making recommendations to the Secretary of State as to which Federal foreign language assets, if any, should be made available to the private sector in support of national global economic competitiveness goals.

(2) All appropriate United States Government agencies maintaining and utilizing Federal foreign language training and related resources shall cooperate fully with any Coordinator.

SEC. 193. FOREIGN LANGUAGE SERVICES.

(a) SURCHARGE FOR CERTAIN FOREIGN LANGUAGE SERVICES.—Notwithstanding any other provision of law, the Secretary of State is authorized to require the payment of an appropriate fee, surcharge, or reimbursement for providing other Federal agencies with foreign language translation and interpretation services.

(b) USE OF FUNDS.—Funds collected under the authority of subsection (a) shall be deposited as an offsetting collection to any Department of State appropriation to recover the cost of providing translation or interpretation services in any foreign language. Such funds may remain available until expended.

TITLE II—UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS

PART A—AUTHORIZATION OF APPROPRIATIONS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following amounts are authorized to be appropriated to carry out international information activities, and educational and cultural exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the Radio Broadcasting to Cuba Act, the Television Broadcasting to Cuba Act, the Board for International Broadcasting Act, the Inspector General Act of 1978, the Center for Cultural and Technical Interchange Between North and South Act, the National Endowment for Democracy Act, and to carry out other authorities in law consistent with such purposes:

(1) SALARIES AND EXPENSES.—For "Salaries and Expenses", $473,488,000 for the fiscal year 1994 and $480,362,000 for the fiscal year 1995.

(2) EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(A) FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—For the "Fulbright Academic Exchange Programs", $130,538,000 for the fiscal year 1994 and $126,312,000 for the fiscal year 1995.

(B) OTHER PROGRAMS.—For "Hubert H. Humphrey Fellowship Program", "Edmund S. Muskie Fellowship Program", "International Visitors Program", "Israeli-Arab Scholarship Program", "Mike Mansfield Fellowship Program", "Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation", "Citizen Exchange Programs", "Congress-Bundestag Exchange Program", "Newly Independent States and Eastern Europe Training", "Institute for Representative Government", "American Studies Collections", "South Pacific Exchanges", "East Timorese Scholarships", "Cambodian Scholarships", and "Arts America", $96,962,000 for the fiscal year 1994 and $97,046,000 for the fiscal year 1995.

(3) BROADCASTING TO CUBA.—For "Broadcasting to Cuba", $21,000,000 for the fiscal year 1994 and $27,609,000 for the fiscal year 1995.

(4) INTERNATIONAL BROADCASTING ACTIVITIES.—For "International Broadcasting Activities" under part B, $541,676,000 for the fiscal year 1994, and $609,740,000 for the fiscal year 1995.

(5) OFFICE OF THE INSPECTOR GENERAL.—For "Office of the Inspector General", $4,247,000 for the fiscal year 1994 and $4,396,000 for the fiscal year 1995.

(6) CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST.—For "Center for Cultural and Technical Interchange between East and West", $26,000,000 for the fiscal year 1994 and $24,500,000 for the fiscal year 1995.

(b) LIMITATIONS.—

(1) Of the amounts authorized to be appropriated for "Salaries and Expenses" under section 201(a)(1) for fiscal year 1995, $500,000 is authorized to be appropriated for expenses and activities related to United States participation in the 1996 Budapest World's Fair (Budapest Expo '96).

(2) Of the amounts authorized to be appropriated for "Fulbright Academic Exchange Programs" under subsection (a)(2)(A),—

(A) $3,000,000 is authorized to be available for fiscal year 1995 for the Vietnam Scholarship Program established by section 229 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138); and

(B) $1,500,000 is authorized to be available for fiscal year 1994 and $2,000,000 is authorized to be available for fiscal year 1995, for the "Environment and Sustainable Development Exchange Program" established by section 241.

(3) Of the amounts authorized to be appropriated for "Other Programs" under subsection (a)(2)(B) $1,000,000 is authorized to be available for each of the fiscal years 1994 and 1995 for the "American Studies Collections" program established under section 235.

PART B—USIA AND RELATED AGENCIES AUTHORITIES AND ACTIVITIES

SEC. 221. USIA OFFICE IN LHASA, TIBET.

(a) ESTABLISHMENT OF OFFICE.—The Director of the United States Information Agency shall seek to establish an office in Lhasa, Tibet, for the purpose of—

(1) disseminating information about the United States;

(2) promoting discussions on conflict resolution and human rights;

(3) facilitating United States private sector involvement in educational and cultural activities in Tibet; and

(4) advising the United States Government with respect to Tibetan public opinion.

(b) REPORT BY THE DIRECTOR OF USIA.—Not later than April 1 of each year, the Director of the United States Information Agency shall submit a detailed report on developments relating to the implementation of this section to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

SEC. 222. CHANGES IN ADMINISTRATIVE AUTHORITIES.

Section 801 of the United States Informational and Educational Exchange Act of 1948 (22 U.S.C. 1471) is amended—

(1) in paragraph (5) by striking "and" after the semicolon;

(2) in paragraph (6) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(7) notwithstanding any other provision of law, to carry out projects involving security construction and related improvements for Agency facilities not physically located together with Department of State facilities abroad.".

SEC. 223. EMPLOYMENT AUTHORITY.

For fiscal years 1994 and 1995, the Director of the United States Information Agency may, in carrying out the provisions of the United States Information and Educational Exchange Act of 1948, employ individuals or organizations by contract for services to be performed in the United States or abroad, who shall not, by virtue of such employment, be considered to be employees of the United States Government for the purposes of any law administered by the Office of Personnel Management, except that the Director may determine the applicability to such individuals of section 804(5) of that Act.

SEC. 224. BUYING POWER MAINTENANCE ACCOUNT.

Section 704(c) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1477b(c)) is amended—

(1) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively;

(2) by inserting "(1)" after "(c)"; and

(3) by adding at the end the following new paragraphs:

"(2) In carrying out this subsection, there may be established a Buying Power Maintenance account.

"(3) In order to eliminate substantial gains to the approved levels of overseas operations for the United States Information Agency, the Director shall transfer to the Buying Power Maintenance account such amounts appropriated for 'Salaries and Expenses' as the Director determines are excessive to the needs of the approved level of operations under that appropriation account because of fluctuations in foreign currency exchange rates or changes in overseas wages and prices.

"(4) In order to offset adverse fluctuations in foreign currency exchange rates or foreign wages and prices, the Director may transfer from the Buying Power Maintenance account to the 'Salaries and Expenses' appropriations account such amounts as the Director determines are necessary to maintain the approved level of operations under that appropriation account.

"(5) Funds transferred by the Director from the Buying Power Maintenance account to another account shall be merged with and be available for the same purpose, and for the same time period, as the funds in that other account. Funds transferred by the Director from another account to the Buying Power Maintenance account shall be merged with the funds in the Buying Power Maintenance account and shall be available for the purposes of that account until expended.

"(6) Any restriction contained in an appropriation Act or other provision of law limiting the amounts that may be obligated or expended by the United States Information Agency shall be deemed to be adjusted to the extent necessary to offset the net effect of fluctuations in foreign currency exchange rates or overseas wage and price changes in order to maintain approved levels.

"(7)(A) Subject to the limitations contained in this paragraph, not later than the end of the 5th fiscal year after the fiscal year for which funds are appropriated or otherwise made available for the 'Salaries and Expenses' account, the Director may transfer any unobligated balance of such funds to the Buying Power Maintenance account.

"(B) The balance of the Buying Power Maintenance account may not exceed $50,000,000 as a result of any transfer under this paragraph.

"(C) Any transfer pursuant to this paragraph shall be treated as a reprogramming of funds under section 705 and shall be available for obligation or expenditure only in accordance with the procedures under such section.

"(D) The authorities contained in this section may only be exercised to such an extent and in such amounts as specifically provided in advance in appropriation Acts.".

SEC. 225. CONTRACT AUTHORITY.

Section 802(b) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1472(b)) is amended by adding at the end the following:

"(4)(A) Notwithstanding the other provisions of this subsection, the United States Information Agency is authorized to enter into contracts for periods not to exceed 7 years for circuit capacity to distribute radio and television programs.

"(B) The authority of this paragraph may be exercised for a fiscal year only to such extent or in such amounts as are provided in advance in appropriations Acts.".

SEC. 226. UNITED STATES TRANSMITTER IN KUWAIT.

None of the funds authorized to be appropriated by this or any other Act may be obligated or expended for the design, development, or construction of a United States short-wave radio transmitter in Kuwait.

SEC. 227. FULBRIGHT-HAYS ACT AUTHORITIES.

Section 105(a) of Public Law 87-256 is amended to read as follows:

"(a) Amounts appropriated to carry out the purposes of this Act are authorized to be made available until expended.".

SEC. 228. SEPARATE LEDGER ACCOUNTS FOR NED GRANTEES.

Section 504(h)(1) of the National Endowment for Democracy Act (22 U.S.C. 4413(h)(1)) is amended by striking "accounts" and inserting "bank accounts or separate self-balancing ledger accounts".

SEC. 229. COORDINATION OF UNITED STATES EXCHANGE PROGRAMS.

(a) COORDINATION.—Section 112 of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460) is amended by adding at the end the following:

"(f)(1) The President shall ensure that all exchange programs conducted by the United States Government, its departments and agencies, directly or through agreements with other parties, are reported at a time and in a format prescribed by the Director. The President shall ensure that such exchanges are consistent with United States foreign policy and avoid duplication of effort.

"(2) Not later than 90 days after the date of enactment of this subsection, and annually thereafter, the President shall submit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report pursuant to paragraph (1). Such report shall include information for each exchange program supported by the United States on the objectives of such exchange, the number of exchange participants supported, the types of exchange activities conducted, the total amount of Federal expenditures for such exchanges, and the extent to which such exchanges are duplicative.".

(b) REPORT BY THE DIRECTOR OF USIA.—Not later than 120 days after the date of enactment of this Act, the Director of the United States Information Agency shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report—

(1) detailing the range of exchange programs administered by the Agency;

(2) identifying possible areas of duplication of inefficiency; and

(3) recommending program consolidation and administrative restructuring as warranted.

SEC. 230. LIMITATION CONCERNING PARTICIPATION IN INTERNATIONAL EXPOSITIONS.

Notwithstanding any other provision of law, the United States Information Agency shall not obligate or expend any funds for a United States Government funded pavilion or other major exhibit at any international exposition or world's fair registered by the Bureau of International Expositions in excess of amounts expressly authorized and appropriated for such purpose.

SEC. 231. PRIVATE SECTOR OPPORTUNITIES.

Section 104(e)(4) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2454) is amended by inserting before the period ", and of similar services and opportunities for interchange not supported by the United States Government".

SEC. 232. AUTHORITY TO RESPOND TO PUBLIC INQUIRIES.

Section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1a) is amended by adding at the end the following new sentence: "The provisions of this section shall not prohibit the United States Information Agency from responding to inquiries from members of the public about its operations, policies, or programs.".

SEC. 233. TECHNICAL AMENDMENT RELATING TO NEAR AND MIDDLE EAST RESEARCH AND TRAINING.

Section 228(d) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993

(22 U.S.C. 2452 note) is amended by inserting "and includes the Republic of Turkey" before the period at the end thereof.

SEC. 234. DISTRIBUTION WITHIN THE UNITED STATES OF CERTAIN MATERIALS OF THE UNITED STATES INFORMATION AGENCY.

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1(a)) and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461), the Director of the United States Information Agency may make available for distribution within the United States the following:

(1) The United States Information Agency's Thomas Jefferson Paper Show, which commemorates the 250th anniversary of the birth of Thomas Jefferson.

(2) The documentary entitled "Crimes Against Humanity", a film about the ensuing conflict in the former Yugoslavia.

SEC. 235. AMERICAN STUDIES COLLECTIONS.

(a) Authority.—In order to promote a thorough understanding of the United States among emerging elites abroad, the Director of the United States Information Agency is authorized to establish and support collections at appropriate university libraries abroad to further the study of the United States, and to enter into agreements with such universities for such purposes.

(b) Design and Development.—Such collections—

(1) shall be developed in consultation with United States associations and organizations of scholars in the principal academic disciplines in which American studies are conducted; and

(2) shall be designed primarily to meet the needs of undergraduate and graduate students of American studies.

(c) Site Selection.—In selecting universities abroad as sites for such collections, the Director shall—

(1) ensure that such universities are able, within a reasonable period of the establishment of such collections, to assume responsibility for their maintenance in current form;

(2) ensure that undergraduate and graduate students shall enjoy reasonable access to such collections; and

(3) include in any agreement entered into between the United States Information Agency and a university abroad, terms embodying a contractual commitment of such maintenance and access under this subsection.

(d) Funding.—

(1) The Director of the United States Information Agency is authorized to establish an endowment fund (hereafter in this section referred to as the "fund") to carry out the purposes of this section and to enter into such agreements as may be necessary to carry out the purposes of this section.

(2)(A) The Director shall make deposits to the fund of amounts appropriated or otherwise made available to carry out this section.

(B) The Director is authorized to accept, use, and dispose of gifts of donations of services or property to carry out this section. Sums donated to carry out the purposes of this section shall be deposited into the fund.

(3) The corpus of the fund shall be invested in Federally-insured bank savings accounts or comparable interest-bearing accounts, certificates of deposit, money market funds, obligations of the United States, or other low-risk instruments and securities.

(4) The Director may withdraw or expend amounts from the fund for any expenses necessary to carry out the purposes of this section.

(e) Availability of Authorizations of Appropriations.—Authorizations of appropriations for the purposes of this section shall be available without fiscal year limitation and shall remain available until used.

SEC. 236. EDUCATIONAL AND CULTURAL EXCHANGES WITH TIBET.

The Director of the United States Information Agency shall establish programs of educational and cultural exchange between the United States and the people of Tibet. Such programs shall include opportunities for training and, as the Director considers appropriate, may include the assignment of personnel and resources abroad.

SEC. 237. SCHOLARSHIPS FOR EAST TIMORESE STUDENTS.

Notwithstanding any other provision of law, the Bureau of Educational and Cultural Affairs of the United States Information Agency shall make available for each of the fiscal years 1994 and 1995, scholarships for East Timorese students qualified to study in the United States for the purpose of studying at the undergraduate level in a United States college or university. Each scholarship made available under this subsection shall be for not less than one semester of study.

SEC. 238. CAMBODIAN SCHOLARSHIP AND EXCHANGE PROGRAMS.

(a) Purpose.—It is the purpose of this section to provide financial assistance—

(1) to establish a scholarship program for Cambodian college and post-graduate students to study in the United States; and

(2) to expand Cambodian participation in exchange programs of the United States Information Agency.

(b) Program.—(1) The Director of the United States Information Agency shall establish a scholarship program to enable Cambodian college students and post-graduate students to study in the United States.

(2) The Director of the United States Information Agency shall also include qualified Cambodian citizens in exchange programs funded or otherwise sponsored by the Agency, in particular the Fulbright Academic Program, the International Visitor Program, and the Citizen Exchange Program.

(c) Definition.—For the purposes of this section, the term "scholarship" means an amount to be used for full or partial support of tuition and fees to attend an educational institution, and may include fees, books, and supplies, equipment required for courses at an educational institution, living expenses at a United States educational institution, and travel expenses to and from, and within, the United States.

SEC. 239. INCREASING AFRICAN PARTICIPATION IN USIA EXCHANGE PROGRAMS.

The Director of United States Information Agency shall expand exchange program allocations to Africa, in particular Fulbright Academic Exchanges, International Visitor Programs, and Citizen Exchanges, and shall further encourage a broadening of affiliations and links between United States and African institutions.

SEC. 240. ENVIRONMENT AND SUSTAINABLE DEVELOPMENT EXCHANGE PROGRAM.

(a) Purpose.—The purpose of this section is to establish a program to promote academic exchanges in disciplines relevant to environment and sustainable development.

(b) Program Authority.—Notwithstanding any other provision of law, the Director of the United States Information Agency, through the Bureau of Educational and Cultural Affairs, shall provide scholarships beginning in the fiscal year 1994, and for each fiscal year thereafter, for study at United States institutions of higher education in furtherance of the purpose of this section for foreign students who have completed their undergraduate education and for postsecondary educators.

(c) Guidelines.—The scholarship program under this section shall be carried out in accordance with the following guidelines:

(1) Consistent with section 112(b) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(b)), all programs created pursuant to this Act shall be nonpolitical and balanced, and shall be administered in keeping with the highest standards of academic integrity and cost-effectiveness.

(2) The United States Information Agency shall administer this program under the auspices of the Fulbright Academic Exchange Program.

(3) The United States Information Agency shall ensure the regional diversity of this program through the selection of candidates from Asia, Africa, Latin America, as well as Europe and the Middle East.

(d) Definition.—For purposes of this section, the term "institution of higher education" has the same meaning given to such term by section 1201(a) of the Higher Education Act of 1965.

SEC. 241. SOUTH PACIFIC EXCHANGE PROGRAMS.

(a) Authorized Programs.—The Director of the United States Information Agency is authorized to award academic scholarships to qualified students from the sovereign nations of the South Pacific region to pursue undergraduate and postgraduate study at institutions of higher education in the United States; to make grants to accomplished United States scholars and experts to pursue research, to teach, or to offer training in such nations; and to make grants for youth exchanges.

(b) Limitation.—Grants awarded to United States scholars and experts may not exceed 10 percent of the total funds awarded for any fiscal year for programs under this section.

SEC. 242. INTERNATIONAL EXCHANGE PROGRAMS INVOLVING DISABILITY RELATED MATTERS.

(a) Authority.—In carrying out the authorities of section 102(b) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(b)), the President shall ensure that such authorities are used to promote educational, cultural, medical, and scientific meetings, training, research, visits, interchanges, and other activities, with respect to disability matters, including participation by individuals with disabilities (within the meaning of section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)) in such activities, through such nonprofit organizations as have a demonstrated capability to coordinate exchange programs involving disability-related matters.

(b) Report.—Not later than 180 days after the date of enactment of this Act, the Director of the United States Information Agency shall submit a report to Congress describing implementation of the requirements of this section.

(c) Annual Summary of Activities.—As part of the Congressional presentation materials submitted in connection with the annual budget request for the United States Information Agency, the Director of the Agency shall include a summary of the international exchange activities which meet the requirements of this section.

PART C—MIKE MANSFIELD FELLOWSHIPS

SEC. 251. SHORT TITLE.

This part may be cited as the "Mike Mansfield Fellowship Act".

SEC. 252. ESTABLISHMENT OF FELLOWSHIP PROGRAM.

(a) ESTABLISHMENT.—(1) There is hereby established the "Mike Mansfield Fellowship Program" pursuant to which the Director of the United States Information Agency will make grants, subject to the availability of appropriations, to the Mansfield Center for Pacific Affairs to award fellowships to eligible United States citizens for periods of 2 years each (or, pursuant to section 253(5)(C), for such shorter period of time as the Center may determine based on a Fellow's level of proficiency in the Japanese language or knowledge of the political economy of Japan) as follows:

(A) During the first year each fellowship recipient will study the Japanese language as well as Japan's political economy.

(B) During the second year each fellowship recipient will serve as a fellow in a parliamentary office, ministry, or other agency of the Government of Japan or, subject to the approval of the Center, a nongovernmental Japanese institution associated with the interests of the fellowship recipient, and the agency of the United States Government from which the fellow originated, consistent with the purposes of this part.

(2) Fellowships under this part may be known as "Mansfield Fellowships", and individuals awarded such fellowships may be known as "Mansfield Fellows".

(b) ELIGIBILITY OF CENTER FOR GRANTS.—Grants may be made to the Center under this section only if the Center agrees to comply with the requirements of section 253.

(c) INTERNATIONAL AGREEMENT.—The Director of the United States Information Agency should enter into negotiations for an agreement with the Government of Japan for the purpose of placing fellows in the Government of Japan.

(d) PRIVATE SOURCES.—The Center is authorized to accept, use, and dispose of gifts or donations of services or property in carrying out the fellowship program, subject to the review and approval of the Director of the United States Information Agency.

(e) USE OF FEDERAL FACILITIES.—The National Foreign Affairs Training Center is authorized and encouraged to assist, on a reimbursable basis, in carrying out Japanese language training by the Center through the provision of teachers, classroom space, teaching materials, and facilities, to the extent that such provision is not detrimental to the Institute's carrying out its other responsibilities under law.

SEC. 253. PROGRAM REQUIREMENTS.

The program established under this part shall comply with the following requirements:

(1) United States citizens who are eligible for fellowships under this part shall be employees of the Federal Government having at least two years experience in any branch of the Government, a strong career interest in United States-Japan relations, and a demonstrated commitment to further service in the Federal Government, and such other qualifications as are determined by the Center.

(2) Not more than 10 fellowships may be awarded each year of which not more than 3 shall be awarded to individuals who are not detailed employees of the Government.

(3)(A) Fellows shall agree to maintain satisfactory progress in language training and appropriate behavior in Japan, as determined by the Center, as a condition of continued receipt of Federal funds.

(B) Fellows who are not detailees shall agree to return to the Federal Government for further employment for a period of at least 2 years following the end of their fellowships, unless, in the determination of the Center, the fellow is unable (for reasons beyond the fellow's control and after receiving assistance from the Center as provided in paragraph (8)) to find reemployment for such period.

(4) During the period of the fellowship, the Center shall provide—

(A) to each fellow who is not a detailee a stipend at a rate of pay equal to the rate of pay that individual was receiving when he or she entered the program, plus a cost-of-living adjustment calculated at the same rate of pay, and for the same period of time, for which such adjustments were made to the salaries of individuals occupying competitive positions in the civil service during the same period as the fellowship; and

(B) to each fellow (including detailees) certain allowances and benefits as that individual would have been entitled to, but for his or her separation from Government service, as a United States Government civilian employee overseas under the Standardized Regulations (Government Civilians, Foreign Areas) of the Department of State, as follows: a living quarters allowance to cover the higher cost of housing in Japan, a post allowance to cover the significantly higher costs of living in Japan, an education allowance to assist parents in providing their children with educational services ordinarily provided without charge by United States public schools, moving expenses of up to $1,000 for personal belongings of fellows and their families in their move to Japan and one-round-trip economy-class airline ticket to Japan for each fellow and the fellow's immediate family.

(5)(A) For the first year of each fellowship, the Center shall provide fellows with intensive Japanese language training in the Washington, D.C., area, as well as courses in the political economy of Japan.

(B) Such training shall be of the same quality as training provided to Foreign Service officers before they are assigned to Japan.

(C) The Center may waive any or all of the training required by subparagraph (A) to the extent that a fellow has Japanese language skills or knowledge of Japan's political economy, and the 2 year fellowship period shall be shortened to the extent such training is less than one year.

(6) Any fellow who is not a detailee who does not comply with the requirements of this section shall reimburse the United States Information Agency for the Federal funds expended for the Fellow's participation in the fellowship, together with interest on such funds (calculated at the prevailing rate), as follows:

(A) Full reimbursement for noncompliance with paragraph (3)(A) or (9).

(B) Pro rata reimbursement for noncompliance with paragraph (3)(B) for any period the fellow is reemployed by the Federal Government that is less than the period specified in paragraph (3)(B), at a rate equal to the amount the fellow received during the final year of the fellowship for the same period of time, including any allowances and benefits provided under paragraph (4).

(7) The Center shall select fellows based solely on merit. The Center shall make positive efforts to recruit candidates reflecting the cultural, racial, and ethnic diversity of the United States.

(8) The Center shall assist, to the extent possible, any fellow who is not a detailee in finding employment in the Federal Government if such fellow was not able, at the end of the fellowship, to be reemployed in the agency from which he or she separated to become a fellow.

(9) No fellow may engage in any intelligence or intelligence-related activity on behalf of the United States Government.

(10) The financial records of the Center shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants, certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audit shall be conducted at the place or places where the financial records of the Center are normally kept. All books, financial records, files, and other papers, things, and property belonging to or in use by the Center and necessary to facilitate the audit shall be made available to the person or persons conducting the audit, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(11) The Center shall provide a report of the audit to the Director of the United States Information Agency no later than six months following the close of the fiscal year for which the audit is made. The report shall set forth the scope of the audit and include such statements, together with the independent auditor's opinion of those statements, as are necessary to present fairly the Center's assets and liabilities, surplus or deficit, with reasonable detail, including a statement of the Center's income and expenses during the year, including a schedule of all contracts and grants requiring payments in excess of $5,000 and any payments of compensation, salaries, or fees at a rate in excess of $5,000 per year. The report shall be produced in sufficient copies for the public.

SEC. 254. SEPARATION OF GOVERNMENT PERSONNEL DURING THE FELLOWSHIPS.

(a) SEPARATION.—Under such terms and conditions as the agency head may direct, any agency of the United States Government may separate from Government service for a specified period any officer or employee of that agency who accepts a fellowship under the program established by this part and is not detailed under section 255.

(b) REEMPLOYMENT.—Any fellow who is not a detailee, at the end of the fellowship, is entitled to be reemployed in the same manner as if covered by section 3582 of title 5, United States Code.

(c) RIGHTS AND BENEFITS.—Notwithstanding section 8347(o), 8713, or 8914 of title 5, United States Code, and in accordance with regulations of the Office of Personnel Management, an employee, while serving as a fellow who is not a detailee, is entitled to the same rights and benefits as if covered by section 3582 of title 5, United States Code. The Center shall reimburse the employing agency for any costs incurred under section 3582 of title 5, United States Code.

(d) COMPLIANCE WITH BUDGET ACT.—Funds are available under this section to the extent and in the amounts provided in appropriation Acts.

SEC. 255. MANSFIELD FELLOWS ON DETAIL FROM GOVERNMENT SERVICE.

(a) IN GENERAL.—(1) An agency head may detail, for a period of not more than 2 years, an employee of the agency who has been awarded a Mansfield Fellowship, to the Center.

(2) Each fellow who is detailed under this section shall enter into a written agreement with the Federal Government before receiving a fellowship that the fellow will—

(A) continue in the service of the fellow's agency at the end of the fellowship for a period of at least 2 years unless the fellow is involuntarily separated from the service of such agency; and

(B) pay to the United States Information Agency any additional expenses incurred by the Federal Government in connection with the fellowship if the fellow is voluntarily separated from service with the fellow's agency before the end of the period for which the fellow has agreed to continue in the service of such agency.

(3) The payment agreed to under paragraph (2)(B) may not be required of a fellow who leaves the service of such agency to enter into the service of another agency in any branch of the United States Government unless the head of the agency that authorized the fellowship notifies the employee before the effective date of entry into the service of the other agency that payment will be required under this section.

(b) STATUS AS GOVERNMENT EMPLOYEE.—A fellow detailed under subsection (a) is deemed, for the purpose of preserving allowances, privileges, rights, seniority, and other benefits, an employee of the agency from which detailed, and is entitled to pay, allowances, and benefits from funds available to that agency. The authorization and payment of such allowances and other benefits from appropriations available therefore is deemed to comply with section 5536 of title 5, United States Code.

(c) REIMBURSEMENT.—Fellows may be detailed under subsection (a) without reimbursement to the United States by the Center.

(d) ALLOWANCES AND BENEFITS.—A fellow detailed under subsection (a) may be paid by the Center for allowances and benefits listed in section 253(4)(B).

SEC. 256. LIABILITY FOR REPAYMENTS.

If any fellow fails to fulfill the fellow's agreement to pay the United States Information Agency for the expenses incurred by the United States Information Agency in connection with the fellowship, a sum equal to the amount of the expenses of the fellowship shall be recoverable by the United States Information Agency from the fellow (or a legal representative) by—

(1) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the fellow from the Federal Government; and

(2) such other method as is provided by law for the recovery of amounts owing to the Federal Government.

SEC. 257. DEFINITIONS.

For purposes of this part—

(1) the term "agency of the United States Government" includes any agency of the legislative branch and any court of the judicial branch as well as any agency of the executive branch;

(2) the term "agency head" means—

(A) in the case of the executive branch of Government or an agency of the legislative branch other than the House of Representatives or the Senate, the head of the respective agency;

(B) in the case of the judicial branch of Government, the chief judge of the respective court;

(C) in the case of the Senate, the President pro tempore, in consultation with the Majority Leader and Minority Leader of the Senate; and

(D) in the case of the House of Representatives, the Speaker of the House, in consultation with the Majority Leader and Minority Leader of the House;

(3) the term "Center" means the Mansfield Center for Pacific Affairs; and

(4) the term "detailee" means an employee of an agency of the United States Government on assignment or loan to the Mansfield Center for Pacific Affairs without a change of position from the agency by which he or she is employed.

TITLE III—UNITED STATES INTERNATIONAL BROADCASTING ACT

SEC. 301. SHORT TITLE.

This title may be cited as the "United States International Broadcasting Act of 1994".

SEC. 302. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.

The Congress makes the following findings and declarations:

(1) It is the policy of the United States to promote the right of freedom of opinion and expression, including the freedom "to seek, receive, and impart information and ideas through any media and regardless of frontiers," in accordance with Article 19 of the Universal Declaration of Human Rights.

(2) Open communication of information and ideas among the peoples of the world contributes to international peace and stability and the promotion of such communication is in the interests of the United States.

(3) It is in the interest of the United States to support broadcasting to other nations consistent with the requirements of this title.

(4) The continuation of existing United States international broadcasting, and the creation of a new broadcasting service to the people of the People's Republic of China and other countries of Asia which lack adequate sources of free information, would enhance the promotion of information and ideas, while advancing the goals of United States foreign policy.

(5) The reorganization and consolidation of United States international broadcasting will achieve important economies and strengthen the capability of the United States to use broadcasting to support freedom and democracy in a rapidly changing international environment.

SEC. 303. STANDARDS AND PRINCIPLES.

(a) BROADCASTING STANDARDS.—United States international broadcasting shall—

(1) be consistent with the broad foreign policy objectives of the United States;

(2) be consistent with the international telecommunications policies and treaty obligations of the United States;

(3) not duplicate the activities of private United States broadcasters;

(4) not duplicate the activities of government supported broadcasting entities of other democratic nations;

(5) be conducted in accordance with the highest professional standards of broadcast journalism;

(6) be based on reliable information about its potential audience; and

(7) be designed so as to effectively reach a significant audience.

(b) BROADCASTING PRINCIPLES.—United States international broadcasting shall include—

(1) news which is consistently reliable and authoritative, accurate, objective, and comprehensive;

(2) a balanced and comprehensive projection of United States thought and institutions, reflecting the diversity of United States culture and society;

(3) clear and effective presentation of the policies of the United States Government and responsible discussion and opinion on those policies;

(4) programming to meet needs which remain unserved by the totality of media voices available to the people of certain nations;

(5) information about developments in each significant region of the world;

(6) a variety of opinions and voices from within particular nations and regions prevented by censorship or repression from speaking to their fellow countrymen;

(7) reliable research capacity to meet the criteria under this section;

(8) adequate transmitter and relay capacity to support the activities described in this section; and

(9) training and technical support for independent indigenous media through government agencies or private United States entities.

SEC. 304. ESTABLISHMENT OF BROADCASTING BOARD OF GOVERNORS.

(a) ESTABLISHMENT.—There is hereby established within the United States Information Agency a Broadcasting Board of Governors (hereafter in this title referred to as the "Board").

(b) COMPOSITION OF THE BOARD.—

(1) The Board shall consist of 9 members, as follows:

(A) 8 voting members who shall be appointed by the President, by and with the advice and consent of the Senate.

(B) The Director of the United States Information Agency who shall also be a voting member.

(2) The President shall designate one member (other than the Director of the United States Information Agency) as Chairman of the Board.

(3) Exclusive of the Director of the United States Information Agency, not more than 4 of the members of the Board appointed by the President shall be of the same political party.

(c) TERM OF OFFICE.—The term of office of each member of the Board shall be three years, except that the Director of the United States Information Agency shall remain a member of the Board during the Director's term of service. Of the other 8 voting members, the initial terms of office of two members shall be one year, and the initial terms of office of 3 other members shall be two years, as determined by the President. The President shall appoint, by and with the advice and consent of the Senate, Board members to fill vacancies occurring prior to the expiration of a term, in which case the members so appointed shall serve for the remainder of such term. Any member whose term has expired may serve until a successor has been appointed and qualified. When there is no Director of the United States Information Agency, the acting Director of the agency shall serve as a member of the Board until a Director is appointed.

(d) SELECTION OF BOARD.—Members of the Board appointed by the President shall be citizens of the United States who are not regular full-time employees of the United States Government. Such members shall be selected by the President from among Americans distinguished in the fields of mass communications, print, broadcast media, or foreign affairs.

(e) COMPENSATION.—Members of the Board, while attending meetings of the Board or while engaged in duties relating to such meetings or in other activities of the Board pursuant to this section (including travel time) shall be entitled to receive compensation equal to the daily equivalent of the compensation prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code. While away from their homes or regular places of business, members of the Board may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently. The Director of the United States Information Agency shall not be entitled to any compensation under this title, but may be allowed travel expenses as provided under this subsection.

(f) DECISIONS.—Decisions of the Board shall be made by majority vote, a quorum being present. A quorum shall consist of 5 members.

SEC. 305. AUTHORITIES OF THE BOARD.

(a) AUTHORITIES.—The Board shall have the following authorities:

(1) To direct and supervise all broadcasting activities conducted pursuant to this title, the Radio Broadcasting to Cuba Act, and the Television Broadcasting to Cuba Act.

(2) To review and evaluate the mission and operation of, and to assess the quality, effectiveness, and professional integrity of, all such activities within the context of the broad foreign policy objectives of the United States.

(3) To ensure that United States international broadcasting is conducted in accordance with the standards and principles contained in section 303.

(4) To review, evaluate, and determine, at least annually, the addition or deletion of language services.

(5) To make and supervise grants for broadcasting and related activities in accordance with section 308 and 309.

(6) To allocate funds appropriated for international broadcasting activities among the various elements of the International Broadcasting Bureau and grantees, subject to the limitations in sections 308 and 309 and subject to reprogramming notification requirements in law for the reallocation of funds.

(7) To review engineering activities to ensure that all broadcasting elements receive the highest quality and cost-effective delivery services.

(8) To undertake such studies as may be necessary to identify areas in which broadcasting activities under its authority could be made more efficient and economical.

(9) To submit to the President and the Congress, through the Director of the United States Information Agency, an annual report which summarizes and evaluates activities under this title, the Radio Broadcasting to Cuba Act, and the Television Broadcasting to Cuba Act.

(10) To the extent considered necessary to carry out the functions of the Board, procure supplies, services, and other personal property.

(11) To appoint such staff personnel for the Board as the Board may determine to be necessary, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(12) To obligate and expend, for official reception and representation expenses, such amount as may be made available through appropriations (which for each of the fiscal years 1994 and 1995 may not exceed the amount made available to the Board for International Broadcasting for such purposes for fiscal year 1993).

(13) To make available in the annual report required by paragraph (9) information on funds expended on administrative and managerial services by the Bureau and by grantees and the steps the Board has taken to reduce unnecessary overhead costs for each of the broadcasting services.

(14) The Board may provide for the use of United States Government transmitter capacity for relay to Radio Free Asia.

(b) BROADCASTING BUDGETS.—

(1) The Director of the Bureau and the grantees identified in sections 308 and 309 shall submit proposed budgets to the Board. The Board shall forward its recommendations concerning the proposed budget for the Board and broadcasting activities under this title, the Radio Broadcasting to Cuba Act, and the Television Broadcasting to Cuba Act to the Director of the United States Information Agency for the consideration of the Director as a part of the Agency's budget submission to the Office of Management and Budget.

(2) The Director of the United States Information Agency shall include in the Agency's submission to the Office of Management and Budget the comments and recommendations of the Board concerning the proposed broadcasting budget.

(c) IMPLEMENTATION.—The Director of the United States Information Agency and the Board, in carrying out their functions, shall respect the professional independence and integrity of the International Broadcasting Bureau, its broadcasting services, and grantees.

(d) TECHNICAL AMENDMENT.—

(1) Section 4 of the Radio Broadcasting to Cuba Act (22 U.S.C. 1465b) is amended by striking "and the Associate Director for Broadcasting of the United States Information Agency" and inserting "of the Voice of America".

(2) Section 5(b) of the Radio Broadcasting to Cuba Act (22 U.S.C. 1465c(b)) is amended by striking "Director and Associate Director for Broadcasting of the United States Information Agency" and inserting "Broadcasting Board of Governors".

SEC. 306. FOREIGN POLICY GUIDANCE.

To assist the Board in carrying out its functions, the Secretary of State, acting through the Director of the United States Information Agency, shall provide information and guidance on foreign policy issues to the Board.

SEC. 307. INTERNATIONAL BROADCASTING BUREAU.

(a) ESTABLISHMENT.—There is hereby established an International Broadcasting Bureau within the United States Information Agency (hereafter in this title referred to as the "Bureau"), to carry out all nonmilitary international broadcasting activities supported by the United States Government other than those described in sections 308 and 309.

(b) SELECTION OF THE DIRECTOR OF THE BUREAU.—

(1) The Director of the Bureau shall be appointed by the Chairman of the Board, in consultation with the Director of the United States Information Agency and with the concurrence of a majority of the Board. The Director of the Bureau shall be entitled to receive compensation at the rate prescribed by law for level IV of the Executive Schedule.

(2) Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Director of the International Broadcasting Bureau, the United States Information Agency.".

SEC. 308. LIMITS ON GRANTS FOR RADIO FREE EUROPE AND RADIO LIBERTY.

(a) BOARD OF RFE/RL, INCORPORATED.—The Board may not make any grant to RFE/RL, Incorporated, unless the certificate of incorporation of RFE/RL, Incorporated, has been amended to provide that—

(1) the Board of Directors of RFE/RL, Incorporated, shall consist of the members of the Broadcasting Board of Governors established under section 304 and of no other members; and

(2) such Board of Directors shall make all major policy determinations governing the operation of RFE/RL, Incorporated, and shall appoint and fix the compensation of such managerial officers and employees of RFE/RL, Incorporated, as it considers necessary to carry out the purposes of the grant provided under this title.

(b) LOCATION OF PRINCIPAL PLACE OF BUSINESS.—

(1) The Board may not make any grant to RFE/RL, Incorporated unless the headquarters of RFE/RL, Incorporated and its senior administrative and managerial staff are in a location which ensures economy, operational effectiveness, and accountability to the Board.

(2) Not later than 90 days after confirmation of all members of the Board, the Board shall provide a report to Congress on the number of administrative, managerial, and technical staff of RFE/RL Incorporated who will be located within the metropolitan area of Washington, D.C., and the number of employees whose principal place of business will be located outside the metropolitan area of Washington, DC.

(c) LIMITATION ON GRANT AMOUNTS.—The total amount of grants made by the Board for the operating costs of Radio Free Europe and Radio Liberty may not exceed $75,000,000 for any fiscal year after fiscal year 1995.

(d) ALTERNATIVE GRANTEE.—If the Board determines at any time that RFE/RL, Incorporated, is not carrying out the functions described in section 309 in an effective and economical manner, the Board may award the grant to carry out such functions to another entity after soliciting and considering applications from eligible entities in such manner and accompanied by such information as the Board may reasonably require.

(e) NOT A FEDERAL AGENCY OR INSTRUMENTALITY.—Nothing in this title may be construed to make RFE/RL, Incorporated a Federal agency or instrumentality.

(f) AUTHORITY.—Grants authorized under section 305 for RFE/RL, Incorporated, shall be available to make annual grants for the purpose of carrying out similar functions as were carried out by RFE/RL, Incorporated, on the day before the date of enactment of this Act with respect to Radio Free Europe and Radio Liberty, consistent with section 2 of the Board for International Broadcasting Act of 1973, as in effect on such date.

(g) GRANT AGREEMENT.—Grants to RFE/RL, Incorporated, by the Board shall only be made in compliance with a grant agreement. The grant agreement shall establish guidelines for such grants. The grant agreement shall include the following provisions—

(1) that grant be used only for activities which the Board determines are consistent with the purposes of subsection (f);

(2) that RFE/RL, Incorporated, shall otherwise comply with the requirements of this section;

(3) that failure to comply with the requirements of this section may result in suspension or termination of a grant without further obligation by the Board or the United States;

(4) that duplication of language services and technical operations between RFE/RL, Incorporated and the International Broadcasting Bureau be reduced to the extent appropriate, as determined by the Board; and

(5) that RFE/RL, Incorporated, justify in detail each proposed expenditure of grant funds, and that such funds may not be used for any other purpose unless the Board gives its prior written approval.

(h) Prohibited Uses of Grant Funds.—No grant funds provided under this section may be used for the following purposes:

(1)(A) Except as provided in subparagraph (B), to pay any salary or other compensation, or enter into any contract providing for the payment of salary or compensation in excess of the rates established for comparable positions under title 5 of the United States Code or the foreign relations laws of the United States, except that no employee may be paid a salary or other compensation in excess of the rate of pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(B) Salary and other compensation limitations under subparagraph (A) shall not apply prior to October 1, 1995, with respect to any employee covered by a union agreement requiring a salary or other compensation in excess of such limitations.

(2) For any activity for the purpose of influencing the passage or defeat of legislation being considered by Congress.

(3) To enter into a contract or obligation to pay severance payments for voluntary separation for employees hired after December 1, 1990, except as may be required by United States law or the laws of the country where the employee is stationed.

(4) For first class travel for any employee of RFE/RL, Incorporated, or the relative of any employee.

(5) To compensate freelance contractors without the approval of the Board.

(i) Report on Management Practices.—(1) Effective not later than March 31 and September 30 of each calendar year, the Inspector General of the United States Information Agency shall submit to the Board, the Director of the United States Information Agency, and the Congress a report on management practices of RFE/RL, Incorporated, under this section. The Inspector General of the United States Information Agency shall establish a special unit within the Inspector General's office to monitor and audit the activities of RFE/RL, Incorporated, and shall provide for on-site monitoring of such activities.

(j) Audit Authority.—

(1) Such financial transactions of RFE/RL, Incorporated, as relate to functions carried out under this section may be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States. Any such audit shall be conducted at the place or places where accounts of RFE/RL, Incorporated, are normally kept.

(2) Representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, papers, and property belonging to or in use by RFE/RL, Incorporated pertaining to such financial transactions and necessary to facilitate an audit. Such representatives shall be afforded full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports files, papers, and property of RFE/RL, Incorporated, shall remain in the possession and custody of RFE/RL, Incorporated.

(3) Notwithstanding any other provision of law and upon repeal of the Board for International Broadcasting Act, the Inspector General of the United States Information Agency is authorized to exercise the authorities of the Inspector General Act of 1978 with respect to RFE/RL, Incorporated.

(k) Plan for Relocation.—None of the funds authorized to be appropriated for the fiscal years 1994 or 1995 may be used to relocate the offices or operations of RFE/RL, Incorporated from Munich, Germany, unless—

(1) such relocation is specifically provided for in an appropriation Act or pursuant to a reprogramming notification; and

(2)(A) such relocation is authorized by the Board and the Board submits to the Comptroller General of the United States and the appropriate Congressional committees a detailed plan for such relocation, including cost estimates and any and all fiscal data, audits, business plans, and other documents which justify such relocation; or

(B) prior to the confirmation of all members of the Board, such relocation is authorized by the President, the President certifies that significant national interest requires that such relocation determination be made before the confirmation of all members of the Board, and the President submits to the Comptroller General of the United States and the appropriate congressional committees a detailed plan for such relocation, including cost estimates and any and all fiscal data, audits, business plans, and other documents which justify such relocation.

(l) Reports on Personnel Classification.—Not later than 90 days after the date of confirmation of all members of the Board, the Board shall submit a report to the Congress containing a justification, in terms of the types of duties performed at specific rates of salary and other compensation, of the classification of personnel employed by RFE/RL, Incorporated. The report shall include a comparison of the rates of salary or other compensation and classifications provided to employees of RFE/RL, Incorporated, with the rates of salary or other compensation and classifications of employees of the Voice of America stationed overseas in comparable positions and shall identify any disparities and steps which should be taken to eliminate such disparities.

SEC. 309. RADIO FREE ASIA.

(a) Authority.—

(1) Grants authorized under section 305 shall be available to make annual grants for the purpose of carrying out radio broadcasting to the following countries: The People's Republic of China, Burma, Cambodia, Laos, North Korea, Tibet, and Vietnam.

(2) Such broadcasting service shall be referred to as "Radio Free Asia".

(b) Functions.—Radio Free Asia shall—

(1) provide accurate and timely information, news, and commentary about events in the respective countries of Asia and elsewhere; and

(2) be a forum for a variety of opinions and voices from within Asian nations whose people do not fully enjoy freedom of expression.

(c) Submission of Detailed Plan for Radio Free Asia.—

(1) No grant may be awarded to carry out this section unless the Board, through the Director of the United States Information Agency, has submitted to Congress a detailed plan for the establishment and operation of Radio Free Asia, including—

(A) a description of the manner in which Radio Free Asia would meet the funding limitations provided in subsection (d)(4);

(B) a description of the numbers and qualifications of employees it proposes to hire; and

(C) how it proposes to meet the technical requirements for carrying out its responsibilities under this section.

(2) The plan required by paragraph (1) shall be submitted not later than 90 days after the date on which all members of the Board are confirmed.

(3) No grant may be awarded to carry out the provisions of this section unless the plan submitted by the Board includes a certification by the Board that Radio Free Asia can be established and operated within the funding limitations provided for in subsection (d)(4) and subsection (d)(5).

(4) If the Board determines that a Radio Free Asia cannot be established or operated effectively within the funding limitations provided for in this section, the Board may submit, through the Director of United States Information Agency, an alternative plan and such proposed changes in legislation as may be necessary to the appropriate congressional committees.

(d) Grant Agreement.—Any grant agreement or grants under this section shall be subject to the following limitations and restrictions:

(1)(A) The Board may not make any grant to Radio Free Asia unless the headquarters of Radio Free Asia and its senior administrative and managerial staff are in a location which ensures economy, operational effectiveness, and accountability to the Board.

(B) Not later than 90 days after confirmation of the Board, the Board shall provide a report to Congress on the number of administrative, managerial, and technical staff of Radio Free Asia who will be located within the metropolitan area of Washington, D.C., and the number of employees whose principal place of business will be located outside the metropolitan area of Washington, D.C.

(2) Any grant agreement under this section shall require that any contract entered into by Radio Free Asia shall specify that all obligations are assumed by Radio Free Asia and not by the United States Government, and shall further specify that funds to carry out the activities of Radio Free Asia may not be available after September 30, 1999.

(3) Any grant agreement shall require that any lease agreements entered into by Radio Free Asia shall be, to the maximum extent possible, assignable to the United States Government.

(4) Grants made for the operating costs of Radio Free Asia may not exceed $22,000,000 in any fiscal year.

(5) The total amount of grant funds made available for one-time capital costs of Radio Free Asia may not exceed $8,000,000.

(6) Grants awarded under this section shall be made pursuant to a grant agreement which requires that grant funds be used only for activities consistent with this section, and that failure to comply with such requirements shall permit the grant to be terminated without fiscal obligation to the United States.

(e) Limitations on Administrative and Managerial Costs.—It is the sense of the Congress that administrative and managerial costs for operation of Radio Free Asia should be kept to a minimum and, to the maximum extent feasible, should not exceed the costs that would have been incurred if Radio Free Asia had been operated as a Federal entity rather than as a grantee.

(f) Assessment of the Effectiveness of Radio Free Asia.—Not later than 3 years after the date on which initial funding is provided for the purpose of operating Radio Free Asia, the Board shall submit to the appropriate congressional committees a report on—

(1) whether Radio Free Asia is technically sound and cost-effective,

(2) whether Radio Free Asia consistently meets the standards for quality and objectivity established by this title,

(3) whether Radio Free Asia is received by a sufficient audience to warrant its continuation,

(4) the extent to which such broadcasting is already being received by the target audience from other credible sources; and

(5) the extent to which the interests of the United States are being served by maintaining broadcasting of Radio Free Asia.

(g) SUNSET PROVISION.—The Board may not make any grant for the purpose of operating Radio Free Asia after September 30, 1998, unless the President of the United States determines in the President's fiscal year 1999 budget submission that continuation of funding for Radio Free Asia for 1 additional year is in the interest of the United States.

(h) NOTIFICATION AND CONSULTATION REGARDING DISPLACEMENT OF VOICE OF AMERICA BROADCASTING.—The Board shall notify the appropriate congressional committees before entering into any agreements for the utilization of Voice of America transmitters, equipment, or other resources that will significantly reduce the broadcasting activities of the Voice of America in Asia or any other region in order to accommodate the broadcasting activities of Radio Free Asia. The Chairman of the Board shall consult with such committees on the impact of any such reduction in Voice of America broadcasting activities.

(i) NOT A FEDERAL AGENCY OR INSTRUMENTALITY.—Nothing in this title may be construed to make Radio Free Asia a Federal agency or instrumentality.

SEC. 310. TRANSITION.

(a) AUTHORIZATION.—

(1) The President is authorized consistent with the purposes of this Act to direct the transfer of all functions and authorities from the Board for International Broadcasting to the United States Information Agency, the Board, or the Bureau as may be necessary to implement this title.

(2)(A) Not later than 120 days after the date of enactment of this Act, the Director of the United States Information Agency and the Chairman of the Board for International Broadcasting shall jointly prepare and submit to the President for approval and implementation a plan to implement the provisions of this title. Such plan shall include at a minimum a detailed cost analysis to implement fully the recommendations of such plan. The plan shall identify all costs in excess of those authorized for such purposes and shall provide that any excess cost to implement the plan shall be derived only from funds authorized in section 201 of this Act.

(B) The President shall transmit copies of the approved plan, together with any recommendations for legislative changes that may be necessary, to the appropriate congressional committees.

(b) NEW APPOINTEES.—The Director of the United States Information Agency may assign employees of the Agency for service with RFE/RL, Incorporated, with the concurrence of the president of RFE/RL, Incorporated. Such assignment shall not affect the rights and benefits of such personnel as employees of the United States Information Agency.

(c) BOARD FOR INTERNATIONAL BROADCASTING PERSONNEL.—All Board for International Broadcasting full-time United States Government personnel (except special Government employees) and part-time United States Government personnel holding permanent positions shall be transferred to the United States Information Agency, the Board, or the Bureau. Such transfer shall not cause any such employee to be separated or reduced in grade or compensation.

(d) OTHER AUTHORITIES.—The Director of the United States Information Agency is authorized to utilize the provisions of titles VIII and IX of the United States Information and Educational Exchange Act of 1948, and any other authority available to the Director on the date of enactment of this Act, to the extent that the Director considers necessary in carrying out the provisions and purposes of this title.

(e) REPEAL.—The Board for International Broadcasting Act of 1973 (22 U.S.C. 2871, et seq.) is repealed effective September 30, 1995, or the date on which all members of the Board are confirmed, whichever is earlier.

(f) SAVINGS PROVISIONS.—

(1) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this title; and

(B) which are in effect at the time this title takes effect, or were final before the effective date of this title and are to become effective on or after the effective date of this title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Director of the United States Information Agency or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) PROCEEDINGS NOT AFFECTED.—The provisions of this title shall not affect any proceedings pending before the Board for International Broadcasting at the time this title takes effect, with respect to functions transferred by this title, but such proceedings shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the termination or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been terminated or modified if this title had not been enacted.

(3) SUITS NOT AFFECTED.—The provisions of this title shall not affect suits commenced before the effective date of this title, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(4) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Board for International Broadcasting or by or against any individual in the official capacity of such individual as an officer of the Board for International Broadcasting shall abate by reason of the enactment of this title.

(5) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Board for International Broadcasting relating to a function transferred under this title may be continued by the United States Information Agency with the same effect as if this title had not been enacted.

(6) REFERENCES.—A reference in any provision of law, reorganization plan, or other authority to the Associate Director for Broadcasting of the United States Information Agency shall be considered to be a reference to the Director of the International Broadcasting Bureau of the United States Information Agency.

(7) EFFECT ON OTHER LAWS.—The provisions of, and authorities contained in or transferred pursuant to, this title are not intended to repeal, limit, or otherwise derogate from the authorities or functions of or available to the Director of the United States Information Agency or the Secretary of State under law, reorganization plan, or otherwise, unless such provision hereof—

(A) specifically refers to the provision of law or authority existing on the effective date of this title, so affected; or

(B) is in direct conflict with such law or authority existing on the effective date of this title.

SEC. 311. PRESERVATION OF AMERICAN JOBS.

It is the sense of the Congress that the Director of the United States Information Agency and the Chairman of the Board for International Broadcasting should, in developing the plan for consolidation and reorganization of overseas international broadcasting services, limit, to the maximum extent feasible, consistent with the purposes of the consolidation, elimination of any United States-based positions and should affirmatively seek to transfer as many positions as possible to the United States.

SEC. 312. PRIVATIZATION OF RADIO FREE EUROPE AND RADIO LIBERTY.

(a) DECLARATION OF POLICY.—It is the sense of the Congress that, in furtherance of the objectives of section 302 of this Act, the funding of Radio Free Europe and Radio Liberty should be assumed by the private sector not later than December 31, 1999, and that the funding of Radio Free Europe and Radio Liberty Research Institute should be assumed by the private sector at the earliest possible time.

(b) PRESIDENTIAL SUBMISSION.—The President shall submit with his annual budget submission as provided for in section 307 an analysis and recommendations for achieving the objectives of subsection (a).

(c) REPORTS ON TRANSFER OF RFE/RL RESEARCH INSTITUTE.—Not later than 120 days after the date of enactment of this Act, the Board for International Broadcasting, or the Board, if established, shall submit to the appropriate congressional committees a report on the steps being taken to transfer RFE/RL Research Institute pursuant to subsection (a) and shall provide periodic progress reports on such efforts until such transfer has been achieved.

SEC. 313. REQUIREMENT FOR AUTHORIZATION OF APPROPRIATIONS.

(a) LIMITATION ON OBLIGATION AND EXPENDITURE OF FUNDS.—Notwithstanding any other provision of law, for the fiscal year 1994 and for each subsequent fiscal year, any funds appropriated for the purposes of broadcasting subject to the direction and supervision of the Board shall not be available for obligation or expenditure—

(1) unless such funds are appropriated pursuant to an authorization of appropriations; or

(2) in excess of the authorized level of appropriations.

(b) SUBSEQUENT AUTHORIZATION.—The limitation under subsection (a) shall not apply to the extent that an authorization of appropriations is enacted after such funds are appropriated.

(c) APPLICATION.—The provisions of this section—

(1) may not be superseded, except by a provision of law which specifically repeals, modifies, or supersedes the provisions of this section; and

(2) shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts which are authorized by law and administered under or pursuant to this title.

SEC. 314. DEFINITIONS.

For the purposes of this title—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives;

(2) the term "RFE/RL, Incorporated" includes—

(A) the corporation having the corporate title described in section 307(b)(3); and

(B) any alternative grantee described in section 307(e).

(3) the term "salary or other compensation" includes any deferred compensation or pension payments, any payments for expenses for which the recipient is not obligated to itemize, and any payments for personnel services provided to an employee of RFE/RL, Incorporated.

SEC. 315. TECHNICAL AND CONFORMING AMENDMENTS.

(a) VOICE OF AMERICA BROADCASTS.—Section 503 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1463) is repealed.

(b) ISRAEL RELAY STATION.—Section 301(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, is repealed.

(c) BOARD FOR INTERNATIONAL BROADCASTING ACT.—Section 4(a)(1) of the Board for International Broadcasting Act of 1973 is amended to read as follows:

"(1) to make grants to RFE/RL, Incorporated and, until September 30, 1995, to make grants to entities established in the privatization of certain functions of RFE/RL, Incorporated in order to carry out the purposes set forth in section 2 of this Act;".

TITLE IV—INTERNATIONAL ORGANIZATIONS

Part A—United Nations Reform and Peacekeeping Operations

SEC. 401. UNITED NATIONS OFFICE OF INSPECTOR GENERAL.

(a) WITHHOLDING OF PORTION OF CERTAIN ASSESSED CONTRIBUTIONS.—Until a certification is made under subsection (b), the following amounts shall be withheld from obligation and expenditure (in addition to any amounts required to be withheld by any other provision of this Act):

(1) FY 1994 ASSESSED CONTRIBUTIONS FOR UN REGULAR BUDGET.—Of the funds appropriated for "Contributions to International Organizations" for fiscal year 1994, 10 percent of the amount for United States assessed contributions to the regular budget of the United Nations shall be withheld.

(2) FY 1995 ASSESSED CONTRIBUTIONS FOR UN REGULAR BUDGET.—Of the funds appropriated for "Contributions to International Organizations" for fiscal year 1995, 20 percent of the amount for United States assessed contributions to the regular budget of the United Nations shall be withheld.

(3) SUPPLEMENTAL ASSESSED PEACEKEEPING CONTRIBUTIONS.—Of the funds appropriated for "Contributions for International Peacekeeping Activities" for a fiscal year pursuant to the authorization of appropriations under section 102(d), 50 percent shall be withheld.

(b) CERTIFICATION.—The certification referred to in subsection (a) is a certification by the President to the Congress that—

(1) the United Nations has established an independent office of Inspector General to conduct and supervise objective audits, inspections, and investigations relating to the programs and operations of the United Nations;

(2) the Secretary General of the United Nations has appointed an Inspector General, with the approval of the General Assembly, and that appointment was made principally on the basis of the appointee's integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations;

(3) the Inspector General is authorized to—

(A) make investigations and reports relating to the administration of the programs and operations of the United Nations;

(B) have access to all records, documents, and other available materials relating to those programs and operations; and

(C) have direct and prompt access to any official of the United Nations;

(4) the United Nations has procedures in place designed to protect the identity of, and to prevent reprisals against, any staff member making a complaint or disclosing information to, or cooperating in any investigation or inspection by, the Inspector General;

(5) the United Nations has procedures in place designed to ensure compliance with the recommendations of the Inspector General; and

(6) the United Nations has procedures in place to ensure that all annual and other relevant reports submitted by the Inspector General are made available to the General Assembly without modification.

(c) SPECIALIZED AGENCIES.—United States representatives to the United Nations should promote complete Inspector General access to all records and officials of the specialized agencies of the United Nations, and should strive to achieve such access by fiscal year 1996.

(d) DEFINITION.—For purposes of this part, the term "Inspector General" means the head of an independent office (or other independent entity) established by the United Nations to conduct and supervise objective audits, inspections, and investigations relating to the programs and operations of the United Nations.

SEC. 402. UNITED STATES PARTICIPATION IN MANAGEMENT OF THE UNITED NATIONS.

It is the sense of the Congress that, consistent with the United Nations Charter, United States nationals should have equitable representation at senior management levels in the United Nations system, especially in the Department for Administration and Mangement and in the office of the Inspector General.

SEC. 403. SENSE OF THE SENATE ON DEPARTMENT OF DEFENSE FUNDING FOR UNITED NATIONS PEACEKEEPING OPERATIONS.

It is the sense of the Senate that beginning October 1, 1995, funds made available to the Department of Defense (including funds for "Operation and Maintenance") shall be available for—

(1) United States assessed or voluntary contributions for United Nations peacekeeping operations, or

(2) the unreimbursable incremental costs associated with the participation of United States Armed Forces in any United Nations peacekeeping operation (other than an operation necessary to protect American lives or United States national interests),

only to the extent that the Congress has authorized, appropriated, or otherwise approved funds for such purposes.

SEC. 404. ASSESSED CONTRIBUTIONS FOR UNITED NATIONS PEACEKEEPING OPERATIONS.

(a) REASSESSMENT OF CONTRIBUTION PERCENTAGES.—The Permanent Representative of the United States to the United Nations should make every effort to ensure that the United Nations completes an overall review and reassessment of each nation's assessed contributions for United Nations peacekeeping operations. As part of the overall review and assessment, the Permanent Representative should make every effort to advance the concept that, when appropriate, host governments and other governments in the region where a United Nations peacekeeping operation is carried out should bear a greater burden of its financial cost.

(b) LIMITATION ON UNITED STATES CONTRIBUTIONS.—

(1) FISCAL YEARS 1994 AND 1995.—Funds authorized to be appropriated for "Contributions for International Peacekeeping Activities" for fiscal years 1994 and 1995 shall not be available for the payment of the United States assessed contribution for a United Nations peacekeeping operation in an amount which is greater than 30.4 percent of the total of all assessed contributions for that operation, notwithstanding the last sentence of the paragraph headed "Contributions to International Organizations" in Public Law 92-544, as amended by section 203 of the Foreign Relations Authorization Act, Fiscal Year 1976 (22 U.S.C. 287e note).

(2) SUBSEQUENT FISCAL YEARS.—Funds authorized to be appropriated for "Contributions for International Peacekeeping Activities" for any fiscal year after fiscal year 1995 shall not be available for the payment of the United States assessed contribution for a United Nations peacekeeping operation in an amount which is greater than 25 percent of the total of all assessed contributions for that operation.

(3) CONFORMING AMENDMENT.—The last sentence of the paragraph headed "Contributions to International Organizations" in Public Law 92-544, as amended by section 203 of the Foreign Relations Authorization Act, Fiscal Year 1976 (22 U.S.C. 287e note), is amended by striking "conducted by or under the auspices of the United Nations or" and inserting "(other than United Nations peacekeeping operations) conducted".

SEC. 405. UNITED STATES PERSONNEL TAKEN PRISONER WHILE SERVING IN MULTINATIONAL FORCES.

It is the sense of the Congress that—

(1) the President should take immediate steps, unilaterally and in appropriate international bodies, to assure that any United States military personnel serving as part of a multinational force who are captured are accorded protections equivalent to those accorded to prisoners of war under the 1949 Geneva Conventions and other international agreements intended to protect prisoners of war; and

(2) the President should also take all necessary steps to bring to justice all individuals responsible for any mistreatment or torture of, or for causing the death of, United States military personnel who are captured while serving in a multinational force.

SEC. 406. TRANSMITTALS OF CERTAIN UNITED NATIONS DOCUMENTS.

Section 4 of the United Nations Participation Act of 1945 (22 U.S.C. 287b) is amended—

(1) by inserting "(a) Periodic Reports.—" after "Sec. 4."; and

(2) by adding at the end the following:

"(b) Transmittal of Security Council Resolutions.—Not later than 3 days (excluding Saturdays, Sundays, and legal holidays) after adoption of any resolution by the Security Council, the Secretary of State shall transmit the text of such resolution and any supporting documentation to the designated congressional committees.

"(c) Reports on Peacekeeping Operations.—The Secretary of State shall promptly transmit to the designated congressional committees any published report prepared by the United Nations and distributed to the members of the Security Council that contains assessments of any proposed, ongoing, or concluded United Nations peacekeeping operation.".

SEC. 407. CONSULTATIONS AND REPORTS.

(a) Consultations and Reports on UN Peacekeeping Operations.—

(1) Consultations.—Each month the President shall consult with the Congress on the status of United Nations peacekeeping operations.

(2) Information to be provided.—In connection with these consultations, the following information shall be provided each month to the designated congressional committees:

(A) With respect to ongoing United Nations peacekeeping operations, the following:

(i) A list of all resolutions of the United Nations Security Council anticipated to be voted on during such month that would extend or change the mandate of any United Nations peacekeeping operation.

(ii) For each such operation, any changes in the duration, mandate, and command and control arrangements that are anticipated as a result of the adoption of the resolution.

(iii) An estimate of the total cost to the United Nations of each such operation for the period covered by the resolution, and an estimate of the amount of that cost that will be assessed to the United States.

(iv) Any anticipated significant changes in United States participation in or support for each such operation during the period covered by the resolution, and the estimated costs to the United States of such changes.

(B) With respect to each new United Nations peacekeeping operation that is anticipated to be authorized by a Security Council resolution during such month, the following information for the period covered by the resolution:

(i) The anticipated duration, mandate, and command and control arrangements of such operation.

(ii) An estimate of the total cost to the United Nations of the operation, and an estimate of the amount of that cost that will be assessed to the United States.

(iii) A description of the functions that would be performed by any United States Armed Forces participating in or otherwise operating in support of the operation, an estimate of the number of members of the Armed Forces that will participate in or otherwise operate in support of the operation, and an estimate of the cost to the United States of such participation or support.

(3) Written information.—The information described in clauses (i) and (iii) of paragraph (2)(A) and the information described in clauses (i) and (ii) of paragraph (2)(B) shall be provided each month to the designated congressional committees in written form not later than the 10th day of that month.

(4) Interim information.—(A) The President shall submit to the designated congressional committees a written interim report if, during the period between the monthly consultations required by paragraph (1), the United States learns that the United Nations Security Council is likely, before the next such consultation, to vote on a resolution that would authorize a new United Nations peacekeeping operation and that resolution was not previously reported on pursuant to paragraph (2)(B). Each interim report shall include the information described in clauses (i) and (ii) of paragraph (2)(B).

(B) Any such interim report shall be submitted not less than 5 days before the vote of the United Nations Security Council, unless the President determines that exceptional circumstances prevented compliance with the requirement to report 5 days in advance. If the President makes such a determination, the interim report shall be submitted promptly (but in no case later than 3 days after the vote) and shall include a copy of the determination and a description of the exceptional circumstances which were the basis for that determination.

(5) Notification and quarterly reports regarding United States assistance.—(A) The President shall notify the designated congressional committees at least 15 days before the United States provides any assistance to the United Nations to support peacekeeping operations. This subparagraph does not apply to—

(i) assistance having a value of less than $3,000,000 in the case of nonreimburseable assistance or less than $14,000,000 in the case of reimburseable assistance, or

(ii) assistance provided under the emergency drawdown authority of sections 506(a)(1) and 552(c)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2318(a)(1) and 2348a(c)(2)).

(B) The President shall submit quarterly reports to the designated congressional committees on all assistance provided by the United States during the preceding calendar quarter to the United Nations to support peacekeeping operations. Each report shall describe the assistance provided for each such operation, listed by category of assistance. The report for the fourth calendar quarter of each year shall be submitted as part of the annual report required by section 4(d) of the United Nations Participation Act of 1945 (as added by subsection (b) of this section) and shall include cumulative information for the preceding calendar year.

(b) Annual Reports.—Section 4 of United Nations Participation Act of 1945 (22 U.S.C. 287b), as amended by the preceding section of this title, is further amended by adding at the end the following:

"(d) Annual Report.—In addition to the report required by subsection (a), the President, at the time of submission of the annual budget request to the Congress, shall submit to designated congressional committees a report that includes the following:

"(1) Costs of peacekeeping operations.—

"(A) In accordance with section 407(a)(5)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, a description of all assistance provided by the United States to the United Nations to support peacekeeping operations during the previous calendar quarter and during the previous year.

"(B) With respect to United Nations peacekeeping operations—

"(i) the aggregate cost of all United Nations peacekeeping operations for the prior fiscal year;

"(ii) the costs of each United Nations peacekeeping operation for the prior fiscal year; and

"(iii) the amount of United States contributions (both assessed and voluntary) to United Nations peacekeeping operations on an operation-by-operation basis for the prior fiscal year.

"(C) With respect to other international peacekeeping operations in which the United States participates—

"(i) the aggregate cost of all such operations for the prior fiscal year;

"(ii) the costs of each such operation for the prior fiscal year; and

"(iii) the amount of United States contributions (both assessed and voluntary) to such operations on an operation-by-operation basis for the prior fiscal year.

"(D) In the case of the first 2 reports submitted pursuant to this subsection, a projection of all United States costs for United Nations peacekeeping operations during each of the next 2 fiscal years, including assessed and voluntary contributions.

"(2) Other matters regarding peacekeeping operations.—

"(A) An assessment of the effectiveness of ongoing international peacekeeping operations, their relevance to United States national interests, the efforts by the United Nations and other international organizations (as applicable) to resolve the relevant armed conflicts, and the projected termination dates for all such operations.

"(B) The dollar value and percentage of total peacekeeping contracts that have been awarded to United States contractors during the previous year.

"(3) United Nations reform.—

"(A)(i) A description of the status of efforts to establish and implement an independent office of the Inspector General at the United Nations.

"(ii) If an office of the Inspector General has been established at the United Nations, a discussion of whether the Inspector General is keeping the Secretary General and the members of the General Assembly fully informed about problems, deficiencies, the necessity for corrective action, and the progress of corrective action.

"(iii) For purposes of this subparagraph, the term 'office of the Inspector General' means an independent office (or other independent entity) established by the United Nations to conduct and supervise objective audits, inspections, and investigations relating to the programs and operations of the United Nations.

"(B) A description of the status of efforts to reduce the United States peacekeeping assessment rate.

"(C) A description of the status of other United States efforts to achieve financial and management reform at the United Nations.

"(4) Military personnel participating in multinational forces.—A description of—

"(A) the status under international law of members of multinational forces, including the legal status of such personnel if captured, missing, or detained; and

"(B) the extent of the risk for United States military personnel who are captured while participating in multinational forces in cases where their captors fail to respect the 1949 Geneva Conventions and other international agreements intended to protect prisoners of war; and

"(C) the specific steps that have been taken to protect United States military personnel participating in multinational forces, together (if necessary) with any recommendations for the enactment of legislation to achieve that objective.

"(5) HUMAN RIGHTS AND UN PEACEKEEPING FORCES.—A description of the efforts by United Nations peacekeeping forces to promote and protect internationally recognized human rights standards, including the status of investigations in any case of alleged human rights violations during the preceding year by personnel participating in United Nations peacekeeping forces, as well as any action taken in such cases.

"(e) DESIGNATED CONGRESSIONAL COMMITTEES.—As used in this section, the term 'designated congressional committees' has the meaning given that term by section 415 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.".

SEC. 408. TRANSFERS OF EXCESS DEFENSE ARTICLES FOR INTERNATIONAL PEACEKEEPING OPERATIONS.

Chapter 2 of part II of the Foreign Assistance Act of 1961 is amended by adding after section 519 (22 U.S.C. 2321m) the following:

"SEC. 520. TRANSFERS OF EXCESS DEFENSE ARTICLES FOR INTERNATIONAL PEACEKEEPING OPERATIONS.

"(a) GENERAL AUTHORITY.—The President may transfer to international and regional organizations of which the United States is a member such excess defense articles as the President determines necessary to support international peacekeeping operations and other activities and operations to maintain and restore international peace and security. Such transfers shall be on such terms and conditions as the President may determine, consistent with this section.

"(b) CONDITIONALITY OF AUTHORITY.—

"(1) IN GENERAL.—The authority of subsection (a) may not be exercised with respect to an international or regional organization until the United States has entered into a written agreement with that organization providing that the value of any excess defense articles transferred under this section shall be credited against United States assessed contributions to that organization. For purposes of this paragraph, the term 'value' means such amount as may be agreed upon by the United States and the recipient organization, except that such amount may not be less than the value (as defined in section 644(m)(1) of this Act) of the articles transferred.

"(2) CREDITING OF TRANSFERS.—(A) The credit provided for pursuant to paragraph (1) shall be counted against United States assessed contributions to the recipient organization that are payable from the 'Contribution to International Peacekeeping Activities' account of the Department of State, except to the extent such credit is counted, in accordance with subparagraph (B), against an assessed contribution payable from an account established within the Department of Defense.

"(B) If—

"(i) an account is established within the Department of Defense for payment of a portion of United States assessed contributions for United Nations operations,

"(ii) excess defense articles are transferred under this section for a United Nations operation, and

"(iii) the United States assessed contribution for that operation is payable from that account,

the credit for those excess defense articles shall be counted against the assessed contribution payable from that account, but only to the extent that the value of the excess defense articles so transferred for that operation during a fiscal year does not exceed the total United States assessed contribution payable for that operation from that account during that fiscal year.

"(c) LIMITATIONS ON TRANSFERS.—The President may transfer excess defense articles under this section only if—

"(1) they are drawn from existing stocks of the Department of Defense (or the Coast Guard);

"(2) funds available to the Department of Defense (or the Coast Guard) for the procurement of defense equipment are not expended in connection with the transfer;

"(3) the transfer of the excess defense articles will not have an adverse impact on the military readiness of the United States; and

"(4) the President has established procedures and requirements, comparable to those applicable under section 505 of this Act, to ensure that such excess defense articles will be used only for purposes that have been agreed to by the United States.

"(d) NOTIFICATION TO CONGRESS.—

"(1) IN GENERAL.—The President shall notify the designated congressional committees regarding any transfer of excess defense articles under this section in accordance with paragraph (2). This notification shall include—

"(A) a discussion of the need for the transfer;

"(B) an assessment of the impact of the transfer on the military readiness of the United States; and

"(C) a statement of—

"(i) the acquisition cost and the value (as defined in section 644(m)(1) of this Act) of the excess defense articles to be transferred, and

"(ii) the aggregate acquisition cost and the aggregate value (as so defined) of all excess defense articles for which notification has been provided under this subsection during that fiscal year with respect to transfers to the same organization under this section.

"(2) TIMING OF NOTICE.—(A) The President shall notify the designated congressional committees pursuant to paragraph (1) at least 15 days before the excess defense articles are transferred under this section, except as provided in subparagraph (B).

"(B) If the President determines that an unforeseen emergency requires the immediate transfer of excess defense articles under this section, the President—

"(i) may waive the requirement of subparagraph (A) that notice be provided at least 15 days in advance of the transfer; and

"(ii) shall promptly notify the designated congressional committees of such waiver and transfer.

"(3) DESIGNATED COMMITTEES.—As used in this subsection, the term 'designated congressional committees" means the Committee on Foreign Affairs, the Committee on Armed Services, and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate.

"(e) TRANSPORTATION AND RELATED COSTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), funds available to the Department of Defense shall not be expended for crating, packing, handling, and transporting excess defense articles transferred under the authority of this section.

"(2) EXCEPTION.—Notwithstanding any other provision of law, the President may direct the crating, packing, handling, and transporting of excess defense articles without charge to an international or regional organization if the President determines that waiving such costs advances the foreign policy interests of the United States.

"(f) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 632(d) shall not apply with respect to transfers of excess defense articles under this section and to any costs of crating, packing, handling, and transporting incurred under subsection (e)(2).".

SEC. 409. REFORM IN BUDGET DECISIONMAKING PROCEDURES OF THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES.

(a) ASSESSED CONTRIBUTIONS.—For assessed contributions authorized to be appropriated for "Assessed Contributions to International Organizations" by this Act, the President may withhold 20 percent of the funds appropriated for the United States assessed contribution to the United Nations or to any of its specialized agencies for any calendar year if the United Nations or any such agency has failed to implement or to continue to implement consensus-based decisionmaking procedures on budgetary matters which assure that sufficient attention is paid to the views of the United States and other member states that are the major financial contributors to such assessed budgets.

(b) NOTICE TO CONGRESS.—The President shall notify the Congress when a decision is made to withhold any share of the United States assessed contribution to the United Nations or its specialized agencies pursuant to subsection (a) and shall notify the Congress when the decision is made to pay any previously withheld assessed contribution. A notification under this subsection shall include appropriate consultation between the President (or the President's representative) and the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(c) CONTRIBUTIONS FOR PRIOR YEARS.—Subject to the availability of appropriations, payment of assessed contributions for prior years may be made to the United Nations or any of its specialized agencies notwithstanding subsection (a) if such payment would further United States interests in that organization.

(d) REPORT TO CONGRESS.—Not later than February 1 of each year, the President shall submit to the Congress a report concerning the amount of United States assessed contributions paid to the United Nations and each of its specialized agencies during the preceding calendar year.

(e) REPEAL OF EXISTING LAW.—Section 162 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 is amended by striking subsections (a), (b), (c), and (d).

SEC. 410. LIMITATION ON CONTRIBUTIONS TO THE UNITED NATIONS AND AFFILIATED ORGANIZATIONS.

The United States shall not make any voluntary or assessed contribution—

(1) to any affiliated organization of the United Nations which grants full membership as a state to any organization or group that does not have the internationally recognized attributes of statehood, or

(2) to the United Nations, if the United Nations grants full membership as a state in the United Nations to any organization or group that does not have the internationally recognized attributes of statehood,

during any period in which such membership is effective.

SEC. 411. UNITED NATIONS SECURITY COUNCIL MEMBERSHIP.

(a) FINDINGS.—The Congress makes the following findings:

(1) The effectiveness of the United Nations Security Council in maintaining international peace and security depends on its being representative of the membership of the United Nations.

(2) The requirement of equitable geographic distribution in Article 23 of the United Nations Charter requires that the members of the Security Council of the United Nations be chosen by nondiscriminatory means.

(3) The use of informal regional groups of the General Assembly as the sole means for election of the nonpermanent members of the Security Council is inherently discriminatory in the absence of guarantees that all member states will have the opportunity to join a regional group, and has resulted in discrimination against Israel.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should direct the Secretary of State to request the Secretary-General of the United Nations to seek immediate resolution of the problem described in this section. The President shall inform the Congress of any progress in resolving this situation, together with the submission to Congress of the request for funding for the "Contributions to International Organizations" account of the Department of State for the fiscal year 1995.

SEC. 412. REFORMS IN THE WORLD HEALTH ORGANIZATION.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that United States contributions to the World Health Organization (WHO) should be utilized in the most effective and efficient manner possible, particularly for the reduction of diseases and disabilities in developing countries.

(b) POLICY.—The President shall direct the United States representatives to the World Health Assembly, the Executive Board, and the World Health Organization to monitor the activities of the World Health Organization to ensure that such organizations achieve—

(1) the timely implementation of reforms and management improvements, including those outlined in the resolutions of the 46th World Health Assembly related to the external Auditor (WHA 46.21), the Report of the Executive Board on the WHO Response to Global Change (WHA 46.16) and actions for Budgetary Reform (WHA 46.35); and

(2) the effective and efficient utilization and monitoring of resources, including—

(A) the determination of strategic and financial priorities; and

(B) the establishment of realistic and measurable targets in accordance with the established health priorities.

SEC. 413. REFORMS IN THE FOOD AND AGRICULTURE ORGANIZATION.

In light of the longstanding efforts of the United States and the other major donor nations to reform the Food and Agriculture Organization (FAO) and the findings of the ongoing investigation of the General Accounting Office, the Congress makes the following declarations:

(1) It should be the policy of the United States to promote the following reforms in the Food and Agriculture Organization:

(A) Decentralization of the administrative structure of FAO, including eliminating redundant or unnecessary headquarters staff, increased responsibilities of regional offices, increased time for consideration of budget issues by member states, and a more meaningful and direct role for member states in the decision-making process.

(B) Reform of the FAO Council, including formation of an executive management committee to provide oversight of management.

(C) Limitation of the term of the Director General and the number of terms which an individual may serve.

(D) Restructuring of the Technical Cooperation Program (TCP), including reducing the number of nonemergency projects funded through the TCP and establishing procedures to deploy TCP consultants, supplies, and equipment in a timely manner.

(2) In an effort to increase the presence of United States personnel at the international food agencies and to enhance the professionalism of these institutions, it should be the policy of the United States, to the maximum extent practicable, to utilize existing personnel programs such as the United States Department of Agriculture Associate Professional Officer program to place United States personnel with unique skills in the Food and Agriculture Organization, the International Fund for Agricultural Development, and the World Food Program.

SEC. 414. SENSE OF CONGRESS REGARDING ADHERENCE TO UNITED NATIONS CHARTER.

It is the sense of the Congress that—

(1) the President should seek an assurance from the Secretary General of the United Nations that the United Nations will comply with Article 100 of the United Nations Charter;

(2) neither the Secretary General of the United Nations nor his staff should seek or receive instructions from any government or from any other authority external to the United Nations; and

(3) the President should report to Congress when he receives such assurance from the Secretary General of the United Nations.

SEC. 415. DESIGNATED CONGRESSIONAL COMMITTEES.

For purposes of this part, the term "designated congressional committees" means the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives.

PART B—GENERAL PROVISIONS AND OTHER INTERNATIONAL ORGANIZATIONS

SEC. 421. AGREEMENT ON STATE AND LOCAL TAXATION.

The President is authorized to bring into force for the United States the Agreement on State and Local Taxation of Foreign Employees of Public International Organizations, which was signed by the United States on April 21, 1992, except that, notwithstanding the provisions of Article 1.B of such Agreement, such Agreement shall not require any refunds of monies paid with respect to tax years ending on or before December 31, 1993.

SEC. 422. CONFERENCE ON SECURITY AND COOPERATION IN EUROPE.

The President is authorized to implement, for the United States, the provisions of Annex 1 of the Decision concerning Legal Capacity and Privileges and Immunities, issued by the Council of Ministers of the Conference on Security and Cooperation in Europe on December 1, 1993, in accordance with the terms of that Annex.

SEC. 423. INTERNATIONAL BOUNDARY AND WATER COMMISSION.

(a) AUTHORIZATION TO RECEIVE PAYMENTS.—Section 2 of the American-Mexican Chamizal Convention Act of 1964 (Public Law 88-300; 22 U.S.C. 277d-18) is amended—

(1) by inserting "(a)" before "The"; and

(2) by adding at the end the following new subsections:

"(b) The United States Commissioner is authorized to receive payments of money from public or private sources in the United States or Mexico made for the purpose of sharing in the cost of replacement of the Bridge of the Americas which crosses the Rio Grande between El Paso, Texas, and Cd. Juarez, Chihuahua. Notwithstanding any other provision of law, such payments of money shall be credited to any appropriation to the Commission which is currently available. Funds received under this subsection shall be available only for the replacement of such bridge.

"(c) The authority of subsection (b) may be exercised only to the extent or in such amounts as are provided in advance in appropriation Acts.".

(b) EXPENDITURES FOR WATER POLLUTION PROBLEMS.—Title I of the Act of June 20, 1956 (70 Stat. 302, 22 U.S.C. 277d-12), is amended in the fourth undesignated paragraph under the heading "INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO" by striking "Tijuana Rivers," and all that follows before the period and inserting "Tijuana Rivers, or other streams running across or near the boundary, and for taking emergency actions, consistent with the emergency provisions of the Safe Drinking Water Act, to protect against health threatening surface and ground water pollution problems along the United States-Mexico boundary".

(c) FALCON AND AMISTAD DAMS MAINTENANCE FUND.—Section 2 of the Act of June 18, 1954 (68 Stat. 255, as amended by the Act of December 23, 1963, 77 Stat. 475) is amended to read as follows:

"SEC. 2. (a) A separate fund, known as the 'Falcon and Amistad Operating and Maintenance Fund' (hereinafter referred to as the 'Maintenance Fund'), shall be created in the Treasury of the United States. The Maintenance Fund shall be administered by the Administrator of the Western Area Power Administration for use by the Commissioner of the United States Section of the International Boundary and Water Commission to defray operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams.

"(b) All revenues collected in connection with the disposition of electric power generated at the Falcon and Amistad Dams, except those revenues paid pursuant to subsection (d) to the general fund of the Treasury of the United States, shall be credited to the Maintenance Fund and shall remain available until expended for defraying operation, maintenance, and emergency costs for the hydroelectric facilities at the dams.

"(c) The authority of subsection (b) may be exercised only to the extent or in such amounts as are provided in advance in appropriation Acts.

"(d) Revenues in the Maintenance Fund in excess of operation, maintenance, and emergency needs shall be paid annually to the general fund of the Treasury of the United States to return the costs of replacements and the original investments, with interest.

"(e) All moneys received from the Government of Mexico for any energy which might be delivered to that Government by the United States Section of the International Boundary and Water Commission pursuant to any special agreement concluded in accordance with Article 19 of the said Treaty shall be credited to the General Fund of the Treasury of the United States.".

SEC. 424. UNITED STATES MEMBERSHIP IN THE ASIAN-PACIFIC ECONOMIC COOPERATION ORGANIZATION.

(a) UNITED STATES MEMBERSHIP.—The President is authorized to maintain membership of the United States in the Asian-Pacific Economic Cooperation (APEC).

(b) PAYMENT OF ASSESSED CONTRIBUTIONS.—For fiscal year 1994 and for each fiscal year thereafter, the United States assessed contributions to APEC may be paid from funds appropriated for "Contributions to International Organizations".

SEC. 425. UNITED STATES MEMBERSHIP IN THE INTERNATIONAL COPPER STUDY GROUP.

(a) UNITED STATES MEMBERSHIP.—The President is authorized to accept the Terms of Reference of and maintain membership of the United States in the International Copper Study Group (ICSG).

(b) PAYMENTS OF ASSESSED CONTRIBUTIONS.—For fiscal year 1995 and thereafter the United States assessed contributions to the ICSG may be paid from funds appropriated for "Contributions to International Organizations".

SEC. 426. EXTENSION OF THE INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT TO THE INTERNATIONAL UNION FOR CONSERVATION OF NATURE AND NATURAL RESOURCES.

The International Organizations Immunities Act (22 U.S.C. 288 et seq.) is amended by adding at the end the following new section:

"SEC. 14. The International Union for Conservation of Nature and Natural Resources shall be considered to be an international organization for the purposes of this title and may be extended the provisions of this title in the same manner, to the same extent, and subject to the same conditions, as such provisions may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.".

SEC. 427. INTER-AMERICAN ORGANIZATIONS.

Taking into consideration the long-term commitment by the United States to the affairs of this Hemisphere and the need to build further upon the linkages between the United States and its neighbors, it is the sense of the Congress that the Secretary of State, in allocating the level of resources for international organizations, should pay particular attention to funding levels of the Inter-American organizations.

SEC. 428. PROHIBITION ON CONTRIBUTIONS TO THE INTERNATIONAL COFFEE ORGANIZATION.

None of the funds authorized to be appropriated by this Act may be used to fund any United States contribution to the International Coffee Organization.

SEC. 429. PROHIBITION ON CONTRIBUTIONS TO THE INTERNATIONAL JUTE ORGANIZATION.

None of the funds authorized to be appropriated by this Act may be used to fund any United States contribution to the International Jute Organization.

SEC. 430. MIGRATION AND REFUGEE AMENDMENTS.

(a) MIGRATION AND REFUGEE ASSISTANCE ACT AMENDMENTS.—The Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601) is amended—

(1) in section 2 by striking "the Intergovernmental Committee for European Migration" and inserting "the International Organization for Migration" each place it appears;

(2) in section 2(a) by striking "the Committee" and inserting "the Organization" each place it appears;

(3) in the first sentence of section 2(a) by inserting before the period ", as amended in Geneva, Switzerland, on May 20, 1987"; and

(4) in section 2(c)(2), by striking "$50,000,000" and inserting "$100,000,000".

(b) PUBLIC LAW 100-209.—Section 745 of Public Law 100-204 (22 U.S.C. 2601 note) is repealed.

SEC. 431. WITHHOLDING OF UNITED STATES CONTRIBUTIONS FOR CERTAIN PROGRAMS OF INTERNATIONAL ORGANIZATIONS.

(a) WITHHOLDING OF UNITED STATES CONTRIBUTIONS FOR CERTAIN PROGRAMS OF INTERNATIONAL ORGANIZATIONS.—Section 307 of the Foreign Assistance Act of 1961 is amended—

(1) in subsection (a) by striking "the South-West Africa People's Organization" and inserting "Burma, Iraq, North Korea, Syria"; and

(2) by inserting after subsection (b) the following:

"(c) The limitations of subsection (a) shall not apply to contributions to the International Atomic Energy Agency or the United Nations Children's Fund (UNICEF).".

(b) UNITED NATIONS DEVELOPMENT PROGRAM.—

(1) Except as provided in paragraphs (2) and (3), for fiscal years 1994 and 1995 none of the funds made available for United Nations Development Program or United Nations Development Program—Administered Funds shall be available for programs and activities in or for Burma.

(2) Of the funds made available for United Nations Development Program and United Nations Development Program—Administered Funds for fiscal year 1994, $11,000,000 may be available only if the President certifies to the Congress that the United Nations Development Program's programs and activities in or for Burma promote the enjoyment of internationally guaranteed human rights in Burma and do not benefit the State Law and Order Restoration Council (SLORC) military regime.

(3) Of the funds made available for United Nations Development Program and United Nations Development Program—Administered Funds for fiscal year 1995, $27,600,000 may be available only if the President certifies to the Congress that—

(A) the United Nations Development Program has approved or initiated no new programs and no new funding for existing programs in or for Burma since the United Nations Development Program Governing Council (Executive Board) meeting of June 1993,

(B) such programs address unforeseen urgent humanitarian concerns, or

(C) a democratically elected government in Burma has agreed to such programs.

TITLE V—FOREIGN POLICY

PART A—GENERAL PROVISIONS

SEC. 501. UNITED STATES POLICY CONCERNING OVERSEAS ASSISTANCE TO REFUGEES AND DISPLACED PERSONS.

(a) STANDARDS FOR REFUGEE WOMEN AND CHILDREN.—The United States Government, in providing for overseas assistance and protection of refugees and displaced persons, shall seek to address the protection and provision of basic needs of refugee women and children who represent 80 percent of the world's refugee population. As called for in the 1991 United Nations High Commissioner for Refugees (UNHCR) "Guidelines on the Protection of Refugee Women," whether directly, or through international organizations and nongovernmental voluntary organizations, the Secretary of State shall seek to ensure—

(1) specific attention on the part of the United Nations and relief organizations to recruit and employ female protection officers;

(2) implementation of gender awareness training for field staff including, but not limited to, security personnel;

(3) the protection of refugee women and children from violence and other abuses on the part of governments or insurgent groups;

(4) full involvement of women refugees in the planning and implementation of (A) the delivery of services and assistance, and (B) the repatriation process;

(5) incorporation of maternal and child health needs into refugee health services and education, specifically to include education on and access to services in reproductive health and birth spacing;

(6) the availability of counseling and other services, grievance processes, and protective services to victims of violence and abuse, including but not limited to rape and domestic violence;

(7) the provision of educational programs, particularly literacy and numeracy, vocational and income-generation skills training, and other training efforts promoting self-sufficiency for refugee women, with special emphasis on women heads of household;

(8) education for all refugee children, ensuring equal access for girls, and special services and family tracing for unaccompanied refugee minors;

(9) the collection of data that clearly enumerate age and gender so that appropriate health, education, and assistance programs can be planned;

(10) the recruitment, hiring, and training of more women program professionals in the international humanitarian field; and

(11) gender-awareness training for program staff of the United Nations High Commissioner for Refugees (UNHCR) and nongovernmental voluntary organizations on implementation of the 1991 UNHCR "Guidelines on the Protection of Refugee Women".

(b) PROCEDURES.—The Secretary of State should adopt specific procedures to ensure that all recipients of United States Government refugee and migration assistance funds implement the standards outlined in subsection (a).

(c) REQUIREMENTS FOR REFUGEE AND MIGRATION ASSISTANCE.—The Secretary of State, in providing migration and refugee assistance, should support the protection efforts set forth under this section by raising at the highest levels of government the issue of abuses against refugee women and children by governments or insurgent groups that engage in, permit, or condone—

(1) a pattern of gross violations of internationally recognized human rights, such as torture or cruel, inhumane, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial to life, liberty, and the security of person;

(2) the blockage of humanitarian relief assistance;

(3) gender-specific persecution such as systematic individual or mass rape, forced pregnancy, forced abortion, enforced prostitution, any form of indecent assault or act of violence against refugee women, girls, and children; or

(4) continuing violations of the integrity of the person against refugee women and children on the part of armed insurgents, local security forces, or camp guards.

(d) INVESTIGATION OF REPORTS.—Upon receipt of credible reports of abuses under subsection (c), the Secretary of State should immediately investigate such reports through emergency fact-finding missions or other means of investigating such reports and help identify appropriate remedial measures.

(e) Multilateral Implementation of the 1991 UNHCR "Guidelines on the Protection of Refugee Women.—The Secretary of State should work to ensure that multilateral organizations fully incorporate the needs of refugee women and children into all elements of refugee assistance programs and work to encourage other governments that provide refugee assistance to adopt refugee assistance policies designed to encourage full implementation of the 1991 UNHCR's "Guidelines on the Protection of Refugee Women".

SEC. 502. INTERPARLIAMENTARY EXCHANGES.

(a) Authorizations of Appropriations.—

(1) Section 2 of Public Law 86–420 is amended—

(A) by striking "$100,000" and inserting "$80,000"; and

(B) by striking "$50,000" both places it appears and inserting "$40,000".

(2) Section 2 of Public Law 86–42 is amended—

(A) by striking "$50,000" and inserting "$70,000"; and

(B) by striking "$25,000" both places it appears and inserting "$35,000".

(b) Deposit of Funds in Interest-Bearing Accounts.—Funds appropriated and disbursed pursuant to section 303 of Title III of Public Law 100–202 (101 Stat. 1329–23; 22 U.S.C. 276 note) are authorized to be deposited in interest-bearing accounts and any interest which accrues shall be deposited, periodically, in a miscellaneous account of the Treasury.

SEC. 503. FOOD AS A HUMAN RIGHT.

(a) The Right to Food and United States Foreign Policy.—

(1) In general.—The United States should, in accordance with its international obligations and in keeping with the longstanding humanitarian tradition of the United States, promote increased respect internationally for the rights to food and to medical care, including the protection of these rights with respect to civilians and noncombatants during times of armed conflict (such as through ensuring safe passage of relief supplies and access to impartial humanitarian relief organizations providing relief assistance).

(2) Responsibilities of assistant secretary of state.—The responsibilities of the assistant secretary of State who is responsible for human rights and humanitarian affairs shall include promoting increased respect internationally for the rights to food and to medical care in accordance with paragraph (1).

(b) International Effort to Strengthen the Right to Food.—It is the sense of the Congress that a major effort should be made to strengthen the right to food in international law to assure the access of all persons to adequate food supplies.

SEC. 504. TRANSPARENCY IN ARMAMENTS.

It is the sense of the Congress that—

(1) no sale of any defense article or defense service should be made, no license should be issued for the export of any defense article or defense service, and no agreement to transfer in any way any defense article or defense service should be made to any nation that does not fully furnish all pertinent data to the United Nations Register of Conventional Arms pursuant to United Nations General Assembly Resolution 46/36L by the reporting date specified by such register;

(2) if a nation has not submitted the required information by the reporting date of a particular year, but subsequently submits notification to the United Nations that it intends to provide such information at the next reporting date, an agreement may be negotiated with the nation or a license may be issued, but the actual delivery of such defense article or service should not occur until that nation submits such information; and

(3) the President should seek to restart the United Nations Security Council "Perm-5" talks and should report to the Congress on the progress of such talks and the effects of United States agreements since October 1991 to sell arms to the developing world.

SEC. 505. SENSE OF THE SENATE CONCERNING INSPECTOR GENERAL ACT.

It is the sense of the Senate that—

(1) there is a growing concern among some of the Members of this body that the unlimited terms of Office of Inspectors General in Federal agencies may be undesirable, therefore

(2) the issue of amending the Inspector General Act to establish term limits for Inspectors General should be examined and considered as soon as possible by the appropriate committees of jurisdiction.

SEC. 506. TORTURE CONVENTION IMPLEMENTATION.

(a) In General.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

"CHAPTER 113B—TORTURE

"Sec.
"2340. Definitions.
"2340A. Torture.
"2340B. Exclusive remedies.

"SEC. 2340. DEFINITIONS.

"As used in this chapter—

"(1) 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person with custody or physical control;

"(2) 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from—

"(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

"(B) the administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

"(C) the threat of imminent death; or

"(D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality; and

"(3) 'United States' includes all areas under the jurisdiction of the United States including any of the places described in sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(38)).

"SEC. 2340A. TORTURE.

"(a) Offense.—Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be imprisoned for any term of years or for life.

"(b) Jurisdiction.—There is jurisdiction over the activity prohibited in subsection (a) if—

"(1) the alleged offender is a national of the United States; or

"(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or alleged offender.

"SEC. 2340B. EXCLUSIVE REMEDIES.

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(b) Technical Amendment.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 113A the following new item:

"113B. Torture .... 2340.".

(c) Effective Date.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the United States has become a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

SEC. 507. UNITED STATES POLICY CONCERNING IRAQ.

(a) Policy.—It is the sense of the Congress that the President should—

(1) take steps to encourage the United Nations Security Council—

(A) to reaffirm support for the protection of all Iraqi Kurdish and other minorities pursuant to Security Council Resolution 688;

(B) to maintain the United Nations embargo on the Iraqi regime until Iraq complies with all relevant Security Council resolutions;

(C) to consider lifting selectively the United Nations embargo on the areas under the administration of the democratically-elected leadership of Iraqi Kurdistan, subject to the verifiable conditions that—

(i) the inhabitants of such areas do not conduct trade with the Iraqi regime, and

(ii) the partial lifting of the embargo will not materially assist the Iraqi regime;

(D) to consider extending international protection, including the establishment of a safe haven, to the marsh Arabs in southern Iraq; and

(E) to pursue international judgments against Iraqi officials responsible for war crimes and crimes against humanity, based upon documentary evidence obtained from Iraqi and other sources;

(2) continue to advocate the maintenance of Iraq's territorial integrity and the transition to a unified, democratic Iraq;

(3) take steps to encourage the provision of humanitarian assistance for the people fleeing from the marshes in southern Iraq;

(4) design a multilateral assistance program for the people of Iraqi Kurdistan to support their drive for self-sufficiency; and

(5) take steps to intensify discussions with the Government of Turkey, whose support and cooperation in the protection of the people of Iraqi Kurdistan is critical, to ensure that the stability of both Turkey and the entire region are enhanced by the measures taken under this section.

SEC. 508. HIGH-LEVEL VISITS TO TAIWAN.

It is the sense of the Congress that—

(1) the President should be commended for meeting with Taiwan's Minister of Economic Affairs during the Asia-Pacific Economic Cooperation Conference in Seattle;

(2) the President should send Cabinet-level appointees to Taiwan to promote United States interests and to ensure the continued success of United States business in Taiwan; and

(3) in addition to Cabinet-level visits, the President should take steps to show clear United States support for Taiwan both in our bilateral relationship and in multilateral organizations of which the United States is a member.

SEC. 509. TRANSFER OF CERTAIN OBSOLETE OR SURPLUS DEFENSE ARTICLES IN THE WAR RESERVE ALLIES STOCKPILE TO THE REPUBLIC OF KOREA.

(a) AUTHORITY.—(1) Notwithstanding section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h), the President is authorized to transfer to the Republic of Korea, in return for concessions to be negotiated by the Secretary of Defense, with the concurrence of the Secretary of State, any or all of the items described in paragraph (2).

(2) The items referred to in paragraph (1) are equipment, tanks, weapons, repair parts, and ammunition that—

(A) are obsolete or surplus items;

(B) are in the inventory of the Department of Defense;

(C) are intended for use as reserve stocks for the Republic of Korea; and

(D) as of the date of enactment of this Act, are located in a stockpile in the Republic of Korea.

(b) CONCESSIONS.—The value of the concessions negotiated pursuant to subsection (a) shall be at least equal to the fair market value of the items transferred. The concessions may include cash compensation, services, waiver of charges otherwise payable by the United States, and other items of value.

(c) ADVANCE NOTIFICATION OF TRANSFER.—Not less than 30 days before making a transfer under the authority of this section, the President shall transmit to the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, and the congressional defense committees a notification of the proposed transfer. The notification shall identify the items to be transferred and the concessions to be received.

(d) EXPIRATION OF AUTHORITY.—No transfer may be made under the authority of this section more than two years after the date of the enactment of this Act.

SEC. 510. EXTENSION OF THE FAIR TRADE IN AUTO PARTS ACT OF 1988.

(a) IN GENERAL.—Section 2125 of the Fair Trade in Auto Parts Act of 1988 (15 U.S.C. 4704) is amended by striking "1993" and inserting "1998".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on December 30, 1993.

SEC. 511. REPORT ON THE USE OF FOREIGN FROZEN OR BLOCKED ASSETS.

Not later than 60 days after the date of enactment of this Act, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report containing a detailed accounting analysis and justification for all expenditures made from the assets of foreign governments that have been frozen or blocked by the United States Government, including expenditures from frozen or blocked assets of Haiti, Iraq, and Iran.

SEC. 512. EXTENSION OF CERTAIN ADJUDICATION PROVISIONS.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167), is amended—

(1) in section 599D (8 U.S.C. 1157 note)—

(A) in subsection (b)(3), by striking "1993 and 1994" and inserting "1993, 1994, 1995, and 1996"; and

(B) in subsection (e), by striking out "October 1, 1994" each place it appears and inserting in lieu thereof "October 1, 1996"; and

(2) in section 599E (8 U.S.C. 1255 note) in subsection (b)(2), by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1996".

SEC. 513. POLICY REGARDING THE CONDITIONS WHICH THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA SHOULD MEET TO CONTINUE TO RECEIVE NONDISCRIMINATORY MOST-FAVORED-NATION TREATMENT.

(a) FINDINGS.—The Senate makes the following findings:

(1) In an Executive Order of May 28, 1993, the President established conditions for renewal of most-favored-nation (MFN) status for the People's Republic of China in 1994.

(2) The Executive Order requires that in making a recommendation about the further extension of MFN status to China, the Secretary of State shall not recommend extension unless the Secretary determines that—

(A) extension will substantially promote the freedom of emigration objectives of section 402 of the Trade Act of 1974; and

(B) China is complying with the 1992 bilateral agreement between the United States and China concerning prison labor.

(3) The Executive Order further requires that in making a recommendation, the Secretary of State shall determine whether China has made overall, significant progress with respect to—

(A) taking steps to begin adhering to the Universal Declaration of Human Rights;

(B) releasing and providing an acceptable accounting for Chinese citizens imprisoned or detained for the non-violent expression of their political and religious beliefs, including such expression of religious beliefs in connection with the Democracy Wall and Tiananmen Square movements;

(C) ensuring humane treatment of prisoners, such as by allowing access to prisons by international humanitarian and human rights organizations;

(D) protecting Tibet's distinctive religious and cultural heritage; and

(E) permitting international radio and television broadcasts into China.

(4) The Executive Order further requires the Executive Branch to resolutely pursue all legislative and executive actions to ensure that China abides by its commitments to follow fair, nondiscriminatory trade practices in dealing with United States businesses, and adheres to the Nuclear Nonproliferation Treaty, the Missile Technology Control Regime guidelines and parameters, and other nonproliferation commitments.

(5) The Chinese government should cooperate with international efforts to obtain North Korea's full, unconditional compliance with the Nuclear Non-Proliferation Treaty.

(6) The President has initiated an intensive high-level dialogue with the Chinese government which began last year with a meeting between the Secretary of State and the Chinese Foreign Minister, including a meeting in Seattle between the President and the President of China, meetings in Beijing with the Secretary of the Treasury, the Assistant Secretary for Human Rights and others, a recent meeting in Paris between the Secretary of State and the Chinese Foreign Minister, and recent meetings in Washington with several Under Secretaries and their Chinese counterparts.

(7) The President's efforts have led to some recent progress on some issues of concern to the United States.

(8) Notwithstanding this, substantially more progress is needed to meet the standards in the President's Executive Order.

(9) The Chinese government's overall human rights record in 1993 fell far short of internationally accepted norms as it continued to repress critics and failed to control abuses by its own security forces.

(b) SENSE OF SENATE.—It is the sense of the Senate that the President of the United States should use all appropriate opportunities, in particular more high-level exchanges with the Chinese government, to press for further concrete progress toward meeting the standards for continuation of MFN status as contained in the Executive Order.

SEC. 514. IMPLEMENTATION OF PARTNERSHIP FOR PEACE.

(a) REPORT TO CONGRESS.—The President shall submit annually, beginning 90 days after the date of enactment of this Act, a detailed report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on the implementation of the "Partnership for Peace" initiative, including an assessment of the progress made by former members of the Warsaw Treaty Organization in meeting the criteria for full membership articulated in Article 10 of the North Atlantic Treaty, wherein any other European state may, by unanimous agreement, be invited to accede to the North Atlantic Treaty if it is in a position to further the principles of the Treaty and to contribute to the security of the North Atlantic area.

(b) AUTHORITY OF THE PRESIDENT.—The President is authorized to confer, pursuant to agreement with any country eligible to participate in the Partnership for Peace, rights in respect of the military and related civilian personnel (including dependents of any such personnel) and activities of that country in the United States comparable to the rights conferred by that country in respect of the military and related civilian personnel (including dependents of any such personnel) and activities of the United States in that country.

SEC. 515. POLICY TOWARD THAILAND, CAMBODIA, LAOS, AND BURMA.

It is the sense of the Congress that—

(1) the creation of a new Cambodian government through United Nations sponsored elections offers a unique opportunity for the revival of the Cambodian nation, an opportunity which the United States should help realize;

(2) the President should enunciate a clear policy toward Burma and, in so doing, be guided by the approach in Senate Resolution 112;

(3) the government and people of Thailand are to be commended for Thailand's return to civilian, democratic rule, and for its contribution to the implementation of the Paris Peace Accords on Cambodia;

(4) the President of the United States should convey to Thailand United States concern over the continued support for the Khmer Rouge by elements of the Thai military and to urge the Thai Government to intensify its efforts to terminate that support, in accordance with the Paris Peace Accords;

(5) the Government of Thailand should continue to allow the democratic leaders of Burma to operate freely within Thailand and to grant them free passage to allow them to present their case at the United Nations and other international gatherings;

(6) the President of the United States should urge the Government of Thailand to prosecute, with the full force of law, those responsible for the trafficking, forced labor, and physical and sexual abuse of women and children in Thailand, and to protect the civil and human rights of Burmese women in Thailand and prevent their further victimization; and

(7) the United States should work with the United Nations High Commissioner for Refugees, the Government of Thailand, and other

relevant parties to ensure that the rights of asylum seekers in Thailand, and in particular the Hmong people from Laos, are fully respected and that force is not used in any repatriations.

SEC. 516. PEACE PROCESS IN NORTHERN IRELAND.

It is the sense of the Senate that the United States should—

(1) strongly encourage all parties to the conflict in the North of Ireland to renounce violence and to participate in the current search for peace in the region; and

(2) assist in furthering the peace process where appropriate.

SEC. 517. SENSE OF THE SENATE ON THE ESTABLISHMENT OF AN INTERNATIONAL CRIMINAL COURT.

(a) SENATE FINDINGS.—The Senate makes the following findings:

(1) The freedom and security of the international community rests on the sanctity of the rule of law.

(2) The international community is increasingly threatened by unlawful acts such as war crimes, genocide, aggression, crimes against humanity, terrorism, drug trafficking, money laundering, and other crimes of an international character.

(3) The prosecution of individuals suspected of carrying out such acts is often impeded by political and legal obstacles such as amnesties, disputes over extradition, differences in the structure and capabilities of national courts, and the lack of uniform guidelines under which to try such individuals.

(4) The war crimes trials held in the aftermath of World War II at Nuremberg, Germany, and Tokyo, Japan, demonstrated that fair and effective prosecution of war criminals could be carried out in an international forum.

(5) Since its inception in 1945 the United Nations has sought to build on the precedent established at the Nuremberg and Tokyo trials by establishing a permanent international criminal court with jurisdiction over crimes of an international character.

(6) United Nations General Assembly Resolution 44/39, adopted on December 4, 1989, called on the International Law Commission to study the feasibility of an international criminal court.

(7) In the years after passage of that resolution the International Law Commission has taken a number of steps to advance the debate over such a court, including—

(A) the provisional adoption of a draft Code of Crimes Against the Peace and Security of Mankind;

(B) the creation of a Working Group on an International Criminal Jurisdiction and the formulation by that Working Group of several concrete proposals for the establishment and operation of an international criminal court; and

(C) the determination that an international criminal court along the lines of that suggested by the Working Group is feasible and that the logical next step would be to proceed with the formal drafting of a statute for such a court.

(8) United Nations General Assembly Resolution 47/33, adopted on November 25, 1992, called on the International Law Commission to begin the process of drafting a statute for an international criminal court at its next session.

(9) Given the developments of recent years, the time is propitious for the United States to lend its support to this effort.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the establishment of an international criminal court with jurisdiction over crimes of an international character would greatly strengthen the international rule of law;

(2) such a court would thereby serve the interests of the United States and the world community; and

(3) the United States delegation should make every effort to advance this proposal at the United Nations.

(c) REQUIRED REPORT.—Not later than 14 days after the date of enactment of this Act the President shall submit to the Committee on Foreign Relations of the Senate a detailed report on developments relating to, and United States efforts in support of, the establishment of an international criminal court with jurisdiction over crimes of an international character.

SEC. 518. INTERNATIONAL CRIMINAL COURT PARTICIPATION.

The United States Senate will not consent to the ratification of a treaty providing for United States participation in an international criminal court with jurisdiction over crimes of an international nature which permits representatives of any terrorist organization, including but not limited to the Palestine Liberation Organization, or citizens, nationals or residents of any country listed by the Secretary of State under section 6(j) of the Export Administration Act of 1979 as having repeatedly provided support for acts of international terrorism, to sit in judgement on American citizens.

SEC. 519. PROTECTION OF FIRST AND FOURTH AMENDMENT RIGHTS.

The United States Senate will not consent to the ratification of any Treaty providing for United States participation in an international criminal court with jurisdiction over crimes of an international character unless American citizens are guaranteed, in the terms establishing such a court, and in the court's operation, that the court will take no action infringing upon or diminishing their rights under the First and Fourth Amendments of the Constitution of the United States, as interpreted by the United States.

SEC. 520. POLICY ON TERMINATION OF UNITED STATES ARMS EMBARGO.

(a) FINDINGS.—The Congress makes the following findings:

(1) On July 10, 1991, the United States adopted a policy suspending all licenses and other approvals to export or otherwise transfer defense articles and defense services to Yugoslavia.

(2) On September 25, 1991, the United Nations Security Council adopted Resolution 713, which imposed a mandatory international embargo on all deliveries of weapons and military equipment to Yugoslavia.

(3) The United States considered the policy adopted July 10, 1991, to comply fully with Resolution 713 and therefore took no additional action in response to that resolution.

(4) On January 8, 1992, the United Nations Security Council adopted Resolution 727, which decided that the mandatory arms embargo imposed by Resolution 713 should apply to any independent states that might thereafter emerge on the territory of Yugoslavia.

(5) On February 29 and March 1, 1992, the people of Bosnia and Herzegovina voted in a referendum to declare independence from Yugoslavia.

(6) On April 7, 1992, the United States recognized the Government of Bosnia and Herzegovina.

(7) On May 22, 1992, the Government of Bosnia and Herzegovina was admitted to full membership in the United Nations.

(8) Consistent with Resolution 727, the United States has continued to apply the policy adopted July 10, 1991, to independent states that have emerged on the territory of the former Yugoslavia, including Bosnia and Herzegovina.

(9) Subsequent to the adoption of Resolution 727 and Bosnia and Herzegovina's independence referendum, the siege of Sarajevo began and fighting spread to other areas of Bosnia and Herzegovina.

(10) The Government of Serbia intervened directly in the fighting by providing significant military, financial, and political support and direction to Serbian-allied irregular forces in Bosnia and Herzegovina.

(11) In statements dated May 1 and May 12, 1992, the Conference on Security and Cooperation in Europe declared that the Government of Serbia and the Serbian-controlled Yugoslav National Army were committing aggression against the Government of Bosnia and Herzegovina and assigned to them prime responsibility for the escalation of bloodshed and destruction.

(12) On May 30, 1992, the United Nations Security Council adopted Resolution 757, which condemned the Government of Serbia for its continued failure to respect the territorial integrity of Bosnia and Herzegovina.

(13) Serbian-allied irregular forces have occupied approximately 70 percent of the territory of Bosnia and Herzegovina, committed gross violations of human rights in the areas they have occupied, and established a secessionist government committed to eventual unification with Serbia.

(14) The military and other support and direction provided to Serbian-allied irregular forces in Bosnia and Herzegovina constitutes an armed attack on the Government of Bosnia and Herzegovina by the Government of Serbia within the meaning of Article 51 of the United Nations Charter.

(15) Under Article 51, the Government of Bosnia and Herzegovina, as a member of the United Nations, has an inherent right of individual or collective self-defense against the armed attack from the Government of Serbia until the United Nations Security Council has taken measures necessary to maintain international peace and security.

(16) The measures taken by the United Nations Security Council in response to the armed attack on Bosnia and Herzegovina have not been adequate to maintain international peace and security.

(17) Bosnia and Herzegovina has been unable successfully to resist the armed attack from Serbia because it lacks the means to counter heavy weaponry that Serbia obtained from the Yugoslav National Army upon the dissolution of Yugoslavia, and because the mandatory international arms embargo has prevented Bosnia and Herzegovina from obtaining from other countries the means to counter such heavy weaponry.

(18) On December 18, 1992, with the affirmative vote of the United States, the United Nations General Assembly adopted Resolution 47/121, which urged the United Nations Security Council to exempt Bosnia and Herzegovina from the mandatory arms embargo imposed by Resolution 713.

(19) In the absence of adequate measures to maintain international peace and security, continued application to the Government of Bosnia and Herzegovina of the mandatory international arms embargo imposed by the United Nations Security Council prior to the armed attack on Bosnia and Herzegovina undermines that government's right of individual or collective self-defense and therefore contravenes Article 51 of the United Nations Charter.

(20) Bosnia and Herzegovina's right of self-defense under Article 51 of the United Nations Charter includes the right to ask for military assistance from other countries and to receive such assistance if offered.

(b) POLICY ON TERMINATION OF ARMS EMBARGO.—(1) It is the sense of the Congress that the President should terminate the United States arms embargo of the Government of Bosnia and Herzegovina upon receipt from that government of a request for assistance in exercising its right of self-defense under Article 51 of the United Nations Charter.

(2) As used in this subsection, the term "United States arms embargo of the Government of Bosnia and Herzegovina" means the application to the Government of Bosnia and Herzegovina of—

(A) the policy adopted July 10, 1991, and published in the Federal Register of July 19, 1991 (58 Fed. Reg. 33322) under the heading "Suspension of Munitions Export Licenses to Yugoslavia"; and

(B) any similar policy being applied by the United States Government as of the date of receipt of the request described in subsection (a) pursuant to which approval is routinely denied for transfers of defense articles and defense services to the former Yugoslavia.

(c) POLICY ON MILITARY ASSISTANCE.—The President should provide appropriate military assistance to the Government of Bosnia and Herzegovina upon receipt from that government of a request for assistance in exercising its right of self-defense under Article 51 of the United Nations Charter.

SEC. 521. SENSE OF SENATE ON RELATIONS WITH VIETNAM.

It is the sense of the Senate that—

(1) the Government of the United States is committed to seeking the fullest possible accounting of American servicemen unaccounted for during the war in Vietnam;

(2) cooperation by the Government of Vietnam on resolving the fate of those American servicemen unaccounted for has increased significantly over the last three years and is essential to the resolution of outstanding POW/MIA cases;

(3) substantial and tangible progress has been made in the POW/MIA accounting process;

(4) cooperative efforts between the United States and Vietnam should continue in order to resolve all outstanding questions concerning the fate of Americans missing-in-action;

(5) United States senior military commanders and United States personnel working in the field to account for United States POW/MIAs in Vietnam believe that lifting the United States trade embargo against Vietnam will facilitate and accelerate the accounting efforts;

(6) therefore, in order to maintain and expand further United States and Vietnamese efforts to obtain the fullest possible accounting, the President should lift the United States trade embargo against Vietnam expeditiously; and

(7) moveover, as the United States and Vietnam move toward normalization of relations, the Government of Vietnam should demonstrate further improvements in meeting internationally recognized standards of human rights.

SEC. 522. REPORT ON SANCTIONS ON VIETNAM.

Not later than 30 days after the date of enactment of this Act, the President shall submit a report, taking into account information available to the United States Government, to the Senate and the House of Representatives on achieving the fullest possible accounting of United States personnel unaccounted for from the Vietnam War, including—

(1) progress on recovering and repatriating American remains from Vietnam;

(2) progress on resolution of discrepancy cases;

(3) the status of Vietnamese cooperation in implementing trilateral investigations with Laos; and

(4) progress on accelerated efforts to obtain all POW/MIA related documents from Vietnam.

SEC. 523. REPORT ON PEOPLE'S MUJAHEDDIN OF IRAN.

(a) REPORT.—Not later than 180 days after the date of enactment of this Act, the President shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report detailing the structure, current activities, external support, and history of the People's Mujaheddin of Iran. Such report shall include information on any current direct or indirect support by the People's Mujaheddin for acts of international terrorism.

(b) CONSULTATION.—In compiling the report required under subsection (a), the President shall consult with the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of Transportation, the intelligence community, and such law enforcement agencies as may be appropriate.

(c) CLASSIFICATION.—The President should, to the maximum extent possible, submit the report required under subsection (a) in an unclassified form.

SEC. 524. AMENDMENTS TO THE PLO COMMITMENTS COMPLIANCE ACT.

The PLO Commitments Compliance Act of 1989 (title VIII of Public Law 101-246) is amended—

(1) in section 804(b), by striking "Beginning 30 days after the date of enactment of this Act, and every 120 days thereafter in which the dialogue between the United States and the PLO has not been discontinued", and inserting "In conjunction with each written policy justification required under section (3)(b)(1) of the Middle East Peace Facilitation Act of 1994 or every 180 days,";

(2) in section 804(b)(1), by striking "regarding the cessation of terrorism and recognition of Israel's right to exist" and inserting "and each of the commitments described in section (4)(A) of the Middle East Peace Facilitation Act of 1994 (Oslo commitments)";

(3) in section 804(b)(2), by inserting "and Oslo" after "Geneva";

(4) in section 802(8), by inserting "and on September 9, 1993" after "1988";

(5) in section 802, by redesignating paragraph (8) as paragraph (10);

(6) by striking "and" at the end of section 802(7); and

(7) by inserting after section 802(7) the following:

"(8) the President, following an attempted terrorist attack upon a Tel Aviv beach on May 30, 1990, suspended the United States dialogue with the PLO;

"(9) the President resumed the United States dialogue with the PLO in response to the commitments made by the PLO in letters to the Prime Minister of Israel and the Foreign Minister of Norway of September 9, 1993; and".

SEC. 525. FREE TRADE IN IDEAS.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the President should not restrict travel or exchanges for informational, educational, religious, cultural, or humanitarian purposes or for public performances or exhibitions, between the United States and any other country.

(b) AMENDMENTS TO TRADING WITH THE ENEMY ACT.—(1) Section 5(b)(4) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)(4)) is amended to read as follows:

"(4) The authority granted to the President by this section does not include the authority to regulate or prohibit, directly or indirectly, the importation from any country, or the exportation to any country, whether commercial or otherwise, regardless of format or medium of transmission, of any information or informational materials, including but not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds. The exports exempted from regulation or prohibition by this paragraph do not include those which are otherwise controlled for export under section 5 of the Export Administration Act of 1979, or under section 6 of that Act to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States, or with respect to which acts are prohibited by chapter 37 of title 18, United States Code.".

(2) The authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act, which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act, do not include the authority to regulate or prohibit, directly or indirectly, any activity which, under section 5(b)(4) of the Trading With the Enemy Act, as amended by paragraph (1) of this subsection, may not be regulated or prohibited.

(c) AMENDMENTS TO INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—

(1) Section 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)) is amended by striking paragraph (3) and inserting the following new paragraphs:

"(3) the importation from any country, or the exportation to any country, whether commercial or otherwise, regardless of format or medium of transmission, of any information or informational materials, including but not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds. The exports exempted from regulation or prohibition by this paragraph do not include those which are otherwise controlled for export under section 5 of the Export Administration Act of 1979, or under section 6 of such Act to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States, or with respect to which acts are prohibited by chapter 37 of title 18, United States Code; or

"(4) any transactions ordinarily incident to travel to or from any country, including importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including nonscheduled air, sea, or land voyages.".

(2) The amendments made by paragraph (1) to section 203(b)(3) of the International Emergency Economic Powers Act apply to actions taken by the President under section 203 of such Act before the date of enactment of this Act which are in effect on such date and to actions taken under such section on or after such date.

(3) Section 203(b)(4) of the International Emergency Economic Powers Act (as added

by paragraph (1)) shall not apply to restrictions on the transactions and activities described in section 203(b)(4) in force on the date of enactment of this Act, with respect to countries embargoed under the International Emergency Economic Powers Act on the date of enactment of this Act.

SEC. 526. EMBARGO AGAINST CUBA.

It is the sense of the Congress that the President should advocate and seek a mandatory international United Nations Security Council embargo against the dictatorship of Cuba.

SEC. 527. EXPROPRIATION OF UNITED STATES PROPERTY.

(a) PROHIBITION.—None of the funds made available to carry out this Act, the Foreign Assistance Act of 1961, or the Arms Export Control Act may be provided to a government or any agency or instrumentality thereof, if the government of such country (other than a country described if subsection (d))—

(1) has on or after January 1, 1956—

(A) nationalized or expropriated the property of any United States person,

(B) repudiated or nullified any contract with any United States person, or

(C) taken any other action (such as the imposition of discriminatory taxes or other exactions) which has the effect of seizing ownership or control of the property of any United States person, and

(2) has not, within the period specified in subsection (c), either—

(A) returned the property,

(B) provided adequate and effective compensation for such property in convertible foreign exchange or other mutually acceptable compensation equivalent to the full value thereof, as required by international law,

(C) offered a domestic procedure providing prompt, adequate and effective compensation in accordance with international law, or

(D) submitted the dispute to arbitration under the rules of the Convention for the Settlement of Investment Disputes or other mutually agreeable binding international arbitration procedure.

(b) OTHER ACTIONS.—The President shall instruct the United States Executive Directors of each multilateral development bank and international financial institution to vote against any loan or other utilization of the funds of such bank or institution for the benefit of any country to which assistance is prohibited under subsection (a), unless such assistance is directed specifically to programs which serve the basic human needs of the citizens of that country.

(c) PERIOD FOR SETTLEMENT OF CLAIMS.—The period of time described in subsection (a)(2) is the latest of the following—

(1) 3 years after the date on which a claim was filed,

(2) in the case of a country that has a totalitarian or authoritarian government at the time of the action described in subsection (a)(1), 3 years after the date of installation of a democratically elected government, or

(3) 90 days after the date of enactment of this Act.

(d) EXCEPTED COUNTRIES AND TERRITORIES.—This section shall not apply to any country established by international mandate through the United Nations or to any territory recognized by the United States Government to be in dispute.

(e) RESUMPTION OF ASSISTANCE.—A prohibition or termination of assistance under subsection (a) and an instruction to vote against loans under subsection (b) shall cease to be effective when the President certifies in writing to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate that such government has taken one of the steps described in subsection (a)(2).

(f) REPORTING REQUIREMENT.—Not later than 90 days after the date of enactment of this Act and at the beginning of each fiscal year thereafter, the Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, a report containing the following:

(1) A list of every country in which the United States Government is aware that a United States person has an outstanding expropriation claim.

(2) The total number of such outstanding expropriation claims made by United States persons against each such country.

(3) The period of time in which each such claim has been outstanding.

(4) The status of each case and efforts made by the United States Government and the government of the country in which such claim has been made, to take one or more of the steps described in subsection (a)(2).

(5) Each project a United States Executive Director voted against as a result of the action described in subsection (b).

(g) WAIVER.—The President may waive the prohibitions in subsections (a) and (b) for a country, on an annual basis, if the President determines and so notifies Congress that it is in the national interest to do so.

(h) DEFINITIONS.—For purpose of this section, the term "United States person" means a United States citizen or corporation, partnership, or association at least 50 percent beneficially owned by United States citizens.

SEC. 528. REPORT ON RUSSIAN MILITARY OPERATIONS IN THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

(a) IN GENERAL.—Not later than 5 months after the date of enactment of this Act, the President shall submit to Congress a report on the operations and activities of the armed forces of the Russian Federation, including elements purportedly operating outside the chain of command of the armed forces of the Russian Federation, outside the borders of the Russian Federation and, specifically, in the other independent states that were a part of the former Soviet Union and in the Baltic States.

(b) CONTENT OF REPORT.—The report required by subsection (a) shall include, but not be limited to—

(1) an assessment of the numbers and types of Russian armed forces deployed in each of the other independent states of the former Soviet Union and in the Baltic States and a summary of their operations and activities since the demise of the Soviet Union in December 1991;

(2) a detailed assessment of the involvement of Russian armed forces in conflicts in or involving Armenia, Azerbaijan, Georgia, Moldova, and Tajikistan, including support provided directly or indirectly to one or more parties to these conflicts;

(3) an assessment of the political and military objectives of the operations and activities discussed in paragraphs (1) and (2) and of the strategic objectives of the Russian Federation in its relations with the other independent states of the former Soviet Union and the Baltic States;

(4) an assessment of other significant actions, including political and economic, taken by the Russian Federation to influence the other independent states of the former Soviet Union and the Baltic States in pursuit of its strategic objectives; and

(5) an analysis of the new Russian military doctrine adopted by President Yeltsin on November 2, 1993, with particular regard to its implications for Russian policy toward the other independent states of the former Soviet Union and the Baltic States.

(c) DEFINITIONS.—For the purposes of this section—

(1) "the other independent states of the former Soviet Union" means Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan; and

(2) "the Baltic States" means Latvia, Lithuania, and Estonia.

SEC. 529. UNITED STATES POLICY ON NORTH KOREA.

It is the sense of the Congress that:

(1) It is in the United States national security interest to curtail the proliferation of weapons of mass destruction, particularly nuclear weapons.

(2) The North Korea Nuclear weapons program is one of the most pressing national security challenges the United States currently faces.

(3) North Korea's development of other weapons of mass destruction and of ballistic missiles further threatens United States national security interests and regional security.

(4) United States policy should ensure that North Korea does not possess a nuclear bomb or the capability to build one.

(5) United States forces in Korea must remain vigilant and maintain a robust defense posture.

(6) While diplomacy is the preferable method of dealing with the North Korean nuclear challenge, all options, including the appropriate use of force, remain available.

(7) In fashioning an appropriate policy for dealing with the challenge presented by North Korea's nuclear program, the Administration should consult closely with United States treaty allies, particularly Japan and the Republic of Korea, as well as with China, Russia, and other members of the United Nations Security Council.

(8) United States policy should support the efforts of the International Atomic Energy Agency (IAEA), as the international community's designated body for verifying compliance with the Nuclear Nonproliferation Treaty, to perform inspections of North Korea's nuclear program.

(9) The United States should encourage strong and expeditious action by the United Nations Security Council inasmuch as North Korea has proved unwilling to comply fully with the following:

(A) North Korea's December 1991 denuclearization agreement with South Korea pledging not to possess, manufacture, or use nuclear weapons, not to possess plutonium reprocessing facilities, and to negotiate the establishment of a nuclear inspection system.

(B) The nuclear safeguards agreement North Korea signed with the IAEA on January 30, 1992.

(C) The agreement on IAEA inspections North Korea accepted on February 15, 1994.

(10) Unless North Korea unequivocally adheres to the Nuclear Nonproliferation Treaty and abides by all provisions of that treaty, the President should seek international consensus to isolate North Korea, including the imposition of sanctions, in an effort to persuade Pyongyang to halt its nuclear weapons program and permit IAEA inspections of all its nuclear facilities.

(11) Recognizing that within the international community China has significant

influence over Pyongyang, the nature and extent of Chinese cooperation with the rest of the international community on the North Korean nuclear issue, including Chinese support for international sanctions should such sanctions be proposed and/or adopted, will inevitably be a significant factor in United States-China relations.

(12) If unable to achieve an international consensus to isolate North Korea, the President should employ all unilateral means of leverage over North Korea, including, but not limited to, the prohibition of any transaction involving the commercial sale of any good or technology to North Korea.

(13) The President should consult with United States allies in the region regarding the military posture of North Korea and the ability of the United States and its allies to deter a North Korean attack, or to defeat such an attack should it occur.

(14) Toward these ends, the United States and South Korea should take all steps necessary to ensure that United States and South Korean forces stationed on the Korean peninsula can defend themselves, including the holding of Team Spirit or other joint military exercises, the deployment of Patriot missiles to South Korea, and other appropriate measures.

(15) The problem posed by North Korea's nuclear program is not a bilateral problem between the United States and North Korea, but a problem in which virtually the entire global community is united against North Korea.

(16) The international community must insist upon full compliance by North Korea with all its nonproliferation commitments including acceptance of regular and ad hoc inspections of its declared nuclear facilities on a continuing basis, as well as special inspections of all suspected nuclear sites as the IAEA deems appropriate.

(17) International concerns about North Korea's nuclear intentions and capabilities will not be adequately addressed until North Korea cooperates fully with the IAEA, all North Korea nuclear facilities and materials are placed under fullscope safeguards, and North Korea adheres unequivocally to the Nuclear Nonproliferation Treaty as well as to its 1991 denuclearization agreement with South Korea.

(18) The Administration should work to encourage a productive dialogue between North and South Korea that adequately addresses all security concerns on the Korean peninsula.

SEC. 530. ENFORCEMENT OF NONPROLIFERATION TREATIES.

(a) POLICY.—It is the sense of the Congress that the President should instruct the United States Permanent Representative to the United Nations to enhance the role of that institution in the enforcement of nonproliferation treaties through the passage of a United Nations Security Council resolution which would state that, any non-nuclear weapon state that is found by the United Nations Security Council, in consultation with the International Atomic Energy Agency (IAEA), to have terminated, abrogated, or materially violated an IAEA full-scope safeguards agreement would be subjected to international economic sanctions, the scope of which to be determined by the United Nations Security Council.

(b) PROHIBITION.—Notwithstanding any other provision of law, no United States assistance under the Foreign Assistance Act of 1961 shall be provided to any non-nuclear weapon state that is found by the President to have terminated, abrogated, or materially violated an IAEA full-scope safeguard agreement or materially violated a bilateral United States nuclear cooperation agreement entered into after the date of enactment of the Nuclear Non-Proliferation Act of 1978.

(c) WAIVER.—The President may waive the application of subsection (b) if—

(1) the President determines that the termination of such assistance would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security; and

(2) the President reports such determination to the Congress at least 15 days in advance of any resumption of assistance to that state.

SEC. 531. TAIWAN.

In view of the self-defense needs of Taiwan, the Congress makes the following declarations:

(1) Sections 2 and 3 of the Taiwan Relations Act are reaffirmed.

(2) Section 3 of the Taiwan Relations Act take primacy over statements of United States policy, including communiques, regulations, directives, and policies based thereon.

(3) In assessing the extent to which the People's Republic of China is pursuing its "fundamental policy" to strive peacefully to resolve the Taiwan issue, the United States should take into account both the capabilities and intentions of the People's Republic of China.

(4) The President should on a regular basis assess changes in the capabilities and intentions of the People's Republic of China and consider whether it is appropriate to adjust arms sales to Taiwan accordingly.

SEC. 532. WAIVER OF SANCTIONS WITH RESPECT TO THE FEDERAL REPUBLIC OF YUGOSLAVIA TO PROMOTE DEMOCRACY ABROAD.

(a) AUTHORITY.—Notwithstanding any other provision of law, the President is authorized and encouraged to exempt from sanctions imposed against the Federal Republic of Yugoslavia those United States-supported programs, projects, or activities involving reform of the electoral process, or the development of democratic institutions or democratic political parties.

(b) POLICY.—The President, acting through the United States Permanent Representative to the United Nations, should propose that any action, past or future, by the Security Council pursuant to Article 41 of the United Nations Charter, with respect to the Federal Republic of Yugoslavia, should take account of the exemption described in subsection (a).

SEC. 533. FREEDOM OF INFORMATION EXEMPTION FOR CERTAIN OPEN SKIES TREATY DATA.

(a) IN GENERAL.—Data with respect to a foreign country collected by sensors during observation flights conducted in connection with the Treaty on Open Skies, including flights conducted prior to entry into force of the treaty, shall be exempt from disclosure under the Freedom of Information Act—

(1) if the country has not disclosed the data to the public; and

(2) if the country has not, acting through the Open Skies Consultative Commission or any other diplomatic channel, authorized the United States to disclose the data to the public.

(b) STATUTORY CONSTRUCTION.—This section constitutes a specific exemption within the meaning of section 552(b)(3) of title 5, United States Code.

(c) DEFINITIONS.—For the purposes of this section—

(1) the term "Freedom of Information Act" means the provisions of section 552 of title 5, United States Code;

(2) the term "Open Skies Consultative Commission" means the commission established pursuant to Article X of the Treaty on Open Skies; and

(3) the term "Treaty on Open Skies" means the Treaty on Open Skies, signed at Helsinki on March 24, 1992.

SEC. 534. STUDY OF DEMOCRACY EFFECTIVENESS.

(a) REPORT.—Not later than 180 days after the date of enactment of this Act, the President shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on a streamlined, cost-effective organization of United States democracy assistance. The report shall include a review of all activities funded by the United States Government, including those funded through the National Endowment for Democracy, the United States Information Agency, and the Agency for International Development.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) A review of all United States-sponsored programs to promote democracy, including identification and discussion of those programs that are overlapping.

(2) A clear statement of achievable goals and objectives for all United States-sponsored democracy programs, and an evaluation of the manner in which current democracy activities meet these goals and objectives.

(3) A review of the current United States Government organization for the delivery of democracy assistance and recommended changes to reduce costs and streamline overhead involved in the delivery of democracy assistance.

(4) Recommendations for coordinating programs, policies, and priorities to enhance the United States Government's role in democracy promotion.

(5) A review of all agencies involved in delivering United States Government funds in the form of democracy assistance and a recommended focal point or lead agency within the United States Government for policy oversight of the effort.

(6) A review of the feasibility and desirability of mandating non-United States Government funding, including matching funds and in-kind support, for democracy promotion programs. If it is determined that such non-Government funding is feasible and desirable, recommendations should be made regarding goals and procedures for implementation.

SEC. 535. SENSE OF CONGRESS CONCERNING UNITED STATES CITIZENS VICTIMIZED BY GERMANY DURING WORLD WAR II.

It is the sense of the Congress that United States citizens who were victims of war crimes and crimes against humanity committed by the Government of Germany during the period 1939 to 1945 should be compensated by the Government of Germany.

SEC. 536. REPORTING REQUIREMENTS ON OCCUPIED TIBET.

(a) REPORT ON UNITED STATES-TIBET RELATIONS.—Because Congress has determined that Tibet is an occupied sovereign country under international law and that its true representatives are the Dalai Lama and the Tibetan Government in exile—

(1) it is the sense of the Congress that the United States should seek to establish a dialogue with those recognized by Congress as

the true representatives of the Tibetan people, the Dalai Lama, his representatives and the Tibetan Government in exile, concerning the situation in Tibet and the future of the Tibetan people and to expand and strengthen United States-Tibet cultural and educational relations, including promoting bilateral exchanges arranged directly with the Tibetan Government in exile; and

(2) not later than 6 months after the date of enactment of this Act, and every 12 months thereafter, the Secretary of State shall transmit to the Chairman of the Committee on Foreign Relations and the Speaker of the House of Representatives a report on the state of relations between the United States and those recognized by Congress as the true representatives of the Tibetan people, the Dalai Lama, his representatives and the Tibetan Government in exile, and on conditions in Tibet.

(b) Separate Tibet Reports.—

(1) It is the sense of the Congress that whenever a report is transmitted to the Congress on a country-by-country basis there should be included in such report, where applicable, a separate report on Tibet listed alphabetically with its own state heading.

(2) The reports referred to in paragraph (1) include, but are not limited to, reports transmitted under sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (relating to human rights).

PART B—SPOILS OF WAR ACT

SEC. 551. SHORT TITLE.

This part may be cited as the "Spoils of War Act of 1994".

SEC. 552. TRANSFERS OF SPOILS OF WAR.

(a) Eligibility for Transfer.—Spoils of war in the possession, custody, or control of the United States may be transferred to any other party, including any government, group, or person, by sale, grant, loan or in any other manner, only to the extent and in the same manner that property of the same type, if otherwise owned by the United States, may be so transferred.

(b) Terms and Conditions.—Any transfer pursuant to subsection (a) shall be subject to all of the terms, conditions, and requirements applicable to the transfer of property of the same type otherwise owned by the United States.

SEC. 553. PROHIBITION ON TRANSFERS TO COUNTRIES WHICH SUPPORT TERRORISM.

Spoils of war in the possession, custody, or control of the United States may not be transferred to any country determined by the Secretary of State, for purposes of section 40 of the Arms Export Control Act, to be a nation whose government has repeatedly provided support for acts of international terrorism.

SEC. 554. REPORT ON PREVIOUS TRANSFERS.

Not later than 90 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report describing any spoils of war obtained subsequent to August 2, 1990 that were transferred to any party, including any government, group, or person, before the date of enactment of this Act. Such report shall be submitted in unclassified form to the extent possible.

SEC. 555. DEFINITIONS.

As used in this part—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, or, where required by law for certain reporting purposes, the Select Committee on Intelligence of the Senate and the Select Committee on Intelligence of the House of Representatives;

(2) the term "enemy" means any country, government, group, or person that has been engaged in hostilities, whether or not lawfully authorized, with the United States;

(3) the term "person" means—

(A) any natural person;

(B) any corporation, partnership, or other legal entity; and

(C) any organization, association, or group; and

(4) the term "spoils of war" means enemy movable property lawfully captured, seized, confiscated, or found which has become United States property in accordance with the laws of war.

SEC. 556. CONSTRUCTION.

Nothing in this part shall apply to—

(1) the abandonment or failure to take possession of spoils of war by troops in the field for valid military reasons related to the conduct of the immediate conflict, including the burden of transporting such property or a decision to allow allied forces to take immediate possession of certain property solely for use during an ongoing conflict;

(2) the abandonment or return of any property obtained, borrowed, or requisitioned for temporary use during military operations without intent to retain possession of such property;

(3) the destruction of spoils of war by troops in the field;

(4) the return of spoils of war to previous owners from whom such property had been seized by enemy forces; or

(5) minor articles of personal property which have lawfully become the property of individual members of the armed forces as war trophies pursuant to public written authorization from the Department of Defense.

PART C—ANTI-ECONOMIC DISCRIMINATION ACT

SEC. 561. SHORT TITLE.

This part may be cited as the "Anti-Economic Discrimination Act of 1994".

SEC. 562. ISRAEL'S DIPLOMATIC STATUS.

It is the sense of the Congress that the Secretary of State should make the issue of Israel's diplomatic status a priority and urge countries that receive United States assistance to immediately establish full diplomatic relations with the state of Israel.

SEC. 563. POLICY ON MIDDLE EAST ARMS SALES.

(a) Boycott of Israel.—Section 322 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138) is amended—

(1) in paragraph (2), by striking "and" at the end; and

(2) in paragraph (3)—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) does not participate in the Arab League primary or secondary boycott of Israel.".

(b) Report to Congress.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report concerning steps taken to ensure that the goals of section 322 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 are being met.

SEC. 564. PROHIBITION ON CERTAIN SALES AND LEASES.

(a) Prohibition.—No defense article or defense service may be sold or leased by the United States Government to any country or international organization that, as a matter of policy or practice, is known to have sent letters to United States firms requesting compliance with, or soliciting information regarding compliance with, the Arab League primary or secondary boycott of Israel, unless the President determines, and so certifies to the appropriate congressional committees, that that country or organization does not currently maintain a policy or practice of making such requests or solicitations.

(b) Waiver.—

(1) 1-year waiver.—On or after the effective date of this section, the President may waive, for a period of 1 year, the application of subsection (a) with respect to any country or organization if the President determines, and reports to the appropriate congressional committees, that—

(A) such waiver is in the national interest of the United States, and such waiver will promote the objectives of this section to eliminate the Arab boycott; or

(B) such waiver is in the national security interest of the United States.

(2) Extension of waiver.—If the President determines that the further extension of a waiver will promote the objectives of this section, the President, upon notification of the appropriate congressional committees, may grant further extensions of such waiver for successive 12-month periods.

(3) Termination of waiver.—The President may, at any time, terminate any waiver granted under this subsection.

(c) Definitions.—As used in this section—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives; and

(2) the terms "defense article" and "defense service" have the meanings given to such terms by paragraphs (3) and (4), respectively, of section 47 of the Arms Export Control Act.

(d) Effective Date.—This section shall take effect 1 year after the date of enactment of this Act.

SEC. 565. PROHIBITION ON DISCRIMINATORY CONTRACTS.

(a) Prohibition.—

(1) Except for real estate leases and as provided in subsection (b), the Department of State may not enter into any contract that expends funds appropriated to the Department of State for an amount in excess of the small purchase threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))—

(A) with a foreign person that complies with the Arab League boycott of Israel, or

(B) with any foreign or United States person that discriminates in the award of subcontracts on the basis of religion.

(2) For purposes of this section—

(A) a foreign person complies with the boycott of Israel by Arab League countries when that foreign person takes or knowingly agrees to take any action, with respect to the boycott of Israel by Arab League countries, which section 8(a) of the Export Administration Act of 1979 (50 U.S.C. App. 2407(a)) prohibits a United States person from taking, except that for purposes of this paragraph, the term "United States person" as used in subparagraphs (B) and (C) of section 8(a)(1) of such Act shall be deemed to mean "person"; and

(B) the term "foreign person" means any person other than a United States person as defined in section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. 2415).

(3) For purposes of paragraph (1), a foreign person shall be deemed not to comply with the boycott of Israel by Arab League countries if that person, or the Secretary of State or his designee on the basis of available information, certifies that the person violates or otherwise does not comply with the boycott of Israel by Arab League countries by taking any actions prohibited by section 8(a) of the Export Administration Act of 1979 (50 U.S.C. App. 2407(a)). Certification by the Secretary of State or his designee may occur only 30 days after notice has been given to the Congress that this certification procedure will be utilized at a specific overseas mission.

(b) WAIVER BY SECRETARY OF STATE.—The Secretary of State may waive the requirements of this section on a country-by-country basis for a period not to exceed one year upon certification to the Congress by the Secretary that such waiver is in the national interest and is necessary to carry on diplomatic functions of the United States. Each such certification shall include a detailed justification for the waiver with respect to each such country.

(c) RESPONSES TO CONTRACT SOLICITATIONS.—(1) Except as provided in paragraph (2) of this subsection, the Secretary of State shall ensure that any response to a solicitation for a bid or a request for a proposal, with respect to a contract covered by subsection (a), includes the following clause, in substantially the following form:

"ARAB LEAGUE BOYCOTT OF ISRAEL

"(a) DEFINITIONS.—As used in this clause—

"(1) the term 'foreign person' means any person other than a United States person as defined in paragraph (2); and

"(2) the term 'United States person' means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

"(b) CERTIFICATION.—By submitting this offer, the Offeror certifies that it is not—

"(1) taking or knowingly agreeing to take any action, with respect to the boycott of Israel by Arab League countries, which section 8(a) of the Export Administration Act of 1979 (50 U.S.C. App. 2407(a)) prohibits a United States person from taking; or

"(2) discriminating in the award of subcontracts on the basis of religion.".

(2) An Offeror would not be required to include the certification required by paragraph (1), if the Offeror is deemed not to comply with the Arab League boycott of Israel by the Secretary of State or a designee on the basis of available information. Certification by the Secretary of State or a designee may occur only 30 days after notice has been given to the Congress that this certification procedure will be utilized at a specific overseas mission.

(3) The Secretary of State shall ensure that all State Department contract solicitations include a detailed explanation of the requirements of section 8(a) of the Export Administration Act of 1979 (50 U.S.C. App. 2407(a)).

(d) REVIEW AND TERMINATION.—(1) The Department of State shall conduct reviews of the certifications submitted pursuant to this section for the purpose of assessing the accuracy of the certifications.

(2) Upon complaint of any foreign or United States person of a violation of the certification as required by this section, filed with the Secretary of State, the Department of State shall investigate such complaint, and if such complaint is found to be correct and a violation of the certification has been found, all contracts with such violator shall be terminated for default as soon as practicable, and, for a period of two years thereafter, the State Department shall not enter into any contracts with such a violator.

(e) UNITED STATES INFORMATION AGENCY.—The provisions of this section shall apply to the United States Information Agency in the same manner and extent to which such provisions apply to the Department of State. In the application of this section to the United States Information Agency, the Director of the United States Information Agency or a designee shall have the authorities and responsibilities of the Secretary of State.

PART D—THE CAMBODIAN GENOCIDE JUSTICE ACT

SEC. 571. SHORT TITLE.

This part may be cited as the "Cambodian Genocide Justice Act".

SEC. 572. POLICY.

(a) IN GENERAL.—Consistent with international law, it is the policy of the United States to support efforts to bring to justice members of the Khmer Rouge for their crimes against humanity committed in Cambodia between April 17, 1975, and January 7, 1979.

(b) SPECIFIC ACTIONS URGED.—To that end, the Congress urges the President—

(1) to collect, or assist appropriate organizations and individuals to collect relevant data on crimes of genocide committed in Cambodia;

(2) in circumstances which the President deems appropriate, to encourage the establishment of a national or international criminal tribunal for the prosecution of those accused of genocide in Cambodia; and

(3) as necessary, to provide such national or international tribunal with information collected pursuant to paragraph (1).

SEC. 573. ESTABLISHMENT OF STATE DEPARTMENT OFFICE.

(a) ESTABLISHMENT.—(1) None of the funds authorized to be appropriated by this Act for "Diplomatic and Consular Programs" shall be available for obligation or expenditure during fiscal years 1994 and 1995 unless, not later than 90 days after the date of enactment of this Act, the Secretary of State has established within the Department of State under the Assistant Secretary for East Asia and Pacific Affairs (or any successor Assistant Secretary) the Office of Cambodian Genocide Investigation (hereafter in this part referred to as the "Office").

(2) The Office may carry out its activities inside or outside of Cambodia, except that not less than 75 percent of the funds made available for the Office and its activities shall be used to carry out activities within Cambodia.

(b) PURPOSE.—The purpose of the Office shall be to support, through organizations and individuals with whom the Secretary of State may contract to carry out the operations of the Office, as appropriate, efforts to bring to justice members of the Khmer Rouge for their crimes against humanity committed in Cambodia between April 17, 1975, and January 7, 1979, including—

(1) to investigate crimes against humanity committed by national Khmer Rouge leaders during that period;

(2) to provide the people of Cambodia with access to documents, records, and other evidence held by the Office as a result of such investigation;

(3) to submit the relevant data to a national or international penal tribunal that may be convened to formally hear and judge the genocidal acts committed by the Khmer Rouge; and

(4) to develop the United States proposal for the establishment of an international criminal tribunal for the prosecution of those accused of genocide in Cambodia.

(c) CONTRACTING AUTHORITY.—The Secretary of State shall, subject to the availability of appropriations, contract with appropriate individuals and organizations to carry out the purpose of the Office.

(d) NOTIFICATION TO CONGRESS.—The Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives shall be notified of any exercise of the authority of section 34 of the State Department Basic Authorities Act of 1956 with respect to the Office or any of its programs, projects, or activities at least 15 days in advance in accordance with procedures applicable to notifications under that section.

SEC. 574. REPORTING REQUIREMENT.

(a) IN GENERAL.—Beginning 6 months after the date of enactment of this Act, and every 6 months thereafter, the President shall submit a report to the appropriate congressional committees—

(1) that describes the activities of the Office, and sets forth new facts learned about past Khmer Rouge practices, during the preceding 6-month period; and

(2) that describes the steps the President has taken during the preceding 6-month period to promote human rights, to support efforts to bring to justice the national political and military leadership of the Khmer Rouge, and to prevent the recurrence of human rights abuses in Cambodia through actions which are not related to United Nations activities in Cambodia.

(b) DEFINITION.—For purposes of this section, the term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

PART E—MIDDLE EAST PEACE FACILITATION

SEC. 581. SHORT TITLE.

This part may be cited as the "Middle East Peace Facilitation Act of 1994".

SEC. 582. FINDINGS.

The Congress finds that—

(1) the Palestine Liberation Organization has recognized the State of Israel's right to exist in peace and security; accepted United Nations Security Council Resolutions 242 and 338; committed itself to the peace process and peaceful coexistence with Israel, free from violence and all other acts which endanger peace and stability; and assumed responsibility over all Palestine Liberation Organization elements and personnel in order to assure their compliance, prevent violations, and discipline violators;

(2) Israel has recognized the Palestine Liberation Organization as the representative of the Palestinian people;

(3) Israel and the Palestine Liberation Organization signed a Declaration of Principles on Interim Self-Government Arrangements on September 13, 1993, at the White House;

(4) the United States has resumed a bilateral dialogue with the Palestine Liberation Organization; and

(5) in order to implement the Declaration of Principles on Interim Self-Government Arrangements and facilitate the Middle East peace process, the President has requested flexibility to suspend certain provisions of law pertaining to the Palestine Liberation Organization.

SEC. 583. AUTHORITY TO SUSPEND CERTAIN PROVISIONS.

(a) IN GENERAL.—Subject to subsection (b), beginning July 1, 1994, the President may suspend for a period of not more than 6 months any provision of law specified in subsection (c). The President may continue the suspension for a period or periods of not more than 6 months until July 1, 1995, if, before each such period, the President satisfies the requirements of subsection (b). Any suspension shall cease to be effective after 6 months, or at such earlier date as the President may specify.

(b) CONDITIONS.—

(1) CONSULTATION.—Prior to each exercise of the authority provided in subsection (a), the President shall consult with the relevant congressional committees. The President may not exercise that authority until 30 days after a written policy justification is submitted to the relevant congressional committees.

(2) PRESIDENTIAL CERTIFICATION.—The President may exercise the authority provided in subsection (a) only if the President certifies to the relevant congressional committees each time he exercises such authority that—

(A) it is in the national interest of the United States to exercise such authority; and

(B) the Palestine Liberation Organization continues to abide by all the commitments described in paragraph (4).

(3) REQUIREMENT FOR CONTINUING PLO COMPLIANCE.—Any suspension under subsection (a) of a provision of law specified in subsection (c) shall cease to be effective if the President certifies to the relevant congressional committees that the Palestine Liberation Organization has not continued to abide by all the commitments described in paragraph (4).

(4) PLO COMMITMENTS DESCRIBED.—The commitments referred to in paragraphs (2) and (3) are the commitments made by the Palestine Liberation Organization—

(A) in its letter of September 9, 1993, to the Prime Minister of Israel; in its letter of September 9, 1993, to the Foreign Minister of Norway to—

(i) recognize the right of the State of Israel to exist in peace and security;

(ii) accept United Nations Security Council Resolutions 242 and 338;

(iii) renounce the use of terrorism and other acts of violence;

(iv) assume responsibility over all PLO elements and personnel in order to assure their compliance, prevent violations and discipline violators;

(v) call upon the Palestinian people in the West Bank and Gaza Strip to take part in the steps leading to the normalization of life, rejecting violence and terrorism, and contributing to peace and stability; and

(vi) submit to the Palestine National Council for formal approval the necessary changes to the Palestinian National Covenant eliminating calls for Israel's destruction, and

(B) in, and resulting from, the good faith implementation of, the Declaration of Principles on Interim Self-Government Arrangements signed on September 13, 1993.

(5) EXPECTATION OF CONGRESS REGARDING ANY EXTENSION OF PRESIDENTIAL AUTHORITY.—The Congress expects that any extension of the authority provided to the President in subsection (a) will be conditional on the Palestine Liberation Organization—

(A) renouncing the Arab League boycott of Israel;

(B) urging the nations of the Arab League to end the Arab League boycott of Israel;

(C) cooperating with efforts undertaken by the President of the United States to end the Arab League boycott of Israel; and

(D) condemning individual acts of terrorism and violence.

(6) REPORTING REQUIREMENT.—As part of the President's written policy justification referred to in paragraph (1), the President will report on the PLO's response to individual acts of terrorism and violence, as well as its actions concerning the Arab League boycott of Israel as enumerated in paragraph (5) and on the status of the PLO office in the United States as enumerated in subsection (c)(3).

(c) PROVISIONS THAT MAY BE SUSPENDED.—The provisions that may be suspended under the authority of subsection (a) are the following:

(1) Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227) as it applies with respect to the Palestine Liberation Organization or entities associated with it.

(2) Section 114 of the Department of State Authorization Act, Fiscal years 1984 and 1985 (22 U.S.C. 287e note) as it applies with respect to the Palestine Liberation Organization or entities associated with it.

(3) Section 1003 of the Foreign Relations Authorization Act, Fiscal years 1988 and 1989 (22 U.S.C. 5202).

(4) Section 37 of the Bretton Woods Agreement Act (22 U.S.C. 286w) as it applies to the granting to the Palestine Liberation Organization of observer status or other official status at any meeting sponsored by or associated with the International Monetary Fund. As used in this paragraph, the term "other official status" does not include membership in the International Monetary Fund.

(d) RELEVANT CONGRESSIONAL COMMITTEES DEFINED.—As used in this section, the term "relevant congressional committees" means—

(1) the Committee on Foreign Affairs, the Committee on Banking, Finance and Urban Affairs, and the Committee on Appropriations of the House of Representatives; and

(2) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

TITLE VI—PEACE CORPS

SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $219,745,000 for the fiscal year 1994 and $234,745,000 for the fiscal year 1995 to carry out the Peace Corps Act.

(b) AVAILABILITY OF FUNDS.—Funds made available to the Peace Corps pursuant to the authorization under subsection (a) shall be available for the fiscal year for which appropriated and the subsequent fiscal year.

SEC. 602. AMENDMENTS TO THE PEACE CORPS ACT.

(a) EXTENSION OF CONTRACTING AUTHORITY.—Section 10(c) of the Peace Corps Act (22 U.S.C. 2509(c)) is amended by striking "thirty six months" and inserting "five years".

(b) LIABILITY INSURANCE FOR MEDICAL SERVICES PERSONNEL.—Section 10(j) of the Peace Corps Act (22 U.S.C. 2509(j)) is amended by inserting before the period at the end of the first sentence ", and to individuals employed under personal services contracts to furnish medical services abroad pursuant to subsection (a)(5) of this section.".

TITLE VII—ARMS CONTROL

PART A—ARMS CONTROL AND NONPROLIFERATION ACT OF 1994

SEC. 701. SHORT TITLE; REFERENCES IN PART; TABLE OF CONTENTS.

(a) SHORT TITLE.—This part may be cited as the "Arms Control and Nonproliferation Act of 1994".

(b) REFERENCES IN PART.—Except as specifically provided in this part, whenever in this part an amendment or repeal is expressed as an amendment to or repeal of a provision, the reference shall be deemed to be made to the Arms Control and Disarmament Act.

SEC. 702. CONGRESSIONAL DECLARATIONS; PURPOSE.

(a) CONGRESSIONAL DECLARATIONS.—The Congress declares that—

(1) a fundamental goal of the United States, particularly in the wake of the highly turbulent and uncertain international situation fostered by the end of the Cold War, the disintegration of the Soviet Union and the resulting emergence of fifteen new independent states, and the revolutionary changes in Eastern Europe, is to prevent the proliferation of nuclear weapons and their means of delivery and of advanced conventional armaments, to eliminate chemical and biological weapons, and to reduce and limit the large numbers of nuclear weapons in the former Soviet Union, as well as to prevent regional conflicts and conventional arms races; and

(2) an ultimate goal of the United States continues to be a world in which the use of force is subordinated to the rule of law and international change is achieved peacefully without the danger and burden of destabilizing and costly armaments.

(b) PURPOSE.—The purpose of this part is—

(1) to strengthen the United States Arms Control and Disarmament Agency; and

(2) to improve congressional oversight of the arms control, nonproliferation, and disarmament activities of the United States Arms Control and Disarmament Agency, and of the Agency's operating budget.

SEC. 703. PURPOSES.

Section 2 (22 U.S.C. 2551) is amended in the text following the third undesignated paragraph by striking paragraphs (a), (b), (c), and (d) and by inserting the following new paragraphs:

"(1) The preparation for and management of United States participation in international negotiations and implementation fora in the arms control and disarmament field.

"(2) When directed by the President, the preparation for, and management of, United States participation in international negotiations and implementation fora in the nonproliferation field.

"(3) The conduct, support, and coordination of research for arms control, nonproliferation, and disarmament policy formulation.

"(4) The preparation for, operation of, or, as appropriate, direction of, United States participation in such control systems as may become part of United States arms control, nonproliferation, and disarmament activities.

"(5) The dissemination and coordination of public information concerning arms control, nonproliferation, and disarmament.".

SEC. 704. REPEALS.

The following provisions of law are hereby repealed:

(1) Subsections (b) and (c) of section 36 (22 U.S.C. 2576), relating to arms control impact information and analysis.

(2) Section 38 (22 U.S.C. 2578), relating to reports on Standing Consultative Commission activities.

(3) Section 52 (22 U.S.C. 2592), relating to reports on adherence to and compliance with agreements.

SEC. 705. DIRECTOR.

Section 22 (22 U.S.C. 2562) is amended to read as follows:

"DIRECTOR

"SEC. 22. (a) APPOINTMENT.—The Agency shall be headed by a Director appointed by the President, by and with the advice and consent of the Senate. No person serving on active duty as a commissioned officer of the Armed Forces of the United States may be appointed Director.

"(b) DUTIES.—(1) The Director shall serve as the principal adviser to the Secretary of State, the National Security Council, and the President and other executive branch Government officials on matters relating to arms control, nonproliferation, and disarmament. In carrying out his duties under this Act, the Director, under the direction of the President and the Secretary of State, shall have primary responsibility within the Government for matters relating to arms control and disarmament, and, whenever directed by the President, primary responsibility within the Government for matters relating to nonproliferation.

"(2) The Director shall attend all meetings of the National Security Council involving weapons procurement, arms sales, consideration of the defense budget, and all arms control, nonproliferation, and disarmament matters.".

SEC. 706. BUREAUS, OFFICES, AND DIVISIONS.

Section 25 (22 U.S.C. 2565) is amended to read as follows:

"BUREAUS, OFFICES, AND DIVISIONS

"SEC. 25. The Director may establish within the Agency such bureaus, offices, and divisions as he may determine to be necessary to discharge his responsibilities pursuant to this Act, including a bureau of intelligence and information support and an office to perform legal services for the Agency.".

SEC. 707. SCIENTIFIC AND POLICY ADVISORY COMMITTEE.

Section 26 (22 U.S.C. 2566) is amended to read as follows:

"SCIENTIFIC AND POLICY ADVISORY COMMITTEE

"SEC. 26. (a) ESTABLISHMENT.—(1) The President may appoint a Scientific and Policy Advisory Committee (in this section referred to as the 'Committee') of not to exceed 15 members, not less than eight of whom shall be scientists.

"(2) The members of the Committee shall be appointed as follows:

"(A) One member, who shall be a person of renown and distinction, shall be appointed by the President, by and with the advice and consent of the Senate, as Chairman of the Committee.

"(B) Fourteen other members shall be appointed by the President.

"(3) The Committee shall meet at least twice each year.

"(b) FUNCTION.—It shall be the responsibility of the Committee to advise the President, the Secretary of State, and the Director respecting scientific, technical, and policy matters affecting arms control, nonproliferation, and disarmament.

"(c) REIMBURSEMENT OF EXPENSES.—The members of the Committee may receive reimbursement of expenses only in accordance with the provisions applicable to the reimbursement of experts and consultants under section 41(d) of this Act.

"(d) TERMINATION.—The Committee shall terminate two years after the date of enactment of the Arms Control and Nonproliferation Act of 1994.

"(e) DEFINITION.—As used in this section, the term 'scientist' means an individual who has a demonstrated knowledge and technical expertise with respect to arms control, nonproliferation, and disarmament matters and who has distinguished himself or herself in any of the fields of physics, chemistry, mathematics, biology, or engineering, including weapons engineering.".

SEC. 708. PRESIDENTIAL SPECIAL REPRESENTATIVES.

(a) IN GENERAL.—Section 27 (22 U.S.C. 2567) is amended to read as follows:

"PRESIDENTIAL SPECIAL REPRESENTATIVES

"SEC. 27. The President may appoint, by and with the advice and consent of the Senate, Special Representatives of the President for arms control, nonproliferation, and disarmament matters. Each Presidential Special Representative shall hold the rank of ambassador. One such Representative may serve in the Agency as Chief Science Advisor. Presidential Special Representatives appointed under this section shall perform their duties and exercise their powers under direction of the President and the Secretary of State, acting through the Director. The Agency shall be the Government agency responsible for providing administrative support, including funding, staff, and office space, to all Presidential Special Representatives.".

(b) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by striking:

"Special Representatives for Arms Control and Disarmament Negotiations, United States Arms Control and Disarmament Agency (2)."

and inserting:

"Special Representatives of the President for arms control, nonproliferation, and disarmament matters, United States Arms Control and Disarmament Agency.".

SEC. 709. POLICY FORMULATION.

Section 33 (22 U.S.C. 2573) is amended to read as follows:

"POLICY FORMULATION

"SEC. 33. (a) FORMULATION.—The Director shall prepare for the President, the Secretary of State, and the heads of such other Government agencies as the President may determine, recommendations and advice concerning United States arms control, nonproliferation, and disarmament policy.

"(b) PROHIBITION.—No action shall be taken pursuant to this or any other Act that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner, except pursuant to the treaty-making power of the President set forth in Article II, Section 2, Clause 2 of the Constitution or unless authorized by the enactment of further affirmative legislation by the Congress of the United States.".

SEC. 710. NEGOTIATION MANAGEMENT.

Section 34 (22 U.S.C. 2574) is amended to read as follows:

"NEGOTIATION MANAGEMENT

"SEC. 34. (a) RESPONSIBILITIES.—The Director, under the direction of the President and the Secretary of State, shall have primary responsibility for the preparation, conduct, and management of United States participation in all international negotiations and implementation fora in the field of arms control and disarmament and shall have primary responsibility, whenever directed by the President, for the preparation, conduct, and management of United States participation in international negotiations and implementation fora in the field of nonproliferation. In furtherance of these responsibilities, Special Representatives of the President appointed pursuant to section 27, shall, as directed by the President, serve as the United States Government representatives to international organizations, conferences, and activities relating to the field of nonproliferation, such as the preparations for and conduct of the review relating to the Treaty on the Non-Proliferation of Nuclear Weapons.

"(b) FUNCTIONS WITH RESPECT TO THE UNITED STATES INFORMATION AGENCY.—The Director shall perform functions pursuant to section 2(c) of the Reorganization Plan 8 of 1953 with respect to providing to the United States Information Agency official United States positions and policy on arms control, nonproliferation, and disarmament matters for dissemination abroad.

"(c) AUTHORITY.—The Director is authorized—

"(1) for the purpose of conducting negotiations concerning arms control, nonproliferation, or disarmament or for the purpose of exercising any other authority given him by this Act—

"(A) to consult and communicate with, or to direct the consultation and communication with, representatives of other nations or of international organizations, and

"(B) to communicate in the name of the Secretary of State with diplomatic representatives of the United States in the United States or abroad;

"(2) to formulate plans and make preparations for the establishment, operation, and funding of inspections and control systems which may become part of the United States arms control, nonproliferation, and disarmament activities; and

"(3) as authorized by law, to put into effect, direct, or otherwise assume United States responsibility for such systems.".

SEC. 711. REPORT ON MEASURES TO COORDINATE RESEARCH AND DEVELOPMENT.

Not later than December 31, 1994, the President shall submit to the Congress a report prepared by the Director of the United States Arms Control and Disarmament Agency, in coordination with the Secretary of State, the Secretary of Defense, the Secretary of Energy, the Chairman of the Joint Chiefs of Staff, and the Director of Central Intelligence, with respect to the procedures established pursuant to section 35 of the Arms Control and Disarmament Act (22 U.S.C. 2575) for the effective coordination of research and development on arms control, nonproliferation, and disarmament among all departments and agencies of the executive branch of Government.

SEC. 712. VERIFICATION OF COMPLIANCE.

Section 37 (22 U.S.C. 2577) is amended to read as follows:

"VERIFICATION OF COMPLIANCE

"SEC. 37. (a) IN GENERAL.—In order to ensure that arms control, nonproliferation, and disarmament agreements can be adequately verified, the Director shall report to Congress, on a timely basis, or upon request by an appropriate committee of the Congress—

"(1) in the case of any arms control, nonproliferation, or disarmament agreement that has been concluded by the United States, the determination of the Director as to the degree to which the components of such agreement can be verified;

"(2) in the case of any arms control, nonproliferation, or disarmament agreement that has entered into force, any significant degradation or alteration in the capacity of the United States to verify compliance of the components of such agreement;

"(3) the amount and percentage of research funds expended by the Agency for the purpose of analyzing issues relating to arms control, nonproliferation, and disarmament verification; and

"(4) the number of professional personnel assigned to arms control verification on a full-time basis by each Government agency.

"(b) STANDARD FOR VERIFICATION OF COMPLIANCE.—In making determinations under paragraphs (1) and (2) of subsection (a), the Director shall assume that all measures of concealment not expressly prohibited could be employed and that standard practices could be altered so as to impede verification.

"(c) RULE OF CONSTRUCTION.—Except as otherwise provided for by law, nothing in this section may be construed as requiring the disclosure of sensitive information relating to intelligence sources or methods or persons employed in the verification of compliance with arms control, nonproliferation, and disarmament agreements.

"(d) PARTICIPATION OF THE AGENCY.—In order to ensure adherence of the United States to obligations or commitments undertaken in arms control, nonproliferation, and disarmament agreements, and in order for the Director to make the assessment required by section 51(a)(5), the Director, or the Director's designee, shall participate in all interagency groups or organizations within the executive branch of Government that assess, analyze, or review United States planned or ongoing policies, programs, or actions that have a direct bearing on United States adherence to obligations undertaken in arms control, nonproliferation, or disarmament agreements.".

SEC. 713. NEGOTIATING RECORDS.

(a) IN GENERAL.—The Arms Control and Disarmament Act is amended by inserting after section 37 the following:

"NEGOTIATING RECORDS

"SEC. 38. (a) PREPARATION OF RECORDS.—The Director shall establish and maintain records for each arms control, nonproliferation, and disarmament agreement to which the United States is a party and which was under negotiation or in force on or after January 1, 1990, which shall include classified and unclassified materials such as instructions and guidance, position papers, reporting cables and memoranda of conversation, working papers, draft texts of the agreement, diplomatic notes, notes verbal, and other internal and external correspondence.

"(b) NEGOTIATING AND IMPLEMENTATION RECORDS.—In particular, the Director shall establish and maintain a negotiating and implementation record for each such agreement, which shall be comprehensive and detailed, and shall document all communications between the parties with respect to such agreement. Such records shall be maintained both in hard copy and magnetic media.

"(c) PARTICIPATION OF AGENCY PERSONNEL.—In order to implement effectively this section, the Director shall ensure that Agency personnel participate throughout the negotiation and implementation phases of all arms control, nonproliferation, and disarmament agreements.".

(b) REPORT REQUIRED.—Not later than January 31, 1995, the Director of the United States Arms Control and Disarmament Agency shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a detailed report describing the actions he has undertaken to implement section 38 of the Arms Control and Disarmament Act.

SEC. 714. AUTHORITIES WITH RESPECT TO NONPROLIFERATION MATTERS.

(a) AMENDMENTS TO THE ARMS EXPORT CONTROL ACT.—(1) Section 38(a)(2) of the Arms Export Control Act (22 U.S.C. 2778(a)(2)) is amended to read as follows:

"(2) Decisions on issuing export licenses under this section shall be made in coordination with the Director of the United States Arms Control and Disarmament Agency, taking into account the Director's assessment as to whether the export of an article would contribute to an arms race, aid in the development of weapons of mass destruction, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control or nonproliferation agreements or other arrangements. The Director of the Arms Control and Disarmament Agency is authorized, whenever the Director determines that the issuance of an export license under this section would be detrimental to the national security of the United States, to recommend to the President that such export license be disapproved.".

(2) Section 42(a) of such Act (22 U.S.C. 2791(a)) is amended—

(A) in the second sentence, by redesignating clauses (1), (2), and (3) as clauses (A), (B), and (C), respectively;

(B) by inserting "(1)" immediately after "(a)";

(C) by amending clause (C) (as redesignated) to read as follows: "(C) the assessment of the Director of the United States Arms Control and Disarmament Agency as to whether, and the extent to which, such sale might contribute to an arms race, aid in the development of weapons of mass destruction, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control or nonproliferation agreements or other arrangements."; and

(D) by adding at the end the following:

"(2) Any proposed sale made pursuant to this Act shall be approved only after consultation with the Director of the United States Arms Control and Disarmament Agency. The Director of the Arms Control and Disarmament Agency is authorized, whenever the Director determines that a sale under this section would be detrimental to the national security of the United States, to recommend to the President that such sale be disapproved.".

(3) Section 71(a) of such Act (22 U.S.C. 2797(a)) is amended by inserting ", the Director of the Arms Control and Disarmament Agency," after "the Secretary of Defense".

(4) Section 71(b)(1) of such Act (22 U.S.C. 2797(b)(1)) is amended by inserting "and the Director of the United States Arms Control and Disarmament Agency" after "Secretary of Defense".

(5) Section 71(b)(2) of such Act (22 U.S.C. 2797(b)(2)) is amended—

(A) by striking "and the Secretary of Commerce" and inserting ", the Secretary of Commerce, and the Director of the United States Arms Control and Disarmament Agency"; and

(B) by inserting "or the Director" after "relevant Secretary".

(6) Section 71(c) of such Act (22 U.S.C. 2797(c)) is amended by inserting "with the Director of the United States Arms Control and Disarmament Agency," after "Director of Central Intelligence,".

(7) Section 73(d) of such Act (22 U.S.C. 2797(d)) is amended by striking "and the Secretary of Commerce," and inserting ", the Secretary of Commerce, and the Director of the United States Arms Control and Disarmament Agency,".

(b) AMENDMENT TO THE NUCLEAR NON-PROLIFERATION ACT.—Section 309(c) of the Nuclear Non-Proliferation Act of 1978 (42 U.S.C. 2139a(c)) is amended in the second sentence by striking out ", as required,".

SEC. 715. APPOINTMENT AND COMPENSATION OF PERSONNEL.

Section 41(b) of the Arms Control and Disarmament Act (22 U.S.C. 2581(b)) is amended by striking "except that during the 2-year" and all that follows through the end thereof and inserting "except that the Director may, to the extent the Director determines necessary to the discharge of his responsibilities, appoint and fix the compensation of employees possessing specialized technical expertise without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, if the Director ensures that—

"(1) any employee who is appointed under this exception is not paid at a rate—

"(A) in excess of the rate payable for positions of equivalent difficulty or responsibility, or

"(B) exceeding the maximum rate payable for grade 15 of the General Schedule; and

"(2) the number of employees appointed under this exception shall not exceed 10 percent of the Agency's full-time-equivalent ceiling.".

SEC. 716. SECURITY REQUIREMENTS.

Section 45(a) (22 U.S.C. 2585) is amended in the third sentence—

(1) by inserting "or employed directly from other Government agencies" after "persons detailed from other Government agencies"; and

(2) by striking "by the Department of Defense or the Department of State" and inserting "by such agencies".

SEC. 717. REPORTS.

(a) IN GENERAL.—Title IV of the Arms Control and Disarmament Act is amended—

(1) by striking sections 49 and 50;

(2) by redesignating sections 51 and 53 as sections 49 and 50, respectively; and

(3) by inserting after section 50 (as redesignated by paragraph (2)) the following new sections:

"ANNUAL REPORT TO CONGRESS

"SEC. 51. (a) IN GENERAL.—Not later than January 31 of each year, the President shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report prepared by the Director, in consultation with the Secretary of State, the Secretary of Defense, the Secretary of Energy, the Chairman of the Joint Chiefs of Staff, and the Director of Central Intelligence, on the status of United States policy and actions with respect to arms control, nonproliferation, and disarmament. Such report shall include—

"(1) a detailed statement concerning the arms control and disarmament objectives of the executive branch of Government for the forthcoming year;

"(2) a detailed statement concerning the nonproliferation objectives of the executive branch of Government for the forthcoming year;

"(3) a detailed assessment of the status of any ongoing arms control or disarmament negotiations, including a comprehensive description of negotiations or other activities during the preceding year and an appraisal of the status and prospects for the forthcoming year;

"(4) a detailed assessment of the status of any ongoing nonproliferation negotiations or other activities, including a comprehensive description of the negotiations or other activities during the preceding year and an appraisal of the status and prospects for the forthcoming year;

"(5) a detailed assessment of adherence of the United States to obligations undertaken in arms control, nonproliferation, and disarmament agreements, including information on the policies and organization of each relevant agency or department of the United States to ensure adherence to such obligations, a description of national security programs with a direct bearing on questions of adherence to such obligations and of steps being taken to ensure adherence, and a compilation of any substantive questions raised during the preceding year and any corrective action taken; and

"(6) a detailed assessment of the adherence of other nations to obligations undertaken in all arms control, nonproliferation, and disarmament agreements to which the United States is a participating state, including information on actions taken by each nation with regard to the size, structure, and disposition of its military forces in order to comply with arms control, nonproliferation, or disarmament agreements, and shall include, in the case of each agreement about which compliance questions exist—

"(A) a description of each significant issue raised and efforts made and contemplated with the other participating state to seek resolution of the difficulty;

"(B) an assessment of damage, if any, to the United States security and other interests; and

"(C) recommendations as to any steps that should be considered to redress any damage to United States national security and to reduce compliance problems.

"(b) CLASSIFICATION OF THE REPORT.—The report required by this section shall be submitted in unclassified form, with classified annexes, as appropriate.

"PUBLIC ANNUAL REPORT ON WORLD MILITARY EXPENDITURES AND ARMS TRANSFERS

"SEC. 52. Not later than December 31 of each year, the Director shall publish an unclassified report on world military expenditures and arms transfers. Such report shall provide detailed, comprehensive, and statistical information regarding military expenditures, arms transfers, armed forces, and related economic data for each country of the world. In addition, such report shall include pertinent in-depth analyses as well as highlights with respect to arms transfers and proliferation trends and initiatives affecting such developments.".

(b) REPORT ON REVITALIZATION OF ACDA.—Not later than December 31, 1995, the Director of the United States Arms Control and Disarmament Agency shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a detailed report describing the actions that have been taken and that are underway to revitalize the United States Arms Control and Disarmament Agency pursuant to the provisions of this part and the amendments made by this part.

SEC. 718. FUNDING.

(a) IN GENERAL.—Title IV of the Arms Control and Disarmament Act, as amended by section 717, is further amended by adding at the end the following:

"REQUIREMENT FOR AUTHORIZATION OF APPROPRIATIONS

"SEC. 53. (a) LIMITATION ON OBLIGATION AND EXPENDITURE OF FUNDS.—Notwithstanding any other provision of law, for the fiscal year 1994 and for each subsequent year, any funds appropriated for the Agency shall not be available for obligation or expenditure—

"(1) unless such funds are appropriated pursuant to an authorization of appropriations; or

"(2) in excess of the authorized level of appropriations.

"(b) SUBSEQUENT AUTHORIZATION.—The limitation under subsection (a) shall not apply to the extent that an authorization of appropriations is enacted after such funds are appropriated.

"(c) APPLICATION.—The provisions of this section—

"(1) may not be superseded, except by a provision of law which specifically repeals, modifies, or supersedes the provisions of this section; and

"(2) shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts which are authorized by law and administered by the Agency.

"TRANSFERS AND REPROGRAMMINGS

"SEC. 54. (a) TRANSFER OF FUNDS.—Funds appropriated for the purpose of carrying out this Act may be allocated or transferred to any agency for such purpose. Such funds shall be available for obligation and expenditure in accordance with the authorities of this Act or in accordance with the authorities governing the activities of the agencies to which such funds are allocated or transferred.

"(b) LIMITATION.—Not more than 12 percent of any appropriation made for the purpose of carrying out this Act shall be obligated or reserved during the last month of the fiscal year.".

"(c) CONGRESSIONAL NOTIFICATION OF CERTAIN REPROGRAMMINGS.—Unless the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified at least 15 days in advance of the proposed reprogramming, funds appropriated to carry out this Act (other than funds to carry out title V) shall not be available for obligation or expenditure through any reprogramming of funds that—

"(1) would create or eliminate a program, project, or activity;

"(2) would increase funds or personnel by any means for any program, project, or activity for which funds have been denied or restricted by the Congress;

"(3) would relocate an office or employees;

"(4) would reorganize offices, programs, projects, or activities;

"(5) would involve contracting out functions which had been performed by Federal employees; or

"(6) would involve a reprogramming in excess of $1,000,000 or 10 percent (whichever is less) and would—

"(A) augment existing programs, projects, or activities,

"(B) reduce by 10 percent or more the funding for any existing program, project, activity, or personnel approved by the Congress, or

"(C) result from any general savings from a reduction in personnel that would result in a change in existing programs, activities, or projects approved by the Congress.

"(d) LIMITATION ON END-OF-YEAR REPROGRAMMINGS.—Funds appropriated to carry out this Act (other than funds to carry out title V) shall not be available for obligation or expenditure through any reprogramming described in paragraph (1) during the last 15 days in which such funds are available for obligation or expenditure (as the case may be) unless the notification required by that paragraph was submitted before that 15-day period.".

SEC. 719. CONFORMING AMENDMENTS.

(a) Section 2 (22 U.S.C. 2551) is amended—

(1) in the second undesignated paragraph, by inserting ", nonproliferation," after "Arms control"; and

(2) in the second and third undesignated paragraphs, by inserting ", nonproliferation," after "arms control" each place it appears.

(b) Section 28 (22 U.S.C. 2568) is amended—

(1) in the first sentence, by striking "field of arms control and disarmament" and inserting "fields of arms control, nonproliferation, and disarmament"; and

(2) in the second sentence, by inserting ", nonproliferation," after "arms control".

(c) Section 31 (22 U.S.C. 2571) is amended—

(1) in the text above paragraph (a), by striking "field of arms control and disarmament" each of the three places it appears and inserting "fields of arms control, nonproliferation, and disarmament";

(2) in the first sentence, by inserting "and nonproliferation" after disarmament; and

(3) in the fourth sentence, by inserting ", nonproliferation," after "arms control" each of the eight places it appears.

(d) Section 35 (22 U.S.C. 2575) is amended by inserting ", nonproliferation," after "arms control".

(e) Section 36 (22 U.S.C. 2576) is amended—

(1) by amending the section heading to read as follows: "ARMS CONTROL INFORMATION";

(2) by striking "(a)"; and

(3) by inserting ", nonproliferation," after "arms control" each of the two places it appears.

(f) Section 39 (22 U.S.C. 2579) is amended by inserting ", nonproliferation," after "arms control" each of the two places it appears.

(g) Section 49 (as redesignated by section 817(a)(2)) is amended—

(1) by striking "Soviet"; and

(2) by inserting "of the former Soviet Union" after "affairs".

PART B—AMENDMENTS TO THE ARMS EXPORT CONTROL ACT

SEC. 731. LIMITATION ON AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.

(a) TRANSFERS TO COUNTRIES ON THE SOUTHERN AND SOUTHEASTERN FLANK OF NATO.—Section 516(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(b)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the President first considers the effects of the transfer of the excess defense articles on the national technology and industrial base, particularly the extent, if any, to which the transfer reduces the opportunities of entities in the national technology and industrial base to sell new equipment to the country or countries to which the excess defense articles are transferred.".

(b) Transfers to Countries Participating in a Comprehensive National Antinarcotics Program.—Section 517(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k(f)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the President first considers the effects of the transfer of the excess defense articles on the national technology and industrial base, particularly the extent, if any, to which the transfer reduces the opportunities of entities in the national technology and industrial base to sell new equipment to the country or countries to which the excess defense articles are transferred.".

(c) Transfers to Countries Eligible To Participate in a Foreign Military Financing Program.—Section 519(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321m(b)) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(5) the President first considers the effects of the transfer of the excess defense articles on the national technology and industrial base, particularly the extent, if any, to which the transfer reduces the opportunities of entities in the national technology and industrial base to sell new equipment to the country or countries to which the excess defense articles are transferred.".

(d) Sales From Stock Under Arms Export Control Act.—Section 21 of the Arms Export Control Act (22 U.S.C. 2761) is amended by adding at the end the following new subsection:

"(k) Before entering into the sale under this Act of defense articles that are excess to the stocks of the Department of Defense, the President shall first consider the effects of the sale of the articles on the national technology and industrial base, particularly the extent, if any, to which the sale reduces the opportunities of entities in the national technology and industrial base to sell new equipment to the country or countries to which the excess defense articles are sold.".

(e) Leases Under Arms Export Control Act.—Section 61(a) of the Arms Export Control Act (22 U.S.C. 2796(a)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by redesignating paragraph (3) as paragraph (4);

(3) by inserting after paragraph (2) the following new paragraph (3):

"(3) the President first considers the effects of the lease of the articles on the national technology and industrial base, particularly the extent, if any, to which the lease reduces the opportunities of entities in the national technology and industrial base to sell new equipment to the country or countries to which the articles are leased; and"; and

(4) in the matter following paragraph (4) (as redesignated by paragraph (2) of this subsection) by striking "paragraph (3)" each place it appears and inserting "paragraph (4)".

SEC. 732. REPORTS UNDER THE ARMS EXPORT CONTROL ACT.

(a) Numbered Certifications With Respect to Government-To-Government Sales.—Section 36(b)(1) of the Arms Export Control Act (22 U.S.C. 2776(b)(1)) is amended—

(1) by inserting after the second sentence the following new sentence: "Each such numbered certification shall contain an item indicating whether any offset agreement is proposed to be entered into in connection with such letter of offer to sell (if known on the date of transmittal of such certification)."; and

(2) in subparagraph (C) by inserting "and a description from such contractor of any offset agreements proposed to be entered into in connection with such sale" after "sold".

(b) Numbered Certifications With Respect to Commercial Exports.—Section 36(c)(1) of the Arms Export Control Act (22 U.S.C. 2776(c)(1)) is amended—

(1) by inserting after the first sentence the following new sentence: "Each such numbered certification shall also contain an item indicating whether any offset agreement is proposed to be entered into in connection with such export (if known on the date of transmittal of such certification)."; and

(2) in the third sentence by inserting "and a description from the person who has submitted the license application of any offset agreement proposed to be entered into in connection with such export (if known on the date of transmittal of such statement)" after "Secretary of Defense".

(c) Definitions.—Section 36 of the Arms Export Control Act (22 U.S.C. 2776) is amended by adding at the end the following:

"(e) For purposes of this section—

"(1) the term 'offset agreement' means an agreement, arrangement, or understanding between a United States supplier of defense articles or defense services and a foreign country under which the supplier agrees to purchase or acquire, or to promote the purchase or acquisition by other United States persons of, goods or services produced, manufactured, grown, or extracted, in whole or in part, in that foreign country in consideration for the purchase by the foreign country of defense articles or defense service from the supplier; and

"(2) the term 'United States person' means—

"(A) an individual who is a national or permanent resident alien of the United States; and

"(B) any corporation, business association, partnership, trust, or other juridical entity—

"(i) organized under the laws of the United States or any State, district, territory, or possession thereof; or

"(ii) owned or controlled in fact by individuals described in subparagraph (A).".

SEC. 734. PROHIBITION ON INCENTIVE PAYMENTS UNDER THE ARMS EXPORT CONTROL ACT.

The Arms Export Control Act (22 U.S.C. 2779) is amended by inserting after section 39 the following new section:

"SEC. 39A. PROHIBITION ON INCENTIVE PAYMENTS.

"(a) No United States supplier of defense articles or services sold under this Act, nor any employee, agent, or subcontractor thereof, shall, with respect to the sale of any such defense article or defense service to a foreign country, make any incentive payments for the purpose of satisfying, in whole or in part, any offset agreement with that country.

"(b) Any person who violates the provisions of this section shall be subject to the imposition of civil penalties as provided for in this section.

"(c) In the enforcement of this section, the President is authorized to exercise the same powers concerning violations and enforcement and imposition of civil penalties which are conferred upon departments, agencies and officials by subsections (c), (d), (e), and (f) of section 11 of the Export Administration Act of 1979 and section 12(a) of such Act, subject to the same terms and conditions as are applicable to such powers under that Act, except that notwithstanding section 11(c) of that Act, the civil penalty for each violation of this section may not exceed $500,000 or five times the amount of the prohibited incentive payment, whichever is greater.

"(d) For purposes of this section—

"(1) the term 'offset agreement' means an agreement, arrangement, or understanding between a United States supplier of defense articles or defense services and a foreign country under which the supplier agrees to purchase or acquire, or to promote the purchase or acquisition by other United States persons of, goods or services produced, manufactured, grown, or extracted, in whole or in part, in that foreign country in consideration for the purchase by the foreign country of defense articles or defense services from the supplier;

"(2) the term 'incentive payments' means direct monetary compensation made by a United States supplier of defense articles or defense services or by any employee, agent or subcontractor thereof to any other United States person to induce or persuade that United States person to purchase or acquire goods or services produced, manufactured, grown, or extracted, in whole or in part, in the foreign country which is purchasing those defense articles or services from the United States supplier; and

"(3) the term 'United States person' means—

"(A) an individual who is a national or permanent resident alien of the United States; and

"(B) any corporation, business association, partnership, trust, or other juridical entity—

"(i) organized under the laws of the United States or any State, the District of Columbia, or any territory or possession of the United States; or

"(ii) owned or controlled in fact by individuals described in subparagraph (A).".

SEC. 735. MISSILE TECHNOLOGY EXPORTS TO CERTAIN MIDDLE EASTERN AND ASIAN COUNTRIES.

(a) Exports by United States Persons.—Section 72 of the Arms Export Control Act (22 U.S.C. 2797a) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) Presumption.—In determining whether to apply sanctions under subsection (a) to a United States person involved in the export, transfer, or trade of an item on the MTCR Annex, it should be a rebuttable presumption that such item is designed for use in a missile listed in the MTCR Annex if the President determines that the final destination of the item is a country the government of which the Secretary of State has determined, for purposes of 6(j)(1)(A) of the Export Administration Act of 1979, has repeatedly provided support for acts of international terrorism.".

(b) Exports by Foreign Persons.—Section 73 of the Arms Export Control Act (22 U.S.C. 2797b) is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

"(f) Presumption.—In determining whether to apply sanctions under subsection (a) to a foreign person involved in the export, transfer, or trade of an item on the MTCR Annex, it should be a rebuttable presumption that such item is designed for use in a missile listed in the MTCR Annex if the President determines that the final destination of the item is a country the government of which the Secretary of State has determined, for purposes of 6(j)(1)(A) of the Export Administration Act of 1979, has repeatedly provided support for acts of international terrorism.".

SEC. 736. NOTIFICATION OF CONGRESS ON CERTAIN EVENTS INVOLVING THE MISSILE TECHNOLOGY CONTROL REGIME (MTCR).

(a) SALE OF DEFENSE ARTICLES OR SERVICES.—Section 36(b)(1) of the Arms Export Control Act is amended by inserting after "sensitivity of such technology." the following new sentence: "In a case in which such articles or services listed on the Missile Technology Control Regime Annex are intended to support the design, development, or production of a Category I space launch vehicle system (as defined in section 74), such report shall include a description of the proposed export and rationale for approving such export, including the consistency of such export with United States missile nonproliferation policy.".

(b) EXPORT OF MAJOR DEFENSE EQUIPMENT.—Section 36(c)(1) of the Arms Export Control Act is amended by inserting after "in consultation with the Secretary of Defense." the following new sentence: "In a case in which such articles or services are listed on the Missile Technology Control Regime Annex and are intended to support the design, development, or production of a Category I space launch vehicle system (as defined in section 74), such report shall include a description of the proposed export and rationale for approving such export, including the consistency of such export with United States missile nonproliferation policy.".

(c) LICENSING.—Section 71 of the Arms Export Control Act is amended by inserting after subsection (c) the following new subsection:

"(d) EXPORTS TO SPACE LAUNCH VEHICLE PROGRAMS.—Within 15 days after the issuance of a license for the export of items valued at less than $14,000,000 that are controlled under this Act pursuant to United States obligations under the Missile Technology Control Regime and intended to support the design, development, or production of a space launch vehicle system listed in Category I of the MTCR Annex, the Secretary shall transmit to the Congress a report describing the licensed export and rationale for approving such export, including the consistency of such export with United States missile nonproliferation policy. The requirement contained in the preceding sentence shall not apply to licenses for exports to countries that were Members of the MTCR as of April 17, 1987.

(d) NOTIFICATION OF ADMITTANCE ON MTCR ADHERENTS.—The Arms Export Control Act is amended by inserting after section 73 the following new section:

"SEC. 73A. NOTIFICATION OF ADMITTANCE OF MTCR ADHERENTS.

"Following any action by the United States that results in a country becoming a MTCR adherent, the President shall transmit promptly to the Congress a report which describes the rationale for such action, together with an assessment of that country's nonproliferation policies, practices, and commitments. Such report shall also include the text of any agreements or understandings between the United States and such country regarding the terms and conditions of the country's adherence to the MTCR.".

SEC. 737. CONTROL OF REEXPORTS TO TERRORIST COUNTRIES.

Section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) is amended by adding at the end the following new paragraph:

"(5) The Secretary and the Secretary of State shall include in the notification required by paragraph (2)—

"(A) a detailed description of the goods or services to be offered, including a brief description of the capabilities of any article for which a license to export is sought;

"(B) the reasons why the foreign country or international organization to which the export or transfer is proposed to be made needs the goods or services which are the subject of such export or transfer and a description of the manner in which such country or organization intends to use such articles, services, or design and construction services;

"(C) the reasons why the proposed export or transfer is in the national interest of the United States;

"(D) an analysis of the impact of the proposed export or transfer on the military capabilities of the foreign country or international organization to which such export or transfer would be made;

"(E) an analysis of the manner in which the proposed export would affect the relative military strengths of countries in the region to which the goods or services which are the subject of such export would be delivered and whether other countries in the region have comparable kinds and amounts of articles, services, or design and construction services; and

"(F) an analysis of the impact of the proposed export or transfer on the United States relations with the countries in the region to which the goods or services which are the subject of such export would be delivered.".

TITLE VIII—NUCLEAR PROLIFERATION PREVENTION ACT

SEC. 801. SHORT TITLE.

This title may be cited as the "Nuclear Proliferation Prevention Act of 1994".

PART A—REPORTING ON NUCLEAR EXPORTS

SEC. 811. REPORTS TO CONGRESS.

Section 601(a) of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3281(a)) is amended—

(1) in paragraph (4), by striking "and" after the semicolon;

(2) in paragraph (5), by striking the period and inserting a semicolon; and

(3) by adding after paragraph (5) the following:

"(6) a description of the implementation of nuclear and nuclear-related dual-use export controls in the preceding calendar year, including a summary by type of commodity and destination of—

"(A) all transactions for which—

"(i) an export license was issued for any good controlled under section 309(c) of this Act;

"(ii) an export license was issued under section 109 b. of the 1954 Act;

"(iii) approvals were issued under the Export Administration Act of 1979, or section 109 b.(3) of the 1954 Act, for the retransfer of any item, technical data, component, or substance; or

"(iv) authorizations were made as required by section 57 b.(2) of the 1954 Act to engage, directly or indirectly, in the production of special nuclear material;

"(B) each instance in which—

"(i) a sanction has been imposed under section 821(a) or section 824 of the Nuclear Proliferation Prevention Act of 1994 or section 102(b)(1) of the Arms Export Control Act;

"(ii) sales or leases have been denied under section 3(f) of the Arms Export Control Act or transactions prohibited by reason of acts relating to proliferation of nuclear explosive devices as described in section 40(d) of that Act;

"(iii) a sanction has not been imposed by reason of section 821(c)(2) of the Nuclear Proliferation Prevention Act of 1994 or the imposition of a sanction has been delayed under section 102(b)(4) of the Arms Export Control Act; or

"(iv) a waiver of a sanction has been made under—

"(I) section 821(f) or section 824 of the Nuclear Proliferation Prevention Act of 1994,

"(II) section 620E(d) of the Foreign Assistance Act of 1961, or paragraph (5) or (6)(B) of section 102(b) of the Arms Export Control Act,

"(III) section 40(g) of the Arms Export Control Act with respect to the last sentence of section 40(d) of that Act, or

"(IV) section 614 of the Foreign Assistance Act of 1961 with respect to section 620E of that Act or section 3(f), the last sentence of section 40(d), or 102(b)(1) of the Arms Export Control Act; and

"(C) the progress of those independent states of the former Soviet Union that are non-nuclear-weapon states and of the Baltic states towards achieving the objective of applying full scope safeguards to all their peaceful nuclear activities.

Portions of the information required by paragraph (6) may be submitted in classified form, as necessary. Any such information that may not be published or disclosed under section 12(c)(1) of the Export Administration Act of 1979 shall be submitted as confidential.".

PART B—SANCTIONS FOR NUCLEAR PROLIFERATION

SEC. 821. IMPOSITION OF PROCUREMENT SANCTION ON PERSONS ENGAGING IN EXPORT ACTIVITIES THAT CONTRIBUTE TO PROLIFERATION.

(a) DETERMINATION BY THE PRESIDENT.—

(1) IN GENERAL.—Except as provided in subsection (b)(2), the President shall impose the sanction described in subsection (c) if the President determines in writing that, on or after the effective date of this part, a foreign person or a United States person has materially and with requisite knowledge contributed, through the export from the United States or any other country of any goods or technology (as defined in section 830(2)), to the efforts by any individual, group, or non-nuclear-weapon state to acquire unsafeguarded special nuclear material or to use, develop, produce, stockpile, or otherwise acquire any nuclear explosive device.

(2) PERSONS AGAINST WHICH THE SANCTION IS TO BE IMPOSED.—The sanction shall be imposed pursuant to paragraph (1) on—

(A) the foreign person or United States person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person or United States person;

(C) any foreign person or United States person that is a parent or subsidiary of that person if that parent or subsidiary materially and with requisite knowledge assisted in the activities which were the basis of that determination; and

(D) any foreign person or United States person that is an affiliate of that person if that affiliate materially and with requisite knowledge assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that person.

(3) OTHER SANCTIONS AVAILABLE.—The sanction which is required to be imposed for activities described in this subsection is in addition to any other sanction which may be imposed for the same activities under any other provision of law.

(4) DEFINITION.—For purposes of this subsection, the term "requisite knowledge" means situations in which a person "knows", as "knowing" is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2).

(b) CONSULTATION WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

(1) CONSULTATIONS.—If the President makes a determination described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of the sanction pursuant to this section.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of the sanction pursuant to this section for up to 90 days. Following these consultations, the President shall impose the sanction unless the President determines and certifies in writing to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay the imposition of the sanction for up to an additional 90 days if the President determines and certifies in writing to the Congress that that government is in the process of taking the actions described in the preceding sentence.

(3) REPORT TO CONGRESS.—Not later than 90 days after making a determination under subsection (a)(1), the President shall submit to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

(c) SANCTION.—

(1) DESCRIPTION OF SANCTION.—The sanction to be imposed pursuant to subsection (a)(1) is, except as provided in paragraph (2) of this subsection, that the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(2).

(2) EXCEPTIONS.—The President shall not be required to apply or maintain the sanction under this section—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

(ii) if the President determines in writing that the person or other entity to which the sanction would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines in writing that such articles or services are essential to the national security under defense coproduction agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanction;

(C) to—

(i) spare parts which are essential to United States products or production;

(ii) component parts, but not finished products, essential to United States products or production; or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

(d) ADVISORY OPINIONS.—Upon the request of any person, the Secretary of State may, in consultation with the Secretary of Defense, issue in writing an advisory opinion to that person as to whether a proposed activity by that person would subject that person to the sanction under this section. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanction, and any person who thereafter engages in such activity, may not be made subject to such sanction on account of such activity.

(e) TERMINATION OF THE SANCTION.—The sanction imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of the sanction and shall cease to apply thereafter only if the President determines and certifies in writing to the Congress that—

(1) reliable information indicates that the foreign person or United States person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in that subsection; and

(2) the President has received reliable assurances from the foreign person or United States person, as the case may be, that such person will not, in the future, aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in subsection (a)(1).

(f) WAIVER.—

(1) CRITERION FOR WAIVER.—The President may waive the application of the sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies in writing to the Congress that the continued imposition of the sanction would have a serious adverse effect on vital United States interests.

(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

SEC. 822. ELIGIBILITY FOR ASSISTANCE.

(a) AMENDMENTS TO THE ARMS EXPORT CONTROL ACT.—

(1) PROHIBITION.—Section 3 of the Arms Export Control Act (22 U.S.C. 2753) is amended by adding at the end the following new subsection:

"(f) No sales or leases shall be made to any country that the President has determined is in material breach of its binding commitments to the United States under international treaties or agreements concerning the nonproliferation of nuclear explosive devices (as defined in section 830(4) of the Nuclear Proliferation Prevention Act of 1994) and unsafeguarded special nuclear material (as defined in section 830(8) of that Act).".

(2) DEFINITION OF SUPPORT FOR INTERNATIONAL TERRORISM.—Section 40 of such Act (22 U.S.C. 2780) is amended—

(A) in subsection (d), by adding at the end the following new sentence: "For purposes of this subsection, such acts shall include all activities that the Secretary determines willfully aid or abet the international proliferation of nuclear explosive devices to individuals or groups or willfully aid or abet an individual or groups in acquiring unsafeguarded special nuclear material."; and

(B) in subsection (l)—

(i) in paragraph (2), by striking "and" after the semicolon;

(ii) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

"(4) the term 'nuclear explosive device' has the meaning given that term in section 830(4) of the Nuclear Proliferation Prevention Act of 1994; and

"(5) the term 'unsafeguarded special nuclear material' has the meaning given that term in section 830(8) of the Nuclear Proliferation Prevention Act of 1994.".

(b) FOREIGN ASSISTANCE ACT OF 1961.—

(1) PRESIDENTIAL DETERMINATION 82-7.—Notwithstanding any other provision of law, Presidential Determination No. 82-7 of February 10, 1982, made pursuant to section 670(a)(2) of the Foreign Assistance Act of 1961, shall have no force or effect with respect to any grounds for the prohibition of assistance under section 102(a)(1) of the Arms Export Control Act arising on or after the effective date of this part.

(2) AMENDMENT.—Section 620E(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2375(d)) is amended to read as follows:

"(d) The President may waive the prohibitions of section 101 of the Arms Export Control Act with respect to any grounds for the prohibition of assistance under that section arising before the effective date of part B of the Nuclear Proliferation Prevention Act of 1994 to provide assistance to Pakistan if he determines that to do so is in the national interest of the United States.".

SEC. 823. ROLE OF INTERNATIONAL FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States executive director to each of the international financial institutions described in section 701(a) of the International Financial Institutions Act (22 U.S.C. 262d(a)) to use the voice and vote of the United States to oppose any use of the institution's funds to promote the acquisition of unsafeguarded special nuclear material or the development, stockpiling, or use of any nuclear explosive device by any non-nuclear-weapon state.

(b) DUTIES OF UNITED STATES EXECUTIVE DIRECTORS.—Section 701(b)(3) of the International Financial Institutions Act (22

U.S.C. 262d(b)(3)) is amended to read as follows:

"(3) whether the recipient country—

"(A) is seeking to acquire unsafeguarded special nuclear material (as defined in section 830(8) of the Nuclear Proliferation Prevention Act of 1994) or a nuclear explosive device (as defined in section 830(4) of that Act);

"(B) is not a State Party to the Treaty on the Non-Proliferation of Nuclear Weapons; or

"(C) has detonated a nuclear explosive device; and".

SEC. 824. PROHIBITION ON ASSISTING NUCLEAR PROLIFERATION THROUGH THE PROVISION OF FINANCING.

(a) PROHIBITED ACTIVITY DEFINED.—For purposes of this section, the term "prohibited activity" means the act of knowingly, materially, and directly contributing or attempting to contribute, through the provision of financing, to—

(1) the acquisition of unsafeguarded special nuclear material; or

(2) the use, development, production, stockpiling, or other acquisition of any nuclear explosive device,

by any individual, group, or non-nuclear-weapon state.

(b) PROHIBITION.—To the extent that the United States has jurisdiction to prohibit such activity by such person, no United States person and no foreign person may engage in any prohibited activity.

(c) PRESIDENTIAL DETERMINATION AND ORDER WITH RESPECT TO UNITED STATES AND FOREIGN PERSONS.—If the President determines, in writing after opportunity for a hearing on the record, that a United States person or a foreign person has engaged in a prohibited activity (without regard to whether subsection (b) applies), the President shall, by order, impose the sanctions described in subsection (d) on such person.

(d) SANCTIONS.—The following sanctions shall be imposed pursuant to any order issued under subsection (c) with respect to any United States person or any foreign person:

(1) BAN ON DEALINGS IN GOVERNMENT FINANCE.—

(A) DESIGNATION AS PRIMARY DEALER.—Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, the person as a primary dealer in United States Government debt instruments.

(B) SERVICE AS DEPOSITARY.—The person may not serve as a depositary for United States Government funds.

(2) RESTRICTIONS ON OPERATIONS.—The person may not, directly or indirectly—

(A) commence any line of business in the United States in which the person was not engaged as of the date of the order; or

(B) conduct business from any location in the United States at which the person did not conduct business as of the date of the order.

(e) JUDICIAL REVIEW.—Any determination of the President under subsection (c) shall be subject to judicial review in accordance with chapter 7 of part I of title 5, United States Code.

(f) CONSULTATION WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

(1) CONSULTATIONS.—If the President makes a determination under subsection (c) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with any appropriate foreign government with respect to the imposition of any sanction pursuant to this section.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—

(A) SUSPENSION OF PERIOD FOR IMPOSING SANCTIONS.—In order to pursue consultations described in paragraph (1) with any government referred to in such paragraph, the President may delay, for up to 90 days, the effective date of an order under subsection (c) imposing any sanction.

(B) COORDINATION WITH ACTIVITIES OF FOREIGN GOVERNMENT.—Following consultations described in paragraph (1), the order issued by the President under subsection (c) imposing any sanction on a foreign person shall take effect unless the President determines, and certifies in writing to the Congress, that the government referred to in paragraph (1) has taken specific and effective actions, including the imposition of appropriate penalties, to terminate the involvement of the foreign person in any prohibited activity.

(C) EXTENSION OF PERIOD.—After the end of the period described in subparagraph (A), the President may delay, for up to an additional 90 days, the effective date of an order issued under (b) imposing any sanction on a foreign person if the President determines, and certifies in writing to the Congress, that the appropriate foreign government is in the process of taking actions described in subparagraph (B).

(3) REPORT TO CONGRESS.—Before the end of the 90-day period beginning on the date on which an order is issued under subsection (c), the President shall submit to the Congress a report on—

(A) the status of consultations under this subsection with the government referred to in paragraph (1); and

(B) the basis for any determination under paragraph (2) that such government has taken specific corrective actions.

(g) TERMINATION OF THE SANCTIONS.—Any sanction imposed on any person pursuant to an order issued under subsection (c) shall—

(1) remain in effect for a period of not less than 12 months; and

(2) cease to apply after the end of such 12-month period only if the President determines, and certifies in writing to the Congress, that—

(A) the person has ceased to engage in any prohibited activity; and

(B) the President has received reliable assurances from such person that the person will not, in the future, engage in any prohibited activity.

(h) WAIVER.—The President may waive the continued application of any sanction imposed on any person pursuant to an order issued under subsection (c) if the President determines, and certifies in writing to the Congress, that the continued imposition of the sanction would have a serious adverse effect on the safety and soundness of the domestic or international financial system or on domestic or international payments systems.

(i) ENFORCEMENT ACTION.—The Attorney General may bring an action in an appropriate district court of the United States for injunctive and other appropriate relief with respect to—

(1) any violation of subsection (b); or

(2) any order issued pursuant to subsection (c).

(j) KNOWINGLY DEFINED.—

(1) IN GENERAL.—For purposes of this section, the term "knowingly" means the state of mind of a person with respect to conduct, a circumstance, or a result in which—

(A) such person is aware that such person is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or

(B) such person has a firm belief that such circumstance exists or that such result is substantially certain to occur.

(2) KNOWLEDGE OF THE EXISTENCE OF A PARTICULAR CIRCUMSTANCE.—If knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a person is aware of a high probability of the existence of such circumstance, unless the person actually believes that such circumstance does not exist.

(k) SCOPE OF APPLICATION.—This section shall apply with respect to prohibited activities which occur on or after the date this part takes effect.

SEC. 825. EXPORT-IMPORT BANK.

Section 2(b)(4) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(4)) is amended in the first sentence by inserting after "device" the following: "(as defined in section 830(4) of the Nuclear Proliferation Prevention Act of 1994), or that any country has willfully aided or abetted any non-nuclear-weapon state (as defined in section 830(5) of that Act) to acquire any such nuclear explosive device or to acquire unsafeguarded special nuclear material (as defined in section 830(8) of that Act).".

SEC. 826. AMENDMENT TO THE ARMS EXPORT CONTROL ACT.

(a) IN GENERAL.—The Arms Export Control Act is amended by adding at the end the following new chapter:

"CHAPTER 10—NUCLEAR NONPROLIFERATION CONTROLS

"SEC. 101. NUCLEAR ENRICHMENT TRANSFERS.

"(a) PROHIBITIONS; SAFEGUARDS AND MANAGEMENT.—Except as provided in subsection (b) of this section, no funds made available to carry out the Foreign Assistance Act of 1961 or this Act may be used for the purpose of providing economic assistance (including assistance under chapter 4 of part II of the Foreign Assistance Act of 1961), providing military assistance or grant military education and training, providing assistance under chapter 6 of part II of that Act, or extending military credits or making guarantees, to any country which the President determines delivers nuclear enrichment equipment, materials, or technology to any other country on or after August 4, 1977, or receives such equipment, materials, or technology from any other country on or after August 4, 1977, unless before such delivery—

"(1) the supplying country and receiving country have reached agreement to place all such equipment, materials, or technology, upon delivery, under multilateral auspices and management when available; and

"(2) the recipient country has entered into an agreement with the International Atomic Energy Agency to place all such equipment, materials, technology, and all nuclear fuel and facilities in such country under the safeguards system of such Agency.

"(b) CERTIFICATION BY PRESIDENT OF NECESSITY OF CONTINUED ASSISTANCE; DISAPPROVAL BY CONGRESS.—(1) Notwithstanding subsection (a) of this section, the President may furnish assistance which would otherwise be prohibited under such subsection if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that—

"(A) the termination of such assistance would have a serious adverse effect on vital United States interests; and

"(B) he has received reliable assurances that the country in question will not acquire or develop nuclear weapons or assist other nations in doing so.

Such certification shall set forth the reasons supporting such determination in each particular case.

"(2)(A) A certification under paragraph (1) of this subsection shall take effect on the date on which the certification is received by the Congress. However, if, within thirty calendar days after receiving this certification, the Congress enacts a joint resolution stating in substance that the Congress disapproves the furnishing of assistance pursuant to the certification, then upon the enactment of that resolution the certification shall cease to be effective and all deliveries of assistance furnished under the authority of that certification shall be suspended immediately.

"(B) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"SEC. 102. NUCLEAR REPROCESSING TRANSFERS, ILLEGAL EXPORTS FOR NUCLEAR EXPLOSIVE DEVICES, TRANSFERS OF NUCLEAR EXPLOSIVE DEVICES, AND NUCLEAR DETONATIONS.

"(a) PROHIBITIONS ON ASSISTANCE TO COUNTRIES INVOLVED IN TRANSFER OF NUCLEAR REPROCESSING EQUIPMENT, MATERIALS, OR TECHNOLOGY; EXCEPTIONS; PROCEDURES APPLICABLE.—(1) Except as provided in paragraph (2) of this subsection, no funds made available to carry out the Foreign Assistance Act of 1961 or this Act may be used for the purpose of providing economic assistance (including assistance under chapter 4 of part II of the Foreign Assistance Act of 1961), providing military assistance or grant military education and training, providing assistance under chapter 6 of part II of that Act, or extending military credits or making guarantees, to any country which the President determines—

"(A) delivers nuclear reprocessing equipment, materials, or technology to any other country on or after August 4, 1977, or receives such equipment, materials, or technology from any other country on or after August 4, 1977 (except for the transfer of reprocessing technology associated with the investigation, under international evaluation programs in which the United States participates, of technologies which are alternatives to pure plutonium reprocessing), or

"(B) is a non-nuclear-weapon state which, on or after August 8, 1985, exports illegally (or attempts to export illegally) from the United States any material, equipment, or technology which would contribute significantly to the ability of such country to manufacture a nuclear explosive device, if the President determines that the material, equipment, or technology was to be used by such country in the manufacture of a nuclear explosive device.

For purposes of clause (B), an export (or attempted export) by a person who is an agent of, or is otherwise acting on behalf of or in the interests of, a country shall be considered to be an export (or attempted export) by that country.

"(2) Notwithstanding paragraph (1) of this subsection, the President in any fiscal year may furnish assistance which would otherwise be prohibited under that paragraph if he determines and certifies in writing during that fiscal year to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the termination of such assistance would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security. The President shall transmit with such certification a statement setting forth the specific reasons therefor.

"(3)(A) A certification under paragraph (2) of this subsection shall take effect on the date on which the certification is received by the Congress. However, if, within 30 calendar days after receiving this certification, the Congress enacts a joint resolution stating in substance that the Congress disapproves the furnishing of assistance pursuant to the certification, then upon the enactment of that resolution the certification shall cease to be effective and all deliveries of assistance furnished under the authority of that certification shall be suspended immediately.

"(B) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(b) PROHIBITIONS ON ASSISTANCE TO COUNTRIES INVOLVED IN TRANSFER OR USE OF NUCLEAR EXPLOSIVE DEVICES; EXCEPTIONS; PROCEDURES APPLICABLE.—(1) Except as provided in paragraphs (4), (5), and (6), in the event that the President determines that any country, after the effective date of part B of the Nuclear Proliferation Prevention Act of 1994—

"(A) transfers to a non-nuclear-weapon state a nuclear explosive device,

"(B) is a non-nuclear-weapon state and either—

"(i) receives a nuclear explosive device, or

"(ii) detonates a nuclear explosive device,

"(C) transfers to a non-nuclear-weapon state any design information or component which is determined by the President to be important to, and known by the transferring country to be intended by the recipient state for use in, the development or manufacture of any nuclear explosive device, or

"(D) is a non-nuclear-weapon state and seeks and receives any design information or component which is determined by the President to be important to, and intended by the recipient state for use in, the development or manufacture of any nuclear explosive device,

then the President shall forthwith report in writing his determination to the Congress and shall forthwith impose the sanctions described in paragraph (2) against that country.

"(2) The sanctions referred to in paragraph (1) are as follows:

"(A) The United States Government shall terminate assistance to that country under the Foreign Assistance Act of 1961, except for humanitarian assistance or food or other agricultural commodities.

"(B) The United States Government shall terminate—

"(i) sales to that country under this Act of any defense articles, defense services, or design and construction services, and

"(ii) licenses for the export to that country of any item on the United States Munitions List.

"(C) The United States Government shall terminate all foreign military financing for that country under this Act.

"(D) The United States Government shall deny to that country any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, except that the sanction of this subparagraph shall not apply—

"(i) to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 (relating to congressional oversight of intelligence activities), or

"(ii) to humanitarian assistance.

"(E) The United States Government shall oppose, in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d), the extension of any loan or financial or technical assistance to that country by any international financial institution.

"(F) The United States Government shall prohibit any United States bank from making any loan or providing any credit to the government of that country, except for loans or credits for the purpose of purchasing food or other agricultural commodities.

"(G) The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit exports to that country of specific goods and technology (excluding food and other agricultural commodities), except that such prohibition shall not apply to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 (relating to congressional oversight of intelligence activities).

"(3) As used in this subsection—

"(A) the term 'design information' means specific information that relates to the design of a nuclear explosive device and that is not available to the public; and

"(B) the term 'component' means a specific component of a nuclear explosive device.

"(4)(A) Notwithstanding paragraph (1) of this subsection, the President may, for a period of not more than 30 days of continuous session, delay the imposition of sanctions which would otherwise be required under paragraph (1)(A) or (1)(B) of this subsection if the President first transmits to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, a certification that he has determined that an immediate imposition of sanctions on that country would be detrimental to the national security of the United States. Not more than one such certification may be transmitted for a country with respect to the same detonation, transfer, or receipt of a nuclear explosive device.

"(B) If the President transmits a certification to the Congress under subparagraph (A), a joint resolution which would permit the President to exercise the waiver authority of paragraph (5) of this subsection shall, if introduced in either House within thirty days of continuous session after the Congress receives this certification, be considered in the Senate in accordance with subparagraph (C) of this paragraph.

"(C) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(D) For purposes of this paragraph, the term "joint resolution" means a joint resolution the matter after the resolving clause of which is as follows: "That the Congress having received on ____ a certification by the President under section 102(b)(4) of the Arms Export Control Act with respect to ____, the Congress hereby authorizes the President to exercise the waiver authority contained in section 102(b)(5) of that Act.", with the date of receipt of the certification inserted in the first blank and the name of the country inserted in the second blank.

"(5) Notwithstanding paragraph (1) of this subsection, if the Congress enacts a joint resolution under paragraph (4) of this subsection, the President may waive any sanction which would otherwise be required under paragraph (1)(A) or (1)(B) if he determines and certifies in writing to the Speaker of the House of Representatives and the

Committee on Foreign Relations of the Senate that the imposition of such sanction would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security. The President shall transmit with such certification a statement setting forth the specific reasons therefor.

"(6)(A) In the event the President is required to impose sanctions against a country under paragraph (1)(C) or (1)(D), the President shall forthwith so inform such country and shall impose the required sanctions beginning 30 days after submitting to the Congress the report required by paragraph (1) unless, and to the extent that, there is enacted during the 30-day period a law prohibiting the imposition of such sanctions.

"(B) Notwithstanding any other provision of law, the sanctions which are required to be imposed against a country under paragraph (1)(C) or (1)(D) shall not apply if the President determines and certifies in writing to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives that the application of such sanctions against such country would have a serious adverse effect on vital United States interests. The President shall transmit with such certification a statement setting forth the specific reasons therefor.

"(7) For purposes of this subsection, continuity of session is broken only by an adjournment of Congress sine die and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

"(8) The President may not delegate or transfer his power, authority, or discretion to make or modify determinations under this subsection.

"(c) NON-NUCLEAR-WEAPON STATE DEFINED.—As used in this section, the term 'non-nuclear-weapon state' means any country which is not a nuclear-weapon state, as defined in Article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons.

"SEC. 103. DEFINITION OF NUCLEAR EXPLOSIVE DEVICE.

"As used in this chapter, the term 'nuclear explosive device' has the meaning given that term in section 830(4) of the Nuclear Proliferation Prevention Act of 1994.".

(b) REPEALS.—Sections 669 and 670 of the Foreign Assistance Act of 1961 are hereby repealed.

(c) REFERENCES IN LAW.—Any reference in law as of the date of enactment of this Act to section 669 or 670 of the Foreign Assistance Act of 1961 shall, after such date, be deemed to be a reference to section 101 or 102, as the case may be, of the Arms Export Control Act.

SEC. 827. REWARD.

Section 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a)) is amended—

(1) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(2) by inserting "(1)" after "(a)"; and

(3) by adding at the end the following:

"(2) For purposes of this subsection, the term 'act of international terrorism' includes any act substantially contributing to the acquisition of unsafeguarded special nuclear material (as defined in section 830(8) of the Nuclear Proliferation Prevention Act of 1994) or any nuclear explosive device (as defined in section 830(4) of that Act) by an individual, group, or non-nuclear-weapon state (as defined in section 830(5) of that Act).".

SEC. 828. REPORTS.

(a) CONTENT OF ACDA ANNUAL REPORT.—Section 51(a) of the Arms Control and Disarmament Act, as inserted by this Act, is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and";

(3) by adding after paragraph (6) the following new paragraph:

"(7) a discussion of any material noncompliance by foreign governments with their binding commitments to the United States with respect to the prevention of the spread of nuclear explosive devices (as defined in section 830(4) of the Nuclear Proliferation Prevention Act of 1994) by non-nuclear-weapon states (as defined in section 830(5) of that Act) or the acquisition by such states of unsafeguarded special nuclear material (as defined in section 830(8) of that Act), including—

"(A) a net assessment of the aggregate military significance of all such violations;

"(B) a statement of the compliance policy of the United States with respect to violations of those commitments; and

"(C) what actions, if any, the President has taken or proposes to take to bring any nation committing such a violation into compliance with those commitments."; and

(4) by adding at the end the following new subsection:

"(c) REPORTING CONSECUTIVE NONCOMPLIANCE.—If the President in consecutive reports submitted to the Congress under this section reports that any designated nation is not in full compliance with its binding nonproliferation commitments to the United States, then the President shall include in the second such report an assessment of what actions are necessary to compensate for such violations.".

(b) REPORTING ON DEMARCHES.—(1) It is the sense of the Congress that the Department of State should, in the course of implementing its reporting responsibilities under section 602(c) of the Nuclear Non-Proliferation Act of 1978, include a summary of demarches that the United States has issued or received from foreign governments with respect to activities which are of significance from the proliferation standpoint.

(2) For purposes of this section, the term "demarche" means any official communication by one government to another, by written or oral means, intended by the originating government to express—

(A) a concern over a past, present, or possible future action or activity of the recipient government, or of a person within the jurisdiction of that government, contributing to the global spread of unsafeguarded special nuclear material or of nuclear explosive devices;

(B) a request for the recipient government to counter such action or activity; or

(C) both the concern and request described in subparagraphs (A) and (B).

SEC. 829. TECHNICAL CORRECTION.

Section 133 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2160c) is amended by striking "20 kilograms" and inserting "5 kilograms".

SEC. 830. DEFINITIONS.

For purposes of this part—

(1) the term "foreign person" means—

(A) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other nongovernment entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States;

(2) the term "goods or technology" means—

(A) nuclear materials and equipment and sensitive nuclear technology (as such terms are defined in section 4 of the Nuclear Non-Proliferation Act of 1978), all export items designated by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978, and all technical assistance requiring authorization under section 57 b. of the Atomic Energy Act of 1954, and

(B) in the case of exports from a country other than the United States, any goods or technology that, if exported from the United States, would be goods or technology described in subparagraph (A);

(3) the term "IAEA safeguards" means the safeguards set forth in an agreement between a country and the International Atomic Energy Agency, as authorized by Article III(A)(5) of the Statute of the International Atomic Energy Agency;

(4) the term "nuclear explosive device" means any device, whether assembled or disassembled, that is designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT);

(5) the term "non-nuclear-weapon state" means any country which is not a nuclear-weapon state, as defined by Article IX (3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968;

(6) the term "special nuclear material" has the meaning given that term in section 11 aa. of the Atomic Energy Act of 1954 (42 U.S.C. 2014aa);

(7) the term "United States person" means—

(A) an individual who is a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other nongovernment entity which is not a foreign person; and

(8) the term "unsafeguarded special nuclear material" means special nuclear material which is held in violation of IAEA safeguards or not subject to IAEA safeguards (excluding any quantity of material that could, if it were exported from the United States, be exported under a general license issued by the Nuclear Regulatory Commission).

SEC. 831. EFFECTIVE DATE.

The provisions of this part, and the amendments made by this part, shall take effect 60 days after the date of the enactment of this Act.

PART C—INTERNATIONAL ATOMIC ENERGY AGENCY

SEC. 841. BILATERAL AND MULTILATERAL INITIATIVES.

It is the sense of the Congress that in order to maintain and enhance international confidence in the effectiveness of IAEA safeguards and in other multilateral undertakings to halt the global proliferation of nuclear weapons, the United States should seek to negotiate with other nations and groups of nations, including the IAEA Board of Governors and the Nuclear Suppliers Group, to—

(1) build international support for the principle that nuclear supply relationships must require purchasing nations to agree to full-scope international safeguards;

(2) encourage each nuclear-weapon state within the meaning of the Treaty to under-

take a comprehensive review of its own procedures for declassifying information relating to the design or production of nuclear explosive devices and to investigate any measures that would reduce the risk of such information contributing to nuclear weapons proliferation;

(3) encourage the deferral of efforts to produce weapons-grade nuclear material for large-scale commercial uses until such time as safeguards are developed that can detect, on a timely and reliable basis, the diversion of significant quantities of such material for nuclear explosive purposes;

(4) pursue greater financial support for the implementation and improvement of safeguards from all IAEA member nations with significant nuclear programs, particularly from those nations that are currently using or planning to use weapons-grade nuclear material for commercial purposes;

(5) arrange for the timely payment of annual financial contributions by all members of the IAEA, including the United States;

(6) pursue the elimination of international commerce in highly enriched uranium for use in research reactors while encouraging multilateral cooperation to develop and to use low-enriched alternative nuclear fuels;

(7) oppose efforts by non-nuclear-weapon states to develop or use unsafeguarded nuclear fuels for purposes of naval propulsion;

(8) pursue an international open skies arrangement that would authorize the IAEA to operate surveillance aircraft and would facilitate IAEA access to satellite information for safeguards verification purposes;

(9) develop an institutional means for IAEA member nations to share intelligence material with the IAEA on possible safeguards violations without compromising national security or intelligence sources or methods;

(10) require any exporter of a sensitive nuclear facility or sensitive nuclear technology to a non-nuclear-weapon state to notify the IAEA prior to export and to require safeguards over that facility or technology, regardless of its destination; and

(11) seek agreement among the parties to the Treaty to apply IAEA safeguards in perpetuity and to establish new limits on the right to withdraw from the Treaty.

SEC. 842. IAEA INTERNAL REFORMS.

In order to promote the early adoption of reforms in the implementation of the safeguards responsibilities of the IAEA, the Congress urges the President to negotiate with other nations and groups of nations, including the IAEA Board of Governors and the Nuclear Suppliers Group, to—

(1) improve the access of the IAEA within nuclear facilities that are capable of producing, processing, or fabricating special nuclear material suitable for use in a nuclear explosive device;

(2)(A) facilitate the IAEA's efforts to meet and to maintain its own goals for detecting the diversion of nuclear materials and equipment, giving particular attention to facilities in which there are bulk quantities of plutonium; and

(B) if it is not technically feasible for the IAEA to meet those detection goals in a particular facility, require the IAEA to declare publicly that it is unable to do so;

(3) enable the IAEA to issue fines for violations of safeguards procedures, to pay rewards for information on possible safeguards violations, and to establish a "hot line" for the reporting of such violations and other illicit uses of weapons-grade nuclear material;

(4) establish safeguards at facilities engaged in the manufacture of equipment or material that is especially designated or prepared for the processing, use, or production of special fissionable material or, in the case of non-nuclear-weapon states, of any nuclear explosive device;

(5) establish safeguards over nuclear research and development activities and facilities;

(6) implement special inspections of undeclared nuclear facilities, as provided for under existing safeguards procedures, and seek authority for the IAEA to conduct challenge inspections on demand at suspected nuclear sites;

(7) expand the scope of safeguards to include tritium, uranium concentrates, and nuclear waste containing special fissionable material, and increase the scope of such safeguards on heavy water;

(8) revise downward the IAEA's official minimum amounts of nuclear material ("significant quantity") needed to make a nuclear explosive device and establish these amounts as national rather than facility standards;

(9) expand the use of full-time resident IAEA inspectors at sensitive fuel cycle facilities;

(10) promote the use of near real time material accountancy in the conduct of safeguards at facilities that use, produce, or store significant quantities of special fissionable material;

(11) develop with other IAEA member nations an agreement on procedures to expedite approvals of visa applications by IAEA inspectors;

(12) provide the IAEA the additional funds, technical assistance, and political support necessary to carry out the goals set forth in this subsection; and

(13) make public the annual safeguards implementation report of the IAEA, establishing a public registry of commodities in international nuclear commerce, including dual-use goods, and creating a public repository of current nuclear trade control laws, agreements, regulations, and enforcement and judicial actions by IAEA member nations.

SEC. 843. REPORTING REQUIREMENT.

(a) REPORT REQUIRED.—The President shall, in the report required by section 601(a) of the Nuclear Non-Proliferation Act of 1978, describe—

(1) the steps he has taken to implement sections 841 and 842, and

(2) the progress that has been made and the obstacles that have been encountered in seeking to meet the objectives set forth in sections 841 and 842.

(b) CONTENTS OF REPORT.—Each report under paragraph (1) shall describe—

(1) the bilateral and multilateral initiatives that the President has taken during the period since the enactment of this Act in pursuit of each of the objectives set forth in sections 841 and 842;

(2) any obstacles that have been encountered in the pursuit of those initiatives;

(3) any additional initiatives that have been proposed by other countries or international organizations to strengthen the implementation of IAEA safeguards;

(4) all activities of the Federal Government in support of the objectives set forth in sections 841 and 842;

(5) any recommendations of the President on additional measures to enhance the effectiveness of IAEA safeguards; and

(6) any initiatives that the President plans to take in support of each of the objectives set forth in sections 841 and 842.

SEC. 844. DEFINITIONS.

As used in this part—

(1) the term "highly enriched uranium" means uranium enriched to 20 percent or more in the isotope U-235;

(2) the term "IAEA" means the International Atomic Energy Agency;

(3) the term "near real time material accountancy" means a method of accounting for the location, quantity, and disposition of special fissionable material at facilities that store or process such material, in which verification of peaceful use is continuously achieved by means of frequent physical inventories and the use of in-process instrumentation;

(4) the term "special fissionable material" has the meaning given that term by Article XX(1) of the Statute of the International Atomic Energy Agency, done at the Headquarters of the United Nations on October 26, 1956;

(5) the term "the Treaty" means the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968; and

(6) the terms "IAEA safeguards", "non-nuclear-weapon state", "nuclear explosive device", and "special nuclear material" have the meanings given those terms in section 830 of this Act.

PART D—TERMINATION

SEC. 851. TERMINATION UPON ENACTMENT OF NEXT FOREIGN RELATIONS ACT.

On the date of enactment of the first Foreign Relations Authorization Act that is enacted after the enactment of this Act, the provisions of parts A and B of this title shall cease to be effective, the amendments made by those parts shall be repealed, and any provision of law repealed by those parts shall be reenacted.

TITLE IX—COMMISSION ON PROTECTING AND REDUCING GOVERNMENT SECRECY

SEC. 901. SHORT TITLE.

This title may be cited as the "Protection and Reduction of Government Secrecy Act".

SEC. 902. FINDINGS.

The Congress makes the following findings:

(1) During the Cold War an extensive secrecy system developed which limited public access to information and reduced the ability of the public to participate with full knowledge in the process of governmental decision-making.

(2) In 1992 alone 6,349,532 documents were classified and approximately three million persons held some form of security clearance.

(3) The burden of managing more than 6 million newly classified documents every year has led to tremendous administrative expense, reduced communication within the government and within the scientific community, reduced communication between the government and the people of the United States, and the selective and unauthorized public disclosure of classified information.

(4) It has been estimated that private businesses spend more than $14 billion each year implementing government mandated regulations for protecting classified information.

(5) If a smaller amount of truly sensitive information were classified the information could be held more securely.

(6) In 1970 a Task Force organized by the Defense Science Board and headed by Dr. Frederick Seitz concluded that "more might be gained than lost if our Nation were to adopt—unilaterally, if necessary—a policy of complete openness in all areas of information".

(7) The procedures for granting security clearances have themselves become an expensive and inefficient part of the secrecy system and should be closely examined.

(8) A bipartisan study commission specially constituted for the purpose of examining the consequences of the secrecy system will be able to offer comprehensive proposals for reform.

SEC. 903. PURPOSE.

It is the purpose of this title to establish for a two-year period a Commission on Protecting and Reducing Government Secrecy—

(1) to examine the implications of the extensive classification of information and to make recommendations to reduce the volume of information classified and thereby to strengthen the protection of legitimately classified information; and

(2) to examine and make recommendations concerning current procedures relating to the granting of security clearances.

SEC. 904. COMPOSITION OF THE COMMISSION.

(a) ESTABLISHMENT.—To carry out the purpose of this title, there is established a Commission on Protecting and Reducing Government Secrecy (in this title referred to as the "Commission").

(b) COMPOSITION.—The Commission shall be composed of twelve members, as follows:

(1) Four members appointed by the President, of whom two shall be appointed from the executive branch of the Government and two shall be appointed from private life.

(2) Two members appointed by the Majority Leader of the Senate, of whom one shall be a Member of the Senate and one shall be appointed from private life.

(3) Two members appointed by the Minority Leader of the Senate, of whom one shall be a Member of the Senate and one shall be appointed from private life.

(4) Two members appointed by the Speaker of the House of Representatives, of whom one shall be a Member of the House and one shall be appointed from private life.

(5) Two members appointed by the Minority Leader of the House of Representatives, of whom one shall be a Member of the House and one shall be appointed from private life.

(c) CHAIRMAN.—The Commission shall elect a Chairman from among its members.

(d) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the Chairman or a majority of its members. Seven members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

(e) APPOINTMENT OF MEMBERS; INITIAL MEETING.—(1) It is the sense of the Congress that members of the Commission should be appointed not later than 60 days after the date of enactment of this title.

(2) If after 60 days from the date of enactment of this Act seven or more members of the Commission have been appointed, those members who have been appointed may meet and select a Chairman who thereafter shall have authority to begin the operations of the Commission, including the hiring of staff.

SEC. 905. FUNCTIONS OF THE COMMISSION.

The functions of the Commission shall be—

(1) to conduct, for a period of 2 years from the date of its first meeting, an investigation into all matters in any way related to any legislation, executive order, regulation, practice, or procedure relating to classified information or granting security clearances; and

(2) to submit to the Congress a final report containing such recommendations concerning the classification of national security information and the granting of security clearances as the Commission shall determine, including proposing new procedures, rules, regulations, or legislation.

SEC. 906. POWERS OF THE COMMISSION.

(a) IN GENERAL.—(1) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may for the purpose of carrying out the provisions of this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths, and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents,

as the Commission or such designated subcommittee or designated member may deem advisable.

(2) Subpoenas issued under paragraph (1)(B) may be issued under the signature of the Chairman of the Commission, the chairman of any designated subcommittee, or any designated member, and may be served by any person designated by such Chairman, subcommittee chairman, or member. The provisions of sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192–194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) INFORMATION FROM FEDERAL AGENCIES.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman.

(d) ASSISTANCE FROM FEDERAL AGENCIES.—(1) The Secretary of State is authorized on a reimbursable or non-reimbursable basis to provide the Commission with administrative services, funds, facilities, staff, and other support services for the performance of the Commission's functions.

(2) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(3) In addition to the assistance set forth in paragraphs (1) and (2), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may deem advisable and as may be authorized by law.

(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 907. STAFF OF THE COMMISSION.

(a) IN GENERAL.—The Chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable to a person occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(b) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 908. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—(1) Except as provided in paragraph (2), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(2) Members of the Commission who are officers or employees of the United States or Members of Congress shall receive no additional pay on account of their service on the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 909. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information pursuant to this section who would not otherwise qualify for such security clearance.

SEC. 910. FINAL REPORT OF COMMISSION; TERMINATION.

(a) FINAL REPORT.—Not later than two years after the date of the first meeting of the Commission, the Commission shall submit to the Congress its final report, as described in section 905(2).

(b) TERMINATION.—(1) The Commission, and all the authorities of this title, shall terminate on the date which is 60 days after the date on which a final report is required to be transmitted under subsection (a).

(2) The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its final report and disseminating that report.

And the Senate agree to the same.

From the Committee on Foreign Affairs, for consideration of the House bill (except sections 163, 167, 188, and 190–93), and the Senate amendment (except titles V, VI, IX–XV and sections 162–170E, 189, 701–22, 724–28, 730–31, 734–36, 744–46, 748–61, and 763), and modifications committed to conference:

Lee H. Hamilton,
Howard L. Berman,
Eni Faleomavaega,
M.G. Martinez,
Robert E. Andrews,
Robert Menendez,
Tom Lantos,
Harry Johnston,
Ben Gilman,

From the Committee on Foreign Affairs, for consideration of sections 188 and 190–93 of the House bill, and titles V, VI, IX–XII, and XIII–XIV, sections 163–64, 168–69, 189, 701–22, 724–26, 728, 730–31, 734–36, 744–46, 748–57, 759–61, and 763 of the Senate amendment, and modifications committed to conference:

Lee H. Hamilton,
Sam Gejdenson,
Tom Lantos,
Robert Torricelli,
Howard L. Berman,
G.L. Ackerman,
Harry Johnston,
Eni Faleomavaega,
Ben Gilman,
Toby Roth,
Doug Bereuter,

From the Committee on Foreign Affairs, for consideration of title XII, sections 727 and 758 of the Senate amendment, and modifications committed to conference:

Lee H. Hamilton,
Sam Gejdenson,
Tom Lantos,
Robert Torricelli,
Howard L. Berman,
G.L. Ackerman,
Harry Johnston,
Eni Faleomavaega,
Ben Gilman,
Toby Roth,
Dana Rohrabacher,

From the Committee on Foreign Affairs, for consideration of sections 163 and 167 of the House bill, and title XV, sections 162, 165–67, 170A–E, and 190 of the Senate amendment, and modifications committed to conference:

Lee H. Hamilton,
Sam Gejdenson,
Tom Lantos,
Robert Torricelli,
Howard L. Berman,
G.L. Ackerman,
Harry Johnston,
Eni Faleomavaega,
Ben Gilman,
Bill Goodling,
Doug Bereuter,

As additional conferees from the Committee on Armed Services, for consideration of sections 170B, 170C(a), 170E(a), 721, 734, 749(b)(4), 760, 804, 810, and 1329 of the Senate amendment, and modifications committed to conference:

Ronald V. Dellums,
Norman Sisisky,
John M. Spratt, Jr.,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 759, 1003, 1104, and 1323–25 of the Senate amendment, and modifications committed to conference:

Henry Gonzalez,
Barney Frank,
Steve Neal,
James Leach,
Doug Bereuter,

As additional conferees from the Committee on Energy and Commerce, for consideration of section 731 of the Senate amendment, and modifications committed to conference:

John D. Dingell,
Cardiss Collins,
Thomas J. Manton,
Carlos J. Moorhead,
Cliff Stearns,

As additional conferees from the Committee on Government Operations, for consideration of sections 189 and 721 of the Senate amendment, and modifications committed to conference:

John Conyers, Jr.,
Mike Synar,
Gary A. Condit,

As additional conferees from the Committee on the Judiciary, for consideration of section 133(n) of the House bill, and sections 136, 605, 704, 705, 723, 727, 748, 751, 758, 1201, and 1202 of the Senate amendment, and modifications committed to conference:

Jack Brooks,
R.L. Mazzoli,
John Bryant,
Bill McCollum,
Lamar Smith,

As additional conferees from the Committee on Natural Resources, for consideration of section 164(c) of the House bill, and section 171(c) of the Senate amendment, and modifications committed to conference:

George Miller,
Bruce F. Vento,
Peter DeFazio,

As additional conferees from the Committee on Post Office and Civil Service for consideration of sections 132(a), 133(e), 141–50, 254, 302(b), and 307 of the House bill, and sections 131, 141–53, 155, 229, 234, 309(h), 405(e), 407, 734, 747, and 814 of the Senate amendment, and modifications committed to conference:

Bill Clay,
Frank McCloskey,
Eleanor H. Norton,
John T. Myers,
Connie Morella,

As additional conferees from the Committee on Public Works and Transportation for consideration of sections 764, 1104–05, and 1402(g) of the Senate amendment, and modifications committed to conference:

Norman Mineta,
Jim Oberstar,
Douglas Applegate,
Bud Shuster,
Bill Clinger,

As additional conferees from the Committee on Rules, for consideration of sections 714, 1003, and 1326 of the Senate amendment, and modifications committed to conference:

John Joseph Moakley,
Butler Derrick,
G. Solomon,

Managers on the Part of the House.

John F. Kerry,
Claiborne Pell,
Joe Biden,
Paul Sarbanes,
Christopher J. Dodd,
Paul Simon,
D.P. Moynihan,
Jesse Helms,
Richard G. Lugar,
Nancy Landon
Kassebaum,
Larry Pressler,
Frank H. Murkowski,
Hank Brown,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2333) to authorize appropriations for the Department of State the United States Information Agency, and related agencies, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

Title I—Department of State and Related Agencies

PART A—AUTHORIZATION OF APPROPRIATIONS

The House bill (secs. 101-107, 201) authorizes a total of $7,266,514,000 for fiscal year 1994 and $7,589,829,000 for fiscal year 1995, for the Department of State, AID, USIA and BIB.

The Senate amendment (secs. 101–105, 201, 816) authorizes a total of $6,163,436,000 for fiscal year 1994 and $6,382,057,000 for fiscal year 1995.

The conference substitute (secs. 101-106, 201,) authorizes a total of $6,051,936,000 for fiscal year 1994 and $6,146,636,000 for fiscal year 1995. In addition, the conference substitute authorizes $670,000,000 in fiscal year 1994 supplemental authorizations for assessed peacekeeping arrearages, and $605,113,000 over two years for the Peace Corps and Voluntary Peacekeeping Operations. The conference substitute incorporates the following sub-authorizations:

(1) $500,000 for each fiscal year for recruitment of Hispanic Americans for careers in the Foreign Service.

(2) $5 million for each fiscal year for environmental and scientific grants, requested by the executive branch.

(3) $16,500,000 for each fiscal year for language training.

(4) $11,500,000 for fiscal year 1994 and $11,900,000 for fiscal year 1995 for administrative expenses of the bureau charged with carrying out refugee programs.

(5) $95,904,000 and $114,825,000 for maintenance of buildings and facility rehabilitation.

(6) $700,000 for each fiscal year for the Commission on Protecting and Reducing Government Secrecy.

(7) $400,000 for each fiscal year for the Office of Cambodian Genocide Investigation.

(8) $940,000 for security costs associated with the Asian Pacific Cooperation Conference in Seattle, Washington.

(9) $1,000,000 for security costs associated with the Western Hemisphere summit to be held in Miami, Florida.

(10) $80 million for each fiscal year for refugees resettling in Israel.

(11) $1,000,000 for each fiscal year for the American Studies Collections program.

(12) $1.5 million for fiscal year 1994 and $2 million for fiscal year 1995 for Environment and Sustainable Development Exchange Programs.

(13) $3 million for each fiscal year for the Vietnam Scholarship Program.

(14) $1.5 million for each fiscal year for Burmese refugees.

The conference substitute authorizes a total of $223,858,000 for exchange programs. In general, the conference substitute assumes the executive branch request, but has added the following specific authorizations for fiscal year 1995:

(1) $646,000 above the request, to fully fund the Mansfield Fellowship Program at a total of $896,000.

(2) $250,000 above the request, to fund the American Studies Collections program at a total of $1 million.

(3) $500,000 above the request, to fully fund South Pacific Exchanges at a total of $1 million.

(4) $150,000 above the request, to fully fund Timorese exchanges.

(5) $500,000 above the request, to fully fund Cambodian exchanges.

The committee of conference notes that exchange authorizations have been provided with a minimum of earmarks and sub-authorizations, so as to provide maximum flexibility. The committee of conference expects that appropriations may be made, or that USIA may reprogram funds as necessary to continue funding for a number of worthwhile exchange programs not specifically included in the executive branch request.

The committee of conference notes that 1996 marks the 50th anniversary of the Fulbright Academic exchange program and that this program has been one of the U.S. Government's most effective exchanges. The committee of conference encourages USIA and the Fulbright Board to plan appropriate events for the 50th anniversary in recognition of the exchange's significant contribution to U.S. public diplomacy efforts.

The committee of conference notes that the authorization of $1.5 million each fiscal year for humanitarian assistance for persons displaced by civil conflict in Burma is directed at both those displaced within Burma and those persons now outside of Burma. Questions have been raised concerning the existence of authority to provide assistance to refugees of civil conflict within the territory of Burma as well as in neighboring states. The committee of conference believes that it is important for the United States Government to support ongoing humanitarian efforts aiding persons displaced by civil conflict on both sides of the border. It further believes that this language reflects the intention of earlier Congresses as well, and therefore, merely confirms existing authority. United States assistance has been provided across the border without incident in the past and with very positive results. The committee of conference feels that such assistance should be renewed.

While the committee of conference could not justify the allocation of scarce educational and cultural exchange resources exclusively to events ancillary to the World Cup soccer competition, they recognize that the competition can offer opportunities to advance the public diplomacy goals of the United States. The competition will bring 1.5 million visitors from 23 countries to the United States in the summer of 1994. Some of the ancillary programs to be conducted in conjunction with venue communities, such as the Corcoran Gallery Exhibition, may provide opportunities to foster mutual understanding. Accordingly, the committee of conference encourages USIA, to the extent that programs are within USIA's mandate and within available resources, to offer appropriate support.

The following chart compares the authorization levels in the House bill, the Senate amendment, and the conference substitute:

COMPARISON OF HOUSE AND SENATE STATE/USIA AUTHORIZATION BILLS

[In thousands of dollars]

	1993 actual	1994 appropriated [1]	1995 House bill	1995 Senate bill	1995 conference
I. DEPARTMENT OF STATE					
D&C programs	1,687,797	1,704,589	1,712,609	1,658,184	1,781,139
Salaries and expenses	486,203	396,722	497,495	455,816	391,373
Inspector general	24,055	23,469	24,704	24,055	23,798
Repatriation loans	1,367	776	838	817	776
BPMA	4,000	0	4,104	4,000	0
Foreign buildings	560,500	410,000	392,523	294,850	309,760
Representation	4,900	4,780	5,012	4,881	4,780
Emergencies	8,000	7,805	8,216	8,000	6,500
AIT	15,543	15,165	15,902	15,484	15,465
PFMO	10,814	10,551	11,095	10,814	10,079
International Organizations:					
Assessed	913,214	860,885	935,053	1,000,053	873,222
Peacekeeping:					
Assessed	460,315	401,607	636,469	487,472	510,204
Conferences	5,600	6,000	6,743	6,600	6,000
IBWC	11,330	11,200	11,767	11,330	15,358
IBWC Construction	14,780	14,400	15,198	17,790	10,398
IBC/US-Canada	760	740	784	760	740
IJC	3,643	3,550	3,759	3,643	3,550
Fisheries	14,200	16,200	14,569	14,200	14,669
Refugee Assistance	620,688	670,688	673,500	665,688	673,500
Bilateral Sci/Tech	4,500	4,275	4,617	4,500	0
Asia Foundation	16,693	16,000	19,127	18,693	16,068
Subtotal	4,868,902	4,579,402	4,994,084	4,707,630	4,667,379
II. USIA/BIB					
Salaries and expenses	489,820	473,488	503,362	478,854	480,362
Inspector general	4,390	4,247	4,396	4,390	4,396
NED	30,000	35,000	0	35,000	35,000
East-West Center	26,000	26,000	23,621	26,000	24,500
Education/Cultural:					
Fulbright programs	134,390	130,538	140,743	141,043	126,312
Other programs	107,879	96,962	113,131	105,879	97,546
Admin expenses	0	14,500	0	0	14,500
Broadcasting:					
Operating Expenses	575,446	541,676	717,790	560,790	609,740
Cuba Broadcasting	28,351	21,000	28,362	28,351	27,609
Subtotal	1,396,276	1,343,411	1,531,405	1,380,307	1,419,965
III. ACDA					
Salaries and Expenses	46,500	53,500	55,356	59,375	59,292
State bill subtotal	6,311,678	[1]5,976,313	6,580,845	6,147,312	6,146,636
IV. PEACEKEEPING					
(Supplemental)	0	[2]670,000	0	0	0
V. FAA ACCOUNTS					
IO&P	310,000	360,628	365,000	N/A	0
AID Operations	512,000	504,760	526,902	N/A	0
AID IG	39,316	39,916	39,916	N/A	0
PKO	27,166	[1]75,623	77,166	N/A	75,000
Peace Corps	218,146	[1]219,745	N/A	234,745	234,745
FAA subtotal	1,106,628	1,200,672	1,008,984	234,745	309,745

[1] Proposed conference agreement corresponds to 1994 appropriated levels.

[2] Conference Committee agreed to supplemental authorization. Appropriations have yet to be made.

Withholding of contributions

The Senate amendment reduces the U.S. assessed contribution to international organizations by the amounts of $118,875,000 for each of fiscal years 1994 and 1995 unless the President certifies that no U.S. agency grants any official status, accreditation, or recognition to any organization which promotes, condones, or seeks the legalization of pedophilia.

The House bill contains no comparable provision.

The conference substitute (sec. 102) is identical to the Senate amendment.

PART B—AUTHORITIES AND ACTIVITIES

Authorized strength of the Foreign Service

The Senate amendment (sec. 111) imposes limits on the number of members of the Foreign Service authorized to be employed in fiscal years 1994 and 1995 as follows: for the Department of State not more than 9,100 in fiscal years 1994 and 1995, of whom not more than 820 in fiscal year 1994 and 770 in fiscal year 1995 shall be members of the Senior Foreign Service; and for the United States Information Agency (USIA) not more than 1,200 in fiscal years 1994 and 1995, of whom not more than 175 in fiscal year 1994 and 165 in fiscal year 1995 shall be members of the Senior Foreign Service.

The House bill (sec. 111) contains a similar provision but includes limits for Agency for International Development (AID) to not more than 1,850 members of the Foreign Service in fiscal years 1994 and 1995, of whom not more than 250 in fiscal year 1994 and 240 in fiscal year 1995 shall be members of the Senior Foreign Service.

The conference substitute (sec. 121) is virtually identical to the Senate amendment, but adds the personnel limits for AID contained in the House bill. The committee of conference notes that this provision was included pursuant to a recommendation of the Commission on the Foreign Service Personnel System (the "Thomas Commission"), the establishment of which was mandated by the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989. This provision was included in response to concerns of the committee of conference about the excessive growth of the Senior Foreign Service.

Expenses relating to certain international claims and proceedings

The Senate amendment (sec. 114) provides for the procurement of services of experts for use in preparing or prosecuting a proceeding before an international tribunal or a claim by or against a foreign government or other foreign entity. The Senate amendment also establishes an international litigation fund in order to provide the Department with a dependable multi-year source of funding for expenses related to such proceeding and claims.

The House bill (sec. 113) is virtually identical but contains technical differences.

The conference substitute (sec. 123) is identical to the Senate amendment.

Requirement for authorization of appropriation for AID operating expenses

The House bill (sec. 121) amends the Foreign Assistance Act of 1961 to add a new section 668 which prohibits the obligation or expenditure of funds appropriated for the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 unless such funds are appropriated pursuant to an authorization.

The Senate amendment contains no comparable provision.

The conference substitute is the same as the Senate position.

Notification to Congress of proposed reprogrammings of AID operating expenses

The House bill (sec. 115) amends section 634A of the Foreign Assistance Act of 1961 to add a requirement that the Congress be notified 15 days in advance of the reprogramming of funds appropriated for operating expenses of the agency responsible for administering part I of the Foreign Assistance Act (relating to development assistance).

The Senate amendment contains no comparable provision.

The conference substitute is the same as the Senate position.

Emergencies in the Diplomatic and Consular Service

The House bill (sec. 117) amends the State Department Basic Authorities Act to require the Inspector General of the Department of State to conduct periodic, rather than annual, audits of the Department's emergency expenditures.

The Senate amendment (sec. 116) is virtually identical.

The conference substitute (sec. 125) is identical to the House bill.

Role of the National Foreign Affairs Training Center

The Senate amendment (sec. 119) amends section 701 of the Foreign Service Act of 1980 to authorize the Secretary of State to provide special training programs for officials of foreign governments on a reimbursable basis. The Senate amendment also gives priority to training programs for officials from newly emerging democratic nations.

The House bill (sec. 118) is similar but does not prioritize the provision of training programs.

The conference substitute (sec. 126) is identical to the Senate amendment.

Consular authorities

The House bill (sec. 120) updates certain references to diplomatic and consular officers and allows the Secretary of State to designate Department of State employees who are not diplomatic or consular officers, but who are U.S. citizens, to issue passports and perform notarial services.

The Senate amendment (sec. 117) is virtually identical.

The conference substitute (sec. 127) is identical to the House bill.

Report on consolidation of administrative operations

The House bill (sec. 122) requires the Secretary of State, jointly with the Director of USIA, the Director of the Arms Control and Disarmament Agency (ACDA) and the Administrator of AID, to submit a report to Congress on the feasibility of consolidating domestic administrative operations.

The Senate amendment (sec. 120) is similar but does not include ACDA.

The conference substitute (sec. 128) is identical to the House bill.

Facilitating access to the Department of State

The Senate amendment (sec. 186) requires the Office of Diplomatic Security at the Department of State to establish procedures to facilitate access to the Department of State by Members of Congress and staff of the relevant committees of jurisdiction, requires the Department to make available a reasonable number of temporary parking permits to enable Members of Congress and staff of the relevant committees of jurisdiction to park near or within the Department of State building when attending meetings, and defines the committees of jurisdiction.

The House bill contains no comparable provision.

The conference substitute (sec. 129) requires the Department of State to maintain procedures to ensure easy access to the Department and make available adequate parking in order to facilitate attendance of meetings at the Department of State.

The committee of conference notes that since the adoption of the Senate amendment, the Department of State has instituted procedures to issue Department of State identification cards to Members and staff to allow them basically unimpeded access. The committee of conference commends the Department for this action.

Budget justification for security costs

The Senate amendment (sec. 191) requires the Secretary of State to submit, at the time of the annual submission of the budget of the United States, a detailed budget justification on the cost of providing security domestically and internationally for the Secretary of State.

The House bill contains no comparable provision.

The conference substitute is the same as the House position.

Safety of U.S. personnel in Sarajevo

The Senate amendment (sec. 729) contains congressional findings regarding diplomatic relations with the Government of Bosnia-Hercegovina and the need for an increased and more secure U.S. diplomatic presence in Sarajevo, and expresses the sense of the Senate that the Secretary of State should immediately take steps to increase the presence of U.S. diplomatic personnel in Sarajevo, consistent with the objective of ensuring their physical safety. The Senate amendment also requires the Secretary of State to report to Congress within 30 days on steps taken to enhance the security and safety of U.S. personnel in Sarajevo.

The House bill contains no comparable provision.

The conference substitute (sec. 130) requires the Secretary of State to report to Congress within 30 days on steps taken to enhance the security and physical safety of U.S. diplomatic personnel in Sarajevo, Bosnia-Hercegovina.

The committee of conference notes that the lack of any secure permanent or semipermanent facilities for U.S. diplomatic personnel serving in Sarajevo, Bosnia-Hercegovina impedes their ability to carry out their diplomatic functions. This situation has forced the U.S. Ambassador to reside in, and carry out his duties from, another country. The committee of conference believes that this situation is a detriment to the conduct of diplomatic relations with the Government of Bosnia-Hercegovina and should be rectified. The committee of conference notes that the Department of State has notified the Committee on Foreign Affairs of the House and the Committee on Foreign Relations of the Senate of its intention to open an embassy in Sarajevo.

Repeal of obsolete reporting requirements

The House bill (sec. 119) repeals an obsolete reporting requirement on American prisoners abroad.

The Senate amendment (sec. 188) eliminates 20 reporting requirements which are obsolete or duplicative.

The conference substitute (sec. 139) is similar to the Senate amendment, but does not include two provisions from the Senate amendment regarding the PLO Commitments Compliance report and the status of secondment at the United Nations, and repeals 7 additional reporting requirements requested by the executive branch.

Visas

The Senate amendment (sec. 118) authorizes the Secretary of State, notwithstanding any other provision of law, to charge a fee or surcharge for processing machine readable nonimmigrant visas and machine readable combined border crossing identification cards and nonimmigrant visas. Fees collected under this authority shall be deposited in the general fund of the Treasury and available to the Department of State, subject to amounts appropriated in advance, to recover the costs of providing consular services. The Senate amendment establishes a ceiling of $107.5 million for fiscal years 1994 and 1995 for fees collected under this authority. The Senate amendment exempts nationals of Canada and Mexico from fees under this section. The Senate amendment also requires the Department of State to implement an upgrade of all overseas visa lookout operations to computerized systems with automated multiple-name search capabilities within 24 months of enactment of this act. Finally, the Senate amendment establishes disciplinary procedures for consular officers who fail to follow lookout system procedures and issue visas to persons who are included in the Department's lookout system.

The House bill (sec. 124) authorizes the Secretary of State, notwithstanding any other provision of law, to charge a fee or surcharge for processing machine readable nonimmigrant visas and machine readable combined border crossing identification cards and nonimmigrant visas. Fees collected under this authority shall be deposited as an offsetting collection to any Department of State appropriation to recover the costs of providing consular services. The House bill establishes a ceiling of $56 million for fiscal years 1994 and 1995 for fees collected under this authority. The House bill also requires the Department of State to implement an upgrade of all overseas visa lookout operations to computerized systems with automated multiple-name search capabilities within 18 months of enactment of this act. Finally, the House bill establishes disciplinary procedures for consular officers who fail to follow lookout system procedures and issue visas to persons who are included in the Department's lookout system.

The conference substitute (sec. 140) authorizes the Secretary of State, notwithstanding any other provision of law, to charge a fee or surcharge for processing machine readable nonimmigrant visas and machine readable combined border crossing identification cards and nonimmigrant visas in fiscal years 1994 and 1995. Fees collected under this authority shall be deposited as an offsetting collection to any Department of State appropriation to recover the costs of providing consular services. The conference substitute establishes a ceiling of $107.5 million for fiscal years 1994 and 1995 for fees collected under this authority. Citizens of Mexico and Canada are exempt from fees for fiscal years 1994 and 1995, provided that those countries similarly exempt citizens of the United States. In addition, the conference substitute requires that the Department of State's Consolidated Immigrant Visa Processing Center have on-line access without payment to the Interstate Identification Index (III) solely for the purpose of determining whether a visa applicant has a criminal history record indexed in the III. The conference substitute also requires the Department of State to implement an upgrade of all overseas visa lookout operations to computerized systems with automated multiple-name search capabilities within 18 months of enactment of this act. Finally, the conference substitute establishes disciplinary procedures for consular officers who fail to follow lookout system procedures and issue visas to persons who are included in the Department's lookout system.

The committee of conference emphasizes that the purpose of this fee retention authority is to provide enhanced consular services and equipment upgrades above and beyond current base consular services and modernization programs. This new authority is not intended to permit any of the current consular base funding to be transferred to any other purpose.

Local guard contracts abroad

The House bill (sec. 123) amends section 136(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 to require the Secretary of State, with respect to contracts for local guard services abroad which exceed $250,000, to award such contracts through competitive bidding and, in evaluating and scoring proposals for such contracts, award not less than 60 percent of the total points on the basis of technical capacity.

The Senate amendment (sec. 121) is similar, but adds three additional requirements. The Senate amendment requires the Secretary of State to allow all solicitations to be bid in U.S. dollars, ensure that contracts awarded to U.S. firms are paid in U.S. dollars, and ensure the U.S. diplomatic and consular posts assist U.S. firms in obtaining local licenses and permits.

The conference substitute (sec. 141) is similar to the Senate amendment but makes technical and clarifying changes.

Passport security

The Senate amendment (sec. 737) expresses the sense of the Congress that the Department of State should ensure that new passport issuances are secure against counterfeiting, are easily verifiable with appropriate inspection, and contain only American-sourced material and technology. The Senate amendment also requires a report within 30 days on actions taken to achieve these goals.

The House bill contains no comparable provision.

The conference substitute (sec. 131) is virtually identical to the Senate amendment but changes the reporting date to 90 days after enactment.

Record of place of birth

The Senate amendment (sec. 187) requires the Secretary of State to permit the place of birth of U.S. citizens born in Taiwan to be recorded as such for birth certificates or certifications of nationality.

The House bill contains no comparable provision.

The conference substitute (sec. 132) is identical to the Senate amendment.

Consular and diplomatic posts abroad

The House bill (sec. 125) deletes the requirement for reprogramming notifications for amounts made available to pay any expense related to the closing of a diplomatic or consular post abroad.

The Senate amendment contains no comparable provision.

The conference substitute is the same as the Senate position.

Terrorism rewards and reports

The House bill (sec. 126) requires that the annual Department of State report on terrorism submitted pursuant to section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, include information on the efforts by the United States to eliminate international financial support provided to terrorist groups directly or in support of their activities. The House bill (sec. 189) also requires the Secretary of the Treasury, in compiling the annual report on terrorist assets in the United States submitted pursuant to section 304 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, to consult with the Attorney General and other appropriate law enforcement officials, and requires a detailed list and description of specific assets.

The Senate amendment (secs. 122 and 184) requires that the annual Department of State report on terrorism include information on the efforts by the United States to eliminate international financial support provided to terrorist groups directly or in support of their activities and on the nature and extent of assets held in the United States on behalf of countries on the terrorist list and groups involved in acts of terrorism in the preceding year. The Senate amendment also requires the Secretary of State to consult with the Attorney General and other appropriate law enforcement agencies in compiling the report.

The conference substitute (sec. 133) combines and modifies the House bill and Senate amendment. The conference substitute requires that: (1) the annual Department of State report on terrorism include information on the efforts by the United States to eliminate international financial support provided to terrorist groups directly or in support of their activities; and (2) the Secretary of the Treasury consult with the Attorney General and other appropriate law enforcement agencies in compiling the annual report on terrorist assets in the United States and to include specific information of such assets. The conference substitute also amends section 36 of the State Department Basic Authorities Act of 1956 to eliminate the requirement that rewards be paid only for information on acts of international terrorism which occur primarily outside the territorial jurisdiction of the United States. Finally, the conference substitute allows the Department of State to use up to $4 million in funds earmarked for narcotics rewards under section 36(g) of the State Department Basic Authorities Act of 1956 to pay terrorism rewards in fiscal years 1994 and 1995.

The committee of conference notes that the change to the terrorism rewards program is intended to resolve a situation that arose as a result of the World Trade Center bombing in February 1993. The Department of State, because of the restriction on paying rewards only for acts occurring primarily outside the United States, interpreted section 36(a) as prohibiting the offer of a reward for information on the two suspects that evaded capture in the bombing. The Department of Justice which maintains a rewards program for acts occurring within the boundaries of the United States claimed that it was unable to offer a reward due to the lack of adequate funding in its reward fund. The committee of conference, however, does not intend that the Department of State reward program become merely a supplement to the Department of Justice's domestic reward program. The committee of conference intends that the Department of State continue to use this program primarily for its original purposes. The committee of conference expects that rewards for information on acts of terrorism in the United States which may be paid from the Department of State's rewards fund be those which transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum, as was the case in the World Trade Center bombing.

The committee of conference also notes that the ability to use funds earmarked for narcotics purposes for making terrorism rewards was requested by the executive branch. This request was necessitated by the expectation that rewards will be paid in connection with the World Trade Center bombing during that time period. The committee of conference notes that this exception to the earmark is intended to be a one-time exception. The committee urges the Department of State to review ways to make additional funds available for both terrorism and narcotics information rewards, including the use of extrabudgetary funds. The committee of conference notes that other agencies use such mechanisms as the Department of Justice's Special Asset Forfeiture Fund for funding of information needs. The committee of conference expects the Department of State to develop and submit proposals to adequately fund information rewards before it submits its fiscal year 1996 budget request.

Coordination of counterterrorism activity

The Senate amendment (sec. 185) urges the Secretary of State to take steps to ensure coordination of counterterrorism activities occupies a high priority within the Department of State.

The House bill contains no comparable provision.

The conference substitute is the same as the House position.

Property agreements

The Senate amendment (sec. 124) requires the Department of State to account for lease-purchase agreements involving property in foreign countries in accordance with fiscal year obligations.

The House bill contains no comparable provision.

The conference substitute (sec. 134) is identical to the Senate amendment.

This provision encourages OMB to review its implementation of rule 11 so that it does not apply to lease-purchase agreements entered into by the Department of State abroad.

The committee of conference believes that the Department must take advantage, in lean budget times, of favorable purchasing environments overseas which are not likely to be available in the future. This is especially the case in the Newly Independent States where the Department is working to establish a presence in new countries where the United States was not previously represented. This is a limited provision aimed only at contracts entered into abroad by the Department of State. It will enable the Department to use lease-purchase agreements to purchase property overseas and contain the cost growth of our diplomatic presence abroad. The committee of conference expects that this authority will result in $20 million in budget savings over the next ten years, with higher savings accruing in later years as the percentage of government-owed properties increases. After twenty years the Department could expect to avoid annual costs on the order of $50 million per year.

Capital investment fund

The Senate amendment (sec. 125) establishes within the Department of State a Capital Investment Fund to provide for the procurement of information technology and other related capital investments to ensure the efficient management, coordination, operation and utilization of such resources. Funds credited to the Capital Investment Fund shall be treated as reprogramming and may not be available for obligation or expenditure except in compliance with procedures applicable to reprogrammings.

The House bill contains no comparable provision.

The conference substitute (sec. 135) is identical to the Senate amendment.

The committee of conference notes that this authority should be used as a tool to acquire and maintain leading-edge information technology resources. This authority is not intended to be used for capital improvement projects ordinarily funded out of the appropriation for acquisition and maintenance of foreign buildings.

Technical amendment

The Senate amendment (sec. 126) corrects an error in section numbering in section 2 of the State Department Basic Authorities Act caused by an amendment made in 1992.

The House bill contains no comparable provision.

The conference substitute (sec. 162(k)(4)) is identical to the Senate amendment.

Fees for commercial services

The Senate amendment (sec. 741) allows the Secretary of State to charge fees for actual or estimated costs of commercial services at posts abroad where the Department of Commerce does not perform commercial services for which it charges fees. The Senate amendment requires that such fees be deposited as an offsetting collection to any Department of State appropriation to recover the costs of providing commercial services.

The House bill contains no comparable provision.

The conference substitute (sec. 136) is identical to the Senate amendment.

Personal services contracts abroad

The Senate amendment (sec. 742) exempts, where necessary, contracts for personal services abroad from statutory contracting provisions applicable in the United States.

The House bill contains no comparable provision.

The conference substitute (sec. 137) is identical to the Senate amendment.

Publishing international agreements

The House bill (sec. 182) allows the Secretary of State to determine that publication of certain categories of international agreements is not required if: such agreements are not treaties subject to the advice and consent of the Senate; the public interest in such agreements is insufficient to justify their publication because the agreements are no longer in force, do not create private rights, or duties or establish standards to govern government actions in the treatment of private individuals; public interest can adequately be satisfied by an alternative means; or the public disclosure of the text of the agreement would in the opinion of the President be prejudicial to the national security of the United States. The House bill also requires that copies of agreements which are not published will be made available by the Department of State upon request.

The Senate amendment (sec. 738) is virtually identical.

The conference substitute (sec. 138) identical to the House bill.

The committee of conference notes that this section is intended to lighten the Secretary of State's burden and reduce the cost of printing certain international agreements. It is not intended, however, to shift the burden of making such agreements available to the public to individual members or committees of Congress. In fact, the committee of conference expects the Secretary of State to facilitate access to international agreements as necessary to further academic and scholarly research. Access to copies of international agreements exempted from the printing requirement by this section shall, of course, continue to be available to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate upon request. The committee of conference expects the executive branch to provide the Committee on Foreign Affairs of the House and the Committee on Foreign Relations of the Senate with lists of those international agreements which the Secretary has exempted from the printing requirement.

PART C—DEPARTMENT OF STATE ORGANIZATION

The House bill, in general, removes all organizational constraints from permanent law and permits the Secretary of State to organize the Department as deemed necessary. The Senate amendment, in general, amends permanent law only to the extent needed to implement the organizational changes already proposed by the Executive branch.

The conference substitute basically adopts the House construction. This provides a flexibility designed to allow the Department to respond organizationally to rapid changes in international relations without having to obtain legislation to do so. The committee of conference expects that this flexibility will be used not only to create new positions, bureaus and offices, but to abolish obsolete ones. The committee of conference notes that the Secretary's announced reorganization of last year was described at the time as a first step in an ongoing process, and intends that the flexibility provided by this Act permit further organizational change with a minimum of legislation.

Organizing principles

The House bill (sec. 131) contains congressional findings regarding the organization of the Department of State.

The Senate amendment contains no comparable provision.

The conference substitute is the same as the Senate position. The committee of conference notes that the organization of the Department of State should reflect, to the maximum extent possible, the primary responsibility of the Secretary of State under the President to conduct U.S. foreign relations. The committee of conference also notes that, unless compelling considerations so require, statutory authorities should be vested in the Secretary of State, rather than in officials subordinate to the Secretary.

Organization of the Department of State

The House bill (sec. 132(a)) amends section 1 of the State Department Basic Authorities Act of 1956 as follows:

New section 1(a) requires that the Department of State be administered in accordance with the State Department Basic Authorities Act and other provisions of law under the supervision of the Secretary of State. The Secretary shall be appointed by the President, with the advice and consent of the Senate. New section 1(a) also provides that notwithstanding any other provision of law and except as provided elsewhere in this act, the Secretary shall have and exercise any authority vested by law in any office or official of the Department of State. The Secretary shall administer, coordinate, and direct the Foreign Service of the United States and the personnel of the Department of State. The Secretary shall not have the authority of the Inspector General, the Chief Financial Officer, or any authority given expressly to diplomatic or consular officers. New section 1(a) also authorizes the Secretary of State to promulgate such rules and regulations as may be necessary to carry out the functions of the Secretary and the Department and allows the Secretary to delegate authority, including the authority to redelegate such functions, to perform any of the functions of the Secretary or the Department to officers or employees under the direction or supervision of the Secretary.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 161) is virtually identical to the House bill, but specifies that the Secretary may delegate authorities unless otherwise specified in law.

New section 1(b) limits the number of Undersecretaries of State to 5, who shall be appointed with the advice and consent of the Senate.

The Senate amendment (sec. 131(a)) is similar.

The conference substitute (sec. 161) is identical to the House bill.

New section 1(c) limits the number of Assistant Secretaries of State to 21, who shall be appointed with the advice and consent of the Senate.

The Senate amendment (sec. 131(a)) limits the number of Assistant Secretaries of State to 20.

The conference substitute (sec. 161) is identical to the Senate amendment.

The committee of conference notes that the conference substitute authorizes the establishment of a total of up to 20 Assistant Secretary positions, but requires the maintenance of only three such positions, all of which are already required to exist under current law. The conference substitute would permit a net increase of two Assistant Secretary positions over the Department of State's existing total.

The committee of conference acknowledges that the authorized total of 20 is four less than the executive branch's original request. The committee of conference notes, however, that the Senate was sharply divided even on the agreed increase of two, which survived a Senate floor amendment to freeze the number at the current 18 positions by only one vote. The committee of conference encourages the Department to examine whether, given current budget constraints, it is imperative to fully utilize the authorized total of 20 positions. As an alternative, the committee of conference urges the Department to examine the possibility of employing the new flexibility permitted by the conference substitute to abolish one or more Assistant Secretary positions in order to permit the creation of new ones.

The committee of conference further notes widespread agreement with the proposal by the Department to use one of the additional authorized positions to create an Assistant Secretary for Population, Refugees and Migration. Beyond this, however, the committee of conference understands that the Department is planning to use the increased authority provided by this bill to propose the establishment of Assistant Secretaries both for Non-Proliferation and for the Newly Independent States.

Regarding the former proposal, the committee of conference is concerned that the new bureau's responsibilities may create duplication and overlap with the responsibilities envisaged for the Arms Control and Disarmament Agency under Title VII. The committee of conference further notes that a number of questions have been raised about the specifics of the planned division of the current Bureau of Political-Military Affairs which would be necessary to create the new bureau.

Regarding the latter proposal, the committee of conference agrees that the responsibilities of the existing Bureau of European and Canadian Affairs are too broad. The committee questions, however, whether appropriate alternative solutions to this problem, such as the transfer of responsibility for Canada to the Bureau of Inter-American Affairs or for Central Asia to the Bureau of South Asian Affairs, have been fully examined. The committee of conference notes that the deletion of references to specific countries from the existing statute governing the Bureau of South Asian Affairs, for example, is designed to permit consideration of one such alternative.

The committee of conference notes that such organizational changes will in any case be subject to the requirements and limitations of section 34 of the Basic Authorities Act of 1956, and urges the Department to consult with its authorizing committees before arriving at final determinations and submitting required notifications.

New section 1(d) limits the number of Deputy Assistant Secretaries of State to 66.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 161) is identical to the House bill.

New section 1(e) provides that in addition to other officials authorized to be appointed by the President, with the advice and consent of the Senate, and to be compensated at Executive Level IV, 4 other officers of the Department of State are authorized for similar appointments.

The Senate amendment (sec. 131(b)) is similar.

The conference substitute (sec. 161) is similar to the House bill, but makes technical and conforming changes.

The committee of the conference wishes to clarify that these are not intended to be four additional positions. The committee understands that currently the Department intends to use this authorization for the Director of the Office of Foreign Missions, the Chief of Protocol, the Legal Advisor, and the newly-downgraded Counselor position.

The House bill (sec. 132(b)) provides that the amendments made by this section shall apply with respect to officials, offices, and bureaus of the Department of State when executive orders, regulations, or departmental directives implementing such section become effective.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 161(c)) is similar to the House bill but makes technical and conforming corrections.

The House bill (sec. 132(c)) provides that any officer of the Department of State holding office on the date of enactment of this act shall not be required to be reappointed to any other office at the Department at the same level performing similar functions, as determined by the President, by reason of the enactment of the amendments made under by this section.

The Senate amendment (secs. 131(e), 132(c), and 133(b)) contains similar provisions for specific positions within the Department of State.

The conference substitute (sec. 161) is identical to the House bill.

The House bill (sec. 132(d)) provides that a reference in any other provision of law to an official or office of the Department of State affected by the amendment made by this section shall be deemed to be a reference to the Secretary of State or the Department of State as may be appropriate.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 161) is identical to the House bill.

The Senate amendment (sec. 135) amends section 35 of the State Department Basic Authorities Act to delete the statutory requirement for the establishment within the Department of an Office of the Coordinator for International Communications and Information Policy, and redefines the role of the Secretary of State in the conducting of foreign policy with respect to telecommunications functions. The Senate amendment also provides that nothing in the amendments made by this section shall affect the nature or scope of the authority, that is on the date of enactment, vested by law or executive order in the Department of Commerce, the Office of the United States Trade Representative, the Federal Communications Commission, or any officer thereof.

The House bill (sec. 132(e) and 133(l)) is similar and provides that nothing in this section reassigns any function that is, on the date of enactment of this act, vested by law or executive order in the Department of Commerce, the Federal Communications Commission, or any officer thereof.

The conference substitute (sec. 161) is identical to the Senate amendment.

The committee of conference notes that this section is intended to codify the authority of the Department of State set forth in Executive Order 12046, in particular section 5-201, with respect to the telecommunications functions transferred among executive branch agencies by that executive order. As the conference substitute specifies, nothing in this section affects the nature or scope of the authority vested by law or executive order in other executive branch agencies, such as the authority provided in the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418) or in the NTIA Organization Act of 1992 (Public Law 102-538). The committee of conference notes that, to demonstrate fully that the telecommunications function at the Department of State is not being downgraded by the reorganization of the Department, once this legislation is enacted, the person filling the position of Coordinator will be appointed to the rank of Ambassador, with the advice and consent of the Senate.

Technical and conforming amendments

The House bill (sec. 133(a)) repeals the Act of May 26, 1949 which established the authority of the Secretary of State and the organization of the Department.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 162) is identical to the House bill.

The House bill (sec. 133(b)) amends section 115 of the Foreign Relations Authorization Act, Fiscal Year 1979 to eliminate the statutory requirement for the Bureau of International Narcotics Matters at the Department of State.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 162) is identical to the House bill. The committee of conference notes that the Department of State has communicated its intent to retain a Bureau with one of its primary focuses on international narcotics matters. The committee of conference also notes that this Bureau will have responsibility for international crime matters.

The Senate amendment (sec. 131(c)(1)) makes a technical amendment to section 9 of Public Law 93-126 to remove a reference to the Act of May 6, 1949, which is repealed by this act.

The House bill (sec. 133(c)) amends section 9 of Public Law 93-126 to repeal the statutory requirement for the Bureau of Oceans and Environment at the Department of State.

The conference substitute (sec. 162) is identical to the Senate amendment.

The House bill (sec. 133(d)) amends section 122 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 to repeal the statutory requirement for the Bureau of South Asian Affairs.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 162) amends section 122 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 to delete references to the specific countries for which the Bureau of South Asia is responsible.

The House bill (sec. 133(e)) makes conforming amendments to sections 5314 and 5315 of title 5 of the United States Code to reflect other amendments made by this act regarding the organization of the Department of State.

The Senate amendment (sec. 131(c)(3)) is similar.

The conference substitute (sec. 162) is virtually identical to the House bill but makes a technical correction and changes the number of Assistant Secretaries eligible to be paid at executive level IV to 20.

The House bill (sec. 133(f)) amends the Foreign Assistance Act of 1961 to delete references to the Assistant Secretary for Human Rights and repeals the statutory requirement for the Bureau of Human Rights.

The Senate amendment (sec. 132) amends the Foreign Assistance Act of 1961 to change references to the Assistant Secretary for Human Rights to references to the Assistant Secretary for Democracy, Human Rights, and Labor to reflect the Department's proposed reorganization plan.

The conference substitute (sec. 162) establishes within the Department of State a Bureau of Democracy, Human Rights, and Labor, to be headed by an Assistant Secretary. The conference substitute also repeals section 624(f) of the Foreign Assistance Act.

The House bill (sec. 133(g)) amends section 5(d)(1) of the Arms Export Control Act to replace a reference to the Assistant Secretary for Human Rights to a reference to the Secretary of State.

The Senate amendment (sec. 132(b)) is similar.

The conference substitute (sec. 162) is identical to the House bill.

The House bill (sec. 133(h)) amends the Omnibus Diplomatic Security Act of 1986 to delete the statutory requirement for a Bureau of Diplomatic Security at the Department of State and to make other technical and conforming changes. The House bill also delineates the security responsibilities of the Secretary of State.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 162) is identical to the House bill.

The House bill (secs. 133(i)) makes technical and conforming amendments to the Immigration and Nationality Act and the Refugee Act of 1980 and deletes references to the Assistant Secretary for Consular Affairs.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 162) is identical to the House bill.

The House bill (sec. 133(k)) amends section 8125 of the Department of Defense Appropriations Act, Fiscal Year 1989 to repeal the requirement for an Ambassador-at-Large for Burdensharing.

The Senate amendment contains no comparable provision.

The conference substitute is the same as the House bill, but adds a requirement that the Secretary of State establish an Ambassadorial-rank Deputy Assistant Secretary position for Burdensharing.

The committee of conference believes the Ambassador for Burdensharing will play a critical role in ensuring that U.S. allies will pay a more equitable share of the costs of maintaining United States bases overseas and provide the United States with residual value payments as we turn military facilities over to host nations. The Committee of Conference urges the President to submit the nomination of the Ambassador for Burdensharing in sufficient time to permit confirmation before adjournment sine die of the 103rd Congress.

The House bill (secs. 133(m) and (n)) amends the Refugee Act of 1980 and the Immigration and Nationality Act to delete references to the Coordinator for Refugee Affairs and makes other technical and conforming amendments.

The Senate amendment (sec. 136) is similar, but includes guidelines for the coordination of overall U.S. refugee assistance policy.

The conference substitute (sec. 162) is identical to the House bill.

The House bill (sec. 133(o)) amends the State Department Basic Authorities Act to delete the statutory requirement for an Office of Foreign Missions at the Department of State and delineates the responsibilities of the Secretary of State with respect to foreign missions.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 162) is virtually identical to the House bill but makes technical and clarifying changes.

Director General of the Foreign Service

The House bill (sec. 134) amends the Foreign Service Act of 1980 to make the appointment of a Director General of the Foreign Service discretionary.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 163) requires that the Secretary appoint a Director General and that the Director General be a current or former career member of the Foreign Service.

Administrative expenses

The Senate amendment (secs. 134) amends section 482 of the Foreign Assistance Act of 1961 to allow personnel funded with international narcotics control assistance to provide administrative support to personnel assigned by the Secretary to the Bureau to replace the Bureau of International Narcotics Matters, except where to do so would result in a reduction of funds available for antinarcotics assistance to foreign countries. The Senate amendment (sec. 136(c)) also allows personnel funded with refugee and migration assistance authorized to carry out the purposes of the Migration and Refugee Assistance Act to provide administrative assistance to personnel assigned to the bureau charged with carrying out the act.

The House bill contains no comparable provision.

The conference substitute (sec. 164) is identical to the Senate amendment.

Office of Counterterrorism

The House bill (sec. 132(f)) requires the Department of State to maintain a separate Office of Counterterrorism, to be headed by a Coordinator, which shall have the same responsibilities and functions as the Office of the Coordinator for Counterterrorism had on January 20, 1993.

The Senate amendment (sec. 762) establishes within the Department of State a Coordinator for Counterterrorism who shall be appointed by the President, who shall have the rank and status of an Assistant Secretary. The Senate amendment also expresses the sense of the Senate that there shall be in the Department a Deputy Assistant Secretary with the rank of Ambassador whose sole responsibility shall be the day-to-day management of counterterrorism activities at the Department of State.

The conference substitute (sec. 161) requires the Department of State to maintain a separate Office of Counterterrorism, to be headed by a Coordinator, which shall have the same responsibilities and functions as the Office of the Coordinator for Counterterrorism had on January 20, 1993. The requirement of this section shall cease to have effect one year after the date of enactment of this act.

PART D—PERSONNEL

Labor-Management relations

The House bill (sec. 141) prohibits management officials or confidential employees of the Department of State, or any individual who has served in such a capacity in the preceding two years, from participating in the management of a labor organization for purposes of collective bargaining or acting as a representative of a labor organization for such purpose. The House bill also prohibits individuals who have participated in the management of a labor organization in the previous two years from serving as a management official or confidential employee of the Department. The House bill exempts chiefs of mission, principal officers, and their deputies, as well as administrative and personnel officers abroad from this prohibition.

The Senate amendment (sec. 141) contains a similar provision, but does not include the prohibition on labor organization management from serving as a management official or confidential employee of the Department.

The conference substitute (sec. 171) is virtually identical to the House bill but makes a technical correction.

Voluntary Retirement Incentive Program

The House bill (sec. 142) authorizes the Secretary of State, the Administrator of AID, and the Director of USIA to establish and administer for fiscal years 1994 and 1995 a program to provide financial incentives for retirement of members of the Foreign Service who are eligible for retirement. No more than $25,000 may be paid as such an incentive to any eligible individual. The House bill also requires the Secretary of State to ensure that the total cost of the incentives does not exceed the total that the Department would have incurred for pay and personnel benefits.

The Senate amendment contains no comparable provision.

The conference substitute is the same as the Senate position. The committee of conference notes that a Government-wide bill providing for retirement incentives has been enacted since the adoption of the House provision.

Waiver of limit for certain claims for personal property damage or loss

The Senate amendment (sec. 142) allows the Secretary of State to waive the $40,000 limitation for payment of claims arising on or before October 31, 1988 for damage or loss by U.S. Government personnel in countries in which an emergency evacuation order is in effect.

The House bill (sec. 143) is virtually identical.

The conference substitute (sec. 172) is virtually identical to the Senate amendment.

Salaries of chiefs of mission

The House bill (sec. 144) limits the aggregate pay of chiefs of mission so that personnel in such positions are subject to the same aggregate pay limitation as other members of the Senior Foreign Service and most other Federal employees.

The Senate amendment (sec. 143) is similar, but does not make the treatment of salaries of chiefs of mission consistent with other Federal employees.

The conference substitute does not include either provision. Rollover restrictions for Chiefs of Mission in current law remain in place. The committee of conference notes that the executive branch requested the provision included in the House bill. However, since the time of the adoption of this provision, several questions have been raised about the effect of the provision. The committee of conference has decided to defer this issue until a more in-depth examination of pay-related issues can be conducted.

Senior Foreign Service performance pay

The Senate amendment (sec. 144) prohibits the Secretary of State from making awards or paying performance pay during fiscal years 1994 and 1995 until the Director of the Office of Personnel Management has authorized that such performance or rank awards be made to other Federal workers and prohibits the Secretary of State from rolling over such prohibited awards to a subsequent fiscal year. The Senate amendment also amends the Foreign Service Act of 1980 to make the award of performance pay for Senior Foreign Service members subject to the same limits and procedures as apply to members of the Senior Executive Service.

The House bill (sec. 145) contains a similar provision.

The conference substitute (sec. 173) prohibits the Secretary of State, the Director of USIA, the Administrator of the Agency for International Development and the Director of ACDA from awarding or paying performance awards to members of the Senior Foreign Service in fiscal years 1994 and 1995 unless such awards are made to Senior Executive Service employees for such fiscal years.

Reassignment and retirement of former presidential employees

The House bill (sec. 146) requires that members of the Foreign Service who complete assignments in positions to which they were appointed by the President and who are not otherwise eligible for retirement must be reassigned within 90 days after the termination of such assignment and any period of authorized leave. If such person is eligible for retirement and not reassigned within 90 days after the termination of such assignment and any period of authorized leave, such person shall be retired from the Service and receive retirement benefits in accordance with sections 806 or 855 of the Foreign Service Act, as appropriate.

The Senate amendment (sec. 145) is similar.

The conference substitute (sec. 174) generally follows the House construction, but adds provisions restricting retirement benefits to employees separated under this section who return to government.•

Report on classification of senior foreign service positions

The Senate amendment (sec. 146) requires the Comptroller General of the United States to conduct a classification audit of all Senior Foreign Service positions in Washington, D.C., assigned to the Department of State, USIA, and AID not later than 180 days after enactment of this act.

The House bill (sec. 147) is virtually identical.

The conference substitute (sec. 175) is virtually identical to the Senate amendment, but requires the report to be submitted not later than December 31, 1994.

Limitation on number of limited career extensions

The House bill (sec. 148) requires that, effective September 30, 1995, the number of members of the Senior Foreign Service serving under limited career extensions may not exceed 25 percent of the total number of members of the Foreign Service who are eligible to serve under a limited extension.

The Senate amendment contains no comparable provision.

The conference substitute is the same as the Senate position.

Amendments to Title 5 U.S.C.

The Senate amendment (sec. 147) provides an allowance for dependents of Foreign Service employees who are elementary and secondary school students attending boarding school to travel to meet a relative or family friend or to join their parents at any location when travel to the post at which the parents serve is unfeasible. Such allowance may not exceed the travel costs between the dependent's school in the United States and the post where the parents are assigned. The Senate amendment also extends the same allowance as is currently provided to students at U.S. institutions to dependents studying for less than one year at a post-secondary institution abroad under a program approved by the school in the United States at which the dependent is enrolled and limits allowable travel expenses to the cost of travel to and from the school in the United States.

The House bill (sec. 149) is similar but does not contain the limitation on allowable travel expenses for dependents studying abroad.

The conference substitute (sec. 176) is identical to the Senate amendment.

Amendments to chapter 11 of the Foreign Service Act

The Senate amendment (sec. 149) places a one-year limit on the period of enjoyment of interim relief from the Foreign Service Grievance Board, unless the Board or the Department of State are responsible for the delay in resolution of the grievance. If the Board determines that the delay is due to the complexity of the case, the unavailability of witnesses, or to circumstances beyond the control of the Department, the Board, or the grievant, the Board may extend the one-year limit. The Senate amendment also requires filing of judicial review of Foreign Service Grievance Board decisions within 180 days of final action by the Board, or in the case of employees at posts abroad, within 180 days after the employee's return to the United States.

The House bill (sec. 150) is similar but does not allow the Board to extend the one-year limit.

The conference substitute (sec. 177) is identical to the Senate amendment.

Inapplicability of rollover authority

The Senate amendment (sec. 148) excludes Department of State employees from the application of the provisions of title 5 of the United States Code which relate to the ability to carryover from year to year certain allowances.

The House bill contains no comparable provision.

The conference substitute is the House position. The committee of conference notes that this provision, along with section 144 of the House bill and section 143 of the Senate amendment, raise issues which the committee of conference believes need to be reviewed more closely.

Women and minority placement

The Senate amendment (sec. 150) directs the Secretary of State to appoint, to the maximum extent practicable, women and minority applicants to the Foreign Service who are participants in previously established mid-level placement programs of other defense and national security-related agencies that have been impacted by downsizing. The Senate amendment also requires a report not later than 180 days after enactment on the implementation of this program.

The House bill contains no comparable provision.

The conference substitute (sec. 178) is virtually identical to the Senate amendment, but makes a technical clarification.

Employment assistance referral system

The Senate amendment (sec. 151) requires the Secretary of State to establish an employment referral program for employees who are separated because of a reduction in force action at the Department of State.

The House bill contains no comparable provision.

The conference substitute (sec. 179) allows members of the Foreign Service who hold career or career candidate appointments to participate in the Office of Personnel Management's Interagency Placement Program or any successor program. Such members of the Foreign Service shall be treated in the same manner and to the same extent as those employees participating in such a program as of the effective date of this act.

U.S. citizens hired abroad

The Senate amendment (sec. 747) allows the Secretary of State greater flexibility in hiring U.S. citizens, particularly family members of U.S. Government employees, at embassies and consulates abroad.

The House bill contains no comparable provision.

The conference substitute (sec. 180) is virtually identical to the Senate amendment, but does not include a provision allowing the Secretary of State to prescribe the conditions under which to make U.S. family members eligible to participate in the Federal Employees Retirement System (FERS).

The committee of conference recognizes the contributions that private U.S. citizens living and working abroad make to the promotion and protection of the interests of the United States throughout the world, and in particular, their vital role in making the United States more competitive in the world economy. To ensure that everything possible is being done to enable American citizens abroad to compete on a most favored competitor basis, the committee of conference urges the Department of State to undertake, in cooperation with other relevant Departments of the U.S. Government and with the active participation of the overseas American community, a review of U.S. laws and regulations that may impede the ability of American citizens abroad to compete in world markets with citizens of other nations on a level playing field. The committee of conference further believes that a process should be established so that American citizens abroad can contribute their ideas and suggestions for improving the promotion and protection of the interests of the United States throughout the world. The committee of conference urges the Department of State to, consistent with available personnel and resources, consult American citizens abroad at embassy and consulate locations.

Reductions in force

The Senate amendment (sec. 229) allows the Secretary of State to conduct reductions in force and to prescribe regulations for the separation of members of the Foreign Service under such reductions in force.

The House bill contains no comparable provision.

The conference substitute (sec. 181) is similar to the Senate amendment, but makes technical and conforming changes. The committee of conference provided this authority in hopes that the Secretary of State would employ RIF in order to meet the executive branch's goals for reducing the number of federal employees. It has been provided to achieve equitable distribution of downsizing efforts across all classifications of employees at the Department of State.

Restoration of withheld benefits

The Senate amendment (sec. 734) clarifies the intent of section 1058, title 10, United States Code, regarding the military service of retired members of the United States Armed Forces with newly democratic nations. The Senate amendment restores withheld benefits, effective as of January 1, 1993, for any person approved for such employment by the Secretary of State and the Secretary of Defense before the date of enactment of this Act.

The House bill contains no comparable provision.

The conference substitute (sec. 182) is identical to the Senate amendment.

Foreign language competence

The Senate amendment (sec. 152) amends section 161(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, to ensure that assignment of personnel to foreign language competence posts does not disadvantage or otherwise discriminate against non-designated posts seeking or requiring language qualified personnel. The Senate amendment also amends section 164(a) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 to require the suspension of payment of language differentials to employees who do not maintain the required proficiency level until proficiency is regained and directs agencies to recommend that such employees seek remedial training to regain proficiency.

The House bill contains no comparable provision.

The conference substitute (sec. 191) requires the Secretary of State within 180 days of enactment to promulgate regulations: (1) establishing hiring preferences for Foreign Service Officer candidates competent in languages, with priority preference given to those languages in which the Department of State has a deficit; (2) establishing a norm that employees will not receive long-term training in more than three languages, and requiring that employees achieve full professional proficiency in one language as a condition for training in a third, with exceptions for priority needs of the Service at the discretion of the Director General; (3) requiring that employees receiving long-term training in a language, or hired with a hiring preference for a language, serve at least two tours in jobs requiring that language, with exceptions for certain limited-use languages and priority needs of the Service at the discretion of the Director General; (4) requiring that significant consideration be given to foreign language competence and use in the evaluation, assignment and promotion of all Foreign Service Officers; (5) requiring the identification of appropriate Washington, D.C. positions as language-designated; and (6) requiring remedial training and suspension of language differential payments for employees receiving such payments who have failed to maintain required levels of proficiency. The conference substitute also repeals section 164 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, which established a Foreign Service promotion preference for language competence.

Section 152, regarding foreign language competence in the Foreign Service, reflects the committee of conference view that a comprehensive approach is needed to the problem of enhancing the language proficiency of our Foreign Service Officers which gives positive weight to language proficiency in the Foreign Service recruitment and assignment processes, as well as in respect to promotions.

In mandating hiring preferences for Foreign Service Officer candidates who are competent in particular languages, the committee of conference has in mind languages used in two or more substantial posts in which the Foreign Service has, and is likely to have, deficits of qualified personnel in comparison with current and projected numbers of language-designated positions to be filled. The committee of conference believes that language proficiency preference should be a factor in the hiring of some members of each entering Foreign Service class.

The requirement that employees achieve full professional proficiency in one language as a condition for training in a third language responds in part to persistent recommendations from ambassadors, and reports including the 1986 Stearns report and the 1993 IG report, accenting the need for higher levels of required proficiency than the current 3/3 level. In providing for exceptions for priority needs of the Service, the committee of conference believes exceptions including those necessary: to staff, in a manner consistent with orderly management of the personnel system, "hard to fill" positions and positions at posts receiving a differential allowance for danger or at which personnel must be unaccompanied by family members; to staff posts using Finnish, Danish, Slovak, Hungarian, and other limited-use languages in which the Foreign Service has a very limited number of language-designated positions, when officers with the appropriate skills and language competence are unavailable; to make tandem assignments possible when one member of the couple has already had long-term training in three languages.

The committee of conference believes that critical needs of the Service exceptions should include the staffing of "hard-to-fill" positions and posts receiving a differential allowance for danger or at which personnel must be unaccompanied by family members.

The committee of conference also believes that, all other factors being equal, a bidder for a language-designated position who already has full or general professional proficiency in the appropriate language should be given an advantage. Under regulations putting the requirements of section 164 of Public Law 101–246 on a basis of regulation, promotion panels for Foreign Service Officers of the Department of State, Agency for International Development, and the United States Information Agency should be instructed to take account of language ability and, all matters being equal, to give precedence in promotions to officers with demonstrated outstanding language proficiency.

The committee of conference believes that officers serving in some country desk positions in the Department of State should have familiarity with the appropriate language, as well as officers serving in positions requiring regular negotiations or contacts with speakers of a particular language. It should be expected that some officers serving on Arab country, Spanish-speaking Latin American, Francophone, Lusophone, Russian, Japanese, Chinese, and other desks speak the relevant language, just as some officers working on NATO affairs should speak French which is one of NATO's two working languages.

Foreign language resource coordinator

The Senate amendment (sec. 153) contains congressional findings regarding the insufficient coordination within the Federal government of foreign language assets and expresses the sense of Congress that the Secretary of State should take the lead in coordinating such assets and should call upon other Federal agencies to share in the joint management and coordination of foreign language resources. The Senate amendment also requires the Secretary of State to appoint a Foreign Language Resource Coordinator who shall be responsible for coordinating the efforts of the appropriate agencies of the U.S. Government to strengthen mechanisms for sharing foreign language resources and to identify Federal foreign language resource requirements, and for making recommendations to the Secretary of State as to which Federal foreign language assets, if any, should be made available to the private sector in support of national global economic competitiveness goals.

The House bill contains no comparable provision.

The conference substitute (sec. 192) is similar to the Senate amendment, but deletes the findings and makes technical and clarifying changes.

The committee of conference believes that the absence of a single interagency mechanism to coordinate Federal foreign language resources represents a significant weakness in the United States Government's ability to mobilize and direct existing foreign language assets in support of national foreign policy goals. The committee of conference believes there is a growing need for coordination of all Federal agencies maintaining and utilizing foreign language resources, to increase cost-effectiveness through sharing of resources, to identify foreign language needs and priorities required to support foreign policy objectives, and to identify foreign language resources capable of supporting global economic competitiveness and to facilitate private sector access to those resources.

The committee of conference encourages the Secretary of State to undertake additional initiatives to improve language proficiency in the Foreign Service and foreign affairs agencies, including: retaining an academic expert or recently-serving career ambassador to get a sharper focus on current and prospective foreign language needs of the Foreign Service; developing and implementing a viable proficiency retesting program as was recommended by the 1993 IG report; annually documenting the compliance rate for filling language designated positions with language-qualified personnel, as was recommended by the 1993 IG report; taking steps to fund and reinvigorate post language programs, as was recommended by the 1993 IG report, at posts where inadequate language proficiency is a problem; language-designating certain chiefs of mission positions in the spirit of Section 304(a)(1) of the Foreign Service Act of 1980; language-designating some positions overseas at levels higher than SR/R3 (general professional proficiency), as has been recommended by the 1986 Stearns report, numerous ambassadors, and the 1993 IG report; and developing appropriate language proficiency criteria for non-Foreign Service employees of the Department of State, Agency for International Development, and United States Information Agency.

Foreign language translator and interpreter—career service program

The Senate amendment (sec. 154) requires the Secretary of State to establish a program to obtain the services of additional translators and interpreters trained at institutions of higher learning in the United States. The Senate amendment requires the Secretary of State to pay the costs of tuition for eligible U.S. citizens who pursue professional training in translation or interpretation in foreign languages for which the Secretary determines there is a shortage of qualified Government personnel. Individuals who successfully complete training shall agree to perform such services for a period of not less than one year for each year of academic tuition paid. The Senate amendment establishes eligibility criteria for participation in the program and allows the Secretary to levy a surcharge for providing other executive branch agencies with foreign language translation and interpretation services.

The House bill contains no comparable provision.

The conference substitute (sec. 193) allows the Secretary of State to levy a surcharge for providing other executive branch agencies with foreign language translation and interpretation services.

Assignment of Foreign Service Officers with advanced proficiency in foreign languages

The Senate amendment (sec. 155) contains congressional findings regarding foreign language proficiency and requires the Secretary of State to direct the establishment and apportionment of a certain number of overseas positions at full professional proficiency in each of a majority of overseas missions as follows: for missions using world languages with more than nine Foreign Service Officer positions assigned by the Department of State, 8% of positions and not less than one position at the S4/R4 level, and for missions using hard or incentive languages with more than nine Foreign Service Officer positions assigned by the Department of State, 4% of positions and not less than one position. The Senate amendment also requires the Secretary of State to report to Congress not later than September 30, 1994, describing progress made toward implementing this section.

The House bill contains no comparable provision.

The conference substitute is the same as the House position.

Reimbursement of State and local governments

The Senate amendment (sec. 733) authorizes the Secretary of State to reimburse Seattle and the State of Washington up to a total of $440,000 in fiscal year 1994 and $500,000 in fiscal year 1995 for security costs associated with the Asian Pacific Economic Cooperation conference held in Seattle in November, 1993.

The House bill contains no comparable provision.

The conference substitute (sec. 101(b)(4)) authorizes $940,000 of the amounts made available for the protection of foreign missions to be available on a one time only basis to reimburse Seattle and the State of Washington for security costs associated with the Asian Pacific Economic Cooperation conference held in Seattle in November, 1993 and authorizes $1 million to be available for fiscal year 1995 to reimburse state and local government agencies for the security costs associated with the Western Hemisphere summit scheduled to be held in Miami in December, 1994.

U.S. citizens victimized by Germany during World War II

The House bill (sec. 190) contains congressional findings and expresses the sense of Congress that U.S. citizens who were victims of war crimes and crimes against humanity committed by the Government of Germany during the period 1939 to 1945 should be compensated by the Government of Germany.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 535) is virtually identical to the House bill, but deletes the findings.

Title II—United States Informational, Educational and Cultural Programs

Changes in administrative authorities

The House bill (sec. 231) allows the United States Information Agency to use funds for security construction and improvements at USIA facilities abroad which are not collocated with Department of State facilities.

The Senate amendment (sec. 211) is virtually identical.

The conference substitute (sec. 222) is identical to the House bill.

Buying power maintenance account

The Senate amendment (sec. 212) establishes a buying power maintenance fund for USIA, similar to the one established for the Department of State, in order to maintain appropriate levels of program activities despite foreign currency fluctuations.

The House bill (sec. 233) is virtually identical.

The conference substitute (sec. 224) is identical to the Senate amendment.

Contract authority

The House bill (sec. 234) authorizes USIA to enter into contracts of no more than seven years in length for circuit capacity to distribute radio and television programs. This authority may be exercised only to such extent or in such amounts as are provided in advance in appropriations acts.

The Senate amendment (sec. 213) is virtually identical.

The conference substitute (sec. 225) is identical to the House bill.

Permanent authorizations

The House bill (sec. 236) repeals section 105(a) of the Mutual Educational and Cultural Exchange Act of 1961 which provides a permanent authorization of appropriations for U.S. educational and cultural exchange activities.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 201) amends section 105(a) of the Mutual Educational and Cultural Exchange Act of 1961 to allow funds for U.S. educational and cultural exchange activities to be available until expended.

The committee of conference notes that section 236 of the House bill was not intended to make funds for exchange programs available only in the year such funds were appropriated.

Coordination of U.S. exchange programs

The House bill (sec. 240) requires the President to ensure that all exchange programs conducted by the U.S. Government, its departments and agencies, directly or through agreements with other parties, are coordinated through the Bureau of Educational and Cultural Affairs to ensure that such exchanges are consistent with U.S. foreign policy and to avoid duplication of effort. The President shall report annually on such coordination and include information in the report concerning what exchanges are supported, the number of exchange participants, the types of exchange activities conducted, and the total amount of Federal expenditures for such exchanges.

The Senate amendment (sec. 220) is similar but requires all exchange programs to be reported to the Bureau, and requires an additional report from the Director of USIA within 180 days of enactment outlining the range of exchange programs conducted by USIA, identifying possible areas of duplication or inefficiency, and recommending program consolidation and administrative restructuring as warranted.

The conference substitute (sec. 229) combines the House and Senate provisions.

Limitation concerning participation in international expositions

The Senate amendment (sec. 217) prohibits USIA from obligating or expending funds for a U.S. Government-funded pavilion or other major exhibit at any international exposition or world's fair in excess of amounts expressly authorized and appropriated for such purpose.

The House bill (sec. 241) is similar.

The conference substitute (sec. 230) is identical to the Senate amendment.

Private sector opportunities

The House bill (sec. 242) allows the President to provide for publicity and promotion, including representation abroad, of educational and cultural exchange programs which are not supported financially by the U.S. Government.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 231) is identical to the House bill. The committee of conference notes that this section is not intended to create a need for additional resources for publicizing exchange programs. It is intended that USIA personnel overseas will be able to fulfill this function without an undue increase in workload. The committee of conference also does not intend that additional staff will be necessary to carry out this section.

Authority to respond to public inquiries

The Senate amendment (sec. 218) clarifies that the prohibition on the use of funds by USIA to influence public opinion in the United States and on the domestic dissemination of program material prepared by USIA does not prohibit USIA from answering public inquiries about its operations, programs, or policies.

The House bill (sec. 244) is virtually identical.

The conference substitute (sec. 232) is identical to the Senate amendment.

African participation in exchange programs

The Senate amendment (sec. 223) contains congressional findings regarding the need for enhanced participation by Africans in exchange programs and requires USIA to expand exchange program allocations for Africa, particularly Fulbright Academic Exchanges, International Visitor Programs, and Citizens Exchanges, and encourage broader links between U.S. and African institutions.

The House bill contains no comparable provision.

The conference substitute (sec. 249) is similar to the Senate amendment, but does not include the congressional findings.

The committee on the conference notes that USIA programs with African countries have continued to decrease over the past three years, occurring at a time when economic reform and the expansion of democratic governments and institutions are taking place in more than 25 countries across Africa. The committee of conference notes that African institutions are now attempting to reform their education sector to adjust population and budget pressures, and to revitalize existing infrastructure to restore quality. In addition, the committee of conference notes that higher education is one of the cornerstones of economic and political development, and will help improve the well-being of African citizens. Finally, the committee of conference believes that USIA programs in Africa are insufficient to meet the expanding needs for educational development and to help strengthen democratic, educational, and free market institutions in Africa.

Employment authority

The House bill (sec. 232) amends section 804(6) of the United States Information and Educational Exchange Act of 1948 to allow the Director to employ individuals or organizations for services to be performed in the United States or abroad, who shall not, by virtue of such employment, be considered to be employees of the United States Government for purposes of any law administered by the Office of Personnel Management.

The Senate amendment contains no similar provision.

The conference substitute (sec. 223) amends the House bill to limit the terms of this provision for the life of the bill.

Prohibition on discriminatory contracts

The Senate amendment (sec. 214) provides that, except for real estate leases and waiver authority provided to the Director of the United States Information Agency, the United States Information Agency may not enter into any contract that expends funds appropriated to USIA for an amount in excess of the small purchase order threshold with a foreign person that complies with the Arab League boycott of Israel or with any foreign or United States person that discriminates in the award of contracts on the basis of religion.

The House bill contains no similar provision.

The conference substitute is identical to the Senate amendment.

U.S. transmitter in Kuwait

The Senate amendment (sec. 215) prohibits the use of any funds authorized to be appropriated to be obligated or expended for the United States radio transmitter in Kuwait.

The House bill contains no similar provision.

The conference substitute (sec. 226) modifies the Senate amendment to prohibit the use of funds for the construction of a short wave radio transmitter in Kuwait.

Appropriations authorities

The House bill (sec. 235) amends section 701 of the United States Information and Educational Exchange Act of 1948 to expand and make permanent certain authorization transfer authorities enacted in the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993.

The Senate amendment contains no similar provision.

The conference substitute (sec. 201) is identical to the House bill.

American studies collection

The House bill (sec. 238) provides for the establishment of collections of American studies materials at university libraries abroad to enhance and support American studies at the undergraduate level. The Director of the United States Information Agency is authorized to establish an endowment fund and to make deposits to the fund in amounts appropriated to the fund under section 201(7) of the House bill ($1,650,000 for fiscal year 1994 and $1,950,000 for fiscal year 1995 to fund the endowment; $450,000 for each fiscal years 1994 and 1995 for administrative costs). The Director may also accept, use, and dispose of gifts of donations of services or property to carry out the purposes of this section.

The Senate amendment (sec. 226) contains the identical provision authorizing the program, but omitting the authority for the endowment.

The conference substitute (sec. 235) is virtually identical to the House bill. Because the conference substitute does not explicitly authorize appropriations for the endowment, the conference substitute provides for funds appropriated for the American Studies Collections program or otherwise available for it to be deposited in the endowment fund. Authorizations of appropriations for the program are to remain available until the funds are appropriated.

The program is designed to promote a deeper understanding of U.S. institutions and values among persons with whom we will soon be conducting diplomacy, trade negotiations, and private business. The program builds on the very successful activities of USIA's Division for the Study of the United States in working with the Organization of American Historians (OAH) to promote such studies abroad, particularly in the new democracies. The requirement in this section that USIA work closely with the OAH and other scholarly organizations is intended to ensure that the program has available to it the most current thinking about how to best design such collections. The committee of conference notes that the OAH has already formed committees of each of the principal disciplines to identify the most important work in the field, and the conferees expect USIA to consult closely with those committees.

South Pacific exchange programs

The House bill (sec. 239) creates a program: (1) to support academic scholarships to qualified students from the South Pacific region to pursue undergraduate and postgraduate studies at institutions of higher learning in the United States; (2) to make grants to United States scholars and experts to teach, pursue research, or offer training in nations of the South Pacific; and (3) to make grants for youth exchanges. Grants described in (2) are limited to 10% of the total program.

The Senate amendment contains no similar provision.

The conference substitute (sec. 241) is identical to the House bill. Because the authorization of appropriations for educational and cultural programs under section 201 assumes $1 million only for the activities described in (1) and (2) above, the conferees understand that no funds will be available in fiscal year 1994 for youth exchanges described in (3), but provide the authority for such exchanges subject to appropriations in future years. In adopting this provision, the conferees intend to encourage exchanges with the Cook Islands, Fiji, Kiribati, Niue, Papua New Guinea, the Solomon Islands, Tonga, Tuvalu, Western Samoa and Vanuatu. The conferees note with satisfaction that USIA conducts substantial exchanges with Australia and New Zealand, and do not intend by this provision to enhance those, but rather to encourage attention to the smaller nations listed above.

Educational and cultural exchanges with Tibet

The House bill (sec. 243) directs the United States Information Agency to establish programs of educational and cultural exchange between the United States and the people of Tibet.

The Senate amendment contains no such provision.

The conference substitute (sec. 236) is identical to the House bill. The people of Tibet intended to be the beneficiaries of such programs are people of Tibetan heritage, within Tibet and in exile, rather than Chinese immigrants or temporary Chinese workers in Tibet. The conferees recognize that the USIA has already established a Fulbright program for Tibetans in Nepal and India. This highly successful program should be expanded in size and in scope to include Tibetans in other countries. USIA should also establish a presence in Dharamsala to expand such programs and to consult with the Tibetan leadership there on the design of programs in Tibet.

The committee of conference notes that the Tibetan people in Tibet suffer a lack of access to educational and cultural exchanges. There is, therefore, a need for a specific program for the Tibetan people in Tibet (Tibetan Autonomous Region and all Tibetan autonomous prefectures incorporated in Sichuan, Yunnan, Gansu and Qinghai provinces), with particular emphasis on training programs, educational exchanges, and scientific research. In designing such a program, the USIA should consult with U.S. non-governmental organizations such as the Tibet Fund and the International Campaign for Tibet, to ensure that such programs are appropriate, and should verify that the programs are for persons of Tibetan heritage and not for Chinese immigrants or temporary Chinese workers in Tibet.

USIA office in Lhasa, Tibet

The Senate amendment (sec. 219) directs the Director of the United States Information Agency to establish an office in Lhasa, Tibet for the purposes of disseminating information about the United States, promoting discussions on conflict resolution and human rights, facilitating private sector involvement in educational and cultural activities in Tibet, and advising the United States Government with respect to Tibetan public opinion.

The House bill contains no such provision.

The conference substitute (sec. 221) is similar to the Senate amendment, but states that the Secretary of State and the Director of the United States Information Agency shall seek to establish such an office and requires an annual report on developments relating to the implementation of this section.

The committee of conference believes that a U.S. presence in Lhasa and other Tibetan areas is an important policy priority, for it permits more accurate understanding of the situation in Tibet and facilitates Tibetans' exposure to information about the United States and participation in USIA activities. The committee on the conference urges the Director of USIA to make every effort to establish the office, and even in advance of the opening of a Lhasa office, to enhance the Agency's programming for Tibet.

Scholarships for East Timorese

The Senate amendment authorizes the Bureau of Educational Affairs of the United States Information Agency to make available for fiscal years 1994 and 1995 scholarships for East Timorese students qualified to study at the undergraduate college or university level in the United States.

The House bill contains no similar provision.

The conference substitute (sec. 237) is identical to the Senate amendment.

Cambodian scholarship and exchange program

The Senate amendment (sec. 222) authorizes the Director of the United States Information Agency to establish a scholarship program to enable Cambodian college students and postgraduate students to study in the United States. The Director shall also include qualified Cambodian citizens in other USIA funded exchange programs.

The House bill contains no similar provision.

The conference substitute (sec. 238) is identical to the Senate amendment.

Environment and sustainable development exchange

The Senate amendment (sec. 224) authorizes the Director of the United States Information Agency to provide scholarships for study at United States institutions of higher education to foreign students who have completed their undergraduate education and to postsecondary educators for the purpose of training in the fields of environment and development, with particular emphasis on sustainable development.

The House bill contains no similar provision.

The conference substitute (sec. 240) is identical to the Senate amendment.

The purpose of this program is to promote education in fields related to sustainable development. The program is not intended to be a vocational training program, but rather a program to take advantage of the outstanding academic research being done at institutions of higher learning in the United States.

The conferees recognize that the term "sustainable development" is subject to different interpretations and that, as a result, the fields of study that may be considered eligible for purposes of this section are exceptionally broad.

In authorizing the establishment of this section, the conferees consider the following, non-exclusive examples of the educational programs these fellowships are intended to support: environmental economics, for example natural resource accounting; natural resource management, for example forestry or fisheries management; and engineering, for example in pollution prevention technology.

In authorizing the establishment of this exchange, the committee of conference expects the United States Information Agency to consult with the Committees of jurisdiction in establishing the parameters of eligible programs.

Vocational Exchange Program

The Senate amendment (sec. 225) amends the Mutual Educational and Cultural Exchange Act of 1961 to authorize the President to conduct vocational exchanges by financing visits and interchanges of professionals and skilled workers in the fields of government, business, and finance.

The House bill contains no similar provision.

The conference substitute is the same as the House position.

Near and Middle East research and training

The Senate amendment (sec. 227) amends section 228(d) of the Foreign Relations Authorization Act, fiscal years 1993 and 1993, by expanding the definition to include providing graduate grants and grants for post-doctoral studies to United States scholars on Turkey.

The House bill contains no similar provision.

The conference substitute (sec. 233) is identical to the Senate amendment.

Distribution of USIA film

The Senate amendment (sec. 228) allows the Director of the United States Information Agency to make available for distribution within the United States the USIA film "Crimes Against Humanity."

The House bill contains no similar provision.

The conference substitute (sec. 234) amends the Senate amendment to allow the Director of the United States Information Agency to also make available for distribution within the United States the United States Information Agency's Thomas Jefferson Paper Show, which commemorates the 250th anniversary of the birth of Thomas Jefferson.

International Exchange Program involving disability related matters

The Senate amendment (sec. 230) amends section 102(b) of the Mutual Educational and Cultural Exchange Act of 1961 to add to the authorization granted to the President under this Act to provide for the promotion of educational, medical, and scientific meetings, training, research, visits, interchanges, and other activities, with respect to disability related matters, including participation by individuals with disabilities in such activities, through non-profit organizations having a demonstrated capability to coordinate exchange programs involving disability-related matters.

The House bill contains no similar provision.

The conference substitute (sec. 242) requires that in carrying out the authorities of Section 102(b) of the Mutual Educational and Cultural Exchange Act of 1961 (22 USC 2452(b)), the President shall promote the inclusion of persons with disabilities, as well as persons involved in disability-related matters.

PART B—MIKE MANSFIELD FELLOWSHIPS

Establishment of fellowship program

The House bill (sec. 252) establishes the Mike Mansfield Fellowship Program. The Director of the United States Information Agency will make grants, subject to the availability of appropriations, to the Mansfield Center for Pacific Affairs to award fellowships to eligible United States citizens for periods of 2 years each or for a shorter period of time as the Center may determine. Fellowships shall include one year in which each fellow will study the Japanese language and the Japanese political economy and a second year in which each fellowship recipient will serve as a Fellow in a parliamentary office, ministry, or other agency of the Government of Japan or, with the approval of the Center, a nongovernmental Japanese institution. Fellowships are to be known as "Mansfield Fellowships" and individuals awarded fellowships as "Mansfield Fellows." Grants may be made to the Center only if the Center agrees to comply with the program requirements established in section 253 of the House bill. The Director of USIA is authorized to enter into a private agreement with the Japanese Government for the purpose of negotiating an agreement on the placement of Mansfield Fellows in the Japanese Government. The Center is authorized to accept, use, and dispose of gifts or donations of services or property in carrying out the fellowship program, subject to the review and approval of the Board.

The Senate amendment (sec. 232) differs from the House bill in that it authorizes the Center to accept gifts and donations of services from private sources but does not condition the Center's acceptance of these sources as being subject to the review and approval of the Board.

The conference substitute (sec. 252) makes acceptance by the Center of gifts and donations from private sources subject to the review and approval of the Director of USIA.

Program requirements

The House bill (sec. 253) establishes the following requirements: U.S. citizens eligible for fellowships shall be employees of the Federal Government for a period of at least two years with a strong career interest in United States-Japan relations. Not less than 10 scholarships shall be awarded each year. Mansfield Fellows shall agree to maintain satisfactory progress in language training and appropriate behavior in Japan and shall return to the Federal Government for further employment for a period of at least two years at the end of their fellowships unless the Fellow is unable to find reemployment in the Federal Government. The Center shall provide each Fellow with a stipend equal to the pay rate the individual was receiving when he or she entered the program, cost of living adjustments, and certain allowances and benefits the individual would have been entitled to as a United States Government civilian employee overseas. For the first year of each fellowship, the Center shall provide intensive Japanese language training and courses in the political economy of Japan in the Washington, D.C. area. The Center may waive any or all of the training requirements to the extent the Fellow has language skills or knowledge of Japan's political economy. Mansfield Fellows not complying with the requirements of this section of the House bill shall reimburse USIA for funds expended, together with interest. The Center shall select Fellows based solely on merit and make every possible effort to recruit candidates reflecting the cultural, ethnic, and racial diversity of the United States. The Center shall assist all Fellows in finding employment in the Federal Government if the Fellow is not able to be reemployed in the agency which he or she separated to become a Fellow. No Fellow may engage in intelligence-related activities on behalf of the United States Government. The accounts of the Center shall be audited annually and the Center shall provide a report of the audit to the Board no later than six months following the close of the fiscal year for which the audit was made.

The Senate amendment (sec. 233) is identical to the House bill except for the following: The House bill requires that each Fellow, in addition to maintaining satisfactory progress in language training, must maintain appropriate behavior in Japan. The Senate amendment does not list appropriate behavior as a program requirement. The Senate amendment does not require the accounts of the Center to be audited annually whereas the House bill requires an annual audit of the Center's accounts.

The conference substitute (sec. 253) includes appropriate behavior as a program requirement. It also requires that the financial records of the Center be audited annually and the report of the audit be submitted to the Director of USIA.

Mansfield fellowship review board

The House bill (sec. 255) establishes the Mansfield Fellowship Review Board to consist of the following 11 individuals or their designees: Secretary of State, Secretary of Defense, Secretary of the Treasury, Secretary of Commerce, United State Trade Representative, Chief Justice of the United States, Majority Leader of the Senate, Minority Leader of the Senate, Speaker of the House of Representatives, Minority Leader of the House of Representatives, and Director of the United States Information Agency. The Board shall review the administration of the program. Each year at the time of the submission of the President's budget request to Congress, the Board shall submit to the President and Congress a report completed by the Center with the approval of the Board on the conduct of the program during the preceding year. The Director of USIA is authorized to provide secretarial and staff assistance to the Board. The Federal Advisory Committee Act shall not apply to the Board to the extent the provisions of this section are inconsistent with that Act.

The Senate amendment (sec. 235) authorizes the Director of USIA to review the administration of the program. Each year at the time of the submission of the President's budget request to Congress, the Director of USIA shall submit to the Chairman of the Committee on Foreign Relations and the Speaker of the House of Representatives a report completed by the Center on the conduct of the program during the preceding year.

The conference substitute (sec. 253) is identical to the Senate amendment.

Definitions

The House bill (sec. 256) provides for the purposes of the Mike Mansfield Fellowship Act the following definitions: "Agency of the United States Government" includes any agency of the legislative branch, any court of the judicial branch, as well as any agency of the executive branch. The terms "agency head" means: in the case of the executive branch of government or an agency of the legislative branch, other than Congress, the head of the representative agency; in the case of the judicial branch, the chief justice of the respective court; in the case of the Senate, the President pro tempore, in consultation with the Majority and Minority Leaders; in the case of the House of Representatives, the Speaker of the House, in consultation with the Majority and Minority Leaders of the House; the term "Board" means the Mike Mansfield Fellowship Review Board; the term "Center" means the Mansfield Center for Pacific Affairs.

The Senate amendment (sec. 236) is virtually identical to the House bill but omits the definition of the term "Board."

The conference substitute (sec. 257) is identical to the Senate amendment.

The committee of conference believes that the Mansfield Fellowship Program will serve as a tribute to Senator Mike Mansfield, in recognition both of his long career of public service and of his contributions to U.S.-Japan relations and to mutual understanding between the American and Japanese peoples. The committee also believes that, by making it possible for United States Government employees to live in Japan and work in Japanese Government agencies, the Program will enhance the capacity of the U.S. Government to manage the important, yet complex, U.S.-Japan relationship.

TITLE III—INTERNATIONAL BROADCASTING ACT

This part, which constitutes the International Broadcasting Act, establishes a new structure for the operation of U.S. Government non-military broadcast services in response to new political conditions in the post Cold War world, technological advances in broadcasting and changing budget realities. This title consolidates United States Government non-military broadcast services in the United States Information Agency under the authority of a Presidentially appointed and Senate confirmed Broadcasting Board of Governors.

The committee of conference notes the enormous impact and success of U.S. international broadcasting services over the past fifty years. The committee of conference also commends the President for ordering a review of United States Government international broadcasting activities to ensure the most effective broadcasting in the post-Cold War era and to achieve savings. Since World War II, the Voice of America (VOA), and Radio Free Europe and Radio Liberty (RFE/RL), have provided accurate news and facilitated the free flow of information to millions of people around the world.

While changing circumstances in countries to which the United States broadcasts will necessitate adjustments in programming content, hours and languages, the committee of conference believes that continued broadcasting by these services remains important to the national interests of the United States.

The political realities of the post Cold War order necessitate a complete and thorough review of U.S. broadcast operations. The social, economic, and political upheavals associated with the collapse of the former Soviet Union have had, and continue to have, a profound impact at least as significant as events that led to the creation of the mission and structures of our current international broadcast operations. These changes have not resulted in smooth or inevitable transitions to democracy. Rather, the nature and direction of current developments in these regions of tremendous importance to the United States are confusing and unclear. Broadcast services that were designed, in part, to undermine the legitimacy of outwardly stable totalitarian regimes now have to adapt to remain relevant, flexible and useful at a time of enormous political, economic and social volatility.

The committee of conference notes that throughout the Cold War it was virtually impossible to obtain accurate audience data from many of the countries where the United States had the greatest interest in broadcasting. In the new broadcasting environment, the committee of conference urges those involved in planning and managing U.S. international broadcasting to utilize comprehensive and definitive audience research in order to ensure that, within limited resources, taxpayer funds are used to maximize the reach and impact of U.S. broadcast services.

The committee of conference acknowledges the particular importance of international broadcasting in countries and regions undergoing democratic transition. The committee of conference recognizes the important role played by VOA in informing voters during the recent Cambodian election and recommends that such special and expanded coverage, including candidate forums, on the street interviews and programming about democratic principles and process be an integral part of broadcasts to regions during electoral undertakings. The committee of conference believes that U.S. Government international broadcasting services should in the years ahead give high priority to covering issues related to the establishment of democratic institutions.

Short title

The Senate amendment (sec. 301) establishes a short title of this part as the "United States International Broadcasting Act of 1994".

The House bill (sec. 211) establishes a short title of this part as the "United States International Broadcasting Act of 1993".

The conference substitute (sec. 301) is identical to the Senate amendment.

Findings and declarations

The Senate amendment (sec. 302) makes the following congressional findings: that it is the policy of the United States to promote the right of opinion and expression in accordance with Article 19 of the Universal Declaration of Human Rights; that open communication of information and ideas contribute to peace and international stability; that United States support for VOA, RFE/RL, and broadcasting to Cuba has been prominent in the implementation of U.S. policy; that the creation of a new broadcast service to the People's Republic of China and other communist countries in Asia would promote the goals of U.S. foreign policy; and that reorganization and consolidation of broadcast services will achieve important economies and enhance U.S. policy in a changing international environment.

The House bill (sec. 212) contains the following congressional findings: that it is the policy of the United States to promote the free flow of information; that open communication among the peoples of the world is in the interests of the United States; and that it is in the interest of the United States to support broadcasting to other nations.

The conference substitute (sec. 302) contains the following congressional findings and declarations of purpose: that it is the policy of the United States to promote the right of freedom of opinion and expression; that open communication of information and ideas contributes to peace and international stability; and that it is in the interest of the United States to support broadcasting to other nations consistent with the requirements of this Act, that the continuation of current U.S. international broadcasting and the creation of a new service for the people of the PRC and other countries of Asia which lack free information will advance U.S. foreign policy, and that the reorganization and consolidation of broadcast services will achieve important economies and enhance U.S. policy in a changing international environment.

Standards and principles

The House bill (sec. 213) establishes the following standards for international broadcasting activities supported by U.S. funds: that it be consistent with U.S. foreign policy and international telecommunications policy and treaty obligations; that it complement the activities of private U.S. broadcasters and government supported broadcasters of other democratic nations; that it be conducted according to the highest professional standards; that it be based on reliable information about its potential audience; and that it be designed to reach a significant audience.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 303(a)) (Broadcasting Standards) is virtually identical to the House amendment, but contains technical and conforming changes. These standards are applicable to all international broadcasting supported by the U.S. Government.

The House bill (sec. 214) establishes the following requirements for U.S. international broadcasting: that it be accurate and objective; that it present a balanced and comprehensive view of the diversity of American thought and opinion; that it clearly and effectively present the policies of the U.S. Government; that its programming meet the unserved information needs of the broadcast audience; that it be a forum for a variety of opinions; that it be a source of information about developments in each significant region of the world; that it be a forum for a variety of opinions and voices from within nations that suffer from censorship of free speech and opinion; that it maintain reliable research capacity and transmitter and relay capacity to support its activities; that it be a source of information about developments in Asia; and that it provide training and technical support for independent indigenous media.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 303(b)) (Broadcasting Principles) is virtually identical to the House bill.

The committee of conference notes that it is not intended that each broadcasting operation supported by the U.S. government must meet the requirements of every standard and function contained in this subsection, but rather that the totality of non-military U.S. government international broadcasting should accomplish these functions.

Broadcasting Board of Governors

The Senate amendment (sec. 303) establishes within USIA a Broadcasting Board of Governors. The Board shall consist of 8 members. 6 shall be voting members and appointed by the President, with the advice and consent of the Senate. The Director of the USIA shall also serve as a voting member. The Director of the International Broadcasting Bureau shall be an ex-officio member of the Board but may not vote in the determinations of the Board. The President shall designate one member, other than the Director of USIA, as the Chairman. Exclusive of the Director of USIA, not more than four members of the Board shall be of the same political party. Each member of the Board shall serve for three years, except the Director of USIA who shall remain a member of the Board for his or her respective term of service. Of the other 6 voting board members, the initial terms of office of 2 members shall be 1 year, and the initial terms of office of 2 other members shall be 2 years, so that the terms of office of one-third of the voting members of the Board expires each year. Members appointed to the Board shall be citizens of the United States who are not currently regular full-time employees of the United States Government. Members of the Board, while attending meetings or engaged in activities of the Board, shall be compensated at the level IV of the Executive Schedule. The Director of USIA and the Director of the International Broadcasting Bureau shall not be entitled to such compensation, except for travel expenses.

The House bill contains no comparable provision.

The conference substitute (sec. 304) increases the number of members of the Broadcasting Board of Governors from 8 to 9 and eliminates the Director of the International Broadcasting Bureau from the Board. The Director of USIA shall be a member of the Board for his or her term of office. The President shall designate 1 member, other than the Director of USIA, as the Chairman. The conference substitute increases from 6 to 8 the number of voting members who shall be appointed by the President, by and with the advice and consent of the Senate. Exclusive of the Director of USIA, not more than 4 members appointed by the President shall be of the same political party. The term of office of each member of the Board shall be three years, except the Director of USIA who shall remain a member for his or her term of service.

The conference substitute requires the Acting Director of the Agency to serve as a member of the Board when there is no Director of the USIA, and to remain a member of the Board until a new Director is appointed. Of the other 8 voting members, the conference substitute establishes initial terms of office for 2 members of the Board for 1 year and the initial terms of office for 3 members for 2 years. Decisions of the Board are to be made by a majority vote with a quorum present. A quorum shall consist of 5 members of the Board. Members appointed to the Board shall be citizens of the United States who are not currently regular full-time employees of the United States Government. Members of the Board, while attending meetings or engaged in activities of the Board, shall be compensated at level IV of the Executive Schedule. The Director of USIA shall not be entitled to such compensation, except for travel expenses.

Authorities of the Board

The Senate amendment (sec. 304) authorizes the Board to provide guidance to, and oversight of, the International Broadcasting Bureau; to review and evaluate the mix of VOA and surrogate programming; to make grants to RFE/RL, to review engineering activities; to undertake efficiency studies, to appoint staff personnel to the Board; to submit to the President an annual report on its activities to the President; to procure supplies, services, and personal property; and to make available for its own use official reception and representation expenses. The Director of the Board shall also, in carrying out its functions, respect the independence and professional integrity of the International Broadcasting Bureau and its broadcasting services.

The House bill contains no comparable provision.

The conference substitute (sec. 305) authorizes the Board to direct and supervise all non-military broadcasting activities supported by the U.S. Government; to review and evaluate the mission and operation of, and to assess the quality, effectiveness, and professional integrity of, all programming within the broad foreign policy objectives of the United States; to review, evaluate and determine the addition or deletion of language services; to assure that all U.S. international broadcasting is conducted in accordance with the standards and principles contained in this Act; to review engineering activities; to make and supervise grants for broadcasting by Radio Free Europe, Radio Liberty and Radio Free Asia; to allocate funds appropriated for international broadcasting activities; to undertake studies that identify areas in which the broadcasting activities under its authority can be made more efficient and economical; to submit an annual report to Congress on its activities, including information on the amount of funds expended on administrative and managerial services by each of the broadcasting services; to review engineering activities for quality and cost-effectiveness; to procure supplies and services; to appoint staff personnel to the Board whose job classifications and compensation shall be determined by General Schedule pay rates and guidelines; to make available for its own use official reception and representation expenses; to respect the independence and professional integrity of the International Broadcasting Bureau, its broadcasting services, and grantees; and to provide for use of USG transmitter capacity for relay of Radio Free Asia. The Director of the Bureau and all grantees shall submit proposed budgets to the Board. The Board shall forward its budget recommendations to the Director, USIA, as part of the Agency's submission to OMB.

The committee of conference clarifies the ultimate authority of the Broadcasting Board of Governors over all broadcasting activities pursuant to this Act and the Radio and TV Broadcasting to Cuba Acts.

Foreign policy guidance

The Senate amendment (sec. 305) authorizes the Secretary of State, acting through the Director of USIA, to provide information and guidance on foreign policy issues to the Board.

The House bill contains no similar provision.

The conference substitute (sec. 306) is identical to the Senate amendment. The committee of conference believes that it is of essential importance that the Board be informed of all relevant foreign policy guidance in carrying out its mandate under the terms of this Act. The committee of conference is also mindful of the need for journalists and broadcasters to maintain their professional independence in order to produce factual, unbiased and balanced work products. For these reasons, all relevant foreign policy guidance provided to the Board should be transmitted by the Secretary of State, acting through the Director of USIA, and no other channel.

International Broadcasting Bureau

The Senate amendment (sec. 306) establishes an International Broadcasting Bureau within USIA to include the following elements: VOA, Office of Surrogate Broadcasting, Worldnet Television and Film Service, Engineering and Technical operations, and other elements established by the Director of International Broadcasting in concurrence with the Director of USIA. The Office of Surrogate Broadcasting shall administer the grants for Radio Free Europe, Radio Liberty, Radio Free Asia, and administer the Office of Cuba Broadcasting and other surrogate services that may be established. The Director of the Bureau shall be appointed by the Chairman of the Board in consultation with the Director of USIA and with the concurrence of a majority of the Board. Section 5315 of title 5, United States Code is amended to include the position of Director of International Broadcasting Bureau, USIA. Funding for the Board and the Bureau shall be made out of a single appropriations account. The Director of the Bureau shall submit proposals on appropriation of broadcasting funds to the Board. The Board shall forward its recommendations to the Director, USIA. The recommendations of the Board shall be included in the Director's submission of the proposed broadcasting budget to OMB. The

Board shall allocate funds among the separate elements of the International Broadcasting Bureau, subject to limitations established in the Act.

The House bill contains no similar provision.

The conference substitute (sec. 307) establishes an International Broadcasting Bureau within USIA to carry out all non-military international broadcasting activities supported by the United States government, other than the grantees described in sections 308 and 309. The Director of the Bureau shall be appointed by the Chairman of the Board in consultation with the Director of USIA and with the concurrence of a majority of the Board. Section 5315 of title 5, United States Code, is amended to include the position of Director of the International Broadcasting Bureau, USIA. It is the expectation of the committee on conference that funding for all broadcasting activities pursuant to this Act will be made out of a single, separately identified, appropriations account.

The committee of conference declines to specify in detail the structure, organization, and responsibilities of the Bureau, believing that these issues can be more thoroughly and adequately addressed by the newly constituted Broadcasting Board of Governors. The committee of conference requests the Board to submit to Congress at the earliest possible date a detailed description of and justification for the organization, responsibilities, and activities of the International Broadcasting Bureau.

Limits on grants for Radio Free Europe & Radio Liberty

The Senate amendment (sec. 307) authorizes the Board to make annual grants to RFE/RL for the purpose of operating RFE/RL and Radio Free Asia. No grant may be made to RFE/RL unless RFE/RL's certificate of incorporation has been amended to provide that: the Board of Directors of RFE/RL shall consist of the members of the Broadcasting Board of Governors; the Board shall make all policy determinations with respect to RFE/RL, including compensation of employees; and the name of RFE/RL shall be amended to include reference to Radio Free Asia. No grant shall be made to RFE/RL unless it agrees to locate the headquarters of its corporation and senior staff within the metropolitan Washington, D.C. area. Not later than 90 days after enactment of this Act, the Board shall submit a report to Congress on the number of staff that will be located in the Washington, D.C. metropolitan area. Grants made after September 30, 1995, for the operating costs of Radio Free Asia may not exceed $22,000,000 in any fiscal year. The total amount of one-time capital costs for Radio Free Asia may not exceed $8,000,000. RFE/RL is authorized to reallocate resources between funds made available for RFE/RL and Radio Free Asia. The Board may determine at any time to award the grant to an entity other than RFE/RL if it determines that RFE/RL is not fulfilling its authorities outlined in this Act.

The Senate amendment (sec. 309) provides that grants authorized under this section shall be made available to make annual grants to carry out the same functions as were carried out by RFE/RL before the date of enactment of this Act. Grants to RFE/RL shall be made subject to an agreement between the Board and RFE/RL, which requires that grant funds will only be used for purposes the Board determines consistent with the requirements of this section. Failure to comply with the requirements of this section shall permit the grant to be terminated without fiscal obligation to the United States. The grant agreement shall impose conditions as the Board determines necessary to reduce overlapping language and broadcasting services. The grant agreements shall require RFE/RL to justify in detail each proposed expenditure of grant funds. Grants may not be used for any other purpose unless the Board gives its approval. No grant funds may be used to pay any salary or compensation in excess of rates established for comparable positions under title 5 of the United States Code or the foreign relations laws of the United States and that these limitations will not be imposed prior to January 1, 1995; to influence the defeat or passage of legislation in Congress; to enter into contract to pay severance payments beyond those required by United States law or the laws of the country where the person is stationed; to pay for first class travel; and to compensate freelance contractors without the written approval of the Director. Not later than March 31 and September 30, the Inspector General of USIA shall submit to the Board, the Director of USIA, and Congress a report on management practices of RFE/RL. The Inspector General of USIA shall establish a special unit within the Inspector General's office to monitor and audit RFE/RL. The financial transactions of RFE/RL may be audited by the General Accounting Office. The GAO shall have access to all books, accounts, records, reports, and files of RFE/RL. The Inspector General of USIA is authorized to exercise the authorities of the Inspector General Act of 1978 with respect to RFE/RL. Before relocating the activities of RFE/RL, the Board for International Broadcasting or the Board, if established, shall submit a detailed plan to the Comptroller General and the appropriate congressional committees. Not later than 3 months after enactment of this Act the Board for International Broadcasting shall submit a report to the Office of Personnel Management on personnel classifications and salaries. Not later than 9 months after enactment of this Act, the Office of Personnel Management shall submit a report to Congress on the personnel classification and rates of salaries used by RFE/RL.

The House bill contains no similar provision.

The conference substitute (sec. 308) combines Senate amendment sections 307 and 309 in recognition that both of these sections address grant limitations for RFE/RL. This section of the conference substitute provides that no grant may be made to RFE/RL, Incorporated, unless RFE/RL's certificate of incorporation has been amended to provide that the Board of RFE/RL shall consist of the members of the Broadcasting Board of Governors and that the Board shall make all major policy determinations governing the operation of RFE/RL, including making determinations on compensation levels of RFE/RL employees. Compliance with these requirements shall not be construed to make RFE/RL a Federal agency or instrumentality.

The conference substitute modifies the Senate amendment requirement that senior staff headquarters for RFE/RL be located in the metropolitan area of Washington, D.C.; instead, the conference substitute requires that RFE/RL's senior staff and senior management headquarters be located in a place which ensures economy, operational effectiveness, and accountability to the Board. The committee of conference is mindful that placement of all senior staff in the Washington metropolitan area could lead to management and operational inefficiencies. The Board shall be required to submit a report to Congress 90 days after confirmation of the Board that describes the number of administrative, managerial, and technical staff of RFE/RL who will be located within the metropolitan area of Washington, D.C.

The conference substitute provides that grants for operating costs made to RFE/RL after September 30, 1995 may not exceed $75,000,000 in any fiscal year. The Board at any time may award grants to carry out these functions to an entity other than RFE/RL if the Board determines that RFE/RL is not fulfilling its mandate in an effective and economical manner.

The conference substitute provides that grants made to RFE/RL shall be available for the purpose of carrying out similar functions by RFE/RL before the date of enactment of the Act. Grants to RFE/RL shall be made subject to an agreement between the Board and RFE/RL; the agreement shall require that grant funds be used only for purposes the Board determines consistent with the requirements of this provision. Failure to comply with the requirements of this provision shall permit the grant to be terminated without fiscal obligation to the United States. The grant agreement shall impose conditions as the Board determines necessary to reduce overlapping language and broadcasting services. The grant agreements shall require RFE/RL to justify in detail each proposed expenditure of grant funds. Grants may not be used for any other purpose unless the Board gives its approval.

The conference substitute provides that no grant funds may be used for the following purposes: to pay any salary or compensation in excess of rates established for comparable positions under title 5 of the United States Code and that such limitations shall not be imposed prior to October 1, 1995; to influence or defeat the passage of legislation in Congress; to enter into a contract or obligation to pay severance payment for voluntary separation for employees hired after December 1, 1990 beyond those required by United States law or the laws of the country where the employee is stationed; to pay for first class travel for any employee of RFE/RL; and to compensate freelance contractors without the written approval of the Director. Not later than March 31 and September 30 of each calendar year, the Inspector General of USIA shall submit to the Board, the Director of USIA, and Congress a report on management practices of RFE/RL. The Inspector General of USIA shall establish a special unit within the Inspector General's office to monitor and audit RFE/RL. The financial transactions of RFE/RL may be audited by the General Accounting Office. The GAO shall have access to all books, accounts, records, and reports. Upon repeal of the Board for International Broadcasting Act, the Inspector General of USIA is authorized to exercise the authorities of the Inspector General Act of 1978 with respect to RFE/RL. Until such time, the Board for International Broadcasting Inspector General shall continue to exercise his or her responsibilities.

The conferees underscore that the mandate of the Inspector General is not so broad as to encompass investigation of editorial practices. The conferees are concerned that journalistic independence of broadcasters would be endangered if the Inspector General were to second guess working journalists. Such review should be undertaken by the managers of the respective services, with proper oversight of the Board.

The conference substitute provides that no funds authorized for fiscal years 1994 and 1995 be available for relocating the activities of RFE/RL, unless specifically provided for in an appropriation Act or pursuant to a reprogramming notification, and the relocation is approved by the Board and the Board submits a detailed plan to the Comptroller General and the appropriate congressional committees or, prior to the confirmation of the Board, the relocation is authorized by the President, the President certifies that there is a significant national interest that requires the decision to be made prior to the confirmation of the Board and upon the submission of a detailed plan to the Comptroller General of the United States and the appropriate congressional committees.

This section reflects the belief of the committee of conference that any decision to relocate RFE/RL Inc. from Munich should be taken by the Broadcasting Board of Governors after the Board has conducted its own independent review of such proposals and presented a detailed report that includes all relevant materials that justify a recommendation to relocate. This section is designed expressly to forestall a fait accompli before the Board has been confirmed but which, nevertheless, constrains the Board thereafter on an issue of immense significance to the future not just of RFE/RL but all broadcasting under the aegis of the Board. The conferees recognize that the government of the Czech Republic has offered to provide a new headquarters for RFE/RL Inc. However, the conferees make no judgement as to the propriety of the relocation itself.

Not later than 90 days after confirmation of the Board, the Board shall submit to Congress a report on personnel classifications and salaries. The report shall include a comparison of the rates of salaries, other compensation and classifications of RFE/RL employees with those of VOA employees stationed overseas in comparable positions and shall identify disparities and steps being taken to eliminate any disparities. It is the intention of the committee of conference that the full range of employee benefits and salaries should be taken into consideration when determining comparability between employees of the U.S. government and RFE/RL Inc. For example, salaries, allowances, tax liabilities and privileges should be included within the review. The committee of conference notes that the Board, in preparing this report, should consult closely with the Office of Personnel Management. Congress, in assessing the report submitted to it by the Board, will rely closely on the Office of Personnel Management for technical expertise in its evaluation of the report submitted by the Board.

The conference substitute removes from this section all references to Radio Free Asia. The committee of conference acknowledges the fundamental differences and challenges facing RFE/RL and Radio Free Asia. Tasking RFE/RL with the responsibility of overseeing the creation and management of a new surrogate broadcast service would be unwise since RFE/RL is undergoing a period of unprecedented consolidation and reorganization of its own operations. The committee of conference also recognizes the need for Radio Free Asia to be allowed maximum flexibility to create and implement appropriate broadcast services for the Asian continent.

Radio Free Asia

The Senate amendment (sec. 308) provides for making annual grants to Radio Free Asia for the purpose of carrying out radio broadcasting to the People's Republic of China, Burma, Cambodia, Laos, North Korea, Tibet, and Vietnam. Radio Free Asia shall provide accurate and timely information, news and commentary about events in Asia and elsewhere and be a forum for a variety of opinions. No grant may be awarded to Radio Free Asia until the Board has submitted to Congress and the Comptroller General of the United States a detailed plan for the establishment and operation of Radio Free Asia. The plan shall be submitted no later than 120 days after enactment of this Act. If the Board determines that Radio Free Asia may not be operated effectively within the funding limitations, it may present an alternative plan and propose changes in legislation to the appropriate congressional committees. Not later than 3 years after the date funds have been provided to RFE/RL for the purpose of operating Radio Free Asia, the Board shall submit a report on the performance, feasibility and the future viability of Radio Free Asia. The Board may not make any grant for the purpose of operating Radio Free Asia after September 30, 1998, unless the President determines that it is in the national interest to fund Radio Free Asia for one additional year. The Board shall notify the appropriate congressional committees before entering into any agreements utilizing VOA transmitters and equipment. Grants may only be made to RFE/RL if the principal place of business of Radio Free Asia is within the Washington, D.C. metropolitan area, unless the Board determines that another location within the United States is more cost-effective. The Senate amendment also provided that grants made for the operating costs of Radio Free Asia may not exceed $22,000,000 in any fiscal year and that total grant funds made available for one-time capital costs of Radio Free Asia may not exceed $8,000,000.

The House bill contains no similar provision.

The conference substitute (sec. 309) is similar to the Senate amendment but makes the following changes: Radio Free Asia is established as an independent grantee rather than being a separately funded activity of RFE/RL. No grant may be awarded to Radio Free Asia until the Board has submitted a detailed plan on Radio Free Asia to Congress that shall include a description of the manner in which Radio Free Asia would meet the funding limitations established in the Act, a description of the numbers and qualifications of employees it proposes to hire, and how Radio Free Asia proposes to meet the technical requirements for carrying out its responsibilities under this section. The conferees note that, for purposes of this plan, "technical requirements" include a statement that the authority to utilize existing transmitters has been obtained for the broadcasting of Radio Free Asia to countries or regions proposed in the plan, and that existing transmitters meet the technical needs of the new service. The conference substitute maintains the requirement that the detailed plan for the establishment and operation of Radio Free Asia, which the Board must submit to the Director of USIA, be submitted to Congress but deletes the requirement that the report also be submitted to the Comptroller General.

The conference substitute deletes all references to RFE/RL in this section in recognition that RFE/RL's and Radio Free Asia's mandates are different and, therefore, that the two broadcast entities should remain independent of each other.

After reviewing start-up and operating cost estimates for initiating Radio Free Asia and other technical issues, the committee of conference expresses its strong concern that Radio Free Asia may not receive adequate funding in this or future fiscal years and could face significant technical problems that delay initiation of the service in 1995 or thereafter. For this reason, the conferees agree that Congress will have to review this issue again after the Board's submission of the feasibility plan required by this title. If it is apparent that Radio Free Asia, in the form provided by this section, is not feasible, the conferees agree that alternative means for meeting the goals of Radio Free Asia, such as a grant or technical assistance program to non-government organizations for broadcasting purposes, will have to be considered.

The committee of conference wishes to emphasize its expectation that Radio Free Asia will be a credible source of news and information about developments within the target countries and developments within the East Asian region. The committee of conference underscores that Radio Free Asia is not being created with the objective of broadcasting propaganda. Indeed, the committee of conference expects Radio Free Asia to adopt appropriate editorial policies to ensure the highest professional standards.

The conferees also expect that the State Department and the USIA will use their best efforts in seeking permission to use U.S. transmission facilities overseas for Radio Free Asia broadcasts.

Transition

The Senate amendment (sec. 310) authorizes the transfer of all activities from the Board for International Broadcasting to the USIA, the Board, or the Bureau. The Director of USIA and the Chairman of the Board for International Broadcasting shall prepare a report for the President on implementation of the transition, not later than 120 days after the date of enactment of this Act. The report shall include a detailed cost analysis to implement fully the recommendations of such a plan. The plan shall identify all costs in excess of those authorized for the transition and shall provide that all excess costs be derived from the "salaries and expenses" account of USIA. The Director of USIA may assign employees of the Agency for service with RFE/RL. All Board for International Broadcasting personnel shall be transferred to the USIA, the Board, or the Bureau. The Board for International Broadcasting Act of 1973 is repealed effective September 30, 1995 or when the Board is appointed, whichever is later. All legal documents which have been issued, made or granted in the performance of functions transferred under this title, and which are in effect at the time this title takes effect, shall continue in effect until modified, terminated, set aside or revoked by the President, the Director of USIA, or other authorized official. The provisions of this title shall not affect any proceeding pending before the Board for International Broadcasting or suits or other proceedings commenced before the effective date of this title. No suit, action, or other proceeding commenced by or against the Board for International Broadcasting shall abate by reason of enactment of this Act.

The House amendment contains no similar section.

The conference substitute (sec. 310) modifies the Senate amendment's reporting requirement that directs the Director of USIA and the Chairman of BIB to submit a report to the President describing how the transition will be implemented and further demonstrating how any excess costs associated with the transition are to be derived from funds authorized to the salaries and expenses account (section 201(a)(1)) for USIA. The conference substitute deletes any reference to "report" and replaces it with "plan" and deletes language requiring the plan to demonstrate how any excess costs associated with the transition are to be derived with funds specifically authorized to USIA's salaries and expenses account. The conference substitute now requires the Director of USIA and the Chairman of BIB to submit a transition plan describing how the transition will be implemented and how excess costs associated with the transition are to be derived from all accounts in Title II (Section 201).

The committee of conference is concerned that any delay in submitting names to the Senate for confirmation to the Broadcasting Board of Governors, thereby delaying the Board from assuming its authorities under this title, could greatly impede the success of broadcast consolidation. For this reason, the conferees expect that the President shall nominate Board members as promptly as possible and no later than 120 days after the enactment of this Act.

Preservation of American jobs

The Senate amendment (sec. 311) contains congressional findings that the consolidation and reorganization of overseas broadcasting should limit, to the maximum extent feasible, the elimination of any United States-based positions and should seek to transfer as many positions to the United States.

The House amendment contains no similar section.

The conference substitute (sec. 311) is identical to the Senate amendment.

Privatization of Radio Free Europe and Radio Liberty

The Senate amendment (sec. 312) contains congressional findings that funding for Radio Free Europe and Radio Liberty should be assumed by the private sector not later than December 31, 1999 and that funding for Radio Free Europe and Radio Liberty Research Institute should be assumed by the private sector at the earliest possible time. The President shall submit with his annual budget an analysis and recommendations for achieving these objectives. Not later than 120 days after enactment of the Act, the Board for International Broadcasting, or the Board, if established, shall submit to the appropriate congressional committees a report, and periodic reports thereafter, on steps being taken to transfer the RFE/RL Research Institute to the private sector.

The House bill contains no similar section.

The conference substitute (sec. 312) is identical to the Senate amendment. The conference substitute provides authority for BIB to provide grants to newly privatized RFE/RL Inc. services until September 30, 1995. The committee on conference notes efforts already undertaken by RFE/RL Inc. to terminate the Czech and Polish Broadcast Departments and establish new nonprofit private entities in Warsaw (RWE Inc.) and Prague (RSE Inc.) The committee on the conference expects that the BIB and the Broadcasting Board of Governors (BBG) will do everything possible, within available resources, to support this privatization effort. It is not anticipated that the BIB or, if confirmed, the board will make grants to these entities after September 30, 1995.

Requirement for authorization of appropriation

The House bill (sec. 218) prohibits the obligation of any funds appropriated for non-military international broadcasting activities unless such funds are appropriated pursuant to an authorization of appropriations. The House bill also prohibits the appropriation of funds for broadcasting that are in excess of the authorized level. This limitation does not apply to the extent that an authorization is enacted after the appropriation of such funds. These provisions may not be superseded, except by a provision of law that specifically repeals, modifies or supersedes the provision. These provisions shall not apply, or affect in any manner, permanent appropriations, trust funds, and other similar accounts authorized by law or administered under U.S. non-military international broadcasting.

The Senate amendment contains no similar provision.

The conference substitute (sec. 313) is identical to the House bill, with a technical change to reflect changes made to other provisions of this title.

The committee of conference notes the potential for cost-savings as part of this consolidation plan. The committee of conference notes that the Administration projects the following five year budget for broadcasting activities conducted pursuant to this Act: fiscal year 1995: $637,349—1995 authorized amount; fiscal year 1996: $494,627; fiscal year 1997: $500,055; fiscal year 1998: $510,956; fiscal year 1999: $522,168. The committee on conference anticipates working closely with the Administration to meet the aggregate savings goals anticipated under these projections. The committee on conference recognizes that delays in authorizing or appropriating needed funding for certain consolidation costs may delay savings in the outyears.

Report on advertising

The House bill (sec. 219) requires U.S. Government agencies and entities, which carry out broadcasting with U.S. Government funding, to report to Congress, within a year of enactment of this Act, on efforts to sell advertising. The report shall include information on advertising sold, revenue generated, and an evaluation of future potential advertising.

The Senate amendment contains no similar provision.

The conference substitute is the same as the Senate position.

Definitions

The Senate amendment (sec. 312) provides the following definitions for the purposes of this title: The term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives. The term "RFE/RL, Incorporated" includes reference to Radio Free Asia (sec. 307(b)(3)) and alternative grantees to which the Board may choose to award grants (sec. 307(e)). The term "salary and other compensation" includes any deferred compensation or pension payments, any payments for expenses for which the recipient is not obligated to itemize, and any payments for personnel services provided to an employee of RFE/RL, Incorporated.

The House bill contains no similar section.

The conference substitute (sec. 315) is the same as the Senate amendment except that it deletes section 307 (b)(3) of the Senate amendment that amends RFE/RL's certificate of incorporation to include reference to Radio Free Asia.

Israel relay station

The House bill (sec. 217) repeals section 301(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, terminating the joint BIB/VOA transmitter project in Israel.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 315) repeals section 301(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, terminating the joint BIB/VOA transmitter project in Israel, repeals section. 503 of PL 80-402, United States Information and Educational Exchange Act of 1948, and repeals the "VOA Charter" which is now incorporated in section of the conference substitute.

TITLE IV—INTERNATIONAL ORGANIZATIONS AND UNITED STATES PARTICIPATION IN UNITED NATIONS PEACEKEEPING OPERATIONS

PART A—UNITED NATIONS REFORM AND PEACEKEEPING OPERATIONS

United Nations Office of Inspector General

The Senate amendment (section 166) requires that ten percent of funds authorized for U.S. assessed contributions to the United Nations and its specialized agencies be withheld for fiscal year 1994, and twenty percent withheld for fiscal year 1995 and each year thereafter, until the President makes a certification to the Congress. That certification must state the following: that the United Nations has established an independent Inspector General (I.G.) to conduct and supervise audits relating to the programs and operations of the United Nations and each of the specialized agencies of the United Nations; that the Secretary-General has appointed an I.G., with the consent of the General Assembly, solely on the basis of the integrity of that individual and his or her demonstrated ability in relevant fields of expertise; that the I.G. is authorized to make investigations and reports on the United Nations and its specialized agencies, have access to all records and documents, and have direct and prompt access to any official of the United Nations and its specialized agencies; that the I.G. is keeping UN officials, members of the Security Council, and members of the General Assembly fully informed of the I.G.'s findings; that the United Nations has established measures to protect the identity, and prevent reprisals against, any staff member providing information to the I.G.; and that the United Nations has enacted procedures to ensure compliance with the I.G.'s recommendations.

The Senate amendment further requires (section 170D), for each fiscal year beginning with fiscal year 1995, that 20 percent of U.S. assessed contributions for U.N. peacekeeping be withheld until the certification described above is made.

The House bill (section 194) contains sense of Congress language urging the establishment of an independent I.G. at the United Nations.

The conference substitute (sec. 401) is similar to the Senate amendment. The substitute withholds 10 percent from fiscal year 1994 U.S. contributions to the U.N. regular budget, 20 percent from fiscal year 1995 U.S. contributions to the U.N. regular budget, and 50 percent from the $670 million authorized for supplemental peacekeeping funds for fiscal years 1994 and 1995, subject to a Presidential certification. The President must certify that: (1) the U.N. has established an independent office of Inspector General; (2) the Secretary General has appointed an I.G., with the approval of the General Assembly, based principally on the appointee's integrity and demonstrated expertise in relevant areas; (3) the I.G. is authorized to make investigations and reports, have access to all records and documents, and have direct and prompt access to any U.N. official; (4) the U.N. has procedures in place designed to protect the identity of and reprisals against, U.N. staff who cooperate with the I.G.; (5) the U.N. has procedures in place designed to ensure compliance with I.G. recommendations; and (6) the U.N. has procedures in place to ensure that all annual and other relevant reports submitted by the I.G. are made available to the General Assembly without modification.

The substitute does not require that the U.N. specialized agencies establish separate I.G.s, and does not require withholding from U.S. contributions to those agencies' budgets. The substitute does state that U.S. representatives to the United Nations should promote complete access by any I.G. established at the U.N. to all records and officials of the U.N. specialized agencies, and should strive to achieve such access no later than fiscal year 1996. Finally, the substitute defines the term "Inspector General", for purposes of this part, as the head of an independent office or other independent entity established by the United Nations to conduct and supervise objective audits, inspections, and investigations relating to the programs and operations of the United Nations.

The committee of conference strongly supports the administration's policy of establishing an independent I.G. for the United Nations and urges it to define the relation of this office to other existing U.N. offices with oversight functions. In addition, the committee of conference supports the administration's efforts to ensure that the entire U.N. system is subject to the appropriate form of Inspector General review. The committee of conference notes that there are legal and technical obstacles to an immediate extension of a central I.G.'s authority to the U.N. specialized agencies. In some cases, those obstacles, sound policy, or the requirements of effective oversight, may suggest that certain agencies retain separate Inspectors General.

The committee of conference notes that while this Act refers in numerous sections to an "office of the Inspector General" at the United Nations, this does not require that such an oversight office established at the United Nations have precisely this title. The committee is aware that the title "Inspector General" has negative connotations for many members of the United Nations. The committee's legislative intent is not that such an office be named "Inspector General", but that such office have sufficient authority and means to implement effectively a strong oversight role.

The conference substitute requires that the President certify that the United Nations has procedures in place to ensure that "all annual and other relevant reports" submitted by the I.G. are made available to the General Assembly without modification. The committee of conference intends that the phrase "all relevant reports" does not include reports on ongoing criminal investigations, or those portions of reports on internal U.N. personnel matters the publication of which would clearly violate an individual's right to privacy. "Relevant reports" should include but not be limited to reports that in the I.G.'s judgment should be made available to the General Assembly in order to serve the objective of reducing fraud, waste, theft, malfeasance, and mismanagement at the United Nations.

United States participation in management of the United Nations

The Senate amendment (section 167) withholds funds authorized for United States assessed contributions to the United Nations for fiscal year 1995 until the Secretary of State certifies to Congress that the position of Under Secretary-General of the United Nations for Administration and Management is held by a United States citizen as of October 1, 1994. The Senate amendment further provides a waiver for this requirement if certain conditions are met, and states the sense of the Congress that the specified United Nations position should be held by a United States citizen.

The House bill contains no comparable provision.

The conference substitute (sec. 402) states the sense of the Congress that, consistent with the United Nations Charter, United States nationals should have equitable representation at senior management levels in the United Nations system, especially in the Department for Administration and Management and in the office of any independent Inspector General which may be established at the United Nations.

The committee of conference notes that "equitable representation" means representation proportionate to the contribution the United States makes to the U.N. regular budget.

Sense of the Senate on Department of Defense funding for United Nations peacekeeping operations

The Senate amendment (section 170D) states the sense of the Senate that as of October 1, 1995, Department of Defense funds shall be available for U.S. assessed or voluntary contributions to U.N. peacekeeping activities, or for the unreimbursable incremental costs associated with U.S. Armed Forces participation in U.N. peacekeeping activities, only to the extent that Congress has authorized, appropriated or otherwise approved funds for such purposes.

The House bill (section 167) contains sense of Congress language which states that all U.S. military aid, logistical support and in-kind contributions for U.N. peacekeeping should be counted toward the U.S. peacekeeping assessment or should be fully reimbursed.

The conference substitute (sec. 403) is the same as the Senate amendment.

Assessed contributions for United Nations peacekeeping operations

The Senate amendment (section 170C) states that the U.S. Permanent Representative to the United Nations should make every effort to ensure that the United Nations completes a review and reassessment of each nation's assessed contributions for U.N. peacekeeping activities, and should make every effort to obtain agreement by the United Nations to a U.S. assessed contribution for U.N. peacekeeping which is no greater a percentage of such contributions by all countries than the U.S. percentage of assessed contributions for other U.N. activities. The Senate amendment states that Congress declares that, effective for fiscal year 1996, it does not intend to provide funds for U.S. assessed or voluntary contributions for U.N. peacekeeping activities that exceed 25 percent of the total amount of the contributions of all countries for such activities, unless after the date of enactment of this Act the Congress enacts a statute specifically authorizing a greater percentage. The Senate amendment also amends the United Nations Participation Act to add certain reporting requirements on budget matters, and to add definitions to that Act.

The House bill (sections 163 and 167) contains numerous findings on the costs of U.N. peacekeeping and the level of the U.S. assessment for U.N. peacekeeping, and prohibits the use of funds contained in the Contributions for International Peacekeeping Activities account to pay U.S. assessments for U.N. peacekeeping at a rate higher than 30.4% of the total costs.

The conference substitute (sec. 404) retains modified Senate language on efforts by the Permanent Representative relating to the U.N. review of peacekeeping assessments. The conference substitute includes the House provision prohibiting payment of the U.S. peacekeeping assessment at a rate higher than 30.4% for fiscal years 1994 and 1995. The conference substitute also prohibits payment at a rate higher than 25% for any fiscal year after fiscal year 1995. Finally, the conference substitute includes reporting requirements in section 407(b) similar to those contained in the Senate amendment.

United States personnel taken prisoner while serving in peacekeeping forces

The Senate amendment (section 170E) contains Congressional findings on the failure of U.S. military personnel to receive protection under international law as prisoners of war when captured while serving as part of a peacekeeping operation. The Senate amendment states the sense of the Congress that the President should take immediate steps to assure that U.S. military personnel serving in peacekeeping operations who are captured are accorded the protection accorded to prisoners of war, and should take all steps to bring to justice all individuals responsible for the mistreatment, torture or death of U.S. military personnel who are captured. The Senate amendment contains reporting requirements on the status under international law of members of peacekeeping forces, the risk to U.S. personnel who are captured, and the specific steps taken to protect U.S. military personnel under such circumstances. The Senate amendment also requires reporting on efforts by the United Nations to investigate and take appropriate action in cases of alleged human rights violations committed by U.N. peacekeeping forces.

The House bill contains no comparable provision.

The conference substitute (sec. 405) retains the Senate provision stating the sense of the Congress on this issue, and includes the Senate reporting requirements as part of the annual reports required by section 407(b).

The committee of conference notes that although United States military personnel have not served in numerous United Nations peacekeeping operations, U.S. personnel serving in such operations nonetheless have been captured, tortured, and murdered, such as Colonel William Higgins in Lebanon. The committee of conference stresses the importance of clarifying the status under international law of personnel serving in U.N. peacekeeping operations.

Transmittals of United Nations documents

The Senate amendment (section 170B) amends section 4 of the United Nations Participation Act by adding to that Act a requirement that the United States Permanent Representative to the United Nations transmit to the Congress the text of any resolution adopted by the United Nations Security Council relating to United Nations peacekeeping activities as well as any supporting documents, if such resolution would involve the use of United States Armed Forces or the expenditure of United States funds. Such resolutions are to be transmitted not later than 72 hours after adoption by the Security

Council, and the Permanent Representative also shall promptly transmit to Congress any report prepared by the United Nations containing assessments of any proposed, ongoing, or concluded United Nations peacekeeping activities. The Senate amendment also amends the United Nations Participation Act to provide additional definitions.

The House bill contains no comparable provision.

The conference substitute (sec. 406) is similar to the Senate amendment, but expands the resolutions required to be transmitted to all resolutions adopted by the Security Council, and changes the time by which they must be transmitted from 72 hours to three working days. The committee of conference notes that the term "supporting documents", as used in this section, includes reports submitted by the Secretary General to the Security Council prior to votes on resolutions in the Security Council which contain proposals, assessments, and recommendations on peacekeeping operations, as well as reports published by other United Nations authorities such as the General Assembly and its constituent organs that are available prior to a vote in the Security Council.

Consultations and reports

The Senate amendment contains several notification and reporting requirements.

The Senate amendment (section 1501) requires that at least fifteen days before (1) any obligation of funds for U.S. participation in international peace operations, or (2) any vote by the Security Council to take action under Article 42 of the U.N. Charter which would involve the use of U.S. Armed Forces, the President shall submit to Congress a report containing a cost assessment of the participation of U.S. Armed Forces in those operations. Section 1501 also provides a waiver of the 15 day reporting requirement if the President determines that an emergency exists which prevents submission of the report in a timely manner.

The Senate amendment (section 1502) requires that at least fifteen days before any U.S. Government agency makes available armed forces, assistance, or facilities to the United Nations under Article 43 of the U.N. Charter, the President shall so notify Congress. Section 1502 also provides a waiver of the 15 day reporting requirement if the President determines that an emergency exists which prevents making a notification in a timely manner.

The Senate amendment (section 1503) requires that not later than 90 days after the date of enactment of this Act, and each year thereafter at the time of the President's budget submission to Congress, the Secretary of State shall submit to Congress a report on U.S. contributions to U.N. peacekeeping activities. Such report shall include (1) the overall cost of all peacekeeping operations as of the date of the report, (2) the costs of each peacekeeping operation, (3) the amount of U.S. contributions (assessed and voluntary) on an operation by operation basis, and (4) an assessment of the effectiveness of ongoing peacekeeping operations, their relevance to U.S. national interests, efforts by the United Nations to resolve relevant armed conflicts, and the projected termination dates for such operations.

The Senate amendment (section 1504) contains detailed Congressional findings and sense of Congress language on U.S. participation in U.N. peacekeeping operations and the need for consultation between the executive branch and the Congress when U.S. armed forces participate in such operations.

The Senate amendment also contains reporting requirements on discretionary withholding of U.S. assessments (section 165), U.N. peacekeeping funding issues (section 170C), treatment of U.S. personnel taken prisoner while serving in peacekeeping operations (section 170E), human rights observance in U.N. peacekeeping activities (section 170E), and access of U.S. contractors to U.N. peacekeeping contracts (section 190).

The House bill contains no comparable provisions.

The conference substitute (sec. 407) modifies and consolidates reporting and notification requirements contained throughout the House bill and the Senate amendment.

Section 407(a)(1) through (4) of the conference substitute establishes consultation procedures, and information and reporting requirements. It requires that the President consult with designated congressional committees each month on the status of U.N. peacekeeping operations. In connection with these consultations, certain information shall be provided each month to those committees. In the case of ongoing peacekeeping operations, the required information includes: a list of all U.N. Security Council resolutions anticipated to be voted on during that month which would extend or change the mandate of any U.N. peacekeeping operation; for each such operation, any changes in the duration, mandate, and command and control arrangements that are anticipated as a result of the resolution's adoption; an estimate of the total cost to the U.N., and an estimate of the amount of that cost that will be assessed to the U.S., for each such operation for the period covered by the resolution; and, any anticipated significant changes and the estimated costs to the U.S. of such changes, in U.S. participation in or support for each such operation during the period covered by the resolution. The list of Security Council Resolutions and the cost estimates must be provided in written form to the designated congressional committees no later than the tenth day of that month. With respect to each new U.N. peacekeeping operation anticipated to be authorized by a Security Council resolution during that month, the required information includes (for the period covered by the Security Council resolution): the anticipated duration, mandate, and command and control arrangements of such operation; an estimate of the total cost to the U.N. of the operation, and an estimate of the amount of that cost that will be assessed to the U.S.; and, a description of the functions that would be performed by any U.S. Armed Forces participating in or otherwise operating in support of the operation, an estimate of the number of members of the Armed Forces that will participate in or otherwise operate in support of the operation, and an estimate of the cost to the U.S. of such participation or support. Information on the first two categories of information must be provided in written form to the designated congressional committees no later than the tenth day of that month. If, during the period between the required monthly consultations, the United States learns that the U.N. Security Council is likely to vote on a resolution authorizing a new U.N. peacekeeping operation that was not previously reported, the President must submit to the designated congressional committees a written interim report. The report shall include information on the anticipated duration, mandate, and command and control arrangements of such operation and an estimate of the total costs to the U.N. and the U.S. of the operation. The written interim report must be submitted not less than 5 days before the vote of the Security Council, unless the President determines that exceptional circumstances prevented compliance with the five day advance reporting requirement. In that case, the interim report shall be submitted promptly (but in no case later than 3 days after the vote) and must include the determination and a description of the exceptional circumstances that were the basis of the determination.

Section 407(a)(5) establishes prior notification requirements for U.S. assistance to the United Nations. The President must notify designated congressional committees at least 15 days before the United States provides any assistance to the United Nations to support peacekeeping operations, when that assistance exceeds $3 million in nonreimbursable assistance or $14 million in reimbursable assistance. This prior notification requirement does not apply to assistance provided to the United Nations for peacekeeping operations under the emergency drawdown authority of sections 506(a)(1) and 552(c)(2) of the Foreign Assistance Act of 1961. The conference substitute further requires the President to submit quarterly reports on all assistance provided by the United States to the United Nations during the preceding calendar quarter to support peacekeeping operations. Each report must describe the assistance provided for each such operation, listed by category of assistance. The report for the fourth calendar quarter of each year shall be submitted as part of the annual report required elsewhere in this Act and shall include cumulative information for the preceding calendar year.

The committee of conference notes that these prior notification and reporting requirements are established to enhance congressional understanding of the full range of support provided by the United States to the United Nations for peacekeeping operations. The committee of conference does not wish to limit unduly the President's flexibility to provide such assistance and has therefore established thresholds of assistance to be notified in advance of $3 million for grant assistance and $14 million for reimbursable assistance. The committee of conference likewise does not intend that the quarterly, retrospective reports on assistance provided to U.N. peacekeeping operations include temporary duty assignments of U.S. personnel in support of peacekeeping operations of less than twenty personnel in any one case, or less than $100,000 in financial assistance. The committee is prepared to alter these thresholds based on experience.

The conference substitute also requires the President to submit an annual report to Congress on a wide range of issues, pursuant to section 407(b) of the substitute.

On funding issues, the information required in the annual report includes: a description of all U.S. assistance provided to the United Nations to support peacekeeping operations during the previous calendar quarter and during the previous year; for both United Nations and other multinational peacekeeping, the aggregate cost of all such operations for the prior fiscal year, the cost of each operation for the prior fiscal year, and the amount of U.S. contributions (both assessed and voluntary) on an operation by operation basis for the prior fiscal year; a projection of U.S. costs for U.N. peacekeeping activities for fiscal years 1996 and 1997; an assessment of the effectiveness of ongoing peacekeeping operations; and the dollar value and percentage of total peacekeeping contracts awarded by the U.N. to U.S. contractors during the previous year.

The substitute also requires annual reporting on U.N. reform issues, including: the status of efforts to establish and implement an independent Inspector General; if an I.G. has been established, a discussion of whether that official is keeping the Secretary General and the members of the General Assembly fully informed of the I.G's activities; the status of efforts to reduce the U.S. peacekeeping assessment rate; and the status of other U.S. efforts to achieve financial and management reform at the United Nations.

The substitute requires annual reporting on the status under international law of members of multinational forces, the extent of risk for U.S. military personnel captured while participating in such forces, and the specific steps that have been taken to protect U.S. military personnel participating in such forces, including any recommendations for legislative action.

Finally, the substitute requires a description of the efforts by the United Nations peacekeeping forces to promote and protect internationally recognized human rights standards, including the status of investigations in any case of alleged human rights violations during the preceding year by personnel participating in United Nations peacekeeping forces, as well as any action taken in such cases.

Transfers of excess defense articles for international peacekeeping operations

The conference substitute (section 408) amends the Foreign Assistance Act of 1961, as amended, to add a new section 520 which grants the President the authority to transfer to international and regional organizations of which the United States is a member such excess defense articles as the President determines necessary to support international peacekeeping operations and other activities.

The conference substitute specifies that the President may not provide any excess defense articles (EDA) to international or regional organizations until the United States has entered into a written agreement with that organization providing that the value of any excess defense articles transferred under this section shall be credited against U.S. assessed contributions to that organization.

The conference substitute also establishes a procedure under which both the State Department and the Defense Department may receive credits against U.S. assessed contributions for U.N. peacekeeping operations. Any credits provided as a result of this new authority shall be counted against U.S. assessed contributions that are payable from the State Department's "Contribution to International Peacekeeping Activities" account, unless an account is established within the Department of Defense for payment of a portion of U.S. assessed contributions for U.N. peacekeeping operations. If such an account is established, EDA is transferred under this section for a U.N. peacekeeping operation, and the U.S. assessed contribution for that operation is payable from that account, then the credit for those excess defense articles shall be counted against DOD's portion of U.S. assessments (until the value of the articles transferred exceeds the amount payable from DOD's account, at which point any excess credits shall apply to the State Department's account).

The conference substitute establishes limitations on EDA transfers under this new section comparable to those applicable to other authorities which permit the transfer of grant EDA, including a requirement that the President establish procedures comparable to those applicable under section 505 of the Foreign Assistance Act of 1961, as amended, which ensure those articles will be used only for purposes that have been agreed to by the United States.

The conference substitute requires that EDA transfers under this section be notified to designated congressional committees not less than 15 days before the transfer occurs, unless the President determines that an unforeseen emergency requires the immediate transfer of EDA under this section. In that case, the President shall promptly notify the designated congressional committees of such waiver and transfer. The term "designated congressional committees" is defined, as used in this subsection, as the Committee on Foreign Affairs, the Committee on Armed Services, and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate.

The conference substitute also provides authorities relating to transportation and related costs of EDA as well as a waiver of the requirements for reimbursement of DOD expenses pursuant to section 632(a) of the Foreign Assistance Act of 1961, as amended.

In crafting this new authority, the committee of conference has attempted to establish a procedure for crediting U.S. peacekeeping assessments which meets both the spirit and the letter of the administration's concept of shared responsibility between the Departments of State and Defense for international peacekeeping matters.

The committee of conference emphasizes its clear and unequivocal intent that the U.S. government shall not provide any excess defense articles to an international or regional organization without first securing a written agreement which specifies not only the amount of the credit the U.S. is to receive against U.S. assessed contributions as a result of such transfers, but which also includes provisions which are comparable to those under section 505 of the Foreign Assistance Act of 1961, as amended (regarding requisite end-use, retransfer and security agreements) and such other procedures and requirements that the President believes necessary to ensure that the excess defense articles are being used only for the purposes agreed to by the United States.

The conference committee further intends that the use of term "value (as defined in section 644(m)(1))" throughout this section is to be interpreted by the executive branch to mean "current value" as currently used in congressional notifications required under sections 516 through 519 of the Foreign Assistance Act of 1961, as amended.

Reform in the budget decisionmaking procedures of the United Nations and its specialized agencies

The Senate amendment (sec. 165) authorizes the President to withhold 20% of the funds appropriated for assessed contributions to the United Nations or to any of its specialized agencies for any calendar year if the United Nations or any of its specialized agencies has failed to implement or continued to implement consensus-based decisionmaking procedures on budgetary matters which assure that sufficient attention is paid to the views of the United States and other member states that are major financial contributors. The Senate amendment also requires that the President notify Congress when a decision is made to withhold any share of U.S. assessed contributions to the United Nations or its specialized agencies pursuant to this section and authorizes payment of prior year assessed contributions if such payment would further U.S. interests in that organization. The Senate amendment also requires the President to submit a report not later than February 1 of each year concerning payment of assessed contributions to the United Nations or any of its specialized agencies in the preceding calendar year. Finally, the Senate amendment repeals similar provisions contained in the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993.

The House bill (sec. 163) is virtually identical.

The conference substitute (sec. 410) is virtually identical to the Senate amendment.

Permanent members of the U.N. Security Council

The Senate amendment (sec. 170A) expresses the sense of the Senate that the United States should, in principle, support the efforts of Japan and Germany to become permanent members of the United Nations Security Council.

The House bill contains no comparable provision.

The conference substitute is the same as the House position.

U.N. Security Council membership

The Senate amendment (sec. 162) contains congressional findings regarding the use of informal regional groups as the sole means for election of the nonpermanent members of the United Nations Security Council, which has resulted in discrimination against Israel, and expresses the sense of the Congress that the Secretary of State should request the Secretary General of the United Nations to seek immediate resolution of this problem. The Senate amendment also requires the President to inform Congress at the time of the annual budget submission of any progress in resolving this situation.

The House bill (sec. 184) is virtually identical.

The conference substitute (sec. 411) is identical to the Senate amendment.

Reforms in the World Health Organization

The Senate amendment (sec. 163) expresses the sense of Congress with respect to the use of U.S. contributions to the World Health Organization and requires the President to direct the U.S. representatives to the World Health Assembly, the Executive Board, and the World Health Organization (WHO) to monitor the activities of WHO to ensure that such organization achieve the timely implementation of reforms and management improvements and the effective and efficient utilization of resources. The Senate amendment also requires the Secretary of State to submit a report not later than 180 days after enactment of this act assessing WHO's progress in implementing management reforms.

The House bill contains no comparable provision.

The conference substitute (sec. 412) is similar to the Senate amendment, but deletes the reporting requirement.

Reforms in the Food and Agriculture Organization

The House bill (sec. 185) expresses the sense of the Congress that the United States should use the opportunity of the 1993 election of a new Director General of the Food and Agriculture Organization (FAO) to press for organizational and management reform and that it should be the policy of the United States to promote specific reforms in the FAO, including decentralization of the administrative structure, reform of the FAO Council, limitations on the term of the Director General, and restructuring of the Technical Cooperation Program.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 413) is similar to the House bill, but deletes the reference to the 1993 elections and includes a statement of policy that the United States should, to the extent practicable, utilize existing personnel programs, such as the Department of Agriculture's Associate Professional Officer program, to place U.S. personnel with unique skills in the FAO.

Adherence to the United Nations Charter

The House bill (sec. 195) expresses the sense of the Congress that the President should seek an assurance from the Secretary General of the United Nations that the United Nations will comply with Article 100 of the U.N. Charter, that neither the U.N. Secretary General nor his staff should seek or receive instructions from any government or from any other authority external to the United Nations, and that the President should report to Congress when he receives such assurance from the Secretary General.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 414) is identical to the House bill.

Designated congressional committees

The Senate amendment in numerous sections defined "appropriate committees" to be notified on various United Nations and peacekeeping issues.

The House bill contains no comparable provisions.

The conference substitute (sec. 415) states that, for purpose of this part, the term "designated congressional committees" means the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives.

PART B—GENERAL PROVISIONS AND OTHER INTERNATIONAL ORGANIZATIONS

Agreement on State and local taxation

The Senate amendment (sec. 740) authorizes the President to bring into force for the United States the Agreement on State and Local Taxation of Foreign Employees of Public International Organizations which exempts certain employees of international organizations located in the United States from payment of state and local income taxes.

The House bill (sec. 162) is similar.

The conference substitute (sec. 421) is identical to the Senate amendment.

It is the intention of the committee of conference that a state that has not previously imposed its income tax on non U.S. citizen employees of international organizations may not impose such tax on such employees in the future. It is also the intention of the committee that any state that has previously imposed its income tax on such employees may not impose such tax on such employees for any tax year beginning after December 31, 1993. It is also the intention of the committee that no state that has previously imposed its income tax on such employees shall be required to refund to such employees any such taxes collected with respect to tax years ending on or before December 31, 1993.

Conference on Security and Cooperation in Europe

The Senate amendment (sec. 739) authorizes the President to implement Annex 1 of the Conference on Security and Cooperation in Europe's Council of Ministers Decision concerning Legal Capacities and Privileges and Immunities.

The House bill contains no comparable provision.

The conference substitute (sec. 422) is identical to the Senate amendment.

International Boundary and Water Commission

The House bill (sec. 164) authorizes the U.S. Commissioner to the International Boundary and Water Commission to receive payments of money from public or private sources in the United States or Mexico made for the purpose of sharing in the cost of replacement of the Bridge of the Americas. Such payments will be credited to the appropriation currently available to the Commission. This authority may be exercised only to the extent or in such amounts as are provided in advance in appropriations acts. The House bill also expands the authority of the International Boundary and Water Commission to take emergency actions to protect against health-threatening surface and ground water pollution problems along the U.S.-Mexico boundary. Finally, the House bill creates the Falcon and Amistad Operating and Maintenance Fund, to be administered by the Administrator of the Western Area Power Administration, for use by the U.S. Commissioner of the International Boundary and Water Commission to defray operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad dams. Revenues collected in connection with the generation of electric power at the Falcon and Amistad dams would be deposited in the U.S. Treasury, to be used to fund operation and maintenance expenses.

The Senate amendment (sec. 171) is virtually identical.

The conference substitute (sec. 423) is virtually identical to the House bill, but clarifies that emergency actions to address health-threatening surface and ground water pollution problems should be taken consistent with the Safe Drinking Water Act.

Sewage treatment along the United States-Mexico border

The Senate amendment (sec. 764) authorizes the Secretary of State, acting through the U.S. Commissioner to the International Boundary and Water Commission, to enter into an agreement with the Government of Mexico to address pollution problems from sewage originating in Mexico and specifies the types of recommendations to be included in such an agreement. The Senate amendment also allows the Secretary of State, through the U.S. Commissioner, to act jointly with the Government of Mexico to supervise the planning, construction, operation, and maintenance of a sewage treatment works specified in the agreement. The Secretary of State shall consult with the Administrator of the Environmental Protection Agency and other appropriate U.S. Government agencies in carrying out this section. The Senate amendment also requires the Secretary to submit an annual report on the implementation of this section.

The House bill contains no comparable provision.

The conference substitute is the same as the House position. The committee of conference notes that the International Boundary and Water Commission already has sufficient authority to carry out the project required by the Senate amendment. In addition, the committee of conference notes that the Border Environmental Commission established under the implementing legislation for the North American Free Trade Agreement will be responsible for oversight of border projects addressing environmental problems.

Membership in the International Copper Study Group

The Senate amendment (sec. 743) authorizes the President to maintain U.S. membership in the International Copper Study Group (ICSG) and allows the U.S. assessed contribution to the ICSG to be paid from funds appropriated for contributions to international organizations.

The House bill contains no comparable provision.

The conference substitute (sec. 425) is identical to the Senate amendment.

International Union for the Conservation of Nature and Natural Resources

The Senate amendment (sec. 173) designates the International Union for the Conservation of Nature and Natural Resources (IUCN) as an international organization for purposes of the International Organizations Immunities Act.

The House bill contains no comparable provision.

The conference substitute (sec. 426) is identical to the Senate amendment.

The committee of conference notes that the conference substitute is intended to grant limited coverage to the IUCN for three purposes. The first is to ensure the IUCN's tax-exempt status in the United States with respect to both state and Federal taxes. The committee of conference notes that this does not extend to the IUCN a status it does not already enjoy. IUCN is recognized by the Federal and District Governments as a non-profit organization and, as such, is exempt from taxation. The second purpose of the conference substitute is to allow IUCN the benefits of the International Organizations Immunities Act with respect to the hiring of foreign nationals. As an international organization, the IUCN frequently has call to bring to the United States individuals who work at its offices overseas. The conference substitute would facilitate such hiring. The third purpose of the conference substitute is to facilitate IUCN's ability to work with Federal agencies. The committee of conference does not intend for the conference substitute to be used as a basis for extending to the IUCN and its employees immunity from civil or criminal prosecution.

Inter-American organizations

The Senate amendment (sec. 174) contains a congressional finding and expresses the sense of Congress that the Secretary of State, in allocating resource levels for international organizations, should pay particular attention to funding levels of inter-American organizations.

The House bill contains no comparable provision.

The conference substitute (sec. 427) is virtually identical to the Senate amendment, but deletes the finding.

International Coffee Organization

The Senate amendment (sec. 175) prohibits the use of funds authorized by this or any other act to pay any U.S. contribution to the International Coffee Organization.

The House bill contains no comparable provision.

The conference substitute (sec. 428) prohibits the use of funds authorized by this act to pay any U.S. contribution to the International Coffee Organization. The committee of conference notes that the United States has already withdrawn from the International Coffee Organization.

International Jute Organization

The Senate amendment (sec. 175) prohibits the use of funds authorized by this or any other act to pay any U.S. contribution to the International Jute Organization.

The House bill contains no comparable provision.

The conference substitute (sec. 429) prohibits the use of funds authorized by this act to pay any U.S. contribution to the International Jute Organization.

Migration and refugee amendments

The House bill (sec. 183) amends the Migration and Refugee Assistance Act of 1962 to reflect the current name of the International Organization for Migration, to indicate that the President is authorized to continue membership in the International Organization for Migration, and to raise the ceiling on the emergency refugee and migration assistance fund from $50 million to $100 million.

The Senate amendment (sec. 181) is virtually identical.

The conference substitute (sec. 430) is identical to the House bill.

Withholding of United States contribution for certain international organizations

The House bill (sec. 102(e)(3)) authorizes to be appropriated for the United Nations Development Program (UNDP) $101,929,000 for each of the fiscal years 1994 and 1995. The House bill also restricts funds made available for UNDP in fiscal years 1994 and 1995 from being available for programs and activities in Burma. In addition, of the funds authorized for each of 1994 and 1995, the bill makes $7,000,000 available only if the President certifies that UNDP's programs and activities in Burma promote the enjoyment of internationally guaranteed human rights by the members of all the ethnic groups in Burma and do not benefit the State Law and Order Restoration Council (SLORC) military regime.

The Senate amendment contained no comparable provision.

The conference substitute (sec. 431) amends section 307 of the Foreign Assistance Act of 1961, withholding the voluntary United States proportionate share for certain programs of international organizations. Under this provision any voluntary United States contribution to an international organization must be reduced by the proportionate United States share of such organization's activities carried out in specified countries. The purpose of the provision is to insure that no United States funds are used to conduct activities in cooperation with these states. The conference substitute strikes reference to the South-West Africa People's Organization and inserts Burma, Iraq, North Korea, and Syria in the list of countries in section 307. The conference substitute excepts contributions to the International Atomic Energy Agency and UNICEF from the limitation on funds. This provision embodies concerns about the uses, not only in Burma but also in Iraq, North Korea and Syria, of funds contributed to international organizations and emphasizes the concerns of the committee of conference regarding the brutal nature of these states.

The committee of conference expresses particular concern that, while international organizations must deal with state parties, their activities in particular countries tend to lend the appearance of legitimacy to regimes which are not supported by a majority of the population. Resources for international organizations are in critically short supply and they should, therefore, be concentrated on programs developed in cooperation with governments which enjoy the support of the population and which are responsive to the genuine needs of the people.

The conference substitute (sec. 431) also retains the restriction that funds available for the UNDP and UNDP-administered funds for fiscal years 1994 and 1995 may not be available for programs and activities in Burma. The conference substitute also provides that of the funds available for fiscal year 1994, $11,000,000 is made available only if the President certifies that the UNDP programs and activities in Burma promote the enjoyment of internationally guaranteed human rights by all persons in Burma and do not benefit the SLORC military regime. Finally, the conference substitute provides that of the funds available for fiscal year 1995, $27,600,000 is available only if the President certifies one of the following: (a) that UNDP has approved or initiated no new programs or new funding for existing programs in Burma since June 1993; (b) that new programs that are introduced address unforeseen urgent humanitarian concerns; or (c) that a democratically elected government in Burma has agreed to such programs.

The committee of conference intends that section 431(b)(1) of the conference substitute affect programs and activities financed by the funds made available for fiscal years 1994 and 1995 while sections 431(b) (2) and (3) of the conference substitute affect programs also financed by funds made available for prior years, if such programs do not meet the certification requirements.

As applied to Burma, both section 431(a) and section 431(b) reflect the concern of the committee of conference that UNDP programs in Burma have been abused by the SLORC for the purpose of attempting to create an appearance of legitimacy, and strengthen its hold over Burma, including building infrastructure which was useful in its brutal military campaigns against ethnic minorities. The committee of conference has grave concerns that under the SLORC the UNDP can design and implement programs which avoid these problems. The committee of conference strongly encourages all international organizations to cooperate with the internationally recognized winners of the 1990 elections in Burma, and less with the SLORC military regime which failed to honor the election results and which has remained in power solely through force and repression.

Because of these concerns, under section 431(a) of the conference substitute, the United States voluntary contribution to UNDP must be reduced by the United States proportionate share of any UNDP program in Burma, notwithstanding any certification provided to the Congress under section 431(b). If, however, the President cannot make the certifications required in section 431(b), even deeper, specified reductions of $11,000,000 and $27,600,000 must be made in the United States contributions to UNDP in fiscal years 1994 and 1995.

In adopting the position that the deeper reduction of fiscal year 1995 funds otherwise mandated by section 431(b) may be avoided under the certification provision, the committee of conference recognizes that notwithstanding the proportionate reduction required under section 431(a), UNDP might choose to provide limited and carefully controlled assistance to address unforeseen urgent humanitarian concerns, such as providing support for a voluntary, internationally accepted resettlement of refugees from Bangladesh which is fully consistent with international refugee standards and monitored by the United Nations High Commissioner for Refugees. In addition, the committee of conference substitute does not mandate the specified deep reduction in 1995 funds if UNDP activities in Burma are expressly approved, officially or unofficially, by a democratically elected government of Burma. This may occur if a democratic government takes office in Burma or if new UNDP programs or new funding for programs are approved by the internationally recognized winners of the 1990 elections in Burma.

TITLE V—FOREIGN POLICY

U.S. policy concerning overseas assistance to refugees and displaced persons

The House bill (sec. 187) establishes comprehensive standards for addressing the needs of women and children refugees and calls for the Department of State to pursue full implementation of the 1991 United Nations High Commissioner for Refugees (UNHCR) Guidelines on the Protection of Refugee Women. The House bill also requires the Secretary of State to adopt specific procedures to ensure that all organizations that receive U.S. refugee and migration assistance funds implement these standards.

The Senate amendment (sec. 182) is similar.

The conference substitute (sec. 501) is similar to the House bill, but makes some technical and clarifying changes.

Interparliamentary exchanges

The House bill (sec. 186) reduces the two-year authorization for the U.S.-Canada Interparliamentary Exchange by $20,000 and increases the two-year authorization for the U.S.-Mexico Interparliamentary Exchange by $20,000. The House bill also allows funds appropriated for interparliamentary exchanges to be deposited in interest bearing accounts and directs that interest earned on those funds be periodically deposited in the U.S. Treasury.

The Senate amendment (sec. 183) is virtually identical.

The conference substitute (sec. 502) is identical to the House bill.

Food as a human right

The House bill (sec. 196) requires the United States, in accordance with its international obligations, to promote increased respect internationally for the rights to food and medical care and requires that the Assistant Secretary responsible for human rights and humanitarian affairs shall also be responsible for promoting increased respect internationally for those rights. The House bill also expresses the sense of Congress that a major effort should be made to strengthen the right to food in international law and toward that end, the Secretary of State, through the U.S. Representative to the United Nations, should propose to the United Nations General Assembly that a declaration and convention concerning the right to food be adopted and submitted to the countries of the world for ratification.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 503) is similar to the House bill, but urges the United States to promote increased respect internationally for the rights to food and medical care, and deletes references to an international convention on such rights.

Transparency in armaments

The House bill (sec. 191) expresses the sense of Congress that no sale of defense articles or services should be made, and no license issued for the export of such articles or services, and no agreement to transfer such articles or services in any way, should be made to any nation that does not fully furnish all pertinent data to the U.N. Register of Conventional Arms. The House bill also expresses the sense of Congress that if a nation has not submitted the required information by the reporting date in any given year, but subsequently notifies the U.N. that it intends to provide that information before the next reporting date, agreements may be negotiated with that country for the provision of such articles or services, but actual delivery should not occur until such nation submits the required information.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 504) is similar to the House bill, but also expresses the sense of the Congress that the President should seek to restart the Perm-5 talks on guidelines for conventional arms sales to the developing world.

Revitalization of the "Permanent Five" process

The House bill (sec. 192) contains congressional findings regarding the Perm-5 talks on guidelines for conventional arms sales to the developing world and expresses the sense of the Congress that the President should seek to restart the Perm-5 talks.

The Senate amendment contains no comparable provision.

The conference substitute is the same as the Senate position. The committee of conference notes that the operative clauses of section 192 of the House bill are incorporated in section 504 of the conference substitute.

Report on the impact of conventional weapons proliferation

The House bill (sec. 193) amends section 36(b) of the Arms Export Control Act to require that each certification required for letters of offer to sell any defense articles or services for $50 million or more, any design and construction services for $200 million or more, or any major defense equipment for $14 million or more, provide an evaluation of the manner in which the proposed sale would meet legitimate defense needs of the foreign country or international organization to which the sale would be made, increase regional tensions or instability, or introduce new or more sophisticated military capabilities into the region.

The Senate amendment contains no comparable provision.

The conference substitute is the same as the Senate position.

Inspector General Act

The Senate amendment (sec. 189) expresses the sense of the Senate that the issue of amending the Inspector General Act to establish term limits for Inspectors General should be examined and considered as soon as possible by the appropriate committees of jurisdiction.

The House bill contains no comparable provision.

The conference substitute (sec. 505) is identical to the Senate amendment.

Implementing legislation for Torture Convention

The Senate amendment (sec. 705) amends title 18 of the United States Code to establish criminal penalties for persons committing or attempting to commit torture outside the United States. United States jurisdiction over this prohibited activity shall apply if the alleged offender is a national of the United States or if the alleged offender is present in the United States, irrespective of the nationality of the victim or alleged offender.

The House bill contains no comparable provision.

The conference substitute (sec. 506) is identical to the Senate amendment.

International claims settlement

The Senate amendment (sec. 711) amends the International Claims Settlement Act of 1949 to add a new section which allows the release of funds on deposit in U.S. banks that have been blocked under the International Emergency Economic Powers Act in accounts of foreign banks that issued or confirmed letters of credit for the benefit of U.S. nationals, to pay such letters of credit if the U.S. beneficiaries lawfully shipped goods or otherwise performed underlying contractual obligations based on such letters of credit before the declaration of a national emergency pursuant to IEEPA.

The House bill contains no comparable provision.

The conference substitute is the same as the House position.

The committee of conference notes that the House will be considering the Iraqi Claims Act of 1993 during the upcoming session. That legislation addresses the system by which claims against frozen Iraqi assets will be paid.

U.S. policy toward Iraq

The Senate amendment (sec. 708) contains congressional findings and expresses the sense of the Congress that the President should encourage the United Nations Security Council to reaffirm its support for the people of northern Iraq and consider selectively lifting the embargo on those areas, advocate a unified, democratic Iraq, takes steps to design a multilateral assistance program for the Kurds, and intensify discussions with the Government of Turkey on these matters.

The House bill contains no comparable provision.

The conference substitute (sec. 507) is similar to the Senate amendment but deletes the findings, changes the focus of the provision from Iraqi Kurdistan to policy toward Iraq, and adds provisions calling on the President to encourage the United Nations Security Council to maintain the embargo against the Iraqi regime, consider extending protection to the marsh Arabs of southern Iraq, and pursue prosecution of Iraqi officials for war crimes. The conference substitute also calls upon the President to continue to support the territorial integrity of Iraq and encourage the provision of humanitarian assistance to people fleeing the marshes in southern Iraq. Finally the conference substitute deletes provisions from the Senate amendment detailing the type of multilateral assistance envisioned for the Kurds.

High level visits to Taiwan

The Senate amendment (sec. 720) expresses the sense of Congress that the executive branch should send cabinet-level U.S. officials on missions to Taiwan to promote U.S. interests and to ensure the continued success of U.S. business in Taiwan and that the President should take steps to show clear U.S. support for Taiwan both in bilateral relationships and multilateral organizations of which the United States is a member.

The House bill contains no comparable provision.

The conference substitute (sec. 508) is identical to the Senate amendment. The committee of conference urges the executive branch to take this into consideration as it completes its interagency review of Taiwan policy.

Report on economic relations with Taiwan

The Senate amendment (sec. 707) requires the President to submit an annual report on U.S. economic relations with Taiwan.

The House bill contains no comparable provision.

The conference substitute is the same as the House position.

Transfer of obsolete war reserve stockpiles

The Senate amendment (section 722) provides for the transfer of certain obsolete or surplus defense articles in the war reserve allies stockpile to the Republic of Korea. The Senate amendment specifies the authorities through which the Secretary of Defense is authorized to transfer obsolete and surplus war reserve stockpiles to the Republic of Korea and specifies that acceptable concessions that must be agreed to in association with the transfer of obsolete or surplus war reserve stockpiles to the Republic of Korea. The Senate amendment also requires thirty day prior notification to Congress of any proposed transfer of obsolete or surplus war reserve stockpiles to the Republic of Korea and sunsets the authority to transfer obsolete or surplus war reserve stockpiles to the Republic of Korea two years after the date of enactment of this Act.

The House bill contains no comparable provision.

The conference substitute (sec. 509) is virtually identical to the Senate amendment, but clarifies that the authorities of the Secretary of Defense are to be carried out in concurrence with the Secretary of State.

Fair trade in auto parts

The Senate amendment (sec. 731) extends the Auto Parts Advisory Commission created by the Omnibus Trade and Competitiveness Act of 1988 for an additional five years, until 1998.

The House bill contains no comparable provision.

The conference substitute (sec. 510) is identical to the Senate amendment.

Report on use of foreign frozen or blocked assets

The Senate amendment (sec. 735) requires the President to submit a report to the Committee on Foreign Affairs of the House and the Committee on Foreign Relations of the Senate not later than 60 days after the date of enactment containing a detailed accounting analysis and justification for all expenditures made from foreign government assets that have been blocked or frozen by the United States Government, particularly Haitian, Iranian, and Iraqi frozen or blocked assets.

The House bill contains no comparable provision.

The conference substitute (sec. 511) is identical to the Senate amendment.

Extension of certain adjudication procedures

The Senate amendment (sec. 748) extends through 1996 certain adjudication provisions previously enacted in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990. The Senate amendment extends a special allocation of refugee admission spaces to aliens who are or were nationals or residents of an independent state of the former Soviet Union or Estonia, Latvia, or Lithuania and who are Jews or evangelical Christians. The provision would also extend until October 1, 1996 the Attorney General's ability to adjust the status of aliens who are nationals of an independent state of the former Soviet Union, Estonia, Latvia, Lithuania, Vietnam, Laos, or Cambodia and were granted parole in the United States after August 14, 1988 to that of aliens lawfully admitted for permanent residence.

The House bill contains no comparable provision.

The conference substitute (sec. 512) is identical to the Senate amendment.

Material support for terrorists

The Senate amendment (sec. 704) establishes new criminal penalties for persons in the United States convicted of providing material support or resources, or concealing or disguising the nature location, source, or ownership of material support or resources that are to be used in preparation for, or in carrying out, certain acts of terrorism. The offenses covered include aircraft sabotage, acts of violence at airports, acts against various U.S. officials, acts against foreign officials and diplomats, acts against federal property, hostage-taking, maritime terrorist acts, and terrorist acts against U.S. nationals abroad.

The House bill contains no comparable provision.

The conference substitute is the same as the House position.

The Senate conferees believe this to be an important provision and note that its enactment would deter those providing material support by creating a single Federal standard for aiding and abetting terrorism, since in many jurisdictions the standard varies widely. Under some statutes, specific intent to commit the underlying offense is required before a person could be convicted of aiding or abetting. The Senate conferees note that this provision would provide a cause of action against those who knowingly provide assistance in advance as well as stiffer penalties for those who become accessories after the fact.

The committee of conference agreed not to include the Senate provision because of jurisdictional concerns of the committee of jurisdiction in the House. It is the understanding of the committee of conference that this matter will be addressed fully during the upcoming conference on the crime bill. The committee of conference notes that this provision has previously passed both the Senate and the House of Representatives, although in different legislative vehicles. The Senate conferees urge its enactment as part of this year's crime bill.

Pilot visa waiver program

The Senate amendment (sec. 723) requires the Secretary of State to explore the procedures necessary to begin a pilot visa waiver program which would reduce the time needed to permit South Korea to be an eligible visa waiver country. The Senate amendment also requires the Secretary of State to permit Koreans to travel to Alaska and Hawaii without visas.

The House bill contains no comparable provision.

The conference substitute is the same as the House position.

Asylum reform

The Senate amendment (sec. 727) contains congressional findings regarding the asylum process in the United States and expresses the sense of Congress that U.S. immigration, asylum, and refugee laws should be reformed to provide a procedure for the expeditious exclusion of asylum applicants who arrive at a port of entry with fraudulent documents or no documents and make a non-credible claim of asylum and to provide for a streamlined affirmative asylum processing system for asylum applicants who make their application after they have entered the United States.

The House bill contains no comparable provision.

The conference substitute is the same as the House position.

The committee of conference strongly supports efforts to reform U.S. asylum laws and procedures. In the last decade, applications for asylum have increased dramatically, with the current backlog of cases exceeding 370,000. Genuine refugees have suffered long delays in obtaining asylum. The delays have also encouraged fraudulent applications. Together, this has led to an erosion of support for asylum.

The committee of conference believes asylum reforms should include procedures for the expeditious processing of asylum applications, including exclusion of those who do not qualify. The committee of conference supports the efforts of the President to reduce the backlog of applications and expedite the processing of legitimate claims for asylum, as well as the complementary efforts by Congress to address this growing problem.

Report on Bosnian refugees

The Senate amendment (sec. 751) contains Senate findings and requires the Department of State within 60 days of enactment to brief the Committees on the Judiciary of the House of Representatives and the Senate on the steps being taken by the United States to assure that all appropriate efforts are being made expeditiously to identify and assist all cases of Bosnian individuals and families who are requesting third country resettlement and who are eligible to seek refugee status in the United States and who are seeking such refugee status.

The House bill contains no comparable provision.

The conference substitute is the same as the House position.

Chinese fleeing coercive population control

The Senate amendment (sec. 758) prohibits the Attorney General from deporting nationals of the People's Republic of China (PRC) who demonstrate a reasonable likelihood that upon their return to the PRC they will be forced to abort a pregnancy or will be subjected to forced sterilization under Chinese Communist Party directives. Additionally, the Senate amendment requires the Attorney General to give asylum to those nationals of the PRC who demonstrate that they have experienced severe harm on account of their refusal to comply with Chinese government directives. The Senate amendment also requires the Attorney General to promulgate regulations to carry out the purposes of this section and limits the number of persons receiving the benefit of this section to 2,000 in any one fiscal year. The Senate amendment would apply for a period of three years from the date of enactment of this act.

The House bill contains no comparable provision.

The conference substitute is the same as the House position.

Immigration and Nationality Act amendments

The Senate amendment (title XII) amends section 245 of the Immigration and Nationality Act to allow aliens physically present in the United States who entered the United States without inspection or are within one of the classes enumerated in section 245(c) to apply for adjustment of status to that of an alien lawfully admitted for permanent residence. The Attorney General may accept such application only if the alien remits with such application a sum equalling five times the fee usually required for adjustment of status. The Senate amendment would apply for a period of three years from the date of enactment of this act.

The House bill contains no comparable provision.

The conference substitute is the same as the House position.

Conditions on MFN for China

The Senate amendment (sec. 752) contains congressional findings regarding conditions for renewal of most-favored-nation (MFN) status for the People's Republic of China and expresses the sense of the Senate that the President should use all appropriate opportunities, in particular more high level exchanges with the Chinese Government, to press for further concrete progress towards meeting the standards for continuation of MFN status as contained in the Executive Order of May 28, 1993.

The House bill contains no comparable provision.

The conference substitute (sec. 513) is identical to the Senate amendment.

Implementation of Partnership for Peace

The Senate amendment (sec. 753) requires the President to submit a report every six months, beginning six months after the date of enactment of this act, on the implementation of the "Partnership for Peace" initiative, including an assessment of the progress made by former members of the Warsaw Treaty Organization in meeting the criteria for full membership in the North Atlantic Treaty Organization.

The House bill contains no comparable provision.

The conference substitute (sec. 514) is similar to the Senate amendment but requires the first report 90 days after enactment and subsequent reports annually thereafter. The conference substitute includes an authorization of status of forces agreements with any country eligible to participate in the Partnership for Peace.

European nations participation in NATO

The Senate amendment (sec. 724) expresses the sense of the Senate that the United States should urge prompt admission to NATO for those European nations which demonstrate both the capability and willingness to support collective defense requirements and established democratic practices.

The House bill contains no comparable provision.

The conference substitute is the same as the House position.

Thailand's relations with Burma and Cambodia

The Senate amendment (Sec. 763) expresses the sense of Congress regarding Thailand's policies towards Burma and Cambodia. It conveys concern that the Government of Thailand, or elements thereof, should end any and all support for the Khmer Rouge in Cambodia, permit democratic leaders of Burma to continue to operate in Thailand, and prosecute those responsible for the trafficking and abuse of women in Thailand, particularly Burmese women. The provision also urged the President to enunciate a clear policy towards Burma.

The House bill contains no comparable provision.

The conference substitute (sec. 515) is similar to the Senate bill, but includes a statement praising the return of democracy to Thailand, stressing the importance of U.S.-Thai relations, and urging the Government of Thailand to adopt a responsible policy concerning displaced persons from neighboring countries, particularly persons from Burma and the Hmong from Laos.

The committee of conference strenuously objects to the action of elements of the Government of Thailand in early April 1994 to repatriate forcibly Cambodian women, children, and elderly into an area of Cambodia controlled by the Khmer Rouge. The committee of conference notes that this action was taken despite intercessions by the United Nations High Commissioner for Refugees and is contrary to the spirit of the October 1991 peace agreement on Cambodia. Such actions do not contribute to close cooperative relations between the United States and Thailand.

The committee of conference is also concerned about the apparent continued support extended by elements of the Royal Thai military to the Khmer Rouge in their recent offensive against Cambodian Government forces along the border.

Women's human rights protection

The House bill (sec. 181) expresses the sense of Congress that the State Department should designate within the appropriate bureau a special assistant to the Assistant Secretary to promote international women's human rights within the overall human rights policy of the United States Government and enumerates the responsibilities such an advocate should have. The House bill also requires the Secretary of State to notify the Congress within a year on steps taken to create such a position. Finally, the House bill requires that if the U.N. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) has not been submitted to the Senate within 90 days of enactment of this act, the Secretary of State shall notify the Congress of the executive branch's position on the ratification of CEDAW and the timetable for submission of CEDAW for congressional consideration and approval.

The Senate amendment (sec. 137) contains a similar provision.

The conference substitute (sec. 142) expresses the sense of Congress that the Department of State should designate a senior advisor to the appropriate Undersecretary to assure that women's human rights issues are considered in the overall development of international human rights policy. The conference substitute also requires the Secretary of State to notify Congress within 180 days of enactment of the steps taken to fulfill the objective of integrating fully women's human rights issues into U.S. foreign policy.

Policy toward the establishment of an International Criminal Court

The Senate amendment (sec. 168) contains congressional findings regarding the establishment of an international criminal court and expresses the sense of Congress that the establishment of such a court would greatly strengthen the international rule of law and would thereby serve the interests of the United States and the world community, and that the U.S. delegation to the United Nations should make every effort to advance such a proposal. The Senate amendment also requires the President to submit a report not later than February 1, 1994 on developments relating to, and U.S. efforts in support of, the establishment of an international criminal court.

The House bill contains no comparable provision.

The conference substitute (sec. 517) is virtually identical to the Senate amendment, but changes the sense of Senate statement to a sense of the Congress.

International Criminal Court participation

The Senate amendment (sec. 169) states that the United States Senate will not consent to the ratification of a treaty providing for participation in an international criminal court which permits representatives of any terrorist organization, nationals, or residents of any country which has been designated by the Secretary of State as a state sponsor of international terrorism, to sit in judgment on U.S. citizens.

The House bill contains no comparable provision.

The conference substitute (sec. 518) is identical to the Senate amendment.

Protection of first and fourth amendment rights

The Senate amendment (sec. 170) states that the United States Senate will not consent to the ratification of a treaty providing for participation in an international criminal court unless American citizens are guaranteed, in the terms establishing such a court, and in the court's operation, that the court will take no action infringing upon or diminishing their rights under the First and Fourth Amendments of the Constitution of the United States, as interpreted by the United States.

The House bill contains no comparable provision.

The conference substitute (sec. 519) is identical to the Senate amendment.

Termination of U.S. arms embargo

The Senate amendment (sec. 725) expresses the sense of the Senate that the President should terminate the U.N.-imposed arms embargo of the government of Bosnia-Hercegovina. The Senate amendment also stipulates that the President should provide appropriate military assistance to the government of Bosnia-Hercegovina.

The House bill contains no comparable provision.

The conference substitute (sec. 520) is virtually identical to the Senate amendment, but changes the Sense of the Senate to the Sense of the Congress.

Normalization of relations with Vietnam

The Senate amendment (sec. 718) expresses the sense of the Senate that, in view of progress in resolving the fate of American servicemen unaccounted for in the Vietnam conflict, the President should lift the United States embargo against Vietnam expeditiously, and the two countries should move towards the normalization of relations.

The House bill contains no comparable provision.

The conference substitute (sec. 521) is identical to the Senate provision. The committee of conference notes that the inclusion of this provision does not constitute an endorsement by the House conferees or the House of Representatives of the President's decision to lift the embargo against Vietnam. As the House has not addressed this issue, the committee of conference included only the original sense of the Senate provision on this issue.

Report on sanctions on Vietnam

The Senate amendment (sec. 761) requires that 30 days after the modification or termination of any economic sanctions on Vietnam, the President should submit a report to the Senate and the House of Representatives on achieving the fullest possible accounting of U.S. personnel unaccounted for from the Vietnam War.

The House bill contains no comparable provision.

The conference substitute (sec. 522) is identical to the Senate amendment.

People's Mujahaddin of Iran

The Senate amendment (sec. 732) contains congressional findings regarding the alleged terrorist activities of the People's Mujahaddin of Iran, and requires the Secretary of State to include information on the People's Mujahaddin of Iran in the Department's annual report on terrorism. If the Secretary elects not to include such information, the Secretary is required to submit a report to Congress detailing the structure, current activities, and external support of the People's Mujahaddin of Iran within 60 days after the submission of the annual report.

The House bill contains no comparable provision.

The conference substitute (sec. 523) requires the President to submit a report to Congress detailing the structure, current activities, and external support of the People's Mujahaddin of Iran within 180 days of the enactment of this act, including any information on current direct or indirect support by the PMI for acts of international terrorism. The conference substitute also requires the President to consult with all appropriate agencies in compiling such report.

The committee of conference notes that nothing in this section is intended to prejudge whether or not the People's Mujahaddin of Iran is currently engaged in acts of terrorism and urges those preparing the report to consult and talk with the widest range of people possible when compiling the report.

PLO commitments compliance reporting requirements

The Senate amendment (sec. 728) amends section 804 (b) of the PLO Commitments Compliance Act of 1989 to change the reporting requirement of that act from every 120 days to every 180 days, and allows the report to be submitted in conjunction with the written policy justification required in the Middle East Peace Facilitation Act of 1994. The Senate amendment also updates the reporting requirement to include information on the PLO's compliance with the commitments it made in September 1993.

The House bill contains no comparable provision.

The conference substitute (sec. 524) is similar to the Senate amendment, but it does not include a provision which would have deleted two items from the President's written policy justification. The conference substitute also makes appropriate technical changes to reflect actions taken by the committee of conference on part E of this title.

Free trade in ideas

The Senate amendment (sec. 755) expresses the sense of the Congress that the President should not restrict informational, educational, religious, or humanitarian exchanges, or exchanges for public performances or exhibitions, or travel for any such exchanges, activities, performances or exhibitions, between the United States and any other country.

The House bill contains no comparable provision.

The conference substitute (sec. 525) amends the Senate language.

The House bill had in its original form included a Part entitled Facilitation of Private Sector Initiatives (the "Free Trade in Ideas Act"), dealing with all these issues. This provision was withdrawn in committee at the request of the Secretary of State, whose letter "endorse[d] the underlying objectives of the Free Trade In Ideas Act", asked for the opportunity to implement those objectives by means of regulation, and suggested that statutory and regulatory changes might be useful in the future.

The provisions of the conference substitute seek to protect the constitutional rights of Americans to educate themselves about the world by communicating with peoples of other countries in a variety of ways, such as by sharing information and ideas with persons around the world, traveling abroad, and engaging in educational, cultural and other exchanges with persons from around the world. Such activities can also significantly promote the foreign policy objectives of encouraging democracy and human rights abroad, and improving understanding of and goodwill toward the United States abroad, thus enhancing the declining U.S. government resources available for such purposes. The committee of conference notes that private initiatives represent the lion's share of U.S. exchanges with the world, and that private citizens engaged in private activity are frequently the best purveyors of the values of American civilization.

The committee of conference believes that these protections should be broadly recognized and apply universally. While the statutory amendments made by this section do not include amendments to the U.N. Participation Act, the committee of conference has acted on the assurance of the executive branch that it intends to work to exclude limits on the free flow of information and restrictions on travel from multilateral embargoes.

Subsection (a) is a sense of the Congress resolution that the President should not in any way restrict travel or exchanges for informational, educational, religious, cultural, or humanitarian purposes or for public performances or exhibitions between the United States and any other country, whether such restrictions are imposed pursuant to the Trading with the Enemy Act, the International Emergency Economic Powers Act, the United Nations Participation Act, the Immigration and Nationality Act, or any other authority. The committee of conference understands that it is the policy of the executive branch to now undertake to incorporate this principle through regulatory and administrative changes, including issuance of visas for these purposes, and removal of currency restrictions for such activities, in all existing and future embargoes.

Subsection (b) amends Section 5(b)(4) of the Trading with the Enemy Act (TWEA), 50 U.S.C. App. §5(b)(4), to clarify it by eliminating some of the unintended restrictive administrative interpretations of it.

The first part of paragraph (1) of Subsection (c) amends Section 203(b)(3) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. §§1702(b)(3), in identical terms and to the same effect.

These provisions in their original form, identical in terms in each statute, were adopted in 1988, (the Berman Amendment to the Omnibus Trade and Competitiveness Act), and established that no embargo may prohibit or restrict directly or indirectly the import or export of information that is protected under the First Amendment to the U.S. Constitution. The language was explicitly intended, by including the words "directly or indirectly," to have a broad scope. However, the Treasury Department has narrowly and restrictively interpreted the language in ways not originally intended. The present amendment is only intended to address some of those restrictive interpretations, for example limits on the type of information that is protected or on the medium or method of transmitting the information.

The committee of conference intends these amendments to facilitate transactions and activities incident to the flow of information and informational materials without regard to the type of information, its format, or means of transmission, and electronically transmitted information, transactions for which must normally be entered into in advance of the information's creation.

The committee of conference further understands that it was not necessary to include any explicit reference in the statutory language to "transactions incident" to the importation or exportation of information or informational materials, because the conferees believe that such transactions are covered by the statutory language.

The second part of paragraph (1) of subsection (c) amends the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. §§1702(b) to add a new subsection (4) that would prohibit restrictions of any kind, including currency restrictions, on travel and transactions ordinarily incident to travel by Americans under embargoes implemented pursuant to the IEEPA. This section does not apply to restrictions that are currently in place under existing IEEPA embargoes against Libya and Iraq. Because the embargoes on Cuba and North Korea are imposed not under IEEPA but under TWEA, this change would also not apply to either of those embargoes. The new paragraph 203(b)(4) would apply to new restrictions on travel under existing or future embargoes imposed under IEEPA. This is a further effort to protect Americans' constitutional rights and to facilitate international freedom of movement.

Embargo against Cuba

The conference substitute (sec. 526) expresses the sense of Congress that the President should advocate and seek a mandatory international U.N. Security Council embargo against the dictatorship of Cuba.

Expropriation of American property

The Senate amendment (secs. 744 and 759) revises section 620(e) of the Foreign Assistance Act, section 21 of the Inter-American Development Bank Act, section 18 of the Asian Development Bank Act, and section 12 of the International Development Association Act regarding the prohibition of assistance to governments which expropriate the property of American citizens.

The House bill contains no similar provisions.

The conference substitute (sec. 527) combines and revises current law, known as the Hickenlooper and Gonzalez amendments, to state clearly the steps which must be undertaken by a foreign government to ensure that U.S. bilateral and multilateral aid is not terminated when the property of an American is expropriated.

The committee of conference believes that existing law has not been adequately applied by the executive branch in successive administrations and has included the Helms amendment to address this problem. The Hickenlooper law, which is intended to prohibit bilateral U.S. foreign assistance to nations which confiscate Americans' property, has been applied only twice since 1962 (and not once in the past 15 years). Similarly, the Gonzalez law, which requires that the U.S. vote against multilateral bank loans to governments which expropriate American property, has only been applied against two countries in 23 years. The committee of conference, however, is aware that the expropriation of Americans' property by foreign governments is a growing problem; there are currently more than 1,400 such cases in Central America alone.

The committee of conference believes that if a foreign government has attempted to submit an outstanding expropriation claim to the International Center for Settlement of Investment Disputes, but the American person has refused, that the conditions in (a)(2) of this section shall be considered as met and U.S. foreign assistance, therefore, should not be terminated.

The committee of conference recognizes the unique problems facing many of the new nations of the former Soviet Union and Eastern and Central Europe and have added a provision designed to provide nations emerging from totalitarian or authoritarian rule sufficient time to settle outstanding expropriation claims before the termination of assistance is considered. The President is provided broad authority to waive this entire section if he determines and reports to Congress that it is in the national interest to do so.

This section is not meant to affect in any way a foreign government's legitimate right to seize the property of anyone who has violated the law of that nation, consistent with international law. Nor is it intended to deny assistance to the poorest of the poor through Basic Human Needs loans from the multilateral development banks. The committee of conference believes Basic Human Needs loans should be only those which provide basic education, basic sanitation, basic shelter, primary health care, clean drinking water and sanitation, and sufficient food and nutrition for a healthy and productive life.

The conference substitute also requires the Secretary of State to report no longer than 90 days after enactment of this Act and annually thereafter to Congress on the status of outstanding expropriation claims worldwide.

Report on Russian military operations in the Independent States of the former Soviet Union

The Senate amendment (sec. 750) requires the President to submit a report to Congress not later than July 1, 1994 on the operations and activities of the armed forces of the Russian Federation, including elements operating outside the chain of command of the armed forces of the Russian Federation, outside the borders of the Russian Federation and, specifically, in the other independent states that were a part of the former Soviet Union and the Baltic States the amendment also specifies the content of that report.

The House bill has no comparable provision.

The conference substitute (sec. 528) is similar to the Senate amendment but changes the date of submission of the report to not later than five months after enactment.

Report on the dismantlement of nuclear weapons of the former Soviet Union

The Senate amendment (sec. 760) requires that the report required by section 1207 of Title XII (Cooperative Threat Reduction with States of the Former Soviet Union) of Public Law 103-160 (National Defense Authorization Act for Fiscal Year 1994) and due on April 30, 1994, to be submitted by the President, shall include information on the anticipated timetable for dismantlement of former Soviet Union nuclear and chemical weapons, the cost of each activity, the agencies responsible, obstacles hindering the effective use of funds and how they might be overcome, the impact of United States funds on such dismantlement, and a classified appendix detailing actual reductions in weapons and capabilities.

The House bill contains no comparable provision.

The conference substitute is the same as the House position.

Policy toward North Korea

The Senate amendment (secs. 709, 717, 726, and 749) regarding the crisis on the Korean peninsula was provoked by North Korea's failure to honor commitments to the international community concerning its nuclear program. The Senate amendment (sec. 709) provides that, notwithstanding any other provision of law, no license, instruction, rule, regulation or order issued under section 5 of the Trading With the Enemy Act may authorize any transaction involving the commercial sale of any good or technology to North Korea or authorize any transaction involving the provision of services for travel to North Korea which was not authorized as of January 2, 1989. The President may waive this prohibition if the President determines that such waiver would serve the national interest of the United States. The Senate amendment (sec. 717) expresses the sense of the Senate that the President should not engage in negotiations on the normalization of relations with North Korea until it meets its full obligations under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and provides definitions for the purposes of this section. The Senate amendment (sec. 726) also expresses the sense of Congress that if North Korea continues to resist efforts of the international community to allow IAEA to conduct regular inspections and refuses to return to and fully comply with the NPT, the President should coordinate with allies in the region and act to defend U.S. security interests on the Korean peninsula. Finally, the Senate amendment (sec. 749) expresses the sense of Congress that North Korea must halt its nuclear weapons program and fully comply with the NPT, and that the President should seek international consensus to isolate North Korea economically, support U.S.-South Korean joint military exercises, and ensure that sufficient U.S. military forces are deployed in the region to defend effectively South Korea against any offensive action by North Korea.

The House bill contains no comparable provisions.

The conference substitute (sec. 529) combines most of the North Korea-related language from the Senate amendment and expresses the sense of Congress concerning U.S. policy regarding the crisis on the Korean peninsula. The conference substitute stresses that in addressing the crisis the United States: should pursue a diplomatic strategy while remaining militarily prepared and vigilant, but recognizes that all options, including the appropriate use of force, remain available. The U.S. should work closely with U.S. allies, the International Atomic Energy Agency, and other parties; should be prepared to pursue an internationally supported policy of isolation of North Korea if that country does not comply with all its international obligations; should, if unable to obtain international consensus, employ all unilateral means of leverage over North Korea; and should judge, in part, future relations with China on its cooperation on the North Korean nuclear issue.

The conference substitute includes a provision that expresses the sense of Congress that within the international community China has significant influence over North Korea and as such, Chinese cooperation on the North Korean nuclear issue will inevitably be a significant factor in U.S.-Chinese relations.

Enforcement of nonproliferation treaties

The Senate amendment (sec. 712) expresses the sense of Congress that the President should instruct the U.S. Permanent Representative to the United Nations to work for passage of a Security Council resolution which would apply international economic sanctions against any non-nuclear weapon state found to have terminated, abrogated, or materially violated an IAEA full-scope safeguards agreement. The Senate amendment also prohibits U.S. assistance under the Foreign Assistance Act to any non-nuclear weapon state found to have terminated, abrogated, or materially violated an IAEA safeguards agreement or a bilateral U.S. nuclear cooperation agreement entered into after the date of enactment of the Nuclear Non-Proliferation Act (March 10, 1978).

The House bill contains no comparable provision.

The conference substitute (sec. 530) is similar to the Senate amendment, but allows the President to waive the application of the prohibition on U.S. assistance to a non-nuclear state if the President determines that such termination of U.S. assistance would be seriously prejudicial to the achievement of U.S. nonproliferation objectives or otherwise jeopardize the common defense and security of the United States. The President must report such a determination to the Congress at least 15 days in advance of any resumption of U.S. assistance.

Taiwan

The Senate amendment (sec. 706) contains an amendment to the Taiwan Relations Act (PL 96-8), to the effect that Sec. 3(a) and 3(b) of that Act shall supersede the relevant provisions of the communique concluded between the United States and the People's Republic of China on August 17, 1982, and regulations, directives, and policies based thereon.

The House bill contains no comparable provision.

The conference substitute (sec. 531) makes the following Congressional statements, in view of the self-defense needs of Taiwan:

(a) Sections 2 and 3 of the Taiwan Relations Act are reaffirmed;

(b) Section 3 of the Taiwan Relations Act takes primacy over statements of U.S. policy, including communiques, regulations, directives, and policies based thereon.

(c) In assessing the extent to which the People's Republic of China is pursuing its "fundamental policy" to strive to peacefully resolve the Taiwan issue, the United States should take into account both PRC capabilities and intentions;

(d) The President should on a regular basis assess changes in PRC capabilities and intentions and consider whether it is appropriate to adjust arms sales to Taiwan accordingly.

With this provision, the committee of conference expresses its continued concern for the security of Taiwan. It reaffirms the commitments made in the Taiwan Relations Act (TRA) to enable Taiwan to maintain a sufficient self-defense capability. Among the policy statements over which Sections 3(b) of the TRA takes precedence is the communique concluded between the United States and the People's Republic of China on August 17, 1982.

The congressional statement reflects concern on the part of the committee of conference over the effect on stability in the Asia-Pacific region of China's military modernization, its increased military spending, and its territorial claims. If the President, in consultation with the Congress as provided in Section 3(b) of the TRA, finds that PRC capabilities and intentions have increased the threat to Taiwan, then a compensating adjustment in the transfer of defense articles and services to Taiwan should be seriously considered. Pursuant to the TRA, U.S. policy on arms sales to Taiwan should be based on Taiwan's defense needs and be formulated jointly by the Congress and the President.

The Taiwan Relations Act is explicit that the nature and quantity of defensive articles and defensive services to be transferred to Taiwan shall be based solely upon the judgment of the President and Congress of the needs of Taiwan, in accordance with procedures established by law. Consequently, the transfer of particular defense articles and services—such as advanced ballistic missile defense systems and conventionally powered coastal patrol submarines—should be based on Taiwan's needs and not on arbitrary principles, such as prohibiting the incorporation of U.S. equipment on defensive platforms produced by other nations or the exclusion of entire classes of defensive weapons. The committee of conference calls on the Executive Branch to streamline and rationalize the procedures for implementation of U.S. policy concerning arms sales to Taiwan.

FOIA exemption

The Senate amendment (sec. 721) exempts certain data collected by sensors during observation flights conducted in connection with the Treaty on Open Skies, including flights conducted prior to entry into force of the Treaty, from disclosure under the Freedom of Information Act or any other Act. Such data shall include data with respect to a foreign country if the country has not disclosed the data to the public and if the country has not, acting through the Open Skies Consultative Commission or any other diplomatic channel, authorized the United States to disclose the data to the public. In the case of data collected with respect to the United States, such data shall be exempt if it could be reasonably expected to cause substantial harm to the national defense of the United States as determined by the Secretary of Defense or to the foreign relations of the United States as determined by the Secretary of State.

The House bill contains no comparable provision.

The conference substitute (sec. 533) is similar to the Senate amendment, but makes technical and clarifying changes, and limits the exemption to data collected with respect to foreign countries.

The Freedom of Information Act (FOIA) provides a general exemption for information that is properly classified pursuant to an executive order. The committee of conference believes that this provision is adequate to safeguard the types of information which may be generated under the Open Skies Treaty, and that representatives of the Department of State, the National Security Council and the Director of Central Intelligence believe may need protection from disclosure. However, because the Treaty was negotiated with the apparent understanding of the strict safeguarding of foreign country data, the committee of conference agreed to a blanket FOIA exemption for such data.

Effectiveness of democracy programs

The Senate amendment (sec. 719) contains congressional findings regarding U.S.-funded democracy programs overseas and requires the President to establish a commission to study U.S. Government funded democracy support activities. The commission established by the Senate amendment is required to submit a report to the President and the Congress not later than 180 days after its establishment on a streamlined, cost-effective organization of U.S. democracy. The Senate amendment (sec. 754) also requires the commission to undertake a review of the feasibility and desirability of mandating non-U.S. Government funding for democracy promotion programs.

The House bill contains no comparable provision.

The conference substitute (sec. 534) is similar to the Senate amendment. Instead of a presidential commission, the President is required to submit a report on a streamlined, cost-effective organization of democracy support activities funded by the U.S. Government including a review of all activities funded through the National Endowment for Democracy, the USIA and AID to the appropriate congressional committees not later than 180 days following enactment. There are minor changes in the issues to be reviewed and addressed in the report. The substitute deletes section 754 and merges the matching grant requirement into the body of the conference substitute.

The committee on conference finds: the National Endowment for Democracy will fund $35 million in democracy development programs overseas in fiscal year 1994; agencies of the U.S. Government including AID, USIA and the State Department also fund, directly or by grants, significantly larger shares of democracy programs than NED alone; it is in the interest of the United States to have a coordinated approach to the funding of international democracy programs supported by States Government funds; with the end of the Cold War, the United States needs to consider the appropriate role of each of the agencies involved in democracy programs to ensure that each is drawing to the fullest extent on its comparative advantages; and U.S. Government democracy support programs have overlapped in the same country. The committee of conference notes that the executive branch has recently conducted an interagency review of democracy—PRD 26—and that this may prove a useful baseline for analyzing NED and other U.S. Government democracy programs. The committee of conference further notes that the GAO is currently engaged in producing a report similar to the one required in this section and encourages the executive branch to review the work already undertaken by the GAO.

Restoration of withheld benefits

The Senate amendment (sec. 734) makes the approval by the Secretary of State and the Secretary of Defense of the employment or the holding of a position pursuant to the provisions of section 1058 of title 10 of the United States Code effective as of January 1, 1993.

The House bill contains no comparable provision.

The conference substitute (sec. 182) is identical to the Senate amendment.

Policy on sustainable development

The Senate amendment (sec. 736) expresses the sense of the Senate with respect to sustainable development as a goal of U.S. foreign assistance and expresses the sense of the Senate that domestic producers of environmental goods and services should, to the maximum extent practicable, be notified of potential business opportunities which result from U.S. bilateral and multilateral assistance programs and negotiations.

The House bill contains no comparable provision.

The conference substitute is the same as the House position.

Sanctions against Croatia

The Senate amendment (title XIV) contains congressional findings and expresses the sense of the Senate that the President should consider taking the following actions with respect to Croatia: instructing the U.S. Executive Director or representative at all international financial institutions of which the United States is a member to vote against all loans except for loans directed at programs which serve basic human needs; providing no assistance except for humanitarian and refugee assistance; making no sales of military equipment; prohibiting the licensing of commercial military sales; providing no credits or guarantee of credits; prohibiting the sale or transfer of any item subject to export controls by any agency of the United States; directing the Secretary of Transportation to revoke the right of any air carrier designated by the Government of Croatia to provide service to the United States; and negotiating comprehensive multilateral sanctions pursuant to the provisions of Chapter 7 of the United Nations Charter.

The House bill contains no comparable provisions.

The conference substitute is the same as the House position.

PART B—THE SPOILS OF WAR ACT OF 1993

The Senate amendment (title V) establishes the Spoils of War Act of 1993. The Senate amendment specifies the terms and conditions through which the United States may transfer the spoils of war. The Senate amendment stipulates that the United States may not transfer the spoils of war to any country that supports international terrorism pursuant to section 40 of the Arms Export Control Act. The Senate amendment also requires the President no later than ninety days after the date of enactment of this Act to submit a report to the appropriate congressional committees describing any spoils of war obtained subsequent to August 2, 1990, that have been transferred to any party, government group or person before the date of enactment of this Act. Finally, the Senate amendment establishes the definitions of terms used in Title V and delineates spoils of war not considered to be subject to the specifications of Title V.

The House bill contains no comparable provision.

The conference substitute (secs. 551–556) is identical to the Senate amendment.

PART C—ANTI-ECONOMIC DISCRIMINATION ACT

SHORT TITLE

The Senate amendment (sec. 901) provides a short title of the Anti-Economic Discrimination Act of 1994 for purposes of this title.

The House bill contains no comparable provision.

The conference substitute (sec. 561) is identical to the Senate amendment.

Israel's diplomatic status

The Senate amendment (sec. 745) contains congressional findings regarding diplomatic recognition of Israel and expresses the sense of the Senate that the Secretary of State should make the issue of Israel's diplomatic status a priority and urge countries that receive U.S. assistance to immediately establish full diplomatic relations with the state of Israel.

The House bill contains no comparable provision.

The conference substitute (sec. 562) is similar to the Senate amendment but deletes the findings and makes technical and conforming changes.

The committee of conference notes that the following states will receive direct or indirect U.S. foreign assistance during this fiscal year and have failed to establish full diplomatic relations with Israel: Afghanistan, Algeria, Bahrain, Bangladesh, Botswana, Burundi, Cape Verde, Chad, Djibouti, Ghana, Guinea, Guinea-Bissau, Indonesia, Jordan, Laos, Lebanon, Madagascar, Maldives, Mauritania, Morocco, Namibia, Niger, Oman, Pakistan, Rwanda, Senegal, Somalia, Sri Lanka, Tanzania, Tunisia, Uganda, and Yemen.

Policy on Middle East arms sales

The Senate amendment (sec. 703) amends section 322 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 to add to the list of issues the President should consider when making military sales to any country under the Arms Export Control Act or providing military assistance under the Foreign Assistance Act whether a country participates in the Arab League primary or secondary boycott of Israel. The Senate amendment also requires a report within 180 days of enactment on steps taken to achieve the goals of section 322.

The House bill (sec. 188) is similar.

The conference substitute (sec. 563) is identical to the Senate amendment.

Prohibition on certain sales and leases

The Senate amendment (sec. 903) prohibits the sale or lease of any defense articles or services by the United States to any country or international organization that, as a matter of policy or practice, is known to have sent letters to U.S. firms requesting compliance with, or soliciting compliance with, the secondary or tertiary Arab boycott of Israel unless the President determines and certifies to the appropriate congressional committees that country or international organization does not currently maintain a policy or practice of making such requests or solicitations. The Senate amendment provides that the President may waive this prohibition for a period of one year with respect to any country or international organization if he determines and reports to Congress that such waiver is in the national interest of the United States and will promote the objective of this section, or such waiver is in the national security interest of the United States. The Senate amendment also provides for additional one-year extensions of such waivers with notification to the appropriate congressional committees and provides an effective date of one year after enactment for purposes of this section.

The House bill contains no comparable provision.

The conference substitute (sec. 564) is identical to the Senate amendment.

Prohibition on discriminatory contracts

The Senate amendment (sec. 115) prohibits the Department of State from letting contracts with persons who either comply with the Arab League boycott of Israel or who discriminate on the basis of religion in letting subcontracts. The Senate amendment allows the Secretary of State to waive this prohibition on a country-by-country basis for a period of not more than one year if the Secretary determines to do so is in the national interest and is necessary to carry on diplomatic functions of the United States. The Senate amendment (sec. 213) also prohibits USIA from letting contracts with persons who either comply with the Arab League boycott of Israel or who discriminate on the basis of religion in letting subcontracts. The Senate amendment allows the Director of USIA to waive this prohibition on a country-by-country basis for a period of not more than one year if the Director determines to do so is in the national interest and is necessary to carry on diplomatic functions of the United States.

The House bill (sec. 116) contains a virtually identical provision prohibiting discriminatory contracts by the Department of State.

The conference substitute (sec. 565) is virtually identical to the Senate amendment, but it consolidates in a single section the provisions that apply to the Department of State and to the USIA contracts.

Congressional findings regarding Arab League boycott

The Senate amendment (sec. 902) contains congressional findings regarding the Arab League boycott of Israel.

The House bill contains no comparable provision.

The conference substitute is the same as the House position.

The committee of conference notes that although certain countries have noted their intention to lift the secondary and tertiary boycott of Israel, recent statistics from the Department of Commerce's Office of Antiboycott Compliance show that the secondary and tertiary boycott continues in effect by some of these countries.

PART D—CAMBODIAN GENOCIDE JUSTICE ACT

The Senate amendment (title VI) urges the President to take certain steps to bring to justice leaders and members of the Khmer Rouge who committed acts of genocide in Cambodia from 1975 to 1979; establishes an Office of Cambodian Genocide Investigation within the Department of State whose operations would occur solely in Cambodia; states the purposes of the office; and excludes specified Khmer Rouge national leaders from admittance to the United States.

The House bill contains no comparable provision.

The conference substitute (secs. 571–574) states that consistent with international law, it is the policy of the United States to support efforts to bring to justice members of the Khmer Rouge for their genocidal acts and urges certain steps in furtherance of that policy. The conference substitute conditions expenditure during fiscal years 1994 and 1995 of funds authorized to be appropriated under this Act upon the establishment of the Office of Cambodian Genocide Investigation within the Department of State. The conference substitute states that the Office may carry out its duties inside or outside of Cambodia, but stipulates that no less than 75% of the funds made available for the office shall be used to carry out activities in Cambodia. The conference substitute also requires that the Secretary of State contract with appropriate individuals and organizations to carry out the Office's purpose of supporting efforts to bring to justice members of the Khmer Rouge. The conference substitute retains the reporting requirement of the Senate amendment.

The committee of conference believes that the international community retains an obligation, consistent with international law, to support efforts to bring to justice those leaders and members of the Khmer Rouge who caused the deaths of not less than one million Cambodians within a period of less than four years. This chapter of man's inhumanity to man is best brought to a close through the convening of a national or international tribunal which would call Khmer Rouge leaders to account for their crimes. Such a tribunal would offer some measure of justice to Cambodians living and dead who suffered, as well as serving as a deterrent against episodes of genocide in the future.

PART E—MIDDLE EAST PEACE FACILITATION ACT

The Senate amendment (title X) contains congressional findings regarding commitments made by the PLO, advances in the Israeli-Palestinian peace talks, and the U.S. dialogue with the PLO. The Senate amendment also authorizes the President to suspend for periods of 180 days, beginning July 1, 1994, various laws restricting the U.S. ability to conduct a dialogue with the PLO, provided the President submits a written policy justification to the Congress 30 days before the suspension goes into effect. The policy justification must certify that the suspension is in the national interest of the United States and that the PLO has complied with its commitments of September 1993 regarding Israel and the use of violence, and its commitments in and resulting from the implementation of the Declaration of Principles of September 13, 1993. Finally, the Senate amendment authorizes the Congress to cancel the suspension if it determines by Joint Resolution that the PLO has not complied with its relevant commitments.

The House bill contains no comparable provision.

The conference substitute (secs. 581–583) grants the President authority to suspend laws restricting U.S. contacts with the PLO in six month increments starting July 1, 1994, and ending July 1, 1995. The conference substitute also includes the expectation of Congress that future waivers will be conditioned on the PLO's renunciation and efforts to dismantle the Arab League boycott of Israel, and its renunciation of individual acts of terrorism and violence. The conference substitute also requires that the President's written policy justification will report on the PLO's response to individual acts of terrorism and violence, its actions concerning the Arab League boycott of Israel, and the status of the PLO office in the United States.

The committee of conference remains deeply concerned and so looks forward to receiving the PLO Commitment Compliance Act report twice a year. It is the intent of the committee of conference that future extensions of the waiver authority of the Middle Peace Facilitation Act be considered on a periodic basis as long as a dialogue between the United States and the PLO is maintained. The committee of conference expects that any extensions of waiver authority beyond July 1, 1995 will be considered by the relevant authorizing committees as necessary, pending enactment of the next State Department or foreign aid authorization legislation.

Reporting requirements on occupied Tibet

The Senate amendment (Sec. 702) expresses the sense of Congress that the United States should seek to establish a dialogue with the Dalai Lama and the Tibetan Government-in-Exile; requires that, six months from the date of enactment of the Act and every 12 months thereafter, the Secretary of State shall transmit a report to Congress on such dialogue; and requires that whenever a report is transmitted to the Congress on a country-by-country basis there shall be included in such report, where applicable, a separate report on Tibet listed alphabetically with its own state heading.

The House bill contains no comparable provision.

The conference substitute (sec.) is similar to the Senate amendment except that it states that it is the sense of Congress that Tibet should be the subject of a separate report in reports compiled on a country-by-country basis.

TITLE VI—PEACE CORPS

The Senate amendment (sec.) authorizes the appropriation of $219.745 million in fiscal year 1994 and $234.745 million in fiscal year 1995 for the Peace Corps.

The House bill contains no comparable provision.

The conference substitute (title VI) authorizes the appropriation of $219.745 million in fiscal year 1994 and $234.745 million in fiscal year 1995 for the Peace Corps, makes funds available for the Peace Corps for fiscal years 1994 and 1995 available for two fiscal years, extends the Peace Corps contracting authority from 36 months to five years, and allows Peace Corps to extend liability coverage to individuals employed under personal services contracts to furnish medical services abroad pursuant to section 10(a)(5) of the Peace Corps Act.

The committee of conference notes that Committee on Foreign Affairs of the House and the Committee on Foreign Relations of the Senate, in their reports to accompany foreign assistance authorization legislation for fiscal years 1994 and 1995, urged the executive branch to transfer to the Peace Corps an additional $15 million in fiscal year 1994 from funds available to assist the independent states of the former Soviet Union. This transfer was designed to cover the additional costs of programs in those countries. In view of this legislative history, the committee of conference considers that the authorization contained in the conference substitute for fiscal year 1995 maintains current funding levels for the Peace Corps. This authorization level represents a decision by the committee of conference to include the $15 million recommended for transfer in fiscal year 1994 in the Peace Corps' base authorization for fiscal year 1995. Consistent with this decision, the committee of conference expects that the authorization of appropriations for assistance to the independent states of the former Soviet Union will be reduced by $15 million in the fiscal year 1995 foreign assistance authorization process.

TITLE VII—ARMS CONTROL

PART A—ARMS CONTROL AND NONPROLIFERATION ACT OF 1994

Congressional declarations; purpose

The Senate amendment (sec. 802) declares arms control, nonproliferation, and a world in which the use of force is subordinated to the rule of law to be fundamental goals of the United States, particularly in the turbulent post-Cold War era. The Senate amendment listed two purposes: to strengthen the Arms Control and Disarmament Agency and to improve congressional oversight of the arms control, nonproliferation, and disarmament activities of ACDA.

The House bill (sec. 301) contains similar language but adds the purpose of improved oversight of the operating budget of ACDA.

The conference substitute (sec. 702) is almost identical to the Senate amendment, and adds oversight of ACDA's operating budget from the House bill.

Purposes

The Senate amendment (sec. 803) amends section 2 of the ACDA Act to insert new responsibilities for ACDA: the preparation for and management of United States participation in international negotiations and implementation fora in the arms control and disarmament field, and, when directed by the President, in the nonproliferation field; the conduct, coordination, and support of research related to these three fields; the preparation for, operation of, or, as appropriate, direction of, United States participation in control systems related to these three fields; and the dissemination and coordination of public information concerning these fields.

The House bill contains no comparable provision.

The conference substitute (sec. 703) is identical to the Senate amendment.

Repeals

The Senate amendment (sec. 804) repeals several provisions of the ACDA Act relating to the General Advisory Committee, arms control impact information and analysis, the Standing Consultative Commission, and the report on Soviet compliance with arms control commitments.

The House bill contains no comparable provision.

The conference substitute (sec. 704) contains the same repeals as the Senate amendment, except with respect to the General Advisory Committee, which is amended instead of repealed by the conference substitute (sec. 707). The conference substitute (sec. 707) permits the President to create a new Science and Policy Advisory Committee with a chairman appointed by the President with the consent of the Senate, and 14 other members selected by the President. Not less than eight of the members of this Committee shall be scientists, and the Committee shall terminate two years after the date of enactment.

Director

The Senate amendment (sec. 805) amends section 22 of the ACDA Act concerning the duties of the Director to include serving as the principal adviser to the Secretary of State, the National Security Adviser, and the President and other executive branch officials on matters relating to arms control, nonproliferation, and disarmament.

The House bill contains no comparable provision.

The conference substitute (sec. 705) is identical to the Senate amendment.

Bureaus, offices, and divisions

The Senate amendment (sec. 806) amends the ACDA Act to permit the Director, acting under the direction of the Secretary of State, to establish such bureaus, offices and divisions as he deems necessary, including a bureau of intelligence and information support and an office to perform legal services.

The House bill contains no comparable provision.

The conference substitute (sec. 706) is similar to the Senate amendment but deletes "under the direction of the Secretary of State."

Presidential special representatives

The Senate amendment (sec. 807) amends the ACDA Act to permit the President to appoint, with the advice and consent of the Senate, Special Representatives of the President for Arms Control, Nonproliferation, and Disarmament who would hold the personal rank of Ambassador.

The House bill is similar, but does not include a Special Representative of the President for nonproliferation and does not give Special Representatives the personal rank of Ambassador.

The conference substitute (sec. 708) is similar to the Senate amendment, but does not give Special Representatives the personal rank of Ambassador.

Policy formulation

The Senate amendment (sec. 808) amends section 33 of the ACDA Act concerning policy formulation by adding nonproliferation to areas in which the Director is to prepare recommendations and advice.

The House bill contains no comparable provision.

The conference substitute (sec. 709) is identical to the Senate amendment.

Negotiation management

The Senate amendment (sec. 809) amends the ACDA Act and adds to the Director's responsibilities for the preparation, conduct, and management of United States participation in all international negotiations and implementation fora in the fields of arms control and disarmament, and adds the field of nonproliferation, whenever directed by the President. The Senate amendment stipulates further that the Special Representatives for Nonproliferation shall, as directed by the President, serve as United States representatives to international organizations, conferences, and activities relating to nonproliferation, such as the preparations for and conduct of the review of the Treaty on the Non-Proliferation of Nuclear Weapons. The Senate amendment also authorizes the Director to formulate plans and make preparations for the establishment, operation, and funding of inspections and control systems which may become part of the United States arms control, nonproliferation, and disarmament activities.

The House bill (sec. 303) amends the ACDA Act to give the Director, acting under the direction of the Secretary of State, primary responsibility for the preparation and management of United States participation in all international negotiations and implementation fora in the fields of arms control and disarmament.

The conference substitute (sec. 710) is similar to the Senate amendment but adds authorization for the Director to consult and communicate with, or to direct the consultation and communication with, representatives of other nations or of international organizations, and to communicate in the name of the Secretary of State with diplomatic representatives of the United States.

Report on measures to coordinate research and development

The Senate amendment (sec. 810) requires a Presidential report not later than December 31, 1994 prepared by the Director in coordination with the Secretary of State, Secretary of Defense, Secretary of Energy, Chairman of the Joint Chiefs of Staff, and the Director of Central Intelligence regarding the procedures established for the effective coordination of research and development on arms control, nonproliferation, and disarmament in the executive branch.

The House bill contains no comparable provision.

The conference substitute (sec. 711) is identical to the Senate amendment.

Negotiating records

The Senate amendment (sec. 811) amends the ACDA Act and directs the Director to establish and maintain records for each arms control, nonproliferation, and disarmament agreement to which the United States is a party and which was under negotiation or in force on or after January 1, 1990, and to report to Congress by January 31, 1995 on his actions to implement this section.

The House bill contains no comparable provision.

The conference substitute (sec. 713) is identical to the Senate amendment.

Verification of compliance

The Senate amendment (sec. 812) amends the ACDA Act and requires the Director to report to Congress, on a timely basis or upon request by an appropriate committee, the degree to which arms control, nonproliferation, or disarmament agreements can be verified, any significant degradation or alteration in the capacity of the United States to verify compliance, and the amount and percentage of research funds expended by the Agency to analyze issues relating to verification.

The House bill contains no comparable provision.

The conference substitute (sec. 712) is identical to the Senate amendment.

Authorities with respect to nonproliferation matters

The Senate amendment (sec. 813) amends the Arms Export Control Act in several of its provisions to assure the Director's participation in licensing decisions and to assure his assessment as to whether the issuance of an export license is detrimental to the national security of the United States. It further amends the Nuclear Non-Proliferation Act of 1978 to assure the Director's receipt of information necessary to his participation in licensing decisions.

The House bill (sec. 304) contains a similar provision and includes the Director's assessment as to extent to which a sale under the AECA aids in the development of weapons of mass destruction.

The conference substitute (sec. 714) is similar to the Senate amendment, includes the House provision on the Director's assessment of the extent to which a sale under the AECA aids in the development of weapons of mass destruction, and makes technical corrections.

Appointment and compensation of personnel

The Senate amendment (sec. 814) amends the ACDA Act to permit appointment in the Excepted Service and fix the compensation of employees possessing specialized technical expertise without regard to the provisions of title 5 of the US Code, if the Director ensures that any employee appointed under this exception is not paid at a rate in excess of the rate payable for positions of equivalent difficulty or responsibility, or exceeding the maximum rate payable for grade 15 of the General Schedule; and the number of employees appointed under this exception shall not exceed 10 percent of the Agency's full-time-equivalent ceiling.

The House bill (sec. 307) contains a similar provision.

The conference substitute (sec. 715) is virtually identical to the Senate amendment but makes technical corrections.

Security requirements

The Senate amendment (sec. 815) amends the ACDA Act to permit ACDA to hire or to receive on detail other executive branch employees who have received appropriate security clearances.

The House bill contains no comparable provision.

The conference substitute (sec. 716) is identical to the Senate amendment.

Reports

The Senate amendment (sec. 816) amends the ACDA Act to require a more comprehensive annual report of ACDA activities and on the status of U.S. policy and actions with respect to arms control, nonproliferation, disarmament, and compliance by other nations with respect to arms control, nonproliferation and disarmament agreements.

The House bill contains no comparable provision.

The conference substitute (sec. 717) is similar to the Senate amendment but adds that the annual report on world military expenditures and arms transfers be published by the Director no later than December 31 of each year, and mandates a report by December 31, 1995 to Congress on the actions taken to revitalize the Arms Control and Disarmament Agency.

Funding

The Senate amendment (sec. 816) authorizes to be appropriated $57.5 million for fiscal year 1994 and $59.375 million for fiscal year 1995, as well as such sums as may be necessary for each year for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs, and to offset adverse fluctuations in foreign currency exchange rates. The Senate amendment authorizes the transfer of funds appropriated pursuant to this section to any agency for carrying out the purposes of this Act.

The House bill (sec. 107) is similar to the Senate amendment, but authorizes $62.5 million for fiscal year 1994 and $55.356 million for fiscal year 1995. The House bill also requires an authorization for any appropriation of funding to ACDA.

The conference substitute (sec. 718) authorizes the appropriation of funds identical to the Senate amendment, and retains the House provision requiring an authorization for any appropriation of funding.

Notification to Congress of proposed reprogrammings by ACDA

The House bill (sec. 305) amends the ACDA Act to require 15 day advance notification to the Committee on Foreign Affairs of the House and the Committee on Foreign Relations of the Senate of proposed reprogrammings of funds appropriated that would create or eliminate a program, project, or activity; would increase funds or personnel by any means for any program, project, or activity for which funds have been denied or restricted by Congress; would relocate an office or employees, or would reorganize offices, programs, projects, or activities; would involve contracting out functions which had been performed by Federal employees; or would involve a reprogramming in excess of $1,000,000 or 10 percent (whichever is less) and would augment existing programs, projects, or activities, or reduce by 10 percent or more the funding for any existing program, project, activity or personnel approved by the Congress, or result from any general savings from a reduction in personnel that would result in a change in existing programs, activities, or projects approved by Congress.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 718) is identical to the House bill.

The conference substitute Arms Control and Nonproliferation Act of 1994 will effectively serve the goal shared with the executive branch of strengthening and revitalizing the Arms Control and Disarmament Agency. This conference substitute draws upon studies of ACDA done by the Inspector General of the Department of State and of ACDA and by the Stimson Center and others, as well as the efforts of the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs. The conference substitute reflects the common feeling of the two bodies as to what needs to be done to get the Arms Control Agency back in the forefront of national and international arms control, nonproliferation and disarmament efforts. With the support of the executive branch, the committee of conference believes that goal can be achieved.

The conference substitute makes it clear that the Director of ACDA shall be the principal adviser to the President, the National Security Council and the Secretary of State and other senior officials on matters relating to arms control, nonproliferation and disarmament. The legislation makes it clear that the Director shall have primary responsibility within the government for matters relating to arms control and disarmament and, whenever directed by the President, primary responsibility for matters related to nonproliferation.

By putting the matter of nonproliferation into a category differentiated from arms control and disarmament the committee of conference was attempting to recognize that the Director and the agency will not always be in a leading position on complex nonproliferation matters. Nonetheless, the committee of conference is united in its belief that ACDA should have the lead in nonproliferation matters whenever appropriate and that the presumption should be, unless there are compelling reasons otherwise, that ACDA will, indeed, receive the President's direction to have the primary responsibility.

ACDA has the lead in the U.S. Government, for example, on matters relating to the Nuclear Nonproliferation Treaty (NPT). A derivative of the NPT is the Zangger Group, founded in 1971 to develop guidelines for implementation of Article III.2 of the NPT. That article requires IAEA safeguards to be placed on exports of nuclear material and equipment to non-nuclear-weapon-states. Given ACDA's long involvement with the Zangger Group and the central ACDA role in nonproliferation diplomacy as contained in the ACDA revitalization provisions of this Act, the committee of conference concludes that matters related to NPT implementation should be centralized within ACDA and that consideration should be given by the President to placing United States involvement in the IAEA under the direct control of ACDA. An analogous situation exists with the Chemical Weapons Convention and the multilateral chemical export control regime, the Australia Group.

The bill does not spell out the specific involvement of ACDA in matters related to export administration. For the short term, the President's national security adviser has assured Chairman Pell that ACDA will be fully involved with other agencies with regard to exports related to conventional weapons and weapons of mass destruction.

The Senate provision abolished the General Advisory Committee, a group established in statute in 1961 to advise the Director on arms control and disarmament policy and activities. The Senate took this action in the belief that the record of the General Advisory Committee did not justify the continued expense of up to about $200,000 annually. The House bill had no comparable provision.

In its stead, the committee of conference decided to establish a Scientific and Policy Advisory Committee to advise the President, the Secretary of State and the Director regarding scientific, technical and policy matters affecting arms control, nonproliferation and disarmament. The committee on conference acted in the belief that ACDA requires top-flight scientific and technical arms control advice, particularly with regard to the scope and verification of treaties and agreements, as well as weapons evaluation. The Agency could benefit from a body of experts that could propose innovative technical and policy solutions to outstanding arms control problems. Unlike the abolished General Advisory Committee, which had 15 members nominated by the President, by and with the advice and consent of the Senate, the Chairman of the Scientific and Policy Advisory Committee is the only person to be confirmed by the Senate. All 15 members, of whom at least eight are to be scientists, are to be appointed by the President.

To underscore the importance the committee of conference attaches to the potential work of the new Committee, the conference considered it important that the new Chairman, as well as other members, be of very high caliber and specified that the Chairman should be a person of renown and distinction. It is the intention of the committee of conference that the Chairman will be conversant with a broad range of arms control, disarmament, and non-proliferation issues, and will have distinguished scientific and policy competence. The committee of conference hopes very much that this new Committee will play a valuable and significant advisory role and it intends to follow the Committee's activities closely. The committee of conference has decided to authorize the new policy Committee for a period of two years, with an eye to close examination before deciding whether to establish the Committee on a permanent basis.

The committee of conference is fully aware that ACDA, in its more that 30 years of existence, has many accomplishments to its credit. At the same time, ACDA has suffered from periods of neglect and disinterest. The committee of conference hopes that this legislation will serve to get ACDA on the right track to full revitalization in the Clinton Administration, as well as in administrations to follow. The committee of conference notes that as the Main State Building is renovated, consideration is being given to moving ACDA to the Columbia Plaza building. The committee of conference believes that ACDA should consider carefully the benefits of moving. The increased space thus provided should be weighed against the benefit of timely interaction derived from staying in the Main State Building. The House Committee on Foreign Affairs and the Senate Committee on Foreign Relations intend to follow ACDA activities closely to ensure that the implementation of this legislation is handled well and has the full support of the executive branch, and that ACDA takes the necessary steps on its own to fulfill the promise inherent in the new charter given it in this legislation.

PART B—AMENDMENTS TO THE ARMS EXPORT CONTROL ACT

Limitation on authority to transfer excess defense articles

The Senate amendment (sec. 756) amends sections 516(b), 517(f) and 519(b) of the Foreign Assistance Act, and sections 21 and 61(a) of the Arms Export Control Act. Section 756 of the Senate amendment specifies that the President must first consider the effects of the transfer of excess defense articles on the national technology and industrial base before entering into any agreement to transfer excess defense articles pursuant to sections 516(b), 517(f) and 519(b) of the Foreign Assistance Act, and Sections 21 and 61(a) of the Arms Export Control Act.

The House bill contains no comparable provision.

The conference substitute (sec. 731) is identical to the Senate amendment.

Reports under the Arms Export Control Act

The Senate amendment (sec. 715) amends section 36 of the Arms Export Control Act and requires that information on any offset agreement entered into in connection with the sale of any defense article or defense service subject to congressional notification pursuant to the Arms Export Control Act be included in the quarterly reports filed pursuant to section 36(a) of that Act and included with the information provided to Congress pursuant to section 36(b) and 36(c) of that Act when the specific sale or commercial export license is being considered.

The House bill contains no comparable provision.

The conference substitute (sec. 732) is similar to the Senate amendment, but deletes the requirement with respect to the quarterly reports filed pursuant to section 36(a) of the Arms Export Control Act. The conference substitute modifies the Senate amendment to clarify that the numbered certifications provided to Congress pursuant to section 36(b) and 36(c) of the Arms Export Control Act shall contain an item indicating whether any offset agreement is proposed to be entered into in connection with such sale or license, rather than a description of any such offset agreement. The conference substitute further provides that a description of any such offset agreement shall be provided to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate upon the request of either such committee. The conference substitute requires the Department of State to obtain such offset descriptions from the contractor expected to sell the defense article, defense service, or design and construction service in a government-to-government sale or from the applicant for an export license in a commercial export. The conference substitute further clarifies that such information shall only be required to the extent known at the time of the transmission of the certifications or at the time of a response to a request made by the respective committees.

Prohibition on incentive payments

The Senate amendment (sec. 716) amends section 39 of the Arms Export Control Act by creating a new section 39A which prohibits the approval of any sale of defense articles and defense services in which third-party incentive payments are offered to any United States company or person to induce that company or individual to purchase foreign articles, services or equipment for the purposes of satisfying in whole or in part, any offset agreement that is entered into in connection with the sale of such defense articles or defense services.

The House bill contains no comparable provision.

The conference substitute (sec. 733) is similar to the Senate amendment. The conference substitute prohibits the use of incentive payments in the form of direct monetary compensation made by a United States supplier of defense articles and services to any other United States person to induce or persuade that person to purchase or acquire goods and services from the foreign purchaser of such defense articles and defense services in order for the specified United States supplier to secure an offset credit against a previously agreed to offset agreement. In prohibiting such activities, the conference substitute authorizes the imposition of civil sanctions subject to the same terms and conditions as provided for pursuant to the Export Administration Act of 1979. The committee of conference notes that direct monetary compensation includes cash payments, payments made by checks and the extension of credit or inducements to encourage the extension of credit from a bank at lower interest rates.

The committee of conference notes for example, if company x, a United States person, were interested in buying a product, a defense contractor is prohibited from offering to company x a payment by cash or check as an incentive to purchase that product from a foreign company rather than an American company so that the defense contractor can satisfy an offset agreement made in connection with an arms sale. Similarly a defense contractor is prohibited from inducing or persuading a financial institution from extending a lower line of credit or reduced interest rates to company x with the intention of inducing or persuading company x to purchase a product from a foreign company to satisfy the defense contractor's offset agreement.

In citing this example, the committee of conference further notes that it is not the intent of this provision to prevent defense contractors from entering into offset agreements with foreign purchasers or to prevent defense contractors from retaining consultants or paying for legitimate services of brokers and agents or use of independent contractors to assist them in the lawful implementation of offset agreements. The conference substitute also permits the payment of "success fees" to consultants, brokers or agents who have been retained by defense contractors (as a bonus) for the lawful implementation of offset agreements. The committee of conference finally notes that defense contractors, their consultants, brokers or any other agents are subject to the prohibition of making incentive payments in the form of direct monetary compensation to induce or persuade prospective United States persons to purchase foreign goods and services to secure an offset credit against a previously agreed to offset agreement.

The conference substitute also levies strict civil penalties against violators of this section which are consistent with the penalties conferred upon departments, agencies and officials in violation of similar provisions of the Export Administration Act of 1979. The civil penalty for each violation of this section will be $500,000 or five times the amount of the prohibited incentive payment, whichever amount is greater. In establishing these penalties, the committee of conference notes its intent to make the violation more costly to the defense contractor than any benefit that could ensue to the defense contractor through the offering of such incentive payments.

Missile technology export to certain Middle Eastern and Asian countries

The Senate amendment (sec. 757) amends the Arms Export Control Act to establish a rebuttable presumption that the export of any item on the Missile Technology Control Regime (MTCR) Annex to countries on the Terrorist List will be considered to be destined for use in a Category I missile system. U.S. or foreign persons involved in any such transfers would be subject to sanctions. Because this section establishes such a presumption it means that the U.S. and foreign companies involved must demonstrate the innocence of their exports in order to avoid sanctions by the U.S. government.

The House bill contains no comparable provision.

The conference substitute (sec. 735) is similar to the Senate amendment but changes the obligatory nature of the presumption to one of advice from the Congress that this should be the presumption.

Notification involving the MTCR

The Senate amendment requires the Department of State to notify Congress of exports of equipment on the Annex to the Missile Technology Control Regime (MTCR) to space launch vehicle programs 30 days in advance of the export of such items. The Senate amendment also requires the Department of State to notify Congress 30 days in advance of admitting a new member into the MTCR.

The House bill contains no comparable provision.

The conference substitute (sec. 736) is similar to the Senate amendment, but requires that, with respect to licenses for items or services valued at $14 million or more, the notifications already required under the Arms Export Control Act include a rationale for approving such export, including the consistency of such export with U.S. missile nonproliferation policy. With respect to licenses for the export of goods or services valued at less than $14 million, the conference substitute requires the Department of State to submit a similar report within 15 days following the issuance of the license. With respect to the admission of new members into the MTCR, the conference substitute requires the Department of State to submit a report within 15 days following the admission of a new member into the MTCR describing the rationale for admitting that new member together with an assessment of that country's nonproliferation policies, practices, and commitments.

Although the committee of conference did not include the requirement that this report be submitted in advance of the admission of new MTCR members, the committee of conference expects the executive branch to consult with the Committee on Foreign Affairs of the House and the Committee on Foreign Relations of the Senate in advance of such admissions.

Iran-Iraq arms nonproliferation amendments of 1994

The Senate amendment (Title XI) imposes additional mandatory and discretionary sanctions against those foreign countries and persons that transfer destabilizing numbers and types of advanced conventional weapons, or goods and technology that assist in enhancing the capabilities of Iran and Iraq to manufacture and deliver such weapons. The Senate amendment includes mandatory sanctions on U.S. government procurement from any person that has transferred or retransferred goods or technology to the efforts by Iran or Iraq to acquire destabilizing numbers and types of advanced conventional weapons, and discretionary sanctions prohibiting transit across U.S. territory, transactions involving property, or entry into U.S. ports, with a number of permitted exceptions. With respect to sanctions on foreign countries, the President is urged to downgrade diplomatic relations, suspend trade agreements, revoke licenses for nuclear material, and suspend air carriers controlled by the government of that country from transportation to or from the United States. The amendment provides further for the waiver, termination, or stay of such sanctions.

The House bill contains no comparable provision.

The conference substitute is the same as the House position.

TITLE VIII—THE NUCLEAR PROLIFERATION PREVENTION ACT OF 1994

PART A—REPORTING ON NUCLEAR EXPORTS

The Senate amendment (sec. 1311) amends section 601 of the Nuclear Nonproliferation Act (NNPA), which requires the President to submit an unclassified report to Congress on developments with respect to the global spread of nuclear weapons. The provision would expand this reporting requirement to include certain details concerning exports from the United States of nuclear dual-use goods, components of nuclear facilities, and authorizations for the export of specific nuclear technology and services. The section also requires the reporting on the imposition of sanctions.

The House bill contains no comparable provision.

The conference substitute (sec. 811) contains a provision similar to the Senate language

PART B—SANCTIONS FOR NUCLEAR PROLIFERATION

Sanctions against persons

The Senate amendment (sec. 1321) broadens presidential authority to impose sanctions against foreign and domestic persons that the President determines have contributed to the global proliferation of nuclear weapons. Specifically, the sanctions seek to deter illicit exports from the United States or a foreign nation of goods or technology that would assist any individual, group, or non-nuclear-weapon state to acquire a nuclear explosive device or unsafeguarded special nuclear material.

The Senate amendment establishes explicit presidential authority to prohibit U.S. government procurement from foreign or domestic firms that have "materially and with requisite knowledge" contributed to the proliferation of nuclear explosive devices or access to unsafeguarded bomb materials. The term "with requisite knowledge" derives from the use of the term "knowing," as defined in the Foreign Corrupt Practices Act of 1977.

The Senate amendment further provides a description of persons against whom the sanction is to be imposed, a period for government-to-government consultations with respect to the sanction, a report to Congress, exceptions to the sanction, circumstances for termination of the sanction, waiver authority, and definitions.

The House bill contains no comparable provision.

The conference substitute (sec. 821) amends the Senate provision in subsection (a) by clarifying that the sanction would apply to activities of U.S. or foreign persons involving the export from the United States or from any other country of any goods or technology (as defined in section 830(1) of the conference substitute).

Assistance under the Arms Export Control Act

The Senate amendment (sec. 1322(a)) prohibits sales and leases under the Arms Export Control Act to any country that the President has determined is in material breach of its binding commitments to the United States under international treaties or agreements concerning the nonproliferation of nuclear explosive devices and unsafeguarded special nuclear material.

The House bill contains no comparable provision.

The conference substitute (sec. 822(a)) is virtually identical to the Senate amendment, but makes small technical changes.

Certain waiver authorities under the Foreign Assistance Act

The Senate amendment (sec. 1322(b)) limits the scope of the Presidential Determination No. 82-7 of February 10, 1982, which created an indefinite waiver of sanctions under sec. 670(a)(2) of the Foreign Assistance Act with respect to nuclear reprocessing activities in Pakistan. The Senate bill proposes to limit that waiver authority to cover Pakistani activities prior to the date of enactment of this Act. The Senate amendment also limits presidential waiver authority with respect to uranium enrichment activities in Pakistan.

The House bill contains no comparable provision.

The conference substitute (sec. 822(b)) is virtually identical to the Senate amendment, but makes small technical changes.

Role of international financial institutions

The Senate amendment (sec. 1323) requires the Secretary of the Treasury to instruct the United States executive director to designated international financial institutions to use the voice and vote of the United States to oppose any direct or indirect use of the institution's funds to promote certain activities relating to the proliferation of nuclear explosive devices. The amendment further requires these directors to consider, in carrying out their duties, certain factors relating to nuclear nonproliferation.

The House bill contains no comparable provision.

The conference substitute (sec. 823) is similar to the Senate amendment, but deletes the term "direct or indirect."

Prohibition on assisting nuclear proliferation through the provision of financial services

The Senate amendment (sec. 1324) amends the Federal Deposit Insurance Corporation Improvement Act of 1991 to provide for sanctions against financial institutions that knowingly and materially contribute to the proliferation of nuclear explosive devices through the provision of financing or other services. The terms for these sanctions are substantially identical to those approved by House and Senate conferees in sec. 324 of the "Omnibus Export Amendments Act of 1992" (H.R. 3489, House Report 102–1025), which was never enacted.

The House bill contains no comparable provision.

The conference substitute (sec. 824) contains the basic sanctions provisions of the Senate amendment, rewrites the provision as a freestanding prohibition, clarifies both prohibited activities and enforcement procedures, adds a provision for judicial review and injunctive relief, and removes references to affiliates and successor entities.

The committee of conference notes that the definition of "knowingly" in the conference substitute is identical to that used in the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2). The committee of conference intends that "knowingly" be interpreted exactly as it is in the Foreign Corrupt Practices Act.

Amendment to the Export-Import Bank Act

The Senate amendment (sec. 1325) amends the Export-Import Bank Act to ensure that credits issued pursuant to that act are fully consistent with U.S. nuclear nonproliferation objectives.

The House bill contains no comparable provision.

The conference substitute (sec. 825) is identical to the Senate amendment.

Nuclear nonproliferation controls

The Senate amendment (sec. 1326) moves sections 669 and 670 of the Foreign Assistance Act, with certain amendments, into the Arms Export Control Act. These sections, collectively known as the "Glenn-Symington amendments," require sanctions under both Acts for activities related to the unsafeguarded transfer of uranium enrichment technology, any transfer of nuclear reprocessing technology, attempts to procure bomb-related items in the United States, and transfers and detonations of nuclear explosive devices. The Senate amendment also adds additional sanctions against transfers or detonations of nuclear explosive devices and creates new sanctions (and waiver authority) against the transfer of designs or components of such devices to non-nuclear-weapon states.

The House bill contains no comparable provision.

The conference substitute (sec. 826) is similar to the Senate amendment but clarifies that the determinations under this section are to be made by the President; changes (in accordance with the Supreme Court's *Chadha* ruling) the requirement in the waiver provisions from a concurrent resolution to a joint resolution; deletes the House expedited procedures; in the House, and refines the language on sanctions with respect to transfers or detonations of nuclear explosive devices (or transfers of designs or components thereof) to ensure that such sanctions are prospective.

Reward

The Senate amendment (sec. 1327) expands the authority of the Secretary of State to pay rewards for information concerning activities substantially contributing to the acquisition of unsafeguarded special nuclear material or any nuclear explosive device.

The House bill contains no comparable provision.

The conference substitute (sec. 827) is identical to the Senate amendment.

Reporting requirements

The Senate amendment (sec. 1328) expands the reporting requirements in the annual report to Congress of the Arms Control and Disarmament Agency to include information relating to any material noncompliance with binding nonproliferation commitments. The amendment also includes a sense of the Congress that the Department of State should include, in fulfillment of its reporting responsibilities under sec. 602(c) of the Nuclear Non-Proliferation Act, a summary of demarches that the United States has issued or received with respect to nuclear nonproliferation issues.

The House bill contains no comparable provision.

The conference substitute (sec. 828) is identical to the Senate amendment.

Technical correction

The Senate amendment (sec. 1329) amends section 133(b) of the Atomic Energy Act of 1954, striking "20 kilograms" and inserting "5 kilograms." The Senate amendment brings current law up to date with existing U.S. nuclear regulatory and legal standards for ensuring the physical protection of highly enriched uranium (HEU). Under international guidelines to which the U.S. subscribes (INFCIRC/225 and the Convention on Physical Protection of Nuclear Material) the control standard for HEU is 5 kilograms.

The House bill contains no comparable provision.

The conference substitute (sec. 829) is identical to the Senate amendment.

Definitions

The Senate amendment (sec. 1330) contains several definitions of terms, including "nuclear explosive device," which is defined explicitly for the first time in U.S. law. The definition incorporates terms used during the Eisenhower Administration to distinguish a nuclear from a non-nuclear explosion. The term "goods or technology" are defined with reference to the use of such term in the NNPA, and includes dual-use items and all technical assistance authorized under sec. 57 b. of the Atomic Energy Act.

The House bill contains no comparable provision.

The conference substitute (sec. 830) is virtually identical to the Senate amendment, and expands on the definition of goods and technology.

Effective date

The Senate amendment (sec. 1331) provides that the subtitle concerning nuclear sanctions shall take effect 60 days after the date of enactment of this Act.

The House bill contains no comparable provision.

The conference substitute (sec. 831) is virtually identical to the Senate amendment, and makes a technical change.

PART C—INTERNATIONAL ATOMIC ENERGY AGENCY

Bilateral and multilateral initiatives

The Senate amendment (sec. 1341) expresses the sense of Congress with respect to measures to maintain and enhance confidence in the effectiveness of safeguards implemented by the International Atomic Energy Agency (IAEA).

The House bill contains no comparable provision.

The conference substitute (sec. 841) is similar to the Senate amendment, but changes "a prohibition on" to "the elimination of" in subsection (6).

IAEA internal reforms

The Senate amendment (sec. 1342) expresses the sense of Congress encouraging the adoption of thirteen reforms in the implementation of IAEA safeguards responsibilities.

The House bill contains no comparable provision.

The conference substitute (sec. 842) is identical to the Senate amendment.

Reporting requirement

The Senate amendment (sec. 1343) expands the presidential reporting requirement under section 601(a) of the Nuclear Non-Proliferation Act of 1978 to include specific information concerning steps to advance the Senate's twenty-four sense of the Congress recommendations with respect to the IAEA.

The House bill contains no comparable provision.

The conference substitute (sec. 843) is identical to the Senate amendment.

Definitions

The Senate amendment (sec. 1344) defines a number of terms in Part C.

The House bill contains no comparable provision.

The conference substitute (sec. 844) is identical to the Senate amendment.

PART D—TERMINATION

Termination upon enactment of the next Foreign Relations Authorization Act

The Senate amendment contains no termination date for the provisionsovisions of this title.

The conference substitute provides that the provisions of this title shall cease to be effective upon the enactment of the next Foreign Relations Act after this Act. Upon enactment of any such Act, the amendments made by this Parts A and B of title shall be repealed, and any provisions repealed by this title, including specifically the repeal of sections 669 and 670 of the Foreign Assistance Act of 1961, shall be reinstated into law. The committee of conference agrees that part C shall continue in effect indefinitely.

TITLE IX—COMMISSION ON PROTECTING AND REDUCING GOVERNMENT SECRECY

SHORT TITLE

The Senate amendment (sec. 401) provides a short title of the Protection and Reduction of Government Secrecy Act for purposes of this title.

The House bill contains no comparable provision.

The conference substitute (sec. 901) is identical to the Senate amendment.

PURPOSE

The Senate amendment (sec. 402) states that the purpose of this title is to establish for a two-year period a commission for protecting and reducing government secrecy which will examine the implications of the extensive classification of information and make recommendations to reduce the volume of information classified.

The House bill contains no comparable provision.

The conference substitute (sec. 902) is similar to the Senate amendment but clarifies that the Commission will also examine and make recommendation concerning security clearances.

FINDINGS

The Senate amendment (sec. 403) contains a series of congressional findings regarding classification issues.

The House bill contains no comparable provision.

The conference substitute (sec. 903) is virtually identical to the Senate amendment.

FUNCTIONS OF THE COMMISSION

The Senate amendment (sec. 404) specifies that the functions of the Commission shall be to conduct, for not more than a period of two years, an investigation into all matters in any way related to any legislation, executive order, regulation, practice, or procedure relating to the access to or the classification of information or involving security clearances, and to make such recommendations concerning the classification of national security information as the Commission shall deem necessary, including proposing new legislation.

The House bill contains no comparable provision.

The conference substitute (sec. 905) is similar to the Senate amendment, but clarifies that the Commission will submit its report to Congress, will make recommendations regarding security clearances, and may recommend changes in any procedure, rule or regulation as well as proposing legislation.

COMPOSITION OF THE COMMISSION

The Senate amendment (sec. 405) establishes a commission to carry out the purposes of this title. Such Commission shall be composed of four members appointed by the President, two from the executive branch and two from private life, four members appointed by the President of the Senate, two who shall be Members of the Senate and two from private life, and four members appointed by the Speaker of the House of Representatives, two who shall be Members of the House and two from private life. The four Members of Congress shall be equally divided between the two major political parties. The Senate amendment also provides that the Commission shall elect a Chairman and Vice Chairman from among its members and that seven members of the Commission shall constitute a quorum. The Senate amendment also fixes compensation rates for members of the Commission who are not full-time officers or employees of the United States or Members of Congress and provides for travel expenses for the Commission where necessary in the performance of services for the Commission.

The House bill contains no comparable provision.

The conference substitute (sec. 904) is similar to the Senate amendment, but clarifies that the Minority Leader of the Senate and the Minority Leader of the House of Representatives shall appoint Minority Members of the Commission. The conference substitute also allows the Commission to begin its operation 60 days after enactment of this Act provided that at least 7 members have been appointed.

POWERS OF THE COMMISSION

The Senate amendment (sec. 406) enumerates the powers of the Commission, including the holding of hearings and the issuance of subpoenas for testimony and/or documentary evidence. The Senate amendment also authorizes the Commission to secure directly information from any executive department, bureau, agency board, commission, office, independent establishment, or instrumentality of the U.S. Government to carry out the purposes of this title.

The House bill contains no comparable provision.

The conference substitute (sec. 906) is similar to the Senate amendment, but makes technical and conforming changes. The conference substitute also allows the Commission to accept and use gifts and use the mail in the same manner as departments and agencies of the U.S. Government. The conference substitute also authorizes the Secretary of State, the General Services Administration, and other agencies to provide assistance to the Commission to further the performance of the duties of the Commission.

STAFF OF THE COMMISSION

The Senate amendment (sec. 407) authorizes the Commission to appoint and fix the compensation of such personnel as it deems advisable without regard to various provisions of title 5 of the United States Code relating to appointments in the competitive service and to classification and General Schedule pay rates. The Senate amendment also authorizes the Commission to procure the services of experts and consultants.

The House bill contains no comparable provision.

The conference substitute (secs. 907, 908, 909) is similar to the Senate amendment, but makes technical and conforming changes and specifies that Federal employees may be detailed to the Commission without loss of rights and status of their regular employment. The conference substitute also directs appropriate departments and agencies of the U.S. Government to cooperate in expeditiously providing security clearances to members and staff of the Commission. The conference substitute clarifies that a person not otherwise qualified to receive access to classified information should not be granted a security clearance under this section.

Final Report of Commission; Termination

The Senate amendment (sec. 408) requires the Commission to submit its final report to the President and the Congress not later than two years after the date of enactment of this act and specifies that the Commission and all authorities of this title shall terminate two years after the date of enactment of this act or upon the submission of the Commission's final report, whichever occurs first.

The House bill contains no comparable provision.

The conference substitute (sec. 910) requires the Commission to submit its report within two years from the date of the first meeting of the Commission and terminates the Commission and the authorities of this title two years after the first meeting of the Commission, except that the Commission may continue to function for 60 days after it submits its final report in order to conclude its affairs, provide testimony, and disseminate its report.

The committee of conference notes that the Commission established by this title is intended to investigate all aspects of classifying and protecting information and granting security clearances. The Commission has the strong bipartisan support of the committee of conference which is concerned that excessive government secrecy not only reduces the ability of the public to participate in formulating foreign policy but also makes it more difficult to protect truly sensitive information. In addition, the committee of conference is concerned that the process of granting security clearances has by itself become an inefficient and expensive aspect of the secrecy system.

The committee of conference welcomes the agreement of the Department of State to cooperate with the Commission by providing appropriate office space, equipment and a limited amount of staff to the Commission. While the committee of conference recognizes that the Department of State creates a relatively small percentage of all classified documents, it believes that the Department will be a major beneficiary of improvements in the secrecy system and increased public participation in foreign policy debates. The committee of conference urges the Department as well as other executive departments and agencies to fully cooperate with the Commission and to provide every appropriate assistance to its efforts.

In particular, it will be important that the appropriate executive agencies and departments work expeditiously to provide to the Commission members and staff appropriate security clearances.

From the Committee on Foreign Affairs, for consideration of the House bill (except sections 163, 167, 188, and 190–93), and the Senate amendment (except titles V, VI, IX–XV and sections 162–170E, 189, 701–22, 724–28, 730–31, 734–36, 744–46, 748–61, and 763), and modifications committed to conference:

Lee H. Hamilton,
Howard L. Berman,
Eni Faleomavaega,
M.G. Martinez,
Robert E. Andrews,
Robert Menendez,
Tom Lantos,
Harry Johnston,
Ben Gilman,

From the Committee on Foreign Affairs, for consideration of sections 188 and 190–93 of the House bill, and titles V, VI, IX–XII, and XIII–XIV, sections 163–64, 168–69, 189, 701–22, 724–26, 728, 730–31, 734–36, 744–46, 748–57, 759–61, and 763 of the Senate amendment, and modifications committed to conference:

Lee H. Hamilton,
Sam Gejdenson,
Tom Lantos,
Robert Torricelli,
Howard L. Berman,
G.L. Ackerman,
Harry Johnston,
Eni Faleomavaega,
Ben Gilman,
Toby Roth,
Doug Bereuter,

From the Committee on Foreign Affairs, for consideration of title XII, sections 727 and 758 of the Senate amendment, and modifications committed to conference:

Lee H. Hamilton,
Sam Gejdenson,
Tom Lantos,
Robert Torricelli,
Howard L. Berman,
G.L. Ackerman,
Harry Johnston,
Eni Faleomavaega,
Ben Gilman,
Toby Roth,
Dana Rohrabacher,

From the Committee on Foreign Affairs, for consideration of sections 163 and 167 of the House bill, and title XV, sections 162, 165–67, 170A–E, and 190 of the Senate amendment, and modifications committed to conference:

Lee H. Hamilton,
Sam Gejdenson,
Tom Lantos,
Robert Torricelli,
Howard L. Berman,
G.L. Ackerman,
Harry Johnston,
Eni Faleomavaega,
Ben Gilman,
Bill Goodling,
Doug Bereuter,

As additional conferees from the Committee on Armed Services, for consideration of sections 170B, 170C(a), 170E(a), 721, 734, 749(b)(4), 760, 804, 810, and 1329 of the Senate amendment, and modifications committed to conference:

Ronald V. Dellums,
Norman Sisisky,
John M. Spratt, Jr.,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 759, 1003, 1104, and 1323–25 of the Senate amendment, and modifications committed to conference:

Henry Gonzalez,
Barney Frank,
Stephen Neal,
James Leach,
Doug Bereuter,

As additional conferees from the Committee on Energy and Commerce, for consideration of section 731 of the Senate amendment, and modifications committed to conference:

John D. Dingell,
Cardiss Collins,
Thomas J. Manton,
Carlos J. Moorhead,
Cliff Stearns,

As additional conferees from the Committee on Government Operations, for consideration of sections 189 and 721 of the Senate amendment, and modifications committed to conference:

John Conyers, Jr.,
Mike Synar,
Gary A. Condit,

As additional conferees from the Committee on the Judiciary, for consideration of section 133(n) of the House bill, and sections 136, 605, 704, 705, 723, 727, 748, 751, 758, 1201, and 1202 of the Senate amendment, and modifications committed to conference:

Jack Brooks,
R.L. Mazzoli,
John Bryant,
Bill McCollum,
Lamar Smith,

As additional conferees from the Committee on Natural Resources, for consideration of section 164(c) of the House bill, and section 171(c) of the Senate amendment, and modifications committed to conference:

George Miller,
Bruce F. Vento,
Peter DeFazio,

As additional conferees from the Committee on Post Office and Civil Service for consideration of sections 132(a), 133(e), 141–50, 254, 302(b), and 307 of the House bill, and sections 131, 141–53, 155, 229, 234, 309(h), 405(e) 407, 734, 747, and 814 of the Senate amendment, and modifications committed to conference:

Bill Clay,
Frank McCloskey,
Eleanor H. Norton,
John T. Myers,
Connie Morella,

As additional conferees from the Committee on Public Works and Transportation for consideration of sections 764, 1104–05, and 1402(g) of the Senate amendment, and modifications committed to conference:

Norman Mineta,
Jim Oberstar,
Douglas Applegate,
Bud Shuster,
Bill Clinger,

As additional conferees from the Committee on Rules, for consideration of sections 714, 1003, and 1326 of the Senate amendment, and modifications committed to conference:

John Joseph Moakley,
Butler Derrick,
G. Solomon,
Managers on the part of the House.

John F. Kerry,
Claiborne Pell,
Joe Biden,
Paul Sarbanes,
Christopher J. Dodd,
Paul Simon,
D.P. Moynihan,
Jesse Helms,
Richard G. Lugar,
Nancy Landon Kassebaum,
Larry Pressler,
Frank H. Murkowski,
Hank Brown,
Managers on the part of the Senate.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

House of Representatives,
Washington, DC, April 25, 1994.

Hon. Thomas S. Foley,
The Speaker, House of Representatives, Washington, DC.

Dear Mr. Speaker: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on Friday, April 22, 1994 at 12:05 p.m.: that the Senate agreed to the Conference Report on H.R. 2884.

With great respect, I am.

Sincerely yours,

Donnald K. Anderson,
Clerk, House of Representatives.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. Emerson) to revise and extend his remarks and include extraneous material:)

Mr. Knollenberg, for 5 minutes, on April 26.

(The following Member (at the request of Mr. Montgomery) to revise and extend his remarks and include extraneous material:)

Mr. OWENS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Member (at the request of Mr. EMERSON) and to include extraneous matter:)

Mr. WALSH.

(The following Members (at the request of Mr. MONTGOMERY) and to include extraneous matter:)

Mr. MONTGOMERY.

Mr. MANTON.

Mr. KREIDLER.

ADJOURNMENT

Mr. MONTGOMERY. Madam Speaker, pursuant to House Resolution 411, I move that the House do now adjourn in memory of the late Honorable Richard M. Nixon, 37th President of the United States.

The motion was agreed to; accordingly (at 12 o'clock and 20 minutes p.m.) pursuant to House Resolution 411, the House adjourned until tomorrow, Tuesday, April 26, 1994, at 10:30 a.m., in memory of the late Honorable Richard M. Nixon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3037. A communication from the President of the United States, transmitting amendments to the fiscal year 1985 appropriations requests for the Departments of Health and Human Services and Justice, and the Federal Communications Commission, pursuant to 31 U.S.C. 1107 (H. Doc. No. 103-245); to the Committee on Appropriations and ordered to be printed.

3038. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-225, "Omnibus Budget Support Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3039. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-221, "Real Property Statutory and Filing Deadlines Conformity Amendment Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3040. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LAO] to Australia for defense articles (Transmittal No. 94-20), pursuant to 2776(b); to the Committee on Foreign Affairs.

3041. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3042. A letter from the Acting Archivist, National Archives and Records Administration, transmitting a report on records disposal, pursuant to 44 U.S.C. 3303a(f); to the Committee on Government Operations.

3043. A letter from the Director of Legislative and Public Affairs, National Science Foundation, transmitting a report on activities under the Freedom of Information Act for calendar year 1993, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3044. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Natural Resources.

3045. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to designate a segment of the Rubicon River in the State of California as a component of the Wild and Scenic Rivers System; to the Committee on Natural Resources.

3046. A letter from the Administrator, Small Business Administration, transmitting a draft of proposed legislation to amend the Small Business Investment Act of 1958 to permit prepayment of debentures issued by State and local development companies; to the Committee on Small Business.

3047. A letter from the Administrator, Small Business Administration, transmitting a draft of proposed legislation to amend the Small Business Act; to the Committee on Small Business

3048. A letter from the Chairman, U.S. International Trade Commission, transmitting the 77th quarterly report on trade between the United States and China, the successor states to the former Soviet Union, and other title IV countries during 1993, pursuant to 19 U.S.C. 2440; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HAMILTON: Committee of Conference. Conference report on H.R. 2333. A bill to authorize appropriations for the Department of State, the U.S. Information Agency, and related agencies, to authorize appropriations for foreign assistance programs, and for other purposes (Rept. 103-482). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

[Submitted April 22, 1994]

H.R. 2442. Referral to the Committee on Banking, Finance and Urban Affairs extended for a period ending not later than April 26, 1994.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SCHUMER (for himself, Mr. REYNOLDS, Mr. SYNAR, Mr. ABERCROMBIE, Mr. ANDREWS of Maine, Mr. BECERRA, Mr. BEILENSON, Mr. BERMAN, Mr. BORSKI, Mrs. BYRNE, Mr. CARDIN, Mr. CASTLE, Mrs. CLAYTON, Mr. COPPERSMITH, Ms. DELAURO, Mr. DEUTSCH, Mr. ENGEL, Ms. ENGLISH of Arizona, Ms. ESHOO, Mr. FINGERHUT, Mr. FRANK of Massachusetts, Mr. GUTIERREZ, Ms. HARMAN, Mr. HOAGLAND, Mr. HOCHBRUECKNER, Mr. JOHNSTON of Florida, Mr. KENNEDY, Mr. LEWIS of Georgia, Ms. LOWEY, Mrs. MALONEY, Mr. MANN, Mr. MANTON, Mr. MARKEY, Mr. MAZZOLI, Mr. MORAN, Mr. NADLER, Mr. OWENS, Ms. PELOSI, Mr. RANGEL, Mr. SABO, Ms. SCHENK, Mrs. SCHROEDER, Mr. SERRANO, Ms. SHEPHERD, Ms. SLAUGHTER, Mr. STARK, Mr. STUDDS, Ms. VELÁZQUEZ, Mr. VENTO, Mr. WAXMAN, Mr. WHEAT, Ms. WOOLSEY, and Mr. YATES):

H.R. 4296. A bill to make unlawful the transfer or possession of assault weapons; to the Committee on the Judiciary.

By Mr. MICHEL:

H. Res. 411. Resolution expressing the profound regret and sorrow of the House of Representatives on the death of Richard Milhous Nixon, former President of the United States of America; considered and agreed to.

By Mr. LAFALCE (by request):

H.R. 4297. A bill to amend the Small Business Act; to the Committee on Small Business.

H.R. 4298. A bill to amend the Small Business Investment Act of 1958 to permit prepayment of debentures issued by State and local development companies; to the Committee on Small Business.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

354. By the Speaker: Memorial of the House of Representatives of the State of Alabama, relative to relations with the Repbulic of China on Taiwan; to the Committee on Foreign Affairs.

355. Also, memorial of the Senate of the Commonwealth of Virginia, relative to Medicare reimbursement to rural physicians; jointly, to the Committees on Ways and Means and Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 790: Mrs. SCHROEDER.

H.R. 1277: Mrs. FOWLER.

H.R. 1906: Mrs. MINK of Hawaii and Mrs. SCHROEDER.

H.R. 2050: Mr. RAVENEL and Mr. SWETT.

H.R. 3659: Mr. LEVY.

H.R. 3663: Mr. TORKILDSEN.

H.R. 3943: Mr. HANCOCK.

H.R. 4100: Mr. PALLONE.

H.R. 4109: Mrs. MALONEY and Mr. LAFALCE.

H.R. 4124: Mr. FILNER.

H.R. 4211: Mr. TORKILDSEN, Ms. SCHENK, and Mr. CUNNINGHAM.

H.J. Res. 305: Mr. SAWYER, Mr. BILIRAKIS, Mr. RUSH, Mr. SLATTERY, Ms. LOWEY, Mr. MCCOLLUM, Mr. ROBERTS, Mr. SPENCE, Mr. PALLONE, Mr. MANTON, Mr. SYNAR, Mr. RAVENEL, Mr. SMITH of Texas, Mr. SCOTT, and Mr. QUILLEN.

H. Con. Res. 122: Mr. MORAN and Mr. GUTIERREZ.

H. Con. Res. 179: Mr. GILMAN.

H. Con. Res. 186: Mr. MANTON.

EXTENSIONS OF REMARKS

FAIR TREATMENT FOR NURSE ANESTHETISTS

HON. MIKE KREIDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1994

Mr. KREIDLER. Mr. Speaker, high quality health care for older Americans is the goal of the Medicare Program. Medicare is designed to pay for needed and appropriate care, by professionals qualified to provide that care. Among those qualified professionals are the certified registered nurse anesthetists who administer anesthesia during surgery and other procedures.

All States license these highly trained professionals, and in many areas they are the only professionals who perform anesthesia services. Whether practicing independently or employed in hospitals and other facilities, nurse anesthetists administer two-thirds of the 26 million anesthetics given to patients each year in this country. They are the sole anesthesia providers in 85 percent of rural hospitals.

Licensed as nurses, CRNA's perform the same functions as physicians who administer anesthesia, while working in collaboration with a wide range of other health professionals. Their education includes college, at least a year's experience in acute care nursing, a 2-year postgraduate nurse anesthesia program, including extensive didactive and clinical training, passing a national certification examination, and a continuing education program with mandatory recertification every 2 years.

Despite these qualifications and State laws enabling them to practice, nurse anesthetists face barriers to practice because of Medicare regulations that were intended to serve other purposes. I have introduced H.R. 4291, to revise those Medicare rules so that CRNA's can practice their profession to the full extent of their skills and training.

The bill would resolve three major problems facing nurse anesthetists who serve Medicare patients:

First, conditions of payment.

Before 1982, some anesthesiologists billed Medicare for services that were performed mainly by nurse anesthetists, with little or no actual involvement by the anesthesiologist. In 1982, Congress required the Health Care Financing Administration to define more precisely how physicians are to be involved in directing the work of nurse anesthetists, in order to receive payment from Medicare.

HCFA's regulations require that the physician participate in certain components of the anesthetic process, many of which could be appropriately handled by the nurse anesthetist without the physician's presence. Unfortunately, many hospitals have treated these regulations as quality of care standards, instead of conditions for paying physicians. The results have been to restrict unnecessarily the scope of many nurse anesthetists' practice to less than State laws allow, and to cause duplication of effort and periodic delays in treatment.

H.R. 4291 would require HCFA to revise its regulations so as not to restrict nurses from performing all State-authorized services, while maintaining the original objective of preventing fraud and abuse. Additionally, the bill would eliminate these medical direction conditions of payment in 1998, when Medicare will pay the same for medically directed and nonmedically directed anesthesia services.

Second, physician supervision of nurse anesthetists.

Medicare regulations now require physician supervision of nurse anesthetists, as a condition for hospitals or ambulatory surgical centers to receive Medicare payment, despite State laws allowing nurse anesthetists to practice without such supervision. H.R. 4291 would prohibit HCFA from requiring physician supervision of anesthetists unless such supervision is required by State law.

The bill would also eliminate current limits on the ratio of anesthesiologists to nurse anesthetists in a medically directed setting, when Medicare payments for medically directed and solo anesthesia services reach the same level in 1998. Removing these limits will allow health professionals in different localities to determine appropriate anesthesia delivery patterns, rather than having them determined indirectly by Medicare.

Third, parity of payment when two professionals provide a service.

Often an anesthesiologist and a nurse anesthetist work together on a procedure. Unless the Medicare carrier determines that the services of both professionals were medically necessary, Medicare typically pays the physician the whole fee and the anesthetist nothing. When the anesthetist is a hospital employee, the hospital takes the loss.

H.R. 4291 would provide, in cases where two professionals performed a service jointly, that the fee otherwise payable to the physician be divided equally between the physician and the nurse anesthetist—or his or her employer. While Medicare should not have to pay for more service than was needed, there is no good reason to penalize the nurse anesthetist alone.

Mr. Speaker, this legislation would add no cost to the Medicare Program, and could reduce costs by encouraging more use of cost-effective nurse anesthetist services. I urge my colleagues to support it.

The Text of H.R. 4291 follows:

H.R. 4291

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVISION OF CONDITIONS OF PAYMENT RELATING TO ANESTHESIA SERVICES FURNISHED BY CERTIFIED REGISTERED NURSE ANESTHETISTS.

(a) PROMULGATION OF REVISED REGULATIONS.—The Secretary of Health and Human Services shall revise any regulations describing the conditions under which payment may be made for anesthesia services under the medicare program so that—

(1) payment may be made for anesthesia services furnished in a hospital or an ambulatory surgical center by a certified registered nurse anesthetist who is permitted to administer anesthesia under the law of the State in which the service is furnished; and

(2) the conditions under which payment may be made for a physician service consisting of the medical direction or medical supervision of a certified registered nurse anesthetist meet the requirements of subsection (b)(1).

(b) REQUIREMENTS FOR MEDICAL DIRECTION DESCRIBED.—

(1) IN GENERAL.—The requirements of this subsection are that the conditions under which payment may be made for the medical direction or medical supervision of a certified registered nurse anesthetist—

(A) shall not restrict such nurse anesthetists working with anesthesiologists from performing all the components of the anesthesia service that such nurse anesthetists are legally authorized to perform in the State in which the service is furnished; and

(B) shall prevent fraud and abuse in payment for anesthesia services by requiring that the physician providing medical direction or medical supervision must be physically present in the facility where the certified registered nurse anesthestist's services are performed and be available in a timely manner for consultation or assistance if indicated.

(2) CONSULTATION REQUIRED.—The Secretary shall revise the regulations referred to in subsection (a)(2) after consultation with representatives from professional associations of certified registered nurse anesthetists and anesthesiologists.

(c) EFFECTIVE DATE.—The revisions to the regulations referred to in subsection (a) shall apply to anesthesia services furnished on or after January 1, 1995.

(d) TERMINATION OF REGULATIONS ON MEDICAL DIRECTION OR SUPERVISION.—The regulations referred to in subsection (a)(2) shall be repealed effective January 1, 1998.

SEC. 2. ENSURING PAYMENT FOR PHYSICIAN AND NURSE FOR JOINTLY FURNISHED ANESTHESIA SERVICES.

(a) PAYMENT FOR JOINTLY FURNISHED SINGLE CASE.—

(1) PAYMENT TO PHYSICIAN.—Section 1848(a)(4) of the Social Security Act (42 U.S.C. 1395w-4(a)(4)), as added by section 13516(a) of the Omnibus Budget Reconciliation Act of 1993 (hereafter referred to as "OBRA-1993"), is amended by adding at the end the following new subparagraph:

"(C) PAYMENT FOR SINGLE CASE.—Notwithstanding section 1862(a)(1)A), with respect to physicians' services consisting of the furnishing of anesthesia services for a single case that are furnished jointly with a cer-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

tified registered nurse anesthetist, if the carrier determines that the use of both the physician and the nurse anesthetist to furnish the anesthesia service was not medically necessary, the fee schedule amount to be applied shall be equal to 50 percent of the fee schedule amount otherwise applicable under this section if the anesthesia service were personally performed by the physician alone."

(2) PAYMENT TO CRNA.—Section 1833(l)(4)(B) of such Act (42 U.S.C. 1395l(l)(4)(B)), as added by section 13516(b) of OBRA-1993, is amended by adding at the end the following new clause:

"(iv) Notwithstanding section 1862(a)(1)(A), in the case of services of a certified registered nurse anesthetist consisting of the furnishing of anesthesia services for a single case that are furnished jointly with a physician, if the carrier determines that the use of both the physician and the nurse anesthetist to furnish the anesthesia service was not medically necessary, the fee schedule amount shall be equal to 50 percent of the fee schedule amount otherwise applicable under this section if the anesthesia service were personally performed by the physician alone.".

(b) UNIFORM TREATMENT OF ALL MULTIPLE CONCURRENT CASES.—Section 1848(a)(4) of such Act (42 U.S.C. 1395w-4(a)(4)) and section 1842(b)(13) of such Act (42 U.S.C. 1395u(b)(13)), as amended by section 13516(a) of OBRA-1993, are each amended—

(1) by striking "two, three, or four" each place it appears and inserting "two or more"; and

(2) by inserting "or medical supervision" after "medical direction" each place it appears.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) and (b) shall apply to services furnished on or after January 1, 1995.

TRIBUTE TO HUNTINGTON FAMILY CENTERS IN SYRACUSE

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1994

Mr. WALSH. Mr. Speaker, for 75 years, Huntington Family Centers in Syracuse, NY, has devoted time and energy to making our community whole. The talented, dedicated staff and civic-leader volunteer directors help individuals and families in need.

While many of us work to strengthen the economy and impact family life in a positive way through legislation and bricks-and-mortar community development, Huntington counselors deal every day with the specific problems of people who can't take another step on their own. Huntington helps people—in a caring, dignified way.

As we in central New York celebrate the 75th anniversary of Huntington Family Centers, I ask my colleagues to pay tribute as well. Founded in 1919, Huntington is a multipurpose, not-for-profit human service agency dedicated to innovative programming which brings about personal growth.

Child care, sexual abuse counseling, field trips for neighborhood kids, drug and alcohol abuse classes—for adults and kids into their teens—are only part of the approach. Crisis intervention, during which food, clothing, and shelter are often provided on a moment's notice; and elderly services including outreach for poor, frail, or developmentally disabled seniors, are two additional areas of concentration.

The list of programs and facilities goes on and on. It is impossible for me to describe in a short time how rich and diverse the services of Huntington are. Suffice to say, the people at Huntington not only react, they anticipate. They provide positive experiences for family members of all ages, from field trips to the farmers' market to exercise and craft time for seniors. They not only work well in emergencies, they employ far-sighted planning to meet their goals.

They deserve our great thanks and respect. They have made life meaningful for many others. We who believe that public service is a noble endeavor admire this substantial and resilient organization. Thank you.

DISABLED AMERICAN VETERANS PRESENTS LEGISLATIVE PRIORITIES

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1994

Mr. MONTGOMERY. Mr. Speaker, on March 2, Mr. Richard E. Marbes of Green Bay, WI, national commander of the Disabled American Veterans, appeared before the joint House and Senate Veterans' Affairs Committees to present DAV's legislative priorities for the 2d session of the 103d Congress. I would like to share with my colleagues excepts from his very eloquent statement.

STATEMENT OF RICHARD E. MARBES, NATIONAL COMMANDER OF THE DISABLED AMERICAN VETERANS

Messrs. Chairmen and members of the Veterans Affairs Committees: On behalf of American Veterans and its Women's Auxiliary, it is indeed an honor and privilege to appear before you today to discuss the major concerns of our nation's service-connected disabled veterans and their families.

At the outset, Messrs. Chairmen, I wish to thank you and your Committees for the support you have given to veterans, their families, and to the veterans' programs that have enhanced their lives during the first session of the 103rd Congress.

Messrs. Chairmen, DAV was founded in 1920 and chartered by Congress in 1932 as the primary advocate for America's service-connected disabled veterans, their dependents and survivors. Major policy positions of the DAV and the framework of our national legislative program are derived from a number of resolutions adopted by the delegates to our annual national conventions. Our 1994 mandates, which cover a broad spectrum of VA programs, have been made available to your Committees and to individual members of your staffs.

With your permission Messrs. Chairmen, I would like to digress for just a few moments to talk about a couple of subjects of great importance to the members of the DAV.

As the Committees are well aware, last year one of our very own, Jesse Brown, was tapped by President Clinton to serve as his Secretary for Veterans Affairs. A combat-disabled Marine and true advocate for veterans, Secretary Brown has dedicated his entire adult life to serving America's veterans and their families.

Quite naturally, we in the DAV are extremely proud of Jesse Brown. We wish him "God speed" as he fulfills VA's mission, which, as so eloquently stated by President Abraham Lincoln, is "to care for him who shall have borne the battle and for his widow and his orphan."

Although we miss Jesse, our management staff at our National Headquarters, and our Service and Legislative Headquarters are lean and efficient; they are experienced and dedicated, and they direct an organization whose financial viability makes it possible for us to continue our commitment to providing direct services to disabled veterans and their families through our corps of 236 National Service Officers located at 69 offices throughout the country.

We pledge to you a redoubling of that commitment to service.

Messrs. Chairmen, in a few short months our nation will celebrate the 50th anniversary of D-Day. It gives me great pride to note that a number of men who helped carry out one of America's most brilliant military operations are seated in this very room today. We as a nation owe them—and all veterans—a great debt of gratitude.

These D-Day warriors—like the millions who served in our military before them and the millions who served in our military after them—gave their all, no questions asked, when our country needed them in its darkest hours.

In return for sacrificing their limbs and sometimes their lives, all that these veterans ever asked in return was that our nation honor its commitment to help them and their families in their darkest hours. This sacred covenant between our nation and its uniformed defenders has been both implied and implicit since our nation was founded.

Regrettably, Messrs. Chairmen, there are those in positions of immense political power who wish to break or severely weaken this sacred covenant between our nation and its defenders of democracy. These power brokers—these barons of the budget—have little regard for the time-honored commitments of the past.

And in their zeal to win a few extra votes and grab a few extra headlines, these barons of the budget have mistakenly chosen to place dollars over decency when it comes to funding veterans' programs.

DAV members are justifiably concerned about the tax exempt status of their compensation benefits and we applaud the fact that bills have once been introduced in the Congress by Veterans Affairs Committee Chairmen Rockefeller and Montgomery to clarify the tax exempt statute of VA benefits.

The issue of the concurrent receipt of VA disability compensation payments and military longevity retirement pay without a deduction from either payment continues to be of great concern and we urge you to seek a resolution to this injustice.

Messrs. Chairmen, despite our most impassioned pleas to the President, the trade embargo against Vietnam was recently lifted. This issue is vitally important to our members because members of our Armed Forces have always taken into combat with them an unwritten, unspoken, but unbreakable contract of the battlefield. A contract from our government that simply states: We will leave no one, dead or alive, in the hands of the enemy.

In our view, the U.S. government—dating back to the end of World War II—has failed miserably in meeting the terms of this contract. It is a great national travesty that we still have not accounted for nearly 90,000 American patriots since the end of World War II.

I assure you that every DAV member has a standing obligation to press our national leaders to develop policies consistent with this unwritten, unspoken, but unbreakable contract of the battlefield in order to ensure that American fighting forces are never again used as political pawns.

Messrs. Chairmen, recent revelations that our government conducted secret radiation testing on some of its unsuspecting citizens and soldiers is appalling to most Americans. The DAV is outraged that a former VA Chief Medical Director classified the existence of VA's atomic medicine division as confidential. His actions were taken, we're told, supposedly out of concern for the problem the VA might have with potential service-connected disability compensation claims resulting from radiation tests performed on patients in VA hospitals.

We applaud the Administration's efforts to shed light on this dark era of American history and call upon your Committees to continue to investigate this situation and to compensate these individuals fairly.

The DAV is also deeply concerned about the problems facing our Persian Gulf War veterans, especially those veterans who still suffer from the mysterious ailments commonly referred to as Persian Gulf Syndrome.

We also remain deeply committed to providing assistance to our nation's homeless veterans. DAV chapters and departments all across the country have developed local programs to deal with this pressing problem, while the DAV Charitable Trust has allocated nearly $340,000 to assist homeless veterans since 1988.

As a continuation of our deep concern about the unique problems facing women veterans, the DAV will soon be hosting a women veterans health care forum here in Washington. The forum, which is being designed by a special DAV Women Veterans Advisory Committee, will bring top executive and legislative branch officials face-to-face with women veterans to address problems in VA's delivery of health care to this growing segment of the veteran population.

Speaking of health care, Messrs. Chairmen, our nation is now engaged in a great debate about how to reform and reconfigure our entire health care delivery and financing systems. Clearly the VA—as the nation's single largest health care system—has a vested interest in such a debate.

And just as clearly, America's veterans—especially America's disabled veterans who are the single largest consumer group using the VA health care system—also have a vested interest in the outcome of this great debate. Consequently, the DAV has embraced the role identified for VA in President Clinton's National Health Care Reform Plan.

In our analysis, the President's vision for VA actually mirrors, in large part, DAV's plan for VA health care laid out in the "American Veterans Health Care Reform Act of 1992." This legislation was introduced during the 102nd Congress as S. 2248 and H.R. 4278.

The VA health care system is at a critical juncture and there is an absolute, vital need for VA to move swiftly down the road of reform regardless of what happens to national health care reform. We urge your Committees to carefully consider and expeditiously act upon the necessary legislation that will give the authority and flexibility needed to successfully navigate the road of reform.

Messrs. Chairmen, perhaps the most challenging issue facing our nation today is finding a way to put our nation's fiscal house in order. Certainly none of us wish to unfairly saddle our children and grandchildren with our debts.

Regrettably, in order to reduce federal expenditures, the barons of the budget—often over the strong objections of your Committees—have in recent years taken hard-earned dollars directly out of the wallets of America's veterans.

During the decade of the 80's, for instance, VA was required to identify more than $2 billion in savings.

Still unable to reduce the spiraling federal deficit, in 1990, the barons of the budget once again placed veterans and veterans' programs squarely in the cross-hairs of their deficit-reduction rifle. The shot that was fired became known as the Omnibus Budget Reconciliation Act (OBRA) of 1990. When OBRA was signed into law, VA benefits and services were required to be cut by some $3.6 billion through Fiscal Year 1995.

Last year, veterans were wounded yet again by the deficit-reduction rifle when OBRA of 1993 was passed. This measure requires an additional $2.6 billion in cuts through 1998 and extends many of the OBRA 1990 cuts. Among other things, this law eliminated the Montgomery GI Bill COLA for Fiscal Year 1994 and reduces it by one-half for Fiscal Year 1995. It also freezes discretionary spending over the next five years at the FY 1993 level.

We are now faced with the reality that the discretionary spending freeze, coupled with deep cuts mandated by the Fiscal Year 1995 budget, will further erode VA's ability to provide quality health care and benefit determinations to America's veterans in a timely fashion.

Quite frankly, Messrs. Chairmen, enough is enough. It is time that the barons of the budget recognize that freedom is not free. It is time that the barons of the budget understand that caring for America's veterans is a legitimate, continuing cost of war.

They must stop taking benefits away from veterans and their families. They must stop the ever increasing delays veterans must endure to receive their earned compensation benefits. In some cases, we no longer measure claims decision delays in terms of months but in terms of years. This is an outrage!

These barons of the budget must stop cutting employees from our VA health care facilities—especially at a time when we are asking VA to compete in a new era of national health care reform.

The barons of the budget must recognize that veterans are not the cause of our nation's fiscal crisis. VA entitlements are not out of control and, in fact, are decreasing as a percentage of total federal outlays for social welfare programs.

Even in view of the fact that VA benefits and services are not the cause of our federal deficit, some continue to call for cuts in veterans' entitlement spending. I recently read a report prepared by the Concord Coalition which called for eliminating disability compensation payments to veterans rated less than 30 percent service-connected disabled.

I found it ironic that such a proposal would come from a group who takes its name from the famous Revolutionary War battle in which many men died and were wounded so that our nation could be free of tyranny.

The Concord Coalition report goes on to say, and I quote, "entitlement program costs are rising rapidly. When the nation promised these benefits and services, it underestimated how much they would cost. Now, we must face the unpleasant truth that we can no longer afford to keep those promises fully.".

I submit that we cannot afford to forget the sacrifices of those men and women who gave of their body, mind and spirit in defense of this country. As a nation, we must honor our commitment and adamantly reject calls from the barons of the budget to take earned compensation payments away from our service-connected disabled veterans.

Please do not misconstrue our opposition to cutting and eliminating veteran's benefits and services as an unwillingness on the part of disabled veterans to help with our nation's fiscal crisis.

Actually, just the opposite is true when you realize that thousands of veterans across the country give so freely of their time and money so that the VA may continue to provide some semblance of service to America's veterans.

For example, from March 1991 to April 1992 more than 12,000 DAV and Auxiliary volunteers across the country donated more than 2.3 million hours of voluntary service to the VA. This is the equivalent of VA having an additional 1,200 full-time employees with an estimated value of $28 million dollars. Monetary donations during the same period totaled nearly $3 million dollars and other hospital and service related donations came to $16.5 million dollars.

The DAV also employs 170 Hospital Service Coordinators at 171 VA facilities. With more than 4,000 volunteer drivers, DAV's National Transportation Network will log nearly 18 million miles and transport more than 400 thousand veterans to VA health care facilities this year alone. DAV departments and chapters, together with the national organization, have also donated 317 transportation vans to VA Medical Centers across the country at a cost of nearly 5 million dollars.

Through the combined efforts of DAV National Service Officers and Hospital Service Coordinators, over 500 thousand veterans received information and assistance in filing VA benefit claims.

During our past 12 month reporting period, efforts of DAV National Service Officers resulted in more than 244,000 total awards to veterans and their families. Thanks to our dedicated cadre of National Service Officers, the DAV has made a tremendous impact on the lives of thousands of veterans and their families.

It's obvious that the members of the DAV are pitching in and giving more than their fair share because we know first-hand of the sacrifices made by veterans and the problems they face upon becoming disabled.

Messrs. Chairmen, this morning I have attempted to outline to the Committee DAV's observations regarding the state of veterans' affairs in America. I have noted some criticisms of the way veterans have been treated over the past dozen years.

I have expressed the willingness on the part of DAV and Auxiliary members to give of their time and resources so that other sick and disabled veterans may receive a degree of increased service at VA health care facilities. And I have quantified the service provided to veterans and their families by DAV National Service Officers, Hospital Service Coordinators and our volunteers.

But I must tell you in all candor that America's veterans will no longer be pushed around by the barons of the budget. And no longer will our nation's veterans tolerate elected officials who would rather blindly cut every federal program—regardless of the program's value or impact on the national debt—than make the difficult political choices necessary to right our nation's financial ship of state.

Let me assure you that the DAV deeply appreciates the efforts members of your Committees have made to persuade those holding the power of the purse of the value of veterans' programs and our nation's statutory and moral obligation to provide adequate funding for those programs.

May God bless each and every one of you as you deliberate the fate of America's veterans and their families. And may God bless America.

NATIONAL LIBRARY WEEK

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1994

Mr. MANTON. Mr. Speaker, this week we celebrate "National Library Week 1994." Our libraries serve as the caretakers of our history, preserving the memories of our cities and communities. By taking advantage of the countless services and resources that libraries have to offer, we can continue to challenge our minds and imagination.

Our public libraries, however, are struggling to survive, as financial assistance decreases. I would like to share an article from the April 1994, edition of the Reader's Digest, entitled "How Stupid Can We Get?" by William Ecenbarger. This article discusses the financial constraints that libraries are faced with even though there has been a 30-percent increase in the number of users since 1980, as the article states.

The article talks about the Queens Borough Public Library in my district, the second busiest library in the country, and how vitally important it is to the 2,000–4,000 visitors it has each day. These visitors range from children who will attend storybook hour, to immigrants who will attend English class, to young adults who will attend amateur drama group. For generations, Queens Public Library has served as a link to a future for so many people—especially immigrants and students. We must keep our libraries fully funded so as not to lose the valuable resources that our libraries offer.

The article follows:

HOW STUPID CAN WE GET?

(By William Ecenbarger)

At the Sunflower County Public Library in rural northwestern Mississippi, a grade-school boy opens a book entitled *Tomorrow—the Moon*. The introduction reads: "Eventually man may be able to land on the moon and really explore it." The book was published in 1959.

For the past few years, the Owsley County Library in the Appalachian Mountains of Kentucky has run out of money before the end of the fiscal year. Each time, librarian Joyce Marcum has had to wait several months until the start of the new fiscal year before her salary can be paid.

Many of the nation's more than 15,000 libraries are suffering from financial distress; hours shortened, staff reduced, book-buying curtailed, magazine subscriptions canceled, long lines at checkouts and computer terminals. And sometimes, even shuttered libraries.

Last year 25 public libraries closed in California, and in Massachusetts 27 library branches have closed in the past four years. The trend is nationwide and affects all sorts of neighborhoods—rich and poor; rural, urban, suburban.

What in the name of Benjamin Franklin is going on here?

Hardly anyone is against libraries. The problem is often lack of information on the part of patrons, and misunderstanding on the part of public officials responsible for providing library funds. About three of every four library dollars come from local taxes. (The rest is from state, federal and private sources.) This local control enables each community to determine what kind of library it wants, but it also puts libraries in competition for tax dollars with such municipal services as police and fire protection.

As a result, the public library—an American tradition almost as old as the flag, one of the greatest democratic institutions ever created and the envy of other nations—is struggling to survive. This, just when job-seekers, students and immigrants have pushed library use to an all time high. About 1.4 billion items—books, audio cassettes, films, computer software—were borrowed at U.S. public libraries last year, a 30-percent increase over 1980.

NO ENGLISH, NO WORK.

To enable its children to compete in a complex world, America desperately needs improvements in its education system. Yet, here we are removing some of the most basic tools. "Ours has been a country where no child, regardless of economic circumstance, need grow up without books, but today we are in danger of losing that tradition," contends Hardy R. Franklin, president of the American Library Association.

The Queens Borough Public Library in New York City, with 62 branches, is the second-busiest system in the United States after the Los Angeles County Public Library. Between 2000 and 4000 people—men in business suits, Indian women in bright saris, jean-clad adolescents—come to its main branch every day. In addition to the usual activities, there's a story-book hour for three- to five-year-olds, classes in sign language, an amateur drama group, literacy and English for immigrants.

Historically, few groups have benefited more from the American free public library than immigrants. It has been their bootstrap for generations. For many of them today, the Queens Library provides an introduction to the language and culture of America.

When Elise Gbado came to Queens from the African nation of Benin five years ago, English was incomprehensible to her. So when a new English class was announced by the library, she got in line at noon and waited until 6 p.m. to enroll. "This is very important for me," she says, "because in America, 'No English, no work.'"

Last year the library taught English to nearly 3000 students, representing 82 nations and 51 languages. There are hundreds of others who desperately want to enroll but can't. There's not enough money to hire teachers and train staff.

Other signs of financial trouble in Queens abound. There are gaping spaces on magazine racks from unrenewed subscriptions. Most branches are closed on Sundays, and there are long waits on Saturdays to check out books. With so many school libraries in Queens closed, when a teacher assigns reading, 30 children may show up asking for the same book. But there are only a few copies, and the book budget has run dry.

GRATEFUL "UNCLE ANDY"

Public libraries are an American invention. Benjamin Franklin organized a subscription library that pooled the books of Philadelphia residents in 1731; this was the forerunner of today's public library. During the American Revolution, the idea of allowing ordinary citizens to take books home blossomed.

The first free public library supported by taxation was established at Peterborough, N.H., in 1833, and by the time of the national centennial there were nearly 4000 public libraries in the country. In 1887 Minerva Sanders, a librarian in Pawtucket, R.I., welcomed boys and girls under age 14, who were not allowed in libraries at the time, to the first children's reading room.

James Anderson of Allegheny, Pa., made his 400-volume library available to boys who worked in the town, one of whom was a telegraph messenger named Andrew Carnegie. After he became a steel baron, a grateful Carnegie donated some $50 million for public-library construction. Bequests from "Uncle Andy" helped to sprinkle more than 2500 libraries around the world.

Today libraries are everywhere. There's one in a Cleveland-area shopping mall, a commuter train station in Atlanta and a supermarket in Wichita, Kan. And wherever they are, their mission is the same—to make information accessible and affordable. Too many libraries, however, spend more time balancing the books than lending them.

"Our big problem is that there aren't enough books, and many are outdated," says Mississippi's Sunflower County library director Anice Powell. She estimates that of the 100,000 books in the Sunflower collection, one-third should be discarded either because they are ragged with missing pages or are obsolete. Current holdings include Getting to Know the Two Chinas (1960) and Life Saving and Water Safety (1937). "And we have so few science books that we can't lend them out at all," she says.

Between 1977 and 1992, the average price of an adult hardcover book more than doubled, from about $19 to $45, as did the average yearly subscription price of magazines. Powell's annual book-buying budget is $8000; she has $4000 for magazine subscriptions. "I'm always juggling money from one account to the other," she says. Last year she had to cancel subscriptions to five major publications, and she can't get any children's magazines.

"I'm distressed about this," she adds. "Reading during the early years determines whether a child will grow up to be a literate adult." Nearly half of all adults in her county are illiterate, and fewer than half the children finish high school.

The financial crunch has caused larger libraries to buy fewer copies of books, too. At the Pasadena, Calif., Public Library, for example, recently there were 255 patrons on the waiting list for John Grisham's Pelican Brief.

NO DOUBLE SYSTEM

In addition to books and magazines, computers are a powerful ally for the information seeker. New technologies in data storage and retrieval have enabled public libraries to perform research services unimagined a generation ago. Infotrac and other on-line-article research databases are faster and more up-to-date than the standard book references.

Some critics suggest that expensive on-line databases have no place in a public library. Yet for libraries to ignore the research capability of the computer is to create in America a double system of information access—one of awesome power for the privileged, the other an obsolete research tool for the not-so-privileged.

Daniel Cleary, manager of the business, science and technology section of the Queens Borough Public Library, says he has been forced to cancel indexes in the fields of biology, chemistry and math. "We're hurting our students," he warns. "The public library is the only place where everyone has access to this kind of information."

All the more so because many U.S. public schools no longer have libraries—and if they do, their collections often are substandard. How important are school libraries? Students from schools with strong libraries score higher on tests, according to a 1993 study by the Colorado Department of Education. Yet in California, the number of school libraries has decreased by half since 1986.

EVERY VOICE COUNTS

How can we reverse our libraries' decline? "The most important thing is for patrons to go to their elected officials and demand something be done," says Anice Powell. The American Library Association agrees. "Politicians do respond when citizens speak out—it's just that sometimes you have to speak very loudly," says Hardy Franklin.

One such effort to deter library cuts occurred this year in Philadelphia when Mayor Edward G. Rendell proposed to save $2 million by halving hours at ten branches of the Free Library of Philadelphia. A massive letter-writing, petition and phonecall campaign descended on the mayor and city council. Library supporters rallied in front of the central library. In the end, half the funds were restored, and some of the service cuts never materialized.

Similarly, an outraged citizenry in Chicago was able to get nearly $3 million in cuts in library funding restored. In Brooklyn, N.Y., incensed library patrons lobbied city government for funding to open 46 of 58 branches five days a week that had been cut to 14 to 16 hours a week.

A secure source of funding independent of politicians, such as tax revenues and bond issues linked specifically to libraries, is also important. Ohio has a portion of its state income tax set aside for libraries, and libraries there are doing well.

Indeed, the evidence is strong that the public will support spending for libraries. Last year in Pasadena, Calif., voters approved by a 4-to-1 margin a five-year library-tax levy of $20 per year on each single-family residence, $13 on each apartment unit and $147 for each business parcel.

Today libraries are more important than ever because reading is still the most basic survival skill in our information-driven society. For children from homes where the only book is the telephone book, the library is their one great hope.

Author James Michener says, "Libraries represent an individual's right to acquire knowledge. Without libraries, I would be a pauper, intellectually and spiritually."

Do we want to make future generations such paupers? How stupid can we get?

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, April 26, 1994, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 28

9:30 a.m.

Governmental Affairs

To resume hearings to examine the impact of unfunded Federal mandates on how State and local governments provide programs, services, and activities, and on related measures including S. 563, S. 648, S. 993, and S. 1604.

SD–342

Labor and Human Resources

To hold joint hearings with the Committee on Labor and Human Resources' Subcommittee on Children, Family, Drugs and Alcoholism on methods for preventing youth violence.

SD–430

Rules and Administration

To resume hearings on S. 1824, to improve the operations of the legislative branch of the Federal Branch, focusing on Subtitle A, Parts I and II of Title III, relating to Congressional biennial budgeting and additional budget process changes.

SR–301

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of Defense, focusing on strategic programs.

SD–192

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Environmental Protection Agency, and the Council on Environmental Quality.

SD–106

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the United States Information Agency, the Board for International Broadcasting, and the Federal Communications Commission.

S–146, Capitol

Banking, Housing, and Urban Affairs

To hold hearings on proposed legislation relating to housing and community investment.

SD–538

Finance

To hold hearings to examine the tax treatment of organizations providing health care services, and excise taxes on tobacco products, guns, and ammunition.

SD–215

Judiciary

Business meeting, to consider pending calendar business.

SD–226

Labor and Human Resources

Education, Arts and Humanities Subcommittee

To resume hearings on S. 1513, authorizing funds for programs of the Elementary and Secondary Education Act of 1965.

SD–628

2:00 p.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Federal Transit Administration, Department of Transportation, and the Washington Metro Transit Authority.

SD–138

Armed Services

Military Readiness and Infrastructure Subcommittee

To resume hearings on proposed legislation authorizing funds for fiscal year 1995 for the Department of Defense, and the future years defense program, focusing on the Defense Business Operations Fund and the military construction program.

SR–232A

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 1549, to revise the act establishing Golden Gate National Recreation Area to provide for the management of the Presidio by the Secretary of the Interior, and S. 1639, to provide for the management of the portions of the Presidio under the jurisdiction of the Secretary of the Interior.

SD–366

Judiciary

To hold hearings on pending nominations.

SD–226

Indian Affairs

To hold oversight hearings on water and sanitation issues in rural Alaska.

SR–485

2:30 p.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Bureau of Indian Affairs, and the Office of Construction Management, both of the Department of the Interior, and the National Indian Gaming Commission.

SD–116

Select on Intelligence

To hold closed hearings on intelligence matters.

SH–219

APRIL 29

10:00 a.m.

Finance

Health for Families and the Uninsured Subcommittee

To hold hearings to examine health care reform issues, focusing on conusmer protection and quality assurance.

SD–215

2:00 p.m.

Foreign Relations

To hold hearings on the nominations of Peter R. Chaveas, of Pennsylvania, to be Ambassador to the Republic of Malawi, Edmund T. DeJarnette, Jr., of Virginia, to be Ambassador to the Republic of Angola, Irvin Hicks, of Maryland, to be Ambassador to Ethiopia, Robert Krueger, of Texas, to be Ambassador to the Republic of Burundi, and Johnny Young, of Pennsylvania, to be Ambassador to the Republic of Togo.

SD-419

MAY 3

9:30 a.m.

Armed Services

Force Requirements and Personnel Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1995 for the Department of Defense, and the future years defense program, focusing on Reserve component manpower, personnel, and compensation issues.

SD-106

Energy and Natural Resources

To hold hearings on Boron-Neutron Cancer Therapy.

SD-366

10:00 a.m.

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for Food and Consumer Services, Food and Nutrition Service, and Human Nutrition Information Service, all of the Department of Agriculture.

SD-138

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of Defense, focusing on defense conversion programs.

SD-192

Armed Services

Regional Defense and Contingency Forces Subcommittee

To resume hearings on proposed legislation authorizing funds for fiscal year 1995 for the Department of Defense, and the future years defense program, focusing on the Navy investment strategy.

SR-222

Commerce, Science, and Transportation

To hold hearings on the nominations of Rear Adm. Robert E. Kramek, USCG, to be Commandant, and Rear Adm. Arthur E. Henn, USCG, to be Vice Commandant, both of the United States Coast Guard.

SR-253

Finance

To resume hearings to examine health care reform issues, focusing on the classification of workers as employees or independent contractors, and the self-employment tax treatment of partners and S Corporation shareholders.

SD-215

10:30 a.m.

Commerce, Science, and Transportation

To hold hearings on proposed legislation authorizing funds for the United States Coast Guard.

SR-253

2:30 p.m.

Armed Services

Nuclear Deterrence, Arms Control, and Defense Intelligence Subcommittee

To resume hearings on proposed legislation authorizing funds for fiscal year 1995 for the Department of Defense, and the future years defense plan, focusing on the Department of Energy's weapons and materials support and other defense programs.

SR-222

MAY 4

9:30 a.m.

Armed Services

Military Readiness and Infrastructure Subcommittee

To resume hearings on proposed legislation authorizing funds for fiscal year 1995 for the Department of Defense, and the future years defense program, focusing on environmental programs and the implementation of the Base Closure Acts.

SR-232A

Indian Affairs

To hold hearings on provisions of H.R. 6 and S. 1513, bills authorizing funds for programs of the Elementary and Secondary Education Act of 1965.

SR-485

10:00 a.m.

Foreign Relations

Business meeting, to consider pending nominations.

SD-419

Veterans' Affairs

To hold oversight hearings on dangerous exposures in the Persian Gulf War.

SD-106

2:00 p.m.

Commerce, Science, and Transportation

Merchant Marine Subcommittee

To hold hearings on S. 1945, to authorize funds for fiscal year 1995 for certain maritime programs of the Department of Transportation.

SR-253

MAY 5

9:30 a.m.

Rules and Administration

To resume hearings on S. 1824, to improve the operations of the legislative branch of the Federal Branch, focusing on Title III, Subtitle B (Staffing, Administration, and Support Agencies), and Subtitle C (Abolishing the Joint Committees).

SR-301

10:00 a.m.

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Legal Services Corporation.

S-146, Capitol

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the National Transportation Safety Board, and the National Highway Traffic Safety Administration, Department of Transportation.

SD-138

2:00 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 471, to establish a new area study process for proposed additions to the National Parks System, and S. 528, to provide for the transfer of certain United States Forest Service lands located in Lincoln County, Montana, to Lincoln County in the State of Montana.

SD-366

Veterans' Affairs

To hold hearings on proposed legislation to finance veterans health care programs.

SR-418

MAY 10

10:00 a.m.

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Commodity Futures Trading Commission, the Farm Credit Administraion, and the Food and Drug Administration, Department of Health and Human Services.

SD-138

2:30 p.m.

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings on the potential role of Federal reclamation projects in meeting the water supply needs of the Colonias in Texas.

SD-366

MAY 11

10:00 a.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the National Park Service, Department of the Interior.

S-128, Capitol

MAY 12

9:30 a.m.

Energy and Natural Resources

To hold hearings on the Environmental Protection Agency's proposed renewable oxygenate standard.

SD-366

Rules and Administration

To hold hearings on proposed legislation authorizing funds for fiscal year 1995 for the Federal Election Commission.

SR-301

10:00 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Corporation for National and Community Service.

SD-106

MAY 13

9:30 a.m.

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Departments of Labor, Health and Human Services, and Education.

SD-192

MAY 15

9:00 a.m.

Office of Technology Assesment

Board meeting, to consider pending business.

EF-100, Capitol

MAY 17

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of Defense, focusing on the Pacific Rim, NATO, and peacekeeping programs.

SD-192

MAY 19

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of Defense.

SD-192

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of Veteran's Affairs, and the Selective Service System.

SD-106

MAY 20

9:00 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Departments of Veteran's Affairs and Housing and Urban Development, and independent agencies.

SD-138

MAY 25

10:00 a.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of the Interior.

S-128, Capitol

MAY 26

10:00 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the National Aeronautics and Space Administration.

SD-106

JUNE 8

10:00 a.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1995 for the Department of Energy.

S-128, Capitol

JULY 19

10:00 a.m.

Appropriations

Defense Subcommittee

Business meeting, to mark up proposed legislation authorizing funds for fiscal year 1995 for the Department of Defense.

SD-192

CANCELLATIONS

MAY 3

2:30 p.m.

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings to review the implementation of the Central Valley Project Improvement Act (Title 34 of P.L. 102-575) and the coordination of the program with other Federal protection and restoration efforts in the San Francisco Bay/Sacramento-San Joaquin Delta.

SD-366

POSTPONEMENTS

APRIL 27

9:30 a.m.

Judiciary

Technology and the Law Subcommittee

To hold hearings to examine privacy and competitiveness issues in the telecommunications industry, focusing on the Administration's "clipper chip" key escrow encryption program.

SH-216

1:30 p.m.

Labor and Human Resources

Children, Family, Drugs and Alcoholism Subcommittee

To hold hearings on emerging issues regarding child abuse.

SD-430

2:00 p.m.

Commerce, Science, and Transportation

To resume hearings on S. 1350, to provide for an expanded Federal program of hazards mitigation and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions.

SR-253

HOUSE OF REPRESENTATIVES—*Tuesday, April 26, 1994*

The House met at 10:30 a.m. and was called to order by the Speaker.

MORNING BUSINESS

The SPEAKER. Under the Speaker's announced policy of February 11, 1994, the gentleman from Michigan [Mr. KNOLLENBERG] is recognized during morning business for 5 minutes.

HEALTH CARE REFORM

Mr. KNOLLENBERG. Mr. Speaker, many of my colleagues would have the American people believe that a Government-run, Big Brother-like health care delivery system is not only necessary, but rather a must. This ill-informed argument is almost always supported by the word crisis.

In my estimation of this appraisal, crisis implies panic and bigger Government—a lack of faith in the individual. I believe that the United States has the finest health care in the world.

Our employer-based system covers between 85 to 87 percent of all Americans, and in my home State of Michigan over 90 percent are covered.

As a former small business owner, I understood all too well the state of our Nation's health care delivery system. Day-in and day-out, I had the opportunity to help my employees and clients deal with the crush of burdensome paperwork, interpreting confusing policy language, and making sure that their health dollars were not wasted.

Now as a Member of Congress who campaigned on reform, specifically health care reform, I am still wrestling with these and other equally difficult health issues.

Individuals may suggest that it is easy for me and a few of my colleagues to take a no crisis position because the taxpayers are funding our health care benefits. In my case, they are wrong. My wife, Sandie, and I have chosen not to participate in the congressional health plan. Instead, we selected a private plan outside the congressional system that meets our needs.

Does this mean that there aren't problems? Certainly not. Americans deserve health care reform that includes the following:

Portability of coverage—no one should lose their health care coverage due to changes in their employment status.

Costs of coverage must come down—so-called community rating is anything but reflective of the community. Rates should accurately reflect costs associated for that individual rather than a region or age group.

An end to the preexisting conditions exclusion—no one should be denied coverage merely on the basis of whether or not they have had a specific illness or disability.

Technology needs to be introduced to help reduce needless paperwork—the industry has been studying electronic conversion for several years, and with mounting health care costs, there is no time like the present to put this change into effect.

The self-employed need a tax deduction—by and large, the self-employed are small business persons who are providing as much insurance as they can afford. Is another tax the proper way to reward these people?

And finally, significant steps must be taken to ease burdensome litigation brought on by malpractice suits.

These challenges posed by the health care debate revolve around self-determination versus Government-run bureaucracy. All of these elements are central provisions of Congressman MICHEL's bill H.R. 3080—a reasonable, commonsense approach to rational health care reform.

I believe in the individual and the spirit of free-market competition. And it is this fight Republicans are taking to Capitol Hill, and it is one we will ultimately win, guaranteeing quality care for all Americans.

TRIBUTE TO CAROL KOUSNETZ STERKIN

The SPEAKER pro tempore (Mrs. CLAYTON). Under the Speaker's announced policy of February 11, 1994, the gentlewoman from Virginia [Mrs. BYRNE] is recognized during morning business for 5 minutes.

Mrs. BYRNE. Madam Speaker, I rise today to pay tribute to a remarkable scientist, wife, and mother whose contributions to the American scientific community deserve our highest accolades and profound admiration.

Although an accomplished scientist in her own right, Carol Kousnetz Sterkin will be most remembered as the legendary head of the Literature Search Function at the Jet Propulsion Laboratory [JPL] in Pasadena, CA, a position she held with distinction for the past 30 years.

Ms. Sterkin's passions were in research and technical writing. At the Jet Propulsion Laboratory Library, she combined the research skills of a librarian with the knowledge of a scientist.

She was a pioneer in the development of global access to on-line scientific and technical data bases and was one of the original developers of on-line information systems that provide scientists worldwide with the capability to share and pool knowledge. Until the time of her death, she remained one of the world's ranking experts in this field.

One of the Jet Propulsion Laboratory's principal scientists said of Ms. Sterkin that "she knew so much it will be absolutely impossible to replace her." The truth of this statement is borne out by the fact that her position remains vacant.

Her loss will be felt, not only by her family and community, but throughout the scientific world for a long time. I ask my colleagues to join me in honoring a truly great American, Carol Kousnetz Sterkin.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from California [Mr. HORN] is recognized during morning business for 5 minutes.

Mr. HORN. Madam Speaker, it is time for real reform of campaign finance. S. 3, passed by the Senate, was a constructive bill. As amended by this House, it is not a constructive bill. It is a sham.

Let us take a moment to look at the claims made by the sponsors of the so-called campaign finance reform in this Chamber and at the reality of what this bill would really do.

Claim one: The House Democrats say S. 3 as amended by them, institutes spending limits.

The reality: Only a small number of campaigns will even come close to the proposed spending limit. The reality is that for most campaigns, the so-called limit only means taxpayer financing.

Claim two: S. 3, as amended by this House, will presumably limit political action committees.

The reality: That is false. House Democrats consider the $5,000 political action committee donation that can be made in each election—primary and general for a total of $10,000—simply a sacred cow that is untouchable, and not even open to any compromise.

House Republicans, on the other hand, endorsed a ban on all political action committees. Senate Republicans, and even Senate Democrats, did exactly the same. All but the House Democrats support a ban on political action committees. Only House Democrats block action on such a ban.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Claim three: The House Democrats claim that this bill will level the playing field between incumbents and challengers.

The reality: The entire bill is unfair to challengers. That is why the House Democrats have controlled the House for 39 years. They do not want a bill that will permit a level playing field. That is why they do not include the franking budgets for mail for the incumbents, we—both Republicans and Democrats. Those franking budgets can pay for thousands and thousands of pieces of unsolicited mail as an election comes near.

This money gives incumbents a massive advantage over any possible challenger.

Claim four: There will be increased disclosure and audits of campaign finances if this bill passes.

□ 1040

The reality: Audits will be difficult to do, since the Clinton administration has reduced the funding available for the Federal Election Commission. In 1992, every Presidential campaign that accepted taxpayer funding faced an audit. Under S. 3, as amended by the majority in the House of Representatives, only 5 percent of the congressional campaigns that accept taxpayer dollars will face random audits.

It is one thing for the House to have audits of Presidential campaigns; it is another thing for the House Democratic majority not to want to audit its own expenses. But does that bias really surprise any of us?

Should the taxpayers just accept the congressional candidate's word that indeed the money has been spent appropriately? Of course not. If we are going to give taxpayer money to any campaign, Presidential or House Member, as the Democrats propose, then the taxpayers at least deserve to know that their money has been spent appropriately.

Claim five: The proposed bill will reform campaign spending.

The reality: To quote the bill—the bill the House Democrats forced down this Chamber's throat—the bill says, "This act shall not be effective until the enactment of revenue legislation."

And the Democratic majority has made absolutely no provision in this bill for how you would fund it. No realistic revenue options have yet been introduced and the revenue ideas that have been proposed so far are more of a sham than the other so-called reforms, all of which are shams.

Democrats claim that in this bill they have reforms. They do not.

Claim six: This bill cleans up campaigns.

The reality: The Federal Election Commission banned congressional staff from loaning or donating money to the campaigns of their bosses. Such donations are an obvious conflict of interest and an opening to extortion of one's staff.

Section 506 of this bill inserts a loophole for advances on amounts up to $500. In California, I should remind my colleagues, four current and former members of the State legislature have been indicted by the U.S. attorney and convicted of extortion-related offenses that involve campaign finance. Is it really time to open up new loopholes at the Federal level?

Claim seven: Republicans are blocking reform.

The reality: That is so silly, it is laughable. The Democrats are the majority in the House. Anything they want to pass, they can pass. Anything they want to block, they can block.

The Democratic majority blocked the only bipartisan bill—the so-called Synar-Livingston bill—from even coming to the floor. While that bill did not totally ban political action committees, it at least cut them from the $5,000 per election they can now give to one candidate down to $1,000 per election. The majority party strangled that progressive proposal in the Committee on Rules. It was afraid the proposal would pass, as it would have if Members could have voted on the measure.

All I can say, my colleagues, is that this Chamber should be ashamed of the action it took earlier.

Republicans oppose the public financing of campaigns. Thoughtful Americans oppose the public financing of campaigns. In reality, House Democrats themselves must oppose public financing of campaigns, since they will not provide funding for it. Even Democrats know that public financing is a bad idea.

Republicans stand ready to work with the Democrats on a real reform bill. We do have concrete proposals that will truly change the way campaigns are run.

We support a ban on political action committees.

We support a ban on soft money.

We support a ban on contribution bundling by special interest groups.

We support a requirement that candidates raise most of their money from the voters in the district—not from the special interest groups in Hollywood, New York, and Washington, DC.

Many Republicans and Democrats support similar goals. The Senate Democrats and Republicans agree. The House Democrats should yield to the Senate in conference. If they do not, let us come together on a bipartisan reform bill. A real reform bill.

MOVING BEYOND TIANANMEN: LEARNING THE LESSONS OF CHINA POLICY

The SPEAKER pro tempore (Mrs. CLAYTON). Under the Speaker's announced policy of February 11, 1994, the gentleman from Kansas [Mr. GLICKMAN] is recognized during morning business for 5 minutes.

Mr. GLICKMAN. Madam Speaker, tomorrow the country buries Richard Nixon, the President who will be remembered both for his far-sighted foreign policy and his disastrous involvement in the Watergate scandal. Today I wish to talk for a few minutes about our country's China policy, recognizing that the timing of Mr. Nixon's death provides a unique opportunity to focus the future of United States-China relations.

Few would have predicted, 5 years ago, the changes that have reshaped the world. The Berlin Wall is a museum piece; former Warsaw Pact states apply to join NATO, but the cold-war paradigms and 5-year-old memories of Tiananmen Square still define United States-Chinese relations.

Ironically, the first post-cold-war administration has yet to articulate a clear post-cold-war policy toward China. The administration correctly elevated Asia to the more prominent position it deserves in U.S. foreign policy. A sampling of the geopolitical landscape illustrates that as important as Tokyo and Seoul are to the United States, the fate of United States-Asian interests will rest on Beijing.

China may not be able to dissuade the North Koreans from their nuclear ambitions, but its leverage over North Korea will be essential for defusing the Korean nuclear problem. It will take China's cooperation to cool the arms race between India and Pakistan as well as deal with the simmering instability in the central Eurasian states of the former Soviet Union, as well as taking into account the great instability faced by the Russian Government itself.

A stable China is a necessary element for stability in all these regions. The administration is not alone in recognizing China's importance to the United States. Iran has already approached Beijing, proposing an Iranian-Chinese alliance to counter the United States, as well as, no doubt, to give Iran a freer hand for its regional expansionism. Although the first entreaty was rebuffed, it ought to send a signal to us that the United States runs a risk in putting off China and keeping China separate from us. If the United States can make peace with the old Soviet Union, the archenemy we faced on the brink of nuclear annihilation for nearly five decades, surely we can bring ourselves to move beyond the searing images of Tiananmen Square that seem to exclusively drive China policy. To do less threatens not only the complexity of the geopolitical interests in the world but jeopardizes an incredible opportunity to participate in China's economic and political revolution and help to moderate their political system and help to moderate their human rights treatment.

MFN status—most favored nation status—the cold war relic underlying our China policy, should not be the basis for the entire United States-Chinese relationship. That was created constructively to pry exit visas out of the hands of the Soviets. Moreover, there was little risk to United States interests denying MFN to Russia. Contemporary China, which beckons a rush of eager investment from dozens of countries, is much different.

The President, during his campaign, stitched together a winning coalition addressing basic economic themes and resisting the pressures of certain interests who for years damaged the Democratic Party credibility with the public on issues of foreign policy and national security. NAFTA is perhaps the greatest example of this.

The fact of the matter is that China has been an exception. In spite of the fact that China's economy is the most robust in the world right now, China is not the enemy. Instead of threatening Beijing with the trade equivalent of a nuclear strike, we should be promoting measures to build confidence into the relationship as well as throughout the region. The most immediate objective should be addressing regional security and stability, weapons proliferation, and strengthening trans-Pacific economic ties. These directly threaten United States lives and interests just as much as Chinese human rights policies do.

Rather than pursuing a policy based exclusively on human rights, a nonlinear approach to bilateral relations that respects China's role as an emerging world leader will do far more to improve China's bleak record on human rights than a relationship exclusively focused on China's dissidents.

The United States has a special role in insisting that governments respect the dignity of their citizenry. But given the torturous history of China's relations with Western nations and its historic antipathy toward both Russia and Japan, success with China will depend on a whole range of factors beyond specific performance standards, preconditions, and expanding trade relationships.

Let me close by saying the following: Richard Nixon recognized that a strong China allied with the United States could divide the Communist world and perhaps lead to the breakup of the world Communist system. We need to recognize that China is a powerful moderating force against a nuclear Korea, against an unstable Russia, and against a worldwide unpredictable terrorist threat, not even taking into account the exploring economic growth in East Asia.

Finally, it is absolutely clear to me that Chinese treatment of its citizens does need serious attention. But treating China as an equal partner of the world will give us much greater moral authority to improve their domestic human rights than the current policy being proposed by many people throughout this country.

PARLIAMENTARY INQUIRY

Mr. LIVINGSTON. Madam Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mrs. CLAYTON). The gentleman will state it.

Mr. LIVINGSTON. Madam Speaker, is it permissible for me at this time to withdraw my name from cosponsorship of an amendment by unanimous consent?

The SPEAKER pro tempore. The Chair is informed the gentleman will have to get that permission when the House reconvenes at 12 noon to conduct business.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from Louisiana [Mr. LIVINGSTON] is recognized during morning business for 5 minutes.

Mr. LIVINGSTON. Madam Speaker, the House and Senate Democrats are currently meeting behind closed doors to craft a partisan campaign finance bill that they claim will bring reform to the election process.

However, press reports indicate that this bill will actually deliver permanent incumbent protection along with public financing of campaigns.

Not only will they impose sham limits on campaigns that could run in excess of $1 million per campaign, but the Democrats are actually going to vote to give themselves and all other candidates running for the House and Senate up to more than $300,000 in taxpayer funds, to use in their campaigns. Those taxpayer's funds are often known as welfare for the politicians. Any advocate of true campaign finance reform believes that we must reform the rules governing special interest Political Action Committee contributions. Current law allows $5,000 PAC contributions, which go overwhelmingly to incumbents. PAC's gave $94 million to House incumbents and only $12 million to House challengers in the 1991–92 election cycle. It is no wonder then that the so-called reform bill under consideration by the Democrats would maintain $5,000 PAC contributions, which favor incumbents and protect the Democrat majority in the Congress.

Reports indicate that the Senate Democrats understand that PAC reform is necessary for any real campaign reform bill, and they may include a PAC ban or a $1,000 PAC limit. It is too bad that the House Democrats cannot join the House Republicans, and the Republicans and Democrats in the Senate who support real PAC reform.

Any genuine reform bill must also address bundling which allows special interests to bundle many individual checks together to evade PAC contribution limits and gain disproportionate influence. House Republicans would ban bundling. House Democrats claim to ban bundling, but they create a giant loophole for nonconnected PAC's such as Emily's List which, coincidentally support Democrat candidates. This is not reform, it is incumbent protection.

The House Democrats also seem intent on crafting a loophole for leadership PAC's which allow congressional leaders to form two campaign committees and take twice as many contributions as would be allowed with only one campaign committee. This is another step back from true reform. House Republicans would ban leadership PAC's.

The so-called good government groups are conspiring with the Democrats to pass this incumbent-protection scheme in order to implement Common Causes's dream of public financing. The Democrats are committed to providing themselves with taxpayer funds to pay for their campaign expenses. What's worse is that the Democrats will not admit where the money will come from to pay for the welfare for politicians.

Democrats do not like to admit that when they provide money from the U.S. Treasury for their own campaigns, they are taking money from the taxpayers. However, the taxpayers will understand, and they will vote.

I implore the Democrats to end their closed-door meetings and to negotiate with Republicans to craft a true campaign finance reform bill. In fact, Minority Leader MICHEL, Minority Whip GINGRICH, House Administration Ranking Member THOMAS, and myself sent a letter to Speaker FOLEY asking for bipartisan input on this issue.

I include for the RECORD this letter from Mr. MICHEL to Mr. THOMAS FOLEY, Speaker of the House of Representatives.

OFFICE OF THE REPUBLICAN LEADER,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 13, 1994.

Hon. THOMAS FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: We understand that Democrats have been meeting behind closed doors on campaign reform prior to appointment of a conference committee. This signals that the majority believes it alone can write a campaign reform conference report that passes in both houses. We are not so confident.

We wholeheartedly agree with your strong public statements that the Congress should enact meaningful campaign reform in 1994. House Republicans have long argued that campaign reform is needed, and have presented legislation offering real reform.

Unfortunately, both bills now awaiting appointment of conferees contain provisions for the public financing of campaigns, and the House bill does not contain a mechanism to pay for this public financing.

We remain opposed to public financing. We are also opposed to telling the American people that we have enacted "reform" when, without a funding mechanism, such reform will never occur. Rather than attempt to pass a flawed conference agreement that does nothing, we stand committed to achieving real reform this Congress.

We believe that real reform must contain significant reforms on political action committees, Leadership PACs, bundling, and political party soft money. We are committed to working with you to achieve these goals.

ROBERT H. MICHEL.

□ 1050

TRIBUTE TO CHRISTOPHER ANDREW HEIL UPON HIS RETIREMENT AS AN OFFICIAL REPORTER OF DEBATES OF THE U.S. HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore (Mrs. CLAYTON). Under the Speaker's announced policy of February 11, 1994, the gentlewoman from Maryland [Mrs. MORELLA] is recognized during morning business for 5 minutes.

Mrs. MORELLA. Madam Speaker, my colleagues may have noticed that there has been considerably less shorthand written on the House floor this year. With the retirement of Christopher Andrew Heil from the staff of the Official Reporters of Debates in March, the end of the era of legislative stenographic reporting by the use of manual shorthand systems comes inexorably closer. It is hard to imagine that in 1973, when Chris joined the House staff, there were no stenotype or machine writers; all the floor reporters used either the Gregg or Pitman system, following in the tradition of Charles Dickens, who studied human nature and honed his literary craft as a stenographic Hansard reporter in the British House of Commons.

With his retirement, Chris knows that though all good things must end, other good things await. With his wife Agnes, he now finds time to visit his four children and his grandchildren located throughout the Capital and Atlantic coast region. An accomplished photographer, both as an amateur and at one time a professional, he now looks forward to satisfying his passion of recording the beauties of nature on film.

A native of Summit County and Akron, OH, Chris graduated from Columbia Union College in Takoma Park, MD and later, from 1948 to 1950 received his professional training as a court reporter at Gregg College in Chicago. His career as a reporter, specializing in the reporting of court trials,- depositions, statements, and arbitration and Government agency hearings, took him to Cleveland, where he was employed by the reporting firm of Fincun, Hagan and Morse, and Toledo, OH, where he owned and operated his own free-lance reporting firm prior to a brief stint as a floor reporter in the U.S. Senate and his permanent appointment on the House staff.

One day in the life of Chris Heil—June 6, 1944, D-Day—stands out above all others. As a U.S. Army combat engineer expert, trained in mine detecting, he landed on Omaha Beach as part of a vanguard force clearing the way for Gen. Omar Bradley's 1st Infantry Division spearheading the Allied invasion of France's Normandy coast. His survival is an incredible story of devotion, bravery, and luck. It was a productive day; the mission went well until late on that fateful day when both Chris and his mine detector were put out of action by enemy fire. Amid the death and destruction that seemed never-ending, Chris, through heroic efforts of U.S. Army and Coast Guard personnel, was evacuated. Six months later, with the wound to his left leg nearly healed, he was reassigned to duty as a combat engineer on the European continent. In Belgium, he was wounded again when a building he occupied was bombed. Later, after sweating out an impending reassignment to the Pacific theater, the war ended and Chris came home.

Like so many of his contemporaries, Chris took advantage of the G.I. Bill of Rights to train for his chosen profession—a profession he had never heard of before his Army service. It was in a hospital in Swansea, Wales, that Chris, clamoring for scarce reading material as he recovered from the wounds he had suffered on D-Day, was given a Gregg shorthand textbook. With nothing better to read, he thumbed through the pages and found himself developing an interest. Interest turned to fascination, and thus was born a resolve to become a shorthand expert.

After Chris recuperated and returned to the front, he referred often to the shorthand textbook which he had retained and even found time to practice what he had learned. Once, so the story goes, he was observed as he stood guard at night on the perimeter of his encampment moving his bayonet through the surface of a patch of snow that lay on the ground.

"What are you doing, Heil?" asked a puzzled comrade.

There was nothing for it but the truth, as improbable as it may have sounded. "Just practicing my shorthand," Chris answered.

Madam Speaker, our thanks go out to Chris for his years of service, his expertise, and his professionalism as an employee of the House, and we would note, too, that certainly his unselfish defense of his country and our liberties deserve the thanks of all Americans.

□ 1100

RECESS

The SPEAKER pro tempore (Mrs. CLAYTON). Pursuant to clause 12, rule I, the House will stand in recess until 12 noon.

Accordingly (at 11 a.m.) the House stood in recess until 12 noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 noon.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O gracious God, from whom comes the gift of life and the blessings of faith and to whom we return at life's end, we remember with gratefulness all those who have gone before and whose lives make our lives more complete. May our hearts be filled with the awareness that we do not have here an abiding city and we are but stewards of Your many graces that are given each day. May we so live our lives in appreciation of the gifts that are new each morning that through our words and deeds, we will be the people You would have us be and do those good things that honor You, O God, and serve people with faithfulness and honor. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Alabama [Mr. EVERETT] please come forward and lead the House in the Pledge of Allegiance.

Mr. EVERETT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed the following resolution:

S. RES. 205

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Richard M. Nixon, a former President of the United States, a former Vice President of the United States, a former Representative and former Senator from the State of California.

Resolved, That in recognition of his illustrious statesmanship, his leadership in national and world affairs, his distinguished public service to his State and his Nation, and as a mark of respect to one who has held such eminent public station in life, the Presiding Officer of the Senate appoint a committee to consist of all the Members of the Senate to attend the funeral of the former President.

Resolved, That the Senate hereby tender its deep sympathy to the members of the family of the former President in their sad bereavement.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the former President.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill on Friday, April 22, 1994:

H.R. 2884. An act to establish a national framework for the development of School-to-Work Opportunities systems in all States, and for other purposes.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

The SPEAKER. Without objection, the bill, H.R. 4092, is laid on the table.

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, April 26, 1994.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Monday, April 25, 1994 at 5:40 p.m. and said to contain a message from the President whereby he transmits a 6-month periodic report on the national emergency with respect to Haiti.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

SIGNIFICANT DEVELOPMENTS IN HAITI—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103-246)

The Speaker laid before the House the following message from the President of the United States; which was read and, together with accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

1. In December 1990, the Haitian people elected Jean-Bertrand Aristide as their President by an overwhelming margin in a free and fair election. The United States praised Haiti's success in peacefully implementing its democratic constitutional system and provided significant political and economic support to the new government. The Haitian military abruptly interrupted the consolidation of Haiti's new democracy when in September 1991, it illegally and violently ousted President Aristide from office and drove him into exile.

2. The United States, on its own and with the Organization of American States (OAS), immediately imposed sanctions against the illegal regime. The United States has also actively supported the efforts of the OAS and the United Nations to restore democracy to Haiti and to bring about President Aristide's return by encouraging and facilitating a political process involving all the legitimate Haitian parties. The United States and the international community also offered material assistance within the context of an eventual settlement of the Haitian crisis to support the return to democracy, build constitutional structures, and foster economic well-being.

In furtherance of these twin objectives—restoration of constitutional democracy and fostering economic recovery—as discussed in section 10 below, the United States has taken additional measures to block the U.S.-located assets of persons (civilian as well as military) whose conduct, or material or financial support, has assisted the illegal maintenance of the illegitimate regime in Haiti, including persons obstructing the U.N. Mission in Haiti or the implementation of the Governors Island Agreement, and persons perpetuating or contributing to the violence in Haiti. In addition, in an effort to stabilize employment and minimize economic hardship for the local populace in Haiti, U.S. persons currently licensed to deal with the vital Haitian assembly sector have received reauthorization through May 31, 1994.

3. This report is submitted to the Congress pursuant to 50 U.S.C. 1641(c) and 1703(c), and discusses Administration actions and expenses since my last report (November 13, 1993) that are directly related to the national emergency with respect to Haiti declared in Executive Order No. 12775, as implemented pursuant to that order and Executive Orders Nos. 12779, 12853, and 12872.

4. Economic sanctions against the *de facto* regime in Haiti were first imposed in October 1991. On October 4, 1991, in Executive Order No. 12775, President Bush declared a national emergency to deal with the threat to the national security, foreign policy, and economy of the United States caused by events that had occurred in Haiti to disrupt the legitimate exercise of power by the democratically elected government of that country (56 Fed. Reg. 50641). In that order, the President ordered the immediate blocking of all property and interests in property of the Government of Haiti (including the Banque de la Republique d'Haiti) then or thereafter located in the United States or within the possession or control of a U.S. person, including its overseas branches. The Executive Order also prohibited any direct or indirect payments or transfers to the *de facto* regime in Haiti of funds or other financial or investment assets or credits by any U.S. person, including its overseas branches, or by any entity organized under the laws of Haiti and owned or controlled by a U.S. person.

Subsequently, On October 28, 1991, President Bush issued Executive Order No. 12779, adding trade sanctions against Haiti to the sanctions imposed on October 4 (56 Fed. Reg. 55975). This order prohibited exportation from the United States of goods, technology, services, and importation into the United States of Haitian-origin goods and services, after November 5, 1991, with certain limited exceptions. The order exempted trade in publications and other informational materials from the import, export, and payment prohibitions and permitted the exportation to Haiti of donations to relieve human suffering as well as commercial sales of five food commodities: rice, beans, sugar, wheat flour, and cooking oil. In order to permit the return to the United States of goods being prepared for U.S. customers by Haiti's substantial "assembly sector," the order also permitted, through December 5, 1991, the importation into the United States of goods assembled or processed in Haiti that contained parts or materials previously exported to Haiti from the United States. On February 5, 1992, it was announced that specific licenses could be applied for on a case-by-case basis by U.S. persons wishing to resume a pre-embargo import/export relationship with the assembly sector in Haiti.

5. On June 30, 1993, I issued Executive Order No. 12853 that expanded the blocking of assets of the de facto regime to include assets of Haitian nationals identified by the Secretary of the Treasury as providing substantial financial or material contributions to the regime, or doing substantial business with the regime. That Executive order also implemented United Nations Security Council Resolution ("UNSC Resolution") 841 of June 16, 1993, by prohibiting the sale or supply by U.S. persons or from the United States, or using U.S.-registered vessels or aircraft, of petroleum or petroleum products or arms and related materiel of all types to any person or entity in Haiti, or for the purpose of any business carried on in or operated from Haiti, or promoting or calculated to promote such sale or supply. Carriage of such goods to Haiti on U.S.-registered vessels is prohibited, as is any transaction

for the evasion or avoidance of, or attempt to evade or avoid, any prohibition in the order.

6. As noted in my previous report, apparent steady progress toward achieving the firm goal of restoring democracy in Haiti permitted the United States and the world community to suspend economic sanctions against Haiti in August 1993. With strong support from the United States, the United Nations Security Council adopted Resolution 861 on August 27, 1993, suspending the petroleum, arms, and financial sanctions imposed under UNSC Resolution 841. On the same day, the Secretary General of the OAS announced that the OAS was urging member states to suspend their trade embargoes. In concert with these U.N. and OAS actions, U.S. trade and financial restrictions against Haiti were suspended, effective at 9:35 a.m. e.d.t., on August 31, 1993.

These steps demonstrated my determination and that of the international community to see that Haiti and the Haitian people resume their rightful place in our hemispheric community of democracies. Our work to reach a solution to the Haitian crisis through the Governors Island Agreement was however seriously threatened by accelerating violence in Haiti sponsored or tolerated by the de facto regime. The violence culminated on October 11, 1993, with the obstruction by armed "attachés," supported by the Haitian military and police, of the deployment of U.S. military trainers and engineers sent to Haiti as part of the United Nations Mission in Haiti. The Haitian military's decision to dishonor its commitments made in the Governors Island Agreement was apparent. On October 13, 1993, the United Nations Security Council issued Resolution 873, which terminated the suspension of sanctions effective at 11:59 p.m. e.d.t., October 18, 1993.

As a result, effective at 11:59 p.m. e.d.t., October 18, 1993, the Department of the Treasury revoked the suspension of those trade and financial sanctions that had been suspended, so that the full scope of prior prohibitions was reinstated (58 Fed. Reg. 54024, October 19, 1993). In addition to the actions I took in Executive Order No. 12853, the reinstated sanctions in the Haitian Transactions Regulations, 31 C.F.R. Part 580 (the "HTR"), prohibit most unlicensed trade with Haiti, and block the assets of the de facto regime in Haiti and the Government of Haiti. Restrictions on the entry into U.S. ports of vessels whose Haitian calls would violate U.S. or OAS sanctions had they been made by U.S. persons were also reinstated.

Also effective at 11:59 p.m. e.d.t., October 18, 1993, I issued Executive Order No. 12872 (58 Fed. Reg. 54029), authorizing the Department of the Treasury to block assets of persons who have: (1) contributed to the obstruction of UNSC resolutions 841 and 873, the Governors Island Agreement, or the activities of the U.N. Mission in Haiti; (2) perpetuated or contributed to the violence in Haiti; or (3) materially or financially supported either the obstruction or the violence referred to above. This authority is in addition to the blocking authority provided for in the original sanctions and in Executive Order No. 12853 of June 30, 1993, and ensures adequate authority to reach assets subject to U.S. jurisdiction of military and police officials, civilian "attachés" and their financial patrons meeting these criteria. A list of 41 such individuals was published on November 1, 1993, by the Office of Foreign Assets Control (FAC) of the Department of the Treasury (58 Fed. Reg. 58480).

On October 18, I ordered the deployment of six U.S. Navy vessels off Haiti's shores. To improve compliance with the ban on petroleum and munitions shipments to Haiti contained in UNSC resolutions 841 and 873, my Administration succeeded in securing the passage of UNSC Resolution No. 875. UNSC Resolution 875 calls upon the United Nations Member States acting either nationally or through regional agencies or arrangements to halt inward maritime shipping for Haiti in order to inspect and verify that the Haiti-bound cargo does not contain UNSC-prohibited petroleum or arms. A multinational Maritime Interdiction Force that includes elements of the U.S. Navy and the U.S. Coast Guard has been established and now patrols the waters off Haiti.

7. The declaration of the national emergency on October 4, 1991, was made pursuant to the authority vested in the President by the Constitution and laws of the United States, including the International Emergency Economic Power Act (50 U.S.C. 1701 et seq.) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 et seq.), and section 301 of title 3 of the United States Code. The emergency declaration was reported to the Congress on October 4, 1991, pursuant to section 204(b) of IEEPA (50 U.S.C. 1703(b)). The additional sanctions set forth in Executive Orders Nos. 12779, 12853, and 12872, were imposed pursuant to the authority vested in the President by the Constitution and laws of the United States, including the statutes cited above, as well as the United Nations Participation Act of 1945 (22 U.S.C. 287c), and represent the response by the United States to the United Nations Security Council and OAS directives and recommendations discussed above.

8. Since my report of November 13, 1993, FAC, in consultation with the Department of State and other Federal agencies, has issued General Notice No. 3, "Notification of Blocked Individuals of Haiti." The Notice, issued January 27, 1994, identifies 523 officers of the Haitian Armed Forces who have been determined by the Department of the Treasury to be Blocked Individuals of Haiti. General Notice No. 4, issued April 4, 1994, identifies an additional 27 individual officers of the Haitian Armed Forces and one civilian who have been determined by the Department of the Treasury to be Blocked Individuals of Haiti. These are persons who are members of the de facto regime or are blocked pursuant to Executive Orders Nos. 12853 or 12872. (A comprehensive list of Blocked Individuals of Haiti was published on April 7, 1994 (59 Fed. Reg. 15548)).

U.S. persons are prohibited from engaging in transactions with these individuals and with all officers of the Haitian military (as members of the de facto regime), whether or not named in General Notice No. 3 or No. 4, unless the transactions are licensed by FAC. Additionally, all interests in property of these individuals that are in the United States or in the possession or control of U.S. persons, including their overseas branches, are blocked. U.S. persons are not prohibited, however, from paying funds owed to these entities or individuals into the appropriate blocked account in domestic U.S. financial institutions. Copies of the comprehensive list and of General Notices No. 3 and No. 4 are attached.

A policy statement, effective January 31, 1994 (59 Fed. Reg. 8134, February 18, 1994), was published to extend until March 31, 1994, the expiration date for all current assembly sector licenses issued by FAC pursuant to the HTR, and a second policy notice, effective March 29, 1994, was published on April 1, 1994 (59 Fed. Reg. 15342), extending these licenses through May 31, 1994. These licenses have provided an exception to the comprehensive U.S. trade embargo on Haiti under which the "assembly sector" has continued to receive parts and supplies from, and supply finished products to, persons in the United States. Copies of the policy statements are attached.

Assembly sector trade with the United States accounted for a significant portion of Haiti's imports, and a substantial majority of its exports, prior to the institution of the OAS-requested embargo in November 1991. Although initially suspended due to the embargo, assembly sector imports from and exports to the United States were allowed to resume on a case-by-case basis beginning in February 1992 in order to keep poorer segments of the Haitian population employed and to reduce their incentive to attempt illegal and dangerous immigration by sea to the United States and other countries. However, the continuing uncertainties of the Haitian situation have led to a sharp decline in assembly sector activity, where employment is now estimated to be no more than 10 percent of pre-embargo levels.

9. In implementing the Haitian sanctions program, FAC has made exten-

sive use of its authority to specifically license transactions with respect to Haiti in an effort to mitigate the effects of the sanctions on the legitimate Government of Haiti and on the livelihood of Haitian workers employed by Haiti's assembly sector, and to ensure the availability of necessary medicines and medical supplies and the undisrupted flow of humanitarian donations to Haiti's poor. For example, specific licenses were issued: (1) permitting expenditures from blocked assets for the operations of the legitimate Government of Haiti; (2) permitting U.S. firms with pre-embargo relationships with product assembly operations in Haiti to resume those relationships in order to continue employment for their workers or, if they chose to withdraw from Haiti, to return to the United States assembly equipment, machinery, and parts and materials previously exported to Haiti; (3) permitting U.S. companies operating in Haiti to establish, under specified circumstances, interest-bearing blocked reserve accounts in commercial or investment banking institutions in the United States for deposit of amounts owed the de facto regime; (4) permitting the continued material support of U.S. and international religious, charitable, public health, and other humanitarian organizations and projects operating in Haiti; (5) authorizing commercial sales of agricultural inputs such as fertilizer and foodcrop seeds; and (6) in order to combat deforestation, permitting the importation of agricultural products grown on trees.

10. During this reporting period, U.S.-led OAS initiatives resulted in even greater intensification and coordination of enforcement activities. Continued close coordination with the U.S. Customs Service in Miami sharply reduced the number of attempted exports of unmanifested, unauthorized merchandise. New FAC initiatives are expected to result in more effective coordination of Customs Service and Department of Justice activities in prosecution of embargo violations. During the reporting period, the multinational Maritime Interdiction Force that contains elements of the U.S. Navy and U.S. Coast Guard, continued to patrol offshore Haiti and to conduct ship boardings, inspections of cargoes bound for Haiti, identification of suspected violators, and referrals for investigation. The Maritime Interdiction Force has boarded 612 ships and diverted 38 of these ships for various reasons (inaccessibility of cargo for inspection, items prohibited by the United Nations Security Council embargo on board) from its inception to March 30, 1994. Actions have been taken to counter embargo violations as they have developed. There have been high-level discussions with the Government of the Dominican Republic to encourage its stated desire to cooperate with the United Nations in increasing the effectiveness of the enforcement of the sanctions on that country's common border with Haiti across which fuel smuggling is occurring. Other steps have been taken to control sales of bunker fuel by ships in Haitian ports and smuggling of fuel in Haitian-Dominican coastal waters.

The Department of the Treasury, in close coordination with Department of State and the intelligence community, continues to designate "Blocked Individuals of Haiti," blocking the assets of persons (civilian as well as military) whose conduct meets the criteria of Executive Orders Nos. 12755, 12853, and 12872, including persons obstructing the U.N. Mission in Haiti or the implementation of the Governors Island Agreement and persons perpetuating or contributing to the violence in Haiti. The list was last expanded on January 27, when the entire officer corps of the Haitian Armed Forces was blocked as part of the de facto regime in Haiti, and on April 4, when one additional civilian was added to the list. As others subverting democracy in Haiti and additional members of the officer corps are identified by name, these names will be incorporated into the list of "Blocked Individuals of Haiti."

Since the last report, 35 penalties, totaling in excess of $146,000, have been collected from U.S. businesses and individuals for violations of the Regulations. Eighteen violations involved unlicensed import- and export-related activity. As of March 4, 1994, 12 payments of penalties assessed against the masters of vessels for unauthorized trade transactions or violations of entry restrictions totaled about $53,000. A significant penalty collection during the reporting period was from American Airlines for its direct payments of taxes and fees to the de facto regime in Haiti.

11. The expenses incurred by the Federal Government in the 6-month period from October 4, 1993, through April 3, 1994, that are directly attributable to the authorities conferred by the declaration of a national emergency with respect to Haiti are estimated at about $3.4 million, most of which represent wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in FAC, the U.S. Customs Service, and the Office of the General Counsel), the Department of State, the U.S. Coast Guard, and the Department of Commerce.

12. I am committed to the restoration of democracy in Haiti and determined to see that Haiti and the Haitian people resume their rightful place in our hemispheric community of democracies. Active U.S. support for United Nations/OAS efforts to resolve the Haitian crisis has led to the maintenance and enforcement of sweeping economic sanctions. Our diplomatic efforts implementing these sanctions are designed to encourage and facilitate participation by all legitimate Haitian political elements in a broad-based political process that will bring about the fulfillment of the undertakings they made in the Governors Island Agreement so that Haitian democracy can be restored and President Aristide can return to Haiti. Such a political process will enable the lifting of sanctions and the start of Haiti's economic reconstruction and national reconciliation. The United States will continue to play a leadership role in the international community's program of support and assistance for the restoration of democracy and return of President Aristide to Haiti.

I will continue to report periodically to the Congress on significant developments pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 25, 1994*.

ADJOURNMENT FROM TUESDAY, APRIL 26, TO THURSDAY, APRIL 28, 1994

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Thursday, April 28, 1994.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

FEDERAL ENERGY RESEARCH PRIORITIES ACT

(Mr. KREIDLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KREIDLER. Mr. Speaker, now is the time to redefine the mission of the Department of Energy.

The world has changed.

The cold war is over.

And conservation and renewable energy are the newest weapons in our fight for energy security.

So our research priorities must change too.

Yet hundreds of DOE facilities throughout the country are conducting research based on the past, not the future.

That is why I have introduced legislation, modeled after the Military Base Closure Commission, to evaluate, reconfigure, and close some DOE facilities.

It would cut research spending by 25 percent, saving billions of dollars for taxpayers.

It would redefine our energy priorities for the future.

And it would reduce the deficit, cut unnecessary spending, and get politics out of these decisions.

I urge my colleagues to support this legislation.

GUN CONTROL

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, according to the Washington Post today, the administration has begun its lobbying blitz on gun control. This is a continuation, of course, of efforts that have been carried on for some time that had to do with follow-up on the Brady bill and will be much like the Brady bill, I think, a feel-good kind of thing.

Nobody who follows gun control legislation felt that the Brady bill would be the end of it. Of course, it simply gave momentum to moving forward until all law-abiding citizens are not allowed to have guns in this country.

Let me tell my colleagues a little bit about the feeling I get from my folks in Wyoming. I hear more about gun control in the town meetings I go to. I hear more about opposition to gun control in the communications I get than any other single issue.

What is the basis for that? One is, most people in Wyoming feel that ownership of guns, legal ownership of guns is a constitutional right. They feel very strongly about that; most people in Wyoming do have guns.

Second, no one really believes that the bad guys are going to go down to Gamble's and sign up for 5 days and come back and pick up their gun. They will get their gun from somewhere else. It is simply an inconvenience to people who legally own guns.

What we need to do is to be tough on criminals, not tough on law-abiding citizens who choose to own a gun.

I agree with my constituents.

RICHARD M. NIXON

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, today I rise to pay my respect to former President Richard Nixon. With his passing, his party lost a great leader. Our country lost a great President. And the world lost a great statesman.

Each life is a mosaic of hills and valleys, of ups and downs. And Richard Nixon knew these extremes with exquisite definition. He stood as an inspiration to all who stumble and make mistakes and must struggle back.

Today I would like to make specific reference to his contributions as a statesman. He opened China to the West. He eased the tensions in the cold war and paved the way for the ultimate demise of communism.

Each day we enjoy our freedom, each day we are not engaged in war and each day, as we as legislators make decisions, some of them wrong ones from which we need to recover, we are indebted to Richard Nixon for his enormous contributions as statesman and for his example.

SERB MILITANTS MUST ABIDE BY NATO TERMS

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker NATO has finally stepped in with an ultimatum to the Serbs regarding the eastern Bosnian enclave of Gorazde—stop shelling and withdraw or face NATO air power. It is shameful that Gorazde almost had to fall to aggression before we took this action, and over 700 people died in just a few weeks. Many of us had called for an expansion of the Sarajevo ultimatum in February; indeed, some of us have supported such decisions since the war started in 1992.

Nevertheless, the ultimatum seems to be working. The Serb militants met an interim deadline, albeit very grudgingly, for an initial withdrawal from areas within 2 miles of Gorazde. The shelling has stopped, U.N. peacekeepers are arriving, and the wounded are being evacuated.

We must now avoid the urge to point to this success, back off and forget the Bosnian situation, hoping that it now will work itself out. Time has taught us that this will not happen, and we must therefore keep up the momentum and pressure on the Serb militants.

First, we need to ensure Serb compliance with this evening's deadline for the withdrawal from the approximately 10-mile area surrounding Gorazde.

Second, we must come up with an acceptable, comprehensive settlement that meets the needs of the Bosnians and the international community has the political will to ensure implementation.

Third, we must make it clear to the Serbs that there is no more piecemeal response to their barbaric behavior. Their unwillingness to cooperate and to live up to their promises as we move to a settlement must not be allowed to stand. Instead, punitive force must continually be our response.

I am hopeful that we are moving in this direction. A new international contact group has been established to coordinate policy, and NATO seems resolute in terms of its ultimatum. I hope we have learned that we must keep Bosnia high on the agenda and have the political will to stop the horror that is happening there. A lack of vigilance in countering what will certainly be more Serb testing in the future, will doom Bosnia and Herzegovina and our credibility alike, to the detriment of a new world order we all would like to see.

□ 1210

URGING SUPPORT FOR DISCHARGE PETITION ON THE A TO Z PLAN

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Speaker, tax day has passed and we have entered that hazy time of year when every individual in the country works for the Federal Government. Summer will be upon us by the time we are actually earning income for ourselves. Today I rise in support of the A to Z plan.

The bipartisan efforts of my colleagues ROB ANDREWS and BILL ZELIFF offer us the opportunity to restore democracy to the budget process. All Members may offer spending cuts. These cuts will be considered individually, rather than as part of a larger package. Make no mistake, this plan will require many tough choices. There is no room for deals cut in smoky back rooms. For the first time in many years, constituents will know exactly where their spring days go.

This plan offers us the opportunity to shine as we demonstrate our fiscal responsibility or to squirm as we defend our reckless spending practices. I, for one, want to see this debate; but more importantly the American people want to see this debate.

I urge you to support the discharge petition of the A to Z plan. Let us bring responsibility back to the House.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KREIDLER). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Thursday, April 28, 1994.

VETERANS HEALTH PROGRAMS IMPROVEMENT ACT OF 1994

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4013) to amend title 38, United States Code, to provide the Secretary of Veterans Affairs with necessary flexibility in staffing the Veterans Health Administration, to authorize the Secretary to establish pilot programs for health care delivery, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4013

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress makes the following findings:

(1) Under proposals for national health care reform, the Department of Veterans Affairs would be required to establish an enrollment system for veterans and to provide health care on a competitive basis with other, private health care providers.

(2) In order to be able to implement changes contemplated by proposals for national health care reform, the Secretary of Veterans Affairs must have flexibility to restructure and reform the Veterans Health Administration as necessary without externally imposed constraints on full-time equivalent employee (FTEE) positions levels.

(3) The Office of Management and Budget, as part of an announced plan to require a reduction over five years of 252,000 FTEE positions in the executive branch, proposes to require reductions of FTEE positions totaling 25,493 in personnel of the Veterans Health Administration, a reduction in personnel which would severely impede the ability of the Department of Veterans Affairs to implement national health care reform and to meet the responsibilities of the Department under existing law.

SEC. 2. EMPLOYMENT LEVEL IN VETERANS HEALTH ADMINISTRATION.

(a) IN GENERAL.—Chapter 7 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 713. Full-time equivalent employees: limitation on reduction

"(a) During the five-year period beginning on October 1, 1994, no reduction may be made in the number of full-time equivalent employees in the Veterans Health Administration other than as specifically required by a law directing reductions in personnel or positions of the Veterans Health Administration or by the availability of funds. During that period, the personnel of the Veterans Health Administration shall be managed on the basis of the needs of eligible veterans and the availability of funds.

"(b) During the period specified in subsection (a), no law imposing a restriction on hiring by executive agencies for the purpose of achieving workforce reductions shall apply to the Veterans Health Administration.

"(c) No law may be construed as suspending or modifying this section unless such law specifically refers to or amends this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"713. Full-time equivalent employees: limitation on reduction.".

SEC. 3. REPORT ON STREAMLINING.

Not later than January 15, 1995, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on streamlining activities in the Veterans Health Administration. The report shall include a description of—

(1) opportunities to improve the efficiency and effectiveness of delivery of health care services in the Veterans Health Administration through consolidation, reorganization, or other means;

(2) plans and actions taken to realize such efficiencies; and

(3) impediments to implementing particular plans.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Alabama [Mr. EVERETT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 4013, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4013 is a bill designed to give the Secretary of Veterans Affairs the tools he needs to manage Veterans Administration's health care system. It would postpone unsound and devastating personnel reductions in Veterans Administration hospitals, outpatient clinics, and nursing homes.

The administration has promised us that the Veterans Administration will be able to compete under health reform. But the Office of Management and Budget has told the Secretary of Veterans Affairs that during the next fiscal year the Veterans Administration will have to cut 5,000 health care employees and slash another 20,000 people by 1999.

I have yet to hear any logical explanation for the policy of applying a Governmentwide reduction in personnel to Veterans Administration's hospitals system. It is a mistaken policy, one which even the Vice President's report on "Reinventing Government" condemns. Let me read from that report:

> Federal managers often cite FTE controls as the single most oppressive restriction on their ability to manage. Under the existing system, FTC controls are the only way to make good on the President's commitment to reduce the Federal bureaucracy by 100,000 positions through attrition. But as we redesign the Government for greater accountability, we need to use budgets, rather than FTE controls, to drive our downsizing. FTE ceilings are usually imposed independently of—and often conflict with—budget allocations. They are frequently arbitrary, rarely account for changing circumstances, and are normally imposed as across-the-board percentage cuts in FTEs for all of an agency's units—regardless of changing circumstances. Organizations that face new regulations or a greater workload don't get new FTE ceilings. Consequently, they must contract out work that could be done better and cheaper inhouse. . . . The President should direct OMB and agency heads to stop setting FTE ceilings in fiscal year 1995.

The Vice President is right on target. I only wish he had discussed his feelings with the Director of the Office of Management and Budget.

H.R. 4013, as amended, provides that during the 5-year period beginning October 1 of this year there shall be no reduction other than as specifically required by law or by the availability of funds provided by the appropriations committees and the Congress. If Congress provides funds to support a certain personnel level in Veterans Administration, OMB will not be able to impose arbitrary cuts on Veterans Administration hospitals.

I want my colleagues to know that the bill does not prohibit the Secretary of Veterans Administration from reducing personnel through reorganization, consolidation, or otherwise. I also want to share with my colleagues the views of the many organizations that testified at a March 16 hearing on this measure.

ORGANIZATIONS SUPPORTING H.R. 4013

National Association of VA Physicians & Dentists—"We strongly support (H.R. 4013) to provide VA flexibility in meeting the workforce needs of its health care system."

Paralyzed Veterans of America—"PVA strongly supports (H.R. 4013). This bill would prevent a devastating loss of personnel from the Veterans Health Administration at the very time VA is attempting to marshall all its resources to compete and survive in a reformed national health care system."

Disabled American Veterans—"DAV applauds the recognition of gross contradictions between H.R. 3600—the Health Security Act—and the seemingly mindless requested reduction of some 25,000 full-time employee positions over a five year period."

AMVETS—"* * * we enthusiastically support the bill because VA faces sufficient challenges without significantly downsizing the workforce. * * * AMVETS hopes that Congress will provide VA the ability to choose a scalpel, not a cleaver to cut personnel."

American Legion—"* * * wholeheartedly supports the provisions contained in (H.R. 4013). At a time when VA anticipates implementing the greatest health care delivery changes in its history, the next several years will require VHA to consolidate and reinforce its present capabilities, and not be required to incur debilitating personnel or funding reductions."

Blinded Veterans Association—"* * * strongly supports adoption of this vital legislative initiative."

Nurses Organization of VA (NOVA)—"* * * applauds the introduction of bill (H.R. 4013), legislation that would put off any health care staff reductions until the DVA Secretary can more realistically determine its workforce needs * * * Now, more than ever, is the time to recognize the need for adequate staffing numbers and use budget dollars for official FTE positions. Health and life-saving care cannot be ignored, postponed or sacrificed."

Vietnam Veterans of America (VVA)—"(H.R. 4013) would appropriately insulate the Veterans Health Administration from cuts contemplated in the Fiscal Year 1995 budget, as well as the federal workforce reduction associated with the National Performance Review. Currently, eligible veterans are either turned away from many VHA facilities or simply become frustrated by excessive wait times and forego needed health services because staffing doesn't allow VHA to meet demand. Further cuts would exacerbate this problem and threaten the survival of the veterans' health system with passage of national health reform legislation."

If Veterans' Administration is to compete under any health care reform plan, State or Federal, we need to pass this bill right away. I urge the adoption of the bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. ROWLAND], the distinguished chairman of the Subcommittee on Hospitals and Health Care of the Committee on Veterans' Affairs.

Mr. ROWLAND. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of H.R. 4013.

H.R. 4013 is an important bill that addresses a very immediate challenge confronting the VA health care system—devastating OMB work force cuts.

Under the fiscal year 1995 budget, VA health care staffing must shrink by some 5,700 positions. While Administration officials testified at a recent hearing that such significant personnel cuts could be absorbed without serious impact, those charged with operating VA medical centers, and the veterans dependent on timely access to care, describe a very different reality.

Personnel cuts in the VA health care system mean one thing for sure—diminished service to its patients. While Administration officials hope to minimize the impact on direct patient care for the short term, they have no formula for avoiding severe problems over the next 4 years when they must shrink the work force by another 20,000.

In February, the committee conducted a survey of all VA medical centers to gauge the impact of such cuts. The survey made it clear that at a minimum these reductions will mean sweeping bed closures, program cuts, and ever-longer waiting times. They could well mean facility closures.

Clearly, VA cannot absorb cuts of this magnitude. Just to achieve mandated reductions in fiscal year 1995, VA plans to let go many of the technicians, software developers, and managers who would be needed to help transform this system to carry out an expanded role under national health care reform.

We have found no way to reconcile an OMB plan to slash more than 25,000 health care jobs with an administration proposal that VA play a major role under national health reform. The Administration certainly has had no answer to the question—how can a long-underfunded health care system gear up for an expanded role under health reform while under orders to dramatically shrink its work force.

H.R. 4013 would answer that question. It would exempt the Veterans Health Administration from these proposed staffing cuts over the next 5 years. As the testimony at our recent hearing and the results of the committee survey point out, this legislation is critically needed.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. EVERETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4013, as amended, the Veterans Health Programs Improvement Act of 1994.

H.R. 4013, as amended, contains important provisions to curb the potential disastrous impact on VA health care caused by the administration's mandated work force reduction plan.

Such a mandate will bring to a grinding halt any effort to assist VA in positioning itself to compete in a national health reform scenario.

Nobody should misunderstand the thrust of this bill, though, and think it freezes current VA staffing levels.

VA still has the authority to reduce personnel levels subject to the availability of funds and Congress could still direct VA to cut staffing levels by law.

The practical impact of this legislation is not to allow OMB to force personnel reductions that the VA has the appropriated dollars to maintain.

Mr. Speaker, I want to thank the distinguished chairman of the committee SONNY MONTGOMERY, the distinguished ranking member, BOB STUMP, and ranking minority members of the subcommittee on hospitals and health care, ROY ROWLAND and CHRIS SMITH, for their leadership and expertise on these important issues.

I urge the support of my colleagues.

☐ 1220

Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HUTCHINSON], the ranking minority member of the Subcommittee on Education, Training and Employment.

Mr. HUTCHINSON. Mr. Speaker, I rise today in support of H.R. 4013, the Veterans Health Programs Improvements Act of 1994. This bill would provide the Secretary of Veterans Affairs with greatly needed flexibility in staffing the Veterans Health Administration.

When the administration submitted its budget proposal, they requested a level of funding substantially below what it had previously stated would maintain current services to veterans. On top of that, the Veterans Health Administration was required to absorb an unprecedented reduction in total employment as part of the government-wide FTE reductions. These reductions will not only undermine the VA's ability to position itself for an era of health care reform, but will foster inefficiency. Without a restoration of FTE, the VA will have to cut services or delay provision of services at the very time when efforts should be made to expand services and improve their quality.

Perhaps the most important justification for our attempts to improve the VA health care system, however, is our commitment to our Nation's veterans who risked their lives fighting for our country. The very least we can do in return is to offer them a decent standard of health care through a strong VA health care system, capable of providing high quality services responsive to veterans and their special needs.

Mr. EVERETT. Mr. Speaker, I reserve the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman from Alabama [Mr. EVERETT] for handling this bill today. The gentleman from Arizona [Mr. STUMP], the ranking minority member, is totally supportive of this legislation.

Mr. Speaker, I yield 6 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, let me first say that the veterans of America have no better friend in America than the gentleman from Mississippi, SONNY MONTGOMERY.

General MONTGOMERY, who has served in this body long and with great distinction, is my very close friend.

Mr. Speaker, I agree with the objective of this bill, which is to ensure that the veterans of America continue to have the kind of health care that we have said that they would have and that we ought to deliver to them. That is the objective.

Mr. Speaker, everybody in this body obviously has a program that they believe is particularly important, but let me say on February 10, 1994, the four proponents who have spoken on this bill voted to cut 252,000 people from the Federal work force and they said we were going to save money. I voted for that bill, the Vice President recommended it, but very frankly, folks, what we did was we took a number. We did not make an analogy between the programs that we wanted accomplished and the level of personnel that would be required to accomplish those objectives. No, we took a number. It sounded politically good; it gets us below 1.9 million civilian employees. And it was not targeted, so it was an easy vote. Reduce 252,000 people.

Mr. Speaker, in my own Subcommittee on Treasury-Postal Service-General Government, and Senator DECONCINI feels very strongly, crime is a big problem in America, Americans concerned about the safety in their communities. We are going to dedicate $22 plus billion dollars of this reduction to crime. But that $22 billion will be reduced by 10 percent, $2.2 billion dedicated to crime if we reduce by 10 percent the number of employees we reduce.

Mr. Speaker, this does not do that, however.

Get it someplace else, but not in my backyard. Do not take from me. It is good to cut, but cut someplace else.

Mr. Speaker, I understand my chairman's view, for whom I have unlimited respect and whom I support and will continue to support for this chairmanship next year, I announce to all my colleagues. Why? Because he has brought vision and commitment; and there is no finer Member of this body, and I lament his leaving, than the gentleman from Georgia [Mr. ROWLAND], and although I do not know them as well, I am sure the proponents on the Republican side are equally sincere.

Mr. Speaker, I want to make sure my veterans have adequate, good, sound health care. I was responsible in main for the building with my chairman's help of a new VA hospital in Baltimore. But I do not delude myself that if we are going to cut funds in discretionary funding that everybody wants to do, $26 billion the Senate wanted to do, it was for free, not targeted, do not have to take any personal responsibility for cutting anything. But come in later, come in later and add on, come in later and fence off, come in later and protect after having said that we are going to make those reductions.

Mr. Speaker, every agency is to participate in these reductions that we passed and share the pain caused by these cuts. Let us look the American public in the eye and say, "There is not a free lunch." If we are going to cut 252,000 people, unlike the perception of some that these folks are not delivering services that the American public want, say, "Yes, we will cut but there is a cost," and this is the cost.

Mr. Speaker, this bill says, yes, there is a cut but it will not be here. Yes, this is important, law enforcement is important, NIH research is important, space research by the votes of this Congress is important, delivering of public Health Services is important, education of our young people is important, fighting drugs is important, protecting our borders with Customs is important. All of these objectives are important.

Mr. Speaker, this bill raises a very fundamental question: Do we continue to make broad conclusions that sound politically good and fiscally responsible and then do what we do all the time, come in and say, "Yes, but don't take mine. Don't take mine."

Mr. Speaker, I oppose this bill, not because I oppose its objective, and I will not ask for a vote on this bill, but I want all of my colleagues to know, and, yes, my veteran supporters that I cannot pretend that there is a free lunch. And, yes, I may support and urge the administration to organize this reduction in force so that we can hold harmless.

Mr. Speaker, I have told my good friend, the gentleman from New York, JERRY SOLOMON, that I will work with him, and I have told my chairman that I will work with him to try to accomplish this objective. But not by fencing off, not by saying that everybody else is subject to risk the consequences of the votes of everybody who is talking on this issue on either side but by consequences of making the tough decisions, not exempting ourselves from those tough decisions.

Mr. Speaker, I thank the chairman for his generosity in yielding me the time.

□ 1230

Mr. EVERETT. I yield such time as he may consume to my good friend, the gentleman from New York [Mr. SOLOMON], ranking member of the Committee on Rules and former ranking member of the Committee on Veterans' Affairs.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker and colleagues, I really do want to commend my good friend, the gentleman from Mississippi [Mr. MONTGOMERY], the gentleman from Georgia [Mr. ROWLAND], and my successor, the gentleman from Arizona [Mr. STUMP], the ranking Republican, as well as the gentleman from Alabama [Mr. EVERETT], for bringing this bill to the floor. I thank all the other committee members, because I think this is a vital piece of legislation.

Let me say something to the previous speaker, the gentleman from Maryland [Mr. HOYER], for whom I have the greatest respect and with whom I quite often agree on many of his observations. He spoke eloquently about the serious problems in Bosnia and he really did tell it like it is. We will not get into that right now, but let me say that I concur with almost everything that the gentleman from Maryland [Mr. HOYER] said in the well.

It is true that we have very, very valuable Federal employees in very many vital departments and agencies across this Government, and we do not want to single them out. We do not want to say it is a question of getting it from somebody else's backyard.

But let me tell you why we are not really doing that in this particular case. I agree with the gentleman, because in many cases we would be cutting out vital, necessary jobs in drug enforcement or wherever it might be. But in this particular case, on this particular bill, what we are saying is that we cannot have these jobs cut from the medical delivery system of the Veterans' Administration. We can still have those cuts throughout the entire Department of Veterans Affairs, and I think that there is room; cuts could be made there. But the medical people are vital. A growing number of World War II veterans are reaching an age when they need medical care. We have to make sure that care is available to them at VA hospitals.

The problem, and I will be critical of previous Republican administrations as well as the present Democrat administration, is that we went through a period, and the gentleman from Mississippi [Mr. MONTGOMERY] and the other members of the committee remember it so well, when we had forced down the throats of the veterans' hospitals throughout this Nation a 1-percent productivity savings. All that did was to squeeze out the quality of medical care, and it hurt the veterans' hospitals. This was done by Republicans and by Democrats alike, and it was wrong. We ought to keep that in mind, incidentally, ladies and gentlemen, when we get into the national health care debate and we start talking about price controls; that is exactly what price controls will do in the civilian sector as well. Price controls will squeeze out the quality of medical care.

We had previous a speaker talking about my good friend, and someone I deeply admired as the President of the United States of America. You know, he experimented with price controls, and it was perhaps the one major failing of Richard Nixon. He was talked into it by a former Democrat turned Republican named John Connally. That goes back a little ways beyond some of your time, but many of us remember it.

But the point I want to make is that this bill does not take it out of somebody else's backyard. It allows the cuts to continue to be made in the Veterans' Administration, but not out of that vital area of delivering life-saving care for our veterans.

Remember one thing, ladies and gentlemen, the veterans of World War II, which make up the vast majority of veterans today, are now turning 70 years old. Many of them are in their mid-seventies. Some of them are even in their eighties. They need more and more care.

There are to be some jumping exercises at the Normandy invasion reenactment, which the gentleman from Mississippi [Mr. MONTGOMERY] is going to be attending. Some of those guys who were in the Airborne are now 83 years old, and they are going to be jumping there in June.

SONNY, you will be there to watch it, and hopefully I will be, too.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, let me be clear, I am not jumping.

Mr. SOLOMON. You will be there to watch them though, SONNY.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from Maryland.

Mr. HOYER. First of all, the gentleman makes a good point, and I understand that point.

I am not going to ask for a vote on this, because the objective, I think, is broadly shared, and I do not want any implication by asking for a vote that folks trying to make a determination whether or not we guarantee and make sure we have quality health care for our veterans; we want to do that. The way to do that is to work within the framework of that which we have enacted.

Fencing off, I think, in this area simply leads, as I said, to fencing off in other areas and takes the heat off getting the most efficient reduction.

But I agree with the gentleman's objective and want to support that and want to work with him to ensure that that end in fact occurs.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman. I think we are all arguing the same point here.

But I do hope we all support this vital piece of legislation. I would hope that it is enacted.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from New York [Mr. SOLOMON] for his kind remarks and also to say to the gentleman from Maryland [Mr. HOYER] that he is certainly a strong advocate for veterans. We disagree on this issue, but I have had the privilege of going into his congressional district and working with his veterans' organizations. I certainly look forward to going back to Maryland, which is the home of many of our stronger veterans' advocates.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, it is my intention on final passage to ask for a recorded vote on this measure.

It seems to me that we have set the country on the course of a 10-percent work force reduction in Federal Government personnel over the next 5 years. Even though I share with my colleagues on the Committee on Veterans' Affairs a strong desire that this Department be allowed the resources and the ability to respond adequately to the needs of America's veterans through the health care system, I think it is ill-advised that this Congress tie the hands of the administration in implementing a very difficult work force reduction policy.

One exemption leads to another exemption and another and another. We have seen this repeatedly over the past. I do not think we want to start down that road again on this particular issue.

I trust that this administration, particularly with the leadership of Jesse Brown as Secretary of Veterans Affairs, that he is going to be extremely sensitive to the needs of our VA patients and they will be as careful as possible in implementing any cuts that are required of that Department in a way that will not negatively impact quality health care for the veterans of America.

But I do not believe that we in the Congress, by a vote today, ought to restrict the administration, limit its flexibility, restrict its discretion on this particular issue. This is a management decision on the part of the administration. I do not believe that it is a decision that we ought to micromanage with this legislation, and for that reason I do intend to call for a rollcall vote.

Mr. MONTGOMERY. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. ROWLAND].

Mr. ROWLAND. Mr. Speaker, we had hearings, just to answer the gentleman and certainly not in any way to try to cause him not to ask for a recorded vote, but just by way of explanation, we had a hearing on this very issue recently in the Subcommittee on Hospitals and Health Care, and while those people from the VA and the administration said that we can streamline to the extent that we will be able to deal with this, that was not what we heard from the people who will be working to provide care for those veterans who need the care.

They came and said we cannot streamline to that extent. We heard from the veterans' service organizations as well that it is not possible to streamline to the extent that the administration had said, and if in fact this cut does take place, we can expect there to be decreased service to veterans in the hospital and health care delivery system.

Now, the administration is saying we want the VA to be competitive. The VA must be competitive. How can it be competitive if the administration is cutting the personnel that will be necessary to make that system competitive? It just does not add up.

So I would say to the gentleman that if these cuts do not take place in the way that we have indicated that they ought to, that veterans will suffer.

Mr. EVERETT. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON].

□ 1240

Mr. SOLOMON. I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to say something to my friend, the gentleman from Minnesota, TIM PENNY—he may be the one I respect the most in this body because he is one Member who really has the guts to stand up here and tell it like it is about the sea of red ink that this Congress and several administrations, the current and the previous Presidents, have been drowning in.

But he made the point that the Secretary of Veterans' Affairs, Jesse Brown, would not stand for unnecessary cuts in the medical delivery system. Well, I can say to the gentleman, "TIM, I will just say to you that it isn't a question of Jesse Brown." He is doing an outstanding job. It is a question of OMB. We all know who OMB is. OMB calls all the shots. It does not matter which administration it is, they give orders to the Secretary of Veterans' Affairs where to make those cuts.

They have been insensitive in the past, and they will continue to be insensitive in the future. That is why we cannot allow cuts to be made in the medical delivery system of the Department of Veterans' Affairs. If we were preventing cuts from being made anywhere in the Department of Veterans' Affairs, I would be the first one up here fighting against this bill. But the fact is that the bill does not do that. We still are allowing cuts to be made equitably throughout the rest of the Department of Veterans' Affairs, and that is why we really ought to be supporting this piece of legislation.

Mr. Speaker, I strongly urge its support.

Mr. MONTGOMERY. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. I thank the chairman for yielding this time to me.

I really appreciate this time and would just like to briefly and very regretfully speak against the chairman of the Committee on Veterans' Affairs' legislation here. The simple fact is that the entire Federal work force has to be reconsidered, the entire work force is being considered, and to arbitrarily get into the exemption of one agency, a very major agency, of the Federal Government I would say casts real problems and irregularities on the entire process. Obviously, the administration is going to have to have discretion as to how many personnel cuts are going to be achieved in the various agencies and the various functions of those agencies. But if we get into totally exempting one area of this program, we really do major damage to the entire program, and I regretfully oppose the chairman's initiative.

Mr. EVERETT. Mr. Speaker, I yield myself such time as I may consume in order to point out that if this bill should fail, a recent committee survey of the VA medical center directors reveals 74 percent projected they would be forced to close beds, 62 percent projected that they would have to reduce outpatient care workload, and 59 percent projected that they would need to close specific programs.

Mr. Speaker, National Association of VA Physicians & Dentists—"I see no way that we can sustain such a loss without having a direct effect on the quality of patient care. And for this reason, we strongly support (H.R. 4013) to provide VA flexibility in meeting the work force needs of its health care system."

Paralyzed Veterans of America—"PVA strongly supports (H.R. 4013). This bill would prevent a devastating loss of personnel from the Veterans Health Administration at the very time VA is attempting to marshall all its resources to compete and survive in a reformed national health care system."

Disabled American Veterans—"DAV applauds the recognition of gross contradictions between H.R. 3600—the Health Security Act—and the seemingly mindless requested reduction of some 25,000 full-time employee positions over a 5-year period."

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American Legion—"* * * wholeheartedly supports the provisions contained in (H.R. 4013). At a time when VA anticipates implementing the greatest health care delivery changes in its history, the next several years will require VHA to consolidate and reinforce its present capabilities, and not be required to incur debilitating personnel or funding reductions."

Blinded Veterans Association—"* * * strongly supports adoption of this vital legislative initiative * * * Ironically, several initiatives eagerly pursued by the administration are complicating VA's efforts to position itself for health care reform. The President's fiscal year 1995 budget request for DVA is totally inadequate, severely limiting VHA's ability to even meet current services levels of fiscal year 1994. * * * Further, the administration's National Performance Review [NPR] requires a total Federal work force reduction of 252,000 FTEE over the next 5 years. * * * The budget shortfall and required reductions of over 3,600 FTEE contained in the VHA fiscal year 1995 budget will be absolutely devastating if enacted."

Nurses Organization of VA [NOVA]—"* * * applauds the introduction of bill (H.R. 4013), legislation that would put off any health care staff reductions until the DVA Secretary can more realistically determine its work force needs. * * * Now, more than ever, is the time to recognize the need for adequate staffing numbers and use budget dollars for official FTE positions. Health and lifesaving care cannot be ignored, postponed or sacrificed."

Vietnam Veterans of America [VVA]—"(H.R. 4013) would appropriately insulate the Veterans Health Administration from cuts contemplated in the fiscal year 1995 budget, as well as the Federal work force reduction associated with the National Performance Review. Currently, eligible veterans are either turned away from many VHA facilities or simply become frustrated by excessive wait times and forego needed health services because staffing doesn't allow VHA to meet demand. Further cuts would exacerbate this problem and threaten the survival of the veterans' health system with passage of national health reform legislation."

Mr. Speaker, at this time I yield such time as he may consume to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman for yielding this time to me.

I compliment the chairman of the Committee on Veterans' Affairs and the gentleman from Georgia [Dr. ROWLAND] for their efforts in this bill. I think we are missing the whole goal and the whole sight of the commitment of this Congress and the American people and the commitment we made to the veterans of America.

Mr. Speaker, I have traveled and spoken to a great many veterans groups and also existing military branches, and the biggest concern they have is they feel we are forgetting them.

Mr. Speaker, when our veterans went into service, they were told they would receive medical care. It was a contract made by this Government of ours and this Congress.

All we are asking in this bill is not to exempt but to make sure that that commitment is fulfilled. We can streamline, we should do so, but not take away the ability to provide what we committed to these veterans. If we want to change the rules in the future, that is fine for those coming into the service now. We have veterans who have served their time.

When I was in the service—that is more than I can say for some other people in this Government—but when I was in the service, I was told that if I served my 20 years, I would be given certain benefits. That is one of the reasons I was in the service.

I chose not to stay there, but those people who did stay there expected to have appropriate medical services.

Now, I have watched what happened in some of the veteran hospitals, in, yes, other administrations and even this administration, and I see where the veterans are not being considered equally or with the commitment we made to them when they enlisted.

So, again, I compliment my chairman. I heard the comments a while ago that we all have to cut back and reform this Government. Yes, I happen to agree with that. But let us do it with due contract, do it with new contracts, new entries, with a new system, but let us not break the word that we gave the veterans when they enlisted in Korea, World War II, Vietnam, the Gulf, Grenada. These are our fighting men and women.

The chairman and the Committee on Veterans' Affairs have done the right, the correct thing. They and the ranking member, all of them should be complimented.

Mr. EVERETT. Mr. Speaker, I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Every day I have Members come up to me and complain about the service that the veterans are receiving in their veterans hospitals, and every Member in this Chamber has a veterans hospital or an outpatient clinic or a nursing home that his or her veterans use. We just felt very strongly, both Democrats and Republicans, that we needed to look at this reinventing of Government and the effect of this reduction of employees in the different Government agencies. There was no opposition expressed to this measure by Veterans' Committee members when it was ordered reported.

I want to point out that the Veterans' Administration is the second largest employer of civilians, and the military is first. So a cut of 25,000 employees would be devastating to the veterans hospitals; 5,000 jobs would be lost in 1995. We will have to close some more veterans wards. I hope we do not have to close any veterans hospitals.

But we just cannot operate with that type of reduction. That is why we brought the bill up here today, trying to help out these old veterans.

Again, I want to quote from Vice President GORE's "Report of the National Performance Review," which includes statements that I think would be of interest.

The Vice President's report says, and I quote, "We need to use budgets rather than FTE controls to drive our downsizing. FTE ceilings are usually imposed independently and often conflict with budget allocations." Then it goes on further to say, "The President should direct OMB and agency heads to stop setting FTE ceilings in fiscal 1995."

This comes out of the Vice President's report.

They say do it by budget, do not do it by personnel ceilings. So that is why we are here today, that is why we brought the bill up. I thank my colleagues for supporting this legislation.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in support of H.R. 4013, as amended, the Veterans Health Programs Improvement Act of 1994. This legislation will ban an arbitrary reduction in full-time equivalent employees from the Veterans Health Administration unless specifically required by law or limited funds.

Mr. Speaker, the administration has directed VA to cut up to 25,000 FTE's, some 12 percent of its work force, over the next 5 years. At the same time, the administration has submitted legislation which fully expects VA to compete with private sector health plans to attract veteran patients under the Health Security Act. It would seem that the right hand does not know what the left hand is doing. Plain and simple, we are on the cusp of national health reform and it is not the time for arbitrary cuts in health care employees. This mandated cut in FTE would ensure that VA would be able to compete under whatever health plan is ultimately enacted.

In the era of health reform, at a time when VA is attempting to prepare itself to meet the challenge of reforms, it is a sad commentary that the administration would make such nonsensical requests. Nonetheless, this legislation, if enacted, will once again protect the VA from OMB budget slashers.

I want to commend the distinguished chairman and ranking minority member of the committee, Mr. MONTGOMERY and Mr. STUMP, for continuing to move legislation which protects our Nation's veterans. As always, they are valuable advocates. I also want to recognize the chairman of the Subcommittee on Hospitals and Health Care, Dr. ROWLAND, for his hard work on this legislation.

Mr. Speaker, I urge my colleagues to support H.R. 4013, as amended.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 4013, the Veterans Health Programs Improvement Act of 1994. I commend the distinguished gentleman from Georgia [Mr. ROWLAND] for introducing this worthwhile legislation.

H.R. 4013 will exempt the Veterans Health Administration [VHA] from the mandatory staffing reductions outlined in Vice President GORE's proposal for reinventing Government and the Federal Workforce Restructing Act of 1994, which is now known as Public Law 103–226.

I voted in support of the Federal Workforce Restructuring Act. However, I believe these reductions must not jeopardize or diminish the health care services that our Nation's veterans receive. For this reason, Mr. Speaker, I support H.R. 4013.

Our Nation needs to take the steps necessary to ensure that our veterans receive the finest medical treatment and care. This legislation, which exempts mandatory staffing reductions, is a step in the right direction.

Accordingly, I urge my colleagues to support this legislation.

Mr. BISHOP. Mr. Speaker, I rise today as a cosponsor and an ardent supporter of H.R. 4013, the Veterans Health Programs Improvements Act. This bill would exempt the Veterans Health Administration from a White House proposal that would cut 25,000 VHA full-time positions.

This bill, Mr. Speaker, is intended to keep the VHA strong during a time of tremendous and unprecedented change. Once Congress passes health care reform legislation, the VHA will begin an era of reorganization. If the President's health care package passes, the VHA will be forced for the first time to compete for its patients. The VHA expects its workload to be enormous in the coming years as it tries to cope with the changes brought on by new health care reform laws.

To propose a decrease in the VHA work force when it is certain to have an increase in its workload is unfair and illogical.

As the medical arm of the Veterans' Administration, the VHA is charged with caring for many of the men and women who risked their lives for America and Democracy. For too many of these veterans, the VHA is the only medical care available. Let us not desert our veterans, Mr. Speaker, for they never retreated when we needed them. Health care is one of the few benefits we award veterans for their service—a benefit they earned with blood and sweat on the battlefield. We cannot strip them of this badge of honor.

We owe it to our veterans, Mr. Speaker, to provide them with the best medical service they can be afforded.

This bill, Mr. Speaker, passed the Veterans Affairs Committee as it is not controversial and I urge its passage today by voice vote.

Mrs. THURMAN. Mr. Speaker, today the VA operates the Nation's largest centrally managed health care delivery system. It provides the full continuum of medical care, from primary care and sophisticated tertiary services to rehabilitation and long-term care. The impact of the VA's role in the current national health care environment is immense.

Under the Federal Work Force Restructuring Act, the number of cuts to the Veterans Health Administration are completely arbitrary. Employment cuts are not based on any study, methodology, or analytic framework. We are not just talking about streamlining a Government agency or forcing efficiency. In no uncertain terms, this bill challenges effective delivery of health care to those involved in the VA health system.

The Veterans Health Administration is committed to streamlining operations, and under this measure, the Veterans Health Administration could still be required to make personnel cuts by a future law which specifically directed them to do so.

The real issue here is: where should these cuts be made? Across-the-board cuts over the entire system do not answer the problems facing the Veterans Health Administration in the light of health care reform.

In some parts of our country, beds and treatment are plentiful and accessible. Unfortunately, however, the Veterans Health Administration is pushed to the limit to accommodate health needs in certain areas. An arbitrary cut across the board would only exacerbate this problem. This bill provides us with an opportunity to avoid such a situation.

With over 2,000 veterans moving to Florida each month, care provided by the Veterans Health Administration is being spread out thinner and thinner. Because Florida's population is growing so quickly, it is difficult to imagine the Veterans Health Administration being able to provide the present level of care, in my State, with approximately 1,400 less full time employees.

We will have the ability to improve efficiency and effectiveness within the Veterans Health Administration, whether through consolidation or reorganization but we must also recognize the changes taking place throughout the country, like those in Florida, and act accordingly.

Passage of this measure will allow us the opportunity to discuss and implement an effective and constructive law directing reductions in the Veterans Health Administration. The future of the Nation's largest managed health care delivery system is too important to allow broad-based sweeping changes to affect it.

Ms. LONG. Mr. Speaker, I strongly support H.R. 4013, the Veterans Health Programs Improvement Act. This legislation is necessary if we expect the Department of Veterans Affairs to provide quality care to our veterans.

A recent editorial indicated that it would be hypocrisy for fiscal conservatives to support this measure. I ardently disagree. As a fiscal conservative, I believe that there are many areas of the Federal Government where we can make additional cuts. In fact, I supported the Penny-Kasich amendment to make $90 billion of specific cuts.

If we ask the Veterans Health Administration to provide quality health care to our veterans, then we must provide them with the necessary personnel to do so. If we ask the DVA to compete under health care reform, then we must not force them to comply with arbitrary staffing levels driven solely by Federal budget concerns. Such a handicap would virtually guarantee the demise of the VA.

Yes—support for this measure will place additional pressure on other departments and programs to cut additional personnel. But it is our job to establish priorities for Federal programs. Without H.R. 4013, we will tell the veterans who use the DVA, predominately older, sicker, and poorer veterans, that they are not a priority of this Congress. I, for one, am not willing to say that. Please support H.R. 4013 when it comes to the floor of the House for a vote.

Mr. BURTON of Indiana. Mr. Speaker, as one of the original sponsors of the Burton-Penny amendment to lock in reductions of 252,000 in the Federal work force, I feel very strongly that we move ahead with downsizing the Government. However, we must not make those reductions in a haphazard or arbitrary way.

One of the principles that ought to be guiding these efforts is that we should be eliminating wasteful layers of management so that we can preserve front-line personnel who are delivering services directly to the American people. That is why I support H.R. 4013, the Veterans Health Programs Improvement Act of 1994. This bill would exempt the veterans health care system from reductions under this work force reduction initiative.

The veterans health care system has been underfunded for a number of years, severely restricting services they can provide to veterans who have served their country. If we apply these cuts in full-time equivalents to the veterans hospitals, we are going to lose doctors, nurses, and other health care professionals who directly care for our veterans. Instead, we should be making cuts in other parts of the Veterans Administration and in other agencies that do not provide such direct and essential health care services.

As we pare down the Federal Government and reduce the work force, we must concentrate on excessive headquarters staff and unnecessary layers of bureaucracy so that direct services to the public can be preserved. This is the essence of reinventing Government. That is why I support H.R. 4013, and support eliminating unnecessary positions in other sections of the Department of Veterans Affairs and other agencies.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KREIDLER). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 4013, as amended.

The question was taken.

Mr. PENNY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

PROVIDING FOR POISON CONTROL CENTER SERVICES

(Mr. TOWNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TOWNS. Mr. Speaker, today my esteemed colleagues, Ms. BYRNE of Virginia, Miss BARBARA-ROSE COLLINS of Michigan, Ms. MARGOLIES-MEZVINSKY of Pennsylvania, Mrs. MORELLA of Maryland, Ms. NORTON of the District of Columbia, Mr. PAYNE of New Jersey, and I are introducing a concurrent resolution to express the sense of the Congress that any health care reform legislation provide for poison control center services.

☐ 1250

Poison control centers save lives and save money. Every $1 spent on poison centers saves about $8 in unnecessary visits to emergency rooms.

Tragically, poison centers are closing across the country, but closing poison control centers merely drives up the costs of health care, places the lives of millions of children at risk.

Mr. Speaker, closing poison centers is health care's retreat, not health care reform. The Nation needs to move forward, not backwards. Providing poison control services to all Americans would actually save $545 million in the Nation's health care bill.

The public is demanding health care reform that makes sense. Poison control centers make sense. I urge my colleagues to support the resolution.

Mr. Speaker, the resolution has been endorsed by the American Association of Poison Control Centers, the American Academy of Pediatricians, and the Consumer Federation of America. All have endorsed this resolution, which is a cost-saving resolution that makes sense, and I urge my colleagues to support this resolution.

PROVIDING FOR CONCURRENCE WITH S. 1636, MARINE MAMMAL PROTECTION ACT AMENDMENTS OF 1994

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 412) providing for the concurrence by the House with an amendment in the amendment of the Senate to the amendment of the House to S. 1636.

The Clerk read as follows:

H. RES. 412

Resolved, That upon the adoption of this resolution the bill (S. 1636), entitled "An Act to authorize appropriations for the Marine Mammal Protection Act of 1972 and to improve the program to reduce the incidental taking of marine mammals during the course of commercial fishing operations, and for other purposes", with the Senate amendment to the House amendment thereto, shall be considered to have been taken from the Speaker's table to the end that the Senate amendment thereto be, and the same is hereby, agreed to with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the Senate, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Marine Mammal Protection Act Amendments of 1994".

SEC. 2. AMENDMENT OF MARINE MAMMAL PROTECTION ACT OF 1972.

(a) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

(b) RELATIONSHIP TO OTHER LAW.—Except as otherwise expressly provided, nothing in this Act is intended to amend, repeal, or otherwise affect any other provision of law.

SEC. 3. FINDINGS AND DECLARATION OF POLICY.

Section 2 (16 U.S.C. 1361) is amended—

(1) in paragraph (2) by inserting "essential habitats, including" after "made to protect"; and

(2) in paragraph (5) in the matter following subparagraph (B) by inserting "and their habitats" before "is therefore necessary".

SEC. 4. MORATORIUM AND EXCEPTIONS.

(a) IN GENERAL.—Section 101(a) (16 U.S.C. 1371(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Consistent with the provisions of section 104, permits may be issued by the Secretary for taking, and importation for purposes of scientific research, public display, photography for educational or commercial purposes, or enhancing the survival or recovery of a species or stock, or for importation of polar bear parts (other than internal organs) taken in sport hunts in Canada. Such permits, except permits issued under section 104(c)(5), may be issued if the taking or importation proposed to be made is first reviewed by the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals established under title II. The Commission and Committee shall recommend any proposed taking or importation, other than importation under section 104(c)(5), which is consistent with the purposes and policies of section 2 of this Act. If the Secretary issues such a permit for importation, the Secretary shall issue to the importer concerned a certificate to that effect in such form as the Secretary of the Treasury prescribes, and such importation may be made upon presentation of the certificate to the customs officer concerned.";

(2) in paragraph (2) in the first sentence, by inserting before the period at the end the following: ", or in lieu of such permits, authorizations may be granted therefor under section 118, subject to regulations prescribed under that section by the Secretary without regard to section 103";

(3) in paragraph (3)(B)—

(A) by inserting ", photography for educational or commercial purposes," after "purposes"; and

(B) by inserting "or as provided for under paragraph (5) of this subsection," after "subsection,";

(4) by amending paragraph (4) to read as follows:

"(4)(A) Except as provided in subparagraphs (B) and (C), the provisions of this Act shall not apply to the use of measures—

"(i) by the owner of fishing gear or catch, or an employee or agent of such owner, to deter a marine mammal from damaging the gear or catch;

"(ii) by the owner of other private property, or an agent, bailee, or employee of such owner, to deter a marine mammal from damaging private property;

"(iii) by any person, to deter a marine mammal from endangering personal safety; or

"(iv) by a government employee, to deter a marine mammal from damaging public property,

so long as such measures do not result in the death or serious injury of a marine mammal.

"(B) The Secretary shall, through consultation with appropriate experts, and after notice and opportunity for public comment, publish in the Federal Register a list of guidelines for use in safely deterring marine mammals. In the case of marine mammals listed as endangered species or threatened species under the Endangered Species Act of 1973, the Secretary shall recommend specific measures which may be used to nonlethally deter marine mammals. Actions to deter marine mammals consistent with such guidelines or specific measures shall not be a violation of this Act.

"(C) If the Secretary determines, using the best scientific information available, that certain forms of deterrence have a significant adverse effect on marine mammals, the Secretary may prohibit such deterrent methods, after notice and opportunity for public comment, through regulation under this Act.

"(D) The authority to deter marine mammals pursuant to subparagraph (A) applies to all marine mammals, including all stocks designated as depleted under this Act.";

(5) in paragraph (5) by adding at the end the following new subparagraphs:

"(D)(i) Upon request therefor by citizens of the United States who engage in a specified activity (other than commercial fishing) within a specific geographic region, the Secretary shall authorize, for periods of not more than 1 year, subject to such conditions as the Secretary may specify, the incidental, but not intentional, taking by harassment of small numbers of marine mammals of a species or population stock by such citizens while engaging in that activity within that region if the Secretary finds that such harassment during each period concerned—

"(I) will have a negligible impact on such species or stock, and

"(II) will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b), or section 109(f) or pursuant to a cooperative agreement under section 119.

"(ii) The authorization for such activity shall prescribe, where applicable—

"(I) permissible methods of taking by harassment pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to a cooperative agreement under section 119,

"(II) the measures that the Secretary determines are necessary to ensure no unmitigable adverse impact on the availability of the species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to a cooperative agreement under section 119, and

"(III) requirements pertaining to the monitoring and reporting of such taking by harassment, including requirements for the independent peer review of proposed monitoring plans or other research proposals where the proposed activity may affect the availability of a species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to a cooperative agreement under section 119.

"(iii) The Secretary shall publish a proposed authorization not later than 45 days after receiving an application under this subparagraph and request public comment through notice in the Federal Register, newspapers of general cir-

culation, and appropriate electronic media and to all locally affected communities for a period of 30 days after publication. Not later than 45 days after the close of the public comment period, if the Secretary makes the findings set forth in clause (i), the Secretary shall issue an authorization with appropriate conditions to meet the requirements of clause (ii).

"(iv) The Secretary shall modify, suspend, or revoke an authorization if the Secretary finds that the provisions of clauses (i) or (ii) are not being met.

"(v) A person conducting an activity for which an authorization has been granted under this subparagraph shall not be subject to the penalties of this Act for taking by harassment that occurs in compliance with such authorization.

"(E)(i) During any period of up to 3 consecutive years, the Secretary shall allow the incidental, but not the intentional, taking by persons using vessels of the United States or vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)), while engaging in commercial fishing operations, of marine mammals from a species or stock designated as depleted because of its listing as an endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) if the Secretary, after notice and opportunity for public comment, determines that—

"(I) the incidental mortality and serious injury from commercial fisheries will have a negligible impact on such species or stock;

"(II) a recovery plan has been developed or is being developed for such species or stock pursuant to the Endangered Species Act of 1973; and

"(III) where required under section 118, a monitoring program is established under subsection (d) of such section, vessels engaged in such fisheries are registered in accordance with such section, and a take reduction plan has been developed or is being developed for such species or stock.

"(ii) Upon a determination by the Secretary that the requirements of clause (i) have been met, the Secretary shall publish in the Federal Register a list of those fisheries for which such determination was made, and, for vessels required to register under section 118, shall issue an appropriate permit for each authorization granted under such section to vessels to which this paragraph applies. Vessels engaged in a fishery included in the notice published by the Secretary under this clause which are not required to register under section 118 shall not be subject to the penalties of this Act for the incidental taking of marine mammals to which this paragraph applies, so long as the owner or master of such vessel reports any incidental mortality or injury of such marine mammals to the Secretary in accordance with section 118.

"(iii) If, during the course of the commercial fishing season, the Secretary determines that the level of incidental mortality or serious injury from commercial fisheries for which a determination was made under clause (i) has resulted or is likely to result in an impact that is more than negligible on the endangered or threatened species or stock, the Secretary shall use the emergency authority granted under section 118 to protect such species or stock, and may modify any permit granted under this paragraph as necessary.

"(iv) The Secretary may suspend for a time certain or revoke a permit granted under this subparagraph only if the Secretary determines that the conditions or limitations set forth in such permit are not being complied with. The Secretary may amend or modify, after notice and opportunity for public comment, the list of fisheries published under clause (ii) whenever the Secretary determines there has been a significant change in the information or conditions used to determine such list.

"(v) Sections 103 and 104 shall not apply to the taking of marine mammals under the authority of this subparagraph.

"(vi) This subparagraph shall not govern the incidental taking of California sea otters and shall not be deemed to amend or repeal the Act of November 7, 1986 (Public Law 99-625; 100 Stat. 3500)."; and

(6) by adding at the end the following new paragraph:

"(6)(A) A marine mammal product may be imported into the United States if the product—

"(i) was legally possessed and exported by any citizen of the United States in conjunction with travel outside the United States, provided that the product is imported into the United States by the same person upon the termination of travel;

"(ii) was acquired outside of the United States as part of a cultural exchange by an Indian, Aleut, or Eskimo residing in Alaska; or

"(iii) is owned by a Native inhabitant of Russia, Canada, or Greenland and is imported for noncommercial purposes in conjunction with travel within the United States or as part of a cultural exchange with an Indian, Aleut, or Eskimo residing in Alaska.

"(B) For the purposes of this paragraph, the term—

"(i) 'Native inhabitant of Russia, Canada, or Greenland' means a person residing in Russia, Canada, or Greenland who is related by blood, is a member of the same clan or ethnological grouping, or shares a common heritage with an Indian, Aleut, or Eskimo residing in Alaska; and

"(ii) 'cultural exchange' means the sharing or exchange of ideas, information, gifts, clothing, or handicrafts between an Indian, Aleut, or Eskimo residing in Alaska and a Native inhabitant of Russia, Canada, or Greenland, including rendering of raw marine mammal parts as part of such exchange into clothing or handicrafts through carving, painting, sewing, or decorating.".

(b) ACTIONS AFFECTING SECTION 101(b).—Section 101(b) (16 U.S.C. 1371(b)) is amended by adding at the end the following new sentences: "In promulgating any regulation or making any assessment pursuant to a hearing or proceeding under this subsection or section 117(b)(2), or in making any determination of depletion under this subsection or finding regarding unmitigable adverse impacts under subsection (a)(5) that affects stocks or persons to which this subsection applies, the Secretary shall be responsible for demonstrating that such regulation, assessment, determination, or finding is supported by substantial evidence on the basis of the record as a whole. The preceding sentence shall only be applicable in an action brought by one or more Alaska Native organizations representing persons to which this subsection applies.".

(c) TAKING IN DEFENSE OF SELF OR OTHERS.—Section 101(c) (16 U.S.C. 1371(c)) is amended to read as follows:

"(c) It shall not be a violation of this Act to take a marine mammal if such taking is imminently necessary in self-defense or to save the life of a person in immediate danger, and such taking is reported to the Secretary within 48 hours. The Secretary may seize and dispose of any carcass.".

SEC. 5. PERMITS.

(a) PROHIBITIONS.—Section 102(a) (16 U.S.C. 1372(a)) is amended—

(1) in paragraph (2)(B) by striking "for any purpose in any way connected with the taking or importation of" and inserting "to take or import"; and

(2) in paragraph (4) by—

(A) striking "or offer to purchase or sell" and inserting "export, or offer to purchase, sell, or export";

(B) striking "product; and" and inserting "product—"; and

(C) inserting after and below the text of the paragraph the following:

"(A) that is taken in violation of this Act; or

"(B) for any purpose other than public display, scientific research, or enhancing the survival of a species or stock as provided for under subsection 104(c); and".

(b) PERMITS.—Section 104 (16 U.S.C. 1374) is amended—

(1) in subsection (a) by adding at the end the following: "Permits for the incidental taking of marine mammals in the course of commercial fishing operations may only be issued as specifically provided for in sections 101(a)(5) or 306, or subsection (h) of this section.";

(2) in subsection (c)—

(A) in paragraph (1) in the first sentence by striking "and after";

(B) by amending paragraph (2) to read as follows:

"(2)(A) A permit may be issued to take or import a marine mammal for the purpose of public display only to a person which the Secretary determines—

"(i) offers a program for education or conservation purposes that is based on professionally recognized standards of the public display community;

"(ii) is registered or holds a license issued under 7 U.S.C. 2131 et seq.; and

"(iii) maintains facilities for the public display of marine mammals that are open to the public on a regularly scheduled basis and that access to such facilities is not limited or restricted other than by charging of an admission fee.

"(B) A permit under this paragraph shall grant to the person to which it is issued the right, without obtaining any additional permit or authorization under this Act, to—

"(i) take, import, purchase, offer to purchase, possess, or transport the marine mammal that is the subject of the permit; and

"(ii) sell, export, or otherwise transfer possession of the marine mammal, or offer to sell, export, or otherwise transfer possession of the marine mammal—

"(I) for the purpose of public display, to a person that meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A);

"(II) for the purpose of scientific research, to a person that meets the requirements of paragraph (3); or

"(III) for the purpose of enhancing the survival or recovery of a species or stock, to a person that meets the requirements of paragraph (4).

"(C) A person to which a marine mammal is sold or exported or to which possession of a marine mammal is otherwise transferred under the authority of subparagraph (B) shall have the rights and responsibilities described in subparagraph (B) with respect to the marine mammal without obtaining any additional permit or authorization under this Act. Such responsibilities shall be limited to—

"(i) for the purpose of public display, the responsibility to meet the requirements of clauses (i), (ii), and (iii) of subparagraph (A),

"(ii) for the purpose of scientific research, the responsibility to meet the requirements of paragraph (3), and

"(iii) for the purpose of enhancing the survival or recovery of a species or stock, the responsibility to meet the requirements of paragraph (4).

"(D) If the Secretary—

"(i) finds in concurrence with the Secretary of Agriculture, that a person that holds a permit

under this paragraph for a marine mammal, or a person exercising rights under subparagraph (C), no longer meets the requirements of subparagraph (A)(ii) and is not reasonably likely to meet those requirements in the near future, or

"(ii) finds that a person that holds a permit under this paragraph for a marine mammal, or a person exercising rights under subparagraph (C), no longer meets the requirements of subparagraph (A) (i) or (iii) and is not reasonably likely to meet those requirements in the near future,

the Secretary may revoke the permit in accordance with section 104(e), seize the marine mammal, or cooperate with other persons authorized to hold marine mammals under this Act for disposition of the marine mammal. The Secretary may recover from the person expenses incurred by the Secretary for that seizure.

"(E) No marine mammal held pursuant to a permit issued under subparagraph (A), or by a person exercising rights under subparagraph (C), may be sold, purchased, exported, or transported unless the Secretary is notified of such action no later than 15 days before such action, and such action is for purposes of public display, scientific research, or enhancing the survival or recovery of a species or stock. The Secretary may only require the notification to include the information required for the inventory established under paragraph (10).";

(C) by amending paragraph (3) to read as follows:

"(3)(A) The Secretary may issue a permit under this paragraph for scientific research purposes to an applicant which submits with its permit application information indicating that the taking is required to further a bona fide scientific purpose. The Secretary may issue a permit under this paragraph before the end of the public review and comment period required under subsection (d)(2) if delaying issuance of the permit could result in injury to a species, stock, or individual, or in loss of unique research opportunities.

"(B) No permit issued for purposes of scientific research shall authorize the lethal taking of a marine mammal unless the applicant demonstrates that a nonlethal method of conducting the research is not feasible. The Secretary shall not issue a permit for research which involves the lethal taking of a marine mammal from a species or stock that is depleted, unless the Secretary determines that the results of such research will directly benefit that species or stock, or that such research fulfills a critically important research need.

"(C) Not later than 120 days after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary shall issue a general authorization and implementing regulations allowing bona fide scientific research that may result only in taking by Level B harassment of a marine mammal. Such authorization shall apply to persons which submit, by 60 days before commencement of such research, a letter of intent via certified mail to the Secretary containing the following:

"(i) The species or stocks of marine mammals which may be harassed.

"(ii) The geographic location of the research.

"(iii) The period of time over which the research will be conducted.

"(iv) The purpose of the research, including a description of how the definition of bona fide research as established under this Act would apply.

"(v) Methods to be used to conduct the research.

Not later than 30 days after receipt of a letter of intent to conduct scientific research under the general authorization, the Secretary shall issue a letter to the applicant confirming that the general authorization applies, or, if the proposed research is likely to result in the taking (including Level A harassment) of a marine mammal, shall notify the applicant that subparagraph (A) applies."; and

(D) by adding at the end the following new paragraphs:

"(5)(A) The Secretary may issue a permit for the importation of polar bear parts (other than internal organs) taken in sport hunts in Canada, including polar bears taken but not imported prior to the date of enactment of the Marine Mammal Protection Act Amendments of 1994, to an applicant which submits with its permit application proof that the polar bear was legally harvested in Canada by the applicant. Such a permit shall be issued if the Secretary, in consultation with the Marine Mammal Commission and after notice and opportunity for public comment, finds that—

"(i) Canada has a monitored and enforced sport hunting program consistent with the purposes of the Agreement on the Conservation of Polar Bears;

"(ii) Canada has a sport hunting program based on scientifically sound quotas ensuring the maintenance of the affected population stock at a sustainable level;

"(iii) the export and subsequent import are consistent with the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora and other international agreements and conventions; and

"(iv) the export and subsequent import are not likely to contribute to illegal trade in bear parts.

"(B) The Secretary shall establish and charge a reasonable fee for permits issued under this paragraph. All fees collected under this paragraph shall be available to the Secretary for use in developing and implementing cooperative research and management programs for the conservation of polar bears in Alaska and Russia pursuant to section 113(d).

"(C)(i) The Secretary shall undertake a scientific review of the impact of permits issued under this paragraph on the polar bear population stocks in Canada within 2 years after the date of enactment of this paragraph. The Secretary shall provide an opportunity for public comment during the course of such review, and shall include a response to such public comment in the final report on such review.

"(ii) The Secretary shall not issue permits under this paragraph after September 30, 1996, if the Secretary determines, based on the scientific review, that the issuance of permits under this paragraph is having a significant adverse impact on the polar bear population stocks in Canada. The Secretary may review such determination annually thereafter, in light of the best scientific information available, and shall complete the review not later than January 31 in any year a review is undertaken. The Secretary may issue permits under this paragraph whenever the Secretary determines, on the basis of such annual review, that the issuance of permits under this paragraph is not having a significant adverse impact on the polar bear population stocks in Canada.

"(6) A permit may be issued for photography for educational or commercial purposes involving marine mammals in the wild only to an applicant which submits with its permit application information indicating that the taking will be limited to Level B harassment, and the manner in which the products of such activities will be made available to the public.

"(7) Upon request by a person for a permit under paragraph (2), (3), or (4) for a marine mammal which is in the possession of any person authorized to possess it under this Act and which is determined under guidance under section 402(a) not to be releasable to the wild, the Secretary shall issue the permit to the person requesting the permit if that person—

"(A) meets the requirements of clauses (i), (ii), and (iii) of paragraph (2)(A), in the case of a request for a permit under paragraph (2);

"(B) meets the requirements of paragraph (3), in the case of a request for a permit under that paragraph; or

"(C) meets the requirements of paragraph (4), in the case of a request for a permit under that paragraph.

"(8)(A) No additional permit or authorization shall be required to possess, sell, purchase, transport, export, or offer to sell or purchase the progeny of marine mammals taken or imported under this subsection, if such possession, sale, purchase, transport, export, or offer to sell or purchase is—

"(i) for the purpose of public display, and by or to, respectively, a person which meets the requirements of clauses (i), (ii), and (iii) of paragraph (2)(A);

"(ii) for the purpose of scientific research, and by or to, respectively, a person which meets the requirements of paragraph (3); or

"(iii) for the purpose of enhancing the survival or recovery of a species or stock, and by or to, respectively, a person which meets the requirements of paragraph (4).

"(B)(i) A person which has a permit under paragraph (2), or a person exercising rights under paragraph (2)(C), which has possession of a marine mammal that gives birth to progeny shall—

"(I) notify the Secretary of the birth of such progeny within 30 days after the date of birth; and

"(II) notify the Secretary of the sale, purchase, or transport of such progeny no later than 15 days before such action.

"(ii) The Secretary may only require notification under clause (i) to include the information required for the inventory established under paragraph (10).

"(C) Any progeny of a marine mammal born in captivity before the date of the enactment of the Marine Mammal Protection Act Amendments of 1994 and held in captivity for the purpose of public display shall be treated as though born after that date of enactment.

"(9) No marine mammal may be exported for the purpose of public display, scientific research, or enhancing the survival or recovery of a species or stock unless the receiving facility meets standards that are comparable to the requirements that a person must meet to receive a permit under this subsection for that purpose.

"(10) The Secretary shall establish and maintain an inventory of all marine mammals possessed pursuant to permits issued under paragraph (2)(A), by persons exercising rights under paragraph (2)(C), and all progeny of such marine mammals. The inventory shall contain, for each marine mammal, only the following information which shall be provided by a person holding a marine mammal under this Act:

"(A) The name of the marine mammal or other identification.

"(B) The sex of the marine mammal.

"(C) The estimated or actual birth date of the marine mammal.

"(D) The date of acquisition or disposition of the marine mammal by the permit holder.

"(E) The source from whom the marine mammal was acquired including the location of the take from the wild, if applicable.

"(F) If the marine mammal is transferred, the name of the recipient.

"(G) A notation if the animal was acquired as the result of a stranding.

"(H) The date of death of the marine mammal and the cause of death when determined."; and

(3) in subsection (e)(1) by—

(A) striking "or" at the end of subparagraph (A);

(B) striking the period at the end of subparagraph (B) and inserting ", or"; and

(C) adding at the end the following new subparagraph:

"(C) if, in the case of a permit under subsection (c)(5) authorizing importation of polar bear parts, the Secretary, in consultation with the appropriate authority in Canada, determines that the sustainability of Canada's polar bear population stocks are being adversely affected or that sport hunting may be having a detrimental effect on maintaining polar bear population stocks throughout their range.".

(c) Existing Permits.—Any permit issued under section 104(c)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)(2)) before the date of the enactment of this Act is hereby modified to be consistent with that section as amended by this Act.

SEC. 6. PURPOSE AND USE OF THE FUND.

Section 405 (16 U.S.C. 1421d), as so redesignated by this Act, is amended—

(1) in subsection (b)(1)(A)—

(A) by striking "and" at the end of clause (i); and

(B) by inserting at the end the following new clause:

"(iii) for care and maintenance of marine mammal seized under section 104(c)(2)(D); and"; and

(2) in subsection (d) by inserting after "For purposes of carrying out this title" the following: "and section 104(c)(2)(D)".

SEC. 7. REGULATIONS AND ADMINISTRATION; APPLICATION TO OTHER TREATIES AND CONVENTIONS.

(a) Measures for Impacts on Strategic Stocks.—Section 112 (16 U.S.C. 1382) is amended by adding at the end the following new subsection:

"(e) If the Secretary determines, based on a stock assessment under section 117 or other significant new information obtained under this Act, that impacts on rookeries, mating grounds, or other areas of similar ecological significance to marine mammals may be causing the decline or impeding the recovery of a strategic stock, the Secretary may develop and implement conservation or management measures to alleviate those impacts. Such measures shall be developed and implemented after consultation with the Marine Mammal Commission and the appropriate Federal agencies and after notice and opportunity for public comment.".

(b) International Polar Bear Conservation.—Section 113 (16 U.S.C. 1383) is amended by—

(1) designating the existing paragraph as subsection (a); and

(2) adding at the end the following new subsections:

"(b) Not later than 1 year after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary of the Interior shall, in consultation with the contracting parties, initiate a review of the effectiveness of the Agreement on the Conservation of Polar Bears, as provided for in Article IX of the Agreement, and establish a process by which future reviews shall be conducted.

"(c) The Secretary of the Interior, in consultation with the Secretary of State and the Marine Mammal Commission, shall review the effectiveness of United States implementation of the Agreement on the Conservation of Polar Bears, particularly with respect to the habitat protection mandates contained in Article II. The Secretary shall report the results of this review to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than April 1, 1995.

"(d) Not later than 6 months after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary of the Interior, acting through the Secretary of State and in consultation with the Marine Mammal Commission and the State of Alaska, shall consult with the appropriate officials of the Russian Federation on the development and implementation of enhanced cooperative research and management programs for the conservation of polar bears in Alaska and Russia. The Secretary shall report the results of this consultation and provide periodic progress reports on the research and management programs to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate.".

SEC. 8. CONSERVATION PLANS.

Section 115(b) (16 U.S.C. 1383b(b)) is amended by adding at the end the following new paragraph:

"(4) If the Secretary determines that a take reduction plan is necessary to reduce the incidental taking of marine mammals in the course of commercial fishing operations from a strategic stock, or for species or stocks which interact with a commercial fishery for which the Secretary has made a determination under section 118(f)(1), any conservation plan prepared under this subsection for such species or stock shall incorporate the take reduction plan required under section 118 for such species or stock.".

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) Departments of Commerce and the Interior.—Section 116 is amended to read as follows:

"SEC. 116. AUTHORIZATION OF APPROPRIATIONS.

"(a) Department of Commerce.—(1) There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out its functions and responsibilities under this title (other than sections 117 and 118) and title IV, $12,138,000 for fiscal year 1994, $12,623,000 for fiscal year 1995, $13,128,000 for fiscal year 1996, $13,653,000 for fiscal year 1997, $14,200,000 for fiscal year 1998, and $14,768,000 for fiscal year 1999.

"(2) There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out sections 117 and 118, $20,000,000 for each of the fiscal years 1994 through 1999.

"(b) Department of the Interior.—There are authorized to be appropriated to the Department of the Interior, for purposes of carrying out its functions and responsibilities under this title, $8,000,000 for fiscal year 1994, $8,600,000 for fiscal year 1995, $9,000,000 for fiscal year 1996, $9,400,000 for fiscal year 1997, $9,900,000 for fiscal year 1998, and $10,296,000 for fiscal year 1999.".

(b) Marine Mammal Commission.—Section 207 is amended to read as follows:

"SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Marine Mammal Commission, for purposes of carrying out this title, $1,500,000 for fiscal year 1994, $1,550,000 for fiscal year 1995, $1,600,000 for fiscal year 1996, $1,650,000 for fiscal year 1997, $1,700,000 for fiscal year 1998, and $1,750,000 for fiscal year 1999.".

(c) Repeal.—Section 7 of the Act entitled "An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes", approved October 9, 1981 (16 U.S.C. 1384 and 1407), is repealed.

SEC. 10. STOCK ASSESSMENTS.

Title I (16 U.S.C. 1371 et seq.) is amended by adding at the end the following new section:

"SEC. 117. STOCK ASSESSMENTS.

"(a) In General.—Not later than August 1, 1994, the Secretary shall, in consultation with the appropriate regional scientific review group established under subsection (d), prepare a draft stock assessment for each marine mammal stock which occurs in waters under the jurisdiction of the United States. Each draft stock assessment, based on the best scientific information available, shall—

"(1) describe the geographic range of the affected stock, including any seasonal or temporal variation in such range;

"(2) provide for such stock the minimum population estimate, current and maximum net productivity rates, and current population trend, including a description of the information upon which these are based;

"(3) estimate the annual human-caused mortality and serious injury of the stock by source and, for a strategic stock, other factors that may be causing a decline or impeding recovery of the stock, including effects on marine mammal habitat and prey;

"(4) describe commercial fisheries that interact with the stock, including—

"(A) the approximate number of vessels actively participating in each such fishery;

"(B) the estimated level of incidental mortality and serious injury of the stock by each such fishery on an annual basis;

"(C) seasonal or area differences in such incidental mortality or serious injury; and

"(D) the rate, based on the appropriate standard unit of fishing effort, of such incidental mortality and serious injury, and an analysis stating whether such level is insignificant and is approaching a zero mortality and serious injury rate;

"(5) categorize the status of the stock as one that either—

"(A) has a level of human-caused mortality and serious injury that is not likely to cause the stock to be reduced below its optimum sustainable population; or

"(B) is a strategic stock, with a description of the reasons therefor; and

"(6) estimate the potential biological removal level for the stock, describing the information used to calculate it, including the recovery factor.

"(b) Public Comment.—(1) The Secretary shall publish in the Federal Register a notice of the availability of a draft stock assessment or any revision thereof and provide an opportunity for public review and comment during a period of 90 days. Such notice shall include a summary of the assessment and a list of the sources of information or published reports upon which the assessment is based.

"(2) Subsequent to the notice of availability required under paragraph (1), if requested by a person to which section 101(b) applies, the Secretary shall conduct a proceeding on the record prior to publishing a final stock assessment or any revision thereof for any stock subject to taking under section 101(b).

"(3) After consideration of the best scientific information available, the advice of the appropriate regional scientific review group established under subsection (d), and the comments of the general public, the Secretary shall publish in the Federal Register a notice of availability and a summary of the final stock assessment or any revision thereof, not later than 90 days after—

"(A) the close of the public comment period on a draft stock assessment or revision thereof; or

"(B) final action on an agency proceeding pursuant to paragraph (2).

"(c) Review and Revision.—(1) The Secretary shall review stock assessments in accordance with this subsection—

"(A) at least annually for stocks which are specified as strategic stocks;

"(B) at least annually for stocks for which significant new information is available; and

"(C) at least once every 3 years for all other stocks.

"(2) If the review under paragraph (1) indicates that the status of the stock has changed or

can be more accurately determined, the Secretary shall revise the stock assessment in accordance with subsection (b).

"(d) Regional Scientific Review Groups.—(1) Not later than 60 days after the date of enactment of this section, the Secretary of Commerce shall, in consultation with the Secretary of the Interior (with respect to marine mammals under that Secretary's jurisdiction), the Marine Mammal Commission, the Governors of affected adjacent coastal States, regional fishery and wildlife management authorities, Alaska Native organizations and Indian tribes, and environmental and fishery groups, establish three independent regional scientific review groups representing Alaska, the Pacific Coast (including Hawaii), and the Atlantic Coast (including the Gulf of Mexico), consisting of individuals with expertise in marine mammal biology and ecology, population dynamics and modeling, commercial fishing technology and practices, and stocks taken under section 101(b). The Secretary of Commerce shall, to the maximum extent practicable, attempt to achieve a balanced representation of viewpoints among the individuals on each regional scientific review group. The regional scientific review groups shall advise the Secretary on—

"(A) population estimates and the population status and trends of such stocks;

"(B) uncertainties and research needed regarding stock separation, abundance, or trends, and factors affecting the distribution, size, or productivity of the stock;

"(C) uncertainties and research needed regarding the species, number, ages, gender, and reproductive status of marine mammals;

"(D) research needed to identify modifications in fishing gear and practices likely to reduce the incidental mortality and serious injury of marine mammals in commercial fishing operations;

"(E) the actual, expected, or potential impacts of habitat destruction, including marine pollution and natural environmental change, on specific marine mammal species or stocks, and for strategic stocks, appropriate conservation or management measures to alleviate any such impacts; and

"(F) any other issue which the Secretary or the groups consider appropriate.

"(2) The scientific review groups established under this subsection shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.).

"(3) Members of the scientific review groups shall serve without compensation, but may be reimbursed by the Secretary, upon request, for reasonable travel costs and expenses incurred in performing their obligations.

"(4) The Secretary may appoint or reappoint individuals to the regional scientific review groups under paragraph (1) as needed.

"(e) Effect on Section 101(b).—This section shall not affect or otherwise modify the provisions of section 101(b).".

SEC. 11. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS.

Title I (16 U.S.C. 1371 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 118. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS.

"(a) In General.—(1) Effective on the date of enactment of this section, and except as provided in section 114 and in paragraphs (2), (3), and (4) of this subsection, the provisions of this section shall govern the incidental taking of marine mammals in the course of commercial fishing operations by persons using vessels of the United States or vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)). In any event it shall be the immediate goal that the incidental mortality or serious injury of marine mammals occurring in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate within 7 years after the date of enactment of this section.

"(2) In the case of the incidental taking of marine mammals from species or stocks designated under this Act as depleted on the basis of their listing as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), both this section and section 101(a)(5)(E) of this Act shall apply.

"(3) Sections 104(h) and title III, and not this section, shall govern the taking of marine mammals in the course of commercial purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean.

"(4) This section shall not govern the incidental taking of California sea otters and shall not be deemed to amend or repeal the Act of November 7, 1986 (Public Law 99-625; 100 Stat. 3500).

"(5) Except as provided in section 101(c), the intentional lethal take of any marine mammal in the course of commercial fishing operations is prohibited.

"(6) Sections 103 and 104 shall not apply to the incidental taking of marine mammals under the authority of this section.

"(b) Zero Mortality Rate Goal.—(1) Commercial fisheries shall reduce incidental mortality and serious injury of marine mammals to insignificant levels approaching a zero mortality and serious injury rate within 7 years after the date of enactment of this section.

"(2) Fisheries which maintain insignificant serious injury and mortality levels approaching a zero rate shall not be required to further reduce their mortality and serious injury rates.

"(3) Three years after such date of enactment, the Secretary shall review the progress of all commercial fisheries, by fishery, toward reducing incidental mortality and serious injury to insignificant levels approaching a zero rate. The Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report setting forth the results of such review within 1 year after commencement of the review. The Secretary shall note any commercial fishery for which additional information is required to accurately assess the level of incidental mortality and serious injury of marine mammals in the fishery.

"(4) If the Secretary determines after review under paragraph (3) that the rate of incidental mortality and serious injury of marine mammals in a commercial fishery is not consistent with paragraph (1), then the Secretary shall take appropriate action under subsection (f).

"(c) Registration and Authorization.—(1) The Secretary shall, within 90 days after the date of enactment of this section—

"(A) publish in the Federal Register for public comment, for a period of not less than 90 days, any necessary changes to the Secretary's list of commercial fisheries published under section 114(b)(1) and which is in existence on March 31, 1994 (along with an explanation of such changes and a statement describing the marine mammal stocks interacting with, and the approximate number of vessels or persons actively involved in, each such fishery), with respect to commercial fisheries that have—

"(i) frequent incidental mortality and serious injury of marine mammals;

"(ii) occasional incidental mortality and serious injury of marine mammals; or

"(iii) a remote likelihood of or no known incidental mortality or serious injury of marine mammals;

"(B) after the close of the period for such public comment, publish in the Federal Register a revised list of commercial fisheries and an update of information required by subparagraph (A), together with a summary of the provisions of this section and information sufficient to advise vessel owners on how to obtain an authorization and otherwise comply with the requirements of this section; and

"(C) at least once each year thereafter, and at such other times as the Secretary considers appropriate, reexamine, based on information gathered under this Act and other relevant sources and after notice and opportunity for public comment, the classification of commercial fisheries and other determinations required under subparagraph (A) and publish in the Federal Register any necessary changes.

"(2)(A) An authorization shall be granted by the Secretary in accordance with this section for a vessel engaged in a commercial fishery listed under paragraph (1)(A) (i) or (ii), upon receipt by the Secretary of a completed registration form providing the name of the vessel owner and operator, the name and description of the vessel, the fisheries in which it will be engaged, the approximate time, duration, and location of such fishery operations, and the general type and nature of use of the fishing gear and techniques used. Such information shall be in a readily usable format that can be efficiently entered into and utilized by an automated or computerized data processing system. A decal or other physical evidence that the authorization is current and valid shall be issued by the Secretary at the time an authorization is granted, and so long as the authorization remains current and valid, shall be reissued annually thereafter.

"(B) No authorization may be granted under this section to the owner of a vessel unless such vessel—

"(i) is a vessel of the United States; or

"(ii) has a valid fishing permit issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)).

"(C) Except as provided in subsection (a), an authorization granted under this section shall allow the incidental taking of all species and stocks of marine mammals to which this Act applies.

"(3)(A) An owner of a vessel engaged in any fishery listed under paragraph (1)(A) (i) or (ii) shall, in order to engage in the lawful incidental taking of marine mammals in a commercial fishery—

"(i) have registered as required under paragraph (2) with the Secretary in order to obtain for each such vessel owned and used in the fishery an authorization for the purpose of incidentally taking marine mammals in accordance with this section, except that owners of vessels holding valid certificates of exemption under section 114 are deemed to have registered for purposes of this subsection for the period during which such exemption is valid;

"(ii) ensure that a decal or such other physical evidence of a current and valid authorization as the Secretary may require is displayed on or is in the possession of the master of each such vessel;

"(iii) report as required by subsection (e); and

"(iv) comply with any applicable take reduction plan and emergency regulations issued under this section.

"(B) Any owner of a vessel receiving an authorization under this section for any fishery listed under paragraph (1)(A) (i) or (ii) shall, as a condition of that authorization, take on board an observer if requested to do so by the Secretary.

"(C) An owner of a vessel engaged in a fishery listed under paragraph (1)(A) (i) or (ii) who—

"(i) fails to obtain from the Secretary an authorization for such vessel under this section;

"(ii) fails to maintain a current and valid authorization for such vessel; or

"(iii) fails to ensure that a decal or other physical evidence of such authorization issued by the Secretary is displayed on or is in possession of the master of the vessel,

and the master of any such vessel engaged in such fishery, shall be deemed to have violated this title, and for violations of clauses (i) and (ii) shall be subject to the penalties of this title, and for violations of clause (iii) shall be subject to a fine of not more than $100 for each offense.

"(D) If the owner of a vessel has obtained and maintains a current and valid authorization from the Secretary under this section and meets the requirements set forth in this section, including compliance with any regulations to implement a take reduction plan under this section, the owner of such vessel, and the master and crew members of the vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals while such vessel is engaged in a fishery to which the authorization applies.

"(E) Each owner of a vessel engaged in any fishery not listed under paragraph (1)(A) (i) or (ii), and the master and crew members of such a vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals if such owner reports to the Secretary, in the form and manner required under subsection (e), instances of incidental mortality or injury of marine mammals in the course of that fishery.

"(4)(A) The Secretary shall suspend or revoke an authorization granted under this section and shall not issue a decal or other physical evidence of the authorization for any vessel until the owner of such vessel complies with the reporting requirements under subsection (e) and such requirements to take on board an observer under paragraph (3)(B) as are applicable to such vessel. Previous failure to comply with the requirements of section 114 shall not bar authorization under this section for an owner who complies with the requirements of this section.

"(B) The Secretary may suspend or revoke an authorization granted under this subsection, and may not issue a decal or other physical evidence of the authorization for any vessel which fails to comply with a take reduction plan or emergency regulations issued under this section.

"(C) The owner and master of a vessel which fails to comply with a take reduction plan shall be subject to the penalties of sections 105 and 107, and may be subject to section 106.

"(5)(A) The Secretary shall develop, in consultation with the appropriate States, affected Regional Fishery Management Councils, and other interested persons, the means by which the granting and administration of authorizations under this section shall be integrated and coordinated, to the maximum extent practicable, with existing fishery licenses, registrations, and related programs.

"(B) The Secretary shall utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the provisions of this section and the means by which they can comply with its requirements.

"(C) The Secretary is authorized to charge a fee for the granting of an authorization under this section. The level of fees charged under this subparagraph shall not exceed the administrative costs incurred in granting an authorization. Fees collected under this subparagraph shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred in the granting and administration of authorizations under this section.

"(d) MONITORING OF INCIDENTAL TAKES.—(1) The Secretary shall establish a program to monitor incidental mortality and serious injury of marine mammals during the course of commercial fishing operations. The purposes of the monitoring program shall be to—

"(A) obtain statistically reliable estimates of incidental mortality and serious injury;

"(B) determine the reliability of reports of incidental mortality and serious injury under subsection (e); and

"(C) identify changes in fishing methods or technology that may increase or decrease incidental mortality and serious injury.

"(2) Pursuant to paragraph (1), the Secretary may place observers on board vessels as necessary, subject to the provisions of this section. Observers may, among other tasks—

"(A) record incidental mortality and injury, or by catch of other nontarget species;

"(B) record numbers of marine mammals sighted; and

"(C) perform other scientific investigations.

"(3) In determining the distribution of observers among commercial fisheries and vessels within a fishery, the Secretary shall be guided by the following standards:

"(A) The requirement to obtain statistically reliable information.

"(B) The requirement that assignment of observers is fair and equitable among fisheries and among vessels in a fishery.

"(C) The requirement that no individual person or vessel, or group of persons or vessels, be subject to excessive or overly burdensome observer coverage.

"(D) To the extent practicable, the need to minimize costs and avoid duplication.

"(4) To the extent practicable, the Secretary shall allocate observers among commercial fisheries in accordance with the following priority:

"(A) The highest priority for allocation shall be for commercial fisheries that have incidental mortality or serious injury of marine mammals from stocks listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

"(B) The second highest priority for allocation shall be for commercial fisheries that have incidental mortality and serious injury of marine mammals from strategic stocks.

"(C) The third highest priority for allocation shall be for commercial fisheries that have incidental mortality or serious injury of marine mammals from stocks for which the level of incidental mortality and serious injury is uncertain.

"(5) The Secretary may establish an alternative observer program to provide statistically reliable information on the species and number of marine mammals incidentally taken in the course of commercial fishing operations. The alternative observer program may include direct observation of fishing activities from vessels, airplanes, or points on shore.

"(6) The Secretary is not required to place an observer on a vessel in a fishery if the Secretary finds that—

"(A) in a situation in which harvesting vessels are delivering fish to a processing vessel and the catch is not taken on board the harvesting vessel, statistically reliable information can be obtained from an observer on board the processing vessel to which the fish are delivered;

"(B) the facilities on a vessel for quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; or

"(C) for reasons beyond the control of the Secretary, an observer is not available.

"(7) The Secretary may, with the consent of the vessel owner, station an observer on board a vessel engaged in a fishery not listed under subsection (c)(1)(A) (i) or (ii).

"(8) Any proprietary information collected under this subsection shall be confidential and shall not be disclosed except—

"(A) to Federal employees whose duties require access to such information;

"(B) to State or tribal employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

"(C) when required by court order; or

"(D) in the case of scientific information involving fisheries, to employees of Regional Fishery Management Councils who are responsible for fishery management plan development and monitoring.

"(9) The Secretary shall prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary shall release or make public upon request any such information in aggregate, summary, or other form which does not directly or indirectly disclose the identity or business of any person.

"(e) REPORTING REQUIREMENT.—The owner or operator of a commercial fishing vessel subject to this Act shall report all incidental mortality and injury of marine mammals in the course of commercial fishing operations to the Secretary by mail or other means acceptable to the Secretary within 48 hours after the end of each fishing trip on a standard postage-paid form to be developed by the Secretary under this section. Such form shall be capable of being readily entered into and usable by an automated or computerized data processing system and shall require the vessel owner or operator to provide the following:

"(1) The vessel name, and Federal, State, or tribal registration numbers of the registered vessel.

"(2) The name and address of the vessel owner or operator.

"(3) The name and description of the fishery.

"(4) The species of each marine mammal incidentally killed or injured, and the date, time, and approximate geographic location of such occurrence.

"(f) TAKE REDUCTION PLANS.—(1) The Secretary shall develop and implement a take reduction plan designed to assist in the recovery or prevent the depletion of each strategic stock which interacts with a commercial fishery listed under subsection (c)(1)(A) (i) or (ii), and may develop and implement such a plan for any other marine mammal stocks which interact with a commercial fishery listed under subsection (c)(1)(A)(i) which the Secretary determines, after notice and opportunity for public comment, has a high level of mortality and serious injury across a number of such marine mammal stocks.

"(2) The immediate goal of a take reduction plan for a strategic stock shall be to reduce, within 6 months of its implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of commercial fishing operations to levels less than the potential biological removal level established for that stock under section 117. The long-term goal of the plan shall be to reduce, within 5 years of its implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of commercial fishing operations to insignificant levels approaching a zero mortality and serious injury rate, taking into account the economics of the fishery, the availability of existing technology, and existing State or regional fishery management plans.

"(3) If there is insufficient funding available to develop and implement a take reduction plan for all such stocks that interact with commercial fisheries listed under subsection (c)(1)(A) (i) or (ii), the Secretary shall give highest priority to the development and implementation of take reduction plans for species or stocks whose level of incidental mortality and serious injury exceeds the potential biological removal level, those that

have a small population size, and those which are declining most rapidly.

"(4) Each take reduction plan shall include—

"(A) a review of the information in the final stock assessment published under section 117(b) and any substantial new information;

"(B) an estimate of the total number and, if possible, age and gender, of animals from the stock that are being incidentally lethally taken or seriously injured each year during the course of commercial fishing operations, by fishery;

"(C) recommended regulatory or voluntary measures for the reduction of incidental mortality and serious injury; and

"(D) recommended dates for achieving the specific objectives of the plan.

"(5)(A) For any stock in which incidental mortality and serious injury from commercial fisheries exceeds the potential biological removal level established under section 117, the plan shall include measures the Secretary expects will reduce, within 6 months of the plan's implementation, such mortality and serious injury to a level below the potential biological removal level.

"(B) For any stock in which human-caused mortality and serious injury exceeds the potential biological removal level, other than a stock to which subparagraph (A) applies, the plan shall include measures the Secretary expects will reduce, to the maximum extent practicable within 6 months of the plan's implementation, the incidental mortality and serious injury by such commercial fisheries from that stock. For purposes of this subparagraph, the term 'maximum extent practicable' means to the lowest level that is feasible for such fisheries within the 6-month period.

"(6)(A) At the earliest possible time (not later than 30 days) after the Secretary issues a final stock assessment under section 117(b) for a strategic stock, the Secretary shall, and for stocks that interact with a fishery listed under subsection (c)(1)(A)(i) for which the Secretary has made a determination under paragraph (1), the Secretary may—

"(i) establish a take reduction team for such stock and appoint the members of such team in accordance with subparagraph (C); and

"(ii) publish in the Federal Register a notice of the team's establishment, the names of the team's appointed members, the full geographic range of such stock, and a list of all commercial fisheries that cause incidental mortality and serious injury of marine mammals from such stock.

"(B) The Secretary may request a take reduction team to address a stock that extends over one or more regions or fisheries, or multiple stocks within a region or fishery, if the Secretary determines that doing so would facilitate the development and implementation of plans required under this subsection.

"(C) Members of take reduction teams shall have expertise regarding the conservation or biology of the marine mammal species which the take reduction plan will address, or the fishing practices which result in the incidental mortality and serious injury of such species. Members shall include representatives of Federal agencies, each coastal State which has fisheries which interact with the species or stock, appropriate Regional Fishery Management Councils, interstate fisheries commissions, academic and scientific organizations, environmental groups, all commercial and recreational fisheries groups and gear types which incidentally take the species or stock, Alaska Native organizations or Indian tribal organizations, and others as the Secretary deems appropriate. Take reduction teams shall, to the maximum extent practicable, consist of an equitable balance among representatives of resource user interests and nonuser interests.

"(D) Take reduction teams shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.). Meetings of take reduction teams shall be open to the public, and prior notice of meetings shall be made public in a timely fashion.

"(E) Members of take reduction teams shall serve without compensation, but may be reimbursed by the Secretary, upon request, for reasonable travel costs and expenses incurred in performing their duties as members of the team.

"(7) Where the human-caused mortality and serious injury from a strategic stock is estimated to be equal to or greater than the potential biological removal level established under section 117 for such stock and such stock interacts with a fishery listed under subsection (c)(1)(A) (i) or (ii), the following procedures shall apply in the development of the take reduction plan for the stock:

"(A)(i) Not later than 6 months after the date of establishment of a take reduction team for the stock, the team shall submit a draft take reduction plan for such stock to the Secretary, consistent with the other provisions of this section.

"(ii) Such draft take reduction plan shall be developed by consensus. In the event consensus cannot be reached, the team shall advise the Secretary in writing on the range of possibilities considered by the team, and the views of both the majority and minority.

"(B)(i) The Secretary shall take the draft take reduction plan into consideration and, not later than 60 days after the submission of the draft plan by the team, the Secretary shall publish in the Federal Register the plan proposed by the team, any changes proposed by the Secretary with an explanation of the reasons therefor, and proposed regulations to implement such plan, for public review and comment during a period of not to exceed 90 days.

"(ii) In the event that the take reduction team does not submit a draft plan to the Secretary within 6 months, the Secretary shall, not later than 8 months after the establishment of the team, publish in the Federal Register a proposed take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.

"(C) Not later than 60 days after the close of the comment period required under subparagraph (B), the Secretary shall issue a final take reduction plan and implementing regulations, consistent with the other provisions of this section.

"(D) The Secretary shall, during a period of 30 days after publication of a final take reduction plan, utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the requirements of the plan and how to comply with them.

"(E) The Secretary and the take reduction team shall meet every 6 months, or at such other intervals as the Secretary determines are necessary, to monitor the implementation of the final take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.

"(F) The Secretary shall amend the take reduction plan and implementing regulations as necessary to meet the requirements of this section, in accordance with the procedures in this section for the issuance of such plans and regulations.

"(8) Where the human-caused mortality and serious injury from a strategic stock is estimated to be less than the potential biological removal level established under section 117 for such stock and such stock interacts with a fishery listed under subsection (c)(1)(A) (i) or (ii), or for any marine mammal stocks which interact with a commercial fishery listed under subsection (c)(1)(A)(i) for which the Secretary has made a determination under paragraph (1), the following procedures shall apply in the development of the take reduction plan for such stock:

"(A)(i) Not later than 11 months after the date of establishment of a take reduction team for the stock, the team shall submit a draft take reduction plan for the stock to the Secretary, consistent with the other provisions of this section.

"(ii) Such draft take reduction plan shall be developed by consensus. In the event consensus cannot be reached, the team shall advise the Secretary in writing on the range of possibilities considered by the team, and the views of both the majority and minority.

"(B)(i) The Secretary shall take the draft take reduction plan into consideration and, not later than 60 days after the submission of the draft plan by the team, the Secretary shall publish in the Federal Register the plan proposed by the team, any changes proposed by the Secretary with an explanation of the reasons therefor, and proposed regulations to implement such plan, for public review and comment during a period of not to exceed 90 days.

"(ii) In the event that the take reduction team does not submit a draft plan to the Secretary within 11 months, the Secretary shall, not later than 13 months after the establishment of the team, publish in the Federal Register a proposed take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.

"(C) Not later than 60 days after the close of the comment period required under subparagraph (B), the Secretary shall issue a final take reduction plan and implementing regulations, consistent with the other provisions of this section.

"(D) The Secretary shall, during a period of 30 days after publication of a final take reduction plan, utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the requirements of the plan and how to comply with them.

"(E) The Secretary and the take reduction team shall meet on an annual basis, or at such other intervals as the Secretary determines are necessary, to monitor the implementation of the final take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.

"(F) The Secretary shall amend the take reduction plan and implementing regulations as necessary to meet the requirements of this section, in accordance with the procedures in this section for the issuance of such plans and regulations.

"(9) In implementing a take reduction plan developed pursuant to this subsection, the Secretary may, where necessary to implement a take reduction plan to protect or restore a marine mammal stock or species covered by such plan, promulgate regulations which include, but are not limited to, measures to—

"(A) establish fishery-specific limits on incidental mortality and serious injury of marine mammals in commercial fisheries or restrict commercial fisheries by time or area;

"(B) require the use of alternative commercial fishing gear or techniques and new technologies, encourage the development of such gear or technology, or convene expert skippers' panels;

"(C) educate commercial fishermen, through workshops and other means, on the importance of reducing the incidental mortality and serious injury of marine mammals in affected commercial fisheries; and

"(D) monitor, in accordance with subsection (d), the effectiveness of measures taken to reduce the level of incidental mortality and serious injury of marine mammals in the course of commercial fishing operations.

"(10)(A) Notwithstanding paragraph (6), in the case of any stock to which paragraph (1) applies for which a final stock assessment has not been published under section 117(b)(3) by April 1, 1995, due to a proceeding under section 117(b)(2), or any Federal court review of such proceeding, the Secretary shall establish a take reduction team under paragraph (6) for such stock as if a final stock assessment had been published.

"(B) The draft stock assessment published for such stock under section 117(b)(1) shall be deemed the final stock assessment for purposes of preparing and implementing a take reduction plan for such stock under this section.

"(C) Upon publication of a final stock assessment for such stock under section 117(b)(3) the Secretary shall immediately reconvene the take reduction team for such stock for the purpose of amending the take reduction plan, and any regulations issued to implement such plan, if necessary, to reflect the final stock assessment or court action. Such amendments shall be made in accordance with paragraph (7)(F) or (8)(F), as appropriate.

"(D) A draft stock assessment may only be used as the basis for a take reduction plan under this paragraph for a period of not to exceed two years, or until a final stock assessment is published, whichever is earlier. If, at the end of the two-year period, a final stock assessment has not been published, the Secretary shall categorize such stock under section 117(a)(5)(A) and shall revoke any regulations to implement a take reduction plan for such stock.

"(E) Subparagraph (D) shall not apply for any period beyond two years during which a final stock assessment for such stock has not been published due to review of a proceeding on such stock assessment by a Federal court. Immediately upon final action by such court, the Secretary shall proceed under subparagraph (C).

"(11) Take reduction plans developed under this section for a species or stock listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) shall be consistent with any recovery plan developed for such species or stock under section 4 of such Act.

"(g) EMERGENCY REGULATIONS.—(1) If the Secretary finds that the incidental mortality and serious injury of marine mammals from commercial fisheries is having, or is likely to have, an immediate and significant adverse impact on a stock or species, the Secretary shall take actions as follows:

"(A) In the case of a stock or species for which a take reduction plan is in effect, the Secretary shall—

"(i) prescribe emergency regulations that, consistent with such plan to the maximum extent practicable, reduce incidental mortality and serious injury in that fishery; and

"(ii) approve and implement, on an expedited basis, any amendments to such plan that are recommended by the take reduction team to address such adverse impact.

"(B) In the case of a stock or species for which a take reduction plan is being developed, the Secretary shall—

"(i) prescribe emergency regulations to reduce such incidental mortality and serious injury in that fishery; and

"(ii) approve and implement, on an expedited basis, such plan, which shall provide methods to address such adverse impact if still necessary.

"(C) In the case of a stock or species for which a take reduction plan does not exist and is not being developed, or in the case of a commercial fishery listed under subsection (c)(1)(A)(iii) which the Secretary believes may be contributing to such adverse impact, the Secretary shall—

"(i) prescribe emergency regulations to reduce such incidental mortality and serious injury in that fishery, to the extent necessary to mitigate such adverse impact;

"(ii) immediately review the stock assessment for such stock or species and the classification of such commercial fishery under this section to determine if a take reduction team should be established; and

"(iii) may, where necessary to address such adverse impact on a species or stock listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), place observers on vessels in a commercial fishery listed under subsection (c)(1)(A)(iii), if the Secretary has reason to believe such vessels may be causing the incidental mortality and serious injury to marine mammals from such stock.

"(2) Prior to taking action under paragraph (1) (A), (B), or (C), the Secretary shall consult with the Marine Mammal Commission, all appropriate Regional Fishery Management Councils, State fishery managers, and the appropriate take reduction team (if established).

"(3) Emergency regulations prescribed under this subsection—

"(A) shall be published in the Federal Register, together with an explanation thereof;

"(B) shall remain in effect for not more than 180 days or until the end of the applicable commercial fishing season, whichever is earlier; and

"(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, if the Secretary determines that the reasons for emergency regulations no longer exist.

"(4) If the Secretary finds that incidental mortality and serious injury of marine mammals in a commercial fishery is continuing to have an immediate and significant adverse impact on a stock or species, the Secretary may extend the emergency regulations for an additional period of not more than 90 days or until reasons for the emergency no longer exist, whichever is earlier.

"(h) PENALTIES.—Except as provided in subsection (c), any person who violates this section shall be subject to the provisions of sections 105 and 107, and may be subject to section 106 as the Secretary shall establish by regulations.

"(i) ASSISTANCE.—The Secretary shall provide assistance to Regional Fishery Management Councils, States, interstate fishery commissions, and Indian tribal organizations in meeting the goal of reducing incidental mortality and serious injury to insignificant levels approaching a zero mortality and serious injury rate.

"(j) CONTRIBUTIONS.—For purposes of carrying out this section, the Secretary may accept, solicit, receive, hold, administer, and use gifts, devises, and bequests.

"(k) CONSULTATION WITH SECRETARY OF THE INTERIOR.—The Secretary shall consult with the Secretary of the Interior prior to taking actions or making determinations under this section that affect or relate to species or population stocks of marine mammals for which the Secretary of the Interior is responsible under this title.

"(l) DEFINITIONS.—As used in this section and section 101(a)(5)(E), each of the terms 'fishery' and 'vessel of the United States' has the same meaning it does in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802).".

SEC. 12. DEFINITIONS.

Section 3 (16 U.S.C. 1362) is amended by adding at the end the following:

"(18)(A) The term 'harassment' means any act of pursuit, torment, or annoyance which—

"(i) has the potential to injure a marine mammal or marine mammal stock in the wild; or

"(ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

"(B) The term 'Level A harassment' means harassment described in subparagraph (A)(i).

"(C) The term 'Level B harassment' means harassment described in subparagraph (A)(ii).

"(19) The term 'strategic stock' means a marine mammal stock—

"(A) for which the level of direct human-caused mortality exceeds the potential biological removal level;

"(B) which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act of 1973 within the foreseeable future; or

"(C) which is listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or is designated as depleted under this Act.

"(20) The term 'potential biological removal level' means the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. The potential biological removal level is the product of the following factors:

"(A) The minimum population estimate of the stock.

"(B) One-half the maximum theoretical or estimated net productivity rate of the stock at a small population size.

"(C) A recovery factor of between 0.1 and 1.0.

"(21) The term 'Regional Fishery Management Council' means a Regional Fishery Management Council established under section 302 of the Magnuson Fishery Conservation and Management Act.

"(22) The term 'bona fide research' means scientific research on marine mammals, the results of which—

"(A) likely would be accepted for publication in a referred scientific journal;

"(B) are likely to contribute to the basic knowledge of marine mammal biology or ecology; or

"(C) are likely to identify, evaluate, or resolve conservation problems.

"(23) The term 'Alaska Native organization' means a group designated by law or formally chartered which represents or consists of Indians, Aleuts, or Eskimos residing in Alaska.

"(24) The term 'take reduction plan' means a plan developed under section 118.

"(25) The term 'take reduction team' means a team established under section 118.

"(26) The term 'net productivity rate' means the annual per capita rate of increase in a stock resulting from additions due to reproduction, less losses due to mortality.

"(27) The term 'minimum population estimate' means an estimate of the number of animals in a stock that—

"(A) is based on the best available scientific information on abundance, incorporating the precision and variability associated with such information; and

"(B) provides reasonable assurance that the stock size is equal to or greater than the estimate.".

SEC. 13. PENALTIES; PROHIBITIONS.

(a) CIVIL PENALTIES.—Section 105(a)(1) (16 U.S.C. 1375(a)(1)) is amended by inserting ", except as provided in section 118," after "thereunder".

(b) CRIMINAL PENALTIES.—Section 105(b) (16 U.S.C. 1375(b)) is amended by inserting "(except as provided in section 118)" after "thereunder".

(c) PROHIBITIONS.—Section 102(a) (16 U.S.C. 1372(a)) is amended by striking "and 114 of this title or title III" and inserting "114, and 118 of this title and title IV".

SEC. 14. INDIAN TREATY RIGHTS; ALASKA NATIVE SUBSISTENCE.

Nothing in this Act, including any amendments to the Marine Mammal Protection Act of 1972 made by this Act—

(1) alters or is intended to alter any treaty between the United States and one or more Indian tribes; or

(2) affects or otherwise modifies the provisions of section 101(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(b)), except as specifically provided in the amendment made by section 4(b) of this Act.

SEC. 15. TRANSITION RULE; IMPLEMENTING REGULATIONS.

(a) TRANSITION RULE.—Section 114(a)(1) (16 U.S.C. 1383a(a)(1)) is amended by striking "ending April 1, 1994," and inserting in lieu thereof "until superseded by regulations prescribed under section 118, or until September 1, 1995, whichever is earlier,".

(b) IMPLEMENTING REGULATIONS.—Except as provided otherwise in this Act, or the amendments to the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) made by this Act, the Secretary of Commerce or the Secretary of the Interior, as appropriate, shall, after notice and opportunity for public comment, promulgate regulations to implement this Act and the amendments made by this Act by January 1, 1995.

SEC. 16. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 3 (16 U.S.C. 1362) is amended—

(1) by striking paragraph (17); and

(2) by redesignating the second paragraph (15) and paragraph (16) as paragraphs (16) and (17), respectively.

(b) UNUSUAL MORTALITY EVENT FUND.—Section 405(a) (16 U.S.C. 1421d(a)), as so redesignated by this Act, is amended by striking "a fund" and inserting in lieu thereof "an interest bearing fund".

SEC. 17. HUMAN ACTIVITIES WITHIN PROXIMITY OF WHALES.

(a) LAWFUL APPROACHES.—In waters of the United States surrounding the State of Hawaii, it is lawful for a person subject to the jurisdiction of the United States to approach, by any means other than an aircraft, no closer than 100 yards to a humpback whale, regardless of whether the approach is made in waters designated under section 222.31 of title 50, Code of Federal Regulations, as cow/calf waters.

(b) TERMINATION OF LEGAL EFFECT OF CERTAIN REGULATIONS.—Subsection (b) of section 222.31 of title 50, Code of Federal Regulations, shall cease to be in force and effect.

SEC. 18. SCRIMSHAW EXEMPTIONS.

Notwithstanding any other provision of law, any valid certificate of exemption renewed by the Secretary (or deemed to be renewed) under section 10(f)(8) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)) for any person holding such a certificate with respect to the possession of pre-Act finished scrimshaw products or raw material for such products shall remain valid for a period not to exceed 5 years beginning on the date of enactment of this Act.

SEC. 19. MARINE MAMMAL COOPERATIVE AGREEMENTS IN ALASKA.

Title I (16 U.S.C. 1371 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 119. MARINE MAMMAL COOPERATIVE AGREEMENTS IN ALASKA.

"(a) IN GENERAL.—The Secretary may enter into cooperative agreements with Alaska Native organizations to conserve marine mammals and provide co-management of subsistence use by Alaska Natives.

"(b) GRANTS.—Agreements entered into under this section may include grants to Alaska Native organizations for, among other purposes—

"(1) collecting and analyzing data on marine mammal populations;

"(2) monitoring the harvest of marine mammals for subsistence use;

"(3) participating in marine mammal research conducted by the Federal Government, States, academic institutions, and private organizations; and

"(4) developing marine mammal co-management structures with Federal and State agencies.

"(c) EFFECT OF JURISDICTION.—Nothing in this section is intended or shall be construed—

"(1) as authorizing any expansion or change in the respective jurisdiction of Federal, State, or tribal governments over fish and wildlife resources; or

"(2) as altering in any respect the existing political or legal status of Alaska Natives, or the governmental or jurisdictional status of Alaska Native communities or Alaska Native entities.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purposes of carrying out this section—

"(1) $1,500,000 to the Secretary of Commerce for each of the fiscal years 1994, 1995, 1996, 1997, 1998, and 1999; and

"(2) $1,000,000 to the Secretary of the Interior for each of the fiscal years 1994, 1995, 1996, 1997, 1998, and 1999.

The amounts authorized to be appropriated under this subsection are in addition to the amounts authorized to be appropriated under section 116.".

SEC. 20. MARINE ECOSYSTEM PROTECTION.

Section 110 (16 U.S.C. 1380) is amended by striking subsection (c) and inserting the following:

"(c)(1) No later than 1 year after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary of Commerce shall convene a regional workshop for the Gulf of Maine to assess human-caused factors affecting the health and stability of that marine ecosystem, of which marine mammals are a part. The workshop shall be conducted in consultation with the Marine Mammal Commission, the adjacent coastal States, individuals with expertise in marine mammal biology and ecology, representatives from environmental organizations, the fishing industry, and other appropriate persons. The goal of the workshop shall be to identify such factors, and to recommend a program of research and management to restore or maintain that marine ecosystem and its key components that—

"(A) protects and encourages marine mammals to develop to the greatest extent feasible commensurate with sound policies of resource management;

"(B) has as the primary management objective the maintenance of the health and stability of the marine ecosystems;

"(C) ensures the fullest possible range of management options for future generations; and

"(D) permits nonwasteful, environmentally sound development of renewable and nonrenewable resources.

"(2) On or before December 31, 1995, the Secretary of Commerce shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate a report containing the results of the workshop under this subsection, proposed regulatory or research actions, and recommended legislative action.

"(d)(1) The Secretary of Commerce, in consultation with the Secretary of the Interior, the Marine Mammal Commission, the State of Alaska, and Alaska Native organizations, shall, not later than 180 days after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, undertake a scientific research program to monitor the health and stability of the Bering Sea marine ecosystem and to resolve uncertainties concerning the causes of population declines of marine mammals, sea birds, and other living resources of that marine ecosystem. The program shall address the research recommendations developed by previous workshops on Bering Sea living marine resources, and shall include research on subsistence uses of such resources and ways to provide for the continued opportunity for such uses.

"(2) To the maximum extent practicable, the research program undertaken pursuant to paragraph (1) shall be conducted in Alaska. The Secretary of Commerce shall utilize, where appropriate, traditional local knowledge and may contract with a qualified Alaska Native organization to conduct such research.

"(3) The Secretary of Commerce, the Secretary of the Interior, and the Commission shall address the status and findings of the research program in their annual reports to Congress required by sections 103(f) and 204 of this Act.".

SEC. 21. INTERJURISDICTIONAL FISHERIES ACT OF 1986.

Section 308(b) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(b)) is amended by striking "$2,500,000 for each of the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995" and inserting in lieu thereof "$65,000,000 for each of the fiscal years 1994 and 1995".

SEC. 22. COASTAL ECOSYSTEM HEALTH.

(a) REQUIREMENT TO CONVEY.—Not later than September 30, 1994, the Secretary of the Navy shall convey, without payment or other consideration, to the Secretary of Commerce, all right, title, and interest to the property comprising that portion of the Naval Base, Charleston, South Carolina, bounded by Hobson Avenue, the Cooper River, the landward extension of the northwest side of Pier R, and the fenceline between the buildings known as 200 and NS-16. Such property shall include Pier R, the buildings known as RTC-1, RTC-4, 200, and 1874, all towers and outbuildings on that property, and all walkways and parking areas associated with such buildings and Pier R.

(b) SURVEY; EFFECT ON LIABILITY OF SECRETARY OF THE NAVY.—The acreage and legal description of the property to be conveyed pursuant to this section shall be determined by a survey approved by the Secretary of the Navy. Such conveyance shall not release the Secretary of the Navy from any liability arising prior to, during, or after such conveyance as a result of the ownership or occupation of the property by the United States Navy.

(c) USE BY NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—The property conveyed pursuant to this section shall be used by the Secretary of Commerce in support of the operations of the National Oceanic and Atmospheric Administration.

(d) REVERSION RIGHTS.—Conveyance of the property pursuant to this section shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately be conveyed to the public entity vested with ownership of the remainder of the Charleston Naval Base, if and when—

(1) continued ownership and occupation of the property by the National Oceanic and Atmospheric Administration no longer is compatible with the comprehensive plan for reuse of the Charleston Naval Base developed by the community reuse committee and approved by the Secretary of the Navy; and

(2) such public entity provides for relocation of the programs and personnel of the National Oceanic and Atmospheric Administration occupying such property, at no further cost to the United States Government, to a comparable facility, including adjacent waterfront and pier, within the Charleston area.

SEC. 23. PACIFIC COAST TASK FORCE; GULF OF MAINE.

Title I (16 U.S.C. 1371 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 120. PACIFIC COAST TASK FORCE; GULF OF MAINE.

"(a) Pinniped Removal Authority.—Notwithstanding any other provision of this title, the Secretary may permit the intentional lethal taking of pinnipeds in accordance with this section.

"(b) Application.—(1) A State may apply to the Secretary to authorize the intentional lethal taking of individually identifiable pinnipeds which are having a significant negative impact on the decline or recovery of salmonid fishery stocks which—

"(A) have been listed as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(B) the Secretary finds are approaching threatened species or endangered species status (as those terms are defined in that Act); or

"(C) migrate through the Ballard Locks at Seattle, Washington.

"(2) Any such application shall include a means of identifying the individual pinniped or pinnipeds, and shall include a detailed description of the problem interaction and expected benefits of the taking.

"(c) Actions in Response to Application.—(1) Within 15 days of receiving an application, the Secretary shall determine whether the application has produced sufficient evidence to warrant establishing a Pinniped-Fishery Interaction Task Force to address the situation described in the application. If the Secretary determines sufficient evidence has been provided, the Secretary shall establish a Pinniped-Fishery Interaction Task Force and publish a notice in the Federal Register requesting public comment on the application.

"(2) A Pinniped-Fishery Interaction Task Force established under paragraph (1) shall consist of designated employees of the Department of Commerce, scientists who are knowledgeable about the pinniped interaction that the application addresses, representatives of affected conservation and fishing community organizations, Indian Treaty tribes, the States, and such other organizations as the Secretary deems appropriate.

"(3) Within 60 days after establishment, and after reviewing public comments in response to the Federal Register notice under paragraph (1), the Pinniped-Fishery Interaction Task Force shall—

"(A) recommend to the Secretary whether to approve or deny the proposed intentional lethal taking of the pinniped or pinnipeds, including along with the recommendation a description of the specific pinniped individual or individuals, the proposed location, time, and method of such taking, criteria for evaluating the success of the action, and the duration of the intentional lethal taking authority; and

"(B) suggest nonlethal alternatives, if available and practicable, including a recommended course of action.

"(4) Within 30 days after receipt of recommendations from the Pinniped-Fishery Interaction Task Force, the Secretary shall either approve or deny the application. If such application is approved, the Secretary shall immediately take steps to implement the intentional lethal taking, which shall be performed by Federal or State agencies, or qualified individuals under contract to such agencies.

"(5) After implementation of an approved application, the Pinniped-Fishery Interaction Task Force shall evaluate the effectiveness of the permitted intentional lethal taking or alternative actions implemented. If implementation was ineffective in eliminating the problem interaction, the Task Force shall recommend additional actions. If the implementation was effective, the Task Force shall so advise the Secretary, and the Secretary shall disband the Task Force.

"(d) Considerations.—In considering whether an application should be approved or denied, the Pinniped-Fishery Interaction Task Force and the Secretary shall consider—

"(1) population trends, feeding habits, the location of the pinniped interaction, how and when the interaction occurs, and how many individual pinnipeds are involved;

"(2) past efforts to nonlethally deter such pinnipeds, and whether the applicant has demonstrated that no feasible and prudent alternatives exist and that the applicant has taken all reasonable nonlethal steps without success;

"(3) the extent to which such pinnipeds are causing undue injury or impact to, or imbalance with, other species in the ecosystem, including fish populations; and

"(4) the extent to which such pinnipeds are exhibiting behavior that presents an ongoing threat to public safety.

"(e) Limitation.—The Secretary shall not approve the intentional lethal taking of any pinniped from a species or stock that is—

"(1) listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(2) depleted under this Act; or

"(3) a strategic stock.

"(f) California Sea Lions and Pacific Harbor Seals; Investigation and Report.—

"(1) The Secretary shall engage in a scientific investigation to determine whether California sea lions and Pacific harbor seals—

"(A) are having a significant negative impact on the recovery of salmonid fishery stocks which have been listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or which the Secretary finds are approaching such endangered species or threatened species status; or

"(B) are having broader impacts on the coastal ecosystems of Washington, Oregon, and California.

The Secretary shall conclude this investigation and prepare a report on its results no later than October 1, 1995.

"(2) Upon completion of the scientific investigation required under paragraph (1), the Secretary shall enter into discussions with the Pacific States Marine Fisheries Commission, on behalf of the States of Washington, Oregon, and California, for the purpose of addressing any issues or problems identified as a result of the scientific investigation, and to develop recommendations to address such issues or problems. Any recommendations resulting from such discussions shall be submitted, along with the report, to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(3) The Secretary shall make the report and the recommendations submitted under paragraph (2) available to the public for review and comment for a period of 90 days.

"(4) There are authorized to be appropriated to the Secretary such sums as are necessary to carry out the provisions of this subsection.

"(5) The amounts appropriated under section 308(c) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(c)) and allocated to the Pacific States Marine Fisheries Commission may be used by the Commission to participate in discussions with the Secretary under paragraph (2).

"(g) Regionwide Pinniped-Fishery Interaction Study.—

"(1) The Secretary may conduct a study, of not less than three high predation areas in anadromous fish migration corridors within the Northwest Region of the National Marine Fisheries Service, on the interaction between fish and pinnipeds. In conducting the study, the Secretary shall consult with other State and Federal agencies with expertise in pinniped-fishery interaction. The study shall evaluate—

"(A) fish behavior in the presence of predators generally;

"(B) holding times and passage rates of anadromous fish stocks in areas where such fish are vulnerable to predation;

"(C) whether additional facilities exist, or could be reasonably developed, that could improve escapement for anadromous fish; and

"(D) other issues the Secretary considers relevant.

"(2) Subject to the availability of appropriations, the Secretary may, not later than 18 months after the commencement of the study under this subsection, transmit a report on the results of the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

"(3) The study conducted under this subsection may not be used by the Secretary as a reason for delaying or deferring a determination or consideration under subsection (c) or (d).

"(h) Gulf of Maine Task Force.—The Secretary shall establish a Pinniped-Fishery Interaction Task Force to advise the Secretary on issues or problems regarding pinnipeds interacting in a dangerous or damaging manner with aquaculture resources in the Gulf of Maine. No later than 2 years from the date of enactment of this section, the Secretary shall after notice and opportunity for public comment submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing recommended available alternatives to mitigate such interactions.

"(i) Requirements Applicable to Task Forces.—(1) Any task force established under this section—

"(A) shall to the maximum extent practicable, consist of an equitable balance among representatives of resource user interests and nonuser interests; and

"(B) shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.).

"(2) Meetings of any task force established under this section shall be open to the public, and prior notice of those meetings shall be given to the public by the task force in a timely fashion.

"(j) Gulf of Maine Harbor Porpoise.—(1) Nothing in section 117 shall prevent the Secretary from publishing a stock assessment for Gulf of Maine harbor porpoise in an expedited fashion.

"(2) In developing and implementing a take reduction plan under section 118 for Gulf of Maine harbor porpoise, the Secretary shall consider all actions already taken to reduce incidental mortality and serious injury of such stock, and may, based on the recommendations of the take reduction team for such stock, modify the time period required for compliance with section 118(f)(5)(A), but in no case may such modification extend the date of compliance beyond April 1, 1997.".

SEC 24. FURTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) Amendments Relating to Definition of Secretary.—

(1) Execution of prior amendments.—The amendments set forth in section 3004(b) of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067)—

(A) are deemed to have been made by that section to section 3(12) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(12)); and

(B) shall not be considered to have been made by that section to section 3(11) of that Act (16 U.S.C. 1362(11)).

(2) Further technical and conforming amendments.—Section 3(12)(B) of the Marine Mammal Protection Act of 1972, as deemed by paragraph (1)(A) of this subsection to have been

amended by section 3004(b) of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067), is further amended in subparagraph (B) by striking "in title III" and inserting "in section 118 and title IV".

(b) MARINE MAMMAL HEALTH AND STRANDING RESPONSE.—The Act (16 U.S.C. 1361 et seq.) is amended—

(1) by redesignating title III, as added by Public Law 102–587 (106 Stat. 5060), as title IV; and

(2) by redesignating the sections of that title (16 U.S.C. 1421 through 1421h) as sections 401 through 409, respectively.

(c) FURTHER AMENDMENTS TO TITLE IV.—The Act (16 U.S.C. 1361 et seq.) is amended—

(1) in section 401(b)(3) (as redesignated by this section) by striking "304" and inserting "404";

(2) in section 405(b)(1)(A)(i) (as redesignated by this section) by striking "304(b)" and inserting "404(b)";

(3) in section 406(a)(2)(A) (as redesignated by this section) by striking "304(b)" and inserting "404(b)";

(4) in section 406(a)(2)(B) (as redesignated by this section) by striking "304(c)" and inserting "404(c)";

(5) in section 408(1) (as redesignated by this section)—

(A) by striking "305" and inserting "405", and

(B) by striking "307" and inserting "407";

(6) in section 408(2) (as redesignated by this section) by striking "307" and inserting "407";

(7) in section 409(1) (as redesignated by this section) by striking "305(a)" and inserting "405(a)";

(8) in section 409(5) (as redesignated by this section) by striking "307(a)" and inserting "407(a)";

(9) in section 102(a) (16 U.S.C. 1372(a)) by striking "title III" and inserting "title IV";

(10) in section 109(h)(1) (16 U.S.C. 1379(h)(1)) by striking "title III" and inserting "title IV";

(11) in section 112(c) (16 U.S.C. 1382(c)) by striking "or title III" and inserting "or title IV"; and

(12) in the table of contents in the first section, by striking the items relating to the title that is redesignated by subsection (b) of this section and the sections that are redesignated by subsection (b) of this section and inserting the following:

"TITLE IV—MARINE MAMMAL HEALTH AND STRANDING RESPONSE

"Sec. 401. Establishment of program.
"Sec. 402. Determination; data collection and dissemination.
"Sec. 403. Stranding response agreements.
"Sec. 404. Unusual mortality event response.
"Sec. 405. Unusual mortality event activity funding.
"Sec. 406. Liability.
"Sec. 407. National Marine Mammal Tissue Bank and tissue analysis.
"Sec. 408. Authorization of appropriations.
"Sec. 409. Definitions.".

(d) CLERICAL AMENDMENTS.—The portion of the table of contents in the first section of the Act relating to title I is amended by adding at the end the following new items:

"Sec. 117. Stock assessments.
"Sec. 118. Taking of marine mammals incidental to commercial fishing operations.
"Sec. 119. Marine mammal cooperative agreements in Alaska.
"Sec. 120. Pacific Coast Task Force; Gulf of Maine.".

(e) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if enacted as part of section 3004 of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067).

SEC. 25. TRANSFER.

Of amounts appropriated by Public Law 103–139 to the Department of the Navy for Shipbuilding and Conversion, Navy, the Secretary of the Navy shall transfer $8,000,000 not later than May 15, 1994, to the Administrator of the Maritime Administration for the conversion of the USNS CHAUVENET to a training ship for the Texas Maritime Academy's Training Program.

The SPEAKER pro tempore (Mr. KREIDLER). Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS.].

Mr. STUDDS. Mr. Speaker, S. 1636 reauthorizes the Marine Mammal Protection Act of 1972 [MMPA]. Following more than a year of negotiations with the fishing industry, the public display community, the oil industry, environmental and animal welfare groups, and Alaska Natives, on March 21 my colleagues and I brought to this floor a good bill—a bill that focused the limited resources of the affected Federal agencies where they are most needed, maintained the zero mortality rate goal of the act, and provided protection for the essential habitats of marine mammals. Most importantly, the bill enabled our fishermen to continue fishing while still protecting whales and dolphins for future generations to enjoy, as is clearly the wish of the American people. That bill passed the House overwhelmingly under suspension of the rules.

On March 22, after 24 hours of intense negotiations with our colleagues in the other body, we returned to this floor and asked you to consider a negotiated text. The clarifications and additional provisions contained in that text made a good bill even better, and again this body approved the bill under suspension of the rules.

Sadly, within 24 hours that bill was completely stalled in the Senate for reasons which have nothing to do with marine mammals, nothing to do with fishermen, and—quite frankly—nothing to do with the good faith negotiations in which I, the gentleman from Texas [Mr. FIELDS], the gentleman from Alaska [Mr. YOUNG], and the rest of my colleagues have been engaged for the past year.

For the past month, we have made every effort to resolve the concerns of special interest groups—particularly the timber industry—who would prevent this legislation from being enacted while they forward their own agenda. We now again ask you consideration of this bill.

Most of the provisions of S. 1636 are unchanged from the bill passed by this body on March 22. Let me begin by telling you what is not in this legislation. It does not contain a hidden agenda to secretly influence the private property battle under the Endangered Species Act. There is not a secret attempt to shut down any industry. There is not a change in the definition of take and there is no reference to the term harm. There is a provision which clarifies the Secretary's existing authority to develop and implement conservation measures when impacts on areas of special ecological significance to marine mammals, such as mating grounds, are so severe that the existence of a marine mammal stock is threatened. Those conservation measures must be developed in consultation with regional scientific review groups representing a broad range of interests.

Mr. Speaker, let me briefly explain the most substantive change we have made to this bill since its original passage by the House. From the beginning of our negotiations on this legislation, one of our goals has been to provide adequate protection for the important habitats of marine mammals. Over the past 20 years, one lesson has been made clear: that we cannot protect the creatures of this world without protecting their essential habitats. For marine mammals, that translates into protecting feeding grounds, rookeries, nursery grounds, migration paths and the like.

Originally we had amended the definition of "take" in the MMPA to include "harm"; we then defined "harm" to include destruction of significant marine mammal habitats. Unfortunately, some special interest attorneys feared that this change in the MMPA would affect pending litigation concerning the Endangered Species Act. While I do not believe that a court would consider changes to the MMPA as relevant to the ESA, others did—and it quickly became clear that we had to change our strategy to accomplish our goal.

Consequently, we have amended section 112 of the MMPA to explicitly require the Secretaries of Interior and Commerce to give more consideration to the protection of marine mammal habitats. The new language supplements the Secretary's existing authority to protect habitats for species such as polar bears under section 112, as noted in the Merchant Marine and Fisheries report. Since we have created a new process under this act for assessing risks to marine mammal stocks, the new subsection is also intended to assure that the information gained through that process is also applied to habitat protection.

I believe that this approach accomplishes our basic goal of habitat protection while keeping this important reauthorization legislation clear of the litigation quagmire that has so bogged down the reauthorization of the Endangered Species Act.

I would also like to take this opportunity to stress the concerns that have arisen during the reauthorization process regarding west coast populations of seals and sea lions, and to urge the National Marine Fisheries Service to make funding for the study of these issues a priority in the coming fiscal year.

S. 1636 represents good, responsible public policy. It deals fairly with the concerns of fishermen from the shrimpers of Louisiana, to the gillnetters of Massachusetts, to the factory trawlers of Alaska. The fishing industry wants this legislation passed. The administration wants this legislation passed. Environmental organizations want this legislation passed. The zoos and aquariums of this country want this legislation passed. And, as a result of the changes we have made to the original language, the timber industry and the property rights movement do not object to the bill.

On May 1, the MMPA exemption for commercial fishermen expires. If this Congress does not pass a reauthorization by that date, our fishermen face the disastrous possibility of violating the MMPA simply by going about their business. Time is running out. Our colleagues in the Senate are standing by, ready to act on this legislation. Let us get it done.

Mr. Speaker, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this resolution which makes in order the adoption of S. 1636, a bill to reauthorize and amend the Marine Mammal Protection Act [MMPA] of 1972. This bill has passed the House before and our action today will send it back to the Senate for their final approval.

The MMPA governs a variety of subjects including public display, scientific research, subsistence use of marine mammals, and the incidental take of marine mammals during commercial fishing operations.

During the past year, the Committee on Merchant Marine and Fisheries has considered a variety of issues during the reauthorization process. I say to the gentleman, "It was a pleasure working with you, Chairman STUDDS, and the other Members to draft language for the consensus document before us today. While there may be a difference of opinion on certain isolated provisions, S. 1636 is the result of many long hours of hard work, determination, and compromise."

Mr. Speaker, as you know, we face a May 1, 1994, deadline to reauthorize the act. I believe the language outlined in the bill governing the interaction of commercial fishing activities with marine mammals does indeed establish a process where good science, scientific working groups, take reduction teams, and stock assessment are all used in rational decisionmaking rather than emotional or moral judgments.

S. 1636 also allows the importation of polar bear trophies from Canada—a country whose polar bear population is healthy. Canada's polar bear management program is based on science, which ensures a sustainable polar bear population and is consistent with international conservation agreements. The bill ensures that conservation of polar bears worldwide is not compromised in any way.

Mr. Speaker, as author and cosponsor of these amendments, I would like to discuss several aspects addressing the importation of polar bear trophies from Canada. Let me first state that it is not the intent of the language that the Secretary attempt to impose polar bear management policy or practices on Canada through the imposition of any polar bear import criteria. Canada is the only country which allows polar bears to be harvested by nonresidents through a monitored and enforced sport hunt program carried out in the Northwest Territory. This program identifies individual management units and various polar bear subpopulations. The term "population stock" as defined in the MMPA means a group of marine mammals of the same species in a common spatial arrangement and is used in the bill to refer to these subpopulations and management units which reflect Canada's management regime.

The language allows the Secretary to issue an importation permit to an individual who submits with the permit application proof that the polar bear was legally taken by the individual in Canada. Our intent with this permitting provision is limited to the hunter who actually took the polar bear and who desires to import the trophy. If an individual who has legally taken a polar bear dies prior to the importation, the heirs of that person's estate should be able to apply for an importation permit, provided the necessary documentation is made available.

The language requires the Secretary to undertake a scientific review of the impact of permits issued under this bill on the particular polar bear subpopulation or management unit from which the bears were taken. This review is to be undertaken within 2 years after enactment. It requires the Secretary to issue import permits for sport-hunted polar bear trophies unless the best scientific evidence objectively demonstrates that the permits that have been issued have had a significant adverse impact on the affected polar bear subpopulation.

A significant adverse impact means more than a simple decrease, ordinary fluctuation, or normal change in the population cycle. A decline should not be considered significant if the decline is of short duration, affects a minuscule percentage of the population, or does not jeopardize the sustainability of the species in the long term. The decrease must be proven to be directly related to the trophy imports by sport hunters and of such a magnitude as to warrant suspension of those imports. Even so, the issuance of permits should not be suspended unless Canada does not reduce the harvest quota in response to this decline.

The Secretary is further authorized to conduct an annual review of this determination at his discretion. If the Secretary does undertake a review, it is required that the review be completed by January 31 of the year in which the review was undertaken. During this time, the Secretary may not refuse to issue permits solely on the basis that the review has not been completed by January 31. Our intent is that each subsequent review would be based on the best scientific information available.

Mr. Speaker, I do not object to the addition of these additional requirements for review of Canada's polar bear management program. I believe that when hunting is managed properly with any species, that activity does not impact on the sustainability of that population. Sport hunting of polar bears in Canada has been shown to be beneficial to and instrumental in conserving the species.

Again, Mr. Speaker, it has been a pleasure having the opportunity to work with the gentleman from Massachusetts [Mr. STUDDS] and the gentleman from Alaska [Mr. YOUNG] to ensure that our marine mammal resources are properly managed. I support adoption and urge all Members to vote "aye" on this important legislation.

Mr. Speaker, I yield such time as he may consume to my good friend, the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I rise in strong support of this resolution and urge its adoption by the House.

Mr. Speaker, this bill is almost identical to a bill which passed the House nearly a month ago. Unfortunately, at that time the other body disagreed with one of the House provisions and returned the bill to us. Since then, we have come to agreement with the other body and it is my understanding that what we pass today will be accepted and sent to the President for his signature.

The issue of concern was whether the House was accidentally affecting other laws and the resolution of pending court cases. Let me assure you that this was not our intent. We have resolved the issue in two ways:

First, we have made clear that nothing in this bill is intended to amend, appeal, or otherwise affect any other law; and

Second, we have added specific language giving the Secretary authority to regulate activities affecting crucial marine mammal habitat, but only if those activities are leading to the decline of, or impeding the recovery of, a marine mammal that is already in danger.

Let me make clear that this is no way involving the taking of private property. In fact, our staff was unable to come up with a single example of where private property might exist that served as a rookery or mating area for marine mammals. The intent is simply to have the Secretary and users of marine areas exercise some common sense. For example, if vessels are running over marine mammals when coming into port, there is no reason why they shouldn't be asked to slow down when marine mammals are present. The State of Alaska has taken the initiative in this area by banning vessel traffic around the Round Island Walrus Sanctuary at a time when walruses are present. There is no reason that the Federal Government can't be equally as sensible.

Finally, Mr. Speaker, I want to remind my colleagues that we are facing a May 1 deadline on the expiration of the current commercial fishing exemption. I hope that my colleagues will let our commercial fishermen keep working by not asking for a recorded vote on this measure.

Again, Mr. Speaker, this is a good bill, one that has been worked on by all the members of this committee. Our members and staff have put hundreds of hours into refining this measure and I urge that it be adopted.

I want to compliment the members of the staff; as has been mentioned before, Mr. Moore who works for me, other members of the staff who work so well, and especially the gentleman from Massachusetts [Mr. STUDDS] and the gentleman from Texas [Mr. FIELDS]. This legislation has been worked out as a compromise, and it shows what can be done in this Congress when we work together. This is a bipartisan effort to solve a very crucial problem that affects my State and other areas, coastal areas, of America.

Mr. STUDDS. Mr. Speaker, I yield 1 minute to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Speaker, I rise today in strong support of the Marine Mammal Protection Act and commend the parties for bringing forth this renewed public policy which is so important.

Mr. Speaker, my State has the responsibility to safeguard the presence of marine mammals, endangered species in many instances, the humpbacked whale specifically. Recently we were advised that an under-ocean experiment was to be conducted by Scripps Institution. We were very concerned that the ramifications of such an experiment had not been fully disclosed or analyzed. We were pleased to note that an EIS will be undertaken and that the public will have further opportunities to comment.

Mr. Speaker, were it not for the public policies established under the Marine Mammal Protection Act and other legislation these species would not have this kind of protection.

So, I commend the committee for coming forth with this legislation.

Mr. Speaker, by unanimous consent to include extraneous matter, I include with my remarks the joint testimony the gentleman from Hawaii [Mr. ABERCROMBIE] and I presented at the hearings recently held on Kauai on April 15, as follows:

JOINT STATEMENT ON THE PROPOSED SCRIPPS INSTITUTION ACOUSTIC THERMOMETRY OF OCEAN CLIMATE (ATOC) PROJECT OFF KAUAI

To the National Marine Fisheries Service: Thank you for calling this public hearing in the State of Hawaii to hear comments and concerns from the people of Hawaii about the Acoustic Thermometry experiment planned off the island of Kauai.

We were both unaware of these proposed tests until after the public hearing on March 22, 1994 held in Silver Spring, Md. We read about the tests from newspaper accounts after the hearing. We then joined the Chair of the House Committee on Natural Resources in requesting that hearings be held in California and Hawaii before making a decision on these permit applications.

We are dismayed to learn that federal funds have already been expended in pursuit of this experiment, without public notice and without preparation of an environmental assessment.

We specifically request an explanation of how much of the funds of this project have already been expended and for what purpose, and under what authority.

We also request information on the permit process and why it is that the permit application was not required early on so that the public could have had advance information on the plans and began an inquiry long ago to learn its precise ramifications.

We also request an examination of the various laws that apply in this instance to determine whether the permit application noticed under Section 1361 is adequate under scientific research or whether it should have been filed under Section 1371 (a)(5) regarding incidental taking.

At this late date, we are caught by surprise and without adequate time to investigate the various factors regarding the efficacy, need, validity, duration and other matters in regard to this permit application.

We believe that the National Marine Fisheries Service has a legal responsibility under the law to protect, maintain, and enhance living resources required by endangered species that depend upon these marine areas to survive and propagate.

Further Section 304 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended in 1992 (16 USC 1434), states "Federal agency actions internal or external to a national marine sanctuary, * * * that are likely to * * * injure any sanctuary resource are subject to consultation with the Secretary."

Has this consultation occurred and has a written statement to the Secretary been supplied within the time required?

We ask this question because we are informed that the regulations pertaining to this section have not yet been promulgated. In the absence of any regulations, we question whether a permit can be issued until such consultation as required by law has occurred and whether any permit can issue if there are no regulations governing the process of obtaining this consultation?

After the consultation the statute provides that if the Secretary of Commerce finds that the federal action is likely to cause a loss or injure a sanctuary resource, the Secretary shall recommend reasonable and prudent alternatives which may include taking the action elsewhere in order to protect the sanctuary resource.

Section 306 of the Act of 1972, as amended in 1992, under Prohibited Activities states that "It is unlawful to destroy, cause the loss of, or injure any sanctuary resource". Section 312(a)(1) of the Act of 1972, as amended, invokes civil penalties.

Under the Endangered Species Act Section 7 requires consultations with the "Secretary to ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of the habitat of such species."

Under the law entitled Hawaiian Islands National Marine Sanctuary Act, Section 2301(7), states that the Hawaiian stock of the endangered humpback whale, the largest of the three North Pacific stocks, breed and calve within the waters of the main Hawaiian Islands; and (8) the marine areas surrounding the main Hawaiian Islands, which are essential breeding, calving, and nursing areas for the endangered humpback whale, are subject to damage and loss of their ecological integrity from a variety of disturbances.

The Hawaiian Islands National Marine Sanctuary Act defines the term "adverse impact" as an impact that independently or cumulatively damages, diminishes, degrades, impairs, destroys or otherwise harms.

Section 2304 of the Act states that it is the policy of the United States to protect and preserve humpback whales and their habitat within the Hawaiian islands marine environment.

The statutory enactments that we have cited require that the federal agency seeking to alter this marine environment which now bathes and nurtures marine life including endangered species have the burden of proof to show that what they propose to do will not in any way have an adverse impact on these species.

Noise as a disturbance is of common knowledge. Merely because it is transmitted in the deep ocean does not necessarily mean that the noise will be mitigated. We know that noise from low flying aircraft disturbs the whales.

Adverse reaction is not confined to physical harm such as ruptured tympanic membranes. Adverse reaction could be driving the whales and other species away from the site to avoid the noise. Adverse reaction could be driving the whales and others permanently away from the area, not just the specific site. The noise could result in the whales leaving the Kauai area totally.

Adverse reaction could mean that the whales behavior would be altered. The behavior change could alter their breeding and could even prevent calving. Do you know enough about the behavior of these species to be certain that these adverse reactions would not occur?

What is the need to take this risk? Why not move this project away from the breeding grounds of the whales and other endangered species?

We have taken the extraordinary step to declare certain of our species as endangered. Having done that, we have a special duty to safeguard these species from deliberate manmade harm.

In addition to the whales, several other species are sighted in the waters off Kauai. Four Odontocete species have been found: Bottlenosed dolphins *(Tursiops gilli)*, false killer whales *(Pseudorca crassidens)*, spinner dolphins *(Sternella Longirostris)* and spotted dolphins *(Stenella attenuata)*. In addition there is the green sea turtle *(Chelonia Mydas)* that frequents these waters between breeding and nesting. And we have the most endangered of all, the Hawaiian monk seal *(Monachus schauinslandi)* sighted on Kauai in 1988, in 1993 and one as recently ás last week.

It is not necessary that these animals be disturbed at all.

ATOC is a contradiction to the concept of conserving and nurturing a protected species.

ATOC adds a disturbing element to the natural marine environment which is contrary to the concepts of conservation and preservation.

Hawaii has a special responsibility to save the whales. Hawaii was once the whaling capital of the Pacific. We witnessed the decimation of the whale population. Now we have the whales returning, trusting us to protect them and their vastly diminished numbers.

Creating a humming device placed in the deep ocean to test the changes in ocean temperature through the measuring of the time that sound passes through the ocean to a point as far away as 6000 miles is an experiment which it is argued is needed to test theories of global warming. Given the nature of the likely minuscule recorded changes required to be taken over a long period of time, we are talking about tests being continued over many, many years, likely into the decades of time. This permit ought not to be granted precipitously.

We urge the National Marine Fisheries Service to fully study this matter until it has substantial investigations which indicate that there is no likelihood of disturbance or harm to this habitat.

This permit should not be issued on the basis that the degree of impact is not known. It is precisely because the impact is not known, that we should not proceed until we are satisfied that no likely harm will occur.

We have been advised that the record of these hearings will be left open until May 6th. We have also been advised that an Environmental Impact Statement will be required, and that the public will have 45 days after its publication to submit comments. We specifically request that after the EIS has been prepared in Draft form that another public hearing be held before it becomes final.

It is extremely difficult to testify at these hearings as members of the public not privy to information and data available to the advocates and without the benefit of an environmental assessment or EIS upon which to base our comments.

Accordingly we offer these preliminary remarks in the hope that the National Marine Fisheries Service will be advised of our deep concern that our public responsibility is being compromised.

□ 1300

Mr. FIELDS of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before yielding back the balance of my time, I would like to echo the remarks of the gentleman from Texas [Mr. FIELDS] and the gentleman from Alaska [Mr. YOUNG]. The tranquil seas we see on the floor now have been preceded by an occasional storm and squall of controversy. Some of them have been quite intense, and this really is a testimony to the extraordinary bipartisan spirit of this committee and a very competent staff on both sides of the aisle that we can bring to the Members the tranquillity we see before us now.

Mr. CUNNINGHAM. Mr. Speaker, I rise in strong support of House Resolution 412. Mr. Speaker, the reauthorization of the Marine Mammal Protection Act has been an arduous task and I would like to thank the chairman and the ranking minority members, Mr. FIELDS and Mr. YOUNG, for their leadership and guidance throughout this process.

Since the MMPA was enacted in 1972, it has served to protect various marine mammal populations in the wild from various human threats. The act also safeguards marine mammals by managing human activities affecting them in their natural habitat.

I am aware that there are many sections of this bill that address a myriad of issues, but I would like to focus on one important portion of this bill that deals with the regulation of and interaction of the agencies that oversee the issue of public display. Through the years, there has been much confusion over what role each agency should play. Most recently, this confusion was demonstrated in October, when the National Marine Fisheries Service issued their proposed permit regulations.

I would like to thank the chairman and Mr. YOUNG for clarifying the confusion that this proposed rule caused, and for correcting the problem between agencies. The amendments regarding public display are intended to establish a clear public policy regarding the regulation of activities affecting marine mammals in zoological settings. Over the past 5 years, there has been much confusion in the zoological community due to overlapping jurisdictions. Permits have been delayed for unreasonable periods of time and unnecessary, burdensome, and improper conditions have been attached to such permits.

In addressing this problem, we in committee were able to reaffirm that the standards for the humane handling, care, treatment, and transportation of marine mammals are established under the Animal Welfare Act [AWA] and are developed and administered exclusively by the Animal Plant Health Inspection Service [APHIS] within the Department of Agriculture.

This was done to clarify that the National Marine Fisheries Service cannot set its own standards, by regulation or by attaching to the permits general or specific conditions relating to captive maintenance, since the National Marine Fisheries Service has no authority to do so under the Animal Welfare Act, and still does not have authority to do so under the reauthorization of the MMPA.

Rather, in deciding to issue a permit to an individual or entity that would allow them to "take," that is, collect from the wild, or import a marine mammal for purposes of public display, the only determination that MMFS can make, from the perspective of captive maintenance, is whether the individual or entity has an APHIS license or registration. Possession of such a license automatically means that the licensee's standards for the humane handling, care, treatment, and transportation of the marine mammals to be taken and imported meet the requirements of the Animal Welfare Act.

Section 102(a) of the act has been amended by deleting the words "for any purpose or any way connected to the taking of marine mammals." The deleted words are now replaced by the words to "take or import." In addition, the words "and after" in section 104(c)(1) were deleted. The intent of these amendments is to clarify that the conditions that the Secretary may include in a section 104(c) permit concerning the "supervision, care and transportation that must be observed pursuant to such taking or importation" only pertain to the actual take from the wild, that is, capture and collection; or import but not to the subsequent supervision care and transportation of marine mammal in captivity. After the taking or importation, the standards for the care and maintenance of the marine mammal are established by the Animal Welfare Act and the regulations issued thereunder.

Further, this amendment clarifies that the act's prohibition with regard to the "take" of marine mammals refers to the collection of marine mammals from the wild. After a marine mammal is lawfully collected, for example, under a section 104 permit, the Secretary does not have the authority to regulate the subsequent captive maintenance of the animal.

It has also been clarified the NMFS may issue, as has always been the case, "one-time" permits to take or import marine mammals for purposes of public display. These permits need not be renewed by NMFS periodically once the marine mammal is taken or imported. They are, as also has been the case since the original passage of the MMPA, permits to individuals or entities in relation to the take or import of scientific marine mammals.

Once a marine mammal is taken or imported pursuant to a permit, then it, or its progeny will not longer require any additional permit or authorization in order to possessed, sold or purchased, transported, exported, or offered to be sold or purchased if the persons involved in any subsequent transaction, meet the requirements that would be necessary under the MMPA to obtain a permit for the purposes of public display, or scientific research or enhancing the survival of a species of stock.

The committee also intends by these amendments to establish the policy that determinations made by the Secretary of Commerce with regard to education or conservation programs are limited to whether programs are based on professionally recognized standards of the public display community—such as, but not limited to, standards already in place for members of the American Zoo and Aquarium Association. The Secretary does not have the authority under this provision to establish any standards or regulations regarding education or conservation programs. This amendment to the current law is consistent with the first amendment of the Constitution which essentially prohibits the Government from issuing "content-based" regulations.

The committee also believes that a person should have the same rights with respect to the progeny of a marine mammal taken or imported under section 106(c) as those rights granted for the take of a marine mammal for public display. Thus, a permit for the purposes of public display grants the possessor of the marine mammal and its progeny the right, under certain circumstances, to subsequently purchase, offer to purchase, possess, or transport, sell, export, or otherwise transfer possession of the progeny, without the need to obtain any additional permit or authorization under the MMPA.

The persons involved in any subsequent transaction must meet the requirements that would be necessary under the MMPA to obtain a permit for purposes of public display, scientific research, or enhancing the survival of a species or stock.

Finally, the committee intends to establish that existing permits, issued prior to the enactment of these amendments, are automatically modified to be consistent with these amendments. Thus, for example, any terms or conditions that the Secretary has incorporated into existing permits that relate to actual public display of the marine mammals; in the inspection of public display facilities and related records; or the captive maintenance or the standards for the humane handling, care, treatment, and transportation of marine mammals after they are taken or imported pursuant to a permit to take or import for purposes of public display; are null and void.

I believe the changes adopted in the Merchant Marine and Fisheries Committee will clear up the confusion over public display. Aquariums and zoos have faced substantial ambiguity in this area, but the language before us should solve this problem.

Mr. Speaker, again, I salute Chairman STUDDS, Congressman FIELDS, and Congressman YOUNG for their hard work on this issue. S. 1636 is an excellent bill, with strong bipartisan support. I urge the House to pass it without delay.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and agree to the resolution, House Resolution 412.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

HUMAN SERVICES AMENDMENTS OF 1994

Mr. MARTINEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4250) to authorize appropriations for fiscal years 1995 through 1998 to carry out the Head Start Act and the Community Services Block Grant Act, and for other purposes; as amended.

The Clerk read as follows:

H.R. 4250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Human Services Amendments of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HEAD START PROGRAMS

Sec. 101. Short title; references in title.
Sec. 102. Definitions.
Sec. 103. Services.
Sec. 104. Authorization of appropriations.
Sec. 105. Allocation of funds.
Sec. 106. Report.
Sec. 107. Designation.
Sec. 108. Monitoring and quality assurance.
Sec. 109. Enhanced parent involvement and transition coordination with schools.
Sec. 110. Facilities and administrative requirements.
Sec. 111. Participation.
Sec. 112. Initiative on families with infants and toddlers.
Sec. 113. Appeals, notice, and hearing.
Sec. 114. Goals and priorities for training and technical assistance.
Sec. 115. Staff qualifications and development.
Sec. 116. Research, demonstrations, evaluation.
Sec. 117. Announcements and evaluations.
Sec. 118. Reports.
Sec. 119. Repeals.
Sec. 120. Consultation with the Corporation for National and Community Service.
Sec. 121. Study of benefits for Head Start employees.
Sec. 122. Study of full-day and full-year Head Start programs.
Sec. 123. State dependent care development programs.
Sec. 124. Reauthorization of Child Development Associate Scholarship Assistance Act of 1985.
Sec. 125. Technical and conforming amendments.
Sec. 126. Effective date; application of amendments.

TITLE II—COMMUNITY SERVICES BLOCK GRANT AMENDMENTS

Sec. 201. Short title and references.
Sec. 202. Authorizations of appropriations.
Sec. 203. Discretionary authority of Secretary.
Sec. 204. Community food and nutrition.
Sec. 205. Instructional activities for low-income youth.
Sec. 206. Amendment to Stewart B. McKinney Homeless Assistance Act.
Sec. 207. Amendments to the Human Services Reauthorization Act of 1986.
Sec. 208. Effective date.

TITLE III—LOW-INCOME HOME ENERGY ASSISTANCE AMENDMENTS

Sec. 301. Short title and references.
Sec. 302. Statement of purpose.
Sec. 303. Authorization of appropriations.
Sec. 304. Emergency funds.
Sec. 305. Authorized uses of funds.
Sec. 306. Targeting of assistance to households with high home energy burdens.
Sec. 307. Clarification of audit requirement.
Sec. 308. Use of Department of Energy weatherization rules to achieve program consistency.
Sec. 309. Matters to be described in annual application.
Sec. 310. Report of funds available for obligation.
Sec. 311. Miscellaneous and technical amendments.
Sec. 312. Residential energy assistance challenge option (R.E.A.Ch.).
Sec. 313. Sense of the Congress regarding appropriations for LIHEAP.
Sec. 314. Effective date.

TITLE IV—COMMUNITY-BASED FAMILY RESOURCE PROGRAMS

Sec. 401. Short title.
Sec. 402. Community-based family support and family resource programs.
Sec. 403. Federal Council on Children, Youth, and Families.
Sec. 404. Family Resource Act.

TITLE I—HEAD START PROGRAMS

SEC. 101. SHORT TITLE; REFERENCES IN TITLE.

(a) SHORT TITLE.—This title may be cited as the "Head Start Act Amendments of 1994".

(b) REFERENCES.—Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Head Start Act (42 U.S.C. 9831 et seq.)

SEC. 102. DEFINITIONS.

Section 637 (42 U.S.C. 9832) is amended—

(1) by striking paragraphs (4) and (5);

(2) by adding after paragraph (11) the following:

"(12) The term 'family literacy services' means services and activities that include interactive literacy activities between parents and their children, training for parents on techniques for being the primary teacher of their children and full partners in the education of their children, parent literacy training (including training in English as a second language), and early childhood education.

"(13) The term 'Indian tribe' means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Native village described in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)) or established pursuant to such Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.";

(3) by redesignating paragraphs (6), (7), (8), (9), (10), (11), (12), and (13) as paragraphs (7), (8), (9), (13), (5), (6), (4), and (10), respectively; and

(4)(A) by transferring paragraph (4), as so redesignated, and inserting the paragraph after paragraph (3);

(B) by transferring paragraphs (5) and (6), as so redesignated, and inserting the paragraphs after paragraph (4), as so redesignated;

(C) by transferring paragraph (10), as so redesignated, and inserting the paragraph after paragraph (9), as so redesignated;

(D) by inserting after paragraph (10), as so redesignated, the following:

"(11) The term 'local educational agency' has the meaning given such term in the Elementary and Secondary Education Act of 1965.

"(12) The term 'migrant Head Start program' means a Head Start program that serves families who are engaged in agricultural work and who have changed their residence from one geographical location to another in the preceding 2-year period."; and

(E) by adding at the end the following:

"(14) The term 'State educational agency' has the meaning given such term in the Elementary and Secondary Education Act of 1965.".

SEC. 103. SERVICES.

Section 638(a)(1) (42 U.S.C. 9833(a)(1)) is amended by striking "health, nutritional, educational, social, and other services" and inserting "health, education, parental involvement, nutritional, social, and other services".

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

Section 639 (42 U.S.C. 9834) is amended—

(1) in subsection (a), by striking all that follows "subchapter" and inserting "such sums as may be necessary for fiscal years 1995, 1996, 1997, and 1998."; and

(2) by striking subsections (b) and (c) and inserting the following:

"(b) From the amount appropriated under subsection (a), the Secretary shall make available—

"(1) $35,000,000 for each of the fiscal years 1995 through 1998 to—

"(A) carry out the Head Start Transition Project Act; and

"(B) carry out activities authorized under section 642(d); and

"(2) not more than $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1998, to carry out longitudinal research under section 649(e).".

SEC. 105. ALLOCATION OF FUNDS.

(a) ALLOCATION AND USE OF FUNDS FOR QUALITY IMPROVEMENT.—Section 640(a)(3) (42 U.S.C. 9835(a)(3)) is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (C) and (D), respectively;

(2) by striking "(3)(C)" and all that follows through "quality improvement activities:" and inserting the following:

"(3)(A)(i) In order to provide assistance for activities specified in subparagraph (C) directed at the goals specified in subparagraph (B), the Secretary shall reserve, from the amount (if any) by which the funds appropriated under section 639(a) for a fiscal year exceed the adjusted prior year appropriation, a share equal to the sum of—

"(I) 25 percent of such excess amount; and

"(II) any additional amount the Secretary may find necessary to address a demonstrated need for such activities.

"(ii) As used in clause (i), the term 'adjusted prior year appropriation' means, with respect to a fiscal year, the amount appropriated pursuant to section 639(a) for the preceding fiscal year, adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers (issued by the Bureau of Labor Statistics) during such preceding fiscal year.

"(B) Funds reserved under this paragraph (referred to in this paragraph as 'quality improvement funds') shall be used to accomplish any or all of the following goals:

"(i) Ensuring that Head Start programs meet or exceed performance standards pursuant to section 641A(a)(1)(A).

"(ii) Ensuring that such programs have adequate qualified staff, and that such staff are furnished adequate training, including developing skills in working with children with non-English language background, when appropriate.

"(iii) Ensuring that salary levels and benefits are adequate to attract and retain qualified staff for such programs.

"(iv) Using salary increases to improve staff qualifications, and to assist with the implementation of career development programs, for the staff of Head Start programs.

"(v) Improving community-wide strategic planning and needs assessments for such programs.

"(vi) Ensuring that the physical environments of Head Start programs are conducive to providing effective program services to children and families, including, where appropriate, services to families with very young children.

"(vii) Making such other improvements in the quality of such programs as the Secretary may designate.

"(C) Quality improvement funds shall be used to carry out any or all of the following activities:";

(3) in subparagraph (C), as redesignated in paragraph (1), by adding at the end the following:

"(vii) Such other activities as the Secretary may designate."; and

(4) in subparagraph (D), as redesignated in paragraph (1)—

(A) in clause (i)—

(i) in the matter preceding subclause (I), by striking "for the first, second, and third fiscal years for which funds are so reserved"; and

(ii) in subclause (II), by inserting "geographical areas specified in subsection (a)(2)(B) and Indian and migrant Head Start programs," after "States,";

(B) by striking clauses (ii) and (iii);

(C) in clause (iv)—

(i) by striking "To be expended" and all that follows through "reserved, funds" and inserting "Funds";

(ii) by striking "clause (ii)" the first place it appears and inserting "clause (i)";

(iii) by inserting before the period at the end of the first sentence, ", for expenditure for activities specified in subparagraph (C)"; and

(iv) by striking the second sentence;

(D) in clause (vi), by striking "paragraphs (2), (4), and (5)" and inserting "paragraph (2) or (4)"; and

(E) by striking clause (v) and redesignating clauses (iv) and (vi) as clause (ii) and (iii), respectively.

(b) FUNDS SET-ASIDE.—Section 640(a) (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (1), by striking "through (5)." and inserting "through (4), and subject to paragraphs (5) and (6).";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "1990" and inserting "1994"; and

(B) in subparagraph (D), by inserting "(including payments for all costs (other than compensation of Federal employees) of reviews of Head Start agencies and programs under section 641A(c), and of activities related to the development and implementation of quality improvement plans under section 641A(d)(2))" after "Secretary";

(3) in paragraph (3), by striking "paragraph (5)" each place it appears and inserting "paragraph (4)";

(4) by striking paragraph (4), and redesignating paragraphs (5) and (6) as paragraphs (4) and (7), respectively;

(5) in paragraph (4), as redesignated in paragraph (4), by striking "The" and inserting "Subject to section 639(b), the"; and

(6) by adding after paragraph (4), as redesignated in paragraph (4), the following:

"(5)(A) From amounts reserved and allotted pursuant to paragraph (4), the Secretary shall reserve such sums as may be necessary to award the collaboration grants described in subparagraph (B).

"(B) From the reserved sums, the Secretary may award a collaboration grant to each State to facilitate collaboration between State governments and Head Start programs regarding activities carried out in the State under this subchapter, and other activities carried out in, and by, the State that are designed to benefit low-income children and families.

"(C) A State that receives a grant under subparagraph (B) shall—

"(i) appoint an individual to serve as a State liaison between—

"(I) agencies and individuals carrying out Head Start programs in the State;

"(II) the State educational agency and local educational agencies; and

"(III) other agencies and entities carrying out programs serving low-income children and families;

"(ii) involve the State Head Start Association in the selection of the individual, and involve the association in determinations relating to the ongoing direction of the collaboration;

"(iii) ensure that the individual holds a position with sufficient authority and access to ensure that the collaboration described in subparagraph (B) is effective and involves a range of State agencies; and

"(iv) ensure that the collaboration described in subparagraph (B) involves coordination of Head Start services with health care, welfare, child care, education, libraries, and national service activities, and activities relating to children with disabilities.

"(D) As used in this paragraph, the term 'low-income', used with respect to children or families, shall not be considered to refer only to children or families that meet the low-income criteria prescribed pursuant to section 645(a)(1)(A).

"(6) From amounts reserved and allotted pursuant to paragraphs (2) and (4), the Secretary shall use, for grants for programs described in section 645A(a), a portion of the combined total of such amounts equal to 3 percent for fiscal year 1995, 4 percent for each of fiscal years 1996 and 1997, and 5 percent for fiscal year 1998, of the amount appropriated pursuant to section 639(a).".

(c) CONSIDERATIONS FOR ALLOCATION OF FUNDS FOR PROGRAM EXPANSION.—Section 640(g) (42 U.S.C. 9835(g)) is amended—

(1) by striking "(g)" and inserting "(g)(1)"; and

(2) by adding at the end the following:

"(2) For the purpose of expanding Head Start programs, in allocating funds to an applicant within a State, from amounts allotted to a State pursuant to subsection (a)(4), the Secretary shall take into consideration—

"(A) the quality of the applicant's programs (including Head Start and other child care or child development programs) in existence on the date of the allocation, including, in the case of Head Start programs in existence on the date of the allocation, the extent to which such programs meet or exceed performance standards and other requirements under this subchapter;

(B) the applicant's capacity to expand services (including, in the case of Head Start programs in existence on the date of the allocation, whether the applicant accomplished any prior expansions in an effective and timely manner);

"(C) the extent to which the applicant has undertaken community-wide strategic planning and needs assessments involving other community organizations serving children and families (including organizations serving families in whose homes English is not the language customarily spoken) and involving consultation with the State agency that administers early childhood development and education programs;

"(D) the extent to which the applicant has identified a need to provide full-working-day or full calendar year services based on a family and community needs assessment consistent with the preceding paragraph;

"(E) the numbers of eligible children in each community who are not participating in a Head Start program; and

"(F) the concentration of low-income families in each community.

"(3) In determining the amount of funds reserved pursuant to subparagraph (A) or (B) of subsection (a)(2) to be used for expanding Head Start programs under this subchapter, the Secretary shall take into consideration, to the extent appropriate, the factors specified in paragraph (2).".

(d) TECHNICAL AMENDMENT.—Section 640(h) (42 U.S.C. 9835(h)) is amended by striking "Each Head Start program may" and inserting "Financial assistance provided under this subchapter may be used by each Head Start program to".

(e) COMPENSATION; REGULATIONS; PRIORITY.—Section 640 (42 U.S.C. 9835) is amended by adding at the end the following:

"(j) Any agency that receives financial assistance under this subchapter to improve the compensation of staff who provide services under this subchapter shall use the financial assistance to improve the compensation of such staff, regardless of whether the agency has the ability to improve the compensation of staff employed by the agency who do not provide Head Start services.

"(k) Regulations issued by the Secretary that require a certain number of hours of service to be provided to children in Head Start programs shall include such flexibility as will permit Head Start agencies to satisfy such requirement through one or more of a variety of techniques, including adjustments to the length of a daily session or to the number of days of service.

"(l) With funds made available under section 640(a)(2) to migrant Head Start programs, the Secretary shall give priority to migrant Head Start programs that serve eligible children of migrant families whose work requires them to relocate most frequently.".

SEC. 106. REPORT.

Section 640A (42 U.S.C. 9835a) is repealed.

SEC. 107. DESIGNATION.

(a) INDIAN RESERVATIONS.—Section 641(b) (42 U.S.C. 9836(b)) is amended by inserting after "Indian reservation" the following: "(including Indians in any area designated by the Bureau of Indian Affairs as near-reservation)".

(b) DESIGNATION OF AGENCIES.—Section 641(c) (42 U.S.C. 9836(c)) is amended—

(1) by striking paragraphs (2) through (4);

(2) in the first sentence—

(A) by inserting "(subject to paragraph (2))" before ", the Secretary shall give priority"; and

(B) by striking "unless" and all that follows through the end of subparagraph (A) and inserting the following: "unless the Secretary makes a finding that the agency involved fails to meet program, financial management, and other requirements established by the Secretary.";

(3) by redesignating subparagraph (B) as paragraph (2);

(4) in paragraph (2), as so redesignated—

(A) by striking "except that, if" and inserting "If"; and

(B) by striking "subparagraph (A)" and inserting "paragraph (1)";

(5) by striking "Notwithstanding any other provision of this paragraph" and inserting the following:

"(3) Notwithstanding any other provision of this subsection"; and

(6) by aligning the margins of paragraph (2), as so redesignated, with the margins of paragraph (3).

(c) CONSIDERATIONS IN DESIGNATING NEW HEAD START AGENCIES.—Section 641(d) (42 U.S.C. 9836(d)) is amended—

(1) in the first sentence, by striking all that precedes "then the Secretary" and inserting "If no entity in a community is entitled to the priority specified in subsection (c),";

(2) by striking the second sentence;

(3) in the third sentence—

(A) in the matter preceding paragraph (1), by striking "and subject to the preceding sentence";

(B) in paragraph (3), by inserting ", including Even Start programs," after "preschool programs"; and

(C) in paragraph (4), to read as follows: "(4) the plan of such applicant—

"(A) to seek the involvement of parents of participating children in activities designed to help such parents become full partners in the education of their children;

"(B) to afford such parents the opportunity to participate in the development, conduct, and overall performance of the program at the local level;

"C) to offer (directly or through referral to local entities, such as public and school libraries and entities carrying out Even Start programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.)) to such parents—

"(i) family literacy services; and

"(ii) parenting skills training;

"(D) at the option of such applicant, to offer (directly or through referral to local entities) to such parents—

"(i) parental social self-sufficiency training;

"(ii) substance abuse counseling;

"(iii) training in nonpunitive discipline techniques that are age appropriate, consistent, and positive for the child;

"(iv) training in basic child development;

"(v) assistance in developing communication skills;

"(vi) opportunities for parents to share experiences with other parents, or

"(vii) any other activity designed to help such parents understand the importance of their involvement in the education of their children and to help such parents become full partners in the education of their children; and

"(E) to provide, with respect to each participating family, a family needs assessment that includes consultation with such parents about the benefits of parent involvement and about the activities described in subparagraphs (C) and (D) in which such parents may choose to become involved (taking into consideration their specific family needs, work schedules, and other responsibilities);";

(4) in paragraph (7)—

(A) by striking "non-English language children" and inserting "non-English language background children and their families"; and

(B) by inserting "and" after the semicolon;

(5) by striking paragraph (8); and

(6) by redesignating paragraph (9) as paragraph (8).

(d) CONFORMING AMENDMENT.—Section 641 (42 U.S.C. 9836) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

SEC. 108. MONITORING AND QUALITY ASSURANCE.

The Act is amended by inserting after section 641 (42 U.S.C. 9836) the following:

"SEC. 641A. QUALITY STANDARDS; MONITORING OF HEAD START AGENCIES AND PROGRAMS.

"(a) QUALITY STANDARDS.—

"(1) ESTABLISHMENT OF STANDARDS.—The Secretary shall establish by regulation standards applicable to Head Start agencies, program, and projects under this subchapter, including—

"(A) performance standards with respect to services required to be provided, including health, education, parental involvement, nutritional, social, transition-to-elementary-school, and other services;

"(B) administrative and financial management standards, including standards that address recordkeeping and file maintenance practices;

"(C) standards relating to the condition and location of facilities for such agencies, programs, and projects;

"(D) standards for the provision of services to families with very young children; and

"(E) such other standards as the Secretary finds to be appropriate.

"(2) MINIMUM REQUIREMENTS.—The regulations promulgated under this subsection shall establish the minimum levels of overall accomplishment that a Head Start agency shall achieve in order to meet the standards specified in paragraph (1).

"(3) CONSIDERATIONS IN DEVELOPING STANDARDS.—In developing the regulations required under paragraph (1), the Secretary shall—

"(A) consult with experts in the fields of child development, early childhood education, child health care, family services (including linguistically, culturally, and developmentally appropriate services to non-English language background children and their families), administration and financial management, and with persons with experience in the operation of Head Start programs;

"(B) take into consideration—

"(i) past experience with use of the standards in effect under this subchapter on the date of enactment of this section;

"(ii) changes over the period since the date of enactment of this subchapter in the circumstances and problems typically facing children and families served by Head Start agencies;

"(iii) developments concerning best practices with respect to child development, children with disabilities, family services, program administration, and financial management;

"(iv) guidelines and standards currently in effect or under consideration that promote child health services, and projected needs of expanding Head Start programs;

"(v) changes in the population of children who are eligible to participate in Head Start programs, including the language background and family structure of such children; and

"(vi) the need for, and state-of-the art developments relating to, local policies and activities designed to ensure that children participating in Head Start programs make a successful transition to public schools; and

"(C)(i) not later than 1 year after the date of enactment of this section, review and revise as necessary the performance standards in effect under section 651(b) on the day before the date of enactment of this section; and

"(ii) ensure that any such revisions in the performance standards will not result in the elimination of or any reduction in the scope or types of health, education, parental involvement, nutritional, social, or other services required to be provided under such standards as in effect on November 2, 1978.

"(4) STANDARDS RELATING TO OBLIGATIONS TO DELEGATE AGENCIES.—In developing standards under this subsection, the Secretary shall describe the obligations of a Head Start agency to an agency (referred to in this subchapter as the 'delegate agency') to which the Head Start agency has delegated responsibility for providing services under this subchapter and determine whether the Head Start agency complies with the standards. The Secretary shall consider such compliance during the review described in subsection (c)(1)(A) and in determining whether to renew financial assistance to the Head Start agency under this subchapter.

"(b) PERFORMANCE MEASURES.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary, in consultation with representatives of Head Start agencies and with experts in the fields of child development, family services, and program management, shall develop methods and procedures for measuring, annually and over longer periods, the quality and effectiveness of programs operated by Head Start agencies (referred to in this subchapter as 'performance measures').

"(2) DESIGN OF MEASURES.—The performance measures developed under this subsection shall be designed—

"(A) to assess the various services provided by Head Start programs and, to the extent the Secretary finds appropriate, administrative and financial management practices of such programs;

"(B) to be adaptable for use in self-assessment and peer review of individual Head Start agencies and programs; and

"(C) for other program purposes as determined by the Secretary.

"(3) USE OF MEASURES.—The Secretary shall use the performance measures developed pursuant to this subsection—

"(A) to identify strengths and weaknesses in the operation of Head Start programs nationally and by region; and

"(B) to identify problem areas that may require additional training and technical assistance resources.

"(c) MONITORING OF LOCAL AGENCIES AND PROGRAMS.—

"(1) IN GENERAL.—In order to determine whether Head Start agencies meet standards established under this subchapter with respect to program, administrative, financial management, and other requirements, the Secretary shall conduct the following reviews of designated Head Start agencies, and of the Head Start programs operated by such agencies:

"(A) A full review of each such agency at least once during each 3-year period.

"(B) A review of each newly designated agency immediately after the completion of the first year such agency carries out a Head Start program.

"(C) Followup reviews including prompt return visits to agencies and programs that fail to meet the standards.

"(D) Other reviews as appropriate.

"(2) CONDUCT OF REVIEWS.—The Secretary shall ensure that reviews described in subparagraphs (A) through (C) of paragraph (1)—

"(A) are performed, to the maximum extent practicable, by employees of the Department of Health and Human Services who are knowledgeable about Head Start programs and the diverse (including linguistic and cultural) needs of eligible children and their families; and

"(B) are supervised by such an employee at the site of such Head Start agency.

"(d) CORRECTIVE ACTION; TERMINATION.—

"(1) DETERMINATION.—If the Secretary determines, on the basis of a review pursuant to subsection (c), that a Head Start agency designated pursuant to section 641 fails to meet the standards described in subsection (b), the Secretary shall—

"(A) inform the agency of the deficiencies that shall be corrected;

"(B) with respect to each identified deficiency, require the agency—

"(i) to correct the deficiency immediately; or

"(ii) at the discretion of the Secretary (taking into consideration the seriousness of the deficiency and the time reasonably required to correct the deficiency), to comply with the requirements of paragraph (2) concerning a quality improvement plan; and

"(C) initiate proceedings to terminate the designation of the agency unless the agency corrects the deficiency.

"(2) QUALITY IMPROVEMENT PLAN.—

"(A) AGENCY RESPONSIBILITIES.—In order to retain a designation as a Head Start agency under this subchapter, a Head Start agency that is the subject of a determination described in paragraph (1) (other than an agency able to correct a deficiency immediately) shall—

"(i) develop in a timely manner, obtain the approval of the Secretary regarding, and implement a quality improvement plan that specifies—

"(I) the deficiencies to be corrected;

"(II) the actions to be taken to correct such deficiencies; and

"(III) the timetable for accomplishment of the corective actions specified; and

"(ii) eliminate each deficiency identified, not later than the date for elimination of such deficiency specified in such plan (which shall not be later than 1 year after the date the agency received notice of the determination and of the specific deficiency to be corrected).

"(B) SECRETARIAL RESPONSIBILITY.—Not later than 30 days after receiving from a Head Start agency a proposed quality improvement plan pursuant to subparagraph (A), the Secretary shall either approve such proposed plan or specify the reasons why the proposed plan cannot be approved.

"(3) TRAINING AND TECHNICAL ASSISTANCE.—The Secretary shall provide training and technical assistance to Head Start agencies with respect to the development or implementation of such quality improvement plans to the extent the Secretary finds such provision to be feasible and appropriate given available funding and other statutory responsibilities.

"(e) SUMMARIES OF MONITORING OUTCOMES.—Not later than 90 days after the end of each fiscal year, the Secretary shall publish a summary report on the findings of reviews conducted under subsection (c) and on the outcomes of quality improvement plans implemented under subsection (d), during such fiscal year.".

SEC. 109. ENHANCED PARENT INVOLVEMENT AND TRANSITION COORDINATION WITH SCHOOLS.

Section 642 (42 U.S.C. 9837) is amended—

(1) by amending subsection (b) to read as follows:

"(b) In order to be so designated, a Head Start agency shall also—

"(1) establish effective procedures by which parents and area residents concerned will be enabled to directly participate in decisions that influence the character of programs affecting their interests;

"(2) provide for their regular participation in the implementation of such programs;

"(3) provide technical and other support needed to enable parents and area residents to secure on their own behalf available assistance from public and private sources;

"(4) seek the involvement of parents of participating children in activities designed to help such parents become full partners in the education of their children, and to afford such parents the opportunity to participate in the development, conduct, and overall performance of the program at the local level;

"(5) offer (directly or through referral to local entities, such as entities carrying out Even Start programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.)), to parents of participating children, family literacy services and parenting skills training;

"(6) at the option of such agency, offer (directly or through referral to local entities), to such parents, parental social self-sufficiency training, substance abuse counseling, training in nonpunitive discipline techniques that are age appropriate, consistent, and positive for the child, training in basic child development, assistance in developing communication skills, opportunities for parents to share experiences with other parents, regular in-home visitation for families at risk of child abuse and neglect, or any other activity designed to help such parents become full partners in the education of their children;

"(7) provide, with respect to each participating family, a family needs assessment that includes consultation with such parents about the benefits of parent involvement and about the activities described in paragraphs (4) through (6) in which such parents may choose to be involved (taking into consideration their specific family needs, work schedules, and other responsibilities);

"(8) establish procedures to seek reimbursement, to the extent feasible, from other agencies for services for which any such other agency is responsible, which are provided to a Head Start participate by the Head Start agency;

"(9) consider providing services to assist younger siblings of children participating in its Head Start program to obtain health services from other sources; and

"(10) perform community outreach to encourage individuals previously unaffiliated with Head Start programs to participate in it Head Start program as volunteers.";

(2) in subsection (c)—

(A) by striking "schools that will subsequently serve children in Head Start programs,"; and

(B) by inserting ", including Even Start programs." after "other programs"; and

(3) by adding after subsection (c) the following:

"(d)(1) Each Head Start agency shall carry out the actions specified in this subsection, to the extent feasible and appropriate in the circumstances (including the extent to which such agency is able to secure the cooperation of parents and schools) to enable children to maintain the developmental gains achieved in Head Start programs and to build upon such gains in further schooling.

"(2) the Head Start agency shall take steps to coordinate with the local educational agency (as defined in the elementary and Secondary Education Act of 1965) serving the community involved and with schools in which children participating in a Head Start program operated by such agency will enroll following such program, including—

"(A) developing and implementing a systematic procedure for transferring, with parental consent, Head Start program records for each participating child to the school in which such child will enroll;

"(B) establishing channels of communication between Head Start staff and their counterparts in the schools (including teachers, social workers, and health staff) to facilitate coordination of programs;

"(C) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start program teachers to discuss the developmental and other needs of individual children;

"(D) organizing and participating in joint transition-related training of school staff, Head Start staff, and parents;

"(E) providing transportation and using facilities; and

"(F) on the request of the local educational agency, providing noneducational services to such children.

"(3) In order to promote the continued involvement of parents of children who participate in Head Start programs in the education of their children upon transition to school, the Head Start agency shall—

"(A) provide training to such parents—

"(i) to inform such parents about their rights and responsibilities concerning the education of their children; and

"(ii) to enable such parents to understand and work with schools in order to communicate with teachers and other school personnel, to support the school work of their children, and to participate as appropriate in decisions relating to the education of their children; and

"(B) take other actions, as appropriate and feasible, to support the active involvement of such parents with schools, school personnel, and school-related organizations.

"(4) The Secretary, in cooperation with the Secretary of Education, shall—

"(A) evaluate the effectiveness of the projects and activities funded under the Head Start Transition Project Act (42 U.S.C. 9855 et seq.);

"(B) disseminate to Head Start agencies information (including information from the evaluation required by subparagraph (A)) on effective policies and activities relating to the transition of children from Head Start programs to public schools; and

"(C) provide technical assistance to such agencies to promote and assist such agencies to adopt and implement such effective policies and activities.".

SEC. 110. FACILITIES AND ADMINISTRATIVE REQUIREMENTS.

Section 644 (42 U.S.C. 9839) is amended—

(1) in subsection (d), by striking "guidelines, instruction,";

(2) in subsection (f)—

(A) in paragraph (2), by striking "640(a)(3)(A)(v)" and inserting "640(a)(3)(C)(v)"; and

(B) by adding at the end the following:

"(3) Upon a determination by the Secretary that suitable facilities are not otherwise available to Indian tribes to carry out Head Start programs, and that the lack of suitable facilities will inhibit the operation of such programs, the Secretary, in the discretion of the Secretary, may authorize the use of financial assistance, from the amount reserved under section 640(a)(2)(A), to make payments for the purchase of facilities owned by such tribes. The amount of such a payment for such a facility shall not exceed the fair market value of the facility."; and

(3) by adding at the end the following:

"(g) In all personnel actions of the American Indian Programs Branch of the Head Start Bureau of the Administration for Children and Families, the Secretary shall give the same preference to individuals who are members of an Indian tribe as the Secretary gives to a preference eligible, as described in section 2108(3)(C) of title 5 of the United States Code. the Secretary shall take such additional actions as may be necessary to promote recruitment of such individuals for employment in the Administration.".

SEC. 111. PARTICIPATION.

Section 645 (42 U.S.C. 9840) is amended by adding at the end the following:

"(d)(1) An Indian tribe that—

"(A) operates a Head Start program;

"(B) enrolls as participants in the program all children in the community served by the tribe (including a community with a near-reservation designation, as defined by the Bureau of Indian Affairs) from families that meet the low-income criteria prescribed under subsection (a)(1)(A); and

"(C) has the resources to enroll additional children in the community who do not meet the low-income criteria;

may enroll such additional children in a Head Start program, in accordance with this subsection, if the program predominantly serves children who meet the low-income criteria.

"(2) The Indian tribe shall enroll the children in the Head Start program in accordance with such requirements as the Secretary may specify by regulation promulgated after consultation with Indian tribes.

"(3) In providing services through a Head Start program to such children, the Indian tribe may not use funds that the Secretary has determined, in accordance with section 640(g)(3), are to be used for expanding Head Start programs under this subchapter.".

SEC. 112. INITIATIVE ON FAMILIES WITH INFANTS AND TODDLERS

(a) ESTABLISHMENT.—The Act is amended by adding after section 645 (42 U.S.C. 9840) the following:

"SEC. 645A. PROGRAMS FOR FAMILIES WITH INFANTS AND TODDLERS.

"(a) IN GENERAL.—The Secretary shall make grants, in accordance with this section for—

"(1) programs providing family-centered services for low-income families with very young children designed to promote the development of the children, and to enable their parents to fulfill their roles as parents and to move toward self-sufficiency; and

"(2) provision of training and technical assistance to entities carrying out programs, and evaluation of programs, that were supported under the Comprehensive Child Development Act (42 U.S.C. 9881 et seq.), as in effect on the day before the date of enactment of this section.

"(b) SCOPE AND DESIGN OF PROGRAMS.—In carrying out a program described in subsection (a), an entity receiving assistance under this section shall—

"(1) provide, either directly or through referral, early, continuous, intensive, and comprehensive child development and family support services that will enhance the physical, social, emotional, and intellectual development of participating children;

"(2) ensure that the level of services provided to families responds to their needs and circumstances;

"(3) promote positive parent-child interactions;

"(4) provide services to parents to support their role as parents and to help the families move toward self-sufficiency (including educational and employment services as appropriate);

"(5) coordinate services with services provided by programs in the State and programs in the community (including transition-to-school programs and linkages with programs of other agencies, including local educational agencies serving families with infants and toddlers) to ensure a comprehensive array of services (such as health and mental health services);

"(6) ensure formal linkages with local Head Start programs in order to provide for continuity of services for children and families;

"(7) in the case of a Head Start agency that operates a program and that also provides Head Start services through the age of mandatory school attendance, ensure that children and families participating in the program receive such services through such age; and

"(8) meet such other requirements concerning design and operation of the program described in subsection (a) as the Secretary may establish.

"(c) PESONS ELIGIBLE TO PARTICIPATE.—Persons who may participate in programs described in subsection (a)(1) include—

"(1) pregnant women; and

"(2) families with children under age 3 (or under age 5, in the case of children served by an entity specified in subsection (e)(3));

who meet the income criteria specified for families in section 645(a)(1).

"(d) ELIGIBLE SERVICE PROVIDERS.—To be eligible to receive assistance under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Entities that may apply to carry out activities under this section include—

"(1) entities operating Head Start programs under this subchapter;

"(2) entities that, on the day before the date of enactment of this section, were operating—

"(A) Parent-Child Centers receiving financial assistance under section 640(a)(4), as in effect on such date; or

"(B) programs receiving financial assistance under the Comprehensive Child Development Act, as in effect on such date; and

"(3) other public entities, and nonprofit private entities, capable of providing child and family services that meet the standards for participation in programs under this subchapter and meet such other appropriate requirements relating to the activities under this section as the Secretary may establish.

"(e) TIME-LIMITED PRIORITY FOR CERTAIN ENTITIES.—

"(1) IN GENERAL.—From amounts allotted pursuant to paragraphs (2) and (4) of section 640(a), the Secretary shall provide financial assistance in accordance with paragraphs (2) through (4).

"(2) PARENT-CHILD CENTERS.—The Secretary shall make financial assistance available under this section for each of fiscal years 1995, 1996, and 1997 to any entity that—

"(A) complies with subsection (b); and

"(B) received funding as a Parent-Child Center pursuant to section 640(a)(4), as in effect on the day before the date of enactment of this section, for fiscal year 1994.

"(3) COMPREHENSIVE CHILD DEVELOPMENT CENTERS.—

"(A) In the case of an entity that received a grant for fiscal year 1994 to operate a project under the Comprehensive Child Development Act, the Secretary—

"(i) shall make financial assistance available under this section, in a comparable amount and scope to the assistance provided for fiscal year 1994, for the duration of the project period specified in the grant award to such entity under such Act; and

"(ii) shall permit such entity, in carrying out activities assisted under this section, to serve children from birth through age 5.

"(B) In the case of an entity that received a grant for fiscal year 1989 to operate a project under the Comprehensive Child Development Act, the Secretary shall make assistance available under this section for each of fiscal years 1995, 1996, and 1997 to any entity that complies with subsection (b).

"(4) EVALUATIONS, TRAINING, AND TECHNICAL ASSISTANCE.—The Secretary shall make financial assistance available under this section as necessary to provide for the evaluation of, and furnishing of training and technical assistance to, programs specified in paragraph (3)(A).

"(f) SELECTION OF OTHER GRANT RECIPIENTS.—From the balance remaining of the portion specified in section 640(a)(6), after making grants to the eligible entities specified in subsection (e), the Secretary shall award grants under this subsection on a competitive basis to applicants meeting the criteria specified in subsection (d) (giving priority to entities with a record of providing early, continuous, and comprehensive childhood development and family services).

"(g) DISTRIBUTION.—In awarding grants to eligible applicants under this section, the Secretary shall—

"(1) ensure an equitable national geographic distribution of the grants; and

"(2) award grants to applicants proposing to serve communities in rural areas and to applicants proposing to serve communities in urban areas.

"(h) SECRETARIAL RESPONSIBILITIES.—

"(1) GUIDELINES.—Not later than September 30, 1994, the Secretary shall develop program guidelines concerning the content and operation of programs assisted under this section—

"(A) in consultation with experts in early childhood development, experts in health, and experts in family services; and

"(B) taking into consideration the knowledge and experience gained from other early childhood programs, including programs under the Comprehensive Child Development Act, and from migrant Head Start programs that serve a large number of infants and toddlers.

"(2) STANDARDS.—Not later than December 30, 1994, the Secretary shall develop and publish performance standards for programs assisted under this section, and a grant announcement based on the guidelines developed under paragraph (1).

"(3) MONITORING, TRAINING, TECHNICAL ASSISTANCE, AND EVALUATION.—In order to ensure the successful operation of programs assisted under this section, the Secretary shall use funds from the balance described in subsection (f) to monitor the operation of such programs, evaluate their effectiveness, and provide training and technical assistance tailored to the particular needs of such programs.".

(b) CONSOLIDATION.—(1) in recognition that the Comprehensive Child Development Centers Act has demonstrated positive results, and that its purposes and functions have been consolidated into section 645A of the Head Start Act, the Comprehensive Child Development Centers Act of 1988 (42 U.S.C. 9801 note) and the Comprehensive Child Development Act (42 U.S.C. 9881–9887) are repealed by paragraph (2).

(2)(A) Part E of title II of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Amendments of 1988 (Public Law 100–297; 102 Stat. 325) is repealed.

(B) Subchapter F of chapter 8 of subtitle A of title VI of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35; 42 U.S.C. 9801 note, et seq.) is repealed.

(c) CONFORMING AMENDMENT.—Section 638 of the Head Start Act (42 U.S.C. 9833) is amended—

(1) in subsection (a) by striking "(a)"; and

(2) by striking subsection (b).

SEC. 113. APPEALS, NOTICE, AND HEARING.

(a) MEDIATION AND HEARING FOR DISPUTES WITH DELEGATE AGENCIES.—Section 646(a) (42 U.S.C. 9841(a)) is amended—

(1) at the end of paragraph (2), by striking "and";

(2) at the end of paragraph (3), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(4) the Secretary shall develop and publish procedures (including mediation procedures) to be used in order to—

"(A) resolve in a timely manner conflicts potentially leading to adverse action between—

"(i) recipients of financial assistance under this subchapter; and

"(ii) delegate agencies or Head Start Parent Policy Councils; and

"(B) avoid the need for an administrative hearing.".

(b) TERMINATION OF DESIGNATION NOT STAYED PENDING APPEAL.—Section 646 (42 U.S.C. 9841) is amended by striking subsection (b) and inserting the following:

"(b) In prescribing procedures for the mediation described in subsection (a)(4), the Secretary shall specify—

"(1) the date by which a Head Start agency engaged in a conflict described in subsection (a)(4) will notify the appropriate regional office of the Department of the conflict;

"(2) a reasonable period for the mediation;

"(3) a timeline for an administrative hearing, if necessary, to resolve the conflict; and

"(4) a timeline by which the person conducting the administrative hearing shall issue a decision based on the hearing.

"(c) In any case in which a termination, reduction, or suspension of financial assistance under this subchapter is upheld in an administrative hearing under this section, such termination, reduction, or suspension shall not be stayed pending any judicial appeal of such administrative decision.

"(d)(1) The Secretary shall by regulation specify a process by which an Indian tribe may identify and establish an alternative agency, and request that the alternative agency be designated under section 641 as the Head Start agency providing services to the tribe, if—

"(A) the Secretary terminates financial assistance under section 646 to the only agency that was receiving financial assistance to provide Head Start services to the Indian tribe; and

"(B) the tribe would otherwise be precluded from providing such services to the members of the tribe.

"(2) The regulation required by this subsection shall prohibit such designation of an alternative agency that includes an employee who—

"(A) served on the administrative staff or program staff of the agency descried in paragraph (1)(A); and

"(B) was responsible for a deficiency that—

"(i) relates to the performance standards or financial management standards described in section 641A9a)(1); and

"(ii) was the basis for the termination of financial assistance described in paragraph (1)(A);

as determined by the Secretary after providing the notice and opportunity described in subsection (a)(3).".

SEC. 114. GOALS AND PRIORITIES FOR TRAINING AND TECHNICAL ASSISTANCE.

Section 648 (42 U.S.C. 9843) is amended—

(1) in the section heading to read as follows: "TECHNICAL ASSISTANCE AND TRAINING";

(2) in subsection (a)(2), by striking "Head Start programs, including" and inserting "Head Start programs, in accordance with the process, and the provisions for allocating resources, set forth in subsections (b) and (c). The Secretary shall provide, either directly or through grants or other arrangements,";

(3)(A) by redesignating the final sentence of subsection (a), as amended by paragraph (2), as subsection (e);

(B) by transferring such subsection to the end of the section; and

(C) by indenting such subsection and aligning the margins of such subsection with the margins of subsection (d);

(4) by striking subsections (b) and (c);

(5) by inserting after subsection (a) the following:

"(b) The process for determining the technical assistance and training activities to be carried out under this section shall—

"(1) ensure that the needs of local Head Start agencies and programs relating to improving program quality and to program expansion are addressed to the maximum extent feasible; and

"(2) incorporate mechanisms to ensure responsiveness to local needs, including an ongoing procedure for obtaining input from the individuals and agencies carrying out Head Start programs.

"(c) In allocating resources for technical assistance and training under this section, the Secretary shall—

"(1) give priority consideration to activities to correct program and management deficiencies identified through reviews pursuant to section 641A(c) (including the provision of assistance to local programs in the development of quality improvement plans under section 641A(d)(2));

"(2) address the training and career development needs of classroom staff (including instruction for providing services to children with disabilities) and nonclassroom staff, including home visitors and other staff working directly with families, including training relating to increasing parent involvement and services designed to increase family literacy and improve parenting skills;

"(3) assist Head Start agencies and programs in conducting and participating in communitywide strategic planning and needs assessment;

"(4) assist Head Start agencies and programs in developing full-working-day and full-calendar-year programs and making the transition to such programs, with particular attention to involving parents and programming for children throughout a longer day;

"(5) assist Head Start agencies in better serving the needs of families with very young children;

"(6) assist Head Start agencies and programs in the development of sound management practices, including financial management procedures; and

"(7) assist in efforts to secure and maintain adequate facilities for Head Start programs."; and

(6) in subsection (d), by adding at the end the following:

"Special consideration shall be given to entities that have demonstrated effectiveness in educational programming for preschool children that includes components for parental involvement, care provider training, and developmentally appropriate related activities.".

SEC. 115. STAFF QUALIFICATIONS AND DEVELOPMENT.

The Head Start Act is amended by inserting after section 648 (42 U.S.C. 9843) the following:

"SEC. 648A. STAFF QUALIFICATIONS AND DEVELOPMENT.

"(a) CLASSROOM TEACHERS.—

"(1) DEGREE REQUIREMENTS.—The Secretary shall ensure that not later than September 30, 1996, each Head Start classroom in a center-based program is assigned one teacher who has—

"(A) a child development associate (CDA) credential that is appropriate to the age of the children being served in center-based programs;

"(B) a State-awarded certificate for preschool teachers that meets or exceeds the requirements for a child development associate credential;

"(C) an associate, a baccalaureate, or an advanced degree in early childhood education; or

"(D) a degree in a field related to early childhood education with experience in teaching preschool children and a State-awarded certificate to teach in a preschool program.

"(2) WAIVER.—On request, the Secretary shall grant a 180-day waiver of the requirements of paragraph (1) with respect to an individual who—

"(A) is first employed after September 30, 1996, by a Head Start agency as a teacher for a Head Start classroom;

"(B) is enrolled in a program that grants any credential, certificate, or degree specified in subparagraph (A), (B), (C), or (D) of paragraph (1); and

"(C) will receive such credential under the terms of such program not later than 180 days after beginning employment as a teacher with such agency.

"(3) LIMITATION.—The Secretary may not grant more than one such waiver with respect to such individual.

"(b) MENTOR TEACHERS.—

"(1) DEFINITION; FUNCTION.—For purposes of this subsection, the term 'mentor teacher' means an individual responsible for observing and assessing the classroom activities of a Head Start program and providing on-the-job guidance and training to the Head Start program staff and volunteers, in order to improve the qualifications and training of classroom staff, to maintain high quality education services, and to promote career development, in Head Start programs.

"(2) REQUIREMENT.—In order to assist Head Start agencies in establishing positions for mentor teachers, the Secretary shall—

"(A) provide technical assistance and training to enable Head Start agencies to establish such positions;

"(B) give priority consideration, in providing assistance pursuant to subparagraph (A), to Head Start programs that have substantial numbers of new classroom staff, that are experiencing difficulty in meeting applicable education standards, or that lack staff able to communicate in the languages of participating children and their families;

"(C) encourage Head Start programs to give priority consideration for such positions to Head Start teachers at the appropriate level of career advancement in such programs; and

"(D) promote the development of model curricula, designed to ensure the attainment of appropriate competencies by individuals working, or planning to work, in the field of early childhood development and family services.

"(c) FAMILY SERVICE WORKERS.—In order to improve the quality and effectiveness of staff providing in-home and other services (including needs assessment, development of service plans, family advocacy, and coordination of service delivery) to families of children participating in Head Start programs, the Secretary, in coordination with concerned public and private agencies and organizations examining the issues of standards and training for family service workers, shall—

"(1) review and, as necessary, revise or develop new qualification standards for Head Start staff providing such services;

"(2) promote the development of model curricula (on subjects including parenting training and family literacy) designed to ensure the attainment of appropriate cometencies by individuals working or planning to work in the field of early childhood and family services; and

"(3) promote the establishment of a credential that indicates attainment of the competencies and that is accepted nationwide.

"(d) HEAD START FELLOWSHIPS.—

"(1) AUTHORITY.—The Secretary may establish a program of fellowships, to be known as 'Head Start Fellowship', in accordance with this subsection. The Secretary may award the fellowships to individuals, to be known as 'Head Start Fellows', who are staff in local Head Start programs or other individuals working in the field of child development and family services.

"(2) PURPOSE.—The fellowship program established under this subsection shall be designed to enhance the ability of Head Start Fellows to make significant contributions to programs authorized under this subchapter, by providing opportunities to expand their knowledge and experience through exposure to activities, issues, resources, and new approaches, in the field of child development and family services.

"(3) ASSIGNMENTS OF FELLOWS.—

"(A) PLACEMENT SITES.—Fellowship positions under the fellowship program may be located (subject to subparagraphs (B) and (C))—

"(i) in agencies of the Department of Health and Human Services administering programs authorized under this subchapter (in national or regional offices of such agencies);

"(ii) in local Head Start agencies and programs;

"(iii) in institutions of higher education;

"(iv) in public or private entities and organizations concerned with services to children and families; and

"(v) in other appropriate settings.

"(B) LIMITATION FOR FELLOWS OTHER THAN HEAD START EMPLOYEES.—A Head Start Fellow who is not an employee of a local Head Start agency or program may be placed only in a fellowship position located in an agency or program specified in clause (i) or (ii) of subparagraph (A).

"(C) NO PLACEMENT IN LOBBYING ORGANIZATIONS.—Head Start Fellowship positions may not be located in any agency whose primary purpose, or one of whose major purposes, is to influence Federal, State, or local legislation.

"(4) SELECTION OF FELLOWS.—Head Start Fellowships shall be awarded on a competitive basis to individuals (other than Federal employees) selected from among applicants who are working, on the date of application, in local Head Start programs or otherwise working in the field of child development and children and family services.

"(5) DURATION.—Head Start Fellowships shall be for terms of 1 year, and may be renewed for a term of 1 additional year.

"(6) AUTHORIZED EXPENDITURES.—From amounts appropriated under this subchapter and allotted under section 640(a)(2)(D), the Secretary is authorized to make expenditures of not to exceed $1,000,000 for any fiscal year, for stipends and other reasonable expenses of the fellowship program.

"(7) STATUS OF FELLOWS.—Except as otherwise provided in this paragraph, Head Start Fellows shall not be considered to be employees or otherwise in the service or employment of the Federal Government. Head Start Fellows shall be considered to be employees for purposes of compensation for injuries under chapter 81 of title 5, United States Code. Head Start Fellows assigned to positions located in agencies specified in paragraph (3)(A)(i) shall be considered employees in the executive branch of the Federal Government for the purposes of chapter 11 of title 18, United States Code, and for purposes of any administrative standards of conduct applicable to the employees of the agency to which they are assigned.

"(8) REGULATIONS.—The Secretary shall promulgate regulations to carry out this subsection.

"(e) MODEL STAFFING PLANS.—Not later than 1 year after the date of enactment of this subsection, the Secretary, in consultation with appropriate public agencies, private agencies, and organizations and with individuals with expertise in the field of children and family services (including services to non-English language background children and their families), shall develop model staffing plans to provide guidance to local Head Start agencies and programs on the numbers, types, responsibilities, and qualifications of staff required to operate a Head Start program.".

SEC. 116. RESEARCH, DEMONSTRATIONS, EVALUATION.

Section 649 (42 U.S.C. 9844) is amended to read as follows:

"SEC. 649. RESEARCH, DEMONSTRATIONS, AND EVALUATION.

"(a) IN GENERAL.—

"(1) REQUIREMENT; GENERAL PURPOSES.—The Secretary shall carry out a continuing program of research, demonstration, and evaluation activities, in order to—

"(A) foster continuous improvement in the quality of the Head Start programs under this subchapter and in their effectiveness in enabling participating children and their families to succeed in school and otherwise; and

"(B) use the Head Start programs to develop, test, and disseminate new ideas and approaches for addressing the needs of low-income preschool children (including children with disabilities) and their families and communities, and otherwise to further the purposes of this subchapter.

"(2) PLAN.—The Secretary shall develop, and periodically update, a plan governing the research, demonstration, and evaluation activities under this section.

"(b) CONDUCT OF RESEARCH, DEMONSTRATION, AND EVALUATION ACTIVITIES.—The Secretary, in order to conduct research, demonstration, and evaluation activities under this section—

"(1) may carry out such activities directly, or through grants to, or contracts or cooperative agreements with, public or private entities;

"(2) shall, to the extent appropriate, undertake such activities in collaboration with other Federal agencies, and with non-Federal agencies, conducting similar activities;

"(3) shall ensure that evaluation of activities in a specific program or project is conducted by persons not directly involved in the operation of such program or project;

"(4) may require Head Start agencies to provide for independent evaluations;

"(5) may approve, in appropriate cases, community-based cooperative research and evaluation efforts to enable Head Start programs to collaborate with qualified researchers not directly involved in program administration or operation; and

"(6) may collaborate with organizations with expertise in inclusive educational strategies for preschoolers with disabilities.

"(c) CONSULTATION AND COLLABORATION.—In carrying out activities under this section, the Secretary shall—

"(1) consult with—

"(A) individuals from relevant academic disciplines;

"(B) individuals who are involved in the operation of Head Start programs and individuals who are involved in the operation of other child and family service programs; and

"(C) individuals from other Federal agencies, and individuals from organizations, involved with children and families, ensuring that the individuals described in this subparagraph reflect the multicultural nature of the children and families served by the Head Start programs and the multidisciplinary nature of the Head Start programs;

"(2) whenever feasible and appropriate, obtain the views of persons participating in and served by programs and projects assisted under this subchapter with respect to activities under this section; and

"(3) establish, to the extent appropriate, working relationships with the faculties of institutions of higher education, as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), located in the area in which any evaluation under this section is being conducted, unless there is no such institution of higher education willing and able to participate in such evaluation.

"(d) SPECIFIC OBJECTIVES.—The research, demonstration, and evaluation activities under this subchapter shall include components designed to—

"(1) permit ongoing assessment of the quality and effectiveness of the programs under this subchapter;

"(2) contribute to developing knowledge concerning factors associated with the quality and effectiveness of Head Start programs and in identifying ways in which services provided under this subchapter may be improved;

"(3) assist in developing knowledge concerning the factors that promote or inhibit healthy development and effective functioning of children and their families both during and following participation in a Head Start program;

"(4) permit comparisons of children and families participating in Head Start programs with children and families receiving other child care, early childhood education, or child development services and with other appropriate control groups;

"(5) contribute to understanding the characteristics and needs of population groups eligible for services provided under this subchapter and the impact of such services on the individuals served and the communities in which such services are provided;

"(6) provide for disseminating and promoting the use of the findings from such research, demonstration, and evaluation activities; and

"(7) promote exploration of areas in which knowledge is insufficient, and that will otherwise contribute to fulfilling the purposes of this subchapter.

"(e) LONGITUDINAL STUDIES.—In developing priorities for research, demonstration, and evaluation activities under this section, the Secretary shall give special consideration to longitudinal studies that—

"(1) examine the developmental progress of children and their families both during and following participation in a Head Start program, including the examination of factors that contribute to or detract from such progress;

"(2) examine factors related to improving the quality of the Head Start programs and the preparation the programs provide for children and their families to function effectively in schools and other settings in the years following participation in such a program; and

"(3) as appropriate, permit comparison of children and families participating in Head Start programs with children and families receiving other child care, early childhood education, or child development services, and with other appropriate control groups.

"(f) OWNERSHIP OF RESULTS.—The Secretary shall take necessary steps to ensure that all studies, reports, proposals, and data produced or developed with Federal funds under this subchapter shall become the property of the United States.".

SEC. 117. ANNOUNCEMENTS AND EVALUATIONS.

Section 650 (42 U.S.C. 9845) is repealed.

SEC. 118. REPORTS.

(a) IN GENERAL.—Section 651 (42 U.S.C. 9846) is amended—

(1) by striking the section heading and all that follows through subsection (f) and inserting:

"**SEC. 651. REPORTS.**";

(2) by striking "(g)";

(3) in paragraph (10), by striking "evaluations conducted under section 641(c)(2)" and inserting "monitoring conducted under section 641A(c)"; and

(4)(A) by striking "and" at the end of paragraph (11);

(B) by striking the period at the end of paragraph (12) and inserting a semicolon; and

(C) by adding after paragraph (12) the following:

"(13) a summary of information concerning the research, demonstration, and evaluation activities conducted under section 649, including—

"(A) a status report on ongoing activities; and

"(B) results, conclusions, and recommendations, not included in any previous report, based on completed activities; and

"(14) a study of the availability and delivery of Head Start programs to Indian children living on and near Indian reservations and to children of migrant and seasonal farmworkers, including estimates of the percentages of such children being served by Head Start programs.".

(b) REDESIGNATION.—Section 651 is redesignated as section 650.

SEC. 119. REPEALS.

Sections 651A and 652 (42 U.S.C. 9846a and 9847) are repealed.

SEC. 120. CONSULTATION WITH THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

The Act is amended by adding at the end the following:

"SEC. 657A. CONSULTATION WITH THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

"The Secretary shall consult with the Chief Executive Officer of the Corporation for National and Community Service regarding the dissemination of information about the Corporation's programs, to programs that receive funds under this subchapter.".

SEC. 121. STUDY OF BENEFITS FOR HEAD START EMPLOYEES.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study regarding the benefits available to individuals employed by Head Start agencies under the Head Start Act (42 U.S.C. 9831 et seq.).

(b) REPORT.—

(1) PREPARATION.—The Secretary shall prepare a report, containing the results of the study, that—

(A) describes the benefits, including health care benefits, family and medical leave, and retirement pension benefits, available to such individuals; and

(B) includes recommendations for increasing the access of the individuals to benefits, including access to a retirement pension program.

(2) SUBMISSION.—The Secretary shall submit the report to the appropriate committees of Congress.

SEC. 122. STUDY OF FULL-DAY AND FULL-YEAR HEAD START PROGRAMS.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study of the extent to which Head Start programs are addressing the need for child care services during a full working day or full calendar year among eligible low-income families with preschool children.

(b) REPORT.—The Secretary shall prepare and submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate not later than January 1996, containing the results of the study that—

(1) describes the number of full-day, full-year Head Start programs and the number of children served in such program or provided full-day or full-year services through arrangements with other service providers;

(2) compares the number of children in full-day or full-year Head Start programs with the need for full-day or full-year care among such families;

(3) identifies the barriers to meeting the need for full-day, full-year care among such families;

(4) describes promising models currently employed by Head Start programs for meeting such needs both directly and through arrangements with other service providers; and

(5) makes recommendations on how the child care needs of families with children enrolled in Head Start programs may be addressed.

SEC. 123. STATE DEPENDENT CARE DEVELOPMENT PROGRAMS.

Section 670A of the State Dependent Care Development Grants Act (42 U.S.C. 9871) is amended by striking "are authorized to be appropriated" and all that follows and inserting "is authorized to be appropriated $13,000,000 for fiscal year 1995.".

SEC. 124. REAUTHORIZATION OF CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE ACT OF 1985.

Section 606 of the Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10905) is amended by striking "$1,500,000" and all that follows and inserting "to carry out this title such sums as may be necessary for fiscal year 1995.".

SEC. 125. TECHNICAL AND CONFORMING AMENDMENTS.

(a) HEAD START TRANSITION PROJECT ACT.—Section 133(a) of the Head Start Transition Project Act is amended by striking "639(c)" and inserting "639(b)".

(b) SOCIAL SECURITY ACT.—Section 1924(d)(3)(A)(i) of the Social Security Act (42 U.S.C. 1396r-5(d)(3)(A)(i)) is amended by striking "sections 652 and 673(2)" and inserting "section 673(2)".

SEC. 126. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—This title, and the amendments made by this title, shall take effect on the date of enactment of this title.

(b) APPLICATION.—The requirements of this title and the amendments made by this title shall not apply to Head Start agencies and other recipients of financial assistance under the Head Start Act with respect to fiscal years ending before October 1, 1994.

TITLE II—COMMUNITY SERVICES BLOCK GRANT AMENDMENTS

SEC. 201. SHORT TITLE AND REFERENCES.

(a) Short Title.—This title may be cited as the "Community Services Block Grant Amendments of 1994".

(b) References.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Community Services Block Grant Act (42 U.S.C. 9901 et seq.).

SEC. 202. AUTHORIZATIONS OF APPROPRIATIONS.

(a) Authorization of Appropriation.—Subsection (b) of section 672 (42 U.S.C. 9901(b)) is amended to read as follows:

"(b) There are authorized to be appropriated $525,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1998, to carry out this subtitle.".

(b) State Allocations.—Section 674 (42 U.S.C. 9903) is amended—

(1) by redesignating subsections (a), (b) and (c) as subsections (b), (c) and (d), respectively; and

(2) by inserting before subsection (b) (as so redesignated), the following:

"(a)(1) Of the amounts appropriated for a fiscal year pursuant to section 672(b), the Secretary may reserve not less than one-half of 1 percent and not more than 1 percent for training, technical assistance, planning, and evaluation activities related to programs or projects carried out under this subtitle. Such activities may be carried out by the Secretary directly or through grants, contracts, or cooperative agreements.

"(2) The process for determining the technical assistance and training activities to be carried out under this section shall—

"(A) ensure the needs of eligible entities relating to the improving program quality are addressed to the maximum extent feasible; and

"(B) incorporate mechanisms to ensure responsiveness to local needs, including an ongoing procedure for obtaining input from the community action State and national network as well as community development corporation national and State organizations.

"(3) In allocating resources for technical assistance and training under this section, the Secretary shall—

"(A) assist eligible entities in the development of sound management practices, including financial management practices; and

"(B) consistent with the availability of funds, respond to the training requests and concerns of community development corporations, community action agencies and programs.".

(c) Applications and Requirements.—

(1) Form and assurances.—Section 675(a) (42 U.S.C. 9904(a)) is amended by inserting "or significant amendments thereof" before "shall contain assurances".

(2) Use of funds.—Section 675(c)(1) (42 U.S.C. 9904(c)(1)) is amended by striking "use the funds available under this subtitle" and inserting "ensure that, at its discretion and consistent with agreements with the State, each recipient of funds available under this subtitle will use such funds".

(3) Assured activities.—Section 675(c)(1)(B) (42 U.S.C. 9904(c)(1)(B)) is amended by inserting "homeless individuals and families, migrants, and" before "the elderly poor".

(4) State responsibilities.—Section 675(c)(2)(B) (42 U.S.C. 9904(c)(2)(B)) is amended to read as follows:

"(B) if less than 100 percent of the allotment is expended under subparagraph (A), provide assurances that with respect to the remainder of the allotment a reasonable amount shall be used for—

"(i) providing training and technical assistance to those entities in need of such assistance and such activities will not be considered administrative expenses;

"(ii) coordinating State-operated programs and services targeted to low-income children and families with services provided by eligible entities funded under this subtitle, including outposting where appropriate State or local public employees into entities funded under this subtitle to ensure increased access to services provided by such State or local agencies;

"(iii) supporting statewide coordination and communication among eligible entities;

"(iv) administrative expenses at the State level, including monitoring activities, but not more than the greater of $55,000 or 5 percent of allotment under section 674; and

"(v) considering the distribution of funds under this subtitle within the State to determine if such funds have been targeted to the areas of greatest need.".

(5) Tripartite board.—Section 675(c)(3) (42 U.S.C. 9904(c)(3)) is amended—

(A) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii) and (iii), respectively;

(B) by striking the comma after "provide assurances that" and inserting "(A)"; and

(C) by adding at the end the following: "and

"(B) in the case of public organization receiving funds under this subtitle, such organization either establish—

"(i) a board of which at least one-third of the members are persons chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area served; or

"(ii) another mechanism specified by the State to assure low-income citizen participation in the planning, administration, and evaluation of projects for which such organization has been funded;".

(d) Community Action Agency Plan.—Section 675(c) (42 U.S.C. 9904(c)) is amended—

(1) in paragraph (11)—

(A) by redesignating clauses (i) through (iii) of subparagraph (A) as items (i) through (iii), respectively;

(B) by realigning the margin of the sentence beginning with "For purposes of" so as to align with paragraph (A) of paragraph (1);

(C) by striking "For purposes of" and inserting "(A) For purposes of";

(D) by striking "(A) a statewide" and inserting "(i) a statewide";

(E) by striking "(B) the failure" and inserting "(ii) the failure";

(F) by inserting immediately before paragraph (12) the following:

"(B) for purposes of making a determination with respect to a termination, the term 'cause' includes the material failure of an eligible entity to comply with the terms of its agreement and community action plan to provide services under this subtitle;".

(2) in paragraph (12) by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (12) the following:

"(13) secure from each eligible entity as a condition to its receipt of funding under this subtitle a community action plan (which shall be available to the Secretary for inspection) that includes—

"(A) a community needs assessment (including food needs);

"(B) a description of the service delivery system targeted to low-income individuals and families in the service area;

"(C) a description of how linkages will be developed to fill identified gaps in services through information, referral, case management, and followup consultations;

"(D) a description of how funding under this Act will be coordinated with other public and private resources; and

"(E) a description of outcome measures to be used to monitor success in promoting self-sufficiency, family stability, and community revitalization; and

"(14) provide assurances that cost and accounting standards of the Office of Management and Budget shall apply to a recipient of funds under this subtitle.".

(e) Public Inspections of Plans.—Section 675(d)(2) (42 U.S.C. 9904(d)(2)) is amended by inserting "or revision" after "Each plan".

(f) Audits.—The last sentence of section 675(f) (45 U.S.C. 9904(f)) is amended by inserting before "to the legislature" the following: "to the eligible entity at no charge,".

(g) Evaluation Involving Waivers.—Section 675(h) (42 U.S.C. 9904(h)) is amended by inserting "(including any State that received a waiver under Public Law 98–139)" after "States" the last place it appears.

SEC. 203. DISCRETIONARY AUTHORITY OF SECRETARY.

(a) Training and Activities.—Section 681(a) (42 U.S.C. 9910(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "to provide for—" and all that follows through "(2)" and inserting "to provide for"; and

(2) by striking "special emphasis programs for—" and all that follows through paragraph (3), and inserting the following:

"a Community Initiative Program, awarded on a competitive basis, to fund private, nonprofit community development corporations for purposes of planning and carrying out community and economic development activities in economically distressed areas and in rural areas, as described in subsection (c).".

(b) Community Initiative Program.—Subsection (b) of section 681 (42 U.S.C. 9910) is amended to read as follows:

"(b) Community Initiative Program.—

"(1) In general.—

"(A) Economic development activities.—Economic development activities under this section shall be designed to address the economic needs of low-income individuals and families by creating employment and business development opportunities.

"(B) Consultation.—The Secretary shall exercise the authority provided under subparagraph (A) in consultation with other relevant Federal officials.

"(C) Governing boards.—Each community development corporation receiving funds under this section shall be governed by a board that shall consist of residents of the community and business and civic leaders and shall have as a principal purpose planning, developing or managing community development projects.

"(D) Geographic distribution.—In providing assistance or entering into other arrangements under this section, the Secretary shall take into consideration the geographic distribution of funds among States and the relative proportion of funding among rural and urban areas.

"(2) Rural community development activities.—Rural community development activities under this section shall include—

"(A) grants to private, nonprofit corporations that provide assistance to rural low-income families in home repair and in planning and developing low-income rural rental housing units;

"(B) grants to multistate, regional private, nonprofit organizations that provide training and technical assistance to small, rural communities in meeting their community facility needs; and

"(C) grants to nonprofit private organizations that provide assistance for migrants and seasonal farmworkers.".

SEC. 204. COMMUNITY FOOD AND NUTRITION.

Subsection (d) of section 681A (42 U.S.C. 9910a(d)) is amended to read as follows:

"(d) There are authorized to be appropriated $25,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1998, to carry out this section.".

SEC. 205. INSTRUCTIONAL ACTIVITIES FOR LOW-INCOME YOUTH.

The Act (42 U.S.C. 9901 et seq.) is amended—

(1) by redesignating sections 682 and 683 as sections 683 and 684, respectively; and

(2) by inserting after section 681 the following:

"SEC. 682. NATIONAL OR REGIONAL PROGRAMS DESIGNED TO PROVIDE INSTRUCTIONAL ACTIVITIES FOR LOW-INCOME YOUTH.

"(a) GENERAL AUTHORITY.—The Secretary of Health and Human Services is authorized to make a grant to an eligible service provider to administer national or regional programs to provide instructional activities for low-income youth. In making such a grant, the Secretary shall give a priority to eligible service providers that have a demonstrated ability to operate such a program.

"(b) PROGRAM REQUIREMENTS.—

"(1) Any instructional activity carried out by an eligible service provider receiving a grant under this subsection shall be carried out on the campus of an institution of higher education (as defined in section 1201(a) of the Higher Education Act) and shall include—

"(A) access to the facilities and resources of such an institution;

"(B) an initial medical examination and follow-up referral or treatment, without charge, for youth during their participation in such activity;

"(C) at least one nutritious meal daily, without charge, for participating youth during each day of participation;

"(D) high quality instruction in a variety of sports (that shall include swimming and that may include dance and any other high quality recreational activity) provided by coaches and teachers from institutions of higher education and from elementary and secondary schools (as defined in sections 1471(8) and 1471(21) of the Elementary and Secondary Education Act of 1965); and

"(E) enrichment instruction and information on matters relating to the well-being of youth, to include educational opportunities and study practices, education for the prevention of drugs and alcohol abuse, health and nutrition, career opportunities and family and job responsibilities.

"(c) ELIGIBLE PROVIDERS.—A national private non-profit organization, a coalition of such organizations, or a private nonprofit organization applying jointly with a business concern shall be eligible for a grant under this subsection if—

"(1) the applicant has demonstrated experience in operating a program providing instruction to low-income youth;

"(2) the applicant shall contribute amounts in cash or fairly evaluated in kind of no less than 25 percent of the amount requested;

"(3) the applicant shall use no funds from a grant authorized under this section for administrative expenses; and

"(4) the applicant agrees to comply with the regulations or program guidelines promulgated by the Secretary of Health and Human Services for use of funds made available by this grant.

"(d) APPLICATIONS PROCESS.—Eligible service providers may submit to the Secretary of Health and Human Services, for approval, an application in such form at such time as the Secretary deems appropriate.

"(e) PROMULGATION OF REGULATIONS OR PROGRAM GUIDELINES.—The Secretary of Health and Human Services shall promulgate regulations or program guidelines to ensure funds made available under a grant made under this section are used in accordance with the intentions of this Act.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $15,000,000 for each fiscal year 1995, 1996, 1997, and 1998 for grants to carry out this section.".

SEC. 206. AMENDMENT TO STEWART B. McKINNEY HOMELESS ASSISTANCE ACT.

The last section of subtitle D of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11646) is amended—

(1) by striking "SEC. 751." and by inserting "SEC. 754.", and

(2) by striking "1991" and all that follows through "1993", and inserting "1995, 1996, 1997, and 1998".

SEC. 207. AMENDMENTS TO THE HUMAN SERVICES REAUTHORIZATION ACT OF 1986.

Section 408 of the Human Services Reauthorization Act of 1986 (42 U.S.C. 9901b) is amended—

(1) in subsection (a) by adding at the end of the following:

"(3) Initial and subsequent grant awards may fully fund projects for periods of up to 3 years.";

(2) in subsection (b)(1)(B) by striking "After the first fiscal year" and inserting "After the first funding period";

(3) by amending subsection (c)—

(A) by amending paragraph (1) to read as follows:

"(1) In addition to the grant programs described in subsection (a), the Secretary may make grants to community action agencies for the purpose of enabling such agencies to demonstrate new approaches to dealing with the problems associated with urban gangs or similar antisocial activities of urban youth. Demonstrations shall include such activities as peer counseling, mentoring, development of job skills, assistance with social skills, antigang education, family literacy, parenting skills, and other services designed to assist at-risk youth to continue their education, to secure meaningful employment, or to pursue other productive alternatives to joining gangs or engaging in any other form of anti-social activity."; and

(B) by amending paragraph (4) to read as follows:

"(4) Such grants made under this subsection on a competitive basis shall be based on an annual competition determined by the Secretary. Grants made under this subsection shall not exceed $500,000."; and

(4) by amending subsection (h) to read as follows:

"(h) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $30,000,000 for fiscal year 1995, and such sums as may be necessary for fiscal years 1996, 1997, and 1998, to carry out this section.

"(2) Of the amounts appropriated for this section not less than 30 percent shall be used to carry out the programs authorized under subsection (c).

"(3) In addition to sums which are required to carry out the evaluation, reporting, and dissemination of results under subsections (a), (c), (d), and (f), the Secretary is authorized to reserve up to 2 percent of the amounts appropriated pursuant to subparagraphs (1) and (2) for administration of the program as well as for planning and technical assistance.".

SEC. 208. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect on October 1, 1994.

TITLE III—LOW-INCOME HOME ENERGY ASSISTANCE AMENDMENTS

SECTION 301. SHORT TITLE AND REFERENCES.

(a) SHORT TITLE.—This title may be cited as the "Low-Income Home Energy Assistance Amendments of 1994".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

SEC. 302. STATEMENT OF PURPOSE.

Section 2602(a) (42 U.S.C. 8621(a)) is amended to read as follows:

"(a) In order to assist low-income households, particularly those with the lowest incomes that pay a high proportion of their income for home energy, both in meeting their immediate home energy needs, and in attaining the capacity to meet such needs independently in the future, the Secretary of Health and Human Services may make grants to States for programs and activities consistent with this title.".

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNTS AUTHORIZED.—Section 2602 (42 U.S.C. 8621) is amended—

(1) in subsection (b), by striking "this title" and all that follows through the end of the first sentence and inserting "this title, $2,000,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1999."; and

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "(1)";

(ii) by striking "July 1" and inserting "October 1"; and

(iii) by striking "for which" and inserting "following the year in which"; and

(B) by striking paragraphs (2) and (3);

(b) INCENTIVE PROGRAM FOR LEVERAGING NON-FEDERAL SOURCES.—Subsection (d) of section 2602 (42 U.S.C. 8621(d)) is amended to read as follows:

"(d) There are authorized to be appropriated to carry out section 2607A, $50,000,000 for each of the fiscal years 1995 and 1996, and such sums as may be necessary for each of the fiscal years 1997 through 1999.".

SEC. 304. EMERGENCY FUNDS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 2602 (42 U.S.C. 8621), as amended by section 303, is amended by adding at the end thereof the following:

"(e) There is authorized to be appropriated in each fiscal year for payments under this title, in addition to amounts appropriated for distribution to all the States in accordance with section 2604 (other than subsection (g)), $600,000,000 to meet the additional home energy assistance needs of one or more States arising from a natural disaster or other emergency. Funds appropriated pursuant to this subsection are hereby designated to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, except that such funds shall be made available only after the submission to Congress of a formal budget request by the President (for all or a part of the appropriation pursuant to this subsection) that includes a designation of the amount requested as an emergency requirement as defined in such Act.".

(b) HOME ENERGY.—Section 2603 (42 U.S.C. 8622(3)) is amended—

(1) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as paragraphs (2), (4), (5), (6), (7), (8), and (9), respectively;

(2) by inserting before paragraph (2), as so redesignated, the following:

"(1) The term 'energy burden' means the expenditures of the household for home energy divided by the income of the household."; and

(3) by inserting before paragraph (4), as so redesignated, the following:

"(3) The term 'highest home energy needs' means the home energy requirements of a household determined by taking into account both the energy burden of such household and the unique situation of such household that results from having members of vulnerable populations, including very young children, individuals with disabilities, and frail older individuals.".

(c) ALLOTMENT OF EMERGENCY FUNDS.—Section 2604 (42 U.S.C. 8623) is amended by adding at the end thereof the following:

"(g) Notwithstanding subsections (a) through (f), the Secretary may allot amounts appropriated pursuant to section 2602(e) to one or more than one State. In determining to which State or States additional funds may be allotted, the Secretary shall take into account the extent to which a State was affected by the emergency or disaster, the availability to an affected State of other resources under this or any other program, and such other factors as the Secretary determines relevant. The Secretary shall notify Congress of the proposed allotment pursuant to this subsection before releasing the allotted funds.".

SEC. 305. AUTHORIZED USES OF FUNDS.

(a) IN GENERAL.—Paragraph (1) of section 2605(b) (42 U.S.C. 8624(b)(1)) is amended to read as follows:

"(1) use the funds available under this title to—

"(A) conduct outreach activities and provide assistance to low income households in meeting their home energy costs, particularly those with the lowest incomes that pay a high proportion of household income for home energy, consistent with paragraph (5);

"(B) intervene in energy crisis situations;

"(C) provide low-cost residential weatherization and other cost-effective energy-related home repair; and

(D) plan, develop, and administer the State's program under this title including leveraging programs,

and the State agrees not to use such funds for any purposes other than those specified in this title;".

(b) ENCOURAGED REDUCED HOME ENERGY NEEDS.—Section 2605(b) (42 U.S.C. 8624(b)) is amended—

(1) in paragraph (14) by striking "and" at the end;

(2) in paragraph (15), by striking the period and inserting "; and"; and

(3) by inserting after paragraph (15) the following:

"(16) use such funds, at its option, to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance, including needs assessments, counseling, and assistance with energy vendors.".

SEC. 306. TARGETING OF ASSISTANCE OF HOUSEHOLDS WITH HIGH HOME ENERGY BURDENS.

(a) HOUSE INCOME.—Section 2605(b)(2)(B) (42 U.S.C. 8624(b)(2)(B)) is amended by striking the matter following clause (ii) and inserting the following:

"except that a State may not exclude a household from eligibility in a fiscal year solely on the basis of household income if such income is less than 110 percent of the poverty level for such State, but the State may give priority to those households with the highest home energy costs or needs in relation to household income;".

(b) OUTREACH ACTIVITIES.—Section 2605(b)(3) (42 U.S.C. 8624(b)(3)) is amended by striking "are made aware" and inserting "and households with high home energy burdens, are made aware".

(c) ASSISTANCE LEVELS.—Section 2605(b)(5) (42 U.S.C. 8624(b)(5)) is amended by inserting "or needs" after "highest energy costs".

(d) STATE PLAN.—Section 2605(c)(1) (42 U.S.C. 8624(c)(1)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (H), respectively; and

(2) by inserting after subparagraph (D) the following:

"(E) describes any steps that will be taken (in addition to those necessary to carry out the assurance contained in paragraph (5) of subsection (b)) to target assistance to households with high home energy burdens;".

SEC. 307. CLARIFICATION OF AUDIT REQUIREMENT.

Section 2605 (42 U.S.C. 8624) is amended—

(1) in subsection (b)(10), by striking "and provide that" and all that follows and inserting "and provide that the State will comply with chapter 75 of title 31, United States Code (commonly known as the 'Single Audit Act');"; and

(2) in subsection (e), by striking "at least every two years" and all that follows and inserting "in accordance with chapter 75 of title 31, United States Code.".

SEC. 308. USE OF DEPARTMENT OF ENERGY WEATHERIZATION RULES TO ACHIEVE PROGRAM CONSISTENCY.

Section 2605(c)(1)(D) (42 U.S.C. 8624(c)(1)(D) is amended by inserting before the semicolon at the end thereof the following: ", including any steps the State will take to address the weatherization and energy-related home repair needs of households that have high home energy burdens, and describes any rules promulgated by the Department of Energy for administration of its Low Income Weatherization Assistance Program which the State, to the extent permitted by the Secretary to increase consistency between federally assisted programs, will follow regarding the use of funds provided under this title by the State for such weatherization and energy-related home repairs and improvements".

SEC. 309. MATTERS TO BE DESCRIBED IN ANNUAL APPLICATION.

Section 2605(c)(1) (42 U.S.C. 8624(c)(1)) is amended—

(1) in subparagraph (F) (as so redesignated by section 306(d) of this Act)—

(A) by striking "and (13)" and inserting "(13), and (15)"; and

(B) by striking "and" at the end thereof; and

(2) by inserting after subparagraph (F) (as so redesignated by section 306(d) of this Act), the following:

"(G) states, with respect to the 12-month period specified by the Secretary, the number and income levels of households which apply and the number which are assisted with funds provided under this title, and the number of households so assisted with—

"(i) one or more members who has attained 60 years of age;

"(ii) one or more members who were disabled; and

"(iii) one or more young children; and".

SEC. 310. REPORT OF FUNDS AVAILABLE FOR OBLIGATION.

Section 2607(a) (42 U.S.C. 8628(a)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following:

"(2) Each State shall notify the Secretary, not later than 2 months prior to the close of a fiscal year, of the amount (if any) of its allotment for such year that will not be obligated in such year, and if such State elects to submit a request described in subsection (b)(2), such State shall submit such request at the same time. The Secretary shall make no payment under paragraph (1) to a State for a fiscal year unless the State has complied with this paragraph with respect to the prior fiscal year.".

SEC. 311. MISCELLANEOUS AND TECHNICAL AMENDMENTS.

(A) IN GENERAL.—

(1) TREATMENT OF HOUSEHOLDS.—Section 2605b)(7)(D) (42 U.S.C. 8624(b)(7)(D)) us amended to read as follows:

"(D) ensure that the provision of vendored payments remains at the option of the State in consultation with local grantees and may be contingent on vendors taking appropriate measures to alleviate the energy burdens of eligible households, including providing for compacts between suppliers and individuals eligible for benefits under this title that seek to reduce home energy costs, minimize the risks of home energy crisis, and encourage regular payments by individuals receiving financial assistance for home energy costs;".

(2) INCENTIVE PROGRAM.—Section 2607A(e) (42 U.S.C. 8626a(e)) is amended by striking "July 31, of each year" and inserting "2 months after the close of the fiscal year during which the State provided leveraged resources to eligible households, as described in subsection (b)".

(3) TRAINING AND TECHNICAL ASSISTANCE.—Section 2609A(a) is amended by striking "$500,000" and inserting "$250,000".

(b) TECHNICAL AMENDMENTS.—

(1) Section 2602 (42 U.S.C. 8621) is amended—

(A) in subsection (b), as amended by section 303 of this Act—

(i) by inserting "(other than section 2607A)" after "to carry out the provisions of this title"; and

(ii) by striking the second period at the end thereof; and

(B) in subsection (c)(1) by striking "Act" and inserting "title".

(2) Section 2603(2) (42 U.S.C. 8622(2)), as amended by section 304 of this Act, is amended—

(A) by striking "(4) the" and inserting "(4) The"; and

(B) by striking the semicolon at the end thereof and inserting a period.

(3) Section 2604 (42 U.S.C. 8223) is amended—

(A) in subsection (b)(1) by inserting "of the United States" after "Virgin Islands"; and

(B) in subsection (c)(B)(3)(ii) by striking "application" and inserting "applications".

(4) The sentence that immediately precedes paragraph (15) of section 2605(b) (42 U.S.C. 8624(b)) is transferred so as to appear as a flush sentence immediately after paragraph (16).

(5) Section 2605(b)(3) (42 U.S.C. 8624(b)(3)) is amended by striking "handicapped" and inserting "disabled".

(6) Section 2607A(c)(2) (42 U.S.C. 8626a(c)(2)) is amended by striking ".0008 percent" and inserting "0.08 percent".

(7) Section 2610(a) (42 U.S.C. 8629(a)) is amended—

(A) in paragraph (2), by striking the semicolon after "used" and inserting a semicolon after "title"; and

(B) in paragraph (5)—

(i) by striking "handicapped" and inserting "disabled"; and

(ii) by inserting before the semicolon at the end thereof "or include young children".

(c) CRITERIA AND REPORT.—Section 2605(b) (42 U.S.C. 8624(b)), as amended by subsection (b) of this section, is amended by adding at the end the following: "The Secretary shall develop performance goals and measurements in consultation with State, tribal, and local grantees, that the States may use to assess their success in achieving the purposes of this title and shall, beginning in 1996, makes such goals and measurements available together with the model plan required by paragraph (3). Not later than 18 months after the date of the enactment of this sentence, the Secretary shall report to the committees of the House of Representatives and of the Senate that have jurisdiction of this title, on the manner in which, and the degree to which State and local energy assistance programs carried out under this title are meeting the purposes of this title and on any improvements or changes necessary to accelerate the achievement of these goals. The Secretary may not require additional program or client data to be collected by grantees for such report.".

SEC. 312. RESIDENTIAL ENERGY ASSISTANCE CHALLENGE OPTION (R.E.A.C.H.).

The Act is amended by inserting after section 2607A the following:

"SEC. 2607B. RESIDENTIAL ENERGY ASSISTANCE CHALLENGE OPTION (R.E.A.C.H.).

"(a) For fiscal year 1996, and each subsequent fiscal year, the Secretary shall allocate not less than 5 percent of the amount appropriated under section 2607A for such fiscal year to a Residential Energy Assistance Challenge Fund for the purpose of making challenge grants to States that submit qualifying plans that are approved by the Secretary for a Residential Energy Assistance Challenge (in this section referred to as 'R.E.A.Ch.') initiative in such State. States may use such grants—

"(1) for the costs of planning, implementing, and evaluating the initiative; and

"(2) for the costs of achieving performance goals including the long-term reduction of the energy burden program dependency of households eligible for, or receiving, energy assistance under this title, and those goals set out in subsection (b) of the initiative established by the States and approved by the Secretary.

"(b) The Secretary shall establish criteria for approving State plans required by subsection (a). Such criteria shall require such plans to include the following goals:

"(1) To minimize health and safety risks that result from high energy burdens on low-income Americans.

"(2) To prevent homelessness as a result of inability to pay energy bills.

"(3) To increase the efficiency of energy usage by low-income families.

"(4) To target energy assistance to those most in need.

"(5) To encourage eventual energy self-sufficiency for low-income persons.

"(c)(1) Notwithstanding subsection (a), the Secretary may not approve a State plan submitted under such subsection unless such plan includes provisions acceptable to the Secretary with respect to each of the required program elements specified in subsection (d).

"(2) The Secretary may require a State to provide appropriate documentation that its R.E.A.Ch. activities conforms to the State plan as approved by the Secretary.

"(3) Subject to approval by the Secretary, a State plan may include benefits and services in addition to those required program elements specified in subsection (d) that are consistent with the purpose of this title and the R.E.A.Ch. Challenge Option.

"(4) A State may designate all or part of the State, or all or part of the client population, as the focus of its R.E.A.Ch. initiative.

"(d) Each State plan submitted under subsection (a) shall include the following:

"(1)(A) An assurance that such State will provide R.E.A.Ch. services will be delivered through community-based nonprofit entities in such State by—

"(i) making grants to or contracts with such entities for the purpose of providing such services and benefits directly to individuals eligible for such services and benefits; or

"(ii) if a State makes payments directly to eligible individuals or energy suppliers, making contracts with such local entities to administer such programs, including determining eligibility, providing outreach services, and providing noncash benefits.

"(B) An assurance that in making grants or contracts to carry out such R.E.A.Ch. initiative, States shall give priority in selecting organizations described in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902(1)); organizations which the Secretary has determined have a record of successfully providing energy services under this title; and organizations that receive weatherization assistance program funds under this title, except that a State may not require any such entity to operate a R.E.A.Ch. initiative program.

"(2) An assurance that all entities that receive grants or contracts under paragraph (1)(A) will provide a program of services and benefits that includes, at a minimum—

"(A) payments to or on behalf of individuals eligible for residential energy assistance services and benefits pursuant to section 2605(b) for home energy costs;

"(B) home-energy-demand-management services, such as residential weathrization energy education and other energy-related home repair which services to be provided jointly with existing Department of Energy weatherization assistance programs;

"(C) counseling and needs assessment on energy budget management, payment plans, and related services; and

"(D) advocacy on behalf of households eligible for R.E.A.Ch. services and benefits before home energy suppliers and State or local energy regulatory officials.

"(3) A description of the methodology the State will use to determine—

"(A) which households will receive 1 or more forms of benefits under the State R.E.A.Ch. initiative;

"(B) the cases in which nonmonetary benefits are likely to provide more cost-effective long-term outcomes than monetary benefits alone.

"(4) A method for targeting nonmonetary benefits that is not inconsistent with the requirements of section 2605.

"(5) A description of the crisis and emergency assistance activities the State will carry out to demonstrate that such assistance provided under this section is designed to discourage crises, to encourage responsible vendor and consumer behavior, and to provide no financial incentive that discourages household payment.

"(6) A description of the activities the State will carry out to provide incentives for recipients of such assistance to pay home energy costs and for responsible vendor behavior. If such plan contains provisions for direct payments to vendors, such plan shall describe efforts such State will carry out—

"(A) to encourage regular payments by individuals or households receiving financial assistance for home energy costs;

"(B) to provide for compacts or covenants between suppliers of home energy and individuals eligible for services and benefits under this title that reduce home energy costs and minimize the risk of home energy crisis;

"(C) to ensure that local entities providing services and benefits under this title have staff who are charged with ensuring responsible vendor behavior;

"(D) to ensure that direct payments to vendors is at the option of the State and local providers and may be contingent on vendors taking appropriate measures to alleviate the energy burdens of eligible households.

"(7) Information and assurances demonstrating that R.E.A.Ch. services and benefits will be targeted to—

"(A) households with high energy burdens; and

"(B) individuals with acute health or safety vulnerability including small children, frail older individuals, and individuals with temporary energy-related emergencies.

"(8)(A) A detailed description of the financial standards that will be applied for determining eligibility for R.E.A.Ch. services and benefits. Such standards shall require that the highest level of assistance under this section will be furnished to households that have highest energy burdens.

"(B) An assurance that such State will require entities providing R.E.A.Ch. services or benefits to establish priorities for providing services to individuals residing in its service area consistent with the purposes of the State R.E.A.Ch. initiative.

"(9)(A) An assurance that such State has conducted public hearings, after giving notice in public media and by mail to all subgrantees, (DOE/WAP) subgrantees, and community action agencies, with respect to the provisions of such plan and before submitting such plan to the Secretary for approval.

"(B) A summary of comments received at such public hearing.

"(C) An assurance that such plan and any revision thereof submitted to the Secretary will be made available for public inspection in such a manner as will facilitate timely and meaningful review of, and comment.

"(10) An assurance that the State will require entities that receive funds under this section to take appropriate measures to solicit the views of individuals who are financially eligible for benefits and services under this section in establishing its local service priorities.

"(11) A description of specific performance goals for the State R.E.A.Ch. initiative and a description of the indicators that will be used to measure whether such performance goals have been achieved. Such performance goals shall include 1 or more of the following and such other goals as the Secretary may require:

"(A) To increase in the affordability of energy over 1 or more fiscal years.

"(B) To increase the regularity of home energy bill payments by eligible households.

"(C) To increase energy vendor contributions toward the costs of home energy on behalf of eligible individuals and households.

"(D) To decrease the incidence of homelessness and health and safety risks resulting from high household energy burdens.

"(e)(1) The Secretary may waive on request administrative cost ceilings and carryover requirements otherwise applicable to the first 3 years of the operation of a R.E.A.Ch. program's operations.

"(2) None of the costs of providing services or benefits required under this subsection shall be considered to be an administrative cost or function for purposes of any limitation on such administrative cost or functions contained in this title.

"(3) In verifying income eligibility for purposes of subsection this section, the State may apply procedures and policies consistent with procedures and policies used by the State agency administering programs under part A of title IV of the Social Security Act, under title XX of the Social Security Act, under the Community Services Block Grant program, under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this section, or under other income assistance or service programs (as determined by the State).

"(4) Neither a State nor a local provider of services or benefits shall be required to provide services or benefits to an individual or household if such provision is inconsistent with State or local priorities.

"(5) If a State chooses to pay home energy suppliers directly, the State plan shall include procedures identified in section 2605 of this title.".

SEC. 313. SENSE OF THE CONGRESS REGARDING APPROPRIATIONS FOR LIHEAP.

(a) FINDINGS.—(1) Seventy-seven percent of the over 25 million households that were eligible for the Low-Income Home Energy Assistance Program (hereinafter referred to as "LIHEAP") in fiscal year 1992 did not receive assistance due to a lack of funds.

(2) Recent economic distress has caused significant unemployment, which has resulted in a greater need for energy assistance than ever before.

(3) More than 66 percent of LIHEAP household recipients have an annual income that is below the poverty level.

(4) Forty-three percent of all LIHEAP eligible households include children.

(5) LIHEAP eligible households with children spend approximately 16 percent of their annual incomes on home energy costs, which is more than 4 times greater than that paid by the average household in the United States, and far beyond their means.

(6) Approximately 40 percent of LIHEAP household recipients are comprised of elderly or disabled persons.

(7) LIHEAP is an essential, long-term Federal program that is crucial to the well-being of impoverished American families and their children.

(8) Congress appropriated $1,475,000,000 for LIHEAP for fiscal year 1995.

(9) The Department of Energy predicts that the costs of residential fuels will increase at a pace greater than inflation.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the maintenance of LIHEAP should be a high priority in order to enable the working poor, the disabled, and the low-income elderly, who all depend on LIHEAP, to meet their energy costs and needs;

(2) all appropriations made for LIHEAP for fiscal year 1995 should be expended; and

(3) expenditures for LIHEAP for fiscal year 1996 should ensure the provision of services at or above the level provided in fiscal year 1995.

SEC. 314. EFFECTIVE DATE.

The amendments and repeals made by this title shall become effective on October 1, 1994.

TITLE IV—COMMUNITY-BASED FAMILY RESOURCE PROGRAMS

SEC. 401. SHORT TITLE.

This title may be cited as the "Family Resource and Support Act of 1994".

SEC. 402. COMMUNITY-BASED FAMILY SUPPORT AND FAMILY RESOURCE PROGRAMS.

(a) PURPOSE.—The purpose of this section is to support systems change activities designed to assist each State to develop and implement, or expand and enhance, a family-centered and family-directed, comprehensive, statewide system of family support and family resource services in collaboration with existing education, vocational rehabilitation, health, mental health, employment and training, child welfare, and other social services agencies within the State.

(b) AUTHORITY.—The Commissioner shall make grants to States for the purpose of—

(1) establishing and expanding statewide a system of community-based family support and family resource programs, including funds for the initial costs of providing specific family resource services, that ensure family involvement in the design and operation of family support and family resource programs which are responsive to the unique and diverse strengths of children and families;

(2) ensuring the active involvement of families of children with disabilities in the planning, development, implementation and evaluation of such a statewide system;

(3) promoting child abuse and neglect prevention activities;

(4) promoting the establishment and operation of State trust funds or other mechanisms for integrating child and family services funding streams in order to provide flexible funding for the development of community-based family support and family resource programs;

(5) establishing or expanding community-based collaboration to foster the development of a continuum of preventive services for children and families, which are family-centered and culturally competent;

(6) increasing and promoting interagency coordination among State agencies, and encouraging public and private partnerships in the establishment and expansion of family support and family resource programs; and

(7) facilitating the changing of laws, regulations, policies, practices, procedures, and organizational structures, which impede the availability or provision of family support and family resource services.

(c) ELIGIBILITY FOR GRANTS.—A State is eligible for a grant under this section for any fiscal year if—

(1) such State has established or maintained in the previous fiscal year—

(A) a trust fund, including appropriations for such fund; or

(B) any other mechanism for integrating family resource services funded by Federal, State, or private sources; and

(2) such trust fund or other funding mechanism includes (in whole or in part) provisions making funding available specifically for a broad range of child abuse and neglect prevention activities and family support and family resource programs.

(d) AMOUNT OF GRANT.—

(1) IN GENERAL.—Amounts appropriated for a fiscal year to provide grants under this section shall be allotted, among eligible States in each fiscal year so that—

(A) 50 percent of the total amount appropriated for such fiscal year is allotted among each State based on the number of children under the age of 18 residing in each State, except that each State shall receive not less than $1,000,000, and each territory shall receive not more than $100,000; and

(B) the remaining 50 percent of the total amount appropriated for such fiscal year is allotted in an amount equal to 25 percent of the total amount allocated by each such State to the State's trust fund or other mechanism for integrating family resource services in the fiscal year prior to the fiscal year for which the allotment is being determined.

(2) MINIMUM GRANT AMOUNT.—If the amount appropriated for any fiscal year is less than $50,400,000, grants shall be awarded on a competitive basis with no grantee receiving less than $1,000,000.

(3) AWARD PERIOD.—Grants made on a competitive basis shall be awarded for a period of 3 years and shall be calculated in the manner described in paragraph (1).

(4) GRANTS TO TERRITORIES.—From amounts appropriated to carry out this section for any fiscal year, the Commissioner shall pay to each territory that has an application approved under this section not more than $100,000.

(e) EXISTING GRANTS.—A State that has a grant in effect on the date of enactment of this section under the Family Resource and Support Program shall continue to receive funds under such Program, subject to the original terms under which such funds were granted, through the end of the applicable grant cycle.

(f) APPLICATION.—No grant may be made to any eligible State under this section unless an application is prepared and submitted to the Commissioner at such time, in such manner, and containing or accompanied by such information as the Commissioner determines to be essential to carry out the purposes and provisions of this section, including—

(1) a description of the agency designated by the Chief Executive Officer of the State to administer the funds provided under this section and assume responsibility for implementation and oversight of the family support and family resource programs and other child abuse and neglect prevention activities, and an assurance that the agency so designated—

(A) is the trust fund advisory board or an existing quasi-public organization with interdisciplinary governance that pools State, Federal, and private funds for family support and family resource programs or integrating child and family service resources; or

(B) with respect to a State without a trust fund mechanism or quasi-public organization that meets the requirements of subparagraph (A), is an existing State agency, or other public, quasi-public, or nonprofit private agency responsible for the development and implementation of a statewide network of community-based family support and family resource programs;

(2) assurances that the agency designated under paragraph (1) can demonstrate the ca-

pacity to fulfill the purposes described in subsection (a), and shall have—

(A) a demonstrated ability to work with other State and community-based agencies, to provide training and technical assistance;

(B) a commitment to parental participation in the design and implementation of family support and family resource programs;

(C) the capacity to promote a statewide system of family support and family resource programs throughout the State; and

(D) the capacity to exercise leadership in implementing effective strategies for capacity building, family and professional training, and access to and funding for family support and family resource services across agencies;

(3) an assurance that the lead entity will coordinate the activities funded through a grant made under this section with the activities carried out by councils within the State, including the following councils:

(A) the State Interagency Coordinating Council, established under part H of the Individuals with Disabilities Education Act;

(B) the advisory panel established under section 613(a)(12) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(12));

(C) the State Rehabilitation Advisory Council, established under the Rehabilitation Act of 1973;

(D) the State Development Disabilities Planning Council, established under the Developmental Disabilities Assistance and Bill of Rights Act; and

(E) other local or regional family support councils within the State, to the extent that such councils exist;

(4) an assurance that the lead agency will actively coordinate with the councils referred to in Paragraph (3) in carrying out the development and implementation, or expansion and enhancement of, a family-centered and family-directed, comprehensive, statewide system of family support and family resource services.

(5) an assurance that the State has an interagency process coordinated by the agency designated in paragraph (1) for effective program development that—

(A) does not duplicate existing processes for developing collaborative efforts to better serve children and families;

(B) provides a written plan for the establishment of a network of family support and family resource programs publicly available; and

(C) involves appropriate personnel in the process, including—

(i) parents and prospective participants in family support and family resource programs, including respite care programs;

(ii) staff of existing programs providing family support and family resource services, including staff of Head Start programs and community action agencies that provide such services;

(iii) representatives of State and local government such as social service, health, mental health, education, vocational rehabilitation, employment, economic development agencies, and organizations providing community services activities;

(iv) representatives of the business community;

(v) representatives of general purpose local governments;

(vi) representatives of groups with expertise in child abuse prevention, including respite and crisis care;

(vii) representatives of local communities in which family support and family resource programs are likely to be located;

(viii) representatives of groups with expertise in providing services to children with disabilities; and

(ix) other individuals with expertise in the services that the family resource and support programs of the State intend to offer;

(6) a description of the current family support and family resource programs operating in the State, the current unmet need for the services provided under such programs, including the need for building increased capacity to provide specific family resource and family support services, including respite care, and the intended scope of the State family support and family resource program, the population to be served, the manner in which the program will be operated, and the manner in which such program will relate to other community services and public agencies;

(7) evidence that Federal assistance received under this section—

(A) has been supplemented with non-Federal public and private assistance, including a description of the projected level of financial commitment by the State to develop a family support and family resource program; and

(B) will be used to supplement and not supplant other State and local public funds expended for family support and family resource programs;

(8) a description of the core service, as required by this section, and other support services to be provided by the program and the manner in which such services will be provided, including the extent to which either family resources, centers, home visiting, or community collaboratives will be used;

(9) an assurance that the lead agency will ensure that the amount of Federal funds spent on respite care services within the State during the previous fiscal year shall be maintained;

(10) a description of any public information activities the agency designated in paragraph (1) will undertake for the purpose of promoting family stability and preventing child abuse and neglect, including child sexual abuse;

(11) an assurance that the State will provide funds for the initial startup costs associated with the development of 1 respite program annually in the State, as well as other specific family resource services, and a description of the services to be funded;

(12) an assurance that the State program will maintain cultural diversity and be culturally competent;

(13) a description of the outreach and other activities the program will undertake to maximize the participation of racial and ethnic minorities, persons with limited-English proficiency, individuals with disabilities, and members of other underserved or underrepresented groups in all phases of the program;

(14) a description of the guidelines for requiring parental involvement in State and local program development, policy design, and governance and the process for assessing and demonstrating that parental involvement in program development, operation, and governance occurs;

(15) a description of the State and community-based interagency planning processes to be utilized to develop and implement family support and family resource programs;

(16) a description of the criteria that the State will utilize for awarding grants for local programs so that they meet the requirements of subsection (g);

(17) a plan for providing training, technical assistance, and other assistance to local communities in program development;

(18) a description of the methods to be utilized to evaluate the implementation and effectiveness of the family support and family resource programs within the State;

(19) a description of proposed actions by the State will reduce practical and regulatory barriers to the provision of comprehensive services to families, including family support and family resource programs; and

(20) an assurance that the State will provide the Commissioner with reports, at such time and containing such information as the Commissioner may require.

(g) LOCAL PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—A State that receives a grant under this section shall use amounts received under such grant to establish local family support and family resource programs that—

(A) undertake a community-based needs assessment and program planning process which involves parents, and local public and nonprofit agencies (including those responsible for providing health, education, vocation rehabilitation, employment training, Head Start and other early childhood, child welfare, and social services);

(B) develop a strategy to provide comprehensive services to families to meet identified needs through collaboration, including public-private partnerships;

(C) identify appropriate community-based organizations to administer such programs locally;

(D) provide core services, and other services directly or through contracts or agreements with other local agencies; and

(E) involve parents in the development, operation, and governance of the program.

(2) PRIORITY.—In awarding local grants under this section, a State shall give priority to programs serving low-income communities and programs serving young parents or parents with young children and shall ensure that such grants are equitably distributed among urban and rural areas.

(h) DEFINITIONS.—As used in this section:

(1) CHILDREN WITH DISABILITIES.—The term "children with disabilities" has the meaning given such term in section 602(a)(1) of the Individuals with Disabilities Education Act.

(2) COMMISSIONER.—The term "Commissioner" means the Commissioner of the Administration on Children, Youth, and Families.

(3) COMMUNITY REFERRAL SERVICES.—The term "community referral services" means services to assist families in obtaining community resources, including respite care services, health and mental health services, employability development and job training and other social services.

(4) CULTURALLY COMPETENT.—The term "culturally competent" means services, supports, or another assistance that is conducted or provided in a manner that—

(A) is responsive to the beliefs, interpersonal styles, attitudes, language, and behaviors of these individuals receiving services; and

(B) has the greatest likelihood of ensuring maximum participation of such individuals.

(5) FAMILY-CENTERED AND FAMILY-DIRECTED.—The term "family-centered and family-directed" means, with respect to a service or program, that the service or program—

(A) facilitates the full participation, choice, and control by families in—

(i) decisions relating to the supports that will meet the priorities of the family; and

(ii) the planning, development, implementation, and evaluation of the statewide system of family support and family resource services for families;

(B) responds to the needs of the entire family in a timely and appropriate manner; and

(C) is easily accessible to and usable by families.

(6) FAMILY SUPPORT.—The term "Family support"—

(A) means supports, resources, services, and other assistance provided to families of children with disabilities that are designed to—

(i) support families in the efforts of such families to raise their children with disabilities in the family home;

(ii) strengthen the role of the family as primary caregiver;

(iii) prevent inappropriate out-of-the-home placement and maintain family unity; and

(iv) reunite families with children with disabilities who have been placed out of the home, whenever appropriate; and

(B) may include—

(i) service coordination that includes individualized planning and brokering for services with families in control of decision making;

(ii) goods and services, which may include specialized diagnosis and evaluation, adaptive equipment, respite care (in and out of the home), personal assistance services, homemaker or chore services, behavioral supports, assistive technology services and devices, permanent or future planning, home and vehicle modifications and repairs, equipment and consumable supplies, transportation, recreation and leisure activities, specialized nutrition, clothing, counseling services and mental health services for family members, family education or training services, communication services, crisis intervention, day care, child care and camps, supports and services for integrated and inclusive community activities, parent or family member support groups, peer support, sitter service or companion service, and education aids and toys; and

(iii) financial-assistance, which may include discretionary cash subsidies, allowances, voucher or reimbursement systems, low-interest loans, or lines of credit.

(7) FAMILY SUPPORT AND FAMILY RESOURCE PROGRAM.—The term "family support and family resource program" means a program that offers community-based services that provide sustained assistance to families at various stages in their development. Such services shall promote parental competencies and behaviors that will lead to the healthy and positive personal development of parents and children through—

(A) the provision of assistance to build family skills and assist parents in improving their capacities to be supportive and nurturing parents;

(B) the provision of assistance to families to enable such families to use other formal and informal resources and opportunities for assistance that are available within the communities of such families; and

(C) the creation of supportive networks to enhance the child-rearing capacity of parents and assist in compensating for the increased social isolation and vulnerability of families.

(8) FAMILY RESOURCE SERVICES.—The term "family resource services" means—

(A) core services that must be provided directly, or by referral or contract, by the family support and family resource program under this section, including—

(i) education and support services provided to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children;

(ii) early developmental screening of children to assess the needs of such children and to identify the types of support to be provided;

(iii) respite care services which are available 24 hours per day and every calendar day of the year;

(iv) outreach services;

(v) community referral services; and

(vi) follow-up services; and

(B) other services, which may be provided either directly or through referral, including—

(i) early care and education (such as child care and Head Start);

(ii) respite care;

(iii) job readiness and counseling services (including skill training);

(iv) education and literacy services, including English as a second language and family literacy services;

(v) nutritional education;

(vi) life management skills training;

(vii) peer counseling and crisis intervention, and family violence counseling services;

(viii) referral for health (including prenatal care) and mental health services; and

(ix) substance abuse treatment.

(9) FAMILY-CENTERED AND FAMILY-DIRECTED.—The term "family-centered and family-directed" means, with respect to a service or program, that the service or program—

(A) facilitates the full participation, choice, and control by families in—

(i) decisions relating to the supports that will meet the priorities of the family; and

(ii) the planning, development, implementation, and evaluation of the statewide system of family support for families;

(B) responds to the needs of the entire family in a timely and appropriate manner; and

(C) is easily accessible to and usable by families.

(10) INTERDISCIPLINARY GOVERNANCE.—The term "interdisciplinary governance" includes governance by representatives from communities and representatives from existing health, mental health, education, vocational rehabilitation, employment and training, child welfare, and other agencies within the State.

(11) RESPITE CARE SERVICES.—The term "respite care services" means short-term care services provided in the temporary absence of the regular caregiver (parent, other relative, foster parent, adoptive parent, guardian) to children who meet one or more of the following categories:

(A) The children are in danger of abuse or neglect.

(B) The children have experienced abuse or neglect.

(C) The children have disabilities, or chronic or terminal illnesses.

Services provided within or outside the child's home shall be short-term care, ranging from a few hours to a few weeks of time, per year, and be intended to enable the family to stay together and to keep the child living in the child's home and community.

(i) Strategic Plan.—

(1) IN GENERAL—Not later than 1 year after the date on which assistance is received by a State under this section, the lead agency of the State, shall prepare and submit to the Commissioner, a strategic plan designed to achieve the purposes and policy of this section.

(2) CONTENTS.—The strategic plan shall include—

(1) a statement of the mission, philosophy, values, and principles of the statewide system of family support and family resources in the State;

(2) a statement of family-centered outcomes to be achieved by the statewide system of family support and family resources;

(3) specific goals and objectives for developing and implementing, or expanding and improving, the system for providing family support and family resource services, and for achieving the family-centered outcomes;

(4) systemic approaches for accomplishing the objectives and achieving the family-centered outcomes, including interagency coordination and cooperation that builds upon state-of-the-art practices and research findings;

(5) a description of the specific programs, projects, and activities funded under this section and the manner in which the programs, projects, and activities accomplish the objectives and achieve the family-centered outcomes;

(6) a description of an ongoing quality improvement or quality enhancement system, which utilizes information from ongoing measurements of the extent to which family-centered outcomes are achieved, to improve the system.

(7) a description of the eligibility criteria to be used to carry out programs, projects, and activities under this section that includes all eligible families;

(8) an analysis of the extent to which family support and family resource services for an individual family is defined as a benefit and not as income; and

(9) a description of the plan to conduct an annual evaluation of the statewide system of family support and family resources.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $30,000,000 for fiscal year 1995 and such sums as may be necessary for fiscal years 1996 and 1997.

(k) REPEAL OF EXISTING PROGRAM.—Section 933 of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12339) is repealed.

SEC. 403. FEDERAL COUNCIL ON CHILDREN, YOUTH, AND FAMILIES.

Section 918 of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12314) is amended—

(1) in subsection (k)—

(A) in paragraph (3), by striking out "and" at the end thereof;

(B) in paragraph (4), by striking out the period and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following:

"(5) identify program regulations, practices, and eligibility requirements that impeded coordination and collaboration and make recommendations for their modifications or elimination; and

"(6) develop recommendations for creating jointly funded programs, unified assessments, eligibility, and application procedures and confidentiality protections that facilitate information sharing.";

(2) in subsection (o), by striking "1991 through 1994" and inserting "1995 through 1998"; and

(3) in subsection (p), by striking "1995" and inserting "1998".

SEC. 404. FAMILY RESOURCE ACT.

(a) NATIONAL CENTER.—Section 958(b) of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12353(b)) is amended—

(1) in paragraph (3)—

(A) by striking "model"; and

(B) by striking "and" at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(5) develop and maintain a system for disseminating information about all types of respite care options;

"(6) develop and provide an array of training and technical assistance activities to establish and maintain quality respite care options;

"(7) engage in a variety of evaluation and research activities to identify effective models of respite care services, examine the effects of respite care services on family functioning, and to develop simple evaluation models for use by local respite care service programs.".

(b) AUTHORIZATION AND APPROPRIATIONS.—Section 960 of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12355) is amended—

(1) in subsection (a), by striking $2,300,000" and all that follows through the end thereof and inserting $2,000,000 for each of the fiscal years 1995 through 1998."; and

(2) in subsection (b), by striking "$700,000" and all that follows through the end thereof and inserting "$1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1998.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MARTINEZ] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first let me acknowledge the tremendous leadership of Chairman FORD of the Education and Labor Committee in bringing this reauthorization bill to the floor today.

As Members know, the other body has passed a companion version of the reauthorization bill, and we believe that the differences between the bill proposed here today and the version passed by the other body, while important to the House of Representatives, are not so material that a final conference agreement will be delayed.

In addition to reauthorization of Head Start, H.R. 4250 reauthorizes two other significant programs and makes changes or extensions to several smaller programs.

I know that my colleagues on both sides of the aisle support those programs and that many of them would like to contribute to this debate, so I will not take a great deal of time describing all of the changes.

As I said, title I of the bill addresses the reauthorization of Head Start.

As with the companion bill in the other body this bill addresses nearly all of the recommendations made in the report of the Secretary's bipartisan advisory committee on Head Start quality and expansion.

I would like to acknowledge the tremendous work that was done by that bipartisan advisory committee, which was composed of Head Start professionals, child development and child education specialists, academics, administration officials from several agencies, and staff of both Houses of Congress from both political parties.

I believe that this bill will accomplish most, if not all, of the desired results spelled out in that bipartisan report and I thank Secretary Donna Shalala for her foresight in empaneling the group and guiding its work.

This bill reauthorizes Head Start for 4 years, provides for improvement of the program through revised monitoring and assistance rules, expands the work that has been done by parent-child centers for a quarter century into a new infants and toddler's initiative—one that builds on the work of those centers and protects their continued existence.

H.R. 4250 strengthens the Secretary's ability to deal with poorly performing grantees.

The bill also addresses a number of issues raised by Indian Head Start grantees, migrant Head Start programs, and rural programs, although it does not contain one of the centerpieces that I and many of my colleagues believe is essential to the continued expansion and improvement of these programs—the ability of Head Start grantees to construct their own facilities where there are only more expensive or virtually no other means of securing quality facilities.

Let me assure you here today and my friends throughout the Head Start community that I am committed to seeing that construction is addressed at the earliest possible time.

The bill also creates a new Head Start Fellowship program, and mentor teacher positions within Head Start, so that these dedicated people who are the backbone of Head Start can continue to be recognized and achieve greater professional fulfillment.

Finally, the involvement of parents in the education of their children is a central aspect of Head Start, and we have, with the very able assistance of Mr. GOODLING, ranking member of the committee, and Ms. MOLINARI, ranking member of the subcommittee, added new language that will enable Head Start grantees to expand and improve programs, including family literacy programs: that will better enable parents to understand and fulfill that vital role in the development of their children and getting them ready to learn.

Title II of H.R. 4250 provides for the reauthorization of the Community Services Block Grant.

In developing this title, and consistent with the action of the other body, we have tended to deviate from the proposal put forward by the administration in its reauthorization bill.

We understand and accept the view that hard choices must be made in times of fiscal difficulty, and we appreciate the efforts of the administration, under the Reinventing Government Program, to streamline Federal activities and eliminate programs that can successfully be integrated into other Federal efforts.

However, we also recognize that some of the programs currently authorized under the Community Services Block Grant Act with separate authorizations and separate appropriations do serve unique needs and operate outside of the mainstream community services effort.

Thus, we have retained the separate authorizations for the McKinney Emergency Homeless Assistance Program, which is the only Federal program that addresses prevention of homelessness, rather than dealing with persons who are already homeless.

We have retained the separate authorization for the Community Food and Nutrition Program.

As we learned in our reauthorization hearings, this program is critical to the States' ability to continue to develop nutrition programs for poor students in the Nations public schools, and that need cannot be met fully as part of the general program.

Finally, the National Youth Sports Program is again separately authorized under this bill so that it can continue to provide unique opportunities to young people in campus based recreation, sports and learning programs and offer hope instead of despair, and a place to go that is safe and nurturing.

Title III of the bill reauthorizes the Low Income Home Energy Assistance Program.

I would like to thank Chairman DINGELL of the Energy and Commerce Committee, my fellow Californian, Mr. MOORHEAD, ranking member of the committee, and Chairman SHARP and Mr. BILIRAKIS of the Energy and Power Subcommittee, for their cooperation in moving this reauthorization, over which we share jurisdiction.

I believe that the LIHEAP reauthorization represents the continued support that this body has for this critical program, and that the changes we have proposed will strengthen the administration of this vital program at all levels.

Finally, title IV of H.R. 4250, reauthorizes and reconstitutes the Family Support and Family Resources Program originally enacted as part of the Claude Pepper Young Americans Act.

I wish to acknowledge the support and assistance of Chairman MAJOR OWENS of the Select Education and Civil Rights Subcommittee for his review and recasting of this title during markup at the full committee. It has been invaluable to crafting a strong proposal and one that I, of course, wholeheartily support.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4250, the reauthorization of the Gus

Hawkins Human Services Act. This important legislation contains separate reauthorizations for Head Start, CSBG, LIHEAP, and other programs.

H.R. 4250 and all its components is a product of lengthy negotiations which have resulted in a bipartisan bill. It is not a perfect bill, but, of course, no legislation ever is. However, it contains important provisions of which I am particularly proud, provisions that I believe move these programs in the right direction.

First, contained in title I, which reauthorizes Head Start, there are several mechanisms which will improve the quality of services provided to needy children under the Head Start program. I have been a voice in the wilderness for years saying that we should get beyond the business of just talking about access and more money so we can cover more people but talk about what we are covering them with. We should be covering them with excellence, and that is what this legislation is about today.

Many of these ideas came from the bill that the gentlewoman from New York [Ms. MOLINARI] and Senator KASSEBAUM and I introduced in the Head Start Quality Improvement Act.

During the history of Head Start Congress has spent over $27 billion of the taxpayers' money to fund the program, and yet we do not have the necessary research at the present time to show what lasting benefits there are. Therefore, that was one of the reasons why we wanted to concentrate on quality rather than just numbers of children. If we cannot be confident that the quality of services we are paying for produces real results for these children, then, of course, we should not be spending more money.

Head Start programs in many areas make a positive impact on children's lives. The programs must provide the highest quality services possible in order to do this. I firmly believe that our first priority with Head Start must be to wrap these kids in excellence, and I think those improvements are built into H.R. 4250.

Also contained in the Head Start section of the bill are provisions to increase parental involvement in Head Start. What we are trying to do is make sure that all parents participate and that all parents receive parenting skills when needed and all parents improve their literacy skills. If that parent is going to be the first and most important teacher that the child has and if the child is going to succeed, that parent must be the most important teacher the child will ever have, and in order to provide that we must make sure they have the parenting skills to do it and they have the literacy skills in order to do it. I believe this legislation will go a long way to do that.

Many people have been talking about family literacy for a long, long time, but we have been very slow to really get around to the business of insisting on family literacy programs. I believe we are moving in that direction in this bill.

The bill also has some other provisions that I am very much interested in, but I will move next to LIHEAP. I think the reauthorization of LIHEAP shows that we have strong support in the Congress for the LIHEAP program. The last bitter winter for many of us indicates just how important that program is. Therefore, it is not one of those programs we can look at and say that we will cut 50 percent of the funding that has been recommended, because it is one that is very, very important when it comes to helping families.

I believe the purposes of the Community Services Block Grant program could be effectively met under a consolidated funding stream, but even under the current structure many of the CSBG programs have a very positive impact on our local communities. For example, in York County, Edith Huntsberger has done an excellent job in leading the Community Progress Council. The organization, using CSBG funds, coordinates the services of several existing programs and takes the initiative to identify service gaps and create the necessary programs to address these unmet needs. The Community Progress Council is a wonderful example in many areas of the kind of innovative and effective organization that CSBG funds support.

Of course, there are other components of H.R. 4250 that I would prefer be eliminated, and I would hope that before it is all finished we will be able to do that. But overall we have worked very well together to develop a good peace of legislation, and I urge my colleague to support it.

Mr. Speaker, I would like to thank the gentleman from Michigan [Mr. FORD], the gentlewoman from New York [Ms. MOLINARI], and the gentleman from California [Mr. MARTINEZ] for working together with me to develop this important legislation, and I also want to thank the gentleman from New York [Mr. OWENS] and the gentleman from North Carolina [Mr. BALLENGER] for their contributions to title IV of the bill. And, of course, I thank the staffs who have worked very well in a bipartisan fashion, with the whole idea of helping people.

Mr. Speaker, I reserve the balance of my time.

Mr. MARTINEZ. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. HOYER], chairman of the Democratic Caucus.

□ 1310

Mr. HOYER. Mr. Speaker, I thank the chairman for yielding time to me, and I congratulate him for his work, and thank my good friend, the gentleman from Pennsylvania [Mr. GOODLING], the ranking member, as well.

Mr. Speaker, I rise today in support of H.R. 4250, which reauthorizes—and in some key ways reinvents—the Head Start Program.

I want to touch briefly on several of those key improvements, but I also want to say a few words about the challenges that remain if Head Start is to live up to its potential.

I would just like to mention, too, that those of us on the Labor-Health Appropriations Subcommittee have been working to encourage many of these needed changes and clarifications in the Head Start statute, and we're gratified to see them in H.R. 4250.

For example, allocating expansion funds for quality improvement is a priority we have been advocating for a number of years now. H.R. 4250 clarifies that at least 25 percent of any expansion funds must be used for quality improvement. It also requires the upgrading of qualifications for Head Start staff.

This bill breaks new ground by authorizing a new component of Head Start focused on children from infancy to 3 years old, which are vital developmental years.

I am also pleased to see that H.R. 4250 encourages full day, full year Head Start programs; this option is crucial for many working parents, and a boon to the children as well.

And this legislation moves us toward greater collaboration between Head Start and other State and Federal services for disadvantaged children and their families. I think we need to go much further in this area, however, and I look forward to working with the administration and others on greater service coordination and consolidation.

Finally, a word about what it will take to make the good intentions embodied in this bill a reality. Oversight and evaluation are absolutely necessary if any of the rest of the new Head Start structure is to work. The Secretary of HHS still has an enormous task before her. She still has to establish the quality standards and set up effective monitoring of grantees adherence to these standards. Those things are required in this bill, but their success rests on HHS' energetic and inventive implementation of what we pass today. Our children deserve nothing less, and I am eager to work with Secretary Shalala to see that Head Start achieves its estimable potential.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. BARRETT], a member of the committee.

Mr. BARRETT of Nebraska. Mr. Speaker, I rise in reluctant support of H.R. 4250 because while the bill contains many improvements to the Head Start, Community Services Block Grant, and the Low-Income Home Energy Assistance Programs, it also contains an expansion of the Head Start Program that—if gone unchecked—

could imperil the past and future success of Head Start on the sword of overzealous expansion.

H.R. 4250 would expand Head Start to children from 0 to 3 years of age, commonly referred to as the 0 to 3 initiative, by setting aside, in the first year of the expansion, 3 percent of Head Start funds, eventually rising to 5 percent of Head Start funds.

If we just look at current appropriations, $165 million a year could be siphoned from current programs to fund this untested and unstudied 0 to 3 initiative.

During Education and Labor Committee consideration, I offered a common sense amendment to create an Advisory Committee to study this initiative for 1 year, so we could have full knowledge of the scope, structure, funding, standards, implementation, and other issues that will affect this initiative. Unfortunately, my amendment was defeated.

Mr. Speaker, no one in the administration or in Congress has any idea the effect this initiative could have on current Head Start Programs.

In fact, the report issued by Secretary Shalala's Advisory Committee on Head Start stated: "Some Advisory Committee members believe that further study is needed to explore ways of serving additional families with children under age 3, prior to launching an initiative."

As well, the National Head Start Association and the National Black Child Development Institute also expressed concerns with the 0 to 3 initiative in H.R. 4250 because of the possible detrimental impact on current Head Start Programs.

I've met with Head Start teachers, administrators, parents, and children and I've been greatly impressed with the commitment and involvement of the community in these programs, and with the progress they've made in getting children ready to learn.

However, I fear that including the 0 to 3 initiative in such a helter skelter approach may cause irreparable harm to these efforts.

But, caution and deliberation have been thrown to the wind on the 0 to 3 initiative, because many believe we must expand for expansion's sake.

So to address my concerns, I'll be writing to the GAO [General Accounting Office] to request a study of the impact of the 0 to 3 initiative on current Head Start Programs. I urge my colleagues to join with me in requesting this study.

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 0 to 3 is not a new program. It has been out for a long time and has been studied extensively.

Mr. Speaker, I yield 1 minute to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I rise to support H.R. 4250, the Head Start, LIHEAP, and Community Services Block Grant reauthorization.

In a recent series of forums I held in my home district in Washington State, we focused on the importance of early intervention programs to the prevention of violence. We must go back to the roots of human behavior and support our families.

After all, by giving parents opportunities to increase their knowledge and understanding of basic child development and applying that knowledge to how they discipline their children, to improve their literacy skills, and to share experiences with other parents, we are acknowledging that parents are the first and best teachers of children.

Therefore, I am particularly delighted, Mr. Speaker, that the administration has placed a particular priority to the birth to 3 years, as has the committee, and I would like to thank my colleagues and Chairman MARTINEZ for including my provisions from H.R. 4270 in the final version of the legislation. There is nothing more important to our national security than how we educate our children. This is a good start.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to another member of the committee, the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Speaker, I rise in support of H.R. 4250 and address my remarks to title IV of the bill, the Family Resource and Support Act, which was developed jointly by Select Education and Civil Rights Subcommittee Chairman MAJOR OWENS and me.

The Family Resource and Support Act breaks the tradition in Congress of creating separate programs for the disabled and the non-disabled. Instead, this program creates a single approach to statewide systems change and coordination of existing resources that can help all families—including families of children that are disabled.

Since all families need many of the same basic supports—community services information, help with day care, family and parental support, and training—it makes sense just to have one system that helps all kinds of families. And for those families of children with disabilities or other special circumstances, the communitywide planning process will help identify and develop approaches to meet their unique needs.

It is also important to note that we have maintained the competitive nature of this program instead of transforming it to a formula grant, and that we maintained a more realistic authorization level of $30 million instead of the Senate's excessive figure of $75 million.

I should point out that I would support a greater degree of program consolidation than we achieved in this bipartisan proposal, and I hope that we will consider more consolidations during the conference process.

I urge my colleagues to support this bipartisan approach to helping all families. I would like to express my appreciation to Subcommittee Chairman OWENS for working with me to develop the Family Resource and Support Act.

Mr. MARTINEZ. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. SHARP], chairman of the Subcommittee on Energy and Power of the full Committee on Energy and Commerce.

□ 1320

Mr. SHARP. Mr. Speaker, I particularly want to thank the gentleman from California [Mr. MARTINEZ] and the gentleman from Pennsylvania [Mr. GOODLING] for their effective work on this legislation and particularly address the LIHEAP or the Low Income Home Energy Assistance Program which is being reauthorized here, has strong bipartisan support and with very good reason.

There is a critical need out there in the country for us to continue this program. And indeed, as we look for welfare reform, there are many important changes that have occurred in this program, as it is run in many States, from which we can learn and benefit.

This is ahead of the curve in terms of welfare reform in many of our States, because it seeks to bring in additional private and sometimes public resources to meet the need. It seeks to help the individual recipient better take care of their own energy needs and to pay as much of their bill as they can.

I think it is headed in exactly the right direction. Mr. Speaker, we simply cannot at this point further cut back a program that has been dramatically cut back, as some have advocated that we do. The need continues to be great. In my written statement to be a part of the RECORD I have outlined statistically what has happened to people on the energy bills, and we continue to only meet about 23 percent of the need in this country.

So in this time of budgetary restraint, when we all know we have to be careful, nonetheless, Mr. Speaker, we should not do further damage to this program.

Mr. Speaker, I rise in support of the bill.

It is a testament to the effectiveness of this program that we are able to bring this bill to the floor under suspension of the rules. These programs really work and as a consequence there is little controversy in the Congress.

LIHEAP has been an effective program, but I think the committee has made some changes that will make it even more so.

Of equal concern with the issues before us in the reauthorization is the level of funding for LIHEAP. The administration budget request for fiscal year 1995 suggests cutting this program in half. I would hope that the House will not accept this suggestion.

It is surprising that this program, of all programs, should be subject to a proposed budget cut. The Congress and the administration are beginning to address the difficult subject of welfare reform and discuss new principles for public assistance programs. It seems to me that LIHEAP is a model program for the new way of doing things.

The program encourages more responsible behavior on the part of recipients, encouraging them to pay more, not less, of their energy bills. It leverages private and other resources. It helps low-income citizens gain control of their energy bills through weatherization, energy efficiency, and energy education. It seems to be what we should be doing more of and not less of. LIHEAP is welfare already reformed.

If there were fewer among us who were in need—if the cost of home energy use were declining—if winters were warmer—if summers were cooler—if the old, the disabled, the needy children were less vulnerable—if all of those who need this program had been helped and now no longer needed it, then perhaps this cut could be justified. None of these things is the case.

From a high of over $2.1 billion in 1985 LIHEAP funding has dwindled to less than $1.5 billion last year, and yet:

More Americans live below the poverty line now than at any time since the early sixties.

LIHEAP recipients are among the poorest Americans. Last year over two-thirds of recipients had incomes below $8,000.

The cost of residential energy use has increased steadily and is projected by the Department of Energy to continue to increase. In 1973, the average price for home energy was $7.88/mmbtu. In 1979, it was $11.46. In 1992, it was $12.33.

Last year this program reached only 23 percent of those who were eligible.

As a result of previous cuts in the program fewer and fewer recipients are receiving smaller and smaller benefits. In 1985, 6.8 million households received an average benefit of $242. In 1993, 5.2 million households received an average benefit of $215.

The need for this program is greater now than it has ever been.

To those who would say that we can decrease the need for the program by concentrating resources on such approaches as weatherization, efficiency improvements and energy education, I would say, "I agree." But those are long-range strategies and may not be of much comfort in the face of the pressing need of people who are having to make choices between food or heat. In fact, I am afraid that the funding cut in the administration budget would have the opposite effect from that intended.

If States are forced to make choices between direct assistance needs and more long-range program elements like weatherization, I am afraid they will be forced to eliminate the long-range programs.

The cut envisioned in the budget also has the perverse effect of reducing the amount of money available for weatherization. The Weatherization Assistance Program is given an increase in the DOE budget request of about $30 million. About 10 percent of LIHEAP funding goes to weatherization, the cut from $1.475 billion to $730 million would result in a cut in weatherization funding that is at least $40 million greater than the increase in the direct budget for the Weatherization Assistance Program.

Some would say that we can cut this program and make special allocations in the event of an emergency. This would fundamentally alter the nature of this program. LIHEAP is not a heating assistance program but it does more—it is a home energy assistance program.

Loss of electric service to a rural low-income household often means loss of water, since many rural people pump water from wells with electricity. This loss of water and the basic sanitation that goes with it is just as much an emergency as a cold wave. Loss of refrigeration in hot weather is a health emergency.

A contingency fund for emergencies is a good idea, but it must not come at the cost of the basic program. Congress should help people in emergencies, but for the people dependent on this program, the emergency is current, pressing, and daily.

I support the efforts to redirect the program and make it more effective which are contained in H.R. 4250:

Targeting benefits towards those with higher energy burden;

Conforming weatherization regulations to DOE weatherization rules;

Creation of a permanent contingency fund;

Creating a separate account for leveraging funds;

I urge you to support this program by voting for this bill and by working to assure that sufficient funds are appropriate for LIHEAP.

I wish to thank the gentleman from California, Mr. MARTINEZ. He, along with the chairman of the Education and Labor Committee, Mr. FORD, and the ranking minority members of both the full committee, Mr. WILLIAM GOODLING and the subcommittee, Ms. SUSAN MOLINARI have made the development of this bill a pleasure. I would extend the same thanks to the chairman of the Energy and Commerce Committee, Mr. DINGELL, and the ranking member, Mr. MOORHEAD, as well as the ranking member of the Energy and Power Subcommittee, Mr. BILIRAKIS, where we have joint jurisdiction over the Low Income Home Energy Assistance Program, which is authorized as title III of this bill.

Mr. GOODLING. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON], another member of the committee.

Mr. GUNDERSON. Mr. Speaker, I commend the chairman of the House Education and Labor Committee and the chairman of the Subcommittee on Human Resources, in addition to Mr. GOODLING and Ms. MOLINARI in bringing a bill to the floor that greatly enhances the Head Start Program and will enable both urban and rural areas to participate in various community service programs.

This Congress, more so than any other Congress in recent history, will be remembered for its education agenda. The passage of the Head Start bill is another symbol of the commitment that the Education Committees in both Chambers and the full Congress have demonstrated toward revitalizing our education system. Last year, Mr. GOODLING sponsored and I cosponsored the Head Start Quality Improvement Act. Many of the concepts included in that legislation, such as the general performance measures for all Head Start grantees, have been included in the bill before us today. The 1994 Head Start legislation also includes an important initiative for infants and toddlers and incorporates the reauthorization of the Comprehensive Child Development Centers [CCDC] Act. Western Wisconsin has been one of the pilot projects established under CCDC. The Wisconsin program, known as Full Circle, is run through the West Cap Community Action Agency in Glenwood City. The Full Circle project has provided child and family support services to many families in the northern part of my district. Earlier this year, a young woman, a single mother, who participated in Full Circle stopped by my office and with tears in her eyes said how she was pursuing a postsecondary education at night while her daughter was being cared for through services provided by Full Circle.

A key program authorized through the Community Services Block Grant is National Youth Sports [NYSP]. This initiative has been very effective in western Wisconsin. Both the University of Wisconsin-La Crosse and the University of Wisconsin-Eau Claire participate in NYSP. Last summer, UW-La Crosse and UW-Eau Claire had over 800 NYSP participants. It is especially interesting to note for 1993, UW-Eau Claire had originally projected that 320 young people would participate in the summer program. However, the actual number was 562.

The last few summers, I have attended the National Youth Sports Programs at UW-La Crosse and UW-Eau Claire. NYSP exposes young people, who come from economically disadvantaged backgrounds, to the atmosphere of a college campus by not only organizing comprehensive sports activities, but also including education programs, preventive health initiatives including free medical examinations. Although President Clinton's CSBG proposal did not include NYSP, the House has understood the importance of this initiative and has included it as part of the 1994 reauthorization.

I urge my colleagues to enthusiastically support the reauthorization of Head Start and CSBG.

Mr. MARTINEZ. Mr. Speaker, I yield 2 minutes to the gentlewoman from Hawaii [Mrs. MINK], a member of the committee.

Mrs. MINK of Hawaii. Mr. Speaker, I rise today in strong support of H.R. 4250 which reauthorizes three very important programs to address the needs of the disadvantaged and low-income in our communities—the Low Income Housing Energy Assistance Program, the Community Services Block Grant, and Head Start.

There are few of us remaining in the Congress who remember the origins of these programs. For me, that day almost 30 years ago when we first passed Head Start as part of Lyndon Johnson's War on Poverty is still one of the most significant of my legislative career. With the establishment of Head Start we had finally recognized that a long-term, early intervention program was the best way to give children in poverty a fighting chance.

Over 13 million children and their families all across the country have benefited from Head Start. For parents it meant their child would receive at least one hot meal a day, reassurance that their child was being taken care for at least a half-day while they were at work, for children it meant a chance to actually graduate from high school, or go on to post-secondary education, to stay out of a special education class, or advance to the next grade level.

The legacy of Head Start lives on today as one of the most successful early childhood education programs in the country, providing education, health, and social services for needy children and their families.

Both the Congress and the administration have recognized the success of Head Start and with strong bipartisan support we have been able to significantly increase the program over the last decade.

The $4 billion proposed in the President's budget signifies a four-fold increase in the program since 1985. It is estimated that at this level 840,000 children will be served, an increase of almost 170,000 participants over 1993 levels.

Even with these increases, however, the current program still only serves about 30 percent of the eligible 3- and 4-year-old children in our Nation, and most programs provide services only for a half-day during the school year.

According to a 1991–92 study only 6.5 percent of Head Start children were served for 8 hours a day. Of these children, half were served fewer than 36 weeks per year. And fewer than 1 percent of children in Head Start programs are served in programs operating both 8 hours or more per day and more than 48 weeks per year.

Mr. Speaker, H.R. 4250 includes an amendment I authored to encourage communities to consider the option of full-day, full-year services and which requires the Department of Health and Human Services to complete a study to assess the need of full-day, year-round Head Start services in low-income communities.

In a survey conducted by the National Head Start Association, parents most often listed the need for extended hours and day of operation as an area that needed improvement. And research has shown that unemployed parents would more readily seek work if they had access to programs such as full-day, full-year Head Start.

Particularly in light of this administration's commitment to helping families on welfare move into the work force and toward self-sufficiency it is particularly important that we move toward the expansion of Head Start to a full-day, full-year program.

As we move forward into the 21st century Head Start must change as the needs of children and families in poverty have changed dramatically. Just yesterday the headlines in the papers stated that 4 million children in our Nation live in poverty—that is one out of every four children in the United States growing up in areas where drugs, violence, and unemployment are more prevalent than safe schools, high school diplomas, and good jobs.

H.R. 4250 seeks to provide the leadership and direction that will help Head Start rise to meet the challenges facing families in poverty and appropriately deal with the large expansion of the program proposed by the Clinton administration.

In addition to increased emphasis on full-day, full-year programs, H.R. 4250 establishes a new program to serve children up to 3 years old, creates a new fellowship program to improve employment opportunities in Head Start, and continues emphasis on quality improvement.

Mr. Speaker, I ask my colleagues to vote for H.R. 4250 and the future of our Nation's children.

Mr. GOODLING. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. ARMEY], another member of the committee.

Mr. ARMEY. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding time to me.

I object to this bill being brought out here on the Suspension Calendar. I intend to call for a vote.

The reason I object, Mr. Speaker, is this bill has the language "such sums as are necessary."

Mr. Speaker, that is the magic language of entitlement spending. That is the language that puts the budget of the people of this country and their government on automatic pilot. There is no way that we should allow the reauthorization or authorization of any program that includes that language without a vote by the Members of Congress. I intend to have that vote.

That is not to mention, Mr. Speaker, that even though the goals of Head Start are laudable and goals I myself can enthusiastically endorse, the frank fact of the matter is, there is scant little evidence that Head Start has worked in the lives of children. And that little evidence we have we obtained only from people who directly benefit by running the program.

We find ourselves time and time again, Mr. Speaker, leading with our heart and leaving our brains out of the matter. The fact of the matter is, Congress has an open hostility to science and knowledge and has a compassionate acceptance of folklore, especially the folklore of big government.

For these reasons, I need to inform the body that I oppose the bill. I oppose the bill. I oppose bringing it out here in this manner, and I will have a vote. And, of course, I am fully aware of the fact that the vast majority of this body will make themselves feel good and bleed their hearts once again with the American people's money, even though they have no evidence they do any good.

□ 1330

Mr. MARTINEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Speaker, I am pleased to rise in support of H.R. 4250. The programs included in this bill provide critical support to a broad range of Americans. In an era when we are attempting to wage war on such pressing problems as substance abuse, poverty, teen pregnancy, and violence, these funds are truly the smartest weapons at our disposal.

The expansion of Head Start, for example, will serve greater numbers of infants and toddlers, and will help young mothers who need quality day care in order to join the work force.

Similarly, the Community Service Block Grant will expand the capabilities of the Community Action Agencies. Mr. Speaker, there are several excellent Community Action Agencies in my district in Virginia, all of which enjoy broad-based community support because of their effectiveness. These agencies play a vital role addressing emergencies and other needs which traditional human service programs do not have the jurisdiction or the resources to meet.

Community Action Agencies have been proven to be effective laboratories for the creation of innovative and cost-effective programs to meet human needs. Over the years, they have sponsored such programs as the Demonstration Partnership Program, from which the Minority Male Initiative was developed. This program targets the needs of young men to help them steer away from drugs, crime, and hopelessness, and therefore, just like Head Start, addresses the crime problem when it can best be effectively addressed, and that is, before the crime occurs.

Mr. Speaker, I would like to applaud the leadership of the chairman, the gentleman from Michigan [Mr. FORD] and the ranking member, the gentleman from Pennsylvania [Mr. GOODLING], for their bipartisan leadership on this bill, and particularly the gentleman from California [Mr. MARTINEZ] for bringing this important measure to us. This bill has received broad support in committee, and I hope that the Members of the House will continue to support this bill through the appropriations process.

Mr. MARTINEZ. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Speaker, I want to congratulate the chairman of the Subcommittee on Human Resources of the Committee on Education, the gentleman from California [Mr. MARTINEZ] for his rapid movement of this very important bill through the process.

We are reauthorizing a program which is only a tiny part of what it was when it first began under Lyndon Johnson. Lyndon Johnson and the Great Society programs were on target. The program probably, within the Great Society programs, which was most on target was the Community Action Program. The Community Action Program does not exist at the same magnitude as before, not because it was not effective, but because it was killed by racism and killed by meanspiritedness, people who did not understand that empowering poor people was the best answer to most of our pressing social problems in the inner cities in particular, but also in many rural communities.

The philosophy of the community action programs was to reach out and pull the so-called clients, or the people who were the recipients of the funds, into a process by which they would also help to make the programs go. They also had attachments and liaisons with all of the big programs that did not have community action components, so the regular education program was made to function better, the regular housing programs were made to function better, and it was a great success.

However, it empowered poor people, and therefore, it was smothered, it was wiped out, it was butchered, and we only have a tiny figment of what once existed, but it still continues. Those small community action programs that exist out there now take small amounts of money and they reproduce, they replicate, they do all kinds of things to garner tremendous amounts of additional funds. They bring in far more than we invest in them by linking with private sources, with other public sources, and they do a job that very few other agencies of government have been able to replicate.

Lyndon Johnson was on target. The kinds of things we are doing now with our community banks, our national service program, a number of things that have been initiated by the present administration are really a reinvention of components of the old Community Action Program. I hope that the administration will have a new wisdom and understand that it is replicating what once existed, and our next reauthorization of this program would have the kind of support we need to recognize and expand the Community Action Programs as they should be.

LIHEAP is continued without a cut. It was kind of disappointing and shocking to hear cuts being proposed in a program that provides heat, something very concrete, after the kind of winter we have had. In our big cities we are not the recipients of $8 billion, similar to what was given to California as a result of the earthquake. We are not the recipients of $6 billion, similar to what was given to the Midwest flood areas, or the $6 billion which went to the hurricane area in Florida. Big cities do not get anything.

To cut LIHEAP at a time when the national disaster of ice and snow and prolonged cold existed would have been an outrage. We do not cut LIHEAP in this program, and we look for the support of the Senate and the administration in this respect.

Mr. Speaker, I welcome the opportunity to reauthorize the Community Services Block Grant [CSBG]. As many of you know, this is a program near and dear to my heart. Prior to holding elective office, I was the commissioner of the New York City Community Development Agency.

In 1992, 36.9 million Americans were living below the poverty level, the highest number since 1962. It is pitiful that three decades after President Johnson declared war on poverty, so many Americans continue to suffer in a country of such great wealth.

The CSBG program is the lifeline for many of these Americans living in poverty. While myriad public programs often perform outreach activities in the hope of reaching underserved populations in addition to their larger client bases, the projects which the CSBG program funds focus their attention on underserved populations and thus represent what outreach is all about. They define the standard for outreach by which all other public projects should be measured.

The Community Action Agencies [CAA's] funded by the CSBG program serve the poorest of America's neighborhoods. They stretch their fingers into communities, enabling public and private funds to come together and actually reach the underserved populations for which they were intended.

Moreover, CAA's are perfect vehicles for the items on President Clinton's agenda which are aimed at improving communities and fostering grassroots development. A CAA is one of the best places to work for a young adult who is part of the new National and Community Service Corps. A CAA is most capable of operating a Community Development Bank that is truly dedicated to community development. And a CAA can implement crime prevention programs and provide drug treatment services in a way that only an organization with a deep understanding of its community can.

The Head Start Program serves over 700,000 low-income children between the ages of 3 and 4. It helps the most disadvantaged children acquire critical developmental skills which are necessary for their success in public school. The program also emphasizes enhancing parental skills, and strengthening the family unit. By building the self-esteem of the children and the nurturing skills of the parents, Head Start gives disadvantaged families the opportunity to escape from the harsh realities of a world of poverty filled with drugs and violence. Today, we are not just reauthorizing a community-based program; we are reaffirming our commitment to ensuring that poor children have the necessary skills to succeed in school and life.

CSBG funds are used to prevent homelessness, provide nutrition and emergency services, and through the National Youth Sports Program, help to reduce the numbers of innercity youth from joining violent gangs in urban communities. As the only Federal program that is specifically mandated to provide a range of services and activities that give low-income people a hand up from poverty instead of a hand out, the CSBG program empowers low-income people.

LIHEAP is another program which serves the most vulnerable of our populations—the elderly, working-poor families, and individuals with disabilities. Almost 6 million households receive assistance under this program. But the numbers of families assisted under this program are not important; what's important is that LIHEAP prevents poor families from freezing to death, being evicted, or in the winter months choosing between heat and food. That's why I was shocked to learn that the President intended to cut the program by almost 50 percent. Low-income families simply cannot afford to bear the burden of these types of budget cuts.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island [Mr. MACHTLEY], sponsor of the House Concurrent Resolution 202, a sense of Congress that we should continue LIHEAP at the same level and not cut it.

Mr. MACHTLEY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today as a strong supporter of H.R. 4250. I applaud this committee for the full funding of the Low Income Home Energy Assistance Program, better known as LIHEAP. I know that our former colleague, Silvio Conte, is at the Pearly Gates in his green blazer, smiling down at us today for this bill, for he was a champion of the LIHEAP program.

I am particularly pleased that this legislation incorporates the language from House Concurrent Resolution 202, introduced by myself and the gentleman from Massachusetts [Mr. MARKEY].

I would like to take this opportunity to thank the committee for including this provision, which would, among other things, express the sense of Congress that the fiscal year 1995 appropriations made for LIHEAP will be expended, and that expenditures in fiscal year 1996 for LIHEAP should ensure the same or a better level of services.

For many of our citizens in this country, this past winter has been the worst in living memory for the disabled, the elderly, the poor, and all those others who depend on LIHEAP have been a struggle to maintain dignity, and for many, a battle to stay alive.

LIHEAP serves a critical purpose. It helps prevent the poorest of the poor in the United States of America from freezing to death. From the earliest days of our colony, we gathered together, we pooled our resources, to ensure that all had heat. In fiscal year 1992, the average payment to the 6.2 million households receiving LIHEAP was only $190, not a lot for this country. It is worthy of remembering that the majority of LIHEAP recipients have annual family incomes of under $7,000, and devote 65 percent of their income to rent and utilities.

It is true we must deal with an enormous budget deficit that requires spending restraint, but we surely can find a better approach than by forcing people to choose between feeding their children and keeping their homes warm. The recent cold weather conditions have had unintended effects of demonstrating how important LIHEAP is to the American public.

I recently received a letter from a constituent, Mr. Everett Carlisle, of Providence, RI. He writes,

> The home energy assistance is very important to me and all other senior citizens who are on low fixed incomes of a few hundred dollars a month. We are living below the poverty level. We must have full funding of LIHEAP or we will be unable to maintain our current lifestyle.

I applaud this committee and urge all to vote for its passage.

Mr. MARTINEZ. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON], our chief deputy whip.

Mr. RICHARDSON. Mr. Speaker, first of all I want to congratulate the chairman for this outstanding bill. Truly, sometimes we come to this floor and mince words about legislation. This is good legislation, and everyone agrees it is good. It is bipartisan, and in that connection, the gentleman from Pennsylvania [Mr. GOODLING] and some of the Republicans have done equally as well in supporting and making this program even better.

Besides it being strongly bipartisan, I would like to state that in this bill there are some very good initiatives that tighten some of the procedures, the technical procedures, for Head Start. Oversight in all the technical programs is strengthened. In particular, native American programs, in my judgment, are dramatically improved.

If we look at the specifics of this bill, we now have the ability for native Americans to purchase facilities for themselves. It serves not just native Americans on the reservation, but off the reservation. It deals with some of the upper income children.

□ 1340

It deals with native American children that perhaps were able to get out of the program because of some over-income statistic but in reality because of the needs on the reservation, this program covers it.

Mr. Speaker, local control is very important. Local boards control a lot of these programs. This is a Community Service Block Grant Program. For instance, there can be assistance to a family to get some of the funds for the Low Income Home Energy Assistance Program; food stamps locally determined.

This program, Mr. Speaker, Head Start, it works. The program over the years has proven continually to underscore the values of family, of hard work, and education as well as a vision of government which creates opportunity for its children and communities. Low income children and families today face enormous challenges. They are struggling to survive in neighborhoods plagued by violence, drugs, alcoholism, and lack of opportunity. Since we have reauthorized this bill, the number of children unfortunately living in poverty has increased drastically. So should our commitment to help some of these Head Start programs.

Once again, Mr. Speaker, I applaud the committee on their efforts to be particularly sensitive to this very outstanding program that works, that has broad support, that has now been improved even more. We are making an investment in young people, in children, and in our communities by immediately reauthorizing this bill, by immediately reauthorizing the Head Start, Low Income Home Energy Assistance Program and the Community Service Block Grant Program, all three very good bipartisan programs.

Mr. Speaker, again I commend the chairman and I commend the minority for their outstanding work.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise today in support of H.R. 4250, Head Start, community services block grants, and Low-Income Home Energy Assistance Program reauthorizations. I would like to commend the gentleman from California [Mr. MARTINEZ] for introducing this important measure and the gentleman from Pennsylvania [Mr. GOODLING], the committee's distinguished ranking member and the gentleman from Rhode Island [Mr. MACHTLEY] for their support.

H.R. 4250 expands parental involvement, extends Head Start services to families with infants and toddlers, reserves funds for teachers' salaries and facility upgrades, and requires Department of Health and Human Services [HHS] to consider a grant recipient's past performance when allocating funds.

This important measure reauthorizes Head Start, the Community Service Block Grants Program, and the Low-Income Home Energy Assistance Program for 4 years. More specifically, the bill authorizes $525 million for Head Start, $525 million for the Community Services Block Grants Program, and $2 million for the Low-Income Home Energy Assistance Program for fiscal year 1995.

More specifically, this measure enhances parental involvement and directs centers to offer family literacy services, parental skills training, and substance abuse counseling, emphasizes coordination with other programs and elementary schools, and consolidates and expands two small Federal programs for families with infants and toddlers, allowing these families to participate in Head Start.

Moreover, H.R. 4250, authorizes $30 million to supplement the Existing Family Resources Centers Program which helps States provide funding to local centers that offer a flexible and coordinated array of services and information to support families in need of parent training, temporary child care, and information about other available services.

Mr. Speaker, our Nation's children are our most precious resource. Head Start has enjoyed bipartisan support since its inception.

Accordingly, I urge my colleagues to continue to support Head Start and these other important programs by voting in favor of H.R. 4250.

Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. GOODLING. Mr. Speaker, I yield myself the remainder of my time.

Mr. Speaker, I just want to rise to take full blame, or full credit, for the words "such sums." Had I come to the floor of the House with this legislation with what was proposed, I am sure I would have been run out, in fact I would not have even come with it myself, because what was proposed was to move from an appropriation of $3.3 billion to an authorization of $7.7 billion. I will now allow the Committee on Appropriations to make that decision, realizing that they will use very good judgment and will not get us near $7.7 billion this particular year.

Mr. Speaker, if we are looking for a good CSBG program and we want to see one that operates very, very well in a community, I invite my colleagues to come to York, PA.

Mr. Speaker, in closing, I would merely say to all Head Start programs throughout this country, the theme is "excellence, quality or stop." And I want to make sure they understand that. It is no longer a case of you can keep your grant forever, no matter how well or how poorly you do. You will keep your grant if you do well, if you improve the quality of the program, because it is children that we are trying to help and their parents and in order to do that, we must insist on excellence.

Mr. Speaker, I yield back the balance of my time.

Mr. MARTINEZ. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in closing, I would just like to make something very clear. My substitute language supports the administration's proposal in making local agencies more effective, better representative of the community to be served and more accountable to the States and the Federal Government. The substitute language strongly supports the administration's intentions to increase funding for training and technical assistance to CSBG recipient agencies and organizations. In addition, my language ensures public comment on a State's proposed changes to its CSBG plan as well as requiring States to certify that funds are being used in accordance with the act at both the State and local levels. Finally, the substitute language also reflects my opposition to the administration's proposed $100 million reduction in authorization by setting an authorization at $525 million, a slight increase from the current level of $500 million.

Mr. Speaker, my substitute language also supports in concept the administration's proposal for the consolidation of the current discretionary programs into a single program. Rather than create a separate authorization for the CIP, I would retain the current set-aside language. At the request of Mr. FORD, migrant workers, and the gentleman from Kentucky, Mr. BAESLER, rural communities, the substitute language does ensure that some current CSBG discretionary activities would be eligible to compete for CIP funds.

My amendment would also place less restrictions on the community development activities with the community initiative program recognizing that only local communities can prescribe the type of community development each community needs.

Mr. Speaker, I urge an "aye" vote.

Mr. FORD of Michigan. Mr. Speaker, 29 years ago, within the first few months of my first term as a Member of Congress, President Lyndon Johnson spoke these words at a Rose Garden ceremony announcing Project Head Start:

> Today we are able to announce that we will have open, and we believe operating this summer, coast-to-coast, some 2,000 child development centers serving as many as possibly a half million children.
>
> This means that nearly half the preschool children of poverty will get a head start on their future. These children will receive preschool training to prepare them for regular school in September. They will get medical and dental attention that they badly need, and parents will receive counseling on improving the home environment.
>
> This is a most remarkable accomplishment and it has been done in a very short time. It would not be possible except for the willing and the enthusiastic cooperation of Americans throughout the country.
>
> Five and six year old children are inheritors of poverty's curse and not its creators. Unless we act these children will pass it on the next generation, like a family birthmark.

Project Head Start was a nationwide effort launched in the summer of 1965 to assist preschool children from poor families to enter kindergarten or first grade. The project offered health services, social services, and educational services. Local Head Start programs were run by colleges, schools, local government, or private nonprofit organizations.

The original Head Start Summer Program enrolled more than five times as many children—561,359—than the Office of Economic Opportunity had originally anticipated, and the program became one of the most popular antipoverty measures with the Congress.

In the 29 years since its inception, Head Start has provided hope and support to more than 13 million low-income families. It has become our country's premier child care model, offering health, nutrition, education, mental and social services to poor children and their families in each and every county in the Nation. It has grown from a $350 million summer initiative to a year-round program funded at $3.3 billion serving approximately 750,000 children and their families. The wisdom in which Head Start was conceived enables this program to endure. It continues to enjoy broad bipartisan support and is just as viable today as it was some 30 years ago.

Yet, the world of Head Start today is drastically different than it was 30 years ago. Children are faced with challenges and influences which affect their development at an earlier age. Families suffering from homelessness, substance abuse, unemployment, and lack of education and training hold little promise for children born into poverty through no fault of their own.

Head Start today, as it was 30 years ago, is a beacon of hope for children in poverty and their families. Community-based, community-governed, community- and family-responsive Head Start programs afford comprehensive services to children and their low-income families in the place of futility.

H.R. 4250, the measure before us today, builds upon the successes of Head Start, responds to its critics, and extends the Head Start Program for another 4 years. The bill incorporates improvements to respond to the changing needs of children and their families as recommended by Secretary Shalala's Advisory Committee on Head Start Quality and Expansion. I would like to highlight several of these improvements.

For the first time, Head Start programs will be required to coordinate with local schools. The provisions complement similar language incorporated into H.R. 6, a bill to reauthorize the Elementary and Secondary Education Act programs, approved by the House of Representatives on March 24. This change is intended to encourage greater communication between Head Start programs and schools on behalf of the children and families they serve, and to help minimize disruptive breaks in the continuity of services which can threaten political gains made by children and their families.

The bill retains the 1990 statutory requirement that 25 percent of all Head Start funds be used to improve the quality of existing programs, such as ensuring sufficient staffing and ensuring adequate compensation of Head Start staff. I would like to note that this set-aside is a floor, not a ceiling. If the Secretary determines additional funds are needed to improve the quality of programs, she may designate more than 25 percent for this activity. Child care workers remain one of the lowest paid professions in our Nation's workforce. Most child care workers, including Head Start workers, must support themselves and their families on meager wages, with no health or retirement benefits. Head Start should begin to set the tone for the Nation on the pay and benefits of child care workers.

The legislation establishes a new initiative to extend Head Start type services to children from birth to 3 and their families. Beginning in fiscal year 1995, 3 percent will be set-aside for this initiative, with 5 percent set-aside by 1998. This initiative responds to the alarming needs of poor families with very young children. In 1990, 53 percent of mothers returned to work within 1 year of a child's birth, compared with under 20 percent when Head Start was first conceived. Of the 12 million children under age 3 today, more than 5 million are in the care of other adults while their parents work. Moreover, 25 percent of children aged 0 through 3 live in poverty. For families living in poverty, the lack of prenatal and child health care, human services and social support exaggerates the array of difficulties faced by many millions of families with inadequate child care. We know from numerous studies that the earlier a child is reached with comprehensive support the greater prospect that child has of flourishing in later life.

The measure under consideration does more than reauthorize Head Start—it also renews our commitment to a number of worthy programs addressing the needs of individuals living in poverty.

H.R. 4250 reauthorizes the Community Services Block Grant Act through fiscal year 1998. Since its creation in 1981 as a continuation of work begun in the Office of Economic Opportunity, CSBG funds have been used to leverage other resources to operate programs addressing the problems caused by poverty and providing advocacy services for the poor.

H.R. 4250 also continues through fiscal year 1999, the Low-Income Home Energy Assistance Program [LIHEAP]—an initiative of particular importance to low-income individuals who find their lives threatened by harsh weather. Recent budget cuts have caused a fall-off in the number of households served to the point where today only one-quarter of the eligible households are able to participate in the program. The action we take today in intended to sustain the program and provide a suitable response to critical life-threatening situations which have far too often resulted in injury or death.

H.R. 4250 represents a significant effort to maintain bipartisan support for social service programs which answer critical needs of American families and communities. We have come a long way from the day in 1966 when the House of Representatives first voted to specifically set aside funding for Head Start as part of the Economic Opportunity Act. On that day, only 15 out of 120 of our Republican colleagues joined us in support of the effort.

I am pleased to see this bipartisan effort today. However, I suggest that we will achieve little if we back away from our responsibilities just to find the easiest and most politically expedient way out. I would have preferred a much stronger bill and I know many of my colleagues share that view.

I pledge to do what I can as we enter into conference with our Senate colleagues to see that this effort provides a lasting legacy for Congresses and administrations to come. As but one example, I support efforts to provide Head Start programs with the ability to construct their own facilities while at the same time guaranteeing a decent wage to those involved in the construction effort.

I congratulate Chairman MARTINEZ on his good work and look forward to working with him as well as Mr. GOODLING and Ms. MOLINARI in forging the strongest possible conference agreement on these important human services programs and creating a 21st century Head Start.

Mr. KILDEE. Mr. Speaker, I rise in strong support of H.R. 4250, a bill to reauthorize Head Start, low-income home energy assistance, and community services block grants.

I would like to commend Chairman FORD and Chairman MARTINEZ as well as Mr. GOODLING and Ms. MOLINARI for their work on this bill.

In reauthorizing Head Start, the bill proposes a series of measures that will further strengthen Head Start's quality and effectiveness.

Head Start is a wonderful program, one that has been near my heart for years.

As a former teacher and past chairman of the subcommittee with jurisdiction over Head Start, I believe it is especially important to help children build on the gains they make in Head Start as they proceed through their academic careers.

Mrs. UNSOELD and I added provisions to the elementary and secondary education authorization to ensure that Head Start students experience a smooth transition to elementary school.

H.R. 4250 includes language I proposed to help align the transition programs in both schools and Head Start agencies so that we can create a seamless system of support for our youngest students.

Mr. Speaker, the bill also extends activities authorized under the Low-Income Home Energy Assistance Program [LIHEAP] and the Community Services Block Grant Program.

LIHEAP provides critical services to poor individuals to help them pay energy bills.

Assistance provided under this Act often eliminates the need for low-income individuals to choose between heating and eating.

The community services block grant provides critical services designed to address needs at the local level.

Once again, the Education and Labor Committee has crafted a strong Head Start, LIHEAP, and CSBG reauthorization. H.R. 4250 is an excellent bill to provide services where they are needed most—to the child, in the home, and in the community.

I am pleased to be a cosponsor of this bill and I urge Members to support the legislation.

Ms. SNOWE. Mr. Speaker, I rise today in support of H.R. 4250 , a bill to reauthorize the Low-Income Home Energy Assistance Program [LIHEAP] and the Head Start Program.

For the poor in the north, heat is no less essential than food, clothing, and shelter. Without sufficient funds to pay for heating in the winter, poor families will either freeze or divert scarce funds from food or other subsistence needs to pay for heat. As a result of these terrible dilemmas, less fortunate citizens in cold States like Maine view the approaching winter every year with tremendous anxiety.

LIHEAP was originally established to help alleviate these fears and provide a partial measure of security for low-income families in the winter. Unfortunately, due to repeated cuts, the funding level for LIHEAP since the 1980's has not reflected the real human need for the program.

In fiscal year 1985, LIHEAP received an appropriation of $2.1 billion, but funding for the program steadily declined to $1.35 billion in fiscal year 1993 in unadjusted dollars. If funding for LIHEAP had remained constant since fiscal year 1985 in dollars adjusted for inflation, today's appropriation would have to be about $2.7 billion—far higher than the $1.4 billion actually approved for the fiscal year 1994 heating season.

Perhaps most disturbing about these cuts is the fact that LIHEAP could hardly be called an unnecessary or wasteful program. LIHEAP covers less than 25 percent of the average low-income recipient's residential energy bill. And millions of low-income families get no assistance at all despite meeting the eligibility requirements.

H.R. 4250 seeks to strengthen LIHEAP at a time when it is still wobbling from 8 years of gratuitous cuts. It authorizes $2 billion for the program in fiscal year 1995. Permanent authority in the bill for the President to spend up to $600 million in emergency situations will help the Federal Government respond to severe winters, like the one this year, or energy price spikes. and H.R. 4250 wisely expresses the sense of the Congress that LIHEAP expenditures for fiscal year 1996 should at least equal the fiscal year 1995 appropriation.

H.R. 4250 is also an important bill because of its emphasis on the welfare of children, not only through LIHEAP, but through the Head Start Program as well. Head Start has enjoyed bipartisan support since its inception in 1965. While the challenges facing those living in poverty have become more complex, the program has grown and developed to meet these pressing needs.

Head Start has proven to be one of the most successful preschool and family support programs. More than 13 million children and their families have benefited from the health, education, and social services provided through Head Start.

I support the extension and expansion of Head Start in H.R. 4250. The bill has incorporated the recommendations of the Advisory Committee on Head Start Quality and Expansion that reviewed the Head Start Program. Funds will continue to be set aside for quality improvement activities and grantees must maintain minimum levels of quality. The Health and Human Services Department will create a process to identify underperforming grantees and develop a plan to improve their performance.

Addressing the findings of the recent Carnegie Corp. report on meeting the needs of the Nation's youngest children, this bill creates a new family centered grant program within Head Start to provide low-income families with very young children, from birth to 3 years, the services and support they need to promote healthy development of their children, to help parents fulfill their roles as parents, and to move toward self-sufficiency. It will consolidate programs for infants and toddlers and authorize 3 percent of the total funds for fiscal 1995 for this age group, gradually rising to 5 percent in fiscal 1998.

The bill also requires Head Start to make efforts to coordinate with local education agencies and elementary schools to enable children to maintain the developmental gains achieved in Head Start.

Mr. Speaker, LIHEAP, Head Start, and the people served by these programs need H.R. 4250, and I urge my colleagues to join me in supporting the bill.

Mr. BILIRAKIS. Mr. Speaker, I rise in support of the portion of this legislation that would reauthorize the Low Income Home Energy Assistance Program. LIHEAP authorizes funding for State-run programs that provide vital emergency assistance for low-income persons who need help paying their heating and cooling bills.

Although the Energy and Commerce Committee did not mark up the LIHEAP provisions of this bill, the committee retains jurisdiction and will represent its interests at a conference, should the bill be approved by this body.

As the ranking minority member of the Energy and Power Subcommittee of the Energy and Commerce Committee, I would like to express some concerns regarding the LIHEAP reauthorization language in this bill that I would like to see addressed in conference.

First, I have questions about the role of the Secretary of Health and Human Services in the administration of LIHEAP Programs at the State level. One basic principle behind all block grant programs, such as LIHEAP, is that the States should have the maximum amount of discretion to administer these programs in ways that make sense in each locality. We have seen that many States have used this flexibility to create innovative programs that use the limited amount of LIHEAP funds in the most efficient and creative manner.

Although the Education and Labor Committee eliminated a provision proposed by the administration that would have given the Federal bureaucracy the authority to micromanage the States administration of LIHEAP, such a provision is still in the Senate version of the legislation. In Conference, we will work to ensure that this provision is not in the final bill.

Second, the version of the bill before us contains a provision that requires HHS to set goals for the State programs and issue a report on their performance. HHS already has the authority to set goals for LIHEAP Programs and evaluate them in relation to those goals if it so chooses. However, I strongly object to provisions that would mandate the use of limited LIHEAP funds for the expansion of the Federal bureaucracy rather than keeping on the heat and air conditioning of low-income people.

In conclusion, we plan to fully participate in the Conference on LIHEAP to eliminate all provisions that would only serve to increase Federal bureaucratic interference and limit the flexibility of State authorities to direct LIHEAP funds to where they are most needed.

Thank you, Mr. Speaker.

Mr. CUNNINGHAM. Mr. Speaker, as an original cosponsor of the Head Start Quality

Improvement Act—H.R. 1528—introduced by Mr. GOODLING, I am very happy to see many of those recommendations encompassed into this Head Start reauthorization.

I am pleased to see an increase in the recognition of the crucial role parents play in the educational development of their children.

This bill requires programs to actively seek parental participation, and while I would like to see even stronger language regarding parental involvement in Head Start programs, I think the language addressing family literacy and parental skills training takes the right direction. It is important to recognize and establish parents as their children's primary teacher.

As you know, raising the quality of all Head Start Programs throughout the country has long been a concern, and I am pleased to see strengthened program accountability for providing high quality services included in this reauthorization.

The key to a successful Head Start Program is ensuring quality over quantity. We should serve as many eligible children as possible with the highest quality services possible, instead of just striving to serve all eligible children with mediocre or poor services. The quality program improvement provisions will help ensure that quality services will be consistently provided by all Head Start Programs.

This Human Services Act reauthorization is the result of bipartisan negotiations and although I am not supportive of every single element of this bill, I am pleased with the inclusion of many key aspects that enhance the programs. I hope that this bipartisan teamwork will continue and we will see additional improvements in conference.

Ms. MOLINARI. Mr. Speaker, I am glad to be here today to consider, and to have taken part in the development of legislation to authorize the Human Service Act—H.R. 4250—which includes Head Start, LIHEAP, the Community Services Block Grant and several other programs.

As many of you know, Head Start is approaching its 30th anniversary. This program clearly has an impressive history, but it also has a new set of challenges for the future. One of those challenges is to address, in response to recent reports, the disparities in the quality of services provided by Head Start programs and to eliminate the fade-out effect in children once they leave Head Start.

We have aggressively confronted these problems in this bill by including measures to assure greater and more consistent quality, putting poor-performing programs on notice that the status-quo is over and enhancing services to better help parents become full partners in the education of their children. I am pleased to say that these are all ideas that were originally presented in Republican legislation, which I helped to write with Mr. GOODLING and Senator KASSEBAUM.

I am also encouraged to see a renewal for the LIHEAP Program in this legislation. The LIHEAP Program is important to the whole country, especially to the colder States. My State of New York is the largest recipient of LIHEAP funds and would be one of the hardest hit areas by the proposed budget cuts. This renewal of LIHEAP funds sends a strong bipartisan message to the administration about the importance of this program for the whole country and the Congressional desire to maintain the program at its current levels—instead of cutting it in half, as the administration has proposed.

I am also pleased that the CSBG reauthorization includes the renewal of the McKinney Homeless Community Services Program, which the administration had proposed to eliminate. Elimination of this program would have been devastating to New York City, which alone receives $1 million from this important program. The truth is, however, that these measures benefit all areas of our country.

Mr. Speaker, it has been my pleasure to work with Mr. GOODLING, Mr. FORD, and Mr. MARTINEZ to develop this comprehensive bipartisan reauthorization package, and I want to thank them for their leadership on these issues.

Mr. BARRETT of Wisconsin. Mr. Speaker, I rise today to voice my strong support for the Head Start Program. Considering all that is going wrong in our world today, we can look to Head Start as something that's right and as something that works.

Head Start is an investment in the future of America. The program's comprehensive approach—integrating education, health care, social services, and parental involvement—produces real results that enable children from disadvantaged backgrounds to cope and thrive in school and at home. Head Start provides the tools for long-term success.

In recognition of this and despite a tight budget, President Clinton has proposed to increase funding to Head Start in the 1995 budget. He has proposed that Head Start receive $4 billion in fiscal year 1995, a $700 million increase over fiscal year 1994. I support this portion of the President's budget without reservation.

Today, the House will consider the reauthorization of Head Start and other antipoverty programs. The Head Start provisions in the reauthorization bill, H.R. 4250, would mandate continuous improvement of an already good program. The bill would make important changes in Head Start to ensure that these programs are both effective and relevant to today's families.

Especially important are the set-aside provisions in the bill for infants and toddlers. As the father of a 18-month-old son, with another child due in a few weeks, I have witnessed how much learning takes place and how habits are formed early in life. I have no doubts about the beneficial impact that early childhood development services can make in the life of every child.

Today's Head Start students are tomorrow's young adults. Let us give them the chance to be strong participants in our communities.

After quite a few tomorrows, all of us here will be dependent on today's youth for the type of society in which we will then live.

Let us make the best of this opportunity to help our children who are currently at risk—by intervening at the beginning of their lives. Let's do it for them, and for us.

Mr. ARMEY. Mr. Speaker, I rise to oppose the reauthorization of the Head Start Program as currently written. No reliable studies exist to show that Head Start has long-term positive effects, while all the available evidence indicates Head Start's effects wear off within a few years. Removing all spending restraint on the program, as this bill would do, seems an intellectually untenable response to this evidence.

The Education & Labor Committee, on which I sit, has moved with undue haste to reauthorize and expand a program of questionable value. The bill would cast aside the current $8 billion authorization cap and instead authorize "such sums as may be necessary"—legalese for "the sky's the limit." This puts Head Start on the slippery slope to becoming an entitlement, with all the enormous cost problems associated with entitlements.

Head Start's virtually unquestioned positive reputation turns out to be based on exaggerated reports of one study of one 1960's, non-Head Start Program, the Perry Preschool in Ypsilanti, MI. More recent and reliable research suggests Head Start's academic benefits wear off after about 2 years, calling into question the very premise of the program, while its non-academic benefits, meals and vaccinations, duplicate other Federal programs. Thus there would appear to be no need for Head Start. Yet we are greatly expanding it.

A more reasonable policy, it seems to me, is to freeze the authorization at the current level until its value can be scientifically demonstrated. This would still enable Head Start to more than double in size, from the current appropriation of $3 billion up to the authorized $8 billion. Restoring such a generous spending cap would not cut a penny from Head Start, but it would help to protect our intellectual, and fiscal, integrity.

Mr. QUINN. Mr. Speaker, I wish to express my strong support for H.R. 4250, Head Start, Community Services Block Grants, and Low-Income Heat Energy Assistance Program Reauthorizations.

The Low-Income Heat Energy Assistance Program [LIHEAP], which is reauthorized in H.R. 4250, is of particular significance to my district in western New York.

LIHEAP provides fuel assistance to disabled, working poor, and low-income senior citizens—an issue of life or death for many.

Mr. Speaker, in the month of January the average temperature in Buffalo was 17.2 degrees—no day saw a temperature above freezing. In addition to the cold, my constituents had to deal with 35.4 inches of snow in that month alone.

The reliance of millions of people on LIHEAP was highlighted this particularly harsh winter with these unprecedented numbers of record low temperatures and snowfalls.

In February, I received many phone calls from panicked constituents, many of them elderly, who were told that the LIHEAP Program was going to be shut down because it had run out of money.

I worked with officials at the White House and with Governor Cuomo to keep the application process for LIHEAP open when the program was in danger of being closed because funds had run out. I helped pass the emergency earthquake funding bill which included $300 million emergency funding for LIHEAP.

Without these actions, the people of western New York would have literally been left out in the cold.

Mr. Speaker, the threat to the LIHEAP program continues. In its fiscal year 1995 budget request, the administration has recommended cutting the program by 50 percent. That 50 percent would prohibit families and seniors from my district from properly heating their homes. I will certainly work during the appropriations process to ensure that deep cuts are not made in LIHEAP.

I would ask my colleagues to join me in support of H.R. 4250 which authorizes $2 billion for LIHEAP in fiscal year 1995 and such sums in fiscal year 1997–99. I think most importantly is the sense of Congress language that all fiscal year 1995 appropriations made for LIHEAP be expended, and that expenditures in fiscal year 1996 should ensure the same or better level of services.

Thank you Mr. Speaker, for allowing me this opportunity to speak in favor of continuation of this vital program.

Mr. PETE GEREN of Texas. Mr. Speaker, the National Head Start Association conducted a survey in the fall of 1990 that highlighted a serious problem. Fully one-third of the responding Head Start programs indicated that their facilities were in need of extensive repairs, were substandard, or should be replaced entirely.

The legislation that we have before us today goes a long way toward allowing the affected Head Start agencies the flexibility they need to address their infrastructure problems. More can be done, however. I believe that we should allow Head Start agencies to use funds from this program for the design and construction of the necessary facilities, rather than limiting these agencies to purchasing and renovating older, less suitable buildings at greater cost.

Mr. Speaker, Head Start is a good program that is making a difference in the communities in my district and across the country. Allowing Head Start agencies the flexibility to choose the option that best fits their modernization needs, and budgets, makes fiscal and financial sense. The Senate has provided such flexibility in its version of this legislation, and I would urge my colleagues who will serve on the conference committee to adopt this language.

Mr. KENNEDY. Mr. Speaker, it is a little difficult on a beautiful 85-degree day here in Washington to remember how important the Low Income Home Energy Assistance Program [LIHEAP] is to millions of families across the Nation.

Not very long ago, we were suffering through the longest and coldest winter in many, many years. For tens of thousands of Massachusetts' residents, the LIHEAP Program is the only thing that stands between their families and the bone-chilling cold.

Of the families that get LIHEAP benefits in Massachusetts, 75 percent earn less than $10,000 per year, and 40 percent of the households are elderly or disabled.

This year, about one-third of Boston recipients ran out of benefits before Christmas; 65 percent were out of benefits by mid-January.

My friends, the winter is not over in Boston in the middle of January.

The debate today is not a theoretical discussion. When their benefits run out, families with children must choose between heat and food. A Boston Hospital Center study shows the number of malnourished children nearly doubles in the winter because parents know their children can freeze to death overnight—starvation takes longer.

The bill before us today authorizes $2 billion for this crucial program. This will simply restore LIHEAP to its 1985 funding level.

The problem has not gotten smaller, neither should the funding.

I congratulate Chairman MARTINEZ for bringing this important legislation to the floor. We all know the real fight—the fight for the real dollars—is yet to come.

I look forward to working with him and the many other supporters of LIHEAP in these upcoming battles.

Mr. STOKES. Mr. Speaker, I rise today in strong support of H.R. 4250, legislation to reauthorize the critical Head Start Act, the Low Income Home Energy Assistance Program and the Community Services Block Grant Act. I commend my friend on the Education and Labor Committee, MATTHEW MARTINEZ, for his leadership in bringing this crucial bill to the floor. I urge my fellow Representatives to join with our colleagues in the Senate, who passed a similar measure just last week, by voting in favor of H.R. 4250.

Mr. Speaker, the Head Start Program continues to be the most successful pre-school and family support program in the History of this Nation. Although Head Start was designated as a summer program when originally enacted in 1966 as part of President Johnson's war on poverty, this program has dramatically expanded over the years and now assists children and families on a daily basis all year long. In 1966, Head Start received a budget of just $352 million and by fiscal year 1994, the appropriation funding level for the program had grown to $3.3 billion. While this figure supported more than 2,000 locally run Head Start programs and served over 730,000 children and their families during 1994, recent studies by the Advisory Committee on Head Start Quality and Expansion, commissioned by the Secretary of Health and Human Services, Donna Shalala, indicate that Head Start still serves less than 40 percent of all eligible children.

Reauthorizing this pivotal measure will allow more children and parents to enroll in Head Start, furnish these students with the books and supplies they need, offer teachers the compensation they serve, and provide managers with the training and support they require to run strong programs and plan for the future. Head Start has proven that early attention to the needs of children can make a significant difference in their health, educational and social development, and we must continue to authorize this program for these very reasons.

Like Head Start, the Low Income Home Energy Assistance Program [LIHEAP] has played an indispensable role in assisting our Nation's most needy citizens. LIHEAP ènables the working poor, the disabled, and the low-income elderly to meet their home energy needs. Since its inception, LIHEAP has proven to be a worthy and important program servicing approximately 375,000 households in my State of Ohio during 1993 alone. By maintaining LIHEAP we will not force our Nation's most vulnerable citizens into choosing between such basic requirements as heat and food.

The varied needs of America's impoverished are served through Head Start and LIHEAP as well as through the Community Services Block Grant Program [CSBG]. CSBG, which provides funds to community action agencies, local governments and Indian tribes to operate programs addressing the problems of poverty and to provide advocacy services for the poor, has created numerous employment and business opportunities for individuals in economically distressed urban areas as well as small, rural communities. Moreover, this far-reaching initiative extends beyond the economic and business realm by including community and nutrition projects, allowing schools serving low-income communities to enroll in Federal nutrition programs, and the National Youth Sport Program which provides low-income youth with day long athletic instruction during the summer.

Mr. Speaker, ignoring the importance of H.R. 4250 will have a crippling effect on the future of our society. The provisions contained in this important piece of legislation, intended to both strengthen and expand the quality of Head Start, Low Income Home Energy Assistance Program and the Community Services Block Grant Program, are crucial to the livelihood of our Nation's neediest citizens. Without these programs, the quality of life for our poor children and families, and our poor elderly and disabled, will further deteriorate and consequently our country will retrogress by refusing to assist our most precious resource, our citizens. I urge my colleagues to vote yes on H.R. 4250.

Mrs. KENNELLY. Mr. Speaker, I rise today in support of H.R. 4250, to authorize appropriations for Head Start, the Low Income Home Energy Assistance Program, and the Community Services Block Grant.

I would like to comment just briefly on two programs that have enormous impact in my State. Head Start is one of the most successful Federal programs to date and one I have consistently supported. Last year's appropriation served more than 730,000 children across this country. And while that may seem like a large number, it represents only 40 percent of those children eligible for Head Start.

H.R. 4250 would reauthorize Head Start through fiscal year 1998 and would strengthen and improve the quality of existing programs. In addition, child development services would be expanded. A particular highlight of Head Start is the new Initiative on Families with Infants and Toddlers which would provide family services to low-income families with very young children. Pregnant women and families with children under age 3, who meet the low-income standards under the regular Head Start program, would be eligible to participate in this initiative. Early, continuous, and comprehensive child development services would be provided to participants to ensure linkage to Head Start programs and continuity of future service.

Another important piece of H.R. 4250 is the reauthorization of the Low-Income Home Energy Assistance Program. LIHEAP has been a highly successful program in serving the needs of low-income elderly, disabled, and working poor in Connecticut and is particularly important in light of the harsh winter the Northeast just experienced. I am pleased that the bill authorizes $2 billion for fiscal year 1995. This is $1.27 billion more than the administration's request.

The core purpose of providing heating assistance to low-income households based on total household income has been maintained in this bill. States, within existing eligibility standards, may give priority to households with the highest energy costs or needs in relation to their income. A household may not be excluded from LIHEAP eligibility if its income is less than 110 percent of poverty.

The bill would also make permanent the authorization to appropriate $600 million each year in emergency funds to meet the needs of residents in States that have suffered natural disasters. Under current law, the process of seeking release of these funds created difficulty in terms of timing for States trying to meet immediate crisis situations. Permanent authorization of emergency funds is a significant step to facilitating better and more timely action.

I am also pleased that the language of House Concurrent Resolution 202 was included in this bill expressing that LIHEAP should be a priority to enable the working poor, the disabled, and the low-income elderly to meet their energy costs and needs.

Mr. Speaker, I urge my colleagues to support H.R. 4250 to preserve services like Head Start and LIHEAP that are vital to thousands of Americans.

Mr. ROEMER. Mr. Speaker, I rise in strong support of the reauthorization of the Head Start Program, the Community Services Block Grant, and the Low Energy Assistance Act.

Head Start Program, which grew out of the War on Poverty, has been recognized as one of the most successful intervention programs for economically disadvantaged preschool children. Almost 30 years ago, when President Lyndon B. Johnson signed this legislation into law, he proclaimed that the educational, health and social services to be provided to half a million poor children that summer would "make certain that poverty's children would not be forevermore poverty's captives."

Over the years, numerous studies have confirmed that the results of this program have been dramatic. In its 1985 study on preschool education, the Committee on Economic Development reported, "It would be hard to imagine that society could find a higher yield for a dollar investment than that found in preschool programs for at-risk children."

However, the program has not been free of criticism. Serious questions have been raised about the quality of the program. In order to address those issues, last year, the Health and Human Services Secretary, Donna Shalala, created a bipartisan Advisory Committee on Head Start Quality and Expansion. The Committee conducted its review of the current program and issued its recommendations for improvement and expansion. I am pleased that the Advisory Committee's recommendations build on the success of the program and continue the setaside for quality improvements such as raising staff salaries and providing training. The new amendments also require the Secretary to establish quality standards in order to monitor the program.

Last year, the inspector general at the Department of Health and Human Services issued a report that found that Head Start grantees' files and records frequently were incomplete, inconsistent, and difficult to review. In order to address this problem, I have incorporated an amendment into the act that would require the Secretary to establish standards that address recordkeeping and file maintenance practices. In addition, I have incorporated amendments that are designed to promote the health of our Nation's children.

I believe that the new legislation responds to the recent Carnegie report entitled, "Meeting the Needs of our Youngest Children" which recommends a comprehensive approach to combating child poverty. Last year, the General Accounting Office issued a report which shows that the number of poor children under age 6 has grown by more than 25 percent during the 1980's. The extension of the Head Start Program to provide services to infants and toddlers from birth to age 3 is designed to help families and their children at the earliest ages. These formative years are critical for the intellectual, physical, social, and emotional development of children.

I also believe that we must pay particular attention to the growing trend of more women entering the work force. As we look to the President's goal of reforming our current welfare system, we must try to respond to the needs of low-income mothers by providing full-working-day, full-year care. Head Start's part-day, part-year services do not meet the needs of mothers or families who are working or enrolled in education or training programs. Additionally, if we are going to successfully reform our current welfare system, responding to the growing trends of more working families and more single mothers is critical.

Finally, I want to say that I was pleased to work with Chairman MARTINEZ and Representative GUNDERSON on a bipartisan basis to include the reauthorization of the National Youth Sports Program [NYSP] in this bill. For more than a quarter of a century, NYSP has served youth aged 10 to 16 who are growing up in economically disadvantaged environments. This program provides sports instruction and a host of other enrichments, such as a daily USDA-approved meal, education and career counseling, math and science instruction, and medical examinations for our underprivileged youth.

Both the Head Start Act and the National Youth Sports Program reaffirm our commitment to invest in our children. I urge my colleagues to support H.R. 4250.

Mr. MARTINEZ. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from California [Mr. MARTINEZ] that the House suspend the rules and pass the bill, H.R. 4250, as amended.

The question was taken.

Mr. ARMEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks, and include extraneous material, on H.R. 4250, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR CONCURRENCE WITH AMENDMENT TO H.R. 1727, ARSON PREVENTION ACT OF 1994

Mr. BOUCHER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 413) providing for the concurrence by the House, with an amendment, in the amendment by the Senate to the bill H.R. 1727.

The Clerk read as follows:

H. RES. 413

Resolved, That, upon adoption of this resolution, the bill (H.R. 1727) to establish a program of grants to States for arson research, prevention, and control, and for other purposes, with the Senate amendment thereto, shall be considered to have been taken from the Speaker's table, and the same are hereby agreed to with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arson Prevention Act of 1994".

SEC. 2. FINDINGS.

Congress finds that—

(1) arson is a serious and costly problem, and is responsible for approximately 25 percent of all fires in the United States;

(2) arson is a leading cause of fire deaths, accounting for approximately 700 deaths annually in the United States, and is the leading cause of property damage due to fire in the United States;

(3) estimates of arson property losses are in the range of $2,000,000,000 annually, or approximately 1 of every 4 dollars lost to fire;

(4) the incidence of arson in the United States is seriously underreported, in part because of the lack of adequate participation by local jurisdictions in the National Fire Incident Reporting System (NFIRS) and the Uniform Crime Reporting (UCR) program;

(5) there is a need for expanded training programs for arson investigators;

(6) there is a need for improved programs designed to enable volunteer firefighters to detect arson crimes and to preserve evidence vital to the investigation and prosecution of arson cases;

(7) according to the National Fire Protection Association, of all the suspicious and incendiary fires estimated to occur, only ⅓ are confirmed as arson; and

(8) improved training of arson investigators will increase the ability of fire departments to identify suspicious and incendiary fires, and will result in increased and more effective prosecution of arson offenses.

SEC. 3. ARSON PREVENTION GRANTS.

The Federal Fire Protection and Control Act of 1974 is amended by inserting after section 24 (15 U.S.C. 2220) the following new section:

"SEC. 25. ARSON PREVENTION GRANTS.

"(a) DEFINITIONS.—As used in this section:

"(1) ARSON.—The term 'arson' includes all incendiary and suspicious fires.

"(2) Office.—The term 'Office' means the Office of Fire Prevention and Arson Control of the United States Fire Administration.

"(b) Grants.—The Administrator, acting through the Office, shall carry out a demonstration program under which not more than 10 grant awards shall be made to States, or consortia of States, for programs relating to arson research, prevention, and control.

"(c) Goals.—In carrying out this section, the Administrator shall award 2-year grants on a competitive, merit basis to States, or consortia of States, for projects that promote one or more of the following goals:

"(1) To improve the training by States leading to professional certification of arson investigators, in accordance with nationally recognized certification standards.

"(2) To provide resources for the formation of arson task forces or interagency organizational arrangements involving the police and fire departments and other relevant local agencies, such as a State arson bureau and the office of a fire marshal of a State.

"(3) To combat fraud as a cause of arson and to advance research at the State and local levels on the significance and prevention of fraud as a motive for setting fires.

"(4) To provide for the management of arson squads, including—

"(A) training courses for fire departments in arson case management, including standardization of investigative techniques and reporting methodology;

"(B) the preparation of arson unit management guides; and

"(C) the development and dissemination of new public education materials relating to the arson problem.

"(5) To combat civil unrest as a cause of arson and to advance research at the State and local levels on the prevention and control of arson linked to urban disorders.

"(6) To combat juvenile arson, such as juvenile fire-setter counseling programs and similar intervention programs, and to advance research at the State and local levels on the prevention of juvenile arson.

"(7) To combat drug-related arson and to advance research at the State and local levels on the causes and prevention of drug-related arson.

"(8) To combat domestic violence as a cause of arson and to advance research at the State and local levels on the prevention of arson arising from domestic violence.

"(9) To combat arson in rural areas and to improve the capability of firefighters to identify and prevent arson initiated fires in rural areas and public forests.

"(10) To improve the capability of firefighters to identify and combat arson through expanded training programs, including—

"(A) training courses at the State fire academies; and

"(B) innovative courses developed with the Academy and made available to volunteer firefighters through regional delivery methods, including teleconferencing and satellite delivered television programs.

"(d) Structuring of Applications.—The Administrator shall assist grant applicants in structuring their applications so as to ensure that at least one grant is awarded for each goal described in subsection (c).

"(e) State Qualification Criteria.—In order to qualify for a grant under this section, a State, or consortium of States, shall provide assurances adequate to the Administrator that the State or consortium—

"(1) will obtain at least 25 percent of the cost of programs funded by the grant, in cash or in kind, from non-Federal sources;

"(2) will not as a result of receiving the grant decrease the prior level of spending of funds of the State or consortium from non-Federal sources for arson research, prevention, and control programs;

"(3) will use no more than 10 percent of funds provided under the grant for administrative costs of the programs; and

"(4) is making efforts to ensure that all local jurisdictions will provide arson data to the National Fire Incident Reporting System or the Uniform Crime Reporting program.

"(f) Extension.—A grant awarded under this section may be extended for one or more additional periods, at the discretion of the Administrator, subject to the availability of appropriations.

"(g) Technical Assistance.—The Administrator shall provide technical assistance to States in carrying out programs funded by grants under this section.

"(h) Consultation and Cooperation.—In carrying out this section, the Administrator shall consult and cooperate with other Federal agencies to enhance program effectiveness and avoid duplication of effort, including the conduct of regular meetings initiated by the Administrator with representatives of other Federal agencies concerned with arson and concerned with efforts to develop a more comprehensive profile of the magnitude of the national arson problem.

"(i) Assessment.—Not later than 18 months after the date of enactment of this subsection, the Administrator shall submit a report to Congress that—

"(1) identifies grants made under this section;

"(2) specifies the identity of grantees;

"(3) states the goals of each grant; and

"(4) contains a preliminary assessment of the effectiveness of the grant program under this section.

"(j) Regulations.—Not later than 90 days after the date of enactment of this subsection, the Administrator shall issue regulations to implement this section, including procedures for grant applications.

"(k) Administration.—The Administrator shall directly administer the grant program required by this section, and shall not enter into any contract under which the grant program or any portion of the program will be administered by another party.

"(l) Purchase of American Made Equipment and Products.—

"(1) Sense of congress.—It is the sense of Congress that any recipient of a grant under this section should purchase, when available and cost-effective, American made equipment and products when expending grant monies.

"(2) Notice to recipients of assistance.—In allocating grants under this section, the Administrator shall provide to each recipient a notice describing the statement made in paragraph (1) by the Congress.".

SEC. 4. VOLUNTEER FIREFIGHTER TRAINING.

Section 24(a)(2) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2220(a)(2)) is amended by inserting before the semicolon the following: ", with particular emphasis on the needs of volunteer firefighters for improved and more widely available arson training courses".

SEC. 5. CPR TRAINING.

The Federal Fire Prevention and Control Act of 1974 is amended by adding at the end the following new section:

"SEC. 32. CPR TRAINING.

"No funds shall be made available to a State or local government under section 25 unless such government has a policy to actively promote the training of its firefighters in cardiopulmonary resuscitation.".

SEC. 6 FEDERAL EMPLOYEE HOUSING EXCEPTIONS.

Section 31(c)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2227(c)(1)) is amended—

(1) in subparagraph (A), by striking "No Federal" and inserting in lieu thereof "Except as otherwise provided in this paragraph, no Federal"; and

(2) by adding at the end the following new subparagraphs:

"(C) Housing covered by this paragraph that does not have an adequate and reliable electrical system shall not be subject to the requirement under subparagraph (A) for protection by hard-wired smoke detectors, but shall be protected by battery operated smoke detectors.

"(D) If funding has been programmed or designated for the demolition of housing covered by this paragraph, such housing shall not be subject to the fire protection requirements of subparagraph (A), but shall be protected by battery operated smoke detectors."

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended by adding at the end the following new subsection:

"(h) In addition to any other amounts that are authorized to be appropriated to carry out this Act, there are authorized to be appropriated to carry out this Act—

"(1) $500,000 for fiscal year 1995 for basic research on the development of an advanced course on arson prevention;

"(2) $2,000,000 for fiscal year 1996 for the expansion of arson investigator training programs at the Academy under section 24 and at the Federal Law Enforcement Training Center, or through regional delivery sites;

"(3) $4,000,000 for each of fiscal years 1995 and 1996 for carrying out section 25, except for salaries and expenses for carrying out section 25; and

"(4) $250,000 for each of the fiscal years 1995 and 1996 for salaries and expenses for carrying out section 25.".

SEC. 8. SUNSET.

Notwithstanding any other provision of this Act, no funds are authorized to be appropriated for any fiscal year after fiscal year 1996 for carrying out the programs for which funds are authorized by this Act, or the amendments made by this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia [Mr. Boucher] will be recognized for 20 minutes, and the gentleman from New York [Mr. Boehlert] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Virginia [Mr. Boucher].

Mr. BOUCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 413 contains an amendment to the Senate amendment to H.R. 1727 which amends the Federal Fire Prevention and Control Act of 1974 to establish a program of demonstration grants to strengthen State arson investigator training courses, and to provide new resources in the fight against this very serious criminal justice and fire protection problem. The bill also authorizes the development of an advanced course on arson prevention and investigation at the National Fire Academy, the Federal Law Enforcement Training Center, and the FBI Training Academy.

Arson remains a deadly crime. It is a leading cause of fire-related deaths, accounting for approximately 700 deaths annually in the United States. Each year, there are more than 500,000 incendiary or suspicious fires, causing estimated property losses in the range of $2 billion. Despite the devastating human and economic costs of arson, it remains one of the most difficult crimes to solve or prosecute successfully. The National Fire Protection Association estimates that only about 2 percent of arson fires lead to convictions. There is a need for standardization of investigative techniques and reporting methodology to facilitate a more accurate representation of the true scope of the arson problem. Firefighters require better training in recognizing and preserving the evidence of arson. Rural and volunteer firefighters have a particular need for improved access to this instruction.

The Arson Prevention Act of 1994 was developed in response to requests from the fire services community nationally to provide Federal support to help stem the growing arson problem. The House passed H.R. 1727 by voice vote on July 26, 1993. The other body passed H.R. 1727 with an amendment in the nature of a substitute on November 22, 1993.

The measure before the House today makes only minor changes to the amendment in the nature of a substitute that was approved by the other body last November. First, we have retained a provision that was offered by the gentleman from Pennsylvania [Mr. WALKER], in the full Science, Space, and Technology Committee markup. That provision requires States to have a policy of actively promoting training in cardiopulmonary resuscitation [CPR] for its firefighters as a condition of receiving a grant under the act. Second, we have retained a sunset provision for the program which runs concurrently with the 2-year authorization. Third, we have changed the authorization years under the bill from fiscal years 1994 and 1995 to fiscal years 1995 and 1996. And finally, we have corrected an oversight in the provisions of the Federal Fire Administration Authorization Act of 1992—Public Law 102–522—mandating hard-wired smoke detectors in facilities housing Federal employees. The narrow amendment covers those rare situations in which a reliable source of electricity is not available and allows the Government to employ battery operated smoke detectors in such situations. We have discussed these changes with Members of the other body and are assured that the bill will be taken up and passed promptly.

I would like to say a word of thanks to the gentleman from New York [Mr. BOEHLERT], the ranking Republican member of our Subcommittee on Science. Mr. BOEHLERT is a recognized leader in many congressional efforts to provide better fire protection and he has been of outstanding help in both the drafting and passage of this measure.

I also want to acknowledge the contributions to this measure of the ranking Republican member of the full Committee on Science, Space, and Technology, the gentleman from Pennsylvania, Mr. WALKER, our full committee chairman, Mr. BROWN of California, and the leaders of the Congressional Fire Services Institute, Mr. HOYER of Maryland, and Mr. WELDON of Pennsylvania.

Mr. Speaker, this is a carefully drawn response to a growing criminal justice and fire protection problem and I am pleased to urge its passage.

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Mr. Speaker, I reserve the balance of my time.

Mr. BOEHLERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this bill, which I cosponsored with the chairman. Arson is a serious threat to lives and property, and it is one of the most difficult crimes to investigate and prosecute. We will only begin to make a dent in the arson problem if we focus more attention on it.

The U.S. Fire Administration was established to handle precisely this sort of problem—combatting a nationwide danger that States and localities have been unable to confront alone. The grants and enhanced training that the Fire Administration will provide under this bill should be an important step in addressing the arson problem.

When the committee considers the overall authorization for the Fire Administration, we will have to decide whether these grants will be paid for with new money or will come out of the President's request. Mr. WALKER, the ranking member of the Science Committee, who has been a strong supporter of this arson bill, will be pressing to pay for these grants out of existing funds, and we must address that issue by taking a hard look at Fire Administration programs in the authorization bill.

I want to thank Chairman BOUCHER for working with me to clear up some technical problems in the Federal Fire Safety Act, which we worked on in the last Congress. The new provisions will make clear that the requirements for sprinklers and hard-wired smoke detectors do not apply to properties that do not have access to water or electricity. This primarily involves backwoods properties under the control of the Department of Interior. The properties still must have battery-powered smoke detectors.

I am pleased that the agencies are taking the act seriously enough to bring this technical problem to our attention. We look forward to the smooth implementation and rigorous enforcement of the act.

I urge my colleagues to support this bill.

Mr. BROWN of California. I rise in strong support of H.R. 1727, the Arson Prevention Act of 1994.

This bill represents a serious and thoughtful attempt by the Committee on Science, Space, and Technology to reduce the incidence of arson in the United States.

The bill authorizes grants for demonstration programs at the State level to improve the training of arson investigators, to form regional arson task forces, to perform research on the causes of arson, and to combat specific causes of arson—such as gang related activity.

No area of the United States is immune from the threat of arson. In my district alone, San Bernadino County fire officials reported more than 100 arson related fires last year, and nationally the figure approaches 500,000. Property losses are in the billions.

I commend the distinguished Chairman of the Subcommittee on Science, Mr. BOUCHER, for his work on this legislation. I also commend Mr. BOEHLERT of New York and Mr. WALKER of Pennsylvania for their contributions. This bill has widespread bipartisan support, and I am pleased to recommend this bill to the House.

Mr. HOYER. Mr. Speaker, as the chairman of the Congressional Fire Services Caucus, it gives me great pleasure to rise in strong support of H.R. 1727, the Arson Prevention Act, and its Senate amendments. This has been a top priority of the fire caucus in the 103d Congress, and I am pleased that this measure is now moving forward.

Arson continues to be one of the most destructive problems in our country today. In fact, as a percentage of all fires, arson has been increasing during the last 4 to 5 years.

That's a frightening trend when you consider that 1 out of every 12 civilian fire deaths is due to arson, and nearly one out of every four fire service deaths results from arson fires.

While arson fire will never be a completely preventable crime, H.R. 1727 takes a giant step toward reorientating how local, State, and Federal agencies approach this problem. It includes over $10 million in grant money designed to improve arson detection, investigation, and prevention.

The terrible arson fires in southern California last year symbolized the blight these fires create. There is no better testament to the need of this bill, than the thousands of Californians whose lives have been irrevocably changed by this crime.

Today, we can take action to help our local communities fight arson. I urge all of my colleagues to support the Senate amendments to H.R. 1727.

Mr. BOEHLERT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BOUCHER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Virginia [Mr. BOUCHER] that the House suspend the rules and agree to the resolution, House Resolution 413.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 413, the resolution just considered and agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

APPOINTMENT OF MANUEL LUIS IBÁÑEZ TO THE SMITHSONIAN INSTITUTION

Mr. FROST. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 279) providing for the appointment of Manuel Luis Ibáñez as a citizen regent of the Board of Regents of the Smithsonian Institution.

The Clerk read as follows:

H.J. RES. 279

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the resignation of Anne Legendre Armstrong of Texas, is filled by the appointment of Manuel Luis Ibáñez of Texas. The appointment is for a term of 6 years and shall take effect on the day after the effective date of the resignation of Anne Legendre Armstrong.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. FROST] will be recognized for 20 minutes, and the gentleman from Nebraska [Mr. BARRETT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Joint Resolution 279.

As our Nation's museum, the Smithsonian Institution is the world's largest museum complex with 20 major facilities, including the world famous Air and Space Museum, the National Museum of Natural History, the National Museum of African Art, and the National Museum of American History.

Congress has vested the responsibility to administer the Smithsonian in the Smithsonian Board of Regents, which is composed of the Chief Justice, the Vice President, three Members of the Senate, three Members of the House, and nine Citizen Regents. The Regents receive no salary for their services to the Board and are appointed to a term of 6 years.

House Joint Resolution 279 provides for the appointment of Manuel Luis Ibáñez to fill the vacancy of Anne Legendre Armstrong as a Citizen Regent of the Board of Regents of the Smithsonian Institution.

Mr. Ibáñez is the president of Texas A&I University and a professor of microbiology. He has had a long and distinguished career in academia and he will be an asset to the Smithsonian Board of Regents.

Mr. Ibáñez has complied with all the guidelines set by the committee to receive its approval, and therefore, I urge my colleagues to support and adopt House Joint Resolution 279.

Mr. Speaker, I reserve the balance of my time.

Mr. BARRETT of Nebraska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Joint Resolution 279, and endorse the appointment of Manuel Luis Ibáñez to the Board of Regents of the Smithsonian Institution.

Dr. Ibáñez would bring to the Board of Regents an extensive academic background, as well as vital administrative experience, as president of Texas A&I University.

His creativity in the development and establishment of numerous programs and degrees could prove to be very beneficial to the Smithsonian Institution.

This accomplished scholar has actively participated in various professional societies, performed extensive academic and public service, and has personal and institutional experience involving grants, awards, and funding.

Dr. Ibáñez has a proven record in the area of fundraising. Most notably, he increased the endowment from $1½ to $5½ million, while president of Texas A&I University. Proficiency in this area is needed at an institution which so often relies on public donations.

My visit with Dr. Ibáñez yielded many positive thoughts. My impression of this gentleman was that he expressed great enthusiasm with regard to the museums.

Dr. Ibáñez previously mentioned to our subcommittee his idea of expanding the museums, through traveling exhibits that would tour some of the smaller towns and cities in the United States.

As a member of a rural district primarily comprised of smaller towns, I recognize the importance of access of these cultural and historical exhibits, that the people of Washington and the other larger cities in the United States so readily enjoy.

Dr. Ibáñez also has an excellent understanding of the current fiscal situation facing the Smithsonian and expressed some excellent ideas in broadening the private contribution base.

I believe he embodies a desire to keep the Smithsonian museums among the most highly respected in the world. I encourage my colleagues to support House Joint Resolution 279, and I reserve the balance of my time.

Mr. Speaker, I yield back the balance of my time.

Mr. MINETA. Mr. Speaker, I rise in support of House Joint Resolution 279, a resolution appointing Manuel Luis Ibanez as a member of the board of regents for the Smithsonian Institution for a 6-year term.

As the senior regent in the House of Representatives, I introduced this legislation when Mr. Ibanez's nomination was approved by the board of regents last year.

Mr. Ibanez is the president of Texas A&I University and a professor of microbiology. From his leadership roles at Texas A&I University, he has significant experience in the arts and science. He is an accomplished author and speaker on a variety of topics.

In addition, he is involved with several research organizations and professional societies whose goals include advancing the education and involvement of a broad audience about science and various related areas of study. Mr. Ibanez is an active public servant and will bring his unique expertise to the many issues before the board of regents.

I urge you to support his appointment.

Mr. FROST. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. FROST] that the House suspend the rules and pass the joint resolution, House Joint Resolution 279.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FROST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 279, the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FROST. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate joint resolution (S.J. Res. 144) providing for the appointment of Manuel Luis Ibanez as a citizen regent of the Board of Regents of the Smithsonian Institution.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 144

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the resignation of Anne Legendre Armstrong of Texas, is filled by the appointment of Manuel Luis Ibanez of Texas. The appointment is for a term of 6 years and shall take effect on the day after the effective date of the resignation of Anne Legendre Armstrong.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House joint resolution (H.J.Res. 279) was laid on the table.

APPOINTMENT OF FRANK ANDERSON SHRONTZ TO THE SMITHSONIAN INSTITUTION

Mr. FROST. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 280) providing for the appointment of Frank Anderson Shrontz as a citizen regent of the Board of Regents of the Smithsonian Institution.

The Clerk read as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the resignation of Robert James Woolsey, Jr. of Maryland on April 2, 1993, is filled by the appointment of Frank Anderson Shrontz of Washington. The appointment is for a term of 6 years and shall take effect on the date on which this joint resolution becomes law.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. FROST] will be recognized for 20 minutes, and the gentleman from Nebraska [Mr. BARRETT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise in support of House Joint Resolution 280. House Joint Resolution 280 provides for the appointment of Frank Anderson Shrontz, to fill the vacancy of Robert James Woolsey, Jr., as a citizen regent of the Board of Regents of the Smithsonian Institution. Mr. Shrontz is an airplane manufacturing executive of the Boeing Co. He has had a long and successful career, and his business and marketing expertise will be an asset to the Smithsonian Board of Regents.

Mr. Shrontz has complied with all guidelines set by the committee to receive its approval, and therefore I urge my colleagues to support and adopt House Joint Resolution 280.

Mr. Speaker, I reserve the balance of my time.

Mr. BARRETT of Nebraska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Joint Resolution 280, which would provide for the appointment of Mr. Frank Anderson Shrontz to the Smithsonian Board of Regents.

Mr. Shrontz would bring the Smithsonian Board of Regents some impeccable credentials. He possesses an administrative background matched by very few, as chief executive officer of the Boeing Co.

I believe his experience in this demanding position has prepared him with some essential training that could help the Smithsonian confront the challenges it may face in the future.

Mr. Shrontz's successful managerial background in a large, complex organization, demonstrates his potential for bringing that same effective oversight to the Smithsonian Institution.

I had the pleasure of personally visiting with Mr. Shrontz and I found him to be very amiable, as well as in touch with all of my concerns involving the museums. I believe he has a firm understanding in making the difficult decisions necessary, while operating in a constrained financial environment.

In questions about the Institution prior to our visit, he expressed our mutual interest in creating financial stability within the Institution, for the purpose of maintaining the Smithsonian's high quality and consistency. He stated this in terms of setting firm priorities and meaningful constraints on expansion.

In addition to an extracurricular interest in the areas of art, history, and international programs, Mr. Shrontz would bring an expertise in air and space technologies, that could prove to be advantageous as a member of the Board of Regents.

Mr. Speaker, I urge my colleagues to join me in support of Mr. Shrontz.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Washington [Ms. DUNN].

Ms. DUNN. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong support of House Joint Resolution 280 that will provide for the appointment of Frank Anderson Shrontz as a citizen regent of the Board of Regents of the Smithsonian Institution.

As the chairman and chief executive officer of the Boeing Co., Frank Shrontz comes to the Smithsonian as a management expert adept at the oversight of a large complex organization. As a member of the Board of Regents, his contributions will be invaluable as the Smithsonian establishes priorities for the 21st century.

With the dawn of a new century, a new technology-driven century, it is essential for America to recognize that the key to continued economic vitality is for America to produce workers who are both highly educated and highly skilled. Fortunately, for America and for our youth, Frank Shrontz has been on the forefront of the educational reform movement; pushing and prodding elected officials and educators, students, and administrators to change an educators, system so as to boldly meet the new needs and new challenges of our Nation.

At its essence, the Smithsonian Institution is a hub of educational and cultural learning. At the Smithsonian, men and women, young and old, from diverse backgrounds and ethnic origins come together to learn of our past, to seek answers to the future, and to attempt to bridge the gaps that divide us. At the Smithsonian, the intellect is constantly challenged and the imagination is endlessly piqued. Frank Shrontz is the right man to ensure that the Smithsonian's educational journey continues unabated and uninterrupted.

Frank Shrontz, management authority and educational conscience, is a man imminently well qualified to lead as a citizen regent of the Board of Regents of the Smithsonian Institution. I rise in unequivocal support and ask my colleageus for their unanimous approval of this resolution.

Mr. MINETA. Mr. Speaker, I rise in strong support of House Joint Resolution 280, a resolution appointing Frank Anderson Shrontz as a member of the Board of Regents for the Smithsonian Institution for a 6-year term.

As the senior Regent in the House of Representatives, I introduced this legislation when Mr. Shrontz's nomination was approved by the Board of Regents last year.

Mr. Shrontz is the president and chief executive officer of the Boeing Co. From his many roles in business and public affairs for Boeing, he has garnered significant experience in the corporate world. Mr. Shrontz is certainly considered a leader in the aviation industry.

In addition, he is involved with a variety of business councils and serves on the board of directors for Citicorp, the Boise Cascade Corp., and Minnesota Mining and Manufacturing [3M]. Mr. Shrontz is active in a number of civic and charitable organizations. He will bring an invigorated approach and unique knowledge of corporate America and the complexities of the business world to the many issues before the Board of Regents.

I urge you to support his appointment.

Mr. BARRETT of Nebraska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I have no further requests for time, and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. FROST] that the House suspend the rules and pass the joint resolution, House Joint Resolution 280.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the joint resolutin was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FROST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and exend their remarks on House Joint Resolution 280, the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

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Mr. FROST. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the Senate joint resolution (S.J. Res. 143) providing for the appointment of Frank Anderson Shrontz as a citizen regent of the Board of Regents of the Smithsonian Institution.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 143

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the resignation of Robert James Woolsey, Jr., of Maryland on April 2, 1993, is filled by the appointment of Frank Anderson Shrontz of Washington. The appointment is for a term of 6 years and shall take effect on the date on which this joint resolution becomes law.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House joint resolution (H.J. Res. 280) was laid on the table.

JEAN MAYER HUMAN NUTRITION RESEARCH CENTER ON AGING

Mr. NADLER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4204) to designate the Federal building located at 711 Washington Street in Boston, MA, as the "Jean Mayer Human Nutrition Research Center on Aging".

The Clerk read as follows:

H.R. 4204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 711 Washington Street in Boston, Massachusetts, shall be known and designated as the "Jean Mayer Human Nutrition Research Center on Aging".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Jean Mayer Human Nutrition Research Center on Aging".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. NADLER] will be recognized for 20 minutes, and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Dr. Jean Mayer was a truly remarkable man. He was an advisor to three Presidents, a decorated World War II hero, a renowned researcher, an author, a lecturer, and an educator. He was instrumental in establishing the National Food Stamp Program, the School Lunch Program, and other national nutritional programs. His research on the effects of nutrition and aging has made significant contributions to the health of our senior citizens. He pioneered research into the effects of poverty on malnutrition and aging. Dr. Mayer also studied the effects of smoking and high-cholesterol foods on coronary heart disease. For his devotion and dedication to public health issues, and for his outstanding contributions to scientific research, it is fitting and proper that the Federal building at 711 Washington Street, Boston, MA, be designated the "Jean Mayer Human Nutrition Research Center on Aging." Mr. Speaker, I wish to thank Chairman JOE MOAKLEY for sponsoring H.R. 4204 and for his diligent efforts in support of this bill. In closing, I ask my colleagues to support H.R. 4202, and I urge adoption of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4204, which designates the Federal building at 711 Washington Street in Boston, MA, as the Jean Mayer Human Nutrition Research Center on the Aging.

Dr. Mayer gained international recognition for his search for solutions to the nutritional problems of the poor and the elderly. Presidents Nixon, Ford, and Carter sought his advice on numerous issues including world hunger, world peace, and civil rights.

Dr. Mayer holds the unique distinction of being named to both the American Academy of Arts and Sciences and the French Academy of Sciences. During World War II, Dr. Mayer's native country of France awarded him the French equivalent of the Congressional Medal of Honor.

Dr. Mayer is a graduate of Yale University and a former member of the faculty at Harvard University. He has dedicated his life to serving his fellow citizens of the world by assuming leadership positions at the United Nations, the World Health Organization, and UNICEF.

The Human Nutrition Research Center on Aging in Boston was a dream of Dr. Mayer's which he made a reality. I am pleased to join the sponsor of this legislation, Congressman MOAKLEY, in urging our fellow Members to name this center after one of our Nation's most respected nutritionists, Dr. Jean Mayer.

Mr. MOAKLEY. Mr. Speaker, let me first thank my colleague and friend, Mr. TRAFICANT, the gentleman from Ohio, the Chair of the Subcommittee on Public Buildings and Grounds of the Committee on Public Works and Transportation, for managing, supporting, and making possible this legislation.

Mr. Speaker, I would like to thank my friends on the Republican side, especially the gentleman from Tennessee [Mr. DUNCAN], the ranking member of the subcommittee, for helping to move this legislation forward. I would also like to thank Dr. John DiBiaggio for assisting with this legislation. Dr. DiBiaggio succeeded Dr. Jean Mayer as president of Tufts University and is doing truly exemplary work in continuing the legacy of both Jean Mayer and Tufts University.

Mr. Speaker, thank you for the opportunity to appear before the House today to support H.R. 4204 to name the Human Nutrition Research Center on Aging in Boston, MA, for Dr. Jean Mayer.

First let me explain the mission of the Human Nutrition Research Center on Aging. I think my colleagues will clearly see why it is fitting to name the Center for Dr. Jean Mayer. The Center is a free-standing Federal facility located at 711 Washington Street in Boston, MA, my congressional district. The facility was established by the Congress through the Food and Agriculture Act of 1977 and houses 250 research and support staff that work with a number of Federal agencies on issues affecting the nutritional requirements and the role nutrition plays in the aging process of senior citizens.

Mr. Speaker, unfortunately, the Center's mission becomes more relevant to all of us with each passing day. The Center today serves as a national model of Federal Government/university/State and city collaboration benefiting not only the American people, but people around the world. The accomplishments at the Center are unparalleled and its establishment has even helped to spur the economic redevelopment of a section Boston unfortunately known as the Combat Zone.

Mr. Speaker, the Human Nutrition Research Center on Aging was a dream made possible by Dr. Jean Mayer's strong mind and vision and, oftentimes, persistence. Mr. Speaker, as one who worked closely with Jean Mayer through the years, I can honestly say it was a mission to better all mankind. Dr. Jean Mayer was one of the world's leaders in the field of nutrition who recognized early in his career the relationship between nutrition and the productive lives of senior citizens. Recent studies have confirmed this relationship, as well as the relationship of nutrition to the health of senior citizens. This research is extremely timely given the great debate over health care and health care costs before the Congress today. The improved health of senior citizens can and will literally save our country millions of dollars through reduced health care costs.

In addition to these efforts, Dr. Jean Mayer was truly a national resource. He was born in

Paris, France, in 1920 and did his undergraduate studies at the University of Paris. During World War II, he served in the French Army, the Free French Forces and participated in numerous campaigns including North Africa, Italy, and the Battle of the Bulge and received France's highest decoration for bravery, the Croix de Guerre, the equivalent of our Congressional Medal of Honor. His daring exploits during the war are truly legend, both in France and the United States.

After completing his graduate studies at Yale University, Dr. Mayer served on the faculty of Harvard University until his appointment as the 10th President of Tufts University in 1976, followed by his appointment as chancellor of Tufts University in 1992. Dr. Jean Mayer's service to mankind is long and varied as represented by his leadership within the United Nations, the World Health Organization, UNICEF, and technical missions on various continents, including his mission to war-torn Biafra in the late 1960's. As chairman of the U.S. National Council on Hunger and Malnutrition, Dr. Jean Mayer played a major role in calling our Nation's attention to the nutritional problems of the poor in America. Prior to his unfortunate death in 1993, he continued to serve as an advisor to numerous Presidents on issues relating to world hunger, world peace, and the protection of civil rights. For these efforts, Dr. Mayer was elected to both the American Academy of Arts and Sciences and the French Academy of Sciences—one of the few Americans to be honored with election to both Academies.

Mr. Speaker, Members of the House, it is for these outstanding contributions to not only the American people, but people around the world that I introduced H.R. 4204 to name the Human Nutrition Research Center on Aging for Dr. Jean Mayer. Naming the Center for Human Nutrition Research on Aging for Dr. Jean Mayer is a great tribute to this wonderful man, and it can serve as a symbol to encourage others to follow in his footsteps of service to our country and other countries around the world.

Again, Mr. Speaker, Members of the House, thank you for your consideration of this legislation which honors a great man.

Mr. Speaker, I urge adoption of the motion and yield back the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield back the balance of my time.

Mr. NADLER. Mr. Speaker, I, too, yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. NADLER] that the House suspend the rules and pass the bill, H.R. 4204.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NADLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

USE OF THE CAPITOL GROUNDS FOR THE 13TH ANNUAL NATIONAL PEACE OFFICERS' MEMORIAL SERVICE

Mr. NADLER. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 237) authorizing the use of the Capitol Grounds for the 13th annual National Peace Officers' Memorial Service.

The Clerk read as follows:

H. CON. RES. 237

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. USE OF CAPITOL GROUNDS FOR NATIONAL PEACE OFFICERS' MEMORIAL SERVICE.

The National Fraternal Order of Police and its auxiliary shall be permitted to sponsor a public event, the 13th annual National Peace Officers' Memorial Service, on the Capitol grounds on May 15, 1994, or on such other date as the Speaker of the House of Representatives and the President pro tempore of the Senate may jointly designate, in order to honor the 151 law enforcement officers who died in the line of duty during 1993.

SEC. 2. TERMS AND CONDITIONS.

(a) IN GENERAL.—The event authorized to be conducted on the Capitol grounds under section 1 shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board.

(b) EXPENSES AND LIABILITIES.—The National Fraternal Order of Police and its auxiliary shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. EVENT PREPARATIONS.

(a) STRUCTURES AND EQUIPMENT.—Subject to the approval of the Architect of the Capitol, the National Fraternal Order of Police and its auxiliary are authorized to erect upon the Capitol grounds such stage, sound amplification devices, and other related structures and equipment, as may be required for the event authorized to be conducted on the Capitol grounds under section 1.

(b) ADDITIONAL ARRANGEMENTS.—The Architect of the Capitol and the Capitol Police Board are authorized to make any such additional arrangements as may be required to carry out the event.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. NADLER] will be recognized for 20 minutes, and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased and honored to be associated with this resolution which would authorize the use of the Capitol Grounds for this very notable memorial service. All citizens are aware of the great danger inherent in today's law enforcement profession. We have all witnessed the profound sacrifices made by these brave men and women and, of course, by their families. Too often in recent years the thin blue line has been stretched beyond capacity. Budget cuts and lack of other resources have contributed to making the law enforcement profession one of constant exposure to danger and death.

In 1963, President John Kennedy proclaimed May 15 as National Peace Officers' Memorial Day. It is a day to reflect upon the meaningful and important contributions made by our National law enforcement community. I urge my colleagues to join me in recognizing and honoring the dedication and memory of our slain law enforcement officers.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to rise in support of House Concurrent Resolution 237, which authorizes the use of the Capitol Grounds for the 13th annual National Peace Officers Memorial Service. This event will pay respect to those peace officers who have died in the line of duty this past year.

The men and women who serve as peace officers in this Nation are very special. They risk their lives on a daily basis to make our families, streets, neighborhoods, and workplaces safe.

Certainly the most basic civil right of all is the right of people to be safe in their homes and in their communities. Unfortunately, in far too many instances, these officers pay the ultimate price to protect each of us from harm. It is these officers who will be honored at this year's memorial service.

I would like to tell the family, friends, and fellow officers of those peace officers who died in the line of duty this past year that all of us share your grief and sense of loss. I also want them to know that we here in the Congress share their pride in the knowledge that these brave officers are true American heroes.

The grounds of the U.S. Capitol have been utilized to honor Presidents and world leaders. However, I can think of no better use of our Capitol than to honor the men and women who serve all of us as peace officers.

Mr. Speaker, for 7½ years before coming to Congress I served as a criminal circuit court judge in Tennessee, and I worked very closely with the law enforcement personnel in my home State, and I can tell my colleagues that I am proud to be associated with them in every way.

I am told that some 153 men and women lost their lives in the line of duty as law enforcement or peace officers in this country this past year. I think it is altogether fitting and proper that we honor them in this way, and I urge passage of House Concurrent Resolution 237.

Mr. TRAFICANT. Mr. Speaker, as the author of House Concurrent Resolution 237, which would authorize the use of the grounds of the U.S. Capitol for the National Peace Officers' Memorial Service on May 15, 1994, I rise in strong support of this resolution and urge the House to approve it today. As chairman of the House Public Works and Transportation Subcommittee on Public Buildings and Grounds, I am pleased that both the subcommittee and the full committee worked expeditiously to approve this resolution and bring it to the House floor.

I would like to thank the chairman of the full committee, my esteemed colleague NORMAN MINETA, the ranking minority member of the full committee, Mr. SHUSTER, the vice chair of my subcommittee, Ms. NORTON, and the ranking minority member of my subcommittee, Mr. DUNCAN, for their support of House Concurrent Resolution 237 and their cooperation in moving this resolution forward.

Mr. Speaker, from 1981 to 1985, I had the honor of serving as sheriff of Mahoning County, OH. As a former law enforcement officer, I know all too well the many challenges facing America's law enforcement officers. The 151 officers who died in the line of duty in 1993 are a tragic reminder of the many dangers facing law enforcement and of the enormous sacrifices our police officers continue to make to keep our streets safe. I can't think of a more appropriate place in America to honor these fallen heroes than the U.S. Capitol. As sheriff, I felt the pain and anguish of having one of my deputies, John R. "Sonny" Litch, Jr., killed in the line of duty on October 22, 1981. I am gratified that Sonny's name is among the more than 10,000 names of fallen law enforcement heroes that appear on the National Law Enforcement Officers Memorial here in Washington, DC.

Mr. Speaker, 596 law enforcement officers from Ohio have been killed in the line of duty since Ohio became a State. At this time, I'd like to list the names of those officers from my congressional district who have fallen in the line of duty.

From the Campbell Police Department: Patrolman John Constantino, killed on May 11, 1920; Lieutenant Albert Masi, killed on February 12, 1973; and Captain Joseph Ruby, killed on November 11, 1923.

From the Mahoning County Sheriff's Office: Deputy Sheriff John R. Litch, Jr., killed on October 22, 1981.

From the Poland Police Department: Patrolman Richard Elton Becker, killed on November 6, 1983, and Patrolman Charles K. Yates, killed on March 30, 1984.

From the Struthers Police Department: Patrolman Richard Darwich, killed on November 16, 1952, and Patrolman John Harkins, killed on January 5, 1952.

From the Youngstown Police Department: Patrolman Samuel Banks, killed on October 4, 1919; Patrolman Frank Cichon, killed on December 21, 1963; Patrolman Henry Clemons, killed on December 4, 1927; Patrolman Ralph J. DeSalle, killed on June 13, 1984; Patrolman Paul Joseph Durkin, killed on September 22, 1987; Patrolman Alfred Evans, killed on November 5, 1911; Patrolman William Freed, killed on May 16, 1891; Patrolman George Leonard, killed on March 29, 1924; Patrolman Alexander Warren, killed on May 3, 1921; Detective Sergeant Millard Williams, killed on April 14, 1992; and Detective Ben Yeaden, killed on February 4, 1925.

Mr. Speaker, the 13th annual National Peace Officers Memorial Service is sponsored by the National Fraternal Order of Police [FOP] and the FOP Auxiliary. The service will honor the 151 law enforcement officers who died in the line of duty in 1993. I want to commend the FOP and the FOP Auxiliary for the fine job they do each and every year in sponsoring and conducting this important and moving service.

All too often, after the headlines fade, the families of the slain officers are forgotten. The emotional scars of losing a loved one never fade. The FOP and FOP Auxiliary, along with Concerns of Police Survivors [COPS] do a truly remarkable job of reaching out to the families and helping them get through the tough times. Their efforts should be recognized and applauded.

The National Peace Officers Memorial Service on May 15, 1994, will once again remind the Nation that law enforcement is a dangerous and challenging profession, and brave men and women continue to give their lives to protect their fellow citizens. The service hopefully will draw the Nation's attention and provide an opportunity for all Americans to reflect upon the bravery, dedication, and integrity of our law enforcement officers.

Once again, Mr. Speaker, I urge my colleagues to support House Concurrent Resolution 237 and vote for its approval today.

Mr. DUNCAN. Mr. Speaker, I yield back the balance of my time.

Mr. NADLER. Mr. Speaker, I, too, yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. NADLER] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 237.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NADLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

LET'S STOP KIDS KILLING KIDS WEEK

Mr. WYNN. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 360) to designate the week of April 25, 1994, to May 1, 1994, as "Let's Stop Kids Killing Kids Week," and as for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Maryland?

Mr. GILMAN. Mr. Speaker, reserving the right to object, and I do not object, I would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I am pleased to rise in support of House Joint Resolution 360, legislation that designates the week of April 25, 1994 to May 1, 1994, as "Let's Stop Kids Killing Kids Week." I commend the gentleman from Minnesota [Mr. VENTO] for introducing this important resolution.

The passage of the Violent Crime Control and Law Enforcement Act, last week demonstrates that fighting the crime that plagues our communities is a top priority for the American people. The approved legislation not only incorporates several measures that impose severe penalties on those who break the law, but also institutes proven programs that will deter our youth from choosing a life of crime.

I am pleased that the House-approved crime bill provides community and educational programs that will provide an alternative for our Nation's youth. The rising crime rate among children demonstrates that this must remain a top priority.

Mr. Speaker, I would also like to publicity thank the National League of Cities and the many other community advocacy groups who have worked together to build a broad base coalition to address our crime problems.

With this in mind, I wholeheartedly support this resolution.

Mr. VENTO. Mr. Speaker, House Joint Resolution 360 designates this week, April 25 through May 2, as "Let's Stop Kids Killing Kids Week." Just last week in this Chamber the House of Representatives passed a comprehensive anticrime bill. In the wake of this important legislation it is appropriate for us, not only as Members of Congress, but as members of families and communities throughout this Nation, to focus our attention on the rising incidence of violent crime among our young people.

It is a sad and tragic reality in this country that homicide is the leading cause of death among young African-Americans, and the second leading cause of death for all people ages 15–34. This past decade alone has seen a 128-percent increase in the number of juveniles arrested for murder. We, as leaders and parents, must act now to reverse these trends and to ensure a safe and positive future for our youth.

Last week this body passed legislation as part of the crime bill that represents a step forward in addressing the problem of youth violence. H.R. 4034, the Urban Recreation and at-Risk Youth Act introduced by Natural Resources Committee Chairman GEORGE MILLER and myself expands park and recreation opportunities for at-risk youth in high crime urban areas.

During the hearings regarding this legislation, city park directors, police, boys and girls clubs, midnight basketball leagues and others closely involved in youth crime prevention programs testified that recreation works as a crime prevention measure. Many young people in urban areas have little or no access to sports and recreation facilities and this bill will help remedy this situation by providing grants for rehabilitation projects and programs in urban neighborhoods and communities with a high prevalence of crime at a cost much less than the $29,000 a year it takes to incarcerate each juvenile offender.

Programs like these that stress preventing the crimes before they are committed; that teach young people values such as teamwork and fairness; and that remain focused on the community are what we must work on for the future. That is why 233 cosponsors and I, with the support of the National League of Cities and 70 other national organizations, have introduced House Joint Resolution 360.

Let's Stop Kids Killing Kids Week encourages communities across the country to focus their attention on the growing problem of youth violence and what can be done to protect, teach, and provide opportunities for our children and generations to come so they will no longer have to live in a world of hopelessness and fear.

Mr. Speaker, Kids Killing Kids is in fact a learned behavior shaped uniquely by the conditioning of young people in our society, and it is appalling that we are so inept in challenging and changing such learned behavior. The intent of the resolution, House Joint Resolution 360, is not to suggest that a single factor or that a panacea is available to reverse this behavior, but by teaching nonviolent conflict resolution and focusing on the problem of youth violence as a community we can begin to address the impact of the media and programming, the lack of recreation facilities for urban youths, unemployment, drug abuse, and the easy access to the instruments of homicide that has led to the violent behavior of many young people. As a society we must change this behavior; we must stop the dehumanization of people and the actions that flow from such anti-social values especially among young people—we must Stop Kids Killing Kids, a perverse destructive behavior that is all too common across America in the 1990's.

Mr. Speaker, I urge Members to vote in favor of this important measure to bring awareness to the problem of youth violence and to promote the positive development of our Nation's youth.

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 360

Whereas the incidence of violent crime by teenagers has increased by alarming proportion in the United States;

Whereas the number of juveniles arrested for murder has increased 128 percent in the past decade;

Whereas an estimated 60 percent of reported crimes are being committed by those between 10–20 years of age;

Whereas homicide is the leading cause of death among young African-Americans and second for all people ages 15–34;

Whereas young people ages 12–24 face the highest risk of nonfatal assault by any group in America;

Whereas the economic and emotional costs to victims, and society in general, has reached epidemic proportions;

Whereas the Nation faces a continuing need to support programs and services that give young people hope and to offer them alternatives to crime;

Whereas dedicated groups such as the National League of Cities, together with a broad based coalition of 70 national educational, religious, local government, law enforcement, medical, legal, civil rights, media, community service, and family advocacy organizations have announced a week-long campaign against youth violence during the week of April 25–May 1, 1994, including activities in cities across America to focus on the tragic consequences of youth violence for families and communities;

Whereas during the week-long campaign against youth violence important discussions with students, teachers, doctors, lawyers, and police will be held regarding youth violence and its effects, along with recognizing those individuals and programs that are doing outstanding work on youth violence prevention; and

Whereas it is appropriate to focus the nation's attention upon the problem of youth violence: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 25, 1994, to May 1, 1994, is designated as "Let's Stop Kids Killing Kids Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WYNN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on House Joint Resolution 360, the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentlewoman from Kansas [Mrs. MEYERS] is recognized for 60 minutes as the minority leader's designee.

WELFARE REFORM

Mrs. MEYERS of Kansas. Mr. Speaker, I would like to talk today about the subject of welfare reform. I have a bill that I have introduced, which is H.R. 1293. I would like to start out by telling you all a statistic which I think is a startling statistic. At least it amazed me.

By the year 2000, 80 percent of minority children and 40 percent of all children will be born illegitimate in the United States.

I would like to tell you another statistic which I think is significant. If you graduate from high school, if you get married, and you do not have your first child until you are 20, of that group, only 8 percent live in poverty. But if you do not graduate from high school, if you do not get married, and if you have your first child as a teen, 80 percent of that group live in poverty.

Now, our policies I think in this country have encouraged illegitimacy and have encouraged poverty. These policies were enacted with the best of intentions. They were enacted to assist people, to help people. But it did not work out that way. And I think it is time to admit that we are doing something very, very wrong in this country and change the way that we are doing things.

Now, a number of us have thought about this a great deal. To have a good welfare reform bill, it should cost less, not more. If someone tells you that they have a welfare reform idea but it is going to cost another $10 billion, it is probably not welfare reform. It is probably more of the same.

A good welfare reform bill should end the entitlement nature of AFDC. Now, I think most of the people who are listening probably are aware that an entitlement is a program where we describe certain parameters in the law. Then if you fit into those parameters, you are considered entitled to money.

There are three large entitlements in the AFDC welfare program: AFDC, food stamps, and Medicaid. Another large program, housing, is not an entitlement. So there are three large entitlements and the housing program that cost significant money with the AFDC population.

I think to have a good welfare reform program we have to end the entitlement nature of AFDC, because with an entitlement, the money just flows. We do not even appropriate specific amounts in Congress. It is just such sums as may be necessary, and the money just flows. So you can say we are going to have a program and there will be sanctions if AFDC recipients do not live up to the terms of this program. But if the money just flows anyway, somehow sanctions never really fall. Also a good welfare reform program should address the problem of teenage pregnancy, and it should address the problem of paternal identification.

I am going to tell you what my bill does, and then talk a little bit more generally about the problem.

My bill would freeze AFDC right where it is. That ends the entitlement nature of AFDC. It would return AFDC in block grants to the States and give the States absolutely maximum flexibility in what they do, because all of the good things that are happening in welfare, all of the good ideas, are coming from the States.

We ought to give this block of money to the States and give them maximum flexibility with only two mandates. Those mandates would be no AFDC unless and until both parents are 18, and no AFDC at any age unless the father is absolutely identified.

□ 1430

And that does not mean, I guess it was Bill Jones. That means William J. Jones, born January 20, 1978, with a Social Security number or an address, so that we absolutely know who that person is.

What we have been saying to young women, and the reason I say no AFDC until both parents are 18, is because what we have been saying to young women in this country with our policies for a great many years is, if you will have two children with no man in the house, we will give you $500 a month AFDC, $300 a month food stamps. We will pay all your medical bills. We will find you a place to live and pay for it for about a third of you. We will send you to a college or a training school to help get you off welfare. We will give you $200 a month child care while you are taking that college or training school, and we will give you $25 a month transportation round trip.

Now, if you are a mature person, you know that that is not a lot of money and it is not going to be a great life, although it is $18,000 a year. But if you are 14 and you want to get out of the house and you are under some boyfriend pressure and some peer pressure and you wanted something to love, you are liable to take that offer and by 15 you are pregnant and by 16 you are caught in that welfare trap for the rest of your life.

I think the other mandate, no AFDC unless the father is absolutely identified, is because what we say now to young men is, and what we have been saying for many years, is go ahead, walk away from this program. We will take care of this for you. And with my bill, what we would be saying is, if you have no money, we will help this woman and this child. But we know exactly who you are and when you are earning $15,000 or $20,000 or $5000 a year, we are going to have a part of that for every child that you have fathered.

I think this is not a harsh bill. It is a bill that attempts to get people to take responsibility for their own children. Again, let me repeat what it does, because some people have said it sounds harsh.

It freezes one of the entitlements. Does not cut it, freezes it. It says that the States will have maximum flexibility to design their own programs. It says, no AFDC unless both parents are 18. It does not take away food stamps, does not take away Medicaid. And it says, no AFDC at any age until we absolutely know who the father is. And I do not think it is a harsh bill at all. I think it is a bill that will allow a great many people, 5 million families in the United States, it will allow a great many people to have a better life and to create a better environment in which to raise their children.

Now, you are going to hear a great deal from the President about, let us make people work and 2 years and out and that sounds very good. And you have heard that it takes a while to explain my program, but I have noticed if you say to a room full of people, let us make people work, everybody thinks that sounds so good and they applaud. But the truth is, we have tried this once. And it did not work.

In 1988, we fashioned a welfare bill that said we will have a work training program, a job readiness program, a job search program. We will pay child care. We will pay transportation. And everybody will go to work. And I waited and I watched for 5 years.

It was supposed to cost $3 billion. We predicted in 1988, it would cost $3 billion. And it cost $13 billion. And less than 1 percent of the welfare population is working. And now the President is talking about doing exactly this same thing again.

He says it would cost $10 billion over the next 5 years. And he is talking about funding it in a variety of ways. He talked about a gambling tax, and he talked about a tax on annuities. And he talked about taking away veterans' benefits. He has talked about taking away benefits from higher income farmers. He has talked about a variety of ways. The thing is, he is taking benefits away from working people in most of these instances in order to pay $10 billion more for a program that we know has failed.

In 1988, we predicted this program is going to be successful. And at the end of 1998, we will have 5 million families on welfare. We hit that goal in early 1993. When you make the program better, when you add something to it, people flood onto the program. They came onto the program infinitely faster than we thought they would. They took all the programs and no one went to work.

My bill would save $6 billion to $8 billion over the next 5 years. The President's would cost $10 billion over the next 5 years. That is a $16 to $18 billion difference that I think we could use in a variety of ways in this country and ways that would help people in a much more meaningful way than a work program that has failed once before.

Now, I strongly believe in work programs. I come from the Midwest. We have a very strong work ethic there. But we have proved already that Federal work programs do not work. And the State statistics show that our federally-mandated plan does not work.

Why? We live in a huge diverse country, and one of the reasons why a federally-mandated program does not work, I think, is because what works in New Jersey does not necessarily work in Kansas. Just think about the difference between Miami, FL and Billings, MT. I mean, it is a tremendous difference in this country. And when we try to overlay two huge, new entitlements, a work program and a day care program, on the country, it does not work very well.

The second reason a federally-mandated program does not work is because I believe you have to end the entitlement nature of AFDC in order to have any program work. Because as long as the money just continues to flow, no matter what you say, the sanctions never fall. The money just continues to flow, and that is what happened in 1988.

I think a third reason why State programs work much better than Federal programs is because the States can target these programs better. We know where the problems are in Kansas. We know the areas where there are jobs available, but we might need training programs to get people fitted for those jobs. We know where there are areas of high teenage pregnancy, and we do not so much need work programs as we need teenage pregnancy programs. We know where there are areas where maybe there are not jobs available, and you have to work with city or county governments and get people to work at jobs that the city and the country needs done and that they would be willing to assist in paying for them, working in the State.

□ 1440

I think it is time that we changed the way that we are doing things currently, that we not reauthorize a failed work program and day care program, and that we end the entitlement nature of AFDC, give more flexibility to the States, say no AFDC unless and until both parents are 18, and no AFDC at any age until the father is absolutely identified.

Why is this important to all of us? Why is this important to my constituents? I think it is terribly important because you are paying for it in so many ways. You are paying for it in more ways than you probably realize. All studies show that AFDC children, welfare children, have lower test scores, are more involved in crime, and have more physical illnesses. I am not saying in any way that AFDC children are inherently bad. Certainly they are not. I am not saying that a great many of them are not successful. Many of them are.

I am saying that studies show that these children are much more subject to lower test scores, to being involved in crime, and to physical illnesses. This is a great cost to society.

In addition to that, I would like to tell the Members about the total cost of this program. These are only Federal figures, and two of the programs are matching Federal and State, so this is by no means the total cost. However, AFDC itself is $16 billion. The AFDC population is responsible for 20 percent of Medicaid. The rest goes to low income families and to the elderly in the nursing homes. The AFDC population is responsible for 20 percent of Medicaid, for 55 percent of food stamps, for 30 percent of housing, for virtually all of a number of smaller programs: Head Start and WIC.

When we put all of that together, the annual cost to the U.S. taxpaying citizens is $70 billion. The cost of welfare is not going to go away, I don't care what we do, and certainly we want to help people, I want to help people that need help, but the program is a runaway program. We have to stop it and get some kind of control of it.

I ask Members to think, if we only reduce that $70 billion cost by 10 percent a year, we would have an extra $7 billion that we could utilize to help people in much more meaningful ways. In addition to that, we would not be reauthorizing a work program and a day care program that we know has failed and that would cost $10 billion.

I think it is time to change the way we are doing things. I hope that all of my colleagues who are listening today will support and cosponsor H.R. 1293.

The SPEAKER pro tempore. Under a previous order of the House the gentleman from California [Mr. DREIER] is recognized for 30 minutes.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WYNN) to revise and extend their remarks and include extraneous matter:)

Mr. OWENS, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. MEYERS of Kansas) and to include extraneous matter:)

Mr. ARMEY.
Mr. KIM.
Mr. LIVINGSTON.
Mr. GOODLING.
Mr. SAXTON.
Mr. FIELDS of Texas.
Mr. MICHEL.
Mr. GILMAN.
Mr. ROTH.

(The following Members (at the request of Mr. WYNN) and to include extraneous matter:)

Mr. GORDON.
Mr. COPPERSMITH.
Mr. ANDREWS of New Jersey.
Mr. POSHARD.
Mr. CLAY.
Mr. KILDEE in two instances.
Ms. NORTON.
Mr. ACKERMAN.
Mr. HUGHES.
Mr. DE LUGO in two instances.
Mr. HOYER.
Mr. DIXON.

(The following Members (at the request of Mrs. MEYERS of Kansas) and to include extraneous matter:)

Mr. KREIDLER.
Mr. BEILENSON.
Mr. CUNNINGHAM.
Mr. STARK.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 540. An act to improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes; to the Committee on the Judiciary.

S. 725. An act to amend the Public Health Service Act to provide for the conduct of expanded studies and the establishment of innovative programs with respect to traumatic brain injury, and for other purposes; to the Committee on Energy and Commerce.

S. 1904. An act to amend title 38, United States Code, to improve the organization and procedures of the Board of Veterans' Appeals; to the Committee on Veterans' Affairs.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2884. An act to establish a national framework for the development of School-to-Work Opportunities systems in all States, and for other purposes.

SENATE ENROLLED BILL AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled bill and a joint resolution of the Senate of the following titles:

S. 2005. An act to make certain technical corrections, and for other purposes.

S.J. Res. 150. Joint resolution to designate the week of May 2 through May 8, 1994, as "Public Service Recognition Week."

ADJOURNMENT

Mrs. MEYERS of Kansas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 45 minutes p.m.) under its previous order, the House adjourned until Thursday, April 28, 1994, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3049. A letter from the Comptroller of the Department of Defense, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the Department of the Navy, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

3050. A letter from the Comptroller of the Department of Defense, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the Department of the Air Force, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

3051. A letter from the Comptroller of the Department of Defense, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the Department of the Navy, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

3052. A letter from the Comptroller of the Department of Defense, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the Department of the Navy, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

3053. A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation entitled, "Military Construction Authorization Act for Fiscal year 1995," pursuant to 31 U.S.C. 1110; to the Committee on Armed Services.

3054. A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation entitled, "Housing Choice and Community Investment Act of 1994"; to the Committee on Banking, Finance and Urban Affairs.

3055. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report regarding Poland consistent with section 8(b)(3) of the Arms Export Control Act, as amended, and section 11(b)(3) of the Export Administration Act of 1979, as amended; to the Committee on Foreign Affairs.

3056. A letter from the Director, U.S. Trade and Development Agency, transmitting the Agency's first annual audit to the Congress, pursuant to 22 U.S.C. 2421(e)(2); to the Committee on Foreign Affairs.

3057. A letter from the Chairman, National Labor Relations Board, transmitting a report on activities under the Freedom of Information Act for calendar year 1993, pursuant to 5 U.S.C. 552; to the Committee on Government Operations.

3058. A letter from the Secretary of Veterans Affairs, transmitting a report on activities under the Freedom of Information Act for calendar year 1993, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

3059. A letter from the Chairwoman, Mid-Dakota Rural Water System, transmitting the Mid-Dakota Rural Water System final engineering report, January, 1994; to the Committee on Natural Resources.

3060. A letter from the Attorney General, Department of Justice, transmitting the fiscal year 1993 annual report of the Board of Directors of Federal Prison Industries, Inc., pursuant to 18 U.S.C. 4127; to the Committee on the Judiciary.

3061. A letter from the Attorney General, Department of Justice, transmitting the annual report covering the 12-month period ended September 30, 1993, on the activities of the Federal courts under this Equal Access to Justice Act of 1980, pursuant to 28 U.S.C. 2412(d)(5); to the Committee on the Judiciary.

3062. A letter from the Administrator, Environmental Protection Agency, transmitting the national water quality inventory report for 1992, pursuant to 33 U.S.C. 1315(b)(2); to the Committee on Public Works and Transportation.

3063. A letter from the Deputy Administrator, General Services Administration, transmitting informational copy of the report of building project survey for Dallas, TX, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

3064. A letter from the Administrator, General Service Administration, transmitting informational copies of prospectuses, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

3065. A letter from the Administrator, General Services Administration, transmitting informational copies of the fiscal year 1995 General Services Administration's [GSA's] Public Building Service [PBS] Acquisition of Facilities Program, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

3066. A letter from the U.S. Trade Representative, transmitting a report on recent developments regarding implementation of section 301 of the Trade Act of 1974, pursuant to section 309(a)(3) of the Trade Act of 1974; to the Committee on Ways and Means.

3067. A letter from the General Counsel of the Navy, transmitting a draft of proposed legislation to authorize the transfer of 17 naval vessels to certain foreign countries, pursuant to 10 U.S.C. 7307(b)(1); jointly, to the Committees on Armed Services and Foreign Affairs.

3068. A letter from the Secretary, Department of Energy, transmitting the first annual report on building energy efficiency standards activities, pursuant to Public Law 102–486, section 101(a) (106 Stat. 2786); jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

3069. A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation entitled, "National Defense Authorization Act for Fiscal Year 1995," pursuant to 31 U.S.C. 1110; jointly, to the Committees on Armed Services, Education and Labor, Post Office and Civil Service, the Judiciary, Ways and Means, Energy and Commerce, and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs. H.R. 2442. A bill to reauthorize appropriations under the Public Works and Economic Development Act of 1965, as amended, to revise administrative provisions of the act to improve the authority of the Secretary of Commerce to administer grant programs, and for other purposes; with amendments (Rept. 103–423, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD (of Michigan): Committee on Education and Labor. H.R. 4250. A bill to authorize appropriations for fiscal years 1995 through 1998 to carry out the Head Start Act and the Community Services Block Grant Act, and for other purposes; with amendments (Rept. 103–483, Pt. 1). Ordered to be printed.

Mr. DELLUMS: Committee on Armed Services. H.R. 1432. A bill to establish missions for Department of Energy research and development laboratories, provide for the evaluation of laboratory effectiveness in accomplishing such missions, and reorganize and consolidate Department of Energy technology transfer activities, and for other purposes; with an amendment (Rept. 103–484, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GLICKMAN:

H.R. 4299. A bill to authorize appropriations for fiscal year 1995 for intelligence and intelligence-related activities of the U.S. Government, the community management account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; to the Committee on Intelligence (Permanent Select).

By Mr. SCHUMER (for himself, Ms. Schenk, Mr. McDermott, Ms. Pelosi, Ms. Waters, Mr. Reynolds, Mr. Stark, Mr. Deutsch, Mr. Ackerman, Mr. Berman, Mr. Edwards of California, and Mr. Frank of Massachusetts):

H.R. 4300. A bill to prevent handgun violence and illegal commerce in firearms; to the Committee on the Judiciary.

By Mr. DELLUMS (by request):

H.R. 4301. A bill to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1995, and for other purposes; to the Committee on Armed Services.

By Mr. McCURDY (for himself and Mr. Hunter) (both by request):

H.R. 4302. A bill to authorize certain construction at military installations for fiscal year 1995, and for other purposes; to the Committee on Armed Services.

By Mr. KREIDLER (for himself, Mr. Swift, Mr. Dicks, Mrs. Unsoeld, and Ms. Cantwell):

H.R. 4303. A bill to provide for a change in the exemption from the child labor provisions of the Fair Labor Standards Act of 1938 for minors between 16 and 18 years of age who engage in the operation of automobiles and trucks; to the Committee on Education and Labor.

By Mr. SOLOMON (for himself and Mr. Hutto):

H.J. Res. 361. Joint resolution to designate the year of 1995 as the Year of the American Flag; to the Committee on Post Office and Civil Service.

By Mr. TOWNS (for himself, Mrs. Byrne, Ms. Collins of Michigan, Ms. Margolies-Mezvinsky, Mrs. Morella, Ms. Norton, and Mr. Payne of New Jersey):

H. Con. Res. 243. Concurrent resolution expressing the sense of the Congress that any legislation that is enacted to provide for national health care reform should provide for compensation for poison control center services, and that a commission should be established to study the delivery and funding of poison control services; to the Committee on Energy and Commerce.

By Mr. STUDDS:

H. Res. 412. Resolution providing for the concurrence by the House with an amendment in the amendment of the Senate to the amendment of the House to S. 1636; considered under suspension of the rules and agreed to.

By Mr. BOUCHER:

H. Res. 413. Resolution providing for the concurrence by the House with an amendment, in the amendment by the Senate to bill H.R. 1727; considered under suspension of the rules and agreed to.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

356. By the SPEAKER: Memorial of the Legislature of the State of Nebraska, relative to public water supply systems; to the Committee on Energy and Commerce.

357. Also, memorial of the Legislature of the State of Minnesota, relative to desecration of the flag; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of the rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 431: Mr. Becerra.

H.R. 790: Mr. Traficant and Mrs. Johnson of Connecticut.

H.R. 814: Mr. Wheat, Mr. McInnis, and Mr. Wyden.

H.R. 967: Mr. Farr.

H.R. 1174: Mr. Wolf.

H.R. 1276: Mr. Thomas of Wyoming.

H.R. 1304: Mr. McHale.

H.R. 1489: Mr. Gutierrez.

H.R. 1961: Mr. Pomeroy and Ms. English of Arizona.

H.R. 2467: Mr. Bonior, Mr. Edwards of Texas, Mr. Ehlers, Mr. Faleomavaega, Mr. Frank of Massachusetts, Mr. Hamilton, Mr. McCollum, Mr. Pallone, and Ms. Pelosi.

H.R. 2543: Mr. Bonior.

H.R. 2720: Ms. Furse, Mr. Vento, Mr. Gejdenson, Mrs. Thurman, and Ms. Schenk.

H.R. 2872: Mr. Thomas of California and Mr. Ravenel.

H.R. 2888: Ms. Eddie Bernice Johnson of Texas, Mr. Frank of Massachusetts, Mr. Menendez, Mr. Filner, Mr. Lewis of Georgia, Mr. Gordon, Mr. Smith of New Jersey, Mr. Gejdenson, Mr. Sanders, Mr. Johnson of South Dakota, Mr. Owens, Mr. Dickey, Mr. Wolf, and Mrs. Fowler.

H.R. 3088: Mr. GLICKMAN, Mr. POMEROY, and Mr. KLINK.

H.R. 3125: Mr. GEKAS.

H.R. 3288: Mr. KREIDLER and Mr. NUSSLE.

H.R. 3309: Mr. KILDEE, Mr. LIPINSKI, Mr. RUSH, Mr. EVANS, Mr. SCHAEFER, Mrs. UNSOELD, Mr. SKAGGS, and Mr. BONIOR.

H.R. 3386: Mr. CALLAHAN, Mr. COLLINS of Georgia, Mr. HAYES, Mr. DICKEY, Mr. SCHIFF, and Mr. RICHARDSON.

H.R. 3407: Mr. SUNDQUIST, Mr. PAYNE of Virginia, Mr. LIGHTFOOT, Mr. DORNAN, Mr. WATT, Mr. HUNTER, Mr. CALLAHAN, Mr. PETRI, and Mr. SMITH of New Jersey.

H.R. 3490: Mr. CRAPO, Mr. DARDEN, Mr. GLICKMAN, and Mr. SARPALIUS.

H.R. 3508: Mr. VENTO.

H.R. 3527: Mr. BORSKI and Mr. ENGEL.

H.R. 3658: Mr. CUNNINGHAM.

H.R. 3790: Mr. OBERSTAR.

H.R. 3810: Mr. SYNAR.

H.R. 3814: Mr. JOHNSON of South Dakota and Mr. GALLEGLY.

H.R. 3992: Mr. MCCANDLESS and Mr. THOMAS of Wyoming.

H.R. 4056: Mr. JOHNSON of South Dakota, Mr. KNOLLENBERG, Mr. HANCOCK, Mr. HOLDEN, Mr. DARDEN, Mr. HILLIARD, Mr. GRANDY, and Mr. WILSON.

H.R. 4089: Mr. LIPINSKI and Mr. MILLER of California.

H.R. 4091: Mr. FORD of Tennessee.

H.R. 4100: Mr. UPTON.

H.R. 4106: Mr. ACKERMAN, Mr. NEAL of Massachusetts, Mrs. LLOYD, Mr. DEFAZIO, Mr. FROST, Mr. GUNDERSON, Mr. GEJDENSON, Mr. STUPAK, and Mr. JEFFERSON.

H.R. 4142: Mr. SAXTON.

H.R. 4146: Mrs. FOWLER.

H.R. 4189: Mr. PETE GEREN of Texas, Mr. EHLERS, and Mr. PENNY.

H.R. 4250: Mr. MINETA, Mr. OWENS, Mr. HILLIARD, Mr. DINGELL, and Mr. SHARP.

H.J. Res. 44: Mr. CANADY and Ms. SNOWE.

H.J. Res. 276: Mr. PETRI, Mr. PRICE of North Carolina, Mr. DEFAZIO, Mr. MATSUI, Mr. KLINK, Mr. SWETT, Mr. LEHMAN, and Mrs. THURMAN.

H.J. Res. 297: Mr. LANCASTER and Mr. VENTO.

H.J. Res. 302: Ms. SCHENK, Mr. SKELTON, Mr. SLATTERY, Mr. LEHMAN, Mr. BOUCHER, Mr. ROSE, Mr. POMEROY, Mr. CASTLE, Mr. MANTON, Mr. ORTON, Mr. KENNEDY, Mr. JOHNSON of Georgia, and Mr. MORAN.

H.J. Res. 303: Mr. CLYBURN, Mr. SCHAEFER, Mr. ROWLAND, Mr. LANCASTER, Mr. SMITH of Texas, Mr. BREWSTER, Mr. PORTER, and Mr. HOYER.

H.J. Res. 305: Mrs. MEYERS of Kansas, Mr. WALSH, Mr. KLEIN, Mr. LANTOS, Mr. UNDERWOOD, Mrs. JOHNSON of Connecticut, and Ms. WOOLSEY.

H.J. Res. 334: Mr. FOGLIETTA, Mr. HUGHES, Mrs. MALONEY, Mr. MANTON, Mrs. MEEK of Florida, Mr. NADLER, Mr. OWENS, Mr. QUILLEN, Mr. REYNOLDS, Mr. STUDDS, and Mr. VENTO.

H.J. Res. 338: Mr. DUNCAN, Ms. ESHOO, Mr. FALEOMAVAEGA, Mr. TANNER, Mr. WILSON, Mr. SABO, Mr. KOPETSKI, and Mr. FROST.

H.J. Res. 342: Mr. BALLENGER, Ms. SNOWE, Mr. ANDREWS of New Jersey, Mr. SISISKY, Mr. MCINNIS, Mr. ROGERS, Mr. BURTON of Indiana, Ms. PRYCE of Ohio, Mr. BAKER of California, Mr. ARCHER, Mr. HOYER, Mrs. MINK of Hawaii, Mr. SERRANO, Ms. DELAURO, Mr. BUNNING, and Mr. FALEOMAVAEGA.

H. Con. Res. 148: Mr. HOCHBRUECKNER, Mr. TALENT, Mr. TOWNS, and Mr. GIBBONS.

H. Con. Res. 202: Mr. CLYBURN and Ms. LONG.

H. Con. Res. 209: Mr. BARRETT of Wisconsin.

H. Con. Res. 212: Mr. DELLUMS, Mr. DURBIN, Mr. GONZALEZ, Mr. HUGHES, Mr. PASTOR, Ms. ROYBAL-ALLARD, and Mr. TORKILDSEN.

H. Con. Res. 234: Mr. ACKERMAN, Mr. DEUTSCH, Mr. FRANK of Massachusetts, Mr. HUGHES, Mr. MCDERMOTT, Mr. MORAN, and Mrs. UNSOELD.

H. Res. 155: Mr. PICKETT.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3221

By Mr. BEREUTER:

—Page 2, strike line 23 and all that follows through line 3 on page 3 and insert the following:

(d) PRIORITY CLAIMS.—Before deciding any other claim against the Government of Iraq, the United States Commission—

(1) shall decide all pending non-commercial claims of members of the United States Armed Forces and other individuals arising out of Iraq's invasion and occupation of Kuwait or out of the 1987 attack on the USS Stark; and

(2) then shall decide all pending claims based on obligations under a letter of credit opened by the Government of Iraq before August 2, 1990, for the benefit of a United States person if the property which is the subject of the transaction underlying the letter of credit was not in the possession or control of the exporter on or after August 2, 1990, and the documents required under the letter of credit were accepted by the advising bank, the paying bank, the reimbursing bank, or the issuing bank before August 2, 1990.

As used in paragraph (2), the term "United States person" includes any United States citizen or permanent resident alien or any juridical person organized under the laws of the United States or any jurisdiction within the United States, including foreign subsidiaries or branches of such juridical persons.

—Page 7, line 4, strike "2(d)" and insert "2(d)(1)".

—Page 7, after line 5, insert the following:

(3) For each claim that has priority under section 2(d)(2)—

(A) payment from time to time in ratable proportions on account of the unpaid balance of the principal amount of the award according to the proportions which the unpaid balance of such awards bear to the total amount in the appropriate claims fund that is available for distribution at the time such payments are made, and

(B) after payment has been made of the principal amount of all such awards, pro rata payments on account of accrued interest on any such awards as bear interest,

except that the total amount paid with respect to such claims under this paragraph shall not exceed $50,000,000.

—Page 7, line 6, strike "(3)" and insert "(4)"; line 13, strike "(4)" and insert "(5)"; and line 17, strike "(5)" and insert "(6)".

—Page 7, line 12, before the period insert ", except that payment shall not be made under this paragraph on account of any claim payable under paragraph (3)"; and line 16, before the period insert ", except that payment shall not be made under this paragraph on account of any claim payable under paragraph (3)".

H.R. 3221

By Mr. BONIOR:

—Page 12, after line 15, add the following:

SEC. 11. HUMANITARIAN ASSISTANCE.

(a) FINDINGS.—The Congress finds that—

(1) Saddam Hussein has been condemned by the international community for his unwillingness to take the steps necessary to provide for the basic humanitarian needs of the Iraqi people;

(2) dire shortages of food, medicine, and basic medical supplies (including insulin, anesthetics, and antibiotics) have resulted in a continuing humanitarian disaster in Iraq, including massive human suffering and the death of hundreds of thousands of innocent Iraqi civilians during the past 4 years;

(3) this humanitarian tragedy is occurring throughout Iraq;

(4) the United States has a long history of providing humanitarian assistance to alleviate human suffering in many parts of the world; and

(5) the United States Agency for International Development has the authority under chapter 9 of part I of the Foreign Assistance Act of 1961 (relating to international disaster assistance) and other provisions of law to provide assistance to address humanitarian needs throughout Iraq.

(b) STATEMENT OF CONGRESSIONAL POLICY.—It is the sense of the Congress that—

(1) the United States should immediately provide additional humanitarian assistance, particularly medicine and medical supplies, to alleviate the humanitarian disaster throughout Iraq;

(2) such assistance should be provided through independent nongovernmental organizations and through international organizations so that this desperately needed assistance can reach all areas of need, in particular those outside the United Nations protected areas; and

(3) the costs of such assistance should be reimbursed from any available Iraqi resources, including the Iraqi assets that have been blocked pursuant the International Emergency Economic Powers Act so long as such reimbursement does not reduce the amount paid on those priority claims of members of the United States Armed Forces and others described in section 2(d) of this Act and does not delay payment on those claims.

SENATE—*Tuesday, April 26, 1994*

(Legislative day of Monday, April 11, 1994)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Forgiving God, keep us mindful of the potential arrogance of power and how it can destroy trusted leadership. As the Old Testament says concerning Uzziah, King of Judah, *As his power increased, his heart grew proud, and this was his ruin.*—II Chronicles 26:16, Jerusalem Bible.

Gracious Father in Heaven, at a time when cynicism and distrust are epidemic, send us spiritual and moral renewal, and let it begin with leadership. Humble us, Lord, before it is too late. Restore to us the dream of our Forefathers, the trust in God that generated that dream, and forbid that we should be willing to settle for anything less.

In the name of Truth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 26, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. AKAKA thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Alaska [Mr. MURKOWSKI], is recognized to speak for up to 15 minutes. The Chair recognizes the Senator from Alaska.

U.S. FOREIGN POLICY

Mr. MURKOWSKI. Good morning, Mr. President. I appreciate your greetings this morning. It is a lovely day out there. I am afraid I have a little hay fever, but, obviously, survival is the instinct we all have, so I will defer to my prepared remarks.

Mr. President, I would like to speak briefly today on matters concerning our country's foreign policy. I am particularly concerned over a number of issues that have been brought up on this floor of late, but I think nothing presents more of a threat to world peace than the current situation in North Korea.

I find a rather curious set of circumstances associated with our policy in encouraging the North Koreans to abide by the international atomic inspection agency. It is rather interesting to note that, back in 1992, the North Koreans signed the Nuclear Non-Proliferation Treaty Safeguards Agreement which requires regular inspections of its nuclear facilities. But 2 years have elapsed without the North Koreans ever fully complying with the mandates of the treaty. The North Koreans allowed the IAEA [International Atomic Energy Agency] to conduct sporadic inspection in 1992, but then flatly denied the IAEA permission to inspect the suspected nuclear sites in late 1992.

In early 1993, North Korea announced its intention to withdraw from the Nuclear Non-Proliferation Treaty. At this point the United States initiated negotiations with the North Koreans, on behalf of the South Koreans and the international community. The Clinton administration has held two rounds of high-level negotiations with the North Koreans over the last year.

The question I have is whether these negotiations have moved us any closer to a resolution of this dangerous problem? In my view, they have not. It has been more than 1 year since North Korea threatened to pull out of the Nuclear Non-Proliferation Treaty, and IAEA inspectors have not successfully completed any inspection of either the seven declared nuclear sites or the two undeclared nuclear sites.

The bottom line is that the North Koreans have not complied with their obligations. We have lost some 2 years—1992 through 1994—during which there has been a series of excuses, a series of negotiations, but no concrete results to show. Time has passed and the North Koreans have gained valuable time to develop their nuclear arsenal. To what extent they have developed that capacity to date, obviously, we have no public knowledge—because of the lack of inspections. But we do have intelligence reports that suggest that they have, indeed, embarked on achieving a nuclear capability.

My criticism of the administration's policy is that they have offered the North Koreans concessions to encourage them to comply with their obligations, but have not been effective in mandating compliance. It has been an approach of all carrots and no stick. In response to North Korean demands, the United States agreed to high-level talks, suspended joint military exercises with the South Koreans, and delayed sending Patriot missiles to South Korea. In return, the North Koreans have refused inspections, delayed the visas for IAEA inspectors, and then denied the inspectors the access requested to verify nuclear activity.

To the administration's credit, it did send the Patriot missiles after the North Koreans refused to allow full access to the IAEA inspectors.

However, just last week Defense Secretary William Perry announced that the joint military exercises would again be delayed as a "gesture of good will" to the North Koreans. It seems to me it should be the North Koreans who should be making a gesture of good will by allowing IAEA inspectors to complete their inspections.

The U.S. problem seems to be a lack of leverage. The United States has no trade or diplomatic ties with North Korea. If we look at those countries that have leverage with North Korea through commercial and other relations with North Korea, then we are faced with the reality that we have to depend, to a large degree, on China and Japan to exert pressure on North Korea.

China provides North Korea with about 75 percent of its oil and a goodly portion of its food, somewhere in excess of 70 percent. The appropriateness of our encouraging the People's Republic of China to encourage the North Koreans to comply with the international inspection teams seems quite reasonable, but, indeed, we seem to have run

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

afoul of the ability to use our leverage with China.

I am referring, of course, to the continuing rift that we have with the PRC over our demands that China show more advancement in human rights activity and their response that this is an internal matter within the purview of the People's Republic of China.

So as a consequence, Mr. President, we are somewhat at a loss to utilize our leverage on China. In June, the administration faces the decision of whether to renew most-favored-nation status for the PRC. There will likely be an extended debate before this body on this issue. But in the meantime we are left with a situation where we would like China to exert its influence, but China has not seen fit to do so, and the administration has not pushed them on the point. Time marches on, and the North Koreans continue to develop a nuclear capability.

Our friends in Japan are also trading partners, to some extent, with North Korea. Various reports indicate that between $600 million and $1.2 billion of foreign currency enters North Korea from Japan. Curiously, it comes from the operation of the Pachinko parlors in Japan. Pachinko is a game that many Japanese play during their leisure hours. But surprisingly enough, most of these Pachinko parlors are owned by North Koreans who have lived in Japan for an extended period of time. They have funneled the proceeds back to North Korea, and this represents a significant supply of foreign capital for the North Koreans.

Why can we not simply ask our friends in Japan to exert their influence in encouraging the North Koreans to agree to inspections? One of the problems there, as you might imagine, Mr. President, is that we have threatened sanctions in trade matters against Japan. In addition, Japan is, again, going through a change of government. So our influence there is limited as well.

Again, I want to highlight the reality that time passes.

Because our policy has had no teeth, the North Koreans have reached a greater ability to develop whatever nuclear capability they would like to achieve.

I do not think it is appropriate that our Nation use a soft approach on North Korea. I think the North Koreans have observed our inconsistencies to the point that they feel that we do not mean business. As evidence, they continue to stall and continue to buy time to develop this capability.

So, Mr. President, I think we should go back and revisit our foreign policy with regard to how and through what means we are going to urge the North Koreans to curtail their commitment to develop a nuclear device. If that means calling on our allies with greater firmness and more meaningful demands, then I think we should do so. The North Koreans should understand that the United States will no longer maintain a policy of inconsistency with regard to an issue that is so important to peace and prosperity for the whole world.

Of course, with the threat of a nuclear capability in the hands of the North Koreans, one can only suspect what their objective might be. One thing is certain, Mr. President. I know you will recall the uncertainty associated with the Government of North Korea. This is the same regime that assassinated 16 members of the Cabinet of South Korea. This is the same regime that sanctioned the terrorist attack on Korean Air Flight 707 that killed 115 innocent victims.

We are dealing with people who have shown a track record of inconsistency, and as a consequence of that one can only imagine if they carry a nuclear capability what the prospects might be.

Mr. President, I have some additional points I would like to make to bring up to date my remarks concerning the situation in North Korea. This is a chronology of events that have occurred since last week.

The North Koreans have notified the International Atomic Energy Agency that they plan to remove nuclear fuel from their biggest reactor by early next month. The significance of that step is that it will allow the North Koreans to greatly expand their nuclear weapons arsenal unless the material is placed under strict international inspection. Thus, the North Koreans gain another bargaining chip.

It is also significant because the United States administration has told this Senator and others that the delay by the North Koreans has "not been harmful because their nuclear weapons program was frozen." Well, with the extraction of this the nuclear fuel, it is clear that the program is not frozen.

The North Koreans have indicated that they would allow inspectors to witness the withdrawals but the details of that are unclear. It appears that the North Koreans are trying to pressure the inspection agency into accepting conditions such as a limited 10-day visit. Inspectors have indicated that this would be insufficient time to complete the inspections that were ordered last month.

Further, the North Koreans are also demanding that the United States resume the third round of negotiations before allowing full inspections to go forward.

It is clear that the North Koreans continue to toy with us on this matter to the point that I think this body and its membership should express its indignation at the inconsistent manner in which we have dealt with North Korea.

DEATH OF FORMER PRESIDENT RICHARD NIXON

Mr. MURKOWSKI. Mr. President, I do want to take a moment to acknowledge and honor the passing of former President Richard M. Nixon. It has been stated in many of the television commentaries that he was one of the more complex figures in American politics over the last 40 years. I think historians will recognize him as a very perceptive statesman of the type we have not seen in many, many years.

He certainly had his share of triumphs and failures. But his legacy will be one, I think, of vision at both the national and international scale.

While he may have experienced shortsightedness when it came to events surrounding Watergate, he showed tremendous vision in foreign policy.

He was a friend of my State of Alaska. He visited Alaska in 1960 and 1966 and again in 1971. Alaska's current Governor, Walter Hickel, was appointed Secretary of the Interior by the late President Nixon. Nixon was also special to Alaska because he pushed the Eisenhower administration into signing the Alaska Statehood Act and attended the signing ceremonies.

During President Nixon's reign, the Alaska Native Claims Settlement Act was signed into law, and in a tie vote broken by Vice President Spiro Agnew legislation was passed establishing the Trans-Alaska Pipeline. So it was no surprise that he carried the State in the election of 1968 and again in 1972.

Flags are properly lowered to half-mast today in our Nation's Capitol and throughout our United States to pay respect to his passing. He will be remembered and missed by many of the silent majority that Richard Nixon championed. Our thoughts and prayers are with his daughters Julie Eisenhower and Tricia Cox as we remember this very important man in the history of America.

I thank the Chair.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alaska yields the floor.

Mr. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The Senator from Alaska suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BURNS. Mr. President, might I inquire, what is the order of business?

The ACTING PRESIDENT pro tempore. The Senate is now in morning business.

Mr. BURNS. Mr. President, I thank the Chair.

(The remarks of Mr. BURNS pertaining to the introduction of S. 2044 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

HEAD START AND EARLY CHILDHOOD DEVELOPMENT AMENDMENTS OF 1993

Mr. CONRAD. Mr. President, I am here today to discuss our Nation's children and the people who care for them. Thursday, April 28, 1994, is "take-your-daughter-to-work" day. This is a day when parents are encouraged to bring their daughters to the workplace, therefore providing them with a view of the work opportunities available to them. Many job positions, particularly professional positions, have been historically viewed as "men's work" or "women's work." Thursday is therefore a day dedicated to demonstrating that employment positions are no longer dependent upon one's gender. It is a day to show that girls—as well as boys—should aspire to any job they desire. This year, take-your-daughter-to-work day is expected to include the participation of several million girls in not only the United States, but also in Africa, Japan, Ireland, Britain, and Puerto Rico. Additionally, some businesses, such as USA Today, are encouraging visits from employees sons, as well as daughters. This will hopefully lead to greater acceptance and understanding of all individuals in all employment positions while providing young people with firsthand knowledge about employment opportunities and responsibilities.

Mr. President, as well as actively combating gender discrimination in the workplace, our Nation also faces the challenge of providing adequate salaries for certain jobs. There are numerous difficulties in attracting high quality people to work with young children, particularly in Head Start and day care positions, because of the low wages associated with these professions. For this reason, early childhood professionals in North Dakota, including the North Dakota Association for the Education of Young Children, recognized April 21, 1994, as national "Worthy Wage Day"—a day designated to draw attention to the low compensation received by child care professionals.

Early education of children is an investment with huge social and economic returns. Since the 1960's, Head Start has been an important part of this investment. Head Start has proven to be one of the most successful Federal programs ever, distinguishing itself as an effective and cost-efficient way to build a solid foundation for learning for millions of American children.

I believe it is important to take action to ensure that this great American success story can continue and meet the challenges of the future.

For these reasons, Mr. President, I introduced the Head Start and Early Childhood Development Amendments of 1993 (S. 1193) on July 1, 1993. I am proud that portions of my bill, including provisions to upgrade Head Start employee benefits, were recently incorporated into the Head Start reauthorization bill, which will soon be considered by this body.

Head Start, however, is only one part of our continuing effort to ensure the future success of our children. We must also focus on the basic interaction between children and the people that care for them, whether in Head Start or day care.

Over the years, we have gained a better understanding of the development of the human brain. A recent New York Times article explains the results of studies in neuroscience that began as early as the 1960's. The experiments focused on the neural and cognitive development of the very young and their developmental process. The conclusion of these studies, not surprisingly, is that lack of stimulation leads to lack of neural development. It is now widely believed that newborns begin life with a profuse tangle of brain cells and synapses—a massive cerebral short circuit. Lack of stimulation in early life leads to a failure of synapses to connect. The Carnegie Corp. of New York published a report last week, discussing the relevance of these studies to children's development. If children do not receive adequate and appropriate stimulation in their early years, irreversible damage results, preventing them from developing their full potential.

Neglecting children and neglecting appropriate child care retards the mental development of our children.

We need to focus more energy on these issues because of the large number of single parent families and the high percentage of women in the work force. In my State of North Dakota, approximately 70 percent of women with preschool-aged children are in the work force. We must ensure that our children receive the care necessary for their full development. We must ensure that we attract high quality, well-trained people to the child care profession. The problem is that we do not pay child care professionals very well. This Nation needs to develop a benefits package, including retirement programs, to attract the best.

Mr. President, I ask unanimous consent that the April 17, 1994, article from the New York Times regarding the importance of appropriate care for children, especially very young children, be included in the RECORD immediately following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IDEAS AND TRENDS; BUILDING A BETTER BRAIN FOR BABY

(By George Johnson)

In a series of classic experiments beginning in the early 1960's, neuroscientists subjected kittens to all kinds of strange childhoods. Some were raised with one eye sutured shut or covered by an opaque contact lens. Others were reared in a visual world consisting of nothing but vertical or horizontal stripes.

Then, all of a sudden, the veils were lifted. Normalcy prevailed. But from the point of view of the kittens, nothing had really changed. Eyes deprived of light in those first crucial days were now blind. Kittens raised in a vertical world were unable to see horizontal lines. They might as well have been asked to detect radio waves. For lack of stimulation, the neurological wiring—the connections, called synapses, that pass signals from neuron to neuron—had not developed.

Not all was lost, however. If the blinders were removed early enough, the brain would spring back from the deprivation. In a matter of days, new synapses sprouted. The blind eye would learn to see, the brain to comprehend perpendicularity. But if the scientists waited too long, the damage was irreversible. The window of development slammed shut forever.

Use them or lose them. This lesson about synapses—long known to neuroscientists—created a stir when it surfaced last week in a report by the Carnegie Corporation of New York about the plight of American children living in poverty.

Raising the frightening possibility that deprived infants are left with permanently stunted brains, the group called for more support for child care and preschool programs like Head Start; it asked for more liberal policies on family leave. Otherwise, the implication was, children were in danger of ending up like the kittens, neurologically walled off from all but a fraction of the world's informational riches.

The vast, gray expense of neuroscientific literature is full of studies that lend support to this grim possibility. Over the years, scientists have shown that rats raised in stimulating environments—a Coney Island of treadmills and tunnels, with fellow rodents joining in the fun—seem to develop a greater density of synapses—more connections—than those raised in duller surroundings.

In fact, it is now widely believed that newborns begin life with a profuse tangle of brain cells and synapses—a massive cerebral short circuit. Then, through a process of neural sculpting, the excess is pruned away. Neurons die, synapses become disconnected. How this topiary work comes out seems to depend on which circuitry is stimulated in the early years of life.

The implication, apt to incite anxiety among even the most attendant families, is that neglectful parents are guilty not only of a sin of omission—not providing enough mental stimulation—but of a sin of commission as well: fating their children to confront the world with underdeveloped brains. One can inflict permanent damage, it seems, without striking a blow.

Philosophers usually blame Descartes for the deeply ingrained assumption that there is an unbridgeable divide between the physical and the psychological, between the brain and the mind. We distinguish between hurting someone bodily and hurting someone mentally. Terrible as it is, psychological damage might be corrected, or so we like to believe. But if parental neglect closes off forever the sculpting of certain neural pathways, then the damage is as irreversible as that inflicted by malnutrition, foot binding or breakfasts of lead paint chips.

But before rushing off to buy another armload of videos or the latest educational toys, parents might pause to consider another study, also cited in the report, indicating that too much stress in the early years can unleash hormonal poisons that eat brain cells.

How do you distinguish between stimulation and stress? It is no doubt stimulating in the extreme to grow up next to a fire station or under the tracks of the El. In this regard, the most dangerous urban neighborhoods provide a more stimulating environment than placid suburbia. Can too much stimulation—all those spinning, bright cribside objects and mandatory nursery rhymes—result in its own kind of abuse?

These are the kinds of judgments that lie beyond the laboratory studies. For all the efforts of neuroscience, parenting seems likely to remain as much of an art as a science.

A TRIBUTE TO ERNIE ROYAL

Mr. LEAHY. Mr. President, Ernie Royal, one of Vermont's premier chefs and restaurateurs, died Sunday, March 13, at the age of 76. I would like to take a moment to pay my respects to his memory and offer my condolences to his wife of 56 years, Willa Cotton Royal.

Ernie spent years learning his trade, more years than most because he was black and opportunities to learn the food and hotel business as a young man growing up in Boston were limited.

But Ernie had a passion for restaurants and good food and fine service and it was a dream he pursued relentlessly, despite the cool reception he received from bankers unwilling to lend him necessary financing to start his own business in Massachusetts.

He moved to Vermont, where he hoped to be measured by his character and industry—and not the color of his skin.

He opened Royal's Hearthside Restaurant in Rutland in 1963, but his fame quickly spread beyond Vermont as food critics for some of the Nation's most prestigious magazines claimed him as their own personal discovery.

I often took my family to Royal's Hearthside—the food was terrific but you went there to see Ernie as well. He would always join us and the conversation would range from food to politics and business.

His death is a personal loss to our family—and we share the grief of Vermonters who knew him from the many local, regional, and State business councils and associations that he voluntarily gave his time and efforts.

I ask unanimous consent that the attached biography of Ernie Royal, which appeared in the Rutland Daily Herald Monday, written by Kevin O'Connor of that newspaper's staff, be printed in the CONGRESSIONAL RECORD as a final tribute to Ernie's memory.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Rutland Daily Herald, Mar. 14, 1994]

RUTLAND'S ERNIE ROYAL DIES

HIS HEARTHSIDE A LOCAL LANDMARK

(By Kevin O'Connor)

Ernie Royal knew how to run a restaurant.

"Every single night you must feel like you're putting on a party, and you must feel like singing and dancing," he once said. "If you don't feel this way toward your customers, then you'll have problems with your restaurant."

Royal had no problems with his customers. Instead, he faced the obstacle of being a black man growing up in a closed, white world.

And so he opened the door. Starting as a dishwasher, he moved up to busboy, waiter, chef and finally owner and operator of Royal's Hearthside in Rutland. He had been his own boss for 30 years when he died Sunday at the Rutland Regional Medical Center. He was 76.

Royal was born in Boston in 1917. He acquired his taste for food early when, as a boy washing dishes at a Beacon Hill restaurant, he could eat all he wanted.

Determined to own his own restaurant, he plotted to learn everything he could about the business. He worked winters in Boston, summers in resort hotels outside the city. Friends helped him open doors usually closed to blacks.

A teacher at Boston College, for example, was also director of the Hotel Somerset. When Royal offered to work at the hotel for nothing in exchange for the education, the teacher consented.

"Going to the grand hotels was exciting for me when it was a 'no-no' for a black kid even to be inside a hotel," Royal told a reporter in 1979. "My mind was like a sponge. I wasn't nosing around at those places. I went there to learn."

His resume ranged from busboy at Boston's Parker House to chief cook for the U.S. Maritime.

Royal met Willa Cotton and married her in 1938. He worked as a chef, she worked as a baker. Together they put their savings into running a small cafe in Dorchester, Mass., starting in 1955.

When the line of lunch customers grew long, the couple went to the bank to buy the building. But the bank wouldn't loan them money.

Yes, the Royals were popular. But they also were black.

The Royals turned to Kingsley Smith of the Hartness House in Springfield, Vt. He pointed them to a restaurant in Rutland that had been closed for several years. The building was starved. So were the hundreds of hungry motorists who ran bumper to bumper at the nearby corner of Routes 4 and 7.

The restaurant reopened as Royal's Hearthside in 1963. It lived up to its name. Diners could see their food cooking on an open hearth. And Royal, in white chef coat and hat, could keep his eye on the entire dining room.

He served baked stuffed shrimp, boneless chicken, popovers and chowder. In return he received four stars from restaurant rating services, praise from Esquire, Holiday and Gourmet magazines and so many plaques he ran out of wall space.

When the WCAX-TV news team came to Rutland for a state bicentennial broadcast in 1991, weatherwoman Sharon Meyer was given the company credit card and instructions to make restaurant reservations at the best place in town.

"Royal's Hearthside?" she said minutes before 6. "We've got a crew of about a dozen. How about dinner at 7:30?"

Running a restaurant takes time and a toll. "My day begins with the Today show and ends with the Johnny Carson show late at night," Royal said in 1981.

The long hours were one reason he sold the restaurant in 1984, only to buy it back less than a year later.

"I am happiest when I am in the kitchen creating new menu items and developing new recipes," he said of his reconsideration. "I missed that activity after my short retirement."

Royal fought for better educational and employment opportunities for minorities as chairman of the human resources committee of the National Restaurant Association. He and his wife invited leading restaurateurs to Rutland in 1987 for a benefit dinner to establish a scholarship fund for minority students at the Culinary Institute of America.

Wrote Charles Bernstein, editor of The Nation's Restaurant News: "One man has done far more than anyone else in encouraging minorities to ascend from entry level positions upward through the industry. That man is none other than the sponsor of the dinner and of the entire effort, Ernie Royal, owner of Hearthside Restaurant."

Royal didn't discriminate when it came to helping other local restaurateurs. Frank Czachor first worked with Royal as a college student, then as maitre d' before moving on to become chef and owner of 121 West in downtown Rutland.

"He certainly had a clear mark on the restaurant industry in Rutland," Czachor said Sunday. "He put that dedication into the food industry and he instilled that into his help. I certainly looked up to him. You had to look at him for setting the standards."

Czachor visited Royal at the hospital last week. They talked about returning to Boston to sample restaurants.

"He was always looking for trends and seeing new things being done," Czachor says.

The Herald agreed in a 1984 editorial: "The Royals' success can be attributed not only to a quality operation but also to their reputation as innovators—a willingness to try new things and never to be satisfied with constant repetition of yesterday's ways and means."

And for Royal, that meant not being satisfied with such good words.

"We're trying to attract a younger group of people," he said in one of his last newspaper interviews. "You've got to realize that we are serving the children of area people that have been coming here for the past 20 years. It is important for us to get into the younger generation."

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,558,348,698,138.33 as of the close of business yesterday, Monday, April 25. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $17,484.30.

TRIBUTE TO CAMPBELLSVILLE COLLEGE STUDENTS—KENTUCKY STUDENTS HELP MISSOURI FLOOD SURVIVORS REBUILD

Mr. McCONNELL. Mr. President, I rise today to honor several students from Campbellsville College in Taylor County, KY. Members of the Baptist Student Union and several faculty members spent their spring break in Winfield, MO, about 40 miles from St. Louis, and just 2 miles from the banks of the mighty Mississippi River.

While other college students were enjoying the weather in various tropical locales, these young people were making a difference to the Winfield community which was ravaged by the great flood of 1993 almost a year ago. A levee broke under the tremendous pressure of the swollen Mississippi and ravaged the town of 700 citizens. Because of its proximity to the river and the force with which the water came, Winfield was hit as hard or harder than most every other town in the area.

Mr. President, we all understand what needs to be done structurally in areas of the Midwest which were hit by the flood. Buildings need to be rebuilt, bridges reconstructed, homes cleaned, and belongings salvaged. But it was more than the structural damage that the Campbellsville students found themselves dealing with.

The citizens of Winfield needed to rebuild themselves as much as they did their homes. The Campbellsville students met and interacted with the people of Winfield, and tried to help them regain some of the hope they had lost as a result of the devastation. Perhaps it as much for the spiritual and personal guidance these young people offered, as it is for the tremendous work they provided, that they will be remembered for years to come by the people of Winfield.

Mr. President, I ask my colleagues to join me in honoring this special group of young people from Kentucky. In a time when we are too often focused on our lives rather than the struggles of others, we can all learn from their example. In addition, I ask unanimous consent that an article detailing the accomplishments of this outstanding group be printed in the RECORD at this point as well as a list of the students involved in the effort to rebuild Winfield.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SPRING RAKE—COLLEGE STUDENTS HELP DISASTER VICTIMS

Editor's note: This was written by Marc C. Whitt, director of public relations and marketing at Campbellsville College.

"You all changed my town totally and I want to follow in your footsteps!"

Those were the words written by a 13-year old who expressed her appreciation toward 47 Campbellsville College students and staff who spent spring break not on the sunny beaches of Florida, but in the mud and debris of flood-stricken Winfield, Mo., a community located 40 miles northeast of St. Louis.

Several members of Campbellsville's Baptist Student Union and a few college staff traveled to Missouri March 11–17 to rebuild homes and lives wrecked by the Midwest's "Flood of '93."

Although homes received much attention from the group, lives crushed by the flood's destruction seemed to be what received the most repair, said Tiffani Merrick, a junior communications/psychology major from Nicholasville, Ky., who served as the mission trip coordinator.

"Before we went to Winfield, the people there told us that they wanted someone just to listen to them for a change," said Merrick.

According to Merrick, citizens of Winfield were disturbed that several governmental and non-profit agencies had come to their community and had quickly left without them being able to express their grief.

"They needed people to love them. Probably the most productive thing we did was to have real conversation with them," said Merrick. "This community was in such need when we arrived. Even though we arrived as strangers, they invited us into their lives.

"We treated them like people, not flood victims," she said.

Before the flood devastated Winfield, it was a town filled with more than 700 citizens. Today, only 592 remain in what was described by the Campbellsville group as a place where hopelessness lingers in the lives of those who still call Winfield home.

The town, which lies two miles from the banks of the Mississippi River, was reported to be one of the two hardest hit towns in Missouri. Much of that destruction resulted from a major levy which broke nearby.

From viewing pre-flood pictures of Winfield, Merrick said that the small town was once occupied by beautiful homes. "Today, trash and mud have made it into a slum. It's a sad, drastic change for one community to experience."

Rebecca Mishler, a junior from Dunnville, Ky., said the trip made a definite impact on her own life. "I tried to put myself in their shoes," she said. "These people have had a lot of bitterness bottled-up inside. There was a lot of devastation. We all asked each other, 'What if this had happened to our families?' "

One lady whom the group had met told about seeing her house and lifelong belongings swept away in a matter of seconds when the levy broke.

Mishler said that 80 percent of the homes in Winfield have been abandoned. "In spite of the destruction," she said, "we were there to offer them some hope."

According to Joan Stansbury of the college's Office of Campus Ministries, Winfield will never be the same following Campbellsville College's impact on the community.

"We did as much, if not more, spiritual rebuilding as physical rebuilding," said Stansbury.

Our students who worked with the Back Yard Bible Club noticed the hurt in the children's eyes. Once the children and adults saw that we sincerely cared about them, they were totally open with us.

Problems among the youth's population were abundant, said Merrick. Drugs, alcohol and sex had replaced what some might term as traditional small-town values and activities.

"Many of the kids told us that if you didn't have a car and some money for a trip to St. Louis, there wasn't much to do.

"Apparently, there are several cases of teenage pregnancy in the local school system, especially in the middle school," said Merrick.

In another story, Stansbury told of a 5-year old girl who had "fallen in love with our group."

"This little girl would bring her paint brush, gloves and box lunch every day to help us," said Stansbury. "She stayed with us all day long for two days. Her mother said she would get up the first thing in the morning to go to work."

That same 5-year old later asked Campbellsville student Richard Smith of Owensboro, Ky., if she could have his Bible.

Smith explained to her that his grandmother had given him this Bible and because of that, it meant a lot to him.

But Smith could see in her eyes how much she wanted it, so he gave it to her, said Stansbury.

Another situation, more than any other, moved Campbellsville's group.

"A rather rugged-looking man, who was in his early 40s, came to us in a special way," said Stansbury. "This man had long, stringy hair and wore dangling earrings. Just by his looks, I'm afraid many people wouldn't have helped him. But he *wanted* our help!

"Before the flood had destroyed his home, he had lived down by the levy in a house that stood on 12-foot high stilts.

"From the time he lost his house, he has been living in a house where six-feet of water once stood.

"He lived in filth. There was mold growing on mold. The smell was horrific.

"There were no walls inside, only stud frames. His carpets were filled with dirt and grime. The house was bearly livable.

"Campbellsville's students and staff came in and cleaned his house, painted his fence, cleaned the kitchen and bathroom spotless, vacuumed the carpet, told him how much God loved him and then we listened."

Stansbury said that in talking with him, the Campbellsville group discovered that he was on his second marriage and was presently separated from his wife.

After much prayer with him and for him, this man surrendered his life to Jesus Christ on the third night of a revival the Campbellsville College BSU was conducting for the community.

"He had several problems," said Stansbury, "Each night our group had 'family time' and had prayer for him and his wife. The third night before the service, we held prayer for him again. We had such a burden for this man.

"After we had worked so hard on his house, he just sat outside and stared at it, said Merrick. "He said he had to go outside and look at his mailbox to see if it really was his house," she said.

Proof of Campbellsville College's efforts were demonstrated in a video recorded by the Office of Campus Ministries.

Sue Healey, disaster relief coordinator for Winfield, said.

"I would never have wanted to be without you. You have brought such vitality and life and the Spirit has come with you. Believe me, you have just changed things over there (East Winfield).

"The people that you have worked with * * * all the people you have touched over there, their hearts are singing. I know I speak for the pastor (Rev. Mark Miller, First Baptist Winfield), myself and Jamie Cox (disaster relief coordinator for First Baptist Church) when I say that we love you and it's more than the physical work you did, it's the impression and feelings that you are leaving with us * * *

"They have noticed some of the things that you have done and you have touched them spiritually and emotionally. You have made them stop and think. I've seen unity in that neighborhood that I have never seen before. You have brought people together.

"East Winfield is going to come back and believe me, you are the major part in this and have started us in the right direction."

Citizens from Winfield are planning to visit Campbellsville College next fall, according to Healey.

SPRING BREAK MISSION TRIP, WINFIELD, MO

1. Akers, Tree.
2. Amiet, Wendy.
3. Ashcraft, Patrick.
4. Barnes, Curtis.
5. Bell, Laura.
6. Borger, "CJ".
7. Borowick, Scott.
8. Bourne, Leigh Anne.
9. Brashear, David.
10. Bush, Kathleen.
11. Carlisle, Jason.
12. Choate, Stacey.
13. Edwards, Shelly.
14. Ford, Tara.
15. Fuller, Chuck.
16. Gardner, Jennye.
17. Gowin, Don.
18. Gowin, Sharon.
19. Hancock, Ira.
20. Hendley, Michelle.
21. Judd, Betty.
22. Lewis, Adam.
23. Marcum, Harold.
24. McKinney, Amanda.
25. Merrick, Tiffani.
26. Mishler, Becky.
27. Montgomery, Jay.
28. Morgan, Chris.
29. Morin, Wayne.
30. Pochodzay, Sharla.
31. Richardson, Dawn.
32. Sells, Lorraine.
33. Smith, Gene.
34. Smith, Rich.
35. Stansbury, Joan.
36. Stooksbury, Christal.
37. Talley, Jennifer.
38. Taylor, Mark.
39. Thompson, Amy.
40. Wakefield, Mark.
41. Ward, Jamie.
42. Ward, Shayla.
43. Watkins, Rusty.
44. Willoughby, Carl.
45. Wilson, Sarah.

WE THE PEOPLE . . .

Mr. WOFFORD. Mr. President, on April 30 to May 2, 1994, more than 1,200 students from 47 States and the District of Columbia will be in our Nation's Capital to compete in the national finals of We the People . . . The Citizen and the Constitution program. I am proud to announce that the class from Hampton School in Allison Park, PA, will represent Pennsylvania. These young scholars have worked diligently to reach the national finals by winning local competitions in their home State.

The distinguished members of the team representing Pennsylvania are:

Allison Bevan, Mike Cheskey, Pat Clements, Scott Hergenrother, Tina Ingenito, Nathan Joy, Ahmet Kilil, Jeff Kocan, Liz Kubinski, Carrie McCurdy, Mandy McTighe, Ryan Minister, Mike Ott, Ian Rudy, Myron Santos, Melissa Schramm, Steve Seman, Colleen Smith, Ann Spearline, Rob Taylor, Liberty Weyandt and Trininty Zang.

I would also like to recognize their teacher, Mr. Dean Longwell, who deserves much of the credit for the success of the team. The district coordinator, Jennie Lynn Knox, and the State coordinator, Dr. Robert Crist also contributed a significant amount of time and effort to help the team reach the national finals.

The We the People . . . The Citizen and the Constitution program, supported and funded by Congress, is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The 3-day national competition simulates a congressional hearing in which students' oral presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues.

Administered by the Center for Civic Education, the program, now in its 7th year, has reached more than 20,100,000 elementary, middle, and high schools nationwide. Members of Congress enhance the program by discussing current constitutional issues with both students and teachers. This year, the Thomas Jefferson Commemoration Commission will join the Center in making special presentations to the students in honor of Jefferson's legacy.

The We the People . . . program provides an excellent opportunity for students to gain an informed perspective of the significance of the U.S. Constitution and its place in our history and our lives. I wish them the best of luck in the national finals and look forward to their continued success in the years ahead.

PASSING OF PRESIDENT RICHARD M. NIXON

Mr. HATFIELD. Mr. President, we are saddened by the passing of Richard Nixon. Throughout his illustrious career, Richard Nixon was known as a statesman, peacemaker, and world leader. Up until the moment of his passing, he was on the threshold of new American thinking.

My first encounter with Richard Nixon was when he was a U.S. Senator from California attending the 1952 Republican National Convention. I was a delegate pledged to Dwight Eisenhower. Our paths again crossed after Nixon was named Vice President and was asked by President Eisenhower to attend Oregon's centennial celebrations in 1959. At that time, my wife, Antoinette, and I were living in a small apartment awaiting the renovation of our home. The Vice President came to our apartment for lunch and pronounced himself an eternal fan of Antoinette's string bean casserole.

It was this Richard Nixon that many Americans, and certainly the media, missed. To many, his humanness was remote. But despite all the difficult times he faced, it was not lost. President Nixon's reserved nature was made more approachable by his gracious and warm wife, Pat, and his impressive daughters Julie and Tricia. His family acted in full partnership with the President throughout his career. The passing of Patricia Nixon last year was a loss to all.

As I got to know the President better, through our time spent at Republican Party functions and during his visits to Oregon, I came to admire the intellect of Richard Nixon. In 1960 he asked me to give the Presidential nominating speech at the Republican National Convention. He often commented upon the brevity of my remarks but I believe that my assessments of the man were indicative of his long career.

In that speech I said:

> Never before has a Vice President been such a full participant in the making of national policy. Never before has a Vice President shared so intimately in the shaping of major international decisions.
>
> And yet he is one of us, and like so many of us, owes an unending debt of gratitude to parents who nurtured him, a wife whose love and companionship have earned for him, and for us, the affection and respect of uncounted millions from Ghana to Warsaw.
>
> He has known hard times, he has known hard work. He has trod the path of peacemakers, but he will not surrender the hopes, the ambitions, the achievements of this Nation, nor will he make apologies to express regrets for this country's policies of self-preservation.
>
> In this hour when the world, itself, is half-slave and half-free the leadership in the White House is the beacon for free men and all who would be free.
>
> May I present in nomination a fighter for freedom, a pilgrim for peace . . . the Honorable Richard M. Nixon.

Beyond personal remembrance, our Nation will collectively recall his statesmanship. No American in this century influenced American foreign policy as President Nixon did.

It has been said that his philosophy was never to look back. Indeed, he did not. Even as the heaviest bombings were being inflicted upon the North Vietnamese, and against the wishes of American conservatives, President Nixon ended the two-decade-long enmity with China. Spending an entire week in China, Nixon helped shatter myths on both sides: about the Chinese and about Americans. As a March 1992 Time magazine article described the event: "The trip * * * marked the beginning of a more pragmatic and complex, less concentrated and crusading application of American power."

Nixon's immediate aim during the China visit was to improve understanding and communication. He said at the time that his hope for the trip was that, "walls will not divide peoples of the world, that peoples regardless of differences in philosophy and background will have an opportunity to communicate with each other and know each other." He succeeded and although our relationship with China has always been complicated, I believe communications made possible by the Nixon visit altered the fate of two countries. President Nixon's contributions to United States-Union of Soviet Socialist Republics détente and his active efforts to promote a new relationship with Russia after the Soviet Union's collapse built upon his China efforts.

Because his foreign affairs views were freely given and actively sought by world leaders over the past few years, little has been said about President Nixon's contributions to American society. Motivated by an empathy for the poor borne of his own poverty-ridden childhood, his interest in a guaranteed annual income for all Americans furthered the drive to eradicate poverty. Although his plan did not succeed, his administration won increases in funding for welfare, food stamps, Social Security, and disability pensions.

Nixon's administration provided a moderate Republican stand on poverty and social programs and opened doors for new thinking on program development. Above all, his programs made a difference. As Congressman Tom Foley remarked in 1989, "The Nixon administration was most important in advancing the antihunger fight in America."

President Nixon lived a long and productive life marked by both dark, difficult times and by intellectual brilliance. I extend my deepest sympathy to his family for the loss of this incomparable man.

BUDGET SCOREKEEPING REPORT

Mr. SASSER. Mr. President, I hereby submit to the Senate the Budget Scorekeeping Report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through April 22, 1994. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 287), show that current level spending is below the budget resolution by $4.8 billion in budget authority and $1.1 billion in outlays. Current level is $0.1 billion above the revenue floor in 1994 and below by $30.3 billion over the 5 years, 1994–98. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $311.7 billion, $1.1 billion below the maximum deficit amount for 1994 of $312.8 billion.

Since the last report, dated April 20, 1994, there has been no action that affects the current level of budget authority, outlays, or revenues.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 25, 1994.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the 1994 budget and is current through April 22, 1994. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 64). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated April 19, 1994, there has been no action that affects the current level of budget authority, outlays, or revenues.

Sincerely,
ROBERT D. REISCHAUER.

Enclosure.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1994, 103D CONGRESS, 2D SESSION, AS OF CLOSE OF BUSINESS APRIL 22, 1994

[In billions of dollars]

	Budget resolution (H. Con. Res. 64)[1]	Current level[2]	Current level over/under resolution
ON-BUDGET			
Budget authority	1,223.2	1,218.5	−4.8
Outlays	1,218.1	1,217.1	−1.1
Revenues:			
1994	905.3	905.4	0.1
1994–98	5,153.1	5,122.8	−30.3
Maximum deficit amount	312.8	311.7	−1.1
Debt subject to limit	4,731.9	4,470.1	−261.8
OFF-BUDGET			
Social Security outlays:			
1994	274.8	274.8	(3)
1994–98	1,486.5	1,486.5	(3)
Social Security revenues:			
1994	336.3	335.2	−1.1
1994–98	1,872.0	1,871.4	−0.6

[1] Reflects revised allocation under section 9(g) of H. Con. Res. 64 for the Deficit-Neutral reserve fund.

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[3] Less than $50 million.

Note: Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1994, AS OF CLOSE OF BUSINESS APRIL 22, 1994

[In million of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			905,429
Permanents and other spending legislation[1]	721,182	694,713	
Appropriation legislation	742,749	758,885	
Offsetting receipts	(237,226)	(237,226)	
Total previously enacted	1,226,705	1,216,372	905,429
ENACTED THIS SESSION			
Emergency Supplemental Appropriations, FY 1994 (P.L. 103–211)	(2,2862)	(248)	
Federal Workforce Restructuring Act (P.L. 103–226)	48	48	
Offsetting receipts	(38)	(38)	
Housing and Community Development Act (P.L. 103–233)	(410)	(410)	
Total enacted this session	(2,686)	(648)	0
PENDING SIGNATURES			
Extending Loan Ineligibility Exemption for Certain Colleges (S. 2004)	5	3	
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted[2]	(5,562)	1,326	
Total Current Level[3,4]	1,218,462	1,217,054	905,429
Total Budget Resolution	1,223,249	1,218,149	905,349
Amount remaining:			
Under Budget Resolution	4,787	1,095	
Over Budget Resolution			80

[1] Includes budget committee estimate of $2.4 billion in outlay savings for FCC spectrum license fees.

[2] Includes changes to baseline estimates of appropriated mandatories due to enactment of P.L. 103–66.

[3] In accordance with the Budget Enforcement Act, the total does not include $14,145 million in budget authority and $9,057 million in outlays in emergency funding.

[4] At the request of Committee staff, current level does not include scoring of section 601 of P.L. 102–391.

Note.—Numbers in parentheses are negative. Detail may not add due to rounding.

THE DEATH PENALTY AND THE CRIME BILL

Mr. HATCH. Mr. President, I have what I consider to be quite important remarks here today, after meeting in the Judiciary Committee this morning.

President Clinton is prepared, in my opinion, to end the death penalty in the States and at the Federal level. Last week the other body left in its crime bill the so-called Racial Justice Act. This provision, through its misuse of racial statistics, will result in the abolition of the death penalty in every State which has a constitutional death penalty, including my State of Utah, as well as every Federal death penalty. They will all be removed.

This provision is opposed by most State attorneys general, the National District Attorneys Association, and other law enforcement and victims groups. To my astonishment, Attorney General Reno, in testimony before the Senate Judiciary Committee just this morning, expressed the Clinton administration's neutrality regarding this provision. Evidently, the President is prepared to sign a bill which will include this provision.

Thus, in a single blow, President Clinton is prepared effectively to strike down this law enforcement tool favored by the overwhelming majority of Americans. While professing verbal support for the death penalty, this administration is a cynical and willing participant in the destruction of the death penalty.

Let me first emphasize what is not at issue. Under the 14th amendment to the Constitution, no person can be sentenced to death on the basis of race. No one disputes this elementary proposition. Moreover, the Senate crime bill requires the trial judge to instruct the jury not to consider race and to return a certificate, signed by each juror, that race was not involved in their judgment in a death penalty case.

In the guise of protecting against race-based discrimination, title IX of the House bill would in fact use an unreliable and manipulable statistical quota to redefine when a death sentence shall be deemed to have been based on race. Specifically, title IX provides that an "inference that race was the basis of a death sentence is established" if the evidence shows that "race was a statistically significant factor in decisions to seek or to impose the sentence of death in the jurisdiction in question."

It is essential to recognize that statistics can be selected and manipulated across an endless number of variables. Thus, a supposed expert retained by a death-sentenced murderer could make choices from among the following:

The relevant State actor could be an individual prosecutor, a prosecutor's office, a jury, some set of juries, a judge, some set of judges, an executive with clemency authority, or some combination of the above;

Statistical evidence of alleged discrimination could relate either to the race of the defendant or to the race of the victim;

The "jurisdiction in question" could be defined as a city, county, State, district, circuit, or some other governmental unit;

Any of countless features of crimes could be categorized and compared in countless ways.

Given these many variables, it is inevitable that in virtually every case, a supposed expert could manufacture a statistical disparity that would then be alleged to be significant.

The Racial Justice Act would, as a result, convert every death penalty case into a massive sideshow of statistical squabbles. Instead of the prosecutor putting a brutal murderer on trial, the murderer would be putting the prosecutor on trial. Moreover, once a statistical disparity was artificially deemed to establish an inference that a death sentence was based on race, the Government would have the burden of proving a negative: It could rebut this fictitious inference only by proving an absence of discrimination. Worse, it might have to try to prove such evidence years, or even decades, after the events in question, when witnesses and records are no longer available.

The Supreme Court rejected this statistical theory of racial discrimination in the death penalty in *McCleskey* v. *Kemp*, 481 U.S. 279 (1987), where it ruled that a capital defendant claiming a violation of the Federal equal protection clause must show the existence of purposeful discrimination and a discriminatory effect on him. Justice Powell, in his opinion for the Court in McClesky, noted that implementation of murder statues inherently requires discretion, which he recognized "is essential to the criminal justice process." Justice Powell explained that this process is "unique." He went on to say:

> [T]he nature of the capital sentencing decision, and the relationship of the statistics to that decision, are fundamentally different from the corresponding elements in venire-selection or Title VII cases. * * * In those cases, the statistics relate to fewer entities and fewer variables are relevant to the challenged decisions.

Justice Powell further stated:

> Another important difference between the cases in which we have accepted statistics as proof of discriminatory intent and this case is that, in the venire-selection and Title VII contexts, the decisionmaker has an opportunity to explain the statistical disparity. Here, the state has no practical opportunity to rebut the [statistical] study. "[C]ontrolling considerations of * * * public policy," dictate that jurors "cannot be called * * * to testify to the motives and influences that led to their verdict." Similarly, the policy considerations behind a prosecutor's traditionally "wide discretion" suggest the impropriety of our requiring prosecutors to defend their decisions to seek death penalties, "often years after they were made."

Justice Powell also observed that the use of statistics advocated by McCleskey—and incorporated into the House bill—"throws into serious question the principles that underlie our entire criminal justice system," and cannot be limited in any principled manner to the context of the death penalty and race.

In practice, as prosecutors already recognize, they would ultimately have no choice under title IX but to abandon the death penalty. For the only way to ensure statistical proportionality across the range of conceivable measures it to have the incidence of the death penalty equal zero—that is, to abolish the death penalty.

President Clinton claims to support the death penalty. He has been calling on Congress to pass a crime bill that contains a Federal death penalty. Yet he and his administration have been silent as the House has moved to abolish the death penalty nationwide by this racial justice provision.

If President Clinton truly supports the death penalty—if his actions are to match his rhetoric—he must speak out against title IX. If he remains silent or neutral on this issue, that can only mean that he is prepared to repeal the death penalty for the most heinous crimes in this country.

A vote for any bill that contains title IX is a vote to abolish the death penalty, both at the Federal level and among the States. I look forward to working with my colleagues to make sure that this provision is removed at conference.

THE AMERICAN PEOPLE HAVE A RIGHT TO KNOW

Mr. D'AMATO. Mr. President, I have a statement that I indicated last Friday I was going to make. It is a statement that will take about 10 minutes. I have waited so I would not impede business. It deals with the Whitewater matter.

Mr. President, last Friday, the press was given a 75-minute opportunity to ask Mrs. Clinton questions about her investments in the Whitewater Development Co. While 75 minutes may not seem like an adequate period of time to explore this complicated subject, it was 75 minutes more than we in the Congress have been given to ask our questions. We, and the American people, must wait to get the facts because no Whitewater hearings have been scheduled.

Until these hearings are held, Congress and the American people have no way to get the answers. While the American people wait for congressional hearings on Whitewater, I believe that Members of Congress have an obligation to at least raise the questions.

Here are just some of the questions that should be answered for the American public:

First, were federally insured deposits used to keep Whitewater afloat, and did the American taxpayers help pick up the tab for the Whitewater land deal?

The President and Mrs. Clinton have portrayed Whitewater merely as a business venture in which they invested their own money and lost. But the American taxpayers want to know whether they also invested in Whitewater and lost.

Mr. President, were federally insured deposits used to keep Whitewater afloat? The American people have a right to know.

The President and Mrs. Clinton were business partners in Whitewater, with James and Susan McDougal. Jim McDougal owned Madison Guaranty Savings and Loan, which was federally insured by the Federal Savings and Loan Insurance Corporation. When Madison failed and was taken over by the Government in February 1989, it cost the American taxpayers an estimated $67.6 million. Did taxpayers lose money because federally insured deposits flowed from Madison into Whitewater?

According to a March 1992 report prepared by Denver lawyer James Lyons and released by the Clinton campaign, Jim McDougal infused more than $268,000 into Whitewater. Did Jim McDougal use federally insured deposits from Madison to keep Whitewater afloat? The American people still do not know. But we do know that RTC lawyers who investigated the failure of Madison apparently found enough evidence to make a criminal referral to the Justice Department alleging a $1.5 million check-kiting scheme between Madison, McDougal and businesses under his control. Was Whitewater a part of the check-kiting scheme? Mr. President, the American people have a right to know.

A second question is whether Whitewater was able to write bad checks because the Clintons' business partners owned the bank? Because President Clinton has refused to release Whitewater's records, very few of those records have become publicly available. But copies of the check registers of Whitewater's account at Madison indicate that Whitewater's account was overdrawn with some frequency. Was President Clinton's Whitewater Development Co. able to write bad checks on its account at Madison without having them bounce because the bank was owned by his business partner? The American people have a right to know.

Not too long ago when it was discovered that some of our colleagues in the House bounced checks at a bank that they controlled, Congress certainly thought the American people had a right to know.

Third, if federally insured deposits from Madison were used to keep Whitewater afloat, did the President and Mrs. Clinton benefit?

The President and Mrs. Clinton owned half of Whitewater. According to the President, he and his wife invested about $47,000. According to the President's own report, the McDougals invested $92,000, almost twice the Clintons' actual investment. Yet, they were equal partners.

If the President went into a business venture on a 50-50 basis with a political supporter who ended up putting in twice as much money, the American people have a right to know.

What was it that the Clintons brought to the Whitewater deal that made their $47,000 investment equal in value to the McDougals' $92,000?

But there are more questions. For instance, were the Clintons simply passive investors in Whitewater? The President and Mrs. Clinton have been portrayed simply as passive investors in Whitewater. But the few Whitewater records publicly available suggest otherwise.

Did the President and Mrs. Clinton play a more active role in Whitewater? Why have they not been forthright as to the extent of their involvement? The American people have a right to know.

On December 12, 1980, Whitewater transferred one of its lots to Hillary Clinton. Hillary Clinton then borrowed $30,000 from the Bank of Kingston, another bank owned by Jim McDougal. According to Whitewater Development Co.'s accountant, Charles James, the proceeds of the loan were used to build a model home on the lot that could be viewed by potential customers of Whitewater Development Co. Whitewater Development Co. recorded the loan as a debt owed to Hillary Clinton and treated the model home as a corporate asset.

On November 10, 1981, the lot Hillary Clinton owned was sold for $27,500.

On September 30, 1983, Bill Clinton borrowed $20,800 from Security Bank in Paragould, AR, and, according to the White House, the proceeds were used to pay Hillary Clinton's $30,000 loan from the Bank of Kingston.

On September 14, 1988, Bill and Hillary bought back the lot and the home because the original purchaser went bankrupt. The Clintons paid $8,000. The Clintons were sold the lot and house on October 31, 1988.

If the President and Mrs. Clinton were merely passive investors, why did Hillary Clinton take property from Whitewater and put it in her own name?

Why did Hillary Clinton borrow money in her own name to build a model house for the Whitewater Development Co.?

Why did Bill Clinton take out a personal loan to repay the debit taken out by his wife to build the model home?

Why did the Clintons sell the lot and home, buy it back and resell it in their own names? After all, Whitewater's only business was the development and sale of property, so why did the Clintons, who were so-called passive investors in a real estate company, undertake these activities in their own name? The American people have a right to know.

Mr. President, I would like to make an observation; Mrs. Clinton indicated that there was more than a passive interest, but that was not until the late 1980's, and that was only an attempt to close the Whitewater operation down, since Mr. McDougal was no longer available. The incidents we have just spoken about occurred back in the early eighties—December 12, 1980, November 10, 1981, September 30, 1983—and would certainly seem to indicate that this was much more than a passive investment.

After all, Whitewater's only business was land development, again. And so, if one of the investors was actually buying and selling land, I think the American people have a right to know how it was that they considered themselves to be passive investors.

And the fifth area: Were federally insured deposits used for campaign contributions? Mr. President, there are also a series of allegations that funds from Madison were used to make campaign contributions to then Governor Clinton. During the final days of the 1984 gubernatorial campaign, Bill Clinton took out an unsecured $50,000 personal loan from the Bank of Cherry Valley. Mr. Clinton reportedly appointed Maurice Smith, who controlled the bank and served as Clinton's 1984 campaign finance chairman, to the Arkansas Highway Commission. Mr. Clinton reported the $50,000 as a personal contribution. However, his campaign report failed to disclose the source of these funds.

Bill Clinton reportedly requested James McDougal to raise campaign funds to repay the $50,000 loan. On April 4, 1985, McDougal arranged a debt-retirement event at Madison. The RTC has reportedly asked the Justice Department to determine if $60,500 in Madison funds may have been diverted improperly to help retire Governor Clinton's 1984 gubernatorial campaign debt.

Mr. President, were federally insured deposits from Madison used to make campaign contributions to then-Governor Clinton? The American people have a right to know.

Campaign contributions to Bill Clinton in February and October 1985 allegedly came from the Whitewater Development Co., as well as Susan McDougal's company, Madison Marketing.

Did these checks totaling $10,500 cause overdrafts on accounts at Madison? The American people have a right to know.

Another question is whether federally insured SBA guaranteed loan funds were used by Whitewater.

Mr. President, there are also indications that money from a federally insured SBA program was used by Whitewater to purchase property in Arkansas. David Hale, former Arkansas municipal court judge for Pulaski County, AR, appointed by Clinton, incorporated Capital Management Services, Inc., under Arkansas law in September 1978. The SBA licensed Capital Management Services, Inc., as a special small business investment company, the activities of which by law were limited to businesses at least 50 percent owned, controlled, and managed by "socially economically disadvantaged" individuals.

In March 1986, Whitewater entered into a contract to purchase an 810-acre tract of land south of Little Rock from International Paper Realty Co.

In April 1986, Capital Management made Susan McDougal's company, Master Marketing, a $300,000 SBA-backed loan. According to a document provided by David Hale, $193,000 of the $300,000 loan was apparently intended to be used to develop the land purchased from International Paper Realty.

In October 1986, Whitewater Development Corp. purchased the property from International Paper Realty for $550,950. Jim McDougal paid $80,190 at closing, and Whitewater Development Corp. signed promissory notes totaling $470,760.

In December 1986, Whitewater Development Corp. paid International Paper Realty another $30,000 and transferred the property to Great Southern Land Co., Inc., another McDougal-owned company. Although the property was transferred, Whitewater Development remained liable on a $440,760 promissory note. The $300,000 loan to Susan McDougal's company was never repaid and the SBA closed Capital Management in 1993. The SBA estimates that the insolvency of this company will cost the American taxpayers $3.4 million.

Was the money from the SBA loan used by Whitewater to purchase property? The American people have a right to know.

And the final question, for now. Did Mrs. Clinton's cattle futures transactions comply with the commodities laws?

Mr. President, according to the Wall Street Journal, Mrs. Clinton's account almost never met the margin requirements.

For example, her account statements show that she made a cash deposit of $1,000 and closed out her position the next day with a profit of $5,300, increasing her original investment by over 500 percent.

To make that kind of profit, she would have had to own about 17 contracts at about $22,000 for each contract, or a total of $374,000 worth of cattle future contracts.

John Damgard, President of the Futures Industry Association said, "Significant undermargining raises the question of whether somebody was arranging her trades."

Even the spokesman chosen by the White House, Marvin Chirelstein, of Columbia University Law School, reportedly saw "no evidence of hard risk."

If you or I tried to trade $374,000 worth of commodity contracts with only a thousand dollars to back up the trade, it could not be done. And, if the broker agreed to place the trades, he would be in serious trouble.

Mr. President, Mrs. Clinton's commodity trading raises several questions:

Who provided the funds for the trading in those accounts?

Why was not Mrs. Clinton's account called to meet its margin requirements?

Just how much did Mrs. Clinton rely on James Blair to make decisions and place trades for her account?

Did Bill Clinton repay James Blair by giving special treatment to Tysons?

How did a novice trader turn $1,000 into $100,000 in such a short time in such a risky and volatile market?

Mr. President, today I have raised only some of the questions that have not been answered. There are many other questions that remain unanswered.

For example, did the Rose law firm shred any documents that are relevant to the Whitewater investigation?

What documents were removed from Vince Foster's office?

Were law enforcement authorities blocked from searching that office?

Where did all the money that the Federal Government invested in David Hale's SBA-backed company go?

When did then-Governor Clinton learn that Dan Lasater, a political supporter who did business with the State, was under investigation for possible Federal narcotics offenses?

Why did then-Governor Clinton grant Lasater a conditional pardon for his Federal drug felony conviction?

Did the Rose firm overcharge Federal agencies for legal work and fail to disclose possible conflicts of interest?

Mr. President, as the New York Times pointed out in an editorial last Sunday:

> The First Lady's willingness to open herself to questions is welcome, but her performance, however deft, leaves plenty of troubling issues for the special prosecutor and Congress to explore.

Congressional hearings are the only way to get straight answers to the serious questions about the entire Whitewater controversy. The American people have a right to know the answers. The sooner the hearings occur, the sooner Congress can fulfill the American people's right to know.

Mr. President, I yield the floor.

Mr. BURNS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MATHEWS). The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, let me address a question to the Chair. Am I correct in my assumption that the pending business is now the interstate banking bill?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The Chair wishes to state in response that the hour of 10 o'clock having arrived, morning business is closed.

INTERSTATE BANKING AND BRANCHING ACT OF 1994

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1963, which the clerk will report.

The legislative clerk read as follows:

> A bill (S. 1963) to permit certain financial institutions to engage in interstate banking and branching.

The Senate resumed consideration of the bill.

Mr. RIEGLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The pending business is S. 1963.

Mr. DODD. Mr. President, I want to commend the chairman of the Senate Banking Committee, Senator RIEGLE, for his strong leadership in bringing this bill before the Senate. I speak specifically of the Interstate Banking and Branching Act of 1994.

Mr. President, the Congress of the United States has considered the issue of interstate banking and branching for far too many years, in my opinion. We have debated every nuance, contemplated every scenario, and literally cited every statistic many times over. But, finally, after all this ruminating over many years, I believe we have achieved consensus on this most important issue.

The swift movement of legislation through both Houses indicates just how strong this consensus is. The Senate Banking Committee, Mr. President, reported the interstate banking and branching bill out 19 to 0 in February. In March of this year, the House Banking Committee approved a very similar bill by a vote of 50 to 1. The full House of Representatives then passed the bill by a voice vote.

Mr. President, we need to continue this momentum, in my view, and to do everything possible to pass this legislation without amendments, I would say, that will immediately kill the bill or sentence it to a slow death, so that we may have an interstate banking bill on the President's desk by Memorial Day. I think, frankly, we can meet that goal.

Mr. President, I have long supported changes to our archaic constraints on interstate banking and branching. For many years, I have introduced legislation to bring the geography of banking into the 20th century. With the passage of this bill, I believe we will be closer than we have ever been to finally doing away with a set of restrictions that simply no longer serve any legitimate purpose. Full interstate branching will streamline the administration, improve bank efficiencies, ease regional economic slumps, boost consumer convenience, ameliorate the impact of future credit crunches, and I think enhance the safety and soundness of the banking industry overall.

Most important, Mr. President, it will benefit consumers in a way that should not be underestimated. The lives of bank customers nationwide will change considerably for the better as a result of this legislation. Interstate branching will permit customers to enjoy a full range of bank services available at their bank in any State in which that bank operates.

For those who believe that the number of individuals who would benefit from these conveniences is small, recent statistics reveal otherwise. The Census Bureau reports that 16 million Americans who live in metropolitan areas cross State lines; 4 million Americans commute interstate each and every workday; and 493 million trips are taken by Americans each year across regions in this country. The countless Americans who vacation throughout these regions will be able for the first time in many instances to make deposits and conduct other normal bank business without regard to State lines. That is merely catching up with the reality of everyday life in our society.

Recently, Mr. President, in my home State of Connecticut, a large money center bank opened its first bank in the State. Connecticut residents who work in New York—and many do—have deluged the bank with requests to deposit money in New York and withdraw it at home or vice versa. Due to interstate restrictions, the bank has had to say no. That just does not make any sense at all, in my view.

In addition to increased convenience for customers and consumers, consumers will benefit from the savings achieved from the breakdown of market barriers and through increased competition. Recent studies have revealed that bank performance improves with increased market entry and lower prices, higher returns and greater convenience results. That is obvious, Mr. President—allow another bank to come in the area or view and start competing for consumers' business and consumers benefit.

The economic benefits of interstate banking and branching are extremely important. Full interstate banking and branching authority would have been enormously invaluable in cushioning the impact in my region of New England's devastating credit crunch. I believe interstate banking and branching would have brought badly needed capital to our region from other parts of the Nation, easing economic difficulties, saving jobs, and avoiding much pain for people and their families. Bank failures and regional economic slumps could have been prevented if banks had been able to hold loan portfolios with greater geographic diversity.

The legislation before us has been painstakingly crafted to address a wide variety and array of concerns that have been raised over many years when we have considered this issue.

This legislation contains safeguards to preserve safety and soundness by prohibiting undercapitalized institutions from participating in interstate branching. It respects the interests of States by giving them a long transition time and requiring branches to abide by applicable State laws.

Further, the legislation meets community needs by maintaining Community Reinvestment Act requirements. The legislation ensures competition and diversity of services by providing safeguards against overconcentration of banking assets in any one State.

Mr. President, while personally I would prefer a swifter and more comprehensive shift to interstate banking and branching, I believe that this legislation establishes a sensible and consistent approach which will promote bank efficiency and growth.

The legislation, Mr. President, further contains several wrinkles that need to be ironed out in my view when we resolve our differences with the House of Representatives, the other body. One I would like to mention is the failure of this legislation to provide national treatment to banks from other nations.

As it is currently drafted, the bill would only permit foreign banks to branch through subsidiaries. I am concerned that this provision will adversely affect the ability of our institutions, our banks, to receive fair and equitable treatment in other nations. The Treasury Department also has serious concerns about this provision.

I would point out for instance that an institution like Citicorp, or Citibank, has been located in Latin America since 1913. That has not only been a valuable asset for Citibank but also for many American businesses and individuals who travel and do business in Latin America. To have been able to have an American financial institution in those nations for almost a century has been extremely important to us as a nation.

If we do not allow foreign institutions that meet our basic standards and tests to operate here, then U.S. institutions that operate so effectively and have over the years elsewhere of course could be badly adversely affected. This law is the exception to an otherwise I think well crafted piece of legislation which should and must be passed.

We have reached an ideal time in my view to act on this enormously critical legislation which will bolster the long-term health of our banking system.

I strongly urge my colleagues to support this significant change to our current system.

Mr. President, I am told that there are a number of amendments that are being considered to be offered to this legislation. Let me just say to my colleagues, I am told that some of the ideas, in fact, are the ones that I have supported in the past and hopefully can support again. But we have worked for so many years to arrive at this moment in time to be able to have an interstate banking and branching bill which has passed the other body, has come out of our Banking Committee with a 19-to-nothing vote, and is on the brink of passage here. If we take amendments to this legislation, no matter how meritorious they may be, I can almost guarantee that this legislation will die. We have a crowded agenda in the remaining weeks before us. If we get tied up in a conference with the House of Representatives on this bill, then my view is the legislation will fail, and once again, consumers in my view will be adversely affected.

Our hope is today to be able to consider those amendments. Obviously each and every Senator has a right to offer amendments to this legislation. But if we consider those amendments today and pass this legislation by this evening, then I am confident that we could adopt this bill very, very quickly and make a significant contribution to improving the financial conditions of our institutions but more importantly provide a real convenience and asset to millions of Americans and consumers who need and have a right to interstate banking and branching to meet their financial concerns and needs.

Mr. President, it is 11:05. My hope is that over the next 50 minutes Members who have amendments will come to the floor so that we may consider those proposals. I am told that we will take a break for our respective conferences, as we do every Tuesday in the Senate normally between 12 and 2. But because of the considerations of health care legislation, the conferences are going to go a bit longer today until 3 o'clock.

So we will be tied up considering in our respective meetings the various health care proposals. So any amendments I would welcome in the next 50 minutes so we might dispose of before we go into that recess at 12 noon.

Without seeing any additional Members on the floor, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FEINGOLD). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VISITORS FROM SPRING HILL SCHOOL

Mr. RIEGLE. Mr. President, as we proceed today with the interstate banking bill, we have the good fortune to be visited today in the U.S. Senate by the third grade students from the Spring Hill School in McLean, VA. My daughter, Ashley, is a third grader there. And she has brought all of her classmates, teachers, and parents down today to see the U.S. Senate at work. And they are up in the gallery at the present time watching to see what happens. I just wanted to extend a welcome to them and their teachers who are here visiting today.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

GATT TREATY CONCERNS

Mr. PRESSLER. Mr. President, I rise to raise some concerns about the upcoming GATT treaty that will be considered by this body soon.

As I understand it, the Senate will be voting on legislation to implement the new GATT agreement. I have some real problems with the GATT agreement.

Let me say, first of all, that I am a free trader. I believe that trade is one of the best ways to get along with other countries and to promote prosperity. But I also believe in equal treatment. If other countries' products come into our country, our products should be able to go into theirs on an equal basis. When I say I am a free trader, a lot of people in the world hear that we are going to open up our markets, but their markets remain closed.

Mr. President, as a member of the Senate Foreign Relations Committee, and the Commerce Committee, and prior to that as a soldier in the Army, and as a student, I have visited over 140 countries in my lifetime. I always find that these other countries want to send their products into the United States. They say: "We are just a little country. We put tariffs on your products. We are so little it really does not matter."

But it does in a cumulative way. The American taxpayer is actually paying, and the American consumer is subsidizing these other countries in trade. That has been particularly true with Japan over the last 10 years, but it is also true with a number of other countries as well.

Now we have the GATT treaty which has been signed by the United States. But under our system of laws, legislation to implement the new agreement has to come to the Congress for approval.

I have great concerns with the GATT treaty. I think we should take a look beyond just the first step, because when we think about the GATT agreement most think of only the world's major powers being involved. But what is being proposed to be created is a 125-nation governing board where majority vote will rule. This means that a lot of small dictatorships—and most countries in this world are still dictatorships; they are not democracies—a lot of small countries that do not have the same value system that we have, will be voting and maybe outvoting the United States on trade matters.

I am not so sure that we want to turn over our sovereignty on bilateral trade agreements to an international council of 125 nations.

Also, I am concerned with the proposed environmental committee of the World Trade Organization. Who could be against an environmental committee? Yet this environment committee will have great power over nations. There also is a new country of origin committee.

But what is really behind this is their agenda to raise money to assess the U.S. taxpayers to pay in, just like the United Nations where they assess us so much and they say we are in arrearage if we do not pay. We are paying 31.7 percent of all peacekeeper efforts at the United Nations, for example, while some of our rich allies are not doing their fair share, in this Senator's judgment.

This has all the makings of an international organization that will cause a lot of trouble. Probably it will not cause as much trouble in the first year or two, but once we get into that third, fourth, and fifth year and looking down the road 10 years, I think the United States might well regret that it entered into this GATT agreement the way it is structured.

So I have some very serious structural problems. What can we do about it now—the Clinton administration has signed the treaty—there are a number of things. If the Senate should reject it, it could go back and be renegotiated. But let us take a very careful look at this majority rule of these 125 nations. It does not have the same safeguards as in the United Nations where we have the Security Council safeguard, on the basic important decisions where the great powers have reserved their right for a veto.

Here in the World Trade Organization we are turning over a lot of trade decisions to a 125-nation group where majority rule will prevail. And the majority of the WTO will be developing countries, dictatorships, countries that want to get products from the United States with nothing in return, countries that are not practicing human rights, and countries that do not have the same standards that we have.

So let us think very carefully about what we are doing in the upcoming GATT treaty. This has not been brought up very much in our media. It has not been brought up very much here on the floor of the Senate. I intend to try to bring it up in a series of speeches, and I would like to get some discussion going on the structural organization we are accepting in the GATT treaties.

Let us be careful, because once the WTO is created, everyone will say, oh, we did not realize we were turning this much power over, or we did not realize the bureaucrats over in Vienna or Geneva were going to be controlling U.S. trade and/or making our environmental laws. Watch out.

I am all for a clean environment. I am an environmentalist. But when you read the fine print, these new committees have a lot of power and could assess taxes and payments on the United States. You know who those 125 countries are going to ask most for the payments. They are going to be after the United States. We will do our fair share. We do more than our share, and we should, because we are a prosperous country. But I do not want us taken advantage of.

So this Senator reserves how he is going to vote on the GATT treaty. I may well oppose it on the structural grounds, and I wish that the Clinton administration had not agreed to the proposed environmental concerns. I wish they had stuck with the Bush position. But it seemed they were so eager to get agreement to show progress on trade, that they signed this agreement. Now the Senate has the heavy duty of lifting, so to speak, of being very careful about entering into that GATT treaty.

Mr. President, I ask unanimous consent to print an additional description of the 125-nation committee in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE NEW WORLD TRADE ORGANIZATION UNDER THE GATT

In 1948, the GATT—the General Agreement on Tariffs and Trade—was created. The GATT is a multilateral instrument designed to serve as the world's governing regime for international trade. Its primary objective is to achieve substantial reduction of tariffs and other barriers to world trade. The organization provides a framework within which international trade negotiations are conducted and international trade disputes are resolved. The GATT is headquartered in Geneva, Switzerland.

On April 15, 1994, 125 countries signed a new General Agreement on Tariffs and Trade. This new agreement resulted from seven years of negotiations. Once the new GATT is ratified by all 125 signatory countries, the World Trade Organization will be created. At that time, the WTO will replace the GATT. Under the new agreement the WTO would function as an expanded organization from what GATT is currently.

The new GATT agreement created a World Trade Organization (WTO) as a legal entity to control the foundations of trade among its members countries. Unlike GATT, which is simply a framework of an agreement, the WTO would have international legal status, headquarters, staff and a budget.

FUNCTIONS OF THE WORLD TRADE ORGANIZATION

The WTO will implement and administer the new GATT. It will provide the forum for negotiations among its members concerning their multilateral trade relations under the new agreement. The WTO will administer the new rules and procedures governing dispute settlements and overall trade policy review. In economic areas, the WTO will work with the International Monetary Fund and the International Bank for Reconstruction and Development.

STRUCTURE OF THE WORLD TRADE ORGANIZATION

Under the WTO, a Ministerial Conference comprised of all signatory nations is created. The Conference will meet once every two years. The Ministerial Conference will appoint a Director-General and establish the powers, duties, conditions of service and terms of office of the Director-General. A Secretariat of the WTO also is established, to be headed by the Director-General.

A General Council, composed of representatives of all members, is formed and shall meet as appropriate. The General Council shall discharge the responsibilities of the Dispute Settlement Body and the Trade Policy Review Body. Both of these bodies will have their own chairman and establish rules of procedure necessary for the fulfillment of their responsibilities. Similar bodies exist under the present GATT.

The Ministerial Conference will establish three committees which also exist under the present GATT structure. They are:

Committee on Trade and Development.
Committee on Balance-of-Payments Restrictions.
Committee on Budget, Finance and Administration.

However, the Ministerial Conference also will create the following new committees:

Agriculture.
Environment.
Rules of Origin.

The WTO will be responsible for determining environmental impacts and concerns arising from all future trade. It is empowered to recommend actions where appropriate.

Three other new entities are created under the new agreement:

Council for Trade in Goods.
Council for Trade in Services.
Council for Trade-Related Aspects of Intellectual Property Rights.

These councils will operate under the auspices of the General Council and will carry out the functions assigned to them by their respective agreements under the new GATT and by the General Council. These councils also will establish subsidiary bodies where required.

DECISIONMAKING PROCESS

The WTO will continue the practice of decisionmaking by consensus followed under the GATT since 1947. When a decision cannot be reached by consensus, the matter at issue will be decided by voting. At meetings of the Ministerial Conference and the General Council, each member of the WTO shall have one vote. A majority vote is required for decisions by the General Council, unless otherwise provided in the Agreement.

The Ministerial Conference and the General Council shall have the exclusive authority to adopt interpretations of the Agreement.

BUDGET

The Director-General will present to the committee on Budget, Finance and Administration an annual budget estimate for the WTO. This committee will propose to the General Council financial regulations establishing: (1) the scale of contributions apportioning the expenses of the WTO among its members; and (2) the measures to be taken regarding members in arrears.

The General Council will adopt the annual budget by a two-thirds majority comprising more than half of the members of the WTO. Each Member will contribute to the WTO its share in the expenses of the WTO in accordance with financial regulations adopted by the General Council.

Mr. PRESSLER. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERSTATE BANKING AND BRANCHING ACT OF 1994

The Senate continued with the consideration of the bill.

Mr. BOND. Mr. President, let me begin by commending the chairman and the ranking member of the Banking Committee for the hard work that has gone into the issue of resolving the questions around interstate banking and branching. This has been a very important and a contentious issue which we have worked on for a number of years. The Senate has been trying for a long time to get legislation enacted which would provide for interstate banking and branching, and I believe we can see the light at the end of the tunnel.

I intend to support the legislation as drafted because I do believe it takes us in the right direction but also because I am a supporter of State's rights. I would prefer that the bill contain some amendments which I believe may be offered by one of my colleagues on the other side. The provisions I specifically address are, No. 1, to allow for a 3-year period in which States may have time to consider changes in State laws which are necessary to the implementation of this act. I believe, since we do have a dual banking system where State regulation is important, that we should give States that opportunity.

Second, I would like to ensure that State laws apply to all branches of out-of-state banks, both Federal and State chartered. Discussions are underway I understand at this time involving the National Governors Association and responsible parties in the administration. I hope we will have an agreement from them which will be accepted by my colleagues because I do believe we should move in this direction.

Although I believe that interstate banking is clearly a positive step for banks, both competitively and economically, I also believe that each State should have the right to decide what is best within its borders. That is something I hope is considered favorably by my colleagues.

In addition to the major point of interstate banking which is before us today, I do want to discuss with my colleagues S. 783, the Consumer Reporting Reform Act of 1994. This bill passed the Banking Committee by a vote of 15 to 4 late last October.

Mr. President, I have been working on this legislation for about 4 years, and with Senator BRYAN, who has taken the lead on this, we have come together on the measure which is S. 783. It is a bill to reform the Fair Credit Reporting Act, and we may offer it as an amendment to S. 1963. That is something we need to discuss with the managers of the bill as well as the leadership. We introduced this legislation back on April 7, 1993. Hearings were held in May of last year. I believe the time has come to move forward on this bill.

Let me tell you why. The Fair Credit Reporting Act is ripe for revision. I have heard too many horror stories, and we have had them laid out in testimony before the Banking Committee, not to believe this area is ripe for reform. The act was written long before computer technology was as sophisticated as it is today. These technological advances have meant a drastic increase in the amount of information that can be kept on individuals.

It is quite clear to me that current law simply does not do the job of adequately protecting consumers. Although consent decrees obtained by the FTC have had a significant impact, I think that Congress, not the courts, should be legislating in this area and we should not leave all of the important decisions to the administrative bodies.

The PRESIDING OFFICER. If I may interrupt the Senator, we have an order to recess at noon, and, in order to continue, the Senator will need to ask unanimous consent.

ORDER OF PROCEDURE

Mr. BOND. Mr. President, I ask unanimous consent to continue for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I thank the Chair.

Mr. President, let me also put in a word of thanks to the credit bureaus, a group that does not normally receive thanks in this body, but they have taken steps to make the system more accurate, and we commend them for it. They have moved in the proper direction. But I do believe that legislation will still be needed. Congress must very soon address the concerns of accuracy in the system and the need for consumer privacy. If my colleagues are in the same position as I am, they have undoubtedly heard from many, many people about their problems with credit reporting.

I believe that S. 783, as reported by the committee, addresses those concerns. It establishes a 30-day reinvestigation time period so consumers can resolve their disputes in credit reports in a timely manner. It requires employers to get an employee's consent before pulling the employee's credit report. It improves consumer disclosures so that consumers are informed of their rights whenever they receive their credit report and whenever adverse action is taken against them on the basis of their report.

It imposes duties on the furnishers of information so that they cannot furnish information to the credit bureau that they know is incomplete or inaccurate. And it imposes a civil liability on those furnishers who fail to fix a consumer's file when the consumer disputes information which has been furnished.

In addition, S. 783 applies a uniform Federal standard to govern certain parts of credit reporting and a section allowing consumers a free credit report every other year upon written request.

I think we have reached a reasonable compromise on these last two contentious issues. The bill preempts prescreening, information shared among affiliates, reinvestigation timetables, and certain disclosure forms.

I believe that in all of these areas there is a strong interstate commerce argument for having one standard. It will greatly simplify compliance with the act and lessen some of its burdens.

The bill also provides for a free report from the nationwide credit bureaus, upon written request, every other year. I think that allowing consumers to get a free report is a strong step toward making the system more accurate and protecting the rights of consumers.

It is a well-balanced bill. All interested parties get some things in the bill that they do not have in current law. The consumer groups get increased disclosure and a 30-day reinvestigation time period. The credit industry gets a limited Federal preemption, the ability to share information among affiliates, and broader prescreening and direct marketing abilities.

I realize there are issues in the bill which still need to be addressed. Senator BRYAN and I plan to fix the civil liability section to make it absolutely clear that there are only private causes of action against a furnisher after that furnisher has had an opportunity to reinvestigate and fix mistakes.

We have not tried at this time to amend S. 783. We recognize that these issues and others need to be addressed, and we intend to work with our colleagues both in this body and in the House on a bipartisan basis. And I hope that we will not be required to bring up this bill as an amendment to the interstate branching and banking bill but that we will be able to determine when there will be some time when we can go forward so that we can act on this bill and make sure that the protections and the badly needed update is made in Federal legislation in this vitally important area.

I thank the Chair.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

ORDER OF PROCEDURE

Mr. BRYAN. Mr. President, I ask unanimous consent that I might proceed for another 5 minutes. I recognize the time constraints of the Chair. I hope it will be less.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. Mr. President, thank you very much.

Mr. President, I want to commend my colleague, Senator BOND, who has worked tirelessly over the past several years trying to craft a piece of legislation which, in my view, is the most important consumer protection legislation that we could offer in this session of the Congress.

I think we are extremely close to being there as a result of his leadership and support and that of our respective staffs and many with whom we have had occasion to work very closely over these past several years.

Mr. President, let me just embellish upon one additional point, and that is, we have been trying to get on this piece of legislation since last October, as my colleague and friend from Missouri has shared with us. We have been unable to do that. I hope that it will not be necessary for us to offer an amendment to this piece of legislation that is currently before the body because it is not my purpose to in any way prevent timely action upon it. But this legislation is extremely important.

On October 28 last year, the Senate Committee on Banking, Housing, and Urban Affairs marked up and reported out S. 783 by a vote of 15 to 4.

This amendment is the exact language of S. 783.

This legislation will improve the accuracy of the 450 million credit reports kept on about 90 percent of all Americans.

When the original Fair Credit Reporting Act was passed 20 years ago, it provided a number of important consumer protections.

In the intervening 20 years, the credit reporting industry has undergone dramatic changes—from keeping consumer information on handwritten file cards to computer tapes that are updated with billions of entries every month.

The time has come to update this law.

This act is one of the most significant actions we can take that will benefit consumers nationwide.

There are too many lives that are being adversely affected by inaccurate credit reports.

Even as we speak, people are being turned down for student loans, car loans, and mortgages—people are being turned down for jobs or promotions—all because of faulty information on credit reports.

Mr. President, I can attest personally that there were inaccuracies in my own credit report as I sought to refinance my home.

I was able to clear up the inaccuracies on my report without too much difficulty—but I am sure being a U.S. Senator did not hurt either. The average citizen does not have that ability.

I am not here to suggest, nor does my colleague from Missouri, that the people involved in the credit reporting business are irresponsible or disreputable. But the fact remains that there are 450 million credit files, 2 billion pieces of data each month, and that 1.5 million reports every day are sold. That volume lends itself to inaccuracies. And as Senator BOND has indicated, our legislation is simply designed to keep those mistakes to a minimum, and once they are filed to provide a corrective mechanism so that they can be found.

I do not believe that businesses engaged in credit reporting are disreputable, irresponsible firms.

These firms maintain 450 million credit files and must input 2 billion pieces of data each month and sell 1.5 million reports every day.

With that kind of volume there are bound to be mistakes.

The question then becomes how do we keep the mistakes to a minimum and how do we keep the mistakes to a minimum and how do we fix them once they are found? That is where our legislation comes into play.

First, to keep the mistakes to a minimum we must give the firms that furnish information to credit bureaus—the retailers, credit card companies, and mortgage companies—the incentives to supply as accurate information as possible.

Our legislation does just that by authorizing the Federal Trade Commission [FTC] to take action against businesses that have a practice or pattern of submitting inaccurate information.

Second, to fix mistakes when they are discovered our legislation sets up a reinvestigation process that makes it more consumer friendly.

I think most people are sympathetic to the fact that credit bureaus are going to make honest mistakes.

With a common last name like mine, I can relate to the difficulties a credit bureau faces trying to match up credit information with the proper file.

When I do think incenses people is the inconvenience they can be put through to get a mistake fixed.

I chaired hearings out in my State of Nevada and heard testimony from scores of individuals who were put through the ringer to get inaccurate information removed from their files.

People get mad when through no fault of their own, they are forced to spend countless hours calling and writing to get mistakes removed.

They are forced to track down hard-to-find records or prove some information on their file does not belong to them, a difficult task.

This can be both time consuming and frustrating. I know, I have been there.

If our legislation accomplishes nothing else, I intend that it will turn around the burden of proof so that credit bureaus and furnishers of information will be responsible for verifying the accuracy of information when an individual disputes it.

I cannot emphasize how important this is for consumers everywhere.

Another recurring problem is that mistakes keep reappearing on a person's report even after the individual has brought the inaccuracy to the credit bureau's attention.

Our bill would require the agency to notify the individual before reinserting data which has been previously removed.

Individuals would also be able to request a free copy of their report for 1 year afterwards to insure the mistake has not crept back in.

Our legislation has been carefully crafted so that it will not inhibit the flow of information to credit bureaus.

It recognizes that if information is cut off, the consumer ends up the loser.

That is why a delicate balance has been crafted to provide incentives to businesses to supply accurate information while not discouraging them from furnishing it.

Furnishers of information will not be liable for the routine mistakes that naturally occur when processing millions of data entries every month.

So, this amendment does not contemplate perfection, just a good faith effort to supply accurate information.

There are too many lives that are being adversely affected by inaccurate credit reports not too make every effort to improve the system.

Student loans, car loans, and mortgages and even job promotions, all hang in the balance because of faulty information on credit reports.

While we will never eliminate human error, or computer error for that matter, from the credit reporting process, I believe we can and should do better.

I yield the floor.

Mr. President, I thank my colleague who has been inconvenienced by my extended remarks, for his courtesy to me.

Thank you, Mr. President.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senate will stand in recess until the hour of 3 p.m.

Thereupon, the Senate, at 12:07 p.m. recessed until the hour of 3 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mrs. MURRAY].

The PRESIDING OFFICER. In my capacity as a Senator from the State of Washington, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERSTATE BANKING AND BRANCHING ACT OF 1994

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1659

(Purpose: To require a GAO report)

Mr. FEINGOLD. Madam President, I have an amendment relating to a GAC report I would like to offer at this time. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 1659.

Mr. FEINGOLD. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

SEC. . GAO REPORT ON DATA COLLECTION UNDER INTERSTATE BRANCHING.

(a) IN GENERAL.—The Comptroller General shall submit to the Congress, not later than 9 months after the date of enactment of this Act, a report that—

(1) examines statutory and regulatory requirements for insured depository institutions to collect and report deposit and lending data; and

(2) determines what modifications to such requirements are needed, so that implementing the interstate branching provisions contained in this Act results in no material loss of information important to regulatory or congressional oversight of insured depository institutions.

(b) CONSULTATION.—The Comptroller General, in preparing the report required by this section, shall consult with individuals representing the appropriate Federal banking agencies, insured depository institutions, consumers, community groups, and other interested parties.

(c) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

Mr. FEINGOLD. Madam President, I have an amendment relating to a GAO report on the requirement for insured depository institutions to collect data in light of this legislation, which I understand will be accepted by the managers of the bill. As I indicated, this amendment would simply direct GAO to submit a report on data collection under interstate branching to determine if modifications to existing requirements should be implemented in light of the enactment of this legislation.

I appreciate the chairman's suggestion to perfect the amendment.

Madam President, I had intended to offer an amendment to S. 1963, the Interstate Banking and Branching Act of 1994, that related to continuing current law requirements for certain statements of condition. The information in those condition statements is useful to regulators and consumer groups in evaluating the performance of insured depository institutions, but in the new banking structures allowed under S. 1963, there may be significant gaps in the reporting that we currently require.

These gaps arise because of the nature of the new banking structures allowed in S. 1963. Because under current law, branches are allowed only in the same State as their home bank, these statements of condition, known as call reports, necessarily provided a State-by-State assessment of key financial institution activities. The potential for cross-State branching could undermine the ability of regulators and consumer groups to make such assessments on a State-by-State basis.

A central concern that many of us have with the proposed national interstate banking and branching legislation is the potential for a loss of critical banking services in some communities, as banks are purchased by large out-of-State institutions. Information provided in call reports can be useful in evaluating that kind of trend, and is all the more important as we move away from our traditional State-based banking system to a nationwide system.

Although I considered offering an amendment specifically requiring that, for institutions with assets over $1 billion, limited call reports be made on a State-by-State basis, I am persuaded that this matter should be examined in the larger context of the call reports themselves.

To that end, I will not offer my original amendment, but instead have offered language requiring that the General Accounting Office review the statutory and regulatory requirements for the collection and report of deposit and lending data, in consultation with regulators, consumers, community groups, and representatives of insured institutions.

I hope this GAO analysis of the broader issue of call report information will help assess whether such requirements for State-by-State reporting should be mandated either by statute or regulation.

I appreciate the support of the managers for this amendment.

I yield the floor.

Mr. RIEGLE. Madam President, let me say to the Senator from Wisconsin that this is an amendment that I am prepared to accept. It has been cleared on the Republican side. I now urge its adoption without objection.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1659) was agreed to.

Mr. RIEGLE. Madam President, I move to reconsider the vote.

Mr. FEINGOLD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Madam President, first, let me commend the members of the Banking Committee, Senator RIEGLE particularly, who is on the floor, Senator D'AMATO, and Senator DODD, for bringing up what I consider long overdue, and that is the interstate banking bill. As Treasury Secretary Lloyd Bentsen said last year: "We currently have a de facto system of interstate banking. But it's a patchwork system, and it's clumsy."

I would certainly agree, Madam President, and I believe this bill will bring a degree of much needed rationality to the banking system and make our Nation's banks more competitive with their international counterparts. It is very important.

I was in the commercial banking business for 25 years, and I have observed the participation of foreign institutions doing business in the United States, their ability to compete with us, and, of course, the difficulty of our banks being allowed access to foreign countries on the basis of reciprocity. So we need to have a correction here that will bring our banking system more into conformity to compete with our international counterparts. Those counterparts in many cases do not have the same antitrust oversight that ours have.

Madam President, there is another aspect of the banking system that I personally think Congress should revisit. I know this is something that occasionally is misinterpreted when we talk about the Community Reinvestment Act of 1977, or the CRA, and the impact that the CRA has on community-owned banks which are owned by minorities. In our effort to try to ensure equity, we have an unworkable situation that really needs to be addressed.

When we adopted the Community Reinvestment Act, we did so with the intent of getting banks and other financial services institutions to better serve citizens living in communities where they operate. In particular, it was designed to encourage lending activity in poor communities, the low-income communities, and especially communities where there were large minority populations. Too often, we have heard of situations where large State and nationally chartered banks establish branches in and around low-income communities, collected their deposits, and then refused to provide loans to businesses and individuals living right around the corner from the branch. Obviously, that is wrong, and corrections were needed.

However, unlike large multi-State banks, small community banks generally receive their funds from the community where they operate and most often invest those funds back within the community. Yet small community banks are regulated by the same set of rules under the Community Reinvestment Act as large banks which have branch offices in many different communities that have greater opportunity to invest selectively in any part of the country or, for that matter, abroad.

By their very nature, most small community banks try to conform to the spirit of the Community Reinvestment Act, and yet they have to abide by the onerous burdens imposed by the Community Reinvestment Act. In a recent study of community banks, it was found that community banks have to spend more than $1 billion annually to comply with the Community Reinvestment Act. Imagine that, Madam President, $1 billion it cost these small community banks to comply with these regulations. The cost of establishing the sophisticated CRA compliance program is especially burdensome to small community bankers and places them at a competitive disadvantage with their larger competitors. If community banks have to pass on their costs to their customers for this CRA compliance, their customers are simply going to move. They are going to go to the larger banks that have branches in the surrounding areas because they can better absorb the cost of the compliance. Clearly, the larger banks can absorb the cost of compliance. The smaller bank cannot and, as a consequence, have to pass it on.

The real issue is whether the paperwork and outreach requirements imposed by the CRA make any sense, especially in the case of community banks owned by minorities. We have encouraged lending in poor and minority communities by providing preferences to minority-owned banks. Fine. That is as it should be. That reflects the real world reality that many minority-owned lending institutions are more willing to provide loans to minority members than are large multi-State banks.

And it is a reality that many members of minority groups feel more comfortable doing business with a bank with the same ethnic heritage. We can certainly understand that. It may not be the way we would like to have the banking world operate—or businesses, for that matter—but it is a known fact. I know of many cases where immigrants from Korea, Taiwan, and China have come to this country looking to make a better life and have found that the most comfortable way is using a bank owned by Asian-Americans to transact business. Language and cultural barriers are minimized when they do business with such banks, and they perceive having a better chance of receiving a loan from such a bank that understands them and is interested, obviously, in their establishing themselves here in America.

I have heard the same story told about African-American citizens. Many minority groups believe they have a better chance of getting a loan to start a business or buy a house if they are dealing with a bank that is owned by members with similar ethnic backgrounds. Many of these minority-owned banks want to make loans to members of their ethnic group.

Last year, two senior executive officers of African-American-owned banks in Los Angeles wrote to the Los Angeles Times confirming this view, and let me quote from their letter to the Times:

> As minority bankers, we are well aware that minority banks were formed specifically to lend to minority applicants who were overlooked by more mainstream institutions. Asian-American banks tend to lend to Asian-American applicants, and African-American banks tend to lend to African-American applicants—because those applicants often have nowhere else to turn.

Madam President, that is the reality of minority banking. It will continue to be.

That brings me back to the Community Reinvestment Act and the accompanying regulations.

The minority-owned bank must make overt efforts to reach out to all groups in the community where it is operating, and is judged by the same standards for community reinvestment as nonminority-owned institutions.

Imagine in Los Angeles, Madam President, under the Community Reinvestment Act, a small community-owned bank, serving an ethnic district has to show that it is trying to solicit business from outside that area in the same manner that any other national bank with many branches in Los Angeles is trying to do. It is an impossibility. It is an inconsistency. It is not practical. It makes all community-owned banks less competitive and really achieves no other purpose, other than increasing their costs.

For example, Madam President, a Hispanic-owned bank operating in a community that has a large population of Asian Americans, as an example, must make significant efforts to provide services to the Asian community. That may require placing ads in local Chinese-, Japanese-language newspapers, contacting local Chinese and Japanese community groups, and making other outreach efforts to serve the financial needs of this community.

That would be the mandated effort under the act of a Hispanic-owned bank, say in Los Angeles. It has to reach out beyond the minority it serves and prove that it is attempting to serve Asian-Americans, Japanese, Chinese and so forth. That is really an impracticality and one I am inclined to generalize. But I feel the Banking Committee has overlooked this, in its efforts in this regard to bring about substantive changes in our banking regulations.

Of course the same is true for an Asian-American bank operating in a community composed of groups of Asian-Americans, Mexican-Americans, and African-Americans. From what I have learned from speaking to minority bankers in some of these communities, the result of these outreach programs have been very discouraging and very costly. Time and money has been spent on bridging cultures, and produces very little, if any, new opportunities for these minority-owned banks. Resources that could be better be spent on servicing the ethnic group reflecting the minority owners is diverted into a futile effort to bridge ethnic groups.

One Asian-American bank in Los Angeles—I might add an Asian-American-owned bank—has written to me to indicate its efforts to penetrate the Hispanic and African-American communities. Since 1992 the bank has advertised continually in local newspapers in different languages. The bank has participated in community development programs and has had regular contact with community groups, local governments, nonprofit developers, to ascertain the credit needs of these communities and minority groups. After a year of effort the bank received one response from the Hispanic community; none from the African-American community. This is a Chinese ethnic bank, serving Chinese-Americans in Los Angeles. But it is forced to move out into the Hispanic area and African-American community, to comply with this law.

These are the facts. Minority-owned banks are trying to meet the standards imposed by the CRA, but for cultural reasons they simply find they cannot get into business with other minority groups. Yet at the same time these minority-owned banks are servicing the very minority populations that they are closest to, and doing a good job. These are often the same minority groups that would have difficulty gaining credit from other lenders, and for that reason we encourage minority ownership of banks. That is the basic reason. It is unfair and inefficient to penalize minority-owned banks with the same standards that we impose on other banks in this regard.

If they are serving ethnic minorities, whether the minority borrower is around the corner from the bank or across the city should make no difference under this regulation. In many cases, if the minority-owned banks do not make a loan to the minority borrower, the borrower might have nowhere else to turn for the credit.

Many minority-owned banks are very concerned about what else they can do to meet this CRA standard. Their fear is exacerbated that pending regulations would impose civil penalties against banks that receive a composite CRA rating of substantial noncompliance. Frankly, there is no basis for this regulatory proposal since the CRA provides only one specific sanction for a poor CRA record—the agency may condition or deny an application for a deposit facility by the bank, or a branch bank for that matter.

I ask the floor managers if they have given any consideration to this dilemma relative to the service that the minority banks are providing in the community and the fact that there is no practical way they can comply with the CRA mandate because they are limited to service within the community and the minorities that they serve? To have to show evidence that they are effectively soliciting and generating business outside, that seems to be an inconsistency that the legislation that has been proposed has overlooked.

I am hesitant to offer an amendment because I know the chairman of the Banking Committee is attempting to move this legislation along, but I really feel in this sense we have a void, and I would appreciate any comments or consideration he might give this matter with the assurance they try to consider the inequity and injustice that is before us.

I would appreciate any remarks of the chairman.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Madam President, let me respond to the Senator from Alaska. I think he makes an important point, a valuable point. We have asked the bank regulators to look at the CRA and to concentrate on performance rather than forms and paperwork per se. They are in the process of reviewing and revising the method by which those objectives are pursued by banks.

I think in the situation that the Senator cites, there are special factors and considerations that apply there. The Senator's point is well taken. It will be part of this debate. We will see to it that the regulators pay attention to the issues that my colleague has raised, to see what might be done about it.

Mr. MURKOWSKI. I appreciate the comments of the chairman of the Banking Committee. I think it is important for the regulators, the examiners, to recognize the merits of the job a minority bank is doing in meeting the credit needs of the minority community.

Mr. RIEGLE. Right.

Mr. MURKOWSKI. To expect them to be very effective outside that puts them at a great disadvantage. I hope we can see within the interpretive language of the Comptroller of the Currency and the Federal Deposit Insurance Corporation, some language that would address this inconsistency, because I have heard from those regulators and they, too, have a degree of frustration because they are mandated under the act. Yet the realities are that many of these small community banks do a good service. It puts them at an unfair disadvantage to be measured by a ruler that simply is unrealistic.

If the chairman can give me that assurance the legislative language or intent will recognize this, I will not proceed with my proposed amendment.

Mr. RIEGLE. Let me continue by saying I will take the issue up with the regulators. We will see what can be done. They are in the process right now of attempting to reevaluate how the CRA process is applied and made to work and is measured. I think there is, as the Senator says, an anomaly here. There is an inherent contradiction, if you will, when you get outside the minority interests that a specialized institution of the kind the Senator cites is aimed at.

So let us pursue it that way. I think that is probably the best way to try to respond to the concern the Senator has raised.

Mr. MURKOWSKI. I appreciate the spirit under which the chairman took my remarks and look forward to some enlightenment from the regulators.

Mr. RIEGLE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1660

(Purpose: To clarify the statute of limitations for actions brought by the Federal Deposit Insurance Corporation and the Resolution Trust Corporation as conservator or receiver)

Mr. METZENBAUM. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 1660.

Mr. METZENBAUM. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, after line 18, insert the following new title:

TITLE II—BANK AND THRIFT STATUTE OF LIMITATIONS

SEC. 201. SHORT TITLE.

This title may be cited as the "Bank and Thrift Statute of Limitations Clarification Act of 1994".

SEC. 202. AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.

Section 11(d)(14)(B)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)(B)(i)) is amended by inserting after "receiver" the following: ", regardless of whether the claim may have been barred under any otherwise applicable statute of limitation at the date of such appointment, unless such claim was barred more than 5 years before the date of such appointment"

SEC. 203. APPLICABILITY.

The amendment made by section 202 shall apply to all actions pending or brought by the Federal Deposit Insurance Corporation and the Resolution Trust Corporation as conservator or receiver on or after August 9, 1989.

On page 1, between lines 2 and 3, insert the following:

"TITLE I—INTERSTATE BANKING AND BRANCHING".

Redesignate sections 1 through 7 of the bill as sections 101 through 107, respectively.

On page 1, line 4, strike "Act" and insert "title".

Mr. METZENBAUM. Madam President, this amendment will protect over $1.6 billion in RTC and FDIC claims in the courts.

Two weeks ago, the Acting Chairman of the FDIC, Mr. Andrew Hove, Jr., sent a letter to Senator RIEGLE, with a copy to myself, asking for this legislation. Two days later, the RTC's Acting Chief Executive Officer, Mr. John Ryan, also sent a letter asking for legislation.

The FDIC letter said that $500 million in existing FDIC lawsuits was threatened unless we pass legislation.

The RTC letter said that over $1.1 billion in RTC claims against officers and directors who are culpable in the failure of savings and loans is at risk without this legislation.

The RTC letter also said that without legislation, the statute of limitations legislation that we recently passed is in jeopardy. I think this is important to many of my colleagues.

The RTC said that our two recent extensions of the Federal statute of limitations are imperiled. These extensions were in December's RTC Completion Act and in February legislation—authored by Senator D'AMATO and myself—in response to the Whitewater-Madison Savings and Loan floor debate.

I know that Senator D'AMATO feels strongly about this problem, because on April 14, he introduced a bill, S. 2021, containing the language of this amendment. I am an original cosponsor with Senator D'AMATO, along with Senators JOHN KERRY and DONALD RIEGLE.

When he introduced the bill, Senator D'AMATO said that he was concerned about its retroactivity. I want to tell my colleague from New York that there is no legal impediment to the retroactive application of nonsubstantive civil law, such as this amendment.

Let me also assure my colleague that, under this amendment, defendants cannot be sued for acts that were not illegal at the time they committed them. No one will wake up and find themselves sued for something that was not illegal when they committed it. All this amendment does is give the Government extra time to discover previous wrongdoing and file suit.

This amendment is necessary because recent Federal court decisions have created a deplorable situation. Federal courts have dismissed FDIC and RTC lawsuits against officers and directors of failed S&L's and banks who were clearly involved in misconduct.

I want to repeat that. Federal courts have dismissed FDIC and RTC lawsuits against officers and directors of failed savings and loans and banks who were clearly involved in misconduct.

Unfortunately, because of these recent court decisions, the wrongdoers will never have to pay for their wrongdoing. Who do you think will pay? The same crowd that always has to pay: The taxpayers will pay.

The reason has nothing to do with the merits of the cases. The reason is that a State statute of limitations expired before the FDIC took over the thrift or bank. That gets pretty technical; if the State statute expires, the Federal statute does not attach.

We have a Federal statute of limitations, which we enacted in FIRREA. Unfortunately, many Federal courts have interpreted FIRREA to require that the State statute of limitations must be unexpired before the Federal statute of limitations can take effect. I believe those courts misjudged in those cases. In effect, the Federal statute must attach to an unexpired, State statute. That is something we did not intend when we adopted FIRREA, and it should not be the law.

The language of FIRREA says that the Federal statute of limitations "begins to run * * * on the later of," one, the date that the thrift is taken over by the Federal Government, or, two, the date the cause of action accrues.

Clearly, Congress meant by this that the statute of limitations cannot run before the RTC or FDIC takes over. Nonetheless, more and more courts have interpreted FIRREA to require that the State statute of limitations not have expired when the RTC or FDIC takes over.

We did not contemplate this when we passed FIRREA. In fact, the FIRREA conference committee rejected a provision that would have said that FIRREA would not revive claims under expired State statutes of limitation.

To let the present situation continue is manifestly unfair to the taxpayer who must pay the bill when wrongdoers cannot be sued.

This is not something we can put off. My colleagues on the Banking Committee and others are suggesting this is not quite the time, but this is an urgent matter. The FDIC and the RTC are losing cases almost every week because of these court decisions. They are asking us to help them. They are trying to do their job as Government officials, trying to hold people responsible who should be held responsible, and we have an obligation to vote favorably and adopt this amendment in order to protect the taxpayers' interests.

We can talk all we want over here about balancing the budget. We can talk about all the things we are doing to save taxpayers money, but if we do not adopt this amendment, we are letting billions of dollars, about $1.5 billion, fly out the door, and the taxpayers will be Mr. and Mrs. Sucker. He or she will be stuck holding the bill.

Thus far, 50 cases have been affected. This amendment is very simple. It does two things. First, it clarifies that Congress, when it passed FIRREA, intended the Federal statute of limitations to run without having to attach to an unexpired State statute of limitations. Second, it limits the revival of any claim whose statute of limitations has expired under State law. This amendment says that claims which expired under State statute of limitations law more than 5 years before the FDIC or RTC took over a thrift or bank may not be brought. Claims cannot be revived more than 5 years before the RTC or FDIC take over. That protects taxpayers. It starts with the $1.6 billion in existing lawsuits against failed banks and savings and loan office directors that the RTC and FDIC say is at risk if we do not pass corrective legislation.

Clearly, we cannot wait for separate legislation. With a simple two-sentence clarification, $1.6 billion in claims can be protected.

Now, my friend, the chairman of the committee, and others have suggested to me that the Banking Committee wants a clean bill. Well, I wish to have a clean sweep of all the dollars that are owed to the taxpayers of this country by officers and directors who were guilty of wrongdoing and ripped off the RTC or the FDIC.

The RTC has already spoken on the need for this legislation, as part of the Banking Committee's annual RTC oversight hearing. The FDIC acting chairman has asked this committee, the Banking Committee—in fact, he urged the committee—to "propose" and "promote" this legislation. His words, not mine—"propose and promote." His letter says that "without such legislation, more and more RTC and FDIC professional liability cases will continue to be dismissed on the technicality of the statute of limitations having run before the institution failed." That is his quote—"on the technicality of the statute of limitations having run before the institution failed," before the RTC or FDIC could even get in there.

The present situation is simply inequitable, unfair to the taxpayers. Let me give you an example that illustrates the unfairness of the current situation. Last month, in Tyler, TX, in the case of FDIC versus Henderson, the case went to trial before a Federal jury. The jury found that the defendant was grossly negligent and in breach of his fiduciary duties in connection with the failure of two thrifts. The defendant, a Mr. John Henderson, was the president, the chairman, and the largest stockholder of the thrifts. Mr. Henderson was clearly in control of the failed thrifts. He was the only board member to attend board meetings for almost 2 years. In fact, he was the only board member despite a Texas State law that requires five board members. In order to cover up this failure, Mr. Henderson had the minutes of the board of directors create the impression there were several board members present. Things were so bad that the jury found Henderson liable to the Federal taxpayers for $7 million in damages resulting from his grossly negligent behavior.

But at the same time the jury concluded that, because of the recent Federal cases which require that State statutes of limitation not be expired before the Federal statute of limitations takes hold, Mr. Henderson could not be held accountable for his demonstrable wrongdoing. The Texas 2-year State statute of limitations had run before the FDIC took over the thrift.

Let me give you the picture. Before the FDIC took over, Mr. Henderson was in control. He was the sole board member attending board meetings. He was the largest single shareholder. He was the chairman of the board. He was in total control. And he milked from this savings and loan an amount that the jury found to be $7 million.

Now, the FDIC comes in at a later point when the thrift goes belly up, or prior to its actually going belly up, and takes over, and the thrift says, well, the reason for much of this loss relates directly to Mr. Henderson's conduct.

So they sue Mr. Henderson, and Mr. Henderson, largest shareholder, chairman of the board, only member of the board attending the meetings for 2 years, comes in and says, "I have a defense. The State statute expired long before the FDIC took over."

That is unfair. It is unfair to the taxpayers. Mr. Henderson acted in a grossly negligent manner when he controlled the thrift. His gross negligence cost innocent taxpayers millions in losses, yet he cannot be brought to justice. Instead, innocent taxpayers will have to pay. Mr. Henderson squandered the thrift's money, which has to be made up by the taxpayers, on risky loans. He squandered the thrift's money on outrageous personal benefits and accouterments, and he will not have to pay back a single penny.

Why should Mr. Henderson get off on a technicality? While the thrift was losing almost a quarter of a million dollars a month, he spent the thrift's money on luxury cars and four $2 million airplanes for his own personal use. He had the thrift buy him a specially equipped $75,000 BMW. Other cars, including a Mercedes, were kept at Henderson's ranch some 300 miles from the thrift where there was no way they could be used for thrift-related work. Henderson even had the thrift buy him a $2 million jet, which he used to fly back and forth to the ranch for lunch—for lunch—all at the taxpayers' expense. A $2 million taxpayer-financed plane to fly home for lunch. There is another way to describe it. Mr. Henderson was, indeed, taking the taxpayers for a ride.

Unfortunately, because of these recent court decisions, Mr. Henderson is going to get away with it without repaying a dime. Why should the $35,000-a-year worker who works hard, struggles to pay his or her Federal income taxes, and barely makes it have to pay for Mr. Henderson's jet? I say to my colleagues, this case illustrates why we need this amendment.

I could give you a number of other examples. Who is more culpable, the innocent taxpayer or Mr. Henderson with his $2 million lunches?

I ask my colleagues to support fairness, to support this amendment, and I wish to point out that this amendment has been offered as a separate bill cosponsored by Senator RIEGLE, Senator D'AMATO, Senator KERRY, and myself. The RTC and the FDIC say we need it. Without it, our recent extensions of the Federal statute of limitations are in peril. With two simple sentences, merely clarifying what we already passed, and one rollcall vote, we can correct this problem and protect over $1.5 billion in taxpayer money. I ask my colleagues to join me and vote for this amendment.

I yield the floor.

Mr. RIEGLE. Madam President, the Senator from Ohio, as he has on a number of other occasions, has importantly highlighted this issue and this problem.

I ask unanimous consent that at the end of my remarks the letter from the FDIC dated April 11, 1994, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. RIEGLE. Madam President, that letter requests that we introduce this legislation at their initiation. We have done so. We introduced it "by request," which is the phrase we use in situations like that. Senator D'AMATO, the ranking minority member, joined me in responding to that request from the FDIC. But I hasten to add that we have not had any legislative hearings, as you might expect, because this letter is as recent as just a few days ago.

So let me tell you that I introduced it not only because of the request from the FDIC, but I support the substance of the request. I support the extension myself. So I agree with the Senator from Ohio on the substance of the issue.

Let me tell you one problem we have with it, however. As I am sure the Senator knows, this issue legislatively is not within our jurisdiction with respect to what will have to happen on the House side. The Judiciary Committee in the House will have to be involved in this issue. So it is outside the scope of our counterpart Banking Committee on the other body.

One of the concerns that I have is that anything that we attach to this bill—which is a banking bill and a vote in the Banking Committee—in turn has to be set off by a second and different committee in the House, which always poses problems for us, as the Senator from Ohio knows. He is smiling because he can recall any number of cases where that has happened. I fully expect that it may happen in this case, as it has before, assuming that this were to be attached here.

So that is a matter of some concern to me just as the manager of the bill, because I want to get the bill through, and I do not want to run into complications that are of a jurisdictional sort on the House side for that reason.

We have in the past voted on extensions on a number of occasions, not precisely as drafted in this instance. But just for the record, on March 26, 1992, on September 8, 1992, on September 25, 1992, then in 1993 on May 13, and then again this year on February 9, on those five occasions we have all had to deal with and vote on amendments or provisions regarding the statute of limitations and the extension. I have supported that all five times because I feel strongly about it for many of the reasons that the Senator from Ohio has stated. But I do see this complication in terms of the jurisdiction. I make that point.

As I said, or meant to say, we have not had time yet to have legislative hearings on this issue in the committee because, as I say, we have just introduced this by request just in the last few days.

Let me yield the floor at this point.

EXHIBIT 1

FEDERAL DEPOSIT
INSURANCE CORPORATION,
Washington, DC, April 11, 1994.

HON. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I would like to bring to your attention concerns that the Federal Deposit Insurance Corporation has with respect to recent court decisions interpreting the statute of limitations governing actions brought by the FDIC and the Resolution Trust Corporation as receiver or conservator of failed institutions.

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) provides that the statute of limitations for tort claims brought by the FDIC and the RTC as conservator or receiver is the longer of three years or the period applicable under state law. FIRREA also clearly states that the date on which the statute of limitations begins to run is the later of the date of the appointment of the Corporation as conservator or receiver or the date on which the cause of action accrues. Nevertheless, the courts have added the further requirement that the claim must not be barred under state law at the time the FDIC takes over.

As described in the enclosed analysis of the issue, we believe the courts have incorrectly applied the statute of limitations that was established under FIRREA. Also enclosed is legislation intended to clarify FIRREA with respect to this issue. How the statute of limitations is computed is critical to the FDIC's mission to hold bank and thrift officials and professionals accountable and to maximize recoveries from failed institutions. We estimate that over $500 million in claims in pending lawsuits involving FDIC and old FSLIC receiverships, and millions more for claims still under investigation, are at risk for dismissal on statute of limitations grounds if the proposed legislation is not enacted. We understand that claims of the same general order of magnitude involving RTC receiverships are similarly at risk.

I urge you to introduce the proposed legislation and to promote its passage. Legislation to clarify the statute of limitations is critical to allowing the FDIC and the RTC to fulfill their missions to hold wrongdoers accountable and to recover losses for the insurance funds and the taxpayers. Without such legislation, more and more RTC and FDIC professional liability cases will continue to be dismissed on the "technicality" of the statute of limitations having run before the institution failed. Such legislation is important not only to maximize recoveries involving institutions that failed in the past but also to ensure the orderly resolution of institutions that may fail in the future.

Please let me know if you have any questions or need assistance with respect to our proposal.

ANDREW C. HOVE, Jr.,
Acting Chairman.

Mr. D'AMATO. Madam President, I think the chairman has articulated the situation well. I would be hard pressed to maintain opposition.

I want to be very candid to the Senator from Ohio regarding his amendment. Given the fact that we have extended the statute of limitations unanimously—or just nearly unanimously—in this body as it related to the RTC, and notwithstanding that the FDIC has sent a letter indicating that they are not supportive, I think that the overwhelming sentiment of the body would be to go forward.

Therefore, I will not oppose. As I think the chairman has quite accurately portrayed the situation that the House, as it relates to jurisdiction, may not, and indeed the chairman of the Judiciary Committee in all likelihood will raise opposition.

Again, I would say to both the chairman and to the distinguished Senator from Ohio that I will raise no opposition to this amendment here at this time, nor will I raise opposition to the amendment in conference. I will call for its adoption in conference. But again, to be very candid, because I do not want to say one thing to my colleague—and I think he knows we may agree or disagree on a number of issues—I do not say one thing to him today and do another thing tomorrow.

I am a cosponsor of the original bill, the original legislation. But I am fearful that in the final analysis we may not be successful in getting the House to accept this. But I will go forward in a good-faith effort provided that it does not —as long as he understands that it does not—ultimately jeopardize final passage of the bill.

I think he understands if I say that, I will make a good-faith effort to see that it is retained. I will do that. But up to the point that if indeed the House is in opposition and will not act on it because of the various committee jurisdictions and the disputes as it relates to that, then at that point I will feel constrained to yield to the House.

I do not know. Maybe the House will accept this. It is not without precedent. The Senator knows the various players and Members. He has dealt with them through the years over there. I think he will probably reach out and contact the chairman of the Judiciary Committee and see if he cannot get them to acquiesce.

So I say to him in all good faith that I will do nothing to attempt to impede this when it gets over to conference. I join with my colleague, if the Senator wants to urge adoption.

Mr. RIEGLE. Madam President, I urge adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1660) was agreed to.

Mr. RIEGLE. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the role.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WELLSTONE). Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, while the Senator from Ohio is contemplating if he is ready to go forward—and if he is, I will resist going forward—I will make a statement relating to the Fair Housing Act, and advertising under the Fair Housing Act.

Mr. President, I rise today to call attention to a troubling situation concerning the Fair Housing Act. It was originally designed to ensure decent, safe, and affordable housing for all Americans. The act is now being cited as an impediment to the ordinary and everyday process of advertising a home or property for sale, rent, or lease.

The Federal Fair Housing Act bars discrimination against families with children and the disabled on the basis of a potential tenant's race, religion, national origin, or gender.

Unfortunately, the interpretation of this fundamental principle has led us into the world of uncertainty over what is indeed fair when it comes to advertising property.

The realtor associations and newspaper organizations around the country are sending out warnings to their members that they need to be very, very sensitive to words, phrases, and statements that relate to people and that might be construed to be discriminatory. Fair housing advocates are poring over real estate sections in local newspapers looking for anything that might be perceived as steering minority communities away from the advertised property or community.

From New York to Ohio, Oregon to Kentucky, Iowa and Virginia, newspapers are facing lawsuits or complaints alleging they have printed discriminatory ads.

In Oregon, a fair housing advocacy group filed complaints last year against more than a dozen of the State's newspapers. Without admitting guilt, the newspapers nonetheless agreed to pay the council $25,000 and provide $42,000 worth of free advertising to publicize the Fair Housing Act. As a result, the Oregon Newspaper Publishers Association now has a special guidebook for members, and one Oregon landlord organization has developed a list of troublesome words that could lead to problems. Among other things, the publisher's guidebook warns that a home advertised as "perfect for running, biking professional" may run afoul of the Fair Housing Act because it discriminates against the handicapped.

In Dubuque, IA, a newspaper agreed to pay $1,000 and run a series on fair housing issues after local activists complained about four ads. In one of the ads, the advertiser used the phrase "two-person occupancy" in a description of a two-bedroom apartment.

Mr. President, these cases raise an interesting dilemma for anyone who tries to market a property: You could be liable under the Fair Housing Act for something that might not be discriminatory nor intentional.

Hundreds of cases have been filed by individuals and organizations using the Fair Housing Act as the cornerstone of their legal battle. Many of these cases are legitimate, but some have been frivolous. Are we in for a flood of litigation because of the way in which the Fair Housing Act is being interpreted?

If you say your home is "close to the best schools," is that discriminatory? If you advertise a property in an "exclusive neighborhood," is that indicative of a racial bias? If the home or apartment is "perfect for singles," does that discriminate against families with children? Even the word "executive" has been cited in complaints.

Unfortunately, the only way to be safe is to simply describe a property in the basic sense. But I ask you, Mr. President, is that fair? Should realtors and property owners be forced to overcomply with the law simply to avoid litigation? Should newspapers be in the business of policing classified ads to see that the Fair Housing Act is being followed?

Even a newspaper's first amendment protection is no match for the Federal Fair Housing Act. So far, this problem is limited to residential real estate advertising.

I support the goal of the Fair Housing Act to reduce discrimination in the buying, selling, and rental of real estate. Nevertheless, this effort is fraught with danger. Since the risk of being sued has never been greater, all sellers and landlords who are planning to publish an ad should first get the help of a veteran real estate agent, advertising specialist, or lawyer. One wrong word, and they may be headed for court.

All publishers of advertisements, advertising agents, and firms engaged in the sale, rental, or financing of real estate are required to provide a printed copy of their nondiscrimination policy to employees and clients.

It is hard to believe that we have, in America, a list of words that cannot be used to protect newspapers, realtors, landlords, anyone who has something to publish from ending up in court. But we do. Some of those awful words and phrases are "physically fit," "mature," "families," "adults," "bachelor," "retired," and the list goes on and on. The word "privacy" is even prohibited, according to the Oregon guidebook.

Should we also be concerned about terms like "active," "desirable neighborhood," "handyman's dream," "quiet neighborhood," "sophisticated," and "within walking distance of"? What about "fisherman's retreat"? Could that be construed to be discriminatory against nonfishermen? Against women who fish? It is absurd, but it is all possible under the Fair Housing Act.

This trend is to promote lists of acceptable and unacceptable words for advertisers. But I am very concerned about the way we are interpreting the Fair Housing Act and worry that it may not end with real estate ads. It may not affect you now, but where do we go from here?

Mr. President, a real estate developer of single-family housing expressed to me that he was concerned that newspapers have turned his ads down because he wanted to advertise a "master bedroom," "walk-in closet," or "in close proximity to churches and temples."

If indeed we are reaching this point of absurdity, and it is absurd, we are at total variance with what the Fair Housing Act is and should be about. It should be about seeing that there is no discrimination.

I suggest that if we get into the business of saying that "walk-in closet" may somehow connote that it does not take into consideration the handicapped and that this should be on the list of proscribed no-nos, this becomes a rather dangerous precedent and one that I think is well beyond the intent of Congress, and I would hope that HUD will be sensitive to the realities of the world and not attempt to stifle free speech in such a way.

Free speech is at the core of this. Long Island and probably many other communities came about many years ago initially as a result of communities being in close proximity to mass transportation—at that time it was the Long Island Railroad, and it was very desirable to have a home within walking distance of this railroad, as it still is in many communities. Have we become so paranoid with political correctness that we cannot say "walking distance" because somehow that would be interpreted as not being inclusive or aware of the handicapped and their needs? If so, I would say to you that it is a great perversion of what the law should be about.

My staff has contacted the Department of Housing and Urban Development and made them aware of these concerns which have been brought to my attention by many people in the real estate and housing industry. HUD must look carefully at this and not make a mockery of a very important law, a law against discrimination that should be enforced with vigor but not reach so far as to make it a sham.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1661

(Purpose: To amend provisions of the bill relating to State decisions to allow or prohibit interstate branching, and for other purposes)

Mr. RIEGLE. Mr. President, a number of Senators have been working with me and Senator D'AMATO to try to perfect an amendment, and we resolved that issue. It is the major issue that we have been dealing with over the last few hours.

I want to give a brief explanation and send it to the desk on behalf of Senator D'AMATO and myself.

In developing this amendment, I have worked not only with Senator D'AMATO, but with Senator GRAHAM of Florida; Senator ROTH; Senator FEINGOLD, who is here and expressed a keen interest in this; Senator SIMPSON; Senator KERREY; and Senator CAMPBELL, a member of the committee. All of those Senators are listed as cosponsors of this amendment.

We have discussed the amendment that I will be sending to the desk with the administration, and they do not object to it.

This amendment would extend until June 1, 1997, the time period for which States can decide whether to opt out of the interstate combination provisions of the bill. This would essentially extend the time period for an additional year as compared to what was provided in the reported bill. This amendment responds to concerns of some States and their Senators that the State legislatures need a sufficient period of time to consider legislative changes that might be needed at the State level in preparation for interstate branching.

I now send the amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan, [Mr. RIEGLE], for himself, Mr. D'AMATO, Mr GRAHAM, Mr. ROTH, Mr. FEINGOLD, Mr. SIMPSON, Mr. KERREY, and Mr. CAMPBELL proposes an amendment numbered 1661.

Mr. RIEGLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 6, strike lines 10 through 12, and insert the following:

"(A) COMBINATIONS AUTHORIZED.—Beginning on June 1, 1997, a bank holding company having".

On page 11, line 6, insert "and prior to June 1, 1997," before "that applies".

On page 11, lines 17 and 18, strike "LAWS ENACTED SUBSEQUENT TO AUTHORIZATION DATE.—" and insert "EFFECT OF STATE ELECTION.—".

Beginning with page 11, line 25, strike "during the 2-year period beginning on the date of enactment of this subsection'' and insert ''prior to June 1, 1997''.

On page 12, strike lines 19 through 23 and insert the following:

''performance beyond June 1, 1997.

''(8) COMBINATIONS AFTER JUNE 1, 1997.—A STATE DESCRIBED IN PARA—''.

Mr. RIEGLE. Mr. President, I do not know if the ranking minority member wants to make a comment—perhaps the Senator from Wisconsin does—but we would be prepared to move on this quite rapidly.

Mr. D'AMATO. Mr. President, I am very pleased to be able to support this amendment. I think it makes ample sense.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I would like to thank the manager very much for bringing this amendment forward. It is something I have been working on with people from Wisconsin, including the Governor, who thought this would be very helpful.

As the manager suggested, this would simply extend from 2 years, which is the current period suggested, to a date certain, June 1, 1997, the period of time during which States could opt out of interstate branching. The additional time is necessary to allow State legislatures the opportunity to enact State legislation which will provide the framework for the new system.

Because a number of State legislatures will not be in session after July 31, it is important that these kinds of complex issues have some legislative time at the State level.

This change is supported by the National Governors Association.

Mr. President, I ask unanimous consent that a letter from the Governor of Wisconsin, Tommy Thompson, regarding this issue be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. FEINGOLD. I also want to add, Mr. President, that even with this change, any State can enact interstate branching before this time period, before June 1, 1997. They are free to move forward as rapidly as they wish.

All this amendment does is simply give those States, especially rural States where legislatures are not in continuous session, a little more time to respond in a comprehensive and responsible fashion.

So I, again, am very grateful to the manager for his cooperation and help in making this possible.

I yield the floor.

EXHIBIT 1

STATE OF WISCONSIN,
April 19, 1994.

HON. RUSSELL FEINGOLD,
Hart Senate Building, Washington, DC.

DEAR SENATOR FEINGOLD: I would like to bring to your attention my concerns about the interstate branching legislation and urge you to support amendments that would protect state revenues and regulatory interests.

The current Senate bill (S. 1963) does neither. The legislation authorizes interstate branching unless a state opts out within a two year time period. States, at a minimum, need a three year time frame before implementation of this bill in order to amend state tax and banking laws affected by federal legislation. After May 31st of this year, 37 state legislatures will not be in session and will not be able to initiate the necessary changes. Unless our state tax laws are amended, Wisconsin stands to lose significant revenue when interstate branching occurs.

In addition, the bill does not specifically preserve the rights of states to apply state laws to the branches of national banks. This legislation could override state regulatory and consumer laws. State sovereignty requires that states have the ability to affect banking operations within their borders.

Most importantly, all banks within the state should be subject to the same rules. Banks moving into Wisconsin to do business should follow the same laws as local banks.

The state of Wisconsin will benefit from your support of any amendments that provide states three years to consider interstate branching and that ensure interstate branches of out-of-state banks are subject to the laws of our state just like state-chartered banks.

Please call me or Robert Cook (202-624-5870) if you have any questions regarding the effect of this legislation on Wisconsin.

Sincerely,

TOMMY G. THOMPSON,
Governor.

Mr. ROTH. Mr. President, I am pleased to join Senators RIEGLE and D'AMATO in offering this amendment because I am concerned that States will not have adequate time to respond to the very fundamental questions posed for them by this bill.

As Secretary Bentsen emphasized, we should ''continue to leave it entirely to the States to decide if they don't want out-of-state banks doing business within their borders.'' That makes sense to me. Unfortunately, as the bill is currently drafted, States would have just 2 years to enact legislation prohibiting interstate branching if they so chose. If a State does not act in that time, banks within the State can begin to consolidate their operations across State lines. This presents particular difficulties in States where legislatures do not meet each year. Of course, a State may address the issue in later years, but the horse is already out of the barn. Under the legislation it is not possible to reverse any consolidation that has lawfully taken place.

Because there are so many factors that each State's policymakers must take into account in formulating a decision, not the least of which is the revenue consequences, the Governors and the State legislatures have requested that they be given 3 years instead of 2 to make their initial choices. I would think they are the experts on how much time they need and that as representatives of the States in the Congress, we should be deferential on such a matter. They seem to grasp the reality that the choices given by the bill are not simple. The ramifications are many; the politics, intense; the revenue consequences, serious.

During deliberations in the Banking Committee, I had pressed for 3 years and was pleased that the bill which at the time provided only 1 year to decide was amended to 2 years. At that time I reserved my right to support a 3-year amendment on the floor, and I am pleased to do so now as a cosponsor of the amendment to extend the opt-out period until June 1, 1997.

I had argued in committee—and I repeat here—that the 2-year provision in the bill may very well be self-defeating for the proponents of the legislation. Constrained by a short period of time, and 2 years for a dozen States actually translates into a few months, many States may protect themselves by opting out so that they then have forever to decide. I respectfully suggest that forever is longer than 3 years or until June 1, 1997, and that the proponents should find it in their interests to accept this amendment.

The amendment we introduce today will ensure adequate time is granted for States to fully consider the merits of interstate branching, its impact on State tax revenue, and its effect on the consumer. I strongly support the change and urge swift adoption of this amendment.

Mr. RIEGLE. Mr. President, I ask that the amendment be agreed to.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1661) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1662

(Purpose: To establish the National Commission on Financial Services)

Mr. RIEGLE. Mr. President, I will, in a moment, send to the desk an amendment on behalf of Senator CAROL MOSELEY-BRAUN that has been cleared on both sides, the purpose of which is to establish a National Commission on Financial Services.

I ask the clerk to report the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE] for Ms. MOSELEY-BRAUN, proposes an amendment numbered 1662.

Mr. RIEGLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 1, between lines 1 and 2, insert the following:

"TITLE I—INTERSTATE BANKING AND BRANCHING".

Redesignate sections 1 through 7 of the bill as sections 101 through 107, respectively.

On page 26, after line 18, add the following new title:

TITLE II—FINANCIAL SERVICES

SEC. 201. SHORT TITLE.

This title may be cited at the "National Commission on Financial Services Act".

SEC. 202. ESTABLISHMENT OF NATIONAL COMMISSION ON FINANCIAL SERVICES.

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Commission on Financial Services" (hereafter in this title referred to as the "Commission").

(b) MEMBERSHIP OF THE COMMISSION.—

(1) COMPOSITION.—The Commission shall be composed of 7 voting members and 3 nonvoting members appointed as follows:

(A) Three voting members and 1 nonvoting member to be appointed by the President.

(B) Two voting members and 1 nonvoting member to be appointed jointly by the Majority Leader of the Senate and the Speaker of the House of Representatives.

(C) Two voting members and 1 nonvoting member appointed jointly by the Minority Leader of the Senate and the Minority Leader of the House of Representatives.

(2) QUALIFICATIONS.—

(A) VOTING MEMBERS.—

(i) IN GENERAL.—Voting members appointed pursuant to paragraph (1) shall be appointed from among individuals who are users of the financial services system, and shall include representatives of business, agriculture, and consumers.

(ii) PROHIBITION.—No voting member of the Commission shall be an employee of the Federal Government or any State government.

(B) NONVOTING MEMBERS.—Nonvoting members appointed pursuant to paragraph (1) shall be appointed from among individuals who are experts in finance or in the financial services system.

(3) APPOINTMENT.—The appointment of the members of the Commission shall be made not later than June 30, 1994.

(4) TERMS.—Members shall be appointed for the life of the Commission.

(5) VACANCIES.—A vacancy in the Commission shall not affect the powers of the Commission and shall be filled in the same manner in which the original appointment was made.

(6) CHAIRPERSON.—The President shall designate 1 of the voting members of the Commission to serve as the chairperson of the Commission (hereafter in this title referred to as the "Chairperson").

(7) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(8) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(9) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

SEC. 203. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall, after consultation in accordance with paragraph (3), conduct a study of all matters relating to the strengths and weaknesses of the United States financial services system in meeting the needs of users of the system, including all laws, regulations, and policies that govern part or all of the financial services industry or that affect the ability of the financial services industry to effectively and efficiently meet the needs of—

(A) the United States economy;

(B) individual consumers and households;

(C) communities;

(D) agriculture;

(E) small-, medium-, and large-sized businesses (including the need for debt, equity, and other financial needs);

(F) governmental and nonprofit entities; and

(G) exporters and other users of international financial services.

(2) MATTERS STUDIED.—The study required under paragraph (1) shall include consideration of—

(A) the changes underway in the national and international economies and the financial services industry, and the impact of such changes on the ability of the financial services system to efficiently meet the needs of the United States economy and the users of the system during the next 10 years and beyond;

(B) the adequacy of the existing framework of Federal and State laws and regulations, and the extent to which Federal laws and regulations, in an efficient and cost-effective manner—

(i) achieve consumer protection objectives;

(ii) promote competition and prevent anticompetitive acts and practices or undue concentration;

(iii) ensure that the financial services are delivered in a nondiscriminatory and cost-efficient manner; and

(iv) ensure access to the financial services system for all potential users of the system, regardless of where such users are located; and

(C) the extent to which the Federal regulatory structure impacts the achievement of the objectives in subparagraph (B).

(3) CONSULTATION.—Consultation in accordance with this paragraph means consultation with—

(A) the Board of Governors of the Federal Reserve System;

(B) the Director of the Office of Thrift Supervision;

(C) the Chairperson of the Federal Deposit Insurance Corporation;

(D) the Comptroller of the Currency;

(E) the Secretary of the Treasury;

(F) the Secretary of the Department of Housing and Urban Development;

(G) the Securities Exchange Commission;

(H) the Commodities Futures Trading Commission;

(I) the Director of the Congressional Budget Office; and

(J) the Comptroller General of the United States.

(b) RECOMMENDATIONS.—Based on the results of the study conducted under subsection (a), the Commission shall develop specific recommendations for changes in laws and regulations to improve the operation of the United States financial services system, including needed changes in the Federal legislative and regulatory policies and in the Federal regulatory structure that would enhance—

(1) the ability of the financial services system, or any part thereof, to respond to the needs of all potential users of the system;

(2) the systemic safety of the financial services system;

(3) the cost of financial services to users of the system;

(4) the competitiveness of the various providers of financial services;

(5) how funds are allocated to the financial services system; and

(6) how funds are allocated by the financial services system to users of the system or to specific categories of users.

(c) REPORT.—Not later than March 31, 1995, the Commission shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report describing the activities of the Commission, including the study conducted under subsection (a) and any recommendations developed under subsection (b).

SEC. 204. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section.

(b) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any Federal department or agency such information (other than information required by any statute of the United States to be kept confidential by such department or agency) as the Commission considers necessary to carry out its duties under this section. Upon the request of the Chairperson, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

SEC. 205. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson may, without regard to the civil service laws and regulations, appoint and terminate an executive director and not more than 2 additional professional staff members to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairperson may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to the classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(d) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Chairperson, any Federal

Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Chairperson, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

SEC. 206. TERMINATION OF COMMISSION.

The Commission shall terminate 30 days after the date of submission of the report required under section 203(c). All records and papers of the Commission shall thereupon be delivered by the Administrator of General Services for deposit in the National Archives.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this Act.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

Ms. MOSELEY-BRAUN. Mr. President, our financial services system plays a critical role in the American economy. Families use it to purchase a car, to buy a home, to fund their children's education, and for myriad other everyday, but vitally important, purposes. Businesses use it to fund their operations, to finance expansion, to create jobs, and for an equally large variety of other reasons. In fact, our economy absolutely depends on the ability of our financial services system to meet the needs of consumers and households, communities, agriculture, business, governments of all types, and nonprofit entities.

It is equally clear that our financial services system, and our economy as a whole, are undergoing major changes. The revolution in communications, computerization and other technological changes, changes in the kinds of services demanded by various users of our system, the creation of new financial products and services and whole new financial sectors, and structural changes in our economy itself are all combining to reshape our financial system.

Our banking system has been shrinking as a percentage of the overall financial system. Mutual funds now have over $2 trillion in assets. And the derivatives area, perhaps most visibly embodied in the two Chicago Futures Exchanges, has resulted in changes in our financial system that weren't even imagined a few decades ago.

The Federal Government's involvement in our financial services system is almost as complex as the system itself. The Treasury Department, the Department of Housing and Urban Development, the Federal Reserve, the Securities and Exchange Commission, the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the Commodity Futures Trading Commission, and the Federal Trade Commission are just some of the Federal departments and agencies with major responsibilities and authorities that directly impact on our financial system.

Federal laws and regulations ensure the stability of our payments system, and protect the savings of ordinary Americans. Federal laws and regulations govern the conduct of monetary policy, and ensure that consumers have the information they need to shop for credit. Federal laws and regulations protect the integrity and fairness of our capital markets, and the privacy of consumer credit history information. Federal laws and regulations credited a huge secondary market in mortgages, and regulate important parts of each and every home buying transaction. Federal laws and regulations in the financial services area affect every single American—and the rest of the world.

Given the scope and extent of Federal involvement in our financial system, and given the scope and extent of the changes now underway in that system and our economy at large, I believe it is time for a comprehensive examination of our financial system. That is why I am offering this amendment establishing a national commission on financial services.

There have been a lot of studies of various financial issues in the past, including:

The Hunt Commission, established in 1970;

The Financial Institutions in the Nation's Economy—"FINE"—study, conducted in 1975;

President Carter's report on geographic restrictions, conducted in 1978; and, most recently,

The 1991 study, entitled "Modernizing the Financial System."

All of these studies examined parts of our financial system. However, the subtitle of the 1991 study, "Recommendations for a Safer, More Competitive Banking System," highlights the differences between what has gone before and the amendment I am proposing today.

The Commission approach embodied in my amendment will study the entire financial system, not just the banking system. And, since the banking system is shrinking as a percentage of our total financial system, I think it is appropriate that we look at the entire system in a comprehensive way.

Moreover, this amendment mandates study of our financial system from the viewpoint of our economy and from the viewpoints of users of the financial system, including consumers and households, communities, agricultural interests, and businesses of all sizes, instead of from the viewpoint of providers or from the viewpoint of Government. To ensure that objective is met, the voting members of this Commission will be drawn from the users of the system.

I am new to these issues at the Federal level. However, I have worked with them at the State level, and I strongly believe it could be very helpful to have the framework of a broad set of recommendations to help us deal with the huge changes underway in our economy and our financial system.

I do not think such a commission should prevent us from acting on those issues that are ready for action during this Congress. However, whether we attempt to act comprehensively in the future, or whether we go step-by-step, I think we will clearly benefit having some better understanding of:

The needs of the users of our financial system;

How well the system meets those needs; and

The impact Federal laws and regulations have on the system and its ability to meet the needs of consumers, communities, businesses, and the rest of the users of our financial system.

A comprehensive study of our financial system can give Congress and the President a framework that will help us ensure that Federal laws and regulations are adequate and up to date, that they do not unreasonably or inappropriately get in the way of or distort the fundamental changes now underway in our financial system and in our economy, and that they are able to achieve their public policy objectives.

At the same time, such a study can help us frame new responses, to extend and reform Federal laws and rules to cover new areas where necessary and appropriate, and to meet ongoing public needs in new, creative ways.

Mr. President, the Commission created by this amendment will report back to Congress by March 31, 1995. This time period is, I am convinced, one of the best investments in our future we can make.

If we care about big issues, like the future of our economy and our international competitiveness, and if we care about people and communities, and how the financial system works for them, then we should begin this study now. I strongly urge my colleagues to join me in working to see that this amendment proposing a National Commission on Financial Services Act is quickly enacted into law.

Mr. RIEGLE. As I say, this has been cleared on both sides, and I ask that it be agreed to.

The PRESIDING OFFICER. Is there further discussion of the amendment?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I am sure I have no objection. I was off the floor for a minute. Are these managers' amendments?

Mr. RIEGLE. This is an amendment on behalf of Senator CAROL MOSELEY-BRAUN to set up a National Commission on Financial Services.

Mr. METZENBAUM. I thank the Senator. I apologize for interrupting.

Mr. RIEGLE. I would rather have the Senator ask and be sure.

The PRESIDING OFFICER. If there is no further debate on the amendment, the question is on agreeing to the amendment.

The PRESIDING OFFICER. The amendment (No. 1662) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. In section 2 of this bill, the language provides a 25-percent deposit cap or concentration limit for banks in any one State. Oklahoma law currently sets an 11 percent deposit cap in the State banking code. Under the House version of this bill, it is clear that States have the right to set their own limits. My question is does the language in the Senate's version of the bill preempt Oklahoma's 11-percent concentration or deposit cap limitation?

Mr. RIEGLE. It does not. Oklahoma law and any other State law which sets a lower deposit concentration limit would be protected under this language. This section is intended only to set a ceiling above which a State may not go without a specific waiver by the State bank supervisor on a case-by-case basis.

Mr. President, I have two other items here. I hope we can resolve the issue with Senator METZENBAUM because we are ready to go to final passage here very shortly, I think, and would like to do so.

AMENDMENT NO. 1663

(Purpose: To remove certain limitations on the maximum interest rate that may be charged on certain FmHA loans)

Mr. RIEGLE. Mr. President, I offer an amendment on behalf of Senator PRYOR. It raises concerns and deals with concerns about the applicability of State usury laws to out-of-State branches.

During discussions of the interstate banking bill, Senator PRYOR raised concerns about the applicability of State usury laws to out-of-State branches. He wanted to ensure that branches of out-of-State banks coming into Arkansas were subject to that State's usury ceiling. My staff consulted with his staff and we addressed his concern in the committee report on S. 1963 in which we made clear State usury laws would apply to interstate branches coming into the host State. During those discussions, Senator PRYOR raised an additional concern of his State's usury law and its impact on Farmers Home Administration loan programs. That issue is addressed by this amendment.

This amendment would override Arkansas' usury law with respect to three different Farmers Home Administration [FHA], loan programs. These programs are the water and waste disposal direct and guaranteed loan programs, the community facilities direct and guaranteed loan programs, and the business and industry guaranteed loan program. Currently, these programs perform below par in Arkansas because that State's usury ceiling restricts their use, thereby inhibiting community and economic development. For the past 4 years, Federal money allocated by the Farmers Home Administration for direct loans and loan guarantees in Arkansas has been reallocated to other States because FHA was unable to expend it in Arkansas due to the usury ceiling. This amendment would override any State usury ceiling with respect to these programs, but would give States 3 years to opt out of this provision and reimpose their State usury limit if they so choose.

Mr. President, the amendment has been cleared on both sides. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for Mr. PRYOR, proposes an amendment numbered 1663.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . MAXIMUM INTEREST RATE ON CERTAIN FmHA LOANS.

(a) IN GENERAL.—Section 307(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)) is amended—

(1) in paragraph (3)(A), by striking "Except" and inserting "Notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved, except"; and

(2) in paragraph (5)—

(A) by striking "(5) The" and inserting "(5)(A) Except as provided in subparagraph (B), the"; and

(B) by adding at the end the following new subparagraph:

"(B) In the case of a loan made under section 310B as a guaranteed loan, subparagraph (A) shall apply notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved.".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by subsection (a) shall apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in a State on or after the date of enactment of this Act.

(2) STATE OPTION.—Except as provided in paragraph (3), the amendments made by subsection (a) shall not apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in a State after the date (that occurs during the 3-year period beginning on the date of enactment of this Act) on which the State adopts a law or certifies that the voters of the State have voted in favor of a provision of the constitution or law of the State that states that the State does not want the amendments made by subsection (a) to apply with respect to loans made, insured, or guaranteed under such Act in the State.

(3) TRANSITIONAL PERIOD.—In any case in which a State takes an action described in paragraph (2), the amendments made by subsection (a) shall continue to apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in the State after the date the action was taken pursuant to a commitment for the loan that was entered into during the period beginning on the date of enactment of this Act, and ending on the date on which the State takes the action.

Mr. RIEGLE. Mr. President, this has been cleared on both sides. If there is no further debate on it, I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1663) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, the Senator from Ohio had intentions of offering two amendments, one having to do with low-cost banking, and the other having to do with check cashing.

I think, after discussion, that the chairman of the committee and the ranking member may be able to handle this matter in another way, and therefore I will not offer that amendment.

There is another amendment that the Senator from Ohio is prepared to offer.

There is no question that it is a controversial amendment. But it has to do with the fact that the Supreme Court in one fell swoop the other day totally eliminated the obligation and liabilities of accountants, lawyers, and all those who are involved in connection with underwriting, and securities transactions, a horrendous decision by the Supreme Court—horrendous because had that decision been in effect previously, the $275 million recovered from the accountants and the lawyers and others in connection with the investment bankers in the Keating matter would not have occurred. Right now, under the law, it is precluded from recovering any additional dollars along that line.

It is my understanding that some Members of this body would strongly react to attempting to correct that matter, and this is the second bill to which the Senator from Ohio had intentions of offering it as an amendment. I hope that we can figure out some other way to do it. But I make no bones about it. Before this session is over, I will give every Member of this body the chance to correct this terrible inequity that has been created by the Supreme Court of the United States. It was not one of their great days. It certainly was unfair to the taxpayers of this country who have been stuck with the liabilities that otherwise accountants, attorneys, investment bankers, and others should be paying.

Mr. President, I yield the floor.

Mr. RIEGLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WOFFORD). Without objection, it is so ordered.

AMENDMENT NO. 1664

(Purpose: Relating to the Mount Rushmore Commemorative Coin Act)

Mr. RIEGLE. Mr. President, I have an amendment that has been cleared on both sides in behalf of Senator DASCHLE and Senator PRESSLER, and I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for Mr. DASCHLE, for himself and Mr. PRESSLER, proposes an amendment numbered 1664.

Mr. RIEGLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . MOUNT RUSHMORE COMMEMORATIVE COIN ACT.

(a) DISTRIBUTION OF SURCHARGES.—Section 8 of the Mount Rushmore Commemorative Coin Act (104 Stat. 314; 31 U.S.C. 5112 note) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) the first $18,750,000 shall be paid during fiscal year 1994 by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial; and

"(2) the remainder shall be returned to the Federal Treasury for purposes of reducing the national debt.".

(b) RETROACTIVE EFFECT.—If, prior to the enactment of this Act, any amount of surcharges have been received by the Secretary of the Treasury and paid into the United States Treasury pursuant to section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect prior to the enactment of this Act, that amount shall be paid out of the Treasury to the extent necessary to comply with section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect after the enactment of this Act. Amounts paid pursuant to the preceding sentence shall be out of funds not otherwise appropriated.

(c) NUMISMATIC OPERATING PROFITS.—Nothing in this section shall be construed to affect the Secretary of the Treasury's right to derive operating profits from numismatic programs for use in supporting the United States Mint's numismatic operations and programs or to allow the distribution of operating profits from the Numismatic Public Enterprise Fund to a recipient organization under any numismatic program.

Mr. RIEGLE. Mr. President, this amendment has been cleared on both sides. It relates to a slight change in an existing law regarding the Mount Rushmore Commemorative Coin Act. I urge its adoption.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1664) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I wish to congratulate the chairman of the Banking Committee for the outstanding work he has done in crafting an interstate banking and branching bill which I believe is in the best economic interests of this country. I believe the committee bill will significantly improve the efficiency of financial institutions across this country to the long-term benefit of individuals and businesses. It will strengthen our economy.

On the one hand, we need to eliminate unnecessary Federal barriers and allow interstate banking and branching to proceed as market forces dictate. On the other hand, we need to do this in a manner which does not threaten the safety and soundness of our banking system, and which respects both States' rights and the legitimate franchise interests of community banking institutions. In my view, the committee bill accomplishes these objectives.

I became strongly interested in the issue of interstate banking and branching in 1991 at the urging of bankers in my State. At that time, they came to me with serious concerns that the pending Bush administration proposal went too far toward favoring the interests of large banks, and that other proposals had little chance of passage. Working together with our bankers and many other State banking organizations—as well as the distinguished chairman of the committee—we were able to develop a compromise proposal which I was privileged to offer as an amendment to the Senate floor and which passed the Senate.

The committee bill before us today is similar to that amendment in many ways, but contains some important improvements. I strongly support this measure.

There is, however, one aspect of this debate which concerns me and the bankers in my State a great deal. That is the issue of interstate branching by foreign banks. I believe the House bill, H.R. 3841, gives competitive advantages to foreign banks. This bill has already passed the full House of Representatives, and I presume the treatment of foreign banks will be an issue in the conference committee. I strongly favor the Senate approach.

Mr. President, foreign banks have expanded their presence in this country dramatically in recent years, to the point where they now enjoy a significant market share. They are not merely operating at the fringes of our banking system, as some would suggest.

In 1993, foreign banks operating in the United States controlled $872 billion in banking assets, $872 billion. Foreign banks controlled an additional $329 billion in off-shore assets. Ninety percent of these assets were booked in the Cayman Islands, and most of the remainder were booked in the Bahamas. The Federal Reserve has just begun calculating these off-shore assets, presenting a more accurate picture of the reach and influence of foreign banking operations in this country. Together, these totals show that foreign banks in 1993 held a staggering $1.5 trillion in U.S. loans and securities out of a total U.S. market of $3.9 trillion. This means foreign banks controlled 30.5 percent of U.S. bank assets in 1993.

Forty-two percent of all business loans in the United States last year were made by foreign bank-owned entities. Foreign banks held more than $200 billion in commercial and industrial loans for each of the last 3 years, compared to $85 billion 10 years ago. Foreign banks held an additional $70 billion in commercial real estate loans last year as well.

Mr. President, I have been surprised to learn how many individuals in this town have been retained by foreign banking interests and are willing to defend foreign banking interests affected by this legislation.

I have also come to learn that many foreign banks compete directly for the same business U.S. banks dominated only a few years ago, and they have a pretty sweet deal. Do not get me wrong, I am not opposed to competition. I am not opposed to interstate banking and branching activities being conducted by foreign banks. However, in my view, I believe they should compete equally with our own banks. They should be subject to the same regulatory restrictions as our own banks if they are competing directly.

Instead, their cost of capital appears to be much lower than that of U.S. banks, which means that they can accept a much lower rate of return. Why? Most foreign banks do not have to worry about complying with community reinvestment laws, or consumer banking laws, or fair lending laws. Most do not have to worry about the Home Mortgage Disclosure Act, or the Real Estate Settlement Procedures Act, to name a few.

Foreign banks also continue to enjoy the ability to enter into other fields which are off limits to U.S. banks. Current Federal law exempts foreign banks in certain cases from restrictions on U.S. bank holding companies relating to interests in nonbanking organizations. I am told this has enabled foreign banks to engage in a wide range of business activities from raising poultry to manufacturing metal products.

Let me say again, I have no problem with competition. But fair competition means playing by the same rules. I think we must have balance in this bill, providing the same benefits and burdens for foreign banks as are available for U.S. banks.

Mr. President, I would like to ask the chairman of the Banking Committee, the distinguished Senator from Michigan, if he would answer a few questions regarding the concerns I have with foreign banks under an interstate banking and branching bill.

First, I would ask the distinguished chairman of the Banking Committee, has the committee heard testimony expressing concern over preferential treatment for foreign banks under any interstate banking legislation?

Mr. RIEGLE. Yes. At the committee hearings on this bill, testimony was given on this issue. We were told that foreign banks presently receive preferential treatment in our market inasmuch as their wholesale branches are not subject to the Community Reinvestment Act and other consumer laws. We were also told they can attract corporate customers since they do not pay deposit insurance premiums on corporate accounts taken in their wholesale branches.

Mr. FORD. Do foreign banks have the right to branch interstate under the House bill without meeting the same requirements we put on domestic banks?

Mr. RIEGLE. I understand the House bill permits foreign banks to branch interstate without the need for a subsidiary bank chartered in this country.

Mr. FORD. I would say to the chairman that my concern with the approach is that the Community Reinvestment Act and other consumer laws would not apply to the foreign bank branches under the House bill. Let me ask the chairman further, do foreign banks have the ability to branch interstate under the Senate bill?

Mr. RIEGLE. Yes. They have all of the same rights as U.S. banks. Under the Senate bill, foreign banks can acquire and combine banks on an interstate basis just like U.S. banks if they use the structure required of domestic U.S. banking organizations. This ensures they do not receive preferential treatment.

Mr. FORD. In areas where foreign banks compete directly with U.S. banks, would it be the chairman's view that the inapplicability of the Community Reinvestment Act or consumer banking laws or fair lending laws could give foreign banks a competitive advantage over U.S. banks?

Mr. RIEGLE. Yes. In fact, the committee recently received a letter from the Independent Bankers Association of America contending that because the wholesale branches of foreign banks are not subject to such requirements, they have a competitive advantage over U.S. banks and can thus "undercut the price charged by U.S. banks for comparable services." I ask unanimous consent to have printed in the RECORD that letter from the IBAA.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

INDEPENDENT BANKERS
ASSOCIATION OF AMERICA,
Washington, DC, December 21, 1993.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you know, the IBAA has long favored the "Fair Trade In International Banking Act", and has testified in favor of the bill several times. We believe that "national treatment" is becoming an increasingly important concept as international banking expands, both in the United States and worldwide. However, the Fair Trade In International Banking Act only speaks to the treatment afforded to U.S. banks doing business in foreign countries. We have concerns that the playing field is not even here in the United States and that U.S. banks are currently at a serious competitive disadvantage.

Foreign banks can operate in the U.S. in many forms. These include agencies, Edge Act corporations, full service branches and "wholesale" branches. Only the FDIC insured full service branches are subject to the panoply of bank regulatory laws and regulations. Generally, federal and state branches of foreign banks must be FDIC insured if they receive deposits under $100,000.00, unless the appropriate federal regulator determines that the branch is not engaged in "domestic retail deposit activity". 12 U.S.C. Section 3104

Pursuant to this section, regulations have been promulgated which allow uninsured foreign branches to accept initial deposits of at least $100,000.00 even if the deposit falls to less than $100,000.00. 12 C.F.R. Section 364.4. In addition, an uninsured foreign branch can accept initial deposits of less than $100,000.00 if the deposit is from any business entity and certain other depositors. 12 C.F.R. Section 346.6

We believe that these provisions effectively allow branches of foreign banks to compete with U.S. banks on a retail deposit level. However, the branch does not have to pay FDIC deposit premiums and is not subject to a great many banking and consumer protection laws. This gives the branch of the foreign bank a distinct cost savings that allows it to undercut the prices charged by U.S. banks for comparable services. We believe that this disparity has helped foreign banks to control almost 36% of all commercial and industrial loans in the U.S., as well as to control 21% of all U.S. banking assets.

On October 5, 1993 Federal Reserve Governor LaWare testified before the Senate Banking Committee that he believed foreign banks should receive the same treatment with regard to interstate banking and branching as U.S. banks. This is an especially troubling idea given the apparent preferential treatment that these banks now have.

We believe it is appropriate for the Senate Banking Committee to investigate whether and to what extent foreign banks receive preferential treatment, both in the areas discussed above and other areas. For the banking industry to effectively compete, it must have a level playing field both here and abroad. The Fair Trade In International Banking Act will help insure that national is afforded U.S. banks abroad. We also need to insure that the same treatment is afforded here.

Sincerely,

KENNETH A. GUENTHER,
Executive Vice President.

Mr. FORD. Is the chairman aware of any other concerns being expressed by U.S. bankers about possible competitive advantages being given to foreign banks under any interstate banking proposals?

Mr. RIEGLE. Yes. I have received 16 letters from State banking organizations from across the country expressing concerns that the language in the House bill gives foreign banks competitive advantages. These State banking organizations have all expressed support for retaining the State approach on this issue. I ask unanimous consent that these letters be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

ALABAMA BANKERS ASSOCIATION,
Montgomery, AL, April 20, 1994.

Senator DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE. I am writing in reference to the foreign branching language in the House interstate banking bill (H.R. 3841). I am very concerned about this portion of the bill as this letter will explain.

The Senate version of the interstate banking legislation (S. 1963) provides that foreign banks could, like domestic banks, branch interstate by first establishing an insured bank in this country and then branching from such bank. The House version, however, would allow foreign banks to put their direct wholesale branches and agencies throughout the United States.

According to recent Federal Reserve Board data, there are over 300 foreign banking organizations from 62 different countries operating banking facilities in the United States. Of the almost 700 different types of facilities, only 93 are subsidiaries, while 378 are branches and 211 are agencies. Foreign banks make 75% of their United States loans from wholesale branches and agencies. These branches and agencies are not subject to FDIC insurance premiums, CRA, HMDA requirements, and other consumer bank requirements. Therefore, this provision would only widen the unfair advantage they have over domestically chartered banks.

The recently completed GATT agreement states that a host country should provide foreign financial institutions "treatment no less favorable than it accords its own like service providers." There is no obligation to give foreign institutions more favorable treatment.

Foreign banks now account for a 42% share of all business loans made in the United States. The foreign share of the United States banking market is larger than the foreign banking share of most other major financial markets in the world. The reason for this is the distinct competitive advantage these foreign banks have over domestic banks in our own market.

Allowing foreign banks new competitive advantages in the United States market, as proposed in the House interstate banking bill (H.R. 3841), would be detrimental to the domestic banking industry. The Senate interstate banking bill passed by your Committee allows foreign banks chartered in the United States to take advantage of the interstate language. Those not chartered in the United States could keep their present offices, but would continue to be required to obtain state approval to operate a branch or representative in the different states.

Foreign banks operating domestically should not receive preferential treatment over domestic banks by our own government. I respectfully ask that you make every effort to keep the Senate interstate banking bill free from language that establishes preferential treatment for unincorporated foreign banks in the United States. United States banking regulations should apply to all financial institutions doing business in the United States, whether domestic or foreign.

Thank you for your consideration of this matter.

Sincerely,

JERRY W. SPENCER,
Executive Vice President.

THE ARKANSAS BANKERS ASSOCIATION,
Little Rock, AR, April 21, 1994.
DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE: I am writing this letter to bring your attention to the foreign branching language in the House interstate banking bill (H.R. 3841).

The interstate banking bill currently before the Senate (S. 1963) provides that foreign banks could, like domestic banks, branch interstate by first establishing an insured bank in this country and the branching from such bank. The House interstate banking bill, in contrast, would allow foreign banks to put their direct wholesale branches and agencies throughout the United States. Since the wholesale branches and agencies of foreign banks, from which they make over 75% of their U.S. loans, are not subject to FDIC Insurance premiums nor CRA and other consumer bank requirements, this would add to the already grossly unfair advantage they have over U.S. domestically chartered banks.

National treatment for financial institutions, as defined in the recently completed GATT agreement, states that a host country should provide foreign financial institutions "treatment no less favorable than it accords its own like service providers." There is no obligation to give foreign institutions more favorable treatment.

According to recent Federal Reserve Board data there are presently over 300 foreign banking organizations from 62 different countries operating banking facilities in the United States. Of the almost 700 different types of facilities, only 93 are subsidiaries, while 378 are branches and 211 agencies. These latter two types of facilities from which foreign banks do most of their business in this country are exempt from FDIC insurance, HMDA requirements, CRA provisions, etc.—thus giving such foreign bank offices a distinct advantage in loan pricing.

Foreign banks are not small players in the U.S. market. They now account for a 42 percent share of all business loans being made in the United States. This foreign share of our banking market is larger than the foreign banking share of most other major financial markets in the world. Is this happening because U.S. banks are inept competitors? The answer is clearly and emphatically NO. Is it because foreign banks have competitive advantages over U.S. banks in our own market. The answer is just as emphatically YES.

There is no need to give foreign banks new competitive advantages in our market as proposed in the House interstate banking bill (H.R. 3841). Under the Senate interstate banking bill passed by your Committee, foreign banks which are chartered in the U.S., whether national or state will be able to take advantage of the interstate language. Those which are not chartered in the U.S. could keep their present offices but would continue to need state approval to operate a branch or representative in the different states.

It is our feeling foreign banks operating domestically should not receive preferential treatment from our government over U.S. domestic banks. An example of the preferential treatment foreign banks are currently receiving is exhibited in Subsection 236.6 of the FDIC Rules and Regulations which allow unincorporated, uninsured foreign branches and agencies to accept deposits of any amount from any business entity which engages in commercial activities from profit.

I would respectfully ask that you make every effort to keep the Senate interstate banking bill free from established preferential treatment to unincorporated foreign banks in the U.S. Our U.S. banking regulations are there for a reason and they should apply to all financial institutions, domestic or foreign, doing business in the United States.

Sincerely,

H.C. CARVILL,
Executive Director.

COLORADO NATIONAL BANK,
Denver, CO, April 22, 1994.
Hon. BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR CAMPBELL: I urge you to support the interstate banking and branching bill (S. 1963) which is scheduled for consideration on Monday and Tuesday (April 25 and 26) by the full United States Senate.

Passage of interstate banking and branching is the number one legislative priority for First Bank System. I urge you to keep the interstate bill "clean" and vote against any amendments which address non-related issues, such as insurance, basic banking services or CRA. Any such unrelated amendments will undermine the passage of the bill, which in its present form will increase the competitiveness and safety of the banking industry and benefit our customers.

Again, I urge you to support passage of a "clean" interstate banking and branching bill when it comes up for a vote on the Senate floor.

Sincerely,

DANIEL W. YOHANNES
President.

INDIANA BANKERS ASSOCIATION,
Indianapolis, IN., April 19, 1994.
DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing & Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE: My purpose in writing to you is in regard to the House interstate banking bill (H.R. 3841), particularly the foreign branching language it contains.

The House interstate banking bill would allow foreign banks to locate their direct wholesale branches and agencies throughout the U.S. This would add to the unfair advantage they have over U.S. chartered banks, since the wholesale branches and agencies of foreign banks, from which they make more than 75 percent of their U.S. loans, are not subject to FDIC insurance premiums, the Community Reinvestment Act, or other consumer bank requirements.

Foreign banks have a great presence in the U.S. marketplace. Federal Reserve data point out that there are more than 300 foreign banking entities from 62 countries operating banking facilities here. Only 93 are subsidiaries, 378 are branches, and 211 are agencies. Foreign banks account for a 42 percent share of all business loans being made in the U.S. You may know that the branches and agencies of the foreign players are exempt from FDIC insurance, HMDA requirements, and CRA provisions, among others. These foreign competitiors clearly have competitive advantages over U.S. banks in our own market.

I respectfully ask that you not give foreign banks preferential treatment over our own banks in our market as proposed in the H.R. 3841. Under the Senate interstate banking bill passed by your Committee, foreign banks which are chartered in the U.S. whether national or state, will be able to take advantage of the interstate language. Those which are not chartered in the U.S. could keep their present offices but would continue to need state approval to operate a branch or representative office in the different states.

An example of current preferential treatment foreign banks have is exhibited in Subsection 346.6 of the FDIC rules and regulations which allow unincorporated, uninsured foreign branch and agencies to accept deposits of any amount from any business entity which engages in commercial activities for profit.

The foreign branching language in H.R. 3841 would give foreign banks competitive advantages over U.S. banks. There is no obligation to give foreign institutions more favorable treatment. Thank you for your consideration of my views.

Sincerely,

WILLIAM H. KING,
President.

IOWA BANKERS ASSOCIATION,
Des Moines, IA, April 19, 1994.
DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE: I am writing this letter to bring your attention to the foreign branching language in the House interstate banking bill (H.R. 3841).

The interstate banking bill currently before the Senate (S. 1963) provides that foreign banks could, like domestic banks, branch interstate by first establishing an insured bank in this country and then branching from such bank. The House interstate banking bill, in contrast, would allow foreign banks to put their direct wholesale branches and agencies throughout the United States. Since the wholesale branches and agencies of foreign banks, from which they make over 75 percent of their U.S. loans, are not subject to FDIC insurance premiums nor CRA and other consumer bank requirements, this would add to the already grossly unfair advantage they have over U.S. domestically chartered banks.

National treatment for financial institutions, as defined in the recently completed GATT agreement, states that a host country should provide foreign financial institutions "treatment no less favorable than it accords its own like service providers." There is no obligation to give foreign institutions more favorable treatment.

According to recent Federal Reserve Board data there are presently over 300 foreign banking organizations from 62 different countries operating banking facilities in the United States. Of the almost 700 different types of facilities, only 93 are subsidiaries, while 378 are branches and 211 agencies. These latter two types of facilities from which foreign banks do most of their business in this country are exempt from FDIC insurance, HMDA requirements, CRA provisions, etc.—thus giving such foreign bank offices a distinct advantage in loan pricing.

Foreign banks are not small players in the U.S. market. They now account for a 42 percent share of all business loans being made in the United States. This foreign share of our banking market is larger than the foreign banking share of most other major financial markets in the world. Is this happening because U.S. banks are inept competitors? The answer is clearly and emphatically NO. Is it because foreign banks have competitive advantages over U.S. banks in our own market? The answer is just as emphatically YES.

There is no need to give foreign banks new competitive advantages in our market as proposed in the House interstate banking bill (H.R. 3841). Under the Senate interstate banking bill passed by your Committee, foreign banks which are chartered in the U.S., whether national or state will be able to take advantage of the interstate language. Those which are not chartered in the U.S. could keep their present offices but would continue to need state approval to operate a branch or representative in the different states.

It is our feeling that foreign banks operating domestically should not receive preferential treatment from our government over U.S. domestic banks. An example of the preferential treatment foreign banks are currently receiving is exhibited in Subsection 346.6 of the FDIC Rules and Regulations which allow unincorporated, uninsured foreign branches and agencies to accept deposits of any amount from any business entity which engages in commercial activities for profit.

I would respectfully ask that you make every effort to keep the Senate interstate banking bill free from established preferential treatment to unincorporated foreign banks in the U.S. Our U.S. banking regulations are there for a reason and they should apply to all financial institutions, domestic or foreign, doing business in the United States.

Sincerely,

NEIL MILNER,
CAE, Executive Vice President and CEO.

KANSAS BANKERS ASSOCIATION,
Topeka, KS, April 18, 1994.

Re interstate banking and branching legislation.

Hon. DONALD W. RIEGLE, Jr.,
Chair, Senate Committee on Banking Housing, and Urban Affairs, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN RIEGLE. The purpose of this letter is to encourage that the language on foreign bank competition in S. 1963 prevail in Conference Committee over the language contained in H.R. 3841.

We commend the Senate in crafting legislation which does not grant foreign financial institutions treatment more favorable than domestic institutions. Foreign banks are big players in the players in the U.S. market, and there is nothing inherently wrong with this, so long as the playing field is maintained on the level.

We understand the Senate version would allow foreign banks which are not chartered in the U.S. to keep their present offices, but they would continue to need state approval to operate a branch or other operation within a state. Those that are chartered in the U.S., will be treated as any other domestic bank. This seems infinitely fair.

Thank you for your consideration and your efforts to prevent preferential treatment to foreign banks that choose not to become incorporated in the U.S. and hence, operate free from financial and other impediments of their competitors.

Cordially,

HAROLD A. STONES,
Executive Vice President.

KENTUCKY BANKERS ASSOCIATION,
Louisville, KY, April 19, 1994.
DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE: I am writing this letter to bring your attention to the foreign branching language in the House interstate banking bill (H.R. 3841).

The interstate banking bill currently before the Senate (S. 1963) provides that foreign banks could, like domestic banks, branch interstate by first establishing an insured bank in this country and then branching from such bank. The House interstate banking bill, in contrast, would allow foreign banks to put their direct wholesale branches and agencies throughout the United States. Since the wholesale branches and agencies of foreign banks, for which they make over 75% of their U.S. loans, are not subject to FDIC insurance premiums nor CRA and other consumer bank requirements, this would add to the already grossly unfair advantage they have over U.S. domestically chartered banks.

National treatment for financial institutions, as defined in the recently completed GATT agreement, states that a host country should provide foreign financial institutions "treatment no less favorable than it accords its own like service providers." There is no obligation to give foreign institutions more favorable treatment.

According to recent Federal Reserve Board data there are presently over 300 foreign banking organizations from 62 different countries operating banking facilities in the United States. Of the almost 700 different types of facilities, only 93 are subsidiaries, while 378 are branches and 211 agencies. These latter two types of facilities from which foreign banks do most of their business in this country are exempt from FDIC insurance, HMDA requirements, CRA provisions, etc.—thus giving such foreign bank offices a distinct advantage in loan pricing.

Foreign banks are not small players in the U.S. market. They now account for a 42 percent share of all business loans being made in the United States. This foreign share of our banking market is larger than the foreign banking share of most other major financial markets in the world. Is this happening because U.S. banks are inept competitors? The answer is clearly and emphatically NO. Is it because foreign banks have competitive advantages over U.S. banks in our own market. The answer is just as emphatically YES.

There is no need to give foreign banks new competitive advantages in our market as proposed in the House interstate banking bill (H.R. 3841). Under the Senate interstate banking bill passed by your Committee, foreign banks which are chartered in the U.S. whether national or state will be able to take advantage of the interstate language. Those which are not chartered in the U.S. could keep their present offices but would continue to need state approval to operate a branch or representative in the different states.

It is our feeling that foreign banks operating domestically should not receive preferential treatment from our government over U.S. domestic banks. An example of the preferential treatment foreign banks are currently receiving is exhibited in Subsection 346.6 of the FDIC Rules and Regulations which allow unincorporated, uninsured foreign branches and agencies to accept deposits of any amount from any business entity which engages in commercial activities for profit.

I would respectfully ask that you make every effort to keep the Senate interstate banking bill free from established preferential treatment to unincorporated foreign banks in the U.S. Our U.S. banking regulations are there for a reason and they should apply to all financial institutions, domestic or foreign, doing business in the United States.

Sincerely,

BALLARD W. CASSADY, Jr.,
Executive Vice President.

MICHIGAN BANKERS ASSOCIATION,
Lansing, MI, April 22, 1994.

DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing & Urban Affairs, U.S. Senate, Washington, DC.

DEAR DON: This letter confirms our concerns expressed last week when we met with you regarding the foreign branching language in the House interstate banking bill (H.R. 3841), which differs significantly from your S. 1963.

The interstate banking bill currently before the Senate (S. 1963) provides that foreign banks could, like domestic banks, branch interstate by first establishing an insured bank in this country and then branching from such bank. The House interstate banking bill, in contrast, would allow foreign banks to put their direct wholesale branches and agencies throughout the United States. Since the wholesale branches and agencies of foreign banks, from which they make over 75% of their U.S. loans, are not subject to FDIC insurance premiums nor CRA or other consumer bank requirements, this would add to the already grossly unfair advantage they have over U.S. domestically chartered banks.

National treatment for financial institutions, as defined in the recently completed GATT agreement, states that a host country should provide foreign financial institutions "treatment no less favorable than it accords its own like service providers." There is no obligation to give foreign institutions more favorable treatment.

The 378 branches and 211 agencies of foreign banking organizations from which they do most of their business in this country are exempt from FDIC insurance, HMDA requirements, CRA provisions, etc.—thus giving such foreign bank offices a distinct advantage in loan pricing.

Foreign banks are not small players in the U.S. market. They now account for a 42% share of all business loans being made in the United States. This foreign share of our banking market is larger than the foreign banking share of most other major financial markets in the world. This isn't happening because U.S. banks are inept competitors; it is because foreign banks have competitive advantages over U.S. banks in our own market.

There is no need to give foreign banks new competitive advantages in our market as proposed in the House interstate banking bill (H.R. 3841). Under the Senate interstate banking bill passed by your Committee, foreign banks which are chartered in the U.S., whether national or state will be able to take advantage of the interstate language. Those which are not chartered in the U.S. could keep their present offices but would continue to need state approval to operate a branch or representative in the different states.

We believe that foreign banks operating domestically should not receive preferential treatment from our government over U.S. domestic banks.

We respectfully ask that you make every effort to keep the Senate interstate banking bill both on the Senate floor and in conference free from established preferential treatment to unincorporated foreign banks in the U.S. Our banking regulations are there for a reason and they should apply to all financial institutions, domestic or foreign, doing business in United States.

Sincerely,

DONALD A. BOOTH,
Executive Vice President.

MISSISSIPPI BANKERS ASSOCIATION,
Jackson, MS, April 19, 1994.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR RIEGLE: On behalf of our Association's membership, the commercial banks of Mississippi, I am writing in regard to the foreign branching provisions included in H.R. 3841, the House interstate banking legislation.

The Senate interstate banking bill, S. 1963, provides that foreign banks may branch interstate only by first establishing an insured bank in this country and then branching from that bank. This is the same rule that applies to domestic banks. However, H.R. 3841 would allow foreign banks to place direct branches and agencies throughout the United States. Such branches and agencies of foreign banks are not subject to FDIC insurance premiums or many of the other banking regulations which apply to domestically chartered banks. Such a change as proposed by H.R. 3841 would give a grossly unfair competitive advantage to these foreign branches and agencies.

The vast majority of foreign banking facilities in the United States are either branches or agencies. According to numbers from the Federal Reserve Board, of 682 foreign banking facilities in the United States, 589 of these are branches and agencies. While foreign banks do most of their business in this country through branches and agencies, these facilities are exempt from FDIC insurance, CRA provisions and many other regulations to which domestic banks are subject. We object to the unfair advantage given to such foreign banking facilities.

It is our position that foreign banks with operations within the United States should not receive any preferred treatment under the interstate banking law. There is no need to give these foreign banks any new competitive advantages as would be provided by H.R. 3841. The Senate interstate banking bill (S. 1963) gives foreign banks chartered in the U.S. the ability to utilize the interstate banking law. Foreign banks without a U.S. charter could still keep their present offices and continue to apply for state approval to operate branches in different states.

We would urge you to work to maintain the Senate position on these foreign bank branching provisions in the interstate bill. We believe that foreign banks which do not have a charter in the United States should not be given preferential treatment and that our banking regulations, both state and federal, should be allowed to apply equally to domestic and foreign banks.

Sincerely,

MCKINLEY W. DEAVER,
Executive Director.

OHIO BANKERS ASSOCIATION,
Columbus, OH, April 18, 1994.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Ohio bankers, as we believe is generally the case around the country, support S. 1963. Action by states have long since made interstate banking a reality. Standardized federal rules will help rationalize and simplify the business of banking. We write this letter not just to support passage by the Senate of S. 1963 but to express a strong preference for the treatment of branches of foreign banks in your bill as opposed to that in House's counterpart (H.R. 3841).

We believe that foreign banks should be treated as competitive equals in this country. Your bill, as we understand it, provides that once a foreign bank establishes an insured bank in this country it could branch interstate. The House version requires no U.S. insured bank. Thus, it would allow foreign banks to compete directly with U.S. banks without being subject to a number of costly regulatory requirements faced by U.S. banks including deposit insurance premiums and community reinvestment.

Today U.S. banks already operate at a disadvantage compared with foreign bank operations in the United States. The results are dramatic. Foreign banks have captured 42 percent of all business loans being made in the United States. One example of a significant, current competitive inequity comes through F.D.I.C. rules which allow unincorporated, uninsured foreign branches and agencies to accept deposits of any amount from any business entity which engages in commercial activities for profit. Given the current significant premium levied by the F.D.I.C. many businesses are finding the resulting rate differential to be compelling. H.R. 3841 would increase that sort of inequity for U.S. banks.

We would ask you to oppose any efforts to incorporate preferential treatment for foreign banks in this legislation. Ohio banks do not fear competition as long as the same rules apply to all.

Sincerely,

MICHAEL VAN BUSKIRK,
Executive Vice President.

OKLAHOMA BANKERS ASSOCIATION,
Oklahoma City, OK, April 18, 1994.

DONALD W. REIGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S., Senate Washington, DC.

Re interstate branching by foreign banks.

DEAR CHAIRMAN RIEGLE: The interstate banking bill currently before the Senate (S. 1963) is much different than its counterpart in the House (H.R. 3841) regarding the ability of foreign banks to establish branches on an interstate basis. H.R. 3841 would allow foreign banks to put their direct wholesale branches and agencies throughout the United States without maintaining an actual charter. S. 1963 would require that the foreign banks first establish an insured bank in this country and then it would be treated the same as a domestic bank in terms of its ability to branch on an interstate basis. The wholesale branches and agencies of foreign banks, from which they make over 75% of the U.S. loans, are not subject to FDIC insurance premiums nor CRA and other consumer bank requirements. H.R. 3841 would add to the already grossly unfair advantage they have over U.S. domestically chartered banks.

National treatment for financial institutions, as defined in the recently completed GATT agreement, states that a host country should provide foreign financial institutions "treatment no less favorable than it accords its own like service providers." There is no obligation to give foreign institutions more favorable treatment, which is precisely what H.R. 3841 does.

According to recent Federal Reserve Board data there are presently over 300 foreign banking organizations from 62 different countries operating banking facilities in the United States. Of the almost 700 different types of facilities, only 93 are subsidiaries, while 378 are branches and 211 agencies. These latter two types of facilities from which foreign banks do most of their business in this country are exempt from FDIC insurance, HMDA requirements, CRA provisions, etc.—thus giving such foreign bank offices a distinct advantage in loan pricing.

Foreign banks are not small players in the U.S. market. They now account for a 42 percent share of all business loans being made in the United States. This foreign share of our banking market is larger than the foreign banking share of most other major financial markets in the world. This has resulted in large measure because foreign banks have distinct competitive advantages over U.S. banks in our own market.

There is no need to give foreign banks new competitive advantages in our market as proposed by H.R. 3841. Under the Senate interstate banking bill passed by your Committee, foreign banks which are chartered in the U.S., whether national or state will be able to take advantage of the interstate language. Those which are not chartered in the U.S. could keep their present office but would continue to need state approval to operate a branch or representative in the different states.

Oklahoma bankers believe that foreign banks operating domestically should not receive preferential treatment from our government over U.S. domestic banks. An example of the preferential treatment foreign banks are currently receiving is exhibited in Subsection 346.6 of the FDIC Rules and Regulations which allow unincorporated, uninsured foreign branches and agencies to accept deposits of any amount from any business entity which engages in commercial activities for profit.

I would respectfully ask that you make every effort to keep the Senate interstate banking bill free from established preferential treatment to unincorporated foreign banks in the U.S. Our U.S. banking regulations are there for a reason and they should apply to all financial institutions, domestic or foreign, doing business in the United States.

Sincerely,

ROGER M. BEVERAGE,
President.

SOUTH DAKOTA BANKERS ASSOCIATION,
Pierre, SD, April 21, 1994.

Mr. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE: I am writting to communicate the growing concern of South Dakota bankers with the provisions for foreign bank branching found in the House interstate banking bill (H.R. 3841).

It is my understanding that you have received a letter from Ballard Cassady, Jr., executive vice president of the Kentucky Bankers Association which describes in some detail the differences between the interstate banking bill passed by the House, and the bill currently before the Senate (S. 1963). Mr. Cassady's letter illustrates the significant competitive advantages given to foreign banks in the House bill. We believe that the Senate interstate banking bill is much more balanced in its treatment of foreign and domestically-chartered banks. We do not believe that foreign banks operating domestically should receive preferential treatment over banks domiciled in the United States.

We hope you will makes every effort to keep the Senate interstate banking bill free of established preferential treatment to unincorporated foreign banks in the U.S. We also hope you can be successful in maintaining this position in the conference report.

Thank you for your attention to our concerns.

Sincerely,

JEFFREY J. RODMAN,
Executive Vice President.

TENNESSEE BANKERS ASSOCIATION,
Nashville, TN, April 18, 1994.

Mr. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE: The purpose of this letter is to call your attention to the foreign branching language in the House interstate banking bill (H.R. 3841). Unlike the Senate interstate bill (S. 1963) which provides that foreign banks could, like domestic banks, branch interstate by first establishing an insured bank in this country and then branching from such a bank, the House interstate bill would allow foreign banks to put their direct wholesale branches and agencies throughout the United States. Since the wholesale branches and agencies of foreign banks are not subject to FDIC insurance premiums, nor CRA, this would add to the already unfair advantage they have over U.S. domestically chartered banks.

According to the recently completed GATT agreement, the host country should provide foreign financial institutions treatment no less favorable than it accords its own like service providers. There is no obligation to give foreign institutions more favorable treatment.

Foreign banks are not small players in the U.S. market. They account for a 42% share of all business loans made in the United States. This fact is not because U.S. banks are not interested in quality loans, but more due to the fact that foreign banks have competitive advantage over U.S. banks in our own market.

I would request that every effort be made to keep the Senate interestate banking bill free from established preferential treatment to unincorporated foreign banks in the United States. U.S. banking regulations are in place for a reason, and the regulations should apply to all financial institutions, domestic or foreign, who choose to do business in the United States.

Sincerely,

BRADLEY L. BARRETT,
Executive Vice President.

VIRGINIA BANKERS ASSOCIATION,
Richmond, VA, April 18, 1994.

DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE: I am writing to you to express concern with any provisions that might be advocated for inclusion in the Senate's interstate banking bill that would conflict with our state law that prohibits foreign bank entry into Virginia.

During the 1994 session of the Virginia General Assembly, a bill was adopted, with the support of the Virginia Bankers Association, to move Virginia from regional to national interstate banking. Retained in the statute that was passed was a provision prohibiting foreign banks from coming into the Commonwealth.

It is my understanding that the House passed bill, H.R. 3841, would likely nullify our foreign bank prohibition. It is further my understanding that the Senate interstate bill, S. 1963, would more nearly protect our existing Virginia law by requiring a foreign bank, like a domestic bank to first establish an insured bank in this country before being able to branch. While the Senate language is much preferable to the House language, the Senate provision could be further improved by also providing that state laws that are more restrictive than federal laws will prevail.

I would respectfully request that you make very effort to retain the Senate version of how foreign banks that operate in this country will be governed and, if possible, further strengthen that provision with language that protects more restrictive state laws. There is simply no reason to give our markets to foreign banks, or give them preferential treatment over our own domestic banks.

Thank you for your consideration.

Sincerely,

WALTER C. AYERS,
Executive Vice President.

WEST VIRGINIA BANKERS
ASSOCIATION, INC.,
Charleston, WV, April 18, 1994.

DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE: I am writing this letter to bring your attention to the foreign branching language in the House interstate banking bill (H.R. 3841).

The interstate banking bill currently before the Senate (S. 1953) provides that foreign banks could, like domestic banks, branch interstate by first establishing an insured bank in this country and then branching from such bank. The House interstate banking bill, in contrast, would allow foreign banks to put their direct wholesale branches and agencies throughout the United States. Since the wholesale branches and agencies of foreign banks, from which they make over 75% of their U.S. loans, are not subject to FDIC insurance premiums nor CRA and other consumer bank requirements, this would add to the already grossly unfair advantage they have over U.S. domestically chartered banks.

National treatment for financial institutions, as defined in the recently completed GATT agreement, states that a host country should provide foreign financial institutions "treatment no less favorable than it accords its own like service providers." There is no obligation to give foreign institutions more favorable treatment.

According to recent Federal Reserve Board data there are presently over 300 foreign banking organizations from 62 different countries operating banking facilities in the United States. Of the almost 700 different types of facilities, only 93 are subsidiaries, while 378 are branches and 211 agencies. These latter two types of facilities from which foreign banks do most of their business in this country are exempt from FDIC insurance, HMDA requirements, CRA provisions, etc.—thus giving such foreign bank offices a distinct advantage in loan pricing.

Foreign banks are not small players in the U.S. market. They now account for a 42 percent share of all business loans being made in the United States. This foreign share of our banking market is larger than the foreign banking share of most other major financial markets in the world. Is this happening because U.S. banks are inept competitors? The answer is clearly and emphatically *NO*. Is it because foreign banks have competitive advantages over U.S. banks in our own market? The answer is just as emphatically *YES*.

There is no need to give foreign banks new competitive advantages in our market as proposed in the House interstate banking bill (H.R. 3841). Under the Senate interstate banking bill passed by your Committee, foreign banks which are chartered in the U.S., whether national or state will be able to take advantage of the interstate language. Those which are not chartered in the U.S. could keep their present offices but would continue to need state approval to operate a branch or representative in the different states.

It is our feeling that foreign banks operating domestically should not receive preferential treatment from our government over U.S. domestic banks. An example of the preferential treatment foreign banks are currently receiving is exhibited in Subsection 346.6 of the FDIC Rules and Regulations which allow unincorporated, uninsured foreign branches and agencies to accept deposits of any amount from any business entity which engages in commercial activities for profit.

I would respectfully ask that you make every effort to keep the Senate interstate banking bill free from established preferential treatment to unincorporated foreign banks in the U.S. Our U.S. banking regulations are there for a reason and they should apply to all financial institutions, domestic or foreign, doing business in the United States.

Sincerely,

THOMAS A. WINNER,
President and CEO.

WISCONSIN BANKERS ASSOCIATION,
Madison, WI, April 21, 1994.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE: I would like to bring to your attention the foreign branching language in the House-passed interstate banking bill (H.R. 3841).

The companion bill currently before the Senate (S. 1963) provides that foreign banks could, like domestic banks, branch interstate by first establishing an insured bank in this country and then branching from such bank. The House bill, by contrast, would allow foreign banks to put their direct wholesale branches and agencies throughout the United States. Since the wholesale branches and agencies of foreign banks, from which they make over 75% of their U.S. loans, are not subject to FDIC insurance premiums, CRA or other consumer bank requirements, this would add to the already grossly unfair advantage they have over domestically chartered banks.

National treatment for financial institutions, as defined in the recently completed GATT agreement, states that a host country should provide foreign financial institutions "treatment no less favorable than it accords its own like service providers." There is no obligation to give foreign institutions more favorable treatment.

According to recent Federal Reserve Board data, there are presently over 300 foreign banking organizations from 62 different countries operating banking facilities in the United States. Of the almost 700 different types of facilities, only 93 are subsidiaries, while 378 are branches and 211 are agencies. These latter two types of facilities from which foreign banks do most of their business in this country are exempt from FDIC insurance, HMDA requirements, CRA provisions, etc.—thus giving such foreign bank offices a distinct advantage in loan pricing.

Foreign banks are not small players in the United States. They now account for a 42 percent share of all business loans being made in the United States. This foreign share of our banking market is larger than the foreign banking share of most other major financial markets in the world.

Is this happening because U.S. banks are inept competitors? The answer is clearly and emphatically NO. It is because foreign banks have competitive advantages over U.S. banks in our own market.

There is no need to give foreign banks new competitive advantages in our market as proposed in H.R. 3841. Under the Senate's interstate banking bill passed by your Committee, foreign banks which are chartered in the United States, whether national or state, will be able to take advantage of the interstate language. Those which are not chartered here could keep their present office but would continue needing state approval to operate a branch or representative office in different states.

It is our belief that foreign banks operating domestically should not receive preferential treatment from our government over domestic banks. An example of the preferential treatment foreign banks currently receive is exhibited in Subsection 346.6 of the FDIC Rules and Regulations. This allows unincorporated, uninsured foreign branches and agencies to accept deposits of any amount from any business entity which engages in commercial activities for profit.

I respectfully ask that you make every effort to keep the Senate interstate banking bill free from establishing preferential treatment to unincorporated foreign banks in the United States. Our banking regulations are there for a reason, and they should apply to all financial institutions, domestic or foreign, doing business in the United States.

Sincerely,

HARRY J. ARGUE,
Executive Director.

Mr. FORD. I thank the chairman. Mr. President, I find the House language on foreign banks to be very troubling. My bankers are certainly strongly opposed to it, and I believe most of my colleagues will find the same reaction from their own bankers. As the chairman has stated, nothing in the Senate bill prohibits a foreign bank from establishing a subsidiary as a U.S.-chartered bank, which then has available all of the same rights and privileges of interstate banking and branching this legislation provides to U.S. banks. But to obtain these privileges, they must pay the same price as U.S. banks—compliance with all relevant laws which apply to chartered institutions. This includes community reinvestment laws, consumer banking laws, and fair lending laws.

Under the House bill, however, the special section on foreign branching assures an uneven playing field. Under section 104 of the House bill, foreign banks can establish a Federal branch in another State to the extent it would be permitted if that foreign bank were a national bank. Foreign banks can establish a State branch in another State to the extent it would be permitted if the foreign bank were a State bank.

If we are going to treat foreign banks as if they are national or State banks for purposes of interstate branching, we had better treat them as if they were national or State banks for purposes of community reinvestment laws, consumer banking laws, and fair lending laws. The House bill does the former, giving foreign banks all the same benefits. But the House bill fails to do the latter, by imposing none of the burdens which apply to U.S. banks.

This provides a substantial competitive advantage for foreign banks under the House language. It is a serious concern for my bankers, and it is a problem for me.

I thank the chairman for answering my questions. I support interstate banking and branching reform as strongly as any Member of this body, and I strongly support this Senate bill. However, I would urge the chairman to seek to retain the Senate approach on foreign banks in a conference committee, or to significantly modify the House approach to include fair treatment of U.S. and foreign banks with respect to both the burdens and benefits of interstate banking and branching. I regret to say to the chairman that if the conference report contains the House language giving a competitive advantage to foreign banks, I will feel compelled to actively oppose the passage of the conference report.

I know the chairman understands my concerns, and he has a great ability to articulate concerns on such complex topics as this one. I considered offering a sense of the Senate amendment expressing the policy that this legislation not provide any competitive advantage to foreign banks. I believe such an amendment would have passed unanimously. However, I know of the chairman's interest in moving this legislation, and I am hopeful this statement and colloquy will prove sufficient to make the same point. I would hope the chairman would take these concerns with him into a conference committee, and I would be happy to provide any assistance which he sees fit to assure that this issue is satisfactorily resolved.

Mr. RIEGLE. I thank the Senator from Kentucky for his help and for his statement.

I know the Senator from New York has a sense-of-the-Senate amendment he is prepared to offer and which I am prepared to accept.

I yield for that purpose.

AMENDMENT NO. 1665

(Purpose: To express the sense of the Senate that the President should work to achieve a clearly defined and enforceable agreement with allies of the United States which establishes a multilateral export control regime to stem the proliferation of products and technologies to rogue regimes that would jeopardize the national security of the United States)

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself, Mr. RIEGLE, and Mr. SASSER, proposes an amendment numbered 1665.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, after line 18, add the following new section:

SEC. 8. SENSE OF THE SENATE CONCERNING MULTILATERAL EXPORT CONTROLS.

(a) FINDINGS.—The Senate finds that—

(1) the United States and its allies have agreed that as of March 31, 1994, the Coordinating Committee (hereafter referred to as "COCOM"), the multilateral body that controlled strategic exports to the former Soviet Union and other Communist States, ceased to exist;

(2) no successor has yet been established to replace the COCOM;

(3) threats to United States security are posed by rogue regimes that support terrorism as a matter of national policy;

(4) a critical element of the United States proposal for a successor to COCOM is that supplier nations agree on a list of militarily critical products and technologies that would be denied to a handful of rogue regimes;

(5) some allies of the United States oppose this principle and instead propose that such controls be left to "national discretion", effectively replacing multilateral export controls with a loose collection of unilateral export control policies which would be adverse for United States security and economic interests;

(6) multilateral controls are needed to thwart efforts of Iran, Iraq, North Korea, Libya, and other rogue regimes, to acquire arms and sensitive dual-use goods and technologies that could contribute to their efforts to build weapons of mass destruction; and

(7) the United States would be forced to make the difficult choice of choosing between unilateral export controls under the Export Administration Act of 1979, which would put American companies at a competitive disadvantage worldwide, or allowing exports that could seriously harm the national security interests of the United States.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President should work to achieve a clearly defined and enforceable agreement with allies of the United States which establishes a multilateral export control system for the proliferation of products and technologies to rogue regimes that would jeopardize the national security of the United States; and

(2) the President should persuade allies of the United States to promote mutual security interests by preventing rogue regimes from obtaining militarily critical products and technologies.

Mr. D'AMATO. Mr. President, first of all, I thank the chairman, Senator RIEGLE, who is a cosponsor, and Senator SASSER, who is a cosponsor, as well as 18 other colleagues.

This is a resolution which expresses how extremely important it is that the President work with our allies in order to achieve a clearly defined and enforceable agreement which establishes a multilateral export control system for the antiproliferation of products and technologies to rogue regimes that would jeopardize the national security of the United States and, indeed, world peace.

Mr. President, the United States faces three choices in the implementation of an export control policy. First, the United States can use its diplomatic leverage as a world leader to foster an effective and enforceable multilateral export control organization to stem the proliferation of products and technologies that contribute to the development and production of weapons of mass destruction. Then, the United States can continue to use the Export Administration Act [EAA] as the legal authority for implementing both multilateral and unilateral export controls.

Second, the United States can move forward without multilateral coordination and use the Export Administration Act as a tool to act only unilaterally to stem the flow of militarily strategic technology from terrorist and other countries. Or, third, the United States can eliminate all export controls except the most egregiously dangerous.

Mr. President, there is only one clear choice among these options. The President must work with our allies to create an effective and enforceable multilateral export control organization. There is no question that without effective multilateral coordination, any implementation of the Export Administration Act will result in selective unilateral controls by the United States. While the nature of the threat has changed, from a anti-Communist to an antiproliferation focus, the fact is that multilaterally agreed upon export controls remain essential to our international security.

They also remain an essential component of our exporters' ability to compete on a level playing field in the international marketplace. According to a representative of the National Association of Manufacturers [NAM],

> The most important premise of the NAM proposal is that export controls on commercial goods and technology, including nonproliferation controls must be applied multilaterally. Absent multilateral agreement, export controls are ineffective and hurt only U.S. exporters.

This position undoubtedly applies to any proposal to reform the export control system under the EAA.

The old multilateral export control system, CoCom, ceased to exist on March 31, 1994. CoCom's role was to keep leading-edge military technology away from Communist countries, mostly the Soviet Union and China. With no new multilateral regime in place to deal effectively with proliferation threats, the world became a free market for exports that contribute to the development and production of weapons of mass destruction by terrorist and other countries.

The Clinton administration has so far been unable to foster cooperation among our allies to bring about agreement on a new regime. Today, exports are flowing world-wide based on the premise of national discretion. That is, each individual country will determine whether or not they will export a product. Products that contribute to weapons of mass destruction such as missile technology, nuclear and chemical and biological weapons are free to flow, to anyone, anywhere. We would hope that our allies will be prudent in their decisionmaking process but there is no way to know, until, possibly it is too late.

The Clinton administration must develop consensus for a new regime, that is stronger than the current regimes, which operate on the basis of national discretion. The new regime is not to be viewed as merely a gap filler for the current nonproliferation regimes because they themselves do not have any real enforcement mechanisms. It must utilize some of the characteristics that made CoCom work such as veto power and prenotification of exports with viable enforcement mechanisms.

The new regime must be designed with the goal of preventing any country, rich or poor, from building weapons of mass destruction. It must be especially sensitive to nations like Iran, Iraq, North Korea, Libya, Syria, and Cuba that support terrorism or other behavior that is inconsistent with international peace and security.

The United States must convince our allies to work with us to slow the spread of dangerous weapons. We need to show our allies the importance of discretion in this still unstable world. Carelessness on the part of our allies will make it easier for the nuclear states to buy or build weapons of mass destruction.

In order to achieve that goal, the Clinton administration must act with diplomacy and assertiveness in making this happen. They need to stop acting like a second-rate power and assume the role that has been achieved over many decades, that of a world leader. If they fail to accomplish this goal then we will once again prove to be a world leader with no leadership and have to deal with export controls that really have no control.

Mr. President, this resolution expresses how extremely important it is that the President work with our allies in order to achieve a clearly defined and enforceable agreement which establishes a multilateral export control system for the anti-proliferation of products and technologies to rogue regimes that would jeopardize the national security of the United States.

I ask my colleagues to support this measure and to let the administration know how extremely important this is to U.S. national security and to world security.

Mr. RIEGLE. Mr. President, I urge adoption of the sense-of-the-Senate amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1665) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMUNITY REINVESTMENT ACT IMPLICATIONS

Mr. WELLSTONE. Mr. President, I would like to engage Senator RIEGLE in a short colloquy. I believe that there may be some confusion regarding the Community Reinvestment Act [CRA] implications of this legislation. For institutions that operate in more than one State, will S. 1963 require a separate CRA rating for each State in which the institution operates?

Mr. RIEGLE. Yes, it will. In this fashion, S. 1963 seeks to ensure that financial institutions taking advantage of interstate banking continue to meet the needs of all communities that they serve.

For multistate institutions, the bill requires a written evaluation for the entire institution and a separate written evaluation for each State in which the institution maintains one or more domestic branches. Under the Community Reinvestment Act, such evaluations each include the following: First the banking agency's conclusions for each assessment factor identified in the regulations; second the facts and data supporting such conclusions; and third the institution's rating and a statement describing the basis for the rating.

Furthermore, these State level evaluations must also present both the agency's conclusion for each assessment factor and the facts and data supporting such conclusions separately for each metropolitan area in which the institution maintains one or more branches, as well as the remainder of the State if the institution maintains branches in nonmetropolitan areas. The institution will not, however, receive a separate CRA rating for each of the metropolitan and nonmetropolitan areas covered in the State level evaluation.

STATE APPLICABILITY

Mr. GRAHAM. I would like to bring to the attention of the Chairman the concern of a number of my colleagues with the section of the bill dealing with applicable State law. My concern is that the section will result in a significant loss of authority for the States. Currently through their banking laws and their bank holding company statutes, States are able to require all banks to conform with a wide variety of State laws. States have applied laws in the areas of consumer protection, community reinvestment, and fair lending as well as a number of reporting and notification requirements to these institutions.

We need to look at the financial system from the eyes of the users of the services, the consumers. We need to have uniformity and predictability. At the same time we need to have standards that best achieve the needs of the community. We must recognize the diversity of the community needs across the Nation and provide laws that allow communities to reflect those different needs.

I am concerned as are a number of my colleagues that the current language of the bill does not give communities this needed flexibility.

I am also concerned the section of the bill dealing with applicable law may result in many consumers not receiving the full protection of State law in the areas of consumer protection and fair lending practices. The language also reduces the authority of States to guarantee adequate community reinvestment.

Mr. RIEGLE. Let me state for the record that some Senators have expressed concern about the implications of the applicable State law that would govern the operations of branches of out-of-state national banks in their States once this bill is enacted, as you have just mentioned. Under the reported bill, the States do not lose any authority that they already have over national banks. The bill also avoids having two classes of national banks resulting, interstate and intrastate, with each type of bank subject to different laws.

I would just add that we worked hard in the committee to preserve the contours of the dual banking system in crafting this legislation and have not tried to alter the existing balance of power between the Federal and the State levels. The reported bill endeavors to maintain the status quo regarding a State's ability to regulate the activities of national banks operating in that State. However, I remain open to hearing from Senators regarding their suggestions to further fine tune the language that has been drafted in committee on this point. I would of course endeavor to consider their concerns in conference.

Mr. GRAHAM. I appreciate the willingness of the chairman to revisit this issue with an open mind. I would encourage the administration, the OCC, the National Governors' Association, and the Conference of State Bank Supervisors to discuss this issue before the conference committee meets and see if they can make progress toward bridging their differences.

Mr. RIEGLE. I think that having such discussions would be an excellent idea. I would join the Senator in encouraging them to do so.

The PRESIDING OFFICER. Are there further amendments?

Mr. RIEGLE. Mr. President, I ask the Chair to suspend for a moment. There may be one other item.

Mr. President, we forgot one other refinement that needs to be added to the bill. This is an amendment to be offered by myself and Senator D'AMATO having to do with State laws that would have an affect on the date of enactment.

AMENDMENT NO. 1666

Mr. RIEGLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for himself and Mr. D'AMATO, proposes an amendment numbered 1666.

Mr. RIEGLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, line 17, add the following after the period: "a State law in effect on the date of enactment of the Interstate Banking and Branching Act of 1994 that permits bank holding companies from only a limited number of States to acquire banks in existence for a specified length of time, in that State, shall be interpreted, under State and Federal law, as permitting bank holding companies from any State, to acquire a bank in that State, under the terms and conditions of such State law."

Mr. RIEGLE. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1666) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAHAM. Mr. President, I rise today to express my concern about the fact that the bill we are considering today does not include any provisions to allow for interstate expansion by foreign banks.

International banks play a very important role in our economy today. The presence of international banks in our economy has helped not only to supply the credit needs of our Nation but has played an important role in assisting U.S. firms in exporting their goods and services and developing their expertise in successfully competing in the global market. In my home State of Florida, these foreign banks have worked in tandem with local businesses, and in many cases, small business to help them put together successful endeavors. Many U.S. companies have, through the knowledge and expertise of these institutions, been able to find new markets in which to export their U.S. produced products. This bill recognizes the important efficiencies of allowing banks to operate across the United States. I believe we should therefore allow foreign banks to expand.

We have recognized in this bill the desirability of allowing U.S. banks to expand their operations throughout the United States. I am extremely concerned that the current bill is discriminatory because U.S. banks are allowed to expand, but foreign banks operating in the United States are not allowed to expand. National treatment requires that international banks be allowed to expand interstate through direct branches.

The United States has had a long history of providing national treatment to foreign institutions operating in the United States. In fact, when the International Banking Act of 1978 was adopted, the policy of national treatment was embodied in statute.

The U.S. Treasury Department, along with the Federal Reserve has advocated a policy of national treatment. This policy has been the basis of U.S. negotiations on financial services and the concept of national treatment has been employed in many of the Friendship, Commerce and Navigation treaties as well as in a number of agreements relating to financial services that are currently in force with the OECD.

Under Secretary of the Treasury, Frank N. Newman wrote to Senator RIEGLE about this issue on February 22, 1994. Under Secretary Newman points out that the current bill would not permit foreign banks to branch across State lines except through a subsidiary U.S. bank. He points out that:

> [t]he United States has repeatedly objected to similar requirements imposed by foreign countries on U.S. banks that operate abroad. Such requirements disproportionately burden U.S. Banks and thereby deny them equality of competitive opportunity in foreign financial markets. As we work to end discrimination against U.S. financial institutions abroad, and to enact the Fair Trade in Financial Services Act, we will strengthen our hand by providing national treatment to foreign banks operating in the United States.

In addition, the Commission of the European Communities has expressed its concern that the bill does not provide for national treatment in that interstate banking provisions are not extended to foreign banks. They go on to state that they believe that this should be achieved without imposition of a branch roll-up requirement. The letter makes clear that the Second Banking Directive:

> Has been cited incorrectly to justify a subsidiary requirement as a condition for permitting foreign banks to conduct interstate banking in the U.S. * * * Neither the Second Banking Directive nor national legislation of Member States prevent foreign banks from maintaining existing branches or from establishing new ones as a condition for operating in the European Union. Direct branching from outside the European Union by non EU-banks is permitted in Member States of the Union.

Furthermore, the House of Representatives, in passing H.R. 3814, the Interstate Banking Efficiency Act of 1994, recognized the importance of granting interstate expansion to foreign banks.

I hope that when the Conference is convened, the Senate will review the House provisions and adopt them.

Mr. D'AMATO. I would like to ask the chairman of the Banking Committee a question concerning a provision that I believe is in the House-passed version of this legislation. As I understand it, the House bill authorizes depository institutions that are affiliated to act as agents for each other, and that such agents are not considered to be branches under Federal or State law. Was there any consideration to putting a similar provision in the Senate bill?

Mr. RIEGLE. I am glad the Senator raised that point. In fact, Senator SHELBY had discussed with me an amendment that would have authorized banks to conduct certain banking activities through an agent. Under Senator SHELBY's amendment, such an agent would not be considered to be a branch. However, after discussing his proposal with the Comptroller of the Currency, I believe that national banks already possess significant authority to act through agents.

Mr. D'AMATO. I see, so the fact that the amendment was not added to the bill simply reflects that national banks already possess similar authority under current law. Did the Comptroller provide the chairman with any examples?

Mr. RIEGLE. Yes, the Comptroller provided me with a representative list of examples of situations in which national banks have used third parties to provide banking services to their customers. I would ask for unanimous consent to include this list in the RECORD at this point. I would also point out that it is my understanding that under current law any depository institution subsidiary of a depository institution holding company may receive deposits, renew time deposits, close loans, disburse proceeds of loans, and receive payments on loans and other obligations as agent for a depository institution affiliate and the Comptroller's office has recently so opined.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

USE OF THIRD PARTIES BY NATIONAL BANKS TO FACILITATE TRADITIONAL DEPOSIT AND LENDING ACTIVITIES

The following lists situations in which affiliated and nonaffiliated parties assist banks in engaging in traditional banking activities without being considered to be bank branches.

A. Use of telephones and the post office to facilitate deposit transactions does not render such facilities to be branches of national banks. *Independent Bankers Association of America v. Smith*, 534 F.2d 921 (D.C. Cir.), *cert. denied*, 429 U.S. 862 (1976) (excerpt).

B. ATMs owned by a third party (*e.g.*, a supermarket) do not constitute national bank branches even though bank customers may access their accounts through such facilities. *Independent Bankers Association of New York State v. Marine Midland Bank, N.A.*, 757 F.2d 453 (2d Cir. 1985), *cert. denied*, 476 U.S. 1186 (1986).

C. Loan origination activities by national bank through third parties do not constitute branching. 12 C.F.R. §7.7380(a).

D. Disbursal of loan proceeds by national banks through third parties (*e.g.*, at a real estate closing) does not constitute branching. OCC Interpretive Letter of June 23, 1993; OCC Interpretive Letter of April 24, 1992 (general discussion of issue).

E. Use of third party messenger services (*e.g.*, Brinks) to facilitate receipt of deposits and paying of withdrawals does not constitute branching. 12 C.F.R. §7.7490 and as revised January 13, 1993.

F. Use of affiliated banks and thrifts to facilitate banking transactions is not branching. OCC interpretive Letter of October 8, 1992 (intrastate affiliated banks); FDIC Interpretative Letter of August 12, 1993 (intrastate affiliated banks); OCC interpretive Letter of October 18, 1993 (intrastate affiliated banks and thrifts); OCC Interpretive Letter of April 6, 1994 (interstate affiliated banks).

G. Use of third party nonaffiliated nonbank to facilitate deposit taking by national banks is not branching. OCC Interpretive Letter (October 5, 1993).

Mr. RIEGLE. Mr. President, I ask for third reading of the bill.

The PRESIDING OFFICER. The clerk will read the bill for the third time.

The bill clerk read the bill for the third time.

Mr. D'AMATO. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 3841 and then without objection the Senate then immediately proceed to its consideration, and all after the enacting clause be stricken and the text of our bill S. 1963, as amended, be inserted in lieu thereof.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

Mr. RIEGLE. And the bill be advanced to third reading.

The PRESIDING OFFICER. The clerk will read the bill for a third time.

The bill (H.R. 3841) was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The question is on the passage of the bill.

So the bill (H.R. 3841) as amended, was passed, as follows:

H.R. 3841

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—INTERSTATE BANKING AND BRANCHING

SEC. 101. SHORT TITLE.

This title may be cited as the "Interstate Banking and Branching Act of 1994".

SEC. 102. INTERSTATE BANKING.

(a) IN GENERAL.—Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended to read as follows:

"(d) STATE BOUNDARIES.—

"(1) APPROVALS AUTHORIZED.—

"(A) ACQUISITION OF EXISTING BANKS.—The Board may approve an application under this section to permit a bank holding company that is adequately capitalized and adequately managed to acquire control of, or all or substantially all of the assets of, an existing bank located outside of the home State of such bank holding company.

"(B) EXISTING BANKS.—For purposes of this subsection, a bank that does not open for business and that has been chartered solely for the purpose of acquiring control of, or all or substantially all of the assets of, an existing bank shall be deemed to have been in existence for the same period of time as the bank to be acquired.

"(C) COMMUNITY REINVESTMENT COMPLIANCE.—In determining whether to approve an application under subparagraph (A), the Board shall consider the applicant's record of compliance with applicable Federal and State community reinvestment laws.

"(D) STATE LAW.—Subject to paragraphs (2), (4), and (6), a transaction approved under subparagraph (A) may occur without regard to whether such transaction is permitted under the law of the State in which the bank to be acquired is located.

"(2) CONCENTRATION AND OTHER LIMITS.—The Board may not approve an application under paragraph (1)(A) if—

"(A) the applicant controls, or upon completion of the acquisition would control, more than 10 percent of the total deposits held by insured depository institutions in the United States, as determined under regulations of the Board;

"(B) the applicant controls, or upon completion of the acquisition would control, 25 percent or more of the total deposits held by insured depository institutions in the State in which the bank to be acquired is located, as determined under regulations of the Board, except that the State bank supervisor may waive the applicability of this clause on a case-by-case basis if such waiver does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries thereof; or

"(C) the acquisition would result in the applicant directly or indirectly controlling a bank that has been in existence for a shorter period of time, if any, than is prescribed by the law of the State in which such bank is located in effect on the date on which the application is filed with the Board, only if such State law—

"(i) does not prescribe a period of more than 5 years; and

"(ii) does not have the effect of discriminating among out-of-State banks, out-of-State bank holding companies, or subsidiaries thereof. A State law in effect on the date of enactment of the Interstate Banking and Branching Act of 1994 that permits bank holding companies from only a limited number of States to acquire banks in existence for a specified length of time in that State, shall be interpreted, under State and Federal law, as permitting bank holding companies from any State, to acquire a bank in that State, under the terms and conditions of such State law.

"(3) EXCEPTION.—The Board may approve an application under paragraph (1)(A), notwithstanding any provision of paragraph (2), if such application involves the acquisition of one or more banks in default or in danger of default or with respect to which the Federal Deposit Insurance Corporation provides assistance under section 13(c) of the Federal Deposit Insurance Act.

"(4) NO EFFECT ON ANTITRUST LAWS.—Nothing in this subsection affects Federal or State antitrust laws that do not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries thereof.

"(5) NO EFFECT ON STATE TAX AUTHORITY.—No provision of this Act shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, and administer any tax or method of taxation to any bank, bank holding company, or foreign bank or to any affiliate of any bank, bank holding company, or foreign bank to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.

"(6) EFFECT ON STATE CONTINGENCY LAWS.—Nothing in this subsection affects the applicability of a State law that makes an acquisition of a bank contingent upon a requirement to hold a portion of such bank's assets available for call by a State-sponsored housing entity established pursuant to State law, if—

"(A) the State law does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries thereof;

"(B) that State law was in effect as of the date of enactment of the Interstate Banking and Branching Act of 1994;

"(C) the Federal Deposit Insurance Corporation has not determined that compliance with such State law would result in an unacceptable risk to the appropriate deposit insurance fund; and

"(D) the appropriate Federal banking agency for such institution has not found that compliance with such State law would place the institution in an unsafe or unsound condition.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end the following new subsections:

"(n) INCORPORATED DEFINITIONS.—For purposes of this Act, the terms 'insured depository institution', 'appropriate Federal banking agency', 'in default', 'in danger of default', and 'State bank supervisor' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

"(o) OTHER DEFINITIONS.—For purposes of this Act—

"(1) the 'home State' of a bank holding company is the State in which the total deposits of its banking subsidiaries were largest on July 1, 1966, or the date on which such company became a bank holding company, whichever is later;

"(2) the 'home State' of a bank is—

"(A) in the case of a State bank, the State in which it was chartered; and

"(B) in the case of a national bank, in the State in which its main office is located; and

"(3) a bank holding company is 'adequately capitalized' if it meets or exceeds all applicable Federal regulatory capital standards.".

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective 1 year after the date of enactment of this Act.

SEC. 103. CONVERSION OF BANKS TO BRANCHES.

(a) IN GENERAL.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end the following new subsection:

"(h) INTERSTATE COMBINATIONS.—

"(1) IN GENERAL.—

"(A) COMBINATIONS AUTHORIZED.—Beginning on June 1, 1997, a bank holding company having subsidiary banks located in more than 1 State may combine 2 or more of such banks into a single, resulting bank by means of a merger, consolidation, or other transaction approved by the appropriate Federal banking agency.

"(B) CONTINUED OPERATIONS.—A resulting bank may, subject to the approval of the appropriate Federal banking agency, retain and operate as branches the main offices and any branches which, immediately prior to the transaction, were being operated by any combined bank or the resulting bank.

"(C) SURRENDER OF CHARTER AFTER COMBINATION.—On the date on which a combination authorized by this paragraph becomes effective, the charters of the combined banks shall be surrendered to the regulatory authority that issued the charters.

"(2) APPLICABILITY.—A combination under paragraph (1) may only be effected in the case of a merger, consolidation, or other transaction that is undertaken by a bank holding company that is adequately capitalized and adequately managed.

"(3) ACTIVITIES OF THE RESULTING BANK.—

"(A) ADDITIONAL BRANCHES.—Following any combination effected under paragraph (1), the resulting bank may establish, acquire, or operate additional branches at any location where the resulting bank or a combined bank could have established, acquired, or operated a branch under the applicable Federal or State law as if it had not been a party to such combination.

"(B) INTRASTATE BRANCHING.—Except as expressly provided in this subsection, nothing in this subsection shall be deemed to amend, repeal, or preempt, either expressly or by implication, any Federal or State law relating to the establishment, acquisition, or operation of intrastate branches by national or State banks.

"(C) CONDITIONS.—Prior to granting approval to effect a combination under paragraph (1), the appropriate Federal banking agency shall consider each bank's rating under the Community Reinvestment Act of 1977 and the comments of the appropriate State bank regulatory authorities regarding each bank's compliance with applicable State community reinvestment laws.

"(D) IMPOSITION OF SHARES TAX BY HOST STATES.—If any branch of an out-of-State bank established pursuant to paragraph (1) or subparagraph (A) of this paragraph continues in operation, a proportionate amount of the value of the shares of the out-of-State bank may be subject to any bank shares tax levied or imposed by any host State or political subdivision thereof that imposes such tax based upon a method adopted by the host State, which could include allocation and apportionment.

"(4) ACTIVITIES OF BRANCHES.—A State bank that establishes one or more branches in accordance with paragraph (1) or paragraph (3)(A) may not conduct any activity at any branch located in a host State that is not permitted for banks chartered by such host State.

"(5) APPLICABLE LAW.—

"(A) IN GENERAL.—

"(i) NATIONAL BANK BRANCHES.—Any branch of a national bank that is established as the result of a combination in accordance with paragraph (1) or paragraph (3)(A) shall be subject to the laws of the host State, including those that govern intrastate branching, consumer protection, fair lending, and community reinvestment, as if it were a branch of a national bank having its main office in that State.

"(ii) STATE BANK BRANCHES.—Any branch of a State bank that is established as the result of a combination in accordance with paragraph (1) or paragraph (3)(A) shall be subject to the laws of the host State, including those that govern intrastate branching, consumer protection, fair lending, and community reinvestment, as if it were a branch of a bank chartered under the laws of such State.

"(B) FILING REQUIREMENT.—A host State may require any bank located in another State that wishes to establish a branch within the host State as a result of a combination authorized by paragraph (1) to comply with filing requirements that—

"(i) are not discriminatory in effect; and

"(ii) are similar in their effect to and are subject to similar sanctions as those that are imposed on a corporation having its main office in another State that is not engaged in the business of banking and that seeks to engage in business in the host State.

"(6) STATE ELECTION TO PROHIBIT INTERSTATE COMBINATIONS.—

"(A) IN GENERAL.—Paragraph (1) does not apply to a bank holding company located in a State that has enacted a law after the date of enactment of this subsection and prior to June 1, 1997, that applies equally to all out-of-State banks, and that expressly prohibits interstate combinations involving a bank located in the State, as authorized under paragraph (1).

"(B) EFFECT OF PROHIBITION.—A bank located in a State that has in effect a prohibition described in subparagraph (A) may not be combined, and shall have no authority to be combined under paragraph (1), with a bank located outside of that State.

"(C) EFFECT OF STATE ELECTION.—A law enacted by a State pursuant to subparagraph (A) or paragraph (8) shall have no effect on combinations that were approved prior to the effective date or the date of enactment of such law, whichever is later.

"(7) STATE ELECTION TO PERMIT INTERSTATE COMBINATIONS.—A combination under paragraph (1) may be undertaken prior to June 1, 1997, if each of the States in which 1 or more banks that are to be combined into a single, resulting bank is located has in effect on the date on which the combination is approved a law that applies equally to all out-of-State banks and that expressly permits interstate combinations by national and State-chartered banks. A State described in the preceding sentence may impose conditions on the branch of the resulting bank located in that State if—

"(A) the conditions do not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries thereof (other than on the basis of a reciprocal treatment requirement);

"(B) the imposition of the conditions is not preempted by Federal law; and

"(C) the conditions do not apply or require performance beyond June 1, 1997.

"(8) COMBINATIONS AFTER JUNE 1, 1997.—A State described in paragraphs (6) or (7) may elect at any later time to permit or withdraw permission for interstate combinations authorized under paragraph (1) if such State enacts a law that applies equally to all out-of-State banks and that expressly permits (or withdraws permission for, as the case may be) interstate combinations by all national and State banks.

"(9) LIMITATIONS.—Nothing in this subsection—

"(A) affects Federal or State antitrust laws that do not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries thereof; or

"(B) affects section 5197 of the Revised Statutes or section 27 of the Federal Deposit Insurance Act.

"(10) RESERVATION OF CERTAIN RIGHTS TO STATES.—Nothing in this subsection limits in any way the right of a State to—

"(A) determine the authority of State banks chartered in that State to acquire, establish, and maintain branches; or

"(B) supervise, regulate, and examine State banks chartered by that State.

"(11) NO EFFECT ON STATE TAX AUTHORITY.—No provision of this Act shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, and administer any tax or method of taxation to any bank, bank holding company, or foreign bank or to any affiliate of any bank, bank holding company, or foreign bank to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.

"(12) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'combined bank' means any bank participating in a combination under paragraph (1), other than the resulting bank;

"(B) the term 'host State' means the State in which a bank establishes or maintains a branch other than the State in which the bank is located and engaged in the business of banking;

"(C) a bank shall be deemed to be 'located'—

"(i) in the case of a State bank, in the State in which it was chartered; and

"(ii) in the case of a national bank, in the State in which its main office is located;

"(D) the term 'resulting bank' means a banking subsidiary of a bank holding company that has resulted from a transaction effected under paragraph (1) involving the combination of 2 or more subsidiary banks of the bank holding company located in 2 or more States; and

"(E) the term 'State bank' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".

(b) CONFORMING AMENDMENT TO THE NATIONAL BANK ACT.—Section 5155(c) of the Revised Statutes (12 U.S.C. 36(c)) is amended in the first sentence, by striking "A national banking association" and inserting "Except as provided in section 3(h) of the Bank Holding Company Act of 1956, a national banking association".

SEC. 104. AMENDMENTS TO FEDERAL DEPOSIT INSURANCE ACT AND THE ACT ENTITLED "AN ACT TO PROVIDE FOR THE CONSOLIDATION OF NATIONAL BANKING ASSOCIATIONS".

(a) FEDERAL DEPOSIT INSURANCE ACT AMENDMENTS.—Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended by adding at the end the following new paragraphs:

"(3) COORDINATION OF EXAMINATION AUTHORITY.—

"(A) IN GENERAL.—The appropriate State official of a host State may examine a branch operated in such State of a bank chartered by a State other than that host State that resulted from a combination effected under section 3(h) of the Bank Holding Company Act of 1956—

"(i) for the purpose of determining compliance with host State laws, including those that govern banking, taxation, community reinvestment, fair lending, consumer protection, and permissible activities; and

"(ii) to ensure that the activities of the branch are not conducted in an unsafe or unsound manner.

"(B) ENFORCEMENT.—In the event that the State bank supervisor of the host State determines that there is a violation of the law of the host State concerning the activities being conducted by a branch described in subparagraph (A), the State bank supervisor of the host State may undertake such enforcement actions and proceedings as would be permitted under the law of the host State as if the branch were a bank chartered by that host State.

"(C) COOPERATIVE AGREEMENT.—The State bank supervisors from 2 or more States may enter into cooperative agreements to facilitate State regulatory supervision of State-chartered banks, including cooperative agreements relating to the coordination of examinations and joint participation in examinations.

"(D) FEDERAL REGULATORY AUTHORITY.—Nothing in this subsection limits in any way the authority of the appropriate Federal banking agency to examine or to take any enforcement actions or proceedings against any bank or branch of a bank for which the agency is the appropriate Federal banking agency.

"(E) REVIEW OF INTERSTATE AGREEMENTS.—If the appropriate Federal banking agency determines that the States have reached an agreement under subparagraph (C) that adequately protects the deposit insurance funds, the appropriate Federal banking agency may defer to State examinations of branches operated in the host State by out-of-State banks.

"(4) NO EFFECT ON STATE TAX AUTHORITY.—No provision of this Act shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, and administer any tax or method of taxation to any bank, bank holding company, or foreign bank or to any affiliate of any bank, bank holding company, or foreign bank to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.".

(b) NATIONAL BANKING ASSOCIATIONS.—The Act entitled "An Act to provide for the consolidation of national banking associations", approved November 7, 1918 (12 U.S.C. 215 et seq.) is amended—

(1) in the first sentence of subsection (a) of the first section, by inserting ", or in any State in which a bank is authorized to engage in an interstate consolidation pursuant to section 3(h) of the Bank Holding Company Act of 1956," after "located in the same State";

(2) by inserting before the period at the end of subsection (d) of the first section ", except that the applicability of State law to an interstate consolidation undertaken in accordance with section 3(h) of the Bank Holding Company Act of 1956 is determined in accordance with the provisions of that section";

(3) by adding at the end of the first section the following new subsection:

"(h) An interstate consolidation—

"(1) shall be undertaken under this section pursuant to the procedures, restrictions, and requirements—

"(A) set forth in section 3(h) of the Bank Holding Company Act of 1956 as if such interstate consolidation were a combination under that section; and

"(B) set forth in this section, to the extent that such procedures, restrictions, and requirements are not inconsistent with those of section 3(h) of the Bank Holding Company Act of 1956; and

"(2) involving banks that are not affiliated (as such term is defined in section 2 of the Bank Holding Company Act of 1956) shall meet the requirements of section 3(d) of the Bank Holding Company Act of 1956, as determined by the Comptroller of the Currency, as if such consolidation were an acquisition under that section 3(d).";

(4) in the first sentence of section 2(a)—

(A) by striking "under an agreement not inconsistent with this Act,"; and

(B) by inserting "or within any State in which a bank is authorized to engage in an interstate merger pursuant to section 3(h) of the Bank Holding Company Act of 1956," after "located within the same State,";

(5) in the sixth sentence of section 2(d) by inserting before the period ", except that the applicability of State law to a merger undertaken in accordance with section 3(h) of the Bank Holding Company Act of 1956 is determined in accordance with the provisions of that section";

(6) in section 2, by adding at the end the following new subsection:

"(h)(1) An interstate merger—

"(A) shall be undertaken under this section pursuant to the procedures, restrictions, and requirements—

"(i) set forth in section 3(h) of the Bank Holding Company Act of 1956 as if such merger were a combination under that section; and

"(ii) set forth in this section, to the extent that such procedures, restrictions, and requirements are not inconsistent with those of section 3(h) of the Bank Holding Company Act of 1956; and

"(B) involving banks that are not affiliated (as such term is defined in section 2 of the Bank Holding Company Act of 1956) shall meet the requirements of section 3(d) of the Bank Holding Company Act of 1956, as determined by the Comptroller of the Currency, as if such merger were an acquisition under that section 3(d).

"(2) Paragraph (1) shall apply to a State member bank involved in an interstate merger on the same terms and conditions and subject to the same procedures, restrictions, and requirements as are applicable to the consolidation of branches by a national banking association involved in an interstate merger."; and

(7) in paragraph (4) of section 3, by inserting "or within any State in which a bank is authorized to engage in an interstate consolidation, merger, or other transaction pursuant to section 3(h) of the Bank Holding Company Act of 1956," after "within the same State,".

SEC. 105. ACQUISITION OF INTERSTATE BRANCHES BY NATIONAL AND STATE BANKS.

(a) ACQUISITION OF INTERSTATE BRANCHES BY STATE BANKS.—Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended by adding at the end the following new paragraphs:

"(4) INTERSTATE BRANCHING BY STATE BANKS.—

"(A) IN GENERAL.—Beginning on the date of enactment of this paragraph, notwithstanding any other provision of law, a host State may, expressly by statute and not merely by implication, permit all out-of-State banks to acquire or establish a branch in the host State on a basis that does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries thereof. A branch established under this paragraph shall be operated in accordance with the procedures, restrictions, and requirements set forth in section 3(h) of the Bank Holding Company Act of 1956, and the provisions of that section shall apply to the branch as if the branch resulted from a combination effected in accordance with paragraph (1) of that section 3(h).

"(B) FDIC APPROVAL.—A State nonmember bank may acquire, establish, and operate a branch under this paragraph only if the bank is adequately capitalized and adequately managed and with the prior consent of the Corporation.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'host State' means a State in which a bank acquires, establishes, or maintains a branch, other than the State in which the bank is located and engaged in the business of banking;

"(B) a bank shall be deemed to be 'located'—

"(i) in the case of a State bank, in the State in which it was chartered; and

"(ii) in the case of a national bank, in the State in which its main office is located; and

"(C) the term 'adequately capitalized' has the same meaning as in section 38.".

(b) INTERSTATE BRANCHING BY NATIONAL BANKS.—Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended—

(1) by redesignating subsections (d) through (h) as subsections (e) through (i), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d) INTERSTATE BRANCHING BY NATIONAL BANKS.—

"(1) APPROVALS AUTHORIZED.—Notwithstanding any other provision of law, the Comptroller of the Currency may approve an application under this subsection for a national bank that is adequately capitalized and adequately managed to acquire or establish a branch in a host State if the host State expressly permits, pursuant to section 18(d)(4) of the Federal Deposit Insurance Act, all out-of-State banks to establish such branches. Each such branch shall be operated in accordance with the procedures, restrictions, and requirements set forth in section 3(h) of the Bank Holding Company Act of 1956, and the provisions of that section shall apply to the branch as if the branch resulted from a combination effected in accordance with paragraph (1) of that section 3(h).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'host State' means the State in which a national bank establishes a branch under paragraph (1); and

"(B) the term 'adequately capitalized' has the same meaning as in section 38 of the Federal Deposit Insurance Act.".

SEC. 106. COMMUNITY REINVESTMENT ACT EVALUATION OF BANKS WITH INTERSTATE BRANCHES.

(a) IN GENERAL.—Section 807 of the Community Reinvestment Act of 1977 (12 U.S.C. 2906) is amended by adding at the end the following new subsections:

"(d) INSTITUTIONS WITH INTERSTATE BRANCHES.—

"(1) STATE-BY-STATE EVALUATION.—In the case of a regulated financial institution that maintains domestic branches in 2 or more States, the appropriate Federal financial supervisory agency shall prepare—

"(A) a written evaluation of the entire institution's record of performance under this title, as required by subsections (a), (b), and (c); and

"(B) for each State in which the institution maintains 1 or more domestic branches, a separate written evaluation of the institution's record of performance within such State under this title, as required by subsections (a), (b), and (c).

"(2) MULTISTATE METROPOLITAN AREAS.—In the case of a regulated financial institution that maintains domestic branches in 2 or more States within a multistate metropolitan area, the appropriate Federal financial supervisory agency shall prepare a separate written evaluation of the institution's record of performance within such metropolitan area under this title, as required by subsections (a), (b), and (c). If the agency prepares a written evaluation pursuant to this paragraph, the scope of the written evaluation required under paragraph (1)(B) shall be adjusted accordingly.

"(3) CONTENT OF STATE LEVEL EVALUATION.—A written evaluation prepared pursuant to paragraph (1)(B) shall—

"(A) present the information required by subparagraphs (A) and (B) of subsection (b)(1) separately for each metropolitan area in which the institution maintains 1 or more domestic branch offices and separately for the remainder of the nonmetropolitan area of the State if the institution maintains 1 or more domestic branch offices in such nonmetropolitan area; and

"(B) describe how the Federal financial supervisory agency has performed the examination of the institution, including a list of the individual branches examined.

"(e) DEFINITIONS.—For purposes of this section the following definitions shall apply:

"(1) DOMESTIC BRANCH.—The term 'domestic branch' means any branch office or other facility of a regulated financial institution that accepts deposits, located in any State.

"(2) METROPOLITAN AREA.—The term 'metropolitan area' means any primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area, as defined by the Director of the Office of Management and Budget, with a population of 250,000 or more, and any other area identified by the appropriate Federal financial supervisory agency.

"(3) STATE.—The term 'State' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".

(b) SEPARATE PRESENTATION.—Section 807(b)(1) of the Community Reinvestment Act of 1977 (12 U.S.C. 2906(b)(1)) is amended—

(1) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively;

(2) by striking "The public" and inserting the following:

"(A) CONTENTS OF WRITTEN EVALUATION.—The public"; and

(3) by adding at the end the following new subparagraph:

"(B) METROPOLITAN AREA DISTINCTIONS.—The information required by clauses (i) and (ii) of subparagraph (A) shall be presented separately for each metropolitan area in which a regulated depository institution maintains one or more domestic branch offices.".

SEC. 107. FLEXIBILITY IN CHOOSING BOARDS OF DIRECTORS.

Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended in the first sentence by striking "two-thirds" and inserting "a majority".

SEC. 108. GAO REPORT ON DATA COLLECTION UNDER INTERSTATE BRANCHING.

(a) IN GENERAL.—The Comptroller General shall submit to the Congress, not later than 9 months after the date of enactment of this Act, a report that—

(1) examines statutory and regulatory requirements for insured depository institutions to collect and report deposit and lending data; and

(2) determines what modifications to such requirements are needed, so that implementing the interstate branching provisions contained in this Act results in no material loss of information important to regulatory or congressional oversight of insured depository institutions.

(b) CONSULTATION.—The Comptroller General, in preparing the report required by this section, shall consult with individuals representing the appropriate Federal banking agencies, insured depository institutions, consumers, community groups, and other interested parties.

(c) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 109. MAXIMUM INTEREST RATE ON CERTAIN FmHA LOANS.

(a) IN GENERAL.—Section 307(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)) is amended—

(1) in paragraph (3)(A), by striking "Except" and inserting "Notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved, except"; and

(2) in paragraph (5)—

(A) by striking "(5) The" and inserting "(5)(A) Except as provided in subparagraph (B), the"; and

(B) by adding at the end the following new subparagraph:

"(B) In the case of a loan made under section 310B as a guaranteed loan, subparagraph (A) shall apply notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved.".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by subsection (a) shall apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in a State on or after the date of enactment of this Act.

(2) STATE OPTION.—Except as provided in paragraph (3), the amendments made by subsection (a) shall not apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in a State after the date (that occurs during the 3-year period beginning on the date of enactment of this Act) on which the State adopts a law or certifies that the voters of the State have voted in favor of a provision of the constitution or law of the State that states that the State does not want the amendments made by subsection (a) to apply with respect to loans made, insured, or guaranteed under such Act in the State.

(3) TRANSITIONAL PERIOD.—In any case in which a State takes an action described in paragraph (2), the amendments made by subsection (a) shall continue to apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in the State after the date the action was taken pursuant to a commitment for the loan that was entered into during the period beginning on the date of enactment of this Act, and ending on the date on which the State takes the action.

TITLE II—BANK AND THRIFT STATUTE OF LIMITATIONS

SEC. 201. SHORT TITLE.

This title may be cited as the "Bank and Thrift Statute of Limitations Clarification Act of 1994".

SEC. 202. AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.

Section 11(d)(14)(B)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)(B)(i)) is amended by inserting after "receiver" the following: ", regardless of whether the claim may have been barred under any otherwise applicable statute of limitation at the date of such appointment, unless such claim was barred more than 5 years before the date of such appointment".

SEC. 203. APPLICABILITY.

The amendment made by section 202 shall apply to all actions pending or brought by the Federal Deposit Insurance Corporation and the Resolution Trust Corporation as conservator or receiver on or after August 9, 1989.

TITLE III—FINANCIAL SERVICES

SEC. 301. SHORT TITLE.

This title may be cited at the "National Commission on Financial Services Act".

SEC. 302. ESTABLISHMENT OF NATIONAL COMMISSION ON FINANCIAL SERVICES.

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Commission on Financial Services" (hereafter in this title referred to as the "Commission").

(b) MEMBERSHIP OF THE COMMISSION.—

(1) COMPOSITION.—The Commission shall be composed of 7 voting members and 3 nonvoting members appointed as follows:

(A) Three voting members and 1 nonvoting member to be appointed by the President.

(B) Two voting members and 1 nonvoting member to be appointed jointly by the Majority Leader of the Senate and the Speaker of the House of Representatives.

(C) Two voting members and 1 nonvoting member appointed jointly by the Minority Leader of the Senate and the Minority Leader of the House of Representatives.

(2) QUALIFICATIONS.—

(A) VOTING MEMBERS.—

(i) IN GENERAL.—Voting members appointed pursuant to paragraph (1) shall be appointed from among individuals who are users of the financial services system, and shall include representatives of business, agriculture, and consumers.

(ii) PROHIBITION.—No voting member of the Commission shall be an employee of the Federal Government or any State government.

(B) NONVOTING MEMBERS.—Nonvoting members appointed pursuant to paragraph (1) shall be appointed from among individuals who are experts in finance or in the financial services system.

(3) APPOINTMENT.—The appointment of the members of the Commission shall be made not later than June 30, 1994.

(4) TERMS.—Members shall be appointed for the life of the Commission.

(5) VACANCIES.—A vacancy in the Commission shall not affect the powers of the Commission and shall be filled in the same manner in which the original appointment was made.

(6) CHAIRPERSON.—The President shall designate 1 of the voting members of the Commission to serve as the chairperson of the Commission (hereafter in this title referred to as the "Chairperson").

(7) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(8) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(9) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

SEC. 303. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall, after consultation in accordance with paragraph (3), conduct a study of all matters relating to the strengths and weaknesses of the United States financial services system in meeting the needs of users of the system, including all laws, regulations, and policies that govern part or all of the financial services industry or that affect the ability of the financial services industry to effectively and efficiently meet the needs of—

(A) the United States economy;

(B) individual consumers and households;

(C) communities;

(D) agriculture;

(E) small-, medium-, and large-sized businesses (including the need for debt, equity, and other financial needs);

(F) governmental and nonprofit entities; and

(G) exporters and other users of international financial services.

(2) MATTERS STUDIED.—The study required under paragraph (1) shall include consideration of—

(A) the changes underway in the national and international economies and the financial services industry, and the impact of such changes on the ability of the financial services system to efficiently meet the needs of the United States economy and the users of the system during the next 10 years and beyond;

(B) the adequacy of the existing framework of Federal and State laws and regulations, and the extent to which Federal laws and regulations, in an efficient and cost-effective manner—

(i) achieve consumer protection objectives;

(ii) promote competition and prevent anticompetitive acts and practices or undue concentration;

(iii) ensure that the financial services are delivered in a nondiscriminatory and cost-efficient manner; and

(iv) ensure access to the financial services system for all potential users of the system, regardless of where such users are located; and

(C) the extent to which the Federal regulatory structure impacts the achievement of the objectives in subparagraph (B).

(3) CONSULTATION.—Consultation in accordance with this paragraph means consultation with—

(A) the Board of Governors of the Federal Reserve System;

(B) the Director of the Office of Thrift Supervision;

(C) the Chairperson of the Federal Deposit Insurance Corporation;

(D) the Comptroller of the Currency;

(E) the Secretary of the Treasury;

(F) the Secretary of the Department of Housing and Urban Development;

(G) the Securities Exchange Commission;

(H) the Commodities Futures Trading Commission;

(I) the Director of the Congressional Budget Office; and

(J) the Comptroller General of the United States.

(b) RECOMMENDATIONS.—Based on the results of the study conducted under subsection (a), the Commission shall develop specific recommendations for changes in laws and regulations to improve the operation of the United States financial services system, including needed changes in the Federal legislative and regulatory policies and in the Federal regulatory structure that would enhance—

(1) the ability of the financial services system, or any part thereof, to respond to the needs of all potential users of the system;

(2) the systemic safety of the financial services system;

(3) the cost of financial services to users of the system;

(4) the competitiveness of the various providers of financial services;

(5) how funds are allocated to the financial services system; and

(6) how funds are allocated by the financial services system to users of the system or to specific categories of users.

(c) REPORT.—Not later than March 31, 1995, the Commission shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report describing the activities of the Commission, including the study conducted under subsection (a) and any recommendations developed under subsection (b).

SEC. 304. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section.

(b) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any Federal department or agency such information (other than information required by any statute of the United States to be kept confidential by such department or agency) as the Commission considers necessary to carry out its duties under this section. Upon the request of the Chairperson, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

SEC. 305. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson may, without regard to the civil service laws and regulations, appoint and terminate an executive director and not more than 2 additional professional staff members to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairperson may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to the classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(d) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Chairperson, any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Chairperson, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

SEC. 306. TERMINATION OF COMMISSION.

The Commission shall terminate 30 days after the date of submission of the report required under section 303(c). All records and papers of the Commission shall thereupon be delivered by the Administrator of General Services for deposit in the National Archives.

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this Act.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

TITLE IV—GENERAL PROVISIONS

SEC. 401. MOUNT RUSHMORE COMMEMORATIVE COIN ACT.

(a) DISTRIBUTION OF SURCHARGES.—Section 8 of the Mount Rushmore Commemorative Coin Act (104 Stat. 314; 31 U.S.C. 5112 note) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) the first $18,750,000 shall be paid during fiscal year 1994 by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial; and

"(2) the remainder shall be returned to the Federal Treasury for purposes of reducing the national debt.".

(b) RETROACTIVE EFFECT.—If, prior to the enactment of this Act, any amount of surcharges have been received by the Secretary of the Treasury and paid into the United States Treasury pursuant to section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect prior to the enactment of this Act, that amount shall be paid out of the Treasury to the extent necessary to comply with section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect after the enactment of this Act. Amounts paid pursuant to the preceding sentence shall be out of funds not otherwise appropriated.

(c) NUMISMATIC OPERATING PROFITS.—Nothing in this section shall be construed to affect the Secretary of the Treasury's right to derive operating profits from numismatic programs for use in supporting the United States Mint's numismatic operations and programs or to allow the distribution of operating profits from the Numismatic Public Enterprise Fund to a recipient organization under any numismatic program.

SEC. 402. SENSE OF THE SENATE CONCERNING MULTILATERAL EXPORT CONTROLS.

(a) FINDINGS.—The Senate finds that—

(1) the United States and its allies have agreed that as of March 31, 1994, the Coordinating Committee (hereafter referred to as "COCOM"), the multilateral body that controlled strategic exports to the former Soviet Union and other Communist States, ceased to exist;

(2) no successor has yet been established to replace the COCOM;

(3) threats to United States security are posed by rogue regimes that support terrorism as a matter of national policy;

(4) a critical element of the United States proposal for a successor to COCOM is that supplier nations agree on a list of militarily critical products and technologies that would be denied to a handful of rogue regimes;

(5) some allies of the United States oppose this principle and instead propose that such controls be left to "national discretion", effectively replacing multilateral export controls with a loose collection of unilateral export control policies which would be adverse for United States security and economic interests;

(6) multilateral controls are needed to thwart efforts of Iran, Iraq, North Korea, Libya, and other rogue regimes, to acquire arms and sensitive dual-use goods and technologies that could contribute to their efforts to build weapons of mass destruction; and

(7) the United States would be forced to make the difficult choice of choosing between unilateral export controls under the Export Administration Act of 1979, which would put American companies at a competitive disadvantage worldwide, or allowing exports that could seriously harm the national security interests of the United States.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President should work to achieve a clearly defined and enforceable agreement with allies of the United States which establishes a multilateral export control system for the proliferation of products and technologies to rogue regimes that would jeopardize the national security of the United States; and

(2) the President should persuade allies of the United States to promote mutual security interests by preventing rogue regimes from obtaining militarily critical products and technologies.

Mr. RIEGLE. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, I move that the Senate insist on its amendment and request a conference with the House of Representatives on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. RIEGLE. Mr. President, I thank my colleague, Senator D'AMATO, and all other colleagues who worked with us on this legislation. It is an important piece of legislation and it has now been passed. We go to conference. I am eager to do so. I thank all involved for their cooperation.

I now suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, let me commend the staff of the Banking Committee, both the majority staff and minority staff.

I certainly commend Chairman RIEGLE for his job in moving this important legislation that will permit us to compete in the marketplaces of our country without regard to boundaries that have little sense today in light of the banking system that has evolved worldwide.

Again, while the logic of this legislation, I believe, is irrefutable, the fact is that political considerations and policy considerations are important to many of the independent bankers. Over a period of time, they kept this legislation from moving forward.

Hopefully, we will see a reduction in cost and increase in earnings and more opportunities for consumers. There is a whole host of reasons why this legislation is necessary.

Again, I commend the chairman for his leadership in undertaking this important matter. He did it in a way which protected people's rights and yet kept a relatively clean bill so that it would not be loaded down with contentious matters that would ultimately lead to its defeat. There is no sense in passing a bill in one House without recognizing the considerations that the other body would be looking to.

So I commend the chairman for his artful and yet forceful leadership.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask unanimous consent that S. 1963 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FORD. Mr. President, I now ask unanimous consent that there be a period for morning business with Senators permitted to speak for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota.

THE BANKING BILL

Mr. DORGAN. Mr. President, I arrived in the Chamber just as they were moving to final passage, and I did not want to interrupt the flow of what they were doing.

The chairman has done a wonderful job managing this bill, the Interstate Banking and Branching Act. I know that he has had some difficulty with some health concerns in his family and was leaving. So I did not want to interrupt it.

I did want to take a moment to say a few words on this bill.

I did vote "no." Although we did not have a rollcall vote, when you asked for a voice vote I said "no" largely because I think this bill causes some very significant concerns, at least for me and I hope some others in this country.

I am very concerned about some parts of the banking industry in our country. I should not mean to represent that as the entire industry. But I pick up the newspaper and read about banks losing money under derivatives—something most people cannot even explain—but a kind of financial casino game, I worry about that.

I worried when the S&L's were buying junk bonds, and I was on the floor of the House at that point and the House passed the legislation that prohibited S&L's from buying junk bonds again and I remember they had junk bonds and spent over $100 billion to get rid of them. I was concerned about that.

I am concerned when I read about banks involved in trading derivatives and having speculative losses of substantial amounts of money.

That is not the point with respect to this particular issue. It is just that I wanted to say that I am concerned about a number of things, including the potential for more and more concentration in the banking industry. More concentration in the industry is not going to serve this country's interest. Those of us from rural areas especially, in my judgment, are unlikely to see greater bank service as a result of legislation like this and as a result of legislation in some of the States, including mine.

I think we are likely to see larger concentrations of bank enterprises establishing centers across this country, grabbing deposits out of those areas that might be having slower growth and moving them into investments in areas of higher growth. And I worry a great deal about what that means for rural America.

And I, for that reason, did not support and do not support this legislation. I think history will show this to be ill-advised, at least with respect to the interest of a State like North Dakota or other rural States where we have had great economic difficulty. What we very much need is a network of financial institutions who will take deposits from our States to invest back into our States, and I fear that that is not going to be the case with this type of legislation.

THE FEDERAL RESERVE BOARD

Mr. DORGAN. Mr. President, my colleague, Congressman DAVE OBEY from Wisconsin, and I, and 37 other Members of the House of Representatives and 8 Senators have signed this letter which we have sent to Federal Reserve Board Chairman Alan Greenspan.

Mr. President, I ask unanimous consent that the text of the letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DORGAN. Mr. President, last week, I indicated I was going to come to the Chamber and share with the Members of the Senate the names and faces of those who helped make interest rate policy in our country. I suggest we should do that because these are people who almost no one would recognize and yet they play a significant role in the lives of every American.

Before I introduce them, let me tell you about the letter we are sending to Alan Greenspan, and the importance of this letter.

Thirty-seven Members of the House of Representatives and 8 Senators, without a lot of circulation, have signed a letter that says we think that you ought to share, Mr. Greenspan and Federal Reserve Board members with the Congress and especially with the American people, what kind of information you are looking at that justifies your decision to increases in interest rates three times in this country in the past several months.

Is inflation on the rise? No, inflation has gone down for 3 straight years. Is there more capacity in this country to handle economic growth? Of course, there is. We have plenty unemployed; we have substantial amounts of plant and equipment that are not in use.

So what is it that suggests to the Federal Reserve Board that we ought to have interest rate increases to put the brakes on the American economy at exactly the time when we need a steady cruising speed to get this economy up to speed and to produce new jobs for the American people?

We would like the Federal Reserve Board to share with us and to share with the American people what kind of information it looks at, what kind of information it has to justify increasing interest rates on three occasions at exactly the time when this country most desperately needs continued economic growth.

This is monetary policy. We have a strong central bank called the Federal Reserve Board that is unaccountable. It does what it wants. It acts when it wants to. But that does not mean we have to be happy with it. In my judgment, we ought to send strong signals to the Federal Reserve Board that we disapprove.

These interest rate policies are wrongheaded. They will hurt this country. They do, in fact, serve the interests and the constituencies of the Federal Reserve Board, the big money center banks. They are much more concerned about some potential injury from inflation. The Fed leans in that direction, rather than for working families losing their jobs.

The twin economic goals in America of stable prices and full employment are not goals of equal weight, at least in the mind of the Federal Reserve Board. That is clear from the actions of the Fed in the past several months.

The Federal Reserve Board makes decisions with a Board of Governors. The pictures of the Board of Governors are up here. We have two additional appointees who have not yet been confirmed, but President Clinton has named two additional people to the Board of Governors.

And the Open Market Committee down at the Fed contains these folks who are presidents of the Regional Federal Reserve Banks.

Now, when they sit and meet as the Open Market Committee, they make decisions and cast votes that help set interest rates in America. They have a direct impact on every American family. These folks are not appointed, and they are not confirmed. They are not accountable to the political process at all. They are given their jobs by the Board of Directors, the majority of which in every case are bankers in their region.

Now, Mr. President, let me go down the list and you will see that when folks out there talk about the need for refreshment and new blood, nowhere is that more necessary than here. These are folks that have been in that system forever.

But my point is not how long they have been there, my point is these people should never cast a vote on money policy issues that are going to affect the lives of American families, because they are unaccountable. They have never been appointed to anything. They have never been confirmed by anybody.

I am not suggesting they are not good people. I am just suggesting that they ought not be making public decisions unless they are accountable in the public marketplace in this democracy.

I have said before, I would just as soon my Uncle Joe was here someplace. At least he is not an economist or financier. He has made some products and done some business, and he has some notion about what might be practical and good for this country. But we would not have Uncle Joes serving on the Fed. These are all folks who are economists, financiers, and bankers.

Boston, Richard Syron, $177,600 salary. He votes on interest rate policy.

New York, William McDonough, $205,000 salary, economist, M.A.; Philadelphia, Edward Boehne, $184,500 Ph.D., economics; Cleveland, Jerry Jordan, $165,500, Ph.D., economics; Richmond, Alfred Broaddus, $159,600 salary Ph.D., economics, Indiana University; Atlanta, Robert Forrestal, law degree, a lawyer, $212,000; Silas Keehn, Chicago, $221,700 salary, MBA, Finance, Harvard University; St. Louis, Thomas Melzer, $190,900 salary, MBA, finance, Stanford; Minneapolis, Gary Stern, Ph.D economics, Rice University, $175,200 salary; Kansas City, Thomas Hoenig, Ph.D., economics, $159,800 salary; Dallas, Robert McTeer, Ph.D., economics, $161,500 salary; San Francisco, Robert Parry, $229,600 salary, Ph.D economics.

Here is when they joined the Fed system: 1964, 1970, 1967, 1968, 1968, 1981, 1985, 1982, 1973, 1968, and 1965.

Now the reason I bring this to the floor is to point out these are bankers, financiers, and economists who have been in the Fed system for a long, long time. They are paid a substantial amount of money. They are not accountable to anyone. They go in a room, close the door and in secret make decisions that affect all of our lives. Working with the Board of Governors, forming the Open Market Committee, they have made decisions to increase interest rates, at exactly the time when a good many economists believe that there is no imminent sign of inflation on the horizon. And what we most desperately need is to continue the economic growth, continue creating jobs in our economy.

It is not my intention to bring pictures of these folks to the floor to ridicule them or to make fun of them. They are professionals. They have very important jobs. Many of them, perhaps most of them, perform those jobs well.

I object, however, to having people perform jobs in the public sector and to make decisions in the public sector that affect the lives of every American and increase the cost of credit, if they are not in some way, at some point, at some time accountable to someone in this process. And that is not now the case.

I and others have introduced legislation in Congress that would make them accountable and should make them accountable.

One of the pieces of our legislative initiative would be to say none of these regional Fed presidents should ever cast a vote on the Open Market Committee because they are not accountable to anyone. They do not go through this process of confirmation. We ought not have circumstances in which monetary policy is created and made by people casting votes when those people casting votes are representing other interests. Whose interests do they represent? They must satisfy a board of directors. Who are their boards of directors? The majority control of all of those boards of directors are their bankers in their region.

They would, I expect, as would most, faithfully serve their constituencies. In this country we have traditionally, over 200 years of financial history, had a battle between those who produce and those who finance production. It has gone back and forth.

During some decades one side wins; other decades another side wins. Early this century we created an organization called the Federal Reserve Board. It was asserted that this would not become a strong central bank, essentially unaccountable to anyone. But of course 80 years later it has become just that, a strong central bank, unaccountable to anyone. As a result, in this battle between those who produce and those who finance production, those who finance production have an army of allies deep inside the bowels of the Federal Reserve Board doing their work to put them on top. But that is not who needs to be on top.

If this is in fact a contest, what we need on top for America's future and for America's benefit is those who produce, those who produce the goods and services of this country and those who risk the money, not those who finance the production.

I come to the floor today, again with great respect, but with great concern that we have a circumstance in this country today when, having just come through a rather significant economic downturn and having just now started to move this economy forward with several quarters of economic growth, we have a bunch of central bankers who in a closed room decide, "Gee, we see something a lot of people don't. We see over the horizon the danger of inflation. So in order to protect our interests—our constituents, the bankers—we would like to move ahead very quickly, more quickly than many in this country think is advisable."

I know there is not everyone of like mind when we discuss the Federal Reserve Board. In fact, there is a priesthood of language about the Federal Reserve Board that is so arcane and so complex a lot of people do not want to talk about it. "Money policy? Lord, we don't want to talk about money policy."

In the last century, they used to debate money policy in bars and barbershops. Interest rates were a big deal and everybody felt they had a stake in them. We debated interest rates. It was not too long ago, in the 1960's, when William McChesney Martin, the head of the Federal Reserve Board, was going to increase interest rates one-quarter of 1 percent and Lyndon Johnson invited him down to the ranch and almost squeezed barbecue sauce out of him, I am told, convincing him that was a dumb idea. A quarter of 1 percent, mind you, and it was a major debate. It was on the front pages and it was a major contention between the Johnson administration and the Federal Reserve Board.

We have become so weakened in our willingness to stand up and begin to debate sensible monetary policy for all Americans that you hardly hear a whimper these days or hardly a whisper by anyone when the Federal Reserve Board takes actions that, in my judgment, are counterproductive, to serve a constituency at the expense of my constituency.

So I wanted to at least let people know who makes these decisions. They are decisions I do not agree with but I want people to understand who makes them so we all can begin to understand why it is important for us to start making some changes in the structure of the Federal Reserve Board.

No, I do not want to turn the Fed over to Congress. I do not want us to be the ones who set interest rate policies in this country. That is not my point. My point is, this is a central bank that is unaccountable. Let us do an audit of the bank. Let us stop having people vote on monetary policy who are not confirmed. Let us at least have some notion that if you have a bicycle built for two in which fiscal policy and monetary policy travel on the same vehicle, that one is not pedaling hard uphill while the other is sitting on the back with the brakes on. Let us decide there should be at least some formal consultation process two or three times a year between those who are running fiscal policy and those who are running monetary policy. That is all many of us are asking when we say let us take a look at reforming the Federal Reserve Board.

Mr. President, I am sure I and others will have more to say about monetary policy in the months ahead. I do not know what the result of the Fed's current actions will be, but I believe almost certainly they are not going to help this economy. They are going to retard economic growth.

We have people here who are largely trained in economics and finance. I taught economics in college at one point very briefly. I am not diminishing those who teach or study economics. I would observe this, however. That 35 of the 40 leading economists in the country in 1990 predicted that the next year would be a year of economic growth. Of course, it was the first year of the recession. And the Federal Reserve Board probably uses economists like all of us do. If they say it, we think maybe that is the case. But nobody quite understands what the dynamics are that run this economy. The Federal Reserve Board seems to think it is the carburetor that runs all this, but it is much more complicated than all that.

I hope we would see a confluence of both fiscal and monetary policy that would represent the array of all the interests in this country, not just represent whoever happens to win in this decade in the struggle between those who produce and those who finance production.

Mr. President, I yield the floor.

EXHIBIT 1

HOUSE OF REPRESENTATIVES,
Washington, DC, April 25, 1994.

Hon. ALAN GREENSPAN,
Chairman, Board of Governors of the Federal Reserve System, Washington, DC.

DEAR MR. CHAIRMAN: On three separate occasions over the past three months the Federal Open Market Committee has acted to increase interest rates. We are writing to express our concern over the Fed's actions, and to request that the Board take no further action to increase interest rates until you, as Chairman of the Board, have explained to Congress and the American people the basis for the board's decisions.

During your appearances before Congress you have made several points with which we agree. Among these is that long term economic growth depends on low and stable long term interest rates. Another point with which we concur is that inflation and inflationary expectations are a primary threat to low and stable long term rates.

You have testified that you believe low long term rates could be protected, and inflationary pressures controlled, with a slight increase in short term rates. The clear implication of your testimony was that short term rates could be increased just enough to preempt inflation without increasing long term rates and imperiling the economic recovery.

Just as clearly, this has not occurred. The Fed's actions have driven up long-term rates, destabilized financial markets and put the economic recovery at risk. Moreover, these actions have been undertaken at a time when there are no significant signs of impending inflation to justify your decision to raise any rates.

Consumer prices are under control. At the supermarket, in fact, grocery prices are actually falling. Most producers of packaged items say that fierce competition will prevent price increases in the immediate future. Many large marketers—like General Mills—continue to slash prices.

Recent economic surveys reinforce this observation. Inflation rates have actually been falling for the past three years, from 3.1 percent in 1991, to 2.9 percent in 1992 and 2.7 percent in 1993. This trend continues, with inflation measuring 2.5 percent last March.

Last year, unit labor costs—a major component of prices—rose only 0.8 percent, the smallest increase in almost 30 years.

The Fed's recent pre-emptive strikes against nonexistent inflation could be likened to a physician's prescribing antibiotics without any specific sign of illness, on the grounds that the patient will doubtless develop an infection at some time in the future. Higher interest rates are not a vaccine against inflation. They are a vaccine against economic growth and job creation.

Just as there are no disturbing signs of inflationary price increases over the horizon, there are no signs that the economy is growing too fast. Currently, 8.5 million workers are unemployed. At least 600,000 potential workers are too discouraged to seek employment. And the combination of productivity improvements and corporate "downsizing" creates even more economic slack.

In fact, according to your own data, U.S. industry is operating at just over 83 percent of capacity, well below the rate analysts consider inflationary. Worldwide, excess capacity is even greater. Europe and Japan are in recession; imports from those countries will continue to discourage U.S. price increases even if our own expansion continues unhindered by the Federal Reserve.

The benefits of this economic recovery for middle class working families will be derived from more jobs at higher wages. We cannot afford a two-tiered recovery or economic policies that benefit those with bankable resources at the expense of millions of Americans who were left out of the expansion of the 1980's and continue to be left out of the economic recovery today.

The Federal Reserve should not act to increase rates further, until you, as Chairman of the Board of Governors, have explained to Congress and the nation the basis for any such decision.

Sincerely,

Byron L. Dorgan; Howard L. Berman; Louise M. Slaughter; David Obey; Lee H. Hamilton; David E. Bonior, Kweisi Mfume; Bill Richardson; Esteban E. Torres; Bob Wise; Carolyn B. Maloney; John Bryant; Norman Y. Mineta; Robert Torricelli; José E. Serrano; Vic Fazio; Martin O. Sabo; Alan Wheat; Rosa DeLauro; Butler Derrick; George Miller; John Conyers, Jr.; Sam Gejdenson; Barney Frank; Nancy Pelosi; Maurice Hinchey; Dan Hamburg; Bart Stupak; Carrie P. Meek; Dick Durbin; Cynthia McKinney; Peter Barca; John Lewis; Patsy T. Mink; Gerald D. Kleczka; Harry Reid; Edward M. Kennedy; Tom Harkin; Kent Conrad; Joe Moakley; Norm Dicks; Chuck Robb; Dale Bumpers; Jeff Bingaman; Anna G. Eshoo.

Mr. DORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MIKULSKI). Without objection, it is so ordered.

Mr. SIMPSON. I thank the Chair.

PRESIDENT RICHARD NIXON

Mr. SIMPSON. Madam President, even now as the reality of it all starts to settle in on us, it is hard to believe that Richard Nixon is gone. He was many things in life—an extraordinary politician, a President who accomplished a great deal, a loving father, a devoted husband, a leader in foreign affairs, and a diplomat of incredible talent, ability, and foresight.

He was all of these things and so much more. He was also a very dear friend, someone on whom I and so many of my colleagues came to rely upon for sage advice that cut right to the heart of every issue we presented to him and he to us. I know that I shall personally truly miss him, for I used to spend time with him in New York and also here in Washington. When he would come here, he would call, and I would go to his hotel. In only moments, suddenly one could clearly realize that President Nixon had some incisive suggestions, advice, and counsel which would be of assistance in extricating ourselves from some difficult position, whether in domestic or in foreign affairs. He always had an extraordinary reservoir of good sage commentary.

So when I sat down and began to put some thoughts together to express my feelings, as so many of us are preparing to make the journey to Yorba Linda to pay our last respects and bid him farewell, I fondly remembered back about 36 years ago. It was 1958, and it was an election year. In my memory, there was a faint fall chill in the air, as there often is in Wyoming during campaign time. My dear father, Milward Simpson, was then the Governor of Wyoming. We had all gone to an event at which Vice President Richard Nixon would be the main attraction. My dad was involved in a campaign too—a spirited re-election campaign it was, indeed. The slogan of the Democrats that year was, "Give 'em the gate in '58." They did that very well with my father. They gave him the "gate," and he was defeated for reelection as Governor. Later he went on to run for the U.S. Senate and was elected with a great majority, and that pleased him.

Richard Nixon was like that, too. He had been up and he had been down. I recall the remarkable entourage that was there to greet him on that fall day in 1958. We all stood together as a family—Pop, Mom, my wife Ann, and our young son, our first-born, Bill. I recall Richard Nixon coming toward us from the plane and thanking us for attending. Then he scooped up our five young son, held him for a moment, and, of course, the cameras were clicking. Later a picture came from the Vice President to that son, which was a souvenir with an inscription of that special day some 30 odd years ago.

That was my first visit with Richard Nixon, but it was certainly not the last. From 1958, down through the years, I came to know this remarkable man as did we all as Vice President and President.

More recently, I was privileged to come to know him on a more personal basis as an adviser, a confidant, and as a strategist for our party and for our country. He has earned a serious place in our history. I do not think anyone will ever fire the emotions of the Nation as he did. In his over 40 years of public life, he served as a lightning rod for some incredibly powerful passions from all along the political spectrum. He was a man whose friends were well aware of his shortcomings—the foibles we all try to hide from others, and from ourselves. His enemies had to give him his due, grudgingly indeed, because he was a brilliant political strategist, a foreign policy wizard, a tough campaigner, and an expert in the realm of foreign affairs.

He had few equals in those areas. No one understood politics better than Richard Nixon. I like to say, like my friend Lloyd Bentsen often has: "Politics is a full contact sport." No one knew that better than Richard Nixon did. He also knew something else, that in politics losing and winning are both part of the same game. And if you cannot handle losing, you will never be a winner. There is no denying that Richard Nixon was a winner. I do not think we will ever see a politician placed on five national tickets who walked away a winner in four of them.

I want to share a favorite quote of his. I have seen this in various versions. This is probably the most succinct version. It summed up his feelings about politics, and it was spoken by Theodore Roosevelt. It has been called "In the Arena," which President Nixon later used as a title of one of his many books. All of his books were always pungent and clear. But the quote was: "Far better it is to dare mighty things, to win glorious triumphs, even though checkered by failure than to take rank with those poor spirits who neither enjoy much nor suffer much because they live in the great twilight that knows not victory nor defeat."

Richard Nixon was always quite impossible to categorize. If you did not think he was "on the mark" on one issue, you found yourself thinking he was "on the beam" in another. Those who criticized his early days as an anti-Communist later found themselves forced to admit that his reputation and the credentials he had forged during those days made him the only political leader who could have gone to China to pry open that long closed door. The door was opened, and it truly was "the week that changed the world," as Nixon himself called it. With the lines of communication now open between our country and China, Nixon then focused on warming our relationships with the Soviets, and he succeeded. His efforts resulted in some vital arms control agreements.

Through the years, he also had some intriguing encounters with the media. Yes, indeed, he did. We all recall his comments—I have seen it replayed many times in the last few days—to the press after losing the governorship of California: "You won't have Richard Nixon to kick around anymore"—or his comment to David Frost during his interviews with the President signing that the people being attacked by the media ought to "come right back and crack 'em in the puss."

That was the sort of combative spirit that helped the President, who had resigned his office, return and once again take an active part on the national scene. He could have been reclusive. He could have quit. He could have said, "This is too much." But, no, he did not. In the 20 years since he left office, we came to know Richard Nixon on a more intimate and personal level—all Americans did. We came to be remarkably impressed by his wisdom and vast insight of various aspects of our life in government.

He was a political resource to other Presidents, and he also gave freely of that. He was an advisor to members of both political parties on foreign affairs and domestic politics. He spoke the language of politics with an ease and knowledge and spirit and earthiness that few others ever had. And he was all that.

I remember in our visits how often, with a pungent turn of the phrase, you could suddenly rivet in on what was being obfuscated or what was being covered over or what was not being dealt with honestly on the national scene.

Upon learning of his passing, President Clinton himself said that this is "a world of great opportunity in no small part because of the vision of Richard M. Nixon." I think the President was very generous in those remarks, and his remarks are much appreciated.

The vision which Richard Nixon had was taken from us all too soon. America shared 81 years of life with him, and because he was a public figure, we were with him almost every step of the way. We watched from the sidelines, critiquing, "second-guessing," observing with fascination as to where his chosen path would take him, and wondering whether he would be beaten down? Would they not finally get him? They never did.

And through it all, he had the caring and support of his beloved wife, Pat and those magnificent daughters Tricia and Julie and stalwart sons-in-law, Ed and David, and the dearest of grandchildren. Pat was a woman of total grace, style, civility, and kindness. She was a magnificent, special woman. I do not think he ever really became adjusted to life without her. She was his helpmate and companion, and his life without her became much more difficult for him.

My dear mother, Lorna Simpson, was a great friend of Pat Nixon. They were much the same. Those same adjectives

I would use to describe her are adjectives that I would use to describe my own mother, who is in her 93d year of life and who is a woman of great zeal and steadiness, and love and loyalty. She also came right through with flying colors in a political family. I can tell you that. And she still does.

So we will be traveling to Yorba Linda, as several of us also did for the services for his beloved Pat. We will go there to celebrate a life fully lived, that has all of the elements of life, fully reflected in every facet. It was a life of great success, and great tragedy. It was a life of great hope at times, and times when he must have surely felt total despair. His was a life that was "larger than life itself", and it was all played out on the stage before all of us, the stage of public life. The floodlights burned bright, where no one could hide. It was all out there in public view. And his life was performed for all for us—for us and the rest of the world to see.

He was a man of amazing power, energy, fortitude, and guts. And I shall leave it to the historians to sift through the emotion—of which he had plenty, as most great men do—and find the essence of the man that was Richard Nixon.

For me, his life is summed up in his own words, they appeared in his book, "In The Arena." He said:

> In the end, what matters is that you have always lived life to the hilt. I have been on the highest mountains and in the deepest valleys, but I have never lost sight of my destination—a world in which peace and freedom can live together. I have won some great victories and suffered some devastating defeats. But win or lose, I feel fortunate to have come to that time in life when I can finally enjoy what my Quaker grandmother would have called "peace at the center."

I close with a lovely little couplet that my grandmother used to share with me when I was a young man, and which served me well in political life, because in this line of work, if you are doing anything, you are making enemies.

So this is a quote from Charles Mackay, who lived between 1814 and 1889. And it is this:

> You have no enemies, you say?
> Alas! my friend, the boast is poor—
> He who has mingled in the fray
> Of duty, that the brave endure,
> Must have made foes! If you have none,
> Small is the work that you have done;
> You've hit no traitor on the hip;
> You've dashed no cup from perjured lip,
> You've never turned the wrong to right—
> You've been a coward in the fight!

I think that says a lot about Richard M. Nixon. I am very glad that my friend has found his peace, and may he rest safely and securely in His arms.

We shall be there to pay proper respect to his life, and he will be properly honored in memory. And I shall be there.

I thank the Chair.

JACK BALLARD, U.S. CAPITOL POLICE OFFICER

Mr. WARNER. Madame President, I stand today to recognize the achievements and contributions of a man well-known to and admired by my colleagues: Jack Ballard, U.S. Capitol Police officer. Since 1974, Jack has served with great distinction, most recently at his post on Delaware Avenue next to the Russell Senate Office Building. Now he is about to embark on a well-deserved retirement.

During my 15 years in the Senate, I have had the good fortune to be greeted by Officer Ballard almost every day, rain or shine. Not only has Jack provided invaluable and professional service to me personally, or to my colleagues—he has always gone out of his way to assist visitors to find their way and enjoy their Capitol. Jack Ballard's kind attentions have often transformed a visitor's stay from an experience in bewilderment and confusion to one of pride and enjoyment. He has never been above assisting others confronted with Washington's challenging winter weather conditions, either. His knowledge, guidance, friendliness, and willingness are but a part of the dedication demonstrated by the Capitol Police—qualities which make our police force such a strong and effective organization. Moreover, Jack's intelligence, competence, and experience have been matched by his wit, humor, and patience.

I am pleased to count Jack Ballard, a resident of Springfield, VA, among those I am privileged to represent. A "second generation" Capitol Police officer, Jack followed in the footsteps of his father, himself a 38-year veteran of our force. Obviously Jack was no novice in the ways of the Capitol Police force when he chose to join its ranks.

Conversations with Jack have always been fascinating for Senators and staff alike, largely due to his previous experience. Before his Capitol Hill service, Jack Ballard gained diverse and colorful experience in the field of motion pictures. Indeed, he has had a lifelong interest in the field—his very first job was as a theater usher during school vacations. When school was in session, Jack polished his second field of interest delivering newspapers in the House office buildings.

Following graduation from D.C. Eastern High School, Jack returned to the movies, managing local theaters specializing in foreign films. With the help of a childhood friend, Jack broke into motion picture production. That career took him to Boston and, ultimately, to New York, where he met his beloved Isabel, who would become his wife.

Shortly after Jack and Isabel were married, Jack brought his wife back to Washington and began his service with the U.S. Capitol Police. After 7 years of general assignments, Jack was pleased to be assigned to his present Delaware Avenue post. From then until the present day, he has provided for the safety and well-being of all he meets—not to mention their enjoyment.

Jack summarizes his career in the words of his father: "A job I could do and a job I enjoyed doing." To those of us who have benefited from his years of exemplary service, those words are an understatement. His service has touched us all, and I know we all wish him many wonderful, joyous and prosperous years ahead.

IN REMEMBRANCE OF LT. COMDR. THOMAS SELBY DUNMIRE, U.S. ARMY, RETIRED

Mr. AKAKA. Madam President, I have just returned from Arlington National Cemetery where I attended the interment service for Lt. Comdr. Thomas Selby Dunmire, U.S. Army, retired, and it is my sad duty, but a privilege, to eulogize him today. Lieutenant Commander Dunmire, a West Point graduate, passed away on April 18, 1994. He served our country with honor and distinction.

I first met Tom in 1977 when he began his second career as a consultant to the Committee on Interior and Insular Affairs, and I was serving in the House of Representatives. This distinguished West Point graduate served us with the same dedication as he did the U.S. Army.

I would like to share my thoughts on a dear friend with this eulogy which was presented to the family at his memorial service at the National Memorial Cemetery of the Pacific last Friday:

> To the family of the late LTC Thomas Selby Dunmire, Ret.: Millie and I extend our deepest sympathy to you in your bereavement. We were saddened to learn of the passing of beloved LTC Thomas Selby Dunmire from this life into life eternal, and share the strength of our faith and aloha with all of you in this time of sadness. We shall all miss Tom, whom I met some years ago when he began his second career as a able, knowledgeable and dedicated committee staffer who was of immense value to Members of the House of Representatives, particular in the Committee on Interior and Insular Affairs, because of his willingness to always go the extra mile.
>
> Tom lived a full and fulfilling life. Not willing to be inactive in retirement, after active service in which he earned the Legion of Merit, the Bronze Star and a Commendation Medal with Two Oak Leaf Clusters, this West Point graduate was a past president of the Retired Officers Association, Hawaii Chapter. I shall always think of Tom as one who served the military with distinction, and continued to distinguish himself in civilian service. He answered a lifelong call to duty.
>
> Tom will be sorely missed by his loving family and all who knew him. And, as we remember his friendship and dedication and commitment to duty, honor, country, we thank the family for sharing so generously of Tom. We thank our Lord for his life, and take comfort in the thought that his spirit remains with us.
>
> It is a privilege for Millie and me to join you and your friends to wish Thomas Selby

Dunmire a last fond aloha. His memory will live in our hearts forever.

TRIBUTE TO PRESIDENT NIXON

Mrs. KASSEBAUM. Madam President, tomorrow our Nation mourns the death of President Nixon, our 37th President.

I do not know what history's judgment will be on Richard Nixon. He was a man whose personal flaws became the flaws of a deeply troubled Presidency. But his great personal strengths also leave their imprint on our Nation in both foreign policy and domestic affairs.

In many ways, Richard Nixon was one of our great foreign policy Presidents. His foresight and courage in seeking reconciliation with China still serve our Nation well as we move forward into a global economy that President Nixon helped shape in its earliest stages.

Our victory in the cold war, which has produced a more secure America, also was the logical extension and a product of President Nixon's steadfast commitment to our national interests. He understood, as few do, that America has a dominant role in world affairs and must be willing to provide leadership.

Our Nation owes a deep debt of gratitude to this troubled and brilliant President. His death is a loss to us all. I join with my colleagues in expressing condolences to his family in this time of mourning.

ON THE ARMENIAN GENOCIDE

Mr. BIDEN. Madam President, this month we mark the Armenian genocide—the horrible atrocities committed against the Armenian people in the early part of this century. We memorialize the tragic events that resulted in the deaths of an estimated 1.5 million Armenians—the victims of the Ottoman Empire's brutal and systematic massacre which lasted from 1915 to 1923.

In April 1915, mass executions and deportations of leading Armenians began what was to become an almost 10-year onslaught. Families were forced to leave their homes and belongings and flee, on foot, to Syria. The very old and the very young were often starved to death, women were raped, children were hanged, and priests were beheaded. All this, the Ottoman Government claimed, was a defense tactic. Let us state it simply: The Armenian people were victims of a ruthless and oppressive government embarked on a campaign of murder.

There are elderly survivors of the genocide which took place in Armenia 70 years ago who still bear the emotional scars of those events, as do their descendants. Armenians throughout the world maintain the cultural traditions of their ancestors and honor the memory of those who died. We, as a nation, must honor these brave people by heeding the memory of their persecution so that their deaths need not be in vain.

An Armenian survivor from my home State of Delaware, Yeranouhi Najarian, said that "with her first view of Ellis Island came the first true feeling of safety from the tragedies in the Ottoman Empire." She went on to say, "When I saw the Statue of Liberty * * * I said, 'this is a free country.'" Let those words give us courage to protect and maintain a society in which such ideals can flourish, as was intended by America's Founders. Mrs. Najarian also stated that, "for every Armenian who lived, there was a good Turk who protected him." Let the world take note—in every instance of brutality, there are those who protect and value human life.

IN RECOGNITION OF THE 100TH ANNIVERSARY OF TRAVELERS AID SOCIETY OF RHODE ISLAND

Mr. PELL. Madam President, this month, Travelers Aid Society of Rhode Island is celebrating the 100th anniversary of its service to the Rhode Island community.

Travelers Aid Society provides needed comprehensive social services to individuals and families across a much broader spectrum than is implied by the society's name. The Travelers Aid Society's array of services to those in need, whether Travelers or not, include health care, employment training, education for adults and at-risk youth, and emergency housing and shelter.

Caring, dedicated volunteers play a crucial role in Travelers Aid Society's service to the less fortunate of our community. These volunteers range in age from high school to senior citizens. My mother was one throughout World War II. Because of the selflessness of its many committed volunteers, the Travelers Aid Society Center in Providence is open 24 hours a day, 7 days a week.

The Travelers Aid Society of Rhode Island has benefited the lives of many. One story which has been brought to my attention involves a young woman named Diana. Diana began drinking and smoking marijuana at age 11. At age 14, Diana had discovered cocaine. Diana had become both an alcoholic and a drug addict by the time she graduated from high school.

After graduation, Diana could not hold a job. She was fired for her behavior after happy hour lunches. Then, Diana became involved in an abusive relationship, which led to more substance abuse. Finally, Diana threatened suicide and was admitted to a psychiatric hospital.

Diana was released from the hospital after a 5-day stay. When she got out, Diana knew it was only a matter of time before she turned to alcohol or drugs again. That is when Diana went to Travelers Aid.

With the help of the Travelers Aid Society's addicts recovery group, Diana is on the right path. She has a full-time position as a nursing assistant, her own apartment, and expects to start taking community college courses. Diana also volunteers at Travelers Aid where she uses her story to help others.

Diana is just one example of the many, many people whom Travelers Aid Society has assisted during its 100 years of service to the Rhode Island community. The Travelers Aid Society staff and volunteers should be proud of all the good resulting from their time and tireless efforts.

I know well the value of the services provided by Travelers Aid to the people of our State. We have worked together closely over the years to provide assistance to those Rhode Islanders who may have fallen through the cracks of our social safety net. And I know that it is through the dedication and compassion of its leaders, including its president, Marion Avarista, the Travelers Aid has so successfully addressed urgent needs in the lives of so many.

As with many States that have experienced harsh winters and inclement weather, Rhode Island has found its need for Travelers Aid particularly acute in recent years. Travelers Aid has always been there to help, and, I surely hope, will always remain so.

I hope my colleagues will join me in congratulating Travelers Aid of Rhode Island on this important occasion and expressing our gratitude for the important work they have done.

A HISTORICAL DAY IN SOUTH AFRICA

Mr. PELL. Madam President, in an era of momentous developments, the beginning of the first multiracial elections today in South Africa is one of the most historic events of our time. This has been a pivotal week for the people of the Republic of South Africa. A week of exhilaration and hope as the country's majority cast their votes to determine the leadership of their country for the first time in their lives.

I was moved by the elderly South Africans I saw standing in anticipation before their polling stations this morning, savoring their first-ever chance to cast a ballot and mindful of all that had passed to make the moment possible. Tomorrow we will see their younger counterparts making their choices. They have been the driving force in the struggle to end apartheid and their votes will be decisive in bringing about major changes in South Africa's leadership.

South Africans and observers around the world anticipate that ANC leader

Nelson Mandela will be the next leader of South Africa. I have met Mr. Mandela several times at the Foreign Relations Committee and I never cease to be impressed by his composure in the face of all he has endured and his resolve to do what is necessary to improve the lives of his people and all South Africans. As a promoter of peace and a man who made an admirable effort to cooperate with the present regime for the sake of his countrymen, I believe that if elected he will make an excellent president for all the people of South Africa.

There are so many who deserve our praise for their total dedication to democracy in South Africa and to creating a state that governs for all its people regardless of race. President F.W. de Klerk warrants much admiration for the tough choices he made to advance democracy and peace in a nation that was so troubled. President de Klerk's commitment to dismantling apartheid brought a great deal of threatening criticism from a vocal white fringe even while the majority of whites voted in a referendum to support his vision of a united South Africa. Nonetheless, he persevered and the majority of whites supported President de Klerk's progressive actions even though decreased political power was to be the certain result of the changes he implemented.

Now I urge de Klerk to find the means of controlling those elements of the radical minority who are using violence to derail the advent of democracy. Sunday and Monday's bombings left over 20 people dead and scores wounded. That such tragedy should come in the midst of such exhilaration is especially poignant. These rogue elements must understand that they will never succeed in crushing the democratic forces of South Africa. Their participation in violent acts is a terrible blemish on their community and the only option left for them is to make peace with their fellow South Africans and forge their future through democratic participation.

Though I am troubled by the violence which has accompanied South Africa's transformation, I am at heart inspired by this historic election and delighted to see the spirit with which South Africans of all races are coming together to forge a new multiracial, multiparty government for the Republic of South Africa. In 1986, I was an original cosponsor of the Anti-Apartheid Act which helped to focus the administration on the struggle against apartheid in South Africa. In 1993, I was proud to help introduce the legislation which repealed our sanctions against South Africa at the urging of Nelson Mandela. Nothing makes me happier than to be able to rejoice with South Africans today as they cast their ballots for democracy, peace and a new era.

CHRISTIAN APPALACHIAN PROJECT

Mr. FORD. Madam President, it has been said that you can preach a better sermon with your life than with your lips. If that is true, then we have got some natural-born preachers in eastern Kentucky.

Next week, the Christian Appalachian Project will dedicate a house their volunteers built for the Hall family of Martin County. The Halls lost their house to a fire during the winter of 1993.

As far as I am concerned there could not be a house with a more solid foundation; one of community cooperation and good will. In fact, it is hard to count the number of good intentions that helped to put the walls of this house in place.

It all began when the Make-a-Wish-Foundation of Point Pleasant, WV, set out to make a wish come true for the Halls' 5-year-old daughter who suffers from cancer.

Kayla turned down a trip to Disney World and instead asked for a play house. When a contractor could not be found in the area, the Christian Appalachian Project came to the rescue with a crew of volunteers.

But when the volunteers arrived, they discovered the playhouse was to be built on the site where the family's home had burned down. While volunteers got to work making Kayla's wish come true, Assistant Director Rose Price got to work on a real house for the Halls.

Madam President, no government policy or program can compare with the cooperation and service this community demonstrated through their actions, not just their words.

The Christian Appalachian Project, the Make-a-Wish Foundation, and the many volunteers from Martin, Lawrence, and Floyd Counties have my thanks and praise for showing just what kind of communities you can find in eastern Kentucky.

But more important, they have the satisfaction of knowing they have made a difference in the Halls' lives and consequently, in their community's future as a whole.

ELECTIONS IN SOUTH AFRICA

Mr. LAUTENBERG. Madam President, this week the people of South Africa will go to the polls to elect new leaders who, at long last, will represent all the people of that country.

The South African elections mark the formal end of the racist apartheid regime and the rule of oppression. They mark the beginning of a new multiracial government in South Africa and an opportunity for the black majority to play a role in charting their own future.

The road to democracy for the black majority in South Africa has been filled with pain. It has been marked by oppression and injustice, violence, and suffering. In a profound demonstration of the resilience of the human spirit, the black majority has persevered in their pursuit of fairness and democracy. That they will go to the polls for the first time this week is testament to their tenacity and determination to ensure that their voice will be heard in government.

South Africa now stands in the crossroads of change and opportunity as a new nation, one nation for all people. Breaking down the racist apartheid regime of the past has been a long and difficult task for the people of South Africa. I believe economic sanctions were the one tool that had the effect of influencing that country to live up to its responsibility to all of its citizens. The victory of democracy in South Africa is for those who supported the sanctions which made the very movement toward democracy possible.

We must never be afraid to use our economic power to promote justice and freedom. New Jersey was not. In the New Jersey State Legislature, Willie Brown led the charge many years ago to write the law requiring divestment. The Federal Government played an important role as well. Despite intense opposition, Federal legislation to impose tough sanctions against South Africa was approved in the Congress. I supported those sanctions as one way to influence the end of abuses under the apartheid regime.

In my own visit to South Africa many years ago, I witnessed firsthand, the injustice and oppression of the apartheid system. As I walked the streets of Soweto, I saw people living in squalor, barred by law from having equal educational or professional opportunity. Those that protested were imprisoned, tortured, or killed.

Now, as we look to a new future in South Africa, we must look to economic programs which will have a meaningful impact on education, health, and business development in the townships. For the first time, blacks will vote and ensure their part in crafting that agenda.

The outbreak of violence must not derail this historic process and prevent the black majority from participating in the democratic process. It must not stand as an obstacle to democratic reform in a country desperate to embrace that very theme. The people of South Africa have waited too long for the apartheid regime to come crumbling down. The United States must play a constructive role in promoting and facilitating the move to democracy and work to ensure that South Africa has the economic ability to make the transition to democracy.

Madam President, I am inspired by these elections and by the opportunity they provide for the majority of people in South Africa. They are long overdue. For too long, the international community supported a system which mandated that a majority of its citizenry had no voice in government. This week that system will come crumbling down. This week, the black majority in South Africa, at long last, will officially be given a voice. In America, we will never forget the long road they were forced to travel to gain that right to vote.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 5:09 p.m., a message from the House of Representatives, delivered by one of its reading clerks, announced that the House agrees to the amendment of the Senate to the amendment of the House to the bill (S. 1636) to authorize appropriations for the Marine Mammal Protection Act of 1972 and to improve the program to reduce the incidental taking of marine mammals during the course of commercial fishing operations, and for other purposes; with an amendment.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker has signed the following enrolled bill and joint resolution:

S. 2005. An act to make certain technical corrections, and for other purposes.

S.J. Res. 150. Joint resolution to designate the week of May 2 through May 8, 1994, as "Public Service Recognition Week."

The enrolled bill and joint resolution were subsequently signed by the President pro tempore (Mr. BYRD).

At 7:19 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolutions, each without amendment:

S.J. Res. 143. Joint resolution providing for the appointment of Frank Anderson Shrontz as a citizen regent of the Board of Regents of the Smithsonian Institution.

S.J. Res. 144. Joint resolution providing for the appointment of Manuel Luis Ibanez as a citizen regent of the Board of Regents of the Smithsonian Institution.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2554. A communication from the Acting General Counsel, Department of Defense, transmitting, a draft of proposed legislation to authorize certain construction at military installations for fiscal year 1995, and for other purposes; to the Committee on Armed Services.

EC–2555. A communication from the Acting General Counsel, Department of Defense, transmitting, a draft of proposed legislation entitled "National Defense Authorization Act for Fiscal Year 1995"; to the Committee on Armed Services.

EC–2556. A communication from the Chairman of the International Trade Commission, transmitting, pursuant to law, the quarterly report on trade between the United States and China for April 1994; to the Committee on Finance.

EC–2557. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–221; to the Committee on Governmental Affairs.

EC–2558. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–225; to the Committee on Governmental Affairs.

EC–2559. A communication from Acting Archivist of the United States, transmitting, pursuant to law, the annual report of the National Archives and Records Administration for fiscal year 1993; to the Committee on Governmental Affairs.

EC–2560. A communication from Acting Archivist of the United States, transmitting, pursuant to law, the report on records disposal for fiscal year 1993; to the Committee on Governmental Affairs.

EC–2561. A communication from the Director of the U.S. Trade and Development Agency, transmitting, pursuant to law, the report of financial statements for fiscal year 1993; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROCKEFELLER, from the Committee on Veterans' Affairs, with an amendment:

S. 1927. A bill to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 1935. A bill to prohibit lobbyists and their clients from providing to Legislative Branch officials certain gifts, meals, entertainment, reimbursements, or loans and to place limits on and require disclosure by lobbyists of certain expenditures.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BURNS:

S. 2044. A bill to provide that funds available to the Department of Agriculture for the prescription of final regulations relating to certain law enforcement activities of the Forest Service be utilized instead for the improvement of trails on National Forest System lands for the purpose of improving the access of individuals with disabilities to such lands; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PELL (by request):

S. 2045. A bill to amend the Bretton Woods Agreements Act to authorize consent to and authorize appropriations for the United States contribution to the Global Environment Facility, and for other purposes; to the Committee on Foreign Relations.

By Mr. COCHRAN:

S. 2046. A bill to amend the Public Health Service Act to provide for the establishment by the National Institutes of Health research centers regarding movement disorders, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CHAFEE:

S. 2047. A bill to amend title 38, United States Code, to provide that receipt of additional disability compensation for dependents not depend upon the waiver of receipt of an equal amount of retired or retirement pay; to the Committee on Veterans Affairs.

S. 2048. A bill to amend title 38, United States Code, to provide that the reduction by waiver of retired pay due to receipt of compensation or pension not apply to retired pay attributable to pay for extraordinary heroism; to the Committee on Veterans Affairs.

By Mr. RIEGLE (for himself and Mr. SARBANES) (by request):

S. 2049. A bill to reduce homelessness, reform public housing, expand and preserve affordable housing and home ownership, ensure fair housing for all, empower communities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LEAHY (by request):

S. 2050. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. WARNER:

S. 2051. A bill to amend the Fair Labor Standards Act of 1938 to exclude from the definition of employee firefighters and rescue squad workers who perform volunteer services and to prevent employers from requiring employees who are firefighters or rescue squad workers to perform volunteer services, and to allow an employer not to pay overtime compensation to a firefighter or rescue squad worker who performs volunteer services for the employer, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GORTON:

S. 2052. A bill entitled the Recreational Boating Safety Program Funding Improvement Act; to the Committee on Finance.

By Mr. BRADLEY:

S. 2053. A bill to prevent handgun violence and illegal commerce in firearms; to the Committee on the Judiciary.

By Mr. LEAHY:

S. 2054. A bill to amend the Rural Electrification Act of 1936 to remove the 7-percent interest rate limitation on certain Rural Electrification Administration loans, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. WOFFORD:

S. 2055. A bill to amend the Guaranteed Rural Housing Loan Program provisions of the Housing Act of 1949; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself, Mr. COVERDELL, Mr. STEVENS, and Mr. MACK):

S. Res. 206. A resolution relative to the compilation of eulogies on the life of Richard M. Nixon, former President of the United States; considered and agreed to.

By Mr. SIMON (for himself, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KENNEDY, Ms. MOSELEY-BRAUN, Mr. PELL, Mr. WOFFORD, and Mr. FEINGOLD):

S. Res. 207. A resolution expressing the sense of the Senate regarding the tragic humanitarian and political catastrophe in Rwanda; considered and agreed to.

By Mr. KERRY:

S. Con. Res. 67. A concurrent resolution to correct technical errors in the enrollment of the bill H.R. 2333; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BURNS:

S. 2044. A bill to provide that funds available to the Department of Agriculture for the prescription of final regulations relating to certain law enforcement activities of the Forest Service be utilized instead for the improvement of trails on National Forest System lands for the purpose of improving the access of individuals with disabilities to such lands; to the Committee on Agriculture, Nutrition, and Forestry.

FOREST SERVICE FUNDS ACT OF 1994

Mr. BURNS. Mr. President, I rise today to introduce legislation that is meant to make a point. The bill I am introducing would direct the U.S. Forest Service to redirect the money that is being currently spent on a rule, and instead spend those moneys on trailbuilding for handicapped access in our national forests.

Most of us going home over the holidays—and especially myself, from Montana—found that we have a firestorm going on in our States about some rules that have been submitted by the Forest Service.

Mr. President, I serve on the Interior Subcommittee of Appropriations. I understand just how tight Federal dollars are.

That is why I am so upset by what the Forest Service now appears to be up to. I am sure that most of my Senate colleagues are unaware of the fact that the Forest Service has issued a proposed rule that would, among other things, make it illegal to carry a gun in a national forest, make it illegal to pick up and carry a pine cone out of a national forest, make loud noises, or to curse in a national forest. It would make the use of controlled substances a misdemeanor rather than the felony that it now is, and it would authorize the payment up to $500 to snitches for information leading to the convictions of citizens—such as yourself—for any of the above crimes.

I think the rock hounds and the folks that use our national forests are really up in arms about this proposed rule.

Mr. President, if this was not so scary, I would laugh. But it is no laughing matter. The Forest Service is serious about this, and several other proposed rules that they have issued. There are other efforts to prevent citizens from cutting firewood. And I realize that some of this problem was they had some stolen logs. But to set up a police force with this much power and under these rules is really what I think is irresponsible.

There is another one that would prevent citizens from cutting firewood in lengths longer than 7 feet. I do not know why 7 feet, because 8-foot logs can be used down at the local timber mill or a house or for building timber. They do not want you sneaking in the back way, cutting wood to keep the local timber workers working.

In my part of the country, we have also bears. As I say, if you are going to be a bear, you might as well be a grizzly. And we have lots of those. I was interested the other morning, on a television show, how a man said the grizzly bear is, yes, on the endangered species list and they are almost gone. Tell that to the people who live in northwest Montana. There are a lot of them up there. And, of course, in bear country, we have to be careful. We have all been careful since Lewis and Clark first had one of these giants stand up and come toward them. Now the Forest Service wants us to go one step further and carry heavy bear-proof boxes with us when we go into the forest. These are heavy boxes, and the Forest Service wants us to store them 10 feet up in a tree and 4 feet out from the trunk. I cannot even reach a box that high standing on the back of my own horse. And I am sure that a bear cannot, either. But nonetheless, it is promulgating rules like this that is absolutely getting out of hand in our national forests.

The point is: Whose forest is it, anyway? And in my view, these are rules that are designed to keep the average citizen out of the national forest. These are rules far more fitting for national parks than for our forests. No loud noises? No firearms—including the right to use air rifles or BB guns, starter pistols, or crossbows? What is going on here?

As I said at the start, Federal dollars are tight. The Forest Service ought not be using Federal dollars to even offer such a rule and I propose that these dollars be redirected toward a useful purpose, one that the Forest Service claims never to have enough money for—constructing handicapped access to our National Forest trails.

Mr. President, I encourage my colleagues to join me in introducing this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2044

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AVAILABILITY OF FUNDS FOR IMPROVEMENT OF TRAILS.

(a) IN GENERAL.—Notwithstanding any other provision of law, all funds appropriated for or otherwise available to the Department of Agriculture for the purpose of prescribing the regulations referred to in subsection (b) shall be utilized by the Secretary of Agriculture, in lieu of such purpose, for the purpose of improving trails on lands of the National Forest System in order to improve the access of individuals with disabilities to such lands.

(b) COVERED REGULATIONS.—The regulations referred to in subsection (a) are the final regulations on law enforcement activities of the National Forest Service on National Forest System lands the proposed rules for which were published by the Director of the National Forest Service in the Federal Register on February 16, 1994 (59 Fed. Reg. 7880).

By Mr. PELL (by request):

S. 2045. A bill to amend the Bretton Woods Agreements Act to authorize consent to and authorize appropriations for the U.S. contribution to the Global Environment Facility, and for other purposes; to the Committee on Foreign Relations.

GLOBAL ENVIRONMENT FACILITY ACT OF 1994

• Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to amend the Bretton Woods Agreements Act to authorize consent to and authorize appropriations for the U.S. contribution to the Global Environment Facility, and for other purposes.

This proposed legislation has been requested by the Department of the Treasury, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD, together with the letter from the general counsel of the Department of the Treasury, which was received on April 14, 1994.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2045

Be it enacted by the Senate and House of Representatives of the United States of America in

Congress assembled, That the Bretton Woods Agreements Act (22 U.S.C. 286 *et seq.*) is amended by adding at the end the following new section:

"SEC. 62. (a) On behalf of the United States the United States Governor of the Bank is authorized to contribute to the Global Environment Facility $400,000,000, subject to obtaining the necessary appropriations.

"(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated without fiscal year limitation, $400,000,000 for payment by the Secretary of the Treasury.".

DEPARTMENT OF THE TREASURY,
Washington, April 13, 1994.

Hon. AL GORE,
President of the Senate,
Washington, DC

DEAR MR. PRESIDENT: I am pleased to transmit herewith a draft bill, "To amend the Bretton Woods Agreements Act to authorize consent to and authorize appropriations for the United States contribution to the Global Environment Facility, and for other purposes."

This legislation is a critical component of United States policy toward global environmental issues. The Global Environmental Facility (GEF) provides funds to developing countries, as well as to countries with economies in transition, for projects that benefit the global environment in the prevention of climate change, ozone depletion, loss of biodiversity and pollution of international waters.

The Climate Change and Biodiversity Conventions have accepted the GEF as the operating entity of their financial mechanisms on an interim basis. As recently restructured, the Conferences of the Parties to these conventions may accept such role for the GEF on a more permanent basis.

The Administration recently reached an agreement with the other GEF participants to restructure the GEF by finalizing an instrument that we believe satisfies the Conventions' criteria. The agreement was accepted by the representatives of 73 countries, in close consultation with the World Bank, the United Nations Development Programme and the United Nations Environment Programme. The GEF will now be serviced by a Secretariat that is functionally independent of the World Bank. It will be directed by a Council of 32 governments, which will decide on the Facility's policies and projects. For projects it finances, the GEF will fully disclose all non-confidential information. Throughout the project cycle, the GEF will consult with major groups and local communities and arrange for their participation in project identification, formulation and execution, as appropriate.

In order to advance our international environmental objectives, the Administration is seeking authorization for the United States to contribute $400 million to the GEF, over a four year period. Combined with an existing appropriation of $30 million for FY 94, the U.S. will contribute just over 21 per cent of the total replenishment. Authority for the $400 million contribution, of course, would also be subject to obtaining the necessary appropriations. Enactment of the proposed authorizing legislation will provide leverage to the United States during GEF Council discussion on the policies, programmatic strategies, and projects of the Facility. Conversely, failure to enact the authorizing legislation would severely undercut U.S. negotiating leverage at the GEF Council.

It would be appreciated if you would lay the draft bill before the Senate. An identical draft bill has been transmitted to the Speaker of the House of Representatives.

The Office of Management and Budget has advised that there is no objection to the transmittal of this draft bill to the Congress, and that enactment would be in accord with the President's program.

Sincerely,

JEAN E. HANSON,
General Counsel.•

By Mr. COCHRAN:

S. 2046. A bill to amend the Public Health Service Act to provide for the establishment by the National Institutes of Health research centers regarding movement disorders, and for other purposes; to the Committee on Labor and Human Resources.

MOVEMENT DISORDERS RESEARCH AMENDMENTS OF 1994

• Mr. COCHRAN. Mr. President, today I am introducing a bill to provide for the establishment of five movement disorders research centers. The funding would come from the National Institute of Neurological Disorders and Stroke within the National Institutes of Health.

Rare disorders have traditionally been neglected by private sector scientists while they focused their research on illnesses with larger populations. My legislation will provide a means by which the National Institute of Neurological Disorders and Stroke [NINDS] can extend its intramural research into the private scientific community.

Movement disorders include debilitating diseases such as Parkinson's disease, Huntington's disease, various forms of dystonia, progressive supranuclear palsy [PSP], and 14 others. Many of the movement disorders cause extreme suffering, impoverished families, and shortened lives.

I encourage senators to join me in working for the establishment of these movement disorders research centers legislation.•

By Mr. CHAFEE:

S. 2047. A bill to amend title 38, United States Code, to provide that receipt of additional disability compensation for dependents not depend upon the waiver of receipt of an equal amount of retired or retirement pay; to the Committee on Veterans' Affairs.

S. 2048. A bill to amend title 38, United States Code, to provide that the reduction by waiver of retired pay due to receipt of compensation or pension not apply to retired pay attributable to pay for extraordinary heroism; to the Committee on Veterans' Affairs.

VETERANS LEGISLATION

• Mr. CHAFEE. Mr. President, today I am introducing two measures to address problems faced by disabled veterans who have earned military retirement. These bills are the product of a number of discussions I have had with my constituent, Mr. Harold Prew, of Pawtucket, RI, who has worked tirelessly to ensure that our retired disabled veterans receive the equitable treatment they deserve.

The first bill I am introducing deals with the matter of dependents' allowances for disabled veterans. Under current law, a veteran who is rated 30 percent or more disabled is entitled to a monthly allowance, based on the number of his dependents, on top of his disability compensation from the VA. However, it the veteran also has earned a military pension from 20 years of service, he must reduce that pension not only by the amount of his disability compensation, but by the amount of his dependents' allowances as well. This legislation would remove dependents' allowances from that equation.

The second measure addresses the little-known issue of "extraordinary heroism pay." Right now, a career servicemember who receives retirement pay can receive a 10-percent bonus in addition to his pension if he is credited with extraordinary heroism in the line of duty. Unfortunately, however, the combined total of retirement and extraordinary heroism pay is subject to offset by any disability compensation that the veteran receives from the VA. Thus, if the servicemember's VA benefits exceed his total retired pay, he receives zero extraordinary heroism pay. At the very least, I believe extraordinary heroism pay should be exempt from offset by VA compensation. This second measure will accomplish that objective.

Finally, Mr. President, I want to touch on the more general issue of concurrent receipt of military retired pay and VA disability compensation. I believe our current policy of prohibiting concurrent receipt is terribly unfair, and look forward to supporting efforts on the floor to change that policy. At this time, I ask unanimous consent to enter into the RECORD two resolutions passed by the Rhode Island House of Representatives and the Rhode Island Senate dealing with this issue.

Again, Mr. President, I want to thank Mr. Prew for bringing these matters to my attention and for helping me draft this legislation. I strongly encourage my colleagues to join me in supporting these measures.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOUSE RESOLUTION

Whereas, Military retirees have earned military retirement pay through reenlistment incentives and use of one's physical capacity during prime youth years for a minimum of twenty years; and

Whereas, The purpose of Veterans Administered Compensation is to assist those who have completed ninety days or more of active duty and have incurred service connected disabilities during that time such as deformities, pains, wounds, injuries, diseases, loss of earning power, or loss of limbs; and

Whereas, Thirty percent or more rated disabilities include an allowance for each dependent and a military retirement for longevity has no dependent allowance; and

Whereas, Military retirees who are combat wounded and their dependents are discriminated against by wavering the retirees earned retirement pay on a dollar for dollar basis with Veterans Compensation only to receive a tax break for the Combat Wounded retiree and dependents; now, therefore, be it

Resolved, That this House of Representatives of the State of Rhode Island and Providence Plantations hereby memorializes the Congress of the United States to pass House Bill 303 so that military retirees who are combat wounded can receive earned retirement pay from the Armed Forces and also receive Veterans Administered Compensation including dependent allowances with no offset to military retirement pay, and be it further

Resolved, That the secretary of state be and she hereby is authorized and directed to transmit a duly certified copy of this resolution to the Rhode Island delegation in the Congress of the United States.

SENATE RESOLUTIONS

Whereas, Military retirees have earned their military pensions by remaining in the military, through reenlistment, during a minimum of twenty years of the prime of their youth; and

Whereas, if after ninety or more days of active duty, a veteran incurs a service-related disability, such as deformity, pain, wounds, injuries, disease, loss of earning power, or loss of limb, Veterans' Administered Compensation is meant to give them the special assistance they need; and

Whereas, Current Veterans' Administration policy is penalizing the combat-wounded, POW's and their dependents by forcing them to waive receiving a portion of their military pension equivalent to the amount they receive from Veterans' Administered Compensation in order to qualify for the tax break accorded to combat-wounded retirees and POW's; and

Whereas, Veterans' Administered Compensation was meant to provide special benefits for veterans whose impairments render them 30% or more disabled. These benefits include the cost of aid and attendance for some veterans who need it, and an allowance for each of their dependents. In contrast, the ordinary military retirement pension has no provision for dependents' allowance; and

Whereas, The principle of recognizing and compensating veterans who suffered injury or loss of capacity by providing them more funds and services than the uninjured military retiree has been seriously eroded. The current policy bodes ill for injured veterans of the Persian Gulf as well; now, therefore, be it

Resolved, That this Senate of the State of Rhode Island and Providence Plantations hereby respectfully requests the Congress of the United States to pass House Bills 303 and 304 and Senate Bill 190 so that military retirees who are combat-wounded can receive the retirement pay they have earned as well as the Veterans' Administered Benefits including dependents' allowances, aid, and assistance, with no offset in their military retirement pay; and be it further

Resolved, That the secretary of state be and she hereby is authorized and directed to transmit a duly certified copy of this resolution to the Rhode Island delegation in the Congress of the United States.●

By Mr. RIEGLE (for himself and Mr. SARBANES):

S. 2049. A bill to reduce homelessness, reform public housing, expand and preserve affordable housing and homeownership, ensure fair housing for all, empower communities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE HOUSING CHOICE AND COMMUNITY INVESTMENT ACT OF 1994

Mr. RIEGLE. Mr. President, I am pleased to introduce by request the Clinton administration's proposal to reauthorize our Nation's Federal housing and community development programs. I commend Secretary Cisneros for his leadership in developing strategies to address the problems of our cities and reforming the management of the Department of Housing and Urban Development. The needs of our Nation's cities are great—rates of poverty, unemployment, crime, disinvestment, school dropouts, teen pregnancy, and drug use are high and continue to rise. I commend the administration for its strong commitment to our cities as evidenced by its initiatives to promote empowerment zones and enterprise communities, encourage pension fund investment in affordable housing, build the capacity of grassroots community development organizations through the national community development initiative, and expedite the disposition of HUD-held and owned multifamily property. Congress has acted on all these initiatives and we are currently working on legislation to promote community development financial institutions.

I look forward to working with the Housing Subcommittee and all members of the committee to develop a housing reauthorization bill which will command broad bipartisan support.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT,
Washington, DC, April 26, 1994.

Hon. ALBERT GORE, Jr.,
President of the U.S. Senate, Washington, DC.

DEAR MR. PRESIDENT: I am pleased to transmit to you the "Housing Choice and Community Investment Act of 1994." For the past several months, the department has been working with the Office of Management and Budget, key Congressional Committees and various housing and community development groups on the preparation of this authorization bill.

This legislation would authorize $60 billion over the next two fiscal years for HUD's housing and community development programs. The legislation is focused on the five central priorities governing HUD's community investment agenda: reducing homelessness, turning around public housing, expanding affordable housing, enhancing fair housing, and empowering communities.

This legislation will transform the delivery of homeless assistance programs by consolidating and reorganizing several disparate programs into a single source of funding to support local "continuum of care" systems to assist homeless persons and prevent future homelessness.

The Act would set the foundation for a total remake of our public housing program, ending public housing as we know it. The bill would remove disincentives for public housing residents to seek employment. It would reward entrepreneurial public housing agencies through deregulation and the granting of added powers to experiment and innovate. Anti-crime efforts would be streamlined and linked to other law enforcement efforts.

This bill also proposes to once again make HUD's Federal Housing Administration (FHA) a positive force for enhancing homeownership opportunities. The Act would raise the maximum mortgage limits and give FHA the authority to innovate with new homeownership products as well as enter into risk-sharing arrangements with qualified governmental entities. Additional subsidy tools and increased funding for counselling will also help to foster homeownership opportunities.

HUD's fair housing efforts would be greatly enhanced under this legislation, by advancing the goals of geographic mobility, neighborhood equity, and residential diversity. The bill would expand existing programs that enable HUD, with the aid of nonprofit groups and state and local governments, to enforce our nation's fair housing laws.

Mr. President, the Act would also consolidate and revamp HUD's Section 8 rental assistance programs, permit public housing authorities including Indian housing authorities to sell public and Indian housing to nonprofit organizations to facilitate homeownership opportunities to public housing residents and create a new Choice in Residency program that would give, for the first time, recipients of federal housing aid the counselling they need to make informed choices about where they should live.

The Housing Choice and Community Investment Act would also support HUD's efforts to once again become a positive force in the revitalization of our nation's communities. The legislation would continue the strong support for the Community Development Block Grant program, create a Neighborhood LIFT program to develop neighborhoods' economic infrastructures, create a Community Viability fund to build the capacity of community-based groups, authorize additional funds for the President's empowerment zone initiative, and facilitate the use of Section 108 loan guarantees.

A section-by-section explanation and justification accompanies this letter and more fully sets forth the contents of the bill. I request that the bill be referred to the appropriate committee and urge its early consideration.

The Housing Choice and Community Investment Act of 1994 would affect direct spending; therefore it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. OMB's estimate is that the bill's pay-as-you-go impact will be zero.

The Office of Management and Budget has advised that the enactment of this legislation would be in accord with the program of the President.

I am sending a similar letter to the Speaker of the House of Representatives, Thomas S. Foley.

Sincerely,

HENRY CISNEROS,
Secretary.

DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT,
Washington, DC, April 26, 1994.

Hon. THOMAS S. FOLEY,
The Speaker, U.S. House of Representatives, U.S. Capitol, Washington, DC.

DEAR MR. SPEAKER: I am pleased to transmit to you the "Housing Choice and Community Investment Act of 1994." For the past several months, the department has been working with the Office of Management and Budget, key Congressional Committees and various housing and community development groups on the preparation of this authorization bill.

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The Office of Management and Budget has advised that the enactment of this legislation would be in accord with the program of the President.

I am sending a similar letter to the President of the United States Senate, Vice President Albert Gore, Jr.

Sincerely,

HENRY CISNEROS,
Secretary.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT EXPLANATION AND JUSTIFICATION FOR THE HOUSING CHOICE AND COMMUNITY INVESTMENT ACT OF 1994

TITLE I—ASSISTANCE FOR THE HOMELESS

Subtitle A—Reorganization of the Stewart B. McKinney Homeless Assistance Act

Overview

Continuum of Care—

Homelessness represents the most extreme breakdown of our housing and social service systems. It afflicts a wide range of populations, which can be broadly classified in two categories: those who suffer from chronic disabilities and those who suffer from crisis poverty. The best means of dealing with both of these categories of homelessness is through ongoing, rather than emergency, programs. Accordingly, the Nation's efforts are best directed toward reinvigorating the mainstream Federal housing and social programs. This would greatly reduce the number of families and individuals that become homeless and increasingly minimize the need for an extensive Federal homeless assistance program. Recent studies have shown that homelessness persists despite the often heroic efforts of thousands of selfless not-for-profit providers, advocates, and others who have dedicated limitless hours and untold energy over the past decade to helping those in need. Unfortunately, their efforts have not received the level of support they deserve from the Federal government. And, those Federal funds that have been made available do not provide localities and providers with the flexibility they need to create a comprehensive system that truly addresses the many dimensions of the problem in a coordinated fashion. As a result, providers often have been compelled to design programs to meet funding requirements rather than actual community needs.

This proposal would reorganize the homeless housing authorities in title IV of the Stewart B. McKinney Homeless Assistance Act, to enable localities to shape a comprehensize, flexible, coordinated system of homeless assistance, called a "continuum of care." This comprehensive system for homeless care inspires cooperation, encourages innovation, and demands coordinated action. It also reflects the comments and insights of literally thousands of not-for-profit providers and localities who participated in 17 HUD-sponsored forums over the past year.

The continuum of care approach is predicated on the understanding that homelessness is not caused merely by a lack of shelter, but involves a variety of underlying, unmet needs—physical, economic, and social. Dealing effectively with the problems of homelessness requires a comprehensive system of housing and necessary services for each stage—from emergency shelter to permanent housing. The continuum of care system and philosophy strives to fulfill those requirements with three major components:

First, there must be an emergency shelter/assessment effort which provides immediate shelter and can identify the needs of an individual or family.

The second component offers transitional housing and necessary social services. Such services include substance abuse treatment, short-term mental health services, and independent living skills.

The third and final component, and one which every homeless individual and family needs, is permanent housing or permanent supportive housing arrangements.

Components of Continuum of Care—

Outreach Intake Assessment,
Emergency Shelter,
Transitional Housing,
Permanent Housing,
Supportive Housing,
Mental Health, Job Training, Independent Living Skills, Substance Abuse, Family Support, Education, and H.I.V.

While not all homeless individuals and families in a community will need to access all three components, unless all three components are coordinated within a community, none will be successful. A strong homeless prevention strategy is also key to the success of the continuum of care.

Moving to a Continuum of Care—

Since 1987, the programs and benefits authorized by the United States Congress under the Stewart B. McKinney Homeless Assistance Act have served as the foundation for Federal homeless assistance to States, cities, and not-for-profit providers. HUD administers more than 60% of the McKinney Act funds through six grant programs—Supportive Housing (SHP), Shelter Plus Care, Section 8 Moderate Rehabilitation for Single Room Occupancy Dwellings (SRO), Emergency Shelter Grants, Safe Havens, and the Rural Homelessness Assistance Program—to address the various symptoms of homelessness.

These grant programs, as currently organized, require providers of housing and services to apply to discrete funding categories for particular needs. In order to receive homeless assistance funding, providers must apply to the Department for each separate McKinney program. Each categorical program has its own appropriation, set of rules, criteria and reporting requirements, which increase process and paperwork and hamper project development and implementation.

Providers consistently report that the competitive process creates at least two major problems:

Because funds are limited and demand is high—the 1993 SHP competition was only able to award 42 grants out of 1,400 requests—the application process wastes time and resources. Time that could be more profitably spent on moving people to permanent housing is currently wasted on navigating a maze of individual programs.

The current competitive method results in funding decisions made on individual applications irrespective of whether they fit into a large coordinated plan. Therefore, there is a virtual inability to use HUD funds to help establish a comprehensive system in each locality or to rectify imbalances in local delivery.

The current competitive grant structure also ignores a fundamental truth: community-based efforts must be the focus for addressing existing homelessness and preventing future homelessness. The continuum of care provides for such a framework, recognizing that needs of homeless individuals and families in each community—and current resources and systems to meet those needs—are as different and distinct as the people who live within them. While the proposed continuum of care approach can serve as the catalyst to bring the essential components together (e.g. housing, services, assessment facilities), only the community—local government, not-for-profit providers and others, each working together with their own unique expertise and energy—can design a strategy that works best.

Four main principles serve as the foundation for this new Federal approach to administering homeless assistance programs:

The locality knows best—

The homeless population is diverse and its characteristics are unique to a particular city or region. Therefore the locality is best situated to determine homeless needs.

The sources of resources and collaborative relationships vary depending on the locality. Existing relationships and levels of commitment by the governments and not-for-profit organizations vary in strength.

The level of development of services and housing is different from area to area. Only the locality has a complete picture of its existing inventory.

The locality can determine what "gaps" exist in the current system, by assessing the homeless population and the current inventory of housing and services designed to meet needs of homeless persons.

Economic empowerment is the engine that drives revitalization—if homeless individuals and families are going to participate in the overall revitalization of a community, then they must also be prepared to participate in its economic activities—

The goal for every homeless person is self-sufficiency. The continuum of care system must have appropriate job training, childcare, and job placement services for those who need them to move from homelessness to housing and independent living.

The goal for every homeless provider is to place people in permanent situations, thereby allowing them to live independently to the greatest extent possible.

The approach to homelessness must be comprehensive—

As human needs are interconnected, so must be the service delivery system. Only through coordination can all elements of an individual's needs be addressed.

There must be three systematic components: emergency, transitional, and permanent—either all must work together or all will fail.

The vertical, categorical structure of the current homeless programs must be reorganized into a horizontal seamless continuum. Policies and programs should be driven by the comprehensive needs of the community, not by the caprice of separate grant applications and funding cycles.

Empower the field—

Field office staff requires the flexibility and authority to tailor the Federal response to the particular needs of localities.

Placing trust in the experts in the "field," such as specialty service providers, is key to the success of the continuum of care system. We should rely upon those with experience and dedication to do what they do best.

Application of these principles leads to a policy formulation which reorganizes the McKinney Act homeless housing assistance programs from categorical, limited approaches to a "menu" of resources which can be tailored to the specific needs of each locality. For example, rather than Washington targeting resources for the single adult and family populations, for supportive services and permanent housing, the resources would be flexible enough to fit the specific needs of the locality's population and providers.

The McKinney reorganization would reorganize the myriad of existing HUD programs into a single grant to States and localities, with a funding authorization of $1.02 billion for fiscal year 1995. This would give localities added flexibility enabling them to fashion a comprehensive system through a continuum of care which addresses the needs of different homeless populations and which ensures that the various elements of the system (emergency, transitional and permanent housing with supportive services when necessary) are in balance. At the same time, participation by not-for-profit providers and others would be required, both in developing and implementing the plan and program.

In order to enable communities to establish a coordinated approach, local governments, urban counties, and States would be eligible for a formula grant based on need. This would replace the complexity and uncertainty of funding under the existing method of providing funds through competitive programs. Funds would be allocated among States, metropolitan cities, urban counties, Indian tribes, and Insular Areas using the allocation mechanism contained in the Emergency Shelter Grants program (except that 75 percent of the funds after meeting the needs of Indian tribes and Insular Areas) would be allocated to eligible units of general local government, and 25 percent to States). Future amounts would be allocated by any other formula that may subsequently be enacted into law.

However, in the event that the annual appropriation for the new program is less than 50 percent of the amount authorized for any given year, the Secretary would make the funds available to States, units of general local government, Indian tribes, Insular Areas, and private nonprofit organizations on the basis of a competition. This is to assure that the funds would not be too thinly spread among the recipients, which could happen under a formula allocation if the amounts appropriated were substantially lower than the authorization levels proposed herein.

The application process for receipt of all or part of these formula funds would be structured to insure community-based development and maintenance of a continuum of care within each community. In order to receive these formula funds, a local jurisdiction or its designee would be required to submit an application which would contain a homeless plan. The applicant would be required to described in its application the development of a comprehensive system that includes, at a minimum, a system of outreach and assessment, emergency shelter, transitional housing, permanent housing and necessary services. The application must demonstrate linkages between homeless assistance and resources provided under other Federal, State, and local programs that may be used to assist homeless individuals and families, including programs administered by the Secretaries of Housing and Urban Development, Veterans Affairs, Health and Human Services, Education, and Labor, and the Corporation for National Service. The end product of the homeless plan would include an assessment of needs, priorities based upon that assessment, a strategy for addressing these priorities, and an annual plan and budget to direct resources in support of the strategy. This homeless plan would be incorporated into the new consolidated planning submission for CPD's formula grant programs.

A local government would be permitted to designate a public or not-for-profit agency or consortium of agencies to be an applicant on its behalf. In the event that a community or its designee failed to submit an acceptable application or refused to apply for a grant, HUD could designate a public agency or nonprofit to do so, or could conduct the process for determining the recipient(s) of the funds designated for that community. This would insure that the dollars stay in the community where they are needed and used in a manner that supports establishment and maintenance of a continuum of care to help homeless persons.

Partnerships among the locality, not-for-profits, and others would be further enhanced through the requirement that the application result from a broad-based planning effort. Both formula and non-formula recipients would be required to involve not-for-profit groups and other community members in determining the plan, the strategy and the implementation of the program.

This process, the application and the continuum of care system, would be overseen by a community planning board which would sign the locality's homeless assistance application. The planning board would include members representing not-for-profit organizations, homeless or formerly homeless persons, local and state government representatives, business sector representatives, and others. Under this concept, the board would have a decisive role in all of the key elements of the delivery system—including determining who is the applicant; development of the plan; development of the strategy for implementation; and reporting on performance.

In addition to the community-based planning, to ensure that all voices are heard during the application process, each locality and State must provide public notices that funds are available. The public notices and meetings would include all relevant information; for example, that the locality may intend to designate other entities to act on its behalf after consultation with all interested parties, particularly homeless not-for-profit providers.

The plan should be geared toward the creation of a continuum of care that takes into account the diverse needs of the community's homeless individuals and families and that taps into the expertise of local providers, advocates, and others. All of the activities that are now eligible under the existing HUD McKinney homeless programs would be eligible under this new grant program. The Secretary would require that any recipient of assistance use, to the maximum extent practicable, existing providers and other interested organizations in the community to develop the application and the strategy for implementing a comprehensive system for assisting the homeless. In addition, at least 51% of the assistance made available to localities and the States would be required to be available to eligible homeless not-for-profit providers.

Under the current system, match requirements differ based on the program and the specific activity. This variability in match requirements skews activity choice away from need. Under the reorganization, this variable match would be replaced with a uniform required match of 25% of the amount of the grant in either cash or in-kind contributions. Up to 25% of the required match could come from the proceeds from bond financing validly issued by a State or local government, agency, or instrumentality thereof, or political subdivision thereof, and repayable with revenues derived from a project assisted under the new program. This would replace the current complex of match requirements under existing programs, permitting the locality and providers to focus on activities based on needs rather than based on the level of match required. In addition, recipients would be required to demonstrate and certify that Federal assistance will not be substituted for State and local resources currently provided for homeless activities, thereby ensuring that the HUD grant is used to move beyond maintenance of the current system toward creation of a continuum of care.

Under the reorganization, States would be required to establish a system for distributing funds in accordance with the needs of small communities, consortia of communities, and rural areas that intend to establish comprehensive homeless assistance systems. However, where there may not be a demonstrated need for the development of a comprehensive system, this requirement may be waived permitting funding for individual homeless assistance activities. The State would undertake the role of administering the program for small cities and unincorporated areas and would be expected to oversee the performance of the participating communities or agencies to which it allocates the funds. State program recipients (small cities or consortia of small cities or approved nonprofits) would be required to establish local boards to plan, develop and implement the local homeless assistance program.

SECTION-BY-SECTION SUMMARY

Short title

Section 101 would provide that the new program may be cited as the "Stewart B. McKinney Homeless Housing Assistance Reorganization Act of 1994".

Findings and purposes

Section 102(a) would state congressional findings that—

(1) more Americans are homeless than at any time since the Great Depression;

(2) homeless populations differ in different parts of the country and require different types of systems of varying sophistication to meet the needs of those populations;

(3) the best approach for addressing this situation is to focus Federal homeless housing assistance on a "continuum of care"— a seamless process which moves the homeless from the street into a system which provides outreach and assessment, emergency shelter, transitional housing, and permanent housing;

(4) the Stewart B. McKinney Homeless Assistance Act created emergency programs to solve specific homeless problems as they were identified, and has evolved into an ad hoc approach of separate programs with separate means of distributing assistance, separate rules, and separate reporting requirements, which tax the resources of the Department of Housing and Urban Development, local governments, and not-for-profit homeless providers;

(5) the competitive process for distributing assistance under these programs—

(A) restricts the flexibility of communities to fashion homeless systems that meet the needs of homeless persons in their areas;

(B) does not ensure that Federal resources are targeted where the need is;

(C) results in unpredictable funding streams which hinder communities' ability to plan, develop, and implement comprehensive "continuum of care" systems to assist homeless individuals and families; and

(D) impedes the integration and coordination of the resources—Federal, private, not-for-profit, and local government—available within a community; and

(6) the current array of programs does not ensure that a community will have the tools to create a "continuum of care" to address its homeless needs.

Subsection (b) would state that the purposes of the new program are to—

(1) reorganize the McKinney Act homeless housing assistance authorities, to assist States and localities to use them more efficiently and effectively through a comprehensive system involving a "continuum of care" approach designed to meet the shelter, service, and permanent housing needs of the Nation's homeless individuals and families;

(2) simplify and make more flexible the provision of Federal homeless assistance;

(3) encourage the cooperation and participation of the States and units of general local government, along with private nonprofit organizations, in planning and implementing comprehensive homeless assistance programs that are designed to meet the array of service and shelter needs of the homeless population toward the ultimate goal of assisting individuals and families to move to permanent housing and self-sufficiency with supportive services, if necessary, as quickly as possible;

(4) maximize a community's ability to implement a "continuum of care," by working with local groups and not-for-profit providers;

(5) assure private non-profit organizations and community groups that HUD will administer the grant if States or units of general local government are reluctant to participate in the program established by this subtitle;

(6) make more efficient and equitable the manner in which the Department of Housing and Urban Development distributes Federal homeless assistance, and to reduce the burden on the Department's staff in managing numerous competitions for grants so that its limited staff can focus on providing technical support, analysis, and evaluation to better enable States, units of general local government, and non-profit providers to use Federal homeless assistance;

(7) reduce the costs to States, units of general local government, and private non-profit organizations in applying for and using the assistance; and

(8) begin the process of moving toward the goal of meeting the needs of most of the Nation's homeless population through the mainstream programs as the Federal resources supporting these programs become available, in accordance with the Nation's Plan to End Homelessness.

Definitions

Section 103 contains definitions of terms used in the new program:

(1) The term "Act" would mean the Stewart B. McKinney Homeless Assistance Act.

(2) The term "applicant" would mean a grantee submitting an application under section 105.

(3) The term "allocation unit of general local government" would mean a metropolitan city and an urban county.

(4) The term "grantee" would mean—

(A) an allocation unit of general local government, Indian tribe, or Insular Area that administers a grant or designates a public agency or private non-profit organization (or a consortium of such organizations) to administer grant amounts instead of the jurisdiction;

(B) a public agency or private non-profit organization (or a consortium of such organizations) designated by the Secretary to administer grant amounts instead of an allocation unit of general local government, Indian tribe, or Insular Area;

(C) an entity receiving grant amounts from the Secretary where the Secretary administers the grant of an allocation unit of general local government;

(D) a State administering a grant;

(E) a unit of general local government receiving a grant from the Secretary when HUD administers the State program; and

(F) a private non-profit organization receiving a grant from the Secretary where HUD administers grant amounts for individual State recipients.

(5) The term "homeless individual" has the meaning given the term in section 103 of the Act.

(6) The term "homeless family" would mean a group of one or more related individuals who are homeless individuals.

(7) the term "Indian tribe" would mean any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered as eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) or was considered an eligible recipient under chapter 67 of title 31, United States Code, before the repeal of such chapter.

(8) The term "Insular Area" would mean the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

(9) The term "metropolitan city" has the meaning given the term in section 102(a)(4) of the Housing and Community Development Act of 1974.

(10) The term "private nonprofit organization" would mean an organization—

(A) no part of the net earnings of which insures to the benefit of any member, founder, contributor, or individual;

(B) that has a voluntary board;

(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

(D) that practices nondiscrimination in the provision of assistance.

(11) The term "recipient" would mean a grantee (other than a State distributing grant amounts to State recipients) and a State recipient.

(12) The term "Secretary" would mean the Secretary of Housing and Urban Development.

(13) The term "State" would mean each of the several States, and the Commonwealth of Puerto Rico.

(14) The term "State recipient" would mean—

(A) a unit of general local government within the State (other than an allocation unit of general local government) that receives grant amounts from the State under section 108(b); and

(B) a private non-profit organization receiving amounts from the State where the State administers grant amounts for individual State recipients.

(15) The term "unit of general local government" would mean—

(A) a city, town, township, county, parish, village, or other general purpose political subdivision of a State;

(B) the District of Columbia; and

(C) any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this subtitle.

The term would include a consortium of geographically contiguous units of general local government if the Secretary determines that the consortium—

(i) has sufficient authority and administrative capability to carry out the purposes of the new program on behalf of its member jurisdictions; and

(ii) will, according to a written certification by the State (or States, if the consortium includes jurisdictions in more than one State), direct its activities to alleviation of problems of homeless individuals or families within the State or States.

(16) The term "urban county" has the meaning given the term in section 102(a)(6) of the Housing and Community Development Act of 1974.

Authorizations

Section 104(a) would authorize the Secretary to make grants to grantees to carry out activities to assist homeless individuals and families in support of comprehensive homeless assistance systems.

Subsection (b) would authorize the appropriation of $1,020,000,000 for fiscal year 1995, and such sum as may be necessary for each of fiscal years 1996 and 1997, for the new program. Any amounts appropriated would remain available until expended.

Subsection (c) would require that the Secretary distribute amounts appropriated for the program to grantees in accordance with the provisions of the new program. If, however, the amounts appropriated under subsection (b) for any fiscal year are less than 50% of the amount authorized to be appropriated under that subsection for that year, the Secretary would be required to distribute the amounts appropriated to states, units of general local government, Indian tribes, Insular Areas, and private nonprofit organizations on the basis of a competition. Competitive grants would be subject to the provisions of the new program, except those provisions that the Secretary determines are inconsistent with the purposes of the competitive program. The Secretary could establish such additional or alternative requirements for grants under the competitive program, which must include requirements for applying for, and criteria for awarding, the grants.

The criteria for awarding competitive grants would include—

(1) the extent to which there is a need for assistance for homeless individuals and families in the jurisdiction;

(2) the extent to which the proposed activities further the establishment and maintenance of the comprehensive homeless assistance system referred to in section 105(b)(1)(C);

(3) the extent to which private non-profit organizations providing assistance to homeless individuals and families in the jurisdiction have been, and will be, included in planning for the receipt of assistance under this subtitle, the development of the application under section 105, and the execution of the proposed activities; and

(4) the extent to which homeless individuals and families will proceed with appropriate expedition through the comprehensive homeless assistance system and into permanent housing.

The Secretary would be authorized to set aside amounts for grants under the competitive program for Indian tribes and Insular Areas.

Application

Section 105(a) would require each applicant to submit an application in such form and in accordance with such procedures as the Secretary shall establish. Subsection (b) would specify that the application at a minimum:

(1) on the basis of information provided in the current comprehensive affordable housing strategy for the appropriate jurisdiction under section 105 of the Cranston-Gonzalez National Affordable Housing Act, or such other plan as the Secretary may prescribe, set forth for the jurisdiction—

(A) a detailed description of the current population of homeless individuals and families;

(B) the current facilities and services designed to assist that population; and

(C) the comprehensive homeless assistance system to be established and maintained within the jurisdiction (a "continuum of care"), which must include at a minimum—

(i) a system of outreach and assessment for determining whether an individual or family is homeless, needs assistance to avoid becoming homeless, or needs other assistance, and for ensuring that individuals and families that are so identified receive appropriate housing and supportive services (which may include services with respect to health, mental health, substance abuse, family support, education, and child care, and services directed toward obtaining appropriate income support, including employment training);

(ii) the availability of emergency shelters with appropriate supportive services to ensure that homeless individuals and families for which such housing is appropriate receive adequate shelter, including during the period in which the assessment referred to above is being performed;

(iii) the availability of transitional housing with appropriate supportive services to ensure that homeless individuals and families for which such housing is appropriate are prepared for increased responsibility and permanent housing, or permanent supportive housing, after the transition period;

(iv) the availability of permanent housing, or permanent supportive housing, adequate to meet the long-term housing needs of all homeless individuals and families; and

(v) linkages between assistance provided under the new program and assistance provided under other Federal, State, and local programs that may be used to assist homeless individuals and families, such as assistance under the Public and Indian Housing and Section 8 programs under the United States Housing Act of 1937, the Home Investment Partnerships Act, and the Community Development Block Grant program under title I of the Housing and Community Development Act of 1974; programs administered by the Secretary of Labor; health, social service, and income support services; programs designed to assist homeless veterans; and adult education, employment training, and education for homeless children and youth; and national service.

(2) provide an assessment of what is required to establish and maintain the comprehensive system;

(3) set forth a multi-year strategy for establishing and maintaining the system, including appropriate timetables, milestones, and budget estimates for accomplishing each element of the strategy;

(4) set forth a one-year action plan, identifying all activities to be carried out with assistance under this subtitle and demonstrating how these activities will further the strategy referred to above;

(5) describe the means the applicant (other than a State distributing grant amounts to State recipients) will use to distribute grant amounts to subgrantees, including whether the amounts will be awarded on a competitive or non-competitive basis;

(6) demonstrate that the local board referred to in section 109(b) has signed the application;

(7) contain certifications or other such forms of proof of commitments of financial and other resources from each public agency or private non-profit organization that has a role in establishing and maintaining the comprehensive homeless assistance system;

(8) contain assurances satisfactory to the Secretary that activities carried out under section 106 will meet the requirements of the Act, as provided in section 106(b);

(9) in the case States distributing grant amounts to State recipients, describe the method of distribution;

(10) except for grant amounts that States will distribute to State recipients, contain a certification from the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act for the State or unit of general local government within which the project is located that the proposed project is consistent with the approved housing strategy of such State or unit of general local government;

(11) contain a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing; and

(12) contain a certification that the applicant will comply with the requirements of the new program and other applicable laws.

Eligible activities

Section 106(a) would authorize recipients to carry out only the following activities under the new program—

(1) activities eligible for assistance under the following provisions of the Act: emergency shelters under subtitle B of title IV; transitional housing under subtitle C of title IV; safe havens under subtitle D of title IV; single room occupancy dwellings under section 441; shelter plus care under subtitle F of title IV; and rural homeless housing assistance under subtitle G of title IV;

(2) permanent housing meeting such requirements as the Secretary prescribes;

(3) for the first year in which a recipient receives grant amounts under the new program, administrative expenses in connection with planning the development of, and establishing, its program under the new authority, and in subsequent years, defraying the cost of administering the program; in all years, defraying the cost of constituting and operating the local board referred to in section 109(b); except that not more than 5% of any amounts provided to a recipient under the new program for a fiscal year may be used for these administrative expenses; and

(4) building the capacity of private nonprofit organizations to participate in the comprehensive homeless assistance system of the recipient, except that not more than 2% of any amounts provided to a recipient under the new program for a fiscal year may be used for capacity building activities.

Subsection (b) would require that activities assisted under the new program comply with all applicable requirements of the Act, except those that the Secretary determines are inconsistent with the provisions or purposes of the new program.

Subsection (c) would require each recipient to ensure that contributions totaling not less than 25% of the grant amounts made available to the recipient for any fiscal year under the new program are provided from non-Federal sources, as defined by the Secretary, to carry out the recipient's homeless assistance program. Each recipient shall certify to the Secretary that it has complied with this section, and shall include with the certification a description of the sources and amounts of the matching funds.

A recipient could request that the Secretary reduce or waive this matching requirement. The request would be required to be in a form and manner prescribed by the Secretary, and must demonstrate that the recipient lacks the finances and other resources to meet the requirement. The Secretary may grant the request, if the Secretary determines that imposition of the match would create a significant hardship for the recipient and would thwart the overall purpose of the homeless assistance program of the recipient.

In calculating the amount of the required match, a recipient may include any funds derived from a non-Federal source; the value of any lease on a building; any salary paid to staff to carry out the program of the recipient; the value of the time and services contributed by volunteers, at a rate determined by the Secretary; and the proceeds from bond financing validly issued by a State or local government, agency, or instrumentality thereof, or political subdivision thereof, and repayable with revenues derived from a project assisted under this subtitle, but not more than 25% of the required contribution may be derived from this source.

Subsection (d) would provide that no assistance received under the new program (or any State or local government funds used to supplement such assistance) may be used to replace other funds previously used, or designated for use, by the State, unit of general local government, Indian tribe, or Insular Area to assist homeless individuals and families.

Subsection (e) would require that each recipient make available at least 51% of the grant amounts it receives for any fiscal year to private non-profit organizations that provide assistance to homeless individuals and families to carry out activities under the new program. These organizations would have to meet such minimum standards as the Secretary deems appropriate.

Subsection (f) would provide that an allocation unit of general local government, Indian tribe, or Insular Area, or a State recipient, that designates a public agency or a private non-profit organization, or a State recipient that enters into an agreement with a State to administer its program, must make available, to defray the administrative expenses of the designee or the State, such sums as the Secretary deems appropriate from amounts eligible for administrative expenses under subsection (a)(2).

Allocation and distribution of funds

Section 107(a) would require that, for each fiscal year, the Secretary allocate assistance under the new program to Insular Areas in accordance with an allocation formula established by the Secretary.

For each fiscal year, of the amounts that remain after amounts are reserved for Insular Areas, the Secretary shall allocate assistance according to the formula described below or such other formula as may hereafter be enacted into law.

Initially, amounts would be allocated for allocation units of general local government and States, and for Indian tribes, according to the formula for allocating assistance under the Emergency Shelter Grants program. Specifically, the amounts would be distributed in a manner that ensures that the percentage of the total amount available under the new program for any fiscal year that is allocated for any State or allocation unit of general local government, or for Indian tribes, is equal to the percentage of the total amount available for section 106 of the Housing and Community Development Act of 1974 for such prior fiscal year that is allocated for such State or allocation unit of general local government, or for Indian tribes.

Subsection (b) would provide that if under the allocation provisions applicable under the new program, any allocation unit of general local government would receive a grant of less than 0.05% of the amounts appropriated to carry out this subtitle for any fiscal year, such amount shall instead be reallocated to the State for use under section 108(b), except that any city that is located in the State that does not have counties as local governments; that has a population greater than 40,000, but less than 50,000, as used in determining the fiscal year 1987 community development block grant program allocation; and that was allocated in excess of $1,000,000 in community development block grant funds in fiscal year 1987 would be eligible to receive its allocation directly.

Unlike the ESG program, 75 percent of amounts available after funding Indian tribes and Insular Areas would be allocated for units of general local government and 25 percent for States. This would be accomplished by increasing the amounts for units of general local government on a pro rata basis until the aggregate of such amounts equals 75 percent of the amounts appropriated for the new program for each year, and by decreasing the amounts for States on a pro rata basis until the aggregate of such amounts equals 25 percent of the amounts appropriated for each year.

The formula amount determined for an allocation unit of general local government or a State, above, is the maximum amount that the jurisdiction is eligible to receive. The Secretary may provide a grant for a State or for an allocation unit of general local government for an amount less than the formula amount, if the Secretary determines that such action is appropriate based upon review of the application under section 105 or as a result of the annual performance review and audit under section 110.

Subsection (c) would provide that any amounts that a State or an allocation unit of general local government is eligible to receive under subsection (b) that are not received for use in the jurisdiction, as provided by section 108(a) and (b), or that become available as a result of actions under section 110(b), would be added to amounts available for allocation under section 107 for the succeeding fiscal year.

Administration of Program

Section 108(a) would provide that except as provided below, an allocation unit of general local government, Indian tribe, or Insular Area must administer grant amounts received under section 107 for any fiscal year.

An allocation unit of general local government, Indian tribe, or Insular Area may elect for any fiscal year to designate a public agency or a private non-profit organization (or a consortium of such organizations) to administer grant amounts under section 107 instead of the jurisdiction.

The Secretary would prescribe the manner and time for making this election, and would establish criteria for the approval of agencies and organizations, which would include demonstrated experience of the entity in providing assistance to homeless individuals and families in the jurisdiction.

The allocation unit of general local government, Indian tribe, or Insular Area would remain both the grantee and the recipient for purposes of the new program. The Secretary may, at the request of the jurisdiction, provide grant amounts directly to the designated agency or organization.

If an allocation unit of general local government, Indian tribe, or Insular Area, or (if appropriate) a public agency or private non-profit organization designated by the jurisdiction, above, does not receive a grant for any fiscal year because of failure to meet the application requirements of section 105, the Secretary would be authorized to designate an agency or organization to administer the grant. Any designated agency or organization would be both the grantee and recipient for purposes of the new program.

If for any fiscal year the Secretary determines that amounts allocated for an allocation unit of general local government will not be used in the jurisdiction, as provided by the preceding provisions of this subsection, the Secretary could administer the amounts instead of the jurisdiction.

Subsection (b) would require States to elect either to administer grant amounts received under section 107 or to have the Secretary administer these amounts instead of the State. If a State elects to administer grant amounts under subparagraph (A), the election would be permanent and final.

Of amounts provided to a State, the State—

(1) may use up to 15% to carry out its own homeless assistance program, except that these amounts may only be used for eligible activities under section 106(a)(1) for which States are eligible recipients under the Act; and

(2) must distribute the remaining amounts to State recipients.

Grants to States may only be used to carry out activities in areas of the State outside allocation units of general local government.

A State distributing amounts to State recipients under paragraph (1)(A) shall, for each fiscal year, afford the recipient the options of administering the grant amounts on its own behalf; designating a public agency or a private non-profit organization to administer the grant amounts instead of the jurisdiction; or entering into an agreement with the State, in consultation with private non-profit organizations providing assistance to homeless individuals and families in the jurisdiction, under which the State will administer the grant amounts instead of the jurisdiction. These options would be exercised at such time and in accordance with such criteria as the Secretary may prescribe.

A State recipient designating an agency or organization, or entering into an agreement with the State, would remain the recipient for purposes of this subtitle. The State may, at the request of the State recipient, provide grant amounts directly to a designated agency or organization.

The State must distribute amounts to State recipients (or to designated agencies or organizations, as appropriate) on the basis of an application containing such information as the Secretary may prescribe. Each application must evidence an intent to establish a comprehensive homeless assistance systems, except that the State may waive this requirement with respect to one or more proposed activities, where the State determines that the activities are necessary to meet the needs of homeless individuals and families within the jurisdiction and a comprehensive homeless assistance system is not necessary, due to the nature and extent of homelessness in the jurisdiction.

In selecting State recipients, the State must give preference to applications that demonstrate higher relative levels of homeless need and fiscal distress.

Each State distributing grant amounts to State recipients may retain amounts not to exceed 5% of the amount to be used for this purpose to defray the cost of carrying out its responsibilities under the new program.

If in any fiscal year a State distributes grant amounts to a State recipient, but the recipient fails to receive the amounts, the Secretary or the State, as the Secretary may provide, may distribute the amounts to private non-profit organizations in the jurisdiction. If the Secretary distributes the amounts, the Secretary would deduct the amounts distributed from the grant provided to the State for that fiscal year.

If a State elects to have the Secretary administer its grant amounts as described above, the Secretary is authorized to distribute grant amounts to State recipients instead of the State, in accordance with requirements and procedures prescribed by the Secretary. The Secretary would establish criteria for selecting recipients and making awards under this paragraph, which would include giving preference to applications that demonstrate higher relative levels of homeless need and fiscal distress.

Citizen participation

Section 109(a) would require each recipient to ensure that citizens, and appropriate private non-profit organizations and other interested groups and entities, participate fully in the development and carrying out of the program authorized under the new program. The Secretary would be required to prescribe requirements to carry out this section, which would include requirements applicable to the local boards referred to in subsection (b) and the citizen participation provisions of subsection (c), and the timing of, and sequence for, carrying out the requirements of those subsections.

Subsection (b) would require each recipient to establish and support a local board, which would assist the recipient in determining whether the grant should be administered by the recipient, a public agency or private non-profit organization, or the State or the Secretary, as appropriate; developing the application under section 105; overseeing the activities carried out with assistance under the new program; and evaluating the performance of the recipient in carrying out these activities.

The local board would be required to consist of—

(1) at least one member representing each of the following groups: homeless individuals and families; homeless advocates; individuals and entities providing assistance to homeless individuals and families; the business community; and neighborhood advocates;

(2) in the case of a recipient that is a State, one member representing the State agency or instrumentality dealing with mental health; and

(3) not more than one member representing the recipient.

At least 51 percent of the membership of the board must have been nominated by individuals and entities other than a governmental jurisdiction.

No applicant may submit to the Secretary an application under section 105, and no grantee may submit to the Secretary a performance report under subsection 110(a), unless the board signs the document. No State recipient may submit an application or a performance to a State, unless the Board signs the document.

If the board or other members of the community believe that the process for constituting or operating the board is unfair, they may ask the Secretary to review the matter. The Secretary would attempt to resolve the problem and where the Secretary finds that the process is unfair, the Secretary may disapprove an application under section 105 or refuse to accept a performance report under section 110(a).

The Secretary would be required to prescribe standards governing potential conflicts of interest under which members of local boards may participate in activities carried out under the new program.

Subsection (c) would require each recipient to—

(1) make available to its citizens, public agencies, and other interested parties information concerning the amount of assistance the jurisdiction expects to receive and the range of activities that may be undertaken with the assistance;

(2) publish the proposed application in a manner that, in the determination of the Secretary, affords affected citizens, public agencies, and other interested parties a reasonable opportunity to examine its content and to submit comments on it;

(3) hold one or more public hearings to obtain the views of citizens, public agencies, and other interested parties on the housing needs of the jurisdiction; and

(4) provide citizens, public agencies, and other interested parties with reasonable access to records regarding any uses of any assistance the recipient may have received during the preceding 5 years.

Before submitting any performance report under section 110(a) or substantial amendment to an application under section 105, a recipient must provide citizens with reasonable notice of, and opportunity to comment on, such performance report or application before its submission.

A recipient must consider any comments or views of citizens in preparing a final application, amendment to an application or performance report for submission. A summary of such comments or views must be attached when an application, amendment to an application or performance report is submitted. The submitted application, amendment, or report must be made available to the public.

The Secretary would establish procedures appropriate and practicable for providing a fair hearing and timely resolution of citizen complaints related to applications or performance reports under the new program.

Subsection (d) would require the Secretary to prescribe citizen participation requirements comparable (to the extent appropriate) to those contained in the preceding subsections for States distributing grant amounts to State recipients and certain instances in which the Secretary is administering grant amounts. The following provisions of law do not apply with respect to the actions of the Secretary in establishing citizen participation requirements: the Federal Advisory Committee Act and section 103 of the Department of Housing and Urban Development Reform Act of 1989. The Secretary would be required to establish appropriate standards to ensure the integrity of the process for awarding assistance.

Reports, reviews, and audits

Section 110(a) would require each grantee to submit to the Secretary a performance and evaluation report concerning the use of funds made available under the new program. The report would be submitted at such time and contain such information as the Secretary prescribes, and must be made available to the local boards referred to in section 109(b) and to citizens in the jurisdiction of the grantee in sufficient time to permit the board and the citizens to comment on the report before its submission. Each grantee performance report must be signed by the local board.

Subsection (b) would require the Secretary, at least on an annual basis, to make such reviews and audits as may be necessary or appropriate to determine—

(1) in the case of a grantee (other than a grantee referred to in paragraph (2)), whether the grantee—

(A) has carried out its activities in a timely manner;

(B) has made progress toward establishing and maintaining the comprehensive homeless assistance system ("continuum of care") in conformity with its application under this subtitle;

(C) has carried out the activities and its certifications in accordance with the requirements of this subtitle and with other applicable laws; and

(D) has a continuing capacity to carry out the activities in a timely manner; and

(2) in the case of States distributing grant amounts to State recipients, whether the State—

(A) has distributed amounts to the recipients in a timely manner and in conformance with the method of distribution described in its application;

(B) has carried out its activities and certifications in compliance with the requirements of this subtitle and other applicable laws; and

(C) has made such reviews and audits of the recipients as may be necessary or appropriate to determine whether they have satisfied the applicable performance criteria contained in paragraph (1).

The Secretary may make appropriate adjustments in the amount of grants in accordance with the Secretary's findings. With respect to assistance made available for State recipients, the Secretary may adjust, reduce, or withdraw such assistance, or take other action as appropriate in accordance with the Secretary's reviews and audits under this subsection, except that funds already expended on eligible activities under the new program may not be recaptured or deducted from future assistance to such recipients.

Nondiscrimination in programs and activities

Section 111(a) would provide that no person in the United States shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under the new program. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual, as provided in section 504 of the Rehabilitation Act of 1973, shall also apply to any such program or activity.

Subsection (b) would provide that no grant may be made to an Indian tribe under the new program unless the applicant provides satisfactory assurances that its program will be conducted and administered in conformity with title II of Public Law 90-284. The Secretary may waive, in connection with grants to Indian tribes, the provisions of subsection (a).

Nothing in the new program relating to discrimination on the basis of race would apply to the provision of assistance to the Hawaiian Home Lands.

Consultation

Section 112 would provide that in carrying out the provisions of the new program, including the issuance of regulations, the Secretary shall consult with other Federal departments and agencies administering programs affecting homeless individuals and families.

Records, reports, and audits

Section 113(a) would require any entity receiving grant amounts under the new program to keep such records as may be reasonably necessary to disclose the amounts and the disposition of the grant amounts and to ensure compliance with the requirements of this subtitle.

Subsections (b) and (c) would give the Secretary and the Comptroller General access for the purpose of audit and examination to any books, documents, papers, and records of any entity receiving grant amounts under the new program that are pertinent to grant amounts received in connection with, and the requirements of, the new program.

Reports to Congress

Section 114 would require the Secretary to submit a report to the Congress annually, summarizing the activities carried out under the new program and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report would be submitted not later than 4 months after the end of each fiscal year (except that, in the case of fiscal year 1995, the report would be submitted not later than 6 months after the end of the fiscal year).

Innovative Homeless Program

Section 115(a) would authorize the appropriation of $100 million for fiscal year 1995 and such sums as may be necessary for fiscal year 1996 for the comprehensive homeless initiative under section 2(c) of the HUD Demonstration Act of 1993.

Subtitle B—Emergency Food and Shelter

Transfer of the Emergency Food and Shelter Program from FEMA to HUD

Section 121 would amend the Stewart B. McKinney Homeless Assistance Act to transfer the Emergency Food and Shelter Program from the Federal Emergency Management Agency (FEMA) to HUD. Currently, the Emergency Food and Shelter program is administered by FEMA and is implemented through a National Board consisting of the Director of FEMA as chairperson and six other members nominated by the United Way of America; the Salvation Army; the National Council of Churches of Christ in the U.S.A., Catholic Charities, U.S.A.; the Council of Jewish Federations, Inc.; and the American Red Cross.

Under the proposed legislation, the Secretary of HUD would replace the Director of FEMA as chairperson of the Board. The Secretary of HUD would appoint members to vacancies on the National Board.

The transfer of this program to HUD would improve the coordination and delivery of homeless resources, given HUD's lead responsibility for housing and shelter.

TITLE II—PUBLIC AND INDIAN HOUSING; CROSS-CUTTING AUTHORIZATIONS

Direct loans for modernization and replacement

Section 201 would establish a direct loan program for modernization of public housing and provision of replacement housing for units that cannot be made viable. By making available substantial amounts of capital, the program would make it possible for PHAs and their local units of government to plan and execute actions to eliminate seriously deteriorated public housing, either by major rehabilitation or by replacing existing projects with new housing, including new, mixed-income developments in which public housing tenants would comprise only a portion of the tenancy of the project.

The loan program would provide participating housing agencies with an efficient source of financing for their modernization activity, so that PHAs can address current needs now, rather than waiting until sufficient CGP funds are available sometime in the future. The Department is proposing an amendment to section 14, in another legislative proposal, so that modernization funds can be used for replacement housing. That proposal, in combination with this proposal for a modernization direct loan program, would allow PHAs to use loan proceeds to replace deteriorated and uninhabitable projects. The availability of capital for development will make it possible for PHAs to leverage private capital in order to construct mixed-income projects.

Only CGP agencies with an acceptable rate of obligation of modernization funds would be eligible, unless the agency indicated its willingness and intent to administer the borrowed funds through contract management. The loans would be repaid with the annual formula allocations of modernization funds under the Comprehensive Grant program and other Federal and non-Federal financial resources. Cities or States would be co-borrowers with the PHAs and would pledge their funds as collateral, in case of default, for some portion of the loan. These city funds could be future allocations of CDBG, tax revenues, or other income sources, at the discretion of the city. In the event of default, the State or unit of general local government would pay a share of the remaining unpaid debt service proportional to the original pledge.

Any activities eligible under the Comprehensive Grant program would be eligible except that, unlike the CGP, activities to upgrade the management and operation of public housing projects would not be eligible. In another legislative proposal, public housing development and section 8 project-based and tenant-based assistance would become eligible uses for modernization funds when the units are provided as replacement housing under Section 18.

The maximum aggregate amount of loans that HUD could make for any PHA would be limited to five times the PHA's latest CGP allocation amount, or such lower limit as the Secretary established by regulation. In addition, in determining the approvable size of the loan, HUD could take into consideration (a) the ability of the PHA to use the funds effectively, directly or through contract management, and (b) the adequacy of remaining future allocations in providing repairs, replacements and improvements which will be needed as a result of usage and depreciation of existing projects over the borrowing period. If, at any time during a fiscal year, HUD found that 50% of the loan authority for that fiscal year had been committed or applied for, HUD could limit any individual loan. The maximum term of the loan would be 10 years.

The authorization for loans under the program would be $2,000,000,000 in FY 1995 and the same amount in FY 1996. A premium large enough to offset the Federal government's risk would be charged against the PHA's Comprehensive Grant in the year the loan is made.

Any technical assistance funds set aside under section 14 could be used for training and technical assistance in support of this program.

PHAs in the Comprehensive Grant program typically have major rehabilitation needs which far exceed their annual allocation of funds. Most of these needs are a part of a multi-billion dollar backlog which existed at the beginning of the CGP in FY 1992. Under the present system, it will be many years before sufficient funds are available to address these needs. In the meantime, projects which could be providing housing sit empty, and some public housing residents are living in severely deteriorated housing.

If PHAs were able to borrow against their anticipated annual allocation and other anticipated income, they would be able to speed up the elimination of the backlog of modernization needs. The result would be that vacant units could be made habitable and occupied sooner, and current residents would have better living conditions.

In addition, in some PHAs, the most efficient use of funds is not to rehabilitate existing projects but to demolish them and build replacement units. Often, through this process, far better housing can be provided in better locations at the same cost. If large amounts of capital are made available for development in this way, it will be possible to leverage private investment in housing to construct mixed-income developments, ending the segregation of public housing residents in very low-income areas.

Use of modernization funds for replacement housing

Section 202 would amend section 14 of the 1937 Act to authorize PHAs to use modernization funds for the development of additional public housing under the 1937 Act, subject to the requirements applicable to such development, and for 15-year project-based assistance and 5-year tenant-based assistance, in accordance with section 8, to provide replacement housing as required by section 18. Section 18 requires replacement housing in certain circumstances in connection with the demolition or disposition of public housing. This proposal would not modify the section 18 requirements for replacement housing or the types of housing that may be counted as replacement housing under those requirements.

Current law governing the modernization program inhibits the ability of PHAs (including Indian housing authorities) to provide housing solutions that are tailored to local needs. The public housing modernization program only permits PHAs to rehabilitate existing units, even under conditions where demolition and replacement would be more economical and socially preferable. This proposal would provide PHAs with the flexibility to determine whether replacement, rather than rehabilitation, or 15-year project-based or 5-year tenant-based section 8 assistance, would be a preferable option under the public housing modernization program.

Facilitate use of public-private partnerships in modernizing public housing

Section 203 would amend the requirement that Section 14 funds can be used only for low-rent housing projects which are owned by public housing agencies and permit the Secretary to specify other forms of control of the property by the PHA, as an alternative to ownership.

For example, the PHA could own the land on which a project is located and provide a ground lease to the owner of the building or be the mortgagee for the property.

This change would facilitate private investment in the modernization of public housing projects by permitting use of low-income tax credits by the private investor. In this manner, the amount of funds available for modernization of public housing could be increased.

Public housing is currently extremely limited in the methods of financing that may be used for modernization. This change would open opportunities for private-public partnerships in improving the Nation's public housing.

Modification of the Early Childhood Development Program

Section 204 would amend the requirements for the Early Childhood Development program for residents of public housing to permit the Secretary to make grants for the expansion or refunding of pre-existing child care centers. In addition, this proposal would permit homeless families with children to use the early childhood development services funded under the program and would require the Secretary, in providing grants under the program, to take into account the proximity of the proposed site to facilities for the homeless. Finally, the proposal would authorize $35 million for the program FY 1995 and $35 million for FY 1996.

Allowing Child Care grants to be made available to expand or refund existing centers for public housing residents would make the early childhood development program more equitable and efficient. Expanded centers would provide qualified families that would otherwise be denied access to existing centers that are filled to capacity an opportunity to share the same services. Also, expansion would enhance the capacity of existing centers that are straining to serve a large number of families with children. The ability to refund existing centers under this program would help the economic stability of centers that need additional funding.

Expansion of the program to include assistance for homeless families would provide them the opportunity to share the same services that are available for public housing residents. Access to these facilities would otherwise not be available for homeless families.

Entrepreneurial PHAs and RMCs

Section 205 would authorize the Entrepreneurial PHAs and RMCs demonstration. Under this demonstration, the Secretary would be permitted to approve requests for waiver of statutory requirements to permit selected PHAs (including Indian housing authorities) or RMCs (or some of each) to set their own policies for the operation, maintenance, management, and development (including modernization) of any of their projects. In addition, HUD could specify alternative requirements in connection with the demonstration. Regulatory and contract waivers are not addressed in this proposal, because current regulations already contain adequate and explicit waiver authority. This proposal would permit up to 25 demonstrations conducted by the total of 25 PHAs or RMCs (or a combination of both). Demonstrations could be approved for a period of up to five years.

While these agencies and RMCs would be bound by State or local law, they would not be bound by the requirements of the U.S. Housing Act of 1937, except for the fundamental requirement limiting occupancy to low-income families as defined in section 3, and the requirements of section 18 of the 1937 Act requiring replacement units that apply in the case of demolition or disposition (except that the limitation on the use of tenant-based assistance to applications proposing demolition or disposition of 200 or more units may be waived). In addition, the Secretary could waive any other statutory requirements applicable to the project, or specify alternative requirements, except for the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and statutory requirements pertaining to fair housing and equal opportunity, the environment, or labor standards.

The Secretary could select among applicant PHAs and RMCs in a manner determined to be appropriate, taking into account such factors as (1) the need for a range of project sizes, (2) the need for a range of types of public housing agencies and RMC's, (3) the capability of the PHA to carry out the demonstration, and (4) the potential effects and benefits the variations proposed by the agency or RMC could have on the public housing program if the variations were adopted for the whole program.

Each demonstration would have to: (1) be approved personally by the Secretary; (2) taken as a whole over the life of the demonstration, not result in higher costs to the Federal government; (3) be consistent with the overall purposes of the public housing program; (4) be evaluated by an independent party; and (5) be consistent with the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and the National Environmental Policy Act of 1969.

The Secretary would be authorized to establish any requirements determined to be necessary for the conduct of these demonstrations.

The PHA or RMC for each demonstration site would be required to submit an annual progress report. In addition, within one year of the conclusion of each demonstration, the Secretary would be required to submit to Congress a report describing the results of the demonstration and any recommendations for legislation.

One million dollars would be authorized for the evaluation of the demonstrations under this proposal. An independent evaluation would be an important part of the demonstrations and would measure the effects of permitting agencies and RMCs to waive certain Federal requirements and set overall policy. This authorization is essential to HUD's and the Congress' ability to take the lessons learned from these demonstrations and put them to practical use by revising current programs or creating new ones.

Entrepreneurial PHA demonstrations would promote innovation in addressing public housing issues, allowing PHAs to identify statutory impediments to achieving public housing objectives and their plan to reinvent their public housing program without the constraints of those impediments.

One of the criticisms of HUD's public and Indian housing programs is that they are sometimes too prescriptive or rigid to fit the needs or circumstances of many local community situations. These demonstrations will encourage local decision making. These demonstrations will provide HUD with valuable first-hand experience on what truly reinvented public housing programs may be.

Policies such as those relating to occupancy, development and modernization could be waived by the Secretary upon a specific request from an agency or RMC participating in the demonstration. PHAs and RMCs would have to describe the policies which they wanted waived as part of the application to participate in the demonstration, but they could also request additional waivers after they had been selected. For example,

A PHA could propose, and the Secretary could authorize experimentation with different methods of setting rent for their public housing units in order to test alternative rental strategies. Rents for public housing are currently set by law at the highest of 30% of adjusted income, 10% of gross income, or the welfare shelter rent. Waivers could be granted for developments with long-standing problems of high vacancies, authorizing imposition of ceiling rents below the current statutory level; setting lower rents for unit sizes, such as efficiencies, which are particularly hard to rent; or imposition of minimum tenant rents for residents of public housing who might otherwise pay no tenant rent. The demonstration of alternative rent-setting strategies could employ (a) a project-specific feature, a demonstration of use of an alternative rent schedule as a mechanism for solving a particular problem at a project or projects, or (b) a PHA-wide feature, a demonstration of the effects of removal of the rent restrictions PHA-wide on the income levels and characteristics of families housed by public housing.

A PHA could propose, and the Secretary could authorize, alternative methods for determining the income on the basis of which rent is determined. For example, in order to create a work incentive and to recognize the additional costs of working over not working, a PHA could disregard a portion of all earned income, or treat differently the income of a second wage-earner in a family, or phase in any income increases which result from going to work. Income disregards implemented by PHAs could include ones that are currently in the 1937 Act but that have not been implemented because they are subject to appropriations which have not been provided.

A PHA could propose and HUD could authorize a variety of creative uses of development funds, including projects which house a mixture or incomes in which the public housing portion is a percentage of the project and the units, rather than specific buildings and units. Such uses could also include projects which combine public housing for the elderly with intermediate care facilities.

Disallowance of earned income for residents who obtain employment

Section 206 would amend section 3 of the 1937 Act, which was amended in 1990 to disallow counting as income the earnings and benefits of any public housing (including Indian housing) resident resulting from participation in various employment training programs established under Federal, State, or local law in order to provide a work incentive. The disallowance of earned income resulting from the program extends for 18 months. The purpose of the provision was to provide a work incentive and to facilitate the transition from welfare to work.

This proposal would delete the 1990 disallowance provision and substitute a new section 3(d), which would provide an 18-month disallowance of increases in income due to employment of public housing residents who become employed after having been unemployed for at least one year, regardless of whether they have participated in any employment training program. Thus, the proposal would provide the work incentive to an expanded group of public housing residents, by eliminating the need to participate in certain training programs. It would also target the incentive to those with no recent work experience, thus limiting somewhat the group now affected by the law. The net effect of substituting the new proposal for the earlier provision is no increase in cost.

In the interests of equity to residents, ease of administration, and the general comprehension and effectiveness of the work incentive, it is important that the rules affecting the treatment of earned income of residents previously unemployed be as consistent as possible, regardless of what kind of training program they may have participated in or whether their transition required any training at all. Further, because this provision applies to all members of the household, it creates the same incentive to begin working for a dependent child who has come of age and for any other additional adults in the household. Under the previous provision, only those members of the household who were eligible for, and who participated in, selected training programs would be able to benefit.

For families under the new section 3(d), rent increases after the initial 18-month period would be limited to 10% per year if the increases would result from the continued employment of a resident. By allowing a 10% annual increase in rent, the provision will prevent the newly employed person from experiencing any large increase which would create an incentive to cease employment. It cannot be assumed that, after a few years of employment, a person's income is likely to be substantial enough to afford a large rent increase. Low-income workers often experience little or no increase in wages over many years, and frequently have periods of unemployment.

The proposal would also repeal section 957 of the Cranston-Gonzalez National Affordable Housing Act, which applies to all assisted housing programs, and which provides that rent increases are limited to 10% per year for the first 36 months after employment if the rent increases would result from the employment of a resident who was previously unemployed. Unfortunately, section 957 creates an incentive for abuse by authorizing the disregard after any period of unemployment, no matter how short. It also would require appropriations because it applies to all assisted housing, unlike this proposal and the one it replaces, which apply only to public housing. Further, although the 36-month phase-in of rent increases would be quite adequate for most people going from welfare income levels to low-wage jobs, some workers would experience substantial rent increases at the end of the 36-month period. This proposal for an 18-month disallowance followed by an annual rent increase limitation of 10% avoids the weaknesses of section 957 while retaining the important concept of phasing in rent increases due to employment.

Ceiling rents based on reasonable rental value

Section 207 would amend the existing ceiling rent authority for the Public and Indian Housing programs to authorize PHAs to establish ceiling rents no lower than the reasonable rent for the unit.

Public housing now serves the poorest of the poor. The median income of nonelderly households is 16% of the local area median income. The national average income of nonelderly public housing families is less than $7,000. Only 6% of all non-elderly households have income exceeding 50% of local area medical income. Only 28% of all nonelderly households derive their income primarily from wages. Many developments have a very small number of working households. Literally, thousands of children are being raised in public housing developments where almost no one gets up and goes to work every morning. Nearly all the 700,000 non-elderly households in public housing live in areas characterized by extreme poverty.

The goal of public housing is to serve low-income households, and to serve them well. Creation of communities which do not include families whose lifestyle focuses on work, education, and upward mobility is to create communities which reinforce dependency, school drop-outs, teenage pregnancy, crime, and a bleak future for the children. Such communities do not serve their residents well and do not offer hope for the future of our cities and our nation.

A policy which contributes significantly to extreme concentration of very low-income households in non-elderly public housing is the so-called "30% rule," which requires PHAs to charge most resident families an amount which is 30% of their adjusted income, regardless of the value of the units. Developments vary widely in actual rental value. HUD's analysis shows that, based on rents that families are willing to pay for public housing units, over half of all public housing units have rental values below $300, and almost three quarters of all public housing have rental values under $400. Each time that a PHA informs a resident that the rent for the unit will be increased for the next year, the resident has to weigh the available options and decide whether to pay that amount for the unit, or try to get a better deal elsewhere. A decision to move may mean that the family lives in substandard housing, or that it pays an even higher percentage of income for rent, but it also means that it has chosen a unit that it believes to be worth the rent that is being charged, given the choices available in that market.

Because the 30% rule frequently forces PHAs to charge more than units are worth or residents are willing to pay, the policy is an incentive for many working families every year to leave public housing. Because some public housing developments are old and poorly designed, and lack security and good maintenance and management, their actual rental value is very low and some of the families being pushed out by the 30% rule may have incomes well below 50% of median. Nearly all the "push-outs," however, are working families. Application of the 30% rule also discourages public housing residents from working more hours and seeking higher pay, because a substantial part of the increase in earnings must go for rent.

Section 3(a)(2)(A) of the U.S. Housing Act of 1937 now allow use of maximum or "ceiling" rents. Ceiling rents may not exceed a maximum amount that—

(i) is established by the PHA/IHA and approved by HUD;

(ii) is not more than the amount payable by the family under the tenant rent formula (generally 30% of adjusted income); and

(iii) is not less than the amount of debt service and operating expenses attributable to units of similar size in developments owned and operated by the PHA.

Although this policy provides ceiling rents which are low enough to encourage working households to remain in some developments, in the majority of PHAs this formula produces a number that is higher than the perceived rental value of most, if not all, of the units. This occurs because there is no necessary relationship between cost and rental value. Many developments have very high debt service relating to extensive amounts of modernization or to recent construction. Operating costs can be increased substantially by high energy costs. The poor design, security problems, and stigma that often accompany public housing also contribute to a very low rental value. An effective ceiling rent must be related to the rental value of the units and must take into consideration the variation of rental values among the developments of a PHA.

The proposal would amend the 1937 Act to authorize PHAs to establish ceiling rents no lower than the reasonable rental value of the unit, as determined by the Secretary. The current requirement in (iii), above, would be deleted. A variety of methods would be permitted for determining reasonable rental value.

HUD has the capacity to analyze rents now being paid, by development, and to identify the highest 5% of rents, which represent the most that families are willing to pay for those units in that particular development. HUD would provide this data to PHAs so that it could be used as one method of determining ceiling rents. Indeed, the transition provisions that would apply until final regulations become effective would permit the use of such ceiling rents.

Effective ceiling rents would encourage poor, working households to remain in public housing longer and would attract such families to public housing. The families affected would primarily be working families with incomes between minimum wage, which is 25% of the national median income, and 50% of median. Effective ceiling rents would also encourage working families to obtain more income, since their rents will be frozen at the ceiling rent. Workers may work more hours, or spouses or adult children can become employed, without having a rent increase. This ceiling rent initiative based on rental value of the units could be expected to begin to improve the residential mix in nearly all developments, including the very poorest, within the first year.

For Indian housing, because normal market forces do not impact actual rents paid due to the limited choice of housing on Indian lands, HUD is exploring alternative methodologies for determining reasonable rental value for units in Indian housing authority developments.

Since the working families who will remain longer in public housing or will be attracted to public housing because of ceiling rents have incomes well above the average admission, the ceiling rent policy will more than pay for itself, even in the first year.

Pursuant to subsection (b), the Secretary would, after notice and an opportunity for comment, establish by regulation such requirements as may be necessary to carry out the ceiling rent authority, as amended by subsection (a). Prior to the issuance of final regulations, a public housing agency would be permitted to implement ceiling rents either determined in accordance with section 3(a)(2)(A) of the U.S. Housing Act of 1937, as it existed prior to the enactment of these amendments, or equal to the 95th percentile of the rent paid for a unit of comparable size by tenants in the same project or a group of comparable projects totaling 50 units or more.

Authorization to sell public housing to nonprofit organizations

Section 208 would permit PHAs, including IHAs, to sell public and Indian housing to non-profit organizations for the purpose of facilitating homeownership by public housing residents. In addition, the reference to "lower income tenants" would be changed to "low-income families," which is the correct term under the 1937 Act.

Section 5(h) of the United States Housing Act of 1937 authorizes public and Indian housing authorities to sell housing units to their residents. This section would be amended to allow PHAs, at their option, to sell housing to a non-resident-controlled intermediate entity to facilitate homeownership. The use of a non-profit intermediary would offer administrative flexibility to those PHAs that do not have the necessary expertise or that do not wish to handle the implementing details of a section 5(h) sale transaction.

The Department would require PHAs which wish to exercise this authority to enter into a binding agreement with the non-profit to transfer the units within a specified period of time and to transfer the units in good condition. If rehabilitation is necessary, it must be accomplished before sale and at the expense of the PHA. The PHA would have flexibility to set a sales price which would make purchase by residents feasible.

Subtitle B—Severely Distressed Public Housing Program, Revitalization of Severely Distressed Public Housing

Amendments to section 24

Section 211 would amend section 24 of the U.S. Housing Act of 1937, the authorization for the Severely Distressed Public Housing program. Section 24 was enacted by section 120 of the Housing and Community Development (HCD) Act of 1992. For FYs 1993 and 1994, the Urban Revitalization Demonstration (URD) program, a program with similar objectives to the section 24 program, was established and funded under HUD's appropriations Acts. For FY 1995, the President's Budget proposes to fund the Severely Distressed Public Housing program. The amendments to section 24 made by this section incorporate some of the best features of the URD program into the section 24 program and make other improvements.

Designation of Eligible Projects.—Subsection (a)(1) would repeal the requirement in section 24(b) that the Secretary designate severely distressed projects. The Department thinks it is both unwise and unnecessary to establish and maintain a list of "severely distressed" public housing developments. As funds become available, localities will revitalize their distressed developments with funds from the Comprehensive Grant Program or apply for funding under this section. In the meantime, housing agencies will do their best to maintain these developments and create a decent living environment under very difficult circumstances. It would not be at all helpful to the ongoing effort to sustain these developments to label them as "severely distressed." A conforming amendment would be made to the annual report requirement in section 24(i).

Increase Planning Grant Dollar Cap.—Subsection (a)(2) would increase the maximum planning grant from $200,000 to $500,000. The current cap is too low for large public housing developments. The higher amount is needed to assure sound planning for undertakings as costly as those funded under section 24.

Community Service.—Subsection (a)(4) would require that planning grant applications propose planning for community service activities, and subsection (a)(7) would require that implementation grant applications propose community service activities. Subsections (a)(3) and (a)(6) would add planning for community service activities and the activities themselves as eligible activities.

Community service activities are a key feature of the URD program. These amendments recognize the important contributions residents of the developments can make to the well-being of all the residents of the development and the wider community, and that other members of the community and other persons can also provide significant support for the development. Community service opportunities for disadvantaged youth generally include opportunity for completion of high school education requirements, job training, and other activity designed to lead to economic mobility.

Replacement Housing.—Subsection (a) (6) (A) would clarify that funding under section 24 may be used to fund replacement housing. HUD would establish policies and procedures by regulation for the use of assistance available under section 24 for replacement housing, including replacement housing provided under equivalent State and local programs.

Increase Support Services Cap.—Subsection (a)(6)(B)(i) would increase the cap on the amount of the implementation grant that may be used for support services from 15% to 20%. This will provide greater flexibility to the PHAs and permit greater emphasis on critical social problems.

Contributions for Support Services.—Subsection (a)(6)(B)(ii) would establish a requirement similar to one in the URD program for contributions from non-Federal sources for supportive services in an amount equal to at least 15% of the amount of the implementation grant used for supportive services. In the URD, the contribution must be made by the local government. However, the Department has determined that flexibility to allow contributions from local foundations, private non-profit organizations, and other non-governmental groups will be equally useful in assuring a local commitment to the success of the revitalization effort. The contribution could be in the form of cash, administrative costs, or the reasonable value of in-kind contributions and could include CDBG funding.

National Geographic Diversity.—Subsection (a) (5) and subsection (a) (8) would clarify that "national geographic diversity among housing for which applicants are selected to receive assistance" is not a factor on the basis of which applications would initially be ranked. Ranking would take place on the basis of other factors. Then, when the initial ranking has occurred and it is possible to see the geographic location of the ranked applications, HUD would have the authority to select a lower-rated, approvable application over a higher-rated application to increase the level of national geographic diversity of applications approved under section 24.

Exception to Program Requirements.—Subsection (a)(9) would permit a revitalization plan to include demolition and replacement on site or in same neighborhood if the number of replacement units provided in the same neighborhood is fewer than the number of units demolished as a result of the revitalization effort. In addition, this subsection would permit a PHA to replace not more than one-third of the units demolished or disposed of through a revitalization project with tenant-based assistance under section 8.

Definition of Severely Distressed Public Housing.—Subsection (a)(10)(A) would recast the definition of severely distressed public housing, as follows:

(5) Severely Distressed Public Housing.—The term "severely distressed public housing" means a public housing project or a building in a project—

(A) that requires major redesign, reconstruction, redevelopment, or partial or total demolition to correct serious deficiencies in the original design (including inappropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems, and other deficiencies in the physical plant of the project; and

(B) that either—

(i)(I) is occupied predominantly by families with children which have extremely low incomes, high rates of unemployment, and extensive dependency on various forms of public assistance; and

(II) has high rates of vandalism and criminal activity (including drug-related criminal activity); or

(ii) that has a vacancy rate, as determined by the Secretary, of 50 percent or more; and

(C) that cannot be revitalized through assistance under other programs, such as the programs under sections 9 and 14, or through other administrative means because of the inadequacy of available funds in relation to the total modernization needs of the public housing agency; and

(D) that in the case of individual buildings, the building is, in the Secretary's determination, sufficiently separable from the remainder of the project to make use of the building feasible for purposes of this subtitle.

Instead of qualifying as severely distressed public housing by meeting the requirements of either subparagraphs (A) or (B), the definition combines most features from both subparagraphs (A) and (B), simplifying and clarifying the definition and making it more feasible to administer.

An example of the problems in current law is section 24(h)(5)(ii), which refers to housing which is occupied by families in a severe state of distress, characterized, among other things, by such factors as high rates of teenage pregnancy and minimal educational achievement. Information on these two characteristics is not readily available at the project level. It is likely these variables are highly correlated to the data on amount and source of income, which is readily available and would be retained as proposed paragraph (5)(B)(i), above.

Another change is the deletion from current law of section 24(h)(5)(B)(i), which requires that projects qualifying under subparagraph (B) must be owned by a troubled PHA. A severely distressed, high vacancy development may occur in an agency that is not troubled.

Definition of Community Service and Support Services.—Subsection (a)(9)(B) would add two new definitions, as follows:

Community Service.—The term "community service" means services provided on a volunteer basis for the social, economic, or physical improvement of the community to be served.

Support Services.—The term "support services" includes all activities designed to lead toward upward mobility, self-sufficiency, and improved quality of life for the residents of the development, such as literacy training, job training, day care, and economic development. Such activities may allow for participation of the residents of the neighborhood.

Amendments to Section 18

Subsections (c) and (d) would make several changes to give public housing agencies (including Indian housing authorities) more flexibility in planning for the future of their stock.

Use of Tenant-Based Assistance for Replacement Housing.—Subsection (c) would amend section 18(b)(3)(C)(i) to modify the circumstances under which tenant-based assistance under section 8 may be used as replacement housing by removing the requirement that the supply of private housing must be likely to remain available for 15 years. Instead the supply would be required to be likely to remain available for the full term of the tenant-based assistance. Since changes made in 1992 permit use of 5-year assistance in some cases, the test for feasibility would be changed to reflect the actual term of the assistance.

Replacement Housing Outside the Jurisdiction of the PHA.—At present, section 18 restricts the location of replacement units to the PHA's jurisdiction. Subsection (d) would permit locating some or all of the replacement units outside of the jurisdiction of the PHA but within the same housing market area, based on a realistic look at housing needs in the real economic community, and not simply according to the boundaries of political jurisdictions. For core-city PHAs, this might solve the problem of the unavailability of suitable replacement sites within their jurisdictions. It would allow adjoining communities to cooperate in a way that best serves the interests of the poor and might help to open up housing opportunities in adjacent areas where the employment picture is favorable.

Specifically, replacement units could be located outside the PHA's jurisdiction if—

(a) the location is in the same housing market area as the original agency, as determined by the Secretary;

(b) the replacement housing plan contains an agreement between the original agency and the PHA in the alternate location, or other public or private entity that will be responsible for providing the additional units in the alternate location ("alternate agency or entity"), that the alternate agency or entity will, with respect to the dwelling units involved—

(1) provide the dwelling units in accordance with program requirements;

(2) complete the plan within the required time period;

(3) work with the original agency to ensure that (A) the same number of individuals and families will be provided housing and (B) the maximum post-relocation rent provisions are complied with; and

(4) not impose a local residency preference on any resident of the jurisdiction of the original agency for purposes of admission to any such units; and

(c) the arrangement is approved by the unit of general local government for the jurisdiction in which the additional units will be located.

Modernization Program Reserve Funds

Section 212 would permit PHAs (public housing agencies, including Indian housing authorities) to apply to use amounts in the $75 million reserve under the Public Housing Modernization program, which is not available only for needs resulting from natural and other disasters and from emergencies, for modernization activities related to settlement of litigation and desegregation of public housing.

Under the Modernization program, each Federal fiscal year, HUD begins the year with a $75 million reserve for disasters and emergencies. Any unused funds remain in the reserve and HUD replenishes it so that at the beginning of each fiscal year it begins with a $75 million balance. Currently, PHAs may request funds from the reserve in two circumstances: (1) a natural or other disaster such as a hurricane or earthquake, affecting only one or a few PHAs or any disaster declared by the President or would qualify for a Presidential declaration if it were on a larger scale; and (2) an emergency, defined as a physical need of an emergency nature, posing an immediate threat to the health or safety of residents and which must be corrected within one year.

Allowing PHAs to request reserve funds for litigation and desegregation activities will enable PHAs under the Comprehensive Grant program to preserve their formula funding for planned activities approved in the Comprehensive Plan which was subject to a public hearing. The formula funding provided to PHAs is based on backlog and accrual needs. Since the formula does not factor in litigation or desegregation needs, PHAs that have such needs would not be treated equitably if those needs had to be funded from the dollars allocated in the formula grant.

There is similar authority in the reserve established under section 213(d) of the 1974 Act, which is funded from amounts appropriated for public and Indian housing development and section 8 rental assistance. Currently, the section 213(d) reserve may only be used for:

(a) unforeseen housing needs resulting from natural and other disasters;

(b) housing needs resulting from emergencies other than such disasters;

(c) housing needs resulting from the settlement of lawsuits; and

(d) housing in support of desegregation efforts.

Another provision of this bill would authorize use of the section 213 reserve for fair housing activities and cash settlements in connection with civil rights litigation.

Eligibility of severely distressed public housing for public housing operating subsidies

Section 213 would amend section 9 of the U.S. Housing Act of 1937 to make it clear that public housing developed with funds appropriated under the URD demonstration or for the section 24 program of Revitalization of Severely Distressed Public Housing is eligible for operating subsidy.

The FY 1993 appropriations Act, which created the Urban Revitalization Demonstration, clearly contemplated that funds appropriated for URD could be used to construct new public housing units, either on the site of the project to be revitalized or elsewhere as replacement housing. The statutory language provides that "funding provided shall be used . . . for the capital costs of replacement units . . ." Further, it states that units demolished or disposed of under this demonstration may be replaced "by any combination of conventional public housing" and other approaches to providing affordable housing.

The HUD Act of 1992, which authorized the successor program to the URD, the section 24 program of revitalization of severely distressed public housing, also contemplates that public housing will be developed with URD money when projects are demolished and rebuilt.

However, there is some question as to whether operating subsidy can be paid to these units developed with URD or section 24 funds, since the operating subsidy statutory authority states, at section 9(a)(2), that "[t]he Secretary may not make assistance available under this section for any low-income project unless such project is one developed pursuant to a contributions contract authorized by section 5 . . ." Neither URD nor section 24 fit into this category.

Since it appears that the Congress expected housing developed with URD funds to be considered public housing, the amendment requested is a technical amendment to allow the intent of Congress to be met. It would simply add URD and section 24 developed projects to those eligible for operating subsidy.

Applicability of section 24 and URD statute and rules

Section 214 would establish that if any portion of a public housing development receives funding under section 24 of the 1937 Act or through the Urban Revitalization Demonstration (URD) funded under the fiscal year 1993 and 1994 appropriations Acts and has an approved comprehensive plan, the Secretary may establish such requirements for all the activities undertaken in the efforts to revitalize the whole project without regard to the requirements of the 1937 Act, and regardless of the funding source. For example, HUD could establish the same requirements for the modernization activities undertaken in the project with comprehensive grant funding as the Department establishes for rehabilitation activities undertaken in the project with section 24 or URD funds without regard to the requirements of section 14 of the 1937 Act.

It will be critical to the success of the severely distressed public housing program under section 24 and the URD program in dealing comprehensively and effectively with the problem of severely distressed public housing and its related social and economic issues to provide maximum flexibility to public housing authorities receiving such funding. Evidence already exists that URD grantees are finding that the process of obtaining waivers of rules that the grantees see as necessary to a successful revitalization is time-intensive and not conducive to innovative and experimental thinking. Under this proposal, a more fundamental approach to effecting change is taken. Statutes and rules governing one-for-one replacement, rent calculations, and site and neighborhood standards, for example, could be revised for any development receiving any section 24 or URD funds. For example, a 750-unit site that has received URD funding for 500 units and Comprehensive Grant funding for the remaining 250 units (or the reverse) would be subject only to one set of requirements that the Secretary establishes for the project with respect to both the URD funding and the Comprehensive Grant funding.

In addition, projects could be exempted from requirements of the 1937 Act that could hinder the PHA's ability to successfully bring about the revitalization of a public housing project that is subject to the section 24 Severely Distressed Public Housing program or the Urban Revitalization Demonstration. This would include provisions of section 18 that require the PHA to replace public housing that is demolished on a one-for-one basis. The replacement housing requirement has often proven impossible for PHAs to satisfy. This proposal would allow the Secretary the discretion to determine if a PHA should be exempted from the replacement housing, or other requirements, if those requirements hinder the revitalization of the project.

A major concern is about how site and neighborhood standards should apply to replacement housing under the section 24 program and URD. Many of the older developments that are targeted under this program are in serious disrepair, and may be candidates for demolition and replacement. Some of these sites would not meet HUD's current requirements for new assisted housing construction. Under this proposal, HUD would be able to establish standards for review of site selection for replacement public housing in a manner that recognizes the need for revitalization of the neighborhood as well as the air housing implications of the racial and socio-economic information relevant to the replacement of public housing units.

Currently HUD is working aggressively with the two rounds of URD grantees to ensure that their strategies expand assisted housing opportunities in non-poor and non-minority neighborhoods, and ensure meaningful neighborhood reinvestment in distressed communities. Because the goals and principles of the Department's site and neighborhood standards correspond fully to the goals and conditions of the URD program, the Secretary will be able to establish a site and neighborhood assessment for URD projects that will balance the interests of neighborhood revitalization and spatial deconcentration.

Therefore, this proposal would facilitate the goals of the section 24 program and URD by ensuring that PHAs are able to move aggressively and comprehensively in implementing their revitalization plans by allowing the rules established for section 24 and URD projects and the approved comprehensive strategy (plan) for any section 24 or URD grant to govern all activities at the affected development (or in any impacted area off-site), regardless of such factors as funding source and the number of units in a replacement project.

Subtitle C—Anti-Crime Initiatives

Community Partnerships Against Crime

Section 221 would amend the Public and Assisted Housing Drug Elimination Act of 1990 to create an expanded program entitled the "Community Partnerships Against Crime Act of 1994." Under the revised program, HUD would be authorized to make grants to public housing agencies (including Indian housing authorities) and federally assisted low-income housing projects for use in carrying out activities to implement plans for crime suppression, intervention, and prevention in and around such housing projects.

Problem statement

Local officials, PHAs, and HUD share the responsibility of providing safe and decent housing for public and Indian housing residents. Housing in many areas suffers from rampant crime, which may include gangs or drug dealers imposing a reign of terror on local residents. The increase in crime activity has not only led to fear and acts of violence against residents, but also to a deterioration of the physical environment resulting in substantial government expenditures.

Crime is no longer limited to America's largest cities. The problems of crime and drugs have spread to the smaller cities and suburbs. Federal Bureau of Investigation data show significant increases in violent crimes against persons and crimes against property since 1985 in both large and small urban areas.

Purposes

Subsection (b) would amend section 5122 of the 1990 Act to establish the following new purposes:

(1) To improve the quality of life for law-abiding public housing residents by reducing the levels of fear, violence, and crime in their communities;

(2) To expand and enhance the Federal Government's commitment to eliminating crime in public housing;

(3) To broaden the scope of the Public and Assisted Housing Drug Elimination Act of 1990 to apply to all types of crime, and not simply crime that is drug-related;

(4) To target opportunities for long-term commitments of funding primarily to public housing agencies with serious crime problems;

(5) To encourage the involvement of a broad range of community-based groups, and residents of neighboring housing that is owned or assisted by the Secretary, in the development and implementation of anti-crime plans;

(6) To reduce crime and disorder in and around public housing through the expansion of community-oriented policing activities and problem solving;

(7) To provide training, information services, and other technical assistance to program participants; and

(8) To establish a standardized assessment system to evaluate need among public housing agencies, and to measure progress in reaching crime reduction goals.

Program response

This proposal would establish an expanded program to address the issue of crime in public and Indian housing communities. The program, known as COMPAC, would organize PHAs, residents, and police as a community force in the development of comprehensive plans to counter crime in their neighborhoods.

Under a revised and renamed Public and Assisted Housing Drug Elimination Act of 1990, the program would include a much wider variety of crime reduction, security enhancement, and other efforts to counteract violence, substance abuse, and gang related activities.

Subsection (h) would amend section 5130 of the 1990 Act to provide a funding level for the expanded program of $265 million in grants for FYs 1995 and 1996. Of this amount, not more than 6.25% could be used for federally-assisted housing programs.

Subsection (h) would also add a new section 5130(d) to authorize the use of up to 2% of appropriated funds for contracts, grants, cooperative agreements, or interagency agreements with PHAs or other public or private organizations, to implement innovative programs which involve joint investment by the public and private sectors, to conduct activities designed to reduce crime and violence in public housing. These funds could be used to create pilot programs or to replicate identified successful program models. There has been widespread support from resident organizations, sponsoring companies, and PHAs for crime prevention initiatives, such as after school programs which provide a safe haven for youth who might otherwise return to an unsafe environment. The Federal investment would leverage a variety of resources from the private sector and other agencies.

Subsection (j) would add a new section 5131 to the 1990 Act, under which the Secretary would be permitted to use $10 million of the funds appropriated under section 5130 in FY 1995 and FY 1996 for technical and related assistance, including the establishment and operation of the clearinghouse on drug abuse in public housing and the regional training program on drug abuse in public housing. In addition, the Secretary would be permitted to use these funds for the establishment and management of assessment and evaluation criteria and specifications, and the procurement of the opinions of experts in relevant fields.

Expanded focus of program

The program would focus resources on areas of greatest need; be flexible enough to respond to the circumstances in each community; provide a cost-effective funding system; and establish standards for enforcement which define and clarify the roles of local officials, enforcement personnel, PHAs, and residents.

Subsection (d) would amend section 5125 of the 1990 Act to provide greater certainty of continued funding for those PHAs with especially severe problems. It would give HUD the authority to provide renewable grants, up to five years, to PHAs with serious crime problems, subject to the availability of appropriations. To renew a grant, HUD would be required to perform an annual performance review and determine that the grantee's performance is satisfactory.

Subsection (c) would expand the list of eligible uses of grant funds in section 5124(a) of the 1990 Act beyond the existing eligible activities to include the following:

Community Policing would be an eligible activity. This approach has been effective in regaining control of crime-ridden neighborhoods. Providing police officers to specific neighborhoods on a consistent basis builds relationships with residents, thereby increasing information exchange which deters and prevents crime. Residents become less fearful of reporting crime and, therefore, participate in solutions to address crime problems. Foot or bicycle patrols, police substations in public housing, community relations officers, and other techniques which put the officer in more direct contact with the community have demonstrated results in reducing crime statistics.

Youth Initiatives would recognize public housing youth as an essential resource in solving community problems. Their enlistment can, in itself, be good prevention-programming. Youth can be coaches in recreational programs, peer mentors, and leaders in community solution action planning. More emphasis could be placed on training, education, recreation, career planning, employment, and substance abuse education and prevention. Youth programming should provide the opportunities, skills, and information needed for youth to make appropriate life-style choices and offer a deterrence to gang activity. The chapter would specifically authorize use of grants for youth initiatives such as training, education, after school activities, tutoring, recreation, career planning, employment, and entrepreneur programs.

Resident Services Programs provide comprehensive resident services to effectively intervene and prevent crime activities in public housing populations. Services may include job training, educational programs, treatment, or other appropriate social services which address the contributing factors of crime.

Physical Security Hardware costs, such as fencing, lighting, locking and surveillance systems, would be allowable.

Authority for assisted housing owners and public housing agencies to ban guns

Section 222 would preempt State and local law to provide explicit authority for owners of insured housing and assisted housing (including housing projects under the section 8 and section 236 programs and housing units assisted under the Certificate and Voucher programs) and PHAs, including IHAs, under the Public Housing program to adopt lease provisions banning the use, possession, and discharge of guns in insured, assisted, and public housing.

Residents of assisted housing and public housing in many localities experience a higher level of violent crime than others who live in the locality. Guns are involved in a high percentage of these crimes. Owners of insured housing would be covered by this proposal to give them the discretion to include such lease provisions where appropriate.

When the Richmond Redevelopment and Housing Authority (RRHA) adopted a lease with a gun ban, it was sued by the American Civil Liberties Union and the National Rifle Association in Federal District Court on the grounds that the lease provision was not "reasonable" as is required by Federal Law. It its defense, RRHA relied on the testimony of Dr. Allan Barrett, then of Virginia Commonwealth University, who had studied crime in Richmond and, specifically, in RRHA units for the past 20 years. Dr. Barrett testified that even though the crime rate in the City was significantly higher than the national average for cities of similar size, the incidence of crime in RRHA developments was much higher than the city rate. He further testified about the incidence of gun-related crime. Finally, he damaged the NRA's position that the residents needed guns to protect themselves, by pointing out that there was not a single instance, in 20 years, of a resident using a gun for self-protection.

The Court in this case found that the PHA'S lease provision banning guns was reasonable. Unfortunately, RRHA's court victory was overruled by the Commonwealth's passage of a bill prohibiting public housing agencies from banning guns. This prohibition does not apply to private landlords.

Make criminal records available for screening and evictions

Section 223 would preempt State and local law and override other Federal laws to enable PHAs, including IHAs, to obtain information on the criminal records of applicants for, and residents of, public housing, for the purposes of applicant screening, lease enforcement, and eviction. PHAs would be authorized to pay a reasonable fee for this information.

Current regulations (24 CFR Part 960) direct PHAs to avoid admitting families that have the potential of damaging the social or financial stability of developments. Police departments are specifically cited in the regulation as sources of information PHAs may contact. Similarly, in 24 CFR Part 966, PHAs are directed to have lease provisions that make criminal activity grounds for eviction.

These requirements are difficult to carry out. The problem is that in some localities the police departments are either uncooperative or are barred by State law or local ordinance from providing criminal records. In the State of California, for example, the only access to police records is by police departments and then only for law enforcement purposes. In addition, there is a valuable Federal data base which currently excludes PHAs—the National Crime Information Center (NCIC).

Subtitle D—Authorizations and extensions

Low-Income Housing

Section 231 would amend section 5(c) of the United States Housing Act of 1937 to authorize increases in budget authority for fiscal years 1995 and 1996 for the Section 8 and Public and Indian Housing programs. Within the aggregate increase in budget authority, the earmarks set forth below would be made. For the most part, the amounts indicated are the same for each of fiscal years 1995 and 1996:

Public housing grants—$413 million, including $263 million for Indian housing;

Section 8—For FY 1995, $2.743 million, including $514,275,000 each for the community investment demonstration program and homeless assistance, and $171,425,000 for assistance for the disabled; for FY 1996, $2,811,500,000 including $527,175,000 each for the community investment demonstration program and homeless assistance and $175,725,000 for assistance for the disabled.

Modernization grants—$2.786 billion for FY 1995 and $2.375 billion for FY 1996, including $15 million for technical assistance and training;

Loan management—$150 million;

Extensions of expiring section 8 contracts—$5.092 billion for FY 1995 and such sums as may be necessary for FY 1996;

Section 8 contract amendments—$2.2021 billion for FY 1995 and such sums as may be necessary for FY 1996;

Service coordinators in public housing projects—$30 million;

Public housing lease adjustments—$21.9 million;

Demolition and disposition units, and opt outs—$82,916,000;

Section 23 conversions—$3,960,000; and

Revitalization of severely distressed public housing—$500 million.

Public Housing Operating Subsidies

Section 232 would authorize appropriations for Public Housing Operating Subsidies at $2,496,000,000 for fiscal year 1995 and $2,376,000,000 for fiscal year 1996.

Family Self-Sufficiency Program

Section 233 would authorize appropriations for the Family Self-Sufficiency program at $17,300,000 for fiscal year 1995 and $17,732,000 for fiscal year 1996.

Public Housing Family Investment Centers

Section 234 would authorize appropriations for Public Housing Family Investment Centers at $26,342,000 for fiscal year 1995 and $27,001,000 for fiscal year 1996.

Revised Congregate Services Program

Section 235 would authorize appropriations for fiscal year 1995 of $6,267,000 for the Revised Congregate Services program.

Indian Housing Loan Guarantee Program

Section 236 would authorize an appropriation for the cost of subsiding loans in the Indian Housing Loan Guarantee Fund of $3 million for each of fiscal years 1995 and 1996. The limitation on the aggregate principal amount of loans in each such year would be $22,388,000.

Subtitle E—Applicability

Applicability of Public Housing Amendments to Indian Housing

Section 241 would repeal section 201(b)(2) of the United States Housing Act of 1937. This provision states that amendments modifying the public housing program that are enacted after the Indian Housing Act of 1988 do not apply to Indian housing unless explicitly made applicable. This proposal would also make clear that certain amendments affecting the public housing program made by the Cranston-Gonzalez National Affordable Housing Act (NAHA), the Housing and Community Development Act of 1992 (92 Act), and the Multifamily Housing Property Disposition Reform Act of 1994 (94 Act) apply to the Indian Housing program.

Since its enactment in 1988, section 201(b)(2) has caused confusion as to which legislative amendments affecting the public housing program apply to Indian housing. Even where the law expressly applies to Indian housing, HUD staff and IHAs have trouble keeping straight which provisions in the 1937 Act and other Acts apply to the Indian housing program.

Even worse is the situation where there is no logical reason for an amendment not to apply to Indian housing, but Congress fails to include the section 201(b) boilerplate required to make the provision applicable. For example, NAHA, the 92 Act, and the 94 Act made the following amendments affecting the public housing program that, because of failure to include the necessary boilerplate, to not apply to Indian housing.

NAHA

Section 955(b)—Exempt wage standards under section 12 for volunteer work.

92 Act

Section 103(a)(1)—Exempt retroactive SSI payments from income.

Section 112—Lower the applicability of Federal preferences from 70% to 50% of units.

Section 114—Miscellaneous operating subsidy amendments.

Section 116—Miscellaneous demolition and disposition amendments.

Section 118—Public housing homeownership under section 21 (technical amendments).

Section 903—Require new consent form for the release of applicant and participant information.

Section 927—Protect tenants who receive utility allowances from having their eligibility or benefits under energy assistance programs reduced or eliminated.

94 Act

Section 301—Correct the definition of family in the 37 Act.

Section 302—Eliminate the requirement to identify CIAP replacement needs.

Section 303—Raise threshold for project-based accounting from 250 units to 500 units.

Section 304—Permit operating subsidy adjustments only for actual rent increases from fraud recoveries.

The repeal of section 201(b)(2) would avoid the inadvertent failure to provide that amendments to the public housing program apply to the Indian housing program. Section 201(b)(1) (retained in this amendment) provides, however, that unless otherwise specified, the provisions of the 1937 Act that apply to public housing apply to Indian housing. Therefore, if the authors of future legislation involving public housing do not want it to apply to Indian housing, they will need to make that explicit. Such situations should, however, arise much more infrequently than situations where the authors do want the amendments to apply to Indian housing.

The bill makes it clear that the repeal of section 201(b)(2) is not intended to affect existing legislation that applies changes to public housing to the Indian housing program in accordance with the repealed authority.

In addition, as discussed above, there is no apparent reason why the amendments specified above were not made applicable to the

Indian Housing program. Therefore, this proposal would make them applicable.

TITLE III—HOMEOWNERSHIP; FHA MORTGAGE INSURANCE AUTHORIZATIONS

Subtitle A—Expand single family homeownership opportunities

Single Family Mortgage Insurance in Revitalization Areas

Section 301 would establish a new FHA program to make FHA home mortgage insurance available on special terms to low- and moderate-income homebuyers in revitalization areas. The proposal recognizes the substantial contributions FHA has made over the last 60 years in providing homeownership opportunities and offers an expansion of the program to buyers in neighborhoods undergoing revitalization efforts. A new section of the National Housing Act would authorize insuring authority and special financing terms targeted to first-time homebuyers in revitalization areas receiving public and private investment for improvement.

This program is an additional mechanism to encourage homeownership among low- and moderate-income families through the FHA insurance program, as opposed to direct subsidies. The proposal dovetails with the counseling initiative ("Homeownership Counseling and Outreach") elsewhere in the bill, since counseling will be mandatory under the program and can also benefit from the down payment assistance contemplated in the National Homeownership Fund Demonstration or other local programs.

There are three important reasons for this proposal:

Affordable homeownership is a key goal of the Administration. The opportunity to purchase one's own home is an abiding dream for millions of Americans, especially for America's young, for whom homeownership rates fell during the 1980's. FHA will continue to make an important contribution to reaching this goal.

FHA has a special responsibility to serve a broad range of families. While the need to operate a financially sound and responsible FHA program is clear, nonetheless there are opportunities to expand FHA's reach into the community by offering favorable terms, and the proposal reflects this outreach.

FHA must become more of a partner in local and community efforts to revitalize neighborhoods. The availability of mortgage insurance can be one key element in developing sound neighborhoods as new homeowners purchase and upgrade housing in the community.

Advantageous financing for mortgagors

The proposal would establish new insuring authority under the National Housing Act to provide home mortgage insurance in revitalization areas.

The main feature of this insurance is that it would provide very favorable financing terms for eligible mortgagors purchasing affordable housing in revitalizing areas. Under the program, buyers would be able to receive 100% financing on the home. Insurance could be written for 100% of the appraised value of the property, as opposed to the graduated method of calculating the maximum insurable mortgage. The value would not include an allowance for closing costs.

Although closing costs could not be financed through the insured mortgage, these costs as well as other cash requirements for closing (e.g. points, prepaid expenses) could be provided through State or local government programs, non-profit contributions, or even seller or other third party gifts. In other words, the program would not restrict how these costs were covered and would not impose a minimum cash requirement (as a percentage of acquisition costs) as is normally done under the single family programs. In addition, FHA would allow for second trusts if necessary to finance the mortgagor's cash requirements, although these trusts could not be insured.

The combination of 100% insured financing and allowing the prospective mortgagors to derive their cash requirements from sources other than their own could in many instances result in debt amounts that exceed the value of the property. However, this would be balanced in the program by two requirements.

First, mortgagors participating in the program would have to meet certain mortgage credit guidelines. The standard ratios of income to mortgage payment and income to fixed obligations would be applied and the mortgagor would have to be able to afford the housing on this basis.

Second, all mortgagors would be required to participate in prepurchase counseling regarding homeownership, money management, and household maintenance. These services could in fact be a part of the neighborhood revitalization program undertaken at the local level and in this sense might be contributed.

Program targeting

This new program would be targeted to revitalization areas defined as (a) empowerment zones, enterprise communities, and equivalent State-approved enterprise zones, and (b) urban neighborhoods that are targeted by a city or a county for coordinated affordable housing programs and enhanced supportive services. This is because the outreach built into the new program is intended in part to help cities and distressed areas regain vitality.

This definition will allow substantial flexibility for the locality to select a neighborhood that will benefit from coordinated investment by the public and private sectors. At the same time, the definition is intended to preclude localities from defining so large an area that targeted investments may be ineffectual. Such investments may include the commitment of State or local housing or other program funds, partnership efforts undertaken by public and private entities, or areas where non-profit and community development corporation activities are being undertaken. In addition, the areas could contain efforts undertaken by the secondary market agencies under their affordable housing programs or community reinvestment lending activities undertaken by local lenders.

The combination of these types of local efforts and FHA insurance will be beneficial. New homeowners will have a chance to purchase and invest in housing. Insurance will be available for new, existing or rehabilitated single family dwellings, and property types could include condominium and cooperative units. In addition, the program could utilize single family properties owned by HUD or other governmental entities, and complement programs such as HOME and HOPE III in the disposition of owned real estate. As this investment in housing occurs, upgrading of the housing should take place and the community itself should become more stable as homeowners settle in the area and new owners are attracted.

In addition to targeting to certain areas, the program will be targeted to certain mortgagors. First, the program will be available to those who have no more than 115% of median income of the area. This establishes a reasonable limit on participation in the program, in terms of not providing its favorable terms to all mortgagors, but would allow the program to assist an income mix and avoid concentration of only low-income beneficiaries. Coupled with the income limitation, the program will have a maximum insured mortgage amount of the greater of $67,500 or 75% of the high cost limit established under Section 203(b)(2) of the National Housing Act. On individual structures, the mortgage also is limited to 100% of appraised value.

Second, the mortgagor must be a first time homebuyer. The proposal employs the definition of first time buyer contained in Section 104 of the National Affordable Housing Act of 1990. That definition provides that a first time homebuyer is an individual and spouse who have not owned a home during the previous three year period. The definition also includes displaced homemakers (who may have owned a home with a spouse prior to the purchase of a home under this authority) and single parents who are unmarried or legally separated from a spouse. The proposal recognizes the fact that if very advantageous FHA terms are allowed, they be available to those who may need them the most and who may have special needs.

Finally, mortgagors may participate in the program only once.

Premium charges and program costs

Because of its unique nature, the program will be insured under the General Insurance Fund. This means that while the program is intended to be operated in a financially responsible manner, it is not required by statute to be actuarially sound and therefore can assume more risk in order to serve the social purposes of increasing homeownership opportunities and assisting neighborhood revitalization efforts. The program will not impact the Mutual Mortgage Insurance Fund.

Premium charges under this program will differ form the normal premium structure. A deferred "up front" premium will be collected. The appropriate deferred up front charge will be due and payable when the property is sold or the mortgage otherwise terminated. However, the mortgagor will pay a 0.55 percent annual premium for the life of the insured loan or if a larger downpayment has been made, for a shorter period. In addition, there will be two circumstances where the deferred charge will not be collected as scheduled:

If the property is sold, the Department would be able to recapture the premium charge or 50 percent of the net appreciation of the property, whichever is less. This will allow the mortgagor to retain at least 50 percent of the equity built up in the home and will avoid the deferred premium charge as acting as a disincentive to maintain and keep current on the property.

If during the course of the life of the loan the mortgagor wishes to undertake a streamline refinancing of the initial loan, the Department will allow such refinancing and will not collect the deferred premium as part of the loan transaction. The mortgagor would be responsible for the premium charge on the new mortgage, however. In this way, it may be possible for some mortgagors to refinance on a favorable (and sounder) basis without having to face the deferred charge.

It is clear that the program will involve risks greater than those than normally assume under the Section 203(b) program and because of its very favorable terms the program will be popular with individual and communities. A limit will be placed upon program volume, however. That limit will be

10 percent of the previous year's single family mortgage insurance volume. (This volume includes any 2-4 family activity.) A volume of 20,000-30,000 loans should be expected under the program, with lighter volume the first year as counseling requirements are met and counseling resources developed at the local level. Preliminary budget analysis shows that $3.6 million in credit subsidy per 5,000 participants would be needed for the FY 1994 book of business and $2.7 million per 5,000 participants for the subsequent years' book of business.

SECTION-BY-SECTION SUMMARY

A section-by-section summary follows: Subsection (a) of this section would add a new section 256 to the National Housing Act. Section 256(a) would authorize the Secretary to insure mortgages in accordance with the provisions of section 256, and to make commitments to insure such mortgages before the date of their execution or disbursement thereon.

Subsection (b) would limit participation in the new program to a mortgagor who—

(1) has an income not exceeding 115% of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher (but no more than 140%) or lower than 115% of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes;

(2) is a first-time homebuyer, as defined in section 104(14) of the Cranston-Gonzalez National Affordable Housing Act;

(3) will occupy the dwelling as his or her principal residence;

(4) has received such pre-purchase counseling as the Secretary deems appropriate with respect to the responsibilities and financial management involved in homeownership;

(5) has not previously been a mortgagor under this section;

(6) has assets not exceeding such amount as the Secretary may prescribe; and

(7) meets such other requirements as the Secretary may prescribe.

Subsection (c) would permit a mortgage to be insured under the new program only if the mortgage—

(1) has been made to, and is held by, a mortgagee approved by the Secretary as responsible and able to serve the mortgage properly;

(2) covers a one-family dwelling (including a one-family unit in a condominium development and shares representing a one-family unit in a cooperative development) that is located in an urban neighborhood that, in the determination of the Secretary, is targeted by a unit of general local government for revitalization using coordinated affordable housing programs and enhanced supportive services;

(3) involves a principal obligation (exclusive of any charges and costs in connection with the loan, including initial service charges and appraisal and inspection fees) in an amount not exceeding the lesser of—

(A) $75,000 or 75% of the maximum mortgage amount determined under section 203(b)(2)(A), whichever is greater; or

(B) 100% of the appraised value of the property as of the date the mortgage is accepted for insurance.

However, in any case where the dwelling is not approved for mortgage insurance before the beginning of construction, the mortgage may not exceed 90% of the appraised value of the property as of the date the mortgage is accepted for insurance, unless (i) the dwelling was completed more than one year before the application for mortgage insurance; or (ii) the dwelling was approved for guaranty, insurance, or a direct loan under chapter 37 of title 38, United States Code, before the beginning of construction; or (iii) the dwelling is covered by a consumer protection or warranty plan acceptable to the Secretary and satisfies all requirements that would have been applicable if the dwelling had been approved for mortgage insurance before the beginning of construction.

(4) has a maturity satisfactory to the Secretary, but not to exceed 30 years from the date of the beginning of amortization of the mortgage;

(5) contains complete amortization provisions satisfactory to the Secretary requiring periodic payments by the mortgagor not in excess of the mortgagor's reasonable ability to pay, as determined by the Secretary;

(6) bears interest at such rate as may be agreed upon by the mortgagor and the mortgagee;

(7) provides, in a manner satisfactory to the Secretary, for the application of the mortgagor's periodic payments (exclusive of the amount allocated to interest and to the premium charge which is required for mortgage insurance as hereinafter provided) to amortization of the principal of the mortgage;

(8) contains such terms and provisions with respect to insurance, repairs, alterations, payment of taxes, default reserves, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may prescribe; and

(9) complies with such other terms and conditions as the Secretary may prescribe.

Subsection (d) would require the mortgagor to pay all charges and costs in connection with the loan, including any costs necessary to close the loan. However, some or all of these charges and costs could be paid on behalf of the mortgagor by any person or entity (including the seller, a governmental jurisdiction, or a private non-profit entity), under such terms and conditions as the Secretary may prescribe.

Any charges or costs paid on behalf of a mortgagor may be in the form of a loan secured by the property under such terms and conditions as the Secretary may prescribe. Any such indebtedness must be a lien subsequent to that of the insured mortgage; must not be part of the loan secured by the insured mortgage; and must not be considered for purposes of determining the maximum mortgage amount under subsection (c)(3).

Subsection (e) would provide that in connection with the insurance of a mortgage under section 256, the Secretary must establish and collect a deferred up-front premium and an annual premium, as provided in section 203(c)(2) of this Act and section 2103(b)(2) of the Omnibus Budget Reconciliation Act of 1990. Instead of collecting the MIP at the time of insurance, the mortgagee would collect the amount due from the proceeds of the sale of the property or upon payment of the mortgage in full, and would have to remit the amount to the Secretary according to such procedures and at such time as the Secretary may prescribe. In determining the amount of MIP due, no interest would be charged on the MIP.

The amount of the deferred up-front premium payable to the Secretary would be the lesser of (i) the amount of the premium established, minus any refund due; and (ii) 50% of the net appreciation of the property, as determined by the Secretary. For purposes of the program, net appreciation of the property would mean any increase in the value of the property over the original purchase price, less the reasonable costs of sale and the reasonable costs of improvements made to the property.

No part of the deferred up-front premium established in connection with a mortgage that was insured under section 256 and that is refinanced under section 223(a)(7) would be payable to the Secretary.

Subsection (f) would provide that the term appraised value means the amount set forth in the written statement required under section 226, or a similar amount determined by the Secretary if section 226 does not apply.

Subsection (g) would provide that any mortgagee under an insured mortgage is entitled to receive the benefits of the insurance as provided in section 204(a) with respect to mortgages insured under section 203, and the provisions of subsections (b), (c), (d), (e), (f), (g), (h), (j), and (k) of section 204 would apply to the mortgages insured under section 256, except that (1) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund would be construed to refer to the General Insurance Fund; (2) all references therein to section 203 would be construed to refer to this section; and (3) the excess remaining, referred to in section 204(f)(1), would be retained by the Secretary and credited to the General Insurance Fund.

Subsection (h) would provide that the aggregate dollar amount of commitments to insure mortgage under this section for any fiscal year could not exceed 5% of the amount of commitments to insure mortgages covering one- to four-family properties that were made by HUD under title II of the National Housing Act during the preceding fiscal year. However, HUD could make commitments to insure mortgages for up to an additional 5% in the case of properties in empowerment zones or empowerment communities approved under subchapter U of Chapter 1 of the Internal Revenue Code of 1986, or in equivalent State-approved enterprise zones. In addition, no more than 20% of the units in any revitalization area could be subject to a mortgage insured under the new program.

Subsection (b) of this section of the bill would provide that the Secretary shall, by interim rule published for effect in the Federal Register, establish such requirements as may be necessary to carry out the provisions of subsection (a). The Secretary would issue final regulations based on the interim rule after notice and opportunity for public comment.

Subsection (c) would require HUD, within 4 years of the date of implementation, to evaluate the program and, if appropriate, recommend to Congress legislation to terminate or improve it.

Maximum Dollar Amount for FHA Single Family Mortgages

Section 302 would amend section 203(b)(2) of the National Housing Act to revise FHA single family mortgage limits.

Currently, the National Housing Act establishes a floor mortgage limit of $67,500 and allows for high-cost limits which may not exceed the lesser of 95% of the median house price in the area or 75% of the FNMA/FHLMC conforming loan limits ($151,750). The Housing and Community Development Act of 1992 contained the last increase in FHA mortgage limits for single family and for 2-4 family properties. That legislation tied the maximum limits to the above percentage of the conforming loan limits (for appropriate sized dwellings) that were in effect as of September 30, 1992. Although the conforming loan limits may increase according to an index under separate authority, future increases in the FNMA/FHLMC limits will have no effect on the FHA mortgage limits until the law is changed. The 1992 Act also mandated that the General Accounting Office (GAO) conduct a study of the effect of tying the FHA limits to the limits set for FNMA and FHLMC, including the effect on low- and moderate-income borrowers of indexing the limits.

The amendment proposed would establish a new floor limit based on average sales price data employed in the Mortgage Revenue Bond program and would increase one of the loan ceiling factors from 75% to 85% of the FNMA/FHLMC conforming limits ($172,675). Both the floor and the maximum limits would be adjusted annually. The proposal would not only make FHA more responsive of the home buying public but also would streamline the mortgage limit setting process by reducing the number of areas for which the Department must set limits.

In establishing the floor limit, the Department will use data on average sale prices for new and for existing homes which are used to establish mortgage limits in the Mortgage Revenue Bond program. These data are prepared by the Office of Thrift Supervision for the Federal Housing Finance Board, and are used by HUD under agreement with IRS to establish basic mortgage limits in connection with Mortgage Revenue Bonds. HUD will establish one limit for each metropolitan area and one limit for all other areas in a State.

Existing floor limit levels as of the date of enactment will not be lowered if the new limits are lower, but will be held harmless. The floor limit will be indexed to the Constant Quality Index, a national measure of home price changes in a dwelling with characteristics that remain constant over the years, and will be subject to annual adjustment.

One key effect of the amendment will be to expand the housing opportunities for average American families (e.g. teachers, police and fire fighters, factory workers) in areas that have relatively high housing costs. This will be true not only in the very high-cost areas as may be found in California and Connecticut, but also in some areas where the floor limit increases over $67,500.

For example, the salary range for teachers, police officers, and fire fighters in Bridgeport, Connecticut is between $27,000 and $35,000. Under FHA underwriting rules and assuming a combined income of $65,000, a family could qualify for a median priced house in excess of both the current and proposed limits. Similar examples can be found in California and other States. However, the current limit shuts out a part of relatively high-cost markets for these families. This would be opened up to them under the new limits, and there would be 118 counties which could be affected. However, the limits would continue to be set at about 15 percent under the standard limits for conventional lending.

In addition, expanding FHA's ability to serve modest income workers can be done without an increase in expected risk. HUD would expect that slightly larger loans would perform better than relatively smaller loans, on the basis of past experience.

Finally, the increase in the base or floor limits will have several beneficial effects:

Homeownership opportunities for families with modest income in moderately high cost areas will be increased;

New business resulting from increases in floor limit levels will be sound business and will strengthen the Mutual Mortgage Insurance Fund (MMIF);

The MMIF will be better positioned to reach out to other underserved buyers because of the cross subsidization allowed under its mutuality feature;

Administrative costs involved in setting mortgage limits for numerous small communities will be reduced; and

The change will alleviate problems which have been encountered in some rural counties, where the current limits do not reflect proximate city housing costs.

Streamlined Refinancing for HUD-Held Mortgages

Section 303(a) would provide insured refinancing for certain single family mortgages that have been assigned[1] to the Secretary. Currently, only insured mortgages are eligible for refinancing under the National Housing Act (NHA).

The proposal would add a new section 223(a)(8) to the NHA to permit streamlined refinancing (without a new appraisal) for eligible Secretary-held mortgages on single family properties and condominium units. The proposal would permit refinancing mortgages on single family properties to be insured under section 203(b)[2] or 221(d)(2)[3] at the option of the lender. With regard to condominium units, the mortgages involved in the streamlined refinancing program would be insured under section 234(c) of the NHA. A mortgagor could refinance under the new authority only once.[4]

This program would be optional for eligible mortgagors that: are current under the note and have made the full payment under the note for at least six months; or are under a forbearance agreement and have been making the full payment under the note for at least six months.[5]

A conservative estimate of the number of mortgages that would be eligible for this program is about 12,000, amounting to almost 13 percent of HUD's assigned inventory.

The principal amount of the refinancing mortgage could exceed the amount of the original mortgage if required to accommodate additions to the principal amount stemming from a delinquency and the provision of assignment assistance. However, the new payment under the refinanced mortgage could not exceed the required monthly payment under the existing mortgage. Consistent with the current refinancing authority, the term of the refinancing mortgage would be limited to 12 years beyond the unexpired term of the existing insured mortgage. The proceeds of the refinancing mortgage would be deposited in the MMIF, or another appropriate fund, at settlement, thereby providing a onetime increase to the Fund.[6]

For the purpose of the streamlined refinancing program, this proposal would establish mortgage limits under section 221(d)(2) at 50 percent of the applicable dollar limitation for a one- to four-family residence under section 203(b)(2).

For mortgages refinanced under section 203(b), the mortgagors would be required to pay the new risk-based mortgage insurance premium (MIP). Mortgages refinanced under section 203(b) or 234 would be subject to the applicable mortgage limits for the area.

The proposal would also make a technical change in section 223(a) of the NHA. A proviso currently a part of paragraph (7), which does not involve paragraph (7), would be moved to the end of section 223(a) as paragraph (10).

HUD's assigned inventory has been growing over the last five years and currently amounts to approximately 94,000 mortgages, including loans treated under the assignment program as well as certain loans assigned to the Secretary pursuant to section 221(g)(4). This proposal constitutes a way for HUD to meet the management challenge associated with part of this increasing workload. Selling loans from the assignment program is not a viable option. However, these loans are not an attractive investment vehicle without insurance. This proposal would remove the refinanced mortgages from the assigned inventory, place the proceeds of the refinancing into the MMIF, or other appropriate fund, and place mortgagors in a current status with a new loan. Making these loans current with a new lender would free HUD staff up to accomplish other tasks, including better monitoring and servicing of the remaining loans.

By virtue of this proposal, HUD in effect would be exchanging an existing debt for a new insurance risk. It is HUD's view that the insurance risk of the refinanced mortgage would be comparable to that of the existing debt for several reasons.

First, the amount of the new mortgage would only marginally exceed the old debt. The possible extension of up to 12 years in the term of the mortgage should not make any difference in risk. Under section 230(a)(2)(C) of the NHA and HUD's regulations, HUD now has the authority to extend the term of HUD-held mortgages in the assignment program for up to 10 years.

Second, only mortgagors that have been current in their payments under the note for six months will be eligible. HUD believes that this is a significant risk-reduction feature of the new program. The assignment program is designed to give temporary relief to mortgagors that have experienced difficulties beyond their control, and a significant number do in fact recover.

Third, those mortgagors under a forbearance agreement will have a new incentive to keep their refinanced mortgages current. They will be starting with a clean slate, free from any delinquency, with the advantages of an extended mortgage term and the current lower market interest rates. Those mortgagors under a forbearance agreement that are making their required payments on the note may nonetheless be living in a state of virtual perpetual delinquency. The forbearance agreement does not necessarily require payment of all deferred charges from the date of initial default. With the refinancing, however, all delinquencies would be rolled into the refinanced mortgage. On the other hand, HUD is cognizant of the fact that the mortgagors that are under a forbearance agreement have had difficulties meeting their obligations in the past; their refinanced mortgages will have high loan-to-value ratios; and their monthly payments may be equivalent to their monthly payments on the earlier note.

The statute as currently written does not permit the refinancing of assigned mortgages. A change to allow the streamlined refinance of Secretary-held mortgages would benefit a number of parties. The Department would benefit since the assigned inventory would be reduced, servicing demand would be reduced, and the proceeds from the refinancing would replenish the MMIF. The mortgagor would benefit because the mortgagor would be paying a lower interest rate, and might even have a lower payment than currently agreed upon with HUD. Lenders would benefit because the refinancing would entail relatively little processing.

Footnotes at end of table.

The new program would work as follows. HUD would notify mortgagors currently in the assignment program of the availability of the new program for refinancing and the possible benefits of participation. Also, HUD would notify lenders of the availability of the program and how it is to work.

The refinanced mortgages could be processed under section 203(b), 221(d)(2), or, for condominiums, 234(c), at the option of the lender. Section 221(d)(2) would be available in order to protect the MMIF from undue risk and provide lenders with an insurance option.

HUD would establish administrative guidelines under the refinancing program to minimize the risks involved. In addition to those discussed above, these would include advising lenders that:

They could institute underwriting steps, such as credit checks, verifications, application of income and payment guidelines, in addition to those required under the streamlined refinancing of insured mortgages; and

They could recommend (but not require) homeownership counseling for the mortgagor in appropriate cases, provided that counseling agencies and funds for counseling are available.

In some cases, because of delinquencies, the new mortgage balance may exceed the initial mortgage balance. However, this should not pose a processing problem since no appraisal is involved with a streamlined refinance and because the mortgagor will have at least a six-month history of successful performance at a payment that equals or exceeds the new payment on the refinancing mortgage.

The option for refinancing under section 221(d)(2) removes the credit risk from the MMIF while at the same time providing favorable financing terms for the mortgagor. First, proceeds would be returned to the MMIF on an accelerated basis and servicing costs would be reduced. Second, since the mortgagors involved are special cases, default risk on the new credit would be transferred to the General Insurance Fund.

Subsection (b) would authorize HUD to implement the new refinancing authority by notice published in the Federal Register setting forth such requirements as may be necessary.

Subsection (c) would terminate HUD's authority to refinance a mortgage held by HUD 30 months after the date of enactment of this Act. The total number of mortgages refinanced under the new authority could not exceed 20,000. HUD will evaluate the results of refinancing mortgages under this new authority before considering extension of the program.

Innovative Affordable Housing Demonstrations

Section 304(a) would authorize HUD to establish Innovative Affordable Housing Programs demonstrations which would have the potential to increase homeownership opportunities through the use of alternative mortgage instruments insured under the National Housing Act and partnerships with the Federal Home Loan Mortgage Corporation ("Freddie Mac") and the Federal National Mortgage Association ("Fannie Mae"), with the Federal Home Loan Banks and their members, and with State and local housing finance agencies in connection with their responsibilities to achieve affordable housing goals. While current law contains authority for specific alternative financing programs, it does not provide general authority for FHA to develop or insure new mortgage instruments. Because of this omission, each potential innovation must await new legislation, which can take several years to be enacted. Similarly, broad authority to enter into partnerships with other housing entities could enhance private and public efforts to provide affordable housing and homeownership opportunities.

Under subsection (b), each demonstration could be approved for a period of up to three years, but the term of an insured mortgage or activity could extend beyond this term. In total, these demonstrations could not exceed 10 percent of the previous year's single family FHA insurance volume. The total number of mortgages insured pursuant to any one demonstration in any fiscal year could not exceed 5% of the number of single family mortgages insured in the previous fiscal year. Under each approved demonstration, the Secretary could waive any requirements of the National Housing Act or any other applicable statutory or regulatory requirements that were determined to be inconsistent with the purposes of these demonstrations and establish necessary program requirements (see subsection (c)).

In accordance with subsection (d), the alternative mortgages would be obligations of the general insurance fund under section 519 of the National Housing Act and the Secretary would establish appropriate terms and conditions, notwithstanding otherwise applicable provisions of the National Housing Act.

Subsection (e) would authorize HUD to establish necessary requirements to further the purposes of the demonstration, and subsection (f) would establish certain conditions for each demonstration, including a requirement that each demonstration be evaluated. Annual progress reports and a final report to Congress would be required by subsection (g). Subsection (h) would authorize $1 million for an evaluation.

The term "alternative mortgage instruments" would be defined in subsection (i) to include (but would not be limited to) mortgages within the definition of "alternative mortgage transaction" in section 803(1) of the Alternative Mortgages Transaction Party Act of 1982. This includes loans or credit sales (a) in which the interest rate or finance charge may be adjusted or renegotiated, (b) involving a fixed rate, but which permits rate adjustments by having the debt mature before the term of the amortization schedule, or (c) involving any similar type of rate, method of determining return, term, repayment, or other variation not common to traditional fixed-rate, fixed-term transactions.

Single Family Risk-Sharing Mortgage Insurance Program

Section 305 would add a new section to the National Housing Act to authorize risk sharing of insured mortgages between HUD and selected State and local agencies to allow those agencies to better serve their relatively high-cost markets. The purposes of the program under this section would be (a) to increase the availability of single family mortgage financing in areas where there is need for mortgage insurance under this Act that cannot be met due to particularly high average median house prices in the area, and (b) to foster arrangements with State and local agencies to share the risk of mortgage insurance. (See section 257(b).)

In States such as California, where many metropolitan areas have relatively high average home prices, the FHA single family mortgage insurance program may not be used effectively because it is limited by statutory mortgage limits. State and local programs in such areas generally contain mortgage limits which exceed those of FHA. This proposal is designed to offer FHA credit enhancement through a risk sharing arrangement with State and local agencies in connection with loans which qualify under a State or local agency program but which exceed FHA maximum mortgage amounts.

The proposal is designed to complement State and local efforts to provide affordable housing without assuming undue risk. There will be a fairly narrow market for this program because it is targeted at those States with relatively high costs that fall between the maximum FHA amount and the conforming loan amount. This slice of the market includes working class families in high-cost housing market areas who may have a difficult time finding affordable homes. The presence of FHA as a credit enhancer may allow State and local programs to work better (for example, through sales of the State and local loans to the secondary market other than GNMA).

Eligibility

HUD would be authorized to do business under this insuring authority only with a State or local agency (or an agency or instrumentality of a State or local agency) that demonstrates that (a) it has the legal authority under State and, where applicable, local law to participate in the risk-sharing mortgage insurance program, (b) it can carry out a financially sound, efficient, and effective mortgage insurance program, while maintaining a top credit rating, and (c) it has the ongoing administrative and financial capacity necessary to oversee financial operations and sound processing of loan origination and property disposition (See section 257(c)(1).)

HUD would have the authority under the risk-sharing agreement to cancel the approval of a State or local agency to participate in this program, effective upon receipt of the notice by the mortgagee or at a later date specified by HUD. A decision by HUD to cancel approval would be final and conclusive and would not be subject to judicial review. (See section 257(c)(2).)

Delegation of insuring authority

Pursuant to a risk-sharing agreement negotiated between HUD and an eligible State or local agency, HUD would delegate to the agency the authority to insure the portion of the mortgage covered by FHA insurance. (See section 257(d).) The agency would also assume responsibility for loan management and property disposition.

Underwriting standards and processing

The agency would adopt underwriting standards and loan terms and conditions for the purpose of the program without regard to requirements of the National Housing Act, other than the new authority, section 203(g) (restrictions on investors), and section 203(r)(2) (assumptions restricted to creditworthy purchasers). These underwriting standards and loan terms and conditions would be subject to HUD review and approval. HUD could negotiate changes to an agency's underwriting system prior to approving a State or locality for the program if such changes would improve upon the quality of the loans. (See section 257(e).) The HUD assignment program would not be available to mortgagors under the risk sharing program (see section 257(i)), and no property would be taken into HUD's inventory.

Risk sharing

The risk sharing method would be structured as follows:

The portion of the loan insured by HUD could not exceed an amount equal to the lesser of (a) 80% of the appraised value of the property, or (b) the maximum dollar amount HUD may insure under section 203(b) of the National Housing Act (the single family program limits) for the area (but not including any amount for mortgage insurance premium). (See section 257(g)(1).)

The total principal amount of the insured mortgage would have to exceed the maximum dollar amount HUD may insure under section 203(b)(2)(A) for the area, but could not exceed the conforming limit set by the Federal Home Loan Mortgage Corporation (currently $203,150). (See section 257(g)(2).)

The total amount of the mortgage could not exceed the amount determined in accordance with the rules applicable to the regular single family program under section 203(b)(2)(B), plus the mortgage insurance premium, except in the case of refinancing a mortgage previously insured under this new authority. Under section 203(b)(2)(B), the maximum would be the total of 97% of the first $25,000 of the appraised value of the property, 95% of the value in excess of $25,000 through $125,000 and 95% of any amount over $125,000. (See section 257(g)(3).)

In the case of default and foreclosure, the mortgagee would file an insurance claim with the State or local agency. The agency would pay the full amount of the claim owed to the mortgagee. If the loss on the insured mortgage exceeds the amount of insurance by the agency, the Secretary would reimburse the agency for the difference from the General Insurance Fund. (See section 257(h).)

Premiums on the loans would be shared by the Department and the State or local agency. The share paid to HUD could not be less than the amount necessary to cover HUD's risk and administrative costs. (See section 257(f).)

GNMA securitization prohibited

GNMA would be prohibited from securitizing any loans insured under this section. (See section 257(j).)

Definitions

The terms "State agency" and "local agency" would be defined to mean an agency of a State or locality which has the authority to insure mortgages and to participate with HUD in this program, or an agency or instrumentality of a State or local agency if the agency or instrumentality has such authority.

The term "single family property" would mean a property designed for occupancy by one family and would include a condominium and a cooperative.

The term "State" would mean the 50 States and Puerto Rico, the District of Columbia, Guam, the Trust Territory of the Pacific Islands, American Samoa, and the Virgin Islands.

See section 257(k) for the definitions.

Implementation

Under subsection (b), HUD would have the authority to implement the program by entering into risk-sharing agreements negotiated with State and local agencies. HUD does not anticipate publishing regulations or a notice to implement the program. Otherwise applicable FHA regulations would not apply to this special program, which is largely to be carried out under State designs.

Homeownership Counseling and Outreach

Section 306 would amend section 106 of the Housing and Community Development Act of 1968. The amendment would authorize the Secretary to enter into contracts for homeownership counseling and outreach with national, State, and community-based organizations or consortia of such organizations with demonstrated experience in reaching out to and assisting households who have not previously been in the homeownership market, or households who want to own but have previously been unsuccessful. It would authorize appropriations of up to $50,000,000 for section 106 counseling activities.

Under existing authority the Secretary will continue to award housing counseling contracts to HUD-approved housing counseling agencies. These contractors will deliver comprehensive or specialized housing counseling, such as prepurchase, default, and tenant counseling.

The new authority would authorize the Secretary to support community-based efforts to bridge the gap between housing consumers and the housing/mortgage markets. Specifically, it would consist of outreach activities by national, State, and community-based organizations to promote and expand the use of governmental and private housing programs by low- and moderate-income persons. It would include, but not be limited to, counseling educational and marketing efforts, with special emphasis upon homeownership under HUD programs. The new authority would also consist of efforts to establish ongoing working relationships between contractors and the housing and mortgage lending industries on a national and community basis.

The objective of the new homeownership counseling and outreach program is two-fold:

a. Reduce barriers to homeownership for low- and moderate-income persons, and

b. Encourage proactive efforts that increase homeownership awareness and homebuying by low- and moderate-income families by expanding access to mortgage markets and sources of mortgage credit.

Housing counseling is a HUD-supported and partially HUD-funded service that enables housing consumers to understand and use governmental and private housing programs to meet their housing needs and resolve their housing problems. These consumers include homebuyers, homeowners, and tenants. The proposed amendment to section 106 places a new emphasis upon homebuyer counseling that includes follow-up activities to assist homeowners to maintain and retain their housing.

Type of counseling currently funded

Since the inception of funding for counseling in 1972, HUD-approved housing counseling agencies have used HUD funding to provide comprehensive housing counseling. Comprehensive counseling includes, but is not limited to, the following types of counseling: pre-purchase, mortgage default, prerental and renter, and rent delinquency. Later, HUD added mortgage assignment and Home Equity Conversion Mortgage (HECM) counseling.

Supporting these types of counseling, agencies include such matters as housing selection, obtaining a mortgage, tenant-landlord relations, budgeting, debt management, credit-worthiness, and home maintenance. HUD Handbook 7610.1 REV-3 (6/93) provides additional details.

Expansion of counseling under the proposed amendment

Under the proposed amendment, the kinds of contracts funded would go beyond the provision of counseling sessions. The expanded efforts would remove barriers to homeownership and coordinate efforts between other programs designed to assist low-income persons to purchase homes. These activities would generally be undertaken in conjunction with programs of individual and group counseling by HUD-approved housing counseling agencies.

The competition for these contracts would be conducted on the basis of the merits of the proposed homeownership strategies and would take into account such considerations as the applicants' demonstrated ability and future plans, in addition to traditional comprehensive housing counseling, to carry out the following kinds of eligible activities:

(a) Leveraging Federal funds with other sources of funding to support activities under its counseling program, including leveraging private, community-based resources for the purpose of assisting prospective mortgagors achieve homeownership.

(b) Conducting outreach and marketing to prospective homebuyers, particularly those in targeted neighborhoods with a high proportion of low- and moderate-income and minority renter households. This activity would include determining the level of counseling assistance required for those responding to outreach efforts.

(c) Coordinating a proactive pre-purchase homeownership strategy that includes linkages with other HUD-approved counseling providers and community-based organizations. These efforts should include: assisting prospective homebuyers to repair credit, educating potential homebuyers on the requirements of homeownership, providing technical assistance, assisting in the packaging of mortgage loan applications, and matching a family's resources with appropriate Government and private sector homeownership assistance programs. Contractors would also be required to offer post-purchase and default-prevention counseling to help homeowners retain their homes.

(d) Serving as an advocate for homebuyers by working with the mortgage lending industry with regard to overcoming mortgage credit barriers to homeownership.

Applicants would not need to be current HUD-approved counseling agencies.

Example of Housing Counseling Program Advocacy and Outreach

Here is an example of how the proposed legislative authority for housing counseling could be used to assist in identifying and overcoming barriers to homeownership for low- and moderate-income homebuyers.

A local population of low- and moderate-income individuals and families in community "X" remain out of the homebuying market for a number of related reasons. This population lacks knowledge of Federal, State, and local homeownership programs, including FHA, HOPE, HOME, RTC, Section 8 homeownership assistance, bank foreclosed properties, bank CRA programs, and local downpayment assistance and other financial programs designed especially for that population. That population also lacks general information and skills needed for participation in the homebuying market. The local lending community, if knowledgeable about programs for low- and moderate-income housing consumers, makes no special effort to promote those programs among that population. Because of this situation, the need exists for advocacy and outreach that will make homeownership opportunities available to that population.

To address this sample situation (numerous other specific examples could be described), HUD would award a grant to an existing entity experienced in, and successful at, preparing low- and moderate-income housing consumers to take advantage of homeownership opportunities. This effect would consist of two major aspects that could occur concurrently in a complementary fashion.

The grantee would work with all aspects of the local housing market—consumers, lenders, realtors, etc.—to actively educate the target population in homeowhership programs and develop cooperative efforts by builders, realtors, and lenders to assure the availability of housing and mortgages.

In support of these homeownership promotional efforts, the grantee would assure the provision of a comprehensive prepurchase housing counseling program to the consumers. The details of the counseling are set forth in HUD Handbook 7610.1 REV-3 (6/93). This counseling would include post-purchase counseling that would assist the homeowners in such areas as budget maintenance, home repair, and delinquency/default situations to avoid foreclosure. The grantee could provide the counseling or assure that a HUD-approved housing counseling agency provides the counseling.

Although HUD's traditional comprehensive housing counseling program has provided prepurchase counseling to prospective homeowners, the bulk of counseling actually delivered has been default-oriented. The counseling has been structured to inform the decisions of individuals seeking to achieve homeownership and to minimize or cure the problems of defaults and foreclosures.

Prepurchase housing counseling to individuals, while beneficial, lacked any provision for proactively affecting the wider circumstances governing barriers to homeownership. Under the existing authorities, housing counseling agencies cannot be compensated for a variety of proactive works, such as community outreach, working with lenders on general mortgage credit issues, and working with various state and local agencies to bring about a more comprehensive program to advance the cause of homeownership.

Therefore, new legislation is needed to permit HUD to fund broader strategies of prepurchase counseling in conjunction with other efforts to promote homeownership.

Subtitle B—National Homeownership Fund Demonstration

Subtitle B would amend the National Homeownership Trust Demonstration to consolidate activities authorized under the program and to make the program more efficient.

The National Homeownership Trust Demonstration was authorized by the Cranston-Gonzalez National Affordable Housing Act of 1990 and further amended in 1992. The demonstration was designed to provide certain assistance to first time homebuyers to allow them to purchase a home. Assistance included interest rate write downs, downpayment assistance, and second mortgages to facilitate homeownership affordability.

HUD's Budget for FY 1995 requests $100 million for the demonstration. The program is consistent with the Department's goal to provide homeownership opportunities to low and moderate income families. In order to make the program more effective, the Department is proposing a number of revisions to the program terms. These include:

Elimination of the Trust entity and its Board of Directors. The Program is funded through a direct appropriation and there is no need for a duplicative organization to administer the assistance funds. HUD plans to establish a grant program with State agencies and non-profit intermediaries.

Elimination of interest rate assistance. The problem most potential buyers face is with the downpayment. Assistance for interest rate buy downs tends to be more expensive than assistance or second mortgage assistance, and is administratively complicated and staff-intensive. Mortgages under the program will carry a rate negotiated between the buyer and lender. The program will still be able to be used in conjunction with Mortgage Revenue Bonds, but without any special terms or restrictions for such use.

Increased targeting to low and moderate income families. The income eligibility level for the program will be set at 80% of median income, as opposed to the 115% level currently authorized. In addition, the definition of first time buyer will be tightened to eliminate an exception for current owners whose property needs repair. Repair needs are able to be met with other Departmental programs, such as the Community Development Block Grant program.

Reduction of repayment requirements. Although repayment of assistance will continue to be required if the mortgagor ceases to use the property as a principal residence, the requirements for repayment upon sale of the property or upon an increase in the mortgagors income will be eliminated. This is because these are the most staff intensive requirements to administer and it is more efficient to simplify the program. In addition, because assistance will be limited to downpayment assistance and second mortgages (the terms of which will be established by the grantees), and interest reduction payments will not be an eligible form of assistance, the repayment provisions are not as critical to the success of the program.

Allocation of funds will be to States and non-profit housing entities on the basis of an application containing a plan that describes how the applicant will achieve the overall objectives of the Demonstration. The grant approach is highly efficient. Funding will be competitive each fiscal year. The Secretary would establish criteria for electing grantees, which would include the extent to which the applicant has experience in the provision of homeownership opportunities for low- and moderate-income households. The current termination date in the statute will be struck.

Subtitle C—Authorizations

Flexible Subsidy Program

Section 321 would authorize appropriations for each of fiscal years 1995 and 1996 for the Flexible Subsidy program at $50 million, and authorize continued use of the assets of the Excess Rentals fund for that purpose.

Service Coordinators in Multifamily Housing

Section 322 would authorize an appropriation for fiscal years 1995 and 1996 for $16,300,000 and $16,700,000, respectively, for service coordinators in the following federally-assisted multifamily housing programs:

Supportive housing for the elderly;

Supportive housing for persons with disabilities; and

Elderly or disabled families in—

Project-based Section 8 housing;

Section 236 projects; and

Certain section 221(d)(3) projects.

Limitation on GNMA Guarantees for Mortgage-Backed Securities

Section 323 would authorize an aggregate amount of loan principal to be guaranteed under the Mortgage-Backed Security program of $130,000,000,000 for each of fiscal years 1995 and 1996. Separate or additional authorization is not required for the new REMIC program since all GNMA REMIC securities will be based on and backed by mortgage-backed securities issued under GNMA's authority. While "costs" (i.e., the subsidy) are also authorized at such sums as may be necessary, it is not anticipated that there will be any such costs for the programs. Also, administrative costs for the program are estimated at $9,044,000, but separate authorization for this amount is not required.

Limitation on FHA Insuring Authority

Section 324 would authorize action in an appropriation Act to permit the Secretary to insure mortgages in an aggregate principal amount of $104,666,794,000 in fiscal year 1995, and $91,037,845,000 in fiscal year 1996.

TITLE IV—ECONOMIC OPPORTUNITY EXPANSION OF AFFORDABLE HOUSING

Subtitle A—Economic Opportunity

Economic Opportunities for Residents in HUD-Assisted Programs

Section 401 would provide for more effective implementation of section 3 of the HUD Act of 1968 by strengthening the Department's ability to enforce Section 3 and by supporting recipients' capacity to implement Section 3 through the creation of Economic Opportunity Centers (EOCs).

In addition to authority for the establishment of Economic Opportunity Centers, this proposal consists of the following specific changes to legislation.

(a) Amendment to section 3(c)(1)(B)(i) to add noncustodial parents of children living in public housing to the categories of persons with priority for Section 3 employment, if the noncustodial parent has a court-ordered or administratively-ordered and thus enforceable support agreement. Having a Section 3 job could allow that parent to make payments required by that agreement which he or she would not otherwise have been able to make.

(b) Authority for the Secretary to permit recipients of HUD assistance to expend program funds for job-related activities, such as training, supervision of trainees, and job recruitment, so that other HUD program resources can support the costs of implementing Section 3.

(c) Authorization of $25 million for FY 1995 to support the implementation of the Section 3 program, including the costs of technical assistance to HUD grantees for low-income persons.

$17.5 million is proposed to be reserved for the establishment of Economic Opportunity Centers (EOCs) to provide services necessary to link low-income residents with jobs generated by HUD-assisted projects. Although EOCs established with funds made available in FY 1995 would be colocated with Family Investment Centers (FICs), and PHAs would be the only eligible grant applicants during that year, the services offered by the EOC would be available to anyone eligible to benefit from activities under Section 3. Of approximately 75 sites receiving up to $500,000 in FIC funding, 35 of those sites would also receive a Section 3 grant of $500,000. The performance period would be 3-5 years. Applicants would submit proposals to be reviewed by the Department, which would then administer the grants.

$4 million would be authorized to establish and sustain employment and business initiatives with other Federal agencies, such as the Department of Labor, the Department of Health and Human Services, the Department of Commerce, and the Small Business Administration. Through an interagency agreement, the Department would transfer the HUD funds to other Federal agencies so that they could provide programs and services specifically tailored for Section 3 residents and businesses. FHEO would administer these efforts.

$3.5 million would be authorized to be used for a Section 3 management and technical assistance program for the development of materials, systems, and information designed to enhance (i) the Department's capacity to manage Section 3 activities, and (ii) the capacity of public housing agencies, contractors, and other entities subject to Section 3 to comply with their responsibilities.

Section 3 mandates that HUD maximize jobs and other economic opportunities for low-income residents in connection with HUD-assisted projects. Despite the 1992 amendments designed to improve the law's effectiveness, the Department requires further legislative authority to fully achieve the Section 3 mandate.

Additional funding in support of section 3 activities

History and current experiences show that recipients and contractors need assistance in meeting their obligations. In addition, the intended beneficiaries need program support—such as training, education, child care, and transitional income—to address impediments to their employment. The proposal also recognizes the interrelationship of jobs for residents to the Federal government's overall welfare reform effort.

The lack of funds for training and providing job-related support for low-income residents has impeded the accomplishment of the Section 3 goal of linking low-income persons with jobs and other economic opportunities generated by HUD assisted projects. The new authority for the Secretary to permit use of HUD program funds for such activities will provide a vital tool to remedy this problem.

Public housing and other Section 3 residents have not fully participated in existing training, employment, and business development programs administered by other Federal agencies. Targeting and leveraging of existing funds will reduce duplication and enhance achievement of Federal, not just HUD, objectives for employment and training of low-income persons.

The Community Development Block Grant, HOME, Youthbuild, and other programs have funds specifically designated for the provision of technical assistance to program recipients and intended beneficiaries. The Department has never had such funds for the implementation of Section 3. The positive experience of providing technical assistance in Section 3 covered programs is evidence that funds for technical assistance are critical for achieving statutory objectives.

Priority for non-custodial parents

Uniform establishment of paternity and enforcement of child support agreements are two principles of the welfare reform movement. Housing policy can be used to reinforce these principles by including non-custodial parents of children living in public housing in the Section 3 priorities. Often, non-custodial parents fail to support their children, not because of a lack of concern, but because they are not employed. A Section 3 priority for these parents would offer opportunities to receive training and find reliable employment, thus enabling them to make support payments. This change in policy would also be supported by the rent reform proposal, which includes ceiling rents. This would reduce another disincentive to support payments—the family would not be penalized for the increase in income provided by the non-custodial parent's payments. In some cases, this might lead to reunification of the family.

Economic opportunity centers

A new initiative to establish Economic Opportunity Centers is the initial basis for an intensified, coordinated Section 3 training, employment, and contracting program. EOCs would be colocated with Family Investment Centers and coordinated with the public housing Comprehensive Grant modernization program. EOCs would provide services necessary to link public housing residents and other low-income persons with jobs generated by HUD-assisted projects. EOCs would link public housing residents with jobs generated by modernization activities. Homeless persons and all other section 3 residents would be eligible to receive services provided by the EOCs.

Initially, EOCs would be located within or near public housing developments and would be operated, either directly or under contract with another agency, by the PHA. In addition, proximity to transitional housing would be considered in the site selection of EOCs. The legislation would provide that State and local governments and their agencies and private organizations will be eligible for Economic Opportunity Center grants in the future.

The Department is seeking funds, beginning in FY 1995, to establish a grant program which would award funds made available under the Economic Opportunity Center program. In the first year of this program, funds would be awarded to PHAs and IHAs with Family Investment Center programs. The purpose of the Family Investment Center (FIC) program is to provide families living in public and Indian housing with better access to educational and employment opportunities that will help them achieve self-sufficiency. The EOC funds would be awarded to PHAs that agree to use their Comprehensive Grant modernization program as a vehicle for providing employment, training, and contacting opportunities and to use comprehensive grant funds to help pay the costs of the effort.

Grants would be awarded competitively to PHAs that demonstrate the capacity to assess training and support-service needs, develop or provide employment development skills to low-income persons, coordinate and utilize existing public and private training, employment, and business assistance funds or services, and perform such other functions as the Secretary shall approve. The applicants would be required to demonstrate working relationships with unions or other construction trade associations. Participation in the Step-Up program would be one way of meeting this requirement.

In addition to activities funded by FICs, Economic Opportunity Centers would include the provision of financial and other assistance to individual residents to allow access and retention of residents into existing and newly created job training and employment. The following types of services would be offered:

Developing facilities for training and support services;

Assessing training and service needs of public housing residents;

Funding essential training and support services that cannot otherwise be paid;

Maintaining a "job bank" of positions connected with CDBG, Homeless Assistance, HOME and other Section 3- covered project recipients and contractors, as well as listings of jobs available in the private sector;

Assisting construction contractors, contractor associations, and joint labor-management committees and funding for developing Step-Up and other training and apprenticeship initiatives;

Training and funding resident councils, resident management corporations, neighborhood groups, and nonprofit organizations to provide information to residents and businesses about the requirements of Section 3 and available economic opportunities;

Funding businesses' start-up costs; and

Providing space, resident referral, and otherwise providing linkages with training funded through the Department of Labor/Job Training Partnership Act, child care services funded through the Department of Health and Human Services, and business development and assistance programs funded through the Small Business Administration and Department of Commerce. In addition, space also may be made available for services provided by non-profit organizations such as Opportunities for Industrialization Centers, the Urban League, and the National Service Commission.

Resident Management/Tenant Opportunity Program

Section 402 would make several amendments to the Resident Management program under section 20 of the 1937 Act.

(1) New Name and Expanded Use of Assistance.—This proposal would change the name of the program from "Resident Management Program" to "Tenant Opportunity Program (TOP)". The new name reflects the expanded scope of assistance under section 20(f) proposed by this section.

(2) Expansion of Current Program.—This proposal would expand the scope of the existing program under section 20(f) that currently provides financial assistance to resident management corporations (RMCs) and resident councils (RCs) to obtain technical assistance for the development of resident management entities, the development of the management capability of newly formed or existing entities, and the identification of the social support needs of residents of public housing and the securing of such social support. In addition to such technical assistance funding, HUD would be authorized to provide assistance to RMCs and RCs in support of a wide variety of activities for economic uplift which are sponsored by resident organizations, such as job training, economic development, security, and other self-sufficiency activities beyond those related to the management of public housing developments.

Many resident organizations, initially funded under section 20(f) for the purpose of exploring the feasibility of resident management of public housing or for developing resident capacity so that such management might be possible, have come to believe that their efforts are best focussed directly on programs for self-sufficiency and economic uplift, whether or not such programs are likely to result eventually in resident management of public housing. It is time to amend the 1937 Act to reflect this broader purpose of the program, while retaining all the rights and protections initially granted by the statute to resident organizations which want to manage public housing.

(3) 10% Set Aside.—A set-aside of up to 10% of the amounts made available under section 20(f) would be established to permit HUD to enter into contracts with (a) various entities for monitoring, providing technical assistance, and disseminating information designed to improve the effectiveness of the program as a whole, and (b) PHAs, resident organizations, and public or private entities for innovative public/private initiatives for

economic development and increased self-sufficiency of public housing residents. Eligible activities related to economic development and increased self-sufficiency would include such programs as counseling, treatment for substance abuse, child care, remedial education, job training, and development of resident businesses.

The 10% set-aside would enable the Department, through contracts, to provide better quality and more proactive training and monitoring, which is especially important because of the shortage of HUD field staff. It is envisioned that such technical assistance would generally be provided by qualified local entities such as universities, not only resident organizations. This proposal also would fund resident organizations, PHAs, and private for-profit and non-profit organizations to conduct activities which would create, directly or indirectly, greater economic opportunity for public housing residents. The ability to provide some HUD funding for economic development would leverage investment from the private sector.

(4) Joint Application With PHA.—The proposal would give RCs and RMCs the option of applying jointly with a PHA for TOP grants under the regular (non-set-aside) program. Under current law, a PHA may join in an application from an RC or RMC but may not be the grantee.

This fourth component of this proposal would authorize joint application for funds under the regular program (not the 10% set-aside) by a resident organization and the PHA. A PHA may apply for assistance only if the resident organization approves and is a joint applicant. Joint planning and program development by resident organizations and PHAs creates a strong partnership for the development of resident management and other related public housing and self-sufficiency activities, and should be permitted and encouraged. Resident entities that submit applications with evidence of a strong partnership with the PHA now receive extra points in the competition. This proposal would further encourage resident/PHA partnerships. In some cases, it will be appropriate for the PHA to be the grantee.

(5) Increase Maximum Amount of Assistance.—The maximum amount of financial assistance under section 20(f) would be increased from $100,000 to $250,000.

This amendment would increase the maximum amount of financial assistance with respect to any public housing project grant amount from $100,000 to $250,000. It is necessary to increase the grant limit because the current maximum amount has proven to be too low to provide enough training and mentoring for residents to operate self-help projects.

(6) Funding Authorization.—The proposal would authorize $85 million for activities under the TOP program, from amounts made available for the modernization program.

This program applies to PHAs, including IHAs.

Subtitle B—Section 8 initiatives

In an effort to expand housing opportunities for low-income Americans, the Department of Housing and Urban Development has developed new initiatives within the section 8 tenant-based program, which currently consists of the Certificate and Voucher programs. For 20 years, this program has reflected a successful partnership between the Federal government and the private sector that has helped millions of people find housing in many thriving communities throughout the country. This year, HUD has developed new proposals to increase housing choice for tenants by building on the most successful elements of this program.

Before 1974, low-income families needing housing assistance faced limited choices—either government-owned or government-subsidized housing projects. The Section 8 tenant-based program has brought new meaning to the term "housing choice." Since the inception of this program, millions of assisted households have been able to choose among a wide range of neighborhoods offering quality housing at a reasonable price.

Over the years, however, the program has become extremely complex, with the addition of a large number of legislative mandates and regulatory constraints on the behavior of PHAs, landlords, and families. The greatest of these problems may be the existence of the separate, but similar, Certificate and Voucher programs. The existence of two separate programs places unreasonable burdens on the public Home agencies that administer tenant-based assistance. The Department is about to publish for effect a regulation that, to the extent feasible under current law, streamlines the programs, gets rid of unnecessary distinctions between certificates and vouchers, and makes tenant-based assistance more user-friendly. As one important example, this regulation will simplify the system for administering the provisions of the certificate and voucher programs that make assistance portable across jurisdictional lines. But this regulation cannot go far enough in clearing away impediments to good program administration without legislative changes.

A combination of statutory problems and persistent patterns of spatial separation by race and income has meant that tenant-based assistance has not achieved its full potential for assuring metropolitan-wide access to housing. In particular, owners of rental housing in good condition and in good neighborhoods are able to market their units to unsubsidized tenants and may be reluctant to get involved with a government program. This is aggravated by program rules that impose restrictions on the future use of property that are not part of the normal landlord-tenant relationship.

Finally, families often do not understand the choice of housing options that the program offers, and fail to take advantage of these options. The Department must overcome these and other programmatic impediments to enable low-income families to take full advantage of the Section 8 program benefits.

The Department has prepared a series of legislative proposals to reform the Section 8 program and to ensure its long-term viability. These proposals feature a fundamental delegation of responsibility and accountability to those whose daily lives are affected by the program: landlords, and most importantly, the families themselves.

Many of the provisions will allow more assisted families to live in communities with viable local institutions that provide high quality essential services. For instance, HUD is proposing to merge the Certificate and Voucher programs into a single integrated Certificate program that features the best elements of each. Program rules would encourage families to negotiate their rents within reasonable parameters instead of imposing an arbitrary limit on their rental contributions. The Department also has developed an enhancement initiative (Choice in Residency) that will enable families to understand that their housing choices include a broad range of communities, including parts of the metropolitan area that they may not have considered accessible to them. In addition, HUD has proposed a technical amendment that would eliminate barriers impeding the use of certificates in single room occupancy (SRO) units.

Job opportunities, family circumstances, and other factors often encourage families to move. The Clinton Administration believes that tenants should have the flexibility to use their Section 8 certificates and vouchers in other jurisdictions when these circumstances arise.

The merger proposal will benefit PHAs as well as families by eliminating the paperwork burden required for two separate programs and the needless administrative work associated with explaining two sets of similar but different program rules to participating families and to landlords. The merger proposal has been developed on the basis of extensive consultation with PHAs to identify the best features of each program. For example, the merger will empower PHAs to adjust payment standards based on local market conditions, a provision of the current voucher program that PHAs believe has helped them respond to the rapidly changing market conditions of the late 1980s.

The private sector landlord is the linchpin of the Section 8 program. Without a broad network of participating landlords representing a range of neighborhoods, building sizes, and unit types, the Section 8 program cannot house assisted families effectively and help them through the social and economic transitions identified throughout this legislative package. The Choice in Residency initiative is designed to maintain and cultivate landlord participation in the Section 8 program. While the program would provide families with counseling and support services to expand their housing search outside of "traditional" housing markets, the plan also would include an aggressive effort to recruit new landlords into the program. In addition to making new neighborhoods available to the program, a broader range of housing units from which to choose should make it possible for families to choose better quality housing at more competitive prices.

Many private sector landlords do not participate in the Section 8 program because it diverges from the traditional landlord-tenant relationship. HUD has developed a series of provisions that would make Section 8 participants similar to other tenants and overcome this barrier. For example, the Department will no longer require landlords to provide 90-day notice when they terminate their section 8 contract. Finally, the Department proposes to drop the current requirement that landlords offer all units to Section 8 renters if any one unit is made available to a program participant.

The Department is developing a homeownership certificate program, as authorized by section 8(y) of the 1937 Act, to complement the Section 8 rental tenant-based program. Recent research indicates a clear relationship between homeownership and improved social outcomes for children.[1] HUD understands the benefit of homeownership and soon will publish a proposed rule for this initiative. Through this effort, the Department hopes to build upon the housing choices afforded through the Section 8 rental Certificate and Voucher programs and provide eligible families with even greater housing opportunities.

When combined with the "entrepreneurial PHA" demonstration provisions and several streamlining efforts included elsewhere in the legislative package, these initiatives truly represent a new way of doing business with HUD's partners—one that emphasizes performance and customer service over paperwork and bureaucracy. The following sections provide detailed information on the Choice in Residency initiative and the Certificate and Voucher program merger proposal.

Choice in Residency

Introduction

Pursuant to section 411, the Department proposes to provide funding to facilitate enhanced metropolitan-wide housing search under the Choice in Residency initiative. The effort would involve two prongs:

Families would receive counseling and other assistance to increase their knowledge of housing opportunities throughout a community, and ensure that they can act on their locational choices. Rather than concentrating in low-income neighborhoods, families participating in the Section 8 and other assisted housing programs would be encouraged to widen their horizons.

Landlords across communities would be encouraged to participate in the Section 8 program, further enhancing housing choices. Without a large and diverse network of participating landlords representing a wide range of neighborhoods and unit types, the Section 8 program cannot effectively house assisted tenants, and help propel them through the social and economic transitions which are identified throughout this legislative package.

The program would be funded at $149.1 million for FY 1995 and $152.9 million for FY 1996.

Awards for Choice in Residency counseling and related services would be made directly to public housing agencies (PHAs) on an invitation basis, and competitively to PHAs or nonprofit organizations, or both. PHAs receiving awards on an invitation basis would generally arrange for experienced nonprofit organizations to provide these services directly to the families. HUD would identify these communities through a simple formula by, for example, using the size of the metropolitan area as a proxy for the likelihood that low-income families need help in recognizing the full range of housing opportunities available to them. The Department would anticipate that PHAs and nonprofit organizations from large and small, rural and urban communities would compete for the other funds available through the program. The Secretary would annually determine the allocation of funds between the two allocation mechanisms.

Choice in Residency would provide individual counseling to families applying for or already receiving tenant-based assistance under the Section 8 Certificate and Voucher programs, including homebuyers under the program's homeownership provisions. Activities would include, but would not be limited to:

Strategies for a successful housing search;

Transportation assistance and other services to assure access to low-poverty tracts;

Information and counseling as the families adjust to their new environment; and

Aggressive outreach to property owners to expand the availability of housing outside of high poverty census tracts.

Because the assistance will be made available to families who are currently assisted and may want to consider other housing options, it has the potential over time for reaching a very large number of families. Currently there are 1.3 million families using Section 8 certificates and vouchers. The level of counseling and related services provided to each will vary depending on needs and circumstances, but as many as 200,000 families could be assisted annually.

Once a PHA has been invited to participate in the Choice in Residency program, failure to apply or successfully implement a Choice in Residency program could adversely affect the PHA's ability to obtain future allocations of incremental assistance under the merged Certificate program. HUD would consider failure by a PHA to apply for participation in the Choice in Residency program and effectiveness of Choice in Residency counseling when reviewing the PHA's future funding applications for incremental Certificate assistance. Performance criteria would be developed, including measures such as tenant characterizations of the counseling they received from the program, increasing success rates for certificates in non-traditional neighborhoods, increased program participation by landlords, increased numbers of neighborhoods represented in the program, and reduced numbers of assisted families living in high poverty census tracts.

The Department assumes that PHAs would ordinarily implement these responsibilities through contracts with nonprofit organizations. PHAs invited to participate in Choice in Residency could, however, demonstrate to HUD their capacity to administer activities directly.

For awards made on a competitive basis, HUD could conduct separate competitions by geographic area (e.g., metro and nonmetro) or by size/type of awardee. Such determinations would be made in annual Notices of Funding Availability (NOFA). The NOFA would also provide criteria for awarding funds.

When making funding determinations on either an invitation or a competitive basis, the Secretary could take into account the extent of local matching funds identified in the application for assistance.

Awards would be made for a fixed amount of dollars associated with the provision of counseling services, to be carried out over a specified period. For awards made to PHAs, the PHAs would be responsible for all aspects of Choice in Residency implementation, including monitoring of nonprofit organization activities (as applicable). PHAs and nonprofit organizations would be required to comply with HUD reporting requirements.

The Section 8 tenant-based assistance provided to low-income families under the Certificate and Voucher programs offers access to housing located throughout the State of the PHA issuing the certificate or voucher, and certain metropolitan areas in adjacent States. With some limitations, families receiving assistance under the Voucher program are allowed to use the subsidy nationwide. Despite these opportunities to rent housing throughout large geographical areas, there are barriers to the successful use of this assistance. These barriers include:

Landlord reluctance to participate in Federal housing programs;

Discrimination on the basis of race, ethnicity, family status or the assisted status of the family;

Reluctance on the part of some families to move from poverty-concentrated areas to higher income areas; and

Difficulty finding housing within the maximum rents allowed in the Certificate program or within acceptable rent burdens for voucher families.

Under the Certificate and Voucher programs as currently administered, the PHA is responsible for assisting low-income families during their housing search, and also for conducting outreach to landlords to assure broad availability of housing in a wide range of neighborhoods. However, the quality and extent of this counseling is uneven, and the PHA's area of operation often stops at the city limits, as opposed to the entire metropolitan area. While the Certificate and Voucher programs have successfully broadened residential opportunities for low-income families (especially when compared with public housing and other project-based programs), these programs have not come close to reaching their full potential for promoting increased mobility. Choice in Residency offers participating families significantly expanded choice as well as meaningful support so they can act on these choices.

Some families, particularly those in high poverty communities, will choose to move to neighborhood where they will have better access to jobs, and less concern about their safety and the quality of schooling. Families that use their Certificates and Vouchers to live in distressed neighborhoods avoid high rent burdens, but they lack some basic amenities: community services, safety from violence, neighbors who serve as positive role models for children, and access to good jobs. Experience with housing assistance offered in combination with support for metropolitan-wide housing search suggests that it can provide long-term benefits for low-income families, especially families with children.

The FY 1995 Budget proposal to reduce Fair Market Rents (FMRs) applicable in the Section 8 program from the 45th percentile of private market rents to the 40th percentile will cause a reduction of approximately 3% in FMRs. This policy change need not have any detrimental impact on the success of Choice in Residency. HUD has proposed that the authority to grant exceptions to FMRs be retained. This authority allows HUD to approve rents for a part of a metropolitan area (such as a jurisdiction or group of jurisdictions) by as much as 20% above the FMR. HUD intends to carefully monitor the use of locality exception FMRs and to encourage PHAs to request use of this authority where appropriate and especially where needed to further the objectives of Choice in Residency.

Merger of the Certificate and Voucher Programs

Section 412 would merge the existing Certificate and Housing Voucher programs into a single Certificate program under a revised section 8(o) of the U.S. Housing Act of 1937. The project-based Certificate (PBC) program would be moved from section 8(d)(2) to section 8(o)(13). This proposal would also make necessary conforming and technical changes and repeal obsolete and unnecessary provisions. The merged program would use section 8(o) rather than 8(d) as the starting point because the Voucher program legislation is more recent and covers a number of areas of program administration that had arisen since the Certificate legislation was first enacted in 1974. Section 8(d) would be retained since it will continue to apply to other section 8 project-based existing housing programs.

New certificate program

Subsection (a) would establish the new, merged program—called the Certificate program—in an amended section 8(o). The following references to the provisions of section 8(o) refer to the proposed version, except where noted.

Authorization and payment standards

Section 8(o)(1) would provide the basic authorization for HUD to provide assistance under the new merged program. It is based on the existing section 8(o)(1), amended to make explicit that the payment standard could not exceed the section 8 existing housing FMR, or, in a sub-market area, 120% of the FMR. HUD could require a PHA to submit proposed payment standards for approval. This would give HUD a tool to assure that PHAs do not set payment standards too high or too low.

The payment standard feature would allow PHAs to establish payment standards below the HUD-established FMRs to reflect local rents, or to assist more families by providing a shallower subsidy. PHAs could react more quickly to changing real estate prices than is possible under the current Certificate program FMR system. PHAs would continue to determine that every contract rent is reasonably based on the rents of comparable units.

HUD is concerned that some PHAs may set artificially low payment standards which do not reflect local rental rates and that low-income program participants would be forced to pay excessive rent burdens. Accordingly, HUD intends to closely monitor rent burdens and review any payment standard that results in more than 50% of the families in any bedroom size paying more than 30% of adjusted income for rent. HUD could require PHAs to modify the payment standard based on the review results. Another protection against excessive rent burdens would be the requirement that families cannot pay more than 40% of adjusted income for rent when they first received assistance or move to a new unit (see proposed section 8(o)(3)).

HUD would be authorized to establish a review process by which it would review PHA plans to adopt a higher payment standard for a designated part of the market area, such as for a locality or part of a county. This review process would be similar to the process now used by HUD in reviewing and approving locality exceptions to FMRs.

Rental assistance

Section 8(o)(2) would establish formulas for determining rental assistance. The assistance payment where the rent does not exceed the payment standard would be the difference between the rent and the family share of the rent. The family share is the same as for all other section 8 programs, except for the current Voucher program. Under the formula, a family would pay the highest of 30% of adjusted income, 10% of gross income, and welfare rent. Where the rent exceeds the payment standard, the assistance payment would be the difference between the payment standard and the family share. This means that the family would be responsible for paying any amount by which the rent exceeds the assistance payment. The formula for providing assistance for families using assistance under the new Certificate program under the tenant-based homeownership program authorized by section 8(y) of the 1937 Act would be amended to be comparable to the formula for tenant-based rental assistance.

However, the total amount a family could pay towards rent at the time it initially receive assistance with respect to any one unit (that is, for the family's first unit under the program and whenever a family moves to another unit) could not exceed 40% of its adjusted income (see subsection (o)(3)). Families under the PBC program would continue to pay rent in accordance with the regular section 8 tenant rent formula under section 3(a)(1), and assistance payments for the family would continue to be determined in accordance with section 8(c).

The housing assistance payment for the new Certificate program is modeled on the subsidy formula for the current Certificate program in that it does not include a shopping incentive for families who rent units that cost less than the payment standard. It is modeled after the current Voucher program in that it permits any family who chooses to do so to pay more than 30% of adjusted income for units renting above the payment standard.

The voucher payment standard approach to determining whether families can choose to pay more than 30% of adjusted income is being proposed because it allows increased housing choice, and in particular will permit families to move to neighborhoods in which there are better job and educational opportunities. However, the merged program would include new features that are being proposed to provide increased tenant protection and prevent rent gouging by owners.

HUD considered establishing a cap on the family's rent burden in relation to family income, not just for the initial receipt of assistance, but for any time during the subsidy period. HUD rejected that idea because such an action might discourage owner participation because the subsidy could be terminated for reasons over which the owner had no control. In addition, a continuing rent cap could harm a family by withdrawing rent subsidy when family rent burden goes over the cap even with the subsidy. Moreover, there is evidence from research on the tenant-based Section 8 programs that suggests that this additional control may be unnecessary. When voucher holders were recertified, the rents increased *less* than the year-to-year increase in the FMR, so that families who were paying more than 30% of income found their rent burdens shifting down towards 30% over time.

HUD also considered restricting the number of program participants who could pay more than 30% of income for rent, as does the current law for the Certificate program, which permits only 10% percent of the families in a PHA's incremental assistance program to do so. This option was not selected since it would be difficult for PHAs to choose which families could exercise an option to pay a higher rent, and it was determined that this should be the sole choice of the family.

The shopping incentive provision of the current Voucher program, which lets families pay less rent if they lease a unit renting for less than the payment standard, would be deleted. It is costly and, in about one-third of the cases, is provided to families who don't necessarily shop for the best buys, because they use the assistance for the units they already occupy. Further, there is no evidence that the shopping incentive helps accomplish its intended purpose of preventing rent inflation.

Eligibility

Under section 8(o)(4), as under current section 8(o)(3)(A), very low-income families and families previously assisted under the 1937 Act could receive a certificate. In addition, families with incomes up to 80% of the median income for the area could receive assistance in certain cases. The new program does not use the voucher model, which identifies specific categories of families who may receive a voucher even if their income is above 50% of the area median (but no more than 80%), such as families that qualify to receive a voucher in connection with a HOPE homeownership program. The voucher model is too narrow and complicated and cannot cover all categories of families that should be included since that list will continue to change over time. Instead, HUD would establish eligibility criteria for families with incomes above 50% of the area median and up to 80%. Providing for exceptions specified by HUD through regulations would allow a more flexible vehicle for granting exceptions to appropriate categories of families without having to seek legislative change each time an appropriate exception arises.

Preferences

Section 8(o)(6) would adopt the Federal preferences now in section 8(o)(3)(B). However, the list of examples of local preferences permitted for up to 10% of the tenant-based assistance and 30% of the PBC assistance (or a higher percentage if HUD determines necessary or appropriate) would delete a reference to families in accordance with section 8(u)(2) (rental rehab families and families under the FmHA section 533 program), since funding of the Rental Rehabilitation program has been discontinued. PHAs could continue to choose to give a local preference to families under the section 533 program.

Retention of the program provision allowing HUD to permit PHAs to apply local preferences for more than 10% of the assistance, for good cause, would give PHAs the ability to address pressing local concerns in exceptional circumstances.

Inspections for HQS compliance

Section 8(o)(7) would include the current Voucher and Certificate program requirements for a PHA to inspect units to assure they meet housing quality standards.

Vacancy payments

Section 8(o)(8) would retain the current provision in section 8(o)(4) that if a family vacates a unit, no assistance payment may be made with respect to the unit after the month during which the family vacated the unit, with one amendment. The reference to "expiration of the lease term" would be removed because it is misleading. In effect, the owner retains the housing assistance payment for the month in which the vacancy occurs.

Repeal of 5-year ACC term requirements

The first sentence of section 8(o)(5) of current law would not be included. That section includes a requirement that the initial term for an ACC under the voucher program must be 5 years. There is no such limitation for the Certificate program, and no reason to retain it here.

HUD intends to continue most initial funding for a five-year term, but may require the flexibility to provide funding for a shorter term for leveling out of the program funding increments.

Cooperatives and mutual housing

The provisions for cooperative and mutual housing in section 8(o)(7) would be deleted because they are no longer necessary now that a tenant-based section 8 homeownership program is available to low-income families under section 8(y). The homeownership program provides a broad authorization for use of section 8 tenant-based assistance for homeownership, including cooperatives and mutual housing. However, section 8(y) is being revised to allow participation of families who already own their cooperative or mutual housing units. This revision is necessary so that cooperative homeowners who are not first-time homebuyers would continue to be eligible for section 8 subsidies if the other requirements of section 8(y) are met.

Adjustments of payment standards

Section 8(o)(9) would authorize a PHA to adjust its payment standards to assure continued affordability for families receiving tenant-based assistance. This is a revision of the first sentence of section 8(o)(6)(A) of current law, designed to reflect HUD's current interpretation of its intent. The section 8 rent adjustment provisions used for the existing Certificate program would not be retained, except for the PBC program, which would continue to provide for rent adjustments in accordance with section 8(c) of existing law.

Section 8(o)(6)(B) of existing law would be repealed. That section requires each ACC to be in an amount equal to 115% of the estimated aggregate amount of assistance during the first year of the contract. HUD intends to continue this practice, but believes that the statute should not mandate this since it could become appropriate to reserve higher or lower amounts.

Adjustment pools

Section 8(o)(8) would not be amended, but would be redesignated as section 8(o)(10). That section authorizes HUD to use up to 5% of available budget authority as an adjustment pool, to support higher subsidy needs where a PHA adjusts its payment standards as permitted by section 8(o)(9).

Deletion of obsolete provision

Section 8(o)(9) of existing law would not be retained, since it is unnecessary. It authorizes HUD to enter into contracts to provide vouchers for replacing public housing transferred under the HOPE 1 program.

Rent reasonableness requirements

Section 8(o)(11) would apply the rent reasonableness requirements applicable now to the voucher and certificate programs to the merged program. The special rule in the penultimate sentence of section 8(c)(1) for determining rent reasonableness for units that are exempt from local rent control would be repeated here.

Assistance for manufactured homeowners who rent pads

As permitted for both the existing Certificate and Voucher programs, section 8(o)(12) would provide for rental assistance to families who own a manufactured home and rent the real property ("pads") on which it is located. PHAs would establish a payment standard, which could not exceed an amount established or approved by HUD. Sections 8(o)(11)(C) through (E) of existing law would be deleted. They are not necessary to carry out this aspect of the program.

The calculation for the subsidy payment to manufactured home owners who own their home but who rent a pad would be revised to provide a more generous subsidy amount based on a less complicated subsidy formula. This calculation would make the subsidy determination like that used to determine the housing assistance payment for other tenant-based units in the merged certificate program by basing the subsidy on the real property rented, plus an allowance for any tenant-paid utilities. The mortgage payment in the original formula would be eliminated because it has little if any impact.

HUD intends to rely more on local rental cost data for manufactured home pads in lieu of establishing separate FMRs for pads. The 40% rent burden limit and the rent reasonableness requirements would be the same as for the tenant-based program.

Project-based certificate program

Section 8(o)(13) would contain authority for the PBC program now contained in section 8(d)(2).

The current PHA option to project-base some of its certificate units is being retained in the merged program. There are two principal differences between the current PBC program and the PBC program under the merged program.

First, the percentage of units which could be project-based would include both "old" and merged certificate units and the "old" voucher units in the 15% maximum per PHA, which increases the total number of units a PHA could choose to project-base since current law limits the number to 15% of certificates and does not apply to Vouchers. This also simplifies the program since a PHA can easily determine what its limit is by calculating 15% of the total funding for its program.

Second, the provision in section 8(d)(2)(D) concerning owner tenant selection policies has been deleted. It is unnecessary since PHAs have HUD-approved tenant selection policies which they use to refer applicants to owners.

Section 8(c)(3)(A) establishes the amount the family contributes toward rent. Families may not pay more than the amount determined under the rent formula in section 3(a)(1). For PBC units, there is no exception to this rule.

The provisions now contained in section 8(d)(2) would be slightly reorganized and broken into more subparagraphs for easier understanding. In addition, an error in existing section 8(d)(2)(B) would be corrected. Section 8(d)(2)(B) authorizes a PHA to approve the attachment of assistance with respect to newly constructed structures if, as provided in clause (ii), the aggregate assistance provided by the PHA pursuant to the new construction authority and "the last sentence of subparagraph (A)" does not exceed 15%. When Congress amended subparagraph (A) in section 613(a) of the Cranston-Gonzalez National Affordable Housing Act, to add sentences to the end of subparagraph (A), it did not correct the cross reference in subparagraph (B) to the last sentence of subparagraph (A). That sentence, before NAHA, permits a PHA to permit attachment of certificate assistance to rehabilitated projects with respect to no more than 15% of the PHA's assistance. The error would be corrected by combining the authority for project basing of rehabilitated and newly constructed units in the proposed section 8(o)(13)(A). The aggregate amount of such assistance could not exceed 10%.

Inapplicability of section 8(c)

Under section 8(o)(15), section 8(c) would be made explicitly inapplicable to the merged Certificate program. For the most part, this simply clarifies that the miscellaneous requirements of subsection (c) do not apply to the program. Some explanation, however, is appropriate.

Section 8(c)(8) should not apply to the merged program because owner notifications of rent increases prior to HAP contract expiration are not necessary for a tenant-based subsidy program, and owners cannot opt out of PBC HAP contracts because extensions of PBC HAP contracts are at the sole option of HUD and the PHA. An amendment to section 8(c)(8) to exclude the merged program is included in subsection (e)(6).

Section 8(c)(9) would be made inapplicable to the new program (see subsection (e)(7)). A 90-day termination notice is not necessary for the tenant-based Section 8 Certificate program since families may move and continue to receive assistance when a HAP contract is terminated by the owner for business or economic reasons. Participation in the tenant-based section 8 Certificate program is voluntary for landlords, and the notice requirement hurts the program by discouraging owner participation. It also imposes a massive, but meaningless, paperwork requirement on the Department, PHAs, and owners in a time of scarce staff resources by involving HUD in the owner's termination of HAP contracts for individual tenants. The existence of grounds for eviction should not be determined by HUD or the PHA, but by the State landlord/tenant court.

Owner termination notices also are not necessary for PBC units since NAHA amended section 8(d)(2)(C) to require that the HAP contract allow extensions. The contract must obligate owners to have such contract extensions accepted by the owner and the owner's successors in interest. Accordingly, the requirement that the owner provide one-year notice of termination to allow HUD to adjust contract rents in order to avoid the termination is unnecessary. The only owners which would be able to terminate section 8 PBC contracts are those which HUD and the PHA agree are undesirable and owners for which there is insufficient funding for contract extensions.

Portability

Subsection (b) would amend section 8(r) to confirm that HUD may reserve amounts available for the new Certificate program to compensate PHAs which issue certificates to families that move into the jurisdiction of the agency holding a certificate or voucher issued by another PHA.

In addition, a family that moves out of an assisted unit in violation of its lease would not be eligible to move to another jurisdiction under portability procedures. Some certificate and voucher participants have moved outside the initial PHA's jurisdiction several times in the same year, in violation of the initial one-year lease term. This practice would be prohibited under the new Certificate program.

Repeal of requirement that owners of multifamily housing projects lease to certificate and voucher holders

Subsection (c) would repeal the requirement in section 8(t) that once an owner of a multifamily housing project enters into a section 8 HAP contract, the owner may not refuse to lease any available unit in any project of the owner because the family holds a section 8 certificate or voucher.

This provision would be repealed because it imposes a requirement which is contrary to maintaining normal landlord-tenant relationships which are key to the success of any tenant-based program. The provision is a major disincentive for owner participation in the program. As a result of the current requirement, many nonparticipating owners are unwilling to rent to any family under the Certificate or Voucher programs. Owners fear charges of discrimination and legal action even if they refuse to lease to a section 8 family for reasons other than their participation in the section 8 program. Since it is often easier and more desirable to simply rent to an unassisted person in the private market, section 8(t) has the effect of reducing the number of choices available to section 8 families rather than protecting families.

Homeownership option

As described above, subsection (d) would amend the homeownership option authority in section 8(y)(1)(A) to authorize a family to receive section 8 assistance for homeownership through ownership of shares in a cooperative housing, whether or not the family is a first-time homeowner.

Section 8(y)(1)(B)(i) currently allows families participating in the FSS program to participate in the homeownership program regardless of income. This is problematic because an FSS family may lack sufficient income to meet the responsibilities of homeownership. Since an adequate income is critical to a family's successful participation in the homeownership program, the FSS exception would be amended to allow FSS participants with incomes below the threshold to participate only if the PHA determines that the families have sufficient resources. Of course, FSS graduates or participants that meet the income thresholds can still participate in the homeownership program.

Finally, the assistance formula for families receiving assistance for homeownership would be amended to be comparable to the proposed formula for tenant-based rental assistance, described above.

Technical and conforming amendments; deletion of obsolete and unnecessary provisions

Subsection (e) would contain miscellaneous technical and conforming amendments. In addition, obsolete and unnecessary provisions would be repealed. For example—

1. The second sentence of section 8(b) would be repealed. The original purpose of this ACC provision was to require HUD to provide funding for identifiable periods instead of merging "new" certificate units with "old" certificate units and establishing an identical ACC term for all units. HUD has discontinued this practice by providing a consolidated ACC with specified terms for each increment of units. (subsection (e)(2))

2. Section 8(c)(5) would be repealed because it applies to the development of Section 8 new construction and substantial rehabilitation projects and is, therefore, obsolete. (subsection (e)(5))

3. Section 8(n), single room occupancy, would be repealed. SRO units provide a desirable affordable housing alternative in many communities. All units leased under the Certificate program must meet the HQS and the other program requirements. Like other section 8 units, SRO units are not exempt from local codes, and section 8 subsidies are not provided unless program requirements are met and participants actually occupy the units. Therefore, the special SRO certifications, demand justifications, and approvals by the PHA and local government in section 8(n) are unnecessary. (subsection (e)(12))

4. Section 8(d)(1)(A)(i) would be amended to delete the provision that a family otherwise eligible for assistance under section 8 may not be denied preference under the certificate program solely because the family resides in public housing. In addition, the merged Certificate program would not include such a provision. HUD has interpreted this section as permitting a family residing in public housing that qualified for a Federal preference when it moved into public housing and that was on the Section 8 waiting list when it moved into public housing, to retain the Federal preference status for section 8 (i.e., its place on the certificate and voucher waiting list), even though the qualifying condition no longer exists.

The Department believes that this provision should be repealed primarily for reasons of equity. When there are families with Federal preferences on the Section 8 waiting list (such as families who are homeless or who have high rent burdens), there is no justification to delay assistance to those families while providing tenant-based Section 8 assistance to families who are adequately housed in public housing. The provision inaccurately and unfairly characterizes all public housing as inferior to Section 8. Implementation of this provision would also cause increases in PHA public housing expenses associated with turnover vacancies.

If the public housing family is living in a substandard public housing unit, the family would qualify for a Federal preference for tenant-based Section 8 assistance. Therefore, under current regulations, a family inadequately housed in the public housing program has preference status for certificates and vouchers. We believe that the concern the amendment addresses is addressed under current regulations.

Subsection (f) would make technical, conforming amendments to statutes other than the United States Housing Act of 1937.

Implementation

The transition period for merging the existing programs will require careful planning and discussions with PHAs and other interested parties. Accordingly, as provided by subsection (g), the regulations would be issued after notice and opportunity for public comment. The amendments made by this section would not take effect until a date specified in HUD in regulations establishing the new program or in a notice published in the Federal Register. Considering the extensive public comment HUD anticipates, this process is likely to take some time. Even after the regulations go into effect, HUD would be authorized to continue to apply former law where necessary to simplify program administration or to avoid hardship to families or owners.

HUD could provide for the transition of assistance under the existing Certificate and Voucher programs to the new Certificate program.

A premise underlying future appropriations for the new Certificate program will be that amounts would be available both for the new Certificate program, and to provide funding for any necessary amendments needed for HUD's existing contractual relationships. The legal capacity to manage appropriations flexibly would be one of the desirable results of the proposed new Certificate program.

Section 8 Certificate and Voucher Fees

Section 413 would amend section 8(q) of the 1937 Act to change the way HUD determines fees that are paid to PHAs (public housing agencies, including Indian housing authorities) for the costs of administering the section 8 Certificate and Housing Voucher programs. In addition, it would limit the preliminary fee to the initial increment of assistance to PHAs that have not previously carried out a Certificate or Housing Voucher program. For these PHAs, the amount of the preliminary fee would be increased from $275 to $500.

Under the revised system, a PHA would receive a fee for each month for which a dwelling unit is covered by a housing assistance payments (HAP) contract. The initial fee would be a percentage, as specified by law, of a "base amount" established by HUD. This initial fee would be 7.65% of a HUD-determined base amount for the first 1,000 units, and 7% of the base amount for any additional units. Each year, HUD would publish as a Notice in the Federal Register the per-unit-month fee amounts that would apply for PHAs operating in each metropolitan area and nonmetropolitan county for that Federal fiscal year. The change in the per-unit-month fee amounts would be based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by HUD.

HUD's determination of the "base amount" would build on practices established in FY 1994. As a result of section 11 of the HUD Demonstration Act of 1993, enacted in the Fall of 1993, the base amount used in FY 1994 is equal to the larger of two numbers: (a) the FY 1993 fair market rent (FMR) established by HUD for a 2-bedroom existing rental dwelling unit in the market area of the PHA; and (b) the FY 1994 FMR when higher than the FY 1993 FMR, but not to exceed the FY 1993 FMR by more than 3.5%. Under the proposed system, the base amount would be the same as the base amount actually used in FY 1994, subject however to a ceiling and floor. The base amount would be used only to determine the fee amount for the initial year.

To calculate the ceiling and floor, HUD has examined the distribution of certificates and vouchers across all PHAs in the country. Fifteen percent of the units are administered by PHAs with a base amount of $422 or less, and $422 becomes the floor. Fifteen percent are in PHAs with a base amount of $777 or more, and $777 becomes the ceiling. The intent of applying these caps and floors to the base amounts is to increase the level of reimbursement to PHAs serving areas with very low FMRs, and to avoid over-reimbursement of PHAs providing assistance in very high FMR areas.

The proposal would retain authority for HUD to increase the fee if necessary to reflect the higher costs of administering small programs and programs operating over large geographic areas (see section 8(q)(1) of existing law), and for extraordinary expenses (see section 8(q)(2)(A)(iii)). In addition, HUD could approve higher fees if necessary to reflect the higher costs of administering the Family Self-Sufficiency program under section 23 of the 1937 Act.

The current system of section 8 administrative fees is unnecessarily complex, unwieldy, and inconsistent with program needs. The proposed amendment simplifies the current system and eliminates its most serious flaws.

The current system has three different rate structures. For pre-1989 allocations a 6.5% fee applies for vouchers and a 7.65% fee applies for certificates. For both programs, an 8.2% fee applies for incremental allocations made after 1988. Research shows that administrative costs for certificates and vouchers are very similar. The proposal would make the fee system more uniform.

Basing administrative fees on each year's FMRs means that administrative budgets are tied to changes in FMRs. Rents are subject to market forces and periodic rebenchmarking which can produce sudden increases or decreases in FMRs and administrative fees (but with no connection to changes in administrative costs). Erratic and sudden changes in administrative fees are not conducive to sound program management and can disrupt PHA efforts to provide a high and consistent quality of management and advisory services. If not for the special legislative language enacted in the Fall of 1993, the rebenchmarking of FMRs to the 1990 Census would have increased or decreased administrative funding for some PHAs by 25–30%. These problems would be solved by the proposal on a more permanent basis. Under this proposed new PHA fee system, PHAs would no longer face the possibility of sudden decreases in administrative budgets. Small PHAs and PHAs with unusually low FMRs would tend to receive higher fees. Large PHAs and those operating in high-FMR areas that research has shown to have excessive fees would receive some decreases.

Linking administrative fees to FMRs produces upward pressures on FMRs. The primary cost of administering the Section 8 program is wages paid to PHA employees. These wages are closely tied to local wage costs, but not necessarily to local rental costs.

FMR/local wage ratios differ significantly from area to area, with low FMR areas relatively underfunded and high FMR areas relatively overfunded. Small PHAs and PHAs in non-metro areas tend to have the lowest FMRs and appear to be least-favored by the current system. Research conducted by HUD's Office of Policy Development and Research indicates that housing costs (and FMRs) are more variable than wages and non-housing costs, and that areas with unusually high or low FMRs receive relatively high or low levels of administrative funding relative to local wage and other non-housing costs. This inequity is addressed by placing a "ceiling" and "floor" on the calculation of this initial fee base.

Small programs appear to have difficulties with current administrative fee levels, partly because they tend to operate in low FMR areas and partly because they are unable to achieve the economies of scale possible in larger PHSs. This is especially true where the small program covers a large geographic area. Under the new system, small PHAs would tend to receive higher fees, and could also apply for additional funds as needed.

The current statutory provision in section 8(q)(2(A)(ii) regarding costs of assisting families who experience unusual difficulties would be repealed. The currently used "hard-to house" add-on to fee reimbursements is no longer considered necessary to assure that adequate assistance is provided to large families with children. Almost 20% of families participating in the Certificate and Voucher programs contain three or more children, and the recent rebenchmarking for FMRs in most local markets has generally increased the FMR applicable for units with three or more bedrooms, and presumably also the availability of such units.

Current provisions in law that allow for additional fees for small PHSs, delivery of assistance within large geographic areas, and extraordinary costs would be retained. However, HUD would approve additional fees only in unusual circumstances, where the PHA documents justifies the need. The use of a floor in the setting of the initial fee base should help most small PHAs and PHAs serving large geographic areas, minimizing the need for additional fees.

The current preliminary fee of up to $275 per unit for new allocations, which is no longer a significant source of revenue because program sizes are now large relative to incremental unit allocations in any one year, would be modified. It would be increased to $500, limited to PHAs in their initial year of carrying out either the Certificate or Housing Voucher program, and paid without documentation by a PHA. Few additional PHAs enter either program in any one year. The preliminary fee has not been increased since the beginning of the program in the mid-1970s. Eliminating the need for PHAs to document the need for a preliminary fee would eliminate unnecessary paperwork. Virtually all PHAs are able to justify the proposed level of preliminary fees in their first year of participation in the program.

Implementation

Implementation of this proposal will require issuance of a proposed and final rule. HUD anticipates that the year of initial implementation will be fiscal year 1995.

To avoid administrative problems associated with sudden changes in fees, and taking into consideration the rebenchmarking of FMRs that has recently occurred, this proposal also extends (until such time as a final rule for this legislative proposal has been implemented) the fee rates applicable in FY 1994.

Subtitle C—Miscellaneous

Section 811 Rental Assistance for Persons With Disabilities

Section 421 would make a number of amendments to section 811 of the National Affordable Housing Act, Supportive Housing for Persons with Disabilities.

Rental assistance for existing buildings

Subsection (a) would permit HUD to provide rental assistance to lessors and owners of existing housing for a five-year term. The assistance could be provided to private, nonprofit organizations that lease or own housing which meets the requirements of the section 811 program for persons with disabilities.

Private, nonprofit organizations could also apply for section 811 capital advances for the construction, rehabilitation, or acquisition of housing receiving the benefit of a 20-year rental assistance contract. Sponsors requesting only rental assistance would be required to meet the eligibility requirements and adhere to similar application procedures as those seeking capital advances.

Subsection (a)(1) would permit qualifying private nonprofit organizations to receive rental assistance for housing they own or lease. Subsection (a)(2) would limit the 40-year very low-income use requirement to projects assisted with capital advances. Subsection (a)(3) would establish a maximum initial term of five years for existing housing. For example, a private, nonprofit organization could receive assistance for one or more units in a project it owns, or it could lease units for its programs, thus providing housing without incurring the long-term commitment of purchasing the units. This would give private nonprofit organizations greater flexibility in serving persons with disabilities and would permit selection of housing units to promote greater integration of persons with disabilities into the community. It would permit HUD to assist private nonprofit entities and to deliver assistance more quickly to a population in need, while still preserving the quality of housing, supportive services, and section 811 program standards. Expiring contracts could be extended for a term of not less than five years.

Subsection (a)(4) would clarify that the selection criterion in section 811(g)(1) relating to ability of the applicant to develop housing only applies when development is involved.

Subsection (a)(5) would make a technical amendment to the selection criteria for assistance in sections 811(g) (3) and (5), to refer not only to the "proposed design" of the housing involved but also the "design" of such housing, since existing housing does not involve a "proposed design."

Subsection (a)(6) (A) and (B) would limit the site control requirements of section 811(j)(3) to applicants proposing to use capital advance assistance and redesignate them as subparagraph (B). Subsection (a)(6)(C) would add a new section 811(j)(3)(B) to cover site control requirements where only project rental assistance (not capital advance assistance) is involved. In that case, the applicant would be required to have ownership or control (such as a lease) of a suitable site at the time of application. HUD could approve a transfer of the assistance to another site at any time from the date the application is submitted to the expiration date of the rental assistance contract.

Subsection (a)(7) would amend section 811(j)(4). This provision requires an owner to deposit up to $10,000 in a special escrow account to assure the owner's commitment to the housing. Subsection (a)(7) would make the provision applicable only if the housing is assisted with capital advances. Since the rental assistance contracts involved would only be for a term of five years and would not involve capital advances, HUD believes a deposit is not necessary to assure the owner's commitment to the housing.

Subsection (a)(8) would amend section 811(k)(1) to permit waiver of the 8-person limit for group homes in the case of existing housing as well as the development of housing with a capital advance.

Subsection (a)(9) would amend the definition of "owner" to include owners where only rental assistance is provided.

Subsection (a)(10) would correct a cross reference.

Repeal of tenant-based assistance

Subsection (b) would repeal the amendments made by section 623 of the Housing and Community Development Act of 1992. This provision amended the Section 811 program to authorize the use of program funds for tenant-based assistance for the disabled. Unlike the rest of the Section 811 program, which is operated by non-profit sponsors, section 623 requires that tenant-based rental assistance be administered only by public housing agencies (PHAs).

The Department does not believe that responsibility for the program should have split administration. Non-profit sponsors have successfully and efficiently operated the Section 811 program and its predecessor throughout their history. The Department sees no need to fix a system that is working well. The amendment in subsection (b) would simply return the Section 811 program to its status before enactment of the 1992 Act, with respect to this matter.

Finally, enactment of the existing housing authority in subsection (a) would address a need very similar to that contained in section 623.

Technical change

1. Subsection (c)(1) would make technical changes to section 811(k)(6)(A) of NAHA. This provision, added by section 603 of the 1992 Act, requires Section 811 housing sponsors to have received, or have temporary clearance to receive, a tax exemption under section 503(c) of the Internal Revenue Code of 1986.

First, subsection (c)(1) would permit sponsors to have a tax exemption under either section 501(c) (3) or (4). Sponsors that are tax-exempt under section 501(c)(4) were eligible before the 1992 amendment. There appears no reason to exclude these sponsors from participation in the program, and subsection (c) would restore this coverage.

Second, subsection (c)(1) would remove an erroneous reference to "temporary clearance" of tax-exempt status by the IRS. IRS advises that there is no such clearance procedure.

Subsection (c)(2) contains a conforming change deleting section 8(i) of the 1937 Act, as added by section 623(b) of the 1992 Act.

Funding for Supportive Housing for the Elderly and for Persons With Disabilities

Section 422 would authorize appropriations for fiscal years 1995 and 1996 for the section 202 Supportive Housing for the Elderly program, and the section 811 Supportive Housing for Persons with Disabilities program, as follows:

For fiscal year 1995, $537,000,000 would be authorized for both programs, including for the section 811 program, $387,000,000, and for the section 202 program, $150,000,000. For fiscal year 1996, the total authorization would be for $387,000,000, entirely for the Supportive Housing for Persons with Disabilities program under section 811.

Youthbuild

Section 423 would amend the Youthbuild program, authorized under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act,[8] to make the program more cost-efficient as a training mechanism and to make cooperation with the Youthbuild program more attractive to developers.

Subsection (a)(1) would amend section 454(b)(2) of the Cranston-Gonzalez National Affordable Housing Act to provide that occupied housing is not eligible in the Youthbuild program.

One major objective of the program is to expand the supply of affordable housing for homeless and low-income persons. The housing can be new construction or rehabilitation. It should be made clear that the rehab is only for vacant units, not occupied housing. Relocation costs can be significant in occupied housing and the priority needs to focus on actually expanding the number of units available for new occupants.

Subsection (a)(2) would amend section 454(b) to remove, from the list of eligible Youthbuild implementation grant activities, the funding of operating expenses and replacement reserves of property covered by the Youthbuild program.

Removing authority to fund operating expenses and replacement reserves under the program would result in the training of more disadvantaged youth, because all grant funds would be spent on training-related costs instead of being dedicated to the long-term operating expenses and replacement reserve costs of the housing provided under Youthbuild.

Subsection (b) would eliminate the requirement for HUD to develop a procedure for a combined application for a planning grant and an implementation grant, currently contained in section 454(g).

The combined grant format is not useful. Applicants need to apply for planning or implementation grants—not both. Combined grants are operationally infeasible and costly. The structure of the planning process does not work with the implementation cycle. Combined grants tie up implementation funds for too long with any direct results or benefits. Demand is so high that only 1 out of 10 implementation grant applications can be approved.

Subsection (c)(1) would amend section 455(a) to ease the use restrictions on Youthbuild properties by making it clear that these restrictions apply only to properties for which Youthbuild funds are used to pay for hard costs, such as construction. This would make the program more attractive to developers.

Easing the use restrictions would make the program more attractive to developers who could serve as partners by providing construction and rehabilitation sites for Youthbuild training, thus reducing the amount of Youthbuild funds spent on construction.

Subsection (c)(2) would redefine income eligibility under section 455 by requiring 90% of the units to be available for occupancy with families with incomes no higher than 50% of median, instead of incomes less than 60%.

This would eliminate the confusion generated by the use of a 60% standard instead of the usual HUD standard for defining very low-income families of 50%.

Subsection (d) would amend section 458(d) to permit HUD to use amounts from the technical assistance set-aside to contract for assistance in managing the program.

HUD has insufficient staff to monitor the Youthbuild program. Contract resources are essential to avoid fraud and mismanagement. It is efficient to have the technical assistance provider assist in the management of the program consistent with section 458(a) of the Act.

HOPE Authorization of Appropriations

Section 424 would, in subsection (a), authorize appropriations for the HOPE Homeownership programs at $100,000,000 for fiscal year 1995 and $100,000,000 for fiscal year 1996. Amounts for technical assistance would be included within this authorization. Subsection (b) would authorize $50 million for each of fiscal years 1995 and 1996 for the Youthbuild program.

Authorization of Appropriations for Housing Opportunities for Persons With AIDS Program

Section 425 would authorize $156,000,000 for appropriations in each of fiscal years 1995 and 1996 for housing for persons with AIDS.

TITLE V—PRESERVATION AND PRODUCTION MISCELLANEOUS AMENDMENTS TO LIHPRHA

During the late 1960's and early 1970's, several thousand multifamily housing projects were built with mortgages insured or assisted by HUD under the section 221(d)(3) and section 236 programs of the National Housing Act. For projects owned by limited distribution mortgagors, HUD regulations provide the owner may prepay the mortgage debt after 20 years without HUD's consent. Prepayment of the mortgage has the effect of terminating the HUD-imposed low-income affordability restrictions which ensure that the project is maintained for very low-income, low-income, and moderate-income tenants. Over the next 15 years, the owners of 360,000 units of multifamily housing projects will become eligible to prepay their mortgage loans and convert the properties to market rate rental housing or other purposes. During the mid-1980's public concern was raised about the risk of losing the availability of this stock for use for low-income housing purposes.

In response to these concerns, the Emergency Low Income Housing Preservation Act of 1987 ("1987 Act") was enacted. The 1987 Act placed constraints on an owner's right to prepay and created incentives either to encourage owners to retain the low-income affordability restrictions in exchange for receiving a greater return on investment or to transfer the property to purchasers that would agree to retain the low-income affordability restrictions. The fundamental principles of the 1987 Act were that the housing should be preserved for its originally intended beneficiaries and that owners should be assured a fair and reasonable return on their investment through new incentives for the project for the remaining term of the mortgage. The 1987 Act was intended to be temporary in nature and gave Congress time to develop a permanent program. This program was established under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 ("1990 Act"), which replaced title II of the 1987 Act and was enacted as part of the National Affordable Housing Act.

The basic objectives of the 1990 Act are to assure that most of the projects eligible to prepay remain affordable to low-income tenants and to provide opportunities for tenants to become homeowners. At the same time, the 1990 Act provides for fair compensation for owners for the value of their properties. The 1990 Act provides authority under very specific and limited circumstances for owners to prepay their mortgage loans and convert their properties to other uses.

Section 501 would make several changes to the 1990 Act to assure excessive incentives are not provided and to simplify administration of the program, as described below.

Establish a realistic Federal cost cap

Under current law, HUD can provide assistance to an owner to maintain a project as affordable rental housing so that total project rents will be as much as the higher of 120% of the section 8 existing housing fair market rent for the market area (FMR) or 120% of the prevailing rents in the relevant local market area. This is called the Federal Cost Limit. For owners seeking to sell their projects, the current law contains no limit on the amount of HUD assistance. For projects with aggregate preservation rents exceeding the Federal Cost Limit, HUD is authorized under subsection (d)(2) of section 221 (Mandatory Sale for Housing Exceeding Federal Cost Limits) to provide additional assistance in the form of a capital grant to priority purchasers.

The Federal Cost Limit in the current law results in extremely expensive incentives packages. The amendments would cap the Federal cost limit at the local FMR. This would establish a uniform and realistic ceiling on incentives packages for owners retaining their properties and for owners selling their properties. When the value of an incentives package exceeds the local FMR, it is more cost-effective for HUD to assist eligible tenants with section 8 vouchers than to provide owners or purchasers with the additional project-based assistance above the FMR.

Owners of projects with aggregate preservation rents that exceed the new Federal Cost Limit would be able to prepay their mortgages, subject to the protections for tenants in section 223. Section 223 requires issuance of vouchers to families and provides other benefits. Recaptures of existing project-based rental assistance and interest reduction payments would largely offset the costs of the vouchers for their first five-year term.

Alternatively, owners could elect to accept an incentives package or sell a project at a price that does not exceed the new Federal Cost Limit. State and local governments could elect to make up some or all of the difference above the Federal Cost Limit if they determine it is important to preserve certain projects. This would encourage non-Federal participants to share the costs of preserving, for low- and moderate-income housing purposes, projects with high costs or values, where appropriate.

Subsection (a)(1)(A) would amend section 215, which establishes the Federal cost limits, to reduce the cap to 100% of the FMR. Subsection (a)(1)(B) would repeal section 215(a)(2), which establishes the Federal cost limit based on 120% of prevailing rents in the relevant local market area. Subsection (a)(3)(A) would repeal section 221, which provides incentives beyond the Federal Cost Limit in the case of sales to a qualified purchaser (including a priority purchaser). Subsection (a)(2) would amend section 215(b)(2)(C) to provide that where the preservation rents exceed the Federal cost limit, the owner could file a second notice of intent indicating an intention to terminate low-income affordability restrictions, subject to compliance with the tenant protections in section 223 (Assistance for Displaced Tenants). The protections in section 223 now apply where an owner does not receive a purchase offer, the purchaser is unable to complete the purchase, or HUD is unable to fund an acceptable plan of action. The remainder of the amendments in subsection (a) contain related conforming amendments.

Cap appraisals under LIHPRHA at fair market value for residential rental use

Subsection (b) would amend section 213(b)(2) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 to cap appraisals for all purposes at the fair market value of the property assuming market rate residential rental use. Under existing law, where an owner is selling or otherwise transferring the property to qualified purchasers under section 220 or 221, appraisals are performed based on the "highest and best use" of the property. For purposes of extending low-income affordability restrictions and receiving incentives under LIHPRHA, the preservation value is the fair market value of the property based on the highest and best use of the property as residential rental housing.

Requiring an appraisal based on the highest and best use of the property for market rate residential rental purposes, both for owners who elect to extend low-income affordability restrictions and owners who elect to sell or otherwise transfer the property, would reduce the subsidy costs of the Preservation program under LIHPRHA, the cost of conducting two types of appraisals, and the time needed for HUD to process applications. In addition, the disincentive to extend low-income affordability restrictions, due to the typically lower appraised value as market rate residential rental use, would be removed.

Repeal of homeownership assistance

Subsection (c) would eliminate the use of grants for resident homeownership. Grants are expensive because all the funding has to be provided on an up-front basis. However, even absent the homeownership grants provision, homeownership conversion to limited equity cooperatives will still continue and be funded through section 8 assistance to low-income resident buyers. Eliminating grants also simplifies the program and makes it easier for residents to participate.

Transition

Subsection (e) would apply the amendments made by this section only to eligible owners that file a plan of action under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 on or after the date of enactment of this Act.

Low-Income Housing Preservation Authorization of Appropriations

Section 502 would authorize appropriations for Low-Income Housing Preservation at $226,000,000 for fiscal year 1996.

FHA Fund Support of Section 8 Assistance for Property Disposition

Under section 503, section 8 assistance that was used in connection with property disposition under section 203 of the Housing and Community Development Amendments of 1978 would be funded from the cognizant FHA Fund (General Insurance or Special Risk, as applicable), instead of being funded with budget authority provided under the U.S. Housing Act of 1937 (as all other section 8 assistance is funded). The amounts of budget authority to be made available from the Fund for the section 8 assistance would be $3.945 billion for 5 years. Also, section 207 of the National Housing Act would be amended to make rental assistance an eligible cost in connection with the sale or lease of acquired properties.

In common with other amounts drawn from the Fund for property disposition, the rental assistance and newly-authorized grant funds would properly be scored as a mandatory, rather than discretionary, expenditure. See sections 250(c) (7) and (8) of the Gramm-Rudman-Hollings Act. Demands on amounts budgeted for HUD's discretionary programs would be reduced, to the extent that the rental assistance and grants in connection with property disposition costs were borne by the FHA Fund, instead of the 1937 Act. The costs of the new mandatory program would be offset by the savings in other, FHA mandatory charges that would be incurred if the properties are held in inventory rather than sold.

The management and disposition of HUD-owned multifamily properties and the foreclosure of delinquent, HUD-held mortgages is subject to the strict affordability mandates of section 203 of the Housing and Community Development Amendments of 1978. The legislation requires that section 8 rental assistance, or an equivalent subsidy, be provided for a minimum of 15 years to preserve HUD-held and -owned mortgages and properties after foreclosure or sale. Section 203 was recently amended by the Multifamily Housing Property "Disposition Reform Act of 1994 to modify the requirements, particularly as applied to formerly unsubsidized projects, but affordability will remain a funding issue for substantial numbers of formerly subsidized projects.

The Department is effectively prohibited from selling properties without the required amounts of section 8 subsidy, currently scored as a discretionary expenditure. To the extent insufficient amounts of discretionary subsidy are appropriated for this and other section 8 programs, the Department is nevertheless required by law to manage the properties in a manner meeting the statutory affordability criteria. This means managing the asset and providing suitable and affordable housing to the low-income target population, without section 8 subsidy. The cost associated with HUD ownership, including maintenance and the rental subsidies that HUD must nevertheless supply, are paid for out of the General Insurance Fund. The holding costs are scored as a mandatory charge.

With the existing budgetary distinctions between "mandatory" and "discretionary" expenditures, classification of an activity is of critical importance. The tightening caps and reductions associated with discretionary charges has, over the years, created a perverse incentive to hold properties in inventory and subsidize them as a mandatory expense rather than request or appropriate requisite amounts of discretionary budget authority to sell the asset and return it to private and non-profit ownership. While this may constitute rational budget strategy, it is not a sound methodology for making the optimal social and financial decisions regarding asset ownership.

The current proposal is designed to establish a "level playing field" for decisions regarding the management and disposition of these assets, so that concerns in addition to the scoring of the budget authority receives due consideration.

The proposal has a significant budgetary scoring impact (for the better) and also should provide for more cost-effective methods for dealing with the substantial mortgage note and property investments acquired by the Federal government.

HOME Program Loan Guarantees

Section 504 would establish a loan guarantee program for the HOME Program, similar to the Section 108 authority for the Community Development Block Grant Program. This authority would provide participating jurisdictions with an efficient source of financing for large scale housing development.

Eligible applicants would be eligible HOME participating jurisdictions.

The participating jurisdiction may be the borrower or it may designate a public agency to issue the notes or other obligations and receive the guarantee.

Eligible activities would include: acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing including real property acquisition, site improvements, conversion, demolition and other expenses, including financing costs, relocation expenses of any displaced persons, families or business organizations. Credit enhancements and debt service reserves would be eligible under this authority while these activities are limited under the regular program because of the disbursement requirements under the statute. The costs associated with a public offering is also eligible. All housing funded under this section shall meet the requirements of this title.

The maximum amount of loans that HUD may guarantee or commit to guarantee for each PJ is limited to five times the participating jurisdiction's latest HOME allocation amount, as well as being limited by the appropriations action.

Security for the loan guarantee is a pledge by the applicant of its current and future HOME funds. HUD may also require additional security, especially if the repayment period exceeds 10 years. In any event, the repayment period may not exceed 20 years. The guaranteed loans would be financed in the same manner as the CDBG Section 108 loan guarantee program. In the event of default, HUD could make payments on the loan using the pledged HOME funds.

The ability to use HOME loan guarantees could be essential to participating jurisdictions who had formulated and were implementing a neighborhoodwide strategy to build or rehabilitate large numbers of units as a single undertaking within a relatively short period of time. The ability to borrow a large sum of money for construction would result in economies of scale and the opportunity to make a visible impact on a neighborhood in the short term. Providing large physical change may be the only way to turn crime ridden, seriously deteriorated neighborhoods around.

The use of loan guarantees in the HOME Program would enhance the program's ability to be a major force for development. This proposal would also put the loan guarantee program under the Department's direct scrutiny and forestall increasing pressure to use HOME funds for credit enhancements developed by individual participating jurisdictions. Many of the local proposals have been open ended and without a clear measure of benefit to low-income housing production.

Home Authorization of Appropriations

Section 505 would authorize appropriations for the HOME Investment Partnerships program at $1,000,000,000 for fiscal year 1995 and $1,000,000,000 for fiscal year 1996.

Extension of the Section 221(g)(4) Auction Provisions

Section 506 would amend section 221(g)(4)(C)(viii) of the National Housing Act to extend through December 31, 2005 the sunset date for the authority to auction mortgages insured under section 221 and assigned to HUD. Under current law, the auction provisions expire September 30, 1995. If a mortgage insured under section 221 pursuant to a commitment issued before November 30, 1983 is not in default 20 years from the date of endorsement for insurance, the mortgagee may assign the mortgage to HUD and receive the benefits of insurance.

This proposal is necessary to continue the auction of multifamily and single family mortgages assigned to HUD pursuant to section 221(g)(4) after September 30, 1995. An expiration date of December 31, 2005, would give HUD an opportunity to auction all mortgages that provide for assignment and are assigned pursuant to this authority.

Extension of the Multifamily Mortgage Credit Demonstrations

Section 507 would extend the Multifamily Mortgage Credit Demonstrations under section 542 of the HCD Act of 1992. The FHA Multifamily Risk-Sharing Pilot program under subsection (b) would be extended through FY 1996, and the Housing Finance Agency Pilot program would be extended through FY 1997.

TITLE VI—EXPAND FAIR HOUSING

Metropolitan areawide strategy demonstration

Section 601 would authorize the Metropolitan Areawide Strategy demonstrations. Under this demonstration, the Secretary would select a consortia of units of general local government in each of three different metropolitan areas to engage in the marketing of assisted housing on a metropolitan areawide basis. The consortia would carry out the demonstration through clearinghouses administered by private, nonprofit organizations selected by the consortia. The demonstration could be approved for a period of up to three years for any one metropolitan area.

Object of the Demonstration

The demonstration would help carry out the Secretary's statutory mandate under the Fair Housing Act to affirmatively further fair housing in all programs of housing and urban development. In addition, the demonstration would fulfill President Clinton's directive in Executive Order 12892 and the accompanying Presidential Memorandum, signed January 16, 1994, to undertake pilot programs, together with other Federal agencies as the Secretary considers appropriate, to further fair housing and to address problems of metropolitan segregation.

The demonstration would promote innovation in addressing racial segregation in the Department's assisted housing programs. It would also advance the Secretary's objective to affirmatively further fair housing, allowing the Department to identify statutory impediments to achieving fair housing and reinvent the way assisted housing programs are marketed.

PHAs in the selected metropolitan areas would be expected to provide incentives to improve the attraction of public housing, achieve desegregation, and affirmatively further fair housing. These measures would be aimed at changing the perception of public housing as the housing of last resort. Instead, they would be intended, in combination with other measures proposed, to make presently minority-dominated public housing a path to social and economic mobility for non-minorities as well.

HUD would require PHAs to focus their comprehensive grant modernization funds on developments that are predominantly minority and where disparities in services and amenities exist.

Waiver Authority

The Secretary would be authorized to waive, or specify alternative requirements for, statute and regulations HUD administers, upon finding that the waiver or alternative requirement (1) is necessary to facilitate the demonstration and (2) would not be inconsistent with the overall purpose of the statute of regulation affected. However, the Secretary could not waive or specify alternative requirements for statutory requirements related to nondiscrimination, fair housing, labor standards, or the environment, except that the Secretary could waive affirmative marketing requirements for participants in the demonstration.

Application and Selection

Applicants would be required to demonstrate extensive cooperation by public housing agencies in the metropolitan area and by private owners of federally-insured and federally-assisted housing and State- and locally-assisted housing, by submitting evidence that they are willing to list all vacancies with the clearinghouse and to make selections from tenants referred by the clearinghouse. The Secretary would select among applicants in a manner the Secretary determines to be appropriate, taking into account such factors as (1) the need for a range of metropolitan area sizes, (2) the extent of racial separation, isolation, and segregation in the applicant's metropolitan area, (3) the capacity of the ability of the proposed nonprofit organization selected to administer the clearinghouse, (4) the degree of cooperation and coordination achieved among governments in the metropolitan area and between government and private assisted housing providers, and (5) the potential effects and benefits the variations on regional planning, housing counseling, and other support services and approaches to marketing strategies proposed by each applicant could have on the racial patterns in assisted housing programs if the variations were adopted nationwide.

Waiting List

The nonprofit organizations administering the clearinghouses would operate a consolidated waiting list for federally-assisted family housing programs in each participating jurisdiction within the selected metropolitan areas, covering all jurisdictions in which the demonstration operates. Elderly housing programs would not be included. Under this system the waiting list would have separate sub-lists for each housing program. All eligible applicants for assisted housing would be on all sub-lists. Housing vacancies in each program would be reported to the clearinghouses by PHAs and other housing providers as they occurred.

The clearinghouses would review eligibility, perform income and employment verification, check previous tenant history, and secure all information necessary to determine Federal and local preferences. First priority within all preference categories would be given to those who wished to select a location where their race is not predominant. No residency preferences would be permitted in the Federal preference categories. Residency preferences could be allowed as part of local, non-Federal preferences after review by the Department to assure that they were not inconsistent with the demonstration objectives or in violation of the Fair Housing Act. Housing providers would carry out tenant suitability screening of all applicants referred from the clearinghouses and could accept or reject them for good cause.

Information Campaign

The clearinghouses would carry out a broad-based (multimedia) information campaign to reach out to all persons seeking housing within the metropolitan area. No single ethnic or racial group would have an advantage in applying for housing. The clearinghouses would carry out an active fair housing information and support program to encourage applicants to consider choices which would promote fair housing. This would include escort services to neighborhoods where the applicant's race is not predominant, counseling regarding social services available in such neighborhoods, information regarding transportation alternatives, schools and health care, and establishing tenant support groups to overcome the "pioneer" obstacle.

Progress Reports and Independent Evaluation

The clearinghouse for each demonstration site would be required to submit an annual progress report. In addition, within one year of the conclusion of each demonstration, the Department plans to submit to Congress a report describing the results of the demonstration and any recommendations for legislation.

An independent evaluation would be an important part of the demonstration and would measure the effects of waiving certain Federal requirements and policies. This evaluation is essential to HUD's and the Congress' ability to take the lessons learned from the demonstration and put them to practical use by revising current assisted housing programs or creating new ones.

Funding

For each of FYs 1995, 1996, and 1997, $15 million would be authorized to be appropriated for costs related to regional planning, housing counseling, and administrative costs of the nonprofit organizations selected to carry out the demonstration. In addition, $9 million from amounts available for assisted housing would be earmarked each year for modernization of public housing of central city PHAs participating in the demonstration. Of the amounts appropriated for tenant-based certificates, HUD would be authorized to set aside each year up to $100,000,000 for use by PHAs in support of the demonstration. This amount is expected to provide approximately 3,000 certificates each year.

Expand use of amounts in section 213(d)(4), headquarters reserve, in connection with settlement of civil rights litigation

Section 602 would permit the Secretary to use amounts in the Headquarters Reserve, established under section 213(d)(4) of the 1974 Act, for additional purposes, in connection with the settlement of civil rights litigation that is brought against the Department (other than by a HUD employee or former employee). This would include authority to use the Reserve to resolve disputes under existing settlement agreements and court orders. The new uses would be fair housing activities and cash payments. Currently, amounts in the reserve may only be used for public housing development and section 8 assistance.

Section 213(d)(4) of the 1974 Act authorizes HUD to retain up to 5% of the financial assistance that become available under the public housing and section 8 programs in the Headquarters Reserve. Currently, the Reserve may only be used for:

(i) unforeseen housing needs resulting from natural and other disasters;

(ii) housing needs resulting from emergencies other than such disasters;

(iii) housing needs resulting from the settlement of lawsuits; and

(iv) housing in support of desegregation efforts.

In addition to these housing activities, this proposal would enable the Secretary to undertake activities related to the settlement of civil rights litigation, such as:

Contracting with a non-profit organization to establish a Fair Housing Services Center to provide technical support to PHAs which are attempting to desegregate their projects;

Contracting with a non-profit organization to monitor compliance with civil rights requirements;

Contracting with a non-profit entity to provide services to public housing applicants and residents and section 8 certificate-holders with information on alternatives housing possibilities, transportation for the housing search, and other assistance in exercising their freedom of housing choice; and

Making cash payments to individuals and organizations harmed by violation of civil rights requirements.

As a technical matter, to permit use of amounts appropriated for use under the 1937 Act, the 1937 Act would also be amended to permit up to 5% of the aggregate amounts appropriated for section 8 and public housing development to be used for these new purposes under the Headquarters Reserve in addition to the activities now authorized. Since the Reserve will continue to be used for housing as well, less than the full 5% is expected to be used for the new activities.

Section 213(d)(4) of the 1974 Act authorizes the Secretary to use amounts in the Headquarters Reserve only for housing assistance authorized by the 1937 Act (i.e., for the development of additional Public and Indian housing units and funding of section 8 assistance, including certificates and vouchers). Since it may not always be appropriate or possible to settle litigation in such a manner, the Department is requesting the flexibility to settle lawsuits by provision of funds for other purposes. Having this flexibility would also make it possible to settle cases more quickly and sometimes with significantly lower costs.

The proposed fair housing enforcement and related activities would also help make housing available to a broader cross-section of the eligible population and ensure greater housing choice and opportunity. Funds used for fair housing activities would greatly contribute to the success of any metropolitan areawide housing strategy, since fair housing policies are integral parts of such strategies.

This proposal has become necessary because Congress, in 1992, amended the Fair Housing Initiatives program (FHIP) legislation so that FHIP funds could not be used in support of litigation settlements. It is more appropriate to fund activities addressing discrimination under 1937 Act programs using 1937 Act funds rather than reducing amounts available for fair housing enforcement.

Make CDBG expenditures on fair housing activities eligible activities in their own right

Section 603 would change the status of fair housing-related activities in the Community Development Block Grant regulations at 24 CFR 570.206(c) and 570.201(e). Section 570.206(c) includes as eligible program administration activities the conduct of fair housing enforcement and education activities designed to further the objectives of the Fair Housing Act. Section 570.201(e) makes eligible for CDBG funding fair housing activities that qualify as public services. Overall funding caps apply to all public service and administrative expenses (planning and program administration) undertaken by grant recipients. This proposal would make fair housing-related activities free-standing eligible activities in their own right.

Activities subject to the proposal include the provision of fair housing services designed to further the objectives of the Fair Housing Act by making all persons aware of the housing opportunities available to them; and other non-physical development activities designed to further the objective of avoiding undue concentration of lower income persons. The proposal also would presume that these freestanding fair housing activities would principally benefit low- and moderate-income residents of the jurisdiction.

Under the proposal, preparation and analysis of impediments to fair housing would remain under the planning and management activities cap stated in 24 CFR 570.205(a)(4)(vii) and would not be a freestanding fair housing activity. (The Department is proposing this in order to maintain the distinction currently found in the Community Development Block Grant regulations between planning and other activities.)

The Community Development Block Grant Entitlement program regulations now permit grantees to carry out limited fair housing activities. Section 570.205(a)(4)(vii) allows the conduct of an analysis of impediments to fair housing as an eligible planning, management, and capacity building activity. As noted, §570.206(c) includes as eligible program administration activities the conduct of fair housing enforcement and education activities designed to further the objectives of the Fair Housing Act, and §570.201(e) makes eligible for CDBG funding fair housing activities that qualify as public services.

This status as only one of many eligible activities under the categories of administrative costs, planning activities, and public services reduces the importance of fair housing within the total scheme of activities in the CDBG Entitlement program. Furthermore, including fair housing within the categories of administrative costs and planning activities makes it very difficult for the Department to determine the dollars spent on fair housing activities.

Adding fair housing as an eligible activity under section 105 of the 1974 Act would bring about the following results:

The funding cost caps which currently limit funding for covered fair housing-related activities would be removed.

In addition to making fair housing an eligible activity in its own right, the statutory provisions would presume that fair housing activities would benefit low- and moderate-income residents of the jurisdiction. By applying this presumption, the Department would relieve recipients of an administrative burden to substantiate low- and moderate-income benefit.

The duty of CDBG recipients to affirmatively further fair housing would be regarded as an equal and comparable basis for the use of CDBG funding as other "brick and mortar" housing and community development activities. This newfound equality would be crucial to the success of metropolitan areawide strategies and of fair housing strategies applied within local communities, since these strategies act as the underpinning for the other activities that generate greater housing opportunities for all segments of the eligible population. The CDBG-funded fair housing activities are supposed to insure that the jurisdiction will carry out its certification to affirmatively further fair housing through the other programs it funds as a CDBG Entitlement recipient.

Fair housing initiatives program authorization of appropriations

Section 604 would authorize appropriations for the Fair Housing Initiatives program at $26 million for each of fiscal years 1995 and 1996. Included with these amounts, for each such years, would be the following:

$9 million for private enforcement initiatives;

$7 million for fair housing enforcement organizations;

$7 million for education and outreach programs; and

$3 million for administrative enforcement.

Civil money penalties for violations of the Home Mortgage Disclosure Act by nonsupervised mortgagees

Section 605 would amend section 305(b) of the Home Mortgage Disclosure Act of 1975 (HMDA) to give the Secretary of Housing and Urban Development the authority to enforce compliance with the reporting requirements that HMDA imposes on nonsupervised lending institutions, i.e., mortgage bankers.[9] Enforcement would be through imposition of civil money penalties. Violations for which a civil money penalty may be imposed are the late submission of a report, failure to submit a report, submission of an illegible report, submission of an erroneous report, and failure to submit a corrected report for one that was illegible or erroneous.

This is an amendment to correct a legislative error in §305(b)(4) of HMDA. It would give the Secretary enforcement authority. The need for this correction was identified by the Civil Money Penalties Working Group of the HMDA Subcommittee of the FFIEC Consumer Compliance Task Force.[10] The Working Group has developed guidelines for the imposition of uniform civil money penalties by the FFIEC agencies for violations of HMDA by financial institutions required to submit annual reports on their lending activities.

Section 305 of HMDA is captioned "Enforcement;" subsection (b) of section 305 presently reads as follows:

(b) Powers of certain other agencies. Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System other than national banks, by the [Federal Reserve] Board;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and mutual savings banks as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)) and any other depository institution not referred to in this paragraph or paragraph (2) or (3) of this subsection, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act by the Director of the Office of Thrift Supervision, in the case of a savings association, the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with Respect to any credit union; and

(4) other lending institutions, by the Secretary of Housing and Urban Development.

The Civil Money Penalties Working Group was comprised of representatives of the FFIEC agencies and HUD. A memorandum written by the Federal Reserve Board's representative on the Working Group includes the following statement:

However, while HUD is given the enforcement authority over "other lending institutions", no act is cited in this statute which gives them the authority to fine. Therefore, while the FFIEC agencies do have the power to fine, HUD appears to need the authority from another act to assess these penalties.

HUD concurs with this statement. Furthermore, not only is the language of section 305(b)(4) inadequate to permit the Secretary to impose civil money penalties, it is also, on its face, meaningless. Literally, it reads:

Compliance with the requirements imposed under this title shall be enforced under other lending institutions, by the Secretary of Housing and Urban Development.

The provisions relating to civil money penalties are adapted from section 536 of the National Housing Act. The violations specified in proposed section 305(c)(4) are those for which the FFIEC member agencies will impose civil money penalties.

TITLE VII—COMMUNITY DEVELOPMENT AND EMPOWERMENT

Subtitle A—Neighborhood Leveraged Investments for Tomorrow (LIFT) Program

Subtitle A creates a new, project-based program that is an integral part of, and catalyst for, comprehensive neighborhood revitalization and economic development, particularly in communities that develop comprehensive plans for community development. The proposed initial appropriation is $200 million.

The overall objective of the LIFT program would be to provide States, units of general local government, Indian tribes, and community-based non-profit organizations funds for stimulating public and private investment in the community-building enterprises that provide essential services to disadvantaged communities, spur new investment and development in nearby areas, and create jobs for neighborhood residents. These projects would be designed to fill a market gap and improve the quality of life in "neighborhoods of need" located in urbanized areas.

Assisted activities could only take place in connection with neighborhoods in need. The Secretary would define these neighborhoods, and would define levels of need by reference to factors such as concentrations of low- and moderate-income persons in census tracts in the neighborhood, poverty rates in the neighborhood, and rates of unemployment in the neighborhood. Assisted areas would be limited to neighborhoods outside central business districts, although the Secretary could waive this requirement where a successful neighborhood revitalization strategy is contingent upon the simultaneous revitalization of such a district.

The types of eligible activities would include, but not be limited to the construction, rehabilitation, or financing of: retail and service facilities; mixed-use projects; projects that link housing and economic development; community centers; community-based business expansions; and industrial development.

Community Building Enterprises

The LIFT proposal has two principal elements. The first component, which is discretionary, would help localities and community-based organizations (CBOs) develop and implement neighborhood revitalization projects, for example, as developers or joint-venture partners with for-profit developers. After amounts are deducted for training, information, and technical assistance activities in connection with the program, 75 percent of the remaining amounts in any fiscal year would be available for this component. HUD would act as a facilitator in putting together public/private partnerships that include CBOs, units of general local government, and for-profit entities within the selected jurisdictions. A funding preference would be given to projects that meet such factors as:

Providing essential goods and services to residents of the neighborhood;

Generating jobs for residents of the neighborhood, especially for residents who are chronically unemployed or receive welfare;

Being an essential element of, and catalyst for, the comprehensive physical and economic revitalization of the neighborhood;

Building the economic base of the neighborhood through such measures as business expansion, job opportunities, and meaningful reinvestment of a share of the profits of a successful project in the neighborhood, including economically empowering neighborhood residents to carry out additional neighborhood development projects; and

Leveraging public and private investment (other than assistance under this subtitle) in the physical and economic revitalization of the neighborhood and in the activities proposed to be assisted.

The second LIFT component, which is competitive, would complement the Community Development Block Grant (CDBG) program and the Section 108 Loan Guarantee program by providing funds for those development projects that need a source of extremely patient secondary financing that can wait for periods of up to five to ten years before a business reaches an acceptable level of profitability. This competitive component, which would be funded at 25 percent of appropriations, would fill a critical gap in the available arsenal of tools to bring about the physical and economic revitalization of distressed urban neighborhoods and rural communities by offering businesses a sufficient economic incentive to make these projects viable. LIFT funds would act as a catalyst for investments in these projects. Due to the scale and timing of these projects, CDBG funds are often insufficient to capitalize the needs of such economic revitalization projects.

The Secretary would establish limits on the number of applications submitted by individual grantees within any unit of general local government, State, or Indian tribe for each funding round. The Secretary would also establish aggregate limits on the grant amounts that may be made available to individual grantees within a unit of general local government, State, or Indian tribe for each announcement of funding availability for each funding round.

In selecting grantees for these grants, the Secretary would make grants based on the extent to which the assisted activities would:

Generate jobs for residents of the neighborhood, especially for residents who are chronically unemployed or receive welfare;

Build the economic base of the neighborhood through such measures as business expansion, job opportunities, and meaningful reinvestment of a share of the profits of a successful project in the neighborhood, including economically empowering neighborhood residents to carry out additional neighborhood development projects;

Are sponsored by for-profit or non-profit development partnerships with a proven record of success;

Build upon and expand the capacity of local institutions to carry out neighborhood revitalization; and

Are an integral part of the housing and community development plans of the appropriate governmental jurisdiction.

Finally, the Secretary would set aside such amounts as the Secretary deems appropriate to carry out training, information, and technical assistance activities in connection with the LIFT program.

In many physically and economically needy urban neighborhoods and rural communities, specific types of development—such as neighborhood shopping centers, other commercial developments, light industrial projects, or large-scale, mixed-use developments (such as a public/private "town center" cluster of activities)—are sorely needed. However, businesses continue to avoid investing their funds in these areas, both for real and perceived risks, and in fact, many existing businesses continue to reduce their exposure in such distressed areas and continue to withdraw facilities, services, and jobs. This contributes to downward spiral in the neighborhood's local economy causing additional businesses to close, thereby further exacerbating the economical distress of the neighborhood. As each additional closure ripples through the lives of the residents, unemployment increases, housing falls into disrepair, the strain on social services grows, and the fabric of the community disintegrates further.

This neighborhood-based initiative addresses this problem by providing HUD the ability to help localities and community-based organizations promote economic revitalization and community-building. The first component of the program would provide a flexible targeted source of funds to assist individual development projects in "neighborhoods of need". CDBG funds are often insufficient to capitalize the needs of economic revitalization projects and cannot be committed beyond the one-year budget cycle. Because such scale and timing issues are critical for project-based assistance, communities need a program that operates outside the CDBG decision-making process.

The second element of the program fills a critical gap in the available arsenal of tools to bring about the physical and economic revitalization of needy neighborhoods by offering businesses sufficient economic incentive to be a catalyst. Both the CDBG program and the Section 108 Loan Guarantee program are seen as necessary components of a community's strategy that complement LIFT. LIFT funds would provide investment for larger scale projects, up to $5 million, and act as a catalyst to support smaller scale economic development projects traditionally undertaken with CDBG funds. In a similar fashion, LIFT will complement the Section 108 Loan Guarantee program by providing funds for those larger development projects that need a source of extremely patient secondary financing that are able to wait for periods of five to ten years before a business reaches an acceptable level of profitability.

The second element is envisioned as a pool of funds to be used to leverage private investment by providing the gap financing, including debt service reserves, necessary to make an otherwise unfeasible project's financing work. Grantees could support projects through grants, loans, or credit enhancement. Uses would be flexible to encourage innovation and tailoring to local needs and project circumstances. The competition would provide additional preferences to income-generating projects, that economically empower residents to carry out additional neighborhood-based economic development projects. Based on previous Federal experience, the leveraging power of these dollars could be expected to be $3-$5 of private investment to every $1 of federal investment—or $600 million to $1 billion in additional investment.

Through this program, the Federal government will start the engines of growth and revitalization in needy urban neighborhoods and rural communities by creating an environment that generates outside investment, creates jobs for residents, and creates opportunities for long-term capital formation that empowers its residents.

Subtitle B—Community viability fund

This subtitle would amend the John Heinz Neighborhood Development program to create a new grant and recognition award program that is designed to enhance the viability of the Nation's communities. The grant and recognition awards programs would be funded at $130 million. Seventy-five percent of the grants awarded would be allocated through competition and 25 percent allocated at the discretion of the Secretary.

Strategic Planning and Urban Design

The first component of the new program would provide grants to encourage strategic planning and urban design. Grants could be earmarked for the following types of activities:

Urban design and the development of public amenities in lower income neighborhoods that serve as a catalyst for, and result in, the renewal of the neighborhood;

Development and implementation of comprehensive plans that focus on local and metropolitan strategies which create sustainable community development at the neighborhood, city, and metropolitan level;

Expanding economic opportunities for persons of low and moderate income through areawide planning approaches that provide educational and employment opportunities for such persons;

Coordinated efforts that stimulate fair housing, further the deconcentration of the poor and minorities, reduce the isolation of income groups within communities, remove barriers to affordable housing development, and expand housing opportunities for persons of low and moderate income;

The conservation of important historic, visual, and cultural features; and

The development and implementation of comprehensive approaches that integrate poorer, inner-city neighborhoods into the greater metropolitan region.

Preference would be given to projects that include interagency and intergovernmental coordination of Federal, State, and local public, private, and non-profit resources in an integrated manner; represent an innovative approach to furthering the objectives of this section; and are part of an overall strategic revitalization plan.

Eligible applicants for strategic planning and urban design grants include States, units of general local government, and metropolitan, non-metropolitan, and regional planning agencies.

Community Institution Building and Neighborhood Development

The second element of the new program would provide grants to promote the development and expansion of community-based institutions, in particular community organizing in a manner that establishes new grass-roots community organizations in unorganized neighborhoods. Specifically, funds could be used to provide training, technical assistance, and capacity building for new and existing organizations and institutions; building the capacity of neighborhood organizations and institutions, such as Community Development Corporations, community banks, and credit unions; establishing new community-based organizations and institutions; and promoting joint ventures that expand housing, educational, and employment choices for inner city residents.

In addition, grantees would be able to use funds for "eligible neighborhood development activities," as defined in the John Heinz Neighborhood Development program under section 123 of the Housing and Urban-Rural Recovery Act of 1983. These activities include: creating permanent jobs in the neighborhood; establishing or expanding businesses within the neighborhood; developing, rehabilitating, or managing neighborhood housing stock; developing delivery mechanisms for essential services that have lasting benefit to the neighborhood; or planning, promoting, or financing voluntary neighborhood improvement efforts.

Preference would be given for activities that will:

Develop new grass-roots community organizations in previously unorganized areas that do not yet have the tract record necessary to secure project-based funding;

Develop new organizations that link housing, economic, and human development;

Coordinate with local law enforcement agencies or public housing agencies involving anti-crime initiatives like Operation Safe Home;

Leverage matching contributions to support a wide variety of community development initiatives from the private sector; foundations; colleges and universities; civic groups; social, cultural, religious, and other institutions; and the national service program in a manner that achieves greater long-term private sector support;

Build the managerial, financial, and administrative capacity of the applicant organization or the community organizations to which it proposes to provide services; and

Assist eligible neighborhood organizations currently eligible under the Heinz program.

Eligible applicants would include eligible neighborhood development organizations, non-profit organizations, and entities that assist such organizations in carrying out activities under this element of the Fund.

Recognition Awards

The recognition awards program would recognize excellence and innovation in the preparation and implementation of community-wide and regional strategies or activities that successfully further sustain community development by expanding fair housing opportunities; furthering economic revitalization; reducing economic isolation of income groups within communities and the region; expanding housing, educational, and employment choices for low- and moderate-income persons throughout a metropolitan area; and providing amenities in lower income neighborhoods that serve as a catalyst for, and result in, the neighborhood's revitalization.

Up to $10 million from the overall amounts appropriated for the Fund could be used:

To provide grants to, and to enter into contracts with, public and private organizations (including governmental, non-profit, and for-profit organizations) to assist in the analysis and selection of award recipients, the provision (directly or by contract) of technical assistance, and the dissemination of information used to carry out the programs authorized under subsections (b) and (c);

To defray the costs of the Secretary in administering the program authorized by this subsection, including (but not limited to) such costs as printing and disseminating information; holding conferences; establishing and using design juries selected by the Secretary; providing nominal awards to winning nominees; holding competitions for awards, including travel and per diem costs; and travel of award winners to attend follow-on conferences endorsed by the Secretary and to provide peer-to-peer assistance to other appropriate individuals and entities; and

To provide technical assistance, directly or by contract, to further the purposes of this subsection.

The plight of poorer communities over the past decade has grown increasingly grimmer—with soaring crime rates; disinvestment in commercial and residential properties; and the increasing inability of institutions, such as schools, churches, and neighborhood organizations, to address the growing problems that surround them. And yet, the evening news highlights one anecdotal story after another of how one group, be it city, church, nonprofit, or business has stepped forward with an innovative approach to address the problems in its neighborhood.

This proposal recognizes that government does not have all the answers. Innovative planning and design solutions to the problems of our communities must be discovered, recognized, and replicated, and new innovative solutions must continue to be nurtured, tested, and shared with all of our communities so that the best we can create can be utilized by all to begin to solve the problems facing America's communities.

This proposal focuses on capacity building and is designed to achieve a number of the goals of the Secretary that are not now being adequately addressed by other programs, such as the CDBG program: improving urban design and quality of life; areawide planning for strategic economic development; deconcentration of the poor and minorities; and capacity building for community-based organizations.

This program would give the Secretary an instrument to focus on improving the state of the art of community-building in a number of areas. It consolidates a number of the Secretary's priorities into a single program that permits a more comprehensive and interdisciplinary approach to addressing urban problems.

Subtitle C—Colonias assistance program

Subtitle C would establish a Colonias Assistance program to address the severe community development and housing needs of colonia residents in the Southwest border region. Funds would be used for the comprehensive, coordinated development of viable communities. This proposal also extends the existing CDBG Colonias set-aside mandate through FY 1997.

The Colonias Assistance program would provide comprehensive assistance which will bring about significant, permanent, solutions to needs in funded communities. Eligible activities would include:

All activities currently eligible for assistance under the Community Development Block Grant program and the HOME program;

Refinancing existing homeowner debt to convert the existing contracts-for-deed homeownership regimen into mortgages;

New housing construction, including self-help, energy-efficient and innovative housing design initiatives;

New subdivision development for affordable housing;

Re-platting and redevelopment of existing subdivisions; and

Infrastructure planning and construction necessary for the development of needed housing, economic development, and community facilities and amenities.

As in the Community Development Block Grant program, certain activities, such as the construction of buildings for the conduct of government, would not be eligible for funding under the program.

The new program would be funded at $100 million. Of this amount, 80 percent—$80 million—would be used to provide substantial assistance on a model basis to units of general local government, States, non-profit organizations, or entities or instrumentalities established under the authority of any of these entities. At least one project would be chosen in each of the four border States, and at least one project would be chosen in a metropolitan area. Projects would be selected at the Secretary's discretion, reflecting the Secretary's desire to consider a variety of solution models applied to a variety of needs situations.

In selecting projects for funding, the Secretary would consider the extent of needs in the colonia(s), the comprehensiveness of approach in addressing identified needs, the need to consider a variety of solutions to a variety of need situations, and the commitment of funding from other sources. Selection of projects would occur after negotiation with grantees and consultation with the affected States.

The remaining 20 percent—$20 million—would be distributed on a competitive basis in response to a request for proposals. A Notice of Fund Availability would be published announcing funding. Eligible applicants would be the same as for model program grants. Applicants could propose to work in one colonia or in multiple colonias in a county or region.

To help ensure that colonias in all States have access to funds, a portion of the $20 million would be set aside for benchmark allocations to the four States, based on objective need factors (such as poverty and population in eligible border-area counties). The Secretary would reserve the right to reallocate funds if there are insufficient viable proposals to fully use a State's benchmark allocation. The remainder of the $20 million, plus any portion of the benchmark allocations not awarded in a State, would be used to fund quality proposals regardless of their location.

Selection criteria would be established by the Secretary, and would include factors similar to those for the model program, above. Special consideration would be given to projects which represent a regional approach to problem-solving, and to proposals which demonstrate consistency with State action plans for colonia regions.

Colonias are severely distressed, rural, unplanned, predominantly unincorporated settlements located along the 2,000-mile United States-Mexico border. Due to a lack of affordable housing, colonias came into existence as a result of developers selling unimproved lots under high-interest bearing contracts for deed. Buyers generally constructed whatever limited dwellings or shelters they could afford. As a result, most colonias have inadequate roads and drainage, inadequate or non-existent water and/or sewer facilities, and grossly sub-standard housing.

In Texas, the extensive use of sales contracts, which allow the developer to retain title until the debt is fully paid, has prevented occupants from obtaining mortgage-secured home improvement financing. Residents are overwhelmingly very low-income Mexican-Americans with limited ability to pay off these contracts or make home improvements without assistance.

The extent of needs in colonias is massive. The State of Texas has identified some 1,200 communities occupied by an estimated 300,000 people. Smaller numbers of colonias exist in Arizona, California, and New Mexico. (Some estimates place the population of colonias as high as 500,000.) Current resources are woefully inadequate to even minimally provide for and address the infrastructure and housing needs of the burgeoning population. For example, the State of Texas estimates that it will cost nearly $700 million just for water and sewer service for colonia residents.

In section 916 of the Cranston-Gonzalez National Affordable Housing Act, Congress mandated a set-aside of up to 10% of State CDBG program allocations to Arizona, California, New Mexico, and Texas for use in colonias areas. For FY 1994, the sum of set-asides for the four States is about $12 million; Texas accounts for two-thirds of this amount.

Due to limited State CDBG colonias set-aside funds, the four border States give priority to applications related to planning and infrastructure activities with special consideration to those that propose first time water and sewer service. The funding of other critical areas necessary to the health and well-being of these communities has been woefully inadequate: construction of roads, housing, health care, education and training, employment, and human services.

The present State set-aside expires after FY 1994. The Colonias Assistance program would continue efforts to assist these States with colonias. However, neither the CDBG Colonias set-aside nor this infusion of Colonias Assistance program funds will alone be able to meet all the identified needs of colonias. Therefore, the set-aside mandate should be extended for three additional years. The Secretary will continue to determine the appropriate percentage after consultation with representatives of the interests of colonias.

Several States have taken steps to coordinate and maximize the use of existing resources through working groups of State, Federal, and local government officials. The Colonias Assistance program would build on, and support, existing coordination efforts, while striving to address the most pressing needs of residents. It would also encourage and support regional consortiums desiring to provide a comprehensive approach to address the needs of colonia residents on a State-wide or region-wide basis.

Subtitle D—Zone economic development initiative

Subtitle D would authorize the Secretary to make up to $500 million in Zone Economic Development Initiative (ZEDI) grants to localities in which Empowerment Zones and Enterprise Communities have been designated, to help them implement their strategic plans for economic revitalization. These grants would stimulate the economic revitalization of Zones and Communities by expanding business opportunities and job creation activities and stimulate the housing sector by providing project-based rental assistance certificates and funding other activities to construct or rehabilitate rental housing units for very low-income families and other housing assistance. See proposed sections 731, 732, and 733.

Localities in which Zones and Communities have been designated would be able to propose their projected mix of economic revitalization and housing activities to address their identified needs (see sections 733 and 734). These grant funds are also expected to leverage additional private, State, local and other Federal housing and economic revitalization resources under such programs as HUD's Section 108 Loan Guarantee program (see section 735), the Community Development Block Grant program, and SBA's One Stop Capital Shops.

For each approvable application, each urban Empowerment Zone would receive $50 million; each rural Zone would receive $20 million; and each Enterprise Community would receive $1.4 million (see section 734(b)). Amounts remaining after these allocations could be used for training and information activities in connection with the ZEDI program (see sections 733(c) and 737(b).

Comprehensive revitalization of Empowerment Zones and Enterprise Communities is a long and expensive process because it requires massive efforts for economic, human, and physical development. Tax incentives alone are not adequate to trigger total community revitalization. Part of the original Empowerment Zone concept of the Administration was that there were to be two grant programs: enterprise grants—which was a block grant for Empowerment Zones and Enterprise Communities—and safety and community policing grants. Since neither of these provisions were included in the final bill (instead, a $1 billion incremental Social Services Block grant was earmarked for Empowerment Zones and Enterprise Communities), there remains a large gap in Federal assistance to Empowerment Zones and Enterprise Communities which must be filled to ensure that they do not fail.

Zone Economic Development Grants will be able to provide some of the first visible signs that the Zone or Community is turning itself around by stimulating the investment in and construction or reconstruction of housing, businesses, and infrastructure. It is this tangible evidence of improvement to their community that motivates citizens, businesses, and local officials to continue to commit their energy and local, State, and Federal resources to the revitalization of the Zone or Community. It is particularly important that grant dollars be available for Enterprise Communities since most of the block grant funds and tax incentives are focused on the nine Empowerment Zones.

Subtitle E—Authorizations of appropriations, capacity building for community development and affordable housing

Section 741 would authorize appropriations of $20,000,000 for fiscal year 1995 and such sums as may be necessary for fiscal year 1996, for the Capacity Building for Community Development and Affordable Housing program under section 4 of the HUD Demonstration Act of 1993.

Community Development Block Grants

Section 742 would amend title I of the Housing and Community Development Act of 1974 to provide for an authorization for appropriations for the Community Development Block Grant program of $4.4 billion for each of fiscal years 1995 and 1996, and for a loan limitation under section 108 of that program's legislation of $2.054 billion for each such year. The provision would also authorize the following activity under the special purpose grants provision in section 107, for each of fiscal years 1995 and 1996:

$7 million under section 107(b)(1) for insular areas;

$6.5 million under section 107(b)(3) for historically Black colleges and universities;

$28 million under section 107(b)(4) for technical assistance;

$6 million under section 107(b)(5) for university related activities;

$2 million under section 107(b)(6) for readjustments;

$3 million under section 107(c) for work-study programs; and

Such sums as may be necessary for section 107(b)(2), the hold harmless provision.

Economic Development Initiative

Section 743 would authorize appropriations of $50 million for FY 1995 and such sums as may be necessary for FY 1996 for Economic Development Grants, under the new section 108(q) of the Housing and Community Development Act of 1974. For FY 1995, amounts in addition to the foregoing authorizations would be drawn from recapture Urban Development Action Grant funds, in accordance with a recent amendment to section 119 of such Act. Separate authorization for appropriation for the UDAG funds is not needed since these funds have already been appropriated. It is estimated that the recaptured UDAG funds will be $100 million in FY 1995, and so the program level would be $150 million.

TITLE VIII—MANAGEMENT REFORM

Subtitle A—Improve the allocation and use of assistance, limit section 8 contract rent adjustments for rents above section 8 existing housing FMRs

Section 801 would give HUD the authority to deny further section 8 contract rent increases based on annual adjustment factors (AAFs) wherever the contract rent for a unit in a section 8 new construction, substantial rehabilitation, or moderate rehabilitation project is more than the section 8 fair market rent (FMR), including any exception rents. To qualify for a rent adjustment where the contract rent exceeds the FMR, the owner would have to demonstrate to the Department that the contract rent, as it would be adjusted by the AAF, would not exceed rents for comparable unassisted units in the market area. The proposal would apply to all new construction, substantial rehabilitation, and moderate rehabilitation projects subject to rent adjustments using annual adjustment factors established under section 8(c)(2)(A) of the 1937 Act.

Roughly 75% of section 8 new construction, substantial rehabilitation, and moderate rehabilitation projects currently have section 8 contract rents above the section 8 existing housing FMRs. By contrast, two-thirds of all units rent for less than the FMR in the average metropolitan area. A lack of market discipline on operating expenses and years of cumulative rent increases based on AAFs are partly responsible for the current high rents in assisted properties that exceed the FMR, a benchmark for the cost of assisting households with tenant-based assistance and for apartment rents in the surrounding private market. Section 8 projects with contract rents that exceed the section 8 existing housing FMR should not receive automatic inflation adjustments to rents unless their owners can prove that the rents, as adjusted, would be in line with those in comparable, unassisted projects.

In general, while assisted projects continue to have a place in national low-income housing policy, HUD can no longer afford to oversubsidize projects. "Material differences" do exist between assisted and unassisted properties. The money the Department spends on rental assistance helps fewer households when it is tied to unreasonably high-rent projects. Public confidence in HUD programs is also undermined whenever HUD is seen to be paying rents well above the going rate or continuing to prop up undeserving projects.

Provide incentives to refinance high interest mortgages for section 8 projects

As an incentive to owners to refinance high-interest rate mortgages that were used to finance section 8 new construction, substantial rehabilitation, and moderate rehabilitation projects, section 802 would allow HUD to spend some of the first-year savings in section 8 assistance to cover-up front costs to the owner of refinancing under sections 223(a)(7) and 223(f).

Many section 8 new construction, substantial rehabilitation, and moderate rehabilitation projects were built and financed when interest rates were higher than today. These mortgages should be refinanced to reduce debt service and section 8 contract rents. To date, there has not been much incentive for owners to refinance, because they would incur significant refinancing costs, whereas the savings would belong to HUD via a reduction in assisted rents. The policy of sharing 10% of savings with an owner has not proven sufficient. Remaining high-interest rate mortgages will be refinanced if HUD removes the disincentive of up-front costs and provides the owner with additional inducement to save the government money.

The Budget reflects significant savings each year in reduced debt service, but lower net savings in FY 1995 due to offsetting expenditures to cover the up-front costs of refinancing. The budget estimates that $25 million spent in FY 1995 would generate $27 million in section 8 savings in FY 1995 and each subsequent year.

LMSA reforms

Section 803 would amend section 8(v)(1) of the 1937 Act to remove the requirement that HUD renew all Section 8 Loan Management Set-Aside (LMSA) contracts at contract expiration if the owner agrees to continue providing housing for low-income families during the term of the contract. In addition, this proposal would give HUD authority to reduce the number of units that may be assisted under a LMSA contract when a family moves from a unit. Projects receiving LMSA as part of an incentives packaged under ELIHPA or LIHPRHA would be excluded, since reducing their assistance could lead to prepayments.

The LMSA program provides project-based assistance to replace older Rent Supplement and rental assistance payment (RAP) contracts ("conversions") and, on a competitive basis, to provide assistance for troubled properties to reduce vacancies or increase rental income ("remedial" LMSA). Congress in 1987 began requiring HUD to renew all contracts as project-based assistance regardless of whether the project needs additional assistance to maintain financial stability or is providing housing for such low quality that it should no longer receive assistance.

Project-based rental assistance provided to FHA-insured projects that once needed it should not be automatically and indefinitely continued. Department research suggests that some projects receiving LMSA could survive without it; some others continue to be physically or financially distressed—and fail to provide decent, safe, and sanitary housing—even after receiving substantial assistance. In such projects, HUD believes that projects should not continue to receive project subsidies. Public confidence in HUD programs is undermined whenever HUD is seen to be propping up undeserving projects. To protect assisted tenants, the Budget permits HUD to discontinue ("attrit") additional LMSA assistance when a family moves.

The Budget assumes that 4% of LMSA units lose their assistance due to turnover or vacancy. This represents about one-third of normal turnover. HUD should have flexibility to determine which units—to be selected using its Comprehensive Multifamily Servicing procedures—would return to unassisted status. They could be concentrated in a few projects or spread out over many.

Reduce AAF for units where family has not moved since previous year

For the section 8 new construction, substantial rehabilitation, moderate rehabilitation, LMSA, PD, and certificate programs, section 804 would amend section 8(c)(2)(A) of the 1937 Act to permit adjustment of contract rents using the published AAF, adjusted so that any rent increase would be one percentage point[11] less than the adjustment based on the published factor, for any unit occupied by the same family at the time of the last contract rent adjustment. In many cases, contract rents will not be eligible for adjustment due to the limitation proposed in section 801 of this bill limiting adjustments of section 8 rents above the section 8 existing housing FMR. This reduction for "stayers" would only apply to contract rent adjustments that would otherwise be granted in full.

Because the costs to owners of turnover-related vacancies, maintenance, and marketing are lower for long-term stable tenants, these tenants are typically charged less than recent movers in the unassisted market. Since HUD pays the full amount of any rent increases for assisted tenants in section 8 projects and under the Certificate program, HUD should expect to benefit from this "tenure discount." Turnover is lower in assisted properties than in the unassisted market, so the effect of the current inconsistency with market-based rent increases is exacerbated.

Preference for working families

Section 805 would amend section 6(c)(4)(A)(ii) and section 8 (d)(1)(A)(ii) of the 1937 Act to include, as an example of allowable local preferences, a preference for admission to public and assisted housing based on an applicant's employment.

In addition, it would revise the phrase added at the end of the penultimate sentence of section 16(c) by section 105 of the HCD Act of 1992, so that the phrase reads "except that such prohibition shall not apply with respect to families selected for occupancy in public housing." This proposal would delete the remainder of that phrase, which currently reads "under the system of preferences established by the agency pursuant to section 6(c)(4)(A)(ii)."

Numerous PHAs have expressed interest in having a preference for working families. They argue that implementation of such a preference would give them a better income mix among tenants, as required by section 6(c)(4)(a)(iv); provide role models to encourage other families to strive for self-sufficiency; and result in higher rent collections, a need for less operating subsidy and a savings for the department. Adding an employment preference as an example of an allowable local preference would increase the number of employed persons in the public and assisted housing programs. It would provide the necessary vehicle for improving the representation of working families, who can serve as role models, particularly in the project-based programs. It would also provide a work incentive to low-income applicants, by offering an advantage, in the admissions process, to those with earned income. In some cases, it could result in serving more families, of still quite limited means, who could pay somewhat higher rents, with cost savings to the Federal Government.

At present, among those very low-income nonelderly families that are eligible for the assisted housing programs, a majority include one or more employed members. Yet, for example, among nonelderly families now residing in public housing, only 28 percent are employed. Including an employment preference as a example of an allowable local preference would provide a basis for overcoming this under-representation of working families in the public and assisted housing programs.

Of course, any local preference based on employment would have to take into consideration the inability of some disabled persons to work. By definition, those who qualify as "disabled" under section 223 of the Social Security Act, are, essentially, unable to work.

This proposal would amend section 16(c) to clarify the exemption for public housing from the restrictions placed on project owners in connection with admitting relatively higher income applicants over relatively lower income applicants.

Section 16(c) prohibits project owners from selecting families in an order different from the order on the waiting list for the purpose of selecting relatively higher income families. The HCD Act of 1992 exempted from this prohibition those families selected for occupancy in public housing under the system of local preferences. Congress' intention in 1992 seems to have been to clarify that the prohibition in section 16(c) should not apply to public housing at all. Because the 1992 amendment applied only to local preferences, however, the effect of this amendment was to require public housing agencies (PHAs) interested in obtaining a better income balance in their tenant population to establish a dual tenant selection system.

The particular language used appears to have inadvertently created an excessive and unnecessary administrative burden on PHAs. Deleting the words "under the system of preferences established by the agency pursuant to section 6(c)(4)(A)(ii)" would alleviate this burden and more closely track the apparent intention of Congress.

Use of technical assistance funds by or for HUD staff

Section 806 would amend the Department of Housing and Urban Development Act to include general authority for the Secretary to use for training and technical assistance provided by or to HUD staff any money appropriated to any program that includes a technical assistance statutory authorization. No more than 10% of the amount available for transfer could be used for technical assistance, training, travel, and related expenses provided *to* HUD staff. The amount transferred would have to be used for a program that is funded from an account from which amounts are transferred.

The Secretary currently has authority to use program money in at least six programs to provide for training of staff of the recipients of funding, but cannot use program funding for parallel training of the HUD staff. With severe staffing limitations, maintaining high productivity among HUD employees becomes increasingly crucial to continued operations, and continuing training is central to this productivity. Similarly, with severe limitations on funding for salaries and expenses, every opportunity to obtain services for the Department, including training, at rock bottom rates must be seized. In this connection, there is currently an anomaly under which HUD can use program money to train staff of funding recipients, but cannot by and large take advantage of the same training sessions for the parallel training of its own employees.

This amendment would, first, remedy the foregoing situation by permitting a transfer of a reasonable amount of HUD's Salaries and Expenses account to cover the salaries, transportation, and other costs of HUD employees who are being trained in a program. The amendment would thus leave in the Salaries and Expenses account the costs of training of HUD employees that were not program-specific or were for a program that has no authorization for technical assistance. Second, the amendment would permit program funds to be used to pay for the salaries and expenses of HUD staff, whenever they provide training or technical assistance in a program the statutory authority for which includes technical assistance.

Subtitle B—Office of public and Indian housing, oversight, technical assistance, emergency action resources, and resident survey for public housing programs

Section 811 would authorize a set-aside of up to 1% from the annual appropriation of modernization funding and up to ½ of one percent from the annual appropriation of development funding to be used (a) to contract with entities with the expertise to assist in the oversight of the Public and Indian Housing Modernization program and (b) to provide the Secretary with expert technical resources for training and technical assistance, and to assist in the management of public and Indian housing agencies, including funding of resident surveys.

Contracts would be awarded to: (a) hire inspectors to conduct inspections, appraisals, cost estimates, and monitor the quality of work; (b) provide a resource for emergency response actions ranging from "SWAT teams" to PHA takeovers; and (c) administer resident satisfaction surveys to a national sample of public housing residents. The set-aside would also be used (d) to provide training, and expert technical assistance and diagnostic support to PHAs with regard to administrative, technical or financial system improvements, or management deficiencies. When the training or technical assistance is being provided to PHAs, the set-aside would also be available to pay for training and related HUD staff costs.

Inspections

Recent amendments to the Comprehensive Grant program (section 14(e)(4)(B)) and the Public Housing Management Assessment (PHMAP) program (sections 6(j)(1) and (4)) place additional monitoring responsibilities on the Department. In order to carry out these responsibilities, the Department's proposal would give HUD the discretion to contract with firms to inspect work underway.

Inspectors would be able to use program funds to perform periodic on-site reviews of physical and management improvements as directed by the HUD field office. Inadequate staff and travel resources, from the Salaries and Expenses Account, have limited the frequency of HUD on-site monitoring in the past. Where risk analysis indicates more frequent on-site monitoring of a PHA is appropriate, the HUD field staff may direct an inspector to perform the review. Typically, PHAs which manage complex Modernization programs, have limited staff capacity, or have had recent problems, require regular monitoring visits. Inspectors would be required to examine the physical rehabilitation work and the procurement contracts during these visits.

Under the development program, inspectors would review the quality and timeliness of HA construction activities, including activities under Major Reconstruction of Obsolete Projects, and report back to the field office with recommendations for corrective actions.

Expert Technical Assistance

To address management deficiencies, contracts would be awarded to conduct in-depth reviews of targeted PHAs and make recommendations on management or technical improvements, including training needs. The contractors would work with the PHAs to diagnose problems, develop systems, and/or improve aspects of major functional areas such as maintenance, construction management systems, procurement, or financial management. Areas of weakness would also be identified by the PHMAP evaluation, the Administrative Capability Assessment, IG reports, and monitoring and field reviews. When training and technical assistance is provided by contractors, related HUD staff costs, such as the travel costs necessary to insure the presence of HUD staff at the training, could be paid from these funds. Previously, the Salaries and Expense Account was the only source for HUD staff travel costs.

Technical assistance and training could also be provided with the assistance of contractors for the purpose of helping PHAs make use of the Comprehensive Grant Program Loan Guarantee program, which will make it possible for PHAs to borrow against their future CGP allocations in order to address the needs of projects which need significant levels of work now.

Emergency Response Resource

Contracts would be awarded to provide the Secretary with readily available expert resources to conduct emergency actions as necessary, including sending "SWAT teams" of experts to PHAs to assess critical problems and resolve them, and for interventions and takeovers. In the past, HUD has not had a continuing resource base to use in addressing emergency situations in PHAs and has had to rely on ad hoc measures and available expertise. This would provide the Secretary with the capability, through access to highly skilled, multi-disciplinary expert resources, to act swiftly in emergency situations with the appropriate array of management, finance/accounting, and/or automated data processing (ADP) expertise necessary.

Resident Satisfaction Survey

Executive Order 12862 of September 11, 1993, requires Federal agencies to survey customers "to determine the kind and quality of services they want and their level of satisfaction with existing services." An on-going survey of public housing residents, which would be administered by HUD, would serve as one part of HUD's overall response to Executive Order 12862. Survey results, as analyzed by HUD, would include data from about 120 randomly selected PHAs, and would be used to provide guidance to the Department in setting policies and procedures, monitoring, and providing technical assistance on a program-wide basis.

The survey instrument will also be available to PHAs not included in the sample when the PHA management wants feedback from its residents and is willing to pay for the cost of the survey.

The estimated cost of the survey on an annual basis is $1.2 million. The cost of survey coverage for a typical medium-to-large PHA would be $10,000 (200 completed surveys @ $50 per survey).

Recapture of development amounts

Section 812 would amend section 5(k) of the U.S. Housing Act of 1937 to give the Secretary discretion to recapture amounts reserved for development of specific public housing projects without waiting the entire 30-month period that is now required. This discretion could be exercised in situations where the Secretary makes a specific finding that there is no feasible way for the project to begin construction or rehabilitation, or to complete acquisition, within the 30-month period. The amendment would preserve the 30-month period as the normal minimum time period for start of construction, rehabilitation, or acquisition, and retain the exclusions from the time period for factors beyond the control of the public housing agency.

The amendment would tend to increase pressure on public housing agencies and Indian housing authorities to implement as quickly as reasonably possible the development projects for which they have funding reservations. The amendment would also provide HUD with more flexibility in the management of public housing development funding. In this regard, amounts recaptured under the amendment—like amounts recaptured under the present 30-month minimum rule—may be made available sooner than would be otherwise possible to fund other assisted housing projects, or to accomplish budget goals, as enacted under subsequent laws.

If a project ceases to be feasible, even at a different site or reformulated, then there would seem to be no useful purpose in preventing the Secretary from acting to recapture the funding, and reserve it for another project, before the arbitrary 30-month minimum waiting period now in section 5(k) has elapsed.

Subtitle C—Office of housing, section 235 refinancing

Section 821 would make the refinancing of mortgages under section 235(r) of the National Housing Act more feasible. This proposal is designed to implement the objective of the recommendation of the Report of the National Performance Review (NPR), issued on September 7, 1993, that HUD should speed savings from refinancing expensive, old section 235 mortgages subsidized by HUD.

Section 235(r) of the National Housing Act gives HUD the authority to pay the mortgagor an incentive to refinance and to pay the mortgagor for costs incurred in connection with the refinancing. The refinancing program does not have a source of funding absent an appropriation, which has not occurred since section 235(r) was enacted as part of the HUD Reform Act of 1989. In the absence of funding for incentives and closing costs, the program has not resulted in refinancing existing 235 mortgages. Because a mortgagor already benefits from an interest reduction subsidy that brings its debt service payment below current market rates, a mortgagor does not have the traditional economic incentive to refinance, since its monthly payment is not reduced as a result of the refinancing.

This proposal would implement the objective of the recommendation of the NPR report by giving HUD the authority to pay for incentives to both the mortgagor and the mortgagee to refinance section 235 mortgages (see paragraph (2)). In addition, this proposal would give HUD the authority to include the costs incurred in connection with the refinancing in the new mortgage (see paragraph (1)). Finally, this proposal would give HUD the authority to use funds recaptured from assistance payments contracts relating to mortgages that are being refinanced to pay for refinancing costs and incentives (see paragraph (3)).

The additional incentives and a source of funding are necessary to encourage mortgagors and mortgagees to refinance section 235 mortgages. Presently, there are 35,000 section 235 mortgages with interest rates at or above 10%, insured for over $1.3 billion. Savings to the Treasury from refinancing would significantly exceed the HUD payment of refinancing costs and incentives.

Elimination of new activity in low-use FHA multifamily development programs

Section 822 would require HUD to stop accepting requests for mortgage insurance under the six multifamily development programs listed below. The proposed statutory language would preclude HUD from accepting applications, effective 30 days after the date the law is enacted, but keep all other existing authority in place. Continued statutory authority would support processing and insurance of applications in the pipeline and management and disposition activities on loans insured under these programs.

The programs listed below are seldom used and the rental and cooperative housing produced under these programs can be produced under other HUD programs that are actively used, familiar to HUD staff, and often more advantageous to both borrowers and lenders. Eliminating new activity in these low-use programs would benefit both Headquarters and the Field. Headquarters would have fewer regulations, handbooks, and data systems to keep current. Field staff would no longer need to keep abreast of these programs' rarely used processing procedures. The list below identifies the programs for which new activity should be terminated and any alternate FHA programs owners could use.

Section 207 Manufactured Housing Parks.—Since mobile home parks cannot be insured under any other FHA program, this proposal would end FHA insurance of new manufactured housing parks. FHA has insured only one manufactured housing park this year and has only 39 loans in force on these parks.

Section 207 New Construction (NC)/Substantial Rehabilitation (SR) Rental Housing.—NC/SR rental projects could be insured under Section 221(d)(4) which has more favorable underwriting criteria. Note: HUD would still accept applications for existing cooperatives and rentals that will be processed under section 223(f) and insured under section 207.

Section 231 Elderly Rentals.—Mortgages can be insured under section 221(d)(3) for nonprofit sponsors and under section 221(d)(4) for profit-motivated developers.

Section 220 in Urban Renewal and Concentrated Development Areas.—Section 221(d)(4) can be used for NC/SR insurance.

Section 234(d) Condominiums. Individual units in condominium projects can be insured under section 234(c). Developers sought project-wide 234(d) insurance when legislation required that individual units within a condominium project could be insured only after the condominium had been processed and insured as a multifamily project. The statutory requirement for project processing has been repealed, and HUD rarely receives an application for FHA project mortgage insurance.

Title XI Group Practice Medical Facilities. HUD has insured only five loans under this program.

Indemnification for project managers

Section 823 would make explicit the Secretary's authority to indemnify certain project managers against claims by third parties for death, bodily injury, and property damage. The covered project managers would be those under contract with HUD to manage HUD-acquired projects in the HUD multifamily property disposition program. HUD contracts with project managers to operate, repair, and maintain these multifamily projects that are HUD-owned or where HUD is the mortgagee-in-possession.

Prior to 1977: Project managers purchased comprehensive general liability insurance coverage for themselves and the project owners, but not for HUD. Generally, the cost was a project expense paid from rent receipts.

1977–1984: In 1977, HUD determined it was more cost-effective to purchase a nationwide blanket insurance policy for all of its contract project managers. HUD was one of the named insureds on these policies, along with each project manager and each project manager's employees. In 1984, the insurance carrier providing the coverage went into receivership and HUD was unable to purchase a replacement policy at a reasonable cost.

1985–Present: Beginning in 1985, because of the unavailability of liability insurance, HUD undertook to indemnify project managers as specified in each manager's contract with HUD. The practice of indemnification continues at this time because of the continued unavailability of suitable blanket insurance arrangements and the relatively small amounts paid under the indemnification arrangements. Currently, HUD contracts with project managers provide that HUD will indemnify the manager for tort claims involving personal injuries, wrongful death, or property damage that resulted from the manager's performance under HUD contracts. Indemnification is limited to an aggregate of $500,000 for all claims per occurrence, arising from the same set of facts. The contracts further provide that indemnification is subject to the availability of appropriations.

As recently as 1991, HUD issued a request for proposals (RFP) for a blanket insurance policy to cover all project managers; no proposals were received under the solicitation. HUD believes that no insurance company will provide a blanket insurance policy at a reasonable cost. Although HUD believes individual insurance policies may now be available to most projects on a project-by-project or project manager-by-project manager basis, insurance will not be available for certain managers for certain projects because of those projects are in deteriorated condition and are more susceptible to having significant insurance claims. Moreover, HUD believes the total cost of such insurance, estimated at over $4 million per year, if purchased on a projected-by-project basis, will far exceed the amount of claims paid by the Department under its indemnification program to date of approximately $100,000 to $200,000 per year.

In support of its practice of indemnifying these project managers, HUD has relied on sections of the National Housing Act which give the Secretary broad authority to pay out of the General Insurance Fund all expenses or charges in connection with properties the Secretary acquires.

Notwithstanding the Secretary's broad authority, there is case law which indicates that specific statutory authority is necessary for an agency to indemnify. Accordingly, the proposed statutory provision would clarify the Secretary's authority to indemnify multifamily project managers.

Subtitle D—Office of Community Planning and Development

Management information systems

Section 831 would authorize the secretary to set aside up to 0.5% of the CDBG appropriation for each of FYs 1995 and 1996 for improving CDBG management information systems used by the Department and CDBG grantees. The funds primarily would be used to develop and support a state-of-the-art consolidated data system for the existing four CPD formula programs. The system would accomplish the following:

Provide basic fund control for program expenditures.

Correct material weaknesses cited by the Inspector General, concerning the reporting of accurate and timely information on program activities.

Develop performance reporting systems on program accomplishments to improve the management CPD programs.

Purchase software and hardware needed.

Train grantees and HUD field staff in new systems.

Input national demographic data to assist local jurisdictions in program formulation.

CDBG reallocations

Section 832 would repeal the amendment to section 106(c) made by section 933 of the National Affordable Housing Act. Section 933 directs the Secretary to make available to metropolitan cities and urban counties affected by disasters any amounts that become available as a result of HUD actions taken under section 104(e) or 111. The Secretary is directed to provide for applications for assistance under section 933, and such assistance may only be made available to metropolitan cities and urban counties within the three-year period beginning on the date of the disaster declaration by the President.

Funds recovered under sections 104(e) and 111 are received by HUD on a sporadic, unpredictable basis, usually in amounts less than $200,000. Rarely has the Department accumulated an aggregate amount exceeding $3 million in any fiscal year. Administration of the distribution of these funds is complicated by the statutory requirement that a changing universe of eligible applicants is to be served pursuant to section 106(c)(4)(F). Since this universe can range from 250–350 jurisdictions at any time, HUD has determined that requests for applications from potential grantees should only be issued when a significant amount of funds (at least $5 million) becomes available for reallocation. Raising the expectations of a large number of potential grantees for *de minimis* incremental amounts of disaster assistance could be counterproductive as there would always be a substantial number of unfunded applications.

In addition, the disaster authorities of FEMA and other agencies are normally the first lines of aid preferred by the Federal Government. Section 933 only provides an occasional, minuscule increment to funds available. When a very large disaster, such as Hurricane Andrew occurs, the pattern of the HUD response has involved the use of special supplemental appropriations, making any section 933 aid superfluous.

Use of UDAG recaptures

Section 832 would make a technical change to section 119(o) of the Housing and Community Development Act of 1974. This provision establishes a pool of funds for the new Economic Development Grants initiative under section 108(q) of the Act (as added by section 232(a) of the Multifamily Housing Property Disposition Reform Act of 1994). The pool is comprised of UDAG recaptures that are available as of October 1, 1993 and amounts released to HUD after the 90-day moratorium period under the UDAG Retention program (section 108(t) of the 1974 Act).

The amendment would change the date for determining the first element of the pool from October 1, 1993 to April 11, 1994, the date of enactment of the Property Disposition Reform Act. The original legislation was intended for enactment in the summer of 1993. The October 1 date was designed to commence the program for fiscal year 1994. Although the legislation was enacted in April 1994, the October date was not adjusted. This change would correct this situation, and would permit more rapid implementation of the Economic Development Grants program.

Subtitle E—Nonjudicial foreclosure of defaulted single family mortgages

The proposed Single Family Foreclosure Act would authorize the non-judicial foreclosure of defaulted single family mortgages. The new authority would be patterned after the Multifamily Mortgage Foreclosure Act of 1981 (Multifamily Act). The Multifamily Act created a non-judicial foreclosure mechanism for HUD in connection with certain multifamily mortgages held by the Department pursuant to the National Housing Act and section 312 of the Housing Act of 1964.

The reasons for this proposal are essentially the same as those which led to passage of the Multifamily Act:

The multiplicity of State laws under which HUD forecloses defaulted mortgages burdens the programs involved, and is detrimental to the properties and to the communities in which they are located.

Long periods to complete foreclosures under certain State laws lead to deterioration in the condition of the properties involved; necessitate substantial Federal management and holding expenditures; increase the risk of vandalism, fire loss, depreciation, damage, and waste; and adversely affect the neighborhoods in which the properties are located.

These conditions seriously impair HUD's ability to protect the Federal financial interest in the affected properties and frustrate attainment of the objectives of the underlying program authority.

The availability of a uniform and more expeditious, non-judicial foreclosure procedure would ameliorate these conditions and would relieve the burden on an already clogged judicial system by removing these cases from the courts. It would also further the FHA Reform objectives contained in the HUD Reform Act and the National Affordable Housing Act of ensuring that the Department administer its programs in a business-like and financially sound manner.

This proposal would create a non-judicial foreclosure remedy for single family mortgages that are held by HUD pursuant to title I or title II of the National House Act or were obligated pursuant to section 312 of the Housing Act of 1964. Specifically, the proposal would cover any mortgage that:

Covers a one- to four-family dwelling and was previously insured under title I or title II of the National Housing Act, and has been acquired and is being held by HUD by reason of assignment or otherwise, or that HUD holds following acquisition and subsequent transfer of the property pursuant to a purchase money mortgage agreement; or

Covers a one- to four-family dwelling that HUD holds pursuant to section 312 (except that when a one- to four-family dwelling is combined with non-residential space in a "mixed-use" project, the mortgage is covered by the Multifamily Foreclosure Act).

The proposed remedy would be available for use by the Secretary in connection with any mortgage covering these properties, irrespective of its date of execution.

The procedure contemplated is similar to the deed of trust foreclosure approach caused in approximately half of the States. The proposed Act would be procedural only, and is not intended to affect substantive rights, except as explicitly set out therein. To the extent that a mortgagor has equitable defenses, it would be free to seek injunctive relieve against foreclosure in the courts.

The proposed Act is important to the Department's single family mortgage insurance program and other collection efforts. Lengthy delays in, foreclosing defaulted mortgages caused by excessive foreclosure periods in some States increase the risk of property deterioration, vandalism, and waste. The resulting loss to the Department (including its mortgage insurance funds) and the taxpayer in terms of increased management and holding expenses is substantial. Moreover, these conditions impose a severe hardship on the neighborhoods in which the properties are located. The proposed legislation would ameliorate this situation by providing an efficient, equitable and, most important, relatively expeditious non-judicial foreclosure remedy.

The availability of an expeditious foreclosure remedy would also provide HUD with the flexibility needed to deal with defaulted single family mortgages in a manner designed to promote the best interests of the owners and residents of the properties involved, the government, and the communities in which the security properties are located. In certain instances, some delay in instituting foreclosure proceedings would give a deserving mortgagor the opportunity to bring the mortgage current or cure a nonmonetary default, thereby ensuring that the interests of the mortgagor, the tenants, and the government are best served. The expeditious foreclosure remedy contemplated by the bill would permit such a delay while at the same time assuring that, if a relatively brief delay is later found not to have been warranted, the mortgage could be foreclosed in a timely fashion. In contrast, the cumbersome, time-consuming foreclosure procedures in some States require that, as a practical matter, because it is so difficult to complete the process, HUD limit forbearance prior to initiating foreclosure.

In addition, the non-judicial foreclosure procedure contemplated by the proposal would be far less costly than foreclosures conducted under State laws requiring judicial process. The savings occasioned by this measure would accrue not only to the taxpayers but also to the defaulting property owner, since foreclosure costs are typically deducted from the mortgagor's share of sale proceeds. Finally, the proposal would relieve the courts of the burden of entertaining judicial foreclosures of mortgages subject to the proposed Act.

The proposed Act sets forth in detail the procedures to be followed for foreclosure. The principal features of these procedures are:

The Secretary of Housing and Urban Development would designate a foreclosure commissioner, who would be empowered to sell the property involved in accordance with the requirements of the Act. The foreclosure commissioner would have to be competent to conduct the foreclosure. (Sec. 845)

The foreclosure commissioner would commence the foreclosure upon the request of the Secretary where a default or other breach for which foreclosure is authorized by the mortgage or applicable agreement has occurred. (Secs. 846 and 848)

The foreclosure would be commenced with service of a Notice of Default and Foreclosure Sale. (Sec. 847) The Notice would set forth information relevant to the sale and would be published in a newspaper of general circulation once a week for three weeks; and sent by certified or registered mail, return receipt requested, to the owner, all present and past mortgagors (except those that have been released), occupants, and lienors. The Notice would be sent to all the parties, except lienors, 21 days before the sale; it would be sent at least 21 days before the sale to lienors. (Secs. 848 and 849)

Specific provisions would prescribe the conduct of the proceeding prior to sale, the sale itself, the allowance of foreclosure costs, the disposition of sale proceeds, the transfer of title and possession, and the record of foreclosure and sale. (Secs. 850–855)

There would be no right of redemption. (Sec. 854) The proposed Act contains its own redemption provision, and would not rely upon section 204(l) of the National Housing Act and section 701 of the Department of Housing and Urban Development Reform Act of 1989, which provides that there shall be no right of redemption when HUD forecloses on a single family mortgage, so that this bill may provide for a complete self-contained remedy.

Since foreclosure extinguishes property rights, the proposed Act contains numerous provisions to protect the mortgagor of the property subject to foreclosure sale, tenants, as well as other interested parties.

Major features include the following:

The foreclosure commissioner would have to be responsible, financially sound, and competent to conduct the foreclosure. (Sec. 845)

The commissioner would be specifically authorized to adjourn or cancel the sale if conditions are not conducive to a sale fair to the owner. (Sec. 851)

Even if not so provided in the mortgage instrument, the owner would have the right to have the mortgage reinstated one time by bringing the mortgage current or curing a nonmonetary default; subsequent reinstatement could be made at the discretion of the Secretary. (Sec. 850)

The provisions for publication and mailing of the Notice of Default and Foreclosure Sale are extensive and thorough.

Foreclosure by reason of monetary default could generally be based only upon total failure to meet an installment. (Sec. 846)

No other proceeding to foreclose the mortgage could be continued or initiated during the pendency of a foreclosure under the Act. (Sec. 846).

If a new commissioner is designated, foreclosure would continue unless the new commissioner finds that continuation would unfairly affect the interests of the mortgagor. (Sec. 848)

If a sale is adjourned to another day, a new Notice of Default and Foreclosure Sale would have to be served. (Sec. 851)

The requirement that occupants be notified would give notice to tenants and other occupants of a potential passage of title. (Sec. 849)

The requirement that lienors of record be notified would give opportunity for the third parties most likely to bid or purchase at foreclosure to do so. (Sec. 849)

The requirement that sale be by public auction would increase the chances of arriving at a sales price reflective of the value of the property. (Sec. 851)

Costs would be limited to out-of-pocket expenses and fees established by the Secretary. (Sec. 852)

Finally, the measure would specify that redemption periods under State law do not apply to mortgages foreclosed pursuant to the Act. (Sec. 854) If redemption periods provided under State law—up to 18 months or longer in some States—were applied to these mortgages, salability of the properties involved would be seriously impaired and their rehabilitation and improvement discouraged. Such a result would increase the Federal financial exposure and frustrate achievement of the programs' objectives and the national housing goals.

This legislation is important to HUD's single family housing programs, since it would help remedy lengthy State foreclosure procedures that have caused substantial losses to the government and the taxpayer and hardship to affected residents and neighborhoods. In addition, because of the expeditious foreclosure procedure contemplated by the proposed Act, the Department would be provided flexibility to deal with defaulted single family mortgages in a manner designed to promote the best interests of the owners and residents of affected properties, the Department, and the communities in which the security properties are located.

Of course, since foreclosure extinguishes property rights, the interest of the owner and other concerned parties deserve the fullest protection possible. As outlined above, the proposed Act contains extensive provisions to assure that all parties concerned are treated as fairly as possible.

TITLE IX—MISCELLANEOUS AMENDMENTS

OFHEO assessment collection dates

The authorizing legislation for the Office of Federal Housing Enterprise Oversight (OFHEO) provides for FNMA and FHLMC to supply the money for the operations of the Office through an annual assessment, to be paid in two payments each year. The statute provides for these payments to be made "on September 1 and March 1 of the year for which the assessment is made." (See section 1316(b)(2), Housing and Community Development Act of 1992.) While the money is supplied by these enterprises, it is deposited by the Office into the Treasury, and the use of this money, like any other money in the Treasury, is subject to appropriation. These payment dates, however, bear no relation to the annual appropriation process, which controls both the timing and the amount. The dates have unduly complicated the operations of the Office's and the Department's Salaries and Expenses accounts because they result in internal borrowing and lending being necessary to keep OFHEO solvent.

Section 901 would change the collection dates, to coordinate them with the fiscal year—October 1st and the next April 1st. In the event there is no regular appropriation in effect on October 1 of a given year, there would be a continuing resolution. OFHEO has adequate authority to specify the level and collect the October 1 payment on the assessment, under whatever terms a continuing resolution would specify (e.g., prior year operating level, House-passed level, etc.). Presumably, to the extent that the October collection, at the level indicated by the continuing resolution, differed from half the amount of the assessment for the year indicated by the regular appropriation if enacted, an appropriate adjustment could be made in the April collection.

Lead-based paint technical assistance amendments

Section 902 would broaden the Secretary's authority to carry out a comprehensive program to attack lead-based paint problems in the nation's housing. It would do so in two ways. First, it would permit the existing funding set-aside for research and technical activities in the programs, to be used for lead-based paint research under the Department's broader basic research authority, Title V of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z–1), including demonstrations, pilot testing of new or improved programs, public education on lead hazards, and the development of training modules on lead hazards. Second, it would permit the work under set-aside funding to be done by HUD staff or under contracts or other agreements.

The proposal would also set aside $5 million and $10 million for each of fiscal years 1995 and 1996 for technical assistance and capacity building for grantees, and for research and technical activities in the program, respectively.

The broadened authority and increased funding for set-asides are needed to permit the Secretary to conduct a broad, flexible, and balanced attack on childhood lead poisoning in housing, a problem that is viewed by health authorities as the number one preventable threat to children's health.

Lead-based paint, target housing hazard reduction program

Section 903 would authorize appropriations for the Lead-Based Paint Target housing Hazard Reduction Program at $100,000,000 for fiscal year 1995 and $100,000,000 for fiscal year 1996. Included within the authorizations are proposed set asides of $5,000,000 and $10,000,000 for each of fiscal years 1995 and 1996 for technical assistance and capacity building for grantees, and for research and technical activities in the program, respectively.

HUD research and development

Section 904 would authorize appropriations for HUD's research and development program at $40 million for each of fiscal years 1995 and 1996.

FOOTNOTES

[1] Generally, assigned mortgages are formerly insured mortgages that the Department has acquired following borrower default and payment of the mortgage insurance claim to the lender. Qualifying borrowers participate in the assignment program. This program is designed to provide defaulted mortgagors with up to three years of "forbearance assistance" so that they may resume full obligations under the mortgage by the end of the assistance period. If a mortgagor cannot do so, the Department forecloses on the mortgage.

[2] Section 203(b) is the FHA basic home mortgage insurance authority and its mortgages are obligations of the Mutual Mortgage Insurance fund (MMIF).

[3] Section 221(d)(2) is a special authority that insures mortgages that pose a greater risk of default, and is in the General insurance Fund (GIF).

[4] Such a mortgagor would, however, be eligible for a second assignment.

[5] A mortgagor in this category may have an outstanding delinquency.

[6] This would, however, only accelerate payments to the MMIF, or the other appropriate fund, since the mortgagor is making monthly payments to HUD under the assignment program.

[7] Children of low-income homeowning parents are 15% more likely to stay in school, and somewhat

less likely to bear children as teenagers or be arrested. See *Measuring the Benefits of homeowning: Effects on Children*, Richard K. Green and Michelle J. White, University of Chicago, February 1994.

[8] As added by section 164 of the Housing and Community Development Act of 1992.

[9] HUD already has the authority to impose a civil money penalty on an FHA-approved, nonsuprevised lender pursuant to section 536 of the National housing Act ("Civil Money Penalties against Mortgagees and Lenders") since failure to comply with HMDA is now a violation of an FHA handbook.

[10] FFIEC is the Federal Financial Institutions Examination Council, created by the 1980 Amendments to HMDA. The FFIEC is comprised of the five banking regulators: The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration. HUD is not a member of FFIEC, but it does have voting delegates on the HMDA Subcommittee of the Consumer Compliance Task Force.

[11] Or less if the factor would result in an adjustment of less than one percent. For example, if the factor is 1.04, the adjustment would be based on a factor of 1.03. If the factor is 1.009, the factor would be reduced to 1.0 and the rents would not be adjusted.

[12] The Proposed Act would state that a legal newspaper that is accepted as a newspaper of legal record in the county or counties where the property is located would constitute a newspaper of general circulation.

Mr. SARBANES. Mr. President, I join Banking Committee Chairman DONALD RIEGLE today in introducing the Housing Choice and Community Investment Act of 1994. The Housing Choice and Community Investment Act of 1994 has been submitted to the Congress by the Secretary of the Department of Housing and Urban Development [HUD], Henry Cisneros, and reflects the administration's priorities of reducing homelessness, turning around public housing, expanding affordable housing, enforcing fair housing, and empowering communities. We certainly welcome the importance that the Clinton administration has placed on revitalizing America's communities.

This year, the Congress will need to reauthorize all of the Federal Government's housing programs. The legislation we introduce today on behalf of Secretary Cisneros embodies the administration's proposals for reauthorizing HUD's existing programs and for new programs to be administered by HUD. As chairman of the Senate Subcommittee on Housing and Urban Affairs, I intend to review the administration's proposals carefully.

Over the last 15 months, it has been my pleasure to work with Secretary Cisneros on two pieces of legislation—since signed into law—that reflect his thoughtful approach to HUD's mission. These new laws will improve HUD's performance by streamlining the multifamily property disposition process, reducing defaults on mortgages insured by HUD, removing certain barriers to the flexible use of the HOME Investment Partnerships Program, and sharing more responsibility with other partners in housing and community development activities. Equally important, the new legislation enacted last year allows the Secretary to test new approaches to solving housing and community development problems. We are looking forward to seeing the results of newly enacted demonstration programs that were recommended by the Secretary to test innovative solutions to the problems of homelessness, to encourage prudent and safe pension fund investment in affordable housing, to build the capacity of community-based nonprofits, and to enhance the community development loan guarantee program as an economic development tool.

Since his arrival, Secretary Cisneros has made tremendous strides in his efforts to make the Federal Government a stronger partner in revitalizing our Nation's communities. He has demonstrated great energy and vision in putting forth an agenda to improve HUD's management and get HUD moving forward again. He deserves our continued support for his efforts to restore HUD's credibility, to leverage new resources, and to strengthen partnerships between the Federal Government and other levels of government and the private sector. I look forward to working with Secretary Cisneros and his able team at HUD in shaping a reauthorization bill this year that will further their efforts. The Housing Choice and Community Investment Act of 1994, which we introduce today, is an important foundation for the reauthorization process that will now get underway.

By Mr. LEAHY (by request):

S. 2050. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AMENDMENTS OF 1994

• Mr. LEAHY. Mr. President, after nearly a year's worth of work on the part of the Department of Agriculture, the Environmental Protection Agency, and the Food and Drug Administration, the administration presents to us today two pesticide reform bills. One amends the tolerance setting scheme of the Food, Drug, and Cosmetic Act, and one amends FIFRA, the Federal Insecticide, Fungicide, and Rodenticide Act, which governs the sale and use of pesticides. I am pleased that the administration has asked me to introduce its FIFRA amendments.

Most Americans probably believe that our food safety laws are based purely on health considerations that protect all Americans, including children. That is not true.

Most Americans probably believe that if pesticides do not meet such a standard, then they are removed from the market quickly. That is not true.

Finally, most Americans probably believe that farmers have plenty of alternative pest control methods if a pesticide is removed from the market. That is not true either.

Unfortunately, our system does not work this way, largely for historical reasons. Our food safety laws were primarily designed to address gross food contamination, not pesticide residues. They were not originally intended to be food safety laws at all. They were written to make sure that pesticides on the market actually worked for farmers. Our basic agricultural research and farm programs were conceived before pesticides were widely used, and well before pesticides on food became a national issue.

Despite attempts to connect and relate these laws over the years, they do not work in an integrated way to meet our national objectives. They are like using the wrong tool to repair an engine. Either the tool or the engine ends up broken.

After 12 years of delay and denial, we have a President who is committed to a thorough overhaul of our pesticide and food safety laws. The administration has put together a comprehensive proposal that I believe could lay a foundation for lasting reform.

Some of the reforms included in the administration's FIFRA bill are:

Changing cancellation and suspension proceedings from trial-type, adjudicatory hearings that can last years to notice and comment rulemaking proceedings;

Beefing up FIFRA enforcement authorities to the level of other environmental laws and adding whistleblower protection; citizen suits are also authorized, but not against farmers;

Requiring the Department of Health and Human Services and USDA, in conjunction with EPA, to collect all the data necessary to implement the recommendations of the National Academy of Sciences on pesticides in the diets of infants and children;

Recordkeeping for all agricultural uses of pesticides;

Giving registration applications that include three or more minor uses priority for review and extending exclusive data use rights; during reregistration, allowing unsupported minor crop uses to continue until the last study is due;

New authority for EPA to phase down or eliminate the use of a pesticide if it is reasonably likely to pose a significant risk to humans or the environment;

Authorizing pilot programs for pesticide use reduction;

Streamlining registration and extending exclusive data use rights for reduced risk pesticides;

Making pesticide registrations time-limited—registrations would automatically sunset after 15 years unless the registrant applied for a renewal and submitted any necessary health and safety data;

Additional authority to assess fees to cover the $20 million projected shortfall in the reregistration budget; and

Coordinating tolerance revocations under the Food, Drug, and Cosmetic Act [FFDCA] with FIFRA cancellation proceedings.

The bill also includes a provision to stop some pesticides that are banned in the United States from ending up in our food supply on imported food. This part of the bill differs from the circle of poison bill that I introduced in the last Congress, particularly in its treatment of never-registered pesticides. Nevertheless, I remain confident that these differences can be resolved in a manner that will protect consumers and level the playing field for farmers.

This bill has taken a long time to write. Nonetheless, the President has my commitment to do everything possible to move a strong FIRRA reform bill this year, in conjunction with reform of the FFDCA's provisions for pesticide residue tolerances. That bill, of course, falls under the Labor Committee's jurisdiction.

The administration has worked hard to propose a realistic starting point for the process of pesticide law reform. They deserve to be commended for their efforts.

But I am sure that will not stop critics from attacking the bill. Plenty of inside-the-beltway lobbyists, who really just want more delay and denial, are probably on the phones right now. No doubt, they are grossly exaggerating how this bill will affect farmers, consumers, and agribusiness, spouting off vitriolic sound bites for the press, and telling their clients that a quick fix is all that is needed.

They are wrong. The White House has assured me a quick fix will not be accepted. I will not accept one, and I am sure Senator KENNEDY shares my view. I intend to work closely with him to ensure that our committees act in a coordinated fashion that will result in comprehensive reform benefiting consumers and farmers alike.

While we work on legislation, I am also working with USDA and EPA on an administrative solution to the lack of safer pesticide alternatives. Yesterday, I received a firm commitment from the administration on a historic initiative to solve this problem.

Right, now, EPA's regulatory decisions, to cancel a pesticide for example, are not coordinated with USDA's research agenda. I raised this issue several times last year on the Senate floor, before the Food Group, and in a letter to Vice President GORE.

If EPA intends to cancel or otherwise limit use of a pesticide, and there is no effective alternative, then USDA efforts to develop and disseminate a safer pest control method should begin immediately. EPA should be able to identify pesticides of concern well before regulatory action is taken, so that USDA can help farmers find safe and effective alternatives in a timely manner. Without such an early warning system, farmers will continue to be left empty handed or with alternatives that simply raise similar risk concerns.

Farmers need to be able to control pests and weeds. And if they are to meet a new health-based safety standard, we must provide them with safe, effective, and economical pest control methods.

The administration and I agree that we do not need legislation to get started on a solution to this particular problem. My staff has been working with EPA and USDA since February on a draft memorandum of agreement to start getting safer alternatives into farmers' hands. I was assured yesterday that the memorandum will be completed in July.

This agreement represents a leap forward in the way we think about pesticides and pest management. All of the parties now recognize that our regulatory policies are incomplete, and will never be fully successful, until we establish a program to promote effective, economical alternatives to dangerous chemical pesticides.

While the naysayers and fearmongers are building massive war chests to fight reform, while they seek to exploit farmers' understandable concerns, this administration is taking responsible steps toward a constructive solution to the alternatives problem.

When the agreement is complete in July, farmers will finally get the help they deserve to find and use safer pesticide alternatives. Instead of an antiquated system that fosters confrontation and lurches from crisis to crisis, we will finally have a rational policy that rewards innovation and helps farmers find safer alternatives to the most hazardous chemical pesticides, before they are removed from the market.

I look forward to taking the first step to resolve the alternatives problem administratively while we continue to work toward comprehensive pesticide law reform.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2050

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REFERENCE

(a) SHORT TITLE.—This Act may be cited as the "Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1994".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; Table of contents; Reference.
Sec. 2. Registration Renewal ("Sunset").
Sec. 3. Imports and Export.
Sec. 4. Cancellation.
Sec. 5. Coordination with the Federal Food, Drug, and Cosmetic Act (FFDCA).
Sec. 6. Suspension.
Sec. 7. Label Call-In.
Sec. 8. Phase-Out/Phase Down.
Sec. 9. Reduced Risk Pesticides.
(a) Reduced Risk Pesticides.
(b) Exclusive Use.
(c) Definition of Biological Pesticide.
(d) Conditional Registration for Biologicals.
(e) Registration Priorities.
(f) Conforming Amendments to Sections 20 and 23.
(g) Alternative Pest Control Strategies.
Sec. 10. Minor Uses.
Sec. 11. Fees.
Sec. 12. Use-by-Prescription.
Sec. 13. Judicial Review.
Sec. 14. Indemnification.
Sec. 15. Certification and Training.
Sec. 16. Pesticide Recordkeeping.
Sec. 17. Enforcement.
Sec. 18. "Whistle Blower" Provision.

(c) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Insecticide, Fungicide, and Rodenticide Act.

SEC. 2. REGISTRATION RENEWAL ("SUNSET").

(a) Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136A) is amended by adding at the end the following:

"(g) REGISTRATION RENEWAL.—

"(1) GENERAL RULE.—Under the subsection the registrations of pesticides are to be renewed periodically as set out in paragraph (4). The dates for the renewal of a registration of a pesticide are based on dates applicable to the active ingredient of the pesticide as set out in paragraph (2). The date on or after which an application shall be submitted for the renewal of a registration is the reapplication date of the active ingredient as set out in paragraph (3). The initial and subsequent reapplication date of an active ingredient is set out in paragraph (4). The date of which a renewal application is required to be approved is the expiration date of the active ingredient as set out in paragraph (5a). The expiration date refers to the date a registration will expire if not renewed and such date is 3 years after the reapplication date of the active ingredient. A registration shall not expire under this section except as provided under paragraph (5) of this subsection.

"(2) LIST OF ACTIVE INGREDIENTS.—

"(A) INITIAL LIST.—Not later than 180 days after the date of enactment of the Federal Insecticide, fungicide, and Rodenticide Act Amendments of 1994, the Administrator shall publish in the Federal Register a list of each ingredient contained in any pesticide currently registered on the date of the publication of such list.

"(B) LIST REVISION.—The Administrator shall revise the list to add a new pesticide active ingredient on the date a pesticide is registered under subsection (c) which contains such ingredient. If the expiration date of the active ingredient expires without renewal of the registration of at least one pesticide containing such active ingredient, the Administrator shall remove the active ingredient from the list. The Administrator shall annually publish such list to include each revision made under this subparagraph.

"(C) LIST CONTENT.—The list published by the Administrator under this paragraph shall state the name, reapplication date, and the expiration date of each active ingredient contained in the list.

"(D) PUBLICATION GROUPS.—Active ingredients listed under this paragraph shall be grouped as follows: An active ingredient shall be classified—

"(i) in group 1 if the active ingredient was first contained in a pesticide initially registered after November 1, 1984, "(ii) in group 1 if the active ingredient was first contained in a pesticide initially registered after October 31, 1984, but before the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1994, or

"(iii) in group 3 if the active ingredient was first contained in a pesticide initially registered after such date of enactment.

"(3) REAPPLICATION DATE.—The initial reapplication date of an active ingredient—

"(A) in group 1, shall be a date established by the Administrator 12–14 years after the issuance of a reregistration eligibility decision document for the active ingredient under section 4(g)(2),

"(B) in group 2, shall be a date established by the Administrator 10–13 years after the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1994, and

"(C) in group 3 shall be 12 years after the date of initial registration of a product containing the active ingredient.

"Subsequent reapplication dates for each active ingredient shall be 12 years after the preceding expiration date of such active ingredient.

"(4) RENEWAL.—

"(A) PROCEDURE FOR RENEWAL.—All registrants shall comply with guidelines published by the Administrator specifying the information required for renewal of registration that are in effect 4 years prior to the reapplication date for each active ingredient in the registrant's product. Such guidelines shall provide registrants with information sufficient to determine each scientific study that must be submitted for renewal of registration.

"(B) DATA SUBMISSION, COMPENSATION, AND EXEMPTION.—For purposes of this subsection, the provisions of subsection (c)(1) and (c)(2)(D) shall be applicable to the requirements for renewal of a registration of a pesticide.

"(C) STANDARD.—The Administrator shall renew the registration of a pesticide if the Administrator determines that (i) the registrant has submitted an application for renewal of registration no later than the date set forth in paragraph (3) of this subsection; (ii) the registrant has submitted all required information as specified by the guidelines published pursuant to subparagraph (A) and any written communications from the Administrator to the registrant regarding the application of such guidelines; and (iii) the active ingredient meets the requirements of subsection (c)(5) of this section.

"(D) NOTIFICATION.—The Administrator shall endeavor to review applications as expeditiously as practicable, and shall notify the registrant promptly of any deficiencies in the application for renewal of registration.

"(E) EFFECTIVE DATE OF RENEWAL.—The renewal of the registration of a pesticide under this paragraph shall take effect on the day after the expiration date of the previous registration of the pesticide.

"(F) EXTENSION.—If the registrant of a pesticide submits a complete application for the renewal of the registration of a pesticide in accordance with subparagraph (A) and the Administrator does not take final action on such application before the expiration date of such registration, the Administrator shall extend the pesticide's registration for one additional year.

"(5) EXPIRATION.—

"(A) INCOMPLETE APPLICATION.—If the registrant of a pesticide does not submit a complete application to the Administrator, including all required information as specified by the guidelines published pursuant to paragraph (4)(A), on or before the reapplication date of the active ingredient for which registration renewal is required and the Administrator has not after such date renewed the registration, the Administrator shall notify the registrant at least 30 days prior to the expiration date of the registration that the registration shall expire upon the expiration date unless the registrant has requested a hearing before such time. No reapplication shall be deemed incomplete if it complies with the guidelines under paragraph (4). If a hearing is requested, the only matter for resolution at that hearing shall be whether the registrant failed to submit a complete application on or before the reapplication date of the active ingredient. If a hearing is held, a decision after completion of such hearing shall be final. If, after a hearing, the Administrator issues a determination that the application is incomplete, the registration shall expire. Notwithstanding any other provision of this Act, a hearing shall be held and a determination made within 75 days after receipt of a request for such hearing. If a registrant fails to submit a request for a hearing under this subsection, the registration shall expire automatically upon the expiration date and the expiration of the registration shall not be reviewable in any court.

"(B) INSUFFICIENT INFORMATION.—Notwithstanding any other provision of this section, if the Administrator determines that the information submitted for an active ingredient for which registration renewal is required is insufficient to permit the Administrator to evaluate the active ingredient under the requirements of section 3(c)(5), the Administrator shall notify each registrant to which the determination applies at least 30 days prior to the expiration date for such registrations that each registration shall expire upon the expiration date unless the registrant has requested a hearing before such time. If a hearing is requested, the only matter for resolution at that hearing shall be whether the Administrator's determination was reasonable that the information submitted is insufficient to evaluate the active ingredient under section 3(c)(5). If a hearing is held, a decision after completion of such hearing shall be final. If after a hearing, the Administrator issues a determination that the information submitted is insufficient to permit the Administrator to evaluate the active ingredient under the requirements of section 3(c)(5), the registration shall expire. Notwithstanding any other provision of this Act, a hearing shall be held and a determination made within 75 days after receipt of a request for such hearing. If a registrant fails to submit a request for a hearing under this subsection, the registration shall expire automatically upon the expiration date and the expiration of the registration shall not be reviewable in any court.

"(6) CANCELLATION.—If the Administrator determines on the basis of a registrant's application or any other information that one or more uses of an active ingredient for which registration renewal is required does not meet the requirements of section 3(c)(5) of this Act, the Administrator shall initiate a proceeding to cancel all registrations containing such active ingredient to which the determination applies under section 6(b) of this Act. Registrations subject to cancellation proceedings shall neither expire nor be renewed pending the completion of cancellation proceedings. If, after completion of cancellation proceedings under section 6(b), the Administrator determines not to cancel a registration, the Administrator shall renew such registration.

"(7) FEES.—

"(A) The Administrator is authorized to issue regulations to assess fees from registrants reasonably calculated to cover costs associated with the review of registrations pursuant to this subsection.

"(B) If any fee prescribed by regulations issued pursuant to this paragraph with respect to the registration of a pesticide is not paid by the time prescribed by such regulations, the Administrator, by order and without hearing, may cancel the registration.

"(8) REGISTRATION RENEWAL FUND.—

"(A) ESTABLISHMENT.—There shall be established in the Treasury of the United States a registration renewal fund.

"(B) SOURCE AND USE.—All fees collected by the Administrator under paragraph (6) shall be deposited into the fund and shall be available to the Administrator, without fiscal year limitation, to carry out the provisions of subsection (g) of this Act.

"(9) EXISTING STOCKS.—Whenever a pesticide registration expires pursuant to this subsection, the Administrator may issue an order allowing continued distribution, sale or use of existing stock of the expired pesticide subject to such conditions and limitations as the Administrator may specify, provided such distribution, sale or use is consistent with the provisions of the Act.".

SEC. 3. IMPORTS AND EXPORTS.

(A) EXPORTS.—

(1) Section 17 (7 U.S.C. 136o) is amended to read as follows:

"(a) CANCELLATION NOTICES FURNISHED TO FOREIGN GOVERNMENTS.—Whenever a registration or a cancellation or suspension of the registration of a pesticide becomes effective, or ceases to be effective, the Administrator shall transmit, not later than 180 days after the effective date of the action, notification of the action to the governments of other countries and to appropriate international agencies. The notification shall include information related to the cancellation or suspension of the registration of the pesticide and information concerning other pesticides that are registered under section 3 and other alternatives including Integrated Pest Management, that could be used in lieu of the pesticide.

"(b) CERTAIN PESTICIDES PROHIBITED FROM EXPORT.—

"(1) PESTICIDES CONTAINING ACTIVE INGREDIENTS BANNED BECAUSE OF ADVERSE EFFECTS ON HUMAN HEALTH OR THE ENVIRONMENT.—

"(A) Except as provided in subparagraph (B) or (C), no person may export to a foreign country a pesticide that contains an active ingredient if all or virtually all use of the active ingredient in the United States has been prohibited. An active ingredient is subject to the preceding sentence if any of the following has occurred:

"(i) Registration of pesticides containing the active ingredient have been suspended or canceled by the Administrator.

"(ii) Applications for registration of pesticides containing the active ingredient have been denied by the Administrator;

"(iii) Applications for registration of pesticides containing the active ingredient have been withdrawn by the registrant voluntarily;

"(iv) Registrations of the pesticide have been canceled by the registrant voluntarily; or,

"(v) Tolerances under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) for the active ingredient have been revoked; and, as a result, all or virutally all volume of the active ingredient may not be used lawfully in the United States.

"(B) The Administrator shall permit the export of a pesticide subject to the prohibitions of paragraph (A) solely because of actions described in subparagraph A (iii) or A (iv), if the Administrator publishes after notice and opportunity for public comment a determination that the Administrator is unaware of any information indicating use of the pesticide could pose a risk of significant adverse effects on public health or the environment.

"(C) The Administrator shall permit the export of a pesticide to a specific importing country if—

"(i) the Administrator finds, after notice and opportunity for comment, that the pesticide is not subject to a prohibition of subparagraph (A) for any reason related to an adverse human health effect; and

"(ii) the importing country has informed the Administrator in writing that the country wishes to import the pesticide and affirms that the country is aware that all or virtually all uses of the pesticide are prohibited in the United States.

"A finding under this subparagraph shall be effective for 1 year, except that the Administrator may renew the finding if the importing country informs the Administrator annually in writing that it wishes to continue to import the pesticide.

"(D) The Administrator shall, after opportunity for comment, establish and keep current a list of pesticide active ingredients which the Administrator determines are described in paragraph (1)(A). The Administrator shall publish such list in the Federal Register initially within six months of the date of enactment of this paragraph and shall publish any additions to or deletions from the list promptly upon the Administrator's determination that the list should be amended.

"(E) The omission of any active ingredient from the list published pursuant to subparagraph (D) that is subject to the restrictions of paragraph (1)(A) shall not limit the authority of the Administrator to initiate enforcement action under this Act with regard to a pesticide containing such active ingredient exported in violation of paragraph (1)(A).

"(2) Pesticides subject to objections from importing countries.—

"(A) The Administrator shall, by order, prohibit persons from exporting a pesticide to a foreign country that has informed in writing the Administrator, or an international agency of which the United States is a member, that the country does not wish to import the pesticide and the foreign country certifies that it—

"(i) is not producing and will not produce the pesticide for use in the country;

"(ii) is not importing and will not import the pesticide from any other country; and

"(iii) does not wish to import the pesticide because of concerns of the country about adverse effects on human health or the environment.

"(B) The Administrator shall issue an order under subparagraph (A) not later than 30 days after receipt of the certification.

"(C) If the Administrator determines, after notice and opportunity for comment, that a foreign country is not in compliance with a certification provided under subparagraph (A), the Administrator shall promptly withdraw the order issued under subparagraph (A). The withdrawal shall become effective on publication in the Federal Register.

"(3) Requirement for a method of residue detection in food.—

"No person may export a pesticide unless—

"(A) There is a tolerance or an exemption from the requirement of tolerance under paragraph (3) or (4) of section 408(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)) governing residues of each ingredient in the pesticide in at least one food;

"(B) There is a practical method for detecting residues of each ingredient in the pesticide in or on foods and the Administrator has an appropriately certified pesticide reference standard; or

"(C) the Administrator determines that the pesticide is not likely to be used in a manner resulting in pesticide residues in or on imported foods.

"(4) Pesticides that have never been registered under section 3.—

"(A) No person may export a pesticide to a foreign country if any ingredient of the pesticide has not been and is not the subject of any registration under section 3, unless the Administrator determines that—

"(i)(I) for each active ingredient, there is a tolerance greater than zero or an exemption from the requirement for a tolerance under paragraph (3) or (4) of section 408(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)); or

"(II) residues of the pesticide on food have been permitted or the pesticide has been approved for use in at least 3 countries that evaluate pesticides prior to marketing in accordance with internationally recognized scientific standards and on the basis of a competent, independent, scientific review of public health and environmental risks; and (ii) the country of import participates in the United Nations Environment Program-Food and Agriculture Organization system for exchange of information on pesticides in international trade, or has equivalent provisions in place.

"(B) Any person may petition the Administrator to withdraw the determination under subparagraph (A) that a pesticide may be exported.

"(5) Restrictions on the export of small quantities of pesticides for research and development.—Notwithstanding paragraphs (1) and (4), the Administrator may permit the export of a small quantity of a pesticide to a foreign country solely for purposes of research and development, but not test marketing. The Administrator, however, shall not permit the export of such a pesticide if it contains any active ingredient which has been prohibited for all or virtually all uses and for which the Administrator has not made the determination in (1)(B). Export of a pesticide under this subparagraph shall be subject to such quantity limitations, notification, reporting and labeling requirements as are necessary to determine the nature and extent of such research and development activities and to ensure that the pesticide will be used solely for research and development in the country.

"(c) Requirement for Foreign Purchaser Acknowledgement Statement.—In the case of an unregistered pesticide other than a pesticide covered by paragraph (1) of subsection (b), the exporter shall obtain from the foreign purchaser a signed statement acknowledging that the purchaser understands that the pesticide is not registered for use in the United States and cannot be sold in the United States under this Act. A copy of the statement shall be transmitted to the Administrator and to an appropriate official of the importing country.

"(d) Information on Alternatives.—The Administrator shall develop and update annually a circular describing environmentally preferable alternatives and pest management techniques to exported pesticides that are not registered under section 3 or registered pesticides that are exported pursuant to paragraph (1)(C) of subsection (b) of this section. The Administrator shall transmit the circular and the annual update of the circular to the governments of other countries and to appropriate international organizations.

"(e) Pesticides or Devices Intended for Export.—No pesticide or device may be exported to a foreign country unless—

"(1) the pesticide or device complies with this section and sections 2(p), 2(q), 7, 8, 19(a), and 19(e); and

"(2) the label of the pesticide—

"(A) is written in an official language of the country of use; and

"(B) to the extent not in conflict with requirements of the country of use, contains all health, safety, environmental, and other related information required to be included under section 3 on the labeling for the pesticide for use in the United States, if the product is registered under Section 3 of this Act.

"(f) Product Stewardship.—

"(1) Regulations.—To promote proper product stewardship, the Administrator shall, by regulation, require a person who exports a pesticide from the United States to comply with the product stewardship provisions of the 1993 International Code of Conduct on the Distribution and Use of Pesticides of the Food and Agricultural Organization of the United Nations. The Administrator may amend such regulations to require persons who export pesticides to comply with any amendments to such code as the Administrator deems necessary.

"(2) Noncompliance.—If the Administrator determines after providing notice and opportunity for informal hearing that an exporter of pesticides has demonstrated a pattern of noncompliance with a regulation issued under paragraph (1), the Administrator—

"(A) shall publish in the Federal Register the finding of the Administrator with respect to the noncompliance; and

"(B) may prohibit the exporter from exporting pesticides for a period of not more than 180 days unless the noncompliance has not been corrected by the end of the period.

"(g) Confidentiality of Export Information.—

"(1) Notwithstanding sections 7(d) and 10(b), the Administrator shall make available to the public on request without restriction the following information in the possession of the Administrator concerning exports of pesticides:

"(A) The identity of the producer and exporter of an exported pesticide.

"(B) The active ingredients in an exported pesticide.

"(C) The name of an exported pesticide.

"(D) The date of export.

"(E) The countries to which a pesticide is exported, including the countries of final destination.

"(2) The Administrator shall make available to the public upon request information specified by paragraph (1) concerning the export of a pesticide solely in small quantities for purposes of research and development only to the estent that such information would be subject to disclosure if it concerned a pesticide used for similar research and development purposes in the United States, provided the exporter, in accordance with rules issued by the Administrator, certifies to the Administrator, in writing, that the pesticide is being exported solely in small quantities for purposes of research and development.

"(h) Records.—Any person who distributes or sells a pesticide for export shall submit to the Administrator records of the distribution or sale under such conditions as the Administrator may prescribe by regulation. No regulation issued pursuant to this subsection shall require any person to duplicate reporting of any information otherwise required to be reported by the person under section 7.

"(i) Annual Exports Report.—The Administrator shall prepare and make available to the public an annual report beginning with the first full calendar year following the year of enactment of this subsection. The report shall include a description of the identities, aggregate quantities, and destinations of pesticides exported to foreign countries during each calendar year, to the extent the Administrator determines that disclosure of the information is consistent with the requirements of section 10.

"(j) Fees.—

"(1) Authority.—The Administrator may issue regulations to assess fees on pesticide registrants that are reasonably calculated to cover costs associated with carrying out this section.

"(2) Establishment of fund.—There shall be established in the Treasury of the United States a fund to carry out this section.

"(3) Source and use. All fees collected by the Administrator under paragraph (1) shall be deposited into the fund, and thereafter, shall be available until extended, subject to appropriation, to carry out this section.

"(k) Technical Assistance Programs.—

"(1) In general.—The Administrator is authorized to use each fiscal year not more than $4,000,000 to provide countries technical assistance in—

"(A) safe handling and use of pesticides;

"(B) alternative methods of pest control;

"(C) strengthening of pesticide regulatory institutions;

"(D) provision of technical information;

"(E) support for pesticide management and safety training programs; and

"(F) coordination with assistance efforts conducted by other donor or international organizations.

"(2) Priority.—Priority for assistance under this subsection shall be given to developing countries that are major sources of food imported into the United States.

"(3) Coordination with the United States Agency for International Development.—To ensure full consistency with ongoing U.S. AID technical assistance programs in those areas, all EPA activities conducted under this section in countries that receive U.S. AID assistance shall be undertaken in close cooperation with the Administrator of U.S. AID.

"(l) Importation of Pesticides and Devices.—

(1) In general.—The Secretary of the Treasury shall—

"(A) Notify the Administrator of the arrival of pesticides and devices;

"(B) deliver to the Administrator, on the request of the Administrator, samples of pesticides or devices that are being imported into the United States; and

"(C) give notice to the owner or consignee of the pesticide or device.

"(2) Opportunity to be heard.—The owner or consignee may appear before the Administrator and introduce testimony.

"(3) Violations.—If it appears from the examination of a sample that the sample is adulterated, misbranded, otherwise violates this Act, or is otherwise injurious to health or the environment—

"(A) the pesticide or device may be refused admission; and

"(B) the Secretary of the Treasury may—

"(i) refuse delivery to the consignee; and

"(ii) cause the destruction of any pesticide or device refused delivery.

"(4) Nonexport.—A pesticide or device that is refused admission shall not be exported unless the export conforms to the requirements of subsection (c) and such regulations as the Secretary of the Treasury may prescribe, except in accordance with this section.

"(5) Bond.—The Secretary of the Treasury may deliver to the consignee the pesticide or device pending examination and decision in the matter on execution of bond for the amount of the full invoice value of the pesticide or device, together with the duty on the pesticide or device. If the consignee refuses to return the pesticide or device for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding the pesticide or device from the United States, or for any other purpose, the consignee shall forfeit the full amount of the bond.

"(6) Charges.—All charges for storage, cartage, and labor on pesticides or devices that are refused admission or delivery shall be paid by the owner or consignee. Any default of the payment shall consititue a lien against any future importation made by the owner or consignee.

"(7) Regulations.—The Secretary of the Treasury, in conjunction with the Administrator, shall prescribe regulations for the administration and enforcement of this subsection.

"(m) Cooperation in International Efforts.—

"(1) President.—The President is encouraged to pursue appropriate international agreements or arrangements to address notification programs and trade in pesticides consistent with this Act.

"(2) Administrator.—The Administrator is encouraged to, in cooperation with the Secretary of State, the Administrator of the Agency for International Development and the head of any other appropriate Federal Agency, participate and cooperate in any international efforts to develop improved pesticide research and regulations.".

(b) Conforming Amendments.—

(1) Registration of Establishments.—Section 7(c) (7 U.S.C. 136e (c)) is amended—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) In general.—

"(A) Any producer operating an establishment registered under this section shall inform the Administrator within 30 days after the establishment is registered of the types and quantities of pesticides and active ingredients used in producing pesticides that the producer—

"(i) is currently producing;

"(ii) has produced during the past 365-day period; and

"(iii) has sold or distributed during the past 365-day period.

"(b) Any producer operating an establishment registered under this section shall inform the Administrator within 30 days after the establishment is registered of—

"(i) the types and quantities of pesticides, and active ingredients used in producing pesticides, that are produced for export to a foreign county; and

"(ii) the date of export and quantity of pesticides and active ingredients exported to each foreign county to which the producer has exported during the past 365-day period.

"(C) The information required by this paragraph shall be kept current and submitted to the Administrator annually as required under such regulations as the Administrator may prescribe.".

(B) in subparagraph (2) by striking "(2)", and inserting "(2) Stop sale orders.".

(2) Unlawful acts.—Section 12(a)(2) (7 U.S.C. 136j(a)(2)) is amended—

(A) by striking "or" at the end of subparagraph (R);

(B) by striking the period at the end of subparagraph (S) and inserting "; or"; and

(C) by adding at the end the following:

"(T) to export any pesticide in violation of section 17 or to violate any regulation or order issued under section 17.".

(3) Adverse effects information.—Section 6(a) (7 U.S.C. 136c(a)) is amended by adding at the end the following: "Effective Date.—

"(A) The prohibitions in Section 17(b) shall become effective 30 days after the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1994.

"(3) Any person, who exports a pesticide or who produces a pesticide for export, shall submit to the Administrator:

"(A) any factual information regarding unreasonable adverse effects on the environment of the pesticide; and

"(B) any information regarding the regulatory status of such pesticide in other countries that would affect whether the pesticide may be exported.".

SEC. 4. CANCELLATION.

(a) Section 3(c)(6) (7 U.S.C. 136a(c)(6)) is amended to read as follows:

"(6) Denial of registration.—If the Administrator determines that the requirements of paragraph (5) for registration are not satisfied, the Administrator may issue a notice proposing denial of registration. Such a notice shall include the legal and factual bases for the denial. The Administrator shall send a notice proposing denial to the applicant for registration and shall promptly publish the notice in the Federal Register. Subsequent action on the proposed denial shall be in accord with the applicable provisions of section 6(b).".

(b) Section 3(d)(2) (7 U.S.C. 136a (d)(2)) is amended to read as follows:

"(2) Change in classification.—If the Administrator determines that a change in the classification of any use of a pesticide from general use to restricted use is necessary because, without such restriction, the use may cause unreasonable adverse effects on the environment, he shall follow the applicable provisions of section 6(b).".

(c) Section 6(b) (7 U.S.C. 136d (b)) is amended to read as follows:

"(b) Cancellation, Denial of Registration, Change in Classification.—

"(1) Standard for cancellation.—The Administrator may cancel, deny application for registration of, or change the classification of a pesticide if the Administrator determines that:

"(A) the pesticide generally causes unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice; or

"(B) the pesticide product or its labeling or other material required to be submitted by the Act do not comply with the requirements of the Act.

"The proponents of registration of a pesticide shall at all times have the burden of showing that the standard for cancellation, denial or change in classification is not met.

"(2) Consultation with federal agencies.—If the Administrator intends to cancel or change the classification of a pesticide registered for agricultural uses, the Administrator shall consult with the Secretary of Agriculture regarding the proposed action and provide an opportunity to submit written comments. If the Administrator intends to cancel or change the classification of a pesticide registered for public health uses, the Administrator shall consult with the Secretary of Health and Human Services regarding the proposed action and provide an opportunity to submit written comments.

"(3) PROPOSED ORDER.—If the Administrator determines that the standard for canceling, denying application for registration of, or changing the classification of a pesticide may be met, the Administrator may issue a proposed order to cancel, deny or change the classification of a pesticide. In issuing any proposed order under this paragraph, the Administrator shall consider restricting a pesticide's use or uses as an alternative to cancellation. The Administrator shall send a copy of the proposed order to each registrant holding a registration addressed by the proposed order and shall publish the proposed order in the Federal Register. The proposed order shall include (or incorporate by reference to publicly available documents) the following:

"(A) a statement of the factual and legal bases for the proposed action;

"(B) if the pesticide is used to produce an agricultural commodity, a general analysis of the impact of the proposed action on consumers, retail food prices, production of agricultural commodities, and otherwise on the agricultural economy;

"(C) a copy of any written comments on the proposed action submitted by the Secretary of Agriculture, the Secretary of Health and Human Services, or the Scientific Advisory Panel;

"(D) the changes, if any, in the terms and conditions or registration that a registrant would need to make in order for the Administrator to conclude that cancellation or change in classification would not be appropriate; and

"(E) notice of the availability of an informal public hearing.

"(4) PROCEDURES FOR PROPOSED CANCELLATION ORDERS, DENIALS OF APPLICATIONS FOR REGISTRATION, OR CHANGES IN CLASSIFICATION.—

"(A) The registrant or applicant for registration, and any other interested person, shall be afforded an opportunity to comment on a proposed cancellation order, denial of application for registration, or change in classification, for at least ninety days after publication of the proposal in the Federal Register.

"(B) The registrant or applicant for registration, and any other interested person, may request that the Administrator hold an informal public hearing during the comment period. Requests for hearing must be filed within twenty-one days of publication of a proposed cancellation order, denial of application, or change in classification in the Federal Register. The Administrator may deny such request if holding a hearing would not be in the public interest.

"(C) No final order to cancel, change classification, or deny application may be issued under paragraph (6) of this section before the appropriate comment period has expired.

"(D) If a final order to cancel or change classification differs significantly from a proposed order, the Administrator shall, prior to issuing the final order, consult with the Secretary of Agriculture and the Secretary of Health and Human Services under the conditions set forth in paragraph (b)(2) of this section.

"(5) INFORMAL PUBLIC HEARING.—

"(A) If a timely request for an informal public hearing is made on a proposed cancellation, change in classification, or denial of application, and the Administrator determines that a hearing shall be held, the Administrator shall publish in the Federal Register a notice of hearing, and shall send a copy of such notice to any person who requested such a hearing. Such notice shall identify a time and location for the hearing, and shall specify such procedures for the hearing as the Administrator may determine appropriate. Any interested person shall be given an opportunity to appear at the hearing, either in person or through an authorized counsel or representative, and to be heard with respect to the proposed order. The Administrator shall appoint a hearing officer to preside over the hearing. The hearing officer shall cause a verbatim transcript of the hearing to be kept. Such transcript, and any written material submitted at a hearing in accordance with any requirements set forth in the notice of hearing, shall be a part of the record of the proceeding.

"(B) If the Administrator denies a timely request for hearing, the Administrator shall publish in the Federal Register a notice of denial and the reasons therefor, and shall send a copy of such notice to any person who requested such hearing.

"(6) FINAL ORDERS.—

"(A) If no comments opposing the proposed action are submitted by registrants or other interested persons during the comment period provided pursuant to paragraph (4) or at any hearing held pursuant to paragraph (5), and if, in the case of a proceeding to cancel or change the classification of a pesticide, a registrant does not file a timely application for amendment of registration to implement the changes, if any, specified in the proposed order pursuant to subparagraph (b)(3)(iv) of this section, the Administrator may issue a summary final order canceling registration, denying application for registration, or changing classification. Such final order shall be published in the Federal Register and sent to each registrant of, and applicant for, a registration addressed by the final order. Such final order shall not be subject to judicial review.

"(B) If, after reviewing comments submitted pursuant to paragraph (4), and the record compiled at any informal hearing held pursuant to paragraph (5), the Administrator determines that the standard for cancellation of registration, denial of application for registration, or change in classification is met, the Administrator shall publish a final order of cancellation, denial of application, or change in classification in the Federal Register and shall send a copy of such order to each applicant for, or registrant holding, a registration addressed by the final order. The final order shall include (or incorporate by reference to publicly available documents) the following:

"(i) the factual and legal bases for the final order;

"(ii) a summary of the significant comments submitted either in writing or orally at a hearing by the public and, in the case of a proposed cancellation order, by the Secretary or Agriculture, the Secretary of Health and Human Services, the Scientific Advisory Panel, and the Administrator's responses to those comments;

"(iii) in the case of a proceeding for the cancellation or change in classification of a pesticide used in the production of an agricultural commodity, a general analysis of the impact of the action on consumers, retail food prices, production of agricultural commodities, and otherwise on the agricultural economy; and

"(iv) in the case of a final order canceling or changing the classification of a pesticide, a description of the changes, if any, in the terms and conditions of registration of a pesticide product that a registrant would need to make in order for the final order not to apply to the product.

"Final orders issued pursuant to this subparagraph will be effective upon publication in the Federal Register, except that in the case of a final order where the Administrator has established terms and conditions as an alternative to cancellation or change in classification pursuant to subclause (iv), the order shall not be effective until thirty days after publication in the FEDERAL REGISTER, and a product will not be canceled nor its classification changed pursuant to the order if a registrant, within such thirty day time period, has applied to amend its registration to comply with the specified terms and conditions.

"(C) If, after reviewing the comments submitted pursuant to paragraph (4), and the record compiled at any informal hearing held pursuant to paragraph (5), the Administrator determines not to cancel, deny applications, or change classification, the Administrator shall publish in the FEDERAL REGISTER a final decision to that effect and shall send a copy of such decision to each registrant of, and applicant for, a registration addressed by the proposed order. Such decision shall include the information described by clauses (i)-(iii) of subparagraph (B) of this paragraph. Such a decision shall be effective upon publication.

"(7) PETITIONS TO SUSPEND, CANCEL, DENY APPLICATION OR CHANGE CLASSIFICATION.—

"(A) Any person may, at any time, petition the Administrator to suspend or cancel a registration pursuant to this section or to deny an application for registration or change the classification of a pesticide pursuant to section 3 of this Act. Such a petition must include the factual and legal bases supporting the petition.

"(B) If the Administrator determines that the requested action is necessary to serve the purposes of the Act, the Administrator shall suspend the pesticide or issue a proposed order to cancel, deny application, or change classification, and the appropriate provisions of sections 3 or 6 shall apply.

"(C) If the Administrator denies the petition, the Administrator shall issue an order specifying the basis for such denial.

"(8) EFFECT OF FINAL ORDER OF CANCELLATION, DENIAL OF APPLICATION, OR CHANGE IN CLASSIFICATION.—

"(A) The Administrator may issue an order summarily denying any application for registration or amendment under section 3 or 24 of this Act, or application for exemption pursuant to section 18 of this Act, with respect to a pesticide that has been subject to a final order issued pursuant to this section canceling registration, denying application for registration, or changing classification, unless the applicant has presented substantial new information which:

"(i) may materially affect the basis for or content of the prior order;

"(ii) was not available to the Administrator at the time he issued the final order; and

"(iii) could not, through the exercise of due diligence, have been available to the applicant prior to the issuance of the final order.

"If the Administrator determines that the applicant has not provided substantial new information complying with the requirements set forth in this subparagraph, the Administrator may issue an order summarily denying the application and shall send a copy of such order to the applicant.

"(B) If, after review of an application (and supporting data submitted by the applicant) for a registration or amendment pursuant to section 3 or 24 of this Act, the Administrator determines that the applicant has submitted substantial new information and that reconsideration of the prior final order may be warranted, the Administrator shall publish a notice in the Federal Register announcing that the Administrator is reconsidering the prior final order. Such notice shall describe the nature of the application, contain the factual and legal bases for the Administrator's determination that reconsideration may be warranted, and shall provide an opportunity of at least 60 days for interested persons to comment on the issues of whether reconsideration should be granted and whether the application should be granted.

"(C) After the opportunity for comment on a notice issued pursuant to section 6(b)(8)(B) has expired, the Administrator shall publish a final decision in the Federal Register either denying the application or granting reconsideration of the prior final order to the extent necessary to consider the application. A final decision granting reconsideration may, at the Administrator's discretion, contain a final determination granting or rejecting the application. If such a final determination is not contained in a final decision granting reconsideration, the application shall be reviewed according to the provisions of section 3 or 24 as appropriate.

"(D)(i) If the Administrator grants reconsideration, but denies the application, the Administrator shall publish in the Federal Register a notice proposing denial of registration pursuant to section 3(c)(6) of this Act. Such a notice may be contained in a final decision granting reconsideration issued pursuant to section 6(b)(8)(B). Subsequent action on the proposed denial shall be in accord with the applicable provisions of section 6(b).

"(ii) If the Administrator determines, after granting reconsideration, that the application should be granted, he shall publish in the Federal Register a notice granting the application. Such a notice may be contained in a final decision granting reconsideration issued pursuant to section 6(b)(8)(B).

"(9) Existing stocks.—The Administrator may permit the continued sale and use of existing stocks of a pesticide whose registration is canceled under this Act to such extent, under such conditions, and for such uses as the Administrator may specify if such sale or use is not inconsistent with the purposes of this Act and will not have unreasonable adverse effects on the environment.".

(d) Conforming Amendment.—

Section 25(d) (7 U.S.C. 136w(d)) is amended to read as follows:

"(d) Scientific Advisory Panel.—Prior to issuance of a proposed order under section 6(b), the Administrator shall notify an advisory panel of such action and shall provide such panel an opportunity to submit written comments as to the impact on health and the environment of such proposed orders. The Administrator shall submit proposed and final form regulations issued under section 25(a) within the same time periods as provided for the comments of the Secretary of Agriculture. The time requirements for proposed and final form regulations may not be modified or waived unless in addition to meeting the requirements of section 25(a), the advisory panel has failed to comment on the proposed action within the prescribed time period or has agreed to the modification or waiver.".

SEC. 5. COORDINATION WITH THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Section 6 (7 U.S.C. 136d) is amended by adding at the end the following:

"(i) Coordination With the Food, Drug, and Cosmetic Act.—

"(1) The Administrator shall, by order and without a hearing, cancel a pesticide registration, or deny the application for registration or amended registration of a pesticide if the Administrator has revoked a tolerance regulation or denied a petition to establish a tolerance regulation under section 408 of title 21 of the United States Code for residues of the pesticide in or on food that could result from the use of the pesticide, unless the Administrator determines that such use is unlikely to result in food that is adulterated within the meaning of section 342(a)(2)(B) of title 21 of the United States Code.

(2) Except where such order eliminates all uses of a pesticide, any order issued pursuant to paragraph (1) shall not be effective until thirty days after publication in the Federal Register, and an application or registration shall not be denied or canceled pursuant to the order if the applicant or registrant, within such thirty days, has applied to amend the registration or application to delete the uses that form the basis of the cancellation or denial under paragraph (1).".

SEC. 6. SUSPENSION.

(a) Section 6(c) (7 U.S.C. 136d(c)) is amended to read as follows:

"(c) Suspension.—

"(1) Order.—If the Administrator determines that use of a pesticide results in an imminent hazard, he may issue an order immediately suspending the registration of such pesticide. The order shall specify the bases for the Administrator's determination that an imminent hazard exists. The Administrator shall send to the registrant by certified mail a copy of the suspension order, and shall publish the order in the Federal Register. The order shall become effective with respect to the registrant, upon publication in the Federal Register or upon receipt by the registrant of the order, whichever occurs first. The order shall become effective with regard to persons other than the registrant, upon publication of the order in the Federal Register. The suspension shall automatically expire one hundred and eighty days after becoming effective unless, on or before such expiration date, the Administrator has published in the Federal Register a proposed cancellation order that would cancel the registration of the pesticide use suspended by the order issued under this subparagraph. If a proposed cancellation order is issued before the expiration date, the suspension shall continue in effect until terminated in accordance with paragraph (4).

"(2) Consultation with federal agencies.—If the Administrator intends to suspend a pesticide registered for agricultural uses the Administrator shall consult with the Secretary of Agriculture regarding the proposed suspension. If the Administrator intends to suspend a pesticide registered for public health uses, the Administrator shall consult with the Secretary of Health and Human Services regarding the proposed suspension.

"(3) Duration of suspension.—A suspension order issued under this subsection may be terminated by the Administrator at any time. A suspension order issued under this subsection shall automatically terminate upon completion of a proceeding to cancel the registration of the pesticide under subsection (b), or upon cancellation by the Administrator of the suspended registration. If the Administrator's cancellation of the suspended registration in overturned by a reviewing court, the suspension order issued under this subsection shall be reinstated unless otherwise ordered by the reviewing court, if the decision of the court overturning the cancellation allows for further substantive deliberations by the Administrator on the proposed cancellation.

"(4) Petition to reconsider suspension.—(A) A registrant, or any other interested person with the concurrence of the registrant, may, within thirty days of publication of the suspension order in the Federal Register, petition the Administrator to reconsider the issuance of the suspension order. A petitioner must include in the petition specific objections to the suspension order, and must include the specific bases supporting the petitioner's conclusion that the standard for suspension is not met. A petition must be accompanied by any information the petitioner wishes the Administrator to consider in reviewing the petition. The Administrator shall, within one hundred and twenty days of receipt of the last of such petitions, issue an order granting or denying petitions received within thirty days of the publication of a suspension order. Any suspension order issued under this subsection shall expire automatically if the Administrator fails to respond to any petition within the time required. Such an order responding to a petition for reconsideration shall be sent to the petitioner and published in the Federal Register, and shall include the factual and legal bases for the Administrator's determination on the petition.

"(A) A registrant, or any other interested person with the concurrence of the registrant, may file with the Administrator a petition to reconsider the issuance of a suspension order more than thirty days after publication of the suspension order in the Federal Register only if the petition is based upon substantial new information which:

"(i) may materially affect the basis for or content of the suspension order;

"(ii) was not available to the Administrator at the time he issued the suspension order or denied any petition submitted under subparagraph (5)(A) of this paragraph; and

"(iii) could not, through the exercise of due diligence, have been submitted to the Administrator within thirty days of the issuance of a suspension order.

"In addition to demonstrating that the petition is based upon new information which meets the criteria of this subparagraph, a person filing a petition more than thirty days after the publication of a suspension order must include in the petition specific objections to the suspension order and the specific bases supporting the petitioner's conclusion that the standard for suspension is not met. Such a petition must be accompanied by any information the petitioner wishes the Administrator to consider in reviewing the petition. The Administrator shall issue an order granting or denying a petition filed more than thirty days after the publication of a suspension order within one hundred and twenty days of receipt of the petition. Such an order shall be sent to the petitioner and published in the Federal Register, and shall include the factual and legal bases for the Administrator's determination on the petition.".

(b) Section 6(h) (7 U.S.C. 136d(h)) is amended to read as follows:

"(h) UNREVIEWABLE ACTIONS.—Nothing in this section relating to the provision of notification to or consultation with other Federal Agencies or the Scientific Advisory Panel shall be construed as creating any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person. No court of the United States shall have jurisdiction to review any challenge to any action or failure to take action by the Agency pursuant to this section where such challenge is based upon an assertion that the Agency failed to properly notify or consult with any other Federal Agency or the Scientific Advisory Panel.".

SEC. 7. LABEL CALL-IN.

(a) Section 3 (7 136a) is amended by adding at the end the following:

"(h) LABEL CALL-IN.

"(1) AUTHORITY TO REQUIRE CHANGES.—If the Administrator determines that the risks associated with the use of a pesticide can be reduced by a change in the labeling, packaging, or composition of the pesticide, the Administrator may issue a notice requiring that registrants change the labeling, packaging, or composition of the pesticide. Provided, however, that the Administrator may not pursuant to this section require any change in the labeling, packaging or composition of a pesticide if the Administrator determines the change will effectively prohibit or make economically unfeasible substantially all use of the pesticide on one or more use sites. The Administrator shall send any notice issued pursuant to this section to the registrant of every pesticide to which the determination relates. The notice shall include a description of the required changes and the bases for the Administrator's determination that such changes will reduce the risks associated with the use of the pesticide. The notice shall also include such requirements for notifying the Administrator or submitting amendments of registration reflecting the changes as the Administrator deems appropriate.

"(2) REGISTRANT RESPONSE.—Any registrant receiving a notice pursuant to subsection (a) may, within 60 days of receipt of the notice, file written objections to the change. A registrant may object to the change if the registrant believes:

"(A) the change would effectively prohibit or make economically unfeasible substantially all use of the pesticide on one or more use sites;

"(B) the change is not necessary for the particular product or that a better alternative means exists to prevent the unreasonable adverse effects on the environment;

"(C) the costs to society of making the proposed change exceed the benefits of the risk reduction associated with making the proposed change.

"Any objections must include the specific bases for the objections, and may be accompanied by any written information the registrant desires to submit in support of the objections. If a registrant fails to file timely objections to a notice the requirements contained in the notice shall become final and shall not be reviewable in any court.

"(3) RESPONSE TO OBJECTIONS.—The Administrator shall respond to any objections within 90 days of receipt of the objections by either withdrawing, modifying, or affirming the requirements contained in the notice issued pursuant to subsection (a). Such written response shall be sent to the registrant and shall include the bases therefor. The response shall also include such requirements for notifying the Administrator or submitting amendments of registration reflecting the changes as the Administrator deems appropriate.

"(4) ANNUAL COMPLIANCE DATE.—An annual compliance date is hereby established to be on the first day of October. The Administrator may establish a different compliance date for registrants if it would be in the public interest.

"(5) TIME TO MAKE CHANGE.—Except as provided in paragraph (g), a registrant may not distribute or sell a product on or after the first compliance date occurring more than one year after issuance of a notice pursuant to subsection (a) of this section unless the labeling, packaging, or composition of such product complies with any requirements contained in the notice or, if the notice is challenged, in the response to objections issued pursuant to subsection (c). Provided, however, that of timely objections are filed and the Administrator does not respond to such objections within 90 days, a registrant may not distribute or sell a product on or after the first compliance date occurring more than 7 months after the Agency responds to the objections, or more than one year from the issuance of the notice under subsection (a), whichever is later.

"(6) EXCEPTION.—Notwithstanding any other provision of this subsection, if the Administrator determines that an earlier effective date for a change in product labeling, packaging, or composition is in the public interest, the Administrator may require such changes within reasonable timeframes.

"(7) SUSPENSION.—If a registrant fails to comply with a notice issued under subsection (a) or a written response modifying a notice under subsection (c), the Administrator may issue an order without hearing suspending the registration. Such suspension shall remain in effect until the registrant has complied with the terms of the notice or the response modifying the notice.

"(8) PESTICIDES IN THE CHANNELS OF TRADE.—

"(A) Except as provided in paragraph (2), persons other than the registrant, of a pesticde product that does not comply with a notice issued under subsection (a) and any written response to objections under subsection (c), may continue to distribute or sell such pesticide product for two years after the registrant is prohibited from selling such product under subsection (f).

"(B) The Administrator may specify a shorter period for the distribution or sale of non-conforming pesticide products than is provided in paragraph (1) of this subsection if the Administrator determines that a shorter period is in the public interest. The Administrator shall publish promptly such determination in the Federal Register.

"(9) RECALL.—The Administrator may, by order, require the recall of any pesticide distributed or sold in violation of any requirement issued by the Administrator pursuant to this section. An order issued under this subsection may apply to any person who distributes or sells any pesticide in violation of such a requirement and may require such person to—

"(A) arrange to make available one or more storage facilities to receive and store the pesticide to which the recall order applies, and inform the Administrator of the location of each such facility;

"(B) accept and store at such facility any pesticide distributed or sold by such person in violation of this section that are tendered by any other person who obtained the pesticide directly or indirectly from the person that is subject to such order;

"(C) on the request of a person making such a tender, provide for proper transportation of the pesticide to a storage facility;

"(D) take such reasonable steps as the Administrator may prescribe to inform persons who may be holders of the pesticide of the terms of the recall order and how those persons may tender the pesticide and arrange for transportation of the pesticide to a storage facility; and

"(E) reimburse any person to whom such pesticide was sold for any unused quantities of such pesticide, unless the purchaser had knowledge at the time of sale that such sale was in violation of any requirement issued by the Administrator pursuant to this section.

"(10) USE SITE.—For purposes of this section, a use site means, for any agricultural use of a pesticide, a particular crop or commodity. The Administrator shall identify, by regulation, non-agricultural use sites.".

"(b) CONFORMING AMENDMENT.—

Section 12(a)(2) (7 U.S.C. 136j(a)(2)) is amended by adding at the end the following:

"(T) to sell or distribute any pesticide product in violation of any requirement issued by the Administrator pursuant to section 3(g).".

SEC. 8. PHASE-OUT/PHASE-DOWN.

Section 6 (7 U.S.C. 136d) is amended by adding at the end the following:

"(j) REDUCTION, RESTRICTION OF ELIMINATION OF USE OF PRODUCTION OF A PESTICIDE.—

"(1) STANDARD FOR REDUCTION, RESTRICTION, OR ELIMINATION.— If the Administrator determines that—

"(A) credible scientific evidence indicates that use of the pesticide is reasonably likely to pose a significant risk to humans or the environment; and

"(B) additional information should be developed to reduce uncertainties regarding the risk;

"the Administrator shall, pursuant to paragraphs (2)–(4), restrict, reduce, or eliminate the use or production of the pesticide, or evaluate other action as may be necessary to address the risk during the period required for the development, submission and review of such additional information. The Administrator may gather any needed information by use of section 3(c)(2)(B) of this Act.

"(2) CONSULTATION WITH THE SECRETARY OF AGRICULTURE.—Prior to taking action under paragraph (1), The Administrator, in consultation with the Secretary of Agriculture, shall develop a strategy to reduce or limit the risk identified in order to avoid unnecessary dislocation in agricultural production.

"(3) PROPOSED RULE.— If the Administrator determines that the standard for taking regulatory action under paragraph (1) is met, the Administrator may issue a proposed rule to restrict, reduce or eliminate the use or production of a pesticide. The Administrator shall publish the proposed rule in the Federal Register and shall afford the registrant and any other interested person an opportunity to comment on the proposed rule for at least 60 days after publication in the Federal Register. Any person may submit comments concerning the impact of the proposal on the benefits of the use of the pesticide. The proposed rule shall include (or incorporate by reference to publicly available documents) the following:

"(A) The terms and conditions of the proposed rule, including any proposed strategy developed pursuant to paragraph (2) to avoid unnecessary dislocation in agricultural production;

"(B) a statement of the factual and legal bases for the proposed action; and

"(C) a description of the additional information needed to address the uncertainties of the risk identified in paragraph (1).

"(4) FINAL RULES.— (A) If no comments opposing the proposed rule are submitted by registrants or other interested persons during the comment period provided under paragraph (3), and if the registrant does not file a timely application for amendment of registration to implement the changes, if any, specified in the proposed rule, the Administrator may issue a final rule. The Administrator shall publish such final rule in the Federal Register. A final rule issued under this paragraph shall not be subject to judicial review.

"(B) If, after reviewing comments submitted pursuant to paragraph (3), the Administrator determines that the standard for taking action under paragraph (1) has been met, the Administrator shall publish a final rule in the Federal Register. The final rule shall include (or incorporate by reference to publicly available documents) the following:

"(i) the terms and conditions of the final rule;

"(ii) the factual and legal bases for the final rule;

"(iii) a summary of the significant comments received under paragraph (3) and the Administrator's responses to those comments; and

"(iv) a description of the additional information needed to address the uncertainties of the risk identified in paragraph (1)

"(C) if, after reviewing the comments submitted under paragraph (3) the Administrator determines not to restrict, reduce, or eliminate pesticide uses or production the Administration shall publish such determination in the Federal Register. Such decision shall include the factual and legal basis for the determination, a summary of the significant comments submitted under paragraph (3), and the Administrator's response to those comments. Such a decision shall be effective upon publication.

"(D) Section 25(a) of this Act shall not apply to proposed or final rules issued pursuant to this subsection.

"(E) Unless otherwise ordered by a court of appropriate jurisdiction, a final rule issued under paragraph (4) shall remain in effect pending the resolution of any regulatory action under section 6 or section 106 or until such time as the Administrator revokes or modifies the rule.

"(5) REVIEW OF INFORMATION.—

"(A) The Administrator shall review promptly upon submission the information identified in the final rule and shall:

"(i) initiate appropriate regulatory action under section 6 or section 106;

"(ii) revoke or modify the rule pursuant to the procedures provided in paragraphs (3) and (4) of this subsection; or

"(iii) issue a final determination to maintain in effect the final rule if the information submitted is not sufficient for the Administrator to proceed under clauses (i) and (ii).

"(B) A final determination issued pursuant to subparagraph (A)(iii) to maintain in effect a final rule shall be published in the Federal Register and shall be subject to judicial review pursuant to section 16(a) of this Act.

"(6) EFFECT ON OTHER AUTHORITIES.—Nothing in this subsection shall limit the authority of the Administrator to take any regulatory or enforcement action at any time under any other provision of this Act.".

SEC. 9. REDUCED RISK PESTICIDES.

(a) REDUCED RISK PESTICIDES.—

(1) Section 3(c)(1) (7 U.S.C. 136a(c)(1)) is amended to add at the end the following:

"(G) If the applicant is requesting designation as a reduced risk pesticide, an explanation of the basis for the request, in accordance with paragraph (9) of this subsection.".

(2) Section 3(c) (7 U.S.C. 136a(c)) is amended to add at the end the following:

"(9) REDUCED RISK PESTICIDES.—

"(A) Not later than 1 year after the enactment of this paragraph, the Administrator shall develop criteria, after opportunity for public comment, for the designation of reduced risk pesticides. Such criteria shall, at a minimum, address potential risks to human health, toxicity to other non-target organisms, environmental persistence, potential to contaminate the environment, and compatibility with integrated pest management strategies.

"(B) Any registrant or applicant for registration may request the Administrator to designate a pesticide as a reduced risk pesticide under this paragraph. The Administrator shall prescribe the form and content of such requests for designation, which shall require the requestor to address each criterion established under subparagraph (A). A request for designation may be combined with an application for registration under this section.

"(C) The Administrator, within 30 days after receiving a request for designation, shall notify the applicant or registrant requesting designation whether the request is complete. If it is found to be incomplete, the Administrator shall reject the request. If the request is complete, the Administrator shall review the request not later than 120 days after receipt, and shall designate the pesticide as a "reduced risk pesticide" if the pesticide meets the criteria for reduced risk issued pursuant to paragraph (A). The Administrator shall publish a notice of findings regarding such designation in the Federal Register.

"(D) If a request for designation is accompanied by an application for registration or amended registration, the Administrator, within 180 days of designating that a pesticide qualifies for reduced risk status, shall complete review of the application and shall notify the applicant or registrant whether the registration or amended registration has been granted or denied. If the application is denied, the Administrator shall comply with the procedures under section 3(c)(6).

"(E) If at any time after the designation of a pesticide as a reduced risk pesticide the registrant has additional information bearing on the pesticide's ability to meet the criteria established under subparagraph (A), the registrant shall immediately submit a report containing such information to the Administrator.

"(F) If at any time after the designation of a pesticide as a reduced risk pesticide the Administrator concludes that the determination made under subparagraph (C) can no longer be supported, the Administrator shall revoke the designation, after providing the registrant with an opportunity for comment on the basis of the Agency's conclusion.

(b) EXCLUSIVE USE OF REDUCED RISK PESTICIDES AND MINOR USE PESTICIDES.—Section 3(c)(1)(D) (7 U.S.C. 136a(c)(1)(D)) is amended to add a new clause (ii) and to redesignate existing clauses (ii) and (iii) as clauses (iii) and (iv), respectively.

"(ii) the period of exclusive data use for data submitted to support the application for the original registration of a pesticide under clause (i) shall be extended by an additional two years if, after the date of enactment of this provision—

"(I) the Administrator approves at least three minor uses of the pesticide prior to the expiration of the period of exclusive use under clause (i); or

"(II) the pesticide has been designated as a reduced risk pesticide pursuant to paragraph (9)(C) of this subsection prior to the expiration of exclusive use under clause (i).

"Any additional exclusive use period under subclause (I) or (II) shall terminate if the original data submitter voluntarily cancels the original registration of the pesticide supported by data described in clause (i) of this subsection. Any additional exclusive use period under subclause (II) shall terminate if the Administrator revokes the designation of a pesticide as reduced risk under paragraph (9)(E) of this subsection.".

(c) DEFINITION OF BIOLOGICAL PESTICIDE.—Section 2 (7 U.S.C. 136) is amended by adding at the end the following:

"(hh) BIOLOGICAL PESTICIDE.—The term "biological pesticide" means a biochemical pesticide, plant pesticide, or any organism that is a biological control agent, including a microbial pesticide.".

(d) CONDITIONAL REGISTRATION FOR NEW BIOLOGICALS.—Section 3(c)(7) (7 U.S.C. 136a (c)(7)) is amended by adding at the end the following:

"(D) The Administrator may conditionally register a biological pesticide, as that term is defined by section 2 (7 U.S.C. 136) of this Act, or a mixture of biological pesticides not contained in any currently registered pesticide prior to the development of all data necessary for the Administrator to determine whether the pesticide meets the requirements or paragraph (5) of this subsection. A conditional registration under this paragraph may be granted for a period no longer than is necessary for the generation, submission and review of required data and on the condition that by the end of such period the Administrator receives such data and the data do not meet or exceed risk criteria enumerated in regulations issued under this Act, and on such other conditions as the Administrator may prescribe. A conditional registration under this subparagraph shall be granted only if the Administrator determines, based on available information, that use of the pesticide during such period will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is in the public interest.".

(e) REGISTRATION PRIORITIES.—Section 3(c) is amended by adding at the end the following:

"(10) The Administrator shall give priority to applications in the following order:

"(A) applications for registration of any pesticide that would meet pest control needs which are currently being addressed through pesticide use authorized under Section 18 of this Act;

"(B) applications which EPA considers likely to reduce the risk of adverse effects on the environment from the use of currently registered pesticides subject to proceedings under section 6;

"(C) applications for registration of any pesticide that meets reduced risk criteria established by the Administrator;

"(D) applications for the registration of pesticides for minor uses;

"(E) other applications.".

(f) AMENDMENTS TO CONFORM TO CURRENT REGISTRATION PRIORITIES.—

(1) Section 3(c)(3)(B)(ii) (7 U.S.C. 136a(c)(3)(B)(ii)) is amended as follows:

"(ii) In expediting the review of an application for an action described in clause (i), the Administrator shall, to the extent consistent with the priorities established in subsection (10),—".

(2) RESEARCH AND INVESTIGATION, MONITORING, EDUCATION AND INFORMATION.—Section 20 (7 U.S.C. 136r) is amended as follows:

(A) by redesignating subsections (b) and (c) as (c) and (d), respectively.

(B) by amending subsections (a)-(c) as follows—

"SECTION 20. RESEARCH AND INVESTIGATION, MONITORING, EDUCATION AND INFORMATION"

"(a) COOPERATIVE AGREEMENTS.—The Administrator may enter into cooperative agreements, interagency agreements and contracts with, and issue grants to, Federal, State tribal and local agencies, other public or private agencies, institutions, organizations, and individuals for research, investigations, studies, demonstrations or other activities for the purposes of carrying out this Act. Such activities may include, but are not limited to, research, investigations, demonstrations, and studies in integrated pest management, alternative pest management, and reduced pesticide use. The Administrator shall consult with the Secretary of Agriculture in conducting research, investigations, studies, and demonstrations in integrated pest management, and with the Secretary of State and the Administrator of the Agency for International Development when international activities are involved.

"(b) INFORMATION EXCHANGE.—The Administrator, in cooperation with other Federal, State, Tribal, and local agencies, universities or others, may promote training, education and information exchange for the general public and for pesticide users.".

(3) by adding new subsections (e) and (f) as follows—

"(e) SURVEYS OF INFANTS AND CHILDREN.—The Secretary of Health and Human Services and the Secretary of Agriculture, in consultation with the Administrator, shall review the recommendations of the National Academy of Sciences report, "Pesticides in the Diets of Infants and Children", and conduct surveys to document dietary exposure to pesticides among infants and children and perform such other research and collect such information as they determine would be necessary for the evaluation and implementation of the recommendations.

"(f) DUPLICATION OF ACTIVITIES.—The Administrator shall ensure that activities conducted under this section will not result in unnecessary duplication of activities being undertaken by any other Federal agency or part of the Environmental Protection Agency.".

(3) STATE AND TRIBAL PROGRAM DEVELOPMENT, ENFORCEMENT, AND TRAINING.—Section 23 (7 U.S.C. 136u) is amended as follows:

"SEC. 23. STATE AND TRIBAL PROGRAM DEVELOPMENT, ENFORCEMENT, AND TRAINING.

The Administrator may enter into cooperative agreements, interagency agreements and contracts with, and issue grants to, States and Indian tribes—

"(a) to delegate to any State or Indian tribe the authority to cooperative in the enforcement of this Act through the use of its personnel or facilities, to train personnel of the State or Indian tribe to cooperative in the enforcement of this Act, and to assist States and Indian tribes in implementing cooperative enforcement programs;

"(b) to assist States and Indian tribes in developing and administering State and tribal programs, and to train and certify applicators consistent with the standards the Administrator prescribes; and

"(c) to cooperate in the development of national pesticide programs, including, but not limited to, efforts to protect endangered species, ground water, the public, workers, and users from pesticide contamination and exposure, and to assist States and Indian tribes in implementing effective pesticide programs.

"(d) the Administrator shall, in cooperation with the Secretary of Agriculture, use the services of the cooperation state extension services [illegible] inform and educate pesticide users about accepted uses and other regulations made under this Act.".

"(g) ALTERNATIVE PEST CONTROL STRATEGIES.—Section 28 (7 U.S.C. 136w) is amended to read:

"(a) IN GENERAL.

"(1) It shall be the goal of the Secretary, as it relates to research in pest control methods, to support research and development of pest control methods that reduce risks to human health and the environment. The purpose of such research shall be to achieve pest management in the most environmentally sound manner possible, to reduce the incidence of pest resistance, and to develop sufficient pest management alternative to ensure economical agricultural production.

"(2) In support of (1), the following activities shall be pursued:

"(A) COMPARABLE INFORMATION ON PESTICIDE PROPERTIES. The Administrator, in consultation with the Secretary of Agriculture, shall develop and make readily available information that identifies the significant environmental properties and potential human health effects of pesticides, provides for comparison and analysis of those properties, and provides information necessary to assist in establishing priorities for research and development of alternative pest management methods.

"(B) EVALUATION OF EFFECTIVENESS OF PEST CONTROL METHODS. The Secretary of Agriculture, in coordination and cooperation with the Administrator, shall develop a system for evaluating agricultural pest control needs and the effectiveness of available chemical, biological and non-pesticide methods to control pests. Such system shall identify agricultural pest management needs for which there are inadequate methods of control including the incidence of pest resistance and provide a means to assist in setting priorities for research and development.

"(C) RESEARCH PRIORITIES. The Secretary of Agriculture, after consultation with the Administrator, and taking into account private, academic, and other public research activities, shall establish priorities for the Department of Agriculture's research and development efforts in pest management methods. The Secretary shall give highest priority to research and development of methods that would significantly reduce risks to public health and the environment and would meet agricultural pest management needs for which there are inadequate methods of control. The highest priority shall be for research and development into methods that would meet the criteria stated above and would provide pest control methods to serve as alternatives to pesticides identified in (b).

"(b) SAFER ALTERNATIVE PEST CONTROL PLANS.—The Secretary and the Administrator, in consultation with the Secretary of the Interior shall develop and implement a process for coordinating environmental risk reduction through identification of pesticides that pose significant risk to human health or the environment, and for which development of use reduction programs and research on safer alternative means of pest control should be high priority for USDA research programs. The Secretary shall give highest priority to research on methods that would significantly reduce risks to public health and the environment, lead to more sustainable agricultural systems, and would meet significant agricultural pest management needs for which there are inadequate methods of pest management.

"(1) LIST OF PESTICIDES.—The Administrator shall identify and provide to the Secretary of Agriculture, within six months of enactment and annually thereafter, a list of agricultural use pesticides—

"(A) for which the Administrator is considering regulatory action under section 4 or 6 that would affect the availability of the pesticide. Such list shall include the associated agricultural commodities and pests which may be affected by regulatory action regarding the pesticide.

"(B) which otherwise pose significant risks to human health and the environment.

"(C) for which there exists significant instances of pest resistance.

"(2) DEVELOPMENT OF PLANS.—The Secretary shall review all available alternatives to the pesticides contained in the list provided in (b)(1). Not later than 6 months after the Administrator provides the list to the Secretary, the Secretary shall, in consultation with the Administrator, develop a research and technology transfer plan for each pest-commodity combination on the list for which there are insufficient efficacious alternative pest control techniques that present significantly less risk to human health or the environment. In developing and implementing such plans, the Secretary shall give highest priority to those pesticides identified in subsection (b)(1)(A).

"(A) The objectives of each plan shall be:

"(i) to provide alternative pest control methods to growers who will otherwise be limited in the pest control methods available, and;

"(ii) to significantly reduce risks to humans and the environment.

"(B) Each plan shall be developed and implemented in a manner consistent with any schedules for regulatory action in sections 4 and 6.

"(c) RESEARCH.—The research component of each plan shall:

"(1) identify all ongoing research which could support the strategy and establish priorities for research to be undertaken pursuant to the plan;

"(2) provide for the direct involvement of growers in affected regions, educational or research institutions, and other interested persons in the design, implementation and evaluation of the plan;

"(3) give priority to research in cultural pest controls, biological pest controls, and other non-chemical pest controls;

"(d) TECHNOLOGY TRANSFER.—The technology transfer component of each plan shall:

"(1) be developed with direct involvement of affected growers, educational or research institutions and other interested persons;

"(2) provide for farm level education and technology transfer of successful alternative pest controls.

"(3) identify research projects nearing completion which meet the objectives of this subsection and expedite technology transfer of such research to growers."

"(e) COORDINATION WITH REGISTRATION ACTIVITIES.—The Administrator shall give priority to applications of any pesticide meeting the criteria for reduced risk under section 9 that may be developed as part of the strategy implementation;

"(f) Implementation Plan.—The Secretary and the Administrator shall prepare annually and present to the House Agriculture Committee and the Senate Agriculture and Forestry Committee report on the progress of pest management for each agricultural commodity for which there exists a plan under paragraph (2). The report shall include an evaluation of whether the plans are meeting the objectives of paragraph (2). Evaluation shall be conducted by a committee that includes affected growers, researchers, members of the public and officials of USDA and EPA. The Secretary and the Administrator shall make necessary modifications to the plans, pursuant to such evaluation.

"(g) Use of Research Funds.—

"(1) The Secretary shall allocate sufficient appropriated funds to carry out the objectives of this section.

"(2) The Secretary may provide funds to carry out research and technology transfer plans to which grower funds have been committed, including grower check-off programs, marketing orders or other grower funded activities. The Secretary shall give priority to research which is partially funded by non-federal entities. No monies under this section may be made available to persons directly or indirectly engaged in the registration of pesticides under this Act for profit.

"(h) Duplication of Research Activities.—The Secretary shall ensure that research conducted under this section does not duplicate research being undertaken by other government agencies, academic institutions, or private entities.

"(i) Integrated Pest Management.—The Secretary of Agriculture, in consultation and cooperation with the Administrator shall establish a national goal for the adoption of integrated pest management techniques. Integrated pest management refers to the use of pest management techniques that includes reliance on field monitoring-data, use of economic thresholds in decision-making, conservation of beneficial and non-target species, utilization of biologically based controls and other techniques which minimize the environmental and human health risks of pest management practices. The Secretary of Agriculture, in cooperation with the Administrator, shall implement research, demonstration, and education programs to support meeting the goals for adoption of integrated pest management, and shall collect such information as necessary to evaluate the extent to which the goal is being met. The Secretary of Agriculture and the Administrator shall make information on integrated pest management widely available to pesticide users, including federal agencies. Federal agencies shall use integrated pest management techniques in carrying out pest management activities and shall promote integrated pest management through procurement, regulatory policies, and other activities.

"(j) Use Reduction.—The Secretary, in cooperation with the Administrator, shall initiate pilot programs designed to establish and implement pesticide use reduction goals in selected ecosystems, in cooperation with agricultural producers, federal, state and local officials, and other appropriate public and private entities.".

SEC. 10. MINOR USE PESTICIDES.

(a) Definition.—Section 2 (7 U.S.C. 136) is amended by adding at the end the following:

"(ii) Minor Use.—The term "minor use" means the use of a pesticide on a commercial agricultural crop, on an animal, or for the protection of public health, for which the Administrator determines that:

"(1) the total United States acreage for the crop is less than 300,000 acres and the average annual value of production for the crop for the three calendar years most recently completed does not exceed $500,000,000 adjusted upward annually for inflation utilizing the Producer Price Index for Farm Products; or

"(2) based on information supplied by the applicant, the use does not provide sufficient economic incentive to support initial or continued registration and one of the following criteria applies:

"(A) there are insufficient efficacious alternative registered pesticides available for the use;

(B) the alternatives to the pesticide pose greater risks to the environment or human health; or

"(C) the pesticide plays a significant part in managing pest resistance.".

(b) Adequate Time For Submission of Minor Use Data.—Section 4 (7 U.S.C. 136a) is amended by adding at the end the following:

"(m) Adequate Time For Submission of Minor Use Data.—

"(1) If—

"(A) A registrant requests a waiver, within time frames and in accordance with the terms established by the Administrator for a minor use waiver of data required under this section or section 3(c)(2)(B); and

"(B) The Administrator denies in whole or in part such waiver request;

"the registrant shall have the time period originally established by the Agency for submission of such data, beginning with the date of the Administrator's notification of denial.

"(2) If a registrant requests additional time, within time frames and in accordance with the terms established by the Administrator, for submission of residue chemistry data for one or more minor food uses, the Administrator may approve a time extension for submission of such data until the final deadline, established as of the date of the approval of the request, for the submission of the last data required to support reregistration of the pesticide active ingredient.

"(n) Continuation of Unsupported Minor Uses—

"(1) Notwithstanding any other provision of this section, the Administrator, on request of a registrant, many delay action to delete a minor food or feed use for which the registrant has not agreed to timely submit residue data necessary for reregistration under this section. Provided that, the Administrator may approve such delay only if the registrant continues to timely submit all other data necessary for reregistration and provided that the delay would not increase the risk of unreasonable adverse effects on the environment or impair the Administrator's ability to make the determination required by subsection (g)(2). Such delay shall extend no longer than the final deadline, established as of the date of the approval of the request, for the submission of data for the continued uses of the active ingredient.

"(2) The Administrator shall publish in the Federal Register notice of minor uses that are approved for continued use, and the date upon which such will be deleted from the pesticide registrations. Each registrant must cease all distribution and sale of products labeled for the minor use on the established date.

"(3) The Administrator may by order and without hearing delete a use continued under this subsection at any time prior to the established date if no registrant is fulfilling data requirements (other than residue chemistry data) necessary for reregistration, or if the Administrator determines that the delay may increase the risk of unreasonable adverse effects on the environment or significantly impair the ability to make the determination required by subsection (g)(2). If the registrant does not comply with the order to remove the use from its product registrations, the Administrator shall cancel registrations continuing the use by order without a hearing.

"(o) Authorization of Funds to Develop Public Health Data—

"(1) For the purposes of this section, "Secretary" means Secretary of Health and Human Services, acting through the Public Health Service.

"(2) In the case of a pesticide registered for use in public health programs for vector control or for other uses the Administrator determines to be human health protection uses, the Administration shall upon timely request by the registrant or any other interested person, or on the Administrator's own initiative may, consult with the Secretary prior to taking final action to suspend registration under section 3(c)(2)(B)(iv), or cancel a registration under sections 4, 6(e) or 6(f). In consultation with the Secretary, the Administrator shall prescribe the form and content of requests under this section.

"(3) The Administrator, after consulting with the Secretary, shall make a determination whether the potential benefits of continued use of the pesticide for public health or health protection purposes are of such significance as to warrant a commitment by the Secretary to conduct or to arrange for the conduct of the studies required by the Administrator to support continued registration under Section 3 or reregistration under Section 4.

"(4) If the Administrator determines that such a commitment is warranted and in the public interest, the Administrator shall notify the Secretary and shall, to the extent necessary, amend a notice issued under section 3(c)(2)(B) to specify additional reasonable time periods for submission of the data.

"(5) The Secretary shall make such arrangements for the conduct of required studies as the Secretary finds necessary and appropriate to permit submission of data in accordance with the time periods prescribed by the Administrator. Such arrangements may include, but are not limited to, Public Health Service intramural research activities, grants, contracts or cooperative agreements with academic, public health, or other organizations qualified by experience and training to conduct such studies.

"(6) The Secretary may provide for support of the required studies using funds authorized to be appropriated under this section, the Public Health Service Act, or other appropriate authorities. After a determination is made under subsection (d), the Secretary shall notify the Committees on Appropriations of the House of Representatives and the Senate of the sums required to conduct the necessary studies.

"(7) There is authorized to be appropriated to carry out the purposes of this section $12,000,000 for fiscal year 1993, and such sums as may be necessary for succeeding fiscal years.".

SEC. 11. PESTICIDE FEES.

(a) Waiver of Fees For Biological Pesticides.—Section 4(i)(4) (U.S.C. 136a–1(i)(4)) is amended by:

(1) renumbering subparagraph (C) as subparagraph (D); and

(2) adding the following new subparagraph (C):

"(C) A biological pesticide the value or volume of use of which is small, shall be exempt from the fees prescribed by paragraphs (1), (2), and (3).".

(b) CONTINUATION OF MAINTENANCE FEES.—Section 4(i)(5)(E) (U.S.C. 136a-1(4)(i)(5)(E)) is amended to read as follows:

"(E) The authority provided under this paragraph shall terminate on September 30, 1999.".

(c) CONFORMING AMENDMENTS.—

(1) Section 4(i)(6) (U.S.C. 136a-1(4)(i)(6)) is repealed, and subsection (7) is renumbered as subsection (6).

(2) Section 4(i) (U.S.C. 136a-1(4)(i)) is amended to add at the end the following:

"(7) SUPPLEMENTAL REREGISTRATION FEE.—

"(A) In addition to fees required pursuant to paragraphs (1)-(5), the registrants of pesticides that contain an active ingredient that is listed under subparagraphs (A), (B), (C), or (D) of subsection (c)(2) and that is an active ingredient of any pesticide registered for a major food or feed use shall collectively pay a fee of up to $120,000 at such time as the Administrator shall prescribe subject to the limitation of subparagraph (C).

"(B) In addition to fees required pursuant to paragraphs (1)-(5), the registrants of pesticides that contain an active ingredient that is listed under subparagraphs (A), (B), (C), or (D) of subsection (c)(2) and that is not an active ingredient of any pesticide registered for a major food or feed use shall collectively pay a fee of up to $60,000 at such time as the Administrator shall prescribe subject to the limitation of subparagraph (D).

"(C) The first ½ of the total fee due under subparagraph (A) or (B) shall be paid not later than nine months after the effective date of this paragraph and the remaining ½ not later than 21 months after the effective date of this paragraph.

"(D) If 2 or more registrants are required to pay any fee prescribed by subparagraph (A) or (B) with respect to a particular active ingredient, the fees for such active ingredient shall be apportioned among such registrants on the basis of the market share in United States sales of the active ingredient for the calendar years 1990 through 1992; provided, that no fee shall be collected from registrants owing less than $100.00.

"(E) The Administrator, by order, may require any registrant to submit such reports as the Administrator determines to be necessary to allow the Administrator to determine and apportion fees under subparagraph (A) or (B), and (D), or to determine the registrant eligibility for a reduction or waiver of a fee.

"(F) If a report required under subparagraph (E) is not submitted by a registrant by the time prescribed, or if any fee prescribed by subparagraph (A) or (B) for an active ingredient is not paid by a registrant to the Administrator by the time prescribed, the Administrator, by order and without hearing, may cancel each registration held by such registrant of a pesticide containing the active ingredient with respect to which the reporting requirement or fee is imposed.

"(G) An active ingredient that is contained only in pesticides that are registered solely for agricultural or non-agricultural minor uses, or a pesticide the value or volume of use of which is small, shall be exempt from the fees prescribed by subparagraph (B).

"(H) A biological pesticide shall be exempt from the fees prescribed by subparagraphs (A) and (B).

"(8) PESTICIDE PRODUCT REREGISTRATION FEE.—

"(A) For all determinations pursuant to subsection (g)(2) that a pesticide is eligible for reregistration, the registrant of that pesticide shall pay a fee of $750 for each affected product.

"(B) The amount of the fee prescribed under subparagraph (A) may be adjusted by the Administrator to a level that will result in the collection under this paragraph of, to the extent practicable, an aggregate amount of at least $4,000,000, over 4 years after enactment.

"(C) If any fee prescribed by this paragraph is not paid within 90 days of the registrant's receipt of the reregistration eligibility determination specified in Section 4(g)(2), or within 270 days after enactment of this subparagraph, whichever is later, the Administrator, by order and without hearing, may cancel the current registration and deny reregistration for the pesticide for which the fee is not paid.

"(D) In the case of a pesticide that is registered for a minor agricultural use or the value of volume of use of which is small, the Administrator may reduce or waive the payment of the fee imposed under this paragraph if the Administrator determines that the fee would significantly reduce the availability of the pesticide for the use.

"(E) The cumulative maximum fees payable by a single registrant under this paragraph shall be $75,000. A registrant shall be required to pay no more than one fee for each product.".

SEC. 12. USE-BY-PRESCRIPTION.

Section 3(d)(1)(C)(ii) (7 U.S.C. 136a (d)(1)(C)(ii)) is amended and Subsection (iii) is added at the end:

"(ii) If the Administrator classifies a pesticide, or one or more uses of a pesticide, for restricted use because of a determination that its use without additional regulatory restriction may cause unreasonable adverse effects on the environment, the pesticide shall be applied only by or under the direct supervision of a certified applicator, or subject to such other restrictions as the Administrator may provide by regulation. A restricted use classification or a change in classification of any use of a pesticide from general to restricted use established by rule under this clause shall not be subject to the provisions of section 6(b).

"(iii) The Administrator may include a provision in a rule issued pursuant to subsection (ii) restricting a pesticide to use only by prescription if the Administrator determines that retaining the use of a pesticide subject to such restriction is necessary for integrated pest management programs, pest resistance programs or otherwise to reduce risk. If the Administrator includes such a provision in a rule issued pursuant to paragraph (ii), the Administrator shall (I) prohibit the use of the pesticide in any state for which the state has not developed, in accordance with criteria established by the Administrator, an appropriate state prescription use plan, or (II) establish criteria for issuing pesticide use prescriptions, and may authorize persons qualified under such criteria to issue prescriptions pursuant to the rule.".

SEC. 13. JUDICIAL REVIEW.

(b) REVIEW BY COURTS OF APPEALS.—Sections 16(b) (7 U.S.C. 136n(b)) and Section 16(c) (7 U.S.C. 136n(c)) are amended to read as follows:

"(b) REVIEW BY COURTS OF APPEALS.—

"(1) REVIEW IN THE DISTRICT OF COLUMBIA CIRCUIT.—A petition for review of any of the following actions of the Administrator may be filed by any adversely affected persons only in the United States Court of Appeals for the District of Columbia Circuit:

"(A) the promulgation of any regulations by the Administrator under this Act, or a final determination maintaining in effect a final rule under section 6(i)(5)(A)(iii) of this Act;

"(B) a final order of the Administrator canceling or suspending a pesticide registration in whole or in part or concluding that a pesticide registration should not be canceled or suspended;

"(C) a final order of the Administrator approving or denying an application for a pesticide registration;

"(D) a final order of the Administrator changing the classification of any use of a pesticide;

"(E) a final order of the Administrator responding to objections to a notice requiring changes in the labeling, packaging, or composition of a pesticide;

"(F) a final order of the Administrator denying a petition seeking to suspend or cancel a pesticide registration, to deny an application for a registration, to reconsider whether a registration should be suspended, or to change the classification of a pesticide;

"(G) a final determination of the Administrator to renew a pesticide registration under section 3(g)(4);

"(H) a final determination of the Administrator resulting in the expiration of a registration under section 3(g)(5);

"(I) a final order issuing or denying an emergency exemption to a Federal agency.

"(2) REVIEW BY OTHER COURTS OF APPEALS.—A petition for review of any of the following actions of the Administrator may be filed by any adversely affected person only in the United States court of appeals for the circuit in which the state in question is located or in which a hearing assessing a civil penalty occurred:

"(A) a final order following a hearing assessing a civil penalty;

"(B) a final order of the Administrator determining that a state shall have primary enforcement authority pursuant to section 26 of this Act;

"(C) a final order of the Administrator rescinding primary enforcement authority pursuant to section 27 of this Act;

"(D) a final order of the Administrator approving or disapproving a state certification plan for pesticide applicators pursuant to section 11 of this Act;

"(E) a final order approving or disapproving a state plan for the issuance of experimental use permits under section 5 of the Act;

"(F) a final order of the Administrator disapproving a state's registration of a pesticide or suspending a state's authority to register pesticides pursuant to section 24 of this Act; or

"(G) a final order issuing or denying an emergency exemption to a state.

"(3) PROCEDURE.—Except as provided in paragraph (4) of this subsection, any petition for review under paragraph (1) or (2) of this subsection must be filed within sixty days of the final action unless the petition for review is based solely on grounds rising after the sixtieth day. Judicial review shall be in accordance with sections 701 through 706 of Title 5 of the United States Code, and the challenged action shall be sustained unless it is found to be arbitrary, capricious, an abuse of discretion, or not in accordance with law. Actions of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil or criminal proceedings for enforcement.

"(4) IMMINENT HAZARD SUSPENSION.—Any petition for review under paragraph (1) of a suspension order or denial of a petition to reconsider suspension issued by the Administrator pursuant to section 6(c) of this Act must be filed within ten (10) days of publication of the suspension order in the Federal Register, or, in the case of a challenge of the denial of a petition to reconsider suspension, within twenty (20) days of publication of the Administrator's order denying the petition for reconsideration. The commencement of proceedings under this paragraph shall not operate as a stay of the suspension order unless otherwise ordered by the court. The effect of any order of the court of appeals will be only either to stay or uphold the effectiveness of the suspension order, pending the Administrator's final determination with respect to cancellation. Review of a suspension order issued pursuant to section 6(c)(1), or review of the petitioner's likelihood of success on the merits of the case pursuant to a request for a temporary stay from the suspension order, shall be based solely on the information available to the Agency as of the date the Administrator issued the suspension order. Other information not available to the Administrator in issuing the suspension order under section 6(c)(1) may be introduced solely through the procedures for reconsideration of a suspension order set forth in section 6(c)(4).

"(c) JURISDICTION OF DISTRICT COURTS.—The district courts of the United States are vested with jurisdiction over—

"(1) actions to enforce, and to prevent and restrain violations of, this Act; and

"(2) challenges to any other final actions that are not committed to the Administrator's discretion by law and which are not subject to review in the courts of appeals under subsection (a) of this section.".

SEC. 14. INDEMNIFICATION.

INDEMNIFICATION.—Section 15 (7 U.S.C. 136m) is amended by adding at the end the following:

"(d) TIME LIMITATION FOR INDEMNITY PAYMENT.—Any claim for an indemnity payment from the United States under subsection (a) or (b) shall be barred unless it is made no later than—

"(1) 1 year after enactment of this subsection if the pesticide was canceled prior to the enactment of this subsection; or

"(2) 3 year after cancellation if the pesticide was canceled after the enactment of this subsection.".

SEC. 15. CERTIFICATION AND TRAINING.

INSTRUCTION IN INTEGRATED PEST MANAGEMENT TECHNIQUES.—Section 11(c) (7 U.S.C. 136i(c)) is amended to read as follows:

"(c) INSTRUCTION IN INTEGRATED PEST MANAGEMENT TECHNIQUES.—Standards prescribed by the Administrator for the certification of applicators of pesticides under subsection (a), and the State plans submitted to the Administrator under subsections (a) and (b), shall include provisions for making instructional materials concerning integrated pest management techniques available to individuals at their request in accordance with the provisions of section 23(c) of this Act. The Administrator and States implementing such plans shall provide that all interested individuals are notified of the availability of such instructional materials.".

SEC. 16. PESTICIDE RECORDKEEPING.

Section 7 U.S.C. 136i–1(a) is amended as follows:

(1) in subsection (1), by striking "certified applicators" through "136a(d)(1)(C) of this title" and inserting "users of pesticides when used in agricultural production"; and

(2) in subsection (2), by striking "a commercial certified" and inserting "a pesticide user".

(3) in subsection (b), by striking "individual applicators" and inserting "individual users."

SEC. 17. ENFORCEMENT.

(a) DEFINITIONS

(1) Sections 2(e) (7 U.S.C. 136e) is amended as follows:

"(e) APPLICATOR.—

"(1) CERTIFIED APPLICATOR.—The term "certified applicator" means any individual who is certified under section 136b of this title as authorized to use or supervise the use of any pesticide which is classified for restricted use. Any applicator who holds or applies registered pesticides, or uses dilutions of registered pesticides consistent with subsection (ee) of this section, only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served is not deemed to be a seller of distributor of pesticides under this subchapter.

"(2) COMMERCIAL APPLICATOR.—

"(A) Except as provided in subparagraph (3), the term "commercial applicator" means a person who—

"(i) uses or supervises the use, for any purpose or on any property, of any pesticide that is classified for restricted use;

"(ii) uses or supervises the use of any pesticide for hire as a principal part of the business or work of the person; or

"(iii) as an employee of a person described in clause (ii), uses or supervises the use of any pesticide.

"(3) PRIVATE APPLICATOR.—The term "private applicator" means a person who uses or supervises the use of any pesticide that is classified for restricted use for purposes of producing any agricultural product—

"(A) on property owned or rented by such person or the employer of such person; or

"(B) on other property if applied without compensation (other than trading of personal services between producers of agricultural products).

"(4) UNDER THE DIRECT SUPERVISION OF A CERTIFIED APPLICATOR.—Unless otherwise prescribed by its labeling, a pesticide shall be considered to be used under the direct supervision of a certified applicator if the pesticide is applied by a person acting under the instructions and control of a certified applicator who is available, if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is used.".

(20 Section 2 (7 U.S.C. 136) is amended by adding at the end the following:

"(jj) PESTICIDE TESTING FACILITY.—The term 'pesticide testing facility' means any place where any person conducts any test, study, survey, or investigation of the properties, effects, or behavior of any pesticide (or any ingredient, metabolite, or degradation product thereof), device, or container or packaging of any pesticide or device, on its behalf or on behalf of any registrant, applicant for registration, or other person who sells or distributes the pesticide. The term does not include any place solely on account of—

(i) the participation of a commercial agricultural producer as a cooperator in field testing of a pesticide; or

"(ii) the conduct of academic research at the facility.

"(kk) PESTICIDE DEALER.—The term "pesticide dealer" means any person who, in the ordinary course of business, distributes or sells any pesticide.

"(11) AGRICULTURAL PRODUCER.—The term "agricultural producer" as used in this Chapter means a person who produces any plant, or part thereof, or animal, or animal product, primarily for sale, consumption, propagation, or other use by humans or animals, including farmers, ranchers, vineyardists, plant propagations, Christmas tree growers, aquaculturalists, floriculturalists, orchardists, foresters, or other comparable persons, but not including C corporations as defined in 26 U.S.C. 1362 (a)(2).".

(b) RECORDKEEPING.—Section 8 (7 U.S.C. 136f) is amended to read as follows:

"SEC. 8 RECORDS.

"(a) AUTHORITY TO REQUIRE RECORDS.—

"(1) IN GENERAL.—The Administrator, by regulation, shall require any producer, distributor, importer or exporter of a pesticide, registrant, applicant for registration, applicant for or holder of an experimental use permit, pesticide testing facility, or any holder of a pesticide that is the subject of a regulation or order issued under section 19(b) or under subsection 106.

"(A) to prepare, and to maintain for reasonable periods of time, such records as the Administrator finds to be necessary for the effective implementation or enforcement of this Act;

"(B) to furnish to the Administrator reports stating the location where the records are maintained; and

"(C) to furnish a copy of any such record to the Administrator on written request.

"(2) RECORDS OF COMMERCIAL APPLICATORS.—The Administrator, by regulation, shall require each commercial applicator to maintain, and may require a commercial applicator to provide the Administrator, records of each pesticide application, including the identity and quantity of pesticide applied and the date and location of such application, for a period of 5 years after each such application.

"(3) RECORDS OF PESTICIDE DEALERS.—

"(A) IN GENERAL.—The Administrator, by regulation, shall require each pesticide dealer to maintain a record of each sale or distribution of—

"(i) a pesticide classified for restricted use; and

"(ii) any other pesticide designated for purposes of this subsection by order by the Administrator if the Administrator determines that such records may be necessary to carry out the purposes of this Act.

"(B) CONTENTS.—Such records shall include the identity of the pesticide sold or distributed, the identity of the person to whom the pesticide was distributed or sold, the date of the distribution or sale, and the amount of the pesticide distributed or sold.

"(C) DURATION.—A pesticide dealer shall maintain the records required under this subsection for 5 years after the date of the distribution or sale.

"(b) LIMITATIONS.—The Administrator may not, under the authority of subsection (a), require any person to maintain records of—

"(1) financial data, pricing data, or sales data other than shipment data;

"(2) personnel data, except for data concerning exposure of employees to pesticides or ingredients of pesticides, or concerning health effects on employees that could reasonably be attributable to such exposure; or

"(3) research or test data other than—

"(A) data relating to a registered pesticide;

"(B) data relating to any pesticide for which an application for registration or for an experimental use permit has been filed;

"(C) data relating to any pesticide for which an exemption pursuant to section 18 has been requested;

"(D) data relating to any pesticide for which a regulation has been promulgated pursuant to section 3(a);

"(E) data relating to testing at a pesticide testing facility; or

"(F) data relating to the storage or disposal of a pesticide whose registration has been suspended or canceled.".

(c) INSPECTION AUTHORITY.—Section 9 (7 U.S.C. 136g) is amended to read as follows:

"(a) AUTHORITY TO ENTER, INSPECT, COPY, AND OBTAIN SAMPLES.—An officer or employee of the United States or of any State, duly designated by the Administrator, is authorized at reasonable times as provided by this section—

"(1) to enter and inspect—

"(A) any place where any pesticide, active ingredient, or device is produced, sold, distributed, stored, packaged, used, or found;

"(B) any place where any records required under this Act are kept;

"(C) any pesticide testing facility;

"(D) any place where such officer or employee has reason to believe that this Act has been or is being violated; or

"(E) any place when the Administrator or States seek information as part of an inquiry into specific environmental or health problems.

"(2) to obtain—

"(A) samples of any pesticide (or any ingredient, metabolite, or degradation product thereof) or device, or any container or packaging of any pesticide or device;

"(B) copies of any records required under this Act or of any labels or labeling of a pesticide, active ingredient or device;

"(C) copies of documents related to compliance with the provisions of this Act;

"(D) copies of any data or samples of any specimens involved in the testing of any pesticide (or any ingredient, metabolite, or degradation product thereof) or device; or

"(E) samples of and places where pesticide residues may be found, including without limitation, agricultural commodities, animals, pests, soil, or water.

"Provided that, nothing in this Act shall be construed as authorizing officers or employees of the United States or of any State to enter and inspect private residences or land, property and appurtenances used in agricultural production unless there is a suspected violation of this Act or the Administrator or any State is seeking information as part of an inquiry into specific environmental or health problems.

"(b) ADMINISTRATIVE WARRANTS.—An officer or employee of the United States or of any State, duly authorized by the Administrator, is empowered to obtain and execute warrants authorizing

"(1) entry, inspection, and obtaining of evidence for the purposes of this section or section 8;

"(2) inspection and copying of all records required under this Act or documents related to compliance with the provisions of this Act; and

"(3) seizure of any pesticide, device, active ingredient, labeling, or packaging that is in violation of this Act.

"(c) PROCEDURE.—

"(1) CREDENTIALS AND STATEMENTS.—Before any entry or inspection of any premises not open to the general public is made under this section, the person conducting the inspection shall present to the person in charge of the premises appropriate credentials, and a written statement of the reason for the entry or inspection and whether a violation of this Act is suspected.

"(2) PROMPTNESS.—Each entry or inspection shall be commenced and completed with reasonable promptness.

"(3) SAMPLES.—If the person conducting the entry or inspection obtains any samples pursuant to subparagraph 9(a)(2), before leaving the premises such person shall give to the person in charge of the premises a receipt describing the sample and, if requested and practicable, a portion of each such sample equal in volume or weight to the portion retained. If an analysis is made of any such sample, a copy of the results of such analysis shall be furnished on request to the person in charge of the premises.

"(d) COORDINATION.—The Administrator shall coordinate actions taken under this section with actions taken under other Federal laws for the purpose of avoiding duplication of inspections.".

(d) CONFIDENTIAL BUSINESS INFORMATION TO STATES.—Section 10 (7 U.S.C. 136h) is amended by adding at the end the following:

"(h) DATA DISCLOSURE TO STATES.—The Administrator may disclose to a State any data or information acquired under this Act if the State assures the Administrator, and the Administrator determines, that

"(1) the submitter of the data or information will receive no less protection with respect to the disclosure and use of the data or information by the State than is otherwise provided by this Act; and

"(2) the laws of the State allow the submitter of the data or information to recover just compensation in a civil action against the State for losses resulting from the disclosure or use of the data or information by the State or its employees or agents in a manner inconsistent with this Act.".

(e) UNLAWFUL ACTS—

(1) Section 12(a)(1) (7 U.S.C. 136j(a)(1)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) Except as provided in subsection (b), it shall be unlawful for any person in any state to fail or refuse to comply with any rule promulgated or order issued under Section 3, 4, or 8 of this Act, or to distribute or sell to any person—".".

(2) Section 12(a)(2)(B) (7 U.S.C. 136j (a)(2)(B)) is amended to read as follows:

"(B) to refuse to—

"(i) prepare, maintain, or submit any records required by or under section 5, 7, 8, 11, 17, or 19;

"(ii) submit any reports required by or under section 5, 6, 7, 8, 11, 17, or 19; or

"(iii) allow any entry, inspection, copying of records, or sampling authorized by this Act.

(3) Sections 12(a)(2)(I), (M), (N), and (O) (7 U.S.C. 136j (a)(2)(I), (M), (N), (O)) are amended to read as follows:

"(I) to violate any order or subpoena issued under section 13.

"(M) to knowingly make any false material statement, representation or certification in, fail to maintain, omit material information from, or alter, conceal or fail to file, any notice, application, record, report or other document or information required pursuant to this Act to be submitted, filed or maintained (whether such requirement is imposed by the Administrator or by a state).

"(N) who is a registrant, wholesaler, dealer, retailer or other distributor, commercial applicator, or private applicator, to fail to file reports required by this Act.

"(O) to violate any regulation issued pursuant to this Act.".

(4) Section 12(a)(2) (7 U.S.C. 136j (a)(2) is amended by adding at the end the following:

"(U) who is a registrant, to violate any term or condition of a registration issued pursuant to this Act.

"(V) to violate any administrative order issued pursuant to section 14(b) of the Act.".

(5) Section 12 (7 U.S.C. 136(j)) is amended by adding at the end the following:

"(c) ACTS OF OFFICERS, AGENTS, ETC.—When construing and enforcing the provisions of this Act, the act, omission, or failure of any officer, employee, agent, or other person acting for or employed by any person shall be deemed to be the act, omission, or failure of such person as well as that of the person employed.".

(f) SUBPOENAS.—Section 13 (7 U.S.C. 136k) is amended by adding at the end the following:

"(e) SUBPOENA AUTHORITY.—In carrying out this Act, the Administrator may be subpoena require the attendance and testimony of witnesses and the production of reports, papers, documents, answers to questions, and other information that the Administrator deems necessary. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In the event of contumacy, failure, or refusal of any person to obey any such subpoena, any district court of the United States in which venue is proper shall have jurisdiction to order any such person to comply with such subpoena. Any failure to obey such an order of the court is punishable by the court as a contempt thereof.".

(g) ENFORCEMENT AUTHORITY.—Section 14 (7 U.S.C. 136l) is amended to read as follows:

"(a) ENFORCEMENT AUTHORITIES.—

"(1) Whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is violation of, any requirement of this Act, including, but not limited to, a requirement or prohibition of any rule, order, or registration promulgated, issued, or approved under this Act, the Administrator may:

"(A) issue an administrative order in accordance with subsection (b) of this section, requiring such person to comply with such requirement or prohibition;

"(B) issue an administrative penalty order in accordance with subsection (c) of this section;

"(C) request the Attorney General to commence a civil action in accordance with subsection (d) of this section; or

"(D) request the Attorney General to commence a criminal action in accordance with subsection (e) of this section.

"(2) NOTICE TO STATE.—A copy of any (1) administrative order issued pursuant to subsection (b) of this section, (2) administrative penalty order issued pursuant to subsection (c) of this section, or (3) civil judicial complaint filed pursuant to subsection (d) or subsection (g) of this section shall be sent to the State agency regulating pesticides in the State in which the violation occurs.

"(3) WARNING NOTICES.—The Administrator may issue a warning notice for a first-time violation of the Act by a private applicator, unless the violation is a knowing violation.

"(b) REQUIREMENTS FOR ADMINISTRATIVE ORDERS.—

"(1) IN GENERAL.—Any person who has violated, or is in violation of, any provision of this Act or a regulation promulgated thereunder, may be ordered by the Administrator to cease their violative activities or to comply with applicable requirements of this Act or regulations issued under this Act.

"(2) CONTENTS OR ORDER.—Any order issued under this subsection shall state with reasonable specificity the nature of the violation and specify a time for compliance which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. An order issued under this subsection shall require the person to whom it was issued to comply with the requirement immediately or within a specified time period, but in no event longer than one year after the date the order was issued.

"(3) VIOLATION OF ORDER.—If a violator fails to take corrective action within the time specified in the order, the Administrator may assess a civil penalty of not more than $25,000 for each day of continued noncompliance with the order.

"(4) CONSULTATION WITH ADMINISTRATOR.—The recipient of an order issued under this section (other than an administrative penalty order as described in subsection (c)), shall have an opportunity, within 10 days of the order's issuance, to consult with the Administrator or any duly designated representative concerning the alleged violation.

"(5) OTHER REMEDIES AND OBLIGATIONS.—No order issued under this subsection shall prevent the State or the Administrator from assessing any penalties nor otherwise affect or limit the State's or the United States' authority to enforce under other provisions of this Act, nor affect any person's obligations to comply with any section of this Act or with a term or condition of any registration approved under this Act.

"(6) TIMING OF REVIEW.—No Federal court shall have jurisdiction under any Federal or State law to review any order issued under this subsection in any action except an action to enforce an order issued under this subsection or to recover a civil penalty for violation of, or noncompliance with, such order.

"(c) ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES.—

"(1) IN GENERAL.—Any person who has violated, or is in violation of, any provision of this Act or regulation promulgated thereunder shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 or the economic benefit of noncompliance, whichever is higher, for each such violation. Each day such a violation continues shall, for purposes of this subsection, constitute a separate violation of the Act. The Administrator's authority under this paragraph shall be limited to matters where the total penalty sought does not exceed $400,000, except where the Administrator and the Attorney General jointly determine that a matter or matters involving a larger penalty amount are appropriate for administrative penalty action. Any such determination by the Administrator and the Attorney General shall not be subject to judicial review.

"(2) HEARING.—A civil penalty for a violation of this Act shall be assessed by the Administrator by an order made on the record after an opportunity (provided in accordance with this subparagraph) for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Administrator shall give written notice to the person to be assessed a civil penalty under such order by the Administrator, and shall provide such person an opportunity to request, within 15 days of the date the notice is received by such person, such a hearing on the order.

"(3) DETERMINATION OF PENALTY.—In determining the amount of a civil penalty, the Administrator shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations (including whether the violation was a first-time violation), the degree of culpability, the economic benefit of noncompliance and such other matters as justice may require.

"(4) The minimum penalty the Administrator must assess under this subsection upon a determination of liability is the amount of the economic benefit resulting from the violation, where such economic benefit, if any, is calculable, provided that nothing in this subsection shall limit the Administrator's discretion to issue warning notices pursuant to section 14(a)(3) of the Act.

"(5) MODIFICATION OF PENALTY.—The Administrator may compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under this subsection. The amount of such penalty, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

"(6) JUDICIAL REVIEW.—Any person who requested in accordance with paragraph (2) a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty, or against whom a civil penalty is assessed under paragraph (8) of this subsection, may seek judicial review in accordance with section 16(a)(2) of the Act.

"(7) FAILURE TO PAY.—

"(A) If a person fails to pay an assessment of a civil penalty—

"(i) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (5), or

"(ii) after a court in an action brought under paragraph (5) has entered a final judgment in favor of the Administrator,

"the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in paragraph (5) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount and appropriateness of such penalty shall not be subject to review.

"(B) Any person who fails to pay on a timely basis a civil penalty ordered and assessed under this section shall be required to pay, in addition to such penalty and interest, the United States enforcement expenses, including but not limited to attorney's fees and costs incurred by the United States for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter.

"(8) SUBPOENAS.—The Administrator, in connection with administrative proceedings under this subsection, may issue subpoenas compelling the attendance and testimony of witnesses and the production of documents, and may request the Attorney General to bring an action to enforce any subpoena issued under this paragraph. The district courts of the United States shall have jurisdiction to enforce such subpoenas and impose sanctions.

"(d) CIVIL JUDICIAL ENFORCEMENT.—

"(1) IN GENERAL.—The Administrator may commence a civil action for a temporary or permanent injunction, and/or to compel compliance, and/or to assess and recover a civil penalty of not more than $25,000 or the economic benefit of noncompliance, whichever is higher, for each day of violation, whenever such person has violated or is in violation of a requirement or prohibition of this Act, or a regulation promulgated thereunder.

"(2) JURISDICTION.—Any action under this subsection may be brought in the district court for the United States for the district in which the violation is alleged to have occurred, or is occurring, or in which the defendant resides, or where the defendant's principal place of business is located, and such court shall have jurisdiction to restrain such violation, to require compliance, to assess civil penalties, to collect any fees owed the United States under this Act, and to award any other appropriate relief.

"(3) DETERMINATION OF PENALTY.—In determining the amount of a civil penalty, the court shall take into account the factors enumerated in subsection (c)(3) of this section.

"(4) MINIMUM PENALTY.—The minimum penalty the court must assess under this subsection upon a determination of liability is the amount of the economic benefit, if any, resulting from the violation, where such economic benefit is calculable.

"(e) CRIMINAL PENALTIES.—

"(1) Any person who negligently commits any act prohibited under section 136j of this Title shall, upon conviction, be punished by a fine of not more than $25,000 for each day of violation, or by imprisonment for not more than one year, or both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both fine and imprisonment.

"(2) Any person who knowingly commits any act prohibited under section 136j of this Title shall, upon conviction, be punished by a fine of not more than $50,000 for each day of violation, or by imprisonment for not more than 5 years, or both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both fine and imprisonment.

"(3)(A) Any person who commits any violation under paragraph (2) of this subsection and in the course of or in connection with committing such violation knows at the time that he places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be punished by a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. A person which is an organization shall, upon conviction of violating this subparagraph, be subject to a fine of not more than $1,000,000. If a conviction of a person is for a violation committed after a first conviction of such person under this subparagraph, the maximum punishment shall be doubled with respect to both fine and imprisonment.

"(B) For purposes of this subparagraph:

"(i) the term "imminent danger" means the existence of a condition or set of conditions that could reasonably be expected to cause death or serious bodily injury unless the condition is remedied; and

"(ii) the term "serious bodily injury" means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(4) Notwithstanding any other provision of law, a court may make the following disposition of fines imposed under this Title, in addition to payment, if any, to the United States Treasury.

"(A) Upon recommendation of the United States, and in accordance with the terms of such recommendation, the court may pay to an individual who has given information or services leading to a criminal conviction under this Title an amount from the criminal fine assessed as a result of any violation of this subchapter not more than the lesser of one-half the fine imposed or $50,000.

"(B) Upon recommendation of the United States, and in accordance with the terms of such recommendation, the court may pay to any state, municipality or other political subdivision of a state, which has given significant support to the prosecution or investigation leading to a conviction under this Title, an amount not more than one-half of the fine imposed for that conviction.

"(f) Emergency Powers.—Notwithstanding any other provision of this Act, the Administrator, upon receipt of evidence that a specific use of a pesticide or pesticide device is presenting an imminent and substantial endangerment to public health or welfare, or the environment, may request the Attorney General to bring suit on behalf of the United States in the appropriate United States district court to immediately restrain any person using such pesticide or device to stop the activity or to take such other action as may be necessary, provided that relief under this subsection does not include suspension under Section 6(c) of the Act and is not available where the Administrator, in his discretion, determines that a suspension under Section 6(c) is adequate to stop or prevent the imminent and substantial endangerment. If it is not practicable to assure prompt protection of public health or welfare or the environment by commencement of such civil action, the Administrator may issue such orders as may be necessary to protect public health or welfare or the environment. Any order issued by the Administrator under this section shall be effective upon issuance and shall remain in effect for a period of not more than 60 days, unless an action is brought pursuant to the first sentence of this section before the expiration of that period. Whenever such an action is brought within the 60-day period, the order shall remain in effect for an additional 14 days or for such longer period as may be authorized by the court in which such action is brought. Any order issued under this paragraph shall not be subject to judicial review except during judicial enforcement proceedings brought by the Attorney General of his delegate. Nothing herein shall diminish the right of any person subject to a suspension proceeding under Section 6(c) of the Act.".

(h) CONTRACTOR LISTING.—Section 32 (7 U.S.C. 136 (z)) is added following Section 31:

"SEC. 32. FEDERAL PROCUREMENT.—

"(A) CONTRACTS PROHIBITED WITH CONVICTED VIOLATORS.—No Federal agency may enter into any contract, grant, or loan with any person who has been convicted of any offense under Section 1361 of this Title, if the contract for the procurement of goods, materials, and services, or the grant or loan is to be performed, in whole or in any part, at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, operated, leased, or supervised at the time of the violation by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.

"(b) NOTIFICATION.—The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a).

"(c) DISCLOSURE.—Each applicant who seeks to participate in a federal contract, grant, or loan shall disclose any conviction described in subsection (a) to each appropriate Federal agency.

"(d) EXEMPTIONS.—The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.".

(i) CITIZEN SUITS.—Section 33 (7 U.S.C. 136aa) is added following Section 32 to read as follows:

"SEC. 33. CITIZEN SUITS.—

(a) Except as provided in subsection (b), any person may commence a civil action on his own behalf—

"(1) against any person (including any governmental instrumentality or agency to the extent permitted by the Eleventh Amendment to the Constitution) who is alleged to have violated or to be in violation of any provision of the Act or any rule promulgated thereunder, except that no such action may be brought against any agricultural producer who is alleged to have committed a violation or to be in violation while engaged in the production of agricultural product; or

"(2) against any Federal official where there is alleged a failure of the Federal official to perform any act or duty under this Act which is not discretionary with the federal official.

"The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce the Act and the regulations promulgated thereunder, to order any appropriate relief under Section XX of the Act, and to impose any appropriate civil penalties (except for actions under subsection (2)) for violations of the Act. The district court shall have jurisdiction in actions brought under subsection (a)(2) against the federal official to order the Federal official to perform such act or duty.

"(b) No actions may be commenced—

"(1) under subsection (a)(1)—

"(A) prior to 60 days after the plaintiff has given notice of the violation to the Administrator, to the State in which the violation occurs, and to any alleged violator; or

"(B) if the Administrator or State with primary enforcement responsibility under Section 26 of the Act has commenced and is diligently prosecuting a civil or criminal action in a court of the United States or a State or a federal administrative penalty action to require compliance with the Act or a regulation promulgated thereunder, but in any such civil action any person may intervene as a matter of right.

"(2) under subsection (a)(2) prior to 60 days after the plaintiff has given notice of such action to the Federal official.

"Notices under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

"(c) Any person may request the Administrator or a State with primary enforcement authority to commence an action against any agricultural producer who is alleged to have violated or to be in violation of any provision of the Act or any rule promulgated thereunder while engaged in the production of any agricultural product. A copy of such a request shall be given to the alleged violator. Within 60 days after such request is made to the administrator or a State, the Administrator or State shall either—

"(1) commence an action against the alleged violator; or

"(2) provide to the person making the request a written response that (A) states the Administrator's or the State's decision not to take enforcement action against the alleged violator and (B) describes any other action the Administrator or State has taken or intends to take in connection with the alleged violation.

"The response of the Administrator or State under subsection (c)(2) shall not be subject to judicial review."

"(d)(1) In any action under this section, the United States may intervene as a matter of right at any time in the proceeding. A judgment in an action under this section to which the United States is not a party shall not have any binding effect upon the United States.

"(2) Whenever any action is brought under this section the plaintiff shall serve a copy of the complaint on the Attorney General of the United States and on the Administrator. No consent judgment shall be entered in an action brought under this section in which the United States is not a party prior to 60 days following the receipt of a copy of the proposed consent judgment by the Attorney General and the Administrator during which time the Government may submit its comments on the proposed consent judgment to the court and parties or may intervene as a matter of right. The court shall not approve a proposed consent judgment that is inappropriate, improper, inadequate, or inconsistent with the purposes or requirements of the Act, and shall consider any views expressed by the United States with respect to the consent judgment.

"(e) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party. The court may, if a temporary restraining order of preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(f) Nothing in this section shall restrict any right which any person, or class of persons, may have under any statute or common law to seek enforcement of any requirement or to seek any other relief (including relief against Federal officials or a State agency).

"(g) Any action under this Section shall be brought in accordance with the provisions of 28 U.S.C. Section 1391.".

(j) INDIAN TRIBES.—Section 34 (7 U.S.C. 136bb) is added following Section 33 to read as follows:

"SEC. 34. INDIAN TRIBES.—

"(1) IN GENERAL.—The Administrator shall promulgate regulations to treat Indian Tribes in the manner that States are treated under the Act. Such treatment shall be authorized only if:

"(A) the Indian Tribe is recognized by the Secretary of the Interior and has a governing body carrying out appropriate governmental duties and powers; and,

"(B) the functions to be exercised by the Indian Tribe are within the area of the Tribe's jurisdiction.".

SEC. 18. WHISTLE BLOWER.

Section 35 (7 U.S.C. 136cc) is added following Section 34 to read as follows:

"SEC. 35. WHISTLE BLOWER.—

"(a) IN GENERAL.—No employer may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee (or any persons acting pursuant to a request of the employee) has—

"(1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this chapter; or

"(2) testified or is about to testify in any such proceeding; or

"(3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this chapter.

"(b) REMEDY.—

"(1) Any employee who believes that the employee has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section may, within 30 days after such alleged violation occurs, file (or have any person file on the employee's behalf) a complaint with the Secretary of Labor (hereafter in this section referred to as the "Secretary") alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

"(2)(A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 120 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting on behalf of the complainant) and the person alleged to have committed such violation of the results of the investigation conducted pursuant of this paragraph. Within ninety days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

"(B) If in response to a complaint filed under paragraph (1) the Secretary determines that a violation of subsection (a) of this section has occurred, the Secretary shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complainant to the complainant's former position together with compensation (including back pay) terms, condition, and privileges of the complainant's employment, (iii) compensatory damages and (iv) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses, (including attorney's fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(c) REVIEW.—

"(1) Any employee or employer adversely affected or aggrieved by an order issued under subsection (b) of this section may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of Title 5.

"(2) An order of the Secretary, with respect to which review could have been obtained under paragraph (1), shall not be subject to judicial review in any criminal or other civil proceeding.

"(d) ENFORCEMENT.—Whenever a person has failed to comply with an order issued under subsection (b)(2) of this section, the Secretary shall file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory and exemplary damages.

"(e) EXCLUSION.—Subsection (a) of this section shall not apply with respect to any employee who, acting without direction from the employee's employer (or any agent of the employer), deliberately causes a violation of any requirement of this chapter.".●

By Mr. WARNER:

S. 2051. A bill to amend the Fair Labor Standards Act of 1938 to exclude from the definition of employee firefighters and rescue squad workers who perform volunteer services and to prevent employers from requiring employees who are firefighters or rescue squad workers to perform volunteer services, and to allow an employer not to pay overtime compensation to a firefighter or rescue squad worker who performs volunteer services for the employer, and for other purposes; to the Committee on Labor and Human Resources.

THE VOLUNTEER FIREFIGHTER AND RESCUE SQUAD WORKER ACT

Mr. WARNER. Mr. President, I rise today to introduce legislation to amend the Fair Labor Standards Act of 1938. This is a companion measure to legislation, H.R. 3949, introduced in the House of Representatives by Virginia Congressman HERB BATEMAN.

My bill may be referred to as the Volunteer Firefighter and Rescue Squad Worker Act of 1994.

The purpose of the Volunteer Firefighter and Rescue Squad Worker Act is to amend the Fair Labor Standards Act of 1938 to exclude from the definition of "employee" firefighters and rescue squad workers who perform volunteer services. In addition, it will prevent employers from requiring employees who are firefighters or rescue squad workers to perform volunteer services, and will allow an employer not to pay overtime compensation to a firefighter or rescue squad worker who performs volunteer services.

The need for this legislation stems from a 1993 U.S. Department of Labor ruling which found that a career firefighter cannot serve as a volunteer firefighter within the same county as they are employed. This ruling is commonly referred to as the Montgomery County, Maryland decision.

The Department of Labor's interpretation of the Fair Labor Standards Act in the Montgomery decision has prompted a great deal of concern from volunteer fire and rescue groups across the Nation, including Virginia. The decision was made to prevent counties—employers—from coercing career firefighters to work overtime without overtime compensation.

While protection from coercion is a worthy and necessary element of the Fair Labor Standards Act, the administrative decision offers a presumption of guilt on the part of law abiding counties. In addition, it precludes men and women who wish to volunteer their services within their own community from doing so, if they reside in the same community as they are employed. Finally, it represents yet another unfunded Federal mandate and an intrusion on the rights of citizens to decide for themselves what services local government should provide.

Historically, volunteer fire and rescue services have played an important role in our communities. These men and women are private citizens who selflessly answer the call to duty, day and night, to protect the lives and property of others.

In many parts of Virginia today, indeed, in many parts of the Nation still, the difference between life and death in the golden hour is the initial emergency medical services provided by volunteer rescue workers. Many localities are a good 45 minutes to 1 hour away from the nearest hospital and the aid administered by volunteers is critical to the survival of victims.

The volunteer fire departments and rescue squads provide fire and emergency medical services [EMS] for 82 percent of all fire and EMS services in Virginia. Of the 602 fire departments in the Commonwealth of Virginia, 67 are combined career and volunteer departments and 535 are strictly volunteer departments. These statistics only begin to tell about the important role that the 20,000 volunteer firefighters in Virginia play in our daily lives.

Mr. President, the intent of my legislation is quite simply to help to preserve the spirit of voluntarism in our communities and to assist our volunteer fire and rescue workers in their mission to provide vital lifesaving and property protection services.

Many of our valiant career firefighters come from the ranks of the volunteers and received their initial training from those departments. In turn, many career firefighters have volunteered their service and expertise to the volunteer departments. I believe that my legislation will help to preserve this unique relationship.

For the benefit of my colleagues, I would briefly like to outline what my legislation would do.

Section 1 simply cites the legislation as the Volunteer Firefighter and Rescue Squad Worker Act.

Section 2 would exempt career firefighters and rescue squad workers who volunteer their off-duty services at locations, fire companies, where they are not employed during the course of normal duty hours from the Fair Labor Standards overtime provisions.

Section 3 would allow career firefighters and rescue squad workers to waive their claim to overtime compensation.

Section 4 would prohibit employers from directly or indirectly requiring firefighters or rescue squad workers to volunteer their services during any period in which they would otherwise be entitled to receive overtime compensation.

Mr. President, I urge my fellow Senators, particularly members of the Congressional Fire Caucus, to join me in support of this important measure.

By Mr. GORTON:

S. 2052. A bill entitled the Recreational Boating Safety Program Funding Improvement Act; to the Committee on Finance.

THE RECREATIONAL BOATING SAFETY PROGRAM FUNDING IMPROVEMENT ACT

• Mr. GORTON. Mr. President, I have heard from many boaters in Washington State who are alarmed that Washington State's Boater Safety Program will be drastically slashed by the administration's budget request. I am introducing legislation today to ensure that the money recreational boaters pay every time they refuel, which currently funds these important boater safety programs in the States won't be lost because of bureaucratic Federal budget rules.

As we all know, the Coast Guard has been under tight budget constraints for a number of years. This year, in what I believe is an effort to protect their overall budget, they have proposed to eliminate the States Recreational Boater Safety Program. I believe the main, if not the only real reason for this proposal, is because of bureaucratic Federal budget scoring rules. My legislation will change these rules and thus ensure that this program is funded.

Under current law, the Secretary of the Treasury transfers motorboat fuel tax receipts from the highway trust fund to the boat safety account and the sport fish restoration account of the aquatic resources—Wallop-Breaux—trust fund. The amount transferred is the equivalent of the amount of motorboat fuel taxes received, up to a maximum of $70 million per year. One-half of the money deposited is available to the Coast Guard to offset a portion of the costs of services provided by the Coast Guard for recreational boater safety, including services of the Coast Guard auxiliary. Nearly one-half of the remaining amount is authorized for grants to the States to assist them in carrying out recreational boater safety programs.

While no general revenue is involved in funding this program, budget scorekeeping makes no distinction between these State grants and funding for Coast Guard operating expenses. This scoring may have been appropriate in the 1970's when grant funds were provided from general revenues but since the 1980's the grant monies have been provided from Federal gasoline excise tax receipts attributable to motorboat fuel use. This is a true case of user pays/user benefits. The Coast Guard does not use the money; its only role is to pass the money along to the States to benefit the boaters who paid the taxes in the first place.

On a national level, States may lose approximately $32 million if this budget problem is not addressed. The Coast guard estimates that Washington State will lose over $450,000 in the coming year.

In 1992, 816 people lost their lives in recreational boating accidents. My legislation will ensure that States will be able to count on the money needed to fund their safety programs this and every year. These programs include law enforcement and education programs to focus on the dangers of boating under the influence of alcohol or drugs, programs to emphasize the need to equip and use personal flotation devices and other safety devices on-board a boat, rules of the waterways, courtesy, and so forth. We know that boating safety programs work. Since these programs were first established, the number of boats has increased but the number of fatalities has decreased. We need to act to ensure that important boating safety programs are not lost due to arcane budget practices. I hope the Senate will expeditiously consider and enact my legislation.

I ask unanimous consent that a copy of my legislation along with a section-by-section analysis be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. TRANSFER OF MOTORBOAT FUEL TAXES FROM HIGHWAY TRUST FUND.

(a) AUTHORIZATION OF TRANSFERS.—Section 9503(c)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(c)(4)) is amended—

(1) by striking subparagraph (A) of section 9503(c)(4);

(2) by redesignating subparagraph (B) as subparagraph (A) and amending it to read as follows:

"(A) $1,000,000 per year transferred to land and water conservation fund.—

"(i) IN GENERAL.—The Secretary shall pay from time to time from the Highway Trust Fund into the land and water conservation fund provided for in title I of the Land and Water Conservation Fund Act of 1965 amounts (as determined by him) equivalent to the motorboat fuel taxes received on or after October 1, 1993, and before October 1, 1997.

"(ii) LIMITATION.—The aggregate amount transferred under this subparagraph during any fiscal year shall not exceed $1,000,000."; and

(3) by striking "or (B)" in clause (ii) of subparagraph (B) (as so redesignated); and

(4) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(b) TECHNICAL AMENDMENT.—Section 9504(d) of the Internal Revenue Code of 1986 (26 U.S.C. 9504(d)) is amended by striking "Boat Safety Account and".

(c) EFFECTIVE DATE.—This amendment shall be effective October 1, 1993.

SEC. 2. TECHNICAL AMENDMENTS TO AQUATIC RESOURCES TRUST FUND.

(a) Section 9504(a)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 9504(a)(2)) is amended by inserting after "section 9602(b)" the following: "of this title, or as provided in subsection 4(a) of the Act entitled 'An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes', approved August 9, 1950 (64 Stat. 430; 16 U.S.C. 777c), as amended,".

(b) Section 9504(b)(2)(A) of the Internal Revenue Code of 1986 (26 U.S.C. 9504(b)(2)(A)) is amended by striking "(as in effect on October 1, 1988)".

(c) Section 9504(c) of the Internal Revenue Code of 1986 (26 U.S.C. 9504(c)) is amended to read as follows:

"(c) EXPENDITURES FROM BOAT SAFETY ACCOUNT.—Amounts in the Boat Safety Account shall be available for making expenditures before April 1, 1999, to carry out the purposes of section 13106 of title 46, United States Code.".

(d) EFFECTIVE DATES.—The amendment to section (a) shall be effective October 1, 1994. The amendments to sections (b) and (c) shall be effective October 1, 1993.

SEC. 3. FUNDING FOR RECREATIONAL BOATING SAFETY PROGRAMS.

(a) TRANSFER.—Section 4 of the Act of August 9, 1950 (16 U.S.C. 777c) is amended—

(1) by redesignating subsections (a), (b), (c), (d), and (e) in order, as subsections (b), (c), (d), (e), and (f);

(2) by inserting before subsection (b) (as so redesignated) the following new subsection:

"(a) Of each annual appropriation made in accordance with the provisions of section 3 of this Act (16 U.S.C. 777b) from transfers made from the Highway Trust Fund to the Sport Fish Restoration Account for motorboat fuel taxes received on or after October 1, 1993, and before October 1, 1997, the Secretary of the Interior shall transfer to the Boat Safety Account of the Aquatic Resources Trust Fund an amount equal to $77,500,000 for fiscal year 1995, $80,000,000 for each of fiscal years 1996 and 1997, and $90,000,000 for fiscal year 1998, to be expended by the Secretary of Transportation for recreational boating safety programs under section 13106 of title 46, United States Code.";

(3) in subsection (b) (as so redesignated) by striking "The Secretary of the Interior" through "section 3 of this Act" and inserting the following: "Of the balance of each annual appropriation remaining after making the distribution under subsection (a), the Secretary of the Interior shall distribute 18 per centum";

(4) by amending subsection (c) (as so redesignated) to read as follows:

"(c) Of the balance of each annual appropriation remaining after making the distribution under subsections (a) and (b), an amount equal to $7,500,000 for fiscal year 1995, and $10,000,000 for each of fiscal years 1996 and 1997, shall be available for two years for obligation under section 5604(c) of the Clean Vessel Act of 1992. The Secretary of the Interior may make grants for qualified projects in an amount up to the amount available under this paragraph. Amounts unobligated by the Secretary of the Interior after two years shall be transferred to the Secretary of Transportation and be expended for State recreational boating safety programs under section 13106(b)(1) of title 46, United States Code.'';

(5) in subsection (d) (as so redesignated) by striking ''(a) and (b)'' and inserting ''(a), (b), and (c)''; and

(6) in subsection (e) (as so redesignated) by striking ''and (c)'' and inserting ''(c), and (d)''.

(b) EFFECTIVE DATE.—This amendment shall be effective October 1, 1994.

SEC. 4. AUTHORIZATION OF EXPENDITURES FOR RECREATIONAL BOATING SAFETY PROGRAMS.

Section 13106 of title 46, United States Code, is amended—

(a) by striking subsection (c);

(b) by redesignating subsections (a) and (b), in order, as subsections (b) and (c);

(c) by inserting before subsection (b) (as so redesignated) the following new subsection:

''(a) Of the amount transferred for each fiscal year to the Boat Safety Account under section 4 of the Act of August 9, 1950 (16 U.S.C. 777c), as amended, $35,000,000 is available to the Secretary for expenditures out of the operating expenses account of the Coast Guard for services provided by the Coast Guard for recreational boating safety, including services provided by the Coast Guard Auxiliary. Amounts made available by this subsection shall remain available until expended.'';

(d) by amending subsection 13106(b)(1) (as so redesignated) to read as follows:

''(b)(1) Subject to paragraph (2), the Secretary may expend the balance of the amount transferred each fiscal year to the Boat Safety Account under section 4 of the Act of August 9, 1950 (16 U.S.C. 777c), as amended, for State recreational boating safety programs as provided under the guidelines established under subsection (c) of this section. The amount shall be allocated as provided under section 13103 of this title. Amounts made available by this subsection shall remain available until expended. Amounts previously obligated but released by payment of a final voucher or modification of a program acceptance shall be credited to the balance of unobligated amounts and are immediately available for expenditures.'';

(e) by amending the catchline of section 13106 to read as follows:

"§ 13106. Spending authority for recreational boating safety programs"; and

(f) by amending the item relating to section 13106 in the table of sections at the beginning of chapter 131 of title 46, United States Code, to read as follows:

''13106. Spending authority for recreational boating safety programs.''.

(g) EFFECTIVE DATE.—This amendment shall be effective October 1, 1994.

SECTION-BY-SECTION ANALYSIS

SECTION 1. TRANSFERS OF MOTORBOAT FUEL TAXES FROM HIGHWAY TRUST FUND

Subsection (a) eliminates transfers of motorboat fuel taxes from the Highway Trust Fund into the Boat Safety Account in the Aquatic Resources Trust Fund, and provides that the first $1 million of such taxes shall be transferred into the Land and Water Conservation Fund, with the balance of such taxes to be transferred into the Sport Fish Restoration Account in the Aquatic resources Trust Fund. Under current law, the first $70 million of motorboat fuel tax receipts (subject to the limitation in 26 U.S.C. §9503(c)(4)(A)(ii)(II) is to be transferred from the Highway Trust Fund to the Boat Safety Account, with $1 million of any excess to be transferred to the Land and Water Conservation Fund and the balance to be transferred to the Sport Fish Restoration Account. Subsection (b) is a conforming technical amendment to the cross-reference in 26 U.S.C. §9504(d). Subsection (c) establishes the effective date for this section.

SECTION 2. TECHNICAL AMENDMENTS TO AQUATIC RESOURCES TRUST FUND

Subsections (a), (b), and (c) are conforming and/or technical amendments to 26 U.S.C. §9504. Subsection (c) deletes the words ''as provided by appropriations Acts.'' This language is deleted since, by the amendments of this title, amounts to be expended from the Boat Safety Account are appropriated through the permanent-indefinite appropriation of the Sport Fish Restoration Account. Subsection (d) establishes effective dates for the amendments in subsections (a), (b), and (c).

SECTION 3. FUNDING FOR RECREATIONAL BOATING SAFETY PROGRAMS

Subsection (a)(1) redesignates subsections (a), (b), (c), (d), and (e) of 16 U.S.C. §777c as subsections (b), (c), (d), (e), and (f), respectively. Subsection (a)(2) amends 16 U.S.C. §777c to insert a new subsection (a) providing that the amount of trust fund receipts authorized for recreational boating safety program for fiscal years 1995 through 1998 is to be transferred each year from the Sport Fish Restoration Account to the Boat Safety Account of the Aquatic Resources Trust Fund. The amounts authorized to be transferred to the Boat Safety Account are $77.5 million for FY95, $80 million each for FY96 and FY97, and $90 million for FY98. These amounts include the $70 million currently authorized each year for transfer from the Highway Trust Fund to the Boat Safety Account and the additional funds ($7.5 million for FY95, $10 million each for FY96 and FY97, and $20 million for FY98) authorized for transfer by the Secretary of the Interior to the Secretary of Transportation as a result of the Clean Vessel Act of 1992. The provision specifies that the funds transferred to the Boat Safety Account will be comprised of motorboat fuel taxes that have been transferred from the Highway Trust Fund.

The amendment expands on the precedent established by the Clean Vessel Act of 1992 by providing that all amounts authorized for the recreational boating safety programs funded through the Boat Safety Account will be appropriated through the Sport Fish Restoration Account under its permanent-indefinite appropriation dating from 1951.

Subsections (a)(3) through (a)(6) are conforming technical amendments to existing provisions of 16 U.S.C. §777c. Subsection (b) establishes an effective date of October 1, 1994.

SECTION 4. AUTHORIZATION OF EXPENDITURES FOR RECREATIONAL BOATING SAFETY PROGRAMS

This section makes conforming amendments to 46 U.S.C. §13106 to apportion the amounts transferred to the Boat Safety Account between the Coast Guard and the States in the same manner as they are authorized under current law in 46 U.S.C. 13106 and 16 U.S.C. §777.

Subsection (a) deletes the current 46 U.S.C. §13106(c). Subsection (b) redesignates subsections (a) and (b) as subsection (b) and (c), respectively. Subsection (c) inserts a new subsection (a) that amends the current provisions in 46 U.S.C. §13106(c). Subsection (d) makes conforming amendments to subsection 13106(b)(1) (current subsection 13106(a)(1)). Subsection (e) establishes an effective date of October 1, 1994.•

By Mr. BRADLEY:

S. 2053. A bill to prevent handgun violence and illegal commerce in firearms; to the Committee on the Judiciary.

HANDGUN CONTROL AND VIOLENCE PREVENTION ACT OF 1994

• Mr. BRADLEY. Mr. President, handgun violence is redefining the American way of life. We must own up to this reality and bring desperately needed rationality to our gun laws. This is why I rise today to introduce the Handgun Control and Violence Prevention Act of 1994. This legislation is one more important step in ensuring that the madness of gun violence in this country will be brought to an end.

Every year, more than 24,000 Americans—65 a day—are killed with handguns, in homicides, by committing suicide, and by unintentional injuries. Handguns account for only one-third of all firearms, but are responsible for two-thirds of all firearm-related deaths. Handguns are used in about 80 percent of all firearm murders. Ninety-five percent of the people injured by a handgun each year require emergency care or hospitalization. Of these, 68 percent require overnight care and 32 percent require a hospital stay of 8 days or more. In 1991, the United States led the developed world with 14,373 gun murders, as compared to 186 gun murders in Canada, 76 in Australia, 60 in England, and 74 in Japan. One difference between the United States and the other countries cited is that the other countries all have much stricter gun control laws.

Some will argue that these grim statistics are the result of weak law enforcement, light sentencing, legitimate fear, and the waning of family values. Others will argue that they are the result of joblessness, poverty, and long-term neglect of our most violent neighborhoods. I have no doubt that the growing rate of violent activity has been aggravated in part by all these factors. But accepting many of these causes of handgun violence does not erase the reality that crime and deviant behavior have become much more of a burden on our society because of the explosive growth in handguns. Disputes that were settled with fists and knives 10 years ago are now being settled with guns. The number, availability and destructive ability of handguns has contributed significantly to this tragedy.

Every single handgun used in a crime starts out as a legal gun. The black market in illegal handguns is enormous and deadly. If we can crack down on illegal sale and use, we can help drive guns off our streets, out of our schools, and from our communities.

The purpose of this bill is to make it at least as difficult to use a handgun as it is to drive a car. When the evidence on the danger of handguns is made clear to us on a daily basis, it is irresponsible to allow an instrument which can cause so much physical and psychological damage to be made available to people on such a liberal basis.

This bill makes it illegal to purchase a handgun without a valid, nationally uniform, State-issued handgun license. The license would be similar to a driver's license and consist of an identification card with a photograph. Only new purchases of handguns would require a license. Those who currently possess handguns would not have to acquire a license unless they wanted to purchase more handguns.

To stop the transfer of handguns from straw-man purchasers to criminals and others intending to commit crimes, this legislation requires that all handgun transfers be registered with local officials. If the person transferring the weapon does not register the transfer, he or she will be in violation of Federal law.

To curb interstate gun running, this bill limits the purchase of a handgun by any one person to one gun a month. When this provision goes into effect, maybe Interstate 95 will lose its nickname, the "Iron Road", as it becomes less easy to run guns from States with little gun control to States, like New Jersey, that already enjoy some of the protections in this bill.

This bill also includes tough standards for Federal firearms dealers licenses. Federally licensed firearms dealers will have to pass strict background checks and meet all State and local regulations. This will help guard against rogue gun dealers, who illegally sell thousands of firearms to drug gangs and violent criminals. The legislation also imposes stiff penalties on gun thieves.

I am particularly pleased, Mr. President, that this bill incorporates my legislation, S. 1798, which increases the licensing fees for federally licensed firearm dealers. In addition to existing requirements, federally licensed firearm dealers would have to prove that they are in compliance with State and local laws, pass background checks, and pay $3,000 for a 3-year license. Today, there are more gun dealers than gas stations and grocery stores. This is outrageous, and I hope these provisions will change that situation.

In closing, Mr. President, we must continue our fight to end the death and destruction of our children and our families, which is too easily becoming a fact of life in our cities and towns. I urge support for this responsible handgun licensing and registration legislation.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2053

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Handgun Control and Violence Prevention Act of 1994".

SEC. 2. FINDINGS AND DECLARATIONS.

The Congress finds and declares that—

(1) crimes committed with firearms threaten the peace and domestic tranquility of the United States and threaten the security and general welfare of the Nation and its people;

(2) crimes committed with firearms, especially those committed with handguns, have imposed a substantial burden on interstate commerce;

(3) firearms are easily transported across State boundaries and, as a result, individual State action to regulate firearms is made less than effective by lax regulation by other States; and

(4) accordingly, it is necessary to establish uniform national laws governing all aspects of the firearms industry, requiring handgun licensing and registration, expanding the categories of persons prohibited from possessing firearms, limiting Federal firearms licensees to bona fide importers, manufacturers, and dealers, and prohibiting the sale of semiautomatic assault weapons and other dangerous weapons.

SEC. 3. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Findings and declarations.
Sec. 3. Table of contents.

TITLE I—NATIONAL HANDGUN CONTROLS

Sec. 101. State license required to receive a handgun.
Sec. 102. Prohibition of multiple handgun transfers.
Sec. 103. Prohibition of engaging in the business of dealing in handguns without specific authorization; requirement that authorization be provided if applicant demonstrates significant unmet economic demand.

TITLE II—TRACING OF GUNS USED IN CRIMES

Sec. 201. Dealer assistance with tracing of firearms.
Sec. 202. Computerization of records.
Sec. 203. Interstate transportation of firearms.
Sec. 204. Gun running.
Sec. 205. Handgun barrel registration.
Sec. 206. National Firearms Tracing Center.

TITLE III—DEALER RESPONSIBILITY

Sec. 301. Compliance with State and local firearms licensing laws as condition to issuance of Federal firearms license.
Sec. 302. Background investigation of licensees.
Sec. 303. Increased license fees for dealers.
Sec. 304. Increased penalties for making knowingly false statements in connection with firearms.
Sec. 305. Dealer inspections.
Sec. 306. Gun shows.
Sec. 307. Acquisition and disposition records of dealers suspected of serving as sources of illegal firearms.
Sec. 308. Dealer responsibility for sales to felons or minors.
Sec. 309. Interstate shipment of firearms.

TITLE IV—THEFT OF FIREARMS

Sec. 401. Dealer reporting of firearm thefts.
Sec. 402. Theft of firearms or explosives.
Sec. 403. Theft of firearms or explosives from licensee.
Sec. 404. Security of licensed firearms dealers.
Sec. 405. Prohibition of transactions involving stolen firearms that have moved in interstate or foreign commerce.

TITLE V—ARMED FELONS

Sec. 501. Denial of administrative relief from certain firearms prohibitions; inadmissibility of additional evidence in judicial review of denials of such administrative relief for other persons.
Sec. 502. Clarification of definition of conviction.
Sec. 503. Enhanced penalty for use of a semiautomatic firearm during a crime of violence or a drug trafficking crime.
Sec. 504. Violation of firearms laws in aid of drug trafficking.
Sec. 505. Mandatory penalties for firearms possession by violent felons and serious drug offenders.

TITLE VI—VIOLENT MISDEMEANANTS

Sec. 601. Prohibition of disposal of firearms or ammunition to, or receipt of firearms or ammunition by, persons convicted of a violent crime or subject to a protection order.

TITLE VII—AMMUNITION

Sec. 701. Federal license to deal in ammunition.
Sec. 702. Regulation of the manufacture, importation, and sale of certain particularly dangerous bullets.

TITLE I—NATIONAL HANDGUN CONTROLS

SEC. 101. STATE LICENSE REQUIRED TO RECEIVE A HANDGUN.

(a) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(v)(1) It shall be unlawful for any person to sell, deliver, or otherwise transfer a handgun to an individual who is not licensed under section 923 unless—

"(A) the transferor (or a licensed dealer, if State law so directs or allows) has verified that the transferee possesses a valid State handgun license by—

"(i) examining the State handgun license;

"(ii) examining, in addition to the State handgun license, a valid identification document (as defined in section 1028) containing a photograph of the transferee; and

"(iii) contacting the chief law enforcement officer of the State that issued the State handgun license to confirm that the State handgun license has not been revoked; and

"(B) the transferor (or licensed dealer) has provided to the chief law enforcement officer of the State in which the transfer is to take place a completed State handgun registration form for the handgun to be transferred.

"(2) It shall be unlawful for any person to sell, deliver, or otherwise transfer handgun ammunition to an individual who is not licensed under section 923 unless the transferor (or licensed dealer, if State law so directs or allows) has verified that the transferee possesses a valid State handgun license by—

"(A) examining the State handgun license; and

"(B) examining, in addition to the State handgun license, a valid identification document (as defined in section 1028) containing a photograph of the transferee.

"(3) It shall be unlawful for any individual who is not licensed under section 923 to receive a handgun or handgun ammunition unless the individual possesses a valid State handgun license.

"(4) As used in this subsection, the term 'chief law enforcement officer of the State' means the chief, or equivalent officer, of the State police force, or the designee of that officer.

"(5) As used in this subsection, the term 'State handgun license' means a license issued under a State law that, at a minimum, meets the following requirements:

"(A) The State law provides that—

"(i) the chief law enforcement officer of the State shall issue State handgun licenses, which shall meet such requirements as to form, appearance, and security against forgery as are prescribed by the Secretary in regulations, in accordance with such procedures as are prescribed by the Secretary in regulations;

"(ii) the State handgun license issued to a licensee shall contain—

"(I) the name, address, date of birth, physical description, and a photograph of the licensee; and

"(II) a unique license number; and

"(iii) a State handgun license shall be valid for a period of not more than 2 years from the date of issue, unless revoked.

"(B) The State law provides that a State handgun license may not be issued unless the chief law enforcement officer of the State determines that the applicant—

"(i) is at least 21 years of age;

"(ii) is a resident of the State, by examining, at a minimum, in addition to a valid identification document (as defined in section 1028), documentation such as a utility bill or lease agreement;

"(iii) is not prohibited from possessing or receiving a handgun under Federal, State, or local law, based upon name- and fingerprint-based research in all available Federal, State, and local recordkeeping systems, including the national instant criminal background check system established by the Attorney General pursuant to section 103 of the Brady Handgun Violence Prevention Act; and

"(iv) has been issued a State handgun safety certificate.

"(D) The State law may authorize the chief law enforcement officer of the State to charge a fee for the issuance of a State handgun license.

"(E) The State law provides that, if the chief law enforcement officer of the State determines that an individual is ineligible to receive a State handgun license and the individual in writing requests the officer to provide the reasons for that determination, the officer shall provide the reasons to the individual in writing within 20 business days after receipt of the request.

"(F)(i) The State law provides for the revocation of a State handgun license issued by the chief law enforcement officer of the State if the chief law enforcement officer determines that the licensee no longer satisfies 1 or more of the conditions set forth in subparagraph (B).

"(ii) The State law provides that, within 10 days after a person possessing a State handgun license that has been revoked receives notice of the revocation, the person shall return the license to the chief law enforcement officer who issued the license.

"(G)(i) The State law provides that, within 24 hours after a State handgun licensee discovers that a handgun has been stolen from or lost by the licensee, the licensee shall report the theft or loss to—

"(I) the Secretary;

"(II) the chief law enforcement officer of the State; and

"(III) appropriate local authorities.

"(ii) The State law shall provide that failure to make the reports described in clause (i) shall be punishable by a civil penalty of not less than $1,000.

"(6) As used in this subsection, the term 'State handgun registration form' means a handgun registration form prescribed under a State law that, at a minimum, meets the following requirements:

"(A) The State law provides that a handgun registration form shall not be considered completed by an individual with respect to a handgun, unless the form contains, at a minimum—

"(i) information identifying the individual, including the name, address, date of birth, and number on the State handgun license issued to the individual; and

"(ii) information identifying the handgun, including the make, model, caliber, and serial number of the handgun.

"(B) The State law provides that the chief law enforcement officer of the State shall furnish information from completed handgun registration forms to Federal, State, and local law enforcement authorities upon request.

"(C) The State law may authorize the chief law enforcement officer of the State to charge a fee for the registration of a handgun.

"(7) As used in this subsection, the term 'State handgun safety certificate' means a certificate issued under a State law that, at a minimum, meets the following requirements:

"(A) The State law provides that the chief law enforcement officer of the State shall issue State handgun safety certificates.

"(B) The State law provides that a State handgun safety certificate is not to be issued to an applicant, unless the chief law enforcement officer of the State determines that the applicant—

"(i) is a resident of the State, by examining, at a minimum, in addition to a valid identification document (as defined in section 1028), documentation such as a utility bill or lease agreement;

"(ii) has completed a course of not less than 2 hours of instruction in handgun safety, that was taught by law enforcement officers and designed by the chief law enforcement officer; and

"(iii) has passed an examination, designed by the chief law enforcement officer, testing the applicant's knowledge of handgun safety.

"(C) The State law may authorize the chief law enforcement officer of the State to charge a fee for the handgun safety course and examination described in subparagraph (B).".

(b) DEFINITION OF HANDGUN AMMUNITION.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(30) The term 'handgun ammunition' means—

"(A) a centerfire cartridge or cartridge case less than 1.3 inches in length; or

"(B) a primer, bullet, or propellent powder designed specifically for use in a handgun.".

(c) REGULATIONS.—Section 926 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d) The Secretary shall, for purposes of section 922(v), prescribe regulations—

"(1) governing the form and appearance of State handgun licenses;

"(2) establishing minimum standards that such licenses must meet to be secure against forgery; and

"(3) establishing minimum standards that States must meet in issuing such licenses in order to prevent fraud or theft of such licenses.".

(d) PENALTIES FOR VIOLATIONS OF SECTION 922 (Q), (R), AND (V) OF TITLE 18.—Section 924(a)(1)(B) of title 18, United States Code, is amended by striking "or (q)" and inserting "(r), or (v)".

(e) TECHNICAL CORRECTION TO BRADY ACT.—Section 922(t)(1)(B)(ii) of title 18, United States Code, is amended by inserting "or State law" after "section".

(f) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date that is 180 days after the date of enactment of this Act.

(g) FUNDING.—

(1) GRANTS FOR ESTABLISHING SYSTEMS OF LICENSING AND REGISTRATION.—The Attorney General shall, subject to the availability of appropriations, make a grant to each State (as defined in section 921(a)(2) of title 18, United States Code) to be used for the initial startup costs associated with establishing a system of licensing and registration consistent with the requirements of section 922(v) of title 18, United States Code.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for grants under paragraph (1) a total of $200,000,000 for fiscal year 1995 and all fiscal years thereafter.

SEC. 102. PROHIBITION OF MULTIPLE HANDGUN TRANSFERS.

Section 922 of title 18, United States Code, as amended by section 101(a), is amended by adding at the end the following new subsection:

"(w)(1) It shall be unlawful for any licensed dealer—

"(A) during any 30-day period, to sell 2 or more handguns to an individual who is not licensed under section 923; or

"(B) to sell a handgun to an individual who is not licensed under section 923 and who purchased a handgun during the 30-day period ending on the date of the sale.

"(2) It shall be unlawful for any individual who is not licensed under section 923 to purchase 2 or more handguns during any 30-day period.

"(3) Paragraph (1) shall not apply to an exchange (with or without consideration) of a handgun for a handgun.".

SEC. 103. PROHIBITION OF ENGAGING IN THE BUSINESS OF DEALING IN HANDGUNS WITHOUT SPECIFIC AUTHORIZATION; REQUIREMENT THAT AUTHORIZATION BE PROVIDED IF APPLICANT DEMONSTRATES SIGNIFICANT UNMET ECONOMIC DEMAND.

(a) PROHIBITION AGAINST ENGAGING IN THE BUSINESS OF DEALING IN HANDGUNS WITHOUT SPECIFIC AUTHORIZATION.—Section 922(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) to engage in the business of dealing in handguns, or in the course of such business, to ship, transport, or receive any handgun in interstate or foreign commerce, unless the person is specifically authorized to do so under section 923(d)(2)(A); or".

(b) REQUIREMENT THAT AUTHORIZATION BE PROVIDED IF APPLICANT DEMONSTRATES THAT IT IS IN THE PUBLIC INTEREST.—Section 923(d) of title 18, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph:

"(2)(A) The Secretary shall authorize a licensed dealer (or a person whose application for a license to engage in the business of dealing in firearms is required to be approved by the Secretary) to engage in the business of dealing in handguns if the licensed dealer (or the applicant) demonstrates to the Secretary, in accordance with regulations that the Secretary shall prescribe, that there is significant unmet lawful demand for handguns in the market area (as defined by the Secretary) served by the licensed dealer (or to be served by the applicant).

"(B) For purposes of paragraph (3) of this subsection and subsections (e) and (f), a request for authority to engage in the business of dealing in handguns shall be considered to be an application for a license under this section, and the provision of such authority shall be considered to be the issuance of such a license.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date that is 1 year after the date of enactment of this Act.

(2) 2-YEAR GRANDFATHERING OF LICENSED DEALERS.—During the 2-year period that begins with the effective date specified in paragraph (1), the amendments made by this section shall not apply to any person who, on the effective date, is a licensed dealer (as defined in section 921(a)(11) of title 18, United States Code).

TITLE II—TRACING OF GUNS USED IN CRIMES

SEC. 201. DEALER ASSISTANCE WITH TRACING OF FIREARMS.

(a) PROVISION OF RECORD INFORMATION.—Section 923(g) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(6) Each licensee shall, at such times and under such conditions as the Secretary shall prescribe by regulation, provide all record information required to be kept by this chapter, or such lesser information as the Secretary may specify, as may be required for determining the disposition of a firearm in the course of a law enforcement investigation.".

(b) NO CRIMINAL PENALTY.—Section 924(a)(1)(D) of title 18, United States Code, is amended by inserting "except section 923(g)(6)" after "chapter".

SEC. 202. COMPUTERIZATION OF RECORDS.

Section 926 of title 18, United States Code, as amended by section 101(c), is amended—

(1) in subsection (a) by striking the second sentence; and

(2) by adding at the end the following new subsection:

"(e) The Director of the Bureau of Alcohol, Tobacco, and Firearms shall centralize all records of receipts and disposition of firearms obtained by the Bureau and maintain such records in whatever manner will enable their most efficient use in law enforcement investigations.".

SEC. 203. INTERSTATE TRANSPORTATION OF FIREARMS.

Section 922(a)(3) of title 18, United States Code, is amended to read as follows:

"(3)(A) for any person not licensed under section 923 to transport a firearm from 1 State into another State; but

"(B)(i) subparagraph (A) shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than the person's State of residence from transporting the firearm into or receiving the firearm in the person's State of residence, if it is lawful for the person to possess the firearm in the person's State of residence; and

"(ii) subparagraph (A) shall not apply to—

"(I) the transportation or receipt of any firearm obtained in conformity with subsection (b)(3);

"(II) the transportation of any firearm acquired in any State before the effective date of this chapter;

"(III) the transportation of any firearm in accordance with section 926A of this title; and

"(IV) the transportation of any firearm, under contract or agreement with a person licensed under section 923, by a person who ships or transports goods in the ordinary course of business;".

SEC. 204. GUN RUNNING.

(a) PROHIBITIONS.—Section 922 of title 18, United States Code, as amended by section 102, is amended by adding at the end the following new subsection:

"(x) It shall be unlawful for a person not licensed under section 923 to receive a firearm with the intent to transfer the firearm for profit.".

(b) PENALTIES.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(6)(A) Except as provided in subparagraph (B), a person who violates section 922(x) shall be fined under this title, imprisoned not less than 6 months and not more than 3 years, or both.

"(B) A person who violates section 922(x) with respect to 5 or more firearms during a 30-day period shall be fined under this title, imprisoned not less than 3 years, or both.".

SEC. 205. HANDGUN BARREL REGISTRATION.

Section 923(i) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(i)"; and

(2) by adding at the end the following:

"(2) Each licensed manufacturer shall, in accordance with regulations prescribed by the Secretary—

"(A) maintain records of the ballistics of handgun barrels made by the licensed manufacturer and of the serial numbers of such barrels; and

"(B) make such records available to the Secretary.".

SEC. 206. NATIONAL FIREARMS TRACING CENTER.

(a) ESTABLISHMENT.—The Secretary of the Treasury shall establish in the Bureau of Alcohol, Tobacco, and Firearms a National Firearms Tracing Center, which shall be operated for the purpose of tracing the chain of possession of firearms and ammunition used in crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the establishment and operation of the National Firearms Tracing Center there are authorized to be appropriated to the Secretary of the Treasury $20,000,000 for each of fiscal years 1994, 1995, and 1996.

TITLE III—DEALER RESPONSIBILITY

SEC. 301. COMPLIANCE WITH STATE AND LOCAL FIREARMS LICENSING LAWS AS CONDITION TO ISSUANCE OF FEDERAL FIREARMS LICENSE.

Section 923(d)(1) of title 18, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) in the case of an application for a license to engage in the business of dealing in firearms—

"(i) the applicant has complied with all requirements imposed on persons desiring to engage in such a business by the State and political subdivision thereof in which the applicant conducts or intends to conduct such business;

"(ii) the business to be conducted pursuant to the license is not prohibited by the law of the State or locality in which the business premises is located; and

"(iii) the application includes a written statement that—

"(I) is signed by the chief of police of the locality, or the sheriff of the county, in which the applicant conducts or intends to conduct such business, the head of the State police of such State, or any official designated by the Secretary; and

"(II) certifies that the information available to the signer of the statement does not indicate that the applicant is ineligible to obtain such a license under the law of such State and locality.".

SEC. 302. BACKGROUND INVESTIGATION OF LICENSEES.

(a) IN GENERAL.—Section 923(d)(1)(B) of title 18, United States Code, is amended—

(1) by inserting "after a thorough investigation of" before "the applicant"; and

(2) by striking "association)" and inserting "association), which investigation shall include checking the applicant's fingerprints against all appropriate compilations of criminal records, the Secretary determines that the applicant".

(b) INSPECTION OF APPLICANT'S PREMISES.—Section 923(d)(1) of title 18, United States Code, as amended by section 301, is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(G) the Secretary has conducted an inspection of the place at which the applicant is to conduct business pursuant to the license.".

(c) BUSINESS PREMISES REQUIRED OF APPLICANT.—Section 923(d)(1)(E) of title 18, United States Code, is amended by inserting "business" after "(i)".

(d) EXTENSION OF PERIOD FOR APPROVING OR DENYING APPLICATION.—Section 923(d)(3) of title 18, United States Code, as redesignated by section 103(b), is amended by striking "forty-five-day" and inserting "180-day".

SEC. 303. INCREASED LICENSE FEES FOR DEALERS.

Section 923(a)(3) of title 18, United States Code, is amended to read as follows:

"(3) If the applicant—

"(A) is a dealer in destructive devices or ammunition for destructive devices, a fee of $2,000 per year; or

"(B) is a dealer not described in subparagraph (A), a fee of $3,000 for 3 years.".

SEC. 304. INCREASED PENALTIES FOR MAKING KNOWINGLY FALSE STATEMENTS IN CONNECTION WITH FIREARMS.

(a) IN ACQUIRING A FIREARM FROM A LICENSED DEALER.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1)(B) by striking "(a)(6),"; and

(2) in paragraph (2) by inserting "(a)(6)," after "subsection".

(b) IN RECORDKEEPING.—Section 924(a)(3) of title 18, United States Code, is amended by striking "fined not more than $1,000, imprisoned not more than one year" and inserting "fined under this title, imprisoned not more than 10 years".

SEC. 305. DEALER INSPECTIONS.

Section 923(g)(1)(B) of title 18, United States Code, is amended by striking all after "warrant" and inserting "as necessary to ensure compliance with this chapter, to further a criminal investigation, or to determine the disposition of 1 or more particular firearms.".

SEC. 306. GUN SHOWS.

(a) PROHIBITION OF CERTAIN HANDGUN TRANSFERS AT GUN SHOWS.—Section 922(b) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; or"; and

(3) by inserting after paragraph (5) the following:

"(6) any handgun to any person who is not a licensed importer, licensed manufacturer, or licensed dealer, at any place other than the location specified on the license of the transferor.".

(b) TECHNICAL AMENDMENT.—Section 923(j) of title 18, United States Code, is amended in the first sentence by inserting ", consistent with section 922(b)(6)," before "temporarily".

SEC. 307. ACQUISITION AND DISPOSITION RECORDS OF DEALERS SUSPECTED OF SERVING AS SOURCES OF ILLEGAL FIREARMS.

Section 923(g)(1) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(E) If the Secretary, during a 1-year period, has identified a licensed dealer as the source of 3 or more firearms that have been recovered by law enforcement officials in criminal investigations, or if the Secretary has reason to believe that a licensed dealer is a source of firearms used in crimes, the Secretary may require the dealer to produce any or all records maintained by the dealer of acquisition and disposition of firearms, and may continue to impose that requirement until the Secretary determines that the dealer is not a source of firearms used in crimes.".

SEC. 308. DEALER RESPONSIBILITY FOR SALES TO FELONS OR MINORS.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 922 the following new section:

"§ 922A. Tort liability of licensed dealers

"(a)(1) Any person suffering physical injury arising from a crime of violence (as defined in section 924(c)(3)) in which a qualified firearm is used may bring an action in any United States district court against any qualified licensed dealer for damages and such other relief as the court deems appropriate.

"(2) As used in paragraph (1), the term 'qualified firearm' means a firearm that—

"(A) has been transferred by a licensed dealer to a person who—

"(i) has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year; or

"(ii) has not attained the age of 18 years; and

"(B) is subsequently used by any person in a crime of violence (as defined in section 924(c)(3)).

"(3) As used in paragraph (1), the term 'qualified licensed dealer' means, with respect to a firearm, a licensed dealer who transfers the firearm to a person, knowing or having reasonable cause to believe that the person is prohibited by Federal or State law from receiving the firearm.

"(b)(1) The defendant in an action brought under subsection (a) shall be held liable in tort, without regard to fault or proof of defect, for all direct and consequential damages arising from the crime of violence referred to therein, except as provided in paragraph (2). The court, in its discretion, may award punitive damages.

"(2) There shall be no liability under subsection (a) if it is established by a preponderance of the evidence that the plaintiff suffered the physical injury while committing the crime of violence referred to therein.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 44 of title 18, United States Code, is amended by inserting after the item relating to section 922 the following new item:

"Sec. 922A. Tort liability of licensed dealers.".

SEC. 309. INTERSTATE SHIPMENT OF FIREARMS.

Section 922(e) of title 18, United States Code, is amended—

(1) in the first sentence by striking "It shall be" and inserting the following:

"(2) It shall be";

(2) in the second sentence by striking "No common or contract carrier" and inserting the following:

"(3) No common or contract carrier";

(3) by inserting "(1) Any common or contract carrier that undertakes to transport or deliver firearms in interstate or foreign commerce shall, not less frequently than monthly, obtain from the Secretary a list of licensed dealers. The Secretary shall provide to any common or contract carrier, upon request and without charge, a list of licensed dealers and their license numbers." after "(e)";

(4) in paragraph (2), as designated by paragraph (1)—

(A) by striking ", to persons other than licensed importers, licensed manufacturers, licensed dealers, or licensed collectors,"; and

(B) by striking "ammunition" the first place it appears and all that follows through "passenger" and inserting "ammunition—

"(A) without providing written notice to the carrier that the firearm or ammunition is being transported or shipped; and

"(B) if the intended recipient of the package or container is a licensed dealer, providing written notice of the dealer's license number,

except that any passenger"; and

(5) by adding at the end the following new paragraph:

"(4) A common or contract carrier shall be considered to have cause to believe that a shipment of firearms would violate this chapter if it is alleged to the carrier that the intended recipient of the shipment is a licensed dealer and the carrier fails to verify that the intended recipient is a licensed dealer.".

TITLE IV—THEFT OF FIREARMS

SEC. 401. DEALER REPORTING OF FIREARM THEFTS.

Section 923(g) of title 18, United States Code, as amended by section 201(a), is amended by adding at the end the following new paragraph:

"(7) Each licensee shall report to the Secretary, and to the chief law enforcement officer (as defined in section 922(s)(8)) of the locality in which the premises specified on the license is located, any theft of firearms from the licensee, not later than the close of business on the first business day of the licensee after the day on which the licensee discovers the theft.".

SEC. 402. THEFT OF FIREARMS OR EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(j) A person who steals any firearm that is moving as, or is a part of, or that has moved in, interstate or foreign commerce shall be fined under this title, imprisoned not less than 2 nor more than 10 years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(k) A person who steals any explosive materials that are moving as, or are a part of, or that have moved in, interstate or foreign commerce shall be fined under this title, imprisoned not less than 2 nor more than 10 years, or both.".

SEC. 403. THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 402(a), is amended by adding at the end the following new subsection:

"(k) A person who steals any firearm from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall be fined under this title, imprisoned not more than 10 years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, as amended by section 402(b), is amended by adding at the end the following new subsection:

"(l) A person who steals explosive materials from a licensed importer, licensed manufacturer, licensed dealer, or any permittee shall be fined under this title, imprisoned not more than 10 years, or both.".

SEC. 404. SECURITY OF LICENSED FIREARMS DEALERS.

(a) REQUIREMENT.—Section 923 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(l) A licensed dealer shall provide for security against theft of firearms from the dealer's business premises, in accordance with regulations prescribed by the Secretary.".

(b) DENIAL OF DEALER'S LICENSE.—Section 923(d)(1)(F) of title 18, United States Code, as added by section 301(3), and amended by section 302(b)(2), of this Act, is amended—

(1) by striking "and" at the end of clause (ii);

(2) by adding at the end the following new clause:

"(iv) the applicant has provided for security against theft of firearms from the place at which business is to be conducted pursuant to the license, in accordance with regulations prescribed under subsection (l); and".

SEC. 405. PROHIBITION OF TRANSACTIONS INVOLVING STOLEN FIREARMS THAT HAVE MOVED IN INTERSTATE OR FOREIGN COMMERCE.

Section 922(j) of title 18, United States Code, is amended to read as follows:

"(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, that is moving as, that is a part of, that constitutes, or that has been shipped or transported in, interstate or foreign commerce (either before or after it was stolen), knowing or having reasonable cause to believe that the firearm or ammunition was stolen.".

TITLE V—ARMED FELONS

SEC. 501. DENIAL OF ADMINISTRATIVE RELIEF FROM CERTAIN FIREARMS PROHIBITIONS; INADMISSIBILITY OF ADDITIONAL EVIDENCE IN JUDICIAL REVIEW OF DENIALS OF SUCH ADMINISTRATIVE RELIEF FOR OTHER PERSONS.

(a) IN GENERAL.—Section 925(c) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by inserting "(1)" before "A person";

(B) by inserting "(other than an individual)" before "who is prohibited"; and

(C) by striking "his" and inserting "the Secretary's";

(2) by striking the second and third sentences;

(3) in the fourth sentence—

(A) by striking "A licensed importer" and inserting the following:

"(2) A licensed importer";

(B) by inserting "person (other than an individual) who is a" before "licensed importer"; and

(C) by striking "his" and inserting "the person's"; and

(4) by amending the fifth sentence to read as follows:

"(3) When the Secretary grants relief to a person under this section, the Secretary shall promptly publish in the Federal Register a notice of the action, which shall include—

"(A) the name of the person;

"(B) the disability with respect to which the relief is granted, and, if the disability was imposed by reason of a criminal conviction of the person, the crime for which, and the court in which, the person was convicted; and

"(C) the reasons for the action.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to—

(1) applications for administrative relief, and actions for judicial review, that are pending on or after the date of enactment of this Act; and

(2) applications for administrative relief filed, and actions for judicial review brought, on or after the date of enactment of this Act.

SEC. 502. CLARIFICATION OF DEFINITION OF CONVICTION.

Section 921(a)(20) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by inserting "(A)" after "(20)"; and

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) in the second sentence by striking "What" and inserting the following:

"(B) What"; and

(3) by striking the third sentence and inserting the following:

"(C) A State conviction that has been expunged or set aside, or for which a person has been pardoned or has had civil rights restored, shall not be considered to be a conviction for purposes of this chapter if—

"(i) the expungement, setting aside, pardon, or restoration of civil rights applies to a named person and expressly authorizes the person to ship, transport, receive, and possess firearms; and

"(ii) the State authority granting the expungement, setting aside, pardon, or restoration of civil rights has expressly determined that the circumstances regarding the conviction, and the person's record and reputation, are such that—

"(I) the applicant will not be likely to act in a manner that is dangerous to public safety; and

"(II) the granting of the relief would not be contrary to the public interest.

"(D) Subparagraph (C) shall not apply to a conviction for a violent felony (as defined in section 924(e)(2)(B)) or a serious drug offense (as defined in section 924(e)(2)(A)).".

SEC. 503. ENHANCED PENALTY FOR USE OF A SEMIAUTOMATIC FIREARM DURING A CRIME OF VIOLENCE OR A DRUG TRAFFICKING CRIME.

(a) IN GENERAL.—Section 924(c)(1) of title 18, United States Code, is amended by striking "and if the firearm is a short-barreled rifle, short-barreled shotgun" and inserting "if the firearm is a semiautomatic firearm, a short-barreled rifle, or a short-barreled shotgun,".

(b) SEMIAUTOMATIC FIREARM.—Section 921(a) of title 18, United States Code, as amended by section 101(b), is amended by adding at the end the following new paragraph:

"(31) The term 'semiautomatic firearm' means a repeating firearm that—

"(A) utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round; and

"(B) requires a separate pull of the trigger to fire each cartridge.".

SEC. 504. VIOLATION OF FIREARMS LAWS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, as amended by section 403(a), is amended by adding at the end the following:

"(l)(1) A person who, with the intent to engage in or to promote conduct described in paragraph (2), violates any provision of this chapter or attempts to do so shall be imprisoned not more than 10 years, fined under this title, or both.

"(2) Conduct is described in this paragraph if it is conduct that—

"(A) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(B) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(C) constitutes a crime of violence (as defined in subsection (c)(3)).".

SEC. 505. MANDATORY PENALTIES FOR FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.

(a) 1 PRIOR CONVICTION.—Section 924(a)(2) of title 18, United States Code, is amended by inserting ", and if the violation is of section 922(g)(1) by a person who has a previous conviction for a violent felony or a serious drug offense (as defined in subsection (e)(2) (A) and (B)), a sentence imposed under this paragraph shall include a term of imprisonment of not less than 5 years" before the period.

(b) 2 PRIOR CONVICTIONS.—Section 924 of title 18, United States Code, as amended by section 504, is amended by adding at the end the following new subsection:

"(m)(1) Notwithstanding subsection (a)(2), a person who violates section 922(g) and has 2 previous convictions by any court referred to in section 922(g)(1) for a violent felony (as defined in subsection (e)(2)(B)) or a serious drug offense (as defined in subsection (e)(2)(A)) committed on occasions different from one another shall be fined under this title, imprisoned not less than 10 nor more than 20 years, or both.

"(2) Notwithstanding any other law, the court shall not suspend the sentence of, or grant a probationary sentence to, a person described in paragraph (1) with respect to the conviction under section 922(g).".

TITLE VI—VIOLENT MISDEMEANANTS

SEC. 601. PROHIBITION OF DISPOSAL OF FIREARMS OR AMMUNITION TO, OR RECEIPT OF FIREARMS OR AMMUNITION BY, PERSONS CONVICTED OF A VIOLENT CRIME OR SUBJECT TO A PROTECTION ORDER.

(a) PROHIBITION OF DISPOSAL.—Section 922(d) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting a semicolon; and

(3) by inserting after paragraph (7) the following new paragraphs:

"(8) has been convicted in any court of an offense that—

"(A) is punishable by imprisonment for more than 6 months; and

"(B)(i) has, as an element, the use, attempted use, or threatened use of physical force against another person; or

"(ii) by its nature, involves a substantial risk that physical force against a person described in subparagraph (A) may be used in the course of committing the offense; or

"(9) is required, pursuant to an order issued by a court in a case involving the use, attempted use, or threatened use of physical force against another person, to refrain from contact with or maintain a minimum distance from that person.".

(b) PROHIBITION OF RECEIPT.—Section 922(g) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6); and

(2) by inserting after paragraph (7) the following new paragraphs:

"(8) who has been convicted in any court of an offense that—

"(A) is punishable by imprisonment for more than 6 months; and

"(B)(i) has, as an element, the use, attempted use, or threatened use of physical force against another person; or

"(ii) by its nature, involves a substantial risk that physical force against a person described in subparagraph (A) may be used in the course of committing the offense; or

"(9) who is required, pursuant to an order issued by a court in a case involving the use, attempted use, or threatened use of physical force against another person, to refrain from contact with or maintain a minimum distance from that person,".

TITLE VII—AMMUNITION

SEC. 701. FEDERAL LICENSE TO DEAL IN AMMUNITION.

(a) DEFINITIONS.—

(1) DEALER.—Section 921(a)(11)(A) of title 18, United States Code, is amended by inserting "or ammunition" after "firearms".

(2) COLLECTOR.—Section 921(a)(13) of title 18, United States Code, is amended by inserting "or ammunition" after "firearms".

(3) ENGAGED IN THE BUSINESS.—Section 921(a)(21) of title 18, United States Code, is amended—

(A) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(B) by inserting after subparagraph (D) the following new subparagraph:

"(E) as applied to a dealer in ammunition, a person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of ammunition, but such term does not include a person who makes occasional sales, exchanges, or purchases of ammunition for the enhancement of a personal collection or for a hobby, or who sells all or part of the person's personal collection of ammunition;".

(b) PROHIBITIONS.—Section 922 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1) (as amended by section 103(a))—

(i) by amending subparagraph (A) to read as follows:

"(A) except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms or ammunition, or in the course of such business to ship, transport, or receive any firearm or ammunition in interstate or foreign commerce; or";

(ii) by striking "or" at the end of subparagraph (B); and

(iii) by striking subparagraph (C);

(B) in paragraphs (2), (3), and (5) by inserting "or ammunition" after "firearm" each place it appears;

(2) in subsection (b)(3)—

(A) by inserting "or ammunition" after "firearm" each place it appears; and

(B) by inserting ", or ammunition for a rifle or shotgun," after "shotgun";

(3) in subsection (c)—

(A) by inserting "or ammunition" after "firearm" the first, third, fourth, fifth, sixth, and seventh places it appears;

(B) by inserting "or any ammunition other than for a shotgun or rifle," after "rifle," the first place it appears; and

(C) by inserting "or ammunition for a shotgun or rifle," after "rifle," the second place it appears;

(4) in subsection (e) (as amended by section 309) by inserting "or ammunition" after "firearms" each place it appears; and

(5) in subsection (q)(1)—

(A) in subparagraph (A) by inserting "or ammunition" after "firearm"; and

(B) by adding at the end the following new subparagraph:

"(C) Subparagraph (A) shall not apply to the possession of ammunition—

"(i) on private property not part of school grounds;

"(ii) if the individual possessing the ammunition is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State requires that, before an individual obtain such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;

"(iii) that is in a locked container;

"(iv) by an individual for use in a program approved by a school in the school zone;

"(v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

"(vi) by a law enforcement officer acting in the officer's official capacity; or

"(vii) that is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.".

(c) LICENSING.—Section 923 of title 18, United States Code, is amended—

(1) in the first sentence of subsection (a) by striking ", or importing or manufacturing";

(2) in subsection (g)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by inserting "and ammunition" after "firearms" the first place it appears;

(II) by striking "firearms" the second place it appears; and

(III) by striking "or any licensed importer or manufacturer of ammunition,";

(ii) in each of subparagraphs (B)(iii) and (C)(ii) by inserting "or rounds of ammunition" after "firearms"; and

(iii) in subparagraph (D)(iv), as added by section 404(b), by inserting "or rounds of ammunition" after "firearms";

(B) in paragraph (2)—

(i) by inserting "or ammunition" after "firearm"; and

(ii) by inserting "or ammunition" after "firearms";

(C) in paragraph (6), as added by section 201(a), by inserting "or ammunition" after "firearm"; and

(D) in paragraph (7), as added by section 401, by inserting "or ammunition" after "firearms";

(3) in subsection (j)—

(A) by inserting "or ammunition" after "firearms" the second place it appears; and

(B) by inserting "and ammunition" after "firearms" the third place it appears; and

(4) in subsection (l), as added by section 404(a), by inserting "or ammunition" after "firearms".

(d) PENALTIES.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (g) by inserting "or ammunition" after "firearm";

(2) in subsection (h) by inserting "or ammunition" after "firearm" each place it appears;

(3) in subsection (j), as added by section 402(a), by inserting "or ammunition" after "firearm"; and

(4) in subsection (k), as added by section 403(a), by inserting "or ammunition" after "firearm".

(e) INTERSTATE TRANSPORTATION.—Section 926A of title 18, United States Code, is amended—

(1) in the section heading by inserting "**and ammunition**" after "**firearms**"; and

(2) in the text by inserting "or ammunition" after "firearm" in the first, second, third, and fourth places it appears.

(f) POSSESSION IN FEDERAL FACILITIES.—Section 930 of title 18, United States Code, is amended—

(1) in the section heading by inserting "**, ammunition,**" after "**firearms**";

(2) by inserting ", ammunition," after "firearm" each place it appears; and

(3) in subsection (c)(3) by inserting ", ammunition," after "firearms".

(g) TECHNICAL AMENDMENTS.—The chapter analysis for chapter 44 of title 18, United States Code, is amended—

(1) in the item relating to section 926A by inserting "and ammunition" after "firearms"; and

(2) in the item relating to section 930 by inserting ", ammunition," after "firearms".

SEC. 702. REGULATION OF THE MANUFACTURE, IMPORTATION, AND SALE OF CERTAIN PARTICULARLY DANGEROUS BULLETS.

Section 921(a)(17) of title 18, United States Code, is amended by striking subparagraph (B) and inserting the following:

"(B) The term 'armor piercing am-munition'—

"(i) means—

"(I) a projectile or projectile core that may be used in a handgun and that is constructed entirely (excluding the presence of traces of other substances) from 1 or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium;

"(II) a jacketed, hollow point projectile that may be used in a handgun and the jacket of which is designed to produce, upon impact, evenly spaced sharp or barb-like projections that extend beyond the diameter of the unfired projectile; or

"(III) a jacketed projectile that may be used in a handgun and the jacket of which has a weight of more than 25 percent of the total weight of the projectile; but

"(ii) does not include—

"(I) shotgun shot required by Federal or State environmental or game regulations for hunting purposes;

"(II) a frangible projectile designed for target shooting;

"(III) a projectile that the Secretary finds is primarily intended to be used for sporting purposes; or

"(IV) any other projectile or projectile core that the Secretary finds is intended to be used for industrial purposes, including a charge used in an oil or gas well perforating device.".●

By Mr. LEAHY:

S. 2054. A bill to amend the Rural Electrification Act of 1936 to remove the 7-percent interest rate limitation on certain Rural Electrification Administration loans, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

RURAL ELECTRIFICATION ADMINISTRATION LOAN AMENDMENTS ACT OF 1994

Mr. LEAHY. Mr. President, today I am introducing legislation to repeal the 7-percent interest rate cap on certain Rural Electrification Administration loans. This legislation will repeal a provision that was included in the Rural Electrification Loan Restructuring Act of 1993, (H.R. 3123/P.L. 103–129).

When President Clinton signed H.R. 3123, he indicated concern over the 7-percent cap on certain REA loans and expressed that he would work with Congress to remove this provision. The legislation that I am introducing today is a good-faith effort on the part of the administration to resolve this issue with Congress.

In President Clinton's "Statement on Signing the Rural Electrification Loan Restructuring Act of 1993" he explained:

> The act places a 7-percent interest rate cap on certain REA loans, including those refinanced through the Department of the Treasury's Federal Financing Bank. Experience with Federal credit programs indicates that such statutorily fixed interest rate ceilings produce unpredictable and unintended results, including (1) inequities among borrowers using the program at different times; (2) extraordinary demands for loans when market interest rates are high; and (3) increased budget deficits. The "openended" character of subsidies resulting from the interest rate cap is inconsistent with the administration's objective of managing Federal subsidies more effectively.

I would like to inform my colleagues of my intent to seek quick action on this legislation. I will move next week to discharge this bill from the Committee on Agriculture, Nutrition, and Forestry and to seek final passage.

By Mr. WOFFORD:

S. 2055. A bill to amend the Guaranteed Rural Housing Loan Program provisions of the Housing Act of 1949; to the Committee on Banking, Housing, and Urban Affairs.

GUARANTEED RURAL HOUSING FAIRNESS ACT

• Mr. WOFFORD. Mr. President, today I am introducing the Guaranteed Rural Housing Fairness Act to ensure our rural communities have ample opportunity to obligate their Farmers Home Administration [FmHA] 502 Program allocation. I very much support the program. However, I am very concerned that the planned pooling on May 2, 1994, is unfair to communities like those in Pennsylvania that experienced a particularly difficult winter. Pennsylvania will lose millions of dollars if the pooling occurs. This is unacceptable.

Pennsylvania has experienced one of the most severe winters in decades, 66 of the 67 counties have applied for Federal disaster assistance. The winter was so severe that construction was not possible or practical. Therefore, Pennsylvania has gotten a slow start in using its 502 funds. Without construction, there is no inventory to sell and without sales there are no loans to process. Without loans to process, there are no requests from lenders to FmHA for 502 loan guarantees.

The Guaranteed Rural Housing Loan Program is absolutely vital in assisting needy rural residents to obtain quality, permanent and affordable housing. At a time when our rural communities are recovering from the severe winter and spring building is picking up, why are we pooling these essential funds on May 2, 1994? This same thing happened last year and Pennsylvania lost $7 million, causing a catastrophic situation because homes were under construction and loans in process and suddenly the program was out of money. I am concerned this may happen again this year.

States that have a demonstrated need and through no fault of their own are delayed, should be given every opportunity to use their 502 Program allocation. For this reason, I have introduced the Guaranteed Rural Housing Fairness Act to ensure that States like Pennsylvania who have seen the real benefit of this program are given every opportunity to assist their rural communities.•

ADDITIONAL COSPONSORS

S. 1149

At the request of Mr. DOMENICI, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1149, a bill to establish in the Department of the Interior the Office of Indian Women and Families, and for other purposes.

S. 1648

At the request of Mr. GLENN, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from Michigan [Mr. LEVIN], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of S. 1648, a bill to direct the Secretary of Transportation to demonstrate on vessels ballast water management technologies and practices, including vessel modification and design, that will prevent aquatic nonindigenous species from being introduced and spread in the Great Lakes and other United States waters, and for other purposes.

S. 1652

At the request of Mr. BENNETT, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1652, a bill to amend the National Trails System Act to designate the Great Western Trail for potential addition to the National Trails System, and for other purposes.

S. 1669

At the request of Mrs. HUTCHISON, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1669, a bill to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction.

S. 1729

At the request of Mr. DOMENICI, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1729, a bill to amend the Internal Revenue Code of 1986 to repeal the 1993 Federal income tax rate increases on trusts established for the benefit of individuals with disabilities or for college education costs of a beneficiary.

S. 1836

At the request of Mr. DOLE, the names of the Senator from Alaska [Mr. MURKOWSKI] and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 1836, a bill for the relief of John Mitchell.

S. 1853

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1853, a bill to amend the Elementary and Secondary Education Act of 1965 to extend Federal assistance programs related to educational television programming, and for other purposes.

S. 1933

At the request of Mr. MCCAIN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1933, a bill to repeal the Medicare and Medicaid Coverage Data Bank, and for other purposes.

S. 1935

At the request of Mr. LAUTENBERG, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1935, a bill to prohibit lobbyists and their clients from providing to Legislative Branch officials certain gifts, meals, entertainment, reimbursements, or loans and to place limits on and require disclosure by lobbyists of certain expenditures.

S. 1949

At the request of Mr. LAUTENBERG, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1949, a bill entitled the "Mercury-Containing and Rechargeable Battery Management Act."

S. 2006

At the request of Mr. DOLE, the names of the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of S. 2006, a bill to require Federal agencies to prepare private property taking impact analyses, and for other purposes.

S. 2007

At the request of Mr. WOFFORD, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2007, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the end of World War II and General George C. Marshall's service therein.

S. 2030

At the request of Mr. ROTH, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Indiana [Mr. LUGAR], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 2030, a bill to amend the Internal Revenue Code of 1986 to limit the tax rate for certain small businesses, and for other purposes.

S. 2042

At the request of Mr. DOLE, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from New York [Mr. MOYNIHAN], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of S. 2042, a bill to remove the United States arms embargo of the Government of Bosnia and Herzegovina.

SENATE JOINT RESOLUTION 146

At the request of Mr. WOFFORD, the names of the Senator from Indiana [Mr. COATS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Mississippi [Mr. LOTT], and the Senator from Idaho [Mr. KEMPTHORNE] were added as cosponsors of Senate Joint Resolution 146, a joint resolution designating May 1, 1994, through May 7, 1994, as "National Walking Week."

SENATE JOINT RESOLUTION 172

At the request of Mr. DOLE, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Joint Resolution 172, a joint resolution designating May 30, 1994, through June 6, 1994, as a "Time for the National Observance of the Fiftieth Anniversary of World War II."

SENATE JOINT RESOLUTION 181

At the request of Mr. SIMON, the names of the Senator from Mississippi [Mr. LOTT] and the Senator from Nevada [Mr. REID] were added as cosponsors of Senate Joint Resolution 181, a joint resolution to designate the week of May 8, 1994, through May 14, 1994, as "United Negro College Fund Week."

SENATE CONCURRENT RESOLUTION 26

At the request of Mr. SIMON, the names of the Senator from Florida [Mr. GRAHAM], the Senator from Nebraska [Mr. KERREY], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of Senate Concurrent Resolution 26, a concurrent resolution urging the President to redirect United States foreign assistance policies and spending priorities toward promoting sustainable development, which reduces global hunger and poverty, protects the environment, and promotes democracy.

SENATE RESOLUTION 148

At the request of Mr. SIMON, the names of the Senator from Washington [Mr. GORTON], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of Senate Resolution 148, a resolution expressing the sense of the Senate that the United Nations should be encouraged to permit representatives of Taiwan to participate fully in its activities, and for other purposes.

SENATE RESOLUTION 170

At the request of Mr. CHAFEE, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of Senate Resolution 170, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included as primary care providers for women in Federal laws relating to the provision of health care.

SENATE CONCURRENT RESOLUTION 67—RELATIVE TO THE ENROLLMENT OF H.R. 2333

Mr. KERRY submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 67

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 2333) to authorize appropriations for the Department of State, the United States Information Agency, and related agencies, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) In section 201(a) after paragraph (6) insert the following new paragraph:

(7) TITLE V OF PUBLIC LAW 98–164.—To carry out title V of Public Law 98–164, $35,000,000 for the fiscal year 1994 and $35,000,000 for the fiscal year 1995.

(2) In section 140(a)(2), before the period at the end of the first sentence insert ", to recover the costs of providing consular services".

(3) In section 201(a)(1), strike "$473,488,000" and insert "$487,988,000" and strike "$480,362,000" and insert "$494,862,000".

(4) In section 101(b)(2), insert the following new subparagraph (F):

"(F) $2,000,000 is authorized to be appropriated for for fiscal year 1995 for computer upgrades for the Bureau of Intelligence and Research."

(5) In Section 516, strike "Senate" and insert "Congress".

(6) In the Table of Contents, strike "Sec. 249" and insert "Sec. 239" immediately before "Increasing African participation in USIA exchange programs."

SENATE RESOLUTION 206—RELATIVE TO THE COMPILATION OF EULOGIES ON THE LIFE OF RICHARD M. NIXON, FORMER PRESIDENT OF THE UNITED STATES

Mr. DOLE (for himself, Mr. COVERDELL, Mr. STEVENS, and Mr. MACK) submitted the following resolution; which was considered and agreed to:

S. RES. 206

Whereas, all American Presidents affect history in their own way, but few have made more history or shaped the history of their times more than Richard Nixon;

Whereas, millions of men and women across America and around the world mourn the death of the 37th President of the United States;

Whereas, he will be remembered for his foreign policy accomplishments, and for his dedication to peace;

Whereas, in his first inaugural address, President Nixon said "The greatest honor that history can bestow is the title peacemaker.";

Whereas, because of his efforts as President to improve relations with the then-Soviet Union, to bring China out of isolation, and to forge peace in the Middle East, Richard Nixon more than earned the title of peacemaker;

Whereas, he travelled the world, speaking on behalf of democracy, freedom, and peace;

Whereas, he proposed a landmark family assistance program, created the Environmental Protection Agency, expanded the Food Stamp Program, backed the innovative program call "revenue sharing," signed the Consumer Product Safety Act, and emphasized strengthening law enforcement;

Whereas, more and more Americans have come to appreciate President Nixon and his accomplishments;

Whereas, they admire him not because he was perfect, but because of his courage and perseverance, his intelligence and his vision, the fact that he loved his family and because he loved his country; and

Whereas, whether it was facing an anti-American mob in Venezuela, or going toe-to-toe with Khrushchev in the famed "kitchen debate," Richard Nixon always stood up for America: Therefore be it ,

Resolved, That the Senate directs that the eulogies offered concerning the life of the Honorable Richard M. Nixon, former President of the United States, former Vice President of the United States, former Representative and former Senator from the State of California be bound and printed as a Senate Document.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the former President.

SENATE RESOLUTION 207—RELATIVE TO RWANDA

Mr. SIMON (for himself, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. PELL, Ms. MOSELEY-BRAUN, Mr. WOFFORD, and Mr. FEINGOLD) submitted the following resolution; which was considered and agreed to:

S. RES. 207

Whereas on April 6, 1994, Presidents Juvenal Habyarimana of Rwanda and Cyprien Ntaryamira of Burundi were killed when their plane was shot down just outside Kigali, leading to an eruption of violence in Rwanda;

Whereas the systematic and indiscriminate massacre of civilians, estimated in the tens of thousands, is a crime against humanity;

Whereas the violence currently being perpetrated by the Rwandan government forces and their allied militias, as well as the Rwandan Patriotic Front, against members of both the Tutsi and Hutu ethnic groups is deplorable and violates all standards of human rights;

Whereas food shortages and lack of medical supplies in Rwanda, and the evacuation of humanitarian relief workers, has put millions of lives at risk;

Whereas a peace accord signed in Arusha by the Habyarimana government and the Rwandan Patriotic Front in August 1993 created the basis for formation of an integrated transitional government in Rwanda;

Whereas the United Nations Security Council voted in October 1993 to deploy a force of 2,500 peacekeepers, the United Nations Assistance Mission for Rwanda (UNAMIR) to assist in implementation of the Arusha accords;

Whereas tens of thousands of Rwandans have sought the protection of UNAMIR forces and refuge from the continuing violence;

Whereas a number of contributing nations have withdrawn their troop contingents from the UNAMIR operation and other nations contributing forces may follow suit; and

Whereas continued unrest and violence in Rwanda threatens the stability of the entire Central African region: Now, therefore, be it:

Resolved, That the Senate—

(1) deplores the brutal and systematic massacre of civilians and individuals sympathetic to the political opposition in Rwanda by the Rwandan military and associated groups, as well as the Rwandan Patriotic Front.

(2) urges the United Nations and the Organization of African Unity to continue efforts to gain agreement on a credible cease-fire and to facilitate negotiations between the parties to the conflict, based upon the Arusha accords;

(3) calls on all parties, including the Rwandan army, related militias particularly Colonel Bagosora, Colonel Augustin Bisimungu, Capitan Pasqual Simbikangwa and Colonel Mpiranya as well as the Rwandan Patriotic Front.

(A) to exercise restraint and control over their forces,

(B) to accede to an immediate and unconditional ceasefire,

(C) to respect such cease-fire and ensure the safety of innocent civilians,

(D) to guarantee free passage of humanitarian assistance to all in need of such aid, and

(E) to recommit themselves to the principles set forth in the Arusha accords;

(4) calls on the United Nations to consider carefully both military and diplomatic options which are consistent with the Arusha accords and will ensure the safety of innocent civilians, assist in monitoring an eventual cease-fire or peace agreement, facilitate the delivery of humanitarian relief, and ensure the viability of these options;

(5) commends President Clinton for his swift condemnation of and response to this

crisis, and applauds the efforts of the United States Ambassador to Rwanda, David Rawson, in ensuring the safe and swift evacuation of Americans from Rwanda;

(6) urges President Clinton to continue diplomatic efforts at the highest levels to achieve prompt resolution of the political and humanitarian crisis in Rwanda.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

AMENDMENTS SUBMITTED

INTERSTATE BANKING AND BRANCHING ACT OF 1994

FEINGOLD AMENDMENT NO. 1659

Mr. FEINGOLD proposed an amendment to the bill (S. 1963) to permit certain financial institutions to engage in interstate banking and branching; as follows:

At the appropriate place in the bill, add the following new section:

SEC. . GAO REPORT ON DATA COLLECTION UNDER INTERSTATE BRANCHING.

(a) IN GENERAL.—The Comptroller General shall submit to the Congress, not later than 9 months after the date of enactment of this Act, a report that—

(1) examines statutory and regulatory requirements for insured depository institutions to collect and report deposit and lending data; and

(2) determines what modifications to such requirements are needed, so that implementing the interstate branching provisions contained in this Act results in no material loss of information important to regulatory or congressional oversight of insured depository institutions.

(b) CONSULTATION.—The Comptroller General, in preparing the report required by this section, shall consult with individuals representing the appropriate Federal banking agencies, insured depository institutions, consumers, community groups, and other interested parties.

(c) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

METZENBAUM AMENDMENT NO. 1660

Mr. METZENBAUM proposed an amendment to the bill S. 1963, supra; as follows:

On page 26, after line 18, insert the following new title:

TITLE II—BANK AND THRIFT STATUTE OF LIMITATIONS

SEC. 201. SHORT TITLE.

This title may be cited as the "Bank and Thrift Statute of Limitations Clarification Act of 1994".

SEC. 202. AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.

Section 11(d)(14)(B)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821 (d)(14)(B)(i) is amended by inserting after "receiver" the following: ", regardless of whether the claim may have been barred under any otherwise applicable statute of limitation at the date of such appointment, unless such claim was barred more than 5 years before the date of such appointment".

SEC. 203. APPLICABILITY.

The amendment made by section 202 shall apply to all actions pending or brought by the Federal Deposit Insurance Corporation and the Resolution Trust Corporation as conservator or receiver on or after August 9, 1989.

On page 1, between lines 2 and 3 insert the following:

"TITLE I—INTERSTATE BANKING AND BRANCHING".

Redesignate sections 1 through 7 of the bill as sections 101 through 107, respectively.

On page 1, line 4, strike "Act" and insert "title".

RIEGLE (AND OTHERS) AMENDMENT NO. 1661

Mr. RIEGLE (for himself, Mr. D'AMATO, Mr. GRAHAM, Mr. ROTH, Mr. FEINGOLD, Mr. KERREY, Mr. SIMPSON, and Mr. CAMPBELL) proposed an amendment to the bill S. 1963, supra; as follows:

On page 6, strike lines 10 through 12, and insert the following:

"(A) COMBINATIONS AUTHORIZED.—Beginning on June 1, 1997, a bank having".

On page 11, line 6, insert "and prior to June 1, 1997," that applies".

On page 11, lines 17 and 18, strike "LAWS ENACTED SUBSEQUENT TO AUTHORIZATION DATE.—" and insert "EFFECT OF STATE ELECTION.—".

Beginning with page 11, line 25, strike "during the 2-year period beginning on the date of enactment of this subsection" and insert "prior to June 1, 1997".

On page 12, strike lines 19 through 23 and insert the following:

"performance beyond June 1, 1997.

"(8) COMBINATIONS AFTER JUNE 1, 1997.—A State described in para—".

MOSELEY-BRAUN AMENDMENT NO. 1662

Mr. RIEGLE (for Ms. MOSELEY-BRAUN) proposed an amendment to the bill S. 1963, supra; as follows:

On page 1, between lines 1 and 2, insert the following:

"TITLE I—INTERSTATE BANKING AND BRANCHING".

Redesignate sections 1 through 7 of the bill as sections 101 through 107, respectively.

On page 26, after line 18, add the following new title:

TITLE II—FINANCIAL SERVICES

SEC. 201. SHORT TITLE.

This title may be cited as the "National Commission on Financial Services Act".

SEC. 202. ESTABLISHMENT OF NATIONAL COMMISSION ON FINANCIAL SERVICES.

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Commission on Financial Services" (hereafter in this title referred to as the "Commission").

(b) MEMBERSHIP OF THE COMMISSION.—

(1) COMPOSITION.—The Commission shall be composed of 7 voting members and 3 nonvoting members appointed as follows:

(A) Three voting members and 1 nonvoting member to be appointed by the President.

(B) Two voting members and 1 nonvoting member to be appointed jointly by the Majority Leader of the Senate and the Speaker of the House of Representatives.

(C) Two voting members and 1 nonvoting member appointed jointly by the Minority Leader of the Senate and the Minority Leader of the House of Representatives.

(2) QUALIFICATIONS.—

(A) VOTING MEMBERS.—

(i) IN GENERAL.—Voting members appointed pursuant to paragraph (1) shall be appointed from among individuals who are users of the financial services system, and shall include representatives of business, agriculture, and consumers.

(ii) PROHIBITION.—No voting member of the Commission shall be an employee of the Federal Government or any State government.

(B) NONVOTING MEMBERS.—Nonvoting members appointed pursuant to paragraph (1) shall be appointed from among individuals who are experts in finance or in the financial services system.

(3) APPOINTMENT.—The appointment of the members of the Commission shall be made not later than June 30, 1994.

(4) TERMS.—Members shall be appointed for the life of the Commission.

(5) VACANCIES.—A vacancy in the Commission shall not affect the powers of the Commission and shall be filled in the same manner in which the original appointment was made.

(6) CHAIRPERSON.—The President shall designate 1 of the voting members of the Commission to serve as the chairperson of the Commission (hereafter in this title referred to as the "Chairperson").

(7) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(8) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(9) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

SEC. 203. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall, after consultation in accordance with paragraph (3), conduct a study of all matters relating to the strengths and weaknesses of the United States financial services system in meeting the needs of users of the system, including all laws, regulations, and policies that govern part or all of the financial services industry or that affect the ability of the financial services industry to effectively and efficiently meet the needs of—

(A) the United States economy;

(B) individual consumers and households;

(C) communities;

(D) agriculture;

(E) small-, medium-, and large-sized businesses (including the need for debt, equity, and other financial needs);

(F) governmental and nonprofit entities; and

(G) exporters and other users of international financial services.

(2) MATTERS STUDIED.—The study required under paragraph (1) shall include consideration of—

(A) the changes underway in the national and international economies and the financial services industry, and the impact of such changes on the ability of the financial services system to efficiently meet the needs of the United States economy and the users of the system during the next 10 years and beyond;

(B) the adequacy of the existing framework of Federal and State laws and regulations, and the extent to which Federal laws and regulations, in an efficient and cost-effective manner—

(i) achieve consumer protection objectives;

(ii) promote competition and prevent anticompetitive acts and practices or undue concentration;

(iii) ensure that the financial services are delivered in a nondiscriminatory and cost-efficient manner; and

(iv) ensure access to the financial services system for all potential users of the system, regardless of where such users are located; and

(C) the extent to which the Federal regulatory structure impacts the achievement of the objectives in subparagraph (B).

(3) CONSULTATION.—Consultation in accordance with this paragraph means consultation with—

(A) the Board of Governors of the Federal Reserve System;

(B) the Director of the Office of Thrift Supervision;

(C) the Chairperson of the Federal Deposit Insurance Corporation;

(D) the Comptroller of the Currency;

(E) the Secretary of the Treasury;

(F) the Secretary of the Department of Housing and Urban Development;

(G) the Securities Exchange Commission;

(H) the Commodities Futures Trading Commission;

(I) the Director of the Congressional Budget Office; and

(J) the Comptroller General of the United States.

(b) RECOMMENDATIONS.—Based on the results of the study conducted under subsection (a), the Commission shall develop specific recommendations for changes in laws and regulations to improve the operation of the United States financial services system, including needed changes in the Federal legislative and regulatory policies and in the Federal regulatory structure that would enhance—

(1) the ability of the financial services system, or any part thereof, to respond to the needs of all potential users of the system;

(2) the systemic safety of the financial services system;

(3) the cost of financial services to users of the system;

(4) the competitiveness of the various providers of financial services;

(5) how funds are allocated to the financial services system; and

(6) how funds are allocated by the financial services system to users of the system or to specific categories of users.

(c) REPORT.—Not later than March 31, 1995, the Commission shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report describing the activities of the Commission, including the study conducted under subsection (a) and any recommendations developed under subsection (b).

SEC. 204. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section.

(b) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any Federal department or agency such information (other than information required by any statute of the United States to be kept confidential by such department or agency) as the Commission considers necessary to carry out its duties under this section. Upon the request of the Chairperson, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

SEC. 205. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson may, without regard to the civil service laws and regulations, appoint and terminate an executive director and not more than 2 additional professional staff members to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairperson may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to the classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(d) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Chairperson, any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Chairperson, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

SEC. 206. TERMINATION OF COMMISSION.

The Commission shall terminate 30 days after the date of submission of the report required under section 203(c). All records and papers of the Commission shall thereupon be delivered by the Administrator of General Services for deposit in the National Archives.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this Act.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

PRYOR AMENDMENT NO. 1663

Mr. RIEGLE (for Mr. PRYOR (proposed an amendment to the bill S. 1963, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . MAXIMUM INTEREST RATE ON CERTAIN FmHA LOANS.

(a) IN GENERAL.—Section 307(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)) is amended—

(1) in paragraph (3)(A), by striking "Except" and inserting "Notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved, except"; and

(2) in paragraph (5)—

(A) by striking "(5) The" and inserting "(5)(A) Except as provided in subparagraph (B), the"; and

(B) by adding at the end the following new subparagraph:

"(B) In the case of a loan made under section 310B as a guaranteed loan, subparagraph (A) shall apply notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved.".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by subsection (a) shall apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in a State on or after the date of enactment of this Act.

(2) STATE OPTION.—Except as provided in paragraph (3), the amendments made by subsection (a) shall not apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in a State after the date (that occurs during the 3-year period beginning on the date of enactment of this Act) on which the State adopts a law or certifies that the voters of the State have voted in favor of a provision of the constitution or law of the State that states that the State does not want the amendments made by subsection (a) to apply with respect to loans made, insured, or guaranteed under such Act in the State.

(3) TRANSITIONAL PERIOD.—In any case in which a State takes an action described in paragraph (2), the amendments made by subsection (a) shall continue to apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in the State after the date the action was taken pursuant to a commitment for the loan that was entered into during the period beginning on the date of enactment of this Act, and ending on the date on which the State takes the action.

DASCHLE (AND PRESSLER) AMENDMENT NO. 1664

Mr. RIEGLE (for Mr. DASCHLE for himself, and Mr. PRESSLER) proposed an amendment to the bill S. 1963, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . MOUNT RUSHMORE COMMEMORATIVE COIN ACT.

(a) DISTRIBUTION OF SURCHARGES.—Section 8 of the Mount Rushmore Commemorative Coin Act (104 Stat. 314; 31 U.S.C. 5112 note) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) the first $18,750,000 shall be paid during fiscal year 1994 by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial; and

"(2) the remainder shall be returned to the Federal Treasury for purposes of reducing the national debt.".

(b) RETROACTIVE EFFECT.—If, prior to the enactment of this Act, any amount of surcharges have been received by the Secretary of the Treasury and paid into the United States Treasury pursuant to section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect prior to the enactment of this Act, that amount shall be paid out of the Treasury to the extent necessary to comply with section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect after the enactment of this Act. Amounts paid pursuant to the preceding sentence shall be out of funds not otherwise appropriated.

(c) NUMISMATIC OPERATING PROFITS.—Nothing in this section shall be construed to affect the Secretary of the Treasury's right to derive operating profits from numismatic programs for use in supporting the United States Mint's numismatic operations and programs or to allow the distribution of operating profits from the Numismatic Public Enterprise Fund to a recipient organization under any numismatic program.

D'AMATO (AND OTHERS) AMENDMENT NO. 1665

Mr. D'AMATO (for himself, Mr. RIEGLE, and Mr. SASSER) proposed an amendment to the bill S. 1963, supra; as follows:

On page 26, after line 18, add the following new section:

SEC. 8. SENSE OF THE SENATE CONCERNING MULTILATERAL EXPORT CONTROLS.

(a) FINDINGS.—The Senate finds that—

(1) the United States and its allies have agreed that as of March 31, 1994, the Coordinating Committee (hereafter referred to as "COCOM"), the multilateral body that controlled strategic exports to the former Soviet Union and other Communist States, ceased to exist;

(2) no successor has yet been established to replace the COCOM;

(3) threats to United States security are posed by rogue regimes that support terrorism as a matter of national policy;

(4) a critical element of the United States proposal for a successor to COCOM is that supplier nations agree on a list of militarily critical products and technologies that would be denied to a handful of rogue regimes;

(5) some allies of the United States oppose this principle and instead propose that such controls be left to "national discretion", effectively replacing multilateral export controls with a loose collection of unilateral export control policies which would be adverse for United States security and economic interests;

(6) multilateral controls are needed to thwart efforts of Iran, Iraq, North Korea, Libya, and other rogue regimes, to acquire arms and sensitive dual-use goods and technologies that could contribute to their efforts to build weapons of mass destruction; and

(7) the United States would be forced to make the difficult choice of choosing between unilateral export controls under the Export Administration Act of 1979, which would put American companies at a competitive disadvantage worldwide, or allowing exports that could seriously harm the national security interests of the United States.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President should work to achieve a clearly defined and enforceable agreement with allies of the United States which establishes a multilateral export control system for the proliferation of products and technologies to rogue regimes that would jeopardize the national security of the United States; and

(2) the President should persuade allies of the United States to promote mutual security interests by preventing rogue regimes from obtaining militarily critical products and technologies.

RIEGLE (AND D'AMATO) AMENDMENT NO. 1666

Mr. RIEGLE (for himself and Mr. D'AMATO) proposed an amendment to the bill S. 1963, supra; as follows:

On page 4, line 17, add the following after the period: "A State law in effect on the date of enactment of the Interstate Banking and Branching Act of 1994 that permits bank holding companies from only a limited number of States to acquire banks in existence for a specified length of time, in that State, shall be interpreted, under State and Federal law, as permitting bank holding companies from any State, to acquire a bank in that State, under the terms and conditions of such State law."

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on Implementation of the Administration's Climate Change Action Plan and the Energy Policy Act of 1992.

The hearing will take place on Tuesday, May 10, 1994, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building, First and C Streets, NE., Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attention: Leslie Black Cordes.

For further information, please contact Leslie Black Cordes of the committee staff at (202) 224-9607.

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding an oversight hearing on Thursday, April 28, 1994, beginning at 2 p.m., in 485 Russell Senate Office Building on water and sanitation issues in rural Alaska.

Those wishing additional information should contact the Committee on Indian Affairs at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, April 26, 1994, at 3 p.m., in open session, to mark up S. 1587, the Federal Acquisition Streamlining Act of 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today, April 26, 1994, at 10 a.m., to hear testimony on the subject of the tax treatment of employer-based health insurance.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Tuesday, April 26, for a markup at 10 a.m. the following:

S. 1587, the Federal Acquisition Streamlining Act of 1993.

S. 1935, a bill to prohibit lobbyists and their clients from providing to legislative branch officials certain gifts, meals, entertainment, reimbursements, or loans and to place limits on and require disclosure by lobbyists of certain expenditures.

S. 622, to authorize appropriations for the U.S. Office of Special Counsel, the Merit System Protection Board, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, April 26, 1994, beginning at 2:30 p.m., in 216 Hart Senate Office Building to consider for report to the Senate S. 1526, the Indian Fish and Wildlife Resources Management Act of 1994, and for other purposes, to be followed immediately by an Oversight Hearing on the regulation of gaming.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, April 26, 1994 at 10 a.m. to hold a hearing on "Hope for Tomorrow: Crime Prevention for At-Risk Children".

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Small Business be permitted to meet while the Senate is in Session today in order to consider the nomination of Jere Glover to be Chief Counsel for Advocacy of the Small Business Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, April 26, 1994 at 4 p.m. to hold a closed markup on the fiscal year 1995 Intelligence Budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EDUCATION, ARTS AND HUMANITIES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources' Subcommittee on Education, Arts and Humanities be authorized to meet for a hearing on Foreign Language Education and ESEA Reauthorization, during the session of the Senate on April 26, 1994, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NUCLEAR DETERRENCE, ARMS CONTROL AND DEFENSE INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Nuclear Deterrence, Arms Control and Defense Intelligence of the Committee on Armed Services be authorized to meet on Tuesday, April 26, 1994, at 2 p.m., in open/closed session to receive testimony on the Chemical Demilitarization Program in review of the defense authorization request for fiscal year 1995 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON REGIONAL DEFENSE AND CONTINGENCY FORCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Regional Defense and Contingency Forces of the Committee on Armed Services be authorized to meet at 11 a.m. on Tuesday, April 26, 1994 in open session, to continue to receive testimony on the C-17 settlement and strategic mobility issues in review of the defense authorization request for fiscal year 1995 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, PUBLIC BUILDINGS AND ECONOMIC DEVELOPMENT

Mr. MITCHELL. Mr. President, I ask that the Subcommittee on Water Resources, Transportation, Public Buildings and Economic Development, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, April 26, beginning at 10 a.m., to conduct a hearing to review the General Services Administration's fiscal year 1995 Public Buildings Program and receive testimony on S. 1760, a bill to amend the Public Buildings Act of 1949.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

A U.S. STAMP TO HONOR RAOUL WALLENBERG

• Mr. WOFFORD. Mr. President, I wish to express my support for honoring Raoul Wallenberg by placing him on a U.S. stamp. I understand that it is uncommon for a non-U.S. citizen to receive such an honor, however, I believe Mr. Wallenberg should receive full consideration based upon his extraordinary contribution to society.

Raoul Wallenberg went to Budapest during World War II at personal risk to serve as the Swedish Ambassador to Hungary. Before his capture by the Soviet troops, Mr. Wallenberg provided Swedish passports to over 20,000 Jews and found safe shelter for nearly 13,000 others. His efforts and compassion in the face of Nazi genocide are particularly relevant and noteworthy in the context of ethnic strife in the world today.

Mr. President, a large number of Senators have sent letters of support for a Raoul Wallenberg stamp to the Postal Service. Along with my colleagues, I believe we should honor people like Raoul Wallenberg who embody the qualities upon which our Nation was founded, and that it would be most appropriate to honor him with a stamp bearing his likeness.•

TRIBUTE TO FATHER TOM ANDERT

• Mr. DURENBERGER. Mr. President, I rise today to pay tribute to Father Tom Andert, headmaster of St. John's Preparatory School in Collegeville, MN, who is stepping down at the end of this school year.

Over the years, Father Tom has performed a priceless service to education and has had a profound impact on the young men who have attended St. John's.

All of the qualities that typify a great teacher—a love of the classroom, compassion, and a wonderful sense of humor—are embodied in this gifted and dedicated instructor. Students clamor to experience Father Tom's legendary teaching, and every year he adds several sections to accommodate an overflow of students for his regularly scheduled classes.

One of the greatest lessons Father Tom brings to his students is an appreciation of diversity among people. He has taught the value of appreciating what is different about each person.

Throughout Father Tom's teaching career, he has exemplified the blessing of humility, and taught us that any gifts we have are best turned toward the benefit and empowerment of others.

Father Tom has long been instrumental—both as a teacher and as director—in the flowering relationship between St. John's and the famed Benedictine Abbey School in Melk, Austria, and is the founder and director of St. John's Sommerlage Alpenland, a German summer camp.

His unique abilities and talents have not gone unrecognized. Father Tom is the recipient of the Silver Cross of Merit from the Republic of Austria, the Leadership in Educational Excellence Award, and The Armor of Light Award.

He is blessed with a tremendous energy that has touched many in its wake. He was president of Benilde-St. Margaret's in St. Louis Park, a member of the board of regents for St. John's University, and head of the Minnesota Association of Independent Schools.

His contributions to the Association of Independent Schools have been an important factor in raising the quality of education among private schools, and he has led more than 20 evaluation teams accrediting private schools in the United States. This has been a volunteer effort of legendary proportion.

Mr. President, St. John's Preparatory School was founded in 1857, making it the oldest private secondary school in our State. Throughout his tenure, Father Tom has carried out a commitment to liberal arts education—where education means living peacefully with others, examining values and aspirations, and seeking a relationship with God.

With pleasure I say that Father Tom has been my friend. He has been a mentor to my sons, and an integral part of my family's history and the history of St. John's. In the mid-1940's, my father coached his father in football and basketball in the same school where Father Tom would become headmaster.

It is with deep gratitude, Mr. President, that I thank Father Tom Andert for his life of service to the education community and to the young people of the St. John's family.•

OPPOSITION TO EMPLOYER MANDATES IN HEALTH REFORM

• Mr. McCAIN. Mr. President, I am very disturbed by the health care reform proposals that are currently being considered by the various committees of the Senate and the House. Virtually all of these are slightly modified versions of the Clinton plan, with all of its flaws including health care alliances, mandatory standard benefits packages, global budgets, premium and price controls, and the feature I wish to discuss today, employer mandates. They don't seem to understand, as all of the polls demonstrate, that Americans want no part of this coercive, Government-controlled approach to health reform.

One of the worst aspects of this approach, which is included in the Mitchell, Stark, Dingell and other committee proposals, is the requirement that employers pay for the health insurance of their employees. Such an employer mandate is politically attractive to these committees because it is a hidden tax which gives the average citizen the erroneous impression that someone else is paying the bill. However, let us make no mistake about this, an employer mandate is the equivalent of a large new payroll tax—a tax of up to 7.9 percent under the Clinton plan. Economists agree that all of us will pay this tax, in the form of lost jobs, decreased wages, and higher prices.

Studies by respected independent research firms estimate that the number of jobs that will be lost under the Clinton plan range from 600,000 to over 2 million jobs. In addition, a National Federation of Independent Business [NFIB] survey of its 600,000 members found that more than 25 percent would be forced to close their businesses and another 25 percent would lay off workers if the Clinton plan is passed. The NFIB estimates that 3,717,500 employers, 74 percent of all employers nationally, will have higher payroll costs under the Clinton plan; many more if the small business subsidies are not fully financed and the premium caps are not forced.

In my State of Arizona alone, the impact of the employer mandate would be enormous and devastating. An independent poll of 8,000 Arizona members of NFIB found that 72 percent of small business owners would raise prices, and 45 percent would reduce the size of their businesses. According to a study prepared for the American Legislative Exchange Council, Arizona would lose 14,300 jobs during just the 1st year of the Clinton plan. In addition, wages would be reduced. The average income loss per worker in Arizona would be $390. Another study by CONSAD Research Corporation found that 10,822 jobs would be lost in Arizona assuming that the subsidies are maintained. Other States will experience similar losses.

The committee proposals that are being considered as alternatives to the Clinton plan will also have an adverse effect on the economy and employment. Whether their employer mandates cost us 100,000 jobs or 2 million jobs, the workers who are laid off will be substantially worse off as a result of health care reform. We can achieve the objectives of reform without imposing such costs on employers and employees. The various Republican proposals achieve universal access without employer mandates or new taxes.

Mr. President, I hope that my colleagues on the committees with jurisdiction over health reform will seriously consider the great harm that an employer mandate will do. Even an employer mandate that is smaller than the mandate imposed under the Clinton plan will have a very adverse effect, and will likely become even more burdensome over time as health care costs increase. I ask that a letter from the Coalition for Jobs and Healthcare, representing the employers of over 35 million Americans, be printed in the RECORD.

The letter follows:

COALITION FOR JOBS AND HEALTHCARE,
April 21, 1994.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR JOHN: As a coalition of more than one million employers both small and large, we are writing to express our strong opposition to the inclusion of any form of an employer mandate to finance health insurance in health care reform legislation.

Taken together, the signatories of this letter employ over 35 million Americans in all fifty states. We have examined how we would be impacted by an employer mandate, and it is abundantly clear that the mandate is the wrong course for health care reform.

We are united in the belief that the employer mandate is a payroll tax that would cause devastating job loss, wage reductions, and would do great harm to the ability of American business to grow and prosper. We believe that employers who currently do provide insurance for their employees and those who do not would both be hurt by the unaffordable costs and regulatory burden that the employer mandate represents. We believe the employer mandate denies all businesses any role in controlling their own health care costs and brings to a halt ongoing employer innovation in providing health benefits for employees.

The employer community strongly supports health care reform, but will vigorously oppose employer mandates because we believe reform should not come at the expense of the economic health of American business and its employees.

Sincerely,

4M Inc.; 50-Off Stores; 54 Foods, Inc.; A & M Machine, Inc.; A Scape by Design; A. Duda & Sons, Inc.; A. Rea Construction, Inc.; A.L. Cedlious; A.R. Vetter Co., Inc.; A-Acclaim Commercial Lock and Safe; A-C Brake Co., Inc.; A-J Roofing & Waterproofing Co.; A-J Services; A-Team Plumbing & Irrigation; A&D Management Co., Inc.; A&W Restaurants. Inc.; AA Action Carpet Cleaning; AA Industrial Cleaners, Inc.; AAC Corporation; AB Management Group; ABM Industries, Inc.; Abnar, Inc.; AC & C General Contractors; Ace Fire Systems, Inc.; ACME Fence and Lumber; ACME Pacific Repairs, Inc.; ACOM; Acorn Restaurants, Inc.; Acquario Restaurant; Action Electric, Inc.; Adams Consulting Engineers, Inc.; Adams Mechanich Service; Adams O'Reilly, Inc.; Adelman Maintenance Corporation of Milwaukee; Adelpha Plants; Admiral Beverage Corp.;

Admiral Linen Service, Inc.; Admiral Petrolium Co.; ADS Inc.; Advance Service of America; Advance Water Conditioning; Advanced Air Systems, Inc.; Advanced Amusments, Inc.; Advanced Carpet Cleaning; Advanced Communications; Advanced Fire Protection, Inc.; Advanced Fixture & Supply Co.; Advanced Resurfacing Systems; Advanced Waste Technology, Inc.; Advantage Business Services; Advantage Printing, Inc.; Adver-tees Screenprinting; Aerobee Electric, Inc.; Aetna Maintenance Systems, Inc.; Affordable Bus and Coach Conversions; AG/GRO Fert Co., Inc.; Agricultural Producers; Air Action; Air Maintenance, Inc.; Aircraft Service International Group; Airkem Tidewater, Inc.; Airsystems of Florida; Ajax Electric Co., Inc.; AJF, Inc.; Ak Sar Ben Roofing Company; Akerverg & Reimers CPA; Akron Pizza, Inc.; Al's Awning Shop, Inc.; Al's Laundry Specialists; Al's Lawn Service; Aladdin Electric, Inc.; Alalawn Landscape Design & Construction, Inc.; Alarm Detection Systems, Inc.; Alaskan Oil Inc.; Alastar Corp.; Albany Taco, Inc.; Albert H. Wohlers & Co.; Albert J. Kain, Jr.; Albertson's, Inc.; Alexander Aviation Associates, Inc.; Alexandra Inc.; Alexandria & Arlington Window Cleaning Co., Inc.; Alice's Restaurant; Alja Construction; All Clear Window Cleaning; All County Resource Management Corporation; All Plumbing & Installation Co., Inc.; All Purpose Electric Inc.; All Seasons Nursery & Garden Center; All Seasons Pools & Spas, Inc.; All Service Sanitation Co.; All Star Dist., Inc.; All Temp Service; Alleganey Taco Corp.; Allegro Sanitation Corporation; Allen & Gelb; Allen Communications Group, Inc.;

Allen Hughes Septic Tank Services, Inc.; Allen's Plumbing Supply; Allied Protection Services, Inc.; Allied Refrigeration & Electric, Inc.; Allstate Electric, Inc.; Allstate Safe & Lock; Alpaca Enterprises; Alpha Productions Publications; Alpo; Alps Management, Inc.; Altered Spaces, Inc.; Alternative Foods; Alto Shaam, Inc.; Altrix International; Always Open; Amarillo Stainless Steel Repair & Fabrication; AMC Sign Co.; Amel's Restaurant; American Bakers Association; American Banana & Produce, Inc.; American Cabling & Communication, Inc.; American Carpet Cleaning, Inc.; American Coaster Co.; American Communications Group; American Conditioned Air, Inc.; American Data Corporation; American Eagle Distributing Co.; American Edge Inc.; American Family Insurance; American Furniture Manufacturers Association; American Holding Co. American Hotel & Motel Association; American Leak Detection, Inc.; American Machine Tool Distributors Association; American Media, Inc.; American Pizza Partners; American Poolplayers Associations, Inc.; American Portland Cement Alliance; American Reprographics; American Sign Shops; American Society of Travel Agents; American Sound & Electronics, Inc.; American Speedy Printing; American Thermal Corp.; American Trucking Associations, Inc.; American Waste Control, Inc.; American Waste Grease, Inc.; American Waste Removal, Inc.; American Wholesale Marketers Association; American Wholesale Thermographers, Inc.; Americans for Intelligent Healthcare Reform; Amerigo & Scrooge's; Ames Department Stores, Inc.; Amigos Four, Inc.; Amity Lock & Safe; Amway Corporation; An Extra Fresh Flower Co.; Ancha Electronics, Inc.; Anchor Glass Container Corp.; Anchor-Robinson Heating & Cooling, Inc.; Ancient Mariner;

Anderson Asphalt Services, Inc.; Anderson Brothers; Anderson Die & Mfg Co. Inc.; Anderson Erickson Dairy, Inc.; Anderson Painting Co., Inc.; Anderson's Commercial Services; Andes Candies Inc.; Andorris Inc.; Andres Management Corporation; Andrews Environmental Co.; Andrews Financial Services and Automatic Bill Paying Service; Andro Engineering, Inc.; Anex Resources, Inc.; Angelica Corporation; Angelo Iron & Metal; Animal Emergency Clinic of Greter Augusta, PC; Animal Medical Clinic; Annadon Electric, Inc.; AnnDen Corp.; Annu Corporation; Anteolope Valley Distributing Co.; Anteope Valley Glass; Anthony Drummond Brokerage Services; Anuenue, Inc.; Anything Groes in Louisville, Inc.; Anytime Sign Systems; Apex Electric, Inc.; Apex Restaurants, Inc.; APM Produce, Inc.; Apoxiforce Temporaries/Plusmates Personnel; Apartment Communities Corporation; Applebaun & Associates, Inc.; Appliance Parts Distributors Association; Appliance Service Center, Inc.; Appliance Service Co.; Applied Office Systems, Inc.; Aqua Marine Technology, Inc.; Aquarium Rental & Servicing Co.; Aquatic Interiors; Archer's Plumbing & Heating, Inc.; Architects VanLom Edwards; Archway Transportation, Inc.; Ardmore Chamber of Commerce; Area Rental and Sales Co.; Argos Food Equipment, Inc.; Argle Furniture Doctors; Arizona Chamber of Commerce; Arizona Cutlery and Sharpening; Arizona Restaurant Association; Arkansas Specialty Co., Inc.; Arko Executive Services, Inc.; Armand's Chicago Pizzaria; Armendariz Ent., Inc.; Armstrong Garden Centers, Inc.; Armstrong's Lock and Supply, Inc.; Arnold Food Services, Inc; Arthur A. Brown Plumbing Co.; Artic Aire, Inc.; Artic Ice, Inc.; Artic Water Systems; Arvo Communications, Inc.;

Ascension Equipment & Rent-all; Ash County HUAC/R;; Ashley Glass Co.; Ashline Pumbling & Heating, Inc.; ASNI—Ad Show Network, Inc.; Aspen Leaf Landscape Maintenance, Inc.; Aspen Refrigeration and Heating Inc.; Asphalt Blended Products; Associated Electric Companies, Inc.; Associated Engineers and Surveyors, Inc.; Associated Landscape Contractors of America; Associated Office Products; Associated Supply Co., Inc.; Associated Technical Welders, Inc.; Association for Suppliers of Printing and Publishing Technology; At Your Service Lawn Care, Inc.; Atchison County Pizza, Inc.; ATCO Restaurant Group; Atherton Restaurant Systems, Inc.; Atladonna Diary; Atlanta Broom Co., Inc.; Atlanta Credit Corporation; Atlanta Exhaust and Carpet; Atlantic Fire Equipment; Atlantic Oil Company; Atlas Appliance, Inc.; Atlas Portable Services, Inc.; Atlas Pumping Company Inc.; Atlas Security and Patrol, Inc.; Auchinachie Plumbing Ltd.; Audio Visual Systems Now; Augur Industrial Fabrications, Inc.; Aurora Design Associates, Inc.; Austaco, Inc.; Automatic Bar Controls, Inc.; AutoSone, Inc.; Averot; Aviation Information Services, Inc.; Avrett Plumbing Co., Inc.; Awards & T-Shirt Specialist; Ayoub Engineering, Inc.; Azalea City Electrical Services, Inc.; Azen Bitnerpierson; B & B Pisas, Inc.; B & H Electric; B & H Plumbing Co.; B & K Plumbing, Inc.; B & R Maintenance Management, Inc.; B & R Systems, Inc.; B.E.M. Restaurant, Inc.; B.G. Lobster & Shrimp Corp.; B.H. Koons Upholstery, Inc.; B.J. Cleaners; B.J.L.C., Inc.; B&C Asphalt & Concrete, Inc.; B&C Enterprise Inc.; B&C Fire Safety, Inc.; B&G Food Enterprised, Inc.; Baas, Bruce & Associates, P.C.; Babbitt's Bindery, Inc.; Bachelli's;

Badger Window Cleaners; Bagel Street Cafe; Baker Plumbing, Inc.; Baldwin Metals Co., Inc.; Balentines Cafeteria; Balentines, Inc.; Ball Industries, Inc.; Balloon Wholesalers International; Balloonatics; Baltimore Bakery, Inc.; BAM-B, Inc.; Bama Bells, Inc.; Bank of the West; Bankers Trust; Banks Quarles Plumbing, Heating & Cooling, Inc.; Banner Sign Co.; Banner Stationers; Bano Quality Produce; Bar Maid Corporation; Barbagallo's; Barber Dairies, Inc.; Barbizon International, Inc.; Barefoot Peddler, Inc.; Bargreen-Ellingson Inc.; Barkett Fruit Company, Inc.; Barlow Nielsen Associates, Inc.; Barnes Drapery; Barnes Maintenance Service, Inc.; Barnside Management; Barra Communications; Barrington Saddlery; Barrow's House; Bartingale Mechanical, Inc.; Barton Glass Co.; Barton, Inc.; Basic American, Inc.; Batchelor's Service America (Heating & Air Conditioning); Bavarian Bakery; Bay Area Restaurant Appliance Service Inc.; Bay California Painting Co.; Bay Ridge Beach, Inc.; Bayside Restaurant Service, Inc.; BB Holdings/Blue Boar; BBG Specialty Foods, Inc.; BCDE Pisa, Inc.; BCH Mechanical, Inc.; Beaudoin Electrical Construction, Inc.; Becker Construction Co., Inc.; Beckman Bros., Ltd.; Beckman Produce, Inc.; Beckman Services; Beckner, Inc.; BeeGee Shoe Corp.; Begin Home & Maintenance Service; Behlog & Son Produce, Inc.; Belair Builders Inc.; Bell's Chicken Villas, Inc., No. 2 (KFC); Bellaco Inc.; Belle Haven Realty Co.; Bellenir Roofing; Beltram Cutlery Service;

Ben Jackson Enterprises; Ben's Rental & Sales; Benefit Design Services; Benelux Inc.; Benihana National Corp.; Benjamin Plumbing; Benentt Drane Karamatsu Electrical Engineers, Inc.; Bennett Refrigeration, Inc.; Bennett's Economy Sanitation; Benton Harbor Awning & Tent; BER Refrigeration, Heating & Cooling, Inc.; Bergn Food Enterprises, Inc.; Berkheimer Associates; Berkshire Soundtronics, Inc.; Bernard's New York Deli; Berry's Garden Center; Bessette Plumbing and Heating, Inc.; Best Consulting; Best Lock and Safe, Inc.; Best Plumbing; Best Products Co., Inc.; Best Shot, Inc.; Best Western (Campbellsville, KY); Best Western (Eulonia, GA); Best Western (Harlan, KY); Best Western CottonTree Inn; Best Western Gratz Park Inn (Lexington, KY); Best Western International, Inc.; Bestler Corporation; Better Brands; Bettiol Fuel Service, Inc.; Bev-Lin Enterprises Inc.; Bexley's Monk; Bey-Lea Dairy; Bid Red's Lawn Service, Inc.; Big Blue Stores, Inc.; Big Red Q QickPrint; Bill Grays/Tom Wahls; Bill's Sweeping Co. Inc.; Bill-Pat of Wildwood; Billings & Associates; Bills' Produce; BIMA Corp.; Biotech of Texas; Birdseye Dairy, Inc.; Bishop Heating & Air Conditioning Co.; Bistro 122; Biz-Mark, Inc.; Bizzie Bee; Bjork Industries, Inc.; BKK Management Co.; Blair Lawn & Landscape, Inc.; Blairs' Western Wear Inc.; Blaising Fire & Water, Inc.; Blake Enterprises; Blanchford Training & Development Corporation; Blanton Photography; Blaylock Heating & Air Conditioning, Inc.; Blish-Mize Co.; Blitch Plumbing; Blochs Restaurants Inc.;

Bloom & Things Florist; Bloomsburg Steak Assoc., Inc.; Blue Grass Hardware; Blue Grass Vending; Blugrass Plumbing Co.; Bo-Chem Co., Inc.; Bo-Mar Inc.; Boardman Convenience Stores; Boardman Oil Co.; Bob Hendershot Plumbing Co.; Bob Lee's Inc.; Bob's Painting, Inc.; Bobby Meeks Environmental Services, Inc.; Bocco's Italian Restaurant; Bockelmans Restaurant; Boise Refrigeration Service Co.; Bolling's Restaurant, Inc.; Boly Louies Restaurant; Bones Lawn Care, Inc.; Bonfatto's Inc.; Bonnie Dune Ice Cream Corporation; Boomguard Builders; Boone County Produce Co.; Borden Trucking, Inc.; Border Enterprises, Inc.; Border Management Cor.; Border Taco, Inc.; Bordine's Better Blooms; Bosico, Inc,; Bostic's Lawm & Landscaping, Inc.; Bouquet Country; Bowlin's Incorporated; Bowling Green Restaurants, Inc.; Bowman Petroleum Co., Inc.; Box Appliance Service Corporation, Inc.; Boyce Industries, Inc.; Boykin Management Company; Bracy & Thomas P. S., Inc.; Braden Plumbing, Inc.; Bradford & Riley, Inc.; Bradford Oil Co.; Bradlees, Inc.; Branch Management Corporation; Brancheau Mgmt. Co.; Brandywine Valley Engineers, Inc.; Brass Smith, Inc.; Brawn's Ice Cream Company; Breadeaux Pisa, Inc.; Brevard Restaurant Equipment & Supply Co., Inc.; BRF, Inc.; Bridgewater Sanitation; Broadstreet Business Services; Brock's Chicken Inn; Brokers, Inc.; Brookfield Tire & Supply; Brooks Lock & Key, Inc.; Brookside Properties; Brothers Electro Mechanical; Brothers Industrial Cleaning, Inc.; Brown & Root, Inc.; Brownsburg World Travel;

BRS Music & Sound, Inc.; Bruce-Terminix Co.; Bryan Restaurants, Inc.; Brydebell Electric; Bubba's Convenience Stores; Buckles of America; Buckley Road Development Co.; Buckley's Prairie Landscaping, Inc.; Buddy's Mini Marts, Inc.; Budget Commercial Refrigeration & AC Service, Inc.; Budgetel Inns, Inc.; Buff's Truck Plaza; Buffalo Overhead & Hollow Metal Door, Inc.; Buffalo's Expert Service Technical, Inc.; Buffets, Inc. (Old Country Buffet); Building Construction Inc.; Bulkmiller Productions; Burger Bobs; Burger King; Burkholder Flint Associates; Burkland Flowers; Burlington Coat Factory; Burlington Franchise Group; Burns Brothers, Inc.; Burns Electric Inc.; Busch Garden Center; Bush Air Conditioning Centers, Inc.; Bush, Roed & Hitchings, Inc.; Business Service Systems Security, Inc.; Busler Enterprises, Inc.; Buster Lind Produce, Inc.; Bydal Designs; C & J Restaurant Management Co.; C & L Contracting, Inc.; C & N Refrigerations, Air Conditioning, and Heating; C & S Plumbing; C & S Press; C & T Design & Equipment Company, Inc.; C & W One Stops; C. Refrigeration of York, Inc.; C.C. Landscaping; C.D.A. Enterprises, Inc.; C.F.C. Food Management Inc.; C.M.I. Maintenance, Inc.; C-H Catering Co.; C&C Mobile Sharpening; C&M Smith Restaurants Inc.; C&R Holdings Inc. (St. Simon Island, GA); Cactus Vacuum Truck Service, Inc.; Caddels Lock-Key Service; Cafe Espresso; Cahill & Associates; Cajun Bell Inc.; Calebs Roofing, Inc.; California Healthline; California Suites; Calise & Sons Bky., Inc.; Callos Personnel Services; Calper Inc. dba Food Plaza, Calvert Lumber Co., Inc.; Camolur Inc.;

Campagna-Turano Baking Co.; Campbell & Johnson, Engineers PA; Campbell Foods Inc.; Campbell House Club Restaurant; Campbell House Country Club; Campbell House Inn; Campus Concepts Inc.; Canadian Motel Associations (St. Simons Island, GA); Cancer Treatment Centers International; Cancer Treatment Centers of America; Cancer Treatment Research Foundation; Cannon Services; Cant Oil Co.; Canvar Plumbing Co., Inc.; Canvas Products; Canyoneers, Inc.; Cape Deli Foods Inc.; Cape Fear Publishing Company, Inc.; Capital Carryout; Capital City Produce; Capital Coil Cleaning Co.; Capital Machine Co., Inc.; Capital Pizza Hut, Inc.; Capital Produce, Inc.; Caplan Sportsworld; Capp Care, Inc.; Capriccio Restaurant; Capstone Properties Inc. (San Clemente, CA); Captain Development Co., Inc.; Captive-Aire Systems, Inc; Car-Paul Safe & Lock Co.; Carbon Dioxide, Inc.; Carbonic National Systems Inc.; Cardina Sound Communications-MUZAK; Cardinal Maintenance; Career Fair World; Carefree Landscaping, Inc.; Carl Colteryahn Dairy, Inc.; Carl Jarl Lock & Security; Carl's Plumbing Services, Inc.; Carlson Distributing Company, Inc.; Carnegie Foods, Inc.; Caro-Mex, Inc.; Carolina; Carolina Pizza Co.; Carolina

Pizza Huts, Inc.; Carolina Taco Inc.; Carolina Truss & Mfg., Inc.; Caroline's Florist Shoppe; Carolyn Jones Advertising, Inc.; Carousel Dinner Theatre; Carpet Care; Carpet Cleaners Plus; Carraway Glass Co., Inc.; Carreca Enterprises, Inc.; Carrera Construction Co., Inc.; Carrera Landscaping, Inc.; Carrol's Exhaust Service; Carryer's Carpentry & Repair; Carson City Chamber of Commerce;

Carter Enterprises; Carter Enterprises, Inc.; Casa Ole Mexican Restaurants and Cantina; Casico Management, Inc.; CAT Enterprises; Caton's Plumbing, Heating & Air Conditioning; CBS Mechanical, Inc.; CC & J Co.; CC Greenery, Inc.; Ceiling Clean International, Inc.; Ceiling Pro International, Inc.; Celina Restaurants, Inc.; Cellar Market; CEMA Inc.; Cemco Inc.; Cenco, Inc.; Cenco, Inc. for Central Plumbing and Heating; Centennial Tap Beer Service, Inc.; Center City Hotel (Washington, DC); Center Rental and Sales, Inc.; Central Alabama Nursing; Central Carpet Cleaning Sales & Service, Inc.; Central Coast Printing; Central Dairy Co.; Central Lawnsprinkler, Inc.; Central Missouri Asphalt Co., Inc.; Central Plumbing Co. Inc.; Central Quality Service Corporation; Central Specialities; Central Steel Products; Central Valley Landscape; Century Air Conditioning Company; Century Fast Foods, Inc.; Century Management, Inc.; Century Office System, Inc.; Ceres Cafe; Cerritos Ford; Cettier-Montane, Inc.; Chagnon Refrigeration; CHAI III Inc., Jerry's Sub, Pizza; Champion & Associates, Inc.; Champions Safe and Lock, Inc.; Chander & Chandler; Chandler's Parts & Service, Inc.; Channel Home Centers, Inc.; Charles Bailly & Company; Charles C. Townes & Associates; Charles H. Liphart & Son; Charles Lake Realty Inc.; Charles Mason Von Henner, MD; Charles Services, Inc.; Charles Winslow International Limited; Charlie Sciara & Son Produce Co., Inc.; Charlie's Commercial Plumbing; Chas A. Bernick, Inc.; Cheddar's, Inc.; Cheeks Construction; Cheery Mechanical, Inc.; Chem Cab CO2; Chem-Dry By State Systems; Chem-Dry of Macon; Chem-Dry by Helf;

Chernesky, Heyman & Kress, Attorneys At Law; Chernoff Sales, Inc.; Cherokee Restaurant; Chesapeake Bay Seafood House Restaurants; Chester's Restaurant Supply Co.; Chesterfield Management, Inc.; Chevy Duty, Inc.; Chicago Diversified Foods Corp.; Chicago Power; Chicago Trashpacker Corporation; Chirsty & Christy, Inc.; Choice Hotels International, Inc.; Chowder's Famous Fish and Seafood; Chrishawn Associates, Inc.; Christian Delivery Chair Service Inc.; Christian's Tutwiler; Cicero's; CIGNA Corporation; Ciminillo Produce Co.; Cincinnati Ceiling Cleaning; Circle B Enterprises, Inc.; Circle K; Circle Packaging Co.; City; City Hall Pub; Civil & Environmental Consultants, Inc.; CKS, Inc.; CL Inc.; Claire's Stores, Inc.; Clancy's, Inc.; Clarion Hotel (New Orleans, LA); Clark Sportswear, Inc.; Classic Markets Corporation; Clay Brewer Enterprises, Inc.; Clay Diversified, Inc.; Clayton Management; Clean It Right Carpet Care; Cleany Boppers, Inc.; Clear-Vu Window Cleaning, Inc.; Climatic Corporation; Clover Bell Corp.; Clover Leaf Dairy; Cloverdale Travel Plaza; CNC Enterprises, Inc.; CO2 In Action, Inc.; COA, Inc.; Coach House Restaurant; Coal Breeze Corporation; Coast Plumbing, Inc.; Coastal Arcades and Investments, Inc.; Coastal Electric Co., Inc.; Cobra Well Service, Inc.; Cockle Law Brief Printing Co.; Coffee Times; Cofield's Custom Cabinetry; Cohlmia Home Gallery; Coit Services of Colorado; Colamco, Inc.; Colandrea New Corner Restaurant, Inc.; Coldwell Banker Gifford Realty, Inc.; Colle & McVoy, Inc.;

College Consultant Services, Inc.; Colley & McCoy Co.; Collier, Inc.; Collins Plumbing & Heating Co.; Colomex, Inc.; Colonial Manor Apartments; Colonial Tool & Electronics; Color World, Inc.; Colorado Beverage Distributing, Inc.; Colorado Candle & Supply; Colorado Restaurant Association; Colt Petroleum Corporation; Colt Services; Columbia Basin Pizza Hut, Inc.; Columbia Investments Builders, Inc.; Columbird QSR, Inc.; Columus Sign Co.; Comes Investments, Inc.; Comet Inc.; Comida Corp., Inc.; Comm. Systems Associates, Inc.; Command Irrigation Inc.; Commander's Palace; Commerce Service Bureau, Inc.; Commercial Air Conditioning, Inc.; Commercial Appliance Service; Commercial Beverage Systems, Inc.; Commercial Equipment Repair, Inc.; Commercial Kitchen Cleaners, Inc.; Commercial Metal Fabricators, Inc.; Commercial Parts & Service; Commercial Realty Specialists, Inc.; Commercial Restaurant Equipment Service, Inc.; Commercial Services, Inc.; Commercial Towel Service, Inc.; Commercial Appliance; Computer Solutions; Computerpeople, Inc.; Confort Inn Greenville (Greenville, SC); Congress Abstract Corporation; Congress Title Insurance Co.; Conklin Lawn Care; Conrad Catering; Conrad Enterprises, Inc.; Consolidated Heliflight, Inc.; Consolidated Concepts, Inc.; Contaco, Inc.; Continental Sea Products, Inc.; Contract Resources Corp.; Contract Sweepers Company; Control & Equipment Co.; Control-o-fax Systems, Inc.; Convenient Food Mart; Cood's Co.; Cook & Cook, Ltd.; Cooper's Turkey Place; Coors Distributing Company; Copilabs, Inc.; Corman Investments, Ltd.; Corner Investments, Inc.; Corporate Awards, Inc.;

Corporate Quarters, Inc.; Cortina Inn; Cotton Patch Cafe, Inc.; County Club Restaurant; Country Cupboard Restaurant Shop; Countrywide Plumbing, Inc.; Courtesy Refrigeration, Inc.; Courtyard (Fresno, CA); Cousins Subs; Cowlitz County Title Co.; Coye's Canvas & Awning, Inc.; Crab Pot Restaurant; Crane Plumbing & Heating, Inc.; Crawford Fitting Company; Creative Plant Rentals; Creel Crop.; Crippen Sheet Metal, Inc.; Cross Country Inn Magazine; Cryo Weld Corporation; Cryogenic Carbonic Engineering Inc.; Crystal Clear Window Cleaning; Crystal Linen/Uniform Service; CSI Associates (St. Simons Island, GA); CTJ Construction Co., Inc.; CTS Dry Cleaners; Cubertson Sheet Metal; Cuelsay's Frozen Custard; Culbertson Sheet Metal & Electric; Cull's Sales & Service, Inc.; Curley's Dairy Co.; Curtis Equipment Co., Inc.; Custom Coach Corp.; Custom Stainless; CutCo Industries, Inc.; D & D Enterprises; D & E Construction, Inc.; D & L Security Services & Investigations, Inc.; D & M Refrigeration, Inc.; D & M Linen Supply, Inc.; D & R Service, Inc.; D & R Security, Inc.; D & S Carpet Cleaning * Flooring Maint.; D.C. Associates Northeast Inc.; D.D.O.–CAL Inc.; D.G. Hand Construction Co.; D.G. Smith Enterprises Inc.; D.J. Bauer Plumbing, Inc.; D'Albini & Associates, Ltd.; D–J Enterprises; DAC Engerprises, Inc.; Dahlgren Duck & Associates; DAK Landscape Maintenance, Inc.; Dakota Dunafon Inc.; Dakota Refrigeration, Inc.; Dale Hubbert Financial Services; Daly City Locksmith; Dalzell Inc.; Damiano Management; Damon's, Inc.; Dan Howard Contracting, Inc.; Dan McKlusky's Butchery;

Dan McKlusky's Restaurant; Dan's Draft Systems; Danco Restaurant Enterprises, Inc.; Danco Service Corp.; Danrose Corporation; Dante's Restaurants; Dasher Management; Dataworks, Inc.; Dave and Buster's of Texas, Inc.; David L. Harmon Enterprises, Inc.; David Lynch Graphic Design; David M. Hickman; Davidson Electrical Enterprises, Inc.; Davis Mouldings & Millwork; Davis Oil Co., Inc.; Davis Waste Management, Inc.; Davro L.P.; DaWood Mexican Inc.; Days Inn (Carrollton, KY); Days Inn (Easton, MD); Days Inn (Shelbyville, KY); Days Inn (Starke, FL); Days Inn (Tampa, FL); Days Inn (Wheeling, WV); Days Inn of America, Inc.; Dayton Sweeping Services, Inc.; Dayva International; DBA Cameron Linen Supply; DC Bruce Inc.; DCI Food Equipment, Inc.; DDG Inc.; Deb-Mark Etnreprises, Inc.; Debray Enterprises; DeClerk Enterprises; Deerfield Construction Co., Inc.; DeGennare Associates; Dejon Enterprises, Inc.; Del Campo Baking Co.; Delamor Enterprises; Deland Corporation; Delecta Bell Inc.; Delisle & Assoc., Inc.; Dellco Metal Works; Delta Plumbing; Deltamex, Inc.; Den Taco Inc.; Denet Enterprise; Dervey Distributing Company, Inc.; Deserrt De Oro Foods Inc.; Desert Fountain Gas Supply; Designer Information Services; Designers Choice Stainless, Inc.; Deva Associates Corporation; Dewey Corporation; DGR Builders, Inc.; Dial Corp.; Dial One-Purofirst, Inc.; Diamond Dave's Taco Company; Diamond Machining Technology, Inc.; Diamonds Inc.; Diamonette Party Rental;

Dibbs Chemical Supply Co., Inc.; Dick's Supermarket; Dickson Edson McMahon, Inc.; Didak, Inc.; Diet Center, Inc.; DiMarco Constructots Corporation; Dimare's Specialty Foods; DinePro Corp.; Dinsmoor Family Trust; Directions Research, Inc.; Dirtbusters; Dity Different Enterprises, Inc.; Diveley Development Corp.; Diversified Refrigeration Systems, Inc.; Diversified Graphics, Inc.; DNAL, Inc.; Dobbs International Services, Inc.; Dobski & Associates; Dockside Restaurants; Doctor Rooter Sewer Services; Dohrman Insurance Agency; Dolan Foster Enterprises Inc.; Dolson Mexican Foods; Domenic Graziano Flowers, Inc.; Domino Sugar Corporation; Domino's Pizza; Don McComas Enterprises; Don Miller Sales/B & W Distributing; Donaldson Enterprises—Wendy's of South Georgia; Donel Enterprises, Inc.; Doorstep Beverage & Coffee Service; Dora Landscaping Company; Doral Enterprises Corp.; Doral Flowers; Dorothy Cox's Candies Inc.; Double Arch Management; Double Arches; Double D Inc.; Dover Grease Traps, Inc.; Down to Earth Landscape; Downhome Hospitality, Inc.; Drake Bakeries; Drapery Works Systems, Ltd.; Dream Grower Plants; Dream Steam Carpet Cleaning, Inc.; Dreyer's Grand Ice Cream; Drown Electric; DSG Associate, Inc.; DSSC Speciality Contracting; Duckwall—Alco, Inc.; Dudbury Transportation Inc.; Dukart Management Corporation; Dumont Marine; Dunafon Enterprise Inc.; Dunn Plumbing Co., Inc.; Dunsky's Restraurant Equipment & Bar Supply Co.; Durrett Properties, Inc.; Dusobox Corporation; Dustbuster's Sweeping Service, Inc.; Dutch Mill; Dwyer Group.;

Dye Carbon, Inc.; Dyna-Kleen Services, Inc.; Dyson Plumbing Co., Inc.; E&M Plumbing Co., Inc.; E&S Enterprises; E.A. Winslow & Associates, Inc.; E.E.S. International, Inc.; E.K. Enterprises; E.L. Waters Air Conditioning & Heating, Inc.; E.R. Clarke Associates, Inc.; E.T. Inc.; E.W. Brauwn Plumbing & Heating, Inc.; E.W. P., Inc.; E–H Enterprises, Inc.; E–Z Mart Stores, Inc.; E–Z Shelving Systems, Inc.; Eardley Enterprises, Inc.; Earl F. Kegerise, Inc.; Earth Resources Corporation; East Coast Food Equipment, Inc.; Eastern Land Management, Inc.; Eastmark Corporation; Eaton & Associates; Echo Spring Dairy; ECO Industries, Inc.; Economy Products, Inc.; ECPH Management, Inc.; ECSI Executone; Ed & Elizabeth Tripp;

EDCO Enterprises; Eddy Corporation; Eden Hombres Inc.; Edison Brothers Stores; EDJ Inc.; Edlund Co. Inc.; Edwards and Hotchikiss Architects, Inc.; Egan Tour Service; Ehlerding Motor Sports, Inc.; EIPCO Foods Corp.; El Chico Restaurant; El Coyote; El Mac Investments; El-Dorado Motel; Elbell Inc.; Electrical-Electronics Materials Distributors Association; Electro Steam Gen. Corp.; Electronic Systems; Elena Y Francisco, Inc.; Elite Corporate Concepts; Elhorn Bus Services, Inc.; Ellen's Harborside; Elmira Business Machines, Inc.; Elyoria Pizza, Inc.; Embassy Suites, Inc.; Emerald Power Wash Services; Emergency Alert Security Equipment, Inc.; EMI; Employee Benefits South, Inc.; Employers Choice Temp. Services, Inc.; Employers Council on Flexible Compensation; Endicott Johnson;

Engen Enterprises Inc.; Engine Weld and Machine Co.; Engineered Air Conditioning, Inc.; Enjay Enterprises; Enviro-Care Tank Systems, Inc.; Envoy Corporation; EPEC K., Inc.; EPM, Inc.; Equipment Marketing & Sales; Equus Restaurant; Erickson's Super Seal, Inc.; Es-O-En Corp.; Esposito Garden Center; Essex Lamp & Repair; Euro-Tech, Inc.; Evans Artic Air; EVCO Electronics; Everett Carbonic; Evergreen Garden Center; Everybody's Oil Corp.; Ex-Act Marketing, Inc.; Excel Linen Supply; Excell Carpet Care, Inc.; Excelsior Tavern; Executrain of Florida; Exhibit Group Inc.; Expack Seafood Inc.; Expo Oil Co.; Express Lane, Inc.; Express Mart, Inc.; Express Personnel Services, Inc.; Eye, Ear, Nose & Throat Clinic; F & S Plumbing & Hardware Co., Inc.; F & T Heating & Cooling; F. Kost Electric, Inc.; F. Tambellini Restaurant; F. Turner Enterprises, Inc.; F2 Associates Inc.; Factory Grinding Service, Inc.; Fadler Company, Inc.; Fairway Health Insurance Services; Fairway Outdoor Advertising; Fairway Sign Corporation; Fall River Taco Inc.; Falvey Linen Supply, Inc.; Family Buggy Restaurants, Inc.; Family Dollar Stores, Inc.; Family Medical Care; Family Restaurants, Inc.; Faribo Mfg. Co.; Farver/Tupper Association Management Co.; Fast Emergency Plumbing Service; Fast Food Consultants; Fast Food Operators, Inc.; Fast Food Systems, Inc.; Fastrac Convenience Stores; Fastrans; Fat Free Systems, Inc.; Faultless Starch/Bon Ami Company; Fayette Auto Sales; Fazoli's Restaurants, Inc.;

Federated Dept. Stores; Feldman Enterprises Inc.; Fellers Fixtures, Inc.; Felton Company; Ferri Brothers Foods; Fertile Lawn; Feuerhahn, Ltd.; Fiestas Corp.; Fikes Chemical Co. of El Paso; Fikes Hi-Gene, Inc.; Fikes Services, Inc.; Fikes-Micro Services; Fine Woodworking; Fink Baking Corporation; Fire Chief Equipment Co., Inc.; Fire Systems of Michigan, Inc.; FirePro, Inc.; Firetronics, Inc.; First Aid Plus, Inc.; First Federal Savings & Loan Association of Littlefield; First National Development, Ltd.; First Service Insurance, Inc.; First State Communications, Inc.; Fischer Oil Co.; Fitchburg Plumbing, Inc.; Fitzgerald Lighting & Maintenance; Five Oaks Nursing Center; Flagship Athletic Club; Fleiscmann Supply Co., Inc.; Fleming Water Conditioning; Flo's Attic, Inc.; Florida Briefcase; Florida Farm Bureau Federation; Florida Fruit & Vegetable Assn.; Florida Marking Products, Inc.; Florida Stainless Fabricators; Floridian Plumbing, Inc.; Florids Island Foods, Inc.; Flour Corp.; Flower City Restaurant Service, Inc.; Flower Depots International; Flowers By Lily; Flowers by Lou; Flynn Plumbing Co.; Foliage Design Systems, Inc.; Folk Oil Co. Inc.; Food Equipment Repair; Food Equipment Sales & Marketing; Food Equipment Services; Food Equipment Suppliers, Inc.; Food Marketing Institute; Food Master's Inc.; Food-N-Fuel, Inc.; Footaction USA; Foothill Beverage Co.; Footware Distributors and Retailers of America; Ford's Produce Company; Forms and Supplies Unlimited, Inc.; Forte Hotels, Inc.; Fortress S&L, Inc.; Foster, Conant & Associates, Inc.;

Fostoria Restaurants, Inc.; Four Corner Tacos, Inc.; Four Season's Produce, Inc.; Four Star Printing; Fourshee Building Supply; Fox Claims; Fox Excavating Inc.; Foxhills Resort (Mishicot, WI); Foxx Industries, Inc.; Fraden's Produce, Inc.; Fragale Plumbing, Heating & Cooling; Fran's Restaurant; Franco French Baking Company Sparks; Francorp, Inc.; Frank Castles & Associates; Frank Conti Contracting; Frank Gargillo & Son, Inc.; Frank L. Bartko Inc.; Frank's & Co., Inc.; Frank's Memorial Drive, Inc.; Frank's Sheetmetal, Inc.; Frankstown Fish Co., Inc.; Fred Olivieri Construction Co.; Freeman Construction & Painting Co.; Freeman's Flowers, Inc.; French Pisa, Inc.; Fresh Food Service; Fricke & Oliver, Inc.; Friend Laboratory Inc.; Friendly Ice Cream Corporation; Frisbie Management, Inc.; Fritzl's Restaurant, Bar, and Banquet House; Frolic Company; Frontier Landscape, Inc.; Fruit Distributors, Inc.; Fugate Enterprises; Fuhr & Sons Electric, Inc.; Fullmead Capriotti Enterprises; G & B Wilson, Inc.; G & J Restaurant Corporation; G. Edwin Pidcock Co.; G. Keith Smith, Inc.; G.A. Enterprises, Inc.; G.D. Smith, Inc.; G.D.B., Inc.; G.F. Bohman Assoc. Inc.; G.F.M. Inc.; G.H. Gazaway & Sons; G.M. Industrial Inc.; Gaechter Outdoor Advertising; Galasso's Bakery; Galaxy Catering, Inc.; Galliker Dairy Company; Garden Gate Nursery & Florist, Inc.; Garden of Eves; Garden Ridge; Gardwell Manufacturing Corp.; Garret Plumbing, Inc.; Garrett's Restaurant; Garrison & Associates Adv.; Garry's Plumbing, Heating & Air Conditioning.

Gary Anzalone; Gary's Printing; Gates Enterprises; Gateway Industrial Medical Clinic; Gateway Promotions; Gateway Refrigeration Service; Gateway Smorgasbord; Gavulic Florist Mart; Gaylord, Inc.; Greater Syracuse Chamber of Commerce; Gehrig Enterprises; Gene A. Wagner Plumbing Co., Inc.; Gene's Place to Dine; General Air Service and Supply; General Mfg. Inc.; General Mills, Inc.; General Mills Restaurants; General Plumbing Co.; General Supply Co., Inc.; General Window Cleaning Co.; Genesco, Inc.; Genesee Farms Dairy Mart; Genesee Refrigeration, Inc.; Genesis Property and Landscape Management Service Inc.; Geo Erickson Esq.; George Burke Seafood Sales. Ltd.; George E. Logue, Inc.; George Plumbing Co., Inc.; George Thomas Inc.; George's Excavating, Inc.; Georges Executive, Inc.; Gettel Enterprises; Gianulias Property Management Company; Gibby's Steaks & Seafood; Gibson Electrical Contracting, Inc.; Gibson's Discount Centers, Inc.; Gibsonia Flower Shop; Gilbert Heating & A.C., Inc.; Giles Engineering Association, Inc.; Gillette Aid Conditioning Co., Inc.; Gillette Dairy of the Black Hills Inc.; Gilley's Family Restaurant; Ginnings Company; Glacier Park, Inc.; Gladden Enterprises Inc.; Glass Pro; Glass Wholesale, Inc.; Glassmere Fuel Service, Inc.; Gleason Refrigeration Service, Inc.; Glen Carbonic Gas Co.; Glenns Commercial Service, Inc.; Glenville Queen, Inc.; GMBS, Inc.; GMI Financial Group, Inc.; GMK, Inc.; Gold Coast Fire Equipment; Gold Country Foods Inc.; Gold Star Chili, Inc.; Golden Arch Enterprises; Golden Corral; Golden Foods, Inc.

Golden Ram; Goldsmith Produce Co.; Goltry Management Consultants; Good Times Concepts, Ltd.; Goodrich Dairy Co., Inc.; Gordon L. Seaman, Inc.; Governed Air Inc.; Grable Plumbing Company, Inc.; Grace, Shursen, Moore & Associates, Inc.; Graceton Industries; Graf Plumbing, Inc.; Graffam Brothers; Gramlich Insurance Agency Inc.; Grand Central Sanitation, Inc.; Grand Haven (MI) Association of Commerce & Industry; Grand Openings Dallas, Inc.; Grande Enterprises Inc.; Grandpa's; Grat Valley; Gravel Enterprises Inc.; Gray Air Conditioning, Inc.; Grazzini Brothers & Company; Grease Be Gone, Inc.; Great American Cookie Co., Inc.; Great Lakes Dining; Greater Chicago Culligan Water Conditioning; Green Acres Landscaping; Green Concrete, Inc.; Green Earth; Green Giant; Green Grass, Inc.; Green Horizon, Inc.; Green Mountain Chiropractic; Green Shingle Restaurant; Greenery, Inc.; Greenline Landscaping & Maintenance; Greenscape Inc.; Greenview Mgf. Co.; Greenwood Ice Cream Company, Ltd.; Greer Sheet Metal Works; Greg Gummensah; Gregg O. Lehman; Gregor Jonsson, Inc.; Gregory Electric, Inc.; Gregory's Restaurants; Grelak Mechanical, Inc.; Grey Advertising Inc.; Grey Directory Marketing, Inc.; Greyhound Exposition Services, Inc.; Greyhound Leisure Services, Inc.; Griffin Agency; Grimes Plumbing, Inc.; Grinders & Such, Inc.; Grisham Fast Foods; Grist Mill Restaurant, Inc.; Grocery Manufacturers of America; Grog Restaurant; Gromac Corporation; Grossfire Mfg. Co.; Grossinger & Heller Agency—Insurance; Grotta Pizza, Inc.;

Group Hanover, Inc.; Guardian Fire Protection Service, Inc.; Guest Carbonic, Inc.; Gulf Fresh Seafood, Inc.; Gulf Publishing Co., Inc.; Gwinnett Chamber of Commerce; H & R Roofing of South Dakota, Inc.; H&R Block; H&R Block; Haagan Dasz; Hadwin Enterprises, Inc.; Hagan & Hagan Inc.; Half Time Restaurant (Palto Alto, CA); HalJohn; Halliburton; Hallmark Cards, Inc.; Hallrich, Inc.; Hamick Insurance Services, Inc.; Hamilton Farm Equipment Center, Inc.; Hamilton Manor Nursing Home; Hampton Inn (Amherst, NY); Hampton Inn (Aurora, CO); Hampton Inn (Colorado Springs, CO); Hampton Inn (Englewood, CO); Hampton Inn (Hampton, VA); Hampton Inn (Kissimmee, FL); Hampton Inn (Mesa, AZ); Hampton Inn (Pueblo, CO); Hampton Inn (Worcester, MA); Hampton Inn Airline Highway (Baton Rouge, LA); Hampton Inn College Drive (Baton Rouge, LA); Hampton Inn East (Indianapolis, IN); Hampton Inn Northwest (Indianapolis, IN); Hampton Inns; Hamrick Insurance Services, Inc.; Handee Marts, Inc.; Hank's Farm Restaurant; Happy Chef Systems; Inc.; Hardee Irrigation & Landscape, Inc.; Hardees; Hardin Signs, Inc.; Harding's Restaurant; Harlan & Associates; Harlow Orthopedics, Ltd.; Harman Management Corporation; Harmon Industries; Harold & Sons Repair Service; Harper Construction Co., Inc.; Harper Lock & Key Service; Harper Pizza Huts; Harrison Ready Mix Concrete & Supply Co., Inc.; Harry O Electric Corp.; Harry T. Pitts Electric Company; Hart Hotels, Inc (Buffalo, NY); Hartz Chicken, Inc.; Hatcher-Sayer, Inc.; Hatfield Electrical, Inc.; Hathcock Roofing & Remodeling Co., Inc.; Hattiesburg Paint & Decorating, Inc.; Hausman Bus Sales; Have Fun, Inc.;

Hawkins Commercial Appliance Service; Hawley Landscape, Design and Maintenance; Hayward Electric Co.; HBG Enterprises Inc.; Health Smart Products, Inc.; Healthcare Cost Consultants, Inc.; Healthcare Equity Action League; Heartland Beverage Distributor; Hearty-Virginia, Inc.; Hedges Landscaping; Hefcam Inc.; Hefferman Properties, Inc. (St. Simons Island, GA); Helbing's Supply, Inc.; Heller Construction; Hellery's Carbonic, Inc.; Hello Direct, Inc.; Help Repair & Maintenance Corporation; Hempel Management; Hendrick's Florist; Henry Sign Systems, Inc.; Henry Swade Plumbing, Inc.; Herbert Kunstadt Associates; Heritage Landscape, Service Inc.; Herr Foods Inc.; Herynk's Greenhouse & Nursery; Heslin Business Services, Inc.; Heuton Dailey Monson Guncheon Corporation; Hi-Lite Janitorial; Hi-Tech Plumbing Contractors, Inc.; Hifa's Produce Market; High Country Foods, Inc.; High Tech Systems & Equipment; Highland Banking Co., Inc.; Highland Farm B & B; Highland General Maintenance, Inc.; Highlight Electric, Inc.; Hight Service Co., Inc.; Hightech Signs; Hill Country Dairies; Hill Sign Co.; Hillcrest Baptist Medical Center; Hills Stores Company; Hillside Dairy Co.; HIS Associates (St. Simons Island, GA); Hite Security, Inc.; Hively Fartm & Nursery, Inc.; HJ Bell Restaurants, Inc.; HLC Associates Inc. (St. Simons Island, GA); HMD Group; Ho Sum Trading Ltd.; Hofer's Auto Repair; Hoffco Signs & Industrial Markings, Inc.; Hoffman Machine Shop, Inc.; HoJo Inn (Richmond, VA); HoJo Inn (West Palm Beach, FL); Holiday Inn; Holiday Inn (Alexandria, VA); Holiday Inn (Amherst, NY); Holiday Inn (Bethesda, MD); Holiday Inn (Bridgeport, NJ); Holiday Inn (Corbin, KY);

Holiday Inn (Covington, LA); Holiday Inn (Craig, CO); Holiday Inn (DeSoto, TX); Holiday Inn (Elyria, OH); Holiday Inn (Emporia, VA) Holiday Inn (Hampton, VA); Holiday Inn (Hardeeville, SC); Holiday Inn (Holyoke, MA); Holiday Inn (Knoxville N.W., TN); Holiday Inn (Laguna Hills, CA); Holiday Inn (Oshkosh, WI); Holiday Inn (Palo Alto, CA); Holiday Inn (Pasadena, CA); Holiday Inn (Portsmouth, OH); Holiday Inn (Provo, UT); Holiday Inn (Roanoke Rapids, NC); Holiday Inn (Schenectady, NY); Holiday Inn (Shreveport, LA); Holiday Inn (Statesboro, GA); Holiday Inn (Steamboat Springs, CO); Holiday Inn (Williamsburg, KY); Holiday Inn (Winchester, KY); Holiday Inn Allentown (Lehigh, PA); Holiday Inn Buffalo International Airport (Cheektowaga, NY); Holiday Inn Civic Center (Monroe, LA); Holiday Inn Clinton (Clinton, NJ); Holiday Inn Convention Center (Alexandria, LA); Holiday Inn Dallas Southwest (Duncanville, TX); Holiday Inn Dallas North Park (Dallas, TX); Holiday Inn (Danbury, CT); Holiday Inn Downtown (Buffalo, NY); Holiday Inn Express (Carrollton, KY); Holiday Inn Florence (Florence, SC); Holiday Inn Gateway (Cheektowaga, NY); Holiday Inn Gateway Center (Flint, MI); Holiday Inn Holidome (Shreveport, LA); Holiday Inn Homewood (Birmingham, AL); Holiday Inn Houston East (Houston, TX); Holiday Inn—James Rice; Holiday Inn Main Gate East (Orlando, FL); Holiday Inn Matteson (Matteson, IL); Holiday Inn Midtown (Savannah, GA); Holiday Inn Mt. Kisco (Mt. Kisco, NY); Holiday Inn NASA (Houston, TX); Holiday Inn Northwest Plazas (San Antonio, TX); Holiday Inn South (Savannah, GA); Holiday Inn—Steve Arrison; Holiday Inn Sunspree Resort (Lake Buena Vista, FL); Holiday Inn Universal Studios Main Entrance (Orlando, FL); Holiday Inn Worldwide; Holiday Inn Youngstown North Metroplex (Girard, OH); Holiday Painting; Holly Outdoor, Inc.; Holly's Inc.; Holmen Pumping Service; Holt County Pizza, Inc.; Holt Management; Home Solutions Systems Corporation; Home Technology Healthcare, Inc.; Homewood Suites; Homewood Suites (Jacksonville, FL);

Homewood Suites (Kissimmee, FL); Homewood Suites (San Jose, CA); Homewood Suites (Savannah, GA); Homewood Suites (Tukwila, WA); Homestead Kitchen; Honey Creek Inn; Hooshang Tafazoli; Hoosier Oil Co.; Hooters of America, Inc.; Horizon Restaurants, Inc.; Hormel Foods Corporation; Horsehoe Acres Nursery; Hospital Forms Services of Az Inc.; Hospitality Properties; Hospitality Syrcus; Host Marriott Corporation; Houston Equipment Company; Howard Johnson (Elizabethtown, KY); Howard Johnson B-N-B (Erie, PA); Howard Johnson Franchise Systems, Inc. Howard Johnson Hotel (Alexandria, VA); Howard Johnson Hotel (Daytona Beach Shores, FL); Howard Johnson Hotel (Miami, FL); Howard Johnson Lodge (Fredericksburg, VA); Howard Johnson Lodge (Miami, FL); Howard Johnson Lodge (Pittsburgh, PA); Howard Johnson Park Square Inn; Howard Paving, Inc.; Howell's Typewriters, Inc.; HQSC Management, Inc.; HRB Associates, Inc.; Hub Plumbing Co., Inc.; Hubbard Plumbing & Drain Cleaning, Inc.; Hubbell Enterprises, Inc.; Hubbell House.; Hudsdon Valley RegionCorp.; Hudson Armored Car.; Hugh Morris; Hughes Advertising; Hughes Beverage Systems; Hughes Pizza Corporation; Humana, Inc.; Hunt Tractor Incorporated; Hunter Martin & Associates, Inc. Hurricane Fence Co., Inc.; Hurst Office Suppliers; Hutston Enterprises; Hy's Steakhouse; Hy-Point Dairy Farms, Inc.; Hydrolawn Company; Hydrotek International, Inc.; I.M.S.; I.S. Rest/Bar Supply Co.; IAMFES; Illinois Fiesta Inc.; Illinois Food Operations, Inc.; Illinois Pizza Company, Inc.; Illinois Sprinkler; Image International; Imperial Dist.; Imperial Plants, Inc.;

Imperial Produce Co.; IMR, Inc.; In-N-Out Burger; Independent Bakers Association; Indian Mound Smorgasboard; Indian Valley Camping Center Inc.; Indian Black Expo; Indiana Pizza Co., Inc.; Indianapolis Chamber of Commerce; Industrial Catering, Inc.; Industrial Electric Service; Industrial Equipment to McDee Services; Industrial Maintenance Systems, Inc.; Industrial Sheet Metal, Inc.; Ink Well of America, Inc.; Inland Electric Co., Inc.; Inmack Foods Inc.; Inne's Price Jones, Inc.; Innovation Support, Inc.; Instant Jungle, Inc.; Institutional Equipment, Inc.; Insurance Associates of Texas; Insurance Exchange, Inc.; Integrated Medical Delivery Corporation; Interface Systems, Inc.; Interior Channel, Inc.; Interior Perspectives, Inc.; International Association of Amusement Parks and Attractions; International Association of Plastics Distributors; International Foodservice Distributors Association; International Mass Retail Association; International Minute Press; International Seafoods of Alaska, Inc.; International Sports Properties, Inc.; International Warehouse; International Wholesale Furniture Association; Interstate Mechanical Services, Inc.; Interstate Truckstops; Intimate Affairs Catering; Inventory Technology, Inc.; Inventure; Investment Property, Inc. of Lexington; Irish Eyes Protection Agency, Inc.; Island Oasis; Israel Enterprises; Ivie Electric Service; J & H Produce Co.; J & J Stop 'N Shop, Inc.; J & J Flock Products, Inc.; J & J Burger; J & J Sales, Inc.; J & J Installation, Inc.; J & L Dairy; J & M Construction; J & J Expandable Enterprises, Inc.; J. Anthony's Refrigeration, Inc.; J. Balan Advertising Graphics, Inc.; J. Gribbon, Inc.; J. Scott Management Corporation; J.A. Sulluland Inc.; J.B. Enterprise;

J.C. Penney Company, Inc.; J.J.R. Management Corporation; J.M. Woodworks. Inc., J.P.M. Inc.; J.Q. Adams Enterprises; Inc.; J.R. Adams & Associates, Inc.; J.T. Jackson Co. Realtor; J-BACA; J&k Partnership; J&R Services; Jabalt, Inc.; Jack B. Inc.; Jack F. Studebaker; Jack in the Box; Jack Spack Septic Tank Service, Inc.; Jack's Heating, Air-Conditioning & Plumbing, Inc.; Jackson's Greenhouse & Garden Center; Jacobs Pub & Restaurant; Jade Range, Inc.; Jam Plastics; Jamand Corporation; James & Co.; James Coyle Plumbing & Heating Mechanical Contractors; James Enterprises; Jame G. Gasta & Sons; James III Restaurant; Jamesway Corp.; Jamies Drive-thru Dairy; Janell Inc.; Jay C Sportswear Ltd.; JDP Enterprises, Inc.; Jeckles in Hyde Park; Jeff Bottling Co., Inc.; Jefferson Development; Jenilyn's Creations/Interior Plantscapes; Jenkins Chrysler Plymouth Dodge, Inc.; Jerkins Food Service Equipment & Supplies; Jensen Sales Co.; Jermar Foods Inc.; Jerry's Electrical Contracting, Inc.; Jerry's Heating & Refrigeration, Inc.; Jerry's Tax & Accounting Services; Jesse Smith Construction Company; Jet Sanitation Service Co.; JFD Tube & Coil Products, Inc.; Jim Barnes Enterprises, Inc.; Jim Davis & Son Plumbing; Jim Hill Service Co.; Jim Moore Landscaping; Jim Rulli Coil Cleaning; Jim S. Dupuy; Jimmie Kramers The Peanut Bar, Inc.; Jk Enterprise; JLO Inc.; JMC Management, Inc.; JMS Enterprises, Inc.; JO-AD Industries, Inc.; Jodida Enterprises, Inc.; Joe Bertin Carpet Cleaners, Inc.; Joe Fazio Bakery, Inc.; Joe Lasita, Inc.;

Joggerst Florist; John C. Brendla & Associates, Inc.; John C. Collins & Associates,; John E. Kelly & Son; John Goddard Produce, Inc.; John Gross & Co.; John Kremer Excelsior; John M. Pettit Co., Inc.; John's Restaurant Equipment Repair Service; Johnny's Pumping Service; Johns Cutlery; Johnson Ezell Cap; Johnson Lumber Co. Inc.; Johnson Mechanical Contr., Inc.; Johnson Santi., and Farms; Johnstone Food's, Inc.; Johnstons Gallery Ltd.; Joliet Window Cleaning Service; Jomarc Commercial Food Equipment, Inc.; Jonbro, Inc.; Joseph A. Schudt & Associates; Joseph J. Magnolia, Inc.; Joseph Whain Plumbing Heating; JPS, Inc T/A Massies Restaurant; JRS, Inc.; JRS, Inc.; JTS Services, Inc. Julian Speer Co.; Jupa Foods Inc.; K & K Foods, Inc.; K J Electrical Services, Inc.; K-21 Corp. of Marion; K-K Resaurants, Inc.; K-Marc Enterprises, Inc.; K-Mart Corporation; K&N Pizza Huts, Inc.; Kaminsky. Inc.; Kampgrounds of America, Inc.; Kanekoa Enterprises Inc.; Karecor, Inc.; Kashville KOA Kampgrounds; Kawara Inc.; Kazam Corp.; KC Pisa, Inc.; Kedvill, Inc. and Wescer, Inc.; Keith Ventures; Ken's Kustom Korner, Inc.; Kenco Restaurants, Inc.; Kendall House, Inc.; Kenneth's Design Group Inc.; Kent Construction, Inc.; Kent Farms Inc.; Kentuckiana Comfort Center, Inc.; Kentucky Bell, Inc.; Key Graphics, Inc.; Kenstone Lock Service, Inc.; Keystone Shortway 76, Inc.; Keystone-Superior; KFC of ADA and Kenton, Ohio; KFC of Frankfort, Inc.; Kid's World Creative School & Day Care;

Killington Ltd.; Kim's Enterprise; Kimray, Inc.; Kimsko Corp.; Kimsko Corp.; Kimura Nursery, Inc.; Kincer's Inc.; KinderCare; Kindra Environmental Enterprises, Inc.; King Kong Building Services; Kingmex Foods; Kingswood Nurseries, Inc.; Kingsley Cartridge Recycling; Kinx Construction Co.; Kirby Electric; Kirtac, Inc.; Kirtac, Inc.; Kistler-O'Brien Fire Protection; Kitayama Bros. Inc.; Kitchen Klean, Inc.; Klein Enterprises, Inc.; Knightes Enterprises Inc.; Knights in Control; Knorr Enterprises; Knox Services, Inc.; Koch Industries; Kohs Enterprises Inc.; Kool Kleen Maintenance; Koonse Food Equipment Service; Koorseen Protection Services, Inc.; Kopel, Inc.; Korby Construction Co.; KPHO-TV; KPM Landscape Management; KPTOO, Inc.; KRB/KlearKast

Inc.; Kritter Kraft; Kronran Corporation; Krystal Co.; KTPK-FM Radio-Topeka Kuehne's Plantscape, Inc.; Kunz & Co.; Kunz's 4th & Market; Kupfer & Co., Inc.; Kurt's Inn, Inc.; Kurtz Mfg., Inc.; Kwik Kopy Corp.; Kwik Kopy Printing Advisory Council; Kyana Industrial Supply; L & B Foods, Inc.; L & M Appliance; L & S Restaurant Supply; L.A. Electric; L.B. Service; L.R. Bell Hazard, Inc.; L.S. Williams Electrical Company; L–K Enterprises; La Capannia Restaurant; La Grange Business Association; La Grotta Restaurant; La Sal Oil Co. Inc.;

Lacies 106 Grill and Bar; Lafayette Glass Co., Inc.; Lago & Sons Dairy, Inc.; Lake Land Advertising; Lamb & One Industries; Landco Corp.; Landmark Title, Inc.; Landrum Produce; Landscape Design & Construction, Inc.; Landscape Engineers, Inc.; Landscapes Etcetera; Lane Equipment Company; Lang Fine Equipment Corp.; Langley & McDonald; Lanrich, Inc.; Larkin's Food's, Inc.; Laroy Thomas, Inc.; Larry's Welding Supply, Inc.; Lasalle Grill; Laser Connection; Laser Life; Laser Security Response, Inc.; Last Chance Saloon; Latham & Associates, Inc.; Latta Road Nursing Home; Lauderdale Flower Shop; Law Offices of Deborah Steelman; Lawn and Shrub, Inc.; Lawn Masters Lawn Care, Inc.; Layer Electric Service, Inc.; LDD Food Enterprises, Inc.; LDS, Inc.; Leadership Development Associates, Inc.; Leasure Ent.; Ledo Pizza, Frederick; Ledo Pizza, Germantown; Ledo Pizza, Leesburg; Lee Foods, Inc.; Lee Seed Farm Inc.; Lee's Plumbing; Lee's Sharp Coat; Leedar Inc.; Leesco, Inc.; Legend Foods, Inc.; Legend Foods, Inc.; Legro & Associates; Lehman's Inc. of Anderson; Lennox Research, Inc.; Lenoir County Health Cost Containment Coalition; LeRan Corp. DBA Hardee's; Les Jones Roofing, Inc.; Levey Enterprises; Levy Properties; Lewis Foods, Inc.; Lexington Investments Inc.; Liberty Pizza, Inc.; Lickity-Split; Lied's Nursery Co., Inc.; Light-Milling Co. Inc.; Limehouse Produce Co., Inc.; Lincoln Precision Machining Company;

Lincoln Tile Company; Lindburg's Pharmacy; Linden R. Welsh, CPA; Lindhardt Refrigeration, Inc.; Lindon Foods Inc.; Linens of the Week; Linoleum & Carpet Center; Lippert, Inc.; Liquid Investments, Inc.; LIRE, Inc; Litehouse, Inc.; Little Foods, Inc.; Little Guy Carpet Cleaning; Little Rock Maintenance & Service, Inc.; Livingstone & Murray, Inc.; LJS Wood Working; Lloyd's Refrigeration, Inc.; Lobdell Management; Lobster Boat, Inc.; Lobster Harvest; Lockwood/McKinney Co. Inc.; Loffredo Fresh Produce Co., Inc.; Lombardi's Seafood, Inc.; London Grille; Long John Silver's, Inc.; Lorraine Marketing, Inc.; Loudon Air, Inc.; Louis C. Mathews Seafood, Inc.; Louisiana Restaurant Association; Louisville Area Chamber of Commerce; LPG Enterprises, Inc.; Lubell Inc.; Luck-ees of Pinellas Inc.; LucWork Enterprises, Inc.; Luihn Food, Syst.; LuLu Wellington's; LWD, Inc.; Lyden Co. dba Fastcheck Food Mart; Lyon/Bruguier; M & G Corporation; M & M Wall Designs, Inc.; M & M Smart Corporation; M & S Tropical Fish; M & S Associates; M.B. & J. Industries; M.H. King Co.; M.P. Barden & Sons, Inc.; M.R. Ellis & Sons; M.S.U Foods, Inc.; M–B Sales; MAACO Enterprises, Inc.; Mac-Lewis Enterprises Inc.; MacGregor Smith Blueprinters, Inc.; Mackinaw Area Tourist Bureau; Madison Mexican Inc.; Madison Window Cleaning Co., Inc.; Madonna Burchett Gifts; Magee Sign Service, Inc.; Magnox Inc.; Magnum Force Protection Corporation; Mail Boxes Etc.

Mail Boxes, Etc. #803; Main Street Enterprises, Inc.; Main Street USA, Inc.; Maintenance Group Management; Maisonette Restaurant Group; Maki Heating and Air Conditioning, Inc.; Malcom M. Knapp, Inc.; Mallar Finishing; Mallscapes, Inc.; Malta Enterprises, Inc.; Maly Multi-Services, Inc.; Maneval, Inc.; Mar-B Partnership; Marblelife of Greater Orlando; Marburn Stores, Inc.; Marcelita's Restaurant; Marco's Mexican Restaurant; Margaritas Management Group; Marianne Inc; Marietta Coffee Service, Inc.; Marin Management Co.; Marina Village Inn; Marine Iron & Ship Building Co.; Marinko's Firehouse; Marino Cutlery, Inc.; Marion Court Room; Marion Music, Inc.; Marion Niedhamer Produce, Inc.; Mark Parrett Enterprises, Inc.; Mark Twain Dinette; Market Displays, Inc.; Marketing Services by Vectra, Inc.; Markle-Smith, Inc.; Markley Motors Inc.; Markor Enterprise, Inc.; Marks Commercial Services, Inc.; Marotta & Sons Plumbing & Heating Contractors Corporation; Mariott International, Inc.; Marshall Scott Enterprises, Inc.; Marshall Smith-Remodeling; Marson & Marson Lumber, Inc.; Martha's Vineyard Restaurant; Martin Mechanical Construction Inc.; Martin Microwave Sales and Service; Martin's Window Cleaning Corp.; Marval Investments, Inc.; Marvin L. Morse; Mary and Ted's Family Restaurant; Mary Jean's Floral Basket; Marygrove Awning Co.; Maryland Coast Pizza Hut, Inc.; MastercastLtd.; Matagrand, Inc.; Matrix Engineering, Inc.; Maverick Sonic Corp.; May Department Stores; Mayfield Dairy Farms, Inc.; Mazzio's Corporation; McAnderson's, Inc.; McCormick & Company, Inc.; McCoy Auction Co., Inc.;

McCullough Plumbing, Inc.; McDee Services; McDonald's of Aurora; McDonald's of Butler; McDonald's of Columbia; McDonald's of Conway; McDonald's of Gladstone; McDonald's of Hermiston & Pendleton; McDonald's of Ottawa; McDonald's of Tallgrass; McDonald's of Williamsburg; McDonald's-FMI; McGuffey's Restaurants, Inc.; McHugh Plumbing and Heating; McKinney Motors; McKinney Waste Disposal; McLean Foods Inc.; McLemore Markets; McLemore Markets; McMann Management Co.; McManus Paint and Body Shop, Inc.; McMullen, Electric, Inc.; McPhillips Plumbing, Heating & Air Conditioning Co.; Mechanical Systems Service; Medical Executive Recruiters; Medical Marketing Concepts; Medical Technology Development, Inc.; MedTrac, Inc.; Megeath Office Suppliers; Mehle Enterprises; Mel Nace Insurance Agency, Inc.; Mel-Lin Enterprises; Melina True Value Hardware Inc.; Memorial Medical Center & Cancer Institute; Memphis Hockey, Inc.; Mendota Area Chamber of Commerce; Mericon Industries, Inc.; Merritt Island Air & Heating, Inc.; Mesa Beverage Co., Inc.; Mesa Distributing Co., Inc.; Metal Concepts, Inc.; Metcalf Landscape Contractors, Inc.; Metro Appliance Service; Metro Heating & Cooling, Inc.; Metro Hotels, Inc.; Metro Plumbing; Metro Safe Co., Inc.; Metro-Detroit Sign, Inc.; Metroplex Sharp Knife Service, Inc.; Metropolitan Armored Car, Inc.; Metropolitan Contracting Co., Inc.; Metropolitan Office Equipment Co., Inc.; Metz Continental Cuisine & Catering; Mexi-Bell Restaurants Inc.; Mexican Restaurants Ventures, Inc.; Mexico City Cafe; MEXR, Inc.; Meyer, Inc.; MGA Film and Video Production Services; MGHG; MGV America, Inc.;

MHC Inc.; Miami Valley Soccer Limited Partnership; Micale Management Corp.; Michael J. Losik & Associates, Inc.; Michael Turner & Associates; Michigan Pizza Hut Inc.; Michigan Pizza Service Co., Inc.; Michigan Restaurant Assoc.; Micro Controls Corporation; Microwave Specialities, Inc.; Mid Ohio Restaurant Mgmt. Group; Mid State Electric of Ocala, Inc.; Mid/West Fresh Foods, Inc.; Mid-State Iron Works Inc.; Middendorf's Restaurant; Middle Atlantic Wholesalers Association; Middle Tennessee Restaurant, Inc.; Middletown Taco Inc.; Midwest Cutlery Service; Midwest Fresh Foods, Inc. Blumberg Office Supply, Inc.; Midwest Gates Inc.; Midwest Industries, Inc.; Midwest Marko; Midwest Seafood Supply Co.; Midwest Seafoods, Inc.; Midwest Uncuts, Inc.; Midwestern Regional Medical Center; Midwestern Regional Outpatient Clinic; Mike Sokol Electric Co.; Mike's on the Avenue; Mikel Simons; Millard Machine, Inc.; Miller Bearings, Inc.; Miller Bros. Concrete; Miller Electric Co.; Miller Floral Co., Inc., Miller's Custom Fabrications; Mills-Anderson Opticians, Inc.; Milwaukee Plate Glass Co.; Mini-Food Stores, Inc.; Mini-Giants, Inc.; Minne Co Venture; Miracle Ear Center; Miranda Sales and Service, Inc.; Mirob Management; Miskovic Research & Consulting; Missjac Inc.; Missouri Fiesta Inc.; Missouri Mexican Products, Inc.; Missouri Restaurant Association; MJ Riker Management; MK Foods Inc.; Modern Gas Co., Inc.; Modern Patterns, Inc.; Moelk Sales, Inc.; Molly Maid, Inc.; Momentum, Inc.; Momax Food Inc.; Monarch Laundry & Cleaning Service; Monastero's Ristorante; Moncada & Associates;

Monogram Shoppe; Montgomery Development Corporation; Montgomery War & Company; Monty Mex Corp.; Monty's Environmental Service, Inc.; Moore Push-Pin Co.; Moran Industries, Inc.; Morgan, Inc.; Morrison Restaurants, Inc.; Morse & Co., CPA; MOS Camp Inc.; Moshner Management; Moss Inc.; Motor Coach Industries International; Mount Mansfield Co.; Mountain Lakes Resort Inc.; Mountain States Asphalt Paving, Inc.; Mountain Top Food Service, Inc.; Mountaineer Services Co.; Mountaintop Enterprises/Restaurant Resources; MP Plumbing Co., Inc.; Mr. O's Cabinet Shop; Mr. Petrol's Pantry, Inc.; Mt. Lebanon Office Equipment Co., Inc.; MTB Inc.; Mullally Brothers, Inc.; Mullins Food Products, Inc.; Mullins Surveying and Maping; Murphy Produce, Inc.; Murphy's Grill; Musair, Inc.; Music Biz Enterprises, Inc.; Muth Electric, Inc.; MW Associates, Inc.; MWM Enterprises; Myer's Plumbing & Heating, Inc.; Myron Deetz Enterprises, Inc.; N.J. Contracting, Inc.; N.J. Wilson Contracting, Inc.; Naegele Outdoor Advertising; Nafaiger Ice Cream Co.; Najim, Inc.; Nancor Corp.; Nashville Tent and Awning; Nass Service Co., Inc.; National Air Carrier Association, Inc.; National Association of Wholesale Independent Distributors; National Association for the Self Employed; National Association of Manufacturers; National Association of Aluminum Distributors; National Association of Sign Supply Distributors; National Association of Sporting Goods Wholesalers; National Association of Temporary Services; National Association of Wholesale-Distributors; National Automobile Dealers Assn.; National Battery Sales; National Business Machines, Inc.; National Cassette Services, Inc.; National Child Care Assoc.; National Council of Agricultural Employers; National Council of Chain Restaurants;

National Distributor Systems; National Dynamics, Inc.; National Electric, Inc.; National Fastener Distributors Association; National Federation of Independent Business; National Hood & Duct; National Indexing Systems, Inc.; National Pizza Company; National Restaurant Association; National Retail Federation; National Scale & Equipment Co., Inc.; National Welding Supply Association; National-American Wholesale

Grocers' Association; Natron Corp.; Nature's Best Dairy; Nebraska Dairy Inc.; NEED Inc.; Nelson, Gillis & Smith; Nelson's Lamplighter, Inc.; NEMCO, Inc.; Netco Inc.; Nevada Banking Co.; New City Funding Inc.; New Day Window Cleaning; New Desert Produce, Inc.; New England Linen Supply Company, Inc.; New England Lobster House, Inc.; New England Suites Hotel; New Market Management Assoc.; New Vermont Creamery, Inc.; New-Belle Construction; New-Mad; Newman Lbr. Co; Newport Awning Co.; Newport Electric; Newport News Inn (Newport News, VA); Newton Pizza Hut, Inc.; Nicho Saenz & Sons; Nichols Foodservice, Inc.; Nichols Plumbing & Heating Co.; Nick's, Inc.; Nickell Orchard; Nicoletti Painting Co.; Nissjac Inc.; Noack Electric; Nobeef Corp.; Noe's Suburban Septic Service; Nor-Cal Beverage Co., Inc.; Nor-Cal Instant Sign Center, Inc.; Normandy Enterprises, Inc.; Norris & Samon Pump Service, Inc.; North American Mechanical, Inc.; North American Sales, Inc.; North Central Plastics, Inc.; North Coast Party Rentals; North County Plumbing, Inc.; North Dartmouth Taco Inc.; North Florida Refrigeration Inc.; North Idaho Immediate Care; North Idaho Pizza Hut', Inc.; North Shore Mechanical Contractors;

North State Cleaning Services; Northamerican Heating, Refrigeration & Air-conditioning Wholesalers; Northbrook Hilton; Northeast Commercial Applicance Service, Inc.; Northeast Marketing Inc.; Northern Bottling Co.; Northfield Restaurant Corp.; Northlake Supply Company Inc.; Northridge Center Partnership; Northwest Financial Services; Northwest Fruit and Vegetable; Northwest Group Brokerage Company; Northwest Landscape Industries; Northwest Restaurant Group, Inc.; Northwestern Public Service Company; Norwald Restaurants, Inc.; Norwalk Furniture Corporation; Norwin Diner; Northwestern Restaurants Inc.; Nova Construction Co., Inc.; NOVUS Franchising, Inc.; Noyes Plumbing Co.; Nu-Steam; O'Neill Foods, Inc.; Oak Ridge Rentals; Oakcraft Inc.; OCAT, Inc.; Ocean Spray Cranberries, Inc.; Oceans Eleven Resorts, Inc.; Oceanside Associates; Oerther Foods, Inc.; Ohara & Sons; Ohio State Forwarding, Inc.; Ohio Valley Taco Corp.; OK Enterprises West, Inc.; Old Gatsby's Tavern Ltd.; Old South Mountain Inn; Old Storrowton Tavern; Olde Philadelphia Inn; Ole Bellco Inc.; Oliver Breweries Ltd,; Oliver's Restaurant Corp.; Olney Pizza Hut, Inc.; Olsten Corp.; Omaha Lancers; Omega Window Cleaning; Omni Management; On the Green Restaurant; Optima Financial Network; Oran McNeil, CPA; Orchard Foods Corp.; Orcoa Leasing Co.; Oregon Dairy Country Restaurant; Oregon Restaurant Association; Oretaco Inc.; Orient IV Restaurant; Original Grafts Inc.; Original Oyster House; Orlos & Co. Inc.; Orv's Appliance, Inc;

Osan Petrolium Co., Inc.; Otay Mesa Foods, Inc.; Ounce of Prevention Wellness Center; Outback Steakhouse; Owen Contract Service; Owl Enterprises; Oxford Healthcare; P.C. Management Co.; P.J. Enterprises, Inc.; Pacific Marine Sheet Metal Corporation; Palate Pleasers Caterers; Pamida, Inc.; PAR Enterprises, Inc.; Paradise & Assoc., Inc.; Paradise Byrne Corp., Paradise/Oroville McDonald's; Paradise Restaurant; Parke Resident Suites; Parochetti Enterprises, Inc.; Partnership of Basra & Sandhu; Partyka Resource Management Companies, Inc.; Paschen Management Corporation; Pasha Enterprises; Paul Puckett, Inc.; Paul Revere's Pizza; Paxson Oil Co.; Payatt Enterprises; Payless Shoe Source, Inc.; PDC Multimedia Productions; PDS Management, Inc.; Peeler Jersey Farms, Inc.; Pelletier Management Corporation; Pembro Industrial Consultants; Penguin Point Franchise Systems, Inc.; Penn Laurel Inn—Centre Care; Penn-Daniels, Inc.; Penn-Taco, Inc.; Penwood Point Restaurant; Pep-Boys; PepCom Industries, Inc.; Pepsi-Cola Allied Bottlers, Inc.; Pepsi-Cola Bottling Co. of Charlotte, Inc.; Pepsi-Cola Newburgh Bottling Co., Inc.; Pepsi Co.; Perfekta Inc.; Perlick Corporation; Perry Restaurant Group; Perrys Burg Restaurants, Inc.; Perrysburg Plumbing; Peru Pizza Co., Inc.; Pet Industry Distributors Association; Pete's Construction and Remodeling; Peter Nicastro Inc.; Peter Piper Pizza; Petroleum Marketers Association of America, Inc.; Petromark, Inc.; Petty Management Co.; Pewter Pot, Inc.; Pexa Huff, Inc.; Pezoid Management; Phil S. Bassa;

Phillips Brothers Restaurants; Photosound of Orlando, Inc.; Phyllis Solomon Executive Search; Pic-N-Pay Stores, Inc.; Pierco Sales; PII Affiliates Ltd.; Pike County Chamber of Commerce; Pillsbury; Pine Woodworking; Pinecrest Motel; Pioneer Steak House; Pixley Lumber Company; Pizza Co. Inc.; Pizza Hut Childerburg, Inc.; Pizza Hut Columbus, Inc.; Pizza Hut Daleville, Inc.; Pizza Hut Elba, Inc.; Pizza Hut Enterprise, Inc.; Pizza Hut Fort Wayne, Inc.; Pizza Hut Globe, Inc.; Pizza Hut Holbrook, Inc.; Pizza Hut Idaho, Inc.; Pizza Hut Jasper, Inc. Pizza Hut Kokomo, Inc.; Pizza Hut Laurens, Inc.; Pizza Hut Leveland, Inc.; Pizza Hut Manhattan Inc.; Pizza Hut Miami, Inc.; Pizza Hut Monmouth County; Pizza Hut Muleshoe, Inc.; Pizza Hut of Apache Junction, Inc.; Pizza Hut of Baxter Springs, Inc.; Pizza Hut Ozark, Inc.; Pizza Hut Payson, Inc.; Pizza Hut Plainview, Inc.; Pizza Hut Roanoke, Inc.; Pizza Hut Roswell, Inc.; Pizza Hut Ruidosa, Inc.; Pizza Hut South Valley, Inc.; Pizza Hut Springfield, Inc.; Pizza Hut Sumiton, Inc.; Pizza Hut Sylacauga, Inc.; Pizza Hut Talladega, Inc.; Pizza Hut Taylor, Inc.; Pizza Hut Uniontown, Inc.; Pizza Hut West Point, Inc.; Pizza Hut White Mountains, Inc.; Pizza Hut Wilmington, Inc.; Pizza Hut Winslow, Inc.; Pizza Hut Caldwell/Somerville; Pizza Pit, Ltd.; Pizzaco Joint Venture; Plains Creamery, Inc.; Plans Dairy Products; Plamondon Enterprises Inc.; Plant Technics, Inc.; Plantasia; Plastic Processors Inc.; Plaza Dine Inc.; Pleasant Valley Enterprises; Pleasanton Hotel Restaurant;

Plescher, Sibell, Migartz & Burns; Plymouth Taco Inc.; Pope's Locksmith & Safe Co.; Port Tack Restaurant; Portland Music Company; Post Oak Oil Co.; PPV, Inc.; Prairie Tool Co.; Pratt/Debartolo Assoc.; Pre-Press Company, Inc.; Precision Shapes, Inc.; Premier Cruise Lines, Ltd.; Prenco/Painting; Pressure King, Inc.; Pretzel Peddler; Price Brothers Realty, Inc.; Price Less Drug Stores; Prime Hospitality Corporation; Princeton Armored Service; Printmasters of Grand Rapids, L.L.C.; Pro Two Inc.; Pro-Blind Inc.; Professional Land Surveyors, Land Use and Zoning Consultants; Professional Mechanical Services; Professional Sports and Entertainment of Tennessee; Promus Hotels; Pruitt, Inc.; PTS, Inc.; Publishers Resource Group, Inc.; Pudgies Famous Chicken; Puigh Septic Tank Service, Inc.; Purity Confictionery Corp.; Q & D Plastics, Inc.; Q & D Plastics, Inc.; QPM, Inc.; Quality Express, Inc.; Quality Foods; Quality Fuels, Inc.; Quality Repair Service; Quality Shoe; Quality Water Enterprises; Quetaco, Inc.; Quick Print of Chicago, Inc.; Quick Sak Stores Inc.; Quicklan Lock and Alarm; Quincy Mexican, Inc.; R & C Produce Co., Inc.; R & G, Inc.; R & J Carpet Cleaning; R.B.T.A. Industries; R.E. Watson & Assoc., Inc.; R.E.G. Company, Inc.; R.J. Just; R.J. Waters & Associates, Inc.; R.J.M. & Associates; R.L. Stewart; R.T. Caesar Maintenance Service; R.V. Danza Plumbing & Heating, Inc.; R&L Foods Inc.; R&R Enterprises; R&R Ventures Inc.;

Rab Service, Inc; RAD Inc.; Rad-CAT, Radcliff Co., Inc.; Ragon Electric; Raley's; Rally's Hamburger Inc.; Ralph Jones Companies; Ramada, Inc.; Ramada Inn at the Airport (Windsor Locks, CT); Ramona Mortgage Corp.; Randy Baker Productions; Randy J. Opasnick Co.; Randy's Landscaping; Rank Leisure USA/Hard Rock Cafe International; Rapid-Air Refrigeration; Ratliff Metal Spinning Co. Inc.; Rattan by Byran Ashley; Raven Sound; Raymond H. Shelton, Inc; Raymond McNutt Inc.; Rayne Plumbing & Sewer Service, Inc.; Rays' A/C & Heating Co.; RDB Enterprises, Inc.; Reading PA Corp.; Real Clean Services; Real Estate Plus, Inc.; Reaveley Engineers & Associates, Inc.; Red Geranium Enterprises; Redd Realty Services; Reddick Enterprises; Redding Distributing Co.; Redwood Empire Restaurants, Inc.; Redwood Inn, Inc.; REE, Inc.; Reedy's Air Conditioning & Heating Service, Inc.; Refco Consultants, Inc.; Reflections Window Cleaning and Maintenance; Refrigeration Industries, Inc.; Regency Inns Management, Inc.; Regency Travel; Regent Investments, Inc.; Regian Advertising & P.R.; Regional Consultants; Regis Corporation; Reidsville Amigos Inc. Rejean J. Remillard Insurance Agency; Remarc Management, Inc.; Rembrandt Division of Den-Mat Corporation; Remsmit Inc.; Renta World; Resource Associates; Restaura, Inc.; Restaurant Association of Maryland; Restaurant Equipment Parts & Service, Inc.; Restaurant Income Properties; Restaurant Management Corporation; Restaurant Management Services; Restaurant Services, Inc.; Restaurant Specialties; Restaurant Management Co.;

RGR Foods, Inc.; Rhonda's Flower Service and Delivery; Ricardo's; Rice Growers Association of California; Rich Meat Service; Richard A. Hubbard Inc.; Richard Clark; Richard T. Coppoletti, M.D.; Richards Manufacturing and Services Corporation; Richman Gordon ½ Price Stores, Inc.; Richmond Enterprises, Inc.; Richmond Oxygen Company; Ridge Electric Motor Co., Inc.; Riggio's Restaurant; Ringmakers; Rittenhouse Management Corporation; Riverdale Texaco; Riviana Foods, Inc.; RLC Enterprises, Inc.; Robert B. Aikens & Associates, Inc.; Robert B. Young; Robert G. Gordon; Robert M. Coe, Inc.; Robert Mayfield; Robert R. Davis & Co., PC; Robert Zehndar 1990 Trust; Roberts Construction Company, Inc.; Roberts Dairy Company; Roberts Litho Supply Co; Roberts-McNutt Inc.; Robertson Performance Systems, Inc.; Robinson Farms; Robinson's Plumbing; Robrecht Produce Co.; Roch's Produce; Rocky Mountain Company-PMC Foods; Rocky Mountain Pizza Huts, Inc.; Roco Cartage & Delivery, Inc.; Rodel Commercial Tile Services, Inc.; Rok & Associates, Inc.; Roma Corporation; Romaine's Commercial Appliance Service; Ron's Window Service; Rooter King, Inc.; Rose Garden Nursery; Rose Paving & Sealcoating Co.; Rosemary Zimmermnan; Roses Stores, Inc.; Royal Bakery Inc.; Royal Electronics; Royal Foods Co., Inc.; Royal West Amusements, Inc.; Rub-A-Dub Washouse; Ruby Tuesday's Restaurant; Ruddell Engineering, Inc.; Rude's Home Furnishings; Rudolph Construction, Inc.; Russ Taco, Inc.; Russ' Restaurant; Russell Harrington Cutlery, Inc.; Russell Mellete & Assoc.;

Ruth's Chris Steak House; Rutledge Distributing, Inc.; Ryan Inc. Central; Ryan's

Family Steak House; Rybak Excavating & Contracting Inc.; S & M Pisa, Inc; S & S Refrigeration, Inc.; S & S Air Cond. & Heating, Inc.; S. Stephen Nakashima; S.A. Kennedy, Inc.; S.A. Restaurant Equipment Parts and Service Co., Inc.; S.D.R.G., Inc.; S.J. Electro Systems, Inc.; S.W. Oklahoma Pizza Corp.; Saatchi & Saatchi; Safety Equipment Distributors Association, Inc.; Salem Tools, Inc.; Sally St. Clair; Sama Plastics Corporation; San Diego Printers, L.P.; Sanford's Interior Plant Service; Sanitary Disposal & Recylcing, Inc.; Sansej, Inc.; Santa Cruz Brewing Co.; Santa Fe Concessions, Inc.; Santabell Inc.; Saraj Enterprises; Sardilli Produce & Dairy Co.; Satellite Shelter, Inc.; Satge House Inn; Savannah Bell, Inc.; Sawyer Harvesting; Schaeffer Precision Alignment; Schafer Systems; Schahet Hotels, Inc.; Schantini & Associates, Inc.; Scheffler Enterprises; Scheve Corporation; Schick Enterprises, Inc.; Schlotzsky's Restaurants; Schneiderman's Furniture; Schnell Systems; Schnip Development Corporation; Schoch Tile and Carpet Inc.; Schreiber Foods, Inc.; Schreiner's Restaurant Inc.; Schrelber Foods, Inc.; Schryver Associates, Inc./TA The Taco; Schubert Outdoor Advertising, Inc.; Schumacher Landscaping; Schwebke-Shiskin & Associates, Inc.; Scott Instruments Corporation; Scott MBA Corporation; SDI Construction, Inc.; Sea Breeze Roofing, Inc.; Sea Island Co—Cloister Hotel; Seacliff Inn Hotel; Seafood Resources Ltd.; Seal Tight Inc.; Seaman Restaurant Corporation;

Security One; Security Signal Devices, Inc.; SEDCO; Seila Co.; Seitz Office City; Selby's Commercial Kitchen; Seneca Tape & Label, Inc.; Sentry Foods; Sequoia Floral International; Service Master of Spokane, Inc.; Service Merchandise Co.; ServPro of Newberry; Servpro of Osceola County, Inc.; Shackleford's & Maxwell's, Inc.; Shangri-la RV Park; Sharp Porcelain Refinishing; Shaver Specialty Co., Inc.; Shaw West Industrial, Inc.; Shawnee Garment Mfg. Co.; Shearer & Associates; Sheesley's Sewer, Inc.; Shelburne Road Gulf; Sheraton; Sheraton Allentown Jetport; Sheraton Berkshire; Sheraton Sandusky Hotel (Sandusky, OH); Sherman Valley Nursery; Sheron Associates, Inc.; Shift-Rite Car Care, Inc.; Shiners Car Wash; Shingobee Builders, Inc.; Shonac Corporation; Shoney's, Inc.; Shopko Stores, Inc.; Shore Pizza Hut, Inc.; Shoreline Septic Service; Showcase Carpet & Upholstery Cleaning; Seiger Food Service; Sierra Bells Inc.; Sierra Beverage Co.; Sierra Distributing; Sierra Landscape; Sierra Truck Center, Inc.; Sigerson Ins. Agency, Inc.; Sign It Quick International, Inc.; Signs & Things; Sigrid Monsef; Sigsby Insurance, Inc.; Silver Oak Mgmt. Corp; Simon Financial Company; Simpson Construction; Sinco Group; Sirlion Stockade; Skeeter's Construction Co.; Skip's Restaurant and Lounge; Skyline Motel Corp.; Slade Gorton & Co., Inc.; SLI Enterprise, Inc.; SMAC Rentals & Sales, Inc.; Smart Jewelers Smith Asbury, Inc.;

Smith Insurance Agency, Inc.; Smith Management Co.; Smokey Glen Farm Barbequers, Inc.; Snelling Enterprises; Snow Busters Snow Removal, Inc.; Snyder Packaging, Inc.; Society Hill Hotels; Software North; Soise Air Service, Inc.; Solar Graphics, Inc.; Solid Waste Services, Inc.; Sonic Corp.; Sonic Systems; Sonny's Auto Salvage Inc.; Sound-Built Construction; South Bay Plastering, Inc.; South Hill Disposal Co.; South of the Border Inc.; South Texas Carbonics, Inc.; Southern Belle Dairy Co.; Southern Bells Inc.; Southern Foodservice; Southern Hospitality Inc.; Southern Milti Foods, Inc.; Southern MN Appraisal Services; Southern Pan Services Co.; Southern Plants; Southern Wisconsin, Inc.; Southgate Electric, Inc.; Southlake Electric Co.; Southport Electrical Service, Inc.; Southwest Georgia Oil Co.; Southwest Hotel Management Co.; Southwest Sound and Electronics, Inc.; Southwestern Trading Co.; Southworth-Milton, Inc.; Space City Record Storage; Specialty Produce Co., Inc.; Specialty Soda Systems, Inc.; Specialty Tools & Fasteners Distributors Association; Speechworks, Inc.; Speedy Sign-A-Rama; Speedy Sign-A-Rama USA of Durham, NC; Sportmart, Inc.; Sportsales; Spotless Touch, Inc.; Springfield Holiday Inn; Springs East Schools; Springseason Enterprises, Inc.; SSF Enterprises; St. Armands Baking Co.; St. Joseph Plastics; St. Louis Small Business Monthly; St. Mar Ent. Inc.; Staebler Financial Services; Staff Masters; Stainless Design Corporation; Stan Schmidt Insurance Agency, Inc.; Standard Restaurant Equipment Co.; Stanley Steamer Carpet Cleaning of Collier Co., Inc.; Stanley W. Cooper, Inc.;

State Farm Insurance Co.; Statewide Transport, Inc.; Steel Service Center Institute; Steep Hill Grill; Stefano and Associates, Inc.; Stellar Enterprises; Stelling Banjo Works, Ltd.; Steno-Wolf Associates; Sterling Vision, Inc.; Stevens Creamery; Stevens Produce, Inc.; Stewart Septic Tank Service; Stewart Travel Inc.; Stone & Sons Plumbing, Inc.; Stonetree Investments, Inc.; Stop 'N Serve; Stop Fire Co., Inc.; Storage Builders Unlimited, Inc.; Stout Specialties Advertising Company; Strawn Construction Co.; Strictly Speaking, Inc. Balford Farms; Strode's Refrigeration & Air Conditioning, Inc.; Stuck's Inc.; Stueckdrat, Inc.; SubZero Refrigeration; Success Communications & Marketing Associates; Suffolt Co. Water Authority; Sugar Cane Growers Cooperative of Florida; Sugar Hill Restaurant; Sugar Hill Restaurant; Sugarhouse Shopping Center; Sullins & Associates, Inc.; Summit Engineering Corp.; Sun Mex Inc.; Sunbelt Otation Service, Inc.; Sunbelt Upholstery Maintenance; Sunbird Carpet & Window Cleaning; Sunburg Inc.; Sunco Carriers, Inc.; Sunleaf Nursery; Sunnyside Restaurant; Sunrise Security Service; Sunshine Dairy Foods, Inc.; Sunshine Enterprises, Inc.; Sunshine Window Cleaning, Inc.; Super 8 Motels; Super Store Industries; Super Valu Stores; Superior Lawn Maintenance, Inc.; Supply House Co.; Sutherland Management Co.; Sutton Plumbing, Inc.; Swan Cleaners, Laundry & Linen Supply; Swanson Food Equipment Service, Inc.; Sweeping Service; Sweet Manufacturing Co.; Swingline Const. Inc., The Pour House; Sycamore Oaks Inc., The Grist Mill; Sycaway Creamery, Inc.; Sylvan Street Grille; Systemex, Inc.;

Systems Record Storage; T & K Restaurant Franchise Group, Inc.; T.B. of Leesville, Inc.; T.B. of Starke Inc.; T.C. Learning Corp.; T.R. Rippon Associates; T.S. Duncan, Inc.; T.T. Management Co.; T.T. Tacos, Inc.; T N T Mechanical Contractors, Inc.; T&S Rentals & Sales; T&T Properties; Tabellco Inc.; Taber's Products Inc.; Tabor Painting Co.; TAC, Inc.; Tac-Ods, Inc.; Tacala, Inc.; Tack Restaurant; Taco Bay Enterprises Inc.; Taco Bell, Inc.; Taco Colorado, Inc.; Taco Concepts; Taco Del Este Inc.; Taco Food Service, Inc.; Taco Management Co.; Taco Rio, Inc.; Taco Sales Co. Inc.; Taco Tio Inc.; Taco-Pacifico Corp.; Tacoma, Inc.; Taira's Inc.; Taisho Plumbing & Heating; Tall Timbers Pizza Hut, Inc.; Tamarac Carpet and Furniture Cleaning, Inc.; Tape Products Co.; Target Construction Inc.; Tarka, Inc.; Tastee Freez of Chicago; Taurus Engraving ; Tavern Service Co.; Tay Mac Corporation; Taylor & Company; Taylor Brothers LLC; Taylor Foods Inc.; Taylor Freezer of Michigan, Inc.; Taylor Freezer of New England; Taylor Freezers of Southern California, Inc.; Taylor Rental; Taylor Sales; Taylor Soft Serve, Inc.; TB Restaurants, Inc.; Teasdale Fenton/Sparkle, Inc.; Tempaco Inc.; Temperature Service Co.; Temporary Corporate Housing, Inc.; Tennessee Restaurant Association; Tennyson Enterprises, Inc.; Terra Aqua Research; Terry Supply Co.; Terrytown Plumbing;

Texas Restaurant Association; Texas Security Consultants, Inc.; Texas Sign; The Alan White Company, Inc.; The Allen Co.; The Barbers Hairstyling for Men and Women, Inc.; The Barker Tavern; The Blade Shop; The Blind Co., Inc.; The Blue Lion Restaurant; The Buffalo Hilton (Buffalo, NY); The Caldor Corporation; The Candlelight Inn, Inc.; The Cannery Bar and Grill; The Chamber/New Orleans and the River Region; The Chamber of Medford/Jackson County (OR); The Cobacker Co.; The Coffee Beanery, Ltd.; The Correct Cut Co.; The Country Home Computer; The Dial Corporation; The Duke's Plumbing, Inc.; The Dwyer Group; The Edge of Knife; The Electric Motor Repair Co.; The Enchanted Florist; The Everett Co.; The First City Company; The Flower Patch, Inc.; The Flower Station; The Flowers Company/DBA The Flowers Auto Parts Co.; The Forget Me Not Flower Shoppe; The Friendly Plumber of Florida, Inc.; The Galbreath Company, Inc.; The Garden Cafe; The Good Neighbor Alliance Corp.; The Grand Union Company; The Great Midwest Seafood Co.; The Grove Park Inn Resort, Inc.; The Hale Group, Ltd.; The Haws Companies; The Hayes Group; The Hotel State College & Co.; The Index; The Ink Well of America, Inc.; The Irrigation Association; The Italian Host; The Italian Oven, Inc.; The Kades Corporation; The Kane Restaurant Group; The Kroger Co.; The Kwik Kopy Printing Advisory Council; The Landworks; The Lock Shop, Inc.; The Mackorell Group, Inc.; The Marketing Connection; The McAdams Group; The McRib Co.; The Meeting Place Restaurant; The Mohler Company; The Morrison Milling Co.;

The Nyhart Company, Inc.; The Nyman Group Ltd.; The Olive Garden Restaurant; The Oregon Service Center, Inc.; The Orlando Bagel Factory, Inc.; The Other Place Restaurants; The Piken Company; The Pizza Place, Inc.; The Plant People; The Plant Sitters, Inc.; The Plumbing Store; The Post Office Store II; The Post Restaurant; The Pour House Restaurant; The Printing Place Inc.; The Promus Companies, Inc.; The Quaker Oats Company; The Radio Shop, Inc.; The Reed Agency, Inc.; The Restaurant Connection, Inc.; The Seal-Flex, Co., Inc.; The Sear Brown Group, Inc.; The Servants Inc.; The Sign Palace, Inc.; The Sitting Duck; The Skinner & Broadbent, Co., Inc.; The Southern Seafood Co.; The Spaghetti Warehouse; The Syvertsen Corp.; The Taverne of Richfield; The Terminix International Co.; The Total Rental Centers, Inc.; The Travelers Insurance Companies; The Vincent Association; The Vollrath Co., Inc.; The Weiland Financial Group, Inc.; The Zoning Professionals; Theresa & Frank AuCoin; Thermal Control, Inc.; Thermal Dynamics, Inc.; Thermal Services; Thermal Trek, Inc.; Third Coast Produce; This Vincent Association; Thomas Drexler, Inc.; Thompson & Brock Management, Inc.; Thompson's Creative Marketing Group; Thompson's Farm Fresh Produce, Co., Inc.; Thornton Gardens, Inc.; Thorp Awnings, Inc.; Three Cheers Restaurant & Bar; Thrifty Flowers, Inc.; Tiffany Care Centers, Inc.; Tiffin-Toff House;

Timecorp Systems, Inc.; Timlin Plumbing & Hearing, Inc.; Tindel Construction, Inc.; Tinkels, Inc.; TLC Interior Plant Service; TNT Mechanical Contractors, Inc.; TNT Plumbing;

Todd Electric & Refrigeration; Todd's Quality Tomatoes, Inc.; Toddamy, Inc.; Toledo Oxygen & Equipment Co.; Tom McGhinnis Excavating, Inc.; Tom Pelnik Consulting Co.; Tom Rathsack Excavating, Inc.; Tom's Restaurant and Tavern; Tomar Tile Installations; Tomkins Pavement Maintenance, Inc.; TonerCharge; Tootsie Roll Industries, Inc.; Top Safety Products Co., Inc.; Topiary Nursery of Knoxville, Inc.; Topp's Tree Service; Tops Bar-B-Q, Inc.; Torco Termite & Pest Control; Torginol, Inc.; Total Truckhaven Station; Towery Air Conditioning, Inc.; Town Video Inc.; Tradehome Shoe Stores, Inc.; Traid Industrial Services; Trammell, Inc.; Transition, Inc.; Transmission City, Inc.; Transportation Manufacturing Corp.; Traube Canvas Products, Inc.; Travelers Express Company, Inc.; Traverse Leasing Corp.; Tregon Packaging Corp.; Trend Publishing Co.; TRI County Management; Tri Realty Management Corporation; Tri-City Florist; Tri-Lateral Sales, Inc.; TRI-M Corporation; Tri-State Dev. Inc.; Tri-State Service Co.; Tri-Ventures, Inc.; Triad Associations, Inc.; Triangle Reprographics, Inc.; Trico Pizza, Inc.; Triple J.S. Enterprises; Triple T Foods Corp.; Tripplett Management Corporation; Triumph Seed Co., Inc.; TroGuen & Chambers; Tromble and Co., Inc.; Tropex Plant Leasing, Inc.; Tropical Interiors, Inc.; Troy's Welding, Inc.; TRT Holdings, Inc.; Trustin Awards, Inc.; Tri-Cycle Corporation; TSC/The Service Company; TTR Investments; Tuff Shed, Inc.; Turri's Italian Food, Inc.; TV Taco Inc.; Twin City Grinding Service;

Twin Creek Nursery; Twin Oaks Nursery & Florist, Inc.; Twin Pines Landscape Services; Two Sisters Flowers; TyDa Co.; Tyler Outdoor Advertising, Inc.; Tyler Well Service, Inc.; Uffda Corporation; Ultraguard Service; Undergrowth, Inc.; Uni-Marts, Inc.; Uniglobe Travel International Inc.; United Agre Business League; United Biscuits; United Canvas, Inc.; United Cleaning Co.; United Coupon Corporation; United Fruit & Produce Co.; United Garden State Restaurant & Lodging Association; United Insurance Services, Inc.; United Refrigeration, Inc.; United Restaurant Supply Inc.; United Seafood Imports, Inc.; United Service Co.; United Trophy Mfg., Inc.; United Truck Body Company, Inc.; United Window Co. Inc.; Universal Coach Parts, Inc.; Universal Colort Graphics, Inc.; Universal Mfg. Company, Inc.; Universal Refrigeration, Inc.; Universal Restaurants; Universal Unlimited, Inc.; University Building Specialties, Inc.; Unoio Nool's; University Club; UP Enterprises, Inc.; Upstate Window Cleaning Co.; Urban Architecture; US Environmental Services; US Shoe Corp.; V.C. Sorenson, Inc.; V&T Carbonic, Inc.; Valencia Technical Services, Inc.; Vallejo Fire Extinguisher Service, Inc.; Valley Foods, Inc.; Valley Garden Center; Valley High Apartments; Valey Uniform & Linen Rental Service, Inc.; Valli Information System, Inc.; Van Lee Inc.; Van Management, Inc.; Van 's Electric of Lake Worth, Inc.; VanBooven Lawn & Landscaping; Vander Hyde Machanical, Inc.; Variety Wholesalers, Inc.; Varsity Beverage Co.; Vasco Properties Inc.; Vegas Time Associates, Inc.; VELA Food Enterprises, Inc.; Venture Stores, Inc.;

Veri-Best Bakers; Verifications, Inc.; Vermeer Auto Parts, Inc.; Vermont Pizza Huts, Inc.; Verona Oil Company Inc.; Vertex Corporation; Vibro-Steam of Abilene; ViCorp Restaurants, Inc.; Village Restaurant of Essex Inc.; Village Towne Restaurant; Vinylman; VIP Medical Personnel, Inc.; VIP Temps; Virginia Home Medical; Virginia Pizza Co., Inc.; Vision Records, Inc.; Vista Enterprises Inc.; Vista Foods Inc.; Vitamilk Dairy, Inc.; Viva La Pasta; W.A. Management Co., Inc.; W.A. Read, Jr. & Associates; W.R. Bommer Plumbing and Drain Cleaning; W.R. Foods, Inc.; W&B Enterprises, Inc.; Wabash Valley Pizza Hut, Inc.; Waffle House Inc.; Wagy's Management Company., Inc.; Wal-Mart Stores, Inc.; Waldorf Plumbing Co.; Walkor-Harry Co.; Wall Trends; Wallace Garden Center & Greenhouse Co.; Walsh & Simmons, Inc.; Waltree Construction, Inc.; Walts' Plumbing Inc.; Wapak Restaurants, Inc.; Ward-Brodt Music Company; Warmel Corporation; Washington State Horticulture Assn.; Waste Management of Kansas, Inc.; Watersource Consulting Engineers, Inc.; Watts & Associates; Wayland Refrigeration & Air Conditioning; Wayne Automatic Fire Sprinklers, Inc.; WD Sylvester Inc.; Weber Enterprises Inc.; Welford Harris, Inc.; Wellesley Chamber of Commerce; Wemal Inc.; Wendy's International, Inc.; West Coast Steel Fabricators, Inc.; West Farms Environmental Horticulture; West M'Corporation; West Texas Foods, Inc.; West Virginia Office Products, Inc.; Westaco Inc.; Westchase Window Cleaning, Inc.; Westcore Partners; Western Capital Mortgate; Western Growers Association;

Western Growth Construction Corporation; Western Rib-Eye Inc.; Westurf Distributors, Inc.; Wever Accounting Management; Whalen Furniture Inc.; Whataburger, Inc.; White Hen Pantry, Inc.; White Rose Rental Laundry; Whitehead Plumbing, Inc.; Whitelock Family Trust; Whitney Development Corp.; Whitney Products, Inc.; Whittington's Lawn Service, Inc.; Wholesale Distributors Association; Wholesale Florists & Florist Suppliers Association; Wide Construction Company; Wilbur Curtis Co., Inc.; Wiley & Flynn/A Photographic Company; Wilke Dairy Co.; Wilkes Sombrero Inc.; Willeys, Inc.; William Hay Brown; Williams Foods, Inc.; Williams Sausage Co., Inc.; Willie Itule Produce, Inc.; Willow Specialties Willsie Landscape; Wilson Enterprises; Wilson World Hotel Irving; Winder Dairy; Windmeier Construction; Windy City Pizza; Wing's Stadium & Kalamazoo Wings; Winkinl Lizard Tavern; Wisconsin Restaurant Association; Witmor Farms Restaurant; WJ Cantrel Refrigeration; Wohlenberg Ritzman & Co.; Wodert Insurance Services; Wolfgang's Cooling & Heating Corp.; Women's Health Boutique Franchise System, Inc.; Wood Master Graphics; Woodman's, Inc.; Woodson Construction; Woodson Storage; Woodworking Machinery Importers Association; Woody's Welding Service, Inc.; Woolworth; Woolworth Corporation; Worcester Industrial Products Corp.; Word Processing Services, Inc.; Workforce, Inc.; Worldwide Latex, Ltd. and First Financial Group, Ltd.; Wright Management, Inc.; Wright Painting & Decorating; Wyndham Hotels & Resorts; Xacto Asbestos Removal; Yardmaster, Inc.; Yin Management; Yireco Equipment Co., Inc.; Young's Jersey Dairy; Young's Water Conditioning; Yuma Insurance, Inc.; Zaven's Restaurant; Zee Medical Service Co.; Zenith/Kremer Waste Systems, Inc.; Zimmerman Plumbing & Heating, Inc.; Zinfandel; Zoeb, Inc.; Zum Deutschen.•

GOVERNMENT TAKINGS

• Mr. LEAHY. Mr. President, I would like to submit for the RECORD today an article by Edward Thompson Jr., the director of the public policy for the American Farmland Trust. We hear a large amount of discussion about whether whenever a governmental action affects private property, the government should make a payment to the landowners.

Often when we hear governmental action and private property in the same sentence, a negative image is created in our heads. However, as Mr. Thompson explains in his article, governmental action often increases rather than reduces the value of private property. In fact, governmental givings commonly are equal to, or outweigh, any governmental takings. Nevertheless, governmental givings are frequently lost in the takings debate. This article offers both an insightful look into the root of the problem and proposes possible solutions. I would invite my fellow colleagues to each take a look at this article and carefully listen to what it has to say. I ask that Mr. Thompson's article be printed in its entirety.

THE GOVERNMENT GIVETH

(By Edward Thompson, Jr.)

By decreeing in the landmark case *First English Evangelical Lutheran Church v. City of Los Angeles* that landowners may collect monetary damages from the government when property is "taken" by regulation, the U.S. Supreme Court may have done a favor for a nation struggling to reconcile private enterprise with environmental protection. Now that the public treasury is at stake, budget-conscious legislators are being forced to take a harder look at the risk that government regulation may take property by too severely regulating its use.

When they do so, they are likely to discover that the best way to manage the risk of takings may be to eliminate "givings": government subsidies that simultaneously encourage uses of land that require public regulation and increase the value of the land itself. Examples range from farm subsidies that have promoted wetlands drainage and soil erosion to the income tax deduction for home mortgage interest that drives wasteful urban sprawl. Eliminating or redirecting subsidies such as these would not just minimize potential takings claims. It would also result in budgetary savings that could be reinvested in incentives to make environmentally desirable land uses more profitable—a win-win outcome for the environment and property owners alike.

There isn't an acre of property in the United States with a value strictly attributable to private enterprise. Government actions exert a powerful influence on the utility and, hence, the value of land, whether it is waterfront property in South Carolina or farm fields in Illinois. As often as not, such actions increase property values by making formerly uneconomic uses profitable. That, of course, is the essential purpose of subsidies.

Take the celebrated case of David Lucas, the real estate developer who recently won a $1.5-million takings judgment because he was denied permission to build houses on the beach at Isle of Palms, South Carolina. Whether or not one agrees with the decision in his case, the fact remains that both Lucas's ability to build on the beach and the value of his beachfront lots were augmented by government action. Public authorities had constructed a bridge to provide access to the island, roads to drive on, water and sewage systems to serve the houses, and beach protection measures to prevent them from washing away. On top of that, the government has helped underwrite flood insurance to cushion the loss when those measures fail. All of these taxpayer-financed improvements contributed to the value of Lucas's property and in all likelihood spelled the difference between its being attractive for development and a financially worthless strip of shifting sand. In effect, much of the government's financial exposure for taking the Lucas property was attributable to the government itself.

Another example of government action that has given value to private property is the payment of agricultural subsidies. On average, the federal government pays the nation's farmers about $30 million a day to encourage them not to plant crops on part of their land. The "set aside" payments are intended to regulate the supply of corn, wheat, and other major commodities so that their prices do not become depressed. Together, the payments and higher commodity prices maintain farm income, keep farms in business, and help assure that the United States has the world's most abundant and affordable food supply.

In so doing, however, agricultural subsidies have been capitalized into land prices, increasing the total value of U.S. farmland by around $250 billion, according to the American Farm Bureau Federation. This windfall has helped make it profitable for farmers to drain wetlands and to plow up fencerows and highly erodible ground that otherwise would have been untouched. While the "sodbuster" and "swampbuster" provisions of the 1985 farm bill seem to have enjoyed some success at preventing new drainage and plowouts, the ironic fact remains that agricultural givings have probably done as much as anything to fuel the current takings debate between farm groups and environmentalists over wetlands and erosion-control regulations.

A third example of givings is another sacred cow: the income tax deduction for home mortgage interest. For taxpayers whose combined federal and state income tax bracket is, say, 35 percent, the deduction reduces the cost of every $100 in mortgage payments to only $65. This enables people to buy houses almost half again as expensive as they could without the write-off and is, thus, a massive subsidy to the real estate industry. The Congressional Budget Office estimates the annual revenue cost of this tax preference to be $44 billion. Assuming capitalization at 6 percent, today's average mortgage rate, it can be said to have enhanced residential property values by approximately $730 billion.

The mortgage deduction is intended, of course, to make home ownership more affordable. Few would argue with this objective. But the subsidy is conferred regardless of how or where houses are built. They can be built in wetlands or endangered species habitat, on barrier islands, floodplains, or Civil War battlefields. The subsidy is the same whether the pattern of development is low-density sprawl or compact communities that have a wide variety of environmental and economic advantages: conservation of prime farmland and open space, lower energy consumption and air pollution, reduced public service costs and demand for property tax collections. Though some would argue that the neutrality of the mortgage deduction keeps land use planning at the local government level, as a practical matter it gives developers a powerful incentive to try to upset local plans.

These are only a few of the public subsidies built into private property values in the United States. Ironically, givings such as these are at least partly responsible for the increased attention to takings of private property now manifesting itself both in litigation and in legislative attempts to require review of proposed government regulations, ostensibly for purposes of avoiding takings litigation and the potential liability now associated with it.

By creating expectations of profit from land where none formerly existed, givings have almost certainly encouraged takings litigation, the mere threat of which intimidates government officials into making questionable land use decisions. But a more explicit judicial recognition of the influence of givings on property value as it relates to the issue of just compensation might help restore government officials' confidence by discouraging borderline litigation and reducing potential damage claims.

A recognition of governmental givings is already a significant—though seldom acknowledged—part of modern takings jurisprudence. Notwithstanding *First Lutheran Church*, *Lucas*, and other recent cases, the basic takings rule has remained unchanged since it was first articulated by Justice Oliver Wendell Holmes in *Pennsylvania Coal Co. v. Mahon:* Virtually *all* economic value of land must be destroyed by regulation for a taking to occur. Only under such circumstances, Holmes said, does regulation "go too far" in shifting the cost of improving the social condition from the public to private property owners.

Some property rights advocates have criticized the all-or-nothing rule. They seek to enlarge the concept of takings to include circumstances where regulation proscribes use of only part of a larger property or the whole has merely been reduced in value. This, they claim, is necessary to restore fairness to the system of land use regulation and make government, which is to say the general public, pay its fair share of protecting the environment. A closer examination of the philosophical and practical basis for the current rules suggests, however, that compensation for partial takings or mere diminution in value would itself go too far.

The source of the current "all-or-nothing" rule was Holmes's insight that property values are *increased* as often as decreased by government action; that, on the whole, landowners are benefitted and burdened in roughly equal measure by government spending and regulatory decisions. The renowned jurist termed this "average reciprocity of advantage," but in plain English it could simply be said that "givings tend to balance takings."

Though the rule is a practical one—"Government could hardly go on," Holmes observed, "if to some extent values incident to property could not be diminished without paying for every such change"—it also implicates fundamental fairness. Would it be just to charge the public for every diminution in property value, while at the same time allowing property owners to reap a windfall every time government action increases land values?

The "all-or-nothing" rule thus insulates government from liability except when regulations proscribe all economic use of property. Few regulations go that far, but there may be some important exceptions, including regulations designed to protect wetlands, barrier beaches, and some endangered species habitat. None of these environments can tolerate much if any economic use and survive. They will remain fertile ground for future takings litigation and the source of potential government financial liability. It is, therefore, worth exploring how the concept of givings could further inform takings jurisprudence as it affects the sharing of responsibility and cost of environmental protection.

One promising avenue of inquiry might be a re-examination of the notion of just compensation. Currently, the measure of damages for takings is the fair market value of the property whose use is prohibited. This concept of valuation reflects, among other things, enhancements of land value attributable to governmental givings. Arguably, where government has subsidized property value, a takings award based on fair market value results in *unjust* enrichment of property owners who are compensated not only for their "equity" but also for the windfall value created at public expense.

Whether the courts will entertain this argument remains to be seen. Currently, they look only at the harm suffered by the aggrieved landowner—not the potential loss to the government or taxpayers—in determining just compensation. But how can it be said that a property owner has been harmed when the government decides to take back by regulation what it has given through subsidies or other action? Why shouldn't courts consider evidence that property values have been inflated by government action in deciding what compensation is fair? Why shouldn't they reduce damage awards by an amount attributable to givings?

The prospect of government financial liability for takings has prompted officials to analyze proposed regulations affecting land use to determine the extent to which they could lead to damage claims. Though it is questionable whether such analysis can actually help government avoid takings exposure by rewriting regulations, it does afford officials an opportunity to examine how they can do so by eliminating givings.

Executive Order 12630, signed by President Reagan in the early 1980s' was the first initiative to require regulatory analysis aimed at reducing takings exposure. While a U.S. Senator, Steve Symms (R-Idaho) later succeeded in persuading the Senate to pass a bill (S. 50) in the 102nd Congress that would have codified this order, but it died in the House. Variations on it have been resurrected in the current Congress by Senator Robert Dole (R-Kansas) (S. 117) and a number of members of the House, where an agriculture subcommittee recently held hearings on such a measure (H.R. 561). Many state legislatures are considering similar bills and a few—such as Indiana and Utah—have passed them, but most bills have been defeated.

It is difficult to see how prospective analyses of takings claims could possibly result in any meaningful conclusions. If 70 years of Fifth Amendment jurisprudence have taught anything, it is that takings determinations are perforce a case-by-case exercise. To predict government liability in advance, so many assumptions would have to be made about the on-the-ground impact of regulation on individual properties as to defy credulity: the number of affected properties of record, the environmental characteristics of each property, patterns of ownership relevant to "total taking" analysis, the appraised value of each parcel under future market conditions, and any circumstances that under *Lucas* could excuse a taking. If the government really tried to get access to that much information about private land in the United States, property rights advocates would scream invasion of privacy—as indeed they have in opposing the National Biological Survey.

One conclusion about government's potential exposure to takings claims is clear under any set of assumptions: Its exposure could almost certainly be reduced by eliminating, conditioning, or redirecting governmental givings that increase the value of private property by encouraging uses that must be regulated in the interest of protecting the environment. While the courts may be reluctant to consider the extent to which taxpayers enrich landowners—yes, there's an overlap, but taxpayers don't get to spend their own money—there is no reason why Congress, the administration, and state officials should not. Indeed, at a time when budgets are tight all over, and the nation's environmental and social deficits continue to grow, re-examining how tax dollars are distributed among classes of subsidy beneficiaries would seem to be an imperative.

A hard, careful look at real givings—not putative takings—is the kind of analysis that needs to be undertaken if the nation is to avoid both financial and environmental bankruptcy. For too long, we have been subsidizing the very uses of land we need to regulate in the interest of environmental protection. This has set the stage for double dipping in the public treasury by those who benefit from taxpayer largesse and then sue the government for damages when regulation frustrates their plans. The last thing we can afford is to pay twice for environmental protection. Paying once—compensating property owners for using the land as the public sees fit—is probably the most effective way of achieving harmony between private enterprise and protection of our environment.

Instead of continuing to subsidize new development of barrier islands and other flood plains, we could reprogram funds now used to build infrastructure and use them to buy and retire development rights on flood-prone lands. That is in effect what South Carolina was forced to do in Lucas's case, except that it is now offering the property for sale for development purposes. It probably could have bought two or three times as much land on an island where property values were not as inflated by government subsidies.

Agricultural subsidies are also fertile ground for fiscal reprogramming. They could be shifted from Traditional set asides to "green incentives" paid to farmers for conserving soil, protecting wetlands and other habitat, cleaning up non-point-source water pollution, and dedicating prime farmland to rural open space. Existing programs like the Conservation Reserve, Wetlands Reserve, Water Quality Incentives, and Farms for the Future, which now account for only about one-sixth of annual farm spending, provide ready-made vehicles for doing this. Farm income would continue to be supported, assuring a stable food supply. But many of the environmental impacts of modern agriculture would be ameliorated by withdrawing the incentive to push the land beyond its capacity and replacing it with an incentive to conserve resources and protect the environment.

It is probably too much to ask for Congress to re-examine the home mortgage interest deduction in any meaningful way. But what would happen if this subsidy to real estate development were graduated or conditioned on the basis of the impact of new dwellings on the environment and their consistency with local comprehensive plans? Developers would be encouraged to build houses on land with few environmental constraints because those houses would be less expensive than comparable dwellings located on prime farmland, in wetlands, critical wildlife habitat, and maybe even on barrier beaches. The revenue recaptured could be used to fund a housing tax credit for lower-income families to maintain the overall affordability of housing. For perhaps the first time in history, federal tax policy would harness the marketplace to improve the quality of community growth and to protect the environment, rather than promoting its destruction.

The Fifth Amendment seeks to assure that the cost of achieving social objectives if fairly shared by property owners and the public at large. Property rights advocates complain that regulations are forcing landowners to bear a disproportionate share of the burden by taking property value. All but ignored in the debate are givings, governmental subsidies that enrich property owners by making uneconomic uses of land profitable and which, not coincidentally, increase the need for the regulations that landowners find so vexatious.

An honest recognition of, and accounting for, givings has tremendous potential to inform the debate over private property rights and change the way we approach the protection of public environmental values. Though the courts implicitly consider givings in takings jurisprudence, they are powerless to curb them and can only arbitrate when the government sends property owners confusing signals about the appropriateness of land uses by simultaneously subsidizing and regulating them. It is up to the political branches of government to reexamine how tax dollars are spent on subsidies to unwise land use, and to reprogram scarce funds so that they send the unmistakable market message that there is more profit in protecting the environment than in destroying it.•

A TRIBUTE TO PAUL A. FROMM ON HIS RETIREMENT FROM THE ARMY AND AIR FORCE EXCHANGE SERVICE

• Mr. NUNN. Mr. President, today I want to congratulate Mr. Paul A. Fromm, chief operating officer of the Army and Air Force Exchange Service, on the occasion of his retirement from the Army and Air Force Exchange Service.

During the span of his 36-year career, Mr. Fromm worked in nearly every area of the Army and Air Force Exchange Service organization, from an hourly paid clerk to the highest ranking civilian in a work force of 71,000 people. His first job was as a stockroom clerk at Columbus Air Force Base, MS. Then he served as stockroom manager, and eventually as the retail store manager, preparing him for leadership roles for the remainder of his career in the Army and Air Force Exchange Service.

In 1985 Mr. Fromm was selected for his current assignment, one of the youngest to achieve this position. His leadership has been marked by a commonsense approach to every decision. Paul was committed to focusing on the mission of military men and women and their families, wherever they were assigned.

It is often said that in the retail industry, the only constant is change. Mr. Fromm realized this and sought to make those changes for the ultimate benefit of the men and women of the Armed Forces and their families. Under his leadership, the Army and Air Force Exchange Service restructured management to a centralized function. He steered the organization to focus on what the customer needs, and adapted the Exchange Service to that need. His oversight led to information systems modernization which set the standard for the rest of the Department of Defense resale community. The Army and Air Force Exchange Service is considered a role model as a government organization. Essentially, Mr. Fromm was reinventing government years before it became popular.

As Mr. Fromm retires, he leaves knowing that the Army and Air Force Exchange Service just completed their year with the highest sales ever recorded, which translates to one of the highest dividends ever to the Army and Air Force morale, welfare, and recreation organizations. Mr. Fromm has touched the lives of every soldier, sailor, airman, and marine—active, retired, or reserved—as well as their families. It is people like Mr. Fromm who help make the U.S. military quality of life programs work, provide tens of thousands of jobs, take a little piece of home to soldiers stationed overseas, and ultimately help in keeping our Nation strong.

Mr. President, I ask our colleagues to join me in congratulating Mr. Fromm on his retirement and to thank him for his dedicated, professional, and selfless service to the men and women of the U.S. Armed Forces and their families.•

HOMICIDES BY GUNSHOT IN NEW YORK CITY

• Mr. MOYNIHAN. Mr. President, I rise today, as I have done each week during this session, to announce to the Senate that 16 people were killed by gunshot in New York City this past week.•

THE CHILDREN'S HOME AND AID SOCIETY IN CHICAGO

• Mr. SIMON. Mr. President, the Children's Home and Aid Society of Illinois is a nonprofit, nonsectarian child and family service agency that provided care and service to nearly 10,000 children and families last year.

The society's innovative program allows a child or youth to remain under the care of the same agency, providing a number of benefits for the young person, their family, and for the agency.

It affords children the opportunity to maintain contact with an influential adult in their lives. It enables families to develop a sense of connectedness with the agency. And it empowers the agency to enhance communication between staff members, as well as maintain contact with the children that have become important to them.

Mr. President, I rise today to recognize the Children's Home and Aid Society in Chicago. To best meet the changing needs of the children and families in their care, the society provides a truly complete continuum of care.●

TRIBUTE TO RHODES COLLEGE

● Mr. SASSER. Mr. President, I am pleased today to pay tribute and offer my sincere congratulations to the Rhodes College mock trial program. Last month at the 10th Annual National Intercollegiate Mock Trial Tournament in Des Moines, IA, Rhodes College captured the national championships in the two highest divisions of the competition.

Rhodes College is a small, highly respected private liberal arts college in Memphis, TN. Rhodes has been producing quality graduates for almost 150 years—I should know, since I currently have 5 Rhodes alumni on my staff.

Over 100 colleges and universities, including Ivy League schools, major State universities, and private liberal arts colleges, sent teams to compete in the mock trial tournament. Each team first participated in a regional competition to qualify for one of three divisions at nationals: the first-tier, championship flight; the second-tier, gold flight; or the third-tier, silver flight. Rhodes College sent two teams to the tournament, and they each won a national championship: one in the championship flight division and the other in gold flight.

Of course, this success would not have been possible without the hard work and dedication of the many young people participating in the competition. Spending many hours researching the fine points of law, boning up on courtroom procedures and fine tuning their vocal abilities, the Rhodes College mock trial teams demonstrated proficiency in the law and earned national titles.

The members of Rhodes' championship flight mock trial team are seniors Trey Hamilton, Karen Jones, Eric Dunning, Emily Pouzer, Caprice Roberts, Sam Woods; and juniors Melissa Berry and Michele Hart. Gold flight team members are seniors Andrea Moseley, Kevin Wiley, Robert Browning; juniors Trent Taylor and Paul Guibau; sophomore Ryan Feeney and freshman Gina Yannitell. All should be commended for their fine achievements.

I also commend the people behind such success—the coaches of the Rhodes College Mock Trial Teams: Professor Marcus Pohlmann, Mr. Whit Gurkin and Mrs. Thais Davenport Kilday. Professor Pohlmann has been head of the college mock trial program for the past 7 years, leading Rhodes to two previous national championships in 1990 and 1991. Mr. Gurkin is an attorney at the firm Wilson, McRae, Ivy, Sevier, McTyier and Strain, also located in Memphis. Mrs. Kilday, herself a Rhodes graduate and mock trial participant, works in the chaplain's office at Rhodes. They sacrificed their valuable free time and volunteered to help Professor Pohlmann prepare a top-notch team for competition. As you can see, their efforts yielded great rewards.

Mr. President, I know the entire community of Rhodes College—indeed, Rhodes alumni everywhere—join me in high praise of the college mock trial teams and coaches on their national titles.●

VOICE OF DEMOCRACY WINNER

● Mr. COATS. Mr. President, every year, the Veterans of Foreign Wars honor students from across America for writing inspiring essays about democracy. This year Russell Disilvestro from Bloomington was selected from more than 1,700 entries from Indiana and was judged 10th of the 54 best from over 138,000 entries across the country. I would like to include his essay entitled "My Commitment To America" for the RECORD and commend it to your attention. Far too little credit is given to the exceptional young people like Russell who will one day be leading this Nation.

MY COMMITMENT TO AMERICA

(By Russell C. Disilvestro)

Come with me for a moment as we journey back in time to the year 1863 and listen to Abraham Lincoln as he delivers the Gettysburg Address. Most of us are familiar with the opening line—"Four score and seven years ago our Fathers brought forth on this continent a new nation, conceived in liberty and dedicated to the proposition that all men are created equal." We may not be as familiar with the statement of Lincoln's that comes a little later—"It is for us the living rather to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced."

Now let us journey back to 1993 and think about Lincoln's words as they relate to us today. Lincoln spoke about the need of citizens to fight to preserve their Union, but they were in the midst of a Civil War. What do we, as citizens, need to do in 1993 to preserve our Union? What is our responsibility as citizens of this great democracy?

As citizens, we have many responsibilities. We need to learn about our country's past, care about our country's present, and prepare ourselves for our country's future. The key to our responsibilities is found in Lincoln's words. Our country is, as he called it, an "Unfinished work." We are creating a new America each day. As a young person in America, I personally must ask, "What kind of America am I helping to create?"

As a young person, I show my commitment to America by learning about my country's history, and by learning about the Constitution. I show my commitment to my country by learning about the problems that face my country, by obeying the laws of my country, and by serving my fellow countrymen. I am serving my fellow man now by participating in student government. Some day in the future, I may show my commitment to America by running for an elected public office. That is a future dream, but I don't have to wait for the future to show commitment.

I try to show my commitment by using my writing and speaking skills to promote positive things about my country. This year, I spoke on Veteran's Day at my high school about the role of veterans in protecting our country's freedoms. Another unique way I have shown my commitment to America is by giving speeches about the importance of voting.

Why voting? Why have I chosen this topic as a unique focus of my commitment to America? Because I think that voting is so fundamental to our system of democracy. The world events of the past few years have made me stop and think about our country, our system of democracy in comparison to other forms of Government. All over the world, people literally have been dying for a democratic system that will allow them to vote. The students of China flooded Tiananmen Square, the people of East Germany broke down the wall, hungry for freedom! In the recent breakup of the Soviet Union, we witnessed the flowering of a new democracy where a totalitarian government once stood.

But freedom always has a cost. The birth of freedom, like any birth, involves pain, and, like any birth, involves the shedding of blood. Our own country and government were established only after the loss of many lives. Soldiers with bleeding feet starved, froze, and died serving under George Washington at Valley Forge. They paid a price so that we could have a democracy today!

How important is our democracy? Just ask the veterans who fought against Hitler in World War II. Just ask the United States soldiers who risked their lives in the Persian Gulf conflict. Just ask the families whose sons' and daughters' names are engraved on the Vietnam War Memorial.

Let's think back to Lincoln's closing remarks at his Gettysburg Address—"We here highly resolve that these dead shall not have died in vain—that this Nation, under God, shall have a new birth of freedom * * *" Each time we show our commitment to America, we give freedom a new birth. By showing our commitment to America, we can join our dream to the dream of Abraham Lincoln: That this government "* * * of the people, by the people, shall not perish from the Earth."●

A VALIANT EFFORT

● Mr. SIMON. Mr. President, yesterday, Jean Driscoll of Champaign, IL, won her fifth consecutive Boston Marathon at 1:34:21. It was the fastest time ever in the women's wheelchair division.

Driscoll, 27, has managed to set a new world record each time she has raced in Boston. She also is the owner of the current national 10-kilometer championship, holding the world's best women's time—23:46.

Driscoll, who was disabled at birth because of spina bifida—open spine—uses a wheelchair to provide the mobility that her legs cannot. Spina bifida robbed her of a normal childhood and a chance to dream the dreams of other girls growing up in the Midwest. Her parents were told she would be mentally retarded and have no future. Thank goodness Jean and her parents knew differently.

In 1992, when wheelchair racing was an exhibition sport at the Olympics in Barcelona, she won the silver medal for 800 meters.

I am so encouraged by Jean's efforts. She grew up in Milwaukee. Until her freshman year in high school, she could get around using braces and a walker. Then a bike accident left her in a body cast for a year.

With atrophied muscles, plus hip and knee problems, she had to deal with returning to school in a wheelchair—in addition to the normal trauma of being 15. Besides discouragement, Driscoll had to overcome the thoughtlessness of her peers. But she kept her chin up.

Her breakthrough was enrollment at the University of Illinois, where she was a dual-sport athlete in racing and wheelchair basketball.

She earned a bachelor's degree in speech communication and a master's in rehabilitation administration. She has remained in Champaign, where she helps coach two dozen wheelchair racers.

I am proud of this young woman, and on behalf of all Illinoisans, congratulations on a job well done.●

UKRAINE'S PARLIAMENTARY ELECTIONS

• Mr. DECONCINI. Mr. President, last week, Ukraine completed the second round of its first, post-Soviet parliamentary elections, electing 338 out of 450 deputies. This number is enough to constitute a quorum, and the new Parliament is scheduled to convene in mid-May. The vast majority of its members are newcombers, as only 56 from the old Parliament were reelected.

Despite preelection fears of apathy, Ukrainian voters turned out in large numbers. The high turnout clearly attested to the electorate's desire for change and its disillusionment with the country's leadership.

Mr. President, the Helsinki Commission, on which I serve as chairman, sent three staff members to observe the conduct of the campaign and the first two rounds of the elections. The staff visited over a dozen cities and towns. While observing some disturbing problems and irregularities in the electoral process, and notwithstanding shortcomings in the election law, the Helsinki Commission believes that Ukrainian voters generally were able to express their political will freely. The Commission's report on the elections will be available within a few weeks and will be sent to all Senate offices.

The new Parliament will include Communists and their allies—about one-third—moderate National-Democrats—about one-quarter—and a large group of nonaligned independents, whose views and allegiances are a question mark. There are differing views on whether this Parliament will make progress on economic reform and adopt a new constitution that would address the question of separation of powers. This is a priority for the new Parliament. Ukraine simply cannot afford more deadlock in its governing structures; and it certainly cannot afford to have its economy continue to spiral downward.

Much has been made of Ukraine's regional differences, including suggestions that Ukraine will break up. Differences between the more European-oriented west, and the Russia-oriented east do exist—the consequences, in part, of different historical legacies. Indeed, the results of the voting highlight these differences, with the National-Democrats doing well in western Ukraine and Communists enjoying electoral success in the east and south. But these differences, while serious, should not be overstated, and, indeed, no group or party will have a clear majority in the new Parliament.

In my view, Ukraine's future rests on its willingness to institute meaningful economic reform. Both the Parliament and the executive branch must tough political decisions in order to bring about real reform. Whether either is ready to do so remains, regrettably, an increasingly troubling question. For the sake of the Ukrainian people and stability in the region, I hope the Ukrainian Government finds the courage it has so far lacked.●

COMMEMORATING THE ANNIVERSARY OF THE CHERNOBYL DISASTER

• Mr. RIEGLE. Mr. President, today marks the eighth anniversary of one of the most significant disasters the world has ever witnessed. On April 26, 1986, a reactor at the Chernobyl nuclear power plant in Ukraine exploded, releasing radioactive particles that would travel as far as Scandinavia and Western Europe. At least 8,000 people have died as a result of this disaster and thousands of others have suffered from illnesses or from genetic defects. Despite the tragedy of the Chernobyl accident, frighteningly little has been done to improve the safety standards of nuclear reactors in Eastern Europe and the former Soviet Union, and the world simply awaits a second, similar disaster.

Clearly the most serious consequences of the Chernobyl accident were felt in Ukraine, Belarus, Lithuania, Russia, and other Eastern European countries. The World Health Organization reported earlier this year that the cancer rate among children in Ukraine and Belarus has risen to 80 times the normal rate since the Chernobyl disaster. Children born to the workers who were forced to clean up after the disaster are showing signs of severe birth defects. Among these children, immune deficiencies, genetic malformations, cancer, and other forms of extensive chromosomal damage are common.

Despite the consensus among the world's nuclear safety experts that Chernobyl-type [RBMK] power plants are of a faulty design, 58 continue to operate in Eastern Europe and the former Soviet Union. An International Atomic Energy Agency [IAEA] report ranks 25 of these reactors as especially worrisome. Among the most dangerous are the RBMK-style power plants at Ignalina, Lithuania; Kursk, Smolensk, and St. Petersburg, Russia; and the remaining reactors at Chernobyl in Ukraine. The longer these plants are in operation, the greater the risk of an accident and a potential repetition of the Chernobyl catastrophe.

The hazards from the RBMK reactors stem from inherent design flaws, including inadequate containment structures, inadequate safety and shutdown procedures, lack of proper backup systems, and faulty graphite control rods. In addition, sporadic maintenance of equipment and inadequate training of personnel compound the risks of continuing to operate these reactors.

Unfortunately, it is neither politically nor economically feasible to simply shut down these reactors. Some of these power plants are the only source of electrical power available to the countries in which they operate. Lithuania, for example, has no means of generating electricity other than with the dangerous Ignalina power plant. Moreover, the energy shortage extends throughout the entire region of the former Soviet Union preventing the closing of other unsafe plants. Most countries have chosen to face the risk of catastrophe by running these plants at full capacity, rather than deal with the disastrous effects that closing them down would have on their fragile economies.

I believe that it is critically important that the United States and the other industrialized nations do everything possible to help clean up the damage already done and improve safety standards for the future. Although the G-7 nations pledged $700 million 2 years ago, much of this money has already been allocated or spent, and the job is far from complete. Jonathan Heller, Secretary General of the European Atomic Forum [Foratom], has estimated that as much as $8 billion may be needed to effectively complete the needed repairs and overhauls. It is clear that the international community must step up its commitment to this problem if the world is to be safe from future disasters like Chernobyl.

The need for a United States commitment to deal responsibly with the problem of dangerous reactors in Eastern Europe is clear, particularly in light of the recent decision by the Export-Import Bank to extend loan guarantees to the Czech Republic to complete two partially built Soviet VVER–1000 nuclear reactors. Although these are a more modern design than the Chernobyl-type reactors, many observers remain legitimately concerned about the safety of the VVER–1000's. I believe the United States must demonstrate its concern with nuclear safety as well. Multilateral lending institutions to which the United States belongs must be more diligent in conducting thorough environmental, safety and economic impact assessments before committing funds to upgrade these reactors. Moreover, the results of these studies must be made available for meaningful public debate.

Mr. President, without international assistance, the countries of Eastern Europe and the former Soviet Union will not be able to back away from the brink of nuclear disaster. On this eighth anniversary of the Chernobyl disaster we must reaffirm, through our policies, our commitment to ensure that as we approach the 21st century the nuclear risks we face today are brought under control.•

COUNTERFEIT VIDEO GAMES

• Mr. GORTON. Mr. President, the U.S. video game industry is being severely injured by the foreign manufacture of counterfeit video games, particularly in China and Taiwan. Not only has counterfeiting saturated that domestic market in China, and, to a lesser extent, Taiwan, but counterfeiters in those countries also export huge quantities of their counterfeit products to countries throughout the world.

Counterfeiting caused losses of $2.5 to $3 billion in 1993 to Nintendo of America, Inc., Redmond, WA, a leading video game company located in my State, to the over 170 independent U.S. companies, which create and sell Nintendo video games, and to the more than 300 companies, such as a movie studio that license properties for use in Nintendo video games.

In February 1994, Nintendo and other United States video game companies filed a special 301 comment with the United States Trade representative in which it sought action against China and Taiwan. The special 301 comment also describes serious video game counterfeiting problems in Venezuela, Argentina, Panama, and Paraguay.

The primary focus of the special 301 comment was China and Taiwan because they are the primary manufacturers of counterfeit video game products. In 1992, both China and Taiwan executed trade agreements with the United States in which they agreed to improve copyright enforcement. Since that time, Taiwan has taken steps to improve its practices, but has not yet fully complied with the 1992 agreement. China's practices appear to have worsened.

The Chinese market is saturated with counterfeit video game products. In fact, the high tariffs on authentic video game products permit counterfeit video games to thrive in China. People's Republic of China video game counterfeiting is dominated by State-owned enterprises. One of the largest People's Republic of China counterfeiters is Tianjin New Star Electronics Co., which is controlled by the People's Republic of China Government's Ministry of Electronics and Machinery. The Ministry receives 20 percent of New Star's profits. Little Bawang is another State-owned enterprise that sells infringing Nintendo video games. Little Bawang advertises as the largest producer of video games in China.

Several weeks ago, Senator MURRAY, Representative CANTWELL, and I met with the Chinese Ambassador to stress the seriousness of this problem. While the Ambassador agreed to convey our concerns to his Government and to advise us of his Government's response, we have not yet received a response.

Due to Taiwan's history of counterfeit trade, the United States Trade Representative designated Taiwan as a "Priority Foreign Country" in 1992. In response, Taiwan entered into an understanding in 1992 in which it agreed to establish an export monitoring system that would prevent the export of infringing software products, including video games, from Taiwan. Unfortunately, Taiwan's export monitoring system has not been successful in preventing the export of counterfeit Nintendo video game products including semiconductor chips which contain copyrighted video games. Many of the counterfeit video games assembled in China contain infringing semiconductor chips that were imported from Taiwan.

Taiwan counterfeiters openly advertise their infringing video game products in magazines in utter disregard of the export monitoring system. There are at least 25 such companies that boldly advertise their infringing video game products in a magazine with wide circulation. One of these companies is NTDEC, a Taiwan infringer, against which a United States court entered a judgment for $24 million. The Taiwan Government revoked NTDEC's import and export privileges in December 1993, but today, NTDEC continues to operate at its old address under the NTDEC name and another name as well. NTDEC infringing products continue to be found outside of Taiwan. In its advertisement, NTDEC states it is a manufacturer of video game products and displays among other things a Nintendo video game which it passes off as its own. NDTEC is only one of many examples that highlight the failure of the Taiwan Government to effectively implement the promised export monitoring system.

Mr. President, I believe China should be designated as a "Priority Foreign Country" due to its lack of a copyright enforcement system and that Taiwan should be placed on the priority watch list based on the continued ineffectiveness of its export monitoring system for copyrighted software.•

ANNIVERSARY OF THE ARMENIAN GENOCIDE

• Mr. SIMON. This week we reflect on one of the worst crimes against humanity committed in our century: The Turkish massacre of one and a half million Armenians beginning in 1915.

Nationalism based on notions of ethnic purity is not something most Americans identify with or accept. So it is fitting that many of the descendants of survivors of the Armenian genocide found homes in the United States. Armenians are a great and talented people. Their achievements are disproportionate to their numbers. I have myself seen, during a visit to Armenia last year, the fortitude of Armenians in coping with post-Soviet economic dislocations, blockades by Turkey and Azerbaijan, and the war over Nagorno-Karabakh. History and geography have been unkind to the Armenians and I understand and join in the sentiments of Armenians, like all victims of ethnic cleansing: "never again."

That feeling is, I am sure, in the hearts of the refugees and inhabitants trapped in Gorazde, subjected to bombardment from Serbian tanks, artillery, mortars, and machineguns in a town which the world community has declared to be a safe area. The hysteria and cruelty which led to the Armenian massacres is still with us and, wherever it occurs, Americans and their government should decisively reject it—not wring their hands and try to look the other way.

Armenians deserve a homeland which is as prosperous as the people are industrious and talented, and which is as secure as the Armenian past was difficult. In order to accomplish this, the war between Armenia and Azerbaijan must end. The war has caused untold suffering in both countries.

This week, as we memorialize one and a half million dead Armenians of a past generation, I urge the administration to redouble its efforts, and its commitment, to work with the parties directly and with the international community to stop the war.•

MORNING BUSINESS

Mr. DOMENICI. Madam President, I ask unanimous consent that I may be permitted to proceed as if in morning business for 7 minutes.

The PRESIDING OFFICER (Mrs. BOXER). Without objection, it is so ordered.

HEALTH CARE REFORM AND THE FEDERAL BUDGET

Mr. DOMENICI. Madam President, I want to speak for a few moments about an issue that is going to occupy a great deal of our time over the next few months. Of course, everybody would guess that is health care reform. In particular, I wish to talk about health care reform in the context of the U.S. Government's Federal budget and the very difficult issue of how do we get the deficit and when might we ever get the deficit down to zero, because I think there is some serious concern about that among those who look at the future for our children and grandchildren in terms of our inability to get those two, the receipts and the expenditures of Government, to come together at zero and not spend more than we receive.

Now, lest we forget, it is important to recall that last year the President argued repeatedly that he had a two-pronged strategy to attack the Nation's deficit—his budget plan, including new taxes and significant reductions in defense, and, the way I see it, not very many other cuts. So we had a tax and budget plan as one aspect of the President's two-pronged strategy, and, yes, believe it or not, the second aspect of deficit reduction was health care reform.

Let me repeat. The President had a two-pronged strategy to get our fiscal house in order, and one was the tax and budget plan that was passed and the second part was, unequivocally, health care reform. In fact, the President's promise of spending cuts in the context of health care reform was one of the arguments used to get Congress to approve the budget and tax bill which included rather significant new taxes. I believe it was the largest new tax increase in history. Nonetheless, whether it was number one or not, while he was selling this plan to the American people on television in July, during the news conference the President said:

> We need to bring the deficit down to zero. To do that we have to pass health care reform.

Now, the President was right in a sense. We cannot balance the Federal budget with health care costs growing as they are. It is literally fiscally impossible to balance the Federal budget with health care costs growing as they are.

Over the next 10 years, Medicare and Medicaid will grow at around 11 percent annually.

Now, I know some Senators listening and watching will say, "But, Senator, the goal of health care reform is to get that spiraling cost down."

We will address that in a moment. In 1980, these programs that I just mentioned cost $48 billion, 9 percent of the budget, excluding interest. In 2004, one decade from now, believe it or not, they will cost $684 billion, 33 percent of the Federal budget, excluding net interest—10 years from now.

Between 1993 and 1999, as shown on this chart that I had put up here on my right, the Congressional Budget Office projects that the deficit will decline as a percent of the gross domestic product from 4 percent to 2.5 percent. But the entire 1.5 percent decline can be attributed to increased taxes and defense cuts.

Taxes will increase from 18.3 percent of our gross domestic product to 19 percent. Defense is cut by 1.6 percent of our gross domestic product. And with nondefense spending, the pattern is startling. Nonhealth-related mandatory spending and discretionary spending is expected to drop by almost 1 percent of the gross domestic product, seven-tenths of a percent. These are seven-tenths of a percent of our gross domestic product in excess of $5 trillion. So we are talking about a huge amount.

On the other hand, health-related mandatory spending will increase by 1.4 percent of the gross domestic product. With Medicare and Medicaid growing as they are, the deficit will exceed $380 billion in 2004, that time when I just described that the health care costs of our Federal Government's programs will be $684 billion as compared with the $48 billion 20 years prior thereto.

Clearly, it is obvious then that to get the deficit of the Federal budget under control, we ought to be focusing our attention on the health care entitlements, and what better time than while we are discussing health care reform.

I want to ask a question. If not health care reform, then what? Unfortunately, it is becoming increasingly clear that the administration and many Members of Congress are determined to spend every bit of savings from these Federal entitlements and more on new health care entitlements under health care reform. At the time our President issued his "vision of change" for America shortly after his inauguration, he was promising his health care plan would reduce the deficits by $300 billion to the year 2000. But the Congressional Budget Office estimates that the President's health reform plan will increase, not decrease, the deficit by $126 billion over the next 10 years. And the Cooper proposal is likely to cost just as much. In fact, none of the major reform plans make a dent in the budget deficit at all.

So I just came down here today to remind my colleagues that during the consideration of the budget resolution I propose, with Senator NUNN, to require a mere $20 billion in deficit reduction in health care reform instead of discretionary spending. I said, "Why don't we take $20 billion in existing restraints in the health-care programs and continue them on indefinitely, thus reducing the expenditures on health care by $20 billion?"

These were simple extensions of current law, mostly Medicare provisions that are scheduled to expire.

These savings would have been just 1.2 percent of the combined spending in Medicare and Medicaid over the next 5 years. But the Senate rejected even that meager deficit reduction with the discussion being we need every cent of that for the new health care reform.

If we are not going to reduce the deficit through health care reform, how are we going to reduce it? And I repeat the question. If not health care reform, then what? Raise taxes again? I do not believe the President will ask for that. I do not believe the American people will stand for that.

After we just had the tax increase that I have alluded to, would we dare say to the American people for deficit reduction we need another round of new taxes? No. I think that is out. Reinvention of Government or reinventing Government is thought to be a way to conserve and make simpler and smaller. It is now clear that if there are any savings from this effort, they are going to be used to meet the current discretionary caps and not reduce them. That is obvious. What we have done is to create a trust fund. And it may not even carry through both Houses and go to the President—saying let us take $22.8 billion of those savings from reinventing Government and spend it on the crime prevention programs of the country; not saving anything; spending them anew within the caps established on discretionary spending, leaving the deficit unaddressed precisely where we talked about it a few minutes ago.

Cut defense more? In just a short 4 years, and we will be devoting less than 3.2 percent of our gross domestic product to national security, a level not seen in over 50 years right before World War II.

Now I know that is merely a comparison of dollars spent versus our gross domestic product. But it bears thinking about. In just a short 4 years from now, 3.2 percent of our gross domestic product is all that we will be spending on national security. Not since just before the Second World War—50 years ago—will we be spending that small amount. I do not believe we can cut much more.

Cut Social Security? I do not believe we are going to tamper with that program in terms of substantial reductions. And I am not sure we should.

Again, if not any of those, where will the deficit reduction come from? I hope that I have made it clear that anyone who responds to this message and says we are going to reduce the spiraling costs of health care as part of reform, we will stand up and say, and some of those savings, if they accrue, will go to the deficit, because thus far, the delta—that is, the difference—between the current spiraling costs and what we intend to get it down to, if ever health care reform works, is all going to be spent for more health care under the health care reform package.

UNIVERSAL COVERAGE AND MARKET-BASED REFORM

The primary obstacle to deficit reduction in health care reform is the desire to achieve "universal coverage".

Clearly, mandating health insurance coverage will require substantial subsidies—probably Federal subsidies—for low income families that cannot afford the premiums.

I support the concept of universal coverage where everyone is required to have major medical protection because it would improve equity. Everyone would have insurance, so we would eliminate the cost shifting that occurs today when an uninsured person gets expensive care but can't pay for it.

But making universal coverage the bottom line of health care reform is not only dangerous fiscally—it may also undermine market-based reform and lead to Government-run health care.

Market-based reform is inherently uncertain—costs and coverage will be determined largely by private sector decisions of consumers, insurers, and providers.

But to achieve universal coverage of a defined set of benefits by a date certain implies a certainty on costs that I am not sure is consistent with a market-based reform.

Moreover, CBO and others are understandably cautious about crediting market-based reforms with substantial savings because it is difficult to isolate the benefits of market forces in today's health care system.

I am very worried that these factors may lead some who want to achieve universal coverage this year to accept Government price controls, global budgets, or other measures that will undermine a market-based approach to cost control.

FISCALLY RESPONSIBLE HEALTH CARE REFORM

I believe we ought to take a different and more deliberate course.

Instead of rushing into a Government-run, universal system, I believe we should set in motion a series of market-based reforms that will move us a long way toward universality.

In general, I would create strong incentives for cost control in the private market and in Federal programs; devote a substantial portion of the savings from reform to deficit reduction; and set in motion a process by which other savings and revenues are redirected toward expanding coverage for the uninsured.

I ask unanimous consent that a chart that is equivalent to the one before the Senate be printed in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

CURRENT POLICY FEDERAL BUDGET ESTIMATES AS A PERCENT OF GDP

	1993	1999	Change
Deficit	4.0	2.5	−1.5
Revenues	18.3	19.0	−0.6
Outlays	22.4	21.4	−1.0
Outlays by category:			
Defense	4.6	3.0	−1.6
Nondefense:			
Discretionary	3.9	3.7	−0.2
Mandatory: Health-related	3.5	4.9	+1.4
Retirement	5.9	5.8	−0.1
Other	1.3	0.9	−0.4
Subtotal nondefense	14.6	15.3	+0.7
Net interest	3.2	3.1	−0.1

Note.—Revenue increases are shown as negative because they reduce the deficit.

Source.—Congressional Budget Office (March 1994).

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 103–24

Mr. MITCHELL. Madam President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (Treaty Document No. 103–24), transmitted to the Senate by the President on April 25, 1994; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The President's message is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to acceptance, I transmit herewith the Agreement to Promote Compliance With International Conservation and Management Measures by Fishing Vessels on the High Seas, which was adopted at Rome by consensus by the Conference of the United Nations Food and Agriculture Organization ("FAO") on November 24, 1993.

This Agreement was negotiated largely on the initiative of the United States, in response to the fisheries crises that have arisen in many corners of the world. In my view, it represents a significant breakthrough and offers the international community an opportunity to develop responsible fishing practices on a global basis. The Agreement once implemented, will begin to resolve many of the problems that have undermined the sustainability of high seas fishing resources. By becoming party to this Agreement, the United States would continue to demonstrate its commitment to preserving these resources and the livelihoods that depend on them.

The Agreement sets forth a broad range of obligations for Parties whose fishing vessels operate on the high seas, including the obligation to ensure that such vessels do not undermine international fishery conservation and management measures. Parties must also prohibit their vessels from fishing on the high seas without specific authorization and must take enforcement measures in respect of vessels that contravene requirements flowing from the Agreement.

The Agreement also creates an important role for the FAO as a clearinghouse of data relating to high seas fishing. Through the collection and dissemination of such data, it will be possible to improve our knowledge of all high seas fisheries, which is of critical importance if the international community is to protect these valuable resources successfully.

I recommend that the Senate gives early and favorable consideration to the Agreement and give its advice and consent to acceptance.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 25, 1994.*

CONFERENCE REPORT NO. 103–482 ON H.R. 2333

Mr. MITCHELL. Madam President, I ask unanimous consent that upon the receipt of a message from the House that the House has agreed to the conference report No. 103–482 on H.R. 2333, the State Department authorization bill, or a conference report that is identical to that conference report as filed in the House on April 25; that the conference report be considered agreed to and the motion to reconsider laid on the table, notwithstanding the recess or adjournment of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Madam President, I am very pleased that the Senate is taking up the conference report on H.R. 2333, the Foreign Relations Authorization Act. The report contains the authorization of appropriations for the Department of State, the United States Information Agency, and the Board for International Broadcasting.

The legislation incorporates and endorses the administration's restructuring of the Department of State, most notably by enabling the establishment of the new position of Under Secretary for Global Affairs to oversee policy on many of the issues that transcend national borders.

In addition, the legislation consolidates U.S. Government international broadcasting. I am hopeful that this will enhance our broadcast services to those regions where it is most needed while at the same time saving the taxpayers' money.

Madam President, there are a number of provisions that I have either authored or cosponsored in this legislation, but I would like to highlight just two. First, part A of title VII of the conference report contains provisions that will significantly strengthen the Arms Control and Disarmament Agency. I firmly believe that a revitalized ACDA will enhance our Nation's efforts to combat the proliferation of weapons of mass destruction.

Second, I have worked closely with Senator GLENN to craft legislation that will strengthen our Nation's nuclear nonproliferation policy. This has passed the Senate and House several times, and I am pleased that it is finally headed towards enactment.

Finally, I would note that the conference report authorizes the administration's request for a supplemental appropriation of $670 million for U.S. assessed dues for U.N. peacekeeping. Madam President, I firmly believe that the Congress and Executive Branch need to put U.S. financing for its U.N. obligations on a sound footing. This is a step in the right direction. More needs to be done. I look forward to working with my colleagues on this in the weeks to come.

Madam President, I urge the adoption of the conference report.

Mr. DOMENICI. Madam President, in my role as ranking Republican on the Appropriations Subcommittee on Commerce-Justice-State, I rise to discuss several provisions of the conference report on the Foreign Relations Authorization Act.

First, I am pleased that the conferees accepted a modification of my amendment to exempt signatories to the North American Free-Trade Agreement from the new visa fees that are authorized in the act. The provision retains the exemption, but provides the Secretary of State with discretionary authority to impose these fees if either Canada or Mexico charge a visa fee to citizens of the United States.

I would hope and expect that the State Department will only use such authority if it fails in attempts to persuade either Canada or Mexico to eliminate current or future visa fees. In my view, this authority should be used as a method of reducing fees that could impede cross-border traffic, not as an excuse to impose new fees.

In any event, I would expect the Department will not use such authority in the near future and that it will consult with Congress prior to any action in this regard.

I want to thank Senators PELL, KERRY, HELMS, and PRESSLER for their help in resolving this matter. I would also like to acknowledge the assistance of the chairman of the House Subcommittee on International Operations, Congressman HOWARD BERMAN, for his willingness to negotiate the terms of this compromise.

Second, I note the conferees have included a provision withholding 10 percent of the funds appropriated for the assessed contribution of the United States to the United Nations for 1994 until that organization has established an office of inspector general. The withholding rises to 20 percent in 1995.

The conference agreement is very similar to language I included in the 1994 State Department Appropriations Act. That provision, enacted into law as part of Public Law 103–121, already requires the withholding of 10 percent of the funds appropriated to the United Nations.

These funds can be released only upon a certification by the Secretary of State that the United Nations has established an independent office of inspector general. As a result, $29 million has been withheld pursuant to my amendment.

I hope the United Nations responds positively to these provisions. It is essential that it regain the confidence of the American people if it is to maintain an adequate funding base.

Once again, I congratulate the members of the conference committee for following the lead of the Appropriations Committee in the area of U.N. reform.

I would like to reiterate for the RECORD that Senate scorekeeping with regard to lease-purchase agreements is the exclusive jurisdiction of the Committee on the Budget. I would expect that the committee will continue to enforce the existing lease-purchase scorekeeping rules, without regard to language in the statement of managers on H.R. 2333 which suggests that special treatment should be accorded to the Department of State with regard to lease-purchase matters.

Mr. BIDEN. Madam President, I am pleased to support the conference report on the Foreign Relations Authorization Act for fiscal years 1994 and 1995. I want to commend the chairman of the Foreign Relations Committee, Senator PELL, and the ranking member, Senator HELMS. I would also like to express my appreciation to Senator KERRY, who skillfully steered the bill through the various stages of the legislative process.

I would like to call attention to title III of the bill, the U.S. International Broadcasting Act of 1994. This title reorganizes and consolidates all nonmilitary international broadcasting supported by the U.S. Government—the Voice of America, Radio Free Europe/Radio Liberty, Radio and TV Marti—under a single broadcasting board of governors, which will be responsible for supervising the operations of these entities.

Also under this structure will be a new Radio Free Asia, which is established in this legislation. As the Senate author of this provision, I am particularly pleased that this idea—which I first began working on nearly 3 years ago—is about to come to fruition.

In May 1991, I introduced legislation to establish a commission to examine whether the United States should initiate a surrogate radio service—on the model of Radio Free Europe and Radio Liberty [RFE/RL]—for the People's Republic of China. In September 1992, the Commission on Broadcasting to the People's Republic of China reported its findings. The commission unanimously recommended that the United States increase its surrogate broadcasting to China and the other Communist nations of Asia. Although the panel divided on the best means of achieving that goal, the message was clear—we need to expand our broadcasting in Asia.

Following the work of the commission, I introduced legislation to establish a Radio Free Asia, modeled on RFE/RL. The bill in the current Congress, S. 659, has 19 cosponsors, including the Senate majority leader, and the chairman and ranking member of the Foreign Relations Committee. Its central provisions are included in the conference report now before the Senate.

This initiative would not have succeeded but for the support of President Clinton. Although I am disappointed that the administration's budget request for Radio Free Asia for fiscal 1995 is only $10 million, I am heartened by the President's commitment to this concept.

The proposal to establish a Radio Free Asia is based on a proven model—Radio Free Europe and Radio Liberty—which for over four decades have broadcast to the nations of Eastern Europe and the former Soviet Union. The leaders of the new democracies in Eastern Europe—such as Vaclav Havel and Lech Walesa—have testified to the importance of RFE/RL in encouraging their democratic movements during the cold war. The radios, as they are known, heartened dissidents from Berlin to Bucharest, from Vilnius to Vladivostok, helping to fan the flame of freedom in the hearts and minds of citizens throughout the Soviet Empire—a flame that suddenly in 1989 became a torch and then a wildfire.

A Radio Free Asia, like RFE/RL, is designed to provide accurate news and information to the people living under Communist and dictatorial rule in east Asia. Foremost among these nations is China, where one-fifth of the world's population resides. Despite impressive economic liberalization in China, political freedom—including freedom of the press—remains under the tight control of the Communist Party. Indeed, it is an unchallenged fact that China severely represses press freedom. The State Department's annual report on human rights describes the situation clearly:

> Domestic television and radio broadcasting remain under party and government control and are used to propagate the currently acceptable ideological line.

The extent to which the Chinese people are thus kept ignorant about events in their own country was placed in perspective by Liu Binyan, a prominent Chinese dissident now in exile in the United States, in testimony before the Foreign Relations Committee in 1991:

> According to an internal report of the Chinese Communist Party, in the two years after the Tiananmen massacre, there were more than 1,500 workers' strikes nationwide. In at least five provinces, underground workers' organizations emerged. There are 43 underground students' organizations in the universities in Beijing alone. But the vast majority of the Chinese people know nothing about all that I have just mentioned.

The situation in the other Communist countries in Asia is similarly repressive. Press freedom is virtually nonexistent, and the media are used largely as instruments of state policy.

During the public debate on this issue over the past several years, numerous myths have arisen about the establishment of a Radio Free Asia. I want to take a few minutes to put those myths to rest.

Myth no. 1: China is open. It is said that China's economic transformation has already made the Radio Free Asia proposal unnecessary—that China is so open and free that external broadcasting is not needed. This is patently false. China is indeed open to foreigners bringing investment. It is not open to strangers bringing foreign ideas.

If China is open and free, why then does it attempt to jam the Chinese language broadcasts of the Voice of America and the British Broadcasting Corporation? If China is so open and free, why then does it continue to arrest leading dissidents? If China is so open and free, why then do thousands of political prisoners languish in its jails? If China is so open and free, why then do millions suffer in brutal labor camps?

Just as economic liberalization, spurred by western investment, has reduced Beijing's role in the economy, broadcasting the truth about internal events in China will undermine the communist axiom that the state must control not only the lives of the people, but their every thought as well. This was the strategy we pursued with the Soviet Union and Eastern Europe: detente through business and cultural exchange, dissemination of accurate news and information through radio broadcasts.

Myth no. 2: Radio Free Asia will upset the Chinese. It is said that establishment of a Radio Free Asia will upset the Chinese Government, reinforcing its xenophobia tendencies. To be sure, China will be unhappy. But Beijing's petulance ought not to guide American policy. Moreover, this argument is made by people who contend—in the same breath—that we should increase Voice of America broadcasts. Even the Bush administration—well known for its zealous defense of Beijing—increased the budget for VOA programming to China.

Myth no. 3: There are already enough foreign broadcasts to China. It is said that there is already a plethora of foreign radio broadcasts to China, and that Radio Free Asia would be lost amid the cacophony of voices. This too is false. The Commission on Broadcasting to China examined this question closely.

There are some 350 hours of foreign broadcasts to China each day. A mere 15 percent—52 hours—is in Chinese languages. Of this, more than half is provided by two Taiwan services, which broadcast hard line propaganda and disinformation. What remains is the VOA and the BBC, and a smattering of hours on stations such as Radio France and Radio Canada. Of the 350 hours of foreign broadcasts to China, the commission reported, "the preponderance is related to developments outside China."

Myth no. 4: China isn't ready for democracy. It is often said that China is not ready for democracy. That is Confucian traditions make it unsuitable for democratic rule. And so on. This is not only false, it is an insult to the Chinese people. One need look only to Taiwan, where the Chinese people have dismantled an authoritarian state and are building a multiparty democratic structure. Or to Hong Kong, where the Chinese people have voted overwhelmingly for candidates committed to greater democracy. As Professor Andrew Nathan, a China scholar at Columbia University writes, "the theme of China's backwardness as a limit on democracy is as old as the Chinese desire for democracy."

One final concern often raised about the Radio Free Asia proposal is that no nation in Asia will permit the United States to use transmission facilities for these broadcasts. This proposition has yet to be tested. But when it is, I fully expect the State Department and the U.S. Information Agency to use their best efforts in seeking permission to use transmission facilities. In diplomacy, the medium is the message. If we send a low-ranking diplomat from an embassy to carry out a mission, we can expect the counterpart nation to treat our request accordingly—as a lower priority. I do not expect that Congress will micromanage this process. But suffice it to say that I hope that senior officials from State and USIA will carry the message to our friends and allies.

In closing, I want to underscore that Radio Free Asia must be a source of objective news and information. Accuracy must be its watchword. It must not be a source for propaganda. It must adhere to the highest standards of professional journalism. The standards and principles outlined in section 303 of the legislation are not makeweight, designed merely to fill the pages of the United States Code; they are designed to provide a clear mission statement for international broadcasting funded by the U.S. Government.

Madam President, Radio Free Asia is but one piece of a Clinton administration initiative to consolidate U.S. international broadcasting under the umbrella of the USIA. I am gratified that after a year of debate and discussion, the legislation to implement the President's proposal—which will transform our international broadcasting for the long-term, post-cold-war effort to promote democracy and U.S. interests around the world—is nearing enactment. I urge my colleagues to support the conference report.

Mr. BROWN. Madam President, as we move to adopt the State Department authorization conference report, I wanted to bring two points to the attention of the Senate.

First, I wanted to bring the attention of the members of this body to the waiver provision included in the Anti-Economic Discrimination Act of 1994 prohibiting sales of defense services or articles to countries enforcing the secondary or tertiary economic boycott of Israel. It is the expectation of this member, and of other members as well, that this waiver would be used very sparingly—if at all. If it were used, it is envisioned that it would only be used in instances in which a clear and convincing case can be made that use of the waiver will directly achieve progress in lifting the secondary and tertiary boycott of Israel. The waivers are generous so as not to tread too heavily on the President's ability to make foreign policy. But we expect the President, when and if he ever uses the waivers included in the legislation, to make a strong and unassailable case for their use that directly links the utility of his actions to ending the boycott.

Second, concerning the language in the bill urging the President to send cabinet-level appointees to the Republic of China on Taiwan. The language of the amendment also urges the President to take "steps to show clear United States support for Taiwan both in our bilateral relationship and in multilateral organizations of which the United States is a member."

Madam President, it is important that it be understood unequivocally that the members of the Conference and the members of the Senate, when passing this legislation, did not want simply to limit themselves to urging membership for the Republic of China just in the United Nations, or just in the GATT or just in any other particular international organization. But the United States is a member of all of these organizations. It was the intent of the authors of the amendment to put the Congress squarely on record behind United States support for bringing the Republic of China into all international organizations as a regular member. Specifically, that support includes membership in both the United Nations and in the GATT, as well as a host of other international organizations.

Madam President, I would also like to thank Senator JESSE HELMS, Chairman PELL, Senator JOHN KERRY, and Senator LARRY PRESSLER for their efforts on this important piece of legislation, and the support of their staffs.

Madam President, I thank my colleagues and yield the floor.

TECHNICAL CORRECTIONS TO ENROLLMENT OF H.R. 2333

Mr. MITCHELL. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 67, making corrections in the enrollment of the conference report on H.R. 2333, the State Department authorization bill; that the concurrent resolution be agreed to and the motion to reconsider be laid on the table and any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 67) is as follows:

S. CON RES. 67

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 2333) to authorize appropriations for the Department of State, the United States Information Agency, and related agencies, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) In section 201(a) after paragraph (6) insert the following new paragraph:

(7) TITLE V OF PUBLIC LAW 98-164—To carry out title V of Public Law 98-164, $35,000,000 for the fiscal year 1994 and $35,000,000 for the fiscal year 1995.

(2) In section 140(a)(2), before the period at the end of the first sentence insert ", to recover the costs of providing consular services".

(3) In section 201(a)(1), strike "$473,488,000" and insert "$487,988,000" and strike '$480,362,000" and insert "$494,862,000".

(4) In section 101(b)(2), insert the following new subparagraph (F):

"(F) $2,000,000 is authorized to be appropriated for fiscal year 1995 for computer upgrades for the Bureau of Intelligence and Research."

(5) In Section 516, strike "Senate" and insert "Congress".

(6) In the Table of Contents, strike "Sec. 249" and insert "Sec. 239" immediately before "Increasing African participation in USIA exchange programs."

MODIFIED UNANIMOUS-CONSENT AGREEMENT—S. 2042

Mr. MITCHELL. Madam President, I ask unanimous consent that the previous unanimous consent governing consideration of S. 2042, relating to the arms embargo on Bosnia, be modified to reflect the following change: That the Senate proceed to the consideration of S. 2042 no later than the close of business on Thursday, May 5; with all other provisions of the previous agreement remaining in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

EULOGIES ON THE LIFE OF RICHARD M. NIXON

Mr. DOMENICI. Madam President, on behalf of Senator DOLE and Senator COVERDELL, I send to the desk a resolution relative to the compilation of eulogies on the life of Richard M. Nixon, former President of the United States, and ask for its immediate consideration; and that the resolution be agreed to and the motion to reconsider laid upon the table, and the preamble agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 206) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 206

Whereas, all American Presidents affect history in their own way, but few have made more history or shaped the history of their times more than Richard Nixon;

Whereas, millions of men and women across America and around the world mourn the death of the 37th President of the United States;

Whereas, he will be remembered for his foreign policy accomplishments, and for his dedication to peace;

Whereas, in his first inaugural address, President Nixon said "The greatest honor that history can bestow is the title peacemaker.";

Whereas, because of his efforts as President to improve relations with the then-Soviet Union, to bring China out of isolation, and to forge peace in the Middle East, Richard Nixon more than earned the title of peacemaker;

Whereas, he travelled the world, speaking on behalf of democracy, freedom, and peace;

Whereas, he proposed a landmark family assistance program, created the Environmental Protection Agency, expanding the Food Stamp Program, backed the innovative program called "revenue sharing," signed the Consumer Product Safety Act, and emphasized strengthening law enforcement;

Whereas, more and more Americans have come to appreciate President Nixon and his accomplishments;

Whereas, they admire him not because he was perfect, but because of his courage and perseverance, his intelligence and his vision, the fact that he loved his family and because he loved his country; and

Whereas, whether it was facing an anti-American mob in Venezuela, or going toe-to-toe with Khrushchev in the famed "kitchen debate," Richard Nixon always stood up for America: Therefore, be it

Resolved, That the Senate directs that the eulogies offered concerning the life of the Honorable Richard M. Nixon, former President of the United States, former Vice President of the United States, former Representative and former Senator from the State of California be bound and printed as a Senate Document.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the former President.

REGARDING THE CATASTROPHE IN RWANDA

Mr. MITCHELL. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 207, submitted earlier today by Senators SIMON, JEFFORDS, KASSEBAUM, KENNEDY, and others, regarding the catastrophe in Rwanda; that the resolution and preamble be agreed to, the motions to reconsider be laid on the table, en bloc, and any statements thereon appear at the appropriate place in the RECORD as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 207) was agreed to.

The preamble was agreed to.

The resolution, with its preamble is as follows:

S. RES. 207

Whereas on April 6, 1994, Presidents Juvenal Habyarimana of Rwanda and Cyprien Ntaryamira of Burundi were killed when their plane was shot down just outside Kigali, leading to an eruption of violence in Rwanda;

Whereas the systematic and indiscriminate massacre of civilians, estimated in the tens of thousands, is a crime against humanity;

Whereas the violence currently being perpetrated by the Rwandan government forces and their allied militias, as well as the Rwandan Patriotic Front, against members of both the Tutsi and Hutu ethnic groups is deplorable and violates all standards of human rights;

Whereas food shortages and lack of medical supplies in Rwanda, and the evacuation of humanitarian relief workers, has put millions of lives at risk;

Whereas a peace accord signed in Arusha by the Habyarimana government and the Rwandan Patriotic Front in August 1993 created the basis for formation of an integrated transitional government in Rwanda;

Whereas the United Nations Security Council voted in October 1993 to deploy a force of 2,500 peacekeepers, the United Nations Assistance Mission for Rwanda (UNAMIR) to assist in implementation of the Arusha accords;

Whereas tens of thousands of Rwandans have sought the protection of UNAMIR forces and refuge from the continuing violence;

Whereas a number of contributing nations have withdrawn their troop contingents from the UNAMIR operation and other nations contributing forces may follow suit; and

Whereas continued unrest and violence in Rwanda threatens the stability of the entire Central African region: Now, therefore, be it:

Resolved, That the Senate—

(1) deplores the brutal and systematic massacre of civilians and individuals sympathetic to the political opposition in Rwanda by the Rwandan military and associated

groups, as well as the Rwandan Patriotic Front—

(2) urges the United Nations and the Organization of African Unity to continue efforts to gain agreement on a credible cease-fire and to facilitate negotiations between the parties to the conflict, based upon the Arusha accords;

(3) calls on all parties, including the Rwandan army, related militias particularly, Colonel Bagosora, Colonel Augustin Bisimungu, Captain Pasqual Simbikangwa and Colonel Mpiranya as well as the Rwandan Patriotic Front

(A) to exercise restraint and control over their forces,

(B) to accede to an immediate and unconditional ceasefire,

(C) to respect such cease-fire and ensure the safety of innocent civilians,

(D) to guarantee free passage of humanitarian assistance to all in need of such aid, and

(E) to recommit themselves to the principles set forth in the Arusha accords;

(4) calls on the United Nations to consider carefully both military and diplomatic options which are consistent with the Arusha accords and will ensure the safety of innocent civilians, assist in monitoring an eventual cease-fire or peace agreement, facilitate the delivery of humanitarian relief, and ensure the viability of these options;

(5) commends President Clinton for his swift condemnation of and response to this crisis, and applauds the efforts of the United States Ambassador to Rwanda, David Rawson, in ensuring the safe and swift evacuation of Americans from Rwanda;

(6) urges President Clinton to continue diplomatic efforts at the highest levels to achieve prompt resolution of the political and humanitarian crisis in Rwanda.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

CRISIS IN RWANDA

Mr. SIMON. Madam President, I am pleased to submit this resolution expressing the sense of the Senate regarding the recent tragic events in Rwanda. I am joined in this effort by Senators JEFFORDS, KASSEBAUM, KENNEDY, FEINGOLD, WOFFORD, and PELL.

On April 6, 1994, President Juvenal Habyarimana of Rwanda and Cyprien Ntaryamira of Burundi were killed when their plane was shot down in Kigali. We have all heard the grim reports since that time—the eruption in Rwanda of brutal, systematic, and indiscriminate violence, resulting in the deaths of more than 100,000 people to date. These actions constitute genocide, and clearly violate all international standards of human rights.

President Clinton acted swiftly to condemn these acts and to evacuate some 250 Americans from Rwanda. The President and his senior advisers, particularly United States Ambassador to Rwanda David Rawson, are to be commended for their action. Other governments have also acted to rescue their citizens from the ensuing violence.

However, the lives of millions of Rwandans remain in jeopardy. Almost all foreigners and aid workers have been evacuated, resulting in the cessation of humanitarian relief to the hundreds of thousands of refugees that were already in Rwanda prior to this latest crisis—and who are dependent on international assistance. Millions more have been forced to flee their homes as a result of the recent massacres.

As the violence continued, tens of thousands of Rwandans sought the protection of the United Nations peacekeeping forces. The UNAMIR operation was deployed in Rwanda this past year to ensure implementation of the August 1993 Arusha accords, signed by the Rwandan Government and the rebel Rwandan Patriotic Front, which created the basis for installation of an integrated transitional government. At its peak, the UNAMIR force numbered 2,500.

Late last week, however, the U.N. Security Council voted to reduce the UNAMIR force to a mere 250 troops. And, as feared, the slaughter of innocent civilians has only continued.

This resolution puts the Senate on record as strongly deploring the actions by the perpetrators of the violence in Rwanda. It calls upon the United Nations, the United States, and the entire international community to act swiftly and in a capacity that will ensure the safety of civilians, the delivery of humanitarian relief, achieve an immediate cease-fire, and facilitate negotiations toward a lasting peace in Rwanda.

Madam President, I urge all of my colleagues in the Senate to join me in supporting this measure. The bloodshed in Rwanda is no less than genocide; we have a moral responsibility and a commitment under international law to stop it.

Finally, Madam President, I would like to recognize the bravery of a particular Rwandan national, Monique Mujawamariya, a human rights activist who was a target of the killers in Rwanda. Hers is an incredible story. After hiding for more than 40 hours in her house, she managed to escape from Rwanda with only the clothes on her back, and she has come to the United States to tell us her eyewitness account of the horrors going on in her country. We must listen to her story, and put an end to these horrors.

Mr. JEFFORDS. Mr. President, I rise today to join Senators SIMON, KASSEBAUM, KENNEDY, and others to submit a resolution regarding the current political and humantarian crisis in Rwanda.

Rwanda is a Central African nation which has long been wracked by violent ethnic unrest. In August of last year there seemed to be a glimmer of hope that the forces of reason would overcome the burden of history, as a historic agreement signed in Arusha, Tanzania, set forth the framework for peace between the Hutu-dominated government and the largely Tutsi rebels of the Patriotic Front.

Those aspirations were dealt a severe blow on April 6 when a plane transporting Rwandan President Juvenal Habyarimana and Burundian President Cyprien Ntaryamira to Kigali from Tanzania was blasted from the sky, apparently by an antiaircraft missile. While the actual facts of this incident are not yet known, it is clear that a crisis situation has developed.

News of the death of the President sparked violent attacks by Rwandan Government forces and militias sympathetic to those forces on members of the political opposition, principally on those from the minority Tutsi ethnic group, The situation can only be described as a massacre. In the early hours of the violence, troops of the elite Presidential Guard systematically hunted down and murdered opposition members of the government, human rights activists and slaughtered tens of thousands of innocent civilians. Meanwhile, rebels from the Tutsi-dominated Rwandan Patriotic Front continue their advance on the capital, Kigali. The fighting continues unabated.

The situation is extremely grave. Some credible estimates put the death toll at more than 100,000. Media reports describe the streets of Kigali as littered with rotting corpses. Western embassy staff have been evacuated. Western relief agencies have withdrawn their personnel, and humanitarian aid shipments have ceased. Food shortages and lack of medicines have put millions of lives at risk.

This crisis demands our immediate attention. Thousands of civilians are currently huddled in a sports stadium in Kigali, protection by a small—and shrinking—United Nations protection force. Hundreds of thousands more are in hiding from the ruthless security forces and militias.

We must not stand by silently. We must denounce these abhorrent acts. Please join my colleagues and me in support of this resolution which calls for an end to the violence, an end to the killing, an end to the suffering of innocent civilians, and a return to the principles of the Arusha Peace Accords.

UNANIMOUS-CONSENT AGREEMENT—S. 783

Mr. MITCHELL. Madam President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may at any time prior to the close of business on May 27, turn to the consideration of S. 783, the Fair Credit Reporting Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

MARINE MAMMAL PROTECTION ACT AMENDMENTS OF 1993

Mr. MITCHELL. Madam President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (S. 1636) to authorize appropriations for the Marine Mammal Protection Act of 1972 and to improve the program to reduce the incidental taking of marine mammals during the course of commercial fishing operations, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

S. 1636

SECTION 1. SHORT TITLE.

This Act may be cited as the "Marine Mammal Protection Act Amendments of 1994".

SEC. 2. AMENDMENT OF MARINE MAMMAL PROTECTION ACT OF 1972.

(a) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

(b) RELATIONSHIP TO OTHER LAW.—Except as otherwise expressly provided, nothing in this Act is intended to amend, repeal, or otherwise affect any other provision of law.

SEC. 3. FINDINGS AND DECLARATION OF POLICY.

Section 2 (16 U.S.C. 1361) is amended—

(1) in paragraph (2) by inserting "essential habitats, including" after "made to protect"; and

(2) in paragraph (5) in the matter following subparagraph (B) by inserting "and their habitats" before "is therefore necessary".

SEC. 4. MORATORIUM AND EXCEPTIONS.

(a) IN GENERAL.—Section 101(a) (16 U.S.C. 1371(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Consistent with the provisions of section 104, permits may be issued by the Secretary for taking, and importation for purposes of scientific research, public display, photography for educational or commercial purposes, or enhancing the survival or recovery of a species or stock, or for importation of polar bear parts (other than internal organs) taken in sport hunts in Canada. Such permits, except permits issued under section 104(c)(5), may be issued if the taking or importation proposed to be made is first reviewed by the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals established under title II. The Commission and Committee shall recommend any proposed taking or importation, other than importation under section 104(c)(5), which is consistent with the purposes and policies of section 2 of this Act. If the Secretary issues such a permit for importation, the Secretary shall issue to the importer concerned a certificate to that effect in such form as the Secretary of the Treasury prescribes, and such importation may be made upon presentation of the certificate to the customs officer concerned.";

(2) in paragraph (2) in the first sentence, by inserting before the period at the end the following: ", or in lieu of such permits, authorizations may be granted therefor under section 118, subject to regulations prescribed under that section by the Secretary without regard to section 103";

(3) in paragraph (3)(B)—

(A) by inserting ", photography for educational or commercial purposes," after "purposes"; and

(B) by inserting "or as provided for under paragraph (5) of this subsection," after "subsection,";

(4) by amending paragraph (4) to read as follows:

"(4)(A) Except as provided in subparagraphs (B) and (C), the provisions of this Act shall not apply to the use of measures—

"(i) by the owner of fishing gear or catch, or an employee or agent of such owner, to deter a marine mammal from damaging the gear or catch;

"(ii) by the owner of other private property, or an agent, bailee, or employee of such owner, to deter a marine mammal from damaging private property;

"(iii) by any person, to deter a marine mammal from endangering personal safety; or

"(iv) by a government employee, to deter a marine mammal from damaging public property,

so long as such measures do not result in the death or serious injury of a marine mammal.

"(B) The Secretary shall, through consultation with appropriate experts, and after notice and opportunity for public comment, publish in the Federal Register a list of guidelines for use in safely deterring marine mammals. In the case of marine mammals listed as endangered species or threatened species under the Endangered Species Act of 1973, the Secretary shall recommend specific measures which may be used to nonlethally deter marine mammals. Actions to deter marine mammals consistent with such guidelines or specific measures shall not be a violation of this Act.

"(C) If the Secretary determines, using the best scientific information available, that certain forms of deterrence have a significant adverse effect on marine mammals, the Secretary may prohibit such deterrent methods, after notice and opportunity for public comment, through regulation under this Act.

"(D) The authority to deter marine mammals pursuant to subparagraph (A) applies to all marine mammals, including all stocks designated as depleted under this Act.";

(5) in paragraph (5) by adding at the end the following new subparagraphs:

"(D)(i) Upon request therefor by citizens of the United States who engage in a specified activity (other than commercial fishing) within a specific geographic region, the Secretary shall authorize, for periods of not more than 1 year, subject to such conditions as the Secretary may specify, the incidental, but not intentional, taking by harassment of small numbers of marine mammals of a species or population stock by such citizens while engaging in that activity within that region if the Secretary finds that such harassment during each period concerned—

"(I) will have a negligible impact on such species or stock, and

"(II) will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b), or section 109(f) or pursuant to a cooperative agreement under section 119.

"(ii) The authorization for such activity shall prescribe, where applicable—

"(I) permissible methods of taking by harassment pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to a cooperative agreement under section 119,

"(II) the measures that the Secretary determines are necessary to ensure no unmitigable adverse impact on the availability of the species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to a cooperative agreement under section 119, and

"(III) requirements pertaining to the monitoring and reporting of such taking by harassment, including requirements for the independent peer review of proposed monitoring plans or other research proposals where the proposed activity may affect the availability of a species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to a cooperative agreement under section 119.

"(iii) The Secretary shall publish a proposed authorization not later than 45 days after receiving an application under this subparagraph and request public comment through notice in the Federal Register, newspapers of general circulation, and appropriate electronic media and to all locally affected communities for a period of 30 days after publication. Not later than 45 days after the close of the public comment period, if the Secretary makes the findings set forth in clause (i), the Secretary shall issue an authorization with appropriate conditions to meet the requirements of clause (ii).

"(iv) The Secretary shall modify, suspend, or revoke an authorization if the Secretary finds that the provisions of clauses (i) or (ii) are not being met.

"(v) A person conducting an activity for which an authorization has been granted under this subparagraph shall not be subject to the penalties of this Act for taking by harassment that occurs in compliance with such authorization.

"(E)(i) During any period of up to 3 consecutive years, the Secretary shall allow the incidental, but not the intentional, taking by persons using vessels of the United States or vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)), while engaging in commercial fishing operations, of marine mammals from a species or stock designated as depleted because of its listing as an endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) if the Secretary, after notice and opportunity for public comment, determines that—

"(I) the incidental mortality and serious injury from commercial fisheries will have a negligible impact on such species or stock;

"(II) a recovery plan has been developed or is being developed for such species or stock pursuant to the Endangered Species Act of 1973; and

"(III) where required under section 118, a monitoring program is established under subsection (d) of such section, vessels engaged in such fisheries are registered in accordance with such section, and a take reduction plan has been developed or is being developed for such species or stock.

"(ii) Upon a determination by the Secretary that the requirements of clause (i) have been met, the Secretary shall publish in the Federal Register a list of those fisheries for which such determination was made, and, for vessels required to register under section 118, shall issue an appropriate permit for each authorization granted under such section to vessels to which this paragraph applies. Vessels engaged in a fishery included in the notice published by the Secretary under this clause which are not required to register under section 118 shall not be subject to the penalties of this Act for the incidental taking of marine mammals to which this paragraph applies, so long as the owner or master of such vessel reports any incidental mortality or injury of such marine mammals to the Secretary in accordance with section 118.

"(iii) If, during the course of the commercial fishing season, the Secretary determines that the level of incidental mortality or serious injury from commercial fisheries for which a determination was made under clause (i) has resulted or is likely to result in an impact that is more than negligible on the endangered or threatened species or stock, the Secretary shall use the emergency authority granted under sec-

tion 118 to protect such species or stock, and may modify any permit granted under this paragraph as necessary.

"(iv) The Secretary may suspend for a time certain or revoke a permit granted under this subparagraph only if the Secretary determines that the conditions or limitations set forth in such permit are not being complied with. The Secretary may amend or modify, after notice and opportunity for public comment, the list of fisheries published under clause (ii) whenever the Secretary determines there has been a significant change in the information or conditions used to determine such list.

"(v) Sections 103 and 104 shall not apply to the taking of marine mammals under the authority of this subparagraph.

"(vi) This subparagraph shall not govern the incidental taking of California sea otters and shall not be deemed to amend or repeal the Act of November 7, 1986 (Public Law 99-625; 100 Stat. 3500)."; and

(6) by adding at the end the following new paragraph:

"(6)(A) A marine mammal product may be imported into the United States if the product—

"(i) was legally possessed and exported by any citizen of the United States in conjunction with travel outside the United States, provided that the product is imported into the United States by the same person upon the termination of travel;

"(ii) was acquired outside of the United States as part of a cultural exchange by an Indian, Aleut, or Eskimo residing in Alaska; or

"(iii) is owned by a Native inhabitant of Russia, Canada, or Greenland and is imported for noncommercial purposes in conjunction with travel within the United States or as part of a cultural exchange with an Indian, Aleut, or Eskimo residing in Alaska.

"(B) For the purposes of this paragraph, the term—

"(i) 'Native inhabitant of Russia, Canada, or Greenland' means a person residing in Russia, Canada, or Greenland who is related by blood, is a member of the same clan or ethnological grouping, or shares a common heritage with an Indian, Aleut, or Eskimo residing in Alaska; and

"(ii) 'cultural exchange' means the sharing or exchange of ideas, information, gifts, clothing, or handicrafts between an Indian, Aleut, or Eskimo residing in Alaska and a Native inhabitant of Russia, Canada, or Greenland, including rendering of raw marine mammal parts as part of such exchange into clothing or handicrafts through carving, painting, sewing, or decorating.".

(b) ACTIONS AFFECTING SECTION 101(b).—Section 101(b) (16 U.S.C. 1371(b)) is amended by adding at the end the following new sentences: "In promulgating any regulation or making any assessment pursuant to a hearing or proceeding under this subsection or section 117(b)(2), or in making any determination of depletion under this subsection or finding regarding unmitigable adverse impacts under subsection (a)(5) that affects stocks or persons to which this subsection applies, the Secretary shall be responsible for demonstrating that such regulation, assessment, determination, or finding is supported by substantial evidence on the basis of the record as a whole. The preceding sentence shall only be applicable in an action brought by one or more Alaska Native organizations representing persons to which this subsection applies.".

(c) TAKING IN DEFENSE OF SELF OR OTHERS.—Section 101(c) (16 U.S.C. 1371(c)) is amended to read as follows:

"(c) It shall not be a violation of this Act to take a marine mammal if such taking is imminently necessary in self-defense or to save the life of a person in immediate danger, and such taking is reported to the Secretary within 48 hours. The Secretary may seize and dispose of any carcass.".

SEC. 5. PERMITS.

(a) PROHIBITIONS.—Section 102(a) (16 U.S.C. 1372(a)) is amended—

(1) in paragraph (2)(B) by striking "for any purpose in any way connected with the taking or importation of" and inserting "to take or import"; and

(2) in paragraph (4) by—

(A) striking "or offer to purchase or sell" and inserting "export, or offer to purchase, sell, or export";

(B) striking "product; and" and inserting "product—"; and

(C) inserting after and below the text of the paragraph the following:

"(A) that is taken in violation of this Act; or

"(B) for any purpose other than public display, scientific research, or enhancing the survival of a species or stock as provided for under subsection 104(c); and".

(b) PERMITS.—Section 104 (16 U.S.C. 1374) is amended—

(1) in subsection (a) by adding at the end the following: "Permits for the incidental taking of marine mammals in the course of commercial fishing operations may only be issued as specifically provided for in sections 101(a)(5) or 306, or subsection (h) of this section.";

(2) in subsection (c)—

(A) in paragraph (1) in the first sentence by striking "and after";

(B) by amending paragraph (2) to read as follows:

"(2)(A) A permit may be issued to take or import a marine mammal for the purpose of public display only to a person which the Secretary determines—

"(i) offers a program for education or conservation purposes that is based on professionally recognized standards of the public display community;

"(ii) is registered or holds a license issued under 7 U.S.C. 2131 et seq.; and

"(iii) maintains facilities for the public display of marine mammals that are open to the public on a regularly scheduled basis and that access to such facilities is not limited or restricted other than by charging of an admission fee.

"(B) A permit under this paragraph shall grant to the person to which it is issued the right, without obtaining any additional permit or authorization under this Act, to—

"(i) take, import, purchase, offer to purchase, possess, or transport the marine mammal that is the subject of the permit; and

"(ii) sell, export, or otherwise transfer possession of the marine mammal, or offer to sell, export, or otherwise transfer possession of the marine mammal—

"(I) for the purpose of public display, to a person that meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A);

"(II) for the purpose of scientific research, to a person that meets the requirements of paragraph (3); or

"(III) for the purpose of enhancing the survival or recovery of a species or stock, to a person that meets the requirements of paragraph (4).

"(C) A person to which a marine mammal is sold or exported or to which possession of a marine mammal is otherwise transferred under the authority of subparagraph (B) shall have the rights and responsibilities described in subparagraph (B) with respect to the marine mammal without obtaining any additional permit or authorization under this Act. Such responsibilities shall be limited to—

"(i) for the purpose of public display, the responsibility to meet the requirements of clauses (i), (ii), and (iii) of subparagraph (A),

"(ii) for the purpose of scientific research, the responsibility to meet the requirements of paragraph (3), and

"(iii) for the purpose of enhancing the survival or recovery of a species or stock, the responsibility to meet the requirements of paragraph (4).

"(D) If the Secretary—

"(i) finds in concurrence with the Secretary of Agriculture, that a person that holds a permit under this paragraph for a marine mammal, or a person exercising rights under subparagraph (C), no longer meets the requirements of subparagraph (A)(ii) and is not reasonably likely to meet those requirements in the near future, or

"(ii) finds that a person that holds a permit under this paragraph for a marine mammal, or a person exercising rights under subparagraph (C), no longer meets the requirements of subparagraph (A) (i) or (iii) and is not reasonably likely to meet those requirements in the near future,

the Secretary may revoke the permit in accordance with section 104(e), seize the marine mammal, or cooperate with other persons authorized to hold marine mammals under this Act for disposition of the marine mammal. The Secretary may recover from the person expenses incurred by the Secretary for that seizure.

"(E) No marine mammal held pursuant to a permit issued under subparagraph (A), or by a person exercising rights under subparagraph (C), may be sold, purchased, exported, or transported unless the Secretary is notified of such action no later than 15 days before such action, and such action is for purposes of public display, scientific research, or enhancing the survival or recovery of a species or stock. The Secretary may only require the notification to include the information required for the inventory established under paragraph (10).";

(C) by amending paragraph (3) to read as follows:

"(3)(A) The Secretary may issue a permit under this paragraph for scientific research purposes to an applicant which submits with its permit application information indicating that the taking is required to further a bona fide scientific purpose. The Secretary may issue a permit under this paragraph before the end of the public review and comment period required under subsection (d)(2) if delaying issuance of the permit could result in injury to a species, stock, or individual, or in loss of unique research opportunities.

"(B) No permit issued for purposes of scientific research shall authorize the lethal taking of a marine mammal unless the applicant demonstrates that a nonlethal method of conducting the research is not feasible. The Secretary shall not issue a permit for research which involves the lethal taking of a marine mammal from a species or stock that is depleted, unless the Secretary determines that the results of such research will directly benefit that species or stock, or that such research fulfills a critically important research need.

"(C) Not later than 120 days after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary shall issue a general authorization and implementing regulations allowing bona fide scientific research that may result only in taking by Level B harassment of a marine mammal. Such authorization shall apply to persons which submit, by 60 days before commencement of such research, a letter of intent via certified mail to the Secretary containing the following:

"(i) The species or stocks of marine mammals which may be harassed.

"(ii) The geographic location of the research.

"(iii) The period of time over which the research will be conducted.

"(iv) The purpose of the research, including a description of how the definition of bona fide re-

search as established under this Act would apply.

"(v) Methods to be used to conduct the research.

Not later than 30 days after receipt of a letter of intent to conduct scientific research under the general authorization, the Secretary shall issue a letter to the applicant confirming that the general authorization applies, or, if the proposed research is likely to result in the taking (including Level A harassment) of a marine mammal, shall notify the applicant that subparagraph (A) applies."; and

(D) by adding at the end the following new paragraphs:

"(5)(A) The Secretary may issue a permit for the importation of polar bear parts (other than internal organs) taken in sport hunts in Canada, including polar bears taken but not imported prior to the date of enactment of the Marine Mammal Protection Act Amendments of 1994, to an applicant which submits with its permit application proof that the polar bear was legally harvested in Canada by the applicant. Such a permit shall be issued if the Secretary, in consultation with the Marine Mammal Commission and after notice and opportunity for public comment, finds that—

"(i) Canada has a monitored and enforced sport hunting program consistent with the purposes of the Agreement on the Conservation of Polar Bears;

"(ii) Canada has a sport hunting program based on scientifically sound quotas ensuring the maintenance of the affected population stock at a sustainable level;

"(iii) the export and subsequent import are consistent with the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora and other international agreements and conventions; and

"(iv) the export and subsequent import are not likely to contribute to illegal trade in bear parts.

"(B) The Secretary shall establish and charge a reasonable fee for permits issued under this paragraph. All fees collected under this paragraph shall be available to the Secretary for use in developing and implementing cooperative research and management programs for the conservation of polar bears in Alaska and Russia pursuant to section 113(d).

"(C)(i) The Secretary shall undertake a scientific review of the impact of permits issued under this paragraph on the polar bear population stocks in Canada within 2 years after the date of enactment of this paragraph. The Secretary shall provide an opportunity for public comment during the course of such review, and shall include a response to such public comment in the final report on such review.

"(ii) The Secretary shall not issue permits under this paragraph after September 30, 1996, if the Secretary determines, based on the scientific review, that the issuance of permits under this paragraph is having a significant adverse impact on the polar bear population stocks in Canada. The Secretary may review such determination annually thereafter, in light of the best scientific information available, and shall complete the review not later than January 31 in any year a review is undertaken. The Secretary may issue permits under this paragraph whenever the Secretary determines, on the basis of such annual review, that the issuance of permits under this paragraph is not having a significant adverse impact on the polar bear population stocks in Canada.

"(6) A permit may be issued for photography for educational or commercial purposes involving marine mammals in the wild only to an applicant which submits with its permit application information indicating that the taking will be limited to Level B harassment, and the manner in which the products of such activities will be made available to the public.

"(7) Upon request by a person for a permit under paragraph (2), (3), or (4) for a marine mammal which is in the possession of any person authorized to possess it under this Act and which is determined under guidance under section 402(a) not to be releasable to the wild, the Secretary shall issue the permit to the person requesting the permit if that person—

"(A) meets the requirements of clauses (i), (ii), and (iii) of paragraph (2)(A), in the case of a request for a permit under paragraph (2);

"(B) meets the requirements of paragraph (3), in the case of a request for a permit under that paragraph; or

"(C) meets the requirements of paragraph (4), in the case of a request for a permit under that paragraph.

"(8)(A) No additional permit or authorization shall be required to possess, sell, purchase, transport, export, or offer to sell or purchase the progeny of marine mammals taken or imported under this subsection, if such possession, sale, purchase, transport, export, or offer to sell or purchase is—

"(i) for the purpose of public display, and by or to, respectively, a person which meets the requirements of clauses (i), (ii), and (iii) of paragraph (2)(A);

"(ii) for the purpose of scientific research, and by or to, respectively, a person which meets the requirements of paragraph (3); or

"(iii) for the purpose of enhancing the survival or recovery of a species or stock, and by or to, respectively, a person which meets the requirements of paragraph (4).

"(B)(i) A person which has a permit under paragraph (2), or a person exercising rights under paragraph (2)(C), which has possession of a marine mammal that gives birth to progeny shall—

"(I) notify the Secretary of the birth of such progeny within 30 days after the date of birth; and

"(II) notify the Secretary of the sale, purchase, or transport of such progeny no later than 15 days before such action.

"(ii) The Secretary may only require notification under clause (i) to include the information required for the inventory established under paragraph (10).

"(C) Any progeny of a marine mammal born in captivity before the date of the enactment of the Marine Mammal Protection Act Amendments of 1994 and held in captivity for the purpose of public display shall be treated as though born after that date of enactment.

"(9) No marine mammal may be exported for the purpose of public display, scientific research, or enhancing the survival or recovery of a species or stock unless the receiving facility meets standards that are comparable to the requirements that a person must meet to receive a permit under this subsection for that purpose.

"(10) The Secretary shall establish and maintain an inventory of all marine mammals possessed pursuant to permits issued under paragraph (2)(A), by persons exercising rights under paragraph (2)(C), and all progeny of such marine mammals. The inventory shall contain, for each marine mammal, only the following information which shall be provided by a person holding a marine mammal under this Act:

"(A) The name of the marine mammal or other identification.

"(B) The sex of the marine mammal.

"(C) The estimated or actual birth date of the marine mammal.

"(D) The date of acquisition or disposition of the marine mammal by the permit holder.

"(E) The source from whom the marine mammal was acquired including the location of the take from the wild, if applicable.

"(F) If the marine mammal is transferred, the name of the recipient.

"(G) A notation if the animal was acquired as the result of a stranding.

"(H) The date of death of the marine mammal and the cause of death when determined."; and

(3) in subsection (e)(1) by—

(A) striking "or" at the end of subparagraph (A);

(B) striking the period at the end of subparagraph (B) and inserting ", or"; and

(C) adding at the end the following new subparagraph:

"(C) if, in the case of a permit under subsection (c)(5) authorizing importation of polar bear parts, the Secretary, in consultation with the appropriate authority in Canada, determines that the sustainability of Canada's polar bear population stocks are being adversely affected or that sport hunting may be having a detrimental effect on maintaining polar bear population stocks throughout their range.".

(c) EXISTING PERMITS.—Any permit issued under section 104(c)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)(2)) before the date of the enactment of this Act is hereby modified to be consistent with that section as amended by this Act.

SEC. 6. PURPOSE AND USE OF THE FUND.

Section 405 (16 U.S.C. 1421d), as so redesignated by this Act, is amended—

(1) in subsection (b)(1)(A)—

(A) by striking "and" at the end of clause (i); and

(B) by inserting at the end the following new clause:

"(iii) for care and maintenance of marine mammal seized under section 104(c)(2)(D); and"; and

(2) in subsection (d) by inserting after "For purposes of carrying out this title" the following: "and section 104(c)(2)(D)".

SEC. 7. REGULATIONS AND ADMINISTRATION; APPLICATION TO OTHER TREATIES AND CONVENTIONS.

(a) MEASURES FOR IMPACTS ON STRATEGIC STOCKS.—Section 112 (16 U.S.C. 1382) is amended by adding at the end the following new subsection:

"(e) If the Secretary determines, based on a stock assessment under section 117 or other significant new information obtained under this Act, that impacts on rookeries, mating grounds, or other areas of similar ecological significance to marine mammals may be causing the decline or impeding the recovery of a strategic stock, the Secretary may develop and implement conservation or management measures to alleviate those impacts. Such measures shall be developed and implemented after consultation with the Marine Mammal Commission and the appropriate Federal agencies and after notice and opportunity for public comment.".

(b) INTERNATIONAL POLAR BEAR CONSERVATION.—Section 113 (16 U.S.C. 1383) is amended by—

(1) designating the existing paragraph as subsection (a); and

(2) adding at the end the following new subsections:

"(b) Not later than 1 year after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary of the Interior shall, in consultation with the contracting parties, initiate a review of the effectiveness of the Agreement on the Conservation of Polar Bears, as provided for in Article IX of the Agreement, and establish a process by which future reviews shall be conducted.

"(c) The Secretary of the Interior, in consultation with the Secretary of State and the Marine Mammal Commission, shall review the effectiveness of United States implementation of the Agreement on the Conservation of Polar Bears, particularly with respect to the habitat protection mandates contained in Article II. The

Secretary shall report the results of this review to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than April 1, 1995.

"(d) Not later than 6 months after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary of the Interior, acting through the Secretary of State and in consultation with the Marine Mammal Commission and the State of Alaska, shall consult with the appropriate officials of the Russian Federation on the development and implementation of enhanced cooperative research and management programs for the conservation of polar bears in Alaska and Russia. The Secretary shall report the results of this consultation and provide periodic progress reports on the research and management programs to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate.".

SEC. 8. CONSERVATION PLANS.

Section 115(b) (16 U.S.C. 1383b(b)) is amended by adding at the end the following new paragraph:

"(4) If the Secretary determines that a take reduction plan is necessary to reduce the incidental taking of marine mammals in the course of commercial fishing operations from a strategic stock, or for species or stocks which interact with a commercial fishery for which the Secretary has made a determination under section 118(f)(1), any conservation plan prepared under this subsection for such species or stock shall incorporate the take reduction plan required under section 118 for such species or stock.".

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) DEPARTMENTS OF COMMERCE AND THE INTERIOR.—Section 116 is amended to read as follows:

"SEC. 116. AUTHORIZATION OF APPROPRIATIONS.

"(a) DEPARTMENT OF COMMERCE.—(1) There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out its functions and responsibilities under this title (other than sections 117 and 118) and title IV, $12,138,000 for fiscal year 1994, $12,623,000 for fiscal year 1995, $13,128,000 for fiscal year 1996, $13,653,000 for fiscal year 1997, $14,200,000 for fiscal year 1998, and $14,768,000 for fiscal year 1999.

"(2) There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out sections 117 and 118, $20,000,000 for each of the fiscal years 1994 through 1999.

"(b) DEPARTMENT OF THE INTERIOR.—There are authorized to be appropriated to the Department of the Interior, for purposes of carrying out its functions and responsibilities under this title, $8,000,000 for fiscal year 1994, $8,600,000 for fiscal year 1995, $9,000,000 for fiscal year 1996, $9,400,000 for fiscal year 1997, $9,900,000 for fiscal year 1998, and $10,296,000 for fiscal year 1999.".

(b) MARINE MAMMAL COMMISSION.—Section 207 is amended to read as follows:

"SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Marine Mammal Commission, for purposes of carrying out this title, $1,500,000 for fiscal year 1994, $1,550,000 for fiscal year 1995, $1,600,000 for fiscal year 1996, $1,650,000 for fiscal year 1997, $1,700,000 for fiscal year 1998, and $1,750,000 for fiscal year 1999.".

(c) REPEAL.—Section 7 of the Act entitled "An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes", approved October 9, 1981 (16 U.S.C. 1384 and 1407), is repealed.

SEC. 10. STOCK ASSESSMENTS.

Title I (16 U.S.C. 1371 et seq.) is amended by adding at the end the following new section:

"SEC. 117. STOCK ASSESSMENTS.

"(a) IN GENERAL.—Not later than August 1, 1994, the Secretary shall, in consultation with the appropriate regional scientific review group established under subsection (d), prepare a draft stock assessment for each marine mammal stock which occurs in waters under the jurisdiction of the United States. Each draft stock assessment, based on the best scientific information available, shall—

"(1) describe the geographic range of the affected stock, including any seasonal or temporal variation in such range;

"(2) provide for such stock the minimum population estimate, current and maximum net productivity rates, and current population trend, including a description of the information upon which these are based;

"(3) estimate the annual human-caused mortality and serious injury of the stock by source and, for a strategic stock, other factors that may be causing a decline or impeding recovery of the stock, including effects on marine mammal habitat and prey;

"(4) describe commercial fisheries that interact with the stock, including—

"(A) the approximate number of vessels actively participating in each such fishery;

"(B) the estimated level of incidental mortality and serious injury of the stock by each such fishery on an annual basis;

"(C) seasonal or area differences in such incidental mortality or serious injury; and

"(D) the rate, based on the appropriate standard unit of fishing effort, of such incidental mortality and serious injury, and an analysis stating whether such level is insignificant and is approaching a zero mortality and serious injury rate;

"(5) categorize the status of the stock as one that either—

"(A) has a level of human-caused mortality and serious injury that is not likely to cause the stock to be reduced below its optimum sustainable population; or

"(B) is a strategic stock, with a description of the reasons therefor; and

"(6) estimate the potential biological removal level for the stock, describing the information used to calculate it, including the recovery factor.

"(b) PUBLIC COMMENT.—(1) The Secretary shall publish in the Federal Register a notice of the availability of a draft stock assessment or any revision thereof and provide an opportunity for public review and comment during a period of 90 days. Such notice shall include a summary of the assessment and a list of the sources of information or published reports upon which the assessment is based.

"(2) Subsequent to the notice of availability required under paragraph (1), if requested by a person to which section 101(b) applies, the Secretary shall conduct a proceeding on the record prior to publishing a final stock assessment or any revision thereof for any stock subject to taking under section 101(b).

"(3) After consideration of the best scientific information available, the advice of the appropriate regional scientific review group established under subsection (d), and the comments of the general public, the Secretary shall publish in the Federal Register a notice of availability and a summary of the final stock assessment or any revision thereof, not later than 90 days after—

"(A) the close of the public comment period on a draft stock assessment or revision thereof; or

"(B) final action on an agency proceeding pursuant to paragraph (2).

"(c) REVIEW AND REVISION.—(1) The Secretary shall review stock assessments in accordance with this subsection—

"(A) at least annually for stocks which are specified as strategic stocks;

"(B) at least annually for stocks for which significant new information is available; and

"(C) at least once every 3 years for all other stocks.

"(2) If the review under paragraph (1) indicates that the status of the stock has changed or can be more accurately determined, the Secretary shall revise the stock assessment in accordance with subsection (b).

"(d) REGIONAL SCIENTIFIC REVIEW GROUPS.—(1) Not later than 60 days after the date of enactment of this section, the Secretary of Commerce shall, in consultation with the Secretary of the Interior (with respect to marine mammals under that Secretary's jurisdiction), the Marine Mammal Commission, the Governors of affected adjacent coastal States, regional fishery and wildlife management authorities, Alaska Native organizations and Indian tribes, and environmental and fishery groups, establish three independent regional scientific review groups representing Alaska, the Pacific Coast (including Hawaii), and the Atlantic Coast (including the Gulf of Mexico), consisting of individuals with expertise in marine mammal biology and ecology, population dynamics and modeling, commercial fishing technology and practices, and stocks taken under section 101(b). The Secretary of Commerce shall, to the maximum extent practicable, attempt to achieve a balanced representation of viewpoints among the individuals on each regional scientific review group. The regional scientific review groups shall advise the Secretary on—

"(A) population estimates and the population status and trends of such stocks;

"(B) uncertainties and research needed regarding stock separation, abundance, or trends, and factors affecting the distribution, size, or productivity of the stock;

"(C) uncertainties and research needed regarding the species, number, ages, gender, and reproductive status of marine mammals;

"(D) research needed to identify modifications in fishing gear and practices likely to reduce the incidental mortality and serious injury of marine mammals in commercial fishing operations;

"(E) the actual, expected, or potential impacts of habitat destruction, including marine pollution and natural environmental change, on specific marine mammal species or stocks, and for strategic stocks, appropriate conservation or management measures to alleviate any such impacts; and

"(F) any other issue which the Secretary or the groups consider appropriate.

"(2) The scientific review groups established under this subsection shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.).

"(3) Members of the scientific review groups shall serve without compensation, but may be reimbursed by the Secretary, upon request, for reasonable travel costs and expenses incurred in performing their obligations.

"(4) The Secretary may appoint or reappoint individuals to the regional scientific review groups under paragraph (1) as needed.

"(e) EFFECT ON SECTION 101(b).—This section shall not affect or otherwise modify the provisions of section 101(b).".

SEC. 11. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS.

Title I (16 U.S.C. 1371 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 118. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS.

"(a) IN GENERAL.—(1) Effective on the date of enactment of this section, and except as provided in section 114 and in paragraphs (2), (3), and (4) of this subsection, the provisions of this section shall govern the incidental taking of ma-

rine mammals in the course of commercial fishing operations by persons using vessels of the United States or vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)). In any event it shall be the immediate goal that the incidental mortality or serious injury of marine mammals occurring in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate within 7 years after the date of enactment of this section.

"(2) In the case of the incidental taking of marine mammals from species or stocks designated under this Act as depleted on the basis of their listing as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), both this section and section 101(a)(5)(E) of this Act shall apply.

"(3) Sections 104(h) and title III, and not this section, shall govern the taking of marine mammals in the course of commercial purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean.

"(4) This section shall not govern the incidental taking of California sea otters and shall not be deemed to amend or repeal the Act of November 7, 1986 (Public Law 99-625; 100 Stat. 3500).

"(5) Except as provided in section 101(c), the intentional lethal take of any marine mammal in the course of commercial fishing operations is prohibited.

"(6) Sections 103 and 104 shall not apply to the incidental taking of marine mammals under the authority of this section.

"(b) ZERO MORTALITY RATE GOAL.—(1) Commercial fisheries shall reduce incidental mortality and serious injury of marine mammals to insignificant levels approaching a zero mortality and serious injury rate within 7 years after the date of enactment of this section.

"(2) Fisheries which maintain insignificant serious injury and mortality levels approaching a zero rate shall not be required to further reduce their mortality and serious injury rates.

"(3) Three years after such date of enactment, the Secretary shall review the progress of all commercial fisheries, by fishery, toward reducing incidental mortality and serious injury to insignificant levels approaching a zero rate. The Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report setting forth the results of such review within 1 year after commencement of the review. The Secretary shall note any commercial fishery for which additional information is required to accurately assess the level of incidental mortality and serious injury of marine mammals in the fishery.

"(4) If the Secretary determines after review under paragraph (3) that the rate of incidental mortality and serious injury of marine mammals in a commercial fishery is not consistent with paragraph (1), then the Secretary shall take appropriate action under subsection (f).

"(c) REGISTRATION AND AUTHORIZATION.—(1) The Secretary shall, within 90 days after the date of enactment of this section—

"(A) publish in the Federal Register for public comment, for a period of not less than 90 days, any necessary changes to the Secretary's list of commercial fisheries published under section 114(b)(1) and which is in existence on March 31, 1994 (along with an explanation of such changes and a statement describing the marine mammal stocks interacting with, and the approximate number of vessels or persons actively involved in, each such fishery), with respect to commercial fisheries that have—

"(i) frequent incidental mortality and serious injury of marine mammals;

"(ii) occasional incidental mortality and serious injury of marine mammals; or

"(iii) a remote likelihood of or no known incidental mortality or serious injury of marine mammals;

"(B) after the close of the period for such public comment, publish in the Federal Register a revised list of commercial fisheries and an update of information required by subparagraph (A), together with a summary of the provisions of this section and information sufficient to advise vessel owners on how to obtain an authorization and otherwise comply with the requirements of this section; and

"(C) at least once each year thereafter, and at such other times as the Secretary considers appropriate, reexamine, based on information gathered under this Act and other relevant sources and after notice and opportunity for public comment, the classification of commercial fisheries and other determinations required under subparagraph (A) and publish in the Federal Register any necessary changes.

"(2)(A) An authorization shall be granted by the Secretary in accordance with this section for a vessel engaged in a commercial fishery listed under paragraph (1)(A) (i) or (ii), upon receipt by the Secretary of a completed registration form providing the name of the vessel owner and operator, the name and description of the vessel, the fisheries in which it will be engaged, the approximate time, duration, and location of such fishery operations, and the general type and nature of use of the fishing gear and techniques used. Such information shall be in a readily usable format that can be efficiently entered into and utilized by an automated or computerized data processing system. A decal or other physical evidence that the authorization is current and valid shall be issued by the Secretary at the time an authorization is granted, and so long as the authorization remains current and valid, shall be reissued annually thereafter.

"(B) No authorization may be granted under this section to the owner of a vessel unless such vessel—

"(i) is a vessel of the United States; or

"(ii) has a valid fishing permit issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)).

"(C) Except as provided in subsection (a), an authorization granted under this section shall allow the incidental taking of all species and stocks of marine mammals to which this Act applies.

"(3)(A) An owner of a vessel engaged in any fishery listed under paragraph (1)(A) (i) or (ii) shall, in order to engage in the lawful incidental taking of marine mammals in a commercial fishery—

"(i) have registered as required under paragraph (2) with the Secretary in order to obtain for each such vessel owned and used in the fishery an authorization for the purpose of incidentally taking marine mammals in accordance with this section, except that owners of vessels holding valid certificates of exemption under section 114 are deemed to have registered for purposes of this subsection for the period during which such exemption is valid;

"(ii) ensure that a decal or such other physical evidence of a current and valid authorization as the Secretary may require is displayed on or is in the possession of the master of each such vessel;

"(iii) report as required by subsection (e); and

"(iv) comply with any applicable take reduction plan and emergency regulations issued under this section.

"(B) Any owner of a vessel receiving an authorization under this section for any fishery listed under paragraph (1)(A) (i) or (ii) shall, as a condition of that authorization, take on board an observer if requested to do so by the Secretary.

"(C) An owner of a vessel engaged in a fishery listed under paragraph (1)(A) (i) or (ii) who—

"(i) fails to obtain from the Secretary an authorization for such vessel under this section;

"(ii) fails to maintain a current and valid authorization for such vessel; or

"(iii) fails to ensure that a decal or other physical evidence of such authorization issued by the Secretary is displayed on or is in possession of the master of the vessel,

and the master of any such vessel engaged in such fishery, shall be deemed to have violated this title, and for violations of clauses (i) and (ii) shall be subject to the penalties of this title, and for violations of clause (iii) shall be subject to a fine of not more than $100 for each offense.

"(D) If the owner of a vessel has obtained and maintains a current and valid authorization from the Secretary under this section and meets the requirements set forth in this section, including compliance with any regulations to implement a take reduction plan under this section, the owner of such vessel, and the master and crew members of the vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals while such vessel is engaged in a fishery to which the authorization applies.

"(E) Each owner of a vessel engaged in any fishery not listed under paragraph (1)(A) (i) or (ii), and the master and crew members of such a vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals if such owner reports to the Secretary, in the form and manner required under subsection (e), instances of incidental mortality or injury of marine mammals in the course of that fishery.

"(4)(A) The Secretary shall suspend or revoke an authorization granted under this section and shall not issue a decal or other physical evidence of the authorization for any vessel until the owner of such vessel complies with the reporting requirements under subsection (e) and such requirements to take on board an observer under paragraph (3)(B) as are applicable to such vessel. Previous failure to comply with the requirements of section 114 shall not bar authorization under this section for an owner who complies with the requirements of this section.

"(B) The Secretary may suspend or revoke an authorization granted under this subsection, and may not issue a decal or other physical evidence of the authorization for any vessel which fails to comply with a take reduction plan or emergency regulations issued under this section.

"(C) The owner and master of a vessel which fails to comply with a take reduction plan shall be subject to the penalties of sections 105 and 107, and may be subject to section 106.

"(5)(A) The Secretary shall develop, in consultation with the appropriate States, affected Regional Fishery Management Councils, and other interested persons, the means by which the granting and administration of authorizations under this section shall be integrated and coordinated, to the maximum extent practicable, with existing fishery licenses, registrations, and related programs.

"(B) The Secretary shall utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the provisions of this section and the means by which they can comply with its requirements.

"(C) The Secretary is authorized to charge a fee for the granting of an authorization under this section. The level of fees charged under this subparagraph shall not exceed the administrative costs incurred in granting an authorization. Fees collected under this subparagraph shall be

available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred in the granting and administration of authorizations under this section.

"(d) MONITORING OF INCIDENTAL TAKES.—(1) The Secretary shall establish a program to monitor incidental mortality and serious injury of marine mammals during the course of commercial fishing operations. The purposes of the monitoring program shall be to—

"(A) obtain statistically reliable estimates of incidental mortality and serious injury;

"(B) determine the reliability of reports of incidental mortality and serious injury under subsection (e); and

"(C) identify changes in fishing methods or technology that may increase or decrease incidental mortality and serious injury.

"(2) Pursuant to paragraph (1), the Secretary may place observers on board vessels as necessary, subject to the provisions of this section. Observers may, among other tasks—

"(A) record incidental mortality and injury, or by catch of other nontarget species;

"(B) record numbers of marine mammals sighted; and

"(C) perform other scientific investigations.

"(3) In determining the distribution of observers among commercial fisheries and vessels within a fishery, the Secretary shall be guided by the following standards:

"(A) The requirement to obtain statistically reliable information.

"(B) The requirement that assignment of observers is fair and equitable among fisheries and among vessels in a fishery.

"(C) The requirement that no individual person or vessel, or group of persons or vessels, be subject to excessive or overly burdensome observer coverage.

"(D) To the extent practicable, the need to minimize costs and avoid duplication.

"(4) To the extent practicable, the Secretary shall allocate observers among commercial fisheries in accordance with the following priority:

"(A) The highest priority for allocation shall be for commercial fisheries that have incidental mortality or serious injury of marine mammals from stocks listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

"(B) The second highest priority for allocation shall be for commercial fisheries that have incidental mortality and serious injury of marine mammals from strategic stocks.

"(C) The third highest priority for allocation shall be for commercial fisheries that have incidental mortality or serious injury of marine mammals from stocks for which the level of incidental mortality and serious injury is uncertain.

"(5) The Secretary may establish an alternative observer program to provide statistically reliable information on the species and number of marine mammals incidentally taken in the course of commercial fishing operations. The alternative observer program may include direct observation of fishing activities from vessels, airplanes, or points on shore.

"(6) The Secretary is not required to place an observer on a vessel in a fishery if the Secretary finds that—

"(A) in a situation in which harvesting vessels are delivering fish to a processing vessel and the catch is not taken on board the harvesting vessel, statistically reliable information can be obtained from an observer on board the processing vessel to which the fish are delivered;

"(B) the facilities on a vessel for quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; or

"(C) for reasons beyond the control of the Secretary, an observer is not available.

"(7) The Secretary may, with the consent of the vessel owner, station an observer on board a vessel engaged in a fishery not listed under subsection (c)(1)(A) (i) or (ii).

"(8) Any proprietary information collected under this subsection shall be confidential and shall not be disclosed except—

"(A) to Federal employees whose duties require access to such information;

"(B) to State or tribal employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

"(C) when required by court order; or

"(D) in the case of scientific information involving fisheries, to employees of Regional Fishery Management Councils who are responsible for fishery management plan development and monitoring.

"(9) The Secretary shall prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary shall release or make public upon request any such information in aggregate, summary, or other form which does not directly or indirectly disclose the identity or business of any person.

"(e) REPORTING REQUIREMENT.—The owner or operator of a commercial fishing vessel subject to this Act shall report all incidental mortality and injury of marine mammals in the course of commercial fishing operations to the Secretary by mail or other means acceptable to the Secretary within 48 hours after the end of each fishing trip on a standard postage-paid form to be developed by the Secretary under this section. Such form shall be capable of being readily entered into and usable by an automated or computerized data processing system and shall require the vessel owner or operator to provide the following:

"(1) The vessel name, and Federal, State, or tribal registration numbers of the registered vessel.

"(2) The name and address of the vessel owner or operator.

"(3) The name and description of the fishery.

"(4) The species of each marine mammal incidentally killed or injured, and the date, time, and approximate geographic location of such occurrence.

"(f) TAKE REDUCTION PLANS.—(1) The Secretary shall develop and implement a take reduction plan designed to assist in the recovery or prevent the depletion of each strategic stock which interacts with a commercial fishery listed under subsection (c)(1)(A) (i) or (ii), and may develop and implement such a plan for any other marine mammal stocks which interact with a commercial fishery listed under subsection (c)(1)(A)(i) which the Secretary determines, after notice and opportunity for public comment, has a high level of mortality and serious injury across a number of such marine mammal stocks.

"(2) The immediate goal of a take reduction plan for a strategic stock shall be to reduce, within 6 months of its implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of commercial fishing operations to levels less than the potential biological removal level established for that stock under section 117. The long-term goal of the plan shall be to reduce, within 5 years of its implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of commercial fishing operations to insignificant levels approaching a zero mortality and serious injury rate, taking into account the economics of the fishery, the availability of existing technology, and existing State or regional fishery management plans.

"(3) If there is insufficient funding available to develop and implement a take reduction plan for all such stocks that interact with commercial fisheries listed under subsection (c)(1)(A) (i) or (ii), the Secretary shall give highest priority to the development and implementation of take reduction plans for species or stocks whose level of incidental mortality and serious injury exceeds the potential biological removal level, those that have a small population size, and those which are declining most rapidly.

"(4) Each take reduction plan shall include—

"(A) a review of the information in the final stock assessment published under section 117(b) and any substantial new information;

"(B) an estimate of the total number and, if possible, age and gender, of animals from the stock that are being incidentally lethally taken or seriously injured each year during the course of commercial fishing operations, by fishery;

"(C) recommended regulatory or voluntary measures for the reduction of incidental mortality and serious injury;

"(D) recommended dates for achieving the specific objectives of the plan.

"(5)(A) For any stock in which incidental mortality and serious injury from commercial fisheries exceeds the potential biological removal level established under section 117, the plan shall include measures the Secretary expects will reduce, within 6 months of the plan's implementation, such mortality and serious injury to a level below the potential biological removal level.

"(B) For any stock in which human-caused mortality and serious injury exceeds the potential biological removal level, other than a stock to which subparagraph (A) applies, the plan shall include measures the Secretary expects will reduce, to the maximum extent practicable within 6 months of the plan's implementation, the incidental mortality and serious injury by such commercial fisheries from that stock. For purposes of this subparagraph, the term 'maximum extent practicable' means to the lowest level that is feasible for such fisheries within the 6-month period.

"(6)(A) At the earliest possible time (not later than 30 days) after the Secretary issues a final stock assessment under section 117(b) for a strategic stock, the Secretary shall, and for stocks that interact with a fishery listed under subsection (c)(1)(A)(i) for which the Secretary has made a determination under paragraph (1), the Secretary may—

"(i) establish a take reduction team for such stock and appoint the members of such team in accordance with subparagraph (C); and

"(ii) publish in the Federal Register a notice of the team's establishment, the names of the team's appointed members, the full geographic range of such stock, and a list of all commercial fisheries that cause incidental mortality and serious injury of marine mammals from such stock.

"(B) The Secretary may request a take reduction team to address a stock that extends over one or more regions or fisheries, or multiple stocks within a region or fishery, if the Secretary determines that doing so would facilitate the development and implementation of plans required under this subsection.

"(C) Members of take reduction teams shall have expertise regarding the conservation or biology of the marine mammal species which the take reduction plan will address, or the fishing practices which result in the incidental mortality and serious injury of such species. Members shall include representatives of Federal agencies, each coastal State which has fisheries which interact with the species or stock, appropriate Regional Fishery Management Councils, interstate fisheries commissions, academic and scientific organizations, environmental groups, all commercial and recreational fisheries groups and gear types which incidentally take the spe-

cies or stock, Alaska Native organizations or Indian tribal organizations, and others as the Secretary deems appropriate. Take reduction teams shall, to the maximum extent practicable, consist of an equitable balance among representatives of resource user interests and nonuser interests.

"(D) Take reduction teams shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.). Meetings of take-reduction teams shall be open to the public, and prior notice of meetings shall be made public in a timely fashion.

"(E) Members of take reduction teams shall serve without compensation, but may be reimbursed by the Secretary, upon request, for reasonable travel costs and expenses incurred in performing their duties as members of the team.

"(7) Where the human-caused mortality and serious injury from a strategic stock is estimated to be equal to or greater than the potential biological removal level established under section 117 for such stock and such stock interacts with a fishery listed under subsection (c)(1)(A) (i) or (ii), the following procedures shall apply in the development of the take reduction plan for the stock:

"(A)(i) Not later than 6 months after the date of establishment of a take reduction team for the stock, the team shall submit a draft take reduction plan for such stock to the Secretary, consistent with the other provisions of this section.

"(ii) Such draft take reduction plan shall be developed by consensus. In the event consensus cannot be reached, the team shall advise the Secretary in writing on the range of possibilities considered by the team, and the views of both the majority and minority.

"(B)(i) The Secretary shall take the draft take reduction plan into consideration and, not later than 60 days after the submission of the draft plan by the team, the Secretary shall publish in the Federal Register the plan proposed by the team, any changes proposed by the Secretary with an explanation of the reasons therefor, and proposed regulations to implement such plan, for public review and comment during a period of not to exceed 90 days.

"(ii) In the event that the take reduction team does not submit a draft plan to the Secretary within 6 months, the Secretary shall, not later than 8 months after the establishment of the team, publish in the Federal Register a proposed take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.

"(C) Not later than 60 days after the close of the comment period required under subparagraph (B), the Secretary shall issue a final take reduction plan and implementing regulations, consistent with the other provisions of this section.

"(D) The Secretary shall, during a period of 30 days after publication of a final take reduction plan, utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the requirements of the plan and how to comply with them.

"(E) The Secretary and the take reduction team shall meet every 6 months, or at such other intervals as the Secretary determines are necessary, to monitor the implementation of the final take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.

"(F) The Secretary shall amend the take reduction plan and implementing regulations as necessary to meet the requirements of this section, in accordance with the procedures in this section for the issuance of such plans and regulations.

"(8) Where the human-caused mortality and serious injury from a strategic stock is estimated to be less than the potential biological removal level established under section 117 for such stock and such stock interacts with a fishery listed under subsection (c)(1)(A) (i) or (ii), or for any marine mammal stocks which interact with a commercial fishery listed under subsection (c)(1)(A)(i) for which the Secretary has made a determination under paragraph (1), the following procedures shall apply in the development of the take reduction plan for such stock:

"(A)(i) Not later than 11 months after the date of establishment of a take reduction team for the stock, the team shall submit a draft take reduction plan for the stock to the Secretary, consistent with the other provisions of this section.

"(ii) Such draft take reduction plan shall be developed by consensus. In the event consensus cannot be reached, the team shall advise the Secretary in writing on the range of possibilities considered by the team, and the views of both the majority and minority.

"(B)(i) The Secretary shall take the draft take reduction plan into consideration and, not later than 60 days after the submission of the draft plan by the team, the Secretary shall publish in the Federal Register the plan proposed by the team, any changes proposed by the Secretary with an explanation of the reasons therefor, and proposed regulations to implement such plan, for public review and comment during a period of not to exceed 90 days.

"(ii) In the event that the take reduction team does not submit a draft plan to the Secretary within 11 months, the Secretary shall, not later than 13 months after the establishment of the team, publish in the Federal Register a proposed take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.

"(C) Not later than 60 days after the close of the comment period required under subparagraph (B), the Secretary shall issue a final take reduction plan and implementing regulations, consistent with the other provisions of this section.

"(D) The Secretary shall, during a period of 30 days after publication of a final take reduction plan, utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the requirements of the plan and how to comply with them.

"(E) The Secretary and the take reduction team shall meet on an annual basis, or at such other intervals as the Secretary determines are necessary, to monitor the implementation of the final take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.

"(F) The Secretary shall amend the take reduction plan and implementing regulations as necessary to meet the requirements of this section, in accordance with the procedures in this section for the issuance of such plans and regulations.

"(9) In implementing a take reduction plan developed pursuant to this subsection, the Secretary may, where necessary to implement a take reduction plan to protect or restore a marine mammal stock or species covered by such plan, promulgate regulations which include, but are not limited to, measures to—

"(A) establish fishery-specific limits on incidental mortality and serious injury of marine mammals in commercial fisheries or restrict commercial fisheries by time or area;

"(B) require the use of alternative commercial fishing gear or techniques and new technologies, encourage the development of such gear or technology, or convene expert skippers' panels;

"(C) educate commercial fishermen, through workshops and other means, on the importance of reducing the incidental mortality and serious injury of marine mammals in affected commercial fisheries; and

"(D) monitor, in accordance with subsection (d), the effectiveness of measures taken to reduce the level of incidental mortality and serious injury of marine mammals in the course of commercial fishing operations.

"(10)(A) Notwithstanding paragraph (6), in the case of any stock to which paragraph (1) applies for which a final stock assessment has not been published under section 117(b)(3) by April 1, 1995, due to a proceeding under section 117(b)(2), or any Federal court review of such proceeding, the Secretary shall establish a take reduction team under paragraph (6) for such stock as if a final stock assessment had been published.

"(B) The draft stock assessment published for such stock under section 117(b)(1) shall be deemed the final stock assessment for purposes of preparing and implementing a take reduction plan for such stock under this section.

"(C) Upon publication of a final stock assessment for such stock under section 117(b)(3) the Secretary shall immediately reconvene the take reduction team for such stock for the purpose of amending the take reduction plan, and any regulations issued to implement such plan, if necessary, to reflect the final stock assessment or court action. Such amendments shall be made in accordance with paragraph (7)(F) or (8)(F), as appropriate.

"(D) A draft stock assessment may only be used as the basis for a take reduction plan under this paragraph for a period of not to exceed two years, or until a final stock assessment is published, whichever is earlier. If, at the end of the two-year period, a final stock assessment has not been published, the Secretary shall categorize such stock under section 117(a)(5)(A) and shall revoke any regulations to implement a take reduction plan for such stock.

"(E) Subparagraph (D) shall not apply for any period beyond two years during which a final stock assessment for such stock has not been published due to review of a proceeding on such stock assessment by a Federal court. Immediately upon final action by such court, the Secretary shall proceed under subparagraph (C).

"(11) Take reduction plans developed under this section for a species or stock listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) shall be consistent with any recovery plan developed for such species or stock under section 4 of such Act.

"(g) EMERGENCY REGULATIONS.—(1) If the Secretary finds that the incidental mortality and serious injury of marine mammals from commercial fisheries is having, or is likely to have, an immediate and significant adverse impact on a stock or species, the Secretary shall take actions as follows:

"(A) In the case of a stock or species for which a take reduction plan is in effect, the Secretary shall—

"(i) prescribe emergency regulations that, consistent with such plan to the maximum extent practicable, reduce incidental mortality and serious injury in that fishery; and

"(ii) approve and implement, on an expedited basis, any amendments to such plan that are recommended by the take reduction team to address such adverse impact.

"(B) In the case of a stock or species for which a take reduction plan is being developed, the Secretary shall—

"(i) prescribe emergency regulations to reduce such incidental mortality and serious injury in that fishery; and

"(ii) approve and implement, on an expedited basis, such plan, which shall provide methods to address such aaverse impact if still necessary.

"(C) In the case of a stock or species for which a take reduction plan does not exist and

is not being developed, or in the case of a commercial fishery listed under subsection (c)(1)(A)(iii) which the Secretary believes may be contributing to such adverse impact, the Secretary shall—

"(i) prescribe emergency regulations to reduce such incidental mortality and serious injury in that fishery, to the extent necessary to mitigate such adverse impact;

"(ii) immediately review the stock assessment for such stock or species and the classification of such commercial fishery under this section to determine if a take reduction team should be established; and

"(iii) may, where necessary to address such adverse impact on a species or stock listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), place observers on vessels in a commercial fishery listed under subsection (c)(1)(A)(iii), if the Secretary has reason to believe such vessels may be causing the incidental mortality and serious injury to marine mammals from such stock.

"(2) Prior to taking action under paragraph (1) (A), (B), or (C), the Secretary shall consult with the Marine Mammal Commission, all appropriate Regional Fishery Management Councils, State fishery managers, and the appropriate take reduction team (if established).

"(3) Emergency regulations prescribed under this subsection—

"(A) shall be published in the Federal Register, together with an explanation thereof;

"(B) shall remain in effect for not more than 180 days or until the end of the applicable commercial fishing season, whichever is earlier; and

"(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, if the Secretary determines that the reasons for emergency regulations no longer exist.

"(4) If the Secretary finds that incidental mortality and serious injury of marine mammals in a commercial fishery is continuing to have an immediate and significant adverse impact on a stock or species, the Secretary may extend the emergency regulations for an additional period of not more than 90 days or until reasons for the emergency no longer exist, whichever is earlier.

"(h) Penalties.—Except as provided in subsection (c), any person who violates this section shall be subject to the provisions of sections 105 and 107, and may be subject to section 106 as the Secretary shall establish by regulations.

"(i) Assistance.—The Secretary shall provide assistance to Regional Fishery Management Councils, States, interstate fishery commissions, and Indian tribal organizations in meeting the goal of reducing incidental mortality and serious injury to insignificant levels approaching a zero mortality and serious injury rate.

"(j) Contributions.—For purposes of carrying out this section, the Secretary may accept, solicit, receive, hold, administer, and use gifts, devises, and bequests.

"(k) Consultation With Secretary of the Interior.—The Secretary shall consult with the Secretary of the Interior prior to taking actions or making determinations under this section that affect or relate to species or population stocks of marine mammals for which the Secretary of the Interior is responsible under this title.

"(l) Definitions.—As used in this section and section 101(a)(5)(E), each of the terms 'fishery' and 'vessel of the United States' has the same meaning it does in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802).".

SEC. 12. DEFINITIONS.

Section 3 (16 U.S.C. 1362) is amended by adding at the end the following:

"(18)(A) The term 'harassment' means any act of pursuit, torment, or annoyance which—

"(i) has the potential to injure a marine mammal or marine mammal stock in the wild; or

"(ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

"(B) The term 'Level A harassment' means harassment described in subparagraph (A)(i).

"(C) The term 'Level B harassment' means harassment described in subparagraph (A)(ii).

"(19) The term 'strategic stock' means a marine mammal stock—

"(A) for which the level of direct human-caused mortality exceeds the potential biological removal level;

"(B) which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act of 1973 within the foreseeable future; or

"(C) which is listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or is designated as depleted under this Act.

"(20) The term 'potential biological removal level' means the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. The potential biological removal level is the product of the following factors:

"(A) The minimum population estimate of the stock.

"(B) One-half the maximum theoretical or estimated net productivity rate of the stock at a small population size.

"(C) A recovery factor of between 0.1 and 1.0.

"(21) The term 'Regional Fishery Management Council' means a Regional Fishery Management Council established under section 302 of the Magnuson Fishery Conservation and Management Act.

"(22) The term 'bona fide research' means scientific research on marine mammals, the results of which—

"(A) likely would be accepted for publication in a referred scientific journal;

"(B) are likely to contribute to the basic knowledge of marine mammal biology or ecology; or

"(C) are likely to identify, evaluate, or resolve conservation problems.

"(23) The term 'Alaska Native organization' means a group designated by law or formally chartered which represents or consists of Indians, Aleuts, or Eskimos residing in Alaska.

"(24) The term 'take reduction plan' means a plan developed under section 118.

"(25) The term 'take reduction team' means a team established under section 118.

"(26) The term 'net productivity rate' means the annual per capita rate of increase in a stock resulting from additions due to reproduction, less losses due to mortality.

"(27) The term 'minimum population estimate' means an estimate of the number of animals in a stock that—

"(A) is based on the best available scientific information on abundance, incorporating the precision and variability associated with such information; and

"(B) provides reasonable assurance that the stock size is equal to or greater than the estimate.".

SEC. 13. PENALTIES; PROHIBITIONS.

(a) Civil Penalties.—Section 105(a)(1) (16 U.S.C. 1375(a)(1)) is amended by inserting ", except as provided in section 118," after "thereunder".

(b) Criminal Penalties.—Section 105(b) (16 U.S.C. 1375(b)) is amended by inserting "(except as provided in section 118)" after "thereunder".

(c) Prohibitions.—Section 102(a) (16 U.S.C. 1372(a)) is amended by striking "and 114 of this title or title III" and inserting "114, and 118 of this title and title IV".

SEC. 14. INDIAN TREATY RIGHTS; ALASKA NATIVE SUBSISTENCE.

Nothing in this Act, including any amendments to the Marine Mammal Protection Act of 1972 made by this Act—

(1) alters or is intended to alter any treaty between the United States and one or more Indian tribes; or

(2) affects or otherwise modifies the provisions of section 101(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(b)), except as specifically provided in the amendment made by section 4(b) of this Act.

SEC. 15. TRANSITION RULE; IMPLEMENTING REGULATIONS.

(a) Transition Rule.—Section 114(a)(1) (16 U.S.C. 1383a(a)(1)) is amended by striking "ending April 1, 1994," and inserting in lieu thereof "until superseded by regulations prescribed under section 118, or until September 1, 1995, whichever is earlier,".

(b) Implementing Regulations.—Except as provided otherwise in this Act, or the amendments to the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) made by this Act, the Secretary of Commerce or the Secretary of the Interior, as appropriate, shall, after notice and opportunity for public comment, promulgate regulations to implement this Act and the amendments made by this Act by January 1, 1995.

SEC. 16. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Definitions.—Section 3 (16 U.S.C. 1362) is amended—

(1) by striking paragraph (17); and

(2) by redesignating the second paragraph (15) and paragraph (16) as paragraphs (16) and (17), respectively.

(b) Unusual Mortality Event Fund.—Section 405(a) (16 U.S.C. 1421d(a)), as so redesignated by this Act, is amended by striking "a fund" and inserting in lieu thereof "an interest bearing fund".

SEC. 17. HUMAN ACTIVITIES WITHIN PROXIMITY OF WHALES.

(a) Lawful Approaches.—In waters of the United States surrounding the State of Hawaii, it is lawful for a person subject to the jurisdiction of the United States to approach, by any means other than an aircraft, no closer than 100 yards to a humpback whale, regardless of whether the approach is made in waters designated under section 222.31 of title 50, Code of Federal Regulations, as cow/calf waters.

(b) Termination of Legal Effect of Certain Regulations.—Subsection (b) of section 222.31 of title 50, Code of Federal Regulations, shall cease to be in force and effect.

SEC. 18. SCRIMSHAW EXEMPTIONS.

Notwithstanding any other provision of law, any valid certificate of exemption renewed by the Secretary (or deemed to be renewed) under section 10(f)(8) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)) for any person holding such a certificate with respect to the possession of pre-Act finished scrimshaw products or raw material for such products shall remain valid for a period not to exceed 5 years beginning on the date of enactment of this Act.

SEC. 19. MARINE MAMMAL COOPERATIVE AGREEMENTS IN ALASKA.

Title I (16 U.S.C. 1371 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 119. MARINE MAMMAL COOPERATIVE AGREEMENTS IN ALASKA.

"(a) In General.—The Secretary may enter into cooperative agreements with Alaska Native organizations to conserve marine mammals and provide co-management of subsistence use by Alaska Natives.

"(b) GRANTS.—Agreements entered into under this section may include grants to Alaska Native organizations for, among other purposes—

"(1) collecting and analyzing data on marine mammal populations;

"(2) monitoring the harvest of marine mammals for subsistence use;

"(3) participating in marine mammal research conducted by the Federal Government, States, academic institutions, and private organizations; and

"(4) developing marine mammal co-management structures with Federal and State agencies.

"(c) EFFECT OF JURISDICTION.—Nothing in this section is intended or shall be construed—

"(1) as authorizing any expansion or change in the respective jurisdiction of Federal, State, or tribal governments over fish and wildlife resources; or

"(2) as altering in any respect the existing political or legal status of Alaska Natives, or the governmental or jurisdictional status of Alaska Native communities or Alaska Native entities.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purposes of carrying out this section—

"(1) $1,500,000 to the Secretary of Commerce for each of the fiscal years 1994, 1995, 1996, 1997, 1998, and 1999; and

"(2) $1,000,000 to the Secretary of the Interior for each of the fiscal years 1994, 1995, 1996, 1997, 1998, and 1999.

The amounts authorized to be appropriated under this subsection are in addition to the amounts authorized to be appropriated under section 116.".

SEC. 20. MARINE ECOSYSTEM PROTECTION.

Section 110 (16 U.S.C. 1380) is amended by striking subsection (c) and inserting the following:

"(c)(1) No later than 1 year after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary of Commerce shall convene a regional workshop for the Gulf of Maine to assess human-caused factors affecting the health and stability of that marine ecosystem, of which marine mammals are a part. The workshop shall be conducted in consultation with the Marine Mammal Commission, the adjacent coastal States, individuals with expertise in marine mammal biology and ecology, representatives from environmental organizations, the fishing industry, and other appropriate persons. The goal of the workshop shall be to identify such factors, and to recommend a program of research and management to restore or maintain that marine ecosystem and its key components that—

"(A) protects and encourages marine mammals to develop to the greatest extent feasible commensurate with sound policies of resource management;

"(B) has as the primary management objective the maintenance of the health and stability of the marine ecosystems;

"(C) ensures the fullest possible range of management options for future generations; and

"(D) permits nonwasteful, environmentally sound development of renewable and nonrenewable resources.

"(2) On or before December 31, 1995, the Secretary of Commerce shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate a report containing the results of the workshop under this subsection, proposed regulatory or research actions, and recommended legislative action.

"(d)(1) The Secretary of Commerce, in consultation with the Secretary of the Interior, the Marine Mammal Commission, the State of Alaska, and Alaska Native organizations, shall, not later than 180 days after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, undertake a scientific research program to monitor the health and stability of the Bering Sea marine ecosystem and to resolve uncertainties concerning the causes of population declines of marine mammals, sea birds, and other living resources of that marine ecosystem. The program shall address the research recommendations developed by previous workshops on Bering Sea living marine resources, and shall include research on subsistence uses of such resources and ways to provide for the continued opportunity for such uses.

"(2) To the maximum extent practicable, the research program undertaken pursuant to paragraph (1) shall be conducted in Alaska. The Secretary of Commerce shall utilize, where appropriate, traditional local knowledge and may contract with a qualified Alaska Native organization to conduct such research.

"(3) The Secretary of Commerce, the Secretary of the Interior, and the Commission shall address the status and findings of the research program in their annual reports to Congress required by sections 103(f) and 204 of this Act.".

SEC. 21. INTERJURISDICTIONAL FISHERIES ACT OF 1986.

Section 308(b) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(b)) is amended by striking "$2,500,000 for each of the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995" and inserting in lieu thereof "$65,000,000 for each of the fiscal years 1994 and 1995".

SEC. 22. COASTAL ECOSYSTEM HEALTH.

(a) REQUIREMENT TO CONVEY.—Not later than September 30, 1994, the Secretary of the Navy shall convey, without payment or other consideration, to the Secretary of Commerce, all right, title, and interest to the property comprising that portion of the Naval Base, Charleston, South Carolina, bounded by Hobson Avenue, the Cooper River, the landward extension of the northwest side of Pier R, and the fenceline between the buildings known as 200 and NS–16. Such property shall include Pier R, the buildings known as RTC–1, RTC–4, 200, and 1874, all towers and outbuildings on that property, and all walkways and parking areas associated with such buildings and Pier R.

(b) SURVEY; EFFECT ON LIABILITY OF SECRETARY OF THE NAVY.—The acreage and legal description of the property to be conveyed pursuant to this section shall be determined by a survey approved by the Secretary of the Navy. Such conveyance shall not release the Secretary of the Navy from any liability arising prior to, during, or after such conveyance as a result of the ownership or occupation of the property by the United States Navy.

(c) USE BY NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—The property conveyed pursuant to this section shall be used by the Secretary of Commerce in support of the operations of the National Oceanic and Atmospheric Administration.

(d) REVERSION RIGHTS.—Conveyance of the property pursuant to this section shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately be conveyed to the public entity vested with ownership of the remainder of the Charleston Naval Base, if and when—

(1) continued ownership and occupation of the property by the National Oceanic and Atmospheric Administration no longer is compatible with the comprehensive plan for reuse of the Charleston Naval Base developed by the community reuse committee and approved by the Secretary of the Navy; and

(2) such public entity provides for relocation of the programs and personnel of the National Oceanic and Atmospheric Administration occupying such property, at no further cost to the United States Government, to a comparable facility, including adjacent waterfront and pier, within the Charleston area.

SEC. 23. PACIFIC COAST TASK FORCE; GULF OF MAINE.

Title I (16 U.S.C. 1371 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 120. PACIFIC COAST TASK FORCE; GULF OF MAINE.

"(a) PINNIPED REMOVAL AUTHORITY.—Notwithstanding any other provision of this title, the Secretary may permit the intentional lethal taking of pinnipeds in accordance with this section.

"(b) APPLICATION.—(1) A State may apply to the Secretary to authorize the intentional lethal taking of individually identifiable pinnipeds which are having a significant negative impact on the decline or recovery of salmonid fishery stocks which—

"(A) have been listed as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(B) the Secretary finds are approaching threatened species or endangered species status (as those terms are defined in that Act); or

"(C) migrate through the Ballard Locks at Seattle, Washington.

"(2) Any such application shall include a means of identifying the individual pinniped or pinnipeds, and shall include a detailed description of the problem interaction and expected benefits of the taking.

"(c) ACTIONS IN RESPONSE TO APPLICATION.—(1) Within 15 days of receiving an application, the Secretary shall determine whether the application has produced sufficient evidence to warrant establishing a Pinniped-Fishery Interaction Task Force to address the situation described in the application. If the Secretary determines sufficient evidence has been provided, the Secretary shall establish a Pinniped-Fishery Interaction Task Force and publish a notice in the Federal Register requesting public comment on the application.

"(2) A Pinniped-Fishery Interaction Task Force established under paragraph (1) shall consist of designated employees of the Department of Commerce, scientists who are knowledgeable about the pinniped interaction that the application addresses, representatives of affected conservation and fishing community organizations, Indian Treaty tribes, the States, and such other organizations as the Secretary deems appropriate.

"(3) Within 60 days after establishment, and after reviewing public comments in response to the Federal Register notice under paragraph (1), the Pinniped-Fishery Interaction Task Force shall—

"(A) recommend to the Secretary whether to approve or deny the proposed intentional lethal taking of the pinniped or pinnipeds, including along with the recommendation a description of the specific pinniped individual or individuals, the proposed location, time, and method of such taking, criteria for evaluating the success of the action, and the duration of the intentional lethal taking authority; and

"(B) suggest nonlethal alternatives, if available and practicable, including a recommended course of action.

"(4) Within 30 days after receipt of recommendations from the Pinniped-Fishery Interaction Task Force, the Secretary shall either approve or deny the application. If such application is approved, the Secretary shall immediately take steps to implement the intentional lethal taking, which shall be performed by Federal or State agencies, or qualified individuals under contract to such agencies.

"(5) After implementation of an approved application, the Pinniped-Fishery Interaction Task Force shall evaluate the effectiveness of the permitted intentional lethal taking or alternative actions implemented. If implementation was ineffective in eliminating the problem interaction, the Task Force shall recommend additional actions. If the implementation was effective, the Task Force shall so advise the Secretary, and the Secretary shall disband the Task Force.

"(d) CONSIDERATIONS.—In considering whether an application should be approved or denied, the Pinniped-Fishery Interaction Task Force and the Secretary shall consider—

"(1) population trends, feeding habits, the location of the pinniped interaction, how and when the interaction occurs, and how many individual pinnipeds are involved;

"(2) past efforts to nonlethally deter such pinnipeds, and whether the applicant has demonstrated that no feasible and prudent alternatives exist and that the applicant has taken all reasonable nonlethal steps without success;

"(3) the extent to which such pinnipeds are causing undue injury or impact to, or imbalance with, other species in the ecosystem, including fish populations; and

"(4) the extent to which such pinnipeds are exhibiting behavior that presents an ongoing threat to public safety.

"(e) LIMITATION.—The Secretary shall not approve the intentional lethal taking of any pinniped from a species or stock that is—

"(1) listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(2) depleted under this Act; or

"(3) a strategic stock.

"(f) CALIFORNIA SEA LIONS AND PACIFIC HARBOR SEALS; INVESTIGATION AND REPORT.—

"(1) The Secretary shall engage in a scientific investigation to determine whether California sea lions and Pacific harbor seals—

"(A) are having a significant negative impact on the recovery of salmonid fishery stocks which have been listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or which the Secretary finds are approaching such endangered species or threatened species status; or

"(B) are having broader impacts on the coastal ecosystems of Washington, Oregon, and California.

The Secretary shall conclude this investigation and prepare a report on its results no later than October 1, 1995.

"(2) Upon completion of the scientific investigation required under paragraph (1), the Secretary shall enter into discussions with the Pacific States Marine Fisheries Commission, on behalf of the States of Washington, Oregon, and California, for the purpose of addressing any issues or problems identified as a result of the scientific investigation, and to develop recommendations to address such issues or problems. Any recommendations resulting from such discussions shall be submitted, along with the report, to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(3) The Secretary shall make the report and the recommendations submitted under paragraph (2) available to the public for review and comment for a period of 90 days.

"(4) There are authorized to be appropriated to the Secretary such sums as are necessary to carry out the provisions of this subsection.

"(5) The amounts appropriated under section 308(c) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(c)) and allocated to the Pacific States Marine Fisheries Commission may be used by the Commission to participate in discussions with the Secretary under paragraph (2).

"(g) REGIONWIDE PINNIPED-FISHERY INTERACTION STUDY.—

"(1) The Secretary may conduct a study, of not less than three high predation areas in anadromous fish migration corridors within the Northwest Region of the National Marine Fisheries Service, on the interaction between fish and pinnipeds. In conducting the study, the Secretary shall consult with other State and Federal agencies with expertise in pinniped-fishery interaction. The study shall evaluate—

"(A) fish behavior in the presence of predators generally;

"(B) holding times and passage rates of anadromous fish stocks in areas where such fish are vulnerable to predation;

"(C) whether additional facilities exist, or could be reasonably developed, that could improve escapement for anadromous fish; and

"(D) other issues the Secretary considers relevant.

"(2) Subject to the availability of appropriations, the Secretary may, not later than 18 months after the commencement of the study under this subsection, transmit a report on the results of the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

"(3) The study conducted under this subsection may not be used by the Secretary as a reason for delaying or deferring a determination or consideration under subsection (c) or (d).

"(h) GULF OF MAINE TASK FORCE.—The Secretary shall establish a Pinniped-Fishery Interaction Task Force to advise the Secretary on issues or problems regarding pinnipeds interacting in a dangerous or damaging manner with aquaculture resources in the Gulf of Maine. No later than 2 years from the date of enactment of this section, the Secretary shall after notice and opportunity for public comment submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing recommended available alternatives to mitigate such interactions.

"(i) REQUIREMENTS APPLICABLE TO TASK FORCES.—(1) Any task force established under this section—

"(A) shall to the maximum extent practicable, consist of an equitable balance among representatives of resource user interests and nonuser interests; and

"(B) shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.).

"(2) Meetings of any task force established under this section shall be open to the public, and prior notice of those meetings shall be given to the public by the task force in a timely fashion.

"(j) GULF OF MAINE HARBOR PORPOISE.—(1) Nothing in section 117 shall prevent the Secretary from publishing a stock assessment for Gulf of Maine harbor porpoise in an expedited fashion.

"(2) In developing and implementing a take reduction plan under section 118 for Gulf of Maine harbor porpoise, the Secretary shall consider all actions already taken to reduce incidental mortality and serious injury of such stock, and may, based on the recommendations of the take reduction team for such stock, modify the time period required for compliance with section 118(f)(5)(A), but in no case may such modification extend the date of compliance beyond April 1, 1997.".

SEC 24. FURTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS RELATING TO DEFINITION OF SECRETARY.—

(1) EXECUTION OF PRIOR AMENDMENTS.—The amendments set forth in section 3004(b) of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067)—

(A) are deemed to have been made by that section to section 3(12) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(12)); and

(B) shall not be considered to have been made by that section to section 3(11) of that Act (16 U.S.C. 1362(11)).

(2) FURTHER TECHNICAL AND CONFORMING AMENDMENTS.—Section 3(12)(B) of the Marine Mammal Protection Act of 1972, as deemed by paragraph (1)(A) of this subsection to have been amended by section 3004(b) of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067), is further amended in subparagraph (B) by striking "in title III" and inserting "in section 118 and title IV".

(b) MARINE MAMMAL HEALTH AND STRANDING RESPONSE.—The Act (16 U.S.C. 1361 et seq.) is amended—

(1) by redesignating title III, as added by Public Law 102-587 (106 Stat. 5060), as title IV; and

(2) by redesignating the sections of that title (16 U.S.C. 1421 through 1421h) as sections 401 through 409, respectively.

(c) FURTHER AMENDMENTS TO TITLE IV.—The Act (16 U.S.C. 1361 et seq.) is amended—

(1) in section 401(b)(3) (as redesignated by this section) by striking "304" and inserting "404";

(2) in section 405(b)(1)(A)(i) (as redesignated by this section) by striking "304(b)" and inserting "404(b)";

(3) in section 406(a)(2)(A) (as redesignated by this section) by striking "304(b)" and inserting "404(b)";

(4) in section 406(a)(2)(B) (as redesignated by this section) by striking "304(c)" and inserting "404(c)";

(5) in section 408(1) (as redesignated by this section)—

(A) by striking "305" and inserting "405", and

(B) by striking "307" and inserting "407";

(6) in section 408(2) (as redesignated by this section) by striking "307" and inserting "407";

(7) in section 409(1) (as redesignated by this section) by striking "305(a)" and inserting "405(a)";

(8) in section 409(5) (as redesignated by this section) by striking "307(a)" and inserting "407(a)";

(9) in section 102(a) (16 U.S.C. 1372(a)) by striking "title III" and inserting "title IV";

(10) in section 109(h)(1) (16 U.S.C. 1379(h)(1)) by striking "title III" and inserting "title IV";

(11) in section 112(c) (16 U.S.C. 1382(c)) by striking "or title III" and inserting "or title IV"; and

(12) in the table of contents in the first section, by striking the items relating to the title that is redesignated by subsection (b) of this section and the sections that are redesignated by subsection (b) of this section and inserting the following:

"TITLE IV—MARINE MAMMAL HEALTH AND STRANDING RESPONSE

"Sec. 401. Establishment of program.
"Sec. 402. Determination; data collection and dissemination.
"Sec. 403. Stranding response agreements.
"Sec. 404. Unusual mortality event response.
"Sec. 405. Unusual mortality event activity funding.
"Sec. 406. Liability.
"Sec. 407. National Marine Mammal Tissue Bank and tissue analysis.
"Sec. 408. Authorization of appropriations.
"Sec. 409. Definitions.".

(d) CLERICAL AMENDMENTS.—The portion of the table of contents in the first section of the Act relating to title I is amended by adding at the end the following new items:

"Sec. 117. Stock assessments.
"Sec. 118. Taking of marine mammals incidental to commercial fishing operations.

"Sec. 119. Marine mammal cooperative agreements in Alaska.

"Sec. 120. Pacific Coast Task Force; Gulf of Maine.".

(e) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if enacted as part of section 3004 of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067).

SEC. 25. TRANSFER.

Of amounts appropriated by Public Law 103-139 to the Department of the Navy for Shipbuilding and Conversion, Navy, the Secretary of the Navy shall transfer $8,000,000 not later than May 15, 1994, to the Administrator of the Maritime Administration for the conversion of the USNS CHAUVENET to a training ship for the Texas Maritime Academy's Training Program.

Mr. KERRY. Madam President, again and I hope and trust for the final time this term, I am joined by my good friend from Alaska, Senator TED STEVENS, in presenting to the Senate and supporting legislation to reauthorize the Marine Mammal Protection Act, S. 1636. Before us now is S. 1636 as amended by and passed unanimously in the House earlier today.

This legislation has gone back and forth between the Houses and has been passed in both on five separate occasions and in as many versions. I believe that, all things considered, the bill before us today is a strong environmental package that protects marine mammals and treats fairly all those who interact with them. This version is very similar to the bill passed unanimously by the Senate on March 25 with one additional provision on habitat protection which I will discuss later.

I would like to thank Congressman GERRY STUDDS, chairman of the Merchant Marine and Fisheries Committee, who has championed marine mammal protection for over two decades and who has worked very hard over the past several weeks to work out a compromise on the remaining outstanding issue of habitat protection. Among the numerous environmental organizations which were instrumental in securing the passage of this legislation, I would like to thank especially the Center for Marine Conservation and its staff members Suzanne Iudicello and Nina Young who provided support and information that made it possible for us to reach a compromise on a number of critical issues that are at the core of this legislation, a bill that I believe balances the concern for marine mammals in both the wild and captivity with the needs of the commercial fishing industry and others who interact with marine mammals.

My only regret is that, while we were able to amend the language on the importation of polar bear trophies into the United States from Canada in previous versions of S. 1636 sent from the House, we were unsuccessful in fully eliminating this language. The language we added to the House bill when the bill last was considered in the Senate several weeks ago included language which I worked out with colleagues providing for monitoring the effects on Canada's polar bear stock and guaranteeing the immediate cessation of imports should there be an indication of an adverse impact on the sustainability of the Canadian stock. Notwithstanding my personal preference not to permit any importation of polar bear trophies, with this additional polar bear protection language I believe the benefits of the overall MMPA package vastly outweigh the potential problems the polar bear provision may cause. If we fail to take action now on this bill before us, we sentence thousands of marine mammals to death and injury that could be avoided by the new regime the bill will establish.

The driving force in moving the Marine Mammal Protection Act amendments of 1994 was, in fact, the need to establish such a new regime to govern the interactions between marine mammals and commercial fisheries. The regime developed in S. 1636 is designed to ensure the safety of marine mammals and guarantee that threatened or depleted marine mammal populations will recover because of the following elements:

First, stock assessments: For the first time, the Agency is required to determine the status of every single marine mammal stock including whether the stock is healthy or is in any danger of declining; whether it is in need of some assistance because it is depleted, threatened, or endangered; or whether the level of human-caused mortality is greater than the annual population growth rate. The stock assessment is to be based upon data the National Marine Fisheries Service [NMFS] has gathered during the past 5 years.

Second, vessel registration: This bill would continue the current vessel registration system requiring all vessels with frequent or occasional interaction with marine mammals to register in order to be authorized to take marine mammals. This bill provides that, for the first time ever, the Secretary of Commerce has the authority to revoke an individual fisherman's authorization to take marine mammals if that fisherman does not comply with a take reduction plan. Also, for the first time ever, the individual fisherman may be fined for not complying with regulations designed to protect the marine mammal stock.

Third, observer coverage: This bill would require observers on board all vessels fishing in category 1 and category 2 fisheries, those fisheries that have frequent or occasional interaction with marine mammals. For the first time, the Secretary of Commerce could require observers to be placed on category 3 vessels—vessels which have a remote likelihood of interaction with marine mammals—if stock subject to such interaction is a threatened or endangered species.

Fourth, emergency regulatory authority: The bill provides the Secretary of Commerce, for the first time, with mandatory emergency authority to address any situation in which there is an immediate adverse impact on a strategic stock or a stock that is considered healthy but for some reason is declining.

Fifth, zero mortality rate goal: The bill has a zero mortality rate goal to be reached within 7 years of enactment. For the first time, the Secretary of Commerce is given regulatory authority to work toward achieving that goal, whereas the act currently only states the goal but specifies no deadline for compliance.

Sixth, take reduction teams and take reduction plans: The bill provides for creation of take reduction teams to develop plans to reduce the incidental taking of marine mammals. These plans are designed to actively reduce takes of stocks that are not healthy to a point where the stock will recover over a period of time.

Seventh, intentional taking of marine mammals: For the first time, this bill explicitly prohibits the intentional killing of marine mammals.

In addition, the legislation before us includes language to enhance protection of habitats critical to marine mammal populations. I would like to outline briefly this remaining outstanding provision. Prior to adjourning for Easter, this Chamber passed S. 1636 with substitute text reflecting agreement by Members of the House Merchant Marine and Fisheries Committee and Members of the Senate Committee on Commerce, Science, and Transportation. Unfortunately, there was one outstanding issue—an issue relating to habitat protection that raised concerns in the timber community. Subsequently, we agreed to extend the existing law for one more month with the understanding that it would be the last extension, and to work towards agreement on a new provision in S. 1636 addressing marine mammal habitat protection.

We have reached an agreement within the allotted time frame. This bill is the same as the legislation approved by the Senate prior to the Easter adjournment with the addition of this new provision. The language provides the National Marine Fisheries Service [NMFS] with explicit authority to protect marine mammal habitat. The language is intended to encourage the Agency to take the "further measures" to "protect the rookeries, mating grounds, and areas of similar significance for each species of marine mammal from the adverse effects of man's actions" a goal that is already stated as a policy of the MMPA. Of particular concern to the committee was the need for the Agency to obtain a better knowledge and understanding of the impacts of habitat destruction on specific marine mammal species and stocks. To address this concern, S. 1636 states that the regional scientific review groups must advise the Secretary on "actual, expected, or potential impacts of habitat destruction on specific marine mammal species or stocks". If habitat destruction is having an impact on a stock defined as "strategic," then the regional scientific review groups must make recommendations for appropriate conservation or management measures to alleviate the impacts.

Another concern for the committee, which has been addressed throughout the legislation, is ensuring that scarce Agency resources are committed where most needed. Consequently, while the Secretary maintains his existing broad general authority to regulate under section 112 of the existing act—section 112(a)—the new provision has been included providing the Secretary with explicit discretionary authority to develop and implement the conservation or management measures recommended by the regional scientific review groups for alleviating the specific habitat impacts related to defined strategic stocks.

Madam President, as I stated above, NMFS currently has general authority to alleviate such habitat impacts, and it has exercised this authority before. In the past, the Agency has established speed limits on vessels moving into and out of ports, approach standards for whales, and restrictions on fishing activities near rookeries. The agency has used the general authority provided in the MMPA to protect marine mammal habitat. Even though NMFS has made some progress in protecting marine mammal habitat, the current MMPA authority is not well defined. It is clear that significant new or expanded authority is not required for the agency to do its job in protecting marine mammal habitat; rather, there is a need to clarify and provide explicit authority in certain circumstances so the Agency can make better use of the tools it already has.

Finally, on this provision, let me say that the concern that arose prior to the Easter recess had to do with the method by which we were attempting to address the need for protection of marine mammal habitat and possible unintended consequences of that approach. We believe that this new language avoids such unintended consequences and will not affect other current statutes in any manner. In fact, we have added a specific disclaimer to the MMPA to make certain that the provisions of this legislation are not interpreted as amending, repealing, or affecting any other laws.

The Federal Government has spent 5 years operating under an interim exemption for commercial fisheries. The National Marine Fisheries Service has spent that time collecting data on marine mammal stocks and developing a new management regime to protect those stocks. The Congress has spent this session developing legislation to reauthorize the MMPA.

This amendment to S. 1636 is a bipartisan and bicameral effort that is the product of many months of hard work. The package is the result of extensive discussions with and comments from the National Marine Fisheries Service, the Marine Mammal Commission, conservation and animal protection groups, and the fishing industry. All have worked tirelessly to meet this statutory deadline of May 1. Therefore, it is critical that we pass this legislation today and send it on to President Clinton for his signature.

The original MMPA has far exceeded expectations in its protection of dolphins, whales, seals, and sea lions among other marine mammal stocks. Prior to 1972 when the original MMPA was enacted, hundreds of thousands of marine mammals wee killed each year, intentionally from hunting and accidentally due to their interactions with commercial fishermen.

I am convinced that this reauthorization will strengthen our efforts and further reduce the mortality and serious injury our marine mammal stocks. I look forward to passage of this important environmental protection legislation.

Mr. HOLLINGS. Madam President, today we are considering S. 1636, the Marine Mammal Protection Act Amendments of 1994, as amended to reflect the agreement reached by the Senate and the House. This legislation was introduced by Senators KERRY, STEVENS, and PACKWOOD on November 8, 1993, and was reported favorably by the Commerce Committee last session. S. 1636 reauthorizes the Marine Mammal Protection Act [MMPA] for a period of 6 years, and amends the act to provide for a regime to govern the interactions between marine mammals and commercial fishermen. The text reflects careful consideration and balancing of the diverse and sometimes divergent viewpoints of the committee members. I believe the final product addresses the legitimate concerns of the various interest groups which participated in its development, including commercial fishing, public display, and scientific research. I commend my colleagues, Senator KERRY and Senator STEVENS, for their work in bringing together legislation that is bipartisan, and responsive to protecting marine mammals.

Madam President, I have stated before that when the Congress enacted the MMPA in 1972, there was considerable debate over how far we should go in protecting marine mammals. Some environmental extremists preferred tough restrictions which would have crippled our domestic fishing industry. Not surprisingly, the fishing industry favored no regulations at all. The debate centered on striking the proper balance between our national desire to both protect marine mammals and preserve important commercial fisheries. After long deliberation, we finally reached what has proven to be an effective compromise. The number of marine mammals taken by our fishermen has been reduced dramatically without seriously damaging the economic viability of most sectors of our domestic fishing fleet.

In the years since 1972, the central issue has changed very little. In reauthorizing this act, we must again strike the proper balance. After long negotiations, I believe that we have reached such a compromise. Although I understand that not everyone is completely satisfied with all aspects of this bill, such is the nature of a compromise, and I am pleased to support the Marine Mammal Protection Act Amendments of 1994. I believe this bill will fine tune the MMPA, increasing the protection afforded to marine mammals without hurting the competitiveness of the American fishing industry.

The legislation before us today contains a new regime for protecting marine mammals in the course of commercial fishing with the following provisions: specific timetables and procedures for conducting marine mammal stock assessments and preparing incidental take reduction plans for those marine mammal population stocks in most need of attention to assist in recovery; a prohibition on the intentional killing of marine mammals; a mandatory vessel registration system for those vessels that have frequent and occasional interaction with marine mammals; a mandatory observer program to verify the data on takes of marine mammals; and effective emergency authority for the Secretary to control circumstances in which stocks are declining. The substitute amendment also reiterates the longstanding goal of the Marine Mammal Protection Act, "to reduce incidental mortality and serious injury from commercial fishing operations to insignificant rates approaching zero," establishing a 7-year timeline for that goal.

The proposed regime in S. 1636 is based on an agreement reached between representatives of the fishing industry and several conservation organizations after extensive negotiations. That agreement was fine-tuned further through extensive debate with conservation groups, animal protection groups, fishermen, the National Marine Fisheries Service, and the Marine Mammal Commission. I commend the representatives of both the fishing industry and those conservation organizations that continued to participate in legislative discussions and make constructive recommendations on S. 1636.

In summary, the MMPA Amendments of 1994 will strengthen and extend the protection afforded to marine mammals under the MMPA without damaging our important commercial fisheries. The legislation is consistent with the original goals and intent of the MMPA and will facilitate our attempts to meet these goals.

Finally, Madam President, the House Merchant Marine and Fisheries Committee and the Senate Committee on Commerce, Science, and Transportation have been negotiating one final issue relating to marine mammal habitat protection during the past month. The issue of habitat protection is important, but it is only one aspect of this bill. We have extended the interim exemption twice while negotiating this and other provisions. That interim exemption expires this Sunday, May 1, 1994. With all of the issues resolved, it is time to pass this legislation. It is time to end the interim exemption and implement the new regime. Passage of S. 1636 reaffirms our commitment to preserving and protecting this remarkable group of animals. I urge my colleagues' support.

Mr. STEVENS. Madam President, I am pleased we have finally reached agreement on this legislation to reauthorize the Marine Mammal Protection Act and to create a permanent regime to govern commercial fisheries interactions with marine mammals. As I have said in earlier statements, this legislation is the culmination of over a year of work by Members of Congress, their staffs, the fishing industry, environmental groups, the Alaska Native community, the administration and other interested parties.

The version of S. 1636 passed by the House today includes language worked out between the Senate and House to replace an earlier House provision that would have amended the definition of "take" in the MMPA to include the term "harm." The compromise language clarifies the Secretary's general authority under the existing MMPA to protect habitat, and expands slightly a provision in the March 24, Senate-passed version of S. 1636 to allow the Regional Scientific Review Groups to make conservation and management recommendations in addition to identifying impacts on habitat.

We have also clarified in section 2 that nothing in S. 1636 is meant to amend, repeal, or otherwise affect other provisions of law, unless it has been expressly provided. A number of other noncontroversial changes and technical corrections have been made to the bill as well.

Madam President, I would like to again say that I think this legislation creates a framework the commercial fishing industry can work within, while at the same time allowing for the improved protection of marine mammals. The bill establishes a coherent system which should minimize the burden on fishermen while ensuring protection of marine mammal stocks. It will help focus scarce Federal resources where they can do the most good.

Fishermen in fisheries which have a remote likelihood of interaction with marine mammals, including threatened or endangered marine mammals where the Secretary determines that those fisheries will have no more than a negligible impact on those mammals, will not be subject to penalty under the Act, provided they report to the Secretary any incident that results in injury or death to a marine mammal.

To help the fishermen and the mammals, the Secretary is instructed under this Act to develop a standardized, postage paid, computer-readable form to facilitate reporting by fishermen and to speed analysis of the data collected. No longer will fishermen have to record these interactions in handwritten logbooks, which have simply collected dust in an agency warehouse.

More importantly, fishermen in fisheries which have occasional or frequent interaction with marine mammal stocks will obtain an annual authorization, in the form of a decal, as soon as they provide the Secretary with certain information concerning their vessel, gear, and the fisheries in which they engage. In addition, the fishermen must agree to carry an observer when requested by the Secretary, must comply with any take reduction plan that applies to their fishery, and must report injury or death of marine mammals. In exchange, fishermen that comply with these requirements are exempt from penalty under the Act for incidentally taking marine mammals.

In the case of threatened or endangered marine mammals, fishermen in fisheries which have occasional or frequent interaction with those mammals are similarly protected if they comply with any conditions or limitations contained in the permit that the Secretary must issue whenever the Secretary determines that those fisheries will have no more than a negligible impact on the threatened or endangered mammal stock.

This bill specifically states that in the case of threatened or endangered marine mammals, both section 101(a)(5)(E) and section 118 apply. The legislation links these two provisions because they are intended to apply in concert. Permits issued under section 101(a)(5)(E) should be integrated into the authorization requirements under section 118, so that fishermen can obtain both through the same process and with the minimum of additional paperwork. Likewise, any reporting, monitoring, or enforcement required to implement section 101(a)(5)(E) is specifically intended to be undertaken under the authority granted for those purposes in section 118. Fishermen that obtain both a permit and authorization, and comply with the requirements of both, are protected from penalty under the Act if they do incidentally take any marine mammal, including threatened or endangered marine mammals.

Madam President, I would also like to draw attention at this time to the colloquy that occurred on March 24 between this Senator, Senator HOLLINGS, Senator CHAFEE, and Senator BAUCUS concerning this legislation and the Endangered Species Act. Nothing in this revised version of the bill affects or amends the Endangered Species Act, and the understanding expressed in that colloquy remains applicable to the bill the Senate is now considering.

In closing, I would like to say thank you to Senator KERRY and the Senate staff—in particular Lila Helms and Penny Dalton of the majority committee staff, Trevor McCabe of the minority committee staff, and Earl Comstock of my staff—for their hard work and dedication in completing this reauthorization process.

Mr. MITCHELL. Madam President, I move that the Senate concur in the House amendment to the Senate amendment to the House amendment.

The motion was agreed to.

Mr. MITCHELL. Madam President, I move to reconsider that action.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORITY FOR COMMITTEES TO REPORT

Mr. MITCHELL. Madam President, I ask unanimous consent that during the recess or adjournment of the Senate that Senate committees may file committee-reported legislative and executive calendar business on Friday, April 29, from 11 a.m. to 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9 A.M. FRIDAY, APRIL 29, 1994, AND ORDER FOR ADJOURNMENT FROM FRIDAY UNTIL 3 P.M. MONDAY, MAY 2, 1994

ORDERS FOR MONDAY, MAY 2, 1994

Mr. MITCHELL. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. on Friday, April 29; that on Friday, the Senate meet in pro forma session only; that at the close of the pro forma session, the Senate then stand adjourned until 3 p.m. on Monday May 2; that when the Senate reconvenes on Monday, the Journal of the proceedings be deemed approved to date, the call of the calendar be waived, no motions or resolutions come over under the rule, and the morning hour be deemed to have expired; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 3:30 p.m., with Senators permitted to speak therein for up to 5 minutes each; that at 3:30 p.m., the Senate proceed to executive session to consider the nomination of William Reinsch; and that, upon the completion of debate on that nomination, the Senate then proceed to S. 783, the Fair Credit Reporting Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M., FRIDAY, APRIL 29, 1994

Mr. MITCHELL. Madam President, if there is no further business to come before the Senate today, and since no other Senator is seeking recognition, I ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 7:49 p.m., recessed until Friday, April 29, 1994, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate April 26, 1994:

THE JUDICIARY

HAROLD BAER, JR., OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE ROBERT W. SWEET, RETIRED.

DENISE COTE, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE MARY JOHNSON LOWE, RETIRED.

JOHN G. KOELTL, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE SHIRLEY WOHL KRAM, RETIRED.

JOHN CORBETT O'MEARA, OF MICHIGAN, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN, VICE HORACE W. GILMORE, RETIRED.

BARRINGTON D. PARKER, JR., OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE LEONARD B. SAND, RETIRED.

ROSEMARY S. POOLER, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF NEW YORK, VICE HOWARD G. MUNSON, RETIRED.

ROBERT J. TIMLIN, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

THOMASINA V. ROGERS, OF MARYLAND, TO BE CHAIRMAN OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES FOR THE TERM OF 5 YEARS, VICE BRIAN C. GRIFFIN.

EXTENSIONS OF REMARKS

CONGRESSIONAL REFORM

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. CLAY. Mr. Speaker, I am inserting in the RECORD views that I have submitted to the Subcommittee on Rules of the House regarding the recommendations of the Joint Committee on the Organization of Congress. I commend them to the attention of my colleagues.

DEAR CHAIRMAN BEILENSON: I am writing to express my views regarding the recommendations of the Joint Committee on the Organization of Congress. While I agree with many of the Joint Committee's recommendations, I believe other recommendations of the Joint Committee are ill considered and, if enacted, would be detrimental to the operation of the House of Representatives.

The most egregious of the Joint Committee's recommendations are the proposed changes in the referral of legislation, and the maximum number of committee assignments that Members may take and the recommendation that the Committee on Rules consider a resolution to eliminate any standing committee whose membership falls below 50% of its membership at the end of the 103d Congress. Taken together, these recommendations are an intentional, albeit indirect, attempt to eliminate several existing standing committees. I strongly feel such a consequence would be detrimental to the operation of the House, generally, and would be especially harmful to Members of the Congressional Black Caucus and the constituents we represent.

First, the effect of limiting committee assignments, without also limiting committee sizes, will be that some committee's will attract too many Members to afford Members sufficient opportunity to exercise any real influence within those committees. Junior and minority Members would be particularly disadvantaged as a result. In addition, such large committees are always unwieldy and are often inefficient or ineffective in their operation. The presence of too many Members not only limits the input of individual Members in the legislative process, but detracts from the ability of the Members to give detailed and considered reflection to the subjects before them.

As an illustration, on several occasions the Chairman and ranking minority Member of the Education and Labor Committee have worked out informal agreements limiting opening statements and the number of questions Members may ask during committee hearings. The more important the subject of the hearing or the witnesses before the committee, the more essential such informal agreements become. There are 42 Members on the Education and Labor Committee. Even if each Member adheres to the five-minute rule, it requires three-and-a-half hours simply to get through opening statements. Each round of questioning requires an additional three-and-a-half hours. The alternative to an informal agreement effectively limiting participation of Members in the hearing process is to require Cabinet officers and others to waste the better part of a day before they can even begin presenting their statements. While essential, such agreements substantially limit the quality and amount of information the hearing produces and significantly limit the ability of Members to represent the views of their constituents.

The limitation on committee assignments proposed by the Joint Committee, in the absence of any limitations on committee size, inevitably will discourage Members from taking assignments on so called minor committees, such as the Post Office and Civil Service Committee. Such a consequence does not reflect on the importance of the jurisdiction of the Committee on Post Office and Civil Service or the need for Congress to give considered deliberation to the policies it establishes for the Federal employee workforce and the United States Postal Service. As Vice President Gore's National Performance Review highlights, effective and efficient implementation of every policy and program the Congress enacts is dependent upon the extent to which the personnel needs of the Federal Government are identified and addressed. Nationwide, however, there are fewer than 3,000,000 Federal and postal employees. In all but a limited number of congressional districts, the direct impact of the policies developed by the Post Office and Civil Service Committee is minimal.

By contrast, the Federal Government provides less than 8% of the dollars spent on public elementary and secondary schools. Notwithstanding the fact that education policy is still primarily established at the State and local level, the relatively small amount of Federal dollars will, nevertheless, directly impact the country. Consequently, for most Members, the relative value within their districts of an assignment on the Education and Labor Committee versus the Committee on Post Office and Civil Service is clear. Though the work of the Post Office and Civil Service Committee is no less essential, the apparent value to constituents, and therefore the political rewards, of an assignment to the Education and Labor Committee are substantially greater.

I am not opposed to limiting to two the number of committees on which a Member may serve if, in the wisdom of a majority of the House, it is determined that such a limitation would enhance efficiency. (It should be noted, however, that the House has done relatively well in limiting committee assignments. This is mainly a Senate problem.) However, I am strongly opposed to limiting assignments if the sizes of the committees are not adjusted to enable all standing committees to be assigned a sufficient number of Members.

Assuming current committees sizes and assuming further that those Democrats currently serving on the exclusive committees retain those assignments are not permitted to take additional assignments, when the remaining Democratic Members are multiplied by two (the proposed limit on committees assignments), approximately 96 positions on the non-exclusive committees will be left vacant. Unless a rule limiting committee size is adopted, it will be impossible to fill those 96 vacancies and the Rules Committee necessarily will have to consider a resolution eliminating certain standing committees. (Though it is unclear from the Joint Committee report, I am assuming that Members serving on exclusive committees will be prohibited from serving on other committees. Permitting Members of the Rules Committee, for example, to take an additional assignment, does not, in my view, eliminate the need to restrict committee sizes and raises a host of additional concerns as well.)

Among the committees that I perceive to be at risk are the Committee on Small Business, the Committee on the District of Columbia, the Committee on Post Office and Civil Service, the Committee on the Judiciary, and the Committee on Government Operations. These committees are particularly important to Members of the Congressional Black Caucus and the constituents we represent.

While blacks constitute 15 percent of the Democratic Members of the House, only three Members of the Caucus hold full committee chairs, only a single Member of the Caucus holds an appointed position within the party leadership, and no Member of the Caucus holds an elected position within the party leadership. In my view, failing to place a limit on committee size is tantamount to recommending that the jurisdictions of the Committee on Post Office and Civil Service and the Committee on Government Operations be combined. Both committees are likely to be chaired by representatives of groups who historically have been absent from leadership positions in the House. Not only would the combining of those committees severely diminish the effectiveness and ability of each of those committees to fulfill their jurisdictional responsibilities, but it would produce an unacceptable diminution in the influence women and blacks are able to exert in Congress.

The larger membership of the House of Representatives automatically confers certain advantages and disadvantages as compared to the Senate. Simply because of the greater number of Members, as a general matter, an individual member of the House will not exercise the same degree of influence on legislation that an individual Senator will. However, because of its greater size, House Members have the luxury of being able to specialize to a greater degree than our colleagues in the Senate. The means by which the House encourages and achieves this specialization is through its committee structure. To further diminish the number of committees in the House is to surrender the singular advantage that the House possesses. The consequence is to diminish the quality of consideration that Congress, as a whole, is able to give to legislation.

The Joint Committee has recommended that the Speaker designate a "primary" committee of jurisdiction when a matter is jointly referred and impose time and subject matter restrictions on the other committees of referral after the primary committee re-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ports the matter. Considered in conjunction with the proposal to limit committee assignments, the recommendation further encourages Members to seek assignment to major committees and avoid minor committees.

Major committees, because of their broader jurisdiction, are more likely to be designated as primary committees. For two different reasons, the autonomy of those committees more likely to receive "secondary" referrals may be severely compromised. First, the secondary committees lose discretion to establish their own agendas. In most instances, the primary committee will establish the schedule for the consideration of legislation that has been jointly referred. There are only two means by which the secondary committee can seek to protect its autonomy over its legislative agenda. It may forego consideration of jointly referred legislation, thereby forfeiting its jurisdictional authority; or it may seek to control its agenda by reporting the legislation before the primary committee has acted on it. While the second option may provide the secondary committee greater flexibility in determining when legislation pending before it will be considered, it may also effectively require the secondary committee to postpone consideration of other more important or urgent legislation.

Even more problematic is the fact that the designation of primary committees and time-limited referrals to secondary committees may effectively eliminate the ability of secondary committees to exercise authority over matters within their jurisdiction. Under current House procedures, when a committee decides not to report legislation, the sponsor of that legislation has very limited options by which he or she may seek to overcome the determination of the committee. The Member may seek support for a discharge petition or the Member may seek to persuade the Senate to attach the proposal to legislation it is considering. The recommendation of the Joint Committee provides Members with a third, potentially more effective, means by which the consideration of the committee of jurisdiction may be circumvented. By placing the proposal in a vehicle within the "primary" jurisdiction of another committee, the determination of whether the proposal will be considered by the full House and in what context is effectively transferred from the secondary committee, which possesses the expertise on the subject matter of the proposal, to the primary committee.

Notwithstanding the above comments, I fully support that part of the Joint Committee's recommendation directing the Speaker, in the case of joint referrals, to specify the responsibilities of each committee and impose subject matter restrictions on committees. I concur in the view of the Joint Committee that the adoption of this recommendation would serve to minimize duplication, increase accountability, and deter committees from encroaching on the jurisdiction of other committees.

There are two additional recommendations of the Joint Committee that in my view will adversely impact on committee operations. The Joint Committee has proposed that each standing committee be required to prepare an oversight agenda at the beginning of each Congress and file a report at the conclusion of that Congress on how its agenda was fulfilled. The Joint Committee further proposes that the initial report, to be filed by March 1 of each new Congress, be filed with the Committee on House Administration for use during the committee funding process. Essentially, this proposal requires a committee to develop an oversight agenda, at the beginning of the Congress, well before the committee has had the opportunity to determine what the most important issues pending before it may be and then proposes that the committee be held accountable for achieving an agenda that, at best, has been prematurely established.

It has been my practice to develop the committee's oversight agenda in consultation with the ranking minority Member, the subcommittee chairs, and other Members of the committee. Indeed, upon initially assuming the chair of the Post Office and Civil Service Committee, such consultations were not simply desirable, they were essential. Requiring the establishment of an oversight agenda very early in the first session of a Congress unduly limits the ability of Members to assess the needs of our constituents and may effectively require the committee chair to establish the agenda arbitrarily before he or she has had an opportunity to consult with committee Members. The Joint Committee has suggested that the committees may request the assistance of CRS and GAO in developing their agendas. While I have found that those organizations can be very helpful, I do not feel they constitute an appropriate substitute for input from committee Members.

The Joint Committee recommendation apparently contemplates that the House Administration Committee, in conjunction with the Committee on Government Operations, will act to coordinate the various oversight agendas submitted to it, the purpose being to eliminate duplicative hearings. I disagree with the Joint Committee's view regarding the inefficacy of "redundant" hearings. Numerous committees have held hearings on the subject of health care reform in this Congress. In my view, the ability of a broad range of Members to participate in the hearing process has promoted Congressional understanding of this vital issue. I also have serious concerns about the extent to which the House Administration and Government Operations Committees would coordinate oversight agendas.

The Joint Committee recommends that committees be required to hold oversight hearings on reports issued by inspectors general, GAO, and others. According to the Joint Committee, "Requiring the committees of jurisdiction to conduct hearings on appropriate reports issued during the preceding Congress by, for example, the GAO or the inspectors general will help assure that Members and the public are made aware of management issues and recommendations for corrective action." I am unaware of any committee that does not hold hearings on "appropriate" reports by GAO and others, normally in the same Congress that the report is issued. It would appear that the Joint Committee is dissatisfied with the ability of committees to establish their own oversight agendas and is seeking to transfer that responsibility to others. If this is the Joint Committee's position, I strongly disagree with the assessment and the proposed solution.

Finally, the Joint Committee recommends that the Speaker appoint a task force to issue recommendations on achieving savings in the cost of the legislative branch consistent with the reductions implemented by the executive branch under the National Performance Review. The National Performance Review recommended a reduction of 252,000 Federal employees by the end of 1999. As Chairman of the Committee on Post Office and Civil Service, I have endeavored to ascertain the basis for this recommendation. As nearly as I can tell, the recommendation to reduce the Federal workforce by 252,000 employees was based solely on a desire to project a workforce figure below 2,000,000 by the end of fiscal year 1999. To the extent that the executive branch is undergoing retrenchment, the Congress, as a matter of political necessity, will have to undertake similar steps. It is my hope, however, that such reductions would be based upon a realistic assessment of the needs of the institution. There is no basis for assuming that an arbitrary 12 percent staff reduction is appropriate in either the legislative or executive branch.

I sincerely appreciate the opportunity to express my views on these matters.

CONGRESSMAN KILDEE HONORS CYNTHIA PERRY RAY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. KILDEE. Mr. Speaker, I rise before you today to pay tribute to an exceptional American, Mrs. Cynthia Perry Ray. On Sunday, April 24, 1994, I will join the members of the Crystal Lake District Association at Trinity Missionary Church in Pontiac, MI to recognize Mrs. Ray's numerous achievements.

Cynthia Perry Ray, a native of Pennsylvania, moved to her present home in Brooklyn, NY in 1968 to be with her new husband, Dr. Sandy F. Ray, the late pastor of Cornerstone Missionary Baptist Church. As the "First Lady" of Cornerstone Baptist, Mrs. Ray became involved in many activities focusing on the spiritual enrichment of the congregation as well as the community at large.

Mrs. Ray serves as a missionary and instructor during religious emphasis week. She founded the Agape Feast which is held annually on the Thursday prior to Good Friday after prayer services. Cynthia Ray also works on the local, national and international levels to promote Christian fellowship and leadership among our youth.

Cynthia Perry Ray currently holds the position of first vice-president of the National Baptist Convention Incorporated Women's Auxiliary. Mrs. Ray has served in this position since September 1992. Emulating the name of her home church, Cynthia Ray has been a cornerstone of the women's auxiliary since becoming a member. Before attaining the position of first vice-president, she served as its corresponding secretary as well as its third and second vice-president.

In addition to her current position with the National Baptist Convention, Cynthia Perry Ray has served on the board of directors of the American Bible Society. She is the past president of Church Women United and the former principal of the Mount Pistah Christian Academy in Brooklyn, NY. Mrs. Ray continues to serve as dean of the International association of Ministers Wives and Ministers Widows and is a life member of the National Council of Negro Women. She is a life member of the Women's Convention Auxiliary of the National Baptist Convention USA Inc. Amazingly, she continues to work as an elementary school teacher in the Brooklyn, NY public schools.

Cynthia Perry Ray has received numerous awards over the years including the Allen Jordan Movement Award in February 1993. In September 1993, she received the Business and Professional Women's Dr. Sandy Ray Humanitarian Award, joining the ranks of noted post recipients such as Dr. Benjamin Hooks and U.S. Representative CHARLES RANGEL.

Cynthia Perry Ray and her husband, Dr. Sandy Ray, worked tirelessly to instill a strong sense of Christian values in their children. Mrs. Ray continues to provide spiritual guidance for her family and is a proud mother, grandmother, and great-grandmother. Despite her extremely busy schedule, Cynthia Ray still finds time to design and make her own clothes. Mrs. Ray is also an avid golfer.

Mr. Speaker, it is a great honor for me to rise before you and my fellow Members of the 103d Congress to honor Mrs. Cynthia Perry Ray. Her life's story has been an inspiration to me and should serve as an example for all Americans.

RUTH VAN CLEVE RETIRES

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. DE LUGO. Mr. Speaker, for many years, the Interior Department has had the task of being the Federal Government's primary agency for handling Federal responsibilities regarding territories. Its principal mission in this regard has been to help the territories develop to the point where they could assume the responsibilities of local self-government themselves.

In recent decades, Interior's role regarding the territories has diminished as the insular areas have developed. In fact, its territories mission is now being reconsidered because of greater self-government in the insular areas, growth in their economies, and the extension of Federal programs to them.

At the same time, there is an increasing consensus that there should be a new structure for relating to the areas. Many of us think that it should reflect their development and accord them the recognition that States receive while still ensuring the special attention they need in the Federal decisionmaking process because of the power that they lack in it.

No one individual who has been in Interior deserves more of the credit for it fulfilling its past territories assignment, though, than a woman who recently retired from the Department, Ruth Van Cleve. Over 35 of almost 43 years of truly distinguished service, Ruth became so much a part of what Interior did regarding territories that she personified its territories functions for many of us—that is those that were good and made sense and worked well.

As a matter of fact, Ruth Van Cleve wrote the book entitled "The Office of Territorial Affairs" during her brief tenure away from territories responsibilities during the Nixon and Ford administrations. An excellent explanation of both the Office and the insular areas that it dealt with at the time, the book revealed her empathy for the peoples of the islands as well as her understanding of the complexities of the job.

The Territories Office has always been a relatively small part of Interior, even when its responsibilities were much more extensive than they are now. Yet, it has been in one of the most difficult positions in the Government. It has had to help territories develop and been called to account for conditions in them at the same time that it has lost its authority to supervise islands and to be a link between them and the rest of the Federal Government.

Ruth was sensitive to this changing role and respectful of local decisions.

She is, perhaps, best known as the Director of the Office during most of the Johnson and Carter administrations. Given how she conducted herself and what she helped to achieve, I can easily say that the Office has had no better head in the four decades that I have been dealing with it.

She also served the Federal Government admirably while being as sympathetic to the insular perspective as possible.

She towed the line of administrations while still ensuring that we understood what was needed regarding the terrotiries—even if it wasn't supported by the executive branch.

I never remember her varying from the official position; but I also remember her consistently making the Congress aware of what it wanted to know and should know. She did her job well in acting both on behalf of Federal interests and those of the people of the islands.

Ruth became a Deputy Assistant Secretary for Territorial and International Affairs through President Carter's effort to improve and upgrade the way that territorial matters were handled in the executive branch. She helped develop this initiative which recognized the self-government that the territories had assumed, that agencies other than Interior were increasingly responsible for the programs affecting the territories, and that Interior's territories mission had been limited to providing specified developmental assistance and to helping work out further self-government arrangements.

Ruth was shifted back to the solicitor's office—where she had begun her territories career—at the end of the Carter administration so that her vast institutional knowledge and capabilities would not be lost.

Persident Carter had proposed a review of all Federal laws applying to the insular areas and she was assigned that enormous task. The purpose was to develop recommendations on what changes in policy should be made in light of the political, economic, and social circumstances of the insular areas, especially where they differed from those of the States.

Ruth delayed her retirement from Government until she could complete the laborious assignment of going through every part of the Federal Code. She retired shortly after the completion of a 1,468 page report written in her distinctive, precise, and pleasurable-to-read style. It will be a very valuable reference tool although I think that some of the recommendations that she might otherwise have made may have been sanitized out by others.

Mr. Speaker, the term "bureaucrat" is generally used in a negative way; but Ruth Van Cleve was a bureaucrat who exemplified everything that a civil servant should be. She was professional, knowledgeable, effective, concerned, and serious about doing the people's business. She also is a person of good humor, common sense, compassion, and exceptional communications skills.

She made a difference and she is missed. I wish her well in retirement.

EVGENIYA KUNINA, IN REFUSAL UNTIL 1999

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. HOYER. Mr. Speaker, I rise to call attention to an issue that many of us had thought would expire with the demise of the cold war.

While I was visiting St. Petersburg, Russia recently with the majority leader, I met Evgeniya Kunina, a citizen of the Russian Federation from St. Petersburg, who has been denied permission to emigrate to America with her husband in order to reunite with their son Mikhail. According to OVIR, the office that issues emigration documents, Mrs. Kunina may not leave Russia until 1999, as she allegedly possesses state secrets which she obtained through working in the St. Petersburg research and production corporation, Impuls.

It is important to note here that Mrs. Kunina quit her job at Impuls in February 1991. Thus, OVIR is saying she has to remain hostage in Russia for 8 years after she left her allegedly classified employment. I would note that under Russian law employees of classified institutions are by law notified prior to employment that they may not be able to leave for 5 years. In this era of scientific exchange, openness, and technological progress, the 8-year determination appears arbitrary and the result of personal antagonism rather than scientific considerations.

In a statement issued by the Russian Embassy in Washington, DC, in 1993, the Russian Government noted that the legacy of "refuseniks" in the Soviet Union was dealt with "in no hurry and very inconsistently." It would appear that Mrs. Kunina is an unfortunate victim of this legacy.

Certainly, the number of "refuseniks" has plummeted since the collapse of communism, but that must be cold comfort for a woman who has been told she will be unable to join her son for another 5 years. I urge the Russian Government to allow Mrs. Kunina to emigrate with her husband and join their son here in the United States.

MICHAEL JOHN KELLY—MAKING A DIFFERENCE IN HAYWARD, CA

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. STARK. Mr. Speaker, a very special third grader from my district was honored last

Thursday with a Make A Difference Day Award. Michael Kelly is the youngest recipient of 10 who were honored by USA Weekend magazine for their actions to bring positive change to the lives of others.

Michael's mother, Carmen Lamkin, was homeless when he was born. While they have an apartment now, the family has struggled in recent years to make ends meet, occasionally falling short in the tough California economy. This has brought them to local shelters and soup kitchens for assistance, where they found help and compassion, not indignity. When Michael read about Make a Difference Day, he knew that he wanted to do something for those who rely on shelters and soup kitchens—the men, women, and children he sees lined up outside every day.

Using his entire $2 weekly allowance at the copy store, the 8-year old duplicated a letter to merchants and neighbors asking for old clothes and household goods. Whenever a small sum came his way, he made more copies and walked blocks soliciting help. For the 6 weeks prior to Make A Difference Day, Michael would direct his mother to yard sales asking for donated leftovers, which piled up in their living room.

On the big day, Michael's efforts paid off. He and his family collected two truckloads of clothes, furniture, pots, pans, and more and took them down to the Full Gospel Ministry. The staff at the ministry were certainly stunned by the size of the gift, but the fact that one third-grader could put such an effort together left them in awe. Now Michael and his mom volunteer at the shelter regularly and always bring a trash bag of donated goods that keep coming in from their Hayward neighbors. Michael has also chosen to donate the $1,000 that comes with his award to the Full Gospel Ministry to continue their important work for the neediest in the East Bay.

Mr. Speaker, it is said that life is the greatest teacher. I am heartened that Michael's lessons have made him caring and compassionate, able to see human needs and lend an energetic hand to meet them head on. In accepting his award, Michael said he wants to end homelessness, crime, and racism in his lifetime. If anyone can do it, it's Michael John Kelly. I am proud of him and know that he can make a difference.

CORRESPONDENCE RELATING TO THE CLINTON'S PARTICIPATION IN THE VALUEPARTNERS I HEDGE FUND

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. LIVINGSTON. Mr. Speaker, lots of press attention has been given the exchange of correspondence relating to the Clinton's participation in the ValuePartners I hedge fund. Some of these reports have been inaccurate. So in order to clarify the record, Congressman GEORGE GEKAS and Congressman CHRIS COX join me to introduce into the RECORD correspondence between us and the Office of Government Ethics.

CONGRESS OF THE UNITED STATES,
Washington, DC, March 17, 1994.
Mr. STEPHEN D. POTTS,
Director, U.S. Office of Governmental Ethics,
Washington, DC.

DEAR MR. POTTS: This letter is to bring to your attention certain relevant disclosures made by William Smith, the general partner of ValuePartners I, which have been published since our March 9, 1994 letter to you.

1. During a CNBC interview on March 11, 1994, Mr. Smith stated that he advised Bill and Hillary Rodham Clinton to form a blind trust during 1992. (As recounted in our previous letter, this step was not taken until July 1993.)

2. During the same broadcast, Mr. Smith acknowledged that certain of the stock issues in which Ms. Rodham Clinton's partnership took short positions were so-called "penny stocks"—those with share prices so low that short selling can unduly affect market prices.

3. Mr. Smith also stated in the CNBC interview that James McDougal is not, and has not ever been, one of his clients. The information to the contrary provided in a footnote to our earlier letter was based upon a McDougal balance sheet, obtained from the FDIC, that listed three investments as "Value Partnership." This was apparently mere coincidence and should, therefore, be disregarded. Mr. Smith also stated that he ceased reporting specific short positions to the partners in May 1992. In fact, however, the Form 278 filed by President Clinton on May 14, 1993, included a report from Smith Capital listing specific short sales as of December 31, 1992.

4. During the same CNBC broadcast, Mr. Smith expressed his willingness to provide information. While we have responded by making the enclosed request for documents of Mr. Smith, it is far more appropriate for OGE to be conducting this aspect of the investigation. We therefore renew our request that you do so.

An editorial in the March 21, 1994 Newsweek opined that "it's hard to imagine that Hillary knew one of her investment funds was selling a few health care stocks short before her attack on drug companies. Besides, the fund lost more on health stocks it held." We note that both of these alleged "facts" are not in evidence. To the contrary, the content of the six quarterly reports provided by Mr. Smith to Ms. Rodham Clinton, between July 1992 and July 1993, the telephone conversations between Mr. Smith and Ms. Rodham Clinton, and her staff, and similar evidence all will establish whether she had knowledge of her financial interest in these transactions for purposes of Section 208. This is precisely why investigation is required. Likewise, it is impossible to determine the extent of the partnership's gains and losses from its apparently aggressive short selling activities on only three days. Moreover, Section 208 of the Ethics in Government Act concerns only whether one has a financial interest.

For these reasons, we look forward to your investigatory action to help determine the several issues of fact and law we have raised. Maintaining respect for the nation's ethics laws requires their observance by our highest elected officials. Based upon the best evidence at this date, it appears the issue of Ms. Rodham Clinton's compliance with Section 208 is in doubt.

Once again, thank you for your prompt attention.

Sincerely,
ROBERT LIVINGSTON,
Member of Congress.
GEORGE GEKAS,
Member of Congress.
CHRISTOPHER COX,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 11, 1994.
Mr. WILLIAM SMITH
Smith Capital Management, Little Rock, AR.

DEAR MR. SMITH: On CNBC today, you stated you would have been pleased to provide all relevant information concerning ValuePartners I to ensure full disclosure of the facts and circumstances surrounding Hillary Rodham Clinton's partnership therein. We accept that as an offer of continuing support, and ask that you provide the following:

(a) The names and addresses of all owners of a beneficial interest in ValuePartners I during the period beginning on formation of the partnership and ending on the date hereof, together with the proportionate partnership interests held by such persons throughout the period.

(b) Details of each short sale by ValuePartners I during the period, including issuer, price, gain or loss, fees, and commissions and other costs associated therewith.

(c) Details of each other investment by ValuePartners I during the period.

(d) Copies of all reports provided to partners in ValuePartners I during the period, together with all documents and other evidence (including notes, phone logs, diaries, and phone bills) of telephone calls or other communications between you and either or both Hillary Rodham Clinton and William J. Clinton, or their agents, during the period.

(e) Copies of all financial statements of ValuePartners I (including unaudited statements for internal use, if any) prepared during the period.

(f) All correspondence and other documents between you and either or both Hillary Rodham Clinton and William J. Clinton, or their agents, during the period.

(g) Details of all short sales during the period for the beneficial interest of either or both Hillary Rodham Clinton and William J. Clinton caused, obtained, or arranged for by you, or of which you are aware, whether or not in connection with ValuePartners I.

(h) Details of all partnership distributions from ValuePartners I in which either or both Hillary Rodham Clinton and William J. Clinton had a beneficial interest during the period.

(i) Copies of all tax returns, and schedules and other documents in connection therewith, filed or prepared by ValuePartners I during the period, together with all tax informational records and notices provided to partners in ValuePartners I during the period.

Definitions. For purposes of this request, the following terms shall have the meanings set forth below:

(a) "You" means you, Smith Capital Management, its agents, officers, employees, predecessors, successors, and affiliates.

(b) "Period" means the period beginning on formation of ValuePartners I and ending on the date hereof.

(c) "Documents" means all papers, notes, books, records, files, invoices, correspondence, computer data, memoranda, diaries, telephone records, and physical information of any kind.

(d) "Beneficial interest" means direct or indirect ownership or financial interest, and includes specifically any interest in custodial accounts, investment accounts, individual retirement accounts, brokerage accounts, partnership interests, trusts, and any other form of savings, investment, or retirement account, as well as any direct or indirect interest in securities.

Please respond no later than March 25, 1994. Thank you for your cooperation.

Sincerely,

ROBERT LIVINGSTON,
Member of Congress.
CHRISTOPHER COX,
Member of Congress.
GEORGE GEKAS,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 9, 1994.
STEPHEN D. POTTS,
Director, U.S. Office of Government Ethics, Washington, DC.

DEAR MR. POTTS: On January 26, 1994 Congressmen Livingston, Gekas, and Cox wrote to you seeking information as to the existence or status of any investigation into suggestions in the press that a federal employee, Hillary Rodham Clinton, had violated federal ethics laws and regulations. Your letter of February 10, 1994 responded that your office had not conducted and was not conducting an investigation because, thus far, "OGE is not aware of any information * * * that would call for such an investigation." We have, therefore, provided below specific facts and circumstances that according to the standards set forth in your response merit further Congressional inquiry as well as investigation by the Office of Government Ethics.

Your letter of February 10, 1994 states that if a person is an officer or employee of the executive branch of the United States government, that person's ethical conduct and responsibilities are governed by the criminal ethics laws of 18 U.S.C. secs. 201-209. You also say that the "Standards of Ethical Conduct" issued pursuant to the Ethics in Government Act, Executive Order 12674, as modified, and 5 U.S.C. secs. 7351 and 7353, set forth applicable regulations governing conflicting financial interests and misuse of position. You note the Standards of Ethical Conduct also include general principles of Executive Order 12674 which include, among others, the requirement that employees avoid any actions creating the appearance that they are violating ethics laws and regulations.

In 1986 Hillary Rodham Clinton first acquired an interest in a non-public limited partnership called ValuePartners I. Some time during 1992 her investment in this partnership increased.

William Rowland Smith is President of Smith Capital Management, Inc. ("Smith Capital") and is the general partner of ValuePartners I. A registered investment advisor, Smith Capital filed an amendment to its registration statement with the United States Securities and Exchange Commission, Form ADV, on March 16, 1993. The amended Form ADV stated that the management of the assets of ValuePartners I was entrusted to Smith Capital for a fee of three percent a year. The Form ADV also discloses that Smith Capital provides at least quarterly reports to investors concerning the makeup, appraisal and performance of the investment portfolio of ValuePartners I. Tax reports are also provided in January-February for planning and tax reporting purposes. Additional reports are provided on request.

The personal investments of President and Ms. Rodham Clinton were not placed into a blind trust until July 4, 1993. Consequently, prior to that date Ms. Rodham Clinton received regular reports from Smith Capital, including specifically a minimum of six reports in 1992 and the first half of 1993, detailing the short sale positions of ValuePartners I.[1] Ms. Rodham Clinton was, therefore, actually and constructively in receipt of information showing she had a direct and personal financial interest in short sales of pharmaceutical and health care stocks. Indeed, a list of these short sales prepared by Smith Capital was attached to the Executive Branch Public Financial Disclosure Reports, Forms 278, filed by candidate William J. Clinton on November 7, 1991, and May 19, 1992, and by President Clinton on May 14, 1993.[2]

The President's Task Force on National Health Care Reform ("Task Force") was created in early 1993 for the specific purpose of developing a legislative proposal on health care. Ms. Rodham Clinton was appointed by the President as the Chairperson of the Task Force. This was a "particular matter" concerning which Ms. Rodham Clinton had responsibility for operation, management and decision making. She was judicially determined to be a federal employee for that purpose. Association of American Physicians and Surgeons v. Clinton 997 F.2d 898 (D.C. Cir. 1994). She was patently participating "personally and substantially" in the decision making of the Task Force.

Ms. Rodham Clinton, in her federal employee capacity as Chairperson of the Task Force, gave numerous speeches attacking a discrete and identifiable class: pharmaceutical firms. Her attacks targeted these firms for regulation and price controls. These speeches had the effect of driving down prices in stocks in these specific companies. We submit herewith a detailed study produced at the University of Michigan concluding that the public pronouncements of the Clintons criticizing pharmaceutical firms depressed stock prices of those firms by as much as twenty-seven percent. S. Craig Pirrong, Political Rhetoric and Stock Price Volatility: A Case Study. This concentrated effort by the President and Ms. Rodham Clinton clearly had the "direct and predictable effect" of driving down the stock prices of pharmaceutical firms. United States v. Gorman, 807 F.2d 1299 (6th Cir. 1986).

At the time that Ms. Rodham Clinton's actions caused the drop in the prices of these stocks, her personal investment in ValuePartners I, of which she had repeated notice, was intentionally structured to profit from price declines in pharmaceutical company stocks. The list of assets filed with each of the three Clinton Forms 278 shows short sales in twelve different pharmaceutical and health care companies, including Merck & Co. Inc., Bristol-Myers Squibb, Inc. and Bioplasty, Inc.

The profit or loss from the individual short sales that Ms. Rodham Clinton's partnership made cannot be calculated from the inadequate and inconsistently reported information provided with the Forms 278 filed by the President after October 31, 1991. The net effect of the short selling by Ms. Rodham Clinton's partnership can, however, be determined from the filings. At the start of the Presidential campaign in October, 1991 the short sale portfolio of ValuePartners I included only one health care stock. A year later the short sale portfolio of Ms. Rodham Clinton's partnership included twelve pharmaceutical and health care companies. These short sales netted an overall profit of approximately $275,000.

On these facts, and given the law and regulations you have cited as applicable in this case, the Office of Government Ethics has a responsibility to investigate this matter. Ms. Rodham Clinton had responsibility for a "particular matter." She participated "personally and substantially." Her official actions had a "direct and predictable effect." She personally profited as a result. She had actual and constructive knowledge of her financial interest.

At a minimum, this conduct violates the very regulations to which your previous letter refers, inasmuch as it constitutes the appearance of impropriety and conflict of interest. We believe, however, that Ms. Rodham Clinton's actions not only create the appearance of impropriety but may in fact violate the prohibitions of 18 U.S.C. sec. 208.

If the Office of Government Ethics chooses not to immediately begin an investigation of this matter, and to take whatever other actions are necessary to enforce the federal ethics laws and regulations, we request that you outline the specific reason you believe that Section 208 is facially inapplicable. Please respond to this letter by the close of business on Wednesday, March 16, 1994.

Thank you for your consideration.

Sincerely,

ROBERT L. LIVINGSTON,
Member of Congress.
GEORGE W. GEKAS,
Member of Congress.
CHRISTOPHER COX,
Member of Congress.

FOOTNOTES

[1] In addition, according to Mr. Smith, during 1992 Ms. Rodham Clinton and he spoke by telephone. During 1993 Vincent Foster, Deputy White House Counsel, and Mr. Smith spoke by telephone, apparently concerning Ms. Rodham Clinton's investment since Mr. Foster was not a participant in ValuePartners I at the time. Other partners in ValuePartners I were personal friends and acquaintances of Ms. Rodham Clinton—including James B. McDougal. The non-public, closely held nature of ValuePartners I, a partnership including individuals who knew each other, provides additional evidence that in addition to actual and constructive knowledge of ValuePartners I investments, Ms. Rodham Clinton may have been in a position to influence these investments.

[2] We note that the filing by President Clinton is apparently not in compliance with governing federal regulations. The instructions to Schedule A of Form 278 require the listing of assets owned within thirty-one days of the filing of Form 278. On May 14, 1993 President Clinton filed Form 278 which included a "Smith Capital Management Portfolio Appraisal, ValuePartners I," dated "12-31-92." It would appear that, in order to comply with the thirty-one day requirement of form 278, the assets of ValuePartners I should not have been valued as of December, 1992. We would appreciate specific OGE advice concerning this requirement, and compliance or non-compliance therewith by the report in question.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 26, 1994.
Hon. STEPHEN D. POTTS,
Director, Office of Government Ethics, Washington, DC.

DEAR MR. POTTS: We are writing to you concerning reports covering the investment activities of either or both President William Clinton and First Lady Hillary Rodham Clinton published in the Washington Times and in Money magazine. The Washington Times reports, entitled "Side Benefits of Rx Rhetoric" (November 18, 1993) and "Standards Shift for Hillary?" (November 22, 1993), by nationally syndicated columnist Tony Snow, concerned the Clintons' investment in a partnership that sold pharmaceutical, health care, and insurance company stocks short. The articles raise the possibility that this short selling, combined with statements made by the President and First Lady, may have been in conflict with ethical regulations governing Administration officials. Copies of these articles are attached.

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[2] Footnotes At End of Article

According to press accounts, either or both the President or Ms. Clinton have invested approximately one hundred thousand dollars in a partnership named "ValuePartners I." This partnership is managed by William Smith in Little Rock, Arkansas, a personal acquaintance of the Clintons. Press reports indicate that ValuePartners I dramatically increased its short selling of stocks in pharmaceutical, health care, and insurance company stocks at a time when Ms. Clinton and the President were making public statements critical of those industries, she in her capacity as head of the Administration's Health Care Task Force and he as President. An article in Money magazine entitled "How Blind is Your Trust?" (January, 1993) states that following the recommendations of Ms. Clinton's Health Care Task Force, prices of health care stocks dropped by as much as twenty and thirty percent. A copy of this article is also attached.

Press reports allege that Ms. Clinton was receiving regular reports from her adviser, Mr. Smith, at this time. Only after the increased short selling campaign of Valuepartners I had begun, and only in July, 1993, months after Money magazine called for the Clintons to place their investments in a blind trust, was such a trust created.

Both the President and Ms. Clinton would certainly be aware of the impact on the market of their statements about the Administration's health care proposals. The ability of the President and Ms. Clinton to affect prices in the securities markets is unique. The questions already raised publicly concerning their investments, particularly the short sales, must be addressed.

To assist the Congress in making a determination of whether an investigation is warranted, we request that the Office of Government Ethics provide an analysis of the threshold questions that these transactions raise under the Ethics in Government Act. While we would appreciate any additional factual or legal observations the Office of Government Ethics and its staff can share with us concerning these matters, at a minimum, your analysis should include answers to the following questions:

1. In so far as the maintenance of public confidence in government clearly demands that an employee take no action which would constitute the use of his official position to advance his personal or private interests, would the announcement of proposed Administration policy, at a time when the officials responsible for the announcements owned investments whose prices would reasonably be expected to be impacted by these statements, constitute a violation of the Ethics in Government Act by those officials?

2. Is the Office of Government Ethics conducting an investigation into possible violations of the Ethics in Government Act by the President, Ms. Clinton, or Mr. Smith in connection with their short selling or other investment activities?

We would appreciate at least a preliminary response to these questions by the close of business on February 9, 1994. If you need any additional information concerning this inquiry, please feel free to contact our offices. Thank you for your assistance in this matter.

Sincerely,

ROBERT L. LIVINGSTON,
Member of Congress.
GEORGE W. GEKAS,
Member of Congress.
CHRISTOPHER COX,
Member of Congress.

CONGRESSMAN KILDEE SALUTES MELVYN S. BRANNON AND ERNELLE TAYLOR

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. KILDEE. Mr. Speaker, it is with great pride that I rise before you today to pay tribute to Melvyn S. Brannon and Ernelle Taylor, both of whom were recently honored by the Urban League of Flint for 25 years of dedicated service. Mr. Brannon and Ms. Taylor were formally recognized by that very important organization on April 19, 1994 at a dinner in their honor.

Mr. Brannon has served with the Urban League of Flint since 1968, initially as deputy executive director and, from 1970 to the present, as president. His chief focus has been on educational initiatives that have demonstrated themselves to be of great value to the Flint community. These initiatives include: The Salute to Black Scholars programs, which honors at a community dinner graduating high school seniors who have maintained at least a 3.0 grade point average; Parent Enrichment programs, which aim to train parents of middle school students to better facilitate their childrens' educations at home; Incentives for Success, an enrichment program for at-risk students identified as potential dropouts; the Reading Olympics, designed to enhance reading skills of middle school students by encouraging the reading of African and African-American literature; and the 21st Century Network, a mentoring program that provides elementary school students with young, professional African-American role models who visit schools to discuss education and career options.

Ms. Taylor has served the Urban League of Flint since 1969, initially as an administrative assistant and, from 1984 to the present, as vice president for volunteers and special events. League members tell me that, without her tireless service, their organization would be hard-pressed to efficiently and sensitively conduct business. In addition to her work with the League, Ms. Taylor is involved with numerous other community organizations that include: The Flint chapter of the NAACP; the Junior League of Flint; the YWCA of Flint; Big Sisters of Flint; the Womens' Treatment Improvement Advisory Council, which oversees transitional homes for women recovering from substance abuse; the Advisory Council of the Whaley Out-Patient Clinic; the Board of Directors of the Cedar Street Childrens' Center; and the Leadership Summit Committee, a community-wide hospital oncology program.

Mr. Speaker, Melvyn Brannon and Ernelle Taylor have selflessly worked to make a brighter future for the entire Flint community. Their recognition dinner for their 25 years of service should not be seen as an end, but rather a beginning of their second 25 years with the Urgan League of Flint. I ask you and my fellow colleagues of this 103d Congress to join me in paying tribute to two exemplary public servants, Mr. Melvyn Brannon and Ms. Ernelle Taylor.

ON THE PASSING OF THOMAS S. DUNMIRE

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. DE LUGO. Mr. Speaker, I plan to attend the funeral at Arlington National Cemetery later today of someone who symbolized the bipartisanship with which this House has generally approached questions concerning the insular areas.

Thomas S. Dunmire, a member of the staff of the Committee on Interior and Insular Affairs from 1973 until 1985, died last week in his retirement home of Hawaii.

Tom was the epitome of an objective, knowledgeable, and insightful staffer and assisted members of both parties with equal professionalism.

In fact, although he was the Republican consultant on insular issues, he was the committee's key adviser on them from 1977 to 1981. His expertise and judgment were relied upon greatly by my predecessor as chairman of the subcommittee with primary jurisdiction regarding insular matters, Phillip Burton.

Tom had been brought to the committee by his fellow Californian, Don Clausen, after more than 20 years in the Army. A West Point graduate, Tom rose to the rank of lieutenant colonel, served in Viet Nam, and earned the Bronze Star and Legion of Merit, among other commendations.

For many of his years here, Tom worked under the Insular Subcommittee's ranking Republican, Robert J. Lagomarsino. When Tom retired, Bob paid a tribute to him in which he said that Tom had "provided intelligent and sound counsel enabling Congress to formulate effective and successful policies" regarding the insular areas and "played a critical role in the promotion of political, social, and economic development" of these Caribbean and Pacific islands associated with the United States.

He also pointed out that Tom's hard work, sound advice, and friendly nature would be missed.

And Tom was missed to the extent that full committee chairman Mo Udall, ranking Republican DON YOUNG, and I formally called him back into congressional service for special assistance.

The assignments were in connection with the committee's consideration of the legislation that will enable the world's last remaining trust territory—the western Pacific islands of Palau—to become a sovereign State in free association with our Nation.

These assignments were not easy ones.

In one case, they involved Tom going to Palau to provide an essential and visible Federal presence at a time that individuals connected with the incumbent administration of the islands were violently intimidating critics of that administration's policies—and the Reagan administration refused to do anything about it or even admit it even though our Government was fully responsible for the governing of the territory.

The assignments also involved Tom investigating matters that proved very embarrassing to the powers that were at the time and helping to identify the assistance that Palau needed to overcome the very serious problems that it then faced.

Mr. Speaker, Tom took these assignments on in spite of the cause for his departure from the staff.

And there is a message in the story which should be recognized.

Tom left because some policymakers did not want to face up to the flaws in the free association compact that had been negotiated with the Marshall Islands and Micronesia.

Others of us, however, listened to the concerns that Tom raised as one who was sincerely interested in the peoples of the islands and equally dedicated to good public policy for our Nation. So, we forced major improvements of the proposal into the compact legislation which was enacted in 1986.

I have been very gratified in the years since as the wisdom of Tom's concerns has been proven in instance after instance, as the problems that Tom foresaw in the originally negotiated compact developed.

The peoples of the islands involved and our Nation were, indeed, fortunate that Tom was willing to say what needed to be said although it was not politically convenient at the time. Because of what he did, measures were taken to address the problems that he identified.

Mr. Speaker, I want to close by expressing my condolences to Tom's widow, Gail, and to his five children: Nancy; Ann; Lisa; Tom, Jr.; and Kate.

EIGHTH ANNIVERSARY OF CHERNOBYL

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. HOYER. Mr. Speaker, the Chernobyl nuclear disaster marks a tragic milestone in the history of the world. Today is the eighth anniversary of this nuclear explosion that continues to have such a devastating effect, especially in Ukraine and Belarus.

The explosion of the reactor at Chernobyl released approximately 50 times more radioactivity than was released by the atomic bombs at Hiroshima and Nagasaki. Thousands of people, many of them nuclear cleanup workers, have already died as a result of radiation exposure from Chernobyl.

With the passage of time there is a tendency to forget, and hence, become complacent about the ramifications of this disaster. However, although 8 years have passed, the scope of the destruction and its long-term effects cannot be understated. Inadequate decontamination efforts have failed to eliminate the radiation. The sarcophagus, or covering, over the obliterated fourth reactor has developed serious cracks. Unless serious measures are taken to repair it, experts fear that it will corrode before the end of the decade, releasing tons of radioactive dust into the atmosphere. In addition, there are continuing concerns about radionuclide pollution of the Dnipro River, Ukraine's main river and source of Kiev's drinking water.

The health consequences of Chernobyl remain devastating. There is incontrovertible evidence that the Chernobyl catastrophe has had deleterious effects on the health of hundreds of thousands of people, including illnesses of the thyroid gland, blood related diseases, and other illnesses. Thyroid cancer in children is 80 times higher than normal and rising.

Mr. Speaker, the biggest health impact, however, is yet to come. Because of the latency period for various radiation-related diseases, the peak effect on the health of the population is expected to come between 1996 and 2006. This provides us with an opportunity to provide assistance to help develop the sorely lacking medical infrastructures in Ukraine and Belarus when that peak effect strikes.

Another way in which we can help to overcome the devastating legacy of Chernobyl is to ensure that it never happens again. Unfortunately, economically devastated Ukraine is still utilizing the notoriously unsafe RBMK-Chernobyl type reactors. The international community must help Ukraine and Russia improve the safety of their nuclear reactors. One alternative might include speeding the construction of safer reactors. I can think of few areas in which the international community's assistance efforts would be ore worthwhile and in keeping with our environmental, national security, and humanitarian interests.

BIRTHDAY WISHES TO GEORGE HARRISON WHITNEY

HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. KIM. Mr. Speaker, I rise today to wish my constituent, Mr. George Harrison Whitney, who resides in Upland, CA, in the 41st Congressional District, belated birthday wishes. Mr. Whitney celebrated his 80th birthday on March 3, 1994, and it is my honor to send him belated birthday greetings on being 80 years young and wish him many happy returns.

TRIBUTE TO TAFT HIGH SCHOOL, WOODLAND HILLS, CA

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. BEILENSON. Mr. Speaker, on behalf of myself and my constituents in California's 24th Congressional District, I am honored to call my colleagues' attention to the achievement of Taft High School of Woodland Hills, CA. This month, for the second time in 5 years, Taft won the national championship of the U.S. Academic Decathlon, the "Super Bowl" of secondary-school academics. The nine-member team recorded the highest score in the 13-year history of the event, as well as the highest individual score, and won the more than half of the $30,000 in scholarships awarded to individual students.

The team members, who claimed five of nine awards for individual high scores, included: top student, Daniel Bedichevsky, 17; Chris Huie, 17; Michael Michrowski, 17; Sheldon Peregrino, 18; Rebecca Rissman, 17; Andrew Salter, 17; Kimberly Shapiro, 16; Stephen Shaw, 16; and Sage Vaughn, 17;

These nine high school students and their academic coach, Arthur Berchin, began preparing for the decathlon last summer. After competing with classmates for a place on the Taft team, the students took practice tests every day after school and studied over weekends and holidays, even after the January 17th earthquake damaged their homes and school.

In March Taft defeated 42 California public and private schools to place first in the State, and the team went on to the national match, competing against 41 States and the District of Columbia in 10 events, including math, fine arts, economics, science, and literature. The competition also included a gameshow style super quiz that tested students' knowledge of 19 important documents, such as the Camp David accords.

I congratulate the team members, their coach, Arthur Berchin, and the Taft faculty and student body for this very special achievement. Their high level of excellence—especially in the face of both today's tight school budgets and the often unfair criticism of our schools and students—shows what can be accomplished through dedication and hard work. Taft continues to be a credit to our city and a role model for other schools to follow.

I am enormously proud to be able to bring Taft's outstanding achievement to the attention of the Members of the U.S. Congress.

KLEIN HIGH SCHOOL CHORALE WINS NATIONAL COMPETITION

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. FIELDS of Texas. Mr. Speaker, it is with great pride that I wish to bring to the attention of the House the fact that the Klein High School chorale recently took first place honors at the National High School Choral Festival held in Washington, DC, April 16–20. I am pleased that Klein High School is located in my congressional district, and that I represent most of the school's students in this body.

This honor is testament to the hard work and dedication of the 82 young men and women who comprise the Klein High School chorale, as well as the hard work and dedication of choral director Phillip Raddin and his assistant choral director, Jan Juneau.

In all, 240 choirs that had received regional recognition submitted audition tapes to the festival committee. From this group, 28 choirs were invited to attend, and perform at, the festival. The top eight choirs were invited to perform at the John F. Kennedy Center for the Performing Arts on the evening of April 19. It was from this group that the Klein High School chorale received the first-place award.

During their trip to the Nation's capital, the members of the Klein High School chorale also were asked to perform at the National Cathedral, Needless to say, Mr. Speaker, the members of the Klein High School chorale had an enjoyable and exciting time in Washington.

I hope you, and all of my colleagues, will join with me in congratulating the members of the Klein High School chorale, their parents, and the faculty and staff of Klein High School—especially Phillip Raddin and Jan Juneau— on winning the National High School Choral Festival, and wishing them continued success and happiness in the future.

Thank you, Mr. Speaker.

CONGRESSIONAL SUPPORT OF THE HMONG PEOPLE IN THAILAND

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. CUNNINGHAM. Mr. Speaker, I would like to include in the CONGRESSIONAL RECORD an important letter to the Government of Thailand about the Hmong people of Laos, their leader Gen. Vang Pao and Lao Gen. Thonglid Chokbenbun. Congressman BEN GILMAN, DUNCAN HUNTER, and myself have received deeply disturbing information concerning the plight of the Hmong people in Thailand.

As a Vietnam veteran, I recognize the important role of Gen. Vang Pao and the Hmong people, and I am grateful for the sacrifices that they made for the United States and Thailand during the war years.

Gen. Vang Pao continues to be the beacon of light for the Hmong people, for freedom, democracy, and human rights in Laos. I trust that this letter will continue to remind us of the situation that the Hmong face as well as bring a level of cooperation from the people of Thailand.

March 31, 1994.

His Majesty King BHUMIBOL ADULYADEJ,
The Grand Palace, Na Phra Lan Road, Bangkok 10200, Thailand.

YOUR MAJESTY: As Members of the U.S. Congress and friends of Thailand, we ask for your support and assistance on a matter of significant importance to us. We are very concerned with recent reports in the Bangkok press about some senior leaders in the Thai military taking action—and asking the United States government to take action—against General Vang Pao and his Hmong people as well as General Thonglid Chokbenbun.

As you know, in the secret Laotian theatre of the Vietnam war, the Hmong people suffered very large casualties and paid a very terrible price for their support of crucial Thai and United States' covert military operations. During the course of that war Thai and American military advisors died with the Hmong—under the leadership of General Vang Pao—who fought to block the North Vietnamese army from advances into Laos and Thailand. To this day, the Hmong people continue to suffer greatly for their loyalty to Thailand and the United States during the war and its aftermath.

We have been, therefore, shocked to learn that some Thai military officials were acting against—and seeking the U.S. State Department's help to act against—America's longtime allies from Laos who continue to seek to bring democracy, freedom and human rights to their people.

Your Majesty, we respectfully ask you and the Queen to intervene personally and discuss this matter with these Thai military officials—as well as other senior Royal Thai political and military leaders—so that they are aware of the importance many in the United States Congress still place on our long-time Hmong and Lao allies. So that it does not become the policy of the Royal Government of Thailand at any time, we request you to communicate to these Thai officials and to the people of Thailand our strong opposition to the recent action by some in the Thai military against General Vang Pao, General Thonglid Chokbenbun and other freedom-loving Hmong and Lao people.

Thank you for your assistance with this matter; we await your response.

Sincerely,

BEN GILMAN.
DUNCAN HUNTER.
RANDY CUNNINGHAM.

TRIBUTE TO LARRY AUSTIN, RECIPIENT OF THE HARRY CHAPIN HUMANITARIAN AWARD

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to Larry Austin, who will be honored on May 13 with the 1994 Harry Chapin Humanitarian Award for Community Service. This prestigious award is presented once a year by the Long Island Association to an individual whose activities continue the tradition of community service exemplified by the late singer, songwriter and humanitarian, Harry Chapin.

Larry Austin is chairman and president of Austin Travel, a company he founded in 1955. Today his business has grown to 22 offices and 175 employees across the United States. Like Harry Chapin did, Larry Austin believes it is his responsibility to give something back to his community. That's why he has been involved for decades in numerous Long Island causes.

For over 20 years, Larry Austin has been a leader in the Long Island Association, the premier business organization in Nassau and Suffolk Counties, NY. As chairman of the LIA's Transportation Committee, Larry has been a vocal advocate for improving Long Island's transportation system, including the completion of the service roads and a fourth lane for the Long Island expressway. He also has fought for improved Long Island Railroad freight operations, and for renovations at Long Island's local airports.

Among Larry's other business and civic activities, he is chairman of the Marketing Committee of the C.W. Post School of Business, and he serves on the Long Island Better Business Bureau.

Larry Austin has also been a leader in cultural affairs. He worked closely with Harry Chapin on many occasions to promote Long Island's cultural institutions. As president and board member of the Long Island Philharmonic, Larry saved this orchestra when it was threatened with bankruptcy. He also serves on the board of WLIW-Channel 21, Long Island's public television station.

Larry and his wife Eileen have three sons and six grandchildren.

Mr. Speaker, I ask all my colleagues in the House of Representatives to join me now in paying tribute to Larry Austin, and to congratulate him on being awarded the Harry Chapin Humanitarian Award for Community Service.

TRIBUTE TO ROBERT "BOB" BERKLEY BALLOU

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. DIXON. Mr. Speaker, I rise today to pay a special tribute to attorney Robert "Bob" Berkley Ballou, who on December 31, 1993, began a richly deserved retirement from the active practice of law in Los Angeles. Bob's career as an attorney spanned almost four decades, during which he earned a reputation as an astute counselor, a trustworthy friend, and a devoted family man. In recognition of his distinguished career in law, on Saturday, April 30, 1994, just one day after celebrating his 65th birthday, family, friends, and colleagues of Bob's will gather to honor him at a surprise retirement brunch at the Proud Bird Restaurant in Los Angeles.

Born in Pittsburgh, PA on April 29, 1929, to Mr. Henry Morris Ballou and Ms. Dorothy Walker Lee, Bob spent his early youth in Pittsburgh before relocating with his family to Los Angeles. He attended Forshay Junior High School, Manual Arts High School, and Los Angeles State College before receiving his law degree from Southwestern Law School.

In 1956, Bob joined the law offices of attorney Calvin Porter. In 1959, he became a solo practitioner with the opening of an office on what was then Santa Barbara Boulevard. He remained in practice for 2 years before teaming with attorney Bill Woods to open an office on Western Avenue. Attorneys Woods and Ballou practiced together for 14 years. In 1975 Bob decided to go solo once again and opened another office where he remained until his retirement in December 1993.

Throughout his distinguished career, Bob maintained a visible and influential presence in the Los Angeles community. He has been an enthusiastic supporter of many community service organizations, including the Young Men's Christian Association (YMCA), the Robert Brooks Ballou Foundation, and various mentor programs. His dedication and commitment to excellence have served to inspire many aspiring young men and women.

Bob Ballou has earned the admiration and respect of many individuals. To those he has touched, he is known as a friendly, loving, and caring person. It has often been said that "[Bob] has met no strangers, [and] everyone is his friend." As an individual who has had the privilege of knowing him for many years, these words aptly describe an individual who has reached out to numerous individuals and endeavored to assist anyone who needed help. Indeed, his keen perceptions of the needs of his fellow human beings and his high ethical standards, have been the guiding principles of his life and the hallmarks of his career as an attorney at law.

Bob has had two loves in his life—his family and his golf. He has never allowed anything or any person to stand in the way of his absolute love and support for his wife Patti, and their children, Nikki, Candice, and Brian.

Now that he has retired, Bob and Patti have moved to northern California, where Bob's other love—golf—is just a "stone's throw" away from the couple's home. Bob and Patti's residence overlooks the golf course and they are enjoying the company of close personal friends.

Mr. Speaker, I am pleased to commend Robert "Bob" Berkley Ballou on his outstanding contributions to the practice of law, and to the citizens of Los Angeles. I ask my colleagues to join me in extending to him and Patti our very best wishes for a wonderful and well-deserved retirement, full of prosperity and good health. Bob, may you consistently shoot under par and have your share of holes in one.

PARTNERSHIP FOR ENVIRONMENTAL EDUCATION

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. SAXTON. Mr. Speaker, 3 years ago it was my pleasure to bring to the attention of the House of Representatives a program, financed by a company in the private sector, aimed at helping educate the environmental leaders of tomorrow and provide resources vital to the support of environmental science. It was unveiled on May 1, 1991 by EPA Administrator William Reilly and Deputy Secretary of the Interior Frank Bracken. On May 6, 1994, the 3-year anniversary of the program is being celebrated, and I want to take this opportunity to provide my colleagues with a status report.

The program is the Partnership for Environmental Education, and it is part of the Times Mirror Magazines Conservation Council. Times Mirror Magazines is the Nation's largest publisher of leisure-time publications. Those of us who fish, hunt, golf, ski, boat, work on our homes or cars, follow sports, or want to know about the latest scientific developments have read the pages of Times Mirror Magazines: Field and Stream, Outdoor Life, Golf Magazine, Ski Magazine, Skiing, Yachting, Popular Science, the Sporting News, Salt Water Sportsman, and Home Mechanix.

The Conservation Council pools the communicative strengths of the magazines to address conservation issues, creating a more aware and involved public. The Partnership for Environmental Education extends that concept into the advertising pages of all the magazines, and supports important environmental education programs across the country.

To encourage its advertisers to join the Council in increasing public awareness and involvement in the solution of environmental problems, the Partnership for Environmental Education takes 2.5 percent of the revenue from advertising that contains environmental messages and donates those funds—in the advertiser's name—to environmental education programs chosen by the editors of the magazines.

In the past 3 years the program has been an incredible success. To date over $250,000 has been distributed to environmental education programs, and over 140 advertisers have been involved, with an excess of $10 million in advertising. Almost 1,000 pages of advertising have included environmental messages, thereby increasing environmental awareness. And equally important, about 50 education programs across the country have been supported. These programs span the range of the possible. Examples include: A salmon frye rearing station for students in Nome, AK, high school; scholarships for Princeton University students in environmental science; an aquaculture education program for Maryland teachers; woodland and wetland restoration projects in Bronx, NY; the Lee Wulff scholarship program for graduate students in fisheries science with Trout Unlimited; support for the National Environmental Education and Training Foundation; angler education projects on the Chesapeake Bay, in Virginia and Florida; an environmental education sign program on ski slopes across the country; providing students with equipment to explore and analyze the Los Angeles River corridor; various videos, newsletters, teacher training, posters, coloring books, and other environmental education materials used across the country.

Whenever possible, the partnership's funds are used in public-private partnerships such as through the National Fish and Wildlife Foundation and the National Environmental Education and Training Foundation.

But the success of this program is mostly a function of the willingness of advertisers to participate in this program. The list of these companies helping solve environmental problems through education are: Abu Garcia, Ace Hardware, AFTCO, Agri-diagnostics, Albermarle Boats, Alpine Meadows, American Recreation Products, Ande Monofilament, Aquasport, Aspen Skiing Company, Baltic Yachts, Bayliner, BCS America, Bighorn Resort, Big Sky Montana, Bio Lab Inc., Boston Whaler, Browning Arms, Carolina Classic, Cat Harbor Boats, Cayman Islands, Chevrolet, Christensen Yachts, Corpus Christi Art Connection, Defender, Derecktor, Echotec, Edison Electric Institute, Eljer, Federal Cartridge Company, First Brands/Prestone Anti-freeze, Fischer, Fishing International, Fiskars, Fountain Powerboats, Four Season Sun Rooms, Furuno, Goodyear, Gore Mountain, Gore-Tex, Grady-White, Grandoe, Harrison-Hoge/Sea Eagle, Hi-Tec, Hinckley, Homelite, Honda Outboards, ICOM Electronics, Interlux, International Paint, Invader Marine, Jackson Hole, Johnson Camping/Eureka Tent!, Johnson Controls, Johnson Fishing/Minn Kota, Jotul Stoves, Kastle Skis, Kelly Springfield, Kemp ComposTumbler, Klean Strip, Kmart, Lake Placid, Look Bindings, Lowrance, Mako Marine, Marine Power, Maxima, Maxon, Mammoth, Micrologic, Miller Brewing Company, Mobil, Mutual of Omaha, Nelson Weather/Rite, Nikon Riflescopes, Nordic Sports Optics, Nordica USA, Nordica Skiwear, North Sails, Olin Skis, Pacific Publishing/Outdoor Retailer, Penn Fishing Tackle, Performer Yachts, Plano Molding, Poulan, Precision Boating, Pro Line Boats, Pursuit, Quest, Raichle Molitor, Rainhandler, Ray-Ban, Rayovac, Raytheon, Raytheon/Autohelm, Raytheon/Apelco, Reebok, Ryobi, Seirus Gloves/Accessories, Simmons, Sierra Ski Marketing Council, Ski Barn, Ski Windham, Snapper, Snowmass, South Carolina Governor's Cup, Sportif, Standard Communications, Steamboat Ski Resort, Stratos Boats, Stren Fishing Lines, Sugarbush, Suzuki Marine, Suzuki, Tasco, Trimble Navigation, Trak Skis, Toyota, Troy-Bilt, Turtle Fur, Ultress Catamarans, United Ski Industries Association, U.S. Paint, U.S. Steel, Vail/Beaver Creek, Valvoline, Velux, Volvo Penta, W.W. Grainer, Wal-Mart, Walker Engineering, Walt Disney World, Wellcraft Marine, Wigwam Mills, WD–40, Wolverine, and Yamaha Outboards.

The list of participating advertisers and supported organizations affects all 50 States and almost every congressional district in the country. After 3 short years, the partnership has made significant progress in increasing the environmental awareness of the American public, and helping create the environmental leaders of tomorrow.

I believe we all recognize that the solutions to environmental problems and the successful integration of economic growth with environmental protection is dependent on public-private partnerships. The public sector cannot do it all and it requires the creativity, entrepreneurism, resources, and initiative of the private sector to bring about comprehensive environmental education and the changing of the many behaviors which have harmed our envrionment and natural resources. I applaud Times Mirror Magazines and its advertisers for this successful initiative.

LIFT THE ARMS EMBARGO ON BOSNIA

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. SOLOMON. Mr. Speaker, I would like to bring an article written by Jeane Kirkpatrick and Morton Abramowitz entitled "Lift the Embargo," to the attention of my colleagues.

The human rights violations against the innocent people of Bosnia are egregious. We cannot sit back while the Serbian regime and its allies continue to decimate civilian populations with their policy of ethnic cleansing. This article corroborates the position that we ought to be helping the Bosnians by lifting the arms embargo so they can at least have a chance to fight for their lives.

Mr. Speaker, I urge my colleagues to read this informative article.

LIFT THE EMBARGO

(By Jeane J. Kirkpatrick and Morton I. Abramowitz)

WASHINGTON, DC.—Just last month, the United States presided at the creation of a new Bosnian Federation. Today, we are presiding at its destruction. Our lack of resolve and loss of credibility make us accomplices to a Serbian conquest, not architects of a better settlement. The peace process begun with hope in Washington is about to go to hell in Gorazde.

In the face of fresh Serbian outrages against civilians and United Nations peacekeepers, President Clinton has steered a neutral course among the "warring parties." The results are morally, politically and militarily indefensible, with disastrous consequences not just for Bosnia but for a stable, democratic Europe and the viability of NATO and the U.N. (Yesterday there were indications that he was reconsidering this course.)

When confronted with the complexities of the war in Bosnia and brazen Serbian violence, the U.S. has simply retreated. It pursues negotiations at any price rather than creating the conditions for a workable peace agreement. Incredibly, we maintain the crippling arms embargo against Bosnia even as we talk of easing the trade embargo against Yugoslavia. Everybody but the Serbs has fallen hostage to the U.S. peace process, because we didn't back it with enough force to convince the Serbs that more war gives them more pain than gain.

For two years, Bosnia has appealed for means to defend itself. But instead, we gave it unenforced U.N. resolutions, unchecked genocide, impotent mediators, lectures on realpolitik, unsafe "safe havens," peacekeepers who can barely protect themselves, and now an unconsummated marriage of force and diplomacy.

Let us drop the pretense that we can do better, or at least that we will. If we are unwilling to give the Bosnian Serbs (and Belgrade) an ultimatum to withdraw from their sieges or endure punishing air bombardment, then NATO and the U.N. should get out of the way and give the Bosnians the arms to fight for their own country and their own lives.

Mr. Clinton, who has halfheartedly supported lifting the arms embargo, recently said it was not clear under international law whether it could be ended unilaterally. It can be. The embargo is inherently illegal and invalid with respect to Bosnia.

The embargo was originally imposed on all of the former Yugoslavia in 1991. But Bosnia is now a U.N. member in its own right, fully entitled to defend itself against aggression under Article 51 of the U.N. Charter.

Neither Bosnia nor anyone else is bound by an embargo that contravenes this fundamental precept of international law. Belgrade certainly has no compunctions about arming the Bosnian Serbs in violation of the embargo. The right to self-defense cannot be superseded by any U.N. resolution unless the Security Council itself undertakes to insure international peace and order, a task it has utterly failed to fulfill in Bosnia.

The embargo is not just illegal. It has protected the Serbs' advantage in heavy weapons. It has enabled the Serbs to conquer 70 percent of sovereign Bosnian territory and drive two million people from their homes. And it flies in the face of U.N. resolutions authorizing "all necessary means" to insure delivery of humanitarian relief and protect safe havens.

If the embargo cannot be removed by the Security Council because of Russia's veto, it must be removed by individual nations, beginning with the United States. Our European allies may balk, but in the end they need to worry more about our deserting them than we need to worry about their deserting us. Also misplaced are fears that unilaterally lifting the arms embargo for Bosnia would lead nations to abrogate the embargo against Serbia or Iraq. The cases are not analogous. Belgrade and Baghdad are proven aggressors. Their self-defense is not an issue.

A U.S. move to lift the embargo and encourage other countries to do the same would be welcomed by an overwhelming majority in the U.N. Indeed, a majority has gone on record against its validity. And now that Russia's diplomacy has failed with the Serbs, it would save Moscow the added embarrassment of a veto.

Granted, a phased withdrawal of U.N. forces under U.S. air cover and a steady arming of the Bosnians could make matters worse before they get better. But that is a price the Bosnians are willing to pay, and we should be no less willing. It would initially lead to more killing, but the killing has been going on for two years and almost all the dead are innocent Muslims. It would put U.N. forces and humanitarian workers in jeopardy. But they are already in the Serbian cross hairs. Their alternative is to keep standing by, tabulating the carnage and treating the casualties, while CNN records it all in living color.

Humanitarian aid from the West would still be necessary, but the new Bosnian-Croatian Federation would bear the brunt of insuring the delivery of relief. The armed Bosnian forces might suffer some early reversals, but the federation will make it easier for us to deliver needed weapons.

Bosnia should be given the chance to work out a better solution than acquiescing to its own destruction. The Bosnian Army has will, discipline and manpower. If we lift the arms embargo now, we give the Bosnians a chance to do more than go down fighting. We give them a lease on life and a basis on which to build a viable peace—a peace that they, not we, will have the means and the duty to keep.

ANNUAL WORKERS MEMORIAL DAY

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. GOODLING. Mr. Speaker, I am pleased to take this opportunity to commend the York-Adams County Central Labor Council as it holds its fourth annual workers Memorial Day. The purpose of the event is to recognize those who have lost their lives or have been injured in the work place.

Although we have made considerable progress in reducing deaths and serious injuries on the job, more remains to be done. Each year about 6,000 workplace fatalities occur. Each is a loss to our country as well as to the families and friends of those who die.

The best tribute we can make to these individuals is to ensure that today's workers are provided the safest workplace possible. The Occupational Safety and Health Act has gone a long way in improving the safety of the workplace. No one would argue that OSHA must be reformed in order to be most effective, although in Congress we are currently debating different means to achieve this goal.

I believe we need to explore new ways of involving government, employers, and employees in job safety. Job safety is in everyone's interest. We need to work at new and more effective ways to work together to help American workers both compete in the world marketplace and work in safe conditions.

Job safety is like producing a quality product in that it requires constant attention and improvement. Workers Memorial Day is a good time to remember those who died or were injured, and to remind ourselves and our Nation of the importance of job safety so that we commit ourselves to move forward on this important issue.

CUMBERLAND MUTUAL FIRE INSURANCE CO. HONORED FOR 150 YEARS OF EXEMPLARY SERVICE

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. HUGHES. Mr. Speaker, I rise today to congratulate the Cumberland Mutual Fire Insurance Co. for 150 years of exemplary service to the State of New Jersey in the insurance writing industry.

The Cumberland Mutual Fire Insurance Co. [CMFIC] is an insurance company located in Bridgeton, NJ, with a great history of commendable performance. From the adoption of its constitution, presented by the Shiloh-Bridgeton Committee on January 30, 1844 and the inception of the company later that spring, CMFIC has been blessed by the leadership of persons of great intellect, integrity, and foresight. Indeed, this level of excellence is the principal reason that Cumberland Mutual has been so successful for so long.

Over the years, Cumberland Mutual has made security and safety of paramount importance. Recognizing the threat of natural disasters and the curse of fires, CMFIC sought catastrophe reinsurance to guarantee the policyholders payment of claims no matter what the circumstances. They then sought to provide better service and reasonable rates to the company members while encouraging prudent steps to prevent losses. Potential safety risks are examined yearly and recommendations are made for removing fire hazards.

Cumberland Mutual is justly applauded by all who are familiar with its operational code of conduct and its willingness to maintain a level of intimacy between the directors, officers, and members or prospective members of the company. Cumberland's practice of allowing applicants and claimants the privilege of appearing in person to plead their case, has accentuated its fundamental philosophy of fair play and a desire to view a problem from all sides. It is clear that CMFIC is constantly striving for a better, more modern, and equitable method of compensation and, that in part, explains why Cumberland is so well known and respected throughout south Jersey.

As the Cumberland Mutual Fire Insurance Co. celebrates a century and a half of outstanding service, I would like to take this opportunity to congratulate all of those who have contributed to this tremendous record of accomplishment for the last 150 years and wish them continued success in the years ahead.

LABOR DEPARTMENT PUTS HARSH BURDEN ON TEEN DRIVERS

HON. MIKE KREIDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. KREIDLER. Mr. Speaker, along with Congresswomen JOLENE UNSOELD and MARIA CANTWELL, and Congressmen NORM DICKS and AL SWIFT, I am today introducing legislation to update an outdated provision in the Fair Labor Standards Act of 1938 that is hurting the job market for teenagers.

If it seems strange to you that a 1938 law applies to society in 1994, consider these three incidents:

A 17-year-old after school employee at an auto dealership drives a new car from the dealership to a nearby gas station, fuels the car, and returns to the dealership.

A 17-year-old part-time lot attendant at an auto dealership drives a new car 20 feet from a wash rack to the detail shop, backing, briefly, onto public street.

A 17-year-old student, working to earn money for college, drives a car from one portion of the dealership to another, crossing, briefly, a public street.

These incidents occurred in my State, and each are considered illegal under the Fair Labor Standards Act of 1938. In my State, 59 auto dealers were fined $197,000 for alleged violations by the Department of Labor; virtually all are appealing.

If you look at the law, at 29 CFR 570.52(b)(1) then at the regulation supporting this law, you find an undefined regulation permitting "incidental and occasional" driving so long as the driving is restricted to an automobile or truck which does not exceed 6,000 pounds gross vehicle weight; that the driving is restricted to daylight hours; that the driver holds a State license valid for this type of driving and has completed a State-approved driver education course; that the vehicle is equipped with a seat belt; and that the driving does not involve the towing of vehicles.

Any fair evaluation of the condition at most auto dealerships in Washington State today will show that these conditions are carefully followed. Typically, lot attendants are responsible for moving cars around the lot, and washing and preparing cars for customers. And on occasion, these 17-year-old employees also fuel vehicles at nearby gas stations.

Auto dealers have told me that these conditions are common to their operation. They've told me that no one from the Department of Labor has ever communicated to them an interpretation of "incidental and occasional" driving that is at odds with this practice. In fact, I believe the vast majority of auto dealers in my State have sincerely attempted to comply with the law and the regulation as they are written. They have reviewed the law and the regulation, and have consulted their national and State trade association on compliance matters.

But Mr. Speaker, there is nowhere they can turn to find a definition of "incidental and occasional driving." That's because the phrase remains undefined in law or in regulation.

That, however, does not seem to deter the Department of Labor which, with unexplained zeal, has pursued cases against auto dealers. To me, this is all the more amazing in light of a letter from Maria Echaveste, Administrator of the Employment Standards Administration's Wage and Hour Division, who on March 15, 1994 wrote:

> Although HO2 (Hazardous Occupation Order No. 2) does contain an exception that would allow minors under certain conditions to perform some occasional and incidental driving, recent investigations have disclosed that what constitutes "occasional and incidental" driving may not be clearly understood by auto dealers.

In the end, these investigations result in needless anxiety, expense and litigation, but the real victims are the teenagers. They all have valid driver's licenses. Their driving records are screened and they're subject to drug testing. They are covered by employer-based insurance. They must pass a driver's education class. And now the word is out it's safer to fire teenager lot attendants than to risk violating a law even the Department of Labor can't define.

One of my constituents is one of these victims. "I am 17-years-old," he told me, "and I lost my job because of the law about driving cars. Not only did I lose my job, but I also lost college money I was saving, car insurance, and extra spending money that job provided me. I hope you would fight this law so I may get my job back, and if it doesn't get cleared by the time I turn 18, maybe it will help out another kid."

Our bill, Mr. Speaker, will allow a teenager to drive up to 50 percent of the time as long as driving was not the primary duty. This is a simple solution which should be rapidly adopted.

The Seattle Times, on April 14, 1994, added its voice to this campaign with a lead editorial, which I would like to submit for the RECORD.

LABOR DEPARTMENT PUTS HARSH BURDEN ON TEENS

The job market is tough enough for teenagers without the U.S. Department of Labor shrinking it through inflexible interpretation and enforcement of child-labor laws.

The Department of Labor has punished—not protected—minors by fining 65 auto dealers from Tacoma to Bellingham $197,000 for allowing 16- and 17-year-olds to do minimal driving in their work. For some, it meant moving cars across the street from one lot to another. Most of the dealers are appealing.

These are teenagers with driver's licenses good anywhere in the United States—but on the job. The upshot of the crackdown is the probable loss of about 500 jobs that usually go to minors with licenses.

Laws against minors driving on the job go back to 1938 passage of the Fair Labor Standards Act. It was intended to prevent children from working long hours in dangerous occupations. But in 1968, an exemption was added that allowed minors to drive in situations deemed "occasional and incidental."

The Department of Labor interprets that to mean minors can drive only in emergencies. Regional officials say if driving a car across a street from one lot to another is part of the job, it's not "occasional and incidental."

Rep. Mike Kreidler, D-Lacey, is drafting a bill that calls for the Department of Labor to review old laws in an effort to determine whether they still make sense. It would apply to other industries as well as auto dealers.

Government is searching for ways to find more opportunities for unemployed teenagers. Unbending interpretation of regulations runs counter to that. Young people who want to work don't need additional doors slammed in their faces.

SALUTE TO "RED" CANTRELL

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. POSHARD. Mr. Speaker, I rise to pay tribute to a man whom I am proud to serve in the U.S. House of Representatives, Mr. Sefton Lamont "Red" Cantrell of Benton, IL.

Red Cantrell is the kind of man that makes our communities good places to live and raise our families. His unending devotion to public service and politics has helped people of all walks of life in Franklin County.

Red Cantrell was born March 2, 1914, to Bill and Jane Cantrell. His career in public service began in 1935, when he was elected precinct committeeman of Browning Township in Buckner, IL. He served in that capacity until moving to Benton and being elected in 1961 as precinct committeeman of Benton 1 Township. He held that position until this March when he finally decided to retire.

We all know, at every level of elected office, that the people who make the sacrifices, put in the hours, knock on the doors and organize the events are the men and women who serve at the precinct level. And Red set the standard for folks in our area, who knew they could count on his dedication and devotion to the cause to get the job done.

During his career, Red served as a deputy under Sheriff Paul Collins, worked for the United Mine Workers of America, was appointed by Governor Kerner as an oil and gas inspector for the Illinois Department of Revenue and was appointed by Governor Walker to serve the Illinois Department of Agriculture. For about the last 10 years, Red has worked long and hard as a trustee with the Benton Township.

Now, after 59 years of leadership in Democrat politics and dependable work in public service, Red Cantrell is going to take life a little easier and let someone else carry the banner for the causes in which he believes. But those of us who have the good fortune to know Red can rest easy in the knowledge that he'll always be there to give good advice and pitch in to help whenever he's needed.

Red is one of the good guys—I thank him for his friendship and for all he has done to serve the people of our area.

TRIBUTE TO THE CLASS FROM CORONA DEL SOL HIGH SCHOOL, TEMPE, AZ

HON. SAM COPPERSMITH

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. COPPERSMITH. Mr. Speaker, On April 30-May 2, 1994, more than 1,200 students from 47 States and the District of Columbia will be in our Nation's Capital to compete in the national finals of the We the People . . . The Citizen and the Constitution program. I am proud to announce that the class from Corona Del Sol High School from Tempe, AZ will represent Arizona's First Congressional District. These young scholars have worked diligently to reach the national finals by winning local competitions in their home State.

The distinguished members of the term representing Arizona are:

Camila Alarcon, Sean Aldous, Suping Ang, Alia Beard, Caroline Bentley, Brad Bowen, Carrie Brackett, Bonnie Brooke, Stacey Burdick, Marty Davis, Chris Dible, Shannon Dietz, Marney Dillon, Shaudi Divsalar, Mike Garcia, Erin Hansen, Stephanie Hartin, Craig Hayden, Brian Hofer, Becky Kimball, Jennifer Landis, Coby Larsen, Marie Letellier, Phil McKeown, Zac Mortensen, Andy Price, Jeff Rensel, Nathan Sandvig, Jonathan Scheid, Karalee Scholes, Jared Speicher, Michelle Stalter, Nghi Vuong, Erik Youngblood.

The We the People . . . The Citizen and the Constitution program, supported and funded by Congress, is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The 3-day national competition simulates a congressional hearing in which student's oral presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues.

Administered by the Center for Civic Education, the program, now in its seventh year, has reached more than 20,100,000 elementary, middle, and high schools nationwide. Members of Congress enhance the program by discussing current constitutional issues with both students and teachers. This year, the Thomas Jefferson Commemoration Commission will join the Center in making special presentations to the students in honor of Jefferson's legacy.

The We the People . . . program provides an excellent opportunity for students to gain an informed perspective of the significance of the U.S. Constitution and its place in our history and our lives. I wish them the best of luck in the national finals and look forward to their continued success in the years ahead.

SMITH COUNTY CHAMBER: 20 YEARS OF PROGRESS

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. GORDON. Mr. Speaker, strong businesses are the backbone of any community. That's especially true in small, rural communities.

And in towns and cities where we find economic development, strong schools and athletics, and a good quality of life, we usually find that businesses have banded together to lead the way.

Smith County, TN, is a perfect example. And this week, the Smith County Area Chamber of Commerce is celebrating 20 successful years of working to make the county a better place for all its citizens.

In 1974, the Smith County Board of Commissioners and the Carthage, TN, Booster Club recognized that if the county was to be able to provide a place where future generations could live and work and raise a family then it had to build on its strong agriculture roots with a more diversified economy. The Smith County Chamber was born from that vision.

The chamber brought together business and civic leaders who understood the value of investing in their communities. By pooling those resources with help from local, State, and Federal officials, the chamber and the county were better able to take advantage of the county's many assets.

Access to major highways coupled with a strong work force helped attract new industries. The appeal of nearby Corps of Engineers lakes brought both new businesses and residents looking for a clean, quiet place to settle. Through the chamber's marketing efforts, service industries that could meet the needs of county residents and provide new jobs began to make their way to the county.

Since 1978, Smith County has experienced tremendous growth in both business and industrial development and diversification from banking to health care. And all Smith countians are reaping the benefits. In the decade between 1980 and 1990, the county's per capita income more than doubled, far exceeding the State average.

And as is true with any successful program, you can look around today and find some of those who first helped to get the chamber started still involved in its work. Their dedication and commitment have been a sustaining force in the chamber's success. More importantly, they have laid the foundation for continued success for the chamber and the county for the next 20 years.

I welcome the opportunity today to pay tribute to the Smith County, TN, Chamber of Commerce, its members, and the community for 20 years of working for a brighter future.

HOUSE OF REPRESENTATIVES—*Thursday, April 28, 1994*

The House met at 12 noon.

Rev. Douglas Tanner, executive director, Faith and Politics Institute, Washington, DC, offered the following prayer:

Lord, we convene today, conscious of having spent yesterday recalling the life and the era of President Richard M. Nixon, and we find ourselves remembering over 40 years of history.

Guide us, we pray, to know more deeply the history that has shaped us—as individuals, as communities, as a nation, as a community of nations. Connect our souls with both our grief and our greatness. Lead us to know the truth, and grant us the grace to be set free by it.

Strengthen our faith that while the moral arc of the universe may be long, it does bend toward justice—and compassion—and human dignity—for all. Be especially this week with the people of South Africa as they receive encouragement to embrace that truth. Be with the people of Bosnia as they are given cause to doubt it.

Instill within each of us, we pray, a consciousness that You call us to follow that arc, and to help bend it. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New Mexico [Mr. RICHARDSON] come forward and lead the House in the Pledge of Allegiance?

Mr. RICHARDSON led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

> S. Con. Res. 67. Concurrent resolution to correct technical errors in the enrollment of the bill, H.R. 2333.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the amendment of the House to the bill (S. 1636) "An Act to authorize appropriations for the Marine Mammal Protection Act of 1972 and to improve the program to reduce the incidental taking of marine mammals during the course of commercial fishing operations, and for other purposes."

APPOINTMENT OF MEMBERS TO ATTEND FUNERAL SERVICES OF LATE HONORABLE RICHARD MILHOUS NIXON

The SPEAKER. Pursuant to the provisions of House Resolution 411, the Chair on Wednesday, April 27, 1994, announced his appointment of the following Members of the House to join with a committee of the Senate to attend the funeral services of the late Honorable Richard Milhous Nixon, 37th President of the United States, in Yorba Linda, CA:

Mr. FOLEY of Washington;
Mr. MICHEL of Illinois;
Mr. GINGRICH of Georgia;
Mr. MOORHEAD of California;
Mr. THOMAS of California;
Mr. DREIER of California;
Mr. HUNTER of California;
Mr. DORNAN of California;
Mr. GALLEGLY of California;
Mr. HERGER of California;
Mr. COX of California;
Mr. CONDIT of California;
Mr. CALVERT of California;
Mr. KIM of California;
Mr. MCKEON of California;
Mr. ROYCE of California;
Mr. PICKLE of Texas;
Mr. DE LA GARZA of Texas;
Mr. BEVILL of Alabama;
Mr. MYERS of Indiana;
Mr. MAZZOLI of Kentucky;
Mr. SPENCE of South Carolina;
Mr. GILMAN of New York;
Mr. REGULA of Ohio;
Mr. SHUSTER of Pennsylvania;
Mr. WALKER of Pennsylvania;
Mr. ROTH of Wisconsin;
Mr. PETRI of Wisconsin;
Mr. EMERSON of Missouri;
Mr. MCCOLLUM of Florida;
Mr. ROBERTS of Kansas;
Mrs. ROUKEMA of New Jersey;
Mr. SKEEN of New Mexico;
Mrs. KENNELLY of Connecticut;
Mr. BOEHLERT of New York;
Mrs. VUCANOVICH of Nevada;
Mrs. BENTLEY of Maryland;
Mr. CALLAHAN of Alabama;
Mr. KOLBE of Arizona;
Mr. MCMILLAN of North Carolina;
Mr. UPTON of Michigan;
Mr. SHAYS of Connecticut;
Mr. DUNCAN of Tennessee;
Mr. MCNULTY of New York;
Mr. SCHIFF of New Mexico;
Mr. STEARNS of Florida;
Mr. CAMP of Michigan;
Mr. PETERSON of Florida;
Mr. TAYLOR of North Carolina;
Mr. CANADY of Florida;
Mr. CLYBURN of South Carolina;
Mr. COLLINS of Georgia;
Mr. DICKEY of Arkansas;
Mr. HUTCHINSON of Arkansas;
Mr. JOHNSON of Georgia;
Mr. KING of New York;
Mr. LINDER of Georgia;
Mr. MICA of Florida;
Mr. MILLER of Florida;
Mr. SMITH of Michigan;
Mr. TORKILDSEN of Massachusetts; and
Mr. UNDERWOOD of Guam.

PROFESSIONAL BOXING CORPORATION ACT OF 1993

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, this weekend's heavyweight championship fight between Evander Holyfield and Michael Moorer demonstrates that professional boxing is in dire need of reform and Federal oversight.

It has now been revealed that Holyfield, the great champion, has been fighting with a serious heart ailment over the years. One physician at the fight stated that it was a miracle that Holyfield was able to finish the fight without serious injury.

The very able chairman of the Subcommittee on Commerce, Consumer Protection, and Competitiveness, the subcommittee of jurisdiction, the gentlewoman from Illinois [Mrs. COLLINS] held a hearing on boxing reform this last Tuesday which I commend to all my colleagues.

Mr. Speaker, many of us in this Chamber, Republican and Democrat, have been trying to set up a Federal Boxing Commission with the express purpose of developing and enforcing uniform health and safety standards for professional boxing in all 50 States. For every multimillion dollar fighter like Holyfield and Moorer, there are hundreds of young ghetto kids that have no worker protection, no pensions, and are often at the mercy of unscrupulous promoters.

Mr. Speaker, money should not dictate what happens in boxing. Safety issues in this sport need to be addressed.

AN EMPLOYER MANDATE WILL STIFLE INNOVATION

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mrs. JOHNSON of Connecticut. Mr. Speaker, if an employer mandate were enacted, my State would lose 14,300 jobs. That is more jobs than at Pratt & Whitney or more jobs than Electric Boat.

As Congress discusses the use of an employer mandate as a means to finance health care reform, it is important to highlight the implications of imposing a new fixed cost on America's employers.

Many of my colleagues will address the job impact of employer mandate further, so I want to touch on a critical component of reform, maintaining the innovative cost containment strategies that are working in the market today.

We have heard a lot about preserving what works in our system. The issue of an employer mandate will separate those who really believe we should preserve our system's strengths from those who would rather throw out the system and start from scratch.

Under our current 100 percent voluntary system, employers are engaged in many activities aimed at ensuring their employees are receiving the highest quality, cost effective care available in today's market. Rather than drop employee coverage altogether as costs increase, employers are actively engaged in programs aimed at reducing the rate of growth in their insurance and medical costs. These include wellness programs emphasizing healthy lifestyles, smoking cessation and employee assistance programs. Each and every one of these programs is offered under a 100 percent voluntary program. A mandatory system would cut them out.

H.R. 4013 IS A RESPONSIBLE PIECE OF LEGISLATION

(Mr. ROWLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROWLAND. Mr. Speaker, H.R. 4013, which will come up for a vote later today under suspension of the rules, is a responsible piece of legislation. It is not a blanket exemption, but only protects services provided by the VA health care system. If we fail to pass this bill, the effect of OMB employment cuts on the 3 million veterans that are served will be devastating.

Defeat of this bill may close up to 22 major hospitals. It can close clinic doors which serve millions of veterans. It may close specialized training programs for treating post-traumatic stress disorder, Alzheimer's disease, and AIDS.

H.R. 4013 does not freeze employment levels. In fact, it specifically calls on VA medical centers to streamline where possible.

□ 1210

But it properly exempts those facilities from arbitrary cuts that will hurt our veterans.

Now listen to this: the President's proposed Health Security Act calls on the VA to compete under a national health care reform. But within months after that legislation was introduced, OMB in the fiscal year 1995 budget proposed the first round of cuts of more than 25,000 VA health care employees. The administration cannot have it both ways. The VA health care system cannot gear up for health reform if it must slash its employment levels. That just makes sense.

The responsible vote today is a vote for H.R. 4013.

AN EMPLOYER MANDATE IS NOT ABOUT HEALTH CARE REFORM

(Mr. HOBSON asked and was given permission to address the House for 1 minute for 1 minute and to revise and extend his remarks.)

Mr. HOBSON. Mr. Speaker, if an employer mandate were enacted, my State would lose 45,000 jobs.

The debate earlier this year over whether or not an employer mandate to pay 80 percent of premiums was a tax, clearly highlights the fact that an employer mandate has little to do with health care policy. In reality, the employer mandate is a product of the difficult economic times in which this Congress is operating. What is particularly troublesome about this debate is the precedent we may set if an employer mandate is enacted.

As this Congress has finally recognized the implications of huge annual budget deficits and the escalating debt, we are forced through statutory requirements to pay for any new spending. Of course it is our prerogative whether we find new revenue or spending cuts to finance new spending. The debate over employer mandates set the stage for a new disturbing government burden which should be recognized for what it is. The fact is an employer mandate is nothing short of an attempt by some in this Congress to finance new entitlements through the pocketbooks of America's employers.

This leads to several disturbing possibilities. First, as is always the case with laws enacted by Congress, this will surely be only the first of several new employer-financed entitlement programs. Second, by financing programs on the backs of America's employers, we will lose the limited budget discipline we have developed over the last few years. Third, and perhaps most importantly, we should not delude ourselves into believing that America's employers are the pot of money under the rainbow. The fact is, our employers, unlike this Congress, are forced to live and die by the bottom line, and are painfully aware of the consequences of spending more than they collect.

The ironic part of this whole debate is that we can achieve successful health care reform without an employer mandate. We should focus on those issues where there is broad bipartisan support and enact real bipartisan health care reform of which we all can be proud.

LEGAL DRUG PUSHERS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, a constituent of mine was in an auto accident. Not too serious. Taken by ambulance to a hospital 8 miles away. The bill, $1,350, $1,350, 8 miles. He could have hired a taxi cab for 10 bucks.

Another constituent had surgery and in the hospital 6 weeks, $170,000. The pharmacy bill, $17,000. They line-itemed aspirin.

My colleagues, a heroin addict would have had a stone-cold overdose on the street 6 weeks with 17,000 bucks. This is unbelievable. I do not even think this is health reform. I think we need criminal reform with hospitals and pharmaceutical companies.

Congress, I think we are worried about kids on the street. We better start with some of these legal drug pushers, CEO's, with $17,000 worth of legal drugs. Beam me up.

It is time for Congress to act and put some of these big shots in jail and maybe let kids alone.

EMPLOYER MANDATE CONSEQUENCES

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, as the colleague who just preceded me said, we do need health care reform. But one of the purposes of health care reform ought to be that we increase people's chances to get insurance, not decrease their chances of having a job. That is the problem with the President's proposal for an employer mandate.

Coming from rural western Wisconsin, I can tell Members the story of the hardware store owner in one small town in my district who said, "Steve, I would love, if I had the volume and the revenue, to give all three people who work here health insurance. But the hard, cold reality is, in this small town, if you put that kind of a mandate on my business, instead of giving them insurance, I will have to eliminate their jobs. And when I go out on a repair run to one of my customers, I will simply lock the door and put a sign in the door that says, I will be back in 1 to 2 hours."

That is why I hope this Congress is, as we seek to increase the people's availability for health insurance, will understand an employer mandate does not gain people insurance. It costs them their job.

ELECTIONS IN SOUTH AFRICA

(Mr. BARRETT of Wisconsin asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT of Wisconsin. Mr. Speaker, I rise today to congratulate the people of South Africa, who have taken a giant step on the road to democracy. For the first time, all South Africans, regardless of color, have been allowed to participate in the political process. The result of this week's historic elections will be a multiracial government that represents each segment of the population.

These elections signal the end of white minority rule which has been the main feature of South African politics through centuries of colonial domination and more than four decades of apartheid. International opinion has been outraged as blacks, Indians, and other nonwhites have been denied fundamental human rights on the basis of their race. Only now, after so much suffering and bloodshed, can all South Africans exercise the right which we as Americans often take for granted: the right to vote.

I would like to commend Nelson Mandela and F.W. de Klerk for their roles in this process. After 27 years as a political prisoner, Mandela has emerged as the unifying force behind the struggle for freedom and equality in South Africa. For his part, President de Klerk recognized the importance of change, and has helped pave the way for the recent political reforms. Without the cooperation of these two men, these historic elections would never have been possible.

The time for racial hatred and division is over. With the elections completed, all South Africans, black and white, must work together for a peaceful transition to democracy. The whole world hopes they succeed.

AN EMPLOYER MANDATE WILL COST JOBS

(Mr. MCMILLAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCMILLAN. Mr. Speaker, if an employer mandate were to pass, my State would lose 24,685 jobs.

Study after study has shown that if an employer payment mandate is used as a means of financing health care reform millions of jobs would be lost. A recent study commissioned by the American Legislative Exchange Council [ALEC], the Nation's largest bipartisan organization of State legislators, found that the Health Security Act would cost America 1,021,000 jobs. Other studies suggest the amount of job loss may be as high as 3.1 million.

This level of job loss is unacceptable particularly now that the economy is struggling to recover. We have seen significant restructuring as employers have positioned themselves to compete in an increasingly global economy. At the very time that they are beginning to see some improvement in their competitive position, this Congress is considering a payment mandate which will negate all of their gains.

We should not be pitting jobs against health insurance. No one is served by the promise of health insurance at the expense of millions of jobs. Under today's 100 percent voluntary system, the vast majority of America's employers offer comprehensive health insurance benefits. Reform should focus on enabling all employers to offer comprehensive benefits.

A mandate is not necessary to achieve successful reform. There are so many issues upon which there is broad bipartisan support and we should be moving to address the real world problems our constituents face. Drop the employer mandate and enact real bipartisan health care reform.

THE ASSAULT WEAPONS BAN

(Ms. SCHENK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SCHENK. Mr. Speaker, 2 weeks ago, a constituent of mine, Murray Callan was shot to death while walking to a video store while on vacation. Murray Callan was truly a legend in San Diego. For the past 40 years he taught swimming lessons to children and was beloved by many, many young San Diegans. His death is a tremendous loss to our community.

Last week I received a letter from Mr. Callan's son, Glen, urging me to do what I can to take guns off the streets and out of the hands of criminals. He offered to stand with me in the fight to ban assault weapons.

Glen, I accept your offer and I promise to do all that I can to see that an assault weapons ban passes the House.

To those of my colleagues who say, "Guns don't kill people. People kill people," I say stop insulting the intelligence of the American people.

The assault weapons ban is smart, sensible gun control legislation that has been endorsed by every major law enforcement group in the country. I urge my colleagues to support an assault weapons ban.

AN EMPLOYER MANDATE WON'T WORK

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, if an employer mandate were to pass, my State of Colorado would lose 15,000 jobs.

As we move health care reform forward, it is important that we review each proposal and each policy thoroughly. Unfortunately, many in this Congress have taken at face value that an employer mandate will guarantee universal coverage. The fact is, there is no empirical data available anywhere in the world, let alone in this country that suggests an employer mandate is an effective mechanism for providing universal coverage.

If we review the available information we will find that even in those countries that supposedly provide universal coverage, a significant portion of the population is actually not covered. For instance, in France universal coverage is defined as 95 percent coverage. The best they have ever achieved is 5 percent uninsured. If you look closer to home at Hawaii, which has had an employer mandate for 20 years, you will find the uninsured rate is 8.1 percent. A recent analysis by Andrew Dick found that high rates of coverage has more to do with the characteristics of the population than the effectiveness of an employer mandate.

Clearly, we should review all of the available data before we blindly accept the assertions that an employer mandate is the only means of achieving universal coverage. It is amazing that one can look at the level of insurance coverage available in America today, under which 85 percent of the population is covered under a 100-percent voluntary system, and come to the conclusion that we must enforce a job killing employer mandate to provide coverage for the 15 percent of the population currently not covered.

The most ironic part of this debate is that an employer mandate is not a necessary component of successful health care reform. We should be moving forward with debate on the many issues upon which there is broad bipartisan support and enact real bipartisan reform.

□ 1220

INTRODUCTION OF THE WORKING OFF WELFARE ACT

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, today I am proud to introduce with my colleague, Representative RALPH REGULA, the first bipartisan welfare reform bill—The Working Off Welfare Act.

This bill is based on experience: Mine as a welfare mother 25 years ago, and Representative REGULA's 23 years of experience in the House of Representatives.

We came together because we know that our welfare system is broken. It does not work for the recipient, and it does not work for taxpayers. It needs fundamental change.

Mr. Speaker, our bill will reduce reliance on welfare by: Strengthening support services and case management; improving education and job training programs; abolishing penalties against two-parent families; making work pay; and, increasing child support collection.

Mr. Speaker, 25 years ago, although I was working, I needed welfare so I could take care of my children. Now, I am in a position to reform that same system in order to ensure that all of our Nation's children are given the care and support they need. I hope my colleagues will join me in achieving this goal.

SUPPORTING SAFETY ZONES

(Mrs. MALONEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MALONEY. Mr. Speaker, as you may have noticed, there are many new faces in the Chamber today, including my 14-year-old daughter, Christina Maloney, and her classmates Carolina Dorson and Kate Slattery.

A number of Members and I are bringing our daughters to work today, in an annual event to celebrate the talents of women in a wide variety of jobs—so that our daughters will know early in their lives that they can choose goals and work toward wherever their vision leads them.

Today happens also to be the day when the Supreme Court is hearing a case on court-mandated safety zones around health clinics.

And so today we support the principle of those safety zones, so that we and our daughters as they grow up can use health facilities and services without fear of violence by antiabortion extremists.

Ninety percent of American women receive their health care in such clinics.

The right to choose is meaningless without the ability to choose.

It is fitting that we stand together, mothers and daughters, in support of women's freedom to choose.

EMPLOYER MANDATES

(Ms. PRYCE of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PRYCE of Ohio. Madam Speaker, President Clinton has often spoken of the need to help small businesses in America. He has noted, rightly, that small businesses create most of the news jobs in our economy. What he does not seem to have noticed is what small business owners are saying about his health care plan.

Like a doctor starting an operation without asking the patient where it hurts, the Clinton plan seeks to impose employer mandates without consulting those who would have to pay for them.

A recent survey by the U.S. Chamber of Commerce found that an overwhelming three out of four small business owners strongly oppose a Federal mandate requiring them to provide health care for their employees.

Mr. Speaker, when a ship is slowly sinking the last thing you want to do is load on more cargo. American small businesses are foundering because the Federal Government has loaded them up with so many taxes, regulations, and mandates that they are dead in the competitive water.

It may be too much to hope that the Clinton administration might give small business a break by easing regulation or lowering taxes. But at least the administration can avoid making things worse.

Employer mandates are job-killers, Mr. Speaker. Let us listen to our patients before we put them under the knife.

URGING MEMBERS TO REJECT H.R. 4013

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Madam Speaker, I want to share with my colleagues the content of a letter all of us have received from Leon Panetta, the Director of the Office of Management and Budget. In it he expresses in the strongest possible terms the administration's opposition to H.R. 4013, a bill which would bar the Department of Veterans Affairs from reducing employees in the Veterans Health Administration over the next 5 years.

According to the letter from the Budget Director, "This legislation," if passed, "would make it impossible for the administration to carry out the downsizing of the executive branch required under * * * the Federal Workforce Restructuring Act."

He asks, quite appropriately, "If we provide special protection for veterans' health care, why should we not provide the same protection to law enforcement, the National Institutes of Health, Education, Head Start, the Food and Drug Administration, and countless other agencies and programs?

"If we start exempting one agency from this workforce reduction requirement, we would have little hope of maintaining a fair and rational process," according to Budget Director Panetta. Indeed, the administration feels it would then be impossible to meet the goal established by the Congress of reducing the Federal work force by 272,000 personnel over the next 5 years.

We passed the Workforce Reduction Act by a vote of 391 to 17. By rejecting H.R. 4013, today we will stick with our commitment to achieve that 10-percent reduction in the next 5 years.

THE CHAMBER LEADING THE CHARGE

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Madam Speaker, if an employee mandate were passed in the health care reform process, my State would lose 28,000 jobs. The Members of the U.S. Chamber of Commerce understood this, and in a chamber poll recently the chamber members rejected mandates 71 to 24 percent. To more taxes, which everyone would pay for more Government, chamber members rejected them 87 percent to 8 percent.

The fact chamber members rejected employer mandates by 3 to 1 and more taxes by over 10 to 1 is important. The people who know business best and know what is best for business know that the Clinton plan would be bad for business and bad for America.

More Federal costs and more Federal taxes would mean fewer American jobs.

The chamber has long led the charge for American prosperity. It still is, as it leads the charge away from the Clinton health plan.

FEDERAL RESERVE'S ACTIONS ON SHORT-TERM INTEREST RATES

(Ms. ESHOO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ESHOO. Madam Speaker, three times in the last 3 months the Federal Reserve has acted to increase short-term interest rates.

Although I respect the independence of the Federal Reserve, I'm concerned about its recent actions and particularly how they may affect our current economic recovery.

Slight increases in short term rates certainly protect inflationary pressures, but continuing actions by the Fed have now driven up long-term rates, which slows business activity and threatens the creation of new jobs—and all this when inflation has actually fallen in the last 2 years.

Madam Speaker, the administration and Congress have worked hard to turn the economy around and create jobs.

The Fed's recent actions threaten continued growth and hurt working families, who are just beginning to recover from the recession.

Although the Fed is independent, it is still accountable to the American people, who rely upon the Board to guide our economy.

If the Fed takes further steps to increase rates, they should explain the basis of their decision to Congress, and more importantly, to the 8.5 million Americans who remain unemployed.

AMERICAN BUSINESS OPPOSES GOVERNMENT-SPONSORED EMPLOYER MANDATES

(Mr. WALSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Ms. WALSH. Madam Speaker, in central New York we have seen some 10,000 well-paid manufacturing jobs evaporate over the past 5 years. I am concerned about the effect of the Clinton health care plan on jobs—and so is the majority of American business according to a recent U.S. Chamber of Commerce survey.

They do not want this plan. About 71 percent of the 40,000 respondents are opposed to Government-sponsored employer mandates. These are the people who have seen Government mandates before. They have seen price controls, and they have seen the negative results.

From 350,000 to 600,000 people will lose their jobs as a result of the Clinton health plan. How do I know this?

The president's chair of the Council of Economic Advisers, Laura D'Andrea Tyson, has said so. It is not hard to believe; in fact, some business people I have talked to predict higher job losses.

The Congressional Budget Office in February put the range of expected job losses at 300,000 to 1.2 million.

Why? Because history shows that when Government mandates what business must do, the costs are high and the effect is loss of jobs. This will be especially true in my home district, Madam Speaker, where we have major employers in the insurance and health care fields.

Health care, yes. More taxes, more bureaucracy, more recession, more lost jobs? No.

□ 1230

SUPPORT VETERANS' HEALTH PROGRAMS IMPROVEMENT ACT OF 1994

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Madam Speaker, I ask my colleagues today to vote for House bill 4013, a suspension bill.

Madam Speaker, I want to make it very clear to my colleagues that this bill does not block reductions in the number of doctors, nurses, or technicians in the VA health center. The Secretary of the VA has the authority to reduce FTE's anytime he wants to, and we say that in the bill. The bill does block the meat ax approach of cutting employees of the VA across the board.

Madam Speaker, the bottom line in this bill is whether we in the Congress should decide the size of the Federal work force on an agency-by-agency basis through the appropriations process, or should we give up our role in this area and let it be done by OMB downtown. That is wrong.

We are taking our lead from the Vice President's report on "Reinventing Government," which said that the size of the Federal work force should be determined by the budget process and the availability of operating funds, not by FTE ceilings.

Madam Speaker, I ask my colleagues to vote for this bill.

THE A TO Z DISCHARGE PETITION

(Mr. ZELIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZELIFF. Madam Speaker, Wednesday, May 4 is accountability day for Members of Congress. Yes, on Wednesday next week, the A to Z Discharge Petition will be available for signing at the Clerk's desk.

Last summer when the President's budget was squeaking through the House by one vote, 234 Members of Congress signed a bipartisan letter to the Speaker asking for a 10-day session to consider the A to Z spending cut proposal.

Now these 234 Members who have talked the talk about budget cutting will have a chance to walk the walk on spending cuts. It is called accountability, Madam Speaker.

A majority of this House, 230 Members, have cosponsored the A to Z spending cut plan. On May 4, accountability day, those 230 Members will have a chance to show their constituents if they are serious about cutting our $4 trillion debt.

Accountability day will show whether their cosponsorship of the A to Z plan was simply politics as usual or a genuine desire to cut spending. The people of America want an accountable Congress. The A to Z plan gives each Member of Congress a unique opportunity to stand up and be counted.

THE RISK ASSESSMENT IMPROVEMENT ACT OF 1994

(Mr. SWETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SWETT. Mr. Speaker, I rise today to urge Members' support for the Risk Assessment Improvement Act of 1994, legislation which I am introducing today along with some of my colleagues on the Science, Space and Technology Committee.

The purpose of the bill is to improve environmental risk assessment at the Environmental Protection Agency and throughout the Government.

Risk assessment is critical to ensuring that Federal resources are being spent wisely on environmental protection. Currently, however, there are vast inconsistencies in the way that risks are calculated because of the piecemeal way that environmental statutes have been passed.

The Risk Assessment Improvement Act will help put more consistency and common sense in regulatory decision-making and it will help ensure that taxpayer dollars are spend as effectively as possible on environmental protection. The bill calls for coordination of existing risk initiatives spread throughout the EPA, and it calls upon the administration to coordinate the way risks are evaluated by different Federal agencies.

I urge my colleagues' support for the Risk Assessment Improvement Act of 1994.

REMEMBERING PRESIDENT NIXON

(Mr. LAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAZIO. Mr. Speaker, I am saddened by the loss of President Nixon. It is my hope that after yesterday's ceremony, there will be a greater understanding of the Nixon Presidency and its contributions. It is also my hope that there will also be a greater respect for the institution of the Presidency.

Yesterday was a national day of healing and reflection. It has been almost one-quarter of a century since our Nation stopped to remember and mourn a past President. It is good for our country to come together to pause and reflect at the same time.

There was an underreported compassionate side to Richard Nixon. My father met President Nixon at the Republican National Convention in 1960 and had the occasion to work with him during his visits to Long Island prior to his Presidency.

When my father suffered a stroke, President Nixon sent my family some money to aid in his recovery. And when my father died, President Nixon issued a statement saying what a great personal loss his passing was to him.

The death of President Nixon marks the end of an era for our Nation. It also marks the end of an era for someone who touched my family.

TAKE OUR DAUGHTERS TO WORK DAY

(Ms. FURSE asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Ms. FURSE. Mr. Speaker, today on Take Our Daughters to Work Day, thousands of people throughout the country are giving young women a first hand look at the opportunities that are now open to them in the professional world. Many of these opportunities were not available when their mothers or grandmothers were their age.

It would be so wonderful not to have to have a special day like this. But unfortunately we do. We need to focus on the needs of young girls because as they enter adolescence, they begin to lose their self esteem, they begin to fall behind in math and science classes as teachers call on girls less and less.

Take Our Daughters to Work Day shows that girls can do what boys can do. But this one day will not turn around the inequities that young girls experience. That is why I have introduced House Joint Resolution 302, which designates the remaining years of the decade the "Years of the Girl Child" and calls attention to the mistreatment girls endure throughout the world. It also calls on the President to urge all U.S. diplomatic personnel and appropriate Cabinet members to encourage equality for girls in health care, education, and all phases of family life.

I urge all my colleagues to cosponsor this important resolution. And if we all provide opportunities to girls, then one day we will not need to have a special day calling attention to their needs. We will have a society where girls and boys can both achieve the same things.

My resolution has been endorsed by the following organizations: Academy for Educational Development, African-American Women's Clergy Association, Alliance for Child Survival, American Association of University Women, American College of Nurse Midwives, American Psychological Association, American Public Health Association, Americans for Democratic Action, Aspen Airport Business Center Foundation, Association for Women In Science, Association of Population/Family Planning Libraries and Information Centers International, Bread for the World, California Population Committee, Center for Democratic Renewal, Center for Policy Alternatives, The Center for Development and Population Activities, Center for Population Options, Center for Women Policy Studies, Citizen Advocate for Responsible Birthing, Commonwealth, Contraceptive Research and Development Program, Eastern Virginia Medical School, Creative Associates International, Inc., Crossroads Counseling, Development Associates, DKT International, Family Care International, Inc., Family Health International, Fund for a Constitutional Government, The Futures Group, General Federation of Women's Clubs, Heartwood Institute, Institute for Health Policy Studies, University of California, San Francisco, Institute for Reproductive Health at Georgetown University, IPPF, Western Hemisphere Region, International Projects Assistance Services, Johns Hopkins University Population Center, Lutheran World Relief, Macro International, Management Sciences for Health, Margaret Sanger Center International, Planned Parenthood of New York City, Ministry for Justice in Population Concerns, Missouri Botanical Gardens, Ms. Foundation, National Asian Women's Health Organization, National Black Women's Health Project, National Coalition Against Domestic Violence, National Committee for an Effective Congress, National Conference of Women's Bar Associations, National Council for International Health, National Family Planning and Reproductive Health Association, National Federation of Business and Professional Women, National Museum of Women In the Arts, National Optimum Population Effort, National Wildlife Federation, National Women's History Project, National Women's Law Center, Native American Women's Health Education Resource Center, Nurture; Center to Prevent Child Malnutrition, Office of Population Research, Princeton University Pathfinder International, Physicians for Social Responsibility, Planned Parenthood Federation of America, Population Action International, Population Communication, Population Communications International, The Population Council, Population-Environment Balance, Inc., The Population Institute, Population Speakout, Program for Appropriate Technology in Health, Research Triangle Institute; Center for International Development, RESULTS, Sex Information and Education Council of the U.S. (SIECUS), Sierra Club, Southern California Ecumenical Council, Transnational Family Research Institute, Treasure Coast Women's International League for Peace and Freedom, Tulane (LA) School of Public Health and Tropical Medicine, UKIMWI Orphans Assistance, Inc., Unitarian Universalist Church, United Church Board for World Ministries, United Church of Christ, Coordinating Center for Women, United Church of Christ, Network for Environmental and Economic Responsibility, United Church of Christ, Office for Church and Society, United Methodist Church, General Board of Church and Society's, Ministry of God's Human Community, United States Committee for UNICEF, Voters for Choice, The Woman Activist Fund, Inc., Woman's National Democratic Club, Women Employed, Women of All Red Nations, Women of Reform Judaism, The Federation of Temple Sisterhoods, Women's Action Alliance, Women's Caucus for Art, Women's Information Network, Women's Research and Education Institute, World Federalist Association, World Vision Relief & Development, Worldwatch Institute, Young Women's Project, Zero Population Growth.

SUPPORT VETERANS' HEALTH PROGRAMS IMPROVEMENT ACT OF 1994

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, health care reform is at the forefront of the national agenda, and that reform will have a tremendous impact on the VA health care system. Under the administration's health care proposal, VA medical centers will have to compete with private sector hospitals. At the same time, the administration's reinventing government plan recommends full-time equivalent employee reductions totaling 25,493 for the Veterans Health Administration.

If Congress allows this to happen: VA hospitals will lose 5,000 doctors, nurses, and other direct patient care staff over the next year and 25,000 over the next 5 years; thousands of beds will have to be closed because of these staff reductions; and 430,000 veterans will be turned away from VA hospitals during the 5-year period.

In my opinion these reductions jeopardize the VA's survival under health care reform. How can the VA compete with one leg tied behind its back?

Mr. Speaker, I urge my colleagues to support H.R. 4013.

THE VOTE IN SOUTH AFRICA

(Mrs. MEEK of Florida asked and was given permission to address the House for 1 minute.)

Mrs. MEEK of Florida. Mr. Speaker, in the past 5 years the world around us has changed so very rapidly. We now have a United Europe. The Berlin Wall has been brought down. Nelson Mandela is not only free, but a leading candidate in that country's first all races election. Side by side, come what may, South Africans of all ethnic backgrounds—Afrikaners, Zulu, Xhosa—pronounced Hosa—have cast their ballots on the future of democracy in that country. Oppressed blacks long under the chains of apartheid, can now chant: Free at last, free at last, thank God Almighty we are free at last.

Thousands of those who fled the oppression—white and black—can now look forward to a brighter future in their homeland.

During the past 3 days the people of South Africa have begun turning the page on a very dark history, and ushering in a new majority rule democracy the likes of which that country has never seen. The joy they feel at casting their ballots for the first time parrallels the feelings of joy experienced by African-Americans some 50 years ago in this county.

Mr. Speaker, what we have really witnessed this week is the birth of a new South Africa through the wonderstruck eyes of its citizens.

Freedom, Mr. Speaker, freedom. This week's vote in South Africa was about freedom. A voice to the voiceless. Power to the powerless. That is what this week's vote in South Africa was all about.

□ 1240

NEW TAXES INTRODUCED THE WEEK OF APRIL 15

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I was shocked last week to see the Democratic chairman of the Committee on Ways and Means choose the week after April 15 to propose two new tax increase proposals. Early in the week, he proposed a 31-percent increase in the Social Security tax on employees and businesses, and he proposed a reduction in the level at which the Social Security tax on senior citizens would take place to $22,000. He proposed a cut in the cost-of-living increase for Social Security. He proposed an 8.6-percent reduction in Social Security for the average recipient, and a 20-percent reduction in Social Security benefits for upper-income recipients. That was early in the week.

Then the Democratic chairman of the Committee on Ways and Means came back and said, "We are going to need a broad-based tax increase to pay for health care."

Now, we had a tax increase in 1990 which I opposed and most Republicans opposed. We had a tax increase in 1993 which every Republican opposed.

I cannot really believe that the Democratic leadership thought that the week after April 15 was the right week to propose punishing Social Security retirees, raising the Social Security tax, and creating a brandnew broad-based tax increase on all Americans.

INTRODUCING THE RISK ASSESSMENT IMPROVEMENT ACT

(Mr. KLEIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLEIN. Mr. Speaker, I rise today to proudly announced the introduction of the Risk Assessment Improvement Act of 1994. Environmental regulations are not doing the job. Threats to health and safety are not being addressed, while precious resources are frittered away on unproductive activity. At the same time we put unnecessary roadblocks in the path of business, causing loss of jobs.

This legislation strengthens and coordinates the scientific methods used to calculate threats to human health and provides a basis for protecting the environment while preserving American jobs.

It establishes a director of risk assessment at the EPA to oversee a new risk program and bring together the variety of existing risk assessment initiatives spread throughout the Agency. This will ensure that state-of-the-art scientific methods are the basis for the risk assessment guidelines developed by the EPA. Second, the bill established a pilot program using comparative risk analysis to rank the severity of various environmental hazards. Also, the President's Science Adviser will coordinate mechanisms in risk assessment to ensure that Government agencies address similar risks using compatible methods.

This bill already has broad bipartisan support and I urge all Members to cosponsor this important initiative.

THE SITUATION IN BOSNIA

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, today, we are preparing to vote on the State Department's reauthorization. Included in this conference report is language in support of President Clinton's proposed policy change, lifting the ban on weapon sales to the Bosnians.

I am not here to debate whether or not we agree on this point. But this proposed policy shift underscores the need for open congressional debate on this important matter.

Earlier this week, I forwarded a letter to Secretary of State Warren Christopher, putting four questions to him. These are:

What are America's vital interests in Bosnia and how will these interests be furthered by lifting the arms embargo?

How will we maintain our technical neutrality once the embargo is lifted?

Do we, by association, compromise the neutrality of our NATO allies who have some 15,000 ground troops in the region?

Are we compromising our ability to secure future embargoes?

We not only have the opportunity to press for these answers, but an obligation to do so.

Mr. Speaker, I ask my colleagues to join me in calling for answers to these questions.

OPENING OPPORTUNITIES FOR OUR DAUGHTERS

(Ms. HARMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HARMAN. Mr. Speaker, my 9-year-old daughter, Justine, joined me at work today. She is the youngest of my four children, and her older sister, Hilary, is a freshwoman at Princeton.

The professional world Justine enters after she graduates from college in 2006—or even the world Hilary enters in 1997—will be very different from what was available to me as a 24-year-old law school graduate in 1969.

A major reason why the workplace is and will be different has much to do with courageous women who fought and refought so many battles for equality for women.

I was pleased to play a part in this fight, as a young lawyer who wrote a landmark appeal for the Women's Legal Defense Fund, as an advocate in the Carter White House for extension of time to ratify the equal rights amendment, and as an initial cosponsor and passionate supporter of the Freedom of Choice Act, the Family and Medical Leave Act, the Freedom of Access to Clinics Act and legislation to promote gender, workplace, and health equity for women.

Women taking our place at the table as equals. This is what the election of more women to public office means. I am honored to serve and to help open up infinite opportunities for Justine, Hilary and all our daughters.

ENVIRONMENTAL RISK ASSESSMENT IN THE 103D CONGRESS

(Mr. ZIMMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZIMMER. Mr. Speaker, on February 2, this House voted down the rule for the bill elevating the EPA to cabinet status because it did not allow for debate on the so called Johnston-Mica amendment that would require cost-benefit analysis of all environmental regulations. That vote proves that Congress is ready to debate environmental risk assessment.

In recent years, we have learned that the most dramatic and well publicized risks are not always the most dangerous to human health and the environment.

A number of Members, including Mr. KLEIN and myself, have introduced a bill that would begin to establish a framework for making informed environmental decisions based on sound science instead of the knee-jerk emotional reactions that often govern our health and environmental policy. The Klein-Valentine-Zimmer bill is one important component of the legislation we need for our environmental decisionmaking to be more rational and cost effective.

H.R. 4013, THE VETERANS' HEALTH PROGRAMS IMPROVEMENT ACT

(Mr. BISHOP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BISHOP. Mr. Speaker, I rise today to urge the passage of H.R. 4013, which would exempt the Veterans Health Administration from a law that will cut 25,000 VHA full-time positions.

This bill is intended to keep the VHA strong during a time of tremendous and unprecedented change. The VHA expects its workload to be enormous in the coming years as it tries to cope with the changes brought on by new health care reform laws.

To knowingly propose a decrease in the VHA work force when it is certain to have an increase in its workload is unfair and illogical.

Critics say it should be defeated because it will rescind the power of reinventing government laws.

Have you no compassion. The VHA is charged with caring for many of the men and women who risked their lives for you and me and democracy. Many of them will carry red badges of courage to their graves. Let us not desert our veterans, for they never deserted us when we needed them. Health care is one of the few rewards that remain for veterans service—a benefit they earned with blood, sweat, and tears on the battlefield. It would be dishonorable to strip them of this badge of honor.

WHO WORKS FOR WHOM?

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, a congressional Representative is supposed to represent the American people. But in recent days, frustrated liberals determined to impose a Government-run health system seem to have written a new prescription for their view of representative democracy. A leading player in the other body's health reform efforts recently told AP, "We're going to push through health reform regardless of the views of the American people." In other words, people do not count, Government knows best—trust us. That is a tough statement when you consider that we work for the American people and most Americans oppose the liberals prescription for health care reform. They do not want bureaucrats making their health care decisions and they do not want job-killing payroll taxes. Maybe it is time to remind those who scoff at the views of the American people just who works for whom. Is that not what elections are for?

PRICELESS GIFT: A TRIBUTE TO A FREE PRESS

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Mr. Speaker, I want all of my colleagues to know that in their respective cloakrooms today there is a priceless gift awaiting all of them. It is a newspaper from Sarajevo, a newspaper which has been published every single day during the 2-year siege of Sarajevo, a newspaper written by Serbs and Croats and Moslems, men and women of all religions, men and women who have tried to make of Bosnia a multiracial, multiethnic, multi-religious society.

This magnificent newspaper is a tribute to a free press. It is more precious than the New York Times and the Washington Post.

□ 1250

It is being published in the nuclear bomb shelter of a building which was destroyed by terror and force. It is a newspaper which is a tribute to the indomitable spirit of the people of Bosnia, who are determined to create for themselves a free and open and democratic society.

EMPLOYER MANDATES: THE DEVIL IN THE DETAILS

(Mr. UPTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. UPTON. Mr. Speaker, I was in my office a few minutes ago, and I heard much of the debate with regard to business mandates. Most of us here in this Chamber in fact want health care reform. We know the people with preexisting conditions, we know the people who are scared to change jobs because they will lose their insurance, we know the nightmare of the paperwork and other requirements that they are forced to fill out for reimbursement, and we know the kids without insurance whose families are denied.

We know of the inequities where people in fact are rewarded more for going on welfare instead of working. But the people across this land want the right prescription for health care reform, and as people across this Nation examine the details of the President's plan, they have in fact figured out the devil in the details. The thing they do not like is the business mandate.

Employers want incentives. They do not want more mandates. They do not want more payroll taxes.

I would urge my colleagues in this body to in fact oppose employer mandates as part of a health care reform package.

KEEP THE PROMISE: SUPPORT H.R. 4013

(Mr. FILNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FILNER. Mr. Speaker, I rise in support of H.R. 4013. While some Members have raised valid points in opposition, the bottom line is whether or not we are going to be able to keep the promise that our country has made to our veterans.

Throughout our Nation's history, we have made a commitment to our veterans. In return for their service to our country, we have promised them certain benefits, foremost among them being health care. If you want to break this promise, you will vote against H.R. 4013. If you want to keep this promise, you will vote for H.R. 4013.

The Veterans Health Administration is supposed to be getting ready to become a competitive health care provider. Even with current staffing levels, VA hospitals and outpatient clinics cannot provide services to all veterans who seek care. Restrictions on hiring will increase this problem and could assure failure during health care reforms.

Making government more efficient is important, but we must do this intelligently—not arbitrarily. H.R. 4013 follows the Vice President's recommended approach. Agency managers should be free to set personnel levels, based on available budgets, that will best fulfill the agency's mission.

The VA has identified several ways of eliminating unnecessary personnel. H.R. 4013 does not require the VA to employ unnecessary people. It requires that the VA, not outside budget examiners, make decisions about the way to serve our veterans.

To vote no on H.R. 4013 would mean: a loss of 5,000 doctors, nurses, and other direct patient care personnel over the next year—and 25,000 over the next 5 years and another 430,000 veterans will be turned away from VA hospitals during the next 5 years.

Is this the way to keep the promise to our veterans? It is not. I join with the major veterans' organizations in urging a "yes" vote on H.R. 4013.

RICHARD MILHOUS NIXON: HIS STRENGTH AND FLAWS WERE THE STUFF OF SHAKESPEARE

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, yesterday this Nation mourned the passing of Richard Milhous Nixon, grocer's son, Navy officer, Congressman, Senator, Vice President, President, and ultimately, senior statesman to the generations which followed him, both in this Nation and abroad.

The measure of any man, public or private, is the legacy which lives beyond his allotted span. The opening of China, the first breach of the Iron Curtain, the beginnings of disarmament and his inauguration of international human rights and the Helsinki Commission are just a few of the global landmarks fashioned by this remarkable intellect.

The national day of mourning yesterday recognized the respect in which this giant was held by the Nation's leaders and the thousands of Americans who never lost faith in his vision for the country and its place in modern history.

In the post-war world, Richard Nixon's influence and stature will be assured in the history of the last half of the 20th century. His strength and flaws were the stuff of Shakespeare; the one so great, the other so human, so unfortunately tragic.

Mr. Speaker, I was privileged to know him as his first major woman appointee.

God bless his family and his memory.

WHAT IS THE FED UP TO NOW?

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I just have a slight message for the Federal Reserve Bank. You know, I would be the last to ever want to politicize the Federal Reserve, because I feel their independence is very, very valuable. But I am horrified to see that apparently the Federal Reserve has decided to play politics on its own.

What do I mean by that? They have never raised interest rates before in the history of their existence, as well as I can tell, based on the data we have now.

Now, I want to know, No. 1, what economist is telling them that whatever they did in the past is wrong and they have to change courses; I have not seen anybody saying that, or what kind of data are they getting that looks entirely different than the data everybody has seen?

This is very puzzling, and it could be very harmful to this economy that is on its way back. I just want to say to them, "If you have some reason that fits the standard way you have been acting in the past, we ought to know it, because otherwise it looks very bad and it looks like you are playing politics and trying to do everything you can to try to cause trouble in the economy."

SUPPORT H.R. 4013 TODAY

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, later on today there will be a vote on the passage of H.R. 4013, which exempts the Veterans Administration from certain Federal work force cuts.

Mr. Speaker, let us make it perfectly clear: This bill does not prevent Federal work force cuts from being made in the Department of Veterans Affairs; it simply says that in the Department of Veterans Affairs there shall be no cutbacks in jobs for doctors, nurses, and those who deliver medical care services in our veterans hospitals. That is all the bill does.

There will be equitable cuts in the Department of Veterans Affairs, in administration and everywhere else except for the one section I mentioned. That is the way it should be.

So I urge all Republicans and Democrats to support this piece of legislation; it is vital. Otherwise OMB, as it has under former Republican administrations and under the present Democratic administration, will impose cuts across the board. That means laying off doctors and nurses. We cannot allow that to happen.

Mr. Speaker, support H.R. 4013 today.

WORKING OFF WELFARE

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, I am pleased to join Congresswoman WOOLSEY in introducing the first bipartisan welfare reform bill called working off welfare. We hope that the committees of jurisdiction will consider our ideas along with the many others embodied in various bills.

We provide a commonsense approach to welfare reform, creating a more sensitive system of social, educational, and economic supports which would empower individuals on welfare to become permanently self-sufficient.

Through working off welfare we hope to reinstill the values of work, family, responsibility, individualism, and hope.

Working off welfare encourages work by allowing the mother to keep more of her earnings when she gets a job. We make it possible for a poor family to receive child care and health benefits without entering the welfare system.

We encourage families to stay together, eliminating the rules which discriminate against two-parent families in seeking AFDC assistance.

We expand job training and education opportunities by tripling funding for the JOBS programs for AFDC families. We focus education and training on jobs which pay a family wage and nontraditional occupations for women.

We strengthen the paternity system, making the IRS responsible for collecting and distributing child support moneys.

Our goal is to help welfare recipients get the training they need to find jobs that provide a livable wage. If we succeed, we foster self-esteem where there was despair, role models where there were few, and a generation of children with hope where there has been a cycle of dependency. We encourage those who believe that welfare reform does not have to come at the expense of compassion and reason to join with us.

□ 1300

AMERICANS IN STRONG OPPOSITION TO EMPLOYER MANDATES

Mr. Speaker, Americans are continuing to speak out against Government run health care reform and mandates.

In a poll by the U.S. Chamber of Commerce, the Nation's largest business advocacy group, 71 percent of those polled oppose employer mandates.

These numbers reinforce what I have been saying all along—Government-imposed mandates on our Nation's businesses will kill jobs, decrease wages, and reduce benefits of the American worker.

Study by Nation's leading health care consulting firm, Lewin-VHI, shows that 88 percent of cost of employer mandates will be passed along to the worker in the form of reduced wages and benefits.

Laura Tyson, Clinton's Chairman of the Council of Economic Advisers, claims 600,000 jobs will be eliminated by Government imposed mandates in health care reform. The Employment Policy Institute says employer mandates will destroy between 780,000 and 1.2 million jobs.

President Clinton should not advocate Government-controlled and government-run health care at the expense of American employers and employees.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BISHOP). The Chair will remind Members not to refer to persons temporarily on the floor of the House as guests of the House.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3254, NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT, 1994

Mr. BONIOR, from the Committee on Rules, submitted a privileged report (Rept. No. 103–485) on the resolution (H. Res. 414) providing for consideration of the bill (H.R. 3254) to authorize appropriations for the National Science Foundation, and for other purposes, which was referred to the House Calendar and ordered to be printed.

IRAQ CLAIMS ACT OF 1993

Mr. BONIOR. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 410 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 410

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 3221) to provide for the adjudication of certain claims against the Government of Iraq. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Foreign Affairs now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. Points of order against the committee amendment in the nature of a substitute for failure to comply with clause 7 of rule XVI are waived. No amendment to the committee amendment in the nature of a substitute shall be in order unless printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII before the beginning of consideration of the bill. The amendment caused to be printed in the Record by Representative Bereuter of Nebraska (relating to certain commercial claims) may amend portions of the bill not yet read for amendment. After disposition of all other amendments to the committee amendment in the nature of a substitute, it shall be in order to consider an amendment caused to be printed in the Record by Representative Bonior of Michigan (relating to humanitarian assistance) and an amendment caused to be printed in the Record by Representative Solomon of New York (relating to war crimes) in the order stated. Points of order against each of those amendments for failure to comply with clause 7 of rule XVI are waived. After disposition of those amendments, no further amendment to the committee amendment in the nature of a substitute shall be in order. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Florida [Mr. GOSS], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, 3 years ago this month, America was celebrating our victory in the Persian Gulf war.

We had defeated the forces of Saddam Hussein.

We had liberated the people of Kuwait, and our troops were rightfully welcomed home with flags, parades, and all-star salutes.

But Mr. Speaker, 3 years after the war ended, there are still some people who are paying the price.

Thousands of the brave men and women who fought for America in that war still suffer physical and emotional injuries, including the effects of Persian Gulf war syndrome.

Many of the crew members injured in the prewar Iraqi attack on the U.S.S. *Stark* still have outstanding claims from the injuries they suffered, and many United States corporations who did business in prewar Iraq and were owed money for services rendered, were left high and dry after the United Nations imposed sanctions and the United States Government itself is owed a hefty chunk of change as the result of defaults by the Iraqi Government.

Mr. Speaker, all told, American claims against Iraq for losses, damages, and injuries suffered as a result of the gulf war run to about $5 billion.

And Saddam Hussein is not about to pay a dime of it back.

But this bill before us today will help us recoup some of those losses.

Mr. Speaker, as we stand here today, there are approximately $1.2 billion in frozen Iraqi assets in the United States, assets that were frozen by the United States after Iraq invaded Kuwait.

For most of the people and businesses owed money by Iraq, these frozen assets are the only means they have of being reimbursed.

There is no other way.

But under current U.S. law, those assets must remain frozen. They cannot be used for anything or to reimburse anybody right now.

But the bill that we will be discussing in just a few minutes changes all that.

This bill authorizes the United States Foreign Claims Settlement Commission to use the $1.2 billion in frozen Iraqi assets to pay American claims against the Government of Iraq.

It also sets up a mechanism by which these claims may be processed fairly, and it directs the commission to give first priority, as it should, to claims filed by veterans of Operation Desert Storm, victims of the U.S.S. *Stark* attack, and small claimants who can't afford to hire expensive attorneys to get their money back.

Mr. Speaker, I would also like to take a moment to mention an amendment I intend to offer later today as authorized by the rule that the Clerk just read.

As we speak about the people who are still paying the price of the gulf war, nobody is paying a higher price today than the Iraqi people themselves.

Saddam Hussein has turned his back on the people of Iraq, and with sanctions in place, hundreds of thousands of civilians in that country are dying today due to a lack of food, water, and basic medicine.

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Mr. Speaker, this is a startling statistic. An estimated 120,000 children under the age of 5 have died in Iraq in the past 3 years alone. Iraq today is a place where mothers see their babies scream in agony because operations must be performed without anesthesia. There is no anesthesia in the country. It is a place where diabetics lapse into comas, there is no insulin. It is a place where children suffering from leukemia are routinely sent home from the hospital because there is no medicine to provide them care. I intend to offer an amendment to address that situation. I will speak to it a little later as this bill progresses.

Mr. Speaker, this bill is the right thing to do, it is the right time to do it, and I would urge my colleagues to support this rule and to support the bill on final passage.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, although this rule was unnecessarily clouded by a requirement that proposed amendments be preprinted—it is basically an open rule. And for that I would like to commend Chairman MOAKLEY, as well as Chairman HAMILTON and ranking member GILMAN, of the Foreign Affairs Committee. While we objected to the preprinting requirement as a needless restraint on Members' ability to proposed changes to this bill, because of unrelated national events, Members with an interest in the Iraq Claims Act of 1993, did in fact have additional opportunity to formulate and submit suggested amendments.

H.R. 3221 provides a measured, technical process to help victims of the Persian Gulf war—private and public—recoup some of their serious losses. Clearly the available resources—$1.3 billion in frozen Iraqi assets—fall far short of covering the estimated $5 billion in total claims against the Iraqis resulting from the war. As a result, this legislation is only one step toward an equitable prioritization of claims against the Iraqi Government. After the war, the United Nations established a Commission on Compensation to deal with losses by governments, individuals, and corporations stemming from Iraq's aggression against Kuwait, violations of international law, and inhumane treatment of prisoners. Despite this mandate, though, many claims against Iraq stemming from the war do not fall within the jurisdiction of the U.N. Commission. Under H.R. 3221, frozen Iraqi assets will be liquidated and divided between the Federal Government and private claimants whose grievances fall beyond the jurisdiction of the U.N. commission. H.R. 3221 rightfully gives preference for settlement of such claims to families of U.S. servicemen killed and veterans injured during Operation Desert Storm and the attack of the U.S.S. *Stark*. Private companies with business interests in Iraq that suffered losses because of the war will also be eligible, once veterans' and survivors' claims are settled. Mr. Speaker, Saddam Hussein's debt to the international community can never be repaid in full. H.R. 3221 will help make amends to some of those who suffered because of his insatiable appetite for power and indefensible aggression against innocent people. Of course, there remain serious consequences of the gulf war, for the Iraqi people who continue to suffer under the dictatorial rule of Saddam Hussein and for the American veterans whose lives are forever changed by their service in Desert Storm. I strongly support an amendment offered by Mr. SOLOMON, expressing Congress' interest in a U.N. war crimes tribunal, and I believe the list of crimes should include Hussein's deliberate attacks on the environment. In March 1991, this House passed a resolution deploring the blatant degradation of the environment and holding Saddam Hussein and his government expressly liable for related damages. At the time, we called this the send-the-bill-to-Saddam resolution. Americans vividly remember the gruesome images of purposely dumped sludge fouling the coastline and black smoke from deliberately torched oil wells blocking the Sun. Residents of the region will no doubt suffer long-term health and economic consequences from this terrible crime—while hundreds of American military personnel now report mysterious health problems that could relate to toxic exposure during their active duty in the Persian Gulf. While the legislation before us today clearly does not address all of these lingering problems stemming from the gulf war, H.R. 3221 lays the groundwork for settling at least part of our score with the Iraqi Government.

Mr. Speaker, I urge support for the rule.

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted[1]	Open rules		Restrictive rules	
		Number	Percent[2]	Number	Percent[3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	60	12	20	48	80

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Apr. 22, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number/date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (D–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental appropriations	37 (D–8; R–29)	1 (not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173, May 18, 1993	MC	S.J. Res. 45: United States Forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-Postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National Defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (Oct. 6, 1993).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	NA	NA	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	NA	NA	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	NA	NA	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	NA	NA	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	NA	NA	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act—1993	2 (D–1; R–1)	NA	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	NA	NA	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, fiscal year 1994	NA	NA	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet status	27 (D–8; R–19)	9 (D–1; R–8)	F: 191–227. (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom access to clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt methods young offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	NA	A: 252–172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign finance reform	35 (D–6; R–29)	1 (D–0; R–1)	A: 220–207. (Nov. 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	A: 247–183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency supplemental appropriations	14 (D–8; R–5; I–1)	5 (D–3; R–2)	PQ: 244–168. A: 342–65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D–8; R–19)	10 (D–4; R–6)	PQ: 249–174. A: 242–174. (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal workforce restructuring	3 (D–2; R–1)	2 (D–2; R–0)	A: Voice Vote (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's schools	NA	NA	A: Voice Vote (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget resolution fiscal year 1995–99	14 (D–5; R–9)	5 (D–3; R–2)	A: 245–171 (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent crime control	180 (D–98; R–82)	68 (D–47; R–21)	A: 244–176 (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	NA	NA	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ-Previous question; A-Adopted; F-Failed.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. SOLOMON], the ranking member of the Committee on Rules, who has an important amendment to this bill.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I strongly support this rule and the legislation that it brings to the floor. At the appropriate time, the gentleman from Michigan [Mr. BONIOR] and I will offer two separate amendments concerning the atrocities that continue to be inflicted on the Iraqi people. And if we think things are bad with what is going on in Bosnia and in other flash points around this world, in Turkestan and Azerbaijan and Georgia and many of the former Soviet republics, let us remember what continues to go on in Iraq.

I support the Bonior amendment and urge all Members on both sides of the aisle to support it. It is so terribly important, the message and help it delivers.

As for my own amendment, it simply lists the most serious and abusive of actions by Saddam Hussein and his regime during the Persian Gulf crisis and continuing right to today. It calls on the President of the United States to request the United Nations to establish a war crimes tribunal to hold Saddam Hussein and other officials in his regime accountable for their atrocities.

Mr. Speaker, all decent people throughout the world were appalled by the brutality of Saddam Hussein's invasion and occupation of Kuwait. Our memories are still vivid when we recall the atrocities committed by Iraqi forces against the people of Kuwait. We are still repulsed by Saddam Hussein's cynical use of so-called human shields as a means of protecting his important military facilities against threatened attacks. And we still recoil at the recollection of indiscriminate Iraqi missile attacks against innocent unarmed civilians in Israel and Saudi Arabia.

Mr. Speaker, the final chapter in Saddam Hussein's bloody history has not yet been written. I remain hopeful, indeed, very confident, that the day will come when Saddam Hussein has to face the bar of justice, when he has to face the court of world opinion. As a way of continuing to keep the pressure on his regime, I urge the establishment of a war crimes tribunal. Let the process of organizing the evidence begin now. And let us continue to keep the moral outrage of the civilized world focused on these atrocities. Surely, the day will come when Saddam Hussein and his henchmen are held accountable.

My amendment simply expresses the sense of this Congress that the President should request the United Nations to establish a tribunal to charge this war criminal for his crimes against humanity. I urge Members to please support the amendment when it comes up.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. GILMAN], the ranking member of the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Speaker, I would like to thank the chairman of the Rules Committee, the Honorable JOHN JOSEPH MOAKLEY, the distinguished ranking minority member, the gentleman from New York [Mr. SOLOMON], and the distinguished minority floor manager, PORTER GOSS from Florida, for their efforts in bringing this resolution to the floor. It should provide Members on both sides of the aisle with the opportunity to consider and amend H.R. 3221, the Iraq Claims Act of 1993, reported out of the Foreign Affairs Committee on November 20, 1993.

I agree with Chairman HAMILTON on the importance of this legislation and the need for its prompt consideration by the House. We need to establish a fair and orderly system of adjudicating the claims of United States nationals against Iraq.

The $1.2 billion in frozen Iraqi assets is far outweighed by the $5 billion in total claims by the United States Government, individuals and companies.

The bill authorizes the vesting of these frozen Iraqi assets to pay claims that are not within the jurisdiction of the U.N. Compensation Commission and authorizes the Foreign Claims Settlement Commission to administer and allocate any funds received from the U.N. Commission.

Mr. Speaker, I urge my colleagues to support the rule and the Iraq Claims Act.

☐ 1320

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. ROTH], a member of the Committee on Foreign Affairs.

Mr. ROTH. Mr. Speaker, I thank my friend from Florida for yielding time to me.

This legislation originated in our Subcommittee on Economic Policy, Trade and Environment and I urge my colleagues to join me in voting for the rule and for the bill.

As has been said here a number of times, there are about $5 billion in American claims which have been pending for years against Iraq. And we are holding about $1.2 billion in Iraqi assets, which we seized at the time of the gulf war. This legislation will allow these frozen assets to be distributed as partial settlement to these longstanding American claims. And the important part of this legislation is since these claims are far more than the seized assets, this bill sets up a Government Commission to make partial settlements.

The Commission would determine the most equitable basis for allocating favorable and available assets. The bill sets a priority for resolving the claims of American service people at the head of the line. This is why I think this legislation is so important. Those injured in the U.S.S. *Stark* attack and those injured in the gulf war would be first in line.

Other claimants, including the U.S. businesses and U.S. Government, would also receive settlements. In my view, it is long past time when we can help the American soldiers, American businesses, and American taxpayer recover as much from Iraq as possible. Unless we pass this legislation, these claimants face a free-for-all in court. Let me repeat that. Unless we pass this legislation, these claimants face a free-for-all in court, where the winners will be determined by those with the best lawyers, not the best claim. That is why I am so determined that our service people are at the head of the line when these claims are allocated. That is why our subcommittee wrote this bill, and that is why the House should pass this bill today.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. ROTH. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, I just want to commend the gentleman from Wisconsin for his work on this issue and so many others, trying to work out a responsible solution, as I think we have. And it could not have been done without his help.

Mr. ROTH. I thank the chairman of the committee for those kind words. Let me say that the chairman is too modest because the chairman is the one that put this legislation to the Congress, and we appreciate his working with us in doing that.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER], another distinguished member of the Committee on Foreign Affairs.

Mr. BONIOR. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for his kindness and courtesy in this respect.

Mr. Speaker, this Member rises to support the rule. First, I would like to say that I completely support one goal of this legislation to fully compensate those United States armed servicemen, or their families, who were injured in the *Stark* attack or bravely fought in the Persian Gulf war and were either injured or killed in that war. However, the unprecedented step by the U.S. Department of Treasury to compensate those servicemen out of a pool of frozen assets—some of which is owed to U.S. commercial and Government interests—has created some very inequitable results. And it is important to recognize that such payment to servicemen, who are not abused POW's, from frozen enemy assets is indeed, apparently, a precedent-setting step. Unfortunately, our Government failed in the United Nations to have our United States servicemen, or their families, compensated from Iraqi oil revenues collected by the U.N. Commission as they should have been. Therefore, I fully understand the need and desire to utilize other funds for this very important and necessary purpose. Nevertheless, the United States should still pursue the U.N. option.

I strongly object to the way the Treasury Department has handled this matter. It seems only fair and equitable that the United States Treasury Department should not prohibit the relatively small number of United States exporters—who have actually shipped goods to Iraq before the embargo—from collecting payment owed to them by the Iraqis when the Iraqis authorized payment. This was not the way Treasury treated exporters in a similar circumstance with respect to frozen Iranian assets. United States exporters who shipped goods to Iran prior to the embargo were paid, and United States exporters who shipped goods to Iraq prior to the embargo should be paid—especially if the Iraqis had also authorized payment from their assets abroad. In addition, I am concerned that current Treasury Department regulations will add substantial noncommercial costs to U.S. exporters in the future by forcing them to purchase expensive, confirmed letters of credit for much of their export financing. These noncommercial costs will damage our competitive stance with foreign competitors.

The U.S. Treasury Department could avoid the inequities locked in place by this legislation by reexamining its current regulations. It should do so. I believe that a permanent policy should be developed which would permit both U.S. exporters and their financing institutions to understand and rely upon set rights and obligations when a Presidential freeze of foreign assets occurs.

This Member attempted to develop a compromise amendment to this legislation which would more equitably distribute limited assets to all claimants including: U.S. armed servicemen, victims of the *Stark* incident, the U.S. Government, and all commercial claimants. Unfortunately, it is clear that the fundamental source of the inequitable distribution of limited assets lies first in Treasury Department regulations.

Therefore, this Member believes it would be appropriate for the Treasury Department to carefully reexamine its current regulations and attempt to resolve the inequities created by existing regulations. I would suggest that for reasons of equity, and as a message to Treasury to go back and do their job properly.

Mr. Speaker, the Department of Treasury Office of Foreign Assets Control has not responsibly administered the assets which were blocked pursuant to Executive order by President Bush. Unfortunately, the Department of Treasury Office of Foreign Assets Control more responsibly administered the assets which were blocked pursuant to Executive order by President Bush. Unfortunately, the Office of Foreign Assets Control and a man who apparently operates like an arrogant little tin god, Mr. Richard Newcomb, has administered these blocked funds in a haphazard and inequitable manner:

First, OFAC intended to allow exporters to be paid out of blocked assets. OFAC's original policy for releasing blocked Iraqi assets (General License No. 7, August 15, 1990) authorized the issuance of licenses to permit payment from a blocked account for all exporters who shipped goods to Iraq prior to the embargo.

Then, OFAC limited this authority (General License No. 7, October 18, 1990) to U.S. banks for goods shipped based on letters of credit issued or confirmed by U.S. banks. This is a radical departure from OFAC policy with regard to frozen Iranian assets which were paid to exporters who shipped under all letters of credit.

As of March 3, 1994, OFAC has—despite its objections to piecemeal distribution of blocked Iraqi assets—issued 444 specific licenses allegedly authorizing the release of assets frozen by the Executive orders including the following:

First, a CCC payment of $450 million to Gulf International Bank, a Middle Eastern bank partly owned by the Government of Iraq, and reportedly involved in financing embargo-busting activities.

Second, release of frozen assets to Saalim Noman, the reputed head of Iraq's military procurement network in the United States.

Third, release of $16 million from frozen Iraqi assets to a major political contributor (see Statement of the honorable former senior Senator from Colorado, Senator Tim Wirth, 138 CONGRESSIONAL RECORD S15731, September 30, 1992).

Fourth, transfer of more than $107 million from blocked Iraqi accounts in United States banks to the United Nations.

Mr. Speaker, the Office of Foreign Assets Control has plenty of precedent to permit U.S. exporters to receive full payment for their transactions, yet they have instead permitted disreputable individuals and entities which have allegedly engaged in embargo busting activities to erode claims that are entitled by this legislation to be awarded to U.S. veterans, U.S. businesses, and other individuals.

Mr. Speaker, in light of these allegations against the Department of the Treasury, this Member demands that the Treasury Department's inspector general investigate these important allegations. Because Mr. Richard Newcomb and the Office of Foreign Assets Control will not provide the details on who has received licenses from his perch atop this apparently unaccountable agency within the Treasury Department, this Member believes such allegations at least, must be considered as possibly true until proven false.

Mr. Speaker, to remedy these aforementioned abuses and inexcusable practices of the Office of Foreign Assets Control, an amendment I have drafted merely places those U.S. exporters who shipped goods prior to August 2, 1990, in a similar status but still below that which the Office of Foreign Assets Control has elected to confer on U.S. banks who issued or confirmed letters of credit to U.S. exporters. It seems only fair and equitable to this Member that the United States Treasury Department should not prohibit United States exporters—who have actually shipped goods to Iraq before the embargo—from collecting payment owed to them by the Iraqis when the Iraqis authorized payment.

Mr. Speaker, without the amendment I have drafted, this legislation will preclude us from reversing an administrative policy that will adversely impact U.S. commerce, U.S. exporters, and the financing of international commercial transactions. Without the Bereuter amendment, H.R. 3221 would deter U.S. exporters from selling goods to foreign countries where the threat of hostilities—which is increasingly common—could cause them to lose everything if funds payable to them become subject to a blocking order in a U.S. financial institution.

Unfortunately, Mr. Speaker, this Member has today endured one of the more damaging and irresponsible descriptions of an amendment which I hope to offer. A "Dear Colleague" which was circulated prior to consideration of this legislation grossly and unfairly characterizes this Member's amendment by associating it with attempts to place commercial claims before the legislation's priority designation of payment for members of the Armed Forces, victims of U.S.S. *Stark*, and other individuals. Clearly, this Member's proposed amendment does not affect H.R. 3221's priority designation of those claims. In fact, this Member took extra caution and care to ensure that H.R. 3221's priority designation be left unaffected.

Finally, Mr. Speaker, in regard to a letter circulated to Members of Congress by a bank which claims that my proposed amendment "violates established principles of commercial law," this Member would like to state that my proposed amendment does nothing to change letter of credit law, and in fact, maintains current legal distinctions between confirmed letters of credit and advised letters of credit. Under current Treasury Regulations U.S. financial institutions have been reimbursed from frozen Iraqi assets after paying out of their own funds, confirmed letters of credit. The proposed Bereuter amendment does not permit unconfirmed letters to be paid out of frozen Iraqi funds. Rather, it places exporters who shipped under unconfirmed letters of credit firmly behind those exporters who shipped under confirmed letters of credit—which are even ahead of veterans claims—and firmly behind the priority claims of members of the U.S. Armed Forces, their families, and victims of the U.S.S. *Stark*.

Therefore, the drafted Bereuter amendment, as published in the RECORD on page 8608, April 26, 1994, does nothing to create extra obligations for U.S. financial institutions who finance international commercial transactions. The drafted Bereuter amendment was aimed at promoting U.S. exports and U.S. financing of export transactions; it intentionally avoided creating extra obligations for U.S. financial institutions.

□ 1330

Mr. BONIOR. Mr. Speaker, House Resolution 410 provides, as we have heard this afternoon, for the consideration of H.R. 3221, the Iraqi Claims Act. This is, as has been stated, a simple open rule that provides 1 hour of general debate and makes in order any amendment printed in the CONGRESSIONAL RECORD.

The rule allows the gentleman from Nebraska [Mr. BEREUTER], who has just spoken, to offer an en bloc amendment which modifies portions of the bill not yet read for amendment. The bill waives clause 7 of rule XXI for an amendment offered by the gentleman from New York [Mr. SOLOMON] relating, as he so aptly described, to the war crimes issue and Saddam Hussein, and for an amendment that I intend to offer relating to humanitarian assistance.

Finally, the rule provides one motion to recommit, with or without instructions. I urge my colleagues to support the rule and the bill, Mr. Speaker.

Mr. GOSS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BONIOR. Mr. Speaker, I have no further requests for time. I yield back the balance of the time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MCNULTY). Pursuant to House Resolution 410 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3221.

□ 1334

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3221) to provide for the adjudication of certain claims against the Government of Iraq with Ms. ESHOO in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Indiana [Mr. HAMILTON] will be recognized for 30 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, first let me express appreciation to those Members of the House Committee on Foreign Affairs who have worked very diligently on this amendment and on this bill, the gentleman from Connecticut [Mr. GEJDENSON] and the gentleman from Wisconsin [Mr. ROTH], the chairman and ranking member of the Subcommittee on Economic Policy, Trade and Environment of the Committee on Foreign Affairs, and the gentleman from New York [Mr. GILMAN], the ranking member of the committee.

Madam Chairman, I just want to say also a word of appreciation to the gentleman from Nebraska [Mr. BEREUTER]. He may offer an amendment a little later on with which I disagree, but I have enormous respect for him, and I have appreciated the dialog I have had with him as we have tried to work our way through this complicated issue. I know that from the start of this process he has been very uncomfortable about any amendment which would put certain companies before veterans in terms of access to the limited Iraqi assets available to settle claims.

The committee has been in a position of not knowing until this morning, when Tuesday's CONGRESSIONAL RECORD was available, precisely what amendments would be in order. Over the last several weeks some companies have sought to reorder the process of claims adjudication, and have wanted their claims paid first. We have had to prepare for that eventuality.

Fortunately, we are not confronted with an amendment which seeks to pay certain companies with claims before veterans, so I simply want to commend the gentleman from Nebraska [Mr. BEREUTER] for the care he has given in drafting his amendment, so that veterans do not operate at a disadvantage. However, while the problem of the veterans has been removed, if his amendment is offered, I will, of course, oppose it.

First, Madam Chairman, let me explain the bill. H.R. 3221 provides the necessary authority to establish, maintain, and ultimately terminate a fair and orderly system for adjudicating the claims of United States nationals against Iraq. In other claims situations, the U.S. Government has not started the claims process until it has reached a government-to-government settlement.

With Iraq, of course, there is no reasonable prospect of reaching such a settlement. For this reason, the United States needs the authority this bill provides to invest and then use the proceeds from frozen Iraqi assets under United States control to provide awards to United States citizens and claimants.

There are serious negative repercussions if we do not approve this legislation. We need to be very clear about one point. It is not at all likely that everyone with claims against Iraq will be reimbursed in full for their loss. In fact, it is likely that no one will be reimbursed in full. There is simply not enough money to go around. It is estimated that there will be approximately $4 to $5 billion in individual, business, and government claims. There is approximately $1.2 billion in frozen Iraqi assets in this country, so we need to try to ensure a process that is fair and equitable for settling outstanding claims.

The bill before us is directed towards two goals. It sets up a system for dealing with the claims of U.S. nationals that predate the gulf war, but gives priority to veterans with gulf war claims; and, second, it sets up a structure for handling funds the United States may receive from the U.N. Commission. The U.N. Commission is handling most claims that result from Iraq's invasion and occupation of Kuwait.

A word about the bill further. The bill authorizes the United States Foreign Claims Settlement Commission to administer and, if necessary, to allocate funds received from the U.N. Commission.

□ 1340

The U.N. Commission plans to use Iraqi oil exports to provide compensation to foreign governments, individuals, and corporations that have suffered direct loss, damage, or injury as a result of Iraq's unlawful invasion and occupation of Kuwait.

The U.N. Commission's mandate includes providing compensation to prisoners of war who suffered losses or injuries due to treatment that violated international humanitarian law.

The U.N. Commission will not hear claims of United States servicemen who may have suffered losses in the course of their duty during the Iraq war. For this reason, these servicemen are given special priority under the U.S. Commission procedures.

Madam Chairman, the bill authorizes the U.S. Commission to pay claims that are not within the jurisdiction of the U.N. Commission.

In other words, the U.S. Commission will handle other losses suffered by U.S. claimants, such as prewar debts and obligations, injury claims of seamen on the U.S.S. *Stark*, and death and injury claims of Operation Desert Storm veterans.

Madam Chairman, the U.N. Commission is up and running. Filing deadlines for claimants with the U.N. Commission have been set. The United States needs a structure in place to accommodate the U.N. process.

Since we will not be able to reach settlement with Iraq, claimants deserve to have their claims heard while the evidence of their losses is still fresh.

Madam Chairman, I urge my colleagues to support this important piece of legislation.

Madam Chairman, I reserve the balance of my time.

Mr. GILMAN. Madam Chairman, I yield myself as much time as I may consume.

Madam Chairman, I rise in support of H.R. 3221, the Iraq Claims Act of 1993, reported out of the Foreign Affairs Committee on November 20, 1993.

I would like to thank the distinguished chairman of our Foreign Affairs Committee, the gentleman from Indiana [Mr. HAMILTON] and his staff, as well as the distinguished chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY], and the ranking member of the Rules Committee, the gentleman from New York [Mr. SOLOMON], for their cooperation and support in bringing this bill to the floor today under an open rule.

Also, I want to pay tribute to all the minority members of the committee who helped to shape this legislation and influence its consideration particularly Mr. GALLEGLY, Mr. LEACH, and Mr. BEREUTER.

I fully agree with Chairman HAMILTON on the importance of this legislation and the need for creating a fair and equitable procedure and framework for American claims not within the jurisdiction of the U.N. Compensation Commission.

This legislation provides a fair and orderly system for satisfying the claims of United States nationals, companies and the United States against Iraq as a result of the August 2, 1990, invasion of Kuwait.

The Iraq Claims Act follows the standard procedure utilized in the past to provide compensation of Americans in similar circumstances.

The bill authorizes the President to use the $1.2 billion of Iraqi assets frozen in 1990 to award payments on the estimated $3.1 billion of pre-August 2 claims and $2.3 billion post-invasion claims.

It would permit the available compensation to be allocated equitably among all claimants including individuals, Desert Storm and Desert Shield veterans, and commercial claimants.

This bill authorizes the vesting of these frozen Iraqi assets to pay claims that are not within the jurisdiction of the U.N. Compensation Commission and authorizes the Foreign Claims Settlement Commission to administer and allocate any funds received from the U.N. Commission.

The U.N. Commission plans to reuse revenues generated from Iraqi oil exports to provide compensation to foreign governments, individuals, and corporations that have suffered damage or injury as a result of Iraq's invasion and occupation of Kuwait.

Other losses suffered by U.S. claimants, including any unpaid pre-war commercial debts and obligations, injury claims of the crew members of the U.S.S. *Stark* and death and injury claims of Operation Desert Storm veterans, fall outside of the U.N. jurisdiction. This legislation will ensure that these claims will be adjudicated by the U.S. Commission.

In our review of this legislation, many members expressed concern with the limited jurisdiction of the U.N. Commission, particularly over the fact that this commission will not consider the war-related claims of service personnel from any Nation unless such personnel were prisoners of war who were mistreated.

To the extent that the members of our Armed Forces in the Desert Storm and Desert Shield operations are not fully compensated, our Government should continue to hold Iraq accountable. At such time as we reestablish normal relations with that country, we should seek payment in full for the balance of these claims.

Accordingly, I urge my colleagues to support final passage of this important legislation.

Madam Chairman, I yield 4 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Madam Chairman, I thank the gentleman for yielding time to me.

Madam Chairman, I rise to follow some of the concerns of the distinguished chairman of the committee and to simply stress that with regard to at least the principal amendment that is going to be offered from this side, that it is with some reluctance that I express some skepticism.

Madam Chairman, I think one should always recognize that care has to be given so that law is written with precedent in mind, with the understanding that the best law has the widest general applicability and the most dubious statute is particularist in nature. The amendment to be offered later has the effect of advantaging some and disadvantaging others in the assertion of claims. It also has the effect of overturning, after the fact, legal precedent.

Madam Chairman, I personally have very little doubt that the gentleman from Nebraska [Mr. BEREUTER] is entirely correct in expressing concerns about the allocation of the $1.2 billion in frozen assets which are currently available to dispense, however, about $5 billion in expected claims are being considered. But moving one group of creditors to the head of the line, as deserving as they may be, pushes other equally deserving creditors to the back of the line. And so with the greatest reluctance, I would stress that even though the particular group that is in effect has some very heartrending circumstances, there are other groups that also have heartrending circumstances from an economic perspective and that in the name of fairness and equitability, the best reliance for this Congress is established law.

Mr. BEREUTER. Madam Chairman, will the gentleman yield?

Mr. LEACH. I am delighted to yield to the gentleman from Nebraska.

Mr. BEREUTER. Madam Chairman, I thank the gentleman for yielding and I wonder if he would not admit that this difficultly about assessing the claims of one claimant class against another could be best handled by an administrative agency discharging their duties in a fashion that is consistent with previous precedents that have been established such as during the Iranian conflict?

Mr. LEACH. Madam Chairman, I think the gentleman has a fair point, but I would not take it too far.

Madam Chairman, one of the reasons that one should be careful about taking it too far, in the Iranian circumstance there was a surplus of frozen assets compared to claims. In this circumstance, there is a sparsity of frozen assets in relation to claims and so it was relatively easy to make an accommodation in that circumstance and not quite as easy in this particular one.

Mr. BEREUTER. Madam Chairman, will the gentleman yield again?

Mr. LEACH. I am happy to yield to the gentleman from Nebraska.

Mr. BEREUTER. Madam Chairman, that is certainly true, but the gentleman is aware of the fact that the U.S. Government failed to make its case convincingly with the United Nations so that in fact the claims for a substantial number of our claimants could have been paid for out of Iraqi oil proceeds which is entirely appropriate, true?

Mr. LEACH. Madam Chairman, it would have been far better for this country if our Government had made that claim. We are dealing with a circumstance that exists, not one that we would prefer to be the case.

Mr. BEREUTER. Madam Chairman, will the gentleman yield further?

Mr. LEACH. I am happy to yield to the gentleman from Nebraska.

Mr. BEREUTER. This gentleman is very, very reluctant to offer an amendment like I have drafted on the floor, even though we put veterans in the preferred first priority status where they ought to be. But when we have OFAC, this is the body within the Treasury Department responsible for these kinds of claims matters, failing to discharge their duty in a consistent fashion and making arbitrary distinctions that are inconsistent with precedent, a Member really has no other alternative but to come to the committee and then to the House floor to try to get some kind of realistic and acceptable action out of the administrative agency that ought to be handling this. And I think that is what this gentleman intends.

Mr. LEACH. Madam Chairman, I say to the gentleman, I respect very much what the gentleman has in mind, but I would also say that the fact that this particular institution, and in my comments I made reference to the fact that I thought the gentleman had some fair points in this regard, may have been capricious does not mean that, therefore, greater capriciousness is the reward for that group that happens to have the brightest and the most astute Member of Congress advocating their case.

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And what we have here is one of the finest, most reputable, and esteemed Members of our body who has come to the defense of one group of creditors, and I respect that more than anything, but I think the public interest should be for a general approach of the law than a particular interest.

Mr. HAMILTON. Mr. Chairman, I yield 8 minutes to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Madam Chairman, I rise today with regret, because I think the world of our chairman of the Committee on Foreign Affairs. He has been my candidate for many things in this Congress in the past and probably will be in the future.

In going over the report language and the language in the bill today, in the last section, the Congress does address the statement of policy, and it says that it is a sense of the Congress that individuals who have served in the armed forces of Iraq during the Persian Gulf conflict should not be admitted into the United States as refugees under the Immigration and Naturalization Act. That would be fine except it also says, "except in exceptional circumstances." The bill does not say what those exceptional circumstances are.

Reading on, the bill says, "until all claims certified under section 2(b) of this act shall have been paid in full." Well, there are two real considerations to me more as a matter of conscience. One, we do not sell American refugee status or citizenship to anybody, particularly those people who fight against American fighting men and women. And two, I do not think we should tie freedom to economic claims. I think they are so distinguishable, that if that is the sense of this Congress, I am embarrassed to say I am a Member of this Congress.

I have prepared and am introducing today a bill that would clearly say to the Immigration Service and State Department of the United States, notwithstanding any law to the contrary, no refugee of Iraqi descent who served in the Iraqi Army during the conflict in Iraq should be admitted into the United States under any circumstances. As we turn down Haitians, and as we turn down freedom fighters all over the world, can we say that we are going to take care of soldiers who fought against the United States? I think that is unconscionable.

Mr. MANZULLO. Madam Chairman, will the gentleman yield?

Mr. KANJORSKI. I am happy to yield to the gentleman from Illinois.

Mr. MANZULLO. Madam Chairman, I concur with what the gentleman has stated.

I, however, would state that several months ago when it was discovered that Iraqi POW's who were finding their way to this country, we made inquiry of the Sate Department, and the State Department now changed its position, so only those ex-Iraqi POW's who did not fire shots at us and who assisted the United States in the effort would be allowed to come to this country as refugees.

Mr. KANJORSKI. Madam Chairman, I understand that, but I saw the newscasts when a thousand or so men were in the field waiting to come to the United States, and the State Department of the United States and the Immigration Service of the United States said these are prisoners of war who cannot go home because they are threatened; that they have asked for political refugee status, and under the existing laws the Congress has passed, they are entitled to it.

I just want it very clear that if we did pass laws like that in the past which are being applied by our State Department or Immigration Service in such a way, we should change those laws. This is not to say that I would send people back to Iraq to suffer. We went to war for the benefit of Kuwait, Saudi Arabia, and other Middle Eastern countries. They certainly should have the ability to hold soldiers until Iraq becomes a free nation again or at least until their lives are not threatened.

It is not a responsibility for the United States to fill up this country with people who say, "I cannot go home for various political reasons"; that we have got to bring them over here in preference over other world citizens who are major contributors and true believers in freedom and democracy and willing to fight for it. These people did not fight for it.

Mr. MANZULLO. I concur with everything the gentleman said. But I would state, based upon the outrage just expressed, we took that outrage, approached the State Department, and the State Department has officially changed its policy to limit the number of POW's coming in.

Mr. KANJORSKI. Fine, but we do not know what that change is going to be.

Mr. MANZULLO. The change is in the report.

Mr. KANJORSKI. I read the report. It said they will change their policy and take into account different considerations. I do not know what those are. Until we know what the considerations are, and they are spelled out, the policy is wrong.

Mr. MANZULLO. The considerations are in the report. The considerations state very clearly that No. 1, any ex-Iraqi POW who comes to this country could not have fired any shots at this country. No. 2, he would have had to substantially aid this country in efforts to defeat.

Mr. KANJORSKI. Did you address the 500 that are here? Are they going back?

Mr. MANZULLO. What we asked was the policy be halted immediately because there were no specific guidelines.

Mr. KANJORSKI. What about those that are already here? What are we doing with the 500 that are here?

Mr. MANZULLO. Well, they are already here now. We cannot help that.

Mr. KANJORSKI. We can change the law and send them back.

Mr. MANZULLO. I would work with the gentleman on any reasonable laws to change it.

Mr. KANJORSKI. I will challenge my friends on the Republican side. I have sat here for years hearing motions to recommit on issues, on fine, fundamental things. We cannot offer recommittal on this side. But I challenge a Republican to offer a recommittal.

I prepared the language. I will tell you, if you put it up to a vote on this floor, if it does not pass overwhelmingly, then we ought to all go home and apologize to our constituents.

I am challenging the Republicans to find one conscientious Member on the Republican side to offer a motion to recommit so we can change this sense-of-the-Congress language. It does not need to be so harsh that we deny anybody refugee status.

Mr. MANZULLO. If the gentleman will yield further, it was the Republicans that found the problem going on, and it was the Republican Party that worked in the committee in a bipartisan.

Mr. KANJORSKI. This is no partisan issue. I drafted a bill, but I seek to make no partisan issue of it. I am asking the Republican minority who say they never have a chance, to find one of your Members that will stand up in objection to this bill and make a motion to recommit and let us vote on this floor whether it is the sense of Congress to let these refugees in.

Mr. HAMILTON. Madam Chairman, will the gentleman yield?

Mr. KANJORSKI. I am happy to yield to the gentleman from Indiana.

Mr. HAMILTON. Madam Chairman, the gentleman from Pennsylvania was courteous enough a moment ago to show me his amendment, a new motion to recommit. I had not seen it before.

I do not have any doubt at all that he needs to be commended for the principle that is stated in the amendment. None of us, I think, are comfortable with the idea of welcoming as refugees into this country Iraqi soldiers who fought against us.

Now, I told the gentleman from Pennsylvania that I would try to work with him on it. This raises questions of refugee policies that are outside the jurisdiction of the Committee on Foreign Affairs.

I do not know whether this motion to recommit is subject to a point of order or not, but it may be. But I think it is a very serious question that he has raised.

I also think, on the basis of my understanding of the problem, that it is not quite as simple as the language that this recommittal motion would suggest. In other words, there were many Iraqi soldiers who deserted. There were many who came over through our enticement. There were some Iraqi soldiers who helped us.

I just do not want to have blanket language without providing for some exceptions.

But the gentleman raises a very valid point, and I do want to try to work with him, as I have tried to work with the gentleman from Illinois, who was very interested in this matter in the committee, in order to reach a satisfactory conclusion. I commend him for calling it to our attention.

Mr. KANJORSKI. Reclaiming my time, I thank the chairman very much. I have a friend from Pennsylvania in our delegation. He is a freshman, and he fought against the Iraqis in the gulf war, and I would doubt that he feels comfortable with the idea that in the thousands of prisoners in the field, some would have the ability to assert refugee status, and that they would get preference over all refugees around the world.

I would invite my fellow Member, if he would like, to comment on this subject.

Mr. GEJDENSON. Madam Chairman, would the gentleman yield?

Mr. KANJORSKI. I yield to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. I thank the gentleman for yielding.

Madam Chairman, I would like to say what happened here is that the U.S. Military, in trying to protect American lives, said that if some of the Iraqis helped us, we would then repay them by giving them an opportunity to come to the United States.

Mr. KANJORSKI. Reclaiming my time, that may have been General Schwarzkopf's position, but it is not this Member of Congress, and I do not think it represents the position of the American people. I think we have every right in the world to protect them, we should say to Saudi Arabia, Kuwait: "We sent our boys, we lost our lives. Do you mean you can't take care of this prisoner problem in the Middle East?"

Madam Chairman, I call upon my colleague, the gentleman from Pennsylvania, from just below my district in Easton-Allentown-Bethlehem, the Honorable PAUL MCHALE, who served in the Persian Gulf. He resigned his seat in the house of representatives of the Assembly of Pennsylvania and honorably went to the Middle East and offered his life in the defense of the Middle East, Saudi Arabia, and Kuwait, and to help get freedom in Iraq.

I would like his opinion of what we are passing on here today.

Mr. MCHALE. Madam Chairman, will the gentleman yield?

Mr. KANJORSKI. I yield to the gentleman from Pennsylvania.

Mr. MCHALE. I thank the gentleman for yielding me the time to speak.

Madam Chairman, I had not anticipating to speak on this issue. I was not aware that it would be debated at some length. In light of the fact that it is, I want to associate myself fully with the remarks of the gentleman from Pennsylvania [Mr. KANJORSKI].

Madam Chairman, I remember what it was like on the morning of February 24, 1991, when brave soldiers and marines prepared to walk into an enemy minefield. And I remember what it was like that evening and for the next several evenings as thousands of Iraqi prisoners were captured. Yes, at that point they were defenseless, and, yes, at that point they were willing to cooperate. But a few hours earlier they were prepared to kill Americans.

I find it outrageous that those who have taken up arms in opposition to our country have now been invited to have permanent residency status within our Nation. That is a disgrace. We owe more than that to our comrades who died on the battlefield. Brave young Americans, knowing full well what the danger was, put their lives on the line, walked into those minefields, and in some cases sacrificed their blood and their lives. I do not want to hear State Department doublespeak on this issue. I do not want to hear we are only admitting those who did not pull a trigger. Those who took up arms are morally and politically accountable for their actions, and in light of the fact that they were prepared to kill Americans, I do not want to admit them to our shores. We owe more than that to those who sacrificed their lives. I fully agree with the gentleman from Pennsylvania [Mr. KANJORSKI]. This issue has been debated at length for at least 6 months. It is time to make it clear that in the past war and in any future war, those who take up arms against the United States will not be welcome in our country.

Mr. GILMAN. Madam Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. MANZULLO], a member of our Committee on Foreign Affairs.

Mr. MANZULLO. I thank the gentleman for yielding this time to me.

Madam Chairman, the United States of America has a penchant for putting American troops in harm's way, bleating the trumpets of victory, and then finding out that we lost the peace at the negotiating table. This time, the gulf war victory was shattered by the outrageous actions of the United Nations.

As part of the United Nations peace effort to conclude the gulf war, the U.N. Security Council adopted on April 8, 1991 Resolution 687 to provide compensation for damages caused by Iraq's invasion of Kuwait. The resolution states that Iraq was liable under international law "for any direct loss, damage * * * or injury to foreign governments, nationals and corporations, as a result of Iraq's unlawful invasion and occupation of Kuwait." The United Nations established a compensation commission to administer these claims, based on a 30-percent tax on all future Iraqi oil shipments.

I discovered that this fund could not be used to pay for the war injuries to soldiers, or survivors of deceased veterans, of the Allied Coalition Armed Forces who fought Saddam Hussein. The United States delegation to the Governing Council, according to a letter I received from the State Department, fought very hard to have the claims of these soldiers included in this fund.

The letter stated:

> All members of the Allied Coalition Armed Forces, or their survivors, should be able to file claims for death or injury suffered in the course of military actions against Iraq . . . [The U.S. delegation to the Governing Council] argues that these individuals had been sent into harm's way to combat aggression on behalf of the United Nations and thus they were at least as deserving as any other claimant . . . No other government supported the U.S. position.

On June 26, 1992, the Governing Council decided that only those veterans who were prisoners of war and who suffered Geneva convention rights violations would be able to use the fund to help pay for their injuries. Thus, some nations serving on the United Nations Security Council who were not even involved in the allied war effort against Saddam Hussein, such as China, determined that American soldiers and their survivors could not charge Iraq the cost of their injuries. I enclose the full letter for the record.

The only fund available to the soldiers or their survivors is the Iraqi Claims Fund, which consists of $1.2 billion in frozen Iraqi assets. That claims fund, however, has a limit of $100,000 per soldier or survivor. There were 396 U.S. soldiers killed and some 2,000 injured in the gulf war. In addition, an additional 8,000 veterans have been treated by VA hospitals for physiological injuries arising out of the war. Needless to say, the Iraqi Claims Fund could easily be depleted by veterans' claims. Plus, the fund will be used to settle United States Government contact and property claims against Iraq and unpaid contract obligations to American companies.

Over a period of time, Kuwait will have its property damage claims by Iraq paid through the United Nations Compensation Fund. However, United States veterans of the war, or the survivors, will have to look at the meager $1.2 billion Iraq Claim Fund or regular veterans' benefits to pay for injuries or death claims.

This is not right. Saddam Hussein someday will be shipping oil and will not be responsible one bit for injuries to soldiers, or survivors of soldiers, who battled his armies. Saddam Hussein will not have to pay for the injuries caused when one of his SCUD's landed on the American transportation division from Pennsylvania.

I am pleased that the committee inserted report language at my request to express this outrage. I fully agree with the committee that the United States should continue to hold Iraq accountable for uncompensated veterans' claims.

It is time that we stop the process of having American soldiers shed their blood on foreign soil only to have the peace accords dictated by nations whose efforts were minimal.

U.S. DEPARTMENT OF STATE,
Washington, DC, October 25, 1993.

Hon. DONALD MANZULLO,
House of Representatives, Washington, DC.

DEAR MR. MANZULLO: This letter responds to your request, in connection with the proposed Iraq Claims Act, for background on the eligibility of members of the United States Armed Forces to file claims against Iraq before the U.N. Compensation Commission (UNCC).

On June 26, 1992, the Governing Council of the Commission adopted Decision 11 (S/AC.26/1992/11) (enclosed), under which members of the Allied Coalition Armed Forces who engaged in military operations against Iraq are ineligible to file claims, unless they were prisoners of war and were mistreated in violation of international humanitarian law. You asked for an explanation of how the Governing Council arrived at this decision.

At the end of the Persian Gulf War, the U.N. Security Council adopted Resolution 687 (enclosed), which in paragraph 16 confirmed Iraq's liability under international law "for any direct loss, damage . . . or injury to foreign Governments, nationals and corporations, as a result of Iraq's unlawful invasion and occupation of Kuwait." The Security Council went on to establish a fund to pay compensation to eligible claimants and set up the Commission to administer the fund. It was left to the Governing Council of the Commission, composed of the fifteen member states of the Security Council, to determine the specific criteria for eligible claims, consistent with the terms of the resolution.

From the outset, the U.S. delegation to the Governing Council's first session (July 23–August 2, 1991) argued vigorously that all members of the Allied Coalition Armed Forces, or their survivors, should be able to file claims for death or injury suffered in the course of military actions against Iraq. We argued that these individuals had been sent into harm's way to combat aggression on behalf of the United Nations and thus they were at least as deserving as any other claimant. We said such persons were clearly "nationals" covered by paragraph 16 of Resolution 687 and deserved to be compensated for their losses. However, other governments objected strenuously to the U.S. position, arguing that national governments should be responsible for compensating members of their armed forces, there were no clear international precedents for such compensation, and inclusion here would exceed the mandate of the Commission. No other government supported the U.S. position, and the matter was put off for later consideration (Decision 1, paragraph 7) (enclosed).

At the Governing Council's fifth session (March 16–20, 1992), another government introduced a proposal, supported by the U.S. delegation, to clarify that prisoners of war who had been mistreated in violation of international humanitarian law were eligible for compensation, under established international precedents. Again there were serious objections from several governments even to this more limited proposal. The matter was again postponed in favor of further study.

Finally, at the Council's sixth session (June 22–26, 1992), consensus was reached on adoption of Decision 11 (enclosed), which clarifies that prisoners of war who were mistreated are eligible to submit claims to the Commission. The U.S. delegation continued to argue that all members of the Allied Coalition Armed Forces who suffered direct loss, damage or injury as a result of Iraq's invasion and occupation of Kuwait were entitled to make claims under Resolution 687. There was no support from any other Council member for the U.S. position. Other delegations continued to disagree, based on the reasons set forth above. In the end, other members of the Council would accept a provision stating that prisoners of war were eligible to claim compensation before the Commission on the basis of mistreatment only if the provision also clearly excluded all other claims by members of Allied Coalition Forces. Under the circumstances, and taking into account the importance of reaffirming the special status and protection to be accorded prisoners of war under international humanitarian law, the decision was the best result that could be obtained. The Department of Defense informed us that their priority was to increase international recognition of the status and rights of prisoners of war, and requested that the U.S. delegation support this decision.

Compensation for other members of the U.S. Armed Forces remains a matter for national legislation. Thus, we hope you will support adoption of the proposed Iraq claims legislation.

I hope we have been responsive to your concerns. Please contact us if we can be of further assistance.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary, Legislative Affairs.

Enclosures: 1. Resolution 687; 2. UNCC Decision 1; 3. UNCC Decision 11.

UNITED NATIONS SECURITY COUNCIL—RESOLUTION 687 (1991)*

ADOPTED BY THE SECURITY COUNCIL AT ITS 2981ST MEETING, ON 3 APRIL 1991

Recalling its resolution 660 (1990) of 2 August 1990, 661 (1990) of 6 August 1990, 662 (1990) of 9 August 1990, 664 (1990) of 18 August 1990, 665 (1990) of 25 August 1990, 666 (1990) of 13 September 1990, 667 (1990) of 16 September 1990, 669 (1990) of 24 September 1990, 670 (1990) of 25 September 1990, 674 (1990) of 29 October 1990, 667 (1990) of 28 November 1990, 678 (1990) of 29 November 1990 and 686 (1991) of 2 March 1991.

Welcoming the restoration to Kuwait of its sovereignty, independence and territorial integrity and the return of its legitimate Government.

Affirming the commitment of all Member States to the sovereignty, territorial integrity and political independence of Kuwait and Iraq, and noting the intention expressed by the member States cooperating with Kuwait under paragraph 2 of resolution 678 (1990) to bring their military presence in Iraq to an end as soon as possible consistent with paragraph 8 of resolution 686 (1991).

Reaffirming the need to be assured of Iraq's peaceful intentions in the light of its unlawful invasion and occupation of Kuwait.

Taking note of the letter sent by the minister for Foreign Affairs of Iraq on 27 February 1991[1] and those sent pursuant to resolution 686 (1991).[2]

Noting that Iraq and Kuwait, as independent sovereign States, signed at Baghdad on 4 October 1963 "Agreed Minutes Between the State of Kuwait and the Republic of Iraq Regarding the Restoration of Friendly relations, Recognition and Related Matters", thereby recognizing formally the boundary between Iraq and Kuwait and the allocation of islands, which were registered with the United Nations in accordance with Article 102 of the Charter of the United Nations and in which Iraq recognized the independence and complete sovereignty of the State of Kuwait within its borders as specified and accepted in the letter of the Prime Minister of Iraq dated 21 July 1932, and as accepted by the Ruler of Kuwait in his letter dated 10 August 1932.

Conscious of the need for demarcation of the said boundary.

Conscious also of the statements by Iraq threatening to use weapons in violation of its obligations under the Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925,[3] and of its prior use of chemical weapons and affirming that grave consequences would follow any further use by Iraq of such weapons.

Recalling that Iraq has subscribed to the Declaration adopted by all States participating in the Conference of States Parties to the 1925 Geneva Protocol and Other Interested States, held in Paris from 7 to 11 January 1989, establishing the objective of universal elimination of chemical and biological weapons.

Recalling also that Iraq has signed the Convention on the Prohibition of the Devel-

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Footnotes at end of article.

opment, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, of 10 April 1972.[4]

Noting the importance of Iraq ratifying this Convention,

Noting moreover the importance of all States adhering to this Convention and encouraging its forthcoming Review Conference to reinforce the authority, efficiency and universal scope of the convention,

Stressing the importance of an early conclusion by the Conference on Disarmament of its work on a Convention on the Universal Prohibition of Chemical Weapons and of universal adherence thereto,

Aware of the use by Iraq of ballistic missiles in unprovoked attacks and therefore of the need to take specific measures in regard to such missiles located in Iraq,

Concerned by the reports in the hands of Member States that Iraq has attempted to acquire materials for a nuclear-weapons programme contrary to its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968,[5]

Recalling the objective of the establishment of a nuclear-weapons-free zone in the region of the Middle East,

Conscious of the threat that all weapons of mass destruction pose to peace and security in the area and of the need to work towards the establishment in the Middle East of a zone free of such weapons,

Conscious also of the objective of achieving balanced and comprehensive control of armaments in the region,

Conscious further of the importance of achieving the objectives noted above using all available means, including a dialogue among the States of the region,

Noting that resolution 686 (1991) marked the lifting of the measures imposed by resolution 661 (1990) in so far as they applied to Kuwait,

Noting that despite the progress being made in fulfilling the obligations of resolution 686 (1991), many Kuwaiti and third country nationals are still not accounted for and property remains unreturned,

Recalling the International Convention against the Taking of Hostages,[6] opened for signature at New York on 18 December 1979, which categorizes all acts of taking hostages as manifestations of international terrorism,

Deploring threats made by Iraq during the recent conflict to make use of terrorism against targets outside Iraq and the taking of hostages by Iraq,

Taking note with grave concern of the reports of the Secretary-General of 20 March 1991[7] and 28 March 1991,[8] and conscious of the necessity to meet urgently the humanitarian needs in Kuwait and Iraq,

Bearing in mind its objective of restoring international peace and security in the area as set out in recent resolutions of the Security Council,

Conscious of the need to take the following measures acting under Chapter VII of the Charter,

1. Affirms all thirteen resolutions noted above, except as expressly changed below to achieve the goals of this resolution, including a formal cease-fire;

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2. Demands that Iraq and Kuwait respect the inviolability of the international boundary and the allocation of islands set out in the "Agreed Minutes Between the State of Kuwait and the Republic of Iraq Regarding the Restoration of Friendly Relations, Recognition and Related Matters", signed by them in the exercise of their sovereignty at Baghdad on 4 October 1963 and registered with the United Nations and published by the United Nations in document 7063, United Nations, Treaty Series, 1964;

3. Calls upon the Secretary-General to lend his assistance to make arrangements with Iraq and Kuwait to demonstrate the boundary between Iraq and Kuwait, drawing on appropriate material, including the map transmitted by Security Council document S/22412 and to report back to the Security Council within one month;

4. Decides to guarantee the inviolability of the above-mentioned international boundary and to take as appropriate all necessary measures to that end in accordance with the Charter of the United Nations;

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5. Requests the Secretary-General, after consulting with Iraq and Kuwait, to submit within three days to the Security Council for its approval a plan for the immediate deployment of a United Nations observer unit to monitor the Khor Abdullah and a demilitarized zone, which is hereby established, extending ten kilometres into Iraq and five kilometres into Kuwait from the boundary referred to in the "Agreed Minutes Between the State of Kuwait and the Republic of Iraq Regarding the Restoration of Friendly Relations, Recognition and Related Matters" of 4 October 1963; to deter violations of the boundary through its presence in and surveillance of the demilitarized zone; to observe any hostile or potentially hostile action mounted from the territory of one State to the other; and for the Secretary-General to report regularly to the Security Council on the operations of the unit, and immediately if there are serious violations of the zone or potential threats to peace;

6. Notes that as soon as the Secretary-General notifies the Security Council of the completion of the deployment of the United Nations observer unit, the conditions will be established for the Member States cooperating with Kuwait in accordance with resolution 678 (1990) to bring their military presence in Iraq to an end consistent with resolution 686 (1991);

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7. Invites Iraq to reaffirm unconditionally its obligations under the Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925, and to ratify the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, of 10 April 1972;

8. Decides that Iraq shall unconditionally accept the destruction, removal, or rendering harmless, under international supervision, of:

(a) All chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities;

(b) All ballistic missiles with a range greater than 150 kilometres and related major parts, and repair and production facilities;

9. Decides, for the implementation of paragraph 8 above, the following:

(a) Iraq shall submit to the Secretary-General, within fifteen days of the adoption of the present resolution, a declaration of the locations, amounts and types of all items specified in paragraph 8 and agree to urgent, on-site inspection as specified below;

(b) The Secretary-General, in consultation with the appropriate Governments and, where appropriate, with the Director-General of the World Health Organization, within forty-five days of the passage of the present resolution, shall develop, and submit to the Council for approval, a plan calling for the completion of the following acts within forty-five days of such approval:

(i) The forming of a Special Commission, which shall carry out immediate on-site inspection of Iraq's biological, chemical and missile capabilities, based on Iraq's declarations and the designation of any additional locations by the Special Commission itself;

(ii) The yielding by Iraq of possession to the Special Commission for destruction, removal or rendering harmless, taking into account the requirements of public safety, of all items specified under paragraph 8(a) above, including items at the additional locations designated by the Special Commission under paragraph 9(b)(i) above and the destruction by Iraq, under the supervision of the Special Commission, of all its missile capabilities, including launchers, as specified under paragraph 8(b) above;

(iii) The provision by the Special Commission of the assistance and cooperation to the Director-General of the International Atomic Energy Agency required in paragraphs 12 and 13 below;

10. Decides that Iraq shall unconditionally undertake not to use, develop, construct or acquire any of the items specified in paragraphs 8 and 9 above and requests the Secretary-General, in consultation with the Special Commission, to develop a plan for the future ongoing monitoring and verification of Iraq's compliance with this paragraph, to be submitted to the Security Council for approval within one hundred and twenty days of the passage of this resolution;

11. Invites Iraq to reaffirm unconditionally its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968;

12. Decides that Iraq shall unconditionally agree not to acquire or develop nuclear weapons or nuclear-weapons-usable material or any subsystems or components or any research, development, support or manufacturing facilities related to the above; to submit to the Secretary-General and the Director-General of the International Atomic Energy Agency within fifteen days of the adoption of the present resolution a declaration of the locations, amounts, and types of all items specified above; to place all of its nuclear-weapons-usable materials under the exclusive control, for custody and removal, of the International Atomic Energy Agency, with the assistance and cooperation of the Special Commission as provided for in the plan of the Secretary-General discussed in paragraph 9(b) above; to accept, in accordance with the arrangements provided for in paragraph 13 below, urgent on-site inspection and the destruction, removal or rendering harmless as appropriate of all items specified above; and to accept the plan discussed in paragraph 13 below for the future ongoing monitoring and verification of its compliance with these undertakings;

13. Requests the Director-General of the International Atomic Energy Agency, through the Secretary-General, with the assistance and cooperation of the Special Commission as provided for in the plan of the Secretary-General in paragraph 9(b) above, to carry out immediate on-site inspection of Iraq's nuclear capabilities based on Iraq's declarations and the designation of any additional locations by the Special Commission; to develop a plan for submission to the Secu-

rity Council within forty-five days calling for the destruction, removal, or rendering harmless as appropriate of all items listed in paragraph 12 above; to carry out the plan within forty-five days following approval by the Security Council; and to develop a plan, taking into account the rights and obligations of Iraq under the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968, for the future ongoing monitoring and verification of Iraq's compliance with paragraph 12 above, including an inventory of all nuclear material in Iraq subject to the Agency's verification and inspections to confirm that Agency safeguards cover all relevant nuclear activities in Iraq, to be submitted to the Security Council for approval within one hundred and twenty days of the passage of the present resolutions;

14. Takes note that the actions to be taken by Iraq in paragraphs 8, 9, 10, 11, 12 and 13 of the present resolution represent steps towards the goal of establishing in the Middle East a zone free from weapons of mass destruction and all missiles for their delivery and the objective of a global ban on chemical weapons;

D

15. Requests the Secretary-General to report to the Security Council on the steps taken to facilitate the return of all Kuwaiti property seized by Iraq, including a list of any property that Kuwait claims has not been returned or which has not been returned intact;

E

16. Reaffirm that Iraq, without prejudice to the debts and obligations of Iraq arising prior to 2 August 1990, which will be addressed through the normal mechanisms, is liable under international law for any direct loss, damage, including environmental damage and the depletion of natural resources, or injury to foreign Governments, nationals and corporations, as a result of Iraq's unlawful invasion and occupation of Kuwait;

17. Decides that all Iraqi statements made since 2 August 1990 repudiating its foreign debt are null and void, and demands that Iraq adhere scrupulously to all of its obligations concerning servicing and repayment of its foreign debt;

18. Decides also to create a fund to pay compensation for claims that fall within paragraph 16 above and to establish a Commission that will administer the fund;

19. Directs the Secretary-General to develop and present to the Security Council for decision, no later than thirty days following the adoption of the present resolution, recommendations for the fund to meet the requirement for the payment of claims established in accordance with paragraph 18 above and for a programme to implement the decisions in paragraphs 16, 17 and 18 above, including: administration of the fund; mechanisms for determining the appropriate level of Iraq's contribution to the fund based on a percentage of the value of the exports of petroleum and petroleum products from Iraq not to exceed a figure to be suggested to the Council by the Secretary-General, taking into account the requirements of the people of Iraq, Iraq's payment capacity as assessed in conjunction with the international financial institutions taking into consideration external debt service, and the needs of the Iraqi economy; arrangements for ensuring that payments are made to the fund; the process by which funds will be allocated and claims paid; appropriate procedures for evaluating losses, listing claims and verifying their validity and resolving disputed claims in respect of Iraq's liability as specified in paragraph 16 above; and the composition of the Commission designated above;

F

20. Decides, effective immediately, that the prohibitions against the sale or supply to Iraq of commodities or products, other than medicine and health supplies, and prohibitions against financial transactions related thereto contained in resolution 661 (1990) shall not apply to foodstuffs notified to the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait or, with the approval of that Committee, under the simplified and accelerated "no-objection" procedure, to materials and supplies for essential civilian needs as identified in the report of the Secretary-General dated 20 March 1991,[9] and in any further findings of humanitarian need by the Committee;

21. Decides that the Security Council shall review the provisions of paragraph 20 above every sixty days in the light of the policies and practices of the Government of Iraq, including the implementation of all relevant resolutions of the Security Council, for the purpose of determining whether to reduce or lift the prohibitions referred to therein:

22. Decides that upon the approval by the Security Council of the programme called for in paragraph 19 above and upon Council agreement that Iraq has completed all actions contemplated in paragraphs 8, 9, 10, 11, 12 and 13 above, the prohibitions against the import of commodities and products originating in Iraq and the prohibitions against financial transactions related thereto contained in resolution 661 (1990) shall have no further force or effect;

23. Decides that, pending action by the Security Council under paragraph 22 above, the Security Council Committee established by resolution 661 (1990) shall be empowered to approve, when required to assure adequate financial resources on the part of Iraq to carry out the activities under paragraph 20 above, exceptions to the prohibition against the import of commodities and products originating in Iraq;

24. Decides that, in accordance with resolution 661 (1990) and subsequent related resolutions and until a further decision is taken by the Security Council, all States shall continue to prevent the sale or supply, or the promotion or facilitation of such sale or supply, to Iraq by their nationals, or from their territories or using their flag vessels or aircraft, of:

(a) Arms and related *materiel* of all types, specifically including the sale or transfer through other means of all forms of conventional military equipment, including for paramilitary forces, and spare parts and components and their means of production, for such equipment;

(b) Items specified and defined in paragraphs 8 and 12 above not otherwise covered above;

(c) Technology under licensing or other transfer arrangements used in the production, utilization or stockpiling of items specified in subparagraphs (a) and (b) above;

(d) Personnel or materials for training or technical support services relating to the design, development, manufacture, use, maintenance or support of items specified in subparagraphs (a) and (b) above;

25. Calls upon all States and international organizations to act strictly in accordance with paragraph 24 above, notwithstanding the existence of any contracts, agreements, licences or any other arrangements;

26. Requests the Secretary-General, in consultation with appropriate Governments, to develop within sixty days, for the approval of the Security Council, guidelines to facilitate full international implementation of paragraphs 24 and 25 above and paragraph 27 below, and to make them available to all States and to establish a procedure for updating these guidelines periodically;

27. Calls upon all States to maintain such national controls and procedures and to take such other actions consistent with the guidelines to be established by the Security Council under paragraph 26 above as may be necessary to ensure compliance with the terms of paragraph 24 above, and calls upon international organizations to take all appropriate steps to assist in ensuring such full compliance;

28. Agrees to review its decisions in paragraphs 22, 23, 24 and 25 above, except for the items specified and defined in paragraphs 8 and 12 above, on a regular basis and in any case one hundred and twenty days following passage of the present resolution, taking into account Iraq's compliance with the resolution and general progress towards the control of armaments in the region;

29. Decides that all States, including Iraq, shall take the necessary measures to ensure that no claim shall lie at the instance of the Government of Iraq, or of any person or body in Iraq, or of any person claiming through or for the benefit of any such person or body, in connection with any contract or other transaction where its performance was affected by reason of the measures taken by the Security Council in resolution 661 (1990) and related resolutions;

G

30. Decides that, in furtherance of its commitment to facilitate the repatriation of all Kuwaiti and third country nationals, Iraq shall extend all necessary cooperation to the International Committee of the Red Cross, providing lists of such persons, facilitating the access of the International Committee of the Red Cross to all such persons wherever located or detained and facilitating the search by the International Committee of the Red Cross for those Kuwaiti and third country nationals still unaccounted for;

31. Invites the International Committee of the Red Cross to keep the Secretary-General apprised as appropriate of all activities undertaken in connection with facilitating the repatriation or return of all Kuwaiti and third country nationals or their remains present in Iraq on or after 2 August 1990;

H

32. Requires Iraq to inform the Security Council that it will not commit or support any act of international terrorism or allow any organization directed towards commission of such acts to operate within its territory and to condemn unequivocally and renounce all acts, methods and practices of terrorism;

I

33. Declares that, upon official notification by Iraq to the Secretary-General and to the Security Council of its acceptance of the provisions above, a formal cease-fire is effective between Iraq and Kuwait and the Member States cooperating with Kuwait in accordance with resolution 678 (1990);

34. Decides to remain seized of the matter and to take such further steps as may be required for the implementation of the present resolution and to secure peace and security in the area.

FOOTNOTES

* S. Res. 687 (1991)—reissued for technical reasons.

[1] S/22275, annex.

[2] S/22273, S/22276, S/22320, S/22321 and S/22330.

[3] League of Nations, *Treaty Series*, vol. XCIV (1929), No. 2138.

[4] General Assembly resolution 2826 (XXVI), annex.

[5] General Assembly resolution 2373 (XXII).

[6] General Assembly resolution 34/146.

[7] S/22366.

[8] S/22409.

[9] S/22366.

FIRST SESSION OF THE GOVERNING COUNCIL OF THE UNITED NATIONS COMPENSATION COMMISSION

CRITERIA FOR EXPEDITED PROCESSING OF URGENT CLAIMS

1. The following criteria will govern the submission of the most urgent claims pursuant to resolution 687 (1991) for the first categories to be considered by the Commission. It provides for simple and expedited procedures by which Governments may submit consolidated claims and receive payments on behalf of the many individuals who suffered personal losses as a result of the invasion and occupation of Kuwait. For a great many persons these procedures would provide prompt compensation in full; for others they will provide substantial interim relief while their larger or more complex claims are being processed, including those suffering business losses.

2. These criteria are without prejudice to future Council decisions with respect to criteria for other categories of claims, which will be approved separately as promptly as possible, with expert advice from Commissioners as may be required.

3. The following criteria are not intended to resolve every issue that may arise with respect to these claims. Rather, they are intended to provide sufficient guidance to enable Governments to prepare consolidated claims submissions. It will likely be necessary for the Council to make further decisions on the processing of claims after receiving expert advice where needed.

4. Each Government may submit one or more consolidated claims for each category established by the Council. Thus, each Government may make separate consolidated submissions covering claims in each of the categories set forth below; and it may later submit separate consolidated claims for each additional category to be established by the Council.

5. The Council will promptly establish criteria for additional categories of claims, to permit consolidated submissions by Governments for all losses covered by paragraph 16 of resolution 687 (1991). Business losses of individuals may be part of consolidated claims under the expedited procedures set forth below. The Council will provide further advice on an urgent basis as to the types of business losses eligible for consideration under the expedited procedures. Business losses of corporations and other legal entities will be covered in other criteria to be established. The Council will also separately consider claims on behalf of third parties, such as Governments, insurance companies, relief agencies and employers, which have made payments or provided relief to persons suffering compensable losses.

6. The Council will consider promptly, after receiving expert advice, the circumstances in which claims for mental pain and anguish may be admitted, the amounts to be awarded, and the limits to be imposed thereon.

7. The Council will separately examine the question of the eligibility or otherwise of claims by or in respect of members of the allied coalition armed forces; the Executive Secretary will have available, inter alia, the provisions of the relevant national legislation of the Governments concerned.

8. The Commission will process the claims in the initial categories in paragraphs 10 to 16 on an expedited basis. While decisions on the precise method of processing these claims will be made at a later stage, the following steps are contemplated. As the claims are received they would be submitted to a panel of Commissioners for review within a set time limit. If, as expected, the volume of claims in these categories is large, the Commissioners would be instructed to adopt expedited procedures to process them, such as checking individual claims on a sample basis, with further verification only if circumstances warranted. The Commissioners would be asked to report to the Council on the claims received and the amount recommended for the claims submitted by each Government. The council would then decide on the total amount to be allocated to each government. To the extent necessary, the Council would seek expert advice (for example, on what constitutes serious personal injury) at any stage of the process.

9. As contributions are made to the Fund, the Council will allocate those funds among the various categories of claims. If resources of the Fund are insufficient with respect to all claims processed to date, pro rata payments would be made to Governments periodically as funds become available. The Council will decide on the priority for payment of various categories of claims.

PAYMENT OF FIXED AMOUNTS

10. These payments are available with respect to any person who, as a result of Iraq's unlawful invasion and occupation of Kuwait: (a) departed from Iraq or Kuwait during the period of 2 August 1990 to 2 March 1991; (b) suffered serious personal injury; or (c) whose spouse, child or parent died.

11. In the case of departures, $2,500 will be provided where there is simple documentation of the fact and date of departure from Iraq or Kuwait. Documentation of the actual amount of loss will not be required. Claims submitted under this procedure for departure from Iraq or Kuwait cannot be resubmitted for a greater amount in any other category. If the loss in question was greater than $2,500 and can be documented, it may instead be submitted under paragraph 14 and in other appropriate categories.

12. In addition, in the case of serious personal injury not resulting in death, $2,500 will be provided where there is simple documentation of the fact and date of the injury; and in the case of death, $2,500 will be provided where there is simple documentation of the death and family relationship. Documentation of the actual amount of loss resulting from the death or injury will not be required. If the actual loss in question was greater than $2,500, these payments will be treated as interim relief, and claims for additional amounts may also be submitted under paragraph 14 and in other appropriate categories.

13. These amounts are payable cumulatively where more than one situation applies with respect to a particular person. However, no more than $10,000 will be paid for death, and no more than $5,000 for departure, with respect to any one family (consisting of any person and his or her spouse, children and parents).

CONSIDERATION OF CLAIMS FOR UP TO $100,000 OF ACTUAL LOSSES PER PERSON

14. These payments are available with respect to death or personal injury, or losses of income, support, housing or personal property, or medical expenses or costs of departure, as a result of Iraq's unlawful invasion and occupation of Kuwait. The Commission will give expedited priority consideration to claims for such losses up to $100,000 per person.

15. (a) Such claims must be documented by appropriate evidence of the circumstances and the amount of the claimed loss. The evidence required will be the reasonable minimum that is appropriate under the circumstances involved, and a lesser degree of documentary evidence would ordinarily be required for smaller claims, such as those below $20,000.

(b) If the loss in question was greater than $100,000, claims for additional amounts may also be submitted in other appropriate categories. Criteria for the submission of claims in excess of $100,000 will be approved separately. Claims larger than $100,000 may be submitted in their entirety at a later date under those separate procedures, or the first $100,000 may be submitted at this time and the remainder separately.

16. Compensation will not be provided for losses suffered as a result of the trade embargo and related measures, nor will costs of attorneys' fees or other expenses for claims preparation be compensated under this category. Any compensation, whether in funds or in kind, already received from any source will be deducted from the total amount of losses suffered.

REQUIREMENTS APPLICABLE UNDER BOTH CATEGORIES

17. Claims will not be considered on behalf of Iraqi nationals who do not have bona fide nationality of any other State.

18. Claims must be for death, personal injury or other direct loss to individuals as a result of Iraq's unlawful invasion and occupation of Kuwait. This will include any loss suffered as a result of:

(a) military operations or threat of military action by either side during the period 2 August 1990 to 2 March 1991;

(b) departure from or inability to leave Iraq or Kuwait (or a decision not to return) during that period;

(c) actions by officials, employees or agents of the Government of Iraq or its controlled entities during that period in connection with the invasion or occupation;

(d) the breakdown of civil order in Kuwait or Iraq during that period; or

(e) hostage-taking or other illegal detention.

19. Claims will be submitted by Governments. Each Government will normally submit claims on behalf of its nationals; each Government may, in its discretion, also submit the claims of other persons resident in its territory. In addition, the Council may request an appropriate person, authority or body to submit claims on behalf of persons who are not in a position to have their claims submitted by a Government. Each Government shall make one or more consolidated submissions of all such claims for each category. The Council encourages the submission of such claims within six months from the date on which the Executive Secretary circulates to Governments the claims forms described below; and the Commission will thereupon give consideration to such claims as provided herein. The Council will consider at a later time period within which all such claims must be submitted.

20. Each consolidated claim must include:

(a) a signed statement by each individual covered containing:

(i) his or her name and address, and any passport number or other identifying national number;

(ii) for claims under paragraph 14, the amount, type, and reason for each element of the loss, and any compensation, whether in funds or in kind already received from any source for the claim asserted;

(iii) any documents evidencing the matters set forth in the definition of each category, as well as the items set forth in the preceding subparagraph; and

(iv) his or her affirmation that the foregoing information is correct, and that no other claim for the same loss has been submitted to the Commission;

(b) the affirmation of the Government submitting the claim that, to the best of the information available to it, the individuals in question are its nationals or residents, and the affirmation of the Government or of the person, authority or body as referred to in paragraph 19 that it has no reason to believe that the information stated is incorrect.

21. The Executive Secretary (or a Commissioner) will prepare and the Executive Secretary will distribute a standard form for submission of claims within each category, incorporating the above elements in a clear and concise manner. Except as may otherwise be agreed between the Executive Secretary and the Government in question, claims will be submitted to the Executive Secretary by Governments or by persons, authorities or bodies as referred to in paragraph 19 on the standard form and must include the information in an official language of the United Nations. Each Government may adopt such procedures as it finds appropriate in preparing its consolidated claim. The Executive Secretary (or a Commissioner) will be available to answer questions or provide assistance to any Governments which may request it.

UNITED NATIONS COMPENSATION COMMISSION GOVERNING COUNCIL SIXTH SESSION GENEVA, JUNE 22–26, 1992

DECISION TAKEN BY THE GOVERNING COUNCIL OF THE UNITED NATIONS COMPENSATION COMMISSION AT ITS SIXTH SESSION, 27TH MEETING HELD ON JUNE 26, 1992—ELIGIBILITY FOR COMPENSATION OF MEMBERS OF THE ALLIED COALITION ARMED FORCES

The Governing Council decides that members of the Allied Coalition Armed Forces are not eligible for compensation for loss or injury arising as a consequence of their involvement in Coalition military operations against Iraq, except if the following three conditions are met:

(a) the compensation is awarded in accordance with the general criteria already adopted; and

(b) they were prisoners of war as a consequence of their involvement in Coalition military operations against Iraq in response to its unlawful invasion and occupation of Kuwait; and

(c) the loss or injury resulted from mistreatment in violation of international humanitarian law (including the Geneva Conventions of 1949).

Mr. GILMAN. Madam Chairman, I thank the gentleman for his remarks, and I yield 2 minutes to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Madam Chairman, I rise today in strong support of efforts to revise our current Iraqi prisoner of war [POW] resettlement policy.

It is difficult to imagine that the Government is currently resettling our former enemies—not in prisons—but in neighborhoods across the country. Just think, when the administration was cutting military and veterans' benefits it was, and is presently, providing rent assistance, job placement, medical care, and cash subsidies to our former enemy. It is expected that some 4,600 Iraqis will be admitted into the United States this year alone—costing the American taxpayers $32 million—approximately $7,000 per Iraqi.

Section 10 of the "Iraqi Claims Act" expresses the sense of the Congress that no former Iraqi POW's should be admitted to the United States except in exceptional circumstances. I support this provision and hope it is adopted by the House.

In response to the resettlement of Iraqi POW's in the United States, I personally introduced H.R. 3173 on September 29, 1993, which will prevent our former enemy from immigrating into the United States. I believe that former Iraqi POW's should not be permitted to immigrate to the United States except in extreme cases.

But I would like to stress those extreme cases where they have assisted the United States or the United Nations forces during the Persian Gulf conflict and when it can be shown they did not commit or participate in any war crimes.

Certainly, if they helped us, whether by intelligence efforts or what, if you get in there and win one of the most lopsided victories in history and the army can say that they were assisting us in the process, I do not see how we could turn our back on those people.

Madam Chairman, I strongly support section 10 and urge my colleagues to cosponsor my bill, H.R. 3173. While the enactment of this sense of Congress is an important first step only, the passage of my bill will actually stop the administration from resettling more Iraqi prisoners-of-war in the United States.

Mr. GILMAN. Madam Chairman, I thank the gentleman from Louisiana for his remarks.

I am pleased to yield 3 minutes to the gentleman from California [Mr. GALLEGLY], a member of our Committee on Foreign Affairs.

□ 1410

Mr. GALLEGLY. Madam Chairman, I rise in strong support of H.R. 3221, which puts Congress on record in opposing further resettlement in this country of Iraqi prisoners of war who fought and killed our brave men and women during the Persian Gulf conflict. This language, which I offered, responds directly to wide-scale outrage at a policy that is clearly out of touch with mainstream America. Today, I am very gratified to tell the hundreds of individuals who have contacted me that, by adopting this legislation, Congress is saying "no" to a policy that would resettle Iraqi prisoners of war in the United States, with full benefits, at a cost to U.S. taxpayers of approximately $70 million.

The original rationale behind the resettlement of Iraqi's and their families was the belief that these POW's could face imprisonment or even execution by the government of Saddam Hussein if they returned to Iraq. Many were deserters who fled their units in fear for their lives in the hours and days before the American led coalition forces sliced through the Iraqi lines. However, nowhere and at no time did the United States ever promise resettlement. As my good friend and colleague, JAN MEYERS from Kansas, stated during committee consideration, "the help promised to Iraqi deserters was to feed them and not to shoot them."

The bottom line is clear: It is an insult to all Americans for our Government to take on this responsibility—forsaking our own people and particularly our own veterans, whose entitlements are being steadily eroded. The U.S. Government has no business putting enemy soldiers ahead of some 9 million unemployed Americans, and 250,000 homeless American veterans, including veterans of Operation Desert Storm.

I have been astounded by the outpouring of telephone calls and letters from across the Nation pleading for an end to this ludicrous policy.

Madam Chairman, I am proud to say that Congress, with the passage of this bill, can tell our constituents, can tell our young men and women who have served in the Armed Forces—and can tell ourselves—that we have listened and we have responded by officially opposing any further resettlement of Iraqi POW's.

I urge my colleagues' support for this legislation.

Mr. KANJORSKI. Madam Chairman, will the gentleman yield?

Mr. GALLEGLY. I yield to the gentleman from Pennsylvania.

Mr. KANJORSKI. Madam Chairman, I listened to the plea and the argument of the gentleman from California [Mr. GALLEGLY]. But then, as I understand it, he is not going to offer a motion to recommit so that these people cannot come in. He is only going to support this little weak, wimpy statement——

Mr. GALLEGLY. If——

Mr. KANJORSKI. It is the sense of the Congress——

Mr. GALLEGLY. To respond to the gentleman, my bill originally eliminated—if the gentleman would let me finish, my bill——

The CHAIRMAN. The time of the gentleman from California [Mr. GALLEGLY] has expired.

Mr. GILMAN. Madam Chairman, I yield 1 additional minute to the gentleman from California.

Mr. GALLEGLY. Madam Chairman, the bill I offered in the form of a germane amendment that is now in the text of this——

Mr. KANJORSKI. Is this the gentleman's bill that is in this legislation?

If this were the gentleman's bill, just a sense of the Congress, we would only be wishing the State Department would not do the things that they are doing. It would not cost us $7,000 a year, an Iraqi; $30,000——

Mr. GALLEGLY. That is correct, inasmuch as this is in a foreign affairs bill——

Mr. KANJORSKI. We could——

Mr. GALLEGLY. Be in the judiciary, but I could not get the bill heard in——

Mr. KANJORSKI. We could argue the proposition though that, if it is only a sense of the Congress and if the gentleman does not agree to offer this motion to recommit, which would make it—notwithstanding any other law they cannot do it——

Mr. GALLEGLY. Mr. KANJORSKI——

Mr. KANJORSKI. The gentleman does not favor——

Mr. GALLEGLY. I have the commitment from the chairman of the Committee on the Judiciary, where this should be held, that he will bring this up and hear it, and that is the appropriate place to put more teeth into——

Mr. KANJORSKI. Why do we not put more teeth in until we define and describe what we are doing? We have got how many thousand Iraqi refugees in this country now? They are costing us $30 million a year. When we finally get a bill to the Committee on the Judiciary and any other committee that may be necessary 5 years from now, we may be in the next war.

The CHAIRMAN. The time of the gentleman from California [Mr. GALLEGLY] has expired.

Mr. HAMILTON. Madam Chairman, I yield such time as he may consume to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Madam Chairman, I rise today in support of H.R. 3221, especially to the extent that it would give Persian Gulf war veterans or their survivors first priority in filing claims against frozen Iraqi assets for injuries or deaths resulting from their participation in the war against Iraq.

I understand that potential claims against these assets may exceed $5 billion. Since there are only about $1.2 billion in frozen assets, it is only right that, if any group of injured parties should be compensated by the Iraqi Government, it should be those who fought and suffered injury to defeat the forces of Saddam Hussein in the liberation of Kuwait.

I would remind my colleagues that, to the extent that these veterans have suffered injury, disability, or death while serving in the Armed Forces, we have a comprehensive benefits system in place that is administered by the Department of Veterans Affairs. The vast majority of disabilities suffered by these veterans already result in benefit entitlements from the U.S. Government. The bill would not infringe on any veteran's right to receive benefits from the VA, but it does incorporate certain offset provisions that could reduce the amount of an award provided under this bill.

Madam Chairman, we do not know how many veterans may benefit by this bill. However, we believe that it may benefit some Persian Gulf veterans whose illnesses have not yet been linked to service and, to the degree that it puts veterans at the head of the line, we should support it.

I commend the distinguished chairman of the Foreign Affairs Committee for bringing this measure to the floor and for his strong commitment to the well-being of our Nation's veterans.

I urge my colleagues to support this bill.

Mr. HAMILTON. Madam Chairman, I yield 2 minutes to the distinguished gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Madam Chairman, a number of United States exporters, acting entirely lawfully and with the encouragement of the United States Government, engaged in commercial sales of their products to Iraq before our trade embargo against that country. The exporters actually shipped their goods, and Iraq received them. Iraq authorized its financial agents in this country to pay these particular debts, but before payment could be delivered, hostilities broke out and the United States Government ordered all Iraqi assets frozen. They remain so today, and the exporters have never been paid.

Among the companies caught in this situation are tobacco exporters from North Carolina. The North Carolina exporters in my area felt they had fully protected their financial interests by having letters of credit issued, a system of payment used routinely in commercial transactions and never before having been abrogated in any trade setting except, I believe, in some Nigerian transactions several years ago.

The gentleman from Nebraska [Mr. BEREUTER] believes, as do I, that these companies deserve to have a higher priority against the frozen Iraqi assets than should other commercial claimants. Unfortunately, H.R. 3221 as reported from committee lumps all commercial claimants together.

The committee's bill deliberately gives the highest priority to claims from individuals who served in the U.S. armed services during the Persian Gulf war. The amendment offered by the gentleman from Nebraska [Mr. BEREUTER], which I understand will not be offered, would not disturb the bill's emphasis on compensation of Persian Gulf war veterans. The Bereuter amendment would make the bill fairer to those companies, including the exporters from North Carolina who, in good faith, completed their part of a commercial contract, but have yet to receive their payment. I regret that it will not be offered but hope that this issue will be addressed in the future.

Mr. GILMAN. Madam Chairman, I reserve the balance of my time.

Mr. HAMILTON. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. MCHALE].

Mr. MCHALE. Madam Chairman, I thank the gentleman from Indiana [Mr. HAMILTON] for yielding this time to me.

Madam Chairman, I have now had the opportunity to review section 10 of this bill in some detail. I find this to be a bone in the throat of every gulf war veteran.

Immediately prior to the gulf war, Madam Chairman, I stood in the chow line in northeastern Saudi Arabia, and I happened to look at the helmet of the marine who stood in front of me in that line, and in the handwriting that marines from time to time put on their helmet covers this young marine had written, quote, "It's not about oil," end of quote.

As I see in here today, Madam Chairman, I would remind my colleagues that it is not about money.

I have heard a description of section 10 that simply does not conform to the language printed on the piece of paper. "Exceptional circumstances" is not defined. There is no recognition of those who aided American forces or, perhaps, did not pull a trigger. It is simply a broad generic term, exceptional circumstances, and worse than that, immediately after that phrase it states, and I quote, "Until all claims certified under section 2b of this act have been paid in full," which is to say, once money has changed hands, it is perfectly acceptable, even without exceptional circumstances, to allow those who took up arms in opposition to the United States to be brought into our country.

Madam Chairman, if we vote for this today, it is a slap in the face to every gulf war veteran who put his or her life on the line for our country. Those who raised arms in opposition to the United Sates, before or after the bills are paid, should not be allowed to come into our country, and, under truly exceptional circumstances, where mercy should be shown, where in an isolated individual case an Iraqi soldier clearly did aid American forces, perhaps after he had no choice in doing so, then it seems to me that our allies in that fight, perhaps Saudi Arabia, or those who provided aid and comfort to our enemy, perhaps Jordan, should provide an appropriate residency for those who seek asylum. But how can we pass section 10 and go home to our constituents, those who served in the gulf war, and say to them, "It was about oil, it is about money, and, as soon as bills are paid, your former enemies will be allowed to be your next-door neighbors".

Madam Chairman, I find that to be disgraceful, and under any circumstances, from now until the day I leave this Chamber, I will oppose the contents of section 10.

☐ 1420

Mr. GILMAN. Madam Chairman, I am pleased to yield 1 additional minute, to the gentleman from Illinois [Mr. MANZULLO].

Mr. MANZULLO. Madam Chairman, let me say that I agree 100 percent with the remarks of the previous speaker. I would call the attention of the body to page 16, the minority and dissenting views in the full report of the Iraqi Claims Act of 1993. In there it states that because of the outrage that has just been expressed by the gentleman from Pennsylvania, going back almost a year ago, we started working with the State Department, so that the policy of the State Department has come to a situation now where the language that appears on page 16 is their former policy. In other words, only those ex-Iraqi POW's and ex-Iraqi soldiers who, No. 1, did not fire on United States personnel and, No. 2, gave tangible assistance to the allied forces in terms of reconnaissance and things of that nature, unless they meet those criteria, they would not be allowed to settle in the United States. Anybody who gave tangible assistance to Saddam Hussein would be in a position to be in harm's way, and that would be the situation.

Mr. McHALE. Madam Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from Illinois [Mr. MANZULLO] has expired.

Mr. GILMAN. Madam Chairman, I yield 1 additional minute to the gentleman from Illinois [Mr. MANZULLO].

Mr. MANZULLO. Madam Chairman, I thank the gentleman for yielding more time.

The gentleman from Pennsylvania [Mr. McHALE] has some further remarks to make, and I yield to him in order that he may complete his remarks.

Mr. McHALE. Madam Chairman, I thank the gentleman for his extraordinary courtesy under the circumstances where he and I obviously have a different position on the pending piece of legislation.

The gentleman has accurately quoted from the minority report. What I would stress to my colleague is that the language which he cites appears nowhere in H.R. 3221.

H.R. 3221, which is the relevant legislation now before the House, simply says that under exceptional circumstances, not defined, even before the claims are paid, individuals who took up arms against the United States may be brought into our country. That is a legal issue. The language in H.R. 3221 simply does not conform to the minority report which the gentleman quotes.

But more importantly, in the real world of a battlefield, particularly in armored and mechanized conflict, there is absolutely no way to tell who has or who has not overtly engaged in hostile activities. The war in the gulf was fought at a distance of 2,000 to 3,000 meters where antiarmor weapons were fired at one another. Very little infantry conflict occurred. We simply do not know, nor does anyone else, who actually fired during the course of the war.

Mr. HAMILTON. Madam Chairman, I yield myself 2 minutes.

I want to try to clarify what the committee position is. I think the gentleman from Pennsylvania [Mr. McHALE] has stated the language accurately. We did try to wrestle with this question of exceptional circumstances, but I think the important point to make is really a point that is in agreement with the gentleman from Pennsylvania, and that is that as a matter of United States policy, the committee believes that any individual who served in the Iraqi Armed Forces should not be admitted to the United States as a refugee. We believe that should be the policy. Those who have spoken against this section believe that should be the policy.

The differences arise over this phrase that we put into the language of the bill, "except in exceptional circumstances," and we tried to define that in the committee report, which would be part of the legislative language, and we made two exceptions. One of them was the active involvement in the rebellion against Saddam Hussein at the request of the United States, or forced enlistment in the armed forces of an ethnic or religious minority—and there are several, of course, in Iraq.

The second exception was an Iraqi soldier who provided tangible assistance to the United States or coalition forces during the Persian Gulf war. I do not know if we have exactly the right language here with respect to these exceptions, but the committee, with the help of the gentleman from Illinois and the gentleman from California, worked very, very hard to get the right language, and I am quite prepared to work further on it.

I did want to try to clarify the language of the committee here, but the basic point is that we are all in agreement, and that is that as a matter of policy an individual who served in the forces of the country of Iraq should not be admitted to the United States as a refugee.

Madam Chairman, the gentleman from Pennsylvania [Mr. McHALE] has asked for 1 additional minute, and I will yield that to him before I yield back the balance of my time.

Mr. McHALE. Madam Chairman, I thank both gentlemen for their extraordinary courtesy.

The point I want to make goes beyond the question of how we are to define exceptional circumstances. If we are to be intellectually honest on this issue, we must recognize that under the language of H.R. 3221, once the crimes are satisfied in full, the issue of exceptional circumstances becomes moot. Under the language of H.R. 3221, once the claims are paid and certified, the issue of exceptional circumstances is no longer to be applied. At that point those who took up arms against the United States are to be admitted wholly independent of the question of exceptional circumstances.

Mr. MANZULLO. Madam Chairman, if the gentleman would yield, that is not how the language reads. It has never been the intent of the committee, because the committee chairman in a bipartisan manner worked extremely diligently to make sure the things the gentleman just said would come to pass.

Mr. McHALE. Madam Chairman, I do not doubt the gentleman's intent. I am reading the language of the legislation. This says, "except in exceptional circumstances, until all claims certified under section 2(b) of this Act have been paid in full." The language is clear.

Mr. MANZULLO. After the "circumstances," there is a comma.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. McHALE] has expired.

Mr. GILMAN. Madam Chairman, I am pleased to yield 1 minute to the gentleman from Illinois [Mr. MANZULLO].

Mr. MANZULLO. Madam Chairman, I yield to the chairman of the committee, who, I think, can give us a succinct description as to exactly what happened.

Mr. HAMILTON. Madam Chairman, I thank the gentleman for yielding.

I think the point to be made here under the language the gentleman from Pennsylvania is pointing out is that we have, we estimate, $1.2 billion available. As nearly as we can estimate, we have claims well in excess of $5 billion, so the claims are not going to be certified in full.

Mr. LEVIN. Mr. Chairman, I strongly support H.R. 3221, the Iraqi Claims Act. I urge the House to approve this vital legislation.

The purpose of H.R. 3221 is to provide a fair and orderly system for adjudicating the claims of United States nationals against Iraq. Such claims include losses, damage, or injury suffered by individuals and corporations as a result of Iraq's invasion and occupation of Kuwait or events preceding the invasion.

The bill authorizes the United States Foreign Claims Settlement Commission to use available Iraqi assets under United States control to pay valid claims. For most American claimants, these frozen assets are the only current means of obtaining reimbursement from the Iraqi Government.

I particularly want to express my support for the Bonior amendment expressing the sense of Congress that we should immediately provide basic medical assistance through nongovernmental and international organizations to the people of Iraq, who continue to suffer under the oppressive policies of Saddam Hussein. The amendment also calls on the administration to seek reimbursement for the cost of such aid from Iraqi assets.

Passage of H.R. 3221 is the right thing to do. I urge the House to approve this legislation.

Mr. GILMAN. Madam Chairman, I yield back the balance of my time.

Mr. HAMILTON. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered by sections as an original bill for the purpose of amendment, and each section is considered as read.

No amendment to the committee amendment in the nature of a substitute is in order unless printed in the portion of the CONGRESSIONAL RECORD designated for that purpose in clause 6 of rule XXIII.

The amendment by the gentleman from Nebraska [Mr. BEREUTER] relating to certain commercial claims may amend portions of the bill not yet read for amendment.

After disposition of all other amendments to the committee substitute, it shall be in order to consider the following amendments in this order:

First, the amendment by the gentleman from Michigan [Mr. BONIOR] relating to humanitarian assistance; and

Second, the amendment by the gentleman from New York [Mr. SOLOMON] relating to war crimes.

After disposition of those amendments, no further amendment to the committee substitute is in order.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 3221

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Iraq Claims Act of 1993".

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. ADJUDICATION OF CLAIMS.

(a) CERTAIN CLAIMS WITHIN THE JURISDICTION OF UN COMMISSION.—The United States Commission is authorized to receive and determine the validity and amounts of any claims referred to it by the Secretary of State with respect to which the United States has received lump-sum payments from the United Nations Commission.

(b) OTHER CLAIMS AGAINST IRAQ.—The United States Commission is authorized to receive and determine the validity and amounts of any claims by nationals of the United States against the Government of Iraq that are determined by the Secretary of State to be outside the jurisdiction of the United Nations Commission.

(c) DECISION RULES.—In deciding claims under subsection (a) or (b), the United States Commission shall apply, in the following order—

(1) in the case of claims under subsection (a), relevant decisions of the United Nations Security Council and the United Nations Commission;

(2) applicable substantive law, including international law; and

(3) applicable principles of justice and equity.

(d) PRIORITY CLAIMS.—Before deciding any other claim against the Government of Iraq, the United States Commission shall, to the extent practical, decide all pending non-commercial claims of members of the United States Armed Forces and other individuals arising out of Iraq's invasion and occupation of Kuwait or out of the 1987 attack on the USS Stark.

(e) APPLICABILITY OF INTERNATIONAL CLAIMS SETTLEMENT ACT.—To the extent they are not inconsistent with the provisions of this Act, the provisions of title I (other than section 2(c)) and title VII of the International Claims Settlement Act of 1949 (22 U.S.C. 1621-1627 and 1645-1645o) shall apply with respect to claims under this Act and the funds established pursuant to sections 3(a) and 3(c).

The CHAIRMAN. Are there any amendments to section 2?

If not, the Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. CLAIMS FUNDS.

(a) UN COMMISSION CLAIMS FUNDS.—The Secretary of the Treasury is authorized to establish in the Treasury of the United States one or more funds (hereinafter in this Act referred to as the "UN Commission Claims Funds") for payment of claims under section 2(a). The Secretary of the Treasury shall cover into the UN Commission Claims Funds such amounts as are allocated to such funds pursuant to subsection (b)(1).

(b) ALLOCATION OF FUNDS RECEIVED FROM UN COMMISSION.—The Secretary of State shall allocate funds received by the United States from the United Nations Commission, in the manner the Secretary determines appropriate, between—

(1) the UN Commission Claims Funds; and

(2) funds established under the authority of the paragraphs under the heading "TRUST FUNDS" in the Act entitled "An Act making appropriations for the diplomatic and consular service for the fiscal year ending June thirtieth, eighteen hundred and ninety-seven", approved February 26, 1896 (22 U.S.C. 2668a).

(c) IRAQ CLAIMS FUND.—The Secretary of the Treasury is authorized to establish in the Treasury of the United States a fund (hereinafter in this Act referred to as the "Iraq Claims Fund") for payment of claims under section 2(b). The Secretary of the Treasury shall cover into the Iraq Claims Fund such amounts as are allocated to such fund pursuant to subsection (d).

(d) ALLOCATION OF PROCEEDS FROM IRAQI ASSET LIQUIDATION.—

(1) IN GENERAL.—The President shall allocate funds resulting from the liquidation of assets pursuant to section 4 in the manner the President determines appropriate between the Iraq Claims Fund and such other accounts as are appropriate for the payment of claims of the United States Government, subject to the limitation in paragraph (2).

(2) LIMITATION.—The amount allocated pursuant to this subsection for payment of claims of the United States Government may not exceed the amount which bears the same relation to the amount allocated to the Iraq Claims Fund pursuant to this subsection as the sum of all certified claims of the United States Government bears to the sum of all claims certified under section 2(b). As used in this paragraph, the term "certified claims of the United States Government" means those claims of the United States Government which are determined by the Secretary of State to be outside the jurisdiction of the United Nations Commission and which are determined to be valid, and whose amount has been certified, under such procedures as the President may establish.

The CHAIRMAN. Are there any amendments to section 3?

If not, the Clerk will designate section 4.

The text of section 4 is as follows:

SEC. 4. AUTHORITY TO VEST IRAQI ASSETS.

The President is authorized to vest and liquidate as much of the assets of the Government of Iraq in the United States that have been blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) as may be necessary to satisfy claims under section 2(b), as well as claims of the United States Government against Iraq which are determined by the Secretary of State to be outside the jurisdiction of the United Nations Commission.

The CHAIRMAN. Are there any amendments to section 4?

If not, the Clerk will designate section 5.

The text of section 5 is as follows:

SEC. 5. REIMBURSEMENT FOR EXPENSES OF PROGRAM ADMINISTRATION.

(a) DEDUCTION.—In order to reimburse the United States Government for its expenses in administering the Iraq claims program and this Act, the Secretary of the Treasury shall deduct—

(1) 1.5 percent of any amount covered into the UN Commission Claims Funds or the Iraq Claims Fund; and

(2) 1.5 percent of any amount the Secretary of State receives from the United Nations Commission that is not covered into the UN Commission Claims funds and that is not in payment of a claim of the United States Government.

(b) DEDUCTIONS TREATED AS MISCELLANEOUS RECEIPTS.—Amounts deducted pursuant to subsection (a) shall be deposited in the Treasury of the United States as miscellaneous receipts.

The CHAIRMAN. Are there any amendments to section 5?

If not, the Clerk will designate section 6.

The text of section 6 is as follows:

SEC. 6. PAYMENTS.

(a) IN GENERAL.—The United States Commission shall certify to the Secretary of the Treasury each award made pursuant to section 2. The Secretary of the Treasury shall make payment, out of the appropriate fund established pursuant to section 3(a) or 3(c), in the following order of priority to the extent funds are available in such fund:

(1) Payments of $10,000 or the principal amount of the award, whichever is less.

(2) For each claim that has priority under section 2(d), payment of a further $90,000 toward the unpaid balance of the principal amount of the award.

(3) Payments from time to time in ratable proportions on account of the unpaid balance of the principal amounts of all awards according to the proportions which the unpaid balance of such awards bear to the total amount in the appropriate claims fund that is available for distribution at the time such payments are made.

(4) After payment has been made of the principal amounts of all such awards, pro rata payments on account of accrued interest on such awards as bear interest.

(5) After payment has been made in full of all the awards payable out of a fund estab-

lished pursuant to section 3(a) or 3(c), any funds remaining in that fund shall be transferred to the other claims fund established pursuant to section 3(a) or 3(c), except that any funds received by the United States from the United Nations Commission shall be so transferred only to the extent not inconsistent with requirements of the United Nations Commission.

(b) UNSATISFIED CLAIMS.—Payment of any award made pursuant to this Act shall not extinguish any unsatisfied claim, or be construed to have divested any claimant, or the United States on his or her behalf, of any rights against the Government of Iraq with respect to any unsatisfied claim.

The CHAIRMAN. Are there any amendments to section 6?

If not, the Clerk will designate section 7.

The text of section 7 is as follows:

SEC 7. RECORDS.

(a) TRANSFER TO COMMISSION.—The head of any Executive agency may transfer or otherwise make available to the United States Commission such records and documents relating to claims authorized to be adjudicated by this Act as may be required by the United States Commission in carrying out its functions under this Act.

(b) PUBLIC DISCLOSURE.—Section 552 of title 5 of the United States Code (commonly referred to as the "Freedom of Information Act") shall not apply with respect to records that, as determined by the Secretary of State, are required under the rules and decisions of the United Nations Commission to be withheld from public disclosure.

The Chairman, are there any amendments to section 7?

If not, the Clerk will designate section 8.

The text of section 8 is as follows:

SEC 8. STATUTE OF LIMITATIONS; DISPOSITION OF UNUSED FUNDS.

(a) STATUTE OF LIMITATIONS.—Any demand or claim of payment on account of an award that is certified under the Iraq claims program shall be barred one year after the publication date of the notice required by subsection (b).

(b) PUBLICATION OF NOTICE.—

(1) IN GENERAL.—At the end of the 9-year period specified in paragraph (2), the Secretary of the Treasury shall publish a notice in the Federal Register detailing the statute of limitations provided for subsection (a) and identifying the claim numbers and awardee names of unpaid certified claims.

(2) PUBLICATION DATE.—The notice required by paragraph (1) shall be published 9 years after the latter of—

(A) the last date on which the Secretary of the Treasury covers into any of the UN Commission Claims Funds, or into any fund described in section 3(b)(2), amounts allocated to that fund pursuant to section 3(b); or

(B) the last date on which the Secretary of the Treasury covers into the Iraq Claims Fund amounts allocated to that fund pursuant to section 3(d).

(c) DISPOSITION OF UNUSED FUNDS.—

(1) DISPOSITION.—At the end of the 2-year period beginning on the publication date of the notice required by subsection (b), the Secretary of the Treasury shall dispose of all unused funds described in paragraph (2) as follows:

(A) By making additional payments pursuant to the Iraq claims program.

(B) By depositing in the Treasury of the United States as miscellaneous receipts any such funds that are not used for such additional payments.

(2) UNUSED FUNDS.—The unused funds referred to in paragraph (1) are—

(A) any remaining balance in the UN Commission Claims Funds or in the Iraq Claims Funds, including the amount of any unpaid certified claim under the Iraq claims program; and

(B) any remaining balance in any fund referred in section 3(b)(2) to the extent such balance reflects amounts deposited pursuant to that section.

□ 1430

The CHAIRMAN. Are there any amendments to section 8? If not, the Clerk will designate section 9.

The text of section 9 is as follows:

SEC 9. DEFINITIONS.

As used in this Act—

(1) the term "Government of Iraq" includes agencies, instrumentalities, and controlled entities (including public sector enterprises) of that government;

(2) the term "Executive agency" has the meaning given that term by section 105 of title 5, United States Code;

(3) the term "Iraq claims program" means the claims whose adjudication is provided for in this Act and any other claims that are within the jurisdiction of the United Nations Commission;

(4) the term "United Nations Commission" means United Nations Compensation Commission established pursuant to the United Nations Security Council Resolution 687 (1991); and

(5) the term "United States Commission" means the Foreign Claims Settlement Commission of the United States.

The CHAIRMAN. Are there any amendments to section 9? If not, the Clerk will designate section 10.

The text of section 10 is as follows:

SEC 10. ADMISSION TO THE UNITED STATES AS REFUGEES OF INDIVIDUALS WHO SERVED IN THE ARMED FORCES OF IRAQ DURING THE PERSIAN GULF CONFLICT.

(a) STATEMENT OF POLICY.—It is the sense of the Congress that individuals who have served in the armed forces of Iraq during the Persian Gulf conflict should not be admitted to the United States as refugees under the Immigration and Nationality Act except in exceptional circumstances until all claims under section 2(b) of this Act have been paid in full.

(b) PERSIAN GULF CONFLICT DEFINED.—For purposes of this section, the term "Persian Gulf conflict" means the period beginning on August 2, 1990, and ending on February 27, 1991.

The CHAIRMAN. Are there any amendments to section 10? If not, it is in order to consider the amendment of the gentleman from Michigan [Mr. BONIOR].

AMENDMENT OFFERED BY MR. BONIOR

Mr. BONIOR. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BONIOR: On page 12, after line 15, add the following:

SEC. 11. HUMANITARIAN ASSISTANCE.

(a) FINDINGS.—The Congress finds that—

(1) Saddam Hussein has been condemned by the international community for his unwillingness to take the steps necessary to provide for the basic humanitarian needs of the Iraqi people;

(2) dire shortages of food, medicine, and basic medical supplies (including insulin, anesthetics, and antibiotics) have resulted in a continuing humanitarian disaster in Iraq, including massive human suffering and the death of hundreds of thousands of innocent Iraqi civilians during the past 4 years;

(3) This human tragedy is occurring throughout Iraq;

(4) the United States has a long history of providing humanitarian assistance to alleviate human suffering in many parts of the world; and

(5) the United States Agency for International Development has the authority under chapter 9 of part I of the Foreign Assistance Act of 1961 (relating to international disaster assistance) and other provisions of law to provide assistance to address humanitarian needs throughout Iraq.

(b) STATEMENT OF CONGRESSIONAL POLICY.—It is the sense of the Congress that—

(1) the United States should immediately provide additional humanitarian assistance, particularly medicine and medical supplies, to alleviate the humanitarian disaster throughout Iraq;

(2) such assistance should be provided through independent nongovernmental organizations and through international organizations so that this desperately needed assistance can reach all areas of need, in particular those outside the United Nations protected areas; and

(3) the costs of such assistance should be reimbursed from any available Iraqi resources, including the Iraqi assets that have been blocked pursuant to the International Emergency Economic Powers Act so long as such reimbursement does not reduce the amount paid on those priority claims of members of the United States Armed Forces and other described in section 2(d) of this Act and does not delay payment on those claims.

Mr. BONIOR (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. BONIOR. Madam Chairman, there is a great deal of tragedy occurring in the world today.

Places like Bosnia, Haiti, and Rwanda capture our attention each and every night, and we mourn the loss of life in each of those places.

But ever since CNN and all the foreign correspondents left Baghdad 3 years ago, we haven't paid much attention to Iraq.

But 3 years after the gulf war ended, one of the great humanitarian tragedies of our time is occurring in Iraq today.

Estimates are that 120,000 children under the age of 5 have died in Iraq in the past 3 years alone.

Iraq today is a place where mothers see their babies scream in agony because operations must be performed without anesthesia.

It is a place where diabetics lapse into comas because there is no insulin.

A place where children suffering from leukemia are routinely sent home from hospitals because there is no medicine to provide them care.

Three years after international sanctions were levied on the people of Iraq, hundreds of thousands of civilians in that country are dying today due to a lack of food, water, and basic medicine.

Make no mistake about it, Madam Chairman, Saddam Hussein and Saddam Hussein alone bears responsibility for this tragedy. He continues to turn a blind eye to the suffering of his own people.

And at this point, I suppose we could just throw up our hands, turn a blind eye, point a finger at Saddam, and say we tried.

But I believe we are a better nation than that, Madam Chairman.

I believe we have a continuing responsibility as a compassionate nation to provide humanitarian relief to the mothers and children who are dying in Iraq today.

And the fact is, we do not have to send in troops to do it.

There are independent organizations in place right now—organizations like Oxfam, and CARE, and UNICEF, and the World Health Organization, and the Chaldean community, and Red Crescent, and other Moslem relief organizations—who are administering some relief to the people of Iraq as we speak.

But their combined efforts meet less than 5 percent of the needs of the Iraqi people. Any medicine we could send would go a long way toward ending the suffering in Iraq.

Yet current United States policy prohibits Iraq from purchasing medicine here, even with assets still in Iraq.

This amendment simply expresses the sense of the Congress that the United States should immediately provide medicine to Iraqi citizens through these nongovernmental and international organizations, particularly in those areas outside the U.N.-protected area.

It says that this aid should be provided through already-appointed disaster assistance funds or other sources.

And it says that we should seek reimbursement for this aid from any Iraqi resources—including the $1.2 billion in frozen assets—but in a way that does not reduce or delay payment to claims filed by United States veterans of the Persian Gulf war, and the U.S.S. *Stark*.

Anything we can do would go a long way toward alleviating the suffering of the people of Iraq.

And what could be more galling to Saddam Hussein than the money he sees as his, and for his use alone, go to the people he continues to oppress.

And Madam Chairman, what could be more in line with the point President Bush made time and time again during the gulf war: that we did not wage war against the civilian population of Iraq.

They were not our enemy.

And now, there are concrete steps we can and must take to save the lives of people caught up in a war that was none of their doing, and which none of them wanted.

Saddam Hussein may do nothing to help his own suffering people. But we are a better nation than that.

And I do not believe that we, in good conscience, can stand by and do nothing.

Madam Chairman, I urge my colleagues to support this amendment.

Mr. HAMILTON. Madam Chairman, I rise in support of the amendment.

Madam Chairman, I just want to thank the distinguished whip, the gentleman from Michigan [Mr. BONIOR], for his amendment. I think the gentleman has pointed to a very real problem. The humanitarian suffering in Iraq has been enormous, and the gentleman has put his finger on it.

Madam Chairman, this is a good amendment, and we accept it.

Mr. GILMAN. Madam Chairman, I move to strike the last word and I rise in support of the amendment.

Madam Chairman, I rise in support of the Bonior amendment that expresses the sense of the Congress that the United States should provide immediate assistance through nongovernmental organizations to alleviate the humanitarian crisis in Iraq.

As this resolution points out, shortages of medicine and food exist throughout Iraq. Saddam Hussein and the Iraqi Government continue to maintain a virtual embargo against the Kurds in the north and the Shia Arabs in the south and, as a result, humanitarian supplies go only to regime supporters and the military.

The U.N. sanctions regime, in contrast, exempts medicine and, in the case of foodstuffs, requires only that the Sanctions Committee be notified of food shipments. The committee also routinely considers and approves requests to send supplies for essential civilian needs. Regrettably, the supplies only seem to reach the so-called U.N.-protected areas.

This amendment would attempt to meet the humanitarian crisis throughout the entire country. I urge its adoption.

Mr. SOLOMON. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I strongly support the amendment offered by my good colleague from the Committee on Rules, the gentleman from Michigan [Mr. BONIOR].

Madam Chairman, at the time of the Persian Gulf crisis, President Bush said many times that America had no argument with the people of Iraq. President Clinton has reiterated that same point. Indeed, I think that it could be said that the American people have never borne any personal animosity toward the Iraqi people.

□ 1440

Our problem continues to be with the dictatorial regime of Saddam Hussein, a tyrant who is utterly without a shred of conscience, a man who has inflicted unspeakable suffering on this own people.

The amendment by the gentleman from Michigan is terribly, terribly important. Our country has a long history of offering a helping hand to the people of other countries. I hope that the initiative being made today by the gentleman from Michigan will result in some very necessary humanitarian assistance reaching the people of Iraq who have suffered so much and, indeed, who continue to suffer today under unmerciful atrocities by this tyrant.

Madam Chairman, I strongly urge support of the Bonior amendment, as well as the one I will be offering immediately after adoption of the pending amendment. I will offer a sense-of-Congress amendment which would ask the United Nations to create a war crimes tribunal to charge Saddam Hussein with atrocities against human beings in neighboring countries and amongst his own people.

I urge support of the Bonior amendment.

Mr. KNOLLENBERG. Madam Chairman, in the aftermath of the gulf war, the Government of Iraq has been responsible for terrible acts of repression and neglect for its citizens. The many victims include children, the elderly, the sick, and Iraq's religious minorities.

Rather than addressing its suffering and needy citizens, the Iraqi Government has chosen to spend its scarce money elsewhere, including the construction of a tower to honor Saddam Hussein.

The Iraqi Government has a lot of debts to pay; debts to our service men and women, American business people, as well as the Iraqi citizens who remain victims of their own Government.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. BONIOR].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON:

On Page 12, after line 2, insert the following:

SEC. 11. PROSECUTION OF SADDAM HUSSEIN AND OTHER MEMBERS OF THE IRAQI GOVERNMENT FOR WAR CRIMES.

(a) FINDINGS.—The Congress finds that—

(1) as ordered by Saddam Hussein, Iraq engaged in unprovoked aggression in its conquest and occupation of Kuwait;

(2) the Iraqi occupation force treated Kuwaiti citizens barbarously;

(3) Saddam Hussein used American and European civilians as "human shields" in an attempt to protect strategic facilities throughout Iraq and directed that captured American and allied prisoners of war be used for the same purposes;

(4) Saddam Hussein ordered his military to launch missile attacks against innocent civilians in Israel and Saudi Arabia; and

(5) former President Bush and President Clinton rightly warned Saddam Hussein and Iraqi Government officials that they would be held responsible for any abuses they have caused.

(b) ESTABLISHMENT OF TRIBUNAL.—The Congress urges the President to request the United Nations to establish a tribunal to charge Saddam Hussein and other responsible Iraqi Government officials for war crimes, acts of aggression, and crimes against humanity they have committed.

Mr. SOLOMON (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

MODIFICATION OF AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Madam Chairman, I ask unanimous consent that the amendment be modified to comport with page and line numbering in the Union Calendar No. 236 version of this bill.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification of amendment offered by Mr. SOLOMON: In the instructions, strike "line 2," and insert "line 15."

The CHAIRMAN. Without objection, the modification is agreed to.

There was no objection.

The CHAIRMAN. The gentleman from New York [Mr. SOLOMON] is recognized for 5 minutes in support of his amendment, as modified.

Mr. SOLOMON. Madam Chairman, my amendment to this bill is short, simple, and to the point. I trust it will be noncontroversial. It simply expresses the sense of Congress that the President should request that the United Nations establish a tribunal to charge Saddam Hussein and other responsible Iraqi officials for war crimes, acts of aggression, and crimes against humanity.

Madam Chairman, this amendment's simplicity does not detract from its importance. This amendment, along with the excellent amendment of the gentleman from Michigan [Mr. BONIOR] concerning the humanitarian situation in Iraq, will send a strong message to the rest of the world that the United States Congress has not forgotten the heinous crimes that Saddam Hussein has committed and continues to commit against his own people, the people of Kuwait, the people of Israel and, frankly, of all of the people throughout the Middle East. If he is allowed to continue, the list of victims will be even longer than that.

Madam Chairman, I do not need to remind anyone here today about just how abominable this man's crimes have been. Let me just talk about a few for the record.

This war criminal, Saddam Hussein, gassed his own citizens in 1988. He engaged in unprovoked aggression against the peaceful country of Kuwait in 1990. He then proceeded to mass troops on the Saudi Arabian border and, while subjecting Kuwait's citizens to unbelievable barbarous cruelty, which Members all remember, this war criminal took Americans and European civilians hostage and used them as human shields.

During the war, he launched missile attacks against civilians in neighboring countries like Israel and Saudi Arabia.

As the war was winding down, he lit hundreds of oil wells on fire, destroying millions of dollars of wealth and releasing incalculable levels of poison into our atmosphere, seriously affecting not only innocent women and children and others who could not help themselves but American soldiers serving there as well. Our soldiers are this very day suffering from the illnesses caused by that environmental debacle.

After the war, Madam Chairman, he unleashed brutal attacks against his own population, the Kurds and others in the north and the Shiites in the south.

Madam Chairman, after World War II, the civilized world did the right thing and brought the Nazi criminals to justice. Even if the number of Saddam's victims may not approach those of Hitler's millions, the crimes of Saddam Hussein and his accomplices are just as heinous and those heinous crimes continue right today.

Even if we do not see them on the front pages of the newspapers, even if we do not see them on the nightly newscasts, they are there. And they are just as bad as what is happening in Bosnia today and, in many cases, even worse. The cruelty and barbarity of Saddam Hussein knows no bounds.

Madam Chairman, this unspeakable dictator must be brought to justice. I urge my colleagues to support this amendment overwhelmingly, to show the support of this Congress to go on record as favoring this course of action.

Mr. HAMILTON. Madam Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the distinguished gentleman from Indiana [Mr. HAMILTON], one of the most respected Members of this House and chairman of the Committee on Foreign Affairs.

Mr. HAMILTON. Madam Chairman, I rise for the purpose of commending the gentleman for this amendment. It is a very, very worthy amendment.

He has made an excellent, eloquent statement in support of it. We support it wholeheartedly.

Mr. SOLOMON. Madam Chairman, I thank the gentleman very, very much.

Mr. GILMAN. Madam Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from New York, the ranking Republican on the Committee on Foreign Affairs.

Mr. GILMAN. Madam Chairman, I am pleased to rise in strong support of the amendment being offered by our good friend and colleague, the gentleman from New York [Mr. SOLOMON].

This amendment urges the President to request that the United Nations establish a tribunal to charge Saddam Hussein and other responsible Iraqi Government officials with war crimes and other crimes against humanity. We cannot forgive or forget those atrocities committed against Kuwaiti and Iraqi civilians alike.

Those officials who ordered the deliberate attacks against civilians in neighboring Israel and in Saudi Arabia must know that they are going to ultimately be held responsible. And lest anyone think that we can simply close the book on Iraq and turn our attention to other areas of the world, the United Nations has recently declared that Iraq has not met its obligations toward Kuwait and third country nationals it detained during the war. Iraq continues its refusal to cooperate with the International Committee of the Red Cross in accounting for more than 600 missing individuals.

Accordingly, I urge our colleagues to adopt the Solomon amendment, thereby keeping the spotlight focused on this outlaw regime that refuses to adhere to the norms of international behavior.

Mr. STUMP. Madam Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Arizona.

Mr. STUMP. Madam Chairman, I understand that there is bipartisan support for the bill, and a number of veteran service organizations support it.

Personally, however, I am concerned that the bill sets up a precedent for compensating veterans from a pool of our enemy's assets.

Except in the instance of POW abuse, I am informed that this has never been done before.

It is a precedent that upon careful examination, I believe, is not as good as it may first appear.

One almost wonders whether it creates a lottery situation for veterans contingent upon whether the soldier's call to arms will be in a rich country or poor one.

I sympathize with my colleague's desire to incorporate some form of relief to veterans in this bill.

However, these veterans should be fully compensated for their sacrifices in the Persian Gulf war, as is the case with other veterans, under the current programs of the Department of Veterans Affairs.

Clearly the Foreign Affairs Committee intends to recognize the problems faced by some of those who return from the Persian Gulf war.

The Veterans' Affairs Committee has also done this by expediting legislation to give priority treatment in Department of Veterans Affairs facilities to veterans who were exposed to toxic or environmental hazards during their service in the Persian Gulf war.

To the degree this bill puts veterans first in line for compensation from Iraq, it helps make up for the inadequacies of the Clinton budget for veterans and the VA.

But I would rather have members of the Foreign Affairs Committee pushing for greater VA funding, than providing for individual veterans.

We are well aware that the administration's VA budget falls short of what is required for veterans in nearly every category.

The Committee on Veterans' Affairs bipartisan report to the Committee on the Budget justly puts it this way:

> In striking contrast to the needs which VA faces in fiscal year 1995 and beyond, the administration requested a level of funding substantially below what is needed to maintain current services to veterans.

I hope that we would not again seek to use this type of compensation mechanism in the future.

It is our Nation's obligation to care for the soldier who answers this country's call and for surviving family members and that is where it should remain.

The compensation regime contemplated in the Iraq Claims Act of 1993 stands in stark contrast to that provided to veterans of the Somalian effort, yet their sacrifice is no less.

Shouldn't Congress look to find a more inclusive and equitable approach consistent for all veterans?

With a budget of nearly $1.5 trillion, there should be ample room for Congress to meet the Nation's obligation to its veterans.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON], as modified.

The amendment, as modified, was agreed to.

The CHAIRMAN. The question is on the Committee amendment in the nature of a substitute, as amended.

The Committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

□ 1450

Accordingly, the Committee rose, and the Speaker pro tempore (Mr. KLECZKA) having assumed the chair, Ms. ESHOO, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3221) to provide for the adjudication of certain claims against the Government of Iraq, pursuant to House Resolution 410, reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MANZULLO

Mr. MANZULLO. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. MANZULLO. I am opposed to the bill in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. MANZULLO moves to recommit the bill (H.R. 3221) to the Committee on Foreign Affairs, with instructions to report the bill back to the House forthwith, with the following amendment:
>
> Strike section 10(a) and insert the following:
>
> "(a) Notwithstanding any other provision of the law, individuals who have served in the armed forces of Iraq during the Persian Gulf conflict may not be admitted to the United States as refugees under the Immigration and Nationality Act.".

POINT OF ORDER

Mr. HAMILTON. Mr. Speaker, I object to the motion to recommit and make a point of order against it.

Mr. Speaker, I think the motion to recommit is not germane, because as I understand it, and I have not had the opportunity to see it, but I was trying to listen very carefully. As I understand it, it tries to change the basic immigration law that is the law of the land. I therefore think it should be subject to a point of order as not germane.

The SPEAKER pro tempore. Does any other Member care to be heard on the point of order?

Mr. GILMAN. Mr. Speaker, I join with the distinguished chairman of the Committee in raising the issue that this is a nongermane amendment.

The SPEAKER pro tempore. Does the gentleman from Illinois [Mr. MANZULLO] wish to be heard on the point of order?

Mr. MANZULLO. I wish to be heard on the point of order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman is recognized.

Mr. MANZULLO. Mr. Speaker, under these very exceptional circumstances as to this rough language that was found in this bill as brought to the house by the gentleman from Pennsylvania, I think it would be in the best order and in the best interests of the American public to defeat this bill in final passage and sent it back to the full Committee on Foreign Affairs to redo the language.

The SPEAKER pro tempore. Does any other Member wish to be heard on the point of order?

Mr. KANJORSKI. I wish to be heard on the point of order, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Pennsylvania.

Mr. KANJORSKI. Mr. Speaker, I want to join my colleague on the Republican side, and compliment him for rising to the occasion to offer our motion to recommit. We join him in that.

I agree, I think it is very unfortunate that we have had to come to this point. Perhaps it is part of all of our faults, and certainly not the fault of the chairman of the Committee on Foreign Affairs. He knew least of this of anyone here.

Very clearly, I want to state to my colleagues that are going to be called to vote on this bill that if we send this out there, we are saying that "you can buy refugee status in the United States if you have worn a uniform and fired on American troops," and it is going on and will continue to go on, and we will have no way to stop it until years down the road, when finally this body or someone else does.

I urge all my colleagues on all sides, in honor of the people that have served in the Gulf——

The SPEAKER pro tempore. The gentleman should restrict his statements to the point of order.

Mr. KANJORSKI. The point of order is that it is most unfortunate that my colleagues on either side have raised the point of order. I think the motion to recommit is very clear, what the intention of this Congress should be. I have urged my colleagues, if possible, that they relinquish their point of order so we can have an up-and-down vote on the true meaning in the language of the motion to recommit.

The SPEAKER pro tempore. Does any other Member desire to be heard on the point of order?

If not, the Chair is prepared to rule.

The gentleman from Indiana [Mr. HAMILTON] makes a point of order that the amendment contained in the motion to recommit with instructions is not germane. The test of germaneness in this situation is to measure the amendment against the bill in its perfected form. The bill, as amended, appears to confine changes in law to those within the jurisdiction of the Committee on Foreign Affairs.

While section 10 does express the sense of Congress relating to Iraqi refugees, the bill does not change the Immigration and Nationality Act, other laws relating to admission of refugees, or contain other matter within the jurisdiction of the Committee on the Judiciary.

Since the amendment would change immigration law and the bill would not, the Chair sustains the point of order.

MOTION TO RECOMMIT OFFERED BY MR. MANZULLO

Mr. MANZULLO. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. MANZULLO moves to recommit the bill (H.R. 3221) to the Committee on Foreign Af-

fairs, with instructions to report the bill back to the House forthwith, with the following amendment: Strike section 10(a) and insert the following:

SEC. 10. ADMISSION TO THE UNITED STATES AS REFUGEES OF INDIVIDUALS WHO SERVED IN THE ARMED FORCES OF IRAQ DURING THE PERSIAN GULF CONFLICT.

(a) STATEMENT OF POLICY.—It is the sense of the Congress that individuals who have served in the armed forces of Iraq during the Persian Gulf conflict should not be admitted to the United States as refugees under the Immigration and Nationality Act except in exceptional circumstances.

The SPEAKER pro tempore. The motion to recommit is debatable for 10 minutes.

The Chair recognizes the gentleman from Illinois [Mr. MANZULLO], the author of the motion, for 5 minutes.

Mr. HAMILTON. Mr. Speaker, will the gentleman yield?

Mr. MANZULLO. I yield to the gentleman from Indiana.

Mr. HAMILTON. Mr. Speaker, I asked the gentleman to yield just to clarify that the gentleman is accepting the language of the bill as the committee has reported it, except that the gentleman is striking the words on line 21, beginning with the word "until," and the balance of that sentence, is that correct?

Mr. MANZULLO. That is line 10, beginning at line 10, through the remainder of the bill.

Mr. HAMILTON. I apologize. We are reading from different bills.

Mr. Speaker, the gentleman is striking the words "until all claims certified under section 2(b) of this Act have been paid in full," is that correct?

Mr. MANZULLO. Mr. Speaker, that is correct. It is beginning on line 10, the word "until" through the end of line 11.

Mr. HAMILTON. The gentleman is retaining subsection (b)?

Mr. MANZULLO. That is correct.

Mr. HAMILTON. Mr. Speaker, we accept that on this side.

Mr. MANZULLO. Mr. Speaker, I thank the gentleman from Indiana [Mr. HAMILTON], the distinguished chairman of the Committee on Foreign Affairs. I especially want to thank the gentleman from Pennsylvania [Mr. KANJORSKI], who fought in the Persian Gulf war.

Mr. Speaker, the purpose of this motion to recommit is simply to make it clear once and for all that there are very limited circumstances under which a former Iraqi ex-POW can make his way to the United States under refugee status. By sending this back on a motion to recommit, this will have the effect of removing from it the time element frame with which the gentleman from Pennsylvania had concern.

His concern was as follows: That he initially agrees with the fact that individuals who have served in the Iraqi Army in the Persian Gulf conflict should be admitted to the United States as refugees under only very, very limited circumstances. Those limited circumstances are set forth in the committee report. The gentleman was concerned that the phrase that we have just stricken, "until all claims certified," meant that once all claims certified had been paid, then the door would be open to any ex-Iraqi POW, and I thank the gentleman for that.

The SPEAKER pro tempore. Does any Member rise in opposition to the motion to recommit?

If not, the question is on the motion to recommit.

The motion to recommit was agreed to.

Mr. HAMILTON. Mr. Speaker, pursuant to the instructions of the House, I report the bill, H.R. 3221, back to the House with an amendment.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment: Strike section 10(a) and insert the following:

SEC. 10. ADMISSION TO THE UNITED STATES AS REFUGEES OF INDIVIDUALS WHO SERVED IN THE ARMED FORCES OF IRAQ DURING THE PERSIAN GULF CONFLICT.

(a) STATEMENT OF POLICY.—It is the sense of the Congress that individuals who have served in the armed forces of Iraq during the Persian Gulf conflict should not be admitted to the United States as refugees under the Immigration and Nationality Act except in exceptional circumstances.

The SPEAKER pro tempore. No debate is in order on the amendment.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

□ 1500

The SPEAKER pro tempore (Mr. KLECZKA). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. KANJORSKI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 398, nays 5, not voting 29, as follows:

[Roll No. 146]

YEAS—398

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bunning
Burton
Buyer
Byrne
Callahan
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Fingerhut
Fish
Flake
Foglietta
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Goss
Grams
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Horn
Houghton
Hoyer
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Myers
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd

Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—5

Filner
Holden
Kanjorski
Klink
McHale

NOT VOTING—29

Barlow
Bryant
Calvert
Clay
Condit
DeFazio
DeLauro
Derrick
English
Ford (MI)
Ford (TN)
Frost
Goodlatte
Gordon
Grandy
Huffington
Istook
Kyl
Lloyd
Murphy
Murtha
Pelosi
Quinn
Rush
Slattery
Stokes
Volkmer
Vucanovich
Washington

☐ 1523

Mr. HOLDEN and Mr. FILNER changed their vote from "yea" to "nay."

Mr. CAMP and Mr. COX changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

VACATING VOTE ON H.R. 4250, HUMAN SERVICES AMENDMENTS OF 1994

Mr. ARMEY. Mr. Speaker, I ask unanimous consent to vacate the order for the yeas and nays on H.R. 4250.

The SPEAKER pro tempore (Mr. KLECZKA). Is there objection to the request of the gentleman from Texas?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3860

Mr. ARMEY. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of the bill, H.R. 3860.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF H.R. 3221, IRAQ CLAIMS ACT OF 1993

Mr. HAMILTON. Mr. Speaker. I ask unanimous consent that, in the engrossment of the bill H.R. 3221. The clerk be authorized to change "1993" to "1994" in section 1 of the bill, to correct duplicative section numbers of sections added to the bill during the amendment process, and to make such other technical corrections as may be necessary.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H.R. 3221, the bill just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CONFERENCE REPORT ON H.R. 2333, STATE DEPARTMENT, USIA, AND RELATED AGENCIES AUTHORIZATION ACT, FISCAL YEARS 1994 AND 1995

Mr. HAMILTON. Mr. Speaker, pursuant to the previous order of the House, I call up the conference report on the bill (H.R. 2333), to authorize appropriations for the Department of State, the United States Information Agency, and related agencies, and for other purposes.

The SPEAKER pro tempore. Pursuant to the order of the House of Monday, April 25, 1994, the conference report is considered as read.

(For conference report and statement, see proceedings of the House of Monday, April 25, 1994, at page 8455.)

The SPEAKER pro tempore. The gentleman from Indiana [Mr. HAMILTON] will be recognized for 30 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 30 minutes.

PARLIAMENTARY INQUIRY

Ms. SNOWE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentlewoman will state it.

Ms. SNOWE. Mr. Speaker, I would like to inquire whether the gentleman from New York is opposed to the conference report.

The SPEAKER pro tempore. Is the gentleman from New York [Mr. GILMAN] opposed to the conference report?

Mr. GILMAN. Mr. Speaker, I do not oppose the conference report.

The SPEAKER pro tempore. Is the gentlewoman from Maine [Ms. SNOWE] opposed to the conference report?

Ms. SNOWE. I am opposed, and I would like to be allocated the customary one-third of the time for debate.

The SPEAKER pro tempore. The time will be divided three ways.

The gentleman from Indiana [Mr. HAMILTON] will be recognized for 20 minutes, the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes, and the gentlewoman from Maine [Ms. SNOWE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. HAMILTON]

Mr. HAMILTON. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. BERMAN], the distinguished chairman of the Subcommittee on International Operations of the Committee on Foreign Affairs.

Mr. BERMAN. I thank the chairman for yielding this time to me.

Mr. Speaker, I rise in support of the conference report on H.R. 2333. The bill before you today provides basic authorization for fiscal years 1994 and 1995 for the operating expenses of the Department of State, the U.S. Information Agency, the Arms Control and Disarmament Agency, and the Peace Corps. The bill provides no authorization for foreign assistance programs. These will be the subject of the Foreign Assistance Authorization Act. The bill before us is, as we sometimes call it, the bureaucracy bill.

The conference agreement has, in budget terms, adheres in its authorization levels to the limitations and assumptions of the fiscal year 1995 House-passed congressional budget resolution. This means that the bill before us authorizes, in the aggregate, less than the administration has requested in terms of new appropriations. For fiscal year 1995, the conference agreement authorizes over $400 million less than the bill passed by the House last year, and some $150 million less than 1993 appropriated levels. This is simply a reflection of the reality that the days are long gone when we could add things to authorization bills without showing the appropriations committee how we intend to pay for them.

The funding provisions of the bill itself are austere, to say the least. The administration's budget request constitutes a hard freeze to many accounts, made reductions to some others, and zeroed out still others entirely. The conference agreement accepts most of these cuts, and preserves provisions which will constrain the Foreign Service bureaucracy in the one area in which abuses have become egregious: personnel. The bill includes statutory personnel ceilings similar to those enacted in annual Defense Authorization Acts, which will reduce the size of the Senior Foreign Service by 10 percent over 2 years.

One centerpiece of the draft bill, in my opinion, is its provision for organizational flexibility. For the State Department, the bill as drafted provides a degree of much-needed organizational and managerial flexibility. It authorizes all subcabinet appointments the Department has formally requested, and allows the Secretary to shuffle and reshuffle positions, bureaus, and offices in any way he sees fit. With a few exceptions, the bill would repeal all statutory micromanagerial provisions which preserve existing positions and organizations at State. It evidences our willingness, in a time of extreme fiscal constraint, to allow the executive branch to organize itself in the most efficient way possible, subject to notification.

In title II of H.R. 2333, the Foreign Relations Authorization Act, fiscal years 1994 and 1995, we are providing the resources required by the U.S. Information Agency to carry out its broad range of public diplomacy programs. For purposes of clarification, I want to note that for the fiscal year 1994, we are specifically authorizing the appropriations enacted earlier in Public Law 103–121.

For that year, under the heading of Salaries and Expenses, section 201(a)(1), we have provided $487,988,000, which includes $14,500,000 allowed by the Appropriations Committee under the Educational and Cultural Exchange Programs account to meet some of the administrative and other support costs for those exchange programs.

Inasmuch as some of the fiscal year 1994 support costs were already under Salaries and Expenses and all such costs are in the Salaries and Expenses request for fiscal year 1995, we have placed all such costs in the Salaries and Expenses heading for both years to provide overall comparability. Thus, we have authorized the $14,500,000 for fiscal year 1994 to be used for exchange program support although we have included it in a different category from the appropriations legislation.

Among major policy issues, title VII of the conference agreement contains the Arms Control and Non-Proliferation Act of 1994, a close cousin of H.R. 2155, a bill originally introduced by Congressman LANTOS and myself. This important policy initiative, long overdue, permits the revitalization of the Arms Control and Disarmament Agency, ACDA. ACDA has played a vital role in pursuit of important national objectives in arms control and disarmament. With the end of the cold war, ACDA's mission is no less important.

Indeed, halting the spread of weapons of mass destruction has moved to the top of our national security objectives. The revitalization of ACDA will place that Agency in a leadership position in our international nonproliferation activities. The act recognizes the Director of ACDA as the principal advisor in the executive branch on matters relating to arms control, nonproliferation, and disarmament. ACDA has the lead in the U.S. effort to extend the Nuclear Non-Proliferation Treaty when it comes up for renewal next year; ACDA has the lead in the negotiations currently underway in Geneva to achieve a comprehensive nuclear test ban treaty. ACDA led the successful negotiations on the Chemical Weapons Convention, a global treaty outlawing chemical weapons, and now is in charge of leading the U.S. Government's implementation of the accord. I look forward to ACDA's continuing revitalization so that once again that proud Agency will assume the role envisioned for it when it was created by Congress more than 30 years ago.

Title III of this bill—The United States International Broadcasting Act—constitutes a consolidation of our nonmilitary international broadcasting activities. Under a new Broadcasting Board of Governors our broadcast services will reorganize and reorient their activities to meet the challenges of the post-cold-war world, utilize new technologies, and save millions of taxpayer dollars over the next few years.

This title also authorizes Radio Free Asia which will significantly enhance and improve our ability to deliver accurate news and information to the people of China and others living under oppressive Asian regimes.

This bill also reauthorizes the Lautenberg-Berman amendment. This provision facilitates the granting of refugee status for certain historically persecuted groups such as Jews and Evangelical Christians from the former Soviet Union. The potential for political extremism and the growth in antiminority sentiment in the former Soviet Union are vivid illustrations of why this legislation remains as vital and necessary as ever.

I want to mention briefly two other provisions of this bill. The first is the Middle East Peace Facilitation Act. This legislation, first passed last year after the September handshake on the White House lawn which many of us were privileged to witness, allowed the President to waive certain provisions of law restricting United States contacts with the Palestine Liberation Organization for a limited period of time. We now extend the President's authority to continue to waive those provisions for 6-month increments until July 1, 1995, so long as he can certify that it is in the U.S. national interest to do so and that the PLO continues to abide by all its commitments made in September 1993.

Mindful of Yassir Arafat's reticence to condemn the recent acts of Palestinian terror and violence in Israel and the territories—a reticence which stands in stark contrast to the heartfelt and anguished response of Yitzhak Rabin after the Hebron massacre—we have toughened the standard required for Presidential certification. We express our expectation that future waivers will be conditioned on the PLO's renunciation of the Arab economic boycott of Israel and its efforts to dismantle the boycott, and on its renunciation of individual acts of terrorism and violence. We also require that the President's written policy justification in exercising his waiver authority include a report on the PLO's response to such acts, what it has done regarding the Arab boycott, and on the status of the PLO office in the United States.

I also want to mention other provisions of the bill dealing with the Arab boycott and diplomatic relations with Israel. The bill expresses the sense of Congress that the Secretary of State make the issue of Israel's diplomatic status a priority and urge countries which receive United States assistance to establish immediately full diplomatic relations with Israel. Currently, some 30 countries receiving United States aid do not have diplomatic ties with Israel. It also prohibits the sale or lease of any defense articles or services by the United States to any country or international organization that is known to have sent letters to United States firms requesting compliance with the secondary or tertiary Arab boycott of Israel. The President may waive this provision for 1 year only if he certifies to Congress that such a waiver is in our national security interest or that it will promote the objective of ending the boycott. This important provision will provide teeth to our common goal of finally putting a stop to this reprehensible discrimination.

A word now on the motion to recommit soon to be offered by the gentlelady from Maine. I strongly oppose this motion, and urge my colleagues on both sides of the aisle to do likewise.

The gentlelady from Maine has represented the issue at hand in terms of the status of the United States embargo against Vietnam. With all due respect, neither the gentlelady's motion, nor the provision it addresses, will affect United States trade with Vietnam in any way. The President has already lifted the embargo on Vietnam. The provision to which the gentlelady objects is no more than sense-of-the-Senate—not the Congress and not the House—language which at this point amounts only to an endorsement of the President's action.

What the gentlelady's motion will do, however, is to produce an intolerable procedural situation: Either the House will have to stay in session—and the Senate recalled—to redo what we're doing now, or the State Department and the other agencies with expenditures authorized by this bill will have to shut down, worldwide, until we do our business, at a cost to the taxpayers of at least $2 million a day. Regardless of where Members stand on the issue of the Vietnam embargo, either of these outcomes should be unacceptable.

This motion is unusual. We are not talking here about a provision voted down by the House and picked up later in conference from the Senate. In fact the House has not voted on this issue. Nor is it being asked to do so now. Once again, this is sense-of-the-Senate language. In practical terms, the gentlelady's motion will not accomplish her objective. In conference last week, the Senate insisted on its position and the House conferees voted to accept it. Recommitting the report to conference is unlikely to change that equation.

□ 1530

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of the conference report on H.R. 2333, the State Department, USIA, and Related Agencies Authorization Act for fiscal years 1994 and 1995. This conference report authorizes the basic operations of the State Department, the U.S. Information Agency, and the Arms Control and Disarmament Agency. I am pleased to report that the measure before us, returns to the House floor with an authorization level that is $436 million below the House-passed bill for fiscal year 1995. We also provide a key authority for the State Department to collect and retain fees for issuing machine readable nonimmigrant visas and to use such fees to cover the costs of providing consular services and upgrading visa processing systems. I strongly support the modernization of the visa processing systems and the implementation of an upgrade of all overseas visa lookout operations. These systems are vital to establishing a more secure system of entry into this country.

We also authorize the administration's request for flexibility to reorganize the State Department. However, the reorganization plan submitted for approval by Congress eliminated the Office of the Coordinator for Counterterrorism. I strongly objected to this proposal, and sought to restore the primacy of this issue within the Department by retaining the office. I was supported in this effort by a 357 to 2 vote by the House on a motion to instruct the conferees to retain my amendment contained in the House bill which maintained the independent and high-level Office of the Coordinator for Counterterrorism reporting directly to the Secretary of State. The will of the House prevailed and a favorable resolution was reached by the conferees. The Office of the Coordinator for Counterterrorism will be retained for an additional 12 months.

I reluctantly agreed to a compromise on this issue, even after a very strong House recorded vote, which was necessary because of very strong, and in my opinion misguided, State Department opposition to my amendment.

I especially want to thank our distinguished chairman Mr. HAMILTON, and the subcommittee chairman, Mr. BERMAN, for working to help accommodate my serious concerns about doing away at this time, with this vital office, particularly after the terrorist bombing of the Trade Center in New York. This attack made it clear that the threat of international terrorism, especially to Americans has not diminished. Rather than lowering our guard, we must strengthen our defenses against this evil.

Under the compromise proposal we will retain the Counterterrorism Office with the same responsibilities, functions and status that it held on January 20, 1993, when President Clinton took office. I am urging the State Department to give that office the strong, tough and hardline antiterrorism leadership it needs as well as to provide the necessary resources to do the job. I also ask that the Department clearly live up to the letter and intent of my amendment not to merge the narcotics and counterterrorism functions during this critical period.

Chairman HAMILTON has also agreed in the interim to have hearings along with Mr. BERMAN in the Foreign Affairs Committee. We need to take testimony from the counterterrorism experts early next year. We should for example, explore the links between drugs and terrorism if any, that could justify a merger of the counterterrorism functions into the antinarcotics account as the State Department desired.

I am including, at the end of my remarks and as part of this statement an OpEd piece from the Washington Times from April 20, 1994, captioned "Keeping Counter-terrorism a Serious Priority" by Peter Flory. Mr. Flory, along with other experts he cites in this piece, makes a persuasive and compelling case that the House position was, and is, correct. But more importantly, he concludes that this debate about State Department organization, truly involves much more than boxes on an organizational chart; it involves American security and American lives in the years to come. I commend it to my colleagues and all those concerned about the international terrorism threat which America faces today.

The scope of the bill was broadened in the Senate to include several foreign policy provisions. Many of these policy provisions were retained by the conference committee and will strengthen our foreign policy objectives.

This is true for the Hyde provision expressing the sense of the Congress that the President should terminate the arms embargo for Bosnia. In addition, inclusion of Senator GLENN's Nuclear Proliferation Prevention Act, will strengthen nonproliferation sanctions on companies and Governments that knowingly promote the spread of nuclear weapons through sales, transfers or financing.

On a bipartisan basis, the conferees designed stringent new U.N. management and peacekeeping reforms. In response to overwhelming concern about the weak U.N. management practices, the proliferation of U.N. peacekeeping missions, and the rapid increase in U.S. financial obligations for peacekeeping this year, the legislation sets up a carrot and stick approach to force discipline on the United Nations. We require a withholding of assessments to the regular U.N. budget and of the fiscal year 1994 supplemental authorization until an independent office of inspector general is established and an IG is appointed. We have also included a cap of 30.4 percent on current U.S. payments for U.N. peacekeeping which is below the increased assessment imposed by the United Nations last year. Beginning in fiscal year 1996 the bill prohibits the United States from paying more than 25 percent for any U.N. peacekeeping operation.

Furthermore, we require monthly consultations with Congress on participation of U.S. Armed Forces in peacekeeping operations and other important changes in ongoing operations. There is a requirement for written prior notification on votes in the Security Council to establish new peacekeeping operations. And, we will be able to reduce U.S. peacekeeping costs by allowing U.S. excess defense articles to be provided to the United Nations and credited against the U.S. peacekeeping assessment.

Another key initiative in this bill is the consolidation of our international broadcasting activities. This reorganization of broadcasting is projected to save in the future approximately $100 million a year, and increases flexibility to determine broadcasting priorities. The bill also preserves the independent status of Radio Free Europe and Radio Liberty and creates a new independent Radio Free Asia [RFA]. The objective of RFA is to increase broadcasting into the closed Asian societies where independent news and information is not available to the people. I support the effort to increase our access to these countries through our international broadcasting system. I also support the continuation of broadcasting to Cuba under this reorganization.

Another special concern to me is our policy toward Tibet. I am pleased that this conference report contains three provisions specifically directed toward improving and increased exchanges with, access to, and information about Tibet.

Mr. Chairman, also contained in this conference report are two important provisions pertaining to American involvement with the Palestine Liberation Organization as the Middle East peace negotiations continue. Section 728 of the Senate bill amends the PLO Commitments Compliance Act to strengthen the reporting requirement by adding the PLO commitment letters to Israel and Norway, and the September 13, 1993, Declaration of Principles Agreements as elements to be included in the State Department's reports to Congress.

Because presidential certification of the PLO, as required by the Middle East Peace Facilitation Act, occurs every 6 months, the reporting requirements in the PLO Commitments Compliance Act is extended from every 120 days to every 6 months. This permits Congress to conduct the necessary oversight prior to presidential certification. Most of the changes to the PLO Commitments Compliance Act proposed by the State were welcome and will strengthen congressional oversight of the act.

In conference, the Senate agreed to maintain an original reporting requirement of a statement of whether the PLO has repealed provisions in its covenant which call for Israel's destruction, as well as a statement which specifically discusses the PLO's position on the unrest in the territories. I support the conference agreement as pertains to the PLO Commitments Compliance Act, and urge my colleagues to accept it.

The Middle East Peace Facilitation Act, [MEPFA], which the Senate considered in the title X, contained a number of provisions that were removed from the conference agreement. Through the MEPFA, Congress grants the President a waiver authority for a period of time, during which the President can waive four laws banning or severely restricting PLO involvement with the United States. Most prominent among the laws is the prohibition against the PLO having an office in the United States. The current waiver, which spans 6 months, expires on July 1, 1994.

In title X, the Senate proposed to permanently transfer the waiver authority from Congress to the President. The President would have eternal authority to waive the laws pertaining to the PLO as long as he certified that the PLO was in compliance and made his certification known to Congress every 6 months. As adopted by the Senate, the proposal would have only permitted Congress to disagree with the President through a joint resolution of disapproval, leaving Congress with no oversight of the four laws covered by the MEPFA.

Congress remains deeply concerned about the PLO for many reasons. Accordingly, it is the intent of Congress that further extensions of the waiver authority be considered only on a periodic basis. Congress does not intend to shirk its constitutional responsibility by relieving itself of this crucial oversight function. The conference agreement removed the joint resolution proposal from the bill, and returned to the existing structure of the act. The conference agreement extends the President's waiver authority for 1 year only, until July 1, 1995, primarily because consideration of an extension during an election year made an additional 6 month waiver impractical.

As adopted by the conferees, the act includes two congressional expectations. One currently exists in law but was not included in the Senate version. The second expectation is new. Conditional for extending the waiver authority, the President must take into account whether the PLO renounces the Arab League boycott of Israel, urges the nations of the Arab League to end the boycott, and cooperates with United States efforts to do so. The second congressional expectation notes that any extension exercised by the President be contingent upon the PLO, through Chairman Arafat, condemning individual acts of terrorism and violence against Israelis and Jews committed by Palestinians in furtherance of Palestinian political aims.

Also new to the act is a reporting requirement, stipulated prior to Presidential certification, which details the PLO's reaction and response to individual acts of terrorism and violence, its actions concerning the Arab League boycott of Israel, and the status of any PLO office in the United States.

As ranking republican member of the House Committee on Foreign Affairs, I find that the State Department's reporting about the PLO office will be of great assistance in determining whether future Presidential waivers should be adopted. It is therefore anticipated that the report discuss—but not be limited solely to—whether a PLO office is being established and when it will begin functioning, its location, staffing levels, administrative and nonadministrative structure, funding, diplomatic status, as well as an outline of the issues that those affiliated with the office will be working on. It would be even more helpful if, in advance of preparing the reports, the State Department met with interested Members of Congress, including myself, to discuss those items that should be included in the report.

Overall, I would have preferred to adjust the MEPA waiver date to April 1, 1995. Yet July 1, 1995, is the alternative the conference committee agreed upon. In addition, the committee of conference agreed to the inclusion of the phase "in good faith" regarding PLO compliance with the implementation of the Declaration of Principles. This was at the request of the Department of State. While not a perfect measure, it is adequate for the current task, and I support its inclusion in the conference agreement.

Lastly, the conference report includes a Sense of Senate provision that the President should lift the trade embargo against Vietnam and that the two countries should move toward normalization of relations. This provision will be the subject of a motion to recommit by the gentlelady from Maine.

I recognize the active role the gentlelady from Maine has taken in steering this bill through subcommittee and enabling the measure to make it through conference. I also understand the strong views she holds on opposing this Senate provision. The resolution of the POW/MIA issue is of great importance to me, and has been for many years. I intend to support the gentlelady's motion to recommit with instructions to delete this provision. But, I also want to emphasize that I intend to support the conference report on final passage and urge my fellow Republicans to also vote favorably on final passage. The measure before us has an overwhelming number of important reforms—both in the management and the foreign policy sectors—and there are new authorities necessary for these agencies to improve their efficiency and effectiveness.

With respect to lifting of sanctions, I commend the gentlelady from Maine for offering the motion to recommit and I rise in strong support of it. The Vietnam provision in this conference report commends Vietnam for its supposed cooperation with the United States on resolving the fate of American POW/MIA's and recommends to the President that he lift the embargo. Mr. Speaker, it is a well-known fact that the Vietnamese Government continues to stonewall on providing us information on our missing servicemen.

Earlier this year, a letter was sent to the President signed by 70 former American POW's from the Vietnam war, including our colleague, SAM JOHNSON, urging him not to lift the embargo. The reason these distinguished 70 veterans gave was lack of cooperation from the Vietnamese and our loss of leverage.

Our ex-POW's said to the President that cooperation from the Vietnamese is not at all about access to crash or burial sites. It is about getting answers from the Vietnamese about those hundreds of men they held behind at the end of the war.

Mr. Speaker, a copy of their February 3, 1994, open letter to the President from 70 former POW's opposing the lifting of the embargo against Vietnam will be included at the end of my remarks.

The Vietnam provision in this conference report ignores this critical matter entirely. Let me repeat, the provision ignores United States Intelligence assessments accepted and reinforced by more recently-acquired information that officials of Communist Vietnam and Laos have not provided any information about hundreds of men we know they still held after the war. Accordingly, the provision is grossly inaccurate and rubs salt in the wounds of those who served in Vietnam and were held in the camps.

For this reason, not on single major veteran or POW/MIA family group supports the provision.

Mr. Speaker, on February 23, I wrote to the Secretary of State concerning a February 18 New York Times article reporting that the State Department had urged Russian officials not to release anymore information about Vietnam's holding our men after the war. I requested from the Secretary copies of all cables referenced in the New York Times article and an explanation of the events surrounding the story. On March 24, a month later, I received a reply from Assistant Secretary Wendy Sherman stating that the cables are classified and that my request for them is being taken into consideration. I wrote again on March 30. It has been another month and I still have not seen copies of those cables. What is there to hide?

Mr. Speaker, Members of Congress have the necessary security clearances to read classified material. What sort of an answer is that to a request initiated in response to an article in a daily newspaper? Until we get to the bottom of these unanswered questions and those I raised earlier in my statement I'm afraid our veteran and POW/MIA family organizations are not going to have much faith in their government when it comes to the issue of our missing men.

Accordingly, I support the Snowe motion to recommit.

Mr. Speaker, I reserve the balance of my time.

[From the Washington Times, Apr. 20, 1994]

KEEPING COUNTER-TERRORISM A SERIOUS PRIORITY

(By Peter Flory)

Six Americans are killed and more than 1,000 injured in the World Trade Center bombing. The bombers are found guilty, while others await trial for plotting to destroy New York City landmarks and murder American officials. Saddam Hussein tries to assassinate former President Bush—compelling President Clinton to fire his first Tomahawks in anger. Meanwhile, the bombings in Israel underscore the vulnerability of the Middle East peace process, a critical U.S. interest; the unpredictable and murderous North Korean government is under pressure; and Salman Rushdie and Iranian dissidents are hunted down around the world. Finally, in our most important piece of unfinished business, the Libyan bombers of Pan Am 103 have yet to be brought to justice.

In a nutshell, this seems like an odd time to put the "Terrorism" file in the "Solved" folder, or assume that terrorism is no longer a threat to American lives and interests. But that is what the State Department has been trying to do, by proposing to downgrade and marginalize its senior counter-terrorism official, the coordinator for counter-terrorism. This may sound like bureaucratic line-drawing of interest only to Beltway insiders, but it could have tragic consequences in the real world. This unwise policy could weaken American security and endanger American lives.

House-Senate conferees are now completing action on the State Department authorization bill, H.R. 2333. The House version of the bill contained an amendment by Rep. Benjamin Gilman of New York which would have retained the independent counter-terrorism office (known in bureaucratese as S/CT) with the focus and clout to do its job. The Senate bill contained the State Department proposal, cynically modified to preserve some of the trappings, though not the substance, of bureaucratic effectiveness. On Monday, the House voted by an overwhelming 357-2 to instruct its conferees to insist on the Gilman amendment. Conferees reportedly agreed yesterday to a compromise formula that retains the counter-terrorism office in its present form for one year, allowing Congress to hold thorough hearings on the issue.

The State Department plan to eliminate the counter-terrorism office is flawed for several reasons.

First, it seems to assume that terrorism is no longer a serious threat. As recounted above, it is. While the number of terrorist attacks is generally declining, the audacity of terrorists and their choice of targets—a former U.S. president and the World Trade Center—are in some ways more alarming than ever. As long as the United States remains actively engaged in the world—as it clearly must—there will be governments and groups committed to the use of violence to attack U.S. interests and further their own political goals. And they will note that while Iraq challenged the United States by conventional military means and was devastated, Iran, Libya and Syria have never adequately paid for their roles in terrorist attacks that killed many more Americans than died in Desert Storm.

Second, there is no efficiency or symbiosis gained by lumping the narcotics, crime and terrorism functions together, as the State Department would like. In particular, linking counter-terrorism to counter-narcotics is a superficial and flawed approach. True, some Latin American narcotics traffickers have used terrorism and some terrorists, like Peru's Shining Path, have sold drugs. But the over-whelming majority of terrorist attacks against American interests is political in nature. Lumping these related functions together will eviscerate our counter-terrorism policy. It will also needlessly undermine our counter-narcotics efforts, say the former deputy director of the Office of National Drug Control Policy, John P. Walters, and former Deputy Assistant Secretary of State for International Narcotics Matters William J. Olson.

Third, the proposed multi-function office is a blueprint for bureaucratic impotence. The measures required to fight terrorism are never popular with vested interests, whether in our own or other countries' bureaucracies. So first, a strong U.S. policy requires leadership at home. Since 1986, the State Department has served as the lead counter-terrorism agency. This requires that the department's Office of Counter-Terrorism have sufficient clout with the regional and economic bureaus within State, and with other agencies in Washington, many of which may have their own priorities.

Then the policy has to be implemented abroad, with terrorist states themselves, and with other governments who sometimes let their own commercial and regional interests in countries like Iran and Iraq undermine a united diplomatic front against terrorist states.

A successful example was the critical role of the counter-terrorism coordinator in spearheading the Pan Am 103 policy. The conventional wisdom at the State Department was that the United States, Britain and France would never persuade the U.N. Security Council to condemn Libya's role in the bombing. But we did—in a unanimous vote. Then they said we'd never get sanctions against Libya. Wrong again, but only because S/CT energized the State Department to make it happen.

Today, as the Wall Street Journal has reported, an oil embargo against Libya would be the perfect occasion for another such effort. With Libyan-grade oil from other sources abundant and cheap, now is the time to push the Europeans to cut their dependence on Libyan oil and impose the only kind of sanctions left that might force Col. Moammar Gadhafi to hand over the murderers of 270 innocent people, including 189 Americans. But even if the administration follows up on its campaign rhetoric in this regard, neither the European foreign ministries nor the Libyans will be impressed by the proposed new bureaucratic lineup.

Here is what the State Department proposal would do. Until now, the head of the counter-terrorism office, the government's senior full-time counter-terrorism official, reported directly to the secretary of state, and with assistant secretary rank, could demand respect in Washington and foreign capitals. State wants to lower the job to deputy assistant secretary rank and put it at the bottom of a long and cumbersome reporting chain.

First, the incumbent would report to a new assistant secretary who is also responsible for narcotics and international crime, and who in practice would be largely consumed by the day-to-day budgetary, administrative, interagency, diplomatic and congressional demands of the counter-narcotics portfolio. This official will report, in turn, to an under-secretary—whose other global responsibilities include international population control, environmental matters, refugees, human rights, democratization, labor, oceans policy and crime—who will report to the secretary.

This long, cumbersome chain would fool no one, least of all terrorists and foreign governments. It could only undermine our ability to pursue an effective counter-terrorism policy, especially in crisis situations, and send a signal that the United States had decided terrorism is no longer a priority issue.

This kind of mistake has been made before, for it was into a similar bureaucratic morass that America's counter-terrorism policy had fallen in the early 1980s. Recognizing the need for better high-level coordination, President Reagan in 1985 directed the State Department to upgrade the terrorism position to ambassador-at-large, with direct access to the secretary of state. It worked. The policy was taken seriously, by other agencies and governments.

Terrorism is not a partisan issue. In fact, this proposed reorganization plan was drafted in the Bush administration. Then, as now, it was a bad idea, one that could be costly to American security and American lives in the years to come.

AMERICAN DEFENSE INSTITUTE,
Alexandria, VA, February 3, 1994.

AN OPEN LETTER TO PRESIDENT CLINTON FROM FORMER POW'S

Hon. WILLIAM J. CLINTON,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: We are deeply troubled by news reports that you may have an announcement to make on the trade embargo against Hanoi in a matter of days. You have also been quoted as saying that there are many distinguished veterans who think the embargo should be lifted. As former

American POWs of the Vietnam War, we urge you, in the strongest possible terms, not to take further steps to restore economic or diplomatic relations with Hanoi until you can certify that the Communist government there is being fully forthcoming in telling us what they know about our fellow POWs and MIAs who did not make it home with us in 1973.

Mr. President, all of us who were held as POWs in North Vietnam know first-hand that there are no limits to what the Vietnamese will do to show they are "cooperating" with the United States to account for our missing comrades. We consider ourselves experts at distinguishing between propaganda and results. As Dr. Kissinger once stated, Hanoi's leaders are duplicitous and they will stop at nothing to achieve their goals.

Some of our fellow POWs died in captivity in Vietnamese prisons. Yet they have not been accounted for. Some of our crewmates became missing during the same incidents which we survived. They too have not been accounted for. Some were captured and never heard from again. They have not been accounted for. Finally, a great many of our comrades never returned from Laos, even though we know they survived their incidents. North Vietnam controlled Laos during the war, and yet they still have not accounted for a single POW captured and held in Laos during the war.

There are those in Congress who are urging you to lift the embargo as a means to get more information. Mr. President, such a recommendation is nothing but a submission to blackmail by Hanoi. Do not let yourself be manipulated on this issue. The only way to get Hanoi to unilaterally provide what they are withholding is to be firm. Do you really think that those of us who made it home would have been released if the U.S. hadn't flexed its muscle during the December, 1972 bombing campaign? Of course not. And while we certainly do not recommend military action, we do recommend that the sanctions continue until the Communists in Hanoi decide to be fully forthcoming in accounting for our fellow POWs and MIAs.

Mr. President, we sacrificed precious years of our lives while in captivity. We survived because we believed our country would hold true to principle despite the disruptions at home. Please do not let us down by abandoning any hope we have of firmly convincing Hanoi to account for the remaining POWs and MIAs who came into their possession or control during the war. And please do not tell us that crash site excavations and fragmentary archival documents should be the measure of success in judging Vietnam's cooperation to date. We know better.

Sincerely,

U.S. Congressman Sam Johnson, USAF, POW 16 April 66–73; Adm. James B. Stockdale, POW 9 Sept. 65–73; Col. Orson Swindle, USMC, (Ret.), POW 11 Nov. 66–73; Bg. Robinson Risner, USAF (Ret.), POW 16 Sept. 65–73; Capt. Eugene "Red" McDaniel, USN (Ret.), POW 19 May 67–73; Col. Larry Barbay, USAF (Ret.), POW 20 July 66–73; Col. Jerry Marvel, USMC (Ret.), POW 24 Feb. 68–73; LCol. Myron Young, USAF (Ret.), POW 6 July 66–73; Cdr. Dale Osborne, USAF (Ret.), POW 23 Sept. 68–73; Col. Rudolf Zuberbuhler, USAF (Ret.), POW 12 Sept. 72–73; LCol. Keith Lewis, USAF (Ret.), POW 5 Oct. 72–73; LCol. James Padgett, USAF (Ret.), POW 11 May 72–73; Col. Bob White, USAF (Ret.), POW 24 Nov. 69–73; LCol. John Alpers, USAF (Ret.), POW 5 Oct. 72–73; Capt. Cole Black, USN (Ret.), POW 21 June 66–73; Capt. Moon Mullen, USN (Ret.), POW 6 Jan. 67–73; Capt. James L. Hutton, USN (Ret.), POW 16 Oct. 65–73; Capt. Bill Stark, USN (Ret.), POW 19 May 67–73; Capt. Harry Jenkins, USN (Ret.), POW 13 Nov. 65–73; Col. James Young, USAF (Ret.), POW 6 July 66–73; LCol. Konard Trautman, USAF (Ret.), POW 5 Oct. 67–73; Col. Laird Gutterson, USAF (Ret.), POW 23 Feb. 68–73.

Col. Ted Guy, USAF (Ret.), POW 22 MAR 68–73; Mr. Mike Bongs, Civ, POW 28 Jan 68–73; Col. Lee Ellis, USAF (Ret.), POW 7 Nov 67–73; Col. Jay Jensen, USAF (Ret.), POW 18 Feb 67–73; Maj. Jose Anzaldua, USMC, (Ret.), POW 23 Jan 70–73; Mr. Larry Stark, Civ, POW 1 Feb 68–73; Col. Bert Campbell, USAF (Ret.), POW 1 July 66–73; Capt. Irv Williams, USN, (Ret.), POW 24 Apr 67–73; Maj. John Parsels, USA (Ret.), POW 5 Feb 70–73; Col. A.J. Myers, USAF (Ret.), POW 1 Jun 66–73; Col. Steve Long, USAF (Ret.), POW 28 Feb 69–73; Col. Jack Van Loan, USAF (Ret.), POW 20 May 67–73; Col. Bill Baugh, USAF (Ret.), POW 21 Jan 67–73; Col. Don Burns, USAF (Ret.), POW 2 Dec 66–73; Col. Art Burer, USAF (Ret.), POW 21 Mar 66–73; Col. Thomas Klomann, USAF (Ret.), POW 20 Dec 72–73; Col. Ken Cordier, USAF (Ret.), POW 2 Dec 66–73; Capt. Jim Bell, USN, (Ret.), POW 16 Oct 65–73; Maj. Mark Smith, USA (Ret.), POW 7 Apr 72–73; Maj. Dennis L. Thompson, USA (Ret.), POW 7 Feb 68–73; Col. Bob Jeffrey, USAF (Ret.), POW 20 Dec 65–73; Col. Julian Jayroe, USA (Ret.), POW 19 Jan 67–73; Capt. Ross Terry, USN, (Ret.), POW 9 Oct 66–73; and LCol. Hank Barrows, USAF (Ret.), POW 19 Dec 72–73.

Col. Wes Schiernan, USAF (Ret.), POW 28 Aug 65–73; Col. Fred Flom, USAF (Ret.), POW 8 Aug 66–73; Capt. Gordon Nagagawa, USN, (Ret.), POW 21 Dec 72–73; Col. Terry Uyeyama, USAF (Ret.), POW 18 May 69–73; Col. Frank D. Lewis, USAF (Ret.), POW 28 Dec 72–73; Col. Gobel James, USAF (Ret.), POW 15 July 68–73; Lt. Bill Robinson, USAF (Ret.), POW 20 Dec 65–73; Col. Ralph W. Galati, USAF (Ret.), POW 16 Feb 72–73; Capt. Ev Sothwick, USN, (Ret.), POW 14 May 67–73; Col. Ken Wallingford, USA (Ret.), POW 7 Apr 72–73; Mr. Harry Ettmueller, USA, POW 3 Feb 68–73; Mr. John A. Dearing, USMC, POW 3 Feb 68–73; MSG. Donat J. Gouin, USA (Ret.), POW 3 Feb 68–73; Col. James O. Hivner, USAF (Ret.), POW 5 Oct 65–73; Col. James L. Lamar, USAF (Ret.), POW 6 May 66–73; Col. Thomas M. Madison, USAF (Ret.), POW 15 May 66–73; Capt. Render Crayton, USN, (Ret.), POW 7 Feb 66–73; Capt. Brian Woods, USN, (Ret.), POW 18 Sept 68–73; Col. Jim Bedinger, USAF (Ret.), POW 22 Nov 69–73; Capt. Jim Hickerson, USN, (Ret.), POW 22 Dec 67–73; Capt. Dave Carey, USN, (Ret.), POW 31 Aug 67–73; Capt. Rob Doremus, USN, (Ret.), POW 24 Aug 65–73; Capt. Reid McCleary, USN, (Ret.), POW May 67–73; and S/SGT. John Sexton, USA, POW 12 Aug 69–73.

The SPEAKER pro tempore (Mr. KLECZKA). The Chair recognizes the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I will concentrate my remarks on a motion I will offer to recommit the conference report for the purpose of removing section 521. Following general debate, my motion will call for the removal of a Senate provision which praises the Communist Government of Vietnam for cooperation in accounting for American POW's and MIA's, despite continued stonewalling on this issue that goes back years.

Obviously, I am deeply disappointed by this conference report. For 9 years I have been proud to serve as the ranking Republican on the Subcommittee on International Operations, which drafts the State Department Authorization Act. Until now, this bill has always been a genuine bipartisan product that I have never been unable to support. Today, that is no longer true.

Section 512 is a Senate provision that praises the Government of Vietnam for its supposed cooperation in accounting for American POW's and MIA's. It calls for an immediate lifting of the economic embargo and normalization of relations. It even goes so far as to claim human rights progress is underway in Vietnam. This is in a country where the people are routinely persecuted and incarcerated by the Government for all forms of unsanctioned religious and political expression.

Mr. Speaker, to adopt the conference report without first removing this Senate provision would break our faith with America's veterans and with the POW/MIA families. But most important, it would break faith with all those who gave their lives or never returned from Vietnam. These noble Americans gave everything they had to prevent the genocide and oppression that swept through Indochina after the fall of Saigon.

President Clinton has repeatedly stated that the United States economic embargo against Vietnam would remain in effect until Hanoi significantly increased its cooperation in the fullest possible accounting of American POW's and MIA's. But that has not occurred. And now we are being asked to lend our own support to a misguided decision by accepting this Senate provision that reaffirms the administration's policy of lifting the trade embargo. I don't believe that is a correct policy and I won't support it.

Maintaining the trade embargo was the only real "stick" the United States Government had to compel Hanoi to cooperate on the POW/MIA issue. In reality, Vietnam's level of cooperation has not fulfilled even the most modest expectations. Lifting the trade embargo was supposed to increase Vietnamese cooperation—it has not.

In 1993, only three American remains were positively identified as a result of joint United States-Vietnamese efforts. This was the worst year ever for the identification of remains. Moreover, American search teams had no freedom of action to investigate either: Unearthed wartime remains; United States aircraft wreckage; live sighting reports; or interviews of witnesses without being accompanied by Vietnamese officials.

In fact, earlier this month an American search team headed by a former Member of Congress along with the daughter of an MIA and a representative of a Vietnam veteran's organization were denied access to Vietnamese prisons where hundreds of Americans may have been held. One of those prison sites has been identified in declassified U.S. intelligence documents as a prison camp where 200 Americans were held captive in 1972, but none of those American POW's were repatriated in 1973.

Additionally, the executive director of the National League of Families of American Prisoners and Missing in Southeast Asia, Ann Griffiths, recently returned from another of her many trips to Vietnam. In her trip report, she described the new, postembargo attitude of the Vietnamese Government. Ms. Griffiths described a Vietnam Government attitude of complacency—they proudly paraded this Senate provision as proof of their past cooperation, without acknowledging their ongoing responsibilities to continue to help resolve our MIA cases.

The Vietnamese Government has apparently decided that unilateral actions on its part are no longer necessary. They now feel that continued bilateral cooperation is the key to resolving the MIA issue. The Vietnamese Government is content to wait for us to tell them what to do next, instead of moving forward on their own.

In its trip report, the National League of Families note that the most senior personnel on the U.S. full accounting joint task force "appear to have an assigned role to create perceptions, despite evidence to the contrary, that Vietnam is fully forthcoming." If this is true, then it means that the joint task force is more concerned with making it look like lifting the embargo was not a mistake than trying to get Vietnam to be more forthcoming.

Mr. Speaker, if today we declare this kind of behavior to be Vietnamese cooperation, then I fear that we will never achieve a full accounting of our POW's and MIA's. By removing this Senate provision we will put both the administration and the Vietnamese Government on notice that until full and complete cooperation is achieved, no steps should be taken toward establishing diplomatic relations.

I urge Members on both sides of the aisle to vote for the motion to recommit. We must not go on record praising Vietnam for its years of stonewalling on American POW's and MIA's. The Vietnamese Government hasn't lived up to its part of the bargain since the embargo has been lifted. We must show that the House of Representatives stands with the families of the POW's and MIA's, as well as with all major human rights groups who have uniformly denounced the human rights situation in Vietnam. And finally, we must signal to the administration that we expect genuine and substantial progress in both these areas before any consideration is given to establishing formal diplomatic ties.

Vote to keep faith with our veterans and the POW/MIA families. Vote for human rights in Vietnam. Vote for the motion to recommit.

THE AMERICAN LEGION,
Washington, DC, April 25, 1994.

DEAR REPRESENTATIVE: During the week of April 25 the house will consider the approval of H.R. 2333, the State Department Authorization Act for FY 1995. That bill has been passed by both Houses of Congress, has been referred to joint conference committee and the report has now been returned to the House and Senate for final passage.

While the intent of the Act is necessary, language has been included that alludes to significant cooperation by the government of Vietnam for its accounting of American POWs and MIAs, and endorses the end of the economic blockade on Vietnam. The American Legion finds this language disingenuous, inappropriate and has no legitimacy in fact.

In reality, Vietnam's cooperation on the resolution of the POW/MIA issue has not fulfilled reasonable expectations. In 1993 only two American remains were positively identified as a result of joint U.S.-Vietnamese efforts. Moreover, American search teams have had no freedom to investigate either unearthed wartime remains, U.S. aircraft wreckage, live sighting reports, or interviews of witnesses without being accompanied by Vietnamese officials. Furthermore, investigations by U.S. teams have not been pursued with full vigor, e.g., live sighting report investigations are nearly nonexistent and valid research suggestions from veterans' groups have been ignored.

The Legion understands that the language represents the sense of the Senate and is non-binding. However, adoption of the provisions that address a significant increase in cooperation and "substantial and tangible progress" are a distortion of reality and a revision of the history of this painful issue. To include this language in any bill approved by the Congress of the United States could forestall any future action to seek a full and complete accounting of American POWs and MIAs and would be an obstacle to any action to reimpose sanctions against Vietnam should events warrant.

I urge you to keep faith with the POWs and MIAs, their families and members of the military services and recommit this bill back to conference committee to eliminate those provisions that Americans will find objectionable and erroneous.

Sincerely,

BRUCE THIESEN,
National Commander.

NATIONAL LEAGUE OF FAMILIES OF
AMERICAN PRISONERS AND MISSING
IN SOUTHEAST ASIA,
Washington, DC, April 27, 1994.

DEAR REPRESENTATIVE: I understand that tomorrow, the House will consider final approval of H.R. 2333, the State Department Authorization Bill for 1995. Now is not the time to signal the Vietnamese leadership that the Congress of the United States is satisfied with the results thus far obtained. To the contrary, a helpful signal would be for H.R. 2333 to contain language which calls on Vietnam to move now, unilaterally, to repatriate remains and provide relevant documents which would account for hundreds of missing Americans.

Included in the text, as amended, is inaccurate language praising Vietnam's POW/MIA cooperation. A National League of Families delegation just returned from Vietnam. When confronted with U.S. documentation, supplied by the League, Vietnamese officials acknowledged that they could do more, unilaterally, to cooperate.

Please stand with the POW/MIA families and our nation's veterans by supporting Representative Olympia Snowe's efforts to remove this misleading language. You can signal Vietnam that the House of Representatives wants the fullest possible accounting without further delay. You can urge Vietnam to honor its commitments to the families and the President to follow through on the League delegation's findings.

Unwarranted praise at this crucial point could impede all we have worked to achieve in terms of accountability.

Sincerely,

ANN MILLS GRIFFITHS,
Executive Director.

NATIONAL LEAGUE OF FAMILIES OF
AMERICAN PRISONERS AND MISSING
IN SOUTHEAST ASIA
Washington, DC.

REPORT ON NATIONAL LEAGUE OF FAMILIES TRIP TO VIETNAM, LAOS AND CAMBODIA—VIETNAM: MARCH 22–24, 1994

The U.S. Government's current approach of commending Vietnam for full POW/MIA cooperation despite evidence to the contrary has signaled Vietnam that unilateral actions on their part are not expected nor required to achieve their political and economic objectives. After a series of meetings with very senior Vietnamese officials, the League delegation's consensus is that the leadership of the Socialist Republic of Vietnam is quite confident of its position. The "new environment" post-embargo-lift, though cited by SRV officials as a basis for renewed energy to continue and increase both unilateral and joint efforts, has not yet brought increased results in terms of accountability.

While pledging that their long-standing humanitarian policy of full cooperation would continue regardless of what the U.S. may decide regarding further steps forward, recent U.S. moves were cited as having improved the climate throughout Vietnam which would help ensure continued bilateral cooperation. The underlined rhetoric says it all. Vietnam asserts full cooperation in the past, which is provably untrue, while also asserting that the embargo lift will ensure continued bilateral cooperation which is as yet achieving little accountability. Again, since the embargo was lifted on February 3, 1994, results do not demonstrate any shift in Vietnam's behavior, rather more of the same. Unless U.S. policy is changed to focus on pursuing unilateral SRV actions, the League delegation does not foresee any real basis for optimism that results, in terms of accountability, will increase significantly.

Quoting recent U.S. Government accolades as evidence that satisfactory progress is being made, Vietnam's rhetoric paralleled that heard in the early to mid-80's. SRV officials initially asserted that they are cooperating fully, providing all relevant archival documents as they are located, withholding no remains or live POWs, and are deeply concerned about their own 300,000 "MIAs," a subject they dropped in the mid-1980's and refurbished in the early 1990's. The League provided SRV officials a book containing U.S. data on why more documents and remains are expected from unilateral SRV actions. The Vietnamese admitted that more can be done and committed to increase unilateral and bilateral efforts; however, the delegation is not optimistic in view of the SRV's longstanding record of breaking agreements and failing to honor pledges.

Confronted with League-provided U.S. Government facts on last known alive and remains discrepancy cases, SRV officials claimed that the "easy cases" had already been solved, a statement not supported by the evidence. Nevertheless, they pledged to continue efforts to resolve the discrepancy cases, noting that many of the cases have been repeatedly investigated by the JTF-FA. We noted that many of these investigations point to Vietnam's unilateral ability to solve the cases.

In response to League requests for specific documents believed available by the U.S. Government, SRV officials pledged to initiate rapid steps to locate and provide the requested documents. Senior Vietnamese officials were generally receptive to considering a simultaneous two-track approach, to include unilateral efforts on Vietnam's part while continuing the process underway with JTF-FA, i.e. field activities and joint research.

JTF-FA's efforts in Vietnam are positive in some areas, i.e. the Priority Case Investigation Team (PCIT), but the League delegation has serious concerns in others. We found dedicated, talented individuals in, or on loan to, Detachment 2 who are pursuing the current policy-approved JTF-FA operational approach, while searching for alternatives to obtain greater results. We maintain that the team would be better served without the removal of experienced personnel. The JTF process in Vietnam appears geared toward initial surveys and investigations of all cases, with little focus on achieving real accountability and no focus on pursuing unilateral SRV efforts. This focus signals Vietnamese officials that there is no need or desire on the U.S. part for unilateral SRV efforts. Smooth logistics execution of field activities and public relations appear to be of paramount importance. These problems beg correction by policy-level U.S. Government officials.

The highly publicized Joint Document Center appears constructed more for propaganda value than substance; however, there are some talented personnel intent on greater access and results. Here again, publicly expressed opinions by U.S. officials are reflected in statements by Vietnamese counterparts. This is a serious problem; it alleviates the burden on Vietnam for unilateral provision of archival documents and further research efforts.

The most senior personnel at JTF-FA Detachment 2 appear to have an assigned role to create perceptions, despite evidence to the contrary, that Vietnam is fully forthcoming. This approach is not only unwarranted, but detracts from objective evaluation of Vietnamese knowledgeability. A consistent theme from some in JTF is that long-held U.S. Government expectations concerning Vietnam's knowledge and ability to unilaterally provide accountability were likely based on invalid assumptions. This leads to their faulty conclusion that accountability must be a lengthy process from which little can reasonably be expected of the SRV in terms of unilateral actions.

In view of evidence available to the U.S. Government, the approach on archival documents/research should be based on the assumption that more are available and can be provided with political will on the part of the SRV leadership. If the Vietnamese do not provide expected documents, credible explanations should be provided as to why. Such an approach would be consistent with U.S. policy on the live prisoner issue.

As a result of our trip, we are working on specific recommendations for the U.S. Government, based on a two-track approach, which we believe will motivate Vietnam to provide more unilaterally and give greater credibility to the President's public statements of commitment and expectations, post-embargo.

LAOS: MARCH 25–28, 1994

Bilateral POW/MIA efforts in Laos are encouraging, despite greater obstacles, i.e. nearly 85% of all of the 504 U.S. losses occurred in areas then under Vietnamese control, and remoteness of areas of loss, as well as displacement of potential witnesses along the border with Vietnam.

The basis for the League delegation's positive assessment included the Lao Government's history of seriousness in implementing POW/MIA commitments made to the United States. It was evident from discussions that during the "run-up" to U.S. lifting of the embargo with Vietnam, Lao cooperation on the POW/MIA issue was downplayed and characterized inaccurately, likely to generate a perception of greater Vietnamese cooperation. In the context of POW/MIA accountability, any comparison between Laos and Vietnam is irrelevant and misplaced.

With high level guidance, the Foreign Ministry is clearly the "designated hitter," assisted actively by the Ministry of National Defense, with the Interior Ministry in a supportive role, but excluded from joint field activities.

The Lao Government's commitment to continue and increase their POW/MIA efforts was made clear, as was willingness to consider suggestions provided by the League in advance of the trip. The Foreign Ministry spelled out the Lao Government's approved method for handling aspects of the POW/MIA process, such as "trilateral" cooperation between Laos, Vietnam and the U.S. It was made clear that permitting Vietnamese witnesses to participate in field operations in Laos was a second step, to follow initial receipt of information from Vietnamese witnesses for use by the U.S. and Laos in the bilateral effort. The lack of SRV responses to Lao and U.S. requests for documents helpful to the POW/MIA accounting effort in Laos is a source of frustration which continues to impede results.

On joint field activities, the Lao defined the need to pursue the effort province by province, expanding excavation teams as necessary to ensure remains recovery is achieved as rapidly as possible. The Lao priority is to exhaust all possibility of results in each area before extending field operations beyond their government's relatively limited resources. Overall JTF-FA strategy is clearly not in consonance with Lao desires on how to proceed; however, Vientiane-based JTF-FA personnel appear to recognize the need to tailor an approach necessary to facilitate field operations in Laos.

Despite the greater problems faced by Laos and the U.S. in terms of accounting for Americans missing in Laos, including lack of information and records from Vietnam, there is an apparent dedication to achieving valid answers on individual cases. This is aided by the Lao policy that actions (though sometimes slow) speak louder than words.

Another positive, but until now unpublicized, development in Laos is the ongoing archival film project. Lao and American personnel are working together to review film footage, albeit thus far without significant results in terms of accountability. Whether governmental or private, a small amount of assistance to the Lao Government for preservation and location of additional film is crucial to expanding this aspect of the bilateral effort. The practical definitions provided by the Lao regarding the approved manner in which the POW/MIA accounting process could proceed were understood and accepted by the U.S. Ambassador to Laos and the Detachment 3 Commander. Policy level endorsement and direction to JTF-FA headquarters on implementation are needed.

Accountability is anticipated more reliably in Laos on those cases under Lao control; but, clearly without full provision of war time data and records by Vietnam, the majority may not be resolved except by serendipity.

U.S. Ambassador to Laos Victor Tomseth was extremely helpful during the League visit. His policy-level interface with Lao officials has been and is extremely important, and it is clear that he is well liked and respected by the Lao leadership which is gratified by his ability to speak their language. The delegation found the Vientiane-based JTF-FA Commander sensitive to the Lao environment and the differences between Vietnam and Laos in the context of POW/MIA. Unfortunately, as in most JTF assignments, LTC Mike Kendall, USA, an active duty military officer, will depart soon. Bill Gadoury, one of the few "old hands" still in JTF-FA, will remain; his knowledge of the issue and Lao culture, as well as language capability, are vital to the effort.

CAMBODIA: MARCH 28–29, 1994

The accounting effort in Cambodia is proceeding with the full support of the newly established Royal Cambodian Government, but without necessary provision of records and data from Vietnam. Cambodian officials were extremely supportive and made commitments to pursue every suggestion and take any action deemed potentially helpful to account for missing Americans.

Of particular interest was the commitment of the Defense Ministry to raise with their Vietnamese counterparts the need for SRV provision of records to help account for the 78 Americans still unaccounted for in Cambodia. This step was implemented immediately based on suggestions provided by the League.

Second Prime Minister Hun Sen, with a history of helpfulness since 1986, also offered full support and pledged to raise the need for SRV archives directly to his Vietnamese counterpart, Prime Minister Vo Van Kiet, during the latter's official visit immediately following the League delegations' departure. During the war, both Prime Minister Kiet and SRV President Le Duc Anh were senior commanders in the areas of Cambodia where most Americans were lost. (Reportedly, Prime Minister Hun Sen made the request of SRV Prime Minister Kiet who agreed to respond.)

JTF-FA Detachment 4 has an excellent working relationship with Cambodian officials. There is a discernable understanding between officials of both governments which enhances bilateral ability to pursue accounting efforts under difficult circumstances. Suggestions made by the League, many of which were made earlier by the Defense POW/MIA Office, were well received by all involved, including the need for an oral history program and unilateral Cambodian efforts to locate potential witnesses who served in the border areas of Vietnam and Cambodia during the war. Implementation by both countries will demonstrate seriousness.

Noting that even documents such as birth certificates were destroyed during the Khmer Rouge regime, Cambodian officials agreed to the League delegation's request to permit investigation of a military archive in Phnom Penh in an effort to locate possible POW/MIA related material.

Ambassador-designate Charles Twining is obviously held in high esteem by all Cambodian officials with whom the League delegation met. The U.S. role in achieving a political settlement was noted repeatedly, as was continuing U.S. assistance in overcoming current problems.

THAILAND: MARCH 20–21, 29, 1994

The League delegation's focus during stopovers in Thailand was to meet with U.S. officials directly related to POW/MIA, particularly those in the Defense Intelligence Agency's Stony Beach team, headquartered in Bangkok. With his many years of background and direct involvement in POW/MIA matters, U.S. Ambassador to Thailand David Lambertson provided not only valuable insights, but tremendous support for the League delegation. The discussion with State Department officer Scot Marciel, assigned in Hanoi and temporarily in Bangkok, regarding the current situation in Vietnam was also enlightening, and his assistance in facilitating meetings in Vietnam was most helpful.

The Stony Beach briefing was informative and professional; however, their debriefing operations continue to be circumscribed by direction of Commander, JTF–FA. The League delegation continues to hold the view that greater in-country participation by the Stony Beach linguists and investigation specialists would enhance valid results from field operations.

NOTE OF APPRECIATION: Although the League has differences on approach and policy, principally with regard to Vietnam, the League delegation received tremendous logistics support from the JTF–FA Detachments and personnel in Vietnam, Laos and Cambodia. Stony Beach (DIA) was extremely supportive and helpful in Bangkok. The courtesy and assistance were most helpful and deeply appreciated.

Participants in the League delegation were Chairman of the Board Sue Scott, Executive Director Ann Mills Griffiths and Board Member Colleen Shine. All are family members of Americans still missing from the Vietnam War.

During the League delegation's trip to Thailand, Vietnam, Laos and Cambodia, meetings were held with the following individuals.

Vietnam: Prime Minister Vo Van Kiet; Deputy Minister of Defense Nguyen Thoi Bung; Deputy Minister of Interior Le Minh Huong; Deputy Chief of the National Assembly Foreign Relations Committee Van Phac; Deputy Foreign Minister Le Mai; Director of the Vietnam office for Seeking Missing Persons (VNOSMP) Vu Chi Cong; Members of the VNOSMP from Defense, Interior and Foreign Ministries; Commander, U.S. Joint Task Force Full Accounting (JTF–FA) MG Thomas Needham, USA; LTC John Cray, USA, JTF–FA Detachment 2 Commander; U.S. Archival Research Chief Robert Destatte; Other Members of the JTF–FA MIA Office in Hanoi.

Laos: Deputy Prime Minister Khamphoui Keoboualapha; Foreign Minister Somsavat Lensavad; Vice Foreign Minister Soubanh Srithirath; Former Lao Ambassador to the U.N. Saly Khamsy; Assistant to the Foreign Minister Linthong Phetsavanh; Director of Foreign Relations Department, Ministry of National Defense, COL Sy Inthavong; Deputy Director Department of Europe/Americas, Ministry of Foreign Affairs, Mr. Ouan Phommachack; U.S. Ambassador to Laos Victor Tomseth; Deputy Chief of Mission Allen Barr; LTC Mike Kendall, USA, Commander of Detachment 3, JTF–FA; Other Members of the JTF–FA and Embassy staff.

Cambodia: His Excellency Hun Sen, Second Prime Minister; Deputy Prime Minister and Minister of Interior Sar Kheng; Generals Tea Chamrath and Tea Banh, Ministers of National Defense; Special Representative of First Prime Minister Prince Ranariddh Mr. Nady Tan; Mr. Uch Kiman, Acting Foreign Minister; Dr. Chem Widhya, Secretary General, Ministry of Foreign Affairs and International Cooperation; MG Men Than Ly, Director of Interpol, Ministry of Interior; MG Ou Kim Nouen, External Relations, Ministry of Defense; COL Chandy Mucharang, Ministry of National Defense; Mr. Theam Chuny, Director of Americas Division, Ministry of Foreign Affairs and International Cooperation; COL Chum Soyath, Ministry of Interior; U.S. Ambassador-Designate to Cambodia Charles Twining; Deputy Chief of Mission Mr. James Bruno; JTF–FA Detachment 4 Commander Major Tony Lowe; Other JTF–FA members.

Thailand: Lao Ambassador to Thailand Bounkeut Sangsomsak; U.S. Ambassador to Thailand David Lambertson; Deputy Chief of Mission Matt Dailey; Chief, Stony Beach POW/MIA Office, George Scearce; Defense Attache COL Ed Corcoran, USA; Mr. Ken Urquhart, Stony Beach; LTC Dave Geraldson, USAF, Chief, JTF–FA Detachment 1.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. Mr. Speaker, I rise today in strong support of the conference report to accompany H.R. 2333, particularly the provisions of section 515(6), urging the President of the United States to pressure the Government of Thailand to prosecute those responsible for the trafficking, forced labor, and physical and sexual abuse of Thai and Burmese women and children in Thailand. I commend my colleagues on the Foreign Affairs Committee for recognizing the significance of human rights violations against women.

I was appalled and disgusted to discover that the Government of Thailand has permitted the trafficking of women, who are then used as sex slaves. Recent credible reports have indicated that thousands of Burmese women and girls are being led into Thailand with false promises of employment, only to be forced to work in brothels under conditions which include sexual and physical violence, debt bondage, exposure to HIV, passport deprivation, and illegal confinement. In addition, members of the Thai police are often actively involved in this barbarism. This is a practice the U.S. Government must not support or fund and we must work to stop it.

In too many places around the world, gross human rights violations against women occur and the world community has for too long ignored them. I am pleased that with this bill, the first steps in recognizing this particular horror have been made. Now we must do whatever we can to make sure it doesn't continue. This is an issue of fundamental human rights.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 2½ minutes to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Speaker, the conference report contains authorizations for both the United Nations' general budget, the United Nation's peacekeeping for fiscal year 1994 and fiscal year 1995. It also contains an authorization for a fiscal 1994 peacekeeping supplemental totalling $670 million to pay averages.

I want to continue to make the Members aware of the impact the United Nations' ever-growing budget is having on the taxpayers of this country.

Mr. Speaker, in the last 2 years, the number of peacekeeping operations has exploded to a record high—16 on-going operations. U.N. peacekeeping has evolved beyond the traditional role of ensuring the implementation of a truce, to imposing that truce with an international militia of which we are assessed 32 percent of this total cost. U.S. dollars and U.S. manpower are being put on the line in great numbers, in settings that are remote, at best, to this Nation's security interests.

Aside from the critical policy issues that this poses for us, I want to turn your attention to the fiscal crisis this is creating. Last year, the Congress provided almost half a billion to the United Nations for peacekeeping for 1994. Yet, because the United Nations, with the agreement of the United States' Mission, continued to vote for new missions, and expanded missions, the United Nations is now sending the American taxpayer a bill for over $1 billion for shortfalls for 1994 alone—a bill we may not be able to pay. This conference report authorizes these shortfalls to be paid, but let me say to my colleagues, this may be a bill we may not be able to pay.

Further, at a time when we are facing a hard freeze on discretionary spending—meaning real cuts in important domestic programs—it is difficult to justify how we can send another $1 billion to the United Nations. Moreover, it is impossible for me to ask my constituents to foot this bill when the United Nations continues to refuse to lower our share now almost 32 percent. It is impossible for me to support paying our peacekeeping arrears until the United Nations creates a strong inspector general to end the waste, fraud, and abuse plaguing the United Nations.

I am glad to see provisions to continue withholding of funds until an inspector general is created. Further, I am glad to see that the authorization places a cap of 25 percent on U.S. peacekeeping assessments beginning in fiscal 1996. However, I believe we should begin capping U.S. assessments at 25 percent immediately.

Mr. Speaker, for the last 20 years this Congress has cried for United Nations' reform—cries which continue to fall on deaf ears. It's time we rein in the United Nations' purse strings. I am convinced it is the only action the United Nations understands. It is time we let them know Uncle Sam will not continue to foot the bill for U.N. peacekeeping until we see real reform.

Ms. SNOWE. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, we, along with the President, have the right to take young men and women from their families and put them in the uniformed services to fight the Nation's conflicts. Along with that right, we have certain obligations.

Our first obligation is to train and equip those young people well. It is to provide them with good leadership. When we take them into battle, we must do everything we can do politically to see to it that they are successful.

We have another obligation, and that obligation runs to them and to their families, and that is to account for those that fall in battle, [KIA], killed in action, [WIA], wounded in action, and those who are missing in action and who become prisoners of war.

Now, I think the services carry out that obligation fairly effectively when they have the power to do it. When young men and women are killed in action, the services act with compassion with the families, with the communication, trying to work with the friends and the family members to see to it that they adjust to death in combat, to see to it that they adjust to the missing, the absence of their member of the service who is in their family.

□ 1550

But in the case of Vietnam, that obligation shifted. Because of the closed society that North Vietnam holds, only the Government of North Vietnam really knows what happened to the thousands of Americans who to date are unaccounted for. I would suggest that there may be a difference of opinion as to how many Americans were left behind, if any. Members do not have to necessarily believe the memorandum from General Cam, the member of the North Vietnamese politburo reporting to the Soviet Union, when he said, we are keeping half of these members. My colleagues do not have to believe that. They do not have to believe that any of the 800 reported sightings are accurate.

There is, I admit, room for difference of opinion on that issue. There is no difference of opinion on the fact that the Vietnamese dragged their feet on counting. There is no difference of opinion that they at times were extremely deceitful to Americans, to the family members and to the Government members who wanted to know what had happened to Americans who were missing in action. And we are rewarding those people by lifting this embargo.

There is no doubt that this is a very important economic benefit. We are proving to our adversaries and our future adversaries that if one just waits long enough, one can count on our capitalistic tendencies to override this solemn obligation that we have to the families of the people who serve us in combat in Vietnam and in wars to come.

I think that is a dreadful mistake. The President of the United States has capitulated, and this House should not join him.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Chairman, I thank the gentleman for yielding time to me.

I would like to engage the gentleman from California [Mr. BERMAN] in a colloquy to clarify some language in the conference report and joint explanatory statement relating to subsection (a) of section 525.

The conference report expresses the sense of the Congress regarding travel or exchanges for informational, educational, religious, cultural, or humanitarian purposes, or for public performances or exhibitions. I would like to ask Mr. BERMAN whether he understands this language to allow tourist travel.

Mr. BERMAN. Mr. Speaker, will the gentleman yield?

Mr. TORRICELLI. I yield to the gentleman from California.

Mr. BERMAN. Mr. Speaker, as the gentleman knows, I personally believe that the right to travel is a constitutional right, and that Americans should be free to travel wherever they wish except in cases recognized in the Passport Act, where there lives or health might be in danger. It was for that reason that I offered the amendment to the International Emergency Economic Powers Act [IEEPA] which appears as the latter part of subsection (c). We did not apply those protections either to embargoes against Cuba or North Korea under the Trading With the Enemy Act, or to the existing embargoes against Iraq and Libya under IEEPA.

However, notwithstanding my personal conviction, I think it clear that the sense-of-the-Congress language in subsection (a), which originated in the Senate, and which covers activities other than those covered by subsections (b) and (c), only covers the specific purposes mentioned, namely informational, educational, religious, cultural, humanitarian, public performances, and exhibitions. It does not authorize travel for purely recreational purposes, and it would not be wise for persons to justify such travel on the basis of this provision. I do not read this language as encouraging the administration to permit such recreational travel. It would also be appropriate for the executive branch to permit travel for the purposes in subsection A either by means of well-defined general licenses or by means of specific licenses, as long as the licensing procedures were applied in a nondiscriminatory manner, and to permit rather than restrain travel for these specific purposes.

Mr. TORRICELLI. Mr. Speaker, finally, I would like to seek clarification of language in the joint explanatory statement which states the committee of conference understands it to be the policy of the executive branch to undertake to remove currency restrictions on the activities enumerated in the sense of the Congress. Does this suggest that the executive branch could in no way place limits on currency transactions for travel for such purposes?

Mr. BERMAN. Mr. Speaker, if the gentleman will continue to yield, one of the principal ways in which restrictions are maintained on the activities enumerated in subsection (a), particularly on travel, are by means of currency restrictions. Hence, the language of the joint explanatory statement refers to removal of currency restrictions. That said, I believe that reasonable per diem limits on expenditures for such travel would be in order.

I should also note that the administration, while it supports the principle of free trade in ideas, has made no commitment to removing currency restrictions, but still has under review the questions of whether current restrictions serve to inhibit the travel described in subsection (a), and precisely how it will implement its commitment to free trade in ideas.

Mr. TORRICELLI. Mr. Speaker, I thank the gentleman for his explanation.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. DIAZ-BALART], a member of our committee.

Mr. DIAZ-BALART. Mr. Speaker, I am cognizant of and am going to support the motion of the gentlewoman from Maine [Ms. SNOWE] to recommit. I think it is extremely unfortunate that that Senate Vietnam language was included in the conference report. It should not have been included in the conference report. It may jeopardize the conference report.

But it is very important that the issue be brought out, and the way in which the gentlewoman from Maine [Ms. SNOWE] has done so, I think, is extremely important. So I hope that we will support her motion to recommit.

There are a number of items within the conference report that are very important and that I think are very positive. It was a painstaking negotiation that took place and, I think, a very serious one during the conference committee meetings.

One of the items that I would like to bring out to the attention of my colleagues, which I think is very appropriate and very timely, is a sense of the Congress resolution, a statement that it is the sense of the Congress that the President should advocate and speak a mandatory international U.N. Security Council embargo against the dictatorship of Cuba. We are in the midst this week of seeking to tighten the embargo against the 2-year old Haitian dictatorship. Just a few miles from that dictatorship is a 35-year old, ruthless totalitarian dictatorship.

Some of us here believe, and I am confident that it is the majority sentiment of Congress and we can so state today, as we did during the foreign aid authorization bill where this language was already included last year, that the time for double standards has ended and that it is time that we seek and advocate formally in the international community the application of international sanctions against not only the most brutal dictatorship in this hemisphere but one of the most brutal dictatorships in the entire world.

Ms. SNOWE. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Members, I strongly support the motion of the gentlewoman from Maine [Ms. SNOWE] to be offered at the end of this debate. I congratulate her for offering it. Her motion will give Members of this House the opportunity of being heard on the question of lifting the United States trade embargo with Vietnam and pursuing normal diplomatic relations with that country.

It is regrettable, indeed, that we did not have this debate prior to the President's decision to lift that embargo. We should have had it, Mr. Speaker. Suffice it to say, I am opposed to that action and I would simply ask, how has the Communist regime in Vietnam changed? What is different now?

I will tell my colleagues what has changed. With the collapse of the Soviet bloc and other changes in the Communist world, the Vietnam Communists are shopping around for trading partners and anybody else who can bail them out of the mess that they created over there.

Make no mistake about it, United States trade with Vietnam is only the prelude to Vietnamese demands for United States aid, demands for United States aid like they have been making right along. That will be the next bill out here at this rate.

The sudden and supposed willingness of the Vietnamese regime finally to come clean on the POW-MIA issue is about 15 years too late. Speaking as a former chairman of that POW-MIA task force, who went to Vietnam and begged those communists on hands and knees practically, with many of my colleagues sitting here in this room, to give us back just the remains of our soldiers, I can tell you that they refused to do it. They arrogantly turned their noses up to us.

Now some colleagues contemplate giving diplomatic relations to them when the League of Families still says the Vietnamese are not cooperating. What is the matter with this body?

Members had better recognize the gentlewoman from Maine [Ms. SNOWE] and they had better take her motion to recommit and adopt it. The new policy toward Vietnam is a disgrace to the families and to the American soldiers who have fought this battle over and over again.

Please support the gentlewoman from Maine [Ms. SNOWE] when the time comes for her motion to recommit.

□ 1600

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, I rise in opposition to the motion to recommit, when it will be offered. I regret that my rapprochement with my dear friend, the gentleman from New York [Mr. SOLOMON], who feels passionately about this, has ended on this today, since we agreed on three other issues, which is unusual for us.

However, I feel strongly about this, as well, Mr. Speaker. This Saturday it will have been 19 years since the last helicopter left the United States Embassy in Vietnam. We owe it to our children and grandchildren to find out the truth about our POW's and MIA's. It is the highest honor we can pay.

In an effort to obtain the truth we imposed, as Members know, the trade embargo on Vietnam. The President has lifted that embargo. While we may have disagreed at that point if that was the correct step at the time, it is done. Many of the families, however, who have the most to gain, who have loved ones at stake here, support this decision. NATO supports it. The Pentagon supports it. In a bipartisan effort, many of our most distinguished veterans who serve in this institution, people like Senators JOHN KERRY and JOHN MCCAIN and BOB KERREY and the gentleman from Florida, PETE PETERSON, believe it is time to take this step.

In just one exercise since the lifting of the embargo, nine sets of remains have been returned. We were given access to do investigations in militarily sensitive areas. We were given access to 10 prison sites. Just last week another exercise began. Some of our questions are beginning to be answered. These are important steps, but we know we have much to do in the tasks that lie ahead for this country with regard to the rest of our POW's and MIA's, and we have to pursue that. We have started a new chapter. Let us not turn our clock back.

I know there are many of my fellow veterans, many in the chapter that I belong to, the Vietnam Veterans Chapter 154 in Mount Clemens, who have a different view on this, but we are making progress. We are moving ahead, and I ask that we stay with the policy. I oppose the motion to recommit.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 1 minute to the gentlewoman from Florida [Ms. ROS-LEHTINEN], a member of our committee.

Ms. ROS-LEHTINEN. Mr. Speaker, I am in favor of the motion of the gentlewoman from Maine [Mrs. SNOWE], but I am here to speak about a part of the bill that is being sponsored by the gentleman from Florida [Mr. DIAZ-BALART].

This past weekend a conference took place in Havana, called by Castro, between the Cuban exile community and the Cuban regime, but only those who opposed the United States embargo on Castro were invited. As expected, no major accomplishments took place, but many embarrassing moments were there for all of us to see as these so-called political exiles waited in line to grovel at Fidel's feet. Kisses and hugs were exchanged, and then Castro stabbed his political friends in the back by actually selling the videotape to the media.

This is not surprising, Mr. Speaker, given the history of lies and deceit which Castro has us accustomed to. If we look at the past 35 years of Castro's regime it is increasingly clear that democratic change is not part of Castro's vocabulary here. Instead of a dialog, we should increase political and economic pressure against Castro by further isolating him. That is why I support the part of the bill offered by Mr. DIAZ-BALART.

Mr. Speaker, instead of a dialog, we should be increasing political and economic pressure against Castro by further isolating him. The United States should be lobbying for an international embargo against Castro similar to the one implemented against other undemocratic regimes.

Let us not kid ourselves into believing that any democratic change in Cuba is possible, as long as Castro and his thugs hold power.

Ms. SNOWE. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON], a member of our committee.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. BURTON] is recognized for 4 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentlewoman from Maine [Ms. SNOWE] and the gentleman from New York [Mr. GILMAN] for yielding time to me.

Mr. Speaker, I hope everybody will pay attention to what I am about to read, because I think it is very, very important. We should support the recommittal motion of the gentlewoman from Maine [Ms. SNOWE].

First, while it is true the Government of Vietnam has returned about 120 remains, those remains have not been proven to be any of the names on the United States Government's roster, the so-called discrepancy list of American soldiers which the United States Government believed to have been captured during the war. Of the 120 that have been returned, it does not include the names of any of the 2,300 POW-MIA's that are unaccounted for.

Second, many POW-MIA activists believe the paramount issue at stake in Vietnam is whether the Hanoi regime continues to keep in detention living American soldiers. Former U.S. Congressman Billy Hendon was over there recently, and he wanted to go to a prison to investigate, and the Hanoi regime would not let him go into Vinh Phu Province prison, because he believes there may be some alive U.S. POW's still there.

Third, an article in the February 17 Baltimore Sun, "You'll Wish You'd Never Been Born," by Peter Jay, argues that Vietnam will have to be pried open if the United States is ever to learn the fate of the 2,300 POW-MIA's.

Former New York Times reporter John Corry, who tracked the MIA issue for the Senate Select Committee on POW-MIA Affairs, concluded, "American prisoners of war have been held continuously after Operation Homecoming and remain(ed) in captivity in Vietnam and Laos as late as 1989." that language was not included in the select committee's final report on the matter.

Corry later said that Senator KERRY, who chaired the select committee, told a POW-MIA investigator that if the above quotation was leaked, "You'll wish you had never been born."

Finally, a February 18 New York Times article, "New Doubts Cast on POW Effort," is cause for more heartburn for POW-MIA families. According to this press report, "Russian officials complained last November that State Department officials were discouraging them from releasing documents about prisoners of war in Vietnam." Our State Department was discouraging Russian officials from giving out information on POW-MIA's left behind in Vietnam. The New York Times piece also said that,

> Several Americans who used to work on Task Force Russia (established to seek information from Russia about POWs from Vietnam) said that the cable showed that some State Department officials were so eager to have that embargo lifted that they would even urge Moscow not to release documents that put Vietnam in a bad light.

We had the Ron Brown affair, and we believe that was whitewashed. We have 2,300 POW-MIA's still unaccounted for. Their families still go to bed at night not knowing what happened to their loved ones, not knowing whether they are dead, alive, in some God-forsaken prison over there, and we are normalizing relations with those cutthroats, and they will not even cooperate with people going over there. It is a whitewash, and I wish people across this country would rise up and complain to the Congressmen and Senators about what is going on.

There needs to be a complete accounting, which every single President has asked for since the Vietnam war, on our POW-MIA's, before we normalize relations with those cutthroats.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. PETERSON].

Mr. PETERSON of Florida. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the conference report and oppose the motion to recommit.

Mr. Speaker, I think I probably know about as much about Vietnam as anybody in this body, with one exception, and I feel very strongly about this motion to recommit. We are doing the right thing by lifting this embargo. Twenty years is long enough. Twenty years is long enough. We have extracted maximum effort from this embargo.

Regardless of all the comments Members have heard today, and some more we are going to hear, we have made progress. We have made movement. Things have happened that we never dreamed of happening. In fact, the Russians are helping, too, as opposed to what some of our speakers have said.

Mr. Speaker, this is the right thing to do. We must move forward. None of us can keep this Nation from marching into the future, any more than we can change the history of this Nation. We have to do the right thing. The President has shown the courage to do the right thing.

It is no longer acceptable to just do retribution.

It is time for resolution. It is time to find solutions, and the Vietnamese have agreed to do that. Contrary, again, to what people have said, since the embargo has been lifted we have had additional cooperation.

Are we going to find every American that was lost in Vietnam? Absolutely not. Have we found all of those that were lost in the past wars? Absolutely not. Let us not ask for the impossible, let us ask for what is real. Let us do the fullest possible accounting. That is what we have promised the families. We are working toward that.

Lifting the embargo will enhance our search. The potential for discovery, with all of the American feet that will be in that country now, is so far greater than the 30 individuals that are in the country. I ask the Members, do not let us move backward. Take this Nation forward. Move toward resolution of this very painful issue. It is the right thing to do. Support the resolution to confirm this conference. Reject the motion to recommit.

☐ 1610

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Ms. MOLINARI].

Ms. MOLINARI. Mr. Speaker, I rise to also support the motion to recommit based on the embargo to Vietnam and the situation just described.

Mr. Speaker, with due respect, and I mean that sincerely, to the prior speaker as someone who barely remembers the implications of the Vietnam war, I know quite clearly that there is a generation of Vietnam veterans that subsist and exist in my district who say that they cannot rest until they know where all the remains are, not ending an embargo toward compromise but toward resolution, and then it is time to deal with the Vietnamese.

Mr. Speaker, I rise today to speak, however, for ending the arms embargo against Bosnia. Had such action been taken 2 years ago—when many in this body had originally called for—perhaps the nearly 200,000 perished Bosnians might have been able to simply defend themselves and their loved ones.

Bosnia is not just a victim of Serbia's bloody aggression against an innocent, democracy seeking, ethnic population. It is also a victim of international delaying tactics and cowardly foreign policy that ties the hands of the Bosnians by refusing to allow them to protect themselves. The empty gestures and idle threats from the West have only worsened the situation and signaled to the Bosnian Serbs that they have nothing to fear in response to their bloody aggression.

If the last 2 years are any indication, it is likely that in the wake of the bloody siege on the safe area of Gorazde, Bosnian Serbs will only transfer their terror to other unprotected Moslem enclaves. Meanwhile, the United Nations and NATO cavalry will arrive much too late, in time only to help mopup the spilled blood and transfer the displaced refugees out of their home surroundings.

Let us pray that today's vote to lift the arms embargo may prod our administration and the United Nations to aggressively pursue the same course of justice. For those who are still alive, it is not too late.

Ms. SNOWE. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DORNAN]

Mr. DORNAN. Mr. Speaker, with all the respect that I have for my colleagues on the majority side who believe that this conference report should go forward, it is not perfect. We hear speaker after speaker getting up to support the motion to recommit offered by the gentlewoman from Maine [Ms. SNOWE], and most of it is based on human rights violations.

Mr. Speaker, as much as I respect the gentleman from Florida [Mr. PETERSON], when the 24 POW's came home and ran for office in 1974 and 1976, every one of them lost because people stupidly said, "They've been locked up for years. What do they know about what is happening in the world?" They are experts on the mind of their Communist captors, but very few had ever been to Laos, Cambodia, traveled outside of their own core area where they had been assigned to an Air Force base, or if they flew off Yankee or Dixie station, most of them had ever set foot on Vietnam soil until they bailed out of the airplane.

Mr. Speaker, this is a complex issue. Although many of the former POW's are now going back to Vietnam, good men and women of conscience come back with totally different stories. The Vietnamese are professional liars, they are master human rights violators, and the POW question remains agonizingly unresolved.

Please vote to recommit. This is not perfect.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Speaker, I rise in strong support of the conference report to H.R. 2333. I want to thank Chairman HAMILTON and Subcommittee Chairman BERMAN for their outstanding leadership on this bipartisan bill.

This bill contains a very important measure that I sponsored to provide for the recruitment by the State Department of Americans of Hispanic descent with funds already available. I hope that the State Department and the other foreign affairs agencies will begin earnestly to rectify the problem of underrepresentation of Hispanics in their organizations.

Many talented young Hispanic-Americans are ready to serve their country. They and the country will benefit from this program. An appallingly low number of Hispanic-Americans now serve in America's Senior Foreign Service—only 10 out of more than 860, not one of which is a woman. And sadly, only 2 Ambassadors out of more than 160 worldwide are Americans of Hispanic descent. This inequity must change.

Next we are committed in this bill to maintaining intact the valuable services of both Radio and TV Marti. These services broadcast the truth to the freedom-loving people of Cuba in the best tradition of Radio Free Europe and Radio Liberty.

As the clock ticks on the Cuban dictatorship, Radio and TV Marti are more important than ever. America will have to communicate to the Cuban people her peaceful intentions during a transition to a free and independent Cuba. When the nightmare of the 35-year-old Castro dictatorship finally ends, broadcasting to Cuba will be even more important. Hopefully, the initiative of my colleague, LINCOLN DIAZ-BALART to seek an international embargo on the Cuban dictatorship will help bring us closer to that day.

Finally, this bill includes two major accomplishments on peacekeeping. First, the bill requires that by 1996, the United States share of U.N. peacekeeping funds be cut by more than 6 percent. That will save America millions of dollars. Next, the bill incorporates the suggestion that the United Nations appoint an independent inspector general. And the bill goes even farther: it withholds much of the U.S. peacekeeping contribution until the United Nations appoints an inspector general.

I urge my colleagues to support the conference report.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from California [Mr. ROHRABACHER], a member of our committee.

Ms. SNOWE. Mr. Speaker, I also yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

The SPEAKER pro tempore (Mr. DURBIN). The gentleman from California [Mr. ROHRABACHER] is recognized for 3 minutes.

Mr. ROHRABACHER. Mr. Speaker, title XII of this bill would have rewarded those coming to the United States illegally by allowing them to apply for permanent visas, then to remain in the United States for years as they endlessly adjudicated and appealed their cases. Access to this preferential process would have cost them, had title XII not been dropped, a mere $600.

What this section would also have done is to undermine both the quota system that has been in place for decades and the process in which the State Department screens visa applicants. That responsibility, for all practical purposes would have been shifted to the INS. The INS simply doesn't have the ability to determine if the person already in the United States is a terrorist, a felon, or otherwise excludable, and the $600 fee would not allow a proper investigation of these illegal immigrants.

I am convinced that these provisions would have seriously undermined our efforts to control illegal immigration, and would have been completely unfair to those seeking to immigrate to the United States who have patiently waited their turn. It would have precipitated a massive flow into our country of people who planned to overstay their tourist visa, or come illegally and get a visa for $600.

I remind my colleagues that we have overwhelming problems with the costs of millions of new illegal aliens annually. U.S. Embassies now receive between 7 and 8 million visa applications each year. Most of these are tourist visas that are routinely investigated and approved. Inclusion in this bill of title XII amendments would have doubled or tripled the number of illegal aliens coming each year.

These provisions that I am talking about have been deleted in the conference report. We dodged this bullet. This is a victory for keeping some sanity in our immigration process.

That said, due to provisions of this bill concerning Vietnam I am supporting Congresswoman SNOWE's motion to recommit.

Mr. Speaker, the language contained in the report concerning Vietnam should not be a part of this bill, and that is why I am talking today.

Mr. Speaker, the House receded to language proposed by the Senate which commends Vietnam for its cooperation with American POW-MIA efforts. It also supports the President's decision to lift the embargo.

Mr. Speaker, this issue should not be tucked away in a conference report. We have not debated this issue on the floor of the House. An issue of this magnitude should not be handled in such a below-the-board fashion. The process is wrong, and I say also the substance is wrong.

Mr. Speaker, how can we say that the Vietnamese are cooperating with us about POW-MIA efforts when they have not released the records of the prisons in which our returned POW's were held? Let me make this clear.

Mr. Speaker, our colleague, the gentleman from Florida [Mr. PETERSON] who was held in Vietnam in prison for 7 long years just spoke, the records for the prison in which he was held have not been made available to us by the Vietnamese Government. They are not cooperating as long as they do not release those records. As far as we know, those records will tell us what we need to know about our MIA's and POW's that may have been left behind. How can we condone lifting the embargo when they do not give us those kind of records and that kind of cooperation and they do not even permit us to go where we need to go in Vietnam to investigate?

Mr. Speaker, a few month ago we heard testimony from General Needham, the Pentagon's point man on this issue, and he confirmed that there are a number of areas his investigators cannot go in Vietnam. That is after the embargo has been lifted.

Mr. Speaker, one of the conditions of lifting the embargo was cooperation with the Vietnamese in our search for POW-MIA's. The embargo is reversible, and if anything right now because they have not permitted us to go into areas and have not released these documents, we should be talking about reimposing the embargo rather than commending Hanoi for its cooperation.

Mr. Speaker, yesterday, I met with Americans who were thrown out of Vietnam because they wanted to visit a prison just north of Hanoi. Let us get that. Yesterday I met with Americans who wanted to go someplace in Vietnam to investigate POW-MIA's, and they were not permitted to go to those areas. Would that be called cooperation? The attitude in Vietnam is not of cooperation but it is one of doing as little as possible without making it obvious that they are not cooperating.

Mr. Speaker, last December I visited Cambodia to watch our joint task force at work in the field. Our troops were doing a wonderful job and they were searching for a POW camp along the Ho Chi Minh Trail in thick jungle. That whole effort would have been unnecessary had we had cooperation from the Vietnamese. They knew exactly where that camp was, yet our guys were sloshing away in the jungles, beating themselves up to find a camp. That is not cooperation.

Mr. Speaker, on another side issue, I asked the President personally to make Hanoi's abuse of human rights a factor in deciding the lifting of the embargo. He did not do that. Now we are asked to congratulate Hanoi for their POW-MIA cooperation as several American citizens at this moment sit in prison in Vietnam for trying to organize a democracy conference.

I ask for my fellow colleagues to support the motion to recommit offered by the gentlewoman from Maine [Ms. SNOWE]. They are not cooperating with us. It is still a dictatorship. They are laughing at us in Hanoi.

□ 1620

Mr. HAMILTON. Mr. Speaker, Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Speaker, I rise in support of the conference agreement, and wish to discuss one important aspect of it.

Mr. Speaker, the conference report includes an amendment that tracks legislation that I introduced early in this session.

My bill, the Arab Boycott Arms Sales Prohibition Act, would bar United States weapons sales to countries that participate in the Arab boycott of Israel.

I am pleased Congressman TOM LANTOS offered a version of my bill as a successful amendment to the foreign aid bill which passed the House, and that this language is included in the bill that we are considering today.

Mr. Speaker, the economic boycott has always been one of the most pernicious weapons in the Arab arsenal against Israel.

And since this discriminatory policy also targets firms that do business with Israel, United States companies have lost countless jobs and untold dollars.

It is particularly noteworthy that Kuwait and Saudi Arabia—two countries for whom American soldiers lost their lives only 3 years ago—still participate in the boycott.

The well-publicized account of Kuwait's ban of the film "Schindler's List"—because Stephen Spielberg is Jewish—is but one illustration of the backwardness of this policy.

Arab countries which still blacklist American firms cannot be rewarded.

The provision in the conference agreement represents a solid step forward in our efforts to end the boycott.

I urge the adoption of the conference report.

Mr. GILMAN. Mr. Speaker, I yield 2½ minutes to the gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. Mr. Speaker, I find myself in somewhat of an unusual position in differing with people I have tremendous respect for and that I rarely differ with. I do however, have grave reservations about the issue of the call for lifting the arms embargo on the Bosnian Moslems.

It might appear this is an easy vote, give the Bosnian Moslems the right to arm themselves and fight. If it were that easy, I would be supporting it. I predict that while it may not seem to be difficult today, in the future many may find this vote haunting them. There are too many uncertainties. And from past experience, I do not believe the administration has the answers.

This resolution does not make it clear what we are to do if there is no support from our allies in the United Nations. Are we to "go it alone"? Do we unilaterally provide arms? Even if the United Nations agrees, where are the weapons to come from? How long will it take to supply them and train them to fight? And, who trains them? I would predict it will take a minimum of 60 to 90 days to deliver the arms and train for their use. The more independent the role the United States takes in this arming, the more American sons and daughters are placed in Bosnia and in harm's way.

What happens if—in recognizing the potential problems of the Moslems being armed—the Serbs launch an all out preemptive strike in an attempt to end the conflict prior to the Moslems' ability to strike back? What happens to the Americans who we have stationed there in their new role? What do we do then?

Some military leaders on the scene have observed that an end to the arms embargo months ago would have been a different story. But ending that embargo now would create havoc.

The Easier Ways Fallacy: Lift the arms embargo on the Muslims and/or turn the whole problem back to the Europeans. To a growing number in Congress, it may seem easier for us to lift the arms embargo than to involve ourselves in the fighting. This may, indeed, prove desirable if the current efforts fail. But it isn't easy; it offers no quick fix. We would have a moral obligation to ensure that the Bosnian side actually receives the heavy weapons it needs, whether across Serbian-controlled terrain from Croatia or airlifted above Serbian surface-to-air missiles. We would also have to ensure the Bosnians the time needed to train on the new weaponry. Since the Serbs would have every incentive to pre-empt, we might have to use air power to prevent larger-scale attacks. In short, lifting the arms embargo, if we're not cynical about it, could involve us even more deeply than air strikes alone.

Mr. Speaker, the American people have never lost their resolve for peace and freedom. But they do expect that before our soldiers are placed in danger, every possibility has been predetermined and plans have been made. I do not see that in this case.

Several years ago when the House considered the authority to go to war in the gulf. I did not cast my vote blindly as a noninterested bystander. At that time, my son went to work every day in a Marine uniform and it was almost certain he would go to the gulf. I supported that effort then and today I am totally convinced that was the right decision.

I do not share the same conviction regarding American involvement in Bosnia today. Until we know the specific result of our actions and until we have planned for the potential reactions to our actions I would not vote to send my son to Bosnia, and my friends and I will not vote to send yours.

Ms. SNOWE. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. LEVY].

Mr. LEVY. Mr. Speaker, DUNCAN HUNTER was right when he spoke here a couple of minutes ago. By agreeing to the conference report in its present form, we send a signal that we are prepared to sell out, that we are ready to abandon our principles when there is a business reason for doing so.

We are also demonstrating how far removed so many of us in Congress are from the people that we represent. You know, when President Clinton lifted the Vietnam embargo several weeks ago, there was a hue and cry within my district and many other districts that were exceeded only by the hue and cry that followed passage of the Clinton tax package a couple of months ago.

If it is the sense of Congress that lifting the Vietnam embargo is correct, then Congress is out of touch. The embargo has been lifted.

By including embargo language in the conference report, some in Washington are attempting to give the President the political cover that he needs to cover the fact that he made the wrong decision. The conference report should not be used for that purpose.

Support the motion to recommit. Let us not abandon those who are missing in Vietnam.

Mr. HAMILTON. Mr. Speaker, I yield such time as he may consume to the gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, I rise in support of the conference report on the Department of State, U.S. Information Agency and other foreign affairs agencies authorization bill for fiscal year 1994 and fiscal year 1995. The authorization levels contained in the bill for fiscal year 1994 will cover the amounts appropriated for the State Department, USIA, the Board for International Broadcasting, and the Arms Control and Disarmament Agency in the fiscal year 1994 Appropriations Act. In addition, the authorization amounts contained in the conference report for fiscal year 1995 for the State Department and the other foreign affairs agencies, generally conform with the appropriations requests for the Department and these agencies in the President's 1995 budget.

There is one provision of the conference report, however, that is of concern to our Appropriations Subcommittee. Section 101(b)(2)(B) of the conference report states that of the amounts authorized to be appropriated for the State Department's diplomatic and consular programs, $11.5 million is authorized to be available for fiscal year 1994 and $11.9 million is authorized to be available for fiscal year 1995 only for administrative expenses to carry out the purposes of the Migration and Refugee Assistance Act.

This provision has a significant and serious impact on the State Department. For fiscal year 1994, the provision will require that $11.5 million already provided for State Department operations in the fiscal year 1994 Appropriations Act be transferred to the Migration and Refugee Assistance Program for administrative expenses of the program. Expenses of the Migration and Refugee Assistance Program normally are funded in the Foreign Operations Appropriations Act. The State Department has already had to absorb $60 million worth of unanticipated costs and this transfer of $11.5 million will just add to the burden. With respect to the fiscal year 1995 provision, no matter how much funding our Committee includes for State Department operations in the fiscal year 1995 appropriations bill, the first $11.9 million will be available only for transfer to the Migration and Refugee Assistance Program for its administrative expenses.

I have talked with the gentleman from California about this provision, and he has assured me he does not plan to include this or any similar provision in any future State Department authorization bill. I appreciate the gentleman's consulting with me on this matter and his assurance that this provision will not be repeated in any future State Department authorization bills. I also want to assure the gentleman that we will work with him and his committee to try to secure an adequate level of funding for the State Department for fiscal year 1995.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I commend the bill's manager, Mr. HAMILTON, and rise today in support of the provision of the pending conference committee report which urges the lifting of the arms embargo against Bosnia and Herzegovina, in keeping with that country's right to self-defense. In the absence of adequate measures to maintain international peace and security, continued application of the embargo, imposed by the United Nations Security Council prior to the armed attack on Bosnia and Herzegovina, undermines that Government's right of self-defense and, therefore, contravenes article 51 of the United Nations Charter. The continued imposition of an arms embargo against Bosnia and Herzegovina, which faces a well-armed aggressor, is reprehensible and should be ended without further delay.

The Helsinki Commission has followed developments in the former Yugoslavia closely and both Senator DECONCINI and I have advocated resolute action, under United States leadership, to stop the genocide in Bosnia. Through its inaction and half-hearted measures, the international community has allowed the situation in Bosnia and Herzegovina to deteriorate to the point it has reached today. Hundreds of thousands of civilians have perished over the past 2 years. Over 2 million have been driven from their homes through a policy of ethnic cleansing, resulting in the worse humanitarian crisis in Europe since World War II. Despite a flurry of diplomatic initiatives and countless ceasefire agreements, aggression, and genocide continue.

While I applaud President Clinton's initiative to secure NATO cover for the so-called safe havens in Bosnia and Herzegovina, there is broad recognition that air strikes alone may not succeed in stopping the conflict completely. For over a year now I have advocated a strike and lift approach in Bosnia and Herzegovina. Clearly, this two-staged approach is preferable to trying anyone of them alone.

The Bosnians have demonstrated their determination and courage to fight, against all odds, to defend their country and all that it stands for—which—Mr. Speaker, is a Government that respects the principle of equal rights for all peoples regardless of ethnicity, religion, or race. The current embargo against Bosnia and Herzegovina has seriously impeded their ability to secure the necessary means to defend themselves against force that seeks to build a new nation upon the principle of ethnic exclusivity. It is apartheid European style.

And let's be clear that this is not a classic war in which opposing military forces directly engage each other.

This is the massacre, daily, of innocent civilians huddled in overcrowded and undersupplied enclaves by some brazen thugs lobbing shells from the mountains above.

Two years into the conflict, they continue to do this because no one on the ground has the means, thanks to this embargo, to stop them and the international community has lacked the will. This must change.

As a matter of principle, Bosnia has the right to its own self-defense. It is time that the United States uphold that right by unilaterally lifting the arms embargo against Bosnia and Herzegovina, a sovereign and independent State.

If it means going alone—lifting it unilaterally, then we must or we shall simply share in the collective guilt of watching as a Nation dies.

It is time for us to act. It is time for us to say if we will not take action at least we will allow an independently recognized Nation of the international community to defend itself.

Mr. BONIOR. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I am happy to yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Speaker, I want to commend my colleague and friend, the gentleman from Maryland, for his eloquent statement.

I cannot think of anything we could do to correct this horrendous situation that has gone on in Europe and in Bosnia than to let the people defend themselves, the right to determine their own destiny, and I thank the gentleman for his forceful statement on this issue.

Mr. HOYER. I thank the majority whip.

Mr. GILMAN. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BERMAN], the chairman of the subcommittee.

Mr. BERMAN. I thank the gentleman from New York, for whom I have great respect, for yielding this time to me.

There are two points I would like to make. No. 1, the very many strong reasons to support this bill, you just heard one discussion, the question of getting Congress on record in support of lifting the arms embargo on Bosnia. We have heard some talk about human rights in Vietnam. Let me tell you about human rights in Vietnam.

This bill creates Radio Free Asia, a surrogate radio that would be broadcasting into authoritarian and totalitarian, government-controlled states in Southeast Asia, providing an independent basis for information. That is going to do more to promote the notion of pluralism, of democracy, of free markets, than any other thing we could possibly do. That is in this bill, language toughening up the test for the PLO's commitment to the peace process. You have heard about the Arab boycott.

In one other area I want to make specific reference: In reorganizing international broadcasting, we take the Voice of America charter and we include those standards in a broader charter for all our broadcasting, including the requirement for a balanced and comprehensive projection of U.S. thought and institutions reflecting the diversity of U.S. culture and society.

I suggest this bill has so many good reasons to vote for it, and I urge the body to do so.

Ms. SNOWE. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. STUMP].

Mr. STUMP. I thank the gentlewoman for yielding this time to me.

Mr. Speaker, I rise in strong support of the motion to recommit.

Mr. Speaker, I rise in strong support of the motion to recommit H.R. 2333, the State Department Authorization Act. My distinguished colleagues, OLYMPIA SNOWE and BEN GILMAN, have clearly exposed the Senate language that wrongly claims the Government of Vietnam has increased its cooperation over the last 3 years on POW/MIA issues. I commend them for challenging this pernicious fiction. It does not belong in our Nation's laws.

We must continue to insist on the full accounting of all POW/MIA's and on the highest priority efforts to resolve all cases. The Clinton administration has made a serious mistake in relying on the good faith of the Communist dictators of Vietnam. Such reliance is grossly misplaced, given their long history of human rights abuses, broken commitments, and cynical dealings with these very issues.

I urge my colleagues not to provide the Government of Vietnam the political cover it seeks so that economic and diplomatic relations with our country can be normalized. It would be an enormous disservice to the families who only want to know the fates of their loved ones. Support the motion to recommit H.R. 2333.

Ms. SNOWE. Mr. Speaker, I ask unanimous consent that materials from the National League of Families and the American Legion be inserted into the RECORD.

The SPEAKER pro tempore (Mr. DURBIN). Is there objection to the request of the gentlewoman from Maine?

There was no objection.

Ms. SNOWE. Mr. Speaker, I yield 4 minutes to the gentleman from Texas [Mr. JOHNSON].

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise in strong support of the gentlewoman from Maine's [Ms. SNOWE] motion to recommit. This is the first opportunity this body has had to vote on this issue, and I commend my colleague from Maine for challenging the other body.

You know, to commend Vietnam for being an enemy, for being a Communist nation, is plain wrong. The decision of President Clinton to lift the trade embargo on Vietnam was ill-timed and, I think, deceptive. United States policy clearly stated at that time that certain actions were to have been taken by the Vietnamese in order for the embargo to be lifted. Servicemen still missing in action were not accounted for. We had guaranteed that to our servicemen, to our Nation, and to their families.

While the President might claim that the Vietnamese provided more than 21,000 documents, photos, and artifacts since 1992, only 1 percent pertained to missing Americans. Think about that. One percent. The bottom line is the Vietnamese did not hold up their end of the bargain, and we allowed them to get away with it. Just like most U.S. foreign policy decisions as of late, and it made us look weak and sent that message to the world.

More importantly, the President betrayed the trust of the American people. He promised during the campaign that there would be "no normalizing of relations with any nation that is at all suspected of withholding any information on the POW-MIA issue. POW-MIA families relied upon the President and now have nothing left to hold onto. Ironically, those in the administration who pushed for lifting the embargo were never personally involved either through direct captivity or through family members, and that includes those members of both the Defense and State Departments.

I was moved by the words of CBS anchorman Dan Rather, who said:

> Politicians break campaign promises all the time. But this time the President's hand wasn't forced. He did this on his own initiative.

Dan Rather goes on to say:

> This reporter wonders: Did it occur to President Clinton that night, February 3, to go to the Wall?

That is the POW Wall.

> It's only a short walk from the White House to the Wall, the Vietnam Memorial, where 58,000 Americans' names are carved in the Garden of Stone. Those Americans may have gone to the wrong war, but they went for the right reason.

Out of respect for those who served and a lack of that respect from the executive branch, we here in this body must do what we can to insure a full accounting of those who fought to protect this country and our rich freedoms which we so often take for granted.

Vote "yes" to recommit.

Mr. PETERSON of Florida. Mr. Speaker, will the gentleman from Texas yield?

Mr. SAM JOHNSON of Texas. I yield to the gentleman from Florida.

Mr. PETERSON of Florida. I thank the gentleman for yielding to me.

Would the gentleman state, though, the fact that we lifted the embargo, and we did not normalize relations with Vietnam? That is a major difference in this context in which we are presenting this. We lifted the embargo, we are not normalizing relations with Vietnam. If, in fact, the Vietnamese go back on their cooperative efforts, we will reimpose the embargo. The President has stated that. It is the policy of this Nation.

Mr. SAM JOHNSON of Texas. I concur with what the gentleman from Florida says, but he also said he would not lift the embargo until we had the full accounting.

So how can we believe what we hear?

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, I will confine my remarks to the issue of the motion to recommit. I do oppose the motion to recommit. I have the greatest respect for the gentlewoman from Maine, and I think we have listened to the gentleman from Florida and the gentleman from Texas, both of them POW's, both of them veterans who have a different point of view. A few years ago I had an opportunity to go with five of my colleagues, all of us Vietnam war veterans, to Vietnam, and I think all of us came back, some with different opinions, but most of us committed to the idea that we need to move toward lifting the embargo as we have now done at this point.

I will yield to no one in my concern about a full accounting for our MIA's, our missing-in-action, and that was the point that we all made when we were in Vietnam meeting with officials in Danang, Hanoi, in Saigon, and in other parts of Southeast Asia. But the point is that we will have the best opportunity to have progress on this issue if we continue to work with the Vietnamese, if we continue to make progress in other areas, including trade. Just since lifting the embargo, we have had substantial improvement, and I believe those improvements can be best continued by doing this. This is not an issue of closing doors, of healing; this is simply an issue of continuing progress on a full accounting for our MIA's. And that is why I would vote against the motion to recommit.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 1½ minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. I thank the gentleman for yielding this time to me.

Mr. Speaker, it is difficult to know exactly what to do on the issue. Many of us go with gut feelings. A lot of us have spent time in Vietnam, some have been on the ground, like my colleague on the other side, and Mr. JOHNSON as well. But I support the motion to recommit, and I will tell you why.

I have a lot of Vietnamese, Laotian, and Cambodian-Americans in my district, and to a man, and to a family, they have asked me, please, do not support MFN and do not lift the embargo.

Many of them have issues of human rights just like the same rights we had in China. They have asked us to not do it. I think when you take a look at what the Vietnamese are doing today, waving the Senate resolution, saying, "Look, we are, we are adhering to the MIA issue and trying to solve it," I do not think if we brought three or four people back alive today that we would resolve that, and I do not think we would ever resolve the MIA issue. But I do believe North Vietnam—Vietnam, there is no such thing as North Vietnam anymore—that Vietnam could do a lot better job in the accounting of our missing-in-action.

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The same day I was shot down, Mr. Speaker, Commander Blackburn was shot down, and his son used to ask me about once a month; said, "DUKE, tell me about my dad," and it was the same questions, same answers every day. Well, just 2 years ago they brought Commander Blackburn's body back, but I know it had been like a 1,000-pound weight had been lifted off that boy's back.

Mr. Speaker, we owe that resolve to those families. Vietnam has not been contributing to the issue. I rise in support of the motion to recommit.

The SPEAKER pro tempore (Mr. DURBIN). The gentleman from Indiana [Mr. HAMILTON] has 3 minutes remaining to close debate.

The Chair recognizes the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Speaker, first I want to say a word of appreciation to the gentleman from California [Mr. BERMAN], and the gentlewoman from Maine [Ms. SNOWE], and the gentleman from New York [Mr. GILMAN] for their work on the conference report. We have some disagreement, of course, on the motion to recommit, but very, very good work has been done by them and others on this report.

The first point I want to make is to oppose the motion to recommit. The effect of the motion to recommit would be to require the reopening of the conference committee to secure approval of the removal of the Kerry provision.

The Senate is going out of session. The State Department authorization runs out on April 30. So, the practical effect, if the motion to recommit is adopted, is simply to shut down the State Department and embassies all over the world, doing enormous damage to the United States international presence, Mr. Speaker.

Not only would the State Department shut down, but every embassy in the world would have to shut down. There would be no communication between Washington and our negotiators in the Middle East or our negotiators in Bosnia. Officers, like those in the Drug Enforcement Administration, the Commerce Department and all others, would have to quit. The practical effect of approving the motion to recommit, with the Senate out, is to simply shut down the foreign operations of the United States.

That is a very important thing to remember.

Second, Mr. Speaker, the motion offered by the gentlewoman from Maine [Ms. SNOWE] is unnecessary because the language she objects to is nonbinding on Members of the House. It is Senate language.

Mr. Speaker, the gentlewoman from Maine [Ms. SNOWE] threatens to bring the Government operations around the world to a conclusion on a nonbinding recommendation. The conference report does not commit any Member of the House of Representatives to any position with respect to the Vietnam embargo. The language is not sense-of-the-Congress language. It is sense-of-the-Senate language, and that passed the Senate by about a 3-to-1 margin in January.

Mr. Speaker, it is not appropriate for Members of the House, through this motion to recommit, to tell the Senate what position they should take. We are simply respecting the right of the Senate to express its view on the Vietnam embargo.

Now, Mr. Speaker, the second point I want to make simply is that this is a very, very important bill. It has many features to it, and I hope Members will vote their approval of the conference report after opposing the motion to recommit.

The most important thing to say with regard to funding is that we are $400 million below the amount in the House bill, and we are $150 million below the 1993 appropriated level. So, it is a tight, fiscally responsible bill.

And the other point I want to make in conclusion, Mr. Speaker, is that we provide in this bill leverage to get the kind of reforms we need in the United Nations. We all recognize the importance in the United Nations in peace keeping through withholding the U.S. contributions. We are going to force the United Nations to make the kinds of changes that we think are necessary to make it more effective.

I urge opposition to the motion to recommit, and I urge approval of the conference report.

Mr. FRANKS of Connecticut. Mr. Speaker, although I voted against the House version of the State Department Authorization Act last June, I am pleased to say that the conference report is improved from that original bill, and I will support it. The conference version is $434.2 million less than the House version of this bill. It sets the United States share of United Nations peacekeeping operations at 25 percent, less than the current 31 percent. It keeps funding for the counterterrorism office. Especially noteworthy is the provision expressing the sense of Congress that the President should lift the arms embargo on Bosnia and allow the Bosnian people to defend themselves from Serb attack.

There is one aspect of the bill that I do not support, and that is the language stating that the government of Vietnam has cooperated with the efforts of the United States to account for missing servicemen. The bill also calls for lifting the trade embargo against Vietnam. The Senate added this language to the bill last January, and President Clinton used their vote on it to justify his order lifting the trade embargo against Vietnam.

The House was never given the opportunity to vote on the wisdom of lifting the embargo, so I have not been able to vote on this important issue before now. I have always felt that the United States should not grant Vietnam the privilege of normalized relations before the fate of every single missing American is known. We should not surrender the only leverage and incentive we have to encourage the Vietnamese to be even more forthcoming. Therefore, I will vote to recommit this bill with instructions to remove the language praising and rewarding Vietnam.

Mr. PORTER. Mr. Speaker, I thank the ranking member for yielding to me and I urge members to support this conference report, which I believe moves the United States boldly into the post-cold war period.

I am particularly supportive of the provision in this conference report that create an authorization for Radio Free Asia. Representative BENTLEY and I sponsored a bill in the 103d Congress that would create Radio Free Asia. I am very pleased that this conference report implements the intent of that bill and creates a separate Radio Free Asia which would be a grantee of a newly formed Board for Broadcasting, which would make grants to all the independent radios. I believe that the independence of Radio Free Asia is essential in its successful operation and I support this approach.

As you know, Asia has half of the world's population and some of the fastest growing economies. It also has some of the world's worst political situations, like the terribly repressive situation in Burma that sees the Nobel Laureate Aung San Suu Kyi under house arrest, and some of the last holdouts of communism, North Korea and the People's Republic of China.

Mr. Speaker, the United States has a great national interest in promoting human rights and democracy in China, North Korea, Burma, other Asian nations. Free nations are historically less aggressive and more cooperative internationally. Free nations also tend to have greater respect for the fundamental freedoms on which our own Nation is founded. Human rights are universal. We have a moral responsibility to promote human rights in every nation on Earth.

Some Asian nations are closed to information including news of the changes in the former Soviet Union and Eastern Europe and the strengthening of democratic institutions and free markets around the globe as well as their own domestic news. Information is tightly controlled by dictators and authoritarian governments because they know the power of information to liberate people. Radio Free Asia proposes sharing information with every man and every woman in these closed societies.

The Washington Post today reports growing unrest among China's peasant population. The vast majority of China's people live in the interior of the country, away from the reach of Hong Kong's broadcast signals or other outside influences. They must rely on news provided them by the government in Beijing or Voice of America broadcasts on general issues, mostly regarding the United States. Imagine if Shi Jingxuan and his wife, Pan Fuying, who were beaten by local authorities in their village after criticizing the Communist Party Secretary in Yuanzhuang, knew the truth. Imagine if they knew that not only did 400 villagers on tractors and bicycles ride into the county seat in Anhui Province to protest local corruption, but that police had dispersed 3,000 protesters hundreds of miles away, outside Guangzho, 2 weeks ago, who were angry about land confiscation without proper compensation. Simply knowing that they are not alone would give a tremendous burst to the democracy movement in China.

The 1992 Commission on Broadcasting to the People's Republic of China said broadcasting to communist nations in Asia was "desirable, feasible, and in the national interest" and I agree.

With the uncertainty of the China MFN situation, the United States needs alternatives to promote human rights and democracy in China. Radio Free Asia will be a cost-effective way to promote the democratic spirit, much the same as Radio Free Europe and Radio Liberty helped liberate Eastern Europe.

After intense debate on this issue in the Senate, it was determined that an authorization level of $30 million would create the leanest Radio Free Asia possible while still meeting the goals set out for it.

This conference report also requires review of Radio Free Asia's effectiveness after 3 years. I believe this is a very sound requirement and I am confident that the review will find that funding RFA is a good investment for our country.

I believe that this is a very important issue and I urge all members to support the conference report.

I would particularly like to thank the chairman of the International Operations Subcommittee, Mr. BERMAN, for his efforts regarding Radio Free Asia. I have been working closely with him for the past several years to make Radio Free Asia a reality and I want to thank him for his invaluable advice and assistance.

Mr. SMITH of New Jersey. Mr. Speaker, the conference report before the House includes a number of provisions which are commendable and deserve our support. Many initiatives on which I have been active over the years are addressed in this legislation:

Calling for the termination of the United States arms embargo of Bosnia and Herzegovina and the subsequent provision of military assistance to Bosnia;

Establishing a Radio Free Asia which would broadcast accurate and timely information, news, and commentary to the People's Republic of China, Burma, Cambodia, Laos, North Korea, Tibet, and Vietnam;

Withholding of a percentage of assessed funds from the United Nations until the United Nations has established an independent Office of Inspector General to conduct and supervise objective audits, inspection, and investigations of U.N. programs;

Continued funding for broadcasting to Cuba, and promotes the idea that the President should seek a mandatory international U.N. Security Council embargo against Cuba;

Insisiting that the Secretary General of the United Nations comply with article 100 of the U.N. Charter, restricting the Secretary General or any of his staff from seeking or receiving instructions from any government or authority external to the United Nations. This provision was added in response to the Secretary General's decision last year to prohibit Chinese dissident Shen Tong from meeting with the press corps at the United Nations;

Creating a permanent Office of the Coordinator for Counterterrorism within the Department of State; and

Reiterating the President's Executive order of May 28, 1993, which outlined the human rights conditions for granting most-favored-nation status for the People's Republic of China in 1994, including compliance with bilateral agreement on prison labor, and overall significant progress in taking steps to adhere to the Universal Declaration of Human Rights, the release and accounting for those who are imprisoned or detained for nonviolent expression of political and religious beliefs, ensuring humane treatment of prisoners by allowing human rights organization access to the prisons, protecting Tibet's distinctive religious and cultural heritage and permitting radio and TV broadcasts to China. The Executive order also calls on the administration to abide by commitment to fair, nondiscriminatory trade practices and adherence to the Nuclear Nonproliferation Treaty, and the Missile Technology Control Regime.

Having outlined each of these positive provisions I must, for the record, state my profound disappointment that the conference committee dropped one of the key humanitarian provisions which had been added by the Senate. I was supportive of the Senate amendment which prohibits the Attorney General from deporting nationals of the People's Republic of China who demonstrate a reasonable likelihood that upon their return to the PRC they will be forced to abort their baby or will be subjected to forced sterilization. In addition, the amendment would have required the Attorney General to grant asylum to those Chinese nationals who demonstrate that they have experienced severe harm because of their refusal to comply with China Government coercive population control directives.

It is my understanding that conferees agreed to drop most of the language which came under the jurisdiction of the Judiciary Committee. For this reason, the Senate amendment was dropped.

Mr. Chairman, President Clinton and others in his administration have repeatedly expressed concern that the coercive tactics of the Chinese regime are "really very abhorrent" in the words of Secretary of State Warren Christopher. But, when the time comes to protect those individuals who face the long and cruel arm of China's policies, Mr. Clinton and his appointees administer an unsympathetic asylum policy.

Mr. Chairman, I want the record to indicate clearly my disappointment that the Congress is unable to reiterate its support for granting asylum and protecting those who are the victims of China's coercive policy.

Mr. STARK. Mr. Speaker, I rise in strong support of H.R. 2333, the State Department Authorization Act, which contains landmark legislation to help stop the proliferation of nuclear weapons.

Today, the United States and the international community face a frightening array of emerging nuclear threats, including North Korea, the breakup of the former Soviet Union, the India-Pakistan rivalry on the subcontinent, and Iran and Iraq. The Nuclear Proliferation Prevention Act of 1994, introduced by Senator GLENN, will help the United States combat these proliferation threats in several important ways.

First, it imposes sanctions on individuals, companies, banks, and countries that contribute to the global spread of nuclear weapons. India, Pakistan, and Israel all developed nuclear weapons with substantial foreign assistance. The United Nations inspections of Iraq showed that Saddam Hussein relied heavily on help from foreign companies for his secret bomb program. China has provided Pakistan with a nuclear weapons design, and other important assistance, and has questionable nuclear contacts with Iran.

The sanctions in H.R. 2333 will stop these illicit nuclear transfers. Foreign companies promoting proliferation will face a ban on procurement contracts with the U.S. Government. Banks will face a ban on doing business in the United States. Countries that substantially contribute to proliferation face a wide array of sanctions, including a cutoff in foreign aid, loss of arms sales, and a ban on loans and exports to the country.

Under current law, there are sanctions for companies and countries that contribute to the proliferation of chemical and biological weapons or ballistic missiles. H.R. 2333 fills an important gap by imposing tough sanctions for nuclear proliferation as well.

The next step is to expand these sanctions to include an import ban on the products of companies and countries that promote proliferation. In 1992, the House passed my amendment to impose such an import ban. Hopefully there will be an opportunity to enact import sanctions later in this Congress.

Second, the bill sets forth 24 measures to strengthen International Atomic Energy Agency [IAEA] safeguards. These proposals were drawn from legislation originally introduced by myself and Senator GLENN in the 102d Congress. As the United Nation's nuclear watchdog, the IAEA is responsible for ensuring that countries are complying with the Nonproliferation Treaty. Historically, the international community has not given the IAEA the support it needs to function completely effectively. As a result, the Agency failed to detect Saddam Hussein's elaborate clandestine program, despite its regular safeguard and inspection activities. But lessons were learned from the Iraq experience, and the IAEA has developed a more activist approach to its safeguard responsibilities. It was the IAEA that uncovered evidence that North Korea had produced more plutonium than it had officially declared, giving it a potential nuclear weapons capability. The Agency deserves a great deal of credit for doggedly pursuing full access to all of North Korea's nuclear facilities, as the NPT requires. The Nuclear Proliferation Prevention Act establishes a broad agenda for strengthening the IAEA further. The Clinton administration should aggressively pursue these proposals.

Finally, the bill requires the administration to submit an annual report summarizing nuclear dual-use exports that have been approved. This will help improve oversight of U.S. nuclear export controls and will give an early warning if large numbers of nuclear exports are going to countries that are suspected of building nuclear weapons.

This legislation is an important milestone in U.S. efforts to prevent nuclear proliferation, strengthening policy in three key areas: Sanctions, export controls, and IAEA safeguards. As a next step, Congress and the President should build on each of these policy areas. We should expand the sanctions to include import sanctions. We should strengthen the nuclear export control licensing process to give the Department of Defense and the Arms Control and Disarmament Agency a larger role in approving licenses. Finally, the IAEA should receive enough funding so that it can undertake the reforms H.R. 2333 recommends.

The Nuclear Proliferation Prevention Act of 1994 will help stop the global spread of nuclear weapons. The gentleman from Indiana [Mr. HAMILTON], who is the distinguished chairman of the House Foreign Affairs Committee, and the gentlemen from California, Mr. BERMAN and Mr. LANTOS, who are both distinguished chairmen of Foreign Affairs Subcommittees, deserve great credit for their support and leadership on this important legislation, as do the gentleman from the other body, Senators GLENN, PELL, and HELMS. When President Clinton signs H.R. 2333, he will have further fulfilled his campaign promise to strengthen and improve U.S. nuclear nonproliferation policy.

Mr. HAMILTON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MS. SNOWE

Ms. SNOWE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Ms. SNOWE moves to recommit the conference report on the bill H.R. 2333 to the committee of conference with instructions to the managers on the part of the House to disagree to section 521 (relating to relations with Vietnam) in the conference substitute recommended by the committee of conference.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Ms. SNOWE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of the adoption of the conference report.

The vote was taken by electronic device, and there were—yeas 195, nays 209, not voting 29, as follows:

[Roll No. 147]

YEAS—195

Allard
Applegate
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Browder
Brown (OH)
Bunning
Burton
Buyer
Callahan
Camp
Canady
Castle
Chapman
Clinger
Coble
Collins (GA)
Combest
Cooper
Costello
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gillmor
Gilman
Gingrich
Glickman
Goodling
Goss
Grams
Gunderson
Gutierrez
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Hunter
Hutchinson
Hyde
Inglis
Johnson, Sam
Kasich
Kildee
Kim
King
Kingston
Klug
Knollenberg
Lancaster
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
McNulty
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Packard
Pallone
Paxon
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quillen
Rahall
Ramstad
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shepherd
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Stupak
Sundquist
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thurman
Torkildsen
Traficant
Upton
Walker
Walsh
Weldon
Williams
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—209

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Brown (CA)
Brown (FL)
Byrne
Cantwell
Cardin
Carr
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Coyne
Cramer
Danner
Darden
de la Garza
Dellums
Deutsch
Dicks
Dingell
Dixon
Dooley
Dreier
Durbin
Edwards (CA)
Edwards (TX)
Engel
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gonzalez
Gordon
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Houghton
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kleczka
Klein
Klink
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Levin
Lewis (GA)
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickle
Price (NC)
Rangel
Reed
Reynolds
Richardson
Ridge
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Sisisky
Skaggs
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Swett
Swift
Synar
Tanner
Thompson
Thornton
Torres
Torricelli
Towns
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Washington
Waters
Watt
Waxman
Whitten
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—29

Barlow
Bryant
Calvert
Clay
Condit
DeFazio
DeLauro
Derrick
English
Frost
Goodlatte
Grandy
Green
Greenwood
Huffington
Inhofe
Istook
Kyl
Laughlin
Lloyd
Murphy
Murtha
Pickett
Quinn
Rush
Slattery
Volkmer
Vucanovich
Wheat

☐ 1707

The Clerk announced the following pair:

On this vote:

Mr. Quinn for, with Mr. DeFazio against.

Mr. HUTTO, and Mr. NADLER changed their vote from "yea" to "nay."

Messrs. POSHARD, EMERSON, and LANCASTER changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The conference report was agreed to.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. ENGLISH of Arizona. Mr. Speaker, because of a family illness I was unavoidably absent during rollcall vote Nos. 146 and 147.

On rollcall vote No. 146 regarding the Iraqi Claims Act, had I been present I would have voted "aye." On rollcall vote No. 147, the motion to recommit the conference report on H.R. 2333, State Department authorization, had I been present I would have voted "no."

GENERAL LEAVE

Mr. HAMILTON, Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to provisions of clause 5, rule I, the Chairman will now put the question on each motion to suspend the rules on which further proceedings were postponed on Tuesday, April 26, 1994, in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 4013, as amended, de novo; H.R. 4250, as amended, de novo.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

□ 1710

VETERANS HEALTH PROGRAMS IMPROVEMENT ACT OF 1994

The SPEAKER pro tempore (Mr. DURBIN). The unfinished business is the question de novo of suspending the rules and passing the bill, H.R. 4013, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 4013, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. PENNY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. All subsequent roll call votes will be 5-minute votes.

The vote was taken by electronic device, and there were—ayes 282, noes 118, not voting 32, as follows:

[Roll No. 148]

AYES—282

Abercrombie
Ackerman
Andrews (ME)
Applegate
Archer
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Barcia
Bartlett
Bateman
Becerra
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Burton
Buyer
Byrne
Callahan
Camp
Canady
Carr
Chapman
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
Deutsch
Diaz-Balart
Dicks
Dingell
Doolittle
Duncan
Dunn
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
Evans
Everett
Ewing
Farr
Fields (LA)
Fields (TX)
Filner
Fish
Flake
Foglietta
Ford (MI)
Fowler
Frank (MA)
Franks (CT)
Gallegly
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Goss
Gunderson
Gutierrez
Hall (TX)
Hamburg
Hamilton
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Hunter
Hutchinson
Hutto
Inglis
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Klein
Knollenberg
Kreidler
Lancaster
Lantos
Lazio
Leach
Lehman
Levin
Levy
Lewis (FL)
Lightfoot
Linder
Livingston
Long
Lowey
Machtley
Maloney
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
McCandless
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Mica
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Myers
Nadler
Neal (MA)
Neal (NC)
Oberstar
Ortiz
Owens
Oxley
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickle
Pombo
Pomeroy
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Rahall
Rangel
Ravenel
Regula
Richardson
Ridge
Rogers
Ros-Lehtinen
Rose
Roukema
Rowland
Roybal-Allard
Sanders
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schenk
Schiff
Schumer
Scott
Serrano
Shaw
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Strickland
Stump
Stupak
Sundquist
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Volkmer
Walsh
Waters
Weldon
Whitten
Williams
Wilson
Wise
Woolsey
Wynn
Young (AK)
Young (FL)

NOES—118

Allard
Andrews (NJ)
Andrews (TX)
Armey
Ballenger
Barca
Barrett (WI)
Barton
Beilenson
Berman
Bunning
Cantwell
Cardin
Castle
Clayton
Combest
Cox
Crane
DeLay
Dellums
Dickey
Dixon
Dooley
Dornan
Dreier
Durbin
Eshoo
Fawell
Fazio
Fingerhut
Ford (TN)
Franks (NJ)
Furse
Gallo
Gephardt
Geren
Glickman
Grams
Hancock
Horn
Houghton
Hoyer
Hughes
Hyde
Inslee
Johnson (CT)
Johnston
Kanjorski
Kleczka
Klink
Klug
Kolbe
Kopetski
LaFalce
Lambert
LaRocco
Lewis (CA)
Lewis (GA)
Lipinski
Mann
Matsui
Mazzoli
McCloskey
McDermott
McMillan
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Nussle
Obey
Olver
Orton
Packard
Pelosi
Penny
Petri
Porter
Ramstad
Reed
Reynolds
Roberts
Roemer
Rohrabacher
Rostenkowski
Roth
Royce
Sabo
Sawyer
Schroeder
Sensenbrenner
Sharp
Shays
Shepherd
Shuster
Skaggs
Smith (IA)
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Unsoeld
Valentine
Vento
Visclosky
Walker
Washington
Watt
Waxman
Wolf
Wyden
Yates
Zeliff
Zimmer

NOT VOTING—32

Barlow
Barrett (NE)
Bryant
Calvert
Clay
Condit
DeFazio
DeLauro
Derrick
English
Frost
Goodlatte
Grandy
Green
Greenwood
Hall (OH)
Huffington
Inhofe
Istook
Kyl
Laughlin
Lloyd
Meyers
Murphy
Murtha
Pickett
Quinn
Rush
Slattery
Thornton
Vucanovich
Wheat

□ 1729

Messrs. ROBERTS, McCLOSKEY and PORTER changed their vote from "aye" to "no."

Mr. ARCHER changed his vote from "no" to "aye."

So (two-thirds having voted thereof) the rules were suspended and the bill, as amended, as passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to amend title 38, United States Code, to provide the Secretary of Veterans Affairs with necessary flexibility in staffing the Veterans Health Administration.".

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. DELAURO. Mr. Speaker, I was absent on Thursday April 28 and missed rollcall votes 146, 147, 148. But had I been here, I would have voted in support of H.R. 3221, the Iraqi Claims Act; I would have voted against the motion to recommit H.R. 2333, State Department Authorization; and I would have voted in support of H.R. 4013, to exempt the Veterans Administration Work Force from proposed reductions for 5 years.

PERSONAL EXPLANATION

Mr. BARLOW. Mr. Speaker, I was absent on Thursday, April 28 and missed roll call votes 146, 147, and 148. But had I been here, I would have voted in support of H.R. 3221, the Iraqi Claims Act; I would have voted against the motion to recommit H.R. 2333, State Department authorization; and I would have voted in support of H.R. 4013, to exempt the Veterans' Administration work force from proposed reductions for 5 years.

□ 1730

HUMAN SERVICES AMENDMENTS OF 1994

The SPEAKER pro tempore (Mr. DURBIN). The unfinished business is the question of suspending the rules and passing the bill, H.R. 4250, as amended, and on which the ordering of the yeas and nays has been vacated by unanimous consent.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MARTINEZ] that the House suspend the rules and pass the bill H.R. 4250, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to authorize appropriations to carry out the Head Start Act, the Community Services Block Grant Act, and the Low-Income Home Energy Assistance Act of 1981; and for other purposes.".

A motion to reconsider was laid on the table.

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2000) to authorize appropriations for fiscal years 1995 through 1998 to carry out the Head Start Act and the Community Services Block Grant Act, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2000

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—HEAD START PROGRAMS

SEC. 101. SHORT TITLE; REFERENCES IN TITLE.

(a) SHORT TITLE.—This title may be cited as the "Head Start Act Amendments of 1994".

(b) REFERENCES.—Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Head Start Act (42 U.S.C. 9831 et seq.).

SEC. 102. DEFINITIONS.

Section 637 (42 U.S.C. 9832) is amended—

(1) by striking paragraphs (4) and (5);

(2) by striking paragraph (9) and inserting the following new paragraph:

"(9) The term 'poverty line' means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.";

(3) by adding after paragraph (11) the following new paragraphs:

"(12) The term 'family literacy services' includes activities including interactive literacy activities between parents and their children, training for parents on techniques for being the primary teacher of their children and full partners in the education of their children, parent literacy training, and early childhood education.

"(13) The term 'Indian tribe' means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Native village described in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)) or established pursuant to such Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.";

(4) by redesignating paragraphs (6), (7), (8), (9), (10), (11), (12), and (13) as paragraphs (7), (8), (9), (11), (5), (6), (4), and (10), respectively; and

(5)(A) by transferring paragraph (4), as so redesignated, and inserting the paragraph after paragraph (3);

(B) by transferring paragraphs (5) and (6), as so redesignated, and inserting the paragraphs after paragraph (4), as so redesignated; and

(C) by transferring paragraph (10), as so redesignated, and inserting the paragraph after paragraph (9), as so redesignated.

SEC. 103. SERVICES.

Section 638(a)(1) (42 U.S.C. 9833(a)(1)) is amended by striking "health, nutritional, educational, social, and other services" and inserting "health, education, parental involvement, nutritional, social, and other services".

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

Section 639 (42 U.S.C. 9834) is amended—

(1) in subsection (a), by striking all that follows "subchapter" and inserting "such sums as may be necessary for fiscal year 1995 through 1998."; and

(2) by striking subsections (b) and (c) and inserting the following:

"(b) From the amount appropriated under subsection (a), the Secretary shall make available—

"(1) $35,000,000 for each of the fiscal years 1995 through 1998 to—

"(A) carry out the Head Start Transition Project Act; and

"(B) carry out activities authorized under section 642(d); and

"(2) not more than $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1998, to carry out longitudinal research under section 649(e).".

SEC. 105. ALLOCATION OF FUNDS.

(a) ALLOCATION AND USE OF FUNDS FOR QUALITY IMPROVEMENT.—Section 640(a)(3) (42 U.S.C. 9835(a)(3)) is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (C) and (D), respectively;

(2) by striking "(3)(C)" and all that follows through "quality improvement activities:" and inserting the following:

"(3)(A)(i) In order to provide assistance for activities specified in subparagraph (C) directed at the goals specified in subparagraph (B), the Secretary shall reserve, from the amount (if any) by which the funds appropriated under section 639(a) for a fiscal year exceed the adjusted prior year appropriation, a share equal to the sum of—

"(I) 25 percent of such excess amount; and

"(II) any additional amount the Secretary may find necessary to address a demonstrated need for such activities.

"(ii) As used in clause (i), the term 'adjusted prior year appropriation' means, with respect to a fiscal year, the amount appropriated pursuant to section 639(a) for the preceding fiscal year, adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers (issued by the Bureau of Labor Statistics) during such preceding fiscal year.

"(B) Funds reserved under this paragraph (referred to in this paragraph as 'quality improvement funds') shall be used to accomplish any or all of the following goals:

"(i) Ensuring that Head Start programs meet or exceed performance standards pursuant to section 641A(a)(1)(A).

"(ii) Ensuring that such programs have adequate qualified staff, and that such staff are furnished adequate training.

"(iii) Ensuring that salary levels and benefits are adequate to attract and retain qualified staff for such programs.

"(iv) Using salary increases to improve staff qualifications, and to assist with the implementation of career development programs, for the staff of Head Start programs.

"(v) Improving community-wide strategic planning and needs assessments for such programs.

"(vi) Ensuring that the physical environments of Head Start programs are conducive to providing effective program services to children and families.

"(vii) Making such other improvements in the quality of such programs as the Secretary may designate.

"(C) Quality improvement funds shall be used to carry out any or all of the following activities:";

(3) in subparagraph (C), as redesignated in paragraph (1), by adding at the end the following new clause:

"(vii) Such other activities as the Secretary may designate."; and

(4) in subparagraph (D), as redesignated in paragraph (1)—

(A) in clause (i)—

(i) in the matter preceding subclause (I), by striking "for the first, second, and third fiscal years for which funds are so reserved"; and

(ii) in subclause (II), by inserting "and Indian and migrant Head Start programs," after "States,";

(B) by striking clauses (ii) and (iii);

(C) in clause (iv)—

(i) by striking "To be expended" and all that follows, through "reserved, funds" and inserting "Funds";

(ii) by striking "clause (ii)" the first place it appears and inserting "clause (i)";

(iii) by inserting before the period at the end of the first sentence, ", for expenditure for activities specified in subparagraph (C)"; and

(iv) by striking the second sentence;

(D) in clause (vi), by striking "paragraphs (2), (4), and (5)" and inserting "paragraph (2) or (4)"; and

(E) by striking clause (v) and redesignating clauses (iv) and (vi) as clauses (ii) and (iii), respectively.

(b) FUNDS SET-ASIDE.—Section 640(a) (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (1), by striking "through (5)." and inserting "through (4), and subject to paragraphs (5) and (6).";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "1990" and inserting "1994"; and

(B) in subparagraph (D), by inserting "(including payments for all costs (other than compensation of Federal employees) of reviews of Head Start agencies and programs under section 641A(c), and of activities related to the development and implementation of quality improvement plans under section 641A(d)(2))" after "Secretary";

(3) in paragraph (3), by striking "paragraph (5)" each place it appears and inserting "paragraph (4)";

(4) by striking paragraph (4), and redesignating paragraphs (5) and (6) as paragraphs (4) and (7), respectively;

(5) in paragraph (4), as redesignated in paragraph (4), by striking "The" and inserting "Subject to section 639(b), the"; and

(6) by adding after paragraph (4), as redesignated in paragraph (4), the following new paragraphs:

"(5)(A) From amounts reserved and allotted pursuant to paragraph (4), the Secretary shall reserve such sums as may be necessary to award the collaboration grants described in subparagraph (B).

"(B) From the reserved sums, the Secretary may award a collaboration grant to each State to facilitate collaboration regarding activities carried out in the State under this subchapter, and other activities carried out in, and by, the State that are targeted to low-income children and families.

"(C) A State that receives a grant under subparagraph (B) shall—

"(i) appoint an individual to serve as a State liaison between—

"(I) agencies and individuals carrying out Head Start programs in the State; and

"(II) agencies and entities carrying out programs serving low-income children and families;

"(ii) involve the State Head Start Association in the selection of the individual, and involve the association in determinations relating to the ongoing direction of the collaboration;

"(iii) ensure that the individual holds a position with sufficient authority and access to ensure that the collaboration described in subparagraph (B) is effective and involves a range of State agencies; and

"(iv) ensure that the collaboration described in subparagraph (B) involves coordination of Head Start services with health care, welfare, child care, education, and national service activities, and activities relating to children with disabilities.

"(D) As used in this paragraph, the term 'low-income', used with respect to children or families, shall not be considered to refer only to children or families that meet the low-income criteria prescribed pursuant to section 645(a)(1)(A).

"(6) From amounts reserved and allotted pursuant to paragraphs (2) and (4), the Secretary shall use, for grants for programs described in section 645A(a), a portion of the combined total of such amounts equal to 3 percent for fiscal year 1995, 4 percent for each of fiscal years 1996 and 1997, and 5 percent for fiscal year 1998, of the amount appropriated pursuant to section 639(a).".

(c) CONSIDERATIONS FOR ALLOCATION OF FUNDS FOR PROGRAM EXPANSION.—Section 640(g) (42 U.S.C. 9835(g)) is amended—

(1) by striking "(g)" and inserting "(g)(1)"; and

(2) by adding at the end the following new paragraphs:

"(2) For the purpose of expanding Head Start programs, in allocating funds to an applicant within a State, from amounts allotted to a State pursuant to subsection (a)(4), the Secretary shall take into consideration—

"(A) the quality of the applicant's programs (including Head Start and other child care or child development programs) in existence on the date of the allocation, including, in the case of Head Start programs in existence on the date of the allocation, the extent to which such programs meet or exceed performance standards and other requirements under this subchapter;

"(B) the applicant's capacity to expand services (including, in the case of Head Start programs in existence on the date of the allocation, whether the applicant accomplished any prior expansions in an effective and timely manner);

"(C) the extent to which the applicant has undertaken community-wide strategic planning and needs assessments involving other community organizations serving children and families;

"(D) the numbers of eligible children in each community who are not participating in a Head Start program; and

"(E) the concentration of low-income families in each community.

"(3) In determining the amount of funds reserved pursuant to subparagraph (A) or (B) of subsection (a)(2) to be used for expanding Head Start programs under this subchapter, the Secretary shall take into consideration, to the extent appropriate, the factors specified in paragraph (2).".

(d) TECHNICAL AMENDMENT.—Section 640(h) (42 U.S.C. 9835(h)) is amended by striking "Each Head Start program may" and inserting "Financial assistance provided under this subchapter may be used by each Head Start program to".

(e) COMPENSATION.—Section 640 (42 U.S.C. 9835) is amended by adding at the end the following new subsection:

"(j) Any agency that receives financial assistance under this subchapter to improve the compensation of staff who provide services under this Act shall use the financial assistance to improve the compensation of such staff, regardless of whether the agency has the ability to improve the compensation of staff employed by the agency who do not provide Head Start services.".

SEC. 106. REPORT.

Section 640A (42 U.S.C. 9835a) is repealed.

SEC. 107. DESIGNATION.

(a) INDIAN RESERVATIONS.—Section 641(b) (42 U.S.C. 9836(b)) is amended by inserting after "Indian reservation" the following: "(including members of Indian tribes living near the reservation)".

(b) DESIGNATION OF AGENCIES—Section 641(c) (42 U.S.C. 9836(c)) is amended—

(1) by striking paragraphs (2) through (4);

(2) in the first sentence—

(A) by inserting "(subject to paragraph (2))" before ", the Secretary shall give priority"; and

(B) by striking "unless" and all that follows through the end of subparagraph (A) and inserting the following: "unless the Secretary makes a finding that the agency involved fails to meet program, financial management, and other requirements established by the Secretary.";

(3) by redesignating subparagraph (B) as paragraph (2);

(4) in paragraph (2), as so redesignated—

(A) by striking "except that, if" and inserting "If"; and

(B) by striking "subparagraph (A)" and inserting "paragraph (1)";

(5) by striking "Notwithstanding any other provision of this paragraph" and inserting the following:

"(3) Notwithstanding any other provision of this subsection"; and

(6) by aligning the margins of paragraph (2) with the margins of paragraph (3).

(c) CONSIDERATIONS IN DESIGNATING NEW HEAD START AGENCIES.—Section 641(d) (42 U.S.C. 9836(d)) is amended—

(1) in the first sentence, by striking all that precedes "then the Secretary" and inserting "If no entity in a community is entitled to the priority specified in subsection (c),";

(2) by striking the second sentence;

(3) in the third sentence—

(A) in the matter preceding paragraph (1), by striking "and subject to the preceding sentence"; and

(B) in paragraph (4), to read as follows:

"(4) the plan of such applicant—

"(A) to seek the involvement of parents of participating children in activities designed to help such parents become full partners in the education of their children;

"(B) to afford such parents the opportunity to participate in the development, conduct, and overall performance of the program at the local level;

"(C) to offer (directly or through referral to local entities, such as entities carrying out Even Start programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.)) to such parents—

"(i) family literacy services; and

"(ii) parenting skills training;

"(D) at the option of such applicant, to offer (directly or through referral to local entities) to such parents—

"(i) parental social self-sufficiency training;

"(ii) substance abuse counseling; or

"(iii) any other activity designed to help such parents become full partners in the education of their children; and

"(E) to provide, with respect to each participating family, a family needs assessment that includes consultation with such parents about the benefits of parent involvement and about the activities described in subparagraphs (C) and (D) in which such parents may choose to become involved (taking into consideration their specific family needs, work schedules, and other responsibilities);";

(4) in paragraph (7), by inserting "and" after the semicolon;

(5) by striking paragraph (8); and

(6) by redesignating paragraph (9) as paragraph (8).

(d) CONFORMING AMENDMENT.—Section 641 (42 U.S.C. 9836) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

SEC. 108. MONITORING AND QUALITY ASSURANCE.

The Act is amended by inserting after section 641 (42 U.S.C. 9836) the following new section:

"SEC. 641A. QUALITY STANDARDS; MONITORING OF HEAD START AGENCIES AND PROGRAMS.

"(a) QUALITY STANDARDS.—

"(1) ESTABLISHMENT OF STANDARDS.—The Secretary shall establish by regulation standards applicable to Head Start agencies, programs, and projects under this subchapter, including—

"(A) performance standards with respect to services required to be provided, including health, education, parental involvement, nutritional, social, and other services;

"(B) administrative and financial management standards;

"(C) standards relating to the condition and location of facilities for such agencies, programs, and projects; and

"(D) such other standards as the Secretary finds to be appropriate.

"(2) MINIMUM REQUIREMENTS.—The regulations promulgated under this subsection shall establish the minimum levels of overall accomplishment that a Head Start agency shall achieve in order to meet the standards specified in paragraph (1).

"(3) CONSIDERATIONS IN DEVELOPING STANDARDS.—In developing the regulations required under paragraph (1), the Secretary shall—

"(A) consult with experts in the fields of child development, early childhood education, family services, administration, and financial management, and with persons with experience in the operation of Head Start programs;

"(B) take into consideration—

"(i) past experience with use of the standards in effect under this subchapter on the date of enactment of this section;

"(ii) changes over the period since the date of enactment of this Act in the circumstances and problems typically facing children and families served by Head Start agencies;

"(iii) developments concerning best practices with respect to child development, children with disabilities, family services, program administration, and financial management; and

"(iv) projected needs of an expanding Head Start program; and

"(C)(i) not later than 1 year after the date of enactment of this section, review and revise as necessary the performance standards in effect under 651(b) on the day before the date of enactment of this section; and

"(ii) ensure that any such revisions in the performance standards will not result in the elimination of or any reduction in the scope or types of health, education, parental involvement, nutritional, social, or other services required to be provided under such standards as in effect on November 2, 1978.

"(4) STANDARDS RELATING TO OBLIGATIONS TO DELEGATE AGENCIES.—In developing standards under this subsection, the Secretary shall describe the obligations of a Head Start agency to an agency (referred to in this subchapter as the 'delegate agency') to which the Head Start agency has delegated responsibility for providing services under this subchapter and determine whether the Head Start agency complies with the standards. The Secretary shall consider such compliance during the review described in subsection (c)(1)(A) and in determining whether to renew financial assistance to the Head Start agency under this subchapter.

"(b) PERFORMANCE MEASURES.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary, in consultation with representatives of Head Start agencies and with experts in the fields of child development, family services, and program management, shall develop methods and procedures for measuring, annually and over longer periods, the quality and effectiveness of programs operated by Head Start agencies (referred to in this subchapter as 'performance measures').

"(2) DESIGN OF MEASURES.—The performance measures developed under this subsection shall be designed—

"(A) to assess the various services provided by Head Start programs and, to the extent the Secretary finds appropriate, administrative and financial management practices of such programs;

"(B) to be adaptable for use in self-assessment and peer review of individual Head Start agencies and programs; and

"(C) for other program purposes as determined by the Secretary.

"(3) USE OF MEASURES.—The Secretary shall use the performance measures developed pursuant to this subsection—

"(A) to identify strengths and weaknesses in the operation of Head Start programs nationally and by region; and

"(B) to identify problem areas that may require additional training and technical assistance resources.

"(c) MONITORING OF LOCAL AGENCIES AND PROGRAMS.—

"(1) IN GENERAL.—In order to determine whether Head Start agencies meet standards established under this subchapter with respect to program, administrative, financial management, and other requirements, the Secretary shall conduct the following reviews of designated Head Start agencies, and of the Head Start programs operated by such agencies:

"(A) A full review of each such agency at least once during each 3-year period.

"(B) A review of each newly designated agency immediately after the completion of the first year such agency carries out a Head Start program.

"(C) Followup reviews including prompt return visits to agencies and programs that fail to meet the standards.

"(D) Other reviews as appropriate.

"(2) CONDUCT OF REVIEWS.—The Secretary shall ensure that reviews described in subparagraphs (A) through (C) of paragraph (1)—

"(A) are performed, to the maximum extent practicable, by employees of the Department of Health and Human Services who are knowledgeable about Head Start programs; and

"(B) are supervised by such an employee at the site of such Head Start agency.

"(d) CORRECTIVE ACTION; TERMINATION.—

"(1) DETERMINATION.—If the Secretary determines, on the basis of a review pursuant to subsection (c), that a Head Start agency designated pursuant to section 641 fails to meet the standards described in subsection (c), the Secretary shall—

"(A) inform the agency of the deficiencies that shall be corrected;

"(B) with respect to each identified deficiency, require the agency—

"(i) to correct the deficiency immediately; or

"(ii) at the discretion of the Secretary (taking into consideration the seriousness of the deficiency and the time reasonably required to correct the deficiency), to comply with the requirements of paragraph (2) concerning a quality improvement plan; and

"(C) initiate proceedings to terminate the designation of the agency unless the agency corrects the deficiency.

"(2) QUALITY IMPROVEMENT PLAN.—

"(A) AGENCY RESPONSIBILITIES.—In order to retain a designation as a Head Start agency under this subchapter, a Head Start agency that is the subject of a determination described in paragraph (1) (other than an agency able to correct a deficiency immediately) shall—

"(i) develop in a timely manner, obtain the approval of the Secretary regarding, and implement a quality improvement plan that specifies—

"(I) the deficiencies to be corrected;

"(II) the actions to be taken to correct such deficiencies; and

"(III) the timetable for accomplishment of the corrective actions specified; and

"(ii) eliminate each deficiency identified, not later than the date for elimination of such deficiency specified in such plan (which shall not be later than 1 year after the date the agency received notice of the determination and of the specific deficiency to be corrected).

"(B) SECRETARIAL RESPONSIBILITY.—Not later than 30 days after receiving from a Head Start agency a proposed quality improvement plan pursuant to subparagraph (A), the Secretary shall either approve such proposed plan or specify the reasons why the proposed plan cannot be approved.

"(3) TRAINING AND TECHNICAL ASSISTANCE.—The Secretary shall provide training and technical assistance to Head Start agencies with respect to the development or implementation of such quality improvement plans to the extent the Secretary finds such provision to be feasible and appropriate given available funding and other statutory responsibilities.

"(e) SUMMARIES OF MONITORING OUTCOMES.—The Secretary shall publish annually, following the end of each fiscal year, a summary report on the findings of reviews conducted under subsection (c), and on the outcomes of quality improvement plans implemented under subsection (d), during such fiscal year.".

SEC. 109. TRANSITION COORDINATION WITH SCHOOLS AND PARENT INVOLVEMENT.

Section 642 (42 U.S.C. 9837) is amended—

(1) in subsection (b)—

(A) in paragraph (4), to read as follows: "(4) seek the involvement of parents of participating children in activities designed to help such parents become full partners in the education of their children, and to afford such parents the opportunity to participate in the development, conduct, and overall performance of the program at the local level;";

(B) in paragraph (5), by inserting "and" after the semicolon;

(C) by striking paragraph (6);

(D) by redesignating paragraphs (5) and (7) as paragraphs (8) and (9), respectively; and

(E) by inserting after paragraph (4) the following new paragraphs: "(5) offer (directly or through referral to local entities, such as entities carrying out Even Start programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.)), to parents of participating children, family literacy services and parenting skills training; (6) at the option of such agency, offer (directly or through referral to local entities), to such parents, parental social self-sufficiency training, substance abuse counseling, or any other activity designed to help such parents become full partners in the education of their children; (7) provide, with respect to each participating family, a family needs assessment that includes consultation with such parents about the benefits of parent involvement and about the activities described in paragraphs (4) through (6) in which such parents may choose to be involved (taking into consideration their specific family needs, work schedules, and other responsibilities);";

(2) in subsection (c), by striking "schools that will subsequently serve children in Head Start programs,"; and

(3) by adding after subsection (c) the following new subsection:

"(d)(1) Each Head Start agency shall carry out the actions specified in this subsection, to the extent feasible and appropriate in the circumstances (including the extent to which such agency is able to secure the cooperation of parents and schools) to enable children to maintain the developmental gains achieved in Head Start programs and to build upon such gains in further schooling.

"(2) The Head Start agency shall take steps to coordinate with the local educational agency (as defined in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)) serving the community involved and with schools in which children participating in a Head Start program operated by such agency will enroll following such program, including—

"(A) developing and implementing a systematic procedure for transferring Head Start program records for each participating child to the school in which such child will enroll;

"(B) establishing channels of communication between Head Start staff and their counterparts in the schools (including teachers, social workers, and health staff) to facilitate coordination of programs;

"(C) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start program teachers to discuss the developmental and other needs of individual children; and

"(D) organizing and participating in joint transition-related training of school staff and Head Start staff.

"(3) In order to promote the continued involvement of the parents of children that participate in Head Start programs in the education of their children upon transition to school, the Head Start agency shall—

"(A) provide training to the parents—

"(i) to inform the parents about their rights and responsibilities concerning the education of their children; and

"(ii) to enable the parents to understand and work with schools in order to communicate with teachers and other school personnel, to support the school work of their children, and to participate as appropriate in decisions relating to the education of their children; and

"(B) take other actions, as appropriate and feasible, to support the active involvement of the parents with schools, school personnel, and school-related organizations.

"(4) The Secretary of Health and Human Services and the Secretary of Education shall assess the results of the activities funded under the Head Start Transition Project Act (42 U.S.C. 9855 et seq.) and shall work together to provide technical assistance to enable communities to implement proposed practices emerging from the activities, to improve the Head Start programs and programs of the schools.".

SEC. 110. FACILITIES AND ADMINISTRATIVE REQUIREMENTS.

Section 644 (42 U.S.C. 9839) is amended—

(1) in subsection (d), by striking "guidelines, instructions,";

(2) in subsection (f)—

(A) in paragraph (2), by striking "640(a)(3)(A)(v)" and inserting "640(a)(3)(C)(v)"; and

(B) by adding at the end the following new paragraph:

"(3) Upon a determination by the Secretary that suitable facilities are not otherwise available to Indian tribes to carry out Head Start programs, and that the lack of suitable facilities will inhibit the operation of such programs, the Secretary, in the discretion of the Secretary, may authorize the use of financial assistance, from the amount reserved under section 640(a)(2)(A), to make payments for the purchase of facilities owned by such tribes. The amount of such a payment for such a facility shall not exceed the fair market value of the facility."; and

(3) by adding at the end the following new subsections:

"(g)(1) Upon a determination by the Secretary that suitable facilities (including public school facilities) are not otherwise available to Indian tribes, rural communities, and other low-income communities to carry out Head Start programs, that the lack of suitable facilities will inhibit the operation of such programs, and that construction of such facilities is more cost effective than purchase of available facilities or renovation, the Secretary, in the discretion of the Secretary, may authorize the use of financial assistance under this subchapter to make payments for capital expenditures related to facilities that will be used to carry out such programs. The Secretary shall establish uniform procedures for Head Start agencies to request approval for such payments, to and shall promote, to the extent practicable, the collocation of Head Start programs with other programs serving low-income children and families.

"(2) Such payments may be used for capital expenditures (including paying the cost of amortizing the principal, and paying interest on, loans) such as expenditures for—

"(A) construction of facilities that are not in existence on the date of the determination;

"(B) major renovation of facilities in existence on such date; and

"(C) purchase of vehicles used for programs conducted at the Head Start facilities.

"(3) All laborers and mechanics employed by contractors or subcontractors in the construction or renovation of facilities to be used to carry out Head Start programs shall be paid wages at not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931, as amended (40 U.S.C. 276a et seq., commonly known as the 'Davis-Bacon Act').

"(h) In all personnel actions of the American Indian Programs Branch of the Head Start Bureau of the Administration for Children and Families, the Secretary shall give the same preference to individuals who are members of an Indian tribe as the Secretary gives to a disabled veteran, as defined in section 2108(3)(C) of title 5, United States Code. The Secretary shall take such additional actions as may be necessary to promote recruitment of such individuals for employment in the Administration.".

SEC. 111. PARTICIPATION.

Section 645 (42 U.S.C. 9840) is amended—

(1) in subsection (c)—

(A) in the first sentence, by striking "may provide" and all that follows and inserting "shall be permitted to provide more than 1 year of Head Start services to eligible children in the State."; and

(B) by striking the second sentence; and

(2) by adding at the end the following new subsection:

"(d)(1) An Indian tribe that—

"(A) operates a Head Start program;

"(B) enrolls as participants in the program all children in the community served by the tribe (including a community with a near-reservation designation, as defined by the Bureau of Indian Affairs) from families that meet the low-income criteria prescribed under subsection (a)(1)(A); and

"(C) has the resources to enroll additional children in the community who do not meet the low-income criteria;

may enroll such additional children in a Head Start program, in accordance with this subsection, if the program predominantly serves children who meet the low-income criteria.

"(2) The Indian tribe shall enroll the children in the Head Start program in accordance with such requirements as the Secretary may specify by regulation promulgated after consultation with Indian tribes.

"(3) In providing services through a Head Start program to such children, the Indian tribe may not use funds that the Secretary has determined, in accordance with section 640(g)(3), are to be used for expanding Head Start programs under this subchapter.".

SEC. 112. INITIATIVE ON FAMILIES WITH INFANTS AND TODDLERS.

(a) ESTABLISHMENT.—The Act is amended by adding after section 645 (42 U.S.C. 9840) the following new section:

"SEC. 645A. PROGRAMS FOR FAMILIES WITH INFANTS AND TODDLERS.

"(a) IN GENERAL.—The Secretary shall make grants, in accordance with the provisions of this section for—

"(1) programs providing family-centered services for low-income families with very young children designed to promote the development of the children, and to enable their parents to fulfill their roles as parents and to move toward self-sufficiency; and

"(2) provision of training and technical assistance to entities carrying out programs, and evaluation of programs, that were supported under the Comprehensive Child Development Act (42 U.S.C. 9881 et seq.), as in effect on the day before the date of enactment of this section.

"(b) SCOPE AND DESIGN OF PROGRAMS.—In carrying out a program described in subsection (a), an entity receiving assistance under this section shall—

"(1) provide, either directly or through referral, early, continuous, intensive, and comprehensive child development and family support services that will enhance the physical, social, emotional, and intellectual development of participating children;

"(2) ensure that the level of services provided to families responds to their needs and circumstances;

"(3) promote positive parent-child interactions;

"(4) provide services to parents to support their role as parents and to help the families move toward self-sufficiency (including educational and employment services as appropriate);

"(5) coordinate services with services provided by programs in the State and programs in the community to ensure a comprehensive array of services (such as health and mental health services);

"(6) ensure formal linkages with local Head Start programs in order to provide for continuity of services for children and families;

"(7) in the case of a Head Start agency that operates a program and that also provides Head Start services through the age of mandatory school attendance, ensure that children and families participating in the program receive such services through such age; and

"(8) meet such other requirements concerning design and operation of the program described in subsection (a) as the Secretary may establish.

"(c) PERSONS ELIGIBLE TO PARTICIPATE.—Persons who may participate in programs described in subsection (a)(1) include—

"(1) pregnant women; and

"(2) families with children under age 3 (or under age 5, in the case of children served by an entity specified in subsection (e)(3));

who meet the income criteria specified for families in section 645(a)(1).

"(d) ELIGIBLE SERVICE PROVIDERS.—To be eligible to receive assistance under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Entities that may apply to carry out activities under this section include—

"(1) entities operating Head Start programs under this subchapter;

"(2) entities that, on the day before the date of enactment of this section, were operating—

"(A) Parent-Child Centers receiving financial assistance under section 640(a)(4), as in effect on such date; or

"(B) programs receiving financial assistance under the Comprehensive Child Development Act, as in effect on such date; and

"(3) other public entities, and nonprofit private entities, capable of providing child and family services that meet the standards for participation in programs under this subchapter and meet such other appropriate requirements relating to the activities under this section as the Secretary may establish.

"(e) TIME-LIMITED PRIORITY FOR CERTAIN ENTITIES.—

"(1) IN GENERAL.—From amounts allotted pursuant to paragraphs (2) and (4) of section 640(a), the Secretary shall provide financial assistance in accordance with paragraphs (2) through (4).

"(2) PARENT-CHILD CENTERS.—The Secretary shall make financial assistance available under this section for each of fiscal years 1995, 1996, and 1997 to any entity that—

"(A) complies with subsection (b); and

"(B) received funding as a Parent-Child Center pursuant to section 640(a)(4), as in effect on the day before the date of enactment of this section, for fiscal year 1994.

"(3) COMPREHENSIVE CHILD DEVELOPMENT CENTERS.—

"(A) In the case of an entity that received a grant for fiscal year 1994 to operate a project under the Comprehensive Child Development Act, the Secretary—

"(i) shall make financial assistance available under this section, in a comparable amount and scope to the assistance provided for fiscal year 1994, for the duration of the project period specified in the grant award to such entity under such Act; and

"(ii) shall permit such entity, in carrying out activities assisted under this section, to serve children from birth through age 5.

"(B) In the case of an entity that received a grant for fiscal year 1989 to operate a project under the Comprehensive Child Development Act, the Secretary shall make assistance available under this section for each of fiscal years 1995, 1996, and 1997 to any entity that complies with subsection (b).

"(4) EVALUATIONS, TRAINING, AND TECHNICAL ASSISTANCE.—The Secretary shall make financial assistance available under this section as necessary to provide for the evaluation of, and furnishing of training and technical assistance to, programs specified in paragraph (3)(A).

"(f) SELECTION OF OTHER GRANT RECIPIENTS.—From the balance remaining of the portion specified in section 640(a)(6), after making grants to the eligible entities specified in subsection (e), the Secretary shall award grants under this subsection on a competitive basis to applicants meeting the criteria specified in subsection (d) (giving priority to entities with a record of providing early, continuous, and comprehensive childhood development and family services).

"(g) DISTRIBUTION.—In awarding grants to eligible applicants under this section, the Secretary shall—

"(1) ensure an equitable national geographic distribution of the grants; and

"(2) award grants to applicants proposing to serve communities in rural areas and to applicants proposing to serve communities in urban areas.

"(h) SECRETARIAL RESPONSIBILITIES.—

"(1) GUIDELINES.—Not later than September 30, 1994, the Secretary shall develop program guidelines concerning the content and operation of programs assisted under this section—

"(A) in consultation with experts in early childhood development, experts in health, and experts in family services; and

"(B) taking into consideration the knowledge and experience gained from other early childhood programs, including programs under the Comprehensive Child Development Act.

"(2) STANDARDS.—Not later than December 30, 1994, the Secretary shall develop and publish performance standards for programs assisted under this section, and a grant announcement based on the guidelines developed under paragraph (1).

"(3) MONITORING, TRAINING, TECHNICAL ASSISTANCE, AND EVALUATION.—In order to ensure the successful operation of programs assisted under this section, the Secretary shall use funds from the balance described in subsection (f) to monitor the operation of such programs, evaluate their effectiveness, and provide training and technical assistance tailored to the particular needs of such programs.".

(b) CONSOLIDATION.—In recognition that the Comprehensive Child Development Centers Act has demonstrated positive results, and that its purposes and functions have been consolidated into section 645A of the Head Start Act, the Comprehensive Child Development Centers Act of 1988 (42 U.S.C. 9801 note) and the Comprehensive Child Development Act (42 U.S.C. 9881 et seq.) are repealed.

SEC. 113. APPEALS, NOTICE, AND HEARING.

(a) MEDIATION AND HEARING FOR DISPUTES WITH DELEGATE AGENCIES.—Section 646(a) (42 U.S.C. 9841(a)) is amended—

(1) at the end of paragraph (2), by striking "and";

(2) at the end of paragraph (3), by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the Secretary shall develop and publish procedures (including mediation procedures) to be used in order to—

"(A) resolve in a timely manner conflicts potentially leading to adverse action between—

"(i) recipients of financial assistance under this subchapter; and

"(ii) delegate agencies or Head Start Parent Policy Councils; and

"(B) avoid the need for an administrative hearing.".

(b) TERMINATION OF DESIGNATION NOT STAYED PENDING APPEAL.—Section 646 (42 U.S.C. 9841) is further amended by striking subsection (b) and inserting the following new subsection:

"(b) In prescribing procedures for the mediation described in subsection (a)(4), the Secretary shall specify—

"(1) the date by which a Head Start agency engaged in a conflict described in subsection (a)(4) will notify the appropriate regional office of the Department of the conflict;

"(2) a reasonable period for the mediation;

"(3) a timeline for an administrative hearing, if necessary, to resolve the conflict; and

"(4) a timeline by which the person conducting the administrative hearing shall issue a decision based on the hearing.

"(c) In any case in which a termination, reduction, or suspension of financial assistance under this subchapter is upheld in an administrative hearing under this section, such termination, reduction, or suspension shall not be stayed pending any judicial appeal of such administrative decision.

"(d)(1) The Secretary shall by regulation specify a process by which an Indian tribe may identify and establish an alternative agency, and request that the alternative agency be designated under section 641 as the Head Start agency providing services to the tribe, if—

"(A) the Secretary terminates financial assistance under section 646 to the only agency that was receiving financial assistance to provide Head Start services to the Indian tribe; and

"(B) the tribe would otherwise be precluded from providing such services to the members of the tribe.

"(2) The regulation required by this subsection shall prohibit such designation of an alternative agency that includes an employee who—

"(A) served on the administrative staff or program staff of the agency described in paragraph (1)(A); and

"(B) was responsible for a deficiency that—

"(i) relates to the performance standards or financial management standards described in section 641A(a)(1); and

"(ii) was the basis for the termination of financial assistance described in paragraph (1)(A);

as determined by the Secretary after providing the notice and opportunity described in subsection (a)(3).".

SEC. 114. GOALS AND PRIORITIES FOR TRAINING AND TECHNICAL ASSISTANCE.

Section 648 (42 U.S.C. 9843) is amended—

(1) in the section heading to read as follows:

"TECHNICAL ASSISTANCE AND TRAINING";

(2) in subsection (a)(2), by striking "Head Start programs, including" and inserting "Head Start programs, in accordance with the process, and the provisions for allocating resources, set forth in subsections (b) and (c). The Secretary shall provide, either directly or through grants or other arrangements,";

(3)(A) by redesignating the final sentence of subsection (a), as amended by paragraph (2), as subsection (e);

(B) by transferring such subsection to the end of the section; and

(C) by indenting such subsection and aligning the margins of such subsection with the margins of subsection (d);

(4) by striking subsections (b) and (c); and

(5) by inserting after subsection (a) the following new subsections:

"(b) The process for determining the technical assistance and training activities to be carried out under this section shall—

"(1) ensure that the needs of local Head Start agencies and programs relating to improving program quality and to program expansion are addressed to the maximum extent feasible; and

"(2) incorporate mechanisms to ensure responsiveness to local needs, including an ongoing procedure for obtaining input from the individuals and agencies carrying out Head Start programs.

"(c) In allocating resources for technical assistance and training under this section, the Secretary shall—

"(1) give priority consideration to activities to correct program and management deficiencies identified through reviews pursuant to section 641A(c) (including the provision of assistance to local programs in the development of quality improvement plans under section 641A(d)(2));

"(2) address the training and career development needs of classroom staff (including instruction for providing services to children with disabilities) and nonclassroom staff, including home visitors and other staff working directly with families, including training relating to increasing parent involvement and services designed to increase family literacy and improve parenting skills;

"(3) assist Head Start agencies and programs in conducting and participating in communitywide strategic planning and needs assessment;

"(4) assist Head Start agencies and programs in the development of sound management practices, including financial management procedures; and

"(5) assist in efforts to secure and maintain adequate facilities for Head Start programs.".

SEC. 115. STAFF QUALIFICATIONS AND DEVELOPMENT.

The Head Start Act is amended by inserting after section 648 (42 U.S.C. 9843) the following new section:

"SEC. 648A. STAFF QUALIFICATIONS AND DEVELOPMENT.

"(a) Classroom Teachers.—

"(1) Degree requirements.—The Secretary shall ensure that not later than September 30, 1996, each Head Start classroom in a center-based program is assigned one teacher who has—

"(A) a child development associate (CDA) credential that is appropriate to the age of the children being served in center-based programs;

"(B) a State-awarded certificate for preschool teachers that meets or exceeds the requirements for a child development associate credential;

"(C) an associate, a baccalaureate, or an advanced degree in early childhood education; or

"(D) a degree in a field related to early childhood education with experience in teaching preschool children and a State-awarded certificate to teach in a preschool program.

"(2) Waiver.—On request, the Secretary shall grant a 180-day waiver of the requirements of paragraph (1) with respect to an individual who—

"(A) is first employed after September 30, 1996, by a Head Start agency as a teacher for a Head Start classroom;

"(B) is enrolled in a program that grants any credential, certificate, or degree specified in subparagraph (A), (B), (C), or (D) of paragraph (1); and

"(C) will receive such credential under the terms of such program not later than 180 days after beginning employment as a teacher with such agency.

"(3) Limitation.—The Secretary may not grant more than one such waiver with respect to such individual.

"(b) Mentor Teachers.—

"(1) Definition; function.—For purposes of this subsection, the term 'mentor teacher' means an individual responsible for observing and assessing the classroom activities of a Head Start program and providing on-the-job guidance and training to the Head Start program staff and volunteers, in order to improve the qualifications and training of classroom staff, to maintain high quality education services, and to promote career development, in Head Start programs.

"(2) Requirement.—In order to assist Head Start agencies in establishing positions for mentor teachers, the Secretary shall—

"(A) provide technical assistance and training to enable Head Start agencies to establish such positions;

"(B) give priority consideration, in providing assistance pursuant to subparagraph (A), to Head Start programs that have substantial numbers of new classroom staff or that are experiencing difficulty in meeting applicable education standards; and

"(C) encourage Head Start programs to give priority consideration for such positions to Head Start teachers at the appropriate level of career advancement in such programs.

"(c) Family Service Workers.—In order to improve the quality and effectiveness of staff providing in-home and other services (including needs assessment, development of service plans, family advocacy, and coordination of service delivery) to families of children participating in Head Start programs, the Secretary, in coordination with concerned public and private agencies and organizations examining the issues of standards and training for family service workers, shall—

"(1) review and, as necessary, revise or develop new qualification standards for Head Start staff providing such services;

"(2) promote the development of model curricula (on subjects including parenting training and family literacy) designed to ensure the attainment of appropriate competencies by individuals working or planning to work in the field of early childhood and family services; and

"(3) promote the establishment of a credential that indicates attainment of the competencies and that is accepted nationwide.

"(d) Head Start Fellowships.—

"(1) Authority.—The Secretary may establish a program of fellowships, to be known as 'Head Start Fellowships', in accordance with this subsection. The Secretary may award the fellowships to individuals, to be known as 'Head Start Fellows', who are staff in local Head Start programs or other individuals working in the field of child development and family services.

"(2) Purpose.—The fellowship program established under this subsection shall be designed to enhance the ability of Head Start Fellows to make significant contributions to programs authorized under this subchapter, by providing opportunities to expand their knowledge and experience through exposure to activities, issues, resources, and new approaches, in the field of child development and family services.

"(3) Assignments of fellows.—

"(A) Placement sites.—Fellowship positions under the fellowship program may be located (subject to subparagraphs (B) and (C))—

"(i) in agencies of the Department of Health and Human Services administering programs authorized under this subchapter (in national or regional offices of such agencies);

"(ii) in local Head Start agencies and programs;

"(iii) in institutions of higher education;

"(iv) in public or private entities and organizations concerned with services to children and families; and

"(v) in other appropriate settings.

"(B) Limitation for fellows other than head start employees.—A Head Start Fellow who is not an employee of a local Head Start agency or program may be placed only in a fellowship position located in an agency or program specified in clause (i) or (ii) of subparagraph (A).

"(C) No placement in lobbying organizations.—Head Start Fellowship positions may not be located in any agency whose primary purpose, or one of whose major purposes, is to influence Federal, State, or local legislation.

"(4) Selection of fellows.—Head Start Fellowships shall be awarded on a competitive basis to individuals (other than Federal employees) selected from among applicants who are working, on the date of application, in local Head Start programs or otherwise working in the field of child development and children and family services.

"(5) Duration.—Head Start Fellowships shall be for terms of 1 year, and may be renewed for a term of 1 additional year.

"(6) Authorized expenditures.—From amounts appropriated under this subchapter and allotted under section 640(a)(2)(D), the Secretary is authorized to make expenditures of not to exceed $1,000,000 for any fiscal year, for stipends and other reasonable expenses of the fellowship program.

"(7) Status of fellows.—Except as otherwise provided in this paragraph, Head Start Fellows shall not be considered to be employees or otherwise in the service or employment of the Federal Government. Head Start Fellows shall be considered to be employees for purposes of compensation for injuries under chapter 81 of title 5, United States Code. Head Start Fellows assigned to positions located in agencies specified in paragraph (3)(A)(i) shall be considered employees in the executive branch of the Federal Government for the purposes of chapter 11 of title 18, United States Code, and for purposes of any administrative standards of conduct applicable to the employees of the agency to which they are assigned.

"(8) Regulations.—The Secretary shall promulgate regulations to carry out this subsection.

"(e) Model Staffing Plans.—Not later than 1 year after the date of enactment of this subsection, the Secretary, in consultation with appropriate public agencies, private agencies, and organizations and with individuals with expertise in the field of children and family services, shall develop model staffing plans to provide guidance to local Head Start agencies and programs on the numbers, types, responsibilities, and qualifications of staff required to operate a Head Start program.".

SEC. 116. RESEARCH, DEMONSTRATIONS, EVALUATION.

Section 649 (42 U.S.C. 9844) is amended to read as follows:

"SEC. 649. RESEARCH, DEMONSTRATIONS, AND EVALUATION.

"(a) In General.—

"(1) Requirement; general purposes.—The Secretary shall carry out a continuing program of research, demonstration, and evaluation activities, in order to—

"(A) foster continuous improvement in the quality of the Head Start programs under this subchapter and in their effectiveness in enabling participating children and their families to succeed in school and otherwise; and

"(B) use the Head Start programs to develop, test, and disseminate new ideas and approaches for addressing the needs of low-income preschool children (including children with disabilities) and their families and communities, and otherwise to further the purposes of this subchapter.

"(2) Plan.—The Secretary shall develop, and periodically update, a plan governing the research, demonstration, and evaluation activities under this section.

"(b) CONDUCT OF RESEARCH, DEMONSTRATION, AND EVALUATION ACTIVITIES.—The Secretary, in order to conduct research, demonstration, and evaluation activities under this section—

"(1) may carry out such activities directly, or through grants to, or contracts or cooperative agreements with, public or private entities;

"(2) shall, to the extent appropriate, undertake such activities in collaboration with other Federal agencies, and with non-Federal agencies, conducting similar activities;

"(3) shall ensure that evaluation of activities in a specific program or project is conducted by persons not directly involved in the operation of such program or project;

"(4) may require Head Start agencies to provide for independent evaluations;

"(5) may approve, in appropriate cases, community-based cooperative research and evaluation efforts to enable Head Start programs to collaborate with qualified researchers not directly involved in program administration or operation; and

"(6) may collaborate with organizations with expertise in inclusive educational strategies for preschoolers with disabilities.

"(c) CONSULTATION AND COLLABORATION.—In carrying out activities under this section, the Secretary shall—

"(1) consult with—

"(A) individuals from relevant academic disciplines;

"(B) individuals who are involved in the operation of Head Start programs and individuals who are involved in the operation of other child and family service programs; and

"(C) individuals from other Federal agencies, and individuals from organizations, involved with children and families, ensuring that the individuals described in this subparagraph reflect the multicultural nature of the children and families served by the Head Start programs and the multidisciplinary nature of the Head Start programs;

"(2) whenever feasible and appropriate, obtain the views of persons participating in and served by programs and projects assisted under this subchapter with respect to activities under this section; and

"(3) establish, to the extent appropriate, working relationships with the faculties of institutions of higher education, as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), located in the area in which any evaluation under this section is being conducted, unless there is no such institution of higher education willing and able to participate in such evaluation.

"(d) SPECIFIC OBJECTIVES.—The research, demonstration, and evaluation activities under this subchapter shall include components designed to—

"(1) permit ongoing assessment of the quality and effectiveness of the programs under this subchapter;

"(2) contribute to developing knowledge concerning factors associated with the quality and effectiveness of Head Start programs and in identifying ways in which services provided under this subchapter may be improved;

"(3) assist in developing knowledge concerning the factors that promote or inhibit healthy development and effective functioning of children and their families both during and following participation in a Head Start program;

"(4) permit comparisons of children and families participating in Head Start programs with children and families receiving other child care, early childhood education, or child development services and with other appropriate control groups;

"(5) contribute to understanding the characteristics and needs of population groups eligible for services provided under this subchapter and the impact of such services on the individuals served and the communities in which such services are provided;

"(6) provide for disseminating and promoting the use of the findings from such research, demonstration, and evaluation activities; and

"(7) promote exploration of areas in which knowledge is insufficient, and that will otherwise contribute to fulfilling the purposes of this subchapter.

"(e) LONGITUDINAL STUDIES.—In developing priorities for research, demonstration, and evaluation activities under this section, the Secretary shall give special consideration to longitudinal studies that—

"(1) examine the developmental progress of children and their families both during and following participation in a Head Start program, including the examination of factors that contribute to or detract from such progress;

"(2) examine factors related to improving the quality of the Head Start programs and the preparation the programs provide for children and their families to function effectively in schools and other settings in the years following participation in such a program; and

"(3) as appropriate, permit comparison of children and families participating in Head Start programs with children and families receiving other child care, early childhood education, or child development services, and with other appropriate control groups.

"(f) OWNERSHIP OF RESULTS.—The Secretary shall take necessary steps to ensure that all studies, reports, proposals, and data produced or developed with Federal funds under this subchapter shall become the property of the United States.".

SEC. 117. ANNOUNCEMENTS AND EVALUATIONS.

Section 650 (42 U.S.C. 9845) is repealed.

SEC. 118. REPORTS.

(a) IN GENERAL.—Section 651 (42 U.S.C. 9846) is amended—

(1) by striking the section heading and all that follows through subsection (f) and inserting:

"SEC. 651. REPORTS.";

(2) by striking "(g)";

(3) in paragraph (10), by striking "evaluations conducted under section 641(c)(2)" and inserting "monitoring conducted under section 641A(c)"; and

(4)(A) by striking "and" at the end of paragraph (11);

(B) by striking the period at the end of paragraph (12) and inserting "; and"; and

(C) by adding after paragraph (12) the following new paragraph:

"(13) a summary of information concerning the research, demonstration, and evaluation activities conducted under section 649, including—

"(A) a status report on ongoing activities; and

"(B) results, conclusions, and recommendations, not included in any previous report, based on completed activities.".

(b) REDESIGNATION.—Section 651 is redesignated as section 650.

SEC. 119. REPEALS.

Sections 651A and 652 (42 U.S.C. 9846a and 9847) are repealed.

SEC. 120. STUDY OF BENEFITS FOR HEAD START EMPLOYEES.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study regarding the benefits available to individuals employed by Head Start agencies under the Head Start Act (42 U.S.C. 9831 et seq.).

(b) REPORT.—

(1) PREPARATION.—The Secretary shall prepare a report, containing the results of the study, that—

(A) describes the benefits, including health care benefits, family and medical leave, and retirement pension benefits, available to such individuals;

(B) includes recommendations for increasing the access of the individuals to benefits, including access to a retirement pension program; and

(C) addresses the feasibility of participation by such individuals in the Federal Employees' Retirement System under chapter 84 of title 5, United States Code.

(2) SUBMISSION.—The Secretary shall submit the report to the appropriate committees of Congress.

SEC. 121. AUTOMATIC ELIGIBILITY OF HEAD START PARTICIPANTS.

The National School Lunch Act (42 U.S.C. 1751 et seq.) is amended—

(1) in section 9(b)(6) (42 U.S.C. 1758(b)(6))—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by striking "a member of";

(ii) in clause (i)—

(I) by inserting "a member of" after "(i)"; and

(II) by striking "or" at the end of the clause;

(iii) in clause (ii)—

(I) by inserting "a member of" after "(ii)"; and

(II) by striking the period at the end of the clause and inserting "; or"; and

(iv) by adding at the end the following new clause:

"(iii) enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A)).''; and

(B) in subparagraph (B), by striking "food stamps or aid to families with dependent children" and inserting "food stamps, aid to families with dependent children, or enrollment or participation in the Head Start program on the basis described in subparagraph (A)(iii)"; and

(2) in section 17(c) (42 U.S.C. 1766(c)), by adding at the end the following new paragraph:

"(5) A child shall be considered automatically eligible for benefits under this section without further application or eligibility determination, if the child is enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A)).".

SEC. 122. READY TO LEARN PROGRAM REAUTHORIZATION.

(a) ELIGIBLE ENTITIES.—Section 4702(b)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3161a(b)(1)) is amended by striking ", nongovernmental entity" and inserting "entity (including public telecommunications entities)".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 4706(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3161e(a)) is amended—

(1) by striking "$25,000,000 for fiscal year 1993" and inserting "$30,000,000 for fiscal year 1995"; and

(2) by striking "for fiscal year 1994." and inserting "for each of fiscal years 1996 and 1997.".

SEC. 123. STATE DEPENDENT CARE DEVELOPMENT PROGRAMS.

Section 670A of the State Dependent Care Development Grants Act (42 U.S.C. 9871) is amended by striking "are authorized to be appropriated" and all that follows and inserting "is authorized to be appropriated $13,000,000 for fiscal year 1995.".

SEC. 124. REAUTHORIZATION OF CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE ACT OF 1985.

Section 606 of the Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10905) is amended by striking "$1,500,000" and all that follows and inserting "to carry out this title such sums as may be necessary for fiscal year 1995.".

SEC. 125. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Head Start Transition Project Act.—Section 133(a) of the Head Start Transition Project Act is amended by striking "639(c)" and inserting "639(b)".

(b) Social Security Act.—Section 1924(d)(3)(A)(i) of the Social Security Act (42 U.S.C. 1396r-5(d)(3)(A)(i)) is amended by striking "sections 652 and 673(2)" and inserting "section 673(2)".

SEC. 126. EFFECTIVE DATE AND APPLICATION.

(a) Effective Date.—This title, and the amendments made by this title, shall take effect on the date of enactment of this title.

(b) Application.—The requirements of this title and the amendments made by this title shall not apply to Head Start agencies and other recipients of financial assistance under the Head Start Act until October 1, 1994.

TITLE II—COMMUNITY SERVICES BLOCK GRANT AMENDMENTS

SEC. 201. SHORT TITLE AND REFERENCES.

(a) Short Title.—This title may be cited as the "Community Services Block Grant Amendments of 1994".

(b) References.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Community Services Block Grant Act (42 U.S.C. 9901 et seq.).

SEC. 202. AUTHORIZATIONS OF APPROPRIATIONS.

(a) Authorization of Appropriation and Repeal.—

(1) Authorization of appropriations.—Subsection (b) of section 672 (42 U.S.C. 9901(b)) is amended to read as follows:

"(b) There are authorized to be appropriated $525,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1998, to carry out the provisions of this subtitle.".

(2) Repeal.—Section 408 of the Human Services Reauthorization Act of 1986 (42 U.S.C. 9910b) is repealed.

(b) State Allocations.—Section 674 (42 U.S.C. 9903) is amended—

(1) by redesignating subsections (a), (b) and (c) as subsections (b), (c) and (d), respectively; and

(2) by inserting before subsection (b) (as so redesignated), the following new subsection:

"(a) Of the amounts appropriated for a fiscal year pursuant to section 672(b), the Secretary may reserve not less than one-half of 1 percent and not more than 1 percent for training, technical assistance, planning, and evaluation activities related to programs or projects carried out under this Act. Such activities may be carried out by the Secretary directly or through grants, contracts, or cooperative agreements.".

(c) Applications and Requirements.—

(1) Form and assurances.—Section 675(a) (42 U.S.C. 9904(a)) is amended by inserting "or significant amendments thereof" before "shall contain assurances".

(2) Use of funds.—Section 675(c)(1) (42 U.S.C. 9904(c)(1)) is amended by striking "use the funds available under this Act" and inserting "ensure that, at its discretion and consistent with agreements with the State, each recipient of funds available under this Act will use such funds".

(3) Assured activities.—Section 675(c)(1)(B) (42 U.S.C. 9904(c)(1)(B)) is amended by inserting "homeless individuals and families, migrants, and" before "the elderly poor".

(4) State responsibilities.—Section 675(c)(2)(B) (42 U.S.C. 9904(c)(2)(B)) is amended to read as follows:

"(B) if less than 100 percent of the allotment is expended under subparagraph (A), provide assurances that with respect to the remainder of the allotment a reasonable amount shall be used for—

"(i) providing training and technical assistance to those entities in need of such assistance and such activities will not be considered administrative expenses;

"(ii) coordinating State-operated programs and services targeted to low-income children and families with services provided by eligible entities funded under this Act, including outposting appropriate State or local public employees into entities funded under this Act to ensure increased access to services provided by such State or local agencies;

"(iii) supporting statewide coordination and communication among eligible entities;

"(iv) administrative expenses at the State level, including monitoring activities, but not more than $55,000 or 5 percent of its allotment under section 674; and

"(v) considering the distribution of funds under this Act within the State to determine if such funds have been targeted to the areas of highest need.".

(5) Tripartite board.—Section 675(c)(3) (42 U.S.C. 9904(c)(3)) is amended—

(A) by inserting "selected by the community action agency or nonprofit private organization and" after "board will be";

(B) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(C) by striking the comma after "provide assurances that" and inserting "(A)"; and

(D) by inserting before the semicolon at the end thereof ", and (B) in the case of a public organization receiving funds under this subtitle, such organization either establish—

"(i) a board of which at least one-third of the members are persons chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area served; or

"(ii) another mechanism specified by the State to assure low-income citizen participation in the planning, administration, and evaluation of projects for which such organization has been funded;".

(6) Regulations.—The next to last sentence of section 675(c) (42 U.S.C. 9904(c)) is amended by striking "may not" and inserting "shall by regulation".

(d) Community Action Agency Plan.—Section 675(c) (42 U.S.C. 9904(c)) is amended—

(1) in paragraph (11)—

(A) by redesignating clauses (i) through (iii) of subparagraph (A) as items (aa) through (cc), respectively;

(B) by realigning the margin of the sentence beginning with "For purposes of" so as to align with subparagraph (A) of paragraph (1);

(C) by striking "For purposes of" and inserting "(A) For purposes of";

(D) by striking "(A) a statewide" and inserting "(i)(I) a statewide";

(E) by striking "(B) the failure" and inserting "(ii) the failure";

(F) by inserting immediately before paragraph (12) the following:

"(B) for purposes of making a determination with respect to a termination, the term 'cause' includes the material failure of an eligible entity to comply with the terms of its agreement and community action plan to provide services under this subtitle;".

(2) in paragraph (12) by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (12) the following new paragraphs:

"(13) secure from each eligible entity as a condition to its receipt of funding under this Act a community action plan (which shall be available to the Secretary for inspection) that includes—

"(A) a community needs assessment (including food needs);

"(B) a description of the service delivery system targeted to low-income individuals and families in the service area;

"(C) a description of how linkages will be developed to fill identified gaps in services through information, referral, case management, and followup consultations;

"(D) a description of how funding under this Act will be coordinated with other public and private resources; and

"(E) a description of outcome measures to be used to monitor success in promoting self-sufficiency, family stability, and community revitalization; and

"(14) provide assurances that cost and accounting standards of the Office of Management and Budget shall apply to a recipient of funds under this Act.".

(e) Public Inspections of Plans.—Section 675(d)(2) (42 U.S.C. 9904(d)(2)) is amended by inserting "or revision" after "Each plan".

(f) Audits.—The last sentence of section 675(f) (42 U.S.C. 9904(f)) is amended by inserting before "to the legislature" the following: "to the eligible entity at no charge,".

SEC. 203. DISCRETIONARY AUTHORITY OF SECRETARY.

(a) Training and Activities.—Section 681(a) (42 U.S.C. 9910(a)) is amended—

(1) in the matter preceeding paragraph (1), by striking "to provide for—" and inserting "to provide for";

(2) by striking paragraphs (1) and (3);

(3) in paragraph (2)—

(A) by striking "(2) ongoing" and inserting "ongoing";

(B) by striking "including special emphasis programs for" and inserting "with special emphasis on"; and

(C) by striking subparagraphs (A) through (F); and

(4) by inserting the following new paragraphs:

"(1) a Community Initiative Program, awarded on a competitive basis, to fund private, nonprofit community development corporations for the purposes of planning and carrying out community and economic development activities in economically distressed areas and in rural areas, as described in subsection (c);

"(2) grants to eligible entities for the development and implementation of innovative approaches to deal with critical needs or problems of low-income individuals that are common to a number of communities, including grants to provide opportunities for leadership development, community involvement and education success to disadvantaged persons between the ages of 14 and 25; and

"(3) grants to support the design, development, and widespread availability of interactive information technology among the nationwide network of Community Service Block Grant eligible entities, State administrators, national associations and organizations, and program recipients to promote electronic communication and access to program information that would enhance the effective delivery of social services.".

(b) COMMUNITY INITIATIVE PROGRAM.—Subsection (b) of section 681 (42 U.S.C. 9910) is amended to read as follows:

"(b) COMMUNITY INITIATIVE PROGRAM.—

"(1) IN GENERAL.—

"(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Economic development activities under this section shall be designed to address the economic needs of low-income individuals and families by creating employment and business development opportunities.

"(B) CONSULTATION.—The Secretary shall exercise the authority provided under subparagraph (A) in consultation with other relevant Federal officials.

"(C) GOVERNING BOARDS.—Each community development corporation receiving funds under this section shall be governed by a board that shall consist of residents of the community and business and civic leaders and shall have as a principal purpose planning, developing or managing low-income housing and community development projects.

"(D) GEOGRAPHIC DISTRIBUTION.—In providing assistance or entering into other arrangements under this section, the Secretary shall take into consideration the geographic distribution of funds among States and the relative proportion of funding among rural and urban areas.

"(E) RESERVATION.—Of the amounts made available to carry out this section, the Secretary may reserve not to exceed 1 percent for each fiscal year to make grants to private nonprofit organizations or to enter into contracts with private nonprofit or for profit organizations to provide technical assistance to aid community development corporations in developing or implementing projects funded under this section and to evaluate projects funded under this section.

"(2) RURAL COMMUNITY DEVELOPMENT ACTIVITIES.—Rural community development activities under this section shall include—

"(A) grants to private, nonprofit corporations that provide assistance to rural low-income families in home repair and in planning and developing low-income rural rental housing units; and

"(B) grants to multistate, regional private, nonprofit organizations that provide training and technical assistance to small, rural communities in meeting their community facility needs.".

SEC. 204. COMMUNITY FOOD AND NUTRITION.

Subsection (d) of section 681A (42 U.S.C. 9910a(d)) is amended to read as follows:

"(d) There are authorized to be appropriated $25,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1998, to carry out this section.".

SEC. 205. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect on October 1, 1994.

TITLE III—LOW-INCOME HOME ENERGY ASSISTANCE AMENDMENTS

SECTION 301. SHORT TITLE AND REFERENCES.

(a) SHORT TITLE.—This title may be cited as the "Low-Income Home Energy Assistance Amendments of 1994".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

SEC. 302. STATEMENT OF PURPOSE.

Subsection (a) of section 2602 (42 U.S.C. 8621(a)) is amended to read as follows:

"(a) The Secretary is authorized to make grants, in accordance with the provisions of this title, to States to assist low-income households, particularly those that pay a high proportion of household income for home energy, primarily in meeting their immediate home energy needs and, where appropriate, to reduce the energy needs and costs of such households and thereby improve their capacity to meet such needs in the future.".

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNTS AUTHORIZED.—Section 2602 (42 U.S.C. 8621) is amended—

(1) in subsection (b), by striking "this title" and all that follows through the end of the first sentence and inserting "this title, $2,000,000,000 for each of fiscal years 1995 through 1999."; and

(2) in the last sentence of subsection (c)—

(A) by striking "July 1" and inserting "October 1"; and

(B) by striking "for which" and inserting "following the year in which".

(b) INCENTIVE PROGRAM FOR LEVERAGING NON-FEDERAL SOURCES.—Subsection (d) of section 2602 (42 U.S.C. 8621(d)) is amended to read as follows:

"(d) There are authorized to be appropriated to carry out section 2607A, $50,000,000 for each of the fiscal years 1995 and 1996, and such sums as may be necessary for each of the fiscal years 1997 through 1999.".

SEC. 304. EMERGENCY FUNDS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 2602 (42 U.S.C. 8621) as amended by section 3, is further amended by adding at the end thereof the following new subsection:

"(d) There are authorized to be appropriated in any fiscal year for payments under this title, in addition to amounts appropriated for distribution to all the States in accordance with section 2604 (other than subsection (g)), $600,000,000 for each of the fiscal years 1995 through 1999, to meet the additional home energy assistance needs of one or more States arising from a natural disaster or other emergency. Funds appropriated pursuant to this subsection are hereby designated to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, except that such funds shall be made available only after the submission to Congress of a formal budget request by the President (for all or a part of the appropriation pursuant to this subsection) that includes a designation of the amount requested as an emergency requirement as defined in such Act.".

(b) HOME ENERGY.—Section 2603 (42 U.S.C. 8622(3)) is amended—

(1) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as paragraphs (2), (4), (5), (6), (7), (8), and (9), respectively;

(2) by inserting before paragraph (2) (as so redesignated), the following new paragraph:

"(1) The term 'energy burden' means the expenditures of the household for home energy divided by the income of the household."; and

(3) by inserting before paragraph (4) (as so redesignated), the following new paragraph:

"(3) The term 'highest home energy needs' means the home energy requirements of households that include members of vulnerable populations, including very young children and the frail elderly."

(c) ALLOTMENT OF EMERGENCY FUNDS.—Section 2604 (42 U.S.C. 8623) is amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding subsections (a) through (f), the Secretary may allot amounts appropriated pursuant to section 2602(d) to one or more than one State. In determining to which State or States additional funds may be allotted, the Secretary shall take into account the extent to which a State was affected by the emergency or disaster, the availability to an affected State of other resources under this or any other program, and such other factors as the Secretary determines relevant.".

SEC. 305. AUTHORIZED USES OF FUNDS.

(a) IN GENERAL.—Paragraph (1) of section 2605(b) (42 U.S.C. 8624(b)(1)) is amended to read as follows:

"(1) use the funds available under this title to—

"(A) conduct outreach activities and provide assistance to low income households in meeting their home energy costs, particularly those that pay a high proportion of household income for home energy, consistent with paragraph (5);

"(B) intervene in energy crisis situations;

"(C) provide low-cost residential weatherization and other cost-effective energy-related home repair; and

"(D) plan, develop, and administer the State's program under this title including leveraging programs,

and the State agrees not to use such funds for any purposes other than those specified in this title;".

(b) ENCOURAGED REDUCED HOME ENERGY NEEDS.—Section 2605(b) (42 U.S.C. 8624(b)) is amended—

(1) in paragraph (9)(B), by inserting before the semicolon the following: "(except for the costs of the activities described in paragraph (16))";

(2) in paragraph (15), by striking the period and inserting "; and"; and

(3) by inserting after paragraph (15) the following new paragraph:

"(16) subject the use of such funds to the requirements of paragraph (9)(A) if it uses such funds to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance, including needs assessments, counseling, and assistance with energy vendors.".

SEC. 306. TARGETING OF ASSISTANCE TO HOUSEHOLDS WITH HIGH HOME ENERGY BURDENS.

(a) HOUSEHOLD INCOME.—Section 2605(b)(2)(B) (42 U.S.C. 8624(b)(2)(B)) is amended by striking the matter following clause (ii) and inserting the following:

"except that a State may not exclude a household from eligibility in a fiscal year solely on the basis of household income if such income is less than 110 percent of the poverty level for such State, but the State may give priority to those households with the highest home energy costs or needs in relation to household income;".

(b) OUTREACH ACTIVITIES.—Section 2605(b)(3) (42 U.S.C. 8624(b)(3)) is amended by striking "are made aware" and inserting "and households with high home energy burdens, are made aware".

(c) ASSISTANCE LEVELS.—Section 2605(b)(5) (42 U.S.C. 8624(b)(5)) is amended by inserting "or needs" after "highest energy costs".

(d) STATE PLAN.—Section 2605(c)(1) (42 U.S.C. 8624(c)(1)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (H), respectively; and

(2) by inserting after subparagraph (D) the following new subparagraph:

"(E) describes any steps that will be taken (in addition to those necessary to carry out the assurance contained in paragraph (5) of subsection (b)) to target assistance to households with high home energy burdens;".

SEC. 307. REMOVAL OF CONSTRAINT ON SECRETARIAL PROGRAM GUIDANCE.

Section 2605(b) (42 U.S.C. 8624(b)) is amended by striking the first flush sentence immediately following paragraph (14).

SEC. 308. CLARIFICATION OF AUDIT REQUIREMENT.

Section 2605 (42 U.S.C. 8624) is amended—

(1) in subsection (b)(10), by striking "and provide that" and all that follows and inserting "and provide that the State will comply with the provisions of chapter 75 of title 31, United States Code (commonly known as the 'Single Audit Act');"; and

(2) in subsection (e), by striking "at least every two years" and all that follows and inserting "in accordance with chapter 75 of title 31, United States Code.".

SEC. 309. USE OF DEPARTMENT OF ENERGY WEATHERIZATION RULES TO ACHIEVE PROGRAM CONSISTENCY.

Section 2605(c)(1)(D) (42 U.S.C. 8624(c)(1)(D)) is amended by inserting before the semicolon at the end thereof the following: ", including any steps the State will take to address the weatherization and energy-related home repair needs of households that have high home energy burdens, and describes any rules promulgated by the Department of Energy for administration of its Low Income Weatherization Assistance Program which the State, to the extent permitted by the Secretary to increase consistency between federally assisted programs, will follow regarding the use of funds provided under this title by the State for such weatherization and energy-related home repairs and improvements".

SEC. 310. MATTERS TO BE DESCRIBED IN ANNUAL APPLICATION.

Section 2605(c)(1) (42 U.S.C. 8624(c)(1)) is amended—

(1) in subparagraph (F) (as so redesignated by section 306(d) of this Act)—

(A) by striking "and (13)" and inserting "(13), and (15)"; and

(B) by striking "and" at the end thereof; and

(2) by inserting after subparagraph (F) (as so redesignated by section 306(d) of this Act), the following new subparagraph:

"(G) states, with respect to the 12-month period specified by the Secretary, the number and income levels of households which apply and the number which are assisted with funds provided under this title, and the number of households so assisted with—

"(i) one or more members who has attained 60 years of age;

"(ii) one or more members who were disabled; and

"(iii) one or more young children; and".

SEC. 311. REPORT OF FUNDS AVAILABLE FOR OBLIGATION.

Section 2607(a) (42 U.S.C. 8628(a)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) Each State shall notify the Secretary, not later than 2 months prior to the close of a fiscal year, of the amount (if any) of its allotment for such year that will not be obligated in such year, and, if such State elects to submit a request described in subsection (b)(2), such State shall submit such request at the same time. The Secretary shall make no payment under paragraph (1) to a State for a fiscal year unless the State has complied with this paragraph with respect to the prior fiscal year.".

SEC. 312. MISCELLANEOUS AND TECHNICAL AMENDMENTS.

(a) IN GENERAL.—

(1) TREATMENT OF HOUSEHOLDS.—Section 2605(b)(7)(D) (42 U.S.C. 8624(b)(7)(D)) is amended to read as follows:

"(D) ensure that the provision of vendored payments remains at the option of the State in consultation with local grantees and may be contingent on vendors taking appropriate measures to alleviate the energy burdens of eligible households, including providing for compacts between suppliers and individuals eligible for benefits under this Act that seek to reduce home energy costs, minimize the risks of home energy crisis, and encourage regular payments by individuals receiving financial assistance for home energy costs;".

(2) INCENTIVE PROGRAM.—Section 2607A(e) (42 U.S.C. 8626a(e)) is amended by striking "July 31, of each year" and inserting "2 months after the close of the fiscal year during which the State provided leveraged resources to eligible households, as described in subsection (b)".

(3) TRAINING AND TECHNICAL ASSISTANCE.—Section 2609A(a) is amended by striking "$500,000" and inserting "$250,000".

(b) TECHNICAL AMENDMENTS.—

(1) Section 2602(b) (42 U.S.C. 8621(b)) is amended—

(A) by inserting "(other than section 2607A)" after "to carry out the provisions of this title"; and

(B) by striking the second period at the end thereof.

(2) Section 2603(2) (42 U.S.C. 8622(2)) is amended—

(A) by striking "the" in paragraph (2) and inserting "The"; and

(B) by striking the semicolon at the end thereof and inserting a period.

(3) The sentence that immediately precedes paragraph (15) of section 2605(b) (42 U.S.C. 8624(b)) is transferred so as to appear as a flush sentence immediately after paragraph (16).

(4) Section 2605(b)(3) (42 U.S.C. 8624(b)(3)) is amended by striking "handicapped" and inserting "disabled".

(5) Section 2607A(c)(2) (42 U.S.C. 8626a(c)(2)) is amended by striking ".0008 percent" and inserting "0.08 percent".

(6) Section 2610(a) (42 U.S.C. 8629(a)) is amended—

(A) in paragraph (2), by striking the semicolon after "used" and inserting a semicolon after "title"; and

(B) in paragraph (5)—

(i) by striking "handicapped" and inserting "disabled"; and

(ii) by inserting before the semicolon at the end thereof "or include young children".

SEC. 313. EFFECTIVE DATE.

The amendments and repeals made by this title shall become effective on October 1, 1994.

TITLE IV—COMMUNITY-BASED FAMILY RESOURCE PROGRAMS

SEC. 401. COMMUNITY-BASED FAMILY RESOURCE PROGRAMS.

(a) IN GENERAL.—Section 933 of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12339) is amended to read as follows:

"SEC. 933. COMMUNITY-BASED FAMILY RESOURCE PROGRAMS.

"(a) PURPOSE.—It is the purpose of this section to promote a systemic approach to prevention through the promotion of innovative funding mechanisms for networks of comprehensive family resource services provided through collaborative approaches, including public-private partnerships.

"(b) AUTHORITY.—The Commissioner shall make grants to States on a formula basis for the purpose of—

"(1) establishing and expanding statewide networks of community-based family resource programs, including funds for the initial costs of providing specific family resource services, that ensure family involvement in the design and operation of family resource programs which are responsive to the unique and diverse strengths of children and families;

"(2) promoting child abuse and neglect prevention activities;

"(3) promoting the establishment and operation of State trust funds or other mechanisms for integrating child and family services funding streams in order to provide flexible funding for the development of community-based family resource programs;

"(4) establishing or expanding community-based collaboration to foster the development of a continuum of preventive services for children and families, which are family-centered and culturally-relevant; and

"(5) encouraging public and private partnerships in the establishment and expansion of family resource programs.

"(c) ELIGIBILITY FOR GRANTS.—A State is eligible for a grant under this section for any fiscal year if—

"(1) such State has established or maintained in the previous fiscal year—

"(A) a trust fund, including appropriations for such fund; or

"(B) any other mechanism that pools State, Federal, and private funds for integrating child and family service resources; and

"(2) such trust fund or other funding mechanism includes (in whole or in part) provisions making funding available specifically for a broad range of child abuse and neglect prevention activities and family resource programs.

"(d) AMOUNT OF GRANT.—

"(1) IN GENERAL.—Amounts appropriated for a fiscal year to provide grants under this section shall be allotted, among eligible States in each fiscal year so that—

"(A) 50 percent of the total amount appropriated for such fiscal year is allotted among each State based on the number of children under the age of 18 residing in each State, except that each State shall receive not less than $100,000; and

"(B) the remaining 50 percent of the total amount appropriated for such fiscal year is allotted in an amount equal to 25 percent of the total amount allocated by each such State to the State's trust fund or other mechanism for integrating family resource services in the fiscal year prior to the fiscal year for which the allotment is being determined.

"(e) EXISTING GRANTS.—A State that has a grant in effect on the date of enactment of this section under the Family Resource and

Support Program or the Temporary Child Care and Crisis Nurseries Program shall continue to receive funds under such Programs, subject to the original terms under which such funds were granted, through the end of the applicable grant cycle.

"(f) Application.—No grant may be made to any eligible State under this section unless an application is prepared and submitted to the Secretary at such time, in such manner, and containing or accompanied by such information as the Commissioner determines to be essential to carry out the purposes and provisions of this section, including—

"(1) a description of the agency designated by the Chief Executive Officer of the State to administer the funds provided under this section and assume responsibility for implementation and oversight of the family resource programs and other child abuse and neglect prevention activities, and an assurance that the agency so designated—

"(A) is the trust fund advisory board or an existing quasi-public organization with interdisciplinary governance that pools State, Federal, and private funds for family resource programs or integrating child and family service resources; or

"(B) with respect to a State without a trust fund mechanism or quasi-public organization that meets the requirements of subparagraph (A), is an existing State agency, or other public, quasi-public, or nonprofit private agency responsible for the development and implementation of a statewide network of community-based family resource programs;

"(2) assurances that the agency designated under paragraph (1) can demonstrate the capacity to fulfill the purposes described in subsection (a), and shall have—

"(A) a demonstrated ability to work with other State and community-based agencies, to provide training and technical assistance; and

"(B) a commitment to parental participation in the design and implementation of family resource programs;

"(3) an assurance that the State has an interagency process coordinated by the agency designated in paragraph (1) for effective program development that—

"(A) does not duplicate existing processes for developing collaborative efforts to better serve children and families;

"(B) provides a written plan for the establishment of a network of family resource programs publicly available; and

"(C) involves appropriate personnel in the process, including—

"(i) parents and prospective participants in family resource programs, including respite care programs;

"(ii) staff of existing programs providing family resource services, including staff of Head Start programs and community action agencies that provide such services;

"(iii) representatives of State and local government such as social service, health, mental health, education, employment, economic development agencies, and organizations providing community services activities;

"(iv) representatives of the business community;

"(v) representatives of general purpose local governments;

"(vi) representatives of groups with expertise in child abuse prevention, including respite and crisis care;

"(vii) representatives of local communities in which family resource programs are likely to be located; and

"(viii) other individuals with expertise in the services that the family resource and support programs of the State intend to offer;

"(4) a description of the current family resource programs operating in the State, the current unmet need for the services provided under such programs, including the need for building increased capacity to provide specific family resource services, including respite care, and the intended scope of the State family resource program, the population to be served, the manner in which the program will be operated, and the manner in which such program will relate to other community services and public agencies;

"(5) evidence that Federal assistance received under this section—

"(A) has been supplemented with non-Federal public and private assistance, including a description of the projected level of financial commitment by the State to develop a family resource program; and

"(B) will be used to supplement and not supplant other State and local public funds expended for family resource programs;

"(6) a description of the core services, as required by this section, and other support services to be provided by the program and the manner in which such services will be provided, including the extent to which either family resources, centers, home visiting, or community collaboratives will be used;

"(7) a description of any public information activities the agency designated in paragraph (1) will undertake for the purpose of promoting family stability and preventing child abuse and neglect, including child sexual abuse;

"(8) an assurance that the State will provide funds for the initial startup costs associated with specific family resource services, including respite services, and a description of the services to be funded;

"(9) assurances that the State program will maintain cultural diversity;

"(10) a description of the guidelines for requiring parental involvement in State and local program development, policy design, and governance and the process for assessing and demonstrating that parental involvement in program development, operation, and governance occurs;

"(11) a description of the State and community-based interagency planning processes to be utilized to develop and implement family resource programs;

"(12) a description of the criteria that the State will utilize for awarding grants for local programs so that they meet the requirements of subsection (g);

"(13) a plan for providing training, technical assistance, and other assistance to local communities in program development;

"(14) a description of the methods to be utilized to evaluate the implementation and effectiveness of the family resource programs within the State;

"(15) a description of proposed actions by the State that will reduce practical and regulatory barriers to the provision of comprehensive services to families, including family resource programs; and

"(16) an assurance that the State will provide the Secretary with reports, at such time and containing such information as the Secretary may require.

"(g) Local Program Requirements.—

"(1) In general.—A State that receives a grant under this section shall use amounts received under such grant to establish local family resource programs that—

"(A) undertake a community-based needs assessment and program planning process which involves parents, and local public and nonprofit agencies (including those responsible for providing health, education, employment training, Head Start and other early childhood, child welfare, and social services);

"(B) develop a strategy to provide comprehensive services to families to meet identified needs through collaboration, including public-private partnerships;

"(C) identify appropriate community-based organizations to administer such programs locally;

"(D) provide core services, and other services directly or through contracts or agreements with other local agencies; and

"(E) involve parents in the development, operation, and governance of the program.

"(2) Priority.—In awarding local grants under this section, a State shall give priority to programs serving low-income communities and programs serving young parents or parents with young children and shall ensure that such grants are equitably distributed among urban and rural areas.

"(h) Definitions.—As used in this section:

"(1) Community referral services.—The term 'community referral services' means services to assist families in obtaining community resources, including respite services, health and mental health services, employability development and job training and other social services.

"(2) Family resource program.—The term 'family resource program' means a program that offers community-based services that provide sustained assistance to families at various stages in their development. Such services shall promote parental competencies and behaviors that will lead to the healthy and positive personal development of parents and children through—

"(A) the provisions of assistance to build family skills and assist parents in improving their capacities to be supportive and nurturing parents;

"(B) the provision of assistance to families to enable such families to use other formal and informal resources and opportunities for assistance that are available within the communities of such families; and

"(C) the creation of supportive networks to enhance the childbearing capacity of parents and assist in compensating for the increased social isolation and vulnerability of families.

"(3) Family resource services.—The term 'family resource services' means—

"(A) core services that must be provided directly by the family resource program under this section, including—

"(i) education and support services provided to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children;

"(ii) early developmental screening of children to assess the needs of such children and to identify the types of support to be provided;

"(iii) outreach services;

"(iv) community referral services; and

"(v) follow-up services; and

"(B) other services, which may be provided either directly or through referral, including—

"(i) early care and education (such as child care and Head Start);

"(ii) respite care;

"(iii) job readiness and counseling services (including skill training);

"(iv) education and literacy services;

"(v) nutritional education;

"(vi) life management skills training;

"(vii) peer counseling and crisis intervention, and family violence counseling services;

"(viii) referral for health (including prenatal care) and mental health services; and

"(ix) substance abuse treatment.

"(4) INTERDISCIPLINARY GOVERNANCE.—The term 'interdisciplinary governance' includes governance by representatives from communities and representatives from existing health, mental health, education, employment and training, child welfare, and other agencies within the State.".

"(5) RESPITE SERVICES.—The term 'respite services' means short-term care services provided in the temporary absence of the regular caregiver (parent, other relative, foster parent, adoptive parent, guardian) to children who meet one or more of the following categories:

"(A) The children are in danger of abuse or neglect.

"(B) The children have experienced abuse or neglect.

"(C) The children have disabilities, or chronic or terminal illnesses.

Services provided within or outside the child's home shall be short-term care, ranging from a few hours to a few weeks of time, per year, and be intended to enable the family to stay together and to keep the child living in the child's home and community.".

(b) DEFINITION.—Section 926(7) of such Act (42 U.S.C. 12332(7)) is amended by inserting ", and other caretakers" after "parents".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 934 of such Act (42 U.S.C. 12340) is amended—

(1) in paragraph (1) of subsection (a), to read as follows:

"(1) There are authorized to be appropriated to carry out section 931 such sums as may be necessary for each of the fiscal years 1995 through 1998."; and

(2) in subsection (d), to read as follows:

"(h) COMMUNITY-BASED FAMILY RESOURCE PROGRAMS.—There are authorized to be appropriated to carry out section 933, $75,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1998.".

(d) REPEAL OF EXISTING PROGRAMS.—

(1) COMMUNITY-BASED CHILD ABUSE AND NEGLECT PREVENTION GRANTS.—Title II of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116 et seq.) is repealed.

(2) EMERGENCY CHILD ABUSE PREVENTION SERVICES GRANTS.—Sec. 107A of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a–1) is repealed.

(3) TEMPORARY CHILD CARE AND CRISIS NURSERIES.—The Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986 (42 U.S.C. 5117 et seq.) is repealed.

SEC. 402. FEDERAL COUNCIL ON CHILDREN, YOUTH, AND FAMILIES.

Section 918 of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12314) is amended—

(1) in subsection (k)—

(A) in paragraph (3), by striking out "and" at the end thereof;

(B) in paragraph (4), by striking out the period and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new paragraphs:

"(6) identify program regulations, practices, and eligibility requirements that impede coordination and collaboration and make recommendations for their modifications or elimination; and

"(7) develop recommendations for creating jointly funded programs, unified assessments, eligibility, and application procedures, and confidentiality protections that facilitate information sharing.";

(2) in subsection (o), by striking "1991 through 1994" and inserting "1995 through 1998"; and

(3) in subsection (p), by striking "1995" and inserting "1998".

SEC. 403. FAMILY RESOURCE ACT.

(a) NATIONAL CENTER.—Section 958(b)(3) of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12353(b)(3)) is amended by strike "model".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 960 of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12355) is amended—

(1) in subsection (a), by striking "$2,300,000" and all that follows through the end thereof and inserting "$2,000,000 for each of the fiscal years 1995 through 1998."; and

(2) in subsection (b), by striking "$700,000" and all that follows through the end thereof and inserting "$1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1998.".

MOTION OFFERED BY MR. MARTINEZ

Mr. MARTINEZ. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Martinez moves to strike out all after the enacting clause of Senate 2000 and insert in lieu thereof the text of H.R. 4250, as passed by the House.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MARTINEZ].

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "a bill to authorize appropriations for fiscal years 1995 through 1998 to carry out the Head Start Act and the Community Services Block Grant Act, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill H.R. 4250 was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2000

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill, S. 2000, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none and, without objection, appoints the following conferees:

From the Committee on Education and Labor, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

Messrs. FORD of Michigan, MARTINEZ, KILDEE, OWENS, ANDREWS of New Jersey, and SCOTT, Ms. WOOLSEY, Messrs. ROMERO-BARCELÓ, BAESLER, and GOODLING, Ms. MOLINARI, and Messrs. BARRETT of Nebraska, MILLER of Florida, and CASTLE.

As additional conferees from the Committee on Energy and Commerce, for consideration of title III of the Senate bill, and title III of the House amendment, and modifications committed to conference:

Messrs. DINGELL, SHARP, MARKEY, LEHMAN, KREIDLER, MOORHEAD, BILIRAKIS, and HASTERT.

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this time in order that I might inquire of the distinguished majority leader the program for the next week.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

Obviously there are no more votes today, no votes on Monday, no votes tomorrow, on Friday.

On Tuesday, May 3, the House will meet at 10:30 a.m. for the morning hour and then will meet at noon for suspensions, one bill, S. 2024, Airport Improvement Program, and then H.R. 3254, National Science Foundation authorization rule and general debate only.

We will hold votes until 5 o'clock on Tuesday, because we have a number of Members involved in primary elections.

Wednesday, May 4, and the balance of the week, the House will meet at 2 p.m. on Wednesday, 11 a.m. on Thursday, and possibly Friday:

H.R. 3254: National Science Foundation authorization, complete consideration;

H.R. 2442, Economic Development Reauthorization Act of 1994, subject to a rule;

H.R. 4296, the Assault Weapons Ban Act, subject to a rule;

S. 636, Access to Clinic Entrances conference report; and

House Concurrent Resolution 218, budget resolution for fiscal year 1995 conference report.

Other conference reports can be brought up at any time.

Any further program will be announced later.

Mr. MICHEL. I thank the distinguished majority leader.

ADJOURNMENT TO MONDAY, MAY 2, 1994

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore (Mr. LANCASTER). Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calender Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CORRECTING TECHNICAL ERRORS IN ENROLLMENT OF H.R. 2333, STATE DEPARTMENT, USIA, AND RELATED AGENCIES AUTHORIZATION ACT, FISCAL YEARS 1994 AND 1995

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution, Senate Concurrent Resolution 67, to correct technical errors in the enrollment of the bill H.R. 2333 to authorize appropriations for the Department of State, the U.S. Information Agency, and related agencies, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. KANJORSKI. Mr. Speaker, reserving the right to object, I reserve the right to object on that resolution.

I would like to discuss it further with the chairman.

Am I to understand that the $35 million that was inadvertently left out of the conference report was the money that was voted on in the House and rejected by a vote of 243 to 181 to authorize funds for the National Endowment for Democracy?

Mr. HAMILTON. Mr. Speaker, will the gentleman yield?

Mr. KANJORSKI. Further reserving the right to object, I am happy to yield to the gentleman from Indiana.

Mr. HAMILTON. Mr. Speaker, I thank the gentleman for yielding.

It has come to my attention since the conference report was filed on Monday that there were several technical errors in the conference report. These encompass items which the conferees agreed to but were left out of the conference report inadvertently, and the resolution provides for the correction of these technical omissions.

It also covers some other matters, and in this, I will respond directly to the gentleman's question. A part of the sentence was deleted inadvertently from the visa fee section, USIA salaries and expenses, authorization for computer upgrades for the Bureau of Intelligence and Research, changing sense of the Senate regarding peace in Northern Ireland, and correcting a section number in the table of contents, and, the gentleman is quite right, the authorization for the National Endowment for Democracy.

Mr. KANJORSKI. Further reserving the right to object, I guess I would like the RECORD to truly reflect that my opposition to the National Endowment for Democracy has not changed in any way, but so that the gentleman from California [Mr. BERMAN] is not upset here, I want to assure that I do not intend to exercise this little flare to delay action.

I would just ask the chairman and the gentleman from California [Mr. BERMAN] that as the authority in the future for the National Endowment for Democracy is made that we attempt to have some meeting of the minds since there are 243 Members of this House that voted in opposition to that authorization, and that we have had this contest going on for years. So in future, the next authorization bill, we would most appreciate that the majority sense of this House be recognized when the full committee considers this authority.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. KANJORSKI. Further reserving the right to object, I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I support the distinguished chairman of the Committee on Foreign Affairs. We have no objections on this side.

Mr. KANJORSKI. I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 67

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 2333) to authorize appropriations for the Department of State, the United States Information Agency, and related agencies, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) In section 201(a) after paragraph (6) insert the following new paragraph:

(7) TITLE V OF PUBLIC LAW 98-164.—To carry out title V of Public Law 98-164, $35,000,000 for the fiscal year 1994 and $35,000,000 for the fiscal year 1995.

(2) In section 140(a)(2), before the period at the end of the first sentence insert ", to recover the costs of providing consular services".

(3) In section 201(a)(1), strike "$473,488,000" and insert "$487,988,000" and strike "$480,362,000" and insert "$494,862,000".

(4) In section 101(b)(2), insert the following new subparagraph (F):

"(F) $2,000,000 is authorized to be appropriated for fiscal year 1995 for computer upgrades for the Bureau of Intelligence and Research."

(5) In Section 516, strike "Senate" and insert "Congress".

(6) In the Table of Contents, strike "Sec. 249" and insert "Sec. 239" immediately before "Increasing African participation in USIA exchange programs."

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

LET'S AVERT A PENDING TRAGEDY: CALL ATTORNEY GENERAL JANET RENO

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BARTON of Texas. Mr. Speaker, today I bring to the attention of the House a pending tragedy in the People's Republic of China. Recently, the story of Alan Lin, a recent immigrant, and his young bride who still remains in the PRC, was brought to my attention.

Alan Lin is a permanent resident of the United States living and working in California. His wife, Jihong Liu, has been accepted by INS and is now awaiting her visa to enter the United States, which will take about a year. Now, Jihong Liu and Alan are expecting their first child; however, due to China's inhumane birth control regulations Jihong Liu has been told she must have an abortion. Jihong Liu was denied by the PRC Government the right to have a child based on her age; she is only 22 years old and according to Chinese rules it is necessary for a mother to be 23 years old.

Now, Alan and Jihong Liu are fighting for the life of their child, which they hope to raise as an American citizen. Alan applied to INS to have his wife admitted early into the United States under humanitarian parole. Along with 51 of my colleagues, Congressman GEORGE MILLER and I sent a bipartisan letter to encourage Attorney General Janet Reno to grant Alan's request. I have just learned that Alan's wife's expedited visa request has been rejected, and she has been forced to schedule an unwanted abortion tomorrow.

Mr. Speaker, fellow Members, I implore you to contact the Attorney General. She can prevent this atrocity. Pick up the phone, call the Attorney General. Ask her to intervene in this life-and-death situation immediately. If you would like to help and want to know more call my office.

HOUSE OF REPRESENTATIVES,
Washington, DC, April 4, 1994.

Hon. JANET RENO,
Attorney General, Department of Justice, Washington, DC.

DEAR MADAME ATTORNEY GENERAL: We have recently learned of a disturbing situation and are writing to ask for your intervention. A young woman in China, awaiting her visa so she may join her husband in the United States, is in need of humanitarian parole as she is going to be "forced" by the Chinese Government to have an abortion.

Alan Wanrong Lin is a permanent resident of the United States. He lives and works in California. He is married to Jihong Liu, who is still living in China. Jihong Liu has been accepted by the Immigration and Naturalization Service to enter the United States (Petitioner A# A72-456-165; priority date—4/15/93) and is now awaiting her preference 2 visa. Jihong Liu and Alan have recently learned they are expecting their first child in about 7 months. Unfortunately, according to Chinese rules, it is preferable for the mother to be 23 years old. Jihong Liu is only 22 years of age. Now, Alan and Jihong Liu are fighting for the life of their unborn child.

When Jihong Liu applied for a birth permit, she was denied based on her age. She does not want to have an abortion, and has gone into hiding to protect her child. She is patiently awaiting the day when she may join her husband, and is looking forward to raising her child as an American citizen. We strongly encourage you to intervene in this heartbreaking situation. It is our understanding that she may qualify for humanitarian parole into the United States due to the life threatening situation she now finds herself in. She has applied for humanitarian parole through the American Embassy in Bangkok, Thailand, and we strongly urge you to act quickly in this situation. Time is of the essence, as the Chinese government will require Jihong Liu to have an abortion by the end of her third month, which is fast approaching.

We appeal to you to look favorably upon this situation. No mother should be denied the choice of having a child. Enclosed is a letter from Alan Lin to President Clinton begging for assistance. If there is anything you can do to help this young couple and their unborn child, we would greatly appreciate it.

Thank you for your consideration and prompt action in this matter.

Sincerely,

George Miller; Joe Barton; Henry J. Hyde; Marge Roukema; Tim Penny; Greg Laughlin; Jim Saxton; Dick Armey; Ileana Ros-Lehtinen; Lamar Smith; Joe McDade; Jerry Solomon; Chris Smith; Newt Gingrich; Bob Inglis; Tom DeLay; Mike Crapo; Frank R. Wolf; Dan Burton; Bob Dornan; Bob Livingston; Mike Bilirakis; Matthew G. Martinez; John Boehner; Jack Kingston; Neil Abercrombie; Tim Hutchinson; Bill Baker; Jim Slattery; Peter DeFazio; Nancy L. Johnson; Barbara F. Vucanovich; Thomas Bliley; Barney Frank; Sam Gejdenson; Nancy Pelosi; Bill Sarpalius; Dana Rohrabacher; Ernest Istook; Pete Hoekstra; John T. Doolittle; Helen Delich Bentley; Gary Ackerman; Charles T. Canady; Jennifer Dunn; Pete Stark; Peter T. King; Christopher Shays; Eleanor H. Norton; Cliff Stearns; Bill Hughes; Ben Gilman.

Fujian Province Birth Control Regulations—Passed at the April 29, 1988 Second Meeting of the Seventh Fujian Province People's Congress Standing Committee

Amended in accordance with the "Decisions Concerning Amendments to the Fujian Province Birth Control Regulations," from the June 28, 1991, Twenty-Second Meeting of the Seventh Fujian Province People's Congress Standing Committee.

CHAPTER I—GENERAL PROVISIONS

Article 1.—These regulations have been adopted in accordance with the Constitution of the People's Republic of China, the Marriage Law of the People's Republic of China, and all pertinent national regulations, in consideration of the actual conditions in Fujian Province, so as to control population, improve the quality of the population, and make population growth suitable to economic and social growth.

Article 2.—Carrying out family planning is one of China's fundamental national policies. It shall be carried out primarily through persistent propaganda, education, and encouragement, supported by necessary economic and administrative measures.

Article 3.—It shall be the duty of both husband and wife to implement family planning. The legitimate rights and interests of citizens carrying out family planning shall be protected by the law.

Article 4.—The People's Government at all levels shall implement these regulations by reinforcing the leadership of family planning work.

CHAPTER II—BEARING CHILDREN

Article 5.—Advocate late marriage and pursue late child-bearing. Marriage by men fully 25 years of age or older and women fully 23 years of age or older shall constitute late marriage. Birth of a first child by a married woman fully 24 years of age or by a woman who conceived following a late marriage shall constitute a late birth.

Persons not meeting legal age requirements shall be prohibited from marrying or bearing children.

Unplanned births shall be prohibited.

Illegal adoption of children and giving up of children for adoption shall be prohibited.

Article 6.—In the event that a rural couple who has given birth to one child encounters actual hardship, conforms to one of the following circumstances, and has requested a second birth, that couple may give birth to one additional child.

In the event that parties who do not reconsider or start legal proceedings within the legal time limit still refuse to comply with and execute [the regulation], the organization determining tax and fines collection shall apply to the People's Court for enforcement.

NEEDED AND LONG OVERDUE IS A PEACEFUL BURIAL FOR THE ICC

(Mr. HORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HORN. Mr. Speaker, attached to my remarks will be an article from yesterday's Wall Street Journal concerning the Interstate Commerce Commission [ICC]. As most of us know, that is America's oldest regulatory agency. Last month, it celebrated its 107th birthday. At one time there was great need for the ICC. Farmers were being robbed blind by the railroads of America. Today we have deregulation and competition between railroads, competition between railroads and trucks, and competition between water and land transportation.

Mr. Speaker, we need to take a look at the ICC and how it functions. We need to rethink its mission. It has dropped from 2,000 employees in 1980 to 630 at the present time, but it is an agency of high-paid commissioners and a lot of staff still looking for a mission. The ICC is still dealing with a 14-year-old dispute as to whether the railroads were charging too much to transport corn syrup between Texas and California, when the shipping rate has already been decided by the free market.

The ICC has had little effect in the last 4 years in stopping railroads from giving up track. The railroads abandoned enough track to go round trip from Seattle to Miami and back. The length of track prevented from abandonment would not even be a round trip from Seattle to Tacoma. So much for effectiveness.

Perhaps any legitimate functions that remain should be turned over to the Department of Transportation and a few administrative law judges. That would save the taxpayers many millions of dollars.

Let us take another look at the ICC and give it a peaceful burial.

Mr. Speaker, I attach an excellent article by Daniel Pearl entitled "ICC Keeps Truckin' Though It Has Lost Much of Its Authority." It appeared in the Wall Street Journal of April 27, 1994.

ICC Keeps Truckin' Though It Has Lost Much of Its Authority

(By Daniel Pearl)

Washington—In a large, dusty room on the fourth floor of the Interstate Commerce Commission building, paper is piling up all over the place. Faded blue and green binders are stacked from floor to ceiling in 14 corridors, as well as on desks and chairs. And every day, five days a week, clerks in T-shirts haul in an estimated 16,000 more pages from the nation's trucking companies.

The papers detail how much truckers intend to charge to ship everything from alpaca wool to zirconium. At a row of desks near gray-draped windows, ICC examiners armed with pencils, yellow highlighting pens and 47-page rule manuals inspect every line of each new filing as though the nation's transportation system rides on it. If a filing, or "tariff," passes muster, it remains in the Tariff Examination Room. Then some year, it is hauled by shopping cart to the Cancelled Tariff Library.

A METAMORPHOSIS

It is a place Franz Kafka would have loved. The tariffs have little meaning. The ICC no longer has the power to regulate the shipping rates listed in the filings. So companies that have products trucked don't protest the rates. In fact, few people can decipher them. And most freight now moves in ways that don't require them.

But this paperwork is the fuel that helps keep Washington's oldest regulatory agency going. Critics say the ICC, created in 1887 to ride herd on emerging railroad monopolies, has had no important function since Congress deregulated the trucking and rail industries in 1980. But the agency has withstood attacks by everyone from Ralph Nader to Ronald Reagan. Over the past several months, attempts to cut its $45 million annual funding have failed on Capitol Hill.

It is, in short, the agency that won't die. "If we can't get rid of the ICC, I don't think we can get rid of anything," says Republican Sen. John Danforth of Missouri.

In Washington, even programs that attract widespread ridicule develop a protective shell. Lawmakers like keeping jurisdiction over independent agencies such as the ICC. Regulated companies don't want to incur a regulator's wrath, and some even feel more secure with the ICC around. New officials at the agency become its champions. Says Gail C. McDonald, the ICC's recently appointed chairwoman: "In being here, I have found we have an important jurisdiction, and I feel the protections we provide the public are important ones."

STICKY ISSUE

Others have their doubts. "A lot of what we do is just foolish," one longtime ICC bureaucrat says.

In late 1991, for instance, the agency took up this sticky question: Should candy canes have a classification separate from candy, in a rate table that some truckers use? "A candy cane could be considered a stick of candy which has a crook in the end," argued Bob's Candies, a confectioner in Albany, GA. But a truckers' group said candy canes take up more space than other sweets. The ICC sifted through briefs, depositions and density tables. It still hasn't ruled. In the interim, Bob's says it has persuaded truckers to carry its candy canes at the candy rate.

Meantime, the ICC also is still working on a 14-year-old dispute over whether railroads were charging too much to ship corn syrup to California from Texas, even though such rates are now determined by the free market.

MAKING WORK

The agency's 630 employees (down from 2,000 in 1980) try to make their jobs relevant. They write guidebooks, such as 1992's "So You Want to Start a Small Railroad." Fran Grimmett, who has been with the ICC for more than two decades, spends three months a year compiling a list of minority- and women-owned trucking companies. She developed a computer database for the task and now surveys the businesses every year. "I think this is in response to a demand," she says, although "perhaps it didn't start out that way."

All of this activity is overseen by five ICC commissioners (at least two must be Democrats, two Republicans). With less to regulate, the job of ICC commissioner, which pays $115,000 a year, has become a leisurely one. The commission met 11 times last year, but as many sessions were canceled for lack of an agenda.

ICC commissioners can hire five staff members each, but Gregory Walden, a Republican who served as a commissioner most, of last year, says he had trouble finding enough work for two. Mr. Walden has a reputation among the ICC staff as hard-working, but says that even after researching each vote thoroughly and proofreading opinions, he had plenty of time to linger over the morning paper.

Commission staffers "are probably among the most frustrated in government service," says Frank Wilner, author of "Comes Now the Interstate Commerce Practitioner," a book about the agency.

At one time, though, the ICC had real power. It set time zones, decreed that trains could be racially segregated and blocked truckers from going into business if they couldn't prove a need for their services. Being an ICC commissioner was second in prestige only to a Supreme Court justice. In 1944, Commissioner Joseph B. Eastman talked about "sitting in dignity and looking down on the supplicants from the elevation of a judicial bench."

The pomp remains evident as one walks under the gargoyles and columns of the ICC building's facade, past busts of four former commissioners. Before ICC meetings, a clerk still intones, "All rise," as the commissioners walk single file to their places behind a long desk, with a mural of the U.S. behind them.

Most of the ICC's clout has evaporated. In the wake of the deregulation of the 1980s, the ICC now can set trucking and rail prices only in situations where competition doesn't exit, something that has become rare. The agency still reviews railroad mergers. And it still processes applications for new trucking or rail service, though it has virtually no power to turn them down. A typical ICC announcement is like the recent one about a $2,500 fine against an Allston, Mass., auto-delivery company for operating without insurance.

Most of the ICC's legal work still emerges from the tariff filing room. The tariffs are complicated because shipping rates change. While some truckers refer to mileage charts or tables, many actually spell out rates for carrying each product to each destination city from each origin city, as well as specifying the discount for each customer. Tariffs alone for Yellow Corp., a motor-carrier holding company, fill 200 binders. And the number of trucking concerns has doubled since deregulation.

Why do all those tariffs still have to be filed, when the ICC no longer regulates trucking rates? "The Interstate Commerce Act hasn't been repealed," declares Charles E. Langyher, chief of the Section of Tariffs. Tariff filings were aimed at preventing truckers from discriminating against certain customers. But now, shippers just call a rival if they don't like a trucker's prices. Mr. Langyher says nobody has made a rate-discrimination complaint in more than a decade.

IN THE SLOW LANE

ICC officials say a manufacturer considering locating a factory somewhere could use tariffs to check the local trucking rates. But the manufacturer would face a daunting array of tables, cross-references and revisions, as Cathy Stamback demonstrates by thumbing through Schneider National Inc.'s blue binders. Ms. Stamback, who works for one of six tariff-watching firms that rent space at the ICC, says that in 2½ hours she could find what the Wisconsin trucking company charges to ship printed matter to, say, Miami from Oshkosh, Wis. "Some of this belongs across the street," she says, nodding toward the Smithsonian Institution.

The folks at Schneider, like many trucking companies, would be happy if tariffs were, indeed, consigned to history. The company says it will assign four employees and pay $20,000 in filing fees this year to record its rates. To raise prices, truckers must wait at least a week after filing a tariff, a delay that could cost a bundle if fuel prices rose suddenly. But other truckers say they like the tariff-filing requirement because it keeps prices more predictable. Labor groups also support it.

Customers of those trucking companies rely on the ICC for another reason. In the past few years, many have been sued by the bankruptcy trustees of defunct trucking companies for getting lower rates than the tariffs spelled out. Tariff rates were routinely ignored in the 1980s. Richard Johnson, co-owner of a carpet wholesaler in Tampa, Fla., says he didn't even know tariffs still existed until he got two boxes full of bills last year from the trustee of BGR Transportation Co. of Calhoun, Ga.

The ICC has helped him and hundreds like him defeat the trustees' claims. Mr. Johnson says the agency decreed that the tariff that came back to haunt him was invalid in the first place because the now-defunct trucking company never filed the proper paperwork when it changed its name. While Mr. Johnson calls the ICC "filing clerks," he also hopes the agency sticks around.

Under Ms. McDonald, a Democrat, the ICC is trying to make tariffs more relevant. The agency has hired nine new inspectors to read filings. It installed three facsimile machines last month to receive copies of contracts, and it plans to start making tariffs available electronically. The agency has also halved its management ranks, cut paperwork and set up a toll-free telephone number for complaints from citizens ("We call them customers," the agency says). Last week, the commission said it would hold 36 training seminars in 29 states on a tariff law passed by Congress last year. It recently held brown-bag lunches for employees to learn what other employees do.

LOOKING HOME

Congress has an interest in keeping the ICC alive. Despite the agency's lack of real power, the ICC can help lawmakers look important to the folks back home. Members of Congress sometimes pass on complaints to the ICC about moving companies that won't pay after breaking constituents' belongings. And they demand that the ICC hold public hearings when a railroad asks for permission to abandon money-losing stretches of track.

Congressional intervention is largely for show, though. In the past four fiscal years, railroads abandoned enough track to reach Miami from Seattle and back; the track the ICC stopped railroads from giving up would barely make the round trip from Seattle to Tacoma. And the ICC imposed just one fine against an errant mover in that time. (ICC officials say that a phone call is usually enough to get a moving company to shape up, and that the agency puts conditions on many of the rail abandonments it approves.)

Lawmakers' stature depends partly on how many agencies their committees oversee. Proposals to eliminate the ICC have gone nowhere within the Senate and House committees with jurisdiction over the ICC. And when House members outside two such panels offered an amendment last fall to kill the agency's funding, 42 of the 58 committee members voted against it. Rep. John Kasich of Ohio, who co-sponsored the amendment, says a fellow Republican "told me he voted against it because I was messing with his jurisdiction."

That support also was evident at a celebration last month to mark the ICC's 107th birthday. The agency formally unveiled a bronze bust of Clyde Bruce Aitchison, a commissioner from 1917 to 1952, as an eight-man military guard presented the colors and a 20-member chorus sang "God Bless America." House Public Works and Transportation Committee Chairman Norman Mineta displayed an alarm clock that plays "I've Been Working on the Railroad." And the California Democrat told the agency he would defend it against those wanting to cut off "the funding it needs so all of you can do your very, very important jobs."

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. LANCASTER). Under the Speaker's announced policy of February 11, 1994, the following Members are recognized for 5 minutes each.

VISIT OF BOTH IRISH CHURCH LEADERS TO THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. FOLEY] is recognized for 5 minutes.

Mr. FOLEY. Mr. Speaker, 1994 marks the 1,550th anniversary of the advent of Christianity in Ireland. To mark the historical significance of this date, the city of Armagh, the ancient seat of both the Catholic and Anglican primates of all Ireland, has launched a yearlong celebration.

As part of this celebration, these two men of God, Cardinal Cahal B. Daly and Archbishop Robin Eames, have come to the United States for a brief visit. Their purpose is not only to mark the historical coming of St. Patrick, but to proclaim anew his mission of peace. They have joined together to ask the support of the American people and its Government for the peace process in Ireland.

I had the privilege of meeting the Cardinal and the Archbishop during their stay. They emphasized to me their strong support for the Downing Street Declaration issued by Irish Prime Minister Albert Reynolds and British Prime Minister John Major as a way forward toward peace in Northern Ireland. They talked of renewed efforts at reconciliation between their two religious traditions and of the willingness of their churches to be a part of that effort. They applauded the work of the International Fund for Ireland in creating jobs—and therefore hope—for thousands of Irish youths who might otherwise turn to violence. Lastly, and most importantly, they expressed urgency—urgency for political dialog, urgency for economic growth, urgency for an end to violence from all sides.

Mr. Speaker, I regret to say that other events have inevitably distracted the attention of the American press from this visit, brief though it was. I say that because I so wholeheartedly endorse the message of Archbishop Eames and Cardinal Daly, but also because I suspect that it would come as a surprise to many Americans who might have heard it otherwise. So many in Ireland, so many in Northern Ireland—not just in the churches, but throughout every walk of life—desperately want an end to the violence which is the only facet by which the average American knows Northern Ireland. They want a political settlement acceptable to both traditions and they are anxious that such a settlement be reached soon.

I include at this point the statements of the cardinal and the archbishop, both of whom are Archbishops of Armagh, expressing each's views and hopes for the year ahead.

VISION FOR THE FUTURE

(By Archbishop Robin Enmes—Archibishop of Armagh, Primate of All Ireland)

ARMAGH TOGETHER 1994/95—VISIT TO THE UNITED STATES

Reconciliation is not an event—it is a process. As such it has many different parts. These parts are contributed by people at landmarks. No contribution is too large or too small. The Christian concept of this process is that we are all called to do what we can, as we are and where we are, to encourage it to happen and to push forward the day when all will see it's value. That day will dawn for Ireland. No one knows how long it will take, but on one thing we can be certain—the peacemaker is the person whose efforts and whose visions are blessed by God—the person who believes it is God's will that Ireland should find peace.

The road to peace is long and hard. Lives have been lost and hearts burdened by the hurt we have inflicted on each other. Suspicion and division have soiled what could have been. Today more than ever there is a great yearning throughout this island for an end to violence. Once that comes, as come it will, the real mountain to be climbed will be the need to maintain peace, to strengthen justice and to build a society in which generations as yet unborn will live in peace.

It is to that task that we are all called. It is to that task that the spirit of St. Patrick points us. It is from this historic city of Armagh, so rich in heritage and yet reflecting so much of Irish life and experience, that the call to greater understanding, greater sharing of resources and interests and greater effort at building bridges comes. Bridges across which we can walk. This is the call which comes from Armagh Together in this 1550th year of the birth of Christianity in Ireland.

That is the message we want to bring to the United States. That is the message in which all of us of any tradition can join. The hour for this witness is now. Under God we pray that we may be equal to the needs and the opportunities of the hour.

THE CHRISTIAN "PEACE PROCESS"

(By Cardinal Cahal B. Daly)

ARMAGH TOGETHER 1994/1995—VISIT TO USA, APRIL 25–27, 1994

When peace comes to Ireland and violence ceases, and we all hope and fervently pray that this will happen soon, this will be only the beginning of a long process of learning new ways of living peacefully together with our neighbours of different religious or political convictions, with each community fully respecting the rights and the culture and the tradition and sense of national identity of the other. There are deep wounds caused by violence to both communities, which have to be healed; there are bitter memories to be overcome; on both sides there are painful wrongs to be repented of and to be forgiven; there is much guilt and remorse to be brought to Christ for the touch of His forgiving hand, we must pray for the grace to be part of this process of healing and of forgiving the past and shaping a new and more just and Christian future. We must pray for the coming of the Holy Spirit into our society and into our own lives, to renew the face of the earth, and to "complete Christ's work on earth and bring us the fulness of grace". God has promised to "do a new deed" for His people. He wants each one of us to be part of this "new deed", this new society which He wishes to create in this island of ours. He wants us to take the initiative and be the first to reach out the hand of friendship to people of the other community. We must pray for and we must be part of a fresh forward thrust in the work for unity and love between Christian Churches. This is where the Holy Spirit is calling us and all Christians at this time. In Ireland it has a special urgency.

God always loves us first. He always gets in first with His love and forgiveness. He wants us to be the people who will make the first move. The making of peace will not be finished when violence permanently ends; it will merely change into a new gear. We Christians must begin now preparing to play our full part in the peacemaking process which will continue for the rest of the lifetime of all of us now living. Armagh Together wants to be an active part of this process. St. Patrick calls all Irish Christians to this task in this year when together we celebrate Armagh's 1550th anniversary as Ireland's ecclesiastical capital and Primatial City.

A TO Z

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, why do we need to have an A-to-Z spending cut session? Why take the extraordinary time and effort needed to force the bill to the floor through a discharge petition? The answer is: because the regular procedures of this House have broken down. Members are frustrated by the stranglehold the majority leadership has over the amendment process, and they are voting with their feet by joining the A-to-Z effort.

Mr. Speaker, if there is one message we receive from our constituents loud and clear, it's: cut spending first. Yet when we review the recent history of specific spending cut proposals, we consistently find concerted efforts by the majority leadership to block or defeat these measures.

In the weeks leading up to the vote on the Penny-Kasich spending cut package, for example, our offices were bombarded with calls and letters from committee chairs, cabinet members, and every special interest under the sun. The campaign waged against this package—which would have cut a mere 1 percent of Federal spending over the next 5 years by targeting specific line items of the budget for reduction or elimination—was almost as intense as the push to pass the Clinton tax package.

Today we are hearing the same hardline language from Speaker Foley and the rest of the majority leadership. Saying that "spending has been cut to the bone," the leadership wants to prevent the A-to-Z proposal from ever reaching the floor. In fact, it appears that they have even rejected a weak compromise of a promise of a spending cut vote at a later date in favor of killing A to Z outright.

The sad fact is that for every specific spending cut amendment that makes it to the floor, there are many more that are shut out in a much less public process. The majority-dominated Rules Committee regularly blocks consideration of amendments to cut Federal spending. The Rules Committee room has become a graveyard for hundreds of responsible suggestions to save tax dollars and reduce the deficit.

Most members who bring budget-cutting amendments to the Rules Committee are not looking for special treatment, they are simply trying to exercise their right to improve the legislation considered in this House. Instead of getting a fair fight—an up-or-down vote on the floor—these members' amendments are arbitrarily denied.

As a minority member of the Rules Committee I see first-hand how the process works. Last year I tried to offer specific spending cuts to replace several of the major tax increases in the President's tax bill; despite widespread interest in both spending cuts and reducing Americans' tax burden, I was prevented from bringing my proposal to the full House.

This year, I wanted to offer a package of 76 spending cuts to the budget resolution; these cuts could have saved some $285 billion over 5 years—but again the Rules Committee set up a roadblock to my request. And I was not alone; DAN SCHAEFER and TIM PENNY were prepared to offer a bipartisan substitute to the budget resolution, a substitute which again would have saved hundreds of billions, yet they too were denied to the ability to offer their proposal on the floor.

The A-to-Z special session will allow Members to offer their specific spending cuts, without interference from the Rules Committee. These cuts will not have any guarantees of passage, and many may fail. The important point is that they will receive a fair hearing on the House floor, where all of the elected Members of Congress can finally work their will.

Mr. Speaker, if the House were operating in a responsible, open manner, maybe we wouldn't need an A-to-Z session. But it's not and we do. I urge my colleagues to sign the discharge petition next Wednesday.

SOUTH AFRICAN ELECTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Oregon [Ms. FURSE] is recognized for 5 minutes.

Ms. FURSE. Mr. Speaker, I speak today with a great deal of emotion about a subject that I have some unique experience with. I want to speak about what I believe is the most amazing transfer of power in history. The election in South Africa has been the change from apartheid to democracy through the process of consensus rather than revolution.

Mr. Speaker, I was once a South African citizen, and I remember only too well what apartheid meant. It meant that oppression and fear ruled that beautiful land, not the rule of law. I had that experience, Mr. Speaker, and I was very fortunate.

When I grew up in South Africa as a teenager, I was able to protest against apartheid with an organization called the Black Sash, an organization of women who decided that they would stand against the horrors of apartheid. And throughout the decades, Black Sash has continued its strong, nonviolent, unrelenting vigilance for peace and justice for all South Africans. I am very proud to have been able to be one small thread in the broad, all-inclusive banner of justice which today waves freely across the entire country that is South Africa.

What happened in South Africa these last 3 days is a tribute to the human spirit, the spirit which never loses sight of the vision of freedom.

For 26 years Nelson Mandela was imprisoned; he was treated brutally, but he never, never lost his faith in nonviolence. Mr. Mandela was not alone; millions of South Africans suffered, and yet they also held to the great principle of nonviolence.

□ 1750

South Africa has been a land of horror to the majority of its people, a land of violence to the body, to the mind, to the spirit, a land where no security existed, no security for the family, for decency, for education and, indeed, for life itself.

Now violence may come in South Africa from those who are fearful that those benefits that they have enjoyed will now be only enjoyed by those who work for it, not just those who are born with it, where people are judged finally in South Africa not by their color but by their contribution.

But it is essential to realize that for decades there has been unrelenting violence toward those of African descent or those who opposed apartheid, and yet today, Mr. Speaker, we have this great opportunity, for the very first time in so many years, to say that the people of South Africa are joined together in this great experiment.

Mr. Speaker, I think we are most fortunate to have lived in this year, to have seen this great opportunity for democracy and, Mr. Speaker, I want to say that tonight my heart is very, very full of joy for this great, great experience.

FIFTY YEARS AGO TODAY

The SPEAKER pro tempore (Mr. LANCASTER). Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, I am very glad tonight that I have got a tall Washington marine here by my side, the gentleman from New York [Mr. SOLOMON]: once a marine, always a marine. I have in front of me a book that I understand is a series put out by the Marine Corps. I hope all the services are doing this. I found this in the El Toro ready room during our trip for former President Nixon's funeral. It's on Tarawa.

We just passed the 50th anniversary of that amazing fight. The highest casualties we had taken since Pearl Harbor happened on that day, and I find out there is a whole series of books, I say to the gentleman from New York, "Marines in World War II Commemorative Series." Take a look at that and call for the whole set, and I will let the gentleman know how to do it.

First, Mr. Speaker, before I start, last week I did a special order on crime, and I put in quotes that the people want revenge, not in the meanest sense of the word but, instead, in the context that they want to feel safe on the streets, and I put in a series of excellent articles by Ben Wattenberg and Paul Johnson, the great English writer, parliamentarian, and philosopher who wrote "Modern Times," which I understand from the gentleman from California [Mr. COX] has just been updated, and, because I put in so many solid articles, I came up with a small figure here, given what the special orders cost, of $1,087. I am going to enter this in the RECORD with my special order from last week.

Mr. Speaker, I labored under the delusion, when we passed the 50th anniversary of Pearl Harbor back in December 1991, two Congresses ago, that we would be having a series of special orders during this 50-year commemorative period at least for all the highlights, for all the major battles, for Normandy's 50th anniversary coming up this June, for the Battle of the Bulge at the end of this year, for Tarawa last year, for all the horrible, slug-it-out battles that we are commemorating this week, last week, and the week before as we landed on the Admiralty Islands above New Guinea, all that incredible jungle combat with our Australian allies all across the northern coast of New Guinea, which seems to get so little coverage here in America, and it just has not happened. Except for one or two of us, Mr. Speaker, nobody remembers these 50th anniversaries as they pass.

Well, today is one that was kept secret, a great tragedy involving much friendly fire, which is one of the amendments that I hope to get passed on our defense authorization bill this year. But today, April 28, is the 50th anniversary of an incident so horrible that it was kept secret for the entire war.

I bring us this tiny little blurb from the newspaper, Mr. Speaker, and I hope that the million and a half people listening will remember again the debt we owe to the George Bushes of the world and to all those people that wore the uniform, especially those who suffered in combat in the dark years of 1942 and 1943; what we owe our 14,000,000 veterans who conquered Hitler, Tojo, and Mussolini in unbelievable record time.

Fifty years ago today nine German torpedo boats—it doesn't say, but they were called E-boats, and they were the equivalent of John F. Kennedy's PT

109—they stumbled, dumb enemy luck, on an allied force practicing off the southern English coast for the Normandy invasion which was to come 6 weeks later. Three of our huge landing ships were torpedoed by these German E-boats, and hundreds of men in our amphibious force were killed, dozens of them by friendly fire. We lost 749 American soldiers and 197 sailors, and it was the worst single day of U.S. losses since Pearl Harbor. As I said, Tarawa was the worst battle loss, but this is a single incident, and it was kept secret until the war was over for purposes of morale.

I guess the parents of each one of these people that died never knew that 946 other people had perished the day their son died, so they thought it was just a simple training accident. They did not realize it was in combat, out in the channel, getting ready for the fantastic and successful D-Day invasion.

Mr. Speaker, little incidents like these pass at 50 years, and it reminds me of Ronald Reagan's goodbye speech to his fellow Americans 9 days before George Bush was sworn in as the 41st President. President Reagan, on January 11, 1989, told all of us that we were losing our history. We were forgetting the sacrifices that men and women made through two centuries to give us this, the world's freest, most open country and open society ever. And then, President Reagan—and I wish I had his words in front of me—spoke out to the young people of America and gave them permission to go and chew out their parents at the dinner table or the kitchen table, to say to their parents, "If you are not teaching me the history of our Nation, you should be ashamed."

Mr. Speaker, this is a kind of fascination of mine, about the size of our Nation, and I think about it at funerals, like President Nixon's—and let me just finish this one sentence, Mr. Speaker: When President Nixon was born, we barely had 100 million people. When I was born, Mr. Speaker, it was 125 million. When World War II started, it was 130 million plus. Now, we are twice our size on the date of Pearl Harbor—260 million people—and we seem to be confounded by the smallest of problems.

We are Americans. We ought to be able to do anything we set out to do, like balance the budget.

THE IMPORTANCE OF TWO-PARENT FAMILIES

The SPEAKER pro tempore (Ms. LONG). Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Ms. Speaker, as we discuss welfare reform, we will talk about and emphasize the importance of values and the behavior of families receiving welfare assistance. However, we also need to emphasize how important strong families are to our society, be they poor, middle class, or rich.

Two-parent families are the ideal both for economic and for psychological reasons. First, a two-parent family is best adapted to provide for children. Our Nation's economy is such that in most families today, both parents are needed to work outside the home in order to make ends meets. A single-parent family, in today's economy, is at a decided disadvantage, even if that parent is not poor.

A two-parent family is also ideal for psychological reasons. Our children need the love and support of both their mother and father and to see them as positive role models to nurture and help develop them into mature, well-adjusted, contributing adults. The rise of crime on our streets today is proof that our families are failing our children.

However, in many instances two-parent families are impossible; therefore, efforts must be made to encourage strong, stable families even if there is one parent.

During the debate on welfare reform, we must be careful not to single out poor families as the demons or scapegoats on the whipping block of family values. A lack of values or the deterioration of families are evident in all sectors of American society, be they poor, middle class, or rich. Therefore, we should not pretend during these coming debates on welfare reform that only poor families suffer from a lack of values.

The challenge for us will be to encourage strong, healthy families as a national priority and empower parents on welfare to become self-sufficient and responsible.

A significant number of the families receiving welfare turn to government assistance programs as a last resort after a divorce, separation, loss of job, or the birth of a child to a single parent. These factors that lead a woman to get assistance from welfare, I can assure you, are not problems only that apply to poor women.

Regrettably, our current welfare system has not served families well. Often it has created greater dependency. Once on welfare, the average family will receive a monthly payment of $381 from the Aid to Families With Dependent Children Program. Statistics show that marriage is the most likely route out of welfare. Securing a better paying job is second. There are barriers in the current system which discourage marriage and opportunity to work.

I ask that my colleagues remember why the Aid to Families With Dependent Children Program was created—to support children in poor families. Let us not lose sight of the need to continue our support for poor children. We must not hold the children hostage to the contentious welfare reform arguments.

Rather, we must agree that our reforms must move families to self-sufficiency and responsibility so they can better care for their children. Many of our poor families are struggling against all odds to meet the needs of their children. The question is how best to achieve this goal of self-sufficiency and responsibility. We need to offer a helping hand to those families to help them get the training and education they need to secure decent jobs.

Consistent with the need to create a better family environment, we need to be very sensitive about what we emphasize young mothers—especially teenagers—on welfare to undertake. First, if we are expecting them to receive education and training for jobs, then we must express to them the importance of their role as a mother, by also assisting them in securing child care for their children.

We should stress the importance of the mother's presence in the home and make allowances for young single mothers to have their first priority be their child—and allow them to participate in jobs and training programs on a part-time basis.

We must also recognize that many young mothers need more than just financial assistance. They need moral support and in many cases parenting training to prepare them for their role as a mother. Teenage parents—mother and father—must be taught to be responsible for their children.

Again, I want to emphasize the importance of strong families to our social fiber. And in this vein, I want to urge my colleagues to work with me to tear down the impediments to two-parent families that are inherent in the current welfare system and work to make the system supportive of our poor families and children.

Finally, and simply stated, family values mean providing for a positive family environment where children can mature into productive individuals within the proper family setting. We need to enact public policy which encourages self-development of families by enabling more families to work and escape the persistent poverty by their own creative work efforts.

□ 1800

REMEMBERING PRESIDENT NIXON

The SPEAKER pro tempore (Ms. LONG). Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

Mr. DREIER. Madam Speaker, a week ago today I wrote a note, a get-well message, to President Nixon telling him that one of the greatest honors of my life has been the opportunity to represent a large portion of the congressional district which originally sent him to Washington. Yesterday the world watched the very moving service that took place in Yorba Linda, CA, at the library and birthplace of President Nixon.

There has been this looming question which many have posed about young people. They have been asking, why is it that there seems to be this great admiration and respect and love for a President who was forced to resign?

I think that there are several very important messages which come to us from Richard Nixon's life, and I think the thing that has struck this chord with young people has been primarily the fact that he was able to successfully overcome adversity on so many different occasions. Frankly when he suffered his stroke a week ago last Monday, I assumed that he would overcome that adversity, too, and we are all extraordinarily saddened that he did not.

Madam Speaker, there are many people who have gotten this message that while we face very serious challenges in life and things are tough, we have got to move ahead. That is the one message that I try to relate to young people about Richard Nixon's life.

We know that from very early on in his life, all the way up to just this past week, that he faced very serious challenges. He was a fighter, and he was a person who did remain in the arena. That should tell young people that when we look at the many challenges that exist in this country and in our world today, do not throw in the towel. Continue to fight. Do everything possible to succeed. That is why I think so many people have been so inspired with this man's life.

Madam Speaker, I will never forget when he stood right here in this well and talked about the need for us to provide assistance to Russia, providing a very eloquent speech to members of the Republican conference. I believe that President Nixon was the world's preeminent foreign policy intellectual.

Madam Speaker, one of the most interesting things I have observed is that throughout the cold war, we had a great degree of stability. But quite frankly, as we have looked at the post-cold-war world, we have had very few people who have been able to provide a great deal of insight. Richard Nixon has provided that for the past several years. Why? He demonstrated he had this amazing ability to deal with rapidly changing situations, and that is why I believe, I know for me personally and for many in this Chamber who had the benefit of hearing from him on many occasions, that he will be sorely missed.

Madam Speaker, there are some who said to me, "Well, he lived a very full life," and as President Clinton said yesterday, he was in his ninth decade. So one might conclude that we were simply looking at a retired octogenarian, but I do not believe that to be the case at all. I have known him for the past 10 years and I would say that up until the past week, he clearly was in the prime of his life. He was in the prime of his life because he was always looking to tomorrow. He was always working diligently to ensure that we could improve the quality of life for people in this country and throughout the world.

Madam Speaker, there are so many people who played a very important part in Richard Nixon's early political life, and I would just like to mention a few of them. One I was just reminded by a man who works in my district office, Mark Harmsen. His grandfather, Fred Harmsen, was a member of the original Committee of 100 who was looking for a candidate to run for Congress back in 1946 and recruited President Nixon. Ray Arbuthnot, Don Peters, Clint Harris, Hubert Perry, and our former colleague, Pat Hillings, these are people who worked for many years to support Richard Nixon. Margaret Brock, who has been on my campaign committee since I first ran, was one of the early and very strong supporters of Richard Nixon.

Madam Speaker, there are so many people who played a role in encouraging him. He provided a great deal of inspiration to all of them, to the United States of America, and to the world, and he will be sorely missed.

Madam Speaker, our sympathies go to all the members of the Nixon family. We know very well that the world is a better place today because of the life of Richard Milhous Nixon.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Ms. LONG). Under the Speaker's announced policy of February 11, 1994, the gentleman from Washington [Mr. McDERMOTT] is recognized for 30 minutes as the designee of the majority leader.

UNIVERSAL COVERAGE

Mr. McDERMOTT. Madam Speaker, it is my hope, legislative business permitting, to talk to the American people every week about one issue in health care reform and how it will affect them personally.

I want to talk to the American people tonight about an aspect of health care reform that the President has made the measuring stick of every proposal—universal coverage.

Tonight, we need to talk about why every American, not just the uninsured, needs universal coverage. And we need to talk about what exactly universal coverage means.

Universal coverage means every American always has health insurance, insurance that can never be taken away. No matter how your job changes, or whether you are a homemaker or self-employed or work part-time or lose a spouse or move, your health insurance is constant. It is something you can count on.

It also means that the health insurance you get is substantial enough to give you real security.

If you can still go bankrupt from health care bills, it's not real security—and it's not universal coverage.

Universal coverage is a two-word concept. Not only must it include everyone but the coverage has to be generous enough to really protect people.

Universal coverage means real protection so if you lose your job or get sick or are in an accident or give birth to a handicapped child, you know you can still get the health care you need without going broke—and without worrying about it.

Universal coverage means everyone—everyone—is in the system so there are no more games about who gets care under what circumstances and where.

And no more games where you get coverage if you meet one definition but if you life changes, you don't get that insurance anymore.

If everyone is in the health insurance system—and we all know everyone is in—then we don't have to waste any more time, and money, and paper trying to figure out who gets what—and for how long.

So why do you and your family need universal coverage? Because right now most Americans are just one pink slip away from losing his or her health insurance.

Right now, if you lose your job, you lose your health insurance. So you not only have to worry about getting a new job and having some income, but you have to worry that if your child gets sick you may not be able to get her the care she needs.

If your company cancels or cuts back on the benefits it offers in its health insurance package—you and your family are at risk.

Right now, if you change jobs or go out on your own in business, you may lose your insurance.

Right now, very few people in this country can say with certainty that they absolutely will have health insurance a month from now. We are the only people in the industrialized world who do not have that certainty. Universal coverage is the only way to get that certainty.

But there is another reason to have universal coverage. As a nation, we simply cannot afford to do without it.

The poet John Donne said, "No man is an island unto himself." Nowhere is this more true than in health care.

Because we don't have universal coverage, everyone who has health insurance pays a higher premium.

Because we don't have universal coverage, people get care too late, in emergency rooms, where it costs much more money than it would if they had had timely primary care.

And hospitals then look for someone else to pick up the tab. Our whole economy is playing a shell game with health care costs, trying to shift them around to different people who pay.

It's called cost-shifting—getting someone else to pay for the people who can't—and it costs the American people a high price.

We will never be able to control health care costs until we have universal coverage. It's that simple. To slow the growth of health care costs, we must have universal coverage.

Every other country in the Western world has lower costs than we do, many have better care, and they all have universal coverage.

Universal coverage is the house of health care reform. We all know that it is better to own your own home than to rent an apartment. But what usually keeps people from buying their own homes? The down payment.

We have to come up with a down payment—the way to get into the house—or, as a nation, we will just have to keep on renting this inadequate and over-priced apartment.

An apartment that is too small, that doesn't suit our needs, that drains our resources and keeps us from ever being able to afford the house.

So how do we get into the house? There is no question that the cheapest, the quickest, the most efficient way to get into the health care house is through single-payer reform.

This is the way every other country in the industrialized world got into the house, and they are living there much more comfortably than we are in our poor apartment.

Single-payer is the way to absolutely guarantee 100 percent universal coverage within 1 year. Even Senator DURENBERGER, who is not a single-payer supporter, acknowledged that only single-payer could achieve full universal coverage with every "i" dotted and every "t" crossed.

Only single-payer guarantees unrestricted free choice of provider and eliminates insurance company interference in the physician/patient relationship. Only single-payer guarantees that you can have a lifetime relationship with your doctor if that is your choice.

Only single-payer provides complete benefits including preventive care, all outpatient and hospital services, prescription drugs, children's dental care, mental health services, and comprehensive long-term care. It takes care of the "coverage" part of universal coverage.

How is single-payer able to do all this? Very simply.

If Americans paid their health insurance premiums to a single national health security fund instead of to all their different insurance companies, and then that single national fund reimbursed health care providers directly for their services the way insurance companies do now, we would save enough money on insurance administration to pay for universal coverage and comprehensive benefits for all Americans.

With single-payer, we get to universal coverage immediately. So don't let anyone tell you we have to phase it in over 5 years, or to the end of the century, or beyond.

We don't need to wait that long. And remember, every year we postpone it, we lose money because we can't control costs. Every year it will cost more to fix the problem. Every year more people will lose their insurance and we will all have more to worry about.

And every year universal coverage is delayed, the chances are greater that something will intervene in Congress to just keep on pushing it back. We will simply lose it.

We can have universal coverage by 1997, and the American people should settle for no less.

When we look around the world and reflect on the events of the last few years, we see historical developments of almost biblical proportions. The Berlin Wall has come down and Russia is a struggling democracy.

Unbelievably, South Africa has ended apartheid and is completing its first nationwide democratic election.

Our fellow industrialized countries are climbing—and scaling—the Mount Everests of political challenge.

Compared to the challenges these nations have embraced, the difficulty of reforming our health care system so that we can finally get everyone into it is so small. It is not Mount Everest. It is not even a hill.

We are the greatest nation in the history of the world. We are the richest and we are the most democratic.

To say that we cannot do something as relatively simple as to get all our citizens into the largest health care system in the world in less time than it took for DeClerk to end apartheid or Gorbachev to bring down the Berlin Wall is unworthy of the American people.

Since when are the American people so weak or so small that we cannot meet our own challenges?

We have witnessed ordinary people around the world in the transformations of recent years and weeks rise to the stature of giants. The American people are every bit their match and we should never concede otherwise.

I urge all of you who want the guarantee of universal coverage for yourselves and for your families to insist on universal coverage by 1997 so that we can finally move into the house that will give us security for the future.

□ 1820

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Ms. LONG). Under the Speaker's announced policy of February 11, 1994, the gentleman from Michigan [Mr. BONIOR] is recognized for 30 minutes as the majority whip.

THE HEALTH CARE DEBATE

Mr. BONIOR. Madam Speaker, we are fast approaching a crucial time in the health care debate. In the next 3 to 4 weeks, three major committees are expected to report out bills. After they finish their work, within 2 weeks, another seven committees are expected to send health bills to the full House.

The next 6 weeks will be a period of very intense activity. And from time to time, as often is the case, we can expect passions to rise. Debate will get heated. Words will be exchanged, and some of us may say things that we later will come to regret.

I hope for the most part we can keep the debate focused on the task at hand and not sink into launching personal attacks against any person or any industry. I hope we can continue to work together to pass the best health care reform bill we can.

Having said all that, Madam Speaker, I regret to say that last week I did not even take my own advice. I said some things about insurance companies that were less constructive and more personal than they could have been. I think it was that great statesman, Yogi Berra, who once said that when you come to a fork in the road, you should take it.

Well, I am standing here tonight as a middle-aged Congressman in a white starched shirt saying that I took the wrong road last week. I regret having done that, Madam Speaker, because I think there is a strong enough case to be made for health care reform without launching into personal attacks.

The facts is that today without reform, small businesses are forced to pay between 35 and 40 percent more than larger firms for coverage, or the fact that 85 percent of the people who do not have coverage today are people who are working full time or part time, or the fact that three out of every four Americans, an amazing 133 million people, have health insurance policies with lifetime limits that cut off benefits when you need them most.

Certainly, those facts are bigger grounds for concern in and discussion and should be the focus of our work. Indeed, Madam Speaker, I believe we are making progress in some of the questions that confront us every day.

As I mentioned, three major committees, Education and Labor, Energy and Commerce, and Ways and Means, are making progress on health reform every day. They are working to have bills reported out of committee by Memorial Day.

On the issues that are of great concern to the American people, issues like the impact on small business and the cost to working families, we are making great bipartisan progress that will not only make health care insurance more affordable but will make the system work better. We are starting to achieve some consensus on the best ways to achieve universal coverage, which is a goal I think nearly everyone has concluded must be a part of the final bill. And we are working with many concerned organizations who have stopped fighting us on health reform and begun working with us to strengthen what is right about our health care system, while fixing what is wrong.

And we are doing it the only way we know how, the only way we have made progress in this great democracy for over 200 years, by debating the issues that face us, by working out the differences that divide us and by coming up with a bill that will improve the lives of all Americans for generations to come.

It is not easy and sometimes it is not pretty to watch, but by staying above the fray and focusing on the task at hand, we are making great progress. It has been nearly 50 years since Harry Truman first proposed national health care reform. But the American people have demanded health care reform. They voted for it. And we are responding to that call.

In 1994, that is going to be the year that we provide all Americans with guaranteed private health care insurance that can never be taken away, not if you get sick, not if you lose your job, not if you change your job, not if you have a preexisting condition, it is going to be there for you. It is going to provide you with the peace of mind and security that the American people do not have today.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from New York [Mr. SOLOMON] is recognized for 60 minutes as the designee of the minority leader.

THE TAIWAN RELATIONS ACT AND THOUGHTS ON HEALTH CARE REFORM

Mr. SOLOMON. Madam Speaker, I thank you for this opportunity.

I am going to have a two-part special order this evening. One will deal with the Taiwan Relations Act and the 15th anniversary of that act. The other will talk about health care and my observations and what I believe needs to be done.

First, Madam Speaker, this month marks the 15th anniversary of the enactment of the Taiwan Relations Act, one of the most important and one of the most innovative pieces of legislation ever to become law. We have a lot of new Members in this body in the last 2 years, last 4 years, that do not realize just how important that act was.

The Taiwan Relations Act is important because it sets forth the terms of the relationship between the United States of America and a friendly former allied country.

Indeed, the Republic of China on Taiwan was a treaty ally which suffered the unprecedented experience of having its diplomatic relations with our country severed by a unilateral action by the President of the United States, at that time, Jimmy Carter, without provocation and in a time of peace.

The Taiwan Relations Act is innovative because it represents a constructive response by Congress to the unusual circumstances caused by the diplomatic derecognition of the Republic of China on Taiwan.

Madam Speaker, I was a representative-elect 16 years ago, concerned with moving to Washington with my five children, which I never moved them here incidentally and they stayed, thank goodness, in my home town and where I have commuted back and forth all these years.

But I was concerned at that time with moving to Washington and putting an office staff together, when the news came that President Carter had decided unilaterally to abrogate the treaty of alliance with the Republic of China, to sever diplomatic relations with them, and to make a diplomatic about face and to recognize the Communist government of mainland China instead.

That news was shocking but it was not surprising. It was not surprising because the drift of events had been clearly evident for quite some time. There was little doubt that President Carter was preparing to yield to Communist mainland China's political demands. Let me repeat that, yield to Communist mainland China's political demands and meet the conditions that the Communist government established as the price the Chinese Government would have to pay in order for them to accept United States recognition.

☐ 1830

What was shocking, however, Madam Speaker, was the timing of President Carter's announcement.

The man who promised never to mislead the American people had given solemn assurances to Congress that any kind of major change in United States policy toward China would not be made at a time when Congress was out of session.

But, in fact, Congress had been out of session for 2 months—the 95th Congress had already adjourned sine die—when President Carter made his announcement.

When I arrived in Washington in January 1979 to be sworn in as a Member of the 96th Congress, one of my chief concerns was the question of how the United States relationship with our longtime ally, the Republic of China, could be set right.

Madam Speaker, only 2 weeks after taking office, I joined a group of Members led by Congressman John Ashbrook of Ohio, and went to Taiwan, in order to assure both the Government and the Chinese people there, that they had not heard the last word from Washington.

In the name of the U.S. Congress, we thanked them for the steadfast support they had given the United States as a treaty ally of ours for over 40 years.

They fought alongside us in World War II, and they stood with us throughout the cold war, as one of our staunchest friends in resisting the spread of communism throughout the world.

As one of the strongest links in a chain of democracies formed to stop the spread of that deadly, atheistic philosophy, the 21 million free people on Taiwan—who live just minutes away from Communist mainland China—stood bravely on the front line, helping the United States deter the scourge of communism, this inhumane form of government that has no respect for human rights—indeed, it has no respect for human life itself.

Madam Speaker, the deplorable treatment of Chinese citizens by the Communist regime continues even today throughout all of mainland China. And America, through the actions of President Carter, literally pulled the rug out from under the valiant, brave, loyal free Chinese allies of ours.

That is why we went to Taiwan, and assured them that Congress would act—and act decisively—if the Carter administration's proposed legislation on the future of United States-Taiwan relations proved to be inadequate.

Indeed, the administration's original draft did prove to be grossly inadequate—almost laughable on its face had the issue not been so important—and Congress was compelled to act.

Madam Speaker, in working with other Members of Congress to draft a bill that would pay proper respect to the historic relationship our country maintained with the Republic of China on Taiwan, we focused on the implications that derecognition had for the future security of Taiwan.

This was a totally bipartisan effort, including all Republicans and a great many conservative Democrats. And there were quite a lot of conservative Democrats back then when their party had a more conservative face.

Among the conservative Democrats who helped so much in developing the

Taiwan Relations Act was Clem Zablocki, a great man and the respected chairman of the Foreign Affairs Committee, and to name just a few of many others, there were Sam Stratton of New York, Bill Nichols of Alabama, RICHARD SHELBY of Alabama, Charles Bennett of Florida, Andy Ireland of Florida, Larry McDonald of Georgia, SONNY MONTGOMERY of Mississippi, Richard Ichord of Missouri, Sam Hall of Texas, and Dan Daniel of Virginia.

Madam Speaker, I am particularly proud of having had a role in writing section 3(a) of the Taiwan Relations Act, which reads:

> The United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability.

And of course, this has always meant that the United States is committed to giving Taiwan the quantitative and qualitative means to defend itself against Communist China.

We were also successful in adding a section to the Taiwan Relations Act that clearly established the policy of the United States Government to "resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan."

Indeed, the act went on to say that the "Preservation and enhancement of the human rights of all the people on Taiwan are hereby reaffirmed as objectives of the United States."

Madam Speaker, all of these declarations, as part of the Taiwan Relations Act, are today the law of the United States. And that law states without question that our country must help defend the people of Taiwan against any attack from mainland Communist China.

Madam Speaker, the Taiwan Relations Act has worked for the mutual benefit of both Taiwan and the United States exactly as those of us who drafted it 15 years ago hoped and believed it would.

In all spheres—politically, economically, and socially—the Republic of China on Taiwan has moved into the highest rank of the newly developed, industrialized nations.

Madam Speaker, Taiwan still faces many challenges. But if the experience of the past 15 years is any guide the future is bright.

The political, economic, and social progress made on Taiwan is a shining example of what freedom-loving people can accomplish when they are not shackled by the chains of communism and socialism.

On this 15th anniversary of the enactment of the Taiwan Relations Act, which without firing a shot or losing a life literally saved that threatened democracy, let us all salute the wonderful people of Taiwan.

And let us reaffirm our pledge to work together to achieve freedom and human rights for all people throughout the world, especially those who still suffer under communism.

Madam Speaker, that concludes my special order on the 15th anniversary of the Taiwan Relations Act.

I would like to take a minute, because my good friend, the gentleman from Michigan [DAVID BONIOR], and others had recently spoken of a single-payer plan that they are pushing to reform health care in America. I would like to talk briefly about a town meeting that I had in Saratoga Springs the other night.

The town meeting was sponsored by United We Stand, and they are a group of people, as we all know, that is somewhat connected with Ross Perot, but they are made up of Republicans and Democrats and Independents, conservatives and liberals, and this is what I told them the other night. I attempted to bring them up to date on the health care issue as it stands here in Washington, because it is so confusing today.

□ 1840

I told them that would not be easy because there are no less than 18 plans, including the President's and they all change almost hourly, as you and I know because we see it every day.

Nevertheless, I showed them the latest chart comparing what is considered to be the most serious plans, although Democrat Senate Majority Leader GEORGE MITCHELL just unveiled I think that same day I was making my speech three more plans, the details of which were not available then, and I do not think they are available even yet. The eight plans on the chart that I showed them consisted of three Democrat bills including the President's. There were four Republican plans including the official Republican conference plan, and there was one bipartisan plan called the Bilirakis-Rowland plan, named after a Republican Congressman from Florida and a Democrat Congressman from Georgia.

These eight plans, plus the other half dozen or so, ranged from the most liberal socialized medicine concepts to the most conservative free enterprise plans that limit Government bureaucratic interference.

They all attempt to fix a system, and I think this is important to note, a system that we all know has abuses, has ripoffs, has bureaucratic delays, and certainly excessive costs, in my opinion.

But the fact remains that the medical care delivery system in America provides by far the best quality of medicine in the entire world. Every other country in the world depends on our United States medical system for research and development, for advanced technology. And people from all over the world come to America to take advantage of our quality of medicine when illness threatens their lives or the lives of their family.

Therefore, the most important question in this entire health care debate is, in my opinion, do we want to replace the entire system with a government-run bureaucracy that will make your health care decisions for you, and that is what I believe my good friends, the gentlemen from Michigan [Mr. BONIOR] and the gentleman from Washington [Mr. MCDERMOTT], who is the main sponsor of this single payer plan, what that would do, it would be a Government-run bureaucracy that would make your health care decisions for you, just to repeat, and that is not just me saying it. That is what they say about their system.

I think when we look at that we ought to ask ourselves the other side of that question: Should we attempt to preserve what is good about the system that gives us the best quality medicine in the world and then to fix those areas that will allow anyone who is ill access to the system at an affordable cost? I think that is the other question we have to ask.

More specifically, we need to keep asking ourselves this question: Do each of us want to control our own health care decisions? Do each of us want to control our own health care decisions or should we trust the Federal and State governments to do that for us?

In that respect, I believe we should take a close look at the experience of people, particularly senior citizens in Canada, in Great Britain and Germany and consider what kind of health care we here in America could expect under a similar government-run system here in our country. To help evaluate those systems, I refer Members to a recent article in the March issue of "Reader Digest," which is the world's most widely read magazine, for its unbiased analysis of the issue.

The title of the article is "Your Risk Under the Clinton Plan," and that article is subtitled, "It Promises Health Care for Everyone, But What Kind of Health Care and at What Price?" And those, Madam Speaker, are profound questions that I think we all have to ask ourselves.

The article dwells at length on the serious flaws in the government-run Canadian health care plan, and it illustrates how health rationing global budgets and bureaucratic decision making forces many Canadians to come to America for treatment. As a matter of fact, flying here on the plane coming back to work day before yesterday, I was reading the prestigious "New England Journal of Medicine" which just completed a study pointing out that one-third of all Canadian doctors sent patients outside the country for treatment during the past 5 years, one-third of all doctors in Canada had to send their patients outside the country to get timely treatment.

This raises the most serious question of all. Where will Americans go if health rationing prevents them from receiving timely medical treatment and surgery for illnesses such as cancer, heart ailments, cataracts, hip replacements, and it goes on and on? I for one am not willing to gamble on a government-run bureaucracy that in my opinion limits choice and guarantees that those who are covered now will have to pay more for less, including seniors on Medicare who are cut substantially under the Clinton plan. That to me is not acceptable.

I do not however believe that there is much that can be done to improve universal access to medical care at more affordable cost, and certainly those of us who are opposed to the Clinton plan or the single payer plan ought to have our alternatives.

This is mine: To require insurance companies to make group insurance policies available to everyone at substantial savings. And believe me, if you are talking about paying a premium now of $4,000, if you had group insurance policies available to every small business in America we could reduce the individual cost of that policy by as much as 20 percent. That is almost $1,000 off the cost of that policy.

No. 2, require portability because employees who are laid off or are changing jobs can carry medical coverage with them. That is doable.

Require insurance policies to cover people with preexisting conditions. That is doable.

Here is one of the most important things of all, to allow 100 percent tax deductions for insurance premiums and out-of-pocket uncovered medical expenses. This will dramatically reduce the out-of-pocket cost of insurance for every working American.

Right now, we all know when we sit down and keep track of all of our medical bills and insurance premiums and drug bills and go to accumulate all of those, and figure our taxes, when we get all done we do not save a dime under the existing system. And individuals cannot write off hardly anything. If we allow 100 percent tax deduction for insurance premiums and out-of-pocket uncovered medical expenses, that for all individuals and small business self-employed people, but their employees as well, we are going to reduce that premium out of pocket by almost another $800. If you are in a 33-percent tax bracket, and if you are paying a premium out of your pocket of $4,500, you are going to save $1,500. The Federal Government is going to give you back $1,500. That comes off the cost of your insurance premiums.

No. 5, require meaningful tort reform that would limit attorney fees and limit exorbitant court awards for such things as pain and suffering that the rest of us have to pay for through increased insurance premiums. This will also drive the cost of insurance premiums down.

Let me just tell you something. You know, if you are an American and you are working hard, and you have a potential lifetime earning total of $1 million, let us say, then why should you be able to get a settlement of $30 million? Anything above that $1 million is going to be paid for by you and me and the other insurance premium payers throughout America. So we ought to limit those recoveries for pain and suffering and those punitive damages to $500,000 or $750,000. This would reduce premiums another 15 percent or more. And by the time we end up with it, we have saved about 40 percent off the total cost of that insurance premium with just those three recommendations that I just made, considering reducing insurance costs.

Next, retain absolute choice of doctors and medical facilities, and that should be every American's prerogative.

Guarantee the preservation of Medicare for the elderly with no expansion to cover younger people in that Medicare plan. Right now there are plans to include welfare recipients and kids working part time in the Medicare Program.

□ 1850

And that is just the beginning of what will happen. That is what happened to Social Security, Madam Speaker.

No employer mandate that would result in lost jobs: I have here in my briefcase a Baruch College study predicting a loss of 2 million jobs if the health care plan of President Clinton or the single payer goes through, 2 million jobs. You know, if you lose 1 million jobs, that drives up the unemployment rate by 1 percent, and it increases Government deficit spending for all social programs caused by the 1 million by $40 billion.

Well, 2 million unemployed means an $80 billion expenditure. Where are you going to get the money to pay for that?

No. 9. To provide long-term care for the elderly both at home and institutionally, and I think that is affordable and can be done.

No. 10. To provide prescription drug coverage for the elderly who live on fixed incomes, and that means means-testing it, because I do not think people with $200,000 incomes, even though they are on Medicare and they are entitled to it because they paid for it all those years, I do not think they ought to be entitled to have their prescription bills paid for. But I think people on fixed incomes should.

And, No. 11, and perhaps most importantly, to provide catastrophic-illness coverage for all so that families of surviving spouses are not wiped out after a prolonged catastrophic illness.

There is nothing so sad to see as a man who loses his wife after a prolonged 20-year illness, having driven up medical bills of gosh knows how much, $75,000, $100,000, and then he, the surviving spouse, is left penniless and a ward of the State. That is wrong. We can afford to take care of that.

Our Republican conference plan does.

Those, ladies and gentlemen, are my recommendations. There are 11 of them, and I think that those are critical changes. I believe they are necessary to correct what is wrong with the system while still retaining the good in the system that earns us the respect of having the best-quality medicine in the world.

Along with the extensive comparison chart that I showed to them and are available in my office, you should also have in front of you a one-page chart listing my 11 priorities and how each is covered under those eight programs, under the three Democrat, the four Republican, the one bipartisan.

As the health care debate heats up in the months ahead, I hope we can ultimately pass something along these lines, a bill that brings about real meaningful reform but does not threaten the quality of care or the level of consumer choice that has traditionally made our medical standards the envy of the rest of the world, and incidentally demanded by the American people.

Madam Speaker, those are my thoughts on the health care issue, and at some time I would be glad to engage those that might support other plans in a debate on this issue.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. LLOYD (at the request of Mr. GEPHARDT), for today, on account of official business.

Ms. ENGLISH of Arizona (at the request of Mr. GEPHARDT), for today, on account of family illness.

Ms. DELAURO (at the request of Mr. GEPHARDT), for today, on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. STENHOLM) to revise and extend their remarks and include extraneous material:)

Mr. FOLEY, for 5 minutes, today.

Ms. FURSE, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. HOAGLAND, for 5 minutes, today.

Mr. STENHOLM, for 5 minutes, today.

(The following Members (at the request of Mr. DREIER) to revise and extend their remarks and include extraneous material:)

Mr. GOSS, for 5 minutes, today.

Mr. DORNAN, for 5 minutes, today.

Mr. DREIER, for 5 minutes, today.

Mrs. BENTLEY, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(Mr. DORNAN, and to include therein extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,087.)

(The following Members (at the request of Mr. SOLOMON) and to include extraneous matter:)

Mr. ORTON.
Ms. ENGLISH of Arizona.
Mr. SERRANO.
Mr. MENENDEZ.
Mr. ROEMER.

(The following Members (at the request of Mr. STENHOLM) and to include extraneous matter:)

Mr. BARCA of Wisconsin.
Mr. MFUME.
Mr. MANN in two instances.
Mr. CLEMENT.
Mr. NEAL of Massachusetts in two instances.
Mr. SANGMEISTER in three instances.
Mr. PETERSON of Minnesota.
Mr. RANGEL in two instances.
Mr. PARKER.
Ms. ESHOO.
Mr. HOCHBRUECKNER.
Mr. HAMILTON in two instances.
Mr. STARK.
Ms. SHEPHERD in two instances.
Mr. BROWN of California.
Mr. FOGLIETTA in two instances.
Mr. HINCHEY.
Mr. REED.
Mr. SARPALIUS.
Mr. MAZZOLI.
Mr. PAYNE of New Jersey.
Mr. GONZALEZ.
Mr. KOPETSKI.
Mr. KILDEE.
Mr. STUDDS.
Ms. LAMBERT.
Mr. SYNAR.
Mr. BECERRA.
Mr. GEJDENSON.
Mr. COPPERSMITH.
Mr. OWENS.
Mr. COSTELLO.
Mr. PRICE of North Carolina.
Mrs. THURMAN.

(The following Members (at the request of Mr. DREIER) and to include extraneous matter:)

Mr. ROGERS in two instances.
Mr. EHLERS.
Mrs. ROUKEMA.
Mr. GALLEGLY.
Mr. BILIRAKIS in two instances.
Mrs. MORELLA in three instances.
Mr. HOUGHTON.
Mr. SAXTON.
Mr. FAWELL in two instances.
Mr. CASTLE.
Mr. KING.
Mr. SOLOMON in four instances.
Mr. KNOLLENBERG.
Mr. MYERS of Indiana.
Mr. ROTH.
Mr. LEWIS of California in two instances.
Mr. CLINGER in two instances.
Mr. DREIER.
Mr. FISH.
Mr. SHAW.
Mr. EVERETT.
Mr. GINGRICH.
Mr. KIM.
Mr. SHAYS.
Mr. WELDON.
Mrs. JOHNSON of Connecticut.
Mr. PORTMAN.
Mrs. BENTLEY.

SENATE ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled bills and joint resolutions of the Senate of the following titles:

S. 1636. An act to authorize appropriations for the Marine Mammal Protection Act of 1972 and to improve the program to reduce the incidental taking of marine mammals during the course of commercial fishing operations, and for other purposes.

S. 1930. An act to amend the Consolidated Farm and Rural Development Act to improve the administration of claims and obligations of the Farmers Home Administration, and for other purposes.

S.J. Res. 143. Joint resolution providing for the appointment of Frank Anderson Shrontz as a citizen regent of the Board of Regents of the Smithsonian Institution.

S.J. Res. 144. Joint resolution providing for the appointment of Manuel Luis Ibanez as a citizen regent of the Board of Regents of the Smithsonian Institution.

ADJOURNMENT

Mr. SOLOMON. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 54 minutes p.m.), under its previous order, the House adjourned until Monday, May 2, 1994, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3070. A letter from the Secretary of Housing and urban Development, transmitting the Department's report on the Federal Home Loan Bank System, pursuant to Public Law 102-550, section 1393(b) (106 Stat. 4011); to the Committee on Banking, Finance and Urban Affairs.

3071. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of the anti-terrorism training courses to be offered to the civilian security forces of the Government of Namibia, pursuant to 22 U.S.C. 2349aa-3(a)(1); to the Committee on Foreign Affairs.

3072. A letter from the Assistant Secretary for Legislative Affairs, Department of State; transmitting notification of a proposed license for the export of major defense equipment and services sold commercially to Israel (Transmittal No. DTC-15-94), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3073. A letter from the Assistant Secretary of State for Legislative Affairs; transmitting copies of the original report of political contributions by Joseph R. Paolino, of Rhode Island, Ambassador designate to the Republic of Malta, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3074. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting a draft of proposed legislation entitled, "U.S.-Mexico Border Water Pollution Control Act," pursuant to 31 U.S.C. 1110; to the Committee on Public Works and Transportation.

3075. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting a draft of proposed legislation entitled, "U.S. Colonias Water Pollution Control Act," pursuant to 31 U.S.C. 1110; to the Committee on Public Works and Transportation.

3076. A letter from the Administrator, Environmental Protection Agency and the Secretaries of Agriculture and Health and Human Resources, transmitting a draft of proposed legislation entitled, "Pesticide Reform Act of 1994"; jointly, to the Committees on Energy and Commerce and the Judiciary.

3077. A letter from the Administrator, U.S. Small Business Administrator, transmitting the Administration's 1993 annual report on the Natural Resource Development Program; a tree planting program utilizing small businesses; jointly, to the Committees on Small Business and Appropriations.

3078. A letter from the Administrator, Environmental Protection Agency and the Secretaries of Agriculture and Health and Human Services, transmitting a draft of proposed legislation entitled, "Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1994"; jointly, to the Committees on Agriculture, Foreign Affairs, Energy and Commerce, Ways and Means, and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALL of Ohio: Committee on Rules. House Resolution 414. Resolution providing for the consideration of the bill (H.R. 3254) to authorize appropriations for the National Science Foundation, and for other purposes (Rept. 103-485). Referred to the House Calendar.

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs. H.R. 1015. A bill to amend the Fair Credit Reporting Act to assure the completeness and accuracy of consumer information maintained by credit reporting agencies, to better inform consumers of their rights under the act, and to improve enforcement, and for other purposes; with an amendment; (Rept. 103-486). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 2473. A bill to designate certain National Forest lands in the State of Montana as wilderness, to release other National Forest lands in the State of Montana for multiple use management, and for other purposes; with an amendment (Rept. 103-487, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PETERSON of Minnesota:

H.R. 4304. A bill to amend the United States Housing Act of 1937 to reform the public housing program; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BORSKI:

H.R. 4305. A bill to amend title 23, United States Code, relating to establishment of the National Transportation System; to the Committee on Public Works and Transportation.

By Mr. KLEIN (for himself, Mr. Zimmer, Mr. Brown of California, Mr. Studds, Mrs. Lloyd, Mr. Synar, Mr. Stenholm, Mr. Valentine, Mrs. Morella, Mr. Pallone, Mr. Roemer, Mr. Swett, Mr. Deal, Ms. Eddie Bernice Johnson of Texas, Mrs. Thurman, and Mr. Boehlert):

H.R. 4306. A bill to establish a comprehensive risk assessment program within the Environmental Protection Agency, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. HUGHES (for himself, Mr. Moorhead, Mr. Frank of Massachusetts, Mr. Boucher, Mr. Sensenbrenner, Mr. Fish, and Mr. Coble):

H.R. 4307. A bill to amend title 35, United States Code, with respect to applications for process patents; to the Committee on the Judiciary.

By Mr. DINGELL (for himself, Mr. Weldon, Mr. Studds, and Mr. Fields of Texas):

H.R. 4308. A bill to amend the North American Wetlands Conservation Act to authorize appropriations for allocations under that act for wetlands conservation projects; to the Committee on Merchant Marine and Fisheries.

By Mr. HAMBURG (for himself, Mr. Filner, Mr. Miller of California, Mr. Farr, and Ms. Woolsey):

H.R. 4309. A bill to require a local hiring preference for certain defense contracts and subcontracts performed in or near labor surplus areas and closing military bases; to the Committee on Armed Services.

By Mr. GONZALEZ (by request):

H.R. 4310. A bill to reduce homelessness, reform public housing, expand and preserve affordable housing and homeownership, ensure fair housing for all, empower communities, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HANSEN (for himself, Mr. Spence, Mr. Montgomery, Mr. Lancaster, Ms. Snowe, Mr. Shuster, Mr. Hunter, Mr. Gonzalez, Mrs. Fowler, Mr. Livingston, Mr. Cunningham, Mr. Saxton, Mr. Orton, Mr. DeLay, Mr. Boehlert, Mr. Stump, Mr. Gekas, Mr. Horn, Mr. Tucker, Mr. Canady, Mr. Levy, Mr. Solomon, Mr. Torkildsen, Mr. Inhofe, Mr. Gallo, Mrs. Meyers of Kansas, and Mr. Swett):

H.R. 4311. A bill to amend the Defense Base Closure and Realignment Act of 1990 to postpone the round of base closures and realignments scheduled for 1995 until 1997; jointly, to the Committees on Armed Services and Rules.

By Mr. JOHNSTON of Florida (for himself and Mr. Goss):

H.R. 4312. A bill imposing certain restrictions and requirements on the leasing under the Outer Continental Shelf Lands Act of lands offshore Florida, and for other purposes; jointly, to the Committees on Natural Resources and Merchant Marine and Fisheries.

By Mr. KANJORSKI:

H.R. 4313. A bill to prohibit the admission to the United States as refugees, individuals who served in the armed forces of Iraq during the Persian Gulf conflict, and to deport any such individuals who have been so admitted; to the Committee on the Judiciary.

By Ms. LAMBERT (for herself, Mr. Synar, and Mr. Studds):

H.R. 4314. A bill to reauthorize the Safe Drinking Water Act; to the Committee on Energy and Commerce.

By Ms. NORTON (for herself, Mr. Dellums, Ms. Eddie Bernice Johnson of Texas, Mr. Lewis of Georgia, Mr. McDermott, Mr. Mineta, Mr. Moakley, Mr. Montgomery, Mr. Porter, Mr. Traficant, and Mr. Waxman):

H.R. 4315. A bill to designate a site for the relocation of the public facility of the National Museum of Health and Medicine, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. OWENS:

H.R. 4316. A bill to improve the quality of public elementary and secondary school libraries, media centers, and facilities in order to help meet the National Education Goals; to the Committee on Education and Labor.

By Mr. KOPETSKI (for himself and Mr. Jefferson):

H.R. 4317. A bill to designate temporary protected status under the Immigration and Nationality Act for Rwandan students in the United States; to the Committee on the Judiciary.

By Ms. WOOLSEY (for herself and Mr. Regula):

H.R. 4318. A bill to reduce reliance on public assistance by improving education and job training programs, strengthening support services and case management, eliminating penalties against two-parent families, allowing welfare recipients to keep more of their earnings and benefits as they move into the work force, and increasing child support enforcement; jointly, to the Committees on Ways and Means, Education and Labor, and Energy and Commerce.

By Mr. PETE GEREN of Texas (for himself and Mr. Cramer):

H.J. Res. 362. Joint resolution to designate March 20 through 26, 1995, as "National Long-Term Care Administrators Week"; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. GOSS introduced a bill (H.R. 4319) to authorize issuance of a certificate of documentation with appropriate endorsement for the vessel *Reel Toy;* to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 40: Mr. Serrano.

H.R. 65: Mr. Hinchey.

H.R. 67: Mr. Traficant.

H.R. 302: Mr. Moorhead and Mr. Owens.

H.R. 303: Mr. Calvert.

H.R. 340: Mr. Klug, Mr. Kim, Mr. Shays, Mr. Wynn, and Ms. Lambert.

H.R. 393: Ms. Margolies-Mezvinsky.

H.R. 417: Mrs. Kennelly, Mr. Slattery, and Ms. Slaughter.

H.R. 493: Mr. Istook.

H.R. 518: Mr. Wyden and Ms. DeLauro.

H.R. 647: Mr. Taylor of North Carolina and Mr. Fingerhut.

H.R. 799: Mr. Knollenberg and Mr. Brown of Ohio.

H.R. 846: Ms. DeLauro.

H.R. 885: Mr. Pete Geren of Texas, Mr. Ravenel, and Ms. Molinari.

H.R. 911: Mr. Doolittle and Mr. Ramstad.

H.R. 979: Mr. Murtha.

H.R. 1088: Mr. McHale.

H.R. 1110: Mr. Doolittle and Mr. Ballenger.

H.R. 1146: Mr. Wyden.

H.R. 1289: Mr. Cunningham.

H.R. 1295: Mr. Swift.

H.R. 1309: Mr. Skeen and Mr. Callahan.

H.R. 1349: Mr. Paxon.

H.R. 1501: Mr. Edwards of California.

H.R. 1604: Mr. Hutchinson.

H.R. 1606: Mr. Franks of New Jersey and Mrs. Maloney.

H.R. 1607: Mrs. Maloney and Mr. Wyden.

H.R. 1712: Mr. Clinger.

H.R. 1988: Mr. Pastor.

H.R. 2031: Mr. Hamburg.

H.R. 2147: Mr. Conyers.

H.R. 2175: Mr. Olver.

H.R. 2218: Mr. Shays.

H.R. 2420: Ms. Waters, Mr. Foglietta, Mr. Hilliard, Mr. Kennedy, Mr. Pastor, Ms. Velázquez, and Mr. Stark.

H.R. 2460: Mr. Bevill.

H.R. 2663: Mr. Jacobs.

H.R. 2708: Mr. Barrett of Nebraska and Mr. McCloskey.

H.R. 2741: Mr. Pallone and Mr. Manton.

H.R. 2759: Mr. Calvert, Mr. Dornan Mr. McMillan, Mr. Sam Johnson of Texas, Mr. Hansen, and Mr. Zimmer.

H.R. 2872: Mr. Calvert, Mr. Knollenberg, and Mr. Stearns.

H.R. 2882: Mr. Rohrabacher.

H.R. 2929: Mr. Hayes.

H.R. 3017: Mr. Duncan, Mr. Bachus of Alabama, Mrs. Meyers of Kansas, and Mr. Taylor of Mississippi.

H.R. 3031: Mr. Thomas of Wyoming and Mr. Petri.

H.R. 3179: Mr. Darden and Mr. Hayes.

H.R. 3246: Mr. Ballenger, Mr. Clinger, Mr. Fingerhut, Mr. Santorum, and Mr. Visclosky.

H.R. 3251: Mr. Clinger and Mr. Miller of Florida.

H.R. 3266: Mr. Valentine, Mr. Leach, Mr. Boehlert, Mr. Hall of Texas, and Mr. Traficant.

H.R. 3270: Mr. Lancaster, Mr. Frost, Mr. Dellums, Mr. Romero-Barcelo, Mr. Manton, Mrs. Mink of Hawaii, Mr. Murphy, Mr. Pallone, Mr. Sarpalius, Mr. Serrano, Mr. Rangel, Mr. Slattery, Mr. Applegate, Mr. Lipinski, Mr. Hayes, Mr. Hughes, Mr. Klein, Mr. Kopetski, Ms. DeLauro, Mr. Berman, Mr. Abercrombie, Mr. Conyers, Mr. Pastor, Mr. Filner, Mr. Shays, Mr. Frank of Massachusetts, and Mr. Condit.

H.R. 3293: Mr. Weldon, Mr. Livingston, Mr. Hall of Texas, Mr. Sisisky, and Mr. Sangmeister.

H.R. 3324; Mr. Foglietta and Ms. Velazquez.

H.R. 3333: Mr. Armey.

H.R. 3347: Mr. Miller of California, Mr. Owens, and Mrs. Mink of Hawaii.

H.R. 3367: Mr. Fields of Texas.

H.R. 3442: Mr. Boehner and Mr. Klug.

H.R. 3449: Mr. Calvert, Mr. Emerson, Mr. Kyl, and Mr. Zeliff.

H.R. 3491: Mr. Gunderson, Mr. Lewis of Florida, Mr. Hancock, and Mr. Greenwood.

H.R. 3546: Mr. Farr.

H.R. 3692: Mr. Franks of New Jersey.

H.R. 3716: Mr. Klug.

H.R. 3717: Mr. Boehner.

H.R. 3739: Mr. Condit, Mr. Tauzin, Mr. Pete Geren of Texas, Mr. Hayes, Mr. Barton of Texas, Mr. Ramstad, and Mr. Rohrabacher.

H.R. 3774: Mr. Hutchinson.

H.R. 3775: Mr. Klug.

H.R. 3777: Mr. Klug.

H.R. 3778: Mr. Klug.

H.R. 3780: Mr. Klug.

H.R. 3781: Mr. Klug.

H.R. 3790: Mr. Roemer.

H.R. 3796: Mr. Smith of Texas and Mr. Clinger.

H.R. 3811: Ms. Pelosi, Ms. Schenk, Ms. Roybal-Allard, and Mr. Lantos.

H.R. 3820: Mr. Brooks, Mr. Klein, Mr. de la Garza, Mr. Brown of California, Mr. Valentine, Mr. Vento, Mr. Barton of Texas, Mr. Calvert, Mr. Glickman, Mrs. Byrne, Mr. Bonilla, Mr. Underwood, Mr. Reed, Mr. Saxton, Mr. Borski, Mr. Lancaster, Mr. Lantos, Mr. Hochbrueckner, Mr. Weldon, Ms. Dunn, Mr. Hansen, Mr. Brewster, Mr. McCloskey, Mr. Conyers, Mr. de Lugo, Mr. Archer, Mr. Bilbray, Mr. Young of Alaska, Mr. Serrano, Mr. Kleczka, Mr. Inhofe, Mr. Bateman, Mr. King, and Mr. LaFalce.

H.R. 3831: Ms. Velazquez, Mr. Evans, and Ms. Roybal-Allard.

H.R. 3835: Mr. Barcia of Michigan, Mr. Smith of Michigan, Mr. Upton, Mr. Doolittle, and Mr. Taylor of North Carolina.

H.R. 3873: Mr. Edwards of California and Ms. Eddie Bernice Johnson of Texas.

H.R. 3900: Mr. Applegate and Mr. Hinchey.

H.R. 3926: Mr. Fingerhut, Mr. Weldon, Mrs. Johnson of Connecticut, Mr. Quinn, and Mr. Grams.

H.R. 3935: Mr. Murtha and Mr. Greenwood.

H.R. 3941: Mr. Shays, Mr. Ewing, and Mr. Goss.

H.R. 3967: Mr. Barrett of Wisconsin, Mrs. Johnson of Connecticut, Mr. Roberts, and Mr. Blute.

H.R. 3973: Mrs. Morella, Mr. Cardin, and Mr. Hinchey.

H.R. 3986: Mr. Weldon.

H.R. 4040: Mr. Rahall, Mr. McDermott, Ms. Eshoo, Mr. Berman, Ms. Roybal-Allard, Mr. Farr, Mr. Edwards of California, Mr. Hamburg, Mr. Dellums, Mr. Mineta, and Mr. Beilenson.

H.R. 4050: Mr. Mazzoli.

H.R. 4064: Mr. Hinchey.

H.R. 4065: Mr. Hinchey.

H.R. 4078: Mr. Schiff.

H.R. 4095: Mr. Kingston, Mr. Kyl, Mr. Coppersmith, Mr. Sarpalius, Mr. Pete Geren of Texas, and Mr. Armey.

H.R. 4109: Ms. Shepherd and Mr. Hochbrueckner.

H.R. 4116: Mr. Reynolds, Mr. Manton, Mr. Wheat, Mrs. Byrne, Mr. Owens, Mr. Wynn, and Mr. Kopetski.

H.R. 4130: Mr. Clinger.

H.R. 4133: Mrs. Mink of Hawaii and Mr. Kopetski.

H.R. 4138: Mrs. Clayton and Mr. Rangel.

H.R. 4148: Mrs. Maloney, Mrs. Schroeder, Mrs. Unsoeld, Mr. Owens, and Ms. Woolsey.

H.R. 4155: Mr. Nadler.

H.R. 4188: Mr. Parker, Mr. Emerson, Mr. Lewis of Florida, Mr. Barrett of Nebraska, and Mr. Gunderson.

H.R. 4213: Mr. Dellums and Mr. Gene Green of Texas.

H.R. 4215: Mr. Linder and Mr. Torkildsen.

H.R. 4259: Mr. Burton of Indiana and Mr. Kolbe.

H.R. 4296: Mr. Tucker, Mrs. Collins of Illinois, and Mr. Filner.

H.J. Res. 37: Mr. Hayes.

H.J. Res. 38: Mr. Hayes.

H.J. Res. 44: Mr. Gilman.

H.J. Res. 90: Mr. Leach, Mr. Vento, Mr. Paxon, Mr. Porter, Mr. Saxton, Mr. Young of Alaska, and Ms. Molinari.

H.J. Res. 112: Mr. Borski, Mr. Moakley, Mr. Pete Geren of Texas, Mr. Hoke, Mr. McNulty, Mr. Hochbrueckner, Mr. McDade, Ms. Lowey, Mr. Machtley, Mr. Gene Green of Texas, Mr. Markey, Mr. Hinchey, Mr. Bonior, Mr. Kasich, Ms. Slaughter, and Mr. Meehan.

H.J. Res. 129: Mr. Zimmer.

H.J. Res. 131: Mr. Petri and Mr. Hoke.

H.J. Res. 209: Mr. Pete Geren of Texas, Mr. Studds, Mr. Sanders, Mr. Wynn, Mr. Holden, Mrs. Unsoeld, Mr. Ackerman, Mr. Kanjorski, Mr. Manton, Mr. Sisisky, Mr. Cooper, Mr. Levy, Mr. Grandy, Mr. Barlow, Mr. McCollum, Mr. Payne of New Jersey, Mr. Klein, Mr. Emerson, Ms. Collins of Michigan, Mr. Lancaster, Mr. Barrett of Wisconsin, Mr. Wise, Mr. Lehman, Mr. Durbin, Mr. Bateman, Mr. Coble, Mr. McDermott, and Mr. Roberts.

H.J. Res. 276: Mr. Wise, Mr. Castle, Mr. Johnson of South Dakota, Mr. Leach, Ms. Woolsey, Mr. LaRocco, Mr. Hall of Texas, Ms. Furse, Mr. Hall of Ohio, Mr. Bliley, Mr. Baker of Louisiana, Mr. Barca of Wisconsin, Mrs. Bentley, Mr. Berman, Mr. Clement, Mr. Hayes, Ms. Dunn, Mr. Clay, Mr. Moran, Mr. Ravenel, Mr. Roberts, Mr. Spratt, Mr. Moakley, Mr. Goodling, Mr. Hinchey, Mr. Reynolds, Mr. Darden, Mr. Clinger, Mr. Dornan, Mr. Knollenberg, Mr. Scott, Mr. Kleczka, Mr. Upton, Mr. Pallone, and Mr. Kreidler.

H.J. Res. 302: Mr. Stupak, Mr. Vento, Mr. Duncan, Mr. Engel, Mr. Barca of Wisconsin, Mr. Torricelli, Mr. Romero-Barcelo, Mr. Bartlett of Maryland, Mr. Swift, Mr. Mfume, Ms. Molinari, Mr. Edwards of California, Mr. Watt, Mr. Clyburn, Ms. Cantwell, Ms. Dunn, Mr. Fields of Louisiana, Mr. Hastings, Mr. Flake, Mrs. Fowler, Ms. Kaptur, and Mr. Torres.

H.J. Res. 304: Mrs. Byrne, Mr. Saxton, Mr. Abercrombie, Mr. Hobson, Mr. Clyburn, Mr. Lazio, Mr. Rahall, Mr. Spratt, Mr. Mollohan, Ms. Roybal-Allard, Mr. Doolittle, Mr. Flake, Mr. Gunderson, and Mrs. Lloyd.

H.J. Res. 305: Mr. Tucker and Mr. Poshard.

H.J. Res. 311: Mr. Bevill, Mr. Brewster, Mr. Burton of Indiana, Mr. Castle, Mr. Clay, Mr. de Lugo, Mr. DeFazio, Mr. Diaz-Balart, Mr. Dornan, Mr. Evans, Mr. Farr, Mr. Fazio, Mr. Fingerhut, Mr. Frank of Massachusetts, Mr. Gallegly, Mr. Gonzalez, Mr. Holden, Mr. Hutto, Mr. Jefferson, Mr. LaRocco, Mr. Lipinski, Mrs. Lloyd, Mr. Mazzoli, Mr. Meehan, Mr. Myers of Indiana, Mr. Owens, Mr. Rahall, Mr. Reynolds, Mr. Synar, Mr. Torkildsen, and Ms. Waters.

H.J. Res. 315: Mr. Callahan, Mr. Clement, Mr. de Lugo, Mr. Doolittle, Mr. Edwards of Texas, Mr. Reed, Mr. Richardson, Mr. Rohrabacher, Mr. Payne of New Jersey, Mr. Payne of Virginia, and Mr. Schumer.

H.J. Res. 322: Mrs. Byrne, Mr. Oxley, and Mr. Meehan.

H.J. Res. 327: Mr. Gunderson, Mr. Clinger, and Mr. Wilson.

H.J. Res. 333: Mr. Pete Geren of Texas, Mr. Smith of Texas, Mr. Meehan, Mr. Foglietta, Mr. Smith of New Jersey, Mr. Conyers, Mr. Chapman, Mr. Fazio, Mr. Hoyer, Ms. Eddie Bernice Johnson of Texas, Mr. Washington, Mr. Rush, Ms. Kaptur, Mr. Royce, Mr. Filner, Mr. Pallone, Mr. Kennedy, Mr. Horn, Mr. Bryant, Mr. Lipinski, Mr. Kildee, Ms. Lowey, Mr. Porter, Mr. Shays, Mrs. Meyers of Kansas, Mr. Tucker, Ms. Margolies-Mezvinsky, Mr. Hobson, Mr. Brewster, Mr. Volkmer, Mr. Hansen, and Mr. Ramstad.

H.J. Res. 342: Mr. Reed.

H.J. Res. 344: Mr. Fish, Mr. Gingrich, Mr. Hunter, Mr. Gunderson, Mrs. Byrne, Mr. Hefner, Mr. Everett, Mr. Frank of Massachusetts, Mr. Cardin, Mr. Lehman, Mr. Levy, Mr. McDade, Mr. McCloskey, Mr. Brewster, Mr. Martinez, Mr. Lewis of Georgia, Mr. Montgomery, Mr. Flake, Mr. Moran, Mr. Murphy, Mr. Murtha, Mr. Washington, Ms. Furse, Mr. Towns, Mr. Duncan, Mr. Torricelli, Mr. Kreidler, Ms. Woolsey, Mr. Neal of Massachusetts, Mr. Clay, Mr. Jefferson, Mr. Gephardt, Ms. Schenk, Mr. Serrano, Mr. Owens, Mr. Quillen, Mr. Roberts, Mr. Ravenel, Mr. Richardson, Mr. Collins of Georgia, Mr. Cox, Mr. Swift, Mr. Livingston, Mr. Rose, Mr. Hoyer, Mr. Hilliard, Mr. Ramstad, Mr. Romero-Barceló, Mr. Kleczka, Mr. Schumer, Mr. Jacobs, Mrs. Fowler, Mrs. Meyers of Kansas, Mr. Lightfoot, Mr. Valentine, and Mr. Dellums.

H.J. Res. 350: Mr. Frost and Mr. Dellums.

H.J. Res. 355: Mr. Kasich, Mr. Vento, Mr. Wilson, Ms. Brown of Florida, Mr. Clay, Mr. Sisisky, Mr. Walsh, Mr. Flake, and Mr. Towns.

H. Con. Res. 168: Mr. Penny and Mr. Saxton.

H. Con. Res. 229: Mr. Jefferson and Mr. Evans.

H. Res. 90: Mr. Klug.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3860: Mr. Armey.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 1 by Mr. SOLOMON on the bill H.R. 493: Y. Tim Hutchinson, Jim Lightfoot, James A. Leach, Lamar S. Smith, Bob Inglis, and John M. McHugh.

Petition 1 by Mr. SOLOMON on H.R. 439: Joe Barton.

Petition 5 by Mr. STEARNS on House Resolution 156: Joe Barton.

Petition 11 by Mr. RAMSTAD on House Resolution 247: Richard K. Armey and Joe Barton.

Petition 12 by Mr. TRAFICANT on H.R. 3261: Solomon P. Ortiz, John L. Mica, Dana Rohrabacher, Sam Johnson, Newt Gingrich, Duncan Hunter, Cliff Stearns, Jim Saxton, Martin R. Hoke, Harold Rogers, Howard P. "Buck" McKeon, William F. Goodling, James H. (Jimmy) Quillen, Curt Weldon, Deborah Pryce, James A. Barcia, John A. Boehner, William F. Clinger, Jr., Michael Bilirakis, Howard Coble, Tom DeLay, Randy "Duke" Cunningham, Ron Packard, Jennifer Dunn, Robert S. Walker, Wally Herger, William H. Zeliff, Jr., Henry J. Hyde, Don Sundquist, Michael A. "Mac" Collins, Jim Lightfoot, Sherwood L. Boehlert, Eric Fingerhut, Robert K. Dornan, Susan Molinari, Walter R. Tucker, Ralph M. Hall, Pat Roberts, James A. Hayes, Jack Quinn, Michael Huffington, Thomas J. Bliley, Jr., Terry Everett, Jack Fields, C.W. Bill Young, Bob Livingston, Peter A. DeFazio, Dick Swett, Gerald B.H. Solomon, Jack Kingston, David A. Levy, Richard H. Baker, Ken Calvert, Cass Ballenger, Peter G. Torkildsen, Dan Miller, and Floyd H. Flake.

Petition 15 by Mr. BILIRAKIS on House Resolution 382: John L. Mica, Jim Bunning, Barbara F. Vucanovich, Stephen Horn, and Nick J. Rahall II.

EXTENSIONS OF REMARKS

MY COMMITMENT TO AMERICA

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. CASTLE. Mr. Speaker, I rise today to congratulate Ms. Joanna Byrd of Smyrna, DE, on winning the Veterans of Foreign Wars of the United States and its Ladies Auxiliary Voice of Democracy broadcast scriptwriting contest in my home State of Delaware. The contest theme this year was "My Commitment to America," and more than 138,000 secondary school students participated in the contest competing for the 39 national scholarships.

Joanna wrote an excellent statement on what it means to be an American and the responsibilities that come with citizenship in our Nation. She discussed what the word commitment means to her and how she would carry out commitments she has made to herself, her family, community, and country. Joanna has decided to become a teacher and she talks about the personal commitment and determination required to achieve her goal.

We can all learn from Joanna's fine enunciation of the qualities of personal responsibility and initiative; qualities which have helped Americans serve their country throughout its history.

Joanna is the daughter of Thomas and Carole Byrd and she was sponsored by VFW Post 8801 and its Ladies Auxiliary in Clayton, DE. Joanna's family and friends in Smyrna should be very proud of her and I also want to congratulate the members of Post 8801 for helping to instill the qualities of good citizenship in the young people of the community in Clayton and Smyrna.

As a state winner and the 31st place national winner, Joanna will receive a $1,000 scholarship from the VFW and its Ladies Auxiliary.

I ask my colleagues to join me in congratulating Joanna Byrd and I am honored to enter her winning script into the CONGRESSIONAL RECORD.

MY COMMITMENT TO AMERICA

[1993/94 VFW Voice of Democracy Scholarship Program, Delaware Winner, Joanna Byrd, Post 8801, Clayton, DE]

"I'm proud to be an American where at least I know I'm free, and, I won't forget the men who died and gave that right to me." These words by Lee Greenwood have always struck a nerve within my heart since the first time I heard them. I *am* proud to be an American. Being born a citizen of the United States has awarded me with several opportunities. Some of these include: religious freedom, the ability to speak my mind without persecution, the right to vote, and the right to equality. Some people in other countries dream of receiving the kind of freedom that Americans have. However, most of the rights given to United States citizens are quite often taken for granted, and that makes me angry. Not taking advantage of freedom is like being given a million dollars and just throwing it away. America was built on the foundation of courage, determination, and, above all, a commitment to the ideals of liberty. In order to prove my loyalty to America, I have sketched a plan for my future. That plan will one day evolve into my commitment to the United States.

Every time I hear the word commitment, my mind automatically breaks it down into two separate parts. These are: (1) deciding how I can dedicate myself to something, and (2) choosing to follow through with that decision. Once these two large steps have been taken, the journey toward commitment is more than half way over.

The easiest part of commitment is deciding how I can show my loyalty to another person, place, thing, or idea. To display my own personal commitment to America, I have decided to become a teacher. What better way is there to prove my dedication to my country than to help shape the young minds of future generations? Behind every excellent student is an exceptional teacher. Without educators, the United States would never have become as successful as they are today. However, simply deciding to become a teacher is not nearly enough. As a matter of fact, it is only the beginning.

The second step of commitment, as well as the most difficult, is to follow through with my plans. After choosing that becoming a teacher will display my loyalty to my nation, I must carry out that decision. I can do that in a couple of ways. The first and most important way is to get the best education I can. The second way is to remain dedicated to my purpose. Above all else, I must never give up. America was not built by quitters. I will do my country justice by rolling up my sleeves and by proving that I am determined to keep going, even when the going gets tough.

America has so much to offer. Anyone would be a fool to refuse to accept the opportunities which the United States give so freely. America is good to me. In turn, I plan to be good to America. By getting involved in community activities, exercising my free rights, and by helping the generations to come, I can prove that I am, and always will remain, committed to my country—the United States of America.

JONESVILLE FIRE DEPARTMENT, TWO VETERAN FIREFIGHTERS ARE HONORED

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. SOLOMON. Mr. Speaker, those of you who have been in my office have noticed the many fire hats lining the wall of the reception area. That's a token of the high respect I have for volunteer firefighters in our rural areas. I'd especially like to tell you about two of them today.

Their names are Kenneth Noyes and Lou Pasquarell. They have been firefighters for 64 and 58 years, respectively.

On May 28, their unit, the Jonesville Fire Department in Clifton Park, NY, will be celebrating 75 years of providing fire protection to the community. Such volunteer companies save countless lives and billions of dollars worth of property in New York State alone every year. Imagine how many people and how much property Ken Noyes and Lou Pasquarell have saved since they joined. Imagine how many times they have literally dropped whatever they were doing to respond to a neighbor in danger, or a building enveloped in flames.

These volunteer firefighters come in all shapes, sizes, races, creeds, occupations, and income levels. What they have in common is a selfless desire to help their neighbors, which they often do at a moment's notice and under a variety of hardships and dangers. This is the American spirit at its best.

As a volunteer firefighter myself for a quarter of a century, I am positively awed at the long service of Ken Noyes and Lou Pasquarell. They're both real heroes, in my book, and I am extraordinarily proud of them.

In fact, every member of the Jonesville Fire Department is a hero, and so are their supportive families.

And so, Mr. Speaker, I ask all Members to join me in congratulating the Jonesville Fire Department for 75 years of outstanding service. And let us further salute Ken Noyes and Lou Pasquarell, two men who represent the spirit of voluntarism that has made America great.

BRADFORD REGIONAL MEDICAL CENTER AUXILIARY: 1994 GOLDEN DEEDS AWARD WINNER, BRADFORD, PA

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. CLINGER. Mr. Speaker, I rise today to congratulate the Bradford Regional Medical Center Auxiliary, recipient of the Bradford, PA, Exchange Club's 1994 Golden Deeds Award. It is a pleasure to recognize the achievements of this auxiliary, now in its 59th year.

The Bradford Regional Medical Center Auxiliary, numbering 300 members who have volunteered 20,000 hours per year, supports numerous departments in the hospital including x-ray, emergency, and outpatient services. The auxiliary has also been successful in rein-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

stating the teen volunteer program, in addition to supporting a dozen other volunteer initiatives associated with the medical center.

One example, in particular, is the auxiliary's fundraising efforts on behalf of the annual gift to the Bradford Regional Medical Center. Over the past 10 years, the auxiliary has produced an annual donation of $50,000. The money raised by the auxiliary has supplemented many projects, including the purchases of a CT scanner in diagnostic imaging and lifeline units. Hospital renovations have also been made possible through their fundraising endeavors.

Helping students meet their educational goals is yet another function of the auxiliary's volunteerism. The auxiliary awards four annual scholarships: two $1,500 scholarships granted to second-year nursing students and two $250 scholarships granted to second-year Bradford Regional Medical Center radiography students.

Mr. Speaker, it is my distinct honor to recognize the Bradford Regional Medical Center Auxiliary as the recipient of the 1994 Golden Deeds Award. I offer my sincere congratulations for the diligence with which they contribute to the health and well-being of Bradford, PA.

RICHARD NIXON

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. STARK. Mr. Speaker, I arrived in Congress in 1973 and I was one of the first Members of this House to support the impeachment of Richard Nixon. With due respect to his family and friends, because we are all entitled to a private life, Mr. Nixon's public life is not one in which I find much doubt about how it should be remembered.

The country has never fully recovered from the damage Richard Nixon caused this country and the American presidency. Earlier today, Mark Plotkin gave a commentary on Richard Nixon which I believe is right on target. I commend it to by colleagues as we reflect on Mr. Nixon's legacy.

NIXON

When I think of Richard Nixon—I think of the year 1968.

It was a terrible year for the country. A war 10,000 miles away was raging, hundreds of Americans were dying each week, and there didn't seem to be any end in sight.

In April, Martin Luther King was assassinated and in June we lost Robert Kennedy. Two men full of idealism who sought to change the world.

After all the pain, tears, hurt, and tragedy, who came out on top, but Nixon.

It seemed to me then, so unfair and so wrong. How could the country grant the highest office in the land to this man?

Now with all the eulogies pouring in and the revisionist history being played out, I believe some things should be remembered.

Remember in 1968, Nixon said he had a "Plan to End the War." But he wouldn't tell us what it was. That was pure Nixon.

It symbolized who he was. We were to trust him and vote for him and then after he got elected he would let us in on the plan.

The inference was that the plan would end the war and the killing would stop and the boys would come home.

But from 1969 to 1973, over 29,000 Americans died in Vietnam. More than in the previous four years.

In fact Nixon sought not to end the war but to expand it. In May of 1970, he went into Cambodia and would have stayed had Congress not stopped him.

From the start of his political career to its disgraceful end—Nixon was the ultimate practitioner of the theory "anything goes" as long as I win.

Whether it be calling people Communists—when they were not—or collecting names for an enemy, his brand of politics was to deceive and divide.

Richard Nixon cheapened the profession of politics and by his actions brought shame and dishonor to the Office of President and to our nation.

The flag of our country should not have been lowered.

A CHAMPION OF CIVIL LIBERTIES LAYS DOWN HIS LANCE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. RANGEL. Mr. Speaker, I rise to pay tribute to my dear friend and colleague Representative Don Edwards. During his 32 years on Capitol Hill, Congressman Edwards has fought relentlessly for civil and constitutional rights for all Americans. His tireless struggle to rid our country of legalized racial discrimination is clear from his voting record in Congress.

He voted for the landmark Civil Rights Act of 1964 and the Voting Rights Act of 1965. His moral commitment never weakened. During the Reagan-Bush years Representative Edwards assembled bipartisan majorities to pass the Fair Housing Amendment in 1988 and the Civil Rights Act of 1991.

I served on the Judiciary Committee with Congressman Edwards during the Watergate investigations. He proved himself as a great defender of the constitutional rights that many people take for granted. His accomplishments and dedication will long be remembered.

I was surprised to hear of Representative Edwards' decision to leave Congress at the end of this term. I will sorely miss my colleague from California, but I am grateful for the privilege and will always take pride in having served with him.

For the benefit of my colleagues I wish to enter the following article which appeared in the New York Times, Sunday, April 3, 1994.

[From the New York Times, April 3, 1994]

CONVERSATIONS

(By Robert Pear)

Washington—"The next civil right really should be some kind of civil right for livelihood," said Representative Don Edwards, Democrat of California, the pre-eminent defender of constitutional rights on Capitol Hill. Sitting in his office last week, he observed that civil rights debates have become more complex as the focus shifts from political to economic rights.

"It's all very well for a black kid in Washington to have free speech and not to be discriminated against in getting an auto license," he said. "But unless he has a livelihood, unless he is qualified for a job and has grown up with strict adult supervision, he is going to have a hard time making it in this country."

For Mr. Edwards, 79, moving the concept of civil rights forward into another arena in almost a habit. But while he continues this intellectual and moral exercise, he will be championing his concepts in less visible arenas, as he retires in January after 32 years in Congress.

In those years, a time span that stretches from John F. Kennedy to Bill Clinton, he prodded his colleagues into decisions that did at least as much as any Attorney General to protect people against discrimination.

"It was almost magical in those days," he said of the Johnson years. "We could pass anything if we labeled it civil rights. But now there's almost an avalanche of anti-civil rights things going on."

Mr. Edwards voted for the landmark Civil Rights Act of 1964, which banned discrimination in employment and public accommodations, and for the Voting Rights Act of 1965. "Kennedy's assassination made a big difference," he said. "Lyndon Johnson emotionally asked us to do it for Jack Kennedy. Johnson was just great on these issues."

Mr. Edwards has been chairman of the Judiciary Subcommittee on Civil and Constitutional Rights for more than two decades. He passed up opportunities to lead other committees so he could keep his position as monitor of the Federal Bureau of Investigation and as field marshal in the battles over civil rights.

Mr. Edwards also turned down a seat on the House Permanent Select Committee on Intelligence. "I thought I would be trapped by secrecy oaths, and it would interfere with my free speech," he said.

'A PALEOLIBERAL'

Representative Henry J. Hyde of Illinois, the ranking Republican on Mr. Edwards' subcommittee, describes his colleague as "a paleoliberal," untouched by revisionism or self-doubt. Yet he said he greatly respects Mr. Edwards as "someone whose principles are not malleable."

"Don Edwards is one of the most thoroughgoing gentlemen that I've encountered in Congress," said Mr. Hyde. "He's soft-spoken. He is passionately committed to the cause of civil liberties. He is relentlessly liberal, but that's not a vice. The battle for the fullest expression of civil liberties is losing a general, not a foot soldier."

Mr. Edwards' independence can be judged from his vote in February on a House resolution condemning a speech by Khalid Abdul Muhammad of the Nation of Islam, who had delivered a vitriolic attack on Jews, Catholics and others. By a vote of 361 to 34, the House denounced the speech as "outrageous hatemongering of the most vicious and vile kind."

Mr. Edwards agreed that the remarks were disgusting and racist, but opposed the resolution. Lawmakers should counter Mr. Muhammad with speeches and press conferences, he argued, but Congress as an institution should not take official action to condemn a particular speech. "That's a chilling precedent," he said. "Will we condemn books and magazines next? Offensive movies?"

Mr. Edwards also disapproves of the campus speech codes through which colleges have tried to restrict speech expressing bias toward women, blacks and members of other minority groups. "I am not in favor of these arbitrary codes," he said. "They have civil liberties problems." Offensive speech requires other remedies, he said, suggesting that counseling and communication were better responses than punishment.

Mr. Edwards, who had not held political office before he was elected to Congress in 1962, grew up in a conservative Republican family. After law school, he served two years as an F.B.I. agent and four years as a Navy officer. He was president of a land title company before coming to Washington.

His son, Leonard P. Edwards, a judge of the Juvenile Court in Santa Clara County, Calif., said his father always had a commitment to civil rights. "He was born with it," said Judge Edwards. "I don't think this is something that he had to reflect upon. It goes to his very essence as a human being. He's very proud of this country and believes that diversity is one of its strengths."

The Congressman's district, at the southern end of San Francisco Bay, includes the heart of San Jose, as well as vineyards of the Santa Clara Valley. Thirty-seven percent of the residents are Hispanic, but many are not registered to vote. Twenty percent of the residents are Asian-Americans, who vote regularly.

'OUR APARTHEID'

In the Reagan and Bush years, Mr. Edwards and his allies assembled large bipartisan majorities to pass civil rights legislation including the Voting Rights Act extension of 1982, the Americans with Disabilities Act of 1990, the Fair Housing Amendments of 1988 and the Civil Rights Act of 1991, which overturned eight Supreme Court decisions.

Today, Mr. Edwards said, it is much more difficult to build such bipartisan bridges. In the struggles of the 1960's, he said, "we had the advantage of a Republican Party that was pro-civil rights." Eighty percent of House Republicans and 61 percent of House Democrats voted for the Civil Rights Act of 1964, "a really revolutionary bill that eliminated most aspects of our apartheid," he said.

Recently, Mr. Edwards said, "there definitely has been a diminishing interest in resolving the separation and the alienation and the discrimination against black Americans." He agreed with civil rights lobbyists who assert that the Supreme Court poses a grave threat to civil rights and civil liberties. "This Supreme Court has been hostile to civil rights and to civil liberties," Mr. Edwards said.

In the criminal justice system, particularly in death penalty cases, he said, blacks are still struggling to gain constitutional protections that whites enjoy. "Forty percent of the 3,000 people on death row are black, even though blacks are only 13 percent of the population," Mr. Edwards said. "We have some remnants left over from the slavery days," when the punishment for a slave killing his master was much harsher than the penalty for a master killing a slave.

"Most Americans don't understand how important it is to our domestic tranquility to encourage and advocate a more caring society, which is generous in its laws, its social programs and general attitudes," Mr. Edwards said. "Too many Americans have learned in the last 10 or 15 years that if you just go to church and pray, you are virtuous regardless of how you treat your brothers and sisters, especially the black and Hispanic ones."

TRIBUTE TO IDAMAE GARROTT

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mrs. MORELLA. Mr. Speaker, Maryland State Senator Idamae Garrott has recently announced she will not seek re-election when her term expires this year. I would like to take this opportunity to express my congratulations and best wishes to Senator Garrott, for her more than 25 years of public service to the people of Montgomery County and the State of Maryland.

Senator Garrott was elected to the House of Delegates in 1978, and served in the House until being elected to the State Senate in 1986, where she is currently serving her second term. I had the great honor of serving with her during our 8 years in the House of Delegates. She was a conscientious, caring legislator with a vast knowledge of Montgomery County and Maryland. As a State senator, Senator Garrott has been the vice chair of the Montgomery County Senate Delegation, and senate chair of both the Joint Committee on Federal Relations and of the Advisory Committee on Federal-State-Local Relations. Prior to serving in Annapolis, she served on the Montgomery County Council from 1966–74, including a stint in 1971 as president.

She has also served as the first chairman of the Solid Waste Management Agency of Metropolitan Washington, the president of the Council of Governments, a member of the METRO Board, chairman of the Washington Suburban Transit Commission, and president of the Montgomery County League of Women Voters.

In 1967, she led the battle to establish fair housing in Montgomery County. While a member of the general assembly, Senator Garrott sponsored many important bills such as the child safety seat legislation and banning of corporal punishment in Maryland public schools, the promotion of animal welfare, prohibition of discrimination against the elderly in housing, and various environmental measures.

On May 1, a luncheon is planned to honor the senator for her distinguished achievements for the people of Maryland. Please join me today in thanking Senator Garrott for her commitment to the State of Maryland and in wishing her continued success in her future endeavors.

TRIBUTE TO BETTY PLACE

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. NEAL of Massachusetts. Mr. Speaker, I would like to take this opportunity to pay tribute to one of my constituents, Mrs. Elizabeth Place of Webster, MA. Mrs. Place was recently named Woman of the Year, by the Patriot Newspaper of Webster, in recognition of her many years of devotion to that community.

A resident of central Massachusetts for over 40 years, Elizabeth Place has spent much of that time serving as a volunteer in her community. An original member of the fundraising committee for the New Hubbard Regional Hospital in Webster, Mrs. Place is currently a member of the board of directors at the hospital. In addition, she serves as an area director for the United Way. Also, Mrs. Place is a member of the Hubbard Regional Hospital Women's Guild, an organization which she previously represented as president.

A member of the United Church of Christ, Mrs. Place served on a number of different church committees, and is also a former member of the Webster Women's Club and the Webster Garden Club. A devoted mother, Mrs. Place raised her five children in Webster, serving as both a Girl Scout and Cub Scout leader, the latter for 20 years.

Mr. Speaker, it is my great pleasure to recognize, along with the people of Webster, MA, the many accomplishments of Elizabeth Place. I wish her well in any future endeavor.

SALUTE TO JOSEPH CERTAINE

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. FOGLIETTA. Mr. Speaker, I rise on this occasion to salute Joseph Certaine, who this week was appointed managing director of the city of Philadelphia by Mayor Ed Rendell. Joe has long served the citizens of Philadelphia, and prides himself on his relationship with the community. Joe learned the importance of constituent services on the front line, serving as a block captain in west Philadelphia during the 1970's, and has carried that understanding with him throughout his career, serving in various posts under Mayors William Green and W. Wilson Goode. In his new position, he will be in charge of the departments of human services, police, fire, streets, recreation, water, and licenses and inspections.

Joe Certaine is one of the best hands on managers in the city of Philadelphia, and the thought of having him in charge of city services will allow each and every Philadelphian to sleep a little bit more soundly at night.

HEALTH CARE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. SOLOMON. Mr. Speaker, as we finalize the health care debate in the House of Representatives and come closer to agreement, there is an issue that has not received the attention that it clearly merits. The matter of quality medical care and cost effectiveness with respect to new medical technologies and procedures deserves close scrutiny as we move forward on healthcare reform. At the heart of this issue is the need for a reliable national emphasis on medical technology research and development as well as the necessity for quickly bringing lifesaving innovations into the medical mainstream.

Pursuant to these matters, I would like to draw the attention of the Congress to the statement of Dr. Ken Fox presented to the House Science Committee on March 17. Dr. Fox is one of the inventors of laser angioplasty medical technology. Given that heart and circulatory disease is America's greatest killer, it is interesting to read about the debate between balloon angioplasty, laser angioplasty, and open heart surgery. This is an important debate, and I am pleased to be able to bring Dr. Fox's remarks to the attention of the House of Representatives today.

STATEMENT OF DR. KEN FOX PRESENTED TO THE HOUSE SUBCOMMITTEE ON TECHNOLOGY, ENVIRONMENT AND AVIATION ON MATTERS RELATED TO HEALTH CARE REFORM, THE ROLE OF MEDICAL TECHNOLOGIES, AND THE PRESIDENT'S HEALTH SECURITY ACT, H.R. 3600

Thank you Chairman Valentine for allowing me to present some remarks to the Subcommittee on matters related to the President's health care initiative and how it may affect leading edge medical technologies such as laser angioplasty. I commend the Subcommittee on Technology, Environment, and Aviation for holding these hearings and providing a forum for these important technological concerns.

PILLCO, of which I am CEO, holds the key patents in the United States and in some foreign countries related to the current treatment method which utilizes a pulsed ultraviolent excimer laser. The procedure is FDA-approved and uses these lasers to vaporize atherosclerotic plaque and restore normal blood flow to arteries of the heart. The fact that ours is a pulsed laser—which utilizes carefully selected energy parameters—permits the physician to vaporize plaque without thermal harm to surrounding arterial tissue. Needless to say, this innovative method is a revolutionary approach to cardiac disease mitigation.

The FDA approved these technologies for commercial use in 1992 after many years of evaluation. Presently, two companies are licensed to manufacture these lasers in the United States: Advanced Interventional Systems and Spectranetics. Dr. A. Arthur Coster and I began working on these advances in the late seventies, and I can tell you without bias today that the list of difficulties in bringing this technology to fruition in American hospitals for human benefit would easily, as a popular song once noted, fill the entire Royal Albert Hall. Any changes to our health care system should address the dual matter of bringing life saving and quality-enhancing technologies safely and efficiently to the marketplace in its opening legislative clauses.

Technology drives our health care system as well as our entire economy. The advent in the later 1970's of "balloon angioplasty" gave interventional cardiologists a tremendous advantage. However, balloon angioplasty is primarily effective in a smaller number of cardiac patients. The balloon can be effectively used when the lesions (plaque blockages) are simple, and changes in personal diet may provide additional success. When the disease gets more complex and includes long lesions, diffused lesions, heavily calcified lesions, and other difficult blockages the pulsed laser is undeniably the best angioplasty method. Obviously the best method of eradication of the most difficult plaque lesions will also be the best method for attacking the smaller and simpler lesions. The net benefit of this thesis statement becomes more apparent when surgery rates for failed balloon angioplasty are taken into consideration. The resultant expense of open heart and bypass surgery is well documented. Announcements in the news recently that the national cost figure for coronary artery bypass grafting (CABG) is approximately $9 billion a year was astounding! Both the Bureau of National Affairs and the Health Care Data Information Center have jointly claimed in a study that CABG has inflated our national health costs without a correlating enhancement in our national health status. Their study also suggested that we should quantify our projected financial savings in relation to real changes in our medical practice patterns. I believe this would be helpful, too.

Another interesting facet in this debate is that the pulsed laser advance in angioplasty technology can be less expensive than other angioplasty remediations including balloon. For ease of reference, attached to my statement is a comparative hospital reimbursement and length of stay survey we developed via interviews with hospital administrators for the three major cardiovascular procedures. While the initial hospital investment in the excimer laser technology may appear substantial, the vaporization of the plaque via these lasers provides dramatic cost efficiencies and time savings when the survey results are compared. Although many reasons exist for this, the major ones are:

1. People are out of the hospital sooner than after surgery or balloon,

2. Patients are back to work faster,

3. Laser angioplasty offers lower mortality rates than bypass,

4. Plaque is vaporized via laser versus being compressed against the arterial wall by balloon angioplasty, and

5. Surgery is risky, expensive, and the recurrence of plaque is a familiar result.

The "Wall Street Journal" on February 4, 1994, reported on a U.S. Centers for Disease Control and Prevention study in an article entitled "Coronary Disease Poses Risk to 82% of Americans, Despite Lifestyle Changes." The study points out that we should not ignore the risk factors: obesity, lack of exercise, high blood pressure and cholesterol, diabetes, and cigarette smoking (which was defined as having smoked at least 100 cigarettes in one's lifetime!). The CDC's Cardiovascular Health Studies Branch notes that physical activity and diet changes do help reduce one's risk but do not erase the disease altogether. Contrary to popular understanding, coronary heart disease is America's greatest health threat today. In response, "Medical Laser Marketplace '93" quotes 1992 Arthur D. Little Co. statistics which project a 25% penetration of lasers in cardiovascular surgery by 1995. The trend is established, and it is based on medical success and the positive cost-benefit ratio of lasers in cardiovascular treatment.

President Clinton's concern for access to good medical care for all Americans is an honorable goal for our nation. I want to amend that goal with the thought that access to medical care must include access to effective medical care for all Americans. Biotechnology has been an engine of growth for our economy and must remain a locomotive of growth for the continued enhancement of our national health. Everyone should have access to the best medical procedures when warranted. We cannot ignore costs in this equation, and, at the same time, we cannot ignore medical success either. Coronary artery disease cuts across both socioeconomic and geographic boundaries in our country. Our hospitals must be adequately reimbursed for advanced, efficient, and effective procedures like laser angioplasty. If they are not, the companies that develop and supply these and related technologies cannot survive. In a directly related manner our national health status will falter. The resultant macro-economics and macro-politics of this potential turn of events should be evident.

In addition, we are very much in favor of a continued increase in support for research and development in biotechnology. The debate over how much R&D should remain public versus private creates a problem. Lip service has been given to increasing support for R&D by various Federal agencies including NIH. Unless private enterprise is supportive of this increase, the results will not be totally successful. The fact remains that the majority of current R&D is through private innovation, and I believe this is the way it should be in a free market economy.

This view of *total cost* is really the key with regards to *cost outcomes analysis*. In other words, if something like laser angioplasty ultimately gets people out of the hospital sooner, back to work quicker, and permits them to remain in an improved health status for a longer period of time, then many of the more myopic traditional views of health care costs are antiquated. Traditional economics notes that unit costs decrease when efficient production patterns are successfully established. If economic benefits of a healthier society are included in this economic equation as it relates to medical innovation and macroeconomic health care costs, a $200,000 laser angioplasty unit with $1,000 per use catheter costs may be less expensive in total cost to society than a $100 balloon procedure. Is not this a major them of the present health care debate? Are we not in a debate regarding what is best for the American people, both in regard to health care results and as they relate to total expenditure of GNP?

It is penny wise and pound foolish to reject new biotechnology merely because there is a higher initial price tag on the equipment. It follows then that if we are going to pursue 'cheaper' treatments (including diagnostics) without regards to *total cost*, we will have a much less healthy society with fewer medical options. We also may well end up exporting our biotechnology leadership if we take this approach. With regards to *cost outcomes analysis*, total cost is the key. High technology will win out in the end. Higher technology will improve health and eventually reduce the total costs of disease for the nation. This is not only true with instrumentation and drugs but also with delivery of medical services and tasks. For instance, the development of an efficient outpatient surgery center will initially have a high price tag. However, over time an efficient outpatient center will incrementally begin to save society money in variable costs as well as promote earlier rehabilitation.

The concept of price caps disguised as premium limitations is an absolute anathema to biotech's success as well as health care's continuing ability to prosper. When we cut costs for health care without a just review of the resultant *total cost* to society, we can effectively reduce the health of the entire nation. In addition, the thought of extra bureaucracy created under the new terminology of "alliances" and "regional boards" ordinarily runs contrary to the needs of technological innovation. History has shown that government bureaucracies cannot adequately evaluate new technology.

The freedom to choose specialty health care—including those that involve new and high technologies in the biotech field—is essential to preserve. Our concerns are that if someone is locked into a "network" or "alliance" which limits choice, the availability of innovation in severely restricted and the free market is negated. This is counterproductive for the nation. On the companion matter of liability reform, PILLCO favors an immediate review of this matter by the Congress. It cannot be separated out of the *cost outcomes analysis* for patient care. In addition, *cost outcomes analysis* must include an analysis of the *total cost* to society as well as the total effects of procedures and technologies rather than limiting these evaluations to technology's initial costs and the like.

Chairman Valentine, thank you for allowing me to provide the Science Committee some details related to a very complex medical arena—that of laster angioplasty. In closing, I wish to point out that we at PILLCO are not opposed to managed care in the health industry. What kind of managed care is the important issue. We must provide for the American people a health care system which takes advantage of advances in technology and requires the advances to pay back solid dividends in terms of a longer and better quality of life for all Americans.

COLEMAN: MODEL OF LEADERSHIP RETIRES

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. ROGERS. Mr. Speaker, I rise today to honor a true leader in eastern Kentucky banking, as he approaches retirement this year. Burlin Coleman, of Pikeville, KY, built his small bank into a regional power in Kentucky.

Forty-five years ago, Burlin Coleman started as a clerk in Pikeville. Through his hard work and a tremendous commitment to excellence, he continued to receive promotion after promotion until becoming chief executive in 1979.

Under Coleman's leadership, the Pikeville National Corp. went from assets of $218 million to over $1.37 billion. It also acquired seven other financial institutions along the way.

Today, the Pikeville holding company employs over 600 employees in the Pikeville National Bank and 12 other branches in West Liberty, Williamsburg, Ashland, Whitesburg, Mount Sterling, Flemingsburg, Campbellsville, and Lexington.

According to analysts, Pikesville National has been one of the more profitable and well-run banks in America.

Currently No. 2 among Kentucky-based banking companies in terms of assets, it is due to become No. 1 later this year.

Many people have new opportunities today because of Burlin Coleman and his banks. Whether it is a young family getting their first mortgage or a little boy or girl opening their first savings account, the Pikesville National Bank has always been ready to handle eastern Kentucky's needs.

Remaining humble about his banking achievements, his success is a tribute to his hard work, his intelligent mind and his way with people. Always quick to give credit to a team effort by the bank's managers, Coleman is a leader for all of Kentucky.

We are fortunate to have had Burlin Coleman help many of us. I hope he enjoys his retirement; fishing, hunting, and relaxing for many years to come. It is very well deserved.

THE SAFE DRINKING WATER REFORM ACT OF 1994

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. SYNAR. Mr. Speaker, today I am pleased to join with my distinguished colleagues, Representative BLANCHE LAMBERT and Representative GERRY STUDDS, in introducing the Safe Drinking Water Reform Act of 1994. Currently State and local governments are facing enormous difficulties in complying with the new and more stringent requirements of the 1986 amendments to the Safe Drinking Water Act. This problem is especially acute in small communities which lack sufficient funds and technical expertise necessary to comply with many of the act's requirements.

My Subcommittee on Environment, Energy and Natural Resources recently held a hearing on the difficulties facing small water systems, like those in my rural northeast Oklahoma district, and on ways to address drinking water problems sensibly and cost-effectively while maintaining public health protection. Witnesses at the hearing testified that five major problems underlie small drinking water system compliance problems: Lack of adequate funding; lack of alternative technologies appropriate for small systems; the need for reform of monitoring requirements so that systems test only for those contaminants they reasonably expect to pose health threats; inadequate technical and financial assistance to meet water system needs; and lack of financial, managerial or technical capacity necessary for many small systems to maintain compliance with the act. Mr. Speaker, our bill is designed to address each one of these issues without jeopardizing public health in any way.

First, our bill creates a drinking water State revolving fund [SRF] to provide loans and grants to local water systems to help them comply with statutory requirements. As you know, Congress has appropriated $599 million for a drinking water SRF, but has not yet passed authorizing legislation for the SRF.

The Safe Drinking Water Reform Act of 1994 also directs EPA to establish cost-effective best available technology [BAT] for small systems that are unable to meet maximum contaminant level requirements in the same manner as larger systems.

Perhaps most importantly for small systems struggling to pay for sometimes excessive or unnecessary contaminant monitoring, our legislation would expand existing waiver authorities by also allowing the States to provide monitoring relief to local water systems once they have established local drinking water pollution prevention programs. Drinking water systems in Massachusetts have been able to avoid spending millions of dollars on unnecessary contaminant monitoring costs by investing only a fraction of that amount in prevention programs and receiving monitoring waivers in return. This pollution prevention approach will go a long way toward ensuring safe drinking water for all Americans in the future, and will allow water systems to focus their scarce resources on needed improvements.

Importantly, this legislation improves the process for selecting new contaminants for regulation by eliminating the law's current requirement to regulate 25 contaminants every 3 years. Instead, our bill requires EPA to regulate those contaminants that present the greatest threat to the public, taking risk reduction benefits and costs into account.

Our legislation offers technical assistance and will ensure enhanced health protection for drinking water consumers. For example, the bill requires EPA to distinguish between small, medium, and large systems and to set appropriate technologies which meet Federal maximum contaminant level requirements for each. In addition, the bill requires that operators of water systems be trained and certified and that systems conduct internal inspections of drinking water operations.

Finally, our bill creates and funds State programs to ensure that small water systems are financially and technically capable of providing safe drinking water to their customers over the long term.

Mr. Speaker, I want to emphasize that we have worked hard to avoid creating any unfunded mandates and to incorporate risk reduction benefits and cost considerations wherever possible without sacrificing public health protection. We intend for this bill to make commonsense changes to a statute that has become overly burdensome and prescriptive, and to provide States and small drinking water systems the flexibility they desperately need. We look forward to working with Health and Environment Subcommittee Chairman WAXMAN, Representative JIM SLATTERY, the minority and other members of the committee to craft and enact a meaningful reform of the Safe Drinking Water Act this year.

SAFE DRINKING WATER REFORM ACT OF 1994

HON. BLANCHE M. LAMBERT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Ms. LAMBERT. Mr. Speaker, today two distinguished colleagues and I are introducing legislation, the Safe Drinking Water Reform Act of 1994, to amend the Safe Drinking Water Act [SDWA]. We have heard the cries of the small systems who are unable to comply with the stringent requirements of the SDWA. They are forced to monitor for contaminants that do not exist in their water systems and install expensive technology that is not needed. We need to protect the quality of our drinking water sources without needlessly placing financial and technical burdens on our small water systems. We must focus on prioritizing the true health risks that present themselves in the water.

The quality of our drinking water came into the forefront when Milwaukee found cryptosporidium in its drinking water. This crisis left 40 people dead and hundreds of thousands of Milwaukeeans ill from drinking the water. This is a warning that we cannot ignore. We can no longer take the quality of our water for granted.

This country is one of the few nations where citizens can drink their water out of the tap with few reservations. However, with the past drinking water scares in Washington, DC, New York City, and Milwaukee, citizens are beginning to wonder if they can drink the water. We want to allay these fears and ensure that the quality of our drinking water continues.

Our bill sets forth parameters that will encourage compliance with the SDWA through both financial and technical assistance. We have incorporated a State revolving fund provisions to provide funds that will enable States to upgrade their infrastructure and to establish pollution prevention programs. The language we have used came from H.R. 1701 which the Energy and Commerce Committee passed last session. We also provide for $100 million a year for grants over a 5-year period for States to administer their State drinking water programs and $20 million a year to finance State and local assessment and pollution prevention programs. Through these financing measures we believe that we are not placing another unfunded Federal mandate on the States.

Our purpose in introducing this bill is to alleviate the burdens on small systems while pursuing the goal of pollution prevention. By encouraging pollution prevention through the State and local establishment of pollution prevention programs, we can stop problems before they start. We hope to eliminate the sources of potential contamination to our drinking water while allowing small and large systems the option of obtaining monitoring relief. States will have the authority to grant monitoring relief to public water systems within local pollution prevention programs where the contaminant is not present in the drinking water. The whole basis behind this bill is to find out what contaminants are out there, where they are, and monitor and treat where they exist. We don't need to invest valuable financial and human resources where we don't have a problem.

We are proposing additional measures to ease the burden on small systems. This bill directs EPA to develop less expensive alternative best available technology [BAT] for systems that can't come into compliance with the act through restructuring or obtaining alternative water sources. Compliance with this alternative small system BAT constitutes compliance with the act. In addition, both small and large systems will have an extended time period to come into compliance with new health standards for contaminants. Large systems have up to 48 months and small systems have up to 60 months to come into compliance.

Many water systems have complained about the current SDWA requirement mandating EPA to regulate 25 contaminants every 3 years. This provision has proven to be unworkable and unnecessary—we should not regulate for regulation sake. Our bill eliminates this provision and directs the EPA to use the newly created occurrence data base and other health based information, incorporating risk reduction benefits and costs, when selecting new contaminants to regulate. Again, this approach should focus EPA's priorities on trouble spots and address contaminants that pose the greatest health risk to persons served by public water systems.

My colleagues and I have worked very hard to compose legislation that will help small systems without rolling back health standards, and I urge other Members to cosponsor this responsible and effective bill.

REFORMING THE SAFE DRINKING WATER ACT

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. STUDDS. Mr. Speaker, today I join my colleagues Representatives Mike Synar and Blanche Lambert in introducing the Safe Drinking Water Reform Act of 1994. This bill is a recognition that there are problems with the Safe Drinking Water Act that need to be addressed, but which can be done in a way that does not compromise the fundamental public health protections in the law.

First, unlike the Clean Water Act, the Safe Drinking Water Act [SDWA] provides no Federal funds to help local water systems finance increasingly expensive programs. Our bill deals with this problem by establishing a State revolving fund [SRF] program, which would provide grants to States to make loans—and grants in hardship situations—to local public water systems for SDWA compliance purposes. The measure authorizes $599 million for fiscal year 1994, allowing that same amount, which has already been appropriated, to be released. The program is authorized for $1 billion annually for fiscal years 1995–97.

Second, this measure recognizes that the best long-term step a water system can take to protect public health is to adopt an effective source water protection program to prevent contaminants from ever entering the water supply. My State of Massachusetts has learned the hard way that it can be very expensive to clean up a contaminated water supply.

Building on this experience, Massachusetts environmental officials have created a model program that grants SDWA monitoring relief to water systems that have worked with local governments to develop and implement source water pollution prevention programs. This effort has saved Massachusetts ratepayers $12 million. Our bill creates a similar national program, allowing States to use up to 10 percent of SRF funds to assist local or regional management entities to develop local drinking water assessment and protection measures.

Third, our bill addresses the problem faced by small water systems which often cannot pay for the contaminant treatment technologies designated by the Environmental Protection Agency [EPA] in its drinking water regulations. The Safe Drinking Water Reform Act of 1994 requires the agency to designate cheaper "best available technology" for small systems and allows States to grant variances from the existing maximum contaminant level and treatment technique requirements.

Fourth, this measure changes the way new contaminants are selected for regulation. Under current law, EPA must issue regulations for 25 new contaminants every 3 years. This has proven unnecessary and unworkable. Our bill directs the agency to use an occurrence data base and other information to designate 15 contaminants that occur in water supplies, present the greatest public health concern and may require regulation. EPA must then individually determine whether or not to regulate these 15, taking into account costs and risk reduction benefits. Every 4 years, EPA would designate 12 new contaminants to study for possible regulation.

Fifth, our bill allows water systems up to 36 months to comply with EPA regulations, increasing this to 48 months if additional time is necessary for capital improvements and 60 months for small systems. The current deadline for compliance is 18 months, which has proven to be an unrealistic timeframe for many systems.

Sixth, this measure addresses several problems that have been identified by GAO and EPA as those that most frequently result in SDWA noncompliance. It does so by creating and funding State programs to ensure that small water systems are financially and technically capable of providing safe drinking water and to require that operators of water systems be trained and certified. The measure strengthens State inspection requirements and directs EPA to issue a drinking water regulation for cryptosporidium, the micro-organism that caused illness in over 400,000 Milwaukee residents and threatened the Washington area's water supply late last year.

Finally, our bill authorizes $100,000,000 for fiscal year 1995 through fiscal year 2000 for grants to States to carry out their drinking water programs, and an additional $20,000,000 annually for grants to States to use for State source water assessment, pollution prevention and system viability programs.

HARAMBEE COMMUNITY SCHOOL IS A NATIONAL MODEL

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. BARRETT of Wisconsin. Mr. Speaker, today I ask my colleagues to join me in honoring an educational success story in Milwaukee's central city. For the past 25 years, Harambee Community School has provided thousands of central city youngsters with an academic foundation that has allowed them to reach their potential.

Harambee Community School is a private, nonprofit, parent controlled and operated school that first opened its doors in the fall of 1969 to offer an environment of respect, responsibility, and discipline. Harambee draws its name from a Swahili word that means "pull together".

For two and a half decades, the Harambee community has pulled together for the children of Milwaukee's central city. The school currently serves 395 children from 4-year-old kindergarten through eighth grade.

The Harambee story began in 1968 with the dream of an African-American-owned school emphasizing the basics through creative instructional programs, coupled with a strong cultural foundation. The school has survived because of the incredible commitment on the part of the school's parents, administrators, and teachers.

Harambee continuously strives for quality education through a flexible, structurally based curriculum where parent input and involvement are of the utmost importance. This involvement enhances the academic and social excellence of the students by promoting positive self-images, goal-setting and high ambitions.

Harambee students consistently score high above the national average in reading and math, and more than 90 percent of its graduates complete high school and go on to higher education. Most Harambee graduates return to the community to carry on the tradition of the school.

In the early years, Harambee managed to meet its financial obligations in a variety of creative ways. There were car washes, coordinated raffle and Bingo games, and a newspaper, the Harambee Shopper, whose profits went to pay the teachers.

For the past 10 years, Harambee has been on more solid financial ground because its corporate board has successfully steered its course. The school is now a trusted institution that serves as a beacon of hope for Milwaukee's central city youths.

On its 25th anniversary, Harambee is a national model for educational quality, innovation, and commitment in the face of adversity. I ask my colleagues to join me in recognizing this fine institution.

TRIBUTE TO ROCKVLLE MUSICAL THEATRE

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mrs. MORELLA. Mr. Speaker, I would like to take this opportunity to honor the Rockville Musical Theatre on the occasion of its 20th anniversary. The theatre was founded in June 1974, as a nonprofit residence theatre, and has brought quality musical productions to the Greater Washington Metropolitan area since its founding.

Rockville Musical Theatre held its first show in the gymnasium of Broome Junior High School, with the production of "Bells Are Ringing." Since that time, Rockville Musical Theatre has found a home in the F. Scott Fitzgerald Theatre at the Rockville Civic Center, producing two Broadway musicals a year.

The members of the theatre have been recognized a number of times by the British Embassy Players, with the prestigious "Ruby Griffith Award," for excellence in community theatre.

The theatre has come a long way since 1974, building an outstanding reputation and laying the groundwork for generations to come. It has provided the community with an opportunity to not only enjoy the theatre, but to be involved in the actual production of the numerous shows.

The theatre's concern for the community is obvious with its annual contributions to the Montgomery College Foundation, providing for an annual scholarship to a worthy student majoring in performing arts.

I would like to personally thank and congratulate the theatre for the wonderful productions over the years and wish it continued success in its future endeavors.

RONALD C. GILLESPIE OF GALWAY, NY—A "SUPERINTENDENT'S SUPERINTENDENT"

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. SOLOMON. Mr. Speaker, on June 30, 1994, Ronald C. Gillespie will be retiring as superintendent of schools for the Galway Central School District, a position he has filled for 15 of the 36 years he has spent educating our children.

Today, Mr. Speaker, I intend to see Mr. Gillespie get some long-overdue recognition.

Mr. Speaker, we are often so busy reciting what's wrong with American education today, we sometimes forget to notice what's right with American education.

Ronald C. Gillespie is what's right with American education. His peers and staff consider him a "superintendent's superintendent," a reputation he earned with a consistent record of effective leadership and management skills. His dedication to the education of our young people has inspired those around him. The entire community is indebted to him and proud of him. And so am I.

There will be a retirement dinner in Mr. Gillespie's honor on June 10. Mr. Speaker, I ask you and other Members to join me in wishing him all the best in his retirement years after such a long and distinguished career.

TRIBUTE TO GAUDENZIA DRUG TREATMENT AND PREVENTION CENTERS

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. FOGLIETTA. Mr. Speaker, I rise to salute the silver anniversary of Gaudenzia, an important provider of drug and alcohol treatment and prevention services in Pennsylvania. Having grown from a single modest residential therapy center, Gaudenzia is now the largest, freestanding, nonprofit treatment and prevention provider in the State.

After 25 years, Gaudenzia operates a diversified network of 36 residential, outpatient, and prevention programs in 20 facilities throughout the eastern and central regions of Pennsylvania. Their services include programs for residential and outpatient treatment of chemical dependency in men and women, prevention programs for children, and services for mentally ill, mentally ill homeless and dually diagnosed clients. The agency also acts as a referral source for hospitals, mental health units, and county drug and alcohol offices throughout Pennsylvania.

Gaudenzia has proven time and again its value to the community through its unique achievements. These include initiating one of the first residential programs in the United States for addicted pregnant women and mothers with young children, and creating a drug prevention program serving youngsters 5 to 12 years old in high-risk areas of Philadelphia. Gaudenzia further distinguishes itself as an important community leader in serving the homeless in residential programs.

Mr. Speaker, Gaudenzia has provided 25 years of nobel service to the city of Philadelphia and the State of Pennsylvania. I join with the Philadelphia community and the State of Pennsylvania in congratulating Gaudenzia on 25 years of service.

GLENN BRIERE: 25 YEARS OF QUALITY REPORTING

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. NEAL of Massachusetts. Mr. Speaker, I take this opportunity to pay tribute to a reporter from my home city of Springfield, MA. Glenn Briere has been covering politics at the local and State level for the past 25 years and is about to leave for a new career. Briere will soon become the head of public communications for Massachusetts auditor Joe DeNucci. Auditor DeNucci is sure to benefit from the years of fine work Glenn has put in as a general assignment reporter in Springfield and as the statehouse reporter for the Springfield Union-News.

It is a drive of a couple of hours from western Massachusetts to the statehouse in Boston, but politically it often seems like a world away. Those of us who closely follow the Governor and our local Representatives and Senators come to rely on solid stories from our western Massachusetts reporters. In that sense, Glenn Briere has provided a valuable service for the past 11 years as he reported on events under the Golden Dome on Beacon Hill. With hundreds of important matters before our Massachusetts House and Senate each week, Glenn has always known how to pick out the issues of true importance to people in Springfield, Chicopee, and the towns of the Pioneer Valley. He has also given us an inside view of how decisions are made in Boston and alerted us to upcoming measures that may affect our lives. His weekend wrap-up of the past week's events on Beacon Hill has long been a must read for me.

In addition to his newspaper work, Glenn has also been a fixture on our local political television show, "The State We're In," on our PBS outlet, WGBY. Glenn Briere is also a past president of the Statehouse Press Association. He will be greatly missed in our daily paper and each week on television, but I hope to be able to work with Glenn in his new role in State government. He may find that it is easier to observe the workings of government than to try and make government work, but if his past work is any indication, Glenn will excel in auditor DeNucci's office.

Mr. Speaker, I wish Glenn Briere the best of luck in the years ahead and join with many people in western Massachusetts in thanking him for his fine work as a political reporter.

A TRIBUTE TO DR. STANLEY ROUSONELOS

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. SANGMEISTER. Mr. Speaker, I rise today to pay tribute to a truly unique individual, a good friend of mine and a great American—Dr. Stanley Rousonelos of Joliet.

Dr. Rousonelos, who will be honored as the 1994 Citizen of the Year by the Joliet chapter of UNICO on May 14, has a record of professional and public service to his community that is truly unmatched.

Dr. Stan, as everyone calls him, was born and raised in Joliet. For 37 years he was the family doctor in town, providing care to thousands and thousands of residents—including the more than 3,000 he helped bring into the world.

Not only did Dr. Stan's patients appreciate his plain spoken manner and keen sense of humor, but so did his peers. He was elected chief of staff of St. Joseph Medical Center in Joliet and president of the Will County Medical Society.

Now retired from practice, Dr. Stan has undertaken even bigger challenges in serving his community. He was a driving force in establishing the Will-Grundy Medical Clinic in 1987 to help the 14,000 residents of Will and Grundy Counties that are medically underserved. At the time of its incorporation, the free clinic was only one of three such facilities in the United States. It has since served as a model for similar programs across the country.

In addition to serving on the board of directors of the clinic and recruiting his peers to volunteer their time there, Dr. Stan regularly staffs the facility, providing sorely needed health services to those who can least afford them.

He also was instrumental in the passage of State legislation that made it easier for physicians to volunteer at facilities like the Will-Grundy Medical Clinic, paving the way for creation of smaller facilities across the State.

Although his work on the clinic may be Dr. Stan's greatest contribution to his community, there are few worthy causes in Joliet in which he is not somehow involved.

He is: a member of the board and immediate past president of the Joliet Area Community Hospice; president of the advisory board of the Catholic Charities' Senior Companion program; a board member of Daybreak, a local homeless-assistance organization; vice president of the Joliet Junior College Foundation; on the governing board of St. Joseph Medical Center; a member of my Health Care Advisory Committee; and a widely sought after lecturer on such public health issues as AIDS. Why does a man who has certainly earned the relaxation of retirement insist on a schedule of helping others that would tire a man half his age?

Because, as a former patient put it so well, "He cares."

Mr. Speaker, I congratulate my friend Dr. Stan on this well-deserved honor, and I wish him many more productive and enjoyable years, both public and private.

REMEMBERING A HERO—BOB LETTON

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. ROGERS. Mr. Speaker, the people of Kentucky and the Nation lost a war hero and humble servant when Bob Letton passed away on Friday, March 11.

Bob Letton was truly a war hero. Flying over 100 missions in Vietnam, Letton rescued many downed Air Force and Navy pilots behind enemy lines. He also served a 1-year tour as the commander of a Sikorsky helicopter unit.

Letton attained the rank of captain and was awarded a Presidential Citation, two Distinguished Flying Crosses and a host of other military decorations for his bravery and valor.

After returning to civilian life in 1967, Bob went to work for the farmers of Kentucky, starting work as a Farmers Home Administration [FmHA] assistant county supervisor in London. Later, he became the Montgomery County supervisor before moving to the State FmHA office in 1975.

As the State's FmHA director of community and business programs, Bob's work was vital to agribusinesses and other small businesses in Kentucky.

In 1992, when the Rural Development Association separated from FmHA, Bob became the State's first RDA coordinator, where he served our communities, State, and country until his death.

Bob Letton was responsible for millions of dollars of projects to help Kentucky. Whether it was hospitals, water projects, or helping farmers, Bob Letton always listened and worked as hard as he could for the people of Kentucky.

Just like those downed pilots he flew missions to rescue, he rescued thousands of farmers, businesses, and families from disasters.

That was Bob Letton. Giving himself and always willing to risk himself for others.

Bob Letton was intelligent, fair, honest and cheerful. He was always positive and knew if he worked hard enough, he could make things happen.

That is the definition of a great leader.

All of his efforts focused on improving the quality of life for the people of Kentucky. Because of this commitment, he will be sorely missed.

TRIBUTE TO DONALD W. BARNICKLE

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. FAWELL. Mr. Speaker, second only to the family in its crucial influence in shaping the lives of the Nation's children, are our schools, and particularly, the individual teachers and principals in whose care they are entrusted during a large part of the day. For this reason, I take special pride and satisfaction in asking my colleagues to join the people of Naperville, IL, as they honor Elmwood Elementary School Principal, Donald W. Barnickle, who will retire this June after more than 44 years of service in education.

From the start, Don Barnickle has been committed to the shaping of young children's minds in their most formative years. He began his career in Naperville in 1950 as a teacher of fourth through sixth grades at the old Washington Junior High School. Five years later, Don accepted a job as the first principal of Elementary District 78's third school, Beebe. In 1960, Don left Beebe to open district's 78's fifth elementary school, Elmwood. In 1965, under Don's able direction, district 78 built a 12-classroom addition to the Elmwood School. Serving as district 78's overflow facility, Elmwood served 926 students in its peak attendance year.

During his second year at Elmwood, Don implemented a new, nongraded primary program and cooperative teaching methods for students who learn at an accelerated pace. This program resulted in the selection of Elmwood as a demonstration center for the State of Illinois program for gifted students during the 1970's. Elmwood was also one of the school districts sites for the piloting of an early form of computer assisted instruction. The Program for Learning in Accordance with Needs [PLAN] emphasized individualized instruction and recording-keeping assistance through the use of a computer service.

Don also served as the first chairman of the School District's Joint Curriculum Advisory Council, a long-standing committee comprised of representatives of the school district and the community. He also has conducted workshops in other districts on the subject of individualized instruction, and has served as a consultant for the State of Illinois Gifted Program.

The inscription on the dedication plaque in the lobby of the Elmwood School best sums up Don Barnickle's career:

> A dedicated leader in education who has given a lifetime of service to the children of Naperville. * * * A man who has influenced the lives of many.

Mr. Speaker, this says a great deal about Don Barnickle, perhaps it says it all. Professional education credentials are important, but they lose their vitality if they are not combined with a genuine affection for the children under the school's care. Don Barnickle, for more than four decades, has recognized the importance of providing children not only the beginnings of formal instruction, but also the meaningful experiences which will ultimately produce independent, responsible, and productive adults.

I commend Don Barnickle for his countless years of dedicated service, and wish him the best in his retirement.

MONROVIA ANTICRIME RESOLUTION

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. DREIER. Mr. Speaker, this week I met with Chiefs of Police Brad Hoover, Robert Moody, and Joe Santoro from Whittier, Claremont, and Monrovia, CA, to discuss the increasing fear of violent crime in our communities. The tragic fact is that the United States today is facing the worst rate of violent crime of any developed country.

Congress has now taken the first step in combating violent crime. Both the House and Senate have passed their respective crime initiatives, and a conference will be called to hammer out the differences. I would like to bring to light six critical points that should be considered by the conference committee, as resolved by the city council of the city of Monrovia.

First, anticrime funds given to cities and towns should be in the form of block grants with a minimum number of Federal restrictions and mandates. Local communities are in the best position to determine how to allocate additional funding. Second, many of the cities in the greatest need of additional anticrime funding are unable to meet stringent matching requirements, and should not be pressured by the Federal Government to overextend their scarce resources. Third, eligibility for Federal grants should be granted to small cities and towns as well as large metropolitan areas. Most American towns have fewer than 40,000 inhabitants, with severely limited local resources to combat their growing violent crime problems.

Fourth, the Federal Government must recognize the cost to the States of incarcerating undocumented aliens, and reimburse the States for these amounts. Cities in border States have been particularly hard hit in recent years by a poorly implemented Federal immigration policy. Local communities should not have to pick up the tab for the Federal Government's failure to enforce our immigration laws.

Fifth, while I am opposed to any new taxes on law abiding citizens, I believe that revenues from licensing fees on firearms, ammunition, or firearms dealers should be dedicated solely to anticrime programs and not used to fund new bureaucratic federalized social programs.

Sixth, an effective anticrime strategy must include measures to prevent crime as well as strengthen our law enforcement capabilities. Congress must balance increased criminal deterrence enforcement with the creation of more economic opportunities and a strengthening of our communities.

I am submitting for the RECORD the following resolution adopted by the Monrovia City Council.

RESOLUTION NO. 94-19—RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONROVIA TO STOP CRIME AND VIOLENCE IN OUR CITY

Whereas, America's communities and families are scarred by increasing numbers of violent crimes; and

Whereas, the level of violence associated with criminal acts is increasing; and

Whereas, no community or family is untouched by incidents of crime or the fear of being victimized by crime; and

Whereas, reductions in crime and in the fear of crime will require enactment of meaningful national anti-crime legislation as well as work by local communities and state governments to develop and implement long-term solutions that deal with both the causes and effects of crime; and

Whereas, implementing short and long-term solutions to stop crime and violence in our cities and towns is the National League of Cities' top priority in 1994; and

Whereas, the critical nature of the problem demands an end to Congressional gridlock; and

Whereas, achieving an early partnership to reduce crime will require immediate action by the Congress.

Now, therefore, be it resolved that the City of Monrovia urgently calls upon the Congress to enact anti-crime legislation immediately so that the resources and programs which such legislation will provide can be utilized on a timely basis to deal with this critical problem now.

Be it further resolved that such anti-crime legislation should include:

A balanced approach that includes both enforcement and prevention programs.

Direct block grant anti-crime funds to cities and towns with maximum flexibility allowed in the use of those funds. Let local communities decide the best way to increase officer hours on the street through the use of overtime and other options, not necessary to hire new officers; because each new officer means new equipment costs and at least a six month delay to hire and train.

Eliminate any condition that cities be required to match grant dollars they receive.

Make sure that solutions—and the flow of dollars—go to help all cities, not just the largest cities in this country. Most of the towns in America are small; less than 40,000 population. This legislation should help the smallest communities, who tend to have the least resources, as well as large metropolitan areas, address the problems of crime.

Creation of a federal anti-crime trust fund financed by dedicated revenues derived from licensing fees levied on weapons, ammunition and weapons dealers.

Require the federal government to reimburse states for the cost of incarcerating criminals who are undocumented aliens and encourage the federal government to pursue reimbursement from the criminal's country of origin.

Be it further resolved that the City of Monrovia rededicates itself to crime prevention and suppression and calls upon its citizens to assist in these efforts.

THE EXERCISE TIGER CEREMONY PHILADELPHIA NAVAL BASE

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. SAXTON. Mr. Speaker, I would like to begin by thanking all of those attending this momentous ceremony for their interest and dedication in recognizing the 50th anniversary of "Exercise Tiger." I am certain we all agree on the important role that Tiger, and the men who fought there, play in our Nation's history.

Over the last several months I have received thousands of letters from students all over New Jersey that ask for my assistance with gaining official recognition for Exercise Tiger on a Federal level. I think that the magnitude of this ceremony today indicates that, through the sincere efforts of several people, Tiger is finally getting the attention it deserves.

The students' letters have been of particular interest to me because they indicate the importance of this ceremony and the battle that it commemorates. That students taking a vested interest in this event should indicate to us all the importance that history plays in the curriculum of our schools. I am very proud of these students and their schools for their part in making Exercise Tiger a part of history.

As a direct result of the efforts of these students and their schools, and with the help of Walter Domanski and the Exercise Tiger Association of New Jersey, we have been able to go a long way in honoring those who served in Exercise Tiger. My office is currently working with the Department of Defense in an attempt to obtain official commendations for Walter Domanksi, Sr., and other survivors of the battle. We are also having flags flown over the dome of the U.S. Capitol today that will be given to several Tiger veterans and their families.

In addition to the efforts aimed at commemorating the individuals involved in Exercise Tiger, we are also attempting to place Tiger in the Congress official record books. I, along with over 90 other Members of Congress, have cosponsored House Joint Resolution 305 which seeks to officially name April 28 as "Exercise Tiger Day." I will also ask that this statement be placed in the CONGRESSIONAL RECORD as an extension of remarks.

In closing, I would again like to thank all of you for attending today and for your continued efforts in developing Exercise Tiger's place in history.

RISK ASSESSMENT IMPROVEMENT ACT OF 1994

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mrs. MORELLA. Mr. Speaker, I am pleased to speak in support of the Risk Assessment Improvement Act of 1994, which Mr. KLEIN is introducing today. The bill establishes a risk assessment peer review program at the Environmental Protection Agency, and it requires the program director to develop and keep current risk assessment guidelines based on up-to-date science. The bill would also establish a pilot program using comparative risk analysis to rank environmental risks.

The introduction of this bill is the result of testimony received by the TEA Subcommittee of Science, Space, and Technology from many Federal agencies, among them, EPA and OMB. At a time of scarce Federal dollars, it makes sense to identify areas of greatest risk and to direct our resources to those areas. Sometimes the public perception of risk is different from the evaluations of scientists whose lives are spent studying and reducing risks. This risk assessment bill effectively contributes to the current debate. It deserves our support.

ST. PETER'S, MOTHER CHURCH OF HUDSON VALLEY, MARKS 150 YEARS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. SOLOMON. Mr. Speaker, on Saturday, June 18, 1994, St. Peter's School in Poughkeepsie, NY, will celebrate its 150th anniversary.

St. Peter's School is the oldest known continuously operating Catholic school in upstate New York.

Mr. Speaker, even non-Catholics acknowledge and applaud the outstanding job parochial schools have done in educating millions of Americans. The work of dedicated teachers, religious and lay, the superior discipline, and the character and spiritual formation provided in these schools has produced a large and continuous supply of outstanding citizens, high achievers in every sphere of activity, and heroes in every American war. The academic excellence alone of these schools has provided a standard against which the public school systems can measure themselves.

As is the case with so many of our churches, the history of St. Peter's is intimately woven into the history of the region. As one of the oldest churches in North America, St. Peter's was a jumping-off spot for countless missionaries to Canada and to the then-untamed American West.

The Catholic Association was formed in 1832. St. Peter's Parish was formed in 1837, and the school in 1844. St. Peter's is the "Mother Church" of numerous other churches. Every Catholic church in Dutchess and Ulster Counties, and most of them in Putnam and Orange Counties, stem from St. Peter's, the result of the waves of European immigration in the 19th and early 20th centuries.

St. Peter's Cemetery is the site of the largest freestanding Celtic cross in America, dedicated as a World War I monument in 1917 by former Congressman Ham Fish, Sr.

Priests from St. Peter's were instrumental in getting a bridge built across the Hudson River so that Catholics from Ulster County could cross the river for Mass instead of relying on rowboats. Legend has it that St. Peter's priests gave Lafayette the Sacrament of Penance toward the end of his life.

Mr. Speaker, I would ask you and the entire House to join me in tribute to Sr. Cecilia Dolores, principal, and to everyone associated with St. Peter's School in Poughkeepsie as this historic and outstanding institution celebrates 150 years of educating area Catholics.

A TRIBUTE TO THE JOLIET JUNIOR COLLEGE MEN'S BASKETBALL TEAM

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. SANGMEISTER. Mr. Speaker, I rise today to salute a group of truly remarkable young men and their equally remarkable leader—the Joliet Junior College Men's Basketball Team, the National Junior College Athletic Association's 1994 Division II National Champions, and their coach, Mr. Pat Klingler.

The Joliet Junior College Wolves won the title March 19 with a thrilling 85–80 victory over the previous champion, Owens Technical College of Ohio.

Athletic championships are always an impressive achievement, but the Wolves triumph is exceptional in that Joliet Junior College had not been a consistent national power until very recently, unlike so many junior college programs that serve as virtual farm teams for NCAA division I schools.

Much of the credit for this sudden prominence goes to coach Klingler, who arrived at the school in 1991. Through coach Klingler's inspiring leadership and tireless work, the Wolves completed an incredible 3-year turnaround that was capped with the NJCAA Division II Championship last month. Appropriately, Mr. Klingler was named National Junior College Coach of the Year by College Sports magazine, among his many honors.

Mr. Speaker, I congratulate the Joliet Junior College Men's Basketball Team on this great triumph, and wish the squad continued success in the future.

WHITEWATER

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, April 27, 1994, into the CONGRESSIONAL RECORD:

WHITEWATER

Despite the extensive media coverage, it is often difficult to understand the allegations, to say nothing of the facts, surrounding Whitewater. Many people believe the President and the First Lady have done nothing wrong and are angry about what they see as a political distraction. Another view is that the allegations are credible and the White House may be holding back information. Other are simply confused. At this point, I know of no evidence the President or the First Lady has done anything illegal. However, when the agenda of a President is clouded by allegations such as those concerning Whitewater, I think it is important to get all the facts out as quickly as possible so that the country can move on.

BACKGROUND

The Whitewater affair involves several things, most directly the financial relationship between Bill Clinton and two businesses: the Whitewater Development Corporation and Madison Guaranty Savings and Loan.

In 1978, while he was Attorney General of Arkansas, Bill Clinton, along with Hillary Clinton and James and Susan McDougal, entered into a real estate venture, which they later named the Whitewater Development Corporation. Whitewater consisted of over 200 acres of land in northern Arkansas that the investors hoped to develop and sell as individual properties. Clinton was Governor of Arkansas from 1979 to 1981 and 1983 to 1992. The Clintons sold their share of the Whitewater corporation in 1992. In 1982 James McDougal bought a savings and loan, which he renamed Madison Guaranty Savings and Loan. Madison, like many S&Ls, got into financial trouble in the mid-1980s. Madison was taken over by federal regulators in 1989 at an estimated $60 million cost to the taxpayer.

The Resolution Trust Corporation (RTC), the federal agency charged with disposing of failed S&Ls, began an investigation of Madison that in 1992 resulted in a referral to the Justice Department for a criminal investigation of Madison, including possible links to the Whitewater Corporation and the 1984 Clinton gubernatorial campaign. The Clintons were named in the referral as possible beneficiaries of allegedly illegal Madison transactions. In January, Attorney General Reno appointed Robert Fiske, a former U.S. attorneys, as special counsel for the investigation.

PRINCIPAL QUESTIONS

The RTC investigation apparently uncovered evidence of questionable financial practices by Madison in relation to Whitewater and the Clinton gubernatorial campaign. The central question is whether funds from Madison were diverted illegally to Clinton's gubernatorial campaign fund. Madison money also might have been used improperly to sustain the unprofitable Whitewater venture. There is no evidence that the Clintons were aware of the alleged funding of Whitewater or any illegal donations to the governor's campaign.

A second question is whether Clinton might have repaid Madison with political favors, including lenient treatment by regulators, or whether there was special treatment because the Rose law firm, including Hillary Clinton, represented Madison before state regulators. The evidence seems to show otherwise—Arkansas regulators were at least as aggressive as federal officials in dealing with the Madison case.

The third question relates to charges made by David Hale, then the owner of Capital Management Services, a corporation licensed by the Small Business Administration to make guaranteed loans to underprivileged individuals seeking to start their own businesses. Hale, who was convicted in mid-March on two counts of fraud related to Capital Management Services, has charged that in 1986 Clinton pressured him to make loans that benefitted both Madison and Whitewater. President Clinton denies ever pressuring Hale, and the Clintons say they were unaware of any use of loans to benefit Whitewater.

Finally, there are the separate questions raised about the Clinton administration's handling of Whitewater. First, have they covered up the facts? Second, did the Washington RTC office interfere with the regional office's investigation? Third, did any of the various contacts between the White House and RTC officials constitute attempts to impede the investigation? Thus far, there is little to suggest interference at either level.

INVESTIGATIONS

Unanswered questions remain about dealings in Arkansas, so I think the appointment of the special counsel was in order. The special counsel is currently investigating these questions and has convened a grand jury to hear testimony and evidence.

My concern is that his investigation could take months. The facts need to get out as quickly and fairly as possible. So far as I am aware, the White House is cooperating with the special counsel and it has made public a significant amount of information, including the Clintons' tax records. These efforts have helped to defuse the situation. Some in Congress argue that the work of the special counsel and the President's disclosures make congressional hearings unnecessary. My present view is that we should proceed with hearings. Hearings not only help Congress fulfill its responsibility to explore possible abuses of power in the executive branch, they also give the public the facts it needs to judge the performance of the President and his administration. The job of the Congress is to conduct a legitimate inquiry without impeding a thorough and fair criminal investigation. Clearly the Congress has to work out an accommodation with the special counsel. We should not put the criminal investigation at risk for the sake of some publicity.

The news media is part of this process as well. The media has a responsibility to pursue the story, but also to pursue it responsibly. Several stories have been published about events and actions for which there is no nameable offense let alone any evidence of impropriety.

CONCLUSION

My view is that most Americans give a President the benefit of the doubt and will continue to do so until they are confronted with strong proof of wrongdoing. They are far more interested in hearth care, welfare, jobs, and other issues, but they are also quite curious and even a little confused about Whitewater, and they want to know more. Like them, I simply do not feel I know the full facts. The investigations should proceed, but the White House and Congress need to make sure their primary focus remains on finding solutions to the most pressing national problems.

EIGHT DECADES AS KIDS' PAL

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. RANGEL. Mr. Speaker, I rise to pay tribute to my dear friend, the long-time district attorney of Manhattan, Robert Morgenthau. Over the course of 31 years, Bob Morgenthau has shown true dedication and commitment to the State of New York and to our troubled youth. New York City's youth have found a safe haven in Mr. Morgenthau's organization. In a city plagued by the ravages of drugs and crime, the Police Athletic League [PAL] has been a fountain of positive reinforcement, learning, and growth.

Mr. Morgenthau has spent countless hours as the president of PAL, an organization whose mission is to offer kids a sense of identity and belonging. PAL allows young people to envision possibilities that they might never have considered before.

Under Mr. Morgenthau's three decades of leadership, PAL's ability to reach out to New York City's boys and girls has expanded. Through its 71 recreation centers. PAL provides neighborhood kids with a safe place to go after school. PAL now serves 60,000 kids throughout the city.

For the benefit of my colleagues, I wish to enter into the CONGRESSIONAL RECORD the following article which appeared in the Daily News on March 13, 1994.

[From the Daily News, Mar. 13, 1994]

EIGHT DECADES AS KIDS' PAL

(By Suzanne Rostler)

Former New York City Police Commissioner Benjamin Ward was a 17-year-old kid from Brownsville when in 1944 he first sat behind the desk that once belonged to Teddy Roosevelt.

He didn't dare imagine that one day he would sit behind that same desk as the head of the force.

"There was nothing in my memory to make me think I could be anything as glorious as a policeman," said Ward. "It was kind of a bewildering experience, coming out of a cold-water flat at the edge of Brownsville. It was like going into a strange new world."

What brought Ward to this new world was the Police Athletic League's essay contest, "Police Commissioner for a Day," in which Ward offered winning suggestions for running the department.

Besides providing him with an afternoon with then-Commissioner Lewis Valentine, the contest allowed Ward to envision possibilities he had never before considered.

The essay contest is just one way the Police Athletic League, celebrating its 80th anniversary this year, has opened doors to generations of city kids whose after-school itinerary is not likely to include piano lessons and private tutors.

"The streets are awfully rough," said PAL President and Manhattan District Attorney Robert Morgenthau. "(PAL) offers kids a sense of identity and belonging to something constructive. We're sending a message that someone cares about them."

Created in 1914 by Capt. John Sweeney of the New York Police Department to offer athletic activities to city kids, PAL's scope has expanded under Morgenthau's 31-year leadership.

Today, PAL serves 60,000 kids throughout the city. In addition, to providing boys' and girls' basketball and softball leagues, boxing, track and field, and weight training, the organization offers job and family counseling, study centers and computer training programs.

The "Police Commissioner for a Day" essay contest alone draws about 3,000 entries from kids in grades nine to 12.

Another program brings cops and communities together each summer to reclaim the streets for the children. As police patrol the periphery, kids jump rope, play baseball and read in bookmobiles.

On a daily basis, PAL provides neighborhood kids with a safe afterschool haven, through its 71 recreation centers.

Providing such basic services as a place to study, however, is not cheap. With an annual budget of $12 million, PAL spends about $200 a year on each child. The budget is not nearly enough to meet the demand for services.

The organization is building four new centers at a cost of $8.1 million apiece. Funding will come from the city and private corporations and foundations.

Said Morgenthau: "It's the only organization I'm committed to about which I can honestly say if we had twice or three times the amount of money, we could spend it wisely. The demand is so tremendous."

The pay-off, however, is immeasurable, he said. Over the years, PAL has played a significant role in the lives of kids who have gone on to become models in their fields.

"Through the program, kids find themselves as individuals and develop their self-esteem through competition and teamwork," said former New York Knicks forward Bernard King. "I had a chance to meet people from other parts of the city and, from a competitive standpoint, learn other styles of basketball."

AMERICA'S ENERGY OPTION

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. FAWELL. Mr. Speaker, in recognition of Earth Day, I think it is important to remind my colleagues of the contribution nuclear energy makes to clean air. Nuclear energy is the second largest source of electricity in the United States, providing 19 percent of the Nation's electricity. It supplies the needs of 65 million households with virtually no air polluting emissions.

Congress wisely recognized nuclear energy as an important energy resource with enactment of the Energy Policy Act of 1992. President Clinton also acknowledges nuclear energy's important role in the Climate Challenge Program.

In fact, nuclear energy is responsible for reducing an astounding 92 percent of all U.S. electric utility CO_2 emissions since 1973. These reductions will be increasingly important as we consider building new electric generating capacity to fuel a growing economy.

I can tell you firsthand about the environmental advantages of nuclear energy. My district gets about 70 percent of its electricity from nuclear powerplants. This means that when my constituents celebrated Earth Day this year, they breathed cleaner air thanks to nuclear power.

But you need not take just my word for the environmental benefits of nuclear energy. The World Energy Council reports "If global policymakers are serious about reducing greenhouse gases in the long-term, nuclear power must make a comeback * * *. There is no chance of stabilizing greenhouse gas emissions at 1990 levels until the nuclear energy question is resolved."

Moreover, the Office of Technology Assessment says that nuclear energy is the only nonfossil energy option that offers the greatest potential for "achieving deep cuts in carbon dioxide emissions." The National Academy of Sciences agreed that nuclear energy is "the most technically feasible alternative" to replace fossil fuels as the primary source of electricity.

Mr. Speaker, in observance of Earth Day, I ask my colleagues to carefully consider the important role that nuclear energy plays for a cleaner environment. I encourage my colleagues to support policies that enhance America's nuclear energy option.

A TRIBUTE TO MARY CASSELL

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. KILDEE. Mr. Speaker, I want to recognize the substantial contribution that Mary Cassell has made to the work of the Subcommittee on Elementary, Secondary, and Vocational Education over the last 8 months.

Mary is a Women's Research in Education Institute [WREI] fellow pursuing graduate studies at Johns Hopkins University. From her first day with the subcommittee, she tackled all tasks with enthusiasm and quickly became a fully contributing member of my subcommittee staff as we worked on H.R. 1804, Goals 2000: Educate America Act and H.R. 6, Improving America's Schools Act of 1994.

The end of April brings the end of Mary's fellowship. I am sorry to see her go and am grateful for what she helped us accomplish this year: the President's Goals 2000 bill has been enacted into law—Public Law 103-227—and H.R. 6, which reauthorizes the Elementary and Secondary Education Act of 1965, has passed the House.

Mary Cassell exemplifies the excellence that we all hope for in the variety of academic and policy fellows that come through our offices. During the last 8 months, she has represented well both the Women's Research in Education Institute and the Subcommittee on Elementary, Secondary, and Vocational Education.

Mr. Speaker, I have often said that we need people in public service with good heads and hearts—and Mary is certainly one of these individuals. I want to thank her for all of her hard work and wish Mary well as she develops her career in public policy.

TRIBUTE TO NATIONAL ASSOCIATION OF LETTER CARRIERS' LOCAL 479 CENTENNIAL IN TERRE HAUTE

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. MYERS of Indiana. Mr. Speaker, it is with great pride that I rise today to honor the 100th anniversary of the National Association of Letter Carriers' Local 479 in Terre Haute, IN.

The centennial marks a milestone in the history of these dedicated workers. For one century, Local 479 has strived to improve the lives of letter carriers, and its commitment, discipline, and excellence are clear in the pride with which Indiana letter carriers perform their daily duties.

Local 479 was chartered by the national association on March 19, 1894, and currently has 153 active and retired letter carriers from Terre Haute and Clinton, IN. Under the leadership if its new president, William E. Weese, Local 479 continues to expand its membership and influence throughout Indiana.

Local 479 will host the 94th Indiana State Convention for Letter Carriers on April 28–30 in Terre Haute. More than 300 letter carriers and auxiliary members from branches statewide will attend the convention. I am proud to join these workers to help celebrate their century-long record of accomplishment.

IN HONOR OF LARRY DANNER: A TRUSTED PUBLIC SERVANT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. STARK. Mr. Speaker, I rise today to honor Capt. Larry Danner, who is retiring from the Police Department of the San Francisco Bay Area Rapid Transit District, or BART. Captain Danner, who lives in Fremont, CA, has been a police officer for 30 years. I just want to take a moment to share with my colleagues some of his many accomplishments and contributions to the citizens of the East Bay.

Larry joined the Fremont Police Department in 1964 after being discharged from the Army. As a patrol officer, he spent a great deal of time in the Niles district of Fremont, earning the respect of the community, but making no friends among the city's criminal element. Officer Danner would walk the neighborhoods, stop and talk to shop owners and citizens, and offer assistance where he could. Without knowing it, he was practicing community policing, only then it wasn't a buzzword, it was a job description.

After 8 years in Fremont, Larry was hired by the BART Police in 1972 and was quickly promoted to sergeant. As a sergeant, he set up the traffic section of the department and helped change the rules to give BART officers more police authority, making the transit system safer.

In 1976, Sergeant Danner became Lieutenant Danner and was assigned to the administrative bureau. Many of the basic operating rules in use in the department are Larry's handiwork. He started several safety and education programs, including Ride With Pride—transit etiquette and safety education aimed at grade school children, and Commute With Confidence, which promoted safety for adult riders. Larry was promoted to captain in 1981 and was placed in charge of department administrative functions, where he served 5 years before being assigned to the patrol bureau.

As patrol bureau commander, Captain Danner made changes to cut down on travel time for officers as they reported for their shifts, improved the beat system, and established the honor guard, tactical team, and joint task forces with the Berkeley, Oakland, and San Francisco Police Departments. Larry never stops working to make BART a better and safer system, whether it's tackling long-range planning problems, improving parking lot and station security, or making it easier for his fellow officers to do their jobs efficiently and effectively.

Larry Danner has a full plate, but after work his roots in Fremont bring out the best in him at home. He is an active veteran and is committed to community service. He has volunteered at a teen crisis center, with youth baseball leagues, and in local classrooms bringing teens responsible sex education. Larry and his wife Marie work with Shelter Against Violent Environments [SAVE] to provide secure shelter for battered women. He's an active Democrat and has been on the State Central Committee for 8 years, and was a guest here last year for inauguration.

Capt. Larry Danner has a lot to be proud of: A loving family, a successful career in law enforcement, and a community he and his family have helped to build and enrich over the years. His colleagues, family, and friends are gathering for a special dinner on Friday, April 29, to recognize his service to BART and the people of the bay area. I want to join them in offering my congratulations and best wishes for a well-deserved retirement. I'm sure, Mr. Speaker, that Fremont, which is a better place because of Larry Danner, hasn't seen the last of him.

BOB BUSH: CHAMPION OF AMERICAN FREE ENTERPRISE

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. ROTH. Mr. Speaker, I rise to recognize Bob Bush, an accomplished businessman, a selfless community leader, and a dedicated family man from Green Bay, WI.

In recognition of Bob's exceptional career at Schreiber Foods, the Green Bay Rotary Club International will award him their 1994 Free Enterprise Award on May 2. Bob will become the 12th recipient of the award, which recognizes people and organizations in Brown County that exemplify American free enterprise.

As the chairman of one of America's most successful food producing companies, Bob is indeed a champion of free enterprise. Beginning his career as a Schreiber mechanic, Bob rose the ladder to become chairman and chief executive officer. Along the way, Schreiber sales expanded from $12 million a year to more than $1 billion in sales last year. Thanks to Bob's leadership, Schreiber grew to be the world's second-largest cheese company and one of the largest employers in Brown County.

Throughout his career, Bob was a visionary and an innovator. As a young engineer, he revolutionized his industry by inventing a machine to slice cheese into individual slices. From the factory floor to the CEO's office, Bob has always tested novel ideas. Thanks to Bob's ability to develop new technologies to satisfy his customers' needs, Schreiber has always run a step ahead of its competition.

Aside from running Schreiber, Bob lends his business experience to a number of corporate boards and industry groups, including the Green Bay Packers.

Bob devotes his talent and energy to his community as well. His list of volunteer activities reads likes a Who's Who of Wisconsin philanthropies, educational, and service organizations.

A firm believer in public education, Bob serves on the chancellor's council and the industry advisory committee of the Center for Dairy Research at his alma mater, the University of Wisconsin-Madison. Previously, Bob served on the Board of Visitors of the College of Agriculture and Life Science at UW-Madison. Closer to home, Bob has served on the Allouez school board.

In addition, Bob served as a YMCA director and as a United Way chairman. As chairman of the New Community Clinic Building Fund Campaign, Bob helped to raise $1 million to establish a free medical clinic in Green Bay.

Bob married Carol, his college sweetheart, in 1950. They raised two daughters, Tracy Arndt and Toni McBride, and two sons, Terry and Tom. Following in their father's footsteps, all four children graduated from UW-Madison and went to work in the food producing industry. Bob and Carol are active members of the Union Congregation Church, which recently celebrated its 150th anniversary.

Mr. Speaker, on behalf of the 8th Congressional District, I congratulate Bob Bush for winning the Free Enterprise Award. A man loyal to his company, his community, and his family, Bob's life and deeds embody the best virtues of American free enterprise.

SALUTE TO THE PLEASANT VALLEY SCHOOL DISTRICT

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. GALLEGLY. Mr. Speaker, I rise today in recognition of a school district that has been educating elementary school children in Camarillo, CA for 125 years, the Pleasant Valley School District.

Established on November 10, 1868, Pleasant Valley is the oldest existing school district in Ventura County and the source of inspiration and knowledge for many generations of young people well-served by their time there.

Three years after the end of the Civil war, John and Rebecca Mahan and their three children settled in the picturesque area known as Pleasant Valley. At the time, the nearest school the children could have attended was located miles away in San Buenaventura, now known as the city of Ventura. But the journey to the school was long and—particularly in rainy weather—often treacherous.

Concerned about his children's education, Mr. Mahan made the one-day trip to the Santa Barbara County seat to secure the permit establishing the school district thenceforth known as the Pleasant Valley School District.

Located about 10 miles east of the Pacific Ocean and covering an area of about 65 miles, the district began with six pupils and a teacher holding classes in an abandoned granary. Funds became available in 1871 that allowed the district to build its first wood-frame schoolhouse with seats, handmade desks, and a blackboard.

Over the years, population in the area increased and so did the number of children sent to Pleasant Valley schools. In 1922, there were 152 students. This number climbed to 270 by 1940, 592 in 1952 and 860 in 1958. Today, there are roughly 7,000 students in 13 schools served by 356 certificated and 190 classified employees.

In short, Mr. Speaker, I would like to ask my colleagues to join me in saluting the Pleasant Valley School District in its celebration of 125 years of fine education. Many in the Camarillo community have devoted their time and talents to ensure the success of the district and of its students. Generations of young people have been made aware of the past, given a vision of the future and well-equipped to face the challenges of today through their association with the district.

I have no doubt that the teachers, administrators and supporters of the Pleasant Valley School District will continue to make an important contribution to children's lives for many years to come.

IN HONOR OF PUBLIC SERVICE RECOGNITION WEEK

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. MANN. Mr. Speaker, I rise today to recognize all of the dedicated public servants of Ohio's First Congressional District.

As a public servant for most of my career, I am proud to be a cosponsor of House Joint Resolution 253, the legislation that marks the week of May 2–8, 1994 as "Public Service Recognition Week."

Without my staff and the Federal, State, and local government agencies that we work with on a daily basis, I would not be able to do my job as a Representative in the U.S. Congress. Many of the cases that my staff works on deal with Social Security, Medicare/Medicaid, Federal workers compensation, and veteran affairs. It is always a collaborative effort to make sure that my constituents and the public are served. On other occasions we make referrals to various agencies. They always do a tremendous job and I am never disappointed.

Often we fail to give recognition to those who serve our communities through city, county, State, and Federal public service. Truly, these employees are the backbone of this great Nation. Many thanks to you all.

LEGISLATION TO GRANT TPS TO RWANDAN STUDENTS IN UNITED STATES

HON. MICHAEL J. KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. KOPETSKI. Mr. Speaker, on April 6, 1994, an airplane was shot out of the sky as it approached a landing at Kigali, the capital of Rwanda, killing President Juvenal Habyarimana of Rwanda and President Cyprien Ntaryamira of Burundi. The two Presidents of these neighboring, central African nations were returning from a conference in Tanzania on ways to end the ethnic killings in Burundi, where 100,000 people were killed last October.

Since the assassinations, Mr. Speaker, the simmering ethnic tensions between the Hutu and the Tutsi tribes in Rwanda have escalated, and we have seen the worst that human beings can do to each other. More than 20,000 people have been slaughtered in 2 weeks, and possibly 10 times as many are refugees, forced from their homes, on the run for their lives.

It is in this context, Mr. Speaker, that I rise to introduce legislation, on behalf of myself and Mr. JEFFERSON, to designate 12 months of temporary protected status [TPS] for Rwandan students and their dependents currently residing in the United States.

Provisions exist in the Immigration and Nationality Act to offer temporary relief from deportation under certain circumstances. The Administration currently provides some type of blanket relief from deportation or forced departure to several hundred thousand nationals from Afghanistan, China, El Salvador, Ethiopia, Lebanon, Liberia, Somalia, and most recently Bosnia. TPS, although not currently in effect, was extended to Kuwaiti citizens during the Persian Gulf War. It is entirely appropriate at this time to extend TPS to Rwandan students in the United States.

Mr. Speaker, this should be a matter of little controversy. Let's not force Rwandans to return to the senseless slaughter that has overrun their homeland.

A TRIBUTE TO LEA B. KERR ON 50 YEARS IN JOURNALISM

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. SANGMEISTER. Mr. Speaker, I rise today to pay tribute to a woman who embodies all that is good about the profession of journalism—Ms. Lea B. Kerr, the Grande Dame of the Joliet Herald-News.

Before her retirement this month, Lea wrote and reported for the Herald-News, a newspaper in my district, during a career that spans back to World War II. After being denied induction into the U.S. Marine Women's Corps because she was too young, Lea applied for an opening at the Herald-News in 1944. She impressed the editors with her rewrite of a sports item during her tryout and got the job. In the 50 years after, she covered everything from city hall to police to courts, and, yes, she wrote the occasional sports feature.

Lea's tenacity and ingenuity are legend in both media and government circles in Joliet. Back in the days before open meeting statutes, the Joliet City Council was meeting secretly in a local hotel to discuss the budget. Lea got wind of the location of these closed-door confabs and swung into action. Taking an elevator only part of the way up to the meeting room, she climbed the final two flights up a fire escape in her high heels to prevent being detected by the participants. Planting herself outside of the room, she recorded the proceedings in her notebook. The councilmen were quite surprised to read a blow-by-blow account of their secret meeting in the paper the next day.

Lea has won numerous honors during her distinguished career, including the Copley Ring of Truth Award for her moving and provocative commentary on a 1977 court decision to let local Nazis march in Skokie, IL a Chicago suburb with many Jewish residents. Instead of fighting hatred with hatred, Lea, in the best tradition of journalism, fought hatred with the truth. Besides writing the stirring commentary, Lea coordinated a $55,000 fund raiser to erect a Holocaust Memorial in Joliet to make sure local residents never forget what nazism really means.

Trophies and plaques are not what have driven Lea Kerr throughout her distinguished career, however. Her professional philosophy is best summed up in her own words:

> A reporter's life is a kaleidoscope of a community's problems, solutions and history. People from all walks of life deserve to have their stories told. It's a challenge, but it can be done.

Mr. Speaker, I salute Lea B. Kerr on 50 years of service to her community and profession, and wish her a long and enjoyable retirement.

DONALD GIBSON RETIRES AFTER OUTSTANDING CAREER AS CAIRO-DURHAM SUPERINTENDENT

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. SOLOMON. Mr. Speaker, on Saturday, June 11, I'm going to have the honor of attending a retirement dinner for Mr. Donald Gibson, who is stepping down after 14 years as superintendent of the Cairo-Durham School District.

Let me tell you a few things about Mr. Gibson, who, I'm glad to say, will be getting some overdue recognition.

He received a B.S. in education and an M.S. in social studies from SUNY-Oneonta before beginning his career as fifth grade teacher in Edmeston Central School. From 1963 to 1965 he was vice principal and 12th grade social studies teacher at Leonardsville Central School. From 1965 to 1971 he was assistant principal and 11th–12th grade teacher at Lafayette Central School.

Following 2 years as principal of the Indian Reservation in Lafayette, he took the position of principal at Seneca Falls Central School in 1973. He moved on to become chief school officer at Richmondville Central School until reaching his current position in 1980.

Throughout this record of increasingly greater responsibilities, Mr. Gibson managed to complete 57 hours of post-graduate study at Colgate University and SUNY-Oswego.

At Cairo-Durham, Mr. Gibson played a vital role in reorganizing the Booster Club in 1988. He can usually be seen at Cairo-Durham sporting events, and rarely misses a concert, play, open house, or other school function. He was a founder of the Cairo-Durham chapter of Dollars for Scholars, which raised thousands of dollars and matching funds for college-bound seniors.

In 1989, when there was no one else to chaperone the senior class on its senior trip, he volunteered and accompanied them to Florida.

Mr. Speaker, this outstanding record alone would be enough to merit our tribute, but there has been much more. Mr. Gibson has found time to be quite active in the Cairo-Durham community. He is a trustee of the United Methodist Church and an active participant in their many activities.

And as is so often the case with someone who gives so much to his profession and to his community, Mr. Gibson is a outstanding family man.

His wife, Betty, and children, Donald and Donna, are proud of him. So is the entire community, and so am I.

Mr. Speaker, let us pay our own tribute today to an outstanding educational administrator, Donald Gibson, and let us also wish him many happy retirement years.

HONORING THE OBSERVANCE OF LAW DAY

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. GEJDENSON. Mr. Speaker, on Sunday, May 1, members of the legal profession from throughout eastern Connecticut will join their colleagues in national observance of Law Day. Law Day is a special day for Americans to celebrate our liberties and to rededicate ourselves to the ideals of equality and justice under law. This year's Law Day theme is "Just Solutions," which emphasizes the law's fundamental role as a facilitator for the fair and reasonable resolution of conflicts. The need for improvement in the American justice system is an equally important consideration for contemplating Just Solutions.

Among the Law Day observances in eastern Connecticut on Monday, May 2, is the award ceremony for winners of the Law Day grade school poster contest and the Law Day high school essay contest. I congratulate all the young people who took part in these creative competitions, and I commend the legal community for its efforts to reach out to youth in thoughtful and positive ways that promote respect for law and democracy.

CABINET ELEVATION OF THE ENVIRONMENTAL PROTECTION AGENCY

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. CLINGER. Mr. Speaker, as we all take note of the Earth Day festivities, one can not help but reflect that another Earth Day has come and gone and still the Environmental Protection Agency has not been elevated to a Cabinet-level department. Frankly, this was one of President Clinton's first environmental priorities. Elevation of the EPA is more than symbolic because of the EPA's role in international negotiations. Every industrialized country, with the exception of one other, has a cabinet level environmental department. But one more time the legislation has gotten bogged down, and the blame lies squarely on the shoulders of the administration.

Unfortunately, as I and many of my colleagues have indicated from the beginning this course of events was entirely predictable. There were only two paths to travel. We could elevate the agency by providing a clean straight up elevation without any bells or whistles and do so easily and cheaply. Or alternatively, we could consider a bill that contains numerous extraneous provisions to inflate an already bloated EPA bureaucracy. This latter path was chosen. In doing so, it became clear that there were several other issues, such as risk assessment of environmental regulations, which Congress signalled were on the table. Once the door was opened, all relevant issues needed to the debated and considered by Congress but this was not allowed to occur.

If we had traveled down the path with a clean elevation, which I have consistently advocated, we could have had a Department of Environmental Protection just in time for Earth Day 1994. At this point, however, EPA Cabinet legislation may never see the light of day and we will probably see many more Earth Day celebrations come and go without a Cabinet-level environmental agency.

1994 TRI-COUNTY AMERICANISM AWARD HONOREES

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. HINCHEY. Mr. Speaker, It is a privilege to be able to bring to your attention the New York State Anti-Defamation League's 1994 Tri-County Americanism Award honorees: Bernard Handel, Jerome Affron, and my personal friend, Dr. Laura Fliegner. All three of these distinguished individuals are deserving of our recognition and commendation, and I am honored to be able to speak on their behalf.

Dedicated to securing justice and the fair treatment of all citizens, the Anti-Defamation League plays a vital role in furthering harmonious co-existence in our communities. Each of the three 1994 Tri-County Americanism Award honorees are distinguished members of our community and through their service have enriched many lives.

Laura Fliegner's extensive community service is well know to those of us who have had the privilege of working by her side over the years, and her professional reputation is one that receives statewide recognition. Bernard Handel has devoted his life to preserving the rights of his fellow citizens. And Jerome Affron has managed to combine business acumen with a full schedule of community service. All three embody the principles most espoused by the Anti-Defamation League, and it is a unique privilege to be able to call your attention to the success of their labor.

It is my privilege, Mr. Speaker, to be able to join in celebrating their achievement on Sunday, May 1st.

HONORING UNIVERSITY OF UTAH, WEBER STATE, AND BRIGHAM YOUNG UNIVERSITY

HON. KAREN SHEPHERD

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Ms. SHEPHERD. Mr. Speaker, I would like to take this opportunity to honor the University of Utah, Weber State, and Brigham Young University for being chosen to participate in the American College Theater Festival, hosted by the Kennedy Center, April 18 through April 30, 1994. To have even one of our fine colleges participate in ACTF is an honor, but to have three colleges chosen to participate in this prestigious event is simply amazing and points to the hard work and find acting of each of the schools' drama departments. Their performances are as follows: The University of Utah, "Kiss of the Spider Women;" Weber State, "The Pirated Penzance;" Brigham Young University, "Prisoner."

But it is not just the colleges that I wish to honor. James A. Bell, who directed "Prisoner," received the National Student Playwriting Award. In addition, Keven P. Rahm, who played the lead in the production, received the Irene Ryan Acting Competition Award, which awards two college students a $2,500 scholarship to be used at the institution of their choice. Rahm also won the National Stage Combat Workshop Fellowship and will spend 3 weeks this summer learning how to use the tools of stage combat. In 1991, another Utahn, Scott Claflin, was a recipient of the Irene Ryan Acting Competition Award. In 1986, the University of Utah performed "Idioglossia," as part of the festival.

The American College Theater festival was started in 1969 by the Kennedy Center's founding chairman Roger L. Stevens. The ACTF is a national, year-round theater program involving 18,000 students from colleges and universities nationwide. Since its inception, ACTF has given more than 132,000 college theater students the opportunity to have their work critiqued, improve their dramatic skills and receive national recognition for excellence. More than 15 million theatergoers have attended approximately 8,000 festival productions nationwide.

We salute the drama departments of the University of Utah, Weber State, and Brigham Young University for their award-winning performances.

100TH ANNIVERSARY OF THE ALUMNI ASSOCIATION

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. MANN. Mr. Speaker, and Members of the House, please join me in congratulating the Alumni Association of the College of Nursing and Health, University of Cincinnati, as it celebrates its 100th anniversary in 1994.

The University of Cincinnati's College of Nursing and Health has the distinction of being the first institution to grant baccalaureate degrees in nursing. The alumni of the College of Nursing and Health have served the community, the Nation, and the world as caregivers, educators, scholars, researchers, administrators, professional leaders, and members of the U.S. Armed Forces in time of peace and war.

Association members work to advance professional standards in nursing, promote nursing research, and encourage excellence in scholarship and professional practice through the granting of annual awards.

To commemorate its 100th anniversary, members of the alumni association have established the Laura E. Rosnagle Endowed Scholarship Fund, in memory of Laura E. Rosnagle, dean of the College of Nursing and Health from 1945 to 1967. Dean Rosnagle led the transformation of the college from an adjunct of the College of Medicine to its current status as an independent college within the university.

Please join me in applauding the Alumni Association of the College of Nursing and Health on its 100 years of service, not only to Cincinnati, but to the world. May they continue granting us their much needed talents for many years to come.

IN HONOR OF JAMES O'TOOLE

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Ms. ESHOO. Mr. Speaker, I rise today to honor a dedicated public servant, Jim O'Toole, for his outstanding contributions in the field of alcohol and drug recovery in northern California.

For over 40 years, Jim O'Toole has been assisting men and women of all ages, backgrounds, and ethnicities in their struggles against alcoholism and drug addiction. Jim began his career in the field of recovery with the city of San Francisco in 1952. He has served as the national coordinator of the Seventh Step Foundation, worked as a rehabilitation officer for the San Francisco city jails, and founded the San Mateo Athletic Association, which offers men in recovery a clean and sober way to play golf.

In 1972, Jim O'Toole became involved in Project Ninety, an innovative and comprehensive alcohol and drug program in San Mateo County. Jim provided Project Ninety with invaluable leadership and direction and helped to establish it as a model agency in our community and our country.

Jim's devotion to the recovery community is unsurpassed. He continues to be a leading advocate for services for recovering alcoholics and addicts and is currently serving on the Project Ninety Foundation board of directors and the golf committee.

Mr. Speaker, Jim O'Toole is an outstanding public servant who has made a difference in so many people's lives. He has gained the utmost respect and regard of those who have worked with him and of those whom he has served. I ask my colleagues to join me today in honoring Jim O'Toole for his countless contributions and commitment to his community. He is, indeed, a national treasure.

PRESIDENT RICHARD M. NIXON: AN ADDRESS ON FOREIGN POLICY

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. MICHEL. Mr. Speaker, the death of President Richard M. Nixon has been an occasion of reminiscences by those who knew him personally. And among those memories, no attribute of his has been mentioned and honored more than his unique ability to analyze foreign affairs.

Last year, House Republicans were privileged to be present as he made a tour of the horizon, as diplomats say, a wide-ranging analysis of the many problems now confronting Russia. Without referring to a single note, without a moment of hesitation or confusion, he talked about the complexities of Russia today and then answered questions. His talk was a spellbinding and unforgettable display of uncanny memory, shrewd insight, dispassionate analysis, and passionate love of freedom. It is with a great deal of pleasure, therefore, that I insert into the RECORD at this time, the remarks made by President Richard M. Nixon before the House Republican Conference, March 10, 1993:

REMARKS OF PRESIDENT RICHARD M. NIXON BEFORE THE HOUSE REPUBLICAN CONFERENCE, U.S. CONGRESS, MARCH 10, 1993

Thank you very much. Thank you.

Well, I want to express my appreciation to the Congressional Institute for inviting me back again to address this distinguished group. I was going to say "my colleagues"; I'm a little old for that, but at least I'm glad to be here with * * * 175 [Republicans] and, we hope, 218 next time around.

Bob Michel was most generous in his introduction. But I want to set the record clear on one point: That ad [looking for a congressional challenger] was not in The Washington Post.

I also want to tell you that Bob gave me a choice this morning. He said, "If you like you can speak where you did when you were President—up there—or you can speak down in the well." And I said, "I'm going to speak down in the well. I want to be where the others have spoken."

And I want to be here because it allows me to put present events in historical perspective: It was just 43 years ago that I stood in this well, in this place, and I addressed the Conference that was then in the Whole House. I had a one-hour special order. (I got it myself. Newt Gingrich wasn't around here then to get it for me.)

But I remember that occasion so well: It was the only time I had a special order in the four years I served in the House. I reported to the House on the Alger Hiss case, the case [of his] releasing secret documents to agents of the Soviet Communist government. That [Floor] speech of January 26, 1950, had a great impact on my career. I have been known ever since as a very strong, even fierce, anti-Communist.

And I am sure that today many people would say: "Richard Nixon, down here talking about aid to Russia? What happened?"

The world has changed a great deal since then. I want to address that subject but, in doing so, I'd like first to put it in a political perspective. Many have said, "Why talk about foreign policy at all? Nobody cares." If you read the polls and look at the last election, you would reach that conclusion.

In the last Gallup poll, only 4% of the American people indicated that foreign policy was of major concern. When President Clinton had his town meeting in Michigan, he took questions for an hour from all over the country. One question on foreign policy—it was about Bosnia. Today, the newspapers [devote] almost exclusive attention to domestic problems, hardly any to foreign policy.

And, for example, we all remember that, during the campaign, there was a famous sign in Clinton headquarters: "The economy, stupid." So under the circumstances, then, why address foreign policy?

Let me tell you why foreign policy is important. It's important because foreign policy and domestic policy are like Siamese twins: One cannot survive without the other. If the democratic government of [Boris] Yeltsin collapses and is replaced by a nationalist, aggressive Soviet or Communist government—not a Communist government, that isn't going to happen, but even a nationalist government—this would mark possibly the beginning of "Cold War Two."

It would have an enormous impact as far as our economy is concerned. Peace would be down the tubes. We would have to increase the defense budget by billions rather than decrease it; any plans to reduce the deficit would be off the table. So that's why the two are so closely related.

I come now to the very critical issue that you have been reading—the democratic government of Russia, whether it can survive; and what our policy towards that government should be. And in order to address that question, it is first necessary to disabuse ourselves of two myths.

First, you've often heard it said—and I've said it myself—the Cold War is over and the West won. But that's only half true. The Communists have lost the Cold War. But the West has not yet won it.

Look at what has happened in Russia. Why did they turn against Communism? Because it failed to produce, for the masses, the better life that it promised. But now Freedom is on trial. If Freedom fails to produce a better life, they will not return to Communism—but they could return to some kind of authoritarian, nationalist government.

And such a government, shorn of the baggage of the failed faith of Communism, armed with nuclear weapons, could be a greater threat to the forces of peace and freedom in the world than was the former totalitarian Soviet government. So that is what is at stake.

The second myth to disabuse ourselves of is this: Many people blithely say, "The Russians lost the Cold War." That's not true. The Communists lost the Cold War. The American people, the American Congress, you and the others that preceded you, deserve great credit, along with our allies, for holding the line against Communism and turning it back for 45 years.

But the knockout blow to Communism, in its mother country Russia, was rendered by democratic Russians. They overthrew the Communist government. And this means that, at the present time, rather than treating Russia as a defeated enemy, we should treat them as an ally, and as a friend.

And so if we can start with those two propositions we are then able to address the question of what is going to happen in Russia, what should happen, and what we can do about it.

Let me give an analysis of the situation as I saw it recently and compare it with what I saw just nine months ago. The situation has sharply deteriorated. The economy is in deplorable condition. We've got to see Russia for the magnitude of the problem that it faces—as compared with Poland, Czechoslovakia, Hungary and others where freedom is working extremely well. That's the good news as far as that part of the world is concerned.

But Russia is such a different country. It's a huge country, as you know. There are 11 time zones. In addition, there are 31 republics and provinces in Russia and all have declared themselves to be basically independent within the Russian government. In addition, there are 132 nationalities. The hardline Vice President said: "Look, what works in Poland is not going to work in Russia." That's an idea of the magnitude of the [social and cultural] problem.

Now consider the economic problem. We went through a Great Depression. (I say "we" did, you didn't—a few of us here may be that old, but I can remember it well.) It was deep and shook this country to its foundations; we recovered from it only after World War Two began.

But what is happening in Russia today is much worse than the Great Depression. For example, inflation in 1992 was 25% a month; it's even higher today. The average Russian's living standard has gone down by 50%. Some of this started before Yeltsin, under Gorbachev. Russia might face hyperinflation, they might face [even higher] unemployment, when the troops come home from abroad. It is a very, very serious problem.

Also remember that Russia, as compared with China and as compared with the countries of Eastern Europe, had 75 years of Communist brainwashing compared with 45 years in those [other] countries. And that means the development in Russia, among many of the people, of the idea that they may prefer what they already had. They like the security which a "command government" economy provides. And they face an unprecedented rise in corruption, and an unprecedented rise in crime.

That's Russia today. And when you see all that, it is so mind-boggling, you wonder how any leaders in Russia could still be for reform. But they are. It's hard to know why. All the leaders I spoke to—to ones on both sides, from the National Salvation Front (which as you know is pro-Communist) to the other end of the spectrum—and nobody wants to return to Communism. There will be no return to Communism. I believe that the reforms are irreversible.

However, there is no road map: Nobody's ever gone from a command economy to a free-market economy in the space of a year-and-a-half. There will be detours, there will be setbacks, but in the end it will prevail. That is certainly the conviction that I have, after having met with those leaders there.

Now, having pointed out why this has happened, let me just suggest we should look historically into why the Russians—who have shown a great capacity for suffering and sacrifice—why they are willing to go through this again, despite enormous economic cost.

Seven centuries ago, St. Thomas Aquinas said: "If the primary aim of the captain was to preserve his ship, he would keep it in port forever." The Russians are a great and proud people. And as they saw America and the West moving ahead from them (and, incidentally, that was the great message for them from SDI and other programs of that sort) they knew they were falling hopelessly behind.

And as a proud and great people, they were ready to leave their safe, stagnant port of Communism and to go out on this stormy sea toward freedom—political and economic freedom. They're still willing, but time is growing short.

And that brings us to what the positive news may be; it's been obscured by all the bad news. You are probably not aware of the fact that over 20% of the Russian economy is now privatized. You see it all over Moscow with the small shops. It is primarily a small-business operation, somewhat like what happened in the U.S. during the 1980s. Thirty percent of the Russian workforce today—30%—now works in private enterprise. That is unprecedented.

Another factor to keep in mind is that democracy, in its broadest sense, is alive and well in Russia. I have been to Russia nine times. And the [first] seven times I was in Moscow, and in Russia generally, dating back to 1959, in those seven times, I never met anyone who opposed the government. If I asked somebody who I thought might be critical, he'd just sort of close his eyes and point up to the chandelier. (That's how I learned about taping.) [laughter]

Today it is hard not to find someone who will speak—in the government, outside the government—and that is a hopeful sign.

Here's another very hopeful sign. In St. Petersburg, I met with a private entrepreneur running a very, very successful enterprise there. He has a mix of workers—some of them were German, some of them were Russian. And he said the Russian workers were more productive even than the German workers. This gives the lie to the idea that the Russians, unlike the Chinese, simply will not respond to private incentives. They will.

Remember something else about them. The Russian workforce is one of the best educated in the world. Over 90% of all Russian workers have graduated from high school. That's higher even than the percentage in the United States. So those are the possibilities as far as Russia is concerned. It is there, it can be saved—but the political problems are enormous.

Now we come to a critical situation: Can Boris Yeltsin survive? Some of the world leaders I've spoken to don't think so. I can assure you, also, that some of the people in his own country don't think so. And certainly it did not help when the one in charge of aid to Russia for the past year publicly predicted that Yeltsin probably wouldn't survive.

So I want you to take, with me, a good look at this man. I know how he mesmerized this House, which shows he knows how to communicate even with a western audience; he showed the same when he was in Canada. We know his charisma. We know that he is a man who successfully led a revolution.

We also know that, historically, those who lead good revolutions are seldom good nation-builders. Nehru in India is an exception. In our case we have George Washington, another exception. But Sukarno in Indonesia? Good revolutionary leader, disastrous nation-builder. The same with Nkrumah in Ghana.

Can Yeltsin—a good revolutionary leader who knows how to destroy—can he build? And I answer, first, that he has shown surprisingly good political methods and tactics. He made some mistakes in dealing with the Congress. But if you think George Bush had a problem with the Democratic Congress, just think what problems he would have with this [Russian] Congress. Yeltsin inherited it from the previous regime—from Brezhnev and Gorbachev. The fact that he did not become authoritarian, and is trying to compromise [with the legislature], is something in his favor. So much for the political games.

What is most important for us to remember is what the man stands for. He stands for what we believe. Unlike Gorbachev, he believes in democratic elections. He is the first elected Russian leader in a thousand years. He is one who has repudiated, unlike Gorbachev, both Socialism and Communism. He is flatly for private ownership, something Gorbachev would never be.

Most important, from our standpoint, he is the most pro-Western, and I would say pro-Amercian, Russian leader in foreign policy we have ever had. And when we consider those facts, it brings home this conclusion: When we look at the Russian scene today, the choice really is not between Yeltsin and somebody better, the choice is between Yeltsin and somebody worse.

I have met all the other potential candidates. [Although] Yeltsin's popularity is not nearly as high as it was, it's higher than any of the others. It's a risk for President Clinton to begin to take the leadership (as he has in meeting with President Mitterrand yesterday) in trying to get some assistance from the Group of Seven.

But, on the other hand, even with aid, the Yeltsin democratic government may not survive. Without the assistance of the West, in particular the U.S., it will not survive. So we have to take the risk—because nothing great has ever been achieved without great risks. And in this case we should support President Clinton when he comes forward, as I'm sure he will, with a program of assistance going beyond what has so far been done.

Now let us turn to what the U.S. and others can do. All the Russian leaders want to know what is going to happen. I said, "Look, politically, as far as an increase in so-called foreign aid, direct foreign aid, it doesn't have much of a chance these days. We have economic problems, we have tremendous demands on our budget and so forth. And, while the Congress will support some increase, it cannot be a massive increase."

Having said that, I also make this point. The story in this morning's paper indicates that President Clinton, after meeting with President Mitterrand, has agreed to ask for an emergency meeting of the G7. That is a very hopeful sign; I'll tell you why. Because action can and should be taken on three fronts. And it should be done not just by the United States—but President Clinton and the U.S. need to [provide] cover [for] the other big G7 nations.

First, Russian debt. There is $85 billion of it, mostly inherited from the Gorbachev regime. That debt should be rescheduled for 15 years, as President Yeltsin has requested. And believe me, the bankers—and they're primarily not ours; they're German, Japanese and the rest—they would be stupid not to reschedule that debt. Because if Yeltsin's government falls, they'll get nothing. Better to reschedule the debt. Get it paid sometime in the future, and take the burden off the economy now. That's something that I trust the G7 comes through with.

And then there is another factor to be considered. As you are all aware, after World War Two, the U.S. was very generous in assisting our former enemies, the Germans and the Japanese, to recover. Now it is time for them to assume part of the burden, a major part of the burden, of assisting the Russians and the other former Soviet states, including those of Eastern Europe, to recover from the Cold War.

The Germans are doing their share to a certain extent because of the great burden of East Germany. Japan's conduct, however, is unacceptable. Here's a nation that is economically very rich but they are going through a recession too (2% employment, they call that a recession in Japan!). On the other hand, when we look at the Japanese, they are holding back on providing aid to Russia on the grounds that they won't give aid unless they get back four tiny islands the Russians hold as a result of World War Two. Now that just doesn't make sense.

The Japanese are a very intelligent people. But this again is something that is really stupid—stupid because if the Yeltsin government falls, they'll never get the islands back. If the Yelstin government survives, they might. But to insist they get the islands back before they provide aid—that might bring him down because it would look like the was selling the islands to Japan. So this is something I am sure will come up at the G7 meeting; I hope it does, and it should be effectively handled when it does.

We come now to the critical question—a question for Members of this House, Republicans as well as Democrats: With all our other responsibilities, why be concerned about this issue of foreign policy, and particularly aid to Russia? I've already covered that in broad strokes; let me now put in a more definitive way.

The survival of political freedom and economic freedom in Russia serves the interests of peace. Russia is no longer Communist, but it is still Russia. It is the only nation in the world with the power to destroy the U.S.A. There is nothing more important to our vital interest than a non-aggressive government like [that of] Boris Yelstin. And so that should be a major goal of U.S. foreign policy.

Second, Russia still has a veto in the U.N.; It also plays a critical role in Iraq and the Mideast, and of course in Yugoslavia. It's a very difficult role at times for them, particularly with regard to the Serbs, but we need their support in these areas. An anti-U.S. Russian government certainly would make it much more difficult for us to handle those regions.

And then there is another reason. Many people said, quite correctly, that the Soviet Communists were evil. But nobody claimed they were crazy. We have to bear in mind that those who are trying to get into the nuclear club, many of them, are crazy. We can't be sure in any event. Therefore, it is vitally important that the U.S. and Russia, the two superpowers, join together to prevent nuclear proliferation. So that's another good reason for us to remember that any aid to Russia that enables a democratic government to survive is first an investment in peace.

Second, it's an investment in prosperity. Consider these numbers. China is a third-world country. Russia's GDP is seven times as great. China's trade with the US is eight times as great as that of Russia's Why? Because China has an economy that's over half privatized. Russia's is only one-fifth privatized. As Russia becomes a free-market economy, as it begins to grow, as it will grow, it means billions in trade and hundreds of thousands of jobs for Americans.

And then there is another point; it's a little more esoteric, but I think all of you will appreciate it: The survival of a government in Russia which is dedicated to, and supports, political and economic freedom is in the interests of freedom in the broadest sense.

For 75 years Russia, they key state of the former Soviet Union, has been trying to export Communism to the rest of world. Now democratic Russia can be exporting freedom to the rest of the world—if it works. I freedom works there—works economically, works politically—that will be an example to the other dictators of the world to go our way, because this is the way.

But if it doesn't work, if [Yeltsin and the pro-Western Russians] go down, look at the message that sends to the hardliners in China. In China they have economic freedom, but they have no political freedom. They'll say, "It didn't work there, we're doing the right thing here." So those interested in freedom, those interested in democracy, have got to remember what happens in Russia is going to make a big difference.

A hundred years ago Marx's colleague Engels said, "We must change the world." Those five words inspired millions of supporters of a false state for over 100 years. Now that's all shattered. Today, democratic Russia, with our support, can change the world.

Let me now address a few words, if some of the older Members will permit me, to the new Members of this House. Naturally, I will have to reminisce—that's something that happens. (Strom Thurmond did it last night, I can do it today.)

Forty-six years ago, right at this very time, Jack Kennedy and I were discussing the request of President Truman to provide military and economic aid to Greece and Turkey, which were threatened by Communist aggression.

Our offices were on the fifth floor of the old house office building. He was about two places away from me. Boy, that was the dregs in those days—they had inside plumbing, but that's about all that I can remember. In any event, we got together. We disagreed on most domestic issues (like the Taft-Hartley bill) but we happened to agree on foreign policy.

It was a tough vote for him because the liberal Democrats in his Massachusetts district didn't want any military foreign aid. I remember they sent postcards, and I got some myself: "Send food, not arms." The conservative Republicans in my California district didn't want any foreign aid—they were against all foreign aid.

But we both voted for it, and that led us to the Marshall plan and then to NATO. I remember the high excitement of that time. I remember Kennedy and myself, I remember John Lodge, Thurston Morton and others in the Republican 80th Congress. We thought we were doing something very great. We were inspired because we thought that we were contributing to the defeat of an evil system—Communism—and we were right.

This morning, I'll tell you new Members something that you will find [to be] true. There are going to be times after the euphoria of coming here for the first time wears off; there will be times when you're fed up to here about this job: Too little pay, the little time for your families, too much abuse. You may wake up in the middle of the night and say, "Who has to do this?" You may want to throw it all in. And you will read in the papers that America no longer has a great cause: With Communism defeated, there's nothing to inspire us.

But when you see that, and when you think that way, don't you believe it. Let me tell you something: There could never be a better time to be alive. There could never be a better place in which to live than America. And there could never be a better place in which to serve than the Congress of the United States.

Just think what we have witnessed in the last four years. Eastern Europe liberated. Communism collapsing in the Soviet Union. Socialism being rejected all the way from Sweden to India. We ought to be celebrating victory. Yet we act as if we had suffered defeat.

Way back in 1946, that class in the 80th Congress, we had a challenge, and the challenge was to meet the danger, or to deal with the threat, of war. Your challenge is something different. It is to deal with, to meet the promise of, peace. War brings out the worst and the best of men. Peace can and should bring out only the best. And you have that opportunity to work toward that end.

In describing that, however, I want to make it very clear that this is not just a case of your supporting a strong foreign policy, a strong defense policy—it goes beyond that. Because in order to meet that challenge it is necessary for us to recognize what America means to the world—and why we must see that the American example is worthy of what it does mean to the world.

I was in Warsaw a few days ago. As I traveled through the streets of that new city—it is new, now that it's free—I thought back to a time 34 years ago, to a time which for me and for my wife Pat was the most, not the biggest, but the most emotional welcome we ever received, as Vice-President or as President.

I'd just had the "kitchen debate" with Krushchev and on the way home we stopped in Warsaw on a Sunday afternoon. The Communist government refused to publicize the fact that we were coming. There was nothing in the papers about the parade route. But it got through the Polish underground and 250,000 Poles turned out to welcome us; they threw hundreds of bouquets and flowers into our cars. After having rocks [thrown at us] in Venezuela [the prior year], believe me this was something very different.

And at times, at the intersections, they would flood the motorcade and we'd have to stop. I looked into their faces, I can see them even now: Some of them were singing, others were crying—grown men and women with tears running down their cheeks—and they were all shouting Niech zyje Ameryka, Niech zyje Amerykan: "Long live America, long live the American!"

Thirty years passed before Warsaw and Poland became free. Today, it's a different city, full of the color of the life and music of freedom. That would not have happened had it not been for America. That would not have happened had it not been for our example. And we must not fail to meet our opportunity to continue to be an example to others that may be seeking that path.

What can you do about it? Help America be seen for what it really is—a great and a good country. Whatever you can do to see that the American economy continues to be and becomes even more productive, whatever you can do to see that all Americans have an opportunity for better housing, for better health care, for all of the things that make life more livable, whatever you can do to clean up our cities and our countryside from drugs and crime.

[In short,] whatever you can do to make America a better place in which to live, that serves the cause of peace and freedom in the world.

And so I wish you well as you meet these challenges. You are fortunate to be here—and I speak now not just to the freshmen but to all of you—and to have this kind of a challenge.

I can sum up best what America's role in the world should be by going back 185 years to a British Prime Minister's statement. After Nelson's great victory at Trafalgar, William Pitt was toasted as the savior of Europe. One hundred years later, Lord Curzon would describe Pitt's response as being one of the three great masterpieces of English eloquence. Listen to his words:

> "I return you many thanks for the honor you have done me. But Europe will not be saved by any single man. England has saved herself by her exertions, and will, I trust, save Europe by her example."

Today the world is not going to be saved by any single nation. But America can save herself by her exertions and can, by our example, save the cause of peace and freedom in the world.

TRIBUTE TO JULIA EVANS

HON. MIKE PARKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. PARKER. Mr. Speaker, I stand before you today, in the people's Chamber, in honor of an outstanding citizen and true philanthropist, Ms. Julia Evans of Laurel, MS. Ms. Evans will be awarded the Peter Meek Award for Home Care Aide of the Year by the National HomeCaring Council here in Washington, DC, on April 26, 1994, at a luncheon held in her honor during the National Home Care Aide Service Conference.

Home care aides have been called the unsung heroes of the health care system. Ms. Evans is a 21-year employee of South Mississippi Home Health in Laurel and was selected from among the thousands of home care aides who have been certified through the Foundation of Hospice and Home Care's National Certification Program. She was chosen to receive this prestigious award because of her selflessness, kindness, dedication, and leadership. The people who know her best, her colleagues at South Mississippi Home Health, say Ms. Evans honors her agency through her high performance standards and her genuine devotion and care for her patients.

Ms. Evans is the fourth person to receive this honor, named in memory of Peter Meek, a National HomeCaring Council board member. In the spirit of the late Mr. Meek, Ms. Evans is an honor to her profession, willing to go far beyond the call of duty, always kind and caring, an inspiration and a friend to her patients.

I am extremely proud to represent in Congress this fine leader and friend to the needy. Mr. Speaker, at this time, I ask that my colleagues join me in saluting this hero, Ms. Julia Evans, for her many outstanding achievements and dedication to excellence.

IMPROVING PUBLIC HOUSING ACT OF 1994

HON. COLLIN C. PETERSON

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. PETERSON of Minnesota. Mr. Speaker, today I am introducing legislation that will make reforms that are desperately needed in public housing. These reforms will help stop the waste and mismanagement of public housing funds and improve the living conditions for residents living in public housing.

The bill, H.R. 4304 would do three things: abolish the one-for-one replacement rule; allow public housing authorities to use their development funds for new construction if it costs the same or less to renovate; and require HUD to turn a troubled housing authority over to private management if it does not improve within 5 years.

The one-for-one replacement rule requires that for every public housing unit that is demolished, a replacement unit must be built or a housing certificate must be issued. The intent of the law—to preserve the stock of low-income housing—is important. But the law causes problems.

It's a catch 22. Housing authorities can't demolish buildings unless they can replace every unit, but there isn't enough development money to replace the units. As a result, many buildings remain vacant or mostly vacant for years. They become a hazard to the neighborhood, increasing urban blight, drugs and crime in and around public housing.

Millions of Federal dollars are wasted on these vacant units. The HUD inspector general has reported that since 1987, the Cuyahoga, OH public housing authority [PHA] has received over $47 million in HUD operating subsidies for vacant units. The Newark, NJ PHA received over $17 million in operating subsidies for several buildings that were sealed from 1985 through 1992.

The bill targets a second Federal policy which wastes Federal dollars. According to the General Accounting Office and the HUD inspector general, funds for new construction are scarce and competitive, and PHAs can only use their modernization funds to renovate, not rebuild, buildings. Many times this forces PHAs to do what many times is the most expensive option—to renovate rather than rebuild. In the Desire project located in New Orleans, LA it would have saved the Government at least $14 million to build from scratch. Due to current Federal law, the city could only use HUD funds for renovations even though two independent contractors had advised against it because the project's original structure is weak and it was built on a former swamp and dump. There are other examples like this one at PHAs around the country.

The third problem the bill addresses is troubled public housing authorities. Troubled housing authorities fail to renovate thousands of vacant units while tens of thousands of people languish on waiting lists. Many of these PHAs are plagued by mismanagement, poor oversight and revolving door leadership. These problems hurt public housing residents who continue to live in deplorable and unsafe housing.

While troubled PHAs represented only 1 percent of all authorities, they control 20 percent of the Nation's public housing units. They receive over a quarter of the $6 billion dollars in operating subsidies and modernization funds HUD allocates every year. Currently there are 105 PHAs that are on HUD's troubled list—18 in large cities.

In a recent audit, the HUD IG found that HUD's attempts to improve management and stop financial waste at these PHAs were ineffective. The IG called for HUD to "act more decisively and forcefully to remove PHA management when all else fails."

In the 13 years between 1979 and 1992, 10 PHAs in major cities were continuously troubled. In only two of these cases did HUD replace the management of the housing authority. PHAs should be given no more than 5 years to show improvements. If the local management cannot turn the situation around in that amount of time, then HUD should turn the PHA over to private management.

In introducing my bill today my hope is that we can make fundamental changes which both Federal taxpayers and public housing residents deserve.

GIBSON GUITAR—ONE OF THE BEST IN THE BUSINESS

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. CLEMENT. Mr. Speaker, I would like to join musicians around the world and congratulate the Gibson Guitar Co. on the 100th anniversary of its founding.

Although I am not a musician, I know of the fine reputation Gibson Guitars have in the music community. Among the great artists who have owned and played a Gibson guitar are Elvis Presley, the Beatles, Jimi Hendrix, Les Paul, Chet Atkins, Garth Brooks, Aerosmith, Slash of Guns N' Roses, and Bob Dylan.

The future of the company was pretty grim several years ago because of continued financial losses. In fact, the company had cut staff and had closed all of its divisions except one line of electric guitars. But the company was rescued by a team of investors led by Henry Juszkiewicz, who is now chairman and whom I am pleased to call a friend. And the company is back to manufacturing more than 80 models of both acoustic and electric guitars.

Gibson was founded in Kalamazoo, MI, by amateur guitarist and woodworker Orville Gibson. Gibson revolutionized guitarmaking by applying the construction principles of the violin to his guitars. An echo of that innovation is the f-hole sound sound construction pioneered by the company in its hollowed-bodied electric guitars—a technique borrowed from the violin.

In 1924, the Gibson Co. produced the first electric guitar. Later came innovations to prevent warpage and feedback, as well as other innovations that have defined industry standards.

Gibson is now headquartered in Nashville, "Music City, U.S.A." The company sells about 200,000 guitars a year, from a relatively inexpensive line to custom-made models costing more than $100,000. But, to artists everywhere, Gibson is among the best names in the business. That's why it is ever present on the concern stage and in the recording studio.

I extend my heartfelt congratulations to Henry Juskiewicz and his employees on a job well-done and wish them every success for the next 100 years of business.

PUBLIC SERVICE RECOGNITION WEEK

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. MAZZOLI. Mr. Speaker, next week is the ninth observance of Public Service Recognition week. I am a proud sponsor of House Joint Resolution 253, which designates the first week of May as Public Service Recognition Week.

Today, there is much uncertainty among the public about public service and the people who work in government. Actually, public service is a high calling and one which permits a public official to provide a wide range of needed services to his or her fellows.

All of us, at one time or another, have benefitted from the service of public employees. Public employees defend our Nation, enforce our laws, work to protect our environment, maintain vital transportation systems, and perform many other important functions vital to our Nation's affairs.

We set aside this week to honor public servants who do both the obvious things and the things we may not notice, all of which make our lives safer, healthier, happier and more rewarding.

Public servants deserve to be recognized and appreciated, not only for all their hard work, but for their unique brand of dedication as well. I join my colleagues in saluting public service employees.

IN TRIBUTE TO LAWRENCE A. GARBER

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mrs. ROUKEMA. Mr. Speaker, our communities and our country have always relied on the contributions of individuals who rise above and beyond the call of duty to make a difference in the lives of others. I pause today to join the Congregation of Temple Emanuel of the Pascack Valley in Woodcliff Lake, NJ, as they pay tribute to a true hero in their community, Mr. Lawrence A. Garber.

It has been said that the future of our society lies in the hands of individuals. And radiating out from him or her is the family, the community, the county, the State, and the Nation. But in the end, it all depends on the individual to make a difference. As President of Temple Emanuel, Larry Garber has made that difference in the Pascack Valley.

Under Larry Garber's leadership over the last 2 years, Temple Emanuel has focused more and more of its resources on the plight of the less fortunate members of the community. Social action services provided to the community include feeding and housing the homeless 1 day a week on the temple premises; collecting over $10,000 worth of food and clothing; providing transportation and companionship to seniors living on their own; and, conducting an annual blood drive. Their participation in the Operation Isaiah Program was recognized with a citation from the State of New Jersey.

Mr. Speaker, compassion for the disadvantaged and underprivileged is a basic tenet of our Judeo-Christian faith. Larry Garber has never forgotten this. Moreover, each day he strives to remind us all of the principles of our own faith and our duty to our community.

Larry Garber's years of tireless effort have made an immeasurable difference in the lives of countless persons throughout northern New Jersey. His dedication and commitment has set an example for all to follow. I ask my colleagues in the House to join with me in saying a heartfelt thank you and congratulations to Lawrence A. Garber as he completes his very successful tenure as president of Temple Emanuel.

INTRODUCTION, BY REQUEST, OF THE HOUSING CHOICE AND COMMUNITY INVESTMENT ACT OF 1994

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. GONZALEZ. Mr. Speaker, I am pleased to introduce today, by request of the Department of Housing and Urban Development and HUD Secretary Henry Cisneros, the Housing Choice and Community Investment Act of 1994. The primary purpose of this legislation is to reauthorize for 2 years HUD's housing and community development programs. The principal focus of the legislation is on five priority areas, including: First, reducing homelessness; second, turning around public housing; third, expanding affordable housing; fourth, enhancing fair housing; and fifth, empowering communities.

I am entering into the RECORD Secretary Cisneros' transmittal letter accompanying the legislation.

This comprehensive legislation demonstrates HUD's, and this administration's, renewed commitment to addressing this Nation's housing and community development needs. The legislation contains various program modifications, and new programs, that will warrant close review by the House Banking Committee's Subcommittee on Housing and Community Development as it moves toward markup of the housing reauthorization bill for this year.

On February 10, 1994, I introduced the Housing and Community Development Act of 1994, H.R. 3838, which also reauthorizes housing and community development programs, and contains many of the proposals made in HUD's bill, including, in particular, reform to the public housing and section 8 programs. The subcommittee, since the bill's introduction, has been holding reauthorization hearings, that have included, in addition to representatives of housing organizations and other members of the public, Secretary Cisneros and HUD Assistant Secretaries Joseph Shuldiner, Nicholas Retsinas, Andrew Cuomo, and Roberta Achtenberg. During these hearings, many of the proposals included in the HUD bill that I am introducing today have been outlined by these HUD officials.

I am looking forward to working with HUD, with other members of the subcommittee and committee, other House Members, and our counterparts in the Senate, as we move toward completion of the reauthorization process, and this critically important legislation.

DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT,
Washington, DC, April 26, 1994.

Hon. THOMAS S. FOLEY,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I am pleased to transmit to you the "Housing Choice and Community Investment Act of 1994." For the past several months, the department has been working with the Office of Management and Budget, key Congressional Committees and various housing and community development groups on the preparation of this authorization bill.

This legislation would authorize $60 billion over the next two fiscal years for HUD's housing and community development programs. The legislation is focused on the five central priorities governing HUD's community investment agenda: reducing homelessness, turning around public housing, expanding affordable housing, enhancing fair housing, and empowering communities.

This legislation will transform the delivery of homeless assistance programs by consolidating and reorganizing several disparate programs into a single source of funding to support local "continuum of care" systems to assist homeless persons and prevent future homelessness.

The Act would set the foundation for a total remake of our public housing program, ending public housing as we know it. The bill would remove disincentives for public housing residents to seek employment. It would reward entrepreneurial public housing agencies through deregulation and the granting of added powers to experiment and innovate. Anti-crime efforts would be streamlined and linked to other law enforcement efforts.

This bill also proposes to once again make HUD's Federal Housing Administration (FHA) a positive force for enhancing homeownership opportunities. The Act would raise the maximum mortgage limits and give FHA the authority to innovate with new homeownership products as well as enter into risk-sharing arrangements with qualified governmental entities. Additional subsidy tools and increased funding for counselling will also help to foster homeownership opportunities.

HUD's fair housing efforts would be greatly enhanced under this legislation, by advancing the goals of geographic mobility, neighborhood equity, and residential diversity. The bill would expand existing programs that enable HUD, with the aid of nonprofit groups and state and local governments, to enforce our nation's fair housing laws.

Mr. Speaker, the Act would also consolidate and revamp HUD's Section 8 rental assistance programs, permit public housing authorities including Indian housing authorities to sell public and Indian housing to nonprofit organizations to facilitate homeownership opportunities to public housing residents and create a new Choice in Residency program that would give, for the first time, recipients of federal housing aid the counselling they need to make informed choices about where they should live.

The Housing Choice and Community Investment Act would also support HUD's efforts to once again become a positive force in the revitalization of our nation's communities. The legislation would continue the strong support for the Community Development Block Grant program, create a Neighborhood LIFT program to develop neighborhoods' economic infrastructures, create a Community Viability fund to build the capacity of community-based groups, authorize additional funds for the President's empowerment zone initiative, and facilitate the use of Section 108 loan guarantees.

A section-by-section explanation and justification accompanies this letter and more fully sets forth the contents of the bill. I request that the bill be referred to the appropriate committee and urge its early consideration.

The Housing Choice and Community Investment Act of 1994 would affect direct spending; therefore it is subject to the pay-as-you-go requirement of the Omnibus Budget reconciliation Act of 1990. OMB's estimate is that the bill's pay-as-you-go impact will be zero.

The Office of Management and Budget has advised that the enactment of this legislation would be in accord with the program of the President.

I am sending a similar letter to the President of the United States Senate, Vice President Albert Gore, Jr.

Sincerely,
HENRY CISNEROS,
Secretary.

REFORM IN RUSSIA: PLUS OR MINUS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. HAMILTON. Mr. Speaker, the United States has a strong and direct interest in the transition to democracy and market economics in Russia and the newly independent states. There has been considerable debate recently as to the extent of reform and whether it is adequate: whether the glass is half-full or half-empty.

In order to provide a factual basis for this discussion, I asked the staff of the Committee on Foreign Affairs to develop a list of the positive and negative developments on reform in Russia.

I am inserting this in the CONGRESSIONAL RECORD in order to contribute to the congressional and public debate over this critical foreign policy issue.

REFORM IN RUSSIA

CENTRAL CONTROL

Pluses

Sufficient departure from Soviet socialism such that a return to a command economy would be difficult

Elimination of the central element of Soviet socialism—central planning and central distribution of industrial materiel.

Elimination of the preeminent position of defense in resource allocation.

90 percent of prices freed.

State role in food distribution ¼ of its former size; the state will purchase only nine types of agricultural commodities.

Enterprises no longer depend on Moscow for decisions or resources.

Minuses

Energy prices are still set administratively, with crude oil prices at one-third of world prices.

PRIVATIZATION

Pluses

Consumers now make 70 percent of their purchases from privately-owned businesses.

7,500 large enterprises (35 percent of total) sold to the public or employees. In comparison, Poland and Hungary, where overall reform is further advanced, have privatized ⅓ of state enterprises.

87,000 small firms transferred from state control.

8.1 million housing units (30%) turned over to individual owners.

270,000 private farms.

Minuses

Few former or current state enterprises have streamlined and adapted to a market economy.

The number of registered cooperatives and proprietorships (200,000) has stagnated since 1991.

LEGAL SYSTEM

Pluses

Beginning of establishment of a legal system necessary to underpin a fully functioning market economy.

Creation of a legal basis for bankruptcy proceedings.

Patent and copyright laws have been written, and international conventions joined.

Minuses

In spite of passage of antitrust laws and bankruptcy laws, there have only been 10 bankruptcies. The economy remains highly concentrated. The antimonopoly committee has little enforcement authority.

There is little respect for written contracts; property rights are not clearly delineated.

New laws are inconsistent and not widely available.

Organized crime is a rampant legal and social problem in Moscow, St. Petersburg, Yekatarinburg, and throughout Russia, and has become a disincentive to entrepreneurs.

FINANCIAL SYSTEM

Pluses

Introduction of modern financial institutions includes:

Large number of commercial banks;

Ability of enterprises to purchase and sell hard currencies;

Burgeoning agricultural exchanges; and

Development of stock markets.

Minuses

Many commercial banks are owned by large enterprises that use them to gain access to credit.

Stock market is still at an infant stage.

Most exporters are required to sell half of hard currency earnings for rubles at the market rate.

Capital flight is high.

There is little bank regulation; banks can be formed with little seed capital; a clearing system is in its infancy.

Small business has difficulty securing credit.

Banks generally finance only trade and middlemen operations.

MONETARY POLICY

Pluses

Rudimentary development of Western monetary and fiscal policy.

Tough monetary policy and structural changes to the economy (privatization) have caused inflation to decline from 21 percent in January to 10 percent in February and 9 percent in March.

The ruble is stable vis-a-vis Western currencies; internal ruble convertibility means a more efficient allocation of resources.

Minuses

The Government and Central Bank still allocate a large portion of credit, mainly to prop up state enterprises. These credits are contributing to a high rate of monthly inflation.

Pressures from economic interests for subsidies are likely to rekindle inflation.

Credit creation and an inflationary monetary policy will undermine sound fiscal policy.

FISCAL POLICY

Pluses

As pledged, the government submitted in April an austere budget, with the budget deficit held to 7 percent of GDP.

Because the second tranche of IMF lending ($1.5 billion) is tied to the budget, there is some expectation that it will be approved and implemented.

Minuses

The Duma has required revision of the budget, with the deficit raised to 9.5 percent of GDP to provide more funds for agricultural and social spending.

Tax rates are high and unstable.

The overall tax burden, combined with bribes, can take as much as 70–90 percent of small business profits, which leads firms to operate informally and to alter their books.

TRADE/INVESTMENT

Pluses

Foreign trade has been decentralized.

Export quotas and licensing now apply to only a few commodities.

The import tariff regime is largely transparent, nondiscriminatory, and relatively free of non-tariff barriers.

The removal of major obstacles to foreign investment has led to growth in the number of foreign firms.

Minuses

Frequent changes in import duties, and a sharp rise in average tariff rates, are used to protect domestic industry.

Few investors are prepared to make significant investment commitments because of the absence of necessary commercial laws and an inhospitable political and economic climate.

POLITICAL SYSTEM

Pluses

Progress in political reform includes:

A relatively free media;

The development of national political parties;

The adoption of a new constitution, which gives Yeltsin the power to continue reform; and

December 1993 elections that were generally free and fair.

Hardliners elected in December and brought into the government are continuing many of the reforms.

The new parliament is more receptive to a cooperative relationship with Yeltsin than the previous parliament.

Minuses

Political parties are splintered and coalition-building is weak.

There is concern over Yeltsin's authoritarian tendencies and accumulation of power, and concern over how a successor to Yeltsin could abuse the considerable powers of the office of the President.

December 1993 elections increased the voice in parliament of the extreme flank of the opposition—Zhirinovsky and former communists.

Significant fighting between the President and the Parliament continues.

The Russian government often does not speak with one voice, and the President often appears disengaged from involvement in his own government.

RECOGNITION OF REV. JOSEPH COSCHIGNANO

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to pay tribute to an outstanding Long Island citizen on the occasion of his 25th anniversary to the priesthood. On May 31, Rev. Joseph Coschignano, the pastor of St. Anthony's Roman Catholic Church in Rocky Point, NY, will reach this milestone.

Father Coschignano was named pastor of St. Anthony's in June 1989. Among his contributions to the community was the completion of the parish building so that more than 1,000 children could receive religious instruction. During this time, adult education programs have flourished. Soccer, basketball, and baseball sports teams for youths have been formed, and a parish outreach ministry has been established to serve those in need. These are but a few of the many programs that owe their success to Father Coschignano's leadership.

In addition, this well-loved pastor meets regularly with other religious leaders in the area to actively address community needs. Father Coschignano worked diligently to ensure that the rerouting of a State road was done in such a way as not to disrupt the children's athletic program nor harm the small business area of Rocky Point.

Mr. Speaker, Father Coschignano serves not only the people of his parish but all those who live in the Rocky Point area. It is with great pleasure that I join with his family, friends, and the parishioners of St. Anthony's to honor him and celebrate his 25th anniversary.

FIGHT FOR THE LIVING: WORKERS MEMORIAL DAY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. BROWN of California. Mr. Speaker, I rise today to observe Workers Memorial Day in remembrance of workers who have suffered and died on the job and to renew our commitment to preventing these tragedies in the future. This year marks the AFL–CIO's sixth observance of Workers Memorial Day.

April 28, has been chosen by the unions of the AFL–CIO because it is the anniversary of the Occupational Safety and Health Act. In addition to paying tribute to workers who have been victims of unsafe working conditions, this year unions will have a real opportunity to win changes in the OSHA law that will give workers greater rights and protections.

The United States now has the highest rate of job injuries and illnesses in more than a decade, and while much progress has been made in protecting American workers, still, every year 10,000 American workers die from job-related injuries. In 1992, in my own State of California, there were 551 workplace fatalities, an average of 4.4 fatalities per 100,000 workers.[1] Moreover, workplace injuries are costing American business $83 billion a year, according to a 1989 Rand Corp. study. These statistics show that it is time for Congress to act again.

On Workers Memorial Day, trade unionists can take action to raise public awareness about the epidemic of workplace injuries and illnesses and organize support for passage of comprehensive OSHA reform legislation now pending before Congress. This bill is the first major revision of OSHA since it was established in 1970.

Mr. Speaker, I ask my colleagues to join me today in observing Workers Memorial Day and supporting the OSHA reform legislation.

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[1] Bureau of Labor Statistics, Census of Fatal Occupational Injuries, 1992.

RICHARD MILHOUS NIXON

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. KING. Mr. Speaker, I rise today to pay tribute to our 37th President and one of the greatest Americans of this century—Richard Milhous Nixon.

Richard Nixon was a dedicated patriot and the most outstanding foreign policy President of this century. For more than four decades he demonstrated unsurpassed courage in enduring unrelenting attacks from the liberal media. History will remember Richard Nixon far more for his extraordinary achievements than for his very human failings. Richard Nixon was an American giant on the world stage and his unique knowledge and talents will be sorely missed.

I was fortunate enough to have had the opportunity to meet with President Nixon on several occasions, and had the privilege of working as an intern in his New York law firm in 1966 and 1967.

President Nixon has left behind him a rich historical legacy. In the eloquent words of Senator BOB DOLE, spoken at President Nixon's funeral last night, "Richard Nixon was an American hero."

THE EDUCATION INFRASTRUCTURE ACT OF 1994

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. OWENS. Mr. Speaker, every Member of this body is aware of the need to revitalize America's public school systems. American students are outranked annually in the areas of math and science by their European and Asian counterparts. Across the country, students' educational development is hindered for reasons such as fear of violence or pressure to experiment with drugs. If students to not have a safe learning environment, their development will be limited. Congress already has taken action to ensure that these fears do not continue to prevent any child from learning. By setting national education standards, this body took the lead in improving public school systems and the performance of students. I am proud to say I played an integral part in the passage of both the "Improving America's Schools" and the "Goals 2000" bills which address these problems. While these reform bills take significant steps toward helping local school districts overcome their problems, more still needs to be done.

Students lack adequate, environmentally safe school buildings. In some urban areas, schools are closed due to asbestos and dirty, rust-filled bathrooms that continually leak and are practically unusable. In other schools, water fountains have been removed because the water contained an unhealthy amount of lead. A recent study by the Education Writers Association found that 25 percent of our nation's schools are shoddy places for learning. In addition, the study found that 61 percent of America's schools are inadequate facilities and are in need of major repairs; 42 percent are environmentally hazardous; 25 percent are overcrowded; and 13 percent are structurally unsound. Another study performed by the Council of Great City Schools found that the city I represent, New York, needs $1 billion both to repair old buildings and to construct new ones.

Unfortunately, State and Federal funding for education infrastructure development is harder and harder to secure. In fact, over 20 States provide little or no funding for school facility projects, and only 10 percent of Federal dollars have been contributed to this endeavor (and only in school districts negatively affected by Federal activities).

That is why I am introducing the Education Infrastructure Act of 1994, the companion to S. 2034 introduced by Senator CAROL MOSELEY-BRAUN. This bill requires the Secretary of Education to directly allocate $600 million to local school districts for the repair, renovation, alteration and construction of public elementary and secondary school libraries, media centers, and facilities used for academic or vocational instruction.

The Secretary would target these funds to local school districts which serve large numbers or percentages of economically disadvantaged students and which can demonstrate urgent repair, renovation, alteration, and construction needs. Priority would be given to those districts having the oldest facilities, the highest number of facilities with health and safety hazards, and highest rates of unemployment. School districts would use the money to inspect their facilities, repair facilities that pose a health or safety risk to students, upgrade their facilities to accommodate new instructional technology, install school security and communications systems, and to build new schools.

Mr. Speaker, this bill forces the Federal Government to accept its fair share of responsibility to maintain the public school system infrastructure. I hope my colleagues will favorably consider this legislation. We've already invested billions of dollars to ensure that our children receive high quality education in crime-free, drug-free schools, now let's finish the job of protecting our children from unnecessary hazards by investing in the upkeep of our Nation's public education infrastructure.

SALUTE TO AN AMERICAN VETERAN

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. PAYNE of New Jersey. Mr. Speaker, this Sunday, the Guyton-Callahan Post No. 152 American Legion Department of New Jersey will honor World War I veterans at a memorial service in Newark, NJ. At the time the honoree, Mr. James Rounds, the only living World War I veteran and member of Guyton-Callahan Post will be in attendance. Mr. Rounds is 99 years young. He was drafted in September of 1918 at the age of 23. He was trained at Fort Dix and was assigned to guard the seaports of New Jersey. His orders to go overseas were pending when the armistice came. Mr. Rounds remained in the service until 1920.

I am proud to let my colleagues know that many servicemen of distinction were members of the Cuyton-Callahan Post No. 152. The post was named in honor of Emmett Guyton a World War I veteran who was killed in action and Archie Callahan killed in action at Pearl Harbor. Both men were from Newark, NJ, and the Post was named as a living memorial to their ultimate sacrifice.

After being discharged from the service Mr. Rounds returned to Newark and began working for the Pennsylvania Railroad as a mechanic until the stock market crash. Wanting to continue his education, Mr. Rounds worked odd jobs in the day and went to school at night securing this blue shield in charge fireman's license while working at General Electric. Prior to his retirement from General Electric be became engineer in charge.

Mr. Rounds was an active member of the community. He was active with King Hiram Lodge Ancient Free and Accepted Masons No. 4, the Elks Liberty Lodge No. 4, the United Order of Moses, and the 90th Barracks World War I veterans as well as Post 152 where he served as senior vice commander. Mr. Rounds did not limit his involvement in the community to organizations, he became a successful landlord and was an entrepreneur. He was a business partner with Clara Bell Jackson in the Poro Beauty School on West Market Street In Newark.

Mr. Speaker, I ask that my colleagues join me in saluting this great American, this World War I veteran, Mr. James Rounds as he is honored by the members of the Guyton-Callahan Post No. 152. His return salute would be as snappy as any West Point cadet.

THE VOTE IN SOUTH AFRICA

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. PRICE of North Carolina. Mr. Speaker, today marks a new dawn for the people of South Africa and the world. After many, many years of an oppressive political system in which South Africa's black majority were denied any voice in national affairs, an entire country marched to the ballot box in hopes of creating a free and democratic society. Beginning April 26, masses of people converged on more than 9,000 polling stations eager to shed the yoke of disenfranchisement; the elderly and disabled arrived hours before the stations were scheduled to open, and one woman—too feeble to walk—even came in a wheel-barrow. This historic all-race election ends decades of state-sponsored racial oppression, and we can all hope that it puts the final nail in the coffin of apartheid.

The world rejoices in this remarkable achievement, and I am especially proud that the district I represent has played an important role in the electoral process. More than 200 South Africans traveled to the State Fairgounds in Raleigh, NC, to cast their vote along with their compatriots across the Atlantic. Raleigh was 1 of 17 American cities designated as polling sites for South Africans living in the United States. I congratulate Judith Hargrove, who was contracted by the South Africa Consulate to coordinate the effort, on a job well done.

One cannot pause in recognition of this historic moment, however, without recognizing the courage and sacrifices of the many individuals and groups who have labored for South Africa's liberation. This election culminates years of massive civil disobedience, international protests, and 3 years of negotiations. The forces that stood in opposition to the apartheid regime persevered in the face of seemingly unsurmountable obstacles. These obstacles—including recent bombings intended to intimidate voters—could have derailed the electoral process. To the contrary, these acts have only strengthened the South African people's resolve to create and nurture a free and politically tolerant home for themselves and their children. The message is clear; these attempts to frustrate the will of the people are futile. In the words of Nelson Mandela, "the forces are far more powerful."

Let me remind this body and the international community, however, that elections alone will not deliver stability and prosperity for South Africa. Apartheid is dead, but we are only beginning to address the great challenges that establishing a government of national unity will no doubt present. South Africa is still a fractured society, with unemployment and illiteracy higher than 50 percent among blacks. South Africans and the international community must not flag in our commitment to making this democratic experiment work.

Again, I commend the people of South Africa on their tremendous accomplishment, including those who cast this historic vote in Raleigh. This is indeed a day to celebrate.

TRIBUTE TO GIRL SCOUT GOLD AWARD RECIPIENTS

HON. PETER W. BARCA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. BARCA of Wisconsin. Mr. Speaker, today I would like to salute three outstanding young women who have been honored with the Girl Scouts of the U.S.A. Gold Award by the Badger Council of Girl Scouts in Beloit, WI. They are Senior Girl Scouts of Girl Scout Troop 456.

They are being honored on May 1, 1994 for earning the highest achievement award in Girl Scouting. The Girl Scout Award symbolizes outstanding accomplishments in the areas of leadership, community service, career planning, and personal development.

Girl Scouts of the U.S.A. has awarded more than 20,000 Girl Scout awards to Senior Girl Scouts since the inception of the program in 1980. To receive the award, a Girl Scout must fulfill five requirements: Earn four interest project patches, earn the Career Exploration pin, earn the Senior Girl Scout Leadership Award, earn the Senior Girl Scout Challenge, and design and implement a Girl Scout Award project.

As members of Badger Council of Girl Scouts, Rachel Smith, Sonja Stenli, and Sara Wille began working toward the Girl Scout Gold Award in January 1994. The completed project involved community service and positive developmental skills for younger children, as well as satisfaction in the value of their efforts. This valuable learning experience for these three young women will continue to benefit many younger children and the community.

Mr. Speaker, I wanted to commend these young women on this significant honor.

TRIBUTE TO MILLSTADT ELEMENTARY SCHOOL SCIENCE OLYMPIAD TEAM

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. COSTELLO. Mr. Speaker, I rise today to recognize the Millstadt Elementary School Science Olympiad Team of Millstadt, IL.

This year represents the fourth year that the Millstadt team has competed on the State level. The competition, held at University High School in Normal, IL, attracted 28 regional teams from throughout the State. The Millstadt team boasts a third-place finish to first-place South Middle School and second-place Grayslake Middle School as well as 17 medals.

The Millstadt Science Olympiad team, coached by sixth-grade science teacher Kathy Alt, includes sixth-graders Matt Nagel, Kelley Woehlke, and alternate Lucas Meyer; seventh-graders Lacey Diesel, Allison Duncan, Dusty Loeffler, Shawn Woy, and Beth Yagge; and eighth-graders Catherine Betz, Kyle Leesman, Kelli Reese, Ryan Tyler, Traci Werner, David Wild, and alternate Amanda Carrico. The team also includes two ninth-graders from Belleville West High School, Brent Gaines and John Randall, both of whom graduated from Millstadt last year.

The Millstadt Science Olympians prepared for competition before and after school, as well as on Saturdays. Through this dedication and sacrifice, the team proved proficient in many Olympiad events which include problem-solving within the framework of earth science, chemistry, technology, and physics. The team also demonstrated hands-on understanding of scientific principles through the construction of bridges from lightweight materials, the design of insulated structures, the interpretation of topographic maps, and the identification and analysis of solid and liquid chemical substances.

Mr. Speaker, I applaud the Millstadt Science Olympiad team. It is this determination to succeed that is the driving force behind this great Nation.

TRIBUTE TO JOYCE MATSUMOTO AND ANH PHAM

HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. KIM. Mr. Speaker, today I would like to recognize the excellence and accomplishments of two students from my district in California. Joyce Matsumoto of Yorba Linda, and Anh Pham of Anaheim have worked diligently to earn the honor of being selected by the Department of Education as scholars under the National Science Scholars Program [NSSP] for the 1994–95 academic year.

The program recognizes students who have demonstrated outstanding ability in the physical, life, or computer sciences, mathematics, or engineering by providing scholarships in order for meritorious students, who are graduating from high school or receiving a General Educational Development certificate, to continue their studies at the post-secondary level.

This program is designed to strengthen the leadership of the United States in the sciences, mathematics, and engineering by attracting highly qualified men and women into these fields and by encouraging them to pursue teaching careers in these areas. I am sure that Ms. Matsumoto, and Ms. Pham will work with the same zeal and fortitude that has made us proud for them today.

GRANT'S TOMB NATIONAL MONUMENT

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. FISH. Mr. Speaker, April 27, 1994 marked the 127th commemoration of the birth of our 18th President Ulysses S. Grant. I feel a special connection to this great war hero, for during his Presidency, my great-grandfather, Hamilton Fish, served as U.S. Secretary of State.

Grant's Tomb, which is located in New York City overlooking the Hudson River was once one of the most popular attractions in New York. Today Grant's Tomb has become the most desecrated Presidential burial site in the Nation. I am proud to be a cosponsor of Congressman NADLER's legislation, "Grant's Tomb National Monument Bill," which will restore the tomb, and once again make it the great attraction and tribute it was meant to be.

I urge my colleagues to join me in cosponsoring this important legislation.

A TRIBUTE TO ROBERT F. THORESON

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding public service of Robert Thoreson of Adelanto, CA. Robert, who has demonstrated a remarkable dedication to the needs and safety of southern California residents over the past 23 years, will be honored on May 12, 1994 as he retires from his position of Detective III at the Los Angeles Police Department [LAPD].

As a graduate of the FBI Academy and valedictorian and class president of his LAPD class, Robert was well-prepared for a career in law enforcement. Because of his involvement and active leadership in the community, Robert has been an instrumental force in preserving the law and order in Los Angeles.

Robert was appointed a policeman on August 9, 1971, marking the beginning of a successful career in law enforcement. With only 6½ years on the job, Robert achieved the rank of Detective III—a true rarity in the history of the Los Angeles Police Department. For the past 16 years Robert has diligently served as Detective III at the LAPD where he worked on many different assignments including forgery, gangs, intelligence on terrorism, juvenile, burglary, robbery, and homicide.

Not only has Robert served on the front lines of law enforcement, he has also played a significant role in preparing the next generation of police officers for service to the community. As a detective, Robert's responsibilities included teaching detective supervisory, gang, auto theft, and homicide schools. In addition to teaching interrogation techniques at UCLA, Robert was also the LAPD's expert on search warrants where he taught this ever changing and challenging subject for 13 years. Robert also served on the Board of Directors for the Los Angeles Police Memorial Foundation for 21 years.

Not only has Robert been a leader in the law enforcement community, he has also made significant contributions to numerous organizations in California. From 1985 to 1991, he served as the Governor's appointee to the California State Advisory Board on Drug and Alcohol Programs as well as vice chairman of the Republican Party in Los Angeles from 1990 to 1992.

Mr. Speaker, I ask that you join me, our colleagues, Robert's family, and many friends in honoring this unique individual for his extensive and dedicated service. Over the years, Robert has touched the lives of many people in our community and it is only fitting that the House recognize him today.

TO HONOR SERVICE OF LT. COL. MICHAEL C. STEPP

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. EVERETT. Mr. Speaker, I rise to acknowledge the retirement of Lt. Col. Michael C. Stepp from the U.S. Air Force after more than 27 years of service. He is currently the Director for Defense Information, Office of the Assistant to the Secretary of Defense for Public Affairs. A native of Dothan, AL, Lieutenant Colonel Stepp will retire on May 1, 1994.

Colonel Stepp served as chief of public affairs, 1776th Air Base Wing, Andrews Air Force Base, MD, and was then assigned, in 1987, to the Pentagon as a plans officer and later as a spokesman on the Air Force News Deck in the Office of the Assistant Secretary of Defense for Public Affairs. In 1989, he was asked by Secretary of Defense Dick Cheney's spokesman, Mr. Pete Williams, to become one of his military assistants and served from August 1991 to September 1993 as senior military assistant.

Colonel Stepp's military awards and decorations include the Defense Meritorious Service Medal, Air Force Meritorious Service Medal with three oak leaf clusters, Air Force Commendation Medal with three oak leaf clusters, Joint Service Achievement Medal, Joint Meritorious Unit Award, Air Force Outstanding Unit Award, Air Force Good Conduct Medal with one oak leaf cluster, and National Defense Service Medal with device.

I join Lt. Col. Michael C. Stepp, his wife Mary and daughter, Jenifer in the celebration of his retirement May 1, 1994. I am proud of his years of dedicated service to the U.S. Air Force and wish him well in his future endeavors.

TRIBUTE TO GREGORY WILLIAM LATZ

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is Gregory William Latz of troop 2 in Misquamicut, RI, and he is honored this week for his noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 merit badges, 11 of which are required from areas such as citizenship in the community, citizenship in the Nation, citizenship in the world, safety, environmental science, and first aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. This young man has distinguished himself in accordance with these criteria.

For his Eagle Scout project, Gregory developed, arranged, and coordinated the food donations, preparation, and catering of a buffet supper in honor of the 75th anniversary of the Westerly Ambulance Corps.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout Gregory William Latz. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has, through its 80 years, honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that Gregory William Latz will continue his public service and in so doing will further distinguish himself and consequently better his community. I join friends, colleagues, and family who this week salute him.

TRIBUTE TO 31ST DISTRICT MILITARY ACADEMY APPOINTEES

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. HOUGHTON. Mr. Speaker, something quite special has occurred in our district. It really exemplifies the kind of people in the Southern Tier and Finger Lakes region of New York State.

Here's the story:

Three young men from our district are top recruits for the three U.S. Military Academies. They will enter with the class of 1998 this July. All three will be playing NCAA division I basketball against each other for the next 4 years. Each was offered early appointment to the Academies last year. They were heavily recruited by the coaches and athletic directors.

Let me tell you a bit about each of them:

Michael Heary is a senior at Fredonia High School. Michael will be a member of the Naval Academy's basketball team. He's been a member of several western New York all-star teams, and has maintained a high academic average. The chairman of our academy selection committee, Jim Mintun, took Michael under his wing after the recent death of his father, Tom Heary, and helped lead him toward the Naval Academy.

Justin Johnson will be playing basketball for West Point this fall. A senior at Jamestown High School, Justin is a top student, excellent athlete, and is involved in many community activities. He's also been a member of several Western New York all-star basketball teams, the National Honor Society, and is very involved in his church.

Entering the Air Force Academy this year after graduation from Trumansburg High School is Michael Reed. He will play ball for the Falcons this year. Like the other two, Mike is a dedicated student, athlete, and community servant. He was captain of his school's varsity basketball, football and track teams, and has received numerous awards and honors. He also has been just as successful with his academics. Mike volunteers for the Special Olympics, and is involved in many extracurricular activities both in school and in his community.

So these three men, along with the other outstanding young men and women we have nominated to the service academies, are really the pride of New York's 31st District. It will be exciting to watch them play basketball against each other later this year, and serve our country as officers in the Navy, Army, and Air Force later in life.

I can not emphasize sufficiently how proud I am of Michael Heary, Justin Johnson, and Michael Reed. I know I join many people in wishing them the best of luck and success.

IN REMEMBRANCE OF HERSHEL EUDY

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. BILIRAKIS. Mr. Speaker, as a Member of Congress, I have been privileged to meet many wonderful people throughout the 9th District of Florida. However, I rise today to pay tribute to a particularly remarkable individual—a good friend of mine—Hershel Eudy of Dunedin, FL.

Those of us who knew Hershel will always miss him dearly. In remembering him, there are so many positive qualities which he displayed—he was a loving husband, a devoted father, a proud grandfather, and a patriotic American.

Hershel was only 74 years old when he died, but he lived a very full life. He always believed in the power of people to make a difference—in their congregation, their community, and their Nation. Through much of his adult life. Hershel used his God-given talents to serve his country—as a soldier during World War II, and later, as a data analyst for the Federal Government.

It would be impossible for me to list each of the ways in which Hershel contributed to his community and to the spirit and dignity of his fellow man. He was an enthusiastic member of the First United Methodist Church of Dunedin, the Masonic lodge, and the National Association of Retired Federal Employees.

To many people, Hershel will always be remembered fondly as a man who loved to fish. His dear friend, Dr. E. Duane Hulse, minister of the United Methodist Church of Clearwater, spoke eloquently of Hershel's favorite pastime at his memorial service. Dr. Hulse dedicated a special poem to Hershel, and I believe these words best express the sentiment that we all share in remembering him.

God grant that I might fish,
  Until my dying day.
And when I make my one last cast
  I then most humbly pray
When in the Lord's safe landing net
  I'm peaceably asleep,
That in His mercy, I'll be judged,
  As good enough to keep.

DAVID KAPOLKA HONORED FOR SCIENCE AND MATHEMATICS TEACHING

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. EHLERS. Mr. Speaker, I would like to take this time to honor an outstanding educator from my home district. David Kapolka of Forest Hills Northern High School has been selected to receive one of the 1993 Presidential Awards for Excellence in Science and Mathematics Teaching. These national awards help encourage outstanding teachers to remain in the teaching field. As a result of this award, his school will receive a National Science Foundation grant to improve science and mathematics programs. David and the other award recipients will be honored for their excellence during a visit to Washington.

David's qualifications for this award are numerous. He holds degrees from Michigan State University and the University of Detroit. He has also accumulated 45 additional graduate semester hours of mathematics, graphing calculator technology, and computer science from 17 institutions of higher learning. In addition to his mathematics teaching responsibilities, David has been serving as chair of the Forest Hills Northern High School Mathematics Department since 1989. His involvement with education extends beyond the classroom. He has served as a consultant, author, speaker, and is a current member of four professional organizations. In addition to his extensive involvement in education, David has also been active in alumni affairs, athletics, choir, and church outside of the education field.

David's commitment to excellence is one that I truly admire. Being an educator in the sciences myself, I can appreciate all that David has done to promote the importance of understanding science and mathematics. His effort and results are a model for all to follow.

Mr. Speaker, I ask my fellow colleagues to join me in honoring the achievements of an outstanding educator and role model. It is truly a pleasure to take time to honor David Kapolka for his dedication to these areas. David's technique and teachings will continue to ignite interest in learning more about the fields of mathematics and science, and he serves as an example to all other educators.

IN HONOR OF MANY VOLUNTEERS WHO HAVE MADE HOOPS FOR HOPES AND A BETTER CHANCE PROGRAM A DRIVING FORCE

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mrs. JOHNSON of Connecticut. Mr. Speaker, it is with great pride and appreciation that I rise to commend the many community volunteers who will gather to support "Hoops for Hopes," sponsored by the "A Better Chance" Program in Simsbury, CT, this weekend. A Better Chance, or ABC, is a national, nonprofit organization founded to give inner city youngsters the opportunity to spend quality time with suburban families and interact with children their own age in more rural, less stressful settings.

The ABC families and volunteers, who will gather for a 3-on-3 youth basketball tournament on Saturday, April 30, are key members of a team providing an important educational and cultural experience for inner-city suburban kids. We all know the benefits of teamwork, of having fun, and working hard for something that is important and I commend the many Simsbury volunteers on helping these youngsters, as well as their own children, aspire to the highest goals. For the students from the city, ABC helps build their confidence and encourages their dreams. For the children from Simsbury, ABC deepens their understanding of our common hopes and responsibility of one another. The people of Simsbury deserve recognition for their hard work and commitment to the values that have made America a remarkable nation. I am pleased to share their good news with the House of Representatives.

WHERE "THREE STRIKES" HAS CHANGED THE ODDS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. GINGRICH. Mr. Speaker, I would like to share an article with my colleagues from the Washington Times. I hope they find Pete Du Pont's article as enlightening as I did.

[From the Washington Times, March 27, 1994]

WHERE 'THREE STRIKES' HAS CHANGED THE ODDS

(By Pete DuPont)

No one would argue that crime is not a threat to Americans' daily lives. Twenty-four million people each year are victims of serious crime. A young black male is more likely to die by violence than any other cause. And millions of our children go to bed each night to the sound of gunfire as vast sectors of our cities are effectively controlled by criminals.

In too many neighborhoods, crime overwhelms all else—school, home and work environments are often helpless in its grip.

And no one would argue that this violence is not imposing a terrible cost upon society, in pain, suffering, trauma and dollars.

But there are those who will argue it is not really the criminal's fault, that they are but victims of various "root causes" of their behavior—urban decay, poverty, parental inattention, etc. In the words of Attorney General Janet Reno: "One of the principal reasons for violence is that we have forgotten and neglected our children."

For 30 years, the liberal response to the rising tide of criminal violence has been therapeutic: Understand, help and rehabilitate the criminal.

But rehabilitation is proving a mirage. We like to think it works, but a 1975 study by City College of New York sociology professor Robert Martinson reviewed the results of 200 separate rehabilitation programs and concluded that the efforts "had no appreciable effect on recidivism."

Punishment, on the other hand, is viewed by some liberals as excessive (we lock up more people than any civilized nation), ineffective (jail just teaches people how to be criminals) or vindictive.

Rep. Kweisi Mfume, Maryland Democrat, chairman of the House of Representative's Black Caucus, dismisses prisons as "an antiquated approach to crime." Strong punishment statutes, in the words of former Deputy Attorney General Philip Heymann, often "look tougher than they are smart."

Even Louis Freeh, director of the FBI, America's foremost crimefighting organization, is an apologist: "The crime and disorder which flow from helpless poverty, unloved children and drug abuse can't be solved merely by bottomless prisons, mandatory sentencing minimums or more police."

But the negative correlation between crime and punishment is striking. Criminals make their own rough comparisons of the expected benefits of crime against the expected costs to decide whether crime pays, just as any rational person weighs decisions in other areas of life. If the anticipated probability of punishment is high, fewer crimes are committed.

Morgan Reynolds, an economics professor at Texas A&M University and a senior fellow of the National Center for Policy Analysis, has developed a measure called "expected punishment" to gauge anticipated punishment probabilities.

Expected punishment is calculated by multiplying the probability of being arrested for a crime after it is committed, of being prosecuted if arrested, of being convicted if prosecuted and of going to prison if convicted.

The result is multiplied by the median time served for an offense—and the resulting figure is the expected punishment.

This measuring stick shows that as the expected punishment for serious crimes was dropping from 22.5 days in 1954 to 5.5 days in 1974, the crime rate was increasing from 1.2 to 4.9 serious crimes per 100 population. The serious crimes rate has since leveled off at 5.9 as the expected punishment index has risen back up to 8.5 days.

If you still doubt the value of punishment, consider the experience of California and

Texas during the 1980s. California, with far more people, began the decade with fewer incarcerated criminals than Texas—and a crime rate that was 28 percent higher. But over the decade California began arresting, convicting and jailing more of its criminals. Its prison population rose 400 percent. In Texas, however, fewer criminals went to jail; its prison population grew by 73 percent.

By 1991, California not only had almost twice as many prisoners as Texas, but also had a crime rate that was 13 percent lower than Texas'.

Raising the cost of crime by making sure people go to prison when they commit crimes will not only get practicing criminals off the street, but also deter crime by making it clear to prospective criminals that if they commit a crime, it is going to cost them.

The state of Washington's "Three Strikes Law" is a good example. Enacted by the voters in November, the law dramatically raises the stakes for people convicted of a third felony—to life imprisonment without parole.

Former Deputy Attorney General Heymann called it "a bad idea being spread as far and as fast as it could be." But in Seattle alone, 17 registered sex offenders have moved out of state because, as the author of the initiative states, "their next offense (in Washington) would be their last."

While there are those who still don't get it, the rest of us do: Punishment and the consistent threat of punishment work. They deter crime.

HONORING TEXAS WOMAN'S UNIVERSITY GYMNASTICS TEAM

HON. BILL SARPALIUS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. SARPALIUS. Mr. Speaker, I would like to encourage my colleagues to join me in honoring the Texas Woman's University Gymnastics Team for their recent success at the National Collegiate Championship.

Texas Woman's University successfully defended its national gymnastics title at the recent National Collegiate Championship. This marks the second consecutive year that the TWU gymnastics team has captured the National Championship title. The dramatic triumph was staged before a hometown crowd of 1,488 at the Coliseum at the University of North Texas. I join these supportive and encouraging fans in offering my sincere congratulations for their success which shows the hard work and dedication of these talented athletes.

Texas Woman' University is a comprehensive public university, primarily for women. The university seeks to provide minority women an academic and social environment for learning, involvement, and leadership development to enable them to complete higher educational programs which afford economic independence. The university, by this achievement, has also proven its commitment toward developing the emotional and physical capabilities of its students as well.

Once again, I would like to extend my congratulations to these outstanding athletes. Texas Woman's University has my deepest admiration for its success in encouraging these talented young women to achieve their highest potential.

OREM HIGH SCHOOL HONORED

HON. BILL ORTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. ORTON. Mr. Speaker, I am proud to announce that Orem High School has won the honor of representing the State of Utah at the National competition of the "We the People. . . The Citizen and the Constitution" program.

This competition, supported and funded by Congress, is the most extensive educational program in the country, developed specifically to educate young people about the Constitution and the Bill of Rights. The 3-day national competition simulates a congressional hearing in which students' oral presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues.

The distinguished members of the team representing Utah are: Alison Bergeson, Jeremy Bingham, Branden Bunker, Julie Cardon, Rebecca Conrad, James Davis, David Farmer, Kathryn Frame, JoEllen Hansen, Nathan Holdaway, Derek Jensen, J.J. Larsen, Tyler Mitchell, Wayne Mitchell, James Peterson, Michael Phaysey, Chad Snelson, Helen Stoddard, Kell Summers, Eric Taylor, Jaime Tucker, and Travis Wilde.

I would also like to recognize their teacher, William Gillespie, who deserves much of the credit for the success of the team. The district coordinator, Shirley Garfield, and the State coordinator, Rulon Garfield, also contributed a significant amount of time and effort to help the team reach the national finals.

TRUMBULL HIGH SCHOOL TO COMPETE IN NATIONAL FINALS FOR "WE THE PEOPLE"

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. SHAYS. Mr. Speaker, from April 30 to May 2, the Center for Civic Education will be holding its national finals for students of its "We the People . . . The Citizen and the Constitution" curriculum in Washington, DC. Students from one school in each State will showcase their knowledge of the U.S. Constitution and Bill of Rights.

This nationally acclaimed program fosters civic competence and responsibility. The "We the People . . ." curriculum helps students understand the history and principles of our Government.

I am very proud to have a school from Connecticut's Fourth Congressional District, Trumbull High School, representing our State. The students of Trumbull High will be among 1,200 students competing for the honor of being our country's national winner.

Mr. Speaker, I would like to take this opportunity to congratulate the students and teachers of Trumbull High School on their impressive knowledge and understanding of our great Constitution and wish all the competing students good luck.

HONORING THE SOUTH BEND CLAY HIGH SCHOOL BOYS BASKETBALL TEAM

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. ROEMER. Mr. Speaker, I rise today to salute a group of constituents in my district who have distinguished themselves with excellence and sportsmanship. They have experienced the dream of every Hoosier boy who holds in his heart the love of the game of basketball—winning the Indiana High School Basketball Championship. While the rest of the Nation experiences March Madness with the undertaking of the NCAA Tournament, Indiana is already afflicted with Hoosier Hysteria, a constant condition that engulfs much of its population from late November until it reaches fever pitch in March with the State finals. Each year nearly 400 high schools from all over Indiana, both large and small, enter the State tournament to compete for what has been described as the most coveted prep crown in the world. Unlike many other States, Indiana does not employ a class system for basketball, where teams are tiered by their respective sizes. In Indiana, all schools are on equal footing and without seeding. By the time the 384 team tournament is completed, there is only one champion.

Mr. Speaker, Jacques Barzun once wrote, "Whoever wants to know the heart and mind of America had better learn basketball." I say to understand Indiana one must learn the game of basketball. While basketball was not created in the Hoosierland, it is where the game was instilled with it its heart and soul. For in Indiana, basketball is more than a game, it is the very fabric of its social being. Towns and communities find their identities in their high schools and their teams. It is no accident or mere coincidence that 14 of the 15 largest high school gymnasiums in the Nation are in the State. Indiana holds the record for the largest crowd to ever witness a high school basketball game when over 40,000 people attended a State final game in 1990. It is the home of tiny Milan, the mighty titan who, with an enrollment of only 60 students, won the State Championship against a bigger and stronger city school and who inspired the movie "Hoosiers" which has become a memorable part of American sports legend. It is the home of the famed John Wooden, who was not only a high school star in his own right, but one who went on to become national college player of the year and also the greatest coach ever by guiding his college team to an unprecedented and unequaled record 10 national championships.

Mr. Speaker, I rise today, not to reiterate Indiana High School's long and rich tradition of basketball, but to salute a team who has demonstrated themselves to be worthy of the title Indiana State Champions. In 1994, the South

Bend Clay Colonials reached the pinnacle of high school sports by claiming what has been described as the most exciting championship game in the storied history of the State Tournament. South Bend Clay entered the finals as the least favorite of the four entries. They had not even won their own conference during the regular season, yielding to a tough and worthy adversary, Elkhart Central. They avenged this loss on their way to the finals, only to find two nationally ranked opponents standing in their way.

After defeating a tough New Albany team, a team who had beaten the defending State champion twice and who held the eighth position in the USA Today national rankings, South Bend Clay went on to face the undefeated Valparaiso Vikings, who were ranked No. 1 in the State and 13th nationally. The Colonials were down eight points with 46 seconds left to play when they staged one of the most improbable and incredible comebacks ever. They cut the lead to just three, and with 7 seconds to play, they brought the ball down the length of the court and sophomore Jaraan Cornell launched the 3-point shot heard throughout the State. The ball went through the net with one-tenth of a second left to tie the game. The result of overtime seemed academic and anti-climactic. The Colonials' momentum carried them to the school's first Basketball State Championship and South Bend's first in 37 years. I would like to take this opportunity to salute coach Tom DeBaets, his staff, Jim Parent, Ken Vargo, Steven Scott, Pat Sousley, Mike Jackson, athletic director Greg Humnicky, principal Joann Ollman, the trainers, Carole Gonglewski, Susan Graves, and Meera Gupta. Most importantly, I recognize the players who displayed sportsmanship and determination in the face of adversity, Joe Hunter, Michael Lee, Kerry Pates, Chad Hudnall, Jaraan Cornell, Charles Bonds, Steve Griffin, Yul Lee, Jeff Proctor, Jon White, LeShawn Nailon, and Lee Nailon. But because a basketball championship is won not only on the court with talent and strategy, but in the school and in the stands with support and assistance, I would like to salute assistant principals Mike Downey, George Jones, ticket manager Vic Papai, scorer Jim Morgan, statistician Howard Wallace, student managers Willie Rogers, Bjorn Bauer, Joey Acklin, Jason Shirrell, Jeff Shirrell, the cheerleaders, Julie Kleiser, Stephanie Viraghazi, Heather Schaack, Natalie Hansen, Meldora Milon, Angela Bole, Andrea Rodriguez, and finally, the parents and student body of Clay High School. Their achievement speaks well not only of Clay High School and the South Bend community, but of young people everywhere. Given goals and the tools to pursue them, they can attain their dreams, even reaching the pinnacle of high school athletics, the Indiana Boys Basketball State Championship.

TRIBUTE TO CLUB ESPAÑA FOR KEEPING SPANISH CULTURE THRIVING THROUGHOUT NEW JERSEY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. MENENDEZ. Mr. Speaker, I wish to take a moment today to recognize the important cultural contribution made to New Jersey by the Club España of Newark as they celebrate their sixth annual Folkloric Festival. This occasion is noteworthy because it also gives us an opportunity to honor the significant contribution of Spanish immigrants to our great Nation.

Club España is in the forefront of preserving Spanish culture throughout New Jersey for the children of immigrants. While fostering love for the United States, they try to nurture in young students a deep affection for El Cid, Goya, and Cervantes.

One of their most important activities is their sponsorship of the Folkloric Groups of Club España. The groups consist of three different ensembles: Grupo de Danzas-Alborada, Grupo de Gaitas-Andurina, and the Grupo de Flamenco-El Rocio. They are dedicated to maintaining their Spanish cultural heritage, while at the same time bringing the special charm of Spanish dance and song to the community at large.

Roughly, 85 percent of the participants in the Folkloric Groups are students—ranging from kindergarten to college age—born in the United States of Spanish immigrants. Each time the groups perform, they reveal a spectacular display of the music dances and a wide variety of costumes representing the different regions of Spain. At various times, members of the groups have performed in New York City, Washington, DC, and in April 1992 the Grupo de Danzas-Alborada and Grupo de Gaites-Andurina performed in Zaragoza, Spain.

All the members deserve praise for their efforts, but let me take a moment now to single out the accomplishments of several individuals who have been crucial in the development of the Folkloric Groups. Andres M. Camano works tirelessly as the instructor of the Grupo de Danzas-Alborada. Nabor Lopez sets an example of hard work and creativity as director of the Grupo de Gaitas-Andurina. And, I would be remiss, if I did not take note of Carmen Acevedo, the instructor of the Grupo Flamenco-El Rocio.

May the melodious sounds of the Spanish bagpipe, known as a gaita, and the graceful dance steps of the Muineira, long remain a large part of this country's cultural heritage.

TRIBUTE TO RALPH ELLISON

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. MFUME. Mr. Speaker, I rise today to pay tribute to the writer of one of the greatest and influential American novels. Ralph Ellison, author of "Invisible Man," died at his home, at the age of 80, on April 16.

Mr. Ellison was born on March 1, 1914, in Oklahoma City. His father, a construction foreman, died when Ralph was 3. His mother was a domestic worker. Ralph Ellison had intended to be a composer, yet the lack of money necessary for proper training led him to discover and pursue his love and talent for writing instead.

Mr. Ellison evolved as a writer studying the works of such greats as T.S. Eliot, Langston Hughes, Ernest Hemingway, Richard Wright, Gertrude Stein, and Dostoyevski. The wealth of his experience as transmitted through his novel has been a major influence on later generations of writers. He has made it clear that "[y]ou don't write out of your skin * * *, [y]ou write out of your imagination," and "[t]he imagination is integrative."

Published in 1952, "Invisible Man" transcends generational and racial barriers. The African-American narrator does not merely represent blacks, but any social group whose humanity has become invisible to those around it. Unlike most protagonists of African-American fiction up to that time, he has intellectual depth and ambition. "Invisible Man" transforms the powerless victim into a participant, the vagrant into an explorer, and the mindless drifter into a philosopher.

"Invisible Man" advocates for the American culture. As the narrator says, "America is woven of many strands; I would recognize them and let it remain so." Mr. Ellison was an integrationist, but not a conformist. He believed in the preservation of identity through the acceptance of the cultures of which we have evolved, but never a denial of the culture from which we have come.

Mr. Ellison never published another novel, though he could never stop writing. He published two nonfiction collections, "Shadow and Act" in 1964 and "Going to the Territory" in 1986. His second novel was destroyed after a fire in 1967. He never abandoned that novel and proceeded to reconstruct it by talking to those friends who had read excerpts and from sections that had been published in literary journals. The manuscript, over 1,000 pages long, was almost complete at the time of his death. We can only hope that this novel, too, be published, so we may be blessed further by Ralph Ellison's literary genius.

SALUTE TO JUNIOR ACHIEVEMENT

HON. SAM COPPERSMITH

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. COPPERSMITH. Mr. Speaker, I rise today to recognize Junior Achievement of Central Arizona and Junior Achievement of America. This year marks the 75th anniversary of Junior Achievement making a difference in America, and the 30th anniversary of the beginning of its work in my State of Arizona.

Over the past 30 years Junior Achievement has reached nearly 200,000 young men and women. This year alone, more than 24,000 will learn about business and economics from Junior Achievement volunteers.

These volunteers work with children from kindergarten through high school. The volunteers, members of the local community, help students learn about the real economic world—one not necessarily found in textbooks. The students learn how to balance a checkbook, the importance of financial planning, and the importance of community. In high school, they learn about finding and getting a job, the economics of education, and how to start up and run a business.

I take especially great pride that staff members in my congressional office actively support Junior Achievement of Central Arizona by serving as volunteers. I encourage my colleagues to support Junior Achievement in their communities. By volunteering, we can help our young people to a better understanding of our Government and our economy—and their vital role in our Nation's furture.

The 340 young men and women who made up the first Junior Achievement of Central Arizona graduating class in 1964 now form part of my State's vital and growing economy. I know that 30 years from now, the Junior Achievement students of today will be the business leaders of tomorrow, in Arizona and throughout the Nation. I know of no better "anniversary present" for Junior Achievement.

LENSCRAFTERS SELECTED TO RECEIVE 1994 PRESIDENT'S VOLUNTEER ACTION AWARD

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. PORTMAN. Mr. Speaker, I rise today to pay tribute to LensCrafters, a Cincinnati, OH, corporation in the Second District, which on Thursday, April 21, 1994, received the 1994 President's Volunteer Action Award from President Clinton for their "Give the Gift of Sight" partnership with the Lions Club.

The President's Volunteer Action Award is one of the most prestigious honors that one can receive for community service. Those of us in Cincinnati know LensCrafters for its voluntarism locally, but this award appropriately recognizes LensCrafters nationally and internationally as well.

Since the "Give the Gift of Sight" annual eyeglasses collection and recycling program began in 1988, LensCrafters and the Lions Club have collected over 2 million pairs of old, unwanted eyeglasses and distributed them to the less fortunate all over the world. Every year, all 484 LensCrafters stores in the United States and Canada participate in collecting eyeglasses during January and February. The eyeglasses are then sent to the Lions Clubs national eyeglasses recycling center where they are cleaned, repaired and classified by prescription.

LensCrafters and the Lions Club annually conduct optical missions abroad to dispense the thousands of glasses collected. Mission destinations have included Costa Rica, Panama, Kenya, and Mexico, and have served over 33,000 people. The eyeglasses not dispensed by LensCrafters missions are given to Lions Clubs and other volunteer organizations around the world for distribution.

In the United States, LensCrafters has provided eye exams and new glasses to tens of thousands of Americans and Canadians each year through LensCrafters' charitable certificate program. In 1993, a new domestic program was added, the Give the Gift of Sight Hometown Day program. On the morning of November 30, 1993, 77 percent of LensCrafters employees and 99 percent of affiliated optometrists' offices delivered eyecare to 10,000 needy people. LensCrafters and the Red Cross have also partnered to provide eye exams and eyeglasses to victims of natural disasters. Following the Los Angeles earthquake, more than 3,000 pairs of free eyeglasses were provided to victims.

Mr. Speaker, I am proud to commend LensCrafters for their unselfish generosity and for making a difference in the lives of so many people all over the world. LensCrafters' vision has set an example of community service for each of us.

TRIBUTE TO OFFICER SEAN McDONALD

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. SERRANO. Mr. Speaker, I rise to pay tribute to the memory of a heroic young American, Sean McDonald—husband, father, and New York City police officer, who was recently slain protecting the lives and property of our citizens.

Sean was shot to death in my congressional district on the evening of March 15 as he sought to arrest two armed robbery suspects.

In little more than a year into his service, Sean had already won the admiration and respect of his superiors and fellow officers. The veteran sergeant who trained Sean as a rookie police officer was quoted as saying, "Cliches were all true about him. You'd tell him to do a job and he did it, never complained. A supervisor's dream. This kid was gold."

Sean's brother Andrew, also a policeman, was on duty that evening and was one of the first officers to reach the scene where Sean had been mortally wounded.

The 26-year-old officer leaves his wife, Janet, and their two children, Sean Jr., 3, and a year-old daughter, Kelly.

Ten thousand police officers from as far away as Boston stood in long silent rows on the streets outside the church where services were held for their slain brother. The mayor and other dignitaries eulogized Officer McDonald.

It was a fitting tribute indeed. But what a tragic loss for that family, to our community, and indeed to the Nation when these brave men in blue lose their lives maintaining the peace and safety of our communities.

Mr. Speaker, I ask my colleagues to join me in offering our profound gratitude to Officer McDonald and to all those who serve in this noble occupation, and our deepest sympathies to the McDonald family and to all families who have lost a loved one in such tragic circumstances.

NEITHER RAIN, NOR SLEET, NOR SNOW, NOR FIRE

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mr. BARCIA of Michigan. Mr. Speaker, it is with great pride and admiration that I highlight the outstanding achievements of Charles Henning, as he accepts the Regional Hero of the Year Award from the National Association of Letter Carriers.

Each year, the National Association of Letter Carriers honors a national hero and three regional heroes for selflessness and heroism performed in an attempt to rescue those in dangerous, life-threatening situations. Soon, among his many friends, Charles Henning will accept the Central Region Hero of the Year Award for braving fire and smoke to save a victim from a grease fire.

Interestingly, the circumstances surrounding his award are as extraordinary as Charles himself. As Charles was completing his Saginaw mail route, he smelled smoke and heard the smoke alarm of a nearby basement apartment. It seems Sydney Oliver had inadvertently left the stove on while cleaning his apartment and, heating up, the grease ignited into flames. Unable to extinguish the flames, Mr. Oliver managed to call the fire department as fire and smoke spread throughout the apartment.

It was at this moment Charles approached the building, rushed inside to pull Mr. Oliver from the burning apartment, and then proceed to run door-to-door alerting others of the fire and evacuating remaining tenants. By the time 26 fire fighters arrived a few minutes later, the grease fire had become a three-alarm blaze.

There are individuals who during their lives will go beyond the call of duty to meet the call of human needs. We know that rain, sleet and snow do not sway these couriers from their appointed rounds. Charles Henning has valiantly added fire to his personal life.

Mr. Speaker, it is these acts of singular courage which effectively define the conscious of our Nation. I applaud the efforts of Mr. Henning, and urge my colleagues to similarly recognize his selfless courage.

ROBERTA G. TOOLE, FRIEND OF THE INDEPENDENT INVENTOR

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 1994

Mrs. BENTLEY. Mr. Speaker, Roberta Toole had many friends across the country because she fought unceasingly for the rights of the independent inventor. Bobby, as she was known to her friends, died on February 28, 1994, at her home in University City, MO. She was executive director of the United Inventors Association and she had previously held a similar post with the St. Louis Inventors Association.

Bobby was the heartbeat for inventors throughout the country. She also lead a support group to help protect the rights of inventors. She was a firm and gentle support to everyone who knew her and worked with her. A friend, Bobby was remembered by inventors and people working with inventors all over the country. I ask unanimous consent that their statements be included in the RECORD.

Bobby considered the independent inventor community as an extended family. Yes, we were her friends, but friendship doesn't explain the intensity with which she fought for the rights of independent inventors everywhere. This is evident in the many tributes to her memory received from all over the Nation, some of which follow.

"Bobby Toole was a woman of tremendous creativity and energy, dedicated to bringing the issues and concerns of America's independent inventors to the highest policy levels possible. She was an impressive woman, and we, at the U.S. Patent and Trademark Office, deeply regret her untimely and unexpected death on February 28, 1994."—Bruce A. Lehman, Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

"She was a great American and did a great deal for the innovative spirit in America."—Donald Banner, Former Commissioner of Patents and Trademarks.

"All of us who knew her will miss her energy, dedication, and devotion to the needs of independent inventors."—Terry Levinson, DOE Inventions and Innovation.

"Bobby has worked tirelessly on behalf of inventors across America, working to enhance their image, to protect their rights and promote their success. She will be sorely missed."—Donald Job, UIA-USA President.

"I guess I won't be saying good-bye to good friend, Bobby Toole. She lives on in the national inventor support network she helped start. We will miss her, of course, but we'll continue to be inspired by her feisty courage and selfless dedication in support of America's inventors."—Don Kelly, U.S. Patent and Trademark Office, Washington, D.C.

"Some know it's happening, some see it happen, others wonder what happened. Bobby made it happen."—Norman Parrish, National Congress of Inventor Organizations.

"She proved that one person can make a difference."—Joanne Hayes, Inventors Digest.

"Without her there never would have been a UIA. She was incredible."—Phil Knapp, New York Society of Professional Inventors.

"No one worked harder for independent inventors."—Don Costar, Nevada Inventors Association.

"If she had any faults—she devoted more of herself to independent inventors than she had to give."—Clayton Williamson, Kansas Association of Inventors.

"The hard work she has done in the last few years has been extraordinarily beneficial to the inventor community."—Maggie Weisberg and Mel Fuller, M & M Associates.

"Bobby Toole spent her final years in earnest pursuit of a better world for independent inventors, including publicizing the achievements of women and minority inventors. We've lost a great advocate and patriot."—Anne Kelly, U.S. Patent and Trademark Office, Washington, D.C.

"Her dedication and efforts to further the cause of independent inventors will be greatly missed by the members of that community."—Dick Nichols, Inventure Place, Home of National Inventors Hall of Fame.

"A spark plug who brought energy, light, enthusiasm, and guts—she gave everything she had including financial resources to make the UIA a reality."—Jenny Servo, Dawnbreakers, Inc.

SENATE—*Friday, April 29, 1994*

(Legislative day of Monday, April 11, 1994)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable PATTY MURRAY, a Senator from the State of Washington.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The Assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, Friday, April 29, 1994.*
>
> *To the Senate:*
>
> Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATTY MURRAY, a Senator from the State of Washington, to perform the duties of the Chair.
>
> ROBERT C. BYRD,
> *President pro tempore.*

Mrs. MURRAY thereupon assumed the Chair as Acting President pro tempore.

ADJOURNMENT UNTIL 3 P.M. MONDAY, MAY 2, 1994

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in adjournment until 3 o'clock p.m. on Monday, May 2, 1994.

Thereupon, at 9 o'clock and 57 seconds a.m., the Senate adjourned until Monday, May 2, 1994, at 3 p.m.